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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SOUTH CAROLINA
Workers' Compensation Commission

WCC File No. 0810152

RECEIVED

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SC Court of Appeals

Patricia Fore, Employee Appellant,

v.

Griffco of Wampee, Inc., Employer, and Chartis Claims, Inc., Carrier, ... Respondents.

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA	)	BEFORE THE SOUTH CAROLINA
	)	WORKERS' COMPENSATION COMMISSION
COUNTY OF HORRY	)	
Patricia Fore,	)	WCC FILE NO. 0810152
	)	
Claimant,	)	
	)	
-vs-	)	DECISION AND ORDER
	)	
Griffco of Wampee, Inc.,	)	
Employer,	)	
	)	
and	)	
	)	
Commerce and Industry Insurance	)	
Company,	)	
Carrier,	)	
	)	
Defendants.	)	

HEARING:	Held in Conway, South Carolina on August 12, 2009.
APPEARANCES:	Claimant represented by Stephen B. Samuels, Esquire, of Samuels Law Firm, LLC. Employer & Carrier represented by James Lichty, Esquire, of McAngus Goudelock & Courie, LLC.
PURPOSE OF THE HEARING:	To determine issues raised on the Forms 50 and 51.
DECISION AND ORDER:	by Andrea P. Roche, Commissioner.

APA SUBMISSIONS

CLAIMANT'S SUBMISSIONS

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STIPULATIONS

The parties stipulate to the following matters:

1. The Commission has jurisdiction to hear the matters presented;
2. Jurisdiction is proper in Horry County;
3. The parties had notice of the hearing scheduled for August 12, 2009. All parties were represented by Counsel;
4. This matter came before the Commission on a Form 50 filed by the Claimant.

5. The Commission's file, Commissioner's notes, and the Administrative Procedures Act submissions are a part of the record.
6. Claimant has an average weekly wage of \$449.36 resulting in a compensation rate of \$299.59.
7. Defendants admit Claimant sustained a compensable injury by accident to her right hip on February 21, 2008 which was timely reported. Defendants deny Claimant's allegation that she injured her back in the admitted accident.

STATEMENT OF THE CASE

Claimant filed a Form 50 seeking a finding of compensability for an injury by accident which occurred on August 21, 2008 when she bumped into a meat saw while carrying 50-60 pounds of meat. Claimant alleges she injured her back, right hip and right leg. She seeks temporary total disability compensation from August 31, 2008 and continuing on a running award. She further seeks payment for past causally related medical treatment along with continuing medical treatment, specifically including surgery to her back.

Defendants admit Claimant gave timely notice of her injury by accident on August 21, 2008. Defendants admit a minor injury to Claimant's right hip, but deny any other body parts were injured or affected. Defendants contend Claimant's current disability is not a result of her injury, which they contend resolved with no long term affects. Defendants further contend that even if Claimant is partially disabled, she is not entitled to any temporary compensation as she abandoned her job and is able to work based on her representations to the Employment Security Commission.

At the hearing, Defendants moved to leave the record open to take the *de bene esse* depositions of Randall Oxford and Dr. James O'Leary.

Oxford is a meat cutter employed by the Employer at the time of the accident. He witnessed the accident. Defendants contend his testimony is relevant to the facts and circumstances surrounding the accident. Claimant objects to the record being left open on the grounds that: (1) there is no showing Oxford was subpoenaed to the hearing as required by Reg. 67-615 (2)(a); (2) Oxford's discovery deposition had been noticed by the Claimant for August 4, 2009 and subsequently cancelled without objection by the Defendants; (3) Randall Oxford had not been listed as a witness by Defendants; and (4) there is no showing Oxford was unavailable to appear at the hearing.

Testimony of a witness not under subpoena is may be allowed at the Commissioner's discretion upon the moving party showing a reasonable basis for failure to subpoena the witness. Defendants have shown no basis for failing to subpoena Oxford. He was not listed as a witness; Defendants did not object to the cancellation of his deposition; and there has been no showing that he is an indispensable witness, particularly since this is an admitted injury by accident. I find Oxford's testimony is not crucial to any defense in the case; Defendants suffer no prejudice; and Defendants have failed to show due diligence in procuring his testimony. The motion to leave the record open to depose Randall Oxford is denied.

Dr. O'Leary was retained by Defendants to perform an Independent Medical Evaluation on Claimant. His report is dated July 7, 2009 – twenty-four days before Defendants Form 58 and APA submissions were submitted. Defendants apparently noticed Dr. O'Leary's deposition for September 25, 2009 without confirming with Claimant's attorney.

Dr. O'Leary was not subpoenaed to the hearing. No motion for postponement was made 10 days prior to the hearing as required by Regulation 67-613 B (2). I do not find the deposition of an

expert whose report is included in both party's APA submissions meets the requirements for additional evidence set forth in the regulation. See Reg. 67-613 C (1). I find Dr. O'Leary's testimony is not crucial to any defense in the case, particularly since this is Defendants' retained expert. Defendants have failed to show due diligence in procuring his testimony. The motion to leave the record open to depose Dr. O'Leary is denied.

EVIDENCE OF THE CASE

Testimony:

Claimant, Patricia Fore, testified on her own behalf. She is 44, been married for 20 years, and has two dependant children aged ten and two. She went to high school, got a GED, and got a two-year Associates Degree in Business Management. Fore stated she has worked in restaurants, construction, and as a meat cutter.

Fore began working for Employer, Griffco, on August 25, 2005. She started out wrapping meat before being promoted to backup meat cutter.

Fore took a four week leave when her youngest child was born.

Claimant had an accident while working at Griffco on February 21, 2008. She described it:

Me and Daniel was in the meat room. I had two heavy things of meat. I can't remember exactly what we had in them, and we were moving pretty fast and I stepped into the corner of the meat saw and it kind of did an awkward twist and I heard something crunch on the inside. [Tr. p. 9, ll. 13-18].

Claimant hit the meat saw hard. The saw is about three feet long and weighs 2-300 pounds. She felt a pain, but kept working.

Fore was scheduled to work on Sunday. Sunday morning, she called Daniel Hall, the meat market manager, and told him she was going to the emergency room because she had got hurt a

couple of days before. Claimant went to Seacoast Emergency Room. Afterwards, she came by the store and was told she needed to speak to the owner, Thad Griffin. He was not in the store, but she did speak with on the phone about what had happened. Griffin told her he would pay for the emergency room bill. She laid a copy of the work excuse from Seacoast on Griffin's desk. She did not keep a copy.

About a week later, Claimant spoke with Griffin about workers' compensation. She was still out with her injury, but here daughter had gotten sick. She asked for time off to care for her daughter. Griffin told her to take all the time she needed.

Claimant testified she had kept Griffin up to date with her and her daughter's status. She shopped in the store at least once a week. On March 31, 2009, Claimant took her daughter to Charleston Children's Hospital. When she got out of that appointment, she called Griffin to see if she could return back for light duty. Griffin informed her "that I quit my job."

Claimant applied for unemployment. She advised the ESC of her work injury and her work restrictions. For a time she received unemployment benefits, but they were terminated when her doctors refused to sign a release to go back to work.

Claimant moved to Georgia in May 2008 because her husband was transferred. She is currently waiting on surgery. Workers' compensation has not paid for any medical treatment. Mr. Griffin paid for the Seacoast Emergency Room visit.

Claimant described her physical condition. She stays in pain in her back, right hip and right thigh. She takes pain medication. She cannot go back to work as meat cutter right now. She is under restrictions of no lifting over 15 pounds, plus limits on standing, sitting and repetitive work.

On cross-examination, Claimant confirmed she felt a crunch in her back. When she went to

the emergency room, she did not know it was a back injury because the pain was mostly in her hip area and ran down her leg. She thought she might have cracked a bone in her hip.

Claimant testified it was impossible for her to return to work after her daughter became ill and March 31st both because her daughter had been taken out of day care and because she was physically unable to work. Claimant confirmed that she was required to look for work as part of her unemployment compensation application. She applied for numerous jobs where they had light duty work.

Claimant testified she told Doctors Care and Strand Regional Specialty that she felt a crunch in her back and was carrying meat when she hit the saw.

On redirect, Claimant testified that she had never had a prior back problem, had never heard the term "radiculopathy" before this accident, and did not know that back problems could cause pains down her legs. She further confirmed she told the Employment Security Commission about her back injury and work restrictions. She asked Mr. Griffin about going back to work light duty, but was told she did not have a job there. Mr. Griffin never offered her light duty.

Defendants called Brian Thad Griffin. Griffin testified he is the manager at Griffin's IGA.

Griffin testified he knew Claimant claimed an injury on February 21, 2008. He testified the only conversation he had with her was the next Tuesday when she came in to the store. He asked her how her hip was. She replied it was fine; the doctor told her she had some contusions and she had got a shot.

Griffin testified they also discussed Claimant's daughter's illness. Griffin stated Claimant was supposed to call him on March 4th after seeing a specialist in Charleston. He denied Claimant told him she did not think she could work because of her injury. He denied receiving a work slip

from Claimant. He testified his impression was they would discuss her work status on March 4, 2009. Griffin testified he saw Claimant in the store one time after that and waved at her, but never got a chance to talk with her.

Griffin next spoke with Fore on March 31, 2009, "when she called and wanted her job back, wanted to know when she could come back to work." He told her he thought she quit. He testified he did not know that she was coming back to work and hadn't talked with her in a month. He stated, "the impression she gave me the Tuesday prior was that, you know, she would probably have to be out with the child." [Tr. p. 41-42].

On cross-examination, Griffin testified he was certain Fore had an accident while working for his company. He admitted he did not file her claim under workers compensation, but did pay for the emergency room.

Griffin admitted speaking with Fore about her daughter's illness one week after the accident. He told her she could take all the time she needed and would be under FMLA. He did not give her the FMLA paperwork to fill out. He denied ever speaking to her in the next month, but admitted he "had people in the store telling me how she was . . ." [Tr. p. 46, ll. 2-3].

Griffin confirmed Claimant had taken off 4 weeks for the birth of her child and that he gave her job back to her when she returned.

Griffin testified Claimant called him on March 31, 2008, asking to come back to work. He told he thought she had quit to take care of her child. He confirmed she never told him directly that she had quit. Griffin admitted there was no documentation of whether Claimant quit or was fired.

Griffin testified meat cutter is a very heavy job requiring carrying 50 pounds of meat on a regular basis. He acknowledged the band saw weighs close to several hundred pounds and would

take a good lick to move.

Griffin admitted Claimant could not work as a meat cutter within her doctor's restrictions and that he never offered her any work since the last time she worked for him.

On redirect, Griffin testified Claimant never sought him out to speak to him about the status of her daughter. On recross, he admitted Claimant did advise one or two people in the store of her daughter's status, and that word got back to him.

Medical and Expert Records:

February 24, 2008: Dr. Meacher at the Seacoast Medical Center noted, "43-year old white female . . . describing pain in her lateral hip and right thigh with a 'Charley horse type muscle pain' radiating to her lower leg today. Patient recalls turning and accidentally hitting the lateral aspect of her right hip against a table saw February 21, 2008.

In the patient information sheet for Strand Regional Specialty Associates on May 8, 2008, Claimant wrote "continuous pain in joint (hip) and it will run down leg." [Claimant's APA p. 28]. The doctor's assessment on that visit was "Traumatic right trochanteric bursitis with *possible mild sciatica*." [Claimant's APA p. 30(emphasis added)].

Dr. Moree's reports show, "Dr. Moree feels that Ms. Fore has a right L4-L5 sciatic radiculopathy due to previous work-related trauma." [Claimant's p. 36].

Dr. Wolgin stated "Clearly, in my opinion her condition is due to her back and very often there is an overlap between hip and back, such as with the shoulder and back." [Claimant's APA p. 16]. Dr. Wolgin opined, "With regard to causation, my opinion is that to a reasonable degree of medical certainty that his patient's condition developed from her workplace exposure based on her

history to me. [Claimant's APA p. 16]

Dr. O'Leary opined: "It is my opinion that the patient's complaints of back and hip pain are directly related to her injury in February of 2008." [Defendants' APA p. 23].

FINDINGS OF FACT

Based on the testimony, exhibits and APA submissions, I find the greater weight of the evidence supports the following findings of fact:

1. Based on the medical records and testimony, I find Claimant injured her back in the February 21, 2008 accident when she bumped into a meat saw while carrying approximately 60 pounds of meat. I find the injury manifested itself as hip symptoms to start with.
2. Claimant's symptoms have been consistent throughout her course of treatment. In the emergency room evaluation on February 24, 2008, she described "pain in her lateral hip and thigh with a 'Charley horse type muscle pain' radiating to her lower leg . . ." [Claimant's APA p. 21]. In the patient information sheet for Strand Regional Specialty Associates on May 8, 2008, she wrote "continuous pain in joint (hip) and it will run down leg." [Claimant's APA p. 28]. The doctor's assessment on that visit was "Traumatic right trochanteric bursitis with *possible mild sciatica*." [Claimant's APA p. 30(emphasis added)]. Dr. Wolgin stated "Clearly, in my opinion her condition is due to her back and very often there is an overlap between hip and back, such as with the shoulder and back." [Claimant's APA p. 16].
3. The finding of a back injury with radiculopathy into the right leg is supported by the opinions of Claimant's doctors. Dr. Moree's reports show, "Dr. Moree feels that Ms. Fore has a right L4-L5 sciatic radiculopathy due to previous work-related trauma." [Claimant's p. 36]. Dr. Wolgin opined, "With regard to causation, my opinion is that to a reasonable degree of medical

certainty that his patient's condition developed from her workplace exposure based on her history to me. [Claimant's APA p. 16]. Dr. O'Leary opined, "It is my opinion that the patient's complaints of back and hip pain are directly related to her injury in February of 2008." [Claimant's APA p. 39].

4. Claimant suffered compensable injuries to her back and right hip. Her back injury affects her right leg.

5. Claimant is not at MMI and additional medical treatment will tend to lessen her period of disability. Her treating physician, Dr. Wolgin, recommends surgery. She is awaiting authorization for surgery by Dr. Wolgin. [Claimant's APA p. 16-17]. Claimant testified she wants to proceed with spine surgery. Dr. O'Leary opined she is not at maximum medical improvement and did not feel she can return to work at this point. Although noting she was a high-risk candidate for surgery, he stated he would "defer to the spine surgeon with regards to surgical intervention." [Claimant's APA p. 39].

6. As this is a denied claim and Defendants have not designated a treating physician, I find good cause for the Commission to designate the treating physician. Claimant lives in Georgia and has been under the care of Drs. Mason, Moree and Wolgin at Orthopaedic Associates in Albany, Georgia. I therefore find it appropriate that these doctors be designated the authorized treating physicians. Defendants shall pay for and authorize without delay all causally-related treatment ordered or prescribed by these doctors.

7. Claimant is entitled to temporary total disability compensation from March 31, 2008 and continuing on a running award until further Order of the Commission. I find Claimant has been disabled from that date and no suitable employment was offered by the Employer. Claimant specifically inquired as to whether the Employer had work available within her restrictions.

8. I do not find Claimant's application for and receipt of unemployment benefits bars her from receiving workers' compensation benefits. At no point did Claimant advise the Employment Security Commission that she was able to work full, unrestricted duty. She informed the Employment Security Commission of her work-related injury from the outset. The Employment Security Commission found she was ineligible to receive benefits until she presented evidence that her "health condition is such that you are able to work." [Defendants' APA p.18].

CONCLUSIONS OF LAW

1. Claimant sustained an injury by accident arising out of and in the course of her employment on February 21, 2008 within the meaning of S.C. Code Ann. § 42-1-160 (2007).

2. Disability is defined as "Incapacity because of injury which the employee was receiving at the time of injury in the same or any other employment." Reg. 67-502. Employer offered no suitable employment within her capacity to Claimant. As she was still disabled due to her injury, she is entitled to temporary compensation until she reaches MMI. § 42-9-10; 42-9-190.

3. Medical treatment is to be provided so long as it tends to lessen the period of disability. § 42-15-60; Dodge v. Bruccoli, Clark, and Layman, Inc., 518 S.E.2d 593 (S.C. 1999); Dykes v. Daniel Constr. Co., 202 S.E.2d 646 (S.C. 1974).

4. The employer's representative shall provide and pay for medical care while a claimant is receiving or entitled to receive temporary compensation benefits. Reg. 67-509. Medical, surgical, hospital and other treatment which will tend to lessen the period of disability within the judgment of the Commission shall be provided by the employer. In case of a controversy arising between employer and employee, the Commission may order such further medical, surgical, hospital or other treatment as may in the discretion of the Commission be necessary. S.C. Code Ann. § 42-15-60.

When the Employer refuses to provide medical treatment, the Commission has authority to designate the treating physician.

5. The Workers' Compensation Act "requires employers to pay temporary total disability to an employee who has 'been out of work due to a reported work related injury' for eight days." Martin v. Rapid Plumbing, 369 S.C. 278, 631 S.E.2d 547 (Ct.App.2006), *quoting* S.C. Code § 42-9-260(A) (Supp. 2006). When the injured worker is under work restrictions, the employer must either offer suitable employment within the injured worker's capacity or pay temporary total disability compensation. See S.C. Code § 42-9-190 (2005); Last v. MSI Const. Co., Inc., 305 S.C. 349, 409 S.E.2d 334 (1991))(fact that incarcerated claimant remained unemployable for reasons other than his injury was not dispositive of his right to temporary compensation; rather, the issue was whether the injury had resulted in some loss of his earning capacity). See also Grayson v. Carter Rhoad Furniture, 317 S.C. 306, 454 S.E.2d 320 (1996)(temporary compensation improperly suspended because claimant not at MMI and still under restrictions by the doctor, thus no evidence period of temporary total disability ever ended); Hines v. Hendricks Canning Co., 263 S.C. 399, 211 S.E.2d 220 (1975)(allowing an employee temporary total benefits and rejecting the carrier's argument that the claimant's loss of earning capacity was caused by his full-time attendance at school rather than his work-related injury). Cf. Orr v. Elastomeric Products, 323 S.C. 342, 474 S.E.2d 448 (Ct. App. 1996)(claimant's inability to work was still due to her injury and not to her pregnancy and that the prolongation, caused by the pregnancy, of the period of temporary disability did not alter that overriding fact).

6. "While [a] claimant's application for and acceptance of unemployment compensation may be considered by the commission as evidence in deciding whether disability continued, and may

be conclusive against the award of total disability benefits for the period of time during which unemployment compensation was drawn, it [would be] error to conclude that such conduct raised an estoppel in bar of any relief to which claimant would otherwise be entitled as an injured employee." Harvey v. Art Metal, Inc., 247 S.C. 443, 147 S.E.2d 697 (1966). "[T]here is no real inconsistency between the claimant's entitlement to unemployment compensation for loss of wages through the termination of a job which he could and did perform in his partially disabled condition, and his entitlement to some workmen's compensation benefits." Id.

"It would, therefore, not be appropriate or equitable to allow the Defendant (carrier) to derive a windfall benefit by taking credit against any sums received from other sources or to permit the carrier not to make payments which are admittedly due under the Workmen's Compensation laws of the State, merely because of money received by the worker from other sources during the same period of time." McLeod v. South Carolina Ins. Co., 272 S.C. 254, 251 S.E.2d 193 (1979).

AWARD

IT IS THEREFORE ORDERED that Defendants shall pay for past causally-related medical treatment;

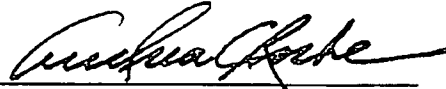
IT IS FURTHER ORDERED that Defendants shall authorize without delay all causally-related medical, surgical and other treatment prescribed by a qualified surgeon selected by Defendants within reasonably close geographical proximity to Claimant;

IT IS FURTHER ORDERED that Defendants shall pay temporary total disability to Claimant in the amount of \$299.59 commencing on March 31, 2008 and continuing until further order of the Commission;

IT IS FURTHER ORDERED that permanency is premature;

IT IS FURTHER ORDERED that no hearing costs are assessed.

AND IT IS SO ORDERED.



Andrea P. Roche, Commissioner
S.C. Workers' Compensation Commission

Dated: October 7, 2009

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served this order in the above entitled action upon all parties to this cause by depositing a copy hereof, postage paid, in the United States mail addressed to the attorney or attorneys for said parties.

SBS
JL

This 13th day of October, 2009.

By Barbara Chesson
Administrative Assistant to the Commissioner

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO.: 0810152

PATRICIA FORE,

Employee,

Claimant,

vs.

GRIFFCO OF WAMPEE, INC.,

Employer,

AND

COMMERCE & INDUSTRY INSURANCE
COMPANY c/o CHARTIS CLAIMS, INC.,

Carrier,

Defendants.

DECISION AND ORDER

DATE OF HEARING:

Hearing held in Horry County, S.C. on September 27, 2011.

APPEARANCES:

Claimant appeared and represented by Stephen B. Samuels, Esquire of Samuels Law Firm of Columbia, South Carolina.

Defendants represented by James H. Lichty, Esquire of McAngus Goudelock & Courie, L.L.C. of Columbia, South Carolina.

PURPOSE OF THE HEARING: To determine all issues as set forth in Forms 50 and 51.

COMMISSIONER:

Commissioner G. Bryan Lyndon

FILED:

January 18, 2012

STIPULATIONS

1. Venue was proper in Myrtle Beach, South Carolina.
2. At the time of the alleged injury, Claimant earned an average weekly wage of \$449.36 with a corresponding compensation rate of \$299.59.
3. Notice of hearing was timely and properly served upon all parties of interest.
4. The South Carolina Workers' Compensation Commission has jurisdiction of this claim.
5. The Commission File becomes part of the record with the exception of self-serving declarations and unstipulated medical reports.

APA SUBMISSIONS

Pursuant to the South Carolina Administrative Procedures Act and Regulations of the South Carolina Workers' Compensation Commission, the following records and documents were submitted into evidence.

The Claimant submitted the following exhibits:

1. Loris Healthcare – Seacoast Medical Center, dated 02/24/2008, consisting of 5 pages. (APA 1)
2. Orthopaedic Associates f/k/a Albany Bone & Joint Clinic, dated 09/16/2008 to 02/14/2011, consisting of 73 pages. (APA 2)
3. Strand Regional Specialty Associates, dated 05/08/2008, consisting of 9 pages. (APA 3)
4. Phoebe Putney Memorial Hospital, dated 11/17/2008 to 12/05/2008, consisting of 4 pages. (APA 4)
5. Midlands Orthopaedics, dated 07/07/2009, consisting of 2 pages. (APA 5)

The Defendants submitted the following exhibits:

1. Correspondence from S.C. Attorney General's Office, dated 07/20/2011, consisting of 4 pages. (Exhibit 1) *Page one is omitted as per Claimant's objection.*
2. *Omitted as per Claimant's objection.*
3. Surveillance Video, consisting of 2 discs. (Exhibit 3)
4. Surveillance photograph of Claimant's vehicle, consisting of 1 page. (Exhibit 4)
5. Training Certification of Georgia Assoc. of Professional Bondsmen, dated 08/26/2010, consisting of 1 page. (Exhibit 5)
6. Documentation supporting Claimant's employment with ASAP Towing, consisting of 5 pages. (Exhibit 6)
7. Claimant's Facebook Profile, dated 09/19/2011, consisting of 2 pages. (Exhibit 7)

STATEMENT OF THE CASE

This matter arises to determine the issues raised in the parties' Forms 50 and 51. Claimant alleges that she sustained an injury to the back which resulted in a fusion surgery and a recommendation for additional surgery which she currently declines. A previous order states the Claimant suffered injury to her back and hip that affects her right leg. She alleges that she is entitled to permanent and total disability utilizing two body parts under §42-9-10 or based on greater than fifty percent disability to the back under §42-9-30. She sought lifetime medical treatment and an award paid in lump sum with James v. Anne's language. She admits that she worked for a period of time, but denies that she can continue working. Claimant points to a vocational evaluation and page 77 of the APA's as evidence that she can no longer work.

The Defendants allege that Claimant can work and may continue to be working as evidenced by video surveillance, testimony, and other evidence. Defendants' admit that

Claimant has been rated at 36 percent to the back, but point out that is based on the AMA Guides 6th Edition and the fact she had surgery. They allege that Claimant can work regardless of any reports and argue that the actual impairment should not actually exceed the rating. Defendants request a credit for overpayment of benefits and object to lump sum payment if Claimant were to be found totally disabled. Defendants requested a finding on credibility due to numerous inconsistencies. Finally, Defendants allege Claimant is only entitled to compensation under §42-9-30 and that *Singleton* would apply because she has no ratable impairment other than the back.

Claimant objected to the inclusion of a letter from the Attorney General's office in Defendants' Exhibit 1. This objection was granted and page one was removed from the record.

Claimant objected to the inclusion of a letter from Garry Smith in Defendants' Exhibit 1 into evidence based on allegations that it constituted improper ex parte communication, hearsay, and threat of criminal prosecution. The Claimant additionally argued that the entire Workers' Compensation Commission should recuse themselves from hearing this claim. The Defendants countered that it is not a threat, but simply evidence that a fraud investigation is ongoing. Furthermore, neither the Defendants' Attorney, the Employer, or Carrier was engaged in the communication; it was between the Attorney General's Office, the Workers' Compensation Commission, and the complainant. The Claimant's objections were denied.

Claimant objected to the inclusion of Defendants' Exhibit 2 which is a surveillance report. The objection was granted and Exhibit 2 was removed from the record.

Claimant objected to Defendants' Exhibit 3 which is surveillance footage of the Claimant as being unduly prejudicial. The objection was denied and the surveillance footage was made a part of the record.

EVIDENCE OF THE CASE

Testimony of the Claimant

Claimant is a 46 year old married woman with two minor children. (Tr. at 16-17). She has an associates degree in business management and has experience working in restaurants, construction, meat cutting, and as a bail bondsman. (Tr. at 17). Claimant worked as a meat cutter at the time of her injury and does not believe she can return to this employment field. (Tr. at 18).

Claimant testified she treated with Dr. Wolgin, who performed fusion surgery at L4-5 and L5-S1. She stated that surgery resolved her sciatic pain but that bending coming off the floor remains difficult. (Tr. at 19). She testified that her surgery resulted in a non-union and prospects of a second surgery's success were only 50/50. She declined the additional surgery and stated that she was placed on "extreme light duty." (Tr. at 20-21). Claimant stated that her pain is about 6/10 and can worsen with activity. (Tr. at 39).

Claimant testified that she worked for Steve McGowan at ABC Bail Bonding during the summer of 2010 and worked 20 or more hours per week. (Tr. at 21-22). Claimant testified regarding a calendar that purported to list hours and dates she worked for ABC. Defendants objected to the inclusion of the calendar based on the fact it had not been produced until the Hearing and contained no evidence of pay and did not reference Claimant's name anywhere in the document. The objection was denied. (Tr. at 24). The calendar contains numerous notations, appointments, and work schedules.

Claimant testified that as of November 30, 2010, Claimant's pain was aggravated by the several months of work and noted that she requested additional medications from Dr. Wolgin, which were denied. (Tr. at 26). Claimant stopped working for ABC on January 21, 2011. (Tr. at 28). Claimant was placed at MMI on February 14, 2011.

Claimant testified that she was approached by a competitor, A1 Bail Bonding, about changing her license to its business, place advertising on her truck, and using her name for marketing purposes. (Tr. at 29-30). She alleged that she completed one bond in February 2011 to change the license but did no other work and received no payment. (Tr. at 29-30). According to her testimony, the Claimant entered bonds and advertised for A1 Bail Bonding without compensation. Claimant testified she began doing more bonds in July, August, and September 2011 and was reported by her former employer. (Tr. at 31, 34, 35). Claimant indicated that she arranged for Mary Weaver to work at A1 so that she would not have to get up at all hours of the night. (Tr. at 34-35). Claimant testified regarding an entry on her Facebook page indicating she was "Self Employed and Loving It!" as a bondsman and "bond you out of jail if you need me call me." (Exhibit 7). Claimant testified she took a stalking order out against her former employer because she was aware he was investigating the work she was doing for her competitor. (Tr. at 39-41). On cross-examination, she admitted that the order prohibited her from contacting Mr. McGowan as well. (Tr. at 61).

Claimant testified on cross-examination that she performed the same work for A1 Bail Bonding *for free* as the work she did for pay at ABC Bail Bonding. (Tr. at 49). Claimant was asked why she didn't admit she was working for A1 Bail Bonding when her deposition was taken in August 2011. (Tr. at 49-50; Deposition at 7). She testified that, although she had performed numerous bonds between February and September 2011, she did not consider it work. (Tr. at 50). Claimant admitted that her response at her deposition to whether she was working was "no" and at the Hearing her answer was "yes." (Tr. at 53). Claimant denied that she had time cards when she worked for Steve McGowan at ABC. (Tr. at 53).

Claimant testified that she also worked for ASAP Towing, Steve McGowan's other business. (Tr. at 54). Claimant worked there with her husband and denied that she would affix her husband's name to work she performed. (Tr. at 54).

She also testified at her deposition that she had no further education or certification since the date of injury. However, she admitted at the Hearing that she received certification as a bail bondsman in August 2010. (Tr. at 50). Claimant also admitted that she received a diploma in accounting in 2010 that she did not previously report. (Tr. at 51). Claimant admitted that her response at her deposition to whether she received additional certification or education was "no" and at the Hearing her answer was "yes." (Tr. at 53).

Surveillance footage of Claimant was referenced and Claimant admitted that she could work as long as there was not repetitive bending and twisting involved. (Tr. at 55). Claimant would not confirm or deny that she could repetitively bend based on footage of her bending to pick up items from the bottom shelf at Walmart. (Tr. at 56). She admitted she could pick up light things. (Tr. at 56-57). The Claimant testified she worked twenty hours a week for ABC during September 2010. (Tr. at 57). The September 30, 2010, medical report of Dr. Wolgin states "she is able to continue with her work which is three hours per day three days a week." (APA at 61). Moreover, the vocational report of Glenn Adams states the Claimant reported working an average of twelve hours a week, which is also less than her testimony would suggest. (Tr. at 59, APA at 98).

Claimant requested to call Tony Lee Owens. Defendants' objection to this testimony was granted and the testimony was taken as Proffered Testimony outside of the presence of the Commission and is not part of the record. (Tr. at 67).

Testimony of Steve McGowan

Steve McGowan was called by the Defendants. Mr. McGowan is the owner of ABC Bail Bonds and employed Claimant for about six months. (Tr. at 70). He hired Claimant as a result of the recommendation of her husband, an employee in his towing company. (Tr. at 72). She initially just worked on computers, but wanted to work more and more hours. (Tr. at 74). She went to Atlanta to receive her certification as a bail bondsman soon after in late-August 2010. (Tr. at 74). He stated that Claimant left his employment because she wanted more money. (Tr. at 78). He also indicated that he paid her under the table and under her husband's name because she requested it that way. (Tr. at 78). She began working about 10 hours a week but eventually began working 30-35 hours per week, and sometimes over 40 if she worked on a weekend. (Tr. at 79). Of note, documented work of as much as 29 hours per week was reflected in Claimant's personal calendar, but was not reflected in her deposition testimony or medical records. Mr. McGowan indicated he has observed Claimant working for A-1 Bail Bonds and has surveillance footage of her performing duties at the jailhouse bonding an individual from jail. (Tr. at 80-81).

On cross-examination, Mr. McGowan agreed that he knew Claimant had back pain and stiffness "every now and then." (Tr. at 83).

Medical Evidence

Claimant first presented to Loris Healthcare on February 24, 2008 complaining of right leg and hip pain from bumping her right hip against a table saw three days earlier. (APA 1 at 1, 4).

Claimant next presented to Strand Regional Specialty Associates on May 8, 2005. She was diagnosed with traumatic right trochanteric bursitis with possible mild sciatica. (APA 3 at

83). Claimant received an injection and was recommended to engage in physical therapy. (APA 3 at 84).

Claimant next treated with Dr. Wolgin and Orthopaedic Associates in Albany, Georgia. She first presented on September 16, 2008, complaining of persistent right hip pain with radiation all the way down the leg. (APA 2 at 6). MRI testing revealed mild degenerative and facet changes in the lower lumbar spine with an L4-5 small right neural foraminal disc protrusion. (APA 2 at 8). MRI testing of the right hip was normal. (APA 2 at 10). Based on the mild findings, Claimant was referred to physical therapy. (APA 2 at 11). After several weeks of physical therapy ending in October 2008, Claimant reported little relief. (APA 2 at 20, 21). She received brief pain management treatment in November and December 2008 with Dr. Lamar Moree. (APA 4 at 88-91).

At Claimant's next appointment on April 17, 2009, Dr. Wolgin opined that Claimant's injury was due to her back and not her hip. (APA 2 at 21). Based on her continued complaints and low benefit through therapy and injections, Dr. Wolgin recommended consideration of a one or two level fusion surgery. (APA 2 at 22). Dr. O'Leary provided a second opinion on July 7, 2009 and recommended injection therapy rather than surgery, but deferred to Dr. Wolgin. (APA 5 at 92-93). Claimant returned on February 2, 2010 complaining of the same low back and right leg pain. Due to the gap between treatment, Dr. Wolgin ordered additional MRI imaging to assess any changes. (APA 2 at 23).

Claimant's MRI's came back showing a possible tiny protrusion at L4-5 with mild facet arthropathy and no nerve root compression; L5-S1 showed mild changes as well. (APA 2 at 25). Claimant returned to Dr. Wolgin to discuss the tests and decided to move forward with surgery. (APA 2 at 26). A peer review was conducted on these findings and Dr. Wolgin suggested a

psychosocial evaluation and a provocative discography. (APA 2 at 29; APA 6 at 94-95). Additional testing was not performed prior to surgery. (APA 2 generally).

Claimant underwent an L4-5, L5-S1 transforaminal lumbar interbody fusion on May 19, 2010. (APA 2 at 38-40). As of May 25, 2010, Claimant continued to complain of pain at an 8/10 level, but noted some improvement of leg complaints by May 27, 2010. (APA 2 at 42, 44). Claimant returned complaining of increased pain on June 22, 2010 and was given an injection. (APA 2 at 47). Dr. Wolgin anticipated that she would be written completely out of work for at least another month. (APA 2 at 47).

Claimant's leg pain improved as of July 20, 2010 but she complained that she still could not lay down in a bed and could not swim because of increased pain kicking her legs; she remained written completely out of work. (APA 2 at 53). Claimant was allowed to return to limited sedentary work as of August 27, 2010 and was recommended to begin physical therapy. (APA 2 at 57).

As of October 19, 2010, Claimant had been through a month of physical therapy with little benefit and reported an increase in her hip and back pain due to sleeping in a bed. (APA 2 at 64). Repeat injections completely relieved the hip pain and partially relieved the back. (APA 2 at 64). Seven days later a prescription note from Dr. Wolgin was prepared, writing her back out of work. (APA 2 at 66). On November 23, 2010, Claimant noted slow improvement, increased walking ability, and little to no leg pain or numbness. (APA 2 at 67). According to Dr. Wolgin's notes, sometime prior to December 21, 2010, Claimant began taking care of a 3-year old and began engaging in frequent bending, lifting, and twisting. (APA 2 at 70).

A CT scan on February 9, 2011 showed no evidence of hardware failure but did show evidence of non-union in places. (APA 2 at 72-76). As of February 14, 2011, Claimant stated

that she felt about the same in the right buttocks area, but did report relief of her prior leg complaints; she did not wish to undergo additional surgery. (APA 2 at 76). Claimant was released from care with a 36 percent impairment rating using the AMA Guides, 5th Edition. (APA 2 at 76, 78). Claimant reported that she continued to care for a toddler full time. (APA 2 at 76).

Claimant's Attorney referred her to Glen Adams for a vocational assessment on September 12, 2011. She reported that she worked for ABC Bail Bonding during January 2011 but only worked 12 hours a week. (APA 7 at 96-106). She reported that Dr. Wolgin supported a trial return to work in January, however, there are no records reflecting this and he continued to place her completely out of work at that time. Claimant was found to be totally disabled; however, she did not disclose any additional employment other than minor, part-time work during January 2011.

FINDINGS OF FACT

Based upon the testimony and exhibits submitted, the undersigned Commissioner makes the following findings of fact:

1. Claimant injured back in an admitted work-related accident on February 24, 2008. The injury affects the left hip/leg (See Order of October 13, 2009.)
2. Defendant to pay all causally related authorized medicals.
3. Claimant had a two level fusion which was not successful. There is a non-union and Claimant is a candidate for another surgery; at present she chooses not to have the surgery.

4. Claimant testified that she attempted to work within her restrictions. Claimant stated she worked about 20 hours per week for \$8.00 per hour. Claimant worked until January 2011 and stated she was unable to work anymore.
5. Claimant was placed at MMI on February 14, 2011, given a 36% impairment rating with restrictions of "unable to return to work" (APA 2 at 76).
6. Claimant stated she helped Tony at A1 Bail Bonding for about a month with bonding and according to Exhibit #1 worked a limited amount of time. She got another person to help because she physically was unable to meet the demands of the job.
7. Claimant stated she had earned money in spite of denying this in her deposition. She further stated that in order to keep her mind occupied she participated in social media.
8. Claimant admitted she was helping Tony but denied that she received any pay. This was for the same job she did prior for which she did receive pay. Claimant stated that she said she was not working in her deposition in May 2011, because she did not consider what she was doing work.
9. A surveillance photograph from September 2011 shows Claimant's vehicle with an advertisement on the back window promoting A-1 Bail Bonds with a 24 hour contact number. (Exhibit 4).
10. As of September 19, 2011, Claimant's Facebook profile showed that her employer was "Self Employed and Loving It!" as a Professional Bondsman in Leesburg, Georgia. It states, "bond you out of jail if you need me call me." (Exhibit 7).
11. Claimant stated she had received no certifications in her depositions but she did in fact have training as a bondsman. (Exhibit 5).

12. Claimant stated she could work as long as she did not have to bend over or do lifting.

There was conflicting testimony as to what Claimant said she was working and what reports indicated she could work. The surveillance footage also showed Claimant squatting, bending, and lifting in a manner well-exceeding her self-reported limitations.

13. Claimant indicated to Dr. Wolgin that she took over as the primary caregiver for a toddler and engaged in regular bending, lifting, and twisting. He indicated he was concerned these activities could be exacerbating her symptoms.

14. Claimant stated she recruited a person to work for Tony who was paid. Claimant stated she did the same job but got no pay. She stated she did this because she felt sorry for Tony.

15. A witness for the Defendant, Mr McGowan stated Claimant is currently working for another company and he took a video of Claimant in the jail house with a file in her hand bailing out someone.

16. Mr. McGowan estimated that Claimant worked for him from August 2010, to January 2011. He knew Claimant's husband and hired Claimant. Witness stated Claimant was good with computers and eventually got a certification for her license to write bail bonds. (Exhibit 5).

17. Witness stated Claimant left because she needed **more** hours and he paid her \$8.00 per hour up to 30 to 40 hours per week. She averaged about 30 hours.

18. Based on this testimony and the Claimant's, I find Claimant did work for A1 Bail Bonding and provided an inaccurate account to her vocational assessor regarding the length of time she was employed with ABC, the amount she was paid per hour, and the amount of hours she was able to work.

19. The Claimant failed to disclose her second job with A1 Bail Bonding to her vocational assessor and at her deposition. Clearly a vocational assessor uses self-reported earning capacity, low hours, and meager recent work history as evidence to conclude that no viable employment was available.
20. Compensation Rate: \$299.59.
21. After considering all of the evidence I find Claimant has suffered a 40% PPD to the back. I did not find her a credible witness and believe she can work.
22. Defendant to receive credit for all wages paid during the disability period and a credit for temporary total disability benefits paid following maximum medical improvement on February 14, 2011.
23. Claimant to have lifetime replacement of any hardware.

CONCLUSIONS OF LAW

It is concluded under the South Carolina Worker's Compensation Act in Section 42-1-10 S.C. Code of Laws, et. seq., that:

1. Pursuant to § 42-1-40, Claimant had an average weekly wage of \$449.36 and a corresponding compensation rate of \$299.59.
2. Pursuant to § 42-1-130, Claimant was an employee at the time of the alleged work injury.
3. Pursuant to § 42-1-160, Claimant sustained an admitted injury by accident to the back, arising out of and in the course and scope of her employment with the Defendants on February 21, 2008.
4. Pursuant to § 42-9-30, Claimant is entitled to forty percent disability for her injury to the back.

5. Pursuant to § 42-15-60, Claimant achieved maximum medical improvement to the back on February 14, 2010 per the authorized treating physician, Dr. Mark A. Wolgin.
6. Pursuant to § 42-9-210 and *Curiel v. Env. Management Services*, 655 S.E.2d 482 (2007), the date of maximum medical improvement signals the end of entitlement to temporary total benefits), the Defendants are entitled to a credit for overpayment of temporary total benefits from the date of maximum medical improvement, February 14, 2011 and credit for any wages earned while paying benefits during the prior disability period.

ORDER

IT IS HEREBY ORDERED that the greater weight of evidence supports a finding that Claimant suffered an admitted injury by accident to the back. Claimant's injury resulted in a forty percent (40%) disability to the back.

IT IS HEREBY ORDERED that the greater weight of evidence supports a finding that the Defendants are entitled to credit for overpayment of temporary total benefits from the date of maximum medical improvement, February 14, 2011 at a rate of \$299.59 and credit for any wages earned while paying benefits during the prior disability period.

IT IS HEREBY ORDERED that Defendants shall furnish any prosthetic devices during the life of the Claimant or for so long as such devices are necessary.

AND IT IS SO ORDERED.



G. Bryan Lyndon, Commissioner
South Carolina Workers' Compensation Commission

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.
January 18, 2012

By: Tamara Morris, Administrative Assistant to Commissioner Lyndon

APPELLATE PANEL DECISION AND ORDER
OF THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
W.C.C. FILE NO: 0810152

PATRICIA FORE

EMPLOYEE,
CLAIMANT/APPELLANT

VS.

GRIFFCO OF WAMPEE, INC.

EMPLOYER,

AND

CHARTIS CLAIMS, INC.,

CARRIER,
DEFENDANTS/RESPONDENTS

Appellate Panel Review held in Columbia, South
Carolina, on June 18, 2012, per notices timely
And properly served upon all parties of interest.

Appellate Panel Decision and Order Filed:

8/27

APPEARANCES: Claimant/Appellant represented by Peter P. Leventis, IV, McKay
Cauthen Settana & Stubley, PA, of Columbia, South Carolina
and Stephen B. Samuel, Esquire of Columbia, South Carolina.

Defendants/Respondents represented by James H. Lichty,
Esquire of McAngus Goudelock & Courie, LLC of Columbia,
South Carolina.

STATEMENT OF CASE

This matter was heard before Commissioner G. Bryan Lyndon on September 27, 2011, in Myrtle Beach, South Carolina. On January 18, 2012, he issued the following Order:

IT IS HEREBY ORDERED that the greater weight of evidence supports a finding that Claimant suffered an admitted injury by accident to the back. Claimant's injury resulted in a forty percent (40%) disability to the back.

IT IS HEREBY ORDERED that the greater weight of evidence supports a finding that the Defendants are entitled to credit for overpayment of temporary total benefits from the date of maximum medical improvement, February 14, 2011 at a rate of \$299.59 and credit for any wages earned while paying benefits during the prior disability period.

IT IS HEREBY ORDERED that Defendants shall furnish any prosthetic devices during the life of the Claimant or for so long as such devices are necessary.

By Form 30, Claimant submitted the following exceptions to the Single Commissioner's Findings of Fact and Conclusions of Law:

1. Whether the Single Commissioner erred as a matter of fact and law in denying Claimant's Motion for the Commission to recuse itself on the grounds that the Commission engaged in improper ex parte contact with Defendants in violation of the *Code of Judicial Conduct*, Canon 3 B (7) and others, by instructing the Attorney General's Office to forward a letter from the Commission's Compliance Director to the Defendants without copying the same to Claimant.
2. Whether the Single Commissioner erred as a matter of fact and law in failing to make specific findings for his refusal to recuse himself and the Commission, such refusal being an abuse of discretion mandating a new trial before an impartial and unbiased tribunal.
3. Whether the Single Commissioner erred as a matter of fact and law in

denying Claimant's Motion to exclude the ex parte letter from the Commission's Compliance Director on the ground that said letter:

- A. Contained prejudicial ex parte communication between the Commission and a witness in a pending case;
 - B. Contained inadmissible hearsay;
 - C. Was more prejudicial than probative;
 - D. denied the Claimant the opportunity to conduct meaningful discovery to rebut evidence Defendants were able to develop without Claimant's knowledge based on the improper ex parte communication between the Commission and Defendants; and
 - E. the Commission's Compliance Director's characterization of the instant case as "insurance fraud" prejudicially tainted the entire proceeding resulting in an arbitrary decision based on bias, prejudice, passion and caprice rather than being founded on the evidence.
4. Whether Claimant was denied a fair trial due to:
- A. the Single Commission's refusal to recuse the Commission;
 - B. the admission and reliance on an improper ex parte communication between the Commission and Defendants;
 - C. the improper ex parte communication itself which denied the Claimant the opportunity to conduct meaningful discovery to rebut evidence Defendants were able to develop without Claimant's knowledge based on the improper ex parte communication between the Commission and Defendants;
 - D. allowing Defendants to improperly admit incompetent evidence of a potential criminal investigation initiated by the Commission, such evidence being unduly prejudicial, irrelevant, unsupported and offered for the improper purpose of intimidating and threatening Claimant; and
 - E. the Commission's Compliance Director's characterization of the instant case as "insurance fraud" which prejudicially tainted the entire proceeding resulting in an arbitrary decision based on bias, prejudice, passion and caprice rather than being founded on the evidence.
5. Whether the Single Commissioner erred as a matter of fact and law in excluding the testimony of Tony Owens, as such testimony was essential to rebut the incredible and biased testimony of Steve McGowan — the witness whose identity was provided to the Defendants by a Director of the Commission in an improper ex parte communication.
6. Whether the Single Commissioner erred as a matter of fact and law in failing to find Claimant sustained a loss of greater than 50% use of her back when the objective evidence of an undisputed 36% impairment rating, non-union of her surgery; and

permanent out of work restrictions by the authorized treating physician mandate such a result.

7. Whether the Single Commissioner erred as a matter of fact and law in failing to find Claimant is permanently and totally disabled under § 42-9-30 based on the presumption of disability for greater than 50% loss of use of the back combined with her demonstrated inability to perform gainful employment in a competitive marketplace.
8. Whether the Single Commissioner erred as a matter of fact and law in failing to find Claimant is permanently and totally disabled under § 42-9-10 based on her failed work attempt; unrefuted expert vocational opinion of Glenn Adams opining she is totally and permanently disabled; her testimony about her inability to sustain gainful employment; and Dr. Wolgin's opinion that she is to remain out of work indefinitely.
9. Whether the Single Commissioner erred as a matter of fact and law in the finding wherein, "I do not find her a credible witness and believe she can work," such finding being unsupported by the evidence and an application of an incorrect legal standard for determining disability.
10. Whether the Single Commissioner erred as a matter of fact and law in granting Defendants credit for overpayment past the date of MMI when:
 - A. Defendants waived any claim for overpayment by their failure to submit a Form 17 to Claimant or to file a Form 21;
 - B. Defendants are estopped from any claim for overpayment by their failure to submit a Form 17 to Claimant or to file a Form 21;
 - C. Any credit for overpayment would be inequitable; and
 - D. Claimant remained disabled at the time of the hearing and remains totally disabled.
11. Whether the Single Commissioner erred as a matter of fact and law in finding Claimant worked an average of 30 hours per week for Al Bonding when such finding is unsupported by the evidence.
12. Whether the Single Commissioner erred as a matter of fact and law in assigning any weight to the testimony of Steve McGowan, and in failing to find McGowan was not a credible witness, when:
 - A. McGowan admitted to engaging in tax fraud;
 - B. McGowan blatantly lied about his conversation with a Director of the Commission denying on the record that any such conversation took place; and
 - C. McGowan exaggerated, lied and displayed obvious bias with an intent to do

demonstrative harm both to Claimant and to his small-town business rival, Tony Owens.

13. Whether the Single Commissioner erred as a matter of fact and law in permitting Defense Counsel to add additional self-serving and inaccurate findings regarding credibility when the Commission's Preferences prohibit attorneys from making credibility findings in proposed orders unless explicitly instructed to do so by the Commission.
14. Whether the Single Commissioner erred as a matter of fact and law in finding Claimant provided inaccurate information to her vocational assessor when she explained that Adams asked her to "guesstimate" and she gave him a "ballpark round figure." (Tr. at 59, APA at 98).
15. Whether the Single Commissioner erred as a matter of fact and law in finding Claimant "worked" for A 1 Bail Bonds when the only evidence is that she:
 - A. Helped out Tony Owens when he was in poor health by processing 19 bonds over a seven-month period for which she received no pay;
 - B. Found a replacement for herself because she was unable to engage in even that limited level of employment; and
 - C. Any work she might have done (even if she had been paid) was of such a *de minimus* level that it would not change the fact of her inability to perform services other than those that are "so limited in quality, dependability, or quantity that a reasonably stable market for them does not exist."
16. Whether the Single Commissioner erred as a matter of fact and law in making an award under the medical model when the *Doctrine of Most Munificent Remedy* mandated an award for total and permanent loss of earnings capacity.
17. Whether the Single Commissioner's Decision and Order should be vacated and the case set for a de novo hearing before an impartial trier of fact.

STANDARD OF REVIEW

In appellate review, the Panel shall, pursuant to S.C. CODE ANN. §42-17-50 review the Award, weigh the evidence as presented at the initial hearing and, if good grounds be shown therefor, make its own Findings of Fact and Conclusions of Law. The final determination of witness credibility and the weight to be accorded evidence in workers' compensation cases is

reserved to the Full Commission. Etheridge v. Monsanto Co., 349 S.C. 451, 562 S.E.2d 679 (S.C.App 2002). After careful review in the instant case, the Commission affirms, with amendment, the Single Commissioner's Order of January 18, 2012, and issues the following Findings of Fact and Conclusions of Law and Final Order as the final determinations of the Commission.

FINDINGS OF FACT

Based upon the testimony and exhibits submitted, the Appellate Panel of the South Carolina Workers' Compensation Commission makes the following findings of fact:

1. Claimant injured back in an admitted work-related accident on February 24, 2008. The injury affects the left hip/leg (See Order of October 13, 2009.)
2. Defendant to pay all causally related authorized medicals.
3. Claimant had a two level fusion which was not successful. There is a non-union and Claimant is a candidate for another surgery; at present she chooses not to have the surgery.
4. Claimant testified that she attempted to work within her restrictions. Claimant stated she worked about 20 hours per week for \$8.00 per hour. Claimant worked until January 2011 and stated she was unable to work anymore.
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18. Based on this testimony and the Claimant's, I find Claimant did work for A1 Bail Bonding and provided an inaccurate account to her vocational assessor regarding the length of time she was employed with ABC, the amount she was paid per hour, and the amount of hours she was able to work.
19. The Claimant failed to disclose her second job with A1 Bail Bonding to her vocational assessor and at her deposition. Clearly a vocational assessor uses self-reported earning capacity, low hours, and meager recent work history as evidence to conclude that no viable employment was available.
20. Compensation Rate: \$299.59.
21. After considering all of the evidence I find Claimant has suffered a 40% PPD to the back. I did not find her a credible witness and believe she can work.

22. Defendant to receive credit for all wages paid during the disability period and a credit for temporary total disability benefits paid following maximum medical improvement on February 14, 2011.
23. Claimant to have lifetime replacement of any hardware.
24. There is no evidence of *ex parte* communication in this case. In this case, the communication complained of was a letter sent from the Commission to the Attorney General's office, noting that an allegation of fraud had been reported. The Attorney General's office then sent this communication to the insurance carrier. The Commission did not ever send this correspondence to either party. As the Commission did not send this correspondence to either party, there can be no argument that the Commission improperly initiated, permitted, or considered any *ex parte* communication or that the Single Commissioner improperly allowed any *ex parte* communication into evidence.
25. There is no evidence the Single Commissioner even considered the letter from the Commission to the Attorney General in reaching his decision, providing further basis for affirming the award of the Single Commissioner. There are no findings of fact, conclusions of law, or anything in the order section which even reference this letter. We would be speculating that the Single Commissioner was somehow prejudiced or tainted by reading this document, which was simply a transmittal of information to the Attorney General's office as required by the statute. Moreover, this Appellate Panel does not rely on any information contained in the letter from the Commission to the Attorney General in affirming, with amendment, the award of the Single Commission.

26. There is no evidence to suggest the Claimant did not receive a fair and impartial hearing before the Single Commissioner. The Claimant's grounds for asserting an unfair hearing stems from the argument the Single Commissioner refused to recuse the entire Workers' Compensation Commission from hearing the case because of improper *ex parte* communication. As no *ex parte* communication is found to exist in the matter, and as there is no evidence the Single Commissioner afforded any weight to the complained of communication, there are no grounds to recuse the Commission and no basis to assert the Single Commissioner did not proceed in a fair and impartial manner.

CONCLUSIONS OF LAW

It is concluded under the South Carolina Worker's Compensation Act in Section 42-1-10 S.C. Code of Laws, et. seq., that:

1. Pursuant to SEC. 42-1-40, Claimant had an average weekly wage of \$449.36 and a corresponding compensation rate of \$299.59.
2. Pursuant to SEC. 42-1-130, Claimant was an employee at the time of the alleged work injury.
3. Pursuant to SEC. 42-1-160, Claimant sustained an admitted injury by accident to the back, arising out of and in the course and scope of her employment with the Defendants on February 21, 2008.
4. Pursuant to SEC. 42-9-30, Claimant is entitled to forty percent disability for her injury to the back.
5. Pursuant to SEC. 42-15-60, Claimant achieved maximum medical improvement to the back on February 14, 2010 per the authorized treating physician, Dr. Mark A. Wolgin.

6. Pursuant to SEC. 42-9-210 and Curiel v. Env. Management Services, 655 S.E.2d 482 (2007), the date of maximum medical improvement signals the end of entitlement to temporary total benefits, the Defendants are entitled to a credit for overpayment of temporary total benefits from the date of maximum medical improvement, February 14, 2011, and credit for any wages earned while paying benefits during the prior disability period. That the Defendants are entitled to credit for any temporary total benefits after the Claimant reached maximum medical improvement is further validated by the holding of Watson v. Xtra Mile Driver Training, Op. No. 5013 (S.C. App. filed August 1, 2012).
7. According to Black's Law Dictionary 597 (7th ed. 1999) *ex parte* communication is defined as "prohibited communication between counsel and the court when opposing counsel is not present." Brown v. Bi-Lo, Inc., 354 S.C. 436, 440 (S.C. 2003). At no time did the Defendants' or the Defendants' counsel communicate with the Workers' Compensation Commission without notification of the other party. Additionally, at no time did the Defendants' or the Defendants' counsel receive communication from the Workers' Compensation Commission that was not also copied to the Claimant's Counsel. The complained of communication in this claim was from the Commission to the Attorney General's Office. The Attorney General's Office is, obviously, not counsel to any party to this case. Accordingly, there is substantial evidence and a legal basis for a finding no *ex parte* communication exists in this case.
8. The Claimant argues that the Commission should be disqualified based on an alleged *ex parte* communication, however, Claimant's argument is without merit and not supported by the record or the Judicial Canons. Canon 3(B)(7) states that "[a] judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to

be heard according to law. A judge shall not initiate, permit, or consider *ex parte* communications, or consider other communications made to the judge outside the presence of the parties concerning a pending or impending proceeding except” in certain circumstances. In this case, the communication complained of was a letter sent from the Commission to the Attorney General’s office, noting that an allegation of fraud had been reported (as required by S.C. CODE ANN. SEC. 38-55-570). The Attorney General’s office then sent this communication to the insurance carrier. The Commission did not ever send this correspondence to either party. Thus, there could be no argument that the Commissioner allowed any *ex parte* communication to take place. Claimant’s attempt to plant a “fruit of the poisonous tree” argument through the Canons is off-base.

9. The Commission is not required to notify any party to a workers’ compensation claim of an allegation of fraud under either S.C. CODE ANN. SEC. 38-55-570 or the Judicial Canons. SEC. 38-55-570(A) requires the following: “[a]ny person, insurer, or authorized agency having reason to believe that another has made a false statement or misrepresentation or has knowledge of a suspected false statement or misrepresentation *shall*, for purposes of reporting and investigation, notify the Insurance Fraud Division of the Office of the Attorney General of the knowledge or belief and provide any additional information within his possession relative thereto.” (emphasis added) SEC. 38-55-570(C) further states “[t]he Workers’ Compensation Commission may refer such cases as provided in SECTION 42-9-440.” SEC. 42-9-440 mandates “[t]he commission *shall* report all cases of suspected false statement or misrepresentation, as defined in SEC. 38-55-530(D), to the Insurance Fraud Division of the Office of the Attorney General for investigation and prosecution, if warranted, pursuant to the Omnibus Insurance Fraud and

Reporting Immunity Act.” (emphasis added) The aforementioned sections are mandatory in nature and cannot be overlooked. Based on Claimant’s arguments, the Commission would be violating the Judicial Canons anytime the Attorney General’s office is contacted by the Commission without notifying both parties. This would be an absurd result, not possibly intended by the legislature. It is well-settled that “Courts will reject a statutory interpretation that would lead to a result so plainly absurd that it could not have been intended by the Legislature or would defeat the plain legislative intention. Unisun Ins. Co. v. Schmidt, 339 S.C. 362, 368, 529 S.E.2d 280, 283 (2000).” Town of Mt. Pleasant v. Roberts, 393 S.C. 332, 342-343 (S.C. 2011). Accordingly, we find neither the South Carolina Statutory Code nor the Judicial Canons require the Commission to notify either party to a claim when it reports suspected fraud to the Attorney General’s Office.

ORDER

IT IS HEREBY ORDERED that the Order of the Single Commissioner is affirmed, with amendment.

IT IS FURTHER ORDERED that the greater weight of evidence supports a finding that Claimant suffered an admitted injury by accident to the back. Claimant’s injury resulted in a forty percent (40%) disability to the back.

IT IS FURTHER ORDERED that the greater weight of evidence supports a finding that the Defendants are entitled to credit for overpayment of temporary total benefits from the date of maximum medical improvement, February 14, 2011, at a rate of \$299.59 and credit for any wages earned while paying benefits during the prior disability period.

IT IS FURTHER ORDERED that Defendants shall furnish any prosthetic devices

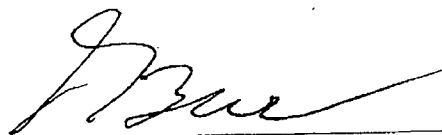
during the life of the Claimant or for so long as such devices are necessary.

AND IT IS SO ORDERED!

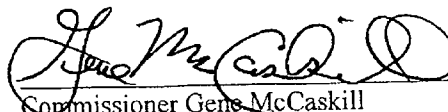


Commissioner Derrick L. Williams
For the Appellate Panel

WE CONCUR:



Commissioner T. Scott Beck



Commissioner Gene McCaskill

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 mail addressed to any unrepresented party.

By Valerie Deller on August 27, 2012

South Carolina Workers' Compensation Commission
1612 Marion Street • Post Office Box 1715
Columbia, South Carolina 29202-1715
(803) 737-5723
www.wcc.sc.gov



WCC File #: **0810152**
Carrier File #: **709-659592**
Carrier Code #: **321**
Employer FEIN #: **570968961**

Claimant's Name: Patricia Fore SSN: [REDACTED] Employer's Name: Grifco of Wampee, Inc.
Address: [REDACTED] Address: 8729 Highway 90
City: Leesburg State: GA Zip: 31763 City: Longs State: SC Zip: 29568
Home Phone: (229) 869-2954 Work Phone: () - Insurance Carrier: Commerce & Industry Ins.
Co. c/o AIG Claim Svcs., Inc
Preparer's Name: Stephen B. Samuels Law Firm: Samuels Law Firm, LLC Preparer's Phone #: (803) 779-4000

Complete each information blank. To request a hearing, check Box 13b, indicate the kinds of benefits claimed by checking the box(es) at Lines 6, 7, 8, and 9, and file this form in duplicate.

A claim for workers' compensation benefits is made based on the following grounds:

Date of Injury or Illness: 2/21/2008

☒ Injury ☐ Illness ☐ Repetitive Trauma

1a. The claimant sustained an injury to right hip, back, legs (Part(s) of Body Injured) on 2/21/08 (Month/Day/Year) in Horry county, state of SC.
1b. Body part(s) affected are: legs

Briefly describe how the accident occurred. While carrying 50+ slab of meat, ran into meat saw with hip injuring back.

2. Both the claimant and the employer were subject to the South Carolina Workers' Compensation Act at the time of injury.
3. The relationship of employer and employee existed at the time of injury.
4. At the time of the injury the claimant was performing services arising out of and in the course of employment.
5. Notice of the accidental injury was given to the Employer on 2/21/08 (Month/Day/Year) in the following manner:
Witnessed by Randall Oxford (senior meat cutter). Called Daniel Hall (meat market manager) on 2/24/09.

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

☒ (a) medical examination and treatment for: back, hips and leg

☐ (b) additional medical examination and treatment for:

☒ 7. Due to injury, the claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of:
2/24/08 and continuing

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

☐ (1) General Disability:

☐ Total

☐ (2) Specific Disability:

☐ Total

☐ (3) Wage Loss

☐ Partial

☐ Partial

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

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

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

11a. Further grounds or unusual aspects of claim:

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

11c. To the best of your knowledge, did you have any prior permanent disability? No.
If yes, describe:

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

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

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

14. Estimated time needed for hearing: 45 minutes

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

[Signature]
Preparer's Signature

Attorney at Law
Title

stephen@samuelslawfirm.net
Email

May 13, 2009
Date

Refer to R.67-204 through R.67-210 and R.67-601 through R.67-615. Questions about the use of this form may be directed to the Commission's Claims Department.

WCC Form # 50
Revised 9/07

AMENDED50

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

Claimant: Patricia Fore
WCC File No.: 0810152

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

Seacoast Medical Center
4000 Hwy 9 East
Little River, South Carolina 29566-8233

Strand Regional Specialty Associates
8170 Rourk Street
Myrtle Beach, SC 29572

Orthopaedic Specialty Associates
2002 Palmyra Road, Suite 100
Albany, GA 31701

Phoebe Putney Memorial Hospital
417 Third Avenue
P.O. Box 1828
Albany, GA 31703

Doctors Care
1400 Main Street
Conway, SC 29526

OrthoImaging
2726 Ledo Road, Suite 2
Albany, GA 31707

Ortho Sport Physical Therapy
P.O. Box 407
619 Pointe North Blvd.
Albany, GA 31702

1612 Marion Street • Post Office Box 17
Columbia, South Carolina 29202-1715
(803) 737-5723
www.wcc.sc.gov



Employer FEIN #: 570968961

P48

ATTACHMENT TO WCC FORM #50 HEARING REQUEST

Patricia Fore vs. Griffco of Wampee, Inc. and AIG

W.C.C. File No.:0810152

11b. Seacoast Medical Center
4000 Hwy 9 East
Little River, South Carolina 29566-8233

Strand Regional Specialty Associates
8170 Rourk Street
Myrtle Beach, SC 29572

Orthopaedic Specialty Associates
Post Office Box 407
619 Pointe North Blvd.
Albany, GA 31721

Phoebe Putney Memorial Hospital
Post Office Box 1828
417 Third Avenue
Albany, GA 31703

Midlands Orthopaedics
1910 Blanding Street
Columbia, SC 29201



WCC File #: 0810152

Carrier File #: 709-659592

Carrier Code #:

Employer FEIN #:

Patricia Fore

Claimant's Name

SSN

Leesburg, Georgia 31763

Address City State Zip

(843) 246-9239

Home Phone #

James H. Lichty

Preparer's Name

Work Phone #

McAngus Goudelock & Courie

Law Firm

Griffco of Wampee, Inc.

Employer's Name

8729 Highway 90

Longs, South Carolina 29568

Address City State Zip

Commerce & Industry Insurance Company c/o Chartis
Claims, Inc.

Insurance Carrier

(803) 227-2288

Phone Number

Date of Accident: 2/21/08

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

1. It is **admitted** that the employee sustained an injury on or about the date set forth in the application. The reasons for denial are: The Defendants admit an injury to the hip and back, as reflected in the prior Order. All other injuries are expressly denied.
2. It is **admitted** that both the employer and employee were subject to the Workers' Compensation Act at the time in question. The reasons for denial are: _____
3. It is **admitted** that the relationship of employer and employee existed at the time in question. The reasons for denial are: _____
4. It is **admitted** that at the time in question the employee was performing service growing out of and incidental to his employment. The reasons for denial are: _____
5. It is **admitted** that notice of injury was given to the employer. The reasons for denial are: _____
6. It is **denied** that the employee needs/is entitled to additional medical care as a result of the injury. The reasons for denial are: No further treatment will tend to lessen the Claimant's period of disability.
7. It is **admitted** that the employee is entitled to temporary total disability for the period(s) of: March 31, 2008 through February 14, 2011.
8. It is **denied** that the employee is permanently disabled. The reasons for denial are: The Defendants maintain the Claimant did not suffer any permanent disability as a result of her injury.
9. It is **denied** that the employee has a serious disfigurement.
10. It is contended that an average weekly wage of \$449.36 applies, according to attached accounting of employee's earnings as provided by law.
11. Further contentions or grounds of defense are: The Defendants reserve the right to amend its answer to allege any defenses available under the Act and other applicable law, including but not limited to the affirmative defenses set forth in Regulation 67-603, as determined appropriate through the course of further discovery.
12. Estimated time needed for hearing: 2 hours.

I certify that I have served this document pursuant to R.67-211 by delivering a copy to:

Stephen B. Samuels, Esquire
Samuels Law Firm
Post Office Box 50349
Columbia, South Carolina 29250

on the 27th day of July, 2011 by ☒ first class mail; ☐ personal service; ☐ certified mail.
I verify the contents of this form are accurate and true to the best of my knowledge.

Preparer's Signature _____ Attorney for Employer/Carrier Title _____ Email jlichty@mgclaw.com

July 27, 2011
Date

Refer to R.67-204 through R.67-210 and R.67-601 through R.67-615. Questions about the use of this form may be directed to the Commission's Judicial Department. Pursuant to R.67-606, a Form 20 must be filed with the Claims Department at least 30 days from the date of filing this form.

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



PRE-HEARING BRIEF
WCC File No: 0810152

Claimant's Name: Patricia Fore Employer's Name: Griffco of Wampee, Inc.
Address: [REDACTED] Address: 8729 Highway 90
City: Leesburg State: GA Zip: 31763 City: Longs State: SC Zip: 29568
Home Phone: () - Work Phone: () - Carrier: Commerce & Industry c/o Chartis Claims
Preparer's Name: Stephen B. Samuels Preparer's Phone #: (803) 779-4000

A claim for workers' compensation benefits is made based on the following grounds:

☒ Injury ☐ Illness ☐ Repetitive Trauma

1. Compensation Rate: \$299.59 2. AWW: \$449.36 Date of Injury: 08/21/2008
3. Type of injury and body part(s): Compensable injuries to back, right leg and right hip per Order dated 10/13/2009
4. Facts in controversy: Please see Attachment to Pre-Hearing Brief
5. Legal Issues involved: Please see Attachment to Pre-Hearing Brief
6. Unusual aspects:
7. Witnesses (designate if expert):* Patricia Fore, William S. Fore, Donna Bozeman, Ann Kelly and Glen K. Adams*
8. Exhibits:
9. Medical evidence (Indicate report pursuant to R.67-612; deposition or appearance):
Please see attached Notice of Witnesses and Written Reports of Physicians to be Introduced on Behalf of Claimant
10. Name, address, and specialty, if any, of the treating physician: Mark A. Wolgin, M.D., Orthopaedic Associates, (formerly Albany Bone and Joint Clinic) 619 Pointe North Blvd., Albany, GA 31702-0407
11. Impairment rating(s); body part(s); physician and date of opinion: 36% whole person impairment by Dr. Wolgin on 02/14/2011
12. I am amending my Form 50/51 in the following manner:

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

Signature: [Signature] Email: Stephen@SamuelsLawFirm.net

Date of hearing: September 27, 2011 Time needed for hearing: 45 minutes

On behalf of ☒ Claimant ☐ Employer

File this form and proof of service on the opposing party according to R.67-611 and R.67-212. Do not send medical reports.
* Commissioners reserve the right to admit expert witnesses at hearings.

ATTACHMENT TO PRE-HEARING BRIEF (FORM 58)

Claimant: Patricia Fore
WCC File No.: 0810152

Procedural History and Summary of Evidence.

Claimant, Patricia Fore, is 46 years old. She has been married for 22 years, and has two dependant children aged twelve and four. She went to high school, got a GED, and got a two-year Associates Degree in Business Management. Fore has worked in restaurants, construction, and as a meat cutter.

Fore began working for Employer, Griffco, on August 25, 2005. She started out wrapping meat before being promoted to backup meat cutter.

Factual Background and Summary of the Evidence.

Fore injured herself on February 21, 2008 when she bumped into a meat saw while carrying approximately 60 pounds of meat. She last worked on March 30, 2008. In May 2008, Fore moved to Georgia because her husband had been transferred.

This case was originally denied. After a hearing, Commissioner Roche held Fore had suffered compensable injuries to "her back and right hip. Her back injury affects her right leg." Dr. Wolgin was designated her authorized treating physician. Fore was put on a running award of temporary total disability compensation.

Fore underwent a lumbar fusion at L4-L5 and L5-S1 on May 19, 2010. The surgery was not successful, leaving her with a non-union and failed back syndrome. Dr. Wolgin has recommended a revision, but at this stage, Fore is unwilling to proceed as there is only a 50% chance of improvement.

Fore attempted to work as a clerk for ABC Bail Bonds in late 2010, per Dr. Wolgin's recommendation. She averaged about 12 hours per week. She tried this for about two months, but was not able to tolerate it, despite her employer allowing her go home when her pain tolerance was reached.

Dr. Wolgin put Fore at MMI on February 14, 2011. He assigned a **36% whole person impairment rating**. He wrote she is "unable to return to work until further notice." He gave her specific restrictions "sit or stand only for about 15 or 20 minutes at a time and unless employment is able to be found within those restrictions, functionally she is not able to participate in the workplace and will remain so until her condition changes

or further notice."

Glen Adams performed a vocational assessment on September 7, 2011. He noted that even if Fore could perform sedentary duties – which he noted "is not supported by Dr. Wolgin's work statement – a transferable skills analysis revealed no sedentary occupations for which she qualifies. He opined she **"is considered to be totally vocationally disabled."**

4. Facts in controversy:

A. MMI.

The authorized treating physician, Dr. Wolgin, opined Fore reached MMI on February 14, 2011. He assigned a 36% whole person impairment rating and permanent restrictions.

B. Extent of Disability.

The evidence shows Ms. Fore is permanently and totally disabled as a result of her 2008 injury. By previous Order, she injured her back and right hip – with the back injury affecting her right leg through radiculopathy. As such, Singleton and Wigfall do not apply to limit her recovery.

Fore is totally disabled under both § 42-9-10 and 42-9-30 (21).

Under the economic model, the evidence shows Fore is unable to perform services other than those that are "so limited in quality, dependability, or quantity that a reasonable stable market for them does not exist." See, e.g. Wynn v. Peoples Natural Gas Co., 238 S.C. 1, 118 S.E.2d 812 (1961).

Our supreme court laid down the essential premise nearly fifty years ago: "Total disability" in compensation law is not to be interpreted literally as utter and abject helplessness. Evidence that claimant has been able to earn occasional wages or perform certain kinds of gainful work does not necessarily rule out a finding of total disability nor require that it be reduced to partial. * * * "An employee who is so injured that he can perform no services other than those which are so limited in quality, dependability, or quantity that a reasonably stable market for them does not exist, may well be classified as totally disabled." Colvin v. E.I. DuPont De Nemours Co., 227 S.C. 465, 88 S.E.2d 581 (1955).

Dr. Wolgin has taken Fore out of work indefinitely. Vocational Expert Glen Adams has

opined that she is totally vocationally disabled – and this would be true even if she were physically able to work sedentary duty.

The evidence further shows Fore has a 50% or greater loss of use of her back. She has a 36% impairment rating from the authorized treating physician. Her surgery was unsuccessful, as she was left with a non-union and failed back syndrome. Beyond being indefinitely out of work, she is unable to sit and stand for more than fifteen minutes at a time.

C. Additional Medical Treatment.

Fore requires ongoing treatment, specifically including pain management and medication (Vicodin and Ambien). She probably will require additional surgery in the future as the non-union worsens.

D. Entitlement to lump sum disability award and lifetime proration per *James*.

Ms. Fore has applied for Social Security Disability. She would suffer a greater offset of her Social Security Disability benefits if she receives her award weekly for 500 weeks than if she receives a single lump sum payment allocated over her life expectancy. As such it is in the best interests of the Claimant to receive a lump sum because it would minimize the Social Security offset; and there is no evidence in the record that payment in a lump sum would create a hardship on the Employer/Carrier. Pursuant to *James v. Anne's Inc.*, S.Ct. Opinion No. 26762 (October 25, 2010), the Commission has the authority to prorate a lump sum award over a claimant's life expectancy using the life expectancy table provided by South Carolina law at Section 19-1-150.

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)
)

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

Patricia Fore,

WCC FILE NO. 0810152

Claimant,

-vs-

Griffco of Wampee, Inc.,

Employer,

and

Commerce & Industry Insurance Co.,

Carrier,

Defendants.

