

P. 1

THE STATE OF SOUTH  
CAROLINA  
IN THE COURT OF APPEALS

AARON Mack, Claimant,  
Appellant

RECEIVED

MAY 28 2026

SC Court of Appeals

v.

Don's Car Crushing, Employer;  
and Business First Insurance  
Co. Carrier, Respondents

Case No. 2025-CO1128

RECORD ON APPEAL

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**S.C. WORKERS' COMPENSATION COMMISSION - FIRST REPORT OF INJURY OR ILLNESS**

*ABP3*

*[Signature]*

EMPLOYER (NAME & ADDRESS INCL ZIP) Don's Car Crushing, Inc. DBA: 303 W Broad St Hemingway, SC 29554		CARRIER/ADMINISTRATOR CLAIM NUMBER 286908	OSHA LOG NUMBER	REPORT PURPOSE CODE
INDUSTRY CODE 5093		JURISDICTION	JURISDICTION CLAIM NUMBER	
EMPLOYER FEIN 20-4017709		INSURED REPORT NUMBER		
EMPLOYER'S LOCATION ADDRESS (IF DIFFERENT) 1191 White Sands Rd Holly Hill, SC 29059				LOCATION # 000006

<b>CARRIER/CLAIMS ADMINISTRATOR</b>		POLICY PERIOD 03/01/22 03/01/23		CLAIMS ADMINISTRATOR (NAME, ADDRESS & PHONE NO.) <i>SC WCC File No. 2216878</i> <i>Evidence that should be car's part of the record</i>	
CARRIER (NAME, ADDRESS, & PHONE #) BusinessFirst Insurance Company P.O. Box 600 Gainesville, GA 30503-0600 1-800-863-2181 (678) 450-5825		CHECK IF APPROPRIATE <input type="checkbox"/> SELF INSURANCE		ADMINISTRATOR FEIN 59-1683711	
CARRIER FEIN 03-0506789		POLICY/SELF-INSURED NUMBER 0521-22-15366-0000			
AGENT NAME & CODE NUMBER					

<b>EMPLOYEE/WAGE</b>		DATE OF BIRTH 04-08-63		SOCIAL SECURITY NUMBER 250-17-6990		DATE HIRED 10/05/22		STATE OF HIRE	
NAME (LAST, FIRST, MIDDLE) MACK, AMOS		SEX <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Unknown		MARRITAL STATUS <input type="checkbox"/> Unmarried/Single/Divorced <input checked="" type="checkbox"/> Married <input type="checkbox"/> Separated <input type="checkbox"/> Unknown		OCCUPATION/JOB TITLE Welder			
ADDRESS (INCL ZIP) 140 Moss St Bowman, SC 29018		# OF DEPENDENTS		EMPLOYMENT STATUS FT		NCCI CLASS CODE 3821			
PHONE (839) 201-3526		RATE PER 20.00 <input type="checkbox"/> DAY <input type="checkbox"/> MONTH <input type="checkbox"/> WEEK <input checked="" type="checkbox"/> OTHER		DAYS WORKED/WEEK 5		FULL PAY FOR DAY OF INJURY? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		DID SALARY CONTINUE? <input type="checkbox"/> YES <input type="checkbox"/> NO	

<b>OCCURRENCE/TREATMENT</b>		DATE OF INJURY/ILLNESS 10-14-22		TIME OF OCCURRENCE 8:00 <input type="checkbox"/> AM <input checked="" type="checkbox"/> PM		LAST WORK DATE 10/14/22		DATE EMPLOYER NOTIFIED 10/15/22	
EMPLOYEE BEGAN WORK <input type="checkbox"/> AM <input type="checkbox"/> PM		TYPE OF INJURY/ILLNESS Multiple Physical Injuries Only		PART OF BODY AFFECTED Multiple Body Parts		PART OF BODY AFFECTED CODE 90			
CONTACT NAME/PHONE NUMBER C. Bradley		DID INJURY/ILLNESS/EXPOSURE OCCUR ON EMPLOYER'S PREMISES? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		DEPARTMENT/LOCATION 1191 White Sands Rd 29059		ALL EQUIPMENT, MATERIALS, OR CHEMICALS EMPLOYEE WAS USING WHEN ACCIDENT OR ILLNESS EXPOSURE OCCURRED			
SPECIFIC ACTIVITY THE EMPLOYEE WAS ENGAGED IN WHEN THE ACCIDENT OR ILLNESS EXPOSURE OCCURRED		WORK PROCESS THE EMPLOYEE WAS ENGAGED IN WHEN ACCIDENT OR ILLNESS EXPOSURE OCCURRED							

HOW INJURY OR ILLNESS/ABNORMAL HEALTH CONDITION OCCURRED While the IW was welding a bracket the IW fell when they were climbing down resulting in contusions to their left shoulder and to the right hip region.		DESCRIBE THE SEQUENCE OF EVENTS AND INCLUDE ANY OBJECTS OR SUBSTANCES THAT DIRECTLY INJURED THE EMPLOYEE OR MADE THE EMPLOYEE ILL		CAUSE OF INJURY CODE 31	
DATE RETURNED TO WORK		WERE SAFEGUARDS OR SAFETY EQUIPMENT PROVIDED? <input type="checkbox"/> YES <input type="checkbox"/> NO		WERE THEY USED? <input type="checkbox"/> YES <input type="checkbox"/> NO	
PHYSICIAN/HEALTH CARE PROVIDER (NAME & ADDRESS) Regional Medical Center 3000 St. Matthews Road Orangeburg, SC 29118 (803) 395-2200		HOSPITAL OR OFF SITE TREATMENT (NAME & ADDRESS)		INITIAL TREATMENT 0 <input type="checkbox"/> No Medical Treatment 1 <input type="checkbox"/> MINOR: BY EMPLOYER 2 <input type="checkbox"/> MINOR CLINIC/HOSP 3 <input type="checkbox"/> EMERGENCY CARE 4 <input type="checkbox"/> HOSPITALIZED > 24 HOURS 5 <input type="checkbox"/> FUTURE MAJOR MEDICAL/ LOST TIME ANTICIPATED	

OTHER WITNESSES (NAME & PHONE #)		DATE ADMINISTRATOR NOTIFIED 11/01/22		DATE PREPARED 11/01/22		PREPARER'S NAME & TITLE <i>G. Bradley</i>		PHONE NUMBER	
WCC FORM 12A REV. DATE 04/06		INSTRUCTIONS FOR IMPORTANT INFORMATION		REPRINTED WITH PERMISSION					

Andrea Torres

*EXA*

*P. 2 of 2*



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SUMMIT MANAGES  
Retail First Insurance Company  
Business First Insurance Company  
Retailers Casualty Insurance Company  
Bridgefield Casualty Insurance Company  
Bridgefield Employers Insurance Company  
www.summitholdings.com

November 8, 2022

AMOS MACK  
140 Moss St  
Bowman, SC 29018

SCWCC File No. 2216865  
Evidence that should be in the records

Injured worker: AMOS MACK  
Insured: Don's Car Crushing, Inc.  
Date of accident: 10-14-22  
Case number: 0521 - 22 - 15366 - 0000 - 286908  
Insurer: BusinessFirst Insurance Company

A workers' compensation claim has been filed on your behalf for the above captioned date of accident. We regret to inform you that a portion of your claim has been denied as a result of our investigation.

Benefit(s) denied:  
The employer/carrier is denying indemnity in whole. Compensable medical benefits are being provided.  
Our decision to deny your claim is based upon the following reasons:  
Indemnity denied pending further investigation.

If you have any questions, please give me a call.  
ANDREA TORRES  
Claims Adjustor  
1-800-863-2181 Ext 54272

53 B93 286908

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*Handwritten initials/signature*

*P. 5*

\*\*\*\*\*  
\*\*\* TX Result Report \*\*\*  
\*\*\*\*\*

Sending is complete.

Job Number	1688
Address	18034358362
Name	
Start Time	02/04 08:59 PM
Duration	00'41
Sheets	1
Result	OK

*Case No 202500118*

*From Amos Mack to Att. John hand Fax 803-435-8367  
Casett 2216315*



**Family Health Centers, Inc.**  
3310 Magnolia Street | Post Office Box 1806  
Orangeburg, South Carolina 29115-1486  
Phone (803) 531-6900  
Fax (803) 531-6907  
[www.myfnc.org](http://www.myfnc.org)

**Denmark**  
5616 Carolina Highway  
Denmark, SC 29042  
P: (803) 793-4282  
F: (803) 793-8346

**Re: AMOS MACK**

To whom it may concern,

**Holly Hill**  
922 Holly St.  
Holly Hill, SC 29059  
P: (803) 496-7174  
F: (803) 496-7928

This is a return to Work/School excuse for AMOS MACK. This patient was under the care of JULIA WATSON for the date 11/14/2022.

**Neeses**  
7061 Norway Road  
Neeses, SC 29107  
P: (803) 263-4086  
F: (803) 263-4097

Please admit back to workschool NOT UNTIL FURTHER NOTICE.

**DUE TO WORK RELATED INJURIES**

**St. George**  
401 Ridge Street  
St. George, SC 29477  
P: (843) 563-5315  
F: (843) 563-8228

Sincerely,

**St. Matthews**  
558 Chestnut Street  
St. Matthews, SC 29135  
P: (803) 874-2006  
F: (803) 874-1598

*John M. Watson*

*Edie B*

*P. 4*

**Date of Exam:** 01-16-2023  
**Patient:** Mack, Amos  
**Patient ID:** CRSC489142  
**Age / Sex:** 59 y / M  
**Date of Birth:** 04-18-1963  
**Reading:** Islam, Nayyer

**Report Date:** 1/17/2023  
**Description:** MRI LUMBAR  
SPINE WITHOUT CONTRAST  
**Referring:** JULIA WATSON  
**Site:** Clermont Radiology  
Orangeburg

**EXAM: MRI OF THE LUMBAR SPINE WITHOUT INTRAVENOUS CONTRAST**

**TECHNIQUE:** Multiplanar/multi-sequence MRI images through the lumbar spine were obtained without intravenous contrast.

**CLINICAL DATA:** Status post fall on 10/14/2022. Severe low back pain with bilateral leg pain and weakness since falling at work. Same-day MRI right shoulder.

**PRIOR STUDIES:** None available.

**FINDINGS: ALIGNMENT:** Lowest well-formed disc space is referred to as L5-S1. The alignment is satisfactory.

**VERTEBRAL COLUMN:** Vertebral body heights are intact. No focal aggressive osseous lesion or marrow infiltration. There is an inflamed Schmorl's node inferiorly of the L4 vertebral body demonstrating surrounding increased T2 low T1 signal. There is disc space narrowing at L4-5.

**CONUS/CAUDA EQUINA:** Conus medullaris is normal in position and appearance. No intra- or extradural mass.

**SOFT TISSUES/SURROUNDING STRUCTURES:** No regional soft tissue abnormality.

**SEGMENTAL ANALYSIS AS FOLLOWS:**

At T12-L1: There is no disc herniation. There is no spinal or foraminal stenosis. There is no nerve root compression.

At L1-L2: There is no disc herniation. There is no spinal or foraminal stenosis. There is no nerve root compression.

At L2-L3: There is no disc herniation. There is no spinal or foraminal stenosis. There is no nerve root compression.

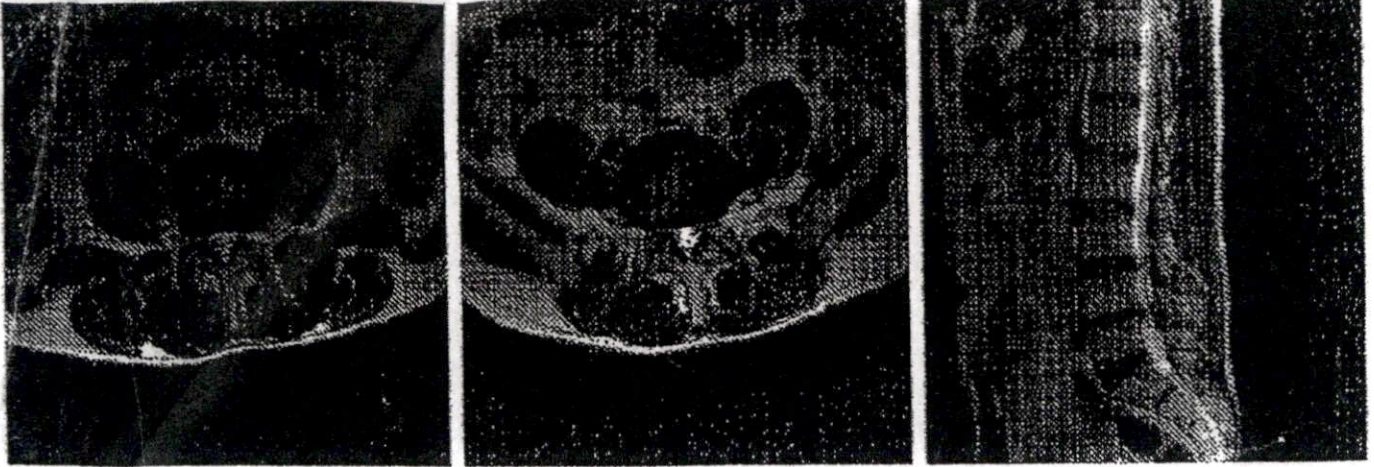
At L3-L4: There is no disc herniation. Bilateral facet hypertrophy and spinal canal stenosis. There is no nerve root compression. (Series 701 axial image 13/29)

At L4-L5: There is no disc herniation. Bilateral facet hypertrophy and spinal canal stenosis. Bilateral foraminal narrowing with encroachment on the exiting bilateral L4 nerve roots. (T2 sagittal image 10/17 and series 701 axial image 20/29).

At L5-S1: 2.1 mm annular disc herniation with a posterior annular. There is no spinal or foraminal stenosis. There is no nerve root compression. (T2 sagittal image 10/17)

Attached Key images

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# State Ment of the Record

2

This Record on appeal is submitted under protest and in good faith under Appeal court Rule of 210 requirements. This record ~~is~~ include all record; have of this case # 2025-21178

This record is 'impossible to meet under rule 210.

Undisput fact, the carrier abandonment of

it duty, to provide the ~~promise~~ promise medical

Come that claim adjuster sent me date 11-8-2022

Next Commissioner Wilkerson Sr. on May 15, 2024

Fail to apply estopp. before resual, Commissioner

Campbell fail to hold a de novo hearing

before issue Sept. 9, 2024 Because this is the

require after the resual of by law when

the question of impartiality is questionable or may

be question. And the case to many ~~actual~~ (structural)

error in it. Not of my doing, but of

Commissioner Wilkerson 11-8-22 Commissioner Wilkerson

on May 15, 2024 hearing fail to apply estopp-

~~Commissioner Wilkerson Sr.~~ And Commissioner

Fail to hold the De-novo hearing and use

the record. Be the record prove

the impossibility of complying with rule 210

Because all the structural error and no subject

Matter. Judge's dictation this whole case is

void. From the begin.

