

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

APPELLATE PANEL
The Honorable Aisha Taylor, The Honorable Andrea C. Roche
and The Honorable Gene McCaskill

Appellate Case No. 2013-001611
Trial Court Case No. 1104798

Kenneth Smith, Employee/Claimant.....Respondent,

v.

Marion Builders Group, LLC, Employer
and Builders Mutual Insurance Company,
Carrier/Defendants.....Appellants.

RECORD ON APPEAL

George A. Taylor
CALLISON TIGHE & ROBINSON, LLC
Post Office Box 1390
Columbia, SC 29202-1390
(803) 404-6900
ATTORNEYS FOR APPELLANTS

Everett H. Garner, Esquire
HOLLER DENNIS CORBETT ORMAND
PLANTE & GARNER
Post Office Box 11006
Columbia, SC 29211
(803) 765-2968
ATTORNEYS FOR RESPONDENT

RECEIVED

FEB 10 2014

SC Court of Appeals

INDEX

I. Orders

1. Decision and Order of The Honorable Susan S. Barden
dated December 17, 2012 5
2. Appellate Panel Decision and Order dated June 24, 2013 21

II. Forms and Pleadings

1. Form 50 dated April 13, 2011 28
2. Form 50 dated March 20, 2012 29
3. Form 51 dated April 18, 2012 32
4. Form 50 dated June 12, 2012 33
5. Form 51 dated July 10, 2012 36
6. Pre-Hearing Brief, Notice of Witnesses and
APA Submissions of Marion Builders Group, LLC
and Builders Mutual Insurance Company dated May 16, 2012 37
 - i. Exhibit No. 1 - Deposition Transcript of Claimant
(See Other Materials and Documents) 337
 - ii. Exhibit No. 2 - Deposition Transcript of Todd Mack
(See Other Materials and Documents) 382
7. Pre-Hearing Brief, Notice of Witnesses and APA Submissions
of Claimant dated May 17, 2012 40
 - i. Exhibit No. 1: Affidavit of Todd Mack 44
 - ii. Exhibit No. 2: U.S. Bureau of Labor and Statistics Occupational
Employment and Wages, May 2011, 47-2031 Carpenters 46
 - iii. Exhibit No. 3: Occupational Employment Statistics Occupational
Employment and Wages, May 2011, 47-2031 Carpenters 53

8.	Pre-Hearing Brief, Notice of Witnesses and APA Submissions of Employee/Claimant dated August 28, 2012	62
i.	Exhibit No. 1: Affidavit of Todd Mack	67
ii.	Exhibit No. 2: U.S. Bureau of Labor and Statistics Occupational Employment and Wages, May 2011, 47-2031 Carpenters	69
iii.	Exhibit No. 3: Occupational Employment Statistics Occupational Employment and Wages, May 2011, 47-2031 Carpenters	76
9.	Pre-Hearing Brief, Notice of Witnesses and APA Submissions of Marion Builders Group, LLC and Builders Mutual Insurance Company dated August 30, 2012	85
i.	Exhibit No. 1 - Deposition Transcript of Claimant (See Other Materials and Documents)	332
ii.	Exhibit No. 2 - 2011 Tax Return	88
10.	Pre-Hearing Brief, Notice of Witnesses and APA Submissions of Employee/Claimant dated October 11, 2012	100
i.	Exhibit No. 1 - Affidavit of Todd Mack	107
ii.	Exhibit No. 2 - U.S. Bureau of Labor Statistics Occupational Employment and Wages, May 2011, 47-2031 Carpenters	109
iii.	Exhibit No. 3 - Occupational Employment Statistics Occupational Employment and Wages, May 2011, 47-2031 Carpenters	116
iv.	Exhibit No. 4 - Joel D. Leonard, CRC, CVE	125
v.	Exhibit No. 5 - 2006 Federal Tax Return	128
vi.	Exhibit No. 6 - Bank envelope indicating 12 hours (200.00) ..	132
vii.	Exhibit No. 7 - Hilton Residence - Bid & receipts	133
viii.	Exhibit No. 8 - Henry O. Jacobs Builder - Subcontractor Checklist & pricing	137
ix.	Exhibit No. 9 - Sandra Donnelly Proposal & receipts	146
x.	Exhibit No. 10 - Carl Kichess Proposals & receipts	154

xi.	Exhibit No. 11 - Bill Byrd Proposal & Draw Slip	168
xii.	Exhibit No. 12 - Bob Ivey Proposals, receipts	170
xiii.	Exhibit No. 13 - Unknown Church Job - 2008	182
xiv.	Exhibit No. 14 - Bill Byrd Proposals & receipts	196
xv.	Exhibit No. 15 - Hartley - Job & receipts	202
xvi.	Exhibit No. 16 - George & Maggie Wright proposal	205
xvii.	Exhibit No. 17 - Bricker/Brewer Residence supply and labor sheets	209
11.	Pre-Hearing Brief, Notice of Witnesses and APA Submissions of Marion Builders Group, LLC and Builders Mutual Insurance Company dated October 12, 2012 ..	214
i.	Exhibit No. 1 - 2011 Income Tax Return	217
ii.	Exhibit No. 1 - Deposition Transcript of Claimant (See Other Materials and Documents)	332
12.	Form 30 dated December 28, 2012	229
13.	Brief of Claimant dated February 28, 2013	231
14.	Brief of Respondents dated April 3, 2013	237

III. Transcripts

1.	Transcript of Hearing of October 24, 2012	249
i.	Mr. Mack for Claimant:	
	Direct Examination by Mr. Garner	260
	Cross-Examination by Mr. Taylor	271
	Re-Direct Examination by Mr. Garner	277
	Re-Cross-Examination by Mr. Taylor	280
ii.	Claimant:	
	Direct Examination by Mr. Garner	285
	Cross-Examination by Mr. Taylor	298
	Re-Direct Examination by Mr. Garner	313

2.	Transcript of Hearing of April 16, 2013	318
i.	Opening Statement by Mr. Garner	320
ii.	Opening Statement by Mr. Taylor	326
ii.	Reply by Mr. Garner	332

IV. Other Materials or Documents

1.	Deposition Transcript of Claimant dated May 3, 2012	337
2.	Deposition Transcript of Todd Mack dated May 24, 2012	382

V.	Certificate of Counsel	417

DECISION AND ORDER
OF THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
W.C.C. FILE NO. 1104798

KENNETH SMITH, EMPLOYEE, CLAIMANT,

vs.

MARION BUILDERS GROUP, LLC
AND
BUILDERS MUTUAL INSURANCE COMPANY

Hearing: October 24, 2012
Greenville, South Carolina

Appearances: For the Claimant:
Everett H. Garner, Esquire, of Holler Dennis Corbett
Ormond Plante & Garner
Columbia, South Carolina

For the Defendants:
George A. Taylor, Esquire, of Callison Tighe
& Robinson
Columbia, South Carolina

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

Decision and Order: By Susan S. Barden Commissioner.

Filed: December 17, 2012

APA SUBMISSIONS

Under the Administrative Procedures Act, the following records were submitted into evidence by the parties:

CLAIMANT'S APA SUBMISSIONS

<u>APA</u>	<u>Description</u>	<u>Dates</u>	<u>Pages</u>

N/A at this time.

EXHIBITS:

1.	Affidavit of Todd Mack	Undated	1 – 2
2.	U.S. Bureau of Labor Statistics Occupational Employment and Wages, May 2011	5/16/12 Internet	3 – 9
3.	Occupational Employment Statistics Occupational Employment and Wages May 2011 47-2031 Carpenters	05/16/12 Internet	10 – 18
4.	Joel D. Leonard, CRC, CVE,	10/09/12	19 – 21
5.	2006 Federal Tax Return		22 – 25
6.	Bank envelope indicating	Undated	26
7.	Hilton Residence – Bid & receipts	02/26/08	27 – 30
8.	Henry O. Jacobs Builder Subcontractor Checklist & pricing	06/09/09	31 – 39
9.	Sandra Donnelly Proposal & receipts	08/14/08	40 – 47
10.	Carl Kichess Proposals & receipts	04/28/09	48 – 61

11.	Bill Byrd Proposal & receipts	04/28/09	62 – 63
12.	Bob Ivey Proposals & receipts	08/01/08	64 – 85
13.	Unknown Church Job	03/07/08	86 – 89
14.	Bill Byrd Proposals & receipts	04/28/09	90 – 95
15.	Hartley – Job & receipts	09/15/08	96 – 98
16.	George & Maggie Wright & receipts	01/29/08	99 – 102
17.	Bricker/Brewer Residence Supply and labor sheets	12/12/07	103 – 107

**DEFENDANTS', MARION BUILDERS GROUP AND
BUILDERS MUTUAL INSURANCE COMPANY, APA SUBMISSIONS**

EXHIBITS:

1. 2011 Federal Tax Return.
2. Deposition Transcript of Claimant.

STIPULATIONS

At the call of the case, the parties stipulated as follows:

- a. The South Carolina Workers' Compensation Commission has jurisdiction.
- b. Venue is proper in Greenville County.
- c. Notice of Hearing was sufficient.
- d. Claimant suffered an injury by accident arising out of and in the course of employment on April 4, 2011.

- e. The purpose of the Hearing was to determine the Claimant's proper compensation rate.

STATEMENT OF THE CASE

This matter came before me upon the Form 50, Employee's Request for Hearing and Form 51 filed by the Defendants. The Defendants admit that the Claimant sustained an injury by accident arising out of and in the course of employment. The parties have stipulated that the Claimant suffered injuries to his right wrist, elbow, spine, neck, ribs and mouth while working as a carpenter for Defendant Marion Builders Group, LLC. ("Marion Builders") The only issue before the Commission is the Claimant's average weekly wage and the corresponding compensation rate.

The Defendants have been making temporary total disability payments to the Claimant since the date of accident based upon an average weekly wage of \$408.00, with a corresponding compensation rate of \$272.01. The Defendants base Claimant's compensation rate on a report made by the Claimant's boss, Todd Mack, to an adjuster of Defendant Builders Mutual Insurance Company shortly after Claimant's injury wherein Mr. Mack reported the Claimant was being paid \$12 per hour for 32-34 hours a week.

The Claimant asserts that the compensation rate set by Defendants has been miscalculated. According to the Claimant, the compensation rate set by Defendants was improperly based on an hourly wage of \$12 per hour but that he was actually being paid \$20 per hour. Based on the Claimant's calculation, the Claimant's average weekly wage should be \$800 with a corresponding compensation rate of \$533.60.

EVIDENCE OF THE CASE

The Claimant and his boss, Todd Mack, were present at the Hearing.

A. Federal Tax Returns

The Claimant's APA submissions included the Claimant's 2006 Federal Income Tax Return. (Cl. Ex. 5). In 2006, the Claimant and his wife filed their taxes jointly. Id. The tax return indicates that the Claimant's construction company, Kenneth Construction, received a Gross Income in 2006 of \$393,391.00. Id. However, Kenneth Construction reported Total Expenses to be \$374,282.00. Id. Therefore, the Total Income for the Claimant and his spouse for the 2006 tax year was \$19,109.00. Id.

The Defendants' APA submissions included the Claimant's 2011 Federal Income Tax Return. (Def. Ex. 1). In 2011, the Claimant filed his taxes individually. Id. Claimant's 2011 Federal Tax Return includes a Tax Return Comparison sheet showing the Claimant's Total Income for tax years 2009, 2010, and 2011. Id. In 2009, the Claimant's Total Income was reported to be \$16,410.00; in 2010, \$28,775.00; and in 2011, \$20,157.00. Id.

B. Labor Statistics and Expert Report

The Claimant's APA submissions also included Occupational Employment and Wages Statistics from the U.S. Bureau of Labor Statistics. (Cl. Ex. 2). The U.S Bureau of Labor Statistics reports a national median income of carpenters to be \$19.24 per hour. Id.

Also included in the Claimant's APA submissions is an expert report from Joel D.

Leonard, CRC, CVE. (Cl. Ex. 4). Mr. Leonard's report provides his vocational opinion regarding the Claimant's earning potential and average weekly wage. *Id.* Defendants objected to the submission based upon Mr. Leonard's unavailability at the hearing. (Tr. pp. 4-5). The Defendants' objection was noted and overruled. *Id.* Mr. Leonard's report notes that "the National Bureau of Labor Statistics reveals a median wage for carpenters of \$15.86 per hour and a mean wage of \$16.53 (SC)." *Id.* Mr. Leonard also reported findings from salary.com which references a median hourly wage for carpenters of \$17.21 with a cited hourly low of \$12.36 and a cited high of \$23.63. *Id.* Mr. Leonard's analysis led him to conclude that Mr. Smith's assertion concerning his expected wages of \$20 per hour was reasonable. *Id.*

C. GrandSouth Bank Envelope

The Claimant's APA submissions also included a copy of a bank envelope from GrandSouth Bank. (Cl. Ex. 6). Handwritten on the envelope was "Kenny 12 hours." *Id.*

D. Testimony of Todd Mack

Todd Mack testified first. (Tr. p. 12). Mr. Mack testified that he was a subcontractor for Defendant Marion Builders Construction Company. (Tr. p. 14). Mr. Mack hired the Claimant to work for him after he was contacted by the Claimant. (Tr. p. 15). Mr. Mack stated that when he hired the Claimant, the Claimant would be paid \$12 per hour. (Tr. p. 16).

However, Mr. Mack testified that he decided to pay the Claimant \$20 per hour after the Claimant appeared on the job site with tools and equipment. *Id.* Mr. Mack testified that he expected the Claimant and the other carpenters to work between 36

and 40 hours per week. (Tr. pp. 18; 20). Mr. Mack further testified that he agreed to pay the Claimant the increased amount because of the Claimant's knowledge and experience. (Tr. pp. 21-22).

On cross examination, Mr. Mack testified that after the Claimant's injury, he spoke with a representative of Defendant Builders Mutual Insurance Company ("Builders Mutual"). (Tr. p. 25). When asked why he reported to the Builders Mutual agent that the Claimant was being paid \$12 per hour if he were actually being paid \$20 per hour, Mr. Mack stated that he was communicating the amount that he initially hired the Claimant to work for, and not the amount he actually intended to pay the Claimant. (Tr. pp. 25-26).

Further, on cross-examination, Mr. Mack testified, after having had his memory refreshed with his deposition transcript, that the average hours he expected his crew to work on this job site was 32-36 hours per week. (Tr. pp. 27-28).

When asked to explain the circumstances surrounding the Claimant's sudden increase in pay, Mr. Mack stated he knew of the Claimant's knowledge and experience when he hired him to work for \$12 per hour, but that when combined with the Claimant's tools and equipment, the Claimant warranted the significant increase in pay. (Tr. p. 26). Specifically, Mr. Mack stated:

When he – the Sunday when he showed up and had all his tools and all, with the truck and trailer. I mean, I wasn't expecting that, and then I thought to myself, you know, if that was me, I wouldn't take all my equipment out of town to use on a job and a man just give me \$12 an hour; that \$20 an hour would be fair for a man to drag all his equipment out of town to work for you. Id.

When asked specifically what tools the Claimant brought to the jobsite that he did not already have, Mr. Mack testified that the Claimant had an aluminum walk board valued at approximately \$500-\$600 and safety equipment, including a harness, valued at approximately \$100. (Tr. pp. 33-34).

E. Testimony of Claimant

The Claimant testified on his own behalf. (Tr. p. 36). The Claimant testified that he has over 30 years of experience as a framing carpenter. (Tr. pp. 38-39). The Claimant stated that he started his own contracting business in 1998, and employed his own crews. (Tr. p. 38). The Claimant testified that he had some very profitable years, but his business began to suffer in 2008. (Tr. p. 39). In 2010, the Claimant said he began finding work again, but that he did not have any employees working for him at that time. Id. From 2010 until the Claimant's injury, he did not have any employees working for him. (Tr. p. 65).

The Claimant testified that he felt the economy was so bad that he would have picked up bottles or cans on the side of the road if necessary. (Tr. p. 63). The Claimant stated: "I worked one week at His House up there where – His House for \$248 a month so I could pay my light bill. That's how bad the economy was." Id.

The Claimant admitted that he contacted Mr. Mack for work after hearing that Mr. Mack was working on a job out of town and was looking for help. (Tr. pp. 44-45). The Claimant testified that he was hired to work for \$20 per hour, and he never agreed to work for \$12 per hour. (Tr. pp. 45; 62). The Claimant had been working sporadically but did not have steady employment when he contacted Mr. Mack about coming to work

for him. (Tr. p. 63).

The Claimant further testified that he was paid by Mr. Mack for his work. (Tr. pp. 52-53). The Claimant received payment in an envelope from GrandSouth Bank which indicated the pay was for 12 hours of work. (Cl. Ex.6; Tr. pp. 52-53). The Claimant said the envelope contained \$200. (Tr. p. 53). When asked on cross-examination why the envelope contained only \$200 for 12 hours of work, the Claimant testified that he was displeased with the amount paid to him, but he did not take any action against Mr. Mack because he knew he wasn't going back to work for him due to his injuries. Id.

The Claimant testified regarding his Federal Tax Returns and income prior to 2011. (Tr. pp. 56-60). The Claimant testified that 2006 was a great year for him with gross earnings of \$393,391. (Tr. pp. 57-58). The Claimant stated that the reported Total Net Income on his 2006 Federal Tax Return was properly reported as \$19,109.00. Id. The Claimant also stated that his reported losses totaling \$374,282.00 was properly reported. Id.

The Claimant testified regarding his Total Net Income in 2009 and stated he honestly reported his financial information to his accountant for that tax year. (Tr. p. 57). When asked if his Total Income was properly reported as \$16,410.00, the Claimant stated: "it could have been." Id.

The Claimant testified regarding his Total Income in 2010. Id. The Claimant admitted that his Total Net Income reported for 2010 was \$28,775.00. He also testified that he worked approximately 12 weeks during 2010 to realize this net income. (Tr. pp. 42-43). He further testified that he worked three months, January, February and March in 2011 and earned according to his tax returns a net income of \$20,157. (Tr. P. 42).

The Defense did not call any witnesses.

FINDINGS OF FACT

1. The Claimant was injured by accident in the course and scope of his employment with Defendant Marion Builders on April 4, 2011, when he fell from a scaffold and landed on concrete.

2. The Claimant is an experienced carpenter with over 30 years of experience in the trade.

3. The Claimant's business income was negatively affected by the economic downturn beginning in approximately 2008.

4. The Claimant did not establish that he was earning \$20 per hour while employed by Defendant Marion Builders Construction Company.

5. The Defendants did not establish that the Claimant was being paid \$12 per hour while employed by Defendant Marion Builders Construction Company.

6. Mr. Mack and his crew worked an average of 32-36 hours per week for Defendant Marion Builders and worked a similar schedule thereafter.

7. The Claimant was hired by Mr. Mack to work for Defendant Marion Builders Construction Company.

8. Prior to being hired by Mr. Mack, the Claimant was unemployed.

9. The Claimant experienced large intervals of unemployment from 2008 until his employment with Defendant Marion Builders.

10. Prior to 2009, the Claimant's construction company, Kenneth Construction, employed other workers besides the Claimant; however, in 2010 and

2011, neither Kenneth Construction nor the Claimant employed anyone other than the Claimant.

11. The Claimant's first day of work for Defendant Marion Builders was April 3, 2011, one day before his injury.

12. The Claimant worked a total of approximately 12 hours while employed by Defendant Marion Builders.

13. The Claimant was paid \$200 for his work for Defendant Marion Builders. The Claimant was paid in cash contained in an envelope from GrandSouth Bank. The Claimant was paid by Mr. Mack. The pay was intended to be compensation for all of Claimant's work for Defendant Marion Builders. If Claimant's wage was calculated based upon the wages actually paid to him, the Claimant's wage would be \$16.67 per hour.

14. The Claimant's Total Income in 2010 was \$28,775.00

15. The Claimant's Total Income in 2009 was \$16,410.00

16. The Claimant's Total Income in 2006 was \$19,109.00

17. The U.S. Bureau reports a national median income of carpenters to be \$19.24 per hour and the South Carolina median income of carpenters to be \$15.86 per hour.

18. Mr. Mack's testimony at the hearing was inconsistent with his prior representations to Defendant Builders Mutual Insurance Company. Mr. Mack's testimony at the hearing was inconsistent with his prior testimony during his deposition. Mr. Mack's testimony regarding the Claimant's initial wage rate and corresponding pay

raise was inconsistent and non-credible. Mr. Mack is found to be a non-credible witness.

19. This Commission has no doubt that Claimant's extensive experience as a carpenter would render him worthy of compensation from employment of \$20 an hour or more in a stable economy.

CONCLUSIONS OF LAW

Accordingly, as provided by S.C. Code Ann. §42-17-40, it is hereby determined as a matter of law that:

1. The Claimant suffered a compensable injury by accident in accordance with S.C. Code §42-1-160.

2. S.C. Code §42-1-40 is applicable in defining "average weekly wage". S.C. Code §42-1-40 sets forth a primary method for calculating average weekly wage and sets forth four alternative methods. The primary method for calculating average weekly wage is to take the total wages paid for the last four completed quarters prior to the injury divided by fifty-two or by the actual number of weeks for which the wages are paid, whichever is less.

3. Where the Claimant's employment lasted for a period of less than 12 months, the most appropriate alternative method to calculate average weekly wage must be utilized. S.C. Code §42-1-40.

4. The alternative method utilized in calculating average weekly wage must most nearly approximate the amount which the injured employee would be earning were it not for the injury. S.C. Code §42-1-40.

5. In determining which alternative method to use, the Court considers the practicability of the method, and whether the calculation yields a result that is "fair and just" to both parties. Pugh v. Piedmont Mechanical, 396 S.C. 31, 39, 719 S.E.2d 676, 680 (Ct. App. 2011).

6. The Claimant's average weekly wage should be calculated based on the Claimant's 2010 Federal Income Tax Return because the 2010 Federal Income Tax Return most nearly approximates the amount which the Claimant would be earning were it not for the injury. The Claimant's 2010 Federal Income Tax Return reveals that the Claimant earned \$28,775.00 in 2010.

7. The primary method for calculating average weekly wage is not available in this case because the Claimant was not employed by Defendant Marion Builders for fifty-two weeks.

8. The method for calculating average weekly wage by dividing total wages by the actual number of weeks for which wages were paid is not an available method for calculating average weekly wage in this case because the Claimant only worked approximately 12 hours over the period of two days.

9. The alternative method for calculating average weekly wage by utilizing the average weekly wage which was being earned by a person of the same grade and character employed in the same class of employment in the same locality or community is not the best alternative method in this case. Use of this method would be impracticable and would yield a result that is not fair and just based on the particular circumstances of this case, particularly the fact that the Claimant admitted he spent

substantial periods of time without work since approximately 2008.

10. To calculate Claimant's compensation rate based upon Claimant's claim he was to be paid \$20 per hour for approximately 40 hours per week for 52 weeks is likewise unfair and unjust to Defendants where the Claimant admitted that he has not maintained steady employment since 2008 and where Claimant would be depending upon work from Mr. Mack, a witness this Commissioner has found non-credible.

11. To calculate Claimant's compensation rate based upon Mr. Mack's representation to Defendant Builders Mutual would be unfair and unjust to the Claimant where Mr. Mack has been found to be non-credible by this Commissioner.

12. The Claimant's 2010 Total Income indicates the Claimant's hourly rate of pay is \$16.27 per hour where the Claimant worked 34 hours per week. Though not dispositive of the Claimant's actual hourly rate, the Commissioner finds that the amount yielded from the Claimant's 2010 Total Income to be consistent with Mr. Leonard's testimony that the National Bureau of Labor Statistics reports a median wage for carpenters in South Carolina to be \$15.86 and a mean wage of \$16.53.

13. Though not dispositive of the Claimant's actual hourly rate, the Commissioner finds that the amount yielded from the Claimant's 2010 Total Income to be very close to the actual amount (\$16.67) Claimant was paid for 12 hours of work.

14. §42-1-100 of the South Carolina Code of Laws is applicable in defining "compensation".

15. The Claimant's compensation rate is \$369.10 based upon an Average Weekly Wage of \$553.37, pursuant to S.C. Code § 42-1-40.

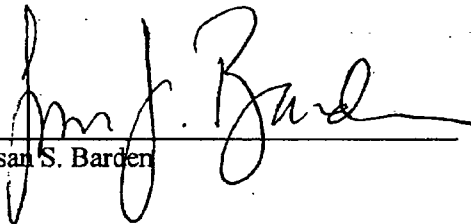
16. Use of Claimant's 2010 Total Income reported on his Federal Tax Return is the most practicable method for calculating the Claimant's compensation rate based upon the particular facts of this case.

AWARD

IT IS THEREFORE ORDERED that Claimant's compensation rate from the date of injury and continuing until further Order of the Commission is \$369.10.

IT IS FURTHER ORDERED that Defendants shall pay to Claimant temporary total disability from April 4, 2011 until further Order of the Commission at a compensation rate of \$369.10

AND IT IS SO ORDERED.



Susan S. Barden

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.
December 17, 2012

By: Kristi Love, Administrative Assistant to Commissioner Barden

**APPELLATE PANEL DECISION AND ORDER
OF THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
W.C.C. FILE NO. 1104798**

KENNETH SMITH, EMPLOYEE, CLAIMANT/APPELLANT

vs.

**MARION BUILDERS GROUP, LLC
AND
BUILDERS MUTUAL INSURANCE COMPANY, DEFENDANTS/RESPONDENTS**

Hearing: April 16, 2013
Columbia, South Carolina

Appearances: For the Claimant/Appellant:
Everett H. Garner, Esquire, of Holler Dennis Corbett
Ormand Plante & Garner
Columbia, South Carolina

For the Defendants/Respondents:
George A. Taylor, Esquire, of Callison Tighe & Robinson
Columbia, South Carolina

Purpose of Hearing: Order Majority Affirm with Amendment

Decision and Order: By Aisha Taylor, Andrea C. Roche and Gene McCaskill

Filed: 6/24, 2013

STATEMENT OF THE CASE

This matter came before the Appellate Panel of the South Carolina Workers' Compensation on April 16, 2013 per notice timely and properly served on all parties of interest. The matter was heard before the Hearing Commissioner on October 24, 2012 in Greenville, South Carolina, pursuant to the Form 50, Employee's Request for Hearing, and Form 51 filed by the Defendants.

The only issue before the Hearing Commissioner and likewise before this Appellate Panel was the Claimant's proper compensation rate. The Decision and Order of the Hearing Commissioner dated December 17, 2012, contains the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The Claimant was injured by accident in the course and scope of his employment with Defendant Marion Builders on April 4, 2011, when he fell from a scaffold and landed on concrete.
2. The Claimant is an experienced carpenter with over 30 years of experience in the trade.
3. The Claimant's business income was negatively affected by the economic downturn beginning in approximately 2008.
4. The Claimant did not establish that he was earning \$20 per hour while employed by Defendant Marion Builders Construction Company.
5. The Defendants did not establish that the Claimant was being paid \$12 per hour while employed by Defendant Marion Builders Construction Company.
6. Mr. Mack and his crew worked an average of 32-36 hours per week for Defendant Marion Builders and worked a similar schedule thereafter.
7. The Claimant was hired by Mr. Mack to work for Defendant Marion Builders Construction Company.

8. Prior to being hired by Mr. Mack, the Claimant was unemployed.

9. The Claimant experienced large intervals of unemployment from 2008 until his employment with Defendant Marion Builders.

10. Prior to 2009, the Claimant's construction company, Kenneth Construction, employed other workers besides the Claimant; however, in 2010 and 2011, neither Kenneth Construction nor the Claimant employed anyone other than the Claimant.

11. The Claimant's first day of work for Defendant Marion Builders was April 3, 2011, one day before his injury.

12. The Claimant worked a total of approximately 12 hours while employed by Defendant Marion Builders.

13. The Claimant was paid \$200 for his work for Defendant Marion Builders. The Claimant was paid in cash contained in an envelope from GrandSouth Bank. The Claimant was paid by Mr. Mack. The pay was intended to be compensation for all of Claimant's work for Defendant Marion Builders. If Claimant's wage was calculated based upon the wages actually paid to him, the Claimant's wage would be \$16.67 per hour.

14. The Claimant's Total Income in 2010 was \$28,775.00

15. The Claimant's Total Income in 2009 was \$16,410.00

16. The Claimant's Total Income in 2006 was \$19,109.00

17. The U.S. Bureau reports a national median income of carpenters to be \$19.24 per hour and the South Carolina median income of carpenters to be \$15.86 per hour.

18. Mr. Mack's testimony at the hearing was inconsistent with his prior representations to Defendant Builders Mutual Insurance Company. Mr. Mack's testimony at the hearing was inconsistent with his prior testimony during his deposition. Mr. Mack's testimony regarding the Claimant's initial wage rate and corresponding pay raise was inconsistent and non-credible. Mr. Mack is found to be a non-credible witness.

19. This Commission has no doubt that Claimant's extensive experience as a carpenter would render him worthy of compensation from employment of \$20 an hour or more in a stable economy.

CONCLUSIONS OF LAW

Accordingly, as provided by S.C. Code Ann. §42-17-40, it is hereby determined as a matter of law that:

1. The Claimant suffered a compensable injury by accident in accordance with S.C. Code §42-1-160.

2. S.C. Code §42-1-40 is applicable in defining "average weekly wage". S.C. Code §42-1-40 sets forth a primary method for calculating average weekly wage and sets forth four alternative methods. The primary method for calculating average weekly wage is to take the total wages paid for the last four completed quarters prior to the injury divided by fifty-two or by the actual number of weeks for which the wages are paid, whichever is less.

3. Where the Claimant's employment lasted for a period of less than 12 months, the most appropriate alternative method to calculate average weekly wage must be utilized. S.C. Code §42-1-40.

4. The alternative method utilized in calculating average weekly wage must most nearly approximate the amount which the injured employee would be earning were it not for the injury. S.C. Code §42-1-40.

5. In determining which alternative method to use, the Court considers the practicability of the method, and whether the calculation yields a result that is "fair and just" to both parties. Pugh v. Piedmont Mechanical, 396 S.C. 31, 39, 719 S.E.2d 676, 680 (Ct. App. 2011).

6. The Claimant's average weekly wage should be calculated based on the Claimant's 2010 Federal Income Tax Return because the 2010 Federal Income Tax Return most nearly approximates the amount which the Claimant would be earning were it not for the injury. The Claimant's 2010 Federal Income Tax Return reveals that the Claimant earned \$28,775.00 in 2010.

7. The primary method for calculating average weekly wage is not available in this case because the Claimant was not employed by Defendant Marion Builders for fifty-two weeks.

8. The method for calculating average weekly wage by dividing total wages by the actual number of weeks for which wages were paid is not an available method for calculating average weekly wage in this case because the Claimant only worked approximately 12 hours over the period of two days.

9. The alternative method for calculating average weekly wage by utilizing the average weekly wage which was being earned by a person of the same grade and character employed in the same class of employment in the same locality or community is not the best alternative method in this case. Use of this method would be impracticable and would yield a result that is not fair and just based on the particular circumstances of this case, particularly the fact that the Claimant admitted he spent substantial periods of time without work since approximately 2008.

10. To calculate Claimant's compensation rate based upon Claimant's claim he was to be paid \$20 per hour for approximately 40 hours per week for 52 weeks is likewise unfair and unjust to Defendants where the Claimant admitted that he has not maintained steady employment since 2008 and where Claimant would be depending upon work from Mr. Mack, a witness this Commissioner has found non-credible.

11. To calculate Claimant's compensation rate based upon Mr. Mack's representation to Defendant Builders Mutual would be unfair and unjust to the Claimant where Mr. Mack has been found to be non-credible by this Commissioner.

12. The Claimant's 2010 Total Income indicates the Claimant's hourly rate of pay is \$16.27 per hour where the Claimant worked 34 hours per week. Though not dispositive of the Claimant's actual hourly rate, the Commissioner finds that the amount yielded from the Claimant's 2010 Total Income to be consistent with Mr. Leonard's testimony that the National Bureau of Labor Statistics reports a median wage for carpenters in South Carolina to be \$15.86 and a mean wage of \$16.53.

13. Though not dispositive of the Claimant's actual hourly rate, the Commissioner finds that the amount yielded from the Claimant's 2010 Total Income to be very close to the actual amount (\$16.67) Claimant was paid for 12 hours of work.

14. §42-1-100 of the South Carolina Code of Laws is applicable in defining "compensation".

15. The Claimant's compensation rate is \$369.10 based upon an Average Weekly Wage of \$553.37, pursuant to S.C. Code § 42-1-40.

16. Use of Claimant's 2010 Total Income reported on his Federal Tax Return is the most practicable method for calculating the Claimant's compensation rate based upon the particular facts of this case.

APPELLATE REVIEW

Pursuant to S.C. Code Ann. § 42-17-50, in an Appellate Review, the Appellant Panel shall review the award; and, if good grounds be shown, may reconsider the evidence, receive further evidence, rehear the parties and amend the award. The Appellate Panel may make its own findings of fact and conclusions of law. Lowe v. Am-Can Transport Services, Inc., 283 S.C. 534, 537, 324 S.E.2d 87, 89 (Ct. App. 1984).

After reviewing the evidence and hearing the arguments of counsel, the majority of the Appellate Panel has determined that the Hearing Commissioner's Findings of Fact and Conclusions of Law are correct and incorporated herein by reference as if set forth verbatim herein, with the following amendment.

The majority amends the Decision and Order of the Hearing Commissioner to find the average weekly wage to reflect calculation based on forty-three (43) weeks worked during 2010. This is based on an hourly wage of \$16.67 times forty (40) hours per week and then divided into the Claimant's 2010 tax return earnings.

The majority finds that this specific calculation most nearly approximates the amount which Claimant would be earning if not for the injury and most nearly achieves the ultimate objective of reflecting fairly a Claimant's probable future earning loss. Sellers v. Pinedale Residential Center, 350 S.C. 183, 564 S.E.2d 694 (Ct. App. 2002).

Accordingly, the Findings of Fact and Conclusions of Law, as modified by the majority of the Appellate Panel shall become, and hereby are, the law of the case; and, therefore, the Decision and Order is affirmed as amended.

ORDER

NOW THEREFORE IT IS ORDERED that the Findings of Fact and Conclusions of Law from the Hearing Commissioner's Decision and Order dated December 17, 2012 are affirmed by the majority of the Appellate Panel with amendment, amending: (1) Conclusion of Law No. 6, so as to provide for a conclusion that the Claimant's average weekly wage should be calculated by dividing the Claimant's Total Income in 2010 by forty-three (43) weeks, not fifty-two (52) weeks; and (2) Conclusion of Law No. 15, so as to provide for a compensation rate of \$446.15 based upon an average weekly wage of \$666.80.

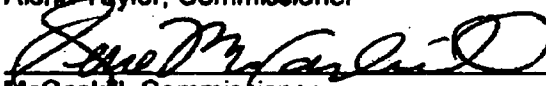
In all other respects the Decision and Order of the Hearing Commissioner dated December 17, 2012 is fully and completely affirmed in all respects.

IT IS SO ORDERED.

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION



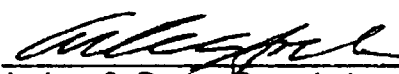
Aisha Taylor, Commissioner



McCaskill, Commissioner

Commissioner Andrea C. Roche votes to affirm the Decision and Order of the Hearing Commissioner with no amendment, with the following comment:

I think the Single Commissioner's decision was well-reasoned and I see no error.



Andrea C. Roche, Commissioner

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 June 24, 2013

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



✓ File #: 0
 Carrier File #: _____
 Carrier Code #: _____
 Employer FEIN #: _____

Claimant's Name: Kenneth C. Smith SSN: 251-17-9487 Employer's Name: Marion Builders
 Address: 1442 Highway 6 Address: 300 Wilson Bridge Rd.
 City: Gaston State: SC Zip: 29053 City: Fountain Inn State: SC Zip: 29644
 Home Phone: (803) 687-1495 Work Phone: () Insurance Carrier: Builders Mutual Insurance
 Preparer's Name: Everett Hope Garner Law Firm: Holler, et al Preparer's Phone #: (803) 765-2968

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

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

Date of Injury or Illness: 4/4/11

☒ Injury ☐ Illness ☐ Repetitive Trauma

1a. The claimant sustained an injury to: Right wrist, elbow, spine, neck, ribs, mouth (Part(s) of Body Injured) on 4/4/11 (Month/Day/Year) in Greenville county, state of South Carolina.

1b. Body part(s) affected are: Right wrist, elbow, spine, neck, ribs, mouth

Briefly describe how the accident occurred. Claimant fell 15 feet from a scaffold and landed on concrete

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

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

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

5. Notice of the accidental injury was given to the Employer on 4/4/11 (Month/Day/Year) in the following manner:

Witnessed by employer (Todd Mack)

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

☒ (a) medical examination and treatment for: Right wrist, elbow, spine, neck, ribs, mouth

☒ (b) additional medical examination and treatment for: Right wrist, elbow, spine, neck, ribs, mouth

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

To be determined

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

☒ (1) General Disability:

☒ Total

☒ (2) Specific Disability:

☒ Total

☒ (3) Wage Loss

☒ Partial

☒ Partial

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

Surgical scarring

10a. At the time of the injury, the Claimant was paid weekly wages of \$Form 20 requested, and demands accounting of days worked and wages earned as provided by law.

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

11a. Further grounds or unusual aspects of claim:

Any and all available remedies under the Act, lump sum payment, Utica Mohawk language

11b. List names and addresses of all physicians or other medical specialists who have seen or treated the Claimant as a result of the accident:
Greenville Memorial Hospital, Greenville, SC; multiple other providers

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

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

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

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

14. Estimated time needed for hearing: _____

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

Preparer's Signature

Title

Email

Date

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

WCC Form # 50
 Revised 9/07

50

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



WCC File #: 1104798
File #: _____
Carrier Code #: _____
Employer FEIN #: _____

Claimant's Name: Kenneth C. Smith SSN: 251-17-9487 Employer's Name: Marion Builders
Address: 1442 Highway 6 Address: 300 Wilson Bridge Rd.
City: Gaston State: SC Zip: 29053 City: Fountain Inn State: SC Zip: 29644
Home Phone: (803) 687-1495 Work Phone: () - Insurance Carrier: Builders Mutual Insurance
Preparer's Name: Everett Hope Garner Law Firm: Holler, et al Preparer's Phone #: (803) 765-2968

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

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

Date of Injury or Illness: 4/4/11

☒ Injury ☐ Illness ☐ Repetitive Trauma

1a. The claimant sustained an injury to Right wrist, elbow, spine, neck, ribs, mouth, psyche (Part(s) of Body Injured) On 4/4/11 (Month/Day/Year) in Greenville
1b. county, state of South Carolina.

Body part(s) affected are: Right wrist, elbow, spine, neck, ribs, mouth, psyche

Briefly describe how the accident occurred. Claimant fell 15 feet from a scaffold and landed on concrete

2. Both the claimant and the employer were subject to the South Carolina Workers' Compensation Act at the time of injury.
3. The relationship of employer and employee existed at the time of injury.
4. At the time of the injury the claimant was performing services arising out of and in the course of employment.
5. Notice of the accidental injury was given to the Employer on 4/4/11 (Month/Day/Year) in the following manner:

Witnessed by employer (Todd Mack)

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

☒ (a) medical examination and treatment for: Right wrist, elbow, spine, neck, ribs, mouth

☒ (b) additional medical examination and treatment for: Right wrist, elbow, spine, neck, ribs, mouth

☒ 7. Due to injury, the claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of:
4/4/11 forward

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

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

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

Surgical scarring

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

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

11a. Further grounds or unusual aspects of claim:

Any and all available remedies under the Act, lump sum payment, Utica Mohawk language

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

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

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

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

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

14. Estimated time needed for hearing: _____

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

Everett H. Garner Attorney ehgarner.05@yahoo.com 3/20/12
Preparer's Signature Title Email Date

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

Kenny C. Smith v. Marion Builders
WCC File No: 1104789

ATTACHMENT TO FORM 50

11B. Names and addresses of all physicians:

Dr. Isaac E. Davis
307 Columbia Ave.
Lexington, SC 29072

Dr. L. Randolph Waid
1459 Stuart Engals Blvd.,
Suite 204-A
Mt. Pleasant, SC 29464

Dr. Justin Hutcheson
Dr. David Tollison
Carolinas Center for Advanced Management of Pain
109 Midlands Court, Suite B
West Columbia, SC 29169

Dr. M. Jason Palmer
The Hand Center
1011 Frontage Rd.
Greenville, SC 29615

Dr. John M. Rinkliff
Greenville Hospital System
701 Grove Rd.
Greenville, SC 29605

University Medical Center
255 Enterprise Blvd., Suite 210
Greenville, SC 29615-3556

Dr. William M. Rambo, Jr.
Columbia Neurosurgical Associates
132 Sunset Court
West Columbia, SC 29169

Lexington Medical Center
2720 Sunset Blvd.
West Columbia, SC 29169

Dr. Sheldon Herring
100 Augusta St.
Greenville, SC 29601

DDS Imaging Services
112 Saluda Ridge Court
Suite 300
West Columbia, SC 29169

Imagecare, LLC
720 Rabon Rd.
Columbia, SC 29203

Dr. Charles Kanos
Neurosurgeon
Greenville, SC

Dr. Labadovych
Oral Surgeon
Simpsonville, SC

Dr. Draffin
Dentist
Simpsonville, SC

Dr. Z. Vance Morgan, IV, DMD
Charismatic Smiles
West Columbia, SC

Dr. Eleayna Ogburu
Neurologist
Columbia, SC

Associates in Oral & Maxillofacial Surgery
307 Columbia, Ave.
Lexington, SC 29072

Moore Orthopaedic Clinic
14 Medical Park
Columbia, SC 29203



WCC File #:	1104798
Carrier #:	
Carrier Code #:	
Employer FEN #:	

Claimant's Name: Kenneth C. Smith SSN: 251-17-9487
 Address: 1442 Highway 6, Gaston, SC 29053
 Home Phone: () - Work Phone: () -
 Date of Injury: 04/04/2011
 Employer's Name: Marion Builders
 Address: 300 Wilson Bridge Rd., Fountain Inn, SC 29644
 Insurance Carrier: Builders Mutual Insurance Company
 Preparer's Name: Richard C. Detwiler Law Firm: Callison Tighe & Robinson, LLC Preparer's Phone #: (803) 404-6900

Date of Injury or Illness: 04/04/2011

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

- It is **ADMITTED** that the employee sustained an injury or illness on or about the date set forth in the Form 50. The reasons for denial are:
- It is **ADMITTED** that both the employer and employee were subject to the Workers' Compensation Act at the time in question. The reasons for denial are:
- It is **ADMITTED** that the relationship of employer and employee existed at the time in question. The reasons for denial are:
- It is **ADMITTED** that at the time in question the employee was performing services arising out of and in the course of employment. The reasons for denial are:
- It is **ADMITTED** that notice of injury was given the employer. The reasons for denial are:
- It is **ADMITTED** that the employee needs or is entitled to additional medical care as a result of injury or illness. The reasons for denial are:
Since April 4, 2011 to present and continuing until authorized treating physician determines claimant has reached MMI.
- It is **ADMITTED** that the employee is entitled to temporary total disability for the period(s) of :
Since April 4, 2011 to present and continuing until authorized treating physician determines claimant has reached MMI.
- It is **DENIED** that the employee is permanently disabled. The reasons for denial are:
- It is **DENIED** that the employee has serious disfigurement.
- It is contended that an average weekly wage of \$272.01 applies, according to attached Form 20 as provided by law.
- Further contentions, grounds of defense, or unusual aspects are:
None.
- Estimated time needed for hearing: 1 hour

I certify I have served this document pursuant to R.67-212 by delivering a copy to:

Name: Everett Hope Garner, Esquire

Address: Holler, Dennis, Corbett, Ormand, Plante & Garner, Post Office Box 11006, Columbia, SC 29211

on the 18 day of April, 2012 by ☒ first class mail ☐ personal service ☐ certified mail.

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

Preparer's Signature: [Signature] Attorney: George Taylor Title: George Taylor Email: GeorgeTaylor@callisontighe.com Date: 4/18/12

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



WCC File #: 1104798
 Case File #: _____
 Carrier Code #: _____
 Employer FEIN #: _____

Claimant's Name: Kenneth C. Smith SSN: 251-17-9487 Employer's Name: Marion Builders
 Address: 1442 Highway 6 Address: 300 Wilson Bridge Rd.
 City: Gaston State: SC Zip: 29053 City: Fountain Inn State: SC Zip: 29644
 Home Phone: (803) 687-1495 Work Phone: () - Insurance Carrier: Builders Mutual Insurance
 Preparer's Name: Everett Hope Garner Law Firm: Holler, et al Preparer's Phone #: (803) 765 - 2968

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

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

Date of Injury or Illness: _____

☒ Injury ☐ Illness ☐ Repetitive Trauma

1a. The claimant sustained an injury to Right wrist, elbow, spine, neck, ribs, mouth, psyche (Part(s) of Body Injured) on 4/4/11 (Month/Day/Year) in Greenville county, state of South Carolina.