**NOTICE OF WITNESSES AND
WRITTEN REPORTS OF PHYSICIANS
TO BE INTRODUCED ON BEHALF OF
THE CLAIMANT**

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION AND JAMES H.
LICHTY, ATTORNEY FOR THE DEFENDANTS:

YOU ARE NOTIFIED that the Claimant, pursuant to the provisions of the South Carolina
Workers' Compensation Act and Section 1-23-330 of the South Carolina Code of Laws, submits the
following medical records and other documents as evidence:

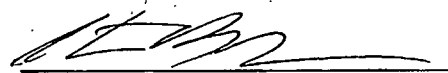
APA	MEDICAL PROVIDER	DATES	PAGES
1.	Loris Healthcare - Seacoast Medical Center	02/24/08	1 - 5
2.	Orthopaedic Associates f/k/a Albany Bone & Joint Clinic	09/16/08 - 02/14/11	6 - 78
3.	Strand Regional Specialty Associates	05/08/08	79 -87
4.	Phoebe Putney Memorial Hospital	11/17/08-12/5/08	88 - 91
5.	Midlands Orthopaedics	7/7/09	92 - 93

6.	Health Direct (Peer Review Services)	03/26/10	94 - 95
7.	Glen K. Adams, MRC. CRC, CEES	09/12/11	96 - 106

NOTICE IS GIVEN of the right to cross-examination, and, should you desire to exercise said right, you are to immediately schedule the deposition of any of the physicians or other persons, whose reports are submitted for the purposes of cross-examination.

NOTICE IS ALSO GIVEN that the following witnesses may be called on behalf of the Claimant: Patricia Fore, William S. Fore, Donna Bozeman, Ann Kelly and Glen K. Adams.

Respectfully Submitted,



Stephen B. Samuels
Samuels Law Firm, LLC
1527 Blanding Street
P.O. Box 50349
Columbia, SC 29250
(803) 779-4000

Columbia, South Carolina

September 12, 2011

South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500
Post Office Box 1715
Columbia, South Carolina 29202-1715
(803) 737-5739
www.wcc.sc.gov



PRE-HEARING BRIEF
WCC File No: 0810152

Patricia Fore
Claimant's Name
SSN
Leesburg, Georgia 31763
Address City State Zip
(843) 246-9239
Home Phone #
Work Phone #
James H. Lichty
Preparer's Name

Griffco of Wampee, Inc.
Employer's Name
8729 Highway 90
Longs, South Carolina 29568
Address City State Zip
Commerce & Industry Insurance Company c/o Chartis
Claims, Inc.
Insurance Carrier
(803) 227-2288
Phone Number

A claim for workers' compensation benefits is made based on the following grounds..

☒ Injury ☐ Illness ☐ Repetitive Trauma

1. Comp. Rate: \$299.59 2. AWW: \$ 449.36 Date of Injury February 21, 2008
3. Type of injury and body part(s): Back.
4. Facts in controversy: Whether Claimant has attained maximum medical improvement; whether further medical treatment will tend to lessen Claimant's period of disability; whether Claimant suffered partial permanent disability as a result of her injury and, if so, to what extent; whether Employer/Carrier is entitled to credit for overpayment of benefits.
5. Legal issues involved: S.C. Code Ann. §42-15-60; §42-9-30; §42-9-210; all issues raised at #4, above.
6. Unusual aspects: None.
7. Witnesses (designate if expert) Steve McGowan; Lanier Jones; Eric Rife; Glen Adams; Thad Griffon; other representatives of Employer/Carrier.
8. Exhibits: Correspondence from the S.C. Attorney General's Office; Surveillance Report of Eric Rife; surveillance video; surveillance photograph of Claimant's vehicle; training certification of Georgia Association of Professional Bondsmen; documentation supporting Claimant's employment with ASAP Towing; Claimant's Facebook profile dated 09/19/11; Claimant's deposition transcript; other records maintained by Employer/Carrier.
9. Medical evidence: (Indicate report pursuant to R.67-612; deposition or appearance): None.
10. Name, address, and specialty, if any, of the treating physician: Mark A. Wolgin, M.D., Orthopaedic Associates, 619 Pointe North Blvd., Albany, Georgia.
11. Impairment rating(s); body part(s); physician and date of opinion: 36% impairment to the whole person by Dr. Wolgin on February 14, 2011.
12. I am amending my Form 50/51 in the following manner: None.

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

SIGNATURE _____

Email: jlichty@mgclaw.com

DATE OF HEARING: September 27, 2011

Time needed for hearing: 1 hour.

On behalf of ☐ Claimant ☒ Employer

File this form and proof of service on the opposing party according to R.67-611 and R.67-212. Do not send medical reports.
Commissioners reserve the right to admit expert witnesses at hearings.

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 0810152

PATRICIA FORE,

Employee,

Claimant,

vs.

GRIFFCO OF WAMPEE, INC.,

Employer,

AND

COMMERCE & INDUSTRY INSURANCE
COMPANY C/O CHARTIS CLAIMS, INC.,

Carrier,

Defendants.

**NOTICE OF WITNESSES AND
WRITTEN MEDICAL REPORTS
TO BE INTRODUCED AS
DIRECT EVIDENCE ON BEHALF
OF DEFENDANT**

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION AND STEPHEN
B. SAMUELS, ESQUIRE:

YOU ARE NOTIFIED that the Defendants, pursuant to the provisions of the South
Carolina Workers' Compensation Act and Section 1-23-330 of the South Carolina Code of Laws
(Cum. Supp. 1988) submit the following medical records and other documents as evidence:

Exhibit #			DATES	PAGES
	No medicals submitted at this time.			
Ex. 1	Correspondence from S.C. Attorney General's Office		07/20/11	5 pages
Ex. 2	Surveillance Report of Eric Rife		09/14/11	4 pages
Ex. 3	Surveillance Video			2 discs
Ex. 4	Surveillance photograph of Claimant's vehicle			1 page
Ex. 5	Training Certification of Georgia Assoc. of Professional Bondsmen		08/26/10	1 page

Ex. 6	Documentation supporting Claimant's employment with ASAP Towing			5 pages
Ex. 7	Claimant's Facebook Profile		09/19/11	2 pages

YOU ARE FURTHER NOTIFIED that you have the right to cross-examine or otherwise oppose this evidence and, should you desire to exercise this right, you are to promptly schedule the deposition of any provider whose records are submitted, for the purposes of cross-examination, or otherwise promptly submit opposing medical records into evidence.

YOU ARE FURTHER NOTIFIED that these records, or photocopies of the same, will be provided to the South Carolina Workers' Compensation Commission for insertion in their file and for consideration as evidence on behalf of the Defendants.

YOU ARE FURTHER NOTIFIED that the following witnesses may be called on behalf of the Defendants: Steven McGowan; Lanier Jones; Eric Rife; Glen Adams; Thad Griffon; other representatives of Employer/Carrier.



JAMES H. LICHTY
 MCANGUS GOUDELOCK & COURIE, L.L.C.
 Post Office Box 12519, Capitol Station
 Meridian, 1320 Main Street, 10th Floor
 Columbia, South Carolina 29211-2519
 (803) 779-2300
 Attorneys for the Employer/Carrier

Columbia, South Carolina
 September 19, 2011

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 0810152

PATRICIA FORE,	}	
	}	
Employee,	}	
	}	
Claimant,	}	
	}	
vs.	}	
	}	
GRIFFCO OF WAMPEE, INC.,	}	
	}	
Employer,	}	
	}	
AND	}	
	}	
COMMERCE & INDUSTRY INSURANCE	}	
COMPANY C/O CHARTIS CLAIMS, INC.,	}	
	}	
Carrier,	}	
	}	
Defendants.	}	

**CERTIFICATE
OF
SERVICE**

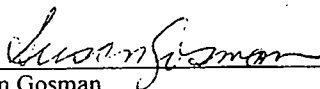
The undersigned certifies that she is an employee at MCANGUS GOUDELOCK & COURIE, and that she has served, on the date set forth below, a copy of the document described below, in the above entitled action to the following persons, pursuant to Section 15-9-930 and Section 15-9-940 of the Code of Laws of South Carolina, 1976, by depositing a copy of same in the United States Mail, postage prepaid, addressed to:

TO: Stephen B. Samuels, Esquire
Samuels Law Firm
Post Office Box 50349
Columbia, South Carolina 29250

VIA HAND DELIVERY
S. C. WORKERS' COMPENSATION
COMMISSION
1333 Main Street, Suite 500
Columbia, South Carolina 29201

DOCUMENT: Pre-Hearing Brief and Notice of Witnesses and Written
Medical Reports

DATE OF MAILING: September 19, 2011



Susan Gosman
Legal Assistant to James H. Lichty

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



**AMENDED
PRE-HEARING BRIEF
WCC File No: 0810152**

Claimant's Name: Patricia Fore Employer's Name: Grifco of Wampee, Inc.
Address: [REDACTED] Address: 8729 Highway 90
City: Leesburg State: GA Zip: 31763 City: Longs State: SC Zip: 29568
Home Phone: () - Work Phone: () - Carrier: Commerce & Industry c/o Chartis Claims
Preparer's Name: Stephen B. Samuels Preparer's Phone #: (803) 779-4000

A claim for workers' compensation benefits is made based on the following grounds:

☒ Injury ☐ Illness ☐ Repetitive Trauma

1. Compensation Rate: \$299.59 2. AWW: \$449.36 Date of Injury: 08/21/2008
3. Type of injury and body part(s): Compensable injuries to back, right leg and right hip per Order dated 10/13/2009
4. Facts in controversy: Please see Attachment to Pre-Hearing Brief
5. Legal issues involved: Please see Attachment to Pre-Hearing Brief
6. Unusual aspects: _____
7. Witnesses (designate if expert):* Patricia Fore, William S. Fore, Donna Bozeman, Ann Kelly, Tony Owens, and Glen K. Adams*
8. Exhibits: _____
9. Medical evidence (indicate report pursuant to R.67-612; deposition or appearance):
Please see attached Notice of Witnesses and Written Reports of Physicians to be Introduced on Behalf of Claimant
10. Name, address, and specialty, if any, of the treating physician: Mark A. Wolgin, M.D., Orthopaedic Associates, (formerly Albany Bone and Joint Clinic) 619 Pointe North Blvd., Albany, GA 31702-0407
11. Impairment rating(s); body part(s); physician and date of opinion: 36% whole person impairment by Dr. Wolgin on 02/14/2011
12. I am amending my Form 50/51 in the following manner: _____

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

Signature: [Signature] Email: Stephen@SamuelsLawFirm.net

Date of hearing: September 27, 2011 Time needed for hearing: 45 minutes

On behalf of ☒ Claimant ☐ Employer

File this form and proof of service on the opposing party according to R.67-611 and R.67-212. Do not send medical reports.

* Commissioners reserve the right to admit expert witnesses at hearings.

ATTACHMENT TO FORM 58

Claimant: Patricia Fore
WCC File No.: 0810152

Procedural History and Summary of Evidence.

Claimant, Patricia Fore, is 46 years old. She has been married for 22 years, and has two dependant children aged twelve and four. She went to high school, got a GED, and got a two-year Associates Degree in Business Management. Fore has worked in restaurants, construction, and as a meat cutter.

Fore began working for Employer, Griffco, on August 25, 2005. She started out wrapping meat before being promoted to backup meat cutter.

Factual Background and Summary of the Evidence.

Fore injured herself on February 21, 2008 when she bumped into a meat saw while carrying approximately 60 pounds of meat. She last worked on March 30, 2008. In May 2008, Fore moved to Georgia because her husband had been transferred.

This case was originally denied. After a hearing, Commissioner Roche held Fore had suffered compensable injuries to "her back and right hip. Her back injury affects her right leg." Dr. Wolgin was designated her authorized treating physician. Fore was put on a running award of temporary total disability compensation.

Fore underwent a lumbar fusion at L4-L5 and L5-S1 on May 19, 2010. The surgery was not successful, leaving her with a non-union and failed back syndrome. Dr. Wolgin has recommended a revision, but at this stage, Fore is unwilling to proceed as there is only a 50% chance of improvement.

Fore attempted to work as a clerk for ABC Bail Bonds in late 2010, per Dr. Wolgin's recommendation. She averaged about 12 hours per week. She tried this for about two months, but was not able to tolerate it, despite her employer allowing her go home when her pain tolerance was reached.

Dr. Wolgin put Fore at MMI on February 14, 2011. He assigned a **36% whole person impairment rating**. He wrote she is "unable to return to work until further notice." He gave her specific restrictions "sit or stand only for about 15 or 20 minutes at a time and unless employment is able to be found within those restrictions, functionally she is not able to participate in the workplace and will remain so until her condition changes

or further notice."

Glen Adams performed a vocational assessment on September 7, 2011. He noted that even if Fore could perform sedentary duties – which he noted "is not supported by Dr. Wolgin's work statement – a transferable skills analysis revealed no sedentary occupations for which she qualifies. He opined she **"is considered to be totally vocationally disabled."**

4. Facts in controversy:

A. MMI.

The authorized treating physician, Dr. Wolgin, opined Fore reached MMI on February 14, 2011. He assigned a 36% whole person impairment rating and permanent restrictions.

B. Extent of Disability.

The evidence shows Ms. Fore is permanently and totally disabled as a result of her 2008 injury. By previous Order, she injured her back and right hip – with the back injury affecting her right leg through radiculopathy. As such, Singleton and Wigfall do not apply to limit her recovery.

Fore is totally disabled under both § 42-9-10 and 42-9-30 (21).

Under the economic model, the evidence shows Fore is unable to perform services other than those that are "so limited in quality, dependability, or quantity that a reasonable stable market for them does not exist." See, e.g. Wynn v. Peoples Natural Gas Co., 238 S.C. 1, 118 S.E.2d 812 (1961).

Our supreme court laid down the essential premise nearly fifty years ago: "Total disability" in compensation law is not to be interpreted literally as utter and abject helplessness. Evidence that claimant has been able to earn occasional wages or perform certain kinds of gainful work does not necessarily rule out a finding of total disability nor require that it be reduced to partial. * * * "An employee who is so injured that he can perform no services other than those which are so limited in quality, dependability, or quantity that a reasonably stable market for them does not exist, may well be classified as totally disabled." Colvin v. E.I. DuPont De Nemours Co., 227 S.C. 465, 88 S.E.2d 581 (1955).

Dr. Wolgin has taken Fore out of work indefinitely. Vocational Expert Glen Adams has

opined that she is totally vocationally disabled – and this would be true even if she were physically able to work sedentary duty.

The evidence further shows Fore has a 50% or greater loss of use of her back. She has a 36% impairment rating from the authorized treating physician. Her surgery was unsuccessful, as she was left with a non-union and failed back syndrome. Beyond being indefinitely out of work, she is unable to sit and stand for more than fifteen minutes at a time.

C. Additional Medical Treatment.

Fore requires ongoing treatment, specifically including pain management and medication (Vicodin and Ambien). She probably will require additional surgery in the future as the non-union worsens.

D. Entitlement to lump sum disability award and lifetime proration per *James*.

Ms. Fore has applied for Social Security Disability. She would suffer a greater offset of her Social Security Disability benefits if she receives her award weekly for 500 weeks than if she receives a single lump sum payment allocated over her life expectancy. As such it is in the best interests of the Claimant to receive a lump sum because it would minimize the Social Security offset; and there is no evidence in the record that payment in a lump sum would create a hardship on the Employer/Carrier. Pursuant to *James v. Anne's Inc.*, S.Ct. Opinion No. 26762 (October 25, 2010), the Commission has the authority to prorate a lump sum award over a claimant's life expectancy using the life expectancy table provided by South Carolina law at Section 19-1-150.

South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500
Post Office Box 1715
Columbia, South Carolina 29202-1715
(803) 737-5739
www.wcc.sc.gov



PRE-HEARING BRIEF
WCC File No: 0810152

Patricia Fore	~~2000-0000~~	Griffco of Wampee, Inc.
Claimant's Name	SSN	Employer's Name
~~Leesburg, Georgia 31763~~		8729 Highway 90
Leesburg, Georgia 31763		Longs, South Carolina 29568
Address City State Zip		Address City State Zip
(843) 246-9239		Commerce & Industry Insurance Company c/o Chartis Claims, Inc.
Home Phone #	Work Phone #	Insurance Carrier
	James H. Lichty	(803) 227-2288
	Preparer's Name	Phone Number

A claim for workers' compensation benefits is made based on the following grounds:.

☒ Injury ☐ Illness ☐ Repetitive Trauma

1. Comp. Rate: \$299.59 2. AWW: \$ 449.36 Date of Injury February 21, 2008
3. Type of injury and body part(s): Back.
4. Facts in controversy: Whether Claimant has attained maximum medical improvement; whether further medical treatment will tend to lessen Claimant's period of disability; whether Claimant suffered partial permanent disability as a result of her injury and, if so, to what extent; whether Employer/Carrier is entitled to credit for overpayment of benefits.
5. Legal issues involved: S.C. Code Ann. §42-15-60; §42-9-30; §42-9-210; all issues raised at #4, above.
6. Unusual aspects: None.
7. Witnesses (designate if expert) Steve McGowan; Lanier Jones; Eric Rife; Glen Adams; Thad Griffon; Bill Moore; other representatives of Employer/Carrier.
8. Exhibits: Correspondence from the S.C. Attorney General's Office; Surveillance Report of Eric Rife; surveillance video; surveillance photograph of Claimant's vehicle; training certification of Georgia Association of Professional Bondsmen; documentation supporting Claimant's employment with ASAP Towing; Claimant's Facebook profile dated 09/19/11; Claimant's deposition transcript; other records maintained by Employer/Carrier.
9. Medical evidence: (Indicate report pursuant to R.67-612; deposition or appearance): None.
10. Name, address, and specialty, if any, of the treating physician: Mark A. Wolgin, M.D., Orthopaedic Associates, 619 Pointe North Blvd., Albany, Georgia.
11. Impairment rating(s); body part(s); physician and date of opinion: 36% impairment to the whole person by Dr. Wolgin on February 14, 2011.
12. I am amending my Form 50/51 in the following manner: None.

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

SIGNATURE [Signature]

Email: jlichty@mgclaw.com

DATE OF HEARING: September 27, 2011

Time needed for hearing: 1 hour.

On behalf of ☐ Claimant ☒ Employer

File this form and proof of service on the opposing party according to R.67-611 and R.67-212. Do not send medical reports.
Commissioners reserve the right to admit expert witnesses at hearings.

WCC FORM # 58 REV. DATE 9/07

AMENDED 58

PRE-HEARING BRIEF

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 0810152

PATRICIA FORE,

Employee,

Claimant,

vs.

GRIFFCO OF WAMPEE, INC.,

Employer,

AND

COMMERCE & INDUSTRY INSURANCE
COMPANY C/O CHARTIS CLAIMS, INC.,

Carrier,

Defendants.

**SUPPLEMENTAL
NOTICE OF WITNESSES AND
WRITTEN MEDICAL REPORTS
TO BE INTRODUCED AS
DIRECT EVIDENCE ON BEHALF
OF DEFENDANT**

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION AND STEPHEN
B. SAMUELS, ESQUIRE:

YOU ARE NOTIFIED that the Defendants, pursuant to the provisions of the South
Carolina Workers' Compensation Act and Section 1-23-330 of the South Carolina Code of Laws
(Cum. Supp. 1988) submit the following medical records and other documents as evidence:

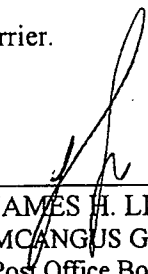
Exhibit #			DATES	PAGES
	No medicals submitted at this time.			
Ex. 1	Correspondence from S.C. Attorney General's Office		07/20/11	5 pages
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Ex. 3	Surveillance Video			2 discs
Ex. 4	Surveillance photograph of Claimant's vehicle			1 page
Ex. 5	Training Certification of Georgia Assoc. of Professional Bondsmen		08/26/10	1 page

Ex. 6	Documentation supporting Claimant's employment with ASAP Towing			5 pages
Ex. 7	Claimant's Facebook Profile		09/19/11	2 pages

YOU ARE FURTHER NOTIFIED that you have the right to cross-examine or otherwise oppose this evidence and, should you desire to exercise this right, you are to promptly schedule the deposition of any provider whose records are submitted, for the purposes of cross-examination, or otherwise promptly submit opposing medical records into evidence.

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YOU ARE FURTHER NOTIFIED that the following witnesses may be called on behalf of the Defendants: Steven McGowan; Lanier Jones; Eric Rife; Glen Adams; Thad Griffon; **Bill Moore**; other representatives of Employer/Carrier.


 JAMES H. LICHTY
 MCANGUS GOUDELOCK & COURIE, L.L.C.
 Post Office Box 12519, Capitol Station
 Meridian, 1320 Main Street, 10th Floor
 Columbia, South Carolina 29211-2519
 (803) 779-2300
 Attorneys for the Employer/Carrier

Columbia, South Carolina
 September 23, 2011

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 0810152

PATRICIA FORE,

Employee,

Claimant,

vs.

GRIFFCO OF WAMPEE, INC.,

Employer,

AND

COMMERCE & INDUSTRY INSURANCE
COMPANY C/O CHARTIS CLAIMS, INC.

Carrier,

Defendants.

RESPONDENTS' BRIEF

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION AND STEPHEN B.
SAMUELS, ESQUIRE:

PROCEDURAL HISTORY

This matter arises to determine the issues raised in the parties' Forms 50 and 51. Claimant alleges that she sustained an injury to the back which resulted in a fusion surgery and a recommendation for additional surgery which she currently declines. A previous order states the Claimant suffered injury to her back and hip that affects her right leg. She alleges that she is entitled to permanent and total disability utilizing two body parts under §42-9-10 or based on greater than fifty percent disability to the back under §42-9-30. She sought lifetime medical treatment and an award paid in lump sum with James v. Anne's language. She admits that she worked for a period of time, but denies that she can continue working. Claimant points to a vocational evaluation and page 77 of the APA's as evidence that she can no longer work.

The Defendants allege that Claimant can work and may continue to be working as evidenced by video surveillance, testimony, and other evidence. Defendants' admit that Claimant has been rated at 36 percent to the back, but point out that is based on the AMA Guides 6th Edition and the fact she had surgery. They allege that Claimant can work regardless of any reports and argue that the actual impairment should not actually exceed the rating. Defendants request a credit for overpayment of benefits and object to lump sum payment if Claimant were to be found totally disabled. Defendants requested a finding on credibility due to numerous inconsistencies. Finally, Defendants allege Claimant is only entitled to compensation under §42-9-30 and that *Singleton* would apply because she has no ratable impairment other than the back.

Claimant objected to the inclusion of a letter from the Attorney General's office in Defendants' Exhibit 1. This objection was granted and page one was removed from the record.

Claimant objected to the inclusion of a letter from Garry Smith in Defendants' Exhibit 1 into evidence based on allegations that it constituted improper ex parte communication, hearsay, and threat of criminal prosecution. The Claimant additionally argued that the entire Workers' Compensation Commission should recuse themselves from hearing this claim. The Defendants countered that it is not a threat, but simply evidence that a fraud investigation is ongoing. Furthermore, neither the Defendants' Attorney, the Employer, or Carrier was engaged in the communication; it was between the Attorney General's Office, the Workers' Compensation Commission, and the complainant. The Claimant's objections were denied.

Claimant objected to the inclusion of Defendants' Exhibit 2 which is a surveillance report. The objection was granted and Exhibit 2 was removed from the record.

Claimant objected to Defendants' Exhibit 3 which is surveillance footage of the Claimant as being unduly prejudicial. The objection was denied and the surveillance footage was made a part of the record.

The Single Commissioner reviewed the record and heard testimony from the Claimant. He

determined Claimant was entitled to an Award of 40% disability to the back and the Defendants were entitled to credit for overpayment of temporary total disability benefits from the date of maximum medical improvement on February 14, 2011.

Within the proscribed time period, the Claimant submitted a Form 30 Request for Commission Review. Through his brief, the Claimant submitted the following arguments for the consideration of the Appellate Panel:

- I. Was the Claimant denied a fair trial due to alleged ex parte communication between the Commission, a witness, and the Carrier?
- II. Did the Claimant prove she was totally disabled?
- III. Did the Single Commissioner err in his findings regarding credibility?
- IV. Was the Claimant entitled to lifetime medical treatment?
- V. Did the Single Commissioner err in finding the Employer and Carrier were entitled to a credit for payment of temporary total compensation benefits paid after February 14, 2011?
- VI. Did the Single Commissioner err in excluding the testimony of Tony Owens?

EVIDENCE OF THE CASE

Testimony of the Claimant

Claimant testified she treated with Dr. Wolgin, who performed fusion surgery at L4-5 and L5-S1 on May 19, 2010. She stated that surgery resolved her sciatic pain but that bending coming off the floor remains difficult. (Tr. at 19). She testified that her surgery resulted in a non-union and she declined additional surgery. (Tr. at 20-21). Claimant stated that her pain is about 6/10 and can worsen with activity. (Tr. at 39).

Claimant testified that she worked for Steve McGowan at ABC Bail Bonding during the summer of 2010 (after her fusion surgery) and worked 20 or more hours per week. (Tr. at 21-22). Claimant testified regarding a calendar that purported to list hours and dates she worked for ABC. Defendants objected to the inclusion of the calendar based on the fact it had not been produced until the Hearing, it could not be verified when notations were made, it contained no evidence of pay, and it did not reference Claimant's name anywhere in the document. The objection was denied. (Tr. at 24). The calendar contains numerous notations, appointments, and work schedules.

Claimant testified that as of November 30, 2010, her pain was aggravated by the several months of work and noted that she requested additional medications from Dr. Wolgin, which were denied. (Tr. at 26). Claimant stopped working for ABC on January 21, 2011. (Tr. at 28). Claimant was placed at MMI on February 14, 2011.

Claimant testified that she was approached by a competitor, A1 Bail Bonding, about changing her license to its business, place advertising on her truck, and using her name for marketing purposes. (Tr. at 29-30). She alleged that she completed one bond in February 2011 to change the license but did no other work and received no payment. (Tr. at 29-30). According to her testimony, the Claimant entered bonds and advertised for A1 Bail Bonding without compensation. Claimant testified she began doing more bonds in July, August, and September 2011 and was reported by her former employer. (Tr. at 31, 34, 35). Claimant indicated that she arranged for Mary Weaver to work at A1 so that she would not have to get up at all hours of the night. (Tr. at 34-35). Claimant testified regarding an entry on her Facebook page indicating she was "Self Employed and Loving It!" as a bondsman and "bond you out of jail if you need me call me." (Exhibit 7). Claimant testified she took a stalking order out against her former employer because she was aware he was investigating the work she was doing for his competitor. (Tr. at 39-41). On cross-examination, she admitted that the order prohibited her from contacting Mr. McGowan as well. (Tr. at 61).

Claimant testified on cross-examination that she performed the same work for A1 Bail Bonding *for free* as the work she did for pay at ABC Bail Bonding. (Tr. at 49). Claimant was asked why she didn't admit she was working for A1 Bail Bonding when her deposition was taken in August 2011. (Tr. at 49-50; Deposition at 7). She testified that, although she had performed numerous bonds between February and September 2011, she did not consider it work. (Tr. at 50). Claimant admitted that her response at her deposition to whether she was working was "no" and at the Hearing her answer was "yes." (Tr. at 53).

Claimant testified that she also worked for ASAP Towing, Steve McGowan's other business.

(Tr. at 54). Claimant worked there with her husband and denied that she would affix her husband's name to work she performed. (Tr. at 54).

She also testified at her deposition that she had no further education or certification since the date of injury. However, she admitted at the Hearing that she received certification as a bail bondsman in August 2010 (after her fusion surgery). (Tr. at 50). Claimant also admitted that she received a diploma in accounting in 2010 that she did not previously report. (Tr. at 51). Claimant admitted that her response at her deposition to whether she received additional certification or education was "no" and at the Hearing her answer was "yes." (Tr. at 53).

Surveillance footage of Claimant was referenced and Claimant admitted that she could work as long as there was not repetitive bending and twisting involved. (Tr. at 55). Claimant would not confirm or deny that she could repetitively bend based on footage of her bending to pick up items from the bottom shelf at Walmart. (Tr. at 56). She admitted she could pick up light things. (Tr. at 56-57). The Claimant testified she worked twenty hours a week for ABC during September 2010. (Tr. at 57). The September 30, 2010, medical report of Dr. Wolgin states "she is able to continue with her work which is three hours per day three days a week." (APA at 61). Moreover, compared to her own testimony, Claimant significantly misrepresented vital information regarding her work history since the accident. She reported working an average of twelve hours a week, which is much less than her testimony reflects and a far cry from the 30-35 average hours of work per week as per her former employer. (Tr. at 59, APA at 98).

Claimant requested to call Tony Lee Owens. Defendants' objection to this testimony was granted and the testimony was taken as Proffered Testimony outside of the presence of the Commission and is not part of the record. (Tr. at 67).

Testimony of Steve McGowan

Steve McGowan was called by the Defendants. Mr. McGowan is the owner of ABC Bail Bonds and employed Claimant for about six months. (Tr. at 70). He hired Claimant as a result of the

recommendation of her husband, an employee in his towing company. (Tr. at 72). She initially just worked on computers, but wanted to work more and more hours. (Tr. at 74). She went to Atlanta to receive her certification as a bail bondsman soon after in late-August 2010. (Tr. at 74). He stated that Claimant left his employment because she wanted more money. (Tr. at 78). He also indicated that he paid her under the table and under her husband's name because she requested it that way. (Tr. at 78). She began working about 10 hours a week but eventually began working 30-35 hours per week, and sometimes over 40 if she worked on a weekend. (Tr. at 79). Of note, documented work of as much as 29 hours per week was reflected in Claimant's own personal calendar, but she lied about this level of work in her deposition testimony and medical records. Mr. McGowan indicated he has observed Claimant working for A-1 Bail Bonds and has surveillance footage of her performing duties at the jailhouse bonding an individual from jail. (Tr. at 80-81).

On cross-examination, Mr. McGowan agreed that he knew Claimant had back pain and stiffness "every now and then." (Tr. at 83).

Medical Evidence

Claimant first presented to Loris Healthcare on February 24, 2008 complaining of right leg and hip pain from bumping her right hip against a table saw three days earlier. (APA 1 at 1, 4).

Claimant next presented to Strand Regional Specialty Associates on May 8, 2005. She was diagnosed with traumatic right trochanteric bursitis with possible mild sciatica. (APA 3 at 83). Claimant received an injection and was recommended to engage in physical therapy. (APA 3 at 84).

Claimant next treated with Dr. Wolgin and Orthopaedic Associates in Albany, Georgia. She first presented on September 16, 2008, complaining of persistent right hip pain with radiation all the way down the leg. (APA 2 at 6). MRI testing revealed mild degenerative and facet changes in the lower lumbar spine with an L4-5 small right neural foraminal disc protrusion. (APA 2 at 8). MRI testing of the right hip was normal. (APA 2 at 10). Based on the mild findings, Claimant was referred to physical therapy. (APA 2 at 11). After several weeks of physical therapy ending in

October 2008, Claimant reported little relief. (APA 2 at 20, 21). She received brief pain management treatment in November and December 2008 with Dr. Lamar Moree. (APA 4 at 88-91).

At Claimant's next appointment on April 17, 2009, Dr. Wolgin opined that Claimant's injury was due to her back and not her hip. (APA 2 at 21). Based on her continued complaints and low benefit through therapy and injections, Dr. Wolgin recommended consideration of a one or two level fusion surgery. (APA 2 at 22). Dr. O'Leary provided a second opinion on July 7, 2009 and recommended injection therapy rather than surgery, but deferred to Dr. Wolgin. (APA 5 at 92-93). Claimant returned on February 2, 2010 complaining of the same low back and right leg pain. Due to the gap between treatment, Dr. Wolgin ordered additional MRI imaging to assess any changes. (APA 2 at 23).

Claimant's MRI's came back showing a possible tiny protrusion at L4-5 with mild facet arthropathy and no nerve root compression; L5-S1 showed mild changes as well. (APA 2 at 25). Claimant returned to Dr. Wolgin to discuss the tests and decided to move forward with surgery. (APA 2 at 26). A peer review was conducted on these findings and Dr. Wolgin suggested a psychosocial evaluation and a provocative discography. (APA 2 at 29; APA 6 at 94-95). Additional testing was not performed prior to surgery. (APA 2 generally).

Claimant underwent an L4-5, L5-S1 transforaminal lumbar interbody fusion on May 19, 2010. (APA 2 at 38-40). As of May 25, 2010, Claimant continued to complain of pain at an 8/10 level, but noted some improvement of leg complaints by May 27, 2010. (APA 2 at 42, 44). Claimant returned complaining of increased pain on June 22, 2010 and was given an injection. (APA 2 at 47). Dr. Wolgin anticipated that she would be written completely out of work for at least another month. (APA 2 at 47).

Claimant's leg pain improved as of July 20, 2010 but she complained that she still could not lay down in a bed and could not swim because of increased pain kicking her legs; she remained written completely out of work. (APA 2 at 53). Claimant was allowed to return to limited sedentary

work as of August 27, 2010 and was recommended to begin physical therapy. (APA 2 at 57).

As of October 19, 2010, Claimant had been through a month of physical therapy with little benefit and reported an increase in her hip and back pain due to sleeping in a bed. (APA 2 at 64). Repeat injections completely relieved the hip pain and partially relieved the back. (APA 2 at 64). Seven days later a prescription note from Dr. Wolgin was prepared, writing her back out of work. (APA 2 at 66). On November 23, 2010, Claimant noted slow improvement, increased walking ability, and little to no leg pain or numbness. (APA 2 at 67). According to Dr. Wolgin's notes, sometime prior to December 21, 2010, Claimant began taking care of a 3-year old and began engaging in frequent bending, lifting, and twisting. (APA 2 at 70).

A CT scan on February 9, 2011 showed no evidence of hardware failure but did show evidence of non-union in places. (APA 2 at 72-76). As of February 14, 2011, Claimant stated that she felt about the same in the right buttocks area, but did report relief of her prior leg complaints; she did not wish to undergo additional surgery. (APA 2 at 76). Claimant was released from care with a 36 percent impairment rating using the AMA Guides, 5th Edition. (APA 2 at 76, 78). Claimant reported that she continued to care for a toddler full time. (APA 2 at 76).

Claimant's Attorney referred her to Glen Adams for a vocational assessment on September 12, 2011. She reported that she worked for ABC Bail Bonding during January 2011 (she worked there 6 months) but only worked 12 hours a week (she averaged 30-35 and sometimes more). (APA 7 at 96-106). She reported that Dr. Wolgin supported a trial return to work in January, however, there are no records reflecting this and he continued to place her completely out of work at that time. Mr. Adams found Claimant totally disabled; however, she lied to him about her employment history and true capabilities, thus rendering his opinion invalid.

ARGUMENTS

I. THE SINGLE COMMISSIONER CORRECTLY DENIED CLAIMANT'S MOTION TO RECUSE ITSELF OVER ALLEGATIONS OF EX PARTE COMMUNICATION

The communication between the Commission and Attorney General's office does not constitute ex parte communication

Claimant mischaracterizes the Commission's letter to the Attorney General's office as ex parte communication and overstates the prejudicial effect of that communication.

On July 6, 2011, Steve McGowan called the Commission to report a claim of insurance fraud being committed by Claimant and her new employer, A1 Bail Bonding. This report was made unbeknownst to the Claimant or Defendants and the Defendants had no prior contact with Mr. McGowan.

According to Black's Law Dictionary 597 (7th ed. 1999) ex parte communication is defined as "prohibited communication between counsel and the court when opposing counsel is not present." Brown v. Bi-Lo, Inc., 354 S.C. 436, 440 (S.C. 2003). At no time did the Defendants' or the Defendants' counsel communicate with the Workers' Compensation Commission without notification of the other party. Additionally, at no time did the Defendants' or the Defendants' counsel receive communication from the Workers' Compensation Commission that was not also copied to the Claimant's Counsel.

In fact, the Commission forwarded the information only to the Attorney General's Insurance Fraud Division as required by §38-55-570(A) and §42-9-440. As stated in their letter to the Attorney General's office, the Commission did not forward any information directly to the Carrier. **Contrary to the allegations of the Claimant, neither §38-55-570(A) nor §42-9-440 require the Commission to inform either party of the report of fraud.** Therefore, it is incorrect to consider the communication between the Commission and Attorney General improper.

The Claimant alleges unfair prejudice in that she was not notified of the Attorney General investigation at the same time as the Defendants. This is immaterial to an analysis of ex parte communication because **the Attorney General's office is not the judicial body determining Claimant's claim.** The Attorney General did forward the complaint to the Carrier as it is entitled to

do under §38-55-570(B) (allowing the Attorney General to request investigative materials from an insurer). The Attorney General would naturally contact an insurer to assist with its investigation into the fraud complaint. It would be against their interest to notify a Claimant of an investigation before it begins and there is no requirement compelling the Attorney General to do so.

The Workers' Compensation Commission and the Attorney General's office followed the requirements of §38-55-570 and §42-9-440 appropriately. The Commission had no inappropriate contact with the Defendants and the Attorney General had contact with the Defendants only to the extent permissible by law.

The Single Commissioner was not a party to the communication

The Claimant alleges that the Single Commissioner breached Canon 3B(7) of the Code of Judicial Conduct by virtue of communication between Garry Smith (or another employee of the Compliance Division) and Mr. McGowan. While creative, this argument is not legally sound. The Code of Judicial Conduct controls the conduct of judicial officers and some select employees (i.e. staff attorneys, law clerks, translators), however, Garry Smith does not fall into any of those categories. Mr. Smith works in the Compliance Division, the appropriate division that may receive reports dealing with fraud. It is incumbent upon his job duties to report any fraud complaints to the Attorney General.

From time to time, it is expected that the Workers' Compensation Commission will receive reports of fraudulent activity. By law, the Commission must have some function to process these complaints to the Attorney General's office. Mr. Smith's department handles this function and complied within the applicable statutes. "It must be presumed the Legislature did not intend a futile act, but rather intended its statutes to accomplish something." Smith v. Barnwell County, 384 S.C. 520, 524 (S.C. 2009). To accept the Claimant's argument would mean that every single time a fraud complaint is lodged with the Commission, the entire Commission would have to recuse itself from the proceedings. This would be an absurd result, not intended by the legislature. It is well-settled that

“Courts will reject a statutory interpretation that would lead to a result so plainly absurd that it could not have been intended by the Legislature or would defeat the plain legislative intention. Unisun Ins. Co. v. Schmidt, 339 S.C. 362, 368, 529 S.E.2d 280, 283 (2000).” Town of Mt. Pleasant v. Roberts, 393 S.C. 332, 342-343 (S.C. 2011).

Furthermore, Mr. McGowan did not have any communication with the Single Commissioner prior to the Hearing. To suggest that the Commissioner’s discretion was affected by lawful communication between a non-party and a different division of the Workers’ Compensation Commission is not credible.

The Claimant incorrectly contends that Mr. Smith was “staff” for purposes of the Code of Judicial Conduct. The commentary to Canon 3B(7) states “A judge must make reasonable efforts, including the provision of appropriate supervision, to ensure that Section 3B(7) is not violated through law clerks or other personnel on the judge's staff.” However, the Commission is split into numerous divisions, tending to a multitude of different mandated tasks – some judicial, some administrative. The Compliance Division is one of the many divisions and was carrying out one of its statutorily mandated responsibilities. Furthermore, there is no evidence that the Single Commissioner had any knowledge of the communication prior to the Hearing. Therefore, he would have no more prejudice than an appointed past Commissioner would to decide the claim. It would be an absurd result to suggest that a Commissioner must oversee the Compliance Division to keep them from satisfying the requirements of §38-55-570 and §42-9-440.

The Rules of Evidence do not apply to Workers’ Compensation claims

The Claimant contends that the Single Commissioner could not consider the letters from the Attorney General’s office and the Compliance Division (Exhibit 1) because it is prohibited by the South Carolina Rules of Evidence. This assertion is incorrect on its face because the Workers’ Compensation Commission is not bound by the South Carolina Rules of Evidence.

“The South Carolina Rules of Evidence do not apply in proceedings before the Workers’

Compensation Commission. S.C. Code Ann. § 1-23-330(1) (1986 & Supp. 1999) (except in proceedings before the Workers' Compensation Commission, rules of evidence apply in contested matters before an agency); see also Ham v. Mullins Lumber Co., 193 S.C. 66, 7 S.E.2d 712 (1941) [***3] ("great liberality is exercised in permitting the introduction of evidence in proceedings under Workmen's Compensation Acts.")” Hamilton v. Bob Bennett Ford, 339 S.C. 68, 70 (S.C. 2000).

The Single Commissioner obviously has broad discretion to admit evidence. He weighed the parties' arguments and determined that Exhibit 1 was properly submitted and not unfairly prejudicial to the Claimant. This is not the only supporting evidence regarding the allegations against the Claimant. The Defendants also produced surveillance video, surveillance photographs, training certificates, documentation supporting Claimant's work for ASAP Towing, and Claimant's Facebook Profile, all showing that Claimant lied regarding her physical capacity and work activities.

II. THE SINGLE COMMISSIONER CORRECTLY DETERMINED THE CLAIMANT'S LEVEL OF DISABILITY

The Evidence Supports the Single Commissioner's Award

Claimant failed to carry her burden of proving permanent and total disability under either S.C. Code Ann. Sec. 42-9-10 or 42-9-30, largely due to her own lack of credibility. It is not disputed that Claimant sustained a significant injury, which resulted in a fusion surgery and eventual 36% impairment rating. What is in question, is the fact that Claimant has lied about her functional capacity and work history at every opportunity. The greater weight and preponderance of the evidence shows that Claimant actively returned to work for ABC Bonding and has continued to work for subsequent employers.

Aside from the basic inconsistencies in the Claimant's testimony and reports to his physicians, it is important to note that the Single Commissioner was able to draw his conclusion with the benefit of observing the Claimant's testimony, mannerisms, and demeanor. While the Full

Commission certainly has the authority to determine its own findings, "it is logical for the full Commission, which did not have the benefit of observing the witnesses, to give weight to the hearing commissioner's opinion." Green v. Raybestos-Manhattan, Inc., 250 S.C. 58, 156 S.E.2d 318 (1967).

Claimant's testimony and the credible evidence is full of contradictions with one another. First, Claimant admitted that she could work now, "as long as I don't have to get up and down, bend over, come up and down or do any kind of side twisting up and down... if I've got to bend down and come off the floor with something and use that lower back to bring that weight up, it don't work." (Tr. at 55). Then she informs Dr. Wolgin on December 21, 2010 that she was taking care of a 3-year-old and has to do relatively frequent bending, lifting, and twisting in that regard. (APA 2 at 70). Surveillance footage of the Claimant also reveals Claimant repetitively squatting to pick up items from a shelf at Wal-Mart. (Tr. 55-56).

Claimant lied to Dr. Wolgin about her work abilities. In Dr. Wolgin's September 30, 2010 report, Claimant reported that she worked only 3 hours per day 3 hours per week in an office setting. (APA 2 at 61). Claimant's own testimony at the Hearing contradicted this assertion. She testified that she worked approximately 20 hours per week for ABC Towing. (Tr. at 57). Claimant's employer at ABC Towing, Steve McGowan, testified that she worked 30-35 hours per week (sometimes over 40) and left the job to seek more money and hours. (Tr. at 78-79).

Claimant also lied to Glen Adams' during her September 7, 2011 vocational assessment. She reported she worked for only a couple of months, worked a day or two per week (2-5 hours per day), and at some point averaged 12 hours per week. (APA 7 at 98). As noted above, Claimant's own testimony admits that she worked almost double what she reported to Mr. Adams. According to her former employer, Claimant actually worked significantly more hours per week.

Additional evidence supports the fact that Claimant is not permanently and totally disabled from work. Defendants' obtained surveillance footage which shows Claimant driving a vehicle reading "A-1 Bail Bonds" to Lee County Magistrate Court on September 7, 2011 while conducting

business. On September 8, 2011, Claimant was observed shopping at Walmart and squatting repetitively to look at items on low shelves. Photographic evidence (Exhibit 4) confirms that Claimant had a decal on the back of her personal vehicle advertising "A1 Bail Bonds 756-1500 24HRS!!"

Claimant's Facebook page from September 19, 2011 also notes her employer as "Self Employed and Loving It!" She lists herself as a professional bondsman and notes "bond you out of jail if you need me call me."

The Claimant would have the Commission believe a fairly incredible version of events where she worked for ABC Bonding and ASAP Towing for six months before quitting because the work was too hard. Despite all of the intense pain from the job, she immediately went to A1 Bail Bonding and volunteered to work for free!! (Tr. at 28, 30) She even put a large decal across the back of her personal vehicle promoting her new employer. She alleges that she was just trying to help a friend with a failing business.

This argument makes no sense on many levels. First, if the pain was so severe she had to quit ABC Bonding, she would not likely seek immediate work for another company. Second, if she did fight through the pain to work for another company, she would not likely do this work for free. Third, beyond seeking volunteer work in a field she alleges causes her intense physical pain, Claimant actively advertised her services on the back of her personal car. Fourth, if she was just going to help out a friend with his business, why did she apply to work for his competitor and work for a competing business for six-months prior to becoming concerned.

Claimant's former employer, Steve McGowan, testified that Claimant actually left his employment because she was seeking more money. He testified that he observed certain paperwork disappearing from the office shortly before her departure to work at A1 Bail Bonding. He further noted that based on her request he paid Claimant under the table and placed her time cards in her husband's name. (Tr. at 76).

Mr. McGowan has personally seen Claimant writing bonds for A1 Bail Bonding and has had customers come in looking to structure new bonds due to Claimant harassing them for money. (Tr. at 79).

The Claimant's contradictory assertions and Glen Adams' highly subjective opinion are clearly outweighed by the objective medical evidence regarding Claimant's employment and the record as a whole. Therefore, the greater weight and preponderance of the evidence shows that Claimant did not sustain permanent and total impairment and the Single Commissioner's Award should stand.

The Commission has the Discretion to Award Benefits under Either the Specific or General Disability Statutes

Pursuant to Fields v. Owens Corning Fiberglas, "An award under the general disability statutes must be predicated upon a showing of loss of earning capacity, whereas an award under the scheduled loss statute does not require such a showing. *The commission may award compensation to a claimant under the scheduled loss statute rather than the general disability statutes so long as there is substantial evidence to support such an award.*" [emphasis added] Fields, 310 S.C. 554, 393 S.E.2d 172 (1990).

The Single Commissioner's Order thoroughly details his consideration of the entire body of medical evidence and the testimony put forth at the Hearing. Based on his review of the evidence, the Single Commissioner correctly determined that the greater weight and preponderance of the evidence supported findings of specific disability rather than general disability.

III. THE SINGLE COMMISSIONER CORRECTLY CONSIDERED AND ISSUED FINDINGS ON CREDIBILITY BASED ON RECEIVING TESTIMONY, OBSERVING THE WITNESSES, AND CONSIDERING THE GREATER WEIGHT AND PREPONDERANCE OF THE EVIDENCE

The findings of credibility reached by the Commissioner are supported by the evidence and were not improperly supplemented by Defendants.

The Claimant alleges that the Defendants improperly opined on credibility in the proposed

Decision and Order against the instructions provided by the Commission. This is a false assertion. The Single Commissioner issued Order instructions on October 20, 2011. Instruction #16 states, "After considering all of the evidence, I find Claimant has suffered a 40% PPD to the back. I did not find her a credible witness and believe she can work." The instructions could not be clearer.

The party preparing the Order may add additional findings consistent with the Commissioner's instructions, however, they can not render a finding of credibility. In this case, the Commissioner did issue a finding regarding Claimant's credibility. The Defendants' did not alter it and did not add any findings regarding the credibility of other witnesses. The Claimant argues that Findings of Fact 18 and 19 are improper, alleging they address credibility. The Findings relate to the fact that Claimant worked for A1 Bail Bonding and provided inaccurate information to the vocational assessor and at her deposition. These are not impermissible findings related to credibility, they are simply findings in support of the Commissioner's conclusion.

From the Single Commissioner's Order instructions and APA submissions, we know that he "believe[d] she could work" and Claimant did not report working for A1 Bail Bonding at either her deposition or vocational assessment. The Findings of Fact simply combined these two truths, without any new or inconsistent findings regarding credibility.

"It is the duty of the Commission to make specific findings of fact upon which a claimant's entitlement to compensation may rest and upon which the amount of compensation due him may be calculated by one of the statutory formulae." Shealy v. Algernon Blair, Inc., 250 S.C. 106, 156 S.E.2d 646 (1967). Here, the Commissioner issued Order instructions and received a proposed Order containing additional findings consistent with his instructions and agreed with the additions as evidenced by his signature on the final Order. Therefore, Findings of Fact 18 and 19 were not improper additions.

Claimant's testimony was not credible

The Claimant alleges in his brief that the Single Commissioner improperly weighed the

evidence in finding that she was not credible. Quite to the contrary, the Single Commissioner did consider the entire record as a whole and issued an opinion well-supported by the evidence.

It is logical for the full Commission, which did not have the benefit of observing the witnesses, to give weight to the hearing commissioner's opinion as to credibility. Green v. Raybestos-Manhattan, Inc., 250 S.C. 58, 156 S.E.2d 318 (1967).

As stated above, Claimant lied about her work to her treating physician, Dr. Wolgin, and to her vocational evaluator, Glen Adams. The logical conclusion is that she wanted to appear much more disabled from work than reality. Claimant continued to work for 7-8 months leading up to the Hearing on September 27, 2011. Claimant promoted her bondsman business on Facebook as late as September 19, 2011. Claimant promoted her bondsman business on the back of her vehicle as recently as September 7-8, 2011 when surveillance tracked her daily activities. Claimant was seen on surveillance conducting business at the magistrates office on September 7, 2011 and has been witnessed numerous times by Steve McGowan performing these activities.

The fact that she continued working and there is documented proof of her work even in the days prior to her hearing, shows beyond the preponderance of the evidence that Claimant is not permanently and totally disabled.

Based on the foregoing, the greater weight and preponderance of the evidence shows the Single Commissioner correctly considered all of the evidence before him.

Credibility of Steve McGowan

Other than the fact Claimant does not like Steve McGowan, there is no evidence to suggest that he is lying about his testimony. Mr. McGowan provided Claimant with work for approximately six months at both ABC Bonding and ASAP Towing. Mr. McGowan complied with Claimant's request to be paid under the table and to use her husband's name on time cards. He admitted that Claimant would complain of a stiff back and say "My back is hurting today;" however, he also confirmed that she typically would work 30-35 hours per week or as much as 40 with a busy

weekend.

Towards the end of Claimant's work with Mr. McGowan, he and his business partner noticed paperwork missing. She left his business and joined A1 Bail Bonding. Mr. McGowan observed her conducting quite a bit of business and drew a conclusion that she was receiving unreported income while receiving insurance benefits. Based on this belief, Mr. McGowan took action against his own self interest in reporting the situation to the proper channels. Mr. McGowan has been honest that he paid the Claimant through improper methods and realized the risk he was taking by reporting the violation.

Claimant dismiss his testimony as combative and uncooperative. However, the Single Commissioner was present to observe the testimony of both Mr. McGowan and the Claimant and apparently was more persuaded by the testimony of Mr. McGowan. If anyone was combative, it was the Claimant. On cross-examination, Claimant's counsel posed "questions" such as "Mr. McGowan, you actually take a lot of drugs, illegal drugs like marijuana; isn't that true? [Mr. McGowan answered no]" and "the fact that you're a millionaire is not enough. You still want to put everybody out of business." and "part of your way to put Tony Owens out of business is to intimidate and harass Patricia Fore?"

Mr. McGowan did not seek to testify at the workers' compensation hearing, he came because he was requested to be there by Defense counsel. (Tr. at 92). The Claimant's Attorney tried to impeach his credibility pointing out the existence of a restraining order between Mr. McGowan and Claimant; however, the Order applies to both parties, so Claimant would also be in violation if attendance at a Hearing were not a valid excuse.

After an extended period of badgering cross-examination, Claimant simply responded that "I'm here to try to protect myself. I'm here to tell the truth, whether it brings me down or it brings me up." (Tr. at 91).

The Single Commissioner had the opportunity to observe the testimony and mannerisms of

both the Claimant and Mr. McGowan. Their testimony was largely incompatible with one another. The Single Commissioner used this insight and weighed the large amount of evidence showing that Claimant continued to work even leading up to the Hearing date. The Single Commissioner agreed that the greater weight and preponderance of the evidence showed Claimant could continue to work and was not permanently and totally disabled. Therefore, the Defendants would respectfully request that the full Commission affirm the Single Commissioner's Order regarding credibility and permanency.

IV. THE SINGLE COMMISSIONER CORRECTLY DETERMINED THAT CLAIMANT WAS NOT ENTITLED TO LIFETIME MEDICAL TREATMENT

The record shows that Claimant was not straightforward with her physicians and was not permanently and totally disabled. At best is entitled to benefits under 42-15-60 but not lifetime benefits.

Claimant argues the medical treatment should be left open due to recommendations by Dr. Wolgin. Dr. Wolgin mentioned the *possibility* of future surgery but did not recommend any future surgery to a reasonable degree of medical certainty.

The Single Commissioner did include lifetime repair and replacement of Claimant's hardware from the fusion surgery; however, the record does not support provision of any additional future medical treatment.

V. THE SINGLE COMMISSIONER CORRECTLY DETERMINED THE DEFENDANTS WERE ENTITLED TO CREDIT FOR OVERPAYMENT OF TEMPORARY TOTAL DISABILITY BENEFITS BEYOND THE DATE OF MAXIMUM MEDICAL IMPROVEMENT

The Claimant argues that the Commissioner incorrectly applied a credit to his Award from the date of maximum medical improvement.

It has become well settled that an employer is entitled to a credit for temporary total disability benefits paid beyond the date of maximum medical improvement. The Court stated in Curiel, "Essentially, workers' compensation benefits accrue along a time continuum: temporary total

disability benefits are available from the date of injury through the date of maximum medical improvement; post-MMI benefits may then be awarded either as a permanent total or partial disability, or as a percentage of impairment to a scheduled member. *Smith v. NCCI, Inc.*, 369 S.C. 236, 631 S.E.2d 268 (Ct. App. 2006). Accordingly, the date of maximum medical improvement signals the end of entitlement to temporary total benefits.” Curiel v. Environmental Management Services (MS), 376 S.C. 23, 655 S.E.2d 482 (2007).

The Claimant points out that the credit issue was not addressed in the Order instructions. However, Claimant’s Attorney had a copy of the proposed order for weeks prior to its submission and various objections were raised. As such, a letter was sent to the single Commissioner with the proposed Order outlining the issues and making him specifically aware that he had not addressed the credit issue in his instructions. The Single Commissioner received this and signed the Order granting the credit. This was not a new issue, but one that the Defendants expressly asked the Commissioner to address at the Hearing. The Commissioner was aware of Claimant’s objection and overruled it by signing the Order.

The Commissioner’s other findings support this conclusion. The Single Commissioner believed Claimant could work and expressly found as much. Failure to give the Defendants’ credit to the date of maximum medical improvement would defy logic. The weeks she was paid during this time were to intended to replace wages; however, Claimant continued to work for A1 Bail Bonding throughout the time since she quit ABC Bonding. Allowing her to take temporary total disability benefits without an offset would be granting the Claimant an undeserved windfall.

Based upon the foregoing, the greater weight and preponderance of the evidence shows that the Commissioner correctly awarded a credit for overpayment of temporary total disability benefits beyond the date of maximum medical improvement.

VI. THE SINGLE COMMISSIONER CORRECTLY DENIED ADMISSION OF THE TESTIMONY OF TONY OWENS

The Defendants objected to the testimony of Tony Owens at the Hearing due to lack of notice and his testimony was not entertained. The Defendants maintain that objection and further object to the references contained in the Claimant's brief related to his testimony.

Regulation 67-611 binds each party to notify the opposing party of "witnesses concerning the facts of the case" at least ten days before the hearing. **This regulation does not provide the Commission with discretion to waive the ten-day notice requirement for witnesses.** Claimant's brief admits that she did not notify the opposing party of her intention to have Tony Owens testify until seven days prior to the Hearing.

Claimant argues that this regulation should not apply because Tony Owens would have been in response to Mr. McGowan's testimony. However, it is important to note that the Defendants' Form 58 was timely filed and the Claimant had ample opportunity to withdraw her Form 50 if she was not prepared to proceed with the Hearing pursuant to Regulation 67-609.

Furthermore, the Claimant could have made a Motion to Postpone the Hearing in order to take deposition testimony of Mr. McGowan if she believed there were compelling reasons to postpone the Hearing. The Claimant failed to take this action.

At the Hearing, the Claimant could have made a motion to take this testimony prior to the commencement of the Hearing but chose not to. Even if a pre-hearing motion were denied, the Claimant still could have withdrawn her Form 50 just before the Hearing commenced under 67-609 and Spruill v. Richland County Sch. Dist. 2, 363 S.C. 61, 609 S.E.2d 524 (2005).

The Regulations do not give the Commission the discretion to waive the notice requirement and proceed with a Hearing with improperly noticed witnesses. Despite multiple opportunities, the Claimant did not withdraw her Form 50 Request for Hearing; therefore, the Claimant does not now have the right to produce this testimony.

The Claimant's inaction is not the fault of the Defendants. Despite this, she argues that she should be allowed to introduce improperly noticed testimony of her witness. Admission of this

testimony would unfairly prejudice the Defendants, who did not have an opportunity to investigate or depose Mr. Owens in advance of the Hearing.



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Columbia, South Carolina
April 26, 2012

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
COLUMBIA, SOUTH CAROLINA
WCC FILE NO. 0810152

EMPLOYEE/CLAIMANT: PATRICIA FORE

 COPY

EMPLOYER: GRIFFCO OF WAMPEE, INC.

INSURER: COMMERCE & INDUSTRY INSURANCE COMPANY

SOUTH CAROLINA WORKERS' COMPENSATION HEARING

PURSUANT TO NOTICE OF WORKERS' COMPENSATION
HEARING, THE WITHIN HEARING WAS TAKEN ON THE 27TH DAY OF
SEPTEMBER, 2011, COMMENCING AT THE HOUR OF 11:39 A.M., IN
MYRTLE BEACH, SOUTH CAROLINA, BEFORE THE HONORABLE BRYAN
LYNDON, ATTENDED BY COUNSEL AS FOLLOWS:

JAN L. WHITWORTH
VERBATIM REPORTER

JAN L. WHITWORTH
COURT REPORTING SERVICES
POST OFFICE BOX 551
ROEBUCK, S.C. 29376

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I N D E X

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HENRY STEVEN McGOWAN

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PROFFERED TESTIMONY ATTACHED OF MR. TONY LEE OWENS (25 PAGES)

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 MYRTLE BEACH,
4 SOUTH CAROLINA.

5 * * * * * * * * * * * * * * *

6 **BY COMMISSIONER LYNDON:**

7 TODAY'S DATE IS SEPTEMBER THE 27TH, 2011. THIS
8 IS SOUTH CAROLINA WORKERS' COMPENSATION CASE FILE
9 NUMBER 0810152. PATRICIA FORE IS THE CLAIMANT
10 REPRESENTED BY ATTORNEY STEPHEN SAMUELS VERSUS THE
11 EMPLOYER GRIFFCO OF WAMPEE, INCORPORATED. COMMERCE
12 AND INDUSTRY IS THE CARRIER. JIM LICHTY IS THE
13 ATTORNEY FOR THE DEFENDANT. THE PURPOSE OF THIS
14 HEARING IS TO DETERMINE ISSUES RAISED ON FORMS 50
15 AND 51. THE CLAIMANT'S AVERAGE WEEKLY WAGE IS
16 \$449.36. HER COMP RATE IS \$299.59, AND THE DATE OF
17 ACCIDENT IS 2/24/2008.

18 ARE THERE ANY OBJECTIONS TO APAs, JURISDICTION,
19 VENUE, OR ANY OTHER ITEMS? AND LET'S JUST START
20 WITH YOU, MR. SAMUELS.

21 **BY MR. SAMUELS:**

22 YOUR HONOR, I HAVE NUMEROUS OBJECTIONS. FIRST,
23 I WOULD OBJECT TO DEFENDANTS' EXHIBIT NUMBER ONE.
24 EXHIBIT NUMBER ONE CONTAINS TWO DOCUMENTS, ONE OF
25 WHICH IS A LETTER FROM GARY SMITH OF THE COMMISSION

1 TO THE ATTORNEY GENERAL'S OFFICE. IN THAT LETTER,
2 MR. SMITH INSTRUCTS THE ATTORNEY GENERAL TO FORWARD
3 A COPY OF THE LETTER TO THE INSURANCE FRAUD
4 INVESTIGATION DIVISION, CHARTIS CLAIMS,
5 INCORPORATED, WHO IS THE CARRIER IN THIS CASE. AND
6 THE OTHER PART OF THAT EXHIBIT IS A LETTER DATED
7 JULY 20TH, 2011, FROM AN ASSISTANT DEPUTY ATTORNEY
8 GENERAL TO THE SPECIAL INVESTIGATIVE UNIT AT CHARTIS
9 CLAIMS.

10 **BY COMMISSIONER LYNDON:**

11 LET'S JUST TAKE THEM ONE AT A TIME, AND I
12 BELIEVE -- WE BROUGHT THIS UP AND DISCUSSED IT IN
13 DETAIL IN OUR PREHEARING CONFERENCE. I KNOW THAT
14 MR. LICHTY, AND HE CAN CERTAINLY SPEAK FOR HIMSELF,
15 THINKS IT IS A PROPER SUBMISSION. I DO AGREE THAT
16 IT SHOULD BE -- I GRANT YOUR MOTION, BUT YOU ALSO
17 ASKED THAT I SEAL THIS, AND I WAS GOING TO RETURN IT
18 TO MR. LICHTY, BUT SEAL THIS, AND IT'S BEEN MARKED
19 AS PAGE ONE OF DEFENDANTS' EXHIBIT NUMBER ONE,
20 REMOVED AND SEALED, GRANTED MOTION OF CLAIMANT'S
21 COUNSEL. OKAY. AND THE NEXT ONE WAS?

22 **BY MR. SAMUELS:**

23 YOUR HONOR, IF I CAN GET IT ALL ON THE RECORD.
24 ALONG WITH THIS -- I HAVE TWO CONCERNS. I BELIEVE
25 THE SUBMISSION OF THESE RECORDS AT ALL IS A

1 VIOLATION OF RULE 3.4 OF THE RULES OF PROFESSIONAL
2 CONDUCT AND SHOULD NOT BE CONSIDERED BY THE
3 COMMISSION. IT IS PREJUDICIAL. IT IS INFLAMMATORY.
4 IT IS ESSENTIALLY USING THE PROSPECT OF A FRAUD
5 INVESTIGATION TO INTIMIDATE, COERCE, AND ATTACK A
6 CLAIMANT, WHICH IS PLAINLY IMPROPER TO USE THE
7 THREAT OR RISK OF A CRIMINAL PROSECUTION IN AN
8 UNRELATED CIVIL PROCEEDING. SECONDLY, YOUR HONOR, I
9 HAVE VERY GRAVE CONCERNS ABOUT THE LETTER WRITTEN BY
10 GARY SMITH. IN PARTICULAR, WHAT HAPPENED HERE IS
11 ESSENTIALLY IN THAT LETTER, IT STATES, QUOTE, "A
12 CARRIER IS NOT AN AUTHORIZED AGENCY UNDER THE
13 PROVISIONS OF SECTION 38-55-530. THEREFORE, I DON'T
14 BELIEVE I COULD ALERT THE CARRIER TO THE ALLEGED
15 FRAUD, BUT I SUGGEST THE CARRIER NEEDS TO KNOW THE
16 ALLEGATION OF FRAUD HAS BEEN MADE SO IT CAN CONDUCT
17 AN INVESTIGATION SHOULD IT DEEM AN INVESTIGATION IS
18 WARRANTED." IT THEN GOES ON TO PROVIDE THE CONTACT
19 INFORMATION FOR COMMERCE AND INDUSTRY INSURANCE AND
20 CHARTIS CLAIMS STATING THAT "THE FOLLOWING IS THE
21 CARRIER CONTACT INFORMATION THAT SHOULD BE NOTIFIED
22 OF THE ALLEGATION OF CLAIMANT FRAUD." NOW, THIS
23 ALLEGATION IS ESSENTIALLY A PHONE CALL THAT A
24 GENTLEMAN NAMED STEVE MCGOWAN MADE TO MR. SMITH, AND
25 I'M EXTREMELY CONCERNED OVER THIS, AND IT MAKES ME

1 VERY UNCOMFORTABLE TO HAVE TO RAISE THIS. BUT UNDER
2 THE RULE 501 OF THE APPELLATE COURT RULES UNDER THE
3 CODES OF JUDICIAL CONDUCT, CANON THREE STATES A
4 JUDGE SHOULD PERFORM THE OFFICE OF JUDICIAL OFFICE
5 IMPARTIALLY AND DILIGENTLY. AND AMONG THOSE IS A
6 RULE THAT A JUDGE SHOULD NOT INITIATE, PERMIT, OR
7 CONSIDER EX PARTE COMMUNICATION OR CONSIDER OTHER
8 COMMUNICATION MADE TO THE JUDGE OUTSIDE OF THE
9 PRESENCE OF THE PARTIES CONCERNING A PENDING OR
10 IMPENDING PROCEEDING. AND I KNOW YOUR HONOR IS AS
11 SURPRISED BY THIS AS I AM, SO I'M NOT SUGGESTING
12 ANYTHING IMPROPER ON YOUR HONOR'S PART. BUT MY
13 CONCERN IS THAT THE COMMENTS IN THAT RULE GO ONTO
14 STATE THAT A JUDGE MUST MAKE REASONABLE EFFORTS
15 INCLUDING THE PROVISION FOR APPROPRIATE SUPERVISION
16 TO ENSURE THAT SECTION 3-B-7 IS NOT FILED THROUGH
17 LAW CLERKS OR OTHER PERSONNEL ON THE JUDGE'S STAFF.
18 SO, ESSENTIALLY WHAT WE HAVE IS A LETTER FROM A
19 DIRECTOR OF THE COMPLIANCE DIVISION OF THE
20 COMMISSION RECEIVING A PHONE CALL FROM A POTENTIAL
21 WITNESS IN THE CASE, AND THE PROPER COURSE OF ACTION
22 THERE WOULD HAVE BEEN TO NOTIFY BOTH PARTIES
23 SIMULTANEOUSLY OF THE COMMUNICATION. INSTEAD WHAT
24 WE HAVE IS THE DIRECTOR OF THE COMMISSION HAVING EX
25 PARTE CONTACT WITH ONE OF THE PARTIES, AND THAT THE

1 PARTY IS THEN ABLE TO USE THAT TO BUILD A CASE AND
2 TO FURTHER PURSUE A FRAUD INVESTIGATION AGAINST MY
3 CLIENT. I THINK THAT IS HIGHLY INAPPROPRIATE. I
4 THINK IT IS A VIOLATION OF THE RULE I PREVIOUSLY
5 CITED, AND I WOULD THEREFORE MOVE THAT THE
6 COMMISSION -- THE ENTIRE COMMISSION BE RECUSED FROM
7 THIS PROCEEDING, AND THAT THE CASE BE TRANSFERRED TO
8 A CIRCUIT COURT JUDGE OR THAT AN IMPARTIAL REFEREE,
9 PERHAPS A FORMER COMMISSIONER BE APPOINTED TO HEAR
10 THE CASE.

11 **BY COMMISSIONER LYNDON:**

12 LET ME HEAR FROM MR. LICHTY ON THAT.

13 **BY MR. LICHTY:**

14 YOUR HONOR, TO THE EXTENT THAT THE DEFENSE HAS
15 SUBMITTED EVIDENCE OF A FRAUD INVESTIGATION I DON'T
16 FEEL VIOLATES ANY ETHICAL REQUIREMENTS. MOREOVER, I
17 DON'T NECESSARILY THINK THAT MR. SAMUELS' OBJECTION
18 IN THAT REGARD GO TOWARDS THE EVIDENTIARY
19 ADMISSIBILITY OF THE EVIDENCE ITSELF, MORE TOWARDS
20 MY PERSONAL BEHAVIOR, WHICH IS NOT A SUBJECT HERE
21 FOR THE COMMISSION IN THIS IMMEDIATE ACTION.
22 SECONDLY, IN REGARD TO FRAUD, I WAS ATTEMPTING TO
23 LOOK UP THE STATUTE, BUT I BELIEVE UNDER THE ACT,
24 THE COMMISSION HAS AN OBLIGATION TO REPORT SUSPECTED
25 FRAUD TO THE A.G.'S OFFICE, AND TO THE EXTENT THAT

1 MR. SMITH WAS NOTIFYING THE A.G. OF A REPORT OF
2 FRAUD, I FEEL THAT MR. SMITH WAS SIMPLY COMPLYING
3 WITH HIS STATUTORY DUTIES UNDER THE ACT. MOREOVER
4 TO THE EXTENT THAT MR. SAMUELS CATEGORIZES THE
5 COMMUNICATION AS EX PARTE COMMUNICATION, HE IS
6 CORRECT(sic). THE COMMISSION HAS HAD NO
7 COMMUNICATION WITH EITHER ME OR MY CLIENT OR EITHER
8 OF THE PARTIES IN THIS CASE WITH REGARD TO THE
9 ALLEGED FRAUD. INSTEAD THE COMMISSION FELT THE
10 STATUTORY DUTY TO REPORT THE FRAUD TO THE A.G.'S
11 OFFICE. THE A.G. IN TURN REQUESTED HELP FROM MY
12 CLIENT IN COMPLETING ITS INVESTIGATION INTO FRAUD
13 AND ASKED FOR US TO SHARE THE RESULTS OF THE
14 INVESTIGATION WITH THEM.

15 **BY COMMISSIONER LYNDON:**

16 BUT YOU SAY YOU BELIEVE IT IS AN EX PARTE
17 COMMUNICATION?

18 **BY MR. LICHTY:**

19 NO, I DON'T BELIEVE IT IS, BECAUSE THE
20 COMMISSION DOES NOT COMMUNICATE WITH EITHER OF THE
21 PARTIES IN THIS CASE. THE COMMISSION COMMUNICATED
22 WITH THE A.G.'S OFFICE, WHICH IS NOT A PARTY TO THIS
23 CASE. SO, TO CHARACTERIZE IT AS EX PARTE
24 COMMUNICATION IS NOT ACCURATE. FURTHERMORE AND IN
25 CONCLUSION, I DO NOT FEEL THAT IT CAN IN ANY WAY BE

1 CONSTRUED AS A THREAT OF CRIMINAL PROSECUTION BEING
2 ALLEGED BY THE DEFENSE. IT IS SIMPLY EVIDENCE THAT
3 THERE IS A FRAUD INVESTIGATION ONGOING BY THE A.G.'S
4 OFFICE IN THIS CLAIM, AND IT IS PROPERLY ADMISSIBLE.

5 **BY COMMISSIONER LYNDON:**

6 WELL, WE'RE RUNNING BEHIND WITHOUT GOING ANY
7 FURTHER ON THIS. I DO AGREE WITH YOU. IT'S IN THE
8 COMMISSION FILE. IT'S BEEN MADE A PART OF THE
9 RECORD OR WILL BE MADE A PART OF THE RECORD. SO, I
10 DENY THE MOTION TO REMOVE OR HAVE THIS CASE HEARD BY
11 SOMEONE OTHER THAN MYSELF.

12 **BY MR. SAMUELS:**

13 ALSO, YOUR HONOR, WE HAVE THE ADDITIONAL
14 OBJECTION THAT THIS IS HEARSAY WITHIN HEARSAY, AND
15 IT IS HEARSAY. THE LETTER ON THE PART OF GARY SMITH
16 IS HEARSAY, AND THE RECITING OF THE TELEPHONE CALL
17 RECEIVED FROM MR. STEVE MCGOWAN IS ALSO HEARSAY.

18 **BY COMMISSIONER LYNDON:**

19 AND, AGAIN, I NOTE WHAT YOU'RE SAYING, BUT MY
20 RULING STANDS. ALL RIGHT, NEXT.

21 **BY MR. SAMUELS:**

22 YOUR HONOR, WE OBJECT TO EXHIBIT TWO, WHICH IS
23 A -- APPEARS TO BE A REPORT OF AN INVESTIGATOR NAMED
24 ERIC RIFE. MR. RIFE IS LISTED AS A WITNESS BUT
25 APPARENTLY IS NOT HERE TO TESTIFY. SO, I WOULD

1 OBJECT TO THAT ON THE GROUNDS OF HEARSAY.

2 BY COMMISSIONER LYNDON:

3 AND WE BROUGHT THAT UP IN OUR PREHEARING
4 CONFERENCE. I AGREE WITH YOU. I HAVE NOT ONE, BUT
5 TWO VIDEO SURVEILLANCE DISKS, WHICH I WILL REVIEW IN
6 THEIR ENTIRETY. THEY WILL SPEAK FOR THEMSELVES, SO
7 I DON'T NEED THE REPORT. THAT HAS BEEN REMOVED, AND
8 THE TABLE OF CONTENTS HAS BEEN MARKED ACCORDINGLY.

9 BY MR. SAMUELS:

10 YOUR HONOR, I WOULD ALSO OBJECT TO THE
11 SURVEILLANCE VIDEO IN THAT WITHOUT THE WITNESS TO BE
12 AVAILABLE FOR CROSS EXAMINATION AS TO WHAT HE DID
13 AND DID NOT TAKE MAKES IT UNDULY ONE SIDED AND
14 PREJUDICIAL.