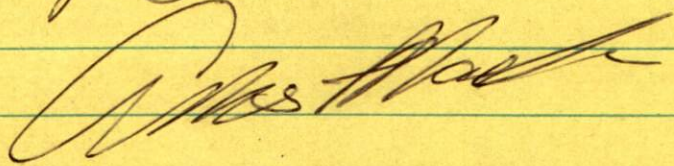
*James H. Wilkerson*  
2025-01178  
01178

Next page

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Add to Statement of Case. 2025-001178

I am requesting the appeal board, take sua action and set Vacty, all ~~the~~ order in this case with the April 1, 2026. And award my ~~the~~ worker compensation benefits with all back pay due to total like of Subject matter jurisdiction. This override the standard procedural rule.

Respectfully Submitted



May 25, 2026.

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

**DECISION AND ORDER**

THE HONORABLE AVERY B. WILKERSON, Jr.

SCWCC File No.: 2216315

Amos Mack,

Claimant,

v.

Don's Car Crushing, Inc.,

Employer,

and

BusinessFirst Insurance Company,

Carrier,

Defendants.

Hearing held in Calhoun County, South Carolina,  
on May 15, 2024

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

Appearances: John C. Land, III, Esquire, of Land Parker Welch LLC, appeared on behalf of Claimant.

Nicolas L. Haigler, Esquire, of Robinson Gray, appeared on behalf of Defendants.

Purpose of Hearing: To determine the issues as set forth in Forms 50 and 51.

Court Reporter: Gloria Davis, 321 Mac Circle, Lexington, SC, 803-358-0515, palmettoctrptng@aol.com.

Filed: \_\_\_\_\_

## I. STATEMENT OF THE CASE

This case was heard by the undersigned Commissioner in St. Matthews, South Carolina, on the 15 day of May 2024, to determine the issues as set forth on in Form 50 and 51. The undersigned Commissioner requested a Decision and Order on the 4<sup>th</sup> day of June 2024.

The Defendants had filed a Motion to postpone the hearing due the fact that a subpoena had been issued to the Social Security Administration for an application made by Amos Mack for disability benefits heretofore made by Amos Mack and the records had not been received. The undersigned Commissioner rules that the records are not relevant to this hearing and the Motion is denied.

The Defendants objected to handwritten notes on submitted records on pages 12, 13, and 14, which is hereby sustained by the undersigned Commissioner, and the attorney for the injured worker is instructed to remove the handwritten notes on pages 12, 13, and 14 of the injured worker's submissions and email to the undersigned, which was done.

The injured worker takes the position that he was injured on the 14<sup>th</sup> day of October 2022, in the course of his employment with Don's Car Crushing, Inc. when he was welding in the roof of a building. The injured worker states that he fell about eight feet after holding on with both hands, then falling to an iron beam below, injuring his left shoulder, both arms, both wrists, right hip, and his low back. The injured worker further takes the position that all causally related medicals incurred since the 14<sup>th</sup> day of October 2022, are payable by the Defendants, and that he is entitled to temporary-total weekly benefits since the date of his accident on the 14<sup>th</sup> day of October 2022 and continuing. The injured worker further took the position that he has not reached maximum medical improvement and that he is entitled to further medical care.

The Defendants deny that the injured worker suffered an injury in the course of his employment on the 14<sup>th</sup> day of October 2022 and is not entitled to temporary-total weekly benefits since the date of his alleged accident and is not entitled to medical care inasmuch as it is a denied claim. The Defendants further

state that no medical doctor has stated that the injuries claimed by the injured worker are based on a reasonable degree of medical certainty.

## II. STIPULATIONS

Counsel for the respective parties stipulated at the time of hearing to the following issues:

1. The purpose of the hearing is to determine whether or not the injured worker suffered an accident in the course of his employment on the 14<sup>th</sup> day of October 2022;
2. That the injured worker's compensation rate was \$600.03;
3. Notices were timely and properly served upon all parties of interest;
4. Venue, set in St. Matthews, South Carolina, is proper as agreed by all parties; and
5. That the South Carolina Workers' Compensation Commission has jurisdiction over the parties and issues involved.

## III. APA SUBMISSIONS

Under the Administrative Procedures Act, the following records were submitted into evidence at the time of the hearing:

### Claimant's APA Submissions

FACILITY	PHYSICIAN	TREATMENT DATES	PAGE NUMBER
Regional Medical Center SC		10/17/22	1-11
Family Health Centers	Julia Watson, FNP	11/14/22-1/16/23	12-27
Clermont Radiology		1/16/23	28-32
Orthopaedic Assoc. of Charleston	Dr. Dowse D. Rustin	2/22/23	33-37
Bowman Family Practice Clinic	Lisa F. Etheridge, RN NP	4/21/23-7/13/23	38-46
Midlands Orthopaedics and Neurosurgery	D. Seth H. Bowman	8/1/23-9/13/23	47-55
Lowe's Therapy	Phillip Lowe	1/12/24	56-65
RMC Emergency	Dr. Jill G. Volk	7/3/11	66-68
Palmetto Health Richland	Dr. Christopher G. Mazone	12/7/12-1/9/14	69-94
McLeod Physician Assoc./Eagerton Family Practice	Carmen A. Cribb, DO	1/30/20-12/15/20	95-121
McLeod Health Clarendon		11/16/20	122

Defendants' APA Submissions

Physician	Practice	Dates of Service	Page Numbers
Dr. Seth Bowman	Midlands Orthopedics	11/07/2023	1-2
	Regional Medical Center	07/03/2011-12/04/2023	3-28
Dr. Scott Boyd	Columbia Neurosurgical Associates	12/06/2012	29-30
	Advanced Diagnostic Imaging Center	06/14/2012	31-34

Exhibits	Date of Reports	Page Numbers
Claimant's deposition transcripts, for impeachment	01/19/2023 & 03/07/2024	To be handed up at hearing, if necessary
Portions of the claimant's personnel file, if necessary		To be handed up at hearing, if necessary
Video Surveillance of the claimant	03/07/2024 – 03/20/2024	Thumb drive
Deposition transcript of Dr. Dowse Rustin	08/03/2023	To be handed up at hearing, if necessary
Claimant's written statement	10/14/2022	35-38

The relevant submissions by the injured worker are summarized as follows:

1. APA – **Regional Medical Center SC**, 10/17/22 – Patient reports slipping and falling at work on 10/14/22. Patient complains of pain to right hip/lower back, right leg, neck, bilateral wrist, and left shoulder. Exacerbating factor is movement. XR of right hip with impression of no signs of right hip fracture; bilateral hip osteoarthritis. XR left humerus with impression of normal, no signs of traumatic injury. XR left shoulder with impression of no acute traumatic injury; mild glenohumeral and moderate acromioclavicular osteoarthritis. XR lumbosacral spine with impression of L4-5 degenerative disc disease and degenerative spondylosis; diffuse facet osteoarthritis. Diagnosis: contusion of left shoulder; contusion of right hip region; degenerative disc disease; degenerative joint disease. Prescribed Tylenol and prednisone. Follow-up with Primary Care Provider within 1 to 2 days.

2. APA – **Julia Watson, FNP, Family Health Centers**, 11/14/22-7/13/23 – **11/14/22**-Here for injury on the job on 10/14/22. States fell at work on the hips and caught himself and hit his wrists bilat at that time. States hips and wrists are painful, and he is unable to sit or stand to do his job. States has been out of work for the last month due to the pain. Assessments: Dorsalgia; pain in unspecified limb; pain in left and right wrist; fall; elevated BP without diagnosis of hypertension. Will refer to orthopedics for eval, and to try wrist braces for pain. Will renew meds-start Lyrica and Cyclobenzaprine; start right and left wrist braces. Patient under my care and is not to return to work until further notice due to work related injuries. **1/11/23**-C/o neck and left shoulder pain since being injured on his job in October 2022. Pt is requesting an MRI order. States has been out of work since then due to the pain. Was seen in the ER, but no fractures noted. States was given muscle relaxers, and pain meds in the ER, but is now out and would like refills. He is requesting an order for an MRI of his back and neck along with refills. Assessments: Acute pain of right shoulder; dorsalgia; elevated BP without diagnosis of hypertension; lumbar pain; low back pain; pain in right leg, and pain in left leg. Encouraged to get an appointment with orthopedics for evaluation. RTC in 2 weeks. Prescribed MRI for right shoulder and lumbar spine. Refilled Lyrica and Cyclobenzaprine. **1/26/23**-Continues to c/o lower back pain, and stiffness along with pain to the wrists and hands bilat. MRI of the lumbar spine revealed 2.1mm annular disc herniation with a posterior annular, w/o stenosis or nerve root compression. States is in severe pain to the lower back, and has difficult with ambulation, sitting, and standing. Wearing wrist braces bilat. Assessment: Lumbar pain; dorsalgia; acute pain of right shoulder; elevated BP without diagnosis of hypertension; low back pain; pain in right leg, and pain in left leg.

Encouraged to get an appt with orthopedics for eval. RTC in 2 weeks. **3/16/23**-Chief Complaints: C/O bilateral wrist and leg pain. Continues to c/o lower back pain and stiffness along with pain to the wrists and hands bilat. Continues to have severe pain to the lower back, and has difficulty with ambulation, sitting, and standing. Wearing wrists braces bilat. Has not been able to see orthopedics yet, and requests referral to orthopedics in Orangeburg. Assessment: Lumbar pain; dorsalgia; acute pain of right shoulder; elevated BP; low back pain; pain in right and left legs. Referral to orthopedic surgery for lower back pain, possibly due to herniated disc to the lower back, along with wrist and leg pain from a fall at work last fall. Refill Lyrica and Cyclobenzaprine; continue wrist braces.

3. APA – **Clermont Radiology**, 1/16/23 – MRI of the lumbar spine for severe low back pain with bilateral leg pain; and weakness since falling at work on 10/14/22. Impression: Large, inflamed Schmorl's node at the inferior endplate of the L4 vertebral body with disc space narrowing at L4-5. At L3-L4: Bilateral facet hypertrophy and spinal canal stenosis. At L4-L5: Bilateral facet hypertrophy and spinal canal stenosis. Bilateral foraminal narrowing with encroachment on the exiting bilateral L4 nerve roots. At L5-S1: 2.1 mm annular disc herniation with a posterior annular. MRI of the right shoulder for right shoulder pain and bilateral wrist pain since falling at work on 10/14/22. Impression: Moderate supraspinatus tendinosis, without evidence of tear. Inferomedial dislocation of the extra-articular long head of biceps tendon. Diastases of the acromioclavicular joint with marginal osteophytes. This may represent sequela of grade 1 injury. Joint space narrowing and chondromalacia at the glenohumeral joint.

4. APA – **Dr. Dowse D. Rustin, Orthopaedic Associates of Charleston**, 2/22/23 – IME. Injured worker's injuries occurred on 10/14/22, when he slipped on a beam and fell landing on his buttocks catching some of his weight on both upper extremities on an adjacent beam. He had immediate pain in his low back, right hip area and pain down the posterior aspect of his right thigh and leg. He also complained of pain in both wrists and his right shoulder. Also states he had pain in his neck and left shoulder but most of the pain was in his low back and right buttock area. He complains of pain in his right low back in the SI joint area and laterally over the right hip and buttock with radiation down the posterior thigh and posterior calf area. It would be my recommendation that he be referred to a sports medicine physician as well as a spine specialist for review of the complaints he has with his low back and right lower extremity. I believe his right hip pain is secondary to his osteoarthritis as he has a history of primary osteoarthritis that in my opinion predated his injury on 10/14/22. It would be my recommendation that he have a follow-up and be scheduled for physical therapy and any additional studies as well as consultation with a qualified spine specialist and sports medicine specialist. He has evidence of tendinosis and tendinitis involving his right shoulder with some displacement of his distal biceps tendon. He also has indication of a displaced disc in his lumbar spine which is superimposed on preexisting spondylosis of his spine. If no access to evaluation and treatment, then I would recommend he be rated at 6% of this right upper extremity for permanent aggravation of DID and tendinosis of his right shoulder, 5% additional for his right hand dominance for a total of 11% impairment of his right upper extremity that would be equivalent to 18% of his right shoulder. For his low back pain with disc displacement and radiculopathy without myelopathy, I would recommend a rating of 8% whole person impairment, which is equivalent to 9% impairment of the lumbar spine.

5. APA – **Lisa F. Etheridge, RN NP, Bowman Family Practice Clinic**, 4/21/23-7/13/23 – **4/21/23**- Stated he was in an accident at work injury bilateral wrists, lower back, and right shoulder. Has had chronic pain since. Today he c/o back pain, wrist pain, and right shoulder pain. Assessment/Plan: 1. Elevated BP, recheck in 2 weeks. 2. Lumbar pain will send referral to orthopedic spine. 3. Lumbar herniated disc, follow-up appt. RMC on 5/5/23. **5/11/23**-c/o bilateral wrist pain, left shoulder pain, and back pain. States he was injured at work in October 2022 and is still in pain. States he fell and caught himself with his hands. Had MRI of the back that showed herniated disc of the lumbar spine in January 2023. Has not seen orthopedics for any of his injuries. Assessment/Plan: 1. Bilateral wrist pain; 2. Shoulder pain, left; 3. Lumbar herniated disc; 4. Lumbar pain. Pain in left wrist. Will send referral to Midlands Orthopedics for further evaluation. **7/13/23**-Pt is requesting referral to pain management due to his chronic pain of wrist, shoulder and back. He is also requesting a referral to physical therapy. Assessment: Lumbar herniated disc; lumbar pain; left shoulder pain; right leg pain. Referral to pain management for chronic pain of wrists, back, shoulder due to injury from work. Referral to physical therapy for chronic pain from injuries at work.

6. APA – **Dr. Seth H. Bowman, Midlands Orthopaedics and Neurosurgery**, 8/1/23-9/13/23 – 8/1/23-Status post fall at work October of last year. He also complains of left back and left shoulder pain. He clearly has bilateral CMC and STT arthrosis bilaterally have recommended diagnostic and hopefully therapeutic injections on both sides today. The bilateral thumb CMC was injected with Kenalog and lidocaine. I have given him a referral to one of our spine specialists for his back pain. Will keep an eye on his left shoulder. Assessment: Pain of right wrist and left wrist. Bilateral CMC and STT arthrosis, no fractures. 9/13/23-Patient has minimal to no pain on left, right side injection was at least 80% better, lasted for a few weeks and now starting to wear off. He has severe bilateral CMC and STT. The arthrosis injection I gave him a month ago is working very well on the left, continue to follow this for now. On the right side is already worn off. The only other option would be a CMC arthroplasty and he would like to proceed. We will schedule surgery as soon as possible. Addendum: The X-rays do reflect severe stage IV CMC arthrosis defined by severe joint space narrowing, periarticular osteophytes, joint subluxation subchondral cysts and sclerosis. Again, the patient has significant limitations with pinching and gripping. He did respond well to an injection confirming the diagnosis, but this only lasted a few weeks. The most reasonable long-lasting solution at this point in time would be CMC arthroplasty. 9/15/23-Surgery Order for arthroplasty, interposition/intercarpal/CMC joints. Surgery scheduled for October 25, 2023.