1b. Body part(s) affected are: Right wrist, elbow, spine, neck, ribs, mouth, psyche

Briefly describe how the accident occurred. Claimant fell 15 feet from a scaffold and landed on concrete

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

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

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

5. Notice of the accidental injury was given to the Employer on 4/4/11 (Month/Day/Year) in the following manner:

Witnessed by employer (Todd Mack)

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

☒ (a) medical examination and treatment for: Right wrist, elbow, spine, neck, ribs, mouth

☒ (b) additional medical examination and treatment for: Right wrist, elbow, spine, neck, ribs, mouth

☒ 7. Due to injury, the claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of 4/4/11 forward

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

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

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

Surgical scarring

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

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

11a. Further grounds or unusual aspects of claim:

Any and all available remedies under the Act, lump sum payment, Utica Mohawk language

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

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

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

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

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

14. Estimated time needed for hearing: _____

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

Everett H. Garner Attorney ehgarner05@yahoo.com 6/12/12
 Preparer's Signature Title Email Date

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

Kenny C. Smith v. Marion Builders
WCC File No: 1104789

ATTACHMENT TO FORM 50

11B. Names and addresses of all physicians:

Dr. Isaac E. Davis
307 Columbia Ave.
Lexington, SC 29072

Dr. L. Randolph Waid
1459 Stuart Engals Blvd.,
Suite 204-A
Mt. Pleasant, SC 29464

Dr. Justin Hutcheson
Dr. David Tollison
Carolinas Center for Advanced Management of Pain
109 Midlands Court, Suite B
West Columbia, SC 29169

Dr. M. Jason Palmer
The Hand Center
1011 Frontage Rd.
Greenville, SC 29615

Dr. John M. Rinkliff
Greenville Hospital System
701 Grove Rd.
Greenville, SC 29605

University Medical Center
255 Enterprise Blvd., Suite 210
Greenville, SC 29615-3556

Dr. William M. Rambo, Jr.
Columbia Neurosurgical Associates
132 Sunset Court
West Columbia, SC 29169

Lexington Medical Center
2720 Sunset Blvd.
West Columbia, SC 29169

Dr. Sheldon Herring
100 Augusta St.
Greenville, SC 29601

DDS Imaging Services
112 Saluda Ridge Court
Suite 300
West Columbia, SC 29169

Imagecare, LLC
720 Rabon Rd.
Columbia, SC 29203

Dr. Charles Kanos
Neurosurgeon
Greenville, SC

Dr. Labadovych
Oral Surgeon
Simpsonville, SC

Dr. Draffin
Dentist
Simpsonville, SC

Dr. Z. Vance Morgan, IV, DMD
Charismatic Smiles
West Columbia, SC

Dr. Eleayna Ogburu
Neurologist
Columbia, SC

Associates in Oral & Maxillofacial Surgery
307 Columbia, Ave.
Lexington, SC 29072

Moore Orthopaedic Clinic
14 Medical Park
Columbia, SC 29203

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



WCC File #:	1104798
Carrier #:	
Carrier Code #:	
Employer FEN #:	

Claimant's Name: Kenneth C. Smith SSN: 251-17-9487

Address: 1442 Highway 6, Gaston, SC 29053

Home Phone: () - Work Phone: () -

Date of Injury: 04/04/2011

Employer's Name: Marion Builders

Address: 300 Wilson Bridge Rd., Fountain Inn, SC 29644

Insurance Carrier: Builders Mutual Insurance Company

Preparer's Name: George A. Taylor Law Firm: Callison Tighe & Robinson, LLC Preparer's Phone #: (803) 404-6900

Date of Injury or Illness: 04/04/2011

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

1. It is **ADMITTED** that the employee sustained an injury or illness on or about the date set forth in the Form 50. The reasons for denial are:

2. It is **ADMITTED** that both the employer and employee were subject to the Workers' Compensation Act at the time in question. The reasons for denial are:

3. It is **ADMITTED** that the relationship of employer and employee existed at the time in question. The reasons for denial are:

4. It is **ADMITTED** that at the time in question the employee was performing services arising out of and in the course of employment. The reasons for denial are:

5. It is **ADMITTED** that notice of injury was given the employer. The reasons for denial are:

6. It is **ADMITTED** that the employee needs or is entitled to additional medical care as a result of injury or illness. The reasons for denial are:
Since April 4, 2011 to present and continuing until authorized treating physician determines claimant has reached MMI.
7. It is **ADMITTED** that the employee is entitled to temporary total disability for the period(s) of :
Since April 4, 2011 to present and continuing until authorized treating physician determines claimant has reached MMI.
8. It is **DENIED** that the employee is permanently disabled. The reasons for denial are:
Pending further investigation.
9. It is **DENIED** that the employee has serious disfigurement.
10. It is contended that an average weekly wage of \$272.01 applies, according to attached Form 20 as provided by law.
11. Further contentions, grounds of defense, or unusual aspects are:
None.
12. Estimated time needed for hearing: 1 hour

I certify I have served this document pursuant to R.67-212 by delivering a copy to:

Name: Everett Hope Garner, Esquire

Address: Holler, Dennis, Corbett, Ormand, Plante & Garner, Post Office Box 11006, Columbia, SC 29211

on the ____ day of July, 2012 by ☒ first-class mail ☐ personal service ☐ certified mail.

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

Preparer's Signature: [Signature] Attorney Title: George Taylor Email: GeorgeTaylor@callisontighe.com

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

WCC Form # 51
Revised 9/07

51

Employer's Answer to Request for Hearing

SCWCC
JUL 12 2012
JUDICIAL

SCWCC
JUL 12 2012
JUDICIAL

South Carolina Workers' Compensation Commission
P.O. Box 1715 - 1333 Main Street, Suite 500
Columbia, South Carolina 29202-1715

WCC File # 1104798
Carrier File# _____
Carrier Code# _____
Employer FEIN _____

Kenneth C. Smith 251-17-9487
Claimant's Name SSN

1442 Highway 6. Gaston SC 29053
Address City State Zip

Home Phone # _____ Work Phone # _____

Marion Builders Group, LLC
Employer's Name

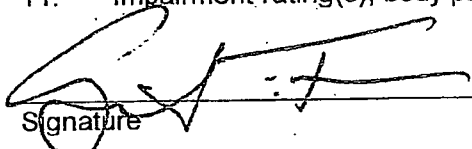
300 Wilson Bridge Rd., Fountain Inn, SC 29644
Address City State Zip

Builders Mutual Ins. Co.
Insurance Carrier

George A. Taylor, Esquire (803) 404-6900
Preparer's Name Phone #

Provide the information requested in the space provided. Use an additional sheet, if necessary.
☒ Injury by accident ☐ Occupational Disease ☐ Injury by Both Accident and Disease ☐ Other

1. Date of accident: 04/04/2011 2. AWW: \$408.00 Comp. Rate: \$272.01
3. Type of Injury: Right wrist, elbow, spine, neck, ribs, mouth, psyche.
4. Facts in Controversy: (1) Extent of impairment and disability; and (2) Wages paid by employer.
5. Legal issues involved: (1) Entitlement to permanent disability benefits; and (2) Compensation rate.
6. Unusual problems: None.
7. Witnesses (designate if expert)*: (1) Representative of the Employer, Jonathan Long; (2) Todd Mack;
(3) Defendants reserve the right to call any witness identified by the Claimant.
8. Exhibits: (1) Deposition Transcript of Claimant; and (2) Deposition Transcript of Todd Mack (set for 5/24/12).
9. Medical evidence: See attached Notice of Witnesses and APA Submissions.
10. Name, address, and specialty, if any, of the treating physician: Michael J. Palmer, MD, The Hand Center,
1011 Frontage Rd., Greenville, SC 29615; Kelby Hutchinson, MD, Carolinas Center for Advanced Pain
Management of Pain, 109 Midlands Court, Ste B., West Columbia, SC 29169.
11. Impairment rating(s); body part(s); physician and date of opinion: N/A.


Signature

5/16/12
Date

On Behalf of: ☐ Claimant ☒ Employer

DATE OF HEARING: May 30, 2012

TIME NEEDED FOR HEARING: 1 hour

File this form and proof of service on the opposing party according to R. 67-611 and R. 67-212.
WCC Form #58

Pre-Hearing Brief

58

RECEIVED

MAY 18 2012

S.C. WORKER'S COMP COMM
Commissioner Beck

BEFORE THE SOUTH CAROLINA
WORKERS COMPENSATION COMMISSION

W.C.C. File No. 1104798

Kenneth C. Smith,
Claimant,
-vs-
Marion Builders Group, LLC,
Employer,
-and-
Builders Mutual Insurance Company,
Carrier/Defendants.

**DEFENDANTS' NOTICE OF WITNESSES
AND APA SUBMISSIONS**

<u>TABS</u>	<u>NAME OF PHYSICIAN/OTHER</u>	<u>DATES OF REPORTS</u>	<u>APA PAGE NO.</u>

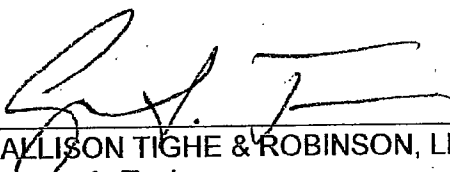
As submitted by the Claimant.

EXHIBITS:

1. Deposition Transcript of Claimant.
2. Deposition Transcript of Todd Mack
(upon receipt).

WITNESSES:

1. Representative of Employer, Jonathan Long.
2. Todd Mack.
3. Defendants reserve the right to call any witness identified by the Claimant.



CALLISON TIGHE & ROBINSON, LLC
George A. Taylor
Post Office Box 1390
Columbia, South Carolina 29202
(803) 404-6900
ATTORNEYS FOR DEFENDANTS

Columbia, South Carolina

May 16, 2012



Claimant's Name: Kenneth Smith

Employer's Name: Marion Builders Group

Address: 1442 Highway 6

Address: 300 Wilson Bridge Rd.

City: Gaston State: SC Zip: 29053

City: Fountain Inn State: SC Zip: 29644

Home Phone: (803) 687-1495 Work Phone: () -

Carrier: Builders Mutual Insurance Company

Preparer's Name: Everett Hope Garner

Preparer's Phone #: (803) 252-8290

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

☒ Injury ☐ Illness ☐ Repetitive Trauma

1. Compensation Rate: Disputed 2. AWW: \$Disputed Date of Injury: 4/4/11
3. Type of injury and body part(s): Right wrist, elbow, spine, neck, ribs, mouth
4. Facts in controversy: The average weekly wage and compensation rate are in dispute
5. Legal issues involved: See 4 above
6. Unusual aspects: _____
7. Witnesses (designate if expert):* Kenneth Smith
8. Exhibits: Affidavit of Todd Mack, Pending deposition of Todd Mack
9. Medical evidence (indicate report pursuant to R.67-612; deposition or appearance):
N/A at this time
10. Name, address, and specialty, if any, of the treating physician: _____
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: Everett Hope Garner

Email: Ehgarner05@yahoo.com

Date of hearing: May 30, 2012

Time needed for hearing: 30 minutes

On behalf of: ☒ Claimant ☐ Employer

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

BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 1104798

Kenneth Smith	)	
	)	
Claimant,	)	
	)	
v.	)	NOTICE OF WITNESSES AND WRITTEN
	)	MEDICAL REPORTS TO BE INTRODUCED
Marion Builders Group,	)	AS DIRECT EVIDENCE ON BEHALF OF
Employer and Builders Mutual	)	
Insurance Company, Carrier	)	CLAIMANT
	)	
Defendants.	)	
	)	

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION AND
RICHARD C. DETWILER, ESQUIRE

YOU ARE HEREBY NOTIFIED THAT THE Claimant, pursuant to the provisions of the South Carolina Workers' Compensation Act and South Carolina Code Section 1-23-330, (1976, as amended), herewith submits the following medical reports as direct evidence on behalf of the Claimant, to wit:

<u>NAME OF PHYSICIAN/OTHER</u>	<u>DATE OF REPORT</u>	<u>NO. OF PAGES</u>

N/A at this time

Exhibits:

Affidavit of Todd Mack	Undated	1 - 2
U.S. Bureau of Labor Statistics Occupational Employment and Wages, May 2011	5/16/12 Internet	3 - 9
Occupational Employment Statistics Occupational Employment and Wages May 2011 47-2031 Carpenters	5/16/12 Internet	10 - 18

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 of the 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 being herewith forwarded to the South Carolina Workers' Compensation Commission, for insertion in the file of the South Carolina Workers' Compensation Commission and inclusion into evidence on behalf of the employee-claimant.

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

Kenneth Smith

Respectfully Submitted,

Everett Hope Garner
Everett Hope Garner
Attorney for Claimant

Columbia, South Carolina

5/17, 2012

Kenneth Smith v. Marion Builders Group
W.C.C. File No: 1104798

INDEX TO APA SUBMISSIONS

NAME OF REPORT/RECORD(S) OR OTHER EVIDENCE	DATE OF REPORT(S)	NUMBER OF PAGES

N/A at this time

EXHIBITS:

1. Affidavit of Todd Mack	Undated	1 - 2.
2. U.S. Bureau of Labor Statistics Occupational Employment and Wages, May 2011	5/16/12 Internet	3 - 9
3. Occupational Employment Statistics Occupational Employment and Wages May 2011 47-2031 Carpenters	5/16/12 Internet	10 - 18

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND) AFFIDAVIT OF TODD MACK

Personally appeared before me Todd Mack, who after being duly sworn deposes and states:

I am the owner of Mack Construction Company which has been in business for 18 years as a framing contractor.

I have known Kenny Smith for approximately 25 years and I am specifically aware of his experience exceeding 30 years as a frame carpenter including operating his own framing subcontracting business.

In March 2011, I began discussions with Kenny Smith in regard to working for my company in some capacity on a particular job site near Greenville, South Carolina on which I was subcontracted to Marion Builders Group.

After some discussion and consideration of Kenny Smith's experience, it was decided he would be employed directly and would be paid \$20.00 per hour generally working 7 days per week at approximately 10 hours per day on the job which was anticipated to take approximately 5 weeks to complete our portion. In connection with the aforesaid job, Kenny Smith was supplying his own trailer with ladders, air compressors and walk boards.

On this job, my company employed a 5 member crew of which Kenny Smith was by far the most experienced and Kenny would have

been in charge of the crew in my absence.

Unfortunately, Kenny worked only 2 days prior to being seriously injured but it was fully anticipated that he would have fulfilled his role on the job for its duration.

Further deponent sayth not.



Todd Mack

Sworn to before me this _____
day of _____, 2011

Notary Public for South Carolina
My Commission Expires: _____



Occupational Employment Statistics

Occupational Employment and Wages, May 2011

47-2031 Carpenters

Construct, erect, install, or repair structures and fixtures made of wood, such as concrete forms; building frameworks, including partitions, joists, studding, and rafters; and wood stairways, window and door frames, and hardwood floors. May also install cabinets, siding, drywall and batt or roll insulation. Includes brattice builders who build doors or brattices (ventilation walls or partitions) in underground passageways

[National estimates for this occupation](#)

[Industry profile for this occupation](#)

[Geographic profile for this occupation](#)

National estimates for this occupation: [Top](#)

Employment estimate and mean wage estimates for this occupation:

Employment (1)	Employment RSE (3)	Mean hourly wage	Mean annual wage (2)	Wage RSE (3)
578,910	0.8 %	\$21.31	\$44,330	0.4 %

Percentile wage estimates for this occupation:

Percentile	10%	25%	50% (Median)	75%	90%
Hourly Wage	\$11.96	\$15.01	\$19.24	\$26.23	\$34.56
Annual Wage (2)	\$24,880	\$31,230	\$40,010	\$54,560	\$71,890

Industry profile for this occupation: [Top](#)

Industries with the highest published employment and wages for this occupation are provided. For a list of all industries with employment in this occupation, see the [Create Customized Tables](#) function.

Industries with the highest levels of employment in this occupation:

Industry	Employment (1)	Percent of industry employment	Hourly mean wage	Annual mean wage (2)
Residential Building Construction	174,790	30.30	\$19.86	\$41,310
Nonresidential Building Construction	109,170	16.78	\$23.23	\$48,330
Building Finishing Contractors	88,110	13.97	\$22.13	\$46,030

<u>Foundation, Structure, and Building Exterior Contractors</u>	60,870	8.98	\$20.11	\$41,820
<u>Employment Services</u>	15,540	0.53	\$19.91	\$41,420

Industries with the highest concentration of employment in this occupation:

Industry	Employment (1)	Percent of industry employment	Hourly mean wage	Annual mean wage (2)
<u>Residential Building Construction</u>	174,790	30.30	\$19.86	\$41,310
<u>Nonresidential Building Construction</u>	109,170	16.78	\$23.23	\$48,330
<u>Building Finishing Contractors</u>	88,110	13.97	\$22.13	\$46,030
<u>Foundation, Structure, and Building Exterior Contractors</u>	60,870	8.98	\$20.11	\$41,820
<u>Other Heavy and Civil Engineering Construction</u>	5,000	5.14	\$22.01	\$45,770

Top paying industries for this occupation:

Industry	Employment (1)	Percent of industry employment	Hourly mean wage	Annual mean wage (2)
<u>Motion Picture and Video Industries</u>	1,330	0.38	\$32.33	\$67,240
<u>Investigation and Security Services</u>	50	0.01	\$29.51	\$61,390
<u>Specialty (except Psychiatric and Substance Abuse) Hospitals</u>	70	0.03	\$28.97	\$60,260
<u>Scientific Research and Development Services</u>	290	0.05	\$27.96	\$58,160
<u>Electric Power Generation, Transmission and Distribution</u>	(8)	(8)	\$27.74	\$57,710

Geographic profile for this occupation: Top

States and areas with the highest published employment, location quotients, and wages for this occupation are provided. For a list of all areas with employment in this occupation, see the [Create Customized Tables](#) function.



States with the highest employment level in this occupation:

State					

	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
<u>California</u>	56,480	4.02	0.89	\$27.19	\$56,550
<u>New York</u>	45,380	5.38	1.19	\$26.07	\$54,220
<u>Pennsylvania</u>	35,030	6.31	1.40	\$20.37	\$42,370
<u>Texas</u>	30,120	2.92	0.65	\$15.82	\$32,910
<u>Florida</u>	29,220	4.09	0.91	\$17.54	\$36,490



States with the highest concentration of jobs and location quotients in this occupation:

State	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
<u>Alaska</u>	3,320	10.61	2.35	\$29.98	\$62,350
<u>South Dakota</u>	3,730	9.49	2.10	\$15.15	\$31,520
<u>Vermont</u>	2,750	9.46	2.10	\$20.08	\$41,770
<u>Wyoming</u>	2,530	9.28	2.06	\$19.66	\$40,890
<u>Montana</u>	3,780	8.89	1.97	\$17.36	\$36,120



Top paying States for this occupation:

State	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
<u>Hawaii</u>	4,520	7.83	1.74	\$32.19	\$66,950
<u>Alaska</u>	3,320	10.61	2.35	\$29.98	\$62,350
<u>California</u>	56,480	4.02	0.89	\$27.19	\$56,550
<u>Massachusetts</u>	13,390	4.24	0.94	\$26.91	\$55,970
<u>Nevada</u>	7,000	6.29	1.39	\$26.86	\$55,880



Metropolitan areas with the highest employment level in this occupation:

Metropolitan area	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
<u>New York-White Plains- Wayne, NY-NJ Metropolitan Division</u>	22,360	4.42	0.98	\$29.57	\$61,500
<u>Chicago-Joliet-Naperville, IL Metropolitan Division</u>	16,260	4.54	1.01	\$25.37	\$52,780
<u>Philadelphia, PA Metropolitan Division</u>	10,790	5.94	1.32	\$23.32	\$48,510
<u>Washington-Arlington- Alexandria, DC-VA-MD- WV Metropolitan Division</u>	9,710	4.20	0.93	\$21.54	\$44,810
<u>Nassau-Suffolk, NY Metropolitan Division</u>	9,630	7.96	1.76	\$28.31	\$58,890
<u>Los Angeles-Long Beach- Glendale, CA Metropolitan Division</u>	9,530	2.49	0.55	\$25.79	\$53,650
<u>St. Louis, MO-IL</u>	8,670	6.83	1.51	\$25.93	\$53,930
<u>Seattle-Bellevue-Everett, WA Metropolitan Division</u>	8,550	6.24	1.38	\$25.62	\$53,280
<u>Houston-Sugar Land- Baytown, TX</u>	8,490	3.33	0.74	\$17.02	\$35,400
<u>Phoenix-Mesa-Glendale, AZ</u>	8,040	4.73	1.05	\$19.96	\$41,520



Metropolitan areas with the highest concentration of jobs and location quotients in this occupation:

Metropolitan area	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
<u>Fairbanks, AK</u>	520	14.59	3.23	\$34.26	\$71,270
<u>Rapid City, SD</u>	740	12.63	2.80	\$15.68	\$32,620

<u>Coeur d'Alene, ID</u>	620	11.80	2.62	\$17.23	\$35,830
<u>Lancaster, PA</u>	2,550	11.53	2.56	\$17.69	\$36,800
<u>Pascagoula, MS</u>	570	10.51	2.33	\$17.96	\$37,350
<u>Barnstable Town, MA</u>	980	10.44	2.31	\$25.65	\$53,340
<u>Lake Charles, LA</u>	890	10.39	2.30	\$17.07	\$35,510
<u>Casper, WY</u>	390	9.96	2.21	\$17.10	\$35,560
<u>Mount Vernon-Anacortes, WA</u>	410	9.95	2.20	\$23.12	\$48,090
<u>Ocean City, NJ</u>	360	9.91	2.20	\$20.36	\$42,350



Top paying metropolitan areas for this occupation:

Metropolitan area	Employment (1)	Employment per thousand jobs	Location quotient (q)	Hourly mean wage	Annual mean wage (2)
<u>Fairbanks, AK</u>	520	14.59	3.23	\$34.26	\$71,270
<u>Honolulu, HI</u>	3,220	7.56	1.67	\$33.41	\$69,490
<u>San Francisco-San Mateo- Redwood City, CA Metropolitan Division</u>	4,690	4.88	1.08	\$32.26	\$67,100
<u>Framingham, MA NECTA Division</u>	740	4.78	1.06	\$30.98	\$64,440
<u>Santa Cruz-Watsonville, CA</u>	340	4.06	0.90	\$30.82	\$64,110
<u>Oakland-Fremont- Hayward, CA Metropolitan Division</u>	4,570	4.80	1.06	\$30.55	\$63,550
<u>Salinas, CA</u>	640	4.22	0.94	\$30.03	\$62,470
<u>San Jose-Sunnyvale- Santa Clara, CA</u>	3,110	3.55	0.79	\$29.61	\$61,600
<u>New York-White Plains- Wayne, NY-NJ Metropolitan Division</u>	22,360	4.42	0.98	\$29.57	\$61,500
<u>Boston-Cambridge- Quincy, MA NECTA Division</u>	5,890	3.52	0.78	\$29.24	\$60,830

Nonmetropolitan areas with the highest employment in this occupation:

Nonmetropolitan area	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
<u>East Central Pennsylvania nonmetropolitan area</u>	2,230	9.52	2.11	\$15.58	\$32,400
<u>Western North Carolina nonmetropolitan area</u>	2,120	11.49	2.55	\$15.33	\$31,890
<u>Southwest Maine nonmetropolitan area</u>	1,720	9.18	2.03	\$16.55	\$34,420
<u>Northwest Minnesota nonmetropolitan area</u>	1,510	8.50	1.88	\$17.38	\$36,150
<u>Capital/Northern New York nonmetropolitan area</u>	1,450	7.86	1.74	\$19.42	\$40,380

Nonmetropolitan areas with the highest concentration of jobs and location quotients in this occupation:

Nonmetropolitan area	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
<u>Nantucket Island and Martha's Vineyard nonmetropolitan area</u>	360	25.88	5.73	\$29.96	\$62,320
<u>North Central Colorado nonmetropolitan area</u>	1,250	17.43	3.86	\$24.19	\$50,310
<u>Garrett County, Maryland nonmetropolitan area</u>	170	16.05	3.56	\$13.86	\$28,820
<u>Northwestern Washington nonmetropolitan area</u>	640	13.34	2.96	\$22.79	\$47,410
<u>Railbelt / Southwest Alaska nonmetropolitan area</u>	930	12.93	2.87	\$30.06	\$62,530

Top paying nonmetropolitan areas for this occupation:

Nonmetropolitan area	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
<u>Eastern Connecticut nonmetropolitan area</u>	50	1.92	0.42	\$31.54	\$65,610
<u>Railbelt / Southwest Alaska nonmetropolitan area</u>	930	12.93	2.87	\$30.06	\$62,530
<u>Nantucket Island and Martha's Vineyard nonmetropolitan area</u>	360	25.88	5.73	\$29.96	\$62,320
<u>Hawaii / Maui / Kauai nonmetropolitan area</u>	1,310	8.61	1.91	\$29.19	\$60,720

<u>Eastern Sierra Region of California nonmetropolitan area</u>	100	7.06	1.56	\$28.80	\$59,900

About May 2011 National, State, Metropolitan, and Nonmetropolitan Area Occupational Employment and Wage Estimates

These estimates are calculated with data collected from employers in all industry sectors, all metropolitan and nonmetropolitan areas, and all states and the District of Columbia. The top employment and wage figures are provided above. The complete list is available in the [downloadable XLS files](#).

The percentile wage estimate is the value of a wage below which a certain percent of workers fall. The median wage is the 50th percentile wage estimate—50 percent of workers earn less than the median and 50 percent of workers earn more than the median. [More about percentile wages](#).

(1) Estimates for detailed occupations do not sum to the totals because the totals include occupations not shown separately. Estimates do not include self-employed workers.

(2) Annual wages have been calculated by multiplying the hourly mean wage by a "year-round, full-time" hours figure of 2,080 hours; for those occupations where there is not an hourly mean wage published, the annual wage has been directly calculated from the reported survey data.

(3) The relative standard error (RSE) is a measure of the reliability of a survey statistic. The smaller the relative standard error, the more precise the estimate.

(8) Estimate not released.

(9) The location quotient is the ratio of the area concentration of occupational employment to the national average concentration. A location quotient greater than one indicates the occupation has a higher share of employment than average, and a location quotient less than one indicates the occupation is less prevalent in the area than average.

Other OES estimates and related information:

[May 2011 National Occupational Employment and Wage Estimates](#)

[May 2011 State Occupational Employment and Wage Estimates](#)

[May 2011 Metropolitan and Nonmetropolitan Area Occupational Employment and Wage Estimates](#)

[May 2011 National Industry-Specific Occupational Employment and Wage Estimates](#)

[List of Occupations in SOC Code Number Order](#)

[List of Occupations in Alphabetical Order](#)

[Download May 2011 Occupational Employment and Wage Estimates in Zipped XLS files](#)

[Technical Notes](#)

Last Modified Date: March 27, 2012

U.S. Bureau of Labor Statistics | Division of Occupational Employment Statistics, PSB Suite 2135, 2 Massachusetts Avenue, NE
Washington, DC 20212-0001

www.bls.gov/OES | Telephone: 1-202-691-6569 | [Contact OES](#)

Occupational Employment Statistics

SHARE ON: OES FONT SIZE: PRINT:

BROWSE OES

[OES HOME](#)[OES OVERVIEW](#)[OES NEWS RELEASES](#)[OES DATABASES](#)[OES TABLES](#)[OES PUBLICATIONS](#)[OES FAQs](#)[CONTACT OES](#)

SEARCH OES

 GO

OES TOPICS

[ARCHIVED DATA](#)[CHARTS & MAPS](#)[INFORMATION FOR RESPONDENTS](#)[TECHNICAL DOCUMENTATION](#)

Occupational Employment and Wages, May 2011

47-2031 Carpenters

Construct, erect, install, or repair structures and fixtures made of wood, such as concrete forms; building frameworks, including partitions, joists, studding, and rafters; and wood stairways, window and door frames, and hardwood floors. May also install cabinets, siding, drywall and batt or roll insulation. Includes brattice builders who build doors or brattices (ventilation walls or partitions) in underground passageways

[National estimates for this occupation](#)[Industry profile for this occupation](#)[Geographic profile for this occupation](#)National estimates for this occupation: [Top](#)

Employment estimate and mean wage estimates for this occupation:

Employment (1)	Employment RSE (3)	Mean hourly wage	Mean annual wage (2)	Wage RSE (3)
578,910	0.8 %	\$21.31	\$44,330	0.4 %

Percentile wage estimates for this occupation:

Percentile	10%	25%	50% (Median)	75%	90%
Hourly Wage	\$11.96	\$15.01	\$19.24	\$26.23	\$34.56
Annual Wage (2)	\$24,880	\$31,230	\$40,010	\$54,560	\$71,890

Industry profile for this occupation: [Top](#)

Industries with the highest published employment and wages for this occupation are provided. For a list of all industries with employment in this occupation, see the [Create Customized Tables](#) function.

Industries with the highest levels of employment in this occupation:

Industry	Employment (1)	Percent of industry employment	Hourly mean wage	Annual mean wage (2)
Residential Building Construction	174,790	30.30	\$19.86	\$41,310
Nonresidential Building Construction	109,170	16.78	\$23.23	\$48,330
Building Finishing Contractors	88,110	13.97	\$22.13	\$46,030
Foundation, Structure, and Building Exterior Contractors	60,870	8.98	\$20.11	\$41,820
Employment Services	15,540	0.53	\$19.91	\$41,420

Industries with the highest concentration of employment in this occupation:

Industry	Employment (1)	Percent of industry employment	Hourly mean wage	Annual mean wage (2)
Residential Building Construction	174,790	30.30	\$19.86	\$41,310
Nonresidential Building Construction	109,170	16.78	\$23.23	\$48,330
Building Finishing Contractors	88,110	13.97	\$22.13	\$46,030
Foundation, Structure, and Building Exterior Contractors	60,870	8.98	\$20.11	\$41,820
Other Heavy and Civil Engineering Construction	5,000	5.14	\$22.01	\$45,770

Top paying industries for this occupation:

Industry	Employment (1)	Percent of industry employment	Hourly mean wage	Annual mean wage (2)
Motion Picture and Video Industries	1,330	0.38	\$32.33	\$67,240

Subscribe
to the OES
Update

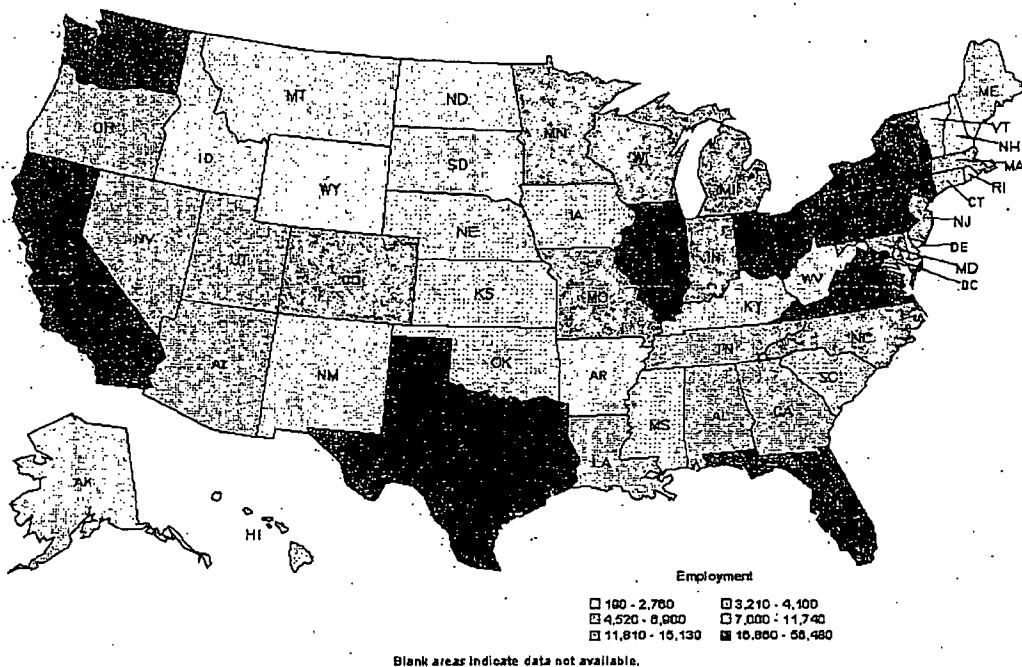
Email Address: GO

<u>Investigation and Security Services</u>	50	0.01	\$29.51	\$61,390
<u>Specialty (except Psychiatric and Substance Abuse) Hospitals</u>	70	0.03	\$28.97	\$60,260
<u>Scientific Research and Development Services</u>	290	0.05	\$27.96	\$58,160
<u>Electric Power Generation, Transmission and Distribution</u>	(8)	(8)	\$27.74	\$57,710

Geographic profile for this occupation: [Top](#)

States and areas with the highest published employment, location quotients, and wages for this occupation are provided. For a list of all areas with employment in this occupation, see the [Create Customized Tables](#) function.

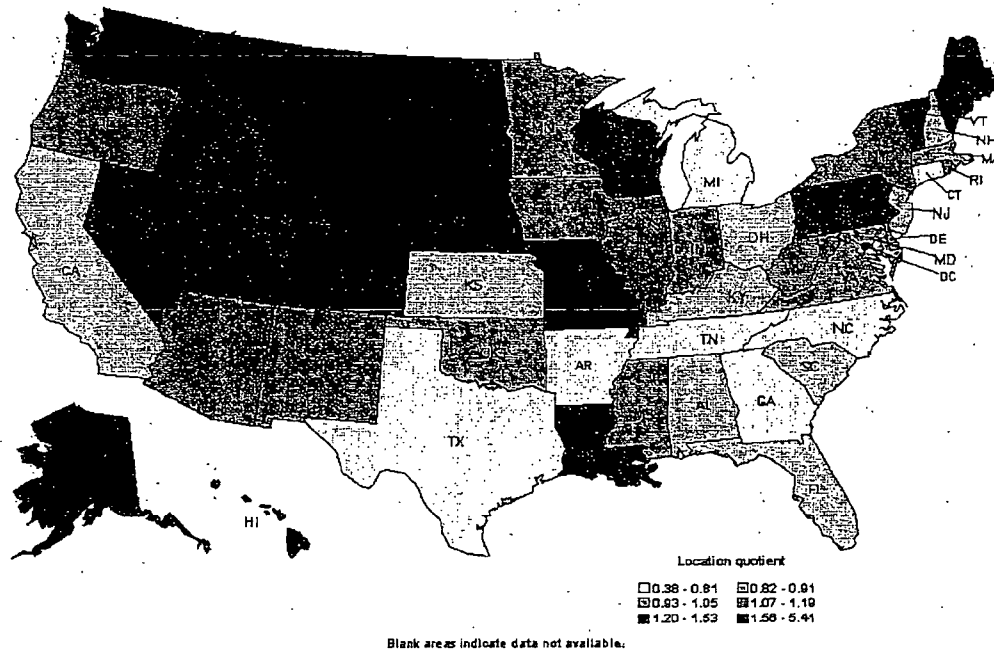
Employment of carpenters, by state, May 2011



States with the highest employment level in this occupation:

State	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
<u>California</u>	56,480	4.02	0.89	\$27.19	\$56,550
<u>New York</u>	45,380	5.38	1.19	\$26.07	\$54,220
<u>Pennsylvania</u>	35,030	6.31	1.40	\$20.37	\$42,370
<u>Texas</u>	30,120	2.92	0.65	\$15.82	\$32,910
<u>Florida</u>	29,220	4.09	0.91	\$17.54	\$36,490

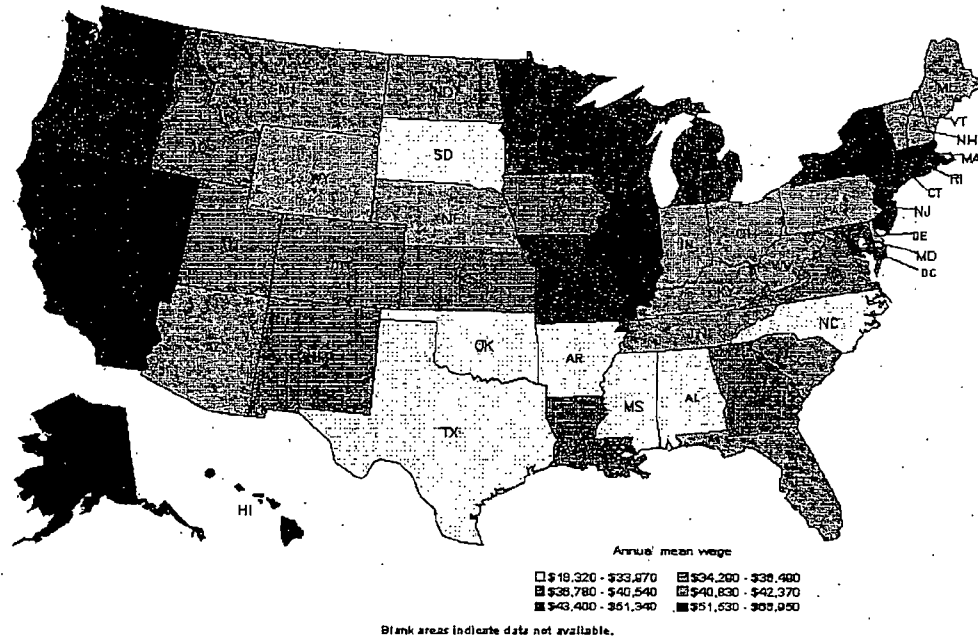
Location quotient of carpenters, by state, May 2011



States with the highest concentration of jobs and location quotients in this occupation:

State	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
Alaska	3,320	10.61	2.35	\$29.98	\$62,350
South Dakota	3,730	9.49	2.10	\$15.15	\$31,520
Vermont	2,750	9.46	2.10	\$20.08	\$41,770
Wyoming	2,530	9.28	2.06	\$19.66	\$40,890
Montana	3,780	8.89	1.97	\$17.36	\$36,120

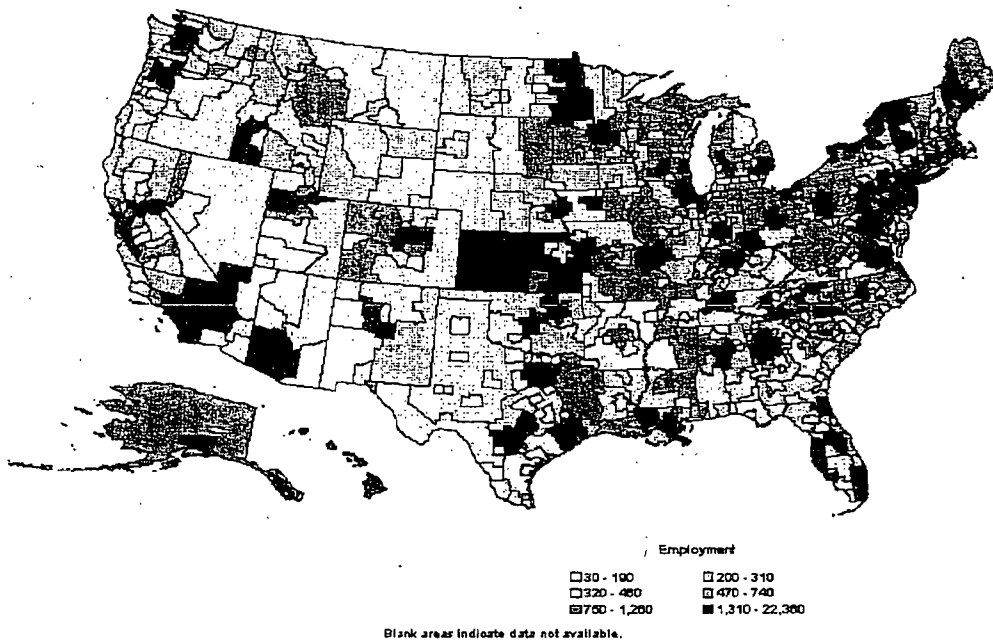
Annual mean wage of carpenters, by state, May 2011



Top paying States for this occupation:

State	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
<u>Hawaii</u>	4,520	7.83	1.74	\$32.19	\$66,950
<u>Alaska</u>	3,320	10.61	2.35	\$29.98	\$62,350
<u>California</u>	56,480	4.02	0.89	\$27.19	\$56,550
<u>Massachusetts</u>	13,390	4.24	0.94	\$26.91	\$55,970
<u>Nevada</u>	7,000	6.29	1.39	\$26.86	\$55,880

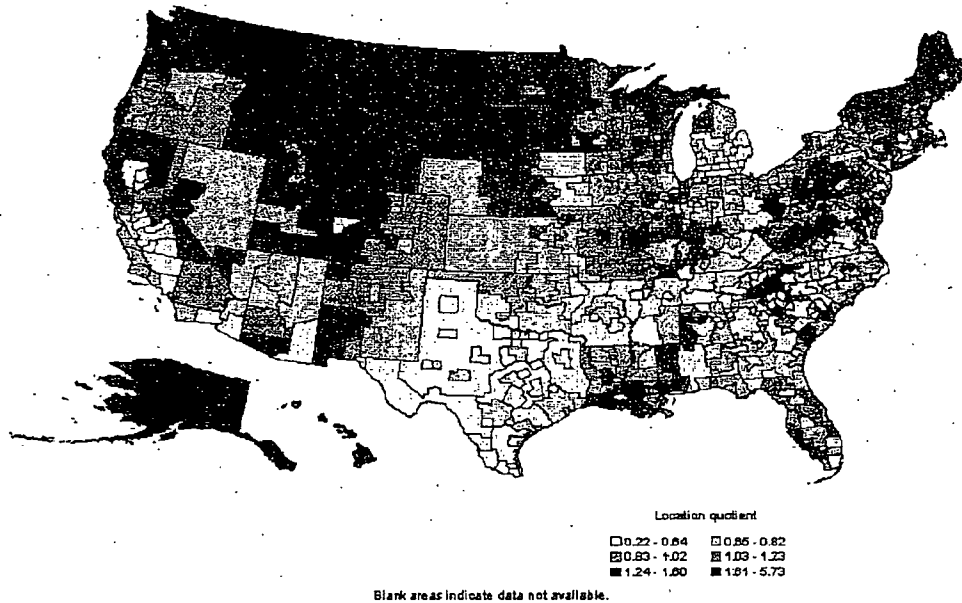
Employment of carpenters, by area, May 2011



Metropolitan areas with the highest employment level in this occupation:

Metropolitan area	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
New York-White Plains-Wayne, NY-NJ Metropolitan Division	22,360	4.42	0.98	\$29.57	\$61,500
Chicago-Joliet-Naperville, IL Metropolitan Division	16,260	4.54	1.01	\$25.37	\$52,780
Philadelphia, PA Metropolitan Division	10,790	5.94	1.32	\$23.32	\$48,510
Washington-Arlington-Alexandria, DC-VA-MD-WV Metropolitan Division	9,710	4.20	0.93	\$21.54	\$44,810
Nassau-Suffolk, NY Metropolitan Division	9,630	7.96	1.76	\$28.31	\$58,890
Los Angeles-Long Beach-Glendale, CA Metropolitan Division	9,530	2.49	0.55	\$25.79	\$53,650
St. Louis, MO-IL	8,670	6.83	1.51	\$25.93	\$53,930
Seattle-Bellevue-Everett, WA Metropolitan Division	8,550	6.24	1.38	\$25.62	\$53,280
Houston-Sugar Land-Baytown, TX	8,490	3.33	0.74	\$17.02	\$35,400
Phoenix-Mesa-Glendale, AZ	8,040	4.73	1.05	\$19.96	\$41,520

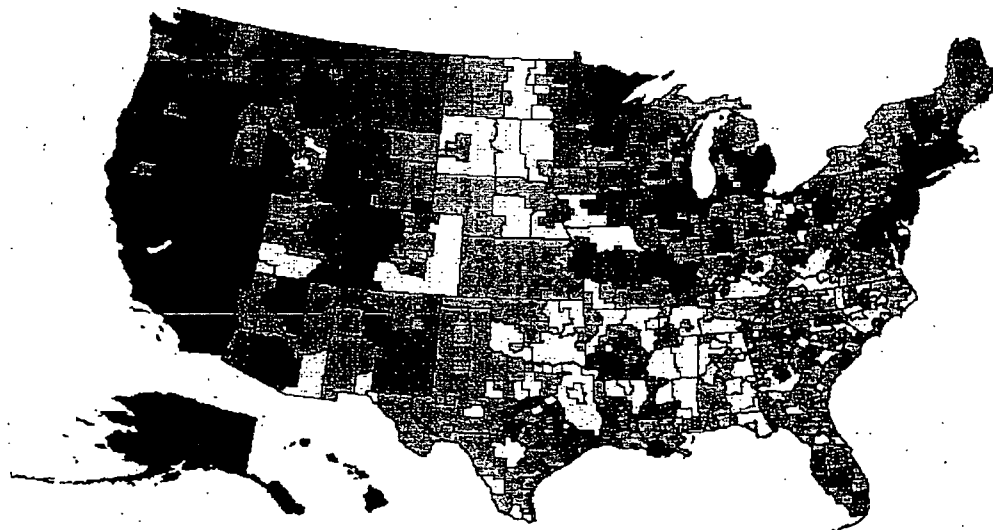
Location quotient of carpenters, by area, May 2011



Metropolitan areas with the highest concentration of jobs and location quotients in this occupation:

Metropolitan area	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
Fairbanks, AK	520	14.59	3.23	\$34.26	\$71,270
Rapid City, SD	740	12.63	2.80	\$15.68	\$32,620
Coeur d'Alene, ID	620	11.80	2.62	\$17.23	\$35,830
Lancaster, PA	2,550	11.53	2.56	\$17.69	\$36,800
Pascagoula, MS	570	10.51	2.33	\$17.96	\$37,350
Barnstable Town, MA	980	10.44	2.31	\$25.65	\$53,340
Lake Charles, LA	890	10.39	2.30	\$17.07	\$35,510
Casper, WY	390	9.96	2.21	\$17.10	\$35,560
Mount Vernon-Anacortes, WA	410	9.95	2.20	\$23.12	\$48,090
Ocean City, NJ	360	9.91	2.20	\$20.36	\$42,350

Annual mean wage of carpenters, by area, May 2011



Annual mean wage

□ \$10,800 - \$31,770	▨ \$31,700 - \$34,830
▤ \$34,870 - \$37,480	▩ \$37,520 - \$41,130
■ \$41,220 - \$46,060	■ \$47,050 - \$71,270

Blank areas indicate data not available.

Top paying metropolitan areas for this occupation:

Metropolitan area	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
Fairbanks, AK	520	14.59	3.23	\$34.26	\$71,270
Honolulu, HI	3,220	7.56	1.67	\$33.41	\$69,490
San Francisco-San Mateo- Redwood City, CA Metropolitan Division	4,690	4.88	1.08	\$32.26	\$67,100
Framingham, MA NECTA Division	740	4.78	1.06	\$30.98	\$64,440
Santa Cruz-Watsonville, CA	340	4.06	0.90	\$30.82	\$64,110
Oakland-Fremont-Hayward, CA Metropolitan Division	4,570	4.80	1.06	\$30.55	\$63,550
Salinas, CA	640	4.22	0.94	\$30.03	\$62,470
San Jose-Sunnyvale-Santa Clara, CA	3,110	3.55	0.79	\$29.61	\$61,600
New York-White Plains-Wayne, NY -NJ Metropolitan Division	22,360	4.42	0.98	\$29.57	\$61,500
Boston-Cambridge-Quincy, MA NECTA Division	5,890	3.52	0.78	\$29.24	\$60,830

Nonmetropolitan areas with the highest employment in this occupation:

Nonmetropolitan area	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
East Central Pennsylvania nonmetropolitan area	2,230	9.52	2.11	\$15.58	\$32,400
Western North Carolina nonmetropolitan area	2,120	11.49	2.55	\$15.33	\$31,890
Southwest Maine nonmetropolitan area	1,720	9.18	2.03	\$16.55	\$34,420
Northwest Minnesota nonmetropolitan area	1,510	8.50	1.88	\$17.38	\$36,150

<u>Capital/Northern New York nonmetropolitan area</u>	1,450	7.86	1.74	\$19.42	\$40,380

Nonmetropolitan areas with the highest concentration of jobs and location quotients in this occupation:

Nonmetropolitan area	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
<u>Nantucket Island and Martha's Vineyard nonmetropolitan area</u>	360	25.88	5.73	\$29.96	\$62,320
<u>North Central Colorado nonmetropolitan area</u>	1,250	17.43	3.86	\$24.19	\$50,310
<u>Garrett County, Maryland nonmetropolitan area</u>	170	16.05	3.56	\$13.86	\$28,820
<u>Northwestern Washington nonmetropolitan area</u>	640	13.34	2.96	\$22.79	\$47,410
<u>Railbelt / Southwest Alaska nonmetropolitan area</u>	930	12.93	2.87	\$30.06	\$62,530

Top paying nonmetropolitan areas for this occupation:

Nonmetropolitan area	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
<u>Eastern Connecticut nonmetropolitan area</u>	50	1.92	0.42	\$31.54	\$65,610
<u>Railbelt / Southwest Alaska nonmetropolitan area</u>	930	12.93	2.87	\$30.06	\$62,530
<u>Nantucket Island and Martha's Vineyard nonmetropolitan area</u>	360	25.88	5.73	\$29.96	\$62,320
<u>Hawaii / Maui / Kauai nonmetropolitan area</u>	1,310	8.61	1.91	\$29.19	\$60,720
<u>Eastern Sierra Region of California nonmetropolitan area</u>	100	7.06	1.56	\$28.80	\$59,900

About May 2011 National, State, Metropolitan, and Nonmetropolitan Area Occupational Employment and Wage Estimates

These estimates are calculated with data collected from employers in all industry sectors, all metropolitan and nonmetropolitan areas, and all states and the District of Columbia. The top employment and wage figures are provided above. The complete list is available in the downloadable XLS files.