15 BY COMMISSIONER LYNDON:

16 SAY THAT AGAIN.

17 BY MR. SAMUELS:

18 I WOULD OBJECT TO IT IN THAT BECAUSE THE
19 WITNESS WHO APPARENTLY TOOK IT IS NOT HERE TO
20 AUTHENTICATE IT AND BE CROSS EXAMINED AS TO WHAT HE
21 VIDEOED AND WHAT HE DID NOT VIDEO. IT IS
22 INCOMPLETE, ONE SIDED AND PREJUDICIAL, AND THEREFORE
23 SHOULD NOT BE ADMITTED WITHOUT THE WITNESS BEING
24 HERE.

25 BY COMMISSIONER LYNDON:

1 AND I'LL NOTE YOUR OBJECTION, BUT I WILL ALLOW
2 IT IN. ANYTHING ELSE?

3 BY MR. SAMUELS:

4 THERE IS ALSO A VIDEO FROM STEVE MCGOWAN, WHICH
5 IS APPARENTLY A CELL PHONE VIDEO; THAT'S THE OTHER
6 DISK. I WILL OBJECT TO IT BUT UNDERSTAND THAT MR.
7 MCGOWAN IS GOING TO TESTIFY.

8 BY COMMISSIONER LYNDON:

9 DO I NEED ---

10 BY MR. SAMUELS:

11 MY OBJECTION IS THAT IF HE IS -- IF HE IS HERE
12 TO TESTIFY, THEN I WITHDRAW THE OBJECTION.

13 BY COMMISSIONER LYNDON:

14 DO I NEED IT IF HE'S GOING TO TESTIFY?

15 BY MR. LICHTY:

16 I WOULD LIKE TO SUBMIT IT INTO EVIDENCE.

17 BY COMMISSIONER LYNDON:

18 OKAY, ALL RIGHT, SIR. ANY OTHER OBJECTIONS?

19 BY MR. SAMUELS:

20 NO, YOUR HONOR.

21 BY COMMISSIONER LYNDON:

22 IF THERE ARE NO OTHER OBJECTIONS, THE
23 COMMISSION FILE BECOMES A PART OF THE RECORD WITH
24 THE EXCEPTION OF SELF-SERVING DECLARATIONS AND
25 UNSTIPULATED MEDICAL REPORTS.

1 PRIOR TO GOING ON THE RECORD, WE HAD A LENGTHY
2 PREHEARING CONFERENCE AS YOU COULD IMAGINE, AND IT'S
3 THE POSITION OF THE CLAIMANT THAT AS A RESULT OF AN
4 ADMITTED INJURY TO HER BACK, SHE'S HAD A TWO-LEVEL
5 FUSION, UNSUCCESSFUL, A NON UNION. IS ACTUALLY A
6 CANDIDATE FOR ANOTHER SURGERY, WHICH SHE AT THIS
7 TIME CHOOSES NOT TO HAVE. THE AUTHORIZED PROVIDER
8 DR. WOLGIN, THAT'S W-O-L-G-R-I-N, I BELIEVE, FOR THE
9 COURT REPORTER -- W-O-L-G-I-N, GAVE THE CLAIMANT A
10 36-PERCENT WHOLE PERSON RATING TO THE BACK. THERE'S
11 A PREVIOUS ORDER IN THE FILE THAT INDICATES THE
12 CLAIMANT'S BACK AND HER RIGHT LOWER EXTREMITY/HIP
13 ARE THE TWO AFFECTED BODY PARTS, AND COUNSEL STATES
14 EITHER UNDER THE GENERAL DISABILITY STATUTE 42-9-10,
15 SHE IS PERMANENTLY AND TOTALLY DISABLED AS A RESULT
16 OF THE COMBINATION OF THESE BODY PARTS OR UNDER THE
17 SCHEDULED INJURIES 42-9-30, SHE HAS SUBSTANTIALLY
18 MORE THAN 50-PERCENT PERMANENCY TO THE BACK AND THAT
19 SHE SHOULD BE FOUND PERMANENTLY AND TOTALLY
20 DISABLED. SHE SEEKS THE BALANCE OF HER AWARD PAID
21 IN A LUMP SUM WITH THE JAMES VERSUS ANNE PRORATION
22 LANGUAGE OR UTICA MOHAWK ALLOCATION LANGUAGE AND
23 LIFETIME CAUSALLY-RELATED MEDICALS. COUNSEL
24 CONCEDES THE CLAIMANT MAY HAVE DONE SOME WORK.
25 WE'RE NOT EXACTLY SURE HOW MUCH WORK SHE MAY HAVE

1 DONE WHILE SHE WAS ON T.T., AND THAT ANY WORK THAT'S
2 SHE'S DONE, THAT CAN BE SUBSTANTIATED. AND I
3 BELIEVE ALTHOUGH IT CAME IN LATE, COUNSEL FOR THE
4 DEFENDANT JUST GOT THEM, THE PAYROLL CARDS, THEN A
5 CREDIT SHOULD BE GIVEN TOWARD THESE WAGES THAT MAY
6 HAVE BEEN EARNED DURING THE DISABILITY PERIOD. AND
7 COUNSEL STATES THAT THE CLAIMANT HAS TRIED TO WORK
8 TO HER CREDIT. SHE COULD NOT DO IT, AND NOW SHE IS
9 NO LONGER WORKING. IN REVIEWING THE APAs, I BELIEVE
10 IT WAS PAGE 77, HER RESTRICTIONS ARE NOT TO RETURN
11 TO WORK, WHICH COUNSEL STATES THE ONLY CONCLUSION
12 THAT CAN BE DRAWN FROM THAT IS THAT SHE CANNOT WORK.
13 AND ALSO A VOCATIONAL REPORT SUBSTANTIATES THE
14 CLAIMANT IS NOT CAPABLE OF EARNING WAGES.

15 THE POSITION OF THE DEFENDANT IS THAT THE
16 CLAIMANT CAN WORK, PROBABLY IS OR HAS WORKED AND MAY
17 BE STILL WORKING. THAT THE VIDEO SURVEILLANCE TAPES
18 WOULD ALLOW ONE TO DRAW THIS CONCLUSION. THAT SHE
19 HAS A 36-PERCENT IMPAIRMENT TO THE BACK, WHICH IS
20 REALLY A PRODUCT OF THE -- I BELIEVE THE SIXTH
21 EDITION, AND THE TYPE SURGERY SHE HAD, THE TWO-LEVEL
22 SURGERY, IT'S A SUBSTANTIAL IMPAIRMENT RATING, AND
23 COUNSEL STATES THAT SHE CAN WORK REGARDLESS OF ANY
24 REPORTS THAT WE MAY HAVE FROM VOC ASSESSMENTS, AND
25 THAT HER IMPAIRMENT SHOULD NOT ACTUALLY EXCEED THE

1 IMPAIRMENT RATINGS. SO, ANY PERMANENCY SHOULD BE AT
2 THE 36-PERCENT IMPAIRMENT LEVEL. AGAIN, A CREDIT IS
3 SOUGHT FOR ANY WAGES PAID DURING THE DISABILITY
4 PERIOD. IT'S OBJECTED THAT THE CLAIMANT GET A LUMP
5 SUM BALANCE OF HER AWARD IF SHE IS FOUND TO BE
6 PERMANENTLY AND TOTALLY DISABLED, AND THE DEFENDANT
7 TAKES NO POSITION ON THE JAMES V. ANNE ALLOCATION
8 LANGUAGE. COUNSEL ALSO ASKS THAT I MAKE A
9 CREDIBILITY FINDING OR CONSIDER CREDIBILITY; THAT
10 THERE WERE NUMEROUS INCONSISTENCIES. ONE IN A
11 RECENT APPARENTLY DISCOVERY DEPOSITION REGARDING THE
12 CLAIMANT WORKING AND INCOME SHE MAY HAVE MADE.
13 ANYTHING ELSE TO ADD TO THAT?

14 **BY MR. LICHTY:**

15 I WOULD ADD THE DEFENSE DOES ASK YOUR HONOR TO
16 ENTER A FINDING OF CREDIBILITY. WE WOULD FURTHER
17 STATE TO CLARIFY OUR POSITION IS THAT SHE IS ONLY
18 ENTITLED TO RECOVER UNDER 42-9-30, AND THAT
19 SINGLETON WOULD APPLY BECAUSE THE CLAIMANT HAS NO
20 RATABLE IMPAIRMENT OTHER THAN THE BACK.

21 **BY COMMISSIONER LYNDON:**

22 OKAY. IS THE CLAIMANT YOUR FIRST WITNESS?

23 **BY MR. SAMUELS:**

24 YES, YOUR HONOR.

25 **BY COMMISSIONER LYNDON:**

1 MS. FORE, WOULD YOU STATE YOUR FULL NAME FOR
2 THE RECORD.

3 BY THE CLAIMANT:

4 PATRICIA ANN FORE.

5 BY COMMISSIONER LYNDON:

6 * * * * * * * * * *

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

10 PATRICIA FORE

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

12 BY COMMISSIONER LYNDON:

13 ALL RIGHT. ANSWER ANY QUESTIONS YOUR LAWYER
14 MAY HAVE, PLEASE.

15 DIRECT EXAMINATION BY MR. SAMUELS:

16 Q. PATRICIA, HOW OLD ARE YOU?

17 A. FORTY-SIX.

18 Q. ARE YOU MARRIED?

19 A. YES.

20 Q. HOW LONG HAVE YOU BEEN MARRIED?

21 A. TWENTY-TWO YEARS.

22 Q. WHAT'S YOUR HUSBAND'S NAME?

23 A. WILLIAM STEPHEN FORE.

24 Q. DO YOU HAVE ANY CHILDREN?

25 A. TWO.

1 Q. AGES 12 AND FOUR?

2 A. YES.

3 Q. YOU HAVE A G.E.D.; IS THAT RIGHT?

4 A. YES.

5 Q. AND YOU HAVE AN ASSOCIATES' DEGREE IN BUSINESS
6 MANAGEMENT?

7 A. YES.

8 Q. IN YOUR PREVIOUS WORK HISTORY, IT LOOKS LIKE YOU'VE
9 WORKED IN RESTAURANTS, ABOUT SIX YEARS DOING
10 CONSTRUCTION ---

11 A. YES.

12 Q. --- AND AS A MEAT CUTTER; IS THAT CORRECT?

13 A. RIGHT.

14 Q. AND THE JOB YOU WERE INJURED ON, YOU WERE WORKING AS
15 A MEAT CUTTER?

16 A. CORRECT.

17 Q. THAT WAS IN AUGUST 2005 -- I'M SORRY -- 2008?

18 A. RIGHT -- FEBRUARY.

19 **BY COMMISSIONER LYNDON:**

20 FEBRUARY 24TH, I BELIEVE.

21 **BY MR. SAMUELS:**

22 I'M SORRY. I DON'T KNOW WHERE I CAME UP WITH
23 THAT.

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

25 Q. WAS THAT A HEAVY PHYSICAL JOB?

1 A. YES.

2 Q. DO YOU BELIEVE YOU WOULD BE ABLE TO RETURN TO WORK
3 AS A MEAT CUTTER?

4 A. NO.

5 Q. YOU GOT HIRED AS A MEAT CUTTER IN AUGUST 2005 ---

6 A. I GOT HIRED ---

7 Q. --- AND HURT FEBRUARY 21ST, 2008?

8 A. RIGHT.

9 Q. YOUR ORIGINAL CASE WAS DENIED, AND YOU HAD TO GO TO
10 A HEARING TO HAVE BENEFITS AWARDED, IS THAT RIGHT?

11 A. RIGHT.

12 Q. BEFORE YOU ACTUALLY WENT TO THE HEARING, DID YOU
13 MOVE BACK TO GEORGIA AT SOME TIME IN 2008?

14 A. YEAH, WE MOVED BACK TO GEORGIA.

15 Q. AND WHY DID YOU MOVE BACK TO GEORGIA?

16 A. MY HUSBAND'S JOB TRANSFERRED INTO GEORGIA.

17 Q. AND WHERE IN GEORGIA ARE YOU LIVING?

18 A. IN LEESBURG.

19 Q. WHAT'S THE POPULATION OF LEESBURG?

20 A. PROBABLY MAYBE FIVE OR TEN THOUSAND PEOPLE MAYBE
21 GIVE OR TAKE; I'M NOT SURE. I MEAN, IT'S A BIG
22 COUNTY. I JUST DON'T KNOW HOW MANY PEOPLE LIVE
23 THERE.

24 Q. YOU HAD SURGERY WITH DR. WOLGIN ON MAY 6TH, 2010, IS
25 THAT RIGHT?

- 1 A. MAY 5TH, MAY 6TH, YEAH.
- 2 Q. DO YOU REMEMBER WHAT KIND OF SURGERY YOU HAD?
- 3 A. IT WAS A FUSION. THEY PUT RODS AND SCREWS IN.
- 4 Q. THROUGH L4, L5 AND S1?
- 5 A. RIGHT.
- 6 Q. DID THE SURGERY HELP YOUR CONDITION?
- 7 A. IT GOT RID OF THE SCIATIC NERVE PAIN, BUT BENDING
- 8 COMING OFF THE FLOOR WITH ANYTHING IS VERY
- 9 DIFFICULT. I CAN'T LIKE -- LIKE MOST PEOPLE COULD
- 10 STAND AND JUST BEND OVER AND PICK SOMETHING UP, I
- 11 CAN'T GET BACK UP.
- 12 Q. ARE YOU STILL HAVING PROBLEMS WITH YOUR HIP?
- 13 A. YEAH, IT'S NOT PAINFUL LIKE IT USED TO BE, BUT LIKE
- 14 IF I SIT A LONG TIME, I START GETTING CRAMPS AND
- 15 PAINS RIGHT IN THE JOINT AREA, AND THEN IT STARTS
- 16 RADIATING OUT.
- 17 Q. RADIATING OUT TO WHERE?
- 18 A. OUT ON THE HIP AND DOWN THE SIDE OF THE HIP.
- 19 Q. OKAY. HOW FAR DOWN DOES IT GO?
- 20 A. PROBABLY ABOUT MID WAY TO THE THIGH.
- 21 Q. DO YOU HAVE ANY NUMBNESS ANYWHERE?
- 22 A. ONE OF MY TOES IS TOTALLY NUMB.
- 23 Q. WHICH TOE IS THAT?
- 24 A. THE ONE BESIDE THE BIG TOE.
- 25 Q. DO YOU UNDERSTAND THAT THERE WAS A PROBLEM WITH THE

1 RESULT OF YOUR SURGERY?

2 A. YEAH, DR. WOLGIN SAID IT DIDN'T FUSE RIGHT, THE
3 BONES -- THE BONE STUFF THEY PUT IN TO FUSE WITH
4 DIDN'T FUSE.

5 BY MR. SAMUELS:

6 YOUR HONOR, I WOULD REFER YOU TO APA PAGE 76
7 WHERE THE C.T. SCAN FROM FEBRUARY 9TH, 2011, SHOWS A
8 NON-UNION AT THE 5-1 LEVEL, AND ALSO POSTERIOR
9 LATERAL FUSION DOES NOT APPEAR TO HAVE SOLID
10 CONNECTIONS.

11 BY COMMISSIONER LYNDON:

12 ALL RIGHT.

13 DIRECT EXAMINATION RESUMED BY MR. SAMUELS:

14 Q. AND WERE YOU GIVEN THE OPTION OF HAVING MORE
15 SURGERY?

16 A. YES.

17 Q. AND WHAT WERE THE ODDS OF HAVING A SUCCESSFUL RESULT
18 OF ANOTHER SURGERY?

19 A. FIFTY/FIFTY.

20 Q. DOES THAT CONCERN YOU UNDERGOING ANOTHER SURGERY
21 WITH THOSE ODDS?

22 A. YES, HIGHLY.

23 Q. NOW, AT SOME POINT DID DR. WOLGIN PUT YOU ON
24 SEDENTARY WORK -- SEDENTARY EXTREME LIGHT-DUTY
25 RESTRICTIONS?

1 A. YES.

2 **BY MR. SAMUELS:**

3 AND, YOUR HONOR, FOR THE RECORD, I WOULD REFER
4 YOU TO PAGE 57 OF THE APA SUBMISSIONS, BOTH FOR THE
5 POINT THAT DR. WOLGIN DID PUT HER ON SEDENTARY
6 RESTRICTIONS, SUGGESTED SHE TRY WORKING, AND ALSO
7 THAT HE HAD A DISCUSSION WITH THE NURSE CASE
8 MANAGER. SO, THE DEFENDANTS WERE AWARE OF THIS AT
9 THAT POINT IN TIME.

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

11 Q. AND DID YOU IN FACT TRY TO DO LIGHT-DUTY WORK?

12 A. YES, WITH STEVE MCGOWAN AT ABC

13 Q. IS THAT ABC BAIL BONDING?

14 A. YES.

15 Q. DO YOU REMEMBER APPROXIMATELY WHEN YOU STARTED
16 WORKING FOR STEVE MCGOWAN?

17 A. MAYBE -- IT IS ALL LIKE A BLUR BACK THEN. MAYBE IN
18 JUNE, END OF JUNE, MAYBE THE FIRST OF JULY,
19 SOMEWHERE IN THAT AREA. I'M NOT REALLY...

20 Q. COULD IT HAVE BEEN LATE AUGUST POSSIBLY?

21 A. IT COULD HAVE BEEN.

22 Q. BUT SOMETIME IN THERE ---

23 A. YEAH.

24 Q. --- YOU'RE NOT SURE; IT'S KIND OF VAGUE?

25 A. YEAH.

1 Q. ALL RIGHT. NOW, HOW DID MR. MCGOWAN PAY YOU?

2 A. CASH.

3 Q. AND WHAT RATE?

4 A. AT EIGHT DOLLARS AN HOUR.

5 Q. DO YOU KNOW ABOUT HOW MANY HOURS A WEEK YOU WORKED?

6 A. SOMETIMES 20, SOMETIMES MORE, SOMETIMES WEEKENDS.

7 Q. AND THE WORK THAT YOU WERE DOING, DID YOU -- DID YOU
8 TELL DR. WOLGIN THAT YOU WERE WORKING?

9 A. YES.

10 Q. AT SOME POINT, IT LOOKS LIKE YOU HAD A LITTLE
11 EXACERBATION, AND DR. WOLGIN TOOK YOU COMPLETELY OUT
12 OF WORK?

13 A. YES.

14 Q. BUT YOU DID IN FACT ACTUALLY KEEP WORKING AS LONG AS
15 YOU COULD WITH STEVE MCGOWAN, IS THAT RIGHT?

16 A. RIGHT.

17 Q. DID YOU KEEP A CALENDAR DURING THE TIME THAT YOU
18 WERE WORKING FOR ABC BONDING?

19 A. YES, SOMEWHAT.

20 Q. I'M GOING TO SHOW YOU A DOCUMENT. IS THIS A COPY OF
21 THAT CALENDAR?

22 **BY MR. LICHTY:**

23 OBJECT, YOUR HONOR. I HAVEN'T SEEN THAT
24 BEFORE.

25 **BY COMMISSIONER LYNDON:**

1 LET -- IF YOU WOULD, LET MR. LICHTY LOOK AT
2 THAT, PLEASE.

3 **DIRECT EXAMINATION RESUMED BY MR. SAMUELS:**

4 Q. IS THIS THE CALENDAR, OR WOULD YOU IDENTIFY THE
5 DOCUMENT ---

6 **BY MR. LICHTY:**

7 WOULD YOU GIVE ME A CHANCE TO REVIEW THIS AND
8 PUT MY OBJECTION ON THE RECORD.

9 **BY COMMISSIONER LYNDON:**

10 GO AHEAD AND REVIEW IT. LET'S GO OFF THE
11 RECORD A MINUTE.

12 (OFF THE RECORD)

13 **BY COMMISSIONER LYNDON:**

14 WE'RE BACK ON THE RECORD.

15 **BY MR. LICHTY:**

16 I MAINTAIN MY OBJECTION TO THIS. THIS IS A
17 DOCUMENT THAT WAS NOT PROVIDED TO ME UNTIL TODAY.
18 MR. SAMUELS AMENDED HIS PREHEARING BRIEF IN RESPONSE
19 TO MY PREHEARING BRIEF AND STILL DID NOT LIST THIS
20 AS EVIDENCE, BECAUSE I'VE NEVER SEEN THIS BEFORE. I
21 SEE NO REFERENCE TO MS. FORE'S NAME ON IT ANYWHERE.
22 I DON'T -- I OBJECT TO IT COMING IN.

23 **BY COMMISSIONER LYNDON:**

24 LET ME ASK YOU THIS. HOW ARE WE GOING TO
25 DETERMINE WHAT SHE MADE DURING THE DISABILITY PERIOD

1 IF WE DON'T HAVE THAT OR ANYTHING?

2 BY MR. LICHTY:

3 WE'LL ASK HER EMPLOYER.

4 BY COMMISSIONER LYNDON:

5 SHE WAS PAID IN CASH.

6 BY MR. LICHTY:

7 THERE'S NO RECORD OF WHAT SHE WAS PAID. HER
8 EMPLOYER CAN TELL YOU WHAT SHE WAS WORKING AND WHAT
9 SHE WAS PAID. THIS DOESN'T LIST WHAT SHE WAS PAID
10 EITHER.

11 BY COMMISSIONER LYNDON:

12 WELL, IN OUR PREHEARING CONFERENCE AND NOW
13 WE'RE ON THE RECORD, SHE STATED -- IT'S MY
14 UNDERSTANDING SHE MADE EIGHT DOLLARS AN HOUR AND
15 WORKED ABOUT 20 HOURS A WEEK, MORE OR LESS. I JUST
16 THOUGHT THAT WOULD BE SOMEWHAT OF A FOUNDATION TO
17 DETERMINE WHAT YOUR CREDIT IS YOU'RE SEEKING.

18 BY MR. LICHTY:

19 YOU CAN OVERRULE MY OBJECTION.

20 BY COMMISSIONER LYNDON:

21 I'LL NOTE YOUR OBJECTION. I'LL ADMIT HER NAME
22 IS NOT ON IT. THERE'S NOTHING ON IT BUT HER
23 TESTIMONY. SO, I'LL GIVE IT WHAT WEIGHT I THINK IS
24 NECESSARY, BUT I'LL LET IT IN. I'M TRYING TO
25 DETERMINE WHAT HER CREDIT IS GOING TO BE.

1 SO, WE WILL MARK THAT IF YOU WOULD, MA'AM, AS
2 CLAIMANT'S ONE.

3 (COURT REPORTER MARKS DOCUMENT CLAIMANT'S EXHIBIT NUMBER
4 ONE, RETAINED IN THE COMMISSION FILE)

5 DIRECT EXAMINATION RESUMED BY MR. SAMUELS:

6 Q. PATRICIA, LET ME ASK YOU ABOUT WHAT IS IDENTIFIED AS
7 EXHIBIT ONE. WHAT IS THIS DOCUMENT?

8 A. THIS IS SOME OF THE HOURS I WORKED WITH ABC BAIL
9 BONDS OVER A PERIOD OF TIME WHEN I WASN'T REALLY ON
10 SUCH HIGH DOSAGE OF THE VICODIN. BECAUSE LATER ON,
11 IT GOT TO WHERE I WAS TAKING FIVE OR SIX VICODIN A
12 DAY, AND I JUST QUIT KEEPING THE RECORDS. I JUST
13 MENTALLY QUIT KEEPING THE RECORDS. IT WAS JUST LIKE
14 A -- DAYS WERE LIKE A HAZE.

15 Q. AND THE HANDWRITING THAT IS ON HERE, IS THIS YOUR
16 HANDWRITING?

17 A. YES.

18 Q. AND WHERE IT'S GOT HOURS LISTED, FOR EXAMPLE "NINE
19 TO FIVE," WHAT DOES THAT MEAN?

20 A. THAT WAS THE HOURS I COME IN AND WORKED.

21 Q. OKAY. AND WHEN IT SAYS "ON CALL," WHAT DOES THAT
22 MEAN?

23 A. THAT MEANS THEY WOULD ROLL THE PHONES TO ME WHEN
24 THEY WENT HUNTING, AND I WOULD HAVE TO GO TO THE
25 JAIL AND ANSWER THE CALLS. OR WHEN THEY JUST FELT

1 LIKE PUTTING THE PHONES TO ME.

2 Q. ALL RIGHT. LET ME ASK YOU TO MOVE TO THE PAGE FOR
3 NOVEMBER 30TH ON THERE; DO YOU SEE THAT PAGE?

4 A. I'VE GOT NOVEMBER 29TH.

5 Q. RIGHT. THERE'S ALSO -- BUT ON THERE, THERE'S AN
6 ENTRY FOR NOVEMBER 30TH. WHAT DID YOU WRITE ON
7 NOVEMBER 30TH?

8 A. OH, OKAY. "I CALLED DR. WOLGIN TO GET STRONGER PAIN
9 KILLERS, TOO MUCH WORK."

10 Q. OKAY. AND DECEMBER FIRST, WHAT DID YOU WRITE?

11 A. "HE DON'T WANT ME TO GET ADDICTED TO THE
12 MEDICATION."

13 Q. OKAY. WERE YOU TAKING MORE VICODIN AT THIS TIME?

14 A. OH, YES.

15 Q. HOW COME?

16 A. BECAUSE THE PAIN WAS JUST -- IT WAS TOO MUCH; I
17 COULDN'T HANDLE IT.

18 Q. WHAT WAS GOING ON?

19 A. UP AND DOWN SO MUCH OUT OF THE OFFICE CHAIRS, JUST
20 GETTING UP FROM THAT LOWER CHAIR UP INTO STANDING
21 UP, IT WAS JUST KILLING MY BACK. SO, HAVING TO
22 CLIMB IN AND OUT OF BED ALL HOURS OF THE NIGHT, IT -
23 -- IT WAS KILLING ME. I WAS JUST EATING VICODIN
24 LIKE THEY WERE CANDY.

25 Q. NOW, WHAT DID YOU WRITE ON DECEMBER 3RD?

- 1 A. "I HARDLY COULDN'T GET TO BED."
- 2 Q. I'M GOING TO ASK YOU TO MOVE TO THE NEXT PAGE,
- 3 DECEMBER THE 6TH. WHAT DID YOU WRITE ON DECEMBER
- 4 THE 6TH?
- 5 A. "I WORKED A HALF A DAY." THEY GOT MAD, BUT I DIDN'T
- 6 CARE; I WORKED A HALF A DAY.
- 7 Q. WHAT HAPPENED ON WEDNESDAY, DECEMBER THE 8TH?
- 8 A. I TALKED TO -- THAT STEVE F. IS MY HUSBAND, STEVE
- 9 FORE. WE HAD A TALK, AND WE WERE GOING TO TALK TO
- 10 BILL ABOUT ME TAKING LESS HOURS. BECAUSE THE DOCTOR
- 11 ONLY WANTED ME TO WORK TWO HORUS -- I MEAN, TWO DAYS
- 12 A WEEK, AND IT STARTED GETTING RIDICULOUS LIKE I WAS
- 13 A FULL-TIME EMPLOYEE THERE.
- 14 Q. ALL RIGHT. AND AT SOME POINT, DID YOU HAVE TO QUIT
- 15 WORKING FOR THEM?
- 16 A. YEAH.
- 17 Q. WHY DID YOU QUIT?
- 18 A. BECAUSE I COULDN'T HANDLE IT NO MORE. I WAS OVER
- 19 MEDICATING. IT -- I JUST COULDN'T HANDLE IT NO
- 20 MORE.
- 21 Q. DID YOU WANT TO KEEP WORKING THERE?
- 22 A. I LIKED WHAT I DID. I JUST PHYSICALLY COULDN'T GET
- 23 IN AND OUT AND UP AND DOWN ALL HOURS OF THE NIGHT.
- 24 I COULDN'T DO IT.
- 25 Q. OKAY. LET ME ASK YOU TO SKIP AHEAD THEN TO THE

1 JANUARY 21ST NOTE. WHAT DID YOU WRITE THERE?

2 A. "I GAVE BILL THE PHONE, THE CHARGER, HURTING TOO BAD
3 WORK IN THE OFFICE ANYMORE." AND I LEFT.

4 Q. ALL RIGHT. NOW, YOU UNDERSTAND THAT DR. WOLGIN PUT
5 YOU AT MAXIMUM MEDICAL IMPROVEMENT ON FEBRUARY 14TH,
6 2011, WITH A 36-PERCENT WHOLE PERSON RATING; ARE YOU
7 AWARE OF THAT?

8 A. YES.

9 Q. AND DID HE GIVE YOU A WORK SLIP?

10 A. YEAH, HE PUT ME OUT OF WORK UNTIL FURTHER NOTICE.

11 Q. IS THIS THE SLIP YOU ARE REFERRING TO, PAGE 77?

12 A. YES.

13 Q. IT SAYS "UNABLE TO RETURN TO WORK UNTIL FURTHER
14 NOTICE"?

15 A. YES.

16 Q. NOW, SOMETIME AROUND THERE, WERE YOU APPROACHED BY A
17 FELLOW NAMED TONY OWENS?

18 A. YES, I WAS.

19 Q. WHAT COMPANY IS TONY OWENS AFFILIATED WITH?

20 A. HE OWNS A-1 BAIL BONDS COMPANY.

21 Q. IS THAT A COMPETITOR FOR ABC BAIL BONDING?

22 A. YES.

23 Q. AND HOW LONG HAVE YOU KNOWN TONY OWENS?

24 A. A LONG TIME.

25 Q. AND HOW DID IT COME THAT TONY OWENS CAME TO YOU?

- 1 A. A LOT OF PEOPLE IN THE COUNTY THAT I LIVE IN HAS
2 KNOWN MY FAMILY. WE'VE BEEN THERE 46 YEARS. AND
3 THEY ALL KNOW ME. THAT'S HOW MR. MCGOWAN GOT A LOT
4 OF HIS BONDS WAS BECAUSE PEOPLE KNEW ME. OKAY, MR.
5 OWENS ASKED ME "CAN I USE YOUR NAME?" I SAID,
6 "SURE, I'M NOT WORKING, USE IT. I DON'T CARE. YOU
7 KNOW, IF IT WILL HELP YOU, USE IT."
- 8 Q. OKAY. AND HOW DID HE USE YOUR NAME?
- 9 A. HE SWAPPED -- HE TOLD ME TO SWAP MY BONDING LICENSE
10 OVER AT THE SHERIFF'S DEPARTMENT TO HIS COMPANY, AND
11 HE JUST WOULD TELL PEOPLE THAT I'M ASSOCIATED WITH
12 HIS COMPANY. I'M NO LONGER WITH ABC.
- 13 Q. DID HE DO ANYTHING ELSE TO HAVE YOU APPEAR TO BE
14 ASSOCIATED WITH HIS COMPANY?
- 15 A. I DID A BOND IN FEBRUARY FOR HIM.
- 16 Q. WAS THAT NECESSARY TO HAVE THE BOND TRANSFERRED FOR
17 YOU TO ACTUALLY DO A BOND?
- 18 A. YEAH, THAT'S TO SHOW THAT I WAS AFFILIATED WITH HIM.
- 19 Q. OKAY.
- 20 A. AND NOT ABC
- 21 Q. DID HE ASK YOU TO DO SOME SORT OF ADVERTISING FOR
22 HIM?
- 23 A. YES.
- 24 Q. AND WHAT WAS THAT?
- 25 A. HE --HE BOUGHT THE LETTERING AND PUT ON THE BACK OF

1 MY TRUCK. IT SAYS "A-1 BAIL BONDS" AND THE PHONE
2 NUMBER.

3 Q. ALL RIGHT. AND I'M GOING TO SHOW YOU WHAT'S DEFENSE
4 EXHIBIT FIVE. AND IS THIS THE LETTERS ON THE BACK
5 OF YOUR TRUCK YOU WERE JUST DESCRIBING?

6 A. YES.

7 Q. DID TONY EVER PAY YOU FOR DOING ANY WORK FOR HIM?

8 A. NO, I'VE NOT ASKED HIM FOR ONE DIME. NOW, I TAKE
9 THAT BACK. IF YOU CONSIDER PAYMENT PUTTING GAS IN
10 MY TRUCK OR TAKING ME AND THE KIDS OUT, YOU KNOW, TO
11 DINNER HERE AND THERE, WELL, I GUESS THAT WOULD BE
12 PAYMENT, I GUESS.

13 Q. DID HE EVER PAY YOU ANY WAGES FOR YOUR SERVICES?

14 A. NO.

15 Q. DID HE PAY ANY COMMISSION FOR YOUR SERVICES?

16 A. NO.

17 Q. AND DID YOU AT SOME POINT ACTUALLY EVER START DOING
18 MORE BONDS FOR TONY?

19 A. IN JULY.

20 Q. WHAT HAPPENED IN JULY?

21 A. TONY GOT REALLY BAD WITH HIS BACK, AND HE WAS ON A
22 LOT OF PAIN KILLERS. HE WAS LOSING HIS BUSINESS.
23 YOU KNOW, IT'S A RIVALRY BETWEEN STEVEN MCGOWAN AND
24 TONY OWENS. OKAY, STEVE IS TRYING TO DESTROY TONY.
25 I STEPPED IN THE PICTURE TO HELP TONY, BECAUSE I SAT

1 IN HIS OFFICE AND HEARD IT ALL THE TIME. SO, I
2 SAID, "OKAY, USE MY NAME; I'LL HELP YOU, NO
3 PROBLEM." WELL, EVIDENTLY IT WAS A PROBLEM. JULY,
4 I HELPED TONY WITH SOME BONDS. JULY, PROBABLY ABOUT
5 A MONTH -- I MAYBE DID 15 BONDS IN A MONTH. WELL,
6 SOMEBODY AT THE JAIL WENT BACK AND TOLD MR. MCGOWAN
7 I WAS UP THERE BONDING, ONE THAT HE PAYS MONEY TO,
8 TO LET HIM KNOW WHAT'S GOING ON AT THE JAIL, WHICH
9 HE IS NO LONGER EMPLOYED THERE. BUT, YOU KNOW, HE
10 SAID, "WELL, PATRICIA IS UP THERE ALL THE TIME."

11 **BY MR. LICHTY:**

12 OBJECT. THIS IS HEARSAY.

13 **BY COMMISSIONER LYNDON:**

14 I SUSTAIN IT. TRY NOT TO QUOTE SOMEBODY WHO IS
15 NOT HERE.

16 **BY THE WITNESS:**

17 OKAY.

18 **DIRECT EXAMINATION RESUMED BY MR. SAMUELS:**

19 Q. WELL, LET ME ASK YOU THIS: DOES -- IS THERE A RECORD
20 KEPT AT THE JAIL OF THE BONDS DONE BY EACH BONDING
21 COMPANY?

22 A. YES, THEY HAVE A LOG BOOK. THEY COME IN -- YOU DO
23 THE BOND; YOU SIGN YOUR NAME -- THE PERSON'S NAME,
24 YOUR INITIALS, AND THE OFFICER ON CALL INITIALS THE
25 PAPER.

1 Q. ALL RIGHT. I'M GOING TO SHOW YOU THE DOCUMENT,
2 WHICH I'LL SHOW TO MR. LICHTY FIRST.

3 BY MR. LICHTY:

4 (REVIEWING DOCUMENT)

5 BY COMMISSIONER LYNDON:

6 DO YOU WANT THAT MARKED?

7 BY MR. SAMUELS:

8 I WILL WANT IT MARKED. I WANT TO INTRODUCE IT
9 AS EXHIBIT TWO. I HAVEN'T LAID A FOUNDATION YET,
10 BUT IF THERE IS NO OBJECTION, WE'LL GO AHEAD AND
11 MARK IT.

12 BY MR. LICHTY:

13 NO OBJECTION.

14 BY COMMISSIONER LYNDON:

15 ALL RIGHT.

16 (COURT REPORTER MARKS DOCUMENT CLAIMANT'S EXHIBIT NUMBER
17 TWO, RETAINED IN COMMISSION FILE)

18 BY MR. SAMUELS:

19 YOU CAN HAVE THAT ONE FOR REFERENCE, JIM.

20 BY COMMISSIONER LYNDON:

21 I THINK HE WAS GOING TO USE IT.

22 BY MR. SAMUELS:

23 I CAN USE IT OR GIVE HER A COPY IF YOU WANT TO
24 REFERENCE IT.

25 BY COMMISSIONER LYNDON:

1 OKAY.

2 (OFF THE RECORD COMMENTS)

3 DIRECT EXAMINATION RESUMED BY MR. SAMUELS:

4 Q. PATRICIA, I'M SHOWING YOU EXHIBIT TWO. WOULD YOU
5 IDENTIFY THIS DOCUMENT.

6 A. THIS IS A RECORD FROM THE LEE COUNTY JAIL -- OR LEE
7 COUNTY SHERIFF'S OFFICE JAIL FACILITY WHERE THE
8 BONDS ARE DONE. YOU HAVE TO GO IN. YOU DO YOUR
9 BOND. YOU SIGN YOUR NAME. YOU INITIAL IT, AND THE
10 OFFICER ON CALL HAS TO INITIAL IT ALSO.

11 Q. ALL RIGHT. AND ON THE FIRST PAGE, FEBRUARY 5TH,
12 2011, ARE THOSE YOUR INITIALS?

13 A. YES.

14 Q. AND THE OTHER INITIALS "T.O.," IS THAT TONY OWENS?

15 A. YES.

16 Q. OKAY. IS THAT THE ONE BOND YOU DID TO ---

17 A. YES, FEBRUARY.

18 Q. --- GET AFFILIATED WITH HIM?

19 A. YES.

20 Q. AND FROM LOOKING AT IT, GOING THROUGH FEBRUARY,
21 MARCH, APRIL, MAY, JUNE, DID YOU DO ANY BONDS
22 THROUGH THOSE MONTHS?

23 A. NO, JUST IN JULY. ACTUALLY, THE FIRST ONE I DID WAS
24 JOEL KING, JOEL SCOTT KING ON 7/7/11.

25 Q. IT LOOKS LIKE TONY DID THREE UP 'TIL JULY 6TH, AND

1 THEN ON JULY 7TH, IT LOOKS LIKE -- IS THAT YOUR NAME
2 FOR THE REST OF THE BONDS?

3 A. YES.

4 Q. SO, YOU DID FIVE BONDS IN JULY OF 2011?

5 A. MM-HMM.

6 Q. IS THAT A YES?

7 A. YES.

8 Q. AND THEN LET'S LOOK AT AUGUST 2011, AND BY MY COUNT
9 IT LOOKS LIKE YOU'VE DONE 12 BONDS, IS THAT RIGHT?

10 A. ONE, TWO, THREE, FOUR, FIVE, SIX, SEVEN, EIGHT,
11 NINE, TEN, ELEVEN, TWELVE -- YEAH.

12 Q. ALL RIGHT. AND THERE -- ARE THERE ANYBODY ELSE'S
13 INITIALS ON THERE AS A BONDSMAN FOR TONY OWENS?

14 A. YES, MARY WEAVER.

15 Q. OKAY. WHO IS MARY WEAVER?

16 A. THAT IS THE LADY THAT I FOUND AND ASKED HER TO GO TO
17 BONDING SCHOOL TO BOND FOR TONY OWENS 'CAUSE HE HAD
18 NO ONE TO HELP HIM.

19 Q. OKAY. WAS MARY WEAVER AN EMPLOYEE OF TONY OWENS?

20 A. YES.

21 Q. ARE YOU AN EMPLOYEE OF TONY OWENS?

22 A. NO.

23 Q. IF I UNDERSTOOD, YOU ARRANGED FOR MARY WEAVER TO GET
24 LICENSED AS A BONDSMAN AND THEN GO TO WORK FOR TONY
25 OWENS?

1 A. YES.

2 Q. OKAY. WHY DID YOU DO THAT?

3 A. BECAUSE I CAN'T JUMP UP AND DOWN ALL NIGHT LONG TO
4 GO BOND THESE PEOPLE OUT OF JAIL. I MEAN, I LIKE
5 THE WORK; I JUST CAN'T PHYSICALLY DO THE WORK. I
6 MEAN, THAT'S -- WHEN THEY CALL, YOU HAVE TO GET UP
7 PHYSICALLY OUT OF BED, GET DRESSED. I HAVE TO WAKE
8 MY HOUSEHOLD UP TO HELP ME GET DRESSED. THEN I'VE
9 GOT TO DRIVE TO THE SHERIFF'S OFFICE. I'VE GOT TO
10 WAIT ON THEM TO GET OUT OF JAIL, SIGN ALL THE
11 PAPERWORK, COME BACK HOME, GET UNDRESSED, GET BACK
12 IN THE BED. AND THEN TWO HOURS LATER, THE SAME
13 THING GOES ON. I -- I JUST COULDN'T PHYSICALLY DO
14 IT.

15 Q. OKAY. IF YOU COULD PHYSICALLY DO IT, WOULD YOU HAVE
16 GONE TO WORK AS AN EMPLOYEE?

17 A. OH, GOD, YES. IT'S -- IT'S A NICE JOB.

18 Q. IF YOU COULD PHYSICALLY DO IT, WOULD YOU HAVE STAYED
19 WITH STEVE MCGOWAN?

20 A. YEAH, I WOULD HAVE STAYED WITH STEVE IF I COULD
21 PHYSICALLY HAVE DONE IT.

22 Q. AND JUST FOR THE RECORD, IT LOOKS LIKE YOU ACTUALLY
23 DID DO ONE MORE BOND SEPTEMBER 19TH?

24 A. OH, YES, YES, YES.

25 Q. AND WHAT'S THE SITUATION GOING ON WITH TONY OWENS

1 WHERE HE NEEDS THIS HELP?

2 A. HE HAS A HEART PROBLEM THAT IF HE GETS REALLY
3 EXCITED ABOUT SOMETHING, HIS HEART WILL STOP
4 BEATING. HE WILL DIE RIGHT THERE, AND YOU HAVE TO
5 PERFORM C.P.R. RIGHT THERE. HE'S GOT THREE RUPTURED
6 DISCS, AND HE HAS A -- I CALL IT A PACEMAKER. I
7 DON'T REALLY KNOW WHAT YOU CALL IT, BUT IT'S IN HIS
8 BACK FOR PAIN. HE HAS -- IT SHOOTS PAINS TO THE
9 NERVES. SO, HE TAKES A LOT OF SERIOUS MEDICATION,
10 AND, YOU KNOW, THAT'S HIS ONLY LIVELIHOOD.

11 Q. AND HAS HE BEEN HAVING SOME FINANCIAL TROUBLES WITH
12 NOT BEING ABLE TO TAKE CARE OF THE AGENCY?

13 A. YEAH -- YEAH.

14 Q. HAS HE LOST HIS HOUSE?

15 A. HE LOST HIS HOUSE.

16 Q. HE LOST HIS OFFICE?

17 A. HE LOST HIS OFFICE. HE LIVES IN A TRAVEL TRAILER
18 RIGHT NOW.

19 Q. ALL RIGHT. NOW, I SHOULD HAVE ASKED YOU A COUPLE OF
20 OTHER QUESTIONS. DO YOU REMEMBER HAVING YOUR
21 DEPOSITION TAKEN BY MR. LICHTY A FEW WEEKS AGO?

22 A. YEAH.

23 Q. YOU WERE ASKED IF YOU HAD EARNED ANY MONEY SINCE
24 SOME POINT IN TIME?

25 A. RIGHT.

1 Q. AND YOU SAID "NO." WAS THAT A CORRECT STATEMENT?

2 A. YES.

3 Q. IT WAS A CORRECT STATEMENT?

4 A. THAT I HAD EARNED MONEY?

5 Q. YES.

6 A. YEAH, I HAD EARNED MONEY. OH...

7 Q. YOU TOLD HIM "NO"?

8 A. I TOLD HIM "NO," YES.

9 Q. OKAY. BUT IN FACT, YOU HAVE EARNED MONEY?

10 A. RIGHT, THROUGH ABC.

11 Q. NOW, MR. LICHTY HAS ALSO INTRODUCED APA PAGE SEVEN,
12 A COPY OF YOUR *FACEBOOK* PAGE. AND LET ME SHOW YOU
13 UP AT THE TOP OF THE *FACEBOOK* PAGE. WHAT DOES IT
14 SAY AT THE VERY TOP?

15 A. "PROFESSIONAL BONDSMAN AND SELF EMPLOYED AND LOVING
16 IT."

17 Q. ALL RIGHT. WHEN DID YOU MAKE THAT ENTRY ONTO YOUR
18 *FACEBOOK* PAGE?

19 A. WHEN I GOT MY BONDING LICENSE AT ABC BAIL BONDS.

20 Q. AND YOU NEVER CHANGED IT?

21 A. I NEVER CHANGED IT. AND I'VE HAD A *FACEBOOK* PAGE
22 EVER SINCE *FACEBOOK* CAME OUT.

23 Q. WHAT DO YOU DO ON *FACEBOOK*?

24 A. I PLAY FARMVILLE.

25 BY MR. SAMUELS:

1 YOUR HONOR, I HAVE THIS, AND I'M KIND OF
2 RELUCTANT TO INTRODUCE IT, BUT IT'S BASICALLY THE
3 LAST -- IT'S BASICALLY FACEBOOK, MS. PATRICIA FORE'S
4 FACEBOOK GOING BACK TO AUGUST 26TH, AND IT IS 130
5 PAGES OF FARMVILLE. AND I WOULD BE HAPPY TO LET
6 SOMEBODY LOOK AT IT, AND I CAN MAKE IT AN EXHIBIT IF
7 WE NEED TO.

8 BY THE WITNESS:

9 I MEAN, I'M -- I HAVE TO HAVE SOMETHING TO
10 OCCUPY MY MIND. I CAN'T JUST STAY AROUND IN MY
11 HOUSE AND DO NOTHING. SO, I'VE GOT A LAPTOP SIMILAR
12 TO THAT H.P. RIGHT THERE, AND I PUT IT ON THE COUCH
13 BESIDE ME, AND I'LL SIT THERE AND PLAY FARMVILLE. I
14 CAN'T STAND TO WATCH T.V. THERE'S NOTHING, YOU
15 KNOW, WORTH WATCHING. SO, I PLAY FARMVILLE.

16 BY COMMISSIONER LYNDON:

17 WELL, I BELIEVE THE CLAIMANT'S COUNSEL WANTS --
18 ASKED WHETHER OR NOT IT WOULD BE WISE TO ENTER THAT.
19 DO YOU WANT TO ---

20 BY MR. LICHTY:

21 I DON'T HAVE AN OBJECTION TO IT.

22 BY COMMISSIONER LYNDON:

23 OKAY.

24 BY MR. SAMUELS:

25 ALL RIGHT.

1 BY COMMISSIONER LYNDON:

2 MARK THIS AS CLAIMANT'S THREE.

3 (COURT REPORTER MARKS DOCUMENTS CLAIMANT'S EXHIBIT NUMBER
4 THREE, RETAINED IN COMMISSION FILE)

5 DIRECT EXAMINATION RESUMED BY MR. SAMUELS:

6 Q. PATRICIA, LET ME ASK YOU ABOUT THE PHYSICAL PROBLEMS
7 YOU ARE HAVING NOW.. WHERE DOES IT HURT?

8 A. IN MY LOWER BACK ON THE RIGHT SIDE.

9 Q. AND ON A SCALE OF ONE TO TEN, HOW BAD IS THE PAIN?

10 A. PROBABLY ABOUT A SIX.

11 Q. DOES IT EVER GET WORSE?

12 A. IF I DO A LOT OF UP AND DOWN, YEAH, IT GETS WORSE.

13 Q. DO YOU BELIEVE THAT YOU ARE ABLE TO WORK?

14 A. IF I HAD TO DO ANYTHING CONSISTENTLY, NO.

15 Q. IS THE ATTEMPT AT BEING A BAIL BONDSMAN ABOUT THE
16 EASIEST THING YOU'VE EVER DONE OF ALL YOUR WORK?

17 A. YES, LITERALLY THE EASIEST THING I'VE EVER DONE.

18 Q. LET ME ASK YOU A QUESTION ABOUT STEVE MCGOWAN. HAS
19 STEVE MCGOWAN CAUSED YOU ANY PROBLEMS?

20 A. OH, YES.

21 Q. HAVE YOU HAD TO TAKE ANY LEGAL ACTION AGAINST MR.
22 MCGOWAN?

23 A. YES, I DID.

24 Q. WHAT DID YOU DO?

25 A. I HAD TO TAKE A STALKING ORDER OUT ON HIM. HE

- 1 WOULDN'T LEAVE ME ALONE.
- 2 Q. DID YOU GO TO COURT?
- 3 A. YES, I DID.
- 4 Q. I'M GOING TO SHOW YOU THIS DOCUMENT.
- 5 A. (REVIEWS DOCUMENT)
- 6 Q. IS THAT THE COMPLAINT THAT YOU FILED ---
- 7 A. YES, IT IS.
- 8 Q. --- AGAINST MR. MCGOWAN? DID YOU ALSO INDICATE TO
- 9 THE COURT THAT IT HAD SOMETHING TO DO WITH YOUR
- 10 ASSISTING TONY?
- 11 A. YES, I DID.
- 12 Q. OKAY. I'M GOING TO ASK YOU TO READ WHAT YOU WROTE
- 13 ON THERE ABOUT WHAT YOU WERE DOING FOR TONY.
- 14 A. OH, YOU JUST WANT ME TO READ WHAT I PERSONALLY
- 15 WROTE?
- 16 Q. YES, MA'AM.
- 17 A. "HE HAS BEEN MALICIOUSLY HURTING ME, CALLING MY
- 18 WORKMANS' COMP BOARD, MY ATTORNEY IN SOUTH CAROLINA,
- 19 BAD MOUTHING ME ALL OVER TOWN, TAKING PICTURES OF MY
- 20 TRUCK AND MY TAG AT THE SHERIFF'S OFFICE, ASKING
- 21 PEOPLE HOW MANY TIMES I'M AT THE JAIL." NOW, THAT
- 22 WAS REFERRING TO THE TRUSTEES THAT WERE THERE AROUND
- 23 THE JAIL.
- 24 Q. OKAY.
- 25 A. "INQUIRING ABOUT MY WHEREABOUTS. SOMETIMES HE RIDES

1 BY MY HOUSE," AND HE NEVER COMES ON MY SIDE OF TOWN,
2 BECAUSE THAT'S BENEATH HIM.

3 BY MR. LICHTY:

4 OBJECTION.

5 THE WITNESS RESUMES:

6 A. "ALL BECAUSE" ---

7 BY COMMISSIONER LYNDON:

8 WAIT A MINUTE. WHAT WAS YOUR OBJECTION?

9 BY MR. LICHTY:

10 I THINK SHE'S SPEAKING WITHOUT A FOUNDATION.

11 SHE JUST SAID "IT WAS BENEATH HIM." I THINK THAT'S
12 HEARSAY AND SPECULATION.

13 BY COMMISSIONER LYNDON:

14 I'LL NOTE YOUR OBJECTION.

15 BY THE WITNESS:

16 OKAY, I'M SORRY. I SHOULDN'T HAVE SAID IT.

17 THE WITNESS RESUMES ANSWER:

18 A. "HE RIDES BY MY HOUSE ALL BECAUSE I'M TRYING TO HELP
19 TONY OWENS GET BACK ON HIS FEET WITH HIS BONDING
20 COMPANY. MARY WEAVER WAS PRESENT AT THE LAST BLOW
21 UP, AND THAT WAS AUGUST THE 30TH AT THE JAIL WHERE
22 HE DID THE VIDEO ON HIS CAMCORDER -- ON HIS PHONE."
23 SHE WAS OUT THERE DOING A BOND, AND ASKED ME WOULD I
24 COME UP THERE TO MAKE SURE SHE DID IT RIGHT. I WAS
25 SITTING THERE WAITING, AND -- OH, MY GOD -- OH, IT

1 WAS UGLY.

2 BY MR. SAMUELS:

3 WE WOULD LIKE TO INTRODUCE THIS AS CLAIMANT'S
4 EXHIBIT FOUR.

5 BY COMMISSIONER LYNDON:

6 ANY OBJECTION?

7 BY MR. LICHTY:

8 NO.

9 BY COMMISSIONER LYNDON:

10 ALL RIGHT. THIS WILL BE CLAIMANT'S FOUR, I
11 BELIEVE, WITHOUT OBJECTION.
12 (COURT REPORTER MARKS DOCUMENT CLAIMANT'S EXHIBIT NUMBER
13 FOUR, RETAINED IN COMMISSION FILE)

14 BY COMMISSIONER LYNDON:

15 ALL RIGHT, PROCEED.

16 BY MR. SAMUELS:

17 I HAVE NO FURTHER QUESTIONS. PLEASE ANSWER ANY
18 QUESTIONS MR. LICHTY HAS FOR YOU.

19 BY THE WITNESS:

20 OKAY.

21 BY COMMISSIONER LYNDON:

22 MR. LICHTY.

23 CROSS EXAMINATION BY MR. LICHTY:

24 Q. LET'S START WITH THE CALENDAR. DO YOU CARRY -- DO
25 YOU STILL KEEP A CALENDAR?

1 A. NO.

2 Q. WHY NOT?

3 A. WHAT DO I NEED -- I DON'T HAVE ANYTHING TO KEEP UP
4 WITH.

5 Q. WELL, IN SEPTEMBER, YOU DID, WHAT, 11 OR 12 BONDS.
6 DIDN'T YOU NEED TO KEEP UP WITH THAT?

7 A. NO.

8 **BY MR. SAMUELS:**

9 YOUR HONOR, I OBJECT. SHE DID ONE BOND IN
10 SEPTEMBER.

11 **BY COMMISSIONER LYNDON:**

12 HOW MANY DOES THE RECORD INDICATE?

13 **BY THE WITNESS:**

14 IN SEPTEMBER, I DID ONE BOND.

15 **BY MR. SAMUELS:**

16 SHE DID FIVE BONDS IN JULY, 12 BONDS IN AUGUST,
17 ONE BOND IN SEPTEMBER.

18 **BY COMMISSIONER LYNDON:**

19 THERE WERE SOME INITIALS FROM ANOTHER LADY, I
20 THINK MS. WEAVER WAS IT?

21 **BY THE WITNESS:**

22 YES, THAT'S WHEN SHE STARTED BONDING. I WAS
23 JUST HELPING HER TO GET TRAINED.

24 **CROSS EXAMINATION RESUMED BY MR. LICHTY:**

25 Q. WELL, LET ME ASK YOU THIS: WHOSE INITIALS ARE THOSE,

1 THE FIRST ONE?

2 A. MINE.

3 Q. OKAY.

4 A. "P.K.", THAT'S AUGUST THE 2ND AND MINE ON AUGUST THE
5 4TH.

6 Q. DO YOU HAVE YOUR CALENDAR FOR AUGUST THEN?

7 A. I DON'T KEEP A CALENDAR ANYMORE. I ONLY KEPT THAT
8 TO KEEP UP WITH MY HOURS WHEN I WORKED WITH STEVE'S
9 OFFICE. BECAUSE THEY WOULD CHANGE AND CALL MY HOURS
10 DIFFERENT ALL THE TIME. SO, I HAD TO WRITE THEM
11 DOWN. AND THEN I GOT TO WHERE I WAS TAKING SO MANY
12 VICODIN, I DIDN'T CARE. JUST CALL ME, I'LL COME IN.
13 YOU KNOW, I'M THERE.

14 Q. OKAY. WHEN WAS THAT?

15 A. PRETTY MUCH ALL THE TIME.

16 Q. DID YOU STOP KEEPING A CALENDAR WHEN IT GOT TO THE
17 POINT WHERE YOUR HOURS WERE NOT WHAT THEY WERE
18 SCHEDULED TO BE?

19 A. AND I WAS TAKING SO MANY VICODIN, I DIDN'T CARE TO
20 KEEP UP WITH A CALENDAR.

21 Q. SO, YOU ARE ADMITTING THAT DUE TO YOUR TAKING THE
22 VICODIN AND THE CHANGING HOURS, THIS MAY NOT BE
23 ACCURATE INFORMATION IN HERE?

24 A. NO, THAT'S PRETTY ACCURATE, BECAUSE I WROTE THEM
25 DOWN.

- 1 Q. I GUESS I'M A LITTLE CONFUSED AS TO YOUR RATIONALE
2 OF WHY YOU STOPPED KEEPING A CALENDAR AFTER YOU LEFT
3 ABC BONDS.
- 4 A. I DIDN'T NEED TO KEEP ANYTHING. I HAVE NO -- I
5 MEAN, I JUST HAVE NO NEED TO KEEP A CALENDAR. I
6 DON'T EVEN WRITE MY BILLS DOWN IN A CALENDAR
7 ANYMORE. I DON'T KEEP ANYTHING.
- 8 Q. IN THIS CALENDAR, YOU ARE ALSO KEEPING TRACK OF
9 APPOINTMENTS AND TELEPHONE CALLS TO DR. WOLGIN'S
10 OFFICE, ARE YOU NOT?
- 11 A. RIGHT. BUT WHEN -- AFTER HE SAW ME FOR THE CAT
12 SCAN, HE SAID UNTIL I'M READY TO HAVE SURGERY,
13 THERE'S NOTHING MORE HE CAN DO.
- 14 Q. BUT YOU ADMIT THAT YOU USED THIS CALENDAR FOR
15 PURPOSES OTHER THAN KEEPING TRACK OF YOUR WORK
16 SCHEDULE?
- 17 A. OH, YEAH, I DID; I HAD TO. I WAS IN THE OFFICE ALL
18 THE TIME, PHONE CALLS. I MEAN, IT'S HARD TO KEEP UP
19 WITH EVERYTHING WHEN YOU'RE KIND OF LIKE HIGH AS A
20 KITE. CAN I PUT IT THAT WAY?
- 21 Q. OKAY. BUT YOU WERE USING IT TO KEEP UP WITH YOUR
22 WORK AND ALSO YOUR DOCTORS' APPOINTMENTS?
- 23 A. RIGHT.
- 24 Q. SO, YOU WERE USING IT FOR BOTH WORK AND PERSONAL
25 REASONS?

1 A. RIGHT.

2 Q. SO, AFTER YOU LEFT WORK, WHY WOULDN'T YOU MAINTAIN A
3 CALENDAR FOR PERSONAL REASONS?

4 A. I JUST -- I JUST DIDN'T. I FELT NO NEED TO.

5 Q. OKAY. DO YOU HAVE THE ACTUAL CALENDAR THIS WAS
6 TAKEN FROM?

7 A. (TENDERS CALENDAR TO MR. LICHTY).

8 Q. WHAT DOES THIS CALENDAR GO THROUGH, 2011. SO, ARE
9 THESE ENTRIES IN HERE FROM 2011 OR 2010?

10 A. 2010.

11 Q. OKAY. NOW, THIS IS A 2011 CALENDAR.

12 A. OR, I DON'T KNOW. WHAT'S THE DATE ON THEM.

13 Q. IT LOOKS LIKE IT GOES BACK INTO 2010.

14 A. MY KIDS GOT AHOLD OF MY CALENDAR. THEY WRITE IN
15 'EM. MY HUSBAND WRITES IN 'EM. I MEAN, I JUST
16 DON'T WRITE IN 'EM. THERE AIN'T NO NEED TO. ON
17 DAYS I WAS SUPPOSED TO BE OFF, THEY WOULD CALL FOR
18 ME TO COME IN BECAUSE THEY WANTED TO GO HUNTING.

19 Q. ON FEBRUARY 9TH, YOU HAVE AN ENTRY FOR YOUR C.T.
20 SCAN, CORRECT?

21 A. RIGHT.

22 Q. WHAT IS THIS ENTRY HERE ON THE 12TH OF FEBRUARY?

23 A. I CAN'T EVEN SEE IT. "TAXES BACK." MY HUSBAND
24 FILED TAXES. THEY WERE COMING BACK IN.

25 Q. AND THAT WAS THE DATE YOU WERE EXPECTING TO RECEIVE

1 YOUR TAXES?

2 A. MM-HMM.

3 Q. DID YOU CONTINUE TAKING MEDICATIONS AFTER THIS --
4 AFTER YOU WERE RELEASED BY DR. WOLGIN?

5 A. OH, YES.

6 Q. DID YOU CONTINUE HAVING TO CALL DR. WOLGIN TO HAVE
7 THOSE AUTHORIZED?

8 A. MM-HMM. HIS OFFICE STILL FILLS THEM NOW.

9 Q. WHY DID YOU NOT NOTATE THAT IN HERE?

10 A. I DIDN'T FEEL A NEED TO NOTATE IT IN THERE. AND ALL
11 OF THAT'S MY HUSBAND'S STUFF IN THERE.

12 Q. WHAT WAS YOUR HUSBAND DOING AT THE SAME TIME THAT
13 YOU WERE WORKING FOR ABC BAIL BONDS?

14 A. HE DROVE THEIR WRECKER TRUCK.

15 Q. WHY WASN'T HE KEEPING UP WITH HIS HOURS IN YOUR
16 CALENDAR?

17 A. 'CAUSE IT WAS TOTALLY SEPARATE.

18 Q. HIS ---

19 A. I WORKED IN THE BAIL BONDS OFFICE. HE WORKED IN THE
20 WIFE'S OFFICE. OUR STUFF WAS NEVER TOGETHER.

21 **BY MR. LICHTY:**

22 I BEG THE COURT'S INDULGENCE WHILE I LOOK
23 THROUGH THIS.

24 **CROSS EXAMINATION RESUMED BY MR. LICHTY:**

25 Q. MS. FORE, ON AUGUST 15TH, YOU'VE GOT A NOTATION

1 HERE. CAN YOU TELL ME WHAT THAT SAYS?

2 A. IT SAYS, "DANA, MONEY OR JAIL."

3 Q. WHAT DOES THAT MEAN?

4 A. TONY CALLED ME AND ASKED ME WOULD I CALL DANA AND
5 TELL HER SHE'S GOT TO PAY HER MONEY OR SHE'S GOT TO
6 GO BACK TO JAIL.

7 Q. WHO IS DANA?

8 A. DANA WALKER.

9 Q. SO, THAT WAS AUGUST 15TH. ON AUGUST 22ND, YOU HAVE
10 A NOTATION FOR "JAMES SIZEMORE"?

11 A. THAT'S A SUPERIOR COURT JUDGE SIZEMORE.

12 Q. OKAY. WHY DO YOU HAVE A NOTATION IN THERE REGARDING
13 HIM?

14 A. THAT WAS PERSONAL. IT HAD NOTHING TO DO WITH
15 ANYTHING HERE. THAT WAS JUST A FAVOR, SOMEBODY
16 ASKED ME TO CALL HIM.

17 Q. NOW, I KNOW HERE ON YOUR ENTRY FOR AUGUST 15TH, I
18 GUESS YOU DID NOT HAVE TO GO TO THE COURTHOUSE THAT
19 DAY, CORRECT?

20 A. MM-MM.

21 Q. BUT AS PART OF HELPING OUT TONY RECENTLY, YOU HAVE
22 BEEN GOING TO THE COURTHOUSE, CORRECT?

23 A. JAILHOUSE.

24 Q. JAILHOUSE, OKAY.

25 A. OR SHERIFF'S OFFICE.

1 Q. AND THAT'S TO SIGN BONDS?

2 A. THAT'S ALL -- YES.

3 Q. THAT'S THE SAME THING YOU WERE DOING WITH ABC,

4 CORRECT?

5 A. MM-HMM.

6 Q. SO, THE HELP THAT YOU ARE GIVING TONY FOR FREE IS

7 THE SAME THING YOU WERE GETTING PAID FOR AT ABC

8 BONDS, CORRECT?

9 A. CORRECT.

10 Q. NOW, YOU'VE TESTIFIED TODAY THAT YOU WERE WORKING.

11 WHY DID YOU TELL ME THAT YOU WEREN'T WORKING WHEN I

12 TOOK YOUR DEPOSITION?

13 A. I DON'T REALLY KNOW HOW TO WORD THIS. HE WAS TRYING

14 TO HELP ME WITH THE MONEY BEING PAID UNDER THE TABLE

15 WITH NO TAXES TAKEN OUT, BECAUSE MY HUSBAND DIDN'T

16 MAKE VERY MUCH AT THAT TIME, AND WE WERE IN REALLY

17 SERIOUS FINANCIAL TROUBLE. SO, THE MONEY HE PAID

18 ME, HE JUST SAID, "OKAY, I'LL GIVE YOU EIGHT DOLLARS

19 AN HOUR. I WON'T TAKE TAXES. WE'LL PAY CASH." IT

20 SOUNDED LIKE A GOOD DEAL AT THE TIME. BUT I DIDN'T

21 KNOW I COULD GET IN ALL KIND OF TROUBLE, AND I JUST

22 TOOK THE MONEY.

23 Q. SO, YOU'RE TALKING ABOUT STEVE NOW?

24 A. STEVE MCGOWAN.

25 Q. OKAY. WHY DIDN'T YOU TELL ME ABOUT THE STUFF YOU

1 WERE DOING FOR TONY?

2 A. BUT I DIDN'T DO ANYTHING FOR TONY 'TIL JULY.

3 Q. I TOOK YOUR DEPOSITION IN SEPTEMBER.

4 A. BUT I MEAN, I DID A BOND FOR HIM. YOU ASKED ME DID
5 I GET PAID FOR WORKING. NO, I DIDN'T.

6 Q. I ASKED IF YOU WERE WORKING ANYWHERE?

7 A. THAT'S NOT WORKING TO ME. I WENT AND SIGNED A BOND
8 FOR THE MAN AND LEFT. I DIDN'T WAIT AROUND TO GET
9 ANY PAPERWORK SIGNED BY THESE PEOPLE. I DIDN'T WAIT
10 FOR ANYTHING. I WALKED IN AND HANDED THE BOND,
11 TURNED AROUND, SIGNED MY PAPER AND WALKED OUT. THEY
12 HADN'T EVEN BEEN BONDED OUT.

13 Q. AT YOUR DEPOSITION, YOU ALSO DENIED HAVING RECEIVED
14 ANY FURTHER EDUCATION OR CERTIFICATION SINCE THE
15 DATE OF INJURY, CORRECT?

16 A. SWAPPING A BOND IS A -- I ALREADY HAD THAT
17 CERTIFICATION.

18 Q. OKAY. YOU GOT RE-CERTIFIED IN AUGUST OF 2010,
19 CORRECT?

20 A. (NO VERBAL RESPONSE)

21 Q. YOU RECEIVED CERTIFICATION IN AUGUST 2010?

22 A. FOR?

23 Q. TO BECOME A BAIL BONDSMAN.

24 A. WITH ABC?

25 Q. BEFORE YOU WENT BACK TO WORK WITH STEVE.

1 A. OH, IS THAT WHERE YOU SWAPPED THEM OVER? YEAH, THAT
2 WAS WITH STEVE.

3 Q. AND TO RECEIVE THAT, YOU ACTUALLY HAD TO GO TAKE
4 CLASSES, CORRECT?

5 A. YEAH, I HAD TO GO TO A SEVEN-HOUR CLASS.

6 Q. AND SO, TODAY, YOU ARE SAYING THAT YOU DID RECEIVE
7 SOME SORT OF TRAINING OR CERTIFICATION, BUT WHEN I
8 TOOK YOUR DEPOSITION, YOU DENIED HAVING RECEIVED ANY
9 TRAINING OR CERTIFICATION. WHY DID YOU DENY IT THEN
10 WHEN YOU ARE ADMITTING IT NOW?

11 A. BECAUSE THIS IS JUST A PIECE OF PAPER THAT SAYS YOU
12 CAN BOND. TO ME, A TRAINER CERTIFICATION, YOU'RE
13 GOING TO A SCHOOL AND GETTING SOME KIND OF DEGREE.

14 Q. DIDN'T YOU SIT IN CLASS FOR A DAY TO RECEIVE THAT?

15 A. YEAH, YOU CAN SIT IN A CLASS FOR A DAY AND RECEIVE
16 IT.

17 Q. IS IT NOT INSTRUCTION OR EDUCATION TO YOU?

18 A. OKAY, I SEE WHAT YOU'RE -- YES, IT IS.

19 Q. OKAY. BUT NOT ONLY THAT, WE'RE TALKING ABOUT
20 SITTING IN CLASS, I ALSO IN RESPONSE TO THE SAME
21 QUESTION, HAVEN'T YOU ALSO RECEIVED A CERTIFICATION
22 IN ACCOUNTING IN APRIL 2010 SINCE YOUR DATE OF
23 ACCIDENT?

24 A. I WENT TO CLASS BEFORE I HAD MY SURGERY AND GOT MY
25 ACCOUNTING.

1 Q. OKAY. ON YOUR FACEBOOK SITE, YOU CLAIM TO BE CLASS
2 OF 2010 ALBANY FOR ACCOUNTING.

3 A. WE DIDN'T GRADUATE AS SOON AS WE GOT IT. WE HAD TO
4 WAIT A COUPLE OF SEMESTERS, AND THEN WE WALKED AND
5 GRADUATED. BUT I ALSO -- I DID WALK AND GET MY
6 DIPLOMA. IT'S A DIPLOMA. IT'S NOT A -- FOR THE
7 ACCOUNTING PROGRAM.

8 Q. SO, YOU GOT YOUR DIPLOMA?

9 A. YES.

10 Q. BUT YOU DENIED HAVING RECEIVED ANY FURTHER
11 CERTIFICATES WHEN I TOOK YOUR DEPOSITION?

12 BY MR. SAMUELS:

13 ASKED AND ANSWERED, OBJECTION.

14 BY COMMISSIONER LYNDON:

15 I'LL NOTE YOUR OBJECTION. WE NEED TO FAST
16 FORWARD THIS. I DON'T THINK Y'ALL REQUESTED EXTRA
17 TIME. IF YOU DID, IT'S NOT FLAGGED, AND WE'RE WAY
18 BEHIND. SO, IF WE COULD MOVE ALONG, I WOULD
19 APPRECIATE IT.

20 BY MR. LICHTY:

21 COMMISSIONER, I'LL DO MY BEST.

22 BY COMMISSIONER LYNDON:

23 SINCE WE'VE GOT WITNESSES. ALL RIGHT.

24 BY MR. LICHTY:

25 BUT I'VE BEEN ASKING QUESTIONS FOR ABOUT FIVE

1 MINUTES NOW.

2 BY COMMISSIONER LYNDON:

3 I THINK A LITTLE BIT LONGER THAN THAT.

4 CROSS EXAMINATION RESUMED BY MR. LICHTY:

5 Q. NOW, WHEN I TOOK YOUR DEPOSITION, YOU INDICATED THAT
6 YOU HAD NOT YET RECEIVED A DEGREE FROM ALBANY TECH.
7 DO YOU STILL HAVE WORK TO GO?

8 A. YEAH, I STILL HAVE WORK TO GO.

9 Q. OKAY. BUT YOU AGREE THAT IN RESPONSE TO WHETHER OR
10 NOT YOU WERE WORKING, YOU SAID "NO" AT YOUR
11 DEPOSITION, BUT YOU SAID "YES" TODAY?

12 A.. YES.

13 Q. YOU SAID THAT YOU HAD NOT RECEIVED ANY FURTHER
14 CERTIFICATION AT YOUR DEPOSITION, BUT YOU'RE SAYING
15 "YES" TODAY?

16 A. YEAH.

17 Q. YOU'RE SAYING WHEN YOU WERE WORKING WITH STEVE, YOU
18 WERE GETTING PAID UNDER THE TABLE. DID A TIME COME
19 WHEN YOU WERE ACTUALLY SIGNING TIME CARDS WITH
20 STEVE?

21 A. NO.

22 Q. YOU NEVER EVER COMPLETED ANYTHING ON A TIME CARD?

23 A. MM-MM, I DON'T THINK SO 'CAUSE HE ALWAYS PAID ME IN
24 CASH.

25 Q. OKAY. AT THE TIME THAT YOU WERE WORKING FOR ABC,

1 DID YOU ALSO PERFORM WORK FOR ASAP TOWING?

2 A. WHAT DO YOU MEAN BY WORK FOR THEM?

3 Q. DID YOU PERFORM SERVICES ON BEHALF OF ASAP TOWING
4 WHEN YOU WERE WORKING FOR ABC BONDS?

5 A. I WOULD TAKE SOME PAPERS TO THE COURT HOUSE.

6 Q. OKAY, SO, YES, YOU WERE WORKING ---

7 A. YES.

8 Q. --- FOR ASAP TOWING?

9 A. YES.

10 Q. AT THE SAME TIME THAT YOUR HUSBAND WORKED FOR ASAP
11 TOWING?

12 A. YES, HE DROVE THE TRUCK.

13 Q. OKAY. SO, YOU AND YOUR HUSBAND BOTH WORKED FOR
14 STEVE MCGOWAN AT THE SAME TIME?

15 A. YES.

16 Q. ALL RIGHT. NOW, JUST SO I'M CLEAR, IS IT YOUR
17 TESTIMONY THAT YOU NEVER COMPLETED ANY TIME CARDS
18 REFLECTING THE TIME YOU WORKED FOR ABC BONDS?