7. APA – **Regional Medical Center SC Outpatient OT**, 10/26/23-12/4/23 – 10/26/23-Assessment: Pt evaluated 2/2 R thumb CMC osteoarthritis d/t fall in October of 2022. Pt demo dec AROM, Dec ind w/ADLs, dec grip strength, and inc pain. Pt would benefit from custom thumb spica orthosis. Pt will benefit from skilled OT. 11/9/23-Fell in Oct 2022 and tried to catch myself and hurt wrist. Treatment: 2 times per week for 6 weeks for strengthening an ROM. Right hand pain is 4/10. Pt w/R thumb CMC orthosis fabricated to support CMC and dec pain from osteoarthritis. 11/15/23-Pt worked on wrist ROM/strength, grip strength. States brace rubbed a blister on distal radial edge, was asked to bring splint back for adjustment. Pain in right wrist is 7/10. 11/27/23-Pain is 7/10. Pt participating in act to inc pinch and ROM of R wrist and thumb. 11/28/23-Pt worked on wrist ROM/strength, grip strength. 12/4/23-Pt states he has not gotten any pain relief or made progress since starting therapy. Pt reassessed on this date. Pts pain has not declined since eval, exhibits decreased grip strength. Pt has not been wearing his brace. Assessment: Pt has met ¼ goals. Pt states that he isn't making gains in OT to needing surgery. Pt still with c/o 7/10 pain. Pt states he is calling the MD to schedule an appointment to follow-up on surgery. Pt has been asked to hold therapy at this time.

8. APA – **Phillip Lowe, Lowe's Therapy**, 1/12/24 – FCE-The optimal work capacity at present was demonstrated to be at a sedentary/light physical demand level. The examinee did not demonstrate the necessary physical demands to perform usual and customary job duties as a welder. He cannot lift enough weight and lacks the endurance and stamina to stand 90% of the workday. The specific previous job tasks cannot be safely performed. Performance of the previous job would not require a modification of technique or equipment. Potential for improvement of physical condition is unexpected. He fell while at work, injuring several parts of his body a year ago and is now at MMI. The spine was diagnosed with lumbar disc disease with radiculopathy, and he receives a 13% whole person impairment, which converts to a 20% lumbosacral spine impairment. The left shoulder was injured, and he was diagnosed with degenerative joint disease, tendinosis and tendinitis, and he receives a 3% upper extremity impairment, which converts to a 5% left shoulder impairment.

9. APA – **Dr. Allyson Thatcher, Trident Pain Center**, 4/24/24 – Lower back pain, neck pain, hip pain, and shoulder pain. He was referred by his PCP for pain management. Patient reports a history of a fall on 10/14/22. He reports low back, neck, right hip, and left wrist pain. Assessments: Radiculopathy, lumbar; chronic pain syndrome; spondylosis without myelopathy or radiculopathy, cervical region. Pt.'s low back and leg pain is the area with the greatest pain, and we will treat it on return to clinic when he has a driver. Procedures: Transforaminal Steroid Injection, lumbar: level bilateral L5 nerve root on return to clinic after authorization.

**Prior Medical Records:**

10. APA - **Dr. Jill G. Volk, RMC Emergency**, 7/3/2011 - The patient presents with back pain and pt has chronic back pain, is out of his medication for 4 days, unable to see his specialist. Location: Thoracic lumbar neck, achy. Onset

was minimal. Exacerbating factors consist of movement. Prior episodes: occasional. Impression and Plan: back pain, prescribed Percocet, Motrin, and Valium.

11. APA - **Dr. Christopher G. Mazone, Palmetto Health Richland**, 12/7/2012-1/9/14 - 12/7/12- Right shoulder and back pain. On May 10, 2012, patient was holding a plyboard in front of pipe that exploded, knocking him to the ground. C/o of R shoulder pain, as well as some RB/hip and wrist pain. Diagnosis: shoulder pain; chronic low back pain. 12/27/12-Postoperative Diagnoses: Right shoulder impingement syndrome; right shoulder acromioclavicular degenerative joint disease; right shoulder rotator cuff tendinopathy; right shoulder proximal biceps tendinopathy. 2/4/13-f/u R shoulder-s/p score, BAD, labral debridement and biceps tenodesis. Patient c/o constant discomfort, specifically with PT. Continues use of brace and Percocet. Diagnosis: shoulder pain. 3/6/13-F/U right shoulder. Diagnosis: right shoulder pain status post previous right shoulder surgery. 4/17/13-F/U right shoulder surgery. Overall feel it is doing well. Continue with muscle relaxants as needed. Follow-up 4 weeks and will likely be at MMI. 8/23/13-Is 8 months from his surgery. Has complaints of pain when moving. Taking Percocet, Lyrica to help with the pain. Diagnosis: shoulder pain. Has good healing of his rotator cuff but also has evidence of a subacromial bursitis. Obtained an impairment rating, which was 53% WO which I am assuming is a whole person. The numbers appear higher than I would expect. I would like to see an FCE. He is also complaining of right buttock pain. He complained of this in the past. 9/27/13-Here for R buttock and hip pain. Pain has been present since May 10, 2012, when he had his work accident. Pain is constant achy and increases with any type of flexion. Diagnosis: Hip pain. His exam is consistent with trochanteric bursitis but cannot rule out an abductor injury to the right hip. We will proceed with an MRI. 9/29/13-After reviewing notes regarding his impairment rating, I feel that the evaluation performed, and subsequent impairment rating was likely based on a failure of effort by Mr. Mack. Based on my evaluation of Mr. Mack, August 23, 2013, I would provide him with an impairment rating of 7% of the left upper extremity based on the weakness of the right shoulder. If I had to make an educated guess, I would state that Mr. Mack could get back to moderate duties with no lifting greater than 10 pounds with the right upper extremity and no lifting greater than 50 pounds with both upper extremities with no overhead use of the right upper extremity. He may continue to have dysfunction and pain with the right shoulder. He is at higher risk for failure of the rotator cuff, which may possibly necessitate additional surgical intervention in the future. 10/16/13-Here to finalize his R shoulder issue. He would like permanent restrictions for this. He also is f/u on his R hip and buttock pain. Has not had the MRI. He is still having the same symptoms as before in his buttock and hip. Diagnosis: Shoulder pain. His establishment of an impairment rating and FCE had been difficult in that the impairment rating he received from an outside physician is not applicable and his FCE was made difficult by an apparent lack of effort. His expectation is an impairment rating of 50% of the right upper extremity. I certainly don't think this is applicable. At this point he may be better served with an evaluation by another orthopedic surgeon.

12. APA - **Carmen A. Cribb, DO, McLeod Physician Associates/Egerton Family Practice**, 1/13/20-12/15/20 - 1/13/20-Chronic pain related to a work injury on 5/10/12. He has problems with right shoulder and right leg. He was knocked to his back by a burst of high pressure liquid from the 'black liquor line' while at work. He has had pain associated with this in his right shoulder and right buttock ever since. Surgery to the right shoulder during this time. Has seen pain management and orthopedics since, but without resolution of pain and stiffness. PT has not helped. Assessment: Chronic pain after traumatic injury. 2/18/20-Still having pain in his neck and back due to his injury. Refill Pregabalin; start Methocarbamol. Refer to pain management. 2/24/20-Patient brought in copies of his MRI results, 1 of them did confirm a right rotator cuff tear. He will likely need to see orthopedics in the near future. 6/10/20-Follow-up with chronic pain. Still complaining of severe pain and/or stiffness in his bilateral shoulders and right hip. Pain not worse but not much better. Assessments: Chronic pain after traumatic injury; hamstring tightness of right lower extremity; pain in right and left shoulders; other chronic pain; right hip pain. Switch him to Flexeril. 8/20/20-Follow-up with chronic pain. Per WC, we are only allowed to focus on his right shoulder pain; he has difficulty lifting and significant stiffness. The shoulder is giving him continuous pain. Has not yet been able to get in with pain management. Assessments: chronic pain after traumatic injury;

ain in right shoulder. Ordered an MRI of the shoulder due to positive drop arm test and history of injury. Referral to PT and pain management. 10/15/20-Right shoulder pain is worse with overhead movements. Has MRI scheduled for Nov. 16<sup>th</sup> for re-evaluation. 11/17/20-Shoulder MRI showed a partial thickness rotator cuff tear and moderate supraspinatus tendinosis. He needs to see ortho for further recommendations. 12/15/20-Right shoulder pain. States pain is worsening and occurs with all activities. Assessments: chronic pain after traumatic injury; pain in right shoulder; traumatic incomplete tear of right rotator cuff. Referral to orthopaedic surgery.

13. APA – McLeod Health Clarendon, 11/16/20 – MRI right shoulder for chronic pain. Impression: Moderate supraspinatus tendinosis with partial-thickness bursal surface low-grade tearing. AC joint hypertrophy with possible prior acromioplasty.

#### IV. EVIDENCE OF THE CASE

The injured worker, Amos Mack, testified in his own behalf.

The injured worker is a 61 year old married male who has one son, age 40, who is not dependent.

The injured worker finished high school in Holly Hill in 1981 and has no college or further education except for a 1982 welding course.

The injured worker readily admitted that he had two prior workers' compensation claims and that he had, in fact, been on a running workers' compensation award from an injury in the state of Louisiana for the last ten years for a right shoulder injury. The injured worker stated that he had received an award of \$125,000 for that injury plus weekly temporary-total benefits.

In regard to the injured worker's work history, the injured worker testified that he had worked at a cucumber shed as well as Jake's Department Store prior to graduating from high school. The injured worker testified that basically thereafter he had been a welder for numerous companies over the years. The injured worker testified that he had spent two and a half years in jail for a crack cocaine conviction, and again was imprisoned in 2001 for a blue light infraction, spending two and a half years.

The injured worker testified that he is in need of further medical treatment for his injuries and has been out of work since three days after his injury. The injured worker testified that he continued working on the date of his injury, and even worked the next day but went to the Regional Medical Center on the 17<sup>th</sup> day of October. The submitted medicals indicate that the injured worker complained of pain in his right hip/lower back, right leg, neck, bilateral wrists, and left shoulder. The submitted medicals indicate that the

Regional Medical Center in Orangeburg prescribed Tylenol and Prednisone with instructions to follow-up with primary care provider within one to two days.

The injured worker testified that he reported his injuries and the accident to his employers on the date of injury as well as several days later. The Defendants even submitted a handwritten statement by Amos Mack, dated the 20<sup>th</sup> day of October 2022, detailing his injury.

The injured worker testified that Julia Watson, FNP, Family Health Center in St. George, had been attending to his medical problems since the 14<sup>th</sup> day of November 2022, and that Julia Watson had him out of work since that date. The injured worker further testified that he was unable to work due to his injuries. The injured worker testified that he was still out of work. The injured worker testified that he believes the employer should have sent him to a doctor.

The injured worker offered into evidence as an exhibit a letter from the workers' compensation insurance carrier stating that they would furnish medical care, without the Defendants objection.

The injured worker further stated that he believed that he needed further medical care for all of his injuries and that Dr. Seth H. Bowman of Midlands Orthopaedics had actually prescribed surgery for his wrist but that his private insurance would not cover it.

The injured worker was cross-examined by the attorney for the Defendants, and it appeared to the undersigned Commissioner that the attorney for the Defendants did not understand what the injured worker was saying. The injured worker looked scared and seemed to be shaking as more questions from the attorney for the Defendants were asked, and finally started answering every question by "I don't recall" stating that he can't remember that far back.

The injured worker was instructed to wait until the defense attorney had asked his questions before trying to answer, and both were advised as to tone.

The injured worker referred to several witnesses of coworkers at Don's Car Crushing, Inc.; however, the Defendants did not call any of these witnesses.

The undersigned Commissioner must rely on medicals submitted as to what body parts were injured on the date of the accident.

Medical care was not provided by the Defendants as requested by the injured worker on two to three occasions. The defense stated that it was a denied claim, so medicals were not due.

The undersigned Commissioner reviewed the deposition of Dr. Dowse Rustin as well as the depositions of Amos Mack.

The Defendants did not call any witnesses; however, the following witnesses were listed on the Pre-Hearing Brief: Tobias "Taco" Gonzalez and Paul Pratt. The Defendants also reserved the right to call additional witnesses to rebut the Claimant's hearing testimony and/or APA submissions.

Reference was also made by the Defendants of video surveillance, which was not submitted into evidence by the Defendants.

The attorney for the Defendants asked the injured worker numerous questions about the right shoulder; however, the attorney for the injured worker withdrew the right shoulder as being a body part injured in the accident on 14<sup>th</sup> day of October 2022.

A record such as is necessary for a decision was made of the proceedings in this matter and after careful study and consideration of all of the evidence, including the submitted medical reports from the Regional Medical Center SC, Julia Watson, FNP, Clermont Radiology, Dr. Dowse D. Rustin, Lisa F. Etheridge, RN NP, Dr. Seth H. Bowman, Regional Medical Center SC Outpatient OT, Phillip Lowe, Dr. Allyson Thatcher, Dr. Jill G. Volk, Dr. Christopher G. Mazone, Carmen A. Cribb, DO, and McLeod Health Clarendon, as well as the deposition of Dr. Dowse D. Rustin, and the two depositions of the injured worker, along with the testimony of the injured worker and the observations of the injured worker by this Commissioner, the following findings of fact are accordingly made:

#### **V. FINDINGS OF FACT**

IT IS FOUND AS A FACT:

1. That all parties to these proceedings are subject to and bound by the terms and provisions of the South Carolina Workers' Compensation Law, as amended, with Don's Car Crushing, Inc. as employer, and BusinessFirst Insurance Co. as insurer, Defendants.

2. That the injured worker, Amos Mack, was an employee of the above-named employer on the 14<sup>th</sup> day of October 2022, on which date he did suffer a compensable injury to his left shoulder, both wrists, right hip and back. The injured worker is 61 years old and admitted to being on workers' compensation in Louisiana for 10 years. He was hurt on the first day of this job within hours of starting. He stated he fell eight feet. He also admitted to serving two separate prison terms.

3. The injured worker was cross-examined by the attorney for the Defendants, and it appeared to the undersigned Commissioner that the attorney for the Defendants did not understand what the injured worker was saying. The defense attorney was trying to put words in his mouth. The defense attorney was very pushy and intimidating. On two occasions claimant moved from the end of the table to behind the table. The injured worker looked scared and seemed to be shaking as more questions from the attorney for the Defendants were being rapidly pushed upon him, and finally started answering every question by "I don't recall" stating that he can't remember that far back. The claimant was upset that the defense attorney was being more and more aggressive.

