ORIGINAL

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
SINGLE COMMISSIONER & APPELLATE PANEL

RECEIVED
DEC 16 2013
SC Court of Appeals

Appellate Case No. 2013-001669
Trial Court Case No. 0901428, 0905998

Katherine L. Haines, Employee, Respondent,

v.

Dollar Tree Stores, Inc., Employer, and ARCH Insurance Company, Carrier
Appellants.

RECORD ON APPEAL

Brad B. Easterling
Turner, Padget, Graham & Laney, P.A.
Post Office Box 1509
Greenville, South Carolina 29602
(864) 552-4600
Attorney for Appellants

Joseph T. McElveen, Jr.
The Bryan Law Firm
Post Office Box 2038
Columbia, South Carolina 29151-2038
(803) 775-1263
Attorney for Respondent

Katherine L. Haines, Employee (Respondent) v. Dollar Tree Stores, Inc., Employer, and ARCH Insurance Company, Carrier (Appellants)

Appellate Tracking No.: 2013-001669
WCC File No.: 0901428 & 0905998

INDEX FOR RECORD ON APPEAL

Doc. #	Type of Document	Dated	Page No.
1	Decision and Order of the South Carolina Workers' Compensation Commission Appellate Panel	7/1/2013	3-13
2	Amended Order of the Hearing Commissioner	10/22/2013	14-24
3	Claimant/Respondent's Request for Commission Review (Form 30)	11/6/2012	25-26
4	Defendants/Appellants' Request for Commission Review (Form 30)	11/7/2012	27-28
5	Claimant/Respondent's Pre-Hearing Brief (Form 58)	7/27/2012	29-30
6	Defendants/Appellants' Pre-Hearing Brief (Form 58)	8/3/2012	31
7	Full Commission/Appellate Panel Hearing Transcript	2/19/2013	32-52
	a) Argument by Mr. McElveen		34-41
	b) Argument by Mr. Easterling		42-46
	c) Reply by Mr. McElveen		46-49
	d) Reply by Mr. Easterling		49-50
8	Hearing Commissioner Hearing Transcript	9/4/2012	53-113
	a) Direct examination of Claimant by Mr. McElveen		59-82
	b) Cross examination of Claimant by Mr. Easterling		82-106
	c) Redirect examination by Mr. McElveen		106-109

	d) Recross examination by Mr. Easterling		109-111
9	Claimant/Respondent's APA Submissions	7/27/2012	114-305
10	Defendants/Appellants' APA Submissions	8/3/2012	306-427
11	Claimant/Respondent's Brief to the Full Commission	1/17/2013	428-430
12	Defendants/Appellants' Brief to Full Commission	1/28/2013	431-438
13	Claimant/Appellant's Reply Brief to the Full Commission	2/14/2013	439-446
	Video Surveillance of Claimant	12/1/2011, 12/4/2011 and 6/5/2012-6/7/2012	Submitted separately

DECISION AND ORDER
OF THE
APPELLATE PANEL
OF THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

COMMISSION PANEL: THE HONORABLE SUSAN S. BARDEN, CHAIR; THE HONORABLE MELODY JAMES; THE HONORABLE AVERY B. WILKERSON

SCWCC FILE NO.: 0901428
SCWCC FILE NO.: 0905998

Katherine L. Haines,

Claimant/ 1st Appellants

v.

Dollar Tree Stores,

Employer, and

Arch Ins. Co.,

Carrier, Defendants/ 2nd Appellants.

Hearing held in Columbia,
South Carolina on February 19th, 2013
Per notice timely and properly served upon all Parties of Interest.

Appearances: Joseph T. McElveen for Claimant/ 1st Appellants

Brad B. Easterling for Defendants/ 2nd Appellants

Filed: 7-1-13

Appeal Due 7/31/13

STATEMENT OF THE CASE

On October 22nd, 2012, the single Commissioner issued his Amended Decision and Order, which replaced the Decision and Order issued in this matter on October 10th, 2012, vacated the October 10th, 2012 Decision and Order, and rendered it null and void. The Decision and Order of October 22nd, 2012 is the only Order on appeal in this matter. The single Commissioner's Decision and Order of October 22nd, 2012 contained the following Findings of Fact and Conclusions of Law, and Order and Award based thereon:

FINDINGS OF FACT

1. The Claimant was an employee of the Employer on and prior to February 12, 2009, when she sustained an admitted injury to her back in the area of the neck. Although the injury was to the neck or cervical spine, the Claimant experiences radiculopathy or myeloradiculopathy, which means that the injury also has affected her arms and legs, right more than left in both cases. Form 14B of Dr. Redmond, Claimant's APA p. 507. The Claimant's range of motion issues and radiating pain are referenced throughout the medical evidence. Therefore, more than one body part has been affected by the work injury: the back, both arms, and both legs.
2. The Claimant similarly suffered another injury to her left shoulder and back (neck) on June 3, 2009, while working for the Employer. The Carrier herein was also the carrier at the time of this injury. The Defendants provided treatment for this injury. The treating physician, Dr. Burnworth, noted on June 25, 2009, that the shoulder pain was resolving and that the Claimant believed her main problem was her neck. Defendants' APA p. 291. Therefore, the June 3, 3009, accident caused no new injury.
3. The Claimant uses a cane that is prescribed by Dr. Redmond because of a tendency to fall. Claimant's APA p. 173. She underwent anterior cervical discectomy and interbody fusion at C4-5 and C5-6, with instrumentation and an

interbody implant. Claimant takes a host of prescription medications for her work related injury, including Soma, Relafen, Trazadone, Hydrocodone, Nucenta, Neurontin and Zoloft. Drs. Redmond and Johnson believe that long-term use of these medicines will be required, along with regular future care and treatment of the work related injury. Mr. Brown agrees with Drs. Redmond and Johnson that the prescribed medications will make it impossible for the Claimant to be employed. Dr. Johnson stated that the Claimant would be "a liability to herself, her coworkers and her employers if she takes her daily narcotics while trying to work"; and he says she will probably experience "significant absenteeism". Claimant's APA p. 35.

4. Throughout her treatment, the Claimant attempted to continue working for the Employer, mostly on light duty. She has exhibited a desire to get better and return to work. However, Dr. Redmond and Dr. Donald Johnson do not believe that she is able to return to work. Their conclusion is also the opinion of a vocational expert, Adger Brown, MA, CDMS, who reviewed all medical records and the functional capacity evaluation (FCE), conducted a face-to-face interview with the Claimant, and determined that the Claimant "is incapable of returning to any form of employment and should be considered permanently and totally disabled." Claimant's APA p. 181. The FCE in the record also shows great limitations in the Claimant's functional abilities. The Claimant gave consistent effort during the FCE. The physical therapist concluded that the Claimant "is best suited to the Less than Sedentary to Sedentary category of the Physical Demands Characteristics of work chart." This Commissioner adopts the functional limitations and restrictions shown in the FCE. As stated above, the vocational expert did not believe the Claimant can return to work. The Claimant is unable to return to her previous employment or any employment. The Defendants presented an Employability Analysis and Labor Market Survey completed by Jan Westmoreland, Med, CRC, of The Directions Group. Suffice it to say that the conclusions of Direction Group report as to the Claimant's ability to work are at odds with the overwhelming weight of the evidence. This report concludes that the Claimant can work at the sedentary to light work capacity level, whereas the most current medical evidence supports limited sedentary to sedentary. Mr.

Brown, the Claimant's vocational expert, points out the shortcomings of the Directions Group report, Claimant's APA p. 181, and this Commissioner adopts his observations as findings.

5. Dr. Boyd, a neurosurgeon, Dr. Johnson, an orthopedist, and Dr. Redmond, a physiatrist, all evaluated the Claimant and assessed a permanent impairment rating for the Claimant. Dr. Boyd assessed 26-28% whole person impairment based upon radiculopathy and loss of motion segment integrity. Dr. Johnson assesses 25% whole person impairment to the spine. Dr. Redmond concurred in Dr. Boyd's rating. So the Claimant has suffered significant impairment. The medical evidence makes it clear that the neck injury caused injury to the cervical spine resulting in radicular pain, injuring the back and affecting the arms and legs.
6. This Commissioner watched video discs provided by the Defendants. Nothing in the surveillance videos shows the Claimant functioning in a way that would change this Commissioner's decision on permanency.
7. The Defendants have provided and paid for medical care and treatment necessary to assist the Claimant in reaching a level of recovery that is now not likely to improve, with or without medical treatment. According to Dr. Redmond, maximum medical improvement was attained on August 30, 2011. Form 14B of Dr. Redmond, Claimant's APA p. 173A.
8. The Defendants have provided necessary medical care and treatment since the injury, although Dr. Johnson is of the opinion that the delay in treatment has probably lessened the chance of a complete recovery by the Claimant. The neck problem was obvious on the first MRI, he says, but nothing was done. The evidence indicates that the Defendants have paid for this care and treatment, including medical mileage. (The Defendants did not pay for Dr. Johnsons independent medical examination.
9. The injury of the Claimant is a permanent injury, and as such will endure for the life of the Claimant, even though compensation for this injury by the Defendants will not exceed payment for 500 weeks.
10. The Claimant is capable of handling the financial implications of any award this Commissioner may make; and she wishes to receive any award payable in a lump sum. No objection has been raised by the Defendants to restating the award of

this Commissioner in terms of the Claimant's life expectancy or payment of the award in a lump sum.

RULINGS OF LAW

1. The Claimant, Employer and Carrier are subject to the South Carolina Workers' Compensation Act.
2. The Claimant, Katherine L. Haines, was an employee, S.C. Code Ann. §42-1-130, of the above-named Employer, Dollar Tree Stores, Inc., S.C. Code Ann. §42-1-140, on, prior, and subsequent to October 6, 2010. ARCH Insurance Company, Inc. is the carrier, S.C. Code Ann. §42-1-60.
3. The average weekly wage and compensation rate have been stipulated to be $561.96 and $374.66, respectively.
4. The Claimant suffered two accidental injuries in the scope and course of her employment, as stated in the above Findings of Fact. The first injury has resulted in permanent disability; the second injury aggravated the first, but caused no additional injury.
5. The Defendants are responsible for paying all bills and charges for causally related medical care and treatment which have been authorized through the date of this Order. This shall include mileage, as provided by law and Regulations, to and from authorized, related medical appointments, S.C. Code Ann. §42-15-60.
6. The Claimant is totally and permanently disabled under Section 42-9-30(21) of the Code of Laws of South Carolina (1976, as amended), in that she has experienced 50% permanent loss of use or disability to her back and in that the Defendants presented no testimony to rebut total and permanent disability. She has 25-28% whole person or back permanent impairment. Additionally, the FCE shows that she is experiencing significant loss of function. She walks with a cane. Although loss of earning capacity is assumed in cases of schedule disability, this Commissioner also notes that the Claimant cannot return to her previous employment and that she takes medications which make work unlikely, and even unsafe. All of these factors combine to support the finding of schedule disability.

7. The Claimant is also totally and permanently disabled under Section 42-9-10, in that she suffered injury to five body parts (back and bilateral arms and legs) and her incapacity to work is total, as discussed above. See S.C. Code Ann. §42-1-120. This conclusion is supported by the totality of the evidence: the FCE, the opinion of the vocational expert, Mr. Brown, the opinions of Drs. Redmond and Johnson, and the testimony of the Claimant.
8. The medical evidence establishes that the Claimant will require continuing medical care and treatment that is related to the work injury and authorized. S.C. Code Ann., §§42-9-10 and 42-15-60 and Dodge v. Bruccoli, Clark, Layman, Inc., 334 S.C. 574, 514 S.E.2d 593 (S.C. App. 1999). Dr. Redmond filled out a Form 14B which certifies that future medical treatment will be required. Dr. Johnson confirmed the need for continuing medical care and treatment in his reports also.
9. The award of total and permanent disability should be paid to the Claimant in a lump sum, except that weekly payments should continue through October 7, 2012. According to documents filed by the Defendants the Claimant has been paid 115.8572 weeks of either temporary total or temporary partial disability compensation. The commuted value of total and permanent disability, calculated by using the "Net Present Value Table—5% per annum", revised on January 17, 2012, is $120,378.74. The Claimant argues that Section 42-9-301, which governs lump sum payments, provides that the lump sum "shall be fixed by the Commission, but in no case to be less than ninety percent of, nor to exceed, the commutable value of the future installments commuted so as not to exceed six percent nor to be less than two percent". The Claimant argues that the commutable value of total and permanent disability is $143,922.94 and that ninety percent of the commutable value is $129,530.65. Therefore, the Claimant says that the lump sum to be paid is $129,530.65. This Commissioner does not agree and concludes that the commuted value of $120,378.74 shall be paid. This amount will also be restated in terms of the Claimant's life expectancy pursuant to §19-1-150 of the Code of Laws of South Carolina (1976, as amended), since the Claimant has suffered total and permanent disability. James v. Anne's Inc., 386 S.C. 326, 688 S.E.2d 562 (2010). The attorney for the Claimant is also entitled to

a fee and reimbursement of costs for prosecuting this action on the behalf of the Claimant; and such fee and costs shall be paid in a lump sum.

ORDER AND AWARD

NOW, THEREFORE, IT IS ORDERED:

1. That the Defendants shall be responsible for payment of all medical care and treatment related to the work injury, including medical mileage, which has been or subsequently is authorized.
2. That the Defendants shall further continue to provide related, authorized medical care and treatment as stated more fully in the text of this Order.
3. That the Defendants shall continue paying the amount of weekly temporary total disability compensation (TTD) through October 7, 2012.
4. That the Defendants shall pay to the Claimant the balance of 500 weeks of compensation in a lump sum, a total of $120,378.74, representing the Claimant's total entitlement for compensation or indemnity under the South Carolina Worker's Compensation Act.
5. The lump sum award of $120,378.74 shall be allocated as follows: a) $40,126.25 as attorney fees pursuant to a written contract between the Claimant/Employee and attorney; b) $3,614.71 for costs and litigation expenses pursuant to the same contract; and c) $76,637.78 in full settlement of future compensation under the South Carolina Workers' Compensation Act at the rate of $45.08 per week commencing on the date this Order is approved by the South Carolina Workers' Compensation Commission and continuing thereafter for a period of 1699.88 weeks. See Utica-Mohawk v. Orr, 227 S.C. 226, 87 S.E.2d 589 (1955); see also James v. Anne's Inc., 386 S.C. 326, 688 S.E.2d 562 (2010); see also Sciarotta v. Bowen, 837 F.2d 135 (3d Cir., 1988, POMS §52001.55(c)(4).).
6. The Order issued in this matter on October 10, 2012, is hereby vacated in its totality and rendered null and void, with reference to this Order being necessary to understand the ruling of this Commissioner.

AND IT IS SO ORDERED!

ISSUES ON APPEAL

Claimant properly filed a Form 30 Request for Commission Review setting forth the following assignments of error:

1. In failing to follow the requirements of Section 42-9-301 of the Code of Laws of South Carolina (1976, as amended), "Lump-sum payments", the error being that the Claimant should have been awarded the lump sum value of total and permanent disability in an amount no less than ninety percent (90%) of the uncommuted value of future installments of compensation.
2. In the alternative, in using the five (5%) percent "Net Present Value Table" to calculate the lump sum value of total and permanent disability, the error being that the use of said table is unfair and inequitable to the Claimant in that the discount rate used exceeds greatly the rate of interest that can be earned by the Claimant on the lump sum award during the discounted weeks. A ten-year maturity Treasury bond yields less than two (2%) percent, and the fifty-two week high is just over two (2%) percent.

Defendants properly filed a Form 30 Request for Commission Review setting forth the following assignments of error:

1. The Hearing Commissioner erred in adopting the functional limitations and restrictions shown in the FCE when the reliable probative and substantial evidence of the case does not support such a finding.
2. The Hearing Commissioner erred in finding as a fact that claimant is unable to return to her previous employment or any employment when the reliable probative and substantial evidence of the case does not support such a finding.
3. The Hearing Commissioner erred in finding as a fact that the conclusions of The Directions Group (Defendants' vocational expert) are at odds with the overwhelming weight of the evidence when the reliable probative and substantial evidence of the case does not support such a finding.

4. The Hearing Commissioner erred in finding as a fact Claimant's vocational expert points out the shortcomings of the Directions Group Report and erred in adopting his findings when the reliable probative and substantial evidence of the case does not support such a finding.
5. The Hearing Commissioner erred in finding as a fact that the injury to the cervical spine results in radicular pain, affecting the arms and legs, when the reliable probative and substantial evidence of the case does not support such a finding.
6. The Hearing Commissioner erred in finding as a fact that nothing in the surveillance videos shows the Claimant functioning in a way that would change the Commissioner's decision on permanency when the reliable probative and substantial evidence of the case does not support such a finding.
7. The Hearing Commissioner erred in finding as a fact Claimant is capable of handling the financial implications of any award the Commissioner may make when the reliable probative and substantial evidence of the case does not support such a finding.
8. The Hearing Commissioner erred in concluding as a matter of law that Claimant is permanently and totally disabled under § 42-9-30(21) in that she has experienced 50% loss of use or disability to her back and that the defendants presented no testimony to rebut total and permanent disability when the reliable probative and substantial evidence of the case does not support such a conclusion.
9. The Hearing Commissioner erred in concluding as a matter of law that Claimant permanently and totally disabled under § 42-9-10 in that she suffered injury to five body parts (back and bilateral arms and legs) and her incapacity to work is total, when the reliable probative and substantial evidence of the case does not support such a conclusion.
10. The Hearing Commissioner erred in concluding as a matter of law that Claimant is in need of additional medical treatment which would tend to lessen her disability when the reliable probative and substantial evidence of the case does not support such a conclusion.
11. The Hearing Commissioner erred in ordering Defendants to pay Claimant the balance of 500 weeks of compensation in a lump sum when the reliable, probative

and substantial evidence of the case does not support an award of permanent and total disability.

FINDINGS OF THE APPELLATE PANEL

Following a Hearing before the above-mentioned appellate panel of the Workers' Compensation Commission, the Commission adopts in full the Findings of Fact and Rulings of Law of the single Commissioner contained above as the Findings of Fact and Rulings of Law of the Commission. The Commission declines to make any new findings, changes, or amendments to the Decision and Order of the single Commissioner dated October 22nd, 2012.

ORDER

IT IS THEREFORE ORDERED

1. That the Defendants shall be responsible for payment of all medical care and treatment related to the work injury, including medical mileage, which has been or subsequently is authorized.

2. That the Defendants shall further continue to provide related, authorized medical care and treatment as stated more fully in the text of this Order.

3. That the Defendants shall continue paying the amount of weekly temporary total disability compensation (TTD) through October 7, 2012.

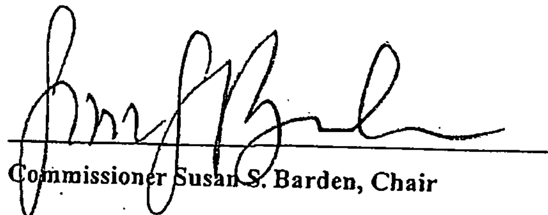
4. That the Defendants shall pay to the Claimant the balance of 500 weeks of compensation in a lump sum, a total of $120,378.74, representing the Claimant's total entitlement for compensation or indemnity under the South Carolina Worker's Compensation Act.

5. The lump sum award of $120,378.74 shall be allocated as follows upon approval by the Commission of a Form 61: a) $40,126.25 as attorney fees pursuant to a written contract between the Claimant/Employee and attorney; b) $3,614.71 for costs and litigation expenses pursuant to the same contract; and c) $76,637.78 in full settlement of

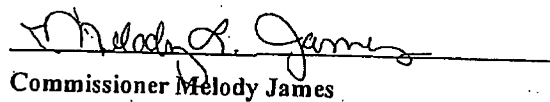
future compensation under the South Carolina Workers' Compensation Act at the rate of $45.08 per week commencing on the date this Order is approved by the South Carolina Workers' Compensation Commission and continuing thereafter for a period of 1699.88 weeks. *See Utica-Mohawk v. Orr*, 227 S.C. 226, 87 S.E.2d 589 (1955); *see also James v. Anne's Inc.*, 386 S.C. 326, 688 S.E.2d 562 (2010); *see also Sciarotta v. Bowen*, 837 F.2d 135 (3d Cir., 1988, POMS §52001.55(c)(4).).

6. The Order issued in this matter on October 10, 2012, is vacated in its totality and rendered null and void, with reference to this Order being necessary to understand the ruling of the single Commissioner.

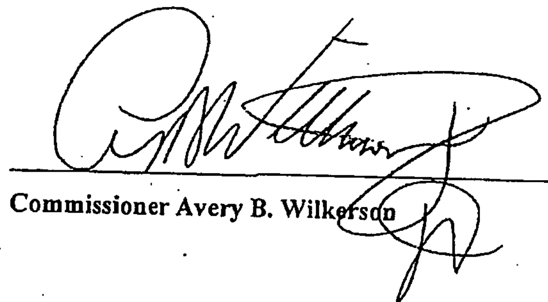
AND SO IT IS ORDERED!



Commissioner Susan S. Barden, Chair



Commissioner Melody James



Commissioner Avery B. Wilkerson

Columbia, South Carolina

7-1-13

CERTIFICATE OF SERVICE

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

By Valerie Deller on July 1, 2013

STATE OF SOUTH CAROLINA
BEFORE THE WORKERS' COMPENSATION COMMISSION

W.C.C. File No. 0901428
W.C.C. File No. 0905998

Katherine L. Haines, Employee, Claimant, vs. Dollar Tree Stores, Inc., Employer, and ARCH Insurance Company, Carrier, Defendants.	**AMENDED ORDER of COMMISSIONER**

Commissioner: The Honorable Derrick L. Williams

Attorney for Claimant: Joseph T. McElveen, Jr. , Esquire
Bryan Law Firm of S.C., L.L.P.
17 East Calhoun Street
Post Office Box 2038
Sumter, South Carolina (29151)

Attorney for Defendants: Brad B. Easterling, Esquire
Turner, Padget, Graham & Laney, P.A.
200 East Broad Street, Suite 250
Post Office Box1509
Greenville, South Carolina (29602)

Date of Hearing: September 4, 2012

Location of Hearing: Columbia, South Carolina

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

This matter is before the undersigned Commissioner based upon a Form 50, Claimant's Request for Hearing, filed by the Claimant. The Defendants timely filed a Form 51, Employer's Response to Request for hearing. Prior to the commencement of the hearing, the parties stipulated the following:

1. Jurisdiction and venue are proper.
2. The Claimant reported a work-related injury on February 12, 2009, to her back. This is W.C.C. File No. 0901428. Subsequently the Claimant reported another work-related injury on June 3, 2009, to her left shoulder. This is W.C.C. File No. 0905998. Both injuries are covered by Section 42-1-160 of the South Carolina Code of Laws (1976, as amended). Any award in this claim will be based upon the first injury (February 12, 2009).
3. The proper average weekly wage is $561.96, and the proper compensation rate is $374.66, as shown on a Form 20 prepared by the Carrier and filed with the Commission.
4. The issues to be determined by this Commissioner are: the extent of the Claimant's permanent disability; whether the Claimant is entitled to any continuing benefits; and are the Defendants entitled to any credit for temporary compensation paid. The Claimant also asked that any award be in a lump sum and stated alternatively based on her life expectancy; and the Defendants did not object.
5. The Defendants stipulated that the Claimant did not appear in a December 1, 2011, video disk presented by the Defendants. The female on the disk is the Claimant's adult daughter.

Each of the parties submitted a Form 58 pre-hearing brief and expert reports and exhibits pursuant to Regulation 67-612 of the South Carolina Workers' Compensation Commission and the Administrative Procedures Act (APA), S.C. Code Ann., §1-23-310 , et seq.

(1976, as amended). The Defendants presented two video disks and reports from private investigators as part of their APA submissions. The Claimant objected to these being admitted into evidence. The Defendants advised that the investigators would be available to testify. This Commissioner advised the parties that he intended to view the two disks, subject to the stipulation above to the effect that the Claimant does not appear in the December 1, 2011, video. This Commissioner, however, removed from the APA Submissions the written investigative reports, feeling that such reports most often are subjective and contain self-serving statements or statements that are unqualified opinions of the investigator.

So, the submitted exhibits and expert reports are admitted and made a part of the record of this proceeding, subject to the above ruling on the written reports of the investigators and the video disks. The complete file of the Commission, with the exception of self-serving declarations and unstipulated medical reports, is also made a part of this record. The following were submitted:

Claimant's APA Submission:

Lexington Family Practice	05/05/08-02/23/09	Pages 1-4
The Moore Orthpaedic Clinic	03/04/09-06/25/09	Pages 5-15
MRI of the Cervical Spine And the Left Shoulder	05/08/09-06/22/09	Pages 16-18
The Sports Rehab Center of The Moore Orthopaedic Clinic	03/17/09-09/15/09	Pages 19-28
Southeastern Spine Institute	06/28/10-11/15/11	Pages 29-35
Dr. Scott Boyd Columbia Neurosurgical Associates	10/07/10-04/18/12	Pages 36-76
Palmetto Health Baptist Pain and Orthpaedic Care Center	06/21/11-08/03/12	Pages 77-173A
J. Adger Brown Rehabilitation Consulting	12/31/11	Pages 174-181
Deposition of Dr. Scott Boyd	12/20/10	Pages 182-189

Defendants APA Submission:

The Directions Group	11/23/11	Pages 190-206

Carolina Spine and Sport	08/06/09-12/01/09	Pages 229-233
Dr. Nancy Lembo	06/04/09-07/14/09	Pages 234-244
Functional Capacity Evaluation	11/06/09	Pages 245-284
Moore Orthpaedics	03/04/09-09/29/09	Pages 285-298
Physical Therapy	03/17/09-09/08/09	Pages 299-326

The Claimant testified and was cross-examined by the Defendants' attorney. The Defendants chose to call no witnesses.

The Claimant testified that she was employed by the Employer as an assistant manager. Her employment with Employer began on September 11, 1997. She was injured while at work on February 12, 2009, when some shelving collapsed and fell on her back as she was removing items, in the area of her neck. Later, on June 3, 2009, a collapsible table that was propped up fell striking Claimant's left shoulder and neck. The Claimant attempted to continue working, and she worked light duty for much of the time between the first accident and the surgery she underwent on March 15, 2011. The surgery was an anterior cervical discectomy and interbody fusion at C4-5 and C5-6, with instrumentation and an interbody implant. Despite this surgery to her neck or cervical spine, she continues to have problem with her back (neck), arms and legs, with pain, tingling and numbness. Her head is "cocked" to one side permanently. She has much reduced range of motion in her neck. The persistent problems, she submits, have rendered her unable to work.

Based upon the testimony of the Claimant and the evidence, I make the following Findings of Fact:

1. The Claimant was an employee of the Employer on and prior to February 12, 2009, when she sustained an admitted injury to her back in the area of the neck. Although the injury was to the neck or cervical spine, the Claimant experiences radiculopathy or myeloradiculopathy, which means that the injury also has affected her arms and legs, right more than left in both cases. Form 14B of Dr. Redmond, Claimant's APA p. 507.

The Claimant's range of motion issues and radiating pain are referenced throughout the medical evidence. Therefore, more than one body part has been affected by the work injury: the back, both arms, and both legs.

2. The Claimant similarly suffered another injury to her left shoulder and back (neck) on June 3, 2009, while working for the Employer. The Carrier herein was also the carrier at the time of this injury. The Defendants provided treatment for this injury. The treating physician, Dr. Burnworth, noted on June 25, 2009, that the shoulder pain was resolving and that the Claimant believed her main problem was her neck. Defendants' APA p. 291. Therefore, the June 3, 3009, accident caused no new injury.
3. The Claimant uses a cane that is prescribed by Dr. Redmond because of a tendency to fall. Claimant's APA p. 173. She underwent anterior cervical discectomy and interbody fusion at C4-5 and C5-6, with instrumentation and an interbody implant. Claimant takes a host of prescription medications for her work related injury, including Soma, Relafen, Trazadone, Hydrocodone, Nucenta, Neurontin and Zoloft. Drs. Redmond and Johnson believe that long-term use of these medicines will be required, along with regular future care and treatment of the work related injury. Mr. Brown agrees with Drs. Redmond and Johnson that the prescribed medications will make it impossible for the Claimant to be employed. Dr. Johnson stated that the Claimant would be "a liability to herself, her coworkers and her employers if she takes her daily narcotics while trying to work"; and he says she will probably experience "significant absenteeism". Claimant's APA p. 35.
4. Throughout her treatment, the Claimant attempted to continue working for the Employer, mostly on light duty. She has exhibited a desire to get better and return to work. However, Dr. Redmond and Dr. Donald Johnson do not believe that she is able to return to work. Their conclusion is also the opinion of a vocational expert, Adger Brown, MA, CDMS, who reviewed all medical records and the functional capacity evaluation (FCE), conducted a face-to-face interview with the Claimant, and determined that the Claimant

"is incapable of returning to any form of employment and should be considered permanently and totally disabled." Claimant's APA p. 181. The FCE in the record also shows great limitations in the Claimant's functional abilities. The Claimant gave consistent effort during the FCE. The physical therapist concluded that the Claimant "is best suited to the Less than Sedentary to Sedentary category of the Physical Demands Characteristics of work chart." This Commissioner adopts the functional limitations and restrictions shown in the FCE. As stated above, the vocational expert did not believe the Claimant can return to work. The Claimant is unable to return to her previous employment or any employment. The Defendants presented an Employability Analysis and Labor Market Survey completed by Jan Westmoreland, Med, CRC, of The Directions Group. Suffice it to say that the conclusions of Direction Group report as to the Claimant's ability to work are at odds with the overwhelming weight of the evidence. This report concludes that the Claimant can work at the sedentary to light work capacity level, whereas the most current medical evidence supports limited sedentary to sedentary. Mr. Brown, the Claimant's vocational expert, points out the shortcomings of the Directions Group report, Claimant's APA p. 181, and this Commissioner adopts his observations as findings.

5. Dr. Boyd, a neurosurgeon, Dr. Johnson, an orthopedist, and Dr. Redmond, a physiatrist, all evaluated the Claimant and assessed a permanent impairment rating for the Claimant. Dr. Boyd assessed 26-28% whole person impairment based upon radiculopathy and loss of motion segment integrity. Dr. Johnson assesses 25% whole person impairment to the spine. Dr. Redmond concurred in Dr. Boyd's rating. So the Claimant has suffered significant impairment. The medical evidence makes it clear that the neck injury caused injury to the cervical spine resulting in radicular pain, injuring the back and affecting the arms and legs.

6. This Commissioner watched video discs provided by the Defendants. Nothing in the surveillance videos shows the Claimant functioning in a way that would change this Commissioner's decision on permanency.
7. The Defendants have provided and paid for medical care and treatment necessary to assist the Claimant in reaching a level of recovery that is now not likely to improve, with or without medical treatment. According to Dr. Redmond, maximum medical improvement was attained on August 30, 2011. Form 14B of Dr. Redmond, Claimant's APA p. 173A.
8. The Defendants have provided necessary medical care and treatment since the injury, although Dr. Johnson is of the opinion that the delay in treatment has probably lessened the chance of a complete recovery by the Claimant. The neck problem was obvious on the first MRI, he says, but nothing was done. The evidence indicates that the Defendants have paid for this care and treatment, including medical mileage. (The Defendants did not pay for Dr. Johnsons independent medical examination.
9. The injury of the Claimant is a permanent injury, and as such will endure for the life of the Claimant, even though compensation for this injury by the Defendants will not exceed payment for 500 weeks.
10. The Claimant is capable of handling the financial implications of any award this Commissioner may make; and she wishes to receive any award payable in a lump sum. No objection has been raised by the Defendants to restating the award of this Commissioner in terms of the Claimant's life expectancy or payment of the award in a lump sum.

Based upon the above <u>Findings of Fact</u>, this Commissioner makes the following <u>Conclusions of Law</u>:

1. The Claimant, Employer and Carrier are subject to the South Carolina Workers' Compensation Act.
2. The Claimant, Katherine L. Haines, was an employee, S.C. Code Ann. §42-1-130, of the above-named Employer, Dollar Tree Stores, Inc., S.C. Code Ann. §42-1-140, on, prior, and subsequent to October 6, 2010. ARCH Insurance Company, Inc. is the carrier, S.C. Code Ann. §42-1-60.
3. The average weekly wage and compensation rate have been stipulated to be $561.96 and $374.66, respectively.
4. The Claimant suffered two accidental injuries in the scope and course of her employment, as stated in the above Findings of Fact. The first injury has resulted in permanent disability; the second injury aggravated the first, but caused no additional injury.
5. The Defendants are responsible for paying all bills and charges for causally related medical care and treatment which have been authorized through the date of this Order. This shall include mileage, as provided by law and Regulations, to and from authorized, related medical appointments, S.C. Code Ann. §42-15-60.
6. The Claimant is totally and permanently disabled under Section 42-9-30(21) of the Code of Laws of South Carolina (1976, as amended), in that she has experienced 50% permanent loss of use or disability to her back and in that the Defendants presented no testimony to rebut total and permanent disability. She has 25-28% whole person or back permanent impairment. Additionally, the FCE shows that she is experiencing significant loss of function. She walks with a cane. Although loss of earning capacity is assumed in cases of schedule disability, this Commissioner also notes that the Claimant cannot return to her previous employment and that she takes medications which make work unlikely, and even unsafe. All of these factors combine to support the finding of schedule disability.

7. The Claimant is also totally and permanently disabled under Section 42-9-10, in that she suffered injury to five body parts (back and bilateral arms and legs) and her incapacity to work is total, as discussed above. See S.C. Code Ann. §42-1-120. This conclusion is supported by the totality of the evidence: the FCE, the opinion of the vocational expert, Mr. Brown, the opinions of Drs. Redmond and Johnson, and the testimony of the Claimant.
8. The medical evidence establishes that the Claimant will require continuing medical care and treatment that is related to the work injury and authorized. S.C. Code Ann., §§42-9-10 and 42-15-60 and Dodge v. Bruccoli, Clark, Layman, Inc., 334 S.C. 574, 514 S.E.2d 593 (S.C. App. 1999).. Dr. Redmond filled out a Form 14B which certifies that future medical treatment will be required. Dr. Johnson confirmed the need for continuing medical care and treatment in his reports also.
9. The award of total and permanent disability should be paid to the Claimant in a lump sum, except that weekly payments should continue through October 7, 2012. According to documents filed by the Defendants the Claimant has been paid 115.8572 weeks of either temporary total or temporary partial disability compensation. The commuted value of total and permanent disability, calculated by using the "Net Present Value Table—5% per annum", revised on January 17, 2012, is $120,378.74. The Claimant argues that Section 42-9-301, which governs lump sum payments, provides that the lump sum "shall be fixed by the Commission, but in no case to be less than ninety percent of, nor to exceed, the commutable value of the future installments commuted so as not to exceed six percent nor to be less than two percent". The Claimant argues that the commutable value of total and permanent disability is $143,922.94 and that ninety percent of the commutable value is $129,530.65. Therefore, the Claimant says that the lump sum to be paid is $129,530.65. This Commissioner does not agree and concludes that the commuted

value of $120,378.74 shall be paid. This amount will also be restated in terms of the Claimant's life expectancy pursuant to §19-1-150 of the Code of Laws of South Carolina (1976, as amended), since the Claimant has suffered total and permanent disability. James v. Anne's Inc., 386 S.C. 326, 688 S.E.2d 562 (2010). The attorney for the Claimant is also entitled to a fee and reimbursement of costs for prosecuting this action on the behalf of the Claimant; and such fee and costs shall be paid in a lump sum.

NOW, THEREFORE, IT IS ORDERED:

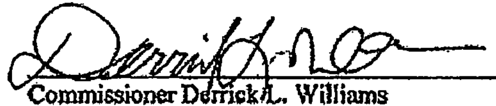
1. That the Defendants shall be responsible for payment of all medical care and treatment related to the work injury, including medical mileage, which has been or subsequently is authorized.
2. That the Defendants shall further continue to provide related, authorized medical care and treatment as stated more fully in the text of this Order.
3. That the Defendants shall continue paying the amount of weekly temporary total disability compensation (TTD) through October 7, 2012.
4. That the Defendants shall pay to the Claimant the balance of 500 weeks of compensation in a lump sum, a total of $120,378.74, representing the Claimant's total entitlement for compensation or indemnity under the South Carolina Worker's Compensation Act.
5. The lump sum award of $120,378.74 shall be allocated as follows: a) $40,126.25 as attorney fees pursuant to a written contract between the Claimant/Employee and attorney; b) $3,614.71 for costs and litigation expenses pursuant to the same contract; and c) $76,637.78 in full settlement of future compensation under the South Carolina Workers' Compensation Act at the rate of $45.08 per week commencing on the date this Order is approved by the South Carolina Workers' Compensation Commission and continuing thereafter for a period of 1699.88 weeks. See Utica-

Mohawk v. Orr, 227 S.C. 226, 87 S.E.2d 589 (1955); see also James v. Anne's Inc., 386 S.C. 326, 688 S.E.2d 562 (2010); see also Sciarotta v. Bowen, 837 F.2d 135 (3d Cir., 1988, POMS §52001.55(c)(4).).

6. The Order issued in this matter on October 10, 2012, is hereby vacated in its totality and rendered null and void, with reference to this Order being necessary to understand the ruling of this Commissioner.

AND IT IS SO ORDERED!

S.C. WORKERS' COMPENSATION COMMISSION



Commissioner Derrick L. Williams

October 22, 2012

CERTIFICATE OF SERVICE

This is to certify the undersigned has this date served this order in the above entitled action upon all parties to this cause by sending an electronic copy hereof by electronic mail addressed to the attorney or attorneys for said parties or by depositing a copy hereof, postage paid, in the United States certified mail addressed to any unrepresented party.
October 24, 2012

By: Renee Smith, Administrative Assistant to Commissioner Williams

South Carolina Workers' Compensation Commission
P.O. Box 1715 ♦ 1612 Marion Street
Columbia, South Carolina 29202-1715
(803) 737-5700

WCC File # 0901428
Carrier File # YYC07510C
Carrier Code #
Employer FEIN

Katherine L Haines Claimant's Name	[redacted] SSN	Dollar Tree Stores, Inc Employer's Name
[redacted] Address	[redacted] City, State Zip	5560 Forest Dr Address — Columbia, SC 29206 City, State Zip
[redacted] Home Phone #	Work Phone #	Arch Insurance Company Insurance Carrier
Joseph T. McElveen, Jr. Preparer's Name	P.O. Box 2038, Sumter, SC 29151-2038 Address	(803) 775-1263 Phone #

Request for Commission Review by ☒ claimant ☐ employer (check one)

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

SEE ATTACHED SHEET FOR GROUNDS OF APPEAL

(Check one) Oral argument ☒ is ☐ is not requested. Appellant's request for oral argument is waived if not indicated on this form.

I certify that I have served this document pursuant to R.67-212 by delivering a copy to
Brad Easterling, P.O. Box 1509, Greenville, SC 29602
Name Address
on the 6th day of November, 2012, by ☐ first class mail; ☐ personal service, ☒ certified mail.

[signature]
Preparer's Signature — ATTORNEY FOR CLAIMANT (Title) — 11/06/2012 (Date)

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

If the claimant appeals and is representing himself or herself, the Judicial Department will prepare the additional copies of this form and serve this form on the opposing party. R.67-701B. Otherwise, file the original and 8 copies of this form with the Judicial Department. The appeal must be postmarked no later than 14 days from the date of service of the Hearing Commissioner's decision. R.67-205D. Attach the filing fee to this form. Attach a Form 32 if you are unable to pay the filing fee. Refer to R.67-701 through R.67-711 for additional information.

WCC Form #30 Rev. Date 9/90 — **Request for Commission Review.**

The Claimant respectfully submits that the hearing Commissioner erred:

I. In failing to follow the requirements of Section 42-9-301 of the Code of Laws of South Carolina (1976, as amended), "Lump-sum payments", the error being that the Claimant should have been awarded the lump sum value of total and permanent disability in an amount no less than ninety percent (90%) of the uncommuted value of future installments of compensation.

II. In the alternative, in using the five (5%) percent "Net Present Value Table" to calculate the lump sum value of total and permanent disability, the error being that the use of said table is unfair and inequitable to the Claimant in that the discount rate used exceeds greatly the rate of interest that can be earned by the Claimant on the lump sum award during the discounted weeks. (A ten-year maturity Treasury bond yields less than two (2%) percent, and the fifty-two week high is just over two (2%) percent.)

If the claimant appeals and is representing himself or herself, the Judicial Department will prepare the additional copies of this form and serve this form on the opposing party. R.67-701B. Otherwise, file the original and 8 copies of this form with the Judicial Department. The appeal must be postmarked no later than 14 days from the date of service of the Hearing Commissioner's decision. R.67-205D. Attach the filing fee to this form. Attach a Form 32 if you are unable to pay the filing fee. Refer to R.67-701 through R.67-711 for additional information.

South Carolina Workers' Compensation Commission
P.O. Box 1715 • 1612 Marion Street
Columbia, South Carolina 29202-1715
(803) 737-5700

WCC File # 0905998
Carrier File # YYC13328C
Carrier Code # 395
Employer FEIN 541387365

Katherine L. Haines
Claimant's Name SSN

Address City State Zip

Home Phone Work Phone

Dollar Tree Stores, Inc.
Employer's Name
171 Hadden Heights Rd. Spartanburg SC 29301
Address City State Zip
Specialty Risk Services, LLC
Insurance Carrier

Brad B. Easterling 864-552-4619
Preparer's Name Phone #

Request for Commission Review by claimant ☒ employer (check one) Date of injury: 6/3/2009

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

(Check one) Oral argument ☒ is is not requested. Appellant's request for oral argument is waived if not indicated on this form.

Grounds for Review

The Hearing Commissioner erred in adopting the functional limitations and restriction shown in the FCE when the reliable probative and substantial evidence of the case does not support such a finding.

The Hearing Commissioner erred in finding as a fact that claimant is unable to return to her previous employment or any employment when the reliable probative and substantial evidence of the case does not support such a finding.

The Hearing Commissioner erred in finding as a fact that the conclusions of The Directions Group (defendants vocational expert) are at odd with the overwhelming weight of the evidence when the reliable probative and substantial evidence of the case does not support such a finding.

The Hearing Commissioner erred in finding as a fact claimant vocational expert points out the shortcoming of the Directions Group Report and erred in adopting his findings when the reliable probative and substantial evidence of the case does not support such a finding.

The Hearing Commissioner erred in finding as a fact that the medical evidence makes it clear that the neck injury caused injury to the cervical spine resulting in radicular pain, injuring the back and affecting the arms and legs when the reliable probative and substantial evidence of the case does not support such a finding.

The Hearing Commissioner erred in finding as a fact that nothing in the surveillance videos shows the claimant functioning in a way that would change this Commissioner's decision on permanency when the reliable probative and substantial evidence of the case does not support such a finding.

The Hearing Commissioner erred in finding as a fact claimant is capable of handling the financial implications of any award this Commissioner may make when the reliable probative and substantial evidence of the case does not support such a finding.

The Hearing Commissioner erred in concluding as a matter of law that claimant is permanently and totally disabled under § 42-9-30(21) in that she has experienced 50% loss of use or disability to her back and that the defendants presented no testimony to rebut total and permanent disability when the reliable, probative and substantial evidence of the case does not support such a conclusion.

The Hearing Commissioner erred in concluding as a matter of law that claimant permanently and totally disabled under § 42-9-10 in that she suffered injury to five body parts (back and bilateral arms and legs) and her incapacity to work is total when the reliable, probative and substantial evidence of the case does not support such a conclusion.

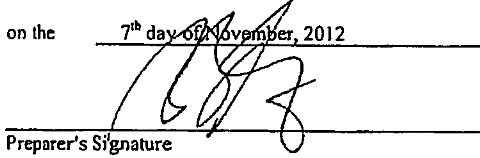
The Hearing Commissioner erred in concluding as a matter of law that claimant is in need of additional medical treatment which would tend to lessen his disability when the reliable, probative and substantial evidence of the case does not support such a conclusion.

The Hearing Commissioner erred in ordering defendants to pay claimant the balance of 500 weeks of compensation in a lump sum when the reliable, probative and substantial evidence of the case does not support an award of permanent and total disability.

I certify that __X__ I have served this document pursuant to R.67-211 by delivering a copy to Joseph T. McElveen, Jr., Esq.
Name

Bryan Law Firm, P.O. Box 2038, Sumter, SC 29151-2038;Virginia Crocker, Judicial Dept., SCWCC, P. O. Box 1715, Columbia, SC 29202-1715
Address

on the 7th day of November, 2012 by ☒ first class mail; personal service; certified mail.



Preparer's Signature

Attorney for Employer/Carrier
Title

November 7, 2012
Date

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

If the claimant appeals and is representing himself or herself, the Judicial Department will prepare the additional copies of this form and serve this form on the opposing party. R.67-701 B. Otherwise, file the original and 4 copies of this form with the Judicial Department. The appeal must be postmarked no later than 14 days from the date of service of the Hearing Commissioner's decision. R.67-701 and R.67-205. Attach the filing fee to this form. Attach a Form 32 if you are unable to pay the filing fee. Refer to R.67-701 through R.67-711 for additional information.

South Carolina Workers' Compensation Commission
P.O. Box 1715 ♦ 1612 Marion Street
Columbia, South Carolina 29202-1715
(803) 737-5700

WCC File # 0901428
Carrier File # YYC07510C
Carrier Code #
Employer FEIN

Katherine L Haines		Dollar Tree Stores, Inc	
Claimant's Name		Employer's Name	
[redacted]	[redacted]	5560 Forest Dr	Columbia, SC 29206
Address	City, State Zip	Address	City, State Zip
[redacted]		Arch Insurance Company	
Home Phone #	Work Phone #	Insurance Carrier	
Joseph T. McElveen, Jr.	P.O. Box 2038, Sumter, SC 29151-2038		(803) 775-1263
Preparer's Name	Address		Phone #

A claim for workers' compensation benefits is made based on the following grounds: ☒ Injury ☐ Illness ☐ Repetitive Trauma

1. Compensation Rate: $374.66   2. AWW $561.96   Date of Injury: 2/12/2009

3. Type of injury and body part(s): Shelves fell on Claimant–Cervical/Thoracic Spine/Arms/Legs
4. Facts in Controversy: Admitted claim.

5. Legal issues involved: Claimant has reached maximum medical improvement, but she will continue to require medical care and treatment in the future. Claimant believes that she is totally and permanently disabled under either §42-9-10, §42-9-30(21), or both. She asks that any award be stated alternatively in terms of her life expectancy. She requests that all payments be made in a lump sum.

6. Unusual problems: a) Claimant missed very little work after her injury and received "conservative care" until she was referred to Dr. Scott Boyd, a neurosurgeon. She continued to work limited or light duty with accommodation of her injury until she underwent surgery on 3/15/2011 (anterior cervical discectomy and interbody fusion at C4-5 and C5-6).
b) The medical records establish that Claimant the work injury has affected her cervical spine, arms and legs. She was diagnosed with myeloradiculopathy, in that she has cord compression and radiating symptoms into her extremities. Claimant's APA, Tab 9 (Boyd Deposition, p. 21, ll. 2-12; p. 22, ll. 20-23.) Dr. Boyd testified at his deposition that her symptoms most probably resulted from her work injury, and all treatment has been authorized by the carrier. Boyd Deposition, p. 24, ll. 2-10. Dr. Boyd also indicated that injuries such as Claimant's (cord compression) may become worse if not treated. Boyd Deposition, p. 22, l. 20-p. 23, l. 17.
c) Dr. Donald Johnson wrote on 10/17/11: "I do feel that there is a relationship between the length of time between this patient's injury and her subsequent surgical decompression, that period being over 2 years. To a reasonable degree of medical certainty I feel that she had an aggravation of a pre-existing degenerative condition. I would note that the first orthopedic specialist who saw her, Dr. Burnsworth, diagnosed cervical stenosis as well as cervical radiculopathy. Because there was over a two year period before surgical decompression occurred, I think that this time period is a likely factor explaining why the patient continues to be symptomatic." Claimant's APA p. 34. He also wrote in a November 15, 2011, letter as follows: "It is quite likely that she will have a significant absenteeism because of her pain and will be a liability both to herself, her coworkers and her employers if she takes her daily narcotics while trying to work. ... Given the above, it is unlikely that she can be accommodated in the workplace in my opinion." Claimant's APA p. 35.

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

d) Dr. Redmond, who is the most recent authorized health care provider and who continues to provide pain management, wrote on 8/30/2011 as follows: "The patient is interested in being referred to vocational rehabilitation. I told her that that is admirable and we will honor this request. However, I do not know how practical it will be for her in the long run. She has quite extensive limited mobility in her neck and it is difficult for her to drive for safety concerns. She is [un]able to turn around to look behind her shoulder very well to check for oncoming traffic." Claimant's APA p. 167. On 5/11/2012, Dr. Redmond wrote that Dr. Storick rejected his suggestion of a spinal stimulator, but recommended other treatment. Claimant's APA p. 169.

e) A functional capacity evaluation performed on 8/24/2011 states that Claimant can perform at the "less than sedentary to sedentary category of physical demand and cannot return to her normal work. Claimant's APA p. 149. Adger Brown, vocational expert, is of the opinion that Claimant is unable to work and is totally and permanently disabled. He maintained this opinion after reviewing the labor market survey and report compiled at the request of the Defendants. Claimant's APA, pp. 174 and 181.

7. Witnesses (designate if expert*): Claimant, Katherine Haines.

8. Exhibits: *See* Notice of Witnesses and Written Documents.

9. Medical evidence: (Indicate report pursuant to R.67-612; deposition or appearance): *See* Notice of Witnesses and Written Documents.

10. Name, address, and specialty, if any, of the treating physician: Dr. Scott Boyd Columbia Neurosurgical 720 Rabon Rd., Columbia, SC 29203; Dr. David Redmond, Palmetto Health Baptist Center for Pain Management, 223 Stoneridge Rd., Columbia, SC.

11. Impairment rating(s); body part(s); physician and date of opinion: 26-28% permanent whole person impairment (radiculopathy and loss of motion segment integrity), Dr. Scott Boyd, Deposition (12/20/2010); 28% permanent whole person impairment, Dr. Redmond, 8/30/2011; 25% permanent whole person impairment, 10/17/2011, Dr. Donald Johnson.

12. I am amending my Form 50/51 in the following manner: Not applicable.

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

SIGNATURE: [signature] Email: jmcelveen@bryanlaw.com

DATE OF HEARING: August 13, 2012 TIME OF HEARING: 11:30 a.m.

On Behalf of: ☒ Claimant ☐ Employer

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

South Carolina Workers' Compensation Commission
1612 Marion St.
P.O. BOX 1715
Columbia, SC 29202-1715
(803) 737-5723

PRE-HEARING BRIEF
WCC File No: 0901428

Claimant's Name: Katherine L. Haines
Address: [redacted]
City [redacted] State: [redacted] Zip: [redacted]
Home Phone: [redacted] Work Phone:

Employer's Name: Dollar Tree Stores, Inc.
Address: 171 Hadden Heights Road
City Spartanburg State: SC Zip: 29301
Carrier: ARCH Insurance Company

Preparer's Name: Brad B. Easterling, Esq.
Preparer's Phone #: (864) 552-4619

A claim for workers' compensation benefits is made based on the following grounds:
☒ Injury ☐ Illness ☐ Repetitive Trauma

1. Compensation Rate: $374.66 2. AWW: $561.96 **Date of Injury:** 6/3/2009
3. Type of injury and body part(s): Spine
4. Facts in controversy: Whether claimant has achieved maximum medical improvement and, if so, the extent of her permanent partial disability per § 42-9-30, if any. Defendants also request credit for overpayment of temporary total disability compensation.
5. Legal issues involved: S.C. Code § 42-9-30.
6. Unusual aspects:
7. Witnesses (designate if expert):* Claimant's former supervisor (Kelly McDaniels); possibly other representatives of employer; Private investigators who performed surveillance; defendants reserve right to call additional witnesses at time of hearing.
8. Exhibits: Claimant's depositions taken 7/17/2010 and 2/16/2012; possibly portions of claimant's personnel/employee file; surveillance videos and corresponding reports; defendants reserve right to introduce additional exhibits at time of hearing.
9. Medical evidence (indicate report pursuant to R.67-612; deposition or appearance): Please see attached APA submissions.
10. Name, address, and specialty, if any, of the treating physician: Dr. Scott Boyd, Columbia Neurosurgical
11. Impairment rating(s); body part(s); physician and date of opinion:
12. I am amending my Form 50/51 in the following manner:

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

Signature: [signature]
Brad B. Easterling, Esq.

Email: BEasterling@TurnerPadget.com

Date of hearing: 8/13/2012 @ 11:30 a.m. Time needed for hearing: 1 hour

On behalf of ☐ Claimant ☒ Employer

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

WCC Form # 58
Rev. 9/07

58

PRE-HEARING BRIEF

STATE OF SOUTH CAROLINA
BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC No. 0901428 & 0905998

Katherine L. Haines,)
Employee,)
v.)
Dollar Tree Stores,)
Employer,)
and)
Arch Insurance Company,)
Carrier/Defendants.)

(COPY)

FULL COMMISSION HEARING

****

Tuesday, February 19, 2013
2:39 p.m. - 2:58 p.m.

The Full Commission Hearing was heard before Commissioners Susan S. Barden, Melody L. James and Avery B. Wilkerson, at the Workers' Compensation Commission, 1333 Main Street, Suite 500, Columbia, South Carolina, on the 19th day of February, 2013, before Christine A. Cortright, Court Reporter and Notary Public in and for the State of South Carolina.

APPEARANCES

Joseph T. McElveen, Jr., Esquire
BRYAN LAW FIRM OF SC, LLP
17 East Calhoun Street
Sumter, South Carolina 29151
Attorney for the Claimant/1st Appellant

Brad B. Easterling, Esquire
TURNER, PADGET, GRAHAM & LANEY, PA
200 East Broad Street, Suite 250
Greenville, South Carolina 29601
Attorney for the Defendants/2nd Appellants

INDEX

PAGE

MR. McELVEEN 3
MR. EASTERLING 11
MR. McELVEEN 15
MR. EASTERLING 18
Certificate 21

EXHIBITS

(There were no exhibits marked during this hearing.)

STIPULATIONS

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

1 COURT REPORTER: Today is February 19th, 2013. This
2 is the South Carolina Workers' Compensation
3 case number 0901428 and 0905998. The case of
4 Katherine Haines, claimant, versus Dollar Tree
5 Stores, employer, and Arch Insurance Company.
6 This is a cross appeal. The first appellant is
7 the claimant represented by Joseph McElveen,
8 and the second appellant is the defendant
9 represented by Brad Easterling. And y'all have
10 discussed how you will time everything. You
11 are requested to argue the grounds of exception
12 and stay within the record.
13 CHAIRPERSON BARDEN: All right. It will eight,
14 eight, three, three. That's great. And, Mr.
15 McElveen, you are the first appellant, so, sir,
16 you will begin. Thank you.
17 **ARGUMENT BY MR. McELVEEN:**
18 MR. McELVEEN: Excuse me for writing these things
19 out, but I try to make sure I am within my
20 time. So I actually had anticipated that I
21 would be going second on this issue, but I will
22 try to adjust. My client, Katherine Haines,
23 was found to be totally disabled under both 42-
24 9-10 and 42-9-30, subsection 21. We submit
25 that the evidence is overwhelming that this was

1 the correct decision. In fact, we would submit
2 that there is no evidence to refute total and
3 permanent disability. Drs. Boyd, who was the
4 treating physician, Dr. Donald Johnson, who did
5 an IME at the request of the claimant, and Dr.
6 Redmond, who is the treating physician now,
7 have given ratings between 26 and 28 percent to
8 the whole person based on the back. There's
9 also radiculopathy into the extremities. Dr.
10 Johnson and Dr. Redmond have given the opinion
11 that Kathy is unable to work. The functional
12 capacity evaluation said Kathy can only work at
13 the less than sedentary to sedentary level. As
14 Mr. Brown, the vocational expert, says, there
15 are just no jobs out there for a woman of
16 Kathy's age with her problems. The less than
17 sedentary finding takes away almost every
18 possible job. As we all know, total and
19 permanent disability does not require a person
20 to be helpless. The issue is whether or not
21 there are jobs reasonably available in the
22 economy that the claimant can perform. Once
23 again, I'll say that the overwhelming evidence,
24 if not the totality of the evidence, dictates
25 the finding of total and permanent disability.

1 Add to Kathy's physical limitations the fact
2 that she must take a long list of narcotic
3 drugs that limit her alertness and ability to
4 perform reliably, even to drive, this adds to
5 the problems that she has, as have been pointed
6 out by Dr. Redmond and Dr. Johnson. She uses
7 a cane. Work is impossible for her. The
8 defendants apparently did not order a
9 transcript of this hearing testimony, but the
10 order of the Commissioner summarizes the
11 testimony and recounts the medical evidence
12 which is in evidence. And I'll -- I called the
13 court reporter. She didn't have any record of
14 sending it the court, and I called the
15 Commission and they said there was no
16 transcript in the record, but that could be an
17 error. The defendants only ploy has been in
18 their brief to criticize Kathy's testimony.
19 Yes, she does try to ---
20 **COMMISSIONER WILKERSON:** Mr. McElveen, let me ask
21 you a question. Who do you keep calling at the
22 Commission that gives you this information?
23 **MR. McELVEEN:** I think my -- now, I didn't call the
24 Commission about the deposition in the previous
25 one.

1 **COMMISSIONER WILKERSON:** Oh, I thought you said you
2 called.
3 **MR. McELVEEN:** No.
4 **COMMISSIONER WILKERSON:** Oh, I'm sorry.
5 **MR. McELVEEN:** No, I said I found no record of it.
6 We did call last week to the Commissioner's
7 office, Commissioner Williams' office, and they
8 said it was not in the record.
9 **MR. EASTERLING:** And perhaps you're talking about
10 the deposition or are you talking about the
11 hearing transcript?
12 **CHAIRPERSON BARDEN:** You said the hearing transcript.
13 **MR. McELVEEN:** The hearing transcript is what I was
14 -- because I don't -- because I don't have a
15 copy of it.
16 **CHAIRPERSON BARDEN:** Well, you ---
17 **MR. McELVEEN:** I ordered a copy of it, but I never
18 got it.
19 **COMMISSIONER WILKERSON:** That's between you and the
20 court reporter. We don't ---
21 **MR. McELVEEN:** It is.
22 **COMMISSIONER WILKERSON:** Yeah, we don't get ---
23 **MR. McELVEEN:** It is.
24 **COMMISSIONER WILKERSON:** They're independent
25 contractors, so.

1 MR. McELVEEN: And I hate to get away from the
2 point, but the thing is that yes, my client
3 does do some things. She really tries to do
4 some things around the house, but as the record
5 shows, you do it slowly and you do it on your
6 own time schedule. It's not like you can do in
7 a workplace. There is surveillance that was
8 done, but it shows nothing. In fact, the
9 person that probably does the most on there,
10 well definitely does the most, is her daughter
11 and not her. The videos don't show her doing
12 anything physical or demanding. Regrettably,
13 the biggest thing she does is go out and smoke
14 a cigarette. The most strenuous acts shown on
15 the video are of her daughter, not Kathy. In
16 their brief, the defendants emphasis a report
17 from The Directions Group. I think it's called
18 a market analysis. The vocational expert of
19 the defendant summarizes the medical evidence
20 pretty correctly, so she knows that all of the
21 doctors who have most recently -- or excuse me,
22 who have treated Kathy since surgery conclude
23 she is totally and permanently disabled, yet
24 she bases her opinion on Kathy being able to
25 serve -- to perform sedentary to light work.

1 If you look at the defendant's APA 2002, she
2 clearly says she can do sedentary to light
3 work. No doctor, no FCE, since her surgery,
4 substantiates that. No healthcare provider who
5 has seen Kathy said she could do sedentary to
6 light work. Dr. Johnson said sedentary, and
7 that was before the FCE was done. Dr. Redmond
8 adopted the less than sedentary to sedentary
9 conclusion of the FCE and he's now the treating
10 doctor. There's no timely opinion that Kathy
11 can do sedentary to light work. As Mr. Brown,
12 Kathy's vocational expert, put it, the findings
13 of The Directions Group don't connect with the
14 medicals. Also, The Directions Group report
15 lists some jobs, but as Mr. Brown says, these
16 jobs were merely gotten by I guess Googling the
17 internet to come up with a list of jobs. He
18 says most, if not all, of these jobs require
19 the appellant, the applicant, to work at the
20 full sedentary level if not the light level.
21 So they're outside of the range of what Ms.
22 Haines is able to do. The Directions Group did
23 not call any of the employers to find out if
24 these jobs could be suitable for my client. I
25 mean, it's pretty obvious that she could not do

1 this job -- these jobs. The record to me is
2 very clear, and I hope it is to you as
3 Commissioners, that she can't do any work. And
4 The Directions Group report certainly does not
5 refute that for the reasons I said. She
6 actually refers in the report to the FCE as
7 being less than sedentary to sedentary, but
8 when she starts making her conclusions she's
9 talking about sedentary to light. We have
10 submitted and argued in our appeal that Section
11 42-9-301 requires a larger award -- that a
12 larger award should be made. We argue the 90
13 percent case, that it should be 90 percent of
14 the uncommuted value or the value before its
15 commuted. I think there are reasons for that.
16 It think the reasons are that it protects the
17 claimant in a, you know, if they're getting a
18 lifetime payout. And 90 percent of the
19 uncommuted value is definitely a break for the
20 defendant too because it's less than the full
21 value. It's particularly something that ought
22 to be applied in these times, and I've cited in
23 my brief what you can earn now on the most
24 reliable investments. And it's nothing like
25 five percent. So I think I've argued pretty

1 extensively in my brief and laid out my reasons
2 for why I believe the 90 percent rule should
3 have required about 9,000 more having been paid
4 to my client than was actually calculated. I
5 want to go back and point out one thing. If
6 you look at -- this has been a problematic case
7 and you have to look at it in kind of two
8 segments. I keep talking about before surgery
9 and after surgery. There were two years in
10 there when there was basically very little
11 treatment. She went to a doctor a lot but
12 nothing much was happening. Then she had to
13 have surgery on her neck and it was work
14 related as being covered. Dr. Johnson in his
15 report says that that two year delay has
16 probably led to her having the significant
17 problems that she has and not making the kind
18 of recovery that you would normally have
19 anticipated. She does have her head tilted to
20 the left. I can't -- I should have looked up
21 how to pronounce the word. It's something like
22 torticollis. I think Dr. Boyd referred to it
23 as torticollis-like symptoms. So she's got a
24 very serious problem and she -- I don't think
25 she's going to get any better.

1 CHAIRPERSON BARDEN: And you'll have three more in
2 reply. Thank you, sir. Mr. Easterling.
3 **ARGUMENT BY MR. EASTERLING:**
4 MR. EASTERLING: May it please the Commission.
5 Brad Easterling here on behalf of Dollar Tree.
6 You probably saw that I was grimacing a little
7 bit, and I apologize for that. But I take
8 issue a little bit with any implication that
9 I've cited evidence outside of any record as
10 Mr. McElveen seemed to imply. Maybe I took it
11 the wrong way. And also that he implied in his
12 brief. If you read his brief, he makes the
13 statement, actually asks the question what
14 evidence do the defendants have to rely on that
15 the claimant can't work in a question form.
16 Maybe I'm being a little bit sensitive, but I
17 took a little bit of offense to it. Then I
18 thought about it on the way down here. I'll
19 take the opportunity to point the evidence out
20 to him this afternoon. In that regard, I want
21 to make a couple of admissions. This lady had
22 an admitted injury to her neck. It was a
23 serious injury to her neck. She had surgery.
24 She takes a lot of pain medication. But she is
25 not, in the defendant's estimation, permanently

1 and totally disabled. And I'll tell you why
2 the defendants believe that she's not. First
3 of all, she's 51 years old. She has the
4 equivalent of a high school education. She
5 didn't graduate high school, but she was
6 expelled three months prior to her graduation.
7 She has worked for Dollar Tree for 14 years as
8 an assistant manager or a manager where she
9 acknowledged in the hearing transcript she
10 obtained transferrable job skills such as data
11 entry, personnel management, managerial skills,
12 supervision, the list goes on. In addition to
13 that, she admitted that in the hearing, which
14 you'll find in the transcript that we both
15 have, that she worked for an insurance company
16 in the past called Riviera Insurance, which she
17 acknowledged was a hundred percent sedentary
18 job. She processed insurance policies, she
19 fielded phone calls, and she was able to do
20 that with a telephone sitting at a desk. She
21 also at the hearing and in her deposition has
22 admitted that she's proficient in internet use
23 at her home. She has her own personal laptop.
24 She also has -- she also admitted, and this is
25 important to our case, at APA page 195 she

1 admitted to our vocational expert that she's
2 able to sit an entire day as long as she's able
3 to move around for 30 to 45 minutes -- every 30
4 to 45 minutes. That's at APA 195. I'd submit
5 to you with that admission and taking into
6 consideration that she has past experience in
7 the insurance business processing insurance
8 policies that she's able to find some type of
9 employment. The assertion that there's no
10 evidence in this record to support the
11 possibility that this lady can go back to work
12 is borderline -- it's disingenuous. Now, this
13 Commission obviously weighs the evidence and
14 it's completely up to you to tell me that my
15 evidence is phooey if you want to, but the
16 evidence is there. We have a vocational
17 opinion that he's highlighted. We have the
18 admissions from the claimant about her past
19 work experience. And we also have some
20 surveillance evidence, which I will acknowledge
21 again to this Commission is not egregious.
22 However, if you look at the hearing transcript
23 at page 45, she talks about and she goes into
24 the limited range of motion that she has in her
25 neck. Obviously she's not here so you can't

1 see that, but she basically acknowledged to me
2 at hearing transcript 45 that she can move her
3 neck, she can't turn it to the left or the
4 right, and she indeed has it cocked all the
5 time. If you examine the surveillance video
6 closely and see her coming in and out of her
7 house five, six, seven times a day to smoke a
8 cigarette, I think you'll see that it's not
9 nearly as bad as she presented it at the
10 hearing. At least that's the defendant's
11 position. The vocational assessment that was
12 done by the defendant's Jan Westmoreland of The
13 Directions Group noted that the claimant could
14 work a sedentary to light level demand job.
15 And Mr. McElveen took painstaking effort to
16 point out less than sedentary to sedentary
17 verus sedentary to light. I don't care which
18 one you take, it still falls in the range that
19 she can do a sedentary job, no matter whose
20 opinion we believe. The fact is is that Jan
21 Westmoreland said she could do sedentary work,
22 she has past work experience doing that, and
23 she actually identified several jobs, including
24 front desk secretary, receptionist, office
25 assistant, account manager, clerical aide. And

1 given the fact that she has past work
2 experience in customer service, the assertion
3 that there's no evidence in this record to
4 support our position that this claimant can go
5 back to work is asinine. In regards to Mr.
6 McElveen's argument about 90 percent, if you
7 read the statute closely, the 90 percent theory
8 applies to the commuted value, not the non-
9 commuted value. The statute says that it
10 cannot be less than 90 percent of the commuted
11 value. In this case, the commuted value of the
12 claim at the time of the hearing was $120,000.
13 That's all she'll ever be able to get. The
14 argument that she's entitled to 90 percent of
15 the non-commuted value is simply an attempt to
16 try and bolster or get more money. There's no
17 statutory authority for it and any -- any
18 reading in any other fashion is also
19 disingenuous. And that's all I've got.
20 Thanks.
21 **CHAIRPERSON BARDEN:** Thank you. All right, Mr.
22 McElveen, three minutes.
23 **REPLY BY MR. McELVEEN:**
24 **MR. McELVEEN:** I don't think I'm asinine or
25 disingenuous in my arguments. I do think that

1 if you look at the medical evidence, there is
2 no medical evidence that contravenes total and
3 permanent disability. If you look at the
4 evidence from Dr. Johnson, look at the evidence
5 from Dr. Boyd, look at the evidence from Dr.
6 Redmond, it's all there. The only possible
7 evidence would be this Directions Group report,
8 the VE report. And there is no evidence that
9 she could do these jobs, and Mr. Brown reviewed
10 her report and he said that he didn't think she
11 could do the jobs and that you would have to
12 call these people and find out what was
13 involved. The real trump card here though is,
14 as was pointed out by Dr. Johnson and Dr.
15 Redmond, when you look at the medications that
16 this lady is on and has to take every day to
17 function at all, she can't work. You can't
18 work taking those kinds of medications. And
19 you can't -- if you don't take them, you have
20 such pain and problems that you can't do your
21 work. So that's the end result. There really
22 is no evidence in this case, no medical
23 evidence. And the other evidence, I mean she's
24 51 years old. Well, she's an older individual.
25 I hate to tell everybody -- well, I can tell

1 you that, I know you and I are the only ones
2 here that are in that category, but for Social
3 Security purposes, that's an older individual
4 and it gets harder to get a job, and Mr. Brown
5 talks about that in his report. Proficient in
6 the internet. I think she can do email and
7 look up things on Google. I think that's what
8 the record shows she can do. Less than
9 sedentary is just that. It's less than
10 sedentary and certainly not light. I mean,
11 less than sedentary would be less than ten
12 pounds. I believe that's what that means. Ten
13 pounds sedentary. But the drugs are what makes
14 it just totally impossible for her. The brief
15 in this case was not filed by the defendant
16 until January the 28th. I think I pointed out
17 in my brief I didn't get it until the 30th. So
18 that's why my reply brief was a little late, my
19 reply to their brief. But I stand by what I
20 say in there. I think if you look at all of
21 the medical evidence since the surgery, there
22 is -- you've got Dr. Felmly. What you had is
23 Dr. Burnworth in the first MRI read stenosis
24 and radiculopathy. He referred to Dr. Felmly.
25 Dr. Felmly said there's nothing wrong. That's

1 what Dr. Johnson was talking about. It was
2 known from the beginning that this lady had
3 radiculopathy and had stenosis, but it remained
4 untreated for basically two years until she got
5 to Dr. Boyd who did the surgery. And now she's
6 in pain management, she continues in pain
7 management. It's in the record she's going to
8 have to frequently do that, and these drugs are
9 going to be a part of her life unfortunately
10 for the rest of her life. Thank you very much.
11 **REPLY BY MR. EASTERLING:**
12 **MR. EASTERLING:** Just briefly. Now Mr. McElveen
13 stands up in his rebuttal and says, well, it's
14 no medical evidence. Well, that's not what he
15 said to start with. Evidence is evidence,
16 medical, non-medical. The evidence is in. We
17 have evidence whether it be medical or not. In
18 this case it's not, it's a vocational opinion
19 and surveillance to support our position.
20 **MR. McELVEEN:** I also pointed out why I don't think
21 ---
22 **CHAIRPERSON BARDEN:** This is not your time to ---
23 **MR. McELVEEN:** Oh, I didn't know if it was -- oh,
24 I'm sorry. I apologize for -- I apologize.
25 **CHAIRPERSON BARDEN:** I'm going to start it over.

1 All right.

2 **MR. EASTERLING:** That's fine. I don't have -- I'm

3 not going to take the full three minutes

4 anyway.

5 **CHAIRPERSON BARDEN:** Mr. Easterling.

6 **MR. EASTERLING:** And, again, he keeps harping on Jan

7 Westmoreland saying that she's able to do

8 sedentary to light duty demand and the FCE

9 indicated that she could do less than sedentary

10 to sedentary. It doesn't matter which one.

11 They both indicated that she could do sedentary

12 work, the FCE and our vocational assessment.

13 I want to respond briefly to the assertion of

14 the delay in treatment. I didn't hear him say

15 it explicitly, but if there's any implication

16 that the defendants delayed that treatment, I

17 take issue with that. We provided treatment

18 initially with some pain management folks here

19 in Columbia, and I think she also saw an

20 orthopaedist to start with. At no point did

21 anybody refer her to a spine surgeon until we

22 took her to Dr. Scott when she had surgery. So

23 any implication that we delayed treatment to

24 her neck is not accurate. Thank you.

25 **CHAIRPERSON BARDEN:** Thank you, sir. That concludes

1 this proceeding.

2 (There being nothing further, the hearing concluded

3 at 2:58 p.m.)

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

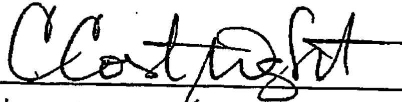
25

CERTIFICATE

This is to certify that the Full Commission Hearing, consisting of Twenty (20) pages, is a true and correct transcript of the testimony given; said hearing was reported by the method of Stenomask with Backup.

I further certify that I am neither employed by nor related to any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF I have hereunto set my hand and seal on July 25, 2013.



Christine A. Cortright
Court Reporter

Notary Public for South Carolina
My Commission Expires: August 28, 2016

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
COLUMBIA, SOUTH CAROLINA
WCC FILE NO. 0901428 & 0905998

EMPLOYEE/CLAIMANT: **KATHERINE L. HAINES**

EMPLOYER: **DOLLAR TREE STORES**

CARRIER: **ARCH INSURANCE COMPANY**

SOUTH CAROLINA WORKERS' COMPENSATION HEARING

PURSUANT TO NOTICE OF WORKERS' COMPENSATION HEARING, THE WITHIN HEARING WAS TAKEN ON THE 4TH DAY OF SEPTEMBER, 2012, COMMENCING AT THE HOUR OF 9:33 A.M., IN COLUMBIA, SOUTH CAROLINA, BEFORE THE HONORABLE DERRICK L. WILLIAMS, ATTENDED BY COUNSEL AS FOLLOWS:

SHEILA ROBISON
VERBATIM REPORTER

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

APPEARANCES

JOSEPH T. MCELVEEN, JR., ESQUIRE, OF THE FIRM
THE BRYAN LAW FIRM, L.L.P.
POST OFFICE BOX 2038
SUMTER, SOUTH CAROLINA 29150

ATTORNEY FOR THE EMPLOYEE,

BRADFORD B. EASTERLING, ESQUIRE, OF THE FIRM
TURNER, PADGET, GRAHAM & LANEY, P.A.
POST OFFICE BOX 1509
GREENVILLE, SOUTH CAROLINA 29602

ATTORNEY FOR THE EMPLOYER/CARRIER.

I N D E X

	PAGE
KATHERINE L. HAINES:	
DIRECT EXAMINATION BY MR. MCELVEEN..........	7
CROSS EXAMINATION BY MR. EASTERLING.........	30
REDIRECT EXAMINATION BY MR. MCELVEEN........	54
RECROSS EXAMINATION BY MR. EASTERLING.......	58
CERTIFICATE OF NOTARY PUBLIC...................	61

1 PURSUANT TO NOTICE OF HEARING, THE WITHIN HEARING
2 WAS TAKEN BY THE ABOVE-NAMED COURT REPORTER, A NOTARY
3 PUBLIC FOR THE STATE OF SOUTH CAROLINA, IN COLUMBIA,
4 SOUTH CAROLINA.
5 * * * * * * * * * * * * * * * *
6 **BY COMMISSIONER WILLIAMS**:
7 TODAY'S DATE IS SEPTEMBER 4TH, 2012. THESE ARE
8 THE WORKERS' COMPENSATION CASES OF MS. KATHERINE
9 HAINES VERSES DOLLAR TREE. ARCH INSURANCE COMPANY
10 IS THE CARRIER. TWO WCC NUMBERS; WCC FILE NUMBER
11 0901428 AND 0905998. DATE OF ACCIDENT IS FEBRUARY
12 12TH, 2009, FOR THE 0901428 CLAIM. WHAT'S THE OTHER
13 DATE OF ACCIDENT; DO YOU HAVE IT? IF NOT, IT'S
14 FINE. THERE'S ANOTHER '09 ACCIDENT AS WELL.
15 **BY MR. MCELVEEN**:
16 JUNE 3 OF '09.
17 **BY COMMISSIONER WILLIAMS**:
18 OKAY. JUNE 3RD OF '09. ATTORNEY JOE MCELVEEN
19 FOR THE CLAIMANT. ATTORNEY BRAD EASTERLING FOR THE
20 EMPLOYER AND CARRIER. AVERAGE WEEKLY WAGE $561.96.
21 CORRESPONDING COMP RATE $374.66. THE HEARING IS
22 HELD ON THE FORMS 50 AND 51. WE HAD A PREHEARING
23 CONFERENCE, AND I HAVE THE APA SUBMISSIONS HANDED UP
24 FROM BOTH PARTIES. WE HAD A DISCUSSION ABOUT THE
25 SURVEILLANCE VIDEOS HANDED UP. THE PARTIES WOULD

1 STIPULATE THAT THE DECEMBER 1ST SURVEILLANCE TAPE,
2 THAT IS NOT THE CLAIMANT ON THERE. THERE IS ALSO
3 ANOTHER DATE, WHICH WE COULDN'T FIND, BUT I'LL LOOK
4 FOR IT, WHERE THERE'S AN UNIDENTIFIED FEMALE GOING
5 INTO A DOLLAR TREE, WHICH WE DON'T KNOW WHETHER OR
6 NOT THAT'S THE CLAIMANT. SO I WILL DISREGARD THOSE
7 TWO ITEMS ON THE SURVEILLANCE TAPE. OUTSIDE OF
8 THAT, I HAVE THE SUBMISSIONS -- APA SUBMISSIONS
9 HANDED UP. I HAVE REMOVED DEFENDANTS' 13 AND 14,
10 WHICH WERE THE INVESTIGATIVE REPORTS, THE SUMMARIES
11 OF WHAT'S ON THE SURVEILLANCE. BUT SINCE I HAVE THE
12 SURVEILLANCE, I DON'T NEED THE INVESTIGATOR'S
13 PERSONAL STATEMENTS OR ANYTHING, SO I HAVE TAKEN
14 THOSE OUT. OUTSIDE OF THAT, ANY OBJECTIONS TO
15 JURISDICTION, VENUE, OR THE APA SUBMISSIONS? MR.
16 MCELVEEN?
17 **BY MR. MCELVEEN**:
18 NO, COMMISSIONER.
19 **BY COMMISSIONER WILLIAMS**:
20 ALL RIGHT. MR. EASTERLING?
21 **BY MR. EASTERLING**:
22 NONE, COMMISSIONER.
23 **BY COMMISSIONER WILLIAMS**:
24 THEN THE COMMISSION FILE IS PART OF THE RECORD
25 WITH THE EXCEPTION OF ANY SELF-SERVING DECLARATIONS

1 OR ANY UNSTIPULATED MEDICAL REPORTS.
2 ADMITTED INJURY TO THE SPINE. THE CLAIMANT
3 ALSO ALLEGES HER INJURY AFFECTS HER ARMS AND HER
4 LEGS. SHE WOULD ALLEGE SHE'S PERMANENTLY AND
5 TOTALLY DISABLED, WOULD SEEK LIFETIME CAUSALLY-
6 RELATED MEDICALS UNDER DODGE, LUMP SUM, UTICA-MOHAWK
7 LANGUAGE UNDER JAMES VERSES ANNE'S, AND
8 REIMBURSEMENT FOR ANY CAUSALLY-RELATED MEDICALS.
9 EMPLOYER/CARRIER DOES ADMIT AN INJURY ONLY TO THE
10 SPINE. THEY WOULD ALLEGE CLAIMANT DOES HAVE SOME
11 PERMANENCY, BUT THAT SHE IS NOT PERMANENTLY AND
12 TOTALLY DISABLED. THEY WOULD SEEK A CREDIT FOR
13 OVERPAYMENT FROM THE DATE OF M.M.I. IN THIS CASE.
14 THAT BEING STATED, DO THE PARTIES WANT TO STATE
15 ANYTHING ELSE FOR THE RECORD? MR. MCELVEEN?
16 **BY MR. MCELVEEN**:
17 NO, COMMISSIONER.
18 **BY COMMISSIONER WILLIAMS**:
19 ALL RIGHT. MR. EASTERLING?
20 **BY MR. EASTERLING**:
21 JUST ONE THING, COMMISSIONER, BEING THAT
22 THERE'S REALLY ONLY ONE INJURY TO THE SPINE ONLY;
23 THAT IS, THERE'S NOT TWO BODY PARTS. AT LEAST THE
24 DEFENDANTS DON'T THINK THERE ARE TWO BODY PARTS. SO
25 IF YOU WERE TO FINE THAT SHE'S PERMANENTLY AND

1 TOTALLY DISABLED, IT WOULD HAVE TO BE BECAUSE OF
2 GREATER THAN 50 PERCENT LOSS TO THE USE OF THE
3 SPINE. ALTERNATIVELY, OF COURSE, WE CONTEND THAT
4 SHE'S NOT PERMANENTLY AND TOTALLY DISABLED AND THAT
5 ANY PERMANENCY SHOULD BE LIMITED TO 42-9-30.
6 **BY MR. MCELVEEN**:
7 COMMISSIONER, THE MEDICAL REPORTS CLEARLY
8 STATE, THE 14-B, EVERYTHING ELSE, THAT -- I THINK
9 IT'S THE RIGHT ARM AND THE RIGHT LEG ARE AFFECTED
10 DUE TO MYELORADICULOPATHY.
11 **BY COMMISSIONER WILLIAMS**:
12 OKAY. FAIR ENOUGH. ALL RIGHT, LET'S SWEAR MS.
13 HAINES IN PLEASE.
14 * * * * * * * * * * * * * * * *
15 THE WITNESS WAS DULY SWORN TO TELL THE TRUTH, THE
16 WHOLE TRUTH, AND NOTHING BUT THE TRUTH CONCERNING THE
17 MATTER HEREIN:
18 **KATHERINE L. HAINES,**
19 BEING FIRST DULY SWORN, TESTIFIED ON HER OATH AS FOLLOWS:
20 **BY COMMISSIONER WILLIAMS**:
21 MR. MCELVEEN?
22 **BY MR. MCELVEEN**:
23 THANK YOU, COMMISSIONER.
24 **DIRECT EXAMINATION BY MR. MCELVEEN**:
25 Q. YOUR FULL NAME IS, ONCE AGAIN?

1 A. KATHERINE LOUISE HAINES.
2 Q. AND YOU GO BY KATHY?
3 A. YES, SIR.
4 Q. TELL US YOUR DATE OF BIRTH AND YOUR AGE, PLEASE.
5 A. [redacted]
6 Q. AND WHERE DO YOU LIVE?
7 A. [redacted]
8 Q. NOW, WHO DO YOU LIVE WITH THERE?
9 A. MY FIANCÉ.
10 Q. IS HE THE ONLY PERSON THERE?
11 A. YES, SIR.
12 Q. AND HAVE YOU BEEN PREVIOUSLY MARRIED?
13 A. NOT IN SOME ODD YEARS.
14 Q. OKAY. BUT YOU DO HAVE CHILDREN?
15 A. YES, I DO.
16 Q. HOW MANY?
17 A. I HAVE THREE.
18 Q. AND DO THEY LIVE IN THIS AREA?
19 A. YES, THEY DO.
20 Q. ARE ANY OF THEM OF AN AGE WHERE YOU HAVE TO PROVIDE
21 SUPPORT FOR THEM OR HAVE ANY CONDITION THAT CAUSES
22 ---
23 A. NO, SIR.
24 Q. SO, THEY'RE ALL SELF-SUPPORTING NOW?
25 A. YES, SIR.

1 Q. TELL US ABOUT YOUR EDUCATIONAL BACKGROUND, IF YOU
2 WOULD.
3 A. I COMPLETED THE 11TH GRADE. I WAS PRETTY MUCH
4 KICKED OUT OF SCHOOL FOUR MONTHS BEFORE GRADUATION.
5 I WENT TO SCHOOL FOR C.N.A., CERTIFIED NURSE
6 ASSISTANT, BACK IN '89. I COMPLETED THAT. I ALSO
7 HAD -- THEY ALSO TRIED ME TO DO MY G.E.D. I MISSED
8 IT BY ONE-TENTH OF A POINT IN MY MATH, BUT I NEVER
9 PURSUED IT.
10 Q. BUT YOU DID GET THE C.N.A. CERTIFICATE?
11 A. YES, I DID.
12 Q. AND YOU SAID THAT WAS IN '89. ABOUT WHAT YEAR DID
13 YOU FINISH HIGH SCHOOL?
14 A. '79.
15 Q. '79?
16 A. YES, SIR.
17 Q. ANY EDUCATION OTHER THAN WHAT YOU'VE MENTIONED, ---
18 A. NO, SIR.
19 Q. --- OR TRAINING, ANY TRAINING?
20 A. NO, SIR.
21 Q. NOW, WHAT TYPE OF JOBS HAVE YOU HAD DURING YOUR --
22 WHEN DID YOU START WORKING; RIGHT OUT OF HIGH
23 SCHOOL?
24 A. NO, I'VE ACTUALLY WORKED SINCE I WAS 11 YEARS OLD.
25 Q. DOING -- WHAT WERE YOU DOING?

1 A. DELIVERING NEWSPAPERS. IT WAS CALLED JUNIOR PAPER
2 CARRIERS, AND YOU HAD TO HAVE THE CONSENT OF YOUR
3 PARENT TO DO IT, AND I DID THAT FOR TWO YEARS WHERE
4 I WOULD DO HOME DELIVERY BY BICYCLE. AND I WAS
5 REQUIRED TO COLLECT CUSTOMER'S MONEY AT THE END OF
6 THE WEEK TO PAY MY -- MY ROUTE BILL, AND WHAT WAS
7 LEFT WAS MY PROFIT.
8 Q. OKAY. WELL, ANY OTHER JOBS BEFORE YOU FINISHED HIGH
9 SCHOOL, OR BEFORE YOU COMPLETED HIGH SCHOOL, I'LL
10 SAY, BEFORE YOU GOT KICKED OUT OF HIGH SCHOOL?
11 A. NO, JUST THAT ONE. THEN RIGHT AFTER I GOT -- BEFORE
12 -- RIGHT AFTER I GOT KICKED OUT OF HIGH SCHOOL, I
13 WORKED FOR PEPSI COLA BOTTLING COMPANY.
14 Q. WHAT DID YOU DO FOR THEM?
15 A. I WAS A PRODUCTION LINE WORKER WHERE YOU WOULD GO
16 AND INSPECT BOTTLES, MAKE SURE THAT THEY WERE CLEAN
17 BEFORE THEY WERE FILLED WITH SODA. WE HAD TO RUN
18 THE MACHINES. IT WAS JUST MAKING SURE THAT ANY
19 BOTTLES THAT WERE GOING THROUGH THE MACHINE WERE
20 CLEAN, THEY WEREN'T DAMAGED, THEY WEREN'T CRACKED,
21 FILLING UP SODAS THROUGH THE -- THE MACHINE ITSELF,
22 MAKING SURE THAT THE SODAS WERE THE CORRECT
23 TEMPERATURE.
24 Q. OKAY. AND I THINK YOU -- YOUR LAST JOB WAS WITH
25 DOLLAR TREE?

1 A. YES, SIR.
2 Q. AND YOU WERE WITH THEM FOR A NUMBER OF YEARS; WERE
3 YOU NOT?
4 A. YES, SIR.
5 Q. HOW LONG?
6 A. BE 13 1/2, ALMOST 14 YEARS.
7 Q. NOW? AS OF NOW ---
8 A. WELL, AS OF NOW IT WOULD HAVE BEEN ALMOST 15 YEARS
9 IF I WERE STILL EMPLOYED WORKING WITH THEM.
10 Q. NOW, ARE THERE ANY OTHER JOBS THAT YOU'VE HELD FOR A
11 LONG PERIOD OF TIME?
12 A. MIAMI HERALD NEWSPAPERS.
13 Q. AND HOW LONG DID YOU WORK THERE?
14 A. THIRTEEN AND A HALF YEARS.
15 Q. AND WHAT DID YOU DO FOR THEM?
16 A. I DELIVERED HOME NEWSPAPERS; I DELIVERED NEWSPAPERS
17 TO RACKS, WHICH IS WHERE PEOPLE PURCHASE THEM OUT OF
18 THE RACKS, CONVENIENCE STORES. I ALSO WAS WHAT THEY
19 CALL IS A D.M. ASSISTANT. WHEN THE MANAGERS WERE
20 OUT ON VACATION, I WOULD HELP MAKE SURE THAT
21 EVERYBODY GOT TO THE WAREHOUSE AND SET UP THEIR
22 PAPERS FOR THEM, MAKE SURE THE ROUTES WERE OUT. I
23 RAN COMPLAINTS, WHICH STARTED AROUND 7:30 IN THE
24 MORNING 'TIL 10:30, WHEN PEOPLE DIDN'T RECEIVE THEIR
25 NEWSPAPER.