19 A. I DON'T REMEMBER COMPLETING ANY TIME CARDS, BECAUSE
20 HE ALWAYS PAID ME IN CASH.

21 Q. OKAY. DID YOU EVER AFFIX YOUR HUSBAND'S NAME TO A
22 TIME CARD FOR ABC BONDS FOR WORK THAT YOU PERFORMED?

23 A. I DON'T THINK SO.

24 Q. YOU DON'T THINK SO?

25 A. MM-MM, I DON'T THINK SO.

- 1 Q. OKAY. NOW, WOULD YOU ADMIT THAT YOU ARE CAPABLE OF
2 WORKING NOW?
- 3 A. AS LONG AS I DON'T HAVE TO GET UP AND DOWN, BEND
4 OVER, COME UP AND DOWN OR DO ANY KIND OF SIDE
5 TWISTING UP AND DOWN, YEAH.
- 6 Q. ARE YOU TALKING ABOUT REPETITIVELY?
- 7 A. YEAH, IF I HAD TO DO SOMETHING REPETITIVELY, I CAN'T
8 DO IT.
- 9 Q. OKAY. BUT THOSE ACTIONS THAT YOU MENTIONED, YOU CAN
10 PERFORM ON AN OCCASIONAL ---
- 11 A. I CAN WALK.
- 12 Q. --- BASIS, RIGHT?
- 13 A. I CAN GET UP, AND I CAN WALK. I CAN WALK -- WALK,
14 BUT IF I'VE GOT TO BEND DOWN AND COME OFF THE FLOOR
15 WITH SOMETHING AND USE THAT LOWER BACK TO BRING THAT
16 WEIGHT UP, IT DON'T WORK.
- 17 Q. FOR EXAMPLE, HAVE YOU SEEN THE SURVEILLANCE VIDEO
18 THAT I SUBMITTED?
- 19 A. NO.
- 20 Q. OKAY.
- 21 A. NOT MUCH OF IT AT ALL.
- 22 Q. HAVE YOU SEEN THE PORTION WHERE YOU'RE SHOPPING AT
23 WAL-MART?
- 24 A. I'M WALKING PUSHING A BUGGY, SURE.
- 25 Q. OKAY. WOULD YOU ALSO AGREE THAT THE TAPE SHOWS YOU

1 SQUATTING DOWN TO PICK UP ITEMS OFF THE LOWER SHELF
2 AND THEN STANDING BACK UP?

3 A. DID I DO IT MORE THAN ONE TIME?

4 Q. YOU TELL ME.

5 A. I DON'T KNOW. I'VE NOT SEEN THAT PART AT WAL-MART
6 WHERE I WAS SHOPPING.

7 Q. WOULD YOU DENY THAT ON SEPTEMBER 8TH WHEN YOU WENT
8 TO WAL-MART, YOU WERE ABLE TO SQUAT TO PICK UP ITEMS
9 FROM THE BOTTOM SHELF ON MULTIPLE OCCASIONS?

10 A. (NO VERBAL RESPONSE)

11 Q. JUST ANSWER YES OR NO; IS THAT SOMETHING THAT YOU
12 CAN DO?

13 A. IT DEPENDS ON WHAT IT IS. IS THERE IS ANY WEIGHT TO
14 IT? I DON'T THINK -- I DON'T KNOW. I MEAN, IT'S
15 NOTHING THAT I CAN JUST -- IT'S HARD TO EXPLAIN TO
16 YOU HOW THIS WORKS. I MEAN, I COULD -- I COULD BEND
17 DOWN AND PICK UP YOUR BRIEFCASE. I COULD STAND UP
18 WITH YOUR BRIEFCASE, BUT IF IT'S ANY SUBSTANTIAL
19 WEIGHT TO IT, NO. I CAN'T COME UP. IT'S PAINFUL.
20 I JUST CAN'T GET RID OF THE PAIN.

21 Q. OKAY.

22 A. IT'S HARD TO EXPLAIN TO YOU HOW THIS AFFECTS ME.

23 Q. BUT ON AN INTERMITTENT BASIS, YOU FEEL THAT YOU ARE
24 CAPABLE OF PERFORMING A JOB SUCH AS BAIL BONDING?

25 A. IF I DON'T HAVE TO GET UP AND DOWN SO MUCH OR IF I

1 HAVE TO CLIMB IN AND OUT OF BED. IT'S HARD TO
2 EXPLAIN HOW IT WORKS. UNLESS YOU'VE ACTUALLY HAD
3 THE SURGERY AND YOU'VE DONE THE WORK, IT'S HARD TO
4 EXPLAIN.

5 Q. JUST BRIEFLY, I ALSO WANT TO DISCUSS THE AMOUNT THAT
6 YOU'VE WORKED. YOU THINK THAT YOU WERE WORKING 20
7 PLUS HOURS A WEEK FOR ABC?

8 A. YEAH, IT ABOUT KILLED ME. I WAS ALL -- I WAS ALL ON
9 VICODIN. IT WAS RIDICULOUS THE AMOUNT OF DRUGS I
10 WAS TAKING AT THAT TIME.

11 Q. CAN YOU EXPLAIN WHY DR. WOLGIN'S REPORT OF SEPTEMBER
12 30TH, 2010, HE REPORTS THAT YOU ARE ONLY WORKING
13 THREE HOURS A DAY FOR THREE DAYS A WEEK?

14 A. THAT'S WHAT HE SUGGESTED I WORK.

15 Q. OKAY. THAT'S NOT WHAT YOU TOLD HIM YOU WERE
16 WORKING?

17 A. OH, I TOLD HIM WHEN I WAS WORKING, AND HE SAID "UH-
18 UH. UH-UH. I TOLD YOU" -- THEY'RE THE ONES WHO
19 KEPT PUSHING THE WORK ON ME, JUST PUSHING AND
20 PUSHING AND PUSHING. I COULDN'T TAKE IT NO MORE.

21 Q. YET YOU CONTINUED TO WORK OUTSIDE DR. WOLGIN'S
22 RECOMMENDATIONS?

23 A. YEAH.

24 Q. OKAY. ALL RIGHT. WELL, LET'S GO ---

25 A. BECAUSE I'M NOT -- I'M NOT A QUITTING TYPE PERSON.

1 I'VE WORKED ALL MY LIFE HARD HARD JOBS. I'M -- I'M
2 JUST THE TYPE PERSON THAT KEEPS PUSHING MYSELF TO
3 THE BRINK THAT I CAN'T DO IT ANYMORE.

4 Q. LET'S MOVE ON. ON SEPTEMBER 7TH, YOU BY TELEPHONE
5 TALKED TO GLENN ADAMS; IS THAT RIGHT?

6 A. YES.

7 Q. OKAY. DO YOU RECALL TELLING HIM THAT YOU WERE ONLY
8 WORKING TWO TO FIVE HOURS A DAY FOR ONE TO TWO DAYS
9 A WEEK?

10 A. WITH?

11 Q. ABC.

12 A. NO.

13 Q. THAT'S NOT WHAT YOU TOLD HIM?

14 A. THAT WAS -- THAT WAS MAYBE -- I MISUNDERSTOOD WHAT
15 HE SAID, OR HE MISUNDERSTOOD WHAT I SAID.

16 Q. OKAY. SO, YOU WOULD AGREE THEN THAT IF THAT'S WHAT
17 THAT REPORT SAYS, THERE ARE ERRORS IN THAT REPORT?

18 **BY MR. SAMUELS:**

19 I OBJECT. THE REPORT SAYS "SHE REPORTS SHE
20 WORKED UP TO FOUR TO FIVE HOURS PER DAY AND AVERAGED
21 ABOUT 12 HOURS PER WEEK.

22 **BY COMMISSIONER LYNDON:**

23 ALL RIGHT. I'VE HEARD WHAT BOTH PEOPLE SAID.
24 WE CAN MOVE ON.

25 **BY MR. LICHTY:**

1 ALL RIGHT.

2 CROSS EXAMINATION RESUMED BY MR. LICHTY:

3 Q. YOU WOULD AGREE THAT NEITHER WHAT YOU TOLD GLENN
4 ADAMS OR WHAT'S REFLECTED IN DR. WOLGIN'S REPORT
5 SUGGEST ANYWHERE NEAR 20-PLUS HOURS OF WORK A WEEK,
6 CORRECT?

7 A. I DON'T UNDERSTAND WHAT YOU'RE SAYING.

8 Q. OKAY. WELL, YOU WOULD AGREE WITH ME THAT IF YOU
9 TOLD GLENN ADAMS THAT YOU WERE WORKING 12 HOURS A
10 WEEK, THAT'S A FAR CRY SHORT OF 20-PLUS HOURS A WEEK
11 THAT YOU'VE TOLD US HERE TODAY?

12 A. WELL, I MEAN, SOMETIMES I WOULDN'T EVEN DO ANYTHING
13 FOR THE WEEKENDS FOR STEVE. SOMETIMES, I WOULD TAKE
14 OFF HALF DAYS. SO, I MEAN, IT'S JUST A VARIATION OF
15 DIFFERENT HOURS EVERY DAY OF THE WEEK. I CAN'T KEEP
16 UP WITH ALL OF THAT.

17 Q. I'M JUST TRYING TO UNDERSTAND WHY WHAT YOU TOLD
18 GLENN ADAMS WOULD BE DIFFERENT FROM WHAT YOU'RE
19 TELLING US. DO YOU HAVE AN EXPLANATION FOR THAT?

20 A. IT'S NOT REALLY ANY DIFFERENCE. I -- YOU KNOW, LIKE
21 I TOLD HIM -- HE SAID "GUESSTIMATE." I
22 GUESSTIMATED. I MEAN, IT'S NOT NO ACCURATE SCIENCE.
23 I GAVE "OH, I WORKED 15 HOURS THIS WEEK AND I WORKED
24 10 HOURS THIS WEEK." JUST A BALLPARK ROUND FIGURE.

25 Q. OKAY, FINE.

1 BY MR. LICHTY:

2 AND I'LL WRAP THIS UP SOON, COMMISSIONER. I
3 KNOW YOU'RE TRYING TO RUSH THIS ALONG.

4 CROSS EXAMINATION RESUMED BY MR. LICHTY:

5 Q. YOU'VE RECRUITED MARY TO COME WORK FOR TONY?

6 A. YES, I DID. I ASKED HER WOULD SHE GO TO BONDING
7 SCHOOL.

8 Q. AND YOU'VE BASICALLY RECRUITED HER TO DO THE SAME
9 THING THAT YOU WERE DOING?

10 A. RIGHT.

11 Q. AND SHE'S GOING TO GET PAID FOR IT?

12 A. SHE WILL GET PAID FOR IT.

13 Q. BUT WHEN YOU WERE DOING IT FOR TONY, YOU WEREN'T
14 GETTING PAID FOR IT?

15 A. NO. I DID IT BECAUSE I WAS ONLY HELPING THE MAN,
16 BECAUSE MR. MCGOWAN RUINED THE MAN. HE LITERALLY
17 RUINED HIS BUSINESS AND IS GOING TO KEEP ON WITH IT.

18 Q. BUT YOU ---

19 A. AND NOW, HE'S TRYING TO RUIN ME, TOO.

20 Q. BUT YOU ---

21 A. SO, IT'S OKAY.

22 Q. BUT YOU WOULD AGREE THAT THE WORK YOU PERFORMED FOR
23 TONY WAS WORK THAT YOU COULDN'T HAVE GOTTEN PAID FOR
24 SOME PLACE ELSE?

25 A. IF I WORKED FOR SOMEBODY ELSE, YEAH. BUT -- BUT

1 THEN AGAIN, I WOULD HAVE TO SIT IN AN OFFICE
2 ENVIRONMENT THAT I COULDN'T DO.

3 Q. WELL, LET'S TALK ABOUT THE OFFICE ENVIRONMENT. DID
4 YOU REVIEW ANY PORTION OF THE SURVEILLANCE VIDEO
5 THAT SHOWED YOU CARRYING MANILA FOLDERS TO AND FROM
6 THE PROBATION CENTER OR JAILHOUSE?

7 A. THAT I CARRY MY BONDS IN SO THEY WON'T GET MESSED
8 UP, YES, A LITTLE VANILLA(sic) FOLDER.

9 Q. MANILA FOLDER?

10 A. YEAH.

11 Q. OKAY. THAT'S NOT OFFICE WORK, CORRECT?

12 A. PUTTING IT IN -- I DON'T CONSIDER IT OFFICE WORK.

13 Q. OKAY. SO, THE JOB AND THE WORK THAT YOU'RE HELPING
14 TONY WITH RIGHT NOW IS WORK THAT DOES NOT REQUIRE
15 YOU TO STAY IN AN OFFICE SETTING?

16 A. NO.

17 Q. OKAY. YOU BROUGHT UP THE STALKING ORDER. ISN'T IT
18 TRUE THAT THE STALKING -- THAT THE ORDER THAT YOU'VE
19 GOTTEN AGAINST STEVEN MCGOWAN GOES BOTH WAYS, AND
20 THAT THERE'S AN ORDER AGAINST BOTH OF Y'ALL STAYING
21 AWAY FROM EACH OTHER?

22 A. YEAH, WE'RE NOT SUPPOSED TO BE WITHIN 500 FEET OF
23 ONE ANOTHER.

24 Q. OKAY. AND THAT APPLIES TO YOU AS WELL AS HIM?

25 A. CORRECT.

1 Q. SO, IT'S A TWO-WAY STREET.

2 BY MR. LICHTY:

3 COMMISSIONER, I REST WITH THIS WITNESS.

4 BY COMMISSIONER LYNDON:

5 OKAY. MR. SAMUELS? AND WE NEED TO DO ONE OF
6 TWO THINGS. IF WE CAN'T SPEED IT UP, I NEED TO
7 BRING THE OTHER PEOPLE IN, BECAUSE I'M WAY WAY
8 BEHIND.

9 BY MR. SAMUELS:

10 I'M BE QUICK WITH HER. I HAVE ONE OTHER QUICK
11 WITNESS.

12 BY COMMISSIONER LYNDON:

13 ALL RIGHT.

14 RE-DIRECT EXAMINATION BY MR. SAMUELS:

15 Q. PATRICIA, WHEN YOU DID WORK FOR ABC BONDING, THERE
16 WAS SOME WAY YOU KEPT TRACK OF YOUR TIME, IS THAT
17 RIGHT?

18 A. NO.

19 Q. WOULD THEY HAVE HAD A WAY OF KEEPING TRACK OF YOUR
20 TIME?

21 A. I GUESS SO.

22 Q. I MEAN, DID YOU GET PAID THE SAME EVERY WEEK, OR WAS
23 IT DIFFERENT?

24 A. NO, IT WAS ALL DIFFERENT. BILL HANDLED -- BILL
25 HANDLED ALL OF THAT.

1 Q. AND ---

2 A. HE WOULD SAY "YOU WORKED X AMOUNT OF HOURS THIS
3 WEEK, AND HERE'S YOUR PAY," CASH MONEY.

4 Q. AND YOU TOLD YOUR DOCTOR THAT YOU HAD BEEN WORKING?

5 A. YES.

6 Q. YOU TOLD GLENN ADAMS ABOUT YOUR WORK FOR ABC
7 BONDING?

8 A. YES.

9 Q. AND DID YOU WORK AS LONG AS YOU COULD FOR ABC
10 BONDING?

11 A. YES.

12 Q. IS IT YOUR INJURY THAT PREVENTED YOU FROM STAYING AT
13 WORK THERE?

14 A. YEP.

15 Q. AND IF YOU COULD WORK IN A FULL-TIME JOB FOR A-1
16 BONDING, TONY OWENS, WOULD YOU DO THAT KIND OF WORK?

17 A. YEAH.

18 Q. CAN YOU DO THAT KIND OF WORK?

19 A. I CAN'T -- NOT IN AN OFFICE ENVIRONMENT, I CAN'T.

20 BY MR. SAMUELS:

21 THAT'S ALL THE QUESTIONS I HAVE. THANK YOU.

22 BY COMMISSIONER LYNDON:

23 MR. LICHTY?

24 BY MR. LICHTY:

25 JUST BRIEFLY, YOUR HONOR.

1 **RE-CROSS EXAMINATION BY MR. LICHTY:**

2 Q. MS. FORE, YOU'VE GOT -- YOU INDICATED HERE THAT
3 JANUARY 21ST WAS THE DAY THAT YOU GOT SO BAD YOU
4 COULDN'T WORK?

5 A. IT HAD GOTTEN A LONG TIME. THAT'S ALL I COULD
6 TOLERATE. I COULDN'T TAKE THE PAIN NO MORE.

7 Q. WOULD YOU AGREE THAT BY FEBRUARY 5TH, YOU WERE BACK
8 PERFORMING THE SAME WORK FOR TONY?

9 A. I TOOK ONE BOND TO THE JAIL WHEN I SWAMPED OVER THE
10 LICENSE, MY BONDING CERTIFICATE IN HIS NAME.

11 **BY MR. LICHTY:**

12 THAT'S ALL I HAVE.

13 **BY COMMISSIONER LYNDON:**

14 ALL RIGHT. THERE'S A CHAIR BEHIND YOU.

15 **BY MR. SAMUELS:**

16 LET ME MOVE HER OVER HERE, BECAUSE THOSE
17 CHAIRS... PATRICIA SIT HERE.

18 **BY COMMISSIONER LYNDON:**

19 SHE MAY WANT TO STAND.

20 **BY MR. SAMUELS:**

21 YEAH, IF YOU WANT TO STAND.

22 **BY THE WITNESS:**

23 YEAH, I NEED TO STAND JUST A MINUTE.

24 **BY MR. SAMUELS:**

25 WHEN YOU DO SIT DOWN AGAIN, JUST SIT IN THAT

1 CHAIR OVER HERE. I WILL BRING THIS CHAIR OVER HERE
2 FOR ME TO SIT IN, AND WE'LL GET THE NEXT WITNESS WHO
3 IS -- THE CLAIMANT CALLS TONY OWENS, YOUR HONOR.

4 BY MR. LICHTY:

5 I OBJECT. TONY OWENS WASN'T NOTICED.

6 BY COMMISSIONER LYNDON:

7 IF HE'S NOT NOTICED, I DON'T PUT THEM UP.

8 BY MR. SAMUELS:

9 OH, YOUR HONOR, HE WAS NOTICED IN OUR
10 SUPPLEMENTAL APA. THAT WAS AFTER MR. LICHTY
11 INTRODUCED ALL THIS EVIDENCE AND PUT US ON NOTICE
12 THAT THERE WAS A FRAUD ISSUE AND NOTICED STEVE
13 MCGOWAN. SO, HE'S ESSENTIALLY A REBUTTAL WITNESS TO
14 STEVE MCGOWAN. I CAN CALL HIM AFTER STEVE MCGOWAN
15 IN REPLY IF YOU WOULD PREFER.

16 BY COMMISSIONER LYNDON:

17 WELL, I MEAN, I DON'T KNOW THAT I HAVE EVER
18 VARIED FROM IT. NOW, IF YOU SAY THERE WAS AN
19 AMENDED 58. BUT IF THE INDIVIDUAL IS NOT LISTED.

20 BY MR. SAMUELS:

21 HE WAS LISTED ON THE AMENDED 58.

22 BY COMMISSIONER LYNDON:

23 AND WHY WOULD YOU OBJECT IF HE WAS LISTED ON
24 THE AMENDED 58, BECAUSE IT WASN'T TIMELY?

25 BY MR. LICHTY:

1 RIGHT.

2 BY COMMISSIONER LYNDON:

3 SEPTEMBER 27TH, LET ME SEE.

4 BY MR. SAMUELS:

5 YOUR HONOR, I WOULD NOTE THAT MR. LICHTY HAS
6 HAD THE OPPORTUNITY TO SPEAK WITH MR. OWENS, AND MR.
7 OWENS HAS COOPERATED WITH HIM AS FAR AS SPEAKING TO
8 HIM ON THE TELEPHONE. SO, IT'S NOT AS IF MR. LICHTY
9 HAS NOT HAD AN OPPORTUNITY TO CONDUCT DISCOVERY ON
10 THIS WITNESS.

11 BY COMMISSIONER LYNDON:

12 YEAH, BUT THE BRIEF IS DATED SEPTEMBER -- THE
13 CERTIFICATE OF SERVICE IS SEPTEMBER THE 20TH.

14 BY MR. SAMUELS:

15 WE WOULD AGREE IT WAS NOT WITHIN THE 15 DAYS.

16 BY COMMISSIONER LYNDON:

17 RIGHT.

18 BY MR. SAMUELS:

19 BUT AGAIN, THIS WITNESS IS SPECIFICALLY A
20 REBUTTAL WITNESS TO STEVE MCGOWAN WHO WE HAD NO
21 EXPECTATION AND NO IDEA HE WOULD BE CALLED, NOR DID
22 WE HAVE ANY IDEA THAT THE CARRIER WAS HAVING
23 COMMUNICATION WITH OUTSIDE PARTIES, NOR DID WE HAVE
24 ANY IDEA THAT THE ALLEGATIONS, THE VERY SERIOUS
25 ALLEGATIONS OF FRAUDULENT CONDUCT, WERE BEING MADE

1 THAT WE'VE ALREADY OBJECTED TO. SO, WE NEED...

2 BY COMMISSIONER LYNDON:

3 WELL, I ---

4 BY MR. SAMUELS:

5 THIS IS AN IMPORTANT WITNESS TO RESPOND TO THE
6 ALLEGATIONS THAT WE ANTICIPATE MR. MCGOWAN IS GOING
7 TO MAKE. SO, I CAN CALL HIM AFTER MR. MCGOWAN
8 TESTIFIES.

9 BY COMMISSIONER LYNDON:

10 WELL, YOU STILL DON'T WANT HIM REGARDLESS,
11 RIGHT?

12 BY MR. LICHTY:

13 I'LL STILL OBJECT TO HIM.

14 BY COMMISSIONER LYNDON:

15 OKAY. AND IN THAT CASE, I WON'T ALLOW HIM TO
16 TESTIFY.

17 BY MR. SAMUELS:

18 I WOULD NEED TO PROFFER HIS TESTIMONY THEN,
19 YOUR HONOR.

20 BY COMMISSIONER LYNDON:

21 OKAY. THEN I NEED TO LEAVE THE ROOM. SO, MAKE
22 IT QUICK. IN FACT, WHAT I MAY DO ---

23 BY MR. LICHTY:

24 DO YOU WANT TO LET MY GUY GO? BECAUSE I'M
25 GOING TO HAVE ONE WITNESS UP HERE, AND THEN WE'RE

1 GOING TO REST, AND HE'S GOING TO PROFFER TESTIMONY.
2 SO, WE CAN DO THAT, AND I DON'T KNOW IF YOU CAN FIND
3 A ROOM TO DO WHATEVER ELSE YOU NEED TO DO.

4 **BY COMMISSIONER LYNDON:**

5 YEAH, WHAT I WAS GOING TO DO IS LET Y'ALL CLEAR
6 THE TABLE OFF, BRING THREE OTHER PEOPLE IN HERE, AND
7 COME BACK THIS AFTERNOON. I DIDN'T HAVE ANY IDEA --
8 THIS SEEMED LIKE SUCH A -- I WORKED THE CASE UP, AND
9 WE'RE ON THE RECORD. I SAW 36-PERCENT IMPAIRMENT
10 RATING. I HAD NO CLUE THAT WE WERE GOING TO GET IN
11 THIS TANGLED MESS THAT WE'RE IN. IF I HAD KNOWN
12 THAT, YOU KNOW, YOU SHOULD HAVE ASKED FOR THREE
13 HOURS OR SOMEBODY, BUT YOU DIDN'T. THAT'S WHY I
14 DON'T WANT TO PUT THE WITNESS UP, BUT IF HE WANTS TO
15 PROFFER THE TESTIMONY, THAT'S FINE. I'LL LEAVE THE
16 ROOM WHILE HE TESTIFIES. SO, DO YOU WANT ---

17 **BY MR. LICHTY:**

18 DO YOU WANT TO DO IT NOW OR LATER? I WAS JUST
19 THROWING THAT OUT THERE AS AN OPTION.

20 **BY COMMISSIONER LYNDON:**

21 WE CAN PUT YOUR WITNESS UP NOW, YOU MEAN, AND
22 LET HIM GO?

23 **BY MR. LICHTY:**

24 THEN I'M GOING TO REST.

25 **BY COMMISSIONER LYNDON:**

1 IS THAT FINE?

2 BY MR. SAMUELS:

3 THAT'S FINE WITH ME, YOUR HONOR. I JUST HAVE
4 TO HAVE MR. OWENS' TESTIMONY IN THE RECORD,
5 PARTICULARLY AFTER MR. MCGOWAN TESTIFIES.

6 BY COMMISSIONER LYNDON:

7 ALL RIGHT. GO AHEAD AND PUT YOUR WITNESS UP.

8 BY MR. LICHTY:

9 OKAY.

10 BY COMMISSIONER LYNDON:

11 HOW DO YOU DO, SIR. IF YOU WOULD STATE YOUR
12 FULL NAME FOR THE RECORD.

13 BY THE WITNESS:

14 STEVE -- HENRY STEVEN MCGOWAN.

15 BY COMMISSIONER LYNDON:

16 AND SPELL YOUR LAST NAME.

17 BY THE WITNESS:

18 M-C-G-O-W-A-N.

19 BY COMMISSIONER LYNDON:

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 HENRY STEVEN MCGOWAN

25 BEING FIRST DULY SWORN, TESTIFIED ON HIS OATH AS FOLLOWS:

1 **BY COMMISSIONER LYNDON:**

2 ALL RIGHT. ANSWER ANY QUESTIONS MR. LICHTY MAY
3 HAVE, PLEASE.

4 **DIRECT EXAMINATION BY MR. LICHTY:**

5 Q. MR. MCGOWAN, I'M GOING TO TRY TO SPEED THIS UP JUST
6 A LITTLE BIT AND GET THROUGH THIS PROCESS AS SOON AS
7 WE CAN. YOU ARE THE OWNER OF ABC BONDS?

8 A. THAT'S CORRECT.

9 Q. ABC BAIL BONDS?

10 A. YES, SIR, ABC EXPRESS BAIL BONDS.

11 Q. OKAY. DO YOU KNOW PATRICIA FORE?

12 A. MM-HMM.

13 Q. AND HOW DO YOU KNOW MS. FORE?

14 A. SHE WAS EMPLOYED WITH ME.

15 Q. WHEN DID SHE START WORKING FOR YOU?

16 A. SHE WORKED FOR ME ABOUT SIX MONTHS.

17 Q. DO YOU REMEMBER WHEN SHE STARTED?

18 A. NO, I'M BAD WITH DATES. I'VE GOT IT WROTE DOWN
19 EVERYWHERE THOUGH.

20 Q. IS IT IN HERE?

21 A. YES, SIR.

22 **BY COMMISSIONER LYNDON:**

23 WAIT, WAIT, WAIT. BEFORE YOU OPEN THAT, HE
24 HADN'T SEEN IT, AND THAT'S ANOTHER TWO HOURS TO GO
25 THROUGH ALL THAT.

1 BY MR. LICHTY:

2 I'M JUST ASKING HIM TO REFRESH HIS MEMORY.

3 BY COMMISSIONER LYNDON:

4 YEAH, BUT HE'LL WANT TO SEE EVERYTHING IN THE
5 FILE.

6 BY MR. SAMUELS:

7 THAT'S EXACTLY RIGHT.

8 BY COMMISSIONER LYNDON:

9 I SHOULD HAVE CAUGHT IT. I DIDN'T SEE HIM WALK
10 IN WITH IT. AND I USED TO BE ---

11 BY THE WITNESS:

12 I APOLOGIZE.

13 BY MR. LICHTY:

14 LET ME SEE IF ---

15 BY MR. SAMUELS:

16 YOU CAN'T SHOW ANYTHING TO A WITNESS WITHOUT
17 SHOWING IT TO ME FIRST.

18 BY THE WITNESS:

19 WELL, I'LL BE GLAD TO SHOW IT TO YOU.

20 BY MR. LICHTY:

21 IT'S ---

22 BY COMMISSIONER LYNDON:

23 YEAH, BUT WE HAVEN'T GOT ALL DAY. SO, WHAT I
24 WOULD LIKE FOR YOU TO DO IS LEAVE THAT FILE IN THE
25 HALL OR SIT ON IT AND NOT INTRODUCE ANYTHING OUT OF

1 THERE. I SHOULD HAVE CAUGHT IT. IT'S MY MISTAKE.

2 **DIRECT EXAMINATION RESUMED BY MR. LICHTY:**

3 Q. SO, YOU THINK SHE STARTED MAYBE SOMETIME AUGUST
4 2010?

5 A. YES, SIR, I GUESS. I'M NOT REAL GOOD WITH DATES.

6 Q. AND SHE MAY HAVE WORKED WITH YOU THROUGH FRIDAY,
7 JANUARY 21ST, ---

8 A. YES, SIR.

9 Q. --- OF 2011?

10 A. YES, SIR.

11 Q. HOW DID YOU BECOME AWARE OF MS. FORE?

12 A. HER HUSBAND WORKED FOR ME, AND HE WAS A WRECKER
13 DRIVER.

14 Q. OKAY.

15 A. AND HE WOULD COME IN PERIODICALLY WITH HIS KIDS AND
16 HER AND SAY SHE WAS REAL GOOD WITH COMPUTERS AND SHE
17 WANTED TO WORK.

18 **BY COMMISSIONER LYNDON:**

19 AND I'M SORRY TO INTERRUPT. WHAT WAS THE DATE
20 SHE STARTED, AUGUST OF 2011?

21 **BY THE WITNESS:**

22 I DON'T REMEMBER, SIR.

23 **BY COMMISSIONER LYNDON:**

24 ROUGHLY? IT WAS A GUESSTIMATE AS I UNDERSTAND
25 IT, MR. LICHTY?

1 BY MR. LICHTY:

2 YEAH, THIS IS I GUESS, FRIDAY, THE 27TH ---

3 BY COMMISSIONER LYNDON:

4 OF AUGUST?

5 BY MR. LICHTY:

6 IT SAYS "FIVE HOURS."

7 BY COMMISSIONER LYNDON:

8 AND I THOUGHT HE HAD A BEGINNING AND ENDING
9 DATE, A ROUGH -- ROUGH GUESSTIMATES. WHAT WERE THEY
10 THAT SHE WORKED FOR HIM?

11 BY MR. LICHTY:

12 I GUESS AUGUST 27TH, 2010.

13 BY COMMISSIONER LYNDON:

14 I SEE.

15 BY MR. LICHTY:

16 TO JANUARY 21ST, 2011.

17 BY COMMISSIONER LYNDON:

18 ALL RIGHT.

19 DIRECT EXAMINATION RESUMED BY MR. LICHTY:

20 Q. SO, YOU'RE FAMILIAR WITH HER HUSBAND. HE
21 RECOMMENDED HER TO YOU BECAUSE SHE'S GOOD WITH
22 COMPUTERS?

23 A. YES, SIR.

24 Q. AND ON THAT BASIS, DID YOU HIRE HER?

25 A. YEAH, HE CAME IN FOUR OR FIVE TIMES. THEY WOULD

1 HAVE THE KIDS, AND SHE WANTED TO -- SAID SHE WAS
2 REAL GOOD WITH COMPUTERS, AND I SAID, "WELL, THAT'S
3 GOOD, BECAUSE I SUCK AT IT." AND HE SAID, "WELL,
4 SHE'S ON WORK COMP." I SAID, "WELL, YOU NEED TO
5 TALK TO HER LAWYER AND SEE IF SHE CAN WORK." SO, A
6 COUPLE OF WEEKS LATER SHE CAME IN AND SAID SHE COULD
7 WORK PERIODICALLY, TO SEE IF SHE COULD WORK AT A
8 DESK. AND THEN IT GOT MORE AND MORE WANTING TO WORK
9 MORE AND MORE HOURS.

10 Q. WHEN YOU SAY "MORE AND MORE HOURS," DID HER JOB
11 RESPONSIBILITIES EXPAND BEYOND COMPUTER WORK?

12 A. OH, YES, SIR. SHE REALLY GOT INTO THE BAIL BONDING.
13 AT FIRST, SHE COULDN'T GET HER BAIL BONDS LICENSE,
14 BECAUSE SHE STILL HAD A -- SHE HAD I BELIEVE A
15 PARDON FROM A PRIOR ARREST WHERE SHE DID SOME TIME
16 IN PRISON, AND AFTER THAT -- WHICH I'M PROUD SHE GOT
17 A PARDON. EVERYBODY DESERVES THAT IF YOU CAN GET
18 IT. AND AT THAT POINT, THERE WAS STILL SOMETHING ON
19 HER RECORD THAT WASN'T QUITE CLEARED UP, AND SHE
20 WENT TO THE JAIL AND WROTE A FEW PEOPLE ON THE
21 COMPUTER AND TALKED TO SOMEBODY, AND THEY CLEARED IT
22 UP OFF THE G.C.I.C. AND AT THAT POINT, SHE WAS ABLE
23 TO GO TO -- I GUESS ATLANTA IS WHERE SHE WENT TO TO
24 GET HER CERTIFICATION. IT'S AN EIGHT-HOUR CLASS.
25 EVERYBODY HAS TO DO IT EVERY YEAR. AND, YOU KNOW,

1 SHE GOT HER CLASS AND CAME BACK AND GOT HER
2 PAPERWORK AND WAS ABLE TO WRITE BONDS.

3 Q. OKAY. AND THIS CERTIFICATE IS DATED AUGUST 26TH,
4 2010. SO, IS THIS ABOUT THE TIME SHE STARTED
5 WRITING BONDS FOR YOU?

6 A. YES, SIR.

7 Q. WHAT GOES IN -- WHAT WENT INTO HER JOB
8 RESPONSIBILITIES BESIDES WORKING AT THE COMPUTER AND
9 WRITING BONDS?

10 A. WELL, YOU GET A PHONE CALL -- YOU GET A PHONE CALL
11 SOMEBODY'S IN JAIL, AND SHE GOES DOWN TO THE JAIL.
12 SHE CAN WRITE THE BOND AT THE OFFICE. GETS THE
13 PEOPLE OUT, BRINGS THEM BACK TO THE OFFICE. AT THAT
14 POINT, WE'VE ALREADY HAD THE FAMILY THERE. THEY'RE
15 FILLING OUT THEIR PAPERWORK, AND SHE FILLS ALL THE
16 PAPERWORK OUT, TAKES THE MONIES, PUTS IT IN THE BOX
17 AND RELEASES THEM. THEN WE HAVE SOME PEOPLE THAT
18 HAVE LARGE BONDS THAT THEY CAN'T AFFORD TO PAY AT
19 ONCE. SO, I WORK OUT A PAYMENT PLAN WITH THEM, AND
20 WE HAVE TO CHECK THESE PEOPLE WEEKLY.

21 Q. TO MAKE SURE THEY'RE PAYING?

22 A. CORRECT, SIR.

23 Q. WHAT HAPPENS IF SOMEBODY DOESN'T SHOW UP FOR THEIR
24 COURT DATE?

25 A. IF THEY DON'T SHOW UP FOR THEIR COURT DATE, WE GET A

1 RED FLAG AND IMMEDIATELY START CALLING THE CO-SIGNER
2 LOOKING FOR THEM. USUALLY IT'S ME -- OR ME AND BILL
3 GO. SOMETIMES I'M OUT OF TIME, BECAUSE I TRAVEL A
4 LOT, AND AT THAT POINT, PATRICIA SOMETIMES WOULD GO
5 WITH BILL.

6 Q. SO, MS. FORE WOULD GO INTO THE FIELD TO TRACK DOWN
7 PEOPLE WHO HAD SKIPPED ON THEIR BOND HEARING?

8 A. YES, SIR. YES, SHE'S REAL GOOD ON FACEBOOK FINDING
9 PEOPLE. THAT'S AN EXCELLENT TOOL.

10 Q. WAS SHE PHYSICALLY GOING IN THE FIELD?

11 A. YEAH, SHE WENT WITH BILL, I KNOW FOR SURE ONE TIME.
12 I CAN'T REMEMBER HOW MANY TIMES EXACTLY, BUT I KNOW
13 A TIME PARTICULARLY. THEY WENT TO PICK A 85-POUND
14 WOMAN UP PROBABLY SOAKING WET, AND IT WAS A BIG
15 JOKE, BECAUSE THE LADY EVERY TIME BILL WOULD PULL
16 ONE HAND OFF, SHE WOULD GRAB HIM SOMEWHERE ELSE LIKE
17 A LITTLE SPIDER MONKEY. AND IT WAS PRETTY FUNNY.

18 Q. NOW, DO YOU RECALL THE CIRCUMSTANCES THAT LED TO MS.
19 FORE LEAVING ABC BAIL BONDS?

20 A. BASICALLY, I THINK SHE GOT GREEDY. BILL INFORMED ME
21 THAT SHE ---

22 BY MR. SAMUELS:

23 OBJECT TO HEARSAY, YOUR HONOR.

24 BY COMMISSIONER LYNDON:

25 RIGHT. THERE'S ---

1 BY MR. LICHTY:

2 HE'S SPEAKING AS ---

3 BY COMMISSIONER LYNDON:

4 WELL, JUST ANSWER THE SPECIFIC QUESTION, AND
5 YOU DON'T HAVE TO QUOTE ANYBODY NECESSARILY, BUT YOU
6 HAVE AN UNDERSTANDING OF WHAT HAPPENED, SO...

7 BY THE WITNESS:

8 YES, SIR.

9 BY MR. SAMUELS:

10 I CAN STILL OBJECT, YOUR HONOR. IT'S ELICITING
11 HEARSAY. HE'S ALREADY PROVIDED THE SOURCE WHERE HE
12 GOT THAT FROM, AND IT'S OBVIOUSLY HEARSAY.

13 BY COMMISSIONER LYNDON:

14 WELL, I'LL NOTE YOUR OBJECTION. HE CAN GO
15 AHEAD AND ANSWER THE QUESTION.

16 BY MR. LICHTY:

17 I'LL RESPOND TO THAT THAT IT'S CORPORATE
18 KNOWLEDGE.

19 DIRECT EXAMINATION RESUMED BY MR. LICHTY:

20 Q. AS THE OWNER OF THE COMPANY, WHAT IS YOUR
21 UNDERSTANDING AS TO WHY MS. FORE LEFT AND PARTED
22 WAYS?

23 A. SHE GAVE ME ONE OR TWO REASONS, AND THEN YOU HAVE
24 THE STUFF ON THE STREET, WHICH IS HEARSAY, I GUESS.

25 BY MR. SAMUELS:

1 OBJECT TO ANYTHING ABOUT KNOWLEDGE ON THE
2 STREET, YOUR HONOR.

3 BY COMMISSIONER LYNDON:

4 RIGHT. TRY TO STAY AWAY FROM THE HEARSAY.

5 BY THE WITNESS:

6 YES, SIR.

7 THE WITNESS RESUMES ANSWER:

8 A. SHE BASICALLY SAID SHE NEEDED TO MAKE MORE MONEY TO
9 PAY FOR THE DAYCARE, BECAUSE SHE WASN'T MAKING
10 ENOUGH HOURS TO PAY FOR HER CHILD'S DAYCARE, AND SHE
11 NEEDED TO GO AWAY. IN THE MEANTIME, AS THAT WEEKEND
12 WENT BY, SHE HAD THE KEYS TO THE OFFICE, AND WE
13 NOTICED A LOT OF PAPERWORK JUST STARTING TO
14 DISAPPEAR, JUST POOF, AND THAT'S WHEN BILL STARTED
15 BRINGING STUFF TO MY ATTENTION THAT A LOT OF THINGS
16 WERE DISAPPEARING. AND WE FOUND SOME TIME CARDS
17 THAT WE HAD PUT IN HER HUSBAND'S NAME, BECAUSE
18 THAT'S THE WAY SHE REQUESTED TO BE PAID, AND WE PAID
19 HER CASH, AND ALL OF THIS WAS BROUGHT UP TO ME, AND
20 BELIEVE ME, I'LL NEVER DO THIS AGAIN IN MY LIFE. IF
21 I GET PROSECUTED OR WHATEVER, I'LL PAY THE TIME;
22 I'LL PAY THE MONEY, BUT I'LL NEVER HIRE ANOTHER
23 PERSON UNDER THE TABLE, BECAUSE I DROVE EIGHT HOURS
24 HERE TO DEAL WITH THIS TODAY. SHE'S DONE EVERYTHING
25 SHE CAN TO SLANDER MY NAME AND RUN ME OUT OF

1 BUSINESS.

2 Q. WHEN MS. FORE WAS WORKING FOR YOU, HOW MUCH WERE YOU
3 PAYING HER PER HOUR?

4 A. EIGHT BUCKS AN HOUR.

5 Q. OKAY. WHEN SHE PARTED WAYS, HOW MUCH -- HOW MANY
6 HOURS A WEEK WAS SHE WORKING?

7 A. SHE WOULD WORK -- SHE STARTED WORKING ABOUT TEN
8 HOURS A WEEK. SHE GOT ALL THE WAY UP TO SOMETIMES
9 34 HOURS, SOMETIMES 30 HOURS, SOMETIMES -- IF WE HAD
10 A BUSY WEEKEND, SHE WOULD GET OVER 40.

11 Q. ON AVERAGE, DO YOU HAVE AN IDEA HOW MANY HOURS A
12 WEEK SHE WORKED?

13 A. ABOUT 30, 35. SOMETIMES THE BUSINESS IS THERE;
14 SOMETIMES IT'S NOT.

15 Q. SINCE -- SINCE SHE PARTED WAYS WITH ABC, HAVE YOU
16 SEEN MS. FORE WORKING?

17 A. OH, YEAH.

18 Q. OKAY.

19 A. YEAH, SHE RUBS IT IN MY FACE EVERY TIME SHE CAN.

20 Q. IS SHE CURRENTLY WORKING FOR A-1?

21 A. OH, YES, SIR.

22 Q. OKAY. WHAT WORK HAVE YOU ACTUALLY SEEN HER PERFORM
23 FOR A-1 BAIL BONDS?

24 A. WRITES BONDS, HARASSES CUSTOMERS FOR THE MONEY.
25 THEY COME TO ME WANTING TO CHANGE THEIR WHOLE BOND

1 TO COME TO WORK FOR ME -- I MEAN, NOT COME TO WORK
2 FOR ME, TO GET ON MY BOND. THIS IS WHAT GOES ON.

3 Q. NOW, DURING PART OF THIS, YOU TOOK SOME VIDEO
4 FOOTAGE OF MS. FORE; IS THAT CORRECT?

5 A. YES, SIR, WHEN I FOUND OUT SHE WAS BACK AT THE JAIL,
6 I DID.

7 Q. OKAY.

8 A. AND SHE TRIED TO HAVE ME ARRESTED FOR STALKING,
9 WHICH I GOT A GOOD BEHAVIOR WARRANT. IT WAS TOOK IN
10 A PUBLIC PLACE. SO, THE JUDGE JUST BASICALLY SAID,
11 "LOOK, WE'RE BOTH OFFICERS OF THE COURT, AND HE
12 DOESN'T WANT THIS IN HIS COURT," AND I AGREED, AND I
13 WON'T EVER TAKE ANOTHER PICTURE OF HER.

14 Q. I SUBMITTED THE SURVEILLANCE INTO EVIDENCE. THE
15 FIRST PART OF IT, IS THAT A PICTURE OF MS. FORE
16 SITTING WITH A CLIENT IN THE JAILHOUSE?

17 A. YES, SIR.

18 Q. OKAY. THE SECOND PART OF IT IS YOU, ARE YOU AT A
19 TABLE WITH MS. FORE?

20 A. YES, SIR.

21 Q. AND WHO IS THE WOMAN SITTING NEXT TO MS. FORE?

22 A. IT'S A LADY THEY JUST HIRED, ANOTHER LADY MARY, I
23 BELIEVE, THAT HAD COME INTO THE OFFICE AND WANTED A
24 JOB WHEN PATRICIA WAS WORKING FOR ME. IT WAS KIND
25 OF A STREET HUSTLER. SHE WAS TRYING TO FIGURE HER

1 PLACE OUT THE WAY I FELT.

2 Q. HOW DID YOU RUN INTO MS. FORE THAT DAY WHEN YOU TOOK
3 THAT VIDEO?

4 A. I WAS GOING TO GET A BOND AT THE JAIL.

5 Q. OKAY. WHAT WAS SHE DOING THERE?

6 A. SHE WAS SITTING THERE WAITING TO GET A YOUNG MAN OUT
7 OF JAIL WITH HIS MOTHER.

8 Q. THE LAST PART OF THAT VIDEO APPEARS TO SHOW MS. FORE
9 AT A BUILDING. WHAT BUILDING WAS THAT?

10 A. THAT'S THE LEE COUNTY JAIL, CRIMINAL JUSTICE
11 BUILDING.

12 Q. OKAY. AND BASED ON YOUR OBSERVATION, WHAT WAS MS.
13 FORE DOING THERE?

14 A. SHE HAD A FILE IN HER HAND. SHE WAS SITTING THERE
15 WITH A WORRIED MOTHER. I KNOW THAT LOOK ON ANY
16 WOMAN'S FACE ABOUT THEIR CHILD. THE YOUNG MAN CAME
17 OUT. SHE LOOKED RELIEVED WHEN HE WALKED UP TO HER.
18 SHE PUT THE PIECE OF PAPER IN THERE, AND THEY LEFT.

19 Q. ARE YOU AWARE WHETHER MS. FORE IS GETTING PAID RIGHT
20 NOW?

21 A. WELL, FROM WHAT I UNDERSTAND, SHE'S MAKING ABOUT 40
22 PERCENT.

23 **BY MR. SAMUELS:**

24 I OBJECT TO LACK OF PERSONAL KNOWLEDGE, YOUR
25 HONOR, AND LACK OF FOUNDATION.

1 BY COMMISSIONER LYNDON:

2 I'LL NOTE YOUR -- I SUSTAIN THE OBJECTION.

3 DIRECT EXAMINATION RESUMED BY MR. LICHTY:

4 Q. WHAT ARE YOU BASING THAT INFORMATION ON?

5 A. SHE HAD A CONVERSATION WITH BILL, AND ---

6 BY MR. SAMUELS:

7 OBJECTION, YOUR HONOR. THAT'S HEARSAY.

8 BY THE WITNESS:

9 YEAH, AND AT THAT POINT ---

10 BY COMMISSIONER LYNDON:

11 WELL, SUFFICE IT TO SAY, HE SAYS SHE'S WORKING.

12 YOU KNOW, WHATEVER SHE MAKES IS UNKNOWN AND WILL BE
13 UNKNOWN APPARENTLY.

14 BY MR. SAMUELS:

15 YOUR HONOR, I THINK HE HAS NO KNOWLEDGE THAT
16 SHE IS BEING PAID, PERIOD. NO FIRSTHAND KNOWLEDGE.

17 BY COMMISSIONER LYNDON:

18 HE MAY NOT HAVE FIRSTHAND KNOWLEDGE THAT SHE'S
19 BEING PAID, BUT HE HAS TESTIFIED UNDER OATH THAT SHE
20 IS WORKING.

21 DIRECT EXAMINATION RESUMED BY MR. LICHTY:

22 Q. FINALLY, I JUST WANTED TO ADDRESS THE WARRANT REAL
23 QUICK. YOU SAID THERE'S A GOOD BEHAVIOR WARRANT?

24 A. MM-HMM.

25 Q. IT'S MY UNDERSTANDING THAT ORDER WAS A RESTRAINING

1 ORDER THAT WAS DIRECTED AT BOTH YOU AND MS. FORE FOR
2 Y'ALL TO STAY APART?

3 A. YES, SIR. SHE INITIATED IT.

4 **BY MR. LICHTY:**

5 THAT'S ALL THE QUESTIONS I HAVE.

6 **BY COMMISSIONER LYNDON:**

7 OKAY. MS. SAMUELS.

8 **CROSS EXAMINATION BY MR. SAMUELS:**

9 Q. MR. MCGOWAN, YOU KNEW AND YOU KNOW THAT PATRICIA HAS
10 MAJOR BACK PROBLEMS; ISN'T THAT TRUE?

11 A. NOT REALLY. I KNOW SHE -- I KNOW HER BACK IS
12 HURTING.

13 Q. SO, YOU'VE NEVER NOTICED HER HAVING ANY PROBLEMS
14 WITH HER BACK?

15 A. SHE'S STIFF EVERY NOW AND THEN.

16 Q. YOU NEVER NOTICED HER COMPLAINING OF PAIN?

17 A. YEAH.

18 Q. YOU HAVE NOTICED HER COMPLAINING OF PAIN?

19 A. YEAH, SHE SAID, "MY BACK IS HURTING TODAY."

20 Q. SHE TELLS YOU A LOT, DIDN'T SHE?

21 A. NOT REALLY.

22 Q. SHE WAS TAKING VICODIN WHEN SHE WAS WORKING FOR YOU;
23 WASN'T SHE?

24 A. SHE TAKES ALL KINDS OF STUFF, SIR.

25 Q. VICODIN, RIGHT?

1 A. I GUESS. I DON'T KNOW. SHE TAKES TYLENOL. SHE
2 TAKES COLD MEDICINE. YOUR JOB IS TO UPSET ME TODAY,
3 CORRECT?

4 BY COMMISSIONER LYNDON:

5 JUST ANSWER THE QUESTIONS.

6 BY THE WITNESS:

7 YES, SIR.

8 CROSS EXAMINATION RESUMED BY MR. SAMUELS:

9 Q. MR. MCGOWAN, YOU ACTUALLY TAKE A LOT OF DRUGS,
10 ILLEGAL DRUGS LIKE MARIJUANA; ISN'T THAT TRUE?

11 A. NAH.

12 Q. IS THAT A NO?

13 A. NO.

14 Q. AND YOU ARE HERE TODAY, AND YOU'VE ACCUSED PATRICIA
15 OF INSURANCE FRAUD; ISN'T THAT TRUE?

16 A. YES, SIR.

17 Q. AND THE BASIS FOR YOUR ALLEGATION OF INSURANCE FRAUD
18 IS THAT SHE WAS WORKING FOR YOU; ISN'T THAT TRUE?

19 A. MM-HMM.

20 Q. IS THAT A YES?

21 A. SHE ALSO WORKS FOR ANOTHER COMPANY NOW.

22 Q. YOU HAVE NO WAY OF KNOWING WHETHER OR NOT MS. FORE
23 HAS ACTUALLY RECEIVED A PAYCHECK. YOU'VE NEVER SEEN
24 A CHECK, HAVE YOU, FROM ---

25 A. SHE WOULDN'T GET ---

1 Q: --- A-1 BONDING?

2 A. SHE WOULDN'T GET A CHECK FROM HIM.

3 Q. THAT WASN'T MY QUESTION, SIR. YOU'VE NEVER SEEN A
4 CHECK, HAVE YOU?

5 A. (NO VERBAL RESPONSE)

6 Q. HAVE YOU?

7 A. YOU'RE GOING TO HAVE TO REPHRASE YOUR QUESTION.

8 Q. YOU HAVE NEVER SEEN A PAYCHECK FROM A-1 BONDING TO
9 PATRICIA FORE, HAVE YOU?

10 A. IF IT REQUIRES MONIES, NO.

11 Q. YOU DO KNOW THAT YOU ABOUT PUT TONY OWENS OUT OF
12 BUSINESS THOUGH AS YOUR COMPETITOR, HAVEN'T YOU?

13 A. NO, SIR, HE'S PUT HIMSELF OUT OF BUSINESS.

14 Q. NOW, WOULDN'T YOU AGREE THAT IF PATRICIA FORE WAS
15 COMMITTING FRAUD, YOU WERE YOU ACCOMPLIS?

16 A. NO, SIR.

17 Q. WELL, YOU KNEW SHE WAS ON WORKERS' COMP, DIDN'T YOU?

18 A. YEAH. ALSO YOU DID, TOO. YOU SAID SHE COULD WORK,
19 CORRECT?

20 **BY MR. SAMUELS:**

21 YOUR HONOR.

22 **BY COMMISSIONER LYNDON:**

23 YOU NEED TO JUST ANSWER HIS QUESTIONS IF YOU
24 WOULD, PLEASE.

25 **BY THE WITNESS:**

1 I DON'T KNOW.

2 CROSS EXAMINATION RESUMED BY MR. SAMUELS:

3 Q. YOU KNEW SHE WAS ON WORKERS' COMP, RIGHT?

4 A. YEAH.

5 Q. AND YOU KNEW THAT HER DOCTOR WAS ALLOWING HER AND
6 RECOMMENDING THAT SHE TRY TO WORK, WASN'T HE?

7 A. NOW, THAT I DON'T KNOW.

8 Q. BUT YOU BELIEVED -- DO YOU BELIEVE SHE WAS
9 COMMITTING FRAUD AT THAT TIME?

10 BY MR. LICHTY:

11 OBJECTION.

12 BY THE WITNESS:

13 I BELIEVE SHE'S ---

14 BY COMMISSIONER LYNDON:

15 YOUR OBJECTION IS WHAT?

16 BY MR. LICHTY:

17 THAT CALLS FOR A LEGAL CONCLUSION.

18 BY COMMISSIONER LYNDON:

19 AND IT DOES. WE CAN MOVE ON.

20 CROSS EXAMINATION RESUMED BY MR. SAMUELS:

21 Q. DID YOU CALL UP GARY SMITH AT THE WORKERS' COMP
22 COMMISSION AND TELL HIM THAT YOU THOUGHT THAT MS.
23 FORE WAS COMMITTING FRAUD?

24 A. NOW, WHO IS GARY SMITH?

25 Q. ANYBODY AT THE COMMISSION, THE WORKERS' COMP

1 COMMISSION OF SOUTH CAROLINA.

2 A. I CALLED, I BELIEVE IT WAS A.I.G. I TOLD THEM SHE
3 HAD WORKED FOR ME, AND SHE HAD LEFT AND WORKED FOR
4 TONY OWENS.

5 Q. DID YOU GIVE HER A W-2 FOR THE WORK SHE DID FOR YOU?

6 A. NO.

7 Q. DID YOU GIVE HER A 1099?

8 A. NOPE. I CAN GET YOU ONE THOUGH IF YOU NEED ONE.

9 Q. DID YOU PAY THE PAYROLL TAXES YOU'RE REQUIRED TO PAY
10 WHEN YOU HAVE AN EMPLOYEE?

11 A. NOPE, BUT I PAID IT ON MY OTHER ONES.

12 Q. SO, YOU WERE COMMITTING TAX FRAUD WITH THE FEDERAL
13 GOVERNMENT; IS THAT TRUE?

14 **BY MR. LICHTY:**

15 OBJECTION, YOUR HONOR.

16 **BY THE WITNESS:**

17 YES, SIR. AND TONY ---

18 **BY MR. LICHTY:**

19 THAT CALLS FOR A LEGAL CONCLUSION.

20 **BY COMMISSIONER LYNDON:**

21 WELL, HE'S ALREADY ADMITTED HE WAS PAYING HER
22 UNDER THE TABLE. WE CAN MOVE ON.

23 **BY THE WITNESS:**

24 YEAH, I MEAN, I'M NOT SCARED. I MEAN, I'LL PAY
25 ANY FINE OR JAIL TIME, WHATEVER I'VE DONE, BUT I'M

1 NOT GOING TO GO DOWN ALONE HERE.

2 CROSS EXAMINATION RESUMED BY MR. SAMUELS:

3 Q. ALL RIGHT. HAVE YOU REPORTED TO THE I.R.S. THAT YOU
4 COMMITTED TAX FRAUD?

5 A. NO, SIR.

6 Q. HAVE YOU REPORTED TO THE SOUTH CAROLINA ATTORNEY
7 GENERAL OR A.I.G. THAT YOU COMMITTED INSURANCE
8 FRAUD?

9 A. NO, SIR. I TOLD THEM THAT SHE WORKED FOR ME, AND I
10 TOLD THEM SHE WAS ON WORK COMP. SO, I GUESS I HAVE
11 TOLD A.I.G.

12 Q. YOU CAN CERTAINLY AFFORD TO PAY YOUR TAXES, RIGHT?

13 A. YES, SIR. I HAVE TO PAY THEM EVERY YEAR.

14 Q. IN FACT, YOU'RE A MILLIONAIRE; YOU WON 7.7 MILLION
15 DOLLARS IN THE LOTTERY IN 2005; ISN'T THAT TRUE?

16 A. NO, MY WIFE WON 14.7 MILLION DOLLARS IN THE LOTTERY.

17 Q. THE FACT THAT YOU'RE A MILLIONAIRE IS NOT ENOUGH.
18 YOU STILL WANT TO PUT EVERYBODY ELSE OUT OF BUSINESS
19 ---

20 BY MR. LICHTY:

21 OBJECTION, YOUR HONOR. HE IS BADGERING THE
22 WITNESS.

23 CROSS EXAMINATION RESUMED BY MR. SAMUELS:

24 Q. --- LIKE TONY OWENS; ISN'T THAT TRUE?

25 A. YOU'RE TRYING, AIN'T YOU, BUDDY?

1 BY COMMISSIONER LYNDON:

2 I SUSTAIN THE OBJECTION.

3 BY THE WITNESS:

4 YOU GOT TO DO BETTER, SIR.

5 BY MR. SAMUELS:

6 YOUR HONOR, I WOULD LIKE YOU TO TAKE JUDICIAL
7 NOTICE THAT THE WITNESS IS HOSTILE, AND THE WITNESS
8 IS ABUSIVE, AND THE WITNESS IS NOT COOPERATING TO
9 THE QUESTIONS I'M ASKING.

10 BY COMMISSIONER LYNDON:

11 I CAN'T READ HIS MIND. HE'S UNDER OATH. I'VE
12 HEARD WHAT HE SAID, AND I'LL GIVE IT WHAT WEIGHT I
13 THINK IS NECESSARY. WE CAN MOVE ON.

14 CROSS EXAMINATION RESUMED BY MR. SAMUELS:

15 Q. AND WHAT YOU'VE BEEN DOING, PART OF YOUR WAY TO PUT
16 TONY OWENS OUT OF BUSINESS IS TO INTIMIDATE AND
17 HARASS PATRICIA FORE?

18 BY MR. LICHTY:

19 OBJECTION, YOUR HONOR. HE'S STILL BADGERING
20 THE WITNESS.

21 BY COMMISSIONER LYNDON:

22 AND I AGREE.

23 CROSS EXAMINATION RESUMED BY MR. SAMUELS:

24 Q. TO THE POINT WHERE SHE TOOK OUT A RESTRAINING ORDER
25 AGAINST YOU; ISN'T THAT TRUE?

1 A. SHE TRIED. IT WASN'T RESTRAINING, SIR. YOU NEED TO
2 READ YOUR DOCUMENT. IT'S A STALKING ORDER.

3 Q. WELL, IN A QUESTION YOUR ATTORNEY ASKED YOU, HE
4 ASKED YOU TO CONFIRM IT WAS A RESTRAINING ORDER, AND
5 YOU AGREED. ARE YOU CHANGING YOUR TESTIMONY?

6 A. NO, SIR. I'VE GOT THE DOCUMENT RIGHT IN FRONT OF
7 YOU. YOU CAN READ THE OUTCOME.

8 Q. YES, SIR. I'D BE HAPPY TO SHOW YOU THIS DOCUMENT.
9 I WOULD LIKE TO INTRODUCE IT AS CLAIMANT'S EXHIBIT
10 FIVE.

11 A. AND I HAVE A VIDEO -- NOT A VIDEO, EXCUSE ME, SIR,
12 AN AUDIO OF THE WHOLE HEARING WHERE SHE INCRIMINATED
13 HERSELF AT THE HEARING.

14 Q. I'M SORRY. YOU REPORTED A COURT HEARING
15 CLANDESTINELY; IS THAT YOUR TESTIMONY?

16 A. NO, SIR. I GOT IT FROM THE COURT.

17 (COURT REPORTER MARKS DOCUMENT CLAIMANT'S EXHIBIT NUMBER
18 FIVE, RETAINED IN THE COMMISSION FILE)

19 CROSS EXAMINATION RESUMED BY MR. SAMUELS:

20 Q. YOU WOULD AGREE THAT YOU'RE NOT TO BE WITHIN 500
21 FEET OF MS. FORE; ISN'T THAT TRUE?

22 A. YEP.

23 Q. SO, TODAY BY COMING HERE ON YOUR OWN RECOGNIZANCE --
24 YOU WEREN'T SUBPOENAED, RIGHT?

25 A. NO, SIR. I ASKED THE JUDGE IF I COULD COME HERE,

1 AND HE SAID I COULD.

2 Q. SO, YOU ARE HERE TODAY IN VIOLATION OF A REQUIREMENT
3 THAT YOU CANNOT BE WITHIN 500 FEET OF PATRICIA FORE;
4 IS THAT CORRECT?

5 A. IF THAT'S WHAT YOU SAY, SIR. YOU'RE THE ONE
6 SHOOTING THE BULLETS HERE.

7 Q. IS THAT A YES, SIR? IS THAT WHAT YOU'RE SAYING,
8 YES?

9 A. I'M NOT VIOLATING ANY LAW THAT I KNOW OF.

10 Q. OTHER THAN THE ORDER TO BE WITHIN 500 FEET OF
11 PATRICIA FORE, CORRECT?

12 A. THAT'S FINE. IF THAT'S WHAT YOU SAY, SIR. WE'RE IN
13 ANOTHER STATE, UNDER THE LAW. I'M HERE TO TRY TO
14 PROTECT MYSELF. I'M HERE TO TELL THE TRUTH, WHETHER
15 IT BRINGS ME DOWN OR IT BRINGS ME UP. YOUR JOB IS
16 TO MAKE AS MUCH MONEY AS YOU CAN FOR THESE CLIENTS
17 SO YOU CAN GET YOUR CUT, WITH ALL DUE RESPECT.

18 Q. MR. MCGOWAN, DO YOU REPORT THE MONEY THAT YOU
19 RECEIVE FROM JAILHOUSE EMPLOYEES FOR -- CORRECT
20 THAT. DO YOU REPORT THE MONEY YOU PAY TO EMPLOYEES
21 OF THE JAILHOUSE FOR REFERRING BONDS TO YOU?

22 A. PAY EMPLOYEES AT THE JAILHOUSE?

23 Q. YES, SIR.

24 A. WHAT DOES THAT MEAN? I'VE NEVER PAID ANYBODY AT
25 THAT JAIL. WHY WOULD I DO THAT?

1 BY MR. SAMUELS:

2 I HAVE NO FURTHER QUESTIONS AT THAT TIME, YOUR
3 HONOR.

4 BY COMMISSIONER LYNDON:

5 MR. LICHTY.

6 RE-DIRECT EXAMINATION BY MR. LICHTY:

7 Q. MR. MCGOWAN, ARE YOU HERE BECAUSE I ASKED YOU TO BE
8 HERE?

9 A. YES, SIR.

10 Q. OKAY.

11 A. I DROVE ALL THROUGH THE NIGHT. I JUST GOT BACK FROM
12 CHICAGO.

13 BY MR. LICHTY:

14 THAT'S ALL THE QUESTIONS I HAVE, YOUR HONOR.

15 BY COMMISSIONER LYNDON:

16 OKAY. YOU CAN BE EXCUSED. HE CAN GO ON BACK
17 TO, WAS IT, GEORGIA?

18 BY THE WITNESS:

19 YES, SIR.

20 BY COMMISSIONER LYNDON:

21 AND THE NEXT WITNESS, I'M JUST GOING TO LEAVE
22 THE ROOM.

23 BY MR. SAMUELS:

24 WE PROFFER TONY OWENS AT THIS TIME.

25 (PROFFERED TESTIMONY OF TONY LEE OWENS ATTACHED)

1 BY COMMISSIONER LYNDON:

2 ARE THERE ANY OTHER WITNESSES?

3 BY MR. LICHTY:

4 NONE FROM THE DEFENDANTS.

5 BY MR. SAMUELS:

6 NO, YOUR HONOR.

7 BY COMMISSIONER LYNDON:

8 IF THERE IS NOTHING ELSE, THAT CONCLUDES THE
9 HEARING.

10 (THERE BEING NO FURTHER QUESTIONS, THIS HEARING WAS
11 CONCLUDED AT THE HOUR OF 1:34 P.M.)

CERTIFICATE OF NOTARY PUBLIC
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
COLUMBIA, SOUTH CAROLINA
WCC FILE NO. 0810152

EMPLOYEE/CLAIMANT: PATRICIA FORE

EMPLOYER: GRIFFCO OF WAMPEE, INC.

INSURER: COMMERCE & INDUSTRY INSURANCE COMPANY

I, JAN L. WHITWORTH, A NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA, DULY COMMISSIONED AND QUALIFIED AS SUCH, DO HEREBY CERTIFY THAT THE FOREGOING 93 PAGES REPRESENTS A TRUE AND ACCURATE TRANSCRIPT OF THE FOREGOING HEARING OF **PATRICIA FORE** TAKEN ON THE 27TH DAY OF SEPTEMBER, 2011.

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 THIS 15TH DAY OF OCTOBER, 2011.

JAN L. WHITWORTH
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: 3-12-2014

* THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL IS REPRODUCED AS READ OR QUOTED BY THE SPEAKER.

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
COLUMBIA, SOUTH CAROLINA
WCC FILE NO. 0810152

 **COPY**

EMPLOYEE/CLAIMANT: PATRICIA FORE

EMPLOYER: GRIFFCO OF WAMPEE, INC.

INSURER: COMMERCE & INDUSTRY INSURANCE COMPANY

SOUTH CAROLINA WORKERS' COMPENSATION HEARING

PROFFERED TESTIMONY OF TONY LEE OWENS

JAN L. WHITWORTH
VERBATIM REPORTER

JAN L. WHITWORTH
COURT REPORTING SERVICES
POST OFFICE BOX 551
ROEBUCK, S.C. 29376

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1 BY THE COURT REPORTER:

2 SIR, IF YOU COULD RAISE YOUR RIGHT HAND.

3 * * * * *

4 THE WITNESS WAS DULY SWORN TO TELL THE TRUTH, THE
5 WHOLE TRUTH, AND NOTHING BUT THE TRUTH CONCERNING THE
6 MATTER HEREIN:

7 TONY LEE OWENS

8 BEING FIRST DULY SWORN, TESTIFIED ON HIS OATH AS FOLLOWS:

9 BY THE COURT REPORTER:

10 WOULD YOU STATE YOUR FULL NAME FOR THE RECORD.

11 BY THE WITNESS:

12 TONY LEE OWENS.

13 BY THE COURT REPORTER:

14 OKAY, THANK YOU.

15 DIRECT EXAMINATION BY MR. SAMUELS:

16 Q. MR. OWENS, JUST SO YOU UNDERSTAND, YOU'RE GOING TO
17 TESTIFY AS IF THE COMMISSIONER WAS HERE, BUT HE HAS
18 OBJECTED OR HE SUSTAINED MR. LICHTY'S OBJECTION TO
19 YOUR TESTIFYING, AND WE ARE GOING TO HAVE YOU
20 TESTIFY OUTSIDE THE PRESENCE OF THE COMMISSIONER.
21 BUT YOU ARE STILL UNDER OATH. IT WILL BE LIKE
22 REGULAR TESTIMONY. DO YOU UNDERSTAND?

23 A. NO, NOT REALLY, BUT OKAY.

24 Q. ARE YOU THE OWNER OF A-1 BAIL BONDS?

25 A. YES.

1 Q. AND DO YOU KNOW PATRICIA FORE?

2 A. YES.

3 Q. HOW LONG HAVE YOU KNOWN HER?

4 A. I DON'T KNOW, A FEW YEARS.

5 Q. DID YOU KNOW HER BEFORE SHE MOVED TO SOUTH CAROLINA?

6 A. I KNEW OF HER AND HAD MET HER, BUT I DIDN'T REALLY
7 KNOW HER. I KNEW HER HUSBAND.

8 Q. DID YOU KNOW THAT SHE HAD A BONDING LICENSE?

9 A. WHEN? YEAH.

10 Q. IN LATE 2010, EARLY 2011?

11 A. YEAH, I KNEW THAT.

12 Q. AND DID YOU KNOW THAT SHE WAS WORKING FOR ABC
13 BONDING?

14 A. YEAH.

15 Q. DID YOU KNOW THAT SHE HAD STOPPED WORKING AT ABC
16 BONDING BECAUSE OF BACK PAIN?

17 A. YEAH. WELL, I DIDN'T KNOW THE REASON, BUT I KNEW
18 SHE WASN'T WORKING THERE.

19 Q. AND DID YOU AT SOME POINT APPROACH HER ABOUT HELPING
20 YOU OUT?

21 A. YEAH.

22 Q. EXPLAIN HOW THAT HAPPENED.

23 A. I DON'T REALLY REMEMBER. WE -- WE TALKED ABOUT IT.
24 SHE SAID "WELL, I'M NOT WORKING FOR THEM, AND I KNOW
25 YOU'VE GOT A LOT OF HEALTH PROBLEMS. IF YOU NEED

1 SOME HELP, THEN I'LL HELP YOU OUT AND DO WHAT I
2 CAN."

3 Q. WERE YOU HAVING TROUBLE WITH YOUR BUSINESS AT THAT
4 TIME?

5 A. YES.

6 Q. AND WERE YOU ABLE TO HELP HER WITH KEEPING HER BOND
7 LICENSE IN EFFECT?

8 A. YES.

9 Q. EXPLAIN TO ME HOW THAT WORKS.

10 A. YOU HAVE TO HAVE EIGHT -- EIGHT HOURS OF CONTINUING
11 EDUCATION AND YOU HAVE TO BE AFFILIATED WITH A
12 COMPANY. AND SO, JUST PUT HER NAME DOWN, AND SHE'S
13 AFFILIATED WITH MINE.

14 Q. OKAY.

15 A. AND SHE GETS REGISTERED AS MINE.

16 Q. AND TO MAKE THAT HAPPEN, DID SHE HAVE TO DO ONE BOND
17 FOR YOU?

18 A. YES.

19 Q. AND I'M GOING TO SHOW YOU CLAIMANT'S EXHIBIT TWO.
20 DO YOU RECOGNIZE THIS DOCUMENT?

21 A. YEAH, THAT'S FROM THE JAIL.

22 Q. OKAY. AND THIS LOG IN, IS THIS A LOG IN FOR THE
23 BONDS DONE BY TONY OWENS BONDING?

24 A. MM-HMM.

25 Q. IS THAT A YES?

1 A. YES.

2 Q. AND THAT'S YOUR COMPANY?

3 A. A-1 BAIL BONDS.

4 Q. OKAY.

5 A. OR TONY OWENS BONDING, YEAH.

6 Q. ALL RIGHT.

7 A. THEY JUST PUT MY NAME ON THERE.

8 Q. AND FROM THE RECORD HERE, IT LOOKS LIKE SHE DID THAT

9 FIRST BOND ON FEBRUARY 5TH, IS THAT RIGHT?

10 A. I GUESS. I DON'T REMEMBER WHEN IT WAS, BUT, YEAH.

11 Q. WELL, THIS ---

12 A. IF IT SAYS IT, THEN THAT'S WHEN IT WAS.

13 Q. ALL RIGHT. AND THEN AS WE LOOK THROUGH THIS, THERE

14 ARE NO BONDS MARCH, APRIL, MAY, JUNE, UNTIL JULY,

15 AND THEN IT LOOKS LIKE JULY THE 7TH, SHE STARTS

16 DOING SOME MORE BONDS FOR YOU; IS THAT RIGHT?

17 A. YEAH.

18 Q. AND FROM THE RECORDS, IT LOOKS LIKE WE HAVE FIVE

19 BONDS IN JULY, 12 BONDS IN AUGUST, AND THEN ONE LAST

20 ONE IN SEPTEMBER. DOES THAT SOUND ABOUT RIGHT?

21 A. YEAH, THAT SOUNDS ABOUT RIGHT.

22 Q. NOW, DID YOU ALSO ASK HER TO DO SOME ADVERTISING FOR

23 YOU?

24 A. NO, NOT REALLY.

25 Q. WELL, SPECIFICALLY AS FAR AS PUTTING YOUR BUSINESS

1 NAME AND NUMBER ON THE BACK OF HER TRUCK?

2 A. NO, SHE -- WE TALKED ABOUT IT, AND SHE SAID "MY
3 TRUCK SITS RIGHT ACROSS FROM THE COURTHOUSE." I
4 SAID, "YEAH, WE COULD JUST PUT THAT ON THE BACK, AND
5 THEN, YOU KNOW, THEY WOULD SEE IT GOING IN WHEN THEY
6 GO INTO THE -- TO THE HEARING TO GET THEIR BOND
7 SET."

8 Q. OKAY. AND THIS IS PARKED -- WELL, IT'S PARKED AT
9 HER HOUSE?

10 A. MM-HMM.

11 Q. IS THAT A YES?

12 A. YES.

13 Q. OKAY. AND THE STUFF SHE DID FOR YOU, SHE NEVER DID
14 ANYTHING FOR YOU IN YOUR OFFICE, DID SHE?

15 A. NO, SHE NEVER EVEN WENT IN MY OFFICE.

16 Q. NOW, AT SOME POINT, I SAID -- DURING JULY, WERE YOU
17 HAVING SOME REALLY BAD HEALTH PROBLEMS IN JULY?

18 A. SINCE JULY, I'VE BEEN HAVING SOME REALLY BAD HEALTH
19 PROBLEMS.

20 Q. IS THAT WHY PATRICIA WAS DOING THE BONDS FOR YOU
21 INSTEAD OF YOU DOING THEM YOURSELF?

22 A. YEAH.

23 Q. DID SHE ALSO HELP YOU OUT HELPING AN ACTUAL
24 EMPLOYEE?

25 A. YES.

1 Q. AND WHO DID SHE FIND FOR YOU?

2 A. MARY WEAVER.

3 Q. DID PATRICIA HELP MARY GET LICENSED?

4 A. MM-HMM.

5 Q. IS THAT A YES?

6 A. YES.

7 Q. DO YOU PAY MARY?

8 A. YES.

9 Q. WHAT DO YOU PAY MARY?

10 A. I PAY HER A PERCENTAGE OF WHATEVER BOND SHE DOES.

11 Q. WHAT PERCENTAGE DO YOU PAY HER?

12 A. THIRTY.

13 Q. AND HOW MUCH MONEY DOES THAT WORK OUT TO ON AVERAGE

14 PER BOND?

15 A. IT DEPENDS. IT VARIES EVERY MONTH. SHE'S NOT

16 MAKING A WHOLE LOT OF MONEY. I MEAN, WE'RE NOT

17 DOING THAT MANY BONDS AS YOU CAN SEE.

18 Q. HOW MUCH MONEY DO YOU THINK YOU'RE PAYING MARY?

19 A. SIX OR EIGHT HUNDRED A MONTH, MAYBE.

20 Q. OKAY.

21 A. MAYBE A THOUSAND. IT JUST DEPENDS ON THE BONDS, YOU

22 KNOW. LIKE IN SEPTEMBER, WE HAD TWO.

23 Q. OKAY.

24 A. SO, SHE HASN'T MADE VERY MUCH.

25 Q. DID YOU PAY PATRICIA?

1 A. NO.

2 Q. DO YOU ---

3 A. WELL, I GAVE HER SOME GAS MONEY. I MEAN, BECAUSE
4 SHE WAS -- TOOK SOME BONDS UP TO THE JAIL FOR ME. I
5 GAVE HER SOME GAS MONEY, BUT...