4. The injured worker was instructed to wait until the defense attorney had asked his questions before trying to answer, and both were advised as to tone.

5. That the undersigned Commissioner must rely on medicals submitted as to what body parts were injured on the date of the accident.

6. That the injured worker gave timely notice of his injury to his employer by the handwritten notice dated the 20<sup>th</sup> day of October 2022, that was submitted into evidence by the Defendants.

7. That medical treatment was not provided by the Defendants, which was requested by the injured worker on two to three occasions.

8. That the Defendants submitted the depositions of Dr. Dowse Rustin and the injured worker.

9. That the undersigned Commissioner finds that the witnesses listed by the Defendants, being Tobias "Taco" Gonzalez and Paul Pratt, who could have contradicted the injured worker's testimony, were not called as witnesses.

10. Reference was also made by the Defendants of video surveillance, which was not submitted into evidence by the Defendants.

11. That the undersigned Commissioner finds that the claim for an injury to the injured worker's right shoulder was withdrawn by the attorney for the injured worker at the beginning of the hearing.

12. That the undersigned Commissioner gives greater weight to initial treatment as to causation and to body parts injured, including the submitted medical records of Julia Watson, FNP, at Family Health Medical Center, over the other doctors.

13. That based on the greater weight of evidence presented, the undersigned Commissioner finds this case to be compensable under the SC Workers' Compensation Act, and that the burden of proof was met by the injured worker with testimony.

14. That the undersigned Commissioner finds that the Defendants offered no rebuttal to the injured worker's testimony at the hearing.

15. That the undersigned Commissioner gave great weight to the medical records, dated the 17<sup>th</sup> day of October 2022, from the Regional Medical Center as well as the records from Julia Watson, FNP, at Family Health Medical Center in St. George, dating from the 14<sup>th</sup> day of November 2022, through the 13<sup>th</sup> day of July 2023.

16. That the undersigned Commissioner finds that FNP Julia Watson, of the Family Health Medical Center, establishes causation of the body parts injured on the 14<sup>th</sup> day of October 2022.

17. That the undersigned Commissioner further finds that the Defendants have given up their right to choose doctors by denying medical care to the injured worker days after the accident and up until the date of this hearing and continuing.

18. That the undersigned Commissioner further finds that the injured worker may choose his doctors for the medical parts of his left shoulder, both wrists, hip and back to be paid for by the Defendants under the SC Workers' Compensation medical fee schedule, and that any outstanding medicals shall be paid for by the Defendants under the medical fee schedule due to the fact that medical was requested and never provided.

19. That the undersigned Commissioner finds that the injured worker is entitled to weekly temporary-total benefits since the 17<sup>th</sup> day of October 2022 and continuing until further Order of this Commission.

### VI. CONCLUSIONS OF LAW

It is the conclusion of this Commissioner that under the *SC Code of Laws, 1976*, as amended, §42-1-120 defines "Disability"; §42-1-170 governs "Injury and Personal Injury"; §42-1-140 governs "Average Weekly Wages"; and §42-15-60 governs "Medicals".

### ORDER

IT IS, THEREFORE, ORDERED, that the Defendants shall pay to the injured worker. ~~AMES~~ Mack, compensation at the rate of Six Hundred and 03/100ths (\$600.03) Dollars per week since the 17<sup>th</sup> day of October 2022, and each week thereafter until further Order of this Commission for temporary-total disability.

IT IS FURTHER ORDERED that the Defendants shall be liable for all causally related medical, hospital, surgical, doctors' and nurses' bills incurred from the date of injury by accident on the 14<sup>th</sup> day of October 2022 (with the exception of any independent medical exams), and to continue furnishing reasonable and necessary nursing services, medical services, hospital, and other treatment of the doctor chosen by the injured worker without regard to any limitations.

No hearing costs are assessed in this matter.

**AND IT IS SO ORDERED.**

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Columbia, SC

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Avery B. Wilkerson, Jr., Commissioner

## Table of Content

Notice of Procedural  
Abandonment

1.

Nov. 8, 2024

Liberal Construction Doctrine

15 16

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

**DECISION AND ORDER**

**SCWCC FILE NO.: 2216315**

Amos Mack,

Claimant,

v.

Don's Car Crushing,

Employer, and

BusinessFirst Insurance Company

Carrier, Defendants.

Hearing held in Calhoun County,  
South Carolina on May 15<sup>th</sup>, 2024

Appearances: John C. Land, III, of Land Parker Welch, LLC, for Claimant.

Nicolas L. Haigler, of Robinson Gray Stepp & Laffitte, LLC, for  
Defendants

Purpose of Hearing: To determine all issues as set forth in Forms 50 & 51.

Decision and Order: By R. Michael Campbell, II, Commissioner

Court Reporter: Creel Court Reporting  
Amber Scarborough  
amberjordanscarborough@gmail.com

Filed: September 9, 2024

**I. PROCEDURAL HISTORY**

This matter was originally heard by the Honorable Avery B. Wilkerson, Jr., on May 15<sup>th</sup>, 2024. Following the hearing, Commissioner Wilkerson disqualified himself from the proceeding in accordance with Canon 3E, CJC, Rule 501 SCACR. The case was assigned to Commissioner Campbell for adjudication. Commissioner Campbell reviewed the record and determined it was not necessary to reconvene the Hearing, as all parties had given testimony and submitted medical evidence, and sufficient evidence was in the record to render a decision.

**II. STIPULATIONS**

The parties stipulated at the hearing to the following issues:

1. The Claimant seeks benefits under the South Carolina Workers' Compensation Act based upon alleged injuries occurring while in employment of the Defendant Employer, and therefore, the South Carolina Workers' Compensation Commission has jurisdiction over this case.
2. The purpose of this hearing is to determine the issues as set forth on Forms 50 and 51.
3. Notice of the hearing was timely and properly served on all parties of interest.
4. Venue, set in Calhoun County, is proper.
5. Claimant's average weekly wage and corresponding compensation rate are \$900.00 and \$600.03, respectively.
6. The Commission's file with the exception self-serving declarations and unstipulated medical reports were admitted as part of the record subject to the objections as set forth below.

**III. APA SUBMISSIONS**

The following records and reports were submitted into evidence pursuant to the Administrative Procedures Act and Regulation 67-612:

Claimant's Submissions:

<b>APA</b>	<b>Source</b>	<b>Dated</b>	<b>Pages</b>
1	Regional Medical Center of SC	10/17/2022	1-11

2	Family Health Centers	11/14/22-1/16/23	12-27
3	Clermont Radiology	1/16/23	28-32
4	Orthopaedic Assoc. of Charleston	2/22/23	33-37
5	Bowman Family Practice Clinic	4/21/23-7/13/23	38-46
6	Midlands Orthopaedics	08/01/23-09/13/23	47-55
7	Lowe's Therapy	01/12/24	56-65
8	RMC Emergency	07/03/11	66-68
9	Palmetto Health Richland	12/07/12-01/09/14	69-94
10	McLeod	01/30/20-12/15/20	95-121

Defendants' Submissions:

APA	Name of Physician/ Other	Dated	Page Nos.
1	Dr. Seth Bowman, Midlands' Orthopaedic	11/07/2023	1-2
2	Regional Medical Center	07/03/11-12/04/23	3-28
3	Columbia Neurosurgical Associates	12/06/12	29-30
4	Advanced Diagnostic Imaging Center	06/14/12	31-34
	Exhibits		
A	Claimant's deposition transcripts, for impeachment only, if necessary	01/19/2023 03/07/2024- (Not handed up at hearing)	To be handed up at Hearing, if necessary
B	Portions of Claimant's personnel file, if necessary		To be handed up at Hearing, if necessary
C	Video Surveillance of the Claimant	03/07/2024- 03/20/2024 - (Not handed up at hearing)	Thumb Drive
D	Deposition transcript of Dr. Dowse Rustin	08/03/2024	To be handed up at Hearing, if necessary
E	Claimants written statement	10/14/2022	35-38

F	Don's Car Crushing, Inc. Pay Stubs	10/01/2022- 10/14/2022	39-40
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### III. STATEMENT OF THE CASE

This matter came before the undersigned pursuant to Claimant's Form 50 and Defendants' Form 51 filed on February 16<sup>th</sup>, 2024, and March 15<sup>th</sup>, 2024, respectively.

On his Form 50 Claimant alleges he sustained injuries to his left shoulder, both arms, both hands, right hip, and right leg when he slipped and fell from one beam to a lower one arising out of and in the course of his employment with Don's Car Crushing on October 14<sup>th</sup>, 2022. Claimant is seeking additional medical examination and treatment for his left shoulder, both arms, both hands, right hip, and right leg. In the alternative, Claimant alleges he is at maximum medical improvement and is permanently and totally disabled. On his Form 58 Pre-Hearing Brief, Claimant also requests recommended surgery for both wrists and/or payment for loss of use and disability to his right shoulder. The right shoulder was not included on Claimant's Form 50, and Claimant confirmed at the Hearing that he is not seeking benefits for his right shoulder.

Defendants answered by way of a Form 51 and deny Claimant sustained any injury by accident as plead. Defendants assert Claimant was allegedly injured on his first day back at work after receiving workers' compensation benefits under the laws of the State of Louisiana for the previous 9-10 years. Defendants assert Claimant's accident was unwitnessed and occurred within a few hours of Claimant beginning his first shift. Defendants assert Claimant has extensive pre-existing conditions. Defendants assert that no doctor has causally-related any injury or aggravation of a pre-existing condition to the alleged incident on October 14<sup>th</sup>, 2022.

### IV. FINDINGS OF FACT

1. Claimant seeks benefits under the South Carolina Workers' Compensation Act based upon alleged injury occurring while in the employment of the Defendant Employer, and therefore, the South Carolina Workers' Compensation Commission has jurisdiction over the issue.

2. Notice of Hearing was timely and properly served on all parties of interest.
3. Venue is proper in Calhoun County, South Carolina.
4. Claimant's average weekly wage and corresponding compensation rate are \$900.00 and \$600.03, respectively.
5. Claimant alleges on October 14<sup>th</sup>, 2022, he was an employee of Don's Car Crushing, Inc., and that he was welding in a two-story building and fell injuring his shoulders, both arms, both wrists, and low back. (Tr. P. 7).
6. Defendants assert October 14<sup>th</sup>, 2022 was Claimant's first day on the job and he was injured within the first hour or so of being there. They further assert that for the ten years prior to the alleged injury he had been on an award of workers' compensation benefits under the laws of the State of Louisiana, that he subsequently settled or stopped receiving benefits sometime in 2021, came back to work after 10 years on disability, alleges he was hurt within one hour of returning to work, and did not report the alleged injury for 5 more days. Defendants deny any entitlement to benefits. (Tr. P. 13). Defendants assert no physician has causally-related any of Claimant's complaints to the alleged injury on October 14<sup>th</sup>, 2022.
7. Claimant testified that he is 61 years old, married, with one adult son. He graduated High School in 1981. He obtained his welding certificate in 1982. He has had two previous workers' compensation claims. He has worked as a welder in a shipyard. He served two and one-half years in prison for drug-related crime. Upon release, he returned to welding. In 2001 he was imprisoned again for two and one-half years for failure to stop for a blue light. Upon release he again returned to working as a welder. In 2012 he sustained an on-the-job injury, for which he received a settlement of \$125,000.00 at the time and then was on an award of \$2,600.00 per month for the next ten years under the Louisiana Workers' Compensation Law. He had shoulder surgery in 2012 in South Carolina with Dr. Mazoue. He began work with Don's Car Crushing on October 14<sup>th</sup>, 2022. (Tr. p. 21-24).
8. Claimant testified that he was getting down off the building where he was welding when his feet slid out from under him and as he was falling he grabbed ahold of some steel with his hands to stop his fall. (Tr. p. 26). He testified he fell five to eight feet. (Tr. p. 27).
9. Claimant testified the accident was witnessed by his foreman, Paul, and a co-worker known as "Taco". (Tr. p. 28). Neither alleged witness testified at the hearing, ~~no witness~~

~~was called to be interviewed at the hearing.~~  
~~Defendants did not call any of the witnesses.~~

10. Claimant testified he told Paul what happened and continued to work for the day. (Tr. p. 29). He testified he came back the next day, Sunday, and worked for two hours before he clocked out due to not being able to stand up. (Tr. p. 29). He testified he took off from work on Monday to attend a court hearing related to a traffic ticket. (Tr. p. 29).
11. Claimant testified he went to the emergency room on Monday, October 17<sup>th</sup>, 2022. Claimant testified he told the emergency room he injured both arms/wrists, hip, neck, and back. (Tr. p. 30). Claimant testified he was written out of work and gave that note to Mitch, the superintendent that hired him for the job. (Tr. p. 32). He also alleges he wrote a note describing his accident and gave it to Ms. "Danielle", or a similar name, a secretary in the office. (Tr. p. 35).
12. Claimant was seen at the Regional Medical Center in Orangeburg, SC, on October 17<sup>th</sup>, 2022 for hip pain and left shoulder pain. (Claimant's APAs, p. 1). Claimant was diagnosed with a contusion of left shoulder, contusion of right hip region, degenerative disc disease, and degenerative joint disease. Impressions noted no signs of traumatic injury, bilateral hip osteoarthritis, mild glenohumeral and moderate acromioclavicular osteoarthritis, L4-5 degenerative disc disease and degenerative spondylosis, and diffuse facet osteoarthritis. (Claimant's APAs p. 4-8).
13. Claimant was evaluated by Julia Watson, FNP, on November 14<sup>th</sup>, 2022. Ms. Watson diagnosed him with Dorsalgia, unspecified, pain in unspecified limb, pain in right wrist, pain in left wrist, fall, subsequent encounter, and elevated blood-pressure. She referred him to orthopaedics for an evaluation and told him to try wrist braces for pain. (Claimant's APAs p. 14). She opined "Please admit back to work/school not until further notice". (Claimant's APAs p. 16).
14. He was subsequently seen by Ms. Watson on January 11<sup>th</sup>, 2023, January 26<sup>th</sup>, 2023, and March 16<sup>th</sup>, 2023. Ultimately, she referred him to orthopaedic surgery for "Pt with lower back pain, possibly due to herniated disc in the lower back, along with wrist and leg pain from a fall at work last Fall". (Claimant's APAs p. 26).
15. On February 22, 2023, in an IME for the Claimant, Dr. Dowse D. Rustin of Orthopedic Associates of Charleston opined: "Mr. Mack says that his injuries occurred on 10/14/2022, his first day on the job at DCC recycling when he slipped on a beam and fell landing on his buttocks catching some of his weight on both upper extremities on an adjacent beam... It

would be my recommendation that he be referred to a sports medicine physician as well as a spine specialist for review of the complaints he has with his low back and right lower extremity. I believe his right hip pain is secondary to his osteoarthritis as he has a history of primary osteoarthritis that in my opinion predated his injury on 10/14/2022. It is unfortunate he had this fall the first day of his work at his new job with DCC. However, it would be my recommendation that he have a follow-up and be scheduled for physical therapy and any additional studies, as well as consultation with a qualified spine specialist and sports medicine specialist. He has evidence of tendinosis and tendinitis involving his right shoulder with some displacement of distal biceps tendon. He has also indication of a displaced disc in his lumbar spine which is superimposed on what I believe is pre-existing spondylosis of the spine. If the insurance carrier sees fit to denying him access to evaluation and treatment, then I would recommend he be rated at 6% of the right upper extremity for permanent aggravation of DJD and tendinosis of his right shoulder. 5% additional for his right-hand dominance for a total of 11% impairment of his right upper extremity that would be equivalent to 18% of his right shoulder. For his low back pain with disc displacement and radiculopathy with myelopathy, I would recommend a rating of DRE lumbar Category II for aggravation of DDD and spondylosis of 8% whole person impairment. This would be equivalent to 9% impairment of the lumbar spine...Please know that I hold the statements, comments and opinions, as well as recommendations within this report to be to a reasonable degree of medical certainty.” ((Claimant’s APAs p. 33 - 37).