1 Q. AND WHAT DID YOU DO AT DOLLAR TREE?
2 A. DOLLAR TREE, I WAS AN ASSISTANT MANAGER, AND I WAS
3 RESPONSIBLE FOR OPENING THE STORE IN THE MORNING AND
4 MAKING SURE THAT THE EMPLOYEES SHOWED UP FOR WORK.
5 WE HAVE WHAT THEY'VE GOT IN PLACE, WHICH IS CALLED
6 APPLESEED, WHICH IS WHAT IS REQUIRED TO BE DONE ON A
7 DAILY BASIS THROUGH THE MANAGEMENT TEAM AND THROUGH
8 THE -- THE CASHIERS. WE HAD TO DELEGATE WORK TO
9 THEM SO THAT THEY WEREN'T JUST SITTING UP AT THE
10 REGISTERS DOING NOTHING. WE WERE ALSO RESPONSIBLE
11 FOR PUTTING FREIGHT OUT TO THE SALES FLOOR, FROM THE
12 STOCKROOM ONTO THE SALES FLOOR, FILLING SHELVES UP,
13 STORE ORDERING WHERE YOU WORK ON THE COMPUTER.
14 Q. SO, IN TERMS OF BEING AN ASSISTANT MANAGER, YOU
15 DIDN'T SIT IN AN OFFICE; YOU HAD TO ACTUALLY DO
16 WORK?
17 A. YES, SIR.
18 Q. ANY PHYSICAL THINGS THAT AN ASSISTANT MANAGER HAD TO
19 DO?
20 A. EVERYTHING THAT WE DID WAS PHYSICAL. YOU HAD TO
21 LOAD UP YOUR U-BOATS AND UNLOAD YOUR U-BOATS.
22 Q. WHAT'S A U-BOAT?
23 A. A U-BOAT IS A -- A DEVICE THAT WE LOAD OUR FREIGHT
24 UP ON. IT'S GOT WHEELS ON THE BOTTOM OF IT, AND I'M
25 GOING TO SAY IT'S APPROXIMATELY ABOUT FIVE AND A

1 HALF, MAYBE SIX, FEET LONG, AND YOU FILL IT UP WITH
2 THE FREIGHT IN THE BACK ROOM, WHICH ARE BOXES THAT
3 GO IN CERTAIN AREAS OF THE STORE, WHICH AREA YOU'RE
4 GOING TO BE WORKING IN. AND YOU THEN PUSH THAT U-
5 BOAT OUT TO THE SALES FLOOR.
6 Q. AND ONCE YOU GET IT THERE, WHAT DO YOU DO?
7 A. YOU HAVE TO DOWNLOAD IT ONTO THE FLOOR WHERE IT'S
8 GOING TO GO, AND THEN YOU HAVE TO PUT THE
9 MERCHANDISE UP ON THE SHELVES.
10 Q. OKAY. IS THAT HEAVY WORK OR LIGHT WORK OR ---
11 A. IT'S EXTREMELY HEAVY WORK. IT'S VERY PHYSICAL.
12 YOU'RE -- YOU'VE GO TO BE AT A FAST PACE ALL THE
13 TIME BECAUSE YOU'RE NOT ONLY PUTTING FREIGHT OUT,
14 YOU'RE ALSO MAKING SURE THAT THE CASHIERS ARE DOING
15 THEIR JOB. AND IF THEY GET MORE THAN THREE
16 CUSTOMERS IN THE LINE, YOU'RE RESPONSIBLE FOR GOING
17 UP THERE AND OPENING UP A CASH REGISTER TO HELP THEM
18 GET THE LINES DOWN.
19 Q. SO, DOES AN ASSISTANT MANAGER -- DO THE CLERKS DO
20 MOST OF THE LIFTING, OR DO ASSISTANT MANAGERS DO
21 MORE LIFTING?
22 A. THE ASSISTANT MANAGERS.
23 Q. HOW ABOUT THE MANAGERS?
24 A. THE MANAGERS ARE ALSO RESPONSIBLE FOR PUTTING
25 FREIGHT OUT, DOING THE SAME THING THAT THE ASSISTANT

1 MANAGERS DO.
2 Q. AND YOU SERVED AS A MANAGER, I THINK, FOR A SHORT
3 PERIOD OF TIME, DIDN'T YOU?
4 A. YES, I DID.
5 Q. AND YOU'VE BEEN TO SEVERAL DIFFERENT STORES FOR
6 DOLLAR TREE?
7 A. YES, I HAVE.
8 Q. AND YOU DON'T HAVE TO UNLOAD TRUCKS, DO YOU?
9 A. YES, SIR, WE DO.
10 Q. AND WHAT DOES THAT INVOLVE?
11 A. THAT INVOLVES WHERE YOU PUT A ROLLER UP TO THE BACK
12 END OF AN 18-WHEELER, AND THE FREIGHT COMES DOWN THE
13 ROLLERS, AND YOU HAVE TO REMOVE THEM FROM THE
14 ROLLERS TO THE SPECIFIC AREA, DOWN -- DOWN STACK IT
15 ON EITHER TO THE U-BOAT OR TO THE SALES -- OR TO THE
16 STOCKROOM FLOOR.
17 Q. HOW HEAVY -- WHAT'S THE HEAVIEST LIFTING YOU'D HAVE
18 TO DO AT DOLLAR TREE AS AN ASSISTANT MANAGER OR A
19 MANAGER?
20 A. THE MOST I'VE EVER HAD TO LIFT IS 80 POUNDS. WE'RE
21 REQUIRED TO LIFT 50.
22 Q. NOW, HAVE YOU EVER BEEN IN A POSITION TO HIRE AND
23 FIRE PEOPLE WHILE AT DOLLAR TREE?
24 A. ONLY WHEN I WAS A STORE MANAGER UP AT HARBISON FOR A
25 SHORT PERIOD OF TIME.

1 Q. OKAY. ANY OTHER JOBS THAT YOU HAD, YOU HAD A
2 SUPERVISOR'S POSITION WHERE YOU HIRED, FIRED, ---
3 A. NO, SIR.
4 Q. --- ORDERED, AND THINGS LIKE THAT?
5 A. NO, SIR.
6 Q. TELL US ABOUT THE ACCIDENT ON FEBRUARY 12TH. IT'S
7 AN ADMITTED ACCIDENT, SO YOU DON'T HAVE TO GO INTO
8 ALL THE DETAILS, BUT IF YOU COULD BRIEFLY LET THE
9 COMMISSIONER KNOW HOW YOU GOT HURT ON FEBRUARY 12TH.
10 A. I WAS TRYING TO GET TWO SHELVES FROM THE STOCKROOM
11 15 MINUTES PRIOR TO THE STORE OPENING UP, AND IN THE
12 STOCKROOM THEY HAD JUST RECEIVED A TRUCK, AND WE HAD
13 WHAT THEY CALL OUR WIRE BINS THAT STAND UP. THE
14 MANAGER THAT WAS THERE PRIOR TO OUR NEW MANAGER, HE
15 HAD STACKED ALL THE WIRE BINS STRAIGHT UP, AND THEN
16 HE HAD SOME SHELVING THAT WAS UP UNDERNEATH IT,
17 SHELVING ON TOP. WELL, IT WAS EASIER FOR ME TO GRAB
18 THE SHELVES THAT WERE UNDERNEATH IT BECAUSE THEY
19 WERE MORE ACCESSIBLE. I GOT MY FIRST SHELF OUT
20 OKAY. WHEN I WENT TO GO PULL THE SECOND SHELF OUT,
21 A PIECE OF WIRE FENCING, WHICH IS WHAT THEY USE FOR
22 THE THEATER CANDY, WAS STUCK ON THE BOTTOM BRACKET.
23 WHEN I WENT TO GO RELEASE IT, THE WHOLE TOP SHELF,
24 WHICH HAD FOUR WIRE BINS, I BELIEVE, THERE WAS SOME
25 SHELVING THERE, BOOK SHELVING, CAME AND IT LANDED ON

1 THE RIGHT SIDE OF MY SHOULDER IN BETWEEN MY SHOULDER
2 AND MY NECK AREA TO HERE (INDICATING). AND IF IT
3 WASN'T FOR US JUST RECEIVING THE TRUCK, I PROBABLY
4 WOULD HAVE ENDED UP DOWN ON THE GROUND. IT CAUGHT A
5 HOLD OF THAT, SO WHEN I WENT TO UNDO IT, THE WHOLE
6 ENTIRE TOP SHELF THAT WAS SITTING THERE, IT HIT ME
7 RIGHT HERE IN THIS AREA (INDICATING).
8 Q. THAT WOULD BE WHERE, ON THE RIGHT AREA ---
9 A. IT WOULD BE ON THE -- THE RIGHT NECK SHOULDER AREA.
10 Q. OKAY. NOW, DID YOU GO TO THE -- DID YOU REPORT THAT
11 IMMEDIATELY?
12 A. YES, I DID, TO MY MANAGER THAT WAS ON -- YOU KNOW,
13 ON DUTY. SHE WASN'T IN YET. I HAD CALLED HER AT
14 HOME TO LET HER KNOW WHAT HAD TRANSPIRED. I
15 CONTINUED WORKING.
16 Q. OKAY. HOW LONG WAS IT BEFORE YOU WENT TO A
17 PHYSICIAN?
18 A. APPROXIMATELY, I THINK, FIVE DAYS BEFORE THEY COULD
19 GET ME IN BECAUSE I HAD WORKED THAT SHIFT OUT, AND
20 THEN I WENT TO MY NEXT SHIFT, AND I WORKED MONDAY
21 AND TUESDAY, I BELIEVE IT WAS. AND WE'RE REQUIRED
22 TO PUT OUT AT LEAST FIVE U-BOATS PER SHIFT. AND I
23 WENT ON MONDAY, AND I WASN'T ABLE TO. I HARDLY EVEN
24 PUT ONE U-BOAT OUT. BY TUESDAY I GOT A HALF A U-
25 BOAT OUT, AND I WENT TO HER AND TOLD HER I JUST

1 COULDN'T DO THIS ANYMORE. THE PAIN WAS JUST SO --
2 SO SIGNIFICANT. SO WE THEN CALLED WORKMANS' COMP,
3 AND THEY HAD TAKEN ALL THE INFORMATION DOWN AND TOLD
4 ME THAT I COULD GO TO MY FAMILY PHYSICIAN, WHICH I
5 DID.
6 Q. OKAY. AND THEN I BELIEVE THAT WORKERS' COMP TOLD
7 YOU TO GO TO MOORE ORTHOPAEDIC?
8 A. YES.
9 Q. AND YOU SAW DOCTOR ---
10 A. DR. BURNWORTH.
11 Q. AND THEN WHAT HAPPENED WITH HIM?
12 A. HE SENT ME FOR AN M.R.I., AND I WENT FOR MY M.R.I.
13 AND CAME BACK TO HIM AFTER THE M.R.I. WAS DONE, AND
14 HE PUT ME INTO PHYSICAL THERAPY FOR SIX WEEKS. I
15 WAS ALSO -- I WAS GOING TO PHYSICAL THERAPY, AND I
16 WAS ALSO WORKING AT THE TIME OF THERAPY.
17 Q. NOW, TELL US WHAT HAPPENED ON JUNE 3RD OF '09.
18 A. I WAS IN THE WOMEN'S BATHROOM, WHICH IS WHERE THEY
19 KEPT THE DAMAGES, WHICH IS MERCHANDISE THAT THEY
20 CAN'T SELL ANYMORE. I WAS TOLD BY THE DISTRICT
21 MANAGER TO GET THE DAMAGES CLEANED UP BECAUSE WE
22 WERE GETTING READY TO HAVE COMPANY. SO I PROPPED
23 THE DOOR OPEN WITH A PIECE OF BRACKET SO THAT I HAD
24 AIR COMING IN THERE WHILE I WAS DOING THE DAMAGES.
25 WHEN I COMPLETED THEM, I WENT TO GO KICK THE BRACKET

1 FROM THE DOOR, AND IT WOULDN'T CUT LOOSE. SO I HELD
2 THE HANDLE, AND WHEN I DID -- AND I MOVED THE
3 BRACKET FROM THE BOTTOM. THERE WAS LIKE AN EIGHT-
4 FOOT WOOD TABLE, LIKE A CONVERSATION TABLE, THAT
5 NAILED ME ON THE LEFT SIDE OF MY SHOULDER, ON THIS
6 SIDE OVER HERE, RIGHT IN THIS AREA (INDICATING).
7 Q. DESCRIBE WHAT AREA THAT IS.
8 A. IT WOULD BE MY LEFT UPPER SHOULDER.
9 Q. OKAY. NOW, I THINK AT ONE TIME YOU WERE SENT TO DR.
10 FELMLY AT MOORE FOR A SURGICAL EVALUATION?
11 A. YES, SIR.
12 Q. DID ANYONE EVER MENTION TO YOU ANYTHING ABOUT CORD
13 COMPRESSION? HAD YOU EVER HEARD THAT WORD DURING
14 THE TIME YOU WERE GOING TO MOORE ORTHOPAEDIC?
15 A. NO, SIR.
16 Q. DID YOU EVER ACTUALLY SEE YOUR M.R.I. RESULTS WHILE
17 YOU WERE THERE?
18 A. NO, SIR.
19 Q. SO, NO ONE WENT OVER THAT WITH YOU?
20 A. NO, SIR.
21 Q. AND SO, YOU -- HOW MUCH WORK DID YOU MISS DURING
22 THIS TIME?
23 A. I DIDN'T REALLY MISS A WHOLE LOT OF WORK. I WORKED
24 WHAT THEY CALL THEIR FOUR-HOUR MODIFIED SHIFTS.
25 Q. WHAT DID THAT INVOLVE?

1 A. THAT INVOLVED WHERE I WOULD COME IN, I WOULD OPEN
2 THE STORE, I WOULDN'T DO ANY KIND OF LIFTING. I WAS
3 JUST KIND OF THERE TO MAKE SURE THAT EVERYBODY WAS
4 DOING THEIR JOB. I DID MORE DELEGATING THAN WHAT I
5 ACTUALLY WOULD DO ON A NORMAL DAY BEFORE MY INJURY.
6 Q. WERE YOU ABLE TO DO THAT WITH EASE, WITHOUT
7 DIFFICULTY?
8 A. NO, I HAD A LOT OF PAIN, BUT I DID IT.
9 Q. DO YOU KNOW HOW MUCH TIME WORK YOU MISSED?
10 A. HONESTLY -- HONESTLY, NO.
11 Q. NOW, THERE CAME A TIME, I BELIEVE, WHEN YOU WERE
12 REFERRED TO DR. BOYD AT COLUMBIA NEUROSURGICAL?
13 A. YES, SIR.
14 Q. DO YOU REMEMBER WHEN THAT WAS?
15 A. IT WAS THE END OF 2010.
16 Q. AND DID YOU ULTIMATELY HAVE SURGERY THAT WAS DONE BY
17 DR. BOYD?
18 A. YES, SIR; I DID.
19 Q. DO YOU KNOW WHAT KIND OF SURGERY THAT WAS?
20 A. TWO-LEVEL DISCECTOMY, I BELIEVE IS WHAT IT WAS
21 CALLED.
22 Q. DO YOU KNOW IF IT WAS A FUSION OR NOT?
23 A. I BELIEVE IT WAS A FUSION.
24 Q. HAVE YOU HAD ANY IMPROVEMENT AS A RESULT OF THAT?
25 A. NO, SIR; I HAVE NOT.

1 Q. DIDN'T EVEN REDUCE YOUR PAIN LEVEL OR ANYTHING ELSE?
2 A. NO, SIR.
3 Q. NOW, YOU HAVE BEEN SEEING DR. REDMOND AND THE FOLKS
4 AT THE PAIN CENTER AT BAPTIST, I BELIEVE?
5 A. YES, SIR.
6 Q. AND ABOUT HOW LONG HAS THAT BEEN GOING ON?
7 A. I'VE BEEN THERE SINCE JULY 11TH OF LAST YEAR. I
8 WENT IN FOR A PAIN MANAGEMENT PROGRAM FOR FIVE -- IT
9 WAS A FIVE-WEEK PROGRAM.
10 Q. DO YOU CONTINUE TO SEE THEM?
11 A. I SEE THEM EVERY TWO MONTHS.
12 Q. AND WHEN'S THE LAST TIME YOU SAW THE PEOPLE THERE?
13 A. AUGUST 18TH, I BELIEVE IT WAS.
14 Q. AND DO YOU HAVE ANOTHER APPOINTMENT WITH THEM?
15 A. NOT UNTIL NOVEMBER.
16 Q. NOW, WHAT ARE THEY DOING FOR YOU NOW?
17 A. THE ONLY THING THEY'RE DOING FOR ME RIGHT NOW IS I'M
18 ON MEDICATION. THEY -- THEY JUST PRETTY MUCH ASK ME
19 HOW I'M DOING, IS THE MEDICATION HELPING, ANY
20 CHANGES.
21 Q. WHAT MEDICINES ARE YOU ON NOW?
22 A. I'LL BRING THEM OUT OF MY BAG IF THAT'S OKAY?
23 Q. SURE. YOU'RE TAKING ALL OF THOSE?
24 A. YES, SIR.
25 Q. WELL, TELL US WHAT THEY ARE AND THE DOSAGE AND HOW

1 OFTEN YOU HAVE TO TAKE THEM.
2 A. OKAY, THIS IS SOMA. IT'S 350 MILLIGRAMS. I TAKE
3 THAT FOUR TIMES A DAY.
4 Q. SOMA?
5 A. YES, SIR. RELAFEN, 500 MILLIGRAMS. I TAKE THIS
6 TWICE A DAY.
7 Q. HOW DO YOU SPELL THAT?
8 A. IT'S R-E-L-A-F-E-N. I TAKE THAT TWICE A DAY, ONCE
9 IN THE MORNING AND ONCE AT BEDTIME. THIS IS
10 TRAZODONE, 50 MILLIGRAMS. I TAKE THIS TWO AT
11 NIGHTTIME FOR SLEEP.
12 Q. TWO AT NIGHTTIME?
13 A. YES, SIR. HYDROCODONE, TEN MILLIGRAMS UP TO FOUR
14 TIMES A DAY FOR PAIN. NUCYNTA, WHICH IS A NEW
15 MEDICATION HE JUST PUT ME ON IN AUGUST. IT'S 100
16 MILLIGRAMS. IT'S FOR SEVERE PAIN. I TAKE THAT
17 TWICE A DAY AND NO MORE THAN TWICE A DAY.
18 Q. WHAT WERE YOU TAKING BEFORE THAT?
19 A. DEMEROL, 50 MILLIGRAMS.
20 Q. ANYTHING ELSE?
21 A. NEURONTIN, 300 MILLIGRAMS TWICE A DAY, ONCE IN THE
22 MORNING AND ONCE AT BEDTIME. AND THEN ZOLOFT, I'M
23 ON 150 MILLIGRAMS ONCE A DAY.
24 Q. AND IS THAT PRESCRIBED BY DR. REDMOND?
25 A. YES, SIR, IT IS. AND THAT'S IT.

1 Q. HAVE YOU TAKEN ANY OF THE ONES YOU'RE SUPPOSED TO
2 TAKE THIS MORNING?
3 A. YES, MA'AM. YES, SIR; I'M SORRY.
4 Q. NOW, TELL THE COMMISSIONER WHAT KINDS OF PROBLEMS
5 YOU ARE HAVING AT THIS TIME AS A RESULT OF THE
6 ACCIDENTS.
7 A. I HAVE VERY LIMITED RANGE OF MOTION IN MY NECK,
8 MOSTLY TO THE RIGHT SIDE. I'M IN SIGNIFICANT PAIN
9 ALL THE TIME. IT'S FROM THE BASE OF MY SKULL. IT
10 GOES DOWN MY SPINE ALL THE WAY DOWN TO MY BUTTOCKS
11 AREA, DOWN INTO MY RIGHT LEG. IT GOES DOWN INTO MY
12 RIGHT ARM, AND I GET SEVERE SPASMS THAT GO INTO
13 WHERE YOUR MUSCLE AREA IS ON YOUR RIGHT SIDE. I'VE
14 TAKEN 11 FALLS SINCE APRIL. AND THEY HAVE -- DR.
15 REDMOND PUT ME ON A CANE AS OF MAY, AND I'VE HAD A
16 REALLY HARD TIME ADJUSTING TO IT. I DO USE IT WHEN
17 I GO OUT. WHEN I AM AT HOME, I TRY TO USE -- DON'T
18 USE IT UNLESS ABSOLUTELY NECESSARY. I'VE HAD TO PUT
19 A -- A SAFETY BAR BY MY SHOWER SO THAT I CAN GET IN
20 AND OUT OF IT OKAY, AND A SAFETY BAR BY MY TOILET.
21 Q. DO YOU HAVE PROBLEMS WITH THINGS THAT YOU NORMALLY
22 DO, LIKE DRESSING OR BATHING OR GOING TO THE
23 BATHROOM OR ---
24 A. NO, I'M -- I'M -- I'M SUFFICIENT THAT WAY.
25 Q. NO, PROBLEMS WITH DRESSING?

1 A. NO, SIR. I'VE LEARNED HOW TO DO EVERYTHING
2 DIFFERENTLY.
3 Q. WHAT DO YOU MEAN?
4 A. WELL, WITH GOING TO THE PROGRAM I WENT TO FOR THE
5 FIVE WEEKS, THEY TEACH YOU HOW TO LIVE IN A
6 DIFFERENT WAY, DO THE THINGS YOU USED TO DO BUT IN A
7 COMPLETELY DIFFERENT WAY. LIKE FOR INSTANCE, LIKE
8 THE BATHROOM, USED TO ONLY TAKE ME A HALF HOUR TO
9 CLEAN. NOW IT TAKES ME ABOUT TWO AND A HALF HOURS
10 TO CLEAN BECAUSE WHEN I DO ONE TASK, IT'S ALL I CAN
11 DO TO GET THROUGH THAT, SO THEN I GO AND I SIT DOWN,
12 GET MY BEARINGS BACK TOGETHER AND THEN GO BACK
13 AGAIN. IT JUST -- IT TAKES ME LONGER TO THINGS THAN
14 IT USED TO TAKE ME.
15 Q. WHY WOULD YOU HAVE TO STOP BETWEEN THE BATHROOM ---
16 A. THE PAIN. MY PAIN LEVEL WOULD GO UP, AND THAT'S
17 EVEN WITH TAKING PAIN MEDICATION.
18 Q. NOW, YOU MENTIONED USING A CANE. WHAT PROBLEMS DO
19 YOU HAVE WITH WALKING?
20 A. MY GAIT.
21 Q. WHAT DO YOU MEAN?
22 A. WHEN I WALK, I'M NOT STABLE.
23 Q. AND WHY IS THAT?
24 A. I DON'T UNDER -- I DON'T KNOW THAT. I DO KNOW THAT
25 I BROUGHT IT TO DR. REDMOND'S ATTENTION, AND HE MADE

1 THE STATEMENT THAT HE DOES NOT -- HE SAID, "I DON'T
2 WANT TO MAKE YOU FEEL EMBARRASSED," HE SAID, "BUT
3 HOW WOULD YOU FEEL ABOUT ME PUTTING YOU ON A CANE
4 JUST FOR STABILITY SO THAT YOU HAVE JUST THAT EXTRA
5 STURDINESS?" AND I TOLD HIM, YES, I WOULD TRY IT.
6 Q. NOW, DOES ANY OF THIS MEDICATION MAKE YOU FEEL
7 DIFFERENT OR FUNNY OR LIKE YOU CAN'T -- LIKE THIS
8 ONE SAYS -- I'M LOOKING AT THE NUCYNTA. IT SAYS (AS
9 READ) "MAY CAUSE DIZZINESS OR DROWSINESS."
10 A. I GET VERY TIRED, AND IT'S FROM THE MEDICATION. I
11 -- IT'S LIKE I WANT TO GO TO SLEEP A LOT. AND THIS
12 ONE, BEING A NEW ONE RIGHT HERE (INDICATING), I'VE
13 NOTICED THAT IT'S -- IT'S CAUSED ME TO BE MORE
14 UNALERT THAN I WAS BEFORE, THE NUCYNTA.
15 Q. NOW, YOU APPEAR TO BE HAVING YOUR HEAD AT ONE SIDE
16 -- TILTED TO ONE SIDE. IS THAT BECAUSE YOU'RE
17 LOOKING AT ME OR ---
18 A. THAT'S JUST THE WAY MY HEAD IS.
19 Q. HAS IT ALWAYS BEEN THAT WAY?
20 A. NO, SIR.
21 Q. WHEN DID IT START?
22 A. I WANT TO SAY IT'S BEEN PROBABLY ABOUT A YEAR AND A
23 HALF.
24 Q. AND AFTER THESE ACCIDENTS?
25 A. YES, IT WAS MORE SO AFTER MY SURGERY.

1 Q. OKAY. NOW, AS FAR AS THINGS THAT YOU DO ON A DAILY
2 BASIS, WHAT -- HOW DOES A DAY GO FOR YOU AT HOME?
3 A. I USUALLY GET UP BETWEEN NINE-THIRTY AND TEN, USE
4 THE RESTROOM; I GO OUT AND HAVE MY CIGARETTE; THEN I
5 COME IN AND HAVE COFFEE, AND I SIT DOWN, AND I'LL
6 WATCH T.V. AND PROBABLY ABOUT A HALF HOUR, FORTY-
7 FIVE MINUTES, I'M GETTING BACK UP, WALKING OUTSIDE
8 TO HAVE A CIGARETTE. I COME BACK IN, AND I'LL WATCH
9 T.V. FOR A LITTLE WHILE IF I HAVE NOTHING TO DO AS
10 FAR AS, YOU KNOW, CLEANING THE HOUSE, FOLDING
11 LAUNDRY. AND PROBABLY AROUND TWELVE -- BETWEEN
12 TWELVE AND ONE I'M READY TO GO TAKE A NAP, AND I GO
13 TAKE A NAP UNTIL ABOUT FOUR OR FIVE. THEN I GET
14 BACK UP BECAUSE MY FIANCÉ IS GETTING READY TO COME
15 HOME.
16 Q. DO YOU PREPARE ANY MEALS?
17 A. I DO, AND I -- I START THAT SOMETIMES EARLY IN THE
18 MORNING, GETTING IT PREPARED, BECAUSE WHEN I STAND
19 THERE AND I -- I TRY TO DO A COMPLETE MEAL WITHOUT
20 HAVING TO SIT DOWN, I HAVE EXCRUCIATING PAIN THAT
21 SHOOTS DOWN MY SPINE INTO MY RIGHT LEG. MY NECK
22 TENSES UP. IT FEELS LIKE SOMEBODY'S PUSHING MY HEAD
23 DOWN INTO MY SHOULDER BLADES. SO I TRY TO DO SOME
24 PREPPING WORK BEFORE EVENING COMES. AND SOMETIMES
25 HE COMES HOME AND HE COOKS DINNER.

1 Q. DO YOU DRIVE?
2 A. I USED TO DRIVE A LOT. I DON'T DRIVE UNLESS I HAVE
3 TO NOW BECAUSE OF MY FEAR OF GETTING INTO AN
4 ACCIDENT. I DON'T HAVE THE RANGE OF MOTION TO BE
5 ABLE TO USE MY HEAD TO SEE WHAT'S COMING ON EACH
6 SIDE OF ME.
7 Q. ARE YOU CONCERNED ABOUT DRIVING WHEN YOU TAKE THE
8 MEDICATION?
9 A. YES, SIR, I AM, BECAUSE I DON'T KNOW WHAT KIND OF
10 EFFECT IT'S GOING TO HAVE ON ME WHEN I'M BEHIND THE
11 WHEEL.
12 Q. YOU MENTIONED THE PAIN GOING INTO YOUR RIGHT ARM.
13 CAN YOU BE MORE SPECIFIC AS TO WHERE IT IS AND HOW
14 FAR DOWN IT GOES?
15 A. IT STARTS RIGHT UP HERE ON MY SHOULDER BLADE. THEN
16 IT WORKS DOWN IN HERE TO WHERE, I BELIEVE, THIS IS
17 YOUR MUSCLE AREA (INDICATING).
18 Q. BICEPS?
19 A. THE BICEP. AND I'M GOING TO SAY PROBABLY 75 PERCENT
20 OF THE DAY IT'S LIKE I HAVE MUSCLE SPASMS GOING DOWN
21 HERE (INDICATING), AND IT'S REAL SHARP PAIN. THEN
22 IT STARTS NUMBING AND TINGLING, AND THEN IT GOES
23 DOWN THIS WAY HERE (DEMONSTRATING).
24 Q. THAT'S ON THE TOP OF YOUR ---
25 A. YES, SIR.

1 Q. --- ARM ---
2 A. YES, SIR.
3 Q. --- DOWN TO YOUR HAND?
4 A. YES, SIR, AND IT AFFECTS THESE TWO FINGERS
5 (INDICATING).
6 Q. WHICH TWO?
7 A. MY INDEX FINGER AND MY THUMB FINGER, THEY GO NUMB.
8 Q. YOU MENTIONED GOING DOWN YOUR SPINE TO YOUR BUTTOCK
9 AREA. CAN YOU BE MORE SPECIFIC ABOUT WHERE THAT IS?
10 WHEN YOU SAY, "BUTTOCK AREA," DOES IT GO AS FAR AS
11 YOUR HIP OR ---
12 A. DO YOU WANT ME TO STAND UP?
13 Q. YES, IF YOU -- IF THAT HELPS YOU BETTER.
14 A. (DEMONSTRATING). IT'S -- IT SHOOTS DOWN HERE, AND
15 THEN IT GOES DOWN INTO THIS AREA, AND THEN IT SHOOTS
16 DOWN THIS LEG ON THIS SIDE. AND IT'S A BURNING,
17 TINGLING, NUMB ---
18 **BY COMMISSIONER WILLIAMS**:
19 THAT'S YOUR RIGHT LEG, RIGHT SIDE?
20 **BY THE WITNESS**:
21 YES, SIR.
22 **DIRECT EXAMINATION RESUMED BY MR. MCELVEEN**:
23 Q. NOW, IF -- YOU WATCHED THESE TWO CDs, IS THAT RIGHT?
24 A. YES, SIR; I DID.
25 Q. AND WE'VE ALREADY MENTIONED THAT DECEMBER THE 1ST,

1 THAT WAS NOT YOU?
2 A. NO, SIR.
3 Q. THAT WAS YOUR DAUGHTER?
4 A. YES, SIR.
5 Q. OF COURSE, SHE'S HERE THIS MORNING?
6 A. YES, SIR.
7 Q. HAS ANYTHING CHANGED ABOUT HER SINCE THAT TIME?
8 A. SHE'S LOST A LOT OF WEIGHT, AND SHE DOESN'T LIVE AT
9 HOME ANYMORE. SHE HASN'T LIVED AT HOME FOR ALMOST,
10 I THINK, THREE MONTHS.
11 Q. AND YOU SAW ANOTHER OCCASION WHERE THERE WAS
12 SOMEBODY, A WOMAN, GOING INTO A -- INTO THE DOLLAR
13 STORE?
14 A. THAT HAS TO BE AN EMPLOYEE, AND I'M NOT TOO SURE IF
15 IT'S A LADY NAMED BOBBY.
16 Q. IT'S NOT YOU?
17 A. NO, SIR. NO, SIR. NO, MY FIANCÉ HAD MY VAN THAT
18 DAY, AND HE WAS THE GENTLEMAN THAT UNLOCKED THE
19 DOOR.
20 Q. OKAY. NOW, AS FAR AS BEING ABLE TO HOLD A JOB, DO
21 YOU WANT TO?
22 A. YES, SIR, I DO.
23 Q. DID YOU GO TO VOCATIONAL REHABILITATION OR ANYTHING
24 LIKE THAT?
25 A. NO, SIR; I DID NOT.

1 Q. WHY NOT?
2 A. BECAUSE I'VE BEEN TOLD BY THE DOCTORS THAT I
3 WOULDN'T BE ABLE TO GO BACK TO WORK BECAUSE IT'D BE
4 LESS THAN SEDENTARY WORK.
5 Q. DO YOU BELIEVE THAT YOU CAN HOLD ANY JOB YOU'VE HELD
6 BEFORE?
7 A. CAN YOU PLEASE REPEAT THAT?
8 Q. DO YOU BELIEVE THAT YOU COULD NOW DO WHAT'S REQUIRED
9 IN ANY JOB YOU'VE EVER HELD BEFORE?
10 A. NO, SIR.
11 Q. HOW ABOUT THE C.N.A., CERTIFIED ---
12 A. NO, SIR.
13 Q. DO YOU HAVE YOUR CERTIFICATE; IS IT UP TO DATE?
14 A. NO, IT'S NOT.
15 Q. WHY COULD YOU NOT DO THESE JOBS THAT YOU'VE HAD
16 BEFORE?
17 A. BECAUSE OF THE PHYSICAL DEMAND.
18 Q. AND BE A LITTLE BIT MORE SPECIFIC.
19 A. HAVING TO BE ABLE TO GO IN THERE AND DO MY JOB,
20 PERFORM MY JOB THE WAY I PERFORMED IT BEFORE MY
21 INJURY; BEING ABLE TO LOAD U-BOATS UP, BEING ABLE TO
22 UNLOAD TRUCKS, BEING ABLE TO FILL SHELVES. AND
23 NEWSPAPERS IS THE SAME THING. YOU HAVE TO BE ABLE
24 TO FOLD NEWSPAPERS; YOU'VE GOT TO BE ABLE TO THROW
25 THEM OUT YOUR WINDOW; YOU'VE GOT TO BE ABLE TO HAVE

1 RANGE OF MOTION AS FAR AS DRIVING A VEHICLE.
2 C.N.A., NOT BEING ABLE TO LIFT A PATIENT, I JUST
3 DON'T SEE IT HAPPENING.
4 Q. AND I WANT TO CHANGE WHAT I SAID, THE WORDING ON
5 THIS M.R.I., DATED MAY 8 OF '09, SAYS (AS READ)
6 "THERE IS FLATTENING OF THE CORD WITH A RESULT IN
7 MODERATE TO SEVERE CENTRAL CANAL STENOSIS." DID ANY
8 DOCTOR BEFORE DR. BOYD EVER -- DID YOU EVER HEAR
9 THEM SAY THAT?
10 A. NO, SIR.
11 Q. NOW, DR. DONALD JOHNSON IN HIS REPORT WROTE (AS
12 READ) "BECAUSE THERE WAS OVER A TWO-YEAR PERIOD
13 BEFORE SURGICAL DECOMPRESSION OCCURRED, I THINK THAT
14 THIS TIME PERIOD IS LIKELY A FACTOR EXPLAINING WHY
15 THE PATIENT CONTINUES TO BE SYMPTOMATIC." DID HE
16 TELL YOU THAT?
17 A. YES, SIR; HE DID.
18 **BY MR. MCELVEEN**:
19 YOUR HONOR, I DON'T HAVE ANY FURTHER QUESTIONS.
20 THANK YOU.
21 **BY COMMISSIONER WILLIAMS**:
22 MR. EASTERLING?
23 **CROSS EXAMINATION BY MR. EASTERLING**:
24 Q. MS. HAINES, I'M BRAD EASTERLING; WE'VE MET A COUPLE
25 OF TIMES NOW.

1 A. YES, SIR.
2 Q. I'M JUST GOING TO ASK YOU SOME BRIEF QUESTIONS,
3 OKAY?
4 A. YES, SIR.
5 Q. YOU ARE ONLY 50 YEARS OLD; IS THAT CORRECT?
6 A. YES, SIR, I AM.
7 Q. AND YOU ACTUALLY COMPLETED THE 11TH GRADE OF HIGH
8 SCHOOL?
9 A. YES, SIR.
10 Q. AND THEN ACTUALLY PRETTY MUCH COMPLETED THE 12TH
11 GRADE OF HIGH SCHOOL, TOO? I THINK YOU JUST
12 TESTIFIED EARLIER THAT YOU WERE EXPELLED THREE
13 MONTHS PRIOR TO GRADUATION?
14 A. FOUR MONTHS BEFORE GRADUATION, YES, SIR.
15 Q. WELL, I THINK IN YOUR DEPOSITION YOU TOLD US -- OR
16 MAYBE YOU TOLD MY VOCATIONAL EXPERT THREE MONTHS
17 PRIOR TO GRADUATION?
18 A. NO, IT WAS FOUR MONTHS.
19 Q. BE THAT AS IT MAY. WHY WERE YOU EXPELLED?
20 A. I GOT IN WITH THE WRONG GROUP OF PEOPLE AND ---
21 Q. WHAT HAPPENED?
22 A. WHAT HAPPENED?
23 Q. WHAT DOES THAT MEAN?
24 **BY MR. MCELVEEN:**
25 YOUR HONOR, I'M GOING TO OBJECT TO THE

1 RELEVANCE. I MEAN, THAT'S A LOT OF YEARS AGO.
2 **BY MR. EASTERLING**:
3 I MEAN, SHE TESTIFIED ON DIRECT, AND SHE OPENED
4 THE DOOR. I MEAN, SHE SAID SHE GOT KICKED OUT OF
5 HIGH SCHOOL.
6 **BY COMMISSIONER WILLIAMS**:
7 ALL RIGHT. HE'S ON CROSS; HE GETS SOME LEEWAY
8 WITH IT. GO AHEAD. LET'S SEE WHERE HE'S GOING.
9 **WITNESS ANSWERS**:
10 A. KIDS THAT DECIDED THEY WEREN'T GOING TO GO TO
11 SCHOOL, THEY WERE GOING TO SKIP SCHOOL AND JUST GO
12 OUT AND HAVE FUN, NOT DO THE PROPER THING AND GO TO
13 SCHOOL. AND I DID THAT ON A DAILY BASIS. AND WHERE
14 I WENT TO SCHOOL AT IN FLORIDA, AT TWIN LAKES, THEY
15 BROUGHT A NEW PROGRAM IN TO WHERE YOU HAD TO HAVE
16 YOUR PARENTS COME IN FRONT OF THE GUIDANCE
17 COUNSELOR, AND YOU HAD TO SIGN A CONTRACT, IS WHAT
18 THEY CALLED IT, AND EVERY TEACHER THAT YOU WENT TO,
19 YOUR SIX PERIODS, HAD TO SIGN IT. I DID THAT FOR
20 TWO WEEKS, AND I WENT BACK TO NOT GOING TO SCHOOL
21 BECAUSE I DIDN'T WANT TO GO ANYMORE.
22 **CROSS EXAMINATION RESUMED BY MR. EASTERLING**:
23 Q. OKAY. I MEAN, IT'S FAIR TO SAY, THOUGH, YOU
24 COMPLETED A LARGE MAJORITY OF THE 12TH GRADE?
25 A. YES, SIR.

1 Q. ALL RIGHT. YOU ALSO -- YOU TESTED POSITIVE FOR
2 MARIJUANA DURING SOME OF YOUR PAIN TREATMENT WITH
3 DR. LEMBO, DIDN'T YOU?
4 A. YES, SIR, I DID.
5 Q. AND THAT WAS TREATMENTS YOU WERE RECEIVING AS A
6 RESULT OF THIS INJURY, CORRECT?
7 A. YES, SIR.
8 Q. AND AT THAT TIME SHE DECIDED SHE COULDN'T CONTINUE
9 ANY NARCOTIC MEDICATION BECAUSE YOU TESTED POSITIVE
10 FOR MARIJUANA, RIGHT?
11 A. CORRECT. SHE HAD TOLD ME IT WOULD TAKE SIX WEEKS
12 FOR IT TO GET OUT OF MY SYSTEM. YES, SIR.
13 Q. NOW, WE'VE ESTABLISHED THAT YOU WORKED AT DOLLAR
14 TREE FOR 14, ALMOST 15 YEARS?
15 A. YES, SIR.
16 Q. AND YOU WORKED -- I THINK I GOT A LITTLE BIT
17 CONFUSED WHEN YOU WERE TESTIFYING ON DIRECT. YOU
18 SERVED AS AN ASSISTANT MANAGER FOR THE MAJORITY OF
19 THAT TIME?
20 A. YES, SIR.
21 Q. ALL RIGHT. AND THEN YOU ALSO SERVED, THOUGH, AS A
22 STORE MANAGER FOR A PERIOD OF TIME ---
23 A. YES, SIR, I DID.
24 Q. --- AT THE HARBISON STORE?
25 A. YES, SIR.

1 Q. HOW LONG DID YOU SERVE AS A STORE MANAGER?
2 A. I WANT TO SAY APPROXIMATELY NINE MONTHS.
3 Q. OKAY. AND, OBVIOUSLY, AS AN ASSISTANT MANAGER AND A
4 STORE MANAGER, THERE IS A LOT OF MANAGERIAL WORK
5 THAT IS INVOLVED IN THAT JOB? I MEAN, YOU'RE NOT
6 JUST LIFTING AND UNLOADING U-BOATS ALL DAY LONG, ARE
7 YOU? THAT'S NOT YOUR PRIMARY -- THAT WASN'T YOUR
8 PRIMARY JOB AS AN ASSISTANT MANAGER? YOU HAD TO DO
9 ALL KINDS OF OTHER THINGS?
10 A. YES, SIR.
11 Q. YOU HAD TO SCHEDULE?
12 A. NO, SIR; THAT WAS THE MANAGER'S JOB.
13 Q. LET ME SEE SOMETHING REAL QUICK, APA PAGE 196. DO
14 YOU RECALL THAT I HAD YOU EVALUATED BY A LADY NAMED
15 JAN WESTMORELAND?
16 A. YES, SIR, I DO.
17 Q. AND SHE CAME AND TALKED TO YOU, AND SHE GAVE YOU
18 SOME TESTS?
19 A. YES, SIR.
20 Q. SHE TOOK AN EMPLOYMENT HISTORY FROM YOU, AND SHE
21 ASKED YOU ABOUT YOUR DUTIES AT DOLLAR TREE?
22 A. YES, SIR.
23 Q. AND YOU TOLD HER ALL THE DUTIES FROM OPENING TO
24 CLOSING THE STORE, SCHEDULE WORKERS, SUPERVISE
25 WORKERS, PROCESS FREIGHT, INCLUDING UNLOADING TRUCKS

1 AND STOCKING SHELVES, TRAIN NEW EMPLOYEES, CLOSE
2 REGISTERS, AND PROCESS DAILY SALES IN THE COMPUTER,
3 AND MAKE DEPOSITS?
4 A. YES, SIR.
5 Q. DID YOU DO ALL OF THOSE THINGS?
6 A. YES, SIR.
7 Q. OKAY. SO, YOU -- YOU WERE -- I MEAN, IT WAS A
8 DECENT AMOUNT OF MANAGERIAL AND SOME PAPERWORK
9 INVOLVED IN THE JOB?
10 A. YES, SIR.
11 Q. YOU ACTUALLY HAD TO INPUT DATA INTO A COMPUTER?
12 A. YES, SIR.
13 Q. SO, YOU -- YOU WERE PROFICIENT IN AT LEAST THAT
14 SOFTWARE THAT YOU HAD AT DOLLAR TREE?
15 A. YES, SIR.
16 Q. YOU COULD USE THAT COMPUTER?
17 A. YES, SIR.
18 Q. WHAT, DID YOU HAVE TO ENTER THE DAILY SALES?
19 A. YES, SIR.
20 Q. AND THEN YOU'D MAKE DEPOSITS, SO YOU OBVIOUSLY HAD A
21 DECENT AMOUNT OF EXPERIENCE WITH HANDLING CHANGE AND
22 COUNTING MONEY AND TRANSACTION -- MONETARY
23 TRANSACTIONS, CORRECT?
24 A. YES, SIR.
25 Q. NOW, WHEN YOU BECAME THE STORE MANAGER, WAS THAT A

1 LESS PHYSICAL JOB THAN THE ACTUAL ASSISTANT MANAGER
2 JOB?
3 A. NO, SIR.
4 Q. ALL RIGHT. YOU TALKED ON DIRECT ABOUT GOING AND
5 GETTING THE TRUCKS AND LOADING THE U-BOATS AND
6 PUTTING THE STUFF OUT ON THE FLOOR. WERE THERE
7 OTHER FOLKS THAT DID THAT, TOO, AT DOLLAR TREE
8 BESIDES YOU?
9 A. YES, SIR, THE EMPLOYEES ALSO.
10 Q. WHAT DO YOU -- WHO WERE THOSE -- WHAT DO YOU CALL
11 THOSE EMPLOYEES?
12 A. THEY'RE -- THEY'RE CALLED CASHIERS --
13 CASHIERS/STOCKERS.
14 Q. THEIR PRIMARY JOB WAS TO DO THE UNLOADING THE U-
15 BOATS AND THINGS LIKE THAT; THAT WAS THEIR PRIMARY
16 JOB?
17 A. NO, THEIR PRIMARY JOB WAS PRETTY MUCH CASHIERING,
18 AND THEN THEY WOULD HAVE CASHIERS THAT WOULD
19 CASHIER, PLUS THEY WOULD STOCK, WHICH WERE ONES THAT
20 WOULD HELP UNLOAD THE -- THE TRUCK.
21 Q. RIGHT. YOU ALSO -- YOUR ATTORNEY ASKED YOU ABOUT
22 SOME PRIOR JOB EXPERIENCE.
23 A. YES, SIR.
24 Q. YOU TALKED MAINLY ABOUT SOME PRIOR PAPERWORK, OR --
25 I'M SORRY, NEWSPAPER JOBS.

1 A. YES, SIR.
2 Q. YOU ALSO HAVE SOME PAST EXPERIENCE AS A CUSTOMER
3 SERVICE REPRESENTATIVE, DON'T YOU?
4 A. YES, SIR; I BELIEVE SO.
5 Q. YOU WORKED IN STUART, FLORIDA FOR A COMPANY CALLED
6 RIVIERA INSURANCE?
7 A. YES, SIR.
8 Q. AND THAT WAS A HUNDRED PERCENT DESK JOB, WASN'T IT?
9 A. YES, IT WAS.
10 Q. STRICTLY PAPERWORK?
11 A. PAPERWORK.
12 Q. AND TELEPHONE, ANSWERING THE PHONES?
13 A. YES, SIR.
14 Q. YOU TOLD MY VOCATIONAL EXPERT, AGAIN, WHEN SHE
15 EVALUATED YOU, THAT YOU WERE RESPONSIBLE FOR
16 PROCESSING INSURANCE POLICIES; YOU TOOK CUSTOMER
17 CALLS FOR QUOTES, AND THINGS LIKE THAT?
18 A. YES.
19 Q. DO YOU KNOW -- YOU MENTIONED THE WORD SEDENTARY. DO
20 YOU UNDERSTAND WHAT THAT WORD MEANS?
21 A. HONESTLY, NO, I DON'T.
22 Q. WELL, I'LL SUBMIT TO YOU IT MEANS IT'S A SIT-DOWN
23 WORK.
24 A. UH-HUH.
25 Q. THAT JOB AT RIVIERA INSURANCE WAS A SIT-DOWN JOB,

1 WASN'T IT?
2 A. EIGHTY PERCENT OF THE TIME.
3 Q. YOU WEREN'T REQUIRED TO DO ANY PHYSICAL, HEAVY
4 LIFTING IN THAT JOB, WERE YOU?
5 A. NO, SIR.
6 Q. YOU'VE MENTIONED ALSO THAT YOU WORKED AS A C.N.A.
7 FOR A PERIOD OF TIME, AND YOU DID SOME TRAINING TO
8 OBTAIN THAT C.N.A. CERTIFICATE, CORRECT?
9 A. YES, SIR.
10 Q. DID YOU DO THAT DOWN IN FLORIDA?
11 A. YES, SIR.
12 Q. HOW LONG WAS THAT C.N.A. PROGRAM, OR THE TRAINING
13 PROCESS?
14 A. THIRTEEN WEEKS.
15 Q. DID YOU COMPLETE THAT SUCCESSFULLY?
16 A. YES, SIR, I DID.
17 Q. YOU DIDN'T HAVE ANY DIFFICULTY OBTAINING THE C.N.A.
18 CERTIFICATE?
19 A. NO, SIR, I DID NOT.
20 Q. NOW, DOLLAR TREE HAS -- AND THEIR WORKERS' COMP
21 CARRIER HAS PROVIDED YOU WITH TREATMENT THROUGHOUT
22 THE COURSE OF THESE INJURIES; IS THAT RIGHT?
23 A. YES, SIR.
24 Q. YOU'VE HAD SURGERY FROM DR. BOYD?
25 A. YES, SIR.

1 Q. AND THEN WE ALSO SENT YOU TO THE PAIN PROGRAM AT
2 PALMETTO BAPTIST, CORRECT?
3 A. YES, SIR.
4 Q. AND THAT WAS A -- IT WAS A FIVE-WEEK PROGRAM, BUT I
5 THINK YOU ACTUALLY STAYED SIX WEEKS IN THE PROGRAM;
6 IS THAT ---
7 A. YES, SIR, I DID.
8 Q. AND THAT PROGRAM HELPED YOU A LOT, DIDN'T IT?
9 A. IT HELPED ME LEARN HOW TO LIVE DIFFERENTLY.
10 Q. DID IT HELP IMPROVE YOUR QUALITY OF LIFE?
11 A. I WOULD HAVE TO SAY YES.
12 Q. AND THERE WAS -- THE DOCTORS OVER THERE, I THINK AT
13 YOUR REQUEST, THEY MADE A REFERRAL FOR YOU TO GO TO
14 SOUTH CAROLINA VOC REHAB, DIDN'T THEY?
15 A. YES, SIR, THEY DID.
16 Q. AND THE NURSE, OR ACTUALLY THE THERAPIST THERE, TOLD
17 YOU IN AUGUST OF 2011, THAT YOU NEEDED ANY -- IF YOU
18 NEEDED ANY HELP CONTACTING S.C. VOC REHAB THAT SHE'D
19 BE GLAD TO DO THAT?
20 A. YES, SIR.
21 Q. BUT YOU NEVER CONTACTED SOUTH CAROLINA VOC REHAB,
22 DID YOU?
23 A. NO, SIR, I DID NOT.
24 Q. AND SINCE YOU'VE BEEN OUT OF WORK AT DOLLAR TREE,
25 YOU HAVEN'T LOOKED FOR ANY OTHER JOBS?

1 A. NO, SIR.

2 Q. YOU HAVEN'T FILLED OUT ANY APPLICATIONS OR MADE ANY

3 CALLS OR ANYTHING TO THAT EFFECT?

4 A. NO, SIR.

5 Q. DURING THE SIX-WEEK PAIN PROGRAM AT PALMETTO

6 BAPTIST, YOU DID SOME PRETTY INTENSIVE PHYSICAL

7 THERAPY, DIDN'T YOU?

8 A. YES, SIR, I DID.

9 Q. AT THE START OF EVERY SESSION YOU'D WALK LAPS?

10 A. YES.

11 Q. AND I THINK YOU TOLD US IN YOUR DEPOSITION, OR

12 SOMEWHERE IN THESE RECORDS, THAT YOU -- AT THE

13 BEGINNING OF EACH SESSION YOU'D START AND YOU'D WALK

14 FIVE LAPS, AND THEN AT THE NEXT SESSION YOU'D ADD

15 FIVE LAPS, AND THEN AT THE NEXT YOU'D ADD FIVE MORE?

16 A. EVERY WEEK.

17 Q. EVERY WEEK?

18 A. YES, SIR.

19 Q. SO, BY THE TIME OF THE END OF THE PROGRAM YOU WERE

20 WALKING 35 LAPS?

21 A. IT MIGHT HAVE BEEN 35 LAPS.

22 Q. THIRTY TO THIRTY-FIVE LAPS?

23 A. YES, SIR.

24 Q. AND YOU WERE ABLE TO DO THAT?

25 A. WITH SIGNIFICANT PAIN, YES.

1 Q. AND THEY MADE YOU DO SOME EXERCISING; YOU GOT DOWN
2 ON THE FLOOR AND DID SOME CRUNCHES?
3 A. YES, SIR.
4 Q. AND YOU DID TREADMILL WORK?
5 A. YES, SIR.
6 Q. YOU DID SOME OTHER WORK WITH SOME OTHER EXERCISE
7 EQUIPMENT?
8 A. YES, SIR. I DON'T KNOW WHAT IT'S CALLED, BUT YOU
9 STAND ON IT, AND IT'S LIKE CLIMBING A MOUNTAIN, AND
10 I WAS UNABLE TO DO THAT. I DID IT ONE -- ONE TIME,
11 I BELIEVE.
12 Q. THROUGHOUT THE COURSE OF THE PAIN MANAGEMENT
13 PROGRAM, YOUR PAIN LEVEL REMAINED AT A SIX PRETTY
14 MUCH ON AVERAGE, DIDN'T IT?
15 A. YES, SIR.
16 Q. AND IS THAT -- THAT'S WHAT IT IS NOW ON AVERAGE, IS
17 ABOUT A SIX?
18 A. ABOUT A SIX.
19 Q. YOUR SYMPTOMS IN YOUR NECK DID IMPROVE AFTER SURGERY
20 SOME, DIDN'T THEY?
21 A. NO, THEY DID NOT.
22 Q. NOT AT ALL?
23 A. NO, SIR.
24 Q. YOU DIDN'T TELL DR. BOYD IN APRIL OF 2011 THAT YOUR
25 PREOPERATIVE SYMPTOMS WERE IMPROVED?

1 A. NO, I DID NOT.

2 Q. AT APA PAGE 52, I'M GOING TO SHOW YOU THIS RECORD

3 FROM DR. BOYD. DOES THAT APPEAR TO BE YOUR RECORD?

4 IS THAT YOUR NAME AT THE TOP?

5 A. YES, SIR, IT IS. I DON'T HAVE MY GLASSES, SO I ---

6 Q. CAN YOU READ THAT -- CAN YOU READ THAT? IF YOU

7 CAN'T ---

8 A. I CAN; I JUST HAVE TO FOCUS IN ON IT.

9 Q. OKAY. IF YOU WOULD READ THE HIGHLIGHTED PORTION.

10 A. (AS READ) "SHE STATES THE PREOPERATIVE SYMPTOMS IN

11 HER NECK HAVE IMPROVED TO SOME DEGREE, BUT SHE

12 CONTINUES TO HAVE SOME SORENESS IN HER SHOULDERS."

13 Q. THANK YOU. AND WERE YOU AWARE THAT IN APRIL OF 2011

14 DR. BOYD NOTED THAT YOU WERE, QUOTE, "COMING ALONG

15 REASONABLY WELL"?

16 A. REPEAT THAT.

17 Q. DID YOU KNOW THAT IN APRIL OF 2011 DR. BOYD FELT

18 LIKE YOU WERE COMING ALONG REASONABLY WELL AFTER

19 SURGERY?

20 A. HE NEVER STATED THAT TO ME.

21 Q. WOULD YOU DISAGREE THAT ---

22 A. I WOULD DISAGREE BECAUSE I HAD MY SURGERY MARCH

23 15TH, ---

24 Q. OKAY.

25 A. --- AND IN APRIL I WENT BACK TO WORK FOUR-HOUR

1 MODIFIED SHIFTS, WHICH WAS VERY DIFFICULT TO DO. I
2 TRIED TO WORK AFTER I HAD MY SURGERY.
3 Q. SO, THEN WOULD YOU DISAGREE WITH DR. BOYD'S
4 STATEMENT THAT YOU WERE COMING ALONG REASONABLY WELL
5 IF, IN FACT, IT IS CONTAINED IN HIS MEDICAL RECORDS?
6 A. YES.
7 Q. I'LL POINT THE COMMISSIONER TO APA PAGE 53. SINCE
8 YOU'VE HAD THE NECK SURGERY, YOU'VE HAD SEVERAL
9 REPEAT M.R.I.s ON YOUR NECK, HAVEN'T YOU?
10 A. YES.
11 Q. I THINK AT LEAST TWO SINCE YOU HAD SURGERY, MAYBE
12 MORE?
13 A. I'VE HAD TWO.
14 Q. OKAY. AND YOU'VE BEEN BACK TO SEE DR. BOYD AFTER
15 EACH OF THOSE REPEAT M.R.I.s, HAVEN'T YOU?
16 A. NO, SIR.
17 Q. HE REVIEWED THE REPEAT M.R.I.s; DR. BOYD DID?
18 A. UH-HUH.
19 Q. DID YOU KNOW THAT?
20 A. NO, I DID NOT.
21 Q. AND DR. BOYD HAS INDICATED, AFTER HE'S LOOKED AT
22 THESE ADDITIONAL M.R.I.s, THAT HE'S SEEN NO NEED FOR
23 ANY ADDITIONAL SURGERY AND NO -- NO REAL SURGICAL
24 INDICATION IN YOUR CERVICAL SPINE; DID YOU KNOW
25 THAT?

1 A. YES, HE DID STATE THAT TO ME.
2 Q. AND FROM A NEUROSURGICAL STANDPOINT, DR. BOYD HAS
3 NOTHING ELSE -- THERE'S NOTHING ELSE THAT HE CAN DO
4 FOR YOU; DID YOU KNOW THAT?
5 A. YES, SIR.
6 Q. BASED ON HIM LOOKING AT THE M.R.I.s, THE REPEAT
7 M.R.I.s THAT HE DID, DID YOU KNOW THAT IN SEPTEMBER
8 OF 2011 DR. BOYD WAS ACTUALLY QUESTIONING WHETHER
9 THE SOURCE OF YOUR PAIN WAS YOUR NECK?
10 A. I WAS REFERRED TO -- I WAS TOLD ABOUT THAT, YES.
11 Q. THAT'S APA PAGE 69. AND IN APRIL OF THIS YEAR, YOU
12 SAW DR. STORICK, DIDN'T YOU?
13 A. YES, I DID.
14 Q. AND YOU WERE REFERRED TO DR. STORICK BECAUSE THERE
15 WAS A POSSIBILITY OF A SPINAL CORD STIMULATOR?
16 A. YES, SIR.
17 Q. DR. STORICK DIDN'T FEEL LIKE THAT WAS WARRANTED,
18 THOUGH, IN THIS CASE?
19 A. NO, SIR; HE WANTED TO GO FOR THE FACET BLOCKS, TWO
20 SERIES, AND POSSIBLE NERVE BLANCHING.
21 Q. DID YOU KNOW ALSO, AT THAT TIME WHEN YOU SAW DR.
22 STORICK, THAT HE INDICATED THAT YOU HAD NUMEROUS
23 COMPLAINTS THAT HE DIDN'T FEEL CORRELATED WITH YOUR
24 NECK INJURY?
25 A. NO, SIR, I DID NOT.

1 Q. THAT'S APA PAGE 74. NOW, AS YOU SIT HERE TODAY,
2 YOU'VE GOT SOME LIMITED -- YOU'RE PRESENTING WITH
3 SOME LIMITED RANGE OF MOTION IN YOUR NECK; IS THAT
4 RIGHT?
5 A. YES, SIR.
6 Q. AND YOU BASICALLY -- AND YOU'VE GOT AGAIN, AS YOUR
7 ATTORNEY POINTED OUT, YOU'VE GOT IT COCKED TO YOUR
8 LEFT, YOUR HEAD TILTED TO YOUR LEFT?
9 A. UH-HUH.
10 Q. IS THAT A YES?
11 A. YES, SIR.
12 Q. CAN -- I MEAN, DO YOU TURN YOUR HEAD?
13 A. DO I -- NO, SIR. THAT'S WHERE IT GOES THAT WAY, AND
14 THAT'S WHERE IT GOES THAT WAY (DEMONSTRATING).
15 Q. OKAY. AND IT'S BEEN LIKE THAT -- IS IT YOUR
16 TESTIMONY THAT IT'S BEEN LIKE THAT SINCE YOU'VE HAD
17 SURGERY?
18 A. YES, SIR.
19 Q. AND IT'S LIKE THAT, HOW YOU JUST DEMONSTRATED, ALL
20 THE TIME?
21 A. YES, SIR. IT WAS LIKE THIS PRIOR TO SURGERY ALSO.
22 Q. OKAY.
23 A. AS FAR AS THE RANGE OF MOTION GOES.
24 Q. IS IT -- BUT IT'S YOUR -- BUT IT'S YOUR CONTENTION
25 THAT THE LIMITED RANGE OF MOTION THAT YOU PRESENTED

1 HERE THIS MORNING IS A RESULT OF THESE WORK
2 INJURIES?
3 A. YES, SIR.
4 Q. YOU DIDN'T HAVE THAT LIMITED RANGE OF MOTION BEFORE
5 YOU GOT HURT AT DOLLAR TREE?
6 A. NO, SIR.
7 Q. AND, AGAIN, IT'S YOUR TESTIMONY THAT YOUR NECK, IN
8 THAT POSITION, AND YOUR -- THE ABILITY TO TURN, IS
9 LIKE THAT ALL THE TIME?
10 A. YES, SIR.
11 Q. HAVE YOU -- YOU DID HAVE AN OPPORTUNITY TO REVIEW
12 THE VIDEO SURVEILLANCE THAT WAS SUBMITTED HERE?
13 A. YES, SIR, I DID.
14 Q. AND WE'VE ESTABLISHED, AND THE DEFENDANTS HAVE
15 STIPULATED, THAT THERE ARE PORTIONS OF THAT VIDEO
16 THAT IS NOT YOU?
17 A. YES, SIR.
18 Q. THERE -- BUT YOU WOULD AGREE WITH ME, THOUGH, THAT
19 THERE ARE TIMES IN THAT VIDEO THAT YOU ARE SHOWN?
20 A. YES.
21 Q. OKAY. AND IF MEMORY SERVES, YOU'RE SHOWN IN BOTH
22 THE DVDs ON BOTH DAYS -- ON BOTH -- BOTH SETS OF
23 DVDs YOU'RE SHOWN AT SOME TIME THROUGHOUT THAT
24 VIDEO?
25 A. YES, SIR.

1 Q. BUT THAT VIDEO DOESN'T SHOW YOU WITH THE -- WITH THE
2 SEVERE LIMITED RANGE OF MOTION THAT YOU'VE PRESENTED
3 WITH TODAY, DOES IT?
4 A. YES, IT DOES.
5 Q. IT'S YOUR CONTENTION THAT IT SHOWS YOU DOING JUST
6 LIKE YOU SHOWED THE COMMISSIONER JUST A MINUTE AGO?
7 A. YES.
8 Q. YOU WEREN'T USING A CANE IN THE JUNE VIDEO?
9 A. NO, SIR, I WAS NOT.
10 Q. YOU WERE PRESCRIBED THE CANE IN MAY?
11 A. YES, SIR.
12 Q. OKAY. BUT YOU'D AGREE WITH ME THAT THE JUNE 2012
13 VIDEO, YOU'RE NOT USING A CANE?
14 A. NO, I WAS NOT. I'VE HAD TO LEARN TO ADAPT TO IT.
15 Q. NOW, YOU SAID -- YOU TESTIFIED ON DIRECT THAT YOU
16 DON'T -- YOU DRIVE ONLY WHEN YOU HAVE TO?
17 A. YES.
18 Q. HAS THAT CHANGED RECENTLY?
19 A. THE LAST COUPLE OF MONTHS, YES, SIR, IT HAS.
20 Q. ALL RIGHT. WHEN I DEPOSED YOU IN FEBRUARY OF 2012,
21 I MEAN, YOU HAD -- YOU TOLD ME THAT YOU WERE ABLE TO
22 DRIVE TO AND FROM THE STORE?
23 A. YES.
24 Q. AND TO AND FROM THE GAS STATION FOR ERRANDS?
25 A. YES, SIR.

1 Q. AND TO AND FROM FRED'S -- OR FRED'S, WHATEVER YOU
2 CALL IT, SUPPLY STORE?
3 A. I HAVE TO BE VERY CAUTIOUS WHEN I DRIVE, VERY
4 CAREFUL WHEN I DRIVE.
5 Q. DO YOU STILL DO THOSE THINGS; DO YOU STILL DRIVE TO
6 FRED'S FROM TIME TO TIME?
7 A. WHEN I HAVE TO, YES, SIR, WHEN I GET MY MEDICATIONS.
8 Q. OKAY. IS IT YOUR TESTIMONY THAT YOU JUST GO TO
9 FRED'S TO GET YOUR MEDICATION?
10 A. NO, SIR; I GO TO THE DOCTOR'S OFFICE. WHEN I HAVE
11 DOCTOR APPOINTMENTS, OR THINGS THAT I HAVE TO DO,
12 AND CAN'T GET ANYBODY TO HELP ME, I DO TAKE MY
13 VEHICLE.
14 Q. AND I'M MORE FOCUSED ON RUNNING -- DOING HOUSEHOLD
15 ERRANDS AND GROCERIES AND SUPPLIES AT THE STORE. DO
16 YOU -- DO YOU GO AND DO THOSE THINGS?
17 A. WHEN I HAVE HELP WITH ME, YES. AND MOST OF THE TIME
18 NOW, IT'S ME AND MY FIANCÉ.
19 Q. ARE THERE TIMES WHEN YOU DRIVE TO THE STORE FOR
20 ERRANDS ALONE?
21 A. YES, SIR.
22 Q. YOU DO HAVE -- YOU HAVE A FORD WINDSTAR VAN THAT IS
23 -- THAT'S YOUR VEHICLE?
24 A. YES, SIR, IT IS.
25 Q. DOES YOUR HUSBAND ALSO HAVE A VEHICLE, OR DO YOU

1 SHARE A VEHICLE?
2 A. HE -- HE HAS A VEHICLE, BUT IT'S DOWN. IT'S THE
3 BLUE DODGE THAT THEY HAVE.
4 Q. DO YOU DRIVE HIM TO AND FROM WORK EVERY MORNING?
5 A. NOT ANYMORE I DON'T, NO. I WAS.
6 Q. OKAY. YOU WERE DOING THAT BACK IN FEBRUARY ---
7 A. YES, SIR.
8 Q. --- OF THIS YEAR?
9 A. YES, SIR.
10 Q. WHEN DID YOU STOP DOING THAT?
11 A. I WANT TO SAY PROBABLY APRIL OR MAY.
12 Q. YOU -- DO YOU -- ARE YOU ABLE TO STOP AT THE GAS
13 STATION AND PUMP YOUR OWN GAS WHEN NEED BE?
14 A. YES, SIR.
15 Q. AND YOU STILL DO THE CHORES -- SOME CHORES AROUND
16 YOUR HOUSE; YOU CLEAN THE BATHROOM?
17 A. YES, SIR.
18 Q. YOU DO YOUR LAUNDRY?
19 A. YES, SIR.
20 Q. YOU COOK THREE OR FOUR TIMES A WEEK?
21 A. YES, SIR.
22 Q. YOU DUST AND YOU SWEEP AND YOU MOP?
23 A. YES, SIR.
24 Q. AND YOU TOLD MY VOCATIONAL EXPERT WHEN YOU SAW HER
25 THAT YOU'RE STILL ABLE TO PERFORM SOME LIGHT REPAIR

1 WORK AROUND YOUR HOUSE?
2 A. YES, SIR.
3 Q. ARE YOU STILL DOING -- YOU'RE STILL ABLE TO DO THAT?
4 A. YES.
5 Q. WHAT KIND OF LIGHT REPAIR WORK ARE YOU TALKING
6 ABOUT?
7 A. I'M TALKING ABOUT LIKE IF THERE IS A LIGHT SWITCH
8 THAT HAS TO BE CHANGED OUT, I CAN UNSCREW THAT STUFF
9 AND FIX IT. A DOORKNOB, I CAN DO THAT.
10 Q. YOU -- AND YOU HAVE A POOL AT YOUR HOUSE, DON'T YOU?
11 A. YES, SIR.
12 Q. AND YOU SWIM REGULARLY?
13 A. I DO UP UNTIL, I WANT TO SAY, JUNE OF THIS YEAR.
14 I'VE STOPPED GETTING IN IT BECAUSE I DON'T HAVE
15 ANYBODY AT THE HOUSE ANYMORE, IN THE EVENT THAT
16 SOMETHING HAPPENS, BECAUSE IT'S GOT ONE OF THOSE
17 WOBBLY-TYPE LADDERS THAT GO IN IT.
18 Q. OKAY. YOU STILL -- I'M SORRY, GO AHEAD.
19 A. I'M SORRY. NO, I -- I USE THAT FOR MY EXERCISE.
20 AND I DID THAT PRIOR TO GOING TO THE PALMETTO PAIN
21 MANAGEMENT PROGRAM TO TRY TO GET MYSELF BACK TO
22 WHERE I COULD GO BACK TO WORK.
23 Q. DO YOU STILL ENJOY GOING TO THE BEACH?
24 A. YES.
25 Q. YOU'VE BEEN TO THE BEACH RECENTLY?

1 A. NO.
2 Q. WHEN IS THE LAST TIME THAT YOU WENT TO THE BEACH?
3 A. IT'D BE LAST YEAR.
4 Q. YOU'VE BEEN TO THE BEACH SINCE YOU HAD NECK SURGERY?
5 A. YES.
6 Q. AND DID YOU GO DOWN THERE FOR VACATION?
7 A. YES.
8 Q. AND DID YOU GO WITH YOUR FAMILY?
9 A. I WENT WITH MY FIANCÉ.
10 Q. TO MYRTLE BEACH?
11 A. NO.
12 Q. WHAT BEACH?
13 A. WE WENT DOWN TO FLORIDA WHERE MY FAMILY'S AT.
14 Q. DID YOU GET OUT ON THE BEACH?
15 A. I WALKED OUT ON THE BEACH; YES, SIR.
16 Q. IS THAT THE ONLY TIME THAT YOU'VE BEEN TO THE BEACH
17 SINCE YOU'VE HAD NECK SURGERY?
18 A. YES, SIR.
19 Q. I'VE REFERENCED THE VOCATIONAL REPORT FROM MS.
20 WESTMORELAND A COUPLE OF TIMES. DID YOU HAVE AN
21 OPPORTUNITY TO REVIEW THAT REPORT BEFORE THIS
22 MORNING? HAVE YOU SEEN IT BEFORE?
23 A. YES, I BELIEVE SO. YOU'RE TALKING ABOUT THE LADY
24 THAT I SEEN VOCATIONAL FOR YOU?
25 Q. RIGHT.

1 A. YES, SIR.
2 Q. WERE YOU AWARE THAT SHE IDENTIFIED SEVERAL JOBS IN
3 THE COLUMBIA AREA THAT SHE BELIEVED THAT YOU WERE
4 ABLE TO DO?
5 A. YES.
6 Q. MEDICAL FRONT DESK SECRETARY, A RECEPTIONIST, OFFICE
7 ASSISTANT, CLERICAL AIDE. DID YOU KNOW SHE
8 IDENTIFIED THOSE JOBS?
9 A. YES, SIR.
10 Q. WOULD YOU AGREE WITH ME THAT THE 14 YEARS'
11 EXPERIENCE THAT YOU HAVE AS AN ASSISTANT MANAGER, OR
12 A FULL-TIME MANAGER AT DOLLAR TREE, WOULD QUALIFY
13 YOU TO DO THOSE JOBS I JUST -- I JUST LISTED?
14 A. YES, THEY WOULD IF I WERE ABLE TO DO IT FOR EIGHT
15 HOURS A DAY.
16 Q. YOU HAVEN'T TRIED, THOUGH, HAVE YOU?
17 A. NO, SIR, I HAVE NOT.
18 Q. AND YOU DIDN'T CALL ANY OF THOSE EMPLOYERS THAT MS.
19 WESTMORELAND IDENTIFIED? SHE IDENTIFIED ---
20 A. NO, SIR; I DIDN'T KNOW I WAS REQUIRED TO DO THAT.
21 Q. I DIDN'T -- I DIDN'T SAY YOU WERE REQUIRED TO. I'M
22 JUST ASKING IF YOU CALLED. YOU -- THE MEDICATION
23 THAT YOU HAVE THERE ---
24 A. YES, SIR.
25 Q. --- THAT YOU PUT ON THE TABLE, ALL THOSE MEDICATIONS

1 ARE PRESCRIBED BY DR. REDMOND?
2 A. YES, SIR.
3 Q. DO YOU HAVE A COMPUTER AT YOUR HOUSE?
4 A. I HAVE A LAPTOP.
5 Q. DO YOU HAVE INTERNET ACCESS?
6 A. YES, I DO. MY LAPTOP IS FROZE; IT HAS BEEN FROZE.
7 I DON'T KNOW WHAT'S WRONG WITH IT. I GET ONLINE,
8 AND THEN IT HAS ALL THESE POP-UPS THAT SHOW UP. IT
9 WON'T LET ME ACTUALLY GET ONTO THE INTERNET ANYMORE.
10 Q. YOU KNOW HOW -- YOU'RE -- YOU'RE ABLE TO DO THAT
11 THOUGH AND YOU KNOW HOW ---
12 A. YES, SIR.
13 Q. THE COMPUTER WORK AT DOLLAR TREE, I MEAN, TELL ME A
14 LITTLE BIT ABOUT -- WHAT WAS THE COMPUTER WORK THAT
15 YOU DID WHEN YOU WERE AN ASSISTANT MANAGER, OR STORE
16 MANAGER, AT DOLLAR TREE?
17 A. PRETTY MUCH YOU WOULD GO IN THERE AND YOU WOULD SET
18 THE REGISTERS UP IN THE MORNING, GET THEM ALL
19 STARTED UP. YOU WOULD HAVE EMAIL THAT YOU WOULD
20 HAVE TO GO INTO AND PULL THE -- PRINT THE EMAIL OUT
21 AND READ THE EMAIL. AND IN THE EVENING YOU PRETTY
22 MUCH HAVE TO GO IN THERE AND PUT WHAT YOUR ACTUAL
23 DEPOSIT IS, AND YOU HAVE TO PUT HOW MUCH MONEY'S IN
24 YOUR SAFE SO THAT EVERYTHING BALANCES OUT. PUTTING
25 -- DOING STORE ORDERING, AND THEY GOT AWAY FROM

1 THAT, BUT A LOT OF US STILL DO GO BACK IN THE --
2 INTO THE COMPUTER. THEY ACTUALLY WANT YOU TO USE A
3 GUN AND WALK THROUGH THE STORE, BUT SOMETIMES IT'S
4 EASIER TO GET ON THE COMPUTER AND LOOK AT WHAT IS
5 ACTUALLY THERE SO FAR. IF WE WERE REQUESTED BY THE
6 DISTRICT MANAGER TO RESPOND TO SOMETHING THAT HE
7 EMAILED US, WE'D HAVE TO GO IN THERE AND DO A DRAFT
8 AND SEND IT TO HIM. AND I BELIEVE IT'S EITHER ON
9 TUESDAY OR WEDNESDAY NIGHT, I'M NOT TOO SURE, YOU'D
10 HAVE TO DO A MIDDLE-WEEK SALES REPORT, WHERE YOUR
11 SALES ARE, WHAT YOUR ACTUAL HOURS YOU'VE USED. AND
12 IT'S THE SAME ON SATURDAY EVENING WHEN YOU CLOSE.
13 YOU'D HAVE TO HAVE ALL YOUR SALES FIGURES, HOW MANY
14 HOURS YOU WORKED. THEY WANT TO KNOW HOW -- WHAT
15 YOUR TRUCKS WERE, DIFFERENT QUESTIONS THEY'D ASK
16 YOU, HOW MANY GRAB BAGS YOU MADE, AND ---
17 Q. SO, A LOT OF PAPERWORK?
18 A. NOT REALLY, NO, SIR. NOT REALLY.
19 **BY MR. EASTERLING:**
20 I DON'T HAVE ANY OTHER QUESTIONS.
21 **BY COMMISSIONER WILLIAMS:**
22 ALL RIGHT. ANY REDIRECT?
23 **BY MR. MCELVEEN:**
24 YES, COMMISSIONER.
25 **REDIRECT EXAMINATION BY MR. MCELVEEN:**

1 Q. NOW, THE JOBS THAT -- WHEN YOU SAY YOU COULDN'T DO
2 IT FOR EIGHT HOURS, WHY? THESE JOBS THAT THIS
3 VOCATIONAL PERSON MENTIONED, THE RECEPTIONIST JOB
4 ---
5 A. I FEEL BECAUSE OF THE MEDICATION THAT I'M ON, AND I
6 CAN'T SIT FOR EIGHT HOURS STRAIGHT. I WOULD HAVE TO
7 GET UP AND GET MOVING AROUND BECAUSE THE PAIN STARTS
8 SHOOTING UP MY BACK, MY SPINE.
9 Q. HAS YOUR PAIN LEVEL CHANGED ANY SINCE YOU CAME IN
10 HERE THIS MORNING?
11 A. NO, BECAUSE I HAD JUST TAKEN MY MEDICATION BEFORE I
12 CAME IN.
13 Q. HOW LONG BEFORE?
14 A. I TOOK IT ABOUT 9:05.
15 Q. I'M LOOKING AT PAGE 167 OF THE APAs. ACCORDING TO
16 DR. REDMOND, YOU TOLD HIM -- OR YOU ASKED HIM TO
17 REFER YOU TO VOCATIONAL REHAB?
18 A. YES, SIR.
19 Q. AND HE WROTE IN HIS REPORT THAT HE WOULD HONOR THAT
20 REQUEST; (AS READ) "HOWEVER I DO NOT KNOW HOW
21 PRACTICAL IT WILL BE FOR HER IN THE LONG RUN." DID
22 HE TELL YOU THAT?
23 A. HE JUST DIDN'T FEEL THAT IT WAS GOING TO BENEFIT ME,
24 BUT IF THAT'S WHAT I WANTED TO DO, THEN HE WOULD DO
25 IT.

1 Q. WHY DID YOU NOT THEN DO IT?
2 A. BECAUSE HE HAD SAID THAT HE DIDN'T FEEL THAT IT
3 WOULD REALLY BENEFIT ME.
4 Q. HAS HE INDICATED TO YOU THAT ANY -- ANY JOB YOU
5 WOULD BE ABLE TO DO?
6 A. NO, SIR.
7 Q. NOW, THIS RIVIERA INSURANCE JOB, WHEN DID -- WHEN
8 DID YOU HAVE THAT JOB; HOW LONG AGO WAS THAT?
9 A. I KNOW IT HAD TO HAVE BEEN IN THE EARLY '90s BECAUSE
10 I WAS DELIVERING NEWSPAPERS, AND THEN I WOULD GO TO
11 THAT JOB AFTER.
12 Q. SO, IT WAS A PART-TIME JOB?
13 A. NO, IT WAS FULL TIME.
14 Q. OH, OKAY. YOU HELD TWO FULL-TIME -- OR TWO ---
15 A. YES, SIR; I HAD THREE KIDS TO TAKE CARE OF.
16 Q. YOU WERE ASKED ABOUT -- DID YOU -- DID YOU RECALL --
17 DID YOU SAY ANYTHING TO DR. BOYD AFTER YOUR SURGERY
18 THAT INDICATED TO HIM YOU WERE GETTING BETTER?
19 A. I HONESTLY DON'T RECALL.
20 Q. WERE YOU HAVING SWALLOWING PROBLEMS BEFORE YOUR
21 SURGERY?
22 A. NO.
23 Q. YOU WERE NOT?
24 A. NO.
25 Q. WELL, HE MENTIONS IN HERE SEVERAL TIMES THAT THE --

1 OH, I GUESS THAT WAS SORENESS IN THE AREA. YOU DID
2 HAVE SOME SORENESS IN THE AREA OF YOUR NECK?
3 A. YES, SIR.
4 Q. AFTER THE SURGERY?
5 A. WELL, THREE WEEKS AFTER I HAD MY SURGERY, I
6 DEVELOPED AN INFECTION IN THE INCISION AREA, AND I
7 WENT TO SEE HIM, AND THEY PUT ME ON KEFLEX.
8 Q. OKAY. NOW, I'M LOOKING AT THIS ON PAGE 53, THE
9 APRIL 11, 2011, REPORT, WHERE DR. STORICK -- DR.
10 BOYD DOES SAY (AS READ) "MS. HAINES SEEMS TO BE
11 GETTING -- COMING ALONG REASONABLY WELL." BUT IN
12 THE FIRST PARAGRAPH IT SAYS (AS READ) "SHE IS THREE
13 WEEKS OUT FROM ANTERIOR CERVICAL DISCECTOMY AND
14 FUSION. SHE HAD A BIT OF A TOUGH TIME EVEN AFTER
15 SURGERY. SHE WAS CONCERNED ABOUT SOME DRAINAGE FROM
16 HER WOUND, AND WE PUT HER ON SOME KEFLEX, AND THAT
17 SEEMED RESOLVED. SHE WAS ALSO HAVING SOME TROUBLE
18 SWALLOWING. TODAY SHE REPORTS THAT IS RESOLVED.
19 UNFORTUNATELY, SHE'S STILL HAVING SOME NUMBNESS AND
20 TINGLING GOING DOWN HER ARMS. SHE HAS SOME
21 STIFFNESS IN HER NECK, ESPECIALLY WHEN SHE TURNS TO
22 THE RIGHT." DID YOU -- WERE YOU INTENDING TO
23 INDICATE TO HIM THAT YOU WERE DOING REASONABLY WELL?
24 A. I MUST HAVE.
25 Q. EVEN THOUGH YOU WERE STILL HAVING NUMBNESS AND

1 TINGLING GOING DOWN YOUR ARMS AND STIFFNESS IN YOUR
2 NECK? OF COURSE, HE WAS MAKING A JUDGEMENT ABOUT
3 REASONABLY WELL.
4 A. UH-HUH.
5 Q. DID YOU FEEL YOU WERE REASONABLY WELL?
6 A. NO, SIR.
7 Q. NOW, DR. STORICK, HOW MANY TIMES DID YOU SEE HIM?
8 A. I'VE SEEN HIM ONE TIME.
9 **BY MR. MCELVEEN**:
10 I DON'T THINK I HAVE ANY FURTHER QUESTIONS.
11 **BY COMMISSIONER WILLIAMS**:
12 MR. EASTERLING?
13 **BY MR. EASTERLING**:
14 JUST ONE -- JUST ONE QUICK THING.
15 **RECROSS EXAMINATION BY MR. EASTERLING**:
16 Q. I WAS ASKING YOU ABOUT THE APRIL 11TH, 2011, NOTE AT
17 APA PAGE 53. DR. BOYD -- YOU MENTIONED AFTER
18 SURGERY YOU HAD INFECTION IN THE -- IN THE WOUND,
19 RIGHT?
20 A. YES, SIR.
21 Q. ISN'T THAT WHAT HE WAS TALKING ABOUT AS FAR AS
22 "SHE'S HAD A BIT OF A TOUGH TIME IMMEDIATELY AFER
23 SURGERY"? HE'S TALKING ABOUT THE INFECTION?
24 A. I WOULD HAVE TO SAY THAT'S PROBABLY WHAT HE'S
25 TALKING ABOUT.

1 Q. YOU TOOK THE KEFLEX AND THAT CLEARED UP, CORRECT?
2 A. YES, SIR.
3 Q. THE SWALLOWING ISSUES ALSO RESOLVED ---
4 A. YES, SIR.
5 Q. --- AS OF APRIL 11TH?
6 A. YES, SIR.
7 Q. NOW, YOUR ATTORNEY NOTED IN THAT RECORD THAT YOU HAD
8 SOME STIFFNESS IN YOUR NECK "ESPECIALLY WHEN SHE
9 TURNS TO THE RIGHT, NUMBNESS AND TINGLING DOWN HER
10 ARMS." BUT YOU ALSO SAID, "SHE DOES NOT FEEL THAT
11 SHE IS ANY WEAKER IN HER ARMS OR LEGS"?
12 A. AT THAT TIME I DID NOT FEEL WEAKER, SIR.
13 **BY MR. EASTERLING**:
14 OKAY. THANKS.
15 **BY MR. MCELVEEN**:
16 NOTHING FURTHER, COMMISSIONER.
17 **BY COMMISSIONER WILLIAMS**:
18 YOU CAN STEP DOWN, MA'AM. ANY OTHER WITNESSES
19 FOR THE CLAIMANT?
20 **BY MR. MCELVEEN**:
21 I WOULD LIKE TO ASK -- I BELIEVE WE ATTACHED A
22 COPY OF DR. BOYD'S DEPOSITION OF DECEMBER 20TH,
23 2010. I DO NOT HAVE THE ORIGINAL.
24 **BY MR. EASTERLING**:
25 DO I HAVE THE ORIGINAL?

1 **BY MR. MCELVEEN**:

2 I BELIEVE SO.

3 **BY MR. EASTERLING**:

4 I DIDN'T BRING IT WITH ME, BUT I DON'T CARE.

5 **BY COMMISSIONER WILLIAMS**:

6 I DON'T NECESSARILY NEED IT. I MEAN, THE

7 COPY'S IN THERE; I DON'T NEED THE SEALED ONE. I

8 MEAN, IT'S THE SAME ONE, SO THAT'S FINE.

9 **BY MR. MCELVEEN**:

10 COMMISSIONER, I'M NOT GOING TO CALL ANY FURTHER

11 WITNESSES.

12 **BY COMMISSIONER WILLIAMS**:

13 MR. EASTERLING?

14 **BY MR. EASTERLING**:

15 NONE.

16 **BY COMMISSIONER WILLIAMS**:

17 OKAY. THAT BEING THE CASE, THAT'LL CONCLUDE

18 THIS HEARING.

19 **(THERE BEING NO FURTHER QUESTIONS, THIS HEARING WAS**

20 **CONCLUDED AT THE HOUR OF 10:36 A.M.)**

CERTIFICATE OF NOTARY PUBLIC
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
COLUMBIA, SOUTH CAROLINA
WCC FILE NO. 0901428 & 0905998

EMPLOYEE/CLAIMANT: **KATHERINE L. HAINES**

EMPLOYER: **DOLLAR TREE STORES**

CARRIER: **ARCH INSURANCE COMPANY**

I, SHEILA ROBISON, A NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA, DULY COMMISSIONED AND QUALIFIED AS SUCH, DO HEREBY CERTIFY THAT THE FOREGOING **60** PAGES REPRESENTS A TRUE AND ACCURATE TRANSCRIPT OF THE FOREGOING HEARING OF **KATHERINE L. HAINES** TAKEN ON THE 4TH DAY OF SEPTEMBER, 2012.

THAT THE WITNESS WAS DULY PLACED UNDER OATH AND ADMONISHED TO SPEAK THE WHOLE TRUTH. THAT THE ORAL HEARING WAS DULY TAKEN AND TRANSCRIBED AS TO THE QUESTIONS PROPOUNDED AND THE ANSWERS GIVEN.

THAT ALL THE OFFERED EXHIBITS, STIPULATIONS AND OBJECTIONS, IF ANY, INVOLVED IN THIS CASE ARE DULY ATTACHED OR INCLUDED HEREIN.

IN WITNESS WHEREOF, I HAVE SET MY HAND AND OFFICIAL SEAL THIS 20TH DAY OF SEPTEMBER, 2012.

____
SHEILA ROBISON
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: 4-20-2019

* THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL IS REPRODUCED AS READ OR QUOTED BY THE SPEAKER.

STATE OF SOUTH CAROLINA
BEFORE THE WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO. 0901428

Katherine L Haines, Employee,

Claimant,

vs.

Dollar Tree Stores, Inc, Employer,

Arch Insurance Company, Carrier,

Defendants.