6 Q. HOW MUCH DO YOU THINK YOU GAVE HER IN GAS MONEY?

7 A. IT WASN'T BUT LIKE 20 BUCKS OR SOMETHING. IT WASN'T
8 MUCH.

9 Q. IF YOU HAD -- DID WHAT PATRICIA DID HELP TO SAVE
10 YOUR BUSINESS?

11 A. IT HAS HELPED MY BUSINESS JUST BY HER NAME, BECAUSE
12 SHE KNOWS A LOT OF PEOPLE, AND THEY KNEW SHE WAS
13 DOING IT BEFORE. SO, I GUESS YES.

14 Q. HAS SHE EVER BEEN YOUR EMPLOYEE?

15 A. NO.

16 Q. AND FROM YOUR OBSERVATION, IS SHE PHYSICALLY ABLE
17 AND CAPABLE OF WORKING FULL TIME AS A BONDSMAN?

18 A. NO. IF SHE WAS, WE WOULD PROBABLY COULD HAVE SAVED
19 THE OFFICE, AND SHE COULD HAVE WORKED DOWN THERE AND
20 SAVED THAT OFFICE FOR ME.

21 Q. IF SHE COULD HAVE WORKED FOR YOU, WOULD YOU HAVE
22 HIRED HER?

23 A. YEAH, IF SHE COULD HAVE. BUT, SHE WASN'T IN THE
24 SHAPE TO DO IT EITHER.

25 Q. DO YOU KNOW STEVE MCGOWAN?

1 A. YEAH.

2 Q. WHAT IS STEVE MCGOWAN'S REPUTATION IN THE COMMUNITY?

3 BY MR. LICHTY:

4 OBJECTION, CALLS FOR SPECULATION.

5 DIRECT EXAMINATION RESUMED BY MR. SAMUELS:

6 Q. HOW LONG HAVE YOU LIVED IN THE TOWN YOU LIVE IN?

7 A. SINCE 1981.

8 Q. AND WHAT'S THE POPULATION OF THE TOWN?

9 A. SHOOT, I DON'T EVEN HAVE A CLUE.

10 Q. BIG TOWN OR SMALL TOWN?

11 A. IT'S A SMALL TOWN.

12 Q. DO YOU KNOW A LOT OF PEOPLE IN THE COMMUNITY?

13 A. MM-HMM.

14 Q. IS THAT A YES?

15 A. YES.

16 Q. OKAY. AND ARE YOU FAMILIAR WITH STEVE MCGOWAN
17 PERSONALLY?

18 A. YES.

19 Q. ARE YOU FAMILIAR WITH STEVE MCGOWAN'S REPUTATION IN
20 THE COMMUNITY?

21 A. YES.

22 Q. WHAT IS HIS REPUTATION IN THE COMMUNITY?

23 BY MR. LICHTY:

24 OBJECTION, CALLS FOR SPECULATION.

25 THE WITNESS ANSWERS:

1 A. I HELPED HIM START HIS BUSINESS, GAVE HIM THE
2 PAPERWORK HE NEEDED TO BE ABLE TO BOND, AND WE WERE
3 SUPPOSED TO BE PARTNERS. AND HE CHEATED ME OUT OF
4 MY MONEY AND LIED TO ME ABOUT EVERYTHING THAT COME
5 OUT OF HIS MOUTH. I LEFT HIS OFFICE AND WENT AND
6 TOLD THE SHERIFF WHY I WAS LEAVING HIS OFFICE AND
7 JUST GOING DOWN THE ROAD AND CONTINUING WITH MY OWN
8 COMPANY. AND HE DOESN'T TELL THE TRUTH, AND EVER
9 SINCE I'VE DONE THAT, HE'S DONE NOTHING BUT TRY TO
10 GOUGE ME AND DO ANYTHING AGAINST ME HE COULD TO PUT
11 ME OUT OF BUSINESS.

12 Q. DOES THAT INCLUDE HARASSING ---

13 A. YES.

14 Q. --- YOU?

15 A. YES.

16 Q. DOES THAT INCLUDE HARASSING PATRICIA FORE?

17 A. YES, IT DOES, AND ANYONE -- ANYONE ELSE THAT IS
18 FRIENDS OF MINE.

19 BY MR. SAMUELS:

20 I HAVE NO FURTHER QUESTIONS. PLEASE, ANSWER
21 ANY QUESTIONS MR. LICHTY HAS FOR YOU.

22 CROSS EXAMINATION RESUMED BY MR. LICHTY:

23 Q. MR. OWENS, WHY DO YOU HAVE A CANE?

24 A. BECAUSE I HAVE BACK PROBLEMS.

25 Q. HOW DID YOU GET YOUR BACK PROBLEMS?

1 A. LIFTING AS A PARAMEDIC.

2 Q. A WORKERS' COMP CLAIM?

3 A. YEAH, BUT I NEVER WENT -- ALL THEY DID WAS PAY FOR
4 MY MEDICAL BILLS AND MEDICINES AND STUFF.

5 Q. WHEN DID YOU WORK AS A PARAMEDIC?

6 A. FROM 1990 TO 2006.

7 Q. IS THAT WHEN YOUR ACCIDENT WAS?

8 A. NO, MY ACCIDENT WAS IN 2001, AND I CONTINUED TRYING
9 TO WORK.

10 Q. WHAT KIND OF INJURY DID YOU HAVE TO YOUR BACK; DID
11 YOU HAVE SURGERY?

12 A. YEAH, I HAD A DISCECTOMY L4/L5, AND THEY PUT
13 TITANIUM RODS IN THERE.

14 Q. DID YOU HAVE A FUSION?

15 **BY MR. SAMUELS:**

16 I WOULD OBJECT TO RELEVANCE.

17 **CROSS EXAMINATION RESUMED BY MR. LICHTY:**

18 Q. DID YOU HAVE A FUSION?

19 A. MM-HMM.

20 Q. OKAY. YOU'VE BEEN ABLE TO KEEP ON WORKING AS A
21 BONDSMAN SINCE THEN?

22 A. YEAH. THAT'S ABOUT -- YEAH, I CAN'T WORK AS A
23 PARAMEDIC, BUT I'VE BEEN ABLE TO BOND MOST OF THE
24 TIME. I JUST CAN'T SIT IN AN OFFICE; CAN'T DO
25 THAT.

1 Q. BUT DESPITE THAT, YOU'RE STILL ABLE TO -- YOU OWN
2 YOUR OWN COMPANY AS A BONDSMAN, CORRECT?

3 A. YEAH.

4 Q. WHAT IS YOUR ANNUAL INCOME?

5 A. I HAVEN'T FIGURED IT UP FOR THIS YEAR, BUT I'VE
6 PROBABLY MADE ONLY ABOUT TEN OR TWELVE THOUSAND
7 DOLLARS THIS YEAR SO FAR.

8 Q. THIS YEAR.

9 A. IT'S STILL KIND OF LOW.

10 Q. TEN OR TWELVE?

11 A. YEAH, SOMEWHERE AROUND IN THERE.

12 Q. OKAY. SO, YOU'RE ---

13 A. I MEAN, IT COULD BE 14.

14 Q. YOU'RE GOING TO BRING DOWN SOMEWHERE BETWEEN A
15 THOUSAND AND 1500 BUCKS A MONTH ON AVERAGE; DOES
16 THAT SOUND ABOUT RIGHT?

17 A. YEAH.

18 Q. ARE YOU STILL ON MEDICATIONS FOR YOUR INJURY?

19 A. YES.

20 Q. HAVE YOU TAKEN ANY TODAY?

21 A. YES.

22 Q. WHAT MEDICATIONS ARE YOU ON?

23 A. LORTAB.

24 Q. DOES THAT ---

25 A. THAT'S JUST THE PAIN MEDICATION. I'M ON A BUNCH OF

1 OTHER MEDICATIONS, TOO, AND ALSO MEDICATIONS FOR MY
2 HEART. I JUST -- I JUST DIED THREE WEEKS AGO, AND
3 THEY GOT ME BACK THROUGH C.P.R.

4 Q. YOU LOOK PRETTY GOOD FOR A DEAD MAN. WHAT OTHER
5 MEDICATIONS ARE YOU TAKING?

6 A. MOBIC. I'M DIABETIC; I TAKE GLUCOPHAGE. I TAKE
7 INSULIN. I TAKE METOPROLOL, AND THERE'S ANOTHER ONE
8 I TOOK FOR MY HEART. OH, WARFARIN -- COUMADIN.

9 Q. DO ANY OF THE MEDICATIONS YOU TAKE AFFECT YOUR
10 MENTAL STATUS?

11 A. YES, THE LORTAB DOES IF I TAKE -- DEPENDING ON WHAT
12 I HAVE TO TAKE, HOW MUCH PAIN I'M IN.

13 Q. DOES IT AFFECT YOUR MEMORY, OR HOW DOES IT AFFECT
14 YOU MENTALLY?

15 A. YEAH, IT AFFECTS MY MEMORY TO SOME DEGREE.

16 Q. AND YOU'VE TAKEN LORTAB TODAY?

17 A. MM-HMM.

18 Q. ARE YOU HAVING MENTAL PROBLEMS TODAY ASSOCIATED WITH
19 YOUR MEDICATION USE?

20 A. NOT REALLY.

21 Q. OKAY. HOW MANY EMPLOYEES DO YOU HAVE RIGHT NOW?

22 A. ONE.

23 Q. MARY?

24 A. MM-HMM.

25 Q. MARY IS DOING THE SAME THINGS FOR YOU NOW THAT

1 PATRICIA WAS DOING BEFORE?

2 A. NO, SHE'S DOING MORE THAN PATRICIA WAS DOING.

3 Q. HOW SO?

4 A. SHE'S RESPONSIBLE FOR TAKING DOWN ALL THE
5 INFORMATION, WRITING UP THE WHOLE CONTRACT ON THE
6 BOND, GETTING ALL THE INFORMATION FOR IT, BONDING
7 THEM OUT, AND FOLLOWING UP WITH THE PEOPLE. AND IF
8 THEY DON'T SHOW UP, SHE'S GOT TO GO GET THEM
9 HERSELF.

10 Q. OKAY.

11 A. SHE'S A FULL EMPLOYEE.

12 Q. AND WASN'T PATRICIA DOING ALL OF THOSE EXCEPT FOR
13 GOING TO GET THEM HERSELF?

14 A. NO, NO, NOT ALL THE TIME, NO.

15 Q. BUT SHE WAS AT VARIOUS TIMES DURING THE COURSE OF
16 HER EMPLOYMENT WITH YOU ---

17 A. SHE WASN'T EMPLOYED WITH ME.

18 Q. OKAY. DURING THE VARIOUS TIME SHE WAS HELPING YOU
19 OUT, SHE WAS PERFORMING THINGS FOR YOU THAT YOU ARE
20 NOW PAYING MARY TO DO, RIGHT?

21 A. YEAH.

22 Q. NOW, IS THIS A -- MS. FORE'S ATTORNEY SUBMITTED THIS
23 LEE COUNTY JAIL FACILITY TONY OWENS BONDING. DO
24 THESE REPRESENT ALL THE BONDS YOU HAD IN THAT MONTH
25 FOR YOUR COMPANY?

1 A. YES.

2 Q. NOW, IS THE LEE COUNTY JAIL FACILITY THE ONLY
3 FACILITY YOU CAN BOND PEOPLE OUT OF?

4 A. MAINLY. I DO DO SOME IN DOUGHERTY, BUT NOT VERY
5 MUCH BECAUSE THEY -- THEY DON'T ACCEPT OUTSIDE
6 BONDING COMPANIES, AND IF YOU'RE A DOUGHERTY COUNTY
7 RESIDENT, AN OUTSIDE COUNTY CAN'T GET YOU OUT.
8 SO... I MEAN, WE'RE LIMITED TO WHAT WE CAN DO DOWN
9 THERE.

10 Q. WHEN MR. MCGOWAN WAS IN HERE, MR. SAMUELS MADE
11 ALLEGATIONS THAT HE WAS PAYING EMPLOYEES. YOU'VE
12 TESTIFIED THAT YOU HIRED MS. FORE BECAUSE OF THE
13 PEOPLE THAT SHE KNOWS AROUND TOWN; IS THAT CORRECT?

14 **BY MR. SAMUELS:**

15 OBJECT. HE NEVER SAID HE HIRED HER. HE
16 TESTIFIED SPECIFICALLY THAT HE NEVER HIRED ---

17 **CROSS EXAMINATION RESUMED BY MR. LICHTY:**

18 Q. OR WHY YOU BROUGHT HER INTO HELP YOU FOR FREE?

19 A. NO, THAT'S NOT WHY I BROUGHT HER IN TO HELP ME. SHE
20 VOLUNTEERED TO HELP ME BECAUSE OF THE MEDICAL
21 PROBLEMS THAT I WAS HAVING.

22 Q. OKAY. WHERE DID IT COME -- DID YOU NOT TESTIFY THAT
23 HER REPUTATION WITHIN THE COMMUNITY WAS ONE OF THE
24 THINGS THAT MADE HER AN ATTRACTIVE HELPER?

25 A. YES.

1 Q. OKAY. AS PART OF THAT REPUTATION WITHIN THE
2 COMMUNITY, A REPUTATION SHE HAS WITH PEOPLE WHO
3 ACTUALLY WORK INSIDE THE JAIL, HER RELATIONSHIPS
4 WITH THE SHERIFF'S DEPARTMENT AND THE PEOPLE THAT
5 ARE RESPONSIBLE FOR BOOKING THESE PEOPLE?

6 A. WELL, THEY HAVE A BIG TURNOVER OF PEOPLE WITHIN THE
7 JAIL. SO, YOU DON'T HAVE THE SAME ONES THERE ALL
8 THE TIME. THEY JUST -- THEY HAVE A BIG TURNOVER.
9 SO, I DON'T THINK SHE HAS -- I DON'T KNOW WHAT HER
10 RELATIONSHIP WITH THEM IS. BUT I DON'T THINK SHE
11 HAS A BIG RELATIONSHIP WITH ANYBODY IN THE JAIL.

12 Q. SO, YOU WOULD DENY THEN THAT ONE OF THE ADVANTAGES
13 OF HAVING MS. FORE WAS THAT SHE WAS FAMILIAR WITH
14 PEOPLE INSIDE THE SYSTEM THAT CAN HELP STEER
15 BUSINESS YOUR WAY?

16 A. YEAH. I DON'T THINK THAT'S ACCURATE, NO.

17 Q. HAVE YOU BEEN CHARGED WITH ANY CRIMES IN THE LAST
18 TEN YEARS?

19 A. YES, I HAVE.

20 Q. OKAY. DID IT INVOLVE FRAUD?

21 A. NO.

22 Q. WHAT CRIMES HAVE YOU BEEN COMMITTED WITH IN THE LAST
23 TEN YEARS?

24 BY MR. SAMUELS:

25 OBJECT. ONLY ---

1 BY THE WITNESS:

2 THAT'S MY PRIVATE MATTER, AND I REFUSE TO
3 ANSWER.

4 BY MR. SAMUELS:

5 ONLY CONVICTIONS OVER TEN YEARS WOULD BE
6 . ADMISSIBLE.

7 CROSS EXAMINATION RESUMED BY MR. LICHTY:

8 Q. OR HAVE YOU BEEN CONVICTED WITHIN THE LAST TEN
9 YEARS?

10 A. NO, SIR.

11 Q. YOU HAVEN'T BEEN CONVICTED OF ANYTHING WITHIN THE
12 LAST TEN YEARS?

13 A. THAT'S CORRECT.

14 Q. HOW MANY TIMES HAVE YOU BEEN CHARGED?

15 BY MR. SAMUELS:

16 OBJECTION. THAT GOES TO THE SAME.

17 CROSS EXAMINATION RESUMED BY MR. LICHTY:

18 Q. YOU CAN STILL ANSWER THE QUESTION.

19 A. I'M NOT GOING TO.

20 Q. YOU ARE GOING TO REFUSE TO TESTIFY UNDER OATH?

21 A. NO, I REFUSE TO ANSWER YOUR QUESTION. THAT'S WHAT I
22 JUST SAID.

23 Q. YOU REFUSE TO TESTIFY?

24 A. NO, I DON'T REFUSE TO TESTIFY. I REFUSE TO ANSWER
25 YOUR QUESTION.

1 Q. SO, YOU ---

2 BY MR. SAMUELS:

3 MR. LICHTY, YOU'RE ASKING A QUESTION THAT YOU
4 KNOW IS INADMISSABLE.

5 BY THE WITNESS:

6 LOOK HERE. DON'T SIT OVER HERE AND PLAY GAMES
7 WITH ME AND TRY TO GET ME UPSET. I'VE GOT A HEART
8 CONDITION, AND IF I START HAVING THE HEART TROUBLE,
9 THIS IS ALL GOING TO FALL ON YOU.

10 (INTERRUPTION - COMMISSIONER LYNDON ENTERS HEARING ROOM)

11 BY COMMISSIONER LYNDON:

12 WE'RE GOING TO HAVE TO FAST FORWARD THIS.

13 (COMMISSIONER LYNDON EXITS THE HEARING ROOM)

14 CROSS EXAMINATION RESUMED BY MR. LICHTY:

15 Q. WHY IS IT GOING TO FALL ON ME?

16 A. BECAUSE YOU'RE THE ONE CAUSING ME THIS STRESS.

17 Q. DID I ASK YOU TO BE HERE TODAY?

18 BY MR. SAMUELS:

19 YOU KNOW, JIM, I'M GOING TO HAVE TO OBJECT.

20 YOU ARE DELIBERATING THIS WITNESS ---

21 BY THE WITNESS:

22 THAT'S RIGHT.

23 BY MR. SAMUELS:

24 --- WHEN -- WITH QUESTIONS THAT ARE NOT
25 SUBSTANTIVE. YOU ASKED HIM A QUESTION THAT WAS

1 IMPROPER, AND NOW YOU ASKED HIM QUESTIONS THAT ARE
2 NOT SUBSTANTIVE. IF YOU WANT TO ASK HIM A FACTUAL
3 QUESTION, I THINK THAT'S APPROPRIATE, BUT THIS BACK
4 AND FORTH THAT YOU ARE ELICITING FROM HIM ---

5 **BY MR. LICHTY:**

6 YOUR OBJECTION IS ON THE RECORD.

7 **BY MR. SAMUELS:**

8 --- IS INAPPROPRIATE.

9 **BY MR. LICHTY:**

10 YOUR OBJECTION IS ON THE RECORD, STEPHEN.

11 **CROSS EXAMINATION RESUMED BY MR. LICHTY:**

12 Q. WHAT DID YOU DO LAST WEEKEND, MR. OWENS?

13 A. I WENT TO A MOTORCYCLE RALLY.

14 Q. YOU WENT TO A BIKE RALLY. DO YOU RIDE A BIKE?

15 A. MM-HMM, SOMETIMES.

16 Q. DOES MS. FORE CONTINUE TO HELP YOU OUT?

17 A. SHE'S NOT RIGHT NOW, NO. I'VE GOT AN EMPLOYEE.

18 Q. OKAY. HAVE YOU REVIEWED ANY OF THE SURVEILLANCE
19 VIDEO THAT WAS SUBMITTED INTO EVIDENCE?

20 A. I DON'T KNOW ANYTHING ABOUT SURVEILLANCE VIDEO.

21 Q. DO YOU RECALL WHAT YOU WERE DOING ON SEPTEMBER 7TH
22 OF 2011?

23 A. NOPE.

24 Q. DOES MS. FORE LIVE NEAR THE COURTHOUSE OR NEAR THE -

25 --

1 A. YES.

2 Q. --- PROBATION CENTER? DO YOU SPEND TIME THERE?

3 A. YES.

4 Q. THE ORDERS AND STUFF THAT YOU -- THAT YOU NEED TO
5 SEND OVER TO THE COURTHOUSE, DO YOU KEEP THEM IN A
6 MANILA FOLDER?

7 A. MM-HMM.

8 Q. IS THAT WHAT YOU WOULD GIVE TO MS. FORE TO RUN TO
9 THE COURTHOUSE FOR YOU?

10 A. NOT NECESSARILY.

11 Q. BUT IF SHE HAD AN ORDER TO RUN TO THE COURTHOUSE,
12 WOULD IT BE KEPT UP IN A MANILA FOLDER, OR WOULD IT
13 BE KEPT UP IN SOME SORT OF MANNER OF KEEPING THE
14 PAPERWORK ---

15 A. WHEN IT IS PUT IN THE FILING CABINET, IT IS PUT IN A
16 MANILA FOLDER.

17 Q. OKAY. WHAT ABOUT BEFORE IT IS RUN OVER TO THE
18 COURTHOUSE?

19 A. NOT NECESSARILY, NO. BUT IT COULD BE. BUT...

20 Q. ON SEPTEMBER 7TH, DID MS. FORE RUN ANYTHING OVER TO
21 THE COURTHOUSE FOR YOU?

22 A. I DO NOT KNOW.

23 Q. IF SURVEILLANCE VIDEO WERE TO SHOW MS. FORE TAKING A
24 MANILA FOLDER UP TO THE COURTHOUSE AND STAYING IN
25 THE COURTHOUSE FOR TWO HOURS, WOULD THAT BE BEHAVIOR

1 CONSISTENT WITH TAKING ONE OF THESE BONDS UP TO THE
2 COURTHOUSE?

3 A. I GUESS IT COULD BE, BUT I WOULDN'T UNDERSTAND WHY
4 SHE WOULD BE THERE TWO HOURS JUST TO TAKE A BOND.

5 Q. DO YOU UNDERSTAND WHY SHE WOULD BE UP THERE AND NOT
6 HAVE TO SIGN THIS -- IS THIS THE SAME FACILITY
7 THAT'S NEAR HER HOUSE?

8 A. NO.

9 Q. OKAY. SO, IT'S A DIFFERENT FACILITY NEAR HER HOUSE?

10 A. THAT'S THE COURTHOUSE.

11 Q. OKAY. WHAT DOES A BONDSMAN HAVE TO DO HERE?

12 A. NOTHING REALLY THAT I KNOW OF.

13 Q. THERE'S NO REASON FOR A BONDSMAN TO GO OVER TO THE
14 COURTHOUSE UNLESS IT'S A PERSONAL MATTER?

15 A. IT COULD BE PERSONAL OR -- YEAH.

16 Q. WOULD THERE BE ANY REASON RELATED TO WORK AS A BAIL
17 BONDSMAN FOR ANYONE TO GO OVER TO THAT FACILITY
18 THAT'S ACROSS THE STREET OR NEAR HER HOUSE?

19 A. I CAN'T THINK OF A REASON. I MEAN, I'M NOT SAYING
20 THERE'S NOT, BUT I -- I DON'T -- I MEAN, WHEN YOU
21 BOND SOMEBODY OUT, THAT'S NOT ---

22 BY MR. SAMUELS:

23 I'M GOING TO OBJECT AGAIN. YOU KNOW THAT MS.
24 FORE WAS AT THE ---

25 BY MR. LICHTY:

1 I REST, STEPHEN.

2 **BY MR. SAMUELS:**

3 --- THE COURTHOUSE TAKING OUT A RESTRAINING
4 ORDER AGAINST MR. MCGOWAN.

5 **BY MR. LICHTY:**

6 I DON'T KNOW THAT'S WHAT SHE WAS DOING THAT
7 DAY.

8 **BY MR. SAMUELS:**

9 WE ALREADY HAVE EVIDENCE IN THE RECORD. THE
10 ORDER THAT -- THE ORDER ON THAT DAY IS DATED
11 SEPTEMBER 7TH, 2011. WHAT YOU'VE ESTABLISHED IS
12 THAT SHE WAS NOT DOING ANY ASSISTING FOR A-1 BAIL
13 BONDING AT THAT TIME.

14 **BY MR. LICHTY:**

15 ORAL ARGUMENTS ASIDE, DO YOU HAVE ANY FURTHER
16 QUESTIONS?

17 **BY MR. SAMUELS:**

18 I DO.

19 **RE-DIRECT EXAMINATION BY MR. SAMUELS:**

20 Q. SO, WE UNDERSTOOD MARY DOES A LOT MORE WORK THAN
21 PATRICIA WAS DOING WHEN SHE WAS ASSISTING?

22 A. YES.

23 Q. THAT'S BECAUSE SHE'S YOUR EMPLOYEE?

24 A. YES.

25 Q. AND YOU PAY HER FOR THAT?

1 A. RIGHT.

2 Q. AND YOU PAY HER BECAUSE SHE IS PHYSICALLY ABLE TO DO
3 THE WORK?

4 A. RIGHT.

5 Q. PATRICIA WAS NOT PHYSICALLY ABLE TO DO THE WORK?

6 A. NO, SHE -- AND I DON'T MEAN THIS -- ANY DISRESPECT
7 BY THIS, BUT I CAN'T -- I CAN'T DEPEND ON HER.
8 SHE'S NOT DEPENDABLE.

9 Q. WHY IS SHE NOT DEPENDABLE?

10 A. BECAUSE SHE HAS HEALTH PROBLEMS.

11 Q. ARE THOSE HEALTH PROBLEMS RELATED TO HER BACK INJURY
12 AND HER SURGERY?

13 A. YES.

14 Q. AND WITH AN INCOME EVEN AS THE OWNER OF ONLY TEN,
15 TWELVE THOUSAND OR SO ---

16 A. I NEED ALL THE MONEY I CAN GET.

17 Q. YOU CAN'T AFFORD TO ACCOMMODATE SOMEBODY WHO CAN'T
18 DO THE JOB, CAN YOU?

19 A. NO.

20 **BY MR. SAMUELS:**

21 WE HAVE NO FURTHER QUESTIONS.

22 **(THERE BEING NO FURTHER QUESTIONS, THE PROFFERED**
23 **TESTIMONY IS CONCLUDED)**

CERTIFICATE OF NOTARY PUBLIC
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
COLUMBIA, SOUTH CAROLINA
WCC FILE NO. 0810152

EMPLOYEE/CLAIMANT: PATRICIA FORE

EMPLOYER: GRIFFCO OF WAMPEE, INC.

INSURER: COMMERCE & INDUSTRY INSURANCE COMPANY

I, JAN L. WHITWORTH, A NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA, DULY COMMISSIONED AND QUALIFIED AS SUCH, DO HEREBY CERTIFY THAT THE FOREGOING **24** PAGES REPRESENTS A TRUE AND ACCURATE TRANSCRIPT OF THE FOREGOING PROFFERED TESTIMONY GIVEN AT THE HEARING OF **PATRICIA FORE** TAKEN ON THE 27TH DAY OF SEPTEMBER, 2011.

THAT THE WITNESS WAS DULY PLACED UNDER OATH AND ADMONISHED TO SPEAK THE WHOLE TRUTH. THAT THE ORAL TESTIMONY 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 THIS 15TH DAY OF OCTOBER, 2011.

JAN L. WHITWORTH
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: 3-12-2014

* 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 FULL COMMISSION
WCC No. 0810152

Patricia Fore,)
)
Claimant/Appellant,)
)
v.)
)
Griffco of Wampee, Inc.,)
)
Employer/Respondent,)
)
and)
)
Commerce & Industry Insurance)
Co.,)
)
Carrier/Respondent.)
-----)

(COPY)

FULL COMMISSION HEARING

Monday, June 18, 2012
3:54 p.m. - 4:34 p.m.

The Full Commission Hearing before Commissioner T. Scott Beck; Commissioner Gene McCaskill; and Commissioner Derrick Williams, Chair, was taken at 1333 Main Street, Suite 500, Columbia, South Carolina on the 18th day of June, 2012 before Cassandra E. Vance, 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

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1 **THE COURT REPORTER:** Today is Monday, June 18, 2012.

2 This is South Carolina Workers' Compensation
3 Case Number 0810152. This is the case of
4 Patricia Fore, Claimant, vs. Griffco of Wampee,
5 Incorporated, Employer, and Commerce and
6 Industry Insurance Company, Carrier.

7 The Appellant is the Claimant represented by
8 Peter Leventis. The Respondent is represented
9 by James Lichty.

10 Each side is allowed ten minutes for oral
11 argument and the Appellant three minutes in
12 reply. You are requested to argue the grounds
13 of exception and stay within the record.

14 **COMMISSIONER WILLIAMS:** All right. Mr. Leventis.

15 **ARGUMENT BY MR. LEVENTIS:**

16 **MR. LEVENTIS:** May it please the Commission. Peter
17 Leventis on behalf of the Appellant/Claimant,
18 Ms. Patricia Fore. I'll start by saying this
19 case was a very involved hearing. It involved
20 quite a number of issues, so I am going to have
21 to rely on the brief for quite a number of
22 those issues.

23 But I'll give a little bit of background, but
24 let me first start, the prayer (sic) for relief
25 requested in this appeal is first for a de novo

1 hearing and for it to be -- for the order to be
2 vacated and for a de novo hearing based on
3 improper ex parte communications with a
4 material witness by the Commission, whether
5 inadvertent or not. I do believe it was
6 inadvertent. I do believe it was
7 unintentional, but I do think it has sullied
8 this case to a large degree. Let me start with
9 some background and then go into that.

10 Ms. Fore was a meat cutter at a deli who was
11 carrying a 60-pound slab of meat in February of
12 2008 when she hit her hip on a metal corner.
13 Despite the Employer paying for the initial
14 medical visits on his credit card, this case
15 was denied for some period of time by the
16 Carrier. It was ultimately ruled compensable
17 after an August 2009 hearing before
18 Commissioner Roche.

19 Ms. Fore's hip and back culminated in a
20 two-level fusion that resulted in hardware in
21 her back and a failed back syndrome. This was
22 due in part to her preexisting condition of
23 diabetes, which was precipitated -- which
24 precipitated a nonunion in the vertebrae of her
25 spine.

1 As such this case has been awarded for
2 reimbursement by the Second Injury Fund for the
3 indemnity portion of this case. The only
4 further medicals that were awarded by the
5 Hearing Commissioner in this were just further
6 maintenance of the medical hardware in her
7 back.

8 However, that's another issue that is on appeal
9 is that, it's undisputed by the medical
10 evidence in the record that further modalities,
11 such as pain, medication and ongoing treatment,
12 has been referred by the treating physician,
13 not refuted by another doctor, so whether perm
14 total under 42-9-10 or under Dodge and 42-15-
15 60, I certainly think she's entitled to all the
16 treatment modalities provided by for
17 Dr. Wolligan -- Wolgan (phonetic), excuse me.
18 The treating physician, Dr. Wolgan, assigned
19 the Claimant a 36 percent whole person
20 impairment rating. One of the issues here
21 that's a significant issue is the credibility
22 of the Claimant. I think that the --
23 unfortunately by the ex parte communications
24 that were had, this case was tainted and no
25 longer about whether or not the degree of the

1 Claimant's permanent partial impairment rating
2 or her level of disability, but rather whether
3 or not it was an insurance fraud case.

4 **COMMISSIONER BECK:** What tainted it?

5 **MR. LEVENTIS:** The first that the Employer/Carrier
6 heard about -- heard about the allegations of
7 insurance fraud were in the responsive APA
8 submissions. This was said on a Form 50, the
9 responsive APA submissions.
10 They did amend their APA's to provide a
11 rebuttal witness who his testimony was
12 proffered. Now, would -- that's one of the
13 things that's on appeal is that Mr. Tony Owens'
14 testimony be included.

15 And part of the reason I think that's the case
16 is because the medical evidence is unrefuted,
17 that she had a failed surgery, a two-level
18 fusion in her lumbar spine, was awarded 20
19 percent whole person impairment, not refuted by
20 another physician. And this was based on the
21 fact that she had a nonunion in her spine. So
22 I think that the credibility of the Claimant --

23 **COMMISSIONER BECK:** I assume the document you're
24 talking about was an unsolicited call coming
25 into our coverage folks --

1 MR. LEVENTIS: Correct.

2 COMMISSIONER BECK: -- alleging some kind of fraud.

3 MR. LEVENTIS: Correct.

4 COMMISSIONER BECK: A report was drafted up. I
5 assume that report was forwarded to the
6 Attorney General's Office, who then forwarded
7 it to the Carrier --

8 MR. LEVENTIS: Right.

9 COMMISSIONER BECK: -- who forwarded it to Defense
10 Counsel.

11 MR. LEVENTIS: Correct. And --

12 COMMISSIONER BECK: Have I got the pattern right?

13 MR. LEVENTIS: That is correct, Your Honor.

14 COMMISSIONER BECK: And it's an allegation.

15 MR. LEVENTIS: Yes, as an allegation noting --

16 COMMISSIONER BECK: And the person who called the
17 allegation in was present to testify at the
18 proceeding.

19 MR. LEVENTIS: Yes, he was, Your Honor. But at the
20 same time, I think that the -- also, was noted
21 in the letter to the AG's office that while I
22 cannot -- while the Commission cannot directly
23 contact the Carrier, it recommended that they,
24 the AG's office, contact the Carrier about
25 this.

1 So discovery and further investigation of these
2 issues could only be had by the Defendants.
3 And also an ex parte communication is not just
4 with a party, but it's also anything that the
5 Commission gets outside of communications with
6 the other parties that is considered for the
7 determination of the hearing.

8 And I think that based on the objective medical
9 findings, unrefuted objective medical findings
10 of Ms. Fore, that don't have anything to do
11 with her credibility, that it should have been
12 found that she was either permanently, totally
13 disabled or that her disability rating was
14 above 50 percent.

15 **COMMISSIONER BECK:** What indication -- other than
16 the fact that the case didn't come down the way
17 you wanted it to come down, what other
18 indication is there in the record that the
19 Commissioner was tainted by that document?

20 **MR. LEVENTIS:** Well, I think that the vocational and
21 medical evidence was unrefuted. The
22 Commissioner's finding was that he believed she
23 would -- he believed she could work and that
24 she was not credible.
25 Based on those findings, that was the standard

1 that was used in light of a very significant --
2 very significant documentation that, again, was
3 unrefuted, that was not based on diffuse pain
4 or problems of the Claimant, not based on
5 subjective issues and complaints of the
6 Claimant, but based on -- specifically on
7 findings that the doctors had made through
8 diagnostic testing.

9 **COMMISSIONER WILLIAMS:** I guess what my colleague is
10 asking, and what I was looking for, where in
11 the Findings of Fact or the Conclusion of Law
12 in the order is this correspondence, or what
13 you say ex parte correspondence, even
14 referenced? I don't see it.

15 **MR. LEVENTIS:** It was -- it was objected to at the
16 hearing and it is in the APA records.

17 **COMMISSIONER WILLIAMS:** Where in the Finding of
18 Facts or Conclusion of Law in the order is it
19 referenced at all?

20 **MR. LEVENTIS:** Well, it's not specifically referenced
21 in the Findings of Fact, but one of the issues,
22 which apparently played a huge role in this,
23 was the Claimant's credibility. I think that
24 the -- I think had they known this --

25 **COMMISSIONER WILLIAMS:** Aren't you speculating that

1 he relied upon that letter in order to find her
2 not credible? Obviously --

3 **MR. LEVENTIS:** Well, I believe --

4 **COMMISSIONER WILLIAMS:** -- he could hear her
5 testify -- there was a lot of other testimony
6 and evidence at this hearing, as well, so I'm
7 just wondering --

8 **MR. LEVENTIS:** Well --

9 **COMMISSIONER WILLIAMS:** Is there -- can you point me
10 to any Finding of Fact or Conclusion of Law
11 that references this correspondence at all?

12 **MR. LEVENTIS:** Well, I think the fact that Mr. Steve
13 McGowan, who is a across-town business rival of
14 Mr. Tony Owens, who are the two people that she
15 did work for, which she reported to the doctor
16 and she reported to the nurse case manager and
17 she reported to the vocational evaluator. That
18 witness was known many months beforehand to the
19 Defendants, not known until ten days before the
20 APA submissions by the Appellants, and they did
21 file a supplemental brief. One way to have
22 potentially partially cured that would have
23 been to have permitted the testimony of Tony
24 Owens.

25 **COMMISSIONER WILLIAMS:** All right. So I guess the

1 answer is "no," there's no Finding of Fact or
2 Conclusion of Law that references --

3 **MR. LEVENTIS:** Well --

4 **COMMISSIONER WILLIAMS:** -- what you claim is the
5 ex parte communication in this case. I'm just
6 trying to figure out --

7 **MR. LEVENTIS:** I don't think there's a specific
8 Finding of Fact that says, "Here's this letter
9 from the Commission, here's what it's based
10 on." But I think in ex parte communications,
11 as noted in the case law cited in the briefs,
12 the thing is to err very far on the side of
13 caution with that, because the party who's not
14 privy to the communication or not privy to the
15 investigation or the further evidence that
16 flows from that communication is the one who's
17 been wronged and is unable oftentimes to show
18 how that may --

19 **COMMISSIONER WILLIAMS:** Okay.

20 **MR. LEVENTIS:** -- have affected --

21 **COMMISSIONER WILLIAMS:** Who could have heard this
22 case, then, besides -- this was Commissioner
23 Lyndon at that time. Who else could have heard
24 this case?

25 **MR. LEVENTIS:** Either --

1 COMMISSIONER WILLIAMS: Commissioner Lyndon or the
2 other six --

3 MR. LEVENTIS: -- the Circuit Court -- I believe
4 either --

5 COMMISSIONER WILLIAMS: How can the Circuit Court
6 hear this case?

7 MR. LEVENTIS: Or a Deputy Commissioner appointed by
8 the Commission. But, Your Honor --

9 COMMISSIONER BECK: How is that -- how is it any
10 different, Mr. Leventis? If I appointed a
11 Deputy Commissioner, they're still serving in
12 the role of a Commissioner and if I'm tainted
13 and he's tainted and he's tainted, why wouldn't
14 a Deputy Commissioner be tainted in this?

15 MR. LEVENTIS: Well, if that --

16 COMMISSIONER WILLIAMS: Then who would we would
17 appoint?

18 MR. LEVENTIS: If that information was not
19 provided -- but without going overly into the
20 logistics of how that may be done, Your Honor,
21 that same argument or question would beg that
22 fact that if there was ex parte communication
23 with the Commission, that it could never be
24 remedied. And I don't think that's the case,
25 certainly. I think that --

1 **COMMISSIONER BECK:** No, I mean, I think in your --
2 in your example, if my office had an ex parte
3 communication with Mr. Lichty and we get to a
4 hearing and that's -- and that's discovered,
5 you hadn't had an ex parte with him.
6 But what you're trying to do is take a
7 communication with a nonjudicial person -- I
8 understand he's an agent of the Commission --
9 with a nonjudicial person and you want to draw
10 a broad sweep that no Commissioner is capable
11 of hearing this case.

12 **MR. LEVENTIS:** Well -- and that information was also
13 permitted to become part of the record, as
14 well. And I don't want to waste all my time on
15 that specific issue, because I think the
16 disability of the claim is also a significant
17 issue in this case.

18 The work performed in 2010, the credit taken
19 for that -- and Ms. Fore stipulated to the fact
20 that she -- that they were entitled to a credit
21 for any wages earned during a work attempt that
22 was reported, as I said, to her doctor and to
23 the nurse case manager. The credit taken on
24 the Form 18 was \$1244.

25 **(Mr. Samuels enters at 4:05 p.m.)**

1 **MR. LEVENTIS:** Subsequent to that, in 2011, after
2 coming back out of work at the doctor's
3 behest -- which I would argue is minimal work
4 at best, and that's corroborated not only by
5 the proffered testimony of Tony Owens, which I
6 would strongly request be permitted for review
7 of the Panel, but also the fact that during
8 that time period -- what she did was, she was
9 a bail bondsman and signed 19 bonds -- the
10 court records have been provided -- which is
11 very minimal work and, arguably, should not
12 even receive any proceeds for that, I would
13 say --

14 **COMMISSIONER WILLIAMS:** Your three minutes are up.

15 Mr. Lichty?

16 **COMMISSIONER BECK:** I got one more question.

17 **COMMISSIONER WILLIAMS:** Okay. Go ahead.

18 **COMMISSIONER BECK:** The relief on the alleged
19 ex parte, what are you asking us to do with
20 that here today?

21 **MR. LEVENTIS:** That, Your Honor, would be to vacate
22 the -- vacate the Single Commissioner's order
23 and have it reset before either -- I mean, some
24 examples were mentioned, but the same way it
25 would be, for instance, perhaps, if a

1 Commissioner were injured. I think that's
2 outlined within the Act, for instance.

3 **COMMISSIONER BECK:** It is.

4 **MR. LEVENTIS:** But either for --

5 **COMMISSIONER BECK:** So you don't think any
6 Commissioner is capable of hearing that here.

7 **MR. LEVENTIS:** Well, Your Honor, I think that if the
8 other -- if the other items -- because I don't
9 think every Commissioner reads every file,
10 necessarily, but, at the same time, it's in the
11 file record of this case. It was even -- even
12 prior to this. And the Commissioner would have
13 been privy to that and through the direction of
14 the Director who sent it...

15 Again, like I said, I think this was, you know,
16 not a willful act or an intentional act, but I
17 think that's what resulted in this, that it
18 affected the case significantly. Because I
19 think otherwise there's overwhelming evidence
20 in the case of her disability and I think -- I
21 think, you know, the standard used was the fact
22 that the Commissioner believed that she could
23 work and that she was not credible and --

24 **COMMISSIONER WILLIAMS:** Well, now she was working.

25 **MR. LEVENTIS:** She had worked in 2010 and had

1 signed -- over a seven-month period signed 19
2 bonds in 2011.

3 **COMMISSIONER WILLIAMS:** We could characterize that as
4 you want to. She was working, though. She
5 received wages for something she was doing.

6 **MR. LEVENTIS:** Well, she testified that she
7 denied -- and I think Tony Owens would also
8 testify that she denied. She provided free
9 advertisement for him and had signed a number
10 of bonds for him, which -- again, this isn't
11 "Dog, the Bounty Hunter," as a bail
12 bondsperson. She drove three miles from her
13 house to there and signed it. I don't know if
14 that's evidence of the fact that she's
15 competing in the competitive labor market, even
16 if she did receive money for those bonds.

17 **COMMISSIONER WILLIAMS:** All right. You'll have
18 three minutes in reply.

19 Mr. Lichty.

20 **ARGUMENT BY MR. LICHTY:**

21 **MR. LICHTY:** Thank you, Your Honor, may it please
22 the Panel. My name is Jim Lichty on behalf of
23 the Respondents.

24 This hearing kind of quickly devolved into an
25 expose of the seedy underworld of the bail

1 bondsman community in Leesville, Georgia. It
2 was almost an out-of-body experience to attend
3 the hearing. But I don't think that that
4 necessarily has to complicate the issues today.
5 The fact is that Commissioner Lyndon's decision
6 was based in no way on the evidence of fraud.
7 And if you really look at the record, there's
8 only two places in the entire record where
9 fraud is even mentioned. One is the letter
10 that the Commission sent to the AG's office,
11 which was already in the Commission file before
12 the hearing.

13 I had initially submitted another letter that
14 Mr. Samuels objected to and that was removed
15 from evidence. So you've got the letter from
16 Mr. Smith to the AG's office.

17 The only other time it comes up is not at all
18 during the Defense's case. It comes when Steve
19 McGowan came to testify and Mr. Samuels asked
20 him questions regarding his actions in
21 reporting fraud to the Commission. Those are
22 the only two times it's mentioned in the entire
23 record.

24 And, quite simply, there was not enough
25 evidence or information concerning the fraud

1 investigation to form a foundation for any of
2 Commissioner Lyndon's findings. Commissioner
3 Lyndon's findings were based exclusively in
4 regard to the credibility of the Claimant who
5 testified just two -- less than two weeks
6 before the hearing that she had not worked
7 since her injury, had not received any
8 additional certification since her injury, had
9 not attended any further educational courses
10 since her injury, yet at the hearing testified
11 completely the opposite.

12 There was surveillance video submitted of her
13 carrying paperwork to and from a bond
14 processing facility and the Claimant herself
15 presented evidence that less than two weeks
16 before the hearing she had signed a bond in one
17 of these courthouses in Georgia.

18 So her explanation, as Mr. Leventis alluded to,
19 was that she wasn't working, she was just
20 helping out a family friend. That explanation
21 makes no sense.

22 She said that she was doing that job for ABC
23 Bonds, that the job hurt too much. So then,
24 what does she do after she leaves ABC Bonds
25 because it hurts too much? She takes a job

1 doing -- she takes a position doing the same
2 thing and not getting paid for it.

3 If you're going to work a job that's going to
4 create that much pain, at least you're going to
5 get paid for it.

6 Not only that, it might be even beside the
7 point, because all we have to show is that
8 she's capable of working and we feel that the
9 evidence does so.

10 Turning back, though, to the more procedural
11 issues, I do think it presents a problem to
12 this Commission if it accepts the Appellant's
13 argument in this case because, basically, this
14 Commission has a statutory duty to report all
15 suspected incidences of fraud to the Attorney
16 General's Office for investigation. The
17 Legislature has mandated that this happen.

18 The Legislature in no way, shape or form would
19 have mandated that if the result was that the
20 Commission was then prejudiced and unable to
21 hear any other workers' compensation claim
22 where fraud is suspected to be involved. It's
23 an absurd result and the case law would say
24 that the Legislature does not intend an absurd
25 result.

1 Now, we follow that up by saying that there was
2 no ex parte communication on this case. The
3 communication was between the Commission and
4 the AG's office and then between the AG's
5 office and the Defense. And the reason why
6 this is --

7 **COMMISSIONER BECK:** Well, that's not necessarily
8 true. Somebody did have communication with us.
9 You forgot the first step in that process.

10 **MR. LICHTY:** But that person is not a party to this
11 claim, so there's no -- there's no ex parte
12 communication as it's defined as communication
13 between the judicial body and one of the
14 parties.

15 **COMMISSIONER BECK:** Right.

16 **MR. LICHTY:** A guy calls the Commission -- and
17 you're absolutely right.

18 But the reason why this claim was handled in
19 that fashion is because under 38-55-570 the
20 Commission is not listed as one of those
21 agencies that shares information with the AG's
22 office.

23 And so when the Commission notified the AG's
24 office of the allegation of fraud -- and that's
25 all it was, an allegation -- the recommendation

1 was made because the Commission is not a body
2 that reports information directly to the AG's
3 office, that it contact the Carrier and get any
4 information the Carrier can provide.

5 And I would be willing to go out on a limb and
6 say that's how the Legislature, how the
7 statutory framework anticipates that these
8 types of situations should be handled.

9 **COMMISSIONER BECK:** Talk to me about the
10 admissibility of that report at the hearing.

11 **MR. LICHTY:** It was already in the Commission file.
12 I mean, it was already -- as correspondence --

13 **COMMISSIONER BECK:** I assume there was a motion to
14 exclude that.

15 **MR. LICHTY:** There was a motion to exclude that and
16 there basically -- I think there were two parts
17 to Exhibit One. One was the letter from the
18 AG's office to the Carrier, which was excluded
19 and the objection was sustained. The other was
20 the letter from the Commission to the AG's
21 office and that was kept as a part of the
22 record, Commissioner Lyndon stating "This is
23 already part of the Commission file and it's
24 going to be a part of the record."
25 I don't think it necessarily taints this case

1 or creates any indication or any improper
2 allegations of fraud. I mean, all it is is an
3 allegation. It's no different than had I gone
4 to the hearing and said, "Commissioner, we
5 believe this is a case where insurance fraud is
6 suspected," and that was the first the
7 Commission had ever heard of it.

8 Because, basically, Commissioner Lyndon was
9 sitting down with this file, looking at this
10 case, and he sees the letter in evidence. I
11 believe, based on the conduct of the prehearing
12 conference, that Commissioner Lyndon had never
13 seen that letter before.

14 So it's really -- it's an allegation. It's
15 not -- it's an allegation of fraud and it was
16 submitted -- it wasn't -- I mean, I guess it
17 was submitted, but it was already a part of the
18 Commission record as evidence of a fraud
19 investigation.

20 What's happened? What's come of that? I don't
21 have -- I have no idea. But the fact is that
22 at the hearing itself fraud was not the issue
23 at all. The extent of the Claimant's
24 disability and whether she was permanently and
25 totally disabled or not was at issue and that's

1 what 98 percent of the evidence addresses, is
2 whether she can work and whether she can't.

3 At her deposition she said she couldn't. She
4 spent most of her time in the testimony talking
5 about all the things that she did since the
6 accident, even though she denied it at her
7 deposition. So, really, what it comes down to
8 is very little about fraud in this case.
9 Mostly about credibility. And the credibility
10 issues were enough that the Commissioner did
11 not feel comfortable raising the -- increasing
12 the Claimant's impairment rating to a degree of
13 disability that would entitle her to permanent
14 and total disability benefits and part of that
15 was because the evidence showed that she's
16 capable of working.

17 If there's no further questions, I'll ...

18 **COMMISSIONER BECK:** I assume the person that lodged
19 that complaint with our compliance folks, I
20 think I heard that that person actually
21 testified at the hearing.

22 **MR. LICHTY:** Correct.

23 **COMMISSIONER BECK:** Did that person testify that
24 they still believe fraud had been committed and
25 had a basis to substantiate that?

1 **MR. LICHTY:** He was asked whether he felt the
2 Claimant had committed fraud. I objected to
3 the question on the basis that it asked for a
4 legal conclusion and I believe Commissioner
5 Lyndon sustained that objection.

6 **COMMISSIONER BECK:** All right.

7 **MR. LICHTY:** And so the Claimant did not provide any
8 testimony in that regard. But he was asked --
9 and I think it's notable that he wasn't asked
10 by the Defense.

11 I did not go into this thing trying to prove
12 fraud. I came in there trying to represent my
13 clients and prove that this woman could work.
14 The questions about fraud all came on
15 cross-examination and it was very short and it
16 really did not get into the substantive issues
17 of whether there was a material
18 misrepresentation made for the purpose of
19 increasing financial gain. The hearing never
20 got into that.

21 All he said was -- and this is reflected in the
22 letter from the Commission to the AG's office
23 was that, "I know this woman's working under
24 the table for a competitor of mine. She's also
25 drawing workers' compensation benefits. I'm

1 reporting an allegation of fraud." That's
2 pretty much the extent to which it was
3 addressed.

4 Thank you, Commissioners.

5 **COMMISSIONER WILLIAMS:** All right. Mr. Samuels, you
6 have three minutes.

7 **REPLY BY MR. SAMUELS:**

8 **COMMISSIONER BECK:** Mr. Samuels, if you could first
9 start with 38-55-560, the Commission's
10 statutory obligation to report to the Attorney
11 General's office any suspected abuse or fraud
12 and why -- why -- based on that statute, why
13 this is still an ex parte communication.

14 **MR. SAMUELS:** The answer to that I think, Your
15 Honor, is what that statute contemplates is if
16 in a hearing the Commission's --

17 **COMMISSIONER BECK:** Where does it say that? It
18 says, "Upon receipt of any claims or
19 allegations." Doesn't say at a hearing.

20 **MR. SAMUELS:** You asked me my interpretation. My
21 interpretation is that when evidence actually
22 comes before you at a hearing and you, as a
23 Commissioner, make a factual finding that there
24 is fraud or evidence of fraud that would
25 warrant a criminal investigation, that that

1 then is turned over to the Attorney General's
2 Office.

3 **COMMISSIONER BECK:** I understand it's your position.
4 I'm trying to understand how I get to that
5 position.

6 **MR. SAMUELS:** I understand that. The problem that
7 you have here and what happened here is the
8 Commission is also subject to the Code of
9 Judicial Conduct and Canon 3(B)(7) of the Code
10 of Judicial Conduct prohibits ex parte
11 communication between a Commissioner, slash,
12 Judge, and a party in a case. And --

13 **COMMISSIONER WILLIAMS:** Now -- well, who is the
14 parties in this case or who were the parties in
15 this case?

16 **MR. SAMUELS:** The parties in --

17 **COMMISSIONER WILLIAMS:** I think Mr. Lichty pointed
18 out it's not a party in the case.

19 **MR. SAMUELS:** Well --

20 **COMMISSIONER WILLIAMS:** McGowan was not a party in
21 this case. He was a witness in the case.
22 That's not a party in the case.

23 **MR. SAMUELS:** I agree with that, Your Honor, but
24 it's not just -- that's not the
25 communication -- that communication was not

1 initiated by the Commission. That
2 communication was initiated by Mr. McGowan.
3 Now, Mr. McGowan makes this phone call to Gary
4 Smith.

5 I should add, by the way, that under oath in
6 the hearing he denied that he ever spoke to the
7 Commission, if we're talking about credibility.
8 But putting that aside for the moment, he makes
9 that phone call. And if you would analogize it
10 to a witness in a case or a potential witness
11 in a case calling up a Circuit Court Judge's
12 law clerk.

13 Okay. The Circuit Court Judge can't do what
14 the Commission did here and send a letter, a
15 letter that is directed --

16 **COMMISSIONER BECK:** My administrative assistant is
17 under the Code of Judicial Conduct. I'm under
18 the Code of Judicial Conduct. Mr. Smith is not
19 under the Code of Judicial Conduct.

20 **COMMISSIONER WILLIAMS:** An the ex parte communication
21 part goes -- you said it goes to the parties.
22 I can't have a conversation with Mr. Lichty
23 without you being present on the substance of
24 a case.

25 Now, the Canon's talking about certain

1 instances in terms of scheduling, but we can
2 talk to either side just to get stuff moved or
3 whatever. But how is Mr. McGowan even a party
4 to this case? I've having difficulty with just
5 that hurdle.

6 The other hurdle I had was, y'all wanted this
7 to be heard by a Deputy Commissioner, which I'm
8 not so sure about, or a former Commissioner,
9 which doesn't make sense, or the Circuit Court,
10 which we have a statutory provision dealing
11 with if a -- if the Commissioner or one of our
12 employees is injured, it goes through the
13 Circuit Court. We can't just willy-nilly send
14 a case over there. So how is Mr. McGowan a
15 party?

16 **MR. SAMUELS:** He's not going to -- I know my time
17 has expired, but can I request a fair amount of
18 additional time because of the importance of
19 this particular issue?

20 **COMMISSIONER WILLIAMS:** Go ahead. Let me let you
21 answer how can Mr. McGowan --

22 **MR. SAMUELS:** No, Mr. McGowan is not a party.

23 **COMMISSIONER WILLIAMS:** Okay.

24 **MR. SAMUELS:** The problem is not the communication
25 between the Commission and Mr. McGowan. The

1 problem is that the Commission --

2 **COMMISSIONER BECK:** Well, that's what Mr. Leventis
3 said at the outset.

4 **MR. SAMUELS:** Your Honor, I was next door in another
5 hearing. I don't know what he said at the
6 outset. But I know what we said in our brief
7 because I wrote the brief.

8 And the problem with the communication here is
9 that the Commission -- a Director of the
10 Commission, which is just like a Clerk of
11 Court. Think of the Clerk of Court --

12 **COMMISSIONER BECK:** No, it is not like a Clerk of
13 Court here. He is not a Clerk of Court. My
14 administrative assistant is my Clerk of Court.

15 **MR. SAMUELS:** Well, in any case, Your Honor, what
16 the Director of the Compliance Section of the
17 Commission did is he wrote a letter to the
18 Attorney General's Office directing the
19 Attorney General to forward that letter to the
20 Defendants.

21 So what he has done is ex parte communication
22 with the Defendants on substantive information
23 in a case. That could have been cured if that
24 letter had been copied to me, as the attorney
25 for the Claimant.

1 **COMMISSIONER WILLIAMS:** How do you get around -- and
2 the Chairman (sic) had asked -- 38-55-570, how
3 do you get around that? Maybe there's no way
4 that Mr. Smith could not have referred this
5 information and all it is is an application
6 that's sent over there.

7 Can -- do we just turn a blind eye that if
8 there is suspected fraud, if we get allegation
9 of that, we don't have to send it to the AG's
10 office?

11 **MR. SAMUELS:** The Commission --

12 **COMMISSIONER WILLIAMS:** Do we just dismiss 38-55-570?

13 **MR. SAMUELS:** Well, I think what you'd say is, "I
14 can't talk to you because we are not the
15 appropriate body. Mr. McGowan, you need to
16 contact the Attorney General in the State of
17 South Carolina." And then I think the --

18 **COMMISSIONER BECK:** Well, if that's the case,
19 Mr. Samuels, why would we even need this
20 statute?

21 **MR. SAMUELS:** Because you need that statute when
22 you, as a Commissioner, find evidence of fraud
23 at a hearing, not -- not when some knucklehead
24 with a grudge who's mad at his -- mad -- tries
25 to create problems for somebody.

1 **COMMISSIONER BECK:** One of my concerns with this
2 whole argument is the assertion here that this
3 is somehow violative of the Code of Judicial
4 Conduct. And the Code of Judicial Conduct only
5 applies to the Commissioner and his
6 administrative assistant, not to Gary Smith.
7 So from a Code of Judicial Conduct violation,
8 how is it an ex parte communication with Gary
9 Smith? Look at 42-3-250.

10 **MR. SAMUELS:** I think, Your Honor, 42-3-1250 (sic)
11 simply refers to the Commissioners. I don't
12 think it refers to your administrative
13 assistant.

14 **COMMISSIONER BECK:** Yeah, it does in the second
15 paragraph where she has to go for that
16 training, as well.

17 **MR. SAMUELS:** She's got to attend the workshop. But
18 what really controls this -- because it's the
19 Code of Judicial Conduct, you got to look at
20 the Code of Judicial Conduct. And then you've
21 got to look at Section 3(B)(7) of the Code of
22 Judicial Conduct and --

23 **COMMISSIONER BECK:** Let me come back to the party
24 argument Commissioner Williams is addressing.

25 **COMMISSIONER WILLIAMS:** Yeah.

1 **MR. SAMUELS:** Well, the contact with a party is the
2 contact with Defendants, between a director of
3 the Commission and the Defendants.

4 **COMMISSIONER WILLIAMS:** The AG's office is not a
5 defendant in this case.

6 **MR. SAMUELS:** But you can't --

7 **COMMISSIONER WILLIAMS:** That's the part that you're
8 missing.

9 **MR. SAMUELS:** -- indirectly --

10 **COMMISSIONER BECK:** No, the Commission didn't have
11 contact with the Defendants. The AG's office
12 had contact --

13 **COMMISSIONER WILLIAMS:** Yeah, they had contact with
14 the Defendants.

15 **COMMISSIONER BECK:** -- with the Defendants.

16 **COMMISSIONER WILLIAMS:** And we can't conveniently
17 just leave out these steps, Mr. Samuels. We
18 don't get that luxury.
19 Mr. Smith sent the suspected information to the
20 AG's office. The AG's office, we have no
21 control over them. They can contact whoever
22 they want. They can contact the US Attorney's
23 office or the FBI.

24 **COMMISSIONER BECK:** Trust me, having worked there,
25 they don't -- Mr. Smith does not tell the AG's

1 office what to do with a complaint.

2 **MR. SAMUELS:** I would differ, Your Honor. I think
3 the AG may not have to act on his instructions.
4 The AG in this case did. That letter
5 specifically instructed the Attorney General's
6 Office to forward that letter to the Carrier
7 and even gave them the address on which to do
8 it.

9 And it -- and the letter also basically goes on
10 to say, "I know I really can't do this myself
11 because the statute prohibits it, but I want
12 you to do it for me." Now, I'm paraphrasing,
13 I understand, but that's the effect of it. And
14 that is extremely problematic for the integrity
15 of the judicial process of the Commission.
16 You know, again, we're not saying that anybody
17 was deliberately trying to do any harm to
18 anybody, other than, of course, Steve McGowan.
19 But that procedure that the Commission had --
20 and I understand it's been followed in other
21 cases and I -- I believe -- I don't know this
22 for a fact, but I believe that procedure has
23 been changed.

24 **COMMISSIONER BECK:** It has, but it's still a
25 nonparty facilitating this whole loop.

1 COMMISSIONER WILLIAMS: And I'm getting back to
2 Beck's point. What is the ex parte
3 communication from the Commissioner to any
4 party in this case?

5 MR. SAMUELS: That's the letter to the AG with --

6 COMMISSIONER WILLIAMS: From the Commission.

7 MR. SAMUELS: -- instructions to forward it
8 specifically to --

9 COMMISSIONER WILLIAMS: Okay.

10 MR. SAMUELS: -- the Carrier.

11 COMMISSIONER WILLIAMS: What you're telling me is,
12 is Commissioner Lyndon --

13 MR. SAMUELS: I don't think Commissioner -- no,
14 Commissioner Lyndon --

15 COMMISSIONER WILLIAMS: Who violated the Code of
16 Judicial Conduct is Commissioner Lyndon, not
17 Gary Smith. Commissioner Lyndon, he has to do
18 that.

19 MR. SAMUELS: I beg to differ, Your Honor, because I
20 would point out the comments to Rule 3(B)(7)
21 state, "A judge must make reasonable efforts,
22 including the provision of appropriate
23 supervision, to insure that 3(B)(7) is not
24 violated through law clerks or other personnel
25 on the judge's staff."

1 Now --

2 **COMMISSIONER WILLIAMS:** Yeah, and I'm still getting
3 back, what's the ex parte -- if you can tell me
4 what the ex parte communication is, maybe I
5 could see your point.

6 **MR. SAMUELS:** Because they never --

7 **COMMISSIONER WILLIAMS:** Tell me how you define an
8 "ex parte communication" first and then maybe
9 we -- maybe we have a difference of opinion on
10 that.

11 Because to me, the way I've always read it, you
12 have to be a party. I can't talk to a party.
13 Or maybe I'm missing something.

14 **MR. SAMUELS:** I think it's in the definition of --
15 in Canon' 3(B)(7): "A judge shall not
16 initiate, permit or consider ex parte
17 communications or consider other communications
18 made to the judge outside the presence of the
19 parties concerning pending or impending
20 proceeding," with the exception of scheduling
21 and so forth.

22 So what you have is you have a communication
23 initiated by Steve McGowan with Gary Smith.
24 All right. There's no violation at that point.
25 The duty of an officer of the Commission, any

1 employee of the Commission, then is to notify
2 all the parties, "We received this
3 communication." The duty of the Commission is
4 not when it becomes a violation --

5 **COMMISSIONER BECK:** It's not -- if I heard what you
6 just said, if it's not an ex parte
7 communication, he has no duty. You said that
8 the minute Mr. McGowan told Gary Smith, there
9 was not a violation. If there's not a
10 violation, why does he have any duty to tell
11 anybody about it, other than the Attorney
12 General's Office, by statute?

13 **COMMISSIONER WILLIAMS:** Yeah, because 38-55-570
14 doesn't say "all the parties," it says "notify
15 the AG's office."

16 **MR. SAMUELS:** Well, by the same taken, Your Honor,
17 if some -- if you happen to pick up your phone
18 and it's Mr. McGowan on the phone, and he made
19 that call directly with you, you didn't
20 initiate that ex parte communication. You
21 couldn't avoid it. But now that you've had it,
22 you have to deal with it to cure it, because
23 otherwise if you then go and hear the case --

24 **COMMISSIONER BECK:** It's only ex parte if he's a
25 party.

1 **MR. SAMUELS:** It's ex parte with a witness is also
2 improper, Your Honor, just like ex parte with
3 a juror is improper. You've got to -- you've
4 got to cure it. And the way to cure it is not
5 to do what was done here, because there were
6 two fundamental mistakes here that both
7 violated Canon 3(B)(7) to the extreme prejudice
8 of Patricia Fore.

9 One is, rather than notifying both parties and
10 saying, "We received this information. We're
11 not commenting on it. Y'all deal with it."
12 Instead, it is sent to one party via the
13 Attorney General's Office. That is improper.
14 Then the second thing is, when we are at the
15 hearing the Commission --

16 **COMMISSIONER BECK:** No, it wasn't sent by a party to
17 the Attorney General's Office.

18 **MR. SAMUELS:** It was worse. It was sent by a
19 Commissioner.

20 **COMMISSIONER BECK:** No, it was not sent by a
21 Commissioner.

22 **MR. SAMUELS:** It was sent by an employee of the
23 Commission, a Director of the Commission,
24 which -- who is still under the -- who is
25 supervised by Commissioners.

1 **COMMISSIONER BECK:** Actually, he's not.

2 **COMMISSIONER WILLIAMS:** I asked this earlier. I
3 asked this earlier. I didn't get to ask you.
4 What evidence is there in the order, in the
5 Findings of Fact, Conclusions of Law or the
6 order that this information, this communication
7 at all was relied upon by the Single
8 Commissioner in this case? Because I don't see
9 it in there. Unless I'm -- I'm missing
10 something.

11 I don't see any reliance upon this
12 communication at all in his rendering this
13 decision, because he found the Claimant not
14 credible based on a lot of other issues.

15 **MR. SAMUELS:** Let me answer that, Your Honor. First
16 off, the second error when -- when this was
17 introduced by Defendants at the Commission --
18 and it's interesting the comments here in
19 Mr. Lichty, because he said there was no
20 evidence of actual fraud, that it wasn't --
21 fraud wasn't even an issue. And then you say,
22 "Well, why in the world was that even part of
23 the case? Why would you introduce it?"
24 Well, it was introduced because it was
25 extraordinarily prejudicial. And it's clear at

1 any level of court that evidence of an ongoing
2 criminal investigation is inadmissible.
3 Convictions, guilty pleas within ten years,
4 absolutely.

5 But to say that, "We put this in because we
6 want you to know, Commissioner, that the
7 Claimant is being investigated by the Attorney
8 General for fraud," and for the Commissioner
9 then to say, "Well, I'm going to admit that
10 into evidence" -- and I do believe --

11 **COMMISSIONER WILLIAMS:** I had asked this earlier. I
12 didn't get a direct answer the other time,
13 either. Can you point me to a Finding of Fact,
14 Conclusion of Law or in the order section of
15 this order that Commissioner Lyndon relied upon
16 the communication in his making this decision?
17 Is there any Finding of Fact, Conclusion of Law
18 or section of the order? If there's not, then
19 just say "no" and explain everything else. If
20 there is, point me to it. Because I don't see
21 it. I don't see where it's in here.

22 **MR. SAMUELS:** No, I don't believe there was.

23 **COMMISSIONER WILLIAMS:** Okay. Go ahead.

24 **MR. SAMUELS:** But I will say this. This lady -- if
25 Your Honors get to the merits of the case, if

1 you don't vacate -- as my co-counsel said, our
2 initial request here is we think to cure this,
3 to preserve the integrity of the Commission and
4 this entire process, the integrity of everybody
5 involved, all of the evidence coming out of
6 this needs to be excluded and the case needs to
7 be retried in front of a neutral party.

8 **COMMISSIONER BECK:** Who would that be?

9 **COMMISSIONER WILLIAMS:** Yeah, who would do it?

10 **MR. SAMUELS:** I would say that would be Circuit
11 Court or Your Honors could appoint a former
12 Commissioner as a special referee.

13 **COMMISSIONER WILLIAMS:** How do we get the Circuit
14 Court to hear this case? We have a specific
15 statutory section that tells us when the
16 Circuit Court can hear our cases and I can
17 assure you Circuit Court judges I don't think -
18 - they don't have time for us to send cases to
19 them.

20 **MR. SAMUELS:** Well, I think, Your Honor, if there is
21 a circumstance where the entire Commission has
22 to be recused -- and I think this is that
23 circumstance --

24 **COMMISSIONER BECK:** Why? You've got four people.
25 Three of us, three current Commissioners that

1 are privy to what's happened here. Why does it
2 have to go to the Circuit Court? Not to
3 mention how we get it there, but ...

4 **MR. SAMUELS:** Well, as -- as --

5 **COMMISSIONER BECK:** I mean, from a vacate
6 standpoint, could it go -- if we so decided,
7 could it go to another neutral Commissioner?

8 **MR. SAMUELS:** Theoretically, it could, but Your
9 Honors risk that it would still be tainted
10 because, as has been pointed out multiple
11 times, this letter is now in the Commission's
12 file. So, essentially, what you would have to
13 do would be to seal the Commission's file from
14 whatever Commissioner reheard the case.
15 Otherwise, that evidence is in there.
16 But I do think for -- to really preserve the
17 integrity of the Commission, which I think is
18 a very important issue -- it's certainly
19 important to me because my -- the bulk of my
20 practice is before Your Honors and I know that
21 on a personal and professional level every one
22 of you are of the highest integrity and I -- I
23 don't want any of us to be tainted by this, not
24 Your Honors, not the lawyers, not the clients.
25 It is an extraordinary situation.

1 If I could go on to the merits --

2 **COMMISSIONER WILLIAMS:** No, I think the time has
3 run.

4 **COMMISSIONER BECK:** I think Mr. Leventis has
5 covered --

6 **MR. LICHTY:** Well, when I say the "merits," I
7 don't -- I'm not going to talk about "the
8 merits," but I want to talk about -- to explain
9 to Commissioner Williams' question that I
10 answered "no" to on --

11 **COMMISSIONER WILLIAMS:** No --

12 **MR. SAMUELS:** -- specific Findings of Fact --

13 **COMMISSIONER WILLIAMS:** -- I've read it enough times
14 now. Your time has run and we -- you know, we
15 gave Mr. Lichty only his ten minutes. So we
16 asked a lot of questions. So anything -- any
17 other question?

18 All right. That will conclude this hearing.

19 **MR. SAMUELS:** Thank you, Your Honors.

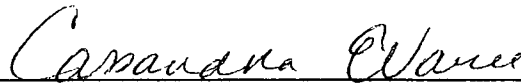
20 (The proceedings concluded at 4:34 p.m.)
21
22
23
24
25

CERTIFICATE

This is to certify that the within hearing consisting of Forty-Two (42) pages, is a true and correct transcript of the testimony given by said witnesses after being duly sworn; said hearing was reported by the method of Stenotype with Backup.

I further certify that I am neither employed by nor related to any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF I have hereunto set my hand and seal on September 12, 2012.



Cassandra E. Vance
Court Reporter

Notary Public for South Carolina
My Commission Expires: February 26, 2018

Loris Healthcare System **EMERGENCY DEPARTMENT**

FORE, PATRICIA A
Y0317478
02/24/08
2149984

MEACHER, DAVID E MD
01/10/85

Room #

6

Verbal: Fore, Patricia

Age: 43 Sex: ☒ M ☐ F Triage Time: 0953 Date: 8-14-08

Immunizations: ☐ UTI ☐ Unk DOB: 1/10/65 Room Time: 1000 LMP: NO / DAY / YR

Primary Physician: Ram. Stettin Exam Time: 1050 Pregnant: ☐ Yes ☐ No ☐ Denies ☐ Unk

Chief Complaint: pubic & leg & hip, Ht
table saw with hip Thursday

Accompanied by: ☐ Self ☐ friend ☐ family/apouse ☐ police ☐ parent ☐ EMS

Weight: ☐ Actual ☐ Last

Acuity Level:

☐ Non-Urgent ☐ Re-visit

☐ Urgent ☐ Emergent

Mode of Transportation:

☐ Ambulatory ☐ carried

☐ wheelchair ☐ stretcher

Accompanied by:

☐ Self ☐ friend

☐ family/apouse ☐ police

☐ parent ☐ EMS

☐ code yellow ☐ NA

called

Time Received: 1000 Received by: PN Med. # 1000

Condition Code: 1 2 3 4 Comments:

B/P: 125/85 Pulse: 94 Resp: 18 SpO2: 98

ALLERGIES: ☐ NKA

☐ LATEX ☐ BRACELET

penicillin

VISUAL ACUITY:

☐ Acuity ☐ NA

☐ Blind: L R ☐ Corrected

☐ Photosensitive ☐ Pain

☐ Unable to answer ☐ Blurring

Dr. Signature: David Meacher

TH: DM

HI: None

CBC	Urine Drug Screen	CXR 1 Port
CBCAD	ETOH	CXR Pa/La
BMP	HFP	C-spine/rtable/lateral
AMP	PT/PTT	C-Spine
Hood C&S w/e	Tropinin	LS Spine
rine HCG	Amylase	Abd Series
GB Serum	Sed Rate	Pelvis
B6	Lipase	CT Head
CG	Strep Screen Throat	CT Chest
urine Workup	Wat Prep	CT Abd
urine Workup	CGCP (Chlamydia/GC)	CT Pelvis
IK Workup		CT Abd Collo
RUC (includes C & S)		CT Pelvis Collo

O2 at 2 L per min

☐ Salline lock

Ice Pack to lateral
R Hip, thigh. 1125
pt refused - states "I
CAN make one at home."

Nurse: David Meacher

Dr. Name: David Meacher

Consult: ☐ Int. ☐ Ent.