16. On 08/03/2023, however, in his deposition testimony Dr. Rustin testified after being presented with Claimant’s medical history that Claimant was less than truthful with him about his medical history, and he could not rely on what Claimant had told him. (Deposition transcript, p. 64, 68)
17. On April 21, 2023, Claimant was evaluated by Lisa Etheridge, F RN, NP. She diagnosed him with bilateral wrist pain, left shoulder pain, lumbar herniated disc, lumbar pain, and pain in left wrist. At Claimant’s request, she referred him to Midlands Orthopaedic for further evaluation. (Claimant’s APAs p. 38-41).
18. On 11/07/2023, in his medical notes, Dr. Seth H. Bowman of Midlands Orthopaedics and Neurosurgery opined: “Patient has severe bilateral CMC arthritis, right side is worse. His insurance denied is CMC arthroplasty despite two previous injections, neither of which

provide long-lasting relief radiographic evidence of stage IV CMC arthritis, failure of brace treatment. Not quite sure why this happened, he is now in physical therapy although again I think that this is completely a waste of time there is no benefit to this, multiple studies have shown this. He will finish his therapy for documentation sake and we will see him back in 4-6 weeks at which point we will try to get his surgery re-approved.” (Defendant’s APAs, p. 2).

19. On 01/12/2024, in an FCE for the Claimant, PT Philip Lowe of Lowe’s Therapy opined: “Amos fell while at work injuring several parts of his body. This was a year ago, now he is at maximum medical improvement. The 5th Edition was used to estimate impairment. The spine was diagnosed with lumbar disc disease with radiculopathy. The DRE method was used to estimate impairment. He receives a 13% whole person impairment according to table 15-3 on page 384. 13% whole person is converted to regional spine impairment by dividing by .75 to equal a 20% lumbosacral spine impairment. The left shoulder was injured. He was diagnosed with degenerative joint disease, tendinosis and tendinitis. He lacks the normal range of motion. The range of motion method was used to estimate impairment. His flexion was 150°. Figure 16-40 on page 476 allows for a 2% upper extremity impairment. His abduction was 155°. Figure 16-43 on page 477 allows for a 1% upper extremity impairment. These two are added together for a 3% upper extremity impairment, which is converted to a shoulder impairment by dividing by .62 equal a 5% left shoulder impairment.” (Claimant’s p. 56) (Drafting party to detail FCE.)
20. Claimant also submitted medical records from his prior 2012 injury. On December 27<sup>th</sup>, 2012, Dr. Christopher Mazoue gave Claimant a post-operative diagnosis of Right shoulder impingement syndrome, right shoulder acromioclavicular degenerative joint disease, right shoulder rotator cuff tendinopathy, and right shoulder proximal biceps tendinopathy. (Claimant’s APAs p. 68-72).
21. Based on Claimant’s sworn testimony at the hearing, particularly regarding his medical history and discrepancies with his deposition testimony, I find his testimony to be unreliable. As a result, I cannot rely on physician’s opinions in the record that are based on what the Claimant has or has not told them. Just as Claimant’s IME physician, Dr. Rustin, testified he could not rely on what Claimant had told him. I make no finding as to

- whether Claimant's unreliable statements were intentional or malicious, as his statements are outweighed by the extensive medical evidence in the record.
22. I give greater weight to Dr. Rustin's deposition testimony than to his report from February, 2023, as he had a more complete of Claimant's medical history at that time and was subject to cross-examination.
23. Furthermore, other than the Claimant's subjective complaints, the record is absent of an opinion from a physician having been presented with Claimant's complete medical history that states to a reasonable degree of medical certainty that Claimant's alleged injuries/aggravations are a result of his alleged work-related accident. While Nurse Watson indicated that Claimant's current complaints may have been related to his alleged fall at work, her opinion is not clearly stated to a reasonable degree of medical certainty. (Claimant's APAs p. 16). Further, while Ms. Watson is certainly a qualified and capable health-care provider, she is not a "physician or surgeon" as that narrow phrase is used in the Act.
24. Therefore, I find Claimant has not met the legal ~~requisite~~ to satisfy his burden of proof that he sustained compensable injuries/aggravations arising out of and in the course and scope of his employment. Claimant did not produce any witnesses to the accident, nor did any physician who was provided with all the facts state to a reasonable degree of medical certainty that his current complaints were causally-related to the accident. ~~Defendants~~ showed Claimant had extensive pre-existing conditions, as well as permanent disability arising from his 2012 injury in Louisiana.
25. Claimant's request for benefits under the Act is hereby denied.

## V. CONCLUSIONS OF LAW

1. The preponderance of the evidence establishes that Claimant failed to meet his burden to prove that he sustained a compensable injury arising out of and in the course of employment. "Injury" and "personal injury" mean only injury by accident arising out of and in the course of employment. . . S.C. Code Ann. § 42-1-160 (2021). "Arising out of" refers to the injury's origin and cause, whereas "in the course of" refers to the injury's time, place, and circumstances." Barnes v. Charter 1 Realty, 411, S.C. 391, 398 (2015) (internal

citations omitted). “For an injury to arise out of employment, there must be a causal connection between the conditions under which the work is required to be performed and the resulting injury.” *Id.* (internal citations omitted). “In other words, but for the claimant being at work, the injury would not have occurred.” *Nicholson v. S.C. Dept. of Social Servs.*, 411 S.C. 381, 386 (2015). “Proof that a claimant sustained an injury may be established by circumstantial and direct evidence where circumstances lead an unprejudiced mind to reasonably infer the injury was caused by the accident.” *Tiller v. National Health Care Center of Sumter*, 334 S.C. 333, 341 (1999) (internal citations omitted).

2. The occurrence of a work-related injury is further complicated by the lack of a physician’s opinion that Claimant’s current issues are causally related to his alleged work-related accident. The preponderance of the evidence in the record establishes Claimant’s self-serving statements that his injury is work related, but his statements are not corroborated by a medical doctor. The lack of a physician’s opinion on the etiology of Claimant’s injury is not dispositive, but the conflicting testimony and statements to healthcare providers by Claimant, and lack of an eyewitness further erode the validity of the claim such that “an unprejudiced mind [cannot] reasonably infer the injury was caused by the accident” or that the accident occurred at all. *Id.*
3. The discrepancies in Claimant’s deposition testimony and hearing testimony neither support nor detract from the compensability of this claim. Rather, it is the preponderance of the evidence viewed as a whole that renders this claim non-compensable. “[A] credibility finding has no force independent of context. . . the trier of fact must weigh and measure each piece of evidence. . . [and] must explain how the credibility determination is important to making the particular factual finding.” *Clark v. Philips Electronics*, 433 S.C. 186, 192 (Ct. App. 2021) (citing *Crane v. Raber’s Disc. Tire Rack*, 429 S.C. 636, 647 (2020)). As previously stated, the absence of an eyewitness, testimony of Dr. Rustin, and lack of a clear causation statement from a fully-informed physician obviates the necessity of a credibility finding in this claim. An independent finding of Claimant’s credibility adds little to the analysis given the balance of the evidence in the record. Claimant is neither credible nor incredible.

## ORDER

**IT IS ORDERED**, Claimant is not entitled to receive, nor are Defendants required to provide compensation or medical benefits as Claimant has failed to meet his burden to prove by the preponderance of the evidence that his left shoulder, hip, neck, back, or bilateral arms injuries arose out of and occurred in the course of employment.

**IT IS ORDERED** that the Claimant's request for benefits under the Act is hereby denied.

  
\_\_\_\_\_  
Commissioner Mike Campbell

#### 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).

September 9, 2024

By: Mackenzie Stites, Administrative Assistant to Commissioner Campbell

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STATE OF SOUTH CAROLINA  
BEFORE THE  
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION  
W.C.C. FILE NO.: 2216315

Amos Mack, )  
 )  
 Claimant/Appellant, )  
 )  
 v. )  
 )  
 Don's Car Crushing, Inc., Employer, )  
 )  
 and )  
 )  
 BusinessFirst Insurance Company, Carrier, )  
 )  
 Defendants/Respondents. )

**DEFENDANTS' BRIEF IN RESPONSE  
TO CLAIMANT'S APPEAL**

**STATEMENT OF THE CASE**

Amos Mack ("Claimant/Appellant") has appealed the Decision and Order of Commissioner R. Michael Campbell, II ("Hearing Commissioner") filed on September 9, 2024. Don's Car Crushing, Inc., and BusinessFirst Insurance Company, collectively Defendants or Respondents, submit this brief in response to the Claimant's appeal. Claimant is appearing pro se.

By way of background, the Claimant alleges to have sustained an injury by accident on October 14, 2022, causing injuries to his left shoulder, right arm, left arm, left hand, right hand, right hip and right leg. The defendants denied this claim in its entirety, primarily based upon the contention the Claimant did not have any medical evidence causally relating the alleged injuries to the accident, but also based on the fact the accident was unwitnessed and occurred within hours of starting his employment and just after receiving workers' compensation benefits from the state of Louisiana for 9 or 10 years.

Following a Hearing on May 15, 2024, and subsequent to the recusal of the Hearing Commissioner, Commissioner Campbell reviewed the evidence and testimony issued a Hearing. By way of the Decision and Order filed on September 9, 2024, Commissioner Campbell issued an order denying the claim in its entirety.

### STANDARD OF REVIEW

As an appellate body, the Full Commission is given great discretion to review decisions made at the Hearing Commissioner level and to make its own findings and conclusions. Specifically, “the Full Commission is empowered to make its own findings of fact and to reach its own conclusions of law consistent or inconsistent with those of the hearing commissioner.” McGuffin v. Schlumberger-Sangamo, 307 S.C. 184, 414 S.E.2d 162 (1992) (citing Green v. Raybestos-Manhattan, Inc., 250 S.C. 58, 156 S.E.2d 318 (1967)). Accordingly, the Full Commission is the ultimate finder of fact and is not bound by the Hearing Commissioner's Findings of Fact. Lanford v. Clinton Cotton Mills, 204 S.C. 423, 30 S.E.2d 36 (1944); Linnen v. Beaufort Co. Sheriff's Dep't, 305 S.C. 341, 408 S.E.2d 248 (Ct. App.1991). Defendants request that the Full Commission now exercise its discretion to provide an independent decision as to whether the issues raised by the Claimant on appeal are supported by the greater weight of the evidence and the law of South Carolina.

### ARGUMENT

I. **THE CLAIMANT HAS FAILED TO PRESENT ANY SUBSTANTIVE OR LEGIBLE ARGUMENT, BUT NONETHELESS THE DENIAL OF THE CLAIM IS SUPPORTED BY THE GREATER WEIGHT OF THE EVIDENCE IN THE RECORD.**

The Claimant filed a Form 59, Appellant's Informal Brief, on September 19, 2024. However, much of the brief is illegible and as such cannot be responded to by the Defendants. However, even the parts of the Brief that are legible fail to present the Full Commission with any evidence of factual or legal errors upon which a reversal can be based. Moreover, it appears the Claimant is attempting to place the burden of proof on the Defendants in this matter, which is improper.

Ultimately, the Defendants assert the Hearing Commissioner properly reviewed the evidence in the record, and the testimony provided by the Claimant, and properly found the greater weight of the evidence supported a denial of the claim. The Claimant as failed to provide any argument or evidence to the contrary in his Brief.

CONCLUSION

For the foregoing reasons, Defendants respectfully request the Full Commission to find the greater weight of the evidence supports the determinations of the Hearing Commissioner as to the denial of the claim. The Defendants request the Decision and Order of the Hearing Commissioner be affirmed in its entirety.

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

By: 

\_\_\_\_\_  
Nicolas L. Haigler  
Post Office Box 11449  
Columbia, SC 29211  
(803) 929-1400

ATTORNEY FOR DEFENDANTS

Columbia, South Carolina  
December 19, 2024

CERTIFICATE OF SERVICE

I, the undersigned, Legal Assistant with the law offices of Robinson Gray Stepp & Laffitte, LLC, attorneys for Defendant, do hereby certify that I have served counsel of record with the foregoing document(s) by U.S. Mail, Certified Mail and/or electronic service to the following address(es):

Document(s) Served: **DEFENDANTS' BRIEF IN RESPONSE TO THE CLAIMANT'S APPEAL**

Person/Party Served: **VIA U.S. MAIL AND CERTIFIED MAIL**

Amos Mack  
1256 Tony Bay Road  
Holly Hill, SC 29059

**VIA E-CASE UPLOAD**

Ms. Amy Bracy  
Judicial Director  
SC Workers' Compensation Commission  
1333 Main Street, Suite 500  
Columbia, SC 29202-1715

*Emily Andrews*

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Emily Andrews

Columbia, South Carolina  
December 19, 2024

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STATE OF SOUTH CAROLINA  
BEFORE THE  
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION  
WCC FILE NO. 2216315

RECEIVED

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SC Court of Appeals

AMOS MACK,  
CLAIMANT,  
VS.  
DON'S CAR CRUSHING,  
EMPLOYER,  
AND  
BUSINESS FIRST INSURANCE,  
CARRIER/DEFENDANTS.