APA SUBMISSIONS

HEARING BEFORE THE HONORABLE DERRICK L. WILLIAMS
August 13, 2012 at 11:30 A.M

Tab 1	Lexington Family Practice	05/05/08 – 02/23/09	Pages 1-4
Tab 2	Dr. Craig Burnworth The Moore Orthopaedic Clinic	03/04/09 – 06/25/09	Pages 5-15
Tab 3	MRI of the Cervical Spine and the Left Shoulder	05/08/09 – 06/22/09	Pages 16-18
Tab 4	The Sports Rehab Center of The Moore Orthopaedic Clinic	03/17/09 – 09/15/09	Pages 19-28
Tab 5	Southeastern Spine Institute	06/28/10 – 11/15/11	Pages 29-35
Tab 6	Columbia Neurosurgical Associates	10/07/10 – 04/18/12	Pages 36-76
Tab 7	Palmetto Health Baptist Pain and Orthopedic Care Center	06/21/11 – 05/11/12	Pages 77-173
Tab 8	J. Adger Brown Rehabilitation Consulting	12/31/11	Pages 174-181
Tab 10	Deposition of Dr. Scott Boyd	12/20/10	Pages 182-189

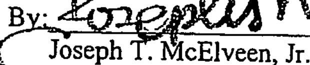
J. Adger Brown Rehabilitation Consulting	12/31/11 - 12/31/11	174-181
Deposition of Dr. Scott Boyd	12/20/10	182-189

YOU ARE FURTHER HEREBY NOTIFIED that you have the right of cross-examination; and, should you desire to exercise said right, you are to forthwith schedule the depositions of any physicians, whose reports are submitted, for the purposes of cross-examination.

YOU ARE FURTHER NOTIFIED that the originals of the documents referred to herein, or photocopies received from said physicians/others, are not being forwarded to the South Carolina Workers' Compensation Commission but will be presented as evidence on behalf of the Claimant at the hearing in this matter.

YOU ARE FURTHER NOTIFIED that the following witnesses may be called on behalf of the Claimant: Claimant, Katherine Haines.

THE BRYAN LAW FIRM OF SC, L.L.P.

By: 

Joseph T. McElveen, Jr.
Attorney for Claimant
Bar No. 3803
17 East Calhoun Street
P.O. Box 2038
Sumter, SC 29151
(803) 775-1263

Sumter, South Carolina
July 27, 2012

HAINES, KATHERINE 78648 WHITEHEAD/gdp 05/05/2008

S: The patient comes in complaining of shakiness and nausea now for about 5 days. Had an episode this morning. Had not had anything to eat, started unloading a truck, felt shaky, little nauseated with it. No shortness of breath, chest pain. Has known CHF, COPD, hep C. She is still smoking. She used to be on medications, none of which she is taking at this time. Said she could not afford it. No fever. States she is not having any increased dyspnea or other change with that. Not using anything over-the-counter. No vomiting, no diarrhea, no abdominal pain. No chest pain.

O: VITAL SIGNS: BP 140/84, weight 255.2. GENERAL: Well-developed, well-nourished, well-appearing female in no acute distress, cooperative with exam, alert x3. NECK: Supple, nontender. No JVD or carotid bruits. LUNGS: Clear to auscultation bilaterally. CARDIOVASCULAR: Regular rate and rhythm. EXTREMITIES: No lower extremity edema.

A

1. Nausea.
2. Congestive heart failure.
3. Chronic obstructive pulmonary disease.

P: Exec D today. She is not fasting. She states she had a sausage biscuit this morning. Rx Coreg 6.25 b.i.d. (#60), can get this for $4. Has not seen cardiologist in over 2 years. She went to Dr. Shah and did

		CA
		DATE OF BIRTH:

HAINES, KATHERINE 78648 WHITEHEAD/gdp 05/05/2008
(cont)

not want to go back there and asked us to refer her somewhere else. Will set up referral. Follow-up according to labs. Report to ED with any acute symptoms or sooner here p.r.n.

HAINES, KATHERINE 78648 FISHER/cmh 02/18/2009 J979739

S: The patient is a 47-year-old white female who comes in after a worker's compensation injury. She hurt herself last Thursday. She was reaching up under some type of shelving and some shelves and bins fell on top of her neck, right at her neck and upper shoulders. She kept working that day but she was hurting some and it has just gotten worse through time. She has taken a little bit of ibuprofen at home. She has not had chronic problems with her neck in the past. She is not having radicular symptoms. She had a small bruise on her upper back.

O: VITAL SIGNS: Afebrile, blood pressure 130/84. NECK: Difficulty turning head in room. Pretty much complete flexion, although painful. Right and left rotation about 55-60 degrees. Tender diffusely among lower cervical spine, particularly on the right side, in the paracervical muscles as well as the rhomboid muscles, very tenderness. Diffuse, no left-sided tenderness. Very minimal spinal tenderness but no gross deformity. DIAGNOSTIC STUDIES: X-ray of neck showed decreased curvature, little bit of difficult reading C1/C2 area.

A: Neck pain with associated muscle spasm, status post trauma. Some abnormalities on cervical spine as related above.

P: Soft collar, muscle relaxer. Rx Flexeril t.i.d., warned of drowsiness. Indocin SR 75 mg b.i.d., wait for radiology reading. Would rather her not work right now. Follow up in 4-5 days, will see how she is doing, sooner for any worsening or changing symptoms.

4120048.032

01

ICN: 4091242200046002 Scan Time: 05/02/2009 02:37PM Receive Date: 5/2/2009 Back Side: Blank

HAINES, KATHERINE 78648 FISHER/cmh 02/23/2009 J983140

S: The patient is a 47-year-old white female who comes in some neck and shoulder pain. This is a worker's compensation injury. See previous note. She is a little bit better. The Indocin made her somewhat drowsy. The Flexeril works pretty well. She is only sleeping 2-3 hours at night. She has a little more movement in her neck. There is no pain down her arms.

O: VITAL SIGNS: Blood pressure 130/82, weight 269. GENERAL: Appears well. NECK: Lacks about 10-20 degrees flexion, has rotation to the right about 50 degrees, rotation to the left about 40 degrees. Tender in the bilateral trapezius area. No specific point tenderness along spine. DIAGNOSTIC STUDIES. C-spine showed some chronic degenerative disk changes but no acute injury.

A: Neck strain with associated pain. Some improvement with medicines thus far.

P: Rx Sterapred double strength 12-day. Stop Indocin and continue Flexeril, except at night, take Valium 5 mg every h.s. x7 days (#7, no refill), set up for physical therapy. Follow up after physical therapy in a couple of weeks. Still no work until then. Follow up sooner p.r.n.

40911049600050.002

LEXINGTON FAMILY PRACTICE, L.L.C.

WORKMEN'S COMPENSATION FORM

Name: Katherine Haines

Today's Date:

Date of Injury: 2-12-09

Time of Accident:

How Accident Occurred: Shoulder-Neck Injury

Who Rendered First Treatment:

Where: Date:

Who Engaged Your Services:

Was Patient Hospitalized:

Describe Any Pre-Existing Condition:

Diagnosis: Neck; upper back pain

Treatment: Anti-inflam, muscle relax

Present Disability Resultant From Above:

Are Physical Restorative Services Indicated:

Vocational Rehab:

Date Able to Return to Work: [illegible]

Re Check: 5 days

Date of Discharge: 7913494

Permanent Injury:

X-Rays:

Employer: Dollar Tree - [illegible]

5500 Forest Dr Cola SC 29206

[illegible]

Lexington Family Practice
West Columbia

Name: Katherine Haines   Nickname:

Chart Number: 78648   Date of Birth: [redacted]

PCN

Date	Temp	P/RR	BP	Ht/Wt	Chief Complaint	Pain	Initial
2-18-09 (F)	AF		130/84	265.6	(4.1) WC- Neck / shoulder injury (2/12/09)	Yes	
					x-ray C-spine 99-6210A	Yes	
2/23/09	(P)		130/88	269.4	(4T) f/up W/ comp (Neck / shoulder	Yes	
2-25-09	sched appt pt need PT for Neck / shoulder					Yes	
	she under W/C so, explain she will need to					Yes	
	contact case mgmt [illegible] then we will fax					Yes	
	the order \ 3x wk x 2wks pt is aware					Yes	
3/2/09	Rx Flexeril 10 mg i TID prn #30 c ØRF					Yes	F/DH
	RN Valium 5 mg i q hs prn #7 c ØRF					Yes	Easton 939-8489
						Yes	
						Yes	
						Yes	
						Yes	
						Yes	
						Yes	

04

Moore Orthopaedics
104 Saluda Pointe Drive
Lexington, South Carolina 29072
(803) 227-8000 Phone / (803) 227-8015 Fax

March 4, 2009 **Katherine Hines 245007** **Lexington Office**

<u>HISTORY:</u> The patient is a 47-year-old female who is new to our clinic for a workmen's compensation claim. She injured her neck and upper back February 12th. She works at the Dollar Tree where she is a freight manager and she does a great deal of lifting on her job. She was pulling out a 4' metal bin that weighed about 25 to 30 pounds and it fell onto her. Later that day she felt a pop in her neck and she states that she "saw stars". She had severe pain. She was treated initially by a workmen's compensation provider. They gave her Flexeril and Indocin as well as Valium for muscle spasms at night. She has not been to physical therapy.

<u>PAST MEDICAL HISTORY:</u> Past medical history, surgical history, family history, social history, medications, allergies and comprehensive review of systems are noted in the medical history intake form. Please see scanned document dated today.

<u>EXAMINATION:</u> On physical exam, she is a pleasant white female who is non-toxic appearing. She is noted to be overweight. On evaluation of the neck, she is noted to have significant pain with range of motion especially with chin-to-the-chest. There is significant guarding there. When she extends her head it is also painful. She has limited to chin-to-right-shoulder and ear-to-right shoulder as compared to the left shoulder. She describes the pain in the right posterior neck and the right trapezius region with these activities. She has pain down the midline spine in the C4 through C6 region. She has right paraspinal muscle pain and right trapezius muscle pain. She has normal sensation down the arms although when I did a Tinel's test she had no symptoms. On Phalen's test she had severe shooting pain that shot all the way up to her scapula per her report. She had brisk capillary refill. 2+ radial pulses bilaterally on each side. Normal range of motion of the elbow and the shoulders. There is some guarding with range of motion on the right side.

<u>RADIOGRAPHS:</u> X-ray studies, four views of the cervical spine, show degenerative disc disease at C4-C5 and C5-C6 with right sided neuroforaminal impingement due to osteoarthritis, spurring and degenerative disc disease combination.

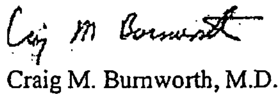
<u>ASSESSMENT:</u> 1. CERVICALGIA

<u>PLAN:</u> The patient will be sent to physical therapy three times a week for four weeks. We will see how she responds with completion of therapy. She was given Ultram 50 mg. tablets one to two every six hours while off duty for breakthrough pain. She was given a light duty profile for no overhead work or lifting greater than 10 pounds. We will see how she does over the next four to six weeks once we get the PT approval and it is completed, I will see her back. She understands the plan of care. It is important to note on a side note that she has significant Phalen's test in the right hand that is suggestive of carpal tunnel syndrome and

Continued

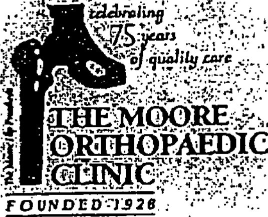
Moore Orthopaedics
104 Saluda Pointe Drive
Lexington, South Carolina 29072
(803) 227-8000 Phone / (803) 227-8015 Fax

<u>PLAN:</u> **(continued)** her response to that test was very significant. She may in fact have some carpal tunnel syndrome that would be best tested with a nerve conduction study of the right wrist. She understands this and she will discuss it with her workmen's compensation carrier or come back on her own insurance for evaluation for that.



Craig M. Burnworth, M.D.

CB:ats28
DD: 03/04/09 DT: 03/05/09



John P. Batson, M.D., FAAP
Youth Sports Medicine Specialist & Board Certified General Pediatrics & Sports Medicine
Kim J. Chillag, M.D.
Total Hip & Total Knee Replacement
William T. Felmly, M.D.
Spine Surgery
David B. Fulton, M.D.
Hand, Upper Extremity Surgery & General Orthopaedics

S. Wendell Holmes, Jr., M.D.
Sports Medicine, Arthroscopy & General Orthopaedics
William H. Kirkley, M.D.
General Orthopaedics
Mark D. Locke, M.D., FAAP
Pediatric Orthopaedics
Earl B. McFadden, Jr., M.D.
Hand & Upper Extremity Surgery

Frank K. Noojin, III, M.D.
Sports Medicine, Arthroscopy & General Orthopaedics
Bradley P. Presnal, M.D.
Total Joint Replacement, Arthroscopy & General Orthopaedics
W. Alaric Van Dam, M.D.
Musculoskeletal Medicine & Electrodiagnostics

REPORT OF MEDICAL EXAMINATION

KATHERINE HINES
Employee's Name

[REDACTED]
Social Security Number

SPECIALTY RISK SERVICES
Employer/Carrier

03/04/2009
Date of Office Visit

CRAIG BURNWORTH, MD
Physician/Provider

C M Burnworth
Signature of Physician

RETURN TO WORK STATUS:

Regular Duties ____
Light Duties X
Remain Out of Work ____

Date to Return: ____
Date to Return:
Duration: ____

PHYSICAL LIMITATIONS:

None
____ No Walking or climbing
____ No standing
____ No prolonged standing
____ No sitting
____ No bending or stooping
____ No twisting or stretching
____ No change from previous status

____ Pushing and pulling limit ____ lbs.
X Lifting and carrying limit 10 lbs.
____ Sedentary duties only
____ No kneeling, squatting, crawling
____ No work involving ____ arm/hand
X No overhead work
____ No work at heights
____ Other: ____

FOLLOW UP:

____ Days
____ Weeks
____ Discharged with permanent limitations above
____ Next Appointment: after P.T.

____ Months
____ PRN

Copy of office note to follow.

14 Medical Park • Suite 200 • Columbia, South Carolina 29203 • (803) 227-8000
7033 St. Andrews Road • Suite 104 • Columbia, South Carolina 29212 • (803) 227-8003
4721A Sunset Blvd • Lexington, South Carolina 29072 • (803) 227-8007

Name: **Hines, Katherine**
Acct#: **245007**
Date: **3/4/2009**

The Moore Orthopaedic Clinic

Craig M. Burnworth, M.D.

Prescription for: [X] PT [ ] OT

Preferred Location: ______________________ Attn: ______________

Date: ______________

Ordering Physician: Craig, M. Burnworth, M.D.

Patient's Name: Hines, Katherine

Diagnosis: Cervicalgia, Deg. Disc Disease C4-5, C56

Treatment Frequency: 3 times/wk or ______ instructional visit(s).

Treatment Duration: 4 weeks.

Precautions / Limitations: ______________________

Instructions:

- [X] Evaluate and treat ______
- [ ] Edema control ______
- [X] ROM/strength ______
- [X] Flexibility ______
- [X] Modalities
  - ____ US/phono/ionto
  - ____ E-Stim
  - ____ TENS
  - ____ ICE massage/packs
  - ____ Hot Packs
  - ____ Massage/mobilization
  - X Choice
- [ ] Other: ______________
- [ ] Sport/Activity reconditioning
- [X] Home exercise/rehab. Program

Specifics:

- [ ] Back
  - – Core stabilization / strength
  - – Neutral spine position
- [X] Neck Isometrics
- [ ] Shoulder
  - – RC strength
  - – Scapular stabilization
- [ ] Intrinsic hand strength / 6 pack exercise
- [ ] Knee
  - – VMO strength (SLR, quad sets, terminal extensions)
- [ ] Ankle
  - – Inversion/eversion strengthening
- [ ] Other: ______________

Physician signature: CMBurnworth ______________ Date: 3/4/09

Craig M. Burnworth, M.D.

Please send/fax periodic and di - 123 - *reports to the above physiciar* 08

Moore Orthopaedics
104 Saluda Pointe Drive
Lexington, South Carolina 29072
(803) 227-8000 Phone / (803) 227-8015 Fax

April 16, 2009 **Katherine Haines 245007** **Lexington Office**

HISTORY: The patient is a 47-year-old female here for evaluation of neck pain and thoracic back pain. She was hit by a number of heavy bins in her back on February 12, 2009. She has just nearly completed physical therapy and she has had no significant improvement in her neck pain per her report. She still has significant decreasing range of motion and severe pain. She has been taking Advil during the day and Ultram at night. She has been working light duty at Dollar Tree as a stocker. She has no other complaints today that are new, except for a severe pain between her shoulder blades.

PAST MEDICAL HISTORY: Past medical history, surgical history, family history, social history, medications, allergies and comprehensive review of systems are unchanges from her precvious medical history intake form.

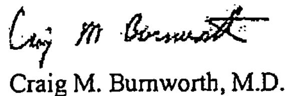
PHYSICAL EXAMINATION: She is a well developed, well nourished, white female who is overweight. Evaluation of her back shows she has pain in her midline thoracic spine and bilateral rhomboid and trapezius muscles. She has very limited range of motion of her neck with neck stiffness and she does not want to rotate her head from left to right. She tracks me more with her eyes and appears very stiff and uncomfortable. She has paraspinal muscle pain of her neck.

RADIOGRAPHS: X-ray studies, two views of her thoracic spine, show no boney abnormalities.

ASSESSMENT:

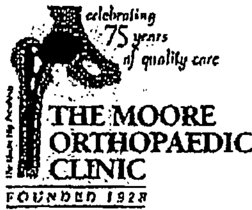
1. CERVICALGIA
2. THORACIC BACK PAIN

PLAN: We will get an MRI of her cervical spine, see if there are any abnormalities and refer her to pain management to consider treatments if positive. The patient's thoracic back pain, I think, is related to spasm. I recommended Flexeril 10 mg every eight hours as needed for muscle spasm while off duty. She was given Mobic 15 mg daily to try for pain during the day and Ultram for at night. We will see her back after the MRI once it is approved and completed. The patient also complained of carpal tunnel type symptoms and I discussed with her to mention that to her case manager. I will see her as needed with that. The patient understands the plan of care.



Craig M. Burnworth, M.D.

CB:ats33
DD: 04/16/09, DT: 04/17/09



John P. Batson, M.D., FAAP
Youth Sports Medicine Specialist & Board Certified General Pediatrics & Sports Medicine
Kim J. Chillag, M.D.
Total Hip & Total Knee Replacement
William T. Felmly, M.D.
Spine Surgery
David B. Fulton, M.D.
Hand, Upper Extremity Surgery & General Orthopaedics

S. Wendell Holmes, Jr., M.D.
Sports Medicine, Arthroscopy & General Orthopaedics
William H. Kirkley, M.D.
General Orthopaedics
Mark D. Locke, M.D., FAAP
Pediatric Orthopaedics
Earl R. McFadden, Jr., M.D.
Hand & Upper Extremity Surgery

Frank K. Noojin, III, M.D.
Sports Medicine, Arthroscopy & General Orthopaedics
Bradley P. Presnal, M.D.
Total Joint Replacement, Arthroscopy & General Orthopaedics
W. Alaric Van Dam, M.D.
Musculoskeletal Medicine & Electrodiagnostics

REPORT OF MEDICAL EXAMINATION

KATHERINE HAINES
Employee's Name

[redacted]
Social Security Number

SPECIALTY RISK SERVICES
Employer/Carrier

04/16/2009
Date of Office Visit

CRAIG BURNWORTH, MD
Physician/Provider

CM Burnworth
Signature of Physician

RETURN TO WORK STATUS:

Regular Duties	____	Date to Return:	____
Light Duties	X	Date to Return:	____
Remain Out of Work	____	Duration:	____

PHYSICAL LIMITATIONS:

____ None
____ No Walking or climbing
____ No standing
____ No prolonged standing
____ No sitting
____ No bending or stooping
____ No twisting or stretching
____ No change from previous status

X Pushing and pulling limit 10 lbs.
X Lifting and carrying limit 10 lbs.
____ Sedentary duties only
____ No kneeling, squatting, crawling
____ No work involving ____ arm/hand
X No overhead work
____ No work at heights
X Other: Case manager to call supervisor to review light duty profile.

FOLLOW UP: *patient can only work 1/2 days; advance as tolerated.

____ Days
____ Weeks
____ Discharged with permanent limitations above
____ Next Appointment: ____

____ Months
____ PRN

Copy of office note to follow.

14 Medical Park • Suite 200 • Columbia, South Carolina 29203 • (803) 227-8000
7033 St. Andrews Road • Suite 104 • Columbia, South Carolina 29212 • (803) 227-8003
4721A Sunset Blvd • Lexington, South Carolina 29072 • (803) 227-8007

To: Dr. Burnworth

From: Judith E. Schmid

Re: Employer: Dollar Tree Stores
Employee: Katherine L. Haines
Claim No: YYC07510C
Date of Loss: 2/12/2009

Your assistance is requested with regards to the **patients' physical capabilities and limitations** to assist the employer in providing light duty to the patient. Please check all fields that apply.

☐ Patient is released to light duty effective: 4/16/09 through ________. 1/2 days.
☐ Patient is released to full duty effective: ________.

General
- ☐ Ground level work only
- ☐ No hazardous machinery operation or vehicle driving
- ☑ Sedentary work only
- ☐ No prolonged standing/walking/sitting
- ☐ Allow to elevate ______ (extremity) _____ times per day
- ☐ Allow employee to sit/stand as needed
- ☑ Number of hours per day employee can work 4

Back/Neck
- ☑ No heavy lifting/pushing/pulling over 10 lbs.
- ☐ Avoid excessive bending or twisting of neck/back

Skin/Respiratory
- ☐ Keep__________ clean and dry
- ☐ Avoid skin irritants/solvents
- ☐ Clean atmosphere
- ☐ Avoid dust/mist/vapors

Upper Body
Side affected; ☐ Left ☐ Right
- ☑ No work at or above shoulder level
- ☐ No repetitive use hand/wrist
- ☐ Limited grip/squeeze/hand/wrist
- ☑ Limited push/pull/lift with arm over 10 lbs.
- ☐ No use hand/arm
- ☐ No use of vibrating hand tools
- ☐ No climbing

Lower Body
- ☐ No kneeling
- ☐ No climbing
- ☐ No squatting
- ☐ No prolonged standing/walking
- ☐ Elevate leg ☐ left ☐ right

Next Visit will be on: after therapy

Additional Comments: _Please elaborate on progression of number of hours per day she can work_

Physician Signature: [signature] **Date:** 5/6/09

Please fax completed form to: Judith E. Schmid as soon as possible. Thank you.
Fax #: (860) 756-8455

Moore Orthopaedics
104 Saluda Pointe Drive
Lexington, South Carolina 29072
(803) 227-8000 Phone / (803) 227-8015 Fax

May 19, 2009 **Katherine Haines 245007** **Lexington Office**

HISTORY: The patient is a 47-year-old female here for follow-up and evaluation of neck pain with decreased ROM and severe pain. She also describes some tingling down her arms. She states that she is still frustrated she is not able to move her neck very well. No other new complaints today.

PHYSICAL EXAMINATION: On physical exam, overweight, white female, nontoxic appearing. She has a very limited ROM with her neck. Significant pain in the posterior neck. She still feels some tingling on her forearms and in her hands.

RADIOGRAPHS: On review of her MRI images she has severe canal stenosis at C4-C5 as well as C5-C6 with bilateral neuroforaminal impingement.

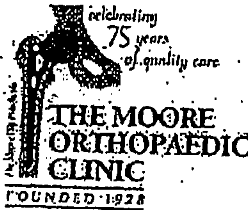
ASSESSMENT:

1. CERVICALGIA
2. CERVICAL STENOSIS
3. RADICULOPATHY

PLAN: I recommended consult to pain management to consider lumbar epidural steroid injection and take over care to try to improve her symptoms. If they cannot get her improvement then she would like for me to refer her to orthopaedic spine or neurosurgery for further treatment with this severe canal stenosis. There is nothing further I have to offer her at this point now that we have this diagnosis. She has failed conservative management and I recommend transfer of her care. The patient understands the plan of care.

Craig M. Burnworth, M.D.

CB: ats32
DD: 05/19/09, DT: 05/20/09



John P. Batson, M.D., FAAP
Youth Sports Medicine Specialist & Board Certified General Pediatrics & Sports Medicine
Kim J. Chilling, M.D.
Total Hip & Total Knee Replacement
William T. Felmly, M.D.
Spine Surgery
David B. Fulton, M.D.
Hand, Upper Extremity Surgery & General Orthopaedics

S. Wendell Holmes, Jr., M.D.
Sports Medicine, Arthroscopy & General Orthopaedics
William H. Kirkley, M.D.
General Orthopaedics
Mark D. Locke, M.D., FAAP
Pediatric Orthopaedics
Earl B. McFadden, Jr., M.D.
Hand & Upper Extremity Surgery

Frank K. Noojin, III, M.D.
Sports Medicine, Arthroscopy & General Orthopaedics
Bradley P. Presnal, M.D.
Total Joint Replacement, Arthroscopy & General Orthopaedics
W. Alaric Van Dam, M.D.
Musculoskeletal Medicine & Electrodiagnostics

REPORT OF MEDICAL EXAMINATION

KATHERINE HAINES
Employee's Name

[redacted]
Social Security Number

SPECIALTY RISK SERVICES
Employer/Carrier

06/10/2009
Date of Office Visit

CRAIG BURNWORTH, MD
Physician/Provider

CM Burnworth
Signature of Physician

RETURN TO WORK STATUS:

Regular Duties ____
Light Duties X
Remain Out of Work ____

Date to Return: ____
Date to Return: ____
Duration: ____

PHYSICAL LIMITATIONS:

None
____ No Walking or climbing
____ No standing
____ No prolonged standing
____ No sitting
____ No bending or stooping
____ No twisting or stretching
____ No change from previous status

____ Pushing and pulling limit ____ lbs.
X Lifting and carrying limit 0 lbs. (L) arm
X Sedentary duties only
____ No kneeling, squatting, crawling
____ No work involving ____ arm/hand
X No overhead work
____ No work at heights
____ Other: ____

FOLLOW UP:

____ Days
____ Weeks
____ Months
____ PRN
____ Discharged with permanent limitations above
X Next Appointment: after MRI

Copy of office note to follow.

14 Medical Park • Suite 200 • Columbia, South Carolina 29203 • (803) 227-8000
7033 St. Andrews Road • Suite 104 • Columbia, South Carolina 29212 • (803) 227-8003
4721A Sunset Blvd • Lexington, South Carolina 29072 • (803) 227-8007

LIGHT DUTY PHYSICAL DEMANDS ANALYSIS

Claimant's Name: KATHERINE HAINES

Claim Number: YYC C 13328

Job Title: Assistant Manager

Date of Injury: 6/3/2009

I. How many hours per day is the employee required to: Sit _7_ Stand __ Walk _1_ Drive __

II. How often during the workday does the employee have to Lift/Carry, Push/Pull:

	Never	Occasionally	Frequently	Constantly	LEFT	RIGHT
		(0-33%) 1-3 Hour	(34-66%) 4-6 Hour	(67-100%) 6-8 Hour	ARM	
1 – 10 lbs.						
11 – 20 lbs.			X			
21 – 50 lbs.					N/A	X
51 – 100 lbs.						
over 100 lbs.	X					

III. How often must the employee perform the following tasks? (N=Never, O=Occas, F=Freq, C=Const, N/A=Does not apply at this time)

Climbing	N/A	Crouching	F	Bending	C
Balancing	N/A	Crawling	O	Overhead lifting	N/A
Stooping	F	Reaching	F	Work on ladders	N/A
Kneeling	F	Handling	F	Fine Manipulation	O
Grasping	F	Feeling	F		

IV. Is repetitive use of the feet required? Right foot: yes _X_ no ___ Left foot: yes _X_ no___

V. Any exposure to: temperature extremes____ excessive noise____ inhalants____ chemicals____

VI. Please check the degree of work this position requires an individual to perform. Vol. II/Dictionary of Occupational Titles, pages 654-655 published by the US Dept of Labor (3rd ed. 1965) classifies 5 degrees of work in terms of strength required:

_X_ Sedentary Work: Lifting 10 lbs. maximum and occasionally lifting/carrying such articles as dockets, ledgers and small tools. Involves a certain amount of time sitting, a certain amount of walking and standing is often necessary in carrying out job duties. Jobs are sedentary if walking or standing are required only occasionally.

____ Light Work: Lifting 20 lbs. maximum with frequent lifting/carrying of objects weighing up to 10 lbs. Even though the weight lifted may be only a negligible amount, a job is in this category when it involves sitting most of the time with a degree of pushing and pulling of arm/leg controls, or when it requires walking or standing to a significant degree.

____ Medium Work: Lifting 50 lbs. maximum with frequent lifting/carrying of objects weighing up to 25 lbs.

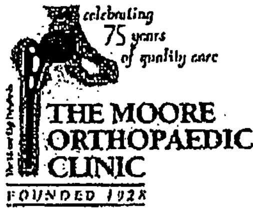
____ Very Heavy Work: Lifting objects in excess of 100 lbs. with frequent lifting/carrying of objects weighing 50 lbs. or more.

VII. Are you able to accommodate transitional duty? Yes.

Signed: CARRIE WHITE Title: CLAIMS SPECIALIST Date: 6/11/09

Craig Bennett

6/15/09 pt reported she was being assigned to work register which does not sound like this - if not this looks OK.



John P. Batson, M.D., FAAP
Youth Sports Medicine Specialist & Board Certified General Pediatrics & Sports Medicine
Kim J. Chiling, M.D.
Total Hip & Total Knee Replacement
William T. Felmly, M.D.
Spine Surgery
David B. Fulton, M.D.
Hand, Upper Extremity Surgery & General Orthopaedics

S. Wendell Holmes, Jr., M.D.
Sports Medicine, Arthroscopy & General Orthopaedics
William H. Kirkley, M.D.
General Orthopaedics
Mark D. Locke, M.D., FAAP
Pediatric Orthopaedics
Earl B. McFadden, Jr., M.D.
Hand & Upper Extremity Surgery

Frank K. Noojin, III, M.D.
Sports Medicine, Arthroscopy & General Orthopaedics
Bradley P. Presnal, M.D.
Total Joint Replacement, Arthroscopy & General Orthopaedics
W. Alaric Van Dam, M.D.
Musculoskeletal Medicine & Electrodiagnostics

REPORT OF MEDICAL EXAMINATION

KATHERINE HAINES
Employee's Name

[redacted]
Social Security Number

SPECIALTY RISK SERVICES
Employer/Carrier

06/25/2009
Date of Office Visit

CRAIG BURNWORTH, MD
Physician/Provider

C M Burnworth
Signature of Physician

RETURN TO WORK STATUS:

Regular Duties ____
Light Duties X
Remain Out of Work ____

Date to Return: ____
Date to Return: ____
Duration: ____

PHYSICAL LIMITATIONS:

____ None
____ No Walking or climbing
____ No standing
____ No prolonged standing
____ No sitting
____ No bending or stooping
____ No twisting or stretching
____ No change from previous status

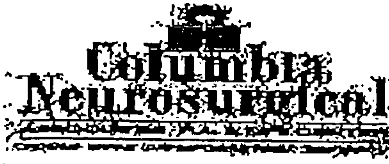
____ Pushing and pulling limit ____ lbs.
____ Lifting and carrying limit ____ lbs.
____ Sedentary duties only
____ No kneeling, squatting, crawling
____ No work involving ____ arm/hand
____ No overhead work
____ No work at heights
____ Other: See attached

FOLLOW UP:

____ Days
____ Weeks
____ Months
____ PRN
____ Discharged with permanent limitations above
____ Next Appointment: See Dr Lembo for further treatments

Copy of office note to follow.

14 Medical Park • Suite 200 • Columbia, South Carolina 29203 • (803) 227-8000
7033 St. Andrews Road • Suite 104 • Columbia, South Carolina 29212 • (803) 227-8003
4721A Sunset Blvd • Lexington, South Carolina 29072 • (803) 227-8007



Northeast MRI Center
720 Rabon Road
Columbia 29203
Phone: (803)462-0423

Name:	KATHERINE HAINES	Exam Date:	5/8/2009
Patient ID:	CN87009	Exam:	MRI C-SPINE W/O CONTRAST
DOB:	[redacted]	Reason:	-
Phone:		Referrer:	CRAIG BURNWORTH, M.D.
Acc#:	42139	Referrer 2:	Assoc. Columbia Neurosurgical

Results

MRI OF THE CERVICAL SPINE

COMPARISON: No previous.

HISTORY: Neck pain radiating into right shoulder and down arm with tingling and numbness.

TECHNIQUE: Multiplanar multisequence imaging of the cervical spine was performed, without contrast.

FINDINGS: The brainstem and cerebellum appear unremarkable. No abnormal cervical cord signal is seen. There is loss of cervical lordosis. No paraspinous masses are demonstrated.

The C2-C3 level is unremarkable.

The C3-C4 level demonstrates a mild diffuse disc bulge. No central canal stenosis or neuroforaminal stenosis is seen.

The C4-C5 level demonstrates endplate changes. There are bilateral paracentral and foraminal disc/osteophyte complexes, right greater than left. There is flattening of the cord and severe central canal stenosis. Foraminal stenosis is severe bilaterally.

The C5-C6 level demonstrates a diffusely bulging disc with associated osteophytes. There is flattening of the cord with resultant moderate to severe central canal stenosis. Severe foraminal stenosis is present.

The C6-C7 level demonstrates a mild diffuse disc bulge. No central canal stenosis or neuroforaminal stenosis is seen.

The C7-T1 level is unremarkable.

IMPRESSION:

1. Severe central canal stenosis and bilateral neuroforaminal stenosis at C4-C5 with no cord signal change.
2. Diffusely bulging disc with associated osteophytes at C5-C6 results in

moderate to severe central canal stenosis and severe bilateral foraminal stenosis.

Jason C. Lynn, M.D.
Radiologist
PITTS RADIOLOGY

Report Electronically Signed by: Jason Lynn M.D.
Report Signed on: 5/8/2009

Pt. Name:	KATHERINE HAINES	Exam:	MRI C-SPINE W/O CONTRAST
Patient ID:	CN87009	Acc:	42139
Completed Date:	5/8/2009 12:36:00 PM	Interpreting Rad:	Jason Lynn M.D.
Transcribed By:	Doris Gleaton	Dictated Date:	
Transcribed Date:	5/8/2009 4:05:52 PM	Finalized Date:	5/8/2009

MOORE
Orthopaedics

Open MRI
4721 Sunset Boulevard, Suite A
Lexington, SC 29072
Ph: (803) 227-8007
Fax: (803) 996-3180

PATIENT NAME:	KATHERINE HAINES
PATIENT NUMBER:	245007
DATE OF BIRTH:	[redacted]
REFERRING PHYSICIAN:	CRAIG M. BURNWORTH, M.D.
DATE OF EXAMINATION:	06/22/09

MRI OF THE LEFT SHOULDER.

TECHNIQUE: Left shoulder MRI examination was performed with multisequence multiplanar scans through the left shoulder.

INDICATION: Recent injury. Evaluate for rotator cuff tear.

FINDINGS: A type II acromion is present. No hypertrophic change at the AC joint.

No full-thickness rotator cuff tear. There is mild tendinopathy along the undersurface of the distal insertion posterior third of the supraspinatus tendon. There is also mild intrasubstance tendinopathy involving the anterior third critical zone of the supraspinatus tendon.

The superior labrum appears intact. The long head of the biceps tendon appears intact in the bicipital groove.

IMPRESSION: There is tendinopathy of the undersurface posterior third distal insertion of the supraspinatus tendon with some tendinopathy involving the central fibers of the critical zone anterior third of the supraspinatus as well. No full-thickness rotator cuff tear.

Lawrence R. Lough, M.D.
Radiologist
PITTS RADIOLOGY

LRL/dag

Signed and released electronically by: Lawrence R. Lough, M.D.
Date/Time: 6/23/2009 3:27 PM

Cervical Spine Evaluation

Name: Haines, Katherine ID: 245007 Date: 3/17/2009

Diagnoses: Cervicalgia, DDD C4-5, C 5-6. MD: Dr. Burnworth

Age: 47 Years DOB [redacted] DOI: Feb. 12, 2009 DOS: not applicable

Insurance: SPECIALTY RISK SERVICES

Pt Presents: c/o neck pain that increases with movement especially side to side, c/o disturbed sleep,

Occupation: works at Dollar Tree as a Freight trainer, requires a lot of lifting, up/down ladder, 8 hours, 10-25# floor to OH

PMH: CHF, COPD, Hept C, CVA left side Allergies: Penicillin

Pain: (0-10): 5 ½ -6 Medications: see Moore clinic medical history section of chart,

Cause of injury: injured at work, patient was pulling shelves out and between, 25-30# of bins fell on her

Symptoms increase: with neck motion Symptoms decrease: if neck is still

Pt: goals: To have decrease c/o pain, to have normal neck motion, to be abel to do normal work at home and at work.

A/PROM

Cervical Flexion: 14 Cervical Extension: 20

Lateral Flexion: right: 20 left: 26 Rotation: right: 30 left: 43

Thoracic: flexion: limited, ext: limited. Thor Rot: right: decreased less than midline, left: to midline

Sensation: light touch present in bilateral UE. Reflexes: not tested.

Palpation: TTP: cervical paraspinal, upper trap,

Posture: forward shoulders, depressed shoulders, sits really guarded, not wanting to move neck.

Special Test: with gait, sitting, and transfers patient is very guarded and tries to keep head still

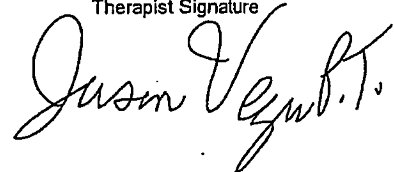
Assessment (please refer to goal sheet or POC: Problem list: pain, decrease ROM, decrease strength, decrease function.

Plan: Pt to attend Physical Therapy 3 times per week for 4 weeks for treatment to include

X ROM/stretching, strengthening, manual therapy procedures, modalities(ES, US, phono, ionto, heat, ice) as indicated, and patient education in a home exercise/home care program.

Cervical exercises, ROM, stretching, postural education,

Jason Vega PT
Therapist Signature



Name: **Haines, Katherine**
Acct#: **245007**
Date: **4/3/2009** Age: **47 Years**

healthtouch

PROGRESS NOTES

DATE	PATIENT NAME		PATIENT ACCT #	PHYSICIAN
4/3/2009	Haines, Katherine		245007	Dr. Burnworth
DIAGNOSIS	DOS	TREATMENTS ATTENDED		TREATMENTS MISSED
Cervicalgia DDD, C4-5, C5-6	N/A	8		

SUBJECTIVE: Pain 7-8/10 usually, goes higher to 9-10/10 esp. when @ work on register. Still having to lift heavy objects when there is no help around.

OBJECTIVE: Continues to turn whole body when looking to right or left. No cervical ↑'d rotation, very little flexion and ext. Tolerated performing light wgt exs.

ASSESSMENT / GOALS: No significant Δ in sx's. Very TP on upper trap. and levator, also along cervical from C4 to T4 region. Have tried US which gives some short term carryover for < 2hrs.

PLAN: CONTINUE______x/week for ______ weeks cont. c̄ current script.

THERAPIST SIGNATURE: Mary [signature], LPTA Date: 4/3/09

COMPLETED BY PHYSICIAN: PLEASE SIGN AND RETURN ORIGINAL COPY

______ I have no revisions to this Plan of Care.
______ Revise Plan of Care as follows: ____________________

PHYSICIAN SIGNATURE: ____________________ DATE: __________

Name: Haines, Katherine
Acct#: 245007
Date: 4/14/2009 Age: 47 Years

PROGRESS NOTES

DATE	PATIENT NAME	PATIENT ACCT #	PHYSICIAN
4/14/2009	Haines, Katherine	245007	Dr. Burnworth

DIAGNOSIS	DOS	TREATMENTS ATTENDED	TREATMENTS MISSED
Cervicalgia + DDD	N/A	11	

SUBJECTIVE: c/o pain upper back, neck + shoulder pain (R) of a constant 6. states has 70% function in (R) vs (L) shoulder. states burning, numbness, "prickly", knife into upper neck. states has grinding noise when moves neck. At work trouble lifting "bags or heavy items."

OBJECTIVE: At work - "light duty" no more 10#, nothing overhead.

ROM cervical Flexion: 30°
ext: 15°
Sidebend: 25 (R) 40 (L)
Rotation: 26 (R) 31 (L)
Strength grip: 54 (R) 82 (L) (R) handed

ASSESSMENT / GOALS: therapy does not seem to be helping much c̄ pain level.

PLAN: CONTINUE X x/week for X weeks 2° P.T. not helping, back to MD or D/C.

THERAPIST SIGNATURE: Jason Vega PT Date: 4-14-09

COMPLETED BY PHYSICIAN: PLEASE SIGN AND RETURN ORIGINAL COPY

_______ I have no revisions to this Plan of Care.
_______ Revise Plan of Care as follows: ________________________

PHYSICIAN SIGNATURE: ____________________ DATE: __________

Name: Haines, Katherine
Acct#: 245007
Date: 7/16/2009 Age: 47 Years

W/C 12 Auth

Dr. Lembo.

Surgery Date: N/A
Diagnosis: C-spondylosis / MFP

EXERCISE	SETTING	Sets X Repetitions @ Resistance DATE: (1) 7-16	DATE: (2) 7-20-09	DATE: (3) 7-24-09	DATE: (4) 7-27-09	DATE: (5) 7-29-09	DATE: (6) 7-31-09	DATE: (7) 8-3-09
Initial Evaluation		✓	~	~	~	~	~	~
Set-up c̄ TENS		✓	~	~	~	~	~	~
UBE		3/3	3/3	3/3	3'/3'	4'/4'	4'/4	4'/4'
Shrug		5# 20x	5# 20x	5# 20x	5# 20x	5# 20x	3# 20x	3# x 30
Rows		Gr 20x	GR 20x	GR 20x	Gr 20x	GR 20x	GR 20x	GR x 20
Lat pull		Gr 20x	GR 20x	GR 20x	Gr 20x	GR 20x	GR 20x	↓
shoulder pulley		X	✓	✓	✓	✓	✓	✓
Corner stretch		X	3x20"	✓	✓	✓	✓	✓
Scalene stretch		X		Pt 3x15"	✓	✓	✓	4x20"
wall-press						Push-up + 5x	—	
SA-press			Red 3x10	Red 3x10	Red 3x10	Red 3x10	Yellow 3x10	yellow (B) 3x10 YTB (R)
Prone UE/LE			10x	—	—	—	—	
Supine retraction/Rot	Cervical			20x	✓	✓	✓	✓
Finger walks	(B)			2x	2x	3x	3x	x3
Shoulder Add.					(L) 15x 2# (R) 9x P!	YTB 20x (B)	YTB 20x (L)	YTB 3x10
Prone	V, EXT,					(R) Horz Add	10x	x15
Prone shld ext								x15

The Sports Rehab Center
at
The Moore Orthopaedic Clinic

Daily Note

Name: Haines, Katherine
ID #: 245007

Time: 2:09–
# of visits: one

S: SEE INITIAL EVALUATION

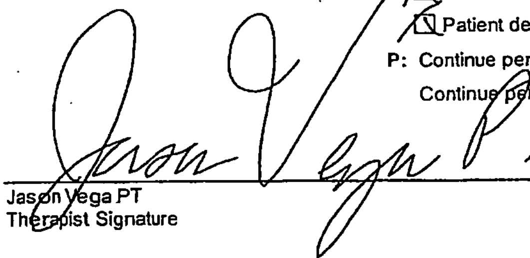
O:
☒ Ther Ex per flow sheet and all modalities
Today's treatment: initial evaluation, ther exercise to strengthening the scapular and cervical region, set-up with home tens, given home tens.

☐ See Progress Notes

☒ Charges:
Evaluation x 1
THer exer x 2

A: cooperative, motivated, seemed to understand home TENS

☒ Tolerated treatment well
☒ Patient demonstrated understanding of HEP
P: Continue per POC: ~~use~~ home tens, return for skilled PT in clinic
Continue per MD Orders



Jason Vega PT
Therapist Signature

Date: 7/16/2009

The Sports Rehab Center
at
The Moore Orthopaedic Clinic

Daily Note

Name: Haines, Katherine
ID #: 245007

Time: 2:00-3:00
# of visits: 10/12

☐ See Progress Notes

☒ Charges:
Therex X 3

S: I am having more pain, now under my arm and some down in my right leg/foot. I go to MD tomorrow.

O:
☒ Ther Ex per flow sheet and all modalities
Strengthening and ROM ex's for cervical and right UE. Pt. limping on the RLE and has her heel off the floor d/t c/o pain.

CP to right upper thoracic in prone x 15 min

A: Pt. reports inc. pain in RUE and now in RLE as well. Tolerated treatment fair today. Still c/o having a lot of pain on right side from neck to shoulder.

☒ Tolerated treatment well
☐ Patient demonstrated understanding of HEP

P: Continue per POC:
Continue per MD Orders

Mary L Perry LPTA
Therapist Signature

Date: 8/12/2009

Name: Haines, Katherine
Acct#: 245007
Date: 8/6/2009 Age: 47 Years

MD 11:15

PROGRESS NOTES

DATE	PATIENT NAME	PATIENT ACCT #	PHYSICIAN
8/6/2009	Haines, Katherine	245007	Dr. Lembo

DIAGNOSIS	DOS	TREATMENTS ATTENDED	TREATMENTS MISSED
cervical spondylosis/MFP	N/A.	8	Ø

SUBJECTIVE: c/o pain of 8 neck + shoulder blade (R) > (L)
States feels 50% functionally.
most painful activities – cervical rotation; lifting.
disturbed sleep. Does get relief c TENS

OBJECTIVE: Cervical ROM Flexion: 28°
Ext: 25°
Rotation (R) 39°
(L) 38°
side bend (R) 32°
(L) 34°

ASSESSMENT / GOALS: Cooperative, works hard in P.T.
Still has deficits in: pain, ROM, + Function.
TENS seems to give some relief, but not long term

PLAN: CONTINUE 2 x/week for 4 weeks Continue skilled PT

THERAPIST SIGNATURE: Jason V[illegible] P.T. Date: 8-6-2009

COMPLETED BY PHYSICIAN: PLEASE SIGN AND RETURN ORIGINAL COPY

X I have no revisions to this Plan of Care.
___ Revise Plan of Care as follows: ___

PHYSICIAN SIGNATURE: [signature] DATE: 8/21/09

1800
541-0139
359998

The Sports Rehab Center
at
The Moore Orthopaedic Clinic

Daily Note

Name: Haines, Katherine
ID #: 245007

Time:
# of visits:

☐ See Progress Notes

☐ Charges:

S: **Today's appointment cancelled due to not W/C authorization for visit**

O:
☐ Ther Ex per flow sheet and all modalities

A:

☐ Tolerated treatment well
☐ Patient demonstrated understanding of HEP

P: Continue per POC:
Continue per MD Orders

Jason Vega PT
Therapist Signature

Date: 8/21/2009

The Sports Rehab Center
at
The Moore Orthopaedic Clinic

Daily Note

Name: Haines, Katherine

ID #: 245007

Time:

# of visits:

☐ See Progress Notes

☐ Charges:

S: Canceled appt. for today d/t waiting on authorization from WKC. Pt. to see the MD On Tuesday.

O:

☐ Ther Ex per flow sheet and all modalities

A:

☐ Tolerated treatment well

☐ Patient demonstrated understanding of HEP

P: Continue per POC:

Continue per MD Orders

Mary L. Perry, LPTA

Therapist Signature

Date: 8/24/2009

The Sports Rehab Center
at
The Moore Orthopaedic Clinic

Daily Note

Name: Haines, Katherine
ID #: 245007

Time: 7:30—8:10
# of visits: 16

☐ See Progress Notes

☒ Charges:
Ther exer 3

S: I was fired as a patient from Dr. Lembo. I failed a drug test.
I go see Dr. Felmly today at 8:30.
I am still having pain,

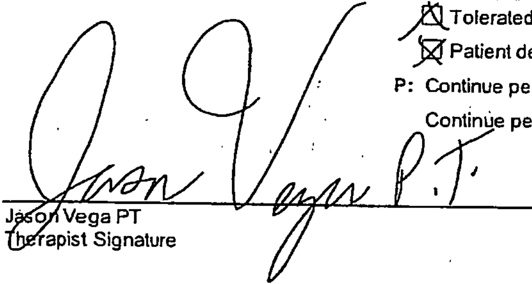
O:
☒ Ther Ex per flow sheet and all modalities
Today's treatment: strengthening and ROM exercises for the neck and upper back strength.

Total time in therapy: 40 minutes

A: cooperative, worked hard with PT

☒ Tolerated treatment well
☒ Patient demonstrated understanding of HEP

P: Continue per POC: to Dr. Felmly wait to see what he orders.
Continue per MD Orders



Jason Vega PT
Therapist Signature

Date: 9/15/2009

SOUTHEASTERN SPINE INSTITUTE

June 28, 2010

Joseph T. McElveen, Jr., Esquire
P.O. Box 2038
Sumter, SC 29151

RE: **HAINES, KATHERINE**
Patient #298970

Dear Attorney McElveen:

Today I had an opportunity to evaluate Ms. Katherine Haines. As you know, Ms. Haines is a 48-year old individual who presents with pain in her neck, right upper back, right shoulder area and down the right arm. The arm symptoms include numbness and electric shock sensations.

Ms. Haines relates the onset of these symptoms to a work incident that occurred February 12, 2009. Ms. Haines scribes that she was trying to get shelves from underneath a bin. It was about at eye level. She indicates that somehow a piece of shelving came out and hit into her neck and right upper back and shoulder area. This caused pain symptoms for which she has been evaluated and treated initially by Dr. John Fisher. Then she was subsequently seen and treated by Dr. Craig Burnworth primarily.

Ms. Haines indicates that the treatment included physical therapy and two injections and also the use of a TENS unit. Ms. Haines felt that she has gotten limited relief from these treatments. Ms. Haines indicates that she was also on a light-duty restriction. Ultimately, approximately six months ago, she was released back to regular work with the exception that she does not have to unload trucks.

Ms. Haines indicates that symptoms have actually been worsening over time, including the arm symptoms with the electric shocks and the numbness.

No prior history of similar symptoms or problems.

Ms. Haines generally otherwise considers herself to be healthy.
(continued)

1106 Chuck Dawley Blvd., Ste. 200 Mt. Pleasant, SC 29464 (843) 849-1551 Fax (843) 884-0629
1941 Savage Rd., Ste. 100-E Charleston, SC 29414 (843) 763-2720 Fax (843) 769-6022

SOUTHEASTERN SPINE INSTITUTE

On physical examination, Ms. Haines is pleasant and cooperative. She is a large woman. Her height is 6 feet and weight 270 Lbs. Examination reveals that there is tenderness over the neck and right upper back. I do not find any definite weakness or other definite neurologic deficit in the right upper extremity. Also, no weakness or evidence of neurologic deficit in the left upper extremity or lower extremities. There is some tendency to give way to resistance testing of the right arm, but that definitely seems secondary to pain. I cannot absolutely rule out neurologic deficit in setting of give way and guarding, however.

The most recent cervical MRI was done on 5/8/09. I have the report of that study. Also, there is a CD available, but we are unable to open that study. The report indicates disc bulging present at several levels, but noted on the report are C3-4, C5-6, and C6-7. At C4-5, endplate changes and also disc/osteophyte complexes are noted producing a flattening of the cord and severe canal stenosis and foraminal stenosis that is severe bilaterally.

There is an MRI report from an MRI scan of the shoulder done 6/22/09. The report indicates tendinopathy, distal third supraspinatus tendon.

Ms. Haines has pain in her neck, right upper back, right shoulder and right arm. The symptoms began as a result of a work injury that occurred on 2/12/09, according to Ms. Haines. Her symptoms have persisted since then and have been worse recently.

Ms. Haines is working on a regular basis at Dollar Tree. She indicates that she is doing all of her job with the exception of unloading trucks. Ms. Haines indicates that in unloading trucks it is fast paced and also requires heavier lifting. Ms. Haines indicates that she tries to limit her lifting to 20 Lbs or less. She does pretty well with that even though her symptoms have been generally increasing as noted above.

In my opinion, Ms. Haines is not at maximum medical improvement at this point. Her symptoms are increasing. She does have findings as noted on the MRI that was done a year ago. It is certainly reasonable that there may be a flare-up of her symptoms. There may even be structural worsening. In fact, as a first step I would recommend getting a new cervical MRI to make certain that there was not some structural worsening.

A new MRI of the shoulder may or may not be needed. We will get the MRI of the cervical spine first. If treatment of the shoulder is potentially needed, we will defer that to a shoulder specialist.

(continued)

1106 Chuck Dawley Blvd., Ste. 200 Mt. Pleasant, SC 29464 (843) 849-1551 Fax (843) 884-0629
1941 Savage Rd., Ste. 100-E Charleston, SC 29414 (843) 763-2720 Fax (843) 769-6022

In my opinion, Ms. Haines does need some treatment for the neck, even if only to attempt to calm her symptoms back down to baseline level. Specific treatment will depend on exactly what was found on the new MRI.

I suspect that Ms. Haines is going to remain with symptoms related to her neck longterm, even despite treatment, although ideally she would do better with treatment than she is doing right now.

I would prefer to defer assigning an impairment rating to a patient until they are at maximum medical improvement. Having said that, if I were defining an impairment rating at the present time for Ms. Haines, it would be in the 15% to 20% range.

As I was reviewing Ms. Haines' records, I noticed the functional capacity evaluation report. I have a couple of comments in that regard. There are notations by the evaluator that Ms. Haines gave submaximal effort. In that regard, I would comment that pain, even by itself, will cause submaximal effort. There is no test that will allow a person to truly gage capability in the presence of significant pain. Further, I understand that the entire length of this functional capacity evaluation test was five hours. As such, predicting an individual's work capacity beyond a five hour time frame is speculative at best. It has severe limitations predicting capabilities for 8hrs/day, 5 days/week, 50 week/year.

From my observation today, and admittedly it is only a one time evaluation of Ms. Haines, but I think the 20 Lbs. lifting restricting and having her avoid the more repetitive and more demanding unloading of trucks is very reasonable. Ms. Haines is a large woman. I think there is a tendency to assume that someone who is bigger can do more, even if they are hurt. That is not necessarily true.

Thank you for referring Ms. Katherine Haines for this independent medical evaluation. If I can be of further assistance, or If you have any questions or comments, please do not hesitate to call or write.

Sincerely,

Leonard E. Forrest, MD

LEF/ten.
T-6/29/2010

1106 Chuck Dawley Blvd., Ste. 200 Mt. Pleasant, SC 29464 (843) 849-1551 Fax: (843) 884-0629
1941 Savage Rd., Ste. 100-E Charleston, SC 29414 (843) 763-2720 Fax: (843) 769-6022

SOUTHEASTERN SPINE INSTITUTE

HAINES, KATHERINE
Patient #298970
DOB: [redacted]
October 17, 2011

CHIEF COMPLAINT: Neck pain and stiffness.

This patient is a 48-year old from Gaston, S.C. She is referred by her attorney for an independent medical evaluation. She is S/P a work injury of 2/12/09. At that time she describes that she was moving a piece of fencing from a shelf in the stock room. The shelf gave way, striking her in the neck and in the right shoulder neck region. She underwent nonoperative treatment and then ultimately had surgical intervention with Dr. Scott Boyd on 3/15/11. This surgery apparently included a two level fusion.

I have reviewed Dr. Boyd's operative report of 3/15/11 and indeed surgery was two level fusion at the 4-5 and 5-6 levels. He notes that the patient had degenerative changes including osteophytes in his operative report but also disc herniation which was more prominent on the right than left.

Unfortunately the patient feels that the surgery was not successful. She continues to have significant pain. She is taking Lortab 7.5mg 5-6 per day. She complaining of pain in the right side of her neck with radiation into the right shoulder blade area and pins and needles in the right arm to the thumb. Additionally she has some numbness into her right leg. She is particularly concerned about loss of motion of her neck particularly to the right side. She states she has been unable to rotate her neck to the right since the time of her accident. Prior to this she had low back problems, has not had any previous neck problems.

Her pain is currently 7/10. Her pain is made worse by any lifting, pushing or pulling. Her pain is made better lying on her back with two pillows under her head.

PAST MEDICAL HISTORY: Significant for cardiomyopathy. Mild congestive heart failure and mild COPD.

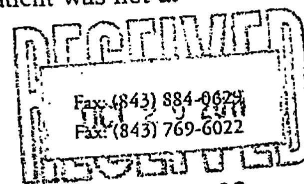
ALLERGIES: She is allergic to Penicillin.

She has worked as an assistant manager at Dollar Tree. She has been out of work since 7/11/11. At that time she was placed in a pain management program with Dr. Redmond for about 5 weeks. Her job requires processing freight, moving, loading box merchandise and stocking it onto the shelves.

The patient is accompanied by past medical records including independent medical evaluation done by Dr. Leonard Forrest from 6/28/10. He felt that the patient was not at maximum medical improvement at that time.

(continued)

1106 Chuck Dawley Blvd., Ste. 200 · Mt. Pleasant, SC 29464 · (843) 849-1551 · Fax (843) 884-0629
1941 Savage Rd., Ste. 100-E · Charleston, SC 29414 · (843) 763-2720 · Fax (843) 769-6022



SOUTHEASTERN SPINE INSTITUTE

HAINES, KATHERINE
Patient #298970
DOB: 11/25/1961
October 17. 2011
Page two

The patient's MRI scan done postoperatively from 8/15/11 is reviewed. I have reviewed the radiologist's report and the study itself. The patient has had a fusion done at 4-5 and 5-6. The patient does have a subtle disc protrusion C3-C4 but I don't think there is any significant compression into the area of the nerve or the spinal cord. I would not be worried about this level in regards to the need of surgery.

A functional capacity evaluation is done from 11/6/09. This was obviously before her surgery.

PHYSICAL EXAMINATION: On examination she is 6' 270 pounds. She is obviously uncomfortable and in pain. The range of motion of her neck is not fluid and she has limitations secondary to spasm and pain to the right with both lateral bending, rotation and extension. Because she is uncomfortable I did not bring her through a vigorous manual motor examination.

The patient admits that she is depressed. She is unhappy that she is continuing to have symptoms and feels that she would very much like to get back to her previous life and activities.

She is accompanied by past medical records from Dr. Craig Burnworth. I have reviewed his note of 6/10/09 and 5/19/09. Diagnoses include radiculopathy and cervical stenosis and he notes severe stenosis on the patient's MRIs at both 4-5 and 5-6. He referred the patient over to Nancy Lembo for pain management.

Dr. William Felmly's notes from 9/15/09 are reviewed also. He discharged her with no particular plan for treatment.

He released the patient per his 14-B record 9/15/09 at maximum medical improvement with no impairment. Nancy Lembo released the patient on 12/1/09 at maximum medical improvement with no restriction and no need for future medical treatment.

Dr. Scott Boyd's notes are reviewed including his note of 10/7/10. This was his first visit with the patient and he recommended surgical intervention by way of a two level cervical discectomy and fusion. He clarified his opinion in his March 2011 note and subsequently the patient did undergo surgical intervention 3/15/11 by way of a two level anterior fusion. His last note of 9/19/11 is reviewed also. At that time he reviewed the patient's updated cervical MRI of 8/15/11. He advised that she follow-up with a pain management specialist. He noted that she had almost a torticollis (torticollis type) neck position tilted to the left.

(continued)

1106 Chuck Dawley Blvd. Mt. Pleasant, SC ... (843) 849-1551 Fax (843) 884-0629
1941 Savage Rd., Ste. 100-E Charleston, SC 29414 (843) 763-2720 Fax (843) 769-6022

SOUTHEASTERN SPINE INSTITUTE

HAINES, KATHERINE
Patient #298970
DOB: 11/25/1961
October 17, 2011
Page three

IMPRESSION:

1. Chronic cervical pain S/P two level cervical fusion 4-5, 5-6.

RECOMMENDATIONS: I agree with Dr. Boyd reviewing the patient's postoperative MRI of 8/25/11, she has no indication for further surgery.

I would place her at maximum medical improvement. Per the Fifth Edition AMA Guides I would assign a twenty five percent, (25%) impairment to the whole person. I do not believe that she can return to her previous vocation. It is clear that she has severe limitation to motion of her neck. She would be qualified only to do sedentary work and unfortunately is taking a significant number of narcotics on a daily basis. I further agree with Dr. Boyd, her operating surgeon that she will need ongoing pain management in the future. She in my opinion would be a candidate for facet joint blocks and if these are successful, facet joint rhizotomy. She has had cervical epidural injections in the past, has not had her facet joints treated. She may also be a candidate for a spinal cord stimulator trial but I would leave that decision to the pain management treating physician.

She will need to see a pain management physician in the future every 1-2 months. For convenience I would recommend Dr. Ezra Riber in the Columbia area who could provide all of the above.

I do feel that there is a relationship between the length of time between this patient's injury and her subsequent surgical decompression, that period being over 2 years. To a reasonable degree of medical certainty I feel that she had an aggravation of a pre-existing degenerative condition. I would note the first orthopedic specialist who saw her, Dr. Burnworth, diagnosed cervical stenosis as well as cervical radiculopathy. Because there was over a two year period before surgical decompression occurred, I think that this time period is a likely factor explaining why the patient continues to be symptomatic.

I do feel that the patient's current symptoms, need for medication treatment including surgery, were causally related to her work injury of 2/12/09. I feel she likely had an exacerbation of a pre-existing asymptomatic degenerative condition.

Opinions given above are most probable to a reasonable degree of medical certainty.

Donald R. Johnson, M.D.
DRJ/dam
T- 10/24/11
Cc: Bryan Law Firm

1106 Chuck Dawley Blvd. Mt. Pleasant, SC (843) 849-1551 Fax (843) 884-0629
1941 Savage Rd., Ste. 100-E Charleston, SC 29414 (843) 763-2720 Fax (843) 769-6022

SPINAL SURGERY
Donald R. Johnson, II, MD
Steven C. Poletti, MD
R. Blake Dennis, MD

Danny Kinler, PA-C
Justin Swain, PA-C
Amanda Thurber, PA-C

CONSERVATIVE SPINE CARE
Leonard E. Forrest, MD
John F. Johnson, MD
G. Robert Richardson III, MD

PAIN MANAGEMENT
Mark D. Netherton, MD
Blane Richardson, MD
Virginia Blease, PA-C
Suzanne Livengood, PA-C

MAIN OFFICE
1106 Chuck Dawley Blvd., Suite 200
Mt. Pleasant, SC 29464

(843) 849-1551
Fax 884-0629
1-800-432-0274

1941 Savage Rd., Ste. 100E
Charleston, SC 29407
(843) 763-2720

November 15, 2011

Joseph T. McElveen, Jr., Esquire
Bryan Law Firm
P.O. Box 2038
Sumter, SC 29150

RE: Katherine L. Haines
Patient #298970
DOB: 11/25/1961

Dear Mr. McElveen:

I have received your October 28, 2011, letter concerning Katherine Haines whom I saw at your request on October 17, 2011. I felt the patient would be qualified to do only sedentary work and feel that she will have difficulty even at this physical demand level because of the significant number of narcotics she is taking on a daily basis with chronic pain. She has had a two-level cervical fusion. She has decreased range of motion of her neck and difficulty with any type of activity which requires work from the shoulder level and above and any activity which requires rotation of her neck from side to side. She would best be restricted from bending, stooping, working overhead and climbing. She will need to move from a sitting to standing position on a frequent basis and change positions to control her pain.

It is quite likely that she will have significant absenteeism because of her pain and will be a liability both to herself, her coworkers and her employers if she takes her daily narcotics while trying to work. As I recommended, she will need chronic pain management in the future.

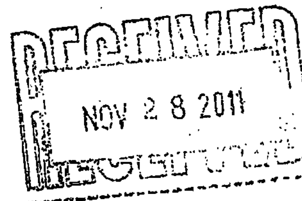
Given the above, it is unlikely that she can be accommodated in the workplace in my opinion.

My opinions given above are most probable to a reasonable degree of medical certainty.

Sincerely,

Donald R. Johnson, II, M.D.

DRJ/js
T- 11/23/11



COLUMBIA NEUROSURGICAL ASSOCIATES, P.A.

S7004

Please complete this medical questionnaire. The answers to these questions are very important in helping us take care of you. Where appropriate, fill in complete answers. Thank-you for your time and patience.

Name: Katherine Haines M / F ✓ (circle one) Date of Visit: 10-7-10

Age: 48 Height 6' Weight: 254 Date of Birth: [redacted]

Referring Doctor: ______ Family Doctor: Dr. Fisher

1. I am (✓) right handed ( ) left handed.
2. Chief complaint or reason for visit: extreme neck pain from job injury 2-09
3. When did your symptoms first appear? after being struck by metal 15t wire bins and metal shelf
4. Did you have an injury? (✓) Yes ( ) No If yes, was it work related? (✓) Yes ( ) No ( ) Other ______
5. I have been treated for this problem by: Moore Orthopedics, Dr Burnworth
6. What did they do or recommend? 12 wks therapy then 2 injections on each side of neck then 6 more months of theapy
7. My medication allergies are: ( ) None or list allergies:
   Penicillin
8. My current medications are: (include dose and number of times taken per day)
   Metformin HCL 500mg 1 once a day V-D 2000 mg 1 a day
   Symbicort Inhaler 2 times a day

9. PAST MEDICAL HISTORY: List prior injuries & illnesses, conditions, medical problems that you have (ex: diabetes, high blood pressure, heart disease) Write HOSP. beside any for which you were admitted to the hospital.

Approx. date	Reason (Give Diagnosis of problem if known)
2005	heart disease cardiomopathy, chf
2005	breathing problems COPD
8 2010	Diabetes Type 2

10. PAST SURGICAL HISTORY: List all surgeries, even if done as an outpatient:

Approx. date	Reason
1968	removed tonisls
8 1997	complete histerecomy
2006	heart cath.

11. SOCIAL HISTORY: Check box or fill in blank:
( ) I do not use tobacco. (✓) I do use tobacco; 1 pack packs/per day
(—) I do not use beer, wine or liquor. ( ) I do use beer, wine or liquor ( ) daily ( ) weekly ( ) monthly
I am ( ) married ( ) widowed ( ) divorced (✓) single Years of formal education ______
I have (3) children, ages: 25 22 19
I work as a Assistant Manager for Dollar Tree
( ) I have been disabled since ______ due to (list reason) ______

12. FAMILY HISTORY: Please list any illness that your grand parents, parents, brothers, sisters or children have had. (for example: cancer, diabetes, heart disease, high blood pressure, stroke)
Grand Mother heart disease Grand Father ______
Mother ______ Father heart disease, diabetes
Sister ______ Brother diabetes
Children ______

13. SYSTEMS REVIEW: Please check any that apply to you:

Constitutional:
___ Fever in last 72 hrs. ___ hot or cold spells
✓ generalized weakness ✓ generalized lack of energy
✓ unplanned weight loss 24 lbs over 2 months
___ Other: ______

Eyes:
✓ declining vision ___ blurred vision ___ double vision ✓ seeing spots of light
✓ black areas in field of vision ___ eye disease (cataracts, glaucoma, etc.) ______
___ Other: ______

Ear Nose, Mouth Throat:

___ ear aches
___ frequent nosebleeds
___ mouth/throat cancer
___ decreased hearing
___ chronic sinus
___ voice changes or hoarseness
✓ ringing in ears
___ mouth ulcers
Other: ___

Cardiovascular:

___ chest pain ( ) sharp ( ) dull ( ) happens only when exercising
___ history of heart attack ✓ heart surgery or catheterization
___ palpitations ___ heart murmur ___ heart rhythm disturbance
✓ shortness of breath ( ) happens only when exercising
___ I have a pacemaker
Other: ___

Respiratory: History of:

___ pneumonia
✓ asthma
✓ bronchitis
___ emphysema
___ tuberculosis
___ lung cancer
___ I cough up blood from time to time
___ Other: ___

Gastrointestinal:

___ difficulty swallowing
___ stomach ulcers
___ diarrhea
___ stomach or bower cancer
___ bulimia
___ hernia
___ nausea/vomiting last 48hrs
✓ heart burn
___ change in appetite
✓ liver disease
___ anorexia
✓ hepatitis C
Other: ___

Genitourinary:

___ frequent urinary tract infection
___ blood in urine
___ miscarriage
___ difficulty urinating
___ prostate problems
___ painful urination
___ vaginal infections
___ venereal disease : ( ) gonorrhea ( ) herpes ( ) syphilis
___ Other: ___

Musculosketal:

___ joints that dislocate
___ arthritis
___ back pain
___ leg or ankle swelling
___ gout
___ fractures
✓ leg pain (✓) right ( ) left
___ osteoporosis
___ polio
___ back pain is relieved completely when I lie down
___ back pain is relieved mostly when I lie down
___ Lying down does not help my back pain
✓ neck pain ( ) right side ( ) left side (✓) both sides
✓ arm pain ( ) right ( ) left (✓) both

Integumentary:

✓ skin rashes
___ skin cancer Type: ___
___ breast disease ___

Neurological:

✓ headaches: How often ___
✓ with nausea ___ with blurred vision
___ fainting spells
___ confusion
___ history of head trauma
✓ facial numbness
___ multiple sclerosis
✓ numbness in hands or arms ( ) right ( ) left (✓) both
✓ difficulty using hands ( ) right ( ) left (✓) both
___ difficulty walking/numbness in legs ( ) right ( ) left ( ) both
___ history of migraines
___ declining memory
___ history of brain tumor
___ dizziness
___ epilepsy

Psychiatric:

___ I have been treated/hospitalized for:
___ schizophrenia
___ alcoholism
___ depression
___ chemical dependency
___ suicide attempt

Endocrine:

___ thyroid ___ goiter ✓ diabetes
I take the following hormone supplements: ___

Hematologic/lymphatic: ___ bleeding disorder ___ easy bruising ___ anemia
___ tendency to form blood clots in legs ___ swollen lymph nodes
___ Aids ___ HIV

Immunologic: ___ Lupus ___ Scleroderma ___ Rheumatoid arthritis

Other: _✓_ chicken pox _✓_ measles _✓_ mumps ___ Mononucleosis
___ scarlet fever ___ whooping cough ___ typhoid fever ___ rheumatic fever

14. If you have back, leg, neck or arm pain, please answer the following:
_✓_ I have taken physical therapy in the last 6 months for this problem
_✓_ I have taken medicines like Motrin, Aleve, muscle relaxants or pain medicine to help relieve the pain.
_✓_ I have had steroid injections in my back or neck for this problem.

Rate the severity of your pain on a scale from 1 to 10, with 1 the least painful and 10 being the most severe. _9_

Type of pain:
_✓_ sharp ___ dull _✓_ throbbing _✓_ aching _✓_ shooting _✓_ burning
___ tingling _✓_ numbness ___ stiffness _✓_ swelling ___ cramps

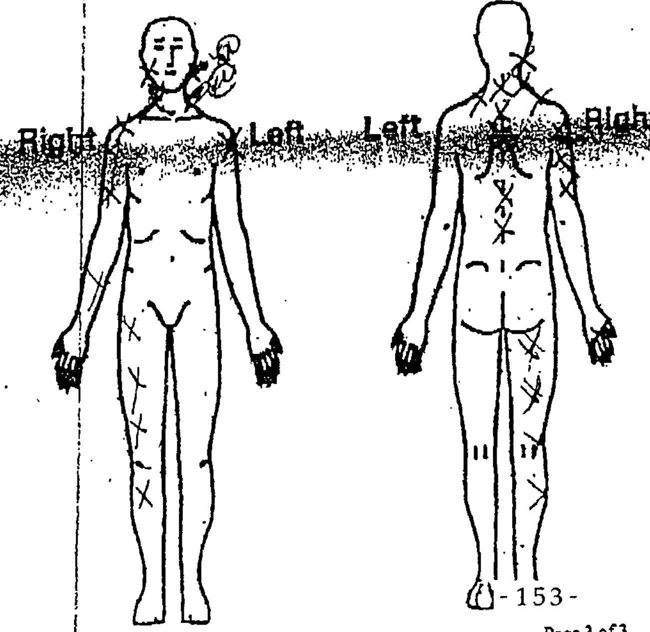
___ the pain comes and goes If so, how often do you have this pain? _all the time_
_✓_ the pain is constant

Does the pain interfere with _✓_ work _✓_ sleep _✓_ daily routine ___ recreation
Activities or movements that are painful to perform:
_✓_ sitting ___ standing _✓_ walking _✓_ bending ___ lying down
How do you sleep? ___ back _✓_ side ___ stomach

15. Date of your last:
Physical exam _8-25-10_ Spinal exam ___ MRI, CT or Bone Scan _May 8 2009_
Spinal X-ray ___ Chest x-ray _8-25-10_ Blood test _8-18-2010_

16. I am claustrophobic (fear of being in a closed/confined place) ( ) Yes (✓) No
I have metal in my body. ( ) Yes (✓) No If yes, where? ___

Mark an X on the picture where you have pain, numbness or tingling.



Patient Signature: [signature]

Physician Signature: [signature]

Date ___

2/09 no probs b/f injury

HA's

Boxes fell on her

pain in neck right after

then arms, then ® leg

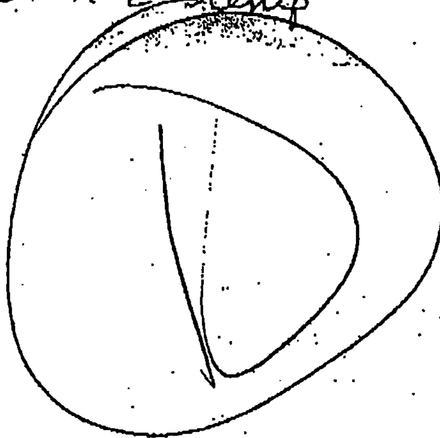
Getting worse

Still working

12/09 released of restric

® sleeping

Dx C5-7 x 2 temp



Needs surgery

COLUMBIA NEUROSURGICAL ASSOCIATES, P.A.
www.columbianeurosurgical.com

Spine & Neurological Surgery

Thomas J. Holbrook, Jr., MD Scott B. Boyd, MD
William M. Rambo, Jr., MD Brett C. Gunter, MD
Randall G. Drye, MD Karl A. Lozanne, MD

720 Rabon Road
Columbia, SC 29203
(803) 462-0423 - (F) 462-0432

Pain Medicine
Steven B. Storick, MD
Eva J. Rawl, MD

132 Sunset Court
W. Columbia, SC 29169
(803) 794-3700 - (F) 794-0322

INDEPENDENT MEDICAL EVALUATION

Patient: Katherine L. Haines
Chart: 87009
Date: 10/7/10

CHIEF COMPLAINT: Neck and arm pain.

HISTORY OF PRESENT ILLNESS: Ms. Haines is a 48-year-old lady who works as an assistant manager at Dollar Tree. She was injured on her job in February of 2009. She says that some metal bins fell on her neck. Immediately after this she began experiencing significant neck pain. This neck pain then progressed to involve her arms with pain and tingling and more recently her right leg. Overall she feels that she is getting worse. She is still working without restrictions and has been through extensive conservative treatment including physical therapy which she did not believe helped much. She had two cervical epidural steroid injections and they provided some relief but it was very temporary. The pain in her neck again radiates down into both of her arms but seems concentrated in her right arm. She feels that she is getting somewhat weaker in her right arm. After she failed conservative treatment she was seen by Dr. Felmly who did not feel that there was anything further he could do. She saw Dr. Lembo for pain management and she released her to regular duties in December of 2009. Ms. Haines is very concerned that her problems are getting worse and is also concerned particularly about the weakness that she is developing in her right arm.

PAST MEDICAL HISTORY: Remarkable for recently diagnosed diabetes. She has COPD and what sounds like a mild cardiomyopathy.

CURRENT MEDICATIONS: Metformin, Symbicort

ALLERGIES: PENICILLIN

SOCIAL HISTORY: She is a pack-a-day smoker.

FAMILY HISTORY AND REVIEW OF SYSTEMS: Well documented in the chart on the history form. That information has been reviewed and signed and is noncontributory except for the information included in the HPI.

PHYSICAL EXAMINATION: The patient is seated in the exam room and appears generally healthy for age. The patient is awake, alert, and oriented. PERRL. Speech and language are normal, as are attention span and concentration. Affect is grossly normal, and fund of knowledge appears appropriate. Height is 6'0", weight is 254 pounds. Exam of the posterior cervical region reveals mild tenderness to palpation. There is significant limitation of cervical ROM particularly in extension. She has straightening of her cervical lordosis. Spurling's sign is negative. There is diminished power in her right upper extremity, particularly in her right grip graded at 4+/5. Sensation is diminished in a patchy pattern in her distal upper extremities to light touch and pinprick, right worse than left. DTRs are 3+ and symmetric. Gait is steady. There is Hoffmann's sign.

RADIOGRAPHIC STUDIES: MRI of the cervical spine done in May of 2009 at CNA Imaging shows significant degenerative disc changes at C4-5 greater than C5-6. She also has stenosis from disc/osteophyte complexes at both these levels, but particularly at C4-5 where she does appear to

have some at least moderate right hemicord compression. The radiologist states that this is severe stenosis.

IMPRESSION/PLAN: Ms. Haines has signs and symptoms to suggest a worsening cervical myeloradiculopathy. I agree with Dr. Felmly's assessment that the MRI changes do not appear as severe as noted by the radiologist but I still believe they are significant. I do believe she has right hemicord compression that is consistent with her right-sided symptoms that are involving not just her arm but now also her leg. She has had extensive conservative treatment without relief. I do not believe she is at maximum medical improvement and considering the pattern of her symptoms and the findings of cord compression on her MRI scan, I do believe that surgery should be offered and, in fact, I am recommending surgery. I believe a two level anterior cervical discectomy and fusion would be able to decompress her cord and open her foramen at both levels. I have been careful to explain to her that there is nothing that is going to relieve all of her symptoms but I am concerned about the progressive nature of her symptoms and her MRI findings. I believe that this surgery could be done as an outpatient overnight observation, and I believe that she could return to work in approximately three weeks after surgery, at least light-duty, and a week or two after that resume work without any restrictions. At this point I do not believe she needs any work restrictions. Once she is at MMI I could provide a rating.

THIS DOCUMENT HAS BEEN ELECTRONICALLY SIGNED

Scott B. Boyd, MD

SBB/MAH CNAWT: 4046

BOYD, SCOTT B, MD
132 SUNSET COURT
WEST COLUMBIA, SC 29169

Phone: (803)794-3700
Fax: (803)794-0322

COLUMBIA NEUROSURGICAL ASSOCIATES, P.A.

CERVICAL STUDY ORDERS

Date: 01/12/2011
Appt Date: 01/18/11
Appt Time: 3:30
Appt Location: NE MRI

PATIENT'S NAME: KATHERINE L HAINES

D.O B [redacted]

CERVICAL

Diagnosis: Cervical Stenosis 723.0

Order: MRI cervical spine w/o contrast

HOSPITAL

Insurance: ONE CALL MEDICAL

Auth#: JUDITH SCHMID ADJ

Contact:

Pt Notified. 01/12/11 VJP

PLEASE RELEASE FILMS TO PT FOR FOLLOW UP APPT!!!!!!

PHYSICIAN: SCOTT B. BOYD, MD
Columbia Neurosurgical Associates, P.A

Patient Myelogram/CT Scan Instructions

1. You have been scheduled for a myelogram and CT scan at

on

Patient Myelogram/CT Scan Instructions

MAGNETIC RESONANCE (MR) PROCEDURE SCREENING FORM FOR PATIENTS

Date 1/18/11 Patient Number 87009

Name Haines Katherine L Age 49 Height 6' Weight 252
Last name First name Middle Initial

Date of Birth [redacted] Male ☐ Female ☑ Body Part to be Examined neck

List detailed symptoms below: neck pain moves down right arm and right leg unable to move neck completly to right numbing tingling down arm stabbing in neck down center and shoulder areas. (cont-) Losing strength both arms - x few mos -

Ordering Physician:: Boyd

Do you have a history of cancer? Y or (N) If yes, what type?

1. Have you had prior surgery or an operation (e.g., arthroscopy, endoscopy, etc.) of any kind? ☐ No ☑ Yes
   If yes, please indicate the date and type of surgery:
   Date 8/16/97 Type of surgery hysterectomy
   Date 4/21/04 Type of surgery heart cath.
2. Have you had a prior diagnostic imaging study or examination (MRI, CT, Ultrasound, X-ray, etc.)? ☐ No ☑ Yes
   If yes, please list:

	Body part	Date	Facility
MRI	neck	5/8/09	NE
CT/CAT Scan		/ /	
X-Ray	neck shoulder	6/3/09	Moores Orthopedic
Ultrasound		/ /	
Nuclear Medicine		/ /	
Other		/ /	

3. Have you experienced any problem related to a previous MRI examination or MR procedure? ☑ No ☐ Yes
   If yes, please describe:
4. Have you had an injury to the eye involving a metallic object or fragment (e.g., metallic slivers, shavings, foreign body, etc.)? ☑ No ☐ Yes
   If yes, please describe:
5. Have you ever been injured by a metallic object or foreign body (e.g., BB, bullet, shrapnel, etc.)? ☑ No ☐ Yes
   If yes, please describe:
6. Are you currently taking or have you recently taken any medication or drug? ☐ No ☑ Yes
   If yes, please list: Coreg 6.5mg, Inhaler,
7. Are you allergic to any medication? ☐ No ☑ Yes
   If yes, please list: penicillen
8. Do you have a history of asthma, allergic reaction, respiratory disease, or reaction to a contrast medium or dye used for an MRI, CT, or X-ray examination? ☐ No ☑ Yes
9. Do you have anemia or any disease(s) that affects your blood, a history of renal (kidney) disease, or seizures? ☑ No ☐ Yes
   If yes, please describe:

For female patients:

10. Date of last menstrual period: 8/16/97 Post menopausal? ☑ No ☐ Yes
11. Are you pregnant or experiencing a late menstrual period? ☑ No ☐ Yes
12. Are you taking oral contraceptives or receiving hormonal treatment? ☑ No ☐ Yes
13. Are you taking any type of fertility medication or having fertility treatments? ☑ No ☐ Yes
    If yes, please describe:
14. Are you currently breastfeeding? ☑ No ☐ Yes

PITTS RADIOLOGY
Serving Central South Carolina Since 1923

©F.G. Shellock 2000 www.IMRSER.org

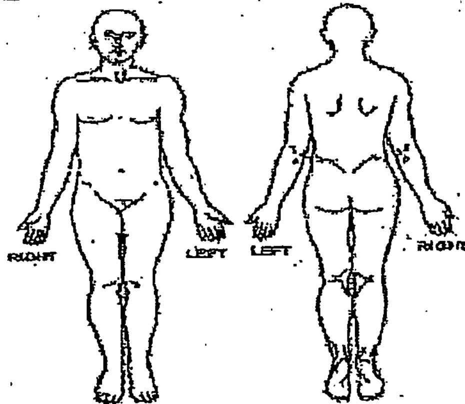
✓plugs

WARNING: Certain implants, devices, or objects may be hazardous to you and/or may interfere with the MR procedure (i.e., MRI, MR angiography, functional MRI, MR spectroscopy). Do not enter the MR system room or MR environment if you have any question or concern regarding an implant, device, or object. Consult the MRI Technologist or Radiologist BEFORE entering the MR system room. The MR system magnet is ALWAYS on.

Please indicate if you have any of the following:

Yes	No	Item
☐ Yes	☑ No	Aneurysm clip(s)
☐ Yes	☑ No	Cardiac pacemaker
☐ Yes	☑ No	Implanted cardioverter defibrillator (ICD)
☐ Yes	☑ No	Electronic implant or device
☐ Yes	☑ No	Magnetically-activated implant or device
☐ Yes	☑ No	Neurostimulation system
☐ Yes	☑ No	Spinal cord stimulator
☐ Yes	☑ No	Internal electrodes or wires
☐ Yes	☑ No	Bone growth/bone fusion stimulator
☐ Yes	☑ No	Cochlear, otologic, or other ear implant
☐ Yes	☑ No	Insulin or other infusion pump
☐ Yes	☑ No	Implanted drug infusion device
☐ Yes	☑ No	Any type of prosthesis (eye, penile, etc.)
☐ Yes	☑ No	Heart valve prosthesis
☐ Yes	☑ No	Eyelid spring or wire
☐ Yes	☑ No	Artificial or prosthetic limb
☐ Yes	☑ No	Metallic stent, filter, or coil
☐ Yes	☑ No	Shunt (spinal or intraventricular)
☐ Yes	☑ No	Vascular access port and/or catheter
☐ Yes	☑ No	Radiation seeds or implants
☐ Yes	☑ No	Swan-Ganz or thermodilution catheter
☐ Yes	☑ No	Medication patch (Nicotine, Nitroglycerine)
☐ Yes	☑ No	Any metallic fragment or foreign body
☐ Yes	☑ No	Wire mesh implant
☐ Yes	☑ No	Tissue expander (e.g., breast)
☐ Yes	☑ No	Surgical staples, clips, or metallic sutures
☐ Yes	☑ No	Joint replacement (hip, knee, etc.)
☐ Yes	☑ No	Bone/joint pin, screw, nail, wire, plate, etc.
☐ Yes	☑ No	IUD, diaphragm, or pessary
☑ Yes	☐ No	Dentures or partial plates
☑ Yes	☐ No	Tattoo or permanent makeup
☑ Yes	☐ No	Body piercing jewelry
☐ Yes	☑ No	Hearing aid *(Remove before entering MR system room)*
☐ Yes	☑ No	Other implant ______
☐ Yes	☑ No	Breathing problem or motion disorder
☐ Yes	☑ No	Claustrophobia

Please mark on the figure(s) below the location of any implant or metal inside of or on your body.



IMPORTANT INSTRUCTIONS

Before entering the MR environment or MR system room, you must remove all metallic objects including hearing aids, dentures, partial plates, keys, beeper, cell phone, eyeglasses, hair pins, barrettes, jewelry, body piercing jewelry, watch, safety pins, paperclips, money clip, credit cards, bank cards, magnetic strip cards, coins, pens, pocket knife, nail clipper, tools, clothing with metal fasteners, & clothing with metallic threads.

Please consult the MRI Technologist or Radiologist if you have any question or concern BEFORE you enter the MR system room.

NOTE: You may be advised or required to wear earplugs or other hearing protection during the MR procedure to prevent possible problems or hazards related to acoustic noise.

I attest that the above information is correct to the best of my knowledge. I read and understand the contents of this form and had the opportunity to ask questions regarding the information on this form and regarding the MR procedure that I am about to undergo.

Signature of Person Completing Form: Katherine L Haines (Signature) Date 1/18/11

Form Completed By: ☑ Patient ☐ Relative ☐ Nurse ______ (Print name) ______ (Relationship to patient)

Form Information Reviewed By: Linda Y. Broome (Print name) RT(R)(MR) (Signature)

☑ MRI Technologist ☐ Nurse ☐ Radiologist ☐ Other ______

© F.G. Shellock 200 www.IMRSER.org

Northeast MRI Center
720 Rabon Road
Columbia, SC 29203
Phone:(803)462-0423
Fax:

Name:	KATHERINE HAINES	Exam Date:	1/18/2011
Patient ID:	CN87009	Exam:	MRI C-SPINE W/O CONTRAST
DOB:	[redacted]	Reason:	-
Phone:		Referrer:	SCOTT BOYD, M.D.
Acc#:	98493	2nd Referrer:	
		3rd Referrer:	

Results

MRI OF THE CERVICAL SPINE

INDICATION: Stabbing neck pain radiating down right arm and leg with tingling and numbness.

TECHNIQUE: MR exam of the cervical spine was carried out with T1 and double-echo T2 sagittal sequences and a gradient axial sequence. Comparison is made to a previous exam from 5/8/09.

FINDINGS: The cervical vertebrae are well aligned and show normal signal. There is increased T1 and T2 fatty signal within the T3 vertebra, which is probably yellow marrow replacement. This is unchanged.

The C2-3 and C3-4 discs are unremarkable.

C4-5 shows prominent bilateral disc/osteophyte complexes causing severe bilateral neural foraminal narrowing, greater on the right. This right-sided protrusion also effaces the right side of the spinal cord and is producing moderate canal stenosis. There does not appear to be any significant change since the prior study.

Similar findings are present at C5-6 with bilateral neural foraminal narrowing by disc/osteophyte formation, although less severe than the changes noted at C4-5. There is mild stenosis at this level, particularly along the right side. There is bilateral foraminal stenosis, right greater than left.

The C6-7 and C7-T1 discs are unremarkable.

There are no myelopathic signal changes within the spinal cord.