The percentile wage estimate is the value of a wage below which a certain percent of workers fall. The median wage is the 50th percentile wage estimate—50 percent of workers earn less than the median and 50 percent of workers earn more than the median. More about percentile wages.

(1) Estimates for detailed occupations do not sum to the totals because the totals include occupations not shown separately. Estimates do not include self-employed workers.

(2) Annual wages have been calculated by multiplying the hourly mean wage by a "year-round, full-time" hours figure of 2,080 hours; for those occupations where there is not an hourly mean wage published, the annual wage has been directly calculated from the reported survey data.

(3) The relative standard error (RSE) is a measure of the reliability of a survey statistic. The smaller the relative standard error, the more precise the estimate.

(8) Estimate not released.

(9) The location quotient is the ratio of the area concentration of occupational employment to the national average concentration. A location quotient greater than one indicates the occupation has a higher share of employment than average, and a location quotient less than one indicates the occupation is less prevalent in the area than average.

Other OES estimates and related information:

[May 2011 National Occupational Employment and Wage Estimates](#)

[May 2011 State Occupational Employment and Wage Estimates](#)

[May 2011 Metropolitan and Nonmetropolitan Area Occupational Employment and Wage Estimates](#)

[May 2011 National Industry-Specific Occupational Employment and Wage Estimates](#)

[List of Occupations in SOC Code Number Order](#)

[List of Occupations in Alphabetical Order](#)

[Download May 2011 Occupational Employment and Wage Estimates in Zipped XLS files](#)

[Technical Notes](#)

Last Modified Date: March 27, 2012

RECOMMEND THIS PAGE USING:  Facebook  Twitter  LinkedIn

TOOLS

[Areas at a Glance](#)
[Industries at a Glance](#)
[Economic Releases](#)
[Databases & Tables](#)
[Maps](#)

CALCULATORS

[Inflation](#)
[Location Quotient](#)
[Injury And Illness](#)

HELP

[Help & Tutorials](#)
[FAQs](#)
[Glossary](#)
[About BLS](#)
[Contact Us](#)

INFO

[What's New](#)
[Careers @ BLS](#)
[Find It! DOL](#)
[Join our Mailing Lists](#)
[Linking & Copyright Info](#)

RESOURCES

[Inspector General \(OIG\)](#)
[Budget and Performance](#)
[No Fear Act](#)
[USA.gov](#)
[Benefits.gov](#)
[Disability.gov](#)

[Freedom of Information Act](#) | [Privacy & Security Statement](#) | [Disclaimers](#) | [Customer Survey](#) | [Important Web Site Notices](#)

U.S. Bureau of Labor Statistics | Division of Occupational Employment Statistics, PSB Suite 2135, 2 Massachusetts Avenue, NE Washington, DC 20212-0001
www.bls.gov/OES | Telephone: 1-202-691-6569 | [Contact OES](#)

South Carolina Workers' Compensation Commission
1612 Marion St.
P.O. BOX 1715
Columbia, SC 29202-1715
(803) 737-5739
www.wcc.sc.gov



PRE-HEARING BRIEF
WCC File No:1104798

Claimant's Name: Kenneth Smith
Address: 1442 Highway 6
City: Gaston State: SC Zip: 29053
Home Phone: (803) 687-1495 Work Phone: () -
Preparer's Name: Everett Hope Garner

Employer's Name: Marion Builders Group
Address: 300 Wilson Bridge Rd.
City: Fountain Inn State: SC Zip: 29644
Carrier: Builders Mutual Insurance Company
Preparer's Phone #: (803) 252-8290

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

☒ Injury ☐ Illness ☐ Repetitive Trauma

1. Compensation Rate: Disputed 2. AWW: \$Disputed Date of Injury: 4/4/11
3. Type of injury and body part(s): Right wrist, elbow, spine, neck, ribs, mouth
4. Facts in controversy: The average weekly wage and compensation rate are in dispute,
5. Legal issues involved: See 4 above
6. Unusual aspects: _____
7. Witnesses (designate if expert):* Kenneth Smith
8. Exhibits: Affidavit of Todd Mack, Deposition of Todd Mack
9. Medical evidence (indicate report pursuant to R.67-612; deposition or appearance): _____
10. Name, address, and specialty, if any, of the treating physician: Please see attached
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: Everett Hope Garner

Email: Ehgarner05@yahoo.com

Date of hearing: September 12, 2012

Time needed for hearing: 30 minutes

On behalf of ☒ Claimant ☐ Employer

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

Kenny C. Smith v. Marion Builders
WCC File No: 1104789

ATTACHMENT TO FORM 58

10. Names and addresses of all physicians:

Dr. Isaac E. Davis
307 Columbia Ave.
Lexington, SC 29072

Dr. L. Randolph Waid
1459 Stuart Engals Blvd.,
Suite 204-A
Mt. Pleasant, SC 29464

Dr. Justin Hutcheson
Dr. David Tollison
Carolinas Center for Advanced Management of Pain
109 Midlands Court, Suite B
West Columbia, SC 29169

Dr. M. Jason Palmer
The Hand Center
1011 Frontage Rd.
Greenville, SC 29615

Dr. John M. Rinkliff
Greenville Hospital System
701 Grove Rd.
Greenville, SC 29605

University Medical Center
255 Enterprise Blvd., Suite 210
Greenville, SC 29615-3556

Dr. William M. Rambo, Jr.
Columbia Neurosurgical Associates
132 Sunset Court
West Columbia, SC 29169

Lexington Medical Center
2720 Sunset Blvd.
West Columbia, SC 29169

Dr. Sheldon Herring
100 Augusta St.
Greenville, SC 29601

DDS Imaging Services
112 Saluda Ridge Court
Suite 300
West Columbia, SC 29169

Imagecare, LLC
720 Rabon Rd.
Columbia, SC 29203

Dr. Charles Kanos
Neurosurgeon
Greenville, SC

Dr. Labadovych
Oral Surgeon
Simpsonville, SC

Dr. Draffin
Dentist
Simpsonville, SC

Dr. Z. Vance Morgan, IV, DMD
Charismatic Smiles
West Columbia, SC

Dr. Eleayna Ogburu
Neurologist
Columbia, SC

Associates in Oral & Maxillofacial Surgery
307 Columbia, Ave.
Lexington, SC 29072

Moore Orthopaedic Clinic
14 Medical Park
Columbia, SC 29203

BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 1104798

Kenneth Smith	)	
	)	
Claimant,	)	
	)	
v.	)	NOTICE OF WITNESSES AND WRITTEN
	)	MEDICAL REPORTS TO BE INTRODUCED
Marion Builders Group,	)	AS DIRECT EVIDENCE ON BEHALF OF
Employer and Builders Mutual	)	
Insurance Company, Carrier	)	CLAIMANT
	)	
Defendants.	)	
	)	

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION AND
GEORGE A. TAYLOR, ESQUIRE

YOU ARE HEREBY NOTIFIED THAT THE Claimant, pursuant to the provisions of the South Carolina Workers' Compensation Act and South Carolina Code Section 1-23-330, (1976, as amended), herewith submits the following medical reports as direct evidence on behalf of the Claimant, to wit:

<u>NAME OF PHYSICIAN/OTHER</u>	<u>DATE OF REPORT</u>	<u>NO. OF PAGES</u>
N/A at this time		
<u>Exhibits:</u>		
Affidavit of Todd Mack	Undated	1 - 2
U.S. Bureau of Labor Statistics Occupational Employment and Wages, May 2011	5/16/12 Internet	3 - 9
Occupational Employment Statistics Occupational Employment and Wages May 2011 47-2031 Carpenters	5/16/12 Internet	10 - 18

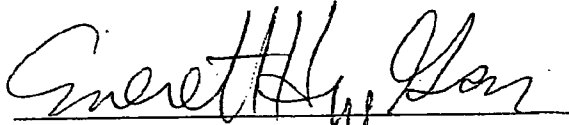
YOU ARE FURTHER HEREBY NOTIFIED that you have the right of cross-examination; and, should you desire to exercise said right, you are to forthwith schedule the depositions of any of the physicians, whose reports are submitted, for the purposes of cross-examination.

YOU ARE FURTHER NOTIFIED that the originals of the documents referred to herein, or photocopies received from said physicians/others, are being herewith forwarded to the South Carolina Workers' Compensation Commission, for insertion in the file of the South Carolina Workers' Compensation Commission and inclusion into evidence on behalf of the employee-claimant.

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

Kenneth Smith

Respectfully Submitted,



Everett Hope Garner
Attorney for Claimant

Columbia, South Carolina

8/28, 2012

STATE OF SOUTH CAROLINA)
) AFFIDAVIT OF TODD MACK
COUNTY OF RICHLAND)

Personally appeared before me Todd Mack, who after being duly sworn deposes and states:

I am the owner of Mack Construction Company which has been in business for 18 years as a framing contractor.

I have known Kenny Smith for approximately 25 years and I am specifically aware of his experience exceeding 30 years as a frame carpenter including operating his own framing subcontracting business.

In March 2011, I began discussions with Kenny Smith in regard to working for my company in some capacity on a particular job site near Greenville, South Carolina on which I was subcontracted to Marion Builders Group.

After some discussion and consideration of Kenny Smith's experience, it was decided he would be employed directly and would be paid \$20.00 per hour generally working 7 days per week at approximately 10 hours per day on the job which was anticipated to take approximately 5 weeks to complete our portion. In connection with the aforesaid job, Kenny Smith was supplying his own trailer with ladders, air compressors and walk boards.

On this job, my company employed a 5 member crew of which Kenny Smith was by far the most experienced and Kenny would have

been in charge of the crew in my absence.

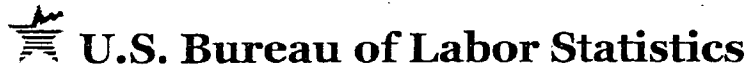
Unfortunately, Kenny worked only 2 days prior to being seriously injured but it was fully anticipated that he would have fulfilled his role on the job for its duration.

Further deponent sayth not.

Todd Mack
Todd Mack

Sworn to before me this _____
day of _____, 2011

Notary Public for South Carolina
My Commission Expires: _____



Occupational Employment Statistics

Occupational Employment and Wages, May 2011

47-2031 Carpenters

Construct, erect, install, or repair structures and fixtures made of wood, such as concrete forms; building frameworks, including partitions, joists, studding, and rafters; and wood stairways, window and door frames, and hardwood floors. May also install cabinets, siding, drywall and batt or roll insulation. Includes brattice builders who build doors or brattices (ventilation walls or partitions) in underground passageways.

[National estimates for this occupation](#)

[Industry profile for this occupation](#)

[Geographic profile for this occupation](#)

National estimates for this occupation: [Top](#)

Employment estimate and mean wage estimates for this occupation:

Employment (1)	Employment RSE (3)	Mean hourly wage	Mean annual wage (2)	Wage RSE (3)
578,910	0.8 %	\$21.31	\$44,330	0.4 %

Percentile wage estimates for this occupation:

Percentile	10%	25%	50% (Median)	75%	90%
Hourly Wage	\$11.96	\$15.01	\$19.24	\$26.23	\$34.56
Annual Wage (2)	\$24,880	\$31,230	\$40,010	\$54,560	\$71,890

Industry profile for this occupation: [Top](#)

Industries with the highest published employment and wages for this occupation are provided. For a list of all industries with employment in this occupation, see the [Create Customized Tables](#) function.

Industries with the highest levels of employment in this occupation:

Industry	Employment (1)	Percent of industry employment	Hourly mean wage	Annual mean wage (2)
Residential Building Construction	174,790	30.30	\$19.86	\$41,310
Nonresidential Building Construction	109,170	16.78	\$23.23	\$48,330
Building Finishing Contractors	88,110	13.97	\$22.13	\$46,030

<u>Foundation, Structure, and Building Exterior Contractors</u>	60,870	8.98	\$20.11	\$41,820
<u>Employment Services</u>	15,540	0.53	\$19.91	\$41,420

Industries with the highest concentration of employment in this occupation:

Industry	Employment (1)	Percent of industry employment	Hourly mean wage	Annual mean wage (2)
<u>Residential Building Construction</u>	174,790	30.30	\$19.86	\$41,310
<u>Nonresidential Building Construction</u>	109,170	16.78	\$23.23	\$48,330
<u>Building Finishing Contractors</u>	88,110	13.97	\$22.13	\$46,030
<u>Foundation, Structure, and Building Exterior Contractors</u>	60,870	8.98	\$20.11	\$41,820
<u>Other Heavy and Civil Engineering Construction</u>	5,000	5.14	\$22.01	\$45,770

Top paying industries for this occupation:

Industry	Employment (1)	Percent of industry employment	Hourly mean wage	Annual mean wage (2)
<u>Motion Picture and Video Industries</u>	1,330	0.38	\$32.33	\$67,240
<u>Investigation and Security Services</u>	50	0.01	\$29.51	\$61,390
<u>Specialty (except Psychiatric and Substance Abuse) Hospitals</u>	70	0.03	\$28.97	\$60,260
<u>Scientific Research and Development Services</u>	290	0.05	\$27.96	\$58,160
<u>Electric Power Generation, Transmission and Distribution</u>	(8)	(8)	\$27.74	\$57,710

Geographic profile for this occupation: Top

States and areas with the highest published employment, location quotients, and wages for this occupation are provided. For a list of all areas with employment in this occupation, see the [Create Customized Tables](#) function.



States with the highest employment level in this occupation:

State					

	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
<u>California</u>	56,480	4.02	0.89	\$27.19	\$56,550
<u>New York</u>	45,380	5.38	1.19	\$26.07	\$54,220
<u>Pennsylvania</u>	35,030	6.31	1.40	\$20.37	\$42,370
<u>Texas</u>	30,120	2.92	0.65	\$15.82	\$32,910
<u>Florida</u>	29,220	4.09	0.91	\$17.54	\$36,490



States with the highest concentration of jobs and location quotients in this occupation:

State	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
<u>Alaska</u>	3,320	10.61	2.35	\$29.98	\$62,350
<u>South Dakota</u>	3,730	9.49	2.10	\$15.15	\$31,520
<u>Vermont</u>	2,750	9.46	2.10	\$20.08	\$41,770
<u>Wyoming</u>	2,530	9.28	2.06	\$19.66	\$40,890
<u>Montana</u>	3,780	8.89	1.97	\$17.36	\$36,120



Top paying States for this occupation:

State	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
<u>Hawaii</u>	4,520	7.83	1.74	\$32.19	\$66,950
<u>Alaska</u>	3,320	10.61	2.35	\$29.98	\$62,350
<u>California</u>	56,480	4.02	0.89	\$27.19	\$56,550
<u>Massachusetts</u>	13,390	4.24	0.94	\$26.91	\$55,970
<u>Nevada</u>	7,000	6.29	1.39	\$26.86	\$55,880



Metropolitan areas with the highest employment level in this occupation:

Metropolitan area	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
<u>New York-White Plains- Wayne, NY-NJ Metropolitan Division</u>	22,360	4.42	0.98	\$29.57	\$61,500
<u>Chicago-Joliet-Naperville, IL Metropolitan Division</u>	16,260	4.54	1.01	\$25.37	\$52,780
<u>Philadelphia, PA Metropolitan Division</u>	10,790	5.94	1.32	\$23.32	\$48,510
<u>Washington-Arlington- Alexandria, DC-VA-MD- WV Metropolitan Division</u>	9,710	4.20	0.93	\$21.54	\$44,810
<u>Nassau-Suffolk, NY Metropolitan Division</u>	9,630	7.96	1.76	\$28.31	\$58,890
<u>Los Angeles-Long Beach- Glendale, CA Metropolitan Division</u>	9,530	2.49	0.55	\$25.79	\$53,650
<u>St. Louis, MO-IL</u>	8,670	6.83	1.51	\$25.93	\$53,930
<u>Seattle-Bellevue-Everett, WA Metropolitan Division</u>	8,550	6.24	1.38	\$25.62	\$53,280
<u>Houston-Sugar Land- Baytown, TX</u>	8,490	3.33	0.74	\$17.02	\$35,400
<u>Phoenix-Mesa-Glendale, AZ</u>	8,040	4.73	1.05	\$19.96	\$41,520



Metropolitan areas with the highest concentration of jobs and location quotients in this occupation:

Metropolitan area	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
<u>Fairbanks, AK</u>	520	14.59	3.23	\$34.26	\$71,270
<u>Rapid City, SD</u>	740	12.63	2.80	\$15.68	\$32,620

<u>Coeur d'Alene, ID</u>	620	11.80	2.62	\$17.23	\$35,830
<u>Lancaster, PA</u>	2,550	11.53	2.56	\$17.69	\$36,800
<u>Pascagoula, MS</u>	570	10.51	2.33	\$17.96	\$37,350
<u>Barnstable Town, MA</u>	980	10.44	2.31	\$25.65	\$53,340
<u>Lake Charles, LA</u>	890	10.39	2.30	\$17.07	\$35,510
<u>Casper, WY</u>	390	9.96	2.21	\$17.10	\$35,560
<u>Mount Vernon-Anacortes, WA</u>	410	9.95	2.20	\$23.12	\$48,090
<u>Ocean City, NJ</u>	360	9.91	2.20	\$20.36	\$42,350



Top paying metropolitan areas for this occupation:

Metropolitan area	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
<u>Fairbanks, AK</u>	520	14.59	3.23	\$34.26	\$71,270
<u>Honolulu, HI</u>	3,220	7.56	1.67	\$33.41	\$69,490
<u>San Francisco-San Mateo- Redwood City, CA Metropolitan Division</u>	4,690	4.88	1.08	\$32.26	\$67,100
<u>Framingham, MA NECTA Division</u>	740	4.78	1.06	\$30.98	\$64,440
<u>Santa Cruz-Watsonville, CA</u>	340	4.06	0.90	\$30.82	\$64,110
<u>Oakland-Fremont- Hayward, CA Metropolitan Division</u>	4,570	4.80	1.06	\$30.55	\$63,550
<u>Salinas, CA</u>	640	4.22	0.94	\$30.03	\$62,470
<u>San Jose-Sunnyvale- Santa Clara, CA</u>	3,110	3.55	0.79	\$29.61	\$61,600
<u>New York-White Plains- Wayne, NY-NJ Metropolitan Division</u>	22,360	4.42	0.98	\$29.57	\$61,500
<u>Boston-Cambridge- Quincy, MA NECTA Division</u>	5,890	3.52	0.78	\$29.24	\$60,830

Nonmetropolitan areas with the highest employment in this occupation:

Nonmetropolitan area	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
<u>East Central Pennsylvania nonmetropolitan area</u>	2,230	9.52	2.11	\$15.58	\$32,400
<u>Western North Carolina nonmetropolitan area</u>	2,120	11.49	2.55	\$15.33	\$31,890
<u>Southwest Maine nonmetropolitan area</u>	1,720	9.18	2.03	\$16.55	\$34,420
<u>Northwest Minnesota nonmetropolitan area</u>	1,510	8.50	1.88	\$17.38	\$36,150
<u>Capital/Northern New York nonmetropolitan area</u>	1,450	7.86	1.74	\$19.42	\$40,380

Nonmetropolitan areas with the highest concentration of jobs and location quotients in this occupation:

Nonmetropolitan area	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
<u>Nantucket Island and Martha's Vineyard nonmetropolitan area</u>	360	25.88	5.73	\$29.96	\$62,320
<u>North Central Colorado nonmetropolitan area</u>	1,250	17.43	3.86	\$24.19	\$50,310
<u>Garrett County, Maryland nonmetropolitan area</u>	170	16.05	3.56	\$13.86	\$28,820
<u>Northwestern Washington nonmetropolitan area</u>	640	13.34	2.96	\$22.79	\$47,410
<u>Railbelt / Southwest Alaska nonmetropolitan area</u>	930	12.93	2.87	\$30.06	\$62,530

Top paying nonmetropolitan areas for this occupation:

Nonmetropolitan area	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
<u>Eastern Connecticut nonmetropolitan area</u>	50	1.92	0.42	\$31.54	\$65,610
<u>Railbelt / Southwest Alaska nonmetropolitan area</u>	930	12.93	2.87	\$30.06	\$62,530
<u>Nantucket Island and Martha's Vineyard nonmetropolitan area</u>	360	25.88	5.73	\$29.96	\$62,320
<u>Hawaii / Maui / Kauai nonmetropolitan area</u>	1,310	8.61	1.91	\$29.19	\$60,720

<u>Eastern Sierra Region of California nonmetropolitan area</u>	100	7.06	1.56	\$28.80	\$59,900

About May 2011 National, State, Metropolitan, and Nonmetropolitan Area Occupational Employment and Wage Estimates

These estimates are calculated with data collected from employers in all industry sectors, all metropolitan and nonmetropolitan areas, and all states and the District of Columbia. The top employment and wage figures are provided above. The complete list is available in the [downloadable XLS files](#).

The percentile wage estimate is the value of a wage below which a certain percent of workers fall. The median wage is the 50th percentile wage estimate--50 percent of workers earn less than the median and 50 percent of workers earn more than the median. [More about percentile wages](#).

- (1) Estimates for detailed occupations do not sum to the totals because the totals include occupations not shown separately. Estimates do not include self-employed workers.
- (2) Annual wages have been calculated by multiplying the hourly mean wage by a "year-round, full-time" hours figure of 2,080 hours; for those occupations where there is not an hourly mean wage published, the annual wage has been directly calculated from the reported survey data.
- (3) The relative standard error (RSE) is a measure of the reliability of a survey statistic. The smaller the relative standard error, the more precise the estimate.
- (8) Estimate not released.
- (9) The location quotient is the ratio of the area concentration of occupational employment to the national average concentration. A location quotient greater than one indicates the occupation has a higher share of employment than average, and a location quotient less than one indicates the occupation is less prevalent in the area than average.

Other OES estimates and related information:

[May 2011 National Occupational Employment and Wage Estimates](#)

[May 2011 State Occupational Employment and Wage Estimates](#)

[May 2011 Metropolitan and Nonmetropolitan Area Occupational Employment and Wage Estimates](#)

[May 2011 National Industry-Specific Occupational Employment and Wage Estimates](#)

[List of Occupations in SOC Code Number Order](#)

[List of Occupations in Alphabetical Order](#)

[Download May 2011 Occupational Employment and Wage Estimates in Zipped XLS files](#)

[Technical Notes](#)

Last Modified Date: March 27, 2012

U.S. Bureau of Labor Statistics | Division of Occupational Employment Statistics, PSB Suite 2135, 2 Massachusetts Avenue, NE
Washington, DC 20212-0001

www.bls.gov/OES | Telephone: 1-202-691-6569 | [Contact OES](#)

Occupational Employment Statistics

SHARE ON:     FONT SIZE:  PRINT: 

BROWSE OES

[OES HOME](#)[OES OVERVIEW](#)[OES NEWS RELEASES](#)[OES DATABASES](#)[OES TABLES](#)[OES PUBLICATIONS](#)[OES FAQs](#)[CONTACT OES](#)

SEARCH OES

OES TOPICS

[ARCHIVED DATA](#)[CHARTS & MAPS](#)[INFORMATION FOR RESPONDENTS](#)[TECHNICAL DOCUMENTATION](#)

Occupational Employment and Wages, May 2011

47-2031 Carpenters

Construct, erect, install, or repair structures and fixtures made of wood, such as concrete forms; building frameworks, including partitions, joists, studding, and rafters; and wood stairways, window and door frames, and hardwood floors. May also install cabinets, siding, drywall and batt or roll insulation. Includes brattice builders who build doors or brattices (ventilation walls or partitions) in underground passageways

[National estimates for this occupation](#)[Industry profile for this occupation](#)[Geographic profile for this occupation](#)National estimates for this occupation: [Top](#)

Employment estimate and mean wage estimates for this occupation:

Employment (1)	Employment RSE (3)	Mean hourly wage	Mean annual wage (2)	Wage RSE (3)
578,910	0.8 %	\$21.31	\$44,330	0.4 %

Percentile wage estimates for this occupation:

Percentile	10%	25%	50% (Median)	75%	90%
Hourly Wage	\$11.96	\$15.01	\$19.24	\$26.23	\$34.56
Annual Wage (2)	\$24,880	\$31,230	\$40,010	\$54,560	\$71,890

Subscribe
to the OES
Update

Industry profile for this occupation: [Top](#)

Industries with the highest published employment and wages for this occupation are provided. For a list of all industries with employment in this occupation, see the [Create Customized Tables](#) function:

Industries with the highest levels of employment in this occupation:

Industry	Employment (1)	Percent of industry employment	Hourly mean wage	Annual mean wage (2)
Residential Building Construction	174,790	30.30	\$19.86	\$41,310
Nonresidential Building Construction	109,170	16.78	\$23.23	\$48,330
Building Finishing Contractors	88,110	13.97	\$22.13	\$46,030
Foundation, Structure, and Building Exterior Contractors	60,870	8.98	\$20.11	\$41,820
Employment Services	15,540	0.53	\$19.91	\$41,420

Industries with the highest concentration of employment in this occupation:

Industry	Employment (1)	Percent of industry employment	Hourly mean wage	Annual mean wage (2)
Residential Building Construction	174,790	30.30	\$19.86	\$41,310
Nonresidential Building Construction	109,170	16.78	\$23.23	\$48,330
Building Finishing Contractors	88,110	13.97	\$22.13	\$46,030
Foundation, Structure, and Building Exterior Contractors	60,870	8.98	\$20.11	\$41,820
Other Heavy and Civil Engineering Construction	5,000	5.14	\$22.01	\$45,770

Top paying industries for this occupation:

Industry	Employment (1)	Percent of industry employment	Hourly mean wage	Annual mean wage (2)
Motion Picture and Video Industries	1,330	0.38	\$32.33	\$67,240

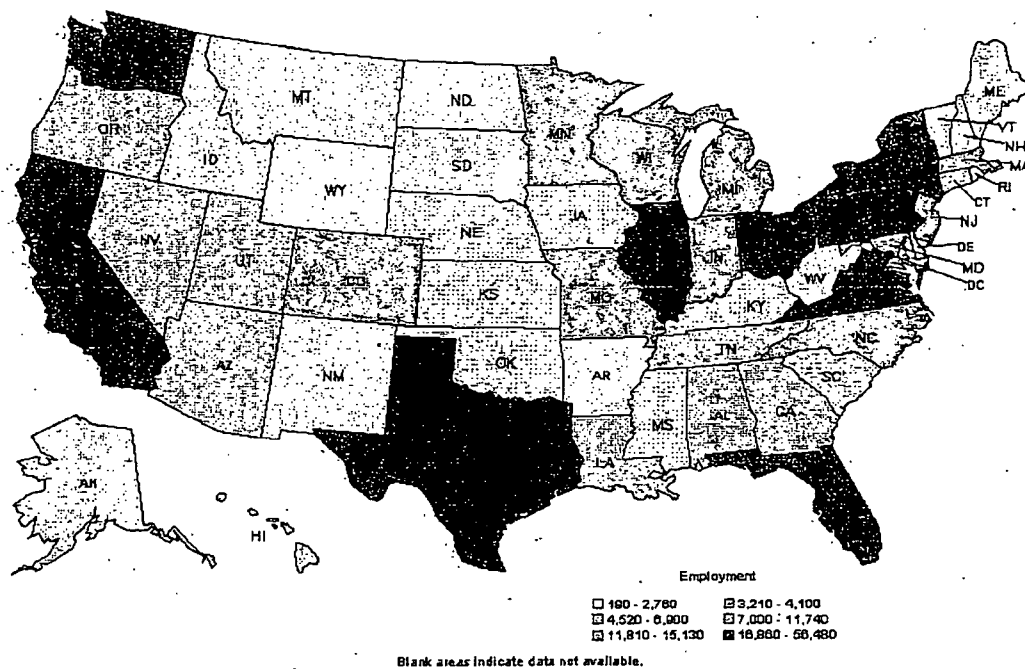
Email Address 

<u>Investigation and Security Services</u>	50	0.01	\$29.51	\$61,390
<u>Specialty (except Psychiatric and Substance Abuse) Hospitals</u>	70	0.03	\$28.97	\$60,260
<u>Scientific Research and Development Services</u>	290	0.05	\$27.96	\$58,160
<u>Electric Power Generation, Transmission and Distribution</u>	(8)	(8)	\$27.74	\$57,710

Geographic profile for this occupation: [Top](#)

States and areas with the highest published employment, location quotients, and wages for this occupation are provided. For a list of all areas with employment in this occupation, see the [Create Customized Tables](#) function.

Employment of carpenters, by state, May 2011



States with the highest employment level in this occupation:

State	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
<u>California</u>	56,480	4.02	0.89	\$27.19	\$56,550
<u>New York</u>	45,380	5.38	1.19	\$26.07	\$54,220
<u>Pennsylvania</u>	35,030	6.31	1.40	\$20.37	\$42,370
<u>Texas</u>	30,120	2.92	0.65	\$15.82	\$32,910
<u>Florida</u>	29,220	4.09	0.91	\$17.54	\$36,490

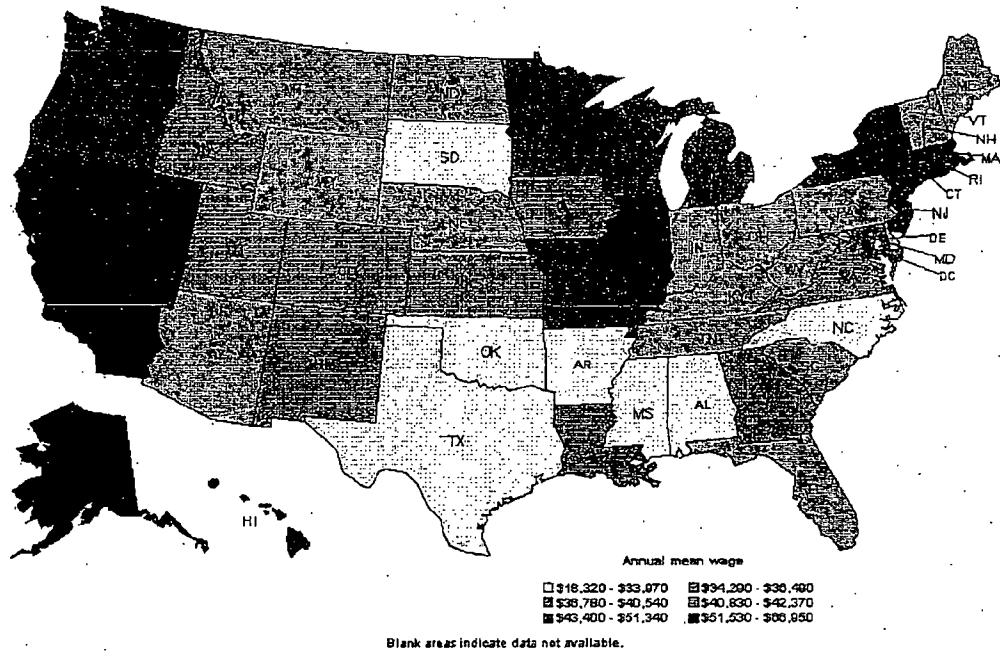
Location quotient

0.38 - 0.81	0.82 - 0.91
0.92 - 1.05	1.07 - 1.10
1.20 - 1.53	1.55 - 5.41

Blank areas indicate data not available.

State	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
<u>Alaska</u>	3,320	10.61	2.35	\$29.98	\$62,350
<u>South Dakota</u>	3,730	9.49	2.10	\$15.15	\$31,520
<u>Vermont</u>	2,750	9.46	2.10	\$20.08	\$41,770
<u>Wyoming</u>	2,530	9.28	2.06	\$19.66	\$40,890
Montana	3,780	8.89	1.97	\$17.36	\$36,120

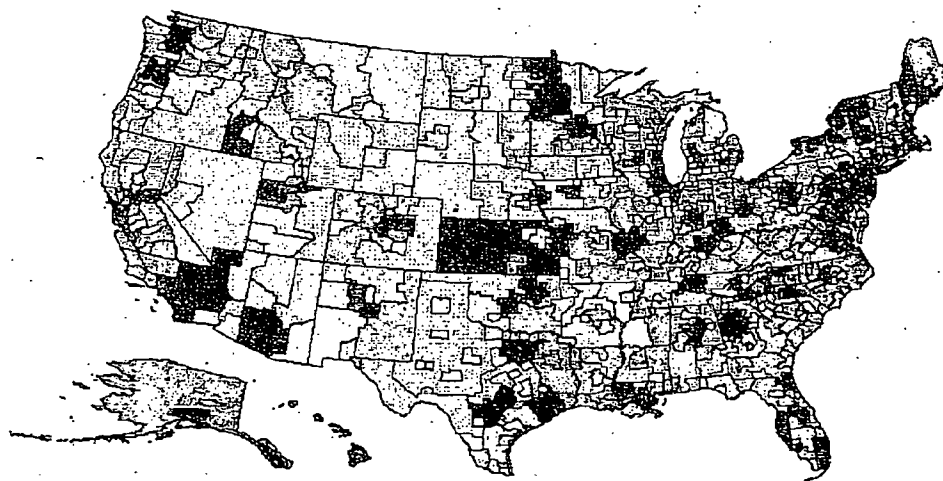
Annual mean wage of carpenters, by state, May 2011



Top paying States for this occupation:

State	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
Hawaii	4,520	7.83	1.74	\$32.19	\$66,950
Alaska	3,320	10.61	2.35	\$29.98	\$62,350
California	56,480	4.02	0.89	\$27.19	\$56,550
Massachusetts	13,390	4.24	0.94	\$26.91	\$55,970
Nevada	7,000	6.29	1.39	\$26.86	\$55,880

Employment of carpenters, by area, May 2011



Employment

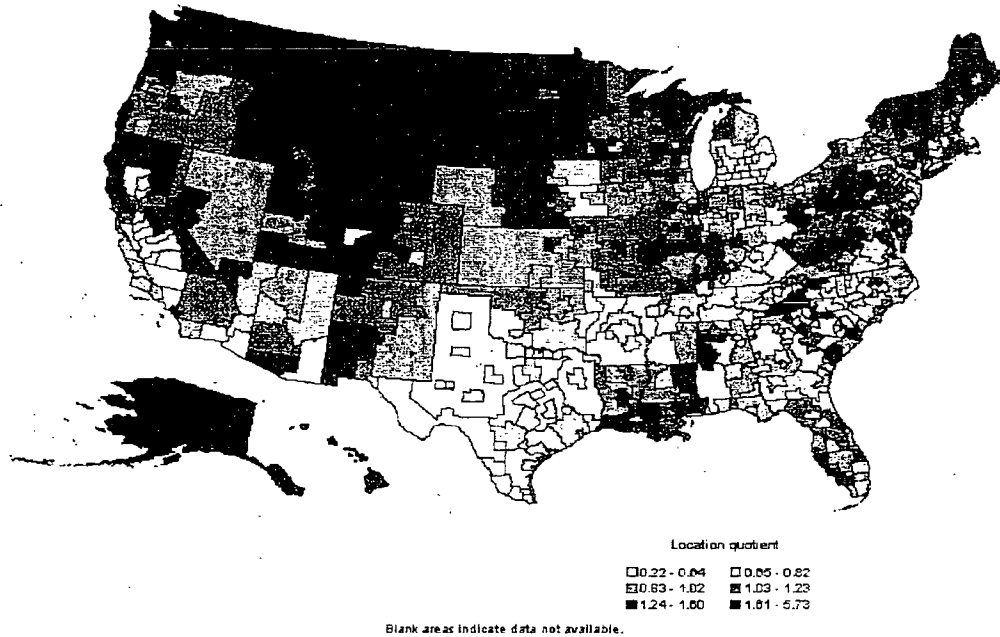


Blank areas indicate data not available.

Metropolitan areas with the highest employment level in this occupation:

Metropolitan area	Employment (1)	Employment per thousand jobs	Location quotient (2)	Hourly mean wage	Annual mean wage (2)
New York-White Plains-Wayne, NY-NJ Metropolitan Division	22,360	4.42	0.98	\$29.57	\$61,500
Chicago-Joliet-Naperville, IL Metropolitan Division	16,260	4.54	1.01	\$25.37	\$52,780
Philadelphia, PA Metropolitan Division	10,790	5.94	1.32	\$23.32	\$48,510
Washington-Arlington-Alexandria, DC-VA-MD-WV Metropolitan Division	9,710	4.20	0.93	\$21.54	\$44,810
Nassau-Suffolk, NY Metropolitan Division	9,630	7.96	1.76	\$28.31	\$58,890
Los Angeles-Long Beach-Glendale, CA Metropolitan Division	9,530	2.49	0.55	\$25.79	\$53,650
St. Louis, MO-IL	8,670	6.83	1.51	\$25.93	\$53,930
Seattle-Bellevue-Everett, WA Metropolitan Division	8,550	6.24	1.38	\$25.62	\$53,280
Houston-Sugar Land-Baytown, TX	8,490	3.33	0.74	\$17.02	\$35,400
Phoenix-Mesa-Glendale, AZ	8,040	4.73	1.05	\$19.96	\$41,520

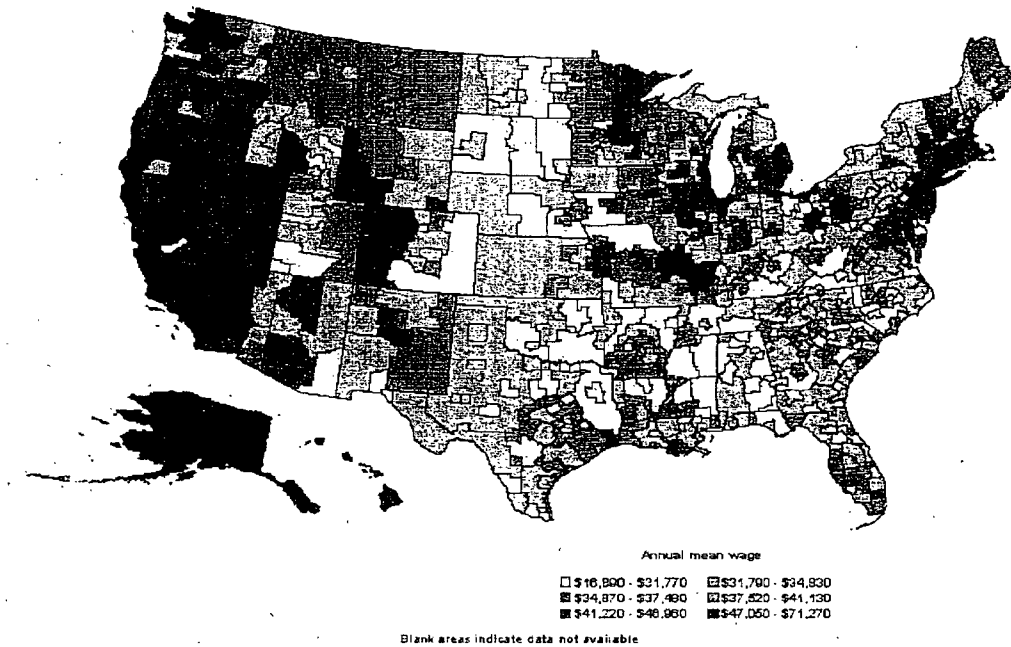
Location quotient of carpenters, by area, May 2011



Metropolitan areas with the highest concentration of jobs and location quotients in this occupation:

Metropolitan area	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
<u>Fairbanks, AK</u>	520	14.59	3.23	\$34.26	\$71,270
<u>Rapid City, SD</u>	740	12.63	2.80	\$15.68	\$32,620
<u>Coeur d'Alene, ID</u>	620	11.80	2.62	\$17.23	\$35,830
<u>Lancaster, PA</u>	2,550	11.53	2.56	\$17.69	\$36,800
<u>Pascagoula, MS</u>	570	10.51	2.33	\$17.96	\$37,350
<u>Barnstable Town, MA</u>	980	10.44	2.31	\$25.65	\$53,340
<u>Lake Charles, LA</u>	890	10.39	2.30	\$17.07	\$35,510
<u>Casper, WY</u>	390	9.96	2.21	\$17.10	\$35,560
<u>Mount Vernon-Anacortes, WA</u>	410	9.95	2.20	\$23.12	\$48,090
<u>Ocean City, NJ</u>	360	9.91	2.20	\$20.36	\$42,350

Annual mean wage of carpenters, by area, May 2011



Top paying metropolitan areas for this occupation:

Metropolitan area	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
Fairbanks, AK	520	14.59	3.23	\$34.26	\$71,270
Honolulu, HI	3,220	7.56	1.67	\$33.41	\$69,490
San Francisco-San Mateo- Redwood City, CA Metropolitan Division	4,690	4.88	1.08	\$32.26	\$67,100
Framingham, MA NECTA Division	740	4.78	1.06	\$30.98	\$64,440
Santa Cruz-Watsonville, CA	340	4.06	0.90	\$30.82	\$64,110
Oakland-Fremont-Hayward, CA Metropolitan Division	4,570	4.80	1.06	\$30.55	\$63,550
Salinas, CA	640	4.22	0.94	\$30.03	\$62,470
San Jose-Sunnyvale-Santa Clara, CA	3,110	3.55	0.79	\$29.61	\$61,600
New York-White Plains-Wayne, NY -NJ Metropolitan Division	22,360	4.42	0.98	\$29.57	\$61,500
Boston-Cambridge-Quincy, MA NECTA Division	5,890	3.52	0.78	\$29.24	\$60,830

Nonmetropolitan areas with the highest employment in this occupation:

Nonmetropolitan area	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
East Central Pennsylvania nonmetropolitan area	2,230	9.52	2.11	\$15.58	\$32,400
Western North Carolina nonmetropolitan area	2,120	11.49	2.55	\$15.33	\$31,890
Southwest Maine nonmetropolitan area	1,720	9.18	2.03	\$16.55	\$34,420
Northwest Minnesota nonmetropolitan area	1,510	8.50	1.88	\$17.38	\$36,150

<u>Capital/Northern New York nonmetropolitan area</u>	1,450	7.86	1.74	\$19.42	\$40,380

Nonmetropolitan areas with the highest concentration of jobs and location quotients in this occupation:

Nonmetropolitan area	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
<u>Nantucket Island and Martha's Vineyard nonmetropolitan area</u>	360	25.88	5.73	\$29.96	\$62,320
<u>North Central Colorado nonmetropolitan area</u>	1,250	17.43	3.86	\$24.19	\$50,310
<u>Garrett County, Maryland nonmetropolitan area</u>	170	16.05	3.56	\$13.86	\$28,820
<u>Northwestern Washington nonmetropolitan area</u>	640	13.34	2.96	\$22.79	\$47,410
<u>Railbelt / Southwest Alaska nonmetropolitan area</u>	930	12.93	2.87	\$30.06	\$62,530

Top paying nonmetropolitan areas for this occupation:

Nonmetropolitan area	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
<u>Eastern Connecticut nonmetropolitan area</u>	50	1.92	0.42	\$31.54	\$65,610
<u>Railbelt / Southwest Alaska nonmetropolitan area</u>	930	12.93	2.87	\$30.06	\$62,530
<u>Nantucket Island and Martha's Vineyard nonmetropolitan area</u>	360	25.88	5.73	\$29.96	\$62,320
<u>Hawaii / Maui / Kauai nonmetropolitan area</u>	1,310	8.61	1.91	\$29.19	\$60,720
<u>Eastern Sierra Region of California nonmetropolitan area</u>	100	7.06	1.56	\$28.80	\$59,900

About May 2011 National, State, Metropolitan, and Nonmetropolitan Area Occupational Employment and Wage Estimates

These estimates are calculated with data collected from employers in all industry sectors, all metropolitan and nonmetropolitan areas, and all states and the District of Columbia. The top employment and wage figures are provided above. The complete list is available in the [downloadable XLS files](#).

The percentile wage estimate is the value of a wage below which a certain percent of workers fall. The median wage is the 50th percentile wage estimate--50 percent of workers earn less than the median and 50 percent of workers earn more than the median. [More about percentile wages.](#)

(1) Estimates for detailed occupations do not sum to the totals because the totals include occupations not shown separately. Estimates do not include self-employed workers.

(2) Annual wages have been calculated by multiplying the hourly mean wage by a "year-round, full-time" hours figure of 2,080 hours; for those occupations where there is not an hourly mean wage published, the annual wage has been directly calculated from the reported survey data.

(3) The relative standard error (RSE) is a measure of the reliability of a survey statistic. The smaller the relative standard error, the more precise the estimate.

(8) Estimate not released.

(9) The location quotient is the ratio of the area concentration of occupational employment to the national average concentration. A location quotient greater than one indicates the occupation has a higher share of employment than average, and a location quotient less than one indicates the occupation is less prevalent in the area than average.