Good ☒ Fair ☐ Serious ☐ Critical ☐

Discharge: ☐ Home ☐ LWBS ☐ Admitted ☐ Elop ☐ Room ☐ AMA ☐ Transferred ☐ Funeral Home ☐

NO PHYSICIAN SIGNATURE

David Meacher MD

AGENCY DEPARTMENT RECORD

Date & Time Patient Left Emergency Department

8-24-08 1130

PATIENT OR SIGNIFICANT OTHER

Patricia Fore

Loris Healthcare System

EMERGENCY DEPARTMENT

FORE Y03174
RICIA A MEACHER, DAVID E MD
Z149984 02/24/08

01/10/65

Room #

6

Name: Farr, Patricia Sex: ☐ M ☒ F Age: 65 Date: 2/18/08

Room: 1010 LMP: 1/10/08

Immunizations: ☐ UTG ☐ Unk DOB: 1/10/15

Primary Physician: Dr. S. Butler

Chief Complaint: Abdominal pain, 14.4

Exam Time: 10:10 Pregnant: ☐ Yes ☐ No ☐ Denies ☐ Unk

Lactating: ☐ Yes ☐ No ☐ Denies ☐ Unk

Tetanus: ☐ Unk ☐ + 8 yr

Weight: ☐ Actual ☐ Est

Interventions

☐ Ice ☐ Elevate

☐ Splint ☐ C-Collar

☐ Sterile Dressing

☐ Medication Given

Disposition

☐ ED to evaluate

☒ Lobby

Risk Assessment

Due to:

☐ History of falls

☐ Physical or cognitive impairment

☐ Medication regime

☐ Bracelet applied

☐ Not at Risk

Functional Status

☐ Able to read/write

☐ SO able to read/write

☐ Religious Beliefs

☐ Cultural Values

☐ Illness/Treatment

☐ Discharge Teaching

☐ Other

☐ No help needed

☐ Walks with assistance

☐ Stumbles often

☐ WC, Walker cane

☐ WNL

☐ Wt. Loss

☐ Difficulty Swallowing

☐ Crying - WNL

☐ Head Clr.

☐ Language - WNL

☐ Gross Motor - WNL

☐ Fine Motor - WNL

☐ Uses: Bottle Cup Breast

☐ Frequent Colds, Ear Infection

Consults

☐ Social Services

☐ Nutritional

☐ WOC Nurse

☐ Financial Advice

☐ Other

Medical/Code Blue

☐ CPR ☐ Intubated ☐ Defib X

☐ Monitor Rhythm

☐ Medications Admin.

☐ IV ☐ O2 Via at LPM

☐ MD Notified ☐ Code 4 Called

Trauma

☐ Spinal Precaution

☐ C-Collar ☐ Neck Blocks ☐ LSB

☐ Splint Applied to

☐ IV ☐ O2 Via at LPM

☐ RTS

☐ Code Blue

☐ Cardiac

☐ SOB

☐ Diabetic

☐ Seizure

☐ CVA

☐ MVA

☐ Fall

☐ Burn

☐ Stab

☐ GSW

Physical Examination

General Status

☐ Alert ☐ Oriented X3

☐ Confused ☐ Drowsy

☐ Anxious ☐ Unconscious

☐ Cooperative

☐ Uncooperative

☐ Combative

Level of Consciousness

4 4 4 4 spontaneous

3 3 3 3 to voice

2 2 2 2 to pain

1 1 1 1 none

6 6 6 oriented

4 4 4 confused

3 3 3 inappropriate words

2 2 2 incomprehensible

1 1 1 none

6 6 6 obeys commands

5 5 5 localizes pain

4 4 4 withdraw (pain)

3 3 3 flexion (pain)

2 2 2 extension (pain)

1 1 1 none

Pupil Size

R L

☐ Right (mm)

☐ Left (mm)

LUE RLE LLE

Respirations

☐ Normal ☐ Spontaneous

☐ Labored ☐ Assisted

☐ Shallow ☐ Ventilator

☐ Irregular ☐ Hyperventilating

Airway

☐ Patent ☐ Stridor

☐ Oral Airway ☐ N. Cannula

☐ Nasal Airway ☐ Mask

☐ ET# ☐ Ambu

☐ O₂ L/min ☐ Vent

Observations

☐ Weight Loss

☐ Night Sweats

☐ Bloody Sputum

☐ Low Grade Fever

Cough

☐ On request

☐ Spontaneously

☐ Non-Productive

☐ Productive

☐ Color

Secretions

☐ Thick

☐ Frothy

☐ Thin

Capillary Refill

RUE LUE RLE LLE

Color Temp Condition

☐ Pink ☐ Warm ☐ Dry

☐ Pale ☐ Hot ☐ Moist

☐ Flushed ☐ Cool ☐ Diaphoretic

☐ Cyanotic ☐ Cold ☐ Poor Turgor

Pulses

R L

DP

PT

Radial

Femoral

Carotid

Edema

R L

Hand

Feet

Sacral

Other

Abdomen

☐ Nontender ☐ Tender

☐ Nausea ☐ Vomiting

☐ Diarrhea ☐ Constipation

☐ Hematemesis ☐ Rectal Bleeding

☐ LBM

☐ Weight Loss lbs.

Bowel Sounds

RUQ LUQ RLQ LLQ

N = Normal A = Absent ↑ = Hyperactive ↓ = Hypoactive

Ungues

☐ No Distress ☐ Dysuria

☐ Hematuria ☐ Frequency

☐ Urgency ☐ Discharge

☐ Incontinent ☐ Indwelling Catheter

☐ Clean Catch

☐ Clear ☐ Foul Odor

☐ Cloudy ☐ Sediment

☐ Color ☐ Dip

Interventions

☐ Ice Applied ☐ Sling

☐ Splinted ☐ Rings Removed

☐ Elevated ☐ Bleeding Controlled

Vital Signs

GLASGOW COMA SCALE	4	3	2	1	0	0
Eye	4	3	2	1	1	0
Verbal	5	4	3	2	1	0
Motor	6	5	4	3	2	1

STANDARD BLOOD PRESSURE

4	3	2	1	0
4	3	2	1	0
4	3	2	1	0
4	3	2	1	0

RESPIRATORY RATE

4	3	2	1	0
4	3	2	1	0
4	3	2	1	0
4	3	2	1	0

Arrival

Birth Control

☐ Birth Control ☐ Hysterectomy

☐ Cramping ☐ Pain

☐ Vaginal bleeding ☐ Pads/Mr

Normal Bowel

☐ Normal Bowel ☐ Severe

Weight

☐ Strong ☐ Good ☐ Fair ☐ Weak ☐ Moderate ☐ Poor

Reassessment		Interd		Primary Notes:	
Alert					1012 - PT to room 446. General for
Level of Consciousness					EEG
Normal					1012 Rt hip, 2 contusions,
Clear/Patent					Edema. Reports pain to
Regular					Rt shin. Last pain med
Dry					reported was @ 0500 today
Warm					on Tylenol/Nov. Alexander
Normal					4030 - PT to X-ray - E
Clear					1018 - PT returned to ER 6.E
Reactive					1130 DC'd to home, Ext
At Risk					core, Rx (3) given, Pain
No Risk					10/10. Gait steady. March
Bracelet Applied					
Blood Pressure					
Pulse					
Respirations					
O ₂ Sat					
Temp					
Rhythm					
Score					
Goal					
Quality					
Location					
Finger Back					
Blood Sugar					
Position Sites					
Rt Arm	E	Lt Arm			
Rt Hip	F	Lt Hip			
Rt Leg	G	Lt Leg			
Rt Abd	H	Lt Abd			
Pupil Sizes (mm)					
2	3	4	5	6	7
8	9				
FORE, PATRICIA A Y0317478 MEACHER, DAVID E MD 2149894 02/24/08 01/10/08					
Cont's / See Nursing Notes					
I & O N/A TOTAL					
TIME INTAKE IV PO OUTPUT URINE EMESIS NG					

Wrist Money \$ Bracelet Bandage Ring Watch Keys Pants Dress Shoes Coat Glasses Hearing Aid Upper Lower Partial Walker Wheelchair Sent Home With Patient Security Business Office Nursing Station	Admitted to Room OR Condition: Improved Wounded Unchanged Report called to: RN/LPN by: RN/LPN Transport by: Stretcher W/C Carried on: Monitor O₂ Old Chart to Floor Yes No Transferred To: MD Facility Room # Via Time:	To: Home Escorted by: Self Parent Family Friend EMS Via: Walked Carried W/O Stretcher Parent/Guardian/Patient has Verbalized an Understanding of Verbal and Written Discharge Instructions Adverse Reaction to Medication in ED No Yes See notes	Due to: History of falls Physical or cognitive impairment Medication regime P/Family educated and verbalizes understanding falls precautions Nurse Discharge Signature

Int. Nurse

Int. Nurse

Int. Nurse

Int. Nurse

Int. Nurse

LORIS HEALTHCARE SYSTEM
SEACOAST MEDICAL CENTER
4000 HWY 9 EAST
LITTLE RIVER, SOUTH CAROLINA 29566

PATIENT NAME: FORE, PATRICIA A
MEDICAL RECORD NUMBER: Z149984
ACCOUNT NUMBER: Y0317479
ATTEN. PHY.: MEACHER, DAVID E MD
AGE: 43Y

ADMISSION DATE: 02/24/2008
DISCHARGE DATE: \\\nROOM NUMBER:
LOCATION: SM CER
DICTATING PHYSICIAN: David Meacher, MD
DICTATING DATE/TIME: 02/24/2008 11:07:37

EMERGENCY ROOM EVALUATION

1050: 43-year-old white female with history of insulin-dependent diabetes arrives ambulatory describing pain in her lateral right hip and thigh with a "Charley horse type muscle pain" radiating to her lower leg today. Patient recalls turning and accidentally hitting the lateral aspect of her right hip against a table saw February 21, 2008. No fall or other injury. Table saw did not contact her distal thigh, knee, or lower leg. Patient was able to continue working that day and yesterday. Patient experienced some soreness localized to her right lower extremity.

Past medical history: Insulin-dependent diabetes.

Social History: Smoker.

Vital Signs: Blood pressure: 157/88. Pulse: 94. Respirations: 18. Oral temperature: 98.8. Oxygen saturation: 98%.

Physical Exam: Alert, very talkative, well-developed white female who appears in no acute distress.

Right hip, thigh, knee, lower leg: No deformity. No discoloration. No edema. No focal tenderness on palpation. Patient actively and fully extends and flexs right knee without problem. Passive right hip internal and external rotation without reproducible pain.

Right hip x-ray: No fracture. No dislocation.

Discharge Diagnosis: Lateral of right hip, thigh contusion with distal paresthesias.

Discharge Instructions:

1. Ibuprofen, 800 mg, p.o., t.i.d. p.r.n. pain. Dispense #30.
2. Flexeril, 5 mg, one, p.o., t.i.d. p.r.n. pain. Dispense #30.
3. Vicodin, 5.0/500 mg, 1-2, p.o., q.4-6h. p.r.n. pain not relieved by ibuprofen and Flexeril. Dispense #15.
4. Ice pack to painful tissues for 1 hour periods next several days.
5. Followup: Dr. Ramsbottom, 3 or 4 days, if symptoms not improving.
6. Return if symptoms increase or change.

David Meacher, MD

**LORIS HEALTHCARE SYSTEM
SEACOAST MEDICAL CENTER
LITTLE RIVER, SOUTH CAROLINA**

**PATIENT NAME: FORE, PATRICIA A
ACCOUNT NUMBER: Y0317479**

cc:

This document has been electronically signed by David Meacher, MD on 02/24/2008 10:53:27.

09-16-08

PATRICIA FORE

6475

S: Ms. Fore is a 43-year-old white female who was at work in South Carolina on 02-24-08 when she hit her right hip on the corner of a band saw. She was later seen in the emergency room, later referred to a specialist and had an injection to her hip, but never improved. Over the past 7 months, she has had persistent right hip pain with radiation from the buttock region and lateral aspect of the hip all the way down the right leg. She denies any loss of bowel or bladder control. She denies any other injuries or any other treatment, other than injection, home physical therapy and medications.

PAST MEDICAL HISTORY: Significant for hypertension and diabetes mellitus.

PREVIOUS SURGERIES: Significant for Cesarean section x 2.

CURRENT MEDICATIONS: Lantis, NovoLog and Tramadol.

ALLERGIES: PENICILLIN.

FAMILY HISTORY: Significant for diabetes mellitus.

SOCIAL HISTORY: The patient admits to tobacco use, a half-pack of cigarettes per day and denies use of ethanol. Marital status: Married. Education: Associate's degree in Business Management. Occupation: Meat cutter. Current employer: None.

REVIEW OF SYSTEMS is present in the chart and has been reviewed.

O: The patient is a mildly obese white female in no acute distress. She is alert, cooperative and oriented x 3 and appears to have a normal mood and affect. Examination of the right hip reveals tenderness to the greater trochanteric region, limited range of motion, a positive Faber test, negative heel tap test and a negative log roll test. There is a positive straight leg raise sign for leg pain, right-sided paravertebral muscular tenderness, no specific spasm and fair range of motion to the lumbar spine.

Examination of both lower extremities reveals deep tendon reflexes bilaterally symmetric at 2/4 at the Achilles tendon and patellar tendon stations. Muscle strength and tone bilaterally equal at 4+/5 all lower extremity muscle groups. Distal sensation grossly normal. The patient ambulates with a mild limp.

RADIOGRAPHS of the lumbar spine reveal some minimal degenerative change and disc space narrowing at L5-S1, which is very mild. Radiographs of the hip do not reveal any fractures, dislocations or other osseous abnormalities.

- A:**
1. Low back pain.
 2. Sciatica.
 3. Hip pain.
 4. Trochanteric bursitis.

09-16-08

PATRICIA FORE

6475

Page 2

P: The patient has had a Worker's Comp injury, now 7 months out. It has not improved and I have recommended that we proceed with MRI of both the lumbar spine and the right hip to rule out any severe underlying, acute process which has not been totally evaluated to date. If that test is normal, then we would proceed with probably some minimal therapy and rating in the near future, if that test is positive for significant Worker's Comp injuries. Certainly, that should be addressed at this time.

DIAGNOSIS: 724.3, 724.2, 726.5, 719.45

James S. Mason, D.O./ctm

cc: Worker's Compensation



PATIENT: Forc, Patricia
DOB: 1/10/1965
MRN: 6475
DOCTOR: James Mason, MD
EXAM DATE: 9/19/2008

EXAM: MRI LUMBAR SPINE WITHOUT CONTRAST

HISTORY: Right radiculopathy. Low back pain.

TECHNIQUE: Multiplanar, multisequence image acquisitions were performed throughout the lumbar spine.

FINDINGS:

Alignment and bony structures: Anatomic alignment with normal lordosis. Bony structures normal.

Conus medullaris: Normal size, signal and position.

T12-L1 disc space: Normal.

L1-2 disc space: Normal.

L2-3 disc space: Normal.

L3-4 disc space: Normal.

L4-5 disc space: Mild degenerative disc disease. Mild disc bulge and facet changes cause mild canal narrowing. Small focal right neural foraminal focal disc protrusion angled superiorly contacts the exiting right L4 nerve root, sagittal T2 image 8-9. Fat persists in the foramen and this is not severely stenotic. The left neural foramen is patent.

L5-S1 disc space: Decreased T2 signal indicates minimal degenerative disc disease. Canal and neural foramina are patent. There are mild facet degenerative changes.

IMPRESSION: There are mild degenerative disc and facet changes in the lower lumbar spine. L4-5 small right neural foraminal focal disc protrusion is present.

Royden Daniels, M.D.
RD/dw

DD: 9/19/2008
DT: 9/20/2008
Job: 6875405

2726 LEDO ROAD - SUITE 2 - ALBANY, GA 31707

PH (229)878-4321 - FAX (229)878-5156

After Hours (229)883-4707

10/17/2008 03:19 2294351038
SEP. 22. 2008 9:31AM nw0040

ORTHOPAEDIC ASSO

PAGE 11/25
NO. 1282 P. 10/14

PATIENT: Fore, Patricia
DOB: 1/10/1965
EXAM DATE: MRI LUMBAR SPINE WITHOUT CONTRAST

This document has been reviewed and electronically signed.

Regina Dene MD



PATIENT: Fore, Patricia
DOB: 1/10/1965
MRN: 6475
DOCTOR: James Mason, MD
EXAM DATE: 9/19/2008

EXAM: MR STUDY RIGHT HIP

HISTORY: Pain since February.

TECHNIQUE: T1 and proton density weighted fat sat coronal, T2 transverse and T1 and T2 sagittal image series were made.

FINDINGS:

Bony structures: Unremarkable.

Musculotendinous elements: Muscle signal appears normal throughout with nothing to suggest strain, contusion or hematoma. I do not see a bursal fluid collection. The common hamstring, gluteus minimus and gluteus medius tendons are all normal.

Miscellaneous: I do not see a joint effusion. The acetabular labrum is not very well shown.

IMPRESSION: Normal examination.

S. Boyd Eaton, MD
SE/dw

DD: 9/19/2008
DT: 9/20/2008
Job: 6873188

This document has been electronically reviewed and signed.

S. Boyd Eaton MD

2726 LEDO ROAD - SUITE 2 - ALBANY, GA 31707

PH (229)878-4321 - FAX (229)878-5156

After Hours (229)883-4707

09-23-08

PATRICIA FORE

6475

Ms. Fore presents for follow up of the MRI of her lumbar spine and right hip. Her MRI's are reviewed and I would concur with the report of the lumbar spine by Dr. Royden Daniels that there are some mild degenerative disc and facet changes in the lower lumbar spine and an L4-5 right neuroforaminal focal disc protrusion. The patient does have right leg pain. Also, the MRI of the hip read by Dr. Eaton is normal and I would concur with that report.

Today, I advised her of these findings and recommended a trial of physical therapy, directed primarily at degenerative disc disease and a bulging disc. I have placed her on Voltaren 75 mg 1 p.o. b.i.d. with food. We will see her back in 5 weeks to check her progress, hopefully she will recover quite nicely.

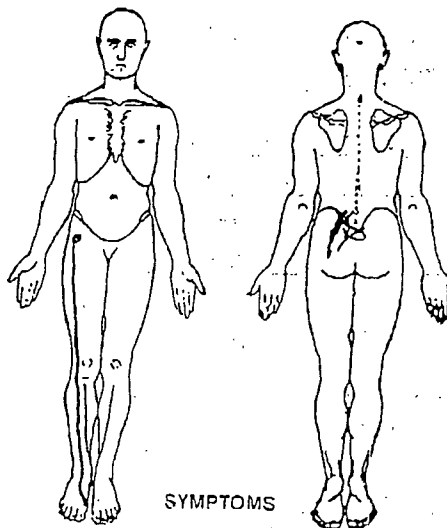
DIAGNOSIS: 722.52, 724.3

James S. Mason, D.O./ctm



THE MCKENZIE INSTITUTE LUMBAR SPINE ASSESSMENT

Date 9/30/08
 Name Patricia Gore Sex M/F
 Address _____
 Telephone _____
 Date of Birth 1/10/65 Age 43
 Referral: GP / Orth / Self / Other _____
 Work / Leisure Meat Cutter - worked for IGA in SC; OOW since 2/08
 Postures / Stresses unable to lift
 Functional Disability from present episode to go to court on 11/5/08 → filing WC
 Functional Disability score = _____
 VAS Score (0-10) = 8/10



HISTORY

Present symptoms do pain in R hip down into BLE into instep
 Present since 2/29/08 → Improving / Unchanging / Worsening
 Commenced as a result of carrying 50lb pork; coming around saw or no apparent reason stopped it
 Symptoms at onset: back / thigh / leg R hip progressed into LE
 Constant Symptoms: back / thigh / leg dull sharp 5 mins
 Intermittent symptoms: back / thigh / leg
 Worse: bending sitting rising standing us to walking lying in out ga
arm as the day progresses pm
 Better: bending sitting standing walking slow lying
am / as the day progresses pm
 other unable to put on sock; barely pick up child; t-e get
 Disturbed Sleep Yes / No Sleeping postures: prone / sup / side (R) / (L) Surface: firm / soft / sag
 Previous Episodes: 0 1-5 6-10 11+ Year of first episode _____
 Previous history: NA

Previous treatments: 2 sp injections to R hip c temp. relief
Nothing has stopped pain

SPECIFIC QUESTIONS

Cough / Sneeze / Strain +ve / -ve Bladder: normal / abnormal Gait: normal / abnormal
 Medications Nil / NSAIDS / Analg / Steroids / Anticoag / Other Anti-inflam
 General Health: Good / Fair / Poor IDDM
 Imaging: Yes / No MRI - bulging disc per report ; X-ray R hip
 Recent or major surgery: Yes / No No Night pain: Yes / No
 Accidents: Yes / No No Unexplained weight loss: Yes / No No
 Other _____

EXAMINATION

POSTURE

Sitting: Good / Fair / PoorStanding: Good / Fair / PoorLordosis: Recl / Acc / NormalLateral Shift: Right / Left / NilCorrection of posture: Better / Worse / No effect

Relevant: Yes / No

Other observations: WS to DLE, tender C6 greater hsh. 3 days
TFL / ITB

NEUROLOGICAL

Motor deficit NL

Reflexes

Sensory deficit NL

Dural signs

MOVEMENT LOSS

	maj	mod	min	nil	pain
Flexion	<u>X</u>				
Extension		<u>X</u>			<u>NO Pain</u>
Side Gliding (R)					
Side Gliding (L)					

~15°
-15°E compensation
to return to stand

TEST MOVEMENTS

Describe effects on present pain - During: produces, abolishes, increases, decreases, no effect, centralising, peripheralising. After: better, worse, no better, no worse, no effect, centralised, peripheralised.

Symptoms During Testing

Symptoms After Testing

Mechanical Response

↓ Rom ↑ Rom No Effect

Pretest symptoms standing:

FIS T c/o LBP E rad pain (R) LE

Rep FIS

EIS NW NB

Rep EIS

Pretest symptoms lying:

FIL T c/o pain

Rep FIL

EIL T c/o pain E rad pain (R) LEEIL NO Effect

Rep EIL

NO Effect

If required pretest symptoms:

SGIS (R)

T pain ~ hip

Rep SGIS (R)

T pain ~ (R) LE

SGIS (L)

Rep SGIS (L)

STATIC TESTS

Sitting slouched

Sitting erect

Standing slouched

Standing erect

Lying prone in extension

Long sitting

OTHER TESTS

Pain ~ (R) hip E EX NL pelvic segment
sidelying rot ↓ c/o pain ~ (R) LE But T E HF
will

PROVISIONAL CLASSIFICATION

Arrangement:

Dysfunction

Posture

Other

Job classification

PRINCIPLE OF MANAGEMENT

Education

Equipment Provided:

Mechanical Therapy

Tension principle

Standing under

Lateral principle

Flexion principle

Her

IOWs E dex (R) greater trunk pain

Treatment Goals

Patient: Patricia Fore
Diagnosis: Degenerative disk disease in lumbar spine and sciatica
Physician: James S. Mason, D.O.
DOB: 01-10-64
SSN: 260-27-2608

HISTORY: See McKenzie evaluation.

A: Patient is a 43-year-old female with a diagnosis of degeneration of lumbar disk/sciatica presenting with increased complaints of pain with activity, decreased lumbar range of motion, palpable tenderness, radiculopathy into right lower extremity, decreased transitional mobility, antalgic gait and an overall decline in function. All of the above deficits indicate a need for skilled physical therapy intervention with patient having good rehabilitation potentials to achieve the following goals:

Short-Term Goals - 2 weeks:

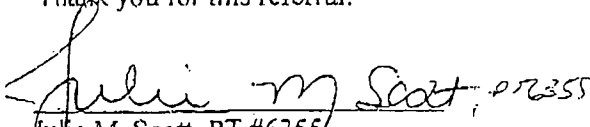
- Patient will be independent with initial home exercise program to include strengthening and stretching exercises for lumbar spine.
- Decrease pain to a 5/10 when patient is performing functional activities to include getting in and out of the bed.
- Increase pain-free lumbar range of motion x 10-15° in order for patient to be able to bend over and put on her shoes and socks.
- Decrease radiculopathy in right lower extremity x 25% in order for patient to have increased ease with transitional mobility and gait.

Long-Term Goals - 4 weeks:

- Patient will be independent with final home exercise program to include strengthening and stretching exercises for lumbar spine.
- Decrease pain to a 3/10 when patient is performing functional activities to include getting in and out of the car and picking up her child.
- Increase pain-free lumbar range of motion x 30-40° in order for patient to be able to bend over and put on her shoes and socks.
- Patient will have centralization to cervical spine with no complaints of pain in right lower extremity when performing ADLs.

P: Patient will be seen in clinic 3 x a week x 4 weeks per physician order for progression of home exercise program, therapeutic exercises and activities for range of motion and strengthening, soft tissue mobilization/manual therapy, and modalities as needed. All of the above activities will be progressed according to patient's tolerance in order to restore patient to maximal level of function.

Thank you for this referral.


Julie M. Scott, PT #6355

JMS/al

09-30-08



FEDERAL ID #58-2471372

T. GLENN WILLIAMS, M.D., A.A.O.S., F.A.C.S.
 THOMAS M. DARDEN, JR., M.D., A.A.O.S., F.A.C.S.
 PAUL A. MICHAS, M.D., A.A.O.S., F.A.C.S.
 JAMES S. MASON, D.O., F.A.O.A.O.
 MARK A. WOLGIN, M.D., A.A.O.S., F.A.C.S.

① 9/30/08
Jee McKenzie
Evel

E.		TIME	PATIENT		REASON				PRIOR BALANCE			
09/30/08 11.30		PATRICIA A FORE			EVAL BACK LUNBAR				PAT 910.00 TMS 2389.00			
ENT NO.		DR#	DOCTOR		LOCATION		D.O.B.		TODAY'S CHARGE			
305952		10	SCOTT MPT		ALBANY BONE JOINT C		01/10/55		155.00			
ENT NO.		RESPONSIBLE PARTY			PH#		REFERRING DR.		TODAY'S PAYMENT			
6475		PATRICIA A FORE			000 0000		MASON					
M	F	ADDRESS			CITY/STATE		ZIP CODE					
		X [REDACTED]			LEESBURG		GA 31763					
OVER 90		OVER 60		OVER 30		CURRENT	TOTAL DUE	PT	RC	CS	INITIAL	PAY CHOICE
0.00		0.00		0.00		3299.00	3299.00	00	6	1	0	CASH
ANCE COMPANY					POLICY I.D.							
CIGNA					Y I U3300675902 X							
SSN # 260 27 2608					724.3 SCIATICA							
BALANCE DUE												

Medications	Date	Size	Frequen	Count

I certify that all above services have been rendered by me.

Julie M. Scott, PT, C355
THERAPIST SIGNATURE



P.O. BOX 407 • 619 Pointe North Blvd. • ALBANY, GEORGIA 31702
FEDERAL ID #58-2471372

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 JAMES S. MASON, D.O., F.A.O.A.O.
 MARK A. WOLGIN, M.D., A.A.O.S., F.A.C.S.

COMMENTS / NOTES

Medications	Date	Size	Frequen	Count

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THERAPIST SIGNATURE



ORTHOPAEDIC
ASSOCIATES



**ORTHO SPORT
PHYSICAL THERAPY**



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JAMES S. MASON, D.O., F.A.O.A.O.
MARK A. WOLGIN, M.D., A.A.O.S., F.A.C.S.

CPT	UNITS	DESCRIPTION
97001		PHYSICAL THERAPY - EVALUATION
97002		PHYSICAL THERAPY - RE-EVALUATION
97005		ATHLETIC TRAINING - EVALUATION
97006		ATHLETIC TRAINING - RE-EVALUATION
97010		APPLICATION - MODALITY - COLD PAK / ICE
97010		APPLICATION - MODALITY - MOIST HEAT
97012		TRACTION, MECHANICAL
97014		ELECTRICAL STIMULATION (UNATTENDED)
90283		MEDICARE ELECTRICAL STIMULATION (UNATTENDED)
97016		VASOPNEUMATIC DEVICES, COMPRESSION
97018		PARAFFIN BATH
97026		INFRARED LASER
97032		ELECTRICAL STIMULATION, (ATTENDED) EA 15 MIN.
97033		IONTOPHORESIS, EA 15 MIN.
97035		ULTRASOUND, EA 15 MIN.
97039		PHONOPHORESIS - UNLISTED MODALITY
97110		THERAPEUTIC EXERCISES, EA 15 MIN.
97110		SPINE REHAB PROGRAM, EA 15 MIN.
97110		WORK CONDITIONING PROGRAM, EA 15 MIN.
97110		SHOULDER REHAB PROTOCOL, EA 15 MIN.
97110		ACL REHAB PROTOCOL, EA 15 MIN.
97110		ANKLE REHAB PROTOCOL, EA 15 MIN.
97110		TOTAL JOINT REHAB PROTOCOL, EA 15 MIN.
97110		KNEE REHAB PROTOCOL, EA 15 MIN.
7112		NEUROMUSCULAR RE-ED-AROM AAROM-PROM EA 15 MIN.
7116		GAIT TRAINING, EA 15 MIN.
7124		MASSAGE
7140		MANUAL THERAPY TECHNIQUES, EA 15 MIN.
7530		HOME PROGRAM, EA 15 MIN.
7542		WHEELCHAIR MANAGEMENT, EA 15 MIN.
7545		WORK HARDENING, INITIAL 2 HOURS
7750		PHYSICAL PERFORMANCE TEST/ECE EA 15 MIN.
97301		TENS
9550		TENS APPLICATION
9070		MISCELLANEOUS SUPPLIES
9071		EDUCATIONAL MATERIALS

COMMENTS / NOTES

W

CD-9	CPT	DESCRIPTION	PRICE

TIME		PATIENT		REASON		PRIOR BALANCE	
10/07/08		8:00 PATRICIA A FORE		BACK JS		PAT 1104.90	
						INS 2149.00	
ET NO.	DR. #	DOCTOR	LOCATION	D.O.B.		TODAY'S CHARGE	
307103	11	GAINT	ALBANY BONE JOINT C	01/10/65			
INT NO.	RESPONSIBLE PARTY		PH#	REFERRING DR.		TODAY'S PAYMENT	
6475	PATRICIA A FORE		000 0000	MASON			
M	F	ADDRESS	CITY/STATE	ZIP CODE			
		X	LEESBURG	GA 31763			
OVER 90	OVER 90	OVER 90	CURRENT	TOTAL DUE	PT	BC	CS
0.00	0.00	0.00	3253.90	3253.90	6	1	0
INVOICE COMPANY		POLICY ID.		INITIAL		PAY CHOICE	
CIGNA		Y I U3300675902		X		CASH	
						CHECK	
						CREDIT CARD	
						BALANCE DUE	
SSN # 260 27 2608		724.3 SCIATICA					

Medications Date Size Frequn Count

I certify that all above services have been rendered by me.



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FEDERAL ID #58-2471372

GLENN WILLIAMS, M.D., A.A.O.S., F.A.C.S.
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CPT	UNITS	DESCRIPTION
7001		PHYSICAL THERAPY - EVALUATION
7002		PHYSICAL THERAPY - RE-EVALUATION
7005		ATHLETIC TRAINING - EVALUATION
7006		ATHLETIC TRAINING - RE-EVALUATION
7010		APPLICATION - MODALITY - COLD PAK / ICE
7010		APPLICATION - MODALITY - MOIST HEAT
7012	1	TRACTION MECHANICAL
7014	1	ELECTRICAL STIMULATION (UNATTENDED)
70283		MEDICARE ELECTRICAL STIMULATION (UNATTENDED)
7016		VASOPNEUMATIC DEVICES, COMPRESSION
7018		PARAFFIN BATH
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7110		ACL REHAB PROTOCOL, EA 15 MIN.
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7110		KNEE REHAB PROTOCOL, EA 15 MIN.
7112		NEUROMUSCULAR RE-ED-AROM AAROM-PROM, EA 15 MIN.
7116		GAIT TRAINING, EA 15 MIN.
7124		MASSAGE
7140		MANUAL THERAPY TECHNIQUES, EA 15 MIN.
7130		HOME PROGRAM, EA 15 MIN.
7142		WHEELCHAIR MANAGEMENT, EA 15 MIN.
7145		WORK HARDENING, INITIAL 2 HOURS
7150		PHYSICAL PERFORMANCE TEST/CE, EA 15 MIN.
7130		TENS
7150		TENS APPLICATION
7101		MISCELLANEOUS SUPPLIES
71		EDUCATIONAL MATERIALS

COMMENTS / NOTES

- ② 10/10/08
- 5 Pt reports her back has recently been hurting & pain in @ leg.
- 0: Re began @ MTH/IFC x 15 mins → LB in supine. Re concluded @ MTH LB to x 20 mins @ both max pull in supine.
- A: Pt is difficulty @ all mobility today 20 pain. Pt missed couple of appts in financial situation.
- P: Cont Re per POC

D-9	CPT	DESCRIPTION	PRICE
243			
2252			

TIME	PATIENT	REASON	PRIOR BALANCE
10/10/08	1.00 PATRICIA A FORE	BACK JS	PAT 154.90
NO.	DR. # DOCTOR	LOCATION	INS 2119.00
307101	11 GAIT	ALBANY HOME JOINT C	TODAY'S CHARGE
TNO.	RESPONSIBLE PARTY	REFERRING DR	
6475	PATRICIA A FORE	000 0000 NASON	TODAY'S PAYMENT
F	ADDRESS	CITY/STATE ZIP CODE	
OVER 90	OVER 60	OVER 30	CURRENT
0.00	0.00	0.00	2303.90
CE COMPANY	POLICY ID	PT	EC
CIGNA	Y I U3300675902	CS	1
SSH #	260 27 2608	724.3	SCIATICA
BALANCE DUE			

Medications Date Size Frequen Count

I certify that all above services have been rendered by me.

Timothy B. Yount PT (1970)
THERAPIST SIGNATURE



ORTHOPAEDIC
ASSOCIATES



ORTHOPAEDIC
PHYSICAL THERAPY



P.O. BOX 407 • 519 Pointe North Blvd. • ALBANY, GEORGIA 31702
FEDERAL ID #58-2471372

T. GLENN WILLIAMS, M.D., A.A.O.S., F.A.C.S.
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MARK A. WOLGIN, M.D., A.A.O.S., F.A.C.S.

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97005		ATHLETIC TRAINING - EVALUATION
97006		ATHLETIC TRAINING - RE-EVALUATION
97010		APPLICATION - MODALITY - COLD PAK / ICE
97010		APPLICATION - MODALITY - MOIST HEAT
97012	1	TRACTION, MECHANICAL
97014	1	ELECTRICAL STIMULATION (UNATTENDED)
90283		MEDICARE ELECTRICAL STIMULATION (UNATTENDED)
97016		VASOPNEUMATIC DEVICES, COMPRESSION
97018		PARAFFIN BATH
97026		INFRARED LASER
97032		ELECTRICAL STIMULATION, (ATTENDED) EA 15 MIN.
97033		IONTOPHORESIS, EA 15 MIN.
97035		ULTRASOUND, EA 15 MIN.
97039		PHONOPHORESIS - UNLISTED MODALITY
97110	1	THERAPEUTIC EXERCISES, EA 15 MIN.
97110		SPINE REHAB PROGRAM, EA 15 MIN.
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97110		KNEE REHAB PROTOCOL, EA 15 MIN.
97112		NEUROMUSCULAR RE-ED-AROM-AROM-PROM, EA 15 MIN.
97116		GAIT TRAINING, EA 15 MIN.
97124		MASSAGE
97140		MANUAL THERAPY TECHNIQUES, EA 15 MIN.
97530		HOME PROGRAM, EA 15 MIN.
97542		WHEELCHAIR MANAGEMENT, EA 15 MIN.
97545		WORK HARDENING, INITIAL 2 HOURS
97560		PHYSICAL PERFORMANCE TEST/CE, EA 15 MIN.
97730		TENS
97550		TENS APPLICATION
97070		MISCELLANEOUS SUPPLIES
97071		EDUCATIONAL MATERIALS

⑤

COMMENTS / NOTES

10/14/08

S

pt reports the tingling
down her legs isn't
as bad today.

O

Re began a ther ex
per ex grad in chair
for a total of 15 mins,
Mech L3 Tx & 15
mins of 60 lbs max press
in prone. Re concluded
a multi-jt & 15 mins
L3.

A

pt a some also discomfort
L & LL

P

Cont Rx per POC

D9	CPT	DESCRIPTION	PRICE
724.3			
722.32			
157.1			

TIME		PATIENT		REASON		PRIOR BALANCE	
10/14/08 12:30		PATRICIA A FORE		BACK KNO		PAT 234.90	
NO.		DR #		LOCATION		D.O.B.	
309090		11 GAINT		ALBANY BONE JOINT C 01/10/65		INS 44.00	
T NO		RESPONSIBLE PARTY		PIN#		REFERRING DR	
6475		PATRICIA A FORE		000 0000 MASON			
F		ADDRESS		CITY/STATE		ZIP CODE	
X		[REDACTED]		LEESBURG		GA 31763	
OVER 90	OVER 60	OVER 30	CURRENT	TOTAL DUE	PT	BC	CS
0.00	0.00	0.00	278.90	278	90	6	1 0
CIE COMPANY		POLICY ID.		INITIAL		PAY CHOICE	
CIGA		Y I U3300675902		X		CASH	
SSH #		260 27 2608		724.3 SCIATICA		CHECK	
						CREDIT CARD	
						BALANCE DUE	

Medications Date Size Frequen Count

I certify that all above services have been rendered by me.

Simatany B. Gant, PT, 1970
THERAPIST SIGNATURE

ORTHOPAEDIC
ASSOCIATES**ORTHO SPORT
PHYSICAL THERAPY**P.O. BOX 407 • 619 Pointe North Blvd. • ALBANY, GEORGIA 31702
FEDERAL ID #58-2471372GLENN WILLIAMS, M.D., A.A.O.S., F.A.C.S.
THOMAS M. DARDEN, JR. M.D., A.A.O.S., F.A.C.S.
PAUL A. MICHAS, M.D., A.A.O.S., F.A.C.S.
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MARK A. WOLGIN, M.D., A.A.O.S., F.A.C.S.

CPT	UNITS	DESCRIPTION
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97002		PHYSICAL THERAPY - RE-EVALUATION
97005		ATHLETIC TRAINING - EVALUATION
97006		ATHLETIC TRAINING - RE-EVALUATION
97010		APPLICATION - MODALITY - COLD PAK / ICE
97010		APPLICATION - MODALITY - MOIST HEAT
97012		TRACTION, MECHANICAL
97014		ELECTRICAL STIMULATION (UNATTENDED)
90283		MEDICARE ELECTRICAL STIMULATION (UNATTENDED)
97016		VASOPNEUMATIC DEVICES, COMPRESSION
97018		PARAFFIN BATH
97026		INFRARED LASER
97032		ELECTRICAL STIMULATION, (ATTENDED) EA 15 MIN.
97033		IONTOPHORESIS, EA 15 MIN.
97035		ULTRASOUND, EA 15 MIN.
97039		PHONOPHORESIS - UNLISTED MODALITY
7110		THERAPEUTIC EXERCISES, EA 15 MIN.
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7110		WORK CONDITIONING PROGRAM, EA 15 MIN.
7110		SHOULDER REHAB PROTOCOL, EA 15 MIN.
7110		ACL REHAB PROTOCOL, EA 15 MIN.
7110		ANKLE REHAB PROTOCOL, EA 15 MIN.
7110		TOTAL JOINT REHAB PROTOCOL, EA 15 MIN.
7110		KNEE REHAB PROTOCOL, EA 15 MIN.
7112		NEUROMUSCULAR RE-ED-AROM AAROM-PROM EA 15 MIN.
7116		GAIT TRAINING, EA 15 MIN.
7124		MASSAGE
7140		MANUAL THERAPY TECHNIQUES, EA 15 MIN.
530		HOME PROGRAM, EA 15 MIN.
542		WHEELCHAIR MANAGEMENT, EA 15 MIN.
545		WORK HARDENING, INITIAL 2 HOURS
750		PHYSICAL PERFORMANCE TEST/CE, EA 15 MIN.
730		TENS
550		TENS APPLICATION
070		MISCELLANEOUS SUPPLIES
071		EDUCATIONAL MATERIALS

COMMENTS / NOTES
④ 10/17/08
5. PT reports her back isn't getting any better.
0. Rx began to meet LB tx x 16mins i 60lbs max pull in supine. Rx concluded i MH/Lfc x 15mins → LB.
14. PT is to do pain today i ↓ mobility. ↓ stride length i gt.
P: Cont Rx per POC

CD-9	CPT	DESCRIPTION	PRICE
724.3			
722.52			
U57.1			

TIME	PATIENT	REASON	PRIOR BALANCE
10/17/08	1.30 PATRICIA A FORE	LBP TBG	PAT 224.90 INS 131.00
TNO.	DR#	DOCTOR	LOCATION
308991	11	GAINT	ALBANY BONE JOINT C 01/10/65
NT NO.	RESPONSIBLE PARTY	PH#	REFERRING DR.
6475	PATRICIA A FORE	000 0000	MASON
M	F	ADDRESS	CITY/STATE
		X [REDACTED]	LEESBURG GA 31763
OVER 90	OVER 60	OVER 30	CURRENT
0.00	0.00	0.00	355.90
TOTAL DUE		PT	BC
355.90		355	90
CS		INITIAL	
6		1	0
PAY CHOICE			
CASH			
CHECK			
CREDIT CARD			
BALANCE DUE			
NCE COMPANY		POLICY I.D.	
CIGNA		Y I U3300675902 X	
SSN # 260 27 2608		724.3 SCIATICA	

Medications Date Size Frequent Count

I certify that all above services have been rendered by me.

 THERAPIST SIGNATURE

04-17-09

PATRICIA A. FORE

DOB: 01-10-65

- S: The patient has been through physical therapy. However, she feels that there has been minimal relief. She is still having pain that is about 50/50 back and leg with radiating pain from her posterior hip region on the right down to the anterior thigh and also to the anterior leg, previously down to the foot, but now down to the ankle region.

The patient has also noted some trouble with getting approval for medical care since she has had questioned whether this condition is related to her workplace setting.

- O: The patient's gait is with mild antalgia favoring the right side. She has some tenderness in the low back region at the lumbosacral junction, more on the right than the left. There is very slight irritability of the hip on the right side with rotation, but the pain is referred to the posterior buttock region and not to the groin. No irritability on the left hip. Motor and sensory exam intact in both lower extremities objectively, but with subjective numbness in the lateral thigh and anterior knee region on the right, negative on the left. The straight leg raise reproduces a pulling feeling on the posterior thigh on the right, negative on the left.

IMAGING STUDIES: MRI reviewed from 09-19-08, findings are notable for normal segment at the L3-4 level. At the L4-5 level, there is a broad-based disk bulge with increased fluid in the joint, possibly consistent with instability and a small amount of foraminal narrowing, more on the right than the left. At the 5-1 level, there is a mild-to-moderate amount of facet arthrosis, but the disk hydration is fairly well-maintained, but has lost some of its height.

- A:
1. Status post lifting injury in workplace setting.
 2. Chronic low back pain.
 3. Right lower extremity radiculitis.
 4. History of diabetes.
 5. History of overweight.

DISCUSSION: With regard to causation, my opinion is that to a reasonable degree of medical certainty that this patient's condition developed from her workplace exposure based on her history to me. The patient notes that she was carrying a chunk of meat which weighed between 50 and 60 pounds and she wound up backing into a stationary machine and before that event, she did not have any pain in her back or leg. After that, she has had these chronic symptoms and is even at the point of considering surgery. The patient has told me that her claim was approved for her hip, but not for her back. Clearly, in my opinion her condition is due to her back and very often there is an overlap between hip and back, such as with the shoulder and neck. Furthermore, an x-ray was taken of her hip on 09-16-08 and was not indicative of any more than degenerative changes, which would be normal for age and were not consistent with a hip injury. The views of the patient's lumbar spine did show some degenerative change at L4-5 and L5-S1.

Therefore, to summarize my opinion is that this problem is due to her back, not due to her hip.

04-17-09

PATRICIA FORE

DOB: 01-10-65

Page 2

P: At this point, the patient can continue with trunk strengthening. Weight loss is encouraged. She is under the care of Dr. Moree who has felt that epidurals would be of little value. My concern is that she has instability and pain generation from the L4-5 segment. If she were to proceed with surgery, I would probably recommend at least a 1-level fusion of L4-5, possibly to include L5-S1 also due to the facet arthrosis at that level. The patient would need to decide if she wanted to move in the surgical direction or continue with more therapy and weight loss. Otherwise, she can continue with Tramadol, Ultram and Lodine and trunk strengthening.

For follow up, I will let the patient call for her next appointment since our hands are tied until she has some approval to move in a more aggressive direction. 30 minutes spent with the patient.

Mark A. Wolgin, M.D./ctm

cc: Mr. Stephen Samuels. Fax: (803) 779-4004

02-02-10

PATRICIA FORE

DOB: 01-10-65

S: The patient was last seen in 04-09, but it has taken up until now for her to find an attorney and get her legal case settled so that the injury is covered by the Work Comp carrier. She has now reached that point. She notes that her pain has been essentially the same or worse with pain from her low back down her right leg to about just below the knee with no associated numbness. The patient notes some relief with walking, but if she is in a standing position and leans forward slightly, she has significant pain when she stands up again. She has had no bowel or bladder incontinence. She is trying to control her pain with Tramadol and Flexeril. She has been through a course of physical therapy several months ago, but has not had any epidural injections.

O: The patient is able to demonstrate heel and toe walk, but with more discomfort on the right than the left. She has no focal tenderness or spasm in the lumbar spine. She has a positive straight leg raise on the right with reproduction of pain down to the medial calf and a cross-positive straight leg raise with elevation of the left leg causing right posterior buttock pain.

IMAGING STUDIES: MRI films reviewed from study date 09-08, which was notable for facet arthrosis at the 5-1 level and disk degeneration at 4-5 with slightly increased facet effusions. On that study, the patient had no significant foraminal stenosis.

- A:**
1. Status post lifting injury in industrial setting.
 2. History of low back pain, chronic.
 3. Right lower extremity radiculitis.
 4. History of diabetes and overweight.

P: The patient and I spoke at length about her options. Since her MRI is so old and since her symptoms have changed, I would like to get a new lumbar spine MRI. On return visit, I would also like AP and lateral views of the lumbar spine. We will order for the patient some Relafen and Vicodin to see if that can help her symptoms, but as I am seeing her at this time, it is past business hours and we will not be able to see if we can get that medication for her until tomorrow. We will see her back after her lumbar spine MRI is available for review and we will decide how to proceed. The patient is interested in moving in whatever direction would help her feel better since she has had this pain for so long. On return visit, I would like AP and lateral views of the lumbar spine and lateral flexion-extension views.

Mark A. Wolgin, M.D./ctm

02-02-10

PATRICIA FORE

DOB: 01-10-64

The patient is seen with Ms. Cathy Nelson. We discussed the overall picture of this patient's clinical course. The fact that she has had conservative treatment and her symptoms have continued, we discussed whether the patient would be at MMI at some point and also what the treatment plan would be after the upcoming MRI. Also, there was concern because the MRI reports noted severity qualifiers as "mild", as opposed to moderate or severe with regard to her low back findings and how these would relate to any potential indication for surgery.

We agreed that I would defer any further opinions until after I see the new MRI since her previous MRI was approximately a year and a half old, but the patient does have evidence of need for potential operative intervention including facet arthrosis at the 5-1 level and disk degeneration at the 4-5 level. Epidural injections might be an option. The patient did note that she has recently gone through therapy and we will see how her medication regimen works. The fact that the patient is a diabetic would not be a deterrent to proceeding with surgery per se, but we would need to watch out for infection more rigorously in view of the patient's diabetes condition.

Mark A. Wolgin, M.D./ctm

cc: Ms. Cathy Nelson, RN. Fax: (770) 755-5054



PATIENT: Fore, Patricia
DOB: 1/10/1965
MRN: 2673
DOCTOR: Mark Wolgin, MD
EXAM DATE: 2/25/2010
ID #: MR6475

EXAM: MRI LUMBAR SPINE WITHOUT CONTRAST

HISTORY: Chronic low back pain. Right leg radiculitis.

TECHNIQUE: Multiplanar, multisequence image acquisitions were performed throughout the lumbar spine.

FINDINGS:

Alignment and bony structures: Normal alignment. Marrow signal intensity normal.

Conus medullaris: Normal size, signal and position.

T12-L1 disc space: Normal.

L1-2 disc space: Normal.

L2-3 disc space: Normal.

L3-4 disc space: Normal.

L4-5 disc space: Disc desiccation. Mild bulge. Probable small superimposed central protrusion. Mild bilateral facet hypertrophy. Mild crowding of the lateral recess nerve roots. Minor foraminal narrowing.

L5-S1 disc space: Slight disc desiccation. Minor facet degenerative change.

IMPRESSION:

1. Bulge and possible tiny central protrusion at L4-5 is noted along with mild facet hypertrophy. No frank nerve root compression. Probable mild crowding of the lateral recess nerve roots.
2. Minor disc degenerative change at L5-S1.
3. Left adnexal 3.5 cm cystic lesion is noted. This is likely ovarian in origin. Ultrasound correlation as a baseline for follow up may be useful. Interval follow up is suggested in six to eight weeks to ensure stability or resolution.

Michael Smith, M.D.
MS / rl

DD: 2/26/2010
DT: 2/26/2010

619 POINTE NORTH BLVD. - ALBANY, GA 31721

PH (229)878-4321 - FAX (229)888-0565

AFTER HOURS PH (229)883-4707

03-02-10

PATRICIA FORE

DOB: 01-10-65

- S:** The patient is here to discuss surgical treatment. The patient has felt that her pain is worse in the morning and almost tolerable during the day, but then worse in the evenings. She has pain in her right low back and down the right leg to the knee with no radiating pain to the feet. The patient has noted that if she bends over it is hard to get back up. She is trying to cut down her smoking and is down to 3/4 pack per day from over 2 packs per day.
- O:** Motor and sensory exam intact in both lower extremities. Straight leg raise negative bilaterally.

IMAGING STUDIES: New MRI is reviewed from 02-25-10 notable for disk desiccation and a broad-based disk bulge at the 4-5 level with evidence of stenosis at that level and slightly increased facet fluid levels indicating potential disk instability. Also, the patient has facet arthrosis and disk degeneration at the L5-S1 level, worse on the right than the left.

- A:**
1. History of industrial lifting injury.
 2. Spinal stenosis, L4-5 with broad-based disk bulge.
 3. Potential instability, L4-5 with facet effusions.
 4. Facet degeneration L5-S1 with right greater than left lower extremity radiculitis.
 5. Smoking history.
 6. Overweight.
- P:** The patient and I spoke at length about the options. We discussed also whether she would like to try any type of injection therapy, more limited surgery or facet injections. The patient felt that she wanted to be aggressive and go ahead and have the definitive surgery and not do anything that would not give her any type of permanent effect. I advised her that we could not guarantee the result of surgery, but I think the patient would be a candidate for a two-level transforaminal lumbar interbody fusion if the patient wanted to move in that direction. She was very clear that she did not want to do anything except that treatment.

In the meantime, we will refill her Mobic and Vicodin. I again advised her about the importance of smoking cessation. We will order a bone growth stimulator for her as well as the chairback brace. The weight loss would be helpful, but it is hard to lose weight when her back is hurting. We will see her back for a preop once authorization is given. She will be out of work until further notice. 30 minutes spent with the patient. On her return visit, I would like AP and lateral lumbar spine views.

Mark A. Wolgin, M.D./ctm

cc: Ms. Cathy Nelson, field case manager. Fax: (770) 755-5054

Patient: FORE, PATRICIA Guarantor: WAMPEE INC, GRIFFSCO OF DOB 1/10/1965 Sex: Female
 Reason: MRI RES L SPINE/ Loc: Albany Bone Joint Clinic PC (Appointment: 3/2/2010 9:30:00
 Provider: Wolgin, Mark Ins: WORKERS COMP
 Appt Prov.: Wolgin, Mark SSN: [REDACTED] Patient: WC6475
 Ref. Prov.: WILLIAMS MD, T Phone: (229)869-2954 Encounter: 000378980

Procedures				
Code	Description	Modifiers	Quantity	Diagnoses
99214	Level 4		1	4,3,2,1
99999	Surgery Scheduled		1	
WCURWF	UNABLE TO RETURN TO WORK UNTIL FURTHER N		1	

Diagnoses		
1	721.90	Osteoarthritis lumbar spine
2	722.52	Degenerative disc disease-lumbar
3	724.2	Low back pain/lumbalgia
4	724.4	Radicular lumbo thoracic

Pain Drawing

Patient Name: Patricia Fore Date: 3/2/09 Age: 45

Where is your pain now?

Mark the areas on the diagram that indicate where you feel the described sensations. Use the appropriate symbols (indicated below). Mark areas of radiating pain. Include all affected areas.

Comparing pain in neck and arm(s)

() neck pain worse

() arm(s) worse

() about the same

Ache

^ ^ ^ ^ ^
^ ^ ^ ^ ^

Comparing pain in back and leg(s)

() back pain worse

() leg(s) worse

() about the same

Pins and Needles

o o o o o
o o o o o

Left

Right

Right

Left

Numbness

■ ■ ■
■ ■ ■

Burning

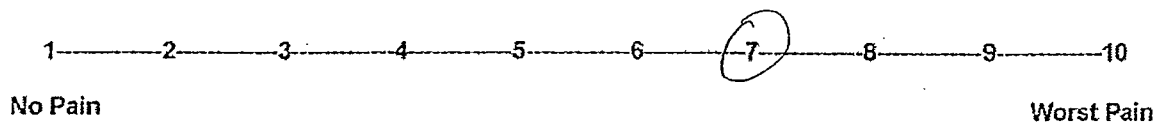
x x x x x
x x x x x

Stabbing

/ / / / /
/ / / / /

How bad is your pain now?

Please indicate on the scale below, from 1 to 10, how you would rate your pain intensity now.
1 => no pain, 10 => pain so severe you are writhing on the floor



Please list the medications you are currently already taking for your pain:

Please list the treatments you have tried for your condition:

- ☒ physical therapy
- ☐ epidural steroid injection (done in operating room with Xray)
- ☐ chiropractic care
- ☐ acupuncture

03-26-10

PATRICIA FORE

DOB: 01-10-65

I was contacted by a Dr. Gause at (412) 635-8495 who felt that there not enough evidence to warrant fusion. The additional evidence that he suggested would include a psychosocial evaluation and also provocative discography. I will speak with Keisha about ordering these studies so that we could proceed with surgery if indicated.

Mark A. Wolgin, M.D./ctm

05-06-10

PATRICIA FORE

DOB: 01-10-65

The patient had a history and physical dictated on the Phoebe dictation line, work #5636 for surgery on 05-12-10. The patient will be seen back the week of 05-24-10. She and I discussed the nature of her surgery, which will be a right approach L4 through S1 TLIF with the understanding that surgery results cannot be guaranteed, but I do feel that she is a good candidate for the above-mentioned procedure.

The patient will be given a refill of her Vicodin. Also, smoking cessation was encouraged.

ADDENDUM: We will check with Becky in our office to see if the chairback brace has been ordered. Also, since the patient is having a multilevel fusion and is a smoker I will order a bone stimulator as well.

Mark A. Wolgin, M.D./ctm

cc: Ms. Cathy Nelson, field case manager. Fax: (770) 755-5054

Patient: FORE, PATRICIA Guarantor: WAMPEE INC, GRIFFSCO OF DOB 1/10/1965 Sex: Female
 Reason: RT APP TLIF PPM Loc: Albany Bone Joint Clinic PC (Appointment: 5/6/2010 2:30:00
 Provider: Wolgin, Mark Ins: WORKERS COMP
 Appt Prov.: Wolgin, Mark SSN: [REDACTED] Patient: WC6475
 Ref. Prov.: WILLIAMS MD, T Phone: (229)869-2954 Encounter: 000387844

Procedures				
Code	Description	Modifiers	Quantity	Diagnoses
99213	Level 3		1	1,2
99999	3 WEEKS		1	
WCURWF	UNABLE TO RETURN TO WORK UNTIL FURTHER N		1	

Diagnoses		
1	724.2	Low back pain/lumbalgia
2	724.4	Radicular lumbo thoracic



ORTHOPAEDIC
ASSOCIATES

T. GLENN WILLIAMS, M.D., A.A.O.S., F.A.C.S.
THOMAS M. DARDEN, JR., M.D., A.A.O.S., F.A.C.S.
PAUL A. MICHAS, M.D., A.A.O.S., F.A.C.S.
JAMES S. MASON, D.O., F.A.O.A.O.
MARK A. WOLGIN, M.D., A.A.O.S., F.A.C.S.

PATIENT NAME:

Patricia Fore

DATE:

5/6/10

ANKLE		SHOULDER		AMBULATORY AIDS	
L1902	Ankle Stabilizing Orthosis	L3650	Figure 8/Clavicle	E0100	Cane Single Upright
L1906	Solid AFO	L3651	Shoulder Wrap (MCR Cash)	E0105	Quad Cane
L4350	Ankle Stirrup	L3670	Shoulder Immobilizer	E0114	Crutches
L4360	Pneumatic Walking Boot	L3670	Post Op Abduction Sling	E0135	Walker - Folding
L4386	Non-Pneumatic Walking Boot	L3675	Shoulder Brace ARC	E0143	Walker with Wheels
FOOT SOFTGOODS		ELBOW		MISC UPPER EXTREMITY	
L3260	Cast/Surgical Shoe (Cash)	L3701	Elbow Band (Cash)	A4565	Arm Sling (Cash)
L3480	Heel Cushion (Cash)	L3710	Hinged Elbow Brace	L3980	Humeral-Fx Brace
L3485	Heel Cup (Cash)	L3740	Functional Elbow Custom	OTHER MISCELLANEOUS	
L4396	Plantar Fasciitis Splint	L3760	Functional Elbow OTS	E0747	Bone Stim Long Bone
E0191	Heel or Elbow Protector	L3760	Post Op Elbow Brace	E0748	Bone Stimulator Spine
L3100	Hallux Valgus Splint (Cash)	WRIST/HAND		E0760	Bone Stimulator Exogen
L3060	Metatarsal Pads (Cash)	L3908	Cock-up/Spica/Titan	E0218	Cold Therapy Kits
KNEE		L3925	Joint Jax Splint	99070	Special Supplies
L1800	Patellar Stabilizer (MCR Cash)	NECK/BACK			
L2810x2	Addition to LE Orthosis	L0120	Cervical Collar Soft		
L1810	KO with Hinges	L0172	Cervical Collar Aspen		
L1825	Knee Sleeve/Chopat (MCR Cash)	L0174	Cervical Collar Miami-J		
L1830	Knee Immobilizer	L0464	TLSO		
L1832	Post Op ROM Knee Brace	L0626	Elastic LSO		
L1843	OTS OA Brace	L0627	LSO Rigid Panel Ant Wrap		
L1844	Custom OA Brace	L0631	LSO Lumbo Plus Proline		
L1845	OTS ACL Brace	L0637	LSO Contour		
L1846	Custom ACL Brace	L0639	LSO Body Jacket		
L2999	Lower Ext Brace (Thigh)	L1686	Hip Abduction Brace		
A4465	Patella Strap Gel Band				

TAX ID: 58-2471372

RX PHYSICIAN:

- ☐ Theodore G. Williams, MD
- ☐ Thomas M. Darden, MD
- ☐ Paul A. Michas, MD
- ☐ James S. Mason, MD
- ☒ Mark A. Wolgin, MD

Signature: _____

DIAGNOSIS:

722.52 ☐ LT ☐ RT ☒ N/A

DIAGNOSIS:

721.9 ☐ LT ☐ RT ☐ N/A

FOR PAYMENT INFORMATION:

COLLECTION BREAKDOWN:

CODE	AMOUNT

CHARGE AMOUNT:

1325.00

TOTAL AMT COLLECTED:

METHOD OF PAYMENT

- ☐ CASH
☐ CHECK#:
☐ CREDIT CARD

UPDATED: SEPT 2009 /KLB

P. O. BOX 407 - 619 POINTE NORTH BLVD. - ALBANY, GA 31702-0407
PH (229) 883-4707 - Fax (229) 435-1038

PHOEBE PUTNEY MEMORIAL HOSPITAL
P.O. BOX 1828
ALBANY, GEORGIA

HISTORY AND PHYSICAL EXAMINATION

NAME: FORE, PATRICIA ANN

MR #: 9100425

ROOM NO:

DOB: 01/10/1965

PHYSICIAN: MARK WOLGIN, M.D.

ACCT #012500363

ADMITTED:

TYPE: A

PREOP HISTORY AND PHYSICAL

DATE OF SURGERY: _____

PROPOSED SURGERY:

Right approach minimally invasive L4-5, L5-S1 transforaminal lumbar interbody fusion.

HISTORY OF PRESENT ILLNESS:

This patient is a 45 year-old female who was initially seen in February of 2009. Patient at that time had an injury one year previous to that initial visit where she was holding about 60 pounds of some type of item in her work as a meat cutter. She stepped back in an awkward manner and had a twisting injury that affected her low back. The patient felt a pop and has had pain ever since then. The pain is worse with bending and she has had episodes of pain radiating down the right leg to the lateral ankle. She has had no associated numbness. She had no problem with bowel or bladder control. She wound up being seen in the office with MRI from 9/19/08 notable from disc desiccation and bulging at the 4-5 level with stenosis at that level as well as facet arthrosis at the 5-1 level. We discussed her options for treatment. We tried to do some generalized conditioning and weight loss. The patient was also seeing Dr. Moree at that time for pain management. The patient was again seen on 4/17/09 noting that with therapy she is still having about 50-50 back and leg pain. There was some question as to whether the patient's work place exposure caused her condition and it appeared to me that clearly her symptoms were due to her industrial exposure. Patient was continued with epidurals. We were discussing surgery more at that time. We were not able to proceed with any more aggressive treatment due to the Worker's Comp approval process and the fact that her claim was still in litigation.

The patient was seen again in February of this year, it had taken many months in the interim for her to have the case covered by the Work Comp carrier with the assistance of an attorney as her advocate. Patient noted the pain was essentially the same or worse with pain down the right leg to just below the knee with no associated numbness, no bowel or bladder incontinence. We ordered a new MRI and decided to see her back after that study was done. The patient was seen next again on 3/2/10 to discuss surgical treatment. I mentioned to her that the smoking is a problem for potential healing of any type of surgical fusion and she was advised to discontinue that habit but as we discussed also that surgery could not be guaranteed she felt that her current condition was not sustainable and wanted to proceed with operative treatment. The patient finally has had approval for her surgery with the plan for fusion L4 through S1 right sided approach and patient is here now for a preop.

NAME: FORE, PATRICIA ANN
PHYS: MARK WOLGIN, M.D.
REPORT: HISTORY & PHYSICAL

Page 2

PAST MEDICAL HISTORY:

Illness include:

1. Diabetes.
2. High blood pressure.

PAST SURGICAL HISTORY:

1. Cesarean section times two.

CURRENT MEDICATIONS:

1. Insulin.
2. Vicodin.
3. Tramadol.
4. NovoLog.

ALLERGIES:

1. **PENICILLIN** causes hives and throat closing, possible anaphylaxis.

FAMILY HISTORY:

Family history positive for diabetes.

SOCIAL HISTORY:

Patient smokes one-half pack per day. She does not drink. She is out of work but previously worked as a meat cutter lifting weights upwards of 80 to 100 pounds for the chunks of meat that she was working on.

REVIEW OF SYSTEMS:

Review of systems is notable for breast masses and diabetes related vision changes.

PHYSICAL EXAMINATION

VITAL SIGNS:

Patient appears her stated height and weight 5 foot 6 inches, 215 pounds.

HEAD/NECK:

Extraocular movements intact. Oropharynx without lesions. Neck:
Trachea midline.

CHEST:

No crepitation.

CARDIAC:

Regular, rate and rhythm.

ABDOMEN:

Mildly protuberant but no guarding.

SPINE:

There is some mild diffuse tenderness in the lumbar region. No spasm noted.

EXTREMITIES:

No focal tenderness in the upper or lower extremities. No muscle asymmetry noted.

NEUROLOGIC:

Motor and sensory exam is intact in both lower extremities. Straight leg raise on the right reproduced back pain and some mild degree of pain on the left. Elevation of the left leg however does not reproduce any back pain. Deep tendon reflexes are 1+ and symmetric at the knee and ankle. Patient demonstrates normal heel and toe walk.

IMAGING STUDIES:

MRI from 2/25/10 notable for disc desiccation and broad base disc bulge at the 4-5 level with central and lateral recess stenosis and also increased fluid levels at that level which indicates some facet instability. Patient also has facet arthrosis and disc degeneration at L5-S1 worse on the right than the left.

NAME: FORE, PATRICIA ANN
PHYS: MARK WOLGIN, M.D.
REPORT: HISTORY & PHYSICAL

Page 3

ADMISSION DIAGNOSIS:

1. History of a lifting injury in industrial setting.
2. Spinal stenosis L4-5 with broad based disc bulge with potential instability and facet effusions.
3. Facet degenerative and disc degeneration L5-S1, right greater than left.
4. Right greater than left lower extremities radiculitis.
5. History of overweight.
6. History of diabetes.
7. History of smoking.

PLAN:

I advised the patient and her husband on several occasions that although the results of surgery cannot be guaranteed, I feel that she is a candidate for surgical treatment. I feel that she could have her problem addressed with a minimally invasive technique which has been outlined for her along with the risks and alternatives on my web site. She has been through conservative treatment and has had continued pain. She is clear in her desire to proceed with surgery and demonstrates understanding of the risks. The risks are outlined to include but are not limited to bleeding, infection, nerve or blood vessel damage, need for re-operation or problems with anesthesia as well as spine related risks including spinal fluid leak, adjacent organ injury, even paralysis and death. The patient will likely be hospitalized two or three days. Again smoking cessation was encouraged. Patient will be seen back about two weeks after surgery.

MARK WOLGIN, M.D.

MW: fsm

Dictated: 05/06/2010 2:59 P

Transcribed: 05/06/2010 3:22 P

Job ID: 001495636

cc: HANNA A. LIN, M.D.
MARK WOLGIN, M.D.
CATHY NELSON, Field Case Manager
Fax: 770 755-5054

PHOEBE PUTNEY MEMORIAL HOSPITAL

417 Third Avenue \ PO Box 1828
Albany, GA 31702-1828
Lab 229-312-6165, Fax 229-312-6151

Deborah Z. McCarthy, Lab Director

Mark N. Burns, M.D., Medical Director

Pt Name: **FORE, PATRICIA ANN**
Acct/MR: 1012500363/9100425
DOB: 01/10/1965/F

Lab Rpt (IRR) for Am Admit
Loc: AM Admit (Am Admit)
Physician: WOLGIN, MARK A, MD

Chemistry

Blood	Na+	K+	Cl-	CO2	Glu	BUN	Creat	Ca+	A Gap
	135-145	3.4-5.1	99-110	20-33	63-126	6-20	0.70-1.60	8.5-10.5	6-20
	mmol/L	mmol/L	mmol/L	mmol/L	mg/dl	mg/dl	mg/dl	mg/dl	
05/06/2010 18:22	137	3.9	103	29.2	142 H	8	0.60 L	9.9	5 L

Blood	BUN/Cr	Osmo	GFR	GFRAf
	7.1-31.4	270-300		
		mOsm/kg	mL/min	mL/min
05/06/2010 18:22	13.3	275	108 ²	130

¹5/12/10

²Stages of Kidney Disease

Stage	Description	Range
1	Kidney damage with normal or increased GFR	>=90
2	Kidney damage with mildly decreased GFR	60-89
3	Moderately decreased GFR	30-59
4	Severely decreased GFR	15-29
5	Kidney failure	<15 (or dialysis)

Microalbumin is recommended if GFR < 90.
GFRAf = African American.

PHOEBE PUTNEY MEMORIAL HOSPITAL

417 Third Avenue \ PO Box 1828
Albany, GA 31702-1828
Lab 229-312-6165, Fax 229-312-6151

Deborah Z. McCarthy, Lab Director Mark N. Burns, M.D., Medical Director

Pt Name: **FORE, PATRICIA ANN**
Acct/MR: 1012500363/9100425
DOB: 01/10/1965/F

Lab Rpt (IRR) for Am Admit
Loc: AM Admit (Am Admit)
Physician: WOLGIN, MARK A, MD

Hematology

Blood	WBC 4.8-10.8 k/mm3	RBC 4.20-5.40 m/mm3	HGB 12.0-16.0 gm/dl	HCT 37.0-47.0 %	PLT 130-400 k/mm3	MCV 81.0-99.0 fl	MCH 27.0-31.0 pg	MCHC 32.0-34.0 gm/dl
05/06/2010 18:22 ¹	13.2 H	4.19 L	13.1	37.6	272	89.7	31.2 H	34.8 H

Blood	RDW 11.5-14.5 %	MPV 7.4-10.4 fl
05/06/2010 18:22 ¹	15.6 H	8.1

¹5/12/10

PHOEBE PUTNEY MEMORIAL HOSPITAL
P.O. BOX 1828
ALBANY, GEORGIA

OPERATIVE REPORT

NAME: FORE, PATRICIA ANN

MR #: 9100425

DOB: 01/10/1965

ROOM NO: 9 904 01

ACCT #012500363

ADMIT: 05/19/2010

SURGICAL DATE: TYPE: I

SURGEON: MARK WOLGIN, M.D.

05/19/2010

PREOPERATIVE DIAGNOSIS:

1. Discogenic pain with disk degeneration at L4-5 with bilateral facet arthrosis, L5-S1.
2. Right lower extremity radiculitis.

POSTOPERATIVE DIAGNOSIS:

1. Discogenic pain with disk degeneration at L4-5 with bilateral facet arthrosis, L5-S1.
2. Right lower extremity radiculitis.

PROCEDURE:

1. Minimally invasive transforaminal lumbar interbody fusion, right approach, L-4 through S-1.
2. Complete facetectomy, L4-5, L5-S1, right side with decompression of L-4, L5, and S-1 nerve roots.
3. Subtotal discectomy, L4-5, L5-S1.
4. Posterior lumbar interbody fusion, L4-5, L5-S1.
5. Use of Capstone interbody spacers, size 12x26 mm, L4-5, L5-S1.
6. Use of bone morphogenetic protein and autograft, L4-5, L5-S1.
7. Posterolateral fusion, L4-5, L5-S1.
8. Pedicle screw fixation using Sextant pedicle screws by Medtronic.
9. Use of operating microscope.
10. Use of fluoroscopy.
11. Real time neuro monitoring with free running EMGs and screw stimulation and intraoperative stimulated EMGS for screw placement assessment.

SURGEON: Mark Wolgin.

ANESTHESIA: General.

ANESTHETIST: Brock Hatcher, CRNA.

INDICATIONS FOR OPERATION:

A 45 year-old female greater than one year ago sustained a back injury when in an industrial setting. She fell with injury to her back. It took her upwards of a year to even have the work-comp system approve her claim. The patient has had approval for surgery. She has failed to improve with nonoperative care.

FINDINGS AT OPERATION:

There was evidence of facet arthrosis at 5-1 on the right. The left side was not examined openly. On the

NAME: FORE, PATRICIA ANN
PHYS: MARK WOLGIN, M.D.
REPORT: OPERATIVE REPORT

Page 2

L4-5 level the patient had evidence of disk degeneration and desiccation. After the annulotomy was made the surgery was somewhat difficult due to the patient's size and the fact that she had large epidural veins, but no cerebral spinal fluid leak was created. Also of note, on the left side at the S-1 screw when the tap was put in place initially the threshold was 8.5 milliamps which was thought to be too low, and the second placement revealed 8 milliamps and then a third which seemed to be a much more high confidence screw placement, had 9 milliamps, but the screw position was accepted due to the fact that the patient had two other holes in this pedicle. While the S-1 screw was put in place there was no alteration of the free running EMGs of the S-1 nerve root on the left. No complications were noted with the procedure.