IMPRESSION: Persistent spondylotic changes at C4-5 and C5-6 with bilateral neural foraminal narrowing, right greater than left, and mild to moderate canal stenosis. Other levels are unremarkable. There is little interval change, however, when compared to the previous study on 5/8/09.

John W. Lauver, M.D.
Radiologist
PITTS RADIOLOGY

Report Electronically Signed by: John Lauver M.D.
Report Signed on: 1/19/2011 1:23 PM

Pt. Name:	KATHERINE HAINES	Exam:	MRI C-SPINE W/O CONTRAST
Patient ID:	CN87009	Acc:	96493
Completed Date:	1/18/2011 3:30:00 PM	Interpreting Rad:	John Lauver M.D.
Transcribed By:	Doris Gleaton	Dictated Date:	
Transcribed Date:	1/18/2011 5:06:55 PM	Finalized Date:	1/19/2011 1:23 PM

COLUMBIA NEUROSURGICAL ASSOCIATES, P.A.

www.columbianeurosurgical.com

Spine & Neurological Surgery

Thomas J. Holbrook, Jr., MD · Scott B. Boyd, MD
William M. Rambo, Jr., MD · Brett C. Gunter, MD
Randall G. Drye, MD · Karl A. Lozanne, MD

720 Rabon Road
Columbia, SC 29203
(803) 462-0423 · (F) 462-0432

Pain Medicine

Steven B. Storick, MD
Eva J. Raw, MD

132 Sunset Court
W. Columbia, SC 29169
(803) 794-3700 · (F) 794-0322

OFFICE VISIT

Patient: Katherine L. Haines
Chart: 87009
Date: 1/20/11

Ms. Haines returns to the office for follow-up. I saw her as an Independent Medical Evaluation back on 10/7/10 at which time she described neck pain radiating down into her arms, right greater than left. She says she was getting progressively weak at that point. She had seen Dr. Felmly who had recommended surgery. My impression at that time was that I agreed with Dr. Felmly she needed surgery considering the progressive nature of her symptoms, her neurologic deficits and her MRI findings of ventral cord compression from disc/osteophytes at C4-5 and C5-6.

Today she returns for follow-up. She has not had any interval treatment. She continues to have numbness and pain down her arms, right greater than left. She says that she feels that this numbness is increasing. She feels that she has gotten weaker in her arms. She says her gait is about the same.

On examination, she does have diminished grip strength on the right and this graded at 4/5. She has limited cervical ROM. Her gait is fairly steady. She does have a Hoffmann's sign on the right.

An updated MRI scan of the cervical spine done this week shows similar findings to her May 2009 study. She still has significant disc/osteophyte complexes at C4-5 and C5-6 with some right hemicord compression and severe bilateral foraminal narrowing, greatest on the right. There does not appear to be significant interval change.

IMPRESSION/PLAN: Ms. Haines has a persistent cervical myeloradiculopathy. She has not gotten better with maximum conservative treatment. Once again, I have recommended surgery as she seems to be declining both subjectively and objectively. Her radiographic findings are stable and certainly not improved. She has had another opinion by Dr. Felmly who also recommended surgery. Hopefully we can get this done soon. I have described the surgery to her in detail and she very much wishes to proceed.

THIS DOCUMENT HAS BEEN ELECTRONICALLY SIGNED

Scott B. Boyd, MD

SBB/MAH CNAWT: 4040

COLUMBIA NEUROSURGICAL ASSOCIATES, P.A.

Spine and Neurological Surgery

Carolina Spine Center
A Program of Columbia Neurosurgical Associates

Sylvia Miller, Dir. Industrial Care Dept.
PH (803) 462-3602 Fax (803)462-3647

WORK STATUS INFORMATION

PATIENT WORK INJURY INFORMATION

Patient Name	Patient social security #	Chart #
KATHERINE L HAINES	[redacted]	87009

Employer Name	Insurance Carrier
DOLLAR TREE	ONE CALL MEDICAL

Case #	Date of Service	Date of Accident
OCM249318739	01/20/2011	02/12/2009

Diagnosis code(s) and/or description of condition for which patient is being treated

Part time- Return to Regular Duty on 1/20/2011.

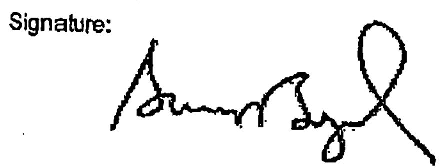
PHYSICAL LIMITATIONS

Must be able to take frequent breaks.

FOLLOW UP

Physician:SCOTT B. BOYD, MD

Signature:



COLUMBIA NEUROSURGICAL ASSOCIATES, P.A.

www.columbianeurosurgical.com

Spine & Neurological Surgery

Thomas J. Holbrook, Jr., MD
William M. Rambo, Jr., MD
Randall G. Dlye, MD

Scott B. Boyd, MD
Brett C. Gunter, MD
Karl A. Lozanne, MD

720 Rabon Road
Columbia, SC 29203
(803) 462-0423 - (F) 462-0432

Pain Medicine

Steven B. Storick, MD
Eva J. Raw, MD

132 Sunset Court
W. Columbia, SC 29169
(803) 794-3700 - (F) 794-0322

CHART NOTE

Patient: Katherine L. Haines
Chart: 87009
Date: 2/3/11

Ms. Haines was seen by me for problems related to a work injury as an Independent Medical Evaluation on October 7, 2010. I saw her subsequently in follow-up on January 20, 2011. It has been brought to my attention that there is a discrepancy with my January 20, 2011 office visit note, and Ms. Haines' medical records.

In summary, after reviewing Ms. Haines case, and her MRI scans, I believe she would benefit from an updated MRI scan and if that confirmed similar or worse findings to what was previously noted as severe cervical stenosis then she would likely benefit from anterior cervical discectomy and fusion surgery.

In my note I stated that she had seen Dr. Felmly who had recommended surgery. I have reviewed records from Dr. Felmly's office and I believe my statement was in error. Dr. Felmly did not believe that there was a good surgical option for her.

Regardless of Dr. Felmly's previous opinion, I have personally reviewed Ms. Haines' MRI scan images and I agree with the radiologist's report that there is significant stenosis with some cord compression, particularly on the right. Therefore, I continue to recommend surgery which I acknowledge is a difference of opinion with Dr. Felmly. I am concerned that by history Ms. Haines seems to have gotten worse. She has objective evidence on her exam and her imaging studies of spinal cord compression.

I hope this clarifies any discrepancies in my notes, and I would be happy to answer any questions should they arise.

THIS DOCUMENT HAS BEEN ELECTRONICALLY SIGNED

Scott B. Boyd, MD

SBB/MAH CNAWT: 4045

COLUMBIA NEUROSURGICAL ASSOCIATES, P.A.

Spine and Neurological Surgery

Carolina Spine Center
A Program of Columbia Neurosurgical Associates

Sylvia Miller, Dir. Industrial Care Dept.
PH (803) 462-3602 Fax (803)462-3647

WORK STATUS INFORMATION

PATIENT WORK INJURY INFORMATION

KATHERINE L HAINES	[redacted]	87009
Patient Name	Patient social security #	Chart #

DOLLAR TREE	ONE CALL MEDICAL
Employer Name	Insurance Carrier

OCM249318739	03/08/11	02/12/2009
Case #	Date of Service	Date of Accident

Diagnosis code(s) and/or description of condition for which patient is being treated

Remain out of work for from 3/14/11 thru approximately 4/11/11

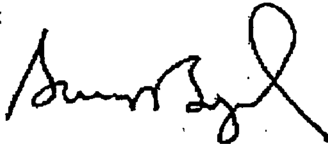
PHYSICAL LIMITATIONS

Patient is having surgery on 3/15/11.

FOLLOW UP

Physician:SCOTT B. BOYD, MD

Signature:



50

(WED)MAR 9 2011 10:59/ST. 10:54/No. 7517876194 P 2   FROM BB & T WEST COLUMBIA

DEPARTMENT OF PATHOLOGY & LABORATORY MEDICINE
2720 SUNSET BOULEVARD WEST COLUMBIA, SC 29169
(803) 791-2664 www.lexmed.com/laborinfo.htm

Erwin B. Shaw, MD
John B. Carter, MD
Kit R. McManus, MD
Beverly W. Daniel, MD
E. Jayne Moffatt, MD
William R. Armstrong, MD
Robert D. Jones, MD
M. John Spalding, MD
Sarah L. Lott, MD

Name: HAINES,KATHERINE L Loc: HAMA Physician: Boyd, Scott B., MD (113) Age: 49Y
Hospital No.: H001606337 Sex: F
Social Security No.: [redacted] Admit Date: 03/15/2011

==================== PHYSICIAN COPY FOR DR: Boyd, Scott B., MD (113) ====================

H23115 COLL: 03/10/2011 09:44 REC: 03/10/2011 09:49 PHYS: Boyd, Scott B., MD (

BASIC METABOLIC PAN

Test		Result	Reference	Units
GLUCOSE	*	155	[70-100]	mg/dL
SODIUM		141	[135-145]	MEQ/L
POTASSIUM		4.2	[3.5-5.5]	MEQ/L
CHLORIDE		105	[98-107]	MEQ/L
CO2		27	[23.0-31.0]	MEQ/L
ANION GAP		10.	[7-16]	MEQ/L
BUN		13	[5-25]	MG/DL
CREATININE		0.80	[0.50-1.00]	MG/DL
CALCIUM		9.2	[8.7-10.2]	MG/DL
eGFR		>60	[>60]	mL/min/

(Multiply result X 1.2 if Afr. Am.)

CBC HEMOGRAM

Test	Result	Reference	Units
WBC	5.4	[4.0-11.0]	K/ul
RBC	4.80	[4.20-5.40]	M/ul
HGB	14.9	[12.0-16.0]	gm/dl
HCT	43.9	[36.0-48.0]	%
MCV	91.4	[80.0-98.0]	fl
MCHC	34.1	[32.0-36.0]	gm/dl
RDW	12.2	[11.5-14.5]	%
PLT	177	[130-400]	K/ul

END OF REPORT

COLUMBIA NEUROSURGICAL ASSOCIATES, P.A.

www.columbianeurosurgical.com

Spine & Neurological Surgery

Thomas J. Holbrook, Jr., MD Scott B. Boyd, MD
William M. Rambo, Jr., MD Brett C Gunter, MD
Randall G. Drye, MD Karl A. Lozanne, MD

720 Rabon Road
Columbia, SC 29203
(803) 462-0423 · (F) 462-0432

Pain Medicine

Steven B. Storick, MD
Eva J. Raw, MD

132 Sunset Court
W. Columbia, SC 29169
(803) 794-3700 · (F) 794-0322

OFFICE VISIT

Patient: Katherine L. Haines
Chart: 87009
Date: 4/5/11

Ms. Haines come in today for a wound check. She has noted some erythema in the wound and some soreness to the area. It started this morning. She has not had any fever or chills. She has not had any trouble with swallowing or breathing. She states the preoperative symptoms in her neck have improved to some degree but she continues to have some soreness in her shoulders.

On examination, she has some erythema around her incision site superior and inferior to the area. It is almost in a rectangular dimension as if a dressing over the top. There does appear to be a little bit of dry purulence from the right side of the wound. I was not able to express any purulence in the area. She does have minimal tenderness to the area but it is not firm or extremely fluctuant to suggest a deep receded abscess, it is fairly flat.

IMPRESSION/PLAN: I suspect a superficial postoperative infection. I am going to put her on some Keflex and we will see her back at her scheduled time next Monday.

THIS DOCUMENT HAS BEEN ELECTRONICALLY SIGNED

Coleman Fravel, PA

CF/MAH CNAWT: 4040

COLUMBIA NEUROSURGICAL ASSOCIATES, P.A.

www.columbianeurosurgical.com

Spine & Neurological Surgery

Thomas J. Holbrook, Jr., MD | Scott B. Boyd, MD
William M. Rambo, Jr., MD | Brett C Gunter, MD
Randall G. Diye, MD | Karl A. Lozanne, MD

720 Rabon Road
Columbia, SC 29203
(803) 462-0423 · (F) 462-0432

Pain Medicine

Steven B. Storick, MD
Eva J. Raw, MD

132 Sunset Court
W. Columbia, SC 29169
(803) 794-3700 · (F) 794-0322

OFFICE VISIT

Patient: Katherine L. Haines
Chart: 87009
Date: 4/11/11

Ms. Haines returns to the office for follow-up. She is three weeks out from anterior cervical discectomy and fusion. She had a bit of a tough time immediately after surgery. She was concerned about some drainage from her wound and we put her on some Keflex and that seems to have resolved. She was also having some trouble swallowing and today she reports that has resolved as well. Unfortunately, she is still having some numbness and tingling going down her arms. She has some stiffness in her neck, especially when she turns to the right. She does not feel that she is any weaker in her arms or her legs.

On examination, her incision is well healed. It is flat without any erythema. She does have some limitation of cervical range of motion. She has good power in her upper extremities.

IMPRESSION/PLAN: Ms. Haines seems to be coming along reasonably well. I think at this point she could go back to part-time light-duty work. I will see her back in three or four weeks with plain films. I have encouraged her to gradually increase her activity up to then. If her plain films look okay then I will allow her to return to work at that point hopefully with only modest restrictions.

THIS DOCUMENT HAS BEEN ELECTRONICALLY SIGNED

Scott B. Boyd, MD

SBB/MAH CNAWT: 4040

COLUMBIA NEUROSURGICAL ASSOCIATES, P.A.

Spine and Neurological Surgery

Carolina Spine Center
A Program of Columbia Neurosurgical Associates

SyMa Miller, Dir. Industrial Care Dept.
PH (803) 462-3602 Fax (803)462-3647

WORK STATUS INFORMATION

PATIENT WORK INJURY INFORMATION

KATHERINE L HAINES		87009
Patient Name	Patient social security #	Chart #
DOLLAR TREE		ONE CALL MEDICAL
Employer Name		Insurance Carrier
OCM249318739	04/11/11	02/12/2009
Case #	Date of Service	Date of Accident

Diagnosis code(s) and/or description of condition for which patient is being treated

Part time- Return to Light Work with restrictions on 04/12/2011- Exerting up to 20 pounds of force occasionally, and/or up to 10 pounds of force frequently, and/or a negligible amount of force constantly (Constantly: activity or condition exists 2/3 or more of the time) to move objects. Physical Demand requirements are in excess of those for Sedentary Work. Even though the weight lifted may be only a negligible amount, a job should be rated Light Work: (1) when it requires walking or standing to a significant degree; or (2) when it requires sitting most of the time but entails pushing and/or pulling of arm or leg controls; and/or constant pushing and/or pulling of materials even though the weight of those materials is negligible. NOTE: The constant stress and strain of maintaining a production rate pace, especially in an industrial setting, can be and is physically demanding of a worker even though the amount of force exerted is negligible.

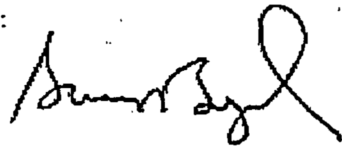
PHYSICAL LIMITATIONS

Must be able to take frequent breaks.

FOLLOW UP

Physician:SCOTT B. BOYD, MD

Signature:



COLUMBIA NEUROSURGICAL ASSOCIATES, P.A.
Spine and Neurological Surgery

Carolina Spine Center
A Program of Columbia Neurosurgical Associates

Sylvia Miller, Dir. Industrial Care Dept.
PH (803) 462-3602 Fax (803)462-3647

WORK STATUS INFORMATION

PATIENT WORK INJURY INFORMATION

KATHERINE L HAINES	[redacted]	87009
Patient Name	Patient social security #	Chart #
DOLLAR TREE		ONE CALL MEDICAL
Employer Name		Insurance Carrier
OCM249318739	4/11/11	02/12/2009
Case #	Date of Service	Date of Accident

Diagnosis code(s) and/or description of condition for which patient is being treated

Return to Light Work with restrictions on SEE DESCRIPTION OF RESTRICTIONS- Exerting up to 20 pounds of force occasionally, and/or up to 10 pounds of force frequently, and/or a negligible amount of force constantly (Constantly: activity or condition exists 2/3 or more of the time) to move objects. Physical Demand requirements are in excess of those for Sedentary Work. Even though the weight lifted may be only a negligible amount, a job should be rated Light Work: (1) when it requires walking or standing to a significant degree; or (2) when it requires sitting most of the time but entails pushing and/or pulling of arm or leg controls; and/or constant pushing and/or pulling of materials even though the weight of those materials is negligible. NOTE: The constant stress and strain of maintaining a production rate pace, especially in an industrial setting, can be and is physically demanding of a worker even though the amount of force exerted is negligible.

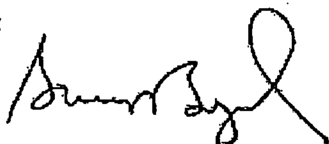
PHYSICAL LIMITATIONS

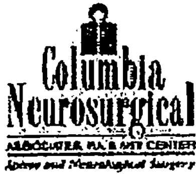
PATIENT IS NOT TO WORK MORE THAN 4 HOURS PER DAY 20 HOURS PER WEEK. SHE IS NOT TO LIFT, PUSH, PULL OR TUG GREATER THAN 10 POUNDS. NO OVERHEAD REACHING OR CLIMBING. WILL NEED TO CHANGE POSITIONS EVERY HOUR. SHE IS TO BE RE-EVALUATED ON 5/9/11.

FOLLOW UP

Physician:SCOTT B. BOYD, MD

Signature:





Northeast MRI Center
720 Rabon Road
Columbia, SC 29203
Phone:(803)462-0423
Fax:

Name:	KATHERINE HAINES	Exam Date:	5/5/2011
Patient ID:	CN87009	Exam:	MRI C-SPINE W/O&W/CONTRAST
DOB:	[redacted]	Reason:	-
Phone:		Referrer:	SCOTT BOYD, M.D.
Acc#:	110188	2nd Referrer:	
		3rd Referrer:	

Results

MRI OF THE CERVICAL SPINE W/WO CONTRAST

INDICATION: Sharp neck pain with stabbing pain radiating down right arm as well as right foot and leg; history of recent neck surgery 3/2011.

COMPARISON: 1/18/11.

TECHNIQUE: MR scans of the cervical spine were made before and after IV contrast infusion utilizing T1 and T2-weighted sequences.

FINDINGS: The previous study showed fairly severe spondylotic changes and neural foraminal narrowing at C4-5 and C5-6. Since that study, the patient has undergone discectomy and anterior fusion at C4-5 and C5-6. The canal is still moderately narrow through this area, but the stenosis has been alleviated.

Above the fusion, the C2-3 and C3-4 discs are unremarkable. The neural foramina are well preserved.

C4-5 is fused, but there is still bony neural foraminal narrowing on the right.

C5-6 is also fused. The neural foramina are mildly narrowed, but not tightly stenotic.

C6-7, below the fusion, shows annular disc bulging without focal protrusion or canal stenosis. There is no foraminal stenosis.

C7-T1 and upper thoracic discs are unremarkable.

The spinal cord shows no myelopathic signal changes in the canal. As noted above, there is mild canal narrowing at C4-5 and C5-6, but no tight stenosis.

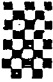
IMPRESSION: Post-op changes from anterior fusion at C4-5 and C5-6. There is residual tight neural foraminal narrowing on the right at C5-6. No focal disc

herniation or tight canal stenosis at any level.

John W. Lauver, M.D.
Radiologist
PITTS RADIOLOGY

Report Electronically Signed by: John Lauver M.D.
Report Signed on: 5/5/2011 5:00 PM

Pt. Name:	KATHERINE HAINES	Exam:	MRI C-SPINE W/O&W/CONTRAST
Patient ID:	CN87009	Acc:	110188
Completed Date:	5/5/2011 2:31:00 PM	Interpreting Rad:	John Lauver M.D.
Transcribed By:	Doris Gleaton	Dictated Date:	
Transcribed Date:	5/5/2011 3:12:09 PM	Finalized Date:	5/5/2011 5:00 PM



IMAGECARE, LLC

710 RABON ROAD
COLUMBIA, SC 29203
803-462-3880

87009

Name: Haines, Katherine L
Patient ID: 151484
DOB: [redacted]
Acc#: 579048
Patient Phone #: (803) 708-6111

Exam Date: 05/05/2011
Exam: C-spine 2 views
Reason: post op fusion, unspecified (V67.0)
Referrer: Boyd, Scott

PROCEDURE: Cervical spine 2 views

CLINICAL HISTORY: Followup cervical spine fusion

TECHNIQUE: AP and lateral views were obtained

FINDINGS: Anterior fusion of C4-C6 has been performed with plate and screw device and intravertebral bone grafts in place. Vertebral alignment is normal. He is able to space is normal. Mild thickening of the retropharyngeal soft tissues is present.

IMPRESSION: Satisfactory appearance of anterior fusion of C4-C6. Mild thickening of retropharyngeal soft tissues; postoperative changes suspected.

W. J. Bayard, M.D.
Electronic Signature
Date Finalized: 05/05/2011

DD: DT:05/05/2011

COLUMBIA NEUROSURGICAL ASSOCIATES, P.A.
www.columbianeurosurgical.com

Spine & Neurological Surgery

Thomas J. Holbrook, Jr., MD Scott B. Boyd, MD
William M. Rambo, Jr., MD Brett C Gunter, MD
Randall G. Oliye, MD Karl A. Lozanne, MD

720 Rabon Road
Columbia, SC 29203
(803) 462-0423 · (F) 462-0432

Pain Medicine

Steven B. Storick, MD
Eva J. Raw, MD

132 Sunset Court
W. Columbia, SC 29169
(803) 794-3700 · (F) 794-0322

OFFICE VISIT

Patient: Katherine L. Haines
Chart: 87009
Date: 5/9/11

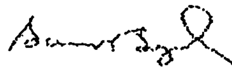
Ms. Haines returns to the office for follow-up now two months out from an anterior cervical discectomy and fusion. She had a tough time immediately after surgery and was concerned about wound drainage but this turned out to be nothing. She had some swallowing problems but that has gotten better as well. She has continued to have numbness and tingling down her arms right side and right leg in a nonradicular pattern. Today she says that she has been back at work part-time and thinks that has aggravated her pain. She describes pain along the left side of her neck. She has shooting pain down her right arm, right flank, and right leg. She is also concerned about numbness that she has around her right anterior neck. She also states that she is very depressed and tearful all the time. She says she has difficulty turning her head to the right.

On examination, she has normal power throughout. Normal reflexes. She has diffusely diminished sensation to light touch along her right arm and right hand. Her right cervical incision looks fine.

Plain films done recently show good positioning of her instrumentation and interbody bone grafts at C4-5 and C5-6. These already seem to be incorporating nicely with a bony fusion.

She had a recent MRI scan and that showed good resolution of the disc herniations and degenerative disc disease at C4-5 and C5-6. There is no central canal compromise. She does have some right foraminal compromise at C5-6 but it appears improved and is also across a fused segment.

IMPRESSION/PLAN: Ms. Haines has recurrent and persistent right-sided pain. I do not believe that there is any significant neural compromise on her MRI scan and so, therefore, I don't believe any further surgery would be helpful. She has had physical therapy in the past and she states that made things worse. She has had injections in the past without much relief. I really have very little to offer her. Therefore, I think she should be referred to pain management. I will keep her at her current work restriction of light duty until she is seen by pain management. I would be happy to assign a rating but again will defer this to pain management.



Scott B. Boyd, MD
THIS DOCUMENT HAS BEEN ELECTRONICALLY SIGNED
SBB/MAH CNAWT: 4040

Position Description & Responsibilities

Job Title: Assistant Manager	Department: Field	Division: Operations
Reports To (Title): Store Manager	Date Written:	Date Revised: April 2, 2003
Exempt / Non-exempt • Non-exemptt	Direct Reports: Hourly Associates	

Summary of Position (Job Purpose) - *Major purpose and functions of the position.*

Responsible for assisting with the complete operations of assigned store, in conjunction with assigned tasks and duties. Assist in hiring, training and development of all store associates in both operations and merchandising.

Principal Duties and Responsibilities - *Primary responsibilities listed in order of importance*

1. Assists with all store functions including scheduling, ordering, freight processing and all day-to-day store activities as directed.
2. Performs all opening and closing procedures.
3. Protects and secures all company assets, including store cash.
4. Adheres to all policies and procedures including safety guidelines.
5. Provide leadership and direction to associates as appropriate to include utilization of daily planner and index cards.
6. Maintain a professional and friendly environment with customers, subordinates and supervisors.
7. Maintain sales floor to company standards to include recovery.
8. Assists with evaluating, recruiting, hiring, training, motivating and counseling of TEAM DOLLAR associates.
9. Processing of all required reports, documents, and memos.
10. Proficient use of available tools and technology at the store level.

Minimum Requirements/Qualifications - *Summary of knowledge, experience and education required.*

- Must possess prior retail and management experience
- Background in dealing with hardlines / variety merchandise
- Strong communication, interpersonal, and written skills.
- Ability to work in a high energy team environment..

BRYAN LAW FIRM

BAHNMULLER, GOLDMAN, McELVEEN, FORD, BULTMAN, & RODRIGUEZ, P. A.

ATTORNEYS AT LAW
17. E. CALHOUN STREET
P.O. BOX 2038
SUMTER, S.C. 29151-2038

#97009

G. WERBER BRYAN (1914-1990)
A. S. BAHNMULLER
DAVID W. GOLDMAN
JOSEPH T. McELVEEN, JR.
JOHN P. FORD
THOMAS M. BULTMAN
DIANE M. RODRIGUEZ
J. THOMAS McELVEEN, III
JOHN R. MOORMAN

TELEPHONE (803) 775-1263
Ext. 238

TELEFAX (803) 778-1300

EIN 20-0422521

EMAIL jmcelveen@bryanlaw.com

May 19, 2011

Sent via U.S. Mail & Facsimile (803) 794-0322
Dr. Scott B. Boyd
720 Rabon Rd
Columbia, SC 29203

RE: Claimant: Katherine L Haines

Dear Dr. Boyd:

I represent Ms. Haines in her workers' compensation claim. You recently performed cervical surgery on Ms. Haines and allowed her to return to work on light duty. Ms. Haines, who very much wants to keep her job and is willing to do whatever you authorized, has actually returned to work. I requested that the employer provide a job description of the light duty work being provided, so that you could review it to assure that it meets the your restrictions. The employer provided a job description, but as you will read, it does not appear to be a light duty job. Nevertheless, Ms. Haines tells me that her immediate supervisors understand her restrctions and that she is actually working light duty.

Ms. Haines states that she is working behind the cash register work and stocking paper products on shelves (the products are brought to her by another employee on a cart). She reports that she has been working 20 hours a week, with frequent hourly breaks that last 10-15 minutes. It is not always easy, but she has been able to do this. She does not believe that she can do perform the job description furnished by the employer.

Attached is a copy of the job description provided by the employer. The employer has told their counsel that this is all they will be providing to us.

If you have a comment on this information, I enclose a self-addressed stamped employer for you to return your response to my office. Please advise whether or not you believe Ms. Haines can perform the job that has been described at this time.

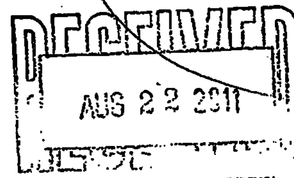
We continue to appreciate every effort you have made on Ms. Haines behalf.

With kind regards, I am

Sincerely,

Joseph T. McElveen, Jr.

I have no comment
SB



JTMcjr/hsd
Enclosure
cc: Katherine L Haines
Brad Easterling, Esquire

COLUMBIA NEUROSURGICAL ASSOCIATES, P.A.

www.columbianeurosurgical.com

Spine & Neurological Surgery

Thomas J. Holbrook, Jr., MD Scott B. Boyd, MD
William M. Rambo, Jr., MD Brett C. Gunter, MD
Randall G. Drye, MD Karl A. Lozanne, MD

720 Rabon Road
Columbia, SC 29203
(803) 462-0423 · (F) 462-0432

Pain Medicine

Steven B. Storick, MD
Eva J Raw, MD

132 Sunset Court
W. Columbia, SC 29169
(803) 794-3700 · (F) 794-0322

May 23, 2011

Joseph T. McElveen, Jr.
Bryan Law Firm
Fax: 803-778-1300CNA Work Comp Dept.

Patient: Katherine L. Haines
Chart: 87009

Dear Mr. McElveen:

This is in response to your letter dated May 19, 2011 concerning Ms. Katherine Haines. You have provided a job description provided by Ms. Haines employer. I have reviewed that and found it to be very broad and lacking of detail. I am certainly of the opinion that Ms. Haines has pain and is unable to function at normal capacity. However, it is difficult for me to determine whether she can fulfill the responsibilities of her job based on this brief and broad description.

I have recommended that Ms. Haines be evaluated by pain management specialists and would cele' final decision of work status to them. However, if that is not possible and Ms. Haines has completed her treatment through pain management, I would be happy to see her again to rate her and provide final work restrictions.

Scott B. Boyd, MD
THIS DOCUMENT HAS BEEN ELECTRONICALLY SIGNED
SBB/SB CNAWT: 4044

COLUMBIA NEUROSURGICAL ASSOCIATES, P.A.

www.columbianeurosurgical.com

Spine & Neurological Surgery

Thomas J. Holbrook, Jr., MD Scott B. Boyd, MD
William M. Rambo, Jr., MD Brett C. Gunter, MD
Randall G. Drye, MD Karl A. Lozanne, MD

720 Rabon Road
Columbia, SC 29203
(803) 462-0423 - (F) 462-0432

Pain Medicine
Steven B. Storick, MD
Eva J. Rawl, MD

132 Sunset Court
W. Columbia, SC 29169
(803) 794-3700 - (F) 794-0322

To: Heather

Today's Date: 6-3-11 #Pages 1 plus Cover

To: Joseph McClure Company:

Fax #: 778-1300 Phone #:

From: Sylvia Miller
Phone # (803) 462-3626

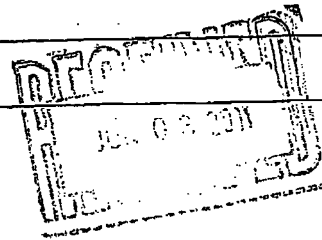
Industrial Care Department
Fax# (803) 462-3647

EMAIL sylviam@columbianeurosurgical.com

___Urgent ___Reply Needed ___For Information

YOU CAN EMAIL YOUR RESPONSE TO MY EMAIL ADDRESS ABOVE

Message: Re: Heather I've sent a copy of this to Brad Easterling



Unless otherwise indicated or otherwise obvious from this transmittal, the information contained in this message is privileged and confidential, intended for the recipient named above. If the reader of this message is not the intended recipient, copying or distribution of this communication is prohibited.

COLUMBIA NEUROSURGICAL ASSOCIATES, P.A.

www.columbianeurosurgical.com

Spine & Neurological Surgery

Thomas J. Holbrook, Jr., MD Scott B. Boyd, MD
William M. Rambo, Jr., MD Brent C. Gunler, MD
Randall G. Drye, MD Karl A. Lozanne, MD

720 Rabon Road
Columbia, SC 29203
(803) 462-0423 - (F) 462-0432

Pain Medicine
Steven B. Storick, MD
Eva J. Rawl, MD

132 Sunset Court
W. Columbia, SC 29169
(803) 794-3700 - (F) 794-0322

6/3/2011

Katherine L. Haines was approved by the adj Judith Schmid to attend the pain program at Baptist Pain Center. This program is 5 weeks long and starts each day at 8:30 and ends each day at 2:30. Katherine will return to see Dr. Boyd at the end of the 5 week program.

Sylvia Miller
Director of Industrial Care

COLUMBIA NEUROSURGICAL ASSOCIATES
PO BOX 63337
CHARLOTTE NC 28263-3337

Bill To:

Katherine L Haines

Amount Remitted:
Account Number: 87009
Statement Date: 06/21/2011
Patient's Balance Due: $0.00
Page: 1 of 2

[ ] MASTERCARD [ ] VISA [ ] DISCOVER
Credit Card#:
CSC:
Exp.Date
Amount:
Signature:

Please Note: If a '1' appears in this column, we have filed with your primary carrier. If a '2' appears, we have also filed with your secondary carrier. Our records show your insurance as follows:

Date	Provider	ICD9	Reference	Description of Services	Amount Charged	Payments	Insurance	Your Balance	
05/08/09	ER		72141	MRI C SPINE	695.00		0.00		1
06/30/09				WORKERS COMP ADJ		335.00			
06/30/09				WORKERS COMP PAYMENT		360.00			
10/07/10	SBB		99456.	INDEPENDENT MEDICAL EXAMI	1000.00		0.00		1
10/07/10		#1073844404		CHECK		1000.00			
01/04/11				WORKERS COMP PAYMENT		400.00			
01/18/11	SBB		72141	MRI C-SPINE	414.00		0.00		1
01/20/11	SBB		99214	OFFICE/OUTPATIENT VISIT,	141.00		0.00		1
02/24/11				WORKERS COMP PAYMENT		141.00			
03/15/11	SBB		63075	NECK SPINE DISK SURGERY	1852.00		0.00		1
03/15/11	SBB		63076	NECK SPINE DISK SURGERY	343.00		0.00		1
03/15/11	SBB		22554	ARTHRODESIS ANTERIOR INTE	1709.00		0.00		1
03/15/11	SBB		22585	ADDITIONAL SPINAL FUSION	464.00		0.00		1
03/15/11	SBB		22845	INSERT SPINE FIXATION DEV	1013.00		0.00		1
[illegible]/15/11	SBB		22851	APPLY SPINE PROSTH DEVICE	1128.00		0.00		1
[illegible]/15/11	SBB		20936	SPINAL BONE AUTOGRAFT	540.00		0.00		1
03/15/11	JNA		63075	NECK SPINE DISK SURGERY	314.84		0.00		1
03/15/11	JNA		63076	NECK SPINE DISK SURGERY	58.31		0.00		1
03/15/11	JNA		22554	ARTHRODESIS ANTERIOR INTE	290.53		217.89		1
03/15/11	JNA		22585	ADDITIONAL SPINAL FUSION	78.88		0.00		1
03/15/11	JNA		22845	INSERT SPINE FIXATION DEV	172.21		0.00		1
03/15/11	JNA		22851	APPLY SPINE PROSTH DEVICE	191.76		0.00		1
04/05/11	SBB		99024	POST-OP	0.00		0.00		1
04/11/11	SBB		99024	POST-OP	0.00		0.00		1
04/25/11				WORKERS COMP PAYMENT		360.00			
04/25/11				WORKERS COMP ADJ		54.00			
05/05/11	SBB		72156	MRI C-SPINE W/ WO CONTRAS	615.00		615.00		1

Account Balance	(Refer to "Due From Patient" For Amount to Pay)	Current Balance	Over 30	Over 60	Over 90	Over 120	Due From Patient
$832.89		$0.00	$0.00	$0.00	$0.00	$0.00	$0.00

Providers	Account Number	Name	Telephone for Questions
EVA JANE RAWL MD JAY N ALTEMUS PAC SCOTT B BOYD MD	87009	KATHERINE L HAINES	(803) 462-0428
	Statement Date	**Make check Payable To**	
	06/21/2011	COLUMBIA NEUROSURGICAL ASSOCIATES	

COLUMBIA NEUROSURGICAL ASSOCIATES
PO BOX 63337
CHARLOTTE NC 28263-3337

Bill To:

Katherine L Haines

Amount Remitted:
Account Number: 67009
Statement Date: 06/21/2011
Patient's Balance Due: $0.00
Page: 2 of 2

[ ]MASTERCARD [ ]VISA [ ]DISCOVER

Credit Card#: CSC:

Exp Date: Amount:

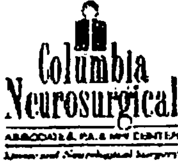
Signature:

Please Note: If a '1' appears in this column, we have filed with your primary carrier. If a '2' appears, we have also filed with your secondary carrier. Our records show your insurance as follows:

Date	Provider	ICD9	Reference	Description of Services	Amount Charged	Payments	Insurance	Your Balance	
05/09/11	SBB		99024	POST-OP	0.00		0.00		1
05/12/11				WORKERS COMP PAYMENT		0.00			
05/24/11				WORKERS COMP PAYMENT		5807.50			
05/24/11				WORKERS COMP ADJ		1241.50			
06/02/11				WORKERS COMP PAYMENT		888.64			

Account Balance	(Refer to "Due From Patient" For Amount to Pay)	Current Balance	Over 30	Over 60	Over 90	Over 120	Due From Patient
$832.89		$0.00	$0.00	$0.00	$0.00	$0.00	$0.00

Providers	Account Number	Name	Telephone for Questions
EVA JANE RAWL MD JAY N ALTEMUS PAC SCOTT B BOYD MD	67009	KATHERINE L HAINES	(803)462-0428
	Statement Date	**Make check Payable To**	
	06/21/2011	COLUMBIA NEUROSURGICAL ASSOCIATES	



Northeast MRI Center
720 Rabon Road
Columbia, SC 29203
Phone:(803)462-0423
Fax:

Name:	KATHERINE HAINES	**Exam Date:**	8/15/2011
Patient ID:	CN87009	**Exam:**	MRI C-SPINE W/O&W/CONTRAST
DOB:	[redacted]	**Reason:**	-
Phone:		**Referrer:**	SCOTT BOYD, M.D.
Acc#:	120661	**2nd Referrer:**	
		3rd Referrer:	

Results

MRI OF THE CERVICAL SPINE W/WO CONTRAST

INDICATION: Neck pain with pain and numbness in the right arm and hand.

TECHNIQUE: Multiplanar magnetic resonance imaging was performed with pulsed sequences yielding proton, T2, and pre- and post-contrast T1-weighted images. This exam was compared to the patient's prior exam from 5/5/11.

FINDINGS: The patient is status post anterior cervical fusion between C4 and C6. The alignment and height of the cervical vertebral bodies are maintained and appear unremarkable. Overall signal characteristics appear stable. There is a hemangioma noted in the T4 vertebral body. This is unchanged from the prior exam.

The C2-C3 disc is normal, and the AP diameter of the spinal canal is maintained.

At C3-C4, there has been development of what appears to be a very subtle lateral disc protrusion on the left side, causing impression on the exiting nerve root. This is seen on both axial T2 and on parasagittal T2 images.

At C4-C5, there is persistent bony foraminal narrowing on the right, similar to that noted on the prior exam. AP diameter of the spinal canal appears normal.

At C5-C6, there is persistent bony foraminal narrowing, similar to that noted on the prior exam. Additionally, there is a little bit of asymmetric osteophytic spurring seen off the endplates to the left of midline, causing impression on the left anterolateral margin of the thecal sac and exiting nerve root.

At C6-C7, the disc appears unremarkable.

The C7-T1 disc appears normal.

Intrinsically, the cord appears unremarkable.

No abnormal enhancement is seen on post-contrast images.

CONCLUSIONS:

1. Status post anterior cervical fusion between C4 and C6.
2. Interval development of a small left-sided disc protrusion at the C3-C4 level along the far-left lateral margin, causing slight impression on the exiting nerve root.
3. Bony foraminal narrowing on the right at the C4-C5 level.
4. Biforaminal narrowing at C5-C6 with slight asymmetric osteophytic spurring off the endplates, extending to the left of midline, causing impression on the left exiting nerve root at this level.
5. Incidental note made of a hemangioma at the T4 vertebral body level.

J. Edsel Garrick, M.D.
Radiologist
PITTS RADIOLOGY

Report Electronically Signed by: John E. Garrick M.D.
Report Signed on: 8/15/2011 3:48 PM

Pt. Name:	KATHERINE HAINES	Exam:	MRI C-SPINE W/O&W/CONTRAST
Patient ID:	CN87009	Acc:	120661
Completed Date:	8/15/2011 2:47:00 PM	Interpreting Rad:	John E. Garrick M.D.
Transcribed By:	Doris Gleaton	Dictated Date:	
Transcribed Date:	8/15/2011 3:25:29 PM	Finalized Date:	8/15/2011 3:48 PM

COLUMBIA NEUROSURGICAL ASSOCIATES, P.A.

www.columbianeurosurgical.com

Spine & Neurological Surgery

Thomas J. Holbrook, Jr., MD Scott B. Boyd, MD
William M. Rambo, Jr., MD Brett C. Gunter, MD
Randall G. Drye, MD Karl A. Lozanne, MD

720 Rabon Road
Columbia, SC 29203
(803) 462-0423 - (F) 462-0432

Pain Medicine

Steven B. Storick, MD
Eva J. Rawl, MD

132 Sunset Court
W. Columbia, SC 29169
(803) 794-3700 - (F) 794-0322

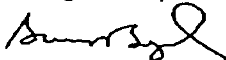
OFFICE VISIT
Patient: Katherine L. Haines
Chart: 87009 WC
Date: 9/19/11

Ms. Haines returns to the office for follow-up for a check and change in condition. I last saw her about four months ago when I released her following a two level anterior cervical discectomy and fusion for neck and right arm pain with degenerated discs as a projected cause. She never really got much relief and she is currently now a little over six months out from her procedure. She continues to have severe neck pain radiating down into her right upper arm. She says she has to hold her head tilted to the left at all times because of pain. We had her on modified work restriction part-time, but she has not been able to work in the last eight weeks. She has been seeing Dr. Fonda of pain management to manage her pain medications. Again she says she feels weak in her arm. She had an epidural steroid injection directed at her mid to lower cervical spine and she said that that made her worse opening up a "pain gate" which she had a tough time with. She has not responded to postoperative or preoperative physical therapy. She has tried numerous medications and still she is not better.

On examination, she has diffuse weakness in her right upper extremity, give-way type from pain. Her deep tendon reflexes are 2+ and symmetric at the biceps. She has a negative Hoffmann's sign and she has almost torticollis-type neck position tilted to the left. She cannot move it any to the right of midline. She guards her neck and arm.

MRI of the cervical spine done recently shows a fusion at C4-5 and C5-6 and her spinal canal behind this looks normal. She has some foraminal compromise but it is adequate and the foramina are fused and therefore do not move so the nerve root should not be affected. There are no obvious problems at her adjacent disc spaces. There is a very small left disc bulge at C3-4 that in retrospect that was probably present on her preoperative studies and this is of no clinical significance based on her symptoms.

IMPRESSION/PLAN: Ms. Haines has neck and right arm pain that was presumed secondary to disc problems and radiculopathy but in retrospect I now have to question whether her problems have been coming from her cervical spine. She has not responded to preoperative or postoperative injections and surgery which has fused and removed her degenerated discs has given her no relief. She has had two postoperative MRI scans none of which have shown any acute problems or nerve root compromise that would correspond to her symptoms so I do not believe that there is any further surgery that is likely to help. She has had postop injections and therapies which have made things worse. Therefore, I have nothing further to offer. I have advised her to continue follow-up with pain management specialists.



Scott B. Boyd, MD
THIS DOCUMENT HAS BEEN ELECTRONICALLY SIGNED
SBB/MAH CNAWT: 4040

TIME RECEIVED February 1, 2012 1:49:53 PM EST | REMOTE CSID 8034623647 | DURATION 34 | PAGES 1 | STATUS Received
Feb. 1. 2012 1:49PM WC WORKERS COMP No 0362 P. 1

COLUMBIA NEUROSURGICAL ASSOCIATES, P.A.

[illegible] Road
Columbia, SC 29203
(803) 462-[illegible] – (F) 462-[illegible]

132 Sunset Court
W. Columbia, SC 29169
(803) 794-[illegible] – (F) 794-[illegible]

Spine & Neurological Surgery
Thomas J. Holbrook, Jr., MD
William M. Rogers, Jr., MD
Randall G. Drye, MD
Scott B. Boyd, MD
Peter C. Gunn, MD
Kiel A. Lazzara, MD

Pain Medicine
[illegible], MD
[illegible], MD

www.columbianeurosurgical.com

February 1, 2012

Sherrill Davis / Sedgwick CMS

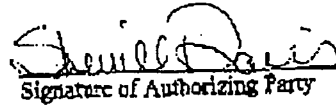
Claimant: Katherine Haines
DOB: [redacted]
Claim# YYCC07510

Our total fee for Independent Medical Exams is $1200.00
SC does not require use of fee schedule for IME's
Columbia Neurosurgical Assoc. requires the **$1200.00** to be **prepaid.**
Appointments will be canceled if pre-payment has not been received.
A charge of **$500.00** will be applied for all **No Show appointments** and any **appointments not cancelled 48 hours in advanced.**

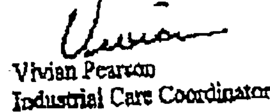
***Return signed letter ASAP**
Fax# (803) 462-3647

Please remit to the address below:
Columbia Neurosurgical Assoc. P.A.
Sylvia Miller
132 Sunset Court
West Columbia, SC 29169

Tax ID # 570620757


Signature of Authorizing Party

Sincerely,



Vivian Pearson
Industrial Care Coordinator

2997 Sunset Boulevard
West Columbia, South Carolina 29169
(803) 936-0223 p
(803) 936-0229 f

PATIENT: Haines, Katherine
MRN: 827774
DATE OF BIRTH:
REF PHYSICIAN: David Redmond, MD
DATE OF EXAM: 2/23/2012
PATIENT PH#:

EXAM: MRI OF THE CERVICAL SPINE

HISTORY: Myelopathy.

TECHNIQUE: The following sequences were performed on a GE Signa HD-Excite 1.5 Tesla magnet: Sagittal and axial fast spin echo T2, sagittal fast spin echo T1 and axial T2* imaging was performed through the cervical spine. There are no priors for comparison.

FINDINGS: The visualized posterior fossa is without mass. The cervical cord is normal in signal, contour and caliber.

At the C2-3 level, there is no disc bulge or protrusion.

At the C3-4 level, there is a diffuse disc osteophytic bulge with uncovertebral joint hypertrophy but no significant stenosis.

The patient is status post anterior discectomy and fusion at C4-5 and C5-6 without recurrent stenosis centrally. There are uncovertebral joint spurs at C4-5 minimally narrowing the neural foramina.

At the C6-7 level, there is a slight disc bulge without stenosis.

At C7-T1, there are slight asymmetric right-sided facet degenerative changes without stenosis.

IMPRESSION:

1. C4-5 and C5-6 fusion without myelomalacia. There is mild bilateral neural foraminal stenosis at the C4-5 level related to uncovertebral joint hypertrophy.
2. Slight asymmetric disc bulge to the left at C3-4 without significant stenosis.

Paul Aitchison, M.D.
PA / bl

DD: 2/23/2012
DT: 2/23/2012
Job: 14623547
This document has been reviewed and electronically signed by

Paul M. Aitchison MD

COLUMBIA NEUROSURGICAL ASSOCIATES, P.A.
CARLINA SPINE CENTER

INDUSTRIAL CARE

Katherine Haines
Patient Name SS# DOB

Address City/State/Zip

Home # Wk# Cell Other

Fonda Wilkins — Referred by: (First & Last name)
Kim Rowe — Office Contact
296-2412 — Office phone #
296-2435 — Office fax #

Date of Injury: 2-12-09 Body Part: neck s/p cervical Fusion

Name of Employer at Time of Injury: Dollar Tree Stores

441 North Duncan Bypass Union SC 29379 (803)782-3224
Complete Address and Phone # of Employer at time of injury

Insurance Carrier Name: Sedgwick CMS Claim # Y4CC 07510

Insurance Carrier Address: PO Box 305104 Nashville TN 37230

615-874-7162 — Phone #
859-264-4060 — Fax #
1st SCS eval — Authorization for: (type service)

Sherrill Davis Adj — Adjuster Name
sherrill.davis@sedgwickcms.com — Adjuster email address

Sherrill Davis — Authorized by
Phone # Fax # email address if different from above

Name and Address of Patient's Attorney Phone Fax

Sylvia Miller, Dir. Industrial Care Dept.
P(803) 462-3626 Fax (803) 462-3647

4-2-10 — Date
87009 — Chart #

Starick — Physician
4-18-12 @ 11:30 — Appt. date/time
☐ NE ☒ W. Cola

Case Manager

NAME:	Phone#
Email Address:	Fax#

Mailed

CAROLINA SPINE CENTER
A Program of Columbia Neurosurgical Associates, P.A.
www.columbianeurosurgical.com

Spine & Neurological Surgery
Thomas J. Holbrook, Jr., MD; Scott B. Boyd, MD
William M. Rambo, Jr., MD; Brett C. Gunter, MD
Randall G. Drye, MD; Karl A. Lozanne, MD

720 Rabon Road
Columbia, SC 29203
(803) 462-0423 - (F) 462-0432

Pain Medicine
Steven B. Storick, MD
Eva J. Rawl, MD

132 Sunset Court
W. Columbia, SC 29169
(803) 794-3700 - (F) 794-0322

INDEPENDENT MEDICAL EVALUATION
Patient: Katherine L. Haines
Chart: 87009 WC
Date: 4/18/12

CHIEF COMPLAINT: Neck and shoulder pain.

HISTORY OF PRESENT ILLNESS: Katherine L. Haines is a 50-year-old female involved in a work-related incident on 2/12/09 while she was employed at Dollar Tree. Ms. Haines said she was pulling some items off a shelf when they fell on top of her. She subsequently had pain into her neck, shoulders, and right more so than the left arm. She also had pain and tingling down her back into the right leg. Dr. Boyd felt that her degree of spinal stenosis was significant enough that she required surgery. She subsequently had an ACD/F at C4-5 and C5-6 in March of last year. Ms. Haines denies any benefit from the surgical intervention. She continues to complain of a fair amount of neck pain into the shoulder blades and down her back all the way to the right leg which she describes as constant. Less frequent (20%of the time) she will have numbness/sleepy sensation in the right arm with a charley horse feeling into the wrist and hand. This pain seems to be intensified when she is lying down. For the most part she has minimal left arm symptoms. She denies any frank motor loss or sphincter dysfunction. Ms. Haines reports falling several times due to her leg giving out and subsequently bruising herself. Ms. Haines did attend physical therapy postoperatively without much improvement. She tries home exercises on a daily basis, but has difficulty moving her neck to the left as well as backwards. There is no history of chiropractic treatments. She reports having a few injections preoperatively as well as one postoperatively without any benefit. Medications include Soma q.i.d., Relafen 500 mg b.i.d., Neurontin 300 mg b.i.d., Lortab 7.5 mg q.i.d., Demerol 50 mg b.i.d., Trazodone 100 mg q.h.s., and Zoloft 100 mg q.day. She is not reporting any substantial side effects from the medicines including nausea, constipation, altered mental status or confusion. She feels maybe there is a 30% benefit from the medicines. Her VAS is 7/10 and Oswestry is 60%. She had a repeat MRI the other month which notes postsurgical changes at C4-5 and C5-6 although there is no signal change in the spinal cord or evidence of recurrent spinal stenosis.

ALLERGIES: PENICILLIN & questionably to LORTAB 10 mg (itching/throat swelling).

MEDICATIONS: As noted above. She reports that she is supposed to be on Coreg, an inhaler, and had been on Metformin, but due to financial issues she is not taking any of those medicines.

PAST MEDICAL HISTORY: Notable for cardiomyopathy with a mild case of CHF. She denies any coronary artery disease. She has a history of COPD. Her diabetes presently is diet-controlled and she says runs around 100. Surgeries include ACD/F at C4-5 and C5-6, hysterectomy, BTL, and tonsillectomy.

SOCIAL HISTORY: Ms. Haines is single. She has three children ages 26, 24, and 21. She was previously employed as an assistant manager at Dollar Tree until her injury. She has a high school education as well as a CNA certificate. She smokes approximately a pack of cigarettes a day and reports some infrequent ETOH use.

FH/ROS: Reviewed and documented in the chart. Pertinent ROS noted in HPI.

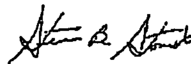
PHYSICAL EXAM: Stated HT 6', WT 251, BP 140/82.

In general, this is a pleasant, middle-aged female in no acute distress. She sits upright in the chair with her head tilted to the left approximately 10 degrees. This position seems to be consistent throughout the interview and exam today. HEENT: No adenopathy or thyromegaly. She has a well-healed ACD scar. The face is symmetrical. Tongue is midline on protrusion. EOMI. Sclera clear. EXTREMITIES: Warm to touch. Palpable distal pulses. No cyanosis or edema. She has large (5-6 cm) erythematous ring lesions all over her upper extremities and a few on her lower extremities that most resemble ringworm. She says these have been present for years and are felt to be secondary to diabetes. There are multiple extremity tattoos. She has a large ecchymoses on her left calf and a small amount on the left shin. FROM of the upper and lower extremities without impingement or crepitus. Internal and external rotation of the hips is nonpainful.. There is no muscle atrophy. MUSCULOSKELETAL: Her neck is tilted approximately 10 degrees to the left. She has difficulty rotating her neck much more than 45 degrees, but can rotate to the right about 60 degrees. She can flex her chin almost to the chest, but does not extend past neutral. ROM of the waist notes her fingertips below the knees and she hyperextends without difficulty. There is diffuse tenderness along the cervical, thoracic, lumbar, and sacral spine into the scapula as well as into the sciatic notches and piriformis. Both hip bursas are tender as well. She stands upright and the lumbar spine appears appropriately aligned with the pelvis level. NEUROLOGIC: Sensation is decreased to light touch in the right thumb compared to the left. The remaining sensation to light touch and pinprick are equal in the upper and lower extremities. Motor function is intact at 5/5. DTRs are 2+ and equal in the upper and lower extremities. Negative Hoffmann's. No history of Lhermitte's. No clonus. Plantar reflexes downgoing. Gait is nonantalgic. No footdrop. No sympathetic changes or allodynia. PSYCHOLOGICAL: Alert and oriented x3. Mood is mildly depressed and affect is flat. Speech is clear and coherent. Follows simple commands.

ASSESSMENT:

1. Chronic neck pain.
2. History of cervical spinal stenosis.
3. Status post ACD/F C4-5 and C5-6.

PLAN: Ms. Haines was referred for an evaluation for a spinal cord stimulator trial. Her primary complaint is posterior neck pain into her back and down to her right leg as well as into her scapula. She has less significant right arm symptoms including more numbness than pain. Ms. Haines has seen several physicians in the past including Dr. Don Johnson who potentially recommended radiofrequency ablation or spinal cord stimulator according to the medical records. His consult is not available today. Based on Ms. Haines's symptoms a spinal cord stimulator is unlikely to provide her much benefit, especially in the difficult to reach areas such as the posterior neck, shoulders, and upper back. Stimulators are typically more effective for neuropathic pain into the extremities which is less of a problem for her. She may benefit from facet joint blocks (medial branch nerves) in the cervical spine to see if this would help with some of the neck and upper shoulder pain. If the injections are beneficial (greater than 50%) but only temporarily lasting then radiofrequency ablation would be a potential option. The hope is the ablation would provide her at least 4-6 months or greater of some moderate benefit. She continues to describe symptoms similar to her preoperative complaints. The recent MRI does not show any recurrent spinal cord compression or obvious injury. On exam she is not myelopathic. It would be difficult for me to say how much benefit she would note if her neck pain improved. She had numerous diffuse complaints on exam today that does not necessarily correlate with her neck injury. Should you have any questions or concerns, please feel free to contact me at your convenience.



Steven B. Storick, MD
THIS DOCUMENT HAS BEEN ELECTRONICALLY SIGNED
SBS / KB CNAWT: 4078

Patient Pain Assessment Form*

Please complete the information below and return to your healthcare professional. Date 4/18/12

1. Age: 50 Sex: ☒ Female ☐ Male Patient Name: Katherine Haines 87009

2. How long have you been experiencing this pain?
since 2-9-09

3. What is the cause of your pain? injury from work (shelfs and bins stuck right shoulder and neck

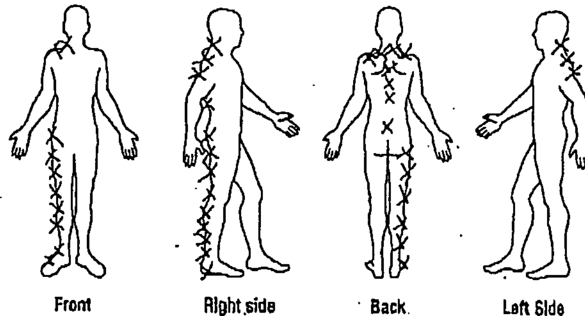
4. Please rate your pain by circling one number.

5. OTHER MEDICAL CONDITIONS

Have you ever been diagnosed with any of the following conditions?

- ☐ High blood pressure
- ☐ High cholesterol
- ☒ Heart disease
- ☐ Stroke
- ☐ Stomach or ulcerative problems
- ☐ Kidney problems
- ☒ Liver problems
- ☐ Overweight/ obesity
- ☒ Depression/ mood disorder
- ☐ Alcohol/ drug abuse
- ☐ Other

6. LOCATION (Mark an 'X' where you usually feel significant pain)



7. EFFECTS OF PAIN

	Always	More than half of the time	Half of the time	Less than half of the time	Never
Trouble falling asleep	☒	☐	☐	☐	☐
Need sleep medication	☐	☒	☐	☐	☐
Awakened from sleep during the night	☐	☒	☐	☐	☐
Awakened from sleep in the morning	☐	☒	☐	☐	☐
Trouble with activities of daily living	☒	☐	☐	☐	☐
Daytime fatigue/lack of concentration	☒	☐	☐	☐	☐

8. MEDICATIONS

What pain medications have you taken in the past (both over-the-counter and prescription)?

List ALL pain medications and dose you are currently taking:

Medication	Dose	Frequency
soma	350	☒ 4 times or more daily
relafen	500	☒ 2-3 times daily ☒ 4 times or more daily
hydrocol/APAP	7.5	☒ 2-3 times daily
neurontin	300	
demerol	50	
trazodone	50	
zoloft	100	

Frequency options: ☐ Less than once daily ☐ Once daily ☐ 2-3 times daily ☐ 4 times or more daily

PriCara™ Unit of Ortho-McNeil, Inc. *Adapted from McCaffery M, Pasero C. Pain: Clinical Manual, 2nd Edition. St. Louis, MO: 1999, Page 60. Copyright by Mosby, Inc.
© Ortho-McNeil, Inc. 2007 02U0152 March 2007

CAROLINA SPINE CENTER

A Program of Columbia Neurosurgical Associates, P.A.

Steven B. Storick, MD
(803)794-0322 (F) 794-0322

Eva Jane Rawl, MD
(803)462-0423 (F) 462-0432

Please answer by checking **one box in each section** for the statement which best applies to you. We realize you may consider that two or more statements in any one section apply but please just shade out the spot that indicates the statement **which most clearly describes your problem.**

Section 1: Pain Intensity

- ☐ I have no pain at the moment
- ☐ The pain is very mild at the moment
- ☐ The pain is moderate at the moment
- ☑ The pain is fairly severe at the moment
- ☐ The pain is very severe at the moment
- ☐ The pain is the worst imaginable at the moment

Section 2: Personal Care (eg. washing, dressing)

- ☐ I can look after myself normally without causing extra pain
- ☐ I can look after myself normally but it causes extra pain
- ☐ It is painful to look after myself and I am slow and careful
- ☑ I need some help but can manage most of my personal care
- ☐ I need help every day in most aspects of self-care
- ☐ I do not get dressed, wash with difficulty and stay in bed

Section 3: Lifting

- ☐ I can lift heavy weights without extra pain
- ☐ I can lift heavy weights but it gives me extra pain
- ☐ Pain prevents me from lifting heavy weights off the floor but can manage if they are placed on a table
- ☐ Pain prevents me lifting heavy weights but I can manage light to medium weight if they are conveniently positioned
- ☑ I can only lift very light weights
- ☐ I cannot lift or carry anything

Section 4: Walking

- ☐ Pain does not prevent me from walking any distance
- ☐ Pain prevents me from walking more than a mile
- ☐ Pain prevents me from walking more than 1/2 mile
- ☑ Pain prevents me from walking more than 1/4 mile
- ☐ I can only walk using a stick or crutches
- ☐ I am in bed most of the time

Section 5: Sitting

- ☐ I can sit in any chair as long as I like
- ☐ I can only sit in my favorite chair as long as I like
- ☐ Pain prevents me from sitting more than 1 hour
- ☑ Pain prevents me from sitting more than 30 min
- ☐ Pain prevents me from sitting more than 10 min
- ☐ Pain prevents me from sitting at all

Section 6: Standing

- ☐ I can stand as long as I want without extra pain
- ☐ I can stand as long as I want but it gives me extra pain
- ☐ Pain prevents me from standing more than 1 hour
- ☑ Pain prevents me from standing more than 30 min
- ☐ Pain prevents me from standing more than 10 min
- ☐ Pain prevents me from standing at all

Section 7: Sleeping

- ☐ My sleep is never disturbed by pain
- ☐ My sleep is occasionally disturbed by pain
- ☐ Because of pain, I have less than 6 hrs sleep
- ☑ Because of pain, I have less than 4 hrs sleep
- ☐ Because of pain, I have less than 2 hrs sleep
- ☐ Pain prevents me from sleeping at all

Section 8: Sex Life (if applicable)

- ☐ My sex life is normal and causes no extra pain
- ☐ My sex life is normal, but causes extra pain
- ☐ My sex life is nearly normal but is painful
- ☑ My sex life is severely restricted by pain
- ☐ My sex life is nearly absent because of pain
- ☐ Pain prevents any sex life at all

Section 9: Social Life

- ☐ My social life is normal and gives me no extra pain
- ☐ My social life is normal but increases the degree of pain
- ☐ Pain has no significant effect on my social life apart from limiting my more energetic interests (eg. sports)
- ☑ Pain has restricted my social life; I do not go out as often
- ☐ Pain has restricted my social life to my home
- ☐ I have no social life because of pain

Section 10: Traveling

- ☐ I can travel anywhere without pain
- ☐ I can travel anywhere but it gives me extra pain
- ☑ Pain is bad but I manage journeys over 2 hrs
- ☐ Pain restricts me to journeys less than 1 hr
- ☐ Pain restricts me to necessary journeys under 30 min
- ☐ Pain prevents me from traveling except to receive treatment

PALMETTO HEALTH BAPTIST
PAIN AND ORTHOPEDIC CARE CENTER

NAME: HAINES, KATHERINE
DOB:
VISIT DATE: 06/21/2011

RECORD NO: 000843595
ACCOUNT #: 1115302120

DATE OF SERVICE: 6/21/2011

NEW PATIENT EVALUATION

REFERRING PHYSICIAN: Scott B. Boyd MD.

CHIEF COMPLAINT: Neck pain.

HISTORY OF PRESENT ILLNESS: This patient is a pleasant 49-year-old female who was injured at work on 2/09/2009. She was working at Dollar Tree removing a shelf from under a stack of bins and somehow the upper bins and shelves fell on her right shoulder and neck area. She was seen by Dr. Boyd by October 2010 and she had already been evaluated by Dr. Felmly and Dr. Limbo. Because her problems seemed to be getting worse and she was concerned about weakness developing in her right arm, Dr. Boyd thought that she had a worsening cervical myeloradiculopathy and eventually she underwent surgery. She had a decompression and fusion at C4-5 and C5-6. On a followup note of 5/09/2011 Dr. Boyd indicated that the MRI scan showed good resolution of the disc herniations and there was no canal compromise. She had some right foraminal compromise at C5-6, but it appeared improved and this was also across a few segments. The patient has complained of persistent pain in the neck that radiates to the upper back between the shoulder blades. Dr. Boyd had recommended pain management. The patient has a primary care physician, Dr. Fisher, who started her on Zoloft 50 mg once a day for depression. Besides this she had been on Flexeril and hydrocodone along with Advil. She has been working part time since the injury. I do not have the exact dates of her time away, but she is now working 4 hours per day and is interested in going through a pain program hoping that she will be able to increase her time thereafter.

PAST MEDICAL HISTORY: Medications are listed above.

ALLERGIES: Penicillin.

ILLNESSES: Acid reflux, asthma, chronic bronchitis.

SURGERIES: Cervical spine.

SOCIAL HISTORY: She has worked in retail sales for several years. She has lived here since 1996. She moved from Florida. Her mother has been helping out a little bit during the time of her injury. She has 3 children, now age 26, 23 and 19. Only 1 child is still at home and he apparently is soon to leave because of moving to a house. Her children are doing well overall. The patient states that she enjoys her job and would like

PALMETTO HEALTH BAPTIST
PAIN AND ORTHOPEDIC CARE CENTER

NAME: HAINES, KATHERINE
DOB: [redacted]
VISIT DATE: 06/21/2011

RECORD NO: 000843595
ACCOUNT #: 1115302120

to get back to doing more there. She does smoke cigarettes. She does not use alcohol. She does use caffeine. No medication abuse.

The pain diagram indicates a pain level of 3 today and she circles the right side of the neck over the trapezius and over the midportion of the neck and in the midline between the scapula.

REVIEW OF SYSTEMS: Positive for frequent cough, wheezing and frequent headaches. She also has a skin disorder which I do not fully understand.

PHYSICAL EXAMINATION: General: This is a pleasant, well-developed lady in no acute distress. She seems to have a normal affect today. She is a little bit on the quiet side, but she is not tearful. Head: Normocephalic. Eyes, Ears, Nose and Throat: Clear. Vital Signs: Blood pressure 146/96, pulse 80, respirations 19, temperature 97.5. Neck: She has limited rotation in the cervical spine to the left and right. She has limited but better flexion and extension in the cervical spine. Neurologic: Strength and reflexes appear normal in the upper and lower extremities. Heart: Normal sinus rhythm. Lungs: Clear to auscultation. Skin: She has patches of circular rash on her arms and legs. She has seen a dermatologist for this. Apparently this is not something that is thought to be contagious. This does not interfere with her day-to-day abilities.

IMPRESSION: Work related injury to the cervical spine with subsequent fusion C4-5 and C5-6 with persistent pain thereafter and some degree of depression, now a little improved since she started Zoloft.

RECOMMENDATION: I think she would be a good candidate for participating in the full pain program. She lives in Gastin but she does have her own transportation. If she does come up to participate we would want to help manage her medications. She is particularly interested in finding medication that might help her sleep better. I was thinking in terms of adding trazodone since she is already on a low dose of Zoloft. In addition to this, we will be able to observe her ability to function while taking hydrocodone here. I think that she could benefit from the physical therapy and also the psychological aspects. We will see her back in followup once she enters the program. At the end of the program she will more than likely need a functional capacity assessment to determine what is the appropriate recommendation for her work level.

David Redmond, MD/jm
ORS

223 STONERIDGE DRIVE COLUMBIA, SC 29210 PHONE 803-296-7246
FAX 803-296-2400 www.PalmettoHealth.com

PALMETTO HEALTH BAPTIST
PAIN AND ORTHOPEDIC CARE CENTER

NAME: HAINES, KATHERINE
DOB: [redacted]
VISIT DATE: 06/21/2011

RECORD NO: 000843595
ACCOUNT #: 1115302120

D: 06/21/2011 12:13 T: 06/21/2011 12:18
Job #: 73562 Doc #: 20535334
cc: David Redmond, MD

PATIENT: Katherine Haines
REPORT: PHYSICAL THERAPY EVALUATION
THERAPIST: Kimberly Shull-Massey, PT
DATE: 4/21/11

SUBJECTIVE:

AGE: 49 SEX: (FEMALE) REFERRING MD: Dr. Scott Boyd

DIAGNOSIS: S/P cervical discectomy

DATE OF ONSET: 7/2009

ONSET/INJURY: Kneeling in storeroom @ work trying to pull shelf when entire shelving & merchandise fell onto her neck & R side.

CHIEF COMPLAINT/ DESCRIPTION OF PAIN:
- Base of skull to top thoracic spine (T8-T10) some numbness in neck & arm.

RELATED SURGERY: discectomy - removed arm pain entirely. 3/15/11 c hardware

CURRENT PAIN:
PAIN WORSE IN: MORNING/MIDDAY/AFTERNOON/EVENING/NIGHT/ACTIVITY. Constant
PAIN INTENSITY RATING: on a 0-10 scale. 3/10
McGILL PAIN QUESTIONNAIRE:
- PRI: 11
- VAS: 3
- Lowest/highest level in last month: 2 - 6

WADDELL INAPPROPRIATE SYMPTOMS: Ø

ACTIVITIES:	PAIN:	WORSE	BETTER	No Effect
SITTING				
STANDING				
WALKING				
LYING DOWN				
BENDING				
TWISTING				
LIFTING				
REACHING OVERHEAD		upt neck		
COUGHING/SNEEZING		Spine flexion		
Other:				

Hydrocodone 5/500

SLEEP DISTURBANCES:
DIFFICULTY SLEEPING: (YES)/NO SLEEP POSITIONS: SUPINE PRONE R/L (SIDELYING)
# of times awake during night: 3-4x DIFFICULTY FALLING ASLEEP: (YES)/NO
MEDICATIONS TO ASSIST: Ø

DIAGNOSTIC TESTS:
X-RAY – Dr. Boyd - hardware in place & fused

MRI – April 2011
CT SCAN
EMG

PAST TREATMENTS:
INJECTIONS – no
PHYSICAL THERAPY – no
CHIROPRACTIC SERVICES – no

PAST MEDICAL HISTORY: DM (+) Neg HTN + (Neg) Ca + (Neg)
RELATED MEDICATIONS: Lyrica, Hydrocodone, Aleve w Advil.

SIGNIFICANT MEDICAL/SURGICAL HISTORY: See MD chart – sig for Hep C + mild CHF 1999

SOCIAL HISTORY: (Single) Married Widowed Divorced, 3 Children
HOME: 1 STORY, 3 STEPS + (No) Difficulty ascending/descending steps
EMPLOYER: Dollar Tree
OCCUPATION: retail Assistant manager
WORKING yes HOURS/WEEK 4 Hrs / day 5 x / week
Last date of work: return April 2011
HOBBIES: Current: ~~Swim~~, float in pool, just trying to crawl swim
Unable to complete: Swimming for exercise
EXERCISE PROGRAM: Stretches (@ PT prior to Sx)

NOTATIONS: Pt concerned about working while in FPP. Therefore decided she is not able to work while in program. See MD note.

OBJECTIVE:

APPEARANCE: Ambulated (independently) to PT (without) assistive device; with a (non-antalgic gait.)

POSTURE:
FORWARD HEAD no
ROUNDED SHOULDERS – minimal
SPINAL CURVES:
CERVICAL LORDOSIS: Decreased
THORACIC KYPHOSIS: Significantly Decreased
LUMBAR LORDOSIS: Decreased.
SHOULDERS: (Even) Elevated on
PSIS: (Even) Elevated on Anterior Rotation:
OTHER: incision (R) ant neck – healed
Hand Dominance: (RIGHT) LEFT

PALPATION: TRIGGER POINTS NOTED IN:
UT:
Lev.Scap: } moderate to severe (R) > (L) also TPS to T12 (B)
Rhomb:
LPS:
Glut:
Piriformis: } NT
Quad.Lumb:

SI MOBILITY: ↓ mobility of (R) SI joint noted with March Test in standing.

AROM:

CERVICAL:

	RIGHT	LEFT
ROTATION:	~~WNL~~ ↓ 50%	WNL ↓ 25%
SIDE FLEXION:	WNL "	WNL "
FWD FLEXION:	75% ↑ WNL	
EXTENSION:	25% ↑ WNL	

	RIGHT	LEFT
UE: (R) painful and will	(WNL)	(WNL)
LE:	(WNL)	(WNL)

TRUNK:

FWD FLEXION: Fingertips to ~ NT

MMT:

UPPER EXTREMITIES:	RIGHT	LEFT
SHOULDER ELEVATION:	4 /5	4+/5
ELBOW FLEXION:	4 /5	5 /5
GRIP:	4	5

LOWER EXTREMITIES:	RIGHT	LEFT
HIP FLEXION:	5 /5	5 /5
HIP ABD/ADD:	↓ /5	↓ /5
HIP IR:	/5	/5
HIP ER:	/5	/5
KNEE FLEX/EXT.:	/5	/5
ANKLE DORSIFL:	/5	/5

TRUNK: (PER SAUNDERS' SCREENING)

ABDOMINAL:	(Marginal) Unsatisfactory
EXTENSOR:	Marginal (Unsatisfactory)
SHOULDER GIRDLE:	Marginal (Unsatisfactory)

FLEXIBILITY:

	RIGHT LE	LEFT LE
Single Knee to Chest:		
Supine Hamstring stretch lacks full knee extension by:	NT	________
Straight Leg Raise:		
Piriformis Tightness:		

GAIT: Patient demonstrated the following gait deviations while ambulating 100 ft in PT Gym:

1. Slow pace, ↑ trunk mobility - rotation

Treatment Plan: Tx Team decision - FPP - approved by WC dyssy.

Kimberly Shull Massey, PT

K Shull, PT

PHYSICAL THERAPY STRETCHING GROUP NOTE

NAME: Katherine Haines

DATES: July 11, 12, 13, 14, 2011

This patient continues to participate in the FPP stretching class.

Patient shows good effort.

Patient is showing good improvement in flexibility.

Comments:

[signature]

Time Increment: 10min ea.

PHYSICAL THERAPY PROGRESS NOTE

Name: Katherine Haines

Dates: July 11, 12, 13, 14, 15 -2011

The patient continues to participate in the Full Pain Program Physical Therapy exercise group. Please see physical therapy quota sheet for individual exercise details.

Patient records his/her pain intensity rating as 3-6 on a scale of 0-10 this week.

The patient did/did not reach his/her individual goals this week.

Patient continues to show good/fair/poor/inconsistent effort.

Patient's pain behavior none/minimal/moderate/high.

In the physical therapy aerobics group the patient was/was not able to reach target heart rate consistently. He/She was asked to use 0 # weights on arms/legs during aerobics.

We will gradually increase the patient's workout to obtain maximal benefits.

Comments: ______________________

[signature]

PHYSICAL THERAPY BACK CLINIC

Name: Kathy Haines

Date: 7/11/11

Patient participated in one hour group session/clinic. During this clinic, we discussed the purpose and structure of spinal anatomy, using a spinal model. We reviewed each type of tissue within the spinal system and discussed possible injuries/lesions/problems commonly associated with these tissues. Each client received illustrations of tissues, a discussion outline, and lumbar rolls. Instructions in the proper use of lumbar rolls were provided.

PHYSICAL THERAPY POSTURE CLINIC

Subject: Body Mechanics Video

Name: Katherine Haines

Date: 7/12/11

Patient participated in a one hour group session. During today's session, patients were videotaped while involved in simple tasks. Videotape was then reviewed by group. Body mechanics and posture were critiqued.

PALMETTO HEALTH BAPTIST
PAIN AND ORTHOPEDIC CARE CENTER

NAME: HAINES, KATHERINE
DOB: [redacted]
VISIT DATE: 07/13/2011

RECORD NO: 000843595
ACCOUNT #: 1118801834

THERAPIST: Clare N McGill, OTR/LCHT

OCCUPATIONAL THERAPY INITIAL EVALUATION

Ms Haines is a 49-year-old female. She sustained an injury on 11/09/2009, injuring her neck. The patient also reports again on 06/03/2009 she had another injury, injuring the left side of her neck. The patient reports she had surgery on her neck on 03/15/2011. She has had 4 MRIs for diagnostic assessment of the neck area.

PAST MEDICAL HISTORY: Diabetes, cardiomyopathy, the beginnings of congestive heart failure, mild COPD. She also reports that she has headaches 3-4 times weekly.

PAIN RATING: 6/10.

LOCATION: Upper neck down into the right scapula area.

ACTIVITIES OF DAILY LIVING: The patient reports that she lives with her son right now but he is in the process of moving. The patient reports she is independent in all areas of activities of daily living, however, she does have some difficulty or must change the way she does certain things. She has some difficulty with upper body dressing, washing her hair, or combing and fixing her hair. She also reports having some difficulty with heavy homemaking tasks. She is independent at driving, but this is also difficult due to the limited range of motion in her neck, so she must twist her entire back in order to safely look in all directions.

The patient also reports that she is not sleeping well, only sleeping approximately 2 hours per night. She also reports she has very limited functional activity tolerance.

VOCATION: The patient is currently employed by the Dollar Tree. She has been employed here for 14 years. She has continued to work, missing some time due to surgery, however, has continued to work up until the time she has begun the Full Pain Management Program.

HOBBIES AND LEISURE ACTIVITIES: She enjoys swimming. She recently purchased a pool so that she could do this at her home. She reports she used to enjoy playing basketball and she still enjoys going to the beach.

UPPER EXTREMITY ACTIVE RANGE OF MOTION:
SHOULDER:
FLEXION: Right: 0-103, left: 0-125.
ABDUCTION: Right: 0-105, left: 0-130.
Internal and external rotation were within functional limits but tight and painful.

PALMETTO HEALTH BAPTIST
PAIN AND ORTHOPEDIC CARE CENTER

NAME: HAINES, KATHERINE
DOB:
VISIT DATE: 07/13/2011

RECORD NO: 000843595
ACCOUNT #: 1118801834

All other motions of both upper extremities were within functional limits.

UPPER EXTREMITY STRENGTH:
MANUAL MUSCLE TEST ON THE RIGHT: Shoulder 2+/5, elbow 3-/5, wrist and forearm 4-/5.
MANUAL MUSCLE TEST ON THE LEFT: Shoulder 4-/5 for all shoulder motions, all other left upper extremity motions 5/5.
GRIP STRENGTH: Right grip 37 pounds, left grip 84.6 pounds. This was an average of 3 trials with the dynamometer in the 2nd position.
PINCH STRENGTH:
TIP: Right--6 pounds, left--12 pounds.
KEY: Right--9.2 pounds, left--16 pounds.
PALMAR: Right--10 pounds, left--12.6 pounds.

FINE MOTOR: The patient reports no problem with fine-motor tasks. However, she does report when she is writing or repetitively doing fine-motor tasks, she tires easily.

DOMINANCE: Right hand dominant.

SENSATION: She has intermittent tingling of her right hand.

ASSESSMENT:
1. She has decreased range of motion of both shoulders.
2. She has decreased right upper extremity strength.
3. She has difficulty with some activities of daily living.
4. She has poor functional activity tolerance.

GOALS:
1. The patient to demonstrate independence in a home exercise program for upper body strength.
2. The patient to improve bilateral shoulder range of motion.
3. Decrease pain with activities of daily living.
4. Increase functional activity tolerance as needed to return to her prior functional status, including self care and vocational goals.

PLAN: This patient will be scheduled to attend individual Occupational Therapy 1-2 times weekly, group therapy 2 times weekly as a part of the Full Pain Management Program. Occupational Therapy will work on therapeutic exercise, assistive devices as needed, biofeedback/neuromuscular reeducation, any vocational assistance as needed, and modalities as needed.

PALMETTO HEALTH BAPTIST
PAIN AND ORTHOPEDIC CARE CENTER

NAME: HAINES, KATHERINE **RECORD NO:** 000843595
DOB: [redacted] **ACCOUNT #:** 1118801834
VISIT DATE: 07/13/2011

Clare N McGill, OTR/LCHT/pd
Occupational Therapist

D: 07/13/2011 15:22 T: 07/13/2011 18:47
Job #: 90808 Doc #: 20551348
cc: Clare N McGill, OTR/LCHT

223 STONERIDGE DRIVE COLUMBIA, SC 29210 PHONE 803-296-7246
FAX 803-296-2400 www.PalmettoHealth.com

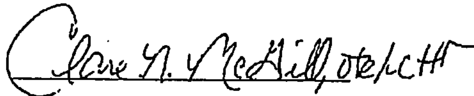
OCCUPATIONAL THERAPY GROUP NOTE: PAIN CYCLE

PATIENT: Haines, Katherine

ACCOUNT #:

DATE: Wednesday, July 13, 2011

Patient participated in a one hour group session today. During today's session patient discussed the role of inactivity and stress in the pain cycle. They also discussed appropriate ways to break the pain cycle.



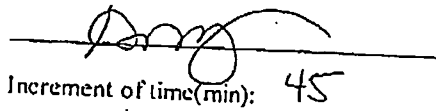
Clare N McGill, OTR/LCHT

PHYSICAL THERAPY PROGRESS NOTE

NAME: Katherine Haines

DATE: 7/14/11

Reviewed purposes/goals of PT portion of FPP. Developed treatment plan with input from patient. Patient agrees with overall treatment plan. Refer to handwritten treatment plan kept in PT Department while patient is participating in FPP.
Patient was instructed in proper posture and body mechanics in relation to maintaining natural spinal curvature, especially in sitting. Patient was issued with and instructed in proper use of lumbar support to assist in maintaining lumbar curve. Patient was issued with the Sex and Back Pain booklet and Saunder's Managing Back Pain Guide to Daily Activities.



Increment of time(min): 45

OCCUPATIONAL THERAPY GROUP NOTE: FUNCTIONAL ADAPTATIONS

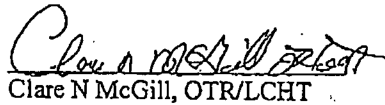
NAME: Haines, Katherine

ACCOUNT#:

DATE: Thursday, July 14, 2011

Patient participated in a one hour group session today. During today's session, patient were shown and demonstrated several assistive devises available. Examples were shown to assist with bathing, dressing, writing, eating, meal preparation and leisure activity. They were challenged to think of simple and economic ways to make adaptations to items we use daily.

They participated in group discussion on the benefits of making or using assistive devises including: work simplification, energy conservation, to promote proper body mechanics and decrease pain while performing activities of daily living.


Clare N McGill, OTR/LCHT

PALMETTO HEALTH BAPTIST
PAIN AND ORTHOPEDIC CARE CENTER

NAME: HAINES, KATHERINE
DOB: [redacted]
VISIT DATE: 07/14/2011

RECORD NO: 000843595
ACCOUNT #: 1118801834

OFFICE VISIT NOTE

Ms. Haines presents for routine followup. Her vital signs are stable. She is in no acute distress. She reports a pain level of 6. This is in her neck.

She has been off of her hydrocodone for about 2 weeks as Workers' Comp did not pay for it. She is also off of Flexeril. She has been taking Zoloft 50 mg daily but does not find that it is strong enough. I am going to increase her to 100 mg daily. I did give her prescriptions for the Flexeril and the hydrocodone.

She also tells me that she has been unable to get her regular medications which are Coreg, metformin, and Spiriva. I will talk with our pharmacy here and see if we are able to help her with that in any way.

I will plan on seeing him back next week in followup.

[signature] [handwritten annotation]
Fonda Wilkins, NP/ld

D: 07/14/2011 14:22 T: 07/14/2011 18:16
Job #: 91603 Doc #: 20532796
cc: Fonda Wilkins, NP
*Workers' Compensation

PATIENT NAME: Katherine Haines

Problem Area(s): Neck, shoulder blade region up to base of skull

Comments: Not able to afford regular meds. Appt c̄ PCP next wk & c̄ [illegible] today. Will discuss

TREATMENT PLAN

Week 1:

Modifications
Cradle head/towel for ab crunches

DI 7/14 Rx plan

Week 2:

DI 7/19 1. MFR/TENS check
2. MFR
7/18 3 ES

flex/cerv ex → str. ex

Week 3:

7/2[illegible] 4. MFR
[illegible] 5. MFR
6. ES

Week 4:

7. MFR
8. MFR
9. ES

Week 5:

10. MFR
11. ES
12. D/C

[signature] PT
7/14/11

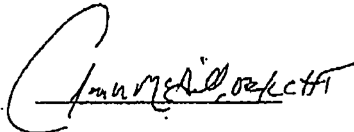
RELAXERCISE GROUP

Patient: Katherine Haines

Account:

Date: 7/15/2011

Patient participated in a one hour group on Relaxercise . There was a group discussion explaining the concept of relaxercise and how it works to improve flexibility, reduce muscle tension, and reduce stress level. It occurs through an information feedback process between your senses muscles and brain. The group then participated in two of the ten relaxercise exercises.



Occupational/Physical Therapist

PHYSICAL THERAPY STRETCHING GROUP NOTE

NAME: Katherine Haines

DATES: July 18, 19, 20, 21; 2011

This patient continues to participate in the FPP stretching class.

Patient shows good effort.

Patient is showing Good improvement in flexibility.

Comments:

[signature]

Time Increment: 10min ea.

PHYSICAL THERAPY PROGRESS NOTE

Name: Katherine Haines

Dates: July 18, 19, 20, 21, 2011 & 7/22/11

The patient continues to participate in the Full Pain Program Physical Therapy exercise group. Please see physical therapy quota sheet for individual exercise details.

Patient records his/her pain intensity rating as 5, 6, 7 on a scale of 0-10 this week.

The patient did/did not reach his/her individual goals this week.

Patient continues to show good/fair/poor/inconsistent effort.

Patient's pain behavior none/minimal/moderate/high.

In the physical therapy aerobics group the patient was/was not able to reach target heart rate consistently. He/She was asked to use 0 # weights on arms/legs during aerobics.

We will gradually increase the patient's workout to obtain maximal benefits.

Comments: Arrived late 7/22 - pain 8-9/10.

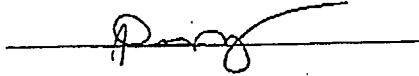
[signature]

PHYSICAL THERAPY BACK CLINIC

Name: Katherine Haines

Date: 7/18/11

Patient participated in one hour group session/clinic. During this clinic, we discussed the use of good body mechanics to accomplish tasks with increased effectiveness, decreased fatigue, and less risk of injury. A pretest was given and answers discussed. Specific home/work tasks were reviewed and modeled by clients and instructor to reinforce the principles of good body mechanics. Each client received a "Back to Basics" booklet.



PHYSICAL THERAPY PROGRESS NOTE

NAME: Katherine Haines

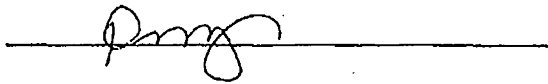
7-18-11 S: Pt c/o pain in LB + neck PIR 6/10
O: Interferential electrical stimulation to (B) UT's / Rhomb x 25 min with patient in Supine position. Pt issued with personal electrodes.
A: Pt notes relief with treatment.
P: Con't PT per POC.------------------------------ [signature]

PHYSICAL THERAPY POSTURE CLINIC

Name: Katherine Haines

Date: 7/19/11

This clinic emphasized the concept of symmetry in good posture. We viewed slides of various postural deficiencies and using a list of self-correction techniques, formulated recommendations to correct postural faults.



Time Increment: ~~30~~ 60 minutes

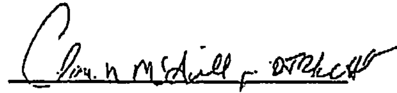
OCCUPATIONAL THERAPY GROUP NOTE: BODY MECHANICS PRINCIPALS

PATIENT: Haines, Katherine

ACCOUNT #:

DATE: Wednesday, July 20, 2011

Patient participated in a one hour group session today. Group topic was Body Mechanics principals. Patient was involved in group activity that addressed how to modify/change body mechanics in order to be able to perform ALD task with minimal risk of increase pain.



Clare N McGill, OTR/LCHT

PHYSICAL THERAPY PROGRESS NOTE

NAME: Katherine Haines

7/20/11 S: Pt c/o pain in neck
O: Myofascial release treatment to (B) UT/lev scap with patient in sitting position. Followed by manual stretch, ice x 10 min.
A: Pt notes Cont pain. Only tolerated min MFR.
P: Con't PT. Pt to ice 2x today at home for 10-20 min at a time.

[signature]

Time Increment: 30

PALMETTO HEALTH BAPTIST
PAIN AND ORTHOPEDIC CARE CENTER

NAME: HAINES, KATHERINE
DOB: [redacted]
VISIT DATE: 07/21/2011

RECORD NO: 000843595
ACCOUNT #: 1118801834

Katherine presents for routine followup. She reports a pain level today of 8. Vital signs are stable. She is in no acute distress. She states that she has been having more sciatic-type pain recently with radiation down the entire extremity. She has never tried Neurontin. I am going to give her 300 mg to take at bedtime every night. She was given written and verbal instructions on how to take this, side effects, drug and food interactions, etc. She also continues on Zoloft, Flexeril, and hydrocodone as well as trazodone. I told her that we may need to increase the gabapentin again next week but that we will go slowly at this time.

Vital signs are stable. She is in no acute distress. I will plan on seeing back next week in followup. I did obtain a month's supply of her Coreg, metformin, and inhaler and she has been given those.

