

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

The Honorable Melody L. James, The Honorable Aisha Taylor,
and The Honorable Cynthia C. Dooley
Commissioners for the Appellate Panel

Appellate Case No. 2024-001822
S.C. W.C.C. File No.: 1925084

Christina Bradshaw (née Walthour), Claimant.....Respondent,

v.

Remedy Intelligent Staffing, Inc., Employer, and
XL Insurance America, Inc., Carrier.....Appellants.

**RECORD ON APPEAL
VOLUME 1
PAGES 1-450**

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SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
W.C.C. FILE NO.: 1925084

CHRISTINA WALTHOUR,)
)
Claimant,)
)
vs.)
)
EMPLOYBRIDGE HOLDING CO. d/b/a)
REMEDY INTELLIGENT STAFFING,)
)
and)
)
XL INSURANCE AMERICA, INC.,)
)
)
)
Defendants.)
_____)

CONSENT ORDER

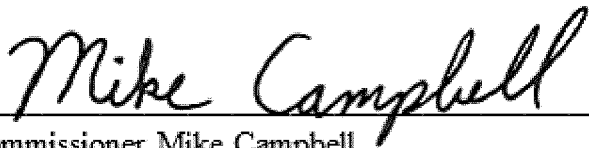
Prior to the scheduled hearing, the parties to this claim reached an agreement and request the Commission issue this Order memorializing the agreement. The parties have agreed as follows:

1. Claimant filed a Form 50 hearing request for the above referenced claim.
2. A hearing was scheduled for October 20, 2021.
3. The parties agree that additional discovery is necessary, and a hearing is premature.
4. The parties respectfully request the hearing be removed from the docket until such time as any party hereto requests a hearing before the Commission, and that this matter be returned to the Commission's general files.
5. This consent order shall not constitute a withdrawal of Claimant's Form 50 as defined by South Carolina Regulation 67-609.
6. Except as specifically outlined herein, the parties are reserving all rights, remedies and defenses respectively afforded by the South Carolina Workers' Compensation Act. Further, the parties are not waiving, abandoning or otherwise prejudicing any position, argument or issue maintained by the parties.

I find the agreement among the parties set forth above to be reasonable.

NOW, THEREFORE, IT IS HEREBY ORDERED that the above agreement among the parties be approved and adopted as an Order of the South Carolina Workers' Compensation Commission. All other issues will be held in abeyance and are reserved for agreement by the parties or determination by the Commission at a later time.

AND IT IS SO ORDERED this October 13, 2021 at Columbia,
South Carolina.



Commissioner Mike Campbell

WE CONSENT:



J. Gary Christmas, Esq.
Attorney for Claimant



Michael E. Patterson, Jr., Esq.
Attorney for Employer and Carrier

CERTIFICATE OF SERVICE

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

By Barbara Cheeseboro on October 13, 2021

This document was signed by:

Gary Christmas

Vinesign

g

Date

10/11/2021 2:32 PM UTC

Phone

8432247245

IP Address

172.56.26.58

Confirmation

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State of South Carolina
Workers' Compensation Commission

DECISION AND ORDER

THE HONORABLE AVERY B. WILKERSON, Jr.

SCWCC File No.: 1925084

Christina Walthour,

Claimant,

v.

Remedy Intelligent Staffing, Inc.,

Employer,

and

XL Insurance America, Inc.,

Carrier,

Defendants.

Richland – District 7

Hearing held in Richland County, South Carolina,
on November 29, 2023

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

Appearances: Gary Christmas, Esquire, of Christmas Law Firm, LLC,
appeared on behalf of Claimant.

Michael Patterson, Esquire, of Mingledorff & Patterson, LLC,
appeared on behalf of Defendants.

Purpose of Hearing: To determine all issues set forth on Forms 50 and 51.

Court Reporter: Creel Court Reporting, Inc., 1230 Richland Street, Columbia, SC
29201, (803) 252-3445, contact@creelreporting.com.

Filed: April 16, 2024

I. STATEMENT OF THE CASE

This matter is before the Commissioner pursuant to Claimant's Form 50 and Defendants' Form 51. Claimant asserts she suffered compensable injuries to the cervical spine, bilateral shoulders, thoracic spine, and lumbar spine, along with radiculopathy originating from the cervical spine into the bilateral upper extremities, bilateral hands, and bilateral fingers, on July 11, 2019, arising out of and in the course and scope of her employment when she was moving a one hundred fifty (150) pound pallet. Claimant also asserts that she is entitled to past, continuing, and future causally related medical care and treatment, including, but not limited to, a fourth-level cervical fusion at C3-4 as recommended by board-certified treating neurosurgeon Dr. Paul DeHoll. Finally, Claimant asserts that she is entitled to past and future temporary total disability benefits.

Defendants raise contentions regarding whether Claimant suffered an injury by accident, whether her claim is time-barred or barred by the doctrines of waiver, estoppel, and laches, whether she provided notice of her injuries, and, if she suffered an injury by accident, whether she suffered an intervening accident that would break any potential causal relation to her alleged injuries.

II. STIPULATIONS

1. All parties of this proceeding are subject to and bound by the terms and provisions of the South Carolina Workers' Compensation Act.
2. Notices were timely and properly served upon all parties of interest.
3. Venue, set in Richland County, is proper, as agreed by all parties.

Without objection, the Commission's file was made a part of the record in this matter except for any self-serving declarations or unstipulated medical.

III. APA SUBMISSIONS

Both parties, by and through their respective counsel, provided the Submissions required by S.C. Code Ann. Reg. 67-612. The Submissions were entered into evidence pursuant to the Administrative Procedures Act and received without objections. The APA Submissions are as follows:

On Behalf of Claimant:

1. Board-Certified Orthopaedic Surgeon, Paul DeHoll, MD, Medical Reports, dated November 21, 2019, to November 9, 2023, consisting of sixty-three (63) pages;
2. Board-Certified Physical Medicine and Rehabilitation Doctor, Shailesh Patel, MD, Medical Report, dated October 12, 2021, consisting of five (5) pages;
3. Commonwealth Pain Associates Medical Report, dated August 9, 2022, consisting of sixteen (16) pages;

4. Doctors Care Medical Reports, dated July 14, 2019, to October 26, 2021, consisting of thirty-nine (39) pages;
5. John Clavet, MD, Medical Report, dated October 8, 2019, consisting of four (4) pages;
6. Diagnostic Imaging Reports, dated August 11, 2019, to October 17, 2019, consisting of twenty-one (21) pages;
7. Lexington EMS Report, dated June 13, 2020, consisting of seven (7) pages;
8. Lexington Medical Center Report, dated June 13, 2020, consisting of seventy-four (74) pages;
9. Hopkins Family Practice Reports, dated October 17, 2019, to October 26, 2021, consisting of seventy-five (75) pages;
10. Mental Capacity Assessment Report, dated February 11, 2019, consisting of five (5) pages;
11. Medcore Workplace Injury Triage Report, July 12, 2019, consisting of six (6) pages;
12. Job Description Report, undated, consisting of one (1) page; and
13. Claimant's Wage Report, dated August 5, 2020, consisting of two (2) pages.

On Behalf of Defendants:

1. Prisma Health Orthopaedics Medical Records, dated September 24, 2019, to January 16, 2020, consisting of ninety-seven (97) pages;
2. Prisma Health Richland Medical Records, dated November 14, 2018, to December 29, 2020, consisting of one hundred twelve (112) pages;
3. Hopkins Family Practice Medical Records, dated August 9, 2018, to September 15, 2020, consisting of twenty-six (26) pages;
4. Prisma Health Baptist Hospital Medical Records, dated October 9, 2019, consisting of two (2) pages;
5. Lexington County EMS Records, dated June 13, 2020, consisting of five (5) pages;
6. Lexington County Medical Center Medical Records, dated June 13, 2020, consisting of seventy-three (73) pages;
7. Lowcountry Orthopaedics Medical Records, dated October 12, 2021, consisting of seven (7) pages;

8. Employer Personnel Files, dated May 20, 2019, consisting of sixty-seven (67) pages;
9. Disability Determination Services, dated August 29, 2019, consisting of seven (7) pages;
10. TR-310 Accident Report, dated May 13, 2020, consisting of two (2) pages;
11. Deposition Transcript of Dr. Kim, dated November 9, 2021, consisting of forty-one (41) pages;
12. Deposition Transcript of Claimant, dated November 16, 2023, consisting of seventy-three (73) pages; and
13. Deposition Transcript of Dr. DeHoll, dated November 20, 2023, consisting of sixteen (16) pages.
14. Deposition Transcript of Dr. Patel, dated January 8, 2024, consisting of forty (40) pages.
15. Deposition Transcript of Carolyn Comer, dated January 29, 2024, consisting of twenty-six (26) pages.

IV. EVIDENCE OF THE CASE

Hearing Testimony of Claimant, Christina Walthour:

Claimant was sworn in and testified that she has had no prior workers' compensation claims and has never had any write-ups for dishonesty with any employer. (Hrg. Tr. 111-112: 24-3). Claimant testified that she was working at Husqvarna but was employed through the temp agency Remedy Intelligent Staffing. (Hrg. Tr. 113: 17). Claimant testified that her job title was initially as a picker and then a packer, which involved putting parts together that ranged from materials involving screws, pallets, and other materials that weighed up to one hundred fifty (150) pounds. (Hrg. Tr. 113-114: 20-3).

Claimant testified that on the day of her accident, she went to pull a pallet that was stacked four (4) pallets high and felt something instantaneously and dropped the pallet. (Hrg. Tr. 114-115: 10-5). Claimant testified that she reported she injured her shoulder, shoulder blade, lower back, rib cage, and buttocks had been injured. (Hrg. Tr. 115: 12-21). Claimant testified that she reported her accident in an accident report and verbally to her employer. (Hrg. Tr. 117: 10-14). Claimant subsequently testified that her employer had contacted someone and given her a piece of paper to take to a Doctors Care. Claimant testified that she then went to Doctors Care. (Hrg. Tr. 117-118: 25-10).

Claimant testified that she was having problems in the same areas she reported to her employer and not just her lower back at Doctors Care. (Hrg. Tr. 118: 18-20). However, Claimant testified that she ultimately got a shot in her back and received muscle relaxers. (Hrg. Tr. 119: 6). Claimant testified that she requested to return to work full duty after receiving the shot and muscle relaxers because her employer told her that there was no light work available. Hrg. Tr. 119: 18-20). Claimant testified that she subsequently returned to work full duty but was still in pain and was working with a back brace. (Hrg. Tr. 120: 4-21). Claimant testified that her problems with the neck, mid-back,s and lower back were worsening at work and was eventually not able to return to work. (Hrg. Tr. 121: 4-17). Claimant testified that she called Remedy

Intelligent Staffing to let them know she could not return to work and was told she no longer had a job. Claimant testified that at no point did she quit her job. (Hrg. Tr. 121-122: 21-8).

Claimant testified that she could not return to work because of her pain and that her employer knew the same because she told them verbally. (Hrg. Tr. 122: 12-19). Claimant testified that her employer offered no further medical treatment other than the initial Doctors Care appointment. (Hrg. Tr. 122: 24). Claimant testified that she thereby started to seek medical treatment on her own and went to an emergency room and was told her issues were neurological. (Hrg. Tr. 123-124: 3-21). Claimant testified that she did not have health insurance but ultimately was seen by Dr. Paul DeHoll. (Hrg. Tr. 126: 2-10). Claimant testified that Dr. DeHoll diagnosed her with spinal stenosis and told her that it was the worst he had seen in a patient her age and that she told Dr. DeHoll she got hurt at work. (Hrg. Tr. 126: 13-19). Claimant testified that she ultimately underwent a three (3) level cervical fusion with Dr. DeHoll. (Hrg. Tr. 127: 12).

Claimant testified that it was her understanding that the next level of her cervical spine had become weak and that Dr. DeHoll had recommended another cervical fusion surgery. (Hrg. Tr. 127: 17-21). Claimant testified that she is interested in the medical treatment that Dr. DeHoll has recommended. (Hrg. Tr. 127: 24).

Claimant testified that she had no prior problems with her neck, shoulders, shoulder blades, ribs, or lower back. (Hrg. Tr. 128: 6). Claimant testified that she had a motor vehicle accident after her work accident and went to the emergency room and told the emergency room that she did not have any neck or back problems from the motor vehicle accident. (Hrg. Tr. 129: 16-17). Claimant testified that she only had scrapes on her face, nose, and knee. (Hrg. Tr. 129: 21-24). Claimant testified that she did not seek any additional medical treatment after visiting the emergency room for the motor vehicle accident. (Hrg. Tr. 120: 6). Claimant subsequently testified that the problems in the neck now are the same as the problems she had when she had her work accident. (Hrg. Tr. 130: 10-12).

Claimant testified that her back problems never go away and are permanent. (Hrg. Tr. 130: 16-18). Claimant testified that her average daily pain is about four (4) or five (5) out of ten (10) but gets up to ten (10) when she has to do a lot of sitting. (Hrg. Tr. 131: 7-13). Claimant testified that her pain is about fifteen (15) out of ten (10) on her worst days and has those bad days about five (5) out of seven (7) days a week. (Hrg. Tr. 131: 18-22).

Claimant testified that she could not go back and do the work she was doing for Husqvarna with the problems in the neck and shoulder blades. (Hrg. Tr. 132: 6). Claimant testified that she could not do what she used to, from wiping herself to putting on earrings, wearing high heels, or walking on the beach. (Hrg. Tr. 132: 11-22). Claimant testified that she can only walk for about twenty (20) minutes and only stand in one place for about the same amount of time. (Hrg. Tr. 132-133: 25-3). Claimant testified that she gets fidgety and shaky if she sits down for too long. (Hrg. Tr. 133: 12-19).

Claimant testified that she would have worked at Husqvarna if she were physically able to. (Hrg. Tr. 133: 24). Claimant testified that she is not physically able to work any job because of her pain on a daily basis and inability to sit still. (Hrg. Tr. 134: 4-19).

Claimant testified that she wanted the surgery and medical treatment recommended by Dr. DeHoll. (Hrg. Tr. 135: 1-2).

Deposition Testimony of Shailesh Patel, MD:

Dr. Patel was sworn in and testified on direct examination that he saw Claimant for an independent medical examination on October 12, 2021, and has not seen her since. (Patel Depo. Tr. 4: 13-18). Dr. Patel testified it was his understanding that Claimant was having neck and mid-thigh pain after a work accident on July 12, 2019, and that he discussed what could be causing her pain. Dr. Patel testified that Claimant had already seen Dr. DeHoll, so he talked with her about the symptoms she was continuing to have and treatment options moving forward. (Patel Depo. Tr. 4-5: 25-9).

Dr. Patel testified he relied on information from Claimant and prior medical records, including records from Doctors Care, Dr. DeHoll, and MRI scans. (Patel Depo. Tr. 6: 14-21). Dr. Patel testified it was his understanding that Claimant was injured lifting pallets that weighed one hundred (100) pounds to one hundred and fifty (150) pounds. Dr. Patel testified that Claimant was initially reporting back and shoulder blade pain but that a note from Medcore dated July 11, 2019, stated that she mentioned scapular pain. Dr. Patel testified that the neck commonly refers to the shoulder, particularly the shoulder blade and that he wouldn't expect an ER physician or Doctors Care to pick up on the same. However, Dr. Patel testified that any spine specialist would make the connection that the referred pain is coming from the neck. (Patel Depo. Tr. 6-7: 25-21).

Dr. Patel testified that it was his understanding that Claimant went to Doctors Care several times after her work injury and received a cortisone shot from her primary care physician. Dr. Patel testified that six (6) to eight (8) weeks after receiving the shot that Claimant was still having neck pain that went down the right arm and that Claimant had an MRI at the request of her primary care physician. Dr. Patel testified that Claimant's MRI revealed three (3) disc herniations and spinal cord damage, including myelomalacia at C4 to C7. Dr. Patel testified that such a diagnosis can affect not only the neck but also the back, legs, gait, and balance. Dr. Patel testified that Claimant had an EMG after the MRI that confirmed her radicular pain and herniations and then was referred to Dr. DeHoll. (Patel Depo. Tr. 8-9: 7-11).

Dr. Patel testified that Dr. DeHoll performed a C4 to C7 anterior cervical decompression fusion, which entails putting hardware in the neck to fuse the C4-5 discs, the C5-6 discs, and the C6-7 discs, where Claimant had herniations and spinal cord damage. (Patel Depo. Tr. 9-10: 22-4).

Dr. Patel testified that disc extrusions to myelomalacia are typically caused by trauma and that some force applied to the spine would cause a disc to get pushed out and then onto the spinal cord. Dr. Patel testified that a myelopathic change like Claimant's would have been caused by a trauma, which the closest trauma here is the July 11th work injury. (Patel Depo. Tr. 10-14: 16-1). Dr. Patel testified that by looking at Dr. DeHoll's October 14, 2019, note that Claimant had 4/5 strength in the biceps, a decreased C6 sensory response, a positive right Hoffman's reflex, positive Spurling's reflex, and positive hyperactive plus-3 reflexes, which mean that Claimant had myelopathic changes in the spinal cord. (Patel Depo. Tr. 14-15: 5-16). Dr. Patel testified that he conducted the same tests on Claimant during his exam and that Claimant still suffered from the same myelopathic changes because once the spinal cord is damaged, there is no way to reverse it. (Patel Depo. Tr. 15-16: 25-7).

Dr. Patel testified that even after a fusion surgery, it is not unusual for a patient to continue to have symptoms or adjacent-level disease, which means that the disc above or below the fusion will start wearing out or protruding into the spinal canal because the motion in the fused discs is locked and then goes above or below the fusion and strains those areas. (Patel Depo. Tr. 16-17: 14-5).

Dr. Patel testified that Claimant exhibited tightness and tenderness in her neck muscles and had limited range of motion. Dr. Patel also testified that Claimant had weakness in her deltoids, hyperactive reflexes in her biceps and brachioradialis reflexes, and a C6 tips decrease. Dr. Patel testified that his exam fit Dr. DeHoll's exam and the EMG and MRI findings. (Patel Depo. Tr. 17-18: 12-19).

Dr. Patel testified that he recommended that Claimant have a new MRI to see what is happening to the discs above and below the fusion, as well as pain management options to include injections, rhizotomy treatment, and spinal cord stimulation therapy. (Patel Depo. Tr. 23: 6-14). Dr. Patel testified that a spinal cord stimulator is an option for chronic pain if additional treatment and surgeries fail. (Patel Depo. Tr. 25-26: 13-2). Dr. Patel testified that Claimant would need a C3-4 fusion now because of her current pathology. (Patel Depo. Tr. 26: 6-12).

Dr. Patel testified he was aware that Claimant had an automobile accident on June 13, 2020, but that her CT scan was negative and that there was no mention of neck pain anywhere in the records, so it was his opinion that said accident did not increase her neck pain. (Patel Depo. Tr. 29-30: 7-4).

On cross-examination, Dr. Patel testified that all his opinions would be given to a reasonable degree of medical certainty. (Patel Depo. Tr. 33: 22). Dr. Patel testified that it was his opinion that Claimant's injuries to her neck were caused by her work accident and that the need for the three (3) level cervical fusion was caused by her work accident. (Patel Depo. Tr. 34-25: 23-2). Dr. Patel agreed that an adjacent level fusion at C3-4 is an appropriate medical treatment for Claimant's injuries. (Patel Depo. Tr. 35: 12). Dr. Patel testified that he concurs with Dr. DeHoll's opinions in the questionnaire signed by Dr. DeHoll on November 9, 2023. (Patel Depo. Tr. 36: 15). Dr. Patel testified he does not believe Claimant aggravated her neck in her automobile accident. (Patel Depo. Tr. 37: 1-6). Dr. Patel testified it was his opinion that Claimant's injuries to her neck were from her work accident. (Patel Depo. Tr. 37-9-10).

Dr. Patel testified that Claimant's myelopathic damage includes sensory loss that affects both of her upper extremities. (Patel Depo. Tr. 37: 15-23). Dr. Patel testified that he expects Claimant to continue to have significant pain in her neck, midback, and arms. (Patel Depo. Tr. 38: 16-17). Dr. Patel further testified that he does not think Claimant can perform medium or light work and that he does not expect she would be able to return to the workforce based on her injuries. (Patel Depo. Tr. 39: 6). Dr. Patel testified that Claimant should have been out of work from the date of her injury through the present and continuing. (Patel Depo. Tr. 39: 10-12).

Deposition Testimony of Paul DeHoll, MD:

Dr. DeHoll was sworn in and testified on direct examination that he is a board-certified spine surgeon. (DeHoll Depo. Tr. 4: 4-7). Dr. DeHoll testified that the only medical record concerning Claimant that he had was from July 14, 2022, because he does not have access to his prior medical chart. (DeHoll Depo. Tr. 5-6: 24-5). Dr. DeHoll testified that even though he does not have access to his prior medical chart regarding Claimant, he remembers her because it is not often that a healthy woman in her forties has a three (3) level cervical fusion. (DeHoll Depo. Tr. 6: 9-18).

Dr. DeHoll testified on cross-examination that he answered yes to all six (6) questions that were stated to a reasonable degree of medical certainty on a questionnaire regarding Claimant that he signed on November 9, 2023. (DeHoll Depo. Tr. 9: 20). Dr. DeHoll further testified that all his opinions are to a

reasonable degree of medical certainty and that he stands by all his opinions that were given in the questionnaire regarding Claimant that was signed on November 9, 2023. (DeHoll Depo. Tr. 10: 5-10).

Deposition Testimony of Carolyn Comer:

Ms. Comer was sworn in and testified on direct examination that she holds an RN and advanced practice nurse license in South Carolina, for which she functions in the same role as a physician assistant. Ms. Comer testified that she has been practicing since 1998. (Comer Depo. Tr. 6-7: 5-1).

Ms. Comer testified that she saw Claimant one (1) time on July 14, 2019, after Claimant complained of back pain after throwing a one hundred fifty (150) pound pallet. (Comer Depo. Tr. 7-8: 16-3). Ms. Comer testified that Claimant was throwing the pallet at work. (Comer Depo. Tr. 8: 6). Ms. Comer testified that Claimant said she injured her lower back and had pain when bending and moving but did not have any radiating pain. (Comer Depo. Tr. 8: 14-17). Ms. Comer testified that she performed a physician exam that included watching Claimant walk, touching her back, bending forward, and raising her legs. (Comer Depo. Tr. 10: 7-13). Ms. Comer testified that she mostly focused on Claimant's lower back pain despite there being a mention of left shoulder pain. (Comer Depo. Tr. 11: 5-7). Ms. Comer testified she prescribed Meloxicam and provided work restrictions and that Claimant needed to follow up with her in five (5) days. (Comer Depo. Tr. 12: 16-20).

Ms. Comer testified that she checked "yes" on a questionnaire regarding Claimant, stating that she believed Claimant's symptoms were related to her work injury. (Comer Depo. Tr. 15: 16). Ms. Comer further testified that she also checked "yes" on the questionnaire regarding Claimant that she believed Claimant needed continued medical treatment and work restrictions because of her July 11, 2019, accident at work. (Comer Depo. Tr. 16: 10-22).

Ms. Comer testified on cross-examination that she only saw Claimant one (1) time and did not see Claimant's first injury report from Medcore. (Comer Depo. Tr. 18: 10-17). Ms. Comer testified that the first report of injury references sharp pain in Claimant's left shoulder and shoulder blade, which is consistent with what Claimant reported to her in the one (1) office visit. (Comer Depo. Tr. 19: 10).

Ms. Comer testified that she would defer to the doctors who have seen and treated Claimant after her in this case regarding Claimant's work accident. (Comer Depo. Tr. 20: 4).

Review of Medical Evidence:

A review of medical evidence submitted pursuant to the Administrative Procedures Act reveals that Claimant reported injuries to her lower back and left shoulder to Medcor on July 12, 2019, when she was trying to lift a one hundred (100) to one hundred fifty (150) pound pallet. Claimant described her pain as constant in her lower back below her ribs and above her buttocks, as well as a constant sharp pain on the back of her shoulder on the shoulder blade. Claimant further reported that she did not want to lift even a cup or glass to her mouth with her left arm because it was too painful to try. (Clm. APA 11: 3). Claimant was subsequently referred to Doctors Care. (Clm. APA 11: 1).

A review of the medical evidence reveals that Claimant presented to Doctors Care on July 14, 2019, and reported that she injured herself at work at Husqvarna throwing a one hundred fifty (150) pound pallet and felt tightness and stiffness in her back and left shoulder. (Clm. APA 4: 5-6). Claimant was written prescriptions for anti-inflammatory medication and muscle relaxers and was placed on restricted duty with a follow-up on July 19, 2019. (Clm. APA 4: 16). Claimant subsequently returned on July 16, 2019, and stated she received a cortisone shot in her back and requested clearance for work. (Clm. APA 4: 24, 26). Claimant was released to full duty on July 16, 2019. (Clm. APA 4: 32, 39).

A review of the medical evidence reveals that Dr. Chun Kim stated he agreed to a reasonable degree of medical certainty that Claimant was injured at work and that her pain and symptoms to her lumbar spine were caused and/or aggravated by her July 11, 2019, work accident on October 26, 2021. (Clm. APA 4: 1).

A review of the medical evidence reveals that Claimant presented to Hopkins Family Practice on September 12, 2019, with right shoulder, back, and bilateral arm and hand pain with tingling and numbness in her index and middle finger and requested an orthopedic referral. Claimant was subsequently provided an orthopedic referral. (Clm. APA 9: 7-10).

A review of the medical evidence reveals that Claimant presented to Dr. John Clavet on October 8, 2019, for neurodiagnostic testing of her bilateral upper extremities. Claimant reports significant neck and bilateral arm pain, as well as myelopathic symptoms of arm weakness. Claimant further reported dropping objects, gait imbalance, and falling. Claimant further reported sensory disturbances affecting the right second through fifth digits, as well as the left wrist and back of the hand, and chronic left wrist pain. Dr. Clavet stated that the electrodiagnostic impression showed C6-7 radiculopathy on the right and recommended a cervical MRI. Dr. Clavet also stated that he was concerned about Claimant's radiculomyelopathic symptoms and asked Claimant to return after having the cervical MRI. (Clm. APA 5: 1-5).

A review of medical evidence reveals that Claimant presented to Dr. Paul DeHoll on October 8, 2019, and reported significant neck and bilateral arm pain, as well as questionable myelopathic symptoms of arm weakness. Claimant further reported that she drops objects, has gait imbalance, and falls, and has bilateral wrist pain, bilateral hand pain, numbness, and paresthesia. Claimant further reported sensory disturbances affecting her right second through fifth digits and the left wrist and back of the hand. Claimant was diagnosed with cervical radiculopathy and was ordered to have a cervical MRI to establish a plan of care. (Clm. APA 1: 21-22)

A review of the medical evidence reveals that Claimant followed up with Dr. DeHoll on October 14, 2019, and continued to report pain, numbness, and tingling in her right hand and fingers. The MRI of the cervical spine revealed a right-sided extrusion at C4-5 with flattening of the cord and myelomalacia and C5-6 severe stenosis. Dr. DeHoll stated that Claimant has severe stenosis with myelomalacia of the cord at three (3) levels and recommended a three (3) level ACDF. (Clm. APA 1: 23-25).

A review of the medical evidence reveals that Claimant followed up with Dr. DeHoll on October 21, 2019. Dr. DeHoll stated that Claimant will require a three (3) level ACDF secondary to myelopathy and planned to proceed as soon as possible. (Clm. APA 1: 26-28). Claimant underwent surgery with Dr. DeHoll on November 12, 2019. (Clm. APA 1: 17-18).

A review of the medical evidence reveals that Claimant followed up with Dr. DeHoll on November 14, 2019, after her three (3) level ACDF. Claimant reported a lot of anxiety and trouble sleeping, and Dr. DeHoll prescribed a steroid and advised Claimant to see him again in ten (10) days. (Clm. APA 1: 29-31).

A review of the medical evidence reveals that the Claimant followed up with Dr. DeHoll on November 25, 2019, and reported severe itching and headaches. Dr. DeHoll advised that he would order a bone stimulator and that Claimant should return to see him in six (6) weeks. (Clm. APA 1: 32-34).

A review of the medical evidence reveals that Claimant followed up with Dr. DeHoll on December 5, 2019, and reported numbness in her finger and shoulder pain. Dr. DeHoll advised Claimant to return in six (6) weeks with repeat radiographs. (Clm. APA 1: 35-37).

A review of the medical evidence reveals that Claimant followed up with Dr. DeHoll on January 16, 2020, and that Claimant was unable to receive the bone stimulator because her insurance did not cover it and continued to report neck and arm pain. Dr. DeHoll referred Claimant for physical therapy to help with her shoulder motion and pain. (Clm. APA 1: 38-40).

A review of the medical evidence reveals that Claimant followed up with Dr. DeHoll on July 14, 2022, and stated that she would like her hardware removed. Dr. DeHoll reviewed an updated cervical MRI and stated that Claimant has an increase in stenosis at C3-4 and that she has a high chance of needing surgery at C3-4 and is a surgical candidate now. Dr. DeHoll recommended a cervical epidural to mitigate Claimant's pain a few years before a necessary ACDF at C3-4. (Clm. APA 1: 5-15).

A review of the medical evidence reveals that Dr. DeHoll completed a questionnaire signed on November 9, 2023, all of which state to a reasonable degree of medical certainty that Claimant's injuries to her cervical spine were aggravated by her July 11, 2019, accident at work; that Claimant needs future medical treatment in the form of a C3-4 fusion and diagnostic imaging as a result of her July 11, 2019, accident at work; that Claimant has permanent sedentary work restrictions as a result of her July 11, 2019, accident at work; that Claimant has a combined 68% impairment to her back as a result of her July 11, 2019, accident at work; that Claimant has been a compliant patient, is not a malingerer, and is credible; and that said questionnaire is a part of his medical chart. (Clm. APA 1: 1-3).

A review of the medical evidence reveals that Claimant presented to Lexington Medical Center on June 13, 2020, after a motor vehicle accident with an abrasion to her forehead and left knee. Claimant underwent a cervical CT that showed no fracture, a head CT that showed no acute abnormality, and a left knee x-ray that was negative. Claimant was discharged in good condition and noted to follow up as needed if her symptoms worsen. (Clm. APA 8: 1-74).

A review of the medical evidence reveals that Claimant underwent an independent medical evaluation with Dr. Shailesh Patel on October 12, 2021, for neck and midback pain as a result of her July 11, 2019, accident at work. Claimant reported that she was lifting a one hundred fifty (150) pound pallet and began having neck pain. Claimant continued to report pain in the neck and posterior shoulder blade with radiation into the left arm and denied any neck or midback pain before her work accident. Dr. Patel stated it was his opinion that Claimant sustained a work-related injury to her cervical spine that caused a myelopathic spinal cord injury that affects her bilateral upper extremities. Dr. Patel stated that Claimant's cervical fusion performed by Dr. DeHoll was appropriate and medically necessary. Dr. Patel recommended an MRI of the cervical and thoracic spine to evaluate for any new disc herniations or worsening of

myelopathy, and pending the review of the MRIs that treatment options will include physical therapy, medications, spinal injections, rhizotomies, surgery, and spinal cord stimulation. Dr. Patel recommended that Claimant remain off work. (Clm. APA 2: 1-5).

A review of the medical evidence reveals that Defendants proffered no medical opinion to a reasonable degree of medical certainty from any doctor with a differing opinion regarding causation in this case and proffered no medical opinion from any doctor that Claimant's injuries came from anywhere other than from her work-related accident that occurred on July 11, 2019.

V. FINDINGS OF FACT

Based upon the greater weight of the evidence, including the testimony of the witnesses, medical reports, and other documentary evidence submitted by the respective parties pursuant to the Administrative Procedures Act, the Commission file relative to this claim and the credibility of all the evidence and testimony submitted, this Commissioner, therefore, makes the following Findings of Fact:

1. That Claimant and Employer were subject to the South Carolina Workers' Compensation Act at the time of Claimant's accidental injury.
2. That the relationship of employer/employee existed between Claimant and Employer at the time of Claimant's accidental injury.
3. That Claimant has no previous workers' compensation claims.
4. That on or about July 11, 2019, Claimant sustained compensable injuries by accident to her neck at C3-4, C4-5, C5-6, and C6-7, with a myelopathic spinal cord injury and radicular symptoms that affect her bilateral shoulders, bilateral upper extremities, bilateral hands, and bilateral fingers, which I find is supported by the greater weight of the evidence including, but not limited to: board-certified treating neurosurgeon, Dr. DeHoll, opinion to a reasonable degree of medical certainty that Claimant's neck injuries, including injuries to her C3-4, C4-5, C5-6 and C6-7, were caused by and/or aggravated by her July 11, 2019 accident at work (Clm. APA 1: 1; DeHoll Depo. Tr. 8-9: 25-7); board certified physical medicine and rehabilitation specialist, Dr. Patel, opines that Claimant sustained a work-related injury to her cervical spine as a result of her work accident that have caused neurological deficits in both of Claimant's upper extremities including sensory and motor weakness, as well as hyperactive reflexes (Clm. APA 2: 2 ; Patel Depo. Tr. 37: 9-23); and (3) authorized treating physician, Dr. Kim, opines that Claimant was injured at work on July 11, 2019, and that her pain and symptoms in her lumbar spine were caused by and/or aggravated by her work accident. (Clm. APA 4: 1).
5. That Defendants proffered no medical opinion to a reasonable degree of medical certainty from any doctor with a differing opinion regarding causation in this case and proffered no medical opinion from any doctor that Claimant's injuries came from anywhere other than from her work-related accident that occurred on July 11, 2019.
6. That Claimant timely gave notice of her injury by accident to her Employer promptly in accordance with the Act, which I find is supported by the greater weight of the evidence including, but not limited to: Employer's "Workplace Injury Triage & Reporting Confidential: Incident Report,"

which was filled out on July 12, 2019, within eleven (11) hours of Claimant's work accident and stated that Claimant had injuries to her back and left shoulder. (Clm. APA 11: 1-3).

7. That Claimant is credible and credibly testified at the hearing of this case.
8. That Claimant underwent neck surgery, during which board-certified treating neurosurgeon Dr. DeHoll fused Claimant's neck at C4-5, C5-6, and C-7 because of her work injury. (Clm. APA 1: 17-18).
9. That Claimant appeared to the undersigned Commissioner to be in genuine discomfort at the hearing.
10. That Claimant shall be entitled to, and Defendants shall pay, past, continuing, and future medical care and treatment for Claimant's neck and back, including, but not limited to, fusion surgery at Claimant's C3-4 level and repeat diagnostic imaging as recommended by board-certified neurosurgeon Dr. DeHoll. (Clm. APA 1: 1; DeHoll Depo. Tr. 9-10: 20-10).
11. That Claimant is adamant in her testimony that she would like additional future medical treatment and surgery, so I find it reasonable for Claimant to have a C3-4 fusion with Dr. DeHoll, as it would tend to lessen Claimant's period of disability and that Dr. DeHoll shall assume Claimant's medical care and treatment until further Order of the Commission.
12. That Claimant's average weekly wage is \$402.91, with a corresponding compensation rate of \$268.60.
13. That Claimant is entitled to, and Defendants shall pay Claimant, temporary total disability benefits from her last date of work with her Employer through the present and continuing until further Order of this Commission.
14. That Claimant is not time-barred or barred by the doctrines of waiver, estoppel, and laches. I base this finding on the greater weight of the evidence, pleadings, and testimony given in this case, as well as South Carolina law, including, but not limited to, Claimant's filing of a Form 50 (Request for Hearing) on May 26, 2021; Claimant's and Defendants' joint filing of a Consent Order for the conduction of additional discovery on October 13, 2021; Claimant's filing of a Form 50 (Request for Hearing) on October 28, 2021; Claimant's filing of a Form 58 (Pre-Hearing Brief) on January 21, 2022; Claimant's filing of a Form 50 (Request for Hearing) on September 1, 2023; Defendants' filing of a Form 51 (Answer to Request for Hearing) on September 29, 2023; Claimant's Filing of a Form 58 (Pre-Hearing Brief) on November 14, 2023; Defendants' filing of a Form 58 (Pre-Hearing Brief) on November 21, 2023; Defendants' filing of an Amended Form 58 (Pre-Hearing Brief) on November 28, 2023; and Defendants' filing of a Motion to Postpone Hearing on November 28, 2023.
15. That Claimant did not suffer an intervening accident that would break the causal connection of her work-related injuries being related to her work-related accident. I base this finding on the greater weight of the evidence, testimony, and medical opinions given in this case, as well as the lack of opposing medical evidence in that Defendants failed to proffer any opinion from any doctor to support their argument on this issue.

16. That Claimant is not at maximum medical improvement; therefore, it is premature to determine the issue of her permanent disability, so it shall be held in abeyance at this time.

VI. CONCLUSIONS OF LAW

1. That this case is governed by the terms and provisions of the South Carolina Workers' Compensation Act.
2. That S.C. Code Ann. Section 42-1-40 is applicable in defining "average weekly wages."
3. That S.C. Code Ann. Section 42-1-100 is applicable in defining "compensation."
4. That S.C. Code Ann. Section 41-1-120 is applicable in defining "disability."
5. That S.C. Code Ann. Section 42-1-130 is applicable in defining "employee."
6. That S.C. Code Ann. Section 42-1-140 is applicable in defining "employer."
7. That S.C. Code Ann. Section 42-1-150 is applicable in defining "employment."
8. That S.C. Code Ann. Section 42-1-160 is applicable in defining "injury" and "personal injury."
9. That S.C. Code Ann. Section 42-15-60 is applicable in determining "medical, surgical, hospital, and other treatment."
10. That S.C. Code Ann. Section 42-70-40 is applicable in "governing the conduct of hearing and rendering of awards."

ORDER

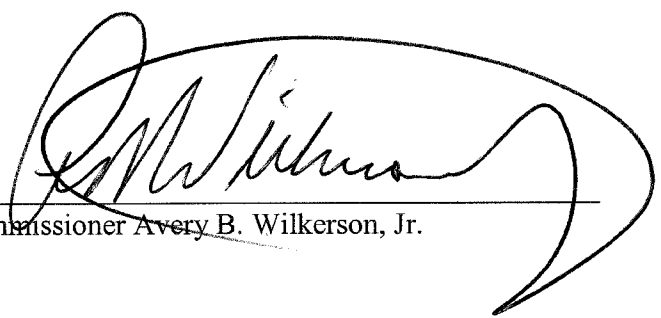
NOW, THEREFORE, IT IS ORDERED that Claimant shall be entitled to, and Defendants shall pay, past, continuing, and future medical care and treatment for Claimant's neck and back, including, but not limited to, fusion surgery at Claimant's C3-4 level and repeat diagnostic imaging as recommended by board-certified neurosurgeon Dr. DeHoll.

IT IS FURTHER ORDERED that Claimant is entitled to, and Defendants shall pay Claimant, temporary total disability benefits from her last date of work with her Employer through the present and continuing until further Order of this Commission.

IT IS FURTHER ORDERED that Claimant is not at maximum medical improvement; therefore, it is premature to determine the issue of her permanent disability, so it shall be held in abeyance at this time.

AND IT IS SO ORDERED.

April 16, 2024
Columbia, SC



Commissioner Avery B. Wilkerson, Jr.

CERTIFICATE OF SERVICE

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

By Melani Roark on April 16, 2024

State of South Carolina
Workers' Compensation Commission

APPELLATE PANEL DECISION AND ORDER

COMMISSION PANEL: The Honorable Melody L. James; The Honorable Cynthia C. Dooley;
and The Honorable Aisha Taylor.

SCWCC File No.: 1925084

Christina Walthour,

Claimant,

v.

Remedy Intelligent Staffing, Inc.,

Employer,

and

XL Insurance America, Inc.,

Carrier,

Defendants.

AFFIRMED WITH AMENDMENTS

Hearing held in Richland County, South Carolina,
on July 15, 2024

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

Appearances:	James G. Christmas, Esq., of Christmas Law Firm, appeared on behalf of Claimant/Respondent.

Michael Patterson, Esq., of Mingleborff & Patterson, appeared
on behalf of Defendants/Appellants.

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

Filed:

October 3, 2024

I. STATEMENT OF THE CASE

On November 29, 2023, a hearing was held before a Single Commissioner to determine the compensability of Christina Walthour's (Claimant's) claim under the Act. Claimant asserted she sustained injuries on July 11, 2019, to her head, cervical spine, right shoulder, right upper extremity radiculopathy, right wrist, right hand, right fingers, right thumb, left shoulder, left upper extremity radiculopathy, left wrist, left hand, left fingers, left thumb, thoracic spine, lumbar spine, right hip, right lower extremity radiculopathy, left hip and left lower extremity radiculopathy while pulling down pallets for Remedy Intelligent Staffing (Employer). Claimant admitted she had reached maximum medical improvement (MMI) for her injuries. Claimant sought past Temporary Total Disability (TTD) benefits for a period to be determined by the Commission. Claimant further sought a permanent partial or total disability determination and wage loss award.

Employer and XL Insurance America, Inc. (Carrier) (hereinafter collectively known as "Defendants") denied Claimant's injuries arose out of or in the course and scope of her employment on July 11, 2019. Defendants asserted Claimant's alleged injuries were the result of preexisting conditions and not caused or aggravated by her duties for Employer. Defendants further asserted Claimant's injuries were the result of a motor vehicle accident (MVA). Defendants sought a finding that Claimant's alleged injuries were not compensable. In the alternative, Defendants sought a finding that Claimant's MVA was an intervening accident which broke the causal chain. In the other alternative, Defendants sought a finding that Claimant was only entitled to medical benefits from the date of the accident through July 16, 2019, when she returned to work.¹

The Single Commissioner determined, *inter alia*:

Claimant shall be entitled to, and Defendants shall pay, past, continuing and, future medical care and treatment for Claimant's neck and back, including, not limited to,

¹ Claimant's employment was subsequently terminated by Employer on August 11, 2019.

fusions surgery at Claimant's C3-4 level and repeat diagnostic imaging as recommended by board-certified neurosurgeon Dr. DeHoll. [C]laimant is entitled to, and Defendants shall pay Claimant temporary total disability benefits from her last date of work with her Employer through the present and continuing until further Order of this Commission. [C]laimant is not at maximum medical improvement; therefore, it is premature to determine the issue of permanent disability, so it shall be held in abeyance at this time.

(Single Commissioner's Decision and Order filed on April 16, 2024, p. 14.)

Appellate Panel Review

This matter is now before the South Carolina Workers' Compensation Commission's Appellate Panel pursuant to issues raised on appeal by Defendants. Within the statutory period, Defendants filed a Form 30, Request for Commission Review. Accordingly, the parties presented before the Appellate Panel on July 15, 2024.

II. SINGLE COMMISSIONER FINDINGS OF FACT AND CONCLUSIONS OF LAW

FINDINGS OF FACT

Based upon the greater weight of the evidence, including the testimony of the witnesses, medical reports, and other documentary evidence submitted by the respective parties pursuant to the Administrative Procedures Act, the Commission file relative to this claim and the credibility of all the evidence and testimony submitted, [the Single] Commissioner, therefore, makes the following Findings of Fact:

1. That Claimant and Employer were subject to the South Carolina Workers' Compensation Act at the time of Claimant's accidental injury.
2. That the relationship of employer/employee existed between Claimant and Employer at the time of Claimant's accidental injury.
3. That Claimant has no previous workers' compensation claims.
4. That on or about July 11, 2019, Claimant sustained compensable injuries by accident to her neck at C3-4, C4-5, C5-6, and C6-7, with a myelopathic spinal cord injury and radicular symptoms that affect her bilateral shoulders, bilateral upper extremities, bilateral hands,

and bilateral fingers, which I find is supported by the greater weight of the evidence including, but not limited to: board-certified treating neurosurgeon, Dr. DeHoll, opinion to a reasonable degree of medical certainty that Claimant's neck injuries, including injuries to her C3-4, C4-5, C5-6 and C6-7, were caused by and/or aggravated by her July 11, 2019 accident at work (Clm. APA 1: 1; DeHoll Depo. Tr. 8-9: 25-7); board-certified physical medicine and rehabilitation specialist, Dr. Patel, opines that Claimant sustained a work-related injury to her cervical spine as a result of her work accident that have caused neurological deficits in both of Claimant's upper extremities including sensory and motor weakness, as well as hyperactive reflexes (Clm. APA 2: 2; Patel Depo. Tr. 37: 9-23); and (3) authorized treating physician, Dr. Kim, opines that Claimant was injured at work on July 11, 2019, and that her pain and symptoms in her lumbar spine were caused by and/or aggravated by her work accident. (Clm. APA 4: 1).

5. That Defendants proffered no medical opinion to a reasonable degree of medical certainty from any doctor with a differing opinion regarding causation in this case and proffered no medical opinion from any doctor that Claimant's injuries came from anywhere other than from her work-related accident that occurred on July 11, 2019.
6. That Claimant timely gave notice of her injury by accident to her Employer promptly in accordance with the Act, which I find is supported by the greater weight of the evidence including, but not limited to: Employer's "Workplace Injury Triage & Reporting Confidential: Incident Report," which was filled out on July 12, 2019, within eleven (11) hours of Claimant's work accident and stated that Claimant had injuries to her back and left shoulder. (Clm. APA 11: 1-3).
7. That Claimant is credible and credibly testified at the hearing of this case.
8. That Claimant underwent neck surgery, during which board-certified treating neurosurgeon Dr. DeHoll fused Claimant's neck at C4-5, C5-6, and C-7 because of her work injury. (Clm.

APA 1: 17-18).

9. That Claimant appeared to the [Single] Commissioner to be in genuine discomfort at the hearing.
10. That Claimant shall be entitled to, and Defendants shall pay, past, continuing, and future medical care and treatment for Claimant's neck and back, including, but not limited to, fusion surgery at Claimant's C3-4 level and repeat diagnostic imaging as recommended by board-certified neurosurgeon Dr. DeHoll. (Cm. APA 1: 1; DeHoll Depo. Tr. 9-10: 20-10).
11. That Claimant is adamant in her testimony that she would like additional future medical treatment and surgery, so I find it reasonable for Claimant to have a C3-4 fusion with Dr. DeHoll, as it would tend to lessen Claimant's period of disability and that Dr. DeHoll shall assume Claimant's medical care and treatment until further Order of the Commission.
12. That Claimant's average weekly wage is \$402.91, with a corresponding compensation rate of \$268.60.
13. That Claimant is entitled to, and Defendants shall pay Claimant, temporary total disability benefits from her last date of work with her Employer through the present and continuing until further Order of this Commission.
14. That Claimant is not time-barred or barred by the doctrines of waiver, estoppel, and laches. I base this finding on the greater weight of the evidence, pleadings, and testimony given in this case, as well as South Carolina law, including, but not limited to, Claimant's filing of a Form 50 (Request for Hearing) on May 26, 2021; Claimant's and Defendants' joint filing of a Consent Order for the conduction of additional discovery on October 13, 2021; Claimant's filing of a Form 50 (Request for Hearing) on October 28, 2021; Claimant's filing of a Form 58 (Pre-Hearing Brief) on January 21, 2022; Claimant's filing of a Form 50 (Request for Hearing) on September 1, 2023; Defendants' filing of a Form 51 (Answer to Request for Hearing) on September 29, 2023; Claimant's Filing of a Form 58 (Pre-Hearing Brief) on

November 14, 2023; Defendants' filing of a Form 58 (Pre- Hearing Brief) on November 21, 2023; Defendants' filing of an Amended Form 58 (Pre-Hearing Brief) on November 28, 2023; and Defendants' filing of a Motion to Postpone Hearing on November 28, 2023.

15. That Claimant did not suffer an intervening accident that would break the causal connection of her work-related injuries being related to her work-related accident. I base this finding on the greater weight of the evidence, testimony, and medical opinions given in this case, as well as the lack of opposing medical evidence in that Defendants failed to proffer any opinion from any doctor to support their argument on this issue.
16. That Claimant is not at maximum medical improvement; therefore, it is premature to determine the issue of her permanent disability, so it shall be held in abeyance at this time.

CONCLUSIONS OF LAW

1. That this case is governed by the terms and provisions of the South Carolina Workers' Compensation Act.
2. That S.C. Code Ann. § 42-1-40 is applicable in defining "average weekly wages."
3. That S.C. Code Ann. § 42-1-100 is applicable in defining "compensation."
4. That S.C. Code Ann. § 41-1-120 is applicable in defining "disability."
5. That S.C. Code Ann. § 42-1-130 is applicable in defining "employee."
6. That S.C. Code Ann. § 42-1-140 is applicable in defining "employer."
7. That S.C. Code Ann. § 42-1-150 is applicable in defining "employment."
8. That S.C. Code Ann. § 42-1-160 is applicable in defining "injury" and "personal injury."
9. That S.C. Code Ann. § 42-15-60 is applicable in determining "medical, surgical, hospital, and other treatment."
10. That S.C. Code Ann. § 42-70-40 is applicable in "governing the conduct of hearing

and rendering of awards."

III. ISSUES ON APPEAL

Defendants/Appellants

1. Whether the Commissioner erred in denying Defendants motion for postponement and/or continuance.
2. Whether the Commissioner erred in holding the record open for specific discovery only.
3. Whether the Commissioner erred by failing to find the claim was barred by the doctrine of waiver and laches.
4. Whether the Commissioner erred by finding Claimant credible.
5. Whether the Commissioner erred by finding Claimant suffered a compensable injury.
6. Whether the Commissioner erred by finding Claimant suffered a compensable injury to her cervical spine.
7. Whether the Commissioner erred by finding any portion of the claim compensable after July 16, 2019.
8. Whether the Commissioner erred by finding Claimant is entitled to back TTD benefits.
9. Whether the Commissioner erred by finding Claimant is entitled to ongoing TTD benefits.
10. Whether the Commissioner erred by finding Claimant is entitled to the payment of past medical treatment.
11. Whether the Commissioner erred by finding Claimant is entitled to future medical treatment pursuant to the South Carolina Workers' Compensation Act.
12. Whether the Commissioner erred by finding Claimant suffered an injury to her neck on July 11, 2019, when there is no contemporaneous subjective or objective evidence Claimant suffered an injury to her neck on July 11, 2019.
13. Whether the Commissioner erred by failing to find Claimant deprived Defendants of their statutory right to control medical treatment under § 42-15-80 of the South Carolina Code

of Laws, as amended, the South Carolina Workers' Compensation Act, and the South Carolina Workers' Compensation Regulations.

14. Whether the Commissioner erred in relying on any statements of causation from Dr. DeHoll when Dr. DeHoll testified that he did not have a recollection of how Claimant was injured when filling out the questions.
15. Whether the Commissioner erred by failing to find Claimant violated § 42-15- 60(B)(3) of the South Carolina Code of Laws, as amended.
16. Whether the Commissioner erred in finding Claimant was not at maximum medical improvement.

IV. DECISION OF THE APPELLATE PANEL

Appeal of Single Commissioner's Decision and Order

In an application for review pursuant to S.C. Code Ann. § 42-17-50, the Appellate Panel shall review the Award, and, if good grounds be shown therefore, reconsider the evidence, receive further evidence, rehear the parties or their representatives and, if proper, amend the award by making its own Findings of Fact and its own Conclusions of Law consistent with or inconsistent with those of the Hearing Commissioner.

After careful review of the Requests for Review in the instant case, including review of the entire record and upon consideration of the memoranda and arguments of the parties, the Appellate Panel ~~Affirm with Amendments the Decision and Order of the Single Commissioner filed on April~~ 16, 2024.

Below are set out the Findings of Fact and Conclusions of Law of the Appellate Panel as to this claim.

FINDINGS OF FACT

1. That Claimant and Employer were subject to the South Carolina Workers' Compensation

Act at the time of Claimant's accidental injury.

2. That the relationship of employer/employee existed between Claimant and Employer at the time of Claimant's accidental injury.
3. That Claimant has no previous workers' compensation claims.
4. That on or about July 11, 2019, Claimant sustained compensable injuries by accident to her neck at C3-4, C4-5, C5-6, and C6-7, with a myelopathic spinal cord injury and radicular symptoms that affect her bilateral shoulders, bilateral upper extremities, bilateral hands, and bilateral fingers, which we find is supported by the greater weight of the evidence including, but not limited to: board-certified treating neurosurgeon, Dr. DeHoll, opinion to a reasonable degree of medical certainty that Claimant's neck injuries, including injuries to her C3-4, C4-5, C5-6 and C6-7, were caused by and/or aggravated by her July 11, 2019 accident at work (Clm. APA 1: 1; DeHoll Depo. Tr. 8-9: 25-7); board-certified physical medicine and rehabilitation specialist, Dr. Patel, opines that Claimant sustained a work-related injury to her cervical spine as a result of her work accident that have caused neurological deficits in both of Claimant's upper extremities including sensory and motor weakness, as well as hyperactive reflexes (Clm. APA 2: 2; Patel Depo. Tr. 37: 9-23); and (3) authorized treating physician, Dr. Kim, opines that Claimant was injured at work on July 11, 2019, and that her pain and symptoms in her lumbar spine were caused by and/or aggravated by her work accident. (Clm. APA 4: 1).

5. That Defendants proffered no medical opinion to a reasonable degree of medical certainty from any doctor with a differing opinion regarding causation in this case and proffered no medical opinion from any doctor that Claimant's injuries came from anywhere other than from her work-related accident that occurred on July 11, 2019.
6. That Claimant timely gave notice of her injury by accident to her Employer promptly in accordance with the Act, which we find is supported by the greater weight of the evidence

including, but not limited to: Employer's "Workplace Injury Triage & Reporting Confidential: Incident Report," which was filled out on July 12, 2019, within eleven (11) hours of Claimant's work accident and stated that Claimant had injuries to her back and left shoulder. (Clm. APA 11: 1-3).

7. That Claimant is credible and credibly testified at the hearing of this case.
8. That Claimant underwent neck surgery, during which board-certified treating neurosurgeon Dr. DeHoll fused Claimant's neck at C4-5, C5-6, and C-7 because of her work injury. (Clm. APA 1: 17-18).
9. That Claimant appeared to the Single Commissioner to be in genuine discomfort at the hearing.
10. That Claimant shall be entitled to, and Defendants shall pay, past, continuing, and future medical care and treatment for Claimant's neck and back, including, but not limited to, fusion surgery at Claimant's C3-4 level and repeat diagnostic imaging as recommended by board-certified neurosurgeon Dr. DeHoll. (Clm. APA 1: 1; DeHoll Depo. Tr. 9-10: 20-10).
11. That Claimant is adamant in her testimony that she would like additional future medical treatment and surgery, so we find it reasonable for Claimant to have a C3-4 fusion with Dr. DeHoll, as it would tend to lessen Claimant's period of disability and that Dr. DeHoll shall assume Claimant's medical care and treatment until further Order of the Commission.
12. That Claimant's average weekly wage is \$402.91, with a corresponding compensation rate of \$268.60.
13. That Claimant is entitled to, and Defendants shall pay Claimant, temporary total disability benefits from her last date of work with her Employer through the present and continuing until further Order of this Commission.
14. A party asserting laches must meet a tripartite element test, to wit: (1) delay, (2) unreasonable delay, and (3) prejudice. *Hallums v. Hallums*, 296 S.C. 195, 199, 371 S.E.2d

525, 528 (1988). Further, each matter must be reviewed on its own facts when determining if laches is present. *Richey v. Dickenson*, 359 S.C. 609, 611, 598 S.E. 2d 307, 309 (S.C. Ct. App. 2004). We find the greater weight of the evidence indicates no unreasonable delay by Claimant in this matter. We base this finding on the pleadings, and testimony given in this case, as well as South Carolina law, including, but not limited to, the date of Claimant's work-related accident, Claimant's filing of a Form 50 (Request for Hearing) on May 26, 2021; Claimant's and Defendants' joint filing of a Consent Order for the conduction of additional discovery on October 13, 2021; Claimant's filing of a Form 50 (Request for Hearing) on October 28, 2021; Claimant's filing of a Form 58 (Pre-Hearing Brief) on January 21, 2022; Claimant's filing of a Form 50 (Request for Hearing) on September 1, 2023; Defendants' filing of a Form 51 (Answer to Request for Hearing) on September 29, 2023; Claimant's Filing of a Form 58 (Pre-Hearing Brief) on November 14, 2023; Defendants' filing of a Form 58 (Pre- Hearing Brief) on November 21, 2023; Defendants' filing of an Amended Form 58 (Pre-Hearing Brief) on November 28, 2023; and Defendants' filing of a Motion to Postpone Hearing on November 28, 2023.

In *Richey*, there was a continuous eleven year delay. *Id.* at pp. 308-309. Contrary to the facts in *Richey*, we find there is no material prejudice to Defendants shown in the instant matter. Neither party indicates that their file or their client's file is missing; neither party indicated they could not access medical records; there is not an indication that there are missing medical records or providers that did not respond; and there is not an indication that practices or doctors are unavailable. We, therefore, find Claimant is not barred by the doctrine of waiver, estoppel, and laches.

15. That Claimant did not suffer an intervening accident that would break the causal connection of her work-related injuries being related to her work-related accident. We base this finding on the greater weight of the evidence, testimony, and medical opinions given in this case,

as well as the lack of opposing medical evidence in that Defendants failed to proffer any opinion from any doctor to support their argument on this issue.

16. That Claimant is not at maximum medical improvement; therefore, it is premature to determine the issue of her permanent disability, so it shall be held in abeyance at this time.

CONCLUSIONS OF LAW

1. That this case is governed by the terms and provisions of the South Carolina Workers' Compensation Act.
 2. That S.C. Code Ann. Section 42-1-40 is applicable in defining "average weekly wages."
 3. That S.C. Code Ann. § 42-1-100 is applicable in defining "compensation."
 4. That S.C. Code Ann. § 41-1-120 is applicable in defining "disability."
 5. That S.C. Code Ann. § 42-1-130 is applicable in defining "employee."
 6. That S.C. Code Ann. § 42-1-140 is applicable in defining "employer."
 7. That S.C. Code Ann. § 42-1-150 is applicable in defining "employment."
 8. That S.C. Code Ann. § 42-1-160 is applicable in defining "injury" and "personal injury."
 9. That S.C. Code Ann. § 42-15-60 is applicable in determining "medical, surgical, hospital, and other treatment."
 10. That S.C. Code Ann. § 42-70-40 is applicable in "governing the conduct of hearing and rendering of awards."
-
11. South Carolina jurisprudence has routinely recognized that the doctrine of laches is applicable to workers' compensation proceedings. See, e.g., *Muir v. C.R. Bard, Inc.*, 336 S.C. 266, 519 S.E.2d 583 (Ct. App. 1999). "Laches is neglect for an unreasonable and unexplained length of time, under circumstances affording opportunity for diligence, to do what in law should have been done." *Mid-State Trust, II v. Wright*, 323 S.C. 303, 474 S.E.2d

421 (1996). “The inquiry into the applicability of laches is highly fact-specific and each case must be judged by its own merits.” *Emery v. Smith*, 361 S.C. 207, 216, 603 S.E.2d 598, 602 (Ct. App. 2004) (citation omitted). A party asserting laches must meet a tripartite element test, to wit: (1) delay, (2) unreasonable delay, and (3) prejudice. *Hallums v. Hallums*, 296 S.C. 195, 199, 371 S.E.2d 525, 528 (1988).

12. The question of laches is largely a factual one, so each case must be judged on its own merits.

Richey v. Dickenson, 359 S.C. 609, 611, 598 S.E. 2d 307, 309 (S.C. Ct. App. 2004).

ORDER

IT IS HEREBY ORDERED that the Decision and Order of the Single Commissioner filed on April 16, 2024, is **Affirmed with Amendments**.

Accordingly:

IT IS FURTHER ORDERED that Claimant shall be entitled to, and Defendants shall pay, past, continuing, and future medical care and treatment for Claimant’s neck and back, including, but not limited to, fusion surgery at Claimant’s C3-4 level and repeat diagnostic imaging as recommended by board-certified neurosurgeon Dr. DeHoll.

IT IS FURTHER ORDERED that Claimant is entitled to, and Defendants shall pay Claimant temporary total disability benefits from her last date of work with Employer through the present and continuing until further Order of this Commission.

~~**IT IS FURTHER ORDERED**~~ that Claimant is not at maximum medical improvement; therefore, it is premature to determine the issue of her permanent disability, so it shall be held in abeyance at this time.

IT IS FURTHER ORDERED that Claimant’s claim is not barred by the doctrine of waiver, estoppel and laches as the greater weight of the evidence shows no unreasonable delay by Claimant. Defendants were not materially prejudiced in the course of this matter.

AND SO IT IS ORDERED.