Other OES estimates and related information:

[May 2011 National Occupational Employment and Wage Estimates](#)

[May 2011 State Occupational Employment and Wage Estimates](#)

[May 2011 Metropolitan and Nonmetropolitan Area Occupational Employment and Wage Estimates](#)

[May 2011 National Industry-Specific Occupational Employment and Wage Estimates](#)

[List of Occupations in SOC Code Number Order](#)

[List of Occupations in Alphabetical Order](#)

[Download May 2011 Occupational Employment and Wage Estimates in Zipped XLS files](#)

[Technical Notes](#)

Last Modified Date: March 27, 2012

RECOMMEND THIS PAGE USING:  Facebook  Twitter  LinkedIn

TOOLS

[Areas at a Glance](#)
[Industries at a Glance](#)
[Economic Releases](#)
[Databases & Tables](#)
[Maps](#)

CALCULATORS

[Inflation](#)
[Location Quotient](#)
[Injury And Illness](#)

HELP

[Help & Tutorials](#)
[FAQs](#)
[Glossary](#)
[About BLS](#)
[Contact Us](#)

INFO

[What's New](#)
[Careers @ BLS](#)
[Find It! DOL](#)
[Join our Mailing Lists](#)
[Linking & Copyright Info](#)

RESOURCES

[Inspector General \(OIG\)](#)
[Budget and Performance](#)
[No Fear Act](#)
[USA.gov](#)
[Benefits.gov](#)
[Disability.gov](#)

[Freedom of Information Act](#) | [Privacy & Security Statement](#) | [Disclaimers](#) | [Customer Survey](#) | [Important Web Site Notices](#)

U.S. Bureau of Labor Statistics | Division of Occupational Employment Statistics, PSB Suite 2135, 2 Massachusetts Avenue, NE Washington, DC 20212-0001
www.bls.gov/OES | Telephone: 1-202-691-6569 | [Contact OES](#)

South Carolina Workers' Compensation Commission
P.O. Box 1715 - 1333 Main Street, Suite 500
Columbia, South Carolina 29202-1715

WCC File # 1104798
Carrier File# _____
Carrier Code# _____
Employer FEIN _____

Kenneth C. Smith 251-17-9487
Claimant's Name SSN

1442 Highway 6, Gaston SC 29053
Address City State Zip

Home Phone # _____ Work Phone # _____

Marion Builders Group, LLC
Employer's Name

300 Wilson Bridge Rd., Fountain Inn, SC 29644
Address City State Zip

Builders Mutual Ins. Co.
Insurance Carrier

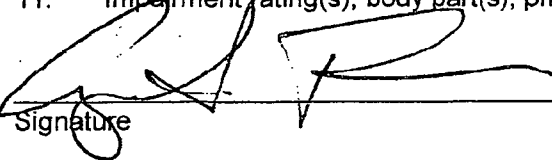
George A. Taylor, Esquire
Preparer's Name

(803) 404-6900
Phone #

Provide the information requested in the space provided. Use an additional sheet, if necessary.

☒ Injury by accident ☐ Occupational Disease ☐ Injury by Both Accident and Disease ☐ Other

1. Date of accident: 04/04/2011 2. AWW: \$408.00 Comp. Rate: \$ 272.01
3. Type of Injury: Right wrist, elbow, spine, neck, ribs, mouth, psyche.
4. Facts in Controversy: (1) Extent of impairment and disability; and (2) Wages paid by employer.
5. Legal issues involved: (1) Entitlement to permanent disability benefits; and (2) Compensation rate.
6. Unusual problems: None.
7. Witnesses (designate if expert)*: (1) Representative of the Employer, Jonathan Long; (2) Defendants reserve the right to call any witness identified by the Claimant.
8. Exhibits: (1) Deposition Transcript of Claimant; (2) 2011 Income Tax Return.
9. Medical evidence: See attached Notice of Witnesses and APA Submissions.
10. Name, address, and specialty, if any, of the treating physician: Michael J. Palmer, MD, The Hand Center, 1011 Frontage Rd., Greenville, SC 29615; Kelby Hutchinson, MD, Carolinas Center for Advanced Pain Management of Pain, 109 Midlands Court, Ste B., West Columbia, SC 29169.
11. Impairment rating(s); body part(s); physician and date of opinion: N/A.


Signature

8/30/12
Date

On Behalf of: ☐ Claimant ☒ Employer

DATE OF HEARING: September 12, 2012

TIME NEEDED FOR HEARING: 1 hour

File this form and proof of service on the opposing party according to R. 67-611 and R. 67-212.

VCC Form #58

Pre-Hearing Brief

BEFORE THE SOUTH CAROLINA
WORKERS COMPENSATION COMMISSION

W.C.C. File No. 1104798

Kenneth C. Smith,

Claimant,

-vs-

Marion Builders Group, LLC,

Employer,

-and-

Builders Mutual Insurance Company,

Carrier/Defendants.

**DEFENDANTS' NOTICE OF WITNESSES
AND APA SUBMISSIONS**

<u>TABS</u>	<u>NAME OF PHYSICIAN/OTHER</u>	<u>DATES OF REPORTS</u>	<u>APA PAGE NO.</u>

As submitted by the Claimant.

EXHIBITS:

1. 2011 Income Tax Return.
2. Deposition Transcript of Claimant.

WITNESSES:

1. Representative of Employer, Jonathan Long.
2. Defendants reserve the right to call any witness identified by the Claimant.



CALLISON TIGHE & ROBINSON, LLC
George A. Taylor
Post Office Box 1390
Columbia, South Carolina 29202
(803) 404-6900
ATTORNEYS FOR DEFENDANTS

Columbia, South Carolina

August 30, 2012

Form	1040	Department of the Treasury - Internal Revenue Service U.S. Individual Income Tax Return	(99)	2011	OMB No. 1545-0074	IRS Use Only-Do not write or staple in this space.																		
For the year Jan. 1-Dec. 31, 2011, or other tax year beginning					, 2011, ending , 20																			
Your first name and initial			Last name		See separate instructions.																			
KENNETH C			SMITH		Your social security number																			
If a joint return, spouse's first name and initial			Last name		Spouse's social security number																			
					251-17-9487																			
Home address (number and street). If you have a P.O. box, see instructions.					Apt. no.																			
1442 HWY 6																								
City, town or post office, state, and ZIP code. If you have a foreign address, also complete spaces below (see instructions).					Presidential Election Campaign																			
GASTON SC 29053					Check here if you, or your spouse if filing jointly, want \$3 to go to this fund. Checking a box below will not change your tax or refund.																			
Foreign country name					Foreign province/county Foreign postal code																			
					☐ You ☐ Spouse																			
Filing Status Check only one box.		1 ☐ Single 2 ☐ Married filing jointly (even if only one had income) 3 ☐ Married filing separately. Enter spouse's SSN above and full name here.		4 ☒ Head of household (with qualifying person). (See instructions.) If the qualifying person is a child but not your dependent, enter this child's name here.																				
				5 ☐ Qualifying widow(er) with dependent child																				
Exemptions If more than four dependents, see instructions and check here ☐		6a ☒ Yourself. If someone can claim you as a dependent, do not check box 6a b ☐ Spouse		Boxes checked on 6a and 6b: 1 No. of children on 6c who: • lived with you 3 • did not live with you due to divorce or separation (see instructions) Dependents on 6c not entered above Add numbers on lines above 4																				
		c Dependents: <table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th>(1) First name</th> <th>Last name</th> <th>(2) Dependent's social security number</th> <th>(3) Dependent's relationship to you</th> <th>(4) If child under age 17 qualifying for child tax credit (see instructions)</th> </tr> </thead> <tbody> <tr> <td>KAYLI</td> <td>SMITH</td> <td>655-20-5652</td> <td>DAUGHTER</td> <td>☒</td> </tr> <tr> <td>KENNETH</td> <td>SMITH</td> <td>655-16-9700</td> <td>SON</td> <td>☒</td> </tr> <tr> <td>KARLI</td> <td>SMITH</td> <td>655-16-9699</td> <td>DAUGHTER</td> <td>☒</td> </tr> </tbody> </table>		(1) First name	Last name	(2) Dependent's social security number	(3) Dependent's relationship to you	(4) If child under age 17 qualifying for child tax credit (see instructions)	KAYLI	SMITH	655-20-5652	DAUGHTER	☒	KENNETH	SMITH	655-16-9700	SON	☒	KARLI	SMITH	655-16-9699	DAUGHTER	☒	
(1) First name	Last name	(2) Dependent's social security number	(3) Dependent's relationship to you	(4) If child under age 17 qualifying for child tax credit (see instructions)																				
KAYLI	SMITH	655-20-5652	DAUGHTER	☒																				
KENNETH	SMITH	655-16-9700	SON	☒																				
KARLI	SMITH	655-16-9699	DAUGHTER	☒																				
		d Total number of exemptions claimed																						
Income Attach Form(s) W-2 here. Also attach Forms W-2G and 1099-R if tax was withheld. If you did not get a W-2, see instructions. Enclose, but do not attach, any payment. Also, please use Form 1040-V.		7 Wages, salaries, tips, etc. Attach Form(s) W-2		7																				
		8a Taxable interest. Attach Schedule B if required		8a																				
		b Tax-exempt interest. Do not include on line 8a		8b																				
		9a Ordinary dividends. Attach Schedule B if required		9a																				
		b Qualified dividends		9b																				
		10 Taxable refunds, credits, or offsets of state and local income taxes		10																				
		11 Alimony received		11																				
		12 Business income or (loss). Attach Schedule C or C-EZ		12 20,157																				
		13 Capital gain or (loss). Attach Schedule D if required. If not required, check here ☐		13																				
		14 Other gains or (losses). Attach Form 4797		14																				
		15a IRA distributions		15a		b Taxable amount																		
		16a Pensions and annuities		16a		b Taxable amount																		
		17 Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E		17																				
		18 Farm income or (loss). Attach Schedule F		18																				
		19 Unemployment compensation		19																				
20a Social security benefits		20a		b Taxable amount																				
21 Other income		21																						
22 Combine the amounts in the far right col for lines 7 through 21. This is your total income		22 20,157																						
Adjusted Gross Income		23 Educator expenses		23																				
		24 Certain business expenses of reservists, performing artists, and fee-basis government officials. Attach Form 2106 or 2106-EZ		24																				
		25 Health savings account deduction. Attach Form 8889		25																				
		26 Moving expenses. Attach Form 3903		26																				
		27 Deductible part of self-employment tax. Attach Schedule SE		27 1,424																				
		28 Self-employed SEP, SIMPLE, and qualified plans		28																				
		29 Self-employed health insurance deduction		29																				
		30 Penalty on early withdrawal of savings		30																				
		31a Alimony paid b Recipient's SSN		31a		b																		
		32 IRA deduction		32																				
		33 Student loan interest deduction		33																				
		34 Tuition and fees. Attach Form 8917		34																				
35 Domestic production activities deduction. Attach Form 8903		35																						
36 Add lines 23 through 35		36 1,424																						
37 Subtract line 36 from line 22. This is your adjusted gross income		37 18,733																						

For Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see separate instructions.

EEA

Form 1040 (2011)

Tax and Credits		Standard Deduction for -	Other Taxes	Payments	Refund	Amount You Owe	Third Party Designee	Sign Here
38 Amount from line 37 (adjusted gross income) 39a Check ☐ You were born before January 2, 1947, ☐ Blind. Total boxes If: ☐ Spouse was born before January 2, 1947, ☐ Blind. checked ▶ 39a ☐ b If your spouse itemizes on a separate return or you were a dual-status alien, check here ▶ 39b ☐		Standard Deduction for - • People who check any box on line 39a or 39b or who can be claimed as a dependent, see instructions. • All others: Single or Married filing separately, \$5,800 Married filing jointly or Qualifying widow(er), \$11,600 Head of household, \$8,500	56 Self-employment tax. Attach Schedule SE 57 Unreported social security and Medicare tax from Form: a ☐ 4137 b ☐ 8919 58 Additional tax on IRAs, other qualified retirement plans, etc. Attach Form 5329 if required 59a Household employment taxes from Schedule H b First-time homebuyer credit repayment. Attach Form 5405 if required 60 Other taxes. Enter code(s) from instructions 61 Add lines 55 through 60. This is your total tax ▶	62 Federal income tax withheld from Forms W-2 and 1099 63 2011 estimated tax payments and amount applied from 2010 return 64a Earned income credit (EIC) 64b b Nontaxable combat pay election 65 Additional child tax credit. Attach Form 8812 66 American opportunity credit from Form 8863, line 14 67 First-time homebuyer credit from Form 5405, line 10 68 Amount paid with request for extension to file 69 Excess social security and tier 1 RRTA tax withheld 70 Credit for federal tax on fuels. Attach Form 4136 71 Credits from Form: a ☐ 2439 b ☐ 8839 c ☐ 8801 d ☐ 8885 72 Add lines 62, 63, 64a, and 65 through 71. These are your total payments ▶	73 If line 72 is more than line 61, subtract line 61 from line 72. This is the amount you overpaid 74a Amount of line 73 you want refunded to you. If Form 8888 is attached, check here ☐ ▶ b Routing number XXXXX XXXX ▶ c Type: ☐ Checking ☐ Savings ▶ d Account number XXXXX XXXX XXXX XXXX XXXX 75 Amount of line 73 you want applied to your 2012 estimated tax ▶ 75	76 Amount you owe. Subtract line 72 from line 61. For details on how to pay, see instructions 77 Estimated tax penalty (see instructions) 77	Do you want to allow another person to discuss this return with the IRS (see instructions)? ☐ Yes. Complete below. ☒ No	Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge. Your signature Date Your occupation Daytime phone number 79487 04-17-2012 CONSTRUCTION 803-476-54... Spouse's signature, if a joint return, both must sign. Date Spouse's occupation Identity Protection PIN (see inst) Preparer's signature Date Check ☒ If PTIN Doris W Simmons 05-03-2012 self-employed P00080248 Print/type preparer's name Doris W Simmons Firm's EIN ▶ 20-0060757 Firm's name SWANSEA TAX SERVICE LLC Phone no. 803-568-5739 Firm's address P O Box 432 Swansea, SC 29160-0432

**SCHEDULE C
(Form 1040)**

Department of the Treasury
Internal Revenue Service (99)

Profit or Loss From Business

(Sole Proprietorship)

► For information on Schedule C and its instructions, go to www.irs.gov/schedulec

► Attach to Form 1040, 1040NR, or 1041; partnerships generally must file Form 1065.

OMB No. 1545-0074

2011

Attachment
Sequence No. **09**

Name of proprietor KENNETH C SMITH	Social security number (SSN) 251-17-9487
A Principal business or profession, including product or service (see instructions) CONSTRUCTION	B Enter code from instructions ► 238130
C Business name. If no separate business name, leave blank.	D Employer ID number (EIN). (see instr.)

E Business address (including suite or room no.) City, town or post office, state, and ZIP code	► SAME GASTON SC 29053	
F Accounting method: (1) ☒ Cash (2) ☐ Accrual (3) ☐ Other (specify) ►		
G Did you "materially participate" in the operation of this business during 2011? If "No," see instructions for limit on losses	☒ Yes	☐ No
H If you started or acquired this business during 2011, check here		
I Did you make any payments in 2011 that would require you to file Form(s) 1099? (see instructions)	☐ Yes	☒ No
J If "Yes," did you or will you file all required Forms 1099?	☐ Yes	☐ No

Part I Income

1 a Merchant card and third party payments. For 2011, enter -0-	1a	0
b Gross receipts or sales not entered on line 1a (see instructions)	1b	25,125
c Income reported to you on Form W-2 if the "Statutory Employee" box on that form was checked. Caution. See instr. before completing this line	1c	
d Total gross receipts. Add lines 1a through 1c	1d	25,125
2 Returns and allowances plus any other adjustments (see instructions)	2	0
3 Subtract line 2 from line 1d	3	25,125
4 Cost of goods sold (from line 42)	4	
5 Gross profit. Subtract line 4 from line 3	5	25,125
6 Other income, including federal and state gasoline or fuel tax credit or refund (see instructions)	6	
7 Gross income. Add lines 5 and 6	7	25,125

Part II Expenses

Enter expenses for business use of your home only on line 30.

8 Advertising	8		18 Office expense (see instructions)	18	45
9 Car and truck expenses (see instructions)	9	1,983	19 Pension and profit-sharing plans	19	
10 Commissions and fees	10		20 Rent or lease (see instructions):		
11 Contract labor (see instructions)	11		a Vehicles, machinery, and equipment	20a	147
12 Depletion	12		b Other business property	20b	
13 Depreciation and section 179 expense deduction (not included in Part III) (see instructions)	13		21 Repairs and maintenance	21	
14 Employee benefit programs (other than on line 19)	14		22 Supplies (not included in Part III)	22	333
15 Insurance (other than health)	15	1,575	23 Taxes and licenses	23	125
16 Interest:			24 Travel, meals, and entertainment:		
a Mortgage (paid to banks, etc.)	16a		a Travel	24a	
b Other	16b		b Deductible meals and entertainment (see instructions)	24b	
17 Legal and professional services	17	205	25 Utilities	25	555
28 Total expenses before expenses for business use of home. Add lines 8 through 27a	28		26 Wages (less employment credits)	26	
29 Tentative profit or (loss). Subtract line 28 from line 7	29		27 a Other expenses (from line 48)	27a	
30 Expenses for business use of your home. Attach Form 8829. Do not report such expenses elsewhere	30		b Reserved for future use	27b	
31 Net profit or (loss). Subtract line 30 from line 29.	31	20,157			
• If a profit, enter on both Form 1040, line 12 (or Form 1040NR, line 13) and on Schedule SE, line 2. • If you entered an amount on line 1c, see instr. Estates and trusts, enter on Form 1041, line 3. • If a loss, you must go to line 32.					
32 If you have a loss, check the box that describes your investment in this activity (see instructions).			32a ☐ All investment is at risk.		
• If you checked 32a, enter the loss on both Form 1040, line 12, (or Form 1040NR, line 13) and on Schedule SE, line 2. If you entered an amount on line 1c, see instructions for line 31. Estates and trusts, enter on Form 1041, line 3. • If you checked 32b, you must attach Form 6198. Your loss may be limited.			32b ☐ Some investment is not at risk.		

For Paperwork Reduction Act Notice, see your tax return instructions.

EEA

Schedule C (Form 1040) 2011

Name(s)

KENNETH C SMITH

SSN

251-17-9487

Part III Cost of Goods Sold (see instructions)

33	Method(s) used to value closing inventory: a ☐ Cost b ☐ Lower of cost or market c ☐ Other (attach explanation)	
34	Was there any change in determining quantities, costs, or valuations between opening and closing inventory? If "Yes," attach explanation	☐ Yes ☐ No
35	Inventory at beginning of year. If different from last year's closing inventory, attach explanation	35
36	Purchases less cost of items withdrawn for personal use	36
37	Cost of labor. Do not include any amounts paid to yourself	37
38	Materials and supplies	38
39	Other costs	39
40	Add lines 35 through 39	40
41	Inventory at end of year	41
42	Cost of goods sold. Subtract line 41 from line 40. Enter the result here and on line 4	42

Part IV Information on Your Vehicle. Complete this part only if you are claiming car or truck expenses on line 9 and are not required to file Form 4562 for this business. See the instructions for line 13 to find out if you must file Form 4562.

43	When did you place your vehicle in service for business purposes? (year, month, day)	1997-02-05
44	Of the total number of miles you drove your vehicle during 2011, enter the number of miles you used your vehicle for:	
a	Business	3,889
b	Commuting (see instructions)	
c	Other	
45	Was your vehicle available for personal use during off-duty hours?	☒ Yes ☐ No
46	Do you (or your spouse) have another vehicle available for personal use?	☒ Yes ☐ No
47 a	Do you have evidence to support your deduction?	☒ Yes ☐ No
b	If "Yes," is the evidence written?	☒ Yes ☐ No

Part V Other Expenses. List below business expenses not included on lines 8-26 or line 30.

48	Total other expenses. Enter here and on line 27a	48

SCHEDULE SE
(Form 1040)

Department of the Treasury
Internal Revenue Service (99)

Self-Employment Tax

▶ **Attach to Form 1040 or Form 1040NR.**

▶ **See separate instructions.**

OMB No. 1545-0074

2011

Attachment
Sequence No. **17**

Name of person with self-employment income (as shown on Form 1040)

KENNETH C SMITH

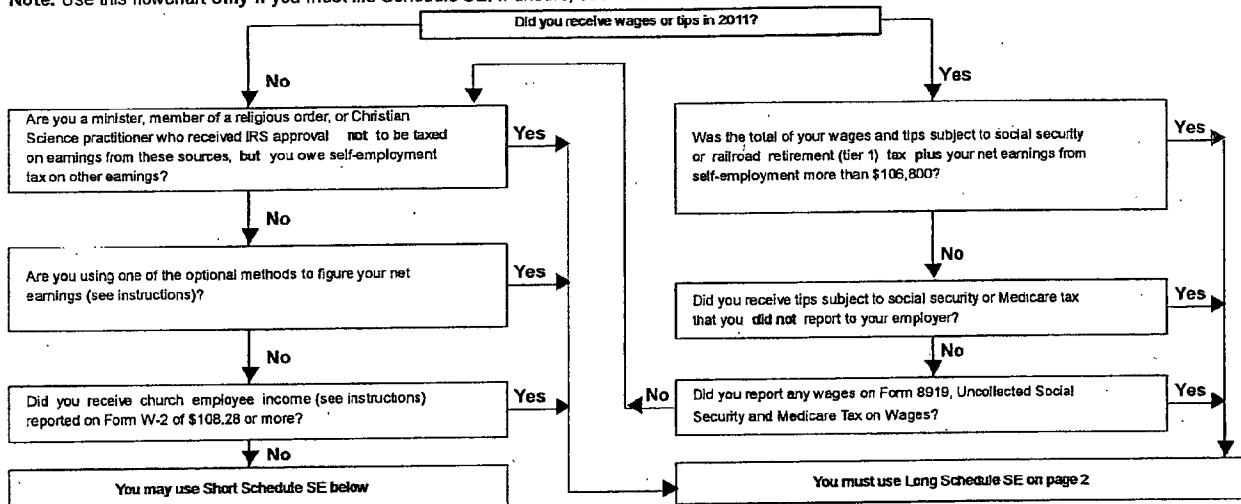
Social security number of person
with self-employment income ▶

251-17-9487

Before you begin: To determine if you must file Schedule SE, see the instructions.

May I Use Short Schedule SE or Must I Use Long Schedule SE?

Note. Use this flowchart only if you must file Schedule SE. If unsure, see Who Must File Schedule SE in the instructions.



Section A - Short Schedule SE. Caution. Read above to see if you can use Short Schedule SE.

1a Net farm profit or (loss) from Schedule F, line 34, and farm partnerships, Schedule K-1 (Form 1065), box 14, code A	1a	
b If you received social security retirement or disability benefits, enter the amount of Conservation Reserve Program payments included on Schedule F, line 4b, or listed on Schedule K-1 (Form 1065), box 20, code Y	1b	()
2 Net profit or (loss) from Schedule C, line 31; Schedule C-EZ, line 3; Schedule K-1 (Form 1065), box 14, code A (other than farming); and Schedule K-1 (Form 1065-B), box 9, code J1. Ministers and members of religious orders, see instructions for types of income to report on this line. See instructions for other income to report	2	20,157
3 Combine lines 1a, 1b, and 2	3	20,157
4 Multiply line 3 by 92.35% (.9235). If less than \$400, you do not owe self-employment tax; do not file this schedule unless you have an amount on line 1b Note. If line 4 is less than \$400 due to Conservation Reserve Program payments on line 1b, see instructions.	4	18,615
5 Self-employment tax. If the amount on line 4 is: • \$106,800 or less, multiply line 4 by 13.3% (.133). Enter the result here and on Form 1040, line 56, or Form 1040NR, line 54 • More than \$106,800, multiply line 4 by 2.9% (.029). Then, add \$11,107.20 to the result. Enter the total here and on Form 1040, line 56, or Form 1040NR, line 54	5	2,476
6 Deduction for employer-equivalent portion of self-employment tax. If the amount on line 5 is: • \$14,204.40 or less, multiply line 5 by 57.51% (.5751) • More than \$14,204.40, multiply line 5 by 50% (.50) and add \$1,067 to the result. Enter the result here and on Form 1040, line 27, or Form 1040NR, line 27	6	1,424

For Paperwork Reduction Act Notice, see your tax return instructions.

EEA

Schedule SE (Form 1040) 2011

SCHEDULE EIC
(Form 1040A or 1040)

Earned Income Credit
Qualifying Child Information

OMB No. 1545-0074

2011

Department of the Treasury
Internal Revenue Service (59)

Complete and attach to Form 1040A or 1040
only if you have a qualifying child.

Attachment
Sequence No. **43**

Name(s) shown on return
KENNETH C SMITH

Your social security number
251-17-9487

Before you begin:

- See the instructions for Form 1040A, lines 38a and 38b, or Form 1040, lines 64a and 64b, to make sure that (a) you can take the EIC, and (b) you have a qualifying child.
- Be sure the child's name on line 1 and social security number (SSN) on line 2 agree with the child's social security card. Otherwise, at the time we process your return, we may reduce or disallow your EIC. If the name or SSN on the child's social security card is not correct, call the Social Security Administration at 1-800-772-1213.

CAUTION!

- If you take the EIC even though you are not eligible, you may not be allowed to take the credit for up to 10 years. See page 2 for details.
- It will take us longer to process your return and issue your refund if you do not fill in all lines that apply for each qualifying child.

Qualifying Child Information	Child 1	Child 2	Child 3
	First name Last name	First name Last name	First name Last name
1 Child's name If you have more than three qualifying children, you only have to list three to get the maximum credit.	KAYLI SMITH	KENNETH SMITH	KARLI SMITH
2 Child's SSN The child must have an SSN as defined in the instructions for Form 1040A, lines 38a and 38b, or Form 1040, lines 64a and 64b, unless the child was born and died in 2011. If your child was born and died in 2011 and did not have an SSN, enter "Died" on this line and attach a copy of the child's birth certificate, death certificate, or hospital medical records.	655-20-5652	655-16-9700	655-16-9699
3 Child's year of birth	Year <u>2005</u> If born after 1992 and the child was younger than you (or your spouse, if filing jointly), skip lines 4a and 4b; go to line 5.	Year <u>2003</u> If born after 1992 and the child was younger than you (or your spouse, if filing jointly), skip lines 4a and 4b; go to line 5.	Year <u>2003</u> If born after 1992 and the child was younger than you (or your spouse, if filing jointly), skip lines 4a and 4b; go to line 5.
4a Was the child under age 24 at the end of 2011, a student, and younger than you (or your spouse, if filing jointly)?	☐ Yes. ☐ No. Go to line 5. Go to line 4b.	☐ Yes. ☐ No. Go to line 5. Go to line 4b.	☐ Yes. ☐ No. Go to line 5. Go to line 4b.
b Was the child permanently and totally disabled during any part of 2011?	☐ Yes. ☐ No. Go to line 5. The child is not a qualifying child.	☐ Yes. ☐ No. Go to line 5. The child is not a qualifying child.	☐ Yes. ☐ No. Go to line 5. The child is not a qualifying child.
5 Child's relationship to you (for example, son, daughter, grandchild, niece, nephew, foster child, etc.)	DAUGHTER	SON	DAUGHTER
6 Number of months child lived with you in the United States during 2011 • If the child lived with you for more than half of 2011 but less than 7 months, enter "7." • If the child was born or died in 2011 and your home was the child's home for the entire time he or she was alive during 2011, enter "12."	<u>12</u> months Do not enter more than 12 months.	<u>12</u> months Do not enter more than 12 months.	<u>12</u> months Do not enter more than 12 months.

For Paperwork Reduction Act Notice, see your tax return instructions.

EEA

Schedule EIC (Form 1040A or 1040) 2011

Additional Child Tax Credit

OMB No. 1545-0074

2011

Department of the Treasury
Internal Revenue Service (59)

Complete and attach to Form 1040, Form 1040A, or Form 1040NR.

Attachment
Sequence No. 47

Name(s) shown on return

Your social security number

KENNETH C SMITH

251-17-9487

Part I All Filers

1	1040 filers: Enter the amount from line 6 of your Child Tax Credit Worksheet (see the Instructions for Form 1040, line 51).		
	1040A filers: Enter the amount from line 6 of your Child Tax Credit Worksheet (see the Instructions for Form 1040A, line 33).		
	1040NR filers: Enter the amount from line 6 of your Child Tax Credit Worksheet (see the Instructions for Form 1040NR, line 48).		
	If you used Pub. 972, enter the amount from line 8 of the Child Tax Credit Worksheet in the publication.		
2	Enter the amount from Form 1040, line 51, Form 1040A, line 33, or Form 1040NR, line 48	2	
3	Subtract line 2 from line 1. If zero, stop; you cannot take this credit	3	3,000
4a	Earned income (see instructions)	4a	18,733
4b	Nontaxable combat pay (see instructions)	4b	
5	Is the amount on line 4a more than \$3,000?	5	15,733
	☐ No. Leave line 5 blank and enter -0- on line 6.		
	☒ Yes. Subtract \$3,000 from the amount on line 4a. Enter the result	6	2,360
6	Multiply the amount on line 5 by 15% (.15) and enter the result		
	Next, do you have three or more qualifying children?		
	☐ No. If line 6 is zero, stop; you cannot take this credit. Otherwise, skip Part II and enter the smaller of line 3 or line 6 on line 13.		
	☒ Yes. If line 6 is equal to or more than line 3, skip Part II and enter the amount from line 3 on line 13. Otherwise, go to line 7.		

Part II Certain Filers Who Have Three or More Qualifying Children

7	Withheld social security and Medicare taxes from Form(s) W-2, boxes 4 and 6. If married filing jointly, include your spouse's amounts with yours. If you worked for a railroad, see instructions	7	
8	1040 filers: Enter the total of the amounts from Form 1040, lines 27 and 57, plus any taxes that you identified using code "UT" and entered on line 60.	8	1,424
	1040A filers: Enter -0-.		
	1040NR filers: Enter the total of the amounts from Form 1040NR, lines 27 and 55, plus any taxes that you identified using code "UT" and entered on line 59.	9	1,424
9	Add lines 7 and 8		
10	1040 filers: Enter the total of the amounts from Form 1040, lines 64a and 69.	10	5,322
	1040A filers: Enter the total of the amount from Form 1040A, line 38a, plus any excess social security and tier 1 RRTA taxes withheld that you entered to the left of line 41 (see instructions).		
	1040NR filers: Enter the amount from Form 1040NR, line 65.	11	0
11	Subtract line 10 from line 9. If zero or less, enter -0-	12	2,360
12	Enter the larger of line 6 or line 11		
	Next, enter the smaller of line 3 or line 12 on line 13.		

Part III Additional Child Tax Credit

13	This is your additional child tax credit	13	2,360
	Enter this amount on Form 1040, line 65, Form 1040A, line 39, or Form 1040NR, line 63.		

1024



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
2011 INDIVIDUAL INCOME TAX RETURN

SC1040
(Rev. 9/13/11)
3075

Your social security number 251-17-9487	Check if deceased ☐
Spouse's social security number	Check if deceased ☐



For the year January 1 - December 31, 2011, or fiscal tax year beginning		2011 and ending		2012	
Print your first name and initial KENNETH C			Last name SMITH		Suff.
Spouse's first name, if married filing jointly			Last name		
Check if new address ☐	Mailing address (number and street, Apt. no or P.O. Box) Foreign address, see instructions 1442 HWY 6				County code 32
City GASTON	State SC	Zip 29053	Area code 803	Daytime telephone 476-5482	
Check if address is outside US ☐	Foreign country address including Postal code (see instructions)				
Check this box if you are filing SC Schedule NR (Part year/Nonresident) ☐					
Check this box if filing a composite return for partnership or "S" corporation ☐					
Check this box if you have filed a federal or state extension ☐					
Check this box if you served in a Military COMBAT ZONE during the filing period ☐					
Enter the name of the combat zone: _____					
Check this box if this return is affected by a federally declared DISASTER AREA ☐					
Enter the name of the disaster area: _____					
CHECK YOUR FEDERAL FILING STATUS (1) ☐ Single (3) ☐ Married filing separately. Enter spouse's SSN here: _____ (2) ☐ Married filing jointly (4) ☒ Head-of-household (5) ☐ Widow(er) with dependent child					

Federal Exemptions

Enter the number of exemptions from your 2011 federal return **4**
Enter the number of exemptions listed above that were under the age of 6 years on December 31, 2011 _____
Enter the number of taxpayers age 65 or older, as of December 31, 2011 _____

Dependents:

First name	Last name	Social security number	Relationship	Date of birth (MM/DD/YYYY)
KAYLI	SMITH	655-20-5652	DAUGHTER	03/10/2005
KENNETH	SMITH	655-16-9700	SON	08/19/2003
KARLI	SMITH	655-16-9699	DAUGHTER	08/19/2003

30751028

**INCOME AND ADJUSTMENTS**

1 Enter federal taxable income from your federal form. If zero or less, enter zero here. Dollars
Nonresident filers complete Schedule NR and enter total from line 49 on line 5 below 0 00

ADDITIONS TO FEDERAL TAXABLE INCOME

a State tax addback, if itemizing on federal return (See instructions)	a	00		
b Out-of-state losses (See instructions)	b	00		
Check type of loss: ☐ Rental ☐ Business ☐ Other	c	00		
c Expenses related to National Guard and Military Reserve Income	d	00		
d Interest income on obligations of states and political subdivisions other than South Carolina	e	00		
e Other additions to income. Attach an explanation (See instructions)				
2 Add lines a through e and enter the total here. These are your total additions	2			00
3 Add lines 1 and 2 and enter the total here	3			00

SUBTRACTIONS FROM FEDERAL TAXABLE INCOME

f State tax refund, if included on your federal return	f	00		
g Total and permanent disability retirement income, if taxed on your federal return	g	00		
h Out-of-state income/gain - Do not include personal service income (See instructions)	h	00		
Check type of income/gain: ☐ Rental ☐ Business ☐ Other	i	00		
i 44% of net capital gains held for more than one year (See instructions)				
j Volunteer deductions (See instructions) Check type of deduction: ☐ Firefighter ☐ HazMat ☐ Rescue Squad ☐ DNR ☐ Reserve Police ☐ Other	j	00		
k Contributions to the SC College Investment Program ("Future Scholar") or the SC Tuition Prepayment Program (See instructions)	k	00		
l Active Trade or Business Income deduction (See instructions)	l	00		
m Interest income from obligations of the US government	m	00		
n Certain nontaxable National Guard or Reserve Pay (See instructions)	n	00		
o Social security and/or railroad retirement, if taxed on your federal return	o	00		
p Caution: Retirement Deduction (See instructions)				
p-1 Taxpayer: date of birth	p-1	00		
p-2 Spouse: date of birth	p-2	00		
p-3 Surviving spouse #1: date of birth of deceased spouse	p-3	00		
p-4 Surviving spouse #2: date of birth of deceased spouse	p-4	00		
q Age 65 and older deduction (See instructions)				
q-1 Taxpayer: date of birth	q-1	00		
q-2 Spouse: date of birth	q-2	00		
r Negative amount of federal taxable income	r	4,567	00	
s Subsistence allowance days @ \$8.00	s	00		
t Dependents under the age of 6 years on December 31 of the tax year	t	00		
u Other subtractions (See instructions)	u	00		
4 Add lines f through u and enter here. These are your total subtractions	4			< 4,567 00 >
5 Residents subtract line 4 from line 3 and enter the difference. Nonresidents enter amount from Schedule NR, line 49. If less than zero, enter zero here	5			0 00
6 TAX: enter tax from SOUTH CAROLINA tax tables	6	00		
7 TAX on Lump Sum Distribution (Attach SC4872)	7	00		
8 TAX on Active Trade or Business Income (Attach I-335)	8	00		
9 TAX on excess withdrawals from Catastrophe Savings Accounts	9	00		
10 Add lines 6 through 9 and enter the total here This is your TOTAL SOUTH CAROLINA TAX	10			00
11 Child and Dependent Care (See instructions)	11	00		
12 Two Wage Earner Credit (See instructions)	12	00		
13 Other non-refundable credits. Attach SC1040TC and other state return(s)	13	00		
14 TOTAL non-refundable credits. Add lines 11 through 13 and enter the total here	14			00
15 SUBTRACT line 14 from line 10. Enter the difference BUT NOT LESS THAN ZERO here	15			0 00

30752026



PAYMENTS AND REFUNDABLE CREDITS

16 SC INCOME TAX WITHHELD (Attach W-2 or SC41)	00	20 Other SC withholding (Attach Form 1099)	00
17 2011 estimated tax payments	00	21 Tuition tax credit (Attach I-319)	00
18 Amount paid with extension	00	22 Other refundable credit(s)	00
19 NR sale of real estate	00	Check type: ☐ Anhydrous Ammonia (Attach I-333) ☐ Milk Credit (Attach I-334)	
23 Add lines 16 through 22 and enter the total here		These are your TOTAL PAYMENTS	
24 If line 23 is LARGER than line 15, subtract line 15 from line 23 and enter the OVERPAYMENT		24 00	
25 If line 15 is LARGER than line 23, subtract line 23 from line 15 and enter the AMOUNT DUE		25 00	
26 USE TAX: (Due on out-of-state purchases. See instructions)		26 00	
27 Amount of line 24 to be credited to your 2012 Estimated Tax		27 00	
28 Total Contributions for Check-offs (Attach I-330)		28 00	
29 Add lines 26 through 28 and enter the total here		29 00	
30 If line 29 is larger than line 24, go to line 31. Otherwise, subtract line 29 from line 24 and enter the AMOUNT TO BE REFUNDED TO YOU (see refund check box below)		30 00	
31 Tax Due: Add lines 25 and 29. If line 29 is larger than line 24, subtract line 24 from line 29 and enter the amount		31 00	
32 Late filing and/or late payment: Penalties Interest (See instructions) Enter total here		32 00	
33 Penalty for Underpayment of Estimated Tax (Attach SC2210) (See instructions and enter letter in box if applicable) Exception to Underpayment of Estimated Tax		33 00	
34 Add lines 31 through 33 and enter the AMOUNT YOU OWE here		34 00	

Pay electronically free of charge at www.sctax.org. Click on DORePay and pay with Visa, MasterCard or by Electronic Funds Withdrawal (EFW) or include SC1040-V with your check or money order for the full amount payable to "SC Department of Revenue". Write your social security number and "2011 SC1040" on the payment.

NOTE: A taxpayer owing fifteen thousand dollars or more in connection with any return to be filed with the department must pay electronically per SC Code of Laws Section 12-54-250(A)(1).

I declare that this return and all attachments are true, correct and complete to the best of my knowledge and belief.

Your signature	Date 05-03-2012	Spouse's signature (if married filing jointly, BOTH must sign)
I authorize the Director of the Department of Revenue or delegate to discuss this return, attachments and related tax matters with the preparer.		Preparer's printed name
If prepared by a person other than the taxpayer, his declaration is based on all information of which he has any knowledge.		
Paid	Preparer signature	Date 05-03-2012
Preparer's	Firm name (or yours if self-employed) and address and Zip Code	Check if self-employed ☒ PTIN P00080248
Use Only	SWANSEA TAX SERVICE LLC P O Box 432 Swansea SC 29160-0432	FEIN 20-0060757 Phone No. 803-568-5739

MAIL TO: **REFUNDS OR ZERO TAX** SC1040 Processing Center, PO Box 101100, Columbia, SC 29211-0100
BALANCE DUE Taxable Processing Center, PO Box 101105, Columbia, SC 29211-0105

☐ REFUND NOTICE: South Carolina will soon offer the option for taxpayers to receive their refund on a VISA Debit Card! If you are not using the direct deposit option for your refund and you still prefer to receive a paper check in the mail, please check this box. Otherwise, if available you will receive a Visa Debit Card.

Go Paperless! SCDOR will soon offer the option to receive your Form 1099-G/INT on its secure, confidential website www.sctax.org instead of receiving it in the mail. Form 1099-G/INT is used when preparing your federal tax return. The website information would allow you to print a copy of the form if needed. Check the box below and provide a valid email address to receive more information and instructions about this new program when available.

☐ Yes, I wish to receive information about accessing my 1099-G/INT information through the SCDOR website.	Email Address

30753024

1040

Overflow Statement

2011
Page 1

Name(s) as shown on return

Your Social Security Number

KENNETH C SMITH

251-17-9487

SCHEDULE C, LINE 15 - INSURANCE

Description	Amount
WORKERS COMP	\$ 750
GEN LIABILITY	825
Total:	<u>\$ 1,575</u>

OVERFLOW.D

**TAX RETURN COMPARISON
2009 / 2010 / 2011**

2011

Name(s) as shown on return

KENNETH C SMITH

Identifying number

251-17-9487

	2009	2010	2011	Difference 2010-2011
Filing Status	4	4	4	
Number of Exemptions	4	4	4	
Income				
Wages, salaries, tips, etc.				
Taxable interest and dividends				
Taxable state and local refunds				
Alimony				
Business income (loss)	16,410	28,775	20,157	(8,618)
Gains (losses)				
Pensions and IRA distributions				
Rent and royalty income (loss)				
Part, S corps, trusts income (loss)				
Farm income (loss)				
Unemployment compensation				
Total SS benefits received				
Taxable SS benefits				
Other income (loss)				
Total Income	16,410	28,775	20,157	(8,618)
Adjusted Gross Income	1,160	2,033	1,424	(609)
Half of self-employment tax				
IRA deduction				
Other adjustments				
Total Adjusted Gross Income	15,250	26,742	18,733	(8,009)
Deductions				
Medical deductions				
State and local taxes				
Interest				
Contributions				
Employee business expenses				
Standard or other deductions	8,650	8,400	8,500	100
Total Itemized or Standard Ded	8,650	8,400	8,500	100
Exemption Amount	14,600	14,600	14,800	200
Tax and Credits				
Taxable Income		3,742		(3,742)
Tax		373		(373)
Credits		373		(373)
Self-employment tax	2,319	4,066	2,476	(1,590)
Other taxes				
Total Tax	2,319	4,066	2,476	(1,590)
Payments				
Withholdings				
Estimated tax payments	5,657	3,502	5,322	1,820
Earned income credit	2,238	3,027	2,360	(667)
Other payments and credits	5,576	2,463	5,206	2,743
Refund				
Balance Due				
Resident State	SC	SC	SC	
Taxable income		92		(92)
Tax				
Refund				
Balance Due				
Marginal tax rate	10.00	10.00	10.00	
Effective tax rate		10.00		(10.00)

South Carolina Workers' Compensation Commission
1612 Marion St.
P.O. BOX 1715
Columbia, SC 29202-1715
(803) 737-5739
www.wcc.sc.gov



PRE-HEARING BRIEF
WCC File No:1104798

Claimant's Name: Kenneth Smith Employer's Name: Marion Builders Group
Address: 1442 Highway 6 Address: 300 Wilson Bridge Rd.
City: Gaston State: SC Zip: 29053 City: Fountain Inn State: SC Zip: 29644
Home Phone: (803) 687-1495 Work Phone: () Carrier: Builders Mutual Insurance Company
Preparer's Name: Everett Hope Garner Preparer's Phone #: (803) 252-8290

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

☒ Injury ☐ Illness ☐ Repetitive Trauma

1. Compensation Rate: Disputed 2. AWW: \$Disputed Date of Injury: 4/4/11
3. Type of Injury and body part(s): Right wrist, elbow, spine, neck, ribs, mouth
4. Facts in controversy: The average weekly wage and compensation rate are in dispute
5. Legal issues involved: See 4 above
6. Unusual aspects: _____
7. Witnesses (designate if expert):* Kenneth Smith
8. Exhibits: Please see attached
9. Medical evidence (indicate report pursuant to R.67-612; deposition or appearance): _____
10. Name, address, and specialty, if any, of the treating physician: Please see attached
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: Everett H. Garner Email: Ehgarner05@yahoo.com

Date of hearing: October 24, 2012 Time needed for hearing: 30 minutes

On behalf of ☒ Claimant ☐ Employer

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

Kenny C. Smith v. Marion Builders

WCC File No: 1104789

ATTACHMENT TO FORM 58

10. Names and addresses of all physicians:

Dr. Isaac E. Davis
307 Columbia Ave.
Lexington, SC 29072

Dr. L. Randolph Waid
1459 Stuart Engals Blvd.,
Suite 204-A
Mt. Pleasant, SC 29464

Dr. Justin Hutcheson
Dr. David Tollison
Carolinas Center for Advanced Management of Pain
109 Midlands Court, Suite B
West Columbia, SC 29169

Dr. M. Jason Palmer
The Hand Center
1011 Frontage Rd.
Greenville, SC 29615

Dr. John M. Rinkliff
Greenville Hospital System
701 Grove Rd.
Greenville, SC 29605

University Medical Center
255 Enterprise Blvd., Suite 210
Greenville, SC 29615-3556

Dr. William M. Rambo, Jr.
Columbia Neurosurgical Associates
132 Sunset Court
West Columbia, SC 29169

Lexington Medical Center
2720 Sunset Blvd.
West Columbia, SC 29169

Dr. Sheldon Herring
100 Augusta St.
Greenville, SC 29601

DDS Imaging Services
112 Saluda Ridge Court
Suite 300
West Columbia, SC 29169

Imagecare, LLC
720 Rabon Rd.
Columbia, SC 29203

Dr. Charles Kanos
Neurosurgeon
Greenville, SC

Dr. Labadovych
Oral Surgeon
Simpsonville, SC

Dr. Draffin
Dentist
Simpsonville, SC

Dr. Z. Vance Morgan, IV, DMD
Charismatic Smiles
West Columbia, SC

Dr. Eleayna Ogburu
Neurologist
Columbia, SC

Associates in Oral & Maxillofacial Surgery
307 Columbia, Ave.
Lexington, SC 29072

Moore Orthopaedic Clinic
14 Medical Park
Columbia, SC 29203

Kenneth Smith v. Marion Builders Group
WCC File No: 1104798

Attachment to Form 58

8. Exhibits:

Affidavit of Todd Mack
U.S. Bureau of Labor Statistics Occupational Employment and Wages, May 2011
Occupational Employment Statistics Occupational Employment and Wages May 2011
47-2031 Carpenters
2006 Federal Tax Return
Bank envelope indicating 12 hours (\$200.00)
Joel D. Leonard, CRC, CVE, report dated 10/9/12
Hilton Residence - Bid & receipts
Henry O. Jacobs Builder - Subcontractor Checklist & pricing
Sandra Donnelly Proposal & receipts
Carl Kichess Proposals & receipts
Bill Byrd Proposal & Draw slip
Bob Ivey Proposals, receipts
Unknown Church Job - 2008
Bill Byrd Proposals & receipts
Hartley - Job & receipts
George & Maggie Wright Proposal
Bricker/Brewer Residence supply and labor sheets

BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
W.C.C. FILE NO: 1104798

Kenneth Smith	)	
	)	
Claimant,	)	
	)	
v.	)	NOTICE OF WITNESSES AND WRITTEN
	)	MEDICAL REPORTS TO BE INTRODUCED
Marion Builders Group,	)	AS DIRECT EVIDENCE ON BEHALF OF
Employer and Builders Mutual	)	
Insurance Company, Carrier	)	CLAIMANT
	)	
Defendants.	)	

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION AND
GEORGE A. TAYLOR, ESQUIRE

YOU ARE HEREBY NOTIFIED THAT THE Claimant, pursuant to the provisions of the South Carolina Workers' Compensation Act and South Carolina Code Section 1-23-330, (1976, as amended), herewith submits the following medical reports as direct evidence on behalf of the Claimant, to wit:

<u>NAME OF PHYSICIAN/OTHER</u>	<u>DATE OF REPORT</u>	<u>NO. OF PAGES</u>
N/A at this time		
<u>Exhibits:</u>		
Affidavit of Todd Mack	Undated	1 - 2
U.S. Bureau of Labor Statistics Occupational Employment and Wages, May 2011	5/16/12 Internet	3 - 9
Occupational Employment Statistics Occupational Employment and Wages May 2011 47-2031 Carpenters	5/16/12 Internet	10 - 18

4.	Joel D. Leonard, CRC, CVE,	10/9/12	19 - 21
5.	2006 Federal Tax Return		22 - 25
6.	Bank envelope indicating 12 hours (\$200.00)	Undated	26
7.	Hilton Residence - Bid & receipts	2/26/08	27 - 30
8.	Henry O. Jacobs Builder - Subcontractor Checklist & pricing	6/9/09	31 - 39
9.	Sandra Donnelly Proposal & receipts	8/14/08	40 - 47
10.	Carl Kichess Proposals & receipts	8/8/08	48 - 61
11.	Bill Byrd Proposal & Draw slip	4/28/09	62 - 63
12.	Bob Ivey Proposals receipts	8/1/08	64 - 85
13.	Unknown Church Job	3/7/08	86 - 89
14.	Bill Byrd Proposals & receipts	4/28/09	90 - 95
15.	Hartley - Job & receipts	9/15/08	96 - 98
16.	George & Maggie Wright Proposal	1/29/08	99 - 102
17.	Bricker/Brewer Residence supply and labor sheets	12/12/07	103 - 107

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 of the physicians, whose reports are submitted, for the purposes of cross-examination.