Fonda Wilkins, NP/cjd

D: 07/22/2011 15:15 T: 07/22/2011 16:48
Job #: 98147 Doc #: 20553712
cc: Fonda Wilkins, NP
Workers' Compensation

223 STONERIDGE DRIVE COLUMBIA, SC 29210 PHONE 803-296-7246
FAX 803-296-2400 www.PalmettoHealth.com

PALMETTO HEALTH BAPTIST
PAIN AND ORTHOPEDIC CARE CENTER

NAME: HAINES, KATHERINE
DOB: [redacted]
VISIT DATE: 07/21/2011

RECORD NO: 000843595
ACCOUNT #: 1118801834

THERAPIST: Clare N McGill, OTR/LCHT

OCCUPATIONAL THERAPY PROGRESS NOTE

Occupational therapy worked with the patient today on neuromuscular reeducation on electrical stimulation to the right side of her neck and shoulder and stretching exercises.

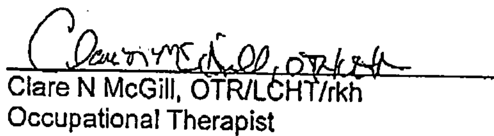
ASSESSMENT: This patient was having a great deal of pain today in her hip and low back and occupational therapy applied ice to this area.

Occupational therapy did an interferential electrical stimulation treatment to her right neck and shoulder for 20 minutes. This does seem to be helping decrease some of the pain in this area.

Occupational therapy did introduction to respiration training today, instructing her in the proper techniques of abdominal breathing. When first observing her, she was breathing somewhat abdominally but very rapidly. She had a respiratory rate of approximately 27 respirations per minute. Occupational therapy focused today's session on making her breathing slower and deeper and consistently from the diaphragm or abdominal breathing. After working several minutes the patient did grasp a good understanding.

The patient was given a home program of practicing her breathing exercises 2 times daily. She will be issued a CD on breathing exercises when they are available.

PLAN: She will be scheduled to attend occupational therapy 1 to 2 times next week.



Clare N McGill, OTR/LCHT/rkh
Occupational Therapist

D: 07/21/2011 16:21 T: 07/21/2011 20:07
Job #: 97271 Doc #: 20545868
cc: Clare N McGill, OTR/LCHT

OCCUPATIONAL THERAPY GROUP NOTE: SLEEP POSTURE

NAME: Haines, Katerine

Account #:

DATE: Thursday, July 21, 2011

Patient participated in a one hour co-treatment session with Physical Therapy. Group topic was sleep posture. Patient was involved in a sleep posture critique and was issued a sleep posture pillow. Patient also participated in a group discussion of developing good sleep habits and an environment conductive to relaxation and sleep.

Clare N McGill, OTR/LCHT

PHYSICAL THERAPY POSTURE CLINIC: SLEEP POSTURE CLINIC

NAME: Katharine Haines

DATE: 7/21/11

Patient participated in a one hour group session today. Group topic was Sleep Posture. Patients were involved in a sleep posture clinic critique and were issued with a sleep posture pillow.

[signature]

PHYSICAL THERAPY PROGRESS NOTE

NAME: Katherine Haines

7/22/11 S: Pt c/o pain in low back . PIR 8 /10.
O: Interferential electrical stimulation to (B) LS spine x 45 min
with patient in Sitting position.
A: Pt notes Signif ↓ pain c̄ Rx.
P: Con't PT per POC.

Time: 75 min

Addendum

S: Notes that she bent down yesterday to pick up food from vending machine when back began to spasms. c/o sev pain since then.
Post-treatment pain 5/10.

O. Pt c̄ sev. antalgic gt. Signif difficulty c̄ sit ↔ stand. Unable to sit comfortably. Very rigid.

Attempted mhp x 30 min while in Relaxercise Class. Pain did not subside

Applied IFES x 45 min in sitting c̄ leaning forward onto pillows stacked on Rx Table.

Reported signif ↑ pain to Fonda Wilkins, NP - pt given injection of pain medication

Pt inst in use of mhp x20 min → exer/walking → ice x 20 min, then repeat to maintain flexibility & pain relief over weekend. Pt issued c̄ ice pack.

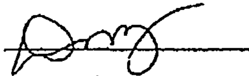
Spoke @ length re: pain relief, importance of maintaining/preventing ↓ flexibility.

RELAXERCISE THERAPY GROUP

Patient: Katherine Haines

Date: 7/22/11

Patient participated in a one hour group on Relaxercise. There was a group discussion explaining the concept of Relaxercise and how it works to improve flexibility, reduce muscle tension, improve function and reduce stress level. It occurs through an information feedback process between your senses muscles and brain. The group then participated in two of the ten Relaxercise exercises. Pt left early 2nd sev. pain



Debra M. Iacono, PT

PHYSICAL THERAPY PROGRESS NOTE

Name: Katherine Haines

Dates: July 25, 26, 27, 28, 29 - 2011

The patient continues to participate in the Full Pain Program Physical Therapy exercise group. Please see physical therapy quota sheet for individual exercise details.

Patient records his/her pain intensity rating as 6 - 7 on a scale of 0-10 this week.

The patient did/did not reach his/her individual goals this week.

Patient continues to show good/fair/poor/inconsistent effort.

Patient's pain behavior none/minimal/moderate/high.

In the physical therapy aerobics group the patient was/was not able to reach target heart rate consistently. He/She was asked to use 0 # weights on arms/legs during aerobics.

We will gradually increase the patient's workout to obtain maximal benefits.

Comments: ______________________

PHYSICAL THERAPY STRETCHING GROUP NOTE.

NAME: Katherine Haines

DATES: July 25, 26, 27, 28, 2011

This patient continues to participate in the FPP stretching class.

Patient shows good effort.

Patient is showing good improvement in flexibility.

Comments: —

[signature]

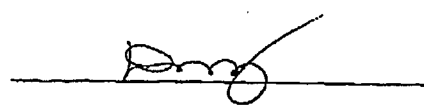
Time Increment: 10min ea.

PHYSICAL THERAPY BACK CLINIC

Name: Katherine Haines

Date: 7/25/11

Patient participated in one hour group session/clinic. This clinic concentrated on the cervical spine. We reviewed the appropriate anatomical structures in the neck, then discussed several common neck disorders. Preventive measures were outlined, and overall neck care was discussed. The clients received copies on the "Neck Owner's Manual" booklet, with suggested updates.



PHYSICAL THERAPY PROGRESS NOTE

NAME: Katherine Haines

7-26-11 S: Pt c/o pain in LB & UB.
O: Medium frequency electrical stimulation to (B) LB / (B) UT'S x 25 min reciprocal with patient in S/L position.
A: Pt notes min/mod relief with treatment.
P: Con't PT per POC.------------------------------ [signature] PT

Time: 30 mins.

PALMETTO HEALTH BAPTIST
PAIN AND ORTHOPEDIC CARE CENTER

NAME: HAINES, KATHERINE
DOB: [redacted]
VISIT DATE: 07/26/2011

RECORD NO: 000843595
ACCOUNT #: .1118801834

THERAPIST: Clare N McGill, OTR/LCHT

OCCUPATIONAL THERAPY PROGRESS NOTE

Occupational therapy worked with Ms. Haines today on neuromuscular reeducation. The NeXus-4 biofeedback unit was used with the respiration sensor and heart rate sensors applied.

OBJECTIVE: The patient's baseline respiration rate ranged from 5-6 respirations per minute. Occupational therapy focused today's session on synchronizing her breathing with her heart rate.

ASSESSMENT: This patient is doing extremely well with her respirations. It was apparent that she had been practicing and doing her home exercise program. The patient's heart rate today in the beginning was 72 beats per minute and her HRV 6.98. After describing to her how to work on synchronizing her respirations and her heart rate, she did extremely well. Her heart rate even decreased to 64 beats per minute. Respirations remained around 4-5 respirations per minute and her HRV 9.78 with 10 being an ideal indication of synchronization.

This patient is doing extremely well with this. She did report today that she was able to sleep a 4-hour straight stretch over the weekend as compared to her usual 2 hours at a time. She was encouraged to use the breathing with her sleep. She also feels the new pillow has helped with her sleep as well.

PLAN: She will be scheduled to attend occupational therapy one more time this week.

Clare N. McGill, OTR/LCHT
Clare N McGill, OTR/LCHT/cjd
Occupational Therapist

D: 07/26/2011 15:12 T: 07/26/2011 16:29
Job #: 01614 Doc #: 20553767
cc: Clare N McGill, OTR/LCHT

PHYSICAL THERAPY POSTURE CLINIC

Name: Katherine Haines

Date: 7/26/11

We assessed each patient's standing posture for proper balance and alignment. The ten points of the critique were discussed with their importance stressed.

[signature]

Time increment: 60 minutes

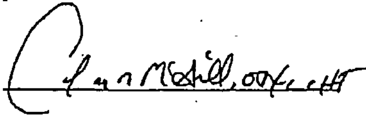
OCCUPATIONAL THERAPY GROUP NOTE: ANATOMY

PATIENT: Haines, Katherine

ACCOUNT #:

DATE: Wednesday, July 27, 2011

Patient participated in a one hour group session today. During today's session patients were introduced to functional anatomy of the spine and upper extremity. OT also discussed problems that may result or be exacerbated by faulty body mechanics and posture.



Clare N McGill, OTR/LCHT

PHYSICAL THERAPY PROGRESS NOTE

NAME: Katherine Haines

7/28/11 S: Pt c/o pain in neck & back, PIR 6 /10.
O: Interferential electrical stimulation to (B) UT & (B) Lsp. region x 25 min
with patient in sitting position.
A: Pt notes slight ↓ pain.
P: Con't PT per POC.

Addendum
S: c/o burning, throbbing, stabbing pain - low back
Feels like bugs in legs going to foot (L)
Pain ↓ c̄ ice - but not as effective. Applies q. hr x 20 min
To see F. Wilkins in am.
Taking Flexeril - not working as well.
Turned head yesterday & felt pull. Sharp pain @ collar bone by breast bone.
Feels like someone took a knife to her neck.
Previous CESI - good relief to radiating pain.
O: Req. for LESI sent to WC for auth.
Appears to have strained (R) SCM - pain from mastoid to medial 1/3 of clavicle. Swelling
Pt demo very guarded position c̄ neck & low back
Spoke c̄ F. Wilkins, NP - To see pt in am.. Will re-eval musc. relax & anti-inflam.
Inst in use of moist/heat x20-30 → stretch → ice 10-20.
then repeat

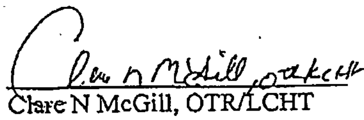
OCCUPATIONAL THERAPY GROUP NOTE:
BREATHING: A KEY TO SELF HEALING

NAME: Haines, Katherine

ACCOUNT #:

DATE: Thursday, July 28, 2011

Patient participated in a one hour group session today. Group discussion was on the importance of proper breathing and the power breathing has on our over all health. Patient participated breathing exercises in efforts to learn proper breathing techniques.



Clare N McGill, OTR/LCHT

PHYSICAL THERAPY POSTURE CLINIC

Name: Katherine Haines

Date: 7/28/11

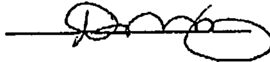
Patient participated in one hour group session/clinic. We reviewed the principles for evaluating the validity of exercise/stretching techniques to which the client may be exposed. Examples were presented to the class. The group discussed each exercise and determined if the exercise technique was correct. We reviewed the principles of stretching, strengthening, aerobic and relaxation exercise.

RELAXERCISE THERAPY GROUP

Patient: Katherine Haines

Date: 7\29\11

Patient participated in a one hour group on Relaxercise. There was a group discussion explaining the concept of Relaxercise and how it works to improve flexibility, reduce muscle tension, improve function and reduce stress level. It occurs through an information feedback process between your senses muscles and brain. The group then participated in two of the ten Relaxercise exercises.



Debra M. Iacono, PT

PALMETTO HEALTH BAPTIST
PAIN AND ORTHOPEDIC CARE CENTER

NAME: HAINES, KATHERINE
DOB: [redacted]
VISIT DATE: 07/29/2011

RECORD NO: 000843595
ACCOUNT #: 1121000798

DATE OF SERVICE: 7/29/2011

OFFICE VISIT NOTE

Katherine presents from the full pain program. She reports a pain level today of 7. Her vital signs are stable. She does appear to be acutely uncomfortable today. She has had several days where her pain level has been quite high in the gym. Several days ago she received a Toradol injection which she reports today did not help. In addition to her cervical pain, she is complaining of pain in her lumbar spine area in the L4-L5 area across both sides with radiation down her left leg. She knows that this is not covered under her worker's comp and she is going to use her private insurance to get a lumbar epidural steroid injection done. As far as her worker's comp injuries do go, she is complaining today of having increased pain in her cervical spine. Today her flexion and extension is quite limited, more so than it has been the last couple of times that I have seen her. She continues with very limited rotation in the cervical spine to the left and right. She also says that she is having radiculopathy from her cervical spine down into both arms. I believe that she would benefit from cervical epidural and would ask that worker's comp would consider letting her have 1 of those. I am going to give her today a muscle relaxant and a nonsteroidal. She is going to be put on a short term Soma 350 mg 1 up to 4 times a day p.r.n. spasms as well as Relafen 500 mg 2 p.o. daily. with food. She knows how to take this medication, side effects, drug and food interactions and things to report to me. It should also be noted that in both her hands and her feet she is reporting decreased sensation. I will plan on seeing her back next week in followup.

[signature] MSN RN ACNP-BC [illegible]
Fonda Wilkins, NP/jm

D: 07/29/2011 13:58 T: 07/29/2011 14:30
Job #: 04447 Doc #: 20535420
cc: Fonda Wilkins, NP
Workers comp.

PALMETTO HEALTH BAPTIST
PAIN AND ORTHOPEDIC CARE CENTER

NAME: HAINES, KATHERINE
DOB: [redacted]
VISIT DATE: 07/29/2011

RECORD NO: 000843595
ACCOUNT #: 1121000798

THERAPIST: Clare N McGill, OTR/LCHT

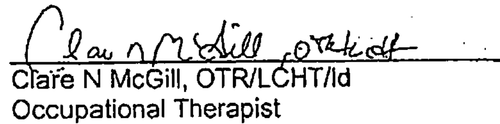
OCCUPATIONAL THERAPY PROGRESS NOTE

Occupational Therapy worked with Ms. Haines today first on applying interferential electrical stim to the right side of her neck. A moist hot pack was also applied to her neck. Cold packs were applied to her low back.

ASSESSMENT: This patient was in a great deal of pain today. Is apparently getting very little pain relief from the treatment thus far. She is scheduled to get a LESI next week and is hopeful than approval for a CESI will be approved as well.

The patient was instructed to continue trying to work on her gentle stretching exercises of her neck and alternating heat and cold.

PLAN: She will be scheduled to attend Occupational Therapy again in 2 weeks.



Clare N McGill, OTR/LCHT/ld
Occupational Therapist

D: 07/29/2011 12:57 T: 07/29/2011 13:19
Job #: 04317 Doc #: 20532850
cc: Clare N McGill, OTR/LCHT

223 STONERIDGE DRIVE COLUMBIA, SC 29210 PHONE 803-296-7246
FAX 803-296-2400 www.PalmettoHealth.com

PHYSICAL THERAPY PROGRESS NOTE

Name: Katherine Haines

Dates: August 3, 4, 5, 2011

The patient continues to participate in the Full Pain Program Physical Therapy exercise group. Please see physical therapy quota sheet for individual exercise details.

Patient records his/her pain intensity rating as 6 on a scale of 0-10 this week.

The patient did/did not reach his/her individual goals this week.

Met 4/7 goals.

Patient continues to show good/fair/poor/inconsistent effort.

Patient's pain behavior none/minimal/moderate/high.

In the physical therapy aerobics group the patient was/was not able to reach target heart rate consistently. He/She was asked to use 0 # weights on arms/legs during aerobics.

We will gradually increase the patient's workout to obtain maximal benefits.

Comments: Out sick 8/1. LEU 8/2.

PALMETTO HEALTH BAPTIST
PAIN AND ORTHOPEDIC CARE CENTER

NAME: HAINES, KATHERINE
DOB: [redacted]
VISIT DATE: 08/02/2011

RECORD NO: 000843595
ACCOUNT #: 1121000798

SPECIAL PROCEDURE

PROCEDURE: Lumbar epidural steroid injection, left L4-5.

DIAGNOSIS: Suspected left sciatica.

REFERRING PHYSICIAN: Fonda Wilkins, ACNP

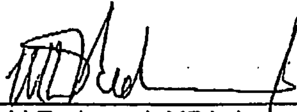
ALLERGIES: Penicillin.

CLINICAL DATA: Katherine Haines is a patient who is participating in our Pain Program. She had cervical spine decompression and fusion, C4-5 and C5-6. She has not had her lumbar spine worked up, but the nurse practitioner noted sciatic-type pain on 07/21/2011 and asked that we preform an empiric injection. She states the pain runs from the lower back into the hip down to the anterior aspect of the leg and top of the foot. We will inject at L4-5.

PROCEDURE: The procedure was discussed and informed consent was signed. Vital signs were obtained. Pulse ox and heart rate were monitored. The patient was placed in the prone position. The L4-5 interspace was identified by means of a PA fluoroscopic view.

The skin overlying the injection site was prepped and draped in sterile fashion. The skin and subcutaneous tissue were anesthetized using 3 mL of lidocaine 1%. Using a paramedian approach, an 18-gauge spinal needle was inserted and 3 mL of normal saline was injected using a loss-of-resistance method to approximate the epidural space. Aspiration failed to reveal blood, spinal fluid, or air. Omnipaque contrast, 1 mL, confirmed flow along the L5 nerve root. A test dose of lidocaine 1.5% (3 mL) was injected and the patient did not report any symptoms into the lower extremities or saddle region. Celestone Soluspan 12 mg (2 mL) and lidocaine 1% without epinephrine (2 mL) was injected into the epidural space.

The patient tolerated the procedure well. She will follow up with our nurse practitioner thereafter.



David Redmond, MD/pd
ORS

D: 08/02/2011 09:28 T: 08/02/2011 09:36

PALMETTO HEALTH BAPTIST
PAIN AND ORTHOPEDIC CARE CENTER

NAME: HAINES, KATHERINE
DOB: [redacted]
VISIT DATE: 08/02/2011

RECORD NO: 000843595
ACCOUNT #: 1121000798

Job #: 06471 Doc #: 20551438
cc: David Redmond, MD

223 STONERIDGE DRIVE COLUMBIA, SC 29210 PHONE 803-296-7246
FAX 803-296-2400 www.PalmettoHealth.com

PALMETTO HEALTH BAPTIST

PROGRESS NOTES

AFFILIATED PROFESSIONAL STAFF

Haines, Katherine

DATE	Date and sign each entry including professional
8/3/11	S: c/o neck pn
30min	O: MFR to (B) UT/lev scap/rhomb c pt in sitting
	F/B manual stretch + IFES x 15min to same region.
	Inst to ice later in day x10min
	A: Notes sl ↓pain
	P: Cont per POC [signature]

10031Bmr

-240-318

PALMETTO HEALTH BAPTIST
PAIN AND ORTHOPEDIC CARE CENTER

NAME: HAINES, KATHERINE
DOB: [redacted]
VISIT DATE: 08/04/2011

RECORD NO: 000843595
ACCOUNT #: 1121000798

DATE OF SERVICE: 08/04/2011

Katherine presents from the Full Pain Program. She had an LESI earlier this week, which she says was somewhat helpful. It has only been a couple of days since she had it. Her pain level today is a 6. Her vital signs are stable. She is in no acute distress. She continues to complain of extreme pain in her neck. Per the physical therapist she is having torticollis. For me on exam today she is extremely tense in the neck area, very tender. Flexion and extension is very limited. She also continues with very limited rotation in the cervical spine to the left and the right. She continues with radiculopathy from her cervical spine into both arms. We have not heard anything from Worker's Comp about doing a CESI on her, but will continue to request it. Again, the only other issue the patient has today is that she is having symptoms of an upper respiratory infection. She states that at night she is running a fever. She is coughing up yellow to green thick sputum. I listened to her lungs there are some rhonchi bilaterally, particularly in the left base. She is also somewhat tender around her sinuses bilaterally. She has taken Z-Pak in the past and actually requested one today. I will give her a Z-Pak. She understands how to take it, side effects, drug and food interactions and things to report to me. I will see her back next week in followup. Hopefully we will have some word at that point about her cervical epidural.

[signature] MSN RN ACNP-BC, GNP-BC
Fonda Wilkins, NP/jah

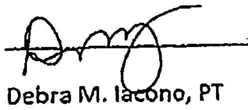
D: 08/05/2011 10:17 T: 08/05/2011 14:15
Job #: 09487 Doc #: 20533439
cc: Fonda Wilkins, NP
cc: Worker's Compensation

RELAXERCISE THERAPY GROUP

Patient: Katherine Haries

Date: 8/5/11

Patient participated in a one hour group on Relaxercise. There was a group discussion explaining the concept of Relaxercise and how it works to improve flexibility, reduce muscle tension, improve function and reduce stress level. It occurs through an information feedback process between your senses muscles and brain. The group then participated in two of the ten Relaxercise exercises.



Debra M. Iacono, PT

PHYSICAL THERAPY STRETCHING GROUP NOTE

NAME: Katherine Haines

DATES: August 8, 9 - 2011

This patient continues to participate in the FPP stretching class.

Patient shows fair effort.

Patient is showing fair improvement in flexibility.

Comments:

Russell Murray PTA

Time Increment: 10min ea.

PHYSICAL THERAPY PROGRESS NOTE

Name: Katherine Haines

Dates: August 8, 9, 10, 11, 12-2011

The patient continues to participate in the Full Pain Program Physical Therapy exercise group. Please see physical therapy quota sheet for individual exercise details.

Patient records his/her pain intensity rating as 6 on a scale of 0-10 this week.

The patient did/did not reach his/her individual goals this week.

Patient continues to show good/fair/poor/inconsistent effort.

Patient's pain behavior none/minimal/moderate/high.

In the physical therapy aerobics group the patient was/was not able to reach target heart rate consistently. He/She was asked to use 0 # weights on arms/legs during aerobics.

We will gradually increase the patient's workout to obtain maximal benefits.

Comments: pt. to cont ex. next wk 7 m/s sky / wk

[signature]

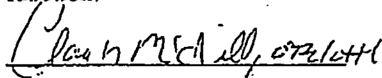
OCCUPATIONAL THERAPY GROUP NOTE: ENERGY CONSERVATION

PATIENT: Haines, Katherine

ACCOUNT#:

DATE: Monday, August 08, 2011

Patient participated in a one hour group session today. During today's session patients were involved in a discussion on energy conservation and pacing. Patients were given information on how to utilize skills successfully to help manage pain and increase function.



Clare N McGill, OTR/LCHT

OCCUPATIONAL THERAPY GROUP NOTE:
WORK SIMPLIFICATION AND JOINT PROTECTION

NAME: Haines, Katherine

ACCOUNT #:

DATE: Monday, August 08, 2011

Patient participated in a one hour group session today. During today's session, patients were involved in a discussion on work simplification and joint protection principals. Patients were given information on how to utilize skills successfully to help manage pain and increase function in all of their daily living tasks.

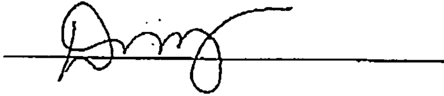
Clare N McGill, OTR/LCHT

PHYSICAL THERAPY BACK CLINIC

Name: Katherine Haines

Date: 8-9-11

Patient participated in one hour group session/clinic. In this clinic, the clients were each given a true/false quiz concerning overall back care. The questions covered aspects of anatomy, body mechanic, and injuries that we have discussed during previous classes/group activities. Each question was discussed to reiterate the principles of effective back care.



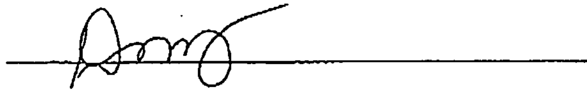
PHYSICAL THERAPY POSTURE CLINIC

Subject: Joint Protection

Name: Katherine Haines

Date: 8-9-11

Patient participated in a half hour group session. During today's session, patients were involved in a discussion on Joint Protection Principles. Patients were given information on how to utilize skills successfully to help manage pain and increase function.



OCCUPATIONAL THERAPY GROUP NOTE: BODY MECHANICS QUIZ

NAME: Haines, Katherine

ACCOUNT#:

DATE: Wednesday, August 10, 2011

Patient participated in a one hour group session today. Group topic Body Mechanics. Patient was asked to complete a quiz on body mechanics and posture, and then provided specific body mechanics principals.

Clare N McGill, OTR/LCHT

PALMETTO HEALTH BAPTIST
PAIN AND ORTHOPEDIC CARE CENTER

NAME: HAINES, KATHERINE RECORD NO: 000843595
DOB: [redacted] ACCOUNT #: 1121301012
VISIT DATE: 08/10/2011

THERAPIST: Clare N McGill, OTR/LCHT

OCCUPATIONAL THERAPY DISCHARGE SUMMARY

Ms Haines is completing the 5-week Full Pain Management Program at the end of this week.

ACTIVITIES OF DAILY LIVING: The patient was independent in activities of daily living upon her initial evaluation and continues to be independent. She does feel that each of these areas remains about the same, still having some difficulty with homemaking and upper body dressing.

VOCATION: The patient continues to be out on Workman's Compensation with the Dollar Tree. The patient very much would like to return to this job, as she likes it very much. At this time she does not feel she can do full duty, but would like to continue treatment until she can. Occupational Therapy also discussed with her the possibility of vocational rehabilitation if she did not feel she could go back to her previous job. She was instructed to contact this therapist if she needs assistance with setting up an appointment there.

HOBBIES AND LEISURE ACTIVITIES: The patient has been participating in swimming in her pool.

UPPER EXTREMITY ACTIVE RANGE OF MOTION: Right shoulder flexion 111 degrees. This was in increase of 8 degrees from her initial evaluation. All other motions remain approximately the same and most were all within functional limits with the exception of her shoulders.

UPPER EXTREMITY STRENGTH: The patient's upper extremity strength has improved to a 3/5 shoulder strength and 3+/5 to 4/5 of all other motions of the right upper extremity. Grip strength remains approximately the same.

ASSESSMENT: This patient has made some progress over the 5-week period in strength. However, she feels her endurance is still very low and she still has difficulty doing any overhead task. The patient continues to have questionable vocational issues involving ability to return to her previous job. It is recommended by the therapist that she continue on in a work reconditioning type program to continue to see if she could reach the level to return to her previous job.

PLAN: She will be discharged from the Full Pain Program at the end of this week. She will continue on 1-2 more weeks with work reconditioning. Occupational Therapy will

PALMETTO HEALTH BAPTIST
PAIN AND ORTHOPEDIC CARE CENTER

NAME: HAINES, KATHERINE **RECORD NO:** 000843595
DOB: [redacted] **ACCOUNT #:** 1121301012
VISIT DATE: 08/10/2011

see her some during this time 1-2 times weekly and she also is scheduled to receive a cervical epidural at the end of next week.

Clare N McGill, OTR/LCHT/pd
Occupational Therapist

D: 08/15/2011 11:46 T: 08/15/2011 11:56
Job #: 16568 Doc #: 20551475
cc: Clare N McGill, OTR/LCHT

PALMETTO HEALTH BAPTIST
PAIN AND ORTHOPEDIC CARE CENTER

NAME: HAINES, KATHERINE
DOB: [redacted]
VISIT DATE: 08/11/2011

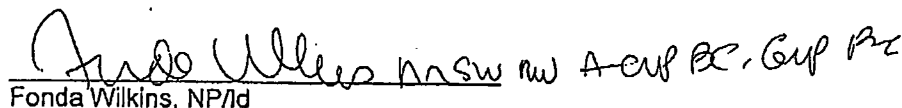
RECORD NO: 000843595
ACCOUNT #: 1121301012

OFFICE VISIT NOTE

CORRECTED COPY

Katherine presents for routine followup. Her pain level today is a 6. We have received approval for her cervical epidural, and that will be done on 08/19/2011. Again, on exam she is extremely tense and tender in the neck area with pronounced torticollis. Flexion and extension is very limited due to pain. She also has very limited rotation of the cervical spine to the left and the right and has radiculopathy from her cervical spine into both arms. Her upper respiratory infection has resolved.

I am going to increase her Neurontin at h.s. to b.i.d. It is not making her sleepy, and she certainly could benefit from some extra Neurontin. I am going to continue her on her Zoloft, hydrocodone, and trazodone at this time. We will get her CESI next week and hopefully she will get some relief from that.



Fonda Wilkins, NP/ld

D: 08/12/2011 13:34 T: 08/12/2011 17:36
Job #: 15255 Doc #: 20532912
cc: Fonda Wilkins, NP
*Workers' Compensation

OCCUPATIONAL THERAPY GROUP NOTE: LEISURE SKILLS

NAME: Haines, Katherine

ACCOUNT #:

DATE: Thursday, August 11, 2011

Patient participated in a one hour group session today. Group topic was Leisure Skills Training. Patient participated in a group discussion that centered on leisure and the importance of planning time for leisure activities. Patients completed an activity to help set goals for increasing leisure time and pursuing new leisure skills. OT also discussed ways to adapt certain activities so that they can still participate in leisure activities even with physical limitation.

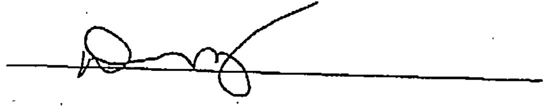
Clare N McGill, OTR/LCHT

PHYSICAL THERAPY POSTURE CLINIC

NAME: Katherine Haines

DATE: 8/12/11

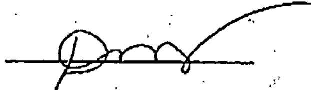
Patient participated in a one hour group session today. The focus of this class was on the body's need for proper nutrition in order to achieve good posture. Special emphasis was placed on the importance of variety in the diet to meet the requirements of the body's aerobic and anaerobic systems. The following topics were discussed briefly: vitamin supplements, food labels/nutrition content, and body composition.



RELAXERCISE THERAPY GROUP

Patient: Katherine Davies
Date: 8/12/11

Patient participated in a one hour group on Relaxercise. There was a group discussion explaining the concept of Relaxercise and how it works to improve flexibility, reduce muscle tension, improve function and reduce stress level. It occurs through an information feedback process between your senses muscles and brain. The group then participated in two of the ten Relaxercise exercises.



Debra M. Iacono, PT

Patient Name: Katherine Haines Date: 8/19/11

Cervical Epidural Steroid Injection # 1 of 2

DIAGNOSIS:

Indications: FNSS

Procedure: After informed consent was obtained, the patient was placed in the prone position/ lateral / sitting position and the back / neck was prepped with Betadine and draped in the usual fashion. Fluoroscopy was / was not used to localize the appropriate interspace. Local anesthesia was administered using a 25 / 27 gauge needle and 1 % Lidocaine / Bupivacaine. Using a 17 / 18 gauge Thouy needle and loss of resistance technique, the epidural space was entered at the C6-7 interspace. No blood or CFs fluid was noted returning from the needle. ___ mL of Omnipaque was / was not used to verify needle position. Following negative aspiration, 40 mg Triaminolone in 5 mL normal saline with / without ___ mL ___ % bupivacine was injected into the space. The needle was removed and the puncture wound was dressed.

✓ The patient was monitored for an appropriate length of time after the injection and then discharged home in good condition.

✓ The patient was instructed to refrain from driving for 12 hours and contact the office immediately if any of the following were noted: new or different pain in the neck / back, loss of bladder or bowel control, new pain, numbness, or weakness in the arms / legs, redness or drainage from the needle insertion site.

✓ No sedation was given.

___ Sedation administered ___

✓ The patient tolerated the procedure well.

The following complications were noted:

___ Nausea/vomiting ___ Increased pain
___ Bradycardia ___ Bleeding
___ Hypotension ___ Other ___

___ The patient noted a decrease in pain following the injection.
___ The patient noted an increase in pain following the injection.
✓ The patient noted no change in pain following the injection.

✓ Y.Eugene Mironer, MD

___ J. Kelby Hutcheson, MD

Signature: [signature]

SCANNED

HAINES, KATHERINE L
B1123000700
MR 000843595 REDMOND, MICHAEL DAVID
11/25/1961 49Y F

FUNCTIONAL CAPACITY EVALUATION SUMMARY REPORT

Client:	Katherine Haines
Date of service:	08/24/2011
Diagnosis:	• S/p decompression and fusion C4/5 and C5/6 2nd to worsening cervical myeloradiculopathy - 3/15/2011 • Persistent pain s/p cervical fusion • h/o depression • 723.1 • 723.4 • 724.4 • 724.3
Date of injury:	02/12/2009
Age at time of evaluation:	50
Referred by:	Dr. M. David Redmond

Reasons for Referral

Katherine Haines was referred to this facility to answer the following questions about her current work/functional ability:

1. Did Katherine Haines provide high levels of physical effort through-out the testing day?
2. Are Katherine Haines's reports of pain and disability reliable?
3. Is Katherine Haines capable of performing her pre-injury job? If not, what are her physical abilities?

Katherine Haines underwent a work capacity evaluation on 08/24/2011. Following an intake interview, a series of standardized tests was conducted to ensure the client's safety for testing, to determine her level of participation in the testing process and to answer the referral questions. A summary of the findings of this evaluation is presented here; details of the evaluation follow in the body of the report.

Physical Effort Findings

Overall test findings, in combination with clinical observations, suggest the presence of near full levels of physical effort on Katherine Haines's Behalf.

Comments

She demonstrated increase in heart rate by approximately by 20-30 points before meeting maximum. She often wanted to continue testing.

Reliability of Pain and Disability Reports Findings

Overall test findings, in combination with clinical observations, suggest the presence of minor inconsistency to the reliability and accuracy of Katherine Haines's reports of pain and disability.

Comments

Her reports of positional tolerances are shorter than demonstrated ability. However, she

demonstrates weight shifting, brief rise, facial grimacing while in sitting positions.

Physical Demand Level

Based on the efforts demonstrated by the patient on this date, she functions at the **Sedentary Physical Demand Level** for lifting, pushing and pulling. Based on her description of her job, she does not meet job demands of her current job.

Recommendations

Katherine Haines would benefit from a referral to the South Carolina Department of Vocational Rehabilitation.

The results of this evaluation were reviewed with Katherine Haines at the conclusion of the evaluation.

This concludes a summary of the findings of the evaluation of Katherine Haines. Details of test results and other supporting documentation may be found in the separate report.

Thank you for your referral of Katherine Haines.

Signed,

Debra Iacono, PT

Palmetto Health Baptist Pain & Orthopaedic Care
223 Stoneridge Dr
Columbia, SC 29210

P: (803) 296-7246
F: (803) 296-2435

FUNCTIONAL CAPACITY EVALUATION
OF
Katherine Haines

REQUESTED BY
Dr. M. David Redmond
Palmetto Health Baptist Pain & Orthopaedic Care
223 Stoneridge Dr
Columbia, SC 29210

PREPARED BY
Debra Iacono

Palmetto Health Baptist Pain & Orthopaedic Care
223 Stoneridge Dr
Columbia, SC 29210

P: (803) 296-7246
F: (803) 296-2435

ASSESSED
08/24/2011

TABLE OF CONTENTS

Summary Report 3
Client Profile 8
Standardized Testing 11
Physical Effort Testing 11
Reliability of Pain And Disability Reports Testing 14
Dexterity Testing 16
Grip Strength and Handling Testing 17
Fitness Testing 17
Strength Testing 18
Sustained Activity and Positional Tolerances 20
Musculoskeletal Evaluation 20
Next Day Follow-Up 22
Additional Information 22

FUNCTIONAL CAPACITY EVALUATION SUMMARY REPORT

Client:	Katherine Haines
Date of service:	08/24/2011
Diagnosis:	• S/p decompression and fusion C4/5 and C5/6 2nd to worsening cervical myeloradiculopathy - 3/15/2011 • Persistent pain s/p cervical fusion • h/o depression • 723.1 • 723.4 • 724.4 • 724.3
Job at time of injury:	Freight Manager
Date of injury:	02/12/2009
Time at this job:	14 years
Position:	Stock Clerk
Age at time of evaluation:	50
Work Status:	Medical Leave
Referred by:	Dr. M. David Redmond

Reasons for Referral

Katherine Haines was referred to this facility to answer the following questions about her current work/functional ability:

1. Did Katherine Haines provide high levels of physical effort through-out the testing day?
2. Are Katherine Haines's reports of pain and disability reliable?
3. Is Katherine Haines capable of performing her pre-injury job? If not, what are her physical abilities?

Katherine Haines underwent a work capacity evaluation on 08/24/2011. Following an intake interview, a series of standardized tests was conducted to ensure the client's safety for testing, to determine her level of participation in the testing process and to answer the referral questions. A summary of the findings of this evaluation is presented here; details of the evaluation follow in the body of the report.

Physical Effort Findings

Overall test findings, in combination with clinical observations, suggest the presence of near full levels of physical effort on Katherine Haines's behalf.

She demonstrated increase in heart rate by approximately by 20-30 points before meeting maximum. She often wanted to continue testing. Maximum heart rate was adjusted down 2nd to medication.

Reliability of Pain and Disability Reports Findings

Overall test findings, in combination with clinical observations, suggest the presence of minor inconsistency to the reliability and accuracy of Katherine Haines's reports of pain and disability.

Her reports of positional tolerances are shorter than demonstrated ability. However, she demonstrates weight shifting, brief rise, facial grimacing while in sitting positions.

Physical Abilities and Job Match

The following table identifies whether or not the client's demonstrated physical abilities match the critical physical demands of the job in question.

Katherine Haines's target job is Stock Clerk.

The physical demands of the target job were determined by The Dictionary of Occupational Titles and from: Job code # from employer was not found in our database.

	Job Demand	Demonstrated Functional Tolerance	Job Match?
Position			
Static Standing	occasional (up to 1/3 day)	Occasional (up to 1/3 of the day). She was able to stand for 50 minutes with longest duration of 24 minutes.	Yes
Dynamic Standing	constant (greater than 2/3 day)	Occasional (up to 1/3 of the day). Occasional (up to 1/3 of the day). She was able to stand for 50 minutes with longest duration of 24 minutes.	No
Walking	50 ft distance, on concrete surface, constant (greater than 2/3 day)	Occasional (up to 1/3 of the day). Ambulated 6 minutes continuously, total 12 minutes.	No
Sitting	never	Constant (greater than 2/3 of the day). Demonstrated 1 1/2 hours of sitting continuously, 3 hours total.	Yes
Weight/Force			
Lifting	100 lb for more than 8 hours duration, constant (greater than 2/3 day)	Occasional/Sedentary (10 pounds up to 1/3 of the work day). She demonstrated lifting of 15# from floor to knuckle and knuckle to shoulder and 5# for shoulder to overhead.	No
Carrying	occasional (up to 1/3 day) of items from 1# to 50-60#	Occasional/Sedentary (10 pounds up to 1/3 of the work day). Carrying was not independently tested. However, based on activities that patient completed on this date she should be able to perform sedentary carrying.	No
**Pushing	frequent (1/3 to 2/3 day)	Occasional/Sedentary (10 pounds up to 1/3 of the work day).	No
**Pulling	frequent (1/3 to 2/3 day)	Occasional/Sedentary (10 pounds up to 1/3 of the work day).	No
Agility			
Stooping	frequent (1/3 to 2/3 day)	Occasional (up to 1/3 of the day). Patient demonstrated minimal stooping on this date.	No
Crouching	frequent (1/3 to 2/3 day)	Occasional (up to 1/3 of the day). Patient demonstrated minimal crouching on this date.	No
Low-Level Work	frequent (1/3 to 2/3 day)	Occasional (up to 1/3 of the day). Not independently tested on this date.	No
Dexterity			
Reaching Forward	frequent (1/3 to 2/3 day)	Occasional (up to 1/3 of the day)	No
Handling	frequent (1/3 to 2/3 day)	Occasional (up to 1/3 of the day). She demonstrated below average 2-point and lateral pinch.	No

Above-shoulder Work	occasional (up to 1/3 day)	Never. On this date, she demonstrated ability to lift 5# to overhead level safely on occasional basis.	No
Pinching	occasional (up to 1/3 day)	Occasional (up to 1/3 of the day). She demonstrated below average 2-point and lateral pinch.	No

*Pushing and pulling values are measured as lbs of force.

Job Demands

The table below reflects the job demands considered in this functional capacity evaluation.*

These values were determined by reference to The Dictionary of Occupational Titles and from employer: Job code # from employer not found.

Katherine Haines's target job is Freight Manager. The job of Stock Clerk (Identifier Code 299.367-014) in the Retail Trade industry classification (Industry Code 0464) has been used as a basis for this evaluation based on job description from patient.

The target job is described as follows:

Inventories, stores, prices, and restocks merchandise displays in retail store: Takes inventory or examines merchandise to identify items to be reordered or replenished. Requisitions merchandise from supplier based on available space, merchandise on hand, customer demand, or advertised specials. Receives, opens, and unpacks cartons or crates of merchandise, checking invoice against items received. Stamps, attaches, or changes price tags on merchandise, referring to price list. Stocks storage areas and displays with new or transferred merchandise. Sets up advertising signs and displays merchandise on shelves, counters, or tables to attract customers and promote sales. Cleans display cases, shelves, and aisles. May itemize and total customer merchandise selection at checkout counter, using cash register, and accept cash or charge card for purchases. May pack customer purchases in bags or cartons. May transport packages to specified vehicle for customer. May be designated according to type of merchandise handled as Baked-Goods Stock Clerk (retail trade); Delicatessen-Goods Stock Clerk (retail trade); Discount-Variety-Store Stock Clerk (retail trade); Liquor-Store Stock Clerk (retail trade); Meat Stock Clerk (retail trade); Pharmacy Stock Clerk (retail trade); Produce Stock Clerk (retail trade); or type of store worked in as Supermarket Stock Clerk (retail trade).

The following tools and materials are used for the target job of Stock Clerk:

Tools

- U-boat container (6' long container on wheels used to transport stock.)

	Job Demand
Position	
Static Standing	occasional (up to 1/3 day)
Dynamic Standing	constant (greater than 2/3 day)
Walking	50 ft distance, on concrete surface, constant (greater than 2/3 day)
Sitting	never
Weight/Force	
Lifting	100 lb for more than 8 hours duration, constant (greater than 2/3

	day)
Carrying	occasional (up to 1/3 day)
**Pushing	frequent (1/3 to 2/3 day)
**Pulling	frequent (1/3 to 2/3 day)
Agility	
Stooping	frequent (1/3 to 2/3 day)
Crouching	frequent (1/3 to 2/3 day)
Low-Level Work	frequent (1/3 to 2/3 day)
Dexterity	
Reaching Forward	frequent (1/3 to 2/3 day)
Handling	frequent (1/3 to 2/3 day)
Above-shoulder Work	occasional (up to 1/3 day)
Pinching	occasional (up to 1/3 day)

*These values were determined by reference to the 1991 *Dictionary of Occupational Titles and to Selected Characteristics of Occupations Found in the Dictionary of Occupational Titles.* The DOT strength classification has been expanded to give an example of the lifting, carrying, pushing, pulling and standing demands that may exist in the target job.
**Pushing and pulling values are measured as lbs of force.

Physical Demand Level (PDL)
Katherine Haines's target job has been identified as having a physical demand level, or PDL, of Heavy.

The Physical Demand Characteristics of Work chart (Matheson 1983) describes Heavy as consisting of lifting, carrying, pushing or pulling forces of 50 to 100 pounds for up to one-third of the hours worked daily, 25 to 50 pounds for more than one-third but not more than two-thirds of the hours worked daily, or 10 to 20 pounds for more than two-thirds of the hours worked daily. The metabolic endurance level for the Heavy category is 6.4 to 7.5 METS over an eight-hour period.

Some physical demands, exposures and/or postures that are important to note are:

Job code number provided by employer was not found in database. Used stock-retail job description. Per patient, she was in charge of the stock room, stocking/replenishing stock in retail area, opening the store in the morning and managing the cashier tills. She had to lift stock from 1 to 50-60# from floor to overhead levels constantly throughout the day. Stock was placed in a "U-boat", which is a 6'long container on wheels. Patient had to push/pull stock in container throughout the day.

Summary of Findings
Return to Work
Katherine Haines is not capable of performing the physical demands of the target job of 'Stock Clerk'. The mismatch between her demonstrated ability and the physical demands of the target job are outlined in the attached Job Demand worksheet.

Physical Tolerances
Katherine Haines's current baseline physical abilities are outlined on the attached Job Demands worksheet.
Katherine Haines is best suited to the Less than Sedentary to Sedentary category of the Physical Demands Characteristics of work chart.

Katherine Haines's physical abilities did not match the demands of the target job. The client did not demonstrate the ability to perform the necessary lifting, pushing, pulling, or carrying at the Heavy physical demand level on the Occasional basis as required by the target job. In addition, she did not meet the cardiovascular demands of the physical demand level.

Safe Worker

Katherine Haines demonstrated safe work habits throughout her evaluation

Recommendations

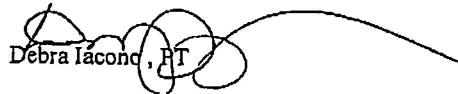
Katherine Haines would benefit from a referral to the South Carolina Department of Vocational Rehabilitation.

The results of this evaluation were reviewed with Katherine Haines at the conclusion of the evaluation.

This concludes a summary of the findings of the evaluation of Katherine Haines. Details of test results and other supporting documentation may be found on the following pages, if attached.

Thank you for your referral of Katherine Haines.

Signed,



Debra Iacono, PT

Palmetto Health Baptist Pain & Orthopaedic Care
223 Stoneridge Dr
Columbia, SC 29210

P: (803) 296-7246
F: (803) 296-2435

FUNCTIONAL CAPACITY EVALUATION
SUPPORTING DOCUMENTATION

CLIENT PROFILE

Prior to beginning the evaluation, an intake interview was performed by Debra Iacono, PT. The client, Katherine Haines, signed the "Consent to Evaluate" form prior to participating in the evaluation.

The following information was obtained during the interview:

Date of Birth	[illegible]
Height	72 in
Weight	255 lb
Hand Dominance	Right
Claim Number	YYCC07510

Katherine Haines's sitting resting heart rate was 83 beats per minute.

Records

Description of Record	Comments
Full Pain Program @ Palmetto Health	Completed FPP from July to Aug 2011

Precautions/Contraindications

During the intake interview, the following information about physician directed precautions and/or contraindications was obtained:
CESI 8/19/11. No relief
CESI, pre-op. + relief.

Previous Treatment

Katherine Haines reports having attended the following treatments in an attempt to rehabilitate her condition:

Treatment	Approximate Date	Results
Physical Therapy	2009	No relief
Pain Program	July-Aug 2011	Improved function
CESI	Aug 2011	No relief

Investigations

Katherine Haines reports having had the following investigations:

Investigation	Current Injury?	Date	Results/Comments
MRI	Yes	05/05/2011	Post-op changes from anterior fusion C4/5,

			5/6. Residual tight neural foraminal narrowing on right at C5/6

Medical History

Katherine Haines indicates the following medical history:

- Any Lung Problem
- Shortness of Breath
- Asthma
- Numbness/Tingling
- Headaches
- Heart Problems

Katherine Haines also provides the following medical history and medication information:

Area	Description
Surgeries	Cervical Fusion C4/5, 5/6, March 2011. Hysterectomy, Aug 1997.
Prescription Medications	Hydrocodone/APAP, Trazodone 50mg, Neurontin 300mg bid, Zoloft 100 mg qd, Coreq, Soma, Relafen, Metformin, Spiriva
Medication Allergies	Penicillin
Additional Medical History	DM, Asthma, COPD, Cardiomyopathy, Hepatitis C/Liver Disease-took Interferon, in remission.

Katherine Haines reports the following job injuries:

Description	Approx. Date	Results
Hit in neck on left side by 8' long table	6/3/09	Bruising

Katherine Haines also provides the following job history:

From	To	Position/Job Duties	Company
9/11/97	current	Freight Manager/Asst Manager	Dollar Tree

Work History Comments:
Katherine Haines would like to return to her previous position. If she cannot return, she is interested in career counseling and retraining at SC Department of Vocational Rehabilitation.

Home Environment

Katherine Haines's home environment is as follows:

Resides With	Housemate
Activity Level	Sedentary
Education Completed	11th grade
Location of Education	Florida

Katherine Haines enjoys/enjoyed the following hobbies:

- Gardening/Yard Work
- Write/Type/Computer

Unable to do yard-work

Reported Functional Tolerances.

Katherine Haines reports her functional tolerances as follows:

	Client's Estimate of Maximum Tolerance	Limited By
Position		
Static Standing	10 min	Neck pain
Dynamic Standing	5 min	Neck pain
Walking	30 min	Neck and leg pain
Sitting	30 min	Sharp pain in side of RLE
Weight/Force		
Lifting	gallon of milk (8#) from waist level	Uses both hands and hugs it towards body 2nd to decrease strength in RUE
Carrying	8#	Pulling pain and numbness in neck- btw shoulder blades and shoulder region
Pushing	30#	
Pulling	Hasn't tried	
Agility		
Climbing	climbing with items in arms	Can climb ladder/stepladder, but unable to hold anything in arms
Stooping	x 1 to retreive pots/pans from cabinet	Throbbing pain
Low-Level Work	Have to almost go into sidelying position to be able to load shelves.	Unable to achieve position. Difficulty getting back up
Prolonged Neck Positioning	5-10 min	Everything gets achy.
Dexterity		
Reaching Forward	None Reported	No reported limitation
Handling		Hand, right (thumb, index finger up forearm), goes numb and locks up in muscle spasms.
Fingering		Hand, right (thumb, index finger up forearm), goes numb and locks up in muscle spasms.
Above-shoulder Work	None	Difficulty taking shower and washing hair-- sharp, pins and needles.
Pinching		Hand, right (thumb, index finger up forearm), goes numb and locks up in muscle spasms.
Writing		Hand, right (thumb, index finger up forearm), goes numb and locks up in muscle spasms.
Vision/Hearing		
Near Acuity	None Reported; Wears reading glasses	No reported limitation

Client's Description of Injury

Patient notes that she was at work as "Freight Manager". She went to stock room and went to remove 4-foot shelves from underneath bins. There were 2-3 metal shelves and bookshelves weighing 30-50#. She pulled out the first shelf with no problem. While taking out the second shelf, the hook on the shelf got caught on the fencing of the bins. She bent down lower to remove the shelf when the top bins fell down on the right side of her neck pushing her to the left into boxes of paper towels and toilet paper. She felt immediate sharp pain on the collar bone, shoulder, neck region. At 12:30 that afternoon, she was assisting a customer when she twisted her neck and "felt a pop and saw stars." She was scheduled

off for the next 2 days. When she returned to work, she attempted to put out stock; however, it took her the entire day to get out 20% of the stock. The next day, she reported to her manager and went to her PCP, Dr. Fisher. She was taken out of work.
Later referred to the Moore Ortho Clinic. X-rays: negative. Recd PT at Moore Ortho Clinic with no relief. She continued to work 35-40hrs/wk and pain progressively worsened. Received CESI per-op with relief x 2wks. Her lawyer arranged a referral to Dr. Forest in the Spinal Institute, Charleston. Also referred to Dr. Boyd for 2nd opinion. Underwent surgery 3/15/11 for cervical fusion. Had good relief x 2wks. 2weeks after surgery, she suffered infection in throat at incision site. Antibiotics x 10d. Referred to Full Pain Program at Palmetto Health Pain and Orthopaedic Care Center. Recd CESI with no relief last week. Had funny feelings that night x 1hr. Lost motor control of LE's and fell into the freezer. Complains that having the CESI seems to have "opened everything up." c/o Novocain type sensation at base of right ear down towards collarbone and around front of neck.

Client's Work-Related Goals

Katherine Haines states that her current vocational goals are:
"If I'm not able to go back to current job, I would like someone to be able to retrain me for another job. I'm not ready to not work."

STANDARDIZED TESTING
PHYSICAL EFFORT TESTING

Through-out the course of this evaluation distraction-based Physical Effort Testing was conducted. This type of testing is used to evaluate whether or not evaluation results accurately represent a client's physical abilities. If a client does not partake in her testing day with high levels of physical effort, an evaluator cannot be confident that observed performances represent current abilities.

Five-Position Grip Testing

Katherine Haines underwent a formal screening procedure to query maximum voluntary effort during testing. This test uses the hand dynamometer (Serial No. 210241)to measure isometric force generated by the hand. The hand dynamometer is used to present ten maximum gripping measurements, each repeated three times. Studies indicate that out of 10 coefficients of variation calculated, no more than two will exceed experimentally derived "cut-points" if the individual is demonstrating maximum voluntary effort.

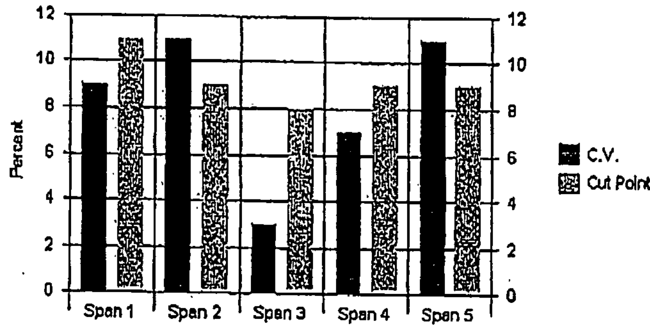
The results (in pounds) of Katherine Haines's testing are presented below:

Grip Span	Test 1		Test 2		Test 3	
	Dom	Non	Dom	Non	Dom	Non
1	25	64	25	65	30	65
2	27	85	35	80	31	80
3	42	79	40	80	43	75
4	25	70	28	63	30	60
5	23	50	25	55	30	45

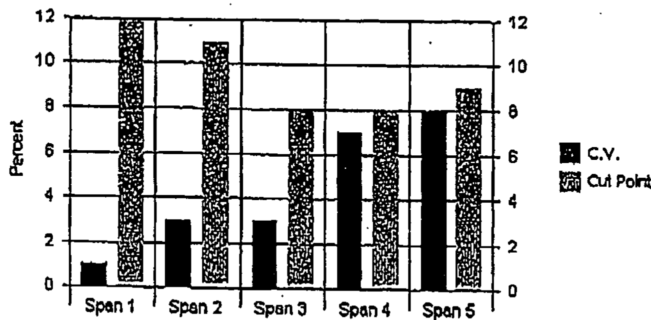
Grip Span	Coefficient of Variation		Exceed Cut Point?	
	Dom	Non	Dom	Non
1	8.84	0.73	No	No

2	10.54	2.89	Yes	No
3	2.99	2.77	No	No
4	7.43	6.51	No	No
5	11.32	8.16	Yes	No

Un-Impaired Dominant Upper Extremity Chart



Un-Impaired Non-Dominant Upper Extremity Chart



Analysis of the client's scores demonstrates 2 coefficients of variation above the permissible cut-points. As a total of two scores are allowed above the cut-point, this is suggestive of less than full effort during testing.

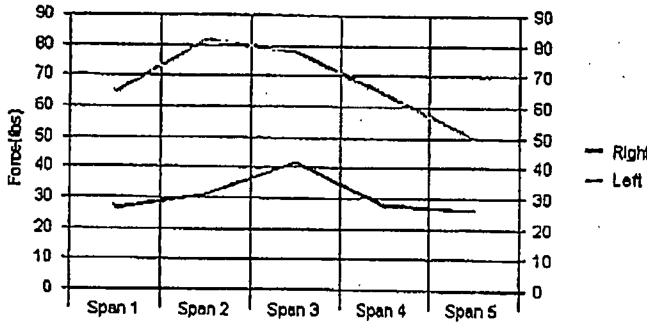
During the grip strength test, the client was noted to show the following signs of physical discomfort: Shaking out hands (repetitively opening/clenching); Shrugging shoulders; Shifting within chair; Brief rise (< 1 minute); Stretching neck; Holding breath/sighing

Katherine Haines was observed to demonstrate the following signs of competitive test performance during grip strength testing:
Muscular recruitment; Increased compensatory postures to improve force; Holding breath

Grip Curve Analysis

A second method of screening for the presence of maximum voluntary effort relates to the analysis of score distribution. If an evaluee is providing maximum effort on the hand dynamometer, a bell curve

pattern of score distribution is expected.



Such a bell curve pattern was observed in Katherine Haines's case for her right hand and was present for her left hand. This is suggestive of maximum voluntary effort on the right and of maximum voluntary effort on the left. (Serial No. 210241)

A second method of using bell curve analysis to gauge a client's level of physical effort relates to analysis of standard deviation. Clinical studies indicate that if a person is partaking in testing with full physical effort, a specific pattern of score distribution is expected.

Right Upper Extremity: Katherine Haines's right hand grip scores, produced a flat line variance (S.D. = 5.79). Clinical studies suggest this standard deviation to be indicative of low effort.

Left Upper Extremity: Katherine Haines's left hand grip scores, produced a well distributed bell curve (S.D. = 11.27). Clinical studies suggest this standard deviation to be indicative of a high level of effort.

Rapid Exchange Grip Test (REG)

The Rapid Exchange Grip test (REG) was used to further validate original maximum voluntary effort (static) test results. Studies indicate that if an evaluee is providing high effort, REG peaks usually fall short of maximum voluntary effort peaks, typically by about 15%. Based upon a 1995 study by Harold Stokes, a 12 pounds forgiveness window was provided. Research dictates that if a person is providing high effort, her REG scores will not exceed her MVE (static) scores by more than 12 pounds .

Katherine Haines's results (in Lbs) are presented below:

	MVE Peak	REG Peak	MVE vs REG Difference	
			Lbs	Percent
Dominant	35	60	+25	+71
Non-Dominant	85	75	-10	-12

As indicated above, the resulting REG peak exceeded the 12 pounds forgiveness window for the right hand and was within the 12 pounds forgiveness window for the left hand. Results of the REG testing identified Low Effort for Client's dominant hand and High Effort for Client's non-dominant hand.

During the REG test, the client was noted to demonstrate the following signs of physical discomfort: Shrugging shoulders; Shifting within chair; Brief rise (< 1 minute); Rubbing right hand, opening/closing it

Katherine Haines was observed to demonstrate the following signs of competitive test performance: Muscular recruitment; Increased compensatory postures to improve force; Holding breath

The REG test was terminated due to successful test completion.

Heart Rate Analysis

To further gauge Katherine Haines's overall level of physical effort, clinical heart rate analysis was used throughout her testing day. Matheson-trained work capacity evaluators are trained to look for heart rate measures nearing or exceeding aerobic target levels in individuals providing high levels of effort on repetitive, large muscle group activity.

Test	Standing Resting HR	Maximum HR	% Δ
Isoinertial Lift	81 bpm	107 bpm	32%

Overall heart rate analysis suggest full effort on Katherine Haines's behalf. Maximum heart rate was adjusted down 2nd to heart medication.

RELIABILITY OF PAIN AND DISABILITY REPORTS TESTING

Reliability of Pain and Disability Report testing is comprised of a battery of tests designed to better assess the dependability and accuracy of the client's subjective reports of pain and/or disability. The battery includes tests which evaluate the presence or absence of non-organic findings (findings that have more to do with illness behavior than underlying physical disease) as well as tests which compare a client's subjective reports to what she is actually capable of doing through the use of distraction based testing and observations of ability/disability.

Placebo Testing

Various placebo pain tests were conducted to further evaluate the reliability of Katherine Haines's subjective (verbal) reports. She did not complain of inappropriate pain upon any placebo tests.

Pain Scales

Various pain scales were implemented with Katherine Haines to evaluate both the consistency and reliability of her subjective (verbal) reports. Subjective ratings of pain matched well with distraction-based clinical observations.

Subjective Pain Levels

Katherine Haines states that she is experiencing pain in the areas indicated in the following table (these are based on the 0-10+ Functional Pain Rating Scale where 0 represents no pain and 10+ represents emergency pain warranting immediate emergency department care or hospitalization):

	Pre-Test Pain	Post-Test Pain	Next Day Pain
Functional Pain Level	5	8	8

Katherine Haines reported the following additional pain rating data:

	Functional Pain Rating
Present Rating	5/10

The Visual Analog Pain Scale (Huskisson, 1974) was also used to evaluate the client's pain before and after the evaluation. The client's score at the beginning of the evaluation was 6 and the score at the end of the evaluation was . This indicates a difference of .

Pain Assessment/Questionnaires

Katherine Haines completed a number of standard assessment questionnaires to assess the presence and impact of Chronic Pain Syndrome. These questionnaires have been published in peer-reviewed journals and are widely used in the industrial rehabilitation field.

Questionnaire/Assessment	Score	Interpretation
McGill Pain Questionnaire	56 Pts	Poor psychodynamics
The Visual Analogue Scale (Pre-Test)	6 cm	Valid
Functional Pain Scale	5 /10	Causes great difficulty moving or applying any strength through the painful area. You are unable to complete the current activity.
Oswestry Neck Disability Index	78 %	Crippled

During the intake interview process, the client was noted to show the following signs of physical discomfort:

Stretching neck; Facial grimace; Holding breath/sighing

Comments

Visual Analog Pain Scale: Right Now: 6; Best over last month: 5; Worst Over Last Month: 9.

C/o Novocain type sensation from base of right ear down towards collarbone and around to front of neck along with down upper traps to shoulder region. Stabbing burning pain

PACT Spinal Function Sort

The PACT Spinal Function Sort is used to quantify an individual's perception of her ability to perform work tasks. The responses on this instrument can be used to test the reliability/accuracy of a client's subjective reports of ability and limitation.

Katherine Haines's ratings on the Spinal Function Sort were as follows:

Rating of Perceived Capacity (RPC)	30
Perceived DOL Rating	Less Than Sedentary

Results of reliability check testing indicated a reliable profile. The client perceives herself as meeting the physical requirements for Less Than Sedentary strength work, according to Department of Labor standards.

Subsequent clinical testing indicated that Katherine Haines's subjective reports matched well with distraction-based objective findings.

The client was noted to show the following signs of physical discomfort during the administration of

the Spinal Function Sort:
Shifting within chair; Brief rise (< 1 minute); Facial grimace; Holding breath/sighing

The Spinal Function Sort was terminated due to successful test completion.

EPIC Hand Function Sort

The EPIC Hand Function Sort is used to quantify an individual's perception of her ability to perform work tasks. The responses on this instrument can be used to test the reliability/accuracy of a client's subjective reports of ability and limitation.

Results of reliability check testing indicated a reliable profile. The client perceives herself as meeting the physical requirements for sedentary-strength work, according to Department of Labor standards.

Rating of Perceived Capacity (RPC Total)	103
Perceived DOT Rating (Overall)	Sedentary
Sedentary Incremental Rating of Perceived Capacity (RPC-I)	60
Light Incremental Rating of Perceived Capacity(RPC-I)	34
Medium Incremental Rating of Perceived Capacity (RPC-I)	9
Heavy Incremental Rating of Perceived Capacity (RPC-I)	0
Norm. vs. Healthy Employed	5
Norm. vs. Injured Unemployed	35

Subsequent clinical testing indicated that Katherine Haines's subjective reports matched well with distraction-based objective findings.

The client was noted to show the following sign of physical discomfort during the administration of the Hand Function Sort:
Shifting within chair; Brief rise (< 1 minute); Facial grimace; Facial wince; Holding breath/sighing

The Hand Function Sort was terminated due to successful test completion.

DEXTERITY TESTING

Pinch Gauge

A pinch gauge was used to screen for bilateral pinch strengths. Katherine Haines's performance for pinch strength (in pounds) is presented as follows:

Pinch		Mean	Norm	Standard Deviation	Result
2 Point	Dom	11	17.9	3	Below Average
	Non	14	17.5	2.8	Below Average
Lateral Pinch	Dom	10	17.6	3.2	Below Average
	Non	15	16.6	2.9	Average

Comments:
3-Point was modified to thumb pad to index Finger pad since this is how patient takes coins out of cash register.

GRIP STRENGTH AND HANDLING TESTING

Five-Position Grip Testing

As a function of hand dynamometer testing, information about the client's grip strength was collected. Using the five scores from her strongest grip span, she compares to a normative group using a six-grip test as:

Dominant		Non-Dominant	
Client	Norm Group	Client	Norm Group
41.67	62.2	81.67	56

Results are in pounds. As can be seen from this table, the client demonstrates the dominant hand as being weaker than the normative group. Her non-dominant hand demonstrates as being stronger than the normative group.(Serial No. 210241)

During the grip strength test, the client was noted to show the following signs of physical discomfort: Shaking out hands (repetitively opening/clenching); Shrugging shoulders; Shifting within chair; Brief rise (< 1 minute); Stretching neck; Holding breath/sighing

Katherine Haines was observed to demonstrate the following signs of competitive test performance during grip strength testing:
Muscular recruitment; Increased compensatory postures to improve force; Holding breath

FITNESS TESTING

Cardiovascular Testing

Cardiovascular endurance is the ability of the heart, lungs and blood vessels to deliver oxygen to working muscles and tissues, as well as the ability of those muscles and tissues to utilize that oxygen. Cardiovascular endurance is also frequently called cardio-respiratory endurance, cardiovascular fitness, aerobic capacity, aerobic fitness or is sometimes more broadly termed "endurance", although endurance may also refer to the ability of the muscle to do repeated work without fatigue.

The following tests have been administered with the objective of finding Katherine Haines's full-day MET level. A "MET" is the resting metabolic rate expressed in oxygen uptake or energy expenditure. If we say a physical activity has an equivalent of 6 METs, we mean that the energy demands of the activity are 6 times that of the resting state energy demands. The MET is very useful as it accounts for differences in body weight without special computations.

Prior to testing, the client's maximum safe heart rate (220 - age x 85%) was calculated. Hear rate was adjusted down 20 points 2nd heart medication. Katherine Haines's heart rate was closely monitored throughout cardio testing to ensure that she did not exceed this maximum safe heart rate.

Katherine Haines completed the Modified Naughton Treadmill Test.
Testing was suspended 2nd to patient reaching maximum heart rate.
Target heart rate decreased by 20 points 2nd to Beta-blocker medication.

The results of the fitness testing protocol/activity are as follows:

Pre-test HR: 79. Pain level 5/10.

Test was suspended at 4:19 2nd to complaints of dizziness and HR increase to 133. She was immediately seated.
After 2 minutes, BP 151/98, HR 90.
After 4 minutes, BP 128/86, HR 84.
After ~10 minutes: BP 121/83, HR 78.
Completed MET level 3, Light Physical Demand Level.

STRENGTH TESTING

Pushing

Katherine Haines was observed to push a sled weighing over a level terrain. The results are presented below:

	Handle Height	Distance
Initial	35(in)	25(ft)
Sustained	35(in)	25(ft)

Katherine Haines's pain rating for this test was 6/ 10. She was able to safely push the industrial sled with no additional weight. Heart rate increased to 115.

The client was noted to show the following signs of physical discomfort:
Pausing intermittently; Stretching/rolling neck; Shrugging shoulders; Facial grimace; Facial wince; Increased neurological complaints (tingling etc.); Holding breath/sighing

The client exhibited the following signs of competitive test performance during the test:
Holding breath

Post-Test Heart Rate	81 bpm

The test was terminated due to:
Request to stop (increase in reported symptoms); Increased neurological signs (e.g. radiating pain); Increasingly poor compensatory body mechanics; Increasing asymmetry of: Neck; Increased sign of pain in : Neck

Patient was able to push 10 force pounds(empty industrial sled). Pain level: 6/10. HR: 115. With an additional 10#, she was not able to push more than 15' 2nd to severe pain. "Felt like ripping" in the right side of the neck. Feels like my "head is being pushed down between my shoulder blades."

Pulling

Katherine Haines was observed to pull a weighing over a level terrain. The results are presented below:

	Handle Height	Distance
Initial	35(in)	25(ft)
Sustained	35(in)	25(ft)

Katherine Haines's pain rating for this test was 7/ 10. She was able to safely pull the industrial sled with 10# of additional weight. Heart rate increased to 120.

The client was noted to show the following signs of physical discomfort:

Pausing intermittently; Shrugging shoulders; Holding/massaging: Neck; Facial grimace; Facial wince; Increased neurological complaints (tingling etc.); Holding breath/sighing

The client exhibited the following signs of competitive test performance during the test:
Holding breath

The test was terminated due to:
Request to stop (increase in reported symptoms); Increased neurological signs (e.g. radiating pain); Increasingly poor compensatory body mechanics; Increasing asymmetry of: Neck; No longer achieving smooth pull pattern; Increased sign of pain in : (R) Shoulder

Patient was able to pull 10 force pounds (empty industrial sled). Pain level: 6/10. HR: 107. With an additional 10#, she was not able to complete 2nd to sharp pain in RUE. HR 120. Pain level 7/10. "Felt like ripping" in the right side of the neck. Feels like my "head is being pushed down between my shoulder blades."

Carrying

Katherine Haines was not completed on this date 2nd to lack of time.

Lifting

Isoinertial Lifting Evaluation

Katherine Haines completed the Maximum Isoinertial Lifting Evaluation during the evaluation process. Prior to testing, the client's heart rate was found to be 81 bpm and her blood pressure was 112/80 mm Hg. Her functional pain rating was 5/10.

The results for the 19 inch width (center of body to hands) of this evaluation are as follows:

Test	Max. Wt	Safe Wt	Heart Rate	Pain	Reason for Pain	Body Mechanics	%ile
Floor to Knuckle	20	10	107	7	Neck pain	Fair	< 10
Knuckle to Shoulder	15	10	104	6	Neck pain	Good	< 10
Shoulder to Overhead	10	5	106	6	Neck pain	Good	< 10

Comments

Floor to Knuckle: Neck and shoulder pain. "Feels like I'm on fire" Bilateral upper traps.
Knuckle to Shoulder: Neck and shoulder pain. "Feels like I'm on fire" Bilateral upper traps, pulling between shoulder blades.
Shoulder to Overhead: Neck and upper trap pain, pulling and burning

The client's post-test heart rate was 81 bpm, her post-test blood pressure was 123/82 mm Hg and her post-test pain rating was 7/10.

The client demonstrated the following signs of physical discomfort during the test:
Increased lean on nearby surfaces; Pausing intermittently; Stretching/rolling neck; Shrugging shoulders; Facial grimace; Increased neurological complaints (tingling etc.); Holding breath/sighing

The client exhibited the following signs of competitive test performance during the test:
Holding breath

The test was terminated due to:
Increased neurological signs (e.g. radiating pain); Increasingly poor compensatory body mechanics

SUSTAINED ACTIVITY AND POSITIONAL TOLERANCES

During a total evaluation time of 4 hours 5 minutes 29 seconds, Katherine Haines's total sitting, standing, walking, and other position and combinations of positions time was recorded. Her results from this continuous observation and recording are presented as follows:

	Total Time (Hrs. and Min.)	Longest Duration
Neck Flexion	00:38:21	00:38:21
Sitting	03:03:30	01:33:27
Walking	00:12:47	00:06:43
Standing	00:50:11	00:24:41
Lying	00:06:38	00:06:38
Total Time for Evaluation	04:05:29	

MUSCULOSKELETAL EVALUATION

Upper Extremities

A musculoskeletal upper extremity assessment was performed on Katherine Haines prior to any functional testing. To assess reliability of pain and disability during the screening, the client was asked to rate his pain on a scale of 1-10 using the Functional Pain Scale (FPS), where 0 represents no pain and 10+ represents emergency pain warranting immediate emergency department care or hospitalization.

The upper extremity assessment results are as follows:

Shoulder

Flexion

	Left Side	Right Side
Active Range-of-Motion	Within Functional Limits	Painful and Limited Ability: 90°

	Left Side	Right Side
Passive Range-of-Motion	Within Functional Limits	Painful and Limited Ability: 120

Elbow

Flexion

	Left Side	Right Side
Active Range-of-Motion	Within Functional Limits	Within Functional Limits

Extension

	Left Side	Right Side
Active Range-of-Motion	Within Functional Limits	Within Functional Limits

General Upper Extremity Comments:

Supine A/PROM Right shoulder:
Flexion: 120/165
IR/ER: 90/90

Abd: 110/135

Spine

A musculoskeletal spine assessment was performed on Katherine Haines prior to any functional testing. The assessment results are as follows:

Cervical

Flexion

	Results
Active Range-of-Motion	Painful and Limited Ability: 50%

Extension

	Results
Active Range-of-Motion	Painful and Limited Ability: 25%

Rotation

	Left Side	Right Side
Active Range-of-Motion	Painful and Limited Ability: 25%	Painful and Limited Ability: 25%

	Left Side	Right Side
Active Range-of-Motion	Limited Ability: 25%	Painful and Limited Ability: <10'

Lumbar

Flexion

	Results
Active Range-of-Motion	Painful and Limited Ability: Fingertips to ~5" below inferior border of patella

Extension

	Results
Active Range-of-Motion	Painful and Limited Ability: 1/3

Posture

A posture assessment was performed on Katherine Haines prior to any functional testing. The assessment results are as follows:

Anatomical Region	Results	Comment
Cervical Spine	Head Rotated Left, Head Tilt Left	
Shoulders/Scapulae	Elevated Left	
Spinal Curves	Diminished	Decreased cervical and thoracic curves
Iliac Crest	Elevated Right	Slight elevation and anterior rotation.

General Posture Comments:

In sitting, she demonstrates head tilt to left with shoulder elevation on the left, severe. Left hand is on left thigh.

Strength

UPPER EXTREMITIES:	RIGHT	LEFT
SHOULDER ELEVATION:	2/5	4+/5

*Note: C/o sharp ripping pain right neck anterior/lateral region with shoulder flexion, right

	RIGHT	LEFT
ELBOW FLEXION:	3+/5	5/5
GRIP:	Fair(-)	Good
LOWER EXTREMITIES:	RIGHT	LEFT
HIP FLEXION:	4-/5	4-/5
HIP ABD:	4/5	4/5
HIP ADD:	4/5	4/5
HIP IR:	4+/5	5/5
HIP ER:	4+/5	5/5
KNEE FLEX:	4-/5	4+/5
KNEE EXT:	5/5	5/5
ANKLE DORSIFL:	5/5	5/5

TRUNK: (PER SAUNDERS' SCREENING)
ABDOMINAL: Unsatisfactory

FLEXIBILITY:	RIGHT LE	LEFT LE
Single Knee to Chest:	Stretch sensation	Stretch w/ audible pop
Supine Hamstring stretch lacks full knee extension by:	45'	30'
Straight Leg Raise:	45'	60'
Piriformis Tightness:	Moderate	Severe
Prone PROM hip extension:	Neutral	Neutral

NEXT DAY FOLLOW-UP

Katherine Haines states that she is experiencing pain in the areas indicated in the following table (these are based on the 0-10+ Functional Pain Rating scale where 0 represents no pain and 10+ represents emergency pain warranting immediate emergency department care or hospitalization):

Anatomical Region	Pre-Test Pain	Post-Test Pain	Next Day Pain
Overall	5	8	8

Comments/Quotes
Complaints of severe pain and decreased function. Unable to perform normal ADL's as she was able to perform earlier in the week.

ADDITIONAL INFORMATION

The Physical Demand Characteristics of Work chart is appended here for your reference.

PHYSICAL DEMAND CHARACTERISTICS OF WORK
1993 Leonard N. Matheson, PhD

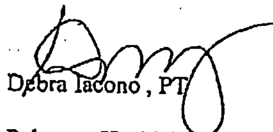
PHYSICAL DEMAND LEVEL	OCCASIONAL 0 - 33% of the workday	FREQUEST 34 - 66% of the workday	CONSTANT 67 - 100% of the workday	Typical Energy Required

SENDENTARY	10 lbs.	Negligible	Negligible	1.5 - 2.1 METS
LIGHT	20lbs.	10 lbs	Negligible	2.2 - 3.5 METS
MEDIUM	20 to 50 lbs.	10 to 25 lbs.	10 lbs	3.6 - 6.3 METS
HEAVY	50 to 100 lbs.	25 to 50 lbs.	10 to 20 lbs	6.4 - 7.5 METS
VERY HEAVY	Over 100 lbs.	Over 50 lbs.	Over 20 lbs	Over 7.5 METS

The results of this evaluation were reviewed with Katherine Haines at the conclusion of the evaluation.

Thank you for your referral of Katherine Haines.

Signed,



Debra Iacono, PT

Palmetto Health Baptist Pain & Orthopaedic Care
223 Stoneridge Dr
Columbia, SC 29210

P: (803) 296-7246
F: (803) 296-2435

--- End Of Client Evaluation Report for Katherine Haines ---

Version 07/01/10 - v3.0

Matheson FCE Software Copyright© 2009

PALMETTO HEALTH BAPTIST
PAIN AND ORTHOPEDIC CARE CENTER

NAME: HAINES, KATHERINE
DOB: [redacted]
VISIT DATE: 08/30/2011

RECORD NO: 000843595
ACCOUNT #: 1121301012

DATE: 08/30/2011

Ms. Haines is completing the Pain Management Program. She had been referred to us by Dr. Scott Boyd. Her original injury was 02/09/2009. She had a neck injury with decompression and fusion and C4-C5 and C5-C6. My understanding is that she has already received a rating of 28%. I think that this is appropriate according to the AMA Guidelines Fifth Edition. If the surgeon feels that this is inappropriate, I think that his decision would trump mine. With regard to the pain program, she did take advantage of all the services. She said that the main benefit was actually to get her back into a regular routine to get her out of bed and moving again and into life. She enjoyed the exercises and the classes. She is on medications and she will need long term medication management. She has an appointment with our nurse practitioner in about 2 weeks. Medicines that she is currently taking, to my knowledge, include trazodone, soma, Relafen, Zoloft. She had been on Flexeril and she is also taking hydrocodone. Since she is on the narcotic it is probably better if we were to follow up with her here at the pain clinic since we have a narcotic agreement. She had the FCE completed and the physical therapist personally told me this morning that she thought it was valid, that she seemed to try very hard. Overall, it appears that she is functioning at a sedentary physical demand level. The patient is interested in being referred to vocational rehabilitation. I told her that that is admirable and we will honor this request. However, I do not know how practical it will be for her in the long run. She has quite extensive limited mobility in her neck and it is difficult for her to drive for safety concerns. She is able to turn around to look behind her shoulder very well to check for oncoming traffic. Nevertheless, we will honor her request for this. I do think she is now at maximum medical improvement. She should continue to do the follow-up exercises that are offered here at the program and to continue exercises on her own at home. She will be seeing our nurse practitioner in about 2 weeks for medication management followup.

David Redmond, MD/kmh
ORS

D: 08/30/2011 10:19 T: 08/30/2011 14:54
Job #: 28484 Doc #: 20546956
cc: David Redmond, MD

PALMETTO HEALTH BAPTIST
PAIN AND ORTHOPEDIC CARE CENTER

NAME: HAINES, KATHERINE
DOB: [redacted]
VISIT DATE: 09/15/2011

RECORD NO: 000843595
ACCOUNT #: 1125602128

OFFICE VISIT

Katherine presents for routine followup. She reports that she has an appointment with Dr. Boyd on 09/19/2011. There is no change in her condition. She is due to have her FCE tomorrow. I will plan on seeing her back in 2 months in followup.

[signature] MSN, RN, ACNP-BC, GNP-BC

Fonda Wilkins, NP/aih

D: 09/19/2011 08:42 T: 09/19/2011 11:12
Job #: 43279 Doc #: 20559924
cc: Fonda Wilkins, NP

PALMETTO HEALTH BAPTIST
PAIN AND ORTHOPEDIC CARE CENTER

NAME: HAINES, KATHERINE
DOB: [redacted]
VISIT DATE: 11/15/2011

RECORD NO: 000843595
ACCOUNT #: 1131500918

OFFICE VISIT NOTE

Katherine presents for routine followup. She reports a pain level of 6 in the base of her skull, her neck, and the middle of her shoulder blades. She says that she saw Dr. Boyd on 09/19/2011, and he had mentioned a questionable disk protrusion at C3-4. She also saw Dr. Johnson in Charleston, and she stated that he wants to do an ablation and that he also brought up a spinal cord stimulator. She asked me a lot of questions about spinal cord stimulators, and she was given the booklet and the CD to take home. She would like to discuss with the physician who does spinal cord stimulators here what his opinion is of whether she would be a good candidate.

We will ask that Workers' Compensation will allow her to be seen by Dr. Hutcheson to discuss that. I am going to request her records from Dr. Boyd as I do not have them and do not know what he actually said. I am going to make no changes in her medications today, and I will plan on seeing her back routinely.

Angela Allens MSN RN ACNP-BC, GNP-BC

Fonda Wilkins, NP/ps

D: 11/15/2011 15:31 T: 11/15/2011 19:09
Job #: 91145 Doc #: 20576381
cc: Fonda Wilkins, NP
Workers' Compensation

PALMETTO HEALTH BAPTIST
PAIN AND ORTHOPEDIC CARE CENTER

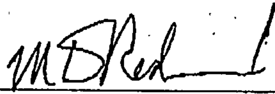
NAME: HAINES, KATHERINE
DOB: [redacted]
VISIT DATE: 01/13/2012

RECORD NO: 000843595
ACCOUNT #: 1201101893

Ms. Haines returns today for followup. The patient was originally seen by our clinic in 06/2011. She was sent to us primarily with neck pain but she has been having discomfort in the neck, shoulder blades, down the arm, and also into the base of the skull. She saw Dr. Boyd on 09/19/2011. He did not recommend surgery. Dr. Johnson who saw her recommended either an ablation or spinal cord stimulator. The patient does not want to pursue the ablation but is interested in pursuing spinal cord stimulator. We have requested an evaluation by Dr. Steve Storick to see whether or not she might be a good candidate for spinal cord stimulator trial. This is still in the works. Today, she does need refills of medications. I will refill:

1. Neurontin 300 mg, #60.
2. Trazodone 50 mg, #60.
3. Relafen 500 mg, #60.
4. Zoloft 100 mg, #30.
5. Soma 350 mg, #120.
6. Hydrocodone 7.5/325, #120. Each of these is provided with 1 refill.

We will then see her back for routine followup in 2 months and, hopefully in the meantime, the stimulator consultation will have been approved.



David Redmond, MD/aih
ORS

D: 01/13/2012 13:26 T: 01/13/2012 14:35
Job #: 36867 Doc #: 20587339
cc: David Redmond, MD

223 STONERIDGE DRIVE COLUMBIA, SC 29210 PHONE 803-296-7246
FAX 803-296-2400 www.PalmettoHealth.com

PALMETTO HEALTH BAPTIST
PAIN AND ORTHOPEDIC CARE CENTER

NAME: HAINES, KATHERINE
DOB:
VISIT DATE: 02/16/2012

RECORD NO: 000843595
ACCOUNT #: 1204602211

DATE OF SERVICE: 2/16/2012

Ms. Haines returns today for followup. Since the last time we saw her she has developed increased pain in the neck radiating up to the head and to some extent down the left upper extremity. She has had decompression and fusion at C4-5 and C5-6. The most recent MRI ordered by Dr. Boyd was in May 2011 and there was no canal compromise at that time. She had some right foraminal compromise at C5-6 but this was not thought to be significant. The patient tells me now that she has had urinary incontinence for the past week or 2. This is where she will wet herself and not be aware that it is happening. It is happening frequently enough to where she has had to where panty liners and she tells me that she has no loss of bowel control nor does she have saddle anesthesia. I examined her reflexes today. She has no ankle clonus. Her ankle and patellar reflexes are normal. She has no spasticity with her gait or weakness. Upper extremity reflexes appear intact. I am not certain whether the incontinence is related to myelopathy or something else, so we will obtain a repeat MRI of the cervical spine with contrast if necessary to rule out cervical myelopathy. Also because of increased pain in the afternoon and evening, I will add Demerol 50 mg 1 p.o. b.i.d. p.r.n. pain #60. She already has refills of her other medications and does not need those. She has a followup appointment with us in 1 month. I am hopeful that the MRI can be approved so that we can see it over the next week or so. Also, we are still considering and recommending spinal cord stimulator and she is interested in seeing Dr. Storick for this if it can be approved.

David Redmond, MD/jm
ORS

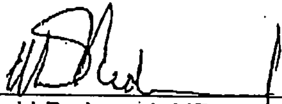
D: 02/16/2012 10:22 T: 02/16/2012 10:27
Job #: 64810 Doc #: 20535926
cc: David Redmond, MD

Palmetto Health Baptist
Pain and Orthopedic Care Center

Name: HAINES, KATHERINE
Acc#:
Dictating: David Redmond, MD

DOB: [redacted]
Visit Date:

Ms. Haines returns today for followup. She is on medication management. She had an MRI performed, which did not demonstrate spinal cord compression. We will continue to see whether she could have an opinion with Dr. Storick concerning the spinal stimulator, but I do not think she needs to see a surgeon for anything that is more urgent. She is on quite a bit of medication, but they do seem to help her. Today, we will refill hydrocodone 7.5/325 number 120, Demerol 50 mg number 60. Will also refill other medications including Zoloft, Neurontin, Soma and Relafen. She will be seen for routine followup in about 2 months. The patient will let us know if she is having any problems in the meantime. In addition to the above medications, I see that we have her on trazodone at bedtime. We will refill this as well. Again, we will see her back in 2 months or sooner if needed.



David Redmond, MD

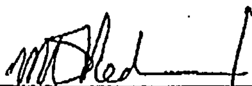
D: 03/09/2012 12:03 T: 03/09/2012 16:31 TID: ko
Job #: 83635 Doc #: 10153276
cc: David Redmond, MD

PALMETTO HEALTH BAPTIST
PAIN AND ORTHOPEDIC CARE CENTER

NAME: HAINES, KATHERINE
DOB: [redacted]
VISIT DATE: 05/11/2012

RECORD NO: 000843595
ACCOUNT #: 1213101517

The patient returns today for followup. She is under medication management. She had seen Dr. Storick for the possibility of a spinal stimulator but he advised against it. He did however, recommend the possibility of radiofrequency ablation or facet blocks, and so we will refer her back for this purpose. She states that she has been falling lately and that is of concern. She says her legs will tend to want to get out. I have suggested that she obtain a single point cane, adjustable, and this will be prescribed today with regard to her medications. She is on Trazodone 50 mg two at bedtime #60, soma 350 mg not to exceed 4 per day, #120, Norco 10/325 not to exceed 4 per day #120, and for severe pain, Demerol 50 mg not to exceed two per day #60. She also has signed a narcotic agreement with us, and we will see her back for routine followup in about two months.



David Redmond, MD/dsh
ORS

D: 05/11/2012 13:23 T: 05/11/2012 11:27
Job #: 36790 Doc #: 10162037
cc: David Redmond, MD

South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500 • Post Office Box 1715
Columbia, South Carolina 29202-1715
(803) 737-5723
www.wcc.sc.gov

Physician's Statement

Claimant's Name: Katherine Haines
Physician's Name: Dr. David Redmond
Practice/Clinic: Palmetto Health Baptist Pain & Orthopedic Care Center
Preparer's Name: ____
Phone: ( ) ____ - ____

Employer's Name: Dollar Tree, Inc.
Insurance Carrier: Arch Insurance Company
SCWCC File No: 0901428

The undersigned physician has been authorized by the Employer/Carrier to treat this Claimant for his or her injury by accident pursuant to§§42-15-60, 42-1-172 or 42-11-10.

Date of Injury or Illness: 02/12/2009 & 06/03/2011

Date of first office visit: 6-21-2011 Date of last visit: 5-11-2012

Diagnosis or nature of injury or illness: cervical strain, s/p fusion C4-5 + C5-6

Body part(s) injured: neck Body part(s) affected: (R) upper + (R) lower ext

Date of **Maximum Medical Improvement**: 8-30-2011 10-7-10 DR BOYD

Based on the **AMA Guidelines**, the claimant has sustained a 28 whole person % **medical impairment** to cervical injured body part(s) and a ____% **medical impairment** to ____ other affected body part(s).