PROCEDURE:

Following informed consent the patient was brought into the operating room. General anesthesia was induced. The patient was given Vancomycin 1 gram for antibiotic prophylaxis. After general anesthesia was induced the patient had a Foley catheter placed and sequential compression devices were placed on her calves. The neural monitoring equipment was set up. The patient was turned into the prone position on the Jackson table with the Hall frame, taking care to pad her bony prominences and avoid pressure over the ulnar nerves. The patient had the lumbar region prepped and draped in the usual sterile fashion. The midline was marked out as was 4.5 cm to the right and left. Using lateral fluoroscopic view a needle was introduced parallel to the L5-S1 disk space at the paramedian line on the right side and after the trajectory to the disk was identified an incision about 5 cm in length was made on the right side of that 4.5 cm paramedian line. The dissection was carried down through subcutaneous tissue. Cauterizing bleeders as they were encountered. The dissection extended down to the fascia which was incised in line with the incision. Using the needle from the Medtronic system the needle was docked on the inferior aspect of the L-5 facet and then again with the position confirmed fluoroscopically, dilating tubes were used up to size 26 mm and once the size 8 cm tube was put in place again with position confirmed fluoroscopically the operating microscope was brought in and all the work through the tubes was done with the operating microscope. The patient had a small amount of muscle removed from over the trailing edge of the lamina. The entire facet was exposed as was then pars interarticularis. High speed bur was used to drill away the medial aspect of the lamina and across the pars, saving the drillings for use as autograft. The inferior facet was able to be removed in one piece and the cartilage removed and soft tissue removed, and that piece was morcellized for use as autograft. Cartilage was removed from the superior facet and then the drillings from the superior facet were also saved for autograft. The exiting L-5 and traversing S-1 nerve roots were decompressed. There was a moderate amount of epidural fat and a fair amount of veins which required cautery in order to gain access to the disk, but after this hemostasis was achieved the patient had the disk exposed. Annulotomy was performed with a bayonetted knife. The BMP was mixed up on the sponge while the annulotomy and discectomy was done. Discectomy was done with a combination of pituitary rongeurs, Kerrison rongeurs, curettes, down scraping, and the shavers until subtotal discectomy was performed with bleeding bone on both sides. It was noted that a size 10 would be too loose and therefore the shavers were used from the Medtronic system up to size 11 and 12. A 12x26 implant was able to be chosen. At each level two BMP sponges were used and at each level the sponges were cut in half longitudinally. One half sponge was cut into small pieces and mixed with the drilled bone to form a BMP/drilled bone slurry, and this material was packed into the middle of the spacer. The nerves were held out of place and the Capstone implant was able to be put in place after first putting an additional half sponge on the right and a half sponge on the left in the intervertebral space. The patient had a small amount of autograft fat placed behind the spacer. Care was taken to be sure that there was no nerve injury or cerebral spinal fluid leak. Bleeding was controlled with a small amount of Gelfoam in the interspace for a few moments and then the Gelfoam was removed. The fat was placed behind the capsule spacer, as mentioned. Posterolateral fusion was then done by first putting

NAME: FORE, PATRICIA ANN
PHYS: MARK WOLGIN, M.D.
REPORT: OPERATIVE REPORT

Page 3

additional fat over the exposed nerve roots and laying the bone slurry, the half sponge of BMP, and the remaining autograft pieces over the posterolateral region, and then the tube was removed. The identical procedure was done at the 4-5 level with the only difference being a slight angulation difference. Otherwise at no level was there any excessive bleeding or cerebral spinal fluid leak created or nerve injury. After the interbody and posterolateral fusion at L4-5 the patient had the tube removed. The operating microscope was removed. Fluoroscopic view was brought in and with AP and lateral views the pedicles at L-4 were able to be identified, and taking care not to breach the medial wall using a Jamshidi needle the pedicles were able to be cannulated starting at the lateral aspect of the facet at the base of the transverse process. After a guide wire was placed in the L-4 pedicles then the view was moved down to S-1 and the S-1 pedicles were somewhat more difficult to visualize even with multiple different views, even though these pedicles are very large. The patient had no problem on the right side placing the wire but on the left the pedicle was a bit more difficult to visualize, even though this was then nonoperative side. The patient had the dilating tubes used and then a tap was used and the tap was stimulated and the findings of the EMG intraoperative stimulation were noted above in the FINDINGS AT OPERATION section. The patient had the screws put in at L-4 and S-1 with 6.5x40 at L-4, 6.5x35 at S-1, and then the screw guide was used for the L-5 screw to help guide the Jamshidi needle and guide wire into the pedicle of L-5. On both sides the screw threshold was acceptable. At L-5 first the right side was done for the screws and then the left side. There was no evidence of any sign of cerebral spinal fluid leak created. AP and lateral fluoroscopic views were used frequently to visualize the pedicles and to follow the screw placement. The patient had the rods placed using the sextant device, the arc, and this was done through a superior stab hole in the region that was still prepped with no contact with any type of rib as the rod was being passed. The patient had verification that the rods were through the screw heads and the nuts were tightened on the end of the rod. All the instruments were removed. AP and lateral fluoroscopic views were taken and the patient had a wet sponge to clean the wound, and then closure was done with #1 Vicryl for the fascia layer, 3-0 Vicryl for the more superficial layer, Mastisol, Steri-Strips, 2x2s, Tegaderm. As of time of dictation the Foley catheter is being left in.

ESTIMATED BLOOD LOSS: 250 cc.

SPECIMENS, COMPLICATIONS, DRAINS: None.

MARK WOLGIN, M.D.

MW:ch
Dictated: 05/19/2010 2:33 P
Transcribed: 05/20/2010 1:32 P
Job ID: 001500294
cc: HANNA A. LIN, M.D.
MARK WOLGIN, M.D.

✓
PHOEBE PUTNEY MEMORIAL HOSPITAL
P.O. BOX 1828
ALBANY, GEORGIA

DISCHARGE SUMMARY

NAME: FORE, PATRICIA ANN

MR #: 9100425

DOB: 01/10/1965

ACCT #012500363

ADM: 05/19/2010

DISCHARGE: 05/21/2010

PHYSICIAN: MARK WOLGIN, M.D.

PROCEDURE PERFORMED:

Right approach minimally invasive L4-5, L5-S1 transforaminal lumbar interbody fusion.

HOSPITAL COURSE:

The patient was admitted following the above-mentioned surgery. She was kept on PCA and kept the Foley in until the midday the first day after surgery. The night of the first day she was started on Duragesic patch 25 mcg which helped her pain to a point where she felt able to walk better. Her wounds had been without evidence of infection. She remains neurologically intact. She is cleared for discharge with the advise to wear her brace when out of bed. The brace felt a bit tight on her, but that is probably because she has been a little bit swollen in the abdomen likely from inactivity. The patient's brace was the same one that she wore and for which she was fitted preoperatively, but was back at our office during a brief period when there was question as to whether the work compensation carrier would authorize dispensing the brace. Otherwise, the patient was given a prescription for Percocet 5/325 one to 2 p.o. b.i.d. p.r.n., #50 tablets and Duragesic patch 25 mcg apply 1 every 72 hours, #10 patches. The patient has a followup appointment arranged for the first week in June. The patient is advised about wound care and shower care trying to keep the dressings dry until there is no drainage from the wounds.

MARK WOLGIN, M.D.

MW: web

JobID: 001501185

Dictated: 05/21/2010 3:37 P

Transcribed: 05/23/2010 2:57 P

cc: ALAN K. BROWN, M.D.

HANNA A. LIN, M.D.

MARK WOLGIN, M.D.

Pain Drawing

Patient Name: Patricia Fore Date: 5/25/10 Age: 45

Where is your pain now?

Mark the areas on the diagram that indicate where you feel the described sensations. Use the appropriate symbols (indicated below). Mark areas of radiating pain. Include all affected areas.

Comparing pain in neck and arm(s)

☐ neck pain worse

☐ arm(s) worse

☐ about the same

Comparing pain in back and leg(s)

☐ back pain worse

☐ leg(s) worse

☐ about the same

Left Right

Right Left

Ache

^ ^ ^ ^ ^
 ^ ^ ^ ^ ^

Pins and Needles

o o o o o
 o o o o o

Numbness

■ ■ ■ ■
 ■ ■ ■ ■

Burning

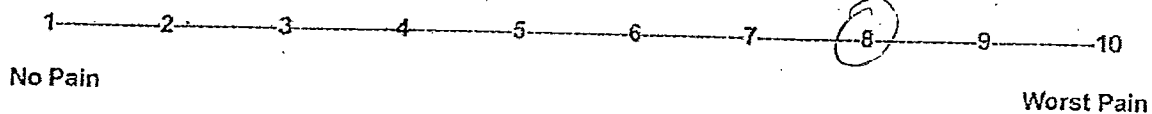
x x x x x
 x x x x x

Stabbing

/ / / / /
 / / / / /

How bad is your pain now?

Please indicate on the scale below, from 1 to 10, how you would rate your pain intensity now.
 1 => no pain, 10 => pain so severe you are writhing on the floor



Please list the medications you are currently already taking for your pain:

Please list the treatments you have tried for your condition:

- ☐ physical therapy
- ☐ epidural steroid injection (done in operating room with Xray)
- ☐ chiropractic care
- ☐ acupuncture

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Name Fore, Patricia Date 5/26/10

Vicodin
i po tid
#60
(sixty)
Duragesic patch 50 mcg
apply i 2 72 hr
pm
#10 (ten)
M. W. J.

Non Refill

Refill 1 2 3 PRN

☐ LABEL

☐ WORKMAN COMP.

M.D.

2030 (07/18/2008) FMI

05-27-10

PATRICIA FORE

DOB: 01-10-65

S: Date of surgery: 05-19-10. The patient has noted some improvement in the right leg numbness. However, she notes a numbing ache that goes down her right thigh and goes down the right leg to above the ankle. She has no fever or chills. She did have to have her Duragesic patch increased to the 50 mcg dose to get adequate relief. She notes that dose has helped her better.

O: The wounds show good healing in the lumbar spine. The patient is able to demonstrate heel walk and toe walk and grossly motor and sensory exam intact throughout.

X-RAYS: Views of the lumbar spine show good position of the L4 through S1 hardware.

A: Status post right approach L4 through S1 TLIF.

P: Per her request, the patient is given a one-time dose of Soma to help with any kind of spasm feelings in her back. We discussed hopefully getting her down to the 25 mcg dose at some point. We will see her back for recheck in 6 weeks. If she needs a refill of her medications, I asked her to let us know with a few day's notice before she is out of the medicines. On return, would like AP and lateral views of the lumbar spine. She should wear her brace when up for more than 5 minutes until I see her back for the 6-week follow up. Smoking cessation encouraged. The patient is off work until further notice.

Mark A. Wolgin, M.D./ctm

Patient: FORE, PATRICIA Guarantor: WAMPEE INC, GRIFFSCO OF DOB 1/10/1965 Sex: Female
 Reason: POST OP ALO Loc: Albany Bone Joint Clinic PC (Appointment: 5/27/2010 2:15:00
 Provider: Wolgin, Mark Ins: WORKERS COMP
 Appt Prov.: Wolgin, Mark SSN: [REDACTED] Patient: WC6475
 Ref. Prov.: WILLIAMS MD, T Phone: (229)869-2954 Encounter: 000388196

Procedures				
Code	Description	Modifiers	Quantity	Diagnoses
72100	Lumbar 2 Views		1	1
99999	EXAM ROOM O		1	
99024	Post-Op Followup		1	1
99999	6 WEEKS		1	
WCURWF	UNABLE TO RETURN TO WORK UNTIL FURTHER N		1	

Diagnoses		
1	V58.78	Aftercare following surgery



ORTHOPAEDIC
ASSOCIATES

T. GLENN WILLIAMS, M.D., A.A.O.S., F.A.C.S.
THOMAS M. DARDEN, JR., M.D., A.A.O.S., F.A.C.S.
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JAMES S. MASON, D.O., F.A.O.A.O.
MARK A. WOLGIN, M.D., A.A.O.S., F.A.C.S.

PATIENT CALL-IN SHEET

DR: WOLGIN		DATE: 6-14-10	MEDICAL ASST: DEBBIE ROBITZ
PATIENT NAME: Patricia Fore		DOB: 1-10-65	
CHART #:		TIME OF CALL:	
PATIENT PHONE: 869-2954			
MESSAGE: refill hydrocodone ~~refill patches~~			
PHARMACY: Walgreen's Dawson Rd.		PHARMACY PHONE#: 888-6166	
ALLERGIES:			
RX: Vicodin 5/500 #60 ① TID Sixty		TIME RX CALLED IN: 3:30	
TIME CALL RETURNED TO PATIENT:			
COMMENTS: ✓			

06-22-10

PATRICIA FORE

DOB: 01-10-65

S: Date of surgery: 05-19-10. The patient notes that she has been worse in the last few days. She cannot recall any specific trauma, but has had pain radiating from her hip to her groin area on the right side. She has difficulty with flexing up her hip as well. No numbness in the feet. She was on Duragesic patch for a time and is off, but is going through the hydrocodone at more than 3 pills per day.

O: No irritability of the hips is noted. The lumbar wounds are well healed. No focal tenderness in that area. Sensory and motor exam intact in both lower extremities. Straight leg raise negative bilaterally. However, the patient has pain reproduced by palpating the superior aspect of her greater trochanteric bursa on the right and palpating that area reproduces the pain in the groin.

X-RAYS: Views of the lumbar spine show good position on the AP and lateral views of the hardware L4 through S1 with the right-sided fusion.

- A:**
1. Status post right-approach TLIF, L4 through S1.
 2. Probable greater trochanteric bursitis, right hip.
 3. Increasing pain.
 4. History of diabetes.

P: After discussion of the options with the patient, we decided to try a trochanteric injection. Following obtaining verbal consent and with local prep with Betadine and local anesthesia with ethyl chloride, the trochanteric region in the superior aspect was injected with a mixture of 9 cc of Lidocaine and 1 cc of Depo-Medrol. The patient noted significant relief of her pain and even had relief of the groin discomfort as well. She was walking with a stick before, but was able to walk without it. We will see the patient back for recheck in one month with AP and lateral views of the lumbar spine and could consider repeating her hip injection at that time.

We were able to visit with Cathy Nelson after the patient left to review some of the patient's history and highlighted that we are anticipating possible entrance into a physical therapy program at about the three-month postop mark and the patient will be off work at least until her next visit in a month. Also, the details of the trochanteric injection were described. The patient will potentially be considered for maximal medical improvement status at the 6-12 month postoperative mark.

Mark A. Wolgin, M.D./ctm

cc: Ms. Cathy Nelson. Fax: (866) 299-9455

Patient: FORE, PATRICIA
Reason: RC BACK LJD
Provider: Wolgin, Mark
Appt Prov.: Wolgin, Mark
Ref. Prov.: WILLIAMS MD, T

Guarantor: WAMPEE INC, GRIFFSCO OF DOB 1/10/1965 Sex: Female
Loc: Albany Bone Joint Clinic PC (Appointment: 6/22/2010 1:30:00
Ins: WORKERS COMP
SSN: [REDACTED] Patient: WC6475
Phone: (229)869-2954 Encounter: 000392563

Procedures				
Code	Description	Modifiers	Quantity	Diagnoses
72100	Lumbar 2 Views		1	1
WCURWF	UNABLE TO RETURN TO WORK UNTIL FURTHER N		1	
99024	Post-Op Followup		1	1
99212	Level 2		1	1
20610	Major JT or Bursa	24	1	1
J1030	Depo-Med	RT	1	1
99999	4 WEEKS		1	1
Diagnoses				
1	V58.78	Aftercare following surgery		

Patient: FORE, PATRICIA Guarantor: WAMPÉE INC, GRIFFSCO OF DOB 1/10/1965 Sex: Female
 Reason: EXTRA TIME FOR Loc: Albany Bone Joint Clinic PC (Appointment: 6/22/2010 2:00:00
 Provider: Wolgin, Mark Ins: WORKERS COMP SSN: ██████████ Patient: WC6475
 Appt Prov.: Wolgin, Mark Phone: (229)869-2954 Encounter: 000394300
 Ref. Prov.: WILLIAMS MD, T

Procedures				
Code	Description	Modifiers	Quantity	Diagnoses
99361	Rehab Nurse		1	1

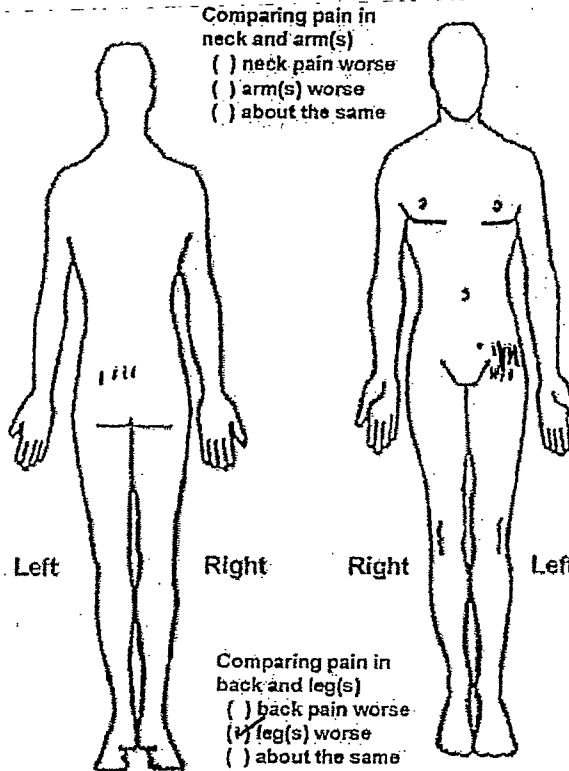
Diagnoses		
1	V58.78	Aftercare following surgery

Pain Drawing

Patient Name: Patricia Fore Date: 6-22-10 Age: 45

Where is your pain now?

Mark the areas on the diagram that indicate where you feel the described sensations. Use the appropriate symbols (indicated below). Mark areas of radiating pain. Include all affected areas.



Comparing pain in neck and arm(s)

☐ neck pain worse

☐ arm(s) worse

☐ about the same

Comparing pain in back and leg(s)

☐ back pain worse

☒ leg(s) worse

☐ about the same

Ache ^ ^ ^ ^ ^
^ ^ ^ ^ ^

Pins and Needles o o o o o
o o o o o

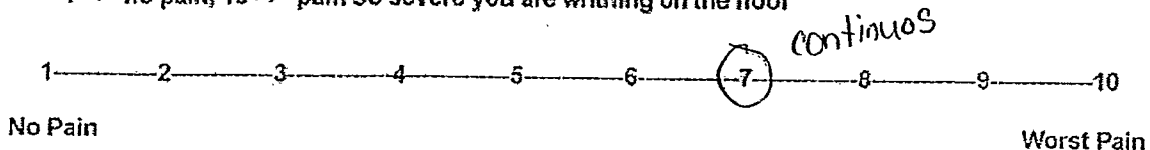
Numbness ■ ■ ■
■ ■ ■

Burning x x x x x
x x x x x

Stabbing / / / / /
/ / / / /

How bad is your pain now?

Please indicate on the scale below, from 1 to 10, how you would rate your pain intensity now.
1 => no pain, 10 => pain so severe you are writhing on the floor



Please list the medications you are currently already taking for your pain:

Hydro 5/500 mg. 3 Times
Day

Please list the treatments you have tried for your condition:

- ☐ physical therapy
- ☐ epidural steroid injection (done in operating room with Xray)
- ☐ chiropractic care
- ☐ acupuncture

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Name Forl, Patricia Date 6/22/10

Duragesic patch 12 mcg
apply i 2 72 hr
pm
10 (ten)

☒ Non Refill

Refill 1 2 3 PRN

☐ LABEL

☐ WORKMAN COMP.

M.D.

2030 (07/18/2008) FMI



ORTHOPAEDIC
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JAMES S. MASON, D.O., F.A.O.A.O.
MARK A. WOLGIN, M.D., A.A.O.S., F.A.C.S.

PATIENT CALL-IN SHEET

DR:WOLGIN		DATE: 7-12-10	MEDICAL ASST: DEBBIE ROBITZ
PATIENT NAME: Patricia Fore		DOB: 1-10-65	
CHART #:		TIME OF CALL:	
PATIENT PHONE: 869-2954			
MESSAGE: Vicoden — OK 2-3 pills/d (try to get to 2/d) muscle relaxer — OK but only DCC as use < 1/day			
PHARMACY: Walgreens		PHARMACY PHONE#: 888-6146	
ALLERGIES:			
RX: 5/SOD 1 BID #40		TIME RX CALLED IN: 2:03	↓ does she opposite
TIME CALL RETURNED TO PATIENT: 2:03			OK PT/ mobilization
COMMENTS: will talk to MAW at next appt @ symptoms with legs. Did not call in muscle relaxer			

W

07-20-10

PATRICIA FORE

DOB: 01-10-65

S: Date of surgery: 05-19-10. The patient feels better after her right trochanteric injection. She is getting by with two Vicodin per day. She is still unable to lay down in a bed. She tried some swimming, but with kicking her legs had more pain.

O: The patient has some mild tenderness over the greater trochanteric area on the right hip and just anterior and superior to it, but no frank irritability noted. Mild bilateral lower extremity edema noted.

X-RAYS: Views of the lumbar spine show good position of the hardware and some evidence of healing, especially at the 4-5 level.

A:

1. Status post TLIF, L4 through S1 right approach.
2. Greater trochanteric bursitis, right side.
3. History of diabetes.

DISCUSSION: The patient has had improvement of her leg pain, but still has significant back pain.

P: Recommend that she begin weaning herself out of her brace over the next month. She should continue with swimming exercises, especially if she has ability to advance her activities slowly. Also, any other general conditioning would be helpful for her. We will refill her Vicodin and see her back in 2 months, sooner if needed, with AP and lateral views of the lumbar spine. The patient will be unable to work until further notice.

Mark A. Wolgin, M.D./ctm

cc: Ms. Cathy Nelson. Fax: (866) 299-9455

Patient: FORE, PATRICIA Guarantor: WAMPEE INC, GRIFFSCO OF DOB 1/10/1965 Sex: Female
 Reason: RC BACK ALO Loc: Albany Bone Joint Clinic PC (Appointment: 7/20/2010 11:00:0
 Provider: Wolgin, Mark Ins: WORKERS COMP SSN: [REDACTED] Patient: WC6475
 Appt Prov.: Wolgin, Mark Phone: (229)869-2954 Encounter: 000394254
 Ref. Prov.: WILLIAMS MD, T

Procedures				
Code	Description	Modifiers	Quantity	Diagnoses
72100	Lumbar 2 Views		1	1
99024	Post-Op Followup		1	1
99999	2 MONTHS		1	
WCURWF	UNABLE TO RETURN TO WORK UNTIL FURTHER N		1	

Diagnoses		
1	V58.78	Aftercare following surgery

08-20-10

PATRICIA FORE

DOB: 01-10-65

Cathy Nelson is seen regarding this case. Ms. Nelson was asking about whether the patient would benefit from a therapy program to, if nothing else, be sure that she is progressing and showing adequate effort. I did not have any objection to that, but in our discussion we weighed the possibility of calling the patient to start her in therapy now versus waiting until the next appointment and decided that we would discuss it at the patient's next visit. The patient certainly would need to be reevaluated sooner if her condition worsened. Otherwise, I think that it would be appropriate to start a formal therapy program at our next meeting.

Mark A. Wolgin, M.D./ctm

cc: Ms. Cathy Nelson. Fax: (866) 573-8132

Patient: FORE, PATRICIA Guarantor: WAMPEE INC, GRIFFSCO OF DOB 1/10/1965 Sex: Female
 Reason: NP PATIENT NCM Loc: Albany Bone Joint Clinic PC (Appointment: 8/20/2010 8:00:00
 Provider: Wolgin, Mark Ins: WORKERS COMP
 Appt Prov.: Wolgin, Mark SSN: [REDACTED] Patient: WC6475
 Ref. Prov.: WILLIAMS MD, T Phone: (229)869-2954 Encounter: 000401199

Procedures				
Code	Description	Modifiers	Quantity	Diagnoses
99361	Rehab Nurse		1	1

Diagnoses		
1	V58.78	Aftercare following surgery

08-27-10

PATRICIA FORE

DOB: 01-10-65

S: Date of surgery: 05-19-10. The patient has noted in the last night that she has actually felt a bit better and has been able to sleep on her bed. She has had some gradual improvement in the last 2 weeks. She was interested in possibly pursuing some type of sit-down work. She is taking one or two Vicodin per day, mainly to help her sleep.

O: The patient has some mild tenderness at the superior aspect of her right greater trochanteric region. Otherwise, motor and sensory exam intact in both lower extremities. Straight leg raise negative bilaterally.

X-RAYS: Views of the lumbar spine show good position of the L4 through S1 hardware with no evidence of hardware cutout and there is a suggestion of some calcification occurring at the 4-5 level. 5-1 difficult to see due to overlapping iliac wings.

A:

1. Status post TLIF, L4 through S1 right approach.
2. Right greater trochanteric bursitis.
3. History of diabetes, smoking and overweight.

P: I had met with the Work Comp nurse, Cathy Nelson, on 08-20-10 who was asking about this case and whether the patient could be referred to therapy. I feel the patient could be referred at this point and we will fill out the forms in that regard. Also, the patient was given a note that she could do limited work if available, mainly sedentary work with the avoidance of bending, lifting or twisting and a 5-10 pound weightlifting limit. Recommend continue with bone growth stimulator. We will see the patient back in 6 weeks, sooner if her condition worsens. If the tenderness over her hip becomes worse, she could return sooner for another trochanteric injection.

Mark A. Wolgin, M.D./ctm

cc: Ms. Cathy Nelson. Fax: (866) 573-8132

Patient: FORE, PATRICIA Guarantor: WAMPEE INC, GRIFFSCO OF DOB 1/10/1965 Sex: Female
 Reason: RC PER WC PT H Loc: Albany Bone Joint Clinic PC (Appointment: 8/27/2010 8:00:00
 Provider: Wolgin, Mark Ins: WORKERS COMP SSN: [REDACTED] Patient: WC6475
 Appt Prov.: Wolgin, Mark Phone: (229)869-2954 Encounter: 000400107
 Ref. Prov.: WILLIAMS MD, T

Procedures				
Code	Description	Modifiers	Quantity	Diagnoses
72100	Lumbar 2 Views		1	1
99213	Level 3		1	1
99999	6 WEEKS		1	

Diagnoses		
1	V58.78	Aftercare following surgery

Notes:

if limited work available, patient could participate with restrictions of no lifting over 5-10 lbs, no frequent bend, lift, twist, may do

Pain Drawing

Patient Name: Patricia Fore

Date: 8-27-10 Age: 45

Where is your pain now?

Mark the areas on the diagram that indicate where you feel the described sensations. Use the appropriate symbols (indicated below). Mark areas of radiating pain. Include all affected areas.

Comparing pain in neck and arm(s)

☐ neck pain worse

☐ arm(s) worse

☐ about the same

Comparing pain in back and leg(s)

☐ back pain worse

☐ leg(s) worse

☐ about the same

Ache ^ ^ ^ ^ ^

Pins and Needles o o o o o

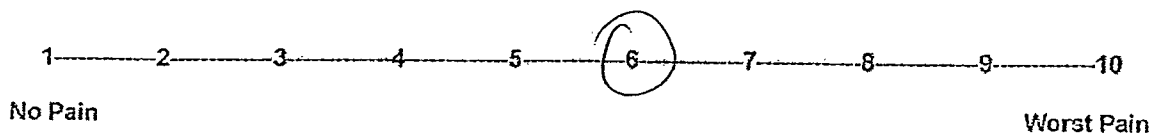
Numbness ■ ■ ■

Burning x x x x x

Stabbing / / / / /

How bad is your pain now?

Please indicate on the scale below, from 1 to 10, how you would rate your pain intensity now.
1 => no pain, 10 => pain so severe you are writhing on the floor



Please list the medications you are currently already taking for your pain:

Micardis 40mg
 Lantis 80 AM
 50 PM
 Novalg 25 scale
 Vicadin as needed

Please list the treatments you have tried for your condition:

- ☐ physical therapy
- ☐ epidural steroid injection (done in operating room with Xray)
- ☐ chiropractic care
- ☐ acupuncture



T. GLENN WILLIAMS, M.D., A.A.O.S., F.A.C.S.
THOMAS M. DARDEN, JR., M.D., A.A.O.S., F.A.C.S.
PAUL A. MICHAS, M.D., A.A.O.S., F.A.C.S.
JAMES S. MASON, D.O., F.A.O.A.O.
MARK A. WOLGIN, M.D., A.A.O.S., F.A.C.S.

PATIENT CALL-IN SHEET

DR: WOLGIN		DATE: 8/30/10	MEDICAL ASST: DEBBIE ROBITZ (MC)
PATIENT NAME: Patricia Fore		DOB: 1-10-65	
CHART #:		TIME OF CALL:	
PATIENT PHONE: 869 - 2954			
MESSAGE: Wants something stronger for pain			
PHARMACY: Save it US19		PHARMACY PHONE#: 436-6998	
ALLERGIES:			
RX:		TIME RX CALLED IN: 2:56	
TIME CALL RETURNED TO PATIENT: 7:56		would be #40	
COMMENTS: max vicodin 7.5 po 11 po 2 am			

(but pt said doing
she was in - on Fri.)

09-30-10

PATRICIA FORE

DOB: 01-10-65

S: Date of surgery: 05-19-10. The patient has noted some episodes in the last 2 weeks where with coughing or sneezing the patient has gone down to her knees due to severe pain in her back which occurs suddenly. She has no numbness in her legs. She is able to continue with her work which is 3 hours per day 3 days per week helping in an office setting.

O: There is some mild tenderness more on the right than the left in the lumbosacral region, but no spasm is noted. Motor and sensory exam intact in both lower extremities.

X-RAYS: Views of the lumbar spine show no evidence of hardware loosening or lytic change around the interbody spacers.

- A:**
1. Status post TLIF, right approach L4 through S1.
 2. Resolved right greater trochanteric bursitis.
 3. History of diabetes, smoking and overweight.

P: The patient I feel is having her symptoms due to the sudden stress on her surgery from the Valsalva type maneuver of a cough or sneeze, but I do not feel there is any particular danger to her surgical progress. I recommend that when she feels those sensations coming on that she brace herself so that she does not potentially fall, but I think she will likely continue to improve. We will refill her Norco 7.5/325 and encouraged smoking cessation. We will see her back for recheck in 2 months with AP and lateral views of the lumbar spine, sooner if needed. If her symptoms are continuing, I would consider CT scan at the 8-month postop mark.

Mark A. Wolgin, M.D./ctm

cc: Ms. Cathy Nelson. Fax: (866) 573-8132

Patient: FORE, PATRICIA Guarantor: WAMPEE INC, GRIFFSCO OF DOB 1/10/1965 Sex: Female
 Reason: RC BACK LJD Loc: Albany Bone Joint Clinic PC (Appointment: 9/30/2010 11:00:0
 Provider: Wolgin, Mark Ins: WORKERS COMP
 Appt Prov.: Wolgin, Mark SSN: [REDACTED] Patient: WC6475
 Ref. Prov.: WILLIAMS MD, T Phone: (229)869-2954 Encounter: 000403798

Procedures				
Code	Description	Modifiers	Quantity	Diagnoses
72100	Lumbar 2 Views		1	1,2
99213	Level 3		1	1,2
99999	2 MONTHS		1	

Diagnoses		
1	V58.78	Aftercare following surgery
2	724.2	Low back pain/lumbalgia

Pain Drawing

Patient Name: Patricia Fore Date: 9-30-10 Age: 45

Where is your pain now?

Mark the areas on the diagram that indicate where you feel the described sensations. Use the appropriate symbols (indicated below). Mark areas of radiating pain. Include all affected areas.

Comparing pain in neck and arm(s)

☐ neck pain worse

☐ arm(s) worse

☐ about the same

Comparing pain in back and leg(s)

☐ back pain worse

☐ leg(s) worse

☐ about the same

Ache AAAAA
AAAAA

Pins and Needles OOOOO
OOOOO

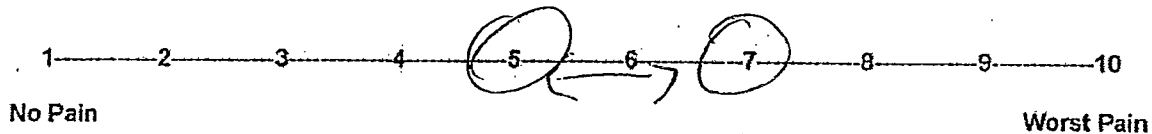
Numbness ■ ■ ■
■ ■ ■

Burning XXXXX
XXXXX

Stabbing /////////
/////////

How bad is your pain now?

Please indicate on the scale below, from 1 to 10, how you would rate your pain intensity now.
1 => no pain, 10 => pain so severe you are writhing on the floor



Please list the medications you are currently already taking for your pain:

Vic. 7.5

Please list the treatments you have tried for your condition:

- ☒ physical therapy 1 mth
- ☐ epidural steroid injection (done in operating room with Xray)
- ☐ chiropractic care
- ☐ acupuncture

10-19-10

PATRICIA FORE

DOB: 01-10-65

S: Date of surgery: 05-19-10. The patient noted about 3:00 in the morning severe pain which was intolerable. The only difference in her activity was that she tried sleeping on a bed for the first time. The pain was severe involving her right flank going to the right hip and going around to the groin area. No radiating pain or numbness to the legs. The patient cannot recall any trauma that caused her symptoms. No problem with bowel or bladder control. She has not been increasing her pain medications recently, taking between one or two Norco per day.

O: The patient has tenderness over the posterior lumbar region on the right and also over the greater trochanteric region, but no irritability of the hips is noted. Motor and sensory exam intact in both lower extremities.

X-RAYS: Views of the lumbar spine show no evidence of hardware loosening or change of position of the interbody spacers.

- A:**
1. Status post TLIF, right approach L4 through S1.
 2. Greater trochanteric bursitis, right side.
 3. History of diabetes, smoking and overweight.

DISCUSSION: The patient has quit smoking as of about 10 days ago.

P: The patient noted that her trochanteric bursa was hurting and it felt like it did before she had her trochanteric injection. She wanted to have that injection repeated.

Following informed consent and with local anesthesia with ethyl chloride and Betadine prep, the trochanteric region on the right was injected with a mixture of 9 cc of Lidocaine and 1 cc of Depo-Medrol. The patient had complete relief of her hip pain and her back pain was even better to some degree, but still was present when she was getting herself off the exam table.

The patient already has an appointment for next month. She should return sooner if needed. We will refill her Norco since she is here now, although she does not particularly need it at this point but will not have to come back for a refill in a week or two. We will also give her some Ambien for help with sleeping and on return I would like AP and lateral views of the lumbar spine.

The patient has been through a course of therapy for a month without much relief. We will hold off before ordering any further therapy at this time.

Mark A. Wolgin, M.D./ctm
cc: Ms. Cathy Nelson. Fax: (866) 573-8132

Pain Drawing

Patient Name: Patricia Fore

Date: 10/19/10 Age: 45

Where is your pain now?

Mark the areas on the diagram that indicate where you feel the described sensations. Use the appropriate symbols (indicated below). Mark areas of radiating pain. Include all affected areas.

Comparing pain in neck and arm(s)

☐ neck pain worse

☐ arm(s) worse

☐ about the same

Comparing pain in back and leg(s)

☐ back pain worse

☐ leg(s) worse

☐ about the same

Ache ^ ^ ^ ^ ^
^ ^ ^ ^ ^

Pins and Needles o o o o o
o o o o o

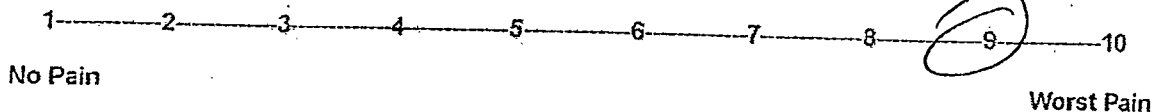
Numbness ■ ■ ■
■ ■ ■

Burning x x x x x
x x x x x

Stabbing / / / / /
/ / / / /

How bad is your pain now?

Please indicate on the scale below, from 1 to 10, how you would rate your pain intensity now.
 1 => no pain, 10 => pain so severe you are writhing on the floor



Please list the medications you are currently already taking for your pain:

Vic/ Hdro 7.5/325 mg

Please list the treatments you have tried for your condition:

- ☒ physical therapy
- ☐ epidural steroid injection (done in operating room with Xray)
- ☐ chiropractic care
- ☐ acupuncture

ORTHOPAEDIC ASSOCIATES

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P.O. BOX 407 • 2002 PALMYRA ROAD, SUITE 100 • ALBANY, GEORGIA 31701 • PHONE 229-883-4707

Pati

Name Patricia Fore

Whe

Date 10-26-10

Mark
synt

Above Patient out of
work until further
notice.

appropriate

Non Refill

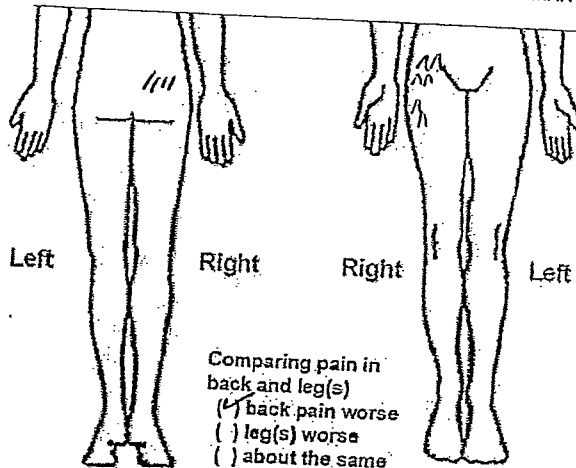
Refill 1 2 3 PRN

☐ LABEL

☐ WORKMAN COMP.

M.D.

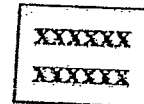
2031 (05/06) FMI



Numbness



Burning



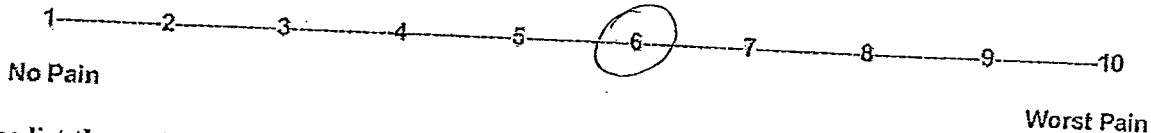
Stabbing



Comparing pain in
back and leg(s)
(✓) back pain worse
() leg(s) worse
() about the same

How bad is your pain now?

Please indicate on the scale below, from 1 to 10, how you would rate your pain intensity now.
1 => no pain, 10 => pain so severe you are writhing on the floor



Please list the medications you are currently
already taking for your pain:

Vic. 9.5
Ambien (to sleep)

Please list the treatments you have
tried for your condition:

- () physical therapy
- () epidural steroid injection (done in
operating room with Xray)
- () chiropractic care
- () acupuncture

11-23-10

PATRICIA FORE

DOB: 01-10-65

- S:** Date of surgery: 05-19-10. The patient notes slow improvement. She has pain mainly in her back. She has been trying to do some walking and walking upwards of half a mile, but has had to rest on occasions with those types of activities. The patient is gaining weight, but she contributes that to her diabetes and being on Actos. The patient notes no numbness in her legs. She has gone from one to two Vicodin per day.
- O:** Motor and sensory exam intact in both lower extremities. Straight leg raise negative bilaterally.

IMAGING STUDIES: Views of the lumbar spine notable for no evidence of hardware loosening, but difficult to assess whether fusion is occurring at the L4 through S1 fusion.

- A:**
1. Status post right approach L4 through S1 TLIF.
 2. History of diabetes, smoking and overweight.
 3. Resolved right hip greater trochanteric bursitis.
- P:** The patient is encouraged to continue to be as active as possible. Walking would pose no risk to her surgery. We will see her back for recheck in 30 days since every time I have made a 2-month appointment the Work Comp carrier has asked her to return in 30 days. In the meantime, we will refill her Vicodin and Ambien. On return visit, we will get AP and lateral views of the lumbar spine. The patient will be off work until further notice.

Mark A. Wolgin, M.D./ctm

cc: Ms. Cathy Nelson. Fax: (866) 573-8132

Patient: FORE, PATRICIA Guarantor: WAMPEE INC, GRIFFSCO OF DOB 1/10/1965 Sex: Female
 Reason: NURSE CASE MA Loc: Albany Bone Joint Clinic PC (Appointment: 11/23/2010 10:30:
 Provider: Wolgin, Mark Ins: WORKERS COMP
 Appt Prov.: Wolgin, Mark SSN: [REDACTED] Patient: WC6475
 Ref. Prov.: WILLIAMS MD, T Phone: (229)869-2954 Encounter: 000411234

Procedures				
Code	Description	Modifiers	Quantity	Diagnoses
72100	Lumbar 2 Views		1	1
99213	Level 3		1	1
WCURWF	UNABLE TO RETURN TO WORK UNTIL FURTHER N		1	1
99999	4 WEEKS		1	

Diagnoses		
1	V58.78	Aftercare following surgery

Pain Drawing

Patient Name: Patricia Fore Date: 11-23-10 Age: 45

Where is your pain now?

Mark the areas on the diagram that indicate where you feel the described sensations. Use the appropriate symbols (indicated below). Mark areas of radiating pain. Include all affected areas.

Comparing pain in neck and arm(s)

☐ neck pain worse

☐ arm(s) worse

☐ about the same

Ache

^^^^^^
 ^^^^^^

Comparing pain in back and leg(s)

☐ back pain worse

☐ leg(s) worse

☐ about the same

Pins and Needles

oooooo
 oooooo

Left

Right

Right

Left

Numbness

■ ■ ■
 ■ ■ ■

Burning

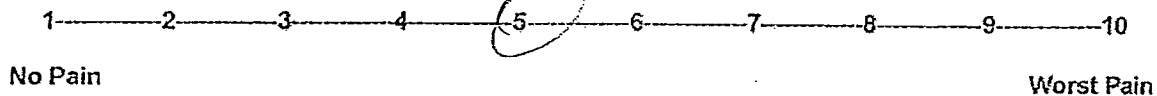
xxxxxx
 xxxxxx

Stabbing

\\\ \\\ \\\
 \\\ \\\ \\\

How bad is your pain now?

Please indicate on the scale below, from 1 to 10, how you would rate your pain intensity now.
 1 => no pain, 10 => pain so severe you are writhing on the floor



Please list the medications you are currently already taking for your pain:

Vlc 7.5

Please list the treatments you have tried for your condition:

- ☐ physical therapy
- ☐ epidural steroid injection (done in operating room with Xray)
- ☐ chiropractic care
- ☐ acupuncture

12-21-10

PATRICIA FORE

DOB: 01-10-65

S: The patient feels that she is basically the same, not much improvement since her last visit. She has had continued pain mainly on her right side with radiation down to the buttock in the groin area with no numbness or symptoms below the knee on the right. She is taking care of a 3-year-old and has to do relatively frequent bending, lifting and twisting in that regard.

O: Sensory and motor exam intact in both lower extremities. Straight leg raise negative bilaterally.

X-RAYS: Views of the lumbar spine show no evidence of hardware loosening, but difficult to assess whether interbody fusion is occurring.

- A:**
1. Status post TLIF, right approach L4 through S1.
 2. History of diabetes, smoking and overweight.

P: I spoke at length with the patient and her husband about the options. We are approaching the 8-month mark, at which we could get a CAT scan to assess the fusion or see if there is another cause of her pain. I am concerned that some of her lifting activities are exacerbating her symptoms, but after our discussion the patient wanted to get the CAT scan of her lumbar spine. It will be up to her whether to proceed with any revision procedure if she is not healed. If she is healed, there may be an option for hardware removal. We also discussed dorsal column stimulator as a treatment option. In the meantime, we have refilled her Vicodin and she will be out of work until further notice. We will see her back after her lumbar CT scan, which will be scheduled for mid 01-11.

Mark A. Wolgin, M.D./ctm

cc: Ms. Cathy Nelson. Fax: (866) 573-8132

Patient: FORE, PATRICIA
Reason: RC BACK ALO
Provider: Wolgin, Mark
Appt Prov.: Wolgin, Mark
Ref. Prov.: WILLIAMS MD, T

Guarantor: WAMPEE INC, GRIFFSCO OF DOB 1/10/1965 Sex: Female
Loc: Albany Bone Joint Clinic PC (Appointment: 12/21/2010 1:00:0
Ins: WORKERS COMP
SSN: [REDACTED] Patient: WC6475
Phone: (229)869-2954 Encounter: 000415955

Procedures				
Code	Description	Modifiers	Quantity	Diagnoses
72100	Lumbar 2 Views		1	1
99213	Level 3		1	1
WCURWF	UNABLE TO RETURN TO WORK UNTIL FURTHER N		1	
Diagnoses				
1	V58.78	Aftercare following surgery		

Notes:

ret after lumbar CT scan to be sched for mid Jan

RADIOLOGY REPORT
PHOEBE PUTNEY MEMORIAL HOSPITAL
417 THIRD AVENUE, ALBANY, GA 31703

*****Radiology*****

Patient Name: FORE, PATRICIA ANN

Unit Number: 9100425

Adm: WOLGIN, MARK A.

Acct #: 1103300265

Ordering Physician: WOLGIN, MARK A

BD: 01/10/1965

Location: O/P

Chk-in#
2762511

Exam
8005 CT L SPINE/SAG-COR VIEWS

02/09/2011 1336

CT OF THE LUMBAR SPINE

CLINICAL HISTORY-

46-year-old female with history of lumbar surgery in May 2010. Patient is still having back and leg pain. She is hypertensive and diabetic

TECHNIQUE-

Focused helical images were obtained from T12 to the sacrum and presented as 2.5 mm thick axial images using both soft tissue and bone reconstruction algorithms.

Coronal and sagittal reformatted images are also provided at 3 mm slice thickness.

No contrast was utilized for this study.

FINDINGS-

Lumbar vertebral body height is preserved.

Posterior alignment is normal.

Osseous density is uniform.

Fusion hardware is in place. Pedicle screws are seen affixing the L4, L5, and S1 vertebral units. There is no evidence of cortical breakthrough or loosening of the screws. Prosthetic disc material is seen in the L4-L5 and L5-S1 interspaces.

Intervertebral disc height is preserved within the upper lumbar spine.

Foramina appear patent.

Facet joints demonstrate only mild degenerative hypertrophy.

The following levels are detailed below-

RADIOLOGY REPORT
PHOEBE PUTNEY MEMORIAL HOSPITAL
417 THIRD AVENUE, ALBANY, GA 31703

*****Radiology*****

Patient Name: FORE, PATRICIA ANN

Unit Number: 9100425

Adm: WOLGIN, MARK A.

Acct #: 1103300265

Ordering Physician: WOLGIN, MARK A

BD: 01/10/1965

Location: O/P

Chk-in#
2762511

Exam
8005 CT L SPINE/SAG-COR VIEWS

02/09/2011 1336

T12-L1-

The disc is normal in appearance.
The facet joints and ligamenta flava are grossly normal.
The central canal is not significantly narrowed.
The neural foramina demonstrate no significant narrowing.

L1-2-

The disc is normal in appearance.
The facet joints and ligamenta flava are grossly normal.
The central canal is not significantly narrowed.
The neural foramina demonstrate no significant narrowing.

L2-3-

The disc is normal in appearance.
The facet joints and ligamenta flava are grossly normal.
The central canal is not significantly narrowed.
The neural foramina demonstrate no significant narrowing.

L3-4-

The disc is normal in appearance.
The facet joints and ligamenta flava are grossly normal.
The central canal is not significantly narrowed.
The neural foramina demonstrate no significant narrowing.

L4-5-

The disc is postoperative. It demonstrates slight left-sided eccentric posterior bulge.
The facet joints and ligamenta flava are normal on the left. However, the right-sided facets are fragmented and there appears to be

02/11/2011 0:03:11 AM PAGE 0/00

RADIOLOGY REPORT
PHOEBE PUTNEY MEMORIAL HOSPITAL
417 THIRD AVENUE, ALBANY, GA 31703

*****Radiology*****

Patient Name: FORE, PATRICIA ANN

Unit Number: 9100425

Adm: WOLGIN, MARK A.

Acct #: 1103300265

Ordering Physician: WOLGIN, MARK A

BD: 01/10/1965

Location: <<location>>

Chk-in#
2762511

Exam
8005 CT L SPINE/SAG-COR VIEWS

02/09/2011 1336

significant ligamentum hypertrophy.

The central canal appears moderately narrowed, though is not well seen due to lack of intrathecal contrast and beam hardening from the adjacent hardware.

The neural foramina demonstrate mild left-sided narrowing. The right neural foramen is widely patent.

L5-S1-

The disc is postoperative. It demonstrates mild central posterior bulge. The facet joints and ligamenta flava again demonstrate fragmentation on the right and relatively normal appearance on the left. There is significant right-sided and central ligamentum hypertrophy and/or granulation tissue.

The central canal appears markedly narrowed at this level, though again visualization of the thecal sac is limited from beam hardening and lack of intrathecal contrast.

The neural foramina demonstrate moderate to severe right-sided narrowing.

No large paravertebral soft tissue masses are identified.

IMPRESSION-

Study is limited due to lack of intrathecal contrast and beam hardening from patient's hardware.

There is no evidence of hardware failure.

Fragmentation of right-sided facet joints is present at the fusion levels. Associated ligamentum hypertrophy or postsurgical granulation tissue appears to occupy a significant portion of the central canal and appears to create moderate to severe stenosis at the L4-L5 and

RADIOLOGY REPORT
PHOEBE PUTNEY MEMORIAL HOSPITAL
417 THIRD AVENUE, ALBANY, GA 31703

*****Radiology*****

Patient Name: FORE, PATRICIA ANN

Unit Number: 9100425

Adm: WOLGIN, MARK A.

Acct #: 1103300265

Ordering Physician: WOLGIN, MARK A

BD: 01/10/1965

Location: <<location>>

Chk-in#

Exam

2762511

8005 CT L SPINE/SAG-COR VIEWS

02/09/2011 1336

particularly the L5-S1 levels.

The left L4-L5 neural foramen appears mildly narrowed and the right
L5-S1 neural foramen appears moderate to severely narrowed.

Suggest CT myelogram to better visualize the central canal and to
confirm central stenosis if surgery is a consideration.

Transcriptionist- PETER A TAYLOR, D.O.

Reading Radiologist- PETER A TAYLOR, D.O.

Releasing Radiologist- PETER A TAYLOR, D.O.

Released Date Time- 02/10/11 0956

/READ BY/ ,

PAT

02/10/2011 0953

02-14-11

PATRICIA FORE

DOB: 01-10-65

S: Date of surgery: 05-19-10. The patient is status post right approach L4 through S1 TLIF. She notes that she is about the same, but feels that at this point she is not in a position in her life where she could consider any further intervention. She mainly has pain in the right buttock and just above that area, but her leg pain that she had before the surgery is still significantly better. The patient is trying to get by with a combination of Ambien and Vicodin 7.5/325, two pills per day. She has also been through therapy. The patient feels that she would like to go ahead and close her case.

O: The patient's gait is with mild antalgia favoring the right leg. Otherwise, motor and sensory exam intact in both lower extremities.

IMAGING STUDIES: CT scan films reviewed from Phoebe from 02-09-11 and there is no evidence of hardware loosening at the L4 through S1 fusion. No ectopic bone compressing any nerve roots. However, the fusion at the 4-5 level while appearing to have fused in the interbody space, the fusion at 5-1 on the sagittal reconstruction appears fused but on the coronal reconstruction there appears to be a lucency throughout the whole fusion mass that indicates a nonunion at that level. Also, the posterolateral fusion while growing a significant amount of bone does not appear to have solid connections.

A: 1. Status post right approach L4 through S1 TLIF.
2. History of diabetes, smoking and overweight.

P: I spoke at length with the patient and her sister-in-law about the considerations. I feel that the patient does not need to proceed with surgery, but I think enough time has gone by that would make her a surgical candidate if she wanted to do an open revision of the L4 through S1 fusion. The patient feels that for several reasons, one of which is that the initial surgery was very painful and the other is that due to the social demands on her to take care of a toddler, that she is not able to consider surgery as a valid option at this time and she chose to go ahead with closing her case. I was able to speak with a paralegal in attorney Samuels' office and agreed to move towards closing the case as well. The patient will be declared maximally medically improved as of today. She has her impairment rating given per the Guidelines to Evaluation of Permanent Impairment, AMA 5th Edition. The impairment is given primarily from the information on page 384, table 15-3. Both levels that were done qualify as category IV which is 20-23% whole-person impairment. If we combine 20% x two levels using the combined values chart on page 604, the patient comes out as 36% impaired whole-person.

For her work restrictions, she could sit or stand only for about 15 or 20 minutes at a time and unless employment is able to be found with those restrictions, functionally she is not able to participate in the workplace and will remain so until her condition changes or further notice. Since the patient may benefit from surgery, I recommend that she keep open the option for future care but at this point we will refill her Vicodin and Ambien and she can return on an as-needed basis.

Mark A. Wolgin, M.D./ctm

cc: Ms. Stephen Samuels. Fax: (803) 779-4004

Patient: FORE, PATRICIA Guarantor: WAMPEE INC, GRIFFSCO OF DOB 1/10/1965 Sex: Female
 Reason: CT RESULTS PPM Loc: Albany Bone Joint Clinic PC (Appointment: 2/14/2011 1:30:00
 Provider: Wolgin, Mark Ins: WORKERS COMP
 Appt Prov.: Wolgin, Mark SSN: [REDACTED] Patient: WC6475
 Ref. Prov.: WILLIAMS MD, T Phone: (229)869-2954 Encounter: 000423685

Procedures				
Code	Description	Modifiers	Quantity	Diagnoses
99213	Level 3		1	1,2,3,4
99999	PRN		1	
WCURWF	UNABLE TO RETURN TO WORK UNTIL FURTHER N		1	
99455			1	1,2,3,4

Diagnoses		
1	V58.78	Aftercare following surgery
2	724.2	Low back pain/lumbalgia
3	996.47	Other mechanical complication
4	733.82	Non-union fracture

Pain Drawing

Patient Name: Patricia Fore Date: 2-14-11 Age: 46

Where is your pain now?

Mark the areas on the diagram that indicate where you feel the described sensations. Use the appropriate symbols (indicated below). Mark areas of radiating pain. Include all affected areas.

Left Right Right Left

Comparing pain in neck and arm(s)
☐ neck pain worse
☐ arm(s) worse
☐ about the same

Comparing pain in back and leg(s)
☐ back pain worse
☐ leg(s) worse
☒ about the same

Ache ^ ^ ^ ^ ^
^ ^ ^ ^ ^

Pins and Needles o o o o o
o o o o o

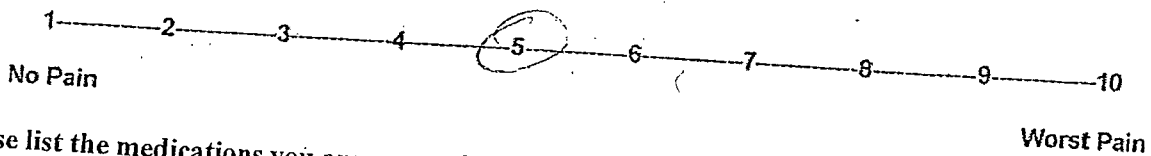
Numbness ■ ■ ■
■ ■ ■

Burning x x x x x
x x x x x

Stabbing / / / / /
/ / / / /

How bad is your pain now?

Please indicate on the scale below, from 1 to 10, how you would rate your pain intensity now.
 1 => no pain, 10 => pain so severe you are writhing on the floor



Please list the medications you are currently already taking for your pain:

VIC 7.5/325
~~gabapentin~~

Please list the treatments you have tried for your condition:

- ☒ physical therapy
- ☐ epidural steroid injection (done in operating room with Xray)
- ☐ chiropractic care
- ☐ acupuncture

STRAND REGIONAL SPECIALTY ASSOCIATES PATIENT INFORMATION				PATIENT ACCT. #: _____ REGISTRAR: _____	
Welcome to our office! In order to serve you properly, we will need the following information (Please Print) All information will be strictly confidential.					
Patient's Legal Name: Last <u>Fore</u> First <u>Patricia</u> Middle <u>A</u>		Sex: M ☐ F ☒	Birth Date: <u>1/10/65</u>	Marital Status: S ☐ M ☒ W ☐ D ☐	
Address: _____ City: _____ State: <u>CO</u>		Home Phone: _____	Patient's Social Security #: _____		
Name of Employer: _____ Address: _____ State: _____ Zip: _____		Business Phone: _____	Occupation: <u>meat cutter/wrapper</u>		
Person Responsible For This Account:		Self ☒ Spouse ☐ Parent ☐	Responsible Party's Birthdate: <u>1/10/45</u>		Responsible Party Social Security #: <u>2160272608</u>
Address: _____ City: _____ State: _____ Zip: _____		Occupation: _____		How Long at Current Employer? <u>3 yrs</u>	
Name of Employer: _____ Address: _____ State: _____ Zip: _____		Business Phone: _____			
Reason for visit: <u>Hurt on Job.</u>		Referred By: <u>Dr. Care</u>			
Person To Contact in Case of Emergency: <u>William Fore</u>		Relationship to Patient: <u>Husband</u>		Phone: <u>(843) 246-9238</u>	
Workers' Compensation? Yes ☐ No ☐ Motor Vehicle? Yes ☐ No ☐ If Yes-put W/C or MVA Carrier below		Date of Accident: <u>2-24-08</u>	Treatment Authorized By: _____	Claim #: _____	W/C or MVA Insurance Phone #: _____
Primary Insurance Company: _____		Subscriber Name: _____			
Secondary Insurance Name: _____		Subscriber Name: _____			
Medical/Surgical Treatment Authorization I, the undersigned, hereby consent to all medical care and services provided by Strand Regional Specialty Associates, LLC (SRSA) including examinations, tests, procedures, x-rays or other diagnostic or surgical procedures and anesthesia. The undersigned further agrees that no guarantee has been made to the undersigned regarding the outcome of care.					
Patient/Responsible Party Signature _____				Date _____	
Medicare Authorization and Assignment I request that all Medicare payments be made on my behalf to SRSA for any services furnished to me. I authorize the release to the Center for Medicare and Medicaid Services or their agent/carrier any information needed to determine that benefits are payable. I understand that my signature requests that payment be made and authorizes release of any information to assist in payment activities. I authorize billing for services rendered. I agree to pay all due co-insurance and deductibles that are determined to be my responsibility by the carrier.					
Patient/Responsible Party Signature _____				Date _____	
Assignment of Benefits I hereby authorize payment directly to SRSA and assign to them any and all rights and benefits that I or the patient may have under any policy of insurance including medical, personal injury protection, Workers Compensation, or any other coverage and further direct any such insurance company to make payment of benefits directly to SRSA. I authorize billing to any such insurance for services rendered to me. I understand I am financially responsible to SRSA for charges not covered by insurance or this assignment.					
Patient/Responsible Party Signature _____				Date _____	

Strand Regional Specialty Associates
 PO Box 100523
 Florence, SC 29501-0523
 (800) 741-6920

MP 115 + 1145

PATIENT INFORMATION				MRN	SSN#	BIRTHDATE	SEX
NAME (Last, First Middle) Fore, Patricia Ann				179185	260-27-2608	01/10/1965	F
LOCAL ADDRESS [REDACTED]				CITY, STATE ZIP Conway, SC 29526		SECONDARY/BILLING ADDRESS (if Applicable)	
HOME PHONE (843) 365-5765	DAY PHONE (843) 365-5765	EMAIL ADDRESS		REFERRING PHYSICIAN WILKOSWSKI		CITY, STATE ZIP	
MARITAL STATUS	STUDENT STATUS ☐ Full-time ☐ Part-time	SMOKER (Y/N)? N	VETERAN (Y/N)? N	PRIMARY CARE PROVIDER		HOME PHONE	
PRIMARY EMPLOYER				SECONDARY EMPLOYER (if Applicable)			
ADDRESS				ADDRESS			
CITY, STATE ZIP				CITY, STATE ZIP			
WORK PHONE				WORK PHONE			
RESPONSIBLE PARTY INFORMATION (if Different than above)							
NAME (Last, First Middle)				SSN#	BIRTHDATE	SEX	
LOCAL ADDRESS				CITY, STATE ZIP		SECONDARY/BILLING ADDRESS (if Applicable)	
HOME PHONE	DAY PHONE	EMAIL ADDRESS		CITY, STATE ZIP			
MARITAL STATUS	STUDENT STATUS ☐ Full-time ☐ Part-time	SMOKER (Y/N)?	VETERAN (Y/N)?	PRIMARY CARE PROVIDER		HOME PHONE	
RELATIONSHIP TO PATIENT							
PRIMARY INSURANCE							
NAME OF INSURANCE COMPANY				POLICY#			
NAME OF INSURED				GROUP#			
ADDRESS OF INSURANCE COMPANY				COPAY AMT			
CITY, STATE ZIP		PHONE		DEDUCTIBLE			
RELATIONSHIP TO PATIENT				EFFECTIVE DATE		EXPIRATION DATE	
SECONDARY INSURANCE (if Applicable)							
NAME OF INSURANCE COMPANY				POLICY#			
NAME OF INSURED				GROUP#			
ADDRESS OF INSURANCE COMPANY				COPAY AMT			
CITY, STATE ZIP		PHONE		DEDUCTIBLE			
RELATIONSHIP TO PATIENT				EFFECTIVE DATE		EXPIRATION DATE	

I hereby authorize payment directly to SRSA and assign to them any and all rights and benefits that I or the patient may have under any policy of insurance including medical, personal injury protection, Workers Compensation, or any other coverage and further direct any such insurance company to make payment of benefits directly to SRSA. I authorize billing to any such insurance for services rendered to me. I understand I am financially responsible to SRSA for charges not covered by insurance or this assignment.

SIGNATURE OF PATIENT/GUARDIAN

DATE

Patricia Fore

Patient's Legal Name

I authorize SRSA to call me at work regarding medical and appointment information when necessary.

Yes ☐No ☒Not Applicable ☒

I authorize SRSA to leave specific medical and appointment information on my answering machine/voice mail if they are unable to personally contact me.

Yes ☒No ☐I do not have an answering machine or voice mail ☐

I authorize SRSA to release specific medical and appointment information to the following persons: (if not authorizing release, write NONE)

NONEPatricia Fore

Patient Signature

4-9-08

Date

Medicare Lifetime Signature On File:

I request payment of authorized Medicare benefits to SRSA for any services furnished to me by SRSA. I authorize any holder of medical information about me to release to the Health Care Financing Administration and its agents any information to determine these benefits payable for related services.

Patient Signature

Date

Private Insurance Authorization For Assignment Of Benefits/Information Release:

I, the undersigned, authorize payment of medical benefits to SRSA for any services furnished to me by SRSA. I understand that I am financially responsible for any amount not covered by my contract. I also authorize you to release to my insurance company, or their agent information concerning health care, advice, treatment or supplies provided to me. This information will be used for the purpose of evaluating and administering claims of benefits.

Patricia Fore

Patient, Parent or Guardian Signature (if child under 18 years old)

4-9-08

Date

Strand Regional Specialty Associates

PO Box 100523
 Florence, SC 29501-0523
 (800) 741-6920

PATIENT NAME Fore, Patricia Ann		SSN [REDACTED]	DOB 01/10/1965	AGE 43 yrs.	SEX F	MEDICAL RECORD 79/85	CREATE DATE 05/08/08	SEQ NO 125
PATIENT ADDRESS [REDACTED] Conway, SC 29526		PHONE (H) (843) 365-5765 (W) (843) 365-5765	APPOINTMENT Date: 05/08/08 Time: 2:00 P		COMPLAINT New patient visit- REF. DR. WILKOSWSKI TO ORTHO. RT HIP			
INSURANCE INFORMATION Cigna		GROUP NAME	GROUP NUMBER	POLICY NUMBER	EVENT New Patient Visit			
RENDERING PHYSICIAN NAME Kirby PA, Erin L	REFERRING PHYSICIAN NAME Kirby PA, Erin L	REFERRING LOCATION WILKOSWSKI	LAST PRIMARY DX		ENCOUNTER			
AMOUNT OF LAST PAYMENT	DATE OF LAST PAYMENT	CHART BALANCE \$0.00	PATIENT INS BALANCE \$0.00	PATIENT SELF BALANCE \$0.00				

CPT	Orthopedics	MOD	CPT	Orthopedics	MOD	CPT	Orthopedics	MOD	CPT	Orthopedics	MOD
NEW PATIENT'S			ESTABLISHED PATIENTS			CONSULTATIONS			X-Rays		
99201	Problem focused		99211	Minimal		99241	Problem focused		72070	T Spine 2 views	
99202	Expanded focused		99212	Problem focused		99242	Expanded focused		72090	Scoliosis Supine/Erect	
99203	Detailed		99213	Expanded focused		99243	Detailed		72100	LS Spine 2-3 views	
99204	Moderate		99214	Detailed		99244	Moderate		72110	LS Spine >= 4 views	
99205	Comprehensive		99215	Comprehensive		99245	Comprehensive		72114	L Spine comp w/bend	
			99024	Post-Op visit		99199	Rehab Nurse		72220	Sacrum/coccyx 2 views	
						99456	JME		72170	Pelvis 1-2 views	
									72190	Pelvis 3 views	
PROCEDURES			CASTS/SPLINTS			ADULT			FRACTURE CARE		
10060	I & D, superficial		29065	Long Arm	Q4375	Q4375	21800	Rib fx, each		73560	Hip 1 view unilateral
10120	Removal, foreign body		29075	Short Arm	Q4375	Q4375	22305	Vertebral fx, w/o red or brace		73510	Hip >= 2 views unilateral
11100	Biopsy lesion		29105	Long arm splint	Q4375	Q4375	23500	Clavicle w/o rec		73520	Hips, Bil. 2 views
11101	Each additional		29125	Short arm splint	Q4375	Q4375	23540	AC dislocation w/o manip		73540	Pelvis (child) 2 views
11040	Debridement Skin, partial		29345	Long Leg	Q4375	Q4375	23600	Humerus neck w/o rec		73550	Femur 2 views
11041	Debridement Skin, full thick		29365	Cylinder	Q4375	Q4375	23620	Glx: Humeral tuberosity w/o red		73560	Knee 1 or 2 views
11042	Debridement Skin, subcutaneous		29405	Short Leg	Q4375	Q4375	24500	Humerus shaft w/o rec		73562	Knee 3 views
20670	Removal implant, superficial		29425	Short Leg w/kg	Q4375	Q4375	24650	Racial head w/o rec		73564	Knee Complete >= 4 views
A4550	Instr. tray (not medicare)		29505	Long Leg splint	Q4375	Q4375	25600	Distal radius w/o red		73565	Knees-Bilat AP Standing
			29515	Short Leg splint	Q4375	Q4375	25605	Distal radius w/ rec		73590	Tibia/Fibula 2 views
PAPERWORK			SUPPLIES								
G0180	Home Health - Initial (Medicare)		29700	Remove gaunt. Boot or body cast			25622	Scaphoid carpal w/o rec		73600	Ankle 2 views
G0179	Home Health - Recert (Medicare)		29705	Remove full arm/leg cast			26600	Metacarpal w/o red (ea)		73610	Ankle >= 3 views
	Forms Complete		A4580	Supplies, plaster (not medicare)			26605	Metacarpal w red (ea)		73620	Foot 2 views
			A4590	Supplies, fiberglass (not medicare)			26720	Prox/Mid Phalanx w/o red (ea)		73630	Foot >= 3 views
ASPIRATION/INJECTION			SUPPLIES								
10160	Abscess, hematoma, bulla		A6448	2" Ace Wrap			26725	Distal Phalanx w/o red (ea)		73650	Calcaneus >= 2 views
20550	Inj. Tendon, ligament		A6449	3" or 4" Ace Wrap			27520	Patella w/o rec		73660	Toes >= 2 views
20551	Inj. Tendon, origin/insertion						27530	Tibia plateau w/o red		73000	Clavicle Complete
20552	Inj. Sing/mult 1-2 muscle						27550	Tibia shaft w/o red		73050	Acromioclavicular, bilat
20553	Inj. Sing/mult >3 muscle						27760	Medial malleolus w/o rec		71100	Ribs 2 views, unilateral
20600	Small joint, INJ/ASP						27786	Lateral malleolus w/o red		73010	Scapula Complete
20605	Intermediate joint, INJ/ASP						28400	Calcaneus w/o rec		73020	Shoulder 1 view
20526	Inj. Carpal Tunnel						28470	Metatarsal w/o rec (ea)		73030	Shoulder >= 2 views
20610	Large joint bursa, INJ/ASP						28490	Phalanx great toe w/o red		73060	Humerus >= 2 views
20612	Inj. Ganglion cyst						28510	Phalanx lesser toe w/o red (ea)		73070	Elbow 2 views
64450	Nerve Injection									73080	Elbow >= 3 views
70704	Bethamethasone 4mg/cc									73090	Forearm 2 views
71050	Methylprednisone 80mg/cc									73100	Wrist 2 views
J3301	Kenalog (10mg)									73110	Wrist >= 3 views
J7319	Hyalgan 20-25 mg									73120	Hand 2 views
J7319	Supartz 25mg									73130	Hand >= 3 views
J7319	Synvisc (16mg)									73140	Finger 2 views
										77071	Stress any joint by MD
											(bill w/any joint any code)

pm dys wks mts prn
 DO: 7/24/08 DOS:

Tax ID: 54-251-23

LAST DIAGNOSIS 1. 706.51 2. 724.3	PLAN CO-PAY 924.01 40.00	TODAY'S CHARGES 354.00	TODAY'S PAY/ADJ \$0.00	TODAY'S ENDING BALANCE 40.00	TIME PRINTED 05/08/08 5:00 PM

STRAND REGIONAL SPECIALTY ASSOCIATES**FOLLOWUP VISIT**

Patricia Fore

DOB: 1/10/1965Date: 5/8/2008Chart #: 79185SSN:**CHIEF COMPLAINT:** Right hip pain.

SUBJECTIVE: This is a 43-year-old meat cutter and wrapper who was working back in February when she slipped and hit her right hip on the band saw. She had immediate pain localized just to the lateral hip. Few days later, she started having shooting pains down from her hip to her knee and cramping pain. She was seen in the ER where she was given pain medication. Goody Powders seem to work best. Denies any numbness or tingling down either leg. No pain over the anterior groin.

PAST MEDICAL HISTORY: She is a diabetic and on Lantus and NovoLog. She is a smoker. Denies any reflux. No history of asthma.

MEDICATIONS: Lantus, NovoLog p.r.n., Sildec, Tylenol, BC powders, and Aleve.

ALLERGIES: PENICILLIN.

PHYSICAL EXAMINATION:**GENERAL:**

This is a pleasant, middle-aged female, in no acute distress.

VITAL SIGNS:

Height 5 feet 5½ inches. Weight 230 pounds. Pulse is 98.

RIGHT HIP:

She is markedly tender over the greater trochanter with some soft tissue thickening there. Nontender to palpation over the anterior groin. No pain with hip flexion or external rotation. There is minimal discomfort with internal rotation over the greater trochanter. Trace quad atrophy. Positive Ober's.

LUMBAR SPINE:

No midline tenderness. She is minimally tender over the sciatic notch. No SI tenderness. Distally, focal motor strength is intact without deficits.

DIAGNOSTIC TESTS: Right hip AP and lateral films were obtained and reveal no evidence of fracture. No destructive lesions noted. Mild hip DJD.

ASSESSMENT: Traumatic right trochanteric bursitis with possible mild sciatica.

Page 2

Fore, Patricia

Chart#: 79185

PLAN: We will get her in physical therapy for modalities and strengthening. I think she also needs some desensitization over the injury site. Under aseptic conditions, I injected her trochanteric bursa with 1 mL betamethasone, 2 mL of 1% plain lidocaine. We discussed routine steroid precautions. Since she is a diabetic, she is aware that her blood glucose may run high for the next day or two. She should adjust her NovoLog sliding scale as needed. Prescription give for tramadol. I have cautioned her against taking the BC Powders, Sildec, and Aleve. She needs to take one of the anti-inflammatories only and discussed routine GI precautions.

FOLLOWUP: As needed.

A handwritten signature in black ink, appearing to read "Erin L. Finley", is written over a rectangular area of the document that has been heavily textured or redacted with a grid pattern.

Erin L. Finley, PA-C

EK/smk

SRSA PATIENT INFORMATION SHEET

Name: <u>Patricia Fore</u>	Today's Date: _____
Age: <u>43</u> Sex: <u>F</u>	Right ☒ Left ☐ Handed _____
Occupation: <u>meal cutter / waitress</u>	
INJURY RELATED TO:	
Work ☒ Sports _____ Auto _____ Other _____	No known Injury ☐
Side of Injury: Right ☒ Left ☐	Date of Injury: <u>2-24-08</u>
<u>HS 5' 1/2" W 230 P 98</u>	
REASON FOR TODAY'S VISIT:	
<u>Something is bad wrong with hip</u>	
Please Describe: <u>continuous pain in joint (hip) and it will run down leg</u>	

I have you had problems in this area before?	☒ No ☐ Yes (describe) _____
Have you been treated by anyone else for this problem?	☐ No ☒ Yes (Who) <u>Seacoast Hosp (ER)</u> <u>Doctors Care Conway</u>

PAST MEDICAL HISTORY:	
Illness / Medical Conditions: ☐ None	Previous Surgeries: ☐ None
<u>Diabetes 12 yrs.</u>	<u>C-Section March 07</u>
Have you or any family members had anesthesia Problems? <u>N/A</u>	

MEDICATIONS you are presently taking (including over-the-counter): ☐ None	
<u>Lantus 80 AM 30 pm</u>	<u>Sulin DAC 200mg</u>
<u>Novolog as needed</u>	<u>Tylenol, BC, Geonies</u>
	<u>Aleve</u>

DRUG ALLERGIES:	
☐ No ☒ Yes (If yes, Please list) <u>Pen</u>	

	Yes/No		Yes/No		Yes/No
Asthma	☐	Blood Clots	☐	Cancer	☐
Heart Problems	☐	Ulcers	☐	Arthritis	☐
Blending Problems	☐	Hiatal Hernia	☐	Smoking	☒
Diabetes	☒	Reflux	☐	Fevers	☐
Hepatitis	☐	Stomach Problems	☐	Weight Loss	☐

Referred By: Drs. Care
 Patient Signature: Patricia Fore

(PLEASE FILL THIS FORM OUT COMPLETELY!)

SRSA 009 12-15-07

**Strand Regional Specialty Associates**

1170 Rourke Street, Myrtle Beach, SC 29572 • (843) 449-2338 **LLC**
4367 Riverwood Drive, Suite 120, Murrells Inlet, SC 29576 • (843) 357-8008
2376 Cypress Circle, Suite 200, Conway, SC 29526 • (843) 234-1710
4000 Highway 9 East, Suite 285, Little River, SC 29556 • (843) 390-0033

ORTHOPAEDIC SURGERY / SPORTS MEDICINE**THOMAS J. CHAMBERS, MD**

SC 18818 / DEA BC4949636

ERIN L. FINLEY, PA

SC A640 / DEA MK0692891

FREDERICK J. HAMILTON, DO

SC 00378 / DEA AH5161144

JERRY A. SCHEXNAYDER, MD

SC 18802 / DEA BS4412475

DAVID G. EVERMAN, MD

SC 26188 / DEA BE5916210

For

Patricia Fore

Age

5/8/08

Address

Date

R Tramadol 50mg #80ipog 6 pr pan

LABEL

REFILL 6 1 2 3 4 5 PRN

Dispense as Written

Only
Substitution Permitted

APR 16 11 11 AM '08
Select P.T. -
347-7141

Rehabilitation Services



Conway Medical Center Campus

Phone: 843.347.8066 / 843.234.5113

Fax: 843.347.0910 / 843.234.5114

Patient Name: Patricia Fore Date: 5/8/08

Diagnosis: Chronic trochanteric bursitis + hip contusion

Referring Physician: DSS Sciatica

(Signature required to treat patient)

Social adjustment services required? ☐ yes ☐ no Functional limitations prior to injury? ☐ yes ☐ no

Please treat this patient 2-3 times a week for 4 weeks.