TRANSCRIPT OF PROCEEDINGS

MARCH 10, 2025

COPY

FULL COMMISSION HEARING

\*\*\*\*\*

THIS FULL COMMISSION HEARING WAS HELD VIA  
COURTCALL BEFORE COMMISSIONERS SCOTT BECK, GENE  
MCCASKILL AND MELODY JAMES REPORTED BY SKYLET KEAN,  
COURT REPORTER AND NOTARY PUBLIC IN AND FOR THE STATE  
OF SOUTH CAROLINA; SAID PROCEEDINGS WERE HELD AT THE  
WORKERS' COMPENSATION COMMISSION, 1333 MAIN STREET,  
SUITE 500, COLUMBIA, SOUTH CAROLINA, ON MONDAY,  
MARCH 10, 2025, COMMENCING AT 1:42 P.M.

APPEARANCES

FOR THE CLAIMANT:

AMOS MACK, PRO SE', DID NOT APPEAR

FOR THE DEFENDANTS:

NICOLAS L. HAIGLER, ESQUIRE (VIRTUALLY)
ROBINSON, GRAY, STEPP & LAFITTE, LLC
POST OFFICE BOX 11449
COLUMBIA, SOUTH CAROLINA 29211

INDEX

CALL TO ORDER:
CHAIRMAN BECK

PAGE

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EXHIBITS

NONE

PROCEEDINGS

CALL TO ORDER:

THE COURT REPORTER: Today is March 10, 2025. This is the South Carolina Workers' Compensation Case No. 2216315. This is the case of Amos Mack, claimant, versus Don's Car Crushing, employer, and Business First Insurance, carrier.

The Appellant is the claimant, Amos Mack. He is not present today. The respondent is represented by Nicolas L. Haigler.

Is that good or do want me to do --

CHAIRMAN BECK: The whole thing.

All right. As the court reporter just indicated, Mr. Mack is not present for today's proceeding. I will put on the record, he has been properly noticed on this proceeding. Our Appeals' Director actually spoke with him on Friday, last week, and has made numerous attempts this afternoon to reach him to get him at this proceeding.

I'll also note for the record that he preferred -- based on what I'm told by the Appeals' Director, that he preferred to do this virtually.

Because he is not present, the rules permit us but don't require us to have oral arguments. Because of his lack of presence today,

1 the Panel is going to review this matter on the  
2 record and make a ruling based on that record.

3 Mr. Haigler, do you have any questions,  
4 sir?

5 **MR. HAIGLER:** None, Your Honor.

6 **CHAIRMAN BECK:** All right. That will  
7 conclude this proceeding.

8 (WHEREUPON, THE HEARING WAS CONCLUDED AT 1:45 P.M.)  
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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

I, SKYLET KEAN, COURT REPORTER AND NOTARY PUBLIC, FOR THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT SAID HEARING TRANSCRIPT IS A STENOGRAPHIC REPORT AND WAS TRANSCRIBED THROUGH COMPUTER-AIDED TRANSCRIPTION; THAT THE FOREGOING TRANSCRIPT CONTAINS A TRUE RECORD OF SAID HEARING.

I FURTHER CERTIFY THAT I AM NEITHER ATTORNEY NOR COUNSEL FOR, NOR RELATED TO NOR EMPLOYED BY ANY OF THE PARTIES CONNECTED TO THE ACTION, NOR AM I FINANCIALLY INTERESTED IN THE ACTION.

WITNESS MY HAND AT COLUMBIA, SOUTH CAROLINA, THIS 21ST DAY OF JULY 2025.



*Skylet A. Kean*

SKYLET A. KEAN, COURT REPORTER  
NOTARY PUBLIC FOR THE STATE OF  
SOUTH CAROLINA  
MY COMMISSION EXPIRES: 07/26/2034

SKYLET KEAN (803) 609-0134  
fttpam@aol.com

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*N. L. H.*

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State of South Carolina  
Workers' Compensation Commission

APPELLATE PANEL DECISION AND ORDER

COMMISSION PANEL: The Honorable T. Scott Beck; The Honorable Gene McCaskill; and  
The Honorable Melody L. James.

SCWCC File No.: 2216315

Amos Mack,

Claimant,

v.

Don's Car Crushing,

Employer,

and

Business First Insurance Co.,

Carrier,

Defendants.

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SC Court of Appeals

888 415 7670

**AFFIRMED**

Hearing Held in Richland County, South Carolina,  
on March 10, 2025

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

Appearances: Amos Mack, Claimant/Appellant, *pro se*.  
Nicolas L. Haigler, Esq., of Robinson Gray Sepp & Laffitte,  
LLC, represents Defendants/Respondents.

Court Reporter: Skylet Kean, 803-609-0134.

Filed: May 16, 2025

AMENDED

## I. STATEMENT OF THE CASE

### Single Commissioner

On May 15, 2024, a hearing was held before a Single Commissioner to determine issues set forth on the parties' Forms 50 and 51.<sup>1</sup>

Claimant asserted he sustained injuries on October 14, 2022, to his left shoulder, left arm, right hip and right leg when he slipped and fell in the course and scope of his employment with Employer. Claimant further asserted he was not at maximum medical improvement for his injuries. Claimant sought a finding of compensability and causally related medical treatment for the same. Claimant further sought Temporary Total Disability benefits from October 18, 2022, to the present and continuing. In the alternative, Claimant sought a permanent total disability determination.

Claimant asserted on his Pre-Hearing Brief that he sustained additional injuries to his right shoulder, right arm, bilateral wrists, and low back in his work accident on October 14, 2022. However, during the initial hearing, Claimant testified that his right shoulder injury was not a part of this claim. (Hr. Tr. p. 75.)

Defendants denied Claimant's claim. Defendants specifically asserted during the initial hearing that Claimant had been receiving workers' compensation benefits under the state laws of Louisiana for the past 9-10 years, and did not work during this period. (Hr. Tr. p. 13.) Defendants continued that Claimant was allegedly injured within one (1) hour of returning to work in South Carolina, but failed to report said injury to Employer for five (5) days. (Id.) Defendants maintained these events, combined with the ongoing discrepancy as to Claimant's injured body parts and lack of medical causation in

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<sup>1</sup> This matter was originally heard by the Honorable Avery B. Wilkerson, Jr. on May 15, 2024. Following the hearing, Commissioner Wilkerson recused himself from the proceeding in accordance with Canon 3E, Rule 501 SCACR. The case was assigned to Commissioner R. Michael Campbell, II, for adjudication. Commissioner Campbell reviewed the record and determined it was not necessary to reconvene the Hearing, as all parties had given testimony, submitted medical evidence, and there was sufficient evidence in the record to render a decision. (Single Commissioner's Decision and Order filed on September 9, 2024, p. 2.)

evidence, formed the basis of their denial. (Id. at 13-15.)

The Single Commissioner determined, *inter alia*:

[C]laimant is not entitled to receive, nor are Defendants required to provide compensation or medical benefits, as Claimant has failed to meet his burden to prove by the preponderance of the evidence that his left shoulder, hip, neck, back, or bilateral arms injuries arose out of and occurred in the course of employment.

(Single Commissioner's Decision and Order filed on September 9, 2024, p.11.)

### **Appellate Panel**

This matter is now before the South Carolina Workers' Compensation Commission's Appellate Panel pursuant to issues raised on appeal by Claimant. Within the statutory period, Claimant filed a Form 30, Request for Commission Review. Accordingly, the parties presented before the Appellate Panel on March 10, 2025.

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

### **FINDINGS OF FACT**

1. Claimant seeks benefits under the South Carolina Workers' Compensation Act based upon alleged injury occurring while in the employment of Defendant Employer, and therefore, the South Carolina Workers' Compensation Commission has jurisdiction over the issue.
2. Notice of Hearing was timely and properly served on all parties of interest.
3. Venue is proper in Calhoun County, South Carolina.
4. Claimant's average weekly wage and corresponding compensation rate are \$900.00 and \$600.03, respectively.
5. Claimant alleges on October 14th, 2022, he was an employee of Don's Car Crushing, Inc., and that he was welding in a two-story building and fell injuring his shoulders, both arms, both wrists, and low back. (Tr. P. 7.)
6. Defendants assert October 14th, 2022 was Claimant's first day on the job and he was injured within the first hour or so of being there. They further assert that for the ten years prior to the alleged injury he had been on an award of workers' compensation benefits under the laws of the State of Louisiana, that he subsequently settled or stopped receiving benefits sometime in 2021, came back to work after 10 years on disability, alleges he was hurt within one hour of returning

- to work, and did not report the alleged injury for 5 more days. Defendants deny any entitlement to benefits. (Tr. P. 13.) Defendants assert no physician has causally-related any of Claimant's complaints to the alleged injury on October 14th, 2022.
7. Claimant testified that he is 61 years old, married, with one adult son. He graduated High School in 1981. He obtained his welding certificate in 1982. He has had two previous workers' compensation claims. He has worked as a welder in a shipyard. He served two and one-half years in prison for drug-related crime. Upon release, he returned to welding. In 2001 he was imprisoned again for two and one-half years for failure to stop for a blue light. Upon release he again returned to working as a welder. In 2012 he sustained an on-the-job injury, for which he received a settlement of \$125,000.00 at the time and then was on an award of \$2,600.00 per month for the next ten years under the Louisiana Workers' Compensation Law. He had shoulder surgery in 2012 in South Carolina with Dr. Mazoue. He began work with Don's Car Crushing on October 14th, 2022. (Tr. p. 21-24.)
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  9. Claimant testified the accident was witnessed by his foreman, Paul, and a co-worker known as "Taco". (Tr. p. 28.) Neither alleged witness testified at the Hearing.
  10. Claimant testified he told Paul what happened and continued to work for the day. (Tr. p. 29.) He testified he came back the next day, Sunday, and worked for two hours before he clocked out due to not being able to stand up. (Tr. p. 29.) He testified he took off from work on Monday to attend a court hearing related to a traffic ticket. (Tr. p. 29.)
  11. Claimant testified he went to the emergency room on Monday, October 17th, 2022. Claimant testified he told the emergency room he injured both arms/wrists, hip, neck, and back. (Tr. p. 30.) Claimant testified he was written out of work and gave that note to Mitch, the superintendent that hired him for the job. (Tr. p. 32.) He also alleges he wrote a note describing his accident and gave it to Ms. "Danielle", or a similar name, a secretary in the office. (Tr. p. 35.)
  12. Claimant was seen at the Regional Medical Center in Orangeburg, SC, on October 17th, 2022 for hip pain and left shoulder pain. (Claimant's APAs, p. 1.) Claimant was diagnosed with a contusion of left shoulder, contusion of right hip region, degenerative disc disease, and degenerative joint disease. Impressions noted no signs of traumatic injury, bilateral hip

- osteoarthritis, mild glenohumeral and moderate acromioclavicular osteoarthritis, L4-5 degenerative disc disease and degenerative spondylosis, and diffuse facet osteoarthritis. (Claimant's APAs p. 4-8.)
13. Claimant was evaluated by Julia Watson, FNP, on November 14th, 2022. Ms. Watson diagnosed him with Dorsalgia, unspecified, pain in unspecified limb, pain in right wrist, pain in left wrist, fall, subsequent encounter, and elevated blood-pressure. She referred him to orthopaedics for an evaluation and told him to try wrist braces for pain. (Claimant's APAs p. 14.) She opined: "Please admit back to work/school not until further notice". (Claimant's APAs p. 16.)
14. He was subsequently seen by Ms. Watson on January 11th, 2023, January 26th, 2023, and March 16th, 2023. Ultimately, she referred him to orthopaedic surgery for "Pt with lower back pain, possibly due to herniated disc in the lower back, along with wrist and leg pain from a fall at work last Fall". (Claimant's APAs p. 26.)
15. On February 22, 2023, in an IME for Claimant, Dr. Dowse D. Rustin of Orthopedic Associates of Charleston opined: "Mr. Mack says that his injuries occurred on 10/14/2022, his first day on the job at DCC recycling when he slipped on a beam and fell landing on his buttocks catching some of his weight on both upper extremities on an adjacent beam . . . It would be my recommendation that he be referred to a sports medicine physician as well as a spine specialist for review of the complaints he has with his low back and right lower extremity. I believe his right hip pain is secondary to his osteoarthritis as he has a history of primary osteoarthritis that in my opinion predated his injury on 10/14/2022. It is unfortunate he had this fall the first day of his work at his new job with DCC. However, it would be my recommendation that he have a follow-up and be scheduled for physical therapy and any additional studies, as well as consultation with a qualified spine specialist and sports medicine specialist. He has evidence of tendinosis and tendinitis involving his right shoulder with some displacement of distal biceps tendon. He has also indication of a displaced disc in his lumbar spine which is superimposed on what I believe is pre-existing spondylosis of the spine. If the insurance carrier sees fit to denying him access to evaluation and treatment, then I would recommend he be rated at 6% of the right upper extremity for permanent aggravation of DID and tendinosis of his right shoulder. 5% additional for his right-hand dominance for a total of 11% impairment of his right upper extremity that would be equivalent to 18% of his right shoulder. For his low back pain with disc displacement and radiculopathy with myelopathy, I would recommend a rating of DRE lumbar

Category II for aggravation of DDD and spondylosis of 8% whole person impairment. This would be equivalent to 9% impairment of the lumbar spine. . . Please know that I hold the statements, comments and opinions, as well as recommendations within this report to be to a reasonable degree of medical certainty." (Claimant's APAs p. 33 – 37.)