____ The claimant is **able to return to work** without restriction. RECOMMEND RATING BY DR SCOTT BOYD, OPERATING SURGEON

✓ The claimant is **able** to return to work **with the following restrictions:**

LESS THAN SEDENTARY TO SEDENTARY, BUT ONLY IF SHE IS NOT REQUIRED TO DRIVE, AS SHE HAS LIMITED CERVICAL MOBILITY. MEDICATIONS CAN ALSO AFFECT CONCENTRATION, & MAY PREVENT SUCCESSFUL

✓ The claimant is **unable to return to work** at his or her current employment. RETURN TO SUBSTANTIAL GAINFUL EMPLOYMENT

As of the date I last saw this patient, it is **my professional medical opinion** the claimant:

____ **will not** need future medical care related to his or her work related injury or illness based on a reasonable degree of medical certainty (more likely than not).

✓ **will** need future medical care and treatment related to his or her work related injury or illness based on a reasonable degree of medical certainty (more likely than not) and that medical care and treatment including medication is as follows:

(RADIOFREQUENCY) RF & FACET INJECTIONS, MEDICATIONS, AT THIS FACILITY NEEDS F/U q 2-3 months, occ urine drug screens

David Redmond MD
Treating Physician

RECEIVED AUG 06 2012

8-3-12
Date

J. Adger Brown, Jr., MA, CDMS
Rehabilitation Consulting

Tel: (803) 738-0347
Fax: (803) 787-8662
4705 Crystal Drive
Columbia, SC 29206

December 31, 2011

TRANSMITTED VIA E-MAIL

Mr. Joseph T. McElveen, Jr., Attorney at Law
Bryan Law Firm
17 East Calhoun Street
Sumter, SC 29151-2038

RE:
Claimant :Kathy Haines
Employer :Dollar Tree
Dates of Accident :2/12/09; 6/3/11
SSN [redacted]
Date of Interview :12/19/11
Our File No. :11-1279

Dear Mr. McElveen:

Attached please find my initial evaluation report and statement on your client, Kathy Haines. As I have stated in my report, I believe this lady is permanently and totally disabled from any and all forms of employment and, further, that she is a candidate for social security disability. As I have outlined in my report, her employer of some fourteen years has tried valiantly to get her back to work but has been unable to do so. She is on large doses of narcotic medication, which is an absolute game-ender for employment. She is limited to no more than limited sedentary activities and is now being considered as a possible candidate for a dorsal column stimulator.

I reviewed carefully the labor market survey and report from the Directions Group. I always welcome the opportunity to review other opinions from vocational practitioners in the hopes that another set of eyes can find some glimmer of hope, but as I pointed out in my report, I don't see how the findings of the report connect with the medical.

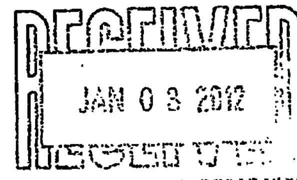
Thank you for allowing me to offer this opinion. If anything further is needed, please don't hesitate to call me.

Sincerely yours,

J. Adger Brown, Jr.

J. Adger Brown, Jr., MA, CDMS
Rehabilitation Consultant

JAB:gl



J. Adger Brown, Jr., MA, CDMS
Rehabilitation Consulting

Tel: (803) 738-0347
Fax: (803) 787-8662
4705 Crystal Drive
Columbia, SC 29206

December 31, 2011

TRANSMITTED VIA E-MAIL

RE: Claimant :Kathy Haines
Employer :Dollar Tree
Dates of Accident :2/12/09; 6/3/11
SSN
Date of Interview :12/19/11
Our File No. :11-1279

VOCATIONAL EVALUATION REPORT

INTRODUCTION:

Kathy Haines is a fifty-year-old female who is kindly referred to me by her attorney in connection with a work-related injury occurring in February, 2009. Ms. Haines, who was employed by Dollar Tree as an assistant manager, sustained an injury when some shelves fell on her, striking her on the right side of her neck and shoulder with injuries to those members. She attempted to return to work on several occasions, sustaining a second injury on June 3, 2011, when she was hit on the left side of her shoulder by a table.

This evaluation is sought to discuss the impact of Ms. Haines' injuries on her capacity to engage in substantial work. The report that follows derives not only from my clinical interview with Ms. Haines but also from a review of medical records, including those of various family doctors, Dr. Gopi Y. Shah, M.D., Dr. Neel R. Patel, M.D., Dr. Richard M. Lawson, M.D., Dr. Craig M. Burnworth, M.D., Dr. Nancy Lembo, D.O., physical therapy records from Sports Rehab Center, Dr. William T. Felmly, M.D., a functional capacity evaluation from Moore Orthopaedic Clinic, an independent medical evaluation from Dr. Blake H. Moore, M.D., office notes of Dr. Leonard E. Forrest, M.D., Dr. Scott B. Boyd, M.D., records of the pain management program at Palmetto Health Baptist Pain & Orthopaedic Care Center, and Dr. Donald R. Johnson, M.D. Also reviewed is an employability analysis and labor market survey conducted by the Directions Group, Inc.

MEDICAL HISTORY:

By way of background, Ms. Haines advises me that at the time of her accident she was being treated for mild COPD, congestive heart failure, and cardiomyopathy. She states that since her accident she

has also been diagnosed with diabetes.

Ms. Haines advises me that when she was approximately eighteen years old she injured her low back, required about four to five weeks of healing, receiving some physical therapy and medication, ultimately recovering from her problems without any residual complications. Around 1996, she fractured her hand while skating, was put in a cast and healed up, again without any residual problems. Surgically, Ms. Haines had her tonsils removed when she was five, around 2002 had all of her teeth removed and, in 1997, had a total hysterectomy.

As relates to the current matter, the records available for my review show that on February 18, 2009, Ms. Haines saw one of her family doctors, a Dr. Fischer, who noted neck pain with muscle spasm and some abnormalities of the cervical spine. He set her up for physical therapy and took her out of work pending those services.

On March 4, 2009, Ms. Haines began seeing Dr. Craig Burnworth, who diagnosed cervicalgia and again sent her to physical therapy, giving her sedentary restrictions. He noted possible carpal tunnel along with thoracic back pain and radiculopathy. By May 19, 2009, Dr. Burnworth was recommending pain management with injections, noting that she had thus far failed conservative management. Dr. Burnworth's note of June 10, 2009, documents this lady's second accident when she was hit in the left shoulder, left elbow and left wrist by a heavy table. For this, he diagnosed left shoulder pain, elbow pain and wrist pain, maintaining her on sedentary duties. By June 25, he was again recommending pain management with Dr. Nancy Lembo for her neck issues.

On June 4, 2009, while under Dr. Burnworth's care, Ms. Haines was referred to Dr. Nancy Lembo, who recommended electrodiagnostic testing, having reviewed an MRI which showed C4-5 stenosis and disc bulging. Dr. Lembo also recorded complaints of headaches, possibly due to myofascial components of her pain. At that point, she was given undefined light duty restrictions. Later, Ms. Haines was given a TENS unit and injections. At some point during her treatment, Ms. Haines tested positive for THC, with Dr. Lembo stating her unwillingness to continue narcotic medication, however, by August 25, 2009, Dr. Lembo was recommending getting a surgical opinion. While under Dr. Lembo's care, Ms. Haines was involved in a course of physical therapy lasting from June 16, 2009, through September 15, 2009.

On September 15, 2009, Ms. Haines was seen by Dr. William Felmly for an independent evaluation. At this time, Ms. Haines was working four hours a day in her job in what was obviously a modified capacity accommodation. Dr. Felmly noted degenerative joint disease at C4-5 and C5-6, her clearly having a diffused pain syndrome that encompasses her upper back and lower back without any obvious neurologic changes. Dr. Felmly did not see her as a surgical candidate and didn't see that there was anything wrong with her.

On November 6, 2009, Ms. Haines was seen for a functional capacity evaluation, also at Moore Clinic where Dr. Felmly practices. The FCE was indicative of less than a full effort, with the results being unreliable. That having been said, the evaluator stated that Ms. Haines was capable of handling medium physical demand for lifting, carrying, pushing, and pulling, with good tolerance

for full day activities.

On January 24, 2010, Ms. Haines was seen by Dr. Blake Moore for an independent medical evaluation. In summary, he found that Ms. Haines was in need of continuing medical care, but also that she should be considered at maximum medical improvement, but then stated that she needed a referral to chronic pain management, possibly including a spinal cord stimulator and/or radiofrequency neuroablation. He then stated that he had reviewed the FCE, placing her at the medium level of activity and concurred with those findings.

On June 28, 2010, Ms. Haines was seen by Dr. Leonard Forrest, who stated that she was not at maximum medical improvement with increasing symptoms and recommended a new MRI and treatment for her neck in an attempt to calm her symptoms. It was Dr. Forrest's impression that Ms. Haines would likely remain symptomatic regarding her neck despite treatment but would probably do better with treatment than she was doing at present. Dr. Forrest commented on the FCE, all but saying he disagreed with it, particularly as it relates to her submaximal effort, but did state that lifting twenty pounds and avoiding more repetitive and demanding tasks such as unloading trucks was quite reasonable.

On October 7, 2010, Ms. Haines was seen by Dr. Scott Boyd of Columbia Neurosurgical Associates. By this time, Ms. Haines was working without restrictions, having been through extensive conservative treatment, noting that her prior physicians, particularly Dr. Felmly and Dr. Lembo, had treated her and released her to full duties. Dr. Boyd's evaluation revealed signs and symptoms to suggest a worsening cervical myeloradiculopathy. Although he agreed with Dr. Felmly's assessment that the MRI did not appear as severe as noted by the radiologist, he did find them significant and believed her to have a right cord compression consistent with her right-sided symptoms. He recommended her for a surgical solution consisting of a two-level anterior cervical discectomy and fusion to decompress the spine, expecting that after such surgery she could return to work. In the meantime, Dr. Boyd gave restrictions of part-time to regular duty but with the need to take frequent breaks.

On March 15, 2011, Dr. Boyd performed an anterior cervical discectomy and interbody fusion at C4-5 and C5-6 with instrumentation and an interbody implant. Three weeks following her surgery, Ms. Haines was still having numbness and tingling going down her arms with stiffness in her neck. He stated, however, that he believed Ms. Haines could return to part-time light duty work, working four hours a day, with no lifting, pushing, pulling or tugging of any more than ten pounds. Follow-up notes from Dr. Boyd show recurrent and persistent right-sided pain, noting that he had little more to offer her, stating that she should be referred for pain management.

On June 21, 2011, Ms. Haines was admitted to the Pain Management Program at Baptist Health, being involved with their program until August 30, 2011. While there, she came under the multi disciplinary care of their providers. Dr. David Redmond, the director of the program, likewise diagnosed her as being status-post fusion surgery at C4-5-6 with persistent pain and some degree of depression. While in the pain management program, Ms. Haines underwent a course of physical therapy, receiving injections and counseling. At the completion of the program, Dr. Redmond

affirmed a rating of 28%, stating that she was on medication and would need to be on long-term medication management, including Trazodone, Soma, Relafen, and Zoloft, along with Flexeril and Hydrocodone. A functional capacity evaluation completed at the end of the program placed her at a sedentary physical demand level, with Dr. Redmond stating that despite Ms. Haines' desire to become involved in vocational rehabilitation, he did not know how practical that would be for her in the long term.

A review of the functional capacity evaluation completed at Baptist showed that Ms. Haines put out a good effort, but with the data showing that Ms. Haines was actually functioning at far less than the full range of sedentary work.

For the reader's benefit, the full range of sedentary employment requires an individual to be able to occasionally (up to a third of the day or two hours) lift and carry ten pounds and frequently (two-thirds of the day or six hours) be capable of carrying and handling objects of negligible weight. Sedentary work also requires the ability to sit for six out of eight hours in a day. Additionally, the federal statutes, which define and interpret the levels of work, have also stated that sedentary work also requires very good, if not unimpeded, use of a dominant hand and a very good use of a helper hand. The data collected during the course of the FCE shows that Ms. Haines is capable of sitting for no more than three hours, and even then for no more than an hour and a half at any one time. The data also states that Ms. Haines could not perform sedentary carrying and that her handling and pinching were below average.

On October 17, 2011, Ms. Haines was referred to Dr. Donald Johnson at Southeastern Spine Institute. In his report, he noted that Ms. Haines had been out of work since July 11, 2011, was currently on Lortab, 7.5mg at the rate of five to six per day, and was complaining of fairly severe (7/10) pain. Dr. Johnson found her obviously uncomfortable and in pain, with difficulties with her range of motion, diagnosing chronic cervical pain status-post two level cervical fusion at 4-5, 5-6. He did not see her as a surgical candidate, ascribing a 25% impairment to the whole person, stating that she could not return to her former vocation.

He stated that it was clear that she had severe limitation to motion in her neck and could be qualified only to do sedentary work but "unfortunately is taking a significant number of narcotics on a daily basis." He recommended her for facet blocks and, if successful, a facet joint rhizotomy. He also stated she might be a candidate for a spinal cord stimulator, but would leave that decision to her pain management staff. Dr. Johnson reiterated that opinion in a letter of November 15, 2011, stating again that she could qualify only for sedentary work, but would have difficulty because of using narcotics and would be restricted from bending, stooping, working overhead, or climbing, and would need to change positions from sitting to standing on a frequent basis and change positions to control her pain. He also stated it was likely she would have significant absenteeism because of her pain, being a liability both to herself, her coworkers, and her employers, if she were taking narcotics while trying to work.

Ms. Haines is a right-hand dominant individual who is six feet tall and now weighs 250 pounds, having lost approximately 25 pounds since the time of her accident. She is not sure why she has lost

weight but thinks that this may be due to poor appetite. Presently, she continues under the care of Ms. Fonda Wilkes, a nurse practitioner at Baptist Pain Management, seeing her every two months or so for medication management. Presently, she is taking Lortab, 7.5mg one and a half pills every five hours; Soma, 350mg four times a day; Relafen twice a day, and Neurontin, 300mg twice a day. She also takes Trazodone at bedtime and Zoloft, 100mg once a day. Ms. Haines is not taking any over-the-counter medication but does use ice, hot showers and moist heat for the relief of discomfort. She states that she is supposed to be taking Coreg, 7.5 mg once a day, her Spiriva inhaler, and diabetes medication for her non-work-related medical problems, but is unable to afford these.

EDUCATIONAL BACKGROUND:

Ms. Haines advises me that she completed the eleventh grade before dropping out of school at Twin Lakes High School in Palm Beach, Florida. She did go back and get a CNA certification in 1989; however, her certification is no longer valid. Based on Ms. Haines' self-report, she has no difficulty with reading and writing, and certainly that is an opinion supported by her extensive work history as a manager. There is no history of any military service.

WORK HISTORY:

At the time of Ms. Haines' injury, she was employed by Dollar Tree as an assistant manager. She began this work in September of 1997 and, following her injuries, was in and out of work mostly on modified duty until she left work in June of 2011. For her efforts, Ms. Haines was being paid $13.34 an hour. Her job duties, which were skilled and medium to heavy in their physical demands, required that she open the store, supervise her staff, unload trucks, move stock, put up stock on shelves, make the bank deposits, wait on customers, and clean the store.

Prior to working at Dollar Tree, Ms. Haines was a newspaper deliverer for the Palm Beach Post for a brief period of time, and for eight months worked for Columbiana Apartments, cleaning apartments and getting them ready for turnover. This work was at the low end of semiskilled and again medium in its physical demands.

When reviewing an individual's vocational history, the accepted standard is to review work going back fifteen years. In Ms. Haines' case, she has worked for Dollar Tree since 1997, which is approximately fourteen years, making this her only significant and vocationally relevant employment. She has acquired a significant number of skills in this work; however, these skills are of very limited transferability. Such skills as her clerical duties, filling out bank deposits and processing new hire forms and other such records comprised only a small portion of Ms. Haines' day, with the majority of her time being consumed with stocking and organizing the shelves, moving material, waiting on customers, and performing other duties that were more significantly demanding from a physical standpoint. Ms. Haines did acquire skills as a cashier and customer service representative which would be transferable to the light level of exertion, and to some extent to the sedentary level assuming an individual capable of performing at such a level on a sustained basis.

OBSERVATIONS:

Ms. Haines arrived on time for her scheduled appointment with me. Her presentation was that of a tall, solid individual who was casually dressed and groomed. Ms. Haines has an easy, relaxed, albeit somewhat reserved, manner about her. She entered fully into the evaluation process, with a good rapport being established. Ms. Haines comes across as a moderately despondent, if not depressed individual, frustrated at her inability to work. She references her having worked all of her life, her desire to return to work, and her hopes that some day she may be able to go back to work at Dollar Tree, a hope fostered possibly by her having returned on several occasions for what amounts to limited light duty or failed work attempts.

CONCLUSIONS:

Kathy Haines is a fifty-year-old individual who, for employment purposes, is now closely approaching advanced employment age, a point at which it is much more difficult for unemployed individuals to reenter the labor market. Ms. Haines has made multiple attempts to return to work at Dollar Tree and apparently no suitable position has been found for her, a fact which is quite understandable considering her medical limitations and restrictions. Being unable to return to her former employer of some fourteen years, it is doubtful that she is going to have any great success convincing another employer to take her on. If an employer who has kept someone for many years is unable to find a place for them, it is unrealistic to think that new employers are going to be a more fruitful avenue of exploration.

That having been said, Ms. Haines' greatest problem is one of her physical limitations and restrictions. The most recent information following her surgery, a significant watershed event, is that she is capable of no more than a somewhat limited range of sedentary physical activity, but is only able to participate at such a level with the use of a considerable amount of narcotics which she has to take throughout the day.

Becoming employed is a matter of not only being physically capable of performing a job but also being able to compete with other individuals for what few openings may exist. In Ms. Haines' situation, I am convinced, within a reasonable degree of vocational certainty, that no labor market exists for such an individual. An individual who has been out of work for an extended period of time, who has had surgeries, is on high doses of chronic narcotic pain medication, and is extremely limited in their physical abilities is certainly not going to be able to compete for work as no knowing employer would give consideration to such an individual's application. Beyond that, however, I have serious doubts as to Ms. Haines' capacity to engage in any type of sustained work even if a job could be provided.

A functional capacity evaluation completed after an extensive inpatient pain management program shows that this lady would have to change positions periodically, could not sit for long periods of time, and has a very limited ability to lift and carry. Further, her ability to use her hands for simple manipulative activities is below par. Dr. Donald Johnson, who saw this lady most recently, quite

accurately offers the opinion that no employer is going to give much consideration to an individual who is on narcotic medication due to the risk of injury. This, of course, is in addition to the well-established policies that most employers have against having staff who are on narcotics.

As part of the information that was forwarded for my review, I received an employability analysis and labor market survey from the Directions Group. I don't think it's necessary to go into any great detail to comment on this report. The evaluator quite accurately records the medical records since the time of this lady's surgery, particularly noting that the director of the pain management clinic, Dr. Redmond, stated that he questioned the practicality of her even going to Voc Rehab and that the FCE placed her at less than sedentary work. Apparently the evaluator did not have the benefit of Dr. Johnson's report which further stated a less than sedentary activity and comments on the use of her chronic narcotic pain medication.

Jan Westmoreland of Directions then completed a labor market survey offering the opinion that this lady should be able to return to several jobs consistent with her post-injury profile; however, of the eight jobs that are listed, all of them appear to require at least the capacity to work at the full range of sedentary, if not sedentary to light level of physical demand. It is also clearly noted in this report that this listing of jobs was based on an electronic search from the South Carolina Job Bank and the internet, with no indication that any employers were ever contacted to determine Ms. Haines' particular suitability or to discuss Ms. Haines' specific limitations. As such, this labor market survey adds nothing to the clinical picture other than to state that jobs exist in the local community but not necessarily for Ms. Haines.

Based on the totality of the information, and relying most on those records existing since the time of this lady's surgery in March of 2011, it is my opinion, within a reasonable degree of vocational certainty, that Ms. Haines is incapable of returning to any form of employment and should be considered permanently and totally disabled.

As a vocational expert for the Social Security Administration, I have recommended that Ms. Haines consider placing an application for total disability. An individual who is over the age of fifty, is capable of no more than sedentary activities, has less than a high school education, and no significant transferable skills, is presumed disabled under Grid Rule 201.10, the definition of disability being the physical inability to perform work, much less get hired.

J. Adger Brown, Jr.

J. Adger Brown, Jr., MA, CDMS
Rehabilitation Consultant

JAB:gl

1) IN THE COURT OF COMMON PLEAS
2 COUNTY OF RICHLAND)
2
3
3
4
4
5
5
6
6 Katherine L. Haines,)
7)
7 Plaintiff,)
8) DEPOSITION OF:
8 -vs-)
9) DR. SCOTT BOYD
9 Dollar Tree Stores, Inc.,)
10)
10 Defendant.)
11
12
13 Given before Deidre M. Bonnette, Court
14 Reporter and Notary Public, at the office of Columbia
15 Neurosurgical Associates, 132 Sunset Court, West
16 Columbia, South Carolina, on Monday, December 20,
17 2010, commencing at 4:24 p.m.
18
19

20 RAY SWARTZ & ASSOCIATES OF SOUTH CAROLINA
20 -Professional Court Reporters-
21 Serving the Legal Community Since 1957
21 1-800-822-8711
22
22 Beaufort Camden Charleston Columbia
23 Florence Greenville Greenwood Hilton Head
23 Lexington Myrtle Beach Newberry Orangeburg
24 Spartanburg Summerville Sumter West Columbia
24
25

2 For the Plaintiff: BRYAN LAW FIRM
2 By: JOSEPH T. MCELVEEN, Jr., Esquire
3 17 East Calhoun Street
3 Sumter, South Carolina 29151

5 For the Defendant: TURNER PADGET
5 By: BRAD B. EASTERLING, Esquire
6 1901 Main Street, 17th Floor
6 Columbia, South Carolina 29201

9 Also Present:

10 Katherine L. Haines

1 INDEX TO EXAMINATIONS

2 Page
3 Direct Examination by Mr. Easterling 4
4 Cross-Examination by Mr. McElvee 21
5 Redirect Examination by Mr. Easterling.... 24
6 Certificate of Reporter 28

12 INDEX TO EXHIBITS
13 (COURT REPORTER'S NOTE: There were no exhibits marked
14 during this deposition.)

1 (Mr. McElveen is attending via telephone.)
2 - - - - -
3 DR. SCOTT BOYD,
4 having been first duly sworn, testified as follows:
5 DIRECT EXAMINATION BY MR. EASTERLING:
6 Q. Dr. Boyd, I'm Brad Easterling. I'm here on
7 behalf of Dollar Tree and their workers' compensation
8 insurance carrier.
9 A. Okay.
10 Q. I'm here to ask you questions about this lady
11 who's sitting here with us, Ms. Haines, who I
12 understand that you've seen now on one occasion. Is
13 that right?
14 A. That's correct.
15 Q. And you saw her back on October the 7th of
16 this year?
17 A. That's correct.
18 Q. And it was basically an independent medical
19 evaluation that you set up or at least my office set
20 up, and actually, the employer and the carrier sent
21 her to your office. Is that your understanding?
22 A. That's correct.
23 Q. And just to lay some ground work so we're all
24 on the same page, you're aware that she's had injuries
25 that she sustained at work, working for Dollar Tree?

1 A. Yes. And if I could just stop you for just
2 two minutes.
3 Q. Okay.
4 A. If I could read over my notes here just to
5 get caught up to speed.
6 Q. Take your time.
7 A. Okay. Good. Thanks.
8 Q. When you evaluated her on October the 7th,
9 2010, you make notes in your IME report or you note
10 that the claimant saw Dr. Felmly and also Dr. Lembo?
11 A. Yes.
12 Q. Did you review those doctors' records prior
13 to that evaluation on October the 7th?
14 A. What records were available. I did have some
15 from Dr. Felmly and Dr. Lembo.
16 Q. All right. And, just briefly, tell me how
17 her treatment had progressed or what treatment she had
18 actually received prior to seeing you on October 7th,
19 2010.
20 A. It appeared that she'd had the typical
21 conservative treatment, trial of various medications,
22 therapies, and I believe also some -- if I'm not
23 mistaken, I believe even epidural steroid injection.
24 Q. Right. You're aware that she had an MRI of
25 her cervical spine back in May of last year?

Page 6

1 A. May 8th, 2009.
2 Q. Okay. Tell me, are you familiar with
3 Dr. Burnworth and also Dr. Felmly and Dr. Lembo?
4 A. Yes.
5 Q. And Dr. Burnworth, I believe, and Dr. Felmly
6 are both with Moore Orthopaedics?
7 A. That's correct. I'm more familiar with
8 Dr. Felmly, as he's a spine surgeon similar to myself.
9 Q. Okay. And you are, in fact, a neurosurgeon?
10 A. That's correct.
11 Q. And is Felmly also a neurosurgeon?
12 A. He's an orthopaedic surgeon who specializes
13 in spines.
14 Q. Okay. And in reviewing Dr. Felmly's notes,
15 did it appear to you that he reviewed Ms. Haines' MRI,
16 or could you tell?
17 A. Let's see. I couldn't tell. I feel certain
18 he did. Obviously, that's a main component of an
19 evaluation.
20 Q. Okay. Are you also aware that she had an MRI
21 of her shoulder during the course of the treatment
22 that she underwent with Moore Orthopaedics?
23 A. I'm not aware of that.
24 Q. Okay. And I'll submit to you that she
25 underwent an MRI of her shoulder back in June of 2009,

Page 7

1 and it was determined that she didn't have a rotator
2 cuff tear in her shoulder. How about, can you tell
3 me, Doctor, if you could tell from your notes, what
4 were Dr. Felmly's opinions about surgery?
5 A. Well, it was felt that Dr. Felmly could not
6 do anything further, and so, therefore, he must have
7 felt that surgery was not indicated.
8 Q. Okay. And do you have any indication in the
9 records that you have from Dr. Felmly that he referred
10 her to a neurosurgeon?
11 A. I don't know who it was that referred her to
12 me.
13 Q. Okay. And I'll tell you that it was
14 actually my client that referred her to you. But I'll
15 tell you also that that was done without a referral
16 from Dr. Felmly.
17 A. Okay.
18 Q. Okay. At least, when you saw or when you
19 looked at the MRI of her cervical spine from May 2009,
20 what were the radiologist's actual opinions or his
21 impressions?
22 A. The radiologist's impression was severe
23 central canal stenosis at C4-5 with no cord signal
24 change.
25 Q. Particularly when it says "no cord signal

Page 8

1 change," what actually does that mean?
2 A. It means that there has not been any bruising
3 or severe damage to the spinal cord radiographically.
4 Q. Okay. In reviewing the MRI of her cervical
5 spine from May 8, 2009, did it appear that there was
6 any kind of cord impingement? And I don't know if
7 that's any different from the notation of cord signal
8 change.
9 A. Right. Well, I thought there definitely was
10 cord impingement, and that's what occurs when there's
11 severe central canal stenosis. That means that the
12 spinal canal is so narrow that there's not room for
13 the spinal cord.
14 Q. Okay. So did the radiologist from Columbia
15 Neurosurgeon, did he note that? Did he note that
16 there was cord impingement, which I'm assuming, again,
17 is different from his notation of --
18 A. This is Dr. Lynn. He's a radiologist from
19 Pitts Radiology. He's not in our group.
20 Q. Okay. I'm sorry.
21 A. And I don't see any reference to the cord
22 being -- well, he's talking about the cords being
23 flattened.
24 Q. Okay.
25 A. And there being severe central canal

Page 9

1 stenosis, which means the cord's being pinched.
2 Q. Okay. And were you aware that Ms. Haines had
3 EMG nerve conduction testing prior to October of 2010?
4 A. Yes.
5 Q. Did you have an opportunity to review those
6 tests prior to your evaluation of her?
7 A. I did.
8 Q. And what did those tests show?
9 A. No evidence -- there was no evidence of
10 radiculopathy, meaning a nerve -- pinched nerve;
11 entrapment neuropathy, pinched nerve down in the arm;
12 or myopathy, meaning a problem with the muscles.
13 Q. Okay. And when you have, I guess -- well,
14 let me back up. Did you interpret the MRI differently
15 from the radiologist?
16 A. Not really.
17 Q. Okay. And I believe that your note from
18 October 7th, you note, "She also has a stenosis from
19 discs, slash, osteophyte complexes at both levels but
20 particularly at C4-5 where she does appear to have
21 some at least moderate right hemicord compression.
22 The radiologist states that this is severe stenosis."
23 And then you go on to say, "I agree with
24 Dr. Felmly's assessment that the MRI changes do not
25 appear as severe as noted by the radiologist, but I

Page 10

1 still believe they are significant."
2 It is fair to say, then, that you didn't think
3 her MRI was as bad as the radiologist did? Is that a
4 fair statement?
5 A. Well, again, the radiologist did provide a
6 lot of specifics. Whenever I see severe central canal
7 stenosis, that -- that is a strong statement by a
8 radiologist. And I did not maybe find the changes to
9 be as severe as I interpreted the radiologist's
10 interpretation.
11 Q. When somebody has severe canal stenosis,
12 potentially impinging on the nerve, would EMG testing
13 pick up radiculopathy from that impingement? And I
14 don't know if that makes sense or not.
15 A. Right. Yeah. That's a good question. A EMG
16 nerve conduction study, what we call electrical tests,
17 they're -- first of all, they're not completely
18 accurate. They're more accurate for peripheral nerve
19 entrapments, less accurate for radiculopathy, meaning
20 a pinched nerve in the neck, and may be completely
21 normal if it involves the spinal cord.
22 Q. Okay.
23 A. It really does not test for spinal cord
24 problems.
25 Q. Okay. You ultimately have determined or have

Page 11

1 recommended, I should say, that Ms. Haines undergo a
2 two-level anterior cervical discectomy and fusion?
3 A. That's correct.
4 Q. And let me ask you this: Did you have a
5 report from a Dr. Leonard Forrest in your file before
6 you saw Ms. Haines on October the 7th, 2010?
7 A. I can't recall and I'm not -- I don't see
8 anything in my electronic record.
9 Q. I'll submit to you, this is a doctor that the
10 other attorney, Mr. McElveen, sent his client to see,
11 and he's down in -- I believe, down in Charleston.
12 A. Mound Pleasant.
13 Q. Mount Pleasant. I just want to let you take
14 an opportunity to review that briefly, if you don't
15 mind.
16 A. Okay.
17 Q. Have you had an opportunity to review
18 Dr. Forrest's note?
19 A. Yes, I have.
20 Q. And what is he suggesting?
21 A. A repeat MRI scan.
22 Q. Okay. And, again, just to be clear, though,
23 the only MRI that you're aware of is the May 9th --
24 May 8th, 2009 MRI?
25 A. Correct.

Page 12

1 Q. Do you have an opinion as to whether or not a
2 repeat MRI would be beneficial ultimately in the final
3 determination as to whether or not Ms. Haines would
4 require surgery?
5 A. I think it would be helpful. Yes.
6 Q. Okay. So then it is fair to say that prior
7 to making a final recommendation as to whether she
8 will undergo surgery for her cervical spine, you would
9 like to look at a repeat MRI?
10 A. Yes. But I don't anticipate that it's going
11 to change the decision much because, I mean, her
12 symptoms have not changed and, if anything, have
13 worsened, so.
14 Q. Okay. And while you mentioned that, you note
15 in your impression there on the first sentence that
16 "her signs and symptoms suggest a worsening
17 cervical myeloradiculopathy". When you say worsening,
18 worsening from what; what particular point are you
19 referencing?
20 A. Well, she describes worsening pain.
21 Q. Okay.
22 A. So worsening symptoms.
23 Q. I guess what I'm getting at is, you're aware
24 or you know that Dr. Felmly and Dr. Lembo both placed
25 her at maximum medical improvement prior to you seeing

Page 13

1 her.
2 A. Yes.
3 Q. And so are you saying, then, that her
4 condition has worsened since being placed at maximum
5 medical improvement by those two prior doctors?
6 A. Well, I'm not sure -- it's my opinion that
7 she had -- just like Dr. Forrest, that she had not
8 reached maximum medical improvement.
9 Q. Okay. That she never has reached maximum
10 medical improvement?
11 A. Correct.
12 Q. Okay. And you're familiar with Dr. Forrest?
13 A. Yes.
14 Q. He's a neurosurgeon as well, is that right?
15 A. No. He's a pain management specialist, I
16 believe technically a physiatrist, at the Southeastern
17 Spine Institute.
18 Q. Okay. Let me ask you this: Do you note, is
19 she a smoker?
20 A. Let's see. Yes.
21 Q. And you actually, I think, noted that she's a
22 pack-a-day smoker on your note.
23 A. That's what I have in my records. Yes.
24 Q. You also point out that she has recently been
25 diagnosed with diabetes.

Page 14

1 A. That's correct.
2 Q. And also has COPD.
3 A. Yes.
4 Q. And a mild heart condition, I believe.
5 A. Cardiomyopathy is what her records indicate.
6 Q. And what is cardiomyopathy?
7 A. Means her heart doesn't quite work right.
8 Q. Okay.
9 A. In simple -- it's a very broad term meaning
10 the muscle tissue of the heart does not function
11 optimally.
12 Q. Does a smoker, a pack-a-day smoker, does that
13 smoking have a negative impact on recovery time --
14 A. Well --
15 Q. -- or potential outcome from surgical
16 procedures?
17 A. Sure. Both smoking and diabetes can impede
18 the healing, especially the healing of the bone graft
19 and the fusion.
20 Q. And how about her heart condition? Are you
21 concerned about that heart condition in regards to her
22 recovery from potential fusion surgery, cervical
23 fusion surgery?
24 A. Not really. It's a mild anaesthetic, pretty
25 light anaesthetic.

Page 15

1 Q. And then --
2 A. I wouldn't anticipate any trouble with it.
3 Q. And then how about the COPD?
4 A. Again, probably not. She's not on any home
5 oxygen or anything like that, so.
6 Q. Okay.
7 A. We frequently operate on people who have a
8 lot worse lung and heart conditions.
9 Q. And how about, even though she is a
10 pack-a-day smoker and has been diagnosed with
11 diabetes, you still would recommend that she's able to
12 undergo that procedure and then, hopefully, have a
13 decent recovery?
14 A. Yes.
15 Q. Okay. Those two conditions don't cause you
16 any concern about undergoing surgery?
17 A. No. It would -- it would increase her risk
18 for -- for what we call nonunion, meaning a failure to
19 fuse. But you're taking about a 98 or 99 percent rate
20 of fusion in a non-smoker, non-diabetic. Even adding
21 on those two risk factors, you're in -- you're still
22 in -- probably in the 90 percent chance of fusion
23 range.
24 Q. All right. You've indicated that this -- I
25 mean, it's an outpatient procedure, I guess, with

Page 16

1 overnight observation is what you indicate.
2 A. Yeah. Typically a one-level procedure like
3 this is usually done as an outpatient, same-day
4 surgery. If we're doing two levels, we typically keep
5 people overnight, and they usually go home the
6 following morning.
7 Q. Okay.
8 A. So that's considered an outpatient
9 observation, 23-hour admission.
10 Q. Okay. Now, this is, I guess, a general
11 observation of my own, but is it fair to say that
12 cervical fusion patients generally have a better
13 recovery and prognosis for returning to work and
14 physical activity as opposed to somebody that's
15 undergone a lumbar fusion?
16 A. Oh, yes. A two-level cervical fusion patient
17 is much more likely to do well, recover quickly, get
18 back to work, rather than a two-level lumbar.
19 Q. Okay. And, again, a general question: As
20 far as anticipated, and I understand that obviously
21 we're not there yet, but where do you generally see
22 these types of patients fall as far as a permanent
23 impairment?
24 A. I can tell you -- I think I can tell you her
25 impairment rating right now. I use the AMA guides,

Page 17

1 and it's disappointing to me that those guides don't
2 reflect someone's true impairment, but it's what we
3 have. And whenever there is an alteration of a motion
4 segment, which is what a fusion does, then that puts
5 you into a higher DRE category, and I think that would
6 be in the -- I would have to look in the book, but
7 somewhere in the 26, 20 -- 26 to 28 percent impairment
8 of the whole person.
9 Q. Okay.
10 A. Simply -- even if she's doing great with no
11 symptoms, completely recovered, simply because of the
12 fusion.
13 Q. Okay. And you note, and I just want to
14 highlight for the record, though, that you anticipate
15 the recovery time would be or at least she'd be out of
16 work for three weeks and then could return to light
17 duty some point after that.
18 A. I think it would be -- she could be able to
19 return to light duty as early as three weeks,
20 especially if she's working up to the time of
21 surgery. And I think usually by three weeks, people
22 are ready to get back.
23 Q. Okay. And just so I'm clear, and I maybe
24 have confused myself, which happens all the time, but
25 you'd like to see a repeat MRI. Is that fair?

Page 18

1 A. Yeah, I would. Back when I saw her in
2 October, I didn't realize that the scan was that
3 dated. I didn't think it was because her -- the
4 symptoms -- the symptoms she was describing seemed
5 consistent, just more severe, not like something new
6 had happened. But, yeah, before proceeding with
7 surgery, I think it would be very helpful to get
8 another MRI scan.
9 Q. Okay. And, Doctor, just the fact that one
10 prior orthopaedic surgeon, that being Dr. Felmly --
11 and I don't recall, did we -- Burnworth, is he also an
12 orthopaedic surgeon?
13 A. He is. He's a doctor over at the Moore
14 Clinic. I think he is a physiatrist similar to
15 Dr. Forrest.
16 Q. Okay.
17 A. I believe so. Don't hold me to that,
18 but they're in the same orthopaedic group.
19 Q. Given, though, that at least one orthopaedic
20 surgeon has not -- indicated that Ms. Haines doesn't
21 require surgery or doesn't need surgery, and also the
22 fact that we have a negative EMG test, that doesn't
23 change your current opinion that she requires or you
24 believe that she ultimately will require a fusion
25 surgery, cervical fusion?

Page 19

1 A. It really doesn't change. First of all, the
2 EMG for the condition she's got with pressure on the
3 spinal cord, a normal EMG doesn't rule out pathology.
4 Q. Okay.
5 A. And also Dr. Lembo said that there was
6 nothing further she can do. I think you mentioned she
7 put her at maximum medical improvement. I think
8 that's simply because she'd done everything she could.
9 The only thing left to do was surgery, but Felmly had
10 said no surgery, so.
11 Q. And I'm just curious now more than anything,
12 I mean, is it typical for an orthopaedist who
13 basically says that they don't have anything else to
14 offer, is it likely that they would ultimately refer
15 the patient over to a neurosurgeon?
16 A. Generally not. I think they'd have them
17 referred back to either their pain management
18 specialist or their primary care physician, sort of
19 regroup and let that physician decide where to do.
20 Q. Okay.
21 A. Because Dr. Felmly and I do the same thing,
22 but we come at it from different directions. He's
23 more bone- and spine-oriented, and I'm more spinal
24 cord- and nerve-oriented. It's just the difference
25 between orthopaedics and neurosurgery. And so

Page 20

1 sometimes we ask each other to see people for other
2 opinions, but generally patients are referred back to
3 their primary care doctor.
4 Q. Okay. And if after a repeat MRI and you
5 ultimately determine that she will undergo or that she
6 does require cervical fusion, do you have an opinion
7 as to whether that procedure would be causally related
8 to the injuries she sustained while she was working at
9 Dollar Tree?
10 A. I get asked this question all the time, and I
11 have the same answer. Ms. Haines indicated to me that
12 she was not having these problems before these bins
13 fell on her back and neck. She indicated to me in her
14 history that after that -- those bins hit her and
15 the -- pretty soon after that, she began having
16 problems, symptoms that she was not having before.
17 So, therefore, I believe her symptoms are related. I
18 believe her disc problems were probably
19 long-standing. I believe she probably has had disc
20 herniations for quite some time that were asymptomatic
21 but became symptomatic after the injury.
22 MR. EASTERLING: Okay. I think that's all
23 the questions I have. I appreciate it.
24 DR. BOYD: Sure.
25 MR. EASTERLING: Joe, you got anything?

Page 21

1 CROSS-EXAMINATION BY MR. MCELVEEN:
2 Q. Doctor, I apologize for not being there. I
3 got the wrong directions, and I'm in traffic and
4 moving very slowly, but I just have a couple of
5 questions. Ms. Haines also mentioned some problem
6 with her right leg. Is that associated with this?
7 A. Yes, I believe -- I believe it is. Her --
8 you know, the spinal cord in the cervical spine can
9 affect the arms or the legs, and it appeared to me
10 that her -- the right side of her spinal cord was the
11 area most affected. And so, therefore, that would be
12 consistent with some right leg symptoms.
13 Q. Okay. And so this surgery would help with
14 that also?
15 A. I would certainly hope so. I would expect it
16 to.
17 Q. Now, the types of myeloradiculopathy, what
18 actually does that mean?
19 A. That's really a descriptive term. Myelo-
20 indicates spinal cord. Radiculopathy means nerve
21 root. And sometimes one or the other can be affected
22 by a disc herniation. In this case, I believe both
23 were. I believe the right side of her spinal cord is
24 being affected, causing a myelopathy, but she also has
25 some symptoms going down her arm to suggest at least a

Page 22

1 subtle radiculopathy. So that's just a phrase to
2 indicate that both the spinal cord and the nerve root
3 are affected.
4 Q. Well, injuries to the spinal cord, are they
5 generally more severe than an injury, say, to the
6 peripheral --
7 MR. EASTERLING: To the what?
8 DR. BOYD: I'm sorry. More severe than
9 injuries to the what?
10 Q. Peripheral nerves.
11 A. Well, it depends on how you define serious.
12 I certainly think so. An injury to the spinal cord
13 may not produce a lot of pain but can produce
14 paralysis or severe weakness, whereas injury to the
15 nerve root or the peripheral nerve can lead to pain,
16 but those peripheral nerve roots are more resilient
17 and have more chance to recover than a spinal cord
18 which is -- once it's injured, it -- it has very
19 little ability to recover.
20 Q. But does she have an injury to her spinal
21 cord?
22 A. I believe her spinal cord's being affected.
23 Yes.
24 Q. And do those types of injuries tend to get
25 worse if not corrected?

Page 23

1 A. Well, just like anything, they can get worse
2 or better. The concern is, though, it certainly could
3 get worse, and it's -- it's not a chance we would want
4 to take because, if it does get worse, doing surgery
5 at that point may not -- may not be able to improve
6 the function of the spinal cord.
7 Q. Well, a myelopathy, though, generally y'all
8 want to do the surgery on those right away, don't you?
9 A. Certainly sooner -- we have more urgency with
10 those than we do with a pinched nerve root or a
11 peripheral nerve. Yes.
12 Q. A myelopathy is not in any way like a
13 myeloradiculopathy?
14 A. Well, myelopathy -- myeloradiculopathy, that
15 term encompasses both. Yes, there is myelopathy.
16 And, yes, there is some nerve root compression as
17 well.
18 Q. Okay. And is there any particular place that
19 you prefer to have an MRI done? I know some surgeons
20 feel some places have better MRI's than others.
21 A. I don't have a preference just so long as
22 it's on a 1.5 Tesla magnet, which is basically a good
23 quality MRI machine. The one she had last time was on
24 a -- was on a good MRI machine. And actually if we --
25 it could done at the same place, that way we can

Page 24

1 compare apples to apples.
2 Q. Okay. And I believe you said this pretty
3 clearly, but would it be your opinion to a reasonable
4 degree of medical certainty that the injuries
5 described to you by Ms. Haines as having happened at
6 work most probably aggravated or accelerated her
7 preexisting disc problems -- injuries?
8 A. I believe her injury combined or -- combined
9 with or aggravated a preexisting chronic degenerative
10 condition. Yes.
11 MR. MCELVEEN: Okay. That's all the
12 questions I have.
13 DR. BOYD: Okay.
14 MR. MCELVEEN: Thank you, sir.
15 DR. BOYD: Sure. Good luck with the traffic.
16 MR. MCELVEEN: Well, I'm in your parking lot
17 right now as a matter of fact.
18 DR. BOYD: Well, come on in if you like.
19 MR. EASTERLING: Okay.
20 MR. MCELVEEN: Okay. Thank you.
21 DR. BOYD: Sure.
22 REDIRECT EXAMINATION BY MR. EASTERLING:
23 Q. Just one quick question. You mentioned I
24 think, in your testimony a minute ago that the work
25 injuries most likely increased the symptoms.

Page 25

1 MR. EASTERLING: Joe, did you hang up? Joe?
2 (There was a pause while waiting for
3 Mr. McElveen to enter the conference room.)
4 (Mr. McElveen entered the conference room.)
5 Q. Real quickly. You mentioned, I think, when
6 you were answering questions for Mr. McElveen that the
7 work injuries at least produced some symptoms that she
8 obviously is having now. Is that right?
9 A. Based on the history I have obtained, they
10 occurred very soon after the injury.
11 Q. And based on the information that you have,
12 can you tell us or can you give me an opinion as to
13 whether or not she would have required this surgery in
14 any event regardless of whether she had had any work
15 injury based on, I guess, the condition of her spine
16 as you saw it on the MRI of May of 2009?
17 A. I cannot say to a reasonable degree of
18 certainty whether or not she would ultimately require
19 surgery. She certainly would -- that is certainly
20 possible that even, you know, she wakes up one day and
21 has similar symptoms. But I can't say for -- to any
22 degree of certainty.
23 Q. Okay. And Mr. McElveen was asking you about
24 injury to the spinal cord.
25 A. Yes.

Page 26

1 Q. You've opined that she ultimately does have
2 some sort of injury or some sort of problem with her
3 spinal cord.
4 A. I believe she does.
5 Q. Caused by, I guess, the canal stenosis?
6 A. The canal stenosis and the flattening of the
7 cord and the -- and some of the pressure that's being
8 put on especially the right side of her spinal cord.
9 Q. And be that as it may, Dr. Felmly was aware
10 of that potential injury to the spinal cord. And you
11 may not be able to answer that, but he reviewed the
12 MRI.
13 A. I'm certain he did.
14 Q. And would have seen and noted those
15 conditions as well.
16 MR. MCELVEEN: I object to what he would have
17 seen or noticed.
18 DR. BOYD: I feel certain that Dr. Felmly
19 looked at the MRI scan. It may be that his
20 conclusions were just not the same as mine.
21 Q. And is it fair for us to assume, then, that
22 Dr. Felmly didn't feel that any kind of surgery was at
23 least imminent? It wasn't an emergency situation
24 where she needed to go have her spine operated on at
25 that point. Can you deduce that from Dr. Felmly's

Page 27

1 records?
2 A. Maybe not from his records, but just by --
3 well, yes, I can from his records. If he had felt
4 that this was a -- there was some pending neurologic
5 disaster from what he saw on the MRI scan, I feel
6 certain he would have either performed surgery or
7 immediately referred her on.
8 Q. Okay.
9 MR. MCELVEEN: And I would want to object
10 because you've got to answer the question, but I
11 object to what Dr. Felmly knew or --
12 MR. EASTERLING: Right.
13 MR. MCELVEEN: -- understood, being a part of
14 this.
15 MR. EASTERLING: I don't have any other
16 questions. Thanks.
17 MR. MCELVEEN: I don't think I have any.
18 MR. EASTERLING: That's it.
19 Thank you, Doctor.
20 DR. BOYD: Sure. Thank you.
21 (The deposition concluded at 4:58 p.m.)
22
23
24
25

Page 28

1) CERTIFICATE OF REPORTER
2 COUNTY OF LEXINGTON)
2
3
3
4
4
5 I, Deidre M. Bonnette, Court Reporter
6 and Notary Public, certify that I did have Dr. Scott
7 Boyd to appear before me at 4:24 p.m. On Monday,
8 December 20, 2010, at the office of Columbia
9 Neurosurgical Associates, 132 Sunset Court, West
10 Columbia, South Carolina; that the witness was sworn
11 and cautioned to tell the truth; the pages constitute
12 a true and accurate transcript of the testimony given
13 at the time and place.
14 I further certify that I am not of
15 counsel or kin to any of the parties to this cause of
16 action, nor am I interested in any manner in its
17 outcome.
18 IN WITNESS WHEREOF, I have hereunto set
19 my hand and seal this day, Monday, December 27, 2010.
20
21
22
22 Deidre M. Bonnette, Court Reporter
23 and Notary Public.
23 State of South Carolina at Large.
24 My commission expires June 12, 2019
24
25
25

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 0905998 & 0901428

KATHERINE L. HAINES,

Employee,

Claimant,

vs.

DOLLAR TREE STORES, INC.,

Employer,

AND

ARCH INSURANCE COMPANY,

Carrier,

Defendants.

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

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION AND JOSEPH T. MCELVEEN, JR., ESQUIRE:

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

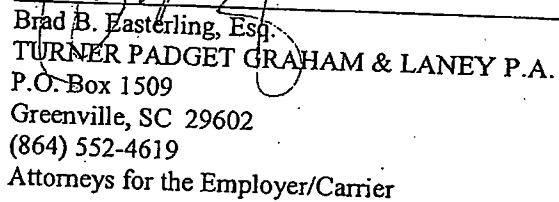
APA#	NAME OF PROVIDER/OTHER	DATE(S) OF RECORD(S)	PAGE NUMBERS
11	The Directions Group	11/23/11	190 – 206
12	Surveillance Report	12/1/11 – 12/4/11	207 – 216
13	Surveillance Report	6/5/12 – 6/7/12	217 – 228
14	Carolina Spine & Sport	8/6/09 – 12/1/09	229 – 233
15	Dr. Nancy Lembo	6/4/09 – 7/14/09	234 – 244
16	Functional Capacity Evaluation	11/6/09	245 – 284
17	Moore Orthopaedics	3/4/09 – 9/29/09	285 – 298
18	Physical Therapy	3/17/09 – 9/8/09	299 – 326

19	MRI Reports	5/8/09 - 6/22/09	327 – 329
20	Dr. Fisher	5/5/08 – 2/23/09	330 - 331

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

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

YOU ARE FURTHER NOTIFIED that the following witnesses may be called on behalf of the Defendants: See Form 58



Brad B. Easterling, Esq.
TURNER PADGET GRAHAM & LANEY P.A.
P.O. Box 1509
Greenville, SC 29602
(864) 552-4619
Attorneys for the Employer/Carrier

Greenville, SC

August 3, 2012

The Directions Group, Inc.
Medical & Vocational Case Management

EMPLOYABILITY ANALYSIS
AND
LABOR MARKET SURVEY

DATE: November 23, 2011

RE: KATHERINE LOUISE HAINES
ADDRESS: [redacted]
REC REC: 11/01/2011

DOB: [redacted]
DOI: 2/12/2009, 6/03/2009
DOR: 10/26/2011
DOE: 11/16/2011

REFERRAL INFORMATION: This file was referred to complete an employability analysis to determine Ms. Haines' current access to employment and anticipated earnings with respect to her physical capabilities, education, geographic location and age.

INJURY: The following information was obtained from a meeting with Ms. Haines at her attorney's office in Sumter SC. The appointment began at 9:50 a.m. and concluded at 1:15 p.m. She drove to the appointment independently. The purpose of the evaluation was explained and Ms. Haines was advised that I was not her vocational counselor or providing vocational case management but was requested to complete a vocational evaluation and labor marker survey.

Ms. Haines is a 49-year old female who was employed with Dollar Tree as an Assistant Manager at the time of her injury. She reported the first injury occurred on 2/12/09 when she was trying to pull some shelves out from under some bins. The second shelf got caught and when she pulled it-"everything fell on my neck". She reported her neck felt "stiff and had a sort-of stabbing pain". She stated "it is hard to explain". She reported "hearing a loud pop and seeing stars". She reported being unable to move her neck but she completed her shift. She completed an incident report. She was off the next day and her next shift was not until Monday.

On Monday, she indicted being only able to get out one "U" boat out compared to her usually putting out 2-5 "U" boats. She returned to work the following day and informed the manager that she needed to get some help. Her manager called Worker's Compensation and Ms. Haines was sent to her own physician, Dr. Fisher. X-rays were taken and she was placed out of work for 2 weeks. She was referred to Moor Orthopaedics, Dr. Burnworth, as she continued to have pain. A MRI was taken and she was placed in PT. Dr. Burnworth performed an injection but she indicated this injection provided no relief. She was referred to Dr. Felmly for a consult for surgery. Dr. Felmly saw her one time and indicated there was nothing to be done so he sent her back to Dr. Burnworth.

Dr. Burnworth sent her for another MRI and indicated it showed "deep bruising". She was told to use warm and cold compresses. During this time, she had been working. She reported a second injury on 6/03/09. She has undergone treatment with Dr. Lembo for pain management. She was released by Dr. Lembo at 100% medical improvement. She tested positive for marijuana on a routine drug test during pain management. She returned to full time work.

She indicated her attorney arranged an appointment with Dr. Boyd who performed surgery on 3/15/11-a 3 level fusion. She was out of work for 4 weeks then returned to a 4-hour modified schedule where she ran the register. She went out of work again on 7/11/11 for the Pain Management Program at Palmetto Baptist. She underwent a FCE on 8/24/11 and she indicated Dr. Redmond told her that it was not practical for her to go back to work.

She has been evaluated by Dr. Don Johnson at Southeastern Spine Institute (medical records are from Dr. Forrest).

RECORDS REVIEWED:

- Moore Orthopaedic Clinic-William T. Felmly, MD, Craig M. Burnworth, MD
- Columbia Neurosurgical-Northeast MRI Center
- Carolina Spine and Sports Rehab Specialists-Nancy Lembo, MD
- Moore Orthopaedic Clinic Outpatient Surgery Center
- Moore Clinic Hand Center
- Southeastern Spine Institute, Leonard E. Forrest, MD
- Columbia Neurosurgical Associates, PA-Scott B. Boyd, MD
- Palmetto Health Baptist Pain and Orthopedic Care Center-David Redmond, MD; Fonda Wilkins, NP; Clay Drummond, PhD
- Palmetto Health Baptist Pain & Orthopaedic Care-FCE
- Deposition of Katherine L. Haines, July 17, 2010
- Deposition of Scott Boyd, MD, December 20, 2010

MEDICAL RECORDS SUMMARY:

- **Moore Orthopaedic Clinic-William T. Felmly, MD, Craig M. Burnworth, MD:** 3/04/09-X-rays showed degenerative disc disease at C4-C5 and C5-C6 with right sided neuroforaminal impingement due to osteoarthritis, spurring and degenerative disc disease combination. Assessment: Cervicalgia. Referred to PT, 3x/week for 4 weeks. Placed on light duty for no overhead work or lifting greater than 10 pounds. May have carpal tunnel syndrome that would be best tested with a NCS of the right wrist. 4/16/09-Assessment: Cervicalgia. Thoracic back pain. Obtain MRI of her cervical spine. Flexeril for muscle spasm while off duty. Mobic for pain during the day and Ultram at night. 6/10/09-Assessment: Left shoulder pain. Left elbow pain. Left wrist pain. Placed in a cock-up wrist splint for her left wrist pain likely due to a sprain. Left shoulder pain is significant with limited range of motion and weakness suspicious for a rotator cuff tear. Recommend MRI of left shoulder. If it shows a tear, will refer to one of the shoulder specialist. Recommend therapy to work on range of motion. Placed on light duty profile with sedentary duties only. No lifting with left arm. No overhead work. 6/19/09-Assessment: Cervicalgia. Cervical Stenosis. Radiculopathy. Recommend consult with pain management to consider lumbar epidural steroid injection and take over care to try to improve symptoms. If does not improve then refer to orthopedic spine or neurosurgery for further treatment with this severe canal stenosis. Nothing further to offer. Has failed conservative management and recommend transfer of her care. 6/22/09-MRI of left shoulder. Impression: There is tendinopathy of the undersurface posterior third distal insertion of the supraspinatus tendon with some tendinopathy involving the central fibers of the critical zone anterior third of the supraspinatus as well. No full thickness rotator cuff tear. 6/25/09-MRI indicates: Some mild tendinopathy that appears to be chronic but no signs of rotator cuff tear.

Assessment: Cervicalgia. Left shoulder pain. Dr. Lembo will take over for the Cervicalgia. Has a 0% impairment of her shoulder since there is not an obvious injury and discharge her in regards to her shoulder. 9/15/09-X-rays showed DJD at L4-5 and L5-S1 but no gross instability. Do not see any obvious neurologic changes and no sensory changes. Do not have an explanation for her crescendo pain and discomfort. Is currently being treated by Dr. Lembo for chronic pain. Do not think there is a surgical option for her. Do not see any reason why she cannot do her normal activities and duties. If Dr. Lembo feels she needs restrictions then will leave this to her. See no indication that treatment in my practice would change the natural history of her subjective clinical complaints. No clinical evidence for the need of surgery and no objective clinical evidence to suggest trauma other than her subjective clinical complaints status post impact of an object on her upper back. What we are seeing on the MRI of the cervical spine has little evidence of acute changes and is probably chronic and is not an anatomic reason for her subjective complaints. Discharged from care with no limitations. Assume regular duties on 9/15/09. 9/29/09-Diagnosis: Cervicalgia and thoracic pain. Has a 0% IR to cervical and thoracic areas. Is able to return to work with no restrictions. Will not need future medical care.

- **Columbia Neurosurgical-Northeast MRI Center:** 5/08/09-MRI of the cervical spine. Impression: Severe central canal stenosis and bilateral neuroforaminal stenosis at C4-C5 with no cord signal change. Diffusely bulging disc with associated osteophytes at C5-C6 results in moderate to severe central canal stenosis and severe bilateral foraminal stenosis. 1/18/11-MRI of the cervical spine. Impression: Persistent spondylotic changes at C4-5 and C5-6 with bilateral neural foraminal narrowing, right greater than left and mild to moderate canal stenosis. Other levels are unremarkable. There is little interval change, however, when compared to the previous study on 5/08/09. 8/15/11-MRI of the cervical spine. Conclusions: Status post anterior cervical fusion between C4 and C6. Interval development of a small left-sided disc protrusion at the C3-C4 level along the far-left lateral margin, causing slight impression on the exiting nerve root. Bony foraminal narrowing on the right at the C4-C5 level. Biforaminal narrowing at C5-C6 with slight asymmetric osteophytic spurring off the endplates, extending to the left of midline, causing impression on the left exiting nerve root. Incidental note made of a hemangioma at the T4 vertebral body level.
- **Carolina Spine and Sports Rehab Specialists-Nancy Lembo, MD:** 6/04/09-Impression: Neck pain. Arm pain. Recommend electrodiagnostic testing of the upper extremity to further evaluate her radicular symptoms. Reviewed MRI which showed some stenosis at C4-5 and disk bulging at C5-6. 6/11/09-EMG and NCV. Findings: Normal electrodiagnostic study of the upper extremities. There is no electrodiagnostic evidence of a radiculopathy, entrapment neuropathy or myopathy. Would recommend an intraarticular facet joint injection for diagnostic and therapeutic purposes. 6/25/09-Impression: Neck pain. Myofascial pain. Do not see any change in neurologic status. Did not seem to have any response to the facet joint injection. Recommend switching her from Skelaxin to Zanaflex. 7/02/09-Impression: Cervical spondylosis. Myofascial pain. Dysesthesias. Seems to have had a good response on cervical facet joint injection on the right side. Recommend pinning of the left side where her symptoms seemed to have localized. Recommend resuming PT. Continue work restrictions for light duty. 8/06/09-Impression: Cervical spondylosis. Myofascial pain. Test positive on POC testing for THC. Tested positive for Oxycodone, negative for amphetamines, barbiturates, Benzodiazepines, Methadone, cocaine, methamphetamine and opiates. Did admit to using marijuana for pain control over the past 8 weeks. Explained that since she is using marijuana, would be unable to continue to prescribe narcotic medication. Reassured her that I do not feel that she needs it any longer and would do well on a TENS unit and Zanaflex as well as over-the-counter Advil or Aleve.

Would benefit from a few more weeks of PT. Do feel that she has some voluntary guarding and may do better with relaxation techniques and behavioral modifications. 8/25/09-Reviewed MRI. Impression: Cervical stenosis/spondylosis, most severe at C4-5 and C5-6. Myofascial pain. Recommend surgical opinion with Dr. Felmly. May benefit from progressing into a work hardening program. Would not recommend further injections. Would not recommend an epidural injection as her symptoms do not appear to be radicular but more mechanical and soft tissue in origin. 12/01/09-MMI as of 12/01/09. Has a 2% medical impairment to the neck. Is able to return to work without restriction. Will not need future medical care related to her work injury.

- **Moore Orthopaedic Clinic Outpatient Surgery Center:** 6/23/09-Intraarticular Facet Joint Injection, C3-C4 and C4-C5. 7/14/09-Procedure: Left C3-C4 and left C4-C5 intraarticular diagnostic facet joint injection.
- **Moore Clinic Hand Center:** 11/06/09-FCE. Tested to give less than full effort and on Isoinertial Materials Handling, she tested to give sub-maximal effort. Can do more physically at times than was demonstrated during this testing day. Meets the medium physical demand levels for lifting, carrying, pushing/pulling. Based on demonstrated performance today, would not be able to return to work in a full time capacity as Assistant Manager. This is indicative of good tolerance to full day activities with good efficiency from several of the tests. Demonstrated ability to perform other job requirements: Frequent-sitting, standing/walking, twisting, fine motor dexterity, pinching, reaching forward, eye-hand coordination and vision/hearing acuity. Occasional-stairs/ladders, balancing, bending/stooping, crouching/squatting, crawling, above shoulder work, low-level work, prolonged neck positioning, light/firm grasping and writing.
- **Southeastern Spine Institute, Leonard E. Forrest, MD:** 6/28/10-Is not at MMI at this point. Symptoms are increasing. Recommend obtaining a new cervical MRI to make certain that there is not some structural worsening. Does need some treatment for the neck, even if only to attempt to calm her symptoms down to a baseline level. Suspect that she is going to remain with symptoms related to her neck longer, even despite treatment. Defer assigning an impairment rating until at MMI. If had to assign a rating at this time, would be 15 to 20% range. Reviewed the FCE report. Pain would cause submaximal effort. The entire FCE was 5 hours. Predicting a person's work capacity beyond a five hour time frame is speculative at best. It has severe limitations predicting capabilities for 8 hours/day 5 days/week, 50 weeks/year. Limitations: 20 pounds lifting restrictions and avoid the more repetitive and more demanding unloading of trucks is reasonable.
- **Columbia Neurosurgical Associates, PA-Scott B. Boyd, MD:** 10/07/10-MRI of May 2009 showed significant degenerative disc changes at C4-5 greater than C5-6. Has stenosis from disc/osteophyte complexes at both these levels, but particularly at C4-5 where she does appear to have some, at least moderate right hemicord compression. Radiologist indicated severe stenosis. Impression. Signs and symptoms suggest a worsening cervical myeloradiculopathy. Do believe she has right hemicord compression that is consistent with her right-sided symptoms that are involving not just her arm but now her leg. Has had extensive conservative treatment without relief. Do not believe that she is at MMI. Am recommending surgery. Believe a two level anterior cervical discectomy and fusion would be able to decompress her cord and open her foramen at both levels. Believe that she could return to work in approximately 3 weeks after surgery, at least light-duty and then a week or two after that resume work without restrictions. Do not believe she needs any work restrictions. 1/20/11-Has persistent cervical myeloradiculopathy. Has not gotten better with maximum conservative treatment. Recommend surgery as she seems to be declining. 2/03/11-IME performed on 10/07/10. Would benefit from updated MRI scan to indicated similar or worse findings. Dr. Felmly did not recommend surgery as an option.

Reviewed MRI and agree with radiologist's report that there is significant stenosis with some cord compression, particularly on the right. Continue to recommend surgery. Concerned that she seems to have gotten worse. Has objective evidence on her exam and her imaging studies of spinal cord compression. 4/11/11-PT-return to light work with restrictions on 4/12/11. 5/09/11-Has recurrent and persistent right-sided pain. Do not believe that there is any significant neural compromise on her MRI scan and do not believe any further surgery would be helpful. Has had PT in the past and indicated this made her worse. Had received injections with little relief. Have little to offer her. Should be referred to pain management. Keep at current work restriction of light duty until evaluated by pain management. Part-time-return to light work with restrictions on 5/09/11.

- **Palmetto Health Baptist Pain and Orthopedic Care Center-David Redmond, MD; Fonda Wilkins, NP; Clay Drummond, PhD:** 6/21/11-New patient evaluation. Impression: Work related injury to the cervical spine with subsequent fusion C4-5 and C5-6 with persistent pain thereafter and some degree of depression, now a little improved since she started Zoloft. Is a good candidate for participation in the full pain program. Does have own transportation. Would benefit from PT and psychological aspects of the program. Psychological evaluation as a part of the referral to Pain Management. Impression: Pain Disorder associated with both psychological factors and a general medical condition. Occupational and financial concerns. Is an appropriate candidate for Full Pain Program (FPP). Would likely benefit from the comprehensive services. Appears to be highly motivated to engage in the services provided through the FPP. 7/11/11-7/25/11-Documentation for Therapies. 7/14/11-Unable to obtain her regular medications. 8/30/11-Is completing the Pain Management Program. Appears to be functioning at a sedentary physical demand level according to the PT. Is interested in being referred to vocational rehabilitation. Will honor this request. Do not know how practical it will be for her in the long run. She has quite extensive limited mobility in her neck and it is difficult for her to drive for safety concerns. Is not at MMI.
- **Palmetto Health Baptist Pain & Orthopaedic Care-FCE:** 8/24/11-Diagnoses: S/P decompression and fusion, C4/5 and C5/6 2nd to worsening cervical myeloradiculopathy-3/15/11. Persistent pain s/p cervical fusion. History of depression. Her reports of positional tolerances are shorter than demonstrated ability. Demonstrates weight shifting, brief rise, facial grimacing while in sitting positions. Her job indicated the need of heavy physical demand. Is not capable of performing the physical demands. Is best suited for less than sedentary to sedentary category of the physical demands. Did not demonstrate the ability to perform the necessary lifting, pushing, pulling or carrying at the Heavy physical demand level on the Occasional basis as required by the target job. Did not meet the cardiovascular demands of the physical demand level. Would benefit from a referral to SCVRD.

SECONDARY MEDICAL CONDITIONS: Ms. Haines has a history of CHF, cardiomyopathy, COPD and diabetes. She has bronchitis 2 or 3 times per year. She has broken a bone in her right wrist when she was 34 years old. She was in a MVA when she was 15 years old and "something stuck in my right knee. Just had a small hole there". She reported to have a chronic cough but attributes this to her smoking. She reported having heart palpitations whenever she is stressed out or anxious. She has a family history of high blood pressure and diabetes (father).

Previous Hospitalizations/Surgeries:

• 5 or 6 years old	Tonsillectomy	Good Samaritan
• 1985	Childbirth	St. Mary's (Florida)
• 1988	Childbirth	St. Mary's (Florida)
• 1990	Childbirth	St. Mary's (Florida)
• 1997	Partial hysterectomy	LMC
• 1997	Total hysterectomy	LMC
• 3/15/11	Neck (3 level fusion)	LMC

Other Medical History: Ms. Haines is 6' tall and weighs 242 pounds. Prior to her injury, she weighed approximately 276 pounds. She is right hand dominant.

SUBJECTIVE PHYSICAL LIMITATIONS:

• Vision	Uses reading glasses
• Reading/Responding	No reported problems; no observed problems
• Hearing	No reported problems; no observed problems
• Writing	After a period of time when tired, handwriting gets worse
• Speaking	No reported problems; no observed problems
• Lifting/Carrying	Limited to 8 to 10 pounds
• Standing	Able to stand for approximately 45 minutes to 1 hour
• Walking	Able to walk for approximately 30 minutes
• Sitting	Able to sit all day as long as can move around every 30 to 45 minutes (change positions while seated)
• Climbing	Do not need to perform this activity
• Stooping/Squatting	Can perform this activity but has difficulty getting back up
• Bending/Twisting	Turn whole body instead of bending/twisting
• Kneeling	Have not tried to perform this activity lately
• Comprehending	Depends on what it is
• Breathing	No reported problems; no observed problems
• Balancing	When standing up after sitting for a while, have a tendency to go to the right

CURRENT COMPLAINTS–SUBJECTIVE: On 11/16/11, Ms. Haines reported:

• Base of skull	Have a stabbing, burning and throbbing pain. At the onset of the assessment-5 or 6/10. At the conclusion of the assessment-7/10.
• Down into middle of shoulder blades	Have a sharp and stabbing pain. At the onset of the assessment- 5/10. At the conclusion of the assessment- 7/10.
• Right side of neck	Is numb and real tight. At the onset of the assessment-6/10. At the conclusion of the assessment-7/10.

• Right hip into foot	Burning and tingling. Attribute this to her neck. At the onset of the assessment-no pain. At the conclusion of the assessment-7/10.

MEDICATIONS: On 11/16/11, Ms. Haines takes Zoloft for depression, Hydrocodone for pain, Relafen as a muscle relaxer, Soma as a muscle relaxer, OTC Vitamin D for low levels of "D", Trazadone for sleep and Neurontin for nerve pain. She has an inhaler for her asthma to use as needed but did not recall the name. She was prescribed Coreg and a medication for diabetes but has not taken any for approximately 2 months as she no longer has insurance and cannot pay for it. She took Zoloft, Soma, Hydrocodone and Relafen before the appointment.

EDUCATIONAL BACKGROUND: Ms. Haines completed the 11th grade in 1979 at Twins Lakes High School in Florida. She dropped out of school due to "getting in with the wrong people. She was expelled 3 months prior to graduation. She reported being a "B-C" student. She was in a regular classroom setting.

EMPLOYMENT HISTORY:

Employer:	Dollar Tree
Location:	Columbia SC
Length:	14 years
Job Title:	Assistant Manager
Duties:	All the duties from opening to closing the store, schedule workers, supervise workers, process freight including unloading trucks and stocking shelves. Train new employees. Close registers and process daily sales in computer. Make deposits.
Reason for leaving:	Injured on the job
Wages:	$12.34/hour

Employer:	Sonic
Location:	Columbia SC
Length:	8 months
Job Title:	Customer Service
Duties:	Prepared meals, worked grill, assisted customers
Reason for leaving:	Did not like job
Wages:	$7.25/hour

Employer:	Riveria Insurance
Location:	Stuart FL
Length:	7 months
Job Title:	Customer Service Representative
Duties:	Processed insurance policies for company. Take calls from customers requesting quotes.
Reason for leaving:	Reduction in staff
Wages:	$8.75/hour

Employer: Palm Beach Post Newspaper Company
Location: Palm Beach FL
Length: 1 year 4 months
Job Title: Newspaper Delivery
Duties: Fold newspapers and deliver to customers.
Reason for leaving: Did not like company business practices
Wages: $350-$375/week

Employer: Miami Herald Newspaper Company
Location: FL
Length: 6 years
Job Title: Newspaper Delivery
Duties: Delivered newspapers to customers, convenience stores and newspaper racks
Reason for leaving: Merged with Palm Beach Post
Wages: $1,100 biweekly

Employer: Private Duty Nursing Assistant
Location: FL
Length: 2 years
Job Title: Private duty nursing assistant
Duties: Make sure client was cared for 24 hours per day. Would assist with bathing, dressing, perform basic cleaning, take on daily walks and assist with other tasks
Reason for leaving: Patient passed away.
Wages: $11.00/hour

Employer: St. Mary Hospital
Location: FL
Length: 1 year
Job Title: CNA
Duties: Provided care for patients after surgery
Reason for leaving: Was pregnant
Wages: Not provided

Employer: Pepsi Cola bottle Company
Location: FL
Length: 1 year
Job Title: Production worker
Duties: Inspected bottles and ran bottles into the cleaning machine. Filled soda cans
Reason for leaving: Too many absences
Wages: Not provided

Employer: Palm Beach Post
Location: FL
Length: 2 years
Job Title: Junior carrier
Duties: Folded newspapers and deliver to local route customers. Collected bills weekly to pay for the papers.
Reason for leaving: Job while in school
Wages: Not disclosed

MILITARY HISTORY: None reported

ARREST HISTORY: None reported

MEANS OF TRANSPORTATION: Ms. Haines has a SC driver's license. She has access to a 2001 Ford Windstar with automatic transmission, power steering and power brakes in fair condition. She reported her driving record is in good condition.

SOCIO-ENVIRONMENTAL: Ms. Haines is divorced but is engaged. She plans to wed in April but may have to postpone the marriage due to finances. She lives with her finance, Tony, her daughter and her finance and 11-year old granddaughter. All of these people in the household has placed a huge financial burden on her and her finance. She receives $1,498/month from Worker's Compensation. She has not applied for Social Security Disability. Her expenses include insurance, utilities, telephone, house payment, transportation and food. This accident has resulted in financial difficulty for her.

ACTIVITIES OF DAILY LIVING: Ms. Haines wakes up based on if she has any appointments or how she feels. She goes to bed between 10:30 p.m. and 12:00 a.m. She described the quality of her sleep as "not that great but I nap throughout the day." She indicated being able to attain 4 hours of "solid" sleep at a time. She denied any prior sleeping difficulties.

Ms. Haines can bathe, dress and attend to her personal sanitary needs. She is able to sweep/dust but seldom vacuums. She does not make her bed as she reports "staying in it most of the time". She is able to mop the floor. She does cook and is able to do laundry if someone brings the laundry basket to the washing machine. She does not do the main yard work. She did have a flower garden this past year. She is able to drive for approximately 1 hour before needing to stop. She is able to ride as a passenger for approximately 2.5 to 3 hours before needing to take a break.

Ms. Haines watches television. She is able to perform light repairs around her home. She use to play "Rockband" on the Play station. She use to play basketball with her daughter many years ago when her daughter was in high school. She loves to swim and has an above ground pool in her backyard.

She naps twice per day for 1 to 1.5 hours. She smokes 1 pack of cigarettes per day. She denied consuming alcohol. She indicated a prior alcohol problem and has not had anything to drink since 1999. She denied using any other tobacco products. She denied the use of any other drugs not physician prescribed. She drinks 1 glass of tea per day and one-half pot of coffee. She drinks water the rest of the time.

BEHAVIORAL OBSERVATIONS: On 11/16/11, I met Ms. Haines at his attorney's office in Sumter SC. The evaluation began at 9:50 a.m. I met her in the lobby and we were escorted to the conference room. The paralegal was present.

I introduced myself again and explained that I was asked to complete a vocational evaluation and labor market survey. She expressed understanding. She was encouraged to take breaks as needed, to stand, move about the area, visit the restroom and do whatever was necessary to be as comfortable as possible throughout the evaluation. She was encouraged to ask questions if she did not understand a question or was curious regarding the purpose of a question. She was encouraged not to answer any questions that made her uncomfortable.

She maintained eye contact during the evaluation. She recalled the date, time and place. She recalled her address, telephone number and social security number. She provided information about her work history which consisted of 9 jobs.

She sat in the chair directly across from me at the conference room table. She stood one time and had one smoke break for 10 minutes. She remained seated for the rest of the time.

At the conclusion of the evaluation, we exited together. The appointment concluded at 1:15 p.m.

OTHER VOCATIONAL CONSIDERATIONS: Ms. Haines' work history has been as an assistant store manager, customer service representative in a fast food job and an insurance company. She has delivered newspapers and would fill in for the manager or the re-delivery department. She has worked as a CNA and has worked on a production line for a soft drink company. She has been able to maintain the physical ability to perform her job duties. She has not contacted the SC Department of Employment and Workforce for employment assistance. She has not contacted the SC Vocational Rehabilitation Department program. She has supposedly been referred to this agency for services but has not contacted them yet. She has not sought the assistance of any private employment service.

VOCATIONAL GOALS: Ms. Haines is unsure if she can return to any type of employment. She does have computer skills.

RESULTS OF VOCATIONAL TESTING: The following tests were administered with results indicated.

Revised BETA Examination (BETA III): Ms. Haines was administered the revised Beta Examination for the appreciation of his nonverbal intelligence. Results of this examination are as follows:

Sum of scale scores	51
BETA IQ	100
Percentile	50

**Norm used: Ages 45-54 years*

Her test results indicate an IQ representing "average" intelligence. When her scores were calculated to include the Standard Error of Measurement (SEM) at a 95% confidence, the following confidence span of IQ ranges emerged:

- 91 through 109 (average)

Based upon the Beta, there is a 95% chance that Ms. Haines' nonverbal intelligence fall between the 91 to 109 point range.

Slosson Intelligence Test, Revised (SIT-R-3)

Ms. Haines was administered the Slosson Intelligence Test for appreciation of her verbal intelligence. Results for this instrument are as follows:

Total Standard Score (TSS)	83
Percentile rank	14

**Norm used: Ages 18+ years of age*

Interpretation of data gated via the Slosson Intelligence test indicates Ms. Haines is functioning in the "below average range" of verbal intelligence. When using a confidence interval of 95%, Ms. Haines' Total Standard Score falls within the range of:

- 72 through 94 (borderline M/H to average)

There is a 95% chance that Ms. Haines' verbal intelligence falls within the 72-94 point range.

Ms. Haines had difficulty memorizing a series of numbers in reverse order. She was able to complete simple addition, subtraction, multiplication and division problems.

Wide Range Achievement Test (WRAT-4, Blue):

Subtest/Composite	Raw Score	Standard Score	%ile Rank	Grade Equivalent
Word Reading	54	85	16	9.6
Sentence Comprehension	39	82	12	8.9
Spelling	19	55	0.1	1.5
Math Computation	38	89	23	6.9

**Norm used: blue age 45 through 54:11*

Ms. Haines read 3, 4, and 5 syllable words. She was able to complete simple subtraction, addition, multiplication and division problems. She reported being able to manage her own finances.

Self-Directed Search–Form R, 4th edition: Ms. Haines completed the Self-Directed Search to discover her pattern of vocational interests and competencies. Her highest-ranking category of interest was "Social". Individuals scoring high in this area are usually described as convincing, cooperative, friendly, generous, helpful, idealistic, kind, patient, responsible, social, sympathetic, tactful, understanding and warm. These individuals generally like occupations that allow them to help, teach and counsel people more than engage in mechanical or technical activity. They enjoy careers working around other people and helping them with their problems. Matching careers include nurse, speech therapist, teacher, religious worker and counselor.

Her 2nd highest-ranking category of interest was "Enterprising". Individuals scoring high in the enterprising area generally like to persuade or direct others more than work on scientific or complicated topics. They are described as acquisitive, adventurous, agreeable, ambitious, attention-getting, domineering, energetic, extroverted, impulsive, optimistic, pleasure-seeking, popular, self-confident and sociable. They enjoy careers such as buyer, sports promoter, television producer, business executive, salesperson, travel agent, supervisor and manager. They usually have leadership and public speaking abilities, interest in money and politics and like to influence people.

His 3rd highest-ranking category of interest was "Conventional". Individuals scoring high in this area are usually described as conforming, practical, careful, thrifty, efficient, orderly, persistent, and conscientious. These individuals generally like activities that involve explicit, ordered systematic manipulation of data to meet predictable organizational demands or specific standards. They enjoy systematic or structured activities and prescribed plans. They tend to focus on information accuracy, conservation, and business achievement. Matching careers include accountant, data processing operator, prison officer, taxation agent, architectural draftsperson, credit loan officer, customs agent, clerk, purchasing officer, auditor and secretary.

Individuals scoring highest with the SEC category combination tend to be successful in positions such as claim agent, residence counselor, traffic or system dispatcher, community program aide or security guard.

Combinations of SEC are: SCE, ESC, ECS, CSE or CES.

Individuals with these combinations tend to be successful in positions such as employment interviewer, social service aide, teacher aide, taxicab coordinator, circulation manager, credit & collection manager, automobile rental clerk or hostess. Other positions may include: telephone solicitor, teller for light, heat & power, cashier/checker, maintenance dispatcher or reservation clerk.

PHYSICAL LIMITATIONS/RETURN TO WORK GUIDELINES:

- On 9/15/09, Dr. Burnworth indicated: X-rays showed DJD at L4-5 and L5-S1 but no gross instability. Do not see any obvious neurologic changes and no sensory changes. Do not have an explanation for her crescendo pain and discomfort. Is currently being treated by Dr. Lembo for chronic pain. Do not think there is a surgical option for her. Do not see any reason why she cannot do her normal activities and duties. If Dr. Lembo feels she needs restrictions then will leave this to her. See no indication that treatment in my practice would change the natural history of her subjective clinical complaints. No clinical evidence for the need of surgery and no objective clinical evidence to suggest trauma other than her subjective clinical complaints status post impact of an object on her upper back. What we are seeing on the MRI of the cervical spine has little evidence of acute changes and is probably chronic and is not an anatomic reason for her subjective complaints.

Discharged from care with no limitations. Assume regular duties on 9/15/09. 9/29/09-Diagnosis: Cervicalgia and thoracic pain. Has a 0% IR to cervical and thoracic areas. Is able to return to work with no restrictions. Will not need future medical care.

- On 11/06/09, Moore Clinic Hand Center performed a FCE. Tested to give less than full effort and on Isoinertial Materials Handling, she tested to give sub-maximal effort. Can do more physically at times than was demonstrated during this testing day. Meets the medium physical demand levels for lifting, carrying, pushing/pulling. Based on demonstrated performance today, would not be able to return to work in a full time capacity as Assistant Manager. This is indicative of good tolerance to full day activities with good efficiency from several of the tests. Demonstrated ability to perform other job requirements: Frequent-sitting, standing/walking, twisting, fine motor dexterity, pinching, reaching forward, eye-hand coordination and vision/hearing acuity. Occasional-stairs/ladders, balancing, bending/stooping, crouching/squatting, crawling, above shoulder work, low-level work, prolonged neck positioning, light/firm grasping and writing.
- On 12/01/09, Dr. Lembo indicated: MMI as of 12/01/09. Has a 2% IR to the neck. Is able to return to work without restriction. Will not need future medical care related to her work injury.
- On 8/24/11, Palmetto Health Baptist Pain & Orthopaedic Care performed a FCE: S/P decompression and fusion, C4/5 and C5/6 2nd to worsening cervical myeloradiculopathy-3/15/11. Persistent pain s/p cervical fusion. History of depression. Her reports of positional tolerances are shorter than demonstrated ability. Demonstrates weight shifting, brief rise, facial grimacing while in sitting positions. Her job indicated the need of heavy physical demand. Is not capable of performing the physical demands. Is best suited for less than sedentary to sedentary category of the physical demands. Did not demonstrate the ability to perform the necessary lifting, pushing, pulling or carrying at the Heavy physical demand level on the Occasional basis as required by the target job. Did not meet the cardiovascular demands of the physical demand level. Would benefit from a referral to SCVRD.

After review of medical reports and my clinical interview, Ms. Haines' physical capacity range appears to fall within the sedentary to light physical demand work capacity according to her treating physicians and the FCE.

As a guideline, *The Dictionary of Occupational Titles, Volume 2, Fourth Edition, Revised 1991, US Department of Labor,* describes sedentary to light below as:

Sedentary Work–Exerting up to 10 pounds of force occasionally (1/3rd of time) and/or a negligible amount of force frequently (1/3rd to 2/3rd of time) to lift, carry, push or otherwise move objects. Involves sitting most of the time but may involve walking or standing for brief periods.

Light Work–Exerting up to 20 pounds of force occasionally, and/or 10 pounds of force frequently, and/or a negligible amount of force constantly (2/3rd or more of time) to move objects. Jobs are considered light work when it requires walking or standing to a significant degree, sitting most of the time but entails pushing and/or pulling of arm or leg controls, and working at a producing rate pace entailing constant pushing and/or pulling of materials even though the weight of materials is negligible.

TRANSFERABLE SKILLS ANALYSIS/EMPLOYABILITY ANALYSIS: An OASYS Transferability Skills Analysis (TSA) was conducted to review Ms. Haines' work history, aptitudes and worker traits. The resulting profile identified the following for her previous work history.

Ms. Haines' specific vocational preparation profile is 4. This reflects 3 months and up to and including 6 months required time to learn the techniques, acquire the information and develop the facility needed for average job performance. General educational development levels reflect formal and informal education in her reasoning, language and mathematics skills.

In her jobs, she has been able to apply commonsense understanding to carry out instructions furnished in written, oral or diagrammatic form. She has been able to deal with problems involving several concrete variables in or from standardized situations.

Work history indicated the ability to compute discount, interest, profit, and loss; commission, markup, and selling price; ratio and proportion and percentage. She has been able to calculate surfaces, volume, weights and measures. She has been able to calculate plane and solid figures; circumference, area and volume. She has been able to understand kinds of angles and properties of pairs of angles.

She has been able to read 190-215 words per minute. She has been able to read adventure stories and comic books, looking up unfamiliar words in dictionary for meaning, pronunciation and spelling. She has been able to read instructions to assemble model cars and airplanes. She has been able to write compound and complex sentences, using proper end punctuation and employing adjectives and adverbs. She has been able to speak clearly and distinctly with appropriate pauses and emphasis, correct pronunciation, variation in word order, using present, perfect and future tenses.

Work history strengths required Ms. Haines to exert physical demand levels of heavy work on average. She has had to crouch, kneel, taste/smell and use color vision occasionally. She has been able to stoop, finger, feel, talk, hear and use near acuity frequently. She has been able to reach and handle constantly.

Specifically, work history reflected the ability to understand instructions and underlying principles, to reason, to understand meanings of words and use them effectively and to comprehend language.

Her work history indicated average aptitude in general learning ability, verbal aptitude, numerical aptitude, spatial aptitude, form perception, motor coordination, finger dexterity, manual dexterity and eye-hand-foot coordination. Her work history indicated above average aptitude in clerical aptitude.

Based on Ms. Haines' work history, previous work situations included the following: performing repetitive work, influencing people, performing a variety of duties, performing under stress, attaining precise limits/tolerances, dealing with people and making judgments and decisions. Work functions dealing with data included the following: compiling, computing and comparing. Work functions dealing with people indicate: persuading, serving and taking instructions-helping. Work functions dealing with things indicate operating-controlling, manipulating, feeding-offbearing and handling.

Given Ms. Haines' work history, aptitudes and transferable skills; she should be able to return to several jobs consistent with her post-injury profile. Some potential jobs, which capitalize on her experience and interests and accommodate her limitations, are listed below.

These positions may require a period of training, orientation and/or on-the-job preparation. Her preliminary vocational profile indicates that she possesses the ability to adapt to new tasks and to follow verbal instructions and can, therefore, adapt to new work situations.

LABOR MARKET SURVEY (LMS) AND REVIEW: A labor market survey and review was completed to determine whether jobs exist in the Columbia SC and surrounding areas that compliment Ms. Haines' abilities and limitations, given her education, physical status, transferable skills, worker traits and age.

Attention was given to part-time employment as well as full-time employment. An electronic search was conducted using the SC Job Bank, Monster.com and Careerbuilder.com websites. The Department of Employment and Work Force was consulted and positions identified that match her vocational profile. Employers were contacted directly to identify currently available, anticipated and/or recently filled positions. These are the job possibilities reviewed in the labor market survey, which are considered entry level or capitalize the work experience for her. These positions were found to be open or recently filled and reflect her abilities and aptitudes.

Included are the following positions medical front desk secretary, receptionist, shuttle driver, office assistant, account manager, receptionist/clerk and clerical aide. She can anticipate earnings ranging from $15,600 up to $25,000 annually for the Columbia SC and surrounding areas.

POSITION	COMPANY	BRIEF DESCRIPTION	SALARY
Medical Front Desk Secretary	Apple One	Schedule appointments. Answer the telephone and direct calls to the appropriate person. Set up patient files. Keep roster of patients as they sign in. Accept payments.	$25,000/year
Receptionist	Apple One	Answer the telephones. Gather and update patient information for file. Assist with sign-in.	$24,000/year
Office Assistant	Rooms to Go	Answer the telephones. File and coordinated delivery with buyers. Qualify individuals for financing. Process payments and assist sales associates with customer needs.	$9.00/hour
Account Manager	Card Payment Direct	Call perspective/existing customers. Create referrals and maintain customer/business owner relationships. Conduct in-person presentations as needed.	$15.00-$20.00/hour potential

Receptionist	HealthSouth	Greet guests and patients. Answer the multiline switchboard. Provide facility information to guest/patients. Accept packages and call department to pick up.	$9.00/hour
Receptionist/Clerk	Richland County	Answer the telephones. Open/sort mail. File documents. Keep schedules.	$10.00/hour
Clerical Aide	Richland School District 2	Answer incoming calls. Take messages. Sort and distribute mail. File. Direct visitors. Schedule meeting.	$12.02/hour
Receptionist	Midlands Honda	Greet customers. Answer switchboard and direct calls.	$7.50-$8.00/hour

General information pertaining to these occupations, including wage estimates and numbers of positions in the Columbia SC and surrounding areas follow:

May, 2010 Metropolitan and NonMetropolitan Area Occupational Employment and Wage Estimates Columbia South Carolina nonmetropolitan area, MSA, US Department of Labor, Bureau of Labor Statistics

Occupation Title (number of positions)	Median Hourly	Mean Hourly	Mean Annual
Medical Secretaries (830)	$13.11	$13.35	$27,760
Receptionists and Information Clerks (3,250)	$12.79	$12.89	$26,820
Office Clerks, General (8,310)	$12.98	$13.39	$27,840
Office and Administrative Support Occupations (63,100)	$14.42	$15.26	$31,750

A labor market analysis for Columbia SC Metropolitan and NonMetropolitan Area was completed. The unemployment for the Columbia SC area for September 2011 is 9.2%. The unemployment rate for the state of South Carolina for October 2011 is 9.9%. The unemployment rate for the nation for October 2011 was 9.0%.