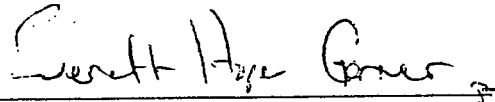
YOU ARE FURTHER NOTIFIED that the originals of the documents referred to herein, or photocopies received from said

physicians/others, are being herewith forwarded to the South Carolina Workers' Compensation Commission, for insertion in the file of the South Carolina Workers' Compensation Commission and inclusion into evidence on behalf of the employee-claimant.

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

Kenneth Smith, Todd Mack and Joel Leonard.

Respectfully Submitted,

A handwritten signature in dark ink, appearing to read "Everett Hope Garner", written over a horizontal line.

Everett Hope Garner
Attorney for Claimant

Columbia, South Carolina

10/11, 2012

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND) AFFIDAVIT OF TODD MACK

Personally appeared before me Todd Mack, who after being duly sworn deposes and states:

I am the owner of Mack Construction Company which has been in business for 18 years as a framing contractor.

I have known Kenny Smith for approximately 25 years and I am specifically aware of his experience exceeding 30 years as a frame carpenter including operating his own framing subcontracting business.

In March 2011, I began discussions with Kenny Smith in regard to working for my company in some capacity on a particular job site near Greenville, South Carolina on which I was subcontracted to Marion Builders Group.

After some discussion and consideration of Kenny Smith's experience, it was decided he would be employed directly and would be paid \$20.00 per hour generally working 7 days per week at approximately 10 hours per day on the job which was anticipated to take approximately 5 weeks to complete our portion. In connection with the aforesaid job, Kenny Smith was supplying his own trailer with ladders, air compressors and walk boards.

On this job, my company employed a 5 member crew of which Kenny Smith was by far the most experienced and Kenny would have

been in charge of the crew in my absence.

Unfortunately, Kenny worked only 2 days prior to being seriously injured but it was fully anticipated that he would have fulfilled his role on the job for its duration.

Further deponent sayth not.



Todd Mack

Sworn to before me this _____
day of _____, 2011

Notary Public for South Carolina
My Commission Expires: _____



U.S. Bureau of Labor Statistics

Occupational Employment Statistics

Occupational Employment and Wages, May 2011

47-2031 Carpenters

Construct, erect, install, or repair structures and fixtures made of wood, such as concrete forms; building frameworks, including partitions, joists, studding, and rafters; and wood stairways, window and door frames, and hardwood floors. May also install cabinets, siding, drywall and batt or roll insulation. Includes brattice builders who build doors or brattices (ventilation walls or partitions) in underground passageways

[National estimates for this occupation](#)

[Industry profile for this occupation](#)

[Geographic profile for this occupation](#)

National estimates for this occupation: [Top](#)

Employment estimate and mean wage estimates for this occupation:

Employment (1)	Employment RSE (3)	Mean hourly wage	Mean annual wage (2)	Wage RSE (3)
578,910	0.8 %	\$21.31	\$44,330	0.4 %

Percentile wage estimates for this occupation:

Percentile	10%	25%	50% (Median)	75%	90%
Hourly Wage	\$11.96	\$15.01	\$19.24	\$26.23	\$34.56
Annual Wage (2)	\$24,880	\$31,230	\$40,010	\$54,560	\$71,890

Industry profile for this occupation: [Top](#)

Industries with the highest published employment and wages for this occupation are provided. For a list of all industries with employment in this occupation, see the [Create Customized Tables](#) function.

Industries with the highest levels of employment in this occupation:

Industry	Employment (1)	Percent of industry employment	Hourly mean wage	Annual mean wage (2)
Residential Building Construction	174,790	30.30	\$19.86	\$41,310
Nonresidential Building Construction	109,170	16.78	\$23.23	\$48,330
Building Finishing Contractors	88,110	13.97	\$22.13	\$46,030

<u>Foundation, Structure, and Building Exterior Contractors</u>	60,870	8.98	\$20.11	\$41,820
<u>Employment Services</u>	15,540	0.53	\$19.91	\$41,420

Industries with the highest concentration of employment in this occupation:

Industry	Employment (1)	Percent of industry employment	Hourly mean wage	Annual mean wage (2)
<u>Residential Building Construction</u>	174,790	30.30	\$19.86	\$41,310
<u>Nonresidential Building Construction</u>	109,170	16.78	\$23.23	\$48,330
<u>Building Finishing Contractors</u>	88,110	13.97	\$22.13	\$46,030
<u>Foundation, Structure, and Building Exterior Contractors</u>	60,870	8.98	\$20.11	\$41,820
<u>Other Heavy and Civil Engineering Construction</u>	5,000	5.14	\$22.01	\$45,770

Top paying industries for this occupation:

Industry	Employment (1)	Percent of industry employment	Hourly mean wage	Annual mean wage (2)
<u>Motion Picture and Video Industries</u>	1,330	0.38	\$32.33	\$67,240
<u>Investigation and Security Services</u>	50	0.01	\$29.51	\$61,390
<u>Specialty (except Psychiatric and Substance Abuse) Hospitals</u>	70	0.03	\$28.97	\$60,260
<u>Scientific Research and Development Services</u>	290	0.05	\$27.96	\$58,160
<u>Electric Power Generation, Transmission and Distribution</u>	(8)	(8)	\$27.74	\$57,710

Geographic profile for this occupation: Top

States and areas with the highest published employment, location quotients, and wages for this occupation are provided. For a list of all areas with employment in this occupation, see the [Create Customized Tables](#) function.



States with the highest employment level in this occupation:

State					

	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
<u>California</u>	56,480	4.02	0.89	\$27.19	\$56,550
<u>New York</u>	45,380	5.38	1.19	\$26.07	\$54,220
<u>Pennsylvania</u>	35,030	6.31	1.40	\$20.37	\$42,370
<u>Texas</u>	30,120	2.92	0.65	\$15.82	\$32,910
<u>Florida</u>	29,220	4.09	0.91	\$17.54	\$36,490



States with the highest concentration of jobs and location quotients in this occupation:

State	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
<u>Alaska</u>	3,320	10.61	2.35	\$29.98	\$62,350
<u>South Dakota</u>	3,730	9.49	2.10	\$15.15	\$31,520
<u>Vermont</u>	2,750	9.46	2.10	\$20.08	\$41,770
<u>Wyoming</u>	2,530	9.28	2.06	\$19.66	\$40,890
<u>Montana</u>	3,780	8.89	1.97	\$17.36	\$36,120



Top paying States for this occupation:

State	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
<u>Hawaii</u>	4,520	7.83	1.74	\$32.19	\$66,950
<u>Alaska</u>	3,320	10.61	2.35	\$29.98	\$62,350
<u>California</u>	56,480	4.02	0.89	\$27.19	\$56,550
<u>Massachusetts</u>	13,390	4.24	0.94	\$26.91	\$55,970
<u>Nevada</u>	7,000	6.29	1.39	\$26.86	\$55,880



Metropolitan areas with the highest employment level in this occupation:

Metropolitan area	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
<u>New York-White Plains- Wayne, NY-NJ Metropolitan Division</u>	22,360	4.42	0.98	\$29.57	\$61,500
<u>Chicago-Joliet-Naperville, IL Metropolitan Division</u>	16,260	4.54	1.01	\$25.37	\$52,780
<u>Philadelphia, PA Metropolitan Division</u>	10,790	5.94	1.32	\$23.32	\$48,510
<u>Washington-Arlington- Alexandria, DC-VA-MD- WV Metropolitan Division</u>	9,710	4.20	0.93	\$21.54	\$44,810
<u>Nassau-Suffolk, NY Metropolitan Division</u>	9,630	7.96	1.76	\$28.31	\$58,890
<u>Los Angeles-Long Beach- Glendale, CA Metropolitan Division</u>	9,530	2.49	0.55	\$25.79	\$53,650
<u>St. Louis, MO-IL</u>	8,670	6.83	1.51	\$25.93	\$53,930
<u>Seattle-Bellevue-Everett, WA Metropolitan Division</u>	8,550	6.24	1.38	\$25.62	\$53,280
<u>Houston-Sugar Land- Baytown, TX</u>	8,490	3.33	0.74	\$17.02	\$35,400
<u>Phoenix-Mesa-Glendale, AZ</u>	8,040	4.73	1.05	\$19.96	\$41,520



Metropolitan areas with the highest concentration of jobs and location quotients in this occupation:

Metropolitan area	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
<u>Fairbanks, AK</u>	520	14.59	3.23	\$34.26	\$71,270
<u>Rapid City, SD</u>	740	12.63	2.80	\$15.68	\$32,620

<u>Coeur d'Alene, ID</u>	620	11.80	2.62	\$17.23	\$35,830
<u>Lancaster, PA</u>	2,550	11.53	2.56	\$17.69	\$36,800
<u>Pascagoula, MS</u>	570	10.51	2.33	\$17.96	\$37,350
<u>Barnstable Town, MA</u>	980	10.44	2.31	\$25.65	\$53,340
<u>Lake Charles, LA</u>	890	10.39	2.30	\$17.07	\$35,510
<u>Casper, WY</u>	390	9.96	2.21	\$17.10	\$35,560
<u>Mount Vernon-Anacortes, WA</u>	410	9.95	2.20	\$23.12	\$48,090
<u>Ocean City, NJ</u>	360	9.91	2.20	\$20.36	\$42,350



Top paying metropolitan areas for this occupation:

Metropolitan area	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
<u>Fairbanks, AK</u>	520	14.59	3.23	\$34.26	\$71,270
<u>Honolulu, HI</u>	3,220	7.56	1.67	\$33.41	\$69,490
<u>San Francisco-San Mateo- Redwood City, CA Metropolitan Division</u>	4,690	4.88	1.08	\$32.26	\$67,100
<u>Framingham, MA NECTA Division</u>	740	4.78	1.06	\$30.98	\$64,440
<u>Santa Cruz-Watsonville, CA</u>	340	4.06	0.90	\$30.82	\$64,110
<u>Oakland-Fremont- Hayward, CA Metropolitan Division</u>	4,570	4.80	1.06	\$30.55	\$63,550
<u>Salinas, CA</u>	640	4.22	0.94	\$30.03	\$62,470
<u>San Jose-Sunnyvale- Santa Clara, CA</u>	3,110	3.55	0.79	\$29.61	\$61,600
<u>New York-White Plains- Wayne, NY-NJ Metropolitan Division</u>	22,360	4.42	0.98	\$29.57	\$61,500
<u>Boston-Cambridge- Quincy, MA NECTA Division</u>	5,890	3.52	0.78	\$29.24	\$60,830

Nonmetropolitan areas with the highest employment in this occupation:

Nonmetropolitan area	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
<u>East Central Pennsylvania nonmetropolitan area</u>	2,230	9.52	2.11	\$15.58	\$32,400
<u>Western North Carolina nonmetropolitan area</u>	2,120	11.49	2.55	\$15.33	\$31,890
<u>Southwest Maine nonmetropolitan area</u>	1,720	9.18	2.03	\$16.55	\$34,420
<u>Northwest Minnesota nonmetropolitan area</u>	1,510	8.50	1.88	\$17.38	\$36,150
<u>Capital/Northern New York nonmetropolitan area</u>	1,450	7.86	1.74	\$19.42	\$40,380

Nonmetropolitan areas with the highest concentration of jobs and location quotients in this occupation:

Nonmetropolitan area	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
<u>Nantucket Island and Martha's Vineyard nonmetropolitan area</u>	360	25.88	5.73	\$29.96	\$62,320
<u>North Central Colorado nonmetropolitan area</u>	1,250	17.43	3.86	\$24.19	\$50,310
<u>Garrett County, Maryland nonmetropolitan area</u>	170	16.05	3.56	\$13.86	\$28,820
<u>Northwestern Washington nonmetropolitan area</u>	640	13.34	2.96	\$22.79	\$47,410
<u>Railbelt / Southwest Alaska nonmetropolitan area</u>	930	12.93	2.87	\$30.06	\$62,530

Top paying nonmetropolitan areas for this occupation:

Nonmetropolitan area	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
<u>Eastern Connecticut nonmetropolitan area</u>	50	1.92	0.42	\$31.54	\$65,610
<u>Railbelt / Southwest Alaska nonmetropolitan area</u>	930	12.93	2.87	\$30.06	\$62,530
<u>Nantucket Island and Martha's Vineyard nonmetropolitan area</u>	360	25.88	5.73	\$29.96	\$62,320
<u>Hawaii / Maui / Kauai nonmetropolitan area</u>	1,310	8.61	1.91	\$29.19	\$60,720

<u>Eastern Sierra Region of California nonmetropolitan area</u>	100	7.06	1.56	\$28.80	\$59,900

About May 2011 National, State, Metropolitan, and Nonmetropolitan Area Occupational Employment and Wage Estimates

These estimates are calculated with data collected from employers in all industry sectors, all metropolitan and nonmetropolitan areas, and all states and the District of Columbia. The top employment and wage figures are provided above. The complete list is available in the [downloadable XLS files](#).

The percentile wage estimate is the value of a wage below which a certain percent of workers fall. The median wage is the 50th percentile wage estimate—50 percent of workers earn less than the median and 50 percent of workers earn more than the median. [More about percentile wages](#).

- (1) Estimates for detailed occupations do not sum to the totals because the totals include occupations not shown separately. Estimates do not include self-employed workers.
- (2) Annual wages have been calculated by multiplying the hourly mean wage by a "year-round, full-time" hours figure of 2,080 hours; for those occupations where there is not an hourly mean wage published, the annual wage has been directly calculated from the reported survey data.
- (3) The relative standard error (RSE) is a measure of the reliability of a survey statistic. The smaller the relative standard error, the more precise the estimate.
- (8) Estimate not released.
- (9) The location quotient is the ratio of the area concentration of occupational employment to the national average concentration. A location quotient greater than one indicates the occupation has a higher share of employment than average, and a location quotient less than one indicates the occupation is less prevalent in the area than average.

Other OES estimates and related information:

[May 2011 National Occupational Employment and Wage Estimates](#)

[May 2011 State Occupational Employment and Wage Estimates](#)

[May 2011 Metropolitan and Nonmetropolitan Area Occupational Employment and Wage Estimates](#)

[May 2011 National Industry-Specific Occupational Employment and Wage Estimates](#)

[List of Occupations in SOC Code Number Order](#)

[List of Occupations in Alphabetical Order](#)

[Download May 2011 Occupational Employment and Wage Estimates in Zipped XLS files](#)

[Technical Notes](#)

Last Modified Date: March 27, 2012

U.S. Bureau of Labor Statistics | Division of Occupational Employment Statistics, PSB Suite 2135, 2 Massachusetts Avenue, NE
Washington, DC 20212-0001

www.bls.gov/OES | Telephone: 1-202-691-6569 | [Contact OES](#)

Occupational Employment Statistics

SHARE ON:    OES  FONT SIZE:  PRINT: 

BROWSE OES

[OES HOME](#)[OES OVERVIEW](#)[OES NEWS RELEASES](#)[OES DATABASES](#)[OES TABLES](#)[OES PUBLICATIONS](#)[OES FAQs](#)[CONTACT OES](#)

SEARCH OES

OES TOPICS

[ARCHIVED DATA](#)[CHARTS & MAPS](#)[INFORMATION FOR RESPONDENTS](#)[TECHNICAL DOCUMENTATION](#)

Occupational Employment and Wages, May 2011

47-2031 Carpenters

Construct, erect, install, or repair structures and fixtures made of wood, such as concrete forms; building frameworks, including partitions, joists, studding, and rafters; and wood stairways, window and door frames, and hardwood floors. May also install cabinets, siding, drywall and batt or roll insulation. Includes brattice builders who build doors or brattices (ventilation walls or partitions) in underground passageways

[National estimates for this occupation](#)[Industry profile for this occupation](#)[Geographic profile for this occupation](#)National estimates for this occupation: [Top](#)

Employment estimate and mean wage estimates for this occupation:

Employment (1)	Employment RSE (3)	Mean hourly wage	Mean annual wage (2)	Wage RSE (3)
578,910	0.8 %	\$21.31	\$44,330	0.4 %

Percentile wage estimates for this occupation:

Percentile	10%	25%	50% (Median)	75%	90%
Hourly Wage	\$11.95	\$15.01	\$19.24	\$26.23	\$34.56
Annual Wage (2)	\$24,880	\$31,230	\$40,010	\$54,560	\$71,890

Subscribe
to the OES
Update

Industry profile for this occupation: [Top](#)

Industries with the highest published employment and wages for this occupation are provided. For a list of all industries with employment in this occupation, see the [Create Customized Tables](#) function.

Industries with the highest levels of employment in this occupation:

Industry	Employment (1)	Percent of industry employment	Hourly mean wage	Annual mean wage (2)
Residential Building Construction	174,790	30.30	\$19.86	\$41,310
Nonresidential Building Construction	109,170	16.78	\$23.23	\$48,330
Building Finishing Contractors	88,110	13.97	\$22.13	\$46,030
Foundation, Structure, and Building Exterior Contractors	60,870	8.98	\$20.11	\$41,820
Employment Services	15,540	0.53	\$19.91	\$41,420

Industries with the highest concentration of employment in this occupation:

Industry	Employment (1)	Percent of industry employment	Hourly mean wage	Annual mean wage (2)
Residential Building Construction	174,790	30.30	\$19.86	\$41,310
Nonresidential Building Construction	109,170	16.78	\$23.23	\$48,330
Building Finishing Contractors	88,110	13.97	\$22.13	\$46,030
Foundation, Structure, and Building Exterior Contractors	60,870	8.98	\$20.11	\$41,820
Other Heavy and Civil Engineering Construction	5,000	5.14	\$22.01	\$45,770

Top paying industries for this occupation:

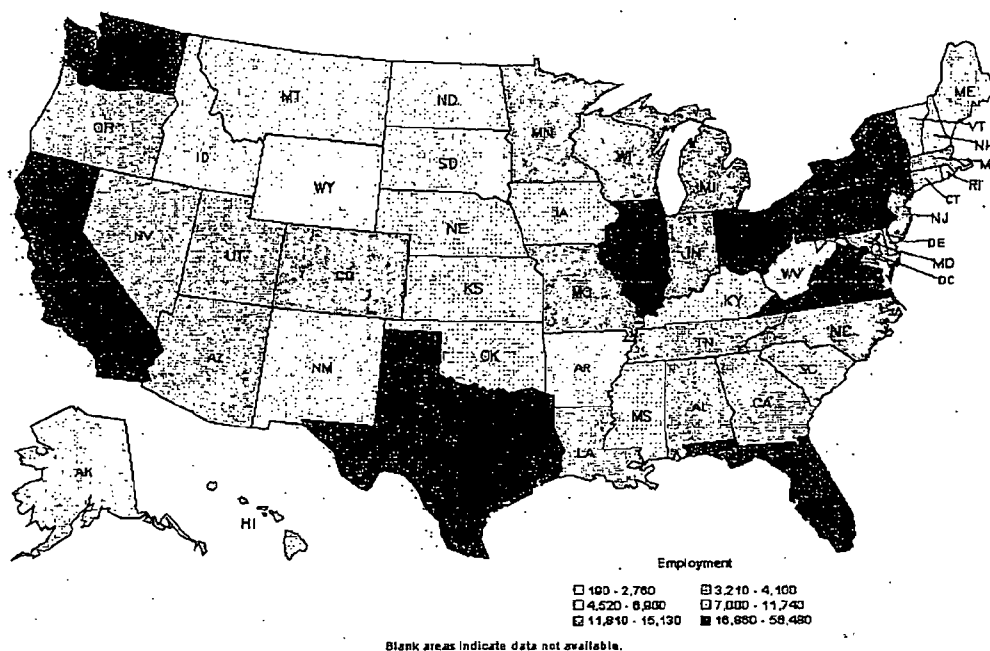
Industry	Employment (1)	Percent of industry employment	Hourly mean wage	Annual mean wage (2)
Motion Picture and Video Industries	1,330	0.38	\$32.33	\$67,240

<u>Investigation and Security Services</u>	50	0.01	\$29.51	\$61,390
<u>Specialty (except Psychiatric and Substance Abuse) Hospitals</u>	70	0.03	\$28.97	\$60,260
<u>Scientific Research and Development Services</u>	290	0.05	\$27.96	\$58,160
<u>Electric Power Generation, Transmission and Distribution</u>	(8)	(8)	\$27.74	\$57,710

Geographic profile for this occupation: [Top](#)

States and areas with the highest published employment, location quotients, and wages for this occupation are provided. For a list of all areas with employment in this occupation, see the [Create Customized Tables](#) function.

Employment of carpenters, by state, May 2011



States with the highest employment level in this occupation:

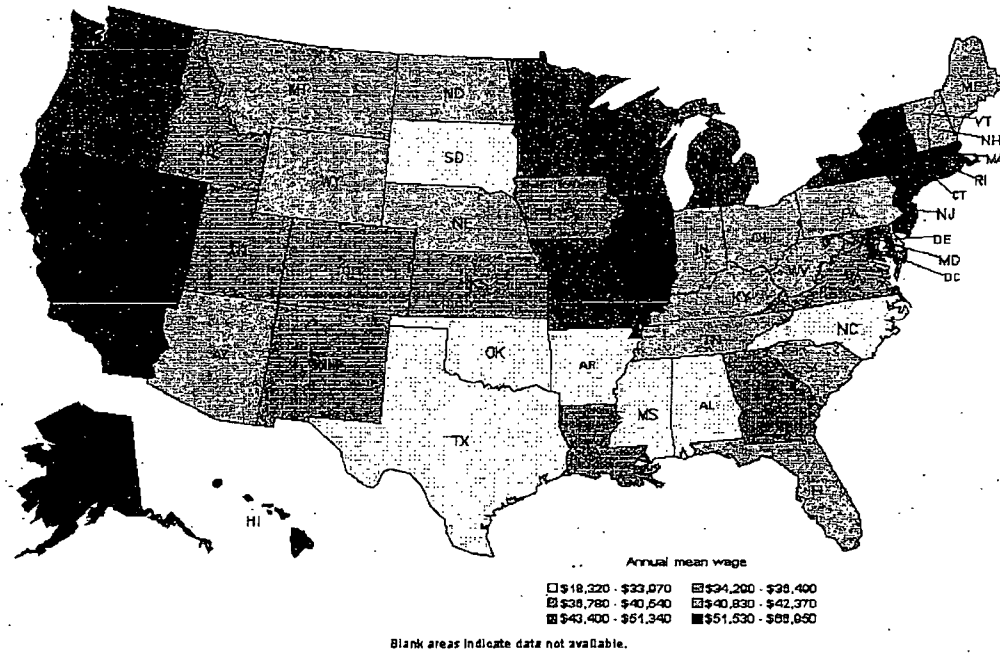
State	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
<u>California</u>	56,480	4.02	0.89	\$27.19	\$56,550
<u>New York</u>	45,380	5.38	1.19	\$26.07	\$54,220
<u>Pennsylvania</u>	35,030	6.31	1.40	\$20.37	\$42,370
<u>Texas</u>	30,120	2.92	0.65	\$15.82	\$32,910
<u>Florida</u>	29,220	4.09	0.91	\$17.54	\$36,490

Blank areas indicate data not available:

States with the highest concentration of jobs and location quotients in this occupation:

State	Employment (1)	Employment per thousand jobs	Location quotient (2)	Hourly mean wage	Annual mean wage (2)
<u>Alaska</u>	3,320	10.61	2.35	\$29.98	\$62,350
<u>South Dakota</u>	3,730	9.49	2.10	\$15.15	\$31,520
<u>Vermont</u>	2,750	9.46	2.10	\$20.08	\$41,770
<u>Wyoming</u>	2,530	9.28	2.06	\$19.66	\$40,890
Montana	3,780	8.89	1.97	\$17.36	\$36,120

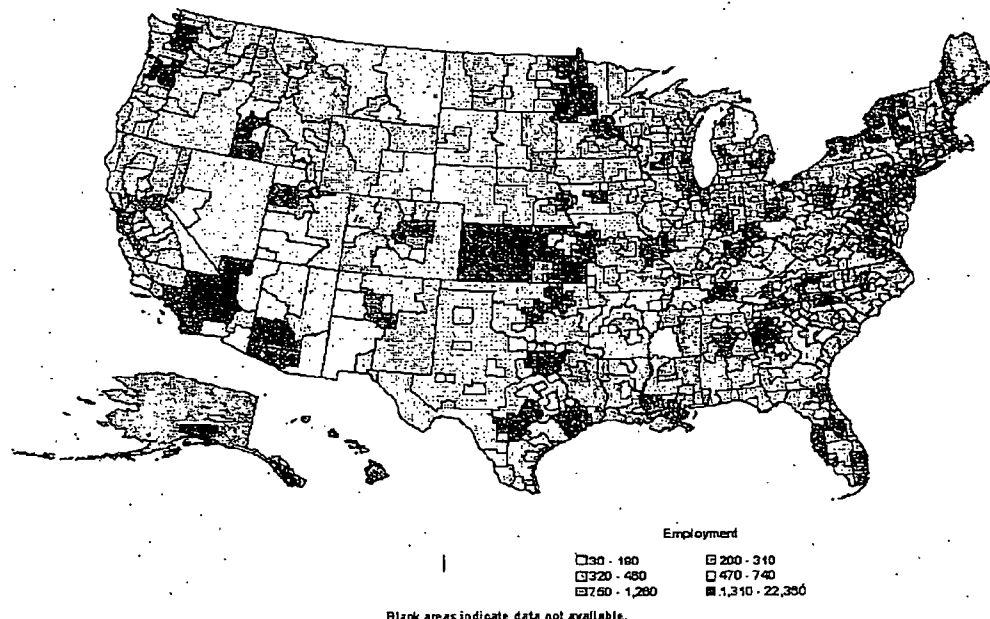
Annual mean wage of carpenters, by state, May 2011



Top paying States for this occupation:

State	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
Hawaii	4,520	7.83	1.74	\$32.19	\$66,950
Alaska	3,320	10.61	2.35	\$29.98	\$62,350
California	56,480	4.02	0.89	\$27.19	\$56,550
Massachusetts	13,390	4.24	0.94	\$26.91	\$55,970
Nevada	7,000	6.29	1.39	\$26.86	\$55,880

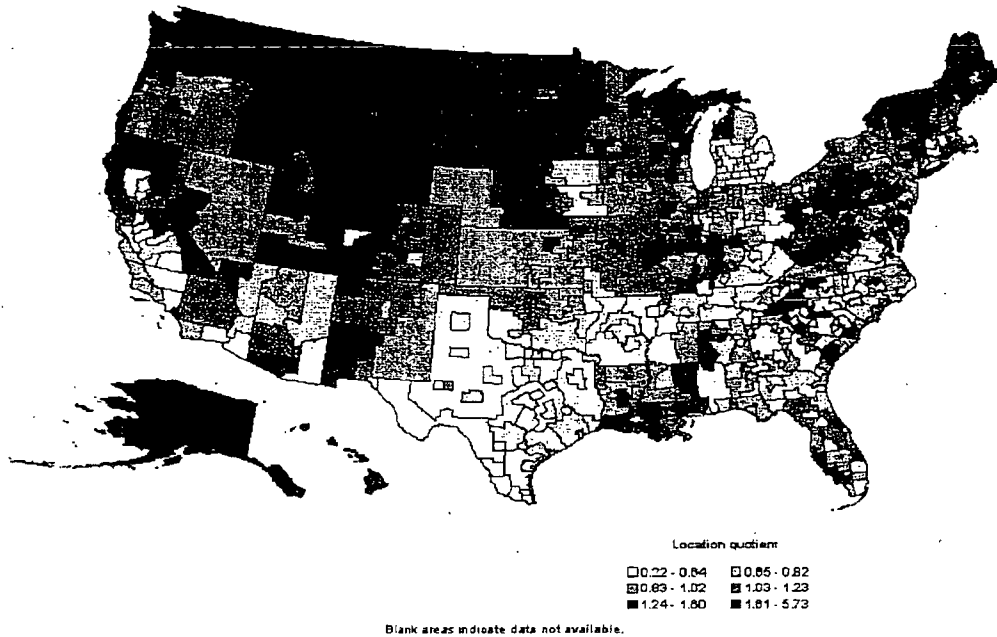
Employment of carpenters, by area, May 2011



Metropolitan areas with the highest employment level in this occupation:

Metropolitan area	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
New York-White Plains-Wayne, NY-NJ Metropolitan Division	22,360	4.42	0.98	\$29.57	\$61,500
Chicago-Joliet-Naperville, IL Metropolitan Division	16,260	4.54	1.01	\$25.37	\$52,780
Philadelphia, PA Metropolitan Division	10,790	5.94	1.32	\$23.32	\$48,510
Washington-Arlington-Alexandria, DC-VA-MD-WV Metropolitan Division	9,710	4.20	0.93	\$21.54	\$44,810
Nassau-Suffolk, NY Metropolitan Division	9,630	7.96	1.76	\$28.31	\$58,890
Los Angeles-Long Beach-Glendale, CA Metropolitan Division	9,530	2.49	0.55	\$25.79	\$53,650
St. Louis, MO-IL	8,670	6.83	1.51	\$25.93	\$53,930
Seattle-Bellevue-Everett, WA Metropolitan Division	8,550	6.24	1.38	\$25.62	\$53,280
Houston-Sugar Land-Baytown, TX	8,490	3.33	0.74	\$17.02	\$35,400
Phoenix-Mesa-Glendale, AZ	8,040	4.73	1.05	\$19.96	\$41,520

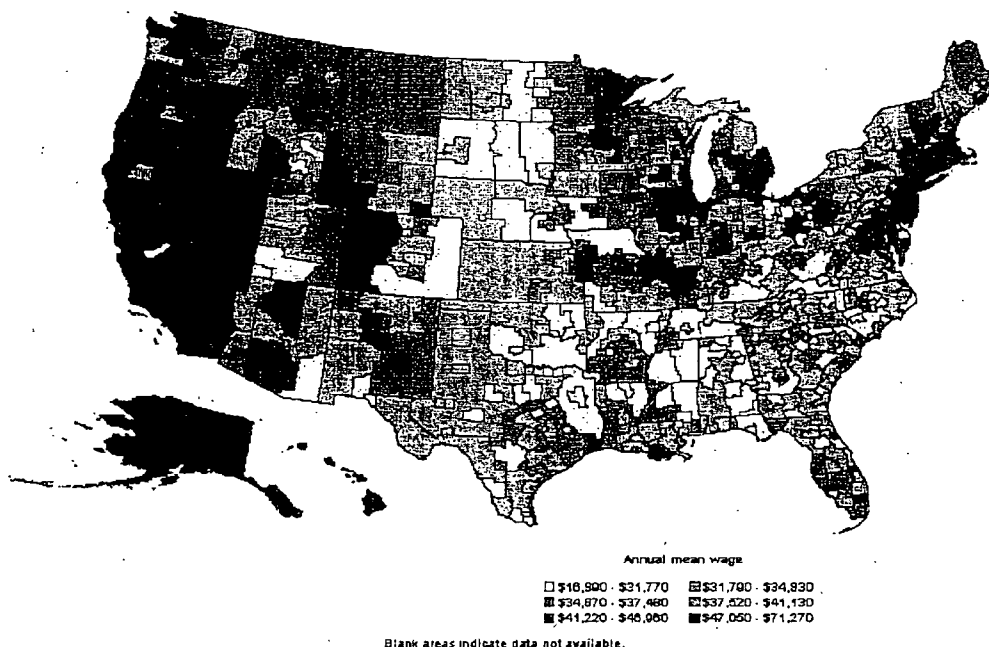
Location quotient of carpenters, by area, May 2011



Metropolitan areas with the highest concentration of jobs and location quotients in this occupation:

Metropolitan area	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
Fairbanks, AK	520	14.59	3.23	\$34.26	\$71,270
Rapid City, SD	740	12.63	2.80	\$15.68	\$32,620
Coeur d'Alene, ID	620	11.80	2.62	\$17.23	\$35,830
Lancaster, PA	2,550	11.53	2.56	\$17.69	\$36,800
Pascagoula, MS	570	10.51	2.33	\$17.96	\$37,350
Barnstable Town, MA	980	10.44	2.31	\$25.65	\$53,340
Lake Charles, LA	890	10.39	2.30	\$17.07	\$35,510
Casper, WY	390	9.96	2.21	\$17.10	\$35,560
Mount Vernon-Anacortes, WA	410	9.95	2.20	\$23.12	\$48,090
Ocean City, NJ	360	9.91	2.20	\$20.36	\$42,350

Annual mean wage of carpenters, by area, May 2011



Top paying metropolitan areas for this occupation:

Metropolitan area	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
Fairbanks, AK	520	14.59	3.23	\$34.26	\$71,270
Honolulu, HI	3,220	7.56	1.67	\$33.41	\$69,490
San Francisco-San Mateo- Redwood City, CA Metropolitan Division	4,690	4.88	1.08	\$32.26	\$67,100
Framingham, MA NECTA Division	740	4.78	1.06	\$30.98	\$64,440
Santa Cruz-Watsonville, CA	340	4.06	0.90	\$30.82	\$64,110
Oakland-Fremont-Hayward, CA Metropolitan Division	4,570	4.80	1.06	\$30.55	\$63,550
Salinas, CA	640	4.22	0.94	\$30.03	\$62,470
San Jose-Sunnyvale-Santa Clara, CA	3,110	3.55	0.79	\$29.61	\$61,600
New York-White Plains-Wayne, NY -NJ Metropolitan Division	22,360	4.42	0.98	\$29.57	\$61,500
Boston-Cambridge-Quincy, MA NECTA Division	5,890	3.52	0.78	\$29.24	\$60,830

Nonmetropolitan areas with the highest employment in this occupation:

Nonmetropolitan area	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
East Central Pennsylvania nonmetropolitan area	2,230	9.52	2.11	\$15.58	\$32,400
Western North Carolina nonmetropolitan area	2,120	11.49	2.55	\$15.33	\$31,890
Southwest Maine nonmetropolitan area	1,720	9.18	2.03	\$16.55	\$34,420
Northwest Minnesota nonmetropolitan area	1,510	8.50	1.88	\$17.38	\$36,150

Capital/Northern New York nonmetropolitan area	1,450	7.86	1.74	\$19.42	\$40,380

Nonmetropolitan areas with the highest concentration of jobs and location quotients in this occupation:

Nonmetropolitan area	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
Nantucket Island and Martha's Vineyard nonmetropolitan area	360	25.88	5.73	\$29.96	\$62,320
North Central Colorado nonmetropolitan area	1,250	17.43	3.86	\$24.19	\$50,310
Garrett County, Maryland nonmetropolitan area	170	16.05	3.56	\$13.86	\$28,820
Northwestern Washington nonmetropolitan area	640	13.34	2.96	\$22.79	\$47,410
Railbelt / Southwest Alaska nonmetropolitan area	930	12.93	2.87	\$30.06	\$62,530

Top paying nonmetropolitan areas for this occupation:

Nonmetropolitan area	Employment (1)	Employment per thousand jobs	Location quotient (9)	Hourly mean wage	Annual mean wage (2)
Eastern Connecticut nonmetropolitan area	50	1.92	0.42	\$31.54	\$65,610
Railbelt / Southwest Alaska nonmetropolitan area	930	12.93	2.87	\$30.06	\$62,530
Nantucket Island and Martha's Vineyard nonmetropolitan area	360	25.88	5.73	\$29.96	\$62,320
Hawaii / Maui / Kauai nonmetropolitan area	1,310	8.61	1.91	\$29.19	\$60,720
Eastern Sierra Region of California nonmetropolitan area	100	7.06	1.56	\$28.80	\$59,900

About May 2011 National, State, Metropolitan, and Nonmetropolitan Area Occupational Employment and Wage Estimates

These estimates are calculated with data collected from employers in all industry sectors, all metropolitan and nonmetropolitan areas, and all states and the District of Columbia. The top employment and wage figures are provided above. The complete list is available in the [downloadable XLS files](#).

The percentile wage estimate is the value of a wage below which a certain percent of workers fall. The median wage is the 50th percentile wage estimate—50 percent of workers earn less than the median and 50 percent of workers earn more than the median. [More about percentile wages.](#)

(1) Estimates for detailed occupations do not sum to the totals because the totals include occupations not shown separately. Estimates do not include self-employed workers.

(2) Annual wages have been calculated by multiplying the hourly mean wage by a "year-round, full-time" hours figure of 2,080 hours; for those occupations where there is not an hourly mean wage published, the annual wage has been directly calculated from the reported survey data.

(3) The relative standard error (RSE) is a measure of the reliability of a survey statistic. The smaller the relative standard error, the more precise the estimate.

(8) Estimate not released.

(9) The location quotient is the ratio of the area concentration of occupational employment to the national average concentration. A location quotient greater than one indicates the occupation has a higher share of employment than average, and a location quotient less than one indicates the occupation is less prevalent in the area than average.

Other OES estimates and related information:

[May 2011 National Occupational Employment and Wage Estimates](#)

[May 2011 State Occupational Employment and Wage Estimates](#)

[May 2011 Metropolitan and Nonmetropolitan Area Occupational Employment and Wage Estimates](#)

[May 2011 National Industry-Specific Occupational Employment and Wage Estimates](#)

[List of Occupations in SOC Code Number Order](#)

[List of Occupations in Alphabetical Order](#)

[Download May 2011 Occupational Employment and Wage Estimates in Zipped XLS files](#)

[Technical Notes](#)

Last Modified Date: March 27, 2012

RECOMMEND THIS PAGE USING:  Facebook  Twitter  LinkedIn

TOOLS

[Areas at a Glance](#)
[Industries at a Glance](#)
[Economic Releases](#)
[Databases & Tables](#)
[Maps](#)

CALCULATORS

[Inflation](#)
[Location Quotient](#)
[Injury And Illness](#)

HELP

[Help & Tutorials](#)
[FAQs](#)
[Glossary](#)
[About BLS](#)
[Contact Us](#)

INFO

[What's New](#)
[Careers @ BLS](#)
[Find It! DOL](#)
[Join our Mailing Lists](#)
[Linking & Copyright Info](#)

RESOURCES

[Inspector General \(OIG\)](#)
[Budget and Performance](#)
[No Fear Act](#)
[USA.gov](#)
[Benefits.gov](#)
[Disability.gov](#)

[Freedom of Information Act](#) | [Privacy & Security Statement](#) | [Disclaimers](#) | [Customer Survey](#) | [Important Web Site Notices](#)

U.S. Bureau of Labor Statistics | Division of Occupational Employment Statistics, PSB Suite 2135, 2 Massachusetts Avenue, NE Washington, DC 20212-0001
www.bls.gov/OES | Telephone: 1-202-691-6569 | [Contact OES](#)

Leonard & Associates, Inc.

Vocational and Rehabilitation Consultants

Joel D. Leonard
Vocational Consultant
Certified Vocational Evaluator
Certified Rehabilitation Counselor

3710 Landmark Drive, Suite 204-A
Columbia, SC 29204
803-787-1734-v
803-787-1735-f

Mr. Everett Hope Garner
Holler, Dennis, Corbett, Ormond,
Plante & Garner
Post Office Box 11006
Columbia, SC 29211.

October 9, 2012

RE: Kenneth Smith v. Marion Builders Group

Dear Mr. Garner:

Please accept this letter concerning my involvement in the above matter.

As you may recall, I was asked to provide a vocational opinion addressing a number of wage-related issues concerning a workers' compensation claim that was filed by Mr. Kenneth Smith.

Per the record, Mr. Smith sustained a work-related injury on April 4, 2011. On this day, Mr. Smith states that he fell from an estimated height of sixteen feet during the course of his employment as a carpenter / framer with the Marion Builders Group.

It is my understanding that Mr. Smith's claim has been admitted and that he is receiving medical care within the context of the South Carolina Workers' Compensation Act. However, issues persist with respect to the effective delineation of a corresponding hourly wage, and in turn, Mr. Smith's weekly workers' compensation benefits.

Mr. Smith contends that he should be provided workers' compensation benefits based on a promised, hourly wage of \$20.00. The carrier, however, is providing compensation benefits based on a reported wage of \$12.00 per hour.

Mr. Smith states that he was hired by Mr. Todd Mack at a rate of \$20.00 and that he provided a trailer, tools and other equipment for the job. In support of such assertions, Mr. Smith states that after the fall he was paid \$200.00 in cash for ten hours of work between the afternoon of April 3, 2011 and the morning of April 4, 2011. Relative to such, he relates the receipt of an envelope containing the cash.

The carrier, however, asserts that Mr. Smith was paid an hourly wage of \$12.00 as verbally reported by Mr. Mack to the insurance company. Hence, the parties are faced

Garner – Smith Letter:
Page 2 of 3

with an \$8.00 difference in Mr. Smith's hourly wage within the context of his workers' compensation claim. Since Mr. Smith had just been hired by Mr. Mack, the record is void of any verifiable history of paid compensation.

As you are well aware, the case file in my possession is significant for the deposition of Mr. Mack in which he confirms Mr. Smith's assertion that he was to be paid \$20.00 per hour. However, the very same deposition also depicts a conversation between Mr. Mack and the insurance company in which Mr. Smith was to be paid \$12.00 per hour.

With respect to my involvement in this matter, it is important to note that my opinion is offered within the bounds of my expertise as a vocational consultant. My opinion is not intended to advocate for or formally endorse a specific outcome with respect to Mr. Smith's average weekly wage. It is duly noted that any specific determination concerning Mr. Smith's average weekly wage is reserved to the associated parties as well as the presiding, workers' compensation commissioner.

Per your request, I have conducted wage research intended to define the expected compensation of a carpenter who shares the same vocational attributes as Mr. Smith. That is, I have attempted to define what someone with his base of skills and experience would be expected to earn as a carpenter within the open labor market.

Mr. Smith retains a 10th grade education accented by the completion of some specialized courses in the construction field from Midlands Technical College (i.e.: code courses, etc.). He has worked as a framing carpenter in differing manners for almost thirty years. For the most part, however, he ran a framing business as a subcontractor responsible for varying numbers of employees dependent on the contract. Relative to such, Mr. Smith states that he has managed a crew as large as fourteen employees.

Mr. Smith reports the development of skills to include bidding jobs, managing contracts, reading schematics, ordering necessary supplies, supervising employees and completing technical framing / carpentry jobs. With respect to his employment with Mr. Mack, Mr. Smith notes that he was expected to act as a supervisor when needed and was capable of increasing the stock of tools and equipment available to workers by bringing his equipment to the job site.

Historically, Mr. Smith reports a variant earning capacity to include a reported gross income for 2006 and 2007 somewhere in the neighborhood of \$300,000.00 to \$400,000.00. However, he maintained numerous deductions. For what it is worth, it does not appear that Mr. Smith's tax records can be effectively qualified with respect to the amount of weeks worked in a year or a rate of pay.

A review of statistical data concerning the published wages for carpenters indicates a wide range of findings. Data from the National Bureau of Labor Statistics reveals a median wage for carpenters of \$15.86 per hour and a mean wage of \$16.53

Garner – Smith Letter:
Page 3 of 3

(SC). National census data reflects a median, hourly wage of \$15.57. Further findings from a salary website (salary.com) reference a median, hourly wage of \$17.21 with a cited hourly low of \$12.36 and a cited high of \$23.63.

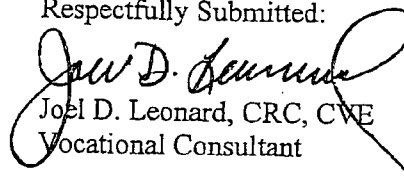
My professional experience in this area is relatively consistent with wages cited in the preceding paragraph. I have encountered individuals at the lower end of the earning spectrum as well individuals at the high end – though the prevalence of individuals encountered at the lower end of the wage continuum is much fewer than those encountered at the higher end. Typically, individuals at the lower end have fewer skills and are often engaged in less technical tasks. To that point, I just recently evaluated a framing and form carpenter who was working through a contractor on location at the Savannah River Site. This individual maintained a similar level of competencies and skills as Mr. Smith. He was paid an hourly wage of \$22.00.

It is important to note that statistical data is subject to a variety of circumstances that can both under and overstate expected wages. Typically, however, providers of such data attempt to smooth the results in a manner that makes the information relevant and applicable. However, in order to provide some comparative information, I also spoke with a small contractor / carpenter in the construction trades. Additionally, I also spoke with an administrative assistant for a small, family managed construction company. I was provided with wage parameters between \$17.00 and \$25.00 depending on the contract and the sophistication of the work.

Based upon my review and analysis of the relevant information, it is apparent that Mr. Smith retained a base of skills and competencies commensurate with the cited wages at the higher end of the wage continuum (as noted in the preceding paragraphs). As such, I do not consider Mr. Smith's assertion concerning his promised or expected wages (\$20.00 per hour) to be unreasonable. However, whether or not such circumstances represent the proper designation of Mr. Smith's average weekly wage within the context of his current, workers' compensation claim is another issue altogether. As you are well aware, the designation of a person's average weekly wage is potentially subject to a variety of issues that exist beyond the scope of my expertise as a vocational consultant.

Should you have any questions or require any additional information concerning this matter, please feel free to contact me at the above number.