Oct. 3, 2024 (date)
Columbia, SC

Melody L. James
Melody L. James, Commissioner

Cynthia C. Dooley
Cynthia C. Dooley, Commissioner

Aisha Taylor
Aisha Taylor, Commissioner

Order on Motion to Quash Respondent's Subpoena

<u>Served via E-Mail:</u>	
Christopher C. Mingleborff, Esquire chris@mptrial.com	
Michael Patterson, Esquire michael@mptrial.com	
James G. Christmas, Esquire gc@gchristmaslaw.com	
Robert Clyde Limehouse, III, Esquire trey@gchristmaslaw.com	

Order Served via USPS:

CERTIFICATE OF SERVICE

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

October 3, 2024

By: Valerie D. Deller, Judicial Department

WORKERS' COMPENSATION - FIRST REPORT OF INJURY OR ILLNESS

EMPLOYER (NAME & ADDRESS INCL ZIP) EmployBridge Holding Company 1040 Crown Pointe Pkwy Ste 1040 Atlanta GA 30338		CARRIER/ADMINISTRATOR CLAIM NUMBER	OSHA LOG NUMBER	REPORT PURPOSE CODE
INDUSTRY CODE		EMPLOYER FEIN	JURISDICTION CLAIM NUMBER	
JURISDICTION		INSURED REPORT NUMBER		
EMPLOYER'S LOCATION ADDRESS (IF DIFFERENT)		LOCATION #		
PHONE #				
CARRIER/CLAIMS ADMINISTRATOR				
CARRIER (NAME, ADDRESS, & PHONE #)		POLICY PERIOD TO CHECK IF APPROPRIATE ☐ SELF INSURANCE		
CARRIER FEIN		POLICY/SELF-INSURED NUMBER		ADMINISTRATOR FEIN
AGENT NAME & CODE NUMBER		CLAIMS ADMINISTRATOR (NAME, ADDRESS & PHONE NO) Broadspire PO Box 14645 Lexington KY 40512		
EMPLOYEE/WAGE				
NAME (LAST, FIRST, MIDDLE) Christina Walthour		DATE OF BIRTH 9/21/1976	SOCIAL SECURITY NUMBER xxx-xx-1388	DATE HIRED 5/20/2019
ADDRESS (INCL ZIP) 116 Rosecliff Cir Hopkins SC 29061		SEX ☐ Male ☒ Female ☐ Unknown	MARITAL STATUS ☒ Unmarried/Single/Divorced ☐ Married ☐ Separated ☐ Unknown	OCCUPATION/JOB TITLE EMPLOYMENT STATUS Full Time NCCI CLASS CODE
PHONE 919-353-6026		# OF DEPENDENTS		
RATE PER: ☐ DAY ☐ MONTH ☐ WEEK ☐ OTHER:		DAYS WORKED/WEEK	FULL PAY FOR DAY OF INJURY? ☐ YES ☐ NO DID SALARY CONTINUE? ☐ YES ☐ NO	
OCCURRENCE/TREATMENT				
TIME EMPLOYEE BEGAN WORK ☐ AM ☐ PM	DATE OF INJURY/ILLNESS 7/11/2019	TIME OF OCCURRENCE 12:00 (☐) CANNOT BE DETERMINED ☐ AM ☒ PM	LAST WORK DATE	DATE EMPLOYER NOTIFIED DATE DISABILITY BEGAN
CONTACT NAME/PHONE NUMBER	TYPE OF INJURY/ILLNESS Sprain / Strain		PART OF BODY AFFECTED Back - Lower	
DID INJURY/ILLNESS/EXPOSURE OCCUR ON EMPLOYER'S PREMISES? ☒ YES ☐ NO	TYPE OF INJURY/ILLNESS CODE		PART OF BODY AFFECTED CODE	
DEPARTMENT OR LOCATION WHERE ACCIDENT OR ILLNESS EXPOSURE OCCURRED		ALL EQUIPMENT, MATERIALS, OR CHEMICALS EMPLOYEE WAS USING WHEN ACCIDENT OR ILLNESS EXPOSURE OCCURRED Pallet		
SPECIFIC ACTIVITY THE EMPLOYEE WAS ENGAGED IN WHEN THE ACCIDENT OR ILLNESS EXPOSURE OCCURRED Lifting a pallet		WORK PROCESS THE EMPLOYEE WAS ENGAGED IN WHEN ACCIDENT OR ILLNESS EXPOSURE OCCURRED		
HOW INJURY OR ILLNESS/ABNORMAL HEALTH CONDITION OCCURRED. DESCRIBE THE SEQUENCE OF EVENTS AND INCLUDE ANY OBJECTS OR SUBSTANCES THAT DIRECTLY INJURED THE EMPLOYEE OR MADE THE EMPLOYEE ILL EE alleges yesterday she was trying to lift a pallet (100-150lbs) and as she bent down and lifted the pallet				CAUSE OF INJURY CODE
DATE RETURN(ED) TO WORK	IF FATAL, GIVE DATE OF DEATH	WERE SAFEGUARDS OR SAFETY EQUIPMENT PROVIDED? ☐ YES ☐ NO WERE THEY USED? ☐ YES ☐ NO		
PHYSICIAN/HEALTH CARE PROVIDER (NAME & ADDRESS) Doctors Care 7653 Garners Ferry Rd Columbia, SC 29209		HOSPITAL OR OFF SITE TREATMENT (NAME & ADDRESS)		INITIAL TREATMENT 0 ☐ NO MEDICAL TREATMENT 1 ☐ MINOR: BY EMPLOYER 2 ☐ MINOR CLINIC/HOSP 3 ☐ EMERGENCY CARE 4 ☐ HOSPITALIZED > 24 HOURS 5 ☐ FUTURE MAJOR MEDICAL/ LOST TIME ANTICIPATED
OTHER				
WITNESSES (NAME & PHONE #)				
DATE ADMINISTRATOR NOTIFIED	DATE PREPARED	PREPARER'S NAME & TITLE		PHONE NUMBER

WCC FORM 12-A
REV. DATE 04/06

SEE INSTRUCTIONS FOR IMPORTANT INFORMATION

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GARY CHRISTMAS*

INJURY LAWYER
gc@gchristmaslaw.com
*Certified Circuit Court Mediator

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Mount Pleasant, SC 29464

105 S. Cedar St., Suite D | Summerville, SC 29483

P: (843) 535-8000

F: (843) 884-2007

REESE M. STIDHAM, IV

INJURY LAWYER
reese@gchristmaslaw.com

August 18, 2020

VIA EMAIL to emcknight@wcc.sc.gov & bmelvin@wcc.sc.gov

ATTN: Brittany Melvin, Claims Department

SC Workers' Compensation Commission

P.O. Box 1715

Columbia, SC 29202-1715

RE: Christina Walthour vs. Remedy Intelligent Staffing, LLC.

WCC#: Unknown

Date of Accident: On or about July 12, 2019

Employee:

Employee's Address:

Employee's Telephone No.:

Social Security No:

Date of Injury:

Type of Injury/Part of Body Injured:

Christina Walthour

116 Rosecliff Circle

Hopkins, SC 29061

(919) 353-6026

423-84-1388

On or about July 12, 2019

Head, cervical spine (including central cord syndrome, incomplete and/or complete tetraplegia/ quadriplegia/ paraplegia, severe spinal cord injury and compression at multiple levels, myelopathy, sensory deficits and motor deficits), right shoulder, right upper extremity radiculopathy, right wrist, right hand, right fingers, right thumb, left shoulder, left upper extremity radiculopathy, left wrist, left hand, left fingers, left thumb, thoracic spine, lumbar spine, right hip, right lower extremity radiculopathy, left hip and left lower extremity radiculopathy.

Description of Accident:

Claimant was injured while pulling pallets down and felt immediate pain in her spine.

Geographic Location Where

Accident Occurred (Include County):

Employer:

Richland County

Remedy Intelligent Staffing, LLC

612 Saint Andrews Rd Ste 12

Columbia, Sc 29210-5120

Insurance Carrier:

XL Insurance America, Inc.

505 Eagleview Blvd., #100

EXTON, PA 19341

Insurance Carrier's Telephone No.:

(610) 968-9500

0038

ATTN: Brittany Melvin
Claims Department
Page 2

Dear Ms. Melvin:

The injured employee has retained me for representation in a claim for injuries covered by the Workers' Compensation Act and to establish a claim prior to the expiration of the statute of limitations. Please note my representation in this file and address all future correspondence to my office accordingly.

Thank you.

Very truly yours,

DocuSigned by:

A30BFEC2E7BD44C...
Gary Christmas, Esq.
GC/yc

cc: Christina Walthour (via mail & email)
XL Insurance America, Inc. (via mail & email)

10/13/2020
FILEID125361

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION R08
EDI CREATED/UPDATED FIRST REPORT

CONTAINS ALL ITEMS REQUIRED BY OSHA FORM 101 (Enter all dates in MM/DD/YYYY format)

EMPLOYER: EMPLOYBRIDGE HOLDING CO - REME
1116 NEWTON
SUMMERVILLE, SC 29483

CARRIER CLAIM#: 189045476001
SCWCC CLAIM#: 1925084

NAICS CODE: 561320

FED. TAX I.D. NO.: 953382819

INSURANCE XL INSURANCE AMERICA INC.

CLAIMS BROADSPIRE SERVICES INC

CARRIER: AXA XL CLAIMS
PO BOX 75211
DALLAS, TX 75211-

ADMIN: PO BOX 14345
LEXINGTON, KY 40512-4345

CARRIER ID: 01132 CARRIER FEIN: 756017952

EMPLOYEE NAME (Last, First, Middle)
WALTHOUR, CHRISTINA

SOCIAL SECURITY NUMBER
423-84-1388

PHONE NO.
() -

ADDRESS: 116 ROSECLIFF CIRCLE
HOPKINS, SC 29061

DATE OF BIRTH: 09/21/1975 MARITAL STATUS: U

MALE/FEMALE: F # DEPENDENT CHILDREN: 0

DATE OF HIRE: 05/20/2019
OCCUPATION: UNKNOWN

WAGE INFORMATION

RATE: \$402.91

WAGE PERIOD:

DATE RETURNED TO WORK:

FULL DAY PAY FOR DAY OF INJURY: Y

DID SALARY CONTINUE: N

OCCURRENCE

PLACE OF ACCIDENT OR OCCURRENCE: -
CHATTOOGA

DATE OF INJ: 07/11/2019 TIME OF INJ: 12:00 PM

EMPLOYER'S PREMISES: Y LAST WORKDATE: 07/11/2019

DATE EMPLOYER NOTIFIED: 07/12/2019

DESCRIBE NATURE OF INJURY OR ILLNESS IN DETAIL

CAUSE: 56 LIFTING
NATURE: 52 STRAIN
LOCATION: 42 LOW BACK AREA

DESCRIBE EMPLOYEE'S ACTIVITIES WHEN INJURY OCCURED WITH DETAILS OF HOW EVENT OCCURED

EE ALLEGES YESTERDAY SHE WAS TRYING TO LIFT A PALLET 100-150LBS AND AS SHE
BENT DOWN AND LIFTED THEPALLET SHE FELT PAIN ON HER L SHOULDER AND LOWER
BACK.

IF FATAL GIVE DATE OF DEATH:

** Amended **

ELECTRONIC FILING

ORIGINAL DATE SENT:

<1>: <2>:

DATE PROCESSED: 10/13/2020

TRADING PARTNER: Broadspire Services Inc
1 Corporate Drive
Suite 120
Lake Zurich, IL 60047

| |

South Carolina Workers' Compensation Commission

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



WCC File #: 1925084

Carrier File #: 189045476-001

Carrier Code #:

Employer FEIN #: 95-3382819

Claimant's Name: CHRISTINA WALTHOUREmployer's Name: EMPLOYBRIDGE HOLDING CO - REMEDY INTELLICAddress: 116 ROSECLIFF CIRCLEAddress: 1116 NewtonCity: HOPKINS State: SC Zip: 29061City: Summerville State: SC Zip: 29483

Home Phone: _____ Work Phone: _____

Insurance Carrier: XL INSURANCE AMERICA INC.Preparer's Name: Mallory M Maslar

Law Firm: _____

Preparer's Phone #: (754) 206-5937 Ext:

Compensation Paid:	Number of Weeks	From (m/d/yyyy)	To (m/d/yyyy)	Amount
1. Number of Weeks T.T.	_____	_____	_____	\$ _____
2. Number of Weeks T.P.	_____	_____	_____	\$ _____
3. Number of Weeks P.P.	_____	_____	_____	\$ _____
4. Disfigurement	_____	_____	_____	\$ _____
5. Agreement and Final Release	_____	_____	_____	\$ _____
Total Compensation Paid				\$ _____
6. Total Medical Benefits* Paid	_____	_____	_____	\$ <u>165.11</u>
7. Funeral Benefits	_____	_____	_____	\$ _____

☐ Case DeniedDate of Injury: 07/11/2019
(m/d/yyyy)

By signing this receipt, I acknowledge that I have received the compensation shown above.

By: _____
ClaimantBy: Mallory Maslar
Employer's Representative5/13/21
Date
(m/d/yyyy)

Print or type the name of the person, other than the claimant, receiving benefits and sign below.

By: _____

Report of Additional Fees and Recoupment

A. Carrier Reimbursement by Third Party	\$ _____
B. Attorney's Fee Paid by Employer	\$ _____
C. Attorney's Fee Paid by Claimant (Non-contingent fees only)	\$ _____

File this form with the Claims Department according to R.67-414 and R.67-1204. A person, other than the claimant, receiving benefits should sign on the line provided. * Do not include as medical costs fees paid for expert testimony, fees for determining carrier's liability, costs of autopsy, birth and death certificates and impartial examination. Form 19 must be filed within 16 days of final payment of compensation. Form 19 must be filed when a claim is denied.

 CHRISTMAS INJURY LAWYERS
• WORK ACCIDENTS • AUTO ACCIDENTS • PERSONAL INJURY

GARY CHRISTMAS*

gc@gchristmaslaw.com

*Certified Circuit Court Mediator

P.O. Box 1896 | Mount Pleasant, SC 29465

250 Mathis Ferry Road, Suite 102
Mount Pleasant, SC 29464

REESE M. STIDHAM, IV

reese@gchristmaslaw.com

105 S. Cedar St., Suite D | Summerville, SC 29483

P: (843) 535-8000

F: (843) 884-2007

May 26, 2021

6/25

VIA U.S. MAIL

ATTN: Amy Bracy, Judicial Department
SC Workers' Compensation Commission

P.O. Box 1715

Columbia, SC 29202-1715

RE: Christina Walthour vs. Remedy Intelligent Staffing Inc, et al

WCC#: 1925084

Date of Accident: July 12, 2019

Dear Ms. Bracy:

Enclosed for filing, please find the original and one (1) copy of the Claimant's Form 50 Employee's Notice of Claim and Request for Hearing along with our \$50.00 filing fee for same. I am requesting that a Hearing be scheduled as soon as possible. Please return a clocked copy in the enclosed self-addressed, stamped envelope provided.

Thank you very much for your time and attention regarding this matter.

Very truly yours,


Gary Christmas
GC/kri

U552

Enclosures

SCWCC
JUN 01 2021
JUDICIAL

469175

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

P. O. Box 1715 • 1612 Marion Street
Columbia, South Carolina 29202-1715

WCC File #: 1925084

Carrier File #: _____

Carrier Code #: _____

Employer FEIN #: _____

Claimant's Name: Christina Walthour SSN: 423-84-1388Employer's Name: Remedy Intelligent Staffing Inc. et alAddress: 116 Rosecliff CircleAddress: 1001 Carolina Pines DriveCity: Hopkins State: S.C. Zip: 29061City: Blythewood State: SC Zip: 29016-7786Home Phone: 843-809-8327 Work Phone: _____Insurance Carrier: XL Insurance America, Inc./AXA XL CLAIMSPreparer's Name: Gary Christmas, Esquire Law Firm: Christmas Injury Lawyers, LLC Preparer's Phone Number: (843) 535-8000**A Claim for workers' compensation benefits is made based on the following grounds:**

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

1. The claimant sustained an injury to her head, cervical spine (including central cord syndrome, incomplete and/or complete tetraplegia/quadriplegia/paraplegia, severe spinal cord injury and compression at multiple levels, myelopathy, sensory deficits and motor deficits), right shoulder, right upper extremity radiculopathy, right wrist, right hand, right fingers, right thumb, left shoulder, left upper extremity radiculopathy, left wrist, left hand, left fingers, left thumb, thoracic spine, lumbar spine, right hip, right lower extremity radiculopathy, left hip and left lower extremity radiculopathy on or about July 12, 2019, in Richland County, State of South Carolina.

2. Body part(s) affected are: See number one above.

Briefly describe how the accident occurred: Claimant was injured while pulling pallets down and felt immediate pain.

3. Both the Claimant and the employer were subject to the South Carolina Workers' Compensation Act at the time of injury.

4. The relationship of employer and employee existed at the time of injury.

5. At the time of the injury the claimant was performing services arising out of and in the course of employment.

6. Notice of the accidental injury was given to the employer on 7/12/19 in the following manner:
Claimant informed employer.

- ☒ 7. Due to injury, the Claimant is in need of (check one):
☒ (a) medical examination and treatment for: All of Claimant's work-related injuries.
☐ (b) additional medical examination and treatment for:

- ☒ 8. Due to injury, the Claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of: to be determined.

- ☒ 9. Due to the injury, the Claimant has permanent disability of the following nature and extent (check one):
☐ (1) General Disability: ☐ Total ☐ Partial ☐ (2) Specific Disability: ☐ Total ☐ Partial ☐ (3) Wage Loss

9a. Claimant at MMI: ☐ Yes ☒ No

10. Due to the injury, the Claimant as a serious bodily disfigurement consisting of: See number 1 above.

- 10a. At the time of injury, the Claimant was paid weekly wages of \$to be determined, 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: Upon information and belief, employer.

11. Further grounds or unusual aspects of Claim: Claimant has not yet reached maximum medical improvement, therefore, permanency is premature to determine at this time. Claimant is seeking authorized medical care and treatment with a Board Certified Physician for all of her work-related injuries. Claimant is seeking past and future medical care and treatment pursuant to §42-15-60 and/or Dodge vs. Bruccoli, Clark, Layman, Inc., 334 SC 574, 514 SE2d 593 (Ct. App. 1999). To determine Claimant's correct average weekly wage and compensation rate. To determine whether Claimant is entitled to TTD benefits for any and all periods she has not been able to work due to her work accident and injuries. To determine whether Claimant is entitled to reimbursement for traveling to and from causally related medical treatment and whether he is entitled to reimbursement for any and all out of pocket expenses. Claimant requests the Commission to approve allocation of proposed settlement proceeds over his/her life expectancy pursuant to Section 19-1-150 of the South Carolina Code of Laws, and Section 42-9-10 of the South Carolina Workers' Compensation Act, 1976, as amended, and as interpreted by the South Carolina Supreme Court in the decision of James vs. Anne's 390 S.C. 188, 701 S.E.2d 730 and Utica

Mohawk Mills vs. Orr 227 S.C. 226, 87 S.E.2d 589 (Ct. App. 2006). Claimant and Claimant's attorney request a lump sum payment of any award. To determine whether Claimant is entitled to any and all other benefits due under the Act.

11a. List names and addresses of all physicians or other medical specialists who have seen or treated the claimant as a result of the accident: Paul Douglas DeHoll, Palmetto Health USC, 101 Business Park Blvd, Suite D, Columbia, SC 29203, Doctors Care, 7653 Garners Ferry Road, Columbia, SC 29209, Palmetto Health-USC Orthopedic Center - Lexington, 104 Saluda Pointe Dr, Lexington, SC 29072, Prisma Health Hospital, 5 Richland Medical Park, Columbia, SC 29203.

11b. To the best of your knowledge, did you have any prior permanent disability? Upon information and belief, yes.
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.

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

☒ 14. I am requesting a hearing. A \$50.00 fee is required.

☐ Mediation

☐ a. Mediation is requested to be ordered pursuant to Reg. 67-1801 B.

☐ b. Mediation is required pursuant to Reg. 67-1802.

☐ c. Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.

☐ d. Mediation has been conducted by a duly qualified mediator and resulted in an impasse.

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

I certify I have served this document pursuant to Reg. 67-211 by delivering a copy to Christopher C. Mingledorff and Michael Patterson, Mingledorff & Patterson, 245 Seven Farms Drive, Ste. 310 Box 13, Charleston SC 29492; on the 26th day of May, 2021, 2021 by:

☐ first class postage

☐ certified mail

☐ personal service

☒ electronic service at chris@mptrial.com and michael@mptrial.com

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

<u>Preparer's Signature</u>	<u>Attorney For Claimant</u>	<u>gary@gchristmaslaw.com</u>	<u>May 26, 2021</u>
	<u>Title</u>	<u>E-Mail</u>	<u>Date</u>

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

WCC FORM # 50

Rev. Date 1/19

50

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

MINGLEDORFF & PATTERSON

— ATTORNEYS AT LAW —

Michael E. Patterson, Jr.
Licensed in SC
michael@mptrial.com

June 25, 2021

Via Email

Amy Bracy
Judicial Department
SC Workers' Compensation Commission
Post Office Box 1715
Columbia, SC 29202-1715
judicialanalysts@wcc.sc.gov

RE: Claimant: Christina Walthour
Employer: Remedy Intelligent Staffing, Inc.
DOI: 07/19/2019
File No.: 189045476-001
WCC No.: 1925084

Dear Ms. Bracy:

Please find enclosed for filing with the Commission a Form 51 *Employer's Answer to Request for Hearing* regarding the above-referenced claim. If you have any questions or need further information, please do not hesitate to contact us at (843) 471-1015.

Sincerely,

MINGLEDORFF & PATTERSON, LLC



Michael E. Patterson, Jr.

MEP/map

Enclosure

cc (w/ enc.): Gary Christmas, Esq. (via email)
Mallory Maslar (via email)
Jackie Duncan (via email)

South Carolina Workers' Compensation Commission

1333 Main Street, Suite 500 • Post Office Box 1715

Columbia, South Carolina 29202-1715

(803) 737-5675 www.wcc.sc.govWCC File #: **1925084**Carrier File #: **189045476-001**

Carrier Code #:

Employer FEIN #:

Claimant's Name: Christina Walthour SSN: 423-84-1388Address: 116 Rosecliff CircleCity: Hopkins State: SC Zip: 29061Home Phone: (919) 353-6026 Work Phone: () -Date of Injury: 07/11/2019Employer's Name: Remedy Intelligent Staffing, Inc. (Employbridge)Address: 14 Brozzini CourtCity: Greenville State: SC Zip: 29615Insurance Carrier: XL Insurance America, Inc.Preparer's Name: Michael E. Patterson, Jr. Law Firm: Mingledorff & Patterson, LLC Preparer's Phone #: (843) 471-1015**Date of Injury or Illness: 07/11/2019****Estimated time for hearing: 2 hours****Complete each information blank. Clearly specify when contentions are admitted in part and denied in part. The Employer/Carrier in answer to the claim, respectfully shows:**

1. It is **Denied** the employee sustained an injury or illness on or about the date set forth in the Form 50. The reasons for denial are:
Employer/Carrier deny claimant suffered an injury by accident as required by the Act. Claimant did not suffer any injury arising out of or in the course and scope of her employment duties. Any injury Claimant may have is pre-existing, personal in nature and not related to her employment duties. Furthermore, since Claimant's alleged date of injury, she has been involved in at least one motor vehicle collision, and thus Employer/Carrier contend any and all of Claimant's alleged injuries are the result of this motor vehicle collision. If it is determined that Claimant did have some compensable injury, then Employer/Carrier contend that the motor vehicle collision is an intervening accident which breaks the causal chain. Finally, and in the alternative, if Claimant did in fact have an accident and did in fact suffer any compensable injury on July 11, 2019, then it was medical only in nature and Claimant returned to work full duty on July 16, 2019.
2. It is **Admitted** 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** the relationship of employer and employee existed at the time in question. The reasons for denial are:

4. It is **Denied** at the time in question the employee was performing services arising out of and in the course of employment. The reasons for denial are:
See the Response to Number 1 above.
5. It is **Admitted in part / Denied in part** notice of injury was given the employer. The reasons for denial are:
Employer/Carrier admit Claimant reported an alleged accident with alleged injury to her low back and left shoulder. Employer/Carrier deny Claimant provided notice of any other alleged accident or any other alleged injury to any other body part(s). See also the Response to Number 1 above.
6. It is **Denied** the employee **Needs / Is Entitled to Additional** medical care as a result of injury or illness. The reasons for denial are:
See the response to Number 1 above.
7. It is **Denied** the employee is entitled to temporary total disability for the period(s) of:
See the Response to Number 1 above.
8. It is **Denied** the employee is permanently disabled. The reasons for denial are:
See the Response to Number 1 above.
9. It is **Denied** the employee has serious disfigurement.
10. It is contended that an average weekly wage of **\$ 402.91** applies, according to attached Form 20 as provided by law.
11. Further contentions, grounds of defense, or unusual aspects are:
See Attached Addendum. See also the Response to Number 1 above.

☐ **Mediation**

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

Questions regarding mediation may be submitted to mediation@wcc.sc.gov.**I certify I have served this document pursuant to Reg. 67-211 by delivering a copy to Gary Christmas, Esq. Address: P.O. Box 1896, Mt. Pleasant SC 29465; gc@gchristmaslaw.com on the 25th day of June 2021, by:**☐ first class postage ☐ certified mail ☐ personal service ☒ electronic service**I verify the contents of this form are accurate and true to the best of my knowledge.**

0046



Attorney for Employer/Carrier

michael@mptrial.com

June 25, 2021

Preparer's Signature

Title

Email

Date

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

WCC Form # 51

Revised 07/15

51

Employer's Answer to Request for Hearing

Christina Walthour vs. Remedy Intelligent Staffing, Inc. (Employbridge)

WCC Number: 1925084

11. Further contentions or grounds of defense are: All affirmative and specific defenses (see Reg. 67-603), including, but not limited to §42-1-360, § 42-9-60, § 42-15-20, § 42-15-40, § 42-17-90; and, upon information and belief, fraud in the application for employment pursuant to Cooper v. McDevitt & Street Co., 260 S.C. 463, 196 S.E.2d 833 (1973); election of remedies; intervening trauma; no compensable injury by accident under § 42-1-160; upon information and belief, the degree of disability, if any, attributable to this injury is speculative; upon information and belief, claimant's problems are personal in nature and not work-related; defendant-insurer reserves the right to amend this Answer and plead any applicable additional defenses.

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

CHRISTINA WALTHOUR,

Claimant;

vs.

REMEDY INTELLIGENT STAFFING, INC.
(EMPLOYBRIDGE),

Employer;

and

XL INSURANCE AMERICAN, INC.,

Carrier.

WCC FILE NO.: 1925084

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing **FORM 51** has been served upon all party(s), by forwarding a copy via electronic mail, addressed as shown below on this 25th day of June 2021.

Amy Bracy
Judicial Department
SC Workers' Compensation Commission
Post Office Box 1715
Columbia, SC 29202-1715
judicialanalysts@wcc.sc.gov

Gary Christmas, Esq.
Christmas Law Firm
P.O. Box 1896
Mt. Pleasant, SC 29465
gc@gchristmaslaw.com



Michael E. Patterson, Jr.
South Carolina Bar No. 78437
MINGLEDORFF & PATTERSON, LLC
245 Seven Farms Drive, Ste. 310, Box 13
Charleston, South Carolina 29492
(843) 471-1015 – Telephone
Attorney for Employer/Carrier



P.O. Box 1896 | Mount Pleasant, SC 29465

GARY CHRISTMAS*

gc@gchristmaslaw.com

*Certified Circuit Court Mediator

250 Mathis Ferry Road; Suite 102

Mount Pleasant, SC 29464

REESE M. STIDHAM, IV

reese@gchristmaslaw.com

105 S. Cedar St., Suite D | Summerville, SC 29483

P: (843) 535-8000

F: (843) 884-2007

October 13, 2021

VIA U.S. MAIL

ATTN: Amy Bracy, Judicial Department

SC Workers' Compensation Commission

P.O. Box 1715

Columbia, SC 29202-1715

RE: Christina Walthour vs. Remedy Intelligent Staffing Inc, et al

WCC#: 1925084

Date of Accident: July 12, 2019

Dear Ms. Bracy:

Enclosed for filing, please find the original and one (1) copy of the Claimant's Form 50 Employee's Notice of Claim and Request for Hearing along with our \$50.00 filing fee for same. I am requesting that a Hearing be scheduled as soon as possible. Please return a clocked copy in the enclosed self-addressed, stamped envelope provided.

Thank you very much for your time and attention regarding this matter.

Very truly yours,

Gary Christmas

GC/kri

6552

Enclosures

479782

SCWCC

OCT 15 2021

JUDICIAL

0050

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
P. O. Box 1715 * 1612 Marion Street
Columbia, South Carolina 29202-1715

WCC File #: 1925084

Carrier File #:

Carrier Code #:

Employer FEIN #:

Claimant's Name: Christina Walthour

Employer's Name: Remedy Intelligent Staffing Inc, et al

Address: 116 Rosecliff Circle

Address: 1001 Carolina Pines Drive

City: Hopkins State: S.C. Zip: 29061

City: Blythewood State: SC Zip: 29016-7786

Home Phone: 843-809-8327 Work Phone:

Insurance Carrier: XL Insurance America, Inc./AXA XL CLAIMS

Preparer's Name: Gary Christmas, Esquire Law Firm: Christmas Injury Lawyers, LLC

Preparer's Phone Number: (843) 535-8000

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

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

1. The claimant sustained an injury to her head, cervical spine (including central cord syndrome, incomplete and/or complete tetraplegia/quadriplegia/paraplegia, severe spinal cord injury and compression at multiple levels, myelopathy, sensory deficits and motor deficits), right shoulder, right upper extremity radiculopathy, right wrist, right hand, right fingers, right thumb, left shoulder, left upper extremity radiculopathy, left wrist, left hand, left fingers, left thumb, thoracic spine, lumbar spine, right hip, right lower extremity radiculopathy, left hip and left lower extremity radiculopathy on or about July 12, 2019, in Richland County, State of South Carolina.

2. Body part(s) affected are: See number one above.

Briefly describe how the accident occurred: Claimant was injured while pulling pallets down and felt immediate pain.

3. Both the Claimant and the employer were subject to the South Carolina Workers' Compensation Act at the time of injury.

4. The relationship of employer and employee existed at the time of injury.

5. At the time of the injury the claimant was performing services arising out of and in the course of employment.

6. Notice of the accidental injury was given to the employer on 7/12/19 in the following manner:
Claimant informed employer.

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

☒ (a) medical examination and treatment for: All of Claimant's work-related injuries as recommended by Dr. Shailesh Patel.
☐ (b) additional medical examination and treatment for:

- ☒ 8. Due to injury, the Claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of: to be determined.

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

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

9a. Claimant at MMI: ☐ Yes ☒ No

10. Due to the injury, the Claimant as a serious bodily disfigurement consisting of: See number 1 above.

- 10 a. At the time of injury, the Claimant was paid weekly wages of \$to be determined, 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: Upon information and belief, employer.

11. Further grounds or unusual aspects of Claim: Claimant has not yet reached maximum medical improvement, therefore, permanency is premature to determine at this time. Claimant is seeking the medical treatment as recommended by Dr. Shailesh Patel. Claimant is seeking past and future medical care and treatment pursuant to §42-15-60 and/or Dodge vs. Brucoli, Clark, Layman, Inc., 334 SC 574, 514 SE2d 593 (Ct. App. 1999). To determine Claimant's correct average weekly wage and compensation rate. To determine whether Claimant is entitled to TTD benefits for any and all periods she has not been able to work due to her work accident and injuries. To determine whether Claimant is entitled to reimbursement for traveling to and from causally related medical treatment and whether he is entitled to reimbursement for any and all out of pocket expenses. Claimant requests the Commission to approve allocation of proposed settlement proceeds over his/her life expectancy pursuant to Section 19-1-150 of the South Carolina Code of Laws, and Section 42-9-10

of the South Carolina Workers' Compensation Act, 1976, as amended, and as interpreted by the South Carolina Supreme Court in the decision of James vs. Anne's 390 S.C. 188, 701 S.E.2d 730 and Utica Mohawk Mills vs. Orr 227 S.C. 226, 87 S.E.2d 589 (Ct. App. 2006). Claimant and Claimant's attorney request a lump sum payment of any award. To determine whether Claimant is entitled to any and all other benefits due under the Act.

11a. List names and addresses of all physicians or other medical specialists who have seen or treated the claimant as a result of the accident: Paul Douglas DeHoll, Palmetto Health USC, 101 Business Park Blvd, Suite D, Columbia, SC 29203, Doctors Care, 7653 Garners Ferry Road, Columbia, SC 29209, Palmetto Health-USC Orthopedic Center - Lexington, 104 Saluda Pointe Dr, Lexington, SC 29072, Prisma Health Hospital, 5 Richland Medical Park, Columbia, SC 29203; Shailesh Patel, Lowcountry Orthopaedics & Sports Medicine 2880 Tricom Street, North Charleston, SC 29406.

11b. To the best of your knowledge, did you have any prior permanent disability? Upon information and belief, yes.
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.

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

☒ 14. I am requesting a hearing. A \$50.00 fee is required.

☐ Mediation

☐a. Mediation is requested to be ordered pursuant to Reg. 67-1801 B.

☐b. Mediation is required pursuant to Reg. 67-1802.

☐c. Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.

☐d. Mediation has been conducted by a duly qualified mediator and resulted in an impasse.

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

I certify I have served this document pursuant to Reg. 67-211 by delivering a copy to Christopher C. Mingledorff and Michael Patterson, Mingledorff & Patterson, 245 Seven Farms Drive, Ste. 310 Box 13, Charleston SC 29492; on the 13th day of October, 2021, 2021 by:

☐ first class postage

☐ certified mail

☐ personal service

☒ electronic service at chris@mptrial.com and michael@mptrial.com ✓

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

	<u>Attorney For Claimant</u>	<u>gary@gchristmaslaw.com</u>	<u>October 13, 2021</u>
Preparer's Signature	Title	E-Mail	Date

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

WCC FORM # 50

Rev. Date 1/19

50

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

MINGLEDORFF & PATTERSON

— ATTORNEYS AT LAW —

Michael E. Patterson, Jr.
Licensed in SC
michael@mptrial.com

November 12, 2021

Via Email

Amy Bracy
Judicial Department
SC Workers' Compensation Commission
Post Office Box 1715
Columbia, SC 29202-1715
judicialanalysts@wcc.sc.gov

RE: Claimant: Christina Walthour
Employer: Remedy Intelligent Staffing, Inc.
DOI: 07/11/2019
File No.: 189045476-001
WCC No.: 1925084

Dear Ms. Bracy:

Please find enclosed for filing with the Commission a Form 51 *Employer's Answer to Request for Hearing* regarding the above-referenced claim. If you have any questions or need further information, please do not hesitate to contact us at (843) 471-1015.

Sincerely,

MINGLEDORFF & PATTERSON, LLC



Michael E. Patterson, Jr.

MEP/map
Enclosure

cc (w/ enc.): Gary Christmas, Esq. (via email)
Mallory Maslar (via email)
Jackie Duncan (via email)

South Carolina Workers' Compensation Commission

1333 Main Street, Suite 500 • Post Office Box 1715

Columbia, South Carolina 29202-1715

(803) 737-5675 www.wcc.sc.govWCC File #: **1925084**Carrier File #: **189045476-001**

Carrier Code #:

Employer FEIN #:

Claimant's Name: Christina Walthour SSN: 423-84-1388Address: 116 Rosecliff CircleCity: Hopkins State: SC Zip: 29061Home Phone: (919) 353-6026 Work Phone: () -Date of Injury: 07/11/2019Employer's Name: Remedy Intelligent Staffing, Inc. (Employbridge)Address: 14 Brozzini CourtCity: Greenville State: SC Zip: 29615Insurance Carrier: XL Insurance America, Inc.Preparer's Name: Michael E. Patterson, Jr. Law Firm: Mingledorff & Patterson, LLC Preparer's Phone #: (843) 471-1015**Date of Injury or Illness: 07/11/2019****Estimated time for hearing: 2 hours****Complete each information blank. Clearly specify when contentions are admitted in part and denied in part. The Employer/Carrier in answer to the claim, respectfully shows:**

1. It is **Denied** the employee sustained an injury or illness on or about the date set forth in the Form 50. The reasons for denial are:
Employer/Carrier deny claimant suffered an injury by accident as required by the Act. Claimant did not suffer any injury arising out of or in the course and scope of her employment duties. Any injury Claimant may have is pre-existing, personal in nature and not related to her employment duties. Furthermore, since Claimant's alleged date of injury, she has been involved in at least one motor vehicle collision, and thus Employer/Carrier contend any and all of Claimant's alleged injuries are the result of this motor vehicle collision. If it is determined that Claimant did have some compensable injury, then Employer/Carrier contend that the motor vehicle collision is an intervening accident which breaks the causal chain. Finally, and in the alternative, if Claimant did in fact have an accident and did in fact suffer any compensable injury on July 11, 2019, then it was medical only in nature and Claimant returned to work full duty on July 16, 2019. Claimant was released to MMI and returned to work full duty on July 16, 2019.
2. It is **Admitted** 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** the relationship of employer and employee existed at the time in question. The reasons for denial are:
4. It is **Denied** at the time in question the employee was performing services arising out of and in the course of employment. The reasons for denial are:
See Response to Number 1 above.
5. It is **Admitted in part / Denied in part** notice of injury was given the employer. The reasons for denial are:
Employer/Carrier admit Claimant reported an alleged accident with alleged injury to her low back and left shoulder. Employer/Carrier deny Claimant provided notice of any other alleged accident or any other alleged injury to any other body part(s). See also Response to Number 1 above.
6. It is **Denied** the employee **Needs / Is Entitled to Additional** medical care as a result of injury or illness. The reasons for denial are:
See response to Number 1 above.
7. It is **Denied** the employee is entitled to temporary total disability for the period(s) of :
See the Response to Number 1 above.
8. It is **Denied** the employee is permanently disabled. The reasons for denial are:
See the Response to Number 1 above.
9. It is **Denied** the employee has serious disfigurement.
10. It is contended that an average weekly wage of **\$ 402.91** applies, according to attached Form 20 as provided by law.
11. Further contentions, grounds of defense, or unusual aspects are:
See attached Addendum. See also the Response to Number 1 above.

☐ **Mediation**

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

Questions regarding mediation may be submitted to mediation@wcc.sc.gov.**I certify I have served this document pursuant to Reg. 67-211 by delivering a copy to Gary Christmas, Esq. Address: P.O. Box 1896, Mt. Pleasant SC 29465; gc@gchristmaslaw.com on the 12th day of November 2021, by:**☐ first class postage ☐ certified mail ☐ personal service ☒ electronic service**I verify the contents of this form are accurate and true to the best of my knowledge.**

Attorney for Employer/Carrier

0054

michael@mptrial.com

November 12, 2021

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

WCC Form # 51

Revised 07/15

51

Employer's Answer to Request for Hearing

Christina Walthour vs. Remedy Intelligent Staffing, Inc. (Employbridge)

WCC Number: 1925084

11. Further contentions or grounds of defense are: All affirmative and specific defenses (see Reg. 67-603), including, but not limited to §42-1-360, § 42-9-60, § 42-15-20, § 42-15-40, § 42-17-90; and, upon information and belief, fraud in the application for employment pursuant to Cooper v. McDevitt & Street Co., 260 S.C. 463, 196 S.E.2d 833 (1973); election of remedies; intervening trauma; no compensable injury by accident under § 42-1-160; upon information and belief, the degree of disability, if any, attributable to this injury is speculative; upon information and belief, claimant's problems are personal in nature and not work-related; defendant-insurer reserves the right to amend this Answer and plead any applicable additional defenses.

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

CHRISTINA WALTHOUR,

Claimant;

vs.

REMEDY INTELLIGENT STAFFING, INC.
(EMPLOYBRIDGE),

Employer;

and

XL INSURANCE AMERICA, INC.,

Carrier.

WCC FILE NO.: 1925084

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing **FORM 51** has been served upon all party(s), by forwarding a copy via electronic mail, addressed as shown below on this 12th day of November 2021.

Amy Bracy
Judicial Department
SC Workers' Compensation Commission
Post Office Box 1715
Columbia, SC 29202-1715
judicialanalysts@wcc.sc.gov

Gary Christmas, Esq.
Christmas Law Firm
P.O. Box 1896
Mt. Pleasant, SC 29465
gc@gchristmaslaw.com



Michael E. Patterson, Jr.
South Carolina Bar No. 78437
MINGLEDORFF & PATTERSON, LLC
245 Seven Farms Drive, Ste. 310, Box 13
Charleston, South Carolina 29492
(843) 471-1015 – Telephone
Attorney for Employer/Carrier

 CHRISTMAS INJURY LAWYERS
WORK ACCIDENTS • AUTO ACCIDENTS • PERSONAL INJURY

P.O. Box 1896 | 250 Mathis Ferry Road, Suite 102, Mount Pleasant, SC 29464*

GARY CHRISTMAS
INJURY LAWYER
gc@gchristmaslaw.com
Certified Circuit Court Mediator

105 S. Cedar Street, Suite D, Summerville, SC 29483

1495 Remount Road, North Charleston, SC 29419

3135 Millwood Avenue, Suite A3, Columbia, SC 29205

 www.christmasinjurylawyers.com

 P: (843) 535-8000

 F: (843) 884-2007

WILLIAM O. SWEENEY, IV
INJURY LAWYER
billy@gchristmaslaw.com

ROBERT C. LIMEHOUSE, III
INJURY LAWYER
trey@gchristmaslaw.com

* All mail should be directed to the Mt. Pleasant
office where files are principally handled. *

September 1, 2023

South Carolina Workers' Compensation Commission
Attention: Amy Bracy, Judicial Director
Post Office Box 1715
Columbia, South Carolina 29202-1715

(M)

RE: *Christina Bradshaw (née Walthour) vs. Remedy Intelligent Staffing, Inc.*
SCWCC No.: 1925084
D/Loss: 07/11/2019

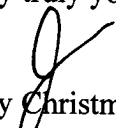
Dear Ms. Bracy:

As you are aware, my firm has been retained to represent the Claimant, Ms. Bradshaw, relative to injuries she sustained while working as an employee of Remedy Intelligent Staffing, Inc. on or about 07/11/2019. Enclosed herewith please find the Claimant's Form 50 Request for Hearing along with the requisite \$50.00 filing fee for same.

Should you have any question in this regard, please do not hesitate to contact my office.

With kindest regards, I am

Very truly yours,


Gary Christmas, Esq.

GC/sec
Enclosures (as stated)

6552

10-1-23

Cc: Christopher Mingledorff, Esq. (via e-mail chris@mptrial.com)

#535598

0058

SCWCC

SEP 07 2023

JUDICIAL

South Carolina Workers' Compensation Commission

1333 Main Street, Suite 500 • Post Office Box 1715

Columbia, South Carolina 29202-1715

(803) 737-5723 www.wcc.sc.govWCC File #: **1925084**

Carrier File #: _____

Carrier Code #: _____

Employer FEIN #: _____

Claimant's Name: Christina Bradshaw (née Walthour) SSN: 423841388

Employer's Name: Remedy Intelligent Staffing, Inc.

Address: 1405 North Miles Street

Address: 1001 Carolina Pines Drive

City: Elizabethtown State: KY Zip: 42701

City: Blythewood State: SC Zip: 29016

Home Phone: (850) 326-6082 () -

Insurance Carrier: XL Insurance America, Inc.

Preparer's Name: Gary Christmas, Esq.

Law Firm: Christmas Injury Lawyers

Preparer's Phone #: (843) 535 - 8000

A claim for workers' compensation benefits is made based on the following grounds:☒ Injury ☐ Illness ☐ Repetitive Trauma ☐ Occupational Disease ☐ Physical Brain Injury ☐ Concurrent Jurisdiction

1. The claimant sustained an injury to head, cervical spine (including central cord syndrome, incomplete and/or complete tetraplegia/ quadriplegia/ paraplegia, severe spinal cord injury and compression at multiple levels, myelopathy, sensory deficits and motor deficits), right shoulder, right upper extremity radiculopathy, right wrist, right hand, right fingers, right thumb, left shoulder, left upper extremity radiculopathy, left wrist, left hand, left fingers, left thumb, thoracic spine, lumbar spine, right hip, right lower extremity radiculopathy, left hip and left lower extremity radiculopathy (Part(s) of Body Injured) on 07/11/2019 (Month/Day/Year) in Richland county, state of South Carolina.

2. Body part(s) affected are: See Number 1 above.

Briefly describe how the accident occurred. Claimant was injured while pulling pallets down and felt immediate pain.

3. Both the claimant and the employer were subject to the South Carolina Workers' Compensation Act at the time of injury.

4. The relationship of employer and employee existed at the time of injury.

5. At the time of the injury the claimant was performing services arising out of and in the course of employment.

6. Notice of the accidental injury was given to the Employer on 07/11/2019 (Month/Day/Year) in the following manner:
Verbal

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

☐ (a) medical examination and treatment for: _____

☐ (b) additional medical examination and treatment for: _____

☒ 8. Due to injury, the claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of:
To be determined.

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

☒ (1) General Disability: ☒ Total ☒ Partial

☐ (2) Specific Disability: ☐ Total ☐ Partial

☒ (3) Wage Loss

9a. Claimant at MMI: ☒ Yes ☐ No

☒ 10. Due to the injury, the Claimant has a serious bodily disfigurement consisting of:
See Number 1 above.

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:
Remedy Intelligent Staffing, Inc., 116 Rosediff Circle, , South Carolina

11. Further grounds or unusual aspects of claim:

To determine the extent of the Claimant's disability pursuant to the S.C. Code Ann. §§ 42-9-10 – 42-9-30 (1976, as amended); S.C. Code Ann. Regs. 67-1101 (1976, as amended). To determine the Claimant's correct average weekly wage and compensation rate. To determine whether the Claimant is entitled to reimbursement for traveling to and from causally related medical treatment and whether the Claimant is entitled to reimbursement for any out-of-pocket expenses. To determine whether the Claimant is entitled to any other benefits due under the South Carolina Workers' Compensation Act. The Claimant is seeking past and future medical care and treatment pursuant to S.C. Code Ann. § 41-15-60 (1976, as amended) and *Dodge v. Brucoli, Clark, Layman, Inc.*, 334 S.C. 574, 514 S.E.2d 593 (Ct. App. 1999). The Claimant requests the Commission to approve allocation of proposed settlement proceeds over the Claimant's life expectancy pursuant to S.C. Code Ann. §§ 19-1-150, 42-9-10 (1976, as amended) and as interpreted by the South Carolina Supreme Court in its decision of *James v. Anne's, Inc.*, 390 S.C. 188, 701 S.E.2d 730 (2010) and *Utica-Mohawk Mills v. Orr*, 227 S.C. 226, 87 S.E.2d 589 (1955). The Claimant and the Claimant's attorney request a lump sum payment of any award.

11a. List names and addresses of all physicians or other medical specialists who have seen or treated the Claimant as a result of the accident:
Paul Douglas DeHoll, Palmetto Health USC, 101 Business Park Blvd, Suite D, Columbia, SC 29203, Doctors Care, 7653 Garners Ferry Road, Columbia, SC 29209, Palmetto Health-USC Orthopedic Center - Lexington, 104 Saluda Pointe Dr, Lexington, SC 29072, Prisma Health Hospital, 5 Richland Medical Park, Columbia, SC 29203; Shailesh Patel, Lowcountry Orthopaedics & Sports Medicine, 2880 Tricom Street, North Charleston, SC 29406.

11b. To the best of your knowledge, did you have any prior permanent disability? Upon information and belief, yes.
If yes, describe: Anxiety, depression, left wrist, right wrist de quervains denosynovits. Upon information and belief, Claimant had no prior treatment for her cervical spine

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.

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

Estimated time needed for hearing: 1 Hour

☒ 14. I am requesting a hearing. A \$50 fee is required.

☒ **Mediation**

☒ a. Mediation is requested to be ordered pursuant to Reg. 67-1801 b.

☐ b. Mediation is required pursuant to Reg. 67-1802.

0059

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

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

I certify I have served this document pursuant to Reg. 67-211 by delivering a copy to Christopher Mingledorff, Esq., Mingledorff & Patterson, 245 Seven Farms Drive, Charleston, South Carolina 29492 on September 1, 2023, by ☐ first class postage ☐ certified mail ☐ personal service ☒ electronic service

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

<u>Preparer's Signature</u>	<u>Attorney</u>	<u>gc@gchristmaslaw.com</u>	<u>September 1, 2023</u>
	<u>Title</u>	<u>Email</u>	<u>Date</u>

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

WCC Form # 50
Revised 1/19

50

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

BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
SCWCC FILE NO.: 1925084

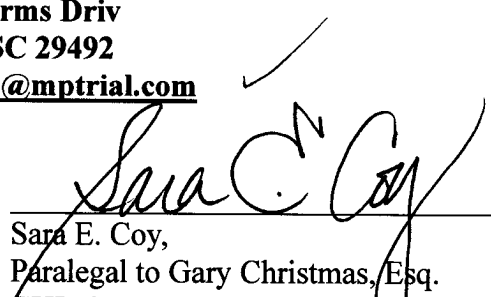
Christina Walthour,)
)
 Claimant,)
)
 versus)
)
 Remedy Intelligent Staffing, Inc.,)
)
 Employer,)
)
 and)
)
 XL Insurance America, Inc.,)
)
 Carrier,)
)
 Defendants.)

CERTIFICATE OF SERVICE

I, Sara E. Coy, do hereby certify that I have served the following documents, by forwarding a copy of same via email on the date shown below as follows:

Document Served: Form 50 Request for Hearing

**Persons Served: Christopher Mingledorff, Esq.
Mingledorff & Patterson
245 Seven Farms Driv
Charleston, SC 29492
E-Mail: chris@mptrial.com**



Sara E. Coy,
Paralegal to Gary Christmas, Esq.
CHRISTMAS INJURY LAWYERS
250 Mathis Ferry Road, Suite 102
Charleston, SC 29492
Phone: (843)535-8000
Facsimile: (843)884-2007
E-Mail: wcp paralegal@gchristmaslaw.com
Attorneys for the Claimant, Christina Walthour

Dated: September 1, 2023
Mount Pleasant, South Carolina

MINGLEDORFF & PATTERSON

— ATTORNEYS AT LAW —

Michael E. Patterson, Jr.
Licensed in SC
michael@mptrial.com

September 29, 2023

Via Email

Amy Bracy
Judicial Department
SC Workers' Compensation Commission
P.O. Box 1715
Columbia, SC 29202-1715
judicialanalysts@wcc.sc.gov

RE: Claimant: Christina Bradshaw (née Walthour)
Employer: EmployBridge/Remedy Intelligent Staffing, Inc.
DOI: 07/11/2019
File No.: 189045476-001
WCC No.: 1925084

Dear Ms. Bracy:

Please find enclosed for filing with the Commission a Form 51 *Employer's Answer to Request for Hearing* regarding the above-referenced claim. If you have any questions or need further information, please do not hesitate to contact us at (843) 471-1015.

Sincerely,

MINGLEDORFF & PATTERSON, LLC



Michael E. Patterson, Jr.

MEP/map

Enclosure

cc (w/ enc.): Gary Christmas, Esq. (via email)
Maritza Montalvo (via email)

South Carolina Workers' Compensation Commission

1333 Main Street, Suite 500 • Post Office Box 1715

Columbia, South Carolina 29202-1715

(803) 737-5700 www.wcc.sc.govWCC File #: **1925084**Carrier File #: **189045476-001**

Carrier Code #:

Employer FEIN #:

Claimant's Name: Christina Bradshaw (née Walthour) SSN: 423-84-1388Address: 1405 North Miles StreetCity: Elizabethtown State: KY Zip: 42701Home Phone: (850) 326-6082 Work Phone: () -Date of Injury: 07/11/2019Employer's Name: Employbridge/Remedy Intelligent Staffing, et alAddress: 14 Brozzini CourtCity: Greenville State: SC Zip: 29615Insurance Carrier: XL Insurance America Inc.Preparer's Name: Michael E. Patterson, Jr. Law Firm: Mingledorff & Patterson, LLC Preparer's Phone #: (843) 471-1015**Date of Injury or Illness: 07/11/2019****Estimated time for hearing: 2 hours****Complete each information blank. Clearly specify when contentions are admitted in part and denied in part. The Employer/Carrier in answer to the claim, respectfully shows:**

1. It is **Denied** the employee sustained an injury or illness on or about the date set forth in the Form 50. The reasons for denial are:
Employer/Carrier deny claimant suffered an injury by accident as required by the Act. Claimant did not suffer any injury arising out of or in the course and scope of her employment duties. Any injury Claimant may have is pre-existing, personal in nature and not related to her employment duties. Furthermore, since Claimant's alleged date of injury, she has been involved in at least one motor vehicle collision, and thus Employer/Carrier contend any and all of Claimant's alleged injuries are the result of this motor vehicle collision. If it is determined that Claimant did have some compensable injury, then Employer/Carrier contend that the motor vehicle collision is an intervening accident which breaks the causal chain. Finally, and in the alternative, if Claimant did in fact have an accident and did in fact suffer any compensable injury on July 11, 2019, then it was medical only in nature and Claimant returned to work full duty on July 16, 2019. Claimant was released to MMI and returned to work full duty on July 16, 2019.
2. It is **Admitted** 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** the relationship of employer and employee existed at the time in question. The reasons for denial are:
4. It is **Denied** at the time in question the employee was performing services arising out of and in the course of employment. The reasons for denial are:
See Response to Number 1 above.
5. It is **Admitted in part / Denied in part** notice of injury was given the employer. The reasons for denial are:
Employer/Carrier admit Claimant reported an alleged accident with alleged injury to her low back and left shoulder. Employer/Carrier deny Claimant provided notice of any other alleged accident or any other alleged injury to any other body part(s). See also Response to Number 1 above.
6. It is **Denied** the employee **Needs / Is Entitled to Additional** medical care as a result of injury or illness. The reasons for denial are:
See response to Number 1 above.
7. It is **Denied** the employee is entitled to temporary total disability for the period(s) of :
See response to Number 1 above.
8. It is **Denied** the employee is permanently disabled. The reasons for denial are:
See response to Number 1 above.
9. It is **Denied** the employee has serious disfigurement.
10. It is contended that an average weekly wage of **\$ 402.91** applies, according to attached Form 20 as provided by law.
11. Further contentions, grounds of defense, or unusual aspects are:
See attached Addendum. Also, see response to Number 1 above.

☐ **Mediation**

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

Questions regarding mediation may be submitted to mediation@wcc.sc.gov.**I certify I have served this document pursuant to Reg. 67-211. See attached certificate of service.****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

michael@mptrial.com

Email

09/29/2023

Date

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

WCC Form # 51

Revised 09/23

**0063
51****Employer's Answer to Request for Hearing**

Christina Bradshaw (née Walthour) vs. Remedy Intelligent Staffing, Inc. (Employbridge)

WCC Number: 1925084

11. Further contentions or grounds of defense are: All affirmative and specific defenses (see Reg. 67-603), including, but not limited to §42-1-360, § 42-9-60, § 42-15-20, § 42-15-40, § 42-17-90; and, upon information and belief, fraud in the application for employment pursuant to Cooper v. McDevitt & Street Co., 260 S.C. 463, 196 S.E.2d 833 (1973); election of remedies; intervening trauma; no compensable injury by accident under § 42-1-160; upon information and belief, the degree of disability, if any, attributable to this injury is speculative; upon information and belief, claimant's problems are personal in nature and not work-related; defendant-insurer reserves the right to amend this Answer and plead any applicable additional defenses.

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

CHRISTINA WALTHOUR,	)	
	)	
Claimant;	)	
	)	WCC FILE NO.: 1925084
vs.	)	
	)	
REMEDY INTELLIGENT STAFFING, INC.	)	CERTIFICATE OF SERVICE
(EMPLOYBRIDGE),	)	
	)	
Employer;	)	
	)	
and	)	
	)	
XL INSURANCE AMERICA, INC.,	)	
	)	
Carrier.	)	

This is to certify that a copy of the foregoing **FORM 51** has been served upon all party(s) by forwarding a copy via electronic mail addressed as shown below on this 29th day of September 2023.

Amy Bracy
Judicial Department
SC Workers' Compensation Commission
P.O. Box 1715
Columbia, SC 29202-1715
judicialanalysts@wcc.sc.gov

James G. Christmas, Esq.
Christmas Law Firm
250 Matthis Ferry Rd., Ste. 102
Mt. Pleasant, SC 29464
gc@gchristmaslaw.com
Attorney for Claimant



Michael E. Patterson, Jr.
South Carolina Bar No. 78437
MINGLEDORFF & PATTERSON, LLC
245 Seven Farms Dr., Ste. 310, Box 13
Charleston, South Carolina 29492
(843) 471-1015 – Telephone
Attorney for Employer/Carrier

MINGLEDORFF & PATTERSON

— ATTORNEYS AT LAW —

Michael E. Patterson, Jr.
Licensed in SC
michael@mptrial.com

April 30, 2024

Via E-File

Amy Bracy
Judicial Department
S.C. Workers' Compensation Commission
P.O. Box 1715
Columbia, SC 29202-1715

RE: Claimant: Christina Bradshaw (née Walthour)
Employer: Employbridge/Remedy Intelligent Staffing Inc, et al
DOI: 07/11/2019
File No.: 189045476-001
WCC No.: 1925084

Dear Ms. Bracy:

Please find enclosed our Form 30 *Request for Commission Review* in this matter. If you have any questions or concerns, please contact me at (843) 471-1015.

Sincerely,

MINGLEDORFF & PATTERSON, LLC



Michael E. Patterson, Jr.

MEP/mpk
Enclosures

cc: James G. Christmas, Esq. (via email)
Maritza Montalvo (via email)



Claimant's Name: Christina Bradshaw (née Walthour) SSN: 423 - 84 - 1388 Employer's Name: Remedy Intelligent Staffing, Inc./EmployBridge
Address: 2478 Settlement Road Address: 14 Brozzini Court
City: Sylacauga State: AL Zip: 35150 City: Greenville State: SC Zip: 29615
Home Phone: () - Work Phone: () - Insurance Carrier: XL Insurance America Inc.
Preparer's Name: Michael E. Patterson, Jr. Law Firm: Mingledorff & Patterson, LLC Preparer's Phone #: (843) 471- 1015

REQUEST FOR COMMISSION REVIEW

Request for Commission Review by ☐ Claimant ☒ Employer (check one) Date of Injury or Illness: 7/11/2019
(m/d/yyyy)

The undersigned makes application for review of the findings of the Commissioner in the above-captioned case. The request for review is based on the following grounds: (State the grounds of your appeal in the form of questions presented. Each question presented must contain a concise statement of one proposition of law or fact. Refer to evidence by title and exhibit number. Use additional pages if necessary).

See attached Addendum A: Assignments of Error.

(Check one) Oral argument ☒ is ☐ is not requested. Appellant's request for oral argument is waived if not indicated on this form.
I certify I have served this document pursuant to Reg. 67-211. See attached certificate of service.

Preparer's Signature

Attorney for Employer/Carrier
Title

michael@mptrial.com
Email

4/30/2024
Date (m/d/yyyy)

Check this box if you are not represented by an attorney ☐

Questions about the use of this form should be directed to the Judicial Department at 803.737.5675 or appeals@wcc.sc.gov.

If the claimant appeals and is not represented by counsel, the Judicial Department will properly serve this form pursuant to Reg. 67-607 C. Pursuant to Reg. 67-205 and Reg. 701, the appeal must be postmarked no later than 14 days from the date of service of the Decision and Order of the Hearing Commissioner along with the filing fee. Attach a Form 32, if you are unable to pay the filing fee. Refer to Reg. 67-211 and Reg. 67-701 through 711.

Addendum A: ASSIGNMENTS OF ERROR

1. Whether the Commissioner erred in denying Defendants motion for postponement and/or continuance.
2. Whether the Commissioner erred in holding the record open for specific discovery only.
3. Whether the Commissioner erred by failing to find the claim was barred by the doctrine of waiver and laches.
4. Whether the Commissioner erred by finding Claimant credible.
5. Whether the Commissioner erred by finding Claimant suffered a compensable injury.
6. Whether the Commissioner erred by finding Claimant suffered a compensable injury to her cervical spine.
7. Whether the Commissioner erred by finding any portion of the claim compensable after July 16, 2019.
8. Whether the Commissioner erred by finding Claimant is entitled to back TTD benefits.
9. Whether the Commissioner erred by finding Claimant is entitled to ongoing TTD benefits.
10. Whether the Commissioner erred by finding Claimant is entitled to the payment of past medical treatment.
11. Whether the Commissioner erred by finding Claimant is entitled to future medical treatment pursuant to the South Carolina Workers' Compensation Act.
12. Whether the Commissioner erred by finding Claimant suffered an injury to her neck on July 11, 2019, when there is no contemporaneous subjective or objective evidence Claimant suffered an injury to her neck on July 11, 2019.
13. Whether the Commissioner erred by failing to find Claimant deprived Defendants of their statutory right to control medical treatment under Section 42-15-80 of the South Carolina Code of Laws, as amended, the South Carolina Workers' Compensation Act, and the South Carolina Workers' Compensation Regulations.
14. Whether the Commissioner erred in relying on any statements of causation from Dr. DeHoll when Dr. DeHoll testified that he did not have a recollection of how Claimant was injured when filling out the questions.
15. Whether the Commissioner erred by failing to find Claimant violated Section 42-15-60(B)(3) of the South Carolina Code of Laws, as amended.
16. Whether the Commissioner erred in finding Claimant was not at maximum medical improvement.

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

Christina Walthour,	)	
	)	
Claimant;	)	WCC FILE NO.: 1925084
	)	
vs.	)	
	)	
Remedy Intelligent Staffing Inc, et al,	)	CERTIFICATE OF SERVICE
	)	
Employer;	)	
	)	
and	)	
	)	
XL Insurance America, Inc.,	)	
	)	
Carrier.	)	

This is to certify that a copy of the foregoing **FORM 30** has been served upon all party(s),
by forwarding a copy via U.S. mail and/or electronic mail or submission, addressed as shown
below on this 30th day of April 2024.

Amy Bracy
Judicial Department
S.C. WCC
P.O. Box 1715
Columbia, SC 29202-1715

James G. Christmas, Esq.
Christmas Law Firm
250 Matthis Ferry Road, Ste. 102
Mt. Pleasant, SC 29464
gc@gchristmaslaw.com
Attorney for Claimant



Michael E. Patterson, Jr.
South Carolina Bar No. 78437
MINGLEDORFF & PATTERSON, LLC
245 Seven Farms Drive, Ste. 310, Box 13
Charleston, South Carolina 29492
(843) 471-1015 – Telephone
(843) 996-1403 – Facsimile
Attorney for Employer/Carrier



Deposition of:
Chun Kim , MD

November 9, 2021

In the Matter of:
**Walthour, Christinav. Remedy
Intelligent Staffing, et al**

Veritext Legal Solutions

800.743.DEPO (3376) | Calendar-carolinas@veritext.com |
www.veritext.com

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

CHRISTINA WALTHOUR,
Claimant,

v.

WCC File No.

REMEDY INTELLIGENT STAFFING, INC.,
Employer,

1925084

and

XL INSURANCE AMERICA, INC.,
Carrier.

VIDEOCONFERENCE DEPOSITION OF
CHUN KIM, M.D.

DATE: Tuesday, November 9, 2021

TIME: 10:19 a.m.

LOCATION: Remote Proceeding

7653 Garners Ferry Road
Columbia, South Carolina 29209

REPORTED BY: Ashley Manini, Notary Public

JOB NO.: 4854009

A P P E A R A N C E S

ON BEHALF OF CLAIMANT CHRISTINA WALTHOUR:

GARY CHRISTMAS, ESQUIRE (by videoconference)
Christmas Injury Lawyers
PO Box 1896 (29465)
25 Mathis Ferry Road, Suite 102
Mt. Pleasant, SC 29464
gary@gchristmaslaw.com
(843) 874-6689

ON BEHALF OF EMPLOYER REMEDY INTELLIGENT STAFFING,
INC., AND CARRIER XL INSURANCE AMERICA, INC.:

MICHAEL E. PATTERSON, ESQUIRE (by
videoconference)
Mingledorff & Patterson
245 Seven Farms Drive, Suite 310 Box 13
Charleston, SC 29492
michael@mptrial.com
(843) 471-1015

A P P E A R A N C E S (Cont'd)

ON BEHALF OF WITNESS CHUN KIM, M.D.:

J. CLAYTON MITCHELL, ESQUIRE (by videoconference)

Gallivan, White & Boyd PA

1201 Main Street, Suite 1200

Columbia, SC 29201

cmitchell@gwblawfirm.com

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I N D E X

EXAMINATION:

PAGE

By Mr. Patterson

7

By Mr. Christmas

14

E X H I B I T S

NO.

DESCRIPTION

PAGE

Exhibit 1

Doctors Care Medical Records

23

(Exhibits retained by counsel.)

P R O C E E D I N G S

THE REPORTER: Good morning. My name is Ashley Manini; I am the reporter assigned by Veritext to take the record of this proceeding. We are now on the record at 10:19 a.m.

This is the deposition of Dr. Chun Kim taken in the matter of Christina Walthour vs. Remedy Intelligent Staffing Incorporated and XL Insurance America Incorporated file number 1925084 on November 9, 2021, at 7653 Garners Ferry Road, Columbia, South Carolina 29209.

I am a notary authorized to take acknowledgements and administer oaths in the state of South Carolina. Parties agree that I will swear in the witness remotely, outside of his presence.

Additionally, absent an objection on the record before the witness is sworn, all parties and the witness understand and agree that any certified transcript produced from the recording virtually of this proceeding:

- is intended for all uses permitted under applicable procedural and evidentiary rules and laws in the same manner as a deposition recorded by stenographic means; and

1 - shall constitute written stipulation
2 of such.