CONCLUSIONS: Ms. Haines is a 49-year old female who was employed with Dollar Tree as an Assistant Manager at the time of her injury. She reported sustaining 2 different injuries, 2/12/09 and 6/03/09. The appointment began at 9:50 a.m. and concluded at 1:15 p.m.

Upon review of available medical records, vocational interview, interest testing, education, employability analysis, labor market reviews and published data, it is my opinion that Ms. Haines remains employable. This assumes she can work part-time (20 hours) or full-time (40 hours) employment. After review of medical reports and my clinical interview, Ms. Haines' physical capacity range appears to fall within the sedentary to light physical demand work capacity. She can anticipate earnings ranging from $15,600 up to $25,000 annually for the Columbia SC and surrounding areas.

As Ms. Haines continues to express issues with her pain and if recommended by her treating physician, she should contact SCVRD for participation in their program. She may inquire about the 3-6 week in-house Pain Management Program located at the SCVRD Columbia campus. Considering her expressed level of discomfort, her concern regarding its impact on his employability, this program would be beneficial. The components of this program include psychological services, vocational evaluation, muscular development, aquatic therapy, PT, OT, therapeutic recreation, nutritional counseling, behavior modification and rehabilitation technology. An assessment by the rehabilitation engineer would permit examination of any physical barriers encountered by her and would use an engineering approach to help address those barriers.

These programs are available, at no cost, for clients of SCVRD.

She may benefit from career counseling and direct placement into an employment opportunity that has been deemed most suitable for her with close consideration given to her return-to-work guidelines as well as assets. These services are available at no cost.

Should Ms. Haines find that additional assistance is needed in locating suitable employment, she may want to register with SC Department of Employment and Workforce in Columbia at no cost to receive job placement assistance. She may register online or in person at her local SC Works Center. She is encouraged to check the website, visit the office regularly or contact her VR Counselor as job order requests change frequently and positions filled with local employers.

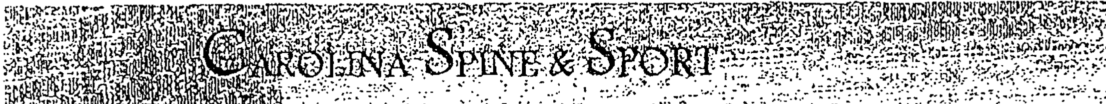
It is my vocational opinion that Ms. Haines is competitive in the local labor market and positions exist in the local labor market that meets her current restrictions. Although potential positions have been identified and recommended for Ms. Haines' consideration, prior to pursuing a new position, she should contact her personal and/or treating physicians to clarify any concerns regarding essential functions.

The above opinions are rendered with a reasonable degree of professional vocational certainty and are based upon my review of Ms. Haines' records, employability analysis, current labor market survey, education and experience. The above conclusions are based upon the information currently available to me. It is assumed that the information is factual and correct.

Should new information become available, I would be pleased to review and revise my findings and opinions, if indicated. The above-noted vocational information and employability analysis are provided as a general guide. If you have any questions or I may be of any additional assistance, please do not hesitate to contact me.

Respectfully submitted,

Jan Westmoreland, MEd, CRC
Vocational Rehabilitation Consultant
jwestmoreland@thedirectionsgroup.com



Rehabilitation Specialists, P.A.

Physiatry

Pain Medicine

Interventional Spinal Procedures

Sports Medicine

Independent Medical Examiner

110 A Spring Hall Dr.
Goose Creek. S.C.
29445

104 Saluda Point Dr.
Lexington. S.C.
29072

843-569-5421 ph
843-569-5973 fax
877-564-5421 toll free

PATIENT: Katherine Haines

DOS: August 6, 2009

CHIEF COMPLAINT: Neck pain.

HISTORY OF PRESENT ILLNESS: Ms. Haines presents for followup appointment. Since her last visit, symptoms are relatively unchanged. She complains of tightness and spasms in the anterolateral aspect of the neck, particularly on the right side with movement. She is concerned because she still has difficulty moving her neck from side to side. She is on physical therapy. She does feel the TENS unit helps her. She does have the Zanaflex and was using hydrocodone.

PHYSICAL EXAMINATION: This is a well-developed, well-nourished female. Affect is appropriate. She is appropriately oriented. She moves without assistance. She does significantly guard with movement but does have improved range of motion in extension and rotation bilaterally. There is no atrophy or fasciculations distally. There is no visible spasming.

IMPRESSION:
1. Cervical spondylosis.
2. Myofascial pain.

PLAN: I discussed my impression with the patient. I did review the results of the patient's urine drug screen from her last visit. Unfortunately, they did not confirm the presence of THC. Repeat testing was performed today and once again she did test positive on the POC testing for THC. She tested positive for oxycodone, negative for amphetamines, barbiturates, benzodiazepines, methadone, cocaine, methamphetamine, and opiates. This will be sent out for official confirmation with emphasis on confirming the THC. I did review this with the patient. The patient did admit to using marijuana for pain control over the past 8 weeks. I explained to her that since she is using marijuana, I am unable to continue narcotic medication. I have reassured her that I do not feel she needs it any longer, but she would do well on the combination of TENS unit and Zanaflex. She can use

over-the-counter Advil or Aleve if the pain gets more intense. I do feel that she would benefit from a few more weeks of physical therapy. I explained that I do feel the patient has some voluntary guarding that may be inadvertent, and she needs to do better with the relaxation techniques and behavioral modifications. We did discuss this in the office. I will follow up this patient in 3 weeks.

Nancy R. Lembo, DO
Board Certified Physical Medicine and Rehabilitation
Board Certified Pain Medicine
Board Certified Independent Medical Examiner
Fellowship Trained Interventional Spine Sports and Pain Medicine
NRL/ppa/nra
12193061

CAROLINA SPINE & SPORT

REHABILITATION SPECIALISTS, P.A.

Physiatry
Pain Medicine
Interventional Spinal Procedures
Sports Medicine
Independent Medical Examiner

110 A Spring Hall Dr.
Goose Creek, S.C.
29445

104 Saluda Point Dr.
Lexington, S.C.
29072

843-569-5421 ph
843-569-5973 fax
877-564-5421 toll free

PATIENT: Katherine Haines

DOS: August 25, 2009

CHIEF COMPLAINT: Neck pain.

HISTORY OF PRESENT ILLNESS: Ms. Haines presents for followup appointment. Since her last visit, she has had some more frustration because of her persistent pain. She describes the pain into the side of her neck into the shoulder blade area. She also describes a shooting pain that runs down the entire back into the back of the right leg. She has been in physical therapy. She is working light duty. She does not feel she can increase and go back to her full duty position secondary to her pain complaints. She denies any arm symptoms. She denies any bowel or bladder changes. She denies any weakness. She is currently using Zanaflex and some leftover Lortab. She has phoned her followup appointment a month earlier.

PHYSICAL EXAMINATION: This is a well-developed, well-nourished female. Affect is appropriate. She is appropriately oriented. She moves without assistance. Her gait is not antalgic or excessively widened. She has poor heel-to-toe walking with decreased balance. Romberg's testing is, otherwise, negative. This patient has diffuse tenderness to light touch throughout the cervical and thoracic area and the paraspinal musculature. Upper extremity range of motion is symmetrical in forward flexion and abduction without evidence of winging. Reflexes are 2/4 on the upper and lower extremities and symmetrical. There is no evidence of clonus. Babinski's are downgoing. Motor strength in the upper and lower extremities is 5/5.

MRI in CD-ROM was reviewed. The patient was noted to have degenerative changes most significant at C4-5 and C5-6 with disk bulging and stenosis as well as facet arthropathy.

IMPRESSION:
1. Cervical stenosis/spondylosis, most severe at C4-5 and C5-6.
2. Myofascial pain.

PLAN: I discussed my impression with the patient. I have recommended surgical opinion with Dr. Finley, as the patient seems to have plateaued with her present therapy. Depending on the outcome of Dr. Finley's evaluation, the patient may benefit from progressing into a work hardening program. At the present time, I would not recommend further injections, as she has already gone through 2 sets of facet joint injections. I would not recommend an epidural injection to this patient as her symptoms do not appear to be radicular but appear to be more mechanical and soft tissue in origin. I have refilled her Zanaflex 4 mg tablets and resume and to continue with Physical Therapy at the present time.

Nancy R. Lembo, DO
Board Certified Physical Medicine and Rehabilitation
Board Certified Pain Medicine
Board Certified Independent Medical Examiner
Fellowship Trained Interventional Spine Sports and Pain Medicine
NRL/tsd/jba
12332354

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

Physician's Statement

Claimant's Name: Katherine L. Haines
Physician's Name: Dr. Nancy Lembo
Practice/Clinic: Carolina Spine and Sports Rehab Specialists
Preparer's Name: Judith E. Schmid
Phone: (800) 541-0139

Employer's Name: Dollar Tree Stores
Insurance Carrier: Specialty Risk Services, LLC
SCWCC File No: 0901428

The undersigned physician has been authorized by the Employer/Carrier to treat this Claimant for his or her injury by accident pursuant to§§42-15-60, 42-1-172 or 42-11-10.

Date of Injury or Illness: 2/12/2009

Date of first office visit: 6/4/09 Date of last visit: 12/1/09

Diagnosis or nature of injury or illness: C-Strain | MFP

Body part(s) injured: Neck Body part(s) affected: ______

Date of **Maximum Medical Improvement:** 12/1/09

Based on the **AMA Guidelines** (6th Edition), the claimant has sustained a 2 **% medical impairment** to ______ injured body part(s) and a ______ **% medical impairment** to ______ other affected body part(s).

X The claimant is **able to return to work** without restriction.

_____ The claimant is **able to return to work with the following restrictions:**

_____ The claimant is **unable to return to work** at his or her current employment.

As of the date I last saw this patient, it is **my professional medical opinion** the claimant:

X **will not** need future medical care related to his or her work related injury or illness based on a reasonable degree of medical certainty (more likely than not).

_____ **will** need future medical care and treatment related to his or her work related injury or illness based on a reasonable degree of medical certainty (more likely than not) and that medical care and treatment including medication is as follows:

[signature]
Treating Physician

12/1/09
Date

PATIENT: Katherine Haines

DOS: June 4, 2009

CHIEF COMPLAINT: Neck and arm pain.

HISTORY OF PRESENT ILLNESS: Catherine Haines is a 48-year-old right-hand female who presents for initial consultation. The patient states in February of this year, there were some shelving stack at the store that she works in. She pulled on 1 of the shelves, the bins that were stocked above it came down, striking the right side of her neck and shoulder blade area. She was seen by Dr. Burnworth. She has had physical therapy with no relief. She has had x-rays and an MRI yesterday, and she had a folding table that was leaning against the bathroom door that fell and landed on her left shoulder. Now, she has pain on both sides. She has pain on either side of the neck that radiates down in both arms with associated numbness and tingling to her fingers. She denies any weakness, although she cannot lift her arms up overhead secondary to pain. She denies any bowel or bladder changes. She denies any gait disturbances. She denies any prior history of similar symptoms.

PAST MEDICAL HISTORY: As per office intake form reviewed today.

PAST SURGICAL HISTORY: As per office intake form reviewed today.

SOCIAL HISTORY: As per office intake form reviewed today.

FAMILY HISTORY: As per office intake form reviewed today.

REVIEW OF SYSTEMS: As per office intake form reviewed today.

CURRENT MEDICATIONS: Coreg, Spiriva, Flexeril, Mobic, and Ultram.

ALLERGIES: NO KNOWN DRUG ALLERGIES.

PHYSICAL EXAMINATION:
GAIT: Not antalgic or widened. She can toe walk and heel walk.
SPINE: Cervical spine range of motion is 50% restricted in extension and rotation bilaterally, all of which reproduce her neck pain.
NEUROLOGIC: Motor strength of the upper and lower extremities is 5 over 5. Reflexes are symmetrical. Sensory exam is intact.
MUSCULOSKELETAL: Examination of the upper extremities does not reveal any evidence of atrophy or fasciculations, and there is no scapular winging.
GENERAL APPEARANCE: This is a well-developed, well-nourished female. Affect is appropriate. She is appropriately oriented. She moves without assistance.

IMPRESSION:
1. Neck pain.
2. Arm pain.

3. Dysesthesias.

PLAN:

1. I discussed my impression with the patient. I have recommended electrodiagnostic testing of the upper extremity to further evaluate her radicular symptoms.
2. I did review the MRI findings and films that showed some stenosis at C4-5 and disk bulging at C5-6, otherwise, unremarkable.
3. I will follow up this patient after the test.

Nancy R. Lembo, DO
Board Certified Physical Medicine and Rehabilitation
Board Certified Pain Medicine
Board Certified Independent Medical Examiner
Fellowship Trained Interventional Spine Sports and Pain Medicine
NRL/rvs/nxa
11813834

cc: Dr. Burnworth

Patient: Haines, Katherine Test Date: 6/11/2009 Page 2

Nerve Conduction Studies
Anti Sensory Summary Table

Site	NR	Peak (ms)	Norm Peak (ms)	P-T Amp (µV)	Norm P-T Amp	Site1	Site2	Delta-P (ms)	Dist (cm)	Vel (m/s)	Norm Vel (m/s)
Left Median Anti Sensory (2nd Digit)											
Wrist		3.3	<3.6	47.1	>10	Wrist	2nd Digit	3.3	14.0	42.4	>39
Right Median Anti Sensory (2nd Digit)											
Wrist		3.3	<3.6	45.4	>10	Wrist	2nd Digit	3.3	14.0	42.4	>39
Left Radial Anti Sensory (Base 1st Digit)											
Wrist		2.5	<3.1	12.4		Wrist	Base 1st Digit	2.5	0.0		
Right Radial Anti Sensory (Base 1st Digit)											
Wrist		2.8	<3.1	16.4		Wrist	Base 1st Digit	2.8	0.0		
Left Ulnar Anti Sensory (5th Digit)											
Wrist		3.3	<3.7	37.1	>15.0	Wrist	5th Digit	3.3	14.0	42.4	>38
Right Ulnar Anti Sensory (5th Digit)											
Wrist		3.3	<3.7	20.4	>15.0	Wrist	5th Digit	3.3	14.0	42.4	>38

Motor Summary Table

Site	NR	Onset (ms)	Norm Onset (ms)	O-P Amp (mV)	Norm O-P Amp	Site1	Site2	Delta-0 (ms)	Dist (cm)	Vel (m/s)	Norm Vel (m/s)
Left Median Motor (Abd Poll Brev)											
Wrist		3.4	<4.2	5.4	>5	Elbow	Wrist	4.6	23.0	50.0	>50
Elbow		8.0		5.4							
Right Median Motor (Abd Poll Brev)											
Wrist		3.6	<4.2	6.3	>5	Elbow	Wrist	4.8	25.5	53.1	>50
Elbow		8.4		5.4							
Left Ulnar Motor (Abd Dig Minimi)											
Wrist		3.1	<4.2	7.6	>3	B Elbow	Wrist	3.6	22.0	61.1	>53
B Elbow		6.7		8.2		A Elbow	B Elbow	1.7	11.0	64.7	>53
A Elbow		8.4		5.6							
Right Ulnar Motor (Abd Dig Minimi)											
Wrist		2.7	<4.2	7.9	>3	B Elbow	Wrist	4.2	21.0	50.0	>53
B Elbow		6.9		5.3		A Elbow	B Elbow	1.5	11.5	76.7	>53
A Elbow		8.4		3.8							

EMG

Side	Muscle	Nerve	Root	Ins Act	Fibs	Psw	Amp	Dur	Poly	Recrt	Int Pat	Comment
Right	Deltoid	Axillary	C5-6	Nml	Nml	Nml	Nml	Nml	0	Nml	Nml	
Right	Biceps	Musculocut	C5-6	Nml	Nml	Nml	Nml	Nml	0	Nml	Nml	
Right	Triceps	Radial	C6-7-8	Nml	Nml	Nml	Nml	Nml	0	Nml	Nml	
Right	ExtCarRadLong	Radial	C6-7	Nml	Nml	Nml	Nml	Nml	0	Nml	Nml	
Right	FlexCarpiUln	Ulnar	C8,T1	Nml	Nml	Nml	Nml	Nml	0	Nml	Nml	
Right	1stDorInt	Ulnar	C8-T1	Nml	Nml	Nml	Nml	Nml	0	Nml	Nml	
Left	Deltoid	Axillary	C5-6	Nml	Nml	Nml	Nml	Nml	0	Nml	Nml	
Left	Biceps	Musculocut	C5-6	Nml	Nml	Nml	Nml	Nml	0	Nml	Nml	
Left	Triceps	Radial	C6-7-8	Nml	Nml	Nml	Nml	Nml	0	Nml	Nml	
Left	ExtCarRadLong	Radial	C6-7	Nml	Nml	Nml	Nml	Nml	0	Nml	Nml	
Left	FlexCarpiUln	Ulnar	C8,T1	Nml	Nml	Nml	Nml	Nml	0	Nml	Nml	
Left	1stDorInt	Ulnar	C8-T1	Nml	Nml	Nml	Nml	Nml	0	Nml	Nml	
Left	Abd Poll Brev	Median	C8-T1	Nml	Nml	Nml	Nml	Nml	0	Nml	Nml	

Nerve Conduction Studies
Anti Sensory Left/Right Comparison

Patient: Haines, Katherine

Test Date: 6/11/2009

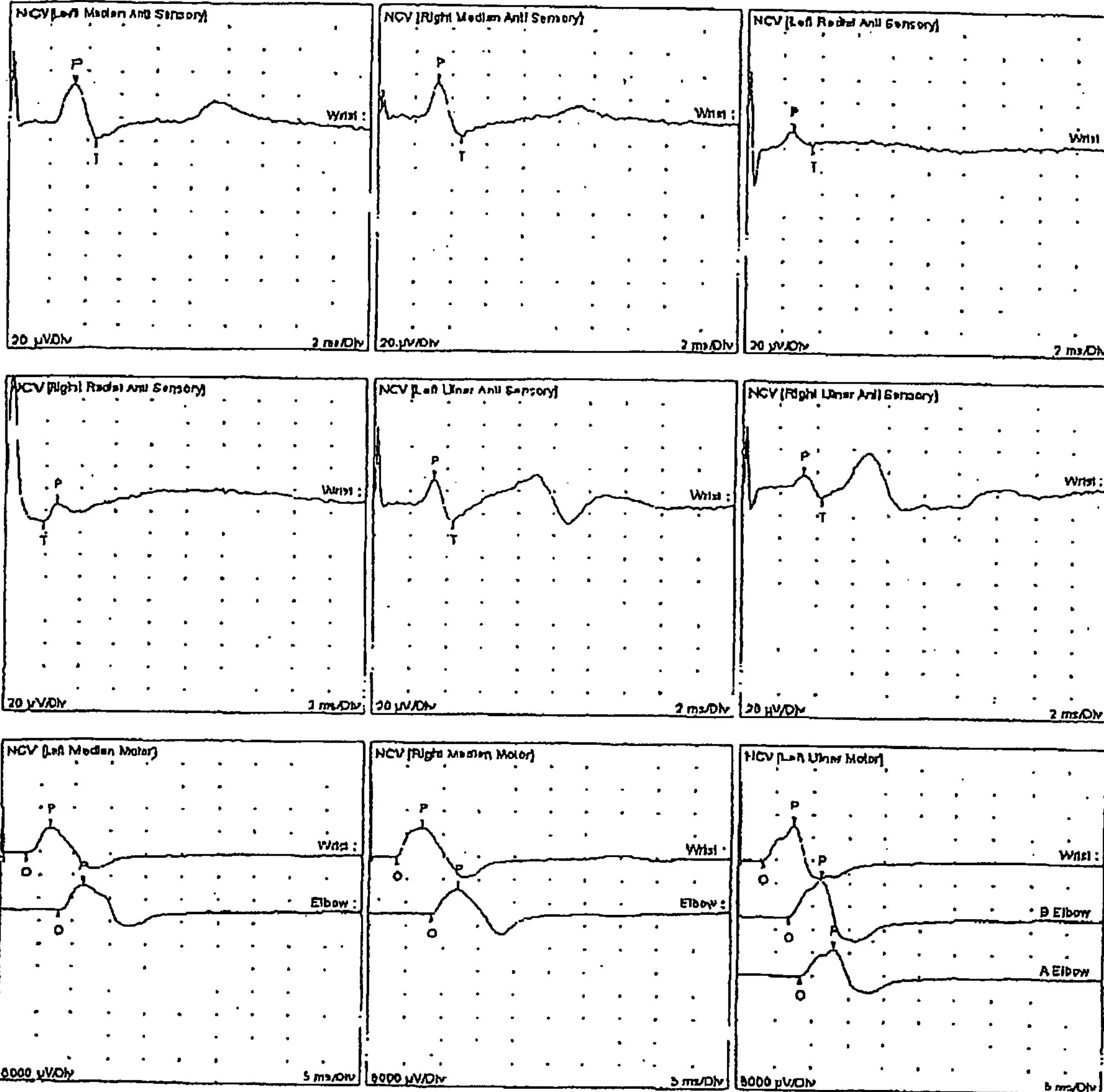
Site	L Lat (ms)	R Lat (ms)	L-R Lat (ms)	L Amp (µV)	R Amp (µV)	L-R Amp (%)	Site1	Site2	L Vel (m/s)	R Vel (m/s)	L-R Vel (m/s)
Median Anti Sensory (2nd Digit)											
Wrist	3.3	3.3	0.0	47.1	45.4	3.6	Wrist	2nd Digit	42.4	42.4	0.0
Radial Anti Sensory (Base 1st Digit)											
Wrist	2.5	2.8	0.3	12.4	16.4	24.4	Wrist	Base 1st Digit			
Ulnar Anti Sensory (5th Digit)											
Wrist	3.3	3.3	0.0	37.1	20.4	45.0	Wrist	5th Digit	42.4	42.4	0.0

Motor Left/Right Comparison

Site	L Lat (ms)	R Lat (ms)	L-R Lat (ms)	L Amp (mV)	R Amp (mV)	L-R Amp (%)	Site1	Site2	L Vel (m/s)	R Vel (m/s)	L-R Vel (m/s)
Median Motor (Abd Poll Brev)											
Wrist	3.4	3.6	0.2	5.4	6.3	14.3	Elbow	Wrist	50.0	53.1	3.1
Elbow	8.0	8.4	0.4	5.4	5.4	0.0					
Ulnar Motor (Abd Dig Minimi)											
Wrist	3.1	2.7	0.4	7.6	7.9	3.8	B Elbow	Wrist	61.1	50.0	11.1
B Elbow	6.7	6.9	0.2	8.2	5.3	35.4	A Elbow	B Elbow	64.7	76.7	12.0
A Elbow	8.4	8.4	0.0	5.6	3.8	32.1					

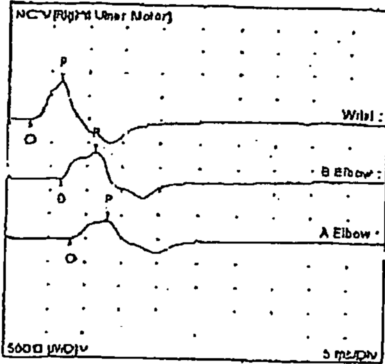
Patient: Haines, Katherine Test Date: 6/11/2009

Waveforms:



Patient: Haines, Katherine

Test Date: 6/11/2009



CN: 5091730114011001 Scan Time: 06/22/2009 15:21:00 Receive... 06/22/2009 Back Side: Blank

Carolina Spine & Sport Rehab Specialists

110-A Spring Hall Road
Goose Creek, SC 29445
843-569-5421

Test Date: 6/11/2009

Patient:	Katherine Haines	**DOB:**	[redacted]	**Physician:**	Dr. Nancy Lembo
Sex:	Female			**Ref Phys:**	Dr. Craig Burnworth

History of Present Illness:
Katherine Haines is a 47 year-old female who presents for electrodiagnostic consultation. Her chief complaint is neck pain radiating to both the right and left upper extremity. There is associated numbness and tingling in a similar distribution. There is no weakness or night pain. She denies any bowl or bladder changes.

Please see the prior dictation for a complete history and physical.

EMG & NCV Findings:
1. All nerve conduction velocities and distal latencies (as indicated in the following tables) were within normal limits.
2. Left vs. Right side comparison data for the Ulnar Motor nerve indicates abnormal L-R velocity difference (B Elbow-Wrist, 11.1 m/s).
3. All remaining left vs. right side differences were within normal limits.
4. Electromyographic examination (as indicated in the following table) showed no evidence of electrical instability.

Impression:
1. Normal Electrodiagnostic Study of the upper extremities.
2. There is no electrodiagnostic evidence of a radiculopathy, entrapment neuropathy, or myopathy.

Recommendations:
1. The above results were discussed with the patient.
2. I would recommend an intra-articular facet joint injection under fluoroscopic guidance for diagnostic and therapeutic purposes. Risks and benefits were discussed and the patient is agreeable with this plan.
3. I will follow up this patient one week following the procedure.

Thank you for allowing me the opportunity to participate in the care of your patient. If there are any questions, do not hesitate to contact me.

Dr. Nancy Lembo
Board Certified, Physical Medicine and Rehabilitation
Board Certified, Pain Medicine
Board Certified, Independent Medical Examiner.

Moore Orthopaedic Clinic Outpatient Surgery Center
104 Saluda Pointe Drive
Lexington South Carolina 29072
(803) 227-8000 Phone / (803) 227-8015 Fax

June 23, 2009 Kathryn Haines null MOC Surgery Center

DIAGNOSIS: CERVICAL SPONDYLOSIS

PROCEDURE: Diagnostic Right C3-C4 and C4-C5 Intraarticular Facet Joint Injection Under Fluoroscopic Guidance.

COMMENTS: No complications.

METHOD OF PROCEDURE: Informed consent was obtained prior to the start of the procedure. All the patient's questions were answered including the risks, benefits, and alternative treatment options including no treatment prognosis. The patient was placed prone on the fluoroscopy table. Vital signs were monitored throughout the procedure. The patient was prepped and draped in the usual sterile fashion.

The C-arm was positioned to visualize the right C3-C4 and C4-C5 facet joint using an AP approach with a caudal tilt. Skin over both levels was infiltrated with 1% preservative-free Lidocaine. A 25-gauge 3½-inch spinal needle was advanced to the inferolateral aspect of both joints using intermittent fluoroscopic guidance until bony contact was made. The needle was then walked off into the joint space. Contrast was instilled under direct fluoroscopic visualization to ensure intraarticular needle placement. A 0.25 cc of 0.25% Marcaine was instilled at both levels. Both needles were withdrawn and found to be fully intact.

The patient tolerated the procedure well without complications. The patient was observed for an appropriate time following the procedure for any adverse reaction. Discharge instructions were given. Physician followup was arranged.

Nancy Lembo, M.D.

NL:rvk
DD: 06/23/09, DT: 06/24/09

40918303600030.002

PATIENT: Katherine Hines

DOS: June 25, 2009

CHIEF COMPLAINT: Neck pain.

HISTORY OF PRESENT ILLNESS: Ms. Hines presents for followup appointment. The patient was seen on Tuesday for a diagnostic facet joint injection on the right side. The patient did not notice any change in her symptoms following the procedure even for the first few hours. She is complaining of headaches, which she had prior to the procedure, but she feels that it is increased. She has also been getting some nausea, and now, she states she was vomiting. She has also been utilizing the Skelaxin and the Lortab. When I questioned her if she was keeping it down even though she has been getting sick to her stomach, she states she was not sure. She then stated the last time she was sick to her stomach was last night. She was able to eat this morning. She has been able to eat even though she has been getting sick to her stomach apparently. She has not had any episodes of vomiting this morning. She presents today complaining of pain on the right side, in the central aspect. She denies any bowel or bladder changes. She denies any weakness. She denies any blurry visions. She denies any balance difficulties.

PHYSICAL EXAMINATION: Well-developed, well-nourished female. Affect is appropriate. She is appropriately oriented. Her gait is not antalgic or widened. She moves without any assistance or difficulty. She does have significantly restricted range of motion of the cervical spine, which is unchanged from her prior exam. Skin over the injection site is closed. There is a slight amount of ecchymotic area residual, otherwise, intact. She has diffuse tenderness to light touch throughout the cervical paraspinal musculature. Motor strength at the upper and lower extremities are 5 over 5. Reflexes are 2+ on a scale of 4. Babinski's are downgoing. There is no evidence of clonus. Hoffman testing is negative.

IMPRESSION:

1. Neck pain.
2. Myofascial pain.

PLAN:

1. I discussed my impression with the patient. I reassured her I do not see any change in her neurologic status. She may be getting the headaches due to myofascial components of her pain. She did not seem to have any response to the facet joint injection. I have recommended that we switch her from Skelaxin to Zanaflex, but she needs to ensure that she is able to keep the food down before using Lortab or the Zanaflex, which she is agreeable to. She will continue with ice to the affected area.
2. I will see this patient in 1 week or sooner if she is having difficulty.

Nancy R. Lembo, DO
Board Certified Physical Medicine and Rehabilitation
Board Certified Pain Medicine

PATIENT: Katherine Haines

DOS: July 2, 2009

CHIEF COMPLAINT: Neck pain.

HISTORY OF PRESENT ILLNESS: Ms. Haines presents here for followup appointment. Since her last visit, her symptoms have markedly improved. She has noticed an improvement in range of motion in her neck. The pain seems to have localized more on the left side now. The nausea that she was experiencing has resolved completely. She still gets the numbness and tingling occasionally into the right hand with a cramping a sensation. She has not resumed physical therapy. She does feel the Zanaflex helps her and she is limiting the Lortab.

PHYSICAL EXAMINATION: A well-developed, well-nourished female in no acute distress. Affect is appropriate. She is appropriately oriented. She does have her head cocked slightly to the left, but is able to correct it with ___. Cervical spine range of motion is significantly restricted in extension with improved rotation to the right. Motor strength otherwise is 5 over 5. No atrophy or vesiculations are noted.

IMPRESSION:
1. Cervical spondylosis.
2. Myofascial pain.
3. Dysesthesias.

PLAN: I discussed my impression with the patient. The patient seems to have a good response to the cervical facet joint injection on the right side. I have recommended pinning on the left side where her symptoms seemed to have localized. I have recommended she resumed physical therapy. I have continued her work restrictions for light duty. She will continue with the Zanaflex and Lortab. I will follow up with this patient 1 week following the procedure.

Nancy R. Lembo, DO
Board Certified Physical Medicine and Rehabilitation
Board Certified Pain Medicine
Board Certified Independent Medical Examiner
Fellowship Trained Interventional Spine Sports and Pain Medicine
NRL/lli
11948261

cc: Judith Schmidt, Nurse Case Manager
Fax#: 860 756-68455
Dr. Burnworth

Moore Orthopaedic Clinic Outpatient Surgery Center
104 Saluda Pointe Drive
Lexington South Carolina 29072
(803) 227-8000 Phone / (803) 227-8015 Fax

July 14, 2009 Katherine Haines null MOC Surgery Center

DIAGNOSIS: CERVICAL SPONDYLOSIS

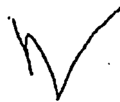
PROCEDURE: Left C3-C4 and Left C4-C5 Intraarticular Diagnostic Facet Joint Injection Under Fluoroscopic Guidance.

COMMENTS: No complications.

METHOD OF PROCEDURE: Informed consent was obtained prior to the start of the procedure. All the patient's questions were answered including the risks, benefits, and alternative treatment options including no treatment prognosis. The patient was placed prone on the fluoroscopy table. Vital signs were monitored throughout the procedure. The patient was prepped and draped in the usual sterile fashion.

The C-arm was positioned to visualize the left C3-C4 and the left C4-C5 facet joint using an AP approach with a slight caudal tilt. Skin over both levels was infiltrated with 1% preservative-free Lidocaine. A 25-gauge 3½-inch spinal needle was advanced to the inferolateral aspect of both joints using intermittent fluoroscopic guidance until bony contact was made. The needle was then walked off into the joint space. Contrast was instilled under direct fluoroscopic visualization to ensure appropriate intraarticular needle placement. There did appear to be a mild capsular leakage at the C4-C5 joint. No evidence of intravascular uptake or intradural uptake was noted. A 0.25 cc of 0.25% Marcaine was instilled at both levels. Both needles were withdrawn and found to be fully intact.

The patient tolerated the procedure well without complications. The patient was observed for an appropriate time following the procedure for any adverse reaction. Discharge instructions were given. Physician followup was arranged.



Nancy Lembo, M.D.

NL:rvk
DD: 07/14/09, DT: 07/15/09

4092041390042.002

QuickLook™

FUNCTIONAL CAPACITY EVALUATION SUMMARY REPORT

Client: Ms. Katherine Haines
Account number: 245007
Date of service: 11/6/2009
Diagnosis: Ms. Haines reports that she was trying to pick up shelves from below waist level and when she pulled one shelves came falling down hitting her on the right side of her neck and upper back.
Job at time of injury: Freight Manager
Date of injury: 2/12/2009
Date last worked: 11/4/2009
Worked Since: 9/11/1997
Work Status: Yes
Position: Freight Manager
Referred by: Dr. Nancy Lembo

Reasons for Referral

Ms. Haines was referred to this facility to answer the following questions about her current work/functional ability:

Did Ms. Haines provide full physical effort during testing?
Is Ms. Haines capable of performing her pre-injury job. If not, what are her physical abilities?
Are Ms. Haines' subjective reports reliable?
What are Ms. Haines' physical abilities and limitations?

In order to answer the referral source's questions, Ms. Haines underwent a functional capacity evaluation on 11/6/2009. A synopsis of the findings of the evaluation follows. A full report is appended hereto or is available by contacting the clinic.

Physical Effort Findings

Overall test findings, in combination with clinical observations, suggest the presence of variable levels of physical effort on Ms. Haines' behalf. On the MSE and JAMAR Ms. Haines tested to give less than full effort and on Isoinertial Materials Handling she tested to give sub-maximal effort. In describing sub-maximal effort, this evaluator is by no means implying intent. Rather, it is simply stated that Ms. Haines can do more physically at times than was demonstrated during this testing day. Any final vocational or rehabilitation decisions for Ms. Haines should be made with this in mind.

Reliability of Pain and Disability Reports Findings

Overall test findings, in combination with clinical observations, suggest considerable question be drawn as to the reliability/accuracy of Ms. Haines' subjective reports of pain/limitation. On the McGill, Neck Disability Index, Dallas and the Spinal Function Sort she tested to give unreliable reports. Ms. Haines also tested positive on the Olecranon shift placebo teseting. While her subjective reports should certainly not be ignored, they should be considered within the context of her RPDR findings. Significantly more weight should be placed upon objective findings versus subjective reports. In describing such findings, this evaluator is by no means implying intent. Rather, it is simply stated that Ms. Haines can do more at times than she currently states or perceives. While her subjective reports should not be disregarded, they should be considered within the context of such RPDR findings.

Reasons for Referral Addressed

Is Ms. Haines capable of performing her pre-injury job?
Based on Ms. Haines physical work tolerances (detailed below in the "Demonstrated Abilities" chart on page 4 of this summary and compared to the job description for a "Assistant Manager" provided by Dollar Tree), she would not be able to return to work in a full time capacity as a "Assistant Manager" for Dollar Tree at this time based on what would be required of her to perform that job. Ms. Haines is currently testing to Medium physical demand level for lifting, carrying, pushing/pulling. The job description provided by Dollar Tree for a "Assistant Manager" outlines the job as being a Heavy physical demand level job. See Summary of Findings for other demonstrated physical demands.

What are Ms. Haines physical abilities and limitations?
Ms. Haines physical work tolerances/abilities are detailed below in the "Demonstrated Abilities" chart (page 4-7 of this summary).

Summary of Findings

Ms. Haines demonstrates today that she meets the medium physical demand levels for lifting, carrying, pushing/pulling (the job description provided by Dollar Tree describes a "Assistant Manager" as being a Heavy physical demand level job; lifting up to 100 pounds on an occasional basis). The Medium physical demand level is defined as 20 to 50 pounds on an occasional basis (up to 1/3 of the day), 10 to 25 pounds on a frequent basis (1/3 to 2/3 of the day), and 10 pounds on a constant basis (greater than 2/3 of the day). The Heavy physical demand level is defined as 50 to 100 pounds on an occasional basis, 25-50 pounds on a frequent basis and 10-20 pounds on a constant basis.

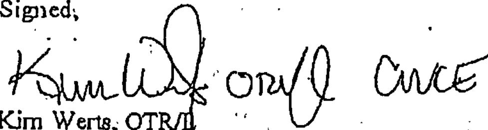
Given Ms. Haines demonstrated performance today, she would not be able to return to work in a full time capacity as a "Assistant Manager" at this time based on what would be required of her to perform that position. It should be noted that repetitive movement testing was administered before and after the evaluation and in 3/3 instances Ms. Haines performed the activities faster after the evaluation than she did before the bulk of the testing, with similar reports of pain. This is indicative of good tolerance to full day activities with good efficiency from a functional performance standpoint. It should be noted that Ms. Haines reports of pain and limitation on the McGill, Neck Disability

Index, Dallas, Spinal Function Sort and Olecranon Shift placebo test draw considerable question as to the reliability of her reports. It should also be noted that during physical testing Ms. Haines tested to give less than full effort on the MSE and JAMAR and sub-maximal effort on the Isoinertial Materials Handling portions of the test.

Ms. Haines demonstrated ability to perform other job requirements is as follows: sitting (Frequent), standing/walking (frequent), stairs/ladders (Occasional), balancing (Occasional), bending/stooping (Occasional), crouching/squatting (Occasional), crawling (Occasional), twisting (Frequent), above shoulder work (Occasional), low-level work (Occasional), prolonged neck positioning (Occasional), fine motor dexterity (Frequent), light/firm grasping (Occasional), pinching (Frequent), reaching forward (Frequent), writing (Occasional), eye-hand coordination (Frequent), and vision/hearing acuity (Frequent).

Thank you for your referral of Ms. Haines.

Signed,



Kim Werts, OTR/L
Moore Orthopaedic Clinic
104 Saluda Point Drive
Lexington, SC 29072

Physical Abilities and Job Match

The following table compares the client's demonstrated physical abilities to the critical physical demands of the job in question.

Ms. Haines' target job is Freight Manager. The typical work day is 480 minutes long with 50 minutes of lunch and other breaks resulting in a net time worked of 430 minutes.

	Job Demand	Demonstrated Ability	Match?
Strength			
Lifting	Heavy. 100 lbs. Occasional (Up to 1/3 Day).	Lifting was tested to the Medium physical demand level (20 to 50 pounds on an occasional basis, up to 1/3 of the day). According to the 1993 "Physical Demands Characteristics of Work", a physical demand level of Medium may also indicate a strength level of 10 to 25 pounds on a Frequent basis (1/3 to 2/3 of the day) or 10 pounds on a Constant basis (greater than 2/3 of the day). Ms. Haines was able to lift 22 pounds from the floor and 12 inches above the floor and 25 pounds waist to shoulder.	No
Carrying	Heavy. 100 lbs. for feet. Occasional (Up to 1/3 Day).	Carrying was tested to the Light physical demand level (up to 20 pounds on an occasional basis, up to 1/3 of the day). According to the 1993 "Physical Demands Characteristics of Work", a physical demand level of Light may also indicate a strength level of 10 pounds on a Frequent basis (1/3 to 2/3 of the day) or negligible ability on a Constant basis (greater than 2/3 of the day). Ms. Haines was able to carry 15 pounds for a distance of 30 feet.	No

*Pushing	Not Specified.	Pushing was tested to the Medium physical demand level (20 to 50 pounds on an occasional basis, up to 1/3 of the day). According to the 1993 "Physical Demands Characteristics of Work", a physical demand level of Medium may also indicate a strength level of 10 to 25 pounds on a Frequent basis (1/3 to 2/3 of the day) or 10 pounds on a Constant basis (greater than 2/3 of the day). Ms. Haines was able to exert 31 pounds of force to push an object a distance of 30 feet.	?
*Pulling	Not Specified.	Pulling was tested to the Medium physical demand level (20 to 50 pounds on an occasional basis, up to 1/3 of the day). According to the 1993 "Physical Demands Characteristics of Work", a physical demand level of Medium may also indicate a strength level of 10 to 25 pounds on a Frequent basis (1/3 to 2/3 of the day) or 10 pounds on a Constant basis (greater than 2/3 of the day). Ms. Haines was able to exert 29 pounds of force to pull an object a distance of 30 feet.	?
Mobility			
Sitting	Not Specified	Frequent (1/3 to 2/3 of the day). Ms. Haines sat for a total of 2 hours 42 minutes for deskwork testing (including interview and pain/functional ability questionnaires) requiring 1 positional break, which may equate to 4 hours 24 minutes over a 8 hour shift with positional breaks of 2 minutes or less as the job allows (longest duration without even a brief rise was 1 hour 13 minutes).	?

Static/Dynamic Standing and Walking	Constant(Greater Than 2/3 Day).	Frequent (1/3 to 2/3 of the day). Ms. Haines demonstrated a 2 hour and 15 minute combination of dynamic/static standing and walking with no requested rest breaks which may equate to 3 hours 36 minutes over a 8 hour shift, and no additional rest breaks other than what is provided by the employer. (longest duration without even a brief sit was 1 hour 24 minutes). The frequent physical demand level reflects the limitation of testing time rather than physical limitation on Ms. Haine's behalf.	No
Agility			
Stairs/Ladders	Frequent (1/3 to 2/3 Day).	Occasional (up to 1/3 of the day).	No
Balancing	Frequent (1/3 to 2/3 Day).	Occasional (up to 1/3 of the day).	Yes
Bending/Stooping	Constant(Greater Than 2/3 Day).	Occasional (up to 1/3 of the day).	No
Crouching/Squatting	Frequent (1/3 to 2/3 Day).	Occasional (up to 1/3 of the day).	No
Crawling	Occasional (Up to 1/3 Day).	Occasional (up to 1/3 of the day).	Yes
Twisting/Spinal Rotation	Frequent (1/3 to 2/3 Day).	Frequent (1/3 to 2/3 of the day).	Yes
Above-Shoulder Work	Constant(Greater Than 2/3 Day).	Occasional (up to 1/3 of the day). Ms. Haines was able to lift 8 pounds from shoulder to overhead.	No
Low-Level Work	Frequent (1/3 to 2/3 Day).	Occasional (up to 1/3 of the day).	No
Prolonged Neck Positioning	Not Specified.	Occasional (up to 1/3 of the day).	?
Dexterity			
Fine Finger	Not Specified.	Frequent (1/3 to 2/3 of the day).	?
Grasping - Light	Occasional (Up to 1/3 Day).	Occasional (up to 1/3 of the day).	Yes
Grasping - Firm	Occasional (Up to 1/3 Day).	Occasional (up to 1/3 of the day).	Yes
Pinching	Not Specified.	Frequent (1/3 to 2/3 of the day).	?
Reaching Forward	Not Specified.	Frequent (1/3 to 2/3 of the day).	?
Writing	Not Specified.	Occasional (Up to 1/3 of the day).	?
Coordination			
Eye - Hand	Not Specified.	Frequent (1/3 to 2/3 of the day).	?
Vision/Hearing			
Near Acuity (<20 In.)	Not Specified.	Frequent (1/3 to 2/3 of the day).	?
Hearing	Not Specified.	Frequent (1/3 to 2/3 of the day).	?

*Pushing and pulling values are measured as pounds of force.

FUNCTIONAL CAPACITY EVALUATION

OF

Ms. Katherine Haines

REQUESTED BY

Dr. Nancy Lembo

Carolina Spine and Sports Rehabilitation Spe.

110-A Springhall Drive

Goose Creek, SC 29445

PREPARED BY

Kim Werts, OTR/L

Moore Orthopaedic Clinic

104 Saluda Point

Suite F

Lexington, SC 29072

ASSESSED

11/6/2009

TABLE OF CONTENTS

Client Profile.......... 3
Job Demands.......... 8
Dexterity.......... 9
Grip Strength.......... 10
Handling.......... 11
Fitness.......... 12
Mobility.......... 13
Material Handling.......... 16
Musculoskeletal Evaluation – Upper Extremities.......... 17
Musculoskeletal Evaluation – Lower Extremities.......... 19
Musculoskeletal Evaluation – Cervical Spine.......... 21
Musculoskeletal Evaluation – Lumbar Spine.......... 23
Timer Analysis.......... 25
Physical Effort Findings.......... 26
Reliability Of Pain and Disability Reports.......... 30

CLIENT PROFILE

Client: Ms. Katherine Haines
Account number: 245007
Date of service: 11/6/2009
Diagnosis: Ms. Haines reports that she was trying to pick up shelves from below waist level and when she pulled one shelf came falling down hitting her on the right side of her neck and upper back.
Job at time of injury: Freight Manager
Date of injury: 2/12/2009
Date last worked: 11/4/2009
Worked Since: 9/11/1997
Work Status: Yes
Position: Freight Manager
Referred by: Dr. Nancy Lembo

Reasons for Referral

Ms. Haines was referred to this facility to answer the following questions about her current work/functional ability:

Did Ms. Haines provide full physical effort during testing?
Is Ms. Haines capable of performing her pre-injury job. If not, what are her physical abilities?
Are Ms. Haines' subjective reports reliable?
What are Ms. Haines' physical abilities and limitations?

Prior to beginning the evaluation, an intake interview was performed. During the interview Ms. Haines signed a "Consent to Evaluate and Treat" release, . The following information was obtained during the interview:

Previous Problems	No per Ms. Haines
Hand Dominance	Right
Date of Birth	11/25/1961
Height	72 Inches
Weight	275 Pounds
Social Security Number	266-47-8648
Account Number	245007

Additional Comments: Ms. Haines arrived on time dressed appropriately for the FCE. Initial BP taken at 8:43 a.m. 105/76. Ms. Haines also reports she had an additional injury when she was doing a damage report in the bathroom and she pulled a bracket out from under the door and the table hit her on the left shoulder. She reports that she had an MRI and it showed significant bruises and she has sharpe spasms.

Ms. Haines' resting heart rate was 75 beats per minute.

Previous Treatment

Ms. Haines reports having attended the following treatments in an attempt to rehabilitate her condition:

Treatment	Results/Comments
Physical Therapy	It somewhat helped but not significantly
Pain Program	It hasn't helped

Investigations

Ms. Haines reports having had the following investigations:

Investigation	Date	Results/Comments
X-Ray	2009	I don't know
MRI	2009	Cervical canal was squeezed with a bulging disc
EMG	2009	Normal

Medical History

Ms. Haines indicates the following medical history:

Medical History Checklist
Night Sweats Or Fever Recent Weight Loss/Gain
Numbness/Tingling
Headaches
Wears Glasses For Reading
Other Vision Problems
Noise In Ears
Balance Problems
Heart Problems
Varicose Veins
Ulcers
Change In Bowel Or Bladder
Back Injury
Joint Injury/Pain
Broken Bones
Liver Disease
Trouble Sleeping
Stress
Any Lung Problem
Shortness Of Breath
Asthma
Bronchitis
Persistent Cough
Smoked For 30 Years

Smoke 1 Packs of Cigarettes Per Day
Exposed To Second-Hand Smoke

Ms. Haines also provides the following medical history and medication information:

Area	Description
Surgeries	Tonsilectomy, hysterectomy, Heart catheretization
Prescription Medications	Spiriva Inhaler, coreg 6.5 mg,
Non-Prescription Medications	Advil migraine, alevo migraine
Medication Allergies	Penicillan
Additional Medical History	COPD, Asthma, mild CHF, Hepatitis C

Ms. Haines reports the following family illnesses:

Family Illness
Diabetes
Stroke
Heart Disease
High Blood Pressure

Ms. Haines reports the following about members of her immediate family:

Member	Age(s)	Cause of Death (If Deceased)	Other Major Health Problems	Work Related
Father	72		Diabetes, HBP, Heart Disease, Esphogis Disease, stomach cancer	
Mother	67		None	
Brothers	45,41,39		Diabetes, HBP,	
Sisters	48		Hepatitis C	
Children	24,21,19		Enlarged left ventricle (19)	

Ms. Haines provides the following work history:

Area	Comments/Specifics
Work Environment	Construction Site
Chemical Exposure	Repetitive Motion/Vibration

Ms. Haines reports the following job injuries:

Description	Approx. Date	Results
No per Ms. Haines		

Ms. Haines also provides the following job history:

From	To	Position/Job Duties	Company
1997	Present	Freight Manager	Dollar Tree
1979	1994	Delivered Newspapers	Miami Herald Newspaper

Ms. Haines' home environment is as follows:

Resides With	Family with 2 children
Type of Residence	Single Level Mobile Home
Activity Level	Moderate
Education Completed	Eleventh Grade at Twin Lakes High School, West Palm Beach, Florida

Reported Functional Tolerances

Ms. Haines reports her functional tolerances as follows:

	Client's Estimate of Maximum Tolerance
Strength	
Lifting	10 pounds
Carrying	I don't know
*Pushing	Push grocery cart with several boxes
*Pulling	Pull grocery cart with several boxes
Mobility	
Sitting	30 minutes
Static Standing	3-4 hours
Walking	3-4 hours
Agility	
Stairs/Ladders	I have not been on a ladder but I walk up three steps on a hand ladder
Balancing	I trip 3-4 times per week
Bending/Stooping	I get pressure in my neck - I can still do it
Crouching/Squatting	I lose my balance and I have to use my left arm to get back up because I get a shooting pain in my right arm
Crawling	I would try
Above-Shoulder Work	I can do it but I get alot of sharp pains
Low-Level Work	Same trouble as in squatting
Impact/Jarring	Not happening
Dexterity	
Fine Finger	My right hand goes numb sometimes - I don't have trouble at all times
Grasping - Light	Sometimes
Grasping – Firm	Sometimes
Writing	I get cramping in my right hand
Coordination	
Driving	I have to turn my whole body to turn to the right
Vision/Hearing	
Near Acuity (<20 in.)	Corrective lenses for reading

Client's Work-Related Goals

Ms. Haines states that her current vocational goals are:

I want to be back to where I was at before my accident.

JOB DEMANDS

The table below reflects the job demands considered in this functional capacity evaluation.

Ms. Haines' target job is Freight Manager. The typical work day is 480 minutes long with 50 minutes of lunch and other breaks resulting in a net time worked of 430 minutes.

	Job Demand
Strength	
Lifting	Heavy. 100 lbs. Occasional (Up to 1/3 Day).
Carrying	Heavy. 100 lbs. for feet. Occasional (Up to 1/3 Day).
*Pushing	Not Specified.
*Pulling	Not Specified.
Mobility	
Static Standing	Constant(Greater Than 2/3 Day).
Agility	
Stairs/Ladders	Frequent (1/3 to 2/3 Day).
Balancing	Frequent (1/3 to 2/3 Day).
Bending/Stooping	Constant(Greater Than 2/3 Day).
Crouching/Squatting	Frequent (1/3 to 2/3 Day).
Crawling	Occasional (Up to 1/3 Day).
Twisting/Spinal Rotation	Frequent (1/3 to 2/3 Day).
Above-Shoulder Work	Constant(Greater Than 2/3 Day).
Low-Level Work	Frequent (1/3 to 2/3 Day).
Prolonged Neck Positioning	Not Specified.
Dexterity	
Fine Finger	Not Specified.
Grasping - Light	Occasional (Up to 1/3 Day).
Grasping - Firm	Occasional (Up to 1/3 Day).
Pinching	Not Specified.
Reaching Forward	Not Specified.
Writing	Not Specified.
Coordination	
Eye - Hand	Not Specified.
Vision/Hearing	
Near Acuity (<20 in.)	Not Specified.
Hearing	Not Specified.

*Pushing and pulling values are measured as pounds of force.

DEXTERITY

Purdue Pegboard Test

The Purdue Pegboard Test was used to assess Ms. Haines' ability to use her hands in a coordinated and efficient manner. The following results were found:

	Score	Percentile
Right Hand	13	1
Left Hand	15	20
Both Hands	9	1
Assembly	30	14

The client exhibited no signs of physical discomfort during the Purdue Pegboard Test.

Ms. Haines demonstrated the following signs of competitive test performance during the Purdue Pegboard Test: quick correction following error and voiced exasperation.

The Purdue Pegboard Test was terminated as it was successfully completed.

Complete Minnesota Dexterity Test

The Complete Minnesota Dexterity Test was used to assess Ms. Haines' ability to use her hands in a coordinated and efficient manner and to assess medium arm and hand dexterity. The following results were found:

	Score	Percentile
Placing	153	1
Turning	121	1

Ms. Haines was noted to stoop/bend at approximately 30 - 45° (moderate) during the test.

The client exhibited no signs of physical discomfort during the Complete Minnesota Dexterity Test. Ms. Haines demonstrated forward reaching with right UE and no complaints of neck or back pain throughout testing.

Ms. Haines demonstrated the following sign of competitive test performance during the Complete Minnesota Dexterity Test: quick correction following error.

GRIP STRENGTH

As a function of Jamar Hand Dynamometer testing, information about the client's grip strength was collected. Using the five scores from her strongest grip span, she compares to a normative group using a six-grip test as:

Dominant (Right) Hand Grip Strength		Non-Dominant (Left) Hand Grip Strength	
Client	Norm Group	Client	Norm Group
29.33	62.2	74.33	56

Results are in pounds. As can be seen from this table, the client demonstrates the dominant hand as being weaker than the normative group. Her non-dominant hand demonstrates as being stronger than the normative group. Jamar serial number 30706380 was used for this portion of the test.

During the grip strength test, the client was noted to show the following signs of physical discomfort: shaking out hands (repetitively opening/clenching) and holding/massaging (r) hand.

Ms. Haines was observed to demonstrate no signs of competitive test performance during grip strength testing.

HANDLING

Bennett Hand Tool Dexterity Test

The Bennett Hand Tool Dexterity Test is designed to measure an individual's ability to use ordinary factory tools. The test involves prolonged standing, sustained neck flexion, and medium dexterity. Measured against a normative group comprised of maintenance mechanics at a mass transportation system in the northeastern United States, Ms. Haines achieved the following results:

	Time in Seconds	Percentile
Trial One	637	1

The client exhibited no signs of physical discomfort during the Bennett Hand Tool Dexterity Test.

Ms. Haines demonstrated no signs of competitive test performance during the Bennett Hand Tool Dexterity Test.

Slowed performance times were felt to have been related primarily to poor tool knowledge.

Pt dropped various nuts/bolts x 5 and was able to squat with straight back and pick up item off the floor with support of table to rise using left and right upper extremities. When reaching for dropped piece Ms. Haines demonstrated no signs of pain or limitation.

FITNESS

Cardiovascular Testing

Treadmill Test

The client was tested on the treadmill using the modified Bruce protocol. Her results are presented below:

Pre-Test Heart Rate	81
Pre-Test Functional Pain Rating	3
Predicted Maximum M.E.T. Level	10.2
Predicted Maximum M.E.T. Level Over Eight Hours	3.4
D.O.L. Classification	Light
Post-Test Heart Rate	89
Post-Test Functional Pain Rating	3

MOBILITY

Balance

Ms. Haines was observed to partake in both upper- and lower-level balance testing using a 10-foot-long, 3.5-inch-wide beam.

The client passed all encountered balance testing.

Ms. Haines demonstrated no signs of competitive test performance.

Crouching/Squatting

Ms. Haines was observed to assume a position of sustained crouching for 15 seconds. Repetitive crouching was completed for 5 out of five trials. Crouching was completed smoothly with no support required to rise.

She demonstrated no signs of competitive test performance.

The client was observed to squat (i.e., with a straight back) for 15 seconds in succession. Squatting was completed slowly with no support required to rise.

Ms. Haines demonstrated no signs of competitive test performance.

Pt able to squat with back held straight, neck guarded and slightly tilted to the right.

Kneeling/Floor Mobility

Ms. Haines was observed to perform kneeling/floor mobility as follows:

	Result (Seconds)
Right Knee	15
Left Knee	15
Both Knees	15
Sitting Back on Calves and Heels	15

Ms. Haines was able to move into a seated position on the floor. She was observed to prefer a floor position of side sit. The client was noted to rise slowly with the need of adjacent support.

She demonstrated no signs of competitive test performance.

Repetitive Movement Screening Test

A Repetitive Movement Screening Test was conducted to further quantify the validity of Ms. Haines' subjective reports. Her performance is presented as follows:

Region	Time of Day	Pain Rating	Time (Secs)	Comments
Upward reaching	8:45	3	14	
Upward reaching	1:10	4	13	I feel crunching and popping
Forward reaching	8:50	3	12	
Forward reaching	1:12	4	11	
Sideways reaching	8:52	3	15	
Sideways reaching	1:14	4	13	

Ms. Haines demonstrated no signs of competitive test performance.

Crawling

Ms. Haines was observed to crawl a total distance of 30 feet of a maximum distance of 30 feet. She was noted to rise smoothly and required no assistance to rise. She was noted to slow down during this test.

The client demonstrated the following sign of physical discomfort during this test: pausing/slowing.

Ms. Haines demonstrated no signs of competitive test performance.

The test was terminated as it was successfully completed.

Pt reports "I feel a lot of pressure in my neck" light weight bearing on right upper extremity.

Climbing and Descending Stairs

Ms. Haines was observed to climb and descend 2 floors of 12 steps. She completed this without a break.

Antalgia was not noted at the onset of the test.

The client demonstrated no signs of physical discomfort during the stairs test.

Ms. Haines demonstrated no signs of competitive test performance.

Able to ascend and descend steps in 29 seconds with a post HR of 148 bpm

Ladder Mobility

Ms. Haines was observed to climb and descend 3 rungs of an A-frame step ladder (8') for 5 repetitions. Her pace was noted to be brisk and smooth.

The client demonstrated no signs of physical discomfort during the ladder test.

Ms. Haines demonstrated no signs of competitive test performance.

Able to ascend and descend ladder in 59 seconds with a post HR of 147 bpm. Notedto climb ladder using reciprical shoulder flexion of bilateral upper extremities to pull up and weight bear on rungs.

MATERIAL HANDLING

Maximum Isoinertial Lifting Evaluation

Ms. Haines completed the Maximum Isoinertial Lifting Evaluation during the evaluation process. Prior to testing, the client's heart rate was found to be 81 bpm and her blood pressure was 117/91 mm Hg. Her functional pain rating was 2/10.

The results for the 19 inch width (center of body to hands) of this evaluation are as follows:

Test	Max. Weight	Safe Weight	Heart Rate	Pain	%ile	Comments
Floor-Knuckle	22	22	104	2	17	"It feels like it's pulling my neck apart"
12"-Knuckle	22	22	98	2		"It feels like it's pulling my neck apart"
Knuckle-Shoulder	25	25	97	2	21	"It feels more intense in my neck"
Shoulder-Overhead	8	8	94	2	< 10	"It feels like sharp knives going through the back of my neck.
Carry 30 feet	15	15	94	3	< 10	
Push 30 feet	31	31	96	3	29	
Pull 30 feet	29	29	110	3	21	

The client's post-test heart rate was 81 bpm, her post-test blood pressure was 117/83 mm Hg and her post-test pain rating was 3/10.

The client demonstrated the following signs of physical discomfort during the test: facial grimace, facial wince, and Tearful.

The client exhibited no signs of competitive test performance during the test.

The test was terminated as it was successfully completed.

MUSCULOSKELETAL EVALUATION – UPPER EXTREMITIES

A musculoskeletal evaluation was performed on Ms. Haines prior to any functional testing. The client's pre-test pain level was 1/10. The evaluation results are as follows:

Posture

Ms. Haines' posture and the upper limbs were observed and found to appear as follows:

Neck: Normal Posture
Shoulder: Normal Posture
Elbow: Normal
Wrist: Normal

Tests

Active and passive ranges of motion and muscle power are presented below in the various upper extremity joints tested:

Shoulder Movement	Active Range		Passive Range		Muscle Power	
	Right	Left	Right	Left	Right	Left
Flexion	129°	130°	180°	180°	3/5	5/5
Abduction	150°	145°	180°	180°	3/5	5/5
Medial Rotation	70°	60°	80°	80°	5/5	5/5
Lateral Rotation	80°	85°	84°	87°	5/5	5/5
Horizontal Flexion	18°	48°	35°	50°	4/5	5/5
Horizontal Extension	90°	90°	90°	90°	3/5	5/5

Elbow Movement	Active Range		Passive Range		Muscle Power	
	Right	Left	Right	Left	Right	Left
Flexion	150°	150°	150°	150°	5/5	5/5
Extension	0°	0°	0°	0°	5/5	5/5
Pronation	80°	80°	80°	80°	5/5	5/5
Supination	79°	76°	80°	80°	5/5	5/5

Wrist Movement	Active Range		Passive Range		Muscle Power	
	Right	Left	Right	Left	Right	Left
Flexion	70°	75°	80°	80°	5/5	5/5
Extension	65°	75°	70°	78°	5/5	5/5
Radial Deviation	20°	20°	20°	20°	5/5	5/5
Ulna Deviation	30°	30°	30°	30°	5/5	5/5

Index Finger Movement	Active Range		Passive Range		Muscle Power	
	Right	Left	Right	Left	Right	Left
MCP Flexion	90°	90°	90°	90°	5/5	5/5
MCP Extension	45°	45°	45°	45°	5/5	5/5
PIP Flexion	100°	100°	100°	100°	5/5	5/5

PIP Extension	0°	0°	0°	0°	5/5	5/5
DIP Flexion	90°	90°	90°	90°	5/5	5/5
DIP Extension	0°	0°	0°	0°	/5	/5

Middle Finger Movement	Active Range		Passive Range		Muscle Power	
	Right	Left	Right	Left	Right	Left
MCP Flexion	90°	90°	90°	90°	5/5	5/5
MCP Extension	45°	45°	45°	45°	5/5	5/5
PIP Flexion	100°	100°	100°	100°	5/5	5/5
PIP Extension	0°	0°	0°	0°	5/5	5/5
DIP Flexion	90°	90°	90°	90°	5/5	5/5
DIP Extension	0°	0°	0°	0°	5/5	5/5

Ring Finger Movement	Active Range		Passive Range		Muscle Power	
	Right	Left	Right	Left	Right	Left
MCP Flexion	90°	90°	90°	90°	5/5	5/5
MCP Extension	45°	45°	45°	45°	5/5	5/5
PIP Flexion	100°	100°	100°	100°	5/5	5/5
PIP Extension	0°	0°	0°	0°	5/5	5/5
DIP Flexion	90°	90°	90°	90°	5/5	5/5
DIP Extension	0°	0°	0°	0°	5/5	5/5

Little Finger Movement	Active Range		Passive Range		Muscle Power	
	Right	Left	Right	Left	Right	Left
MCP Flexion	90°	90°	90°	90°	5/5	5/5
MCP Extension	45°	45°	45°	45°	5/5	5/5
PIP Flexion	100°	100°	100°	100°	5/5	5/5
PIP Extension	0°	0°	0°	0°	5/5	5/5
DIP Flexion	90°	90°	90°	90°	5/5	5/5
DIP Extension	0°	0°	0°	0°	5/5	5/5

Thumb Movement	Active Range		Passive Range		Muscle Power	
	Right	Left	Right	Left	Right	Left
CMC Flexion	0°	0°	0°	0°	5/5	5/5
CMC Extension	0°	0°	0°	0°	5/5	5/5
MP Flexion	50°	50°	50°	50°	5/5	5/5
MP Extension	0°	0°	0°	0°	5/5	5/5
IP Flexion	80°	80°	80°	80°	5/5	5/5
IP Extension	0°	0°	0°	0°	5/5	5/5

Post-Evaluation Pain Level

Ms. Haines reported a post-test pain level of 2/10.

Assessment

Increased cogwheeling noted with MMT of Right Upper Extremity; Decreased ROM and MMT in Right Upper Extremity, all other ROM, MMT and sensation within normal limits on this testing day.

PCN: 5093130000729 DCN: 5093130000729001 DT Received: 11/9/2009 2:33:5... Scanned: 11/9/2009 2:34:01 PM Page 26 of 42

MUSCULOSKELETAL EVALUATION – LOWER EXTREMITIES

A musculoskeletal evaluation was performed on Ms. Haines prior to functional testing. The client's pre-test pain level was 2/10. The evaluation was performed on the lower extremities and the results are as follows:

Posture

Ms. Haines' posture and the lower limbs were observed and found to appear as follows:

Back:	Normal Posture
Hip:	Normal Posture
Knee:	Normal Appearance
Ankle:	Normal Appearance

Tests

The active and passive ranges of motion and muscle power are presented below in the various lower extremity joints tested:

Hip Movement	Active Range		Passive Range		Muscle Power	
	Right	Left	Right	Left	Right	Left
Flexion	120°	110°	126°	120°	4/5	4/5
Extension	35°	37°	37°	40°	5/5	4/5
Abduction	65°	34°	67°	42°	4/5	4/5
Adduction	28°	35°	30°	37°	4/5	4/5
Medial Rotation	40°	38°	47°	46°	5/5	5/5
Lateral Rotation	23°	30°	34°	38°	5/5	5/5

Knee Movement	Active Range		Passive Range		Muscle Power	
	Right	Left	Right	Left	Right	Left
Flexion	125°	125°	138°	135°	5/5	5/5
Extension	0°	0°	0°	0°	5/5	5/5

Ankle Movement	Active Range		Passive Range		Muscle Power	
	Right	Left	Right	Left	Right	Left
Dorsi-Flexion	20°	20°	20°	20°	5/5	5/5
Plantar-Flexion	50°	50°	50°	50°	5/5	5/5
Inversion	35°	35°	35°	35°	5/5	5/5
Eversion	15°	15°	15°	15°	5/5	5/5

Gait

Ms. Haines' gait was observed. A limp was not observed. The gait was consistent and found to be normal.

Post-Evaluation Pain Level

Ms. Haines reported a post-test pain level of 2/10.

Assessment

ROM, MMT and sensation within normal limits on this testing day. Cogwheeling noted with MMT of knee and hip.

MUSCULOSKELETAL EVALUATION – CERVICAL SPINE

A musculoskeletal evaluation was performed on Ms. Haines prior to any functional testing. The client's pre-test pain level was 2/10. The evaluation was performed on cervical spine and the results are as follows:

Posture

Ms. Haines' posture was observed:

Cervical Lordosis: Normal
Thoracic Kyphosis: Normal
Scoliosis: Normal
Scapulae: Normal

Active Range of Motion

Movement	Range	Pain	Deviation
Flexion	30°	1/10	None
Extension	25°	2/10	None
Side Flexion Right	28°	3/10	Right
Side Flexion Left	34°	1/10	None
Rotation Right	26°	3/10	None
Rotation Left	30°	1/10	None
Upper Cervical Flexion	0°	/10	None
Upper Cervical Extension	0°	/10	None

Resisted Movement

Movement	Strength	Pain	Comments
Flexion	4/5	3/10	
Extension	3/5	3/10	
Side Flexion Right	5/5	3/10	I'm getting a popping and crunching noise in the base of my neck and shoulders bilaterally
Side Flexion Left	5/5	3/10	Same as above
Rotation Right	3/5	2/10	
Rotation Left	5/5	1/10	

Special Tests

Test	Result		Comments
	Right	Left	
Wrist Flexion Test	Negative	Negative	This suggests that abnormal illness behavior is not present.
Finger Movement Test	Negative	Negative	
Olecranon Shift	Positive	Negative	This suggests that Olecranon Shift is present.

Post-Evaluation Pain Level

Ms. Haines reported a post-test pain level of 2/10.

Assessment

Decreased cervical ROM and MMT, decreased sensation noted along right side of neck to clavical in the area of the C3-C4 dermatome; all other within normal limits on this testing day. Pt noted to be guarded in the positioning of her neck throughout testing.

MUSCULOSKELETAL EVALUATION – LUMBAR SPINE

A musculoskeletal evaluation was performed on Ms. Haines prior to any functional testing. The client's pre-test pain level was 2/10. The evaluation was performed on the lumbar spine and the results are as follows:

Posture

Ms. Haines' posture was observed:

Lumbar Lordosis: Normal
Thoracic Kyphosis: Normal
Scoliosis: None
Weight Bearing: Equal

The client's body alignment was observed to be as follows:

Iliac Crests: Yes
Posterior Superior Iliac Spines: Yes

Gait

Ms. Haines' gait was observed. A limp was not observed. The gait was consistent and guarding was not observed.

Active Range of Motion

Movement	Range	Pain	Deviation	Comments
Flexion	58°	3/10	None	
Extension	25°	2/10	None	
Side Flexion Right	25°	3/10	None	I feel popping and snapping in my neck
Side Flexion Left	25°	3/10	None	I feel popping and snapping in my neck.
Rotation Right	62°	0/10	None	No pain reported with this range of motion
Rotation Left	59°	0/10	None	No pain reported with this range of motion

Resisted Movement

Movement	Strength	Pain	Comments
Flexion	5/5	2/10	
Extension	5/5	2/10	
Side Flexion Right	5/5	2/10	Pt. requested break from activity
Side Flexion Left	5/5	2/10	
Rotation Right	5/5	2/10	
Rotation Left	5/5	2/10	

Post-Evaluation Pain Level

Ms. Haines reported a post-test pain level of 2/10.

Assessment

Decreased cervical ROM; MMT and sensation within normal limits on this testing day.

TIMER ANALYSIS

During the functional capacity evaluation, Ms. Haines' total sitting, standing, walking, and other position and combinations of positions time was recorded. Her results from this continuous observation and recording are presented as follows:

	Total Time (Hrs. and Min.)	Longest Duration
Sitting	02:42	01:13
Standing	02:15	01:24
Total Time for Evaluation	04:57	
Preferred Position On Breaks	Sitting, Standing	

PHYSICAL EFFORT FINDINGS

Physical Effort testing is used to evaluate whether or not attained physical data truly represents a client's physical maximums. If a client does not partake in her testing day with full physical effort, an evaluator cannot be certain that observed performances truly represent maximal abilities.

Maximum Voluntary Effort (MVE) Testing

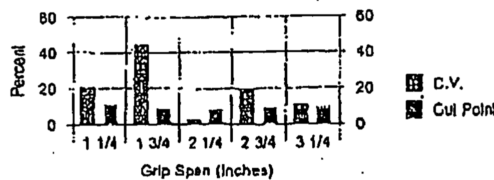
Jamar Five-Position Grip

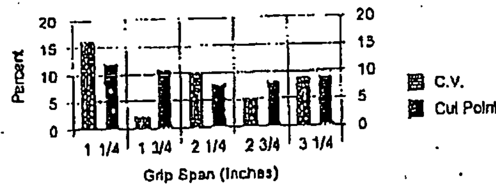
Ms. Haines underwent a formal screening procedure to query maximum voluntary effort during testing. This test uses the Jamar Hand Dynamometer (serial number 30706380) to measure isometric force generated by the hand. The Jamar is used to present ten maximum gripping measurements, each repeated three times. Studies indicate that out of 10 coefficients of variation calculated, no more than two will exceed experimentally derived "cut-points" if the individual is demonstrating maximum voluntary effort.

The results (in pounds) of Ms. Haines' Jamar testing are presented below:

Grip Span	Test 1		Test 2		Test 3		Comments
	Dom	Non	Dom	Non	Dom	Non	
1 1/4"	12	42	15	35	20	28	
1 3/4"	15	75	15	76	36	72	
2 1/4"	28	80	30	65	30	65	frequent grip and release during trials
2 3/4"	21	60	20	68	30	65	
3 1/4"	20	62	20	55	25	50	

Grip Span	Coefficient of Variation		Exceed Cut Point?	
	Dom	Non	Dom	Non
1 1/4"	21.06	16.33	Yes	Yes
1 3/4"	45	2.29	Yes	No
2 1/4"	3.21	10.1	No	Yes
2 3/4"	19	5.13	Yes	No
3 1/4"	10.88	8.84	Yes	No

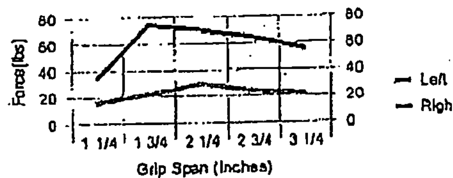




Analysis of the client's scores demonstrates 6 coefficients of variation above the permissible cut-points. As a total of two scores are allowed above the cut-point, this is suggestive of less than full effort during testing.

Grip Curve Analysis

A second method of screening for the presence of maximal voluntary effort relates to the analysis of score distribution. If an evaluee is providing maximum effort on the Jamar, a bell curve pattern of score distribution is expected.



Such a bell curve pattern was observed in Ms. Haines' case for her right hand and was present for her left hand, suggestive of maximum voluntary effort on the right and of maximum voluntary effort on the left. Jamar serial number 30706380 was used for this portion of the test.

A second method of using bell curve analysis to gauge a client's level of physical effort relates to analysis of standard deviation. Clinical studies indicate that if a person is partaking in testing with full physical effort, a specific pattern of score distribution is expected.

Right Upper Extremity: Ms. Haines' right hand grip scores, produced a flat line variance (S.D. = 4.37). Clinical studies suggest this standard deviation to be indicative of low effort.

Left Upper Extremity: Ms. Haines' left hand grip scores, produced a well distributed bell curve (S.D. = 13.91). Clinical studies suggest this standard deviation to be indicative of good effort.

Jamar Rapid Exchange Grip Test (REG)

The Rapid Exchange Grip test (REG) was used to further validate original maximum voluntary effort (static) test results. Studies indicate that if an evalulee is providing high effort, REG peaks usually fall short of maximum voluntary effort peaks, typically by about 15%. Based upon a 1995 study by Harold Stokes, a 12 pounds forgiveness window was provided. Research dictates that if a person is providing high effort, her REG scores will not exceed her MVE (static) scores by more than 12 pounds.

Ms. Haines' results (in pounds) are presented below:

	MVE Peak	REG Peak	MVE vs REG Difference	
			Pounds	Percent
Dominant	30	74	+44	+147
Non-Dominant	80	82	+2	+3

Results of the REG testing identified low effort for Ms. Haines' dominant hand and high effort for Ms. Haines' non-dominant hand.

During the REG test, the client was noted to demonstrate no signs of physical discomfort.

Ms. Haines was observed to demonstrate no signs of competitive test performance.

Competitive Test Performance©

Matheson-trained functional capacity evaluators are trained to look for examples of competitive test performance (CTP) in persons who participate in tests which entail high levels of physical effort. Such examples may include (but are not exclusive to): starting tests prior to the uttered "START" command, continuing to work after the uttered "STOP" command, asking for extra practice time, asking to repeat a slow trial, postural accommodation to improve performance, etc.

In Ms. Haines' case, such examples were markedly few throughout her testing day.

Physiological Analysis – Heart Rate Monitoring

To further gauge Ms. Haines' overall level of physical effort, clinical heart rate analysis was used throughout her testing day. Matheson-trained functional capacity evaluators are trained to look for heart rate measures nearing or exceeding aerobic target levels in individuals providing high levels of effort on repetitive, large muscle group activity. Overall heart rate analysis suggests sub-maximal effort on Ms. Haines' behalf.

Clinical Consistency

Matheson-trained functional capacity evaluators are trained to look for high levels of clinical consistency in clients who partake in testing which entails full physical effort. Persons providing full physical effort should remain consistent in functional presentation despite multi-hour tests under distraction-based clinical testing situations.

During 4 hours and 57 minutes of constant distraction-based clinical testing, Ms. Haines' presented with sporadic, though far from abundant, physical inconsistencies.

Summary of Physical Effort Findings

Overall test findings, in combination with clinical observations, suggest the presence of variable levels of physical effort on Ms. Haines' behalf.

In describing sub-maximal effort, this evaluator is by no means implying intent. Rather, it is simply stated that Ms. Haines can do more physically at times than was demonstrated during this testing day. Any final vocational or rehabilitation decisions for Ms. Haines should be made with this in mind.

RELIABILITY OF PAIN AND DISABILITY REPORTS

Reliability of Pain and Disability Report testing is comprised of a battery of tests designed to better assess the dependability and accuracy of the client's subjective reports of pain and/or disability. The battery includes tests which evaluate the presence or absence of non-organic findings (findings that have more to do with illness behavior than underlying physical disease) as well as tests which compare a client's subjective reports to what she is actually capable of doing through the use of distraction based testing and observations of ability/disability.

Areas of testing, which fall under the Reliability of Pain and Disability Reports umbrella, include: symptom magnification, inappropriate illness behavior, somatic amplification, and non-organic signs.

Placebo Testing

Various placebo pain tests were conducted to further evaluate the reliability of Ms. Haines' subjective (verbal) reports. She did complain of inappropriate pain when the olecranon shift placebo test was performed.

Pain Scales

Various pain scales were implemented with Ms. Haines to evaluate both the consistency and reliability of her subjective (verbal) reports. Visual Analog Pain Scale ratings correlated well with Functional Pain Scale ratings. Subjective ratings of pain matched poorly with distraction-based clinical observations. Repetitive movement reports matched well with clinical observations.

Subjective Pain Levels

Ms. Haines states that she is experiencing pain in the areas indicated in the following table (these are based on the 0-10+ Functional Pain Rating Scale where 0 represents no pain and 10+ represents emergency pain warranting immediate emergency department care or hospitalization):

	Pre-Test Pain	Post-Test Pain
Neck	2/10	4/10
(R) Shoulder	2/10	4/10
(L) Shoulder	2/10	4/10

Ms. Haines reported the following additional pain rating data:

	Functional Pain Rating
Present Rating	2/10
Best Rating Over Past 30 Days	2/10

Worst Rating Over Past 30 Days	3/10

The Visual Analog Pain Scale (Huskisson, 1974) was also used to evaluate the client's pain before and after the evaluation. The client's score at the beginning of the evaluation was 2.2 and the score at the end of the evaluation was 5.3. This indicates a difference of 3.1 points. These scores and their trend should be compared with the functional pain ratings recorded at the same time.

Pain Assessment/Questionnaires

Ms. Haines completed a number of standard assessment questionnaires to assess the presence and impact of Chronic Pain Syndrome. These questionnaires have been published in peer-reviewed journals and are widely used in the industrial rehabilitation field.

Questionnaire/Assessment	Score	Interpretation
Ransford Pain Drawing	1 Pts	Normal
McGill Pain Questionnaire	38 Pts	Poor psychodynamics
The Visual Analog Scale (Today)	2.2 cm	
The Pain Rating Scale	2/10	
Neck Disability Index	58 %	Severe disability
Dallas Pain Questionnaire Factor I	72 %	A combined medical and behavioral approach is recommended
Dallas Pain Questionnaire Factor II	80 %	
Dallas Pain Questionnaire Factor III	65 %	
Dallas Pain Questionnaire Factor IV	75 %	
Modified Somatic Perception Questionnaire	13 Pts	

Comments

During the intake interview process, the client was noted to show no signs of physical discomfort.

PACT Spinal Function Sort

The PACT Spinal Function Sort is used to quantify an individual's perception of her ability to perform work tasks. The responses on this instrument can be used to test the reliability/accuracy of a client's subjective reports of ability and limitation.

Ms. Haines' ratings on the Spinal Function Sort were as follows:

Rating of Perceived Capacity (RPC)	93
Perceived DOL Rating	Less Than Sedentary
Norm vs. Healthy Employed	Below the 5th percentile, rated inferior.
Norm vs. Injured Unemployed	At the 45th percentile, rated average.

Results of reliability check testing indicated a reliable profile. The client perceives herself as meeting the physical requirements for less than sedentary strength work, according to Department of Labor standards.

Subsequent clinical testing indicated that Ms. Haines' subjective reports matched poorly with distraction-based objective findings.

The client was noted to show the following sign of physical discomfort during the administration of the Spinal Function Sort: shifting within chair.

The Spinal Function Sort was terminated as it was successfully completed.

Summary of Reliability of Pain and Disability Reports

Overall test findings, in combination with clinical observations, suggest considerable question be drawn as to the reliability/accuracy of Ms. Haines' subjective reports of pain/limitation. While her subjective reports should certainly not be ignored, they should be considered within the context of her RPDR findings. Significantly more weight should be placed upon objective findings versus subjective reports.

In describing such findings, this evaluator is by no means implying intent. Rather, it is simply stated that Ms. Haines can do more at times than she currently states or perceives. While her subjective reports should not be disregarded, they should be considered within the context of such RPDR findings.

Summary of Findings

Ms. Haines demonstrates today that she meets the medium physical demand levels for lifting, carrying, pushing/pulling (the job description provided by Dollar Tree describes a "Assistant Manager" as being a Heavy physical demand level job; lifting up to 100 pounds on an occasional basis). The Medium physical demand level is defined as 20 to 50 pounds on an occasional basis (up to 1/3 of the day), 10 to 25 pounds on a frequent basis (1/3 to 2/3 of the day), and 10 pounds on a constant basis (greater than 2./3 of the day). The Heavy physical demand level is defined as 50 to 100 pounds on an occasional basis, 25-50 pounds on a frequent basis and 10-20 pounds on a constant basis.

Given Ms. Haines demonstrated performance today, she would not be able to return to work in a full time capacity as a "Assistant Manager" at this time based on what would be required of her to perform that position. It should be noted that repetitive movement testing was administered before and after the evaluation and in 3/3 instances Ms. Haines performed the activities faster after the evaluation than she did before the bulk of the testing, with similar reports of pain. This is indicative of good tolerance to full day activities with good efficiency from a functional performance standpoint. It should be noted that Ms. Haines reports of pain and limitation on the McGill, Neck Disability Index, Dallas, Spinal Function Sort and Olecranon Shift placebo test draw considerable question as to the reliability of her reports. It should also be noted that during physical testing Ms. Haines tested to give less than full effort on the MSE and JAMAR and sub-maximal effort on the Isoinertial Materials Handling portions of the test.

Ms. Haines demonstrated ability to perform other job requirements is as follows: sitting (Frequent), standing/walking (frequent), stairs/ladders (Occasional), balancing (Occasional), bending/stooping (Occasional), crouching/squatting (Occasional), crawling (Occasional), twisting (Frequent), above shoulder work (Occasional), low-level work (Occasional), prolonged neck positioning (Occasional), fine motor dexterity (Frequent), light/firm grasping (Occasional), pinching (Frequent), reaching forward (Frequent), writing (Occasional), eye-hand coordination (Frequent), and vision/hearing acuity (Frequent).

--- End Of Functional Capacity Evaluation Report for Ms. Katherine Haines ---

Moore Orthopaedics
104 Saluda Pointe Drive
Lexington, South Carolina 29072
(803) 227-8000 Phone / (803) 227-8015 Fax

March 4, 2009 | Katherine Hines 245007 | Lexington Office

HISTORY: The patient is a 47-year-old female who is new to our clinic for a workmen's compensation claim. She injured her neck and upper back February 12th. She works at the Dollar Tree where she is a freight manager and she does a great deal of lifting on her job. She was pulling out a 4' metal bin that weighed about 25 to 30 pounds and it fell onto her. Later that day she felt a pop in her neck and she states that she "saw stars". She had severe pain. She was treated initially by a workmen's compensation provider. They gave her Flexeril and Indocin as well as Valium for muscle spasms at night. She has not been to physical therapy.

PAST MEDICAL HISTORY: Past medical history, surgical history, family history, social history, medications, allergies and comprehensive review of systems are noted in the medical history intake form. Please see scanned document dated today.

EXAMINATION: On physical exam, she is a pleasant white female who is non-toxic appearing. She is noted to be overweight. On evaluation of the neck, she is noted to have significant pain with range of motion especially with chin-to-the-chest. There is significant guarding there. When she extends her head it is also painful. She has limited to chin-to-right-shoulder and ear-to-right shoulder as compared to the left shoulder. She describes the pain in the right posterior neck and the right trapezius region with these activities. She has pain down the midline spine in the C4 through C6 region. She has right paraspinal muscle pain and right trapezius muscle pain. She has normal sensation down the arms although when I did a Tinel's test she had no symptoms. On Phalen's test she had severe shooting pain that shot all the way up to her scapula per her report. She had brisk capillary refill. 2+ radial pulses bilaterally on each side. Normal range of motion of the elbow and the shoulders. There is some guarding with range of motion on the right side.

RADIOGRAPHS: X-ray studies, four views of the cervical spine, show degenerative disc disease at C4-C5 and C5-C6 with right sided neuroforaminal impingement due to osteoarthritis, spurring and degenerative disc disease combination.

ASSESSMENT: 1. CERVICALGIA

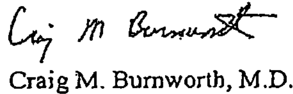
PLAN: The patient will be sent to physical therapy three times a week for four weeks. We will see how she responds with completion of therapy. She was given Ultram 50 mg. tablets one to two every six hours while off duty for breakthrough pain. She was given a light duty profile for no overhead work or lifting greater than 10 pounds. We will see how she does over the next four to six weeks once we get the PT approval and it is completed, I will see her back. She understands the plan of care. It is important to note on a side note that she has significant Phalen's test in the right hand that is suggestive of carpal tunnel syndrome and

Continued

Moore Orthopaedics
104 Saluda Pointe Drive
Lexington, South Carolina 29072
(803) 227-8000 Phone / (803) 227-8015 Fax

March 4, 2009 **Katherine Hines 245007** **Lexington Office**
Continued

PLAN: (continued) her response to that test was very significant. She may in fact have some carpal tunnel syndrome that would be best tested with a nerve conduction study of the right wrist. She understands this and she will discuss it with her workmen's compensation carrier or come back on her own insurance for evaluation for that.



Craig M. Burnworth, M.D.

CB:ats28
DD: 03/04/09 DT: 03/05/09

Moore Orthopaedics
104 Saluda Pointe Drive
Lexington, South Carolina 29072
(803) 227-8000 Phone / (803) 227-8015 Fax

April 16, 2009 | Katherine Haines 245007 | Lexington Office

HISTORY: The patient is a 47-year-old female here for evaluation of neck pain and thoracic back pain. She was hit by a number of heavy bins in her back on February 12, 2009. She has just nearly completed physical therapy and she has had no significant improvement in her neck pain per her report. She still has significant decreasing range of motion and severe pain. She has been taking Advil during the day and Ultram at night. She has been working light duty at Dollar Tree as a stocker. She has no other complaints today that are new, except for a severe pain between her shoulder blades.

PAST MEDICAL HISTORY: Past medical history, surgical history, family history, social history, medications, allergies and comprehensive review of systems are unchanges from her precvious medical history intake form.

PHYSICAL EXAMINATION: She is a well developed, well nourished, white female who is overweight. Evaluation of her back shows she has pain in her midline thoracic spine and bilateral rhomboid and trapezius muscles. She has very limited range of motion of her neck with neck stiffness and she does not want to rotate her head from left to right. She tracks me more with her eyes and appears very stiff and uncomfortable. She has paraspinal muscle pain of her neck.

RADIOGRAPHS: X-ray studies, two views of her thoracic spine, show no boney abnormalities.

ASSESSMENT:

1. CERVICALGIA
2. THORACIC BACK PAIN

PLAN: We will get an MRI of her cervical spine, see if there are any abnormalities and refer her to pain management to consider treatments if positive. The patient's thoracic back pain, I think, is related to spasm. I recommended Flexeril 10 mg every eight hours as needed for muscle spasm while off duty. She was given Mobic 15 mg daily to try for pain during the day and Ultram for at night. We will see her back after the MRI once it is approved and completed. The patient also complained of carpal tunnel type symptoms and I discussed with her to mention that to her case manager. I will see her as needed with that. The patient understands the plan of care.