EVALUATION

- ☒ Evaluate/Treat
- ☐ ROM
- ☐ Sensory
- ☐ Hand
- ☐ ADL
- ☐ Aquatics
- ☐ CYBEX
- ☐ BTE

EXERCISE

- ☐ BTE
- ☐ CYBEX
- ☐ AROM
- ☐ PROM
- ☒ Strengthening
- ☒ Home Program
- ☐ Gait Training
- ☒ Therapeutic

EQUIPMENT/INSTRUCTION

- ☐ Dynasplint
- ☐ TENS Unit
- ☐ Crutches
- ☐ Walker
- ☐ Splint/Brace Fabrication
- ☐ Other: _____
- ☐ Cane
- ☐ Jobst
- ☐ ADL

TREATMENT GOALS

- ☐ Increase ROM
- ☐ Increase Strength
- ☒ Improve Function
- ☒ Decrease Pain
- ☐ Decrease Edema

MODALITIES

- ☐ Hot Pack/Ice
- ☐ Fluidotherapy
- ☒ Massage
- ☐ TENS
- ☐ Interferential E. Stim.
- ☐ Phonophoresis/
- ☐ Ultrasound
- ☐ Traction
- ☐ Wound Care
- ☐ Paraffin
- ☐ EMS Unit
- ☐ Whirlpool

PROTOCOLS

- ☐ Cervical
- ☐ Lumbosacral
- ☐ Lumbosacral with
- ☐ Material Handling
- ☐ Rotator Cuff Surgery
- ☐ Tendon
- ☐ Hand
- ☐ ACL
- ☐ Rotator Cuff
- ☐ SX/Tendonitis
- ☐ Post Op Arthroscopy
- ☐ RSD
- ☐ TMJ
- ☐ Other: _____
- ☐ Specify: _____

PRECAUTIONS/SPECIAL INSTRUCTIONS/COMMENTS: _____

THERAPIST

L. F. Jones
PHYSICIAN

PHOEBE PUTNEY MEMORIAL HOSPITAL
P.O. BOX 1828
ALBANY, GEORGIA

PAIN MANAGEMENT

NAME: FORE, PATRICIA ANN

MR #: 9100425

DATE OF SERVICE: 11/17/2008

ACCT #832200861

PHYSICIAN: LAMAR H. MOREE, M.D.

AGE: 43

INITIAL CONSULTATION

REASON FOR CONSULTATION:

Ms. Fore is a 43 year-old female referred for evaluation and treatment by Dr. Jim Mason. She complains of dull, aching, lower back pain that radiates into her right buttock, down her right leg and into her right foot. Her symptoms began on 2/24/08 when she injured herself while at her job as a meat cutter. She states she was carrying a 60 pound slab of meat and injured her back. She states her symptoms have progressed since her initial injury. She states her pain is increased by applying pressure to her lower back and all physical activity. She states her symptoms are worse at night than in the day. She states her pain is partially diminished with heat and frequent positional changes. She states her pain relief goal is decreased pain, increased physical activity, sleep and return to work.

PAST SURGICAL HISTORY:

Ms. Fore's past medical history is significant for previous cesarean section times two, previous left breast mass excision, previous tubal ligation, previous tonsillectomy and adenoidectomy.

PAST MEDICAL HISTORY:

Ms. Fore has a history of obesity. She has a history of diabetes of 13 years duration.

FAMILY HISTORY:

Her mother died at 65 from chronic renal failure secondary to diabetes. Her father died in his 60's secondary to ethanol abuse and cerebral hemorrhage.

REVIEW OF SYSTEMS:

Ms. Fore's review of systems is negative for neurological, psychiatric, respiratory, cardiac, hepatic or renal dysfunction. She has no previous history of hematologic or immunological disease.

SOCIAL HISTORY:

Ms. Fore is a meat cutter. She is a 1/2 pack per day smoker for 35 years. She consumes no alcohol.

MEDICATIONS:

Her current medications are NovoLog, Humulin insulin, Darvocet and Voltaren.

ALLERGIES:

She is allergic to PENICILLIN, this allergy is manifest as urticaria.

DIAGNOSTIC STUDIES:

NAME: FORE, PATRICIA ANN
PHYS: LAMAR H. MOREE, M.D.
REPORT: PAIN MANAGEMENT

Page 2

She has undergone a lumbar MRI scan which is consistent with a bulging disc at the L4-5 level.

PHYSICAL EXAMINATION:

The lumbar spine is nontender. There is slight muscle spasm noted in the right lumbar paraspinal musculature. There is tenderness on palpation of the right sciatic notch. Straight leg raise test is significantly positive to an angle of 45° in the right lower extremity. The left contralateral straight leg raise test is positive to an angle of 45°. Deep tendon reflexes are 2+ and physiologic bilaterally in the lower extremities at the level of the knees and ankles. Ms. Fore is able to toe walk. She is unable to heel walk on her right lower extremity. Pedal pulses are intact bilaterally.

IMPRESSION:

1. Right L4-5 sciatic radiculopathy secondary to bulging disc at this level as a result of work related trauma sustained on 2/24/08.
2. Obesity.
3. Previous cesarean section times two.
4. Previous left breast mass excision.
5. Previous tonsillectomy and adenoidectomy.
6. Previous tubal ligation.
7. Diabetes.
8. Ongoing tobacco abuse.

I feel Ms. Fore has right L4-5 sciatic radiculopathy due to previous work related trauma. She has previously undergone epidural steroid injection therapy without benefit. She is a brittle diabetic. I am somewhat hesitant to initially pursue lumbar epidural steroid injection therapy as I feel the steroid exposure may be detrimental to her diabetes. I will initially place her on a two week trial of tizanidine 4 milligrams at bedtime and gabapentin 300 milligrams three times a day. I have cautioned her as to the potential side effects of these medications. I shall see her in followup in two weeks to assess her response to this therapeutic trial.

LAMAR H. MOREE, M.D.

LHM: th

Dictated: 11/17/2008 6:51 P

Transcribed: 11/19/2008 11:59 A

Job ID: 001299107

cc:

JAMES MASON, D.O.

Signed: LAMAR MOREE, MD
11/20/2008 09:26 EST

PHOEBE PUTNEY MEMORIAL HOSPITAL
P.O. BOX 1828
ALBANY, GEORGIA

PAIN MANAGEMENT

NAME: FORE, PATRICIA ANN

MR #: 9100425

DATE OF SERVICE: 12/05/2008

ACCT #833604635

PHYSICIAN: LAMAR H. MOREE, M.D.

AGE: 43

REASON FOR VISIT:

Ms. Fore is in today for a pain management office visit. She continues to complain of ongoing low back pain. She describes this pain as a dull, chronic, throbbing sensation that radiates down her right leg. Today she rates the pain a 7 on a pain scale of 1 to 10.

PHYSICAL EXAMINATION:

On physical examination there is no tenderness to palpation over the lumbosacral spine at the present time. There is also some slight muscle spasms noted in the right lumbar paraspinal musculature. She has a slight noticeable tenderness to palpation to the right sciatic notch. She has a positive straight leg raise test in the right lower extremity at a 45° angle. There is also a positive straight leg raise test in the left lower extremity which is contralateral at a 45° angle. Deep tendon reflexes are 2+ and physiologic in both lower extremities at the level of the knees and ankles. Pedal pulses are 2+ bilaterally, equal and intact. Ms. Fore is able to walk on her toes at the present time. She is unable to ambulate on her heel with the right lower extremity. Pedal pulses are 2+ bilaterally, equal and intact. There is no motor weaknesses noted in the lower extremities at the present time bilaterally.

IMPRESSION:

1. Right L4-L5 sciatic radiculopathy secondary to disc bulge at this level as a result of work related trauma sustained 2-24-08.
2. Obesity.
3. Diabetes.
4. Ongoing tobacco abuse.

PLAN:

Dr. Moree feels that Ms. Fore has a right L4-L5 sciatic radiculopathy due to previous work related trauma. Dr. Moree feels that Ms. Fore will benefit from receiving a prescription of Zanaflex 4 milligrams to be given one pill by mouth every evening quantity 30, gabapentin 300 milligrams to be given one pill patient three times a day quantity 90, Ultram ER 200 milligrams to be given one pill by mouth daily quantity 30. She also received samples of Ultram ER 200 milligrams to be given one pill by mouth daily and Zanaflex 4 milligrams capsules to be given one pill by mouth every evening.

We will continue to monitor Ms. Fore's progress.

FOLLOW-UP:

Her follow-up instructions include following up with Dr. Moree or the PA in one month here at the Phoebe Putney Pain Management Center.

NAME: FORE, PATRICIA ANN
PHYS: LAMAR H. MOREE, M.D.
REPORT: PAIN MANAGEMENT

Page 2

Dictated BY RUSSELL DOWDY, PAC

LAMAR H. MOREE, M.D.

LHM: th

Dictated: 12/09/2008 7:24 A

Transcribed: 12/09/2008 1:09 P

Job ID: 001306660

cc:

Signed: LAMAR MOREE, MD
12/09/2008 14:44 EST



Robert M. Peele, Jr, MD*J. Talley Parrott, MD*Robert M. DaSilva, MD
James A. O Leary, MD*Michael R. Ugino, MD*Michael S. Green, MD
M. David Redmond, MD*William C. James, MD*Robert D. Santrock, MD

Frederick C. Pehl, MD *Thomas P. Gross, MD* Coleman D. Fowble, MD*Thomas D. Amsey, MD

1910 Blanding Street * Columbia, SC 29201* 1013 Lake Murray Boulevard * Irmo, SC 29063
(803)256-4107 * www.midlandsortho.com

Initial Exam

NAME: Fore, Patricia

DATE: 07/07/09

EMPLOYER:

REFERRING PHYSICIAN: NONE,

ACCOUNT: 2032625

DOB: 01/10/1965 AGE: 44 years old

OCCUPATION: No data for occupation

CC: 1. Back
2. Rt Hip
3. Rt Leg

DATE OF INJURY/ONSET/SURGERY: 2/2008 (On the Job Injury) WC

HPI: 44 year old female seen for an independent medical examination regarding chronic back pain. Patient states that she was working at a grocery store as a meat Cutter on February 24, 2008 when she was carrying 50 to 60 pounds of meat overhead and she bumped a saw in the meat department. She developed significant hip and back pain. Her pain has persisted for 15 months. She has been out of work. She has been seen by number of physicians and treated with medications and therapy. She has not had any injections or surgery. She complains of sharp stabbing pain down her back and right leg. Increases with activities and decreases with rest. No numbness or tingling. No bowel or bladder changes. She has tried anti-inflammatory and pain medicines without relief. She has been seen in a pain clinic. She has been seen by a spine surgeon in Georgia who mentioned the possibility of surgery by the patient report.

PAST MED HX: 08. Diabetes
20. High Blood Pressure

SURGICAL HISTORY: C-SECTION: x 2

FAMILY HISTORY: 05. Diabetes
07. High Blood Pressure

SOCIAL HISTORY: 03. Alcohol-None
06. Children-Yes
08. Marital Status-Married
13. Special Diet-Yes
16. Tobacco-cigarettes <1 PPD
25. Work History-Unemployed
28. Occupation
Meat Cutter/Wrapper

ALLERGIES: Penicillins

MEDICATION(s): Lodine
Tramadol
Zanaflex

REVIEW OF SYSTEMS:

General, neuro, psychiatric, respiratory, cardiovascular, GI, GU, blood and lymph, EENT, musculoskeletal, skin and endocrine are normal except for what is noted. Systems Reviewed

PHYSICAL EXAM:

Vital Signs: No data for Vitals

Report Date: July 17, 2009 Patient: Fore, Patricia DOS: 07/07/09

Appearance: no acute distress
Psychiatric: Mood and affect were appropriate
Skin: warm and dry, no new lesions or rashes Clean, dry, no lesions, no rashes
Neuro: alert & oriented x3

EXAM: The gait is abnormal. Patient is in severe pain. Waddell's signs are equivocal. The patient can heel and toe walk with some significant difficulty. The spine is tender over the lumbosacral junction. There is a severely limited range of lumbar flexion, extension, and side bending. There are no stepoffs or deformities. There is no crepitation. Straight leg raise is equivocal. The hips have a full and painless range of motion is no focal tenderness, weakness, or deformity. The calf compartments are soft and pulses are palpable. Motor strength is 5/5 throughout both lower extremities. Sensation is intact to light touch. Pulses are 1-2+. The skin is intact.

RADIOGRAPHS: Review of an MRI dated September 19, 2008 of the lumbar spine demonstrates mild degenerative disc disease with a small disc bulge at L4-5. Review of x-rays of the hip on the right demonstrate only minimal degenerative changes no fracture or other abnormality.

PROCEDURE: I have reviewed notes from rehabilitation services, seacoast medical center, Dr. Moree, Dr. wolgin and strand regional specialty associates.

ASSESSMENT:

- Lumbar degenerative disc disease
- Right hip contusion
- Diabetes
- Obesity
- Chronic pain

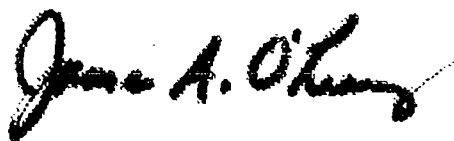
PLAN: It is my opinion that the patient's complaints of back and hip pain are directly related to her injury in February of 2008. I do not feel that she has at MMI. She is certainly a high-risk candidate for surgery given her severe diabetes, the magnitude of her pain, the percentage of her pain that is back rather than leg related, and the fairly mild findings on MRI. However I would defer to the spine surgeon with regards to surgical intervention. It is my opinion she would benefit from a trial of epidural steroid injections prior to surgery. Certainly this is not guaranteed to eliminate all of her pain, but neither is a spinal fusion and it certainly carries far fewer risks. I do not feel that she can return to work at this point. I would recommend additional treatment including epidural steroid injections an additional physical therapy. If this is not successful, then she would either have to undergo a referral to a chronic pain clinic with an FCE and subsequent rating and release or consider spinal fusion. I would be glad to see her back on an as needed basis.

PRESCRIPTIONS: No data for Prescription

PRE-EXAMINATION:

WORK STATUS:

() Full Time () Part Time () Restrictions () Out of Work () Non-Applicable



James A. O'Leary, MD

Electronically Signed

Peer Review Services

Date: March 26, 2010
Claimant: Patricia Fore
Date of Birth: 01/10/1964
File#: 709659592

Physician Advisor Review Questions:

1. Please evaluate the need for surgery and whether or not a second surgical opinion is needed.
2. If you are in agreement with the medical necessity for surgery, please identify whether the need for surgery is related to a pre-existing condition and what percentage is related to pre-existing issues.

Contact with the provider:

A call was placed to Dr. Wolgin on 03/24/10 at 10:57 am, EST; and the number for call back and a message as to the nature of the call were left with Keisha. A call was placed on 03/26/10 at 1:10 pm, EST; at which time discussion occurred with Dr. Wolgin.

Summary of pertinent medical records:

This is a 46-year-old female with complaints of low back pain down to her right foot. On her initial visit with Dr. Mason, she reported a hip injury that occurred on 2/24/08 when she hit the corner of a band saw; she indicated that she was treated in the Emergency Room, and then received an injection from a specialist. On examination, findings were of a positive faber test; a positive straight leg raise test; strength was 4+/5 in the lower extremity muscle groups; x-rays of the lumbar spine showed some minimal degenerative change and very mild disc space narrowing at L5-S1; hip x-rays were negative. Diagnoses were of low back pain, sciatica, hip pain and trochanteric bursitis.

The 09/19/08 MRI of the lumbar spine showed mild degenerative disc disease, facet changes in the lower lumbar spine, and a small right neural foraminal focal disc protrusion at L4-5. The MRI of the right hip from 09/19/08 was normal. Treatment included an epidural steroid injection without benefit. On 11/17/08, Dr. Moore recommended Tizanidine and Gabapentin.

Dr. Wolgin evaluated the claimant on 04/17/09. The claimant noted minimal relief with physical therapy. On examination there was an antalgic gait; tenderness to the low back; numbness to the lateral thigh and anterior knee region; and straight leg raise testing produced a pulling sensation on the posterior thigh on the right. Dr. Wolgin documented that the MRI from 09/19/08 showed a broad based disc bulge at L4-5 with increased fluid in the joint possibly consistent with instability, and a small amount of foraminal narrowing more on the right than the left; at L5-S1 there was a mild to moderate amount of facet arthrosis but the disc hydration was fairly well

maintained but had lost some of its height. Diagnosis was chronic low back pain, right lower extremity radiculitis. Weight loss, strengthening, and medications were recommended.

On 02/02/10, the claimant reported that her pain was worse. Discomfort was noted with toe and heel walk on the right, and there was a positive straight leg raise on the right with pain down to the calf was reported. Relafen and Vicodin were recommended. The MRI of the lumbar spine from 02/25/10 showed a bulge and possible tiny central protrusion at L4-5 with mild facet hypertrophy; there was no frank nerve root compression; there was probable mild crowding of the lateral recess nerve roots and minor disc degenerative change at L5-S1. Dr. Wolgin saw the claimant on 03/02/10 for low back pain radiating down to her feet. The claimant was trying to decrease her smoking. Straight leg raise was negative bilaterally. Dr. Wolgin stated that the MRI from 02/25/10 showed disc desiccation and broad based disc bulge at L4-L5 with evidence of stenosis at that level and slightly increased facet fluid levels indicating potential disc instability. There was facet arthrosis and disc degeneration at the L5-S1 level, worse on the right than the left. Diagnosis was spinal stenosis L4-L5 with broad based disc bulge, potential instability at L4-L5 with facet effusions and facet degeneration at L5-S1 with right greater than left lower extremity radiculitis. A two level transforaminal lumbar interbody fusion has been recommended.

Determination and rationale:

I spoke with Dr. Wolgan.

1. This reviewer would state, that based on the information reviewed and discussion with the requesting physician, this claimant is not a candidate for a two-level L4-5 and L5-S1 fusion. There were not any state mandated guidelines. ODG guidelines were not met as there was not identification of all pain generators, there was not a positive discography, and there was not documentation of a psychosocial assessment. There is no structural spinal instability. She appears to have failed conservative treatment. If discography is concordant with a non-painful control level and she has an appropriate psychosocial assessment, the claimant may be a candidate for surgery. However, at this time the criteria have not been met and surgical intervention cannot be recommended as medically necessary.

2. Based on discussion, it appears that her symptoms are related to the injury. There is no history of pre-existing problems.

Reference:

Official Disability Guidelines Treatment in Workers' Comp 2010 updates, chapter low back, lumbar fusion

Trenton M. Gause, M.D.
Board Certified Orthopedic Surgeon
Pennsylvania:MD039846E

**Vocational Assessment**

Date September 12, 2011

Name of referral source Stephen B. Samuels

Address Samuels Law Firm, LLC
P.O. Box 50349
Columbia, SC 29250

Injured Worker: Patricia Fore

Date of Birth: January 10, 1965

Age: 46

SSN: xxx-xx-2608

WCC #: 0810152

Employer: Griffin IGA

Date of Injury: February 24, 2008

Date of Assessment: September 7, 2011

Background information

This vocational assessment was requested by Mrs. Fore's attorney to determine the vocational impact of her work-related injuries sustained while working for Griffin IGA. The assessment was conducted by telephone due to Mrs. Fore's location, rendering an in-person assessment impractical. Prior to beginning the assessment, the following disclosures were provided to Mrs. Fore: the purpose of the assessment, referral source, scope of services requested and limits of confidentiality. Mrs. Fore was alert and oriented throughout the assessment. She was able to articulate her answers without any difficulty and was cooperative throughout the assessment. The telephone interview was completed in one hour and 25 minutes.

Medical Information

The following information was provided by Mrs. Fore in the vocational interview.

History of injury. She was injured on February 24, 2008 while working for Griffin IGA. She was carrying two country hams and walking around the band saw when she struck her right hip on the band saw. She felt something shift when she struck the band saw and could hear a cracking sound. She kept working and reported the injury to her supervisor. The pain was unbearable that night, prompting her to go to Seacoast ER for treatment. They x-rayed the hip and she states that she sustained contusions and other injuries. She was provided pain medications. She did not return to work. She went to Conway to an urgent care facility. She was referred to Strand Regional for treatment. She was provided with injections in her hip. She had to go to Georgia because her husband was transferred. She started receiving treatment from Dr. Mason and was referred to Dr. Mark Wolgin. She began seeing them around March of 2008. She underwent spinal fusion at L4-L5-S-1 in May of 2010. She also saw a pain management doctor before surgery. She received PT that did not help. She states that some of the fusion did not take. They recommended that she have the surgery redone. The first surgery was very painful and she did not want to have the surgery again. Her last appointment with Dr. Wolgin was possibly in February of 2011.

Secondary medical issues. She is insulin dependent diabetic. She had two C-sections in the past. She denies any other injuries resulting in permanent functional problems.

Current medical status. She takes Vicodin twice per day every day. Sometimes she takes more because she has developed a tolerance to it. Dr. Wolgin has her out of work. She is currently sitting in a high-back chair. She tries to keep her back straight. She took a Vicodin about an hour ago. Her pain is currently rated at 4/10. The low level of pain is about a 2/10 with 2 Vicodin, which knocks her out. The pain is "breathtaking" at times. If she moves a certain way she will experience this pain, resulting in her ceasing her activities. She uses a cane at times and she describes having an altered gait. The pain is in the center right low back. The pain does not radiate. The right leg feels as if it is asleep at times, stating that she feels this in certain spots. Half of one of the toes of her right foot stays numb. She uses a walker at times now. She last used it 2 days ago. She stumbles some. She also takes Mycartis. She can sit at the computer for maybe 30 minutes, then she has to move around. If she does not get up, she will get radiating pain. She has to walk around the room and change her positions. She sleeps an hour or two at night before she wakes up. She takes a half of a Vicodin when she wakes up. She will then go back to sleep. She will put pillows under her legs and sleep on her back. She believes that her activities are geared towards reducing her pain approximately half of her waking hours.

Daily activities. She drives, but not a lot. She goes to the grocery store. She gets the children up and ready for school. She tries to pick up the house as best as she can and cleans some. Her brother lives behind her and will help her. She also calls her sister for help, stating that her sister checks on her every day. She cannot use the bathtub and has to take a shower. She cannot wash below her knees. Her daughter helps with some of her personal needs. She can stand at the stove and cook, but her daughter has to help her cook. She can stand for about 25 minutes and will develop an ache in the back and has to sit down. She cannot lift a basket of wet clothes. She can get on the floor, but getting back up is a problem. She has to use furniture to get back up. When she drives, she has "weird" sensations in her right leg. She tries to help with the yard and push herself. She uses the grocery cart for support.

Education and Training

She graduated from high school in 1983. She attended Meadows Business College from 83 – 85 and graduated with an Associate's in Business Management. She also attended and graduated from paramedic school in 83. She went to Albany Technical College for accounting. She graduated in April of 2010 in accounting. She received a certificate, which took close to a year to obtain. She needs about a half to one year to receive a diploma.

Military Experience

She did not serve in the military.

Work History

1. ABC Bail Bonds, Leesburg, Georgia, January of 2011. She was a clerk doing computer work. She was entering information on bonds into the computer. She printed reports and handled filing. She took a Vicodin at lunch time. Her boss would notice that she was hurting and send her home. She would always leave due to her pain levels. She was using Word to perform this work. When she started she was not paid. Then she was paid close to minimum wage. Dr. Wolgin had her try this work to see if she could tolerate it. She worked for a couple of months. She worked a day or two per week. She worked two hours per day up to 4 – 5 hours in a day. She believes that she was averaging about 12 hours per week.

209.562-010 CLERK, GENERAL

SVP: 3

GED: 3 2 3

STRENGTH: L

2. Griffin IGA, 2005 – 2008, meat cutter, full time. She unloaded trucks, requiring her to lift and carry items weighing 40 – 80 pounds. She rotated and cleaned the coolers. She cut and wrapped meat all day. She dealt with customers who needed custom cuts. She lifted up to about 100 – 120 pounds. She pulled the meat out of the cooler to prepare for customers. She earned about \$12.00 per hour and worked up to 50 hours per week. At times she worked by herself.

316.684-018 MEAT CUTTER

SVP: 6

GED: 3 2 3

STRENGTH: H

3. Golden Corral, about 6 – 7 months (concurrent with Griffin IGA employment). She cleaned the plates from the table, cleaned tables, and served beverages. She was paid around \$2.13 hourly. She made good tips.

311.677-018 DINING ROOM ATTENDANT

SVP: 2

GED: 2 1 1

STRENGTH: M

4. Patricia's Drywall, 8 years, commercial and residential. He had 8 employees. She did the hanging and finishing of drywall. She had contacts in the construction industry that resulted in her obtaining work. She stayed busy all of the time. Her husband received a job in South Carolina, resulting in them moving and in her closing this business. She had a CPA that handled the books. She brought home \$500 - \$1000 weekly after taxes.

842.361-030 DRY-WALL APPLICATOR

SVP: 7

GED: 3 3 3

STRENGTH: V

5. Alcott Construction, 1 – 2 years, demolition and drywall. She was demolishing hospital rooms and installing the drywall. She worked in one hospital.

842.361-030 DRY-WALL APPLICATOR

869.687-026 CONSTRUCTION WORKER II

SVP: 2

GED: 2 1 1

STRENGTH: V

6. She mostly performed construction work. She did painting, trim work, built arches in houses, porch railings, chair railings, building decks.

840.381-010 PAINTER

SVP: 7

GED: 3 2 2

STRENGTH: M

Analysis of Worker Traits

This information results from the analysis of Mrs. Fore's work history utilizing information provided in the Dictionary of Occupational Titles.

Mrs. Fore's work history indicates an **above average** (66th – 89th percentile) **aptitude ability** in the areas of:

- **Manual Dexterity**

Mrs. Fore's work history indicates an **average** (34th – 65th percentile) **aptitude ability** in the areas of:

- **General Learning Ability**
- **Numerical Perception**
- **Spatial Aptitude**
- **Form Perception**
- **Motor Coordination**
- **Finger Dexterity**
- **Eye/Hand/Foot Coordination**
- **Color Discrimination**

Mrs. Fore's work history indicates a **below average** (10th – 33rd percentile) **aptitude ability** in the area of:

- **Verbal Ability**
- **Clerical Perception**

Mrs. Fore's work history indicates a **specific vocational preparation** level of 7 (skilled): Over 2 years up to and including 4 years. Specific vocational preparation is the amount of lapsed time required by a typical worker to learn the techniques, acquire the information, and develop the facility needed for average performance in a specific job-worker situation (The Revised Handbook for Analyzing Jobs, U.S. Department of Labor, 1991).

According to the Dictionary of Occupational Titles, the occupations reported by Mrs. Fore indicate the following **GED levels**. GED levels are expressed on a scale

of 1 – 6, with 1 representing the lowest level of function and 6 representing the highest.

- Reasoning Development = 3
- Mathematical Development = 3
- Language Development = 3

GED embraces those aspects of education (formal and informal) which contribute to the worker's (a) reasoning development and ability to follow instructions, and (b) acquisition of "tool" knowledge such as language and mathematical skills. Ordinarily, such education is obtained in elementary school, high school, or college. However, it may be obtained from experience and self-study (source: The Revised Handbook for Analyzing Jobs, U.S. Department of Labor, 1991).

Mrs. Fore's work history is reflective of the following **Job Temperaments**, defined as common situations to which the worker must adapt:

- Making judgments and decisions
- Attaining precise set limits, tolerances and standards
- Performing repetitive or short-cycle work
- Directing, controlling, planning the activities of others

Mrs. Fore's work history is reflective of the following **Work Fields**, defined as categories of technologies that reflect how work gets done and what gets done as a result of the work activities of a job:

Unskilled

- MATERIAL MOVING
- CLEANING
- ACCOMMODATING

Skilled

- BUTCHERING-MEAT CUTTING
- STRUCTURAL FABRICATION-INSTALL-REPAIR
- LAYING OUT

Mrs. Fore's work history is reflective of the following **Materials, Products, Subject Matter, or Services (MPSMS)**. The Work Performed component of MPSMS includes: 1. Basic **Materials** processed, such as fabric, metal or wood. 2. Final **Products** made, such as automobiles; cultivated, such as field crops; harvested, such as sponges; or captured, such as wild animals. 3. **Subject Matter** or data dealt with or applied, such as astronomy or journalism. 4. **Services** rendered, such as barbering or janitorial:

- STRUCTURES
- BUILDINGS, EXCEPT PREFABRICATED
- PROCESSED MEAT PRODUCTS
- PAINTS, VARNISHES, LACQUERS, ENAMELS, & ALLIED PRODUCTS
- CONCRETE, GYPSUM, AND PLASTER PRODUCTS
- FABRICATED METAL PRODUCTS, EXCEPT ORDNANCE,
MACHINERY & TRANS EQUIPMENT
- RETAIL TRADE
- WHOLESALE TRADE
- MEAL SERVICES, EXCEPT DOMESTIC

Personal Data

She currently lives at 111 Third Street East in Leesburg, Georgia. She moved there in 2008. She previously lived in Conway for about 3 – 4 years. Her husband works for Sumter Utilities. He is an equipment operator. He is gone 4 days out of the week at times. They have been married for 21 – 22 years. They live in her parent's house. She has two children with her husband. The children are 4 and 12 years of age. She is originally from Leesburg. She smokes about a pack a week of cigarettes. She does not consume alcohol. She would have no problems passing a background check for employment.

Basic Skills

She reads the newspaper. She handles the finances and uses the debit card. She has managed a checkbook in the past. She also does online banking. She can use the Internet. She can use Excel, Word, PowerPoint, and Access. She uses proper keyboard hand position. She types about 32 corrected words per minute. She programmed formulas in Excel.

Avocational

Prior to her injury she enjoyed fishing and hunting. She does not really have hobbies now.

Financial Data

She receives \$299 per week. She applied for SSDI last week. She tried working at ABC Bail Bonds in January. Dr. Wolgin had her try this work to see if she could tolerate it. She worked for a couple of months. She worked a day or two per week. She worked a couple of hours per day. She would stay up to 4 – 5 hours in a day. She believes that she was averaging about 12 hours per week.

Work Restrictions

Physician's description.

02-14-11 - Mark A. Wolgin, MD: "... For her work restrictions, she could sit or stand only for about 15 or 20 minutes at a time and unless employment is able to be found with those restrictions, functionally she is not able to participate in the workplace and will remain so until her condition changes or further notice..."

02-14-11 - Mark A. Wolgin, MD: "unable to return to work until further n"

Vocational Plans

She expressed no plans to attempt to resume employment.

Vocational Test Results

No testing was administrated for this assessment.

Review of Records

Phoebe Putney Memorial Hospital notes reviewed

- 02-24-08 Loris Healthcare Emergency Department assessment for right hip injury
- 05-08-08 Erin L. Finley, PA-C, Strand Regional Specialty Associates assessment: "This is a 43-year-old meat cutter and wrapper who was working back in February when she slipped and hit her right hip on the band saw..."
- 09-16-08 James S. Mason, DO assessment: "Mrs. Fore is a 43-year-old white female who was at work in South Carolina on 02-24-08 when she hit her right hip on the corner of a band saw. She was later seen in the emergency room, later referred to a specialist and had an injection to her hip, but never improved..."
- Assessment:
1. Low back pain.
 2. Sciatica.
 3. Hip pain.
 4. Trochanteric bursitis.
- 09-19-08 MRI right hip, lumbar
- 09-23-08 James S. Mason, DO follow-up
- 09-30-08 PT assessment

Patricia Fore
Vocational Assessment

11-17-08 Lamar H. Moree, MD assessment: "... She complains of dull, aching, lower back pain that radiates into her right buttock, down her right leg and into her right foot. Her symptoms began on 2/24/08 when she injured herself while at her job as a meat cutter..."

12-05-08 Lamar H. Moree, MD follow-up

04-17-09 Mark A. Wolgin, MD assessment

07-07-09 James A. O'Leary, MD IME: "... It is my opinion that the patient's complaints of back and hip pain are directly related to her injury in February of 2008..."

02-02-10 Mark A. Wolgin, MD follow-up

02-25-10 MRI lumbar

03-02-10 Mark A. Wolgin, MD follow-up

03-26-10 Trenton M. Gause, MD Peer Review

03-26-10 Mark A. Wolgin, MD CHART NOTE

05-06-10 Mark A. Wolgin, MD follow-Up

05-19-10 Mark A. Wolgin, MD operative report, discharged on 05-21-10

05-27-10 Mark A. Wolgin, MD follow-up

06-22-10 Mark A. Wolgin, MD follow-up

07-20-10 Mark A. Wolgin, MD follow-up

08-20-10 Mark A. Wolgin, MD chart note

08-27-10 Mark A. Wolgin, MD follow-up

09-30-10 Mark A. Wolgin, MD follow-up

10-19-10 Mark A. Wolgin, MD follow-up

11-23-10 Mark A. Wolgin, MD follow-up

12-21-10 Mark A. Wolgin, MD follow-up

02-09-11 CT lumbar

02-14-11 Mark A. Wolgin, MD follow-up: "... I feel that the patient does not need to proceed with surgery, but I think enough time has gone by that would make her a surgical candidate if she wanted to do an open revision of the L4 through S1 fusion..." He recommended MMI and

36 percent whole person impairment. "... For her work restrictions, she could sit or stand only for about 15 or 20 minutes at a time and unless employment is able to be found with those restrictions, functionally she is not able to participate in the workplace and will remain so until her condition changes or further notice..."

02-14-11 Mark A. Wolgin, MD work note: "unable to return to work until further n"

Vocational Analysis and Conclusions

Mrs. Fore is a 46-year-old former Griffin IGA meat cutter who was working on February 24, 2008, performing her usual duties of lifting and handling meat, when she struck her right hip on the band saw. She experienced pain that became unbearable the same night and went to the emergency room for treatment. She entered into treatment at Strand Regional Specialty Associates on May 8, 2008. She was evaluated by Dr. Mason on September 16, 2008 and was diagnosed with low back pain, sciatica, hip pain and trochanteric bursitis. She was assessed by Dr. Moree on November 17, 2008 and by Dr. Wolgin on April 17, 2009. She was also seen by Dr. O'Leary on July 7, 2009 for an evaluation. She entered into active treatment with Dr. Wolgin on February 2, 2010 and received a disc fusion from Dr. Wolgin on May 19, 2010. She continued to follow-up with Dr. Wolgin until February 14, 2011, when Dr. Wolgin stated that she needs additional surgery. He recommended MMI and 36 percent whole person impairment. He also provided the following work statement: "... For her work restrictions, she could sit or stand only for about 15 or 20 minutes at a time and unless employment is able to be found with those restrictions, functionally she is not able to participate in the workplace and will remain so until her condition changes or further notice..." A work note was issued the same day that states that she is unable to return to work.

Mrs. Fore's work as a meat cutter is classified as "heavy" in physical demands by the Dictionary of Occupational Titles, a classification that is consistent with her self-reports of physical demands. She states that she lifted up to about 100 – 120 pounds in this work. She was concurrently working as a dining room attendant at Golden Corral, work that is classified as "light". All of her remaining work history involved working in the construction industry as a drywall applicator, painter and carpenter. All of this construction work is classified as "medium" or greater in physical demands. Her past work history ranges from "unskilled" to "skilled". All of her relevant past work required her to be on her feet constantly throughout the work day.

Mrs. Fore has taken steps to attempt to mitigate her vocational losses. She attended Albany Technical College to obtain an accounting certificate in 2010. At the direction of Dr. Wolgin, she worked at ABC Bail Bonds as an office clerk for about two months. She reports that she worked up to 4 – 5 hours per day and averaged about 12 hours per week. This period of employment is not classified as competitive employment due to the part-time nature of this work, as well as the accommodations, as reported by her, that her employer provided. She stated that the employer allowed to go home when her pain tolerance had been reached. At times she states that her boss would actually send her home due to outward signs of difficulties. This work experience occurred prior to Dr. Wolgin recommending MMI on February 14, 2011. Based on this work experience, Mrs. Fore is not classified as a dependable, reliable or consistent candidate for the active work force due to symptoms resulting from her work injury.

In terms of Mrs. Fore's current capacity to work, Dr. Wolgin provided a work note stating that she is to remain out of work until further notice. Taking into account Dr. Wolgin's statement that she can only sit and stand for about 15 or 20 minutes at a time, a transferable skills analysis was conducted to determine the presence of "sedentary" employment. This analysis assumes the ability to work in a full range of "sedentary" employment, which is not supported by Dr. Wolgin's work statement. This analysis revealed no meaningful "sedentary" occupations for which she qualifies. Therefore, Mrs. Fore has incurred a total loss of access to the labor market based on this analysis. Considering a sitting and standing tolerance of 15 to 20 minutes, Mrs. Fore is considered to be **totally vocationally disabled** as a result of injuries sustained on February 24, 2008 while working for Griffin IGA. No reasonably stable labor market exists that is compatible with Mrs. Fore's vocational profile and resulting residual physical capacities.

Thank you for this referral to Adams & Wilkinson.



Glen K. Adams, MRC, CRC, CEES
Vocational Consultant

august 23
august 29

pub. 01/01/01

23 monday

7	1
8	2
9	3
10	4
11	5
12	6

24 tuesday

7	1
8	2
9	3
10	4
11	5
12	6

25 wednesday

7	1
8	2
9	3
10	4
11	5
12	6

august 2010

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

september 2010

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

26 thursday

7	1 Dr. Wolgins appt.
8	2
9	3
10	4
11	5
12	6

27 friday

7	DR. Wolgins appt. Thy light
8	Duty in office
9	3
10	Friday + Saturday
11	5 hrs.
12	6 Le hrs.

28 saturday

7	Pain
8	2
9	3
10	4
11	5
12	6

29 sunday

7	Pain
8	2
9	3
10	4
11	5
12	6

august 30
september 5

july 2010
S M T W T F S
1 2 3 4 5 6 7
8 9 10 11 12 13 14
15 16 17 18 19 20 21
22 23 24 25 26 27 28
29 30 31

august 2010
S M T W T F S
1 2 3 4 5 6 7
8 9 10 11 12 13 14
15 16 17 18 19 20 21
22 23 24 25 26 27 28
29 30 31

september 2010
S M T W T F S
1 2 3 4
5 6 7 8 9 10 11
12 13 14 15 16 17 18
19 20 21 22 23 24 25
26 27 28 29 30

Plan Ahead

30 monday

call in about
Nerve pain.
Change medicine
Dr. Today.

31 tuesday

Physical therapy
9:00

1 wednesday

9-5

2 thursday

3 friday

call Dr.
about
pain killer
need stronger
7-7:00 pm.

4 saturday

5 sunday

september 6
september 12

august 2010
S M T W T F S
1 2 3 4 5 6 /
8 9 10 11 12 13 14
15 16 17 18 19 20 21
22 23 24 25 26 27 28
29 30 31

6	monday	labor day
7		1
8		2
9		3
10	9-5	4
11		5
12		6

7	tuesday
7	1
8	2
9	3
10	4
11	5
12	6

8	wednesday	rosh hashanah begins sundown
7	on call Bill off	1
8		2
9		3
10		4
11		5
12		6

september 2010
S M T W T F S
1 2 3 4
5 6 7 8 9 10 11
12 13 14 15 16 17 18
19 20 21 22 23 24 25
26 27 28 29 30

october 2010
S M T W T F S
1 2
3 4 5 6 7 8 9
10 11 12 13 14 15 16
17 18 19 20 21 22 23
24 25 26 27 28 29 30
31

9	thursday	rosh hashanah
7	on call Joel	1
8		2
9		3
10		4
11		5
12		6

10	friday
7	1
8	2
9	3
10	4
11	5
12	6

11	saturday	12	sunday
7	on call Joel	7	1
8		8	2
9		9	3
10		10	4
11		11	5
12		12	6

september 13
september 19

august 2010
S M T W T F S
1 2 3 4 5 6 7
8 9 10 11 12 13 14
15 16 17 18 19 20 21
22 23 24 25 26 27 28
29 30 31

september 2010
S M T W T F S
1 2 3 4
5 6 7 8 9 10 11
12 13 14 15 16 17 18
19 20 21 22 23 24 25
26 27 28 29 30
31

october 2010
S M T W T F S
1 2
3 4 5 6 7 8 9
10 11 12 13 14 15 16
17 18 19 20 21 22 23
24 25 26 27 28 29 30
31

Shmuel L. Lerner

13 monday

7 8:30 - 6:30 1
8 2
9 3
10 4
11 5
12 6

10

3ad 5 hrs

14 tuesday

7 08 1
8 2
9 3
10 4
11 5
12 6

15 wednesday

10

7 1
8 9:30 - 7:30 2
9 3
10 4
11 5
12 6

16 thursday

7 1
8 2
9 3
10 4
11 5
12 6

mitubishi Dealership
antenna \$65.00

08

17 friday

yom kippur begins sundown

7 11-7 1
8 2
9 3
10 4
11 5
12 6

(28 + 5 = 33 hrs)

18 saturday

yom kippur

7 1
8 2
9 3
10 4
11 5
12 6

19 sunday

7 1
8 2
9 3
10 4
11 5
12 6

september 20
september 26

september 2010
S M T W T F S
1 2 3 4
5 6 7 8 9 10 11
12 13 14 15 16 17 18
19 20 21 22 23 24 25
26 27 28 29 30 31

20 monday

7	1
8	2
9	3
10	4
11	5
12	6

9-5

21 tuesday

7	1
8	2
9	3
10	4
11	5
12	6

10

22 wednesday

7	1
8	2
9	3
10	4
11	5
12	6

9-5
on Call

september 2010
S M T W T F S
1 2 3 4
5 6 7 8 9 10 11
12 13 14 15 16 17 18
19 20 21 22 23 24 25
26 27 28 29 30 31

october 2010
S M T W T F S
1 2
3 4 5 6 7 8 9
10 11 12 13 14 15 16
17 18 19 20 21 22 23
24 25 26 27 28 29 30
31

Plan Ahead

23 thursday

7	1
8	2
9	3
10	4
11	5
12	6

24 friday

7	1
8	2
9	3
10	4
11	5
12	6

9-6:30

25 saturday

7	
8	2
9	3
10	4
11	5
12	6

on Call

26 sunday

7	
8	2
9	3
10	4
11	5
12	6

on Call

september 27
october 3

august 2010
S M T W T F S
1 2 3 4 5 6 7
8 9 10 11 12 13 14
15 16 17 18 19 20 21
22 23 24 25 26 27 28
29 30 31

september 2010
S M T W T F S
1 2 3 4 5 6 7 8 9 10 11
12 13 14 15 16 17 18
19 20 21 22 23 24 25
26 27 28 29 30

october 2010
S M T W T F S
1 2 3 4 5 6 7 8 9
10 11 12 13 14 15 16
17 18 19 20 21 22 23
24 25 26 27 28 29 30
31

PlanAhead

27 monday

7	1
8	2
9	3
10	4
11	5
12	6

9-5

28 tuesday

7	1
8	2
9	3
10	4
11	5
12	6

9-6

29 wednesday

7	1
8	2
9	3
10	4
11	5
12	6

9-5

30 thursday

7	1
8	2
9	3
10	4
11	5
12	6

1 friday

7	1
8	2
9	3
10	4
11	5
12	6

9-6

2 saturday

7	1
8	2
9	3
10	4
11	5
12	6

n call

3 sunday

7	1
8	2
9	3
10	4
11	5
12	6

n call

october 18
october 24

September 2010
S M T W T F S
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30

18 monday

7
8
9
10
11
12

cell #

894-1078

Kennybo Haysen

2
3
4
5
6

19 tuesday

7
8
9
10
11
12

Dr. Waldrop meet
with Cathy from
workman's comp.

1
2
3
4
5
6

20 wednesday

7
8
9
10
11
12

1
2
3
4
5
6

october 2010

S M T W T F S
1 2
3 4 5 6 7 8 9
10 11 12 13 14 15 16
17 18 19 20 21 22 23
24 25 26 27 28 29 30
31

november 2010

S M T W T F S
1 2 3 4 5 6
7 8 9 10 11 12 13
14 15 16 17 18 19 20
21 22 23 24 25 26 27
28 29 30

Blunt School

21 thursday

7
8
9
10
11
12

1
2
3
4
5
6

22 friday

7
8
9
10
11
12

Daycare
water
RTO
Ring

90 + 95 = 185.00
70.00 (Pd)
151.00 2
125.00 (Pd) 3

785.00
70.00
151.00
406.00
70.00
336.00

(Call Stewart) (on call ABC)

23 saturday

on call ABC

8
9
10
11
12

2
3
4
5
6

24 sunday

united nations day

on call ABC

8
9
10
11
12

2
3
4
5
6

november 29
december 5

october 2010
S M T W T F S
1 2 3 4 5 6
7 8 9 10 11 12 13
14 15 16 17 18 19 20
21 22 23 24 25 26 27
28 29 30 31

29 monday

7 1
8 2
9 3
10 4
11 5
12 6

9-5

30 tuesday

7
8
9
10
11
12

Call Dr. Wolstein
get staves parallel
TO much work

2
3
4
5
6

1 wednesday

hanukkah begins sundown

7
8
9
10
11
12

Don't want
me to get
addicted
painful to day

9-5

1
2
3
4
5
6

november 2010
S M T W T F S
1 2 3 4 5 6
7 8 9 10 11 12 13
14 15 16 17 18 19 20
21 22 23 24 25 26 27
28 29 30

december 2010
S M T W T F S
1 2 3 4
5 6 7 8 9 10 11
12 13 14 15 16 17 18
19 20 21 22 23 24 25
26 27 28 29 30 31

PlanAhead

2 thursday

hanukkah

7 1
8 2
9 3
10 4
11 5
12 6

9-5

3 friday

7 1
8 2
9 3
10 4
11 5
12 6

Hadly
child see
out of
Bed.

9-5

4 saturday

7 1
8 2
9 3
10 4
11 5
12 6

on call

5 sunday

7 1
8 2
9 3
10 4
11 5
12 6

on call

december 6

december 12

november 2010
S M T W T F S
1 2 3 4 5 6 7
8 9 10 11 12 13 14
15 16 17 18 19 20 21
22 23 24 25 26 27 28
29 30

december 2010
S M T W T F S
1 2 3 4 5 6 7 8 9 10 11
12 13 14 15 16 17 18
19 20 21 22 23 24 25
26 27 28 29 30 31

january 2011
S M T W T F S
1 2 3 4 5 6 7 8
9 10 11 12 13 14 15
16 17 18 19 20 21 22
23 24 25 26 27 28 29
30 31

Pharm School

6 monday

7 1
8 2
9 3
10 4
11 5
12 6

*1/2 day
4 hrs
Hunts to beach*

7 tuesday

7 1
8 2
9 3
10 4
11 5
12 6

off

8 wednesday

7 1
8 2
9 3
10 4
11 5
12 6

*Talked to
Steve F + Bill
about
less hours a piece*

9 thursday

7 1
8 2
9 3
10 4
11 5
12 6

off

10 friday

7 1
8 2
9 3
10 4
11 5
12 6

*9-5
on call*

11 saturday

7 1
8 2
9 3
10 4
11 5
12 6

on call

12 sunday

7 1
8 2
9 3
10 4
11 5
12 6

january 17
january 23

december 2010
S M T W T F S
1 2 3 4
5 6 7 8 9 10 11
12 13 14 15 16 17 18
19 20 21 22 23 24 25
26 27 28 29 30 31

17 monday

martin luther king, jr. day

7	1
8	2
9	3
10	4
11	5
12	6

18 tuesday

7	1
8	2
9	3
10	4
11	5
12	6

19 wednesday

7	1
8	2
9	3
10	4
11	5
12	6

january 2011
S M T W T F S
1
2 3 4 5 6 7 8
9 10 11 12 13 14 15
16 17 18 19 20 21 22
23 24 25 26 27 28 29
30 31

february 2011
S M T W T F S
1 2 3 4 5
6 7 8 9 10 11 12
13 14 15 16 17 18 19
20 21 22 23 24 25 26
27 28

PlanAhead

20 thursday

7	1
8	2
9	3
10	4
11	5
12	6

21 friday

*Gave Bill
Phone + charger
shorting so bad so
work in office
any more*

7	1
8	2
9	3
10	4
11	5
12	6

22 saturday

7	1
8	2
9	3
10	4
11	5
12	6

23 sunday

7	1
8	2
9	3
10	4
11	5
12	6

Lee County Jail Facility
Tony Owens Bonding
Bond Fees & Service Charges

[illegible]

Lee County Jail Facility
Tony Owens Bonding
Bond Fees & Service Charges

[illegible]

Lee County Jail Facility
Tony Owens Bonding
Bond Fees & Service Charges

[illegible]

Lee County Jail Facility
Tony Owens Bonding
Bond Fees & Service Charges

[illegible]

Lee County Jail Facility
Tony Owens Bonding
Bond Fees & Service Charges

[illegible]

Handwritten: *Handwritten*

Lee County Jail Facility
Tony Owens Bonding
Bond Fees & Service Charges

[illegible]

IN THE MAGISTRATE COURT OF LEE COUNTY
STATE OF GEORGIA
WARRANT APPLICATION

APPLICANT INFORMATION

2011 AUG 31 AM 11:06
Name PATRICIA Fore Age 7 DOB 1-1-06 SS# or DL#
Street City State Zip Code
Cellular # Home # Work #

ACCUSED INFORMATION

Name Steve McGowan Age DOB SS# or DL#
Street City Albany State GA Zip Code 759-1515
Cellular # Home # Work #
Place of Employment ABC Bail Bonds

Do you know the accused: ☒ YES ☐ NO
Relationship to the accused: ☒ NONE ☐ FRIEND
☐ BOYFRIEND ☐ GIRLFRIEND ☐ SPOUSE
Have you lived in the same household with the accused: ☐ YES ☒ NO

Offense Date: Offense Time: 3:00
The offense(s) location was/is: 119 Pinewood Rd
Street Address Lee State GA
City Leesburg County Lee

I believe the following crime(s) have been committed by the accused:

DID A LAW ENFORCEMENT AGENCY INVESTIGATE THIS INCIDENT? ☒ YES ☐ NO
IF YES WHICH ONE: ☐ LEE CO S.O. ☐ GSP ☐ LEESBURG P.D. ☐ SMITHVILLE P.D.
WAS ANYONE ARRESTED? ☐ YES ☒ NO IF YES, WHO:

IS AN INCIDENT REPORT ATTACHED? ☐ YES ☒ NO

Use the backside of this page to completely describe the events that lead you to file this application. BE ADVISED that an incomplete accounting of the events may result in your affidavit being dismissed on its face.

I, the above named applicant filed this affidavit seeking an ☒ arrest warrant(s)
☒ Good Behavior Bond against the accused.

He is Bent on maliciously ~~harassing~~ Hurting me
calling my workmans comp Board my attorney in South
Carolina. Bad murthering me all over town. Taking
Pictures of my Truck + Tag at Sheriff's office
asking People how many times I am at Jail
inquireing about my where abouts. ~~Don~~ Sometimes
He Rides By my house. All because I'm Helping
Tony Owens get back on his feet with his Binding Co.
Mary Weavers was present on the last ~~of~~ Blow up.

2011 AUG 31 AM 11:06

I do solemnly swear (or affirm) that all the information contained in this warrant
application/affidavit is true and correct. I also understand that a misrepresentation of
the facts contained herein could result in criminal charges being brought against me.

8/31/11
Date

Patricia Fore
Applicant

Sworn and subscribed to before me this 31 day of August, 2011.

Robm Clerney
(Clerk) (Judge)



**IN THE MAGISTRATE COURT OF LEE COUNTY
STATE OF GEORGIA**

STATE OF GEORGIA,

CASE # : 11-27GB

VS

Steve Emory McGowan

Good Behavior

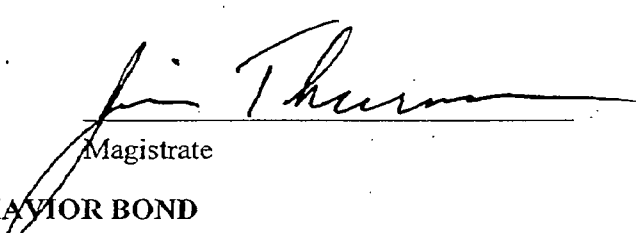
Defendant.

2011 SEP -7 PM 3:23

ORDER FOR GOOD BEHAVIOR BOND

After hearing evidence and the court finding the defendant's conduct to be such as to justify the belief that the safety of persons in the county or their property or peace are in danger of being injured or disturbed thereby, it is ORDERED that the defendant give bond in the amount of \$200.00, (Own Recognizance) for good behavior concerning the safety and peace of persons and property in the county, and specifically subject to the following conditions: Steve McGowan SHALL: 1.) Not speak directly or indirectly to Patricia Fore and/or any employees of A-1 Bonding and/or members of Fore's family and/or members of A-1 Bonding employees family members. 2.) Not go to or be within 500 feet of Patricia Fore home, and/or place of business, and/or other places of abode. 3.) Not speak disparagingly and/or derogatorily about Patricia Fore and/or any other employee of A-1 Bonding to any client, potential client, employees of the Lee County Sheriff's Department, and/or inmates of the Lee County jail ; said bond shall expire 6 months from the date of this order unless otherwise ordered by this court; or, in default thereof, defendant shall be committed to the jail of this county and there safely kept until discharged by law.

SO ORDERED this 7th day of September, 2011.


Magistrate

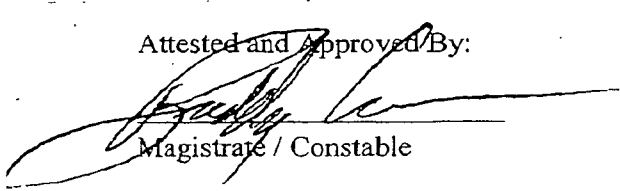
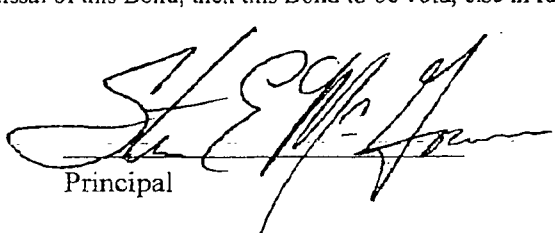
GOOD BEHAVIOR BOND

GEORGIA, LEE COUNTY

I, the undersigned principal, acknowledge myself bound to his Excellency, the Governor of Georgia, and his successors in office, in the sum of \$200.00 for payment of which I bind myself, my heirs, executors and administrators, by these presents, waving all right of homestead and exemption of personalty by virtue of existing laws. THE CONDITIONS CONTAINED IN THE FOREGOING ORDER FOR GOOD BEHAVIOR BOND ARE INCORPORATED HEREIN AND MADE A PART HERETO BY REFERENCE, and if said principal shall comply with said conditons until lawful expiration or dismissal of this Bond, then this Bond to be void, else in full force and effect.

Signed and Sealed this 7th day of September, 2011.

Attested and Approved By:


Magistrate / Constable
Principal



CHARTIS-ADP19 JUL 25 2011

ALAN WILSON
ATTORNEY GENERAL

July 20, 2011

Special Investigative Unit
Commerce & Industry Insurance
Charits Claims, Inc.
P.O. Box 4230
Alpharetta, GA 30023-4230

RE: Name of Insured: Griffco of Wampee, Inc.
Name of Claimant: Patricia Fore
Carrier File #: 709659592

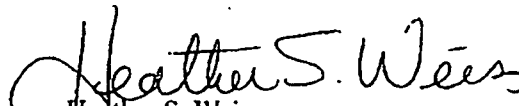
Dear Sir or Madam:

We recently received the enclosed insurance fraud complaint concerning Ms. Patricia Fore. Pursuant to the South Carolina Omnibus Insurance Fraud and Reporting Act, Section 38-55-570, I am forwarding this information to you for your review and appropriate action.

If during the course of your investigation you find sufficient evidence of insurance fraud, I would ask that you inform this office of your findings.

If you have any questions, please do not hesitate to contact me at (803) 737-6424. Thank you for your cooperation and assistance in this matter.

Sincerely,


Heather S. Weiss
Assistant Deputy Attorney General

Enc/mc

State of South Carolina

1333 Main St, Suite 500
P.O. Box 1715
Columbia, S.C. 29202-



Tel: (803) 737-5700
Fax: (803) 737-5768
www.wcc.sc.gov

Workers' Compensation Commission

July 18, 2011

Office of the Attorney General
Attn: Insurance Fraud Division
P.O. Box 11549
Columbia, SC 29211-1549

Carrier Code No. 00321
Carrier File No. 709659592

Re: **Claim file:**

WCC File No. 0810152
PATRICIA FORE v. GRIFFCO OF WAMPEE INC.
Date of Injury: 02/24/2008

Claimant's SSN: 260-27-2608
Carrier: Commerce & Industry Insurance Company
Carrier file number: 709659592

Investigation file:

Allegation of workers' compensation claimant fraud
WCC File No. X110668

RECEIVED
INSURANCE FRAUD DIVISION
S.C. ATTORNEY GENERAL

DATE 7-20-11
EC-47-2
HSW

Dear Ladies/Gentlemen:

Please accept this as a complaint of insurance fraud that I am reporting to the Insurance Fraud Division of the Attorney General's Office, as per the provisions of § 38-55-570.

On July 6, 2011, Steve McGowan of ABC Bail Bond called the Commission to report that a workers' compensation claimant is committing insurance fraud. Mr. McGowan's telephone number is 229-886-2488. A synopsis of what Mr. McGowan told me is as follows:

I'm the owner of ABC Bonding in Leesburg, Georgia. A1 Bonding is my competitor. A1 Bonding has an employee that is getting paid under the table. The employee is Patricia Fore. She has a workers' compensation claim. Because she is

getting paid off the books, her employer is avoiding paying premium. So ultimately, my overhead is higher than A1 Bonding's because my insurance costs are higher.

Patricia Fore gets bonds, serves bonds, goes to the lock-up in Leesburg to get the prisoners released. She takes her niece with her, probably as a cover to confuse the issue as to who is actually picking up the prisoner. The niece probably initials the release sheet for Patricia.

The fact is she's working and getting a check.

The man who owns A1 Bonding pre-signs the bonds in order to cover his tracks.

Investigator's notes: I located an address for a business called Bail A1 Bonding, which may be the business the caller is complaining about. The address and telephone number of the business are as follows:

Bail A1 Bonding
321 Walnut Avenue S
Leesburg, GA 31763

229-759-1500

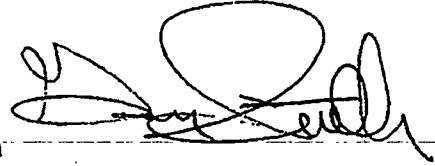
A carrier is not an authorized agency under the provisions of § 38-55-530; therefore, I don't believe I can alert the carrier to the alleged fraud. But I suggest the carrier needs to know an allegation of fraud has been made so it can conduct an investigation, should it deem an investigation is warranted. The following is the carrier contact information that should be notified of the allegation of claimant fraud:

Commerce & Industry Insurance Co.
Chartis Claims, Inc.
Attn: **Insurance Fraud Investigations**
PO Box 4230
Alpharetta, GA 30023-4230

I haven't attached a copy of the claim file since the carrier would have all of that.

Please call me directly if you have comments or questions about the above.

Sincerely,

A handwritten signature in black ink, appearing to read 'Garry Smith', written over a horizontal line.

Garry Smith
Compliance Division, Director
803-737-5707

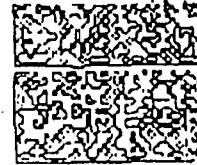
GS/s



POST OFFICE BOX 11549
COLUMBIA, SOUTH CAROLINA 29211-1549

ATTN: INSURANCE FRAUD

Special Investigative Unit
Commerce & Industry Insurance
Charits Claims, Inc.
P.O. Box 4230
Alpharetta, GA 30023-4230



Postage

\$00.440
07/20/2011
Billed From 29201
US POSTAGE

300234230 8019



11



GEORGIA ASSOCIATION OF PROFESSIONAL BONDSMEN

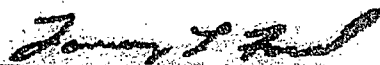
This is to certify that

PATRICIA A. FORE

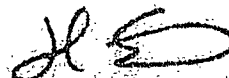
8 HOURS CONTINUING EDUCATION

THIS CERTIFIES THAT THE PERSON NAMED ABOVE HAS COMPLETED AN APPROVED
CONTINUING EDUCATION COURSE TAUGHT IN COMPLIANCE WITH O.C.G.A.
17-6-50.1/17-6-56.1 APPROVED BY THE GEORGIA ASSOCIATION OF PROFESSIONAL
BONDSMEN, BY APPROVED INSTRUCTORS. THIS CERTIFICATE EXPIRES ON
January 31, 2012

Date Course Completed: 8/26/10



APPROVED INSTRUCTOR
Tommy Ford



PRESIDENT OF GEORGIA ASSOCIATION OF
PROFESSIONAL BONDSMEN

State of Georgia
County of LEE

ABANDONED VEHICLE AFFIDAVIT

I, Steve McGowan, do hereby solemnly swear or affirm that the vehicle described as: 1G8ZF1281T21166505 1996 Saturn SC1 that was removed to and/or has been stored at: 127 Walnut Street Leesburg Ga 31763 is an abandoned vehicle as defined in OCGA §40-11-1 (1), and has not been claimed by the owner, lessor, lessee or any holder of a security interest or lien.

I hereby further solemnly swear or affirm that in following the procedure to foreclose on an abandoned vehicle lien on said vehicle, I have complied with the requirements of OCGA §40-11-2 as evidenced by the following:

1. Within three (3) days of the removal or storage of said vehicle, I obtained the identity and address of all known owners of such vehicle from the law enforcement officer requesting removal of the vehicle or from a local law enforcement agency for the jurisdiction in which my business is located as evidenced by document(s) attached hereto and incorporated herein as "Exhibit A"; and,
2. Using the information contained in Exhibit A, I notified or attempted to notify the owner, lessor, lessee, or any holder of a lien or security interest of said vehicle that said vehicle would be deemed abandoned at the expiration of thirty-days (30) as evidenced by the document(s) attached hereto and incorporated herein as "Exhibit B"; and,
3. On or after the thirty-first day following the removal or storage of said vehicle without said vehicle having been redeemed, I gave notice in writing to the Department of Revenue or applicable County Tag Agent (hereinafter referred to as the "Department") pursuant to the procedure set forth in OCGA §40-11-2 (e) and requested the name and address of all owners of such vehicle as evidenced by the document(s) attached hereto and incorporated herein as "Exhibit C"; and,
4. Within five (5) calendar days of having received the information requested in Exhibit C, I either:
 - A. Notified the owner, any lessee, and any holder of a lien or security interest by certified mail and first class mail; or,
 - B. Placed an advertisement in a newspaper of general circulation in the county where such vehicle was obtained once a week for two (2) consecutive weeks; or,
 - C. Placed an advertisement at the county courthouse in such place where other public notices are posted for two (2) consecutive weeks;
5. Advised the owner(s) of their obligations and rights to redeem such vehicle and such owner, lessee or holder of a lien or security interest disclaimed their ownership or interest in such vehicle as evidenced by the document(s) attached hereto and incorporated herein as "Exhibit D"; and,
6. I have made a demand for payment of \$ 390.00 which has been made without satisfaction, as evidenced by the document(s) attached hereto and incorporated herein as "Exhibit E", without a timely filing of a petition for a judicial hearing and/or the identity of the owner cannot be ascertained.

Therefore, I am asking a court of competent jurisdiction to authorize the foreclosure of my lien and the sale of this motor vehicle.

Patricia Perez ASAP Towing
(Signature of Owner/Representative of Towing Company)

P.O. Box 1025

(Address of Towing Company)

Leesburg, Ga 31763 Lee County

(City, State, Zip & County)

(229) 759-1515

(Telephone Number Including Area Code)

(Date)

Sworn and Subscribed before me this: _____ (Day)

Day of _____, 20____ (Month) (Year)

(Notary Public's Signature & Notary Seal or Stamp)

December 16, 2013

(Date My Notary Commission Expires)

State of Georgia
County of LEE

ABANDONED VEHICLE AFFIDAVIT

I, Steve McGowan, do hereby solemnly swear or affirm that the vehicle
(Owner/Representative of Towing Company)
described as: 1G8ZF1281T2116505 Saturn SC1 that
(Vehicle Identification Number) (Vehicle Year) (Make) (Model)
was removed to and/or has been stored at: 127 Walnut Street Leesburg Ga 31763
(Location)
is an abandoned vehicle as defined in OCGA §40-11-1 (1), and has not been claimed by the owner, lessor, lessee or
any holder of a security interest or lien.

I hereby further solemnly swear or affirm that in following the procedure to foreclose on an abandoned vehicle lien on
said vehicle, I have complied with the requirements of OCGA §40-11-2 as evidenced by the following:

1. Within three (3) days of the removal or storage of said vehicle, I obtained the identity and address of all known owners of such vehicle from the law enforcement officer requesting removal of the vehicle or from a local law enforcement agency for the jurisdiction in which my business is located as evidenced by document(s) attached hereto and incorporated herein as "Exhibit A"; and,
2. Using the information contained in Exhibit A, I notified or attempted to notify the owner, lessor, lessee, or any holder of a lien or security interest of said vehicle that said vehicle would be deemed abandoned at the expiration of thirty-days (30) as evidenced by the document(s) attached hereto and incorporated herein as "Exhibit B"; and,
3. On or after the thirty-first day following the removal or storage of said vehicle without said vehicle having been redeemed, I gave notice in writing to the Department of Revenue or applicable County Tag Agent (hereinafter referred to as the "Department") pursuant to the procedure set forth in OCGA §40-11-2 (e) and requested the name and address of all owners of such vehicle as evidenced by the document(s) attached hereto and incorporated herein as "Exhibit C"; and,
4. Within five (5) calendar days of having received the information requested in Exhibit C, I either:
 - A. Notified the owner, any lessee, and any holder of a lien or security interest by certified mail and first class mail; or,
 - B. Placed an advertisement in a newspaper of general circulation in the county where such vehicle was obtained once a week for two (2) consecutive weeks; or,
 - C. Placed an advertisement at the county courthouse in such place where other public notices are posted for two (2) consecutive weeks;
5. Advised the owner(s) of their obligations and rights to redeem such vehicle and such owner, lessee or holder of a lien or security interest disclaimed their ownership or interest in such vehicle as evidenced by the document(s) attached hereto and incorporated herein as "Exhibit D"; and,
6. I have made a demand for payment of \$ 3900, which has been made without satisfaction, as evidenced by the document(s) attached hereto and incorporated herein as "Exhibit E", without a timely filing of a petition for a judicial hearing and/or the identity of the owner cannot be ascertained.

Therefore, I am asking a court of competent jurisdiction to authorize the foreclosure of my lien and the sale of this motor vehicle.

Patricia Fore
(Signature of Owner/Representative of Towing Company)

P.O Box 1025
(Address of Towing Company)

Leesburg, Ga 31763 Lee County
(City, State, Zip & County)

(229) 759-1515
(Telephone Number including Area Code)

(Date)

Sworn and Subscribed before me this: _____
(Day)

Day of _____, 20____
(Month) (Year)

(Notary Public's Signature & Notary Seal or Stamp)

December 16, 2013

(Date My Notary Commission Expires)

MRS. Denise.

Could you fax this to Tennessee (state)

615-253-4259

Requesting information on
this form. ASAP.

from Sheriff office the only
way to get the information
within our states requirements.
They will fax back to you. Not us. (15 day)?
Thank you.

Patricia

759-9115

Need Lien Holders
owners

Can Not Release info to us from
Sheriff office.

NOTICE OF AN ABANDONED VEHICLE AND REQUEST FOR INFORMATION

Research fee: \$2.00 for printout of tag, title & lien information per abandoned vehicle

I do solemnly swear or affirm that the vehicle described herein is or will become abandoned or a derelict motor vehicle as described in §40-11-1 of the OCGA. As provided in Code Sections §40-11-2 and §40-11-9 of the OCGA, this is to request the names and addresses of all owners, lessors, lessees, security interest holders and lien holders of such vehicle.

I understand that I shall not be entitled to any storage fees if I do not provide the notice and information required by §40-11-2 and §40-11-9 of the OCGA. I also understand that any person who knowingly provides false and misleading information when providing any notice of information as required by §40-11-2 and §40-11-9 of the OCGA shall be guilty of a misdemeanor punishable by fine up to \$1000 or by imprisonment of up to one (1) year.

Name of Person Removing or Storing Vehicle		Vehicle Identification Number	
ASAP Towing		JKBZXJC166A046678	
Street	Year	Make	Model
102 Walnut St.	2006	Kawasaki	Vortex
City	State	Zip	Tag No.
Lordsburg	GA	31763	NA
Present Location of Vehicle (Street Address)		Date Vehicle Removed	
ASAP Towing 102 Walnut		12-31-10	
City	State	Zip	Date Vehicle Becomes Abandoned
Lordsburg	GA	31763	1-5-11
Telephone Number (including area code)		Location Vehicle Removed From	
229-759-1515		Roadside Creekside Drive	
		City	State
		Lordsburg	GA
		Zip	31763

Sworn to and subscribed before me this 5th day of Jan 2011
(Day) (Month) (Year)

X Patricia Joe
(Authorized signature of person removing/storing vehicle)

X [Signature]
(Notary Public's Signature and Seal or Stamp)

(Notary Public's Georgia Driver's License Number)

(Date My Notary Public Commission Expires)

Mail the Notice and Request for Motor Vehicle Information (Form MV-603) and fee to the County Tag Agent in the county where the vehicle is stored or to:

ATTN: Research/Abandoned Vehicles
Department of Revenue/Motor Vehicle Division
PO Box 740381
ATLANTA, GA 30374-0381

Except for signatures, this form must be typed, electronically completed & printed or legibly hand printed in black or blue ink.

ABC BAIL BONDS

FAX COVER SHEET

ATTENTION: MR Remero

COMMENTS: Inmate A200563372 Juan Carlos
Aguilera Moreno I have his car in my impound
yard I need him to sign Bill of Sales for
Bill of (3909) For Bill need to have someone
to call Patricia and make arrangements to
get car off our impound lot ASAP I cutt
him a break hoping he can afford this amount
verses \$1615.00 and growing daily

DATE: 11-12-10

TOTAL PAGES: 2

ASAP Towing

229-759-1516

or
229-759-1515

FAX 229-759-9115

Bill of Sale

Needs to be

signed by

Juan Carlos Aguilera
Moreno

A200563372

Thank you
Patricia



Niece

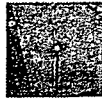
Report/Block



CSI: Miami Criminal Minds The Pink Panther Frosty the Snowman Steven Seagal Lawman on

More

Games



Pool Billiards Games



Football: Forever

Activities and Interests

Activities



Cooking with Karen Boreman

Interests

Fishing,
camping,

Show Other Pages

Basic Information

About Patricia With Jesus by my side nothing can ever make me hold an unforgiving thought to anyone love life and everything in it!

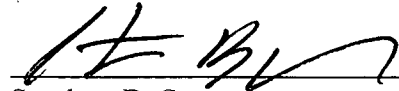
Relationship Status Married to Steven Fore

Sex Female

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

Respectfully Submitted,



Stephen B. Samuels
Samuels Law Firm, LLC
1320 Richland Street
Columbia, South Carolina 29201
(803) 779-4000
Stephen@SamuelsLawFirm.net

Peter V. Leventis
McKay, Cauthen, Settana & Stublely, P.A.
Post Office Box 7217
Columbia, South Carolina 29211
(803) 256-4645
pleventis@mckayfirm.com

Attorneys for Appellant

Columbia, South Carolina

July 12, 2013

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

JUL 15 2013

APPEAL FROM SOUTH CAROLINA
Workers' Compensation Commission

SC Court of Appeals

WCC File No. 0810152

Patricia Fore, Employee Appellant,

v.

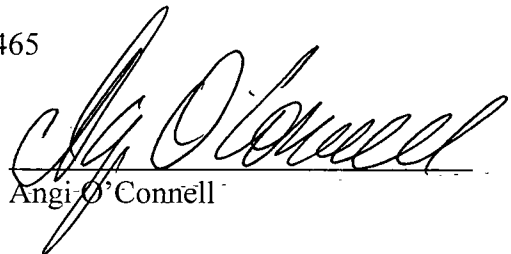
Griffco of Wampee, Inc., Employer, and Chartis Claims, Inc., Carrier, ... Respondents.

PROOF OF SERVICE

I certify that I am paralegal to Stephen B. Samuels and I have served the **Record on Appeal** upon the Respondents by mailing a copy of the same in the United States mail, with sufficient postage affixed thereto and return address clearly marked on **July 15, 2013**, addressed as follows:

James H. Lichty, Esquire
Weston Adams, III, Esquire
Attorneys for Respondents
McAngus Goudelock & Courie
Post Office Box 12519
Columbia, South Carolina 29211

Helen F. Hiser, Esquire
Attorney for Respondents
McAngus Goudelock & Courie
Post Office 650007
Mount Pleasant, SC 29465


Angi O'Connell

Columbia, South Carolina
July 15, 2013