16. On 08/03/2023, however, in his deposition testimony Dr. Rustin testified after being presented with Claimant's medical history that Claimant was less than truthful with him about his medical history, and he could not rely on what Claimant had told him. (Deposition transcript, p. 64, 68.)
17. On April 21, 2023, Claimant was evaluated by Lisa Etheridge, F RN, NP. She diagnosed him with bilateral wrist pain, left shoulder pain, lumbar herniated disc, lumbar pain, and pain in left wrist. At Claimant's request, she referred him to Midlands Orthopaedic for further evaluation. (Claimant's APAs p. 38-41.)
18. On 11/07/2023, in his medical notes, Dr. Seth H. Bowman of Midlands Orthopaedics and Neurosurgery opined: "Patient has severe bilateral CMC arthritis, right side is worse. His insurance denied is CMC arthroplasty despite two previous injections, neither of which provide long-lasting relief radiographic evidence of stage IV CMC arthritis, failure of brace treatment. Not quite sure why this happened, he is now in physical therapy although again I think that this is completely a waste of time there is no benefit to this, multiple studies have shown this. He will finish his therapy for documentation's sake and we will see him back in 4-6 weeks at which point we will try to get his surgery re-approved." (Defendant's APAs, p. 2.)
19. On 01/12/2024, in an FCE for Claimant, PT Philip Lowe of Lowe's Therapy opined: "Amos fell while at work injuring several parts of his body. This was a year ago, now he is at maximum medical improvement. The 5th Edition was used to estimate impairment. The spine was diagnosed with lumbar disc disease with radiculopathy. The DRE method was used to estimate impairment. He receives a 13% whole person impairment according to table 15-3 on page 384. 13% whole person is converted to regional spine impairment by dividing by .75 to equal a 20% lumbosacral spine impairment. The left shoulder was injured. He was diagnosed with degenerative joint disease, tendinosis and tendinitis. He lacks the normal range of motion. The range of motion method was used to estimate impairment. His flexion was 150°. Figure 16-40 on page 476 allows for a 2% upper extremity impairment. His abduction was 155°. Figure 16-43 on page 477 allows for a 1% upper extremity impairment. These two are added together for a 3% upper extremity impairment, which is converted to a shoulder impairment by dividing by

- .62 equal a 5% left shoulder impairment." (Claimant's p. 56.) (Drafting party to detail FCE.)
20. Claimant also submitted medical records from his prior 2012 injury. On December 27<sup>th</sup>, 2012, Dr. Christopher Mazoue gave Claimant a post-operative diagnosis of Right shoulder impingement syndrome, right shoulder acromioclavicular degenerative joint disease, right shoulder rotator cuff tendinopathy, and right shoulder proximal biceps tendinopathy. (Claimant's APAs p. 68-72.)
  21. Based on Claimant's sworn testimony at the hearing, particularly regarding his medical history and discrepancies with his deposition testimony, I find his testimony to be unreliable. As a result, I cannot rely on physician's opinions in the record that are based on what Claimant has or has not told them. Just as Claimant's IME physician, Dr. Rustin, testified he could not rely on what Claimant had told him. I make no finding as to whether Claimant's unreliable statements were intentional or malicious, as his statements are outweighed by the extensive medical evidence in the record.
  22. I give greater weight to Dr. Rustin's deposition testimony than to his report from February, 2023, as he had a more complete [sic] of Claimant's medical history at that time and was subject to cross-examination.
  23. Furthermore, other than Claimant's subjective complaints, the record is absent of an opinion from a physician having been presented with Claimant's complete medical history that states to a reasonable degree of medical certainty that Claimant's alleged injuries/aggravations are a result of his alleged work-related accident. While Nurse Watson indicated that Claimant's current complaints may have been related to his alleged fall at work, her opinion is not clearly stated to a reasonable degree of medical certainty. (Claimant's APAs p. 16.) Further, while Ms. Watson is certainly a qualified and capable health-care provider, she is not a "physician or surgeon" as that narrow phrase is used in the Act.
  24. Therefore, I find Claimant has not met the legal requisite to satisfy his burden of proof that he sustained compensable injuries/aggravations arising out of and in the course and scope of his employment. Claimant did not produce any witnesses to the accident, nor did any physician who was provided with all the facts state to a reasonable degree of medical certainty that his current complaints were causally related to the accident. Defendants showed Claimant had extensive pre-existing conditions, as well as permanent disability arising from his 2012 injury in Louisiana.
  25. Claimant's request for benefits under the Act is hereby denied.

## CONCLUSIONS OF LAW

1. The preponderance of the evidence establishes that Claimant failed to meet his burden to prove that he sustained a compensable injury arising out of and in the course of employment. "Injury' and 'personal injury' mean only injury by accident arising out of and in the course of employment. . ." S.C. Code Ann. § 42-1-160 (2021). "Arising out of refers to the injury's origin and cause, whereas "in the course of' refers to the injury's time, place, and circumstances." Barnes v. Charter 1 Realty, 411, S.C. 391, 398 (2015) (internal citations omitted). "For an injury to arise out of employment, there must be a causal connection between the conditions under which the work is required to be performed and the resulting injury." (Id.) (internal citations omitted). "In other words, but for the claimant being at work, the injury would not have occurred." Nicholson v. S.C. Dept. of Social Servs., 411 S.C. 381, 386 (2015). "Proof that a claimant sustained an injury may be established by circumstantial and direct evidence where circumstances lead an unprejudiced mind to reasonably infer the injury was caused by the accident." Tiller v. National Health Care Center of Sumter, 334 S.C. 333, 341 (1999) (internal citations omitted).
2. The occurrence of a work-related injury is further complicated by the lack of a physician's opinion that Claimant's current issues are causally related to his alleged work-related accident. The preponderance of the evidence in the record establishes Claimant's self-serving statements that his injury is work related, but his statements are not corroborated by a medical doctor. The lack of a physician's opinion on the etiology of Claimant's injury is not dispositive, but the conflicting testimony and statements to healthcare providers by Claimant, and lack of an eyewitness further erode the validity of the claim such that "an unprejudiced mind [cannot] reasonably infer the injury was caused by the accident" or that the accident occurred at all. (Id.)
3. The discrepancies in Claimant's deposition testimony and hearing testimony neither support nor detract from the compensability of this claim. Rather, it is the preponderance of the evidence viewed as a whole that renders this claim non-compensable. "[A] credibility finding has no force independent of context. . . the trier of fact must weigh and measure each piece of evidence. . . [and] must explain how the credibility determination is important to making the particular factual finding." Clark v. Philips Electronics, 433

S.C. 186, 192 (Ct. App. 2021) (citing Crane v. Raber's Disc. Tire Rack, 429 S.C. 636, 647 (2020)). As previously stated, the absence of an eyewitness, testimony of Dr. Rustin, and lack of a clear causation statement from a fully-informed physician obviates the necessity of a credibility finding in this claim. An independent finding of Claimant's credibility adds little to the analysis given the balance of the evidence in the record. Claimant is neither credible nor incredible.

### **III. ISSUE ON APPEAL**

Whether the Single Commissioner erred as a matter of fact and law that Claimant failed to meet his burden to prove by the preponderance of the evidence that his alleged injuries arose out of and occurred in the course of his employment on October 14, 2022?

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

Pursuant to S.C. Code Ann. §42-17-50, we, the Appellate Panel, have reviewed the Decision and Order of the Single Commissioner and weighed the evidence as presented at the initial hearing. We have also considered all issues raised in the respective Appellant and Respondent briefs of the parties, as well as those issues raised at the Full Commission Review Hearing.

After careful review, the Appellate Panel of the South Carolina Workers' Compensation Commission, by unanimous vote, does hereby fully **AFFIRM** the Decision and Order of the Single Commissioner filed on September 9, 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. Claimant seeks benefits under the South Carolina Workers' Compensation Act based upon alleged injury occurring while in the employment of Defendant Employer, and therefore, the South Carolina Workers' Compensation Commission has jurisdiction over the issue.
2. Notice of Hearing was timely and properly served on all parties of interest.
3. Venue is proper in Calhoun County, South Carolina.

4. Claimant's average weekly wage and corresponding compensation rate are \$900.00 and \$600.03, respectively.
5. Claimant alleges on October 14th, 2022, he was an employee of Don's Car Crushing, Inc., and that he was welding in a two-story building and fell injuring his shoulders, both arms, both wrists, and low back. (Tr. P. 7.)
6. Defendants assert October 14th, 2022 was Claimant's first day on the job and he was injured within the first hour or so of being there. They further assert that for the ten years prior to the alleged injury he had been on an award of workers' compensation benefits under the laws of the State of Louisiana, that he subsequently settled or stopped receiving benefits sometime in 2021, came back to work after 10 years on disability, alleges he was hurt within one hour of returning to work, and did not report the alleged injury for 5 more days. Defendants deny any entitlement to benefits. (Tr. P. 13.) Defendants assert no physician has causally-related any of Claimant's complaints to the alleged injury on October 14th, 2022.
7. Claimant testified that he is 61 years old, married, with one adult son. He graduated High School in 1981. He obtained his welding certificate in 1982. He has had two previous workers' compensation claims. He has worked as a welder in a shipyard. He served two and one-half years in prison for drug-related crime. Upon release, he returned to welding. In 2001 he was imprisoned again for two and one-half years for failure to stop for a blue light. Upon release he again returned to working as a welder. In 2012 he sustained an on-the-job injury, for which he received a settlement of \$125,000.00 at the time and then was on an award of \$2,600.00 per month for the next ten years under the Louisiana Workers' Compensation Law. He had shoulder surgery in 2012 in South Carolina with Dr. Mazoue. He began work with Don's Car Crushing on October 14th, 2022. (Tr. p. 21-24.)
8. Claimant testified that he was getting down off the building where he was welding when his feet slid out from under him and as he was falling he grabbed a hold of some steel with his hands to stop his fall. (Tr. p. 26.) He testified he fell five to eight feet. (Tr. p. 27.)
9. Claimant testified the accident was witnessed by his foreman, Paul, and a co-worker known as "Taco". (Tr. p. 28.) Neither alleged witness testified at the Hearing.
10. Claimant testified he told Paul what happened and continued to work for the day. (Tr. p. 29.) He testified he came back the next day, Sunday, and worked for two hours before he clocked out due to not being able to stand up. (Tr. p. 29.) He testified he took off from work on

Monday to attend a court hearing related to a traffic ticket. (Tr. p. 29.)

11. Claimant testified he went to the emergency room on Monday, October 17th, 2022. Claimant testified he told the emergency room he injured both arms/wrists, hip, neck, and back. (Tr. p. 30.) Claimant testified he was written out of work and gave that note to Mitch, the superintendent that hired him for the job. (Tr. p. 32.) He also alleges he wrote a note describing his accident and gave it to Ms. "Danielle", or a similar name, a secretary in the office. (Tr. p. 35.)
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primary osteoarthritis that in my opinion predated his injury on 10/14/2022. It is unfortunate he had this fall the first day of his work at his new job with DCC. However, it would be my recommendation that he have a follow-up and be scheduled for physical therapy and any additional studies, as well as consultation with a qualified spine specialist and sports medicine specialist. He has evidence of tendinosis and tendinitis involving his right shoulder with some displacement of distal biceps tendon. He has also indication of a displaced disc in his lumbar spine which is superimposed on what I believe is pre-existing spondylosis of the spine. If the insurance carrier sees fit to denying him access to evaluation and treatment, then I would recommend he be rated at 6% of the right upper extremity for permanent aggravation of DID and tendinosis of his right shoulder. 5% additional for his right-hand dominance for a total of 11% impairment of his right upper extremity that would be equivalent to 18% of his right shoulder. For his low back pain with disc displacement and radiculopathy with myelopathy, I would recommend a rating of DRE lumbar Category II for aggravation of DDD and spondylosis of 8% whole person impairment. This would be equivalent to 9% impairment of the lumbar spine. . . Please know that I hold the statements, comments and opinions, as well as recommendations within this report to be to a reasonable degree of medical certainty." (Claimant's APAs p. 33 – 37.)

16. On 08/03/2023, however, in his deposition testimony Dr. Rustin testified after being presented with Claimant's medical history that Claimant was less than truthful with him about his medical history, and he could not rely on what Claimant had told him. (Deposition transcript, p. 64, 68.)
17. On April 21, 2023, Claimant was evaluated by Lisa Etheridge, F RN, NP. She diagnosed him with bilateral wrist pain, left shoulder pain, lumbar herniated disc, lumbar pain, and pain in left wrist. At Claimant's request, she referred him to Midlands Orthopaedic for further evaluation. (Claimant's APAs p. 38-41.)
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- shown this. He will finish his therapy for documentation's sake and we will see him back in 4-6 weeks at which point we will try to get his surgery re-approved." (Defendant's APAs, p. 2.)
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20. Claimant also submitted medical records from his prior 2012 injury. On December 27<sup>th</sup>, 2012, Dr. Christopher Mazoue gave Claimant a post-operative diagnosis of Right shoulder impingement syndrome, right shoulder acromioclavicular degenerative joint disease, right shoulder rotator cuff tendinopathy, and right shoulder proximal biceps tendinopathy. (Claimant's APAs p. 68-72.)
21. Based on Claimant's sworn testimony at the hearing, particularly regarding his medical history and discrepancies with his deposition testimony, we find his testimony to be unreliable. As a result, we cannot rely on physician's opinions in the record that are based on what Claimant has or has not told them. Just as Claimant's IME physician, Dr. Rustin, testified he could not rely on what Claimant had told him. We make no finding as to whether Claimant's unreliable statements were intentional or malicious, as his statements are outweighed by the extensive medical evidence in the record.
22. We give greater weight to Dr. Rustin's deposition testimony than to his report from February, 2023, as he had a more complete [understanding] of Claimant's medical history at that time

and was subject to cross-examination.

23. Furthermore, other than Claimant's subjective complaints, the record is absent of an opinion from a physician having been presented with Claimant's complete medical history that states to a reasonable degree of medical certainty that Claimant's alleged injuries/aggravations are a result of his alleged work-related accident. While Nurse Watson indicated that Claimant's current complaints may have been related to his alleged fall at work, her opinion is not clearly stated to a reasonable degree of medical certainty. (Claimant's APAs p. 16.) Further, while Ms. Watson is certainly a qualified and capable health-care provider, she is not a "physician or surgeon" as that narrow phrase is used in the Act.
24. Therefore, we find Claimant has not met the legal requisite to satisfy his burden of proof that he sustained compensable injuries/aggravations arising out of and in the course and scope of his employment. Claimant did not produce any witnesses to the accident, nor did any physician who was provided with all the facts state to a reasonable degree of medical certainty that his current complaints were causally related to the accident. Defendants showed Claimant had extensive pre-existing conditions, as well as permanent disability arising from his 2012 injury in Louisiana.
25. Claimant's request for benefits under the Act is hereby denied.

#### CONCLUSIONS OF LAW

1. The preponderance of the evidence establishes that Claimant failed to meet his burden to prove that he sustained a compensable injury arising out of and in the course of employment. "'Injury' and 'personal injury' mean only injury by accident arising out of and in the course of employment. . ." S.C. Code Ann. § 42-1-160 (2021). "Arising out of refers to the injury's origin and cause, whereas 'in the course of' refers to the injury's time, place, and circumstances." Barnes v. Charter 1 Realty, 411, S.C. 391, 398 (2015) (internal citations omitted). "For an injury to arise out of employment, there must be a causal connection between the conditions under which the work is required to be performed and the resulting injury." (Id.) (internal citations omitted). "In other words, but for the claimant being at work, the injury would not have occurred." Nicholson v. S.C. Dept. of Social Servs., 411 S.C. 381, 386 (2015). "Proof that a claimant sustained an injury may be established by circumstantial and direct evidence where circumstances lead an unprejudiced mind to reasonably infer the injury was caused by the accident."

Tiller v. National Health Care Center of Sumter, 334 S.C. 333, 341 (1999) (internal citations omitted).