3 At this time will everyone in
4 attendance please identify yourself for the record.

5 MR. PATTERSON: Dr. Kim, my name is
6 Michael Patterson. I'm an attorney in Charleston. I
7 work for the law firm called Mingledorff & Patterson.
8 My firm represents the employer and insurance carrier
9 in this Workers' Compensation matter.

10 MR. CHRISTMAS: Hey, Dr. Kim. This is
11 Gary Christmas. I'm an attorney at Christmas Injury
12 Lawyers. I represent the injured worker, Christina
13 Walthour.

14 MR. MITCHELL: And for the record, I'm
15 Clay Mitchell for the witness, Dr. Kim.

16 THE REPORTER: All right. Dr. Kim,
17 please raise your right hand.

18 WHEREUPON,

19 CHUN KIM, M.D.,
20 called as a witness, and having been first duly sworn
21 to tell the truth, the whole truth and nothing but the
22 truth, was examined and testified as follows:

23 THE REPORTER: All right Counsel, you
24 may begin. Thank you.

25 THE WITNESS: Thank you.

EXAMINATION

BY MR. PATTERSON:

Q All right. Dr. Kim, I have some notes here so I'm going to apologize in advance that if I'm looking down while I'm talking, it's just because I'm looking at my notes. Because usually when I'm talking to somebody, I like to look at them, but I might be looking down, so I'll apologize in advance if you see me looking down; okay?

A I understand. I do the same.

Q Have you ever had your deposition taken before?

A Yes, I did.

Q Okay. And are you familiar with the ground rules? Like just making sure that you give clear yes or no answers and/or explanations because Ms. Manini here has got to take down everything we're saying?

A I do, but I have to say this. English is my second language. I came to United States in 1974 and I am 76 years old so -- and I've been a doctor for 52 years.

Q Well, that is impressive and if at any point I ask a question and you didn't hear me or it didn't make sense, please stop me and I will rephrase the question or do whatever we need to do to make sure

1 we're on the same page; okay?

2 A Okay, I will. Thank you.

3 Q All right. Then I'm going to jump right in.
4 If you could just briefly describe your educational
5 background starting with med school and any residences
6 or fellowships you've had?

7 MR. CHRISTMAS: Michael, I'll
8 just -- it's your deposition and you can ask as much
9 as you want, but if it will save time, we'll stipulate
10 those qualifications being an expert medical doctor.

11 MR. PATTERSON: All right, fair enough.
12 BY MR. PATTERSON:

13 Q Are you currently board certified, Dr. Kim?

14 A Yes.

15 Q And what are you board certified in?

16 A I'm board certified in pediatrics.

17 I've -- I've been doing family practice for 30 -- 35
18 years.

19 Q How long have you been at Doctors Care?

20 A Doctors Care for 35 years.

21 Q Okay. How much of your practice at Doctors
22 Care is devoted to occupational health or Workers'
23 Compensation?

24 A It varies depending on the centers where you
25 work at. Certain centers are close to -- areas, a lot

1 of companies are close to that area, and so the place
2 I -- I work at -- I used to work at, we may see
3 Workers' Comp cases, several cases a day, often.

4 Q Okay.

5 A It's a menagerie of cases.

6 Q Okay. So you're pretty familiar with how
7 the Work Comp system works in South Carolina?

8 A I think I do.

9 Q Okay. And aside from looking at your notes
10 for Ms. Walthour, did you do anything else to prepare
11 for today's deposition?

12 A Well, I just reviewed the records, what we
13 have at Doctors Care, that includes initial visit by
14 this patient and seen by Carolyn Comer on the July 14,
15 2019, and the return-to-work form on the same day.
16 Then I saw her on July 16, 2019.

17 Q Okay. Perfect. And did -- when you saw Ms.
18 Walthour on July 16, 2019, did she describe how she
19 was injured?

20 A Well, she presents with this follow-up back
21 pain and since I already reviewed the record when she
22 came in on July 14th stating that -- she stated it on
23 that day that she worked for Husqvarna and injured her
24 back when throwing 150-pound pallet and that injury
25 occurred on July 11, 2019. So when I saw her, I just

1 asked her how she's doing, "how's your back pain
2 doing," and then she stated that she has seen her
3 doctor on July 15th and her doctor gave her a
4 cortisone shot and she's feeling much better and then
5 she stated that she's ready to be discharged.

6 Q Okay. And regarding the manner in which Ms.
7 Walthour was injured, that's just subjective
8 information that's provided by Ms. Walthour; is that
9 correct?

10 A That's correct.

11 Q Okay. And you mentioned that at the visit
12 you saw her, which was a follow-up visit, she was
13 doing much better and she wanted to be return-to-work?

14 A Yes.

15 Q Okay.

16 A Okay, so full duty.

17 Q Got you. Okay. And did you do any physical
18 exam at this visit?

19 A Oh, yes, I did.

20 Q Okay. And what did your physical exam
21 reveal?

22 A She had vague tenderness over the lumbar
23 area, but when I did exam all my records say SAR
24 referring to shoulder abduction rotation -- shoulder
25 abduction rotation both sides. Did not produce any

1 lower back pain. And -- sign is similar to a straight
2 leg raising test while you're sitting.

3 When I lift her leg straight, if there's
4 significant back pain, patient will say "it hurts me"
5 or "pain is getting worse," but it still is negative.
6 Negative right and left means that when I raise her
7 leg, she did not complain of any back pain and I did a
8 reflex test, knee jerk, and ankle jerk. Both were
9 symmetric and normal.

10 Q Okay. And --

11 A I further stated on the back there's no
12 rash. Sometimes patient presents with back pain and
13 then conduct of shingles. In that case there's a rash
14 and I didn't see any rash, no bruises. So that's what
15 I stated there.

16 Q So aside from some vague tenderness on
17 palpation over the lumbar area, there was nothing else
18 significant on your physical exam?

19 A That's correct.

20 Q And it looks like your diagnosis was just a
21 lumbar strain? Is that --

22 A Yes. Lumbar strain means pulled muscles and
23 return to full duty and on my return-to-work standards
24 report, my diagnosis was "lumbar strain, better.
25 Return to full duty."

1 Q Okay. And so at this point, on July 16th of
2 2019, is this effectively when you released Ms.
3 Walthour to what in Work Comp is called maximum
4 medical improvement?

5 A Yes, I did.

6 Q Okay. And based on your full duty release,
7 would you agree that she did not have any permanent
8 impairment, and she could return to work without
9 restriction?

10 A I think so, yes.

11 Q Okay. And then I have here a medical
12 questionnaire that it looks like you signed on October
13 26th of 2021; are you familiar with that or do you
14 remember that?

15 A Can you say the date again? It's October?

16 Q October 26th --

17 A Yes --

18 Q -- of 2021.

19 A -- yes. I remember that, yeah. That's what
20 their attorney sent me and I read it and I signed as
21 yes to No. 1 question, yes to No. 2 question.

22 Q Okay. Perfect. And just because we're on
23 Zoom and I can't actively hand you a document, I'm
24 just going to read No. 1 out loud; is that okay?

25 A Yes.

1 Q Okay. No. 1 says, "most probably and to a
2 reasonable degree of medical certainty, it is my
3 opinion that I have reviewed Ms. Walthour's patient
4 history and her physical examination and it is my
5 opinion that she was injured at work on or about July
6 11, 2019." And there was two boxes, a box for yes and
7 a box for no, and you checked box yes; is that
8 correct?

9 A That's correct.

10 Q Okay. And again, your opinion regarding her
11 injury at work is just based on the subjective
12 information that Ms. Walthour provided to you and Ms.
13 Comer; is that correct?

14 A That's correct.

15 Q And then No. 2 reads, "most probably and to
16 a reasonable degree of medical certainty, it is my
17 opinion that I have reviewed Ms. Walthour's patient
18 history and her physical examination and it is my
19 opinion that Ms. Walthour's pain and symptoms to her
20 lumbar spine were caused by and/or aggravated by her
21 work accident on or about July 11, 2019." And again,
22 there's a box for yes and a box for no, and you
23 checked the box yes; is that correct?

24 A That's correct.

25 Q Okay. And again, your opinion that her pain

1 was related to her injury at work is again, to some
2 degree, subjective in that you can only go by the
3 description of her accident that she provided you; is
4 that correct?

5 A Plus Ms. Comer's examination note, yes.

6 Q Right.

7 MR. PATTERSON: Okay. Well, I don't
8 have any further questions. I hope that was quick and
9 painless. Gary may have some questions, so I will
10 turn it over to him.

11 MR. CHRISTMAS: Right.

12 EXAMINATION

13 BY MR. CHRISTMAS:

14 Q Hey Doctor, this is Gary Christmas again. I
15 represent this injured worker and I'll be very brief.
16 But I'll try not to be redundant. Just a couple
17 things I want to cover with you.

18 This question always comes up about
19 subjective complaints in every doctor's depo I think
20 I've been in for the past 25 years. But in fact, it's
21 more than subjective complaints that any doctor, and I
22 take it you, would have views in this case. And what
23 I mean by that is all doctors, when they're figuring
24 out what the complaints are and diagnosis, would use a
25 differential diagnosis; correct?

1 A Yes.

2 Q Okay. And so --

3 A Particularly -- particularly on initial
4 exam.

5 Q Absolutely. And part of that would be your
6 years of medical training and medical school that you
7 apply to this assessment?

8 A Yes.

9 Q Okay. And whatever, you know, the residency
10 or fellowship and board certification, I imagine you
11 applied that to this examination in your opinions that
12 you gave?

13 A Oh, yes.

14 Q Yes, and I think you're -- how many years
15 have you been a doctor?

16 A 52 years.

17 Q Yeah, that's like basically being born being
18 a doctor. So the 52 years you've been doing this, I
19 imagine you took all of that experience and applied it
20 to your assessment in this case?

21 A Yes.

22 Q Okay. And in fact, beyond that, you also,
23 in addition to taking a history for this patient, also
24 did a physical examination; correct?

25 A That's -- that's correct. Reviewing the,

1 again, initial notes by Ms. Comer.

2 Q Of course, and I was going to get to that,
3 which is any past relevant medical history is
4 something you'd want to know and consider in doing a
5 differential diagnosis for this injured worker;
6 correct?

7 A That's correct.

8 Q Right. And the fact that she has no prior
9 relevant history that's been provided to you by
10 Defense Counsel or myself or anyone else of having any
11 prior problems with her back, that's an important
12 thing that you consider; correct?

13 A Yes, but I must say this. When I saw her,
14 which is second visit, the patient to Doctors Care,
15 she was already feeling better. The reason for the
16 visit on that day, on July 16, 2019, was she wants to
17 be released to full duty.

18 Q Absolutely.

19 A Because initially when she was seen, Ms.
20 Comer gave a note saying that she can do light duty
21 and return for follow-up to Doctors Care on July 19th,
22 but she returned three days earlier than that on July
23 16th asking for full duty to be released. So at that
24 point, I did not go into detail questioning things to
25 her whether she had any significant history in the

1 past and so on. I only relied on the notes provided
2 to me or within Doctors Care when she was seen by Ms.
3 Comer. So I looked through -- looked through her
4 notes and she did a pretty good description of that.
5 So I didn't feel as I needed to repeat all those
6 questions again because she's feeling better already
7 and -- she was seen by another doctor one day before
8 and she's better, she wants to be released.

9 Q Yes, Doctor. I think you did everything
10 correctly. So just what I'm trying to drive at is,
11 you know, when Defense Counsel says that your opinions
12 were based just on her subjective complaints, I'm just
13 trying to point out there's more than subjective
14 complaints that you considered in making your
15 diagnosis and giving an opinion of the case; correct?

16 A Yes, subjective -- the complaint from the
17 patient and again, based on Ms. Comer's examination
18 note.

19 Q Yes, sir. Exactly. And also the fact that
20 there isn't any prior history of her having back
21 problems. If it was there, you would need to consider
22 that, but it's not there in this case; correct?

23 A Based upon the notes, no.

24 Q Yes, sir. And so also, if we go back to the
25 first note that I think was back on July 14th, do you

1 have a copy of that with you?

2 A Yes.

3 Q And I know it wasn't your examination, but I
4 just want to read a couple things into the record to
5 see if it's what you did read and consider. Under
6 history of present illness, it says "42-year-old
7 female here care of Workers' Comp injury. She works
8 for Husqvarna and injured lower back throwing a
9 150-pound pallet. Injury occurred on Thursday, July
10 11, 2019. She has," it says tx, but I think that's
11 history or, I don't know. What does "tx" stand for;
12 do you know?

13 A Treatment.

14 Q Okay. So "treatment with ice and heat and
15 ibuprofen. Pain 2/10 standing, but increased to 8/10
16 with bending and moving. Diagnosis low back pain."
17 Did I read that correctly?

18 A Yes.

19 Q Okay. Ultimately, and I'm not going to
20 painfully go through every part of the note, but under
21 the textual results it says, "done WKC. Injured back
22 at work moving 150-pound pallet. Tightness, stiffness
23 in back and left shoulder happened Thursday." Did I
24 read that correctly?

25 A You're under the physical examination note

1 or --

2 Q The textual results portion of the July 14,
3 2019, medical record from Dr. Comer, or I guess maybe
4 from the nurse Comer. Carolyn Comer, is she a nurse?

5 A Nurse practitioner.

6 Q Yes, sir. So I'm reading her note.

7 A Yeah, her notes under the physical
8 examination now or are you --

9 Q It says, it's titled Textual Results, has a
10 colon, and then it begins with "WKC injured back."

11 A Okay.

12 Q I'll tell you what. Instead of -- because
13 I -- for a reason, I could put it in front of you
14 instead of making you struggle, so let me just
15 represent to you if the note says that, and I'm going
16 to represent to you that it does, you would agree that
17 Nurse Practitioner Comer noted not only the tightness
18 in the back, but also left shoulder; correct?

19 A Yes.

20 Q Okay. And under Corrected Results, it says
21 "chief complaint corrected from WKC injured back,
22 stiffness at work, moving 150-pound pallet. Tightness
23 in back and left shoulder happened Thursday." Did I
24 read that correctly?

25 A Yes, yes.

1 Q Okay. And so the point -- and then it says
2 "additional information WCK [sic] injured back at work
3 moving 150-pound pallet, tightness/stiffness in back
4 and left shoulder." Did I read that correctly?

5 A Yes, you did.

6 Q Okay. And so when this injured worker
7 presented with her pain and problems on July 14, 2019,
8 to Doctors Care, she noted with the nurse practitioner
9 not only the back injury, but also having problems in
10 the left shoulder; correct?

11 A Yes.

12 Q Okay. And then, you know, she was supposed
13 to come back for a follow-up and before she saw you,
14 she went and saw her family doctor and got an
15 injection in her back; is that right?

16 A Yes, yes. According to her, yes.

17 Q And the injection provided her some level of
18 relief that allowed her to come back and ask you just
19 to release her to go back to work; right?

20 A That's correct, yes.

21 Q Okay. From what you see from the note from
22 July 14th and when you again saw her again on the
23 16th, was she a compliant patient?

24 A I think so.

25 Q Okay. And did she do everything that was

1 asked of her and really more by going to get a shot in
2 her back from her own doctor?

3 A Yes.

4 Q Okay. And then in terms of, you know,
5 whether she's at maximum medical improvement, you were
6 asked about all that, there's a whole history
7 including cervical spine surgery infusion, all kinds
8 of medical that I know you didn't follow or track
9 after releasing her from your care; correct?

10 A Are you saying she had cervical spine
11 surgery in the past?

12 Q No, no. After leaving Doctors Care, she
13 went on to treat with, I think, a neurosurgeon and
14 different doctors and I don't think you're responsible
15 for any of that. I'm just trying to establish. Once
16 you released her from your care, you didn't follow her
17 care going forward in the future; did you?

18 A No.

19 Q Okay. And I imagine I would take it you
20 would defer to the opinions of any doctors that took
21 over of her care in the future with any future care
22 and treatment that they provided; correct?

23 A That's correct.

24 Q Okay.

25 MR. CHRISTMAS: Doctor, I think that's

1 all I have for you, I appreciate your time.

2 THE WITNESS: You're welcome.

3 MR. PATTERSON: Thank you, Dr. Kim. I
4 don't have anything additional.

5 THE WITNESS: Thank you.

6 MR. CHRISTMAS: Thank you. I'm
7 impressed with 52 years. I'm in my 25th year and I
8 already -- it's not the age, it's the mileage, so I'm
9 very respectful of what you've been able to pull off.

10 THE REPORTER: All right.

11 MR. CHRISTMAS: Have a nice day. Good
12 to see you all. All right, bye bye.

13 THE REPORTER: Before we go off the
14 record really quick.

15 MR. CHRISTMAS: Yes, ma'am.

16 THE REPORTER: First of all, Dr. Kim,
17 will you be reading and signing or waiving signature
18 today?

19 THE WITNESS: I'd like to read it.

20 THE REPORTER: Okay.

21 MR. CHRISTMAS: Hey real quick, and I
22 should have done this on the record and we can go back
23 on if we need to. I think it would just be helpful
24 for the commissioner that's going to read this, it's
25 just a few medical records and I'll get Kara to send

1 it to you, Ashley. Can we just do a joint exhibit
2 with his medical records, Michael?

3 MR. PATTERSON: You're talking about
4 Dr. Kim's medical records and Nurse Practitioner
5 Comer's records?

6 MR. CHRISTMAS: I just think the
7 whole -- it's only like, what, 11 pages or something,
8 just the whole thing from Doctors Care, so whoever's
9 reading it doesn't have to go find our APAs?

10 MR. PATTERSON: Yeah, I don't have a
11 problem with that being an exhibit to the deposition
12 transcript.

13 MR. CHRISTMAS: Okay. I don't think we
14 need to go back on. I'm just going to e-mail it to
15 you. And just, Ashley, if you'll just attach it as a
16 joint Exhibit 1, that would be fantastic.

17 (Exhibit 1 was marked for
18 identification.)

19 THE REPORTER: Okay.

20 MR. PATTERSON: Yeah, I'm fine with
21 that.

22 MR. CHRISTMAS: Awesome.

23 THE REPORTER: We're still on the
24 record anyway, so that's fine.

25 MR. PATTERSON: Oh wonderful.

1 MR. CHRISTMAS: Okay. Well, there you
2 go. Two birds with one stone.

3 THE REPORTER: And also, I know Mr.
4 Patterson you're going to order a transcript.

5 How about you Mr. Christmas?

6 MR. CHRISTMAS: Yeah, I just need it
7 condensed and it will go to Kara, which is K-A-R-A at
8 gchristmaslaw dot com.

9 THE REPORTER: Okay. Excellent.
10 And Dr. Kim, I'll send you a copy. Do
11 you have an e-mail address I can send you or --

12 THE WITNESS: Yes.

13 THE REPORTER: -- would you like me to
14 send it to your attorney?

15 THE WITNESS: Yes, send to -- to Clay
16 and he can send it to me.

17 THE REPORTER: Okay. I will do that.
18 All right.

19 MR. CHRISTMAS: Hey Clay, Clay, are you
20 a point of contact we can reach out to on future
21 cases? Or are you just --

22 MR. MITCHELL: For -- yeah, for Doctors
23 Care for sure, for sure.

24 MR. CHRISTMAS: Excellent, okay.
25 Wonderful. Nice to meet you.

1 MR. MITCHELL: Yeah, yeah.

2 MR. CHRISTMAS: Look forward to working
3 with you.

4 MR. MITCHELL: Good to see you.

5 MR. CHRISTMAS: Okay. Bye bye now.

6 THE REPORTER: All right.

7 MR. MITCHELL: Bye bye. See you, Gary.

8 THE REPORTER: The time is 10:44 a.m.
9 and we are off the record.

10 (Signature reserved.)

11 (Whereupon, at 10:44 a.m., the
12 proceeding was concluded.)
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CERTIFICATE OF NOTARY PUBLIC

I, ASHLEY MANINI, the officer before whom
the foregoing proceedings were taken, do hereby
certify that any witness(es) in the foregoing
proceedings, prior to testifying, were duly sworn;
that the proceedings were recorded by me and
thereafter reduced to typewriting by a qualified
transcriptionist; that said digital audio recording of
said proceedings are a true and accurate record to the
best of my knowledge, skills, and ability; that I am
neither counsel for, related to, nor employed by any
of the parties to the action in which this was taken;
and, further, that I am not a relative or employee of
any counsel or attorney employed by the parties
hereto, nor financially or other
outcome of this action.



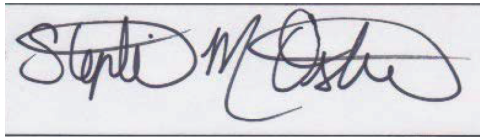
ASHLEY MANINI

Notary Public in and for the
State of South Carolina

☒ [X] Review of the transcript was requested.

CERTIFICATE OF TRANSCRIBER

I, STEPHANIE OSTRANDER, do hereby certify
that this transcript was prepared from the digital
audio recording of the foregoing proceeding, that said
transcript is a true and accurate record of the
proceedings to the best of my knowledge, skills, and
ability; that I am neither counsel for, related to,
nor employed by any of the parties to the action in
which this was taken; and, further, that I am not a
relative or employee of any counsel or attorney
employed by the parties hereto, nor financially or
otherwise interested in the outcome of this action.

A handwritten signature in blue ink, appearing to read 'Stephanie Ostrander', is written over a light blue horizontal line.

STEPHANIE OSTRANDER

1 To: Chun Kim, MD

2 Re: Signature of Chun Kim, MD

3 Date Errata due back at our offices: <Due Date>

4

5 Greetings:

6 The deponent has reserved the right to read and sign.

7 Please have the deponent review the deposition

8 transcript, noting any changes or corrections on the

9 attached Errata.

10 Once the Errata is signed by the deponent and notarized,

11 please mail it to the address below. When the signed

12 Errata is returned to us, we will seal and forward to the

13 hiring attorney for filing with the court.

14 We will also send copies of the Errata to all ordering

15 parties.

16 If the signed Errata is not returned by the date

17 above, the original transcript may be filed with the

18 court without the signature of the deponent.

19

20 Please send completed Errata to:

21 Veritext Production Facility

22 20 Mansell Court

23 Suite 300

24 Roswell, GA 30076

25 770-343-9696

ERRATA

I, the undersigned, do hereby certify that I have read the transcript of my testimony, and that

___There are no changes

___The following changes are noted:

Pursuant to the governing rules of Civil Procedure, any changes in form or substance which you desire to make to your testimony shall be entered upon the deposition with a statement of the reasons given for making them. To assist you in making any such corrections, please use the form below. If additional pages are necessary, please furnish same and attach.

Page ____ Line ____ Change _____

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16 Reason for Change _____

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19 Reason for Change _____

20 _____

21 _____

DEPONENT'S SIGNATURE

22 Sworn to and subscribed before me this _____ day of

23 _____, _____.

24 _____

24 NOTARY PUBLIC

25 My commission expires: _____

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South Carolina Rules of Civil Procedure

Part V. Depositions and Discovery

Court Rule 30

(e) Submission to Witness; Changes; Signing.

When the testimony is fully transcribed the deposition shall be submitted to the witness for examination and shall be read to or by him unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness within 30 days of its submission to him, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed unless on a motion to suppress under Rule 32(d)(4) the court holds

that the reasons given for the refusal to sign
require rejection of the deposition in whole or in
part.

DISCLAIMER: THE FOREGOING CIVIL PROCEDURE RULES
ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.
THE ABOVE RULES ARE CURRENT AS OF APRIL 1,
2019. PLEASE REFER TO THE APPLICABLE STATE RULES
OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored in encrypted form and are transmitted in an encrypted fashion to authenticated parties who are permitted to access the material. Our data is hosted in a Tier 4 SSAE 16 certified facility.

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STATE OF SOUTH CAROLINA
BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC No. 1925084

Christina Bradshaw,)
)
 Claimant,)
)
 v.)
)
 Remedy Intelligent Staffing, Inc.)
 (EmployBridge),)
)
 Employer,)
)
 and)
)
 XL Insurance America, Inc.,)
)
 Carrier.)
 -----)

VIRTUAL DEPOSITION OF
CHRISTINA BRADSHAW

Thursday, November 16, 2023
2:04 p.m. - 3:35 p.m.

The virtual deposition of Christina Bradshaw was taken on behalf of the Employer on the 16th day of November, 2023 before Elizabeth L. Holt, Court Reporter and Notary Public in and for the State of South Carolina, pursuant to Notice of Deposition and/or agreement of counsel.



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
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0112

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EXHIBITS

(No exhibits were marked during this deposition.)

STIPULATIONS

It is stipulated and agreed that this deposition is being taken pursuant to the Administrative Procedures Act and the South Carolina Rules of Civil Procedure.

It is stipulated by and between counsel and the witness that the deposition is being conducted by remote means and the court reporter/Notary is not present with the witness, however the oath administered is valid.

It is stipulated by and between counsel and the witness that the reading and signing of the following deposition be, and the same are, hereby waived.



1 **CHRISTINA BRADSHAW**, having been duly sworn, deposes
2 and testifies as follows:

3 **MS. BRADSHAW - EXAMINATION BY MR. PATTERSON:**

4 Q: All right. And it's Ms. Bradshaw?

5 A: Yes.

6 Q: Okay. Ms. Bradshaw, my name is Michael
7 Patterson. I'm an attorney here in Charleston,
8 South Carolina. I represent your employer and
9 insurance carrier in this workers' compensation
10 claim that brings us here today. Have you ever
11 had your deposition taken before?

12 A: No.

13 Q: Okay. I've got just some general ground rules
14 that are mostly for the benefit of the court
15 reporter because she's got to type down
16 everything we are saying today. So to that
17 end, just make sure that you give clear yes or
18 no answers, or some other verbal explanation,
19 just so that she can be able to type down what
20 the responses are and the answers. Many times
21 in normal conversation, people will nod or
22 shake their heads or say uh-huh or huh-uh, and
23 in a normal conversation, totally get it, makes
24 sense, and I know what you mean. But for the
25 purposes of today, just make sure to give a



1 clear verbal response, okay?

2 A: Okay.

3 Q: Also there may be times where I ask a question
4 and either you didn't hear me, or you don't
5 know what I mean. Totally fine. Just stop me
6 and let me know you didn't understand. I will
7 rephrase the question or do whatever's
8 necessary to make sure we're all on the same
9 page, okay?

10 A: Okay.

11 Q: On the flip side, if you don't stop me, I'm
12 gonna press forward and just assume you
13 understood my question, okay?

14 A: Okay.

15 Q: And I -- I'm gonna do my best to be as
16 efficient as possible and get this over as
17 quickly as possible, however, if you need to
18 take a break or stop for any reason, please let
19 me know and we can take as many breaks as you
20 need, all right?

21 A: Okay.

22 Q: Have you taken any medication today that would
23 affect your ability to testify in any way?

24 A: No.

25 Q: Okay. Also, and I -- I mentioned this earlier,



1 I've got some notes here. You can't see 'em,
2 but I -- if I -- if I'm looking down while
3 we're talking, I just wanna apologize in
4 advance. Normally I like to look at people
5 when I'm talking to 'em, but today I might be
6 writing things down or looking down while I'm
7 talking. I just wanna apologize for that in
8 advance, okay?

9 A: Uh-huh. Okay.

10 Q: So, I wanna get some background information to
11 start. And I know previously in this claim,
12 you went by the la- -- the -- the name
13 Walthour. Can you explain, is Walthour your
14 maiden name, or was it your married name?

15 A: Walthour is my ma- -- married name. I was
16 married before. Uh-huh.

17 Q: Okay. And is Bradshaw your maiden name or have
18 you gotten remarried?

19 A: Remarried.

20 Q: Okay. And then what was your name prior to
21 Walthour?

22 A: Christina Lachelle ---

23 **(Technical audio interruption.)**

24 Q: Can you say the -- what was the last name?

25 A: Tiller ---



1 Q: T-I-L- ---
2 A: --- Hall.
3 Q: --- L-E-R?
4 A: Yes.
5 Q: Okay. And what was your middle name? I'm
6 sorry.
7 A: Lachelle. L-A-C-H-E-L-L-E.
8 Q: And what is your date of birth?
9 A: 9/21/1976.
10 Q: Okay. And do you have a driver's license?
11 A: Yes, I do.
12 Q: Is it a Kentucky driver's license?
13 A: No, it's not.
14 Q: What state are you licensed in?
15 A: South Carolina.
16 Q: Okay. And aside from having a driver's license
17 in South Carolina, have you ever had a driver's
18 license in any other state?
19 A: I think Georgia and Alabama.
20 Q: Okay. And what is your current address?
21 A: 2478 Settlement Road, Sylacauga, Alabama 35150.
22 Q: And how -- the town or city that you're living
23 in, how do you spell that?
24 A: S-Y-L-A-C-A-U-G-A.
25 Q: And what's the zip code in Alabama?



1 A: 35150.

2 Q: And when did you move from Kentucky to Alabama?

3 A: March.

4 Q: March of '23?

5 A: Yes.

6 Q: Okay. And were you living in Kentucky prior to
7 moving to Alabama?

8 A: Yes.

9 Q: And how long had you been living in Kentucky?

10 A: Right at two years.

11 Q: Okay. And where were you living in Kentucky?

12 A: 1405 North Miles Street, Elizabethtown,
13 Kentucky.

14 Q: Okay. And what's the zip code there?

15 A: Ooh. I wanna say 427- -- I'm not sure. I'm
16 not -- I don't -- I can't right now. I can't
17 ---

18 Q: That's okay.

19 A: --- recollect the ---

20 Q: No worries. And before you ---

21 A: 42701. 42701.

22 Q: Oh, okay. Got it. Before you were living in
23 Kentucky, where were you living prior to that?

24 A: Prior to Kentucky, we were in Columbia, South
25 Carolina.



1 Q: Okay.

2 A: Uh-huh.

3 Q: And where were you living -- what was the
4 address of the place you were living at in Col-
5 -- Columbia?

6 A: 116 Rosecliff Circle, Hopkins, South Carolina
7 29- -- I think 061.

8 Q: And you mentioned living in Georgia. When's
9 the last time you lived in Georgia?

10 A: I think 2018.

11 Q: Okay. And ---

12 A: 2017 or '18, something like that.

13 Q: Okay.

14 A: Uh-huh.

15 Q: And so from there you moved to Columbia?

16 A: From Georgia?

17 Q: Yes, ma'am.

18 A: My husband got -- well, he was my fiancé at the
19 time, was stationed different places because
20 he's military, Army.

21 Q: I ---

22 A: Uh-huh.

23 Q: --- gotcha.

24 A: Yeah.

25 Q: And when did you get divorced from your husband



1 Wath- -- I assume that was Mr. Wathour?

2 A: Uh-huh. I think it was '16.

3 Q: 2016 ---

4 A: 2016. Yeah, 2016.

5 Q: Okay.

6 A: I think we were married from 2010 to -- I mean

7 -- 2006 to -- 10 years, so 2016.

8 Q: Okay. Gotcha.

9 A: Uh-huh.

10 Q: And then when did you get remarried?

11 A: 2020.

12 Q: Okay. And who do you live with currently in

13 Alabama at 2478 Settlement Road?

14 A: My husband and my father-in-law.

15 Q: Okay. And do you have any children?

16 A: Yes, I have two children.

17 Q: And how old are they?

18 A: 29 and 26 at current. My daughter turns 27 in

19 like 3 days.

20 Q: Okay ---

21 A: So, yeah.

22 Q: --- got it.

23 A: Uh-huh.

24 Q: And is your husband in the military?

25 A: He's retired.



1 Q: Okay.

2 A: He retired in July.

3 Q: Gotcha. And do y'all receive -- or, I guess,
4 do -- I assume he gets military benefits, but
5 do you also receive like his military benefits,
6 in terms of being on like his healthcare plan
7 and all that?

8 A: Yes, of course.

9 Q: Okay. Okay.

10 A: Uh-huh.

11 Q: And were you on his like health benefits plan
12 prior to getting married? So for example ---

13 A: No.

14 Q: --- if y'all were to like -- he's mentioned you
15 as your fiancé, were you on his ---

16 A: No.

17 Q: --- plan then? You said ---

18 A: No.

19 Q: No?

20 A: I said no like, three times. No.

21 Q: Okay.

22 A: I don't even know how. That's impossible.

23 Q: And now -- since he has retired, is he working
24 anywhere now currently?

25 A: No.



1 Q: And aside from Mr. Walthour and Mr. Bradshaw,
2 have you ever been married any ot- -- on -- at
3 any other point?

4 A: No.

5 Q: Okay. Where did you go to high school?

6 A: Dothan High School, Northview High School by
7 DVC.

8 Q: And where ---

9 A: When I say by DVC, I mean both of the high
10 school in Dothan participated in -- one of the
11 high schools had a trade center, so we would
12 leave from our main school to go to the trade
13 center and they would, you know, convert back
14 to our main school. So I basically went to
15 both high schools.

16 Q: Okay.

17 A: Uh-huh.

18 Q: And this is Mil- -- did you say Milton,
19 Georgia?

20 A: No. Dothan, Alabama.

21 Q: Oh.

22 A: D-O-T-H-A-N, Alabama.

23 Q: And you -- so you graduated and got your d- --
24 high school diploma?

25 A: No, I actually have a GED.



1 Q: Oh, okay.

2 A: Uh-huh.

3 Q: Got it. And then after getting your GED, have
4 you gone to any technical school or college?

5 A: Yes. I have a -- four years of -- of cos- --
6 of cosmetology. I also had a truck driving --
7 I went to truck driving school in Mobile,
8 Alabama, but I got my certifications that once,
9 but I never went back and got any more.

10 Q: Okay. So at one point, did you have a CDL in
11 Alabama?

12 A: Yes.

13 Q: Aside from the certification for driving a
14 truck and the certification for cosmetology, do
15 you have any other licenses or certifications?

16 A: Now, yes. Uh-huh. I do. I'm an ordained
17 minister, I have a notary. Uh-huh.

18 Q: And as an ordained minister, do you actively
19 like preach at a church, or do you have a
20 congregation, or is that just something you
21 just wanted to get on your own?

22 A: No, I just got it on my own. I haven't done
23 anything with it yet.

24 Q: Okay.

25 A: Uh-huh.



1 Q: And as a notary, do you -- are you -- did you
2 have to become a notary as part of a job?

3 A: No. No. I just did that when we were in
4 Kentucky.

5 Q: Okay.

6 A: Uh-huh. Yeah.

7 Q: And are you working anywhere currently in
8 Alabama?

9 A: No.

10 Q: Aside from all the stuff we've just discussed,
11 do you have any other college certificates, or
12 have you been to any other technical schools
13 that we haven't already talked about?

14 A: No.

15 Q: And my understanding is you were injured on
16 July 11th of 2019, is that correct?

17 A: Yes.

18 Q: And at the time, were you working for Remedy
19 Intelligent Staffing?

20 A: Yes.

21 Q: And through that staffing company, had you been
22 placed at Husqvarna?

23 A: Yes.

24 Q: Okay. And were you working at Husqvarna when
25 you were injured?



1 A: Yes.

2 Q: Okay. How long had you been employed with the
3 staffing company before this injury?

4 A: I'm not sure. It was months.

5 Q: Was it more than six months?

6 A: I don't know. I couldn't te- -- I -- I don't
7 know.

8 Q: Okay.

9 A: I honestly don't.

10 Q: How long had you been staffed at Husqvarna?

11 A: Like I say again, I can't tell you the -- you
12 asked me the same question, just a different
13 way. I don't know. I don't re- -- you know,
14 I can't recall exactly the time frame.

15 Q: Okay. So while you were employed with Remedy
16 Intelligent Staffing, you were only ever
17 staffed at one location?

18 A: Right. Just that one place.

19 Q: I gotcha. Okay. And what was your job title
20 at Husqvarna?

21 A: When I first got there I was a packer. I was
22 on the floor picking items off the floor.
23 Then, I was moved from that to, we call the
24 deck, where you go and you put orders together
25 going out for the trucks that come in the deck.



1 So, yeah. Yeah that was about it. I was a
2 packer first, and I guess I was doing, I guess
3 good at that and I -- yeah. So, I don't know
4 why they took me off packing and put me on the
5 decks, but that's what they did.

6 Q: Okay. Now before you took the job with the
7 staffing agency Remedy Intelligent Staffing,
8 where were you working prior to that?

9 A: Prior to that job, I think I was at Raeford
10 Farms if I'm not mistaken. Raefl- -- Raeford
11 Farms in Columbia.

12 Q: Okay. And what kind of work was that?

13 A: It was cutting chicken.

14 Q: Is that at a manufacturing facility?

15 A: Yeah it was at the -- I -- I can't remember the
16 name of the main -- one of the main chicken
17 companies there in Columbia ---

18 Q: Uh-huh.

19 A: --- but, yeah.

20 Q: Okay.

21 A: Uh-huh.

22 Q: Did you ever have any injuries or workers'
23 compensation claims while you were at Raeford
24 Farms?

25 A: No. No.



1 Q: And if you recall, do you have any idea what
2 you were earning while you were at Raeford
3 Farms?

4 A: I'm not sure. I can't -- yeah. I don't know
5 for sure exactly what it was.

6 Q: Okay. And how long di- -- were you working
7 with Raeford Farms?

8 A: Not long, because I got the job with Remedy ---

9 Q: Okay.

10 A: --- and I just -- I left there, 'cause that's
11 not what I was looking for, cutting chicken.

12 Q: Gotcha.

13 A: Yeah.

14 Q: Before Raeford Farms, where were you working
15 prior to that?

16 A: Prior to Raeford Farms, I wasn't.

17 Q: Okay.

18 A: I wasn't. I was in Georgia and my husband was
19 deployed.

20 Q: Gotcha.

21 A: Yeah ---

22 Q: Okay.

23 A: --- so I wasn't.

24 Q: And how long when your -- when your husband was
25 in the military, were there any periods or



1 lengthy periods of unemployment?

2 A: For me?

3 Q: Yes, for you, not for him.

4 A: I wasn't working (laughing) at all in Georgia.
5 Like, that was a -- yeah. He was -- that was
6 a whole deployment, so yeah, that was -- it's
7 lengthy times, I guess.

8 Q: Okay.

9 A: For sure.

10 Q: And so ---

11 A: Like ---

12 Q: --- how -- how long were you in Georgia?

13 A: A couple of years. Every place we went, we
14 went -- I was -- I was there a couple of years.

15 Q: Gotcha. And while -- and I know you said you
16 were married to Mr. Walthour from 2006 to 2016.

17 A: Uh-huh.

18 Q: Did you work at all during those 10 years?

19 A: Yeah. He -- yeah. Yeah. Different places
20 that we went. I was -- uh-huh.

21 Q: Okay.

22 A: Yeah, I worked.

23 Q: What types of jobs were you working during that
24 time period?

25 A: Just basically like entertainment jobs.



1 Q: Okay.

2 A: Entertainment. Uh-huh.

3 Q: Okay. And ---

4 A: I mean I hosted -- hostings, and just different
5 pla- -- and being in different night- -- in the
6 nightlife. 'Cause I was still, you know, I was
7 young ---

8 Q: Okay.

9 A: --- at that point, right? Uh-huh.

10 Q: And so is this like -- entertainment, is this
11 work -- you mentioned working as a hostess at
12 -- at clubs. Did you have any other jobs like
13 as a waitress or server, manager, anything like
14 that? Was it like food and beverage promotions
15 like restaurants and things, or was it more
16 like ---

17 A: Nightlife. The clubs. It was nightlife. I
18 was just -- the nightlife and the clubs. Like,
19 where we lived, it was all about the nightlife.

20 Q: Okay.

21 A: So it was the clubs. It wasn't like, during
22 the day time in restaurants, it was night in
23 bars in -- in different places, like -- yeah.

24 Q: Okay. Did you ever serve as a bartender?

25 A: No. Never been a bartender.



1 Q: Okay. And at any point during those 10 years,
2 did you ever have any work injuries?

3 A: No.

4 Q: Had it -- you ever filed a workers'
5 compensation claim?

6 A: No.

7 Q: Okay. Prior to 2006, before getting married,
8 where were you working prior to that?

9 A: Like I said, I was doing hostings and clubs.
10 I was on the entertainment side of things. You
11 want me to say it? I was -- I was an exotic
12 dancer, I will say I was an exotic dancer,
13 because saying me living in the nightlife and
14 going into clubs and entertaining is not, I
15 guess -- I don't know. Yeah. That's what I
16 did. I was an entertainer.

17 Q: I gotcha. No, really I'm just trying to figure
18 out your work history for the purpose of
19 figuring out what your work experience, what
20 your education level is to the extent your --
21 what your ability is to work in the future.
22 That's really ---

23 A: Right.

24 Q: --- why I'm asking these questions. And then
25 also trying to figure out if aside from this



1 workers' compensation claim, you've ever had
2 any previous workers' compensation claims.

3 A: No.

4 Q: Okay. So ---

5 A: Again ---

6 Q: --- this is the first work injury?

7 A: Right. This is the only work injury.

8 Q: Okay. And aside from the employment that we've
9 talked about, have you had any other jobs in a
10 different line of employment that we haven't
11 already discussed?

12 A: No.

13 Q: Okay. Since leaving Husqvarna, have you worked
14 anywhere since then?

15 A: No.

16 Q: Okay. And when did you leave Husqvarna?

17 A: August of '19.

18 Q: Okay. And if you recall, what was your -- the
19 -- when you left, how much were you making per
20 hour?

21 A: \$11.

22 Q: Okay.

23 A: Give me a second. My hands are starting to
24 shake, and that's from sitting in this position
25 like this for ---



1 Q: Oh, yeah ---

2 A: --- so long.

3 Q: No, if you need to get up and -- and walk
4 around, no problem. While you were working at
5 Husqvarna, did you have any other forms of
6 employment while you were working there such
7 that you were earning two different paychecks?

8 A: No.

9 Q: Okay. I wanna get some medical background. Do
10 you currently have a primary care doctor?

11 A: Right now no.

12 Q: Okay. So if you got sick or got the flu or
13 something, would you just go to urgent care?

14 A: Yes.

15 Q: Okay. When's the last time you had to go to
16 urgent care for some reason?

17 A: I went for a -- let's see. Last time, last
18 time ... About two months ago.

19 Q: Okay. And what was that for?

20 A: It was related to a cyst.

21 Q: Gotcha.

22 A: Uh-huh.

23 Q: Now before moving to Alabama, did you have a
24 primary care physician in Kentucky?

25 A: Yes.



1 Q: Do you recall the doctor's name or the -- the
2 office or practice?

3 A: I know her name is Alexandria-something. I'll
4 have to -- I don't -- I don't have it like
5 right on hand. I didn't know I needed to have
6 that, like ...

7 Q: That's okay.

8 A: Uh-huh.

9 Q: And there was some information about a -- a
10 Commonwealth Pain where -- where you were also
11 treated in Kentucky. Were you seeing a
12 specific doctor at Commonwealth Pain?

13 A: I don't know the doctor's name because I only
14 saw her once. But yeah, I was referred to go
15 there by Dr. DeHoll ---

16 Q: Okay.

17 A: --- on one side, and they wanted to do steroid
18 injections and I declined ---

19 Q: And ---

20 A: --- the steroid injections, yeah.

21 Q: I gotcha. How long ago was that?

22 A: This was like my third month in Kentucky,
23 because I went to Dr. DeHoll like right after
24 I moved. So probably about the third month or
25 so that I was in Kentucky.



1 Q: And what year would've that -- would that have
2 been?

3 A: We were there for two years, so '20. '21, '20.

4 Q: Okay.

5 A: '21. '21, something like that.

6 Q: Gotcha. And ---

7 A: Yeah.

8 Q: --- so you only went to Commonwealth Pain that
9 one time?

10 A: Right.

11 Q: And they wanted to do steroid injections and
12 you said that's not something you wanted to do?

13 A: Right.

14 Q: Okay. And is that because you didn't feel like
15 you needed them, or you just were nervous about
16 injections?

17 A: No. I didn't want that steroid injection. I
18 did the research that I want -- or -- to do on
19 it, and I didn't feel like that would be
20 something that I would willing to risk for the
21 re- -- little reward that I was getting.

22 Q: I gotcha. Okay. And then aside from seeing
23 your primary care physician and going to
24 Commonwealth Pain that one time, were you seen
25 or treated at any other medical facilities



1 while you were in Kentucky?

2 A: Yes. I had a thyroid specialist, what else?
3 I think they -- did I get a MRI? I think I
4 got a MRI.

5 Q: Do you remember your doctor's name or the --
6 the office that you went to for the thyroid
7 issue?

8 A: No. All of it was connected. So my primary
9 care doctor would have that information, so.

10 Q: Okay.

11 A: Uh-huh.

12 Q: And what were you seeing a thyroid specialist
13 for?

14 A: I have a nodule in my throat in my thyroid, a
15 small nodule.

16 Q: Okay.

17 A: Uh-huh.

18 Q: And I guess is that something that you still
19 treat for, is that something that's resolved?

20 A: No, I was just checking on it to make sure that
21 everything was still what it was supposed to
22 be, that it hadn't turned into something that
23 I didn't need it being.

24 Q: Uh-huh.

25 A: And to make sure that -- but at that time, my



1 neck was giving me so many problems, I'm like
2 okay, I want to see if that was causing the
3 pain.

4 Q: Gotcha.

5 A: Like, why is it -- you know. 'Cause it -- it
6 turned up a lot, you know.

7 Q: And what did your thyroid specialist say about
8 the nodule the last time you saw her?

9 A: It was a guy, and he said that it was fine, it
10 was not inflamed, and it was not affecting the
11 -- my neck.

12 Q: Okay.

13 A: That the pain had to be something other than
14 that, you know.

15 Q: Okay.

16 A: So. Uh-huh.

17 Q: And aside from the nodule, do you have any
18 other -- the -- I guess thyroid issues, or is
19 it just that one thing?

20 A: Just that one thing.

21 Q: Okay. And when you were in Columbia, did you
22 have a primary care physician in Columbia?

23 A: Yes. I went to the -- Eau -- I just looked at
24 that. Eau -- I think it's Eau St. Claire? Eau
25 Claire? Eau St. Claire?



1 Q: I gotcha.

2 A: In Hopkins. Okay.

3 Q: Okay. And when you went there, would you just
4 see whoever was available, or did you have like
5 a specific person?

6 A: No, I had a doctor there.

7 Q: What was his or her name?

8 A: She -- I don't know. I don't remember her
9 name.

10 Q: Okay. But it was generally the same person
11 every time?

12 A: Right. Right.

13 Q: Okay. And have you ever been diagnosed with
14 any type of chronic condition? And when I say
15 chronic, I mean something that you deal with on
16 a regular basis, like arthritis, diabetes, high
17 blood pressure, asthma, something like that.

18 A: I was diagnosed chronic pain for my -- I had a
19 scaphoid break, which is a break in the bone in
20 my wrist.

21 Q: Okay.

22 A: And I had two surgeries on that wrist.

23 Q: And did you say that was your right wrist?

24 A: It's my left wrist.

25 Q: Left wrist. Okay. And so do you take anything



1 currently for the pain in your left wrist?

2 A: Iburprofen. Same thing I take for my neck.

3 Q: Okay. And when did you have the surgeries on
4 your wrist?

5 A: Oh, God. 2000- -- I -- oh, my God, I cannot
6 even ...

7 Q: Has it been more than five years ago?

8 A: Oh, yes. Definitely. Definitely.

9 Q: And how far apart were the two surgeries?

10 A: Oh, my God, about -- at least -- my daughter
11 was -- let me see if I can -- can put with like
12 that to see if I can pull the time back up.
13 Three, and she's 27 now. When the initial
14 incident happened -- and I had a surgery right
15 behind that incident, so.

16 Q: So it's been more than twenty years ago?

17 A: Right.

18 Q: Okay.

19 A: Right. Then I had another surgery behind --
20 for -- I -- like I said, I had two surgeries on
21 that wrist, so.

22 Q: Gotcha. So you haven't had a surgery on that
23 wrist in close to twenty years?

24 A: Right.

25 Q: Okay. Had -- aside from general pain in your



1 left wrist, have you had any problems with it
2 since the last surgery?

3 A: No.

4 Q: Okay. And aside from breaking your left wrist,
5 have you had any other broken bones?

6 A: No.

7 Q: Have you had any other surgeries?

8 A: Yes.

9 Q: And when -- or I guess, tell me when the last
10 surgery you had was.

11 A: I had a hysterectomy.

12 Q: How long ago was that?

13 A: About two years.

14 Q: Okay.

15 A: Three.

16 Q: And then ---

17 A: Or actually ---

18 Q: --- prior to ---

19 A: --- two years.

20 Q: --- prior to that, when had you had surgery
21 prior to the hysterectomy?

22 A: No. No. Not besides, you know, I had the
23 wrist surgery, then I had the hysterectomy.

24 Q: Okay.

25 A: No. Not -- no. I had the neck surgery, then



1 I had my hysterectomy. So yeah. I had ---

2 Q: I gotcha.

3 A: --- my neck surgery in '19, and then I had the
4 hysterectomy, I think it was '21.

5 Q: I gotcha. So you ---

6 A: '22.

7 Q: --- had surgery on your neck in 2019?

8 A: Yes.

9 Q: And was that with Dr. DeHoll?

10 A: Yes.

11 Q: Okay. And aside ---

12 A: Was it ---

13 Q: --- from ---

14 A: --- 2018? Yeah, it was. Uh-huh. I'm just
15 making sure I, you know. These dates are
16 bringing back so much different stuff.

17 Q: I gotcha.

18 A: Uh-huh.

19 Q: Aside from the neck surgery, the hysterectomy,
20 and the surgery on your left wrist, have you
21 had any other surgeries?

22 A: No. No.

23 Q: Okay.

24 A: Wait a minute, you said had I had any other
25 surgeries period, at all, in life, whether



1 cosmetic or ...

2 Q: Yeah, just you -- I'm just trying to get a ---

3 A: Well, I had a -- I had a -- a tubal ligation.

4 I'm -- I'm just bringing 'em up for my kids

5 once ---

6 Q: Yeah ---

7 A: --- I had that.

8 Q: --- no worries.

9 A: And then I had a breast augmentation, but
10 that's been twenty -- fifteen, twenty years
11 ago.

12 Q: Okay.

13 A: So, yeah.

14 Q: So aside from those two things and then the
15 other stuff we've discussed, tho- -- those are
16 all the times you've been in for surgery?

17 A: Right.

18 Q: Okay. And my understanding -- or I guess just
19 tell me have you ever been in a motor vehicle
20 accident?

21 A: Yes.

22 Q: When is the most recent time you've been in a
23 motor vehicle accident?

24 A: When I passed out behind the wheel, which was
25 -- ooh, a couple of years ago.



1 Q: More than two years, more than three years?

2 A: I'm not sure.

3 Q: Okay. Would it have been before like COVID, so
4 like before 2020?

5 A: No. It was after my surgery.

6 Q: Oh, okay. Got it. Aft- -- after your neck
7 surgery?

8 A: Right.

9 Q: I gotcha. Okay. And what happened -- you said
10 you passed out, what happened in that motor
11 vehicle accident?

12 A: I don't know what happened. I passed out.

13 Q: Where were you driving to?

14 A: From Aiken to Columbia.

15 Q: And were -- was it only you in the car?

16 A: Yes.

17 Q: And did you hit any other vehicles?

18 A: No.

19 Q: What road -- or I guess, were you -- what
20 highway, road were you on?

21 A: I don't remember that highway from Aiken to
22 South Carolina.

23 Q: Okay. Aiken to Columbia. But what -- I guess
24 what I'm trying to figure out, was it like a
25 highway, or was it like some back road where it



1 was just like two ---

2 A: It was the highway. It was the highway.

3 Q: Oh.

4 A: The barricades on the side of the highway is
5 what saved me, saved my life. Because they had
6 the brick mortar in between the road.

7 Q: I see. Okay. And that's what your car hit?

8 A: Right. It was bouncing back and forth from --
9 yeah. Uh-huh.

10 Q: I gotcha. And then do you recall if the police
11 showed up?

12 A: Yes.

13 Q: Was it like a local agency or the highway
14 patrol?

15 A: I don't know. I was passed out.

16 Q: And did you have to go to the hospital?

17 A: I woke up in the hospital.

18 Q: And how long did you have to stay at the
19 hosptial?

20 A: I don't remember how long I was there.

21 Q: Was it more than a day?

22 A: No, I don't think so.

23 Q: Okay. And what injuries, if any, did you have
24 or did you have to get treated for anything at
25 the hospital?



1 A: No. Small abrasion on my cheek and my knee.

2 Q: Okay. Did you get a ticket or anything from
3 the officer?

4 A: Yes.

5 Q: Did you have to go to court?

6 A: Yes.

7 Q: Was any -- did anything -- like, did you have
8 to pay a fine, or did they dismiss the ticket?

9 A: Yes, he did.

10 Q: He dismissed it?

11 A: Yes.

12 Q: Okay. And aside from having to go to the
13 hospital and having to deal with the traffic
14 ticket, was there any type of litigation or
15 anything else that resulted from this accident?

16 A: No.

17 Q: Okay. Have you been in a ve- -- and you
18 haven't been in a motor vehicle incident since
19 that time?

20 A: No.

21 Q: Had you been in a motor vehicle accident before
22 that?

23 A: No, not with another car. I've been in a car
24 and I -- and hit a dog, but not where I've been
25 in -- no.



1 Q: Okay.

2 A: No. I know what you mean, no.

3 Q: Have you -- have you ever been -- again, aside
4 from having to go to the hospital for this
5 motor vehicle accident we just talked about,
6 have you ever been injured in a motor vehicle
7 accident previously?

8 A: No.

9 Q: Oh, I meant -- I meant to ask. Have -- have
10 you ever -- while we were talking about primary
11 care physicians and everything, have you ever
12 been treated or seen by a therapist or a
13 psychiatrist for any mental health issues?

14 A: Yes.

15 Q: Are you treating with anyone currently?

16 A: No.

17 Q: When is the last time you treated with someone
18 for any mental health conditions?

19 A: Kentucky.

20 Q: Okay. So is that like more than a year ago?

21 A: No, I've only been here in Alabama since March.

22 Q: Oh, okay, okay. And do you recall the doctor
23 you were seeing or therapist you were seeing in
24 Kentucky?

25 A: He's gonna kill me. I can't think of his name.



1 I can't think of his name. I should've -- I
2 wish I would've known and would've had all this
3 information for you.

4 Q: Were -- were you or do you take any medication
5 for any mental health conditions?

6 A: I take Seroquel.

7 Q: And what is that for?

8 A: Sleep, and he said bipolar.

9 Q: Okay.

10 A: Uh-huh.

11 Q: And how long have you been taking Seroquel for?

12 A: Oh, years.

13 Q: Did you ---

14 A: Years.

15 Q: Okay. For a long time?

16 A: It's been for -- yes. Yes.

17 Q: Okay. Aside from Seroquel, do you take any
18 other medications?

19 A: No.

20 Q: And aside from the bipolar diagnosis, have you
21 had -- ever had any other diagnosis?

22 A: No.

23 Q: Have you ever been prescribed anything other
24 than Seroquel?

25 A: Yes.



1 Q: What are -- or I guess, what else have you been
2 prescribed?

3 A: Hydrocodone ---

4 Q: No, I mean -- I guess I just meant for any
5 mental health issues. Had you ever been ---

6 A: Oh, nothing. No. No, nothing for mental
7 health.

8 Q: Okay.

9 A: Nothing else for mental health.

10 Q: I gotcha. So nothing like Lexapro or Xanax or
11 anything like that?

12 A: Xanax is a benzodiazepine. I just -- yeah.
13 Uh-huh. I've had Xanax for anxiety. They
14 tried a couple -- I guess -- I don't know the
15 names of the medicines, but different things as
16 far as my anxiety, and they did put me on Xanax
17 one time, they put me on clonazepam one time.
18 I've been -- yeah. Through the system, through
19 the ringer with these medications as far as for
20 my anxiety and my depression.

21 Q: I gotcha. Okay.

22 A: Uh-huh.

23 Q: And while you were seeing someone in Kentucky,
24 were you also seeing anyone while you were in
25 South Carolina?



1 A: South Carolina ... At that time, me and my
2 husband was going to a psychia- --
3 psychologist. Yeah, we were going to a
4 psychologist, not a psychiatrist ---

5 Q: Uh-huh.

6 A: --- there.

7 Q: Do you recall who that was?

8 A: Peter Kilmann.

9 Q: Like K-I-L-M-A-N [sic]?

10 A: Uh-huh.

11 Q: And was he in Columbia?

12 A: Yeah. Yes.

13 Q: And was that for both of you, collectively, or
14 just for you guys individually?

15 A: Both of us, collectively.

16 Q: Okay. Was he pre- -- was Dr. Kilmann
17 prescribing you any medication?

18 A: He couldn't prescribe medication.

19 Q: I gotcha. Were you ---

20 A: He was just a psychologist.

21 Q: Okay.

22 A: Yeah.

23 Q: Were you taking any medication like Seroquel,
24 Xanax, or Clonopin, anything like that while
25 you were in Columbia?



1 A: Seroquel. I've been on Seroquel for a while,
2 so ---

3 Q: Okay.

4 A: --- that's it.

5 Q: Were -- who was prescribing the Seroquel at
6 that time?

7 A: Dr. Alexandria at the Eau Claire.

8 Q: Gotcha. So your primary care provider was
9 providing you with those prescriptions?

10 A: Yes. Yeah. Uh-huh.

11 Q: I gotcha. Okay. And we talked a little bit
12 about your job duties and your wages while you
13 were working at Husqvarna, and I know you
14 mentioned you weren't sure exactly how long you
15 worked for Husqvarna, but tell me a little bit
16 more about what your job duties were.

17 A: (Clears throat) Excuse me. Okay, so my job
18 duties there were to -- we would have the
19 pickers bring the parts to the deck and I would
20 get a order re- -- receipt or -- or slip with
21 the items that goes into each package. Now, it
22 could be something from a small screw to a
23 hundred and fifty pound blade that goes in that
24 order. It was my job to place the items
25 together, so that's what I did. I would -- if



1 it was decks, I had to drag the deck from
2 wherever it was to where it needed to be.

3 Q: Okay.

4 A: So. And if it was small parts, I would put the
5 small parts in bags and put 'em inside the deck
6 with the -- with whatever big it was, you know,
7 however big that -- that last item would be
8 that -- you know, it would go from small to the
9 biggest. So, like screws and stuff went inside
10 of whatever it was that, you know, if it was a
11 bigger part with it. That's what I mean by
12 from small to biggest.

13 Q: Okay. Were you ---

14 A: Uh-huh.

15 Q: --- putting these items in boxes, or just
16 laying them out on pallets?

17 A: Yeah, they were already on pallets.

18 Q: I gotcha.

19 A: They were already -- the big p- -- the bigger
20 parts were already on the pallet, so that's
21 what made them weigh what they weighed, because
22 they was already inside on -- on both sides of
23 the pallet.

24 Q: I gotcha.

25 A: Uh-huh.



1 Q: And were there forklift drivers as well that --
2 that either delivered or picked up the pallets?

3 A: Right. They were supposed to.

4 Q: Okay.

5 A: They definitely were supposed to.

6 Q: And what were the -- what were your hours like,
7 did it -- was it shift work during the day,
8 overnight?

9 A: No, it was shift work during the day.

10 Q: Okay. What was -- what were your typical
11 hours?

12 A: From 7:00 to about 5:00. 4:30, 5:00.

13 Q: Okay.

14 A: Uh-huh.

15 Q: And was it only ---

16 A: Yeah.

17 Q: --- Monday through Friday?

18 A: Was it? I don't remember. I don't remember.

19 Q: Okay. Was it typically only five days a week?

20 A: I don't remember.

21 Q: Did you have to get, or undergo any training
22 before you started?

23 A: No.

24 Q: Okay. Okay. And what job were you working in
25 the day you were injured? I know you said you



1 had two different kind of positions while you
2 were there.

3 A: Right. I was in the -- on the deck.

4 Q: And I guess tell me a little bit about what
5 your job was the -- you know, the day you were
6 working when you got injured. Tell me a little
7 bit about what you were doing.

8 A: I was moving a deck. I was on the deck, I was
9 moving a actual crate from -- it was two -- two
10 stacked up crates, actually. You know, I'm
11 gonna say four, because it was one on each side
12 of the item. So it was -- they were stacked up
13 and it was my duty to, like I said, grab the --
14 get the crate and pull it down to put with the
15 order. The forklifts would come and bring them
16 to us in our stations, but they're not coming
17 to take them down for you to get your orders
18 together. That's you -- that's -- it's on you
19 to take those -- those crates down, or the --
20 yeah, it's on you. So ---

21 Q: And are the crates ---

22 A: --- that's exactly what I was doing.

23 Q: Do the crates have things in them?

24 A: Yes. The part is on the inside of the -- it's
25 not a crate. You're -- we're making it sound



1 like it's small. It's up -- it could weigh up
2 to a hundred and fifty pounds. And I don't
3 mean it's a -- it's not -- no. It's a big --
4 it's big. It's big.

5 Q: Okay. And do you work with other people, like
6 ---

7 A: Yes.

8 Q: --- while you're ---

9 A: Yes.

10 Q: Okay. How many other people were you working
11 with that day?

12 A: It was everybody in the factory. We -- I was
13 out in -- the deck is in the open.

14 Q: Uh-huh.

15 A: So it's multiple decks beside each other, and
16 they have workers in each of those decks.

17 Q: Okay.

18 A: So it was like two people -- I think it was two
19 -- two of us on that side that day.

20 Q: Okay. And are y'all ---

21 A: 'Cause the factory's open, so everybody is in
22 the same room. You're in the same room with
23 everyone.

24 Q: I gotcha. Okay. And when you have to move
25 things that are heavy, would y'all do like team



1 lifts?

2 A: No. No.

3 Q: So everybody's ---

4 A: Because it's your ---

5 Q: --- responsible for ---

6 A: --- responsibility ---

7 Q: --- for moving their own things?

8 A: Right. It's your responsibility to get -- to
9 get your loads up on the deck.

10 Q: Okay.

11 A: Uh-huh.

12 Q: And when -- or I guess, what were you doing
13 when you injured yourself?

14 A: Pulling a deck from on top of a -- a stack of
15 decks.

16 Q: Okay. And about what time of day was it?

17 A: I think it might've been right before lunch or
18 right -- right before lunch, if I'm not
19 mistaken.

20 Q: Okay. And where did you first feel the pain?

21 A: In my neck and my shoulders and in my shoulder
22 blade, like right behind my (indicating) --
23 where I -- you -- right like in my spine. Like
24 I felt it to my core.

25 Q: Okay.



1 A: Uh-huh.

2 Q: But in the upper area of your back like
3 shoulders up?

4 A: Right, right. From like -- it just hit me from
5 the back of my neck and it ran down in between
6 my shoulder blades like it still does like
7 that's exactly how I felt.

8 Q: Okay.

9 A: Like it was instantaneous.

10 Q: And did you talk with anyone or say anything to
11 anyone else that you were working with at the
12 time?

13 A: I did. They knew that I was hurt. They knew
14 I was hurt. They knew -- I couldn't -- it was
15 no -- my reaction, that's what, you know.
16 Yeah, they knew I was hurt.