Respectfully Submitted:


Joel D. Leonard, CRC, CVE
Vocational Consultant

cc: file

21

Label

(See instructions on page 16.)

Use the IRS label. Otherwise, please print or type.

Presidential

Election Campaign

Filing Status

Check only one box.

Exemptions

If more than four dependents, see page 19.

Income

Attach Form(s) W-2 here. Also attach Forms W-2G and 1099-R if tax was withheld.

If you did not get a W-2, see page 23.

Enclose, but do not attach, any payment. Also, please use Form 1040-V.

Adjusted Gross Income

For the year Jan. 1-Dec. 31, 2006, or other tax year beginning		2006, ending	20	OMB No. 1545-0074
Your first name and initial	Last name	Your social security number		
KENNETH C	SMITH	251-17-9487		
If a joint return, spouse's first name and initial	Last name	Spouse's social security number		
MARY L	SMITH	250-43-6935		
Home address (number and street). If you have a P.O. box, see page 16.		Apt. no.	You must enter your SSN(s) above.	
970 MEADOWFIELD ROAD			▲	
City, town or post office, state, and ZIP code. If you have a foreign address, see page 16.		Checking a box below will not change your tax or refund.		
GASTON SC 29053		☐ You ☐ Spouse		

Check here if you, or your spouse if filing jointly, want \$3 to go to this fund (see page 16)

1 ☐ Single 4 ☐ Head of household (with qualifying person). (See page 17.) If the qualifying person is a child but not your dependent, enter this child's name here.

2 ☒ Married filing jointly (even if only one had income)

3 ☐ Married filing separately. Enter spouse's SSN above and full name here.

5 ☐ Qualifying widow(er) with dependent child (see page 17)

6a ☒ Yourself. If someone can claim you as a dependent, do not check box 6a

b ☒ Spouse

c Dependents:

(1) First name	Last name	(2) Dependent's social security number	(3) Dependent's relationship to you	(4) Check if qualifying child for child tax credit (see pg 19)	No. of children on 6c who:
KARLE	SMITH	655-16-9699	DAUGHTER	☒	● lived with you
KENNETH	SMITH	655-16-9700	SON	☒	● did not live with you due to divorce or separation (see page 20)
KAYLI	SMITH	655-20-5652	DAUGHTER	☒	
ANNIE	HOWELL	251-96-4613	PARENT	☐	

d Total number of exemptions claimed

7 Wages, salaries, tips, etc. Attach Form(s) W-2

8a Taxable interest. Attach Schedule B if required

b Tax-exempt interest. Do not include on line 8a

9a Ordinary dividends. Attach Schedule B if required

b Qualified dividends (see page 23)

10 Taxable refunds, credits, or offsets of state and local income taxes (see page 24)

11 Alimony received

12 Business income or (loss). Attach Schedule C or C-EZ

13 Capital gain or (loss). Attach Schedule D if required. If not required, check here

14 Other gains or (losses). Attach Form 4797

15a IRA distributions

b Taxable amount (see page 25)

16a Pensions and annuities

b Taxable amount (see page 26)

17 Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E

18 Farm income or (loss). Attach Schedule F

19 Unemployment compensation

20a Social security benefits

b Taxable amount (see page 27)

21 Other income.

22 Add the amounts in the far right column for lines 7 through 21. This is your total income

23 Archer MSA deduction. Attach Form 8853

24 Certain business expenses of reservists, performing artists, and fee-basis government officials. Attach Form 2106 or 2106-EZ

25 Health savings account deduction. Attach Form 8889

26 Moving expenses. Attach Form 3903

27 One-half of self-employment tax. Attach Schedule SE

28 Self-employed SEP, SIMPLE, and qualified plans

29 Self-employed health insurance deduction (see page 29)

30 Penalty on early withdrawal of savings

31a Alimony paid b Recipient's SSN

32 IRA deduction (see page 31)

33 Student loan interest deduction (see page 33)

34 Jury duty pay you gave to your employer

35 Domestic production activities deduction. Attach Form 8903

36 Add lines 23 through 31a and 32 through 35

37 Subtract line 36 from line 22. This is your adjusted gross income

Tax and Credits**Standard Deduction for—**

• People who checked any box on line 39a or 39b or who can be claimed as a dependent, see page 34.

• All others:
Single or Married filing separately, \$5,150

Married filing jointly or Qualifying widow(er), \$10,300

Head of household, \$7,550

38	Amount from line 37 (adjusted gross income)	38	17,759
39a	Check ☐ You were born before January 2, 1942, ☐ Blind. ☐ Total boxes if: ☐ Spouse was born before January 2, 1942, ☐ Blind. ☒ checked ▶ 39a		
b	If your spouse itemizes on a separate return or you were a dual-status alien, see pg 34 & check here ▶ 39b		
40	Itemized deductions (from Schedule A) or your standard deduction (see left margin)	40	10,300
41	Subtract line 40 from line 38	41	7,459
42	If line 38 is over \$112,875, or you provided housing to a person displaced by Hurricane Katrina, see page 36. Otherwise, multiply \$3,300 by the total number of exemptions claimed on line 6d	42	19,800
43	Taxable income. Subtract line 42 from line 41. If line 42 is more than line 41, enter -0-	43	0
44	Tax (see page 36). Check if any tax is from: a ☐ Form(s) 8814 b ☐ Form 4972	44	0
45	Alternative minimum tax (see page 39). Attach Form 6251	45	
46	Add lines 44 and 45	46	
47	Foreign tax credit. Attach Form 1116 if required	47	
48	Credit for child and dependent care expenses. Attach Form 2441	48	
49	Credit for the elderly or the disabled. Attach Schedule R	49	
50	Education credits. Attach Form 8863	50	
51	Retirement savings contributions credit. Attach Form 8880	51	
52	Residential energy credits. Attach Form 5695	52	
53	Child tax credit (see page 42). Attach Form 8901 if required	53	
54	Credits from: a ☐ Form 8396 b ☐ Form 8839 c ☐ Form 8859	54	
55	Other credits: a ☐ Form 3800 b ☐ Form 8801 c ☐ Form	55	
56	Add lines 47 through 55. These are your total credits	56	
57	Subtract line 56 from line 46. If line 56 is more than line 46, enter -0-	57	0

Other Taxes

58	Self-employment tax. Attach Schedule SE	58	2,700
59	Social security and Medicare tax on tip income not reported to employer. Attach Form 4137	59	
60	Additional tax on IRAs, other qualified retirement plans, etc. Attach Form 5329 if required	60	
61	Advance earned income credit payments from Form(s) W-2, box 9	61	
62	Household employment taxes. Attach Schedule H	62	
63	Add lines 57 through 62. This is your total tax	63	2,700

Payments

If you have a qualifying child, attach Schedule EIC.

64	Federal income tax withheld from Forms W-2 and 1099	64	
65	2006 estimated tax payments and amount applied from 2005 return	65	
66a	Earned income credit (EIC)	66a	4,333
b	Nontaxable combat pay election ▶ 66b		
67	Excess social security and tier 1 RRTA tax withheld (see page 60)	67	
68	Additional child tax credit. Attach Form 8812	68	969
69	Amount paid with request for extension to file (see page 60)	69	
70	Payments from: a ☐ Form 2439 b ☐ Form 4136 c ☐ Form 8885	70	
71	Credit for federal telephone excise tax paid. Attach Form 8913 if required	71	60
72	Add lines 64, 65, 66a, and 67 through 71. These are your total payments	72	5,362

Refund

Direct deposit? See page 61 and fill in 74b, 74c, and 74d, or Form 8888.

73	If line 72 is more than line 63, subtract line 63 from line 72. This is the amount you overpaid	73	2,662
74a	Amount of line 73 you want refunded to you. If Form 8888 is attached, check here ▶ ☐	74a	2,662
b	Routing number 044000037 ▶ c Type: ☒ Checking ☐ Savings		
d	Account number RA104XXXX251179487		
75	Amount of line 73 you want applied to your 2007 estimated tax	75	

Amount You Owe

76	Amount you owe. Subtract line 72 from line 63. For details on how to pay, see page 62	76	
77	Estimated tax penalty (see page 62)	77	

Third Party Designee

Do you want to allow another person to discuss this return with the IRS (see page 63)? ☐ Yes. Complete the following. ☒ No

Designee's name	Phone no.	Personal identification number (PIN)

Sign Here

Joint return? See page 17. Keep a copy for your records.

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Your signature	Date	Your occupation	Daytime phone number
79487	02-14-2007	CONSTRUCTION	
Spouse's signature, if joint return, both must sign.	Date	Spouse's occupation	
36935		HOME MAKER	803-755-0374

Paid Preparer's Use Only

Preparer's signature	Date	Check if self-employed	Preparer's SSN or PTIN
	03-14-2007	☐	249-56-5128
Firm's name (or yours if self-employed), address, and ZIP code	EIN	Phone no.	
OAK GROVE BOOKKEEPING & TAX 1291 -A SOUTH LAKE DR LEXINGTON SC 29073	57-0994997	803-957-9430	

SCHEDULE C
(Form 1040)

Department of the Treasury
Internal Revenue Service

Profit or Loss From Business

(Sole Proprietorship)

OMB No. 1545-0074

2006

Attachment
Sequence No. **09**

► **Partnerships, joint ventures, etc., must file Form 1065 or Form 1065-B.**
► **Attach to Form 1040, 1040NR, or Form 1041.** ► See instructions for Schedule C (Form 1040).

Name of proprietor MARY L SMITH		Social security number (SSN) 250-43-6935
A Principal business or profession, including product or service (see page C-2 of the instructions) CONSTRUCTION		B Enter code from pages C-8, 9, & 10 325100
C Business name. If no separate business name, leave blank. KENNETH CONSTRUCTION		D Employer ID number (EIN), if any 57-0910899
E Business address (including suite or room no.) ► 970 MEADOWFIELD City, town or post office, state, and ZIP code GASTON SC 29053		
F Accounting method: (1) ☒ Cash (2) ☐ Accrual (3) ☐ Other (specify) _____		
G Did you "materially participate" in the operation of this business during 2006? If "No," see page C-3 for limit on losses ... ☒ Yes ☐ No		
H If you started or acquired this business during 2006, check here ... ☐ Yes ☐ No		

Part I Income

1 Gross receipts or sales. Caution. If this income was reported to you on Form W-2 and the "Statutory employee" box on that form was checked, see page C-3 and check here ... ☐	1	393,391
2 Returns and allowances	2	
3 Subtract line 2 from line 1	3	393,391
4 Cost of goods sold (from line 42 on page 2)	4	
5 Gross profit. Subtract line 4 from line 3	5	393,391
6 Other income, including Federal and state gasoline or fuel tax credit or refund (see page C-3)	6	
7 Gross income. Add lines 5 and 6	7	393,391

Part II Expenses. Enter expenses for business use of your home **only** on line 30.

8 Advertising	8	9,185	18 Office expense	18	6,100
9 Car and truck expenses (see page C-3)	9	88,787	19 Pension and profit-sharing plans	19	
10 Commissions and fees	10		20 Rent or lease (see page C-5):		
11 Contract labor (see page C-4)	11	13,350	a Vehicles, machinery, and equipment	20a	
12 Depletion	12		b Other business property	20b	
13 Depreciation and section 179 expense deduction (not included in Part III) (see page C-4)	13		21 Repairs and maintenance	21	61,564
14 Employee benefit programs (other than on line 19)	14		22 Supplies (not included in Part III)	22	19,850
15 Insurance (other than health)	15	31,695	23 Taxes and licenses	23	7,617
16 Interest:			24 Travel, meals, and entertainment:		
a Mortgage (paid to banks, etc.)	16a	7,200	a Travel	24a	11,051
b Other	16b		b Deductible meals and entertainment (see page C-6)	24b	3,125
17 Legal and professional services	17	3,300	25 Utilities	25	874
			26 Wages (less employment credits)	26	93,187
			27 Other expenses (from line 48 on page 2)	27	17,397

28 Total expenses before expenses for business use of home. Add lines 8 through 27 in columns	28	374,282
29 Tentative profit (loss). Subtract line 28 from line 7	29	19,109
30 Expenses for business use of your home. Attach Form 8829	30	
31 Net profit or (loss). Subtract line 30 from line 29. • If a profit, enter on both Form 1040 , line 12, and Schedule SE , line 2, or on Form 1040NR , line 13 (statutory employees, see page C-6). Estates and trusts, enter on Form 1041, line 3. • If a loss, you must go to line 32.	31	19,109
32 If you have a loss, check the box that describes your investment in this activity (see page C-6). • If you checked 32a, enter the loss on both Form 1040 , line 12, and Schedule SE , line 2, or on Form 1040NR , line 13 (statutory employees, see page C-6). Estates and trusts, enter on Form 1041, line 3. • If you checked 32b, you must attach Form 6198 . Your loss may be limited.	32a ☐ 32b ☐	All investment is at risk. Some investment is not at risk.

For Paperwork Reduction Act Notice, see page C-8 of the instructions.

EEA

Schedule C (Form 1040) 2006

Name(s)

MARY L SMITH

SSN

250-43-6935

Part III Cost of Goods Sold (see page C-7)

33	Method(s) used to value closing inventory: a ☐ Cost b ☐ Lower of cost or market c ☐ Other (attach explanation)	
34	Was there any change in determining quantities, costs, or valuations between opening and closing inventory? If "Yes," attach explanation	☐ Yes ☐ No
35	Inventory at beginning of year. If different from last year's closing inventory, attach explanation	35
36	Purchases less cost of items withdrawn for personal use	36
37	Cost of labor. Do not include any amounts paid to yourself	37
38	Materials and supplies	38
39	Other costs	39
40	Add lines 35 through 39	40
41	Inventory at end of year	41
42	Cost of goods sold. Subtract line 41 from line 40. Enter the result here and on page 1, line 4	42

Part IV Information on Your Vehicle. Complete this part **only** if you are claiming car or truck expenses on line 9 and are not required to file Form 4562 for this business. See the instructions for line 13 on page C-4 to find out if you must file Form 4562.

43	When did you place your vehicle in service for business purposes? (month, day, year)	►2006-01-03
44	Of the total number of miles you drove your vehicle during 2006, enter the number of miles you used your vehicle for:	
a	Business	199,522
b	Commuting (see instructions)	
c	Other	
45	Do you (or your spouse) have another vehicle available for personal use?	☒ Yes ☐ No
46	Was your vehicle available for personal use during off-duty hours?	☒ Yes ☐ No
47 a	Do you have evidence to support your deduction?	☒ Yes ☐ No
b	If "Yes," is the evidence written?	☒ Yes ☐ No

Part V Other Expenses. List below business expenses not included on lines 8-26 or line 30.

UNIFORMS AND CLEANING	2,890
SAFETY EQUIPMENT	3,400
CELL PHONES	4,707
CONTRIBUTIONS	6,400
48 Total other expenses. Enter here and on page 1, line 27	25 17,397

Kenny
12 hrs

GrandSouth

BANK

www.grandsouth.com

Greenville
864.770.1000

Fountain Inn
864.862.8833

Anderson
864.224.2424

26

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100

Job Number:

TO:
CONTRACTORS YARD
2010 BLUFF RD
Address (line 2)
COLUMBIA, SC 29201
803-540-2400
803-540-2408

GASTON, SC 29053

OWNER: KENNETH SMITH
803-518-0055

Job Description: HILLTON RESIDENCE

HOURS	DESCRIPTION	CHARGES	TOTAL
	SLOPING CEILING IN GREAT ROOM	\$27,850.00	
	SETTING WINDOW AND DOORS		
	FRAMING		
Total service charges:			\$27,850.00

Price valid until: 3/15/08

28

INVOICE

976500

SOLD TO <i>The Contractor Yard</i>		SHIP TO <i>Job</i>	
ADDRESS <i>2010 Bluff Rd.</i>		ADDRESS	
CITY, STATE, ZIP <i>Columbia SC 29201</i>		CITY, STATE, ZIP	
CUSTOMER ORDER NO.	SOLD BY <i>Kemp Smith</i>	TERMS	DATE <i>2/18/08</i>

ORDERED	SHIPPED	DESCRIPTION	PRICE	UNIT	AMOUNT
		<i>Concrete</i>			<i>200</i>
		<i>Exterior Trim and</i>			
		<i>Painting Retains</i>			
		<i>(No Trim and</i>			
		<i>Windows or Doors)</i>			

5840

29

30

No Window or door Trim

2012
00

100
100
300
100
300
50
100
400

562
00

per Roll

HENRY O. JACOBS BUILDER, INC.
SUBCONTRACTOR CHECKLIST

PROPERTY: 615 Howard Street

TO BE RETURNED TO CONTRACTOR BEFORE START OF WORK:

- ☐ Completed W-9
- ☐ Completed Master Service Agreement
- ☐ Schedule C / WC Disclaimer
- ☐ Copy of Certificate of Insurance – named additional insured Henry O. Jacobs Builder Inc. and Oak Hill Limited Partnership.
- ☐ Copy of any applicable Permit(s)

TO BE COMPLETED BY SUBCONTRACTOR AND RETURNED TO CONTRACTOR AT THE TIME OF PAYMENT APPLICATION REQUEST:

- ☐ Subcontractor Lien Waiver

TO BE RETAINED AND REVIEWED BY CONTRACTOR:

- ☐ Copy of 2-10 Home Buyers Warranty Booklet.

1203 SEWanee DR.

W.C. 29169

1703 Sewanee Dr.
29169



ELEVATION WITH DOUBLE GABLE PORCH

1/4" = 1'-0"

NOTES:

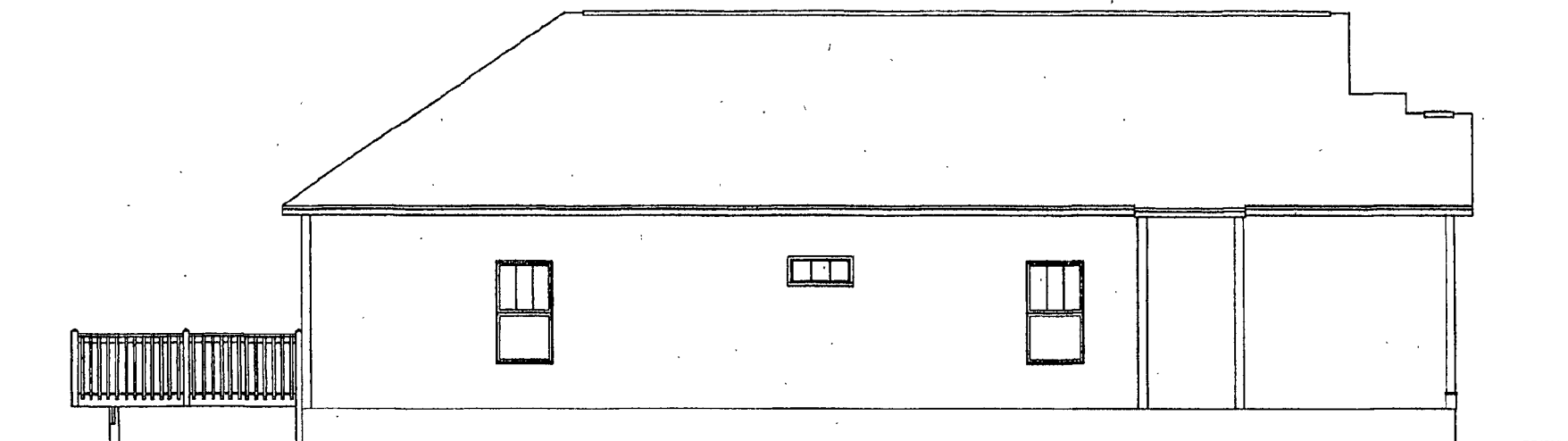
- 1) SET GABLE WINDOW HEADER 6'-1" OFF TO TOP OF CLS. JOIST.
- 2) SET GABLE VENT HEADER 2'-3" OFF TOP OF CLS. JOIST.

HENRY O. JACOBS
BUILDER, INC.

© 2009 HWCD

615 Howard ST.
RB-09-01901

32

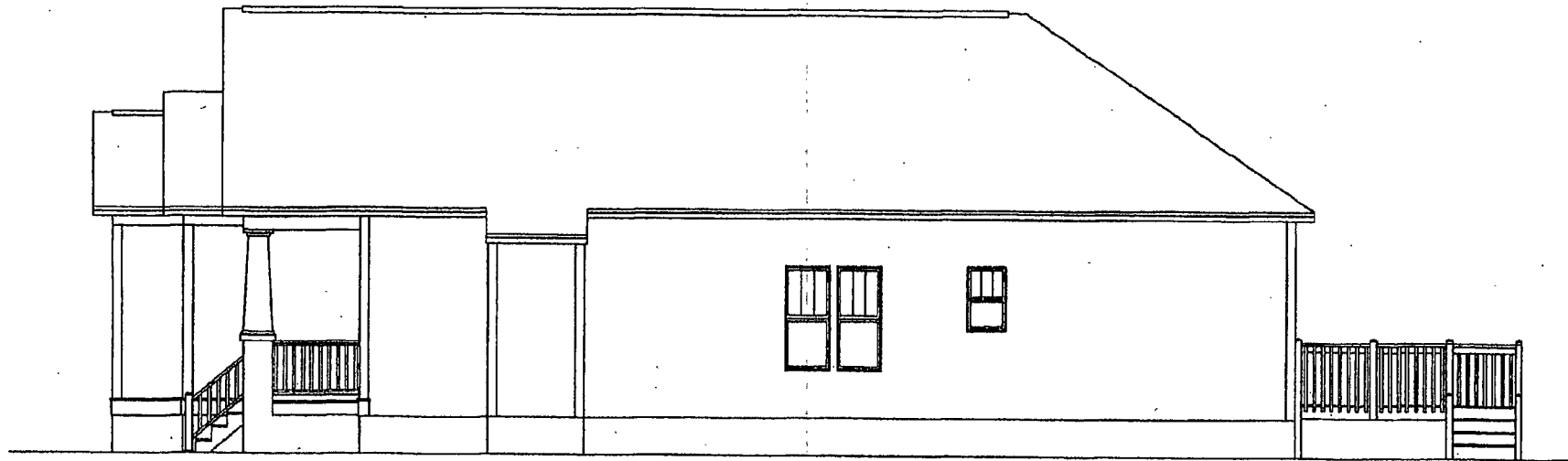


LEFT SIDE ELEVATION

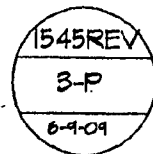
1/4" = 1'-0"

HENRY O. JACOBS
BUILDER, INC.

© 2009 HWCD



34

RIGHT SIDE ELEVATION

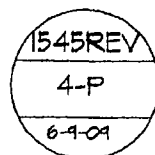
1/4" = 1'-0"

HENRY O. JACOBS
BUILDER, INC.

© 2009 HWCD



35-

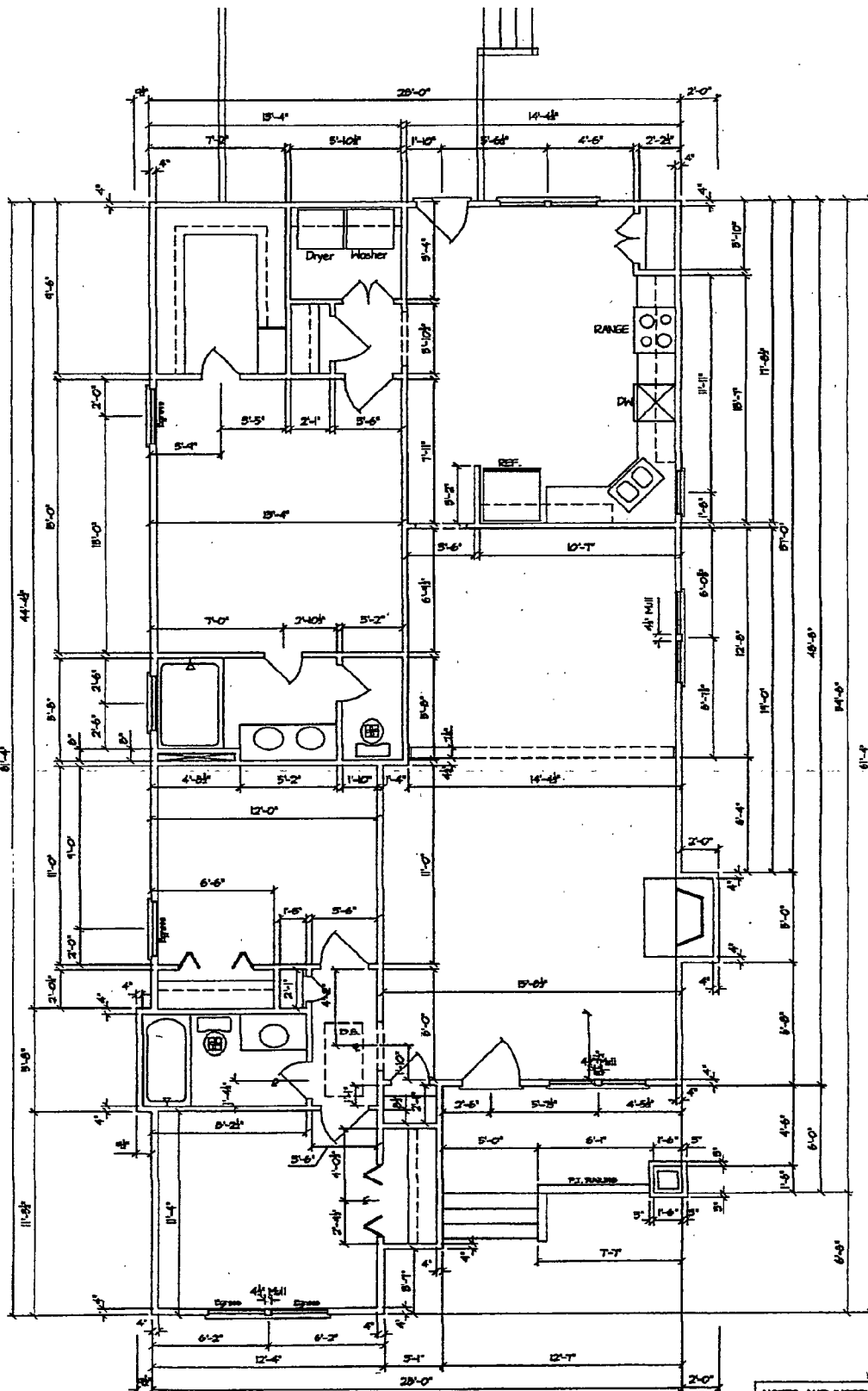


REAR ELEVATION

1/4" = 1'-0"

HENRY O. JACOBS
BUILDER, INC.

© 2009 HWCD



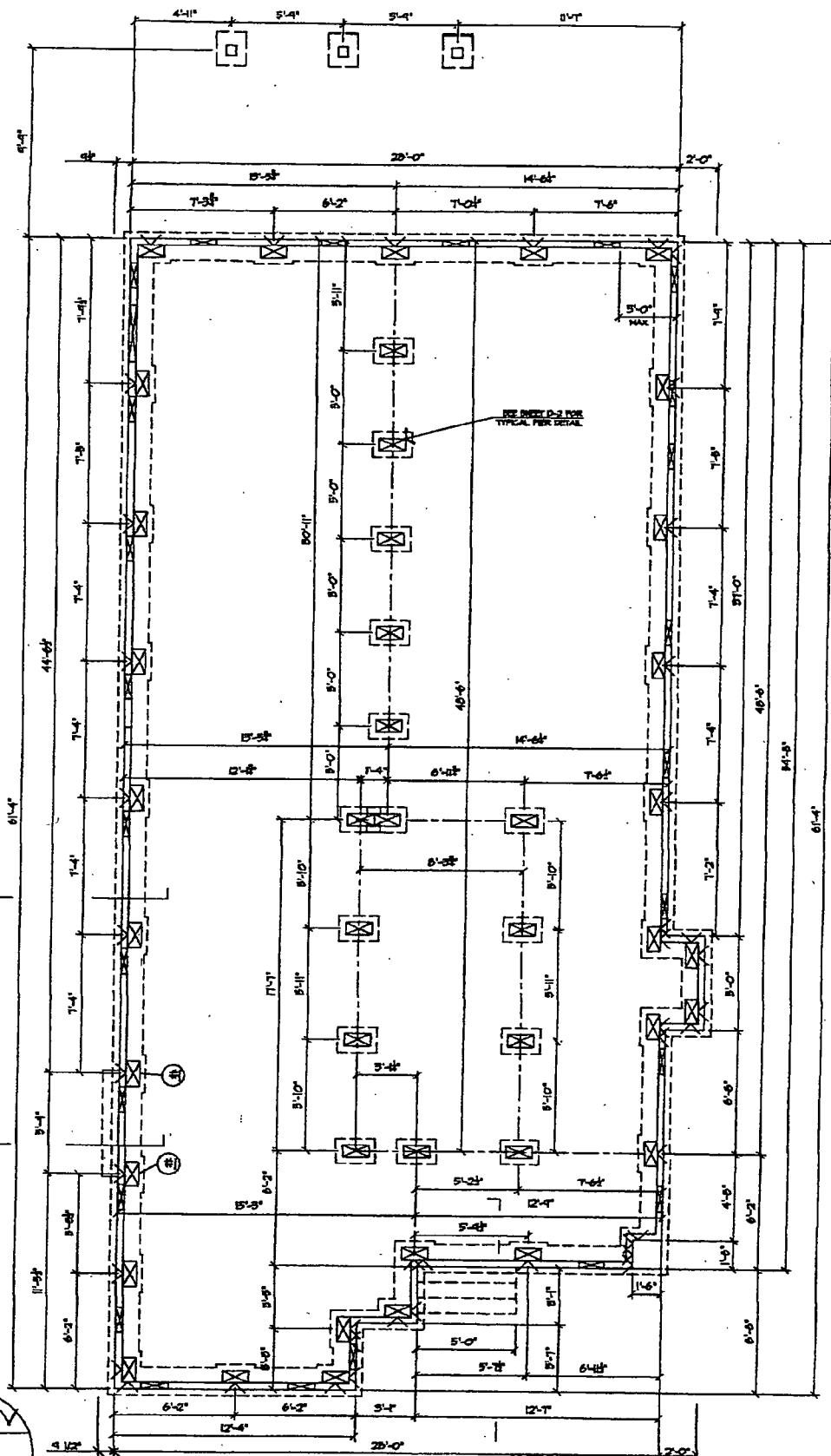
1545REV
6-P
6-4-09

FIRST FLOOR - FLOOR PLAN

HENRY O. JACOBS
BUILDER INC.

NOTES AND INSTRUCTIONS:
1. ALL WALLS ARE TO BE CONSIDERED 5' HIGH, EXCEPT WHERE INDICATED.
2. DOORS ADJACENT TO A HALL SHOULD BE SET 8" FROM HALL.
3. UNLESS OTHERWISE NOTED.
4. DOORS BETWEEN TWO HALLS ARE TO BE CENTERED ACCORDINGLY.
5. UNLESS OTHERWISE NOTED.
6. REFER TO SHEET NO. D-2 FOR HALL SECTIONS AND DETAILS.

5-21-09

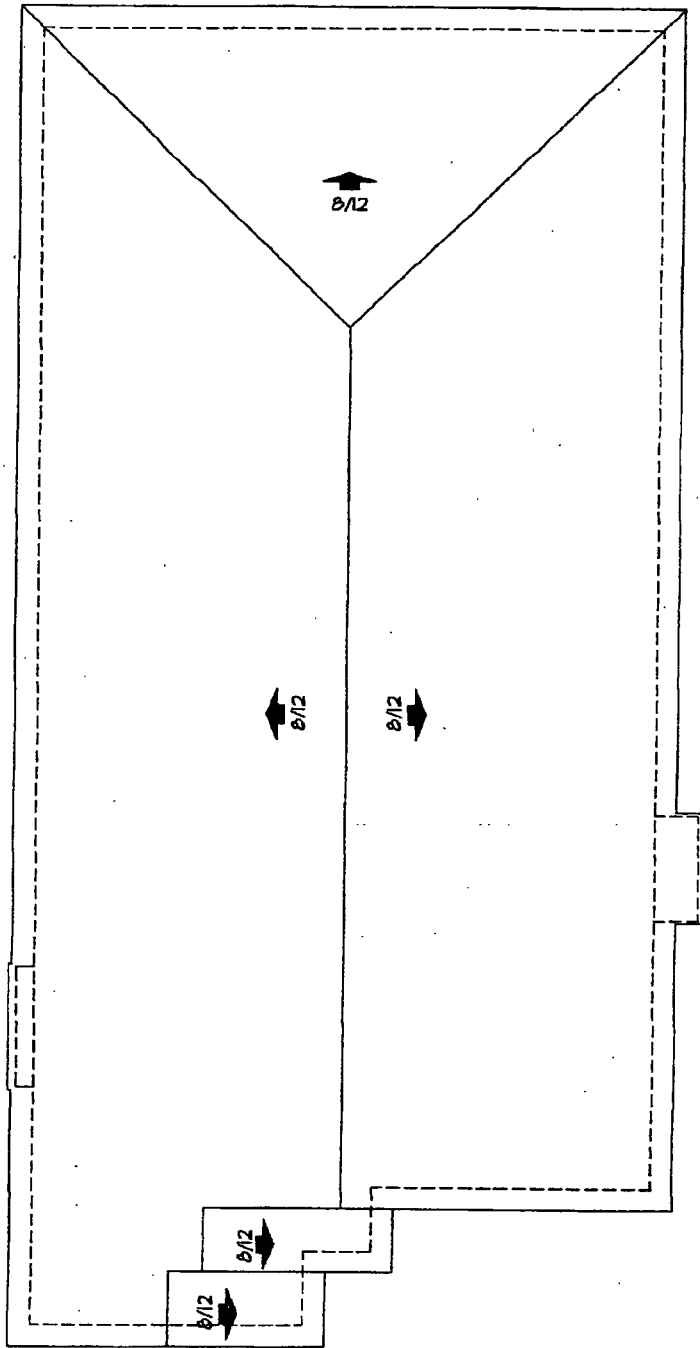


NOTES AND INSTRUCTIONS.
 1) SHOW THE PER MOUNT BELOW THE CURTAIN WALL BEHAL TO THE DEPTH
 OF THE 2'-0" GUTTER, SEE DETAIL SHEET D-2.
 2) FIELD LOCATE ACCESS DOOR N.B. CLEARANCE 3'-0"

5-25-04

FOOTING AND FOUNDATION PLAN
 HENRY O. JACOBS
 BUILDER, INC.
 1/8" = 1'-0"

37



1545REV
B-P ROOF PLAN
6-9-09

ROOF PLAN
1/4" = 1'-0"

HENRY O. JACOBS
BUILDER, INC.
© 2009 HWCD

38

Henry O Jacob

613-Howard ST.

$$\begin{array}{r} 28' \times 62.4'' = 1745 \text{ sq. Ft.} \\ \times 2.50 \\ \hline \$4362.50 \end{array}$$

Fireplace

$$\begin{array}{r} 1745.333 \\ 10. \\ \hline 0.136435 \\ = 1755.463 \\ 4389.00 \\ - 195.00 \\ \hline = 4193.00 \\ 608.00 \\ \hline \$3593.00 \end{array}$$

39

Proposal

Page # _____ of _____ pages

Kenny Smith
144th Hwy #6 Gaston S.C. 29053

Proposal Submitted To: SANDRA DONNELLY	Job Name	Job #
Address 207 BROOKWOOD FOREST DR BLYTHEWOOD, SC 29016	Job Location	Date 8/14/08
Phone # 803-740-2324	Fax #	Architect

We hereby submit specifications and estimates for:

Removing 5/0 windows to replace +
with 5/0 out swings with Transom
over top of doors 2x 2/6 with one
fake knob.
Prod to clean complete job site

We propose hereby to furnish material and labor — complete in accordance with the above specifications for the sum of:

\$ 2200.⁰⁰ Dollars

with payments to be made as follows: \$ 1100.⁰⁰ down and \$ 1100.⁰⁰ at complete

Any alteration or deviation from above specifications involving extra costs will be executed only upon written order, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents, or delays beyond our control.

Respectfully
submitted

Kenny Smith

Note — this proposal may be withdrawn by us if not accepted within _____ days.

Acceptance of Proposal

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payments will be made as outlined above.

Date of Acceptance 8/14/08

Signature

Sandra J. Fournier

Signature

Crocker tree Mike

740-2324

Take out of Brick \$ 300.⁰⁰

Trim Work on inside \$ 125.⁰⁰

Clean up — \$ 200.⁰⁰

Take out ~~the~~ window \$ 200.⁰⁰

Painting — \$ 250.⁰⁰

met — \$ 1000.⁰⁰

+ 17%

~~\$ 2427.⁰⁰~~

check on grids in door

Proposal — \$ 2200.⁰⁰

8/10/08

2x Swing 895. ⁰⁰
Domming knob
5-7 Days

~~Handwritten scribbles~~

Back to Quote



Date: 08/15/2008

LOWE'S HOME CENTERS, INC. #1066
5412 SUNSET BLVD
LEXINGTON, SC 29072
USA
(803) 358-2000



Project #: 242952380
Customer Name: KENNY SMITH
Customer Phone: (803) 518-0055
Customer Address: 1442 HWY 6
GASTON, SC 29053
USA

Description: patio door with transom

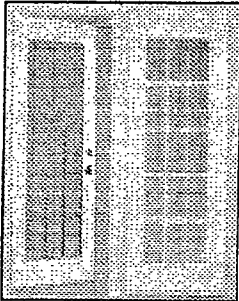
Line Item
Frame Size

Product Code
Description

Unit Price Quantity Total Price

0001

RO Size = 60" W x 80" H
Handing = 9 - LH Jamb
Hinged



Manufacturer: Reliabl by JELD-WEN Millwork
Masters Patio Doors

Division: Millwork

Product: Doors

Type: Patio

Manufacturer: Reliabl by JELD-WEN Millwork
Masters Patio Doors

Product Design: Patio

Configuration: Double

Rough Opening Width: 60"

Rough Opening Height: 80"

Unit Width: 59 3/8"

Unit Height: 79 1/2"

Brickmould Width: 62"

Brickmould Height: 80 3/4"

Frame Size Width: 58"

Frame Size Height: 77 1/2"

Size Application: Retro

Door Material: Steel

Lite Pattern: 15 Lite White Contoured Internal Grille

Glass Option: Low "E" IG Tempered

Swing: Inswing - Viewed from the Exterior

Handing: 9 - LH Jamb Hinged

Hinges: Light Brass Hinges

Jamb Species: Primed

Jamb Width: 4 9/16"

Exterior Trim: Primed Brickmould

Weatherstrip: White Compression

Sill Style: Adjustable Vinyl Cap Sill with Screen Track

Sill Finish: Brass

Screens: White

Bore: Double

Lead Time: 18 Days

Screens will be shipped separately.

\$797.00

1

\$797.00

4/3

	Screen is for In-Swing units only	
	M2O Catatlog Version: 2.17.2	
0002	Manufacturer: Reliabilty by JELD-WEN Millwork	
RO Size = 60" W x 14" H	Masters Patio Doors	
Handing = Not Applicable	Division: Millwork	
	Product: Doors	
	Type: Patio	
	Manufacturer: Reliabilty by JELD-WEN Millwork	
	Masters Patio Doors	
	Product Design: Patio	
	Configuration: Transom for a Double Door	
	Rough Opening Width: 60"	
	Rough Opening Height: 14"	
	Unit Width: 59 1/2"	
	Unit Height: 13 1/2"	
	Brickmould Width: 62"	
	Brickmould Height: 14 3/4"	
	Frame Size Width: 58"	
	Frame Size Height: 12"	
	Size Application: Retro	
	Transom Material: Primed	
	Lite Pattern: 5 Lite White Contoured Internal Grille	
	Glass Option: Low "E" IG	
	Jamb Species: Primed	
	Jamb Width: 4 9/16"	
	Exterior Trim: Primed Brickmould	
	Lead Time: 18 Days	
	M2O Catatlog Version: 2.17.2	
	\$208.00	1 \$208.00

Project Total: \$1,005.00

Salesperson: EARNEST WEBB (S1066EW2)

Accepted by: _____

Date: 08/15/2008

[Print this Page](#)

This Millwork Quote is valid until 8/21/2008 on all regularly priced items. For promotional pricing please see the disclaimer noted with each item above. This is an estimate only. This estimate does not include tax or delivery charges. Delivery of all materials contained in this estimate are subject to availability from the manufacturer or supplier. All the above quantities, dimensions, specifications and accessories have been verified and accepted.

44

DOOR OPENING & DOOR HANDING CHART

ROUGH OPENING – Door unit with standard inswing sill and 180 brick moulding

Door Size	Rough Opening	Single Unit		Units with sidelights		One 14"	Two 14"
		One 10"	Two 10"	Two 10" Atlanta only	One 12" Two 12"		
2' 0" x 6' 8"	26 3/16" x 82 1/2"	37 11/16"	49 3/16"	50 3/16"	39 11/16" 53 3/16"	41 11/16"	57 3/16"
2' 6" x 6' 8"	32 3/16" x 82 1/2"	43 11/16"	55 3/16"	56 3/16"	45 11/16" 59 3/16"	47 11/16"	63 3/16"
2' 8" x 6' 8"	34 3/16" x 82 1/2"	45 11/16"	57 3/16"	58 3/16"	47 11/16" 61 3/16"	49 11/16"	65 3/16"
2' 10" x 6' 8"	36 3/16" x 82 1/2"	47 11/16"	59 3/16"	60 3/16"	49 11/16" 63 3/16"	51 11/16"	67 3/16"
3' 0" x 6' 8"	38 3/16" x 82 1/2"	49 11/16"	61 3/16"	62 3/16"	51 11/16" 65 3/16"	53 11/16"	69 3/16"
3' 6" x 6' 8"	44 3/16" x 82 1/2"	55 11/16"	67 3/16"	68 3/16"	57 11/16" 71 3/16"	59 11/16"	75 3/16"
*5' 0" x 6' 8"	62 3/4" x 82 1/2"	74 11/16"	85 3/4"	86 3/4"	76 1/4" 89 3/4"	78 1/4"	93 3/4"
*5' 4" x 6' 8"	66 3/4" x 82 1/2"	78 11/16"	89 3/4"	90 3/4"	80 1/4" 93 3/4"	82 1/4"	97 3/4"
*5' 8" x 6' 8"	70 3/4" x 82 1/2"	82 11/16"	93 3/4"	94 3/4"	84 1/4" 97 3/4"	86 1/4"	101 3/4"
*6' 0" x 6' 8"	74 3/4" x 82 1/2"	86 11/16"	97 3/4"	98 3/4"	88 1/4" 101 3/4"	90 1/4"	105 3/4"

MASONRY OPENING – Door unit with standard inswing sill and 180 brickmoulding

Door Size	Single Unit Masonry Opening	Units with sidelights				One 14"	Two 14"
		One 10"	Two 10"	Two 10" Atlanta only	One 12" Two 12"		
2' 0" x 6' 8"	28 1/16" x 83 1/2"	39 9/16"	51"	52"	41 9/16" 55"	43 9/16"	59"
2' 6" x 6' 8"	34 1/16" x 83 1/2"	45 9/16"	57"	58"	47 9/16" 61"	49 9/16"	65"
2' 8" x 6' 8"	36 1/16" x 83 1/2"	47 9/16"	59"	60"	49 9/16" 63"	51 9/16"	67"
2' 10" x 6' 8"	38 1/16" x 83 1/2"	49 9/16"	61"	62"	51 9/16" 65"	53 9/16"	69"
3' 0" x 6' 8"	40 1/16" x 83 1/2"	51 9/16"	63"	64"	53 9/16" 67"	55 9/16"	71"
3' 6" x 6' 8"	46 1/16" x 83 1/2"	57 9/16"	69"	70"	59 9/16" 73"	61 9/16"	77"
*5' 0" x 6' 8"	64 5/8" x 83 1/2"	76 1/8"	87 5/8"	88 5/8"	78 1/8" 91 5/8"	80 1/8"	95 5/8"
*5' 4" x 6' 8"	68 5/8" x 83 1/2"	80 1/8"	91 5/8"	92 5/8"	82 1/8" 95 5/8"	84 1/8"	99 5/8"
*5' 8" x 6' 8"	72 5/8" x 83 1/2"	84 1/8"	95 5/8"	96 5/8"	86 1/8" 99 5/8"	88 1/8"	103 5/8"
*6' 0" x 6' 8"	76 5/8" x 83 1/2"	88 1/8"	99 5/8"	100 5/8"	90 1/8" 103 5/8"	92 1/8"	107 5/8"

* DOUBLE SWING UNIT WITH T-ASTRAGAL

PATIO DOORS – Door unit with standard inswing sill and 180 brickmoulding

Door Size	Rough Opening	Masonry Opening
5' 0" x 6' 8"	63 3/4" x 82 1/2"	65 5/8" x 83 1/2"
5' 4" x 6' 8"	67 3/4" x 82 1/2"	69 5/8" x 83 1/2"
6' 0" x 6' 8"	75 3/4" x 82 1/2"	77 5/8" x 83 1/2"
7' 6" x 6' 8"	95 1/4" x 82 1/2"	97 1/8" x 83 1/2"
8' 0" x 6' 8"	101 1/4" x 82 1/2"	103 1/8" x 83 1/2"
9' 0" x 6' 8"	113 1/4" x 82 1/2"	115 1/8" x 83 1/2"

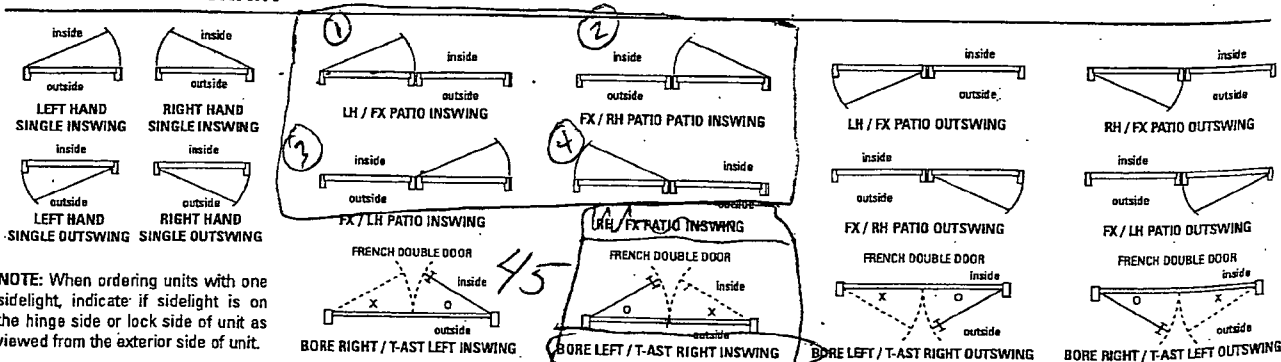
MISC. DOOR ADDERS & DEDUCTS – For rough openings and masonry openings

7' Standard Height +4"
8' Standard Height +16"
Single Stud Pocket + 2" per mull
Double Stud Pocket +3 1/2" per mull
Handicap Height and Outswing Height - Deduct 3/4"

TRANSOM ADDERS – For rough openings and masonry openings

For 10" rectangular transoms add 11 5/8" to height.
For 12" rectangular transoms add 13 5/8" to height.
For 12" elliptical or segment transoms add 13 1/2" to height.
Roundtops / half-rounds and custom transoms, contact your local Portrait™ representative for assistance.