2. The occurrence of a work-related injury is further complicated by the lack of a physician's opinion that Claimant's current issues are causally related to his alleged work-related accident. The preponderance of the evidence in the record establishes Claimant's self-serving statements that his injury is work related, but his statements are not corroborated by a medical doctor. The lack of a physician's opinion on the etiology of Claimant's injury is not dispositive, but the conflicting testimony and statements to healthcare providers by Claimant, and lack of an eyewitness further erode the validity of the claim such that "an unprejudiced mind [cannot] reasonably infer the injury was caused by the accident" or that the accident occurred at all. (Id.)
3. The discrepancies in Claimant's deposition testimony and hearing testimony neither support nor detract from the compensability of this claim. Rather, it is the preponderance of the evidence viewed as a whole that renders this claim non-compensable. "[A] credibility finding has no force independent of context. . . the trier of fact must weigh and measure each piece of evidence. . . [and] must explain how the credibility determination is important to making the particular factual finding." Clark v. Philips Electronics, 433 S.C. 186, 192 (Ct. App. 2021) (citing Crane v. Raber's Disc. Tire Rack, 429 S.C. 636, 647 (2020)). As previously stated, the absence of an eyewitness, testimony of Dr. Rustin, and lack of a clear causation statement from a fully-informed physician obviates the necessity of a credibility finding in this claim. An independent finding of Claimant's credibility adds little to the analysis given the balance of the evidence in the record. Claimant is neither credible nor incredible.

#### **ORDER**

**THEREFORE IT IS HEREBY ORDERED** that the Decision and Order of the Single Commissioner filed in the above-captioned matter on September 9, 2024, is hereby fully **AFFIRMED**.

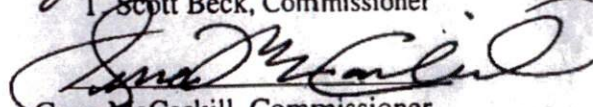
**ACCORDINGLY:**

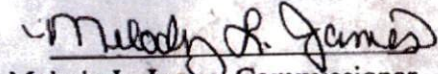
**IT IS FURTHER ORDERED** that Claimant is not entitled to receive, nor are Defendants required to provide compensation or medical benefits as Claimant has failed to meet his burden to prove by the preponderance of the evidence that his left shoulder, hip, neck, back, or bilateral arms injuries arose out of and occurred in the course of employment.

**AND SO IT IS ORDERED.**

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

  
T. Scott Beck, Commissioner

  
Gene McCaskill, Commissioner

  
Melody L. James, Commissioner

**Social Security Administration**  
**Supplemental Security Income**  
Notice of Award

~~20~~ 1551

SOCIAL SECURITY  
1379 SIMS ST  
ORANGEBURG, SC 29115-3456  
Date: July 21, 2025  
BNC#: 25D1345H52362-DI  
NCJ

AMOS MACK  
1256 TONEY BAY RD  
HOLLY HILL, SC 29059-8603

Dear AMOS MACK

This is to notify you that you are eligible to receive Supplemental Security Income (SSI) payments under the provisions of Title XVI of the Social Security Act. The rest of this letter will tell you more about our decision.  
FAVORABLE

**Information Used to Determine Your Payments**

For all months shown: --

- You were found disabled in October 2022 and continuing.
- You meet all the rules to be eligible for SSI beginning January 18, 2023. SSI rules do not allow us to pay SSI until the month after the month you first meet the rules. The first month we can pay you is February 2023.
- SSI is a Federal program. However, some states give us money to add to the SSI payments. When you are eligible for SSI, payments may include Federal money, or State money or both.
- You were living in SOUTH CAROLINA for January 2023 and continuing.
- You have monthly income which we must consider when we figure your payment. Your monthly income is: S

**What We Will Pay And When**  
**THE TOTAL BACK PAYMENT DUE IS \$2324.30**

**Beginning**

**Monthly Amount Payable**

See Next Page

40 56 44 52

The South Carolina Court of Appeals

Amos Mack, Claimant, Appellant,

v.

Don's Car Crushing, Employer, and Business First  
Insurance Co., Carrier, Respondents.

Appellate Case No. 2025-001178

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ORDER

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Appellant has filed a motion to amend the appellant's initial brief. No return was filed. This motion is Granted. The appellant must file an amended initial brief within 10 days of the date of this order, or we will proceed to consider this appeal based upon the initial brief filed **August 25, 2025**. The time for serving and filing an amended respondent's initial brief, if desired, will run from the date of service of the amended initial brief.

FOR THE COURT

BY

*Jay A. Kitchin*  
CLERK

Columbia, South Carolina

cc:

Amos Mack  
Nicolas Lee Haigler, Esquire

**FILED**  
**Jan 08 2026**

P60

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~~37-45~~

IN THE COURT OF APPEALS FOR SOUTH CAROLINA

1220 SENATE STREET

COLUMBIA, SOUTH CAROLINA 29201

PHONE: (803) 734-1890

APPELLATE CASE NO: 2025-001178

BUSINESSFIRST INSURANCE COMPANY

c/o Summit

PO Box 988, Lakeland, FL 33802

[EMPLOYER NAME], and

NICHOLAS HAIGLER, ESQ.

Robinson Gray Stepp & Laffitte, LLC

2151 Pickens Street, Suite 500, Columbia, SC 29201

Phone: (803) 231-7847

Respondents,

vs.

AMOS MACK

1256 Turner Bay Road, Holly Hill, SC 29059

Phone: 803-614-2321

Appellant.

RECEIVED

JAN 21 2026

SC Court of Appeals

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## II. TABLE OF AUTHORITIES

### Supreme Court of South Carolina Rulings

*Trotter v. Trane Coil Facility*, 393 S.C. 115 (2011)

This ruling mandates that the Commission obtain a full and complete record.

Commissioner Campbell violated this by refusing to reconvene to include the FNP report and MRI, despite being ordered to do so by the Full Commission.

*Shealy v. Aiken County*, 341 S.C. 448 (2000)

The "substantial evidence" rule requires the Commission to consider the record as a whole. The Commissioner erred by ignoring the September 9, 2024 proof and the medical evidence that contradicts the carrier's position.

*Michau v. Georgetown County*, 396 S.C. 589 (2011)

This ruling requires the Commission to address competent medical evidence. The Commission committed a reversible error by failing to address the FNP directive regarding the Appellant's work status.

### Statutes and Laws

S.C. Code Ann. § 1-23-380 (Administrative Procedures Act)

Allows reversal for "clerical errors" or "fraud." The fraudulent December 19, 2024 statement by Nicholas Hagler claiming a non-existent hearing occurred must be vacated under this statute.

S.C. Code Ann. § 42-9-10 (Temporary Total Disability)

Defines the right to benefits. The Appellant is legally entitled to these based on the FNP report stating the Appellant cannot work "until further notice due to the work-related injury."

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### III. INTRODUCTION

The administrative process has proven it cannot or will not get this right. Despite a mandate from the Full Commission to correct the record, the lower Commissioner refused to reconvene, shielding a fraudulent procedural history. The only just solution is for this Court to award benefits directly, as a remand to a defiant agency would be futile.

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#### IV. STATEMENT OF ISSUES ON APPEAL

The Commissioner erred by relying on the fraudulent December 19, 2024 statement by Nicholas Hagler claiming a non-existent hearing occurred.

Commissioner Campbell erred by defying the January 13, 2025 mandate, specifically stating in a footnote on page 2 it was "not necessary to reconvene" to fix the record.

The Commissioner erred by ignoring the FNP report which states: "Amit back to work or school until further notice due to the work-related injury."

Whether the Court must award TTD benefits immediately because the agency has proven it will not follow judicial mandates, and preserve the \$10 million claim for the carrier's intentional withholding of care.

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#### V. STATEMENT OF THE CASE

On December 19, 2024, Nicholas Hagler filed a statement claiming a hearing occurred that never took place. On January 13, 2025, the Full Commission ordered the record fixed. On January 30th, Commissioner Campbell resubmitted the record without the required corrections, stating on page 2 he refused to reconvene. This structural failure prevents any fair determination by the Commission.

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#### VI. STATEMENT OF FACTS

The Appellant met the burden of proof on September 9, 2024. On November 8, 2022, the carrier promised that "medical will be provided," but thereafter willingly, intentionally, and knowingly withheld care without cause. This caused the Appellant to become unable to work in the national economy (SSI standards). Objective MRI findings prove the injury, and the report from the FNP states: "Amit back to work or school until further notice due to the work-related injury." Commissioner Campbell refused to include these dates and exhibits in the resubmitted record.

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VII. ARGUMENT

**THE COURT MUST AWARD BENEFITS AS REMAND IS FUTILE.**

A. The Commissioner's Defiance of the Mandate.

Commissioner Campbell's refusal to reconvene (Footnote, Page 2) after a direct mandate proves the agency cannot provide justice. Anything other than an award of benefits would be unjust because the agency has proved it "can't or won't get it right."

B. The Unrefuted Medical Evidence.

The FNP report is clear: the Appellant is out of work "until further notice due to the work-related injury." Because the Commissioner refused to fix the record to include this, the Court should step in and award TTD benefits immediately.

C. Intentional Misconduct.

The carrier intentionally withheld care promised on November 8, 2022. This bad faith destroyed the Appellant's livelihood. The Court must preserve the right to seek \$10 million in damages for this intentional harm.

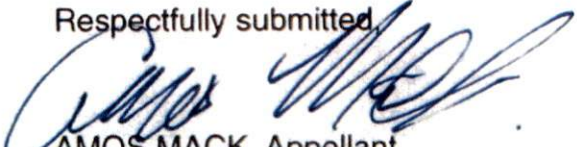
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CONCLUSION AND PRAYER FOR RELIEF

WHEREFORE, the Appellant moves the Court to VACATE both decisions. Because a remand would be futile, the Appellant moves this Court to:

- \* AWARD full Temporary Total Disability (TTD) and Permanent Disability benefits based on the SSI findings.
- \* RESERVE THE RIGHT to pursue \$10,000,000.00 Civil Action against the carrier for the intentional, knowing, and willing refusal of medical care.
- \* GRANT JUDICIAL NOTICE of the Federal SSI/SSA findings.

Respectfully submitted,

  
AMOS MACK, Appellant

1-20-24

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P.57

Amos Mack  
1256 Turner Bay Rd  
Holly Hill, SC  
29059



29211

RDC 99

BOWMAN, SC 29018  
JAN 20, 2026

\$2.22

S2324P501031-08



FOREVER / USA

Amended  
Initial Brief  
of Appellant

SC Court of Appeals  
PO Box 11629  
Columbia, SC  
29211

Rule 263, SCACR, Mailbox Rule

P.56

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Amos Mack  
1256 Turner Bay Rd  
Holly Hill, SC 29059

Retail



29201

U.S. POSTAGE PAID  
FCM LG ENV  
BOWMAN, SC 29018  
JAN 20, 2026

\$2.22

RDC 99

S2324P501031-08



FOREVER | USA

Amended Initial Brief of Appellate  
Nicholas Haigler, ESQ  
Robinson Gray Stepp & Laffitte, LLC  
2151 Pickens St  
Suite 500  
Columbia, SC

29201

Rule 263 SCACR

SD  
CS

# The South Carolina Court of Appeals

Amos Mack, Claimant, Appellant,

v.

Don's Car Crushing, Employer, and Business First  
Insurance Co., Carrier, Respondents.

Appellate Case No. 2025-001178

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## ORDER

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On August 25, 2025, Appellant filed his initial brief. On September 2, 2025, Appellant filed his designation of matter. On September 10, 2025, Appellant moved to amend his September 2, 2025 designation of matter, which this court granted, and Appellant filed his amended designation of matter on October 28, 2025. On December 2, 2025, Appellant filed a motion seeking to amend the table of contents in his initial brief. The State did not file a return. On January 8, 2026, this court granted the motion to amend and ordered an amended initial brief filed within ten days of the date of the order or the appeal would proceed with the initial brief filed on August 25, 2025. On January 21, 2026, Appellant filed his amended initial brief and an second amended designation of matter. On February 9, 2026, Respondents filed a motion to reject Appellant's amended initial brief, explaining they did not file a return to Appellant's motion to amend because they did not have an objection to an amended table of contents and arguing that the amended initial brief changed not only the table of contents, but the table of authorities, the issues being raised on appeal, the statement of the case, and the arguments. Appellant filed a return, opposing the motion. Respondent did not file a reply.

After careful consideration, we grant Respondent's motion to reject Appellant's amended initial brief. Appellant's amended initial brief, filed on January 21, 2026, is not accepted as filed. The appeal will proceed with Appellant's August 25, 2025 initial brief. Further, Appellant's designation of matter, filed on January 21, 2026, is also not accepted as filed; Appellant did not seek to amend his designation of matter in his December 2, 2025 motion nor did he file a separate motion to amend

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his amended designation of matter. The appeal will proceed with Appellant's October 28, 2025 amended designation of matter.

Kristen J.  
FOR THE COURT

Columbia, South Carolina

**FILED**  
**Apr 01 2026**

cc:  
Amos Mack  
Nicolas Lee Haigler, Esquire


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**RECORD ON APPEAL**

**CASE NO. 2025-001178**

This Record on Appeal is submitted under protest. In good faith in line with the 210 requirement Rule of the Appeal Stander.

1. The BusinessFirst Worker Compensation carrier promised to provide medical care 11-8-2022 and did not provide the care up to this day, which caused my health to deteriorate to where I'm a SSI Disability recipient.
2. Commissioner Campbell did not hold the De-Novo hearing that is mandated by law, After Commissioner Wilkerson, Jr.'s recusal on May 15, 2024, under the Cannon-3E Commissioner Campbell cannot use Commissioner Wilkerson, Jr.'s old record. By doing so, he violates the Subject Matter Jurisdiction. The commissioner did not have the authority to issue the September 9, 2024, decision and all Orders after that are void and the April 1, 2026, Order is void also.

Received by Tori Wingard  
Legal Assistant for Nick Hajler  
Rec'd: 5/12 @ 12:54 

**RECEIVED**

MAY 12 2026

SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APR 13 2026

APPEAL FROM THE SOUTH CAROLINA  
WORKERS COMPENSATION COMMISSION

SC Court of Appeals

WCC File No. 2216315

Court of Appeals Case No. 2025-001178

Don's Car Crushing, Employer  
And BusinessFirst Insurance Company, Carrier ..... Respondents,

v.

Amos Mack, Employee, ..... Appellant.

EMERGENCY JUDICIAL NOTICE OF UNDISPUTED FACTS

OBJECTION TO APRIL 1, 2026, ORDER

Pursuant to Abandonment Doctrine and Laches Doctrine (Title 42, Chapters 9 and 17), Appellant objects to the April 1, 2026, ruling by Judge . Judge failed to apply the Abandonment Doctrine before she made her decision; this was a violation of the right to fundamental fairness. Prolonged silence caused physical harm. The unreasonable delay was a factor in permanent disability declared on August 2024, by the South Carolina Social Security Disability Office.

*Jan 8 2026 order has no limit, this is law of the case also there was no subject matter judicial ~~that~~ Judicial*

Case # 2025-001178

This is a request to sit down with  
the clerk of court, for a copy of the  
complete record in my Appeal case 2025-001178  
the e-track internal show the complete action,  
the public record only show what is posted for  
the public.

Respectfully Submitted

**RECEIVED**

APR 13 2026

SC Court of Appeals 13-26

Case Number  
2025-001178