17 Q: And who did you talk to first, like was it a
18 coworker or a manager?

19 A: No. Like I said, the managers and stuff,
20 everybody was around on the decks that -- they
21 hung around out there on the decks to make
22 sure, I guess, that the people were getting
23 their loads doing what pe- -- the forklift was
24 driving around to do what they needed to do, so
25 they were there already. So all I had to do



1 was say: Hey, I'm -- I -- the -- I'm -- this is
2 not it. I'm hurt. And yeah, they were like:
3 Okay, go. Go. You need to go and try to see
4 what's going on.

5 Q: And who -- who was your manager at the time?

6 A: Oh, man. It -- we were under so many. It was
7 like, I think his name was Tyson, and there was
8 a lady named Michelle that normally told me
9 what to do. And then you had the people from
10 Remedy Staffing that came in that were, you
11 know, from there, so, I don't -- I don't know
12 who the supervisor lead was, I just told who I
13 knew to -- that was around.

14 Q: And so you told Tyson and Michelle?

15 A: Uh-huh.

16 Q: And they're the ones that told you to go get
17 seen by somebody?

18 A: We went into the office. We went into the
19 office and I -- I -- they called, I think,
20 somewhere. And then they told me to go
21 somewhere, so. Yeah.

22 Q: And when you say go into the office, whose
23 office were y'all going to?

24 A: It wasn't -- like I said, all the -- the whole
25 factory is open, but there's a middle portion



1 where they have offices, and everybody's office
2 is in that door, so I -- I don't know who -- we
3 just went to a desk.

4 Q: I gotcha. And they called like an urgent care
5 place, and then did you go straight from there
6 to urgent care?

7 A: Yeah, I think they called the -- yeah. The
8 place that I went to. That's what I'm thinking
9 they did.

10 Q: And did you go that same day?

11 A: Yes.

12 Q: Now before this injury at Husqvarna, had you
13 ever had problems with your back or your neck
14 before?

15 A: No.

16 Q: So this was the first time you'd ever had back
17 pain or back problems?

18 A: Yes.

19 Q: Okay. And so you went to urgent care the same
20 day. Was it urgent care or was it like an
21 emergency room?

22 A: It was an urgent care.

23 Q: Okay.

24 A: It wasn't the name urgent care, but it was like
25 an urgent care.



1 Q: I gotcha. Okay. And when you got there, what
2 did they do for you there?

3 A: Nothing. Took my blood pressure, you know,
4 took my vitals, and gave me some muscle relaxer
5 and sent me home.

6 Q: Okay. And then when were you scheduled to go
7 back to urgent care again?

8 A: I went back two days later.

9 Q: Okay. And when you went back, did you see the
10 same person at urgent care you saw the first
11 time, or did you see somebody different?

12 A: I saw the -- I saw, I think, the same person.

13 Q: Okay.

14 A: So they took me off light duty and put me back
15 on regular duty.

16 Q: I gotcha. Okay. And I guess what did they do
17 for you at that appointment?

18 A: Nothing, but took me off light duty and put me
19 back on regular duty and gave me a note saying
20 I can be back on regular duty and resume normal
21 activity.

22 Q: Okay. I gotcha. And I meant to ask this
23 earlier, the day that it happened, when you
24 went to urgent care that -- that very first day
25 of your injury, what was your pain level like?



1 I know that the doctors give you this 1 to 10
2 scale, 1, you're fine, 10, you're like dead.
3 That very first day, how was your pain on that
4 1 to 10 scale?

5 A: It was like an 8.

6 Q: Okay. And then when you followed up and went
7 back, you said two days later, how was your
8 pain at that point, had it gotten better or
9 worse?

10 A: It was about a 7, 6. It seemed to be getting
11 better.

12 Q: I gotcha. Okay. And you -- you mentioned that
13 he put you out on -- or -- or sent you back to
14 regular duty work, is -- did you think you
15 could go back to regular duty work?

16 A: Yeah.

17 Q: Okay. There is a mention in the -- the medical
18 record from I think that second visit that you
19 got some sort of cortisone injection. Do you
20 recall that at all?

21 A: No, I didn't.

22 Q: Okay. And when you saw the doctor, did you ask
23 to go back to regular duty, or?

24 A: I did, because they told me that I -- I was on
25 light duty and there was nothing for me to do.



1 So ---

2 Q: Okay.

3 A: --- what -- I was gonna be on light duty with
4 nothing to do, or go back to regular duty and
5 work.

6 Q: Okay.

7 A: That's what my intentions were, so, you know,
8 I didn't think that I was hurt like I'm hurt.

9 Q: Okay. And so you went back to work. How long
10 did you work after that second visit before
11 leaving Husqvarna?

12 A: Ooh. Like a month, I think.

13 Q: Okay. And why did you leave Husqvarna?

14 A: They fired me.

15 Q: Why were you fired from Husqvarna?

16 A: They said I quit, they told me I quit.

17 Q: What -- okay.

18 A: They told me ---

19 Q: And I'm just ---

20 A: They told me ---

21 Q: --- trying to find out because, honestly, I
22 have no idea. Why, I guess, why did they say
23 you quit?

24 A: I don't know, because I wasn't coming to work
25 because I was hurt. So I guess that's why they



1 said I was hurt -- I quit.

2 Q: Okay. So ---

3 A: At that point -- at that time a month later,
4 yeah, it was getting -- it was getting back.

5 Q: Okay.

6 A: It was bad already, like ---

7 Q: So you stopped coming to work ---

8 A: Right.

9 Q: Did -- had you asked them to send you back to
10 the doctor?

11 A: I communicated with them that I was hurt.

12 Q: And who did you communicate with?

13 A: I called the Remedy Staffing number, and I
14 can't remember the -- the young lady that works
15 there, I can't remember her name. I can't
16 remember her name, but if I saw her I could --
17 you know. But I don't remember her name. They
18 definitely knew that I was hurt.

19 Q: This is at some -- or I guess how long was it
20 after this second visit you went back to work,
21 how long was it until you made this phone call
22 to Remedy?

23 A: I can't -- I don't know a specific time. I
24 don't wanna tell you a specific time and that's
25 not correct, so I don't know -- I don't know a



1 specific time frame that I did it, but it was
2 all -- it seems like it was all -- it had to be
3 within a month or two of the actual incident,
4 because I don't recall working there any longer
5 after that. It was not very much longer after
6 that.

7 Q: After August?

8 A: Yeah. After -- after I got my -- after I got
9 hurt ---

10 Q: Oh, okay.

11 A: --- it couldn't have been -- it couldn't have
12 been no more than a month or so after that, if
13 that, because I -- I did request to go back to
14 work ---

15 Q: Okay.

16 A: --- because I -- you know.

17 Q: I gotcha.

18 A: Right.

19 Q: Okay. So when did you stop going to work at
20 Husqvarna?

21 A: It was August, if I'm not mistaken. It was
22 August.

23 Q: Okay. And did you tell the people at Remedy
24 that you weren't going to work because you were
25 injured?



1 A: I was hurt, yes.

2 Q: And what did they tell you?

3 A: They didn't tell me anything. Only -- I
4 couldn't get past the -- the girl at the desk.

5 Q: What was she saying?

6 A: That -- what could she say? They said that I
7 quit.

8 Q: No, I'm saying before you were terminated, did
9 you talk with them ---

10 A: I didn't ---

11 Q: --- before that?

12 A: --- know I was terminated 'til I called to tell
13 them that I was hurt. And then it -- yeah,
14 then I was terminated. And she told me then
15 that I was terminated.

16 Q: I gotcha.

17 A: I didn't know that.

18 Q: You didn't talk with anyone before you stopped
19 going to work?

20 A: Who was I gonna talk to? I was I gon- -- who
21 was I gonna say anything to? Like, I'm -- at
22 this point -- at that point in time, this is
23 the height of COVID. COVID just came around.
24 I'm trying to communicate, I had one of the
25 supervisor's phone number, and I was talking to



1 her on a -- on her cell phone. It was more --
2 this was like cell-to-cell conversation. But
3 then I called that office and I tried to, you
4 know, to actually see about my job again, you
5 know, and they told me that I didn't have a
6 job.

7 Q: I gotcha.

8 A: That's when I found out I didn't have a job.
9 But I was in that -- at that point in time,
10 hurting and trying to get somebody to tell me
11 what's going on in my neck, not even being able
12 to get up out of my bed.

13 Q: And so you were corresponding with somebody via
14 text from Husqvarna?

15 A: No, from Remedy Staffing.

16 Q: I gotcha. And this was in August of 2019?

17 A: Yeah.

18 Q: Okay. And then it looks like you went to the
19 emergency room in Richland. I don't know if
20 that's the exact name, Richland Hospital
21 Emergency Room, does that sound right?

22 A: Richland, that's in Columbia?

23 Q: Yes, ma'am.

24 A: Uh-huh.

25 Q: On August 11th of 2019, do you remember that?



1 A: Uh-huh. Yeah, somewhat.

2 Q: Okay. There's a note in here that mentions you
3 fell after getting dressed. Do you remember
4 that?

5 A: Yes, I do.

6 Q: What happened?

7 A: I could not get up out of my bed. I had my
8 father-in-law, I had to call him on his cell
9 phone to come out his room to come into my
10 room. And I didn't hardly have any clothes on,
11 so what I did -- what I did was I went to go
12 and I, with all my -- my might to try to grab
13 me something to put over me. And when I went
14 to try to put that over me, I fell out the bed.
15 I couldn't even get -- I -- I was already in a
16 laid down, immobile position, I didn't have the
17 strength to pull myself up into a sitting
18 position. And ---

19 Q: I gotcha.

20 A: Yeah.

21 Q: And did you -- so, you just fell from the bed
22 to the floor?

23 A: Right.

24 Q: I gotcha.

25 A: But I told him that I had -- something was



1 going on in my -- in my neck and my back, and
2 he told me: Well, it's gotta be neurological,
3 and sent me on my way.

4 Q: Okay. And so did you receive, I guess, aside
5 from maybe some medication, did you receive
6 anything or any treatment from the doctors at
7 the emergency room that evening?

8 A: I -- I think I left. I don't think I even got
9 my discharge papers from him because of the way
10 he -- I'm trying to explain to him how I'm
11 hurting, and he's telling me that -- I don't
12 know what he -- I -- I started to block him out
13 at a certain point in time because I'm trying
14 to tell him and explain to him at this point
15 'cause I'm frustrated at this time. Because
16 like I said, it's the -- it's COVID coming
17 around, right? And I'm trying to figure out
18 what's going on in my neck, and I'm hurting.
19 And I'm trying to explain to him, and he's not
20 comprehending what I'm saying.

21 Q: I gotcha.

22 A: (Tearfully) So -- 'cause I knew something -- I
23 just -- it just felt like something was wrong.

24 Q: Okay.

25 A: And it -- I just -- I left. And I don't think



1 he -- they didn't write me anything. I didn't
2 get a prescription or anything from him.
3 'Cause I don't -- I didn't even get any
4 discharge papers from him.

5 Q: And then after that, it looks like you treated
6 a few times at Hopkins Family Practice, does
7 that sound right?

8 A: Hopkins Family Practice, yeah.

9 Q: With a Nurse Weatherby [sic] Alexandra
10 Weathersby?

11 A: That's her name. That's my -- that's the lady
12 that I thought was at Eau Claire. That was my
13 primary healthc- -- health administrator,
14 Alexandria [sic].

15 Q: I gotcha. And did you also see a Dr. -- Dr. --
16 it's like his last name was Malachi?

17 A: Okay, yeah. Uh-huh. I think all those --
18 every doctor that I saw at that point in time,
19 Ms. Alexandria was giving me the referrals for.

20 Q: I gotcha, okay. And did you talk with her or
21 anybody at Hopkins about your injury at work?

22 A: Yeah. Uh-huh. Yep. Yep.

23 Q: And then they're the ones that referred you to
24 Dr. DeHoll?

25 A: I think I found Dr. DeHoll on my own through



1 Google.

2 Q: Oh, okay. And I believe the first time you saw
3 him was in September of 2019, does that sound
4 right?

5 A: Uh-huh.

6 Q: And did you -- when you went to see Dr. DeHoll,
7 did you talk with him about your injury at
8 work?

9 A: Yeah, definitely.

10 Q: Okay. And when you talked with him about your
11 injury, did you have to -- or did they a- -- I
12 guess, how did you pay for your work com- -- or
13 -- how did you pay for your treatment with Dr.
14 DeHoll, was it through your private insurance?

15 A: I think the first visit with Dr. DeHoll, if I
16 can remember right, it was like self-pay. And
17 then I got married.

18 Q: Okay.

19 A: So my husband went -- because I didn't have any
20 healthcare coverage at the time, and we were
21 gonna get married anyway, so we went ahead and
22 got married.

23 Q: Gotcha.

24 A: And then I proceeded to go get my -- my neck
25 seen about, you know.



1 Q: I gotcha.

2 A: Uh-huh.

3 Q: And so the treatment that you got with Dr.
4 DeHoll was covered under your husband's
5 healthcare?

6 A: Yeah. I think all except the first visit.

7 Q: Okay. And who was your insurance provider
8 through your husband?

9 A: TRICARE.

10 Q: TRICARE. Okay. And at that time, where -- or
11 I guess, were you trying at any point when you
12 were treating with Dr. DeHoll to have this
13 covered by workers' compensation?

14 A: Was I trying to have it covered by workers'
15 compensation? Workers' compensation didn't
16 have anything for me, I -- when I needed
17 workers' compensation.

18 Q: Okay. And when you saw Dr. DeHoll, did he give
19 you an MRI or have you participate in an MRI?

20 A: He did ever- -- all the films that he needed to
21 do to see what was going on. He ---

22 Q: Okay.

23 A: --- started from, I guess, wherever he started
24 from, he found out what he needed to know from
25 there.



1 Q: And then whatever his diagnosis was,
2 ultimately, he told you needed surgery?

3 A: Right.

4 Q: Okay.

5 A: Yeah.

6 Q: And then my understanding is the type of
7 surgery you had was so- -- a type of fusion in
8 your neck area, is that correct?

9 A: Yes.

10 Q: And part of that fusion requires the placement
11 of various pieces of hardware in the back of
12 your neck, or somewhere in your neck?

13 A: Yes.

14 Q: Okay. Following that surgery, you know, how
15 were you doing afterwards?

16 A: Not good. Not good at all.

17 Q: Okay. How long did you treat with Dr. DeHoll
18 following that surgery?

19 A: Six months.

20 Q: Okay.

21 A: Six months healing time. Yeah.

22 Q: And did things get better after, kind of at the
23 end of that six month period?

24 A: I wanna say yeah, they got a little better
25 within that six month period.



1 Q: Okay. Going back to that pain scale that we
2 talked about, if shortly after your injury the
3 pai- -- your pain level was -- was improved
4 slightly to a 6 or a 7 ---

5 A: Right.

6 Q: --- prior to surgery, how was your pain level
7 before you had surgery?

8 A: 9. It was a 9 at all times, at least.

9 Q: Okay.

10 A: (Tearfully) Like, hair-pulling, depressed,
11 crying, in the house not doing anything,
12 quality of life just shrunk to nothing,
13 depressed, just -- yeah. A lot.

14 Q: Okay. And after surgery, after your recovery
15 period -- and you mentioned that you may've
16 continued to see Dr. DeHoll for another six
17 months -- how were you doing on that pain scale
18 six months after the surgery?

19 A: About a 4.

20 Q: Okay. So things had ---

21 A: Six months ---

22 Q: --- improved?

23 A: --- after that, right.

24 Q: Okay.

25 A: Right.



1 Q: And did you treat with anyone after treating
2 with Dr. DeHoll?

3 A: No.

4 Q: Okay. Did you work anywhere after seeing Dr.
5 DeHoll, or -- well, once -- once you stopped
6 treating with Dr. DeHoll, did you go back to
7 work at all?

8 A: No.

9 Q: Okay. And what made you decide to hire an
10 attorney?

11 A: (Tearfully) Because I can't work.

12 Q: Okay.

13 A: I -- I just can't. Like, day-to-day, my day-
14 to-day life is sitting in this chair and having
15 to, you know, fidget around because my --
16 sitting up like this is making my neck, my --
17 I don't know if it's the nerves, but it makes
18 me, like, twitch, you know.

19 Q: I gotcha. Okay.

20 A: I don't know. Like, it's bad. It's -- it's
21 really bad.

22 Q: And then did you seek or get any treatment
23 after filing a workers' compensation claim?

24 A: You said did I get any treatment ---

25 Q: What I meant ---



1 A: Could you repeat the question?

2 Q: --- like medical treatment. After filing a
3 workers' compensation claim, did you get or
4 receive any medical treatment?

5 A: Yes. I -- all -- all the, I guess, medical
6 treatment I received was after filing my
7 workers' compen- -- compensation claim, right?
8 Is that not right?

9 Q: Well I think you got -- I think you were seen
10 by Dr. DeHoll before you filed a claim.

11 A: Right. So you said after I filed a claim. So
12 everybody I seen was after the claim, right?

13 Q: Um.

14 A: Dr. DeHoll, the -- the surgery, right? Or are
15 you asking period, any- -- anything else or
16 anybody else, period?

17 Q: No, my understanding is that -- so, my -- when
18 you hired your attorneys was roughly thirteen
19 months after your injury, so it would've been
20 August of 2020.

21 A: Right.

22 Q: And my understanding is all of your treatment
23 with Dr. DeHoll was prior to that.

24 A: Yeah, but why -- why I wanted to hire an
25 attorney is because I couldn't -- I couldn't



1 get any help from anywhere. I couldn't get
2 workers' compensation, this is the height of
3 COVID. I couldn't get unemployment, like, I
4 was blocked on every -- at -- at every angle,
5 so I, at that time, that point in time I
6 figured why should I have to bear the brunt of
7 this when I reached out for help. I actually
8 was trying to get my job back.

9 Q: I gotcha.

10 A: Like, and it was just like the door shut on me
11 with this injury, you know. So that's --
12 that's one of the reasons why I wanted to hire
13 an attorney, and too, because I didn't have any
14 medical coverage as far as the bills, as far as
15 trying to see what was going on with me when I
16 was perfectly fine beforehand and I didn't mind
17 going out to work for what I needed or wanted.

18 Q: Gotcha. So when you say medical bills, did
19 TRICARE not cover everything?

20 A: Yeah, of course. It's certain things that they
21 didn't, 'cause I wasn't married the whole time,
22 you know.

23 Q: I -- I see. Okay. And then following August
24 of 2020, did you get any medical treatment
25 between August of 2020 and now?



1 A: No. No. Nothing besides the -- the check of
2 the hardware. I had my hardware checked with
3 Dr. DeHoll, and ---

4 Q: Okay.

5 A: --- he -- because I was -- you know, my pain
6 intensity, it actually was -- you know, it --
7 when you're hurting on a daily basis, you kind
8 of get to know -- it sounds kinda weird -- but
9 you kind of get to know regular pain, and then
10 in- -- the intense pain. So it started giving
11 me the intense problems all over again, making
12 my fingertips numb all the way up the midpoint
13 of my hand. (Tearfully) You ever had your hand
14 go to sleep and your foot go to sleep and that
15 tingling feeling that it's throbbing going to
16 you- -- all the way up to your shoulders? But
17 anyway, it's just, it's hard, man. This is not
18 even ... Can I wipe my face, please?

19 Q: Yeah, of course. Take your time.

20 **MR. LIMEHOUSE:** Hey, are we almost done?

21 **MR. PATTERSON:** Let's see ---

22 A: I'm back.

23 **MR. PATTERSON:** --- yeah, I am ---

24 A: I'm sorry. I'm sorry, guys.

25 **MR. PATTERSON:** --- I don't have much left.



1 A: I'm okay now. I'm sorry. Could you ask me the
2 question again?

3 Q: Yeah, sure. Okay. We were just talking about
4 the treatment you received after 2020 through
5 current, and it sounded like you saw Dr. DeHoll
6 for a check-up on the hardware?

7 A: Right. Right, yes. So I went to him and then
8 he told me that that -- the next set of discs
9 were slipping and that I needed to have the
10 same surgery all over again (crying).

11 Q: Okay. And did you move ---

12 A: So that's ---

13 Q: --- decide to move forward with that surgery?

14 A: He said it's not if I'm gonna have it, it's
15 when I'm gonna have it, is how he put it. So
16 I was just moving, so I was kinda trying not to
17 have to -- you know ---

18 Q: I gotcha.

19 A: --- have it like -- yeah. But I wanted to have
20 it before I turned another year older, because
21 I hear that it's harder to heal as you get
22 older from major surgeries like that.

23 Q: Gotcha.

24 A: But, yeah. So, that's where we are.

25 Q: And then in -- let's see. Moving forward into



1 2021, we attempted -- or, we scheduled your
2 deposition a few times. There was a deposition
3 scheduled for September 2nd, 2021; October
4 12th, 2021; January 20th, 2022; and January
5 25th of 2022. However, those depositions did
6 not go forward. And if you don't recall,
7 that's fine, but do you have any recollection
8 of why you were unable to attend those
9 depositions?

10 A: I don't -- I -- I think that it was poor
11 communication with my attorney, because I
12 didn't -- I think I -- I don't know. I don't
13 -- I -- it was a -- somehow, a mix-up in
14 communication, because I didn't -- I wasn't
15 getting anything from Christmas law attorney, I
16 just, in turn one day called and they told me:
17 Hey, we've been trying to get in contact with
18 you. And I gave 'em an -- a current email and
19 a current phone number, and they were able to
20 contact me again. I -- I don't understand how
21 or what the lapse in communication, how that
22 even came about, because I hadn't changed my
23 phone number. I only changed my phone number
24 about a year ago.

25 Q: Okay.



1 A: Uh-huh. So maybe that was it, I don't know.
2 I still have the same emails, so.

3 Q: And then as we sit here today, how is your pain
4 currently? We've been talking about this 1 to
5 10 scale. As we sit here today, how's your
6 pain currently?

7 A: About a 8.

8 Q: Okay.

9 A: Yeah. Especially when it starts to make it --
10 make me jump. I -- I don't know if it's a
11 nerve or something, but it makes me tense up,
12 and then when I try to relax, it makes my body
13 jerk.

14 Q: Gotcha. And when y'all moved from Columbia to
15 South Carolina ---

16 A: Uh-huh.

17 Q: --- is the only other move -- or -- excuse me.
18 Not from Columbia. When you moved from
19 Columbia to Kentucky, you ---

20 A: Uh-huh.

21 Q: --- were then in the same place in Kentucky
22 until you moved to Alabama?

23 A: Right.

24 Q: Okay. And did y'all have to hire movers for
25 all of the -- for the -- for the move to



1 Kentucky and the move to Alabama?

2 A: Yes.

3 Q: And you mentioned that you haven't -- in terms
4 of quality of life, that there are a lot of
5 things you can't do. Can you give me a -- a
6 run down or an idea of the things that you
7 can't do now that you used to do previously
8 before this injury?

9 A: I can't wear a pair of high heeled shoes, I
10 can't stand up and walk without hurting.

11 Q: Uh-huh.

12 A: (Tearfully) I used to dance. I can't do any of
13 that anymore. I barely wanna go outside of my
14 house because I'm laying down the majority of
15 the day, and sometimes that is not even enough,
16 because if I lay down too much and lay the
17 wrong way, when I attempt to try to get up to
18 whatever, it's just -- I can't -- it's like I
19 can't win for losing. I'm always hurting. I
20 wake up out of my sleep hurting, at least a 3,
21 a 4 every day. And I deal with that on the
22 days that it's 8 and 9 and feel like I just
23 wanna pull my hair out, like it's bad. It's
24 really bad. And it's -- I'm here, but I don't
25 -- haven't reached out to another psychiatrist



1 yet and have somebody that -- to talk to about
2 how I feel on the inside and why, you know --
3 I'm sorry. I'm rambling at this point. I'm
4 just ---

5 Q: That's okay.

6 A: --- I'm hurting. Always.

7 Q: Is there ---

8 A: I'm hurting.

9 Q: Is there anything that makes the pain better?

10 A: No. There's nothing that I feel that I have
11 been able to do to make it better. If I try to
12 ice it, it aggravates it. If I try to heat it,
13 it aggravates it. I ibuprofen to death, like
14 I take so many ibuprofen my stomach feels like
15 it's ---

16 Q: How about ---

17 A: --- gonna have a ---

18 Q: --- sleeping?

19 A: --- hole in it.

20 Q: Are you able to sleep?

21 A: No. I take Seroquel for sleep, that's a
22 sleeping pill. And I -- there ain't -- they
23 got -- I'm at 200mg now. I started off at 50,
24 and I still get very little sleep.

25 Q: And what about regular activities like driving,



1 are you able to drive anywhere?

2 A: Yes, I drive. But driving comfortably
3 anywhere, no. Driving for a long period of
4 time, no.

5 Q: And what about regular everyday activities,
6 like if you gotta go get groceries, are you
7 able to go do things like that?

8 A: If I gotta go get it, then I force myself to
9 get it, but if it's not something that I have
10 to do, I don't even attempt to do it.

11 Q: Okay. And aside from this workers'
12 compensation claim, are you involved in any
13 other -- or, have you ever been involved in any
14 other lawsuits, meaning have you ever been sued
15 or sued somebody else before for any reason?

16 A: No.

17 Q: Have you ever been arrested before?

18 A: Yes.

19 Q: When was the most recent?

20 A: I don't have a recent arrest.

21 Q: Okay. Has it been more than ten years ago?

22 A: Yeah.

23 Q: More than twenty years ago?

24 A: I think I had one about twen- -- right at --
25 well, about eleven. Maybe eleven years ago or



1 so.

2 Q: Okay. And what was that arrest for?

3 A: Possession of marijuana less than a gram. I
4 was driving a vehicle and they found a small
5 marijuana cigarette in the backseat on the
6 floor ---

7 Q: Okay.

8 A: --- floorboard.

9 Q: Have you had any other arrests?

10 A: Yeah. Uh-huh. When I was 17, I was with a
11 group of kids and they were stealing, I was
12 driving, they got us all.

13 Q: Okay.

14 A: And I've been in a club before that was raided,
15 but what -- didn't nothing come out of that.
16 But, yeah.

17 Q: Have you ever been treated for alcohol or drug
18 abuse?

19 A: Yes. I have been treated for drug abuse.

20 Q: How long ago was that?

21 A: Oh, it was years. It was after I was coming
22 off of this wrist injury, the doctor -- my
23 doctor came up that they -- I was prescribed
24 pain medication for ten years, and when I
25 wanted to get off of it, he couldn't get me off



1 of, so I had to go through a treatment center
2 to get off of it.

3 Q: So has that been more than ten years ago?

4 A: Yes. Yeah, definitely.

5 Q: Have you ever applied for Social Security
6 Disability?

7 A: Since this injury, I have.

8 Q: When did you apply?

9 A: Oh, God. It's been years. I think I got a
10 denial letter somewhere. It's been years.

11 Q: Okay.

12 A: It's a couple years, yeah.

13 Q: Would it have been -- but it's been sin- -- you
14 applied at some point after 2019?

15 A: Right.

16 Q: And -- and you just got denied and then ---

17 A: Right.

18 Q: --- didn't apply again?

19 A: Right. Right.

20 Q: Okay. Do you smoke cigarettes at all?

21 A: No, I don't smoke.

22 Q: Okay. I -- well, Ms. Bradshaw, thank you for
23 your time. I don't have any additional
24 questions at the moment. Your attorney may
25 have some questions for you, but I am done.



1 A: Okay.

2 **MR. LIMEHOUSE:** Christina, I don't have any. We're
3 done.

4 A: Thank you.

5 **(There being no further questions, the deposition**
6 **concluded at 3:35 p.m.)**

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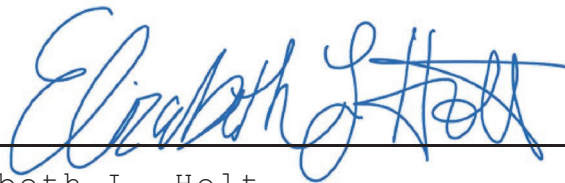


CERTIFICATE

This is to certify that the deposition of **CHRISTINA BRADSHAW**, consisting of seventy-three (73) pages, is a true and correct transcript of the testimony given by said deponent after being duly sworn; said deposition was reported by the method of Stenomask 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 November 27, 2023.



Elizabeth L. Holt
Court Reporter

Notary Public for South Carolina
My Commission Expires: September 6, 2033



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0185

STATE OF SOUTH CAROLINA
BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC No. 1925084

Christina Bradshaw,)
)
 Claimant,)
)
 v.)
)
 Remedy Intelligent Staffing, Inc.,)
 Et Al,)
)
 Employer,)
)
 and)
)
 XL Insurance America, Inc.,)
)
 Carrier.)
 -----)

VIRTUAL DEPOSITION OF
DR. PAUL DEHOLL

Monday, November 20, 2023
12:23 p.m. - 12:32 p.m.

The virtual deposition of Dr. Paul DeHoll was taken on behalf of the Employer on the 20th day of November, 2023 before Elizabeth L. Holt, Court Reporter and Notary Public in and for the State of South Carolina, pursuant to Notice of Deposition and/or agreement of counsel.



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0186

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EXHIBITS

(Claimant's Exhibit Number 1 was marked at the conclusion of this deposition.)

Claimant's Exhibit Number 1 8
 (Completed questionnaire)

STIPULATIONS

It is stipulated and agreed that this deposition is being taken pursuant to the Administrative Procedures Act and the South Carolina Rules of Civil Procedure.

It is stipulated by and between counsel and the witness that the deposition is being conducted by remote means and the court reporter/Notary is not present with the witness, however the oath administered is valid.

It is stipulated by and between counsel and the witness that the reading and signing of the following deposition be, and the same are, hereby waived.



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0187

1 DR. PAUL DEHOLL, having been duly sworn, deposes and
2 testifies as follows:

3 **DR. DEHOLL - EXAMINATION BY MR. PATTERSON:**

4 Q: Dr. DeHoll, my name is Michael Patterson, I'm
5 an attorney here in Charleston. My law firm's
6 Mingleldorff & Patterson, we represent the
7 employer and insurance carrier in this workers'
8 compensation case that brings us here today.

9 Being a doctor that practices and -- and
10 accepts workers' compensation patients, can I
11 assume that you have had your deposition taken
12 before?

13 A: That's correct.

14 Q: Okay. Well then I'm gonna dispense with the
15 ground rules. I am sure you are familiar with
16 the rules of the deposition. I'm gonna jump
17 right in.

18 If you could just briefly describe your
19 educational background, starting with undergrad
20 and just moving forward to where you are
21 currently today.

22 **MR. CHRISTMAS:** Real -- real quick. Of course, you
23 can ask any question you want, but if it'll
24 speed things up, we'll stipulate that he's an
25 expert, but -- whatever you wanna do.



1 **MR. PATTERSON:** Yeah. No worries. Okay.

2 **Q:** Well, Dr. DeHoll, can you just confirm that you
3 are board-certified?

4 **A:** I am.

5 **Q:** Okay. And are you board-certified in
6 orthopedics?

7 **A:** Yes, that's correct.

8 **Q:** Okay. And how long have you been practicing?
9 I know initially, it was Palmetto Health, and
10 now it's Prisma Health. How long have you been
11 with them?

12 **A:** I guess since they were born. I mean I -- I --
13 I initially worked at Midlands Orthopedics in
14 2003, worked there for four years. I moved to
15 Sumter for a few years and then came back and
16 joined the Moore Clinic. The Moore Clinic,
17 that was 2014, that then became Palmetto Health
18 that then became Prisma Health, but it's been
19 the same group that I've been with.

20 **Q:** Okay. And do you focus, or do you have any
21 particular specialty in orthopedics?

22 **A:** I just do spine surgery.

23 **Q:** Okay. And do you ha- -- it sounded like you
24 were pulling up an electronic record for Ms.
25 Walthour, although it -- I believe she has now



1 remarried and her name is Bradshaw, so I don't
2 know if it's under Walthour or Bradshaw.

3 A: Correct. It gets confusing. To make this more
4 complicated, we've changed medical sys- --
5 record systems since. I -- I've seen her once
6 in the new system, but it -- now she's lis- --
7 listed as Christina Bradshaw.

8 Q: Okay.

9 A: What I was gonna try to do is get her old --
10 see what I can find on her old stuff while you
11 guys are talking.

12 Q: Do you have, without reviewing your notes, any
13 independent recollection of how Ms. Bradshaw
14 was referred to you?

15 A: I do not. That is all in our old system, and
16 thanks to, I guess, legal actions, that was --
17 our system was Athena. We have no long- -- we
18 no longer have any access to that, so I can't
19 -- unless you have it in paper, I can't access
20 it.

21 Q: I gotcha. Okay. So at the moment, the only
22 record you can access is the one record from,
23 I believe, 2022, maybe?

24 A: Correct. 7/14 of '22. That's the only thing
25 I've got access to of -- of my interactions



1 with her.

2 Q: Okay. And what would be -- regarding any
3 records prior to that, you mentioned that you
4 don't have access to that system?

5 A: Correct.

6 Q: What would be the best way to get you records
7 of the -- any treatment you would have provided
8 in 2019?

9 A: I mean I -- I remember her, just because it's
10 not often that you do a three-level cervical
11 discectomy and fusion on a healthy woman in her
12 40s, I mean, so I -- I -- in spite of seeing
13 five or six thousand patients a year, I
14 actually remember her. I don't remember
15 details of when she showed up the first time I
16 saw her, what her initial complaints were. I
17 mean, I -- I know you guys have all that stuff
18 already written down somewhere.

19 Q: Yeah. I -- so the -- the actual -- or, your
20 treatment of what would have been Ms. Walthour
21 at the time, I'm not as concerned with as so
22 much as whether or not you recall -- I mean,
23 most of my questions were gonna center around
24 whether or not Ms. Walthour ever described a
25 work injury to you. But if you don't have



1 those notes, I'm assuming you might not have an
2 independent recollection of that.

3 A: I would not have an independent recollection of
4 that.

5 Q: And so, just for -- and, you know, I don't
6 wanna waste anyone's time. It might be better
7 for us to reschedule this so that we can get
8 you all of the records that we have regarding
9 with Ms. Walthour's treatment.

10 **MR. PATTERSON:** But, at the same time, Gary, if you
11 wanna go ahead and ask your questions, I'm
12 totally fine with that. I certainly don't
13 wanna waste this opportunity.

14 **MR. CHRISTMAS:** Sure. Yeah. I'm just -- mine will
15 be very brief now.

16 **DR. DEHOLL - EXAMINATION BY MR. CHRISTMAS:**

17 Q: But we -- we -- I'm Gary Christmas, and I
18 represent the injured worker in this case, your
19 patient. I had met with you sometime this year
20 and -- and asked you some questions. We
21 provided you a full deck of medical records,
22 and then I had conference with you and we sent
23 you a questionnaire. I -- I was asking you
24 before we went on the record if you had a copy
25 of that questionnaire in front of you, and I



1 believe you -- you said that you did, is that
2 accurate?

3 A: Correct.

4 Q: Okay.

5 **(Claimant's Exhibit Number 1 was marked referenced at**
6 **this time.)**

7 **MR. CHRISTMAS:** And so, just for identification
8 purposes -- and, Madam Court Reporter, we'll
9 just make this Claimant's Exhibit 1, and I will
10 make sure that we send a copy of that to you to
11 add to the deposition transcript.

12 Q: But just for identification purposes, at the
13 top of the page it says Christina Walthour vs.
14 Remedy Intelligent Staffing, Inc., and has the
15 WCC file number, the date of accident was
16 7/11/2019. It is three pages and has six
17 questions on it. Did I represent that
18 correctly?

19 A: Correct.

20 Q: Okay. And there was a series of questions. If
21 you could just read through all six, I'm just
22 gonna try to speed this up and ask a couple of
23 global questions so that we don't spend more of
24 your time than we need to.

25 A: Question one says, "Most probably and to a



1 reasonable," medi- -- "degree of medical
2 certainty, that as I already opined on November
3 11, 2021 (See attached), it is my opinion that
4 Christina Walthour's injuries to her cervical
5 spine, including her 3-4, 4-5, 5-6, 6-7 were
6 caused and/or aggravated by her 07/11/19
7 accident at work," and that's marked Yes.

8 Q: Okay. Yeah, and what I'm gonna do so you don't
9 have to painstakingly, like pulling teeth read
10 each one for the record, if you just wanna take
11 a moment to read them to yourself silently, all
12 six, I'm just gonna ask you a couple global
13 questions just to speed things up.

14 A: Okay. Okay.

15 Q: Yeah, so, out of those six questions, you did
16 have an opportunity to read each of them?

17 A: Yes.

18 Q: Okay. And you had answered yes to all of the
19 six questions?

20 A: That's correct.

21 Q: Okay. Specifically on question number four,
22 you had taken the time to fill in percentages
23 of impairment to the different levels of her --
24 of her neck?

25 A: Correct.



1 Q: Okay. And all the opinions that you're gonna
2 give me today, can we agree that they are most
3 probable and to a reasonable degree of medical
4 certainty?

5 A: That's correct.

6 Q: Okay. And you stand by all of the opinions
7 that you've given in this three-page
8 questionnaire with six questions that you
9 signed at the bottom on November 9th, 2023?

10 A: I do.

11 **MR. CHRISTMAS:** Okay. That's all I have for you.
12 Thanks.

13 **DR. DEHOLL - EXAMINATION BY MR. PATTERSON:**

14 Q: Dr. DeHoll, I -- I just wanna ask, again, when
15 filling out these questions, do you have a
16 recollection of how Ms. Walthour's injury
17 occurred?

18 A: I do not.

19 **MR. PATTERSON:** Okay. I don't have any questions.

20 **MR. CHRISTMAS:** Okay.

21 **(There being no further questions, the deposition**
22 **concluded at 12:32 p.m.)**

23

24

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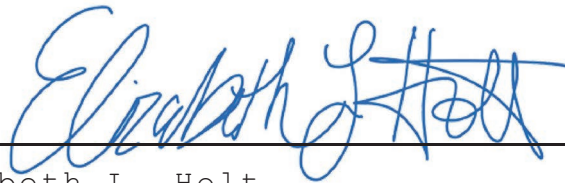


CERTIFICATE

This is to certify that the deposition of **DR. DR. PAUL DEHOLL**, consisting of ten (10) pages, is a true and correct transcript of the testimony given by said deponent after being duly sworn; said deposition was reported by the method of Stenomask 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 November 27, 2023.



Elizabeth L. Holt
Court Reporter

Notary Public for South Carolina
My Commission Expires: September 6, 2033



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0196

Christina Walthour vs. Remedy Intelligent Staffing, Inc.

W.C.C. File No.: 1925084

Date of Acc.: 07/11/2019

- (1) Most probably and to a reasonable degree of medical certainty, that as I already opined on November 11, 2021 (See Attached) it is my opinion that Christina Walthour injuries to her cervical spine including her C3-4, C4-5, C5-6, C6-7 were caused by and/or aggravated by her 07/11/2019 accident at work.

☒ YES

☐ NO

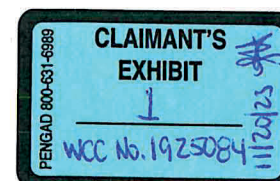
Please explain if necessary:

- (2) Most probably and to a reasonable degree of medical certainty, that as I already opined in my medical note dated July 14, 2022 (See Attached) it is my opinion that Ms. Christina Walthour needs future medical treatment including fusion surgery to her C3-4 level in her neck as well as repeat diagnostic imaging and office visits as a result of the injuries she sustained that were caused and/or aggravated by her 07/11/2019 accident at work.

☒ YES

☐ NO

Please explain if necessary:



Christina Walthour vs. Remedy Intelligent Staffing, Inc.

W.C.C. File No.: 1925084

Date of Acc.: 07/11/2019

- (3) Most probably and to a reasonable degree of medical certainty, it is my opinion that Christina Walthour has permanent sedentary work restrictions as a result of her 07/11/2019 accident at work.

☒ YES

☐ NO

Please explain if necessary:

- (4) Most probably and to a reasonable degree of medical certainty, it is my opinion that Christina Walthour has the following permanent impairment to her neck and back as a result of her injuries she sustained as a result of his/her 07/11/2019 accident at work as follows:

15 % whole person impairment to her neck/back as it relates to her C-3-4.

25 % whole person impairment to her neck/back as it relates to her C-4-5.

25 % whole person impairment to her neck/back as it relates to her C-5-6.

25 % whole person impairment to her neck/back as it relates to her C-6-7.

Most probably and to a reasonable degree of medical certainty, it is my opinion that using the combined values chart using the AMA Guides 5th Ed. Christina Walthour's over all impairment is 68 % to her neck/back as a result of her injuries she sustained as a result of her 7/11/2019 accident at work.

Nov/9/2023 3:25:17 PM

PH Ortho Team Center R 803-296-9676

5/9

PH Ortho Team Center R 803-296-9676

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P.0005/0005

Christina Walthour vs. Remedy Intelligent Staffing, Inc.**W.C.C. File No.: 1925084****Date of Acc.: 07/11/2019**

- (5) Most probably and to a reasonable degree of medical certainty, it is my opinion regarding Christina Walthour 07/11/2019 accident at work that she has been a compliant patient, is not a malingerer, and is credible.

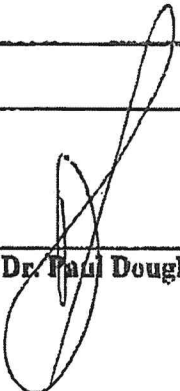
☒ YES☐ NO

Please explain if necessary:

- (6) Most probably and to a reasonable degree of medical certainty, this questionnaire regarding Christina Walthour constitutes a part of my medical chart.

☒ YES☐ NO

Please explain if necessary:


Dr. Paul Douglas deHoll11/9/23
Date

Nov/9/2023 3:25:17 PM

PH Ortho Team Center R 803-296-9676

6/9

10/17/2023 14:11 Christmas Injury Lawyers

(FAX) 843 884 2007

P.0006/0008

Jan/03/2022 11:49:22 AM

Prisma Health 803-556-6555

2/2

October 29, 2021

Page 1

RE: Client: Christina Walkhour (Bradshaw)
DOB: 09/21/1976
SS #: 423-64-1388
D/A: July 11, 2019

- (1) Most probably and to a reasonable degree of medical certainty, it is my opinion that Ms. Walkhour's injuries to her cervical spine were aggravated by her July 11, 2019, accident at work.

[] YES [] NO []

Please Explain if Necessary:


Dr. Paul Douglas deHoff


Date

PRISMA HEALTH

ML ORTHO NORTHEAST
 101 Business Park Blvd
 Columbia SC 29223

Bradshaw, Christina
 MRN: 078224082, DOB: 9/21/1976, Sex: F
 Visit date: 7/14/2022

10/14/2022 - Office Visit in Prisma Health Orthopedics - Northeast (continued)

Program Notes (continued)

Assessment/Plan [HB.1T]

Ms. Bradshaw definitely has an increase in stenosis at C3-4. I have actually compared this back to her original preoperative MRI. I think the probability that she ends up having surgical intervention at C3-4 is pretty high, quite honestly by axial imaging criteria. She is a surgical candidate now. Based upon her age and the fact that she is not actively myelopathic, I think we can try to postpone additional surgery. I am going to recommend that she at least try a cervical epidural to see if we can mitigate her pain and hopefully kick the can at least a few years down the road prior to an additional ACDF that I think is definitely going to be necessary. Obviously if her symptoms get worse, she is going to need an ACDF at C3-4, but I will try to see if we can postpone that. We will try to see if we can facilitate finding a pain specialist closer to home such that she does not have to travel back and forth.

ATTESTATION:

I, Amber Jenkins, am documenting this note for Paul deHoll, MD. [AJ.101]
 Procedures [HB.1M]

Problem List Items Addressed This Visit

Other
 Spinal stenosis in cervical region -
 Primary
 Relevant Orders
 XR Spine Cervical 2 or 3 Vw

Orders Placed This Encounter

PRISMA HEALTH - NORTHEAST

•XR Spine Cervical 2 or 3 Vw
 Standing Future
 Status:
 Number of 1
 Occurrences:
 Standing 10/14/2023
 Expiration Date:
 Order Specific Select reason
 Question: for exam
 Answer: Free Text
 Reason and Hx.
 Order Specific Enter free text
 Question: reason/hx
 Answer: neck pain
 Order Specific Release to
 Question: patient
 Answer: Immediate [HB.1T]

Nov/9/2023 3:25:17 PM

PH Ortho Team Center R 803-296-9676

8/9

10/17/2023 14:11 Christmas Injury Lawyers

(PAX)0430042007

P.0000/0000

**PRISMA
HEALTH.**ML ORTHO NORTHEAST
101 Business Park Blvd
Columbia SC 29223Bradehaw, Christine
MRN: 976224082, DOB: 9/21/1976, Sex: F
Visit date: 7/14/2022**Progress Notes (continued)**

Electronically signed by Deholl, Paul, MD at 7/15/2022 1:13 PM

Attribution Key

AJ.1 - Jenkins, Amber on 7/14/2022 12:28 PM

HB.1 - Braka, Hayden E, CMA on 7/14/2022 10:46 AM

C - Copied, M - Manual, T - Template

Imaging**Imaging****XR Spine Cervical 2 or 3 Vw (Completed)**

Electronically signed by: Grow, Chelsea, RT on 07/14/22 1030

Ordering user: Grow, Chelsea, RT 07/14/22 1030

Authorized by: Deholl, Paul, MD

Frequency: Routine 07/14/22 -

Quantity: 1

Diagnoses

Spinal stenosis in cervical region [M48.02]

Ordering provider: Deholl, Paul, MD

Ordering mode: Paper Order

Class: Clinic Performed

Status: Completed

Questionnaire

Select reason for exam method

Free Text Reason and Hx

Enter free text reason/hx

neck pain

Release to patient

Immediate

Indications

Spinal stenosis in cervical region [M48.02 (ICD-10-CM)]

END OF REPORT

STATE OF SOUTH CAROLINA
BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC No. 1925084

Christina Walthour,)
)
Claimant,)
)
v.)
)
Remedy Intelligent Staffing, Inc.,)
)
Employer,)
)
and)
)
XL Insurance America, Inc.)
)
Carrier/Defendants.)
-----)

COMMISSION HEARING

Wednesday, November 29, 2023
2:00 p.m. - 4:21 p.m.

The Commission Hearing was heard before Commissioner Avery B. Wilkerson, Jr., at the South Carolina Workers' Compensation Commission, 1333 Main Street, Suite 500, Hearing Room A, Columbia, South Carolina on the 29th day of November, 2023, before Mary Cooper Joy, 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 / contact@creelreporting.com

0203

APPEARANCES

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Charleston, South Carolina 29492
Attorney for the Employer/Carrier

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EXHIBITS

*(Defendant's Exhibit Number 1 was marked for
identification purposes, introduced as follows, and
retained by the Commission.)*

Defendant's Exhibit Number 1	165, 168
<i>(Facebook photographs)</i>	



STIPULATIONS

It is stipulated and agreed that this deposition is being taken pursuant to the Administrative Procedures Act and the South Carolina Rules of Civil Procedure.



1 **CALL TO ORDER:**

2 **COMMISSIONER WILKERSON:** Today's date is the 29th
3 day of November, 2023. We're here in reference
4 to Workers' Comp File Number -- wait a minute,
5 I've got the form, the one in front of me now,
6 I've got so many files up here today --
7 1925084. The Claimant in today's case is
8 Christina Bradshaw.

9 Ms. Bradshaw, how are you doing?

10 **MS. WALTHOUR-BRADSHAW:** I'm fine, sir.

11 **COMMISSIONER WILKERSON:** I'm gonna get the right
12 file before me, yeah. I've still got the old
13 one up here.

14 Representing -- well, I got -- actually,
15 I have you down as Christina ---

16 **MS. WALTHOUR-BRADSHAW:** Walthour.

17 **COMMISSIONER WILKERSON:** --- it's another name on
18 here, so I got two ---

19 **MR. CHRISTMAS:** Sh- -- Christina Walthour is her
20 name before she was married, Your Honor, and,
21 now, she's ---

22 **MS. WALTHOUR-BRADSHAW:** Christina Bradshaw.

23 **MR. CHRISTMAS:** Bradshaw.

24 **COMMISSIONER WILKERSON:** Bradshaw, okay.

25 **MR. CHRISTMAS:** Yes, sir.



1 **COMMISSIONER WILKERSON:** So a Bradshaw now, but the
2 ---

3 **MR. CHRISTMAS:** Ms. ---

4 **COMMISSIONER WILKERSON:** --- the Claimant's ---

5 **MR. CHRISTMAS:** --- Walthour.

6 **COMMISSIONER WILKERSON:** --- file -- okay, okay.

7 **MR. CHRISTMAS:** Yes, sir.

8 **COMMISSIONER WILKERSON:** That's why I was -- had the
9 wrong file in front of me, I was confused,
10 thank you -- represented by James G. Christmas.
11 The Employer is Remedy Intelligent Staffing,
12 Inc.; the Employer, Bridge Holding Company,
13 Remedy or whatever -- I don't know what that
14 is; the Carrier is XL Ins- -- Insurance
15 America, Inc., represented by Michael
16 Patterson.

17 **MR. PATTERSON:** Yes, sir.

18 **COMMISSIONER WILKERSON:** The date of accident is
19 7/12/2019. I show the average weekly wage of
20 402.91. The comp rate is 268.60.

21 We're here to determine the issues as set
22 forth on Form 50 and 51. We're here for a
23 hearing today. We did have a Motion that was
24 filed yesterday in reference to this particular
25 case, and we've probably been under discussion



1 over 30 minutes in reference to that Motion
2 that was filed by the Defense yesterday, it was
3 given to me late yesterday afternoon.
4 Obviously, no response has been given in
5 writing by Adverse Party, don't know if they've
6 brought a response, but I, I think we're going
7 to narrow some of that down, maybe we're not.
8 But since motions can be presented the day of
9 the hearing on both sides, we typically grant
10 those as being properly before the Court is
11 what we do, nobody likes them to be filed that
12 late or filed on -- but that just happens
13 sometimes, so it would be properly before us,
14 so that, that would be part of what we're going
15 to discuss here.

16 But, Mr. Patterson, you had some thoughts
17 during our discussion, and you probably still
18 have some thoughts in reference to the Motion
19 that you filed yesterday, and I think there
20 were some things you may be able to narrow
21 down, but there may be some things you cannot
22 narrow down in reference to that or may not
23 want to narrow down, I'm fine either way 'cause
24 it is your Motion. So let's hear about the
25 Motion first.



1 **MOTION BY MR. PATTERSON:**

2 **MR. PATTERSON:** Thank you, Your Honor.

3 I think the best way to describe the
4 Motion is to discuss the, the purpose and
5 reason behind the Motion. Claimant alleged an
6 injury on July 11th, 2019, she reported it on
7 July 12th of 2019, she filed a Notice of Claim
8 August 18th of 2020. No hearing was requested.
9 the, the Claim by all appearances was not
10 prosecuted. The adjuster closed the Claim in
11 May -- May 14th of 2021. A hearing request was
12 filed May 26th of 2021. A consent order was
13 reached between the parties October 13th of
14 2021 so that additional discovery could be
15 conducted. The reason additional discovery is
16 necessary is because, on September 2nd, 2021,
17 Claimant and her coun- -- counsel s- -- kee- --
18 Claimant and her can- -- counsel cancelled the
19 deposition that was scheduled for September
20 2nd, 2021, it was rescheduled for 10/12/2021,
21 Claimant and her counsel again cancelled that
22 deposition, and the deposition was again
23 rescheduled for January 20th, 2022, and that
24 deposition was scheduled. At that time, Dr.
25 DeHoll's deposition had been scheduled



1 previously but had been rescheduled for January
2 20th, 2022, and opposing counsel cancelled that
3 deposition, not -- it, it was not Dr. DeHoll
4 who cancelled that deposition. The Claimant's
5 deposition, in an effort -- because the hearing
6 had been scheduled for February 1st of 2022, we
7 rescheduled Claimant's deposition for January,
8 January 25th, 2022, however, that deposition
9 was also cancelled by the Claimant. During
10 that time period, Ms. Comer, who is a nurse
11 practitioner that s- -- saw the Claimant for
12 the very first time on January -- or, excuse
13 me, July 14th of 2019. Her deposition was
14 scheduled. However, on January 31st of 2022,
15 Claimant withdrew her Form 50 hearing request.
16 At the time, Dr. Patel's deposition was also
17 being scheduled. However, the hearing request
18 being withdrawn negated the need for, for
19 further discovery at that time. In, in
20 addition to that, at the time, Hannah Duquette
21 was an HR representative at Husqvarna, and she
22 was scheduled to appear at that hearing,
23 however ---

24 **COMMISSIONER WILKERSON:** Who, who is that? She's
25 not a party to the hearing, is she?



1 **MR. PATTERSON:** Well, she would have been a witness,
2 it, it -- her name's listed in my Motion, I
3 believe.

4 **COMMISSIONER WILKERSON:** But she -- is she with the
5 -- she's with the Employer, Bridge Holding
6 Company?

7 **MR. PATTERSON:** She -- Ms. Walthour-Bradshaw, she
8 was staffed at Husqvarna, that's where she was
9 working ---

10 **COMMISSIONER WILKERSON:** Okay. I didn't ---

11 **MR. PATTERSON:** --- at ---

12 **COMMISSIONER WILKERSON:** --- hear that.

13 **MR. PATTERSON:** --- the time of ---

14 **COMMISSIONER WILKERSON:** Uh-huh.

15 **MR. PATTERSON:** --- her injury.

16 **COMMISSIONER WILKERSON:** Okay.

17 **MR. PATTERSON:** And at this point now, because,
18 after withdrawing her hearing request, Claimant
19 took no further action to prosecute her case
20 for another 19 months.

21 **COMMISSIONER WILKERSON:** Why didn't you take her
22 deposition at that point in time?

23 **MR. PATTERSON:** We couldn't, it wa- -- it was
24 cancelled every time we had tried to ---

25 **COMMISSIONER WILKERSON:** The ---



1 **MR. PATTERSON:** --- schedule ---

2 **COMMISSIONER WILKERSON:** --- Employer.

3 **MR. PATTERSON:** --- it.

4 **COMMISSIONER WILKERSON:** Why did you take that
5 person's deposition at the Employer's,
6 Husqvarna ---

7 **MR. PATTERSON:** Well ---

8 **COMMISSIONER WILKERSON:** --- 'cause she can't be
9 found now?

10 **MR. PATTERSON:** --- we -- well, we have tracked her
11 down, she's now in Charlotte and wor- --
12 working for a different company.

13 **COMMISSIONER WILKERSON:** But who -- we have -- they
14 won't have a deposition?

15 **MR. PATTERSON:** I, I haven't been able to schedule
16 her deposition yet, we just figured out where
17 she was located, and ---

18 **COMMISSIONER WILKERSON:** But you could've taken it
19 while she was still an employee at Husqvarna?

20 **MR. PATTERSON:** We could have.

21 **COMMISSIONER WILKERSON:** Okay.

22 **MR. PATTERSON:** But the need at the time -- there
23 was no need because she -- we had -- there was
24 no need to take her deposition, she was willing
25 to appear.



1 **COMMISSIONER WILKERSON:** Okay.

2 **MR. PATTERSON:** Okay. And ---

3 **COMMISSIONER WILKERSON:** But you don't have a
4 subpoena to be here today?

5 **MR. PATTERSON:** No. I don't ---

6 **COMMISSIONER WILKERSON:** Okay.

7 **MR. PATTERSON:** Aside from knowing where she's
8 employed, I, I don't have an address, I ---

9 **COMMISSIONER WILKERSON:** Okay. I -- I'm just ---

10 **MR. PATTERSON:** And ---

11 **COMMISSIONER WILKERSON:** --- trying ---

12 **MR. PATTERSON:** --- and ---

13 **COMMISSIONER WILKERSON:** --- to figure it out.

14 **MR. PATTERSON:** --- you know, being in Charlotte, a,
15 a in s- -- a South Carolina subpoena isn't
16 valid in North Carolina.

17 **COMMISSIONER WILKERSON:** You can domesticate it.

18 **MR. PATTERSON:** I, I -- well ---

19 **COMMISSIONER WILKERSON:** It costs money, but you can
20 make it work.

21 **MR. PATTERSON:** So, now, fast-forward 19 months, the
22 clase (ph) -- the, the case got closed in
23 September of 2022.

24 **COMMISSIONER WILKERSON:** Who closed it in September
25 of 2022?



1 **MR. PATTERSON:** The adjuster closed the Claim.

2 **COMMISSIONER WILKERSON:** In May, but who closed it
3 in September?

4 **MR. PATTERSON:** The adjuster filed a Form 19.

5 **COMMISSIONER WILKERSON:** Twice? Okay.

6 **MR. PATTERSON:** Yeah. This was the second Form ---

7 **COMMISSIONER WILKERSON:** Sec- ---

8 **MR. PATTERSON:** --- 19 ---

9 **COMMISSIONER WILKERSON:** Okay. That's fine.

10 **MR. PATTERSON:** --- to close ---

11 **COMMISSIONER WILKERSON:** Okay.

12 **MR. PATTERSON:** --- the Claim.

13 **COMMISSIONER WILKERSON:** Okay.

14 **MR. PATTERSON:** And then the Claim remained closed
15 for, for 12 months until Claimant filed a new
16 Form 50 on September 1st of 2023, which is 19
17 months since she withdrew her hearing request
18 and four years since the alleged date of
19 injury.

20 **COMMISSIONER WILKERSON:** So when did your law firm
21 become engaged in this process?

22 **MR. PATTERSON:** I don't have it -- a, a specific
23 date, but it would have been after the hearing
24 request was filed in May, well, o- -- of 2021.

25 **COMMISSIONER WILKERSON:** So it was in 2021; is that



1 ---

2 **MR. PATTERSON:** That's ---

3 **COMMISSIONER WILKERSON:** --- correct?

4 **MR. PATTERSON:** --- correct.

5 **COMMISSIONER WILKERSON:** Okay.

6 **MR. PATTERSON:** Because that's when we would've
7 filed our first 51.

8 **COMMISSIONER WILKERSON:** Okay, okay.

9 **MR. PATTERSON:** 'Cause that's the first time a
10 hearing had been requested.

11 **COMMISSIONER WILKERSON:** Okay.

12 **MR. PATTERSON:** And in -- let's see. On September
13 20th, we sent a Form 27 subpoena to Claimant's
14 counsel to obtain any records or documents they
15 may have, we never received a response to that
16 subpoena. Westinghouse- -- while I don't know
17 what records they have 'cause there was no
18 response, I do know that, on their Form 50,
19 they listed out a number of medical providers.
20 However, one of the medical provider's records
21 that were included in their APAs was not listed
22 on their Form 50, and un- -- until we got their
23 APAs, there was no way I could've known about
24 this medical provider, it's Commonwealth Pain
25 and Spine in Kentucky. Those records are



1 included in opposing counsel's APAs. Ms. Wa-
2 -- Walthour did receive some treatment from
3 them in Kentucky.

4 **COMMISSIONER WILKERSON:** Did you call him once you
5 got them?

6 **MR. PATTERSON:** When I got the ---

7 **COMMISSIONER WILKERSON:** 15 days out, did you call
8 him to say ---

9 **MR. PATTERSON:** Well, we had -- so we got our A- --
10 the, the APAs and then had her depo- -- hadn't
11 -- the Claimant's deposition scheduled for
12 November 16th.

13 **COMMISSIONER WILKERSON:** But, but you said you just
14 found out about those medical records.

15 **MR. PATTERSON:** Yes. In, in the APAs.

16 **COMMISSIONER WILKERSON:** In the APAs. So -- but --
17 so you had them ---

18 **MR. PATTERSON:** I had them ---

19 **COMMISSIONER WILKERSON:** --- 15 days ---

20 **MR. PATTERSON:** --- 15 days ---

21 **COMMISSIONER WILKERSON:** --- before the ---

22 **MR. PATTERSON:** --- before the hearing.

23 **COMMISSIONER WILKERSON:** Okay. Which would've been
24 ---

25 **MR. PATTERSON:** Which left, I ---



1 COMMISSIONER WILKERSON: --- which ---

2 MR. PATTERSON: --- I ---

3 COMMISSIONER WILKERSON: --- would've ---

4 MR. PATTERSON: --- mean ---

5 COMMISSIONER WILKERSON: --- been ---

6 MR. PATTERSON: --- almost ---

7 COMMISSIONER WILKERSON: --- after the doctor's --
8 well, excuse me, wou- -- would've been after
9 her deposition?

10 MR. PATTERSON: It would've been ---

11 COMMISSIONER WILKERSON: Six ---

12 MR. PATTERSON: --- just ---

13 COMMISSIONER WILKERSON: --- days?

14 MR. PATTERSON: --- bef- -- well ---

15 COMMISSIONER WILKERSON: Right?

16 MR. PATTERSON: --- either side -- it, it would have
17 been very close. We got their APAs ---

18 COMMISSIONER WILKERSON: Well, that's the important
19 ---

20 MR. PATTERSON: --- very close to when ---

21 COMMISSIONER WILKERSON: Very close, that only counts
22 in horseshoes and hand grenades.

23 MR. PATTERSON: Let's see.

24 COMMISSIONER WILKERSON: I need dates.

25 MR. PATTERSON: We would have gotten them -- I'm



1 sure there is an e-mail. I want to say ---

2 **COMMISSIONER WILKERSON:** Well, you had gotten his on
3 the 14th.

4 **MR. PATTERSON:** We weren't ---

5 **COMMISSIONER WILKERSON:** The ---

6 **MR. PATTERSON:** --- able ---

7 **COMMISSIONER WILKERSON:** --- deposition's ---

8 **MR. PATTERSON:** --- to ---

9 **COMMISSIONER WILKERSON:** --- on the 16th.

10 **MR. PATTERSON:** Yes. We got ---

11 **COMMISSIONER WILKERSON:** So ---

12 **MR. PATTERSON:** --- them on ---

13 **COMMISSIONER WILKERSON:** --- 16 is ---

14 **MR. PATTERSON:** --- the 15th.

15 **COMMISSIONER WILKERSON:** --- after 14.

16 **MR. PATTERSON:** We ---

17 **COMMISSIONER WILKERSON:** So you ---

18 **MR. PATTERSON:** Well, we were able to access them on
19 the 15th because ---

20 **COMMISSIONER WILKERSON:** So you ---

21 **MR. PATTERSON:** --- it was ---

22 **COMMISSIONER WILKERSON:** --- had ---

23 **MR. PATTERSON:** --- saved ---

24 **COMMISSIONER WILKERSON:** --- them before the
25 deposition?



1 **MR. PATTERSON:** That's correct.

2 **COMMISSIONER WILKERSON:** Okay. That's what I needed
3 to find -- you had those before the deposition?

4 **MR. PATTERSON:** Yes, sir.

5 **COMMISSIONER WILKERSON:** Okay.

6 **MR. PATTERSON:** And so, then, well, based on the
7 timing of Claimant's deposition being on the
8 16th, you've got Thanksgiving holiday in
9 between that, there's 13 days between the 16th
10 and the 29th ---

11 **COMMISSIONER WILKERSON:** So that's one ---

12 **MR. PATTERSON:** --- with ---

13 **COMMISSIONER WILKERSON:** --- day.

14 **MR. PATTERSON:** --- Thanksgiving in between.

15 **COMMISSIONER WILKERSON:** One day, Thanksgiving is one
16 day, right?