Craig M. Burnworth, M.D.

CB:ats33
DD: 04/16/09, DT: 04/17/09

Moore Orthopaedics
104 Saluda Pointe Drive
Lexington, South Carolina 29072
(803) 227-8000 Phone / (803) 227-8015 Fax

May 19, 2009 Katherine Haines 245007 Lexington Office

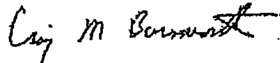
HISTORY: The patient is a 47-year-old female here for follow-up and evaluation of neck pain with decreased ROM and severe pain. She also describes some tingling down her arms. She states that she is still frustrated she is not able to move her neck very well. No other new complaints today.

PHYSICAL EXAMINATION: On physical exam, overweight, white female, nontoxic appearing. She has a very limited ROM with her neck. Significant pain in the posterior neck. She still feels some tingling on her forearms and in her hands.

RADIOGRAPHS: On review of her MRI images she has severe canal stenosis at C4-C5 as well as C5-C6 with bilateral neuroforaminal impingement.

ASSESSMENT:
1. CERVICALGIA
2. CERVICAL STENOSIS
3. RADICULOPATHY

PLAN: I recommended consult to pain management to consider lumbar epidural steroid injection and take over care to try to improve her symptoms. If they cannot get her improvement then she would like for me to refer her to orthopaedic spine or neurosurgery for further treatment with this severe canal stenosis. There is nothing further I have to offer her at this point now that we have this diagnosis. She has failed conservative management and I recommend transfer of her care. The patient understands the plan of care.



Craig M. Burnworth, M.D.

CB: ats32
DD: 05/19/09, DT: 05/20/09

Moore Orthopaedics
104 Saluda Pointe Drive
Lexington, South Carolina 29072
(803) 227-8000 Phone / (803) 227-8015 Fax

June 10, 2009 Katherine Haines 245007 Lexington Office

HISTORY: The patient is a 47-year-old female, who had a new injury. It was Workmen's Compensation related. She was pulling a doorstop from underneath the door and as the door was shutting there was a heavy table that was propped up against the wall behind it and it fell and landed on her left side injuring her left shoulder, left elbow and left wrist. She is currently undergoing treatment for a neck injury and is seeing Dr. Nancy Lembo tomorrow for a nerve conduction study. She had previously had right wrist carpal tunnel symptoms but this is her left wrist that is now hurt from the table falling on her. This again occurred on June 3, 2008 while she was at the Dollar Tree.

PAST MEDICAL HISTORY: No changes to her past medical history, surgical history, family history, social history, medications, allergies or comprehensive review of systems.

EXAMINATION: On physical exam, the patient appears to be in significant pain in addition to her previous neck symptoms and limited range of motion of her neck. She has significant pain with palpation of her left wrist, the medial aspect of her left elbow and the left shoulder. She has limitation with forward flexion and abduction of the arm with weakness and significant pain. She is able to get the arm up but it is asymmetric and significantly weaker than her opposite side. She is unable to hold her arm in the position for empty can testing. She has good range of motion of the elbow but tenderness to palpation of the medial epicondyle and the left wrist. She has tenderness to palpation with range of motion and more on the radial side.

RADIOGRAPHS: X-ray studies, two views of the left wrist, three views of the left elbow and three views of the left shoulder, show no boney abnormalities, no arthritic changes. There is no glenohumeral joint arthritis or AC joint arthritis. There is a Type II acromion. Otherwise normal study of the hand and wrist. Accidentally x-ray studies of her right hand were obtained showing no abnormalities.

ASSESSMENT:
1. LEFT SHOULDER PAIN
2. LEFT ELBOW PAIN
3. LEFT WRIST PAIN

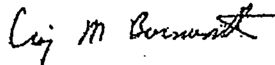
RECOMMENDATIONS: Patient was placed in a cock-up wrist splint for her left wrist pain likely due to a sprain. Her left shoulder pain is significant with limited range of motion and weakness suspicious for a rotator cuff tear. I recommended an MRI of the left shoulder. If it shows a tear, I would recommend referral to one of the shoulder specialists.

Continued

Moore Orthopaedics
104 Saluda Pointe Drive
Lexington, South Carolina 29072
(803) 227-8000 Phone / (803) 227-8015 Fax

June 10, 2009 **Katherine Haines 245007** **Lexington Office**
Continued

RECOMMENDATIONS: (continued) If it shows just significant bruising, I would recommend therapy to help get her range of motion back. For her elbow, I think just gentle range of motion and time will help the elbow get better. She will follow-up with Dr. Nancy Lembo tomorrow. She was placed on light duty profile with sedentary duties only. No lifting with the left arm.



Craig M. Burnworth, M.D.

CB:ats28
DD: 06/10/09 DT: 06/10/09

Moore Orthopaedics
104 Saluda Pointe Drive
Lexington, South Carolina 29072
(803) 227-8000 Phone / (803) 227-8015 Fax

June 25, 2009 **Katherine Haines 245007** **Lexington Office**

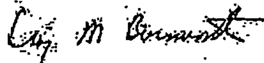
HISTORY: The patient is a 47-year-old female here for follow up of Workmen's Compensation injury. She has neck and shoulder pain. She had an MRI of her shoulder and she is here for follow up of that. She states her wrist is now doing better.

PHYSICAL EXAMINATION: She is a well developed, well nourished white female, nontoxic appearing, alert and oriented x3. She has neck stiffness and limited range of motion but improved from previous examination. She does seem to have more rotation of her neck today. She has good forward flexion and abduction. She does have some clonic type movements with forward flexion and abduction but both arms are symmetrical. She has good strength with forward flexion and abduction, internal or external rotation; again, she has some clonic like movements but they are symmetric on both sides.

RADIOGRAPHS: Review of MRI images show some mild tendinopathy that appears to be chronic but no signs of rotator cuff tear.

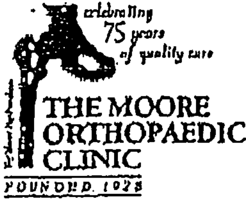
ASSESSMENT:
1. CERVICALGIA
2. LEFT SHOULDER PAIN

PLAN: Cervicalgia, we will sign off and Dr. Lembo is to take over management for that issue. Left shoulder pain is resolving. She feels that her symptoms are mainly coming from her neck. MRI shows no signs of tear. I recommend further management by Dr. Lembo for the neck issues. I feel that the shoulder injury has improved. It is likely just an acute contusion and symptoms have significantly improved with no signs of internal derangement on the x-ray studies, so no limitations in regard of the shoulder. Her main limitations are from the neck. I would give her 0% impairment of her shoulder since there is no obvious injury and discharge her in regards to the left shoulder. She is to follow up with Dr. Lembo regarding her neck pain.



Craig M. Burnworth, M.D.

CB:ats33
DD: 06/25/09, DT: 06/26/09



John P. Batson, M.D., FAAP
Youth Sports Medicine Specialist & Board Certified General Pediatrics & Sports Medicine
Kim J. Chillag, M.D.
Total Hip & Total Knee Replacement
William T. Felmly, M.D.
Spine Surgery
David D. Fulton, M.D.
Hand, Upper Extremity Surgery & General Orthopaedics

S. Wendell Holmes, Jr., M.D.
Sports Medicine, Arthroscopy & General Orthopaedics
William H. Kirkley, M.D.
General Orthopaedics
Mark D. Locke, M.D., FAAP
Pediatric Orthopaedics
Earl B. McFadden, Jr., M.D.
Hand & Upper Extremity Surgery

Frank K. Noojin, III, M.D.
Sports Medicine, Arthroscopy & General Orthopaedics
Bradley P. Presnal, M.D.
Total Joint Replacement, Arthroscopy & General Orthopaedics
W. Alarie Van Dam, M.D.
Musculoskeletal Medicine & Electromyography

REPORT OF MEDICAL EXAMINATION

KATHERINE HAINES
Employee's Name

[REDACTED]
Social Security Number

SPECIALTY RISK SERVICES
Employer/Carrier

09/15/2009
Date of Office Visit

WILLIAM T FELMLY MD
Physician/Provider

Signature of Physician

RETURN TO WORK STATUS:

Regular Duties ✓
Light Duties ____
Remain Out of Work ____

Date to Return: 9/15/08
Date to Return: ____
Duration: ____

PHYSICAL LIMITATIONS:

✓ None
____ No Walking or climbing
____ No standing
____ No prolonged standing
____ No sitting
____ No bending or stooping
____ No twisting or stretching
____ No change from previous status

____ Pushing and pulling limit ____ lbs.
____ Lifting and carrying limit ____ lbs.
____ Sedentary duties only
____ No kneeling, squatting, crawling
____ No work involving ____ arm/hand
____ No overhead work
____ No work at heights
____ Other: ____

FOLLOW UP:

____ Days
____ Weeks
✓ Discharged with permanent limitations above
____ Next Appointment: ____

____ Months
____ PRN

Copy of office note to follow.

14 Medical Park • Suite 200 • Columbia, South Carolina 29203 • (803) 227-8000
7033 St. Andrews Road • Suite 104 • Columbia, South Carolina 29212 • (803) 227-8003
4721A Sunset Blvd • Lexington, South Carolina 29072 • (803) 227-8007

Carolina Spine & Sport Rehabilitation Specialists, P.A.
Nancy R. Lembo, D.O.
110-A Spring Hall Drive
Goose Creek, SC 29445
(843) 797-1425

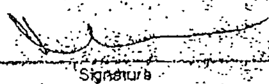
569-5421

Name: Katherine Haynes

Address _______________ Date 10/1/09

Dx C-Spondylosis, ? MFP

Tx FCE



Refill ___ times

☐ Do Not Substitute-Dispense As Written

Signature

... controlled substance is written per blank.

Moore Orthopaedics
14 Medical Park, Suite 200
Columbia, South Carolina 29203
(803) 227-8000 Phone / (803) 227-8015 Fax

September 15, 2009 Katherine Haines 245007 Richland Office

HISTORY: The patient is 47-years-old. The patient is here through Special Risk Services. Clinical difficulties include issues with her cervical and thoracic junction and right shoulder. She also complains of pain in her right buttock down to her knee. She describes her pain as 7/10 that is based upon the patient pain diagram. Issues of an injury at work on February 12, 2009. Difficulties with exercise and sitting. She has had MRI(s) and diagnostic x-rays. The MRI was done in May. Went to pain management. Oswestry scale pain is 7/10 on visual analog scale. The patient was seen previously by Dr. Burnworth on a couple of occasions for neck and shoulder pain. She has an MRI from May that suggest central stenosis at C4-5. There is one single note from Dr. Lembo about a clinical evaluation, otherwise there are just prescriptions and therapy notes. I am not particularly sure what treatment she actually got at Dr. Lembo's. She lists 08/25/2009 on this note. Some issues about work hardening, further injections and shots. I do not have the MRI available. It looks like there have been several episodes where she had things hit her in the upper back and neck. In April, Dr. Burnworth saw her for an episode where she was hit by a number of heavy bins in the back and then subsequent to that, she was seen for clinical evaluation. Again, a new injury in June when she had some kind of heavy table landed on her left side injuring her left shoulder. So, she has multiple Workmen's Compensation injuries. She has had some chronic difficulties with her back. Looking at her chart, it looks like both Dr. Lembo and Dr. Burnworth have been treating her. Her particular complaints today have to do mostly with her upper back. She has a TENS Unit on which she runs constantly throughout the day. I am not particularly sure who recommended that, as most TENS Units do work better intermittently. I reviewed that with her. She says she has pain in her neck that goes all the way down her back into her hip and legs and into her upper back and lower back and lumbar spine. She does not really complain about leg symptoms. She states that she has episodes like this two to three times a week, but when it does occur, episodes last five to eight hours. She does not have episodes every day, in fact she has more days without pain that she has with pain. I really could not figure out from her history and she does not remember what days. She always wears her TENS on other days. She works four hours a day at her job. She has some restrictions and I do not have that list. She does have an MRI from May 8th that shows some degenerative changes that are chronic at L4-5 and L5-S1. There appears to be no new changes there. Nothing that represents new soft tissue disc pathology. She has some mild foraminal stenosis at C5-6 and she has some moderate on the right at C4-5, but her cord looks okay. Her actual reports suggest severe central stenosis at C4-5, but I do not see any cord effacement or cord changes. There is still epidural space around the cord at all levels, so she has an MRI that shows some DJD, but nothing looks like it is an acute injury at all. Again, she says two episodes of injury at work, one in February and another one in June. The one in June was some type of table fell on her and the one in February some type of bins fell on her that had metal racks or something in them. So, she has pain in her upper back that goes down to her lower back.

Continued

Moore Orthopaedics
14 Medical Park, Suite 200
Columbia, South Carolina 29203
(803) 227-8000 Phone / (803) 227-8015 Fax

September 15, 2009 Continued | Katherine Haines 245007 | Richland Office

<u>MEDICAL ILLNESS</u>: Heart disease, liver, COPD, high blood pressure, diabetes, heart disease.

<u>SURGICAL HISTORY</u>: Tonsillectomy.

<u>REVIEW OF SYSTEMS</u>: Medications: Lortab, Zanaflex, Coreg.

<u>SOCIAL HISTORY</u>: Smokes one pack per day. Works as an assistant manager as a freight manager. Does smoke, does not drink. She is single.

<u>PHYSICAL EXAMINATION</u>: She is 6 feet tall and 260+ pounds. Upper extremity motor strength is 5/5. She has some rigid motion when you check a few muscles, such as the triceps and biceps. Her grip seems to be weak, but with encouragement, it improves to 5/5. Her lower extremity motor strength is 5/5. Upper extremity reflexes biceps 1/4, brachialis and triceps 0/4. Patella 2/4, Achilles 1/4. She can heel raise and toe raise without difficulty. Clonus absent. Straight leg raise unremarkable. She holds her neck in kind of an odd fashion, but she has pretty good normal range of motion of her neck, which we asked to examine that. She has 60 degrees of flexion and 50 degrees extension. Left and right rotation about 70 degrees to the right and 50 degrees to the left. She has some decreased left lateral flexion. I am not particularly sure why she is having that side issues because she actually got hit in the upper back on the opposite side. Sensory exam seems good. Patrick and Yeoman's test seems good. Lumbar spine flexes 70, extends to 20. When she does that she has fairly range of motion cervical spine. Looking up her back, there is no contusion, erythema, or any evidence of eczema, zoster and/or psoriasis. She has a TENS Unit pad on the upper back. The skin in that area looks unremarkable.

Her gait seems good. She goes from sitting to supine, supine to sitting and she maneuvers around as though she has no clinical evidence here of any obvious issues as far as mechanics of her back and neck. In fact, when she moves from sitting to standing, standing to sitting, sitting to supine her neck moves in normal range of motion. It is only that she adapts this kind of rigid fixed posture when she is being looked at directly from the front.

<u>RADIOGRAPHS</u>: We did get some plain x-rays of her cervical spine. Again, she has DJD at L4-5 and L5-S1, but no gross instability that I can see. The thoracic spine is unremarkable and compared to old film that were done a couple of months ago, there are no new changes and no tumor, infection, cancer and/or evidence of boney changes.

Continued

Moore Orthopaedics
14 Medical Park, Suite 200
Columbia, South Carolina 29203
(803) 227-8000 Phone / (803) 227-8015 Fax

September 15, 2009 Katherine Haines 245007 Richland Office
Continued

RECOMMENDATIONS: Clinical diagnosis is upper back pain, subjective in nature. Clinical examination benign. Normal neurologic, sensory and motor examination. MRI shows DJD at C4-5 and C5-6, which is chronic and not acute.

Clinically, Ms. Haines clearly has a diffuse pain syndrome that encompasses her upper back and lower back. Her clinical examination though is benign and I did not see any obvious neurologic changes and no sensory changes. I do not see any evidence on the MRI that her cord is in trouble and I certainly do not see anything new on the MRI and plain x-rays just the chronic changes we see on her MRI. Her thoracic spine is unremarkable.

I do not have an explanation for her crescendo pain and discomfort and the period of time when she gets them, although she does relate those to activities. I do not see any clear evidence of any type of residual soft tissue compounded to a contusion nor do I see any major structural issues. At this point, I see very little objective clinical information here to support her chronic issues that have been ongoing since February. She currently is being treated by Dr. Lembo for chronic pain. Clearly, that is the only option for her. I do not think there is a surgical option for her. It looks like she has exhausted the majority of conservative measures. Her overall fitness level is not bad, though at 6 feet and 260 she is somewhat obese. I do not think that enters into the equation here. She had a contusion to her upper back. She has had extensive symptoms since that time. She has a fair amount of subjective clinical symptoms. Even light touch in the upper back seems to cause pain and discomfort, so there is some type of subjective myofascial response to stimuli, but I cannot explain based upon anatomic principals. I do not have anything to recommend surgically. I do not really have any options from my practice as to recommendations. If she gets relief from her chronic pain treatment with Dr. Lembo, that is fine. At this point, I have no idea what her work status can be. I certainly do not have any objective anatomic evidence to suggest she cannot do her normal activities and duties. My recommendation is the best thing to do is return to her normal activities and duties without limitations. As with always with individuals who get some type of contusion to the upper back and have residual symptoms, it is difficult to describe impairment because this lady's clinical examination looks benign other than subjective response to stimuli, which is out of proportion to what you should see. Her x-rays and MRI and various other studies do not explain her clinical symptoms.

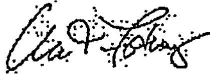
I do not see any reason why she cannot do her normal activities and duties. If Dr. Lembo feels that she needs to be on restrictions from her clinical assessment, that is fine and I will leave that up to her. As far as her overall need for surgical intervention, I think it is zero. As far as her overall need for further clinical orthopedic evaluation and treatment again, I see no indication that treatment in my practice would change the natural history of her subjective clinical

Moore Orthopaedics
14 Medical Park, Suite 200
Columbia, South Carolina 29203
(803) 227-8000 Phone / (803) 227-8015 Fax

complaints. She is discharged at this point with no particular follow-up visit. There are no issues at this point that need to be readdressed in my practice.

RECOMMENDATIONS: Continued

She was seen for upper back symptoms with no clinical evidence to suggest the need for surgery and no objective clinical evidence to suggest trauma other than her subjective clinical complaints status post impact of an object on her upper back. Again, I want to underscore that what we are seeing on this MRI the cervical spine has very little evidence of acute changes and is probably chronic and is not an anatomic reason for her subjective complaints.



William T. Felmly, M.D.

WTF: ats35
DD: 09/15/2009, DT: 09/16/2009

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

Physician's Statement

Claimant's Name: Katherine Haynes
Physician's Name: William T. Feltwly
Practice/Clinic: Moore Orthopaedic Clinic
Preparer's Name: Wendy Thompson
Phone: (803) 227 - 8121

Employer's Name: Dollar Tree Store
Insurance Carrier: Specialty Risk
SCWCC File No: YYC67810C

The undersigned physician has been authorized by the Employer/Carrier to treat this Claimant for his or her injury by accident pursuant to§§42-15-60, 42-1-172 or 42-11-10.

Date of Injury or Illness: 2-12-09

Date of first office visit: 9-15-09 Date of last visit: 9-15-09

Diagnosis or nature of injury or illness: Cervicalgia 723.1 Thoracic pain 724.1

Body part(s) injured: upper back + neck Body part(s) affected: upper back + neck

Date of Maximum Medical Improvement: 9-15-09

Based on the AMA Guidelines, the claimant has sustained a 0 % medical impairment to Cervical + Thoracic injured body part(s) and a / % medical impairment to / other affected body part(s).

✓ The claimant is able to return to work without restriction.

____ The claimant is able to return to work with the following restrictions:

____ The claimant is unable to return to work at his or her current employment.

As of the date I last saw this patient, it is my professional medical opinion the claimant:

✓ will not need future medical care related to his or her work related injury or illness based on a reasonable degree of medical certainty (more likely than not).

____ will need future medical care and treatment related to his or her work related injury or illness based on a reasonable degree of medical certainty (more likely than not) and that medical care and treatment including medication is as follows:

Treating Physician [signature] Date 9-29-09

Cervical Spine Evaluation

Name: Haines, Katherine ID: 245007 Date: 3/17/2009

Diagnoses: ______ MD: ______

Age: 47 Years DOB: [redacted] DOI: ______ DOS: not applicable

Insurance: SPECIALTY RISK SERVICES

Pt Presents: ______

PMH: CHF, COPD, hept C

Allergies: ______

Pain: (0-10): ______

Medications: see Moore clinic medical history section of chart,

Symptoms increase: ______

Symptoms decrease: ______

Pt: goals: ______

A/PROM

Cervical Flexion: 14

Cervical Extension: 20

Lateral Flexion: right: 20 left: 26

Rotation: right: 30 left: 43

UE: ______

Scapula: ______

Strength:	Left	Right
Shoulder Flexion:	____	____
Shoulder Elevation:	____	____
Grip Strength:	____	____

	Left	Right
Elbow Flexion:	____	____
Elbow Extension:	____	____
	____	____

Sensation: light touch present in bilateral UE.

Reflexes: not tested.

Palpation: ______

Posture: ______

Special Test: ______

Assessment (please refer to goal sheet or POC: Problem list: pain, decrease ROM, decrease strength, decrease function.

Plan: Pt to attend Physical Therapy ______ times per week for ______ weeks for treatment to include

______ ROM/stretching, strengthening, manual therapy procedures, modalities(ES, US, phono, ionto, heat, ice) as indicated, and patient education in a home exercise/home care program.

______

Jason Vega PT
Therapist Signature

The Sports Rehab Center
at
The Moore Orthopaedic Clinic

Daily Note

Name: Haines, Katherine
ID #: 245007

Time: 7:59—8:31
# of visits: 2

☐ See Progress Notes

☒ Charges:
THer exer x 2

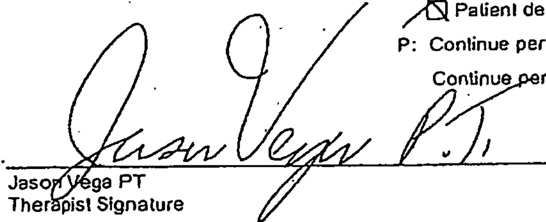
S: c/o neck pain of 5. it hurts right in the middle of my neck.

O:
☒ Ther Ex per flow sheet and all modalities
Today's treatment: strengthening and ROM for the cervical region.
patient is very stiff with posture, rotating at the thoracici level and not at the cervical level.

A: cooperative, worked hard with ther exer
Really guarding cervical motion.

☒ Tolerated treatment well
☒ Patient demonstrated understanding of HEP

P: Continue per POC: continue HEP & skilled PT in clinic
Continue per MD Orders



Jason Vega PT
Therapist Signature

Date: 3/19/2009

The Sports Rehab Center
at
The Moore Orthopaedic Clinic

Daily Note

Name: Haines, Katherine
ID #: 245007

Time: 3:30 - 4:20
# of visits: 3

☐ See Progress Notes

☒ Charges:
Ther ex 3

S: (R) side of my neck into my shoulder blade hurts today. 7/10 pain today.

O:
☒ Ther Ex per flow sheet and all modalities
Pt very stiff c̄ rotating to (R) today. Added chin tucks c̄ rotation to (R) and gentle contract relax rot. to (R) c̄ 5sec holds x 5. MHP applied while performing supine ex's. Thoracic stretch c̄ roll added as well.

A: Gained more ROM c̄ Rot. to (R) p̄ performing gentle chin tucks c̄ Rot. (R)

☒ Tolerated treatment well
☒ Patient demonstrated understanding of HEP

P: Continue per POC: Cont. c̄ gentle progressions.
Continue per MD Orders

Mary L. Perry LPTA
Therapist Signature

Date: 3/23/2009

The Sports Rehab Center
at
The Moore Orthopaedic Clinic

Daily Note

Name: Haines, Katherine
ID #: 245007
Time: 3²⁰ - 4²⁰
# of visits:

☐ See Progress Notes

☑ Charges:
272
US

S:

O:
☑ Ther Ex per flow sheet and all modalities

Cervical Rot (R) 10'

A: 10% ↓ pain c̄ Rx

☑ Tolerated treatment well
☑ Patient demonstrated understanding of HEP

P: Continue per POC:
Continue per MD Orders

Lori Johnson PTA
Therapist Signature

Date: 3/25/2009

The Sports Rehab Center
at
The Moore Orthopaedic Clinic

Daily Note

Name: Haines, Katherine

ID #: 245007

Time: 3:30-4:30

# of visits:

☐ See Progress Notes

☑ Charges:
TE
MASS
US

S: ↑ pain b/n sh. blades c̄ burning, running a register @ wb
neck also c̄ lot of pain
think US helps

O:

☑ Ther Ex per flow sheet and all modalities
↓ Resistance c̄ ROWS for correct technique
+ cervical isometrics
instr in ADL's positioning c̄ pillows/towels for neutral cervical spine & - Recommend CP to neck
prone on massage face pillow - TTP T7-T9, T4, T1
C4→C6 - transverse (L)→(R) T4, C5 C6 UPA (L) grade I
massage to same F/B US to (R) lev. & upper trap. (R) cervic ROT 20° (L) 45° Flex 10°

A: Pt very tender c̄ guarding
↑ Rot but c̄ compensation (ext c̄ ROT) ↑ 15°

☑ Tolerated treatment well

☑ Patient demonstrated understanding of HEP

P: Continue per POC:

Continue per MD Orders

Tami Johnson, PTA

Therapist Signature

Date: 3/27/2009

The Sports Rehab Center
at
The Moore Orthopaedic Clinic

Daily Note

Name: Haines, Katherine
ID #: 245007

Time: 3:20- 4: 20
# of visits: 5

☐ See Progress Notes

☒ Charges:
Therex X 4

S: I felt pretty good after the last session but woke up on Saturday with a really bad Muscle spasm. It felt like a charley horse, unsure if I slept wrong or not. 6/10 pain Currently.

O:
☒ Ther Ex per flow sheet and all modalities
Performed Grade I joint mobs PA, C7-T1- T4 region. Very TTP during massage. Tolerated head lifts laterally but had some burning with the exercise. US to Right upper trap region 50% duty cycle x 8 min in prone.
Purchased a CP today.

CP x 10 min to same regions.

A: Pt. is very guarded and did inc. Rotation to right. Pain seemed to dec. after treatment.

☒ Tolerated treatment well
☒ Patient demonstrated understanding of HEP

P: Continue per POC:
Continue per MD Orders

Mary L. Berry LPTA
Therapist Signature

Date: 3/30/2009

The Sports Rehab Center
at
The Moore Orthopaedic Clinic

Daily Note

Name: Haines, Katherine

ID #: 245007

Time: 9:30 -10:35

\# of visits: 7

☐ See Progress Notes

☒ Charges: TE 3.

S: Still no Δ c̄ sx's.

O:
☒ Ther Ex per flow sheet and all modalities
Cont. to turn whole thoracic c̄ cervical. ST, cervical ex's as tolerated. Added some hydocortisone c̄ US today. Still very TTP on Ⓡ UT/Levator region.

CP x 15 min

A: Cont. to use whole body c̄ turning head. Works hard in therapy and cooperative. No significant Δ c̄ ROM.

☒ Tolerated treatment well
☒ Patient demonstrated understanding of HEP

P: Continue per POC:
Continue per MD Orders

Mary L. Perry, LPTA

Therapist Signature

Date: 4/1/2009

The Sports Rehab Center
at
The Moore Orthopaedic Clinic

Daily Note

Name: Haines, Katherine

ID #: 245007

Time: 3:00 - 4:05

# of visits: 8

☐ See Progress Notes

☒ Charges:
Ther ex. 3

S: I had to work by myself until noon before I finally got some help. Lifting potting soil and 3 liter sodas. 7-8/10 pain, was higher @ work earlier.

O:

☒ Ther Ex per flow sheet and all modalities

Still very stiff and turning c̄ whole body to look around. Pt was not able to complete all ex's. US to Ⓡ UT/Levator and lateral C-spine - Applied biofreeze and CP.

A: Had some relief p̄ last visit ~ 2hrs. Still very tender and ↓'d ROM c̄ rotation. No significant Δ. Work does not seem to help c̄ pain.

☒ Tolerated treatment well

☒ Patient demonstrated understanding of HEP

P: Continue per POC: cont. c̄ modalities to control pain.

Continue per MD Orders

Mary L. Perry, LPTA

Therapist Signature

Date: 4/3/2009

The Sports Rehab Center
at
The Moore Orthopaedic Clinic

Daily Note

Name: Haines, Katherine
ID #: 245007

Time: 11:30-12:20
# of visits: 9

☐ See Progress Notes

☒ Charges:
Ther ex X 3

S: They are gradually easing me back into things @ work; like freight and still a lot of heavy lifting.

O:
☒ Ther Ex per flow sheet and all modalities
US x 8 min to Levator/UT region and border of cervical spine. Light strengthening Ex's d/t being in pain. Pt. is still not able to rotate C-spine @ all.

CP x 15 min

A: Pt. is very TTP to the lightest touch. Keeping weight to 10 lbs or less.
Pt. tries to perform all ex's that are comfortable. Works hard and cooperative in Therapy.

☒ Tolerated treatment well
☒ Patient demonstrated understanding of HEP

P: Continue per POC: cont. with ex's as tolerated.
Continue per MD Orders

Mary L. Berry, LPTA
Therapist Signature

Date: 4/6/2009

The Sports Rehab Center
at
The Moore Orthopaedic Clinic

Daily Note

Name: Haines, Katherine

ID #: 245007

Time: 10[10] / 11[10]

# of visits:

S: reports no Δ - still c̄ pain

O:

☑ Ther Ex per flow sheet and all modalities

progressed as tol
pain c̄ isometric (R) SB c̄ radiation into arm

US x 8' @ 20%, 1.4-? (R) UT/levator, cervical paraspinals

☐ See Progress Notes

☑ Charges:
3 TE
1 US

A: Spasms c̄ ↓ tol to US especially along UT & cervical paraspinals

☑ Tolerated treatment well

☐ Patient demonstrated understanding of HEP

P: Continue per POC: Recommend MRI / test Grip Strength next visit
Continue per MD Orders

Jami Johnson, PTA
Therapist Signature

Date: 4/8/2009

The Sports Rehab Center
at
The Moore Orthopaedic Clinic

Daily Note

Name: Haines, Katherine
ID #: 245007

Time: ______
# of visits: ______

☐ See Progress Notes

☒ Charges:
Ther exer x 3

S: c/o pain in upper back, neck, shoulder pain right of a constant 6. states feels That she is at 70% function right UE vs left.

O:

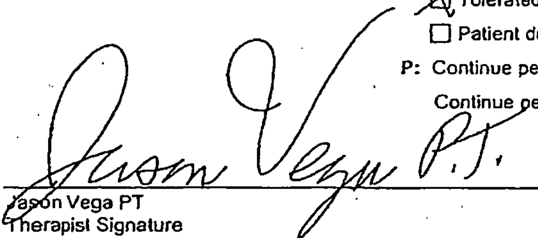
☒ Ther Ex per flow sheet and all modalities

Cervical flexion: 30
Extension: 15
Sidebend : right: 25 left: 40
Rotation: right: 26 left: 31
Grip: right: 54 Left: 82

A: cooperative,

☒ Tolerated treatment well
☐ Patient demonstrated understanding of HEP

P: Continue per POC: Send note to MD.
Continue per MD Orders



Jason Vega PT
Therapist Signature

Date: 4/14/2009

The Sports Rehab Center
at
The Moore Orthopaedic Clinic

Daily Note

Name: Haines, Katherine
ID #: 245007
Time: 3-4^00
# of visits:

S: Reports saw MD; ordering MRI - new job duties

O:
☑ Ther Ex per flow sheet and all modalities

Cervical SB (R) 25°
Rot (L) 26°

US x 8 min

☐ See Progress Notes

☑ Charges:
2TE
1 US

A: Still c̄ significant loss of ROM & pain

☑ Tolerated treatment well
☑ Patient demonstrated understanding of HEP

P: Continue per POC:
Continue per MD Orders

Dami Johnson, PTA
Therapist Signature

Date: 4/17/2009

Northeast MRI Center
720 Rabon Road
Columbia 29203
Phone: (803)462-0423

Name:	KATHERINE HAINES	Exam Date:	5/8/2009
Patient ID:	CN87009	Exam:	MRI C-SPINE W/O CONTRAST
DOB:	11/25/1961	Reason:	-
Phone:		Referrer:	CRAIG BURNWORTH, M.D.
Acc#:	42139	Referrer 2:	Assoc. Columbia Neurosurgical

Results

MRI OF THE CERVICAL SPINE

COMPARISON: No previous.

HISTORY: Neck pain radiating into right shoulder and down arm with tingling and numbness.

TECHNIQUE: Multiplanar multisequence imaging of the cervical spine was performed, without contrast.

FINDINGS: The brainstem and cerebellum appear unremarkable. No abnormal cervical cord signal is seen. There is loss of cervical lordosis. No paraspinous masses are demonstrated.

The C2-C3 level is unremarkable.

The C3-C4 level demonstrates a mild diffuse disc bulge. No central canal stenosis or neuroforaminal stenosis is seen.

The C4-C5 level demonstrates endplate changes. There are bilateral paracentral and foraminal disc/osteophyte complexes, right greater than left. There is flattening of the cord and severe central canal stenosis. Foraminal stenosis is severe bilaterally.

The C5-C6 level demonstrates a diffusely bulging disc with associated osteophytes. There is flattening of the cord with resultant moderate to severe central canal stenosis. Severe foraminal stenosis is present.

The C6-C7 level demonstrates a mild diffuse disc bulge. No central canal stenosis or neuroforaminal stenosis is seen.

The C7-T1 level is unremarkable.

IMPRESSION:
1. Severe central canal stenosis and bilateral neuroforaminal stenosis at C4-C5 with no cord signal change.
2. Diffusely bulging disc with associated osteophytes at C5-C6 results in

moderate to severe central canal stenosis and severe bilateral foraminal stenosis.

Jason C. Lynn, M.D.
Radiologist
PITTS RADIOLOGY

Report Electronically Signed by: Jason Lynn M.D.
Report Signed on: 5/8/2009

Pt. Name:	KATHERINE HAINES	Exam:	MRI C-SPINE W/O CONTRAST
Patient ID:	CN87009	Acc:	42139
Completed Date:	5/8/2009 12:36:00 PM	Interpreting Rad:	Jason Lynn M.D.
Transcribed By:	Doris Gleaton	Dictated Date:	
Transcribed Date:	5/8/2009 4:05:52 PM	Finalized Date:	5/8/2009

The Sports Rehab Center
at
The Moore Orthopaedic Clinic

Daily Note

Name: Haines, Katherine
ID #: 245007

Time: 3:35-4:15
# of visits: 2

☐ See Progress Notes

☒ Charges:
Therex X 3

S: I'm a little sore b/c I haven't really done much. The TENS unit helps a lot while I'm @ Work.

O:
☒ Ther Ex per flow sheet and all modalities
Cervical/UE strengthening, ROM, and stabilization ex's. Pt. comes to therapy with the T.E.N.S. unit on and states that it has helped a lot while @ work.
Added prone UE/LE lifts and pt. has some pain on the right side of her cervical during This ex.

A: Pt. works hard in therapy and cooperative. TENS seems to be giving her some relief And she is able to tolerate some of the ex's that are given in therapy.

☒ Tolerated treatment well
☐ Patient demonstrated understanding of HEP

P: Continue per POC: cont. with progressions as tolerated.
Continue per MD Orders

Mary L Perry, LPTA
Therapist Signature

Date: 7/20/2009

The Sports Rehab Center
at
The Moore Orthopaedic Clinic

Daily Note

Name: Haines, Katherine

ID #: 245007

Time: 3:30-4:10

\# of visits: 3

☐ See Progress Notes

☒ Charges:
Therex X 3

S: I am very frustrated with the MD b/c she tells me that one day I will wake up and no Longer have this pain. 7/10 pain rating, I'm very upset that they are trying to tell me How much pain I'm in.

O:

☒ Ther.Ex per flow sheet and all modalities

UE/Thoracic strengthening, ROM and stretching ex's. Added finger walks today, pt. has some pain on right UT region with this ex. No problems with cervical retractions or rotations in supine.

Declined CP.

A: Pt. tolerated the ex's that were initiated today except for the finger walk on the RUE.

☒ Tolerated treatment well

☐ Patient demonstrated understanding of HEP

P: Continue per POC: cont. with UE/thoracic strengthening and ROM ex's

Continue per MD Orders

Mary L. Perry, LPTA
Therapist Signature

Date: 7/24/2009

The Sports Rehab Center
at
The Moore Orthopaedic Clinic

Daily Note

Name: Haines, Katherine

ID #: 245007

Time: 2:00-3:00

# of visits: 4

☐ See Progress Notes

☒ Charges:

Therex X 4

S: I am doing fine. I am still getting numbness in my right UE.

O:

☒ Ther Ex per flow sheet and all modalities

UE/thoracic strengthening and ROM ex's. Added shoulder adduction with 20 lbs. bilat. Pt. reported inc. pain on the RUE but tolerable on LUE. Supine thoracic towel Roll small with CP x 10 min.

A: CP with spine roll x 10 min helped to calm down right shoulder/UT discomfort. Pt. is Cooperative and works hard in therapy to perform ex's that she can tolerate.

☒ Tolerated treatment well

☐ Patient demonstrated understanding of HEP

P: Continue per POC: cont. with progressions as tolerated.

Continue per MD Orders

Mary L. Berry, LPTA

Therapist Signature

Date: 7/27/2009

The Sports Rehab Center
at
The Moore Orthopaedic Clinic

Daily Note

Name: Haines, Katherine
ID #: 245007

Time: 8:30-9;15
\# of visits: 5

☐ See Progress Notes

☒ Charges:
Therex X 3

S: I'm doing fine this a.m. No new c/o.

O:
☒ Ther Ex per flow sheet and all modalities
UE/Thoracic/Cervical strengthening and ROM ex's. Added prone horizontal abduction and flex/ext. w/o wgt. Tried to do positional distraction today and pt. had too much painful and became tearful. She tends to hold her head in a left side bending away from the pain on right. Push-up plus x 5 with c/o medial scapulae pain.

Declined CP.

A: Pt. is having a lot of pain on the right side of her neck and UT region that she leans Away from it. Pt. works hard in therapy and very cooperative.

☒ Tolerated treatment well
☐ Patient demonstrated understanding of HEP

P: Continue per POC: cont. with progressions as tolerated.
Continue per MD Orders

Mary L. Perry LPTA
Therapist Signature

Date: 7/29/2009

The Sports Rehab Center
at
The Moore Orthopaedic Clinic

Daily Note

Name: Haines, Katherine
ID #: 245007

Time: 2:20-3:05
# of visits: 6

☐ See Progress Notes

☒ Charges:
Therex X 3

S: I'm having some swelling in my neck on both sides, has been this for the last couple of Days. I've been icing it q 2 hrs.

O:
☒ Ther Ex per flow sheet and all modalities
Cervical and UE strengthening performed to tolerance. Pt. had some swelling bilaterally on her clavicle.

Declined CP

A: Pt. cont. to have c/o inc. pain and does not have full rotation with neck to look over Shoulder. Pt. tends to turn her whole upper thoracic to look around.

☒ Tolerated treatment well
☐ Patient demonstrated understanding of HEP

P: Continue per POC:
Continue per MD Orders

Mary L. Perry, LPTA
Therapist Signature

Date: 7/31/2009

The Sports Rehab Center
at
The Moore Orthopaedic Clinic

Daily Note

Name: Haines, Katherine
ID #: 245007

Time: 11:25-12:15
# of visits:

S: Reported she felt better the 1st couple weeks she was here but she had just rec'd cortizone injection. Reports p inj. wore off she is back where she started. c/o pain & swelling in neck & shoulder areas (R side). MD appt on Thursday.

O:
☒ Ther Ex per flow sheet and all modalities
- ↑ reps & add'l light strengthening as tol.
- Pt. will ice @ home

☐ See Progress Notes

☒ Charges:
3TE

A: Pt. did well c ex today - very compliant. However c/o pain & lack of strength to complete reps & shld add c band (see flow sheet) c R UE

☒ Tolerated treatment well
☒ Patient demonstrated understanding of HEP

P: Continue per POC:
~~Continue per~~ MD Orders

Kellie [illegible], PTA
Therapist Signature

Date: 8/3/2009

The Sports Rehab Center
at
The Moore Orthopaedic Clinic

Daily Note

Name: Haines, Katherine
ID #: 245007

Time: 9:05—9:50
# of visits: 8

☒ See Progress Notes

☒ Charges:
Ther exer x 3

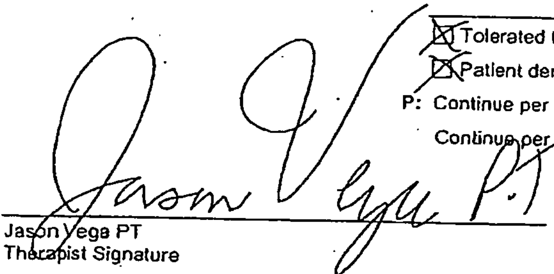
S: I go to the Dr. Lembo today at 11:15. c/o pain of 8.

O:
☒ Ther Ex per flow sheet and all modalities
SEE NOTE TO MD—Rehab section.
today's treatment: strengthening and ROM for the neck and upper back, reevaluated.
ROM : flexion: 28 ext: 25 Rotation: right: 39 left: 38
ROM: side-bend: right: 32 left: 34

A: cooperative, works hard with therapy,
Still has deficits in ROM, pain and function.

☒ Tolerated treatment well
☒ Patient demonstrated understanding of HEP

P: Continue per POC: to MD today, send note.
Continue per MD Orders



Jason Vega PT
Therapist Signature

Date: 8/6/2009

The Sports Rehab Center
at
The Moore Orthopaedic Clinic

Daily Note

Name: Haines, Katherine
ID #: 245007

Time: 8:30-9:15
# of visits: 9/12

☐ See Progress Notes

☒ Charges:
Therex X 3

S: No significant change with my sx's and MD saw me last week.

O:
☒ Ther Ex per flow sheet and all modalities
Thoracic and cervical strengthening and ROM ex's to tolerance.

Declined CP.

A: Pt. does ex's to tolerance and still has c/o pain especially on the right UT/ neck region.
Cooperative and hard worker.

☒ Tolerated treatment well
☐ ~~Patient demonstrated understanding of HEP~~

P: Continue per POC:
~~Continue per MD Orders~~

Mary L. Perry, LPTA
Therapist Signature

Date: 8/10/2009

The Sports Rehab Center
at
The Moore Orthopaedic Clinic

Daily Note

Name: Haines, Katherine
ID #: 245007

Time: 8:55–
# of visits: 11 of 12

☐ See Progress Notes

☒ Charges:
Ther exer x 3

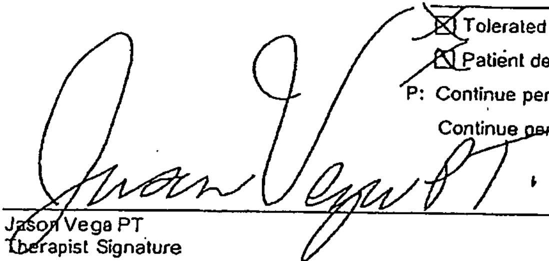
S: c/o pain of 8, I cancelled my last appointment with Dr. Lembo, I go Back to see her next Tuesday.

O:
☒ Ther Ex per flow sheet and all modalities
Today's treatment: strengthening , ROM and stretching for the neck, upper back and shoulders.
patient still walks very guarded uses rotation of waist instead of neck.

A: cooperative, worked hard with PT, patient seems to be getting Frustrated about the pain, and lack of progress.

☒ Tolerated treatment well
☒ Patient demonstrated understanding of HEP

P: Continue per POC: continue HEP & skilled PT in clinic
Continue ~~per~~ MD Orders



Jason Vega PT
Therapist Signature

Date: 8/17/2009

The Sports Rehab Center
at
The Moore Orthopaedic Clinic

Daily Note

Name: Haines, Katherine
ID #: 245007

Time: 9:00-9:40
# of visits: 12 of 12

☐ See Progress Notes

☒ Charges:
Therex X 3

S: I am still having pain on the right side of my neck and shoulder region. 8-9/10 pain Rating; I still have pain into my foot too.

O:
☒ Ther Ex per flow sheet and all modalities
Today's treatment: UE and cervical ROM and strengthening ex's. Pt. also has a limp on right and states that she still has pain into her foot.

A: Pt. has not made much improvement and cont. to have high pain rating for neck and Her shoulder.

☒ Tolerated treatment well
☐ Patient demonstrated understanding of HEP

P: Continue per POC:
Continue per MD Orders

Mary L-Perry LPTA
Therapist Signature

Date: 8/19/2009

The Sports Rehab Center
at
The Moore Orthopaedic Clinic

Daily Note

Name: Haines, Katherine

ID #: 245007

Time: 9:00—9:45

# of visits:

☐ See Progress Notes

☒ Charges:
Ther exer x 3

S: I saw Dr. Lembo she is going to refer me to a surgeon.
I am still having pain

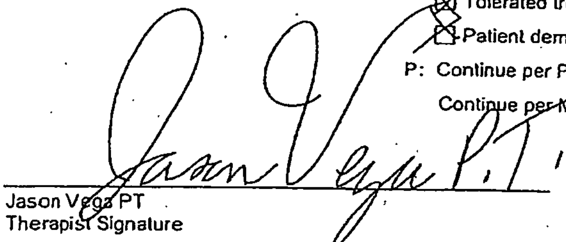
O:
☒ Ther Ex per flow sheet and all modalities
Presents to therapy ambulating without any assistive device, does walk guarded moving body instead of moving head/neck.
today's treatment: strengthening and ROM exercises for the neck and upper back stretches,

New script: add work specific activities, and strengthen scapular stabilizers

A: cooperative, works hard with PT

☒ Tolerated treatment well
☒ Patient demonstrated understanding of HEP

P: Continue per POC: continue HEP & skilled PT in clinic
Continue per MD Orders



Jason Vega PT
Therapist Signature

Date: 8/28/2009

The Sports Rehab Center
at
The Moore Orthopaedic Clinic

Daily Note

Name: Haines, Katherine

ID #: 245007

Time: 8:52—9:35

# of visits:

☐ See Progress Notes

☒ Charges:

There exer x 3

S: c/o pain of 8. I still have not gotten my appointment with the nuerosurgeon

O:

☒ Ther Ex per flow sheet and all modalities

Presents to therapy without any assistive device.

today's treatment: strengthening and ROM for the neck upper back and shoulders.

Could not lift wooden box of 16.8 #, only able to lift a few inches and had pain

Total time in therapy: 43 minutes

A: cooperative,

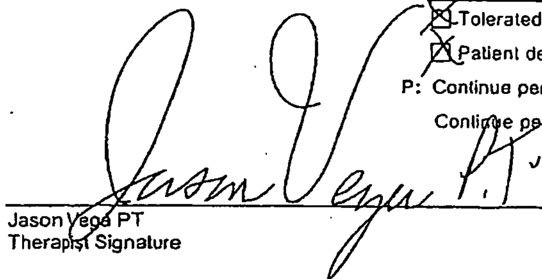
Tried to add more work specific exercises but had pain

☒ Tolerated treatment well

☒ Patient demonstrated understanding of HEP

P: Continue per POC: continue HEP & skilled PT in clinic

Continue per MD Orders



Jason Vega PT
Therapist Signature

Date: 8/31/2009

The Sports Rehab Center
at
The Moore Orthopaedic Clinic

Daily Note

Name: Haines, Katherine
ID #: 245007

Time: 9:00-9:35
# of visits:

☐ See Progress Notes

☒ Charges:
Therex X 3

S: Not much has changed, my neck still hurts. 8/10 pain rating; I go to see Dr. Flemly for My consult on my neck.

O:
☒ Ther Ex per flow sheet and all modalities
Thoracic/UE and cervical strengthening and ROM ex's.

Declined CP

A: Pt. tolerated treatment session well. Cooperative and does exercises to pain tolerance.

☒ Tolerated treatment well
☐ Patient demonstrated understanding of HEP

P: Continue per POC: cont. with progressions
Continue per MD Orders

Mary L. Perry, LPTA
Therapist Signature

Date: 9/2/2009

The Sports Rehab Center
at
The Moore Orthopaedic Clinic

Daily Note

Name: Haines, Katherine
ID #: 245007

Time: 9:10 - 9:45
# of visits: 15

☐ See Progress Notes

☒ Charges:
Ther ex 3

S: my head still hurts from migraines. My son is @ the ER right now; I would like to get there c̄ him.

O:

☒ Ther Ex per flow sheet and all modalities
Cervical and Upper thoracic strengthening and ROM ex's.

Declined modalities.

A: Pt did well c̄ treatment but has not had any changes c̄ sx's in cervical region.

☒ Tolerated treatment well
☐ Patient demonstrated understanding of HEP

P: Continue per POC: cont. c̄ strengthening & ROM.
Continue per MD Orders

Mary L. Perry, LPTA
Therapist Signature

Date: 9/8/2009

MOORE
Orthopaedics
Open MRI
4721 Sunset Boulevard, Suite A
Lexington, SC 29072
Ph: (803) 227-8007
Fax: (803) 996-3180

PATIENT NAME:	KATHERINE HAINES
PATIENT NUMBER:	245007
DATE OF BIRTH:	11/25/61
REFERRING PHYSICIAN:	CRAIG M. BURNWORTH, M.D.
DATE OF EXAMINATION:	06/22/09

MRI OF THE LEFT SHOULDER

TECHNIQUE: Left shoulder MRI examination was performed with multisequence multiplanar scans through the left shoulder.

INDICATION: Recent injury. Evaluate for rotator cuff tear.

FINDINGS: A type II acromion is present. No hypertrophic change at the AC joint.

No full-thickness rotator cuff tear. There is mild tendinopathy along the undersurface of the distal insertion posterior third of the supraspinatus tendon. There is also mild intrasubstance tendinopathy involving the anterior third critical zone of the supraspinatus tendon.

The superior labrum appears intact. The long head of the biceps tendon appears intact in the bicipital groove.

IMPRESSION: There is tendinopathy of the undersurface posterior third distal insertion of the supraspinatus tendon with some tendinopathy involving the central fibers of the critical zone anterior third of the supraspinatus as well. No full-thickness rotator cuff tear.

Lawrence R. Lough, M.D.
Radiologist
PITTS RADIOLOGY

LRL/dag

Signed and released electronically by: Lawrence R. Lough, M.D.
Date/Time: 6/23/2009 3:27 PM

Northeast MRI Center
720 Rabon Road
Columbia 29203
Phone: (803)462-0423

Name:	KATHERINE HAINES	Exam Date:	5/8/2009
Patient ID:	CN87009	Exam:	MRI C-SPINE W/O CONTRAST
DOB:	11/25/1961	Reason:	-
Phone:		Referrer:	CRAIG BURNWORTH, M.D.
Acc#:	42139	Referrer 2:	Assoc. Columbia Neurosurgical

Results

MRI OF THE CERVICAL SPINE

COMPARISON: No previous.

HISTORY: Neck pain radiating into right shoulder and down arm with tingling and numbness.

TECHNIQUE: Multiplanar multisequence imaging of the cervical spine was performed, without contrast.

FINDINGS: The brainstem and cerebellum appear unremarkable. No abnormal cervical cord signal is seen. There is loss of cervical lordosis. No paraspinous masses are demonstrated.

The C2-C3 level is unremarkable.

The C3-C4 level demonstrates a mild diffuse disc bulge. No central canal stenosis or neuroforaminal stenosis is seen.

The C4-C5 level demonstrates endplate changes. There are bilateral paracentral and foraminal disc/osteophyte complexes, right greater than left. There is flattening of the cord and severe central canal stenosis. Foraminal stenosis is severe bilaterally.

The C5-C6 level demonstrates a diffusely bulging disc with associated osteophytes. There is flattening of the cord with resultant moderate to severe central canal stenosis. Severe foraminal stenosis is present.

The C6-C7 level demonstrates a mild diffuse disc bulge. No central canal stenosis or neuroforaminal stenosis is seen.

The C7-T1 level is unremarkable.

IMPRESSION:
1. Severe central canal stenosis and bilateral neuroforaminal stenosis at C4-C5 with no cord signal change.
2. Diffusely bulging disc with associated osteophytes at C5-C6 results in

moderate to severe central canal stenosis and severe bilateral foraminal stenosis.

Jason C. Lynn, M.D.
Radiologist
PITTS RADIOLOGY

Report Electronically Signed by: Jason Lynn M.D.
Report Signed on: 5/8/2009

Pt. Name:	KATHERINE HAINES	Exam:	MRI C-SPINE W/O CONTRAST
Patient ID:	CN87009	Acc:	42139
Completed Date:	5/8/2009 12:36:00 PM	Interpreting Rad:	Jason Lynn M.D.
Transcribed By:	Doris Gleaton	Dictated Date:	
Transcribed Date:	5/8/2009 4:05:52 PM	Finalized Date:	5/8/2009

HAINES, KATHERINE 78648 WHITEHEAD/gdp 05/05/2008

S: The patient comes in complaining of shakiness and nausea now for about 5 days. Had an episode this morning. Had not had anything to eat, started unloading a truck, felt shaky, little nauseated with it. No shortness of breath, chest pain. Has known CHF, COPD, hep C. She is still smoking. She used to be on medications, none of which she is taking at this time. Said she could not afford it. No fever. States she is not having any increased dyspnea or other change with that. Not using anything over-the-counter. No vomiting, no diarrhea, no abdominal pain. No chest pain.

O: VITAL SIGNS: BP 140/84, weight 255.2. GENERAL: Well-developed, well-nourished, well-appearing female in no acute distress, cooperative with exam, alert x3. NECK: Supple, nontender. No JVD or carotid bruits. LUNGS: Clear to auscultation bilaterally. CARDIOVASCULAR: Regular rate and rhythm. EXTREMITIES: No lower extremity edema.

A
1. Nausea.
2. Congestive heart failure.
3. Chronic obstructive pulmonary disease.

P: Exec D today. She is not fasting. She states she had a sausage biscuit this morning. Rx Coreg 6.25 b.i.d. (#60), can get this for $4. Has not seen cardiologist in over 2 years. She went to Dr. Shah and did

		CA
		DATE OF BIRTH:

HAINES, KATHERINE 78648 WHITEHEAD/gdp 05/05/2008
(cont)

not want to go back there and asked us to refer her somewhere else. Will set up referral. Follow-up according to labs. Report to ED with any acute symptoms or sooner here p.r.n.

HAINES, KATHERINE 78648 FISHER/cmh 02/18/2009 J979739

S: The patient is a 47-year-old white female who comes in after a worker's compensation injury. She hurt herself last Thursday. She was reaching up under some type of shelving and some shelves and bins fell on top of her neck, right at her neck and upper shoulders. She kept working that day but she was hurting some and it has just gotten worse through time. She has taken a little bit of ibuprofen at home. She has not had chronic problems with her neck in the past. She is not having radicular symptoms. She had a small bruise on her upper back.

O: VITAL SIGNS: Afebrile, blood pressure 130/84. NECK: Difficulty turning head in room. Pretty much complete flexion, although painful. Right and left rotation about 55-60 degrees. Tender diffusely among lower cervical spine, particularly on the right side, in the paracervical muscles as well as the rhomboid muscles, very tenderness. Diffuse, no left-sided tenderness. Very minimal spinal tenderness but no gross deformity. DIAGNOSTIC STUDIES: X-ray of neck showed decreased curvature, little bit of difficult reading C1/C2 area.

A: Neck pain with associated muscle spasm, status post trauma. Some abnormalities on cervical spine as related above.

P: Soft collar, muscle relaxer. Rx Flexeril t.i.d., warned of drowsiness. Indocin SR 75 mg b.i.d., wait for radiology reading. Would rather her not work right now. Follow up in 4-5 days, will see how she is doing, sooner for any worsening or changing symptoms.

4220E046.002

HAINES, KATHERINE 78648 FISHER/cmh 02/23/2009 J983140

S: The patient is a 47-year-old white female who comes in some neck and shoulder pain. This is a worker's compensation injury. See previous note. She is a little bit better. The Indocin made her somewhat drowsy. The Flexeril works pretty well. She is only sleeping 2-3 hours at night. She has a little more movement in her neck. There is no pain down her arms.

O: VITAL SIGNS: Blood pressure 130/82, weight 269. GENERAL: Appears well. NECK: Lacks about 10-20 degrees flexion, has rotation to the right about 50 degrees, rotation to the left about 40 degrees. Tender in the bilateral trapezius area. No specific point tenderness along spine. DIAGNOSTIC STUDIES. C-spine showed some chronic degenerative disk changes but no acute injury.

A: Neck strain with associated pain. Some improvement with medicines thus far.

P: Rx Sterapred double strength 12-day. Stop Indocin and continue Flexeril, except at night, take Valium 5 mg every h.s. x7 days (#7, no refill), set up for physical therapy. Follow up after physical therapy in a couple of weeks. Still no work until then. Follow up sooner p.r.n.

40911049600S0.002

ICN: 4091104960050002 Scan Time: 04/20/2009 12:21PM Receive Date: 4/20/2009 Blank

STATE OF SOUTH CAROLINA
BEFORE THE WORKERS' COMPENSATION COMMISSION
APPELLANT PANEL

W.C.C. FILE NO.: 1115949

Katherine Haines, Employee,

Claimant,

vs.

Dollar Tree Stores, Inc., Employer,

ARCH Insurance Company, Carrier,

Defendants.

CLAIMANT/APPELLANTS REVIEW BRIEF

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION AND BRAD EASTERLING, ESQUIRE, ATTORNEY FOR THE DEFENDANTS:

THE HEARING COMMISSIONER INCORRECTLY CALCULATED THE LUMP SUM AWARD OF TOTAL AND PERMANENT DISABILITY.

The Claimant contends that Section 42-9-301 of the Code of Laws of South Carolina requires that a lump sum payment be in an amount that is not less than ninety (90%) percent of the commutable value. This means that the award in this case should have been $129,530.65, and not $120,378[1]

When our workers' compensation system was created by statute, the predecessor to Section 42-9-301 presented significant limitations on "lump summing" an award of permanent and total disability. However, the statute was amended in 1983 to provide that a lump sum award could be ordered unless it was contrary to the best interests of a claimant or placed a burden on the defendants, without prejudicing the Claimant.

The wording of Section 42-9-301 can appear on first reading to be confusing. This writer has found no South Carolina case interpreting the part of the statute that deals with the minimum amount that must be paid when a lump sum is awarded. Furthermore, the statute has not been applied as written by the South Carolina Workers' Compensation Commission in this writer's experience.

The portion of the statute that is applicable to this request for review is as follows:

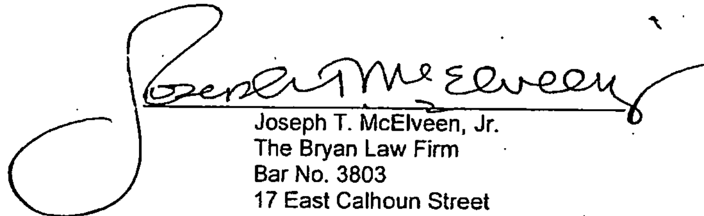
...the liability therefor [for weekly payments into the future] may be redeemed ... by the payment by the employer of a lump sum which shall be fixed by the commission, but in no case to be less than ninety percent of, nor to exceed, the commutable value of the future installments commuted so as not to exceed six percent nor to be less than two percent.

[1] The "commutable value", that is, the amount due with no discount for the time value of money, is $143,922.94.

Some definitions are necessary to determine what must be done to pay a lump sum award. When an obligation is redeemed, it is paid; a debt is extinguished. An accepted definition of "commuted value" is: The present value of a future series of cash flows required to fulfill an obligation. Commuted value is, therefore, the net present value of a future financial obligation. This value can be computed mathematically when you know the amount involved and the period of required payments by assuming a given rate of interest or the discount rate. Since the "commuted value" is the present value of the flow of cash, the "commutable value" has to be the amount that is to be commuted—the gross amount before applying the discount. Two principals are upheld by this statute: first, the claimant is protected by the requirement that at least "ninety percent of ... the commutable value of the future installments" must be paid to the claimant; and, second, the employer is protected because the Commission cannot order payment of more than the "commutable value" and because the statute provides a range of discount rates that can be used: between two and six percent. The Commission by regulation has adopted a five percent (5%) discount table in cases where over one hundred weeks is ordered.[2]

The "commutable value of the future installments", then, has to be the compensation rate times the total number of weeks the commissioner has ordered to be paid–the gross figure with no discount. The award cannot be less than ninety percent (90%) of that amount. In this case, the commuted value does not equal at least (90%) ninety percent of the commutable value. So the Claimant respectfully submits that the award should have been ninety percent (90%) of the "commutable value" or the total amount payable before discount or commutation.

Respectfully submitted,



Joseph T. McElveen, Jr.
The Bryan Law Firm
Bar No. 3803
17 East Calhoun Street
P.O. Box 2038
Sumter, SC 29151-2038
(803) 775-1263
Fax (803) 778-1300
Attorney for the Claimant/Appellant

SUMTER, SOUTH CAROLINA
January 17, 2013

[2] The failure to apply Section 42-9-301properly is particularly onerous if the 5% Table is used. According to the Wall Street Journal, page C1, January 14, 2012, a ten-year Treasury Note due in 2022 is yielding 1.625% interest, and a five-year Certificate of Deposit is yielding 1.35% (page C4). Corporations can borrow at about the same rate. There is no way the Claimant can invest her commuted award and hope to break even. Interests rates have been low for the last four years and are projected to stay low during the next four, so that during the five hundred week period during which compensation has been and will be paid to the Claimant, the five-year Table is unfair and punitive. If the "ninety percent rule" is not applied, then fairness and equity require that a two percent (2%) discount rate be applied in commuting the award. Actually, the lower discount rate and the "ninety percent rule" should be applied.

CERTIFICATE OF MAILING

I, the undersigned employee of the law offices of The Bryan Law Firm of SC, L.L.P., attorneys for Katherine L. Haines, do hereby certify that I have served the Defendants or counsel of record with the following document(s) by mailing a copy of the same by United States Mail, postage prepaid, to the following address this 17th day of January, 2013:

Pleading(s): Claimant/Appellant's Review Brief

Person(s) Served: Brad Easterling, Esquire
Turner Padget Graham & Laney P.A.
P.O. Box 1509
Greenville, SC 29602

Tiffany Jackson

SWORN to and subscribed before me
this 17th day of January, 2013

Elizabeth W. Nesbitt
Elizabeth W. Nesbitt
Notary Public for South Carolina
My Commission expires: May 1, 2019.

S:\SHARED\WC\HAINES KATHERINE\CERT OF MAIL REVIEW BRIEF.DOCX

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

WCC FILE NO: 0901428

Katherine Haines Claimant/Respondent, vs. Dollar Tree Stores, Inc., Employer, and ARCH Insurance Company, Carrier, Defendants/Appellants.	)))))))))))))))))	**APPELLANTS' BRIEF TO FULL COMMISSION**

STATEMENT OF THE CASE

This claim involves an admitted injury to claimant's cervical spine on February 12, 2009. The claimant filed a Form 50, Request for Hearing, alleging permanent and total disability due to the admitted injury to claimant's cervical spine as well as alleged injuries to her bilateral arms and legs. Claimant contends he is permanently and totally disabled pursuant to S.C. Code § 42-9-10. In the alternative, claimant contends she is permanently and totally disabled pursuant to S.C. Code § 42-9-30 (21) on the basis that she has 50% or greater loss of use of her spine.

The defendants' position is that claimant sustained an admitted injury to his cervical spine only. Defendants deny claimant sustained injury to the other claimed body parts. Defendants contend claimant is entitled to some amount of permanent disability pursuant to S.C. Code § 42-9-30 in line with the impairment ratings assigned in the case. Alternatively, if it is determined

claimant has injury to more than one body part, Defendants deny claimant is permanently and totally disabled based on the vocational opinion issued by Jan Westmoreland, M.Ed., CRC.

A hearing in this matter commenced on September 4, 2012. The Hearing Commissioner issued an Order determining claimant sustained a compensable work-related injury to her cervical spine with effect to her bilateral arms and legs. The Hearing Commissioner ultimately determined claimant is permanently and totally disabled pursuant to S.C. Code § 42-9-30 in that she has sustained greater than 50% disability to her spine. Alternatively, the Hearing Commissioner deemed claimant permanently and totally disabled pursuant to S.C. Code § 42-9-10 given injury to multiple body parts. With the finding of permanent and total disability, per statute, the Hearing Commissioner determined claimant is entitled to lifetime causally-related medical treatment for her causally-related injuries.

Defendants timely appealed the Hearing Commissioner's decision to the Full Commission via Form 30, Request for Commission Review. Defendants' grounds for review can now be consolidated into two (2) main issues.

ISSUES PRESENTED

I. **Did the Hearing Commissioner err in determining claimant is permanently and totally disabled pursuant to S.C. Code § 42-9-30 in that he has sustained greater than 50% disability to his spine and/or S.C. Code § 42-9-10?**

II. **If the Commission determines claimant is permanently and totally disabled, did the Hearing Commissioner correctly calculate the lump sum award?**

ARGUMENT

I. **Based on the vocational opinion of Jan Westmoreland, M.Ed., CRC., as well as claimant's age, education and past work experience, the Hearing Commissioner erred in finding claimant is permanently and totally disabled pursuant to S.C. Code § 42-9-30 and/or S.C. Code § 42-9-10?**

Defendants candidly acknowledge claimant sustained a significant injury to her cervical spine, which ultimately required surgery. Defendants further acknowledge the subject injury does limit claimant's physical activity to some degree and requires her to take pain medication. However, based on claimant's age, education and past job experience, defendants firmly believe that several jobs exist in the competitive labor market for Ms. Haines defeating any claim for permanent and disability.

Claimant is only 51 years of age and completed the 11th grade of high school. Claimant admitted she was expelled from high school just three months prior to graduation due to "getting in with the wrong people". In high school, claimant was an average to above-average student and there is no indication in this records she was required to repeat any grades. In her fourteen years of employment at Dollar Tree, claimant served as assistant store manager and store manager. In these positions, claimant performed many managerial tasks and paperwork. Claimant supervised workers, produced schedules, processed freight and entered sales figures into the store computer. While claimant did perform some physical labor in the form of stocking shelves and unloading trucks, defendants contend the majority of her job, particularly once promoted to store manager, involved managerial/administrative type work. As manager, claimant became proficient in using the company's sales software for data entry. During the hearing claimant also acknowledged personal use of a laptop at home to browse the internet. In her past employment, claimant

worked for a company called Riveria Insurance as a customer service representative where she was responsible for processing insurance policies and taking calls from customers requesting quotes. Claimant admitted her job at Riveria was primarily a sit-down desk job that did not require any physical work or heavy lifting.

Claimant has also been certified a CNA in the past. Claimant testified she successfully completed a thirteen-week nurse's assistant certification class while residing in Florida and admitted she had no difficulty completing the program. While defendants concede claimant's current limitations would likely prevent her from working as a CNA, claimant's completion of CNA training demonstrates her aptitude for learning new skills. Based on claimant's prior work experience, transferable skills and ability to learn, defendants contend claimant could readily find a sedentary job within her physical restrictions.

Specifically, defendants employed the services of Jan Westmoreland, M.Ed., CRC, who performed a vocational assessment and labor market survey on behalf of the employer. In her labor market survey, Ms. Westmoreland identified several jobs in the Columbia, SC and surrounding areas found to be open or recently filled matching claimant's qualifications and restrictions. Ms. Westmoreland identified jobs such as medical front desk secretary, receptionist, office assistant, account manager, and clerical aid. During Ms. Westmoreland evaluation of the claimant, claimant acknowledged being able to sit all day as long as she is able to move around every 30 to 45 minutes (Defendants' APA pg. 195). Additionally, at the hearing, claimant conceded her past work experience at Riveria Insurance and Dollar Tree qualified her for the jobs identified by Ms. Westmoreland. While claimant testified at the hearing that she did not believe she could complete a full 8-hour day of work, she also admitted that she has failed look for any type work since leaving Dollar Tree's employment.

Even though claimant contends she is unable to return to *any* type of gainful employment, the record here shows claimant remains physically active. Claimant continues to perform the chores around her house to include cleaning bathrooms, dusting, sweeping, mopping, laundry and cooking. Claimant also informed Ms. Westmoreland she is still able to perform light repair work around her house. She admitted being able to change out a light switch, door knobs and the like.

Claimant maintains a valid South Carolina drivers' license and has access to her own operational vehicle (2001 Dodge Van). Claimant is able to drive alone and continues to drive alone to run errands and attend appointments. At the hearing, claimant admitted she still enjoys traveling to the beach and has even traveled to a beach in Florida since having neck surgery. While on this beach trip, claimant admitted she actually got out and walked on the beach.

Finally, at the hearing of this claim, claimant claimed significant limitations in the range of motion of her neck. Claimant basically claims she is forced to hold her head "cocked" to the left on a permanent basis. Defendants contend a close examination of the surveillance video submitted contradicts this contention and actually shows claimant with significantly more range of motion than shown at the hearing.

Defendants believe the totality of the record in this case, including the surveillance videos, the vocational report/labor market survey from Jan Westmoreland and claimant's own admissions, clearly demonstrates that, while claimant did suffer a significant injury to her neck entitling her to some payment of permanently partial disability, the injury does not totally preclude her from finding gainful employment. As such, defendants contends the Hearing Commissioner erred in finding claimant permanently and totally disabled.

II. The Hearing Commissioner erred in determining claimant is entitled to lump sum payment of his award when the reliable, probative and substantial evidence of the case clearly shows that exceptional circumstances do not exist to justify payment in lump sum.

Should this Commission determine that claimant is permanently and totally disabled, defendants disagree with claimant's counsel's calculation of commuted value. In his order dated October 22, 2012, Commissioner Williams ordered a lump sum payment of the balance of the 500 weeks of indemnity benefits or this claim. S.C. Code § 42-9-301 dictates defendants are entitled to a discount for paying future payments in advance. Thus, if this Commission determines claimant is permanently and totally disabled, defendants are entitled to take the commutable value of the remaining, which, at the time of the order, amounts to $120,378.74.

Payment may "be redeemed, in whole or in part, by the payment by the employer of a lump sum which shall be fixed by the commission, but in no case to be less than ninety percent of, nor to exceed, the commutable value of the future installments commuted so as not to exceed six percent nor to be less than two percent." S.C. Code 42-9-301. This requires the employer to provide a lump sum payment of more than ninety percent of the future payments. In this claim, if claimant is ultimately deemed permanently and totally disabled, defendants elect to pay one hundred percent of the commutable value (future payments) in a lump sum, and therefore should be allowed to receive a discount on all future payments.

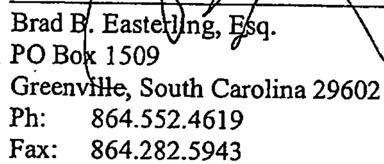
CONCLUSION

For the foregoing reasons, defendants contend the Hearing Commissioner's decision finding claimant to be permanently and totally disabled per § 42-9-30 and/or § 42-9-10 should be reversed in full. Alternatively, if this Commission does, in fact, find claimant to be

permanently and totally disabled, defendants believe the Hearing Commissioner properly calculated the commuted value of the claim in his original order.

Respectfully submitted,

TURNER, PADGET, GRAHAM & LANEY, P.A.



Brad B. Easterling, Esq.
PO Box 1509
Greenville, South Carolina 29602
Ph: 864.552.4619
Fax: 864.282.5943

Greenville, South Carolina

January 28, 2013

STATE OF SOUTH CAROLINA)
) **CERTIFICATE OF SERVICE**
COUNTY OF GREENVILLE

The undersigned employee of the Law Offices of Turner Padget Graham & Laney P.A P.O. Box 1509 Greenville, SC 29602 does hereby certify that he or she has served the following named party (or parties) and/or individual(s) with the document(s) indicated below, in accordance with Regulations 67-210, 67-211, 67- 213, 67-214 and 67-215, and such other law as may be applicable, by mailing a copy of the same to the party and/or individual in the United States Mail with sufficient first class postage affixed thereto, and a return address clearly marked on the date stated below:

Katherine L. Haines vs. Dollar Tree Stores, Inc.

WCC No: 0905998 & 0901428

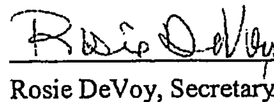
DOCUMENT(S) SERVED: Appeal Brief and Memorandum to Full Commission

January 28, 2013

VIA REGULAR FIRST CLASS MAIL:

Joseph T. McElveen, Jr., Esquire
P.O. Box 2038
Sumter, SC 29151-2038

Ms. Virginia Crocker, Judicial Director
S.C. Workers' Compensation Commission
Post Office Box 1715
Columbia, South Carolina 29202



Rosie DeVoy, Secretary

STATE OF SOUTH CAROLINA
BEFORE THE WORKERS' COMPENSATION COMMISSION
APPELLANT PANEL

W.C.C. FILE NO.: 1115949

Katherine Haines, Employee, Claimant/Appellant, vs. Dollar Tree Stores, Inc., Employer, ARCH Insurance Company, Carrier, Defendants/Respondents.	**CLAIMANT/APPELLANTS REPLY BRIEF**

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION AND BRAD EASTERLING, ESQUIRE, ATTORNEY FOR THE DEFENDANTS:

INTRODUCTORY NOTE: The Claimant and the Defendants appealed the single Commissioner's Order. Each should have filed a brief as appellant on January 17, 2013. Two Notices of Brief Request were sent to each attorney. The Claimant filed an appellant's brief; the Defendants did not. The Defendants filed and served what is designated an appellant's brief on January 28, 2013, received by the attorney for the Claimant on January 30, 2013. The reason for the Claimant's response brief so close to the time of oral argument is because she did not get the Defendant's brief until so late. The Claimant could perhaps ask for administrative dismissal of the Defendants' Request for Review, but she assumes the Commission would allow them to file late, and this might only delay the conclusion of this case.

INTRODUCTION

The Claimant was seriously injured in a work accident, which ultimately resulted in her undergoing anterior cervical discectomy and interbody fusion at C4-5 and C5-6. She did not have a good result. The hearing Commissioner found the Claimant to be totally and permanently disabled as a result of the work injury under both §42-9-10 and §42-9-30(21). The Defendants have appealed this decision. The overwhelming weight of the evidence establishes that the Claimant is, in fact, totally disabled.

ARGUMENT

I. Based upon a totality of the evidence, the Claimant is totally and permanently disabled under §§42-9-10 and 42-9-30(21).

This is an admitted accident and injury. The Respondents would say that only the neck is covered, but the upper and lower extremities have been affected, and are, therefore, injured body parts. Dr. Boyd, a neurosurgeon who performed the surgery, diagnosed myeloradiculopathy in that the Claimant had cord compression and radiating symptoms into her extremities. Claimant's APA, Tab 9 (Boyd Depositon, p. 21, ll. 2-12; p. 22, ll. 20-23). Dr. Boyd ultimately assessed 26-28% whole person impairment based upon the back injury. The Claimant was then referred to Dr. Redmond for pain management, which continued after she was found to be at maximum medical improvement (MMI) and still continues. Dr. Redmond assessed 28% whole person impairment based upon the back. Dr. Donald Johnson, who did an independent medical examination at the request of the Claimant, assessed 25% whole person impairment based upon the back. All three confirm that the neck injury caused radicular symptoms affecting the arms and legs.

Dr. Redmond prescribed a cane for the Claimant because of her tendency to fall. She must take a number of prescription medications: Soma, Relafen, Trazadone, Hydrocodone, Nucenta, Neurontin, and Zoloft. Drs. Redmond and Johnson believe that the use of these medications will be necessary over the long term. Dr. Redmond has written that the Claimant cannot return to her former employment. She is capable of "less than sedentary to sedentary work, but only if she is not required to drive, as she has limited cervical mobility. Medications can also affect concentration and may prevent successful return to substantial gainful employment." Dr. Redmond also believes future medical treatment will be required: radiofrequency and facet injections, medications, and medical follow-up every two to three months. Claimant's APA p. 173A.

Dr. Donald Johnson gave a similar prognosis for the Claimant:

> I do not believe she can return to her previous vocation. It is clear that she has severe limitation to motion of her neck. She would be qualified only to do sedentary work and unfortunately is taking a significant number of narcotics on a daily basis. ...[S]he will need ongoing pain management in the future. She in my opinion would be a candidate for facet joint blocks and if these are successful, facet joint rhizotomy. She has had cervical epidural injections in the past, but has not had her facet joints treated. She may also be a candidate for a spinal cord stimulator trial but I would leave that decision to the pain management treating physician.

> She will need to see a pain management physician in the future every 1-2 months. ... .
>
> Claimant's APA p. 34.

Another very telling comment by Dr. Johnson emphasizes what the Claimant has endured:

> I do feel that there is a relationship between the length of time between this patient's injury and her subsequent surgical decompression, that period being over 2 years. To a reasonable degree of medical certainty I feel that she had an aggravation of a pre-existing degenerative condition. I would note the first orthopedic specialist who saw her, Dr. Burnworth, diagnosed cervical stenosis as well as cervical radiculopathy. Because there was over a two year period before surgical decompression occurred, I think that this time period is a likely factor explaining why the patient continues to be symptomatic.
>
> Claimant's APA, p. 34.

The Claimant also underwent a functional capacity evaluation (FCE) at Palmetto Health Pain and Orthopedic Care, where Dr. Redmond practices. The conclusion of the FCE is that the Claimant is unable to perform her previous job. The FCE also concluded that she was best suited to "the Less than Sedentary to Sedentary category of the Physical Demands Characteristics work chart." Claimant's APA p. 149. Attention is invited to the fact that the Claimant reported a pre-test pain level of "5" and a post-test and next day pain level of "8". Claimant's APA p. 157. A pain level of "5" is said to cause "great difficulty moving or applying any strength through the painful area" and a person is "unable to complete the current activity". Claimant's APA p. 158. Look at what the Claimant was asked to do and how she complied with "strength testing". Claimant's APA pp. 161-163. She did the best she could, but showed objective signs of pain, including increased asymmetry of the neck and other complaints. Attention is also invited to a chart entitled "Reported Functional Tolerances". Claimant's APA p. 153. This chart again documents the problems the Claimant has functioning.

In reviewing the FCE Dr. Redmond noted that the physical therapist told him the she thought the FCE was valid and that the Claimant "seemed to try very hard". The Claimant apparently asked about referral to vocational rehabilitation. Dr. Redmond said he would do this, but wrote: "I told her that that is admirable .... However, I do not know how practical it will be for her in the long run. She has quite extensive limited mobility in her neck and it is difficult for her to drive for safety concerns." Claimant's APA p. 167. Dr. Redmond never made this referral. That is why the Claimant did not go to vocational rehabilitation.

J. Adger Brown, MA, CDMS, a rehabilitation consultant and vocational expert, reviewed the Claimant's medical records and interviewed her. Claimant's APA Tab 8. Mr. Brown noted that the Claimant is "closely approaching advanced employment age, a point at which it is much more difficult for unemployed individuals to reenter the labor market." He notes the several unsuccessful attempts the Claimant made to return to work at the Employer, even after her surgery. As Mr. Brown says, if her Employer of fourteen years "is unable to find a place for [her], it is unrealistic to think that new employers are going to be a more fruitful avenue of exploration." If the Employer won't accommodate her disability, why would any other employer?

Mr. Brown points out that the Claimant not only has a minimum capacity for physical work, but "is only able to participate at such a level with the use of a considerable amount of narcotics which she has to take throughout the day." He believes that "no labor market exists" for the Claimant. "An individual who has been out of work for an extended period of time, who has had surgeries, is on high doses of chronic narcotic pain medication, and is extremely limited in their physical abilities is certainly not going to be able to compete for work as no knowing employer would give consideration to such an individual's application. Beyond that, however, I have serious doubts as to Ms. Haines' capacity to engage in any type of sustained work even if a job could be provided." Mr. Brown stated unequivocally that the Claimant "should be considered permanently and totally disabled."

In the face of the above, overwhelming evidence in support of the findings and conclusions of the hearing Commissioner, the Defendants accuse the Claimant of faking the seriousness of her injury. No health care professional, except perhaps Dr. Felmly, has questioned the seriousness of the Claimant's injury. The hearing Commissioner certainly did not question her credibility. What do the Defendants' have to back up their claim that the Claimant is able to work?

They have no medical evidence to support their claim that the Claimant is not totally and permanently disabled. So they attack the Claimant. There is "surveillance evidence", which is acknowledged to be inaccurate, as the person depicted several times in the surveillance video is <u>not</u> the Claimant, but her daughter. So the Claimant is not the person carrying a child or getting gas. All they have is a few isolated incidents of the Claimant coming outside of her home. Regrettably, this is usually to smoke; but one has to use vivid imagination to observe anything the Claimant does in the video that refutes the findings of the health care professionals and Mr. Brown that the Claimant is completely unable to work.

The Claimant "has to hold her head tilted to the left at all times because of pain", according to Dr. Boyd's notes on September 19, 2011—about thirty-one months after injury and about six months after surgery. During the months between the injury and

until her surgery, she was rarely out of work, despite pain and problems. Even after surgery she tried to work. Dr. Boyd observed that she had "almost torticollis-type neck position tilted to the left.[1] She cannot move it any to the right of midline. She guards her neck and arm." The Defendants argue in their brief that "a close examination of the surveillance video submitted contradicts this contention [that Claimant cannot straighten her neck] and actually shows claimant with significantly more range of motion than shown at the hearing." This charge is ridiculous and contrary to the medical evidence and the testimony of the only witness at the hearing, the Claimant.

The next tactic of the Defendants is to contend that the Claimant can do some work that she previously performed. The evidence cited above from the health care providers and the vocational expert totally refute this. The Defendants further suggest that because the Claimant can do some chores around her home—light chores—she should be able to work. An injured worker need not be helpless in order to be totally and permanently disabled. In the case of the Claimant, she does as much as she can; but her limitations and problems are well covered in the medical evidence. The Defendants refer to the Claimant's testimony at the hearing, but do not refer the Commission to the location of this testimony. To the best of this writer's knowledge, the hearing testimony has not been transcribed. Furthermore, this writer does not recall the depositions of the Claimant being placed in evidence at the hearing; and the depositions are not referred to in the Order of Commissioner as having been submitted. If the Claimant is correct about the hearing and deposition transcripts not being before the Commissioner or the full Commission, then such portions of the Defendants' brief as refer to those documents must be disregarded.

Finally, the Defendants contend that the "Employability Analysis and Labor Market Study" prepared by The Directions Group, Inc. (Jan Westmoreland, Med, CRC) shows that the Claimant is able to work. The validity of this report is totally undermined by the fact that the Directions Group, after reviewing all of the medical evidence, including the FCE from Palmetto Health which found the Claimant suited only for "less than sedentary to sedentary" work, concludes that the Claimant can perform "sedentary to light demand work". Defendants' APA p. 202. This conclusion is not supported by any evidence in the record. Therefore, no consideration should be given to the report of the Directions Group.

Mr. Brown, the vocational expert, also reviewed the report of the Directions Group. Mr. Brown and the physicians who treated the Claimant believed that the medication she is required to take is a major impediment to her being able to work. The Directions Group refers to her having to take narcotics, but does not indicate that such is any impediment to work. Mr. Brown notes that the jobs listed as possibilities for the Claimant in the

[1] Torticollis is a fixed or dynamic tilt, rotation or flexion of the head and/or neck.

Directions Group report require at least the capacity to work at the full range of sedentary demand, if not the sedentary to light level. Also, no potential employers were contacted to determine if the jobs would match up with the Claimant's limited abilities. As Mr. Brown says, "As such, this labor market survey adds nothing to the clinical picture other than to state that jobs exist in the local community but not necessarily for Ms. Haines." Mr. Brown further states what is submitted earlier in this brief: "I don't see how the findings of the report connect with the medical." Claimant's APA pp. 174-181.

The evidence overwhelmingly supports the Order of Commissioner in this case under §42-9-10 because two or more body parts are affected and the Claimant is unable to work, and under §42-9-30 (21) because the Claimant has more than 50% back disability. There is no evidence to rebut the presumption of total and permanent disability due to 50% back disability.

II. The Commissioner properly ordered payment in a lump sum.

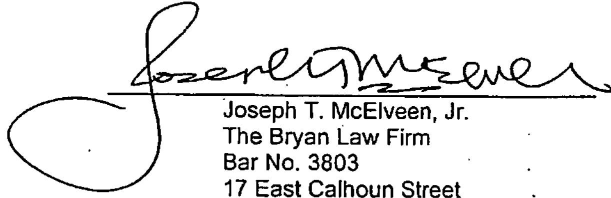
In his Order, the hearing Commissioner noted in his Findings of Fact that the Defendants did not object to payment in a lump sum. Order of Commissioner, p. 7, para. 10. The Claimant requested payment in a lump sum in her Form 58, Pre-hearing Brief. At no time did the Defendants claim any prejudice or unwillingness to pay in a lump sum. The Commission has the authority to award payment of compensation in a lump sum. S.C. CODE ANN. §42-9-301 (1976, as amended); Reg. 67-1605. Furthermore, the Defendants did not mention payment in a lump sum as a Ground for Review in their Form 30, Request for Commission Review.

The objection to payment in a lump sum is without merit and not properly before the full Commission.

CONCLUSION

The evidence is overwhelming: the Claimant is totally and permanently disabled; and nothing presented by the Defendants refutes this. Also, the hearing Commissioner properly ordered payment in a lump sum.

Respectfully submitted,



Joseph T. McElveen, Jr.
The Bryan Law Firm
Bar No. 3803
17 East Calhoun Street
P.O. Box 2038
Sumter, SC 29151-2038
(803) 775-1263
Fax (803) 778-1300
Attorney for the Claimant/Appellant

SUMTER, SOUTH CAROLINA
February 14, 2013

CERTIFICATE OF MAILING

I, the undersigned employee of the law offices of The Bryan Law Firm of SC, L.L.P., attorneys for Katherine L. Haines, do hereby certify that I have served the Defendants or counsel of record with the following document(s) by mailing a copy of the same by United States Mail, postage prepaid, to the following address this 14th day of February, 2013:

Pleading(s): Appellants Reply Brief

Person(s) Served:

Brad Easterling, Esquire
Turner Padget Graham & Laney P.A.
P.O. Box 1509
Greenville, SC 29602

Ms. Virginia L. Crocker
S.C. Workers' Compensation Commission
Judicial Department
Post Office Box 1715
Columbia, South Carolina 29202-1715

Tiffany Jackson

SWORN to and subscribed before me
this 14th day of February, 2013

Elizabeth Nesbitt
Elizabeth W. Nesbitt
Notary Public for South Carolina
My Commission expires: May 1, 2019.

S:\SHARED\WC\HAINES KATHERINE\CERT OF MAIL REPLY BRIEF.DOCX

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
SINGLE COMMISSIONER & APPELLATE PANEL

RECEIVED
DEC 16 2013
SC Court of Appeals

Appellate Case No. 2013-001669
Trial Court Case No. 0901428, 0905998

Katherine L. Haines, Employee, Respondent,

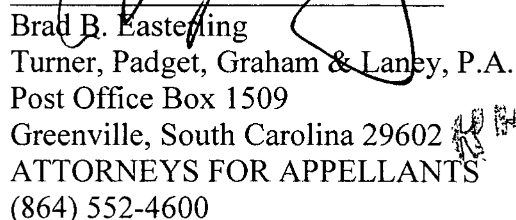
v.

Dollar Tree Stores, Inc., Employer, and ARCH Insurance Company, Carrier
Appellants.

CERTIFICATE OF COUNSEL
AND COMPLIANCE

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

The undersigned also certifies that this Record on Appeal complies with the South Carolina Supreme Court's Order dated April 20, 2011, concerning personal data identifiers and other sensitive information.



December 12, 2013

Brad B. Easterling
Turner, Padget, Graham & Laney, P.A.
Post Office Box 1509
Greenville, South Carolina 29602
ATTORNEYS FOR APPELLANTS
(864) 552-4600

RECEIVED
DEC 16 2013
SC Court of Appeals