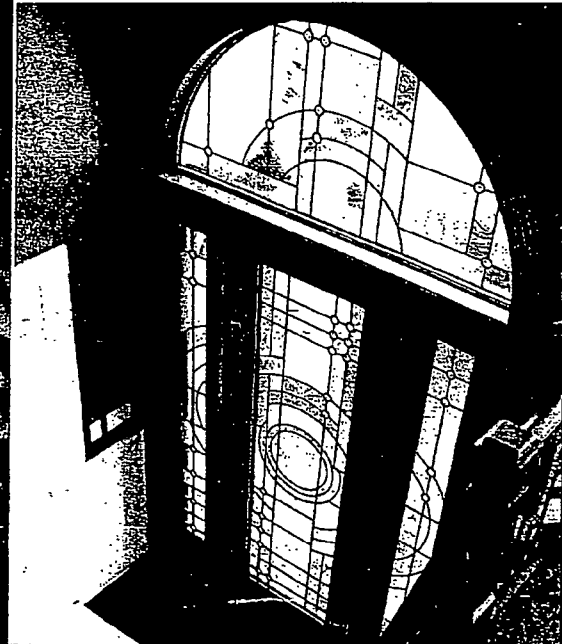
DOOR HANDING CHART



NOTE: When ordering units with one sidelight, indicate if sidelight is on the hinge side or lock side of unit as viewed from the exterior side of unit.

INCREASE THE
VALUE OF YOUR HOME.

It starts with a door and becomes an entry statement. Add a sidelight or two, a transom, or even a double door. There are dozens of shapes and sizes to configure your entryway. The more glass you add, the more impressive your entryway, both inside and outside the home.





BREEZE MASONRY
Block & Brick

Buddy Tindal

Office 955-4841
Cell 465-1517

47

Proposal

Page # _____ of _____ pages

Kenny Smith
1442 Hwy #6 Gaston S.C 29053

518-0055

Proposal Submitted To: <u>Carl Kichess</u>	Job Name	Job #
Address <u>950 Brookfield</u>	Job Location <u>950 Brookfield</u>	
	Date <u>8/8/08</u>	Date of Plans
Phone # <u>803-255-0770</u>	Fax #	Architect

We hereby submit specifications and estimates for:

extra cost on front porch\$ 175.⁰⁰Material - 8/7/08 - 8/8/08\$ 125.⁰⁰ - 151.⁰⁰Take siding off bottom of front porch
and put back after new flooring\$ 75.⁰⁰on Bal. W. Siding

We propose hereby to furnish material and labor — complete in accordance with the above specifications for the sum of:

\$ 526.⁰⁰ PAID K.S. Dollars

with payments to be made as follows:

Any alteration or deviation from above specifications involving extra costs will be executed only upon written order, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents, or delays beyond our control.

Respectfully
submittedKenny Smith

Note — this proposal may be withdrawn by us if not accepted within _____ days.

Acceptance of Proposal

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified.
Payments will be made as outlined above.

Date of Acceptance 08/08/08

Signature _____

Signature Carl Kichess

4/8

Proposal

Page # _____ of _____ pages

Jimmy Smith
1442 Hwy 6 Gaston S.C 29055

518-6655

Proposal Submitted To: <u>Capt. Kinross</u>	Job Name	Job #
Address <u>950 Brookfield</u>	Job Location <u>950 Brookfield</u>	
	Date <u>8/8/08</u>	Date of Plans
Phone # <u>853-235-776</u>	Fax #	Architect

We hereby submit specifications and estimates for:

extra cost on front porch\$ 175.⁰⁰Material - 8/7/08 - 8/8/08\$ 125.⁰⁰ - 151.⁰⁰Take siding off & then at front porch and put back after re-siding\$ 75.⁰⁰

We propose hereby to furnish material and labor — complete in accordance with the above specifications for the sum of:

\$ 526.⁰⁰ Dollars

with payments to be made as follows: _____

Any alteration or deviation from above specifications involving extra costs will be executed only upon written order, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents, or delays beyond our control.

Respectfully
submittedJimmy Smith

Note — this proposal may be withdrawn by us if not accepted within _____ days.

Acceptance of Proposal

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified.
Payments will be made as outlined above.

Signature _____

Date of Acceptance

08/28/08

Signature

Jim Smith

Proposal

Page # _____ of _____ pages

Kenny Smith.
1442 - Hy #6 Gaston S.C. 29053

H. 568-3901 — 518-0055

Proposal Submitted To: <u>Carl Kitchens</u>	Job Name	Job #
Address <u>950 Brookfield</u>	Job Location <u>950 Brookfield</u>	
	Date	Date of Plans
Phone # <u>803-755-0770</u>	Fax #	Architect

We hereby submit specifications and estimates for:

① Press Washing Home —	\$	292.	<u>60</u>
② Painting —	\$	585.	<u>60</u>
Mat —	\$	35.	<u>20</u>
③ Carpentry - Finish on Garage	\$	300.	<u>00</u>
- Column on front porch			
- window on back of Garage			
Mat.	\$	49.	<u>00</u>
④ Front Porch Floor Labor	\$	292.	<u>00</u>
Mat	\$	190.	<u>00</u>

We propose hereby to furnish material and labor — complete in accordance with the above specifications for the sum of:

\$ 1743. 00 Dollars
with payments to be made as follows: \$ 870. 00 down 50% and \$ 873. 00 at complete

Any alteration or deviation from above specifications involving extra costs will be executed only upon written order, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents, or delays beyond our control.

Respectfully
submittedKenny Smith

Note — this proposal may be withdrawn by us if not accepted within _____ days.

Acceptance of Proposal

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified.
Payments will be made as outlined above.

Signature V.Date of Acceptance 8/6/08Signature V. Carl Kitchens

INVOICE

936630

SOLD TO <i>Carl Kichess</i>		SHIP TO <i>950 Brookfield</i>	
ADDRESS		ADDRESS	
CITY, STATE, ZIP		CITY, STATE, ZIP	
CUSTOMER ORDER NO.	SOLD BY	TERMS	F.O.B.
			DATE

ORDERED	SHIPPED	DESCRIPTION	PRICE	UNIT	AMOUNT
				\$	90.00
		<i>Side Stomach</i>			
		<i>Disc</i>			
		<i>PAID in full</i>			

adams 5840

51

955649

adams 5840

52

9566-0

adams 5840

53

Door \$ 135.⁰⁰

Met., Framing, 32' size to 30"
and Installing Stormdoor
\$ 159.⁰⁰

\$ 294.⁰⁰

Side door Labor 80.⁰⁰
Met. 10.⁰⁰

90.⁰⁰

\$ 384.⁰⁰

54

GARAGE TRIM WORK

PRESSURE WASH HOUSE

CLEAN DECK & REPAIRS DECK

REPLACE WOOD AT BOTTOM COLUMN LEFT CORNER
FACING HOUSE.

BUILD UP CEMENT IN FRONT PORCH TO
BE IN LINE WITH BRICKS.

BACK GARAGE



LOWE'S HOME CENTERS, INC.
1410 SPANISH FERRY ROAD
COLUMBIA, SC 29105
FIRST TIME

-SALE-

SALES # 04174-11 070007 05-14-88

100474 1/2" RUBIATED ACID CROWN	0.88
40504 1/2" ROPS CHEMICAL GLOVE MA	5.40
114515 1/2" PLASTIC PUTTY KNIFE -	1.00
2 3 1.14	

SUBTOTAL 11.74

TAX 1.03

GRAND TOTAL 12.77

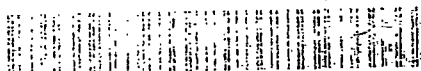
BALANCE DUE 12.77

PAID 20.00

CHANGE 7.23

EXP. DATE 05-14-88 10:32 01

OF ITEMS PURCHASED: 4
PAID FOR BY OPERATORS AND SPECIAL ORDER ITEMS



FOR THE PURCHASER OF THIS
ITEM, ADDITIONAL FOR CASH REFUND.
ONE (1) PURCHASE REFUND REQUIRED.
15 DAY LAST PERIOD FOR CASH BACK.
STORE NO. ERIC HILBERT

WE MAKE THE LOWEST PRICE GUARANTEE!
IF YOU FIND A LOWER PRICE, WE WILL
BEAT IT BY 10%. SEE STORE FOR DETAILS



LOWE'S HOME CENTERS, INC.
2425 AUGUSTA RD
WEST COLUMBIA, SC 29170
1800-936-8685

-SALE-

SALES # 0048901 10945 05-14-88

137301 1/2" RUBIATED ACID CROWN	0.88
13877 1/2" ROPS CHEMICAL GLOVE MA	5.40
104125 1/2" PLASTIC PUTTY KNIFE -	1.00
70601 1/2" PLASTIC PUTTY KNIFE -	1.00
132928 1/2" PLASTIC PUTTY KNIFE -	1.00
1300 1/2" PLASTIC PUTTY KNIFE -	1.00
1300 1/2" PLASTIC PUTTY KNIFE -	1.00

SUBTOTAL 12.77

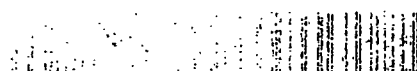
TAX 1.03

GRAND TOTAL 13.80

PAID 20.00

CHANGE 6.20

OF ITEMS PURCHASED: 7
PAID FOR BY OPERATORS AND SPECIAL ORDER ITEMS



FOR THE PURCHASER OF THIS
ITEM, ADDITIONAL FOR CASH REFUND.
ONE (1) PURCHASE REFUND REQUIRED.
15 DAY LAST PERIOD FOR CASH BACK.
STORE NO. ERIC HILBERT

WE MAKE THE LOWEST PRICE GUARANTEE!
IF YOU FIND A LOWER PRICE, WE WILL
BEAT IT BY 10%. SEE STORE FOR DETAILS



LOWE'S HOME CENTERS, INC.

14 DAY PRICE
MATCH GUARANTEE
EXCEPT ON SPECIALS

-SALE-

SALES # 10731000 1234567 08-08-08

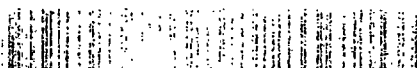
91559 1/2" x 1/2" x 1/2" CHAIRS 150- 2.99
157805 1/2" x 1/2" x 1/2" CHAIRS 150- 2.99
10427 1/2" x 1/2" x 1/2" CHAIRS 150- 2.99
10427 1/2" x 1/2" x 1/2" CHAIRS 150- 2.99

SUBTOTAL 11.96
TAX 0.00
TOTAL 11.96

SALES TAX 0.00
TOTAL 11.96
CHANGE 11.96

10731000 1234567 08-08-08

OF ITEMS PURCHASED: 3
EXCLUDED FROM GUARANTEE AND SPECIAL ORDER ITEMS



FOR SHOPPING QUESTIONS
CALL 1-800-445-2439
OR VISIT US ONLINE AT
LOWES.COM
15 DAY MONEY BACK GUARANTEE
STORE HOURS ONLY



14 DAY PRICE
MATCH GUARANTEE
EXCEPT ON SPECIALS

-SALE-

SALES # 10731000 1234567 08-08-08

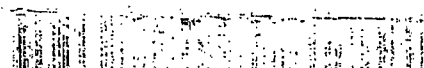
10731000 1234567 08-08-08

SUBTOTAL 11.96
TAX 0.00
TOTAL 11.96

SALES TAX 0.00
TOTAL 11.96
CHANGE 11.96

10731000 1234567 08-08-08

OF ITEMS PURCHASED: 3
EXCLUDED FROM GUARANTEE AND SPECIAL ORDER ITEMS



FOR SHOPPING QUESTIONS
CALL 1-800-445-2439
OR VISIT US ONLINE AT
LOWES.COM
15 DAY MONEY BACK GUARANTEE
STORE HOURS ONLY

WE HAVE THE LOWEST PRICE GUARANTEED
IF YOU FIND A LOWER PRICE, WE WILL
BEAT IT BY 10%. SEE STORE FOR DETAILS

58

(FOR ACCOUNTING PURPOSES)



LOWE'S HOME CENTERS, INC.
330 HARRISON BLVD.
DURHAM, NC 27613
(919) 749-1272

SALE

SALES # 0086401 F1569 08-21-99

2193 PFD GRAY 210 14.5 30.00 14.04

2193 14.5

6831 145710 25 14.5 30.00 14.04

6831 14.5

~~6831 145710 25 14.5 30.00 14.04~~

6831 14.5

SUBTOTAL 28.08

TAX 1.04

DISCOUNT TOTAL 27.04

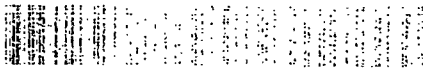
SAMPLE PRICE 27.04

TAX 1.04

28.08

0086401 F1569 08-21-99

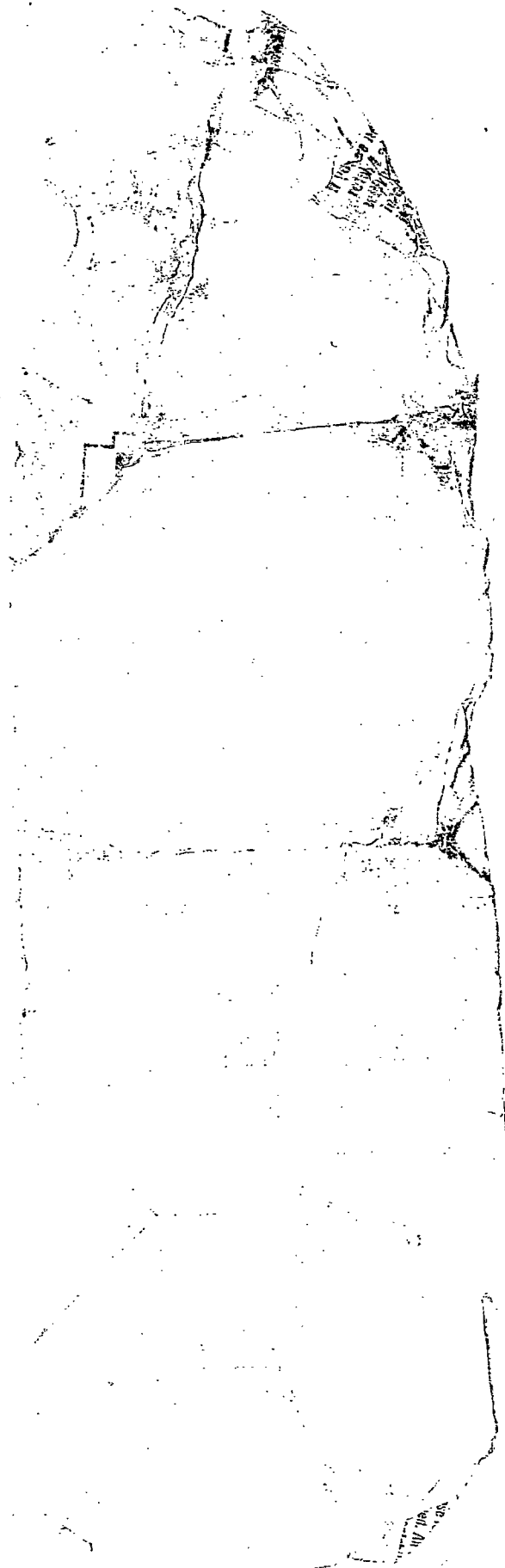
OF ITEMS PURCHASED 2
EXCLUDED ALL OTHERS



THIS IS A RECEIPT FOR THE
PURCHASE OF THE ABOVE
ITEMS. IT IS NOT VALID
UNLESS IT IS SIGNED BY THE
CASHIER AT THE TIME OF
PURCHASE. ALL OTHERS
ARE VOID.

WE ARE NOT RESPONSIBLE FOR
IF THE ITEM IS NOT
SENT TO THE STORE WITHIN
THE SPECIFIED TIME PERIOD.

60



61

Proposal

Page # _____ of _____ pages

Kenny Smith
His People Carpentry
1442 Hwy #6
Gaston S.C. 29053

803-518-0055

Proposal Submitted To: <u>Bill Byrd</u>	Job Name: <u>Byrd - Repair</u>	Job #: <u>9</u>
Address: <u>1179 Point View</u>	Job Location: <u>SAME</u>	
<u>Chapin S.C. 29036-7925</u>	Date: <u>4/28/09</u>	Date of Plans
Phone #: <u>803-781-7112</u>	Fax #: <u>432-225-6597</u>	Architect

We hereby submit specifications and estimates for:

To replace complete floor
in Sunroom. Take up old flooring
and remove o/p job site.
Replace with 3/4 OSB TG Board.

That will be the complete for
His People Carpentry's labor.

We propose hereby to furnish material and labor — complete in accordance with the above specifications for the sum of:

\$ 3640 50% down - total Dollars
with payments to be made as follows: at 100% Complete

Any alteration or deviation from above specifications involving extra costs will be executed only upon written order, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents, or delays beyond our control.

Respectfully
submitted

Note — this proposal may be withdrawn by us if not accepted within _____ days.

Acceptance of Proposal

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified.
Payments will be made as outlined above.

Signature _____

Date of Acceptance _____

Signature _____

62

Draw

1/12/07

\$ 3500.⁰⁰

63

Proposal

Page # _____ of _____ pages

Reyny Smith

Proposal Submitted To: <i>Bob Ivey</i>	Job Name	Job #
Address <i>160 Crystal Springs Rd</i>	Job Location	
<i>Lexington, S.C. 29073</i>	Date <i>8/1/88</i>	Date of Plans
Phone # <i>803-555-6836</i>	Fax #	Architect

We hereby submit specifications and estimates for:

Kitchen countertops \$ 819.⁰⁰

Painting Kitchen cabinets, Trim, walls inside cabinets and broom closet \$ 958.⁰⁰

Shelf in broom closet and Hardware on two drawers \$ 40.⁰⁰

total \$ 1817.⁰⁰

We propose hereby to furnish material and labor — complete in accordance with the above specifications for the sum of:

\$ *1817.⁰⁰* Dollars

with payments to be made as follows: *\$900.⁰⁰ Down and \$917.⁰⁰ at complete*

Any alteration or deviation from above specifications involving extra costs will be executed only upon written order, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents, or delays beyond our control.

Respectfully submitted

Note — this proposal may be withdrawn by us if not accepted within _____ days.

Acceptance of Proposal

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payments will be made as outlined above.

Signature _____

Date of Acceptance _____

Signature _____

Proposal

Page # _____ of _____ pages

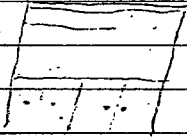
Kenny Smith
1442 Hwy #6 Gaston S.C. 29053
His People Carpentry

Proposal Submitted To: <u>Bob Ivey</u>	Job Name	Job #
Address <u>160 Crystal Spring Rd.</u>	Job Location	
	Date <u>7/25/08</u>	Date of Plans
Phone # <u>803-755-6836</u>	Fax #	Architect

We hereby submit specifications and estimates for: _____

To put in broom closet cabinet
for pantry finished for painter to start

pantry shelves
and cabinet
Doors at bottom



broom closet 1/4 x 6/8
Door swing out
left hand swing
and Hardware

PAID
K.S.

10 year warranty on
all labor

We propose hereby to furnish material and labor — complete in accordance with the above specifications for the sum of:

\$ \$2200.00 50 % Down _____ Dollars

with payments to be made as follows: 50 % at complete

Any alteration or deviation from above specifications involving extra costs will be executed only upon written order, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents, or delays beyond our control.

Respectfully
submitted

Kenny Smith

Note — this proposal may be withdrawn by us if not accepted within _____ days.

Acceptance of Proposal

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payments will be made as outlined above.

Signature _____

Date of Acceptance _____

Signature _____

Proposal

Page # _____ of _____ pages

Kenny Smith
1442 Hwy #6 Gaston S.C. 29053

518-0055

Proposal Submitted To: <u>Bob Ivey</u>	Job Name	Job #
Address <u>160 Crystal Springs Rd.</u>	Job Location	
<u>Lexington S.C. 29073</u>	Date <u>8/15/08</u>	Date of Plans
Phone # <u>803-255-6836</u>	Fax #	Architect

We hereby submit specifications and estimates for: _____

Tile work behind stove and arch
in wall

Framing Arch into wall.

8/29/08 - \$482.⁰⁰
+ Bifold Door \$142.⁰⁰

\$624.⁰⁰

Paid in Full

8/29/08 Kenny Smith

We propose hereby to furnish material and labor — complete in accordance with the above specifications for the sum of:

\$ 932.⁰⁰

Dollars

with payments to be made as follows: \$450.⁰⁰ - \$482.⁰⁰ at complete

Any alteration or deviation from above specifications involving extra costs will be executed only upon written order, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents, or delays beyond our control.

Respectfully
submittedKenny Smith

Note — this proposal may be withdrawn by us if not accepted within _____ days.

Acceptance of Proposal

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payments will be made as outlined above.

Signature _____

Date of Acceptance _____

Signature _____

160 C. Springs
Flooring

Rope 1" x 8"

5.

47

Tile 3" x 6"



1 Box = 1 sq.

4 x

B. f. Door - check on it ~~412~~ ~~299~~ ~~36~~

698 sq.

sanded Grout \$12.00

Grout Enhancer \$10.47

25-9481
N
6
M
0
0

Durock 3' x 5' 9.00

Roman Stone \$5.78 6" x 6"
Gold Roman Stone \$2.24 6" x 6"

Porcelain 78¢ 6" x 6"

67

 CARPET ONE[®] FLOOR & HOME
OF LEXINGTON

The ONE store for your perfect floor.™

Linda Melton
Sales Consultant

102 West Main Street • Lexington, SC 29072
Tel 803-957-5574 • Fax 803-957-5107

carpetone.com/lexingtonsc  linda@c1lexington.com

125 + tax

87043

Contract # UPAL

68



1. NAME
 2. DATE
 3. TIME
 4. LOCATION
 5. REMARKS
 6. SIGNATURE
 7. DATE
 8. TIME
 9. LOCATION
 10. REMARKS
 11. SIGNATURE
 12. DATE
 13. TIME
 14. LOCATION
 15. REMARKS
 16. SIGNATURE
 17. DATE
 18. TIME
 19. LOCATION
 20. REMARKS
 21. SIGNATURE
 22. DATE
 23. TIME
 24. LOCATION
 25. REMARKS
 26. SIGNATURE
 27. DATE
 28. TIME
 29. LOCATION
 30. REMARKS
 31. SIGNATURE
 32. DATE
 33. TIME
 34. LOCATION
 35. REMARKS
 36. SIGNATURE
 37. DATE
 38. TIME
 39. LOCATION
 40. REMARKS
 41. SIGNATURE
 42. DATE
 43. TIME
 44. LOCATION
 45. REMARKS
 46. SIGNATURE
 47. DATE
 48. TIME
 49. LOCATION
 50. REMARKS
 51. SIGNATURE
 52. DATE
 53. TIME
 54. LOCATION
 55. REMARKS
 56. SIGNATURE
 57. DATE
 58. TIME
 59. LOCATION
 60. REMARKS
 61. SIGNATURE
 62. DATE
 63. TIME
 64. LOCATION
 65. REMARKS
 66. SIGNATURE
 67. DATE
 68. TIME
 69. LOCATION
 70. REMARKS
 71. SIGNATURE
 72. DATE
 73. TIME
 74. LOCATION
 75. REMARKS
 76. SIGNATURE
 77. DATE
 78. TIME
 79. LOCATION
 80. REMARKS
 81. SIGNATURE
 82. DATE
 83. TIME
 84. LOCATION
 85. REMARKS
 86. SIGNATURE
 87. DATE
 88. TIME
 89. LOCATION
 90. REMARKS
 91. SIGNATURE
 92. DATE
 93. TIME
 94. LOCATION
 95. REMARKS
 96. SIGNATURE
 97. DATE
 98. TIME
 99. LOCATION
 100. REMARKS
 101. SIGNATURE
 102. DATE
 103. TIME
 104. LOCATION
 105. REMARKS
 106. SIGNATURE
 107. DATE
 108. TIME
 109. LOCATION
 110. REMARKS
 111. SIGNATURE
 112. DATE
 113. TIME
 114. LOCATION
 115. REMARKS
 116. SIGNATURE
 117. DATE
 118. TIME
 119. LOCATION
 120. REMARKS
 121. SIGNATURE
 122. DATE
 123. TIME
 124. LOCATION
 125. REMARKS
 126. SIGNATURE
 127. DATE
 128. TIME
 129. LOCATION
 130. REMARKS
 131. SIGNATURE
 132. DATE
 133. TIME
 134. LOCATION
 135. REMARKS
 136. SIGNATURE
 137. DATE
 138. TIME
 139. LOCATION
 140. REMARKS
 141. SIGNATURE
 142. DATE
 143. TIME
 144. LOCATION
 145. REMARKS
 146. SIGNATURE
 147. DATE
 148. TIME
 149. LOCATION
 150. REMARKS
 151. SIGNATURE
 152. DATE
 153. TIME
 154. LOCATION
 155. REMARKS
 156. SIGNATURE
 157. DATE
 158. TIME
 159. LOCATION
 160. REMARKS
 161. SIGNATURE
 162. DATE
 163. TIME
 164. LOCATION
 165. REMARKS
 166. SIGNATURE
 167. DATE
 168. TIME
 169. LOCATION
 170. REMARKS
 171. SIGNATURE
 172. DATE
 173. TIME
 174. LOCATION
 175. REMARKS
 176. SIGNATURE
 177. DATE
 178. TIME
 179. LOCATION
 180. REMARKS
 181. SIGNATURE
 182. DATE
 183. TIME
 184. LOCATION
 185. REMARKS
 186. SIGNATURE
 187. DATE
 188. TIME
 189. LOCATION
 190. REMARKS
 191. SIGNATURE
 192. DATE
 193. TIME
 194. LOCATION
 195. REMARKS
 196. SIGNATURE
 197. DATE
 198. TIME
 199. LOCATION
 200. REMARKS
 201. SIGNATURE
 202. DATE
 203. TIME
 204. LOCATION
 205. REMARKS
 206. SIGNATURE
 207. DATE
 208. TIME
 209. LOCATION
 210. REMARKS
 211. SIGNATURE
 212. DATE
 213. TIME
 214. LOCATION
 215. REMARKS
 216. SIGNATURE
 217. DATE
 218. TIME
 219. LOCATION
 220. REMARKS
 221. SIGNATURE
 222. DATE
 223. TIME
 224. LOCATION
 225. REMARKS
 226. SIGNATURE
 227. DATE
 228. TIME
 229. LOCATION
 230. REMARKS
 231. SIGNATURE
 232. DATE
 233. TIME
 234. LOCATION
 235. REMARKS
 236. SIGNATURE
 237. DATE
 238. TIME
 239. LOCATION
 240. REMARKS
 241. SIGNATURE
 242. DATE
 243. TIME
 244. LOCATION
 245. REMARKS
 246. SIGNATURE
 247. DATE
 248. TIME
 249. LOCATION
 250. REMARKS
 251. SIGNATURE
 252. DATE
 253. TIME
 2

Abstract

100

1
 2
 3
 4
 5
 6
 7
 8
 9
 10
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25
 26
 27
 28
 29
 30
 31
 32
 33
 34
 35
 36
 37
 38
 39
 40
 41
 42
 43
 44
 45
 46
 47
 48
 49
 50
 51
 52
 53
 54
 55
 56
 57
 58
 59
 60
 61
 62
 63
 64
 65
 66
 67
 68
 69
 70
 71
 72
 73
 74
 75
 76
 77
 78
 79
 80
 81
 82
 83
 84
 85
 86
 87
 88
 89
 90
 91
 92
 93
 94
 95
 96
 97
 98
 99
 100
 101
 102
 103
 104
 105
 106
 107
 108
 109
 110
 111
 112
 113
 114
 115
 116
 117
 118
 119
 120
 121
 122
 123
 124
 125
 126
 127
 128
 129
 130
 131
 132
 133
 134
 135
 136
 137
 138
 139
 140
 141
 142
 143
 144
 145
 146
 147
 148
 149
 150
 151
 152
 153
 154
 155
 156
 157
 158
 159
 160
 161
 162
 163
 164
 165
 166
 167
 168
 169
 170
 171
 172
 173
 174
 175
 176
 177
 178
 179
 180
 181
 182
 183
 184
 185
 186
 187
 188
 189
 190
 191
 192
 193
 194
 195
 196
 197
 198
 199
 200
 201
 202
 203
 204
 205
 206
 207
 208
 209
 210
 211
 212
 213
 214
 215
 216
 217
 218
 219
 220
 221
 222
 223
 224
 225
 226
 227
 228
 229
 230
 231
 232
 233
 234
 235
 236
 237
 238
 239
 240
 241
 242
 243
 244
 245
 246
 247
 248
 249
 250
 251
 252
 253
 254
 255
 256
 257
 258
 259
 260
 261
 262
 263
 264
 265
 266
 267
 268
 269
 270
 271
 272
 273
 274
 275
 276
 277
 278
 279
 280
 281
 282
 283
 284
 285
 286
 287
 288
 289
 290
 291
 292
 293
 294
 295
 296
 297
 298
 299
 300
 301
 302
 303
 304
 305
 306
 307
 308
 309
 310
 311
 312
 313
 314
 315
 316
 317
 318
 319
 320
 321
 322
 323
 324
 325
 326
 327
 328
 329
 330
 331
 332
 333
 334
 335
 336
 337
 338
 339
 340
 341
 342
 343
 344
 345
 346
 347
 348
 349
 350
 351
 352
 353
 354
 355
 356
 357
 358
 359
 360
 361
 362
 363
 364
 365
 366
 367
 368
 369
 370
 371
 372
 373
 374
 375
 376
 377
 378
 379
 380
 381
 382
 383
 384
 385
 386
 387
 388
 389
 390
 391
 392
 393
 394
 395
 396
 397
 398
 399
 400
 401
 402
 403
 404
 405
 406
 407
 408
 409
 410
 411
 412
 413
 414
 415
 416
 417
 418
 419
 420
 421
 422
 423
 424
 425
 426
 427
 428
 429
 430
 431
 432
 433
 434
 435
 436
 437
 438
 439
 440
 441
 442
 443
 444
 445
 446
 447
 448
 449
 450
 451
 452
 453
 454
 455
 456
 457
 458
 459
 460
 461
 462
 463
 464
 465
 466
 467
 468
 469
 470
 471
 472
 473
 474
 475
 476
 477
 478
 479
 480
 481
 482
 483
 484
 485
 486
 487
 488
 489
 490
 491
 492
 493
 494
 495
 496
 497
 498
 499
 500
 501
 502
 503
 504
 505
 506
 507
 508
 509
 510
 511
 512
 513
 514
 515
 516
 517
 518
 519
 520
 521
 522
 523
 524
 525

175

VOS
LISTED
NYSE

STOCK Building Supply®

a WOLSELEY company

ORDER NUMBER: 1000000000
ORDER DATE: 10/10/10
DELIVERY DATE: 10/10/10
ORDER TYPE: 1000000000
COUNTRY: 1000000000
CITY: 1000000000
TERMS: 1000000000
PRINTED: 10/10/10 10:00 AM
1. EXTRA CHARGE 1000000000

1000000000
1000000000
1000000000
1000000000
1000000000
1000000000
1000000000
1000000000

ORDER TO: 1000000000
2000000000
3000000000
4000000000

1000000000
1000000000
1000000000
1000000000

1000000000

1000000000

1000000000

1000000000

1000000000

1000000000

1000000000

1000000000

1000000000

1000000000

1000000000
1000000000
1000000000
1000000000
1000000000
1000000000
1000000000
1000000000

1000000000

1000000000

1000000000

1000000000

1000000000

1000000000

1000000000

1000000000

1000000000

1000000000

1000000000

1000000000

1000000000

1000000000

1000000000

1000000000

1000000000

1000000000

1000000000

1000000000

1000000000

1000000000

1000000000

1000000000

1000000000

1000000000

1000000000

1000000000

1000000000

1000000000

1000000000

3000
0100
70

8' x 60" - 480.00
doors 8 x 15" - 40.00
drawers 3 x 10" - 30.00

\$550.00

Mike Wise

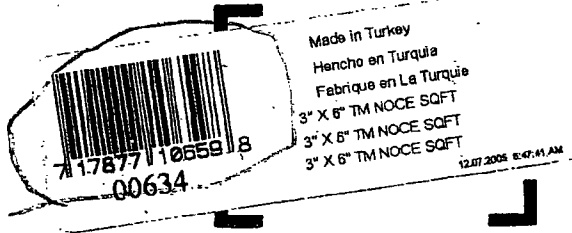
606-1455

PAID

71

CONTAINS APPROXIMATELY ONE SQFT
CONTIENT APPROXIMATIVEMENT UN PIED CARRE PAR BOITE
CONTIENE APROXIMADO UN PIE CUADRADO

173137



72

THE HOME DEPOT 1109
285 FORUM DRIVE / AGE AT SAND HILL
(803) 415-1336

1109 00005 79623 08/28/08
11 11P8DR 08:54 PM



000150862101 COMBO PK ST
001130-0001 DUMMYS LOCK
2012.07

00010704
00010704
00010704
00010704
00010704



RETURN POLICY DEFINITION
POLICY ID DATE POLICY F. DREN ON
1 90 11/22/2008

THE HOME DEPOT RESERVE THE RIGHT TO
AND THERE RETURNS IN THE
THE HOME DEPOT IN THE FOR
ELIATED.

NEED IT INSTALLED
1-800-HOMEDEPOT

WWW.HOMEDEPOT.COM/INSTALL

FINANCE
\$5,000
FOR GIFT
RD

Account complete
Account complete
Account complete

www.homedepot.com

REPARTIR EN UN
REPARTIR EN UN
UNA TARJETA DE
REGALO DE UN
DE \$5,000

Account complete
Account complete
Account complete

Account complete

User ID:
110644 159335

Password:
11428 159335

must be entered
must be 18
complete rules
purchase necessary

73

If you are not completely satisfied with your purchase, simply return it along with your original receipt to any Lowe's store within 90 days of purchase, unless a shorter return period is

and you may have additional rights which vary from state to state. The exclusions herein are subject to and may be limited by applicable law. Merchandise Credits will be issued for all other returns with valid receipts. Merchandise Credits will be issued for returns without valid receipts upon presentation of a valid I.D. (State Driver's License, State I.D. Card, or Military I.D.). We reserve the right to limit the number of returns permitted without valid receipts. These remedies are your exclusive remedies. All other remedies are hereby excluded. All warranties, express or implied, including the implied warranties of merchantability and fitness for a particular purpose are expressly excluded. The exclusions herein are subject to and may be limited by applicable law and you may have additional rights which vary from state to state.

- A credit to your in-house line of credit if your purchase was charged to an in-house line of credit.
- A Merchandise Credit that can be used to make future purchases will be issued for all other returns with valid receipts.
- Merchandise Credits will be issued for returns without valid receipts upon presentation of a valid I.D. (State Driver's License, State I.D. Card, or Military I.D.). We reserve the right to limit the number of returns permitted without valid receipts.



LOWE'S HOME CENTERS, INC.
2625 AUGUSTA RD
JESS, COLUMBIA, SC 29170
803/322-8885

-SALE-

SALES # 5095461-0-0035 08-15-08

73137 3XS NOCE TUMBLED MARBLE	90.74
13 2 6.58	
134401 ACRYLIC HIGH-GLOSS FINISH	11.97
253401 4X4 AZURA CLASSICO NOCE D	14.94
3 4 4.98	
233577 148 AZURA NOCE CHIARO 204	10.41
3 2 5.47	
47147 SANDED PF GROUT LATTE	11.96

SUBTOTAL: 146.02

TAX: 10.22

INVOICE 56294 TOTAL: 156.24

BALANCE DUE: 156.24

CASH: 160.00

CHANGE: 3.76

0499 TERMINAL: 56 08/15/08 13:48:33

* OF ITEMS PURCHASED *

74



LOWE'S HOME CENTER, INC.

27.9 AUGUST 00

NEW COLUMBIA, TN 38107

1803428-1 75

00000

SALES # 1045500 10000

10000 00

10000 00 10000 00

99.76

*Return
sheet*

99.76

8.90

10000 00 10000 00

108.74

53.37

CHARGE :

110.00

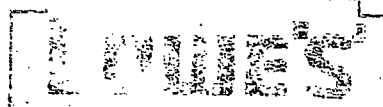
2.28

10000 00 10000 00

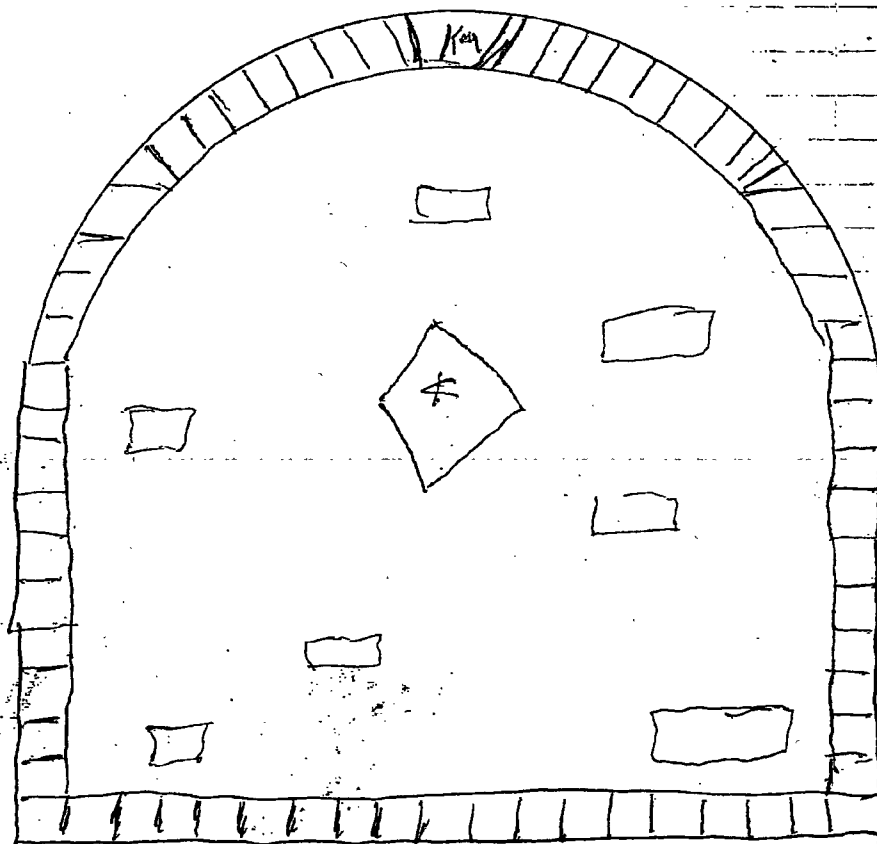
4 YEAR WARRANTY

2

10000 00 10000 00



2x Rope



28"

28"

K. S.

8/14/08

76



Just a note...

4 Gallon SANDING
SEALER
1 Gallon of Thinner
1 LEAF 220 Grit
SANDPAPER

67

10531NP

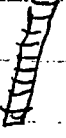
2. 10000 4 00
10000 5 00
10000 15 00
10000 21 00
10000 21 00

Net. \$ 57. 00

Lab. \$ 250. 00

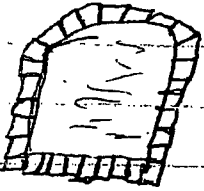
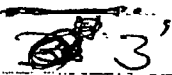
Rope

① 6. ⁹⁸ 210. ⁰⁰

②  Rope on End - - \$ 24. ⁰⁰

③ 1 - Bag Sanded Grout \$ 12. ⁰⁰

④ 64 ⁰² Grout enhancer 11. ⁰⁰

⑤ Durock  3' 2x sheets of durock \$ 18. ⁰⁰
 3'

⑥ Sp - \$ 50. ⁰⁰

Labor \$ 300. ⁰⁰ tile
 \$ 150. ⁰⁰ framing arch

tot. \$ 406. ⁰⁰

to \$ 526. ⁰⁰

932. ⁵⁰

Labor \$ 450. ⁰⁰

+ 17 %

79

425 Labor

~~93.00~~ Met

2000 17%

\$3.00

\$1.00

11/10/10 10/10/10 10/10/10

21.90

32.00

21.00

~~32.00~~



Just a note...

1 GALLON STAIN

1 GALLON SANDING SEALER

1 GALLON PAINT

1 GALLON PRIMER

100 COLON PUTTY

100 BUCKET OF DRY WALL MUD

SAND PAPER

NOTES

1 Gal. Sanding Slicker

1/4 ~~Gal~~ Thinner

220 sandpaper

1 Gal. Paint

1 quart of stain
putting same color

MEETINGS

PROJECTS

PRIORITY FINISHED

TASK LIST

17.86

82

189

[illegible]

SECRET

1. The first step is to identify the problem or question that needs to be answered. This involves understanding the context and the specific requirements of the task.

2. Next, it is important to gather relevant information and data. This can be done through research, consultation with experts, or by analyzing existing resources.

3. Once the information is gathered, the next step is to develop a plan or strategy. This involves breaking down the problem into smaller, manageable parts and determining the best approach to solve each part.

4. The fourth step is to implement the plan. This involves putting the strategy into action and monitoring progress as you go.

5. Finally, it is important to evaluate the results and make adjustments as needed. This involves comparing the actual outcomes with the expected results and identifying any areas for improvement.

Category	Sub-category	Value
Total	Overall	100.00
	Sub-total	100.00
Category 1	Sub-category 1.1	25.00
	Sub-category 1.2	75.00
Category 2	Sub-category 2.1	30.00
	Sub-category 2.2	70.00
Category 3	Sub-category 3.1	15.00
	Sub-category 3.2	85.00

84

NOTES

Money took up - 731. ⁵⁰

paid - Lumber - \$670. ⁵⁴

3/5/08 = 731. ⁵⁰
 670. ⁵⁴
 \$60. ⁹⁶

Threshold 3/6/08 - \$80. ³¹
 Taper - outdoor carpet 3/6/08 - \$77. ⁰⁰
 Carpet Adhesive 3/6/08 - \$6. ³⁸
 3x4x8 LAUAN 1/4" 3/6/08 - \$34. ⁵⁴
 = 138. ²³
 = 60. ²⁰

Over Spent → 77. ²⁷
 3/7/08 Tran - 7/31-0 - \$14. ⁸⁸
 3/7/08 Stronguard - \$52. ⁴⁰
 over spent → \$144. ⁵⁸
 over spent 85. ⁶¹

\$230. ¹⁶

MEETINGS

1:00 - 2:00 B-bby -
 3/10/08

PROJECTS

1. - 1st Ramp
 1st
 1-2002

Total COAST \$1199. ⁰⁵

PRIORITY FINISHED

TASK LIST

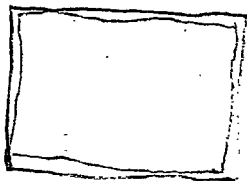
Ellen Entenay

Lobar - \$237. ⁰⁰

total over spent \$

\$467. ⁵⁵

Door

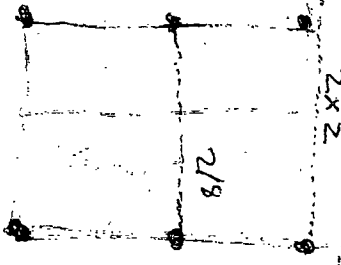


Door
32

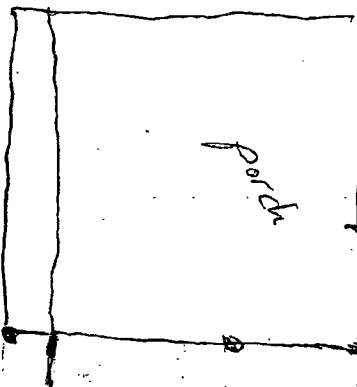
75"

35 1/2"

77 1/2"



16
2x8



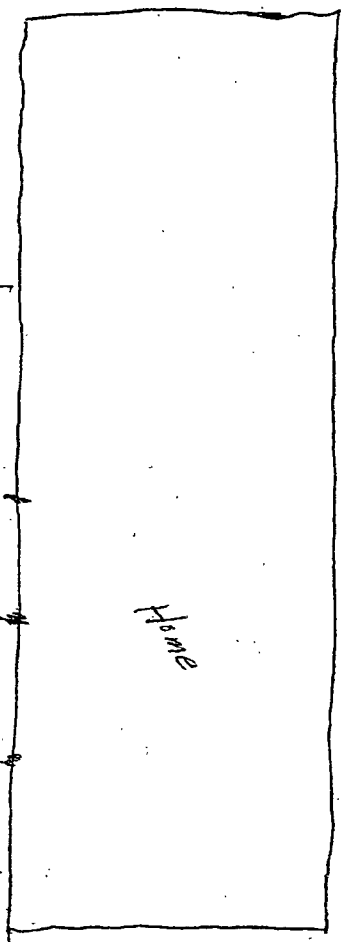
Door

2x8

50 1/2" +
2x6

2x2
2x8

2x8



Home

87

394 4986

~~15x2x8~~

Treated

1 x 2x8x8'

15x 4x4x8' post

8 x 2x8x16'

4 x 2x8x10'

16 x 2x4x16'

25x 5'1/4 flooring x 12'

4x 5'1/4 flooring x 16'

2x 2x4x10'

1x 2x6x16'

1x 2x4x12'

10' Len EI

2x2

3mm 11" 1-Box

3" 120 Gal Nail

1-Box

2 3/8" 113 Gal Nail - 2,000

5x Bag 40 ^{LB} Sack Greet

88

1 Ramp 16x20x4 1/2"
 ✓ 10x5 1/4 Flange
 ✓ 2x 4x4x8 post
 ✓ 2x2x4x10

Flat

✓ 4x2x4x10
 ✓ 1x2x4x10
 ✓ 2x2x4x10
 ✓ 1x2x4x10
 ✓ 5x5 1/4 Flange
 ✓ 2x 4x4x8 post
 ✓ 2x 2x4x10

2 Ramp 16x20x4 1/2"
 ✓ 12x5 1/4x10
 Flange
 ✓ 5x2x4x10
 ✓ 5x4x4x8 post

Proposal

Page # _____ of _____ pages

Fenny Smith
His People Carpentry
1442 Hwy #6
Eaton S.C. 29053

303-515-2457

Proposal Submitted To: <u>Bill Byrd</u>	Job Name: <u>Byrd - Repair</u>	Job #: <u>9</u>
Address: <u>1179 Point View</u>	Job Location: <u>Same</u>	
<u>Chapin S.C. 29036-7925</u>	Date: <u>4/28/09</u>	Date of Plans
Phone #: <u>853-781-7112</u>	Fax #: <u>432-225-6597</u>	Architect

We hereby submit specifications and estimates for:

To replace complete floor
in Sunroom. Take up old flooring
and remove off job site.
Replace with 3/4 OSB TG Board.

That will be the complete for
His People Carpentry's labor.

Bal. 00 Paid \$ 1500.00
2140. 7/16/09

We propose hereby to furnish material and labor — complete in accordance with the above specifications for the sum of:

\$ 3640 50% down - total _____ Dollars
with payments to be made as follows: at 100% Complete

Any alteration or deviation from above specifications involving extra costs will be executed only upon written order, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents, or delays beyond our control.

Respectfully
submitted

Note — this proposal may be withdrawn by us if not accepted within _____ days.

Acceptance of Proposal

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified.
Payments will be made as outlined above.

Date of Acceptance

Signature

Signature

Proposal

Page # _____ of _____ pages

Fenny Smith - 518-0055

1442 Hwy #6 Gaston S.C. 29053

Proposal Submitted To: <i>Bill Byrd</i>	Job Name	Job # <i>1</i>
Address <i>1179 Point View</i>	Job Location <i>1179 Point View Hilton S.C.</i>	
<i>Hilton S.C.</i>	Date	Date of Plans
Phone # <i>(803) 781-7112</i>	Fax # <i>Cell 315-1872</i>	Architect

We hereby submit specifications and estimates for:

*To Repair Roof Damage and cornice
and siding complete with painting*

+ 75.00 painting

11/18/08

\$ 3075.00

*PAID in Full
T.S.*

We propose hereby to furnish material and labor — complete in accordance with the above specifications for the sum of:

\$ *3000.00* Dollars

with payments to be made as follows: *as work is complete draw if extra costs or material is being held up.*

Any alteration or deviation from above specifications involving extra costs will be executed only upon written order, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents, or delays beyond our control.

Respectfully submitted *Fenny Smith*

Note — this proposal may be withdrawn by us if not accepted within _____ days.

Acceptance of Proposal

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payments will be made as outlined above.

Signature *William A. Byrd*

Date of Acceptance *11/17/08*

Signature _____



LOWE'S HOME CENTERS, INC.
5570 PLATT SPRINGS ROAD
LEXINGTON, SC 29073
(803)808-5460

-SALE-

SALES #: S2967GB1 1333020 07-22-09

43681 1/4" FLAT WASHER ZINC (25	2.38
280427 KOBALT 7PK 2" BITS PHILLI	7.94
2 @	3.97
9470 3" DECK SCREW 5LB-10 YEAR	28.24
18284 2 1/2" DECK SCREW 5# 10YR	28.24
63312 HEX BOLTS 1/4 - 20	0.16
67340 GALV 1/4 HEX NUT	0.26
2 @	0.13
63315 HEX BOLTS 1/4	0.21
161485 23/32 4X8 ARAUCO PLYWOOD	369.60
10 @	36.96
12212 7/16IN X 4FT X 8FT OSB SH	9.54
2 @	4.77

SUBTOTAL:	446.57
TAX:	31.26
INVOICE 01336 TOTAL:	477.83

BALANCE DUE: 477.83

CASH :	500.00
CHANGE :	22.17

2967 TERMINAL: 01 07/22/09 09:28:36

OF ITEMS PURCHASED: 21
EXCLUDES FEES, SERVICES AND SPECIAL ORDER ITEMS



THANK YOU FOR SHOPPING LOWE'S
RECEIPT REQUIRED FOR CASH REFUND.
CHECK PURCHASE REFUNDS REQUIRE
15 DAY WAIT PERIOD FOR CASH BACK.
STORE MGR: DERICK DIEHL

HAVE A COMMENT OR FEEDBACK? LET US KNOW AT:
WWW.LOWES.COM/FEEDBACK
STORE CODE: 29670-72209-01336

92

Bid Estimate

Monday, March 09, 2009
12:33 PM

Job #2

HIS PEOPLE CARPENTRY LLC
1442 HWY 6
GASTON, SC 29053
803-518-0055
OWNER: KENNY SMITH

TAKE UP FLOORING VINYL 2 FT FROM THE OUTSIDE WALL.

REPLACE THE WOOD STRUCTURE IF DAMAGED 2 FT FROM
OUTSIDE WALL.

ANY ALTERATION OR DEVIATION FROM ABOVE SPECIFICATIONS
INVOLVING EXTRA COST WILL BE SUPPLIED WITH WRITTEN
ORDER AND WILL HAVE EXTRA CHARGE ABOVE THE STATEMENT.

LABOR: \$1500.00
MATERIAL: \$275.00

\$ 1775.00
+ 17%

\$2076.75

RESPECTFULLY SUBMITTED,

KENNY SMITH/HIS PEOPLE CARPENTRY LLC

For Pricing
About 10:00
AM

93

New Section 1 Page 1
New Section 1 Page 1

Job #1

~~3075~~
~~618 Labor~~
2457

347.²⁵ Met.

2110.⁰

50.⁰⁰ GAS

His People Carpentry # 2060.⁰⁰

Bill Byrd

11/18/08

David Shanks
Dove Gray

C.C. Builders
736-5008

95

1st ~~2nd~~ Taking off shingle mole
and Replacing it with 2X6 and shingle
mole on back porch 00
\$ 300

2nd Repairing Trim over window on
front and shingle Mole on
back 00
275

00
625

Cost plus 50%
525

96

INVOICE

Kenny Smith
1442 Hwy #6 Gaston S.C.
29053

936631

SOLD TO		SHIP TO	
ADDRESS		ADDRESS	
CITY, STATE, ZIP		CITY, STATE, ZIP	
CUSTOMER ORDER NO.	SOLD BY	TERMS	F.O.B.
	Kenny Smith		
		DATE	
		9/15/08	
ORDERED	SHIPPED	DESCRIPTION	PRICE
			UNIT
			AMOUNT
		1 st Home - 350. ⁰⁰	
		2 nd Home - 275. ⁰⁰	
		total - 625. ⁰⁰	

5840

97



Halley's Fax #

788-3971

P.O. Box 24164

CA 92224

Halley Homes

www.lafargenorthamerica.com

98

Proposal

Page # _____ of _____ pages

Kenny Smith
His People Carpentry

Proposal Submitted To: <i>George Maggie Wright</i>	Job Name: <i>Garges</i>	Job #: <i>1</i>
Address: <i>659 Sharon Church Road</i>	Job Location: <i>659 Sharon Church Rd.</i>	
<i>Easton S.C. 29053</i>	Date: <i>1-29-08</i>	Date of Plans: _____
Phone #: <i>803-894-0208</i>	Fax #: _____	Architect: <i>Kenny Smith</i>

We hereby submit specifications and estimates for:

Front porch 10' x 18' Roofing, cornice, soffit, ceiling and railing

With a 10 year Warranty on all Labor not including weather damage or person's damage or by the lack of maintenance.

*PAID
in full*

We propose hereby to furnish material and labor — complete in accordance with the above specifications for the sum of:

\$ *3500.* Dollars

with payments to be made as follows: *\$1700.00 at start \$1800.00 at finish*

Any alteration or deviation from above specifications involving extra costs will be executed only upon written order, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents, or delays beyond our control.

Respectfully submitted

Note — this proposal may be withdrawn by us if not accepted within _____ days.

Acceptance of Proposal

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payments will be made as outlined above.

Signature

Date of Acceptance _____

Signature _____

2x6 SAVE 336. 00

① 2x6 Floor Joist - 1 1/2" short of
2nd code

② Window size —

100

Floor

Ceil	4x2x8x 12'	ea. \$ 15. ⁰⁰	\$ 60.
Joist	20x2x8x 10'	ea. \$ 11. ⁰⁰	\$ 220.
Ramp	3x2x6x 8'	ea \$ 8. ⁰⁰	\$ 24.
Glue		ea \$ 5. ⁶⁰	\$ 10.
Nails	3" Gal	ea \$ 75. ⁰⁰	\$ 75.
	2 3/8 Gal	ea 85. ⁰⁰	\$ 85.

3/4 Treated Plywood ea 35.⁰⁰ \$ 559.
 + 400.
 \$ 959.
 + 20%
 * * * \$ 1150.

Walls

①	30x2x4x 12' x	ea 5. ⁰⁰	\$ 150.
②	8x OSB	ea 7. ⁰⁰	\$ 56.
③	2x Window	ea 75. ⁰⁰	\$ 150.
④	Door	ea 150.	\$ 150.
	+ 20%	* * * *	\$ 506.

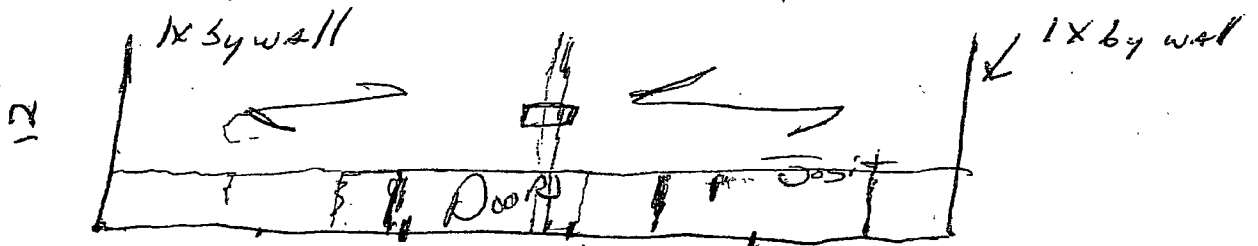
Ceiling - 8x OSB - 56.⁰⁰
 * * + 20% 67.²⁰

Foundations - 2 Bags S. Cement 8.⁰⁰
 1x 4x4x8 post 7.⁰⁰
 * + 20% \$ 18.⁰⁰

Total mat. \$ 17.⁴⁴ / Labor 1152.⁰⁰
 1169.⁴⁴

Mr. Wright

Flooring



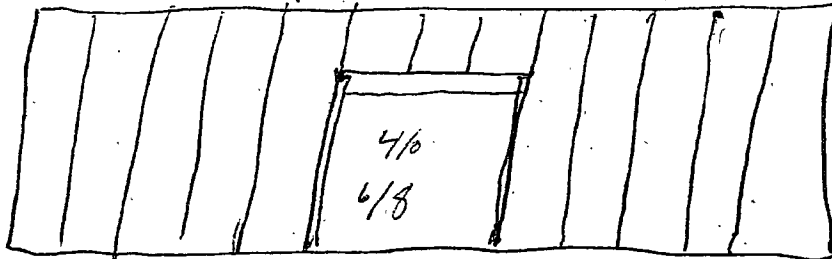
D. 2x6 19' 7"

4x2x4x12' ceil

20x2x6x10' 4/0 x 6/8

Big end for Lumber

↓ wall



19-9-

16-4

Walls 25x2x4x10'

Wall siding ?

OSB and Vintle

met 250.00

Price

4/0 Door

2x6x12

2x4x10

102

BRICKER/BREWER RESIDENCE

1. 30 x 2 x 12 x 16'
2. 15 x 2 x 12 x 14'
3. 35 x 2 x 12 x 12'
4. 15 x 2 x 12 x 10'

2 x 10 joist 16" on center

5. 20 x 2 x 10 x 14'
6. 75 x 2 x 10 x 12'
7. 20 x 2 x 10 x 10'
8. 15 x 2 x 10 x 8'

flooring for steps

9. 65 x 1 1/4 x 5 1/2 x 12'
10. 15 x 1 1/4 x 5 1/2 x 16'
11. 120 sheets 3/4 plywood
12. 500 len. Ft 2 x 2
13. 2 x boxes paseload air gun nails
14. 8000 3" exterior screws galvanized
15. 17 x 4 x 4 x 12'
16. 6 x 2 x 4 x 16'
17. 10 x 2 x 4 x 12
18. 105 x pickets 30"
19. 2 x cases sub floor glue

7770.22

103

Brewer Residence

2x12 C-eil

- ① 30x 2x12 x 16'
- ② 15x 2x12 x 14'
- ③ 35x 2x12 x 12'
- ④ 15x 2x12 x 10'

2x10 Joist 16" on center

- ⑤ 20x 2x10 x 14'
- ⑥ 75x 2x10 x 12'
- ⑦ 20x 2x10 x 10'
- ⑧ 15x 2x10 x 8'

Flooring for steps,

- ⑨ 65x 1 1/4 x 5 1/2 x 12'
- ⑩ 15x 1 1/4 x 5 1/2 x 16'

- ⑪ 120 sheet's 3/4 ply wood
- ⑫ 500 Lw. ^{FT} 2x2
- ⑬ 2x Box's Paseload Air Gun Nails
3" Hot Dipped Galvanized
- ⑭ 8000 3" Exterior Screws
Galvanized

- ⑮ 17x 4x4 x 12'
- ⑯ 6x 2x4 x 16'
- ⑰ 10x 2x4 x 12'
- ⑱ 30"

⑲ 2x CASE's
Sub floor Blue

104

12/12/07

Labor Cost

① 425 per sq Ft with 2x12
ceiling

$$\begin{array}{r} 1600 \\ \times 4.25 \\ \hline \$ 6800 \end{array}$$

② Balcony Stairs and platform with
stairs - \$ 300.⁰⁰

③ 2nd floor of 3/4 plywood
\$400.⁰⁰

④ Extra set of stairs by fireplace
5' wide \$ 100.⁰⁰

⑤ Screened Porch pickets Railing
\$ 250.⁰⁰

Total \$ 7850.⁰⁰

105

FAX COVER SHEET

HIS PEOPLE CARPENTRY LLC
 970 MEADOWFIELD RD
 Address (line 2)
 GASTON, SC 29053
 Country
 803-518-0055
 803-755-0374

SEND TO Company name	From KENNETH SMITH
Attention DEBRA AND JOE	Date 12-12-2007
Office location	Office location GASTON, SC
Fax number 803-782-2292	Phone number 803-755-0374

☐ Urgent
 ☐ Reply ASAP
 ☐ Please comment
 ☒ Please review
 ☐ For your information

Total pages, including cover: 3

COMMENTS

THANKYOU FOR YOUR BUSINESS, AND IF YOU HAVE ANY QUESTIONS, PLEASE

FEEL FREE TO CALL ME AT ANY TIME. IT IS A PLEASURE DOING BUSINESS WITH YOU

106

Labor cost

1. 425 per sq ft with 2 x 12 ceil

1600
x 4.25

\$ 6800.00

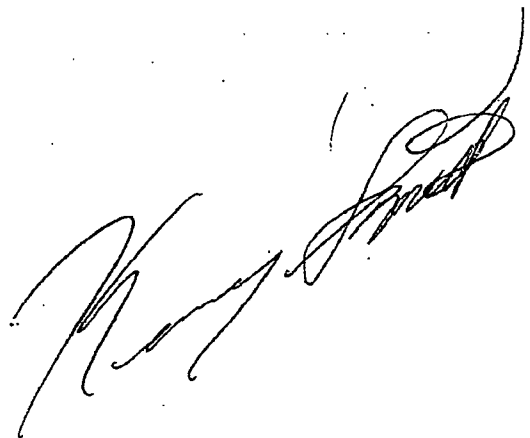
2. Balcony stairs and platform with stairs - \$ 300.00
3. 2nd layer of $\frac{3}{4}$ plywood \$ 400.00
4. Extra set of stairs by fire place 5' wide \$ 100.00 + 200.⁰⁰ Extra
5. Screened porch pickets railing \$ 250.00

Total : \$7850.00

585.⁰⁰
+ 200.⁰⁰ Extra
100.⁰⁰ steps masterbed room
200.⁰⁰ setting Post

\$ 1085.⁰⁰

4/4/08



107

South Carolina Workers' Compensation Commission
P.O. Box 1715 - 1333 Main Street, Suite 500
Columbia, South Carolina 29202-1715

WCC File # 1104798
Carrier File# _____
Carrier Code# _____
Employer FEIN _____

Kenneth C. Smith 251-17-9487
Claimant's Name SSN

Marion Builders Group, LLC
Employer's Name

1442 Highway 6, Gaston SC 29053
Address City State Zip

300 Wilson Bridge Rd., Fountain Inn, SC 29644
Address City State Zip

Home Phone # _____ Work Phone # _____

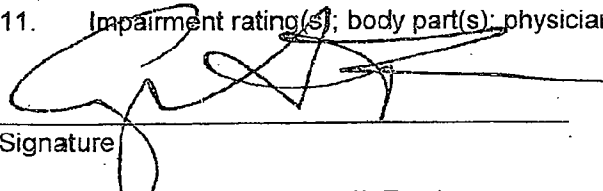
Builders Mutual Ins. Co.
Insurance Carrier

George A. Taylor, Esquire
Preparer's Name

(803) 404-6900
Phone #

Provide the information requested in the space provided. Use an additional sheet, if necessary.
[X] Injury by accident [] Occupational Disease [] Injury by Both Accident and Disease [] Other

1. Date of accident: 04/04/2011 2. AWW: \$408.00 Comp. Rate: \$272.01
3. Type of Injury: Right wrist, elbow, spine, neck, ribs, mouth, psyche.
4. Facts in Controversy: (1) Extent of impairment and disability; and (2) Wages paid by employer.
5. Legal issues involved: (1) Entitlement to permanent disability benefits; and (2) Compensation rate.
6. Unusual problems: None.
7. Witnesses (designate if expert)*: (1) Representative of the Employer, Jonathan Long; (2) Defendants reserve the right to call any witness identified by the Claimant.
8. Exhibits: (1) 2011 Income Tax Return; (2) Deposition of Claimant.
9. Medical evidence: See attached Notice of Witnesses and APA Submissions.
10. Name, address, and specialty, if any, of the treating physician: Michael J. Palmer, MD, The Hand Center, 1011 Frontage Rd., Greenville, SC 29615; Kelby Hutchinson, MD, Carolinas Center for Advanced Pain Management of Pain, 109 Midlands Court, Ste B., West Columbia, SC 29169.
11. Impairment rating(s); body part(s); physician and date of opinion: N/A.


Signature

10/12/2012
Date

On Behalf of: [] Claimant [X] Employer

DATE OF HEARING: October 24, 2012

TIME NEEDED FOR HEARING: 1 hour

File this form and proof of service on the opposing party according to R. 67-611 and R. 67-212.
WCC Form #58

Pre-Hearing Brief

BEFORE THE SOUTH CAROLINA
WORKERS COMPENSATION COMMISSION

W.C.C. File No. 1104798

Kenneth C. Smith,

Claimant,

-vs-

Marion Builders Group, LLC,

Employer,

-and-

Builders Mutual Insurance Company,

Carrier/Defendants.

**DEFENDANTS' NOTICE OF WITNESSES
AND APA SUBMISSIONS**

<u>TABS</u>	<u>NAME OF PHYSICIAN/OTHER</u>	<u>DATES OF REPORTS</u>	<u>APA PAGE NO.</u>

As submitted by the Claimant.

EXHIBITS:

1. 2011 Income Tax Return.
2. Deposition Transcript of Claimant.

WITNESSES:

1. Representative of Employer, Jonathan Long.
2. Defendants reserve the right to call any witness identified by the Claimant.



CALLISON TIGHE & ROBINSON, LLC

George A. Taylor

Post Office Box 1390

Columbia, South Carolina 29202

(803) 404-6900

ATTORNEYS FOR DEFENDANTS

Columbia, South Carolina

October 12, 2012

For the year Jan. 1-Dec. 31, 2011, or other tax year beginning

, 2011, ending

, 20

See separate instructions.

Your first name and initial

Last name

Your social security number

KENNETH C
If a joint return, spouse's first name and initial

SMITH
Last name

251-17-9487
Spouse's social security number

Home address (number and street). If you have a P.O. box, see instructions.

Apt. no.

Make sure the SSN(s) above and on line 6c are correct.

1442 HWY 6
City, town or post office, state, and ZIP code. If you have a foreign address, also complete spaces below (see instructions).

GASTON
Foreign country name

SC
Foreign province/county

29053
Foreign postal code

Presidential Election Campaign
Check here if you, or your spouse if filing jointly, want \$3 to go to this fund. Checking a box below will not change your tax or refund.
☐ You ☐ Spouse

Filing Status

- 1 ☐ Single
2 ☐ Married filing jointly (even if only one had income)
3 ☐ Married filing separately. Enter spouse's SSN above and full name here.

4 ☒ Head of household (with qualifying person). (See instructions.) If the qualifying person is a child but not your dependent, enter this child's name here.

5 ☐ Qualifying widow(er) with dependent child

Exemptions

- 6a ☒ Yourself. If someone can claim you as a dependent, do not check box 6a
b ☐ Spouse

c Dependents:

(1) First name	Last name	(2) Dependent's social security number	(3) Dependent's relationship to you	(4) If child under age 17 qualifying for child tax credit (see instructions)
KAYLI	SMITH	655-20-5652	DAUGHTER	☒
KENNETH	SMITH	655-16-9700	SON	☒
KARLI	SMITH	655-16-9699	DAUGHTER	☒

If more than four dependents, see instructions and check here ☐

Boxes checked on 6a and 6b

No. of children on 6c who:

☒ lived with you

☐ did not live with you due to divorce or separation (see instructions)

Dependents on 6c not entered above

Add numbers on lines above

1

3

4

d Total number of exemptions claimed

Income

- 7 Wages, salaries, tips, etc. Attach Form(s) W-2
8a Taxable interest. Attach Schedule B if required
b Tax-exempt interest. Do not include on line 8a
9a Ordinary dividends. Attach Schedule B if required
b Qualified dividends
10 Taxable refunds, credits, or offsets of state and local income taxes
11 Alimony received
12 Business income or (loss). Attach Schedule C or C-EZ
13 Capital gain or (loss). Attach Schedule D if required. If not required, check here
14 Other gains or (losses). Attach Form 4797
15a IRA distributions
16a Pensions and annuities
17 Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E
18 Farm income or (loss). Attach Schedule F
19 Unemployment compensation
20a Social security benefits
21 Other income
22 Combine the amounts in the far right col for lines 7 through 21. This is your total income

7

8a

8b

9a

9b

10

11

12

13

14

15a

15b

16a

16b

17

18

19

20a

20b

21

22

20,157

20,157

Adjusted Gross Income

- 23 Educator expenses
24 Certain business expenses of reservists, performing artists, and fee-basis government officials. Attach Form 2106 or 2106-EZ
25 Health savings account deduction. Attach Form 8889
26 Moving expenses. Attach Form 3903
27 Deductible part of self-employment tax. Attach Schedule SE
28 Self-employed SEP, SIMPLE, and qualified plans
29 Self-employed health insurance deduction
30 Penalty on early withdrawal of savings
31a Alimony paid b Recipient's SSN
32 IRA deduction
33 Student loan interest deduction
34 Tuition and fees. Attach Form 8917
35 Domestic production activities deduction. Attach Form 8903
36 Add lines 23 through 35
37 Subtract line 36 from line 22. This is your adjusted gross income

23

24

25

26

27

28

29

30

31a

32

33

34

35

1,424

23

24

25

26

27

28

29

30

31a

32

33

34

35

36

37

1,424

18,733

For Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see separate instructions.

EEA

Form 1040 (2011)

Tax and Credits

Standard Deduction for -

- ⊙ People who check any box on line 39a or 39b or who can be claimed as a dependent, see instructions.
- ⊙ All others:
 - Single or Married filing separately, \$5,800
 - Married filing jointly or Qualifying widow(er), \$11,600
 - Head of household, \$8,500

38	Amount from line 37 (adjusted gross income)		
39a	Check ☐ You were born before January 2, 1947, if: ☐ Spouse was born before January 2, 1947,	☐ Blind.	Total boxes ☐ 39a
b	If your spouse itemizes on a separate return or you were a dual-status alien, check here	☐ Blind. checked	☐ 39b
40	Itemized deductions (from Schedule A) or your standard deduction (see left margin)		
41	Subtract line 40 from line 38		
42	Exemptions. Multiply \$3,700 by the number on line 6d		
43	Taxable income. Subtract line 42 from line 41. If line 42 is more than line 41, enter -0-		
44	Tax (see instructions). Check if any from: a. ☐ Form(s) 9814 b. ☐ Form 9972 c. ☐ 9972		
45	Alternative minimum tax (see instructions). Attach Form 6251		
46	Add lines 44 and 45		
47	Foreign tax credit. Attach Form 1116 if required	47	
48	Credit for child and dependent care expenses. Attach Form 2441	48	
49	Education credits from Form 8863, line 23	49	
50	Retirement savings contributions credit. Attach Form 8880	50	
51	Child tax credit (see instructions)	51	
52	Residential energy credits. Attach Form 5695	52	
53	Other credits from Form: a. ☐ 3800 b. ☐ 8801 c. ☐	53	
54	Add lines 47 through 53. These are your total credits		
55	Subtract line 54 from line 46. If line 54 is more than line 46, enter -0-		

Other Taxes

Payments

If you have a qualifying child, attach Schedule EIC.

61	Add lines 55 through 60. This is your total tax	62	
62	Federal income tax withheld from Forms W-2 and 1099	63	
63	2011 estimated tax payments and amount applied from 2010 return	64a	5,322
64a	Earned income credit (EIC)	64b	
b	Nontaxable combat pay election	65	2,360
65	Additional child tax credit. Attach Form 8812	66	
66	American opportunity credit from Form 8863, line 14	67	
67	First-time homebuyer credit from Form 5405, line 10	68	
68	Amount paid with request for extension to file	69	
69	Excess social security and tier 1 RRTA tax withheld	70	
70	Credit for federal tax on fuels. Attach Form 4136	71	
71	Credits from Form: a ☐ 2439 b ☐ 8839 c ☐ 8801 d ☐ 8885		
72	Add lines 62, 63, 64a, and 65 through 71. These are your total payments		

Refund

Direct deposit?
See
instructions.

72 Add lines 62, 63, 64a, and 65 through 71. These are your total payments.

73 If line 72 is more than line 61, subtract line 61 from line 72. This is the amount you overpaid.

74a Amount of line 73 you want refunded to you. If Form 8888 is attached, check here
☐ Type: ☐ Checking ☐ Savings

b Routing number

d Account number

75 Amount of line 73 you want applied to your 2012 estimated tax **75**

If you have any questions about how to pay, see Instructions.

Amount
You Owe

**Third Party
Designee**

Do you want to allow another person to discuss this return with the IRS (see instructions)?

Designee's name ▶	Phone no. ▶	Personal identification number (PIN) ▶						
		<table border="1" style="display: inline-table; vertical-align: middle;"><tr><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td></tr></table>						

I am filing this return as the preparer of this return, or I am authorized to prepare this return, and in the best of my knowledge and belief,

Sign

Here
Joint return? See
instructions. 
Keep a copy
for your
records.

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.			
Your signature 79487	Date 04-17-2012	Your occupation CONSTRUCTION	Daytime phone number 803-476-5482
Spouse's signature. If a joint return, both must sign.	Date	Spouse's occupation	Identity Protection PIN (see inst.)
Preparer's signature	Date 05-03-2012	Check ☒ if self-employed	PTIN P00080248

**Paid
Preparer
Use Only**

Doris W Simmons		03-03-2012
PrintType preparer's name	Doris W Simmons	Firm's EIN ▶ 20-0060757
Firm's name ▶	SWANSEA TAX SERVICE LLC	Phone no. 803-568-5739 Form 1040 (2011)
Firm's address ▶	P O Box 432 Swansea, SC 29160-0432	

SCHEDULE C
(Form 1040)

Department of the Treasury
Internal Revenue Service (99)

Profit or Loss From Business

(Sole Proprietorship)

► For information on Schedule C and its instructions, go to www.irs.gov/schedulec
► Attach to Form 1040, 1040NR, or 1041; partnerships generally must file Form 1035.

OMB No. 1545-0074

2011

Attachment
Sequence No. **09**

Name of proprietor KENNETH C SMITH	Social security number (SSN) 251-17-9487
A Principal business or profession, including product or service (see instructions) CONSTRUCTION	B Enter code from instructions ► 238130
C Business name. If no separate business name, leave blank.	D Employer ID number (EIN), (see instr.)

E Business address (including suite or room no.) City, town or post office, state, and ZIP code	► SAME GASTON SC 29053
F Accounting method: (1) ☒ Cash (2) ☐ Accrual (3) ☐ Other (specify) ►	☒ Yes ☐ No
G Did you "materially participate" in the operation of this business during 2011? If "No," see instructions for limit on losses	☐ Yes ☒ No
H If you started or acquired this business during 2011, check here	☐ Yes ☒ No
I Did you make any payments in 2011 that would require you to file Form(s) 1099? (see instructions)	☐ Yes ☒ No
J If "Yes," did you or will you file all required Forms 1099?	☐ Yes ☒ No

Part I Income

1 a Merchant card and third party payments. For 2011, enter -0-	1a	0	
b Gross receipts or sales not entered on line 1a (see instructions)	1b	25,125	
c Income reported to you on Form W-2 if the "Statutory Employee" box on that form was checked. Caution. See instr. before completing this line	1c		
d Total gross receipts. Add lines 1a through 1c	1d	25,125	
2 Returns and allowances plus any other adjustments (see instructions)	2	0	
3 Subtract line 2 from line 1d	3	25,125	
4 Cost of goods sold (from line 42)	4		
5 Gross profit. Subtract line 4 from line 3	5	25,125	
6 Other income, including federal and state gasoline or fuel tax credit or refund (see instructions)	6		
7 Gross income. Add lines 5 and 6	7	25,125	

Part II Expenses

Enter expenses for business use of your home only on line 30.

8 Advertising	8		18 Office expense (see instructions)	18	45
9 Car and truck expenses (see instructions)	9	1,983	19 Pension and profit-sharing plans	19	
10 Commissions and fees	10		20 Rent or lease (see instructions):		
11 Contract labor (see instructions)	11		a Vehicles, machinery, and equipment	20a	147
12 Depletion	12		b Other business property	20b	
13 Depreciation and section 179 expense deduction (not included in Part III) (see instructions)	13		21 Repairs and maintenance	21	
14 Employee benefit programs (other than on line 19)	14		22 Supplies (not included in Part III)	22	333
15 Insurance (other than health)	15	1,575	23 Taxes and licenses	23	125
16 Interest:			24 Travel, meals, and entertainment:		
a Mortgage (paid to banks, etc.)	16a		a Travel	24a	
b Other	16b		b Deductible meals and entertainment (see instructions)	24b	
17 Legal and professional services	17	205	25 Utilities	25	555
28 Total expenses before expenses for business use of home. Add lines 8 through 27a	28		26 Wages (less employment credits)	26	
29 Tentative profit or (loss). Subtract line 28 from line 7	29		27 a Other expenses (from line 48)	27a	
30 Expenses for business use of your home. Attach Form 8829. Do not report such expenses elsewhere	30		b Reserved for future use	27b	
31 Net profit or (loss). Subtract line 30 from line 29.	31	20,157	28	4,968	
◦ If a profit, enter on both Form 1040, line 12 (or Form 1040NR, line 13) and on Schedule SE, line 2.			29	20,157	
◦ If you entered an amount on line 1c, see instr. Estates and trusts, enter on Form 1041, line 3.			30		
◦ If a loss, you must go to line 32.					
32 If you have a loss, check the box that describes your investment in this activity (see instructions).			31	20,157	
◦ If you checked 32a, enter the loss on both Form 1040, line 12, (or Form 1040NR, line 13) and on Schedule SE, line 2. If you entered an amount on line 1c, see instructions for line 31.			32a	☐ All investment is at risk.	
Estates and trusts, enter on Form 1041, line 3.			32b	☐ Some investment is not at risk.	
◦ If you checked 32b, you must attach Form 6198. Your loss may be limited.					

For Paperwork Reduction Act Notice, see your tax return instructions.

EEA

Schedule C (Form 1040) 2011

Schedule C (Form 1040) 2011 **CONSTRUCTION 238130**

Name(s)

SSN

251-17-9487

KENNETH C SMITH**Part III Cost of Goods Sold** (see instructions)

- 33 Method(s) used to value closing inventory: a ☐ Cost b ☐ Lower of cost or market c ☐ Other (attach explanation)
- 34 Was there any change in determining quantities, costs, or valuations between opening and closing inventory? ☐ Yes ☐ No
If "Yes," attach explanation
- 35 Inventory at beginning of year. If different from last year's closing inventory, attach explanation
- 36 Purchases less cost of items withdrawn for personal use
- 37 Cost of labor. Do not include any amounts paid to yourself
- 38 Materials and supplies
- 39 Other costs
- 40 Add lines 35 through 39
- 41 Inventory at end of year
- 42 Cost of goods sold. Subtract line 41 from line 40. Enter the result here and on line 4

Part IV Information on Your Vehicle. Complete this part only if you are claiming car or truck expenses on line 9 and are not required to file Form 4562 for this business. See the instructions for line 13 to find out if you must file Form 4562.

- 43 When did you place your vehicle in service for business purposes? (year, month, day) ▶ 1997-02-05
- 44 Of the total number of miles you drove your vehicle during 2011, enter the number of miles you used your vehicle for:
- a Business 3,889 b Commuting (see instructions) c Other
- 45 Was your vehicle available for personal use during off-duty hours? ☒ Yes ☐ No
- 46 Do you (or your spouse) have another vehicle available for personal use? ☒ Yes ☐ No
- 47 a Do you have evidence to support your deduction? ☒ Yes ☐ No
- b If "Yes," is the evidence written?

Part V Other Expenses. List below business expenses not included on lines 8-26 or line 30.

- 48 Total other expenses. Enter here and on line 27a

EEA

Schedule C (Form 1040) 2011

SCHEDULE SE
(Form 1040)

Department of the Treasury
Internal Revenue Service (99)

Self-Employment Tax

▶ Attach to Form 1040 or Form 1040NR.

▶ See separate instructions.

OMB No. 1545-0074

2011

Attachment
Sequence No. **17**

Name of person with self-employment income (as shown on Form 1040)
KENNETH C SMITH

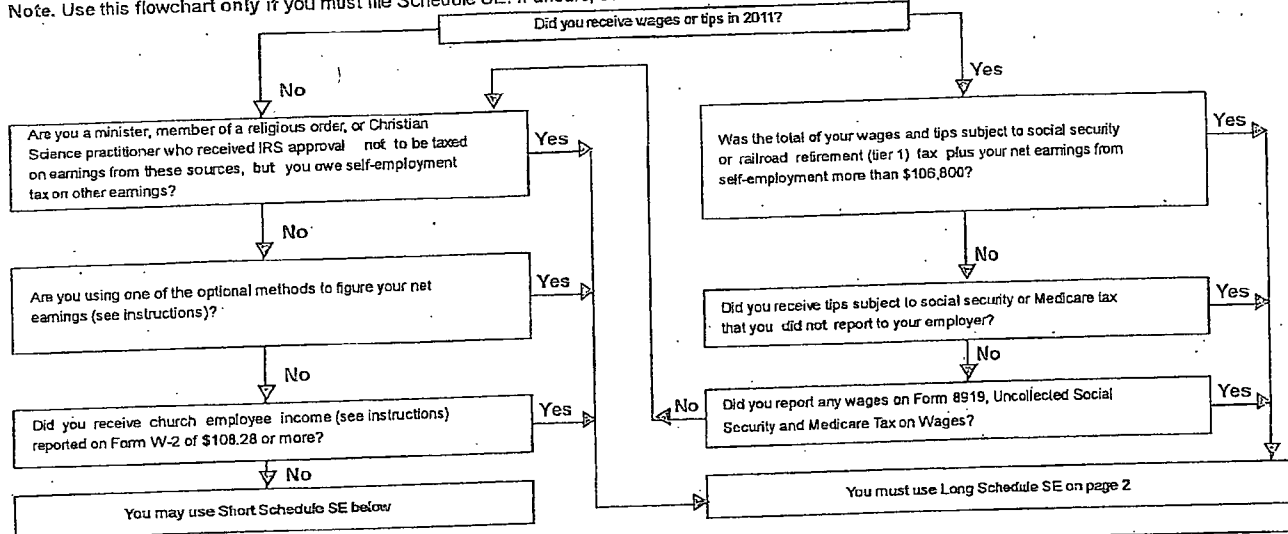
Social security number of person
with self-employment income ▶

251-17-9487

Before you begin: To determine if you must file Schedule SE, see the instructions.

May I Use Short Schedule SE or Must I Use Long Schedule SE?

Note. Use this flowchart only if you must file Schedule SE. If unsure, see Who Must File Schedule SE in the instructions.



Section A - Short Schedule SE. Caution. Read above to see if you can use Short Schedule SE.

1a	Net farm profit or (loss) from Schedule F, line 34, and farm partnerships, Schedule K-1 (Form 1065), box 14, code A	1a	
b	If you received social security retirement or disability benefits, enter the amount of Conservation Reserve Program payments included on Schedule F, line 4b, or listed on Schedule K-1 (Form 1065), box 20, code Y	1b	()
2	Net profit or (loss) from Schedule C, line 31; Schedule C-EZ, line 3; Schedule K-1 (Form 1065), box 14, code A (other than farming); and Schedule K-1 (Form 1065-B), box 9, code J1. Ministers and members of religious orders, see instructions for types of income to report on this line. See instructions for other income to report	2	20,157
3	Combine lines 1a, 1b, and 2	3	20,157
4	Multiply line 3 by 92.35% (.9235). If less than \$400, you do not owe self-employment tax; do not file this schedule unless you have an amount on line 1b. Note. If line 4 is less than \$400 due to Conservation Reserve Program payments on line 1b, see instructions.	4	18,615
5	Self-employment tax. If the amount on line 4 is: ○ \$106,800 or less, multiply line 4 by 13.3% (.133). Enter the result here and on Form 1040, line 56, or Form 1040NR, line 54 ○ More than \$106,800, multiply line 4 by 2.9% (.029). Then, add \$11,107.20 to the result. Enter the total here and on Form 1040, line 56, or Form 1040NR, line 54	5	2,476
6	Deduction for employer-equivalent portion of self-employment tax. If the amount on line 5 is: ○ \$14,204.40 or less, multiply line 5 by 57.51% (.5751) ○ More than \$14,204.40, multiply line 5 by 50% (.50) and add \$1,067 to the result. Enter the result here and on Form 1040, line 27, or Form 1040NR, line 27	6	1,424

For Paperwork Reduction Act Notice, see your tax return instructions.

EEA

Schedule SE (Form 1040) 2011

SCHEDULE EIC
(Form 1040A or 1040)

Earned Income Credit
Qualifying Child Information

OMB No. 1545-0074

2011

Attachment
Sequence No. **43**

Department of the Treasury
Internal Revenue Service (99)
Name(s) shown on return

Complete and attach to Form 1040A or 1040
only if you have a qualifying child.

Your social security number
251-17-9487

KENNETH C SMITH

Before you begin:

- See the instructions for Form 1040A, lines 38a and 38b, or Form 1040, lines 64a and 64b, to make sure that (a) you can take the EIC, and (b) you have a qualifying child.
- Be sure the child's name on line 1 and social security number (SSN) on line 2 agree with the child's social security card. Otherwise, at the time we process your return, we may reduce or disallow your EIC. If the name or SSN on the child's social security card is not correct, call the Social Security Administration at 1-800-772-1213.

CAUTION!

- If you take the EIC even though you are not eligible, you may not be allowed to take the credit for up to 10 years. See page 2 for details.
- It will take us longer to process your return and issue your refund if you do not fill in all lines that apply for each qualifying child.

Qualifying Child Information		Child 1	Child 2	Child 3			
		First name	Last name	First name	Last name	First name	Last name
1 Child's name If you have more than three qualifying children, you only have to list three to get the maximum credit.		KAYLI SMITH		KENNETH SMITH		KARLI SMITH	
2 Child's SSN The child must have an SSN as defined in the instructions for Form 1040A, lines 38a and 38b, or Form 1040, lines 64a and 64b, unless the child was born and died in 2011. If your child was born and died in 2011 and did not have an SSN, enter "Died" on this line and attach a copy of the child's birth certificate, death certificate, or hospital medical records.		655-20-5652		655-16-9700		655-16-9699	
3 Child's year of birth	Year <u>2005</u> If born after 1992 and the child was younger than you (or your spouse, if filing jointly), skip lines 4a and 4b; go to line 5.	Year <u>2003</u> If born after 1992 and the child was younger than you (or your spouse, if filing jointly), skip lines 4a and 4b; go to line 5.	Year <u>2003</u> If born after 1992 and the child was younger than you (or your spouse, if filing jointly), skip lines 4a and 4b; go to line 5.	Year <u>2003</u> If born after 1992 and the child was younger than you (or your spouse, if filing jointly), skip lines 4a and 4b; go to line 5.			
4a Was the child under age 24 at the end of 2011, a student, and younger than you (or your spouse, if filing jointly)?	☐ Yes. ☐ No. Go to line 5. Go to line 4b.	☐ Yes. ☐ No. Go to line 5. Go to line 4b.	☐ Yes. ☐ No. Go to line 5. Go to line 4b.	☐ Yes. ☐ No. Go to line 5. Go to line 4b.			
b Was the child permanently and totally disabled during any part of 2011?	☐ Yes. ☐ No. Go to line 5. The child is not a qualifying child.	☐ Yes. ☐ No. Go to line 5. The child is not a qualifying child.	☐ Yes. ☐ No. Go to line 5. The child is not a qualifying child.	☐ Yes. ☐ No. Go to line 5. The child is not a qualifying child.			
5 Child's relationship to you (for example, son, daughter, grandchild, niece, nephew, foster child, etc.)	DAUGHTER	SON	DAUGHTER				
6 Number of months child lived with you in the United States during 2011 - If the child lived with you for more than half of 2011 but less than 7 months, enter "7." - If the child was born or died in 2011 and your home was the child's home for the entire time he or she was alive during 2011, enter "12."	<u>12</u> months Do not enter more than 12 months.	<u>12</u> months Do not enter more than 12 months.	<u>12</u> months Do not enter more than 12 months.				

For Paperwork Reduction Act Notice, see your tax return instructions.

EEA

Schedule EIC (Form 1040A or 1040) 2011

Form 8812

Additional Child Tax Credit

OMB No. 1545-0074

2011

Attachment
Sequence No. 47Department of the Treasury
Internal Revenue Service (99)

Complete and attach to Form 1040, Form 1040A, or Form 1040NR.

Your social security number

Name(s) shown on return

251-17-9487

KENNETH C SMITH

Part I All Filers

1	1040 filers:	Enter the amount from line 6 of your Child Tax Credit Worksheet (see the Instructions for Form 1040, line 51).	1	3,000
	1040A filers:	Enter the amount from line 6 of your Child Tax Credit Worksheet (see the Instructions for Form 1040A, line 33).		
	1040NR filers:	Enter the amount from line 6 of your Child Tax Credit Worksheet (see the Instructions for Form 1040NR, line 48).		
If you used Pub. 972, enter the amount from line 8 of the Child Tax Credit Worksheet in the publication.				
2	Enter the amount from Form 1040, line 51, Form 1040A, line 33, or Form 1040NR, line 48			2
3	Subtract line 2 from line 1. If zero, stop; you cannot take this credit			3
4 a	Earned income (see instructions)	4a	18,733	
b	Nontaxable combat pay (see instructions)	4b		
5	Is the amount on line 4a more than \$3,000?			
	☐ No. Leave line 5 blank and enter -0- on line 6.			
	☒ Yes. Subtract \$3,000 from the amount on line 4a. Enter the result			5
6	Multiply the amount on line 5 by 15% (.15) and enter the result			6
	Next, do you have three or more qualifying children?			
	☐ No. If line 6 is zero, stop; you cannot take this credit. Otherwise, skip Part II and enter the smaller of line 3 or line 6 on line 13.			
	☒ Yes. If line 6 is equal to or more than line 3, skip Part II and enter the amount from line 3 on line 13. Otherwise, go to line 7.			

Part II Certain Filers Who Have Three or More Qualifying Children

7	Withheld social security and Medicare taxes from Form(s) W-2, boxes 4 and 6. If married filing jointly, include your spouse's amounts with yours. If you worked for a railroad, see instructions			7
8	1040 filers:	Enter the total of the amounts from Form 1040, lines 27 and 57, plus any taxes that you identified using code "UT" and entered on line 60.	8	1,424
	1040A filers:	Enter -0-.		
	1040NR filers:	Enter the total of the amounts from Form 1040NR, lines 27 and 55, plus any taxes that you identified using code "UT" and entered on line 59.	9	1,424
9	Add lines 7 and 8			
10	1040 filers:	Enter the total of the amounts from Form 1040, lines 64a and 69.	10	5,322
	1040A filers:	Enter the total of the amount from Form 1040A, line 38a, plus any excess social security and tier 1 RRTA taxes withheld that you entered to the left of line 41 (see instructions).		
	1040NR filers:	Enter the amount from Form 1040NR, line 65.		
11	Subtract line 10 from line 9. If zero or less, enter -0-			11
12	Enter the larger of line 6 or line 11			12
	Next, enter the smaller of line 3 or line 12 on line 13.			

Part III Additional Child Tax Credit

13	This is your additional child tax credit	13	2,360
		Enter this amount on Form 1040, line 65, Form 1040A, line 39, or Form 1040NR, line 63.	

For Paperwork Reduction Act Notice, see your tax return instructions.

EEA

Form 8812 (2011)

1024



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
2011 INDIVIDUAL INCOME TAX RETURN

SC1040
(Rev. 9/13/11)
3075

Your social security number 251-17-9487	Check if deceased ☐
Spouse's social security number	Check if deceased ☐



For the year January 1 - December 31, 2011, or fiscal tax year beginning		2011 and ending		2012	
Print your first name and initial KENNETH C			Last name SMITH		Suff.
Spouse's first name, if married filing jointly			Last name		
Check if new address ☐	Mailing address (number and street, Apt. no or P.O. Box) Foreign address, see instructions 1442 HWY 6				County code 32
City GASTON	State SC	Zip 29053	Area code Daytime telephone 803-476-5482		
Check if address is outside US ☐	Foreign country address including Postal code (see instructions)				
Check this box if you are filing SC Schedule NR (Part year/Nonresident) ☐					
Check this box if filing a composite return for partnership or "S" corporation ☐					
Check this box if you have filed a federal or state extension ☐					
Check this box if you served in a Military COMBAT ZONE during the filing period ☐					
Enter the name of the combat zone: _____					
Check this box if this return is affected by a federally declared DISASTER AREA ☐					
Enter the name of the disaster area: _____					
CHECK YOUR FEDERAL FILING STATUS (