17 **MR. PATTERSON:** All right. But I don't know about
18 the Commission, but isn't it ---

19 **COMMISSIONER WILKERSON:** Well, you said Thanksgiving
20 holiday, that is a -- well, that is a holiday,
21 that's one day.

22 **MR. PATTERSON:** Isn't it ---

23 **COMMISSIONER WILKERSON:** I ---

24 **MR. PATTERSON:** --- two days? It -- doesn't the --
25 don't you get Thanksgiving and the Friday



1 after, isn't it a two-day holiday?

2 **COMMISSIONER WILKERSON:** Are you talking about the
3 Commission or you?

4 **MR. PATTERSON:** No, no, no. It -- I thought -- I
5 don't know. Well, how, how is y'all's system
6 set up?

7 **COMMISSIONER WILKERSON:** Well, you can file it --
8 you can file stuff on Thanksgiving Day and
9 Christmas Day.

10 **MR. PATTERSON:** Okay.

11 **COMMISSIONER WILKERSON:** Our system doesn't shut
12 down. It may not be documented in the system.
13 It'll say when it came in.

14 **MR. PATTERSON:** S- -- so -- and ---

15 **COMMISSIONER WILKERSON:** I ---

16 **MR. PATTERSON:** --- what I ---

17 **COMMISSIONER WILKERSON:** --- I -- and when ---

18 **MR. PATTERSON:** --- would ---

19 **COMMISSIONER WILKERSON:** --- you say ---

20 **MR. PATTERSON:** --- say ---

21 **COMMISSIONER WILKERSON:** --- the holiday ---

22 **MR. PATTERSON:** --- is ---

23 **COMMISSIONER WILKERSON:** --- I don't know what the
24 holiday mean -- oh, tell me what the holi- --
25 tell me what that one holiday has to do with



1 the law firm.

2 **MR. PATTERSON:** What I'm saying is 13 days between
3 her deposition and the, the hearing is --
4 leaves almost no time to plan for or conduct
5 any discovery or depositions ---

6 **COMMISSIONER WILKERSON:** Okay.

7 **MR. PATTERSON:** --- that would be necessary based on
8 testimony that we received from ---

9 **COMMISSIONER WILKERSON:** But you could have filed
10 this Motion the day before her deposition
11 'cause you had knowledge of some of this then,
12 you could've filed it the day after her
13 deposition, but you didn't file it until the
14 day before the hearing.

15 **MR. PATTERSON:** Well, my hope was -- is that we
16 might be able to get more information.

17 **COMMISSIONER WILKERSON:** Okay.

18 **MR. PATTERSON:** But it, it did become clear by
19 Monday, the t- -- November 27th that we were
20 not going to be able to conduct all of the
21 necessary discovery before the hearing.

22 **COMMISSIONER WILKERSON:** So why didn't you file the
23 Motion on Monday?

24 **MR. PATTERSON:** I guess, I -- in sending an e-mail
25 to Gary, my hope was that maybe we could come



1 to some agreement for a postponement before I
2 filed it.

3 So the, the outstanding discovery remains
4 that -- or I -- yeah, though -- sorry. We were
5 talking, and I -- I've lost my train of thought
6 there.

7 And so we're now here at the hearing. And
8 they have an IME from Dr. Patel with a
9 questionnaire, and we haven't been able to get
10 his deposition scheduled.

11 We conducted -- we had Dr. DeHoll's
12 deposition scheduled for the 17th of November
13 of 2023, he had to reschedule, it got
14 rescheduled for Monday the 20th of 2023, he was
15 late because he wasn't aware of the deposition.
16 As we were dis- -- talking with him, he was, he
17 was trying to find her records and, and
18 discussed that they had moved to a new
19 electronic record system and that he didn't
20 have any records prior to one record, where he
21 saw Claimant on July 14th of 2022 but had no
22 records available prior to that. So, in my
23 discussion with him, well, I discussed that
24 what's the best way to get you records for
25 treatment that would've been provided in '19



1 because, with his -- Dr. DeHoll's deposition
2 being conducted via Zoom and not having records
3 available in a format that could be quickly
4 disseminated to him so that the deposition
5 could continue in a timely fashion, I did not
6 think it would be prudent to waste everyone's
7 time and money and, certainly, Dr. DeHoll take
8 -- you know, taking time out of his day to be
9 part of this deposition and has patients, so I
10 said it's better for us to reschedule this so
11 we can get you, Dr. DeHoll, all of the records
12 we have regarding Ms. Walthour's treatment.
13 And then I offered -- I knew Gary had a
14 questionnaire from Dr. DeHoll, I wanted to give
15 Gary an opportunity to ask those questions. So
16 I do think that it is appropriate ---

17 **COMMISSIONER WILKERSON:** Why didn't you stop the
18 deposition at that point in time?

19 **MR. PATTERSON:** Well, be- -- because, at, at that
20 point in time, we have a, a questionnaire that
21 Dr. DeHoll does have in his possession, and
22 Gary's right here, I, I just -- out of
23 professional courtesy, I, I don't see any
24 reason why I shouldn't have allowed Gary to ask
25 those questions. And so ---



1 **COMMISSIONER WILKERSON:** But you had ---

2 **MR. PATTERSON:** But ---

3 **COMMISSIONER WILKERSON:** --- the right to stop the
4 deposition 'cause he didn't have the medical
5 reports that you needed him to respond to; is
6 that correct?

7 **MR. PATTERSON:** That's correct.

8 **COMMISSIONER WILKERSON:** Okay. So you felt it was
9 in the best interest to move forward?

10 **MR. PATTERSON:** No. I felt it was in the best
11 interest to allow Gary to ask questions ---

12 **COMMISSIONER WILKERSON:** Well ---

13 **MR. PATTERSON:** --- in the interest ---

14 **COMMISSIONER WILKERSON:** --- you ---

15 **MR. PATTERSON:** --- of ---

16 **COMMISSIONER WILKERSON:** --- can't speak ---

17 **MR. PATTERSON:** --- professional ---

18 **COMMISSIONER WILKERSON:** --- for Gary.

19 **MR. PATTERSON:** --- courtesy.

20 **COMMISSIONER WILKERSON:** Why did you not stop the
21 hear- -- the deposition?

22 **MR. PATTERSON:** Bu- -- I don't know how else I can
23 explain it. I ---

24 **COMMISSIONER WILKERSON:** You, you had the option to
25 stop it right then. You don't ---



1 **MR. PATTERSON:** Well, I ---

2 **COMMISSIONER WILKERSON:** --- have ---

3 **MR. PATTERSON:** --- would ---

4 **COMMISSIONER WILKERSON:** --- all the ---

5 **MR. PATTERSON:** --- say ---

6 **COMMISSIONER WILKERSON:** --- medical records ---

7 **MR. PATTERSON:** --- I would say I ---

8 **COMMISSIONER WILKERSON:** --- we'll have ---

9 **MR. PATTERSON:** --- dids (ph) ---

10 **COMMISSIONER WILKERSON:** --- to do this ---

11 **MR. PATTERSON:** --- from ---

12 **COMMISSIONER WILKERSON:** --- again?

13 **MR. PATTERSON:** For purposes of my questioning, I
14 did stop the deposition, that was the last
15 question I asked, or the last -- it, it wasn't
16 ---

17 **COMMISSIONER WILKERSON:** But you ---

18 **MR. PATTERSON:** --- even ---

19 **COMMISSIONER WILKERSON:** --- asked ---

20 **MR. PATTERSON:** --- a question.

21 **COMMISSIONER WILKERSON:** --- for the deposition to
22 be continued at that point in time?

23 **MR. PATTERSON:** That's correct.

24 **COMMISSIONER WILKERSON:** You did?

25 **MR. PATTERSON:** Well, I said we're going to need it



1 to be rescheduled.

2 **COMMISSIONER WILKERSON:** Was it agreed to?

3 **MR. PATTERSON:** By counsel or by Dr. DeHoll?

4 **COMMISSIONER WILKERSON:** By everybody? I don't
5 know.

6 **MR. PATTERSON:** Well, nobody -- I didn't ask that
7 question as to whether or not we were going to
8 agree to reschedule it.

9 **COMMISSIONER WILKERSON:** Okay.

10 **MR. PATTERSON:** I simply made the statement we were
11 going to have to reschedule.

12 **COMMISSIONER WILKERSON:** A statement's different than
13 an agreement.

14 **MR. PATTERSON:** That's correct.

15 **COMMISSIONER WILKERSON:** Okay. I want to make sure
16 myself.

17 **MR. PATTERSON:** Yeah.

18 **COMMISSIONER WILKERSON:** So ---

19 **MR. PATTERSON:** So ---

20 **COMMISSIONER WILKERSON:** --- you ---

21 **MR. PATTERSON:** --- I would ---

22 **COMMISSIONER WILKERSON:** --- made a statement.

23 **MR. PATTERSON:** My ---

24 **COMMISSIONER WILKERSON:** Nobody ---

25 **MR. PATTERSON:** --- my ---



1 COMMISSIONER WILKERSON: --- agreed ---

2 MR. PATTERSON: --- position ---

3 COMMISSIONER WILKERSON: --- to it?

4 MR. PATTERSON: --- would ---

5 COMMISSIONER WILKERSON: Nobody ---

6 MR. PATTERSON: --- be ---

7 COMMISSIONER WILKERSON: --- agreed to it?

8 MR. PATTERSON: --- is ---

9 COMMISSIONER WILKERSON: Oh, okay.

10 MR. PATTERSON: --- is, at that point, I did stop my
11 deposition.

12 COMMISSIONER WILKERSON: Oh, well, that -- that's
13 your prerogative.

14 MR. PATTERSON: And ---

15 COMMISSIONER WILKERSON: You know what I think?
16 You don't have to -- I've got depositions ---

17 MR. PATTERSON: Yeah.

18 COMMISSIONER WILKERSON: --- where one-sided -- one
19 side might not ask any questions.

20 MR. PATTERSON: And then Gary asked questions at
21 that point.

22 COMMISSIONER WILKERSON: Okay.

23 MR. PATTERSON: And, and then the deposition
24 concluded.

25 COMMISSIONER WILKERSON: Okay.



1 **MR. PATTERSON:** So I, I -- as part of my Motion for
2 continuance, we are asking to, to be able to
3 depose Dr. DeHoll so that he can review ---

4 **COMMISSIONER WILKERSON:** You've already deposed him
5 (laughs). You're, you're asking to re-depose
6 him?

7 **MR. PATTERSON:** Sure.

8 **COMMISSIONER WILKERSON:** With records that you had
9 that were not presented to him at the time of
10 his deposition?

11 **MR. PATTERSON:** I would say that there was no
12 reasonable way that ---

13 **COMMISSIONER WILKERSON:** Did you ---

14 **MR. PATTERSON:** --- records ---

15 **COMMISSIONER WILKERSON:** Answer ---

16 **MR. PATTERSON:** --- could have ---

17 **COMMISSIONER WILKERSON:** --- the question.

18 **MR. PATTERSON:** --- been presented to him at ---

19 **COMMISSIONER WILKERSON:** Answer ---

20 **MR. PATTERSON:** --- that ---

21 **COMMISSIONER WILKERSON:** --- the ---

22 **MR. PATTERSON:** --- time.

23 **COMMISSIONER WILKERSON:** --- question, answer my
24 question.

25 **MR. PATTERSON:** Oh, I think I did answer your ---



1 **COMMISSIONER WILKERSON:** No, you ---

2 **MR. PATTERSON:** --- question.

3 **COMMISSIONER WILKERSON:** --- didn't. I said -- what
4 did I say? You had the medical records in your
5 possession that you could've provided to him at
6 the deposition, you did not provide them to him
7 at the deposition, it isn't something that came
8 out of left field that you needed to ask him
9 about 'cause you had them.

10 **MR. PATTERSON:** Well, I don't think it would have
11 been reasonable, and, and it wou- -- certainly
12 would not have been efficient or timely, I
13 mean, it could've caused the deposition to go
14 on for hours trying to get ---

15 **COMMISSIONER WILKERSON:** Well, we've already burned
16 an hour and a half here today.

17 **MR. PATTERSON:** Sure.

18 **COMMISSIONER WILKERSON:** So my -- his time's more
19 important than mine?

20 **MR. PATTERSON:** Well, no. I would say that Dr.
21 DeHoll is -- we- ---

22 **COMMISSIONER WILKERSON:** My question ---

23 **MR. PATTERSON:** Everybo- ---

24 **COMMISSIONER WILKERSON:** --- was you could've
25 provided those to him at the deposition.



1 **MR. PATTERSON:** If -- to answer that, I ca- -- I
2 suppose ---

3 **COMMISSIONER WILKERSON:** It's a yes ---

4 **MR. PATTERSON:** --- I ---

5 **COMMISSIONER WILKERSON:** --- no.

6 **MR. PATTERSON:** --- could have.

7 **COMMISSIONER WILKERSON:** You may elaborate ---

8 **MR. PATTERSON:** I just don't think it ---

9 **COMMISSIONER WILKERSON:** --- once ---

10 **MR. PATTERSON:** --- was ---

11 **COMMISSIONER WILKERSON:** --- you answer ---

12 **MR. PATTERSON:** --- reasonable ---

13 **COMMISSIONER WILKERSON:** --- my question- ---

14 **MR. PATTERSON:** --- to ---

15 **COMMISSIONER WILKERSON:** You ---

16 **MR. PATTERSON:** --- do ---

17 **COMMISSIONER WILKERSON:** --- may ---

18 **MR. PATTERSON:** --- so.

19 **COMMISSIONER WILKERSON:** --- elaborate once you
20 answer my question, just like we do with the
21 Claimants. You could have provided those to
22 him at the deposition.

23 **MR. PATTERSON:** I could have.

24 **COMMISSIONER WILKERSON:** And the answer to that is
25 yes?



1 **MR. PATTERSON:** Yes.

2 **COMMISSIONER WILKERSON:** Okay. Then move on. Now,
3 you can elaborate.

4 **MR. PATTERSON:** Yes. I, I just don't think it was
5 reasonable to do so under the circumstances.

6 **COMMISSIONER WILKERSON:** Okay. That's -- well, I, I
7 wasn't there, so I don't know.

8 **MR. PATTERSON:** And then we haven't been able to
9 reschedule Carolyn Comer's -- or did I already
10 talk about her?

11 **COMMISSIONER WILKERSON:** I don't know. (Laughs.)

12 **MR. PATTERSON:** Car- -- Carolyn Comer's deposition -
13 - I think I discussed her and Commonwealth Pain
14 and Spine.

15 **COMMISSIONER WILKERSON:** She was your doctor in
16 2019, right?

17 **MR. PATTERSON:** That's correct. Well ---

18 **COMMISSIONER WILKERSON:** So you've had four years to
19 depose her, and the day before the hearing,
20 it's a good idea? Help me with that.

21 **MR. PATTERSON:** So, again, I -- you know, I think
22 that -- I don't think it can be underscored,
23 the delays created early on in this case by the
24 Claimant in conducting discovery, and so ---

25 **COMMISSIONER WILKERSON:** That wasn't my question.



1 You can't blame the Claimant for not taking
2 your doctor's deposition if he didn't think he
3 needed it. Why didn't you take the doctor's
4 deposition and ---

5 **MR. PATTERSON:** We ---

6 **COMMISSIONER WILKERSON:** --- tell ---

7 **MR. PATTERSON:** --- had ---

8 **COMMISSIONER WILKERSON:** --- me not ---

9 **MR. PATTERSON:** Well ---

10 **COMMISSIONER WILKERSON:** --- all they ---

11 **MR. PATTERSON:** --- because it was no longer
12 necessary when the claim was closed.

13 **COMMISSIONER WILKERSON:** Okay. That's fair.

14 **MR. PATTERSON:** But, now, it's necessary because,
15 four years later, Claimant has come back to
16 prosecute her claim.

17 **COMMISSIONER WILKERSON:** Legally, right? You agree
18 with that?

19 **MR. PATTERSON:** I, I think -- when we get into the -
20 - our discussion of the case, I would say I
21 think there are some affirmative defenses upon
22 that issue.

23 **COMMISSIONER WILKERSON:** But you're trying to use
24 that before you get into the case. You, you
25 either got it or you ain't got it, you can't



1 say I wish I'd've said it and can I come back
2 next week and say it?

3 **MR. PATTERSON:** Well, and if ---

4 **COMMISSIONER WILKERSON:** So my point ---

5 **MR. PATTERSON:** To the ex- ---

6 **COMMISSIONER WILKERSON:** --- is why didn't you do
7 it? You didn't think it was necessary, I'm
8 fine with that, didn't need it, I understand
9 that, but you can't blame them for waiting to
10 follow the law to prosecute the case. It's got
11 nothing to do with this Motion (laughs), okay?

12 **MR. PATTERSON:** Well, I would agree ---

13 **COMMISSIONER WILKERSON:** You could have done it; is
14 that fair?

15 **MR. PATTERSON:** I, I don't -- I suppo- -- okay. If
16 the question is could I have, I could have, but
17 I don't think there is a burden or some ---

18 **COMMISSIONER WILKERSON:** I agree, you're not required
19 to, I agree with that.

20 **MR. PATTERSON:** Yeah. I don't thi- -- there's no
21 requirement that ---

22 **COMMISSIONER WILKERSON:** That's ---

23 **MR. PATTERSON:** --- the ---

24 **COMMISSIONER WILKERSON:** --- right. All right.

25 **MR. PATTERSON:** --- on a ---



1 **COMMISSIONER WILKERSON:** I heard you.

2 **MR. PATTERSON:** --- denied claim, the ---

3 **COMMISSIONER WILKERSON:** I ---

4 **MR. PATTERSON:** --- Employer-Carrier ---

5 **COMMISSIONER WILKERSON:** I understand, I know.

6 **MR. PATTERSON:** --- somehow conduct a discovery on a
7 closed claim.

8 **COMMISSIONER WILKERSON:** No. I agree. I didn't say
9 . . .

10 **MR. PATTERSON:** Since it -- again, just to -- on it
11 -- on the Motion, since conducting Claimant's
12 deposition in the interim ---

13 **COMMISSIONER WILKERSON:** Uh-huh.

14 **MR. PATTERSON:** --- we have been able to find out
15 more information on social media about the
16 Claimant in light of her testimony and have not
17 had any opportunity to conduct any further
18 discovery into what her testimony -- or, you,
19 you know, things that she testified to that
20 then led us to additional discovery, we ha- --
21 we don't -- we haven't had any opportunity to
22 further investigate that.

23 **COMMISSIONER WILKERSON:** How long have you known
24 about that?

25 **MR. PATTERSON:** A, a day or two. I -- and maybe ---



1 **COMMISSIONER WILKERSON:** So you found out about it
2 after everything was filed, yours was filed 10
3 days, his 15 days?

4 **MR. PATTERSON:** Oh, you're ---

5 **COMMISSIONER WILKERSON:** So all ---

6 **MR. PATTERSON:** --- talking ---

7 **COMMISSIONER WILKERSON:** --- of a ---

8 **MR. PATTERSON:** --- about ---

9 **COMMISSIONER WILKERSON:** --- sudden ---

10 **MR. PATTERSON:** --- the APAs?

11 **COMMISSIONER WILKERSON:** --- discovered more stuff?

12 **MR. PATTERSON:** For the APAs?

13 **COMMISSIONER WILKERSON:** No. I'm talking about the
14 social media, that's what you're talking about.

15 **MR. PATTERSON:** Yes. No. They -- I did not find
16 out about this before we filed our APAs.

17 **COMMISSIONER WILKERSON:** 10 days ago? So ---

18 **MR. PATTERSON:** Well, yeah. This was yesterday.

19 **COMMISSIONER WILKERSON:** Okay. So you found out
20 about it yesterday, which you can get in, in a
21 hearing if you identify it ---

22 **MR. PATTERSON:** Yeah, sure.

23 **COMMISSIONER WILKERSON:** --- duh, duh, duh, duh,
24 duh. Okay. Well, it's ---

25 **MR. PATTERSON:** But I ---



1 **COMMISSIONER WILKERSON:** --- nothing ---

2 **MR. PATTERSON:** --- don't think ---

3 **COMMISSIONER WILKERSON:** --- to do ---

4 **MR. PATTERSON:** --- that ---

5 **COMMISSIONER WILKERSON:** --- with ---

6 **MR. PATTERSON:** --- in and ---

7 **COMMISSIONER WILKERSON:** --- a day.

8 **MR. PATTERSON:** --- of itself ---

9 **COMMISSIONER WILKERSON:** That's not in here.

10 **MR. PATTERSON:** That -- well, I do think I discuss
11 information about discovery related to
12 Claimant's deposition.

13 **COMMISSIONER WILKERSON:** Well, if you found out
14 about it at the deposition, you've known about
15 it on the 16th, not two days ago.

16 **MR. PATTERSON:** No, no, no. I'm just talking about
17 the, the -- what we discussed before, having 13
18 days to conduct discovery based on testimony.

19 **COMMISSIONER WILKERSON:** I was talking about the
20 social media. You ---

21 **MR. PATTERSON:** Okay.

22 **COMMISSIONER WILKERSON:** You brought it up, I
23 didn't. I'm talking about -- you found out
24 about the social media two days ago ---

25 **MR. PATTERSON:** Yesterday.



1 **COMMISSIONER WILKERSON:** --- is what I heard.
2 Yesterday?

3 **MR. PATTERSON:** Yesterday.

4 **COMMISSIONER WILKERSON:** Yeah. Okay.

5 **MR. PATTERSON:** But wha- -- we got to that because
6 of testimony from the deposition, but, again,
7 it's because there's -- there was such limited
8 time.

9 **COMMISSIONER WILKERSON:** You've had three years.

10 **MR. PATTERSON:** But we only just got her deposition
11 completed, which she had cancelled four times
12 previously.

13 **COMMISSIONER WILKERSON:** So it's the deposition's
14 fault you didn't do the discovery on -- when it
15 was done before?

16 **MR. PATTERSON:** No, no, no. I'm saying we
17 couldn't've gotten this information without it.

18 **COMMISSIONER WILKERSON:** You could've gotten a social
19 media without it.

20 **MR. PATTERSON:** Well, so her name has changed, and
21 it has changed a number of times.

22 **COMMISSIONER WILKERSON:** When did her name change?

23 **MR. PATTERSON:** I, I would have to look, but it, it
24 -- as you mentioned when we went on the record,
25 it was Walthour, it's now Bradshaw, and before



1 ---

2 **COMMISSIONER WILKERSON:** But you ---

3 **MR. PATTERSON:** --- that ---

4 **COMMISSIONER WILKERSON:** --- would've -- you'd get a
5 social media at both of them, would you not,
6 you'd've checked her out both times, right, not
7 two days before the hearing?

8 **MR. PATTERSON:** Yes, but we didn't have things like
9 current address.

10 **COMMISSIONER WILKERSON:** I understand. Well, I
11 just, I just wondered. It seems like we're
12 backing up everything, uh-oh, I've got a
13 hearing, what do I need to throw out now to
14 make sure the hearing doesn't go forward. Keep
15 going.

16 **MR. PATTERSON:** Well, for all those reasons, I think
17 I have put it -- as much as I can on the
18 record.

19 **COMMISSIONER WILKERSON:** So what's ---

20 **MR. PATTERSON:** It ---

21 **COMMISSIONER WILKERSON:** --- your ---

22 **MR. PATTERSON:** We're asking ---

23 **COMMISSIONER WILKERSON:** What's your ---

24 **MR. PATTERSON:** --- for ---

25 **COMMISSIONER WILKERSON:** --- backup?



1 **MR. PATTERSON:** --- a continuance.

2 **COMMISSIONER WILKERSON:** What's your backup?

3 **MR. PATTERSON:** If the Motion for a continuance is
4 denied?

5 **COMMISSIONER WILKERSON:** Yeah.

6 **MR. PATTERSON:** Well, then I would respectfully
7 request that we move forward with Claimant's
8 depo- -- move forward with Claimant's testimony
9 today and allow for the record to be held open
10 for the additional discovery that we've
11 discussed.

12 **COMMISSIONER WILKERSON:** For three years?

13 **MR. PATTERSON:** No, sir.

14 **COMMISSIONER WILKERSON:** Oh, okay. Six years?

15 **MR. PATTERSON:** Nope.

16 **COMMISSIONER WILKERSON:** 12 years?

17 **MR. PATTERSON:** Nope (laughs).

18 **COMMISSIONER WILKERSON:** Well, I gotta have a number
19 'cause you'll come back ---

20 **MR. PATTERSON:** Well ---

21 **COMMISSIONER WILKERSON:** --- later and say ---

22 **MR. PATTERSON:** Sure.

23 **COMMISSIONER WILKERSON:** Well, I thought you
24 understood ---

25 **MR. PATTERSON:** I ---



1 **COMMISSIONER WILKERSON:** --- it was a long period of
2 time.

3 **MR. PATTERSON:** N- -- no. I would ask for 90 days.

4 **COMMISSIONER WILKERSON:** 90 days. On what?

5 **MR. PATTERSON:** Just to ensure that the deposi- --
6 any doctor deposition can be completed within
7 that time, just knowing that, unfortunately,
8 doctors give deposition dates that they can't
9 -- most of them don't turn around and give you
10 a date within a week, and it's more of a
11 safeguard than anything else.

12 **COMMISSIONER WILKERSON:** Is that just in reference
13 to the doctor deposition?

14 **MR. PATTERSON:** I, I think the 90 days is in
15 reference to the doctor's deposition because I
16 com- -- I believe that other discovery could be
17 completed before 90 days.

18 **COMMISSIONER WILKERSON:** So what time period do we
19 have on that?

20 **MR. PATTERSON:** I would say that could be done in 60
21 days.

22 **COMMISSIONER WILKERSON:** So to wrap -- other than
23 doctors' depositions, everything, 60 days?

24 **MR. PATTERSON:** That's correct.

25 **COMMISSIONER WILKERSON:** Okay. That's the backup



1 position, if the Motion is not granted.

2 **MR. PATTERSON:** Yes, sir, that's ---

3 **COMMISSIONER WILKERSON:** Okay.

4 **MR. PATTERSON:** --- correct.

5 **COMMISSIONER WILKERSON:** Uh-huh. Anything else?

6 **MR. PATTERSON:** No, si- -- not on the Motion.

7 **COMMISSIONER WILKERSON:** Yep.

8 **MR. PATTERSON:** No, sir.

9 **COMMISSIONER WILKERSON:** We'll do your Motion first,
10 okay.

11 Mr. Christmas?

12 **MOTION BY MR. CHRISTMAS:**

13 **MR. CHRISTMAS:** Thank you, Your Honor.

14 Claimant's accident was July 11th of 2019,
15 that was over three years and four months ago.
16 Carrier has known about the Claim since then.
17 They sent Claimant to Doctors Care, as was
18 noted by Counsel earlier in his presentation on
19 -- about the Motion or maybe it was in the
20 pretrial. The -- it was reported the day
21 after, on July 12th, 2019, so notice was given,
22 and they sent her to the doctor at Doctors
23 Care. The, the Form 50 requesting a hearing
24 was in May of 2021, so, certainly, by June,
25 July at the latest, to -- over two years and



1 six months ago, you know, Defense counsel has
2 been in, in the case. A consent order was
3 entered into on October 31st or 13th, he said
4 13th, I've got it as 31 in my record, it could
5 have been transposed, but in any event, in
6 October of 2021, which is over two years and
7 one month ago, to do additional discovery.

8 The discovery that Employer-Carrier
9 references is a nurse that they scheduled for
10 July 14th, 2022. The Defendants cancelled that
11 deposition, not Claimant, Your Honor. They
12 mentioned that they were moving -- or trying to
13 get a deposition with Dr. Patel, but it was
14 never scheduled. At no time in the prosecution
15 of this case coming before you today have we
16 heard anything about a request for a date for
17 Dr. Patel, that there is a date for Dr. Patel,
18 or of any, you know, issue whatsoever, the
19 first time we're hearing it, frankly, other
20 than in the Motion. And so, again, they
21 could've taken that deposition at any time,
22 they've had Dr. Patel's record for two years,
23 could've taken it at any time.

24 With regard to, you know, the -- you know,
25 the Pandora's box of leaving a -- you know, of,



1 of continuing to, to do additional discovery,
2 you know, the, the Defense can take a depo if
3 they want to. If one doesn't occur, they have
4 the s- -- the power to do a motion to compel
5 before Your Honor or another commissioner and
6 compel a deposition. If they choose not to
7 take a deposition, that is their choice, not
8 Claimant's choice, if they choose to compel
9 because something's been cancelled or isn't
10 working out, that is -- e- -- either party has
11 the pleasure of being able to move it before
12 the Commission. None of those things have
13 occurred in this case.

14 The -- with re- -- regard to Dr. DeHoll
15 specifically, Dr. DeHoll's deposition was
16 taken. During the deposition, Employer-Carrier
17 had possession of Dr. DeHoll's records, had had
18 the possession of those records for several
19 years. During the deposition, those records
20 could've been produced, like we do in many
21 depositions, either through e-mail, sending it
22 as an exhibit to the court reporter, sending it
23 through fax, sending it through sha- -- you
24 know, the file share on the Zoom, there is
25 absolutely no reason why the records could not



1 have been used to take the doctor through it.
2 In fact, many, many times, doctors show up
3 without their records at depositions, and
4 they're produced by both sides of the aisle to
5 -- you know, to refresh the doctor's
6 recollection. And so, in that deposition, you
7 know, there was a comment made about coming
8 back to take the deposition, however, there was
9 no agreement, there was no official motion, and
10 there was no suspension of the deposition, Your
11 Honor. So, respectfully, Dr. DeHoll's
12 deposition has been taken and should not be
13 allowed to be retaken again, there should be no
14 second bite of the apple, as we say.

15 With regard to in the event that the
16 Motion is denied and then the ask for -- the
17 request for 90 days of discovery sa- -- the,
18 the request was to take doctors' depositions,
19 it's unclear to me which doctors, I mean, o- --
20 obviously, DeHoll was mentioned, but, again, a
21 Pandora's box of who because there are
22 different medical providers, none of which are
23 being ---

24 **COMMISSIONER WILKERSON:** Let, let -- I understood
25 that to be the nurse practitioner and Dr. Patel



1 and Dr. DeHoll is what I understood; is that --
2 that's the three doctors?

3 **MR. PATTERSON:** That's correct.

4 **COMMISSIONER WILKERSON:** Now, those are the ones I
5 understood, but I don't disagree ---

6 **MR. CHRISTMAS:** Thank you, Your Honor.

7 **COMMISSIONER WILKERSON:** --- that, that -- DeHoll,
8 nurse practitioner, and Patel?

9 **MR. CHRISTMAS:** Right. And for the ---

10 **COMMISSIONER WILKERSON:** Okay.

11 **MR. CHRISTMAS:** --- reasons discussed with DeHoll, I
12 would ---

13 **COMMISSIONER WILKERSON:** I get it.

14 **MR. CHRISTMAS:** --- say no double bite of the apple.
15 With -- or Patel, again, it's not as though the
16 report just came in our APAs 'cause ---

17 **COMMISSIONER WILKERSON:** That's fine.

18 **MR. CHRISTMAS:** --- did -- they, they've had it for
19 several years, and, you know, we've had a --
20 you know, you know, a prior consent order with
21 both parties agreeing to send the file to
22 general files and do additional discovery.
23 Whether you do that discovery or not is your
24 choice.

25 **COMMISSIONER WILKERSON:** Let me ask a question: Was



1 the discovery -- was Patel noted before the
2 additional discovery or after? I don't -- this
3 has got so many dates roaming.

4 **MR. CHRISTMAS:** I, I can look in the APAs real quick
5 so I don't speak out of turn, I don't want to
6 misrepresent ---

7 **COMMISSIONER WILKERSON:** Okay.

8 **MR. CHRISTMAS:** --- to Your Honor, give me one
9 second, and I'll ---

10 **COMMISSIONER WILKERSON:** Please.

11 **MR. CHRISTMAS:** --- tell you. Let's see here. Dr.
12 Patel's record was 10/12 of 2021, the consent
13 order was filed October 31st of 2021, so the --
14 upon information and belief, they did have it,
15 if they ---

16 **COMMISSIONER WILKERSON:** They had.

17 **MR. CHRISTMAS:** --- didn't have it, they had it
18 shortly thereafter.

19 **COMMISSIONER WILKERSON:** Okay.

20 **MR. CHRISTMAS:** Yeah.

21 **COMMISSIONER WILKERSON:** So they -- you knew about
22 Patel on the consent order date?

23 **MR. PATTERSON:** Right. And ---

24 **COMMISSIONER WILKERSON:** Yeah, okay.

25 **MR. PATTERSON:** --- and -- but prior to the February



1 1st, 2022 hearing.

2 **COMMISSIONER WILKERSON:** Yeah, okay. That's correct.

3 **MR. PATTERSON:** That's correct.

4 **COMMISSIONER WILKERSON:** But you could, you could
5 have at -- you could've taken his deposition --
6 -

7 **MR. PATTERSON:** We tried it.

8 **COMMISSIONER WILKERSON:** --- the -- okay.

9 **MR. PATTERSON:** It, it just -- the -- again, based -
10 --

11 **COMMISSIONER WILKERSON:** We -- well, I thought ---

12 **MR. PATTERSON:** Yeah.

13 **COMMISSIONER WILKERSON:** I ---

14 **MR. PATTERSON:** Sorry.

15 **COMMISSIONER WILKERSON:** --- thought you said that
16 you never were noticed?

17 **MR. CHRISTMAS:** I -- we -- I've never -- you -- to,
18 to my knowledge -- I don't want to allude and
19 misrepresent anything to you.

20 **COMMISSIONER WILKERSON:** Okay. Go ahead, go ahead.

21 **MR. CHRISTMAS:** Oh, and it's my understanding that
22 we've never been noticed of a deposition for
23 Dr. Patel. Again, if they want to -- if it --
24 if the Employer-Carrier or any party wants to
25 take his deposition, they had the opportunity



1 to properly notice it, they have an opportunity
2 to schedule it, they had the opportunity to
3 compel in the event that someone doesn't
4 attend. None of those things took place in
5 this case.

6 **COMMISSIONER WILKERSON:** And what I heard was you
7 just couldn't get Dr. Patel to sit for a
8 deposition?

9 **MR. PATTERSON:** Right. Well, we ---

10 **COMMISSIONER WILKERSON:** Because ---

11 **MR. PATTERSON:** --- couldn't ---

12 **COMMISSIONER WILKERSON:** --- he didn't know there
13 was a deposition ---

14 **MR. PATTERSON:** We couldn't ---

15 **COMMISSIONER WILKERSON:** --- it doesn't mean you
16 don't -- wasn't trying?

17 **MR. PATTERSON:** That's right.

18 **COMMISSIONER WILKERSON:** Okay, okay.

19 **MR. PATTERSON:** We couldn't get dates, therefore
20 didn't ask him ---

21 **COMMISSIONER WILKERSON:** That's ---

22 **MR. PATTERSON:** --- for ---

23 **COMMISSIONER WILKERSON:** --- either ---

24 **MR. PATTERSON:** --- dates 'cause ---

25 **COMMISSIONER WILKERSON:** --- right.



1 **MR. PATTERSON:** --- we didn't have dates to offer
2 yet.

3 **COMMISSIONER WILKERSON:** Okay.

4 **MR. PATTERSON:** And then once the hearing was
5 withdrawn ---

6 **COMMISSIONER WILKERSON:** I -- I'm, I'm good with ---

7 **MR. PATTERSON:** Yeah.

8 **COMMISSIONER WILKERSON:** --- that part, yeah, okay,
9 I'm good with that.

10 **MR. CHRISTMAS:** So, again, Your Honor, and, and not
11 to beat a dead horse, but scheduling or trying
12 to schedule and then not scheduling or
13 scheduling and canceling, that's not the
14 Claimant's ---

15 **COMMISSIONER WILKERSON:** I understand.

16 **MR. CHRISTMAS:** --- burden to do that for Defense,
17 nor ---

18 **COMMISSIONER WILKERSON:** I understand.

19 **MR. CHRISTMAS:** --- is it a proper reason to
20 postpone a hearing that, you know, a consent
21 order was consigned to do additional discovery
22 two years and one month ago.

23 **COMMISSIONER WILKERSON:** Uh-huh.

24 **MR. CHRISTMAS:** So it's the Claimant's position that
25 the Motions be denied.



1 With regard to the 60 or 90 days, DeHoll,
2 for the reasons we've discussed, shouldn't be
3 a second bite of the apple. I think the same
4 argument applies to Patel, it's not someone who
5 just was sprung on him, it's over two years ago
6 they've had that report, they had all the
7 opportunity to do it, so I think that would be,
8 you know, a -- in, in a different way, the
9 second bite of the apple, if you will. And
10 with the nurse's depo, again, they had it
11 scheduled, they canceled it, not Claimant,
12 there's nothing that the Claimant did to
13 frustrate or stop that from happening, and the
14 nurse at -- you know, even assuming arguendo,
15 Your Honor, that the deposition took place,
16 it's not a medical doctor, it doesn't meet the
17 medical standard, and nothing that she says can
18 be used with any of the other medical doctors
19 anyway, so I, I don't know where it gets us,
20 just as a practical matter. But as procedural
21 matter, they knew about it since 2019, they in
22 fact scheduled her deposition, they in fact
23 canceled it, that shouldn't be reasoning to --
24 you know, two years ago, to now leave it open
25 to go get that deposition now.



1 **COMMISSIONER WILKERSON:** Okay. Anything else?

2 **MR. CHRISTMAS:** That's all, Your Honor.

3 **COMMISSIONER WILKERSON:** Anything from ---

4 **MR. PATTERSON:** Nothing further from Defense.

5 **RULING ON MOTION:**

6 **COMMISSIONER WILKERSON:** DeHoll's out. You had that
7 bite, you had the information, you could've
8 presented it, did not present it, don't know
9 why, I wasn't there, don't know what took
10 place. De- -- DeHoll, you've already done it,
11 that's out.

12 If you want to take the nurse
13 practitioner's, you can take it. That one, I
14 don't think you need 90 days for. 60 days on
15 that one. You've got -- so today is the 29th,
16 so January the 29th. All right. If that's on
17 a Saturday or a Sunday, you get the next day.
18 I don't have a clue, okay?

19 And Patel, I'll take you at your word, you
20 tried to get it, he didn't notify it. Patel is
21 a pain management?

22 **MR. CHRISTMAS:** He's a physiatrist, Your Honor ---

23 **COMMISSIONER WILKERSON:** Okay.

24 **MR. CHRISTMAS:** --- at Lowcountry Orthopaedic. He
25 is board certified in pain, as well.



1 **COMMISSIONER WILKERSON:** Yeah. That's what I ---

2 **MR. CHRISTMAS:** He's ---

3 **COMMISSIONER WILKERSON:** --- thought.

4 **MR. CHRISTMAS:** --- the, the ---

5 **COMMISSIONER WILKERSON:** I thought ---

6 **MR. CHRISTMAS:** --- double ---

7 **COMMISSIONER WILKERSON:** --- he was.

8 **MR. CHRISTMAS:** --- service.

9 **COMMISSIONER WILKERSON:** I think I read some of his
10 reports, so.

11 **MR. CHRISTMAS:** Yes, sir.

12 **COMMISSIONER WILKERSON:** Let's put 60 days on both
13 of them, but I'll give you a little leeway on
14 Patel. I mean, if ---

15 **MR. PATTERSON:** Thank you, Your ---

16 **COMMISSIONER WILKERSON:** --- if ---

17 **MR. PATTERSON:** --- Honor.

18 **COMMISSIONER WILKERSON:** --- it's -- I mean, I'll
19 give you a little leeway if you need another 10
20 or 15, but that's not a problem. But, I mean,
21 a nurse prac- -- I mean, that's just a matter
22 of a telephone call and figuring out a day
23 between now and Christmas, that one could be
24 done easy.

25 And since that's the -- we're going to



1 proceed forward with the hearing today, those
2 three things will be granted. Three? No.
3 Well, two granted but one not granted, as far
4 as DeHoll. The remaining information that is
5 requested in here, since we're going to proceed
6 forward with the hearing and it wasn't
7 requested in here that I can see. Oh, the --
8 I know what it was, the, the lady's deposition
9 in Charlotte.

10 **MR. PATTERSON:** That's correct, Hannah Duquette.

11 **COMMISSIONER WILKERSON:** Kenna [sic] Duquette. Since
12 you know where she is and you can figure that
13 out, that's 60 days, too. And I don't ---

14 **MR. PATTERSON:** Okay.

15 **COMMISSIONER WILKERSON:** --- know what that person's
16 gonna tell us, what -- at this point in time.

17 **MR. PATTERSON:** And what about writ- -- I say
18 written discovery, but subpoenas? For example,
19 the Commonwealth Pain and Spine, do I have an
20 opportunity to obtain, during these 60, these
21 60 days, records from a subpoena?

22 **COMMISSIONER WILKERSON:** Well, you said you couldn't
23 get a subpoena in Charlotte. Kentucky treats
24 you different?

25 **MR. PATTERSON:** No.



1 **COMMISSIONER WILKERSON:** Okay.

2 **MR. PATTERSON:** No, no.

3 **COMMISSIONER WILKERSON:** I just wondered, but I
4 thought ---

5 **MR. PATTERSON:** No.

6 **COMMISSIONER WILKERSON:** --- that you said since
7 it's ---

8 **MR. PATTERSON:** No, no, no.

9 **COMMISSIONER WILKERSON:** --- a Commonwealth, they
10 gonna treat you different?

11 **MR. PATTERSON:** No, no, no. You're, you're
12 absolutely right. I just mean is there -- and,
13 for example, if, if -- and, you know, one way
14 that it could be done is just through a medical
15 release.

16 **COMMISSIONER WILKERSON:** You didn't ask for that,
17 that's not in here. You, you keep d- -- what
18 happens is you get backed in a corner and you
19 keep changing the game on us.

20 **MR. PATTERSON:** I -- well, I guess ---

21 **COMMISSIONER WILKERSON:** You wanted -- you told me
22 what you wanted. I told -- asked you what your
23 backup position was, okay? And now you want to
24 add to this.

25 **MR. PATTERSON:** No, no, no. I -- well, let me --



1 I'm trying to think of the r- -- so, in, in the
2 Motion, I do believe I discussed Commonwealth
3 Pain and Spine.

4 **COMMISSIONER WILKERSON:** I don't disagree with that.

5 **MR. PATTERSON:** Oh, okay.

6 **COMMISSIONER WILKERSON:** No, I don't disagree. It -
7 - it's in the motion, I don't disagree,
8 contained in Claimant's prehearing brief was
9 records for Common- -- yeah. Well, we got
10 them, but we -- you said you didn't know if you
11 had all of them.

12 **MR. PATTERSON:** That ---

13 **COMMISSIONER WILKERSON:** That's ---

14 **MR. PATTERSON:** --- that ---

15 **COMMISSIONER WILKERSON:** --- what you said.

16 **MR. PATTERSON:** I just want to be able to con- --
17 have an ---

18 **COMMISSIONER WILKERSON:** Well, now, what ---

19 **MR. PATTERSON:** --- opportunity to, to get records
20 from them directly.

21 **COMMISSIONER WILKERSON:** That's fine. 60 days,
22 everything's gonna -- every- -- we're ---

23 **MR. PATTERSON:** Okay.

24 **COMMISSIONER WILKERSON:** --- going to stay with the
25 60-day rule. And, and, there again, Gary heard



1 it, it -- it's 67 days with Patel, I'll -- a
2 little leeway there.

3 **MR. PATTERSON:** Okay.

4 **COMMISSIONER WILKERSON:** That go -- that one will be
5 a little more difficult. The rest of them are
6 short, simple, and sweet.

7 And what else?

8 **MR. PATTERSON:** Let's see.

9 **COMMISSIONER WILKERSON:** I'm not going to postpone
10 the hearing 'cause we'll, we'll take the
11 Claimant's testimony. Those are the ones I
12 see.

13 **MR. PATTERSON:** Yes. I, I ---

14 **COMMISSIONER WILKERSON:** And I'll ---

15 **MR. PATTERSON:** --- believe ---

16 **COMMISSIONER WILKERSON:** --- the record.

17 **MR. PATTERSON:** --- that, that has covered ---

18 **COMMISSIONER WILKERSON:** And no additional discovery
19 will be taken by an- -- any -- other than
20 what's been asked in here.

21 **MR. PATTERSON:** Okay.

22 **COMMISSIONER WILKERSON:** We're not going on a hunt
23 to find something else that happened in 1967
24 that she may still be having a problem with.
25 You're not that old, I see?



1 **MR. PATTERSON:** No.

2 **COMMISSIONER WILKERSON:** (Laughs.)

3 **MR. CHRISTMAS:** Close.

4 **MR. PATTERSON:** I, I ---

5 **COMMISSIONER WILKERSON:** No, no.

6 **MR. PATTERSON:** --- understand.

7 **COMMISSIONER WILKERSON:** But I'm, I'm -- but, but
8 I'm just telling you, we're not going, oh, my
9 gosh, I just found out that she lived in Ohio
10 in 1942, and we gotta get her -- no.

11 **MR. PATTERSON:** I just ---

12 **COMMISSIONER WILKERSON:** That's the ---

13 **MR. PATTERSON:** --- wanted to make ---

14 **COMMISSIONER WILKERSON:** This is it.

15 **MR. PATTERSON:** --- sure I had covered what I had
16 listed in ---

17 **COMMISSIONER WILKERSON:** Okay.

18 **MR. PATTERSON:** --- here.

19 **COMMISSIONER WILKERSON:** That's good.

20 **MR. PATTERSON:** That -- that's all.

21 **COMMISSIONER WILKERSON:** Well, this is it, the ---

22 **MR. PATTERSON:** Okay.

23 **COMMISSIONER WILKERSON:** The 50, yeah, and that's
24 it. Okay.

25 **MR. CHRISTMAS:** And, if I may, Your Honor, just to



1 seek ---

2 **COMMISSIONER WILKERSON:** Sure.

3 **MR. CHRISTMAS:** --- clarification ---

4 **COMMISSIONER WILKERSON:** No problem.

5 **MR. CHRISTMAS:** --- Commonwealth, it's a -- it's for
6 them to subpoena the records, and they have 60
7 days to?

8 **COMMISSIONER WILKERSON:** Yeah.

9 **MR. CHRISTMAS:** I just ---

10 **COMMISSIONER WILKERSON:** 60 day.

11 **MR. CHRISTMAS:** --- wanted to make sure I ---

12 **COMMISSIONER WILKERSON:** Yeah.

13 **MR. CHRISTMAS:** --- heard that ---

14 **COMMISSIONER WILKERSON:** Yeah.

15 **MR. CHRISTMAS:** --- correctly.

16 **COMMISSIONER WILKERSON:** Yeah.

17 **MR. CHRISTMAS:** Thanks ---

18 **COMMISSIONER WILKERSON:** I mean ---

19 **MR. CHRISTMAS:** --- Your Honor.

20 **COMMISSIONER WILKERSON:** And, and they may -- you --
21 I don't know what you're presenting 'cause I've
22 gotten none of y'all's APAs yet, but I'll
23 figure that out in a minute, okay?

24 **MR. CHRISTMAS:** Sure.

25 **COMMISSIONER WILKERSON:** But -- so, yeah. And if



1 anything else comes in, I'll take that into
2 consideration before I issue a ruling. And
3 y'all may find out that, that I don't need to
4 wait that long, y'all just let me know that,
5 okay? But I would strongly suggest, when we
6 complete the hearing today, y'all order the
7 transcript 'cause I don't want this -- I don't
8 have the transcript, so, if you're going to get
9 it, order it today, and let's move on, okay?
10 'Cause ---

11 **MR. PATTERSON:** Yes, sir.

12 **COMMISSIONER WILKERSON:** --- once you get it, I get
13 it, and I promise you, I would've heard another
14 79 cases, and I won't remember everything
15 unless I go back and read this again, okay?
16 Okay.

17 **MR. PATTERSON:** Yes, sir.

18 **COMMISSIONER WILKERSON:** Is everybody clear on what
19 I have granted and have not granted?

20 **MR. CHRISTMAS:** Yes, Your Honor.

21 **MR. PATTERSON:** Yes, Your Honor.

22 **COMMISSIONER WILKERSON:** Okay. All right. Let me
23 make sure, okay. Since it's your thing, you
24 can do that order.

25 **MR. PATTERSON:** Yes, sir.



1 **COMMISSIONER WILKERSON:** Okay. And that way,
2 obviously, Mr. Christmas gets it and makes sure
3 things are in agreement, and then that -- okay.
4 So we got that out of the way, okay? Hearing
5 will go forward, okay?

6 So I haven't -- are there any objections
7 to APAs, jurisdiction, venue, or any other
8 items? Since this is set on a -- excuse me, a
9 50/51, and the date of accident is 7/12/2019,
10 is there any objection by Mr. Christmas to --
11 I don't know what all y'all have looked at
12 before I ---

13 **MR. CHRISTMAS:** No objections, Your Honor.

14 **COMMISSIONER WILKERSON:** Okay. Any objections from
15 your side, sir?

16 **MR. PATTERSON:** None from the Defense.

17 **COMMISSIONER WILKERSON:** Okay, okay. No. Okay. I
18 just want make sure.

19 Without objection, as I said earlier, the,
20 the hearing will proceed forward with testimony
21 of the Claimant. The other issues will be
22 preserved as far as the dates I have so given,
23 and, obviously, once you get it, send it to Mr.
24 Christmas before you send it to me.

25 **MR. PATTERSON:** Yes, sir.



1 **COMMISSIONER WILKERSON:** And then two hours later or
2 two days later, just send it to me while I'll
3 have it, okay?

4 Since there's no additional objections,
5 the Commission's file now becomes a part of the
6 record, with the exception of self-serving
7 declarations and unstipulated medical reports.

8 So, Mr. Christmas, I'm going to hear from
9 you as far as what your client's position is on
10 the case itself.

11 **MR. CHRISTMAS:** I did have one thing, just some
12 housekeeping.

13 **COMMISSIONER WILKERSON:** Okay.

14 **MR. CHRISTMAS:** On the 60 days, it begins from
15 today, Your Honor, or when you're -- when you
16 sign your order?

17 **COMMISSIONER WILKERSON:** Today.

18 **MR. CHRISTMAS:** Yes, sir. Just making sure.

19 **COMMISSIONER WILKERSON:** Well, I mean, here again,
20 let's just make it simple. Since today's the
21 29th, no later than February 1st.

22 **MR. CHRISTMAS** Okay.

23 **COMMISSIONER WILKERSON:** Let's just do it that way,
24 that gives you ---

25 **MR. CHRISTMAS:** Yeah.



1 **COMMISSIONER WILKERSON:** That -- and, I mean, I
2 won't remember January 29th, I'll remember
3 February 1st, okay? That's a fair comment,
4 actually.

5 **MR. CHRISTMAS:** Thank you, Your Honor.

6 **COMMISSIONER WILKERSON:** Yeah, thank you. Go ahead,
7 please, Mr. Christmas.

8 **POSITION STATEMENT BY MR. CHRISTMAS:**

9 **MR. CHRISTMAS:** Yes, Your Honor. And so, it's
10 Claimant's position that she sustained
11 compensable injuries to her neck, her
12 shoulders, and, you know, thoracic back, lumbar
13 spine. She has radiculopathy that goes into
14 both her left-upper extremity, right-upper
15 extremity, down through her hands and fingers,
16 leaving numbness and tingling in all four
17 fingers in both hands. She had a very
18 substantial injury moving a pallet. She went
19 to Doctors Care, Doctors Care gave -- showed
20 some improvement, they gave her a shot, a
21 steroid shot, gave her some, I think, Mobic and
22 also another medication, a muscle relaxer. She
23 showed some improvement and asked to return to
24 work, did return to work wearing a, a brace.
25 During the, the three-week-or-so return to



1 work, the problems got significantly worse, she
2 missed a few days from work. When she called
3 to come in to work, was advised that her job
4 was terminated. She sought medical treatment
5 through this period of time, no further
6 treatment was provided. She was in significant
7 pain, Googled and found Dr. DeHoll, went to Dr.
8 DeHoll, who in a very short order did a three-
9 level fusion in her cervical spine and, and is
10 also of the opinion that she now is in need of
11 a fourth-level surgery for her cervical spine.

12 You asked me in the pretrial whether this
13 was a -- you know, a total permanent disability
14 case or a pre- -- or a disability decision on
15 whether it's not at MMI and needs future
16 medical treatment. Claimant has made it very
17 clear to me during the break that she is
18 interested in having this fourth sur- -- or
19 second surgery, rather, with her fourth level
20 ---

21 **COMMISSIONER WILKERSON:** Okay.

22 **MR. CHRISTMAS:** --- of her spine, that would be ---

23 **COMMISSIONER WILKERSON:** So the answer would be no
24 at this point in time; is that ---

25 **MR. CHRISTMAS:** It ---



1 **COMMISSIONER WILKERSON:** --- fair?

2 **MR. CHRISTMAS:** Yeah. It's premature to determine -

3 --

4 **COMMISSIONER WILKERSON:** Okay.

5 **MR. CHRISTMAS:** --- disability, Your Honor. We are

6 looking for the surgery that's being

7 recommended by Dr. DeHoll ---

8 **COMMISSIONER WILKERSON:** Okay.

9 **MR. CHRISTMAS:** --- who did the previous three-level

10 fusion ---

11 **COMMISSIONER WILKERSON:** Okay.

12 **MR. CHRISTMAS:** --- and is recommending ---

13 **COMMISSIONER WILKERSON:** Makes sense.

14 **MR. CHRISTMAS:** --- another fourth-level ---

15 **COMMISSIONER WILKERSON:** Okay.

16 **MR. CHRISTMAS:** --- fusion.

17 **COMMISSIONER WILKERSON:** I'm fine with that.

18 **MR. CHRISTMAS:** It's our position that she has been

19 out of work. She did work for a few days -- or

20 a few weeks, rather, after the accident, so

21 whatever that end date is when the, the

22 Employer did terminate her -- they say she

23 didn't -- you know, she quit and didn't come

24 back to work, but she was not able to come

25 because of the work injury, Your Honor. From



1 that date through present and continuing,
2 Claimant is seeking temporary total disability.
3 Claimant is also seeking past and in-the-future
4 medical treatment, obviously, the future fusion
5 surgery, but also the past medical treatment
6 that she received through, you know, any
7 medical provider, including Dr. DeHoll, as a
8 result of -- you know, causally related to her
9 work-related accident.

10 **COMMISSIONER WILKERSON:** Okay. Anything else? Is
11 that all?

12 **MR. CHRISTMAS:** Yes, Your Honor.

13 **COMMISSIONER WILKERSON:** I'm sorry. I, I know
14 that's not all, but you have to ---

15 **MR. CHRISTMAS:** Yes. Thank you, sir.

16 **COMMISSIONER WILKERSON:** Please, position of your
17 client. Thank you.

18 **MR. PATTERSON:** Thank you, Your Honor.

19 Do you -- I -- do you prefer to have a
20 copy of the APAs?

21 **COMMISSIONER WILKERSON:** Yeah, I need everything that
22 y'all are gonna submit or y'all have agreed to
23 submit to me today, so, yeah. I -- and then
24 ---

25 **MR. PATTERSON:** Do you ---



1 **COMMISSIONER WILKERSON:** --- y'all can go back and
2 upload them, too, so.

3 **MR. PATTERSON:** Do you ---

4 **COMMISSIONER WILKERSON:** Sure.

5 **MR. PATTERSON:** --- need that copy now, or would you
6 like that later?

7 **COMMISSIONER WILKERSON:** Now, 'cause y'all gonna --
8 y'all -- I say you are. Typically, somebody
9 references something, I put it here, circle it,
10 and go back in and read it, unless y'all point
11 out something, and then I'll read it and ---

12 **MR. PATTERSON:** (Hands documents to the
13 Commissioner.)

14 **COMMISSIONER WILKERSON:** Thank you. I'll read it at
15 that point in time, but, you know . . .

16 **MR. CHRISTMAS:** Your Honor, one point of order, just
17 I did submit the deposition testimony of Dr.
18 DeHoll, that's not in APA, but his deposition
19 was ---

20 **COMMISSIONER WILKERSON:** In ---

21 **MR. CHRISTMAS:** --- taken ---

22 **COMMISSIONER WILKERSON:** --- the back?

23 **MR. CHRISTMAS:** It's in the front, it's a condensed,
24 you know, it's a very short deposition.

25 **COMMISSIONER WILKERSON:** Oh, I gotcha. Okay.



1 **MR. CHRISTMAS:** Yes, sir.

2 **COMMISSIONER WILKERSON:** Okay.

3 **MR. CHRISTMAS:** I just wanted to make sure, for the
4 record, I'm not handing something to you that
5 he's not aware of.

6 **COMMISSIONER WILKERSON:** No. Okay. Yeah.

7 **MR. CHRISTMAS:** Yes.

8 **COMMISSIONER WILKERSON:** Yeah. That's fair.

9 **MS. WALTHOUR-BRADSHAW:** I need to stand up for a
10 minute.

11 **MR. CHRISTMAS:** Your Honor, may she stand up?

12 **COMMISSIONER WILKERSON:** Oh, ab- -- absolutely.

13 **MR. CHRISTMAS:** Yes? Okay.

14 **COMMISSIONER WILKERSON:** If it's better for her to
15 stretch, I'm good with that, and I know you've
16 been here a while. It's one of those day -- if
17 you'd've been here yesterday, you'd've probably
18 been gone three-and-a-half ---

19 **MS. WALTHOUR-BRADSHAW:** Sure.

20 **COMMISSIONER WILKERSON:** --- hours ago, but this is
21 just how it works out, every day is different
22 in here. I think yesterday lasted an hour and
23 10 minutes.

24 **MR. CHRISTMAS:** Really?

25 **COMMISSIONER WILKERSON:** Just the type cases, you



1 don't ever know.

2 **MR. CHRISTMAS:** Yeah.

3 **COMMISSIONER WILKERSON:** Today's lasted, yeah, all --
4 since 9:30 this morning, but that's life,
5 that's -- coming at you.

6 Oh, I see it back -- yeah, I got you back
7 here, pages 521 to 537; is that ---

8 **MR. CHRISTMAS:** I had her print an additional copy,
9 I wasn't aware it made it to the APA, so I was
10 ---

11 **COMMISSIONER WILKERSON:** Okay.

12 **MR. CHRISTMAS:** --- just to have it -- handed one up
13 to you in the front of the -- before the APAs,
14 just a copy of ---

15 **COMMISSIONER WILKERSON:** Oh, I ---

16 **MR. CHRISTMAS:** --- his ---

17 **COMMISSIONER WILKERSON:** --- gotcha.

18 **MR. CHRISTMAS:** --- deposition.

19 **MR. PATTERSON:** He ---

20 **MR. CHRISTMAS:** Yeah. Okay.

21 **MR. PATTERSON:** His transcript is included in our
22 APAs.

23 **COMMISSIONER WILKERSON:** I -- oh, y'all's? Okay.
24 Yours.

25 **MR. PATTERSON:** Yes, sir.



1 **COMMISSIONER WILKERSON:** Okay.

2 **MR. CHRISTMAS:** Fantastic.

3 **COMMISSIONER WILKERSON:** Oh, I got you.

4 **MR. CHRISTMAS:** Yep.

5 **COMMISSIONER WILKERSON:** That's good. Gotcha. All
6 right.

7 Mr. Patterson, your client's position
8 today?

9 **MR. PATTERSON:** Yes, sir.

10 **POSITION STATEMENT RESPONSE BY MR. PATTERSON:**

11 **MR. PATTERSON:** So Ms. Walthour reported an injury
12 on July 12th of 2019. There are some notes
13 from the Employer included on the Claimant's
14 APA 11, page 3, in which she describes it as
15 trying to lift a pallet, as she bent down,
16 lifted the pallet, and had pain on her left
17 shoulder and low back, pain on the back of her
18 shoulder on the shoulder blade, and, and lower
19 back pain. It -- again, this is alleged on a
20 -- to have occurred on July 11th of 2019. The
21 Employer then sent Claimant to Doctors Care,
22 and she was seen on July 14th of 2019 by a
23 nurse practitioner, Carolyn Comer. And it's
24 noted that this is a work comp injury, she was
25 moving a -- this says she was throwing a



1 pallet, I don't -- she works for Husqvarna and
2 ---

3 **COMMISSIONER WILKERSON:** And where is that location?

4 **MR. PATTERSON:** Oh, I'm sorry. This is, this is in
5 Claimant's APA 4, page ---

6 **COMMISSIONER WILKERSON:** No, no. Where ---

7 **MR. PATTERSON:** --- 6.

8 **COMMISSIONER WILKERSON:** Where is Husqvarna's
9 location?

10 **MR. PATTERSON:** This is -- let's see. As it --
11 somewhere -- it's in Columbia, Garners Ferry
12 Road.

13 **COMMISSIONER WILKERSON:** Okay. I, I see it now.
14 They've got it covered.

15 **MR. PATTERSON:** Or, or that -- the Garner- -- in --
16 Columbia is where the Doctors Care is located,
17 but Husqvarna was in Columbia.

18 **COMMISSIONER WILKERSON:** Okay. It's in Columbia,
19 okay.

20 **MR. PATTERSON:** And what the, the medical record
21 discusses is low back pain. And then on the
22 work status report, which is Claimant's APA 4,
23 page 16, there's a work status report from July
24 14th, 2019, in which it discusses the diagnosis
25 as lower back pain. The, the Claimant's



1 signature is on this document, along with the
2 provider. Claimant then returns to Doctors
3 Care on July 16th of 2019, and the note
4 indicates that she was seen by her doctor
5 yesterday. I, I do -- we have no information
6 as to who this doctor may have been who gave
7 her a cortisone shot -- and she is feeling
8 better, she is ready to be discharged. And she
9 was seen on 7/16/2019 by Dr. Kim, this is
10 Claimant's APA 4, page 26. Again, on the work
11 status report from 7/16/2019, the diagnosis is
12 lumbar strain/better, and she is released to
13 full-duty work. And, again, Claimant's
14 signature is on this work status form. And
15 then, as far as follow up, it says return
16 appointment, no, and then what you will note --
17 that was Claimant's APA 4, page 32. On
18 Claimant's APA 4, page 27, the instructions are
19 return only if needed, and then there's a
20 mention of full duty, which is more further
21 discussed on the work status report. Following
22 Jul- -- July 16th, 2019, Claimant returned to
23 work.

24 We conducted Dr. Kim's deposition, and
25 what Dr. Kim testified to ---



1 **COMMISSIONER WILKERSON:** His deposition is?

2 **MR. PATTERSON:** That is in Defendant's APAs
3 beginning on page 405.

4 **COMMISSIONER WILKERSON:** 405?

5 **MR. PATTERSON:** Yes, sir.

6 **COMMISSIONER WILKERSON:** I had it. All right. Yes.

7 **MR. PATTERSON:** And in this -- in his testimony, you
8 will note that his understanding of Claimant's
9 complaints were low back pain, and there is no
10 testimony or mention of any neck pain, and then
11 what he goes on to say is -- let's see, let's
12 see. Sorry, my apologies. Oh, wha- -- okay,
13 sorry. What, what I was going to say is in his
14 deposition, he essentially says that after
15 treating her ---

16 **COMMISSIONER WILKERSON:** Page and line?

17 **MR. PATTERSON:** Page 426 of Defendant's APAs, that
18 he, he didn't follow her after he treated her
19 on July 16th of 2019, so any treatment she
20 received after that, he doesn't, he doesn't
21 know about, and, so the point is, is that at
22 this, at this time, Claimant's released to full
23 duty after two visits at Doctors Care with a
24 low back strain. She then goes back to work
25 and is a no-call/no-show. And in -- let's see.



1 **COMMISSIONER WILKERSON:** So the Claim is accepted at
2 this point in time?

3 **MR. PATTERSON:** I would say that low back strain on
4 that date was accepted, as far as a medical-
5 only, two-Doctor-Care [sic] visit, released to
6 MMI on July 16th of 2019. She returns to work
7 full duty and then gets fired -- or gets
8 terminated for no-call/no-show. And tab 8 of
9 328 ---

10 **COMMISSIONER WILKERSON:** Where is that?

11 **MR. PATTERSON:** Let's see. On, let's see, page 331
12 of Defendant's APAs, there's notations -- like
13 an ongoing list of notations. And at th- --
14 some point in -- on -- you can see here, August
15 4th, Claimant came in asking for wage records.
16 She was still scheduled to be working on
17 regular shifts but then did not show up, and on
18 August 12th is when I think the note says she
19 did not report to work, she has not returned my
20 phone calls and texts and has attempted to make
21 no contact, and this is when they terminated
22 her employment at this point.

23 **COMMISSIONER WILKERSON:** And these records came from
24 where?

25 **MR. PATTERSON:** These are records from the Employer.



1 **COMMISSIONER WILKERSON:** Oh, okay. Who is Remedy
2 Intelligent Staffing, Inc.?

3 **MR. PATTERSON:** That's correct.

4 **COMMISSIONER WILKERSON:** Okay.

5 **MR. PATTERSON:** So, in the interim ---

6 **COMMISSIONER WILKERSON:** Show me how I know that.
7 Never mind, I see it, brand, I see it.

8 **MR. PATTERSON:** In the interim, Claimant went to
9 Prisma Health Richland Emergency Room on August
10 11th of 2019, and it notes -- and this is Def-
11 -- Defendant's 120, that patient states pain to
12 right shoulder; right arm, with tingling
13 sensation to right shoulder; denies recent
14 trauma to neck or back or shoulder; also, pain
15 to left elbow after I fell getting dressed.
16 So, right here at this moment, we now have a
17 new fall ---

18 (PHONE RINGING.)

19 **MR. PATTERSON:** --- discussed in an emergency room
20 visit. There's no mention in this emergency
21 room visit of a work injury, in fact, in the
22 history of present illness on page 120, it says
23 the pain began two days ago when she woke up
24 and felt her right shoulder blade and shoulder
25 area was aching. And so, at this point, I



1 would submit there has been some new injury
2 that is not a work injury 'cause there's no
3 mention of it in the, the medical record, and,
4 now, we've got some new injury that we're now
5 moving forward with. She then goes to treat
6 with her family practice physicianer [sic],
7 which is Hopkins Family Practice, and she sees
8 -- I believe it's a Ezra Malachi at Hopkins
9 Family Practice on 9/12 of 2019. And in his
10 medical record, there is, again, no mention ---

11 **COMMISSIONER WILKERSON:** What page?

12 **MR. PATTERSON:** --- of -- oh, I'm sorry, Defendant's
13 229. There's no mention of a work injury. She
14 says the -- or at least in the chief complaint,
15 it talks about a month ago, she felt like she
16 pulled a muffle (ph) -- muscle, it talks about
17 her visit to the emergency room. And, again,
18 what I would note is, in the original injury
19 from July 11th of 2019, she talked about low
20 back pain in the, the two Doctors Care records,
21 there's only mention of, of low-ba- -- back
22 pain in terms of the diagnosis. There's some
23 mention of soreness in the back left of the
24 left shoulder, but it doesn't appear to have
25 been the major concern, as the doctors only



1 discussed the low back pain. Now, on August
2 11th, when what I would have presented as a new
3 injury, she's discussing right shoulder pain,
4 and she's discussing a fall involving her left
5 elbow, and then, again, here in the chief
6 complaint, I'm not exactly sure what he means
7 when he goes right trauma injury.

8 **COMMISSIONER WILKERSON:** Uh-huh.

9 **MR. PATTERSON:** So, again, this idea that there's
10 just a brand -- thi- -- this is a brand new
11 injury that's going on at this point. She then
12 gets referred initially to Prisma Health for
13 her wrist/arm, which she has previously had
14 scaphoid surgery that is un-work-related, it
15 happened prior to this injury, and she goes to
16 Prisma Health Orthopedics and sees Dr. Fulton's
17 physician's assistant and is, is treated by him
18 for a wrist issue, John Clavet. I believe that
19 is Claimant's APA 5. And he does an EMG, and
20 what he again notes in here is, right-hand
21 dominant female -- this is Claimant's APA 5, 9,
22 page 9. And at this point, this is the first
23 time we see complaints of neck and bilateral
24 arm pain, and, and even though there are
25 significant complaints of neck and bilateral



1 arm plain (ph) -- arm pain, there is no mention
2 of a work injury in these medical records. And
3 while I don't know who provided it -- provided
4 the history, I assume he's writing what he is
5 hearing from the Claimant. But he talks about
6 an ER visit in early September for issues
7 related to neck, neck pain, and what I would
8 say is, in the August 11th ER visit, there's
9 mention of no neck, but she doesn't endorse
10 neck or back pain. So if there was another
11 September ER visit where she did endorse neck
12 pain, I, I don't know, but, again, my point is,
13 is that July 11th, July 14th, and July the
14 16th, there is only discussion of the low back
15 of as being the true issue, at this point, we
16 now have neck pain and no -- for the very first
17 time and no mention of a work injury. And,
18 again, at the -- at this point, from the
19 Employer's standpoint, they have terminated her
20 and, and have not heard anything further from
21 her. So there's been no request for treatment,
22 there's, there's been nothing to suggest that
23 she provided any notice that, now, she's having
24 neck pain or bilateral arm pain.

25 **COMMISSIONER WILKERSON:** Do you know if they



1 notified her of her termination?

2 **MR. PATTERSON:** Yes. Well, at least according to
3 her deposition testimony, she was aware of it.

4 **COMMISSIONER WILKERSON:** Okay. I don't -- and I
5 just . . .

6 **MR. PATTERSON:** And then, from, from Dr. Clavet, or
7 the physician's assistant, that is how it -- or
8 is my understanding of how she was then
9 referred to Dr. DeHoll.

10 **COMMISSIONER WILKERSON:** Okay, okay. What does ---

11 **MR. PATTERSON:** I've ---

12 **COMMISSIONER WILKERSON:** --- Dr. DeHoll say?

13 **MR. PATTERSON:** Dr. DeHoll's records are contained
14 in Defendant's 1 through 97. And I think the
15 most important thing about Dr. DeHoll's records
16 is the complete lack of any mention of a work
17 injury.

18 **COMMISSIONER WILKERSON:** So why did he do the
19 causation statement?

20 **MR. PATTERSON:** And so, at this point ---

21 **COMMISSIONER WILKERSON:** So why did he do the
22 causation statement?

23 **MR. PATTERSON:** Dr. DeHoll?

24 **COMMISSIONER WILKERSON:** Yeah.

25 **MR. PATTERSON:** I, I honestly have no idea why he



1 did the causation statement, but what I can
2 tell you is, when Gary asked his questions
3 about the questionnaire, I asked him -- I asked
4 Dr. DeHoll, and I want, and I want to ask
5 again, when filling out these questions
6 relating to the questionnaire, do you have a
7 recollection of how Ms. Walthour's injury
8 occurred? And he said, I do not. So, why he
9 filled out these causation statements, I don't
10 know, but what I can tell you is, based on his
11 testimony, he didn't know what her injury was
12 at the time he filled these question -- these
13 questions out, so I don't know how he can
14 provide a ---

15 **MR. CHRISTMAS:** I'm going ---

16 **MR. PATTERSON:** --- causation statement ---

17 **MR. CHRISTMAS:** I'm going to object to that, Your
18 Honor, that's speculation.

19 **COMMISSIONER WILKERSON:** Yeah. That is, that is
20 correct ---

21 **MR. CHRISTMAS:** It, it ---

22 **COMMISSIONER WILKERSON:** --- for most of it.

23 **MR. CHRISTMAS:** --- the -- massively. We provided
24 the, the full deck of medicals to him prior,
25 prior to him filling out the questionnaire or



1 doing a conference with us, but just to correct
2 ---

3 **COMMISSIONER WILKERSON:** No. I understand.

4 **MR. CHRISTMAS:** --- the record, Your Honor.

5 **COMMISSIONER WILKERSON:** No. I understand.

6 **MR. CHRISTMAS:** Thank you.

7 **MR. PATTERSON:** And so, this idea it -- that he
8 could somehow know what her injury is -- then
9 -- and, and quite, I guess, my response to the
10 objection before I go further is I don't think
11 that's speculation, I, I think that is a
12 reasonable inference when there's no record of
13 a work injury noted in any of his medical
14 records, and then when I ask him if he has any
15 recollection of her injury in his testimony, he
16 says he doesn't, I think it's a very reasonable
17 re- -- inference to make that he doesn't know
18 what her injury is or how she was injured. And
19 so I -- my position would be -- is those
20 causation statements are not really evidence of
21 anything.

22 **COMMISSIONER WILKERSON:** It's evidence. (Laughs.)

23 **MR. CHRISTMAS:** It's ---

24 **COMMISSIONER WILKERSON:** I don't ---

25 **MR. CHRISTMAS:** Your ---



1 **COMMISSIONER WILKERSON:** --- know ---

2 **MR. CHRISTMAS:** --- Your ---

3 **COMMISSIONER WILKERSON:** --- what ---

4 **MR. CHRISTMAS:** --- Your Honor ---

5 **COMMISSIONER WILKERSON:** I get to decide if it's
6 evidence of anything.

7 **MR. PATTERSON:** Yeah.

8 **MR. CHRISTMAS:** A, a neurosurgeon is not going to
9 fill out a questionnaire and answer yes and
10 sign it if he's not provided a full deck of the
11 medical and it's reviewed with him, including
12 the incident report that notes her shoulder and
13 shoulder blade, which, of course, chicken-and-
14 egg between neck and shoulder all the time,
15 Your Honor, as you see in many, many cases.

16 **MR. PATTERSON:** And so then, at, at this point, you
17 know, I guess, again, just to, to discuss that,
18 Dr. DeHoll is someone who practices routinely
19 in, in workers' compensation and routinely
20 would note if this was a work injury
21 contemporaneously with the Claim, so ---

22 **MR. CHRISTMAS:** I object, Your Honor. There's no
23 evidence he's arguing ---

24 **COMMISSIONER WILKERSON:** Yeah.

25 **MR. CHRISTMAS:** --- to at this point, he's making



1 statements that are not ---

2 **COMMISSIONER WILKERSON:** Yeah.

3 **MR. CHRISTMAS:** --- evidence.

4 **MR. PATTERSON:** I think what is evidence is the
5 medical records, and the medical re- -- and I
6 think it's okay for me to talk about what the
7 medical records mean.

8 **MR. CHRISTMAS:** But not what inference -- and, Your
9 Honor ---

10 **COMMISSIONER WILKERSON:** Yeah. You can't tell me
11 what he said or what he think -- why he looked
12 at it or didn't look at it or -- that's your
13 opinion, that doesn't mean it's correct,
14 doesn't mean it's wrong.

15 **MR. PATTERSON:** Right. But the medical ---

16 **COMMISSIONER WILKERSON:** Doesn't mean it's right.

17 **MR. PATTERSON:** The medical records are clear on
18 that none of this treatment was paid by
19 workers' compensation and that there was never
20 an injury described or discussed in any mecur-
21 -- medical record.

22 **COMMISSIONER WILKERSON:** Who's Dr. DeHoll usually
23 use? Doesn't he work for the defense mostly?

24 **MR. PATTERSON:** Well, I, I don't know. I, I would
25 say that most of these doctors ---



1 **COMMISSIONER WILKERSON:** What do you -- whatcha
2 mean, you don't know what ---

3 **MR. PATTERSON:** Well ---

4 **COMMISSIONER WILKERSON:** How long have ---

5 **MR. PATTERSON:** --- I ---

6 **COMMISSIONER WILKERSON:** --- you ---

7 **MR. PATTERSON:** --- guess ---

8 **COMMISSIONER WILKERSON:** --- been ---

9 **MR. PATTERSON:** --- what I ---

10 **COMMISSIONER WILKERSON:** --- doing this?

11 **MR. PATTERSON:** --- would say is ---

12 **COMMISSIONER WILKERSON:** Yesterday?

13 **MR. PATTERSON:** --- is I don't know that that's a
14 fair statement because, in South Carolina, the
15 def- -- the employer and carrier control
16 medical, so, yes, if the question is does the
17 defense use them, well, yes, that's because I
18 -- in this state, it's our right to direct the
19 treatment, so, yes. At -- to the ---

20 **COMMISSIONER WILKERSON:** But he ---

21 **MR. PATTERSON:** --- extent ---

22 **COMMISSIONER WILKERSON:** --- doesn't ---

23 **MR. PATTERSON:** --- he's ---

24 **COMMISSIONER WILKERSON:** --- have to ---

25 **MR. PATTERSON:** --- treating ---



1 COMMISSIONER WILKERSON: --- do ---

2 MR. PATTERSON: --- the patient.

3 COMMISSIONER WILKERSON: --- it.

4 MR. PATTERSON: That's ---

5 COMMISSIONER WILKERSON: Why didn't you send him to
6 Poletti?

7 MR. PATTERSON: Well, that -- that's what I'm trying
8 to say is we didn't send -- we ---

9 COMMISSIONER WILKERSON: Why ---

10 MR. PATTERSON: --- didn't ---

11 COMMISSIONER WILKERSON: --- didn't you ---

12 MR. PATTERSON: --- send her ---

13 COMMISSIONER WILKERSON: --- send her ---

14 MR. PATTERSON: --- here.

15 COMMISSIONER WILKERSON: --- to Poletti?

16 MR. PATTERSON: And we didn't send ---

17 COMMISSIONER WILKERSON: He does ---

18 MR. PATTERSON: --- her ---

19 COMMISSIONER WILKERSON: --- a lot ---

20 MR. PATTERSON: --- anywhere.

21 COMMISSIONER WILKERSON: --- of workers' comp, why
22 don't ---

23 MR. PATTERSON: She got ---

24 COMMISSIONER WILKERSON: --- you st- ---

25 MR. PATTERSON: --- she got all of this ---



1 **COMMISSIONER WILKERSON:** So they ---

2 **MR. PATTERSON:** --- treatment ---

3 **COMMISSIONER WILKERSON:** --- work for one side or
4 the other, so who does he usually -- who
5 usually goes to DeHoll for a evaluation?

6 **MR. PATTERSON:** Well, and that's my point is, is he
7 was treating her outside the work comp system,
8 the Employer had no idea she was treating with
9 him, and there's no evidence that he ever knew
10 that there was some alleged work injury.

11 **MR. CHRISTMAS:** And I object, Your ---

12 **COMMISSIONER WILKERSON:** I -- and I don't know that,
13 I don't know that (laughs), that's your
14 opinion.

15 **MR. PATTERSON:** Well, I don't think it -- well, I
16 think we're getting confused here. I don't
17 think it's my opinion that there's no mention
18 in any medical record from Dr. DeHoll of a work
19 injury.

20 **MR. CHRISTMAS:** Your Honor ---

21 **MR. PATTERSON:** I mean, that is evidence.

22 **MR. CHRISTMAS:** --- I have to -- I, I -- if I may on
23 this one issue because this has been going on
24 for a minute? All right.

25 Number one, most probable and -- from Dr.



1 DeHoll, most probable and to a reasonable
2 degree of medical certainty, that, as already
3 opined in my November 11th, 2021, see attached,
4 it's my opinion that Christina Walthour's
5 injuries in her -- and to her cervical spine,
6 including C3-4, C4-5, C5-6, C6-7, were caused
7 by and/or aggravated by her July 11th, 2019
8 accident at work, period.

9 **COMMISSIONER WILKERSON:** So he knew something
10 happened.

11 **MR. PATTERSON:** Well, not until ---

12 **MR. CHRISTMAS:** If, if I may continue.

13 **COMMISSIONER WILKERSON:** Let him finish.

14 **MR. CHRISTMAS:** He was provided the entire deck that
15 has been provided to Your Honor, including the
16 APA that was cited by Defense earlier, number
17 11, which was at pages 1 through 6 ---

18 **COMMISSIONER WILKERSON:** Yep.

19 **MR. CHRISTMAS:** --- from July ---

20 **COMMISSIONER WILKERSON:** Uh-huh.

21 **MR. CHRISTMAS:** --- 12th, 2019, where it's clearly
22 noted that there's pain in the left shoulder
23 and lower back; describes constant pain in her
24 lower back that is located below the rib cage,
25 above the buttocks; describes constant, sharp



1 pain on the back of her shoulder, on shoulder
2 blade, okay? And as we all know, and certainly
3 Dr. DeHoll understood -- because, by the way,
4 she was moving a heavy pallet when the thing
5 popped and she felt it, okay?

6 **MR. PATTERSON:** But do I get to object 'cause, now,
7 this is speculation.

8 **MR. CHRISTMAS:** No.

9 **MR. PATTERSON:** I mean, he's not a medical doctor.

10 **MR. CHRISTMAS:** Her, her testimony is going to be
11 that, it's what's reported.

12 **COMMISSIONER WILKERSON:** Well, now, we're never going
13 to get to the testimony.

14 **MR. PATTERSON:** It -- it's reported ---

15 **COMMISSIONER WILKERSON:** (Laughs.)

16 **MR. CHRISTMAS:** A- -- amen. I'll, I'll try to be
17 brief, Your Honor. Let me just summar (ph) up
18 it this way: Dr. DeHoll has given
19 questionnaires that have been offered, Dr.
20 DeHoll stood by his opinions in his deposition.
21 Dr., Dr. Patel also -- APA number 2, page --
22 let's go to -- mine, mine on the bottom is not
23 marked, but just APA number 2, it's the last
24 page of his report, found causation for the
25 same neck problem. The Defense has argued all



1 of these different positions that they didn't
2 go depose to try to have innuendo that somehow
3 Dr. Kim's depo -- Dr. Kim said I saw her
4 briefly, and I didn't see her again, I can't
5 tell you if it's related. He didn't say it
6 wasn't related, he said I can't tell you, okay?
7 And it goes on to the next doctor. You know,
8 again, none of these doctors -- there's not one
9 medical opinion opposing the two, the
10 physiatrist and the neurosurgeon in this case,
11 that says that it was caused by something else.
12 Defense had every opportunity to go to any of
13 the doctors, present these medical records, and
14 say, hey, it -- was it from this, oh, this
15 incident at home, or was it from the work
16 accident, was it from something at -- that, you
17 know, a -- in a closet, or was it something
18 moving a pallet? They had the opportunity to
19 go ask him that, they never did. So, looking
20 at her record to say what might have been,
21 could have been, it's all speculation.

22 **COMMISSIONER WILKERSON:** I can't rule on speculation
23 from either side, I gotta rule on the evidence
24 before me.

25 **MR. PATTERSON:** Sure.



1 **COMMISSIONER WILKERSON:** That's it. That's why I
2 asked you the question, why would he -- that's
3 why I asked the question.

4 **MR. PATTERSON:** And I'm just putting my position on
5 the record.

6 **COMMISSIONER WILKERSON:** Okay.

7 **MR. PATTERSON:** So, regarding the questionnaire, I
8 think the date is important. It wasn't -- it
9 -- there was no questionnaire in existence
10 until the -- 2021, and his treatment took place
11 prior to that, and, to me ---

12 **COMMISSIONER WILKERSON:** So the questionnaire was
13 done in 2021?

14 **MR. PATTERSON:** That's correct. And we're talking
15 about trea- ---

16 **COMMISSIONER WILKERSON:** And y'all still didn't do
17 anything to investigate the case?

18 **MR. PATTERSON:** We did, we did.

19 **COMMISSIONER WILKERSON:** That's why I -- that's why
20 I'm confused, you knew all of this stuff in
21 2021, and you come in here today saying, oh, my
22 gosh, I gotta go find five other people that
23 might back me up differently. So you've known
24 about it, now you admit you've known about it
25 for two years?



1 **MR. PATTERSON:** Well, I guess we've already
2 discussed that and ---

3 **COMMISSIONER WILKERSON:** Well, I -- and my question
4 is you've know about it for two years, now, and
5 you just said you've known about it for two
6 years?

7 **MR. PATTERSON:** Sure.

8 **COMMISSIONER WILKERSON:** Okay.

9 **MR. PATTERSON:** Which is why ---

10 **COMMISSIONER WILKERSON:** Well, that's ---

11 **MR. PATTERSON:** --- we wanted to take his deposition
12 in 2021.

13 **COMMISSIONER WILKERSON:** Why didn't you take it?

14 **MR. PATTERSON:** We -- I've already explained that.

15 **MR. CHRISTMAS:** They took it, they took it last
16 week.

17 **MR. PATTERSON:** He ---

18 **COMMISSIONER WILKERSON:** That's what I'm saying, why
19 didn't you ---

20 **MR. CHRISTMAS:** They ---

21 **COMMISSIONER WILKERSON:** --- take ---

22 **MR. CHRISTMAS:** They took it ---

23 **COMMISSIONER WILKERSON:** --- it ---

24 **MR. CHRISTMAS:** --- last week.

25 **COMMISSIONER WILKERSON:** --- in 2021 if you knew his



1 opinion in 2021? That, that makes no sense to
2 me.

3 **MR. PATTERSON:** So ---

4 **COMMISSIONER WILKERSON:** If I know I'm going to play
5 a baseball game, I don't show up on the
6 football team.

7 **MR. PATTERSON:** I get it.

8 **COMMISSIONER WILKERSON:** If I know I'm going to play
9 a hockey, I don't show up with my soccer team.

10 **MR. PATTERSON:** But this happens ---

11 **COMMISSIONER WILKERSON:** If I know I got a doctor
12 out there that says it's related, I pin that
13 doctor down. But go ahead.

14 **MR. PATTERSON:** The -- you know, the question ---

15 **COMMISSIONER WILKERSON:** Either way, it don't ---

16 **MR. PATTERSON:** --- the ---

17 **COMMISSIONER WILKERSON:** --- matter.

18 **MR. PATTERSON:** --- question gets asked all the time
19 -- it -- for, for witnesses is when, when is
20 your memory best, is it, you know,
21 contemporaneous with the accident and, you
22 know, so -- or two years later? And I think my
23 point is, is Dr. DeHoll got presented with a
24 questionnaire in 2021 that is inconsistent with
25 his medical records.



1 **COMMISSIONER WILKERSON:** All right. Is it in the
2 deposition? That's your opinion. Is it -- did
3 you ask him at the deposition?

4 **MR. PATTERSON:** What I'm saying is ---

5 **COMMISSIONER WILKERSON:** Did you -- and here again,
6 every -- like you got somebody up in the -- if
7 I ask you a question, yes, no, I don't
8 understand, I'm confused, but it, it isn't,
9 well, let me tell you what happened in 1492.

10 **MR. PATTERSON:** I don't think ---

11 **COMMISSIONER WILKERSON:** What was my question?

12 **MR. PATTERSON:** I don't think what I'm saying right
13 now ---

14 **COMMISSIONER WILKERSON:** What was my question?

15 **MR. PATTERSON:** --- is ---

16 **COMMISSIONER WILKERSON:** Yes or no?

17 **MR. PATTERSON:** Can you rephrase it or re- --
18 restate it?

19 **COMMISSIONER WILKERSON:** So you didn't even listen
20 to the question?

21 **MR. PATTERSON:** Well, we've had a bunch of
22 conversations since ---

23 **COMMISSIONER WILKERSON:** You started ---

24 **MR. PATTERSON:** --- then.

25 **COMMISSIONER WILKERSON:** --- talking. This isn't a



1 conversation.

2 **MR. PATTERSON:** Okay.

3 **COMMISSIONER WILKERSON:** We're not at a supper
4 table. I've asked you to put your position on
5 the record, to keep ---

6 **MR. PATTERSON:** And ---

7 **COMMISSIONER WILKERSON:** --- it moving.

8 **MR. PATTERSON:** --- that's what I'm trying to do,
9 but I keep -- you keep telling me that I can't
10 put my position on the record 'cause I can't
11 make inferences from the effor- -- evidence in
12 the case.

13 **COMMISSIONER WILKERSON:** You can put your position
14 on the record, you can't put your opinion of
15 what you think the doctor was thinking or what
16 he thought might be happening because you knew
17 the doctor didn't know this, you don't know
18 that.

19 **MR. PATTERSON:** That ---

20 **COMMISSIONER WILKERSON:** That's an opinion.

21 **MR. PATTERSON:** That's not what I'm saying.

22 **COMMISSIONER WILKERSON:** I may ---

23 **MR. PATTERSON:** I'm ---

24 **COMMISSIONER WILKERSON:** --- come ---

25 **MR. PATTERSON:** --- making ---



1 **COMMISSIONER WILKERSON:** --- to the same opinion you
2 got.

3 **MR. PATTERSON:** But this is how you put your
4 position on the record is by making inferences
5 from the evidence to state your position as to
6 why your defenses apply, I mean, it's just a
7 argument.

8 **COMMISSIONER WILKERSON:** But you can't tell me what
9 the doctor was thinking.

10 **MR. PATTERSON:** I'm not trying to tell you what he's
11 thinking, I'm just telling you what's in the
12 medical ---

13 **COMMISSIONER WILKERSON:** Well, that's ---

14 **MR. PATTERSON:** --- records.

15 **COMMISSIONER WILKERSON:** --- what you just said, how
16 can he make an opinion on something. Finish
17 your position.

18 **MR. PATTERSON:** So I think -- well, to be as
19 efficient as possible, what I would say is
20 there's no -- aside from the questionnaires,
21 there's no mention in any medical record with
22 Dr. DeHoll regarding a work injury.

23 Then, subsequent to her fusion, Claimant
24 was involved in a motor vehicle accident on
25 June 13th of 2020, it was a single-vehicle



1 accident. She collided with a jersey wall.
2 She was taken by police -- or, well, the police
3 showed up, and there is a police report and was
4 transported by EMS to the hospital. Based on
5 the hospital medical records, they -- and, and
6 by all appearances, Claimant was under the
7 influence, they initially believed that she was
8 under the influence of alcohol.

9 **COMMISSIONER WILKERSON:** Evidence?

10 **MR. PATTERSON:** Yes. That's in the medical.

11 **COMMISSIONER WILKERSON:** I believed -- was alcohol -
12 --

13 **MR. PATTERSON:** No, no, no. I sa- ---

14 **COMMISSIONER WILKERSON:** That's where you move on to
15 the alcohol test.

16 **MR. PATTERSON:** No, no. I -- what I'm saying is ---

17 **COMMISSIONER WILKERSON:** I believe in Santa Claus.

18 **MR. PATTERSON:** --- the ---

19 **COMMISSIONER WILKERSON:** Do you?

20 **MR. PATTERSON:** No. The medical ---

21 **COMMISSIONER WILKERSON:** You don't?

22 **MR. PATTERSON:** The medical records state this, I'm
23 just summarizing what the medical records ---

24 **COMMISSIONER WILKERSON:** Well ---

25 **MR. PATTERSON:** --- said.



1 **COMMISSIONER WILKERSON:** --- I don't need you to
2 read the medical ---

3 **MR. PATTERSON:** Okay.

4 **COMMISSIONER WILKERSON:** --- records.

5 How many cases have you tried?

6 **MR. PATTERSON:** I ---

7 **COMMISSIONER WILKERSON:** How many cases have you
8 tried?

9 **MR. PATTERSON:** In general sessions or here in ---

10 **COMMISSIONER WILKERSON:** Workers' Comp. I don't
11 care how many you tried in Kansas. How many
12 cases have you tried in Workers' Comp?

13 **MR. PATTERSON:** I don't know, ten.

14 **COMMISSIONER WILKERSON:** I understand. Nobody reads
15 the medical records to me unless they just
16 started doing this. You point out ---

17 **MR. PATTERSON:** And ---

18 **COMMISSIONER WILKERSON:** --- APA 3, page 9, Dr.
19 Jones, line 16, said, boom, next? You don't
20 stop, you keep going.

21 **MR. PATTERSON:** Okay. Well, I guess what I was ---

22 **COMMISSIONER WILKERSON:** Come back in three years
23 and you will not do it the same way you did it
24 today.

25 **MR. PATTERSON:** What I ---



1 **COMMISSIONER WILKERSON:** Believe it.

2 **MR. PATTERSON:** --- was trying to do is just get
3 through this a little bit quicker s- -- to ---

4 **COMMISSIONER WILKERSON:** I don't believe it.

5 **MR. PATTERSON:** --- save everybody's time.

6 **COMMISSIONER WILKERSON:** I'll say it, if -- you've
7 been heres (ph) about three hours. Well, you
8 can't get through it quicker if you're going to
9 read me all these medical reports.

10 **MR. PATTERSON:** The -- based on the accident, the
11 airbags were deployed, and there was damage to
12 the car. Claimant did -- was erratic at the
13 hospital and checked herself out against
14 medical advice. It is our position that any
15 treatment following this is the result of the
16 motor vehicle accident.

17 **COMMISSIONER WILKERSON:** Based on that one report?

18 **MR. PATTERSON:** Based on the medical evidence.

19 **COMMISSIONER WILKERSON:** That one medical report?

20 **MR. PATTERSON:** The treat- -- well, the photos of
21 the vehicle, the treatment at the hospital.

22 **COMMISSIONER WILKERSON:** That photo's in here?

23 **MR. PATTERSON:** I know the accident report is in
24 there. I would have to ---

25 **COMMISSIONER WILKERSON:** Well, it's your opinion



1 again the the photos are in there. Are they in
2 here, is my question.

3 **MR. PATTERSON:** I ---

4 **COMMISSIONER WILKERSON:** You don't listen. Are the
5 photos in there, yes or no? Just don't make
6 stuff up.

7 **MR. PATTERSON:** No.

8 **COMMISSIONER WILKERSON:** You'll say, Commissioner, on
9 line -- on page 947, here's the photos of the
10 wreck. I mean, I, I don't know.

11 **MR. PATTERSON:** No. I do not at this time see if --
12 -

13 **COMMISSIONER WILKERSON:** Then they don't count.

14 **MR. PATTERSON:** --- the photo's in here.

15 **COMMISSIONER WILKERSON:** That's your opinion, the
16 photos are bad, true?

17 **MR. PATTERSON:** As far as the damage ---

18 **COMMISSIONER WILKERSON:** Well, is it ---

19 **MR. PATTERSON:** --- I was ---

20 **COMMISSIONER WILKERSON:** --- your opinion those
21 photos are bad?

22 **MR. PATTERSON:** I gue- -- I -- well, I ---

23 **COMMISSIONER WILKERSON:** I don't know, I ---

24 **MR. PATTERSON:** I don't know that I would say that.
25 I -- all was -- I was saying is the airbag was



1 deployed.

2 **COMMISSIONER WILKERSON:** Is that in the report?

3 **MR. PATTERSON:** I will ch- -- check the ---

4 **COMMISSIONER WILKERSON:** No, don't check.

5 **MR. PATTERSON:** --- the medical records.

6 **COMMISSIONER WILKERSON:** That was not my question.

7 The answer is yes or no, the -- I will check it
8 and get back to you next Tuesday, no. Show me
9 where it is in the record. If it's not in
10 there, it doesn't count.

11 **MR. PATTERSON:** So, following the ---

12 **COMMISSIONER WILKERSON:** Is it in there?

13 **MR. PATTERSON:** Defendant's 242, Lexington's (ph)
14 County EMS, airbag deployed front.

15 **COMMISSIONER WILKERSON:** I got you. Okay.

16 **MR. PATTERSON:** So, following this motor vehicle
17 accident, there is no additional medical
18 treatment until -- or at least that I'm aware
19 of until she sees Dr. Patel at Lowcountry
20 Orthopaedics for an IME. I believe that is
21 Claimant's APA 2. The -- what I would say
22 about this medical record, Claimant's APA 2,
23 page 5, at the bottom, is, at least according
24 to Dr. Patel, the Claimant reported to him that
25 she was lifting 150-pound pallets on the date



1 of injury and began having neck pain.

2 **COMMISSIONER WILKERSON:** Uh-huh.

3 **MR. PATTERSON:** I would simply state that that is
4 inconsistent with the em- -- Employer's report
5 of injury and the medical records contained in
6 the Doctor [sic] Care records from July 14th
7 and July 16th.

8 Then, since that time, in January --
9 January 31st, 2022, a hearing was scheduled for
10 February 1st, 2022. The hearing -- the
11 Claimant withdrew her hearing request on
12 January 31st, 2022, 19 months passed, the Claim
13 was closed in September in 2022, it was closed
14 for 12 months, a new claim was filed September
15 1st of 2023. However, in the interim, she was
16 seen again, I believe, July 19th, let me see,
17 it's the Claimant's APA 1. Let's see, this
18 one. She was seen in 2022, July of 2022, again
19 by Dr. DeHoll, and I believe -- and Gary's
20 already mentioned this, that at this point in
21 July of 2022, it was his determination that she
22 had gotten worse, and so, despite finding out
23 in July of 2022 that she was worse and at that
24 very moment -- he was recommending surgery at
25 that time or at least suggested that she was a



1 surgical candidate at that time, July 14th,
2 2022, it's Claimant's APA pa- -- APA 1, page 5.
3 And during this time period, Claimant had been
4 living in Columbia, had moved to Kentucky, and
5 now lives in Alabama. In July of 2022, no new
6 claim was filed. Another 14 months pass before
7 she files her claim, despite the fact that, at
8 that moment, Dr. DeHoll said she was a surgical
9 candidate at that moment, and so the Employer-
10 Carrier had no opportunity to step in at that
11 point and do anything 'cause they didn't even
12 know this was occurring. So, to the extent
13 she's now worse and now wants surgery, it's the
14 Employer's position that we've been prejudiced
15 by not being able to do anything because she's
16 just sat on this, this medical record for a
17 year, or 14 months.

18 **COMMISSIONER WILKERSON:** But it's okay for you to
19 sit on it for three years?

20 **MR. PATTERSON:** Again, the Claim- ---

21 **COMMISSIONER WILKERSON:** What's good for the goose
22 is good for the gander.

23 **MR. PATTERSON:** The Claimant -- it's the Claimant's
24 burden of proof.

25 **COMMISSIONER WILKERSON:** I don't disagree with you



1 on that, I agree with you for that.

2 **MR. PATTERSON:** And there's no affirmative duty for
3 us ---

4 **COMMISSIONER WILKERSON:** Is there anything in the
5 law that says they have to bring a case before
6 the Workers' Comp Commission ---

7 **MR. PATTERSON:** Well ---

8 **COMMISSIONER WILKERSON:** --- before they're ready?

9 **MR. PATTERSON:** --- I think what it means -- or w- -
10 - I would -- to me, this is where the argument
11 regarding laches is involved because I do
12 think, under case law, there is a duty to
13 pursue your case in a timely manner. So, in
14 Muir v. Bard, which I have a copy of, I can
15 hand it to you guys, I have two cases I'll hand
16 up.

17 **COMMISSIONER WILKERSON:** I suppose you -- and give
18 it here first. There we go. Thank you, sir.

19 **MR. PATTERSON:** They outline the, the elements of
20 laches, laches is neglect for an reasonable and
21 an unexplained length of time under
22 circumstances affording an opportunity for
23 diligence to do what in law should have been
24 done, laches is a negligent failure to act for
25 an unreasonable period of time. If a party,



1 knowing his rights, does not timely assert them
2 but, by unreasonable delay, causes his
3 adversary to incur expenses, otherwise
4 detrimentally change his position, then equally
5 will ordinarily refuse to enforce these rights.
6 So my position would be that sh- -- this was a
7 negligent delay, she knew she was worse, she
8 knew the doctor thought she was surgical.

9 **COMMISSIONER WILKERSON:** From 2022?

10 **MR. PATTERSON:** This is 2022 and then waits 14
11 months before she files a claim.

12 **COMMISSIONER WILKERSON:** The Claim's been filed way
13 before then.

14 **MR. PATTERSON:** Well, the Claim was closed at -- and
15 then no new 50 was filed until 14 ---

16 **COMMISSIONER WILKERSON:** There a ---

17 **MR. PATTERSON:** --- months ---

18 **COMMISSIONER WILKERSON:** --- difference ---

19 **MR. PATTERSON:** --- later.

20 **COMMISSIONER WILKERSON:** --- in the -- when the
21 Claim is filed and when the 50's filed.

22 **MR. PATTERSON:** Well, I think it matters when you're
23 -- not, not -- well, you -- I ---

24 **COMMISSIONER WILKERSON:** Where ---

25 **MR. PATTERSON:** --- think ---



1 **COMMISSIONER WILKERSON:** --- in the law does it
2 matter?

3 **MR. PATTERSON:** I think what we're talking about is
4 it, it mat- -- to -- I think it matters in a
5 laches evaluation versus, like what you're
6 saying, when the Claim is filed.

7 **COMMISSIONER WILKERSON:** Okay.

8 **MR. PATTERSON:** I -- but I, I understand what you're
9 saying, and I'm not disagreeing.

10 **COMMISSIONER WILKERSON:** Yeah.

11 **MR. PATTERSON:** I'm just saying that I -- I'm only
12 making the argument a- -- as far as ---

13 **COMMISSIONER WILKERSON:** If laches does apply?

14 **MR. PATTERSON:** That's correct.

15 **COMMISSIONER WILKERSON:** I got you.

16 **MR. PATTERSON:** And so, fast-forward, and we get to
17 2004, and there's a decision, Richey v.
18 Dickinson. Now, in this case -- well, what I
19 would point out is, in Muir v. Bard, that was
20 an occupational health ---

21 **COMMISSIONER WILKERSON:** Yeah. It was a ---

22 **MR. PATTERSON:** --- case.

23 **COMMISSIONER WILKERSON:** And let's, let's -- well,
24 it's -- it wouldn't apply to this case at all.

25 **MR. PATTERSON:** Well ---



1 COMMISSIONER WILKERSON: Right?

2 MR. PATTERSON: --- the, the -- what I would ---

3 COMMISSIONER WILKERSON: Tell me how ---

4 MR. PATTERSON: --- say is ---

5 COMMISSIONER WILKERSON: --- an occupational disease
6 ---

7 MR. PATTERSON: --- the ---

8 COMMISSIONER WILKERSON: --- case applies to this
9 case at all.

10 MR. PATTERSON: The f- -- I'm not arguing the facts,
11 but I was simply including this case, one, to
12 show that laches apply to workers' compensation
13 claims, and then also ---

14 COMMISSIONER WILKERSON: Really?

15 MR. PATTERSON: --- the discussion of lach- --
16 laches points out what has to be proven to
17 prove laches. Richey v. Dickinson is ---

18 COMMISSIONER WILKERSON: Eleven years, it says,
19 eleven years, eleven years, not one ---

20 MR. PATTERSON: That's ---

21 COMMISSIONER WILKERSON: --- year.

22 MR. PATTERSON: --- true.

23 COMMISSIONER WILKERSON: It's not two, not three,
24 not four, eleven.

25 MR. CHRISTMAS: With, with ---



1 **MR. PATTERSON:** And ---

2 **MR. CHRISTMAS:** --- COVID, Your Honor.

3 **COMMISSIONER WILKERSON:** Yeah, with COVID, yeah,
4 yeah. (Laughs.)

5 **MR. PATTERSON:** It ---

6 **COMMISSIONER WILKERSON:** All right.

7 **MR. PATTERSON:** --- says -- what the, the point is
8 in Richey is that the length of time was
9 sufficient, but it doesn't say that other
10 elements of laches can't apply in shorter
11 period of time por- -- in shorter ---

12 **COMMISSIONER WILKERSON:** It doesn't ---

13 **MR. PATTERSON:** --- periods ---

14 **COMMISSIONER WILKERSON:** --- say ---

15 **MR. PATTERSON:** --- of time.

16 **COMMISSIONER WILKERSON:** --- it can.

17 **MR. PATTERSON:** It ---

18 **COMMISSIONER WILKERSON:** You can't pick out the
19 parts you like and leave out the parts you
20 don't ---

21 **MR. PATTERSON:** No.

22 **COMMISSIONER WILKERSON:** --- like.

23 **MR. PATTERSON:** I'm, I'm not -- I'm just pointing
24 out what the case says. And so, what this says
25 on page 2 in Richey v. Dickinson is it says the



1 party asserting laches has the burden of
2 showing negligence, the opportunity to act
3 sooner, and material prejudice. Claimant
4 received treatment outside of the Employer's
5 knowledge with Dr. DeHoll and got a fusion,
6 again, outside of the knowle- --- even before
7 she filed the work comp claim, she did all of
8 this treatment unbeknownst to the Employer, and
9 the Employer had no idea until August 18th of
10 2020 that she'd ever been seen by Dr. DeHoll or
11 that she was complaining of, of neck pain. And
12 then, fast-forward, the case then goes on
13 another year, the case is closed and then
14 reopened with a hearing request, Defense
15 counsel gets involved, and then the hearing
16 request is withdrawn, and 19 more months
17 follow, and at this point, she's now worse.
18 And so, I do think there has been an -- a --
19 negligent on the Claimant's behalf in pursuing
20 this Claim, she had the opportunity to act
21 sooner, and the Employer and Carrier suffered
22 material prejudice.

23 **MR. CHRISTMAS:** Your Honor, can I take them one at a
24 time because there's just -- I -- and I won't
25 know how to respond if I wait till the end. I



1 know ---

2 **COMMISSIONER WILKERSON:** Yeah.

3 **MR. CHRISTMAS:** --- just ---

4 **COMMISSIONER WILKERSON:** Y'all'll ---

5 **MR. CHRISTMAS:** --- me ---

6 **COMMISSIONER WILKERSON:** --- probably come back
7 tomorrow, but keep ---

8 **MR. CHRISTMAS:** Yeah.

9 **COMMISSIONER WILKERSON:** --- going.

10 **MR. CHRISTMAS:** Can I take one to show the timing of
11 the laches, okay? I, I believe ---

12 **COMMISSIONER WILKERSON:** But, wait, are you through?
13 I'm guessing he -- he's got another 395 ---

14 **MR. PATTERSON:** I ju- -- (laughs) ---

15 **COMMISSIONER WILKERSON:** --- pages to cover.

16 **MR. CHRISTMAS:** Well, I just want to -- we at least
17 do them ---

18 **COMMISSIONER WILKERSON:** (Laughs.) Well, why are --
19 -

20 **MR. CHRISTMAS:** --- one ---

21 **COMMISSIONER WILKERSON:** --- they going ---

22 **MR. CHRISTMAS:** --- at a time, or else I won't be
23 able to respond?

24 **COMMISSIONER WILKERSON:** No. I understand.

25 **MR. PATTERSON:** I'm -- I -- I'm fine with, with Gary



1 responding if I just have a -- one -- just a
2 quick chance to put my last ---

3 **COMMISSIONER WILKERSON:** I'm here the rest of the
4 week.

5 **MR. PATTERSON:** --- bit -- (laughs) ---

6 **COMMISSIONER WILKERSON:** You can come back tomorrow
7 or you can come back Friday, I'm happy -- yeah,
8 yeah, I'm good. Go ahead.

9 **MR. PATTERSON:** No. Gary ---

10 **COMMISSIONER WILKERSON:** Well, he's ---

11 **MR. PATTERSON:** --- go ahead.

12 **MR. CHRISTMAS:** Your Honor, I think Grady br- --
13 Bier's book, you know, the one we all -- the
14 Hornbook that ---

15 **COMMISSIONER WILKERSON:** Okay.

16 **MR. CHRISTMAS:** --- talks about laches.

17 **COMMISSIONER WILKERSON:** Yeah.

18 **MR. CHRISTMAS:** I -- and, you know, I've never heard
19 it argued in, in 27 years because it's clear
20 what the law is, it's Hornbook law, and
21 certainly not for a case that was denied by the
22 Carrier, is only -- is now four years old, and
23 we had COVID. And by the way, we just heard
24 arguments for the -- leaving the record open
25 for them not doing anything. It -- it's



1 baffling to me.

2 **COMMISSIONER WILKERSON:** It's his position.

3 **MR. CHRISTMAS:** I understand.

4 **COMMISSIONER WILKERSON:** All right. And he -- he's
5 already said it.

6 **MR. CHRISTMAS:** I, I will just say this, laches does
7 not apply to this case, Your Honor, and, you
8 know, I can go get the Hornbook pages and send
9 them to your office if I need to.

10 **COMMISSIONER WILKERSON:** I, I don't need them.
11 Anything else on that, on that?

12 **MR. CHRISTMAS:** No, not on that issue, Your Honor.

13 **COMMISSIONER WILKERSON:** Okay, okay.

14 **MR. PATTERSON:** The only other -- I just want to
15 make sure. I believe -- I think my position's
16 on the record.

17 **COMMISSIONER WILKERSON:** Okay.

18 **MR. CHRISTMAS:** I'm going to be super fast, Your
19 Honor. Claimant's APA number 11, pages 1
20 through 6, have the first report of injury
21 filled out, not by the Claimant, but by the
22 Employer that notes her -- not only her low
23 back, her rib cage, but her shoulder and
24 shoulder blade. We all know that neck can lead
25 to shoulder, shoulder lead to neck. Secondly,



1 the only doctors who give an opinion regarding
2 causation in this case are board-certified
3 orthopaedic surgeon, Dr. Douglas DeHoll, APA
4 number 1, pages 1 through 48, those were his
5 records, his questionnaire. Actually, his two
6 questionnaires find causation for Claimant's
7 neck and also the medical treatment being
8 related to the work accident. Board-certified
9 physical medicine and pain rehabilitation
10 specialist, Dr. Shailesh Patel, concurs in that
11 opinion. Those are the only medical opinions
12 in this case. Every other medical record,
13 while it might be nice to go and talk to these
14 doctors and cross-examine them about them, are
15 just speculation, there is no opinion that says
16 there is any superseding intervening event,
17 there is no medical opinion that finds that her
18 injuries are not work-related.

19 I've already spoken to the issue of laches
20 and would just point out that, in Claimant's
21 testimony, she obviously has a different story
22 about the circumstances under which she was
23 terminated.

24 That's all for Claimant, Your Honor.

25 **COMMISSIONER WILKERSON:** I'm sorry, say that about



1 termination, I'm sorry, I missed the po- --
2 last ---

3 **MR. CHRISTMAS:** Sh- -- her position through the
4 testimony ---

5 **COMMISSIONER WILKERSON:** Oh, I've got ---

6 **MR. CHRISTMAS:** --- would be ---

7 **COMMISSIONER WILKERSON:** --- that.

8 **MR. CHRISTMAS:** --- that she was terminated because
9 she wa- -- had a job injury and could not get
10 back because of her injuries.

11 **COMMISSIONER WILKERSON:** I'm sorry, I -- I've got
12 it.

13 **MR. CHRISTMAS:** Yes, Your Honor.

14 **COMMISSIONER WILKERSON:** That's the part I missed, I
15 apologize.

16 **MR. CHRISTMAS:** Yes, yes, sir.

17 **COMMISSIONER WILKERSON:** Anything else?

18 **MR. CHRISTMAS:** No, Your Honor.

19 **MR. PATTERSON:** No, Your Honor.

20 **COMMISSIONER WILKERSON:** Okay. Finally, it's time
21 to hear from the injured party, or potentially-
22 injured party.

23 Ma'am, if you'd raise your right hand, I'm
24 going to have the court reporter swear you in.

25 **MR. WALTHOUR-BRADSHAW:** (Witness complies.)



1 **COMMISSIONER WILKERSON:** How long have we been on
2 the record?

3 **COURT REPORTER:** Hour and forty minutes.

4 **COMMISSIONER WILKERSON:** Hour and what?

5 **COURT REPORTER:** Forty minutes.

6 **COMMISSIONER WILKERSON:** Forty minutes.

7 **COURT REPORTER:** Uh-huh.

8 **COMMISSIONER WILKERSON:** Okay.

9 **COURT REPORTER:** Do you s- -- okay. Do you solemnly
10 swear that the testimony you will give in this
11 matter will be the truth, the whole truth, and
12 nothing but the truth, so help you God?

13 **MS. WALTHOUR-BRADSHAW:** Yes, ma'am.

14 **COURT REPORTER:** Thank you. And please speak out.

15 **MS. WALTHOUR-BRADSHAW:** Yes, ma'am.

16 **COMMISSIONER WILKERSON:** State your full name for
17 the record now.

18 **MS. WALTHOUR-BRADSHAW:** Christina Tiller Bradshaw.

19 **COMMISSIONER WILKERSON:** Thank you, Ms. Bradshaw.

20 **MS. WALTHOUR-BRADSHAW - DIRECT EXAMINATION BY MR.**
21 **CHRISTMAS:**

22 A: Christina, so have you had any prior workers'
23 compensation claims?

24 Q: No.

25 A: Okay. Have you ever had any write-ups for



1 dishonesty with this employer or, or any other
2 employer?

3 Q: No.

4 A: And do you have any kind of criminal record
5 with convictions, anything of that nature?

6 A: Yeah.

7 Q: Okay. And what was that?

8 A: At about 19, I was with some girls that were
9 shopliftin', and I was drivin' the car.

10 Q: Okay.

11 A: About 23/24 years old, I was drivin' a car, and
12 it had a -- less than a gram of marijuana in
13 it.

14 Q: Okay. Any- -- anything since that time?

15 A: Not other -- none other than a speedin' ticket.

16 Q: Okay. Fair enough. Okay. Thank you for your
17 candor.

18 Have you ever been treated for
19 psychological injury or drugs?

20 A: Yes, drugs.

21 Q: Okay. Tell me about that.

22 A: I was taking a narcotic pain reliever for my
23 wrist, I had two wrist surgeries, so -- and I
24 was a- -- addicted to the pain medicine after,
25 like, ten years of takin' it.



1 Q: Okay.

2 A: So I had went to have someone to help me get
3 off that pain medicine.

4 Q: And were you able to get off that pain
5 medicine?

6 A: Yes, sir.

7 Q: Okay. And after that injury with your left
8 wrist, were you able to work full time, full
9 duty, no restrictions?

10 A: Not as far as full, no restriction, because
11 this wrist is limited (indicating), it does
12 limit motions, should I say.

13 Q: Understood. So, when you were working for the
14 Employer, I understand you were at Husqvarna,
15 but you were actually there through a temp
16 agency?

17 A: Right.

18 Q: Okay. And the temp agency had you there. What
19 was your job title there?

20 A: Well, it was, like, a picker, at first, picker
21 and then packer, so a picker would pick the
22 product -- well, pick the actual parts off the
23 floor, and then they moved me to packer, where
24 I in turn the -- they had the pickers bring me
25 the parts, and then I had to put the parts



1 together, all -- anything from, like, a screw
2 to a pallet with a part that weighed up to 150
3 pounds.

4 Q: Okay. And so are these parts that are used for
5 Hu- -- Husqvarna products?

6 A: Right.

7 Q: Okay. And when the -- on the day of this
8 accident, if we can get right to it, if you
9 can, tell the Commissioner what you were doing.

10 A: I had a pallet, they just normally stack 'em
11 four high. So I had an order that I had to
12 get, and one of the parts was a big part, and
13 it was on a four-high pallet, so I went to grab
14 (indicating) the pallet, and that's what we
15 call slingin' decks because, like, you actually
16 have to literally, like, pull it with all of
17 your force and sling it down to get it to drop
18 to the ground because, like I said, it's four
19 pallets high, so it's about standin' about that
20 high to you (indicating), and you are bringin'
21 it down off that pallet so you can get the rest
22 of the order together. And when I went to go
23 and pull it (indicating) to sling, it instantly
24 -- it was, like, instantaneous. So I dropped
25 it and, of course, it made a boom noise, and



1 everybody on the floor -- because all of the
2 packers are at the end of the lane, so at the
3 end the lane, you can look down, left or right
4 (indicating), and you can see every packer
5 that's on the floor.

6 Q: Okay. And so I want to reference Commissioner
7 and you to Claimant's APA number 11, pages 1
8 through 6, and there is a re- -- report
9 entitled Workplace Injury Triage and Reporting.
10 In that report, did you report your shoulder
11 being injured?

12 A: Yes.

13 Q: Did you report your shoulder blade being
14 injured?

15 A: Yes.

16 Q: Did you report your low back being injured?

17 A: Yes.

18 Q: Did you report your rib cage being injured?

19 A: Yes.

20 Q: And your buttocks?

21 A: Yes.

22 Q: Okay. With regard to the shoulder blade area,
23 if you could show the Commissioner the area of
24 your body that was hurt, if you could stand up
25 so he can see, and I'm going to note it for the



1 record for the court reporter.

2 A: (Indicating).

3 **COMMISSIONER WILKERSON:** Okay, Okay. Right -- well

4 ---

5 Q: Okay.

6 **COMMISSIONER WILKERSON:** --- over your shoulder,
7 back, and you're movin' up toward your ---

8 A: Right.

9 **COMMISSIONER WILKERSON:** --- neck ---

10 A: Right ---

11 **COMMISSIONER WILKERSON:** --- at the end.

12 A: --- there (indicating), and just the
13 (indicating) ---

14 **COMMISSIONER WILKERSON:** Over the shoulder, back
15 toward the neck, okay.

16 Q: Okay.

17 **COMMISSIONER WILKERSON:** I'm sorry.

18 Q: Now ---

19 **COMMISSIONER WILKERSON:** You said you were going to
20 do it, and I'm sorry, I just ---

21 **MR. CHRISTMAS:** Thank you, thank you ---

22 **COMMISSIONER WILKERSON:** (Laughs.) Commissioner ---

23 **MR. CHRISTMAS:** --- Your Honor, I appreciate it.

24 **COMMISSIONER WILKERSON:** --- preference, thank you.

25 **MR. CHRISTMAS:** I think you did better than I would



1 have.

2 **COMMISSIONER WILKERSON:** Well, just what I saw is --

3 -

4 **MR. CHRISTMAS:** Yeah.

5 **COMMISSIONER WILKERSON:** --- what needs to be in the
6 record, so.

7 **MR. CHRISTMAS:** And thank you.

8 Q: So did you report the accident to your
9 employer?

10 A: Yes.

11 Q: And I know it's noted in the documentation, but
12 did you also verbally tell them about the
13 accident?

14 A: Yes.

15 Q: Okay. Did the doc- -- did the Employer send
16 you to the doctor?

17 A: Well, they told me -- they throw -- first took
18 me into the office, it's, like, in -- where
19 that cubbyhole is, where that (indicating) base
20 is.

21 Q: Uh-huh.

22 A: Like, in the middle of the warehouse, it was a
23 office.

24 Q: Uh-huh.

25 A: And all of the workers or the em- -- the, the



1 employers -- or employers had cubicles in
2 there. And so I went in -- we went inside of
3 the, the little office, and they sat, sat me
4 down, and they contacted someone, I don't know
5 what -- who they contacted, but they contacted
6 someone, and then they gave me a piece of paper
7 to take to a, a Doctors Care.

8 Q: Now, you -- ultimately, you went to Doctors
9 Care?

10 A: Yes.

11 Q: Okay. And when you went to Doctors Care --
12 you, you know, I think you heard in the pre-
13 trial the Defense counsel saying there was only
14 a mention of the low back. Were you having
15 problems in the same areas and body parts that
16 you reported to your employer on the day of the
17 accident ---

18 A: Yes.

19 Q: --- when you went there?

20 A: Yes.

21 Q: Okay. And did you create those records at
22 Doctors Care?

23 A: Yes. I let them know that it was hurtin'.

24 Q: Right. But did you write their actual records
25 for them?



1 A: No.

2 Q: Okay. And so, with regard to the treatment
3 with Doctors Care, ultimately, did you, through
4 either a family doctor and Doctors Care, get a
5 shot in your, in your back?

6 A: Yes.

7 Q: Okay. Which part of your back?

8 A: I don't remember where they shot it at ---

9 Q: Okay.

10 A: --- whether, whether it was lower or top back.

11 Q: Oh, fair enough. And did you also get some
12 Mobic?

13 A: Yes.

14 Q: Okay. And did you also get muscle relaxers?

15 A: Yes.

16 Q: After receiving that medication and shot, did
17 you request to go back to work full duty?

18 A: I only requested to go back to work full duty
19 because they told me that I didn't have any --
20 they didn't have any light work for me to do.

21 Q: Okay.

22 A: So, after the two days, I was gonna just not be
23 able to work because they didn't have any light
24 duty for me to do.

25 Q: Okay. Did you ask the doctor to release you



1 full duty?

2 A: Right.

3 Q: Okay. And did you return to work full duty?

4 A: I did.

5 Q: Okay. Over the next couple of days, weeks,
6 whatever it may have been, what kind of issues,
7 if any, did you have ---

8 A: I ---

9 Q: --- with your neck, your shoulders, your mid-
10 back, your low back, et cetera?

11 A: Oh, I was still hurting. I, I was working at
12 that point, at -- after that with a brace on
13 from no -- from that day on, I just -- and ---

14 Q: What ---

15 A: --- I ---

16 Q: --- type ---

17 A: --- had ---

18 Q: --- of brace?

19 A: --- this brace.

20 Q: A neck or a low back?

21 A: It was a back brace.

22 Q: Okay. All right. And then when you were doing
23 the work, did you continue to move pallets?

24 A: Yes.

25 Q: Okay. With the problems in the neck and the,



1 you know, mid-back and the low back, as they
2 got worse, did you tell the Employer they were
3 getting worse?

4 A: Yes.

5 Q: Okay. Who did you tell, specifically?

6 A: One of the ladies that wa- -- actually was
7 trainin' me, her name was Rochelle, we called
8 her Chelle, and then there was a guy over her,
9 and his name was Tyson, so those two people,
10 they knew that 'cause she was actually who
11 trained me, and Tyson was the, the lead over
12 her ---

13 Q: As, as the ---

14 A: --- I guess.

15 Q: As the problems got worse, eventually, were you
16 not able to return to work?

17 A: Right.

18 Q: Okay. And when you were not able to return to
19 work, did you tell the Employer why you were
20 not able to return?

21 A: Yes. I called Remedy Staffing just -- I, I
22 don't know, I, I don't know why, I don't
23 remember exactly why -- what the -- was the
24 reason for me calling, but when I got one of
25 the girls on the phone in the office -- well,



1 I used to talk to her on the phone, like, on a
2 daily or two -- every two-or-three day basis.
3 She's the one who actually got me the job. So
4 I called her, and she was like, well,
5 Christina, you don't have a job anymore, and
6 I'm like how don't I have a job, like?

7 Q: At any point, did you quit work?

8 A: No (indicating).

9 Q: Okay. And were you not able to return to work
10 'cause you just didn't like going or because of
11 the work injuries.

12 A: No. I was hurtin', and they knew that I was
13 hurtin'.

14 Q: Did they know you were hurting from the work
15 injury?

16 A: Yeah.

17 Q: Okay. And, well, how do you know they knew
18 that?

19 A: Because I told 'em, I voiced it.

20 Q: Okay. At any point, other than the Doctors
21 Care appointments, did the Employer or the
22 Carrier offer to send you to further medical
23 treatment?

24 A: No.

25 Q: Okay. When they failed to provide you with



1 further medical treatment, what, if anything,
2 did you do?

3 A: I started to seek on my own, I started to, to
4 look ar- -- let, let me go back. I went to the
5 emergency room.

6 Q: Uh-huh. Which emergency room?

7 A: I don't -- the -- it's here in Columbia, I
8 don't remember the name of the emergency room.

9 Q: Okay.

10 A: I was triggered to go to that emergency room
11 because I could not get out of the bed. I had
12 to call my father-in-law on my cell phone. As
13 he was coming into my room to help me get out
14 of the bed, I re- -- reached and grab, off my
15 night stand, a, a little somethin' just to put
16 over me because I didn't have on any clothes,
17 and this (indicating) was my father-in-law. I
18 slid off the bed onto the floor, the bed was
19 not even this high (indicating) off the ground,
20 and I hit my elbow.

21 Q: Okay.

22 A: Right?

23 Q: If, if you did not have the work injuries to
24 your neck, mid-back, and low back, would you
25 have slid off the bed onto your elbow?



1 A: No. I would have been able to get up. I
2 couldn't even sit up.

3 Q: Okay. The problems with the incident where you
4 slid off the bed, is that directly related back
5 to the work accident?

6 A: Right.

7 Q: Okay.

8 A: Yes.

9 Q: And so, in terms of a -- the, the emergency
10 room, were they able to do anything for you, or
11 was it a typical emergency room?

12 A: He treated me like I was there lookin' for
13 somethin'.

14 Q: Okay.

15 A: Like, he -- the -- when he told me it's
16 somethin' neurological, that's what I got out
17 of that emergency room visit, he did help me by
18 saying it's somethin' neurological. But I was
19 hurting to the point -- and I was trying to
20 explain to him, and he said, well, what's the
21 -- why are you here today?

22 Q: Okay.

23 A: That's what he made it about, like, why are you
24 here today? I was tellin' him I had a -- been
25 hurt and that I just fell out of the bed,



1 that's when I 'pecifically said, okay, well, I
2 fell out the bed, and I hit my, my elbow
3 (indicating) on the floor ---

4 Q: Uh-huh.

5 A: --- because I, I couldn't get up.

6 Q: Right. But for your work accident, would you
7 have been able to get out the bed properly?

8 A: Yes, I would have.

9 Q: But for the work accident, would you have slid
10 off the bed and onto your elbow?

11 A: No, I wouldn't have.

12 Q: Okay. And with regard to after the emergency
13 room -- and they do triage, I get that. What,
14 if anything else, did you do to seek medical
15 treatment?

16 A: When he told me it was something neurological,
17 I s- -- began started just to see what I can do
18 as far as findin' a neurosurgeon or somebody
19 that I can get the films that I needed to get
20 ran, ran, because I was talkin' to different
21 people about it, like.

22 Q: Uh-huh.

23 A: And I had talked to the -- my doctor at Hopkins
24 Family Care, I talked to her and with Ms. -- I
25 think it was Ms. Alexandra Wea- -- Weathersby.



1 Q: Uh-huh.

2 A: I talked to her. And, you know, I -- at that
3 time, I didn't have any insurance, so --
4 anything, so ho- -- how was I gonna go see
5 anybody but -- without actually havin' any --
6 you know, to come up with the money through my
7 husband to actually pay to see someone.

8 Q: Okay. So when you -- ultimately, did you get
9 over to Dr. DeHoll?

10 A: Yes.

11 Q: Okay. And, and what did Dr. DeHoll diagnose
12 you as having?

13 A: Spinal stenosis, he told me that it was the
14 worst he's ever seen in a pers- -- a patient my
15 age and just basically, I -- of course I, I let
16 him know that I had got hurt at work 'cause I
17 didn't know what -- what's going on it, it was
18 -- like I said the pain goes from -- it went
19 from my back, up my back (indicating) ---

20 Q: Uh-huh.

21 A: --- to my shoulder blades and neck
22 (indicating), like it was like -- when, when I
23 first had the injury, it was like instantaneous
24 neck (indicating), and then it was just like it
25 -- I don't know, you know, you compact



1 somethin', that's kinda what it felt like, a,
2 a sharp blade to my -- to the back of my neck
3 (indicating), and then it was just, like, the
4 rest of it, just compact.

5 Q: Okay.

6 A: Like at the bottom of my back (indicating).

7 Q: Understood. So -- and, ultimately, did -- and
8 I'm going to let the medical reecord (ph) speak
9 -- records speak for themselves, but,
10 ultimately, did Dr. DeHoll do a three-level
11 fusion on your back?

12 A: Yes.

13 Q: Okay. And is it your understanding that he
14 also thinks that, because of the three-level
15 fusion, the adjacent level -- the next level
16 now has become weak?

17 A: Yes.

18 Q: And is it, is it your understanding that he's
19 now recommending that you have another surgery,
20 another fusion?

21 A: Yes.

22 Q: Okay. Are you interested in having the medical
23 treatment that's recommended by Dr. DeHoll?

24 A: I am.

25 Q: All right. Now, specifically, you know, prior



1 to this work accident, before it ---

2 A: Uh-huh.

3 Q: --- had you ever had any prior problems with
4 your neck, your shoulders, your shoulder
5 blades, your ribs, your low back?

6 A: No.

7 Q: All right. After this accident, you heard in
8 the pre-trial the Defendant talking about a
9 subsequent motor vehicle accident you had, and
10 did you seek treatment after that motor vehicle
11 accident?

12 A: Yes. I actually was at the emergency room.

13 Q: Okay.

14 **MR. CHRISTMAS:** And I'm going to let the medical
15 records speak for themselves, Your Honor.

16 Q: But was there any indication that you had neck
17 or back problems or shoulder blade or shoulders
18 in -- when -- and in medical records or when
19 you reported anything to this medical facility?

20 A: What do you mean, after the accident?

21 Q: After the car accident after your work
22 accident.

23 A: Yeah, my work accident, I -- I've always still
24 had the same -- since I got hurt at work, I've
25 always been hurt from that ---



1 Q: Un- ---

2 A: --- and a -- never been ---

3 Q: Understood. A poorly- ---

4 A: --- back ---

5 Q: --- phrased ---

6 A: --- to normal.

7 Q: --- question. What I'm saying is, when you

8 went to the emergency room after the motor

9 vehicle accident after your work accident ---

10 A: Uh-huh.

11 Q: --- the medical records indicate you did not

12 reference neck or back problems.

13 A: Oh no.

14 Q: Did you tell them you had neck or back problems

15 -- from, from the motor vehicle accident?

16 A: No. I didn't tell them anything about my motor

17 vehicle accident ---

18 Q: Okay.

19 A: --- but ---

20 Q: Did you have scrapes on your face?

21 A: Yeah. I had ---

22 Q: Okay.

23 A: --- a, a little pie up under my, my nose and

24 then a cherry on my knee.

25 Q: Okay. And did they treat you for that?



1 A: Yes.

2 Q: Okay. Did you seek any further treatment from
3 the motor vehicle accident ---

4 A: No.

5 Q: --- after that day?

6 A: No.

7 Q: Okay. The problems that are in your neck now,
8 are they the same as the problems you had when
9 you had your work-related accident ---

10 A: Yes.

11 Q: --- that led to the three-level fusion?

12 A: Yes.

13 Q: All right. Are the problems that you have in
14 your back now, is there ever any time that they
15 go away?

16 A: No.

17 Q: Are they there permanently?

18 A: Yes.

19 Q: Okay. You talked about the neck and the
20 bilateral shoulder blades. On, on a pain scale
21 of zero to ten, zero being no pain and ten
22 being the worst pain, what are they like in
23 your neck and shoulder blades?

24 A: Now?

25 Q: Just on your av- -- well, I know you've been



1 sitting here ---

2 A: Okay.

3 Q: --- all day. I'll ask you ---

4 A: Okay.

5 Q: --- about that in a minute. A -- what are they
6 on your average day?

7 A: About a four/five.

8 Q: Okay. And what are they like when you have a
9 day like today, when you're doing a lot of
10 sitting ---

11 A: Ten.

12 Q: --- around? I'm, I'm sorry?

13 A: I'm on ten.

14 Q: Okay. I'm sorry to hear that.

15 So, with regard to -- you know, you told
16 me about your average days. What are your
17 worst days like on that same pain scale?

18 A: I can't get up, like, it's, it's past ten. If,
19 if ten's supposed to be the worst, about 15.

20 Q: Understood. And tho- -- those bad days, how
21 many bad days like that do you have in a week?

22 A: About five of the seven.

23 Q: Okay. Are there any predictability or rhyme or
24 reason as to which days will be good or which
25 days will be bad?



1 A: No.

2 Q: Okay. Would you be able to go back and do the
3 same type of work you were doing for Husqvarna
4 with the problems in your neck and your
5 shoulder blades?

6 A: No.

7 Q: And, well -- and, specifically, tell the
8 Commissioner -- I'm not going to beat a dead
9 horse, I know it's obvious, but what kind of
10 things could you not do because of that?

11 A: I, I can't really do any of the things that I
12 used to do. I have -- as -- somethin' as
13 simple as, you know, you, you got to wipe your
14 -- hows (ph) easy it is to put a pair of
15 earrings in your ear, I can't, as far as my
16 hands are always shaking, or if they're not
17 shakin', they're numb (indicating), I can't
18 even put earrings on, and that's somethin'
19 simple, I can't put a pair of high heels on and
20 go out with my husband and dance like I used
21 to, I can't walk on the beach, I can't do
22 really anything that I used to do (cries).

23 Q: How -- well, how long can you walk for any
24 given time?

25 A: For about 20 minutes or so.



1 Q: Okay. How about standing, how long can you
2 stand in one place?

3 A: About the same.

4 Q: All right. And then, with sitting, I noticed
5 you got up a few times ---

6 A: Right.

7 Q: --- during this hearing and waiting in the
8 lobby. About how often do you have to get up
9 ---

10 A: I ---

11 Q: --- from sitting?

12 A: I can force myself to sit, but I get really
13 fidgety and shaky if I, if I sit down for too
14 long, I'm -- like, I'm a -- you see me do the
15 seat, and I'm tense, and my body will tense up,
16 and my shoulders will be up by my head like
17 this (indicating), and I have to catch myself
18 and try to, to relax back. But, yeah, it's,
19 it's different.

20 Q: Yes, ma'am. If you were physically able to be
21 back working for Husqvarna after this accident
22 and through the past several years, would you
23 have been working there?

24 A: Yeah.

25 Q: Okay. Were you physically and are you



1 physically able to go back and ---

2 A: No.

3 Q: --- work?

4 A: I can't.

5 Q: Okay. In terms of, you know, any type of, any
6 type of job, do you think you could sit? And,
7 you know, they're always asking could you be a
8 greeter at Walmart or some other type of job
9 you could go do, could you go sit somewhere for
10 four, six, eight hours a day?

11 A: No, sir.

12 Q: Okay. And why not?

13 A: For one, the pain, the, the pain that I endure
14 on a daily basis, and then the fact -- like I
15 said, if, if I'm gonna sit somewhere, I have to
16 force myself to sit, or I'm, I'm really
17 fidgety, and I'm back and forth, and it's
18 (cries) -- I'm sorry, but it's just really hard
19 to explain.

20 Q: I understand. If this -- if -- and I, I think
21 I may have asked, but just to try to make sure
22 the record is complete, if this Commissioner is
23 gracious enough to grant you the ability to get
24 this, this new surgery, is that what you want
25 to do, is that what you want him to do for you?



1 A: Oh yes, definitely, I want to definitely get
2 the surgery.

3 Q: Yes, ma'am.

4 **MR. CHRISTMAS:** That's all I have, Your Honor.

5 **COMMISSIONER WILKERSON:** Thank you.

6 **MR. PATTERSON:** Thank you, Your Honor.

7 Q: Now, do ---

8 **MR. PATTERSON:** Is there any objection to me
9 remaining seated?

10 **COMMISSIONER WILKERSON:** No, no, no.

11 **MR. PATTERSON:** Okay.

12 **COMMISSIONER WILKERSON:** You're fine. I was just --
13 'cause you know me, I'm up here writing and I'm
14 ---

15 **MR. PATTERSON:** Okay.

16 **COMMISSIONER WILKERSON:** --- paying -- I'm -- listen
17 to everything. Every now and then I'll glance
18 up, but I'm good. You jus- ---

19 **MR. PATTERSON:** Thank you, Your Honor.

20 **COMMISSIONER WILKERSON:** Uh-huh.

21 **MS. WALTHOUR-BRADSHAW - CROSS-EXAMINATION BY MR.**
22 **PATTERSON:**

23 Q: Ms. Bradshaw, you mentioned -- or let me ask
24 this: You reported your injury on July 12th,
25 2019; is that correct?



1 A: Yes, sir.

2 Q: And when you reported your injury, they
3 immediately took notes and wrote stuff down and
4 talked about how they were going to get you
5 treatment; is that correct?

6 A: No. I, I think that they wrote it down on the
7 12th, I would think I was hurt on the 11th, and
8 I let them know that I was hurt that day.

9 Q: Okay.

10 A: It wasn't, it wasn't the next day.

11 Q: Okay. But at least on the 12th, there are
12 notes in your APAs from the Employer about the
13 discussion you had with them and -- about this
14 accident. Do you agree with that?

15 A: Okay.

16 Q: And then did the -- did you get sent to Doctors
17 Care by the Employer?

18 A: Yes.

19 Q: Did they set that up?

20 A: Yes.

21 Q: Okay. So later on, when you returned to work,
22 you mentioned in your direct testimony that you
23 then told other people that you were still
24 hurting; is that correct?

25 A: Yes.



1 Q: Okay. Now, is there any reason why they helped
2 you out, got you to Doctors Care, made notes in
3 their Employer file when you notified them of
4 this injury, but then later on did not do it,
5 do you, do you have any reason why they
6 wouldn't've done that?

7 **MR. CHRISTMAS:** Objection. Calls for ---

8 **COMMISSIONER WILKERSON:** Yeah.

9 **MR. CHRISTMAS:** --- speculation.

10 **COMMISSIONER WILKERSON:** Calls speculation. She
11 didn't talk to the HR person, she talked to two
12 employees ---

13 **MR. PATTERSON:** Or ---

14 **COMMISSIONER WILKERSON:** --- is my understanding.

15 **MR. PATTERSON:** But ---

16 **COMMISSIONER WILKERSON:** She just talked to them in
17 the morning.

18 **MR. PATTERSON:** --- either way, either way ---

19 **MR. CHRISTMAS:** She can't guess what they think,
20 Your ---

21 **COMMISSIONER WILKERSON:** Yeah.

22 **MR. CHRISTMAS:** --- Honor, and speculation.

23 **COMMISSIONER WILKERSON:** No. Unless she's talking
24 to the HR director or the person directing it.

25 Q: So you never talked with anybody from Remedy



1 Intelligent Staffing after July 12th?

2 A: Yes. I talked to the girl that was at the
3 front desk, but she was no -- she was just --
4 she just worked there, she, she wasn't, like,
5 at the site with me, she worked in the actual
6 office.

7 Q: She worked at Husqvarna or Remedy?

8 A: Remedy.

9 Q: And what was her name?

10 A: I don't remember her name.

11 Q: So who did you report to the very first time,
12 on July 12th?

13 A: Chelle and Tyson.

14 Q: I'm just trying to figure out how they were
15 able to get you treatment the first time you
16 reported but then didn't provide treatment the
17 second time.

18 **COMMISSIONER WILKERSON:** I can't answer that either.
19 You don't -- you -- anybody here to testify to
20 tell us how they did it?

21 **MR. PATTERSON:** No. I -- the -- just simply ---

22 **COMMISSIONER WILKERSON:** It's not ---

23 **MR. PATTERSON:** --- asking ---

24 **COMMISSIONER WILKERSON:** --- her ---

25 **MR. PATTERSON:** --- if ---



1 **COMMISSIONER WILKERSON:** --- job to tell us how they
2 did it.

3 **MR. PATTERSON:** I'm just simply asking the question,
4 that they provided it the first time when ---

5 **COMMISSIONER WILKERSON:** Okay.

6 **MR. PATTERSON:** --- she told them ---

7 **COMMISSIONER WILKERSON:** Yeah.

8 Q: --- and then didn't provide it the second time;
9 is that right?

10 A: They went in the office the first time that I
11 told somebody that I was hurt, well, right
12 after I got hurt, I told them I was hurtin',
13 and we went in the office, and they made a
14 phone call.

15 **COMMISSIONER WILKERSON:** That's office at Husqvarna;
16 is that fair?

17 A: Yes, sir.

18 **COMMISSIONER WILKERSON:** Okay. The next person you
19 talked to about the issue was the person at
20 Remedy?

21 A: Yes, sir.

22 **COMMISSIONER WILKERSON:** Right? Okay. We're
23 talking about a cow and a horse, they're both
24 animals. Now, which question and which place
25 are you talking about?



1 **MR. PATTERSON:** I'm talking about Claimant's APA 11,
2 page ---

3 **COMMISSIONER WILKERSON:** No.

4 **MR. PATTERSON:** --- 3.

5 **COMMISSIONER WILKERSON:** What -- talked with who, at
6 the Employer's or at the place she was working?

7 **MR. PATTERSON:** So the Employer, according to
8 Claimant's APA 11, page 3, had notice of this
9 injury on July 12th, 2019.

10 **COMMISSIONER WILKERSON:** Okay.

11 **MR. PATTERSON:** And there ---

12 **COMMISSIONER WILKERSON:** That would ---

13 **MR. PATTERSON:** --- are ---

14 **COMMISSIONER WILKERSON:** --- be in?

15 **MR. PATTERSON:** --- notes regarding the reporting of
16 that injury.

17 **COMMISSIONER WILKERSON:** Okay. So we're talking
18 about that, okay. I just want to make sure.

19 **MR. PATTERSON:** And so my question was simply
20 related to ---

21 **COMMISSIONER WILKERSON:** None of this was done when
22 you told them subsequently to your return to
23 work?

24 A: I don't understand what you're asking me.

25 **COMMISSIONER WILKERSON:** Tell me who them are, I'm



1 confused. Are you talking ---

2 **MR. PATTERSON:** The ---

3 **COMMISSIONER WILKERSON:** --- about Remedy, the people
4 at Husq- -- that's why I asked earlier. Are we
5 talking about Husqvarna? I mean, we're talking
6 about fruits, I want a pear, and you want an
7 apple, we both gonna get, get a taste. But
8 which em- -- tell me who you're talking about?
9 When you reported back -- so now we're back to
10 Husqvarna?

11 Q: Ms. Bradshaw ---

12 **COMMISSIONER WILKERSON:** Help me with that, help me
13 because I don't know what we're talking about.

14 Q: Who did you report your injury to at Remedy
15 Staffing?

16 A: The two people -- okay. Chelle worked for
17 Husqvarna, Tyson worked for Husqvarna. It was
18 two people that was from Remedy Staffing,
19 excuse me, but a, a younger, Cau- -- Caucasian
20 gentleman, and a, a young -- a younger
21 Caucasian female.

22 **COMMISSIONER WILKERSON:** Are they at Husqvarna, too?

23 A: Yeah. They were actually from Remedy Staffing.

24 **COMMISSIONER WILKERSON:** But were ---

25 A: The ---



1 **COMMISSIONER WILKERSON:** --- they at ---

2 A: They were ---

3 **COMMISSIONER WILKERSON:** --- the location?

4 A: --- at car- -- they were at Husqvarna.

5 **COMMISSIONER WILKERSON:** Okay. All right.

6 A: Yeah.

7 **COMMISSIONER WILKERSON:** Okay.

8 A: It was ---

9 **COMMISSIONER WILKERSON:** Okay.

10 A: --- two people ---

11 **COMMISSIONER WILKERSON:** Uh-huh.

12 A: --- from Remedy ---

13 **COMMISSIONER WILKERSON:** Okay.

14 A: --- Staffing ---

15 **COMMISSIONER WILKERSON:** I get you.

16 A: --- at Husqvarna ---

17 **COMMISSIONER WILKERSON:** Okay.

18 A: --- every day.

19 **COMMISSIONER WILKERSON:** Okay. I'm good with that,
20 thanks.

21 Q: And so those were the people that helped you
22 get the appointment at Doctors Care?

23 A: Yes.

24 Q: And then you returned to work, correct?

25 A: Yes.



1 **COMMISSIONER WILKERSON:** Uh-huh.

2 Q: On full duty after July 16th?

3 A: Yes.

4 Q: And then your testimony on -- was -- Direct was
5 that you then notified Remedy again that you
6 were still having pain; is that ---

7 A: I ---

8 Q: --- correct?

9 A: --- called Remedy Staffing, I -- like I said,
10 I, I spoke with the receptionist, that's what
11 you call her, the receptionist at Remedy
12 Staffing was, like -- she was like a, a -- not
13 a friend, but she was just, like, really,
14 really a cool girl, so we would call the office
15 to actually see, you know, what -- what's --
16 basically what's goin' on ---

17 Q: Okay.

18 A: --- what's going on. So when I called that
19 day, she had told me that I didn't have a job.
20 But she knew that I was hurt, they -- everybody
21 knew that I was hurt, even the other employees
22 knew that I was hurt.

23 Q: Okay.

24 A: So I -- that was the -- my first time ever
25 hearing that I didn't have a job from that day.



1 Q: So did you ever go back to these two people
2 that were always at Husqvarna to tell them you
3 were feeling worse?

4 A: I never went back to Husqvarna.

5 Q: So, after July 16th, you never, in fact,
6 returned full duty?

7 A: No. I returned to full duty to Husqvarna to
8 work, but I -- and once they got the phone call
9 that I was -- that they had either fired me or
10 they said I quit, I don't know what it was, but
11 she just said I didn't have a job, from that
12 day, I had never went back to Husqvarna to tell
13 Husqvarna or anybody at Husqvarna or Remedy
14 Staffing anything.

15 Q: That's what I'm trying to figure out is, before
16 -- while you were still working full duty, why
17 didn't you go talk with the people at Husqvarna
18 that you, you were still feeling bad?

19 A: I wasn't workin' for Husqvarna, I was workin'
20 for Remedy Staffing.

21 Q: At -- when you ---

22 A: So I wouldn't -- I wasn't supposed to tell
23 Husqvarna anything, I was supposed to tell
24 Remedy Staffing everything that went on with
25 me.



1 Q: But I thought you said that there were people
2 from ---

3 A: Yeah, it was ---

4 Q: --- two people from Remedy Staffing at
5 Husqvarna every day?

6 A: They were.

7 Q: So ---

8 A: There were two people there every day.

9 Q: That's what I'm trying to find out, why didn't
10 you tell them at -- when you went back full
11 duty while you were at Husqvarna, tell the
12 Remedy Staffing people?

13 A: They already knew, what more could I tell them
14 that -- they already knew that I was hurt. And
15 every day, I came in with a brace on from the
16 day that I had the initial injury. They knew
17 that I was still hurting.

18 **COMMISSIONER WILKERSON:** 'Cause they put you on
19 light duty?

20 A: They put me on light duty.

21 **COMMISSIONER WILKERSON:** Not on full duty, and then
22 the next time you ever talked to anybody at
23 Remedy was the phone call to the young lady
24 that answered the telephone?

25 A: That I made ---



1 **COMMISSIONER WILKERSON:** But ---

2 A: --- to her.

3 **COMMISSIONER WILKERSON:** --- after you -- after
4 those four days, right?

5 **MR. PATTERSON:** My understanding from the ---

6 **MR. CHRISTMAS:** Let her ---

7 **MR. PATTERSON:** --- Direct ---

8 **MR. CHRISTMAS:** --- answer.

9 **MR. PATTERSON:** --- testimony is that they didn't
10 have any ---

11 **MR. CHRISTMAS:** Commissioner ---

12 **MR. PATTERSON:** --- light duty.

13 **MR. CHRISTMAS:** --- can she answer it?

14 A: Right. They put me ---

15 **COMMISSIONER WILKERSON:** Yeah.

16 A: --- on light duty for -- at -- when I first had
17 the first ini- -- the, the injury ---

18 **COMMISSIONER WILKERSON:** All right.

19 A: --- that day, they put me ---

20 **COMMISSIONER WILKERSON:** All right.

21 A: --- on light duty.

22 **COMMISSIONER WILKERSON:** Right.

23 A: I worked for two days on light duty.

24 **COMMISSIONER WILKERSON:** Okay.

25 A: On my second day, they told me they didn't have



1 any light duty for me ---

2 **COMMISSIONER WILKERSON:** Okay.

3 A: --- to do, that I wasn't gonna even be able to
4 work.

5 **COMMISSIONER WILKERSON:** Okay. That's fair.

6 A: At this time, it's COVID, my husband's ---

7 **COMMISSIONER WILKERSON:** Okay.

8 A: --- deploying, but I, I ha- -- needed my job.

9 **COMMISSIONER WILKERSON:** Okay.

10 A: So I, in turn, went to the doctor and asked him
11 to take me off of light duty and put me back on
12 regular ---

13 **COMMISSIONER WILKERSON:** Full duty.

14 A: duty so I can continue to make that paycheck.

15 **COMMISSIONER WILKERSON:** And that's when you went
16 back to the -- that's when you worked four
17 days?

18 A: Right.

19 **COMMISSIONER WILKERSON:** Okay. All right. Okay.

20 Q: Now you said it ---

21 A: That -- actually, I think ---

22 Q: --- it ---

23 A: --- I worked more than four days. Was it four
24 days, was it only ---

25 **COMMISSIONER WILKERSON:** Well, I don't know.



1 A: --- four days? I think it was more than four
2 days.

3 **COMMISSIONER WILKERSON:** I don't know.

4 A: I think it was more than four days, if I'm not
5 ---

6 **COMMISSIONER WILKERSON:** Okay.

7 A: --- mistaken.

8 **COMMISSIONER WILKERSON:** Whatever the record ---

9 Q: But during those four days, you didn't go talk
10 with it -- the Remedy folks at Husqvarna?

11 A: I'm trying to figure out what four days, during
12 those four days, you keep saying four days.
13 From what date to what date is -- are these
14 four, these four days you're asking me about?

15 Q: I don't know.

16 A: You're confusin' me.

17 Q: You just said four days. I was just goin' ---

18 A: No.

19 **COMMISSIONER WILKERSON:** And I said four days 'cause
20 I thought I heard four days in her initial
21 testimony. I'm sorry, but, but I don't -- it
22 may have been four weeks, I don't know.

23 Q: I'm just -- all's I'm asking ---

24 **COMMISSIONER WILKERSON:** Uh-huh.

25 Q: --- is whether or not you spoke to the two



1 folks at Remedy after July 16th?

2 **COURT REPORTER:** Please hold. I have a technical
3 issue.

4 **COMMISSIONER WILKERSON:** Uh-oh.

5 **(Off the record from 4:06 p.m. until 4:07 p.m.)**

6 Q: Ms. Bradshaw, I, I was ju- -- I understand
7 where we were at with the light duty for two
8 days, then July 16th, you asked to return full
9 duty because there is no light duty. After
10 July 16th, my understanding is that you did go
11 back to work full duty, at least for some
12 period of time?

13 A: Yes.

14 Q: Okay. And so, while you were at Husqvarna,
15 it's my understanding there were two folks from
16 Remedy located at Husqvarna, correct?

17 A: Yes.

18 Q: So, during the period you did return to full
19 duty, after July 16th, did you go talk with
20 those two people while -- the Remedy people at
21 Husqvarna?

22 A: Oh, no.

23 Q: Okay. And then regarding your motor vehicle
24 accident, I'm looking at Defendant's APAs, page
25 243, which is a narrative from the Lexington



1 County EMS.

2 **COMMISSIONER WILKERSON:** Let, let him get it, hold
3 on, let them get to ---

4 **MR. PATTERSON:** Yeah.

5 **COMMISSIONER WILKERSON:** --- to it. 243?

6 **MR. PATTERSON:** 243.

7 **COMMISSIONER WILKERSON:** Okay. Thanks. Let me make
8 sure I got that -- 46, 40, 5, 40. That's
9 right, gotcha.

10 Q: Ms. Bradshaw, in this narrative, the, the EMS
11 person now state (ph) that you were slurring
12 your words and falling over. Do you have any
13 reason to disagree with that?

14 **MR. CHRISTMAS:** Objection, Your Honor, relevance.

15 **COMMISSIONER WILKERSON:** Yeah. What's that got to
16 do with the Workers' Comp case?

17 **MR. PATTERSON:** My -- I guess my perspec- -- or what
18 I'm trying to get to is I'm, I'm trying to link
19 it up in a moment with the records from the
20 hospital regarding the fact that most of the
21 history from that visit came from EMS because
22 the patient appeared to be intoxicated, meaning
23 she was not able to accurately explain all of
24 the maladies that may have been wrong with her
25 at that time.



1 **COMMISSIONER WILKERSON:** May or may not. I got a
2 friend of mine who can't play golf till he has
3 three beers, and then he hits it straight down
4 the fairway. But go ahead. But I -- I'm, I'm
5 trying to figure out what's that got to do with
6 the case?

7 **MR. PATTERSON:** Well ---

8 **COMMISSIONER WILKERSON:** Because if I don't have any
9 medical records ---

10 **MR. PATTERSON:** Su- ---

11 **COMMISSIONER WILKERSON:** --- it doesn't count.

12 **MR. PATTERSON:** Well, it -- well ---

13 **COMMISSIONER WILKERSON:** It's back to speculation and
14 surmise.

15 **MR. PATTERSON:** I understand. There's, there's
16 medical records, though, that I'm about to get
17 to, plus the EMA [sic] rec- -- the EMS records,
18 which are, which are all in the APAs that
19 haven't been objected to.

20 **COMMISSIONER WILKERSON:** Okay. All right. Go
21 ahead. I'll give you a little leeway.

22 **MR. CHRISTMAS:** But you're still allowed to ob- --
23 object to relevance, Your Honor. Just ---

24 **COMMISSIONER WILKERSON:** I ---

25 **MR. CHRISTMAS:** --- 'cause we say that the thing



1 comes in doesn't mean, when you try to use it
2 for something that's improper, they can.

3 **COMMISSIONER WILKERSON:** E- -- even if she didn't
4 report everything, she's testified that she
5 didn't have any problems of significance after
6 that and she returned back to a baseline, and
7 everything -- the accident didn't have anything
8 to do with her neck. Do we have a, a medical
9 in there that says, oh yeah, you broke your
10 neck on that accident and had surgery? I, I
11 don't know.

12 **MR. PATTERSON:** Well, that's what I'm trying to get
13 to is there's been spotty medical treatment and
14 -- throughout this, this case, and in 2022, she
15 refused the surgery that Dr. DeHoll
16 recommended.

17 **COMMISSIONER WILKERSON:** That, that got nothing to
18 do with -- well, why ---

19 **MR. PATTERSON:** My point is ---

20 **COMMISSIONER WILKERSON:** Is there anything in this -
21 --

22 **MR. PATTERSON:** --- is that ---

23 **COMMISSIONER WILKERSON:** --- report ---

24 **MR. PATTERSON:** --- there could ---

25 **COMMISSIONER WILKERSON:** --- she ---



1 **MR. PATTERSON:** --- have been ---

2 **COMMISSIONER WILKERSON:** --- would say is not
3 correct is ---

4 **MR. PATTERSON:** There ---

5 **COMMISSIONER WILKERSON:** --- what ---

6 **MR. PATTERSON:** --- could ---

7 **COMMISSIONER WILKERSON:** --- we have ---

8 **MR. PATTERSON:** --- have ---

9 **COMMISSIONER WILKERSON:** --- to ask.

10 **MR. PATTERSON:** --- been something wrong based on
11 the -- what the EMS report states.

12 **COMMISSIONER WILKERSON:** Oh, it could be. I promise
13 you, every medical report I read, none of them
14 are 100-percent right, zero.

15 **MR. CHRISTMAS:** Ju- -- just to ---

16 **COMMISSIONER WILKERSON:** We know that.

17 **MR. CHRISTMAS:** Just to ---

18 **COMMISSIONER WILKERSON:** Okay?

19 **MR. CHRISTMAS:** --- give you ---

20 **COMMISSIONER WILKERSON:** From both ---

21 **MR. CHRISTMAS:** --- the ---

22 **COMMISSIONER WILKERSON:** --- sides, I'm not talking
23 hearsay, I'm talking both sides, we know that
24 the medical records are not correct.

25 **MR. CHRISTMAS:** Just to get the objection on the



1 record and just get ---

2 **COMMISSIONER WILKERSON:** Sure.

3 **MR. CHRISTMAS:** --- the ruling, Commissioner,
4 relevance, okay? If there's relevance and it
5 ties to this accident or some alleged
6 subsequent anything, then let's get to it, if
7 not, it's, it's irrelevant.

8 **COMMISSIONER WILKERSON:** I agree.

9 **MR. PATTERSON:** Okay.

10 **COMMISSIONER WILKERSON:** If it would ---

11 **MR. PATTERSON:** And I'm trying, I'm trying to link -
12 --

13 **COMMISSIONER WILKERSON:** Does it ---

14 **MR. PATTERSON:** --- it up.

15 **COMMISSIONER WILKERSON:** --- relate to this accident?

16 **MR. PATTERSON:** Yeah. I'm trying to ---

17 **COMMISSIONER WILKERSON:** Okay.

18 **MR. PATTERSON:** --- link it up. All's I would say
19 is this is just part of my -- to the extent
20 necessary and any ruling that's issued, an
21 intervening accident that breaks the causal
22 chain.

23 **COMMISSIONER WILKERSON:** You gotta prove that.

24 **MR. PATTERSON:** The, the -- that's ---

25 **COMMISSIONER WILKERSON:** It can't be a medical



1 report that says it, you gotta prove it, not my
2 -- just 'cause I'm in an accident -- I've
3 totaled two cars, never had surgery, not my
4 fault, I got hit twice.

5 **MR. PATTERSON:** But I understand the ---

6 **COMMISSIONER WILKERSON:** No ---

7 **MR. PATTERSON:** Yeah.

8 **COMMISSIONER WILKERSON:** --- issues. But go ahead.

9 **MR. PATTERSON:** All's I'm saying is there, there was
10 treatment from Dr. DeHoll prior to this.

11 **COMMISSIONER WILKERSON:** I understand.

12 **MR. PATTERSON:** And then, in 2022, she's worse, and
13 ---

14 **COMMISSIONER WILKERSON:** Okay.

15 **MR. PATTERSON:** --- this occurred in between those
16 events.

17 **COMMISSIONER WILKERSON:** Okay.

18 **MR. CHRISTMAS:** We stipulate this occurred in ---

19 **COMMISSIONER WILKERSON:** Yeah.

20 **MR. CHRISTMAS:** --- between those ---

21 **COMMISSIONER WILKERSON:** We've ---

22 **MR. CHRISTMAS:** --- events.

23 **COMMISSIONER WILKERSON:** --- st- -- there's no doubt
24 that it occurred, the question is did it cut --
25 did it break the causation chain?



1 **MR. PATTERSON:** Right. That's all. I'm just trying
2 to ask some ---

3 **COMMISSIONER WILKERSON:** I get to ---

4 **MR. PATTERSON:** --- questions ---

5 **COMMISSIONER WILKERSON:** --- decide that, based on
6 reading in the medical.

7 **MR. PATTERSON:** Ye- -- yeah.

8 **COMMISSIONER WILKERSON:** What ---

9 **MR. PATTERSON:** And I'm just ---

10 **COMMISSIONER WILKERSON:** What are you ---

11 **MR. PATTERSON:** --- trying to ask some questions
12 about that.

13 **COMMISSIONER WILKERSON:** Okay.

14 **MR. PATTERSON:** That's ---

15 **COMMISSIONER WILKERSON:** Go ahead.

16 **MR. PATTERSON:** --- all.

17 Q: As it relates to the severity of the accident,
18 Ms. Bradshaw, do you have any reason to
19 disagree that witnesses stated you were
20 bouncing off of the jersey barriers?

21 A: How would I know what they said?

22 Q: Okay. The EMS note mentions that you said you
23 had a headache. Is there any reason that you
24 would disagree with that?

25 A: I don't remember the accident, I just -- I



1 remember drivin' down the highway, I remember
2 passin' out, and I remember bein' woken up at
3 the ER.

4 Q: Okay.

5 **COMMISSIONER WILKERSON:** That's fair.

6 Q: And did you leave the ER against medical
7 advice?

8 A: No.

9 **MR. CHRISTMAS:** Objection.

10 A: I didn't.

11 **MR. CHRISTMAS:** Objection, relevance, Your Honor.

12 **COMMISSIONER WILKERSON:** Yeah. What's the relevance?

13 **MR. PATTERSON:** She wasn't able to be adequately
14 treated, so there's ---

15 **COMMISSIONER WILKERSON:** Well, how do you know that?

16 **MR. PATTERSON:** Because she left against medical
17 advice.

18 **COMMISSIONER WILKERSON:** My wife left the hospital
19 against medical advice, the guy next to her
20 died in Las Vegas, the doctor never came. Tell
21 me what that has to do with the Workers' Comp
22 case.

23 **MR. PATTERSON:** I -- well ---

24 **COMMISSIONER WILKERSON:** Might not be great behavior,
25 might not have been the right thing to do.



1 What's the -- we're on Workers' Comp, we're not
2 here on character assassination.

3 **MR. PATTERSON:** But that's not what I'm trying to
4 do, I'm trying to s- -- again, put forth the
5 idea that this accident was an intervening
6 cause.

7 **MR. CHRISTMAS:** We've stipulated that it's ---

8 **COMMISSIONER WILKERSON:** Sh- ---

9 **MR. CHRISTMAS:** --- an intervening accident, but
10 it's not a superseding intervening accident
11 that broke the causal connection. If there's
12 evidence to it, then ---

13 **COMMISSIONER WILKERSON:** Show it to me.

14 **MR. CHRISTMAS:** --- it's -- and show it me.

15 **COMMISSIONER WILKERSON:** Show it to me.

16 **MR. PATTERSON:** I believe that these records provide
17 that evidence, and I do think ---

18 **COMMISSIONER WILKERSON:** And I'm going to read every
19 one of them.

20 **MR. PATTERSON:** --- that ---

21 **COMMISSIONER WILKERSON:** And I'm going to say I
22 agree with you, and I'll point out why I agree,
23 or I'll say, nope. I didn't -- I don't know
24 what I'm going to do till I read it.

25 **MR. PATTERSON:** And I'm ---



1 **COMMISSIONER WILKERSON:** You're saying -- let me
2 make sure I get this right, you're saying 243
3 through 240- -- well, I guess there'd be more,
4 but the ---

5 **MR. PATTERSON:** Yeah.

6 **COMMISSIONER WILKERSON:** --- 243 ---

7 **MR. PATTERSON:** It ---

8 **COMMISSIONER WILKERSON:** --- through 319 are gonna
9 prove an intervening cause; is that fair?

10 **MR. PATTERSON:** I believe that's correct.

11 **COMMISSIONER WILKERSON:** I didn't ask you what you
12 believe. It's going to sh- -- it's going to
13 show it there. We're not into belief, I don't
14 care about your belief, I don't care how you
15 feel, I care about evidence. Have I not said
16 -- how many times have I said that? Is it in
17 there? Show me.

18 **MR. PATTERSON:** I understand. I -- it was just a
19 phra- -- that's just how I phrased it, I --
20 meaning, yes, in those pages, that's ---

21 **COMMISSIONER WILKERSON:** Where is ---

22 **MR. PATTERSON:** --- where ---

23 **COMMISSIONER WILKERSON:** --- it?

24 **MR. PATTERSON:** --- you would find ---

25 **COMMISSIONER WILKERSON:** Show ---



1 **MR. PATTERSON:** --- it.

2 **COMMISSIONER WILKERSON:** --- me where it is in
3 there.

4 **MR. PATTERSON:** And so ---

5 **COMMISSIONER WILKERSON:** Show me where ---

6 **MR. PATTERSON:** --- that ---

7 **COMMISSIONER WILKERSON:** --- it is in there. It
8 says patient has a small laceration to her left
9 knee, bleeding controlled, and stated that she
10 has a headache. Okay. That sounds reasonable
11 to me.

12 **MR. PATTERSON:** Is this in -- the -- you're reading
13 from the EMS record?

14 **COMMISSIONER WILKERSON:** 243, that's ---

15 **MR. PATTERSON:** Yeah.

16 **COMMISSIONER WILKERSON:** --- where ---

17 **MR. PATTERSON:** Okay.

18 **COMMISSIONER WILKERSON:** --- I am, that's where we
19 were. I -- we haven't moved on, I don't think.
20 That's what it says.

21 **MR. PATTERSON:** Yeah. I was just trying to ask M- -
22 - Ms. Bradshaw questions. It -- I guess my
23 question is, am I allowed to ask her any more
24 questions?

25 **COMMISSIONER WILKERSON:** Absolutely, as long as they



1 are relevant to the Workers' Comp case.

2 **MR. PATTERSON:** Okay. So what you're saying ---

3 **COMMISSIONER WILKERSON:** Not ---

4 **MR. PATTERSON:** --- is ---

5 **COMMISSIONER WILKERSON:** --- to childbirth.

6 **MR. PATTERSON:** --- my questions ---

7 **COMMISSIONER WILKERSON:** Not to anything else.

8 **MR. PATTERSON:** --- regarding EMS are irrelevant,
9 and the objection has been sustained?

10 **MR. CHRISTMAS:** The -- so- -- s- -- Your Honor, if I
11 can -- and say this ---

12 **COMMISSIONER WILKERSON:** No.

13 **MR. CHRISTMAS:** --- succinctly, the question that he
14 asked -- not all the questions ---

15 **COMMISSIONER WILKERSON:** Yeah.

16 **MR. CHRISTMAS:** --- those question (ph) he asked,
17 I've made the objection, is irrelevant.

18 **COMMISSIONER WILKERSON:** Irrelevant.

19 **MR. CHRISTMAS:** And I ---

20 **COMMISSIONER WILKERSON:** Okay.

21 **MR. CHRISTMAS:** --- believe you did sustain that ---

22 **COMMISSIONER WILKERSON:** I did.

23 **MR. CHRISTMAS:** --- question.

24 **MR. PATTERSON:** Okay.

25 **COMMISSIONER WILKERSON:** Absolutely.



1 **MR. PATTERSON:** All right.

2 **MR. CHRISTMAS:** Thank you.

3 **MR. COMMISSIONER:** Not all questions, some have been
4 very good.

5 Q: Ms. Bradshaw, do you host games on Clapper, the
6 Clapper app?

7 A: Yes. Clapper, Facebook, and TikTok.

8 Q: Okay. And do you make any money from these
9 games?

10 A: No, I don't.

11 Q: Okay.

12 A: It's based on donations, but . . .

13 Q: How do you get donations?

14 A: If somebody wants to donate anything, then
15 they'll let me know.

16 Q: Okay. So is that why you have your methods of
17 payment on your Clapper app?

18 A: Yeah.

19 Q: Okay. And then what is ---

20 **COMMISSIONER WILKERSON:** Remember, you're talking to
21 an old guy, so I don't know what a Clapper app
22 is.

23 **MR. PATTERSON:** It's ---

24 **COMMISSIONER WILKERSON:** Oh, yeah. (Laughs.) I can
25 tell you that.



1 **MR. PATTERSON:** It's a, it's a social media
2 platform, kind of ---

3 **COMMISSIONER WILKERSON:** Okay.

4 **MR. PATTERSON:** --- like TikTok or Instagram.

5 **COMMISSIONER WILKERSON:** Okay, okay. Thanks. Okay.
6 Thank you.

7 **MR. PATTERSON:** Yep.

8 **COMMISSIONER WILKERSON:** 'Cause I -- sorry. Thanks.

9 Q: And then are you a digital branch officer for
10 Transact card?

11 A: I am.

12 Q: What is that?

13 A: A DBA, exactly what it say, a digital branch
14 office.

15 Q: And, right, but what do you do as a digital
16 branch officer?

17 A: What do you mean, what do I do?

18 Q: Well, I, I don't know what that is.

19 **COMMISSIONER WILKERSON:** I don't either. What -- is
20 that ---

21 A: A Transact card is a new card, a new \$25 debit
22 card that they have out right now, that I
23 signed up as a DBO, which means I paid \$495 to
24 have a digital branch office, and I can
25 basically print out the paperwork, and if you



1 wanted to get a \$25 card, I could give you that
2 paperwork, and you can use that -- use my code
3 to sign up for that \$25 card, or you can be a
4 DBO like me at 495 and have a digital back
5 office, that's what the DBO is.

6 **COMMISSIONER WILKERSON:** And at, at ---

7 A: A digital ---

8 **COMMISSIONER WILKERSON:** --- some ---

9 A: --- branch ---

10 **COMMISSIONER WILKERSON:** --- point in ---

11 A: --- officer.

12 **COMMISSIONER WILKERSON:** --- time, you may derive
13 more than the \$499 that you paid?

14 A: Right.

15 **COMMISSIONER WILKERSON:** May, may.

16 A: Right.

17 **COMMISSIONER WILKERSON:** May or may not.

18 A: Right.

19 **COMMISSIONER WILKERSON:** Okay, okay. That's, oh,
20 that's fine.

21 Q: Oh, yes.

22 **COMMISSIONER WILKERSON:** Okay. Very ---

23 Q: That ---

24 **COMMISSIONER WILKERSON:** --- good, yeah. 'Cause I
25 didn't know what it was either.



1 Q: And you mentioned that you have hard time going
2 out and, and wearing high heels; is that
3 correct?

4 A: Oh, right.

5 **MR. PATTERSON:** I just want to show Gary this.

6 **(Defendant's Exhibit Number 1 was introduced into the**
7 **record at this time.)**

8 **MR. PATTERSON:** If there's no objection?

9 **MR. CHRISTMAS:** There's no objection.

10 **COMMISSIONER WILKERSON:** You can to mark it as ---

11 A: Oh, right.

12 **COMMISSIONER WILKERSON:** Do you want to?

13 A: What, what do you see there?

14 **COMMISSIONER WILKERSON:** Do you want to?

15 Q: I'm just asking, is the date on this correct,
16 September 20th of this year?

17 A: Yes.

18 Q: Okay.

19 A: That was the day before my birthday.

20 **MR. PATTERSON:** And do I -- do you want me to hand
21 this up, or can I ask ---

22 **COMMISSIONER WILKERSON:** Oh, well, I don't know who
23 -- if you're through with that one, or no?

24 **MR. PATTERSON:** Well, I was going to ask questions.
25 I didn't know if you wanted me to mark it



1 before ---

2 **COMMISSIONER WILKERSON:** No, no.

3 **MR. PATTERSON:** --- I asked a question.

4 **COMMISSIONER WILKERSON:** No, no.

5 **MR. PATTERSON:** Okay.

6 **COMMISSIONER WILKERSON:** But it -- we, we note it as
7 D1, yeah.

8 Q: Now, in these Facebook photos, you talk about
9 let the drinks flow, bottomomess (ph),
10 bottomless mimosas, and quick live. What does
11 that mean?

12 A: Bottomless mimosas, that speaks for itself,
13 bottomless mimosas. Like, social media is not
14 real life. You look at social media as real
15 life?

16 Q: Well, I -- that's what I'm trying to find out.
17 So you weren't actually drinking bottomless
18 mimosas?

19 A: No. I was not actually drinkin' bottomless
20 mimosas.

21 Q: Okay. So is this a -- just simple promotion
22 for your hosting site?

23 A: Yeah, for my tab page, for the Transact, for --
24 as far as anything that I have going on in life
25 ---



1 Q: And gotcha, okay.

2 A: --- I believe.

3 Q: And then w- -- so, regarding these photos,
4 one's in the car, and one at least appears to
5 be ---

6 **COMMISSIONER WILKERSON:** Whoa, whoa. We gone on to
7 another one or the same ---

8 **MR. PATTERSON:** No. It's just ---

9 **COMMISSIONER WILKERSON:** --- thing?

10 **MR. PATTERSON:** --- it's just ---

11 **COMMISSIONER WILKERSON:** Oh, no, I'm good.

12 **MR. PATTERSON:** Yeah.

13 **COMMISSIONER WILKERSON:** I'm good. Go ahead, I
14 forgot to say.

15 Q: Do you take photos in the car just to take the
16 photos in the car, or do you -- is this you
17 driving, going out, and doing stuff?

18 A: Now, do you see me drive? Oh, excuse me, Your
19 Honor.

20 No, I don't, I just sit in the car and
21 take photos.

22 Q: Okay.

23 A: Like, if my husband's drivin' somewhere and I
24 pick my phone up on the passenger seat and take
25 a photo, I'm in the car takin' a photo.



1 Q: Gotcha. And then the shoes in one of the
2 photos, it -- it's very difficult to tell, I'm
3 not even gonna try, are they high heels or not?

4 A: No, they're not.

5 Q: Okay. That's all I wanted to ask.

6 Ms. Bradshaw, I don't think I have any
7 additional questions.

8 **MR. CHRISTMAS:** Nothing further, Your Honor.

9 **COMMISSIONER WILKERSON:** Okay. Hand that up ---

10 **MR. PATTERSON:** Yep.

11 **COMMISSIONER WILKERSON:** --- to the, the lady in
12 charge, Ms. Joy.

13 **(Defendant's Exhibit Number 1 was marked for**
14 **identification purposes.)**

15 **COMMISSIONER WILKERSON:** I don't know.

16 But this concludes our hearing.

17 **(There being nothing further, the hearing concluded**
18 **at 4:21 p.m.)**

19

20

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25



CERTIFICATE

This is to certify that the within hearing consisting of one hundred sixty-eight (168) 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 Stenomask 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 December 18, 2023.



Mary Cooper Joy
Court Reporter

Notary Public for South Carolina
My Commission Expires: December 5, 2032



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0371

STATE OF SOUTH CAROLINA
BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC No. 1925084

Christina Bradshaw)
(née Walthour),)
)
Claimant,)
)
v.)
)
Remedy Intelligent Staffing)
Inc., et al,)
)
Employer,)
)
and)
)
XL Insurance America Inc.,)
)
Carrier/Defendants.)
-----)

VIRTUAL DEPOSITION OF
SHAILESH PATEL, M.D.

Monday, January 8, 2024
4:31 p.m. - 5:20 p.m.

The deposition of Shailesh Patel, M.D., taken on behalf of the Defendant via Zoom on the 8th day of January, 2024 before M. Sean Cary, Court Reporter and Notary Public in and for the State of South Carolina, pursuant to Notice of Deposition.



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0372

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EXHIBITS

(All exhibits were retained by counsel)

Claimant's Exhibit Number 1	34
(Dr. Patel's Report)	

Claimant's Exhibit Number 1	35
(Questionnaire from Dr. DeHoll)	

STIPULATIONS

It is stipulated and agreed that this deposition is being taken pursuant to the Administrative Procedures Act and the South Carolina Rules of Civil Procedure.

It is stipulated by and between counsel and the witness that the reading and signing of the following deposition be, and the same are, hereby waived.



1 **SHAILESH PATEL, M.D.**, having been duly sworn, deposes
2 and testifies as follows:

3 **DR. PATEL - EXAMINATION BY MR. PATTERSON:**

4 Q: Dr. Patel, my name's Michael Patterson. I am
5 an attorney here in Charleston. I represent
6 the employer and insurance carrier in this
7 worker's compensation case that brings us here
8 today. Being someone that routinely practices,
9 or -- or I should say, treats patients in work
10 comp, can I assume you've had your deposition
11 taken before?

12 A: I have.

13 Q: Okay. Then I'm gonna just dispense with the
14 general ground rules. I assume you know all
15 the rules of the deposition?

16 A: I do.

17 Q: Okay.

18 **MR. PATTERSON:** And Gary, I'm gonna ask Dr. Patel
19 his educational background and stuff, but I
20 know you've stipulated before. Do you want
21 stipulate to his expertise and Board
22 certification?

23 **MR. CHRISTMAS:** Absolutely. I mean, obviously ask
24 any questions you want. But, to expedite
25 things, you know, obviously we agree that he's



1 an expert in this case.

2 **AGREEMENT TO QUALIFY DR. PATEL AS EXPERT IN THIS**
3 **CASE.**

4 **MR. PATTERSON:** All right. Perfect.

5 Q: So, Dr. Patel, my understanding is that you
6 treated or saw Ms. Walthour, although I think
7 she has since remarried and is now Ms.
8 Bradshaw. But, I believe when you saw her she
9 was still Mr. Walth- -- Ms. Walthour. So,
10 that's what I will refer to her as. You saw
11 her for an IME on October 12th, 2021. Is that
12 correct?

13 A: That's correct.

14 Q: And aside from providing a independent medical
15 evaluation on October 12th, 2021, have you seen
16 or treated Ms. Walthour at any point since
17 then?

18 A: I have not.

19 Q: Okay. And do you have a copy of your IME with
20 you?

21 A: I do.

22 Q: Okay. And when Ms. Walthour came to see you,
23 what was your understanding of why she was
24 seeing you?

25 A: She was having some neck and mid-thigh pain



1 from after having a work injury on -- on
2 7/12/19. And so, we had talked about that and
3 what could be causing that and some of the
4 treatment she's already had done at that point.
5 At that point she'd already had the neck
6 surgery from Dr. DeHoll. So, what we were
7 essentially talking about was some of the
8 symptoms she was still having and what some of
9 the treatment options might be going forward.

10 Q: Got ya. Okay. And in looking at your record
11 on the first page that I have, it talks about
12 medications, vaccines and problems. Do you see
13 that?

14 A: Let me see here. Yes.

15 Q: Okay. And where it says rev- -- problems --
16 reviewed problems. All of the dates of onset
17 are 10/12/2021. Is that more an indication of
18 the date the IME was being conducted than, you
19 know, for example, the neck pain. She had --
20 she'd been having neck pain. So, 10/12/2021
21 isn't an indication that the onset of her neck
22 pain was that day. Is that right?

23 A: Yeah, that's correct. That's a fault of our
24 EHR system. Any time a patient comes in that
25 we've not seen before, whenever we enter a



1 diagnosis it automatically puts in the date the
2 diagnosis was entered versus the actual date of
3 when it happened. And so, but as you go
4 through my narrative you'll see that I -- I
5 clearly referenced the -- work injury when it
6 happened.

7 Q: Got ya. Okay. And then, let's see, you get
8 her history, or at least put her history down
9 there. Had you been able to discuss with her
10 what her medical history was, or did she
11 provide a report regarding her medical history?
12 How does -- how do you get that information
13 from her?

14 A: Yeah. So I rely on her to give me some
15 information, but in this case also her
16 attorney's office, Mr. Christmas' office, had
17 supplied medical records of when she was seen
18 initially at the Doctors Care as well as Dr.
19 DeHol- -- De- -- DeHoll -- DeHoll's notes and
20 the MRI scans and different things. So, I had
21 access to all those records as well too.

22 Q: Okay. But -- and then what was your -- or I
23 guess just tell me, what was your understanding
24 of how she was injured?

25 A: She was lifting some pallets, I think it



1 weighed about a hundred, a hundred and fifty
2 pounds. And initially when she got injured she
3 was reporting some back pain and some left
4 shoulder blade pain. And as I was going
5 through some of her records, there was a note
6 from, I believe that it was called Medcore --
7 a Medcore note, which was a very good note.
8 And it was taken I believe the date of the
9 injury 7/11/19. And it shows some -- she me--
10 -- it mentions some scapular pain or some
11 shoulder blade pain. The reason that's
12 important is because, as you probably know or
13 most of us know, that the neck commonly refers
14 to the shoulder, particularly the shoulder
15 blade. So, I wouldn't expect an ER physician
16 or maybe a Doctors Care, those types of
17 physicians, would pick that up necessarily.
18 But any spine specialist that you see would
19 always, almost nine times out of ten, refer or
20 make that connection that that's referred pain
21 coming from the neck.

22 Q: Got ya. And the Medcore record that you're
23 mentioning, do you remember what date that was
24 from?

25 A: 7/11/19.



1 Q: Oh, got ya. Okay.

2 A: So, the date of the actual work injury.

3 Q: Okay. And then, in addition to talking with
4 Ms. Walthour about how her injury occurred,
5 what was your understanding of her treatment
6 following her work injury?

7 A: So, after the work injury she went to Doctors
8 Care for a few visits, and then she was -- she
9 also had a Cortisone shot from her primary care
10 physician as well too. She only went to
11 Doctors Care, from what I could tell, for maybe
12 two or three times. And by the sixteenth, July
13 16th, she was -- she had felt better from a
14 Cortisone shot that she had gotten the day
15 before. And so, they, I guess, released her
16 and decided to have her try to go back to work.
17 But then shortly thereafter, I think within six
18 weeks, eight weeks afterwards, she was still
19 having some pain in the neck and going down
20 that right arm. So, she followed up with her
21 -- her primary care physician at Hopkins Family
22 Practice. Saw him a few times, eventually they
23 got an MRI. Showed that she had some disc
24 herniations, in fact three of them. And on top
25 of that, what's really important to see, she



1 had spinal cord damage. She had, what we call
2 myelomalacia at the C4 to C7 level. Now that's
3 real important because that can affect not just
4 your neck, but that can also affect your back,
5 your legs, your gait, balance, all kinds of
6 things. So -- so, luckily she, right after
7 that, she had an EMG which confirmed the -- the
8 radicular pain that she had in her neck and the
9 herniated discs that she had there. And then
10 they got her in with Dr. DeHoll and she had the
11 appropriate treatment.

12 Q: Okay. And while you discussed the Doctors Care
13 records and the Hopkins Family Practice records
14 and the records from Dr. DeHoll, were you able
15 to review an emergency room record from August
16 11th of 2019? I believe it was at what is now
17 Prisma Health Richland?

18 A: I probably did, but I don't recall it offhand.

19 Q: Okay. And let's see, following her treatment
20 with Dr. DeHoll, you mentioned that she had a
21 fusion?

22 A: That's right, yeah. She -- Dr. DeHoll did a C4
23 to 7 ACDF or anterior cervical decompression
24 fusion. So basically, he put in hardware to
25 fuse the C4-5 discs, the C5-6 discs and the C6-



1 7 discs. Those were three areas where she had
2 those -- those herniated discs, and that's the
3 area where she had the spinal cord damage at
4 the -- that they call myelomalacia.

5 Q: Okay. And can you talk -- and -- and you've
6 already mentioned the information that was on
7 the MRI. And you noted that like some of these
8 findings were, you know, serious. Can you
9 explain to me what some of these things mean in
10 terms of stenosis and disc extrusion and the
11 myelomalacia that you're -- you're talking
12 about?

13 A: Yes, sir. You -- you want me to go through
14 those one at a time?

15 Q: Yes, please. Thank you.

16 A: Yeah. So, when they referred to a disc
17 extrusion, what they are -- well, let -- let's
18 back up a little bit, you know. The area of
19 the spine that we're talking about here is the
20 cervical spine or the neck. And the neck is
21 made up of bones and then discs in between the
22 bones. The disc is like a soft cartilage. The
23 bones are hard. So, when that disc gets pushed
24 into the spinal canal, right behind the disc is
25 the spinal cord. And so, depending on the



1 degree of push into that canal, it can either
2 get close to the cord or it can actually
3 physically touch the cord. In her case what it
4 -- when it says the disc was extruded, that
5 means the disc was all the way out into the
6 spinal canal right on top of that cord. Which
7 in turn causes this phenomenon we call
8 myelomalacia. Which means that essentially the
9 -- the disc is rubbing up against that spinal
10 cord and causing internal damage. And the
11 reason I was saying that that's important's
12 because the way the spine -- the spinal cord
13 works is if -- if you think of the brain as
14 sort of the control center up top, and it uses
15 the spinal cord as the pathway for those nerves
16 to go into the legs and into the arms. So,
17 when you have damage in the middle of that
18 cord, that can affect not just your neck and
19 your arms but also any of the nerves going pass
20 through that area. So, it can affect the
21 nerves going into your legs. So, often times
22 folks that have these myelopathic changes on
23 their cord, physicians will say hey, she has a
24 -- he or she has a myelopathic gait. Well,
25 what does that mean? Well, it means that she



1 has a really wide based gait. And -- and they
2 have a wide based gait because their balance is
3 off. And so, they have to widen out their gait
4 to -- to keep them from falling. We see plenty
5 of times where these guys, they'll be walking
6 just in the room and all of a sudden lose their
7 balance and fall. So -- so that's what myelo-
8 -- myelopathic or myelomalacia, that's what
9 that's referring to. The extrusion is, you
10 know, when the disc is outside of the -- when
11 the disc is pushed into the canal. And then
12 you had a third term you were wanting me to
13 discuss.

14 Q: Well, you just mentioned that in the Summary of
15 Medical Care, it talks about on October 9th,
16 2019, the MRI report showed severe stenosis,
17 disc ---

18 A: Yes.

19 Q: --- extrusion with myelomalacia.

20 A: Yeah. So the stenosis, essentially that just
21 means narrowing. So in those exit points where
22 the disc and the cord are coming into contact,
23 the nerve has to exit out of the spinal cord to
24 go into those arms or go into the shoulders or
25 th- -- or in this case, the scapula. And when



1 those exit points get narrowed, we call that a
2 stenosis. So, there's just not enough room
3 around for that nerve to exit out of the spine.

4 Q: Got ya. Okay.

5 A: In lay terms we will call that a pinched nerve.

6 Q: Okay. And then how are these things caused?
7 So, stenosis, disc extrusion with myelomalacia,
8 how -- how does this all happen?

9 A: Well for a disc extrusion to myelomalacia, it's
10 typically trauma. It would have to be some
11 kind of force applied to the spine that would
12 cause that disc to get pushed out and then onto
13 the -- the spinal cord. In other words, this
14 is, you know, you hear about folks that are in
15 their forties or fifties that have some -- some
16 bulges in their spine. That's true. You can
17 have a bulge in your spine and -- and maybe not
18 know it. But you wouldn't have a myelopathic
19 change like this or a disc extrusion where the
20 disc is actually pushed all the way into the
21 canal without knowing, and you certainly
22 wouldn't have three of them without knowing it.
23 So -- so in this case I'm -- I'm fairly
24 confident that the -- that the cause would have
25 been a -- a trauma. And the closest trauma we



1 have here is that 7/11 night work injury.

2 Q: Got ya. Okay. And you talk about a pre-op
3 exam. Is that a pre-op exam that she would've
4 been conducted with Dr. DeHoll?

5 A: Yeah. So, what I am referring to there is --
6 now you wouldn't -- you wouldn't see this in the
7 Doctors Care notes because, like I said,
8 nothing against those providers. They're great
9 providers, but they're not -- they're not spine
10 specialists. But Dr. DeHoll is. He's a spine
11 specialist. He's a spine surgeon in fact. And
12 so, if you look at his exam in his own notes,
13 I believe it was the October 14, 2019, note.
14 That was the first time that DeHoll saw the
15 patient. He clearly puts in there that she has
16 4 out of 5 strength in the biceps, a decreased
17 C6 sensory response, a positive right Hoffman's
18 reflex, positive Spurling's reflex, and
19 positive hyperactive plus-3 reflexes. What
20 does all that mean? That all means spinal cord
21 damage. That -- that's -- we're talking about
22 the myelopathic changes there in the cord. So,
23 in -- what those -- each one of those
24 specifically means, Spurling's means when you
25 -- when you rock the head one way, it pinches



1 that nerve even further, and people can have
2 that reproduction of this -- of the pain going
3 down into the arms. A Hoffman's reflex is when
4 you -- you flick the finger, and the other
5 fingers flick. That wouldn't normally happen.
6 Only if you have spinal cord damage that would
7 happen. And then hyperactive reflexes means
8 that, you know, when you do that -- that reflex
9 on the knee and -- and then the person's knee
10 kind a pops up. Everybody has that to some
11 degree. But when you have it more active than
12 normal, in other words, it pops up really
13 stronger, really hard, that's abnormal. And
14 she had that in her upper extremities. In
15 fact, she had many of those same things even
16 after I saw her.

17 Q: Got ya. Okay. So, the physical examination
18 that Dr. DeHoll conducted consisted of these
19 tests that you've been discussing, Spurling's
20 and Hoffman and hyperactive reflexes?

21 A: Yes, sir.

22 Q: Okay. And what you're saying is when she came
23 to see you, you also conducted these same
24 physical exams?

25 A: Yeah. I did. I -- I conducted the same exams



1 to see if she was still having some evidence of
2 -- of spinal cord damage from those myelopathic
3 changes from C4 to 7, and she still was. Which
4 makes sense because, as you know, once the cord
5 is damaged there is no way to reverse that.
6 All -- all you're trying to do is to prevent
7 that from getting any worse than it already is.

8 Q: Got ya. Okay. So, in her situ- -- in Ms.
9 Walthour's situation, is the fusion -- or I
10 guess the operation that Dr. DeHoll performed,
11 someone may still have neck pain and neck
12 problems following that -- that type of
13 surgery?

14 A: Yeah. It's -- it- -- even after the surgery,
15 because of that -- that damage there on the
16 cord, it -- it's not unusual for someone to
17 have some relief for a little while but then
18 that starts to have some symptoms happen again.
19 And then the other phenomenon you have to think
20 about is what we call adjacent level disease.
21 What that means is once a disc -- once you've
22 had a fusion surgery done, it's not unusual at
23 all for the disc above or the disc below that
24 fusion to start wearing out or to start
25 protruding into the spinal canal. And the



1 reason that happens is once you lock up three
2 levels of motion in the neck, well that motion
3 has to go somewhere, and so it either goes
4 above or below the fusion. And so that causes
5 additional strain on those areas.

6 Q: Got ya. Okay. And can you tell me, it looks
7 like you conducted a significant number of
8 physical -- or a significant physical exam on
9 Ms. Walthour when you saw her. Can you tell me
10 a little bit more about the physical exam you
11 conducted?

12 A: Yeah. We -- so -- what -- I did what I call a
13 cervical spine exam on her. And so, what I'm
14 trying to essentially elicit is where she's
15 having pain and what kind of symptoms she's
16 having from it. So, in her case I initially
17 did some palpation around the spine in the back
18 of the spine and tested for range of motion.
19 And I noted that she was having some tightness
20 and tenderness in the cervical paraspinals.
21 So, that's essentially the muscles on either
22 side of the neck. She was also having some
23 limitation in her range of motion. So, when
24 she was turning her head or turning her neck it
25 was limited. Now, in part, this is limited by



1 pain, but it's also limited by her fusion
2 because she, as we talked about, she's fused
3 from C4 to C7. And then we did a motor exam on
4 her and found that she had some weakness in her
5 deltoids. She had four to five strength in
6 there. The deltoids represent the C5 muscles,
7 and that's one of the areas where she was fused
8 at. And she also had some hyperactive reflexes
9 in her biceps and her brachioradialis reflexes.
10 These are some reflexes in the upper arm
11 essentially. And then I found that she also
12 had a C6 tips decrease. I believe Dr. DeHoll
13 also found the same thing. And, in fact, if
14 you go -- if you remember she had a EMG nerve
15 conduction study with Dr. Clavet in October of
16 '19, which also showed her right C6-C7 cervical
17 radiculopathy. So, the physical exam there was
18 fitting not only Dr. DeHoll's prior physical
19 exam but also her EMG and MRI findings as well.

20 Q: Okay. And then so in your -- again, in your
21 Summary of Medical Care, you -- you talk about
22 her course of treatment and you note that she
23 was recovering well and was released after
24 about six months, and that she was doing
25 relatively well until about a week ago. So if



1 you saw her on October 12th of 2021, then at
2 least according to Ms. Walthour she had been
3 doing pretty well until a week before October
4 12th, 2021.

5 A: Yeah. She -- and that's, you know, and I think
6 I clarified this a little later on, it's not to
7 say that she wasn't at -- she was having no
8 pain at all. It's just that it was tolerable.
9 But then not -- not surprisingly she started
10 having some worsening pain in the neck. And so
11 what I had advised her to do was to evaluate
12 that. And so I recommended that she get an MRI
13 to see if anything had changed.

14 Q: Got ya. Okay. And then you mentioned that she
15 didn't recall any specific injury, but that she
16 had been packing for a move to Kentucky?

17 A: Yes.

18 Q: You know, just in the process of packing up
19 boxes and moving and whatnot, I don't know if
20 you've ever moved a residence, but is -- is
21 that something that can aggravate the condition
22 that she has?

23 **MR. CHRISTMAS:** I'm gonna object because it's an
24 improper hypothetical that you're asking
25 specifically for this case. It calls for



1 speculation, but you can answer, Dr. Patel.

2 A: Okay. So, yeah, it just depends on what you're
3 doing. But in this case I don't think that her
4 move to Kentucky or her packing to Kentucky
5 necessarily caused her pain. She's -- as I
6 said, and I -- I think I clarified that in my
7 addendum later on, that she was hav- -- she was
8 still having some pain even prior to her seeing
9 me or prior to that week. It's just that she
10 noticed it more during that week as she was
11 moving. And that's not unusual, you know. A
12 -- a lot of times patients will have pain and
13 they'll notice it more at certain ADLs that
14 they do whether it's doing their hair or
15 washing dishes or bending forward or etcetera.
16 But what I was specifically asking her about,
17 did you have a -- a specific injury during that
18 week, and she had indicated that she had not.

19 Q: Got ya. Okay. And when you say ADLs, what
20 does that mean?

21 A: Oh, I'm sorry. ADLs means Activities of Daily
22 Living. So, that means like when you're doing
23 just basic things like dressing, undressing,
24 brushing your teeth, dishes, you know,
25 household chores, that kind of stuff.



1 Q: Got ya. Okay. And so you were looking or
2 asking questions about an injury that would
3 have been something other than an activity of
4 daily living?

5 A: Yeah. Exactly. Like maybe another accident,
6 another fall, maybe she was, you know, some- --
7 something specifically that she was doing that
8 precipitated this. And that's where she was
9 saying there was nothing like that. It was
10 just kind of ongoing symptoms that she'd been
11 having but just noticed it getting worse on
12 that -- about a week before I'd seen her.

13 Q: Got ya. Okay. And you mentioned a fall.
14 Would -- would that, if she had said she had a
15 fall, would that be an injury that could make
16 her condition worse?

17 **MR. CHRISTMAS:** Again, Doctor, just gonna put an
18 objection on the record again. It's improper
19 hypothetical and as it relates specifically to
20 this case it calls for speculation, but you may
21 answer.

22 A: Well, it depends on the nature of the fall. I
23 mean, certainly if she had a fall down the
24 stairs or something, yeah, that could -- that
25 might could affect it. You know, one thing



1 that I was alluding to earlier was with these
2 myelopathic patients, one thing you do have to
3 worry about is their balance. And so, it's not
4 unusual for them to have falls around the
5 house. But again, it -- it would have to be a
6 fairly significant injury to cause, you know --
7 I mean at this point -- well, she'd already had
8 the -- the surgery and she'd already had the
9 fusion. So, I don't see that anything -- any
10 other new fall or injury could have caused
11 anything, any other symptoms.

12 Q: And not -- not to be flippant, but if that's
13 the case why ask her about it?

14 A: Well, to see if she had it. In other words, if
15 she had a significant fall, then that's
16 something we'd need to know about. But ---

17 Q: Got ya.

18 A: --- I don't recall her saying that she did,
19 that she had a significant fall.

20 Q: Okay.

21 A: So, that's what I'm saying. If she had maybe
22 a -- a -- some sort of small fall from, you
23 know, I don't know, just like -- just walking
24 and stumble, that's not gonna -- that's not
25 something that I'm really interested about.



1 Q: Okay. And then based on the subjective
2 information from Ms. Walthour, the objective
3 records that you were able to review, tell me
4 more about what your recommendations were for
5 Ms. Walthour moving forward.

6 A: I recommended that she get a new MRI to see
7 what's was happening with that -- either that
8 disc above or the disc below her fusion. And
9 I also talked to her about some pain management
10 options, injections, rhizotomy treatments,
11 spinal cord stimulation therapy, things of that
12 nature. So, we kind a talked about a -- a
13 future treatment plan as well as getting some
14 di- -- further diagnostics as well.

15 Q: Okay. And did -- or have you reviewed or did
16 she get before she saw -- sorry, that's a bad
17 question. Did she have an MRI completed before
18 you conducted the IME?

19 A: She did not.

20 Q: Okay. So you didn't have a recent IME to
21 evaluate?

22 A: A recent MRI?

23 Q: That's correct.

24 A: Yeah. We -- no, the MRI that I had at the time
25 that I saw her was from the -- prior to her



1 surgery, October 7, 2019.

2 Q: Got ya. Okay. So, one of your recommendations
3 after you saw her at this IME would be to get
4 an updated MRI?

5 A: Correct.

6 Q: Got ya. Okay. And then you mentioned
7 something, and maybe I'm saying it wrong,
8 rhizotomies?

9 A: Yes.

10 Q: What are those?

11 A: So, rhizotomy is a pain management tool that we
12 use for neck pain, particularly in folks that
13 had fusions done. So, it essentially it's a
14 way of using heat to cauterize some of the
15 joints or the nerves being affected. And so
16 the reason we do that is to help get some
17 prolonged relief, but also to get more specific
18 relief for her neck pain that's typically on
19 the side when you're turning your head one way
20 or the other. That helps to relieve that --
21 that kind of pain.

22 Q: Got ya. Okay. And then in addition to the
23 MRI, was there any other imaging that you
24 wanted her to have?

25 A: Usually, I just start with an MRI scan. You



1 know, if she ended up having surgery, then --
2 or additional surgery, then sometimes the
3 treating spine surgeon might wanna get a CT
4 scan on top of that. But for my purposes, just
5 an MRI scan would do.

6 Q: Got ya. Okay. And in it -- sorry, spinal cord
7 stimulator. How do you know or, I guess, in
8 Ms. Walthour's case, is a spinal cord
9 stimulator just an option or is it something
10 that she would definitely need? Or were you
11 just saying that it's something that should be
12 explored?

13 A: Yeah. I guess I would say that it's so- --
14 it's an option. So the spinal cord stimulator,
15 we use for chronic pain whether it's back pain
16 or neck pain. And it's not the treatment we do
17 first. You know, typically, we wanna do some
18 of the other more conservative measures, things
19 like steroid injections, physical therapy, and
20 even this rhizotomy treatment we talked about.
21 Failing that, then the next step would be
22 surgery, would be, what we call, probably an
23 additional surgery. And then failing that, or
24 if that doesn't provide enough relief, and
25 there's only so many levels in the neck you can



1 fuse, then the next step would be a spinal cord
2 stimulator.

3 Q: Got ya. And if she needed or if it was
4 determined that she needed another surgery,
5 what kind a surgery would it be?

6 A: Well, you'd have to look at the MRI scan, and
7 she didn't, I -- I've gotten some records here
8 and she did have another MRI scan after I saw
9 her. And she had some pathology at that level
10 above that C3-C4. So, in her case, the -- what
11 she would need at this point now would be
12 another fusion, a C3-4 fusion.

13 Q: Got ya.

14 A: Now, the downside of that would be that you
15 have another level that's fused, you have more
16 limitation in your range of motion. Plus side
17 would be hopefully it gets rid a your pain.
18 So, it's gonna be a di- -- a difficult choice
19 to make. And, you know, that's not something
20 I would decide. That's something Dr. DeHoll
21 and the patient would have to come together and
22 make a decision.

23 Q: Okay. Sorry, I'm try- -- I was trying to -- I
24 think I lost my train of thought. My
25 apologies.



1 A: No worries.

2 Q: So, we -- we talked about things that might
3 make her condition worse. Ms. Walthour was
4 involved in a motor vehicle accident on June
5 13th of 2020, where she was taken to the
6 hospital by EMS. And she ended up being
7 released against medical advice, and I can show
8 you the medical record which I -- I guess I'll
9 just go ahead and do. Let me see if I can
10 share my screen.

11 A: Well, I was gonna say, I did see that already.

12 Q: Oh, you did?

13 A: Yup, I saw -- the one that I saw was from
14 6/13/20 at Lexington County EMS ---

15 Q: Yeah. Great.

16 A: --- and the records from there. And yeah, she
17 did have a wr- -- a motor vehicle accident. It
18 looked like either she fell asleep at the wheel
19 or -- or they weren't sure exactly what
20 happened, but she lost consciousness there.
21 And they did some lab work on her there in the
22 hospital. From what I understood, the -- the
23 urine screen was negative for alcohol but they
24 were suspecting maybe one of the
25 Benzodiazepines or the anxiety medications



1 could've played a role. But what's important
2 there -- she had an abrasion, I think, to the
3 forehead and, if I recall, the knee, I believe
4 it was, but really no mention of neck or back
5 issues. They had a CT of the cervical spine
6 that they did that was negative. So -- so, to
7 -- to your question, you know, do I think this
8 motor vehicle accident could have played any
9 role in this? I don't think this one would
10 have, only because there's really nothing there
11 for me to say that she had a tremendous amount
12 of increase in her neck or even her scapula
13 pain or arm pain. Nothing that I could see
14 from the records anyway.

15 Q: Got ya. So, even if a CT scan is negative, if
16 we're just talking about something that would
17 cause her neck to start hurting again, is that
18 something that could cause her neck to start
19 hurting again?

20 **MR. CHRISTMAS:** Objection again, Doctor, just for
21 the record, and you'll be able to answer. It's
22 an improper hypothetical as it relates to this
23 -- this case. There is absolutely no medical
24 evidence or any other testimony to support a
25 finding that there was any injury to her neck



1 in this car wreck. With that objection noted,
2 you can answer, Doctor.

3 A: Yeah, so, I think your question was could the
4 -- could the accident cause an increase in her
5 neck pain? Is that right?

6 Q: Yeah, could it have aggravated her neck pain?

7 A: Okay. So, yeah, so, that's what I mean is that
8 in this particular instance, I don't think so
9 because it's not really mentioned anywhere,
10 that she had any increase in her neck pain or,
11 like I said, the C- -- there was no acute
12 findings on the CT scan either. So, in this
13 scenario I would say no.

14 Q: If -- well, and again, just because you've seen
15 the -- the record, if the diagnosis is head
16 trauma and blunt trauma of neck, would -- does
17 that matter if that's what the diagnosis is?

18 A: No, it's not so much the diagnosis, it's the
19 narrative that -- if you look through that
20 narrative, there's really nothing specifically
21 that would indicate a radicular pattern to her
22 -- to her neck injuries. And again, there's no
23 -- no finding on the CT other than what she's
24 already had before -- the fusion that she
25 already had and some of the wear and tear on



1 the C3-C4 discs.

2 Q: Got ya. So, any pain that she was having
3 wouldn't represent an aggravation?

4 A: Correct.

5 Q: What would -- let me just ask you, what would
6 have to be present for there to be an
7 aggravation?

8 A: Some radicular pain, so numbness, tingling into
9 the arm, shooting pains into the scapula,
10 specific mention of neck pain, those all would
11 indicate that yeah she's having an aggravation.

12 Q: Okay. And if, you mentioned that she tested
13 positive for Benzodiazepines, would -- if -- if
14 she appeared sleepy or appeared under the
15 influence of Benzodiazepines, would that affect
16 her ability to describe her pain?

17 **MR. CHRISTMAS:** Objection, again, improper
18 hypothetical as it applies to this case, calls
19 for speculation. But with that in mind,
20 Doctor, you may answer.

21 A: Yeah. I mean, I wasn't there so I don't know
22 how -- how much it was affecting her. It might
23 impair her ability to describe things
24 accurately. But Benzodiazepine is not a pain
25 medication. You know, so, it wouldn't -- it



1 wouldn't -- it wouldn't decrease her pain. So,
2 even if you're on Benzos and you're having pain
3 in the neck or shooting pains into the arms,
4 those are things that you're gonna notice. And
5 if -- if they were -- the treating physician
6 there was se- -- concerned about a neck injury
7 like that, or a radicular injury, and I'm sure
8 those are questions they would've asked, and if
9 they were positive they would have documented
10 it.

11 Q: Got ya. Okay. And does it matter at all if
12 the air bags were deployed?

13 **MR. CHRISTMAS:** Gonna object because Dr. Patel is
14 not an expert on cars or airbags. What he is
15 an expert is, is in medicine. And he's read a
16 medical record and asked and answered the
17 questions that have been asked by defense
18 counsel. With that in mind, Dr. Patel, you may
19 answer.

20 A: Yeah. I don't -- I don't really have -- I
21 don't know what the airbag would have to do
22 with anything. And if we -- I've had many
23 folks that have had no airbag deploy and they
24 get injured. And I've had folks that have
25 airbags deploy and they do get injured. So, I



1 don't know that that would necessarily -- I
2 don't really know how to answer that question,
3 let me put it that way.

4 Q: Yeah. Sure. And I think you provided an
5 answer. So, you have treated people who've
6 been in vehicle accidents where there was no
7 airbag deployment?

8 A: Correct. Yeah.

9 Q: And you've treated people who've been in
10 accidents with airbag deployment?

11 A: Yes, sir.

12 Q: And in some sens- -- instances the airbag had
13 no role that the airbag deployed, it had no
14 role in their injuries?

15 A: Correct.

16 Q: Are there instances where you've treated
17 someone where the airbag deployed and it did
18 cause an injury.

19 A: Usually facial injuries, like burns and things
20 like that to the forehead, to the nose or to
21 the cheek.

22 Q: Got ya.

23 A: Sometimes an inhalation injury. When airbags
24 deploy there is dust and smoke that kind a
25 comes out with that and so I've had some folks



1 that have had some breathing difficulties
2 afterwards.

3 Q: Okay. And Dr. Patel, I -- I don't believe you
4 did, but just to clarify, you never completed
5 any type of questionnaire regarding Ms.
6 Walthour, did you?

7 A: No. I did not.

8 Q: Okay. Dr. Patel, I don't think I have any
9 additional questions. I really appreciate your
10 time. Gary might have some questions for you.
11 But other than that, I don't think I have any
12 others right now.

13 A: Okay. Thank you.

14 **DR. PATEL - EXAMINATION BY MR. CHRISTMAS:**

15 Q: Hey, Dr. Patel, I'm gonna try to be quick and
16 not redundant because I know we're kind of late
17 in the afternoon. First of all, all the
18 opinions that you're gonna give me today, could
19 we agree that those will be the most probable
20 and to a reasonable degree of medical
21 certainty?

22 A: Yes.

23 Q: Okay. You did this independent medical
24 evaluation report, by my count, is four pages.

25 **MR. CHRISTMAS:** Mr. Court Reporter, I'm gonna mark



1 this as Claimant's 1. And I can have my
2 paralegal just email you post-deposition to
3 provide you these documents.

4 **COURT REPORTER:** Yes, sir.

5 **(Claimant's Exhibit Number 1 was marked for**
6 **identification purposes.)**

7 **MR. CHRISTMAS:** So, this will be Dr. Patel's report.

8 Q: For identification purposes, looks like the
9 encounter was on September 20 -- no that's date
10 of birth, hold on. Is it -- is it 10/12/21,
11 Dr. Patel?

12 A: Yes.

13 Q: Okay. Great. And it's four pages. All of the
14 opinions that you've given in this medical
15 report, do you stand by those opinions today?

16 A: I do.

17 Q: Okay. And specifically, just to be clear for
18 the Commission who's gonna be reading this,
19 just to kinda of get to the top line, is it
20 your opinion that the injuries that this
21 injured worker has to her neck were caused by
22 her work accident?

23 A: Yes.

24 Q: And specifically, the need for the 3-level
25 fusion that Dr. DeHoll performed on her neck



1 were caused by this work accident?

2 A: That's correct.

3 Q: Okay. And is it your understanding from
4 reading your DAC and Dr. DeHoll's records that
5 he is currently recommending that this injured
6 worker undergo an additional surgery at the C3-
7 4 level?

8 A: That's right.

9 Q: Okay. And do concur and agree with them that
10 that is appropriate medical treatment for this
11 work related injury?

12 A: I do.

13 Q: Okay.

14 **MR. CHRISTMAS:** Also, I'm gonna mar- -- mark this as
15 Claimant's 2.

16 **(Claimant's Exhibit Number 2 was marked for**
17 **identification purposes.)**

18 Q: There's a questionnaire from Dr. DeHoll that is
19 four pages that was in your DAC. For
20 identification purposes it was signed on
21 November 17th, 2021. It's kind a scribbly.
22 It's -- excuse me, that's the wrong one.
23 That's a one page. It's a three page that was
24 signed on November 9th, 2023. It's one through
25 six questions. Can you let me know if you have



1 that document?

2 A: I do.

3 Q: Okay. And if you can just take and a minute,
4 because I'm not gonna pull teeth here and read
5 each one of them to you. But there's questions
6 one through six. And after you've read the
7 entire document to yourself, not in the record,
8 please let me know and then I'll ask you a
9 couple of global questions to speed this up.

10 A: Okay. Yeah, I've read them.

11 Q: Okay. So, do you concur with Dr. DeHoll in his
12 opinions that he answered yes to in questions
13 one through six of this 3-page questionnaire
14 that's dated and signed by him on 11/9/2023?

15 A: Yes, I do.

16 Q: Okay. Specifically, you were asked about --
17 I'm gonna switch gears into the Lexington
18 County EMS car wreck. Just to be crystal clear
19 for this Commissioner, is there any indication
20 in the medical records, your interview with
21 this injured worker or the diagnostic images
22 including the neck CT, that indicates that this
23 per- -- injured worker was either complaining
24 about an aggravation of the neck or was treated
25 for aggravation of her neck in this ER visit?



1 A: No, there's not.

2 Q: And just to be clear, you're not giving an
3 opinion that there has been an aggravation of
4 a pre-existing condition from this car wreck,
5 correct?

6 A: That's correct.

7 Q: All right. Her injuries to her neck came from
8 this work accident?

9 A: That's correct. Her injuries came from the
10 7/11/19 work accident.

11 Q: Thanks for your clarification. With regard to
12 the spinal cord, you mentioned that she had the
13 myelopathic damage. Does that include that she
14 has sensory loss?

15 A: Yes.

16 Q: Okay. And is that in her -- her arms or legs
17 or all of her extremities?

18 A: Well in her case specifically I noted it in the
19 arm, in that right C-6 dermatom. But she did
20 also have hyperactive reflexes in both of her
21 arms as well too on the other side. So, it
22 would affect both -- both upper extremities for
23 sure.

24 Q: And that would come from the spinal cord
25 injury?



1 A: That would come from the spinal cord injury,
2 yeah.

3 Q: Did you also notice motor weakness in addition
4 to the sensory weakness and deficits?

5 A: Yeah. She had some weakness in the deltoids,
6 4 out of 5 strength on both sides. So, there's
7 some weakness there. The deltoids are
8 typically innervated by the C-5 nerve. And
9 that's one of the areas where she had some
10 damage.

11 Q: Okay. And given the spinal cord injury, the 3-
12 level fusion, the need for a 4th-level fusion,
13 is it in any way surprising that she continues
14 to have significant pain and problems in her
15 neck, mid-back, arms, etcetera?

16 A: No, not at all. In fact, that's what we would
17 expect.

18 Q: And in terms of, you know, her job where she
19 was out moving pallets and doing, you know,
20 medium even light work, no chance she's gonna
21 return to that type of work, correct?

22 A: No. I don't see that she can do that. With a
23 3-level, and possibly a 4-level fusion, it'll
24 be very difficult.

25 Q: Right. And, in fact, the fact that she's been



1 unable to return to work with this type of
2 injury, that's -- that's -- that's normal,
3 right? You wouldn't expect somebody with this
4 type of injuries typically to return to the
5 workforce, correct?

6 A: That's correct.

7 Q: Right. And she should've been out of work from
8 the date of this injury through present and
9 continuing. Is that right?

10 A: Yeah. She, with a 3-level fusion I would have
11 expected her to be out of work from the time of
12 injury till now.

13 Q: Okay. She did work for a very brief period of
14 time as you noted earlier in your testimony
15 after she got the shot and took some
16 medications. But other than that period of
17 time, I take it your opinion is, she should be
18 out of work from when she left work due to the
19 accident through present and continuing?

20 A: Yeah. That's right. It's -- it's not unusual
21 for her to have the steroid injection and
22 she'll go for a few, you know, a day or so, but
23 certainly no -- no reason to go back to work
24 with that.

25 Q: All right. Dr. Patel, that's all I have.



1 Thank you for your time.

2 A: Okay.

3 **MR. PATTERSON:** Dr. Patel, I don't have any
4 additional questions.

5 **(There being no further questions, the deposition**
6 **concluded at 5:20 p.m.)**

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CERTIFICATE

This is to certify that the deposition of **SHAILESH PATEL, M.D.**, consisting of forty (40) pages, is a true and correct transcript of the testimony given by said deponent after being duly sworn; said deposition was reported by the method of Stenomask 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 February 17, 2024.



M. Sean Cary
Court Reporter

Notary Public for South Carolina
My Commission Expires: May 2, 2033



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(803) 252-3445 / contact@creelreporting.com

0412

STATE OF SOUTH CAROLINA
BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC No. 1925084

Christina Bradshaw (Walthour),)
)
Employee,)
)
v.)
)
Employbridge, LLC,)
)
Employer,)
)
and)
)
XL Insurance America, Inc.,)
)
Carrier/Defendants.)
-----)

VIRTUAL DEPOSITION OF
CAROLYN COMER

Monday, January 29, 2024
11:32 a.m. - 11:52 a.m.

The virtual deposition of CAROLYN COMER was taken on behalf of the Defendant on the 29th day of January, 2024 before Travis McLeod, Court Reporter and Notary Public in and for the State of South Carolina, pursuant to Notice of Deposition and/or agreement of counsel.



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0413

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EXHIBITS

(Claimant's Exhibit Number 1 was marked following the deposition.)

Claimant's Exhibit Number 1	18
(Workplace Injury Triage & Reporting)	



STIPULATIONS

It is stipulated and agreed that this deposition is being taken pursuant to the Administrative Procedures Act and the South Carolina Rules of Civil Procedure.

It is stipulated by and between counsel and the witness that the deposition is being conducted by remote means and the court reporter/Notary is not present with the witness, however the oath administered is valid.

It is stipulated by and between counsel and the witness that the reading and signing of the following deposition be, and the same are, hereby not waived. Signature sheet is attached to the deposition at page 21.



1 **CAROLYN COMER**, having been duly sworn, deposes and
2 testifies as follows:

3 **MS. COMER - EXAMINATION BY MR. PATTERSON:**

4 Q: Ms. Comer, my name's Michael Patterson. I
5 introduced myself earlier off the record. I'm
6 an attorney in Charleston, South Carolina for
7 a firm called Mingledorff & Patterson. We
8 represent the Employer and Insurance Carrier in
9 this workers' compensation case. Have you ever
10 had your deposition taken before?

11 A: No.

12 Q: Okay. There's just a few ground rules, and
13 mostly it's for the benefit of the court
14 reporter. You just have to give clear yes or
15 no answers or some other verbal answer. The
16 court reporter's gotta type down everything
17 we're saying. So in a normal conversation if
18 you nod or shake your head or say uh-huh or
19 huh-uh I know what you mean, everybody knows
20 what you mean. But the court reporter can't
21 type that down. So just make sure to give a
22 verbal response, okay?

23 A: Yes.

24 Q: Also if I ask a question and it doesn't make
25 any sense, just stop me, tell me my question



1 didn't make sense. I'll rephrase it or ask it
2 in such a way that you understand and we're all
3 on the same page, okay?

4 A: Okay.

5 Q: On the flip side, if you don't stop me I'm
6 gonna press forward and just assume you
7 understood my question, fair enough?

8 A: Fair.

9 Q: Also I don't think this is going to take very
10 long at all. I think we're gonna -- we are
11 gonna finish up very quickly. However if you
12 need to take a break for some reason, please
13 stop me and you can take as many breaks as you
14 need, all right?

15 A: Okay.

16 Q: Also I've got some notes here. And so normally
17 when I talk with somebody I like to look at
18 them when I'm talking to them. However if I'm
19 looking down whenever we're speaking, I'm just
20 going to apologize in advance, okay?

21 A: Okay.

22 Q: And while I assume I know the answer to this
23 question, have you taken any medication today
24 that would affect your ability to testify in
25 any way?



1 A: No, I have not.

2 Q: All right. If I could just ask you very
3 briefly, where did you get your degree or
4 degrees?

5 A: I got my bachelors of nursing from University
6 of Toledo in 1987. And I got my master of
7 nursing from University of South Carolina in
8 1993.

9 Q: Okay. And do you hold any licenses?

10 A: My RN license, my advanced practice nurse
11 license in South Carolina.

12 Q: What's the difference in an RN and advanced
13 practice?

14 A: An advanced practice nurse is -- we have
15 masters degrees or doctorates. I have the
16 masters degree. And we practice at a higher
17 level of care. We work as providers, we see
18 patients, we diagnose, we order labs, interpret
19 labs, we assess patients, prescribe
20 medications. Mostly like what a family
21 physician would do.

22 Q: I gotcha. Is it in any way similar to what a
23 physician assistant does or are you actually
24 more advanced?

25 A: No. Similar. We kind of get there differently



1 but we function in the same role.

2 Q: Gotcha, okay. And so have you been practicing
3 continuously since roughly 1987?

4 A: Yes. I was in the Army Nurse Corps from --
5 well '87 I was in the Army, I was in the Army
6 Nurse Corps till '98. I went to school when I
7 was active duty. And then I practiced for four
8 years before I left the military. And I've
9 been here practicing since '98.

10 Q: Gotcha, okay. And when you say 'here' you mean
11 South Carolina?

12 A: Yes, yes.

13 Q: Okay. Well then what I'm going to do is ask
14 you some questions about Christina Walthour who
15 I believe you only saw once. Is that correct?

16 A: Yes. I saw her one time.

17 Q: Okay. And my understanding is that you saw her
18 on July 14th of 2019. Is that accurate?

19 A: Yes, that's correct.

20 Q: Okay. Just tell me a little bit, and -- well
21 let me ask you this. Do you have your medical
22 record from that day available to you?

23 A: I do.

24 Q: Okay. And it's totally okay if you use your
25 medical record. Do you recall why Ms. Walthour



1 came in to Doctor's Care that day?

2 A: She had back pain after throwing 150 pound
3 pallet.

4 Q: Okay. And can you -- did Ms. Walthour explain
5 to you how she was injured?

6 A: I understood from throwing 150 pound pallet.

7 Q: Do you know where she was working?

8 A: Husqvarna.

9 Q: Okay. And did this happen while she was at
10 work?

11 A: Yes. It happened on July 11th.

12 Q: I gotcha. And tell me a little bit about what
13 her subjective complaints were.

14 A: She said she injured her lower back, pain is
15 worse with bending and with moving. She had no
16 red flags, she had no radiation of pain, no
17 numbness or tingling.

18 Q: And what you say red flags what does that mean?

19 A: Like she had no loss of bowel or bladder
20 function. She had no saddle anesthesia,
21 nothing that would indicate, you know, an
22 emergency.

23 Q: I gotcha. So radiation of pain indicates -- or
24 I guess when you say no radiation of pain or
25 paresthesia or saddle anesthesia or, I think



1 I'm saying that right, what do those things
2 indicate?

3 A: If you have loss of bowel or bladder or saddle
4 anesthesia that could be an emergency, what do
5 you call it, cauda equina. I mean that would
6 be an emergency. But she did not have those.

7 Q: Okay. And when you're looking for radiation of
8 pain, what does that indicate?

9 A: It could be -- it could indicate possibly a
10 pinched nerve or herniated disc or something
11 like that.

12 Q: I gotcha. So at the time you saw her, she
13 wasn't subjectively having any radiating pain?

14 A: No.

15 Q: Okay. And what is paresthesia?

16 A: Like numbness, numbness or tingling.

17 Q: I gotcha. And where would the numbness and
18 tingling usually be? Or where would people
19 normally feel that?

20 A: If it was a back injury, if it was a lower back
21 injury you would feel it in your legs. If it
22 was a neck or upper back you would feel it in
23 your arms.

24 Q: Gotcha. And Ms. Walthour wasn't describing any
25 kind of radiating pain or paresthesia?



1 A: No.

2 Q: Okay. And so after you spoke with Ms. Walthour
3 about how she hurt herself and her subjective
4 complaints, did you conduct a physical exam?

5 A: Yes.

6 Q: And what did your physical exam consist of?

7 A: I listened to her heart and lungs. I observed
8 her. I watched how she walked. I touched her
9 lower spine. I touched her paraspinals, the
10 muscles in her lower back. I had her bend
11 forward. I checked her lower extremity
12 strength, her reflexes. And I did a straight
13 leg raise.

14 Q: Okay. And when you say a straight leg raise,
15 tell me what that is.

16 A: You lay -- the patient lays down and you
17 passively you raise their leg up. A positive
18 straight leg raise would be like pain radiating
19 down the leg. And her's was negative.

20 Q: Gotcha, okay. And what -- in addition to your
21 physical examination, was there anything aside
22 from her work injury in her medical history
23 that stood out?

24 A: Not that I was aware of.

25 Q: Okay. And there is mention of pain in her left



1 shoulder. Was there any indication from Ms.
2 Walthour where she was having the most pain?
3 Was it pain in the left shoulder or pain in the
4 low back?

5 A: I understood it to be the lower back pain. I
6 really -- I think we concentrated mostly on the
7 lower back pain that day.

8 Q: And would that just be because that is where
9 Ms. Walthour endorsed having the most pain?

10 A: Yes.

11 **MR. CHRISTMAS:** I'm gonna -- before you answer,
12 ma'am, I'm gonna object in that first of all
13 there's no foundation that's been laid to this
14 witness's recollection of Ms. Walthour from
15 seeing her over four years ago. And so with
16 that objection in mind you may answer.

17 A: I'm answering based on what I'm reading from
18 the note 'cause I don't remember.

19 Q: Yeah, that's fine. You can go ahead.

20 A: Really I mostly concentrated just on her back
21 that day.

22 Q: And if you were mostly concentrating on her
23 back, would that be because that's where Ms.
24 Walthour would have indicated she was having
25 the most pain?



1 **MR. CHRISTMAS:** Same objection but you can answer.

2 A: That's what I understood.

3 Q: For example if Ms. Pain -- excuse me, if Ms.
4 Walthour was having a ton of pain in her left
5 shoulder, would you have spent more time
6 examining her left shoulder?

7 A: Yes.

8 Q: Is there anything in your medical record that
9 would indicate you spent much time if any on
10 her left shoulder?

11 A: No. I just -- it was just mentioned in the
12 reason that she came.

13 Q: Gotcha, okay. So after talking with Ms.
14 Walthour, conducting a physical examination,
15 what did you do then?

16 A: I prescribed meloxicam, which is an NSAID, for
17 pain. And I prescribed a muscle relaxant and
18 gave her some work restrictions and told her
19 when to come back. I wanted her to follow up
20 in five days.

21 Q: Gotcha. And NSAID, so meloxicam, is that
22 something similar to like Ibuprofen?

23 A: Uh-huh. It's just one time a day, but yes.

24 Q: Gotcha, okay. And then you said a muscle
25 relaxer. Is that just to calm down the -- or



1 I guess tell me what that is.

2 A: It's a muscle relaxer. She's having a lot of
3 tightness in her lower back. And so sometimes
4 that can help.

5 Q: Gotcha. So based on your exam, physical
6 examination and the patient's subjective
7 complaints, what was your diagnosis at least at
8 that present time?

9 A: I call it low back pain.

10 Q: Okay. And you said you recommended that she
11 follow up in five days?

12 A: Yes.

13 Q: Okay. And you put her out of work ---

14 A: No, we don't put patients out of work. We fill
15 out a return-to-work form and we say what their
16 restrictions are and when they should follow up
17 and what the plan is.

18 Q: I gotcha. So you gave her specific work
19 restrictions that she shouldn't be doing at
20 least until she returned in five days?

21 A: Uh-huh. And if she can't do her job because of
22 that, the work is supposed to put them out of
23 work. I don't think I have a copy of her
24 return to work.

25 Q: Okay.



1 A: That's why I can't tell you what you put on it.
2 I just know what I usually put on it.

3 Q: Gotcha, okay. And aside from this visit on
4 July 14th of 2019 -- or, yeah, July 14th, 2019,
5 do you have any other information for
6 recollection of anything you remember about Ms.
7 Walthour's treatment?

8 A: Just what I read in the report.

9 Q: Okay. And it looks like in late October,
10 October 26th of 2021 either Mr. Christmas or
11 his firm sent you a questionnaire which
12 consisted of two questions. Do you recall
13 receiving that questionnaire?

14 A: Yes. I have a copy of it.

15 Q: Okay. And it looks like the first question
16 asks ---

17 **MR. CHRISTMAS:** Real quick, for identification
18 purposes. I'm looking at something signed by
19 Dr. Kim. Is there something different you're
20 referring to?

21 **MR. PATTERSON:** Yeah, sure. I don't know if I have
22 an electronic copy right in front of me. But
23 this is October 26th, 2021. I think it had
24 Reese's name on it.

25 **MR. CHRISTMAS:** And *** signed it, not Dr. Kim?



1 **MR. PATTERSON:** No, no, no. This is Ms. Comer.

2 **MR. CHRISTMAS:** Yeah, it's probably just the same
3 questionnaire Kim did. Is it just two
4 questions?

5 **MR. PATTERSON:** Yeah, it's only two questions.

6 **MR. CHRISTMAS:** Okay, go head. That's fine.

7 **MR. PATTERSON:** Yeah, no worries.

8 Q: The first question asked, most probably and to
9 a reasonable degree of medical certainty it is
10 my opinion that Ms. Walthour's pain and
11 symptoms to her lumber spine and left shoulder
12 were caused by and/or were aggravated by her
13 accident at work on or about July 11th, 2019.
14 And, Ms. Comer, you checked the box, yes. Is
15 that correct?

16 A: Yes.

17 Q: And so there was no reason to believe that Ms.
18 Walthour's pain or symptoms were from something
19 other than her described work injury?

20 **MR. CHRISTMAS:** Objection to the leading. But you
21 can answer.

22 A: No.

23 Q: Okay. So you believe that her injury did -- or
24 her symptoms were related to her work injury?

25 A: That's what I believe.



1 **MR. CHRISTMAS:** Objection to the leading. Ma'am,
2 not to be rude in any way, shape or form, but
3 because I do have to create a record, you will
4 be able to answer, but I just need to get my
5 objection in so it's a clean record with the
6 court reporter. And I'm going to politely be
7 objecting. So maybe just pause a second before
8 you answer if you don't mind.

9 Q: You can still answer.

10 A: Yes. I believe that her injuries were caused
11 by her work related accident or injury.

12 Q: Okay. And then the second question is, most
13 probably and to a reasonable degree of medical
14 certainty, it's my opinion that I defer to Ms.
15 Walthour's current treating physicians with
16 regards to opinions regarding causation,
17 continued treatment needs and work restrictions
18 for any and all other injured body parts she
19 sustained as a result of her accident at work
20 on or about July 11th, 2019. And you checked
21 the box, yes. Is that correct?

22 A: Yes.

23 Q: Okay. And just to be clear, aside from her one
24 visit with you, you never saw or treated Ms.
25 Walthour again?



1 **MR. CHRISTMAS:** Same objection to the leading, but
2 you can answer, ma'am.

3 A: The only time I saw her was that encounter. I
4 never saw ---

5 Q: And -- I'm sorry. I didn't mean to interrupt
6 you.

7 A: Yes, I only saw her on July 14th. That's the
8 only ...

9 Q: Okay. Are you familiar with any of Ms.
10 Walthour's treatment after July 14th, 2019?

11 A: I read a note, and I don't have it in front of
12 me. But I read a note where she followed up
13 with Dr. Kim and she said she had seen her
14 doctor about a steroid shot. She was feeling
15 better.

16 Q: Okay. But aside from that one visit with Dr.
17 Kim, are you familiar with any other treatment
18 past that date?

19 A: No.

20 Q: Okay. I don't have any additional questions
21 for you. Gary probably has some questions, and
22 that's it. Thank you.

23 A: Thank you.

24 **MS. COMER - EXAMINATION BY MR. CHRISTMAS:**

25 Q: Yeah, I'll be very brief with you. So I'm Gary



1 Christmas. I represent the injured worker in
2 this action. I just want to, kinda, bullet
3 point a couple things. So just so the
4 Commissioner is clear, you're not a medical
5 doctor?

6 A: Correct.

7 Q: You saw the Claimant one time?

8 A: Pardon me?

9 Q: You saw the injured worker one time only?

10 A: Oh, yes. Just once.

11 Q: Okay. I think there was some materials
12 provided to you in anticipation of the
13 deposition. Did you receive the first reported
14 injury that was filled out by the injured
15 worker in this case? It looks kind of like
16 this. It's a medcore statement.

17 A: I don't think I saw that.

18 Q: Okay. I'm just going to mark this as
19 Claimant's 1, and I'll send it to the court
20 reporter after the deposition.

21 **(Claimant's Exhibit Number 1 was referenced at this**
22 **time.)**

23 Q: I'm going to read to you -- this is the, I'll
24 submit to you, the work injury report that was
25 filled out by the Employer on the date of the



1 accident. And it reads in part, describes the
2 constant pain in her low back as located below
3 the rib cage above her buttocks, describes
4 constant sharp pain in the back of her shoulder
5 on the shoulder blade. The first report of
6 injury talking about her back and her shoulder
7 blade, is that consistent with what you see in
8 your records of what she treated for with you
9 on the one visit?

10 A: That was her complaint, yes.

11 Q: Okay. And so in terms of deferring to -- first
12 of all if the opinions you're giving in this
13 case are based upon what you're reading in your
14 one-time medical note only, correct?

15 A: Correct.

16 Q: Right, and you don't have any independent
17 recollection of this particular injured worker
18 or what she said to you that day or anything
19 like that?

20 A: No, I don't even remember the visit.

21 Q: Fair enough. And then with regard to, you
22 know, she went on to see a neurosurgeon, Dr.
23 Douglas DeHoll, to have fusion surgery. The
24 doctors that have seen her and treated her
25 after you saw her in this case, I take it you



1 would defer to their opinions on what they did
2 or did not do for her in relation to this work
3 accident, correct?

4 A: Absolutely.

5 Q: Okay, that's all I have. Thank you.

6 **(There being no further questions, the deposition**
7 **concluded at 11:52 a.m.)**

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CERTIFICATE

This is to certify that the deposition of **CAROLYN COMER**, consisting of twenty (20) pages, is a true and correct transcript of the testimony given by said deponent after being duly sworn; said deposition was reported by the method of Stenomask 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 February 17, 2024.



Travis McLeod
Court Reporter

Notary Public for South Carolina
My Commission Expires: January 3, 2027



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / contact@creelreporting.com

0433



Workplace Injury Triage & Reporting

Confidential: Incident Report

Broadspire
A CRAWFORD COMPANY

Call Reference Nbr 25155361

Initial Call Reference Nbr

Company Location

Company Name & Address

EmployBridge Holding Company
1040 Crown Pointe Pkwy Ste 1040
Atlanta, GA 30338

Location Name & Address / Off-Premises Address

EmployBridge - UNKNOWN - LOCATION CODE INV.

Special Client Information

Location Phone

Location Fax

Client Incident Nbr

Caller

Name **Christina Walthour**

Title **Employee**

Callback Phone **919-353-6026**

Additional Caller Info

Was employee present during call? **Yes**

Employee Demographics

Last Name **Walthour**

First Name **Christina**

Middle Initial **T**

Date of Birth

9/21/1976

SSN

xxx-xx-1388

Home Address

116 Rosecliff Cir
Hopkins, SC 29061

Marital Status

Single

Home Phone

Mobile Phone **919-353-6026**

Email

Dependents

Sex

F

Employment

Employee ID **11035613**

Occupation

Division

Base Location

Department

Supervisor **JT Thompson**

Date of Hire

5/20/2019

Status

Full Time

Shift

Incident Report

Triage Agent **01021589**

Incident Date **7/11/2019**

Call Date **7/12/2019**

Date Rpt'd to Mgmt

7/12/2019

Shift Start Time

07:00

Incident Location

Incident Time **12:00 ET**

Call Time **10:41 CST**

Injury & Recommended Action

Nature of Injury - Body Part

Back - Lower

Shoulder - Left

Impression(s) **Sprain / Strain**

Mechanism of Injury

Bending/Stooping

RN Recommendation

Referred Emergent

Employee Decision

Referred Emergent

Employee Decision Definition

Referral within 2 hours to medical provider

Recommended Action

No Additional Action Required

Referral

Referred **YES**

If referred, was the provider in client's designated network? **YES**

If no, why?

Primary Provider Name & Address

Doctors Care
7653 Garners Ferry Rd
Columbia, SC 29209

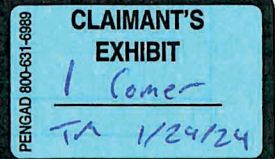
Provider Phone **803-783-2661**

Provider Fax **803-776-8882**

Secondary Provider Name & Address

Provider Phone

Provider Fax





Workplace Injury Triage & Reporting

Confidential: Incident Report

Broadspire
A CRAWFORD COMPANY

Call Reference Nbr 25155361

Initial Call Reference Nbr

Witness to Incident

Witness 1 Name

Phone

Witness 2 Name

Phone

Other Incident-Related Questions

Additional Information (If Applicable)

1. Was the Employee Treated in an Emergency Room? NO
2. What time did the Employee began work? 0700
3. What was employee doing when the incident occurred? (be specific) lifting a pallet
4. Was a Forklift/Power Industrial Truck involved at the time of the injury? NO
5. If yes, what type (pick from the list):
6. What location did the incident take place?(Please be specific i.e., Warehouse, Dock, Hallway, etc.) unknown
7. What is the best phone number to reach you during the day?
8. What is the supervisor's E-mail? sup not available



Workplace Injury Triage & Reporting

Confidential: Incident Report

Broadspire
A CRAWFORD COMPANY

Call Reference Nbr

25155361

Initial Call Reference Nbr

Call Notes

[Note Entered: 7/12/2019; Ref Nbr: 25155361]

Initial Scenario. EE alleges yesterday she was trying to lift a pallet (100-150lbs) and as she bent down and lifted the pallet she felt pain on her L shoulder and lower back. No self care measures done. Describes a constant pain on her lower back that is located below the rib cage above her buttocks. Describes a constant sharp pain on the back of her shoulder on the shoulder blade. EE verbalizes not wanting to try lifting a cup or glass from table to mouth with L wrist noting its too painful for her to try(functional limitation). EE referred to provider d/t functional limitation. No manager available to close call with. EE agrees to inform supervisor of recommendation & Medcor Reference number.

[Note Entered: 7/12/2019; Ref Nbr: 25155361]

Initial Assessment: Low Back Injury(Location: Lower)(Body Part: Back). No Loss of bowel/bladder control. No inability to walk or stand. No Decr strength both legs. No Numbness both legs. No Decr strength either leg. No Numbness either leg. No Severe pain. No Bloody urine.

[Note Entered: 7/12/2019; Ref Nbr: 25155361]

Initial Assessment: Upper Extremity Injury Within 24 Hours(Location: Left)(Body Part: Shoulder). No amputation. No Protruding bone. No Gross deformity (not wrist/hand/digit). No Gross deformity wrist/hand/digit. No Deformity/swelling around collarbone. No Decr hand/arm strength. Person has Limited function, Person Referred.

[Unknown Location Data Entered: 7/12/2019]

Company: Employbridge

Location Nbr: unknown

Location Address:

City: Blythewood State, Zip: SC, 29016

Contact: unknown

Location Phone Nbr: unknown Location Fax Nbr: unknown

Policy Nbr: unknown Acct/Policy #: unknown

WORKERS' COMPENSATION - FIRST REPORT OF INJURY OR ILLNESS

EMPLOYER (NAME & ADDRESS INCL ZIP) EmployBridge Holding Company 1040 Crown Pointe Pkwy Ste 1040 Atlanta GA 30338		CARRIER/ADMINISTRATOR CLAIM NUMBER	OSHA LOG NUMBER	REPORT PURPOSE CODE
INDUSTRY CODE		EMPLOYER FEIN	JURISDICTION CLAIM NUMBER	
INSURED REPORT NUMBER		EMPLOYER'S LOCATION ADDRESS (IF DIFFERENT)		
LOCATION #		PHONE #		
CARRIER/CLAIMS ADMINISTRATOR				
CARRIER (NAME, ADDRESS, & PHONE #)	POLICY PERIOD TO CHECK IF APPROPRIATE ☐ SELF INSURANCE	CLAIMS ADMINISTRATOR (NAME, ADDRESS & PHONE NO) Broadspire PO Box 14645 Lexington KY 40512		
CARRIER FEIN	POLICY/SELF-INSURED NUMBER	ADMINISTRATOR FEIN		
AGENT NAME & CODE NUMBER				
EMPLOYEE/WAGE				
NAME (LAST, FIRST, MIDDLE) Christina Walthour	DATE OF BIRTH 9/21/1976	SOCIAL SECURITY NUMBER xxx-xx-1388	DATE HIRED 5/20/2019	STATE OF HIRE
ADDRESS (INCL ZIP) 116 Rosecliff Cir Hopkins SC 29061	SEX ☐ Male ☒ Female ☐ Unknown	MARITAL STATUS ☒ Unmarried/Single/Divorced ☐ Married ☐ Separated ☐ Unknown	OCCUPATION/JOB TITLE EMPLOYMENT STATUS Full Time NCCI CLASS CODE	
PHONE 919-353-6026	# OF DEPENDENTS			
RATE PER: ☐ DAY ☐ WEEK	☐ MONTH ☐ OTHER:	DAYS WORKED/WEEK	FULL PAY FOR DAY OF INJURY? ☐ YES ☐ NO	DID SALARY CONTINUE? ☐ YES ☐ NO
OCCURRENCE/TREATMENT				
TIME EMPLOYEE BEGAN WORK ☐ AM ☐ PM	DATE OF INJURY/ILLNESS 7/11/2019	TIME OF OCCURRENCE 12:00 (☐) CANNOT BE DETERMINED ☐ AM ☒ PM	LAST WORK DATE	DATE EMPLOYER NOTIFIED DATE DISABILITY BEGAN
CONTACT NAME/PHONE NUMBER	TYPE OF INJURY/ILLNESS Sprain / Strain		PART OF BODY AFFECTED Back - Lower	
DID INJURY/ILLNESS/EXPOSURE OCCUR ON EMPLOYER'S PREMISES? ☒ YES ☐ NO	TYPE OF INJURY/ILLNESS CODE		PART OF BODY AFFECTED CODE	
DEPARTMENT OR LOCATION WHERE ACCIDENT OR ILLNESS EXPOSURE OCCURRED		ALL EQUIPMENT, MATERIALS, OR CHEMICALS EMPLOYEE WAS USING WHEN ACCIDENT OR ILLNESS EXPOSURE OCCURRED Pallet		
SPECIFIC ACTIVITY THE EMPLOYEE WAS ENGAGED IN WHEN THE ACCIDENT OR ILLNESS EXPOSURE OCCURRED Lifting a pallet		WORK PROCESS THE EMPLOYEE WAS ENGAGED IN WHEN ACCIDENT OR ILLNESS EXPOSURE OCCURRED		
HOW INJURY OR ILLNESS/ABNORMAL HEALTH CONDITION OCCURRED. DESCRIBE THE SEQUENCE OF EVENTS AND INCLUDE ANY OBJECTS OR SUBSTANCES THAT DIRECTLY INJURED THE EMPLOYEE OR MADE THE EMPLOYEE ILL EE alleges yesterday she was trying to lift a pallet (100-150lbs) and as she bent down and lifted the pallete			CAUSE OF INJURY CODE	
DATE RETURN(ED) TO WORK	IF FATAL, GIVE DATE OF DEATH	WERE SAFEGUARDS OR SAFETY EQUIPMENT PROVIDED? ☐ YES ☐ NO		
PHYSICIAN/HEALTH CARE PROVIDER (NAME & ADDRESS) Doctors Care 7653 Garners Ferry Rd Columbia, SC 29209		WERE THEY USED? ☐ YES ☐ NO HOSPITAL OR OFF SITE TREATMENT (NAME & ADDRESS) INITIAL TREATMENT 0 ☐ NO MEDICAL TREATMENT 1 ☐ MINOR: BY EMPLOYER 2 ☐ MINOR CLINIC/HOSP 3 ☐ EMERGENCY CARE 4 ☐ HOSPITALIZED > 24 HOURS 5 ☐ FUTURE MAJOR MEDICAL LOST TIME ANTICIPATED		
OTHER				
WITNESSES (NAME & PHONE #)				
DATE ADMINISTRATOR NOTIFIED	DATE PREPARED	PREPARER'S NAME & TITLE	PHONE NUMBER	

EMPLOYER'S INSTRUCTIONS

DO NOT ENTER DATA IN SHADED FIELDS

DATES:

Enter all dates in MM/DD/YY format.

INDUSTRY CODE:

This is the code which represents the nature of the employer's business, which is contained in the Standard Industrial Classification Manual or the North American Industry Classification System, published by the Federal Office of Management and Budget.

CARRIER:

The licensed business entity issuing a contract of insurance and assuming financial responsibility on behalf of the employer of the claimant.

CLAIMS ADMINISTRATOR:

Enter the name of the carrier, third party administrator, state fund, or self-insured responsible for administering the claim.

AGENT NAME & CODE NUMBER:

Enter the name of your insurance agent and his/her code number if known. This information can be found on your insurance policy.

OCCUPATION/JOB TITLE:

This is the primary occupation of the claimant at the time of the accident or exposure.

EMPLOYMENT STATUS:

Indicate the employee's work status. The valid choices are:

Full-Time On Strike Unknown Volunteer

Part-Time Disabled Apprenticeship Full-Time Seasonal

Not Employed Retired Apprenticeship Part-Time Piece Worker

DATE DISABILITY BEGAN:

The first day on which the claimant originally lost time from work due to the occupation injury or disease or as otherwise designated by statute.

CONTACT NAME/PHONE NUMBER:

Enter the name of the individual at the employer's premises to be contacted for additional information.

TYPE OF INJURY/ILLNESS:

Briefly describe the nature of the injury or illness, (eg. Lacerations to the forearm).

PART OF BODY AFFECTED:

Indicate the part of body affected by the injury/illness, (eg. Right forearm, lower back).

DEPARTMENT OR LOCATION WHERE ACCIDENT OR ILLNESS EXPOSURE OCCURRED:

(eg. Maintenance Department or Client's office at 452 Monroe St., Washington, DC 26210)

If the accident or illness exposure did not occur on the employer's premises, enter address or location. Be specific.

WCC FORM 12-A REV. DATE 04/06

0438
Claimant's APA 11

EMPLOYER'S INSTRUCTIONS – cont'd

ALL EQUIPMENT, MATERIAL OR CHEMICALS EMPLOYEE WAS USING WHEN ACCIDENT OR ILLNESS EXPOSURE OCCURRED:

(eg. Acetylene cutting torch, metal plate)

List all of the equipment, materials, and/or chemicals the employee was using, applying, handling or operating when the injury or illness occurred. Be specific, for example: decorator's scaffolding, electric sander, paintbrush, and paint.

Enter "NA" for not applicable if no equipment, materials, or chemicals were being used. NOTE: The items listed do not have to be directly involved in the employee's injury or illness.

SPECIFIC ACTIVITY THE EMPLOYEE WAS ENGAGED IN WHEN THE ACCIDENT OR ILLNESS EXPOSURE OCCURRED:

(eg. Cutting metal plate for flooring)

Describe the specific activity the employee was engaged in when the accident or illness exposure occurred, such as sanding ceiling woodwork in preparation for painting.

WORK PROCESS THE EMPLOYEE WAS ENGAGED IN WHEN ACCIDENT OR ILLNESS EXPOSURE OCCURRED:

Describe the work process the employee was engaged in when the accident or illness exposure occurred, such as building maintenance. Enter "NA" for not applicable if employee was not engaged in a work process (eg. walking along a hallway).

HOW INJURY OR ILLNESS/ABNORMAL HEALTH CONDITION OCCURRED. DESCRIBE THE SEQUENCE OF EVENTS AND INCLUDE ANY OBJECTS OR SUBSTANCES THAT DIRECTLY INJURED THE EMPLOYEE OR MADE THE EMPLOYEE ILL:

(Worker stepped back to inspect work and slipped on some scrap metal. As worker fell, worker brushed against the hot metal.)

Describe how the injury or illness/abnormal health condition occurred. Include the sequence of events and name any objects or substance that directly injured the employee or made the employee ill. For example: Worker stepped to the edge of the scaffolding to inspect work, lost balance and fell six feet to the floor. The worker's right wrist was broken in the fall.

DATE RETURN(ED) TO WORK:

Enter the date following to most recent disability period on which the employee returned to work.

STATE OF SOUTH CAROLINA
BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC No. 1925084

Christina Walthour,)
)
Employee,)
)
v.)
)
Remedy Intelligent Staffing, Inc.,)
)
Employer,)
)
and)
)
XL Ins. America, Inc.,)
)
Carrier/Defendants.)
-----)

FULL COMMISSION HEARING

Monday, July 15, 2024
3:36 p.m. - 3:57 p.m.

The Full Commission Hearing was heard via CourtCall before Commissioners Melody James, Cynthia Dooley and Aisha Taylor, at the Workers' Compensation Commission, 1333 Main Street, Suite 500, Columbia, South Carolina, on the 15th day of July, 2024, before Amber Scarborough, Court Reporter and Notary Public in and for the State of South Carolina.



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0440

APPEARANCES

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EXHIBITS

(There were no exhibits marked during this
hearing.)

STIPULATIONS

It is stipulated and agreed that this hearing is being taken pursuant to the Administrative Procedures Act and the South Carolina Rules of Civil Procedure.



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CALL TO ORDER:

COURT REPORTER: Today is July 15th, 2024. This is South Carolina Workers' Compensation Case Number 1925084. This is the case of Christina Walthour versus Remedy Intelligent Staffing, Incorporated and XL Insurance America, Incorporated. The Appellant is the Defendant, represented by Michael Patterson. The Respondent is represented by James G. Christmas.

Each side is allowed ten minutes for oral argument and the Appellant three minutes in reply. You are requested to argue the grounds of exception and stay within the record.

COMMISSIONER JAMES: Okay. Mr. Mingledorff, when you're ready.

COMMISSIONER TAYLOR: No, Mr. Patterson.

COMMISSIONER JAMES: I'm sorry. Mr. Patterson.

MR. PATTERSON: Uh-huh.

COMMISSIONER JAMES: I was looking down at my docket. I'm sorry.

APPELLANT'S/DEFENDANT'S POSITION:

MR. PATTERSON: Thank you, Commissioner. May it please the Court. Right out of the gate, the most important to note is what we're talking



1 about here is two separate dates of injury.
2 Claimant reported a injury that occurred on
3 July 11th of 2019 where she injured her left
4 shoulder and low back on -- while lifting a
5 pallet while she was staffed at Husqvarna.

6 She was seen at Doctors Care twice between
7 July 12th and July 16th. On July 16th, she was
8 released full-duty and returned to work. This
9 was effectively a compensable medical claim.
10 She didn't even -- I mean, five days and
11 returned to full-duty. It didn't even get to
12 the point where she was at the waiting period.

13 And then it should be noted that the
14 Doctors Care visits noted essentially that she
15 had a lumbar strain, there were no red flags,
16 no radiating pain, no numbness or tingling.
17 She returns to work and then gets terminated by
18 the Employer.

19 Following her termination, we have our
20 second date of injury, which is August 11th,
21 2019. August 11th of 2019, after she's no
22 longer working for the employer, she goes to
23 treat at Palmetto Health Richland Emergency
24 Room. There's no mention anywhere in this
25 medical record of a work injury and there is



1 also no mention of her left shoulder or her
2 lower back. There is noted an injury to her
3 right arm and right shoulder. And she is, for
4 the first time, experiencing radiating pain in
5 her right arm and tingling in her right arm and
6 right shoulder. The medical record from this
7 Emergency Room visit notes that her pain began
8 approximately two days previously, which is
9 again, after she is no longer working for the
10 Employer. And she denied recent trauma to her
11 neck, back and shoulder, but did endorse a
12 recent fall.

13 Shortly thereafter, on August 22nd, 2019,
14 she underwent evaluation with South Carolina
15 Disability Services. She was seen and
16 evaluated on August 22nd, 2019 by a licensed
17 clinical psychologist, Dr. DePace, as part of
18 -- and she was evaluated as part of her social
19 security disability application. In this
20 application there is no mention of work injury.
21 And, in fact, she doesn't even mention that she
22 was ever working for Husqvarna and states that
23 her last job was working for a poultry
24 processing plant, which ended in December 2018.

25 In this examination, the Claimant notes



1 that she has previously had three different
2 left wrist surgeries in 2006, 2008 and 2009 and
3 is in constant pain as a result of those three
4 left wrist surgeries. Now, at no point has it
5 ever been alleged that this -- these pre-
6 existing left wrist problems are somehow a part
7 of this claim.

8 In this evaluation, the Claimant stated
9 that she has been overcompensating with her
10 right arm due to pain in her left wrist. So,
11 we have a logical reasonable basis as to why
12 her left arm has been hurting her, which is not
13 related to her July 11th, 2019 work injury.

14 On September 12th, 2019, Claimant went to
15 Hopkins Family Practice, which is her primary
16 care physician. She was treated by Dr. Ash-
17 Malachi. In this visit, Dr. Ash-Malachi notes
18 in the medical record that she pulled a muscle
19 about a month ago. Again, this visit was
20 September 12th, 2019. Pulled a muscle about a
21 month ago is right -- puts you right in that
22 timeline of her trip to the Emergency Room of
23 August 11th, 2019, when this new injury
24 happened to her right shoulder.

25 So, then she endorses numbness and



1 tingling in her right fingers and thumb. And
2 she -- and Dr. Ash-Malachi notes that she's
3 been using her right side and notes since she
4 had surgery for her left wrist, which is the
5 broken scaphoid issues, that are not a part of
6 this claim.

7 So, you have two records from very close
8 to the July 11th compensable injury that are
9 noting no -- there's no mention of work injury,
10 there's no mention of left shoulder or low
11 back. There's a mention of right shoulder
12 problems and radiating right shoulder pain as
13 a result of overuse from an unrelated previous
14 left wrist injury. And I think it's -- it's a
15 well known fact that your memory is better the
16 closer in time you are to any related event.
17 And these are essentially a month and two
18 months after what is a separate July 11th, 2019
19 work injury. So, her memory's gonna be the
20 best at this point in time.

21 She then gets referred to Prisma Health to
22 evaluate her right shoulder. Again, there --
23 there's no medical record that exists to this
24 point that discusses a work injury and we're
25 now talking about a new body part.



1 She is then referred to Dr. DeHoll and is
2 -- at Prisma Health Orthopedics. Because of
3 her right shoulder pain they're now suspecting
4 cervical problems because of her right shoulder
5 radiating pain. Dr. DeHoll then sees her and,
6 again, there's no mention of a work injury and
7 we're talking about her right shoulder and
8 cervical spine, not her left shoulder and low
9 back.

10 He recommends a three-level cervical
11 fusion. She then undergoes cervical fusion on
12 November 12th, 2019. She follows up with him
13 a few times and her last visit with Dr. DeHoll
14 is January 16th of 2020. At no point in any of
15 Dr. DeHoll's medical record is there any
16 mention of a work injury. And typically, if
17 there's a work injury, it's noted in the
18 medical record. And, again, we're dealing with
19 body parts that were not injured or even
20 discussed on July 11th, 2019.

21 So, she gets -- her last visit with Dr.
22 DeHoll is January 16th, 2020. And then,
23 effectively, nothing happens for another eight
24 months until she files a Notice of Claim with
25 the Commission on August 18th of 2020. So, 13



1 months after July 11th, 2019 is the first time
2 the Employer is made aware that somehow this --
3 these new body parts, the right shoulder and
4 cervical spine, that somehow Claimant is -- is
5 alleging that these new body parts are now
6 related to the July 11th, 2019 injury.

7 And before I go further, I just want to
8 address specific causation statement by Dr.
9 DeHoll. Dr. DeHoll did provide a causation
10 statement. However, what you don't see is that
11 before he got the me- -- the medical
12 questionnaire regarding the causation
13 statement, there's no evidence that he had any
14 idea of what Claimant's injury was or that this
15 was a work injury. The only evidence we have
16 is that if Dr. DeHoll was to assume that these
17 facts are true. However, if he's just making
18 assumptions, he -- and -- and the reason we
19 know this is in his deposition when I asked if
20 outside of this questionnaire if he had any
21 idea or recollection of how Miss -- how the
22 Claimant was injured, he said no, he didn't
23 have a recollection. And so, Dr. DeHoll's
24 causation statement isn't based on any inf- --
25 well, he is -- his causation statement is



1 essentially, I don't know how she was injured.
2 Independently, aside from this questionnaire, I
3 don't know how she was injured and there's no
4 information in -- in the medical records to
5 suggest that he had any clue how she was
6 injured.

7 We then have a causation statement from
8 Dr. Patel. Claimant obtained an IME through
9 her attorney from Dr. Patel on October 21st,
10 2021, which is more than two years from the
11 date of injury. And, again, I would state that
12 any causation ---

13 **COMMISSIONER JAMES:** You can finish your thought,
14 please.

15 **MR. PATTERSON:** Yeah. Any causation statement
16 provided by Dr. Patel is in reliance on faulty
17 information. She explained that his -- that
18 her neck was injured on July 11th, 2019.
19 However, there's no objective medical records
20 that discuss she injured her neck on that date.
21 Moreover, Dr. Patel talks about pain from her
22 left arm. However, there is no information
23 after the new injury date of August 11th, 2019
24 that ever discusses the left arm until Dr.
25 Patel. It's only problems with her right arm.



1 COMMISSIONER JAMES: Okay.

2 MR. PATTERSON: So, Dr. Patel is ---

3 COMMISSIONER JAMES: Mis- ---

4 MR. PATTERSON: --- relying on inaccurate
5 information.

6 COMMISSIONER JAMES: All right. Thank you, Mr.
7 Patterson.

8 Mr. Christmas.

9 RESPONDENT'S/CLAIMANT'S POSITION:

10 MR. CHRISTMAS: Thank you, Your Honors. May it
11 please the Commission. So, what we have here
12 is an accident that was admitted. We have a
13 first report of injury on APA Number 11, pages
14 1 through 6, where the shoulder -- left
15 shoulder and the back were reported. Claimant
16 went and sought treatment with Doctors Care.
17 She asked to go back to work. She went back to
18 work. She was having problems. They fired
19 her. She tried to get more treatment.
20 According to her testimony, they wouldn't give
21 it to her. And so, she went and sought
22 treatment with Dr. DeHoll. We all know Dr.
23 DeHoll's reputation. He's a good doctor. I
24 would say he leans to the facts, I think that's
25 fair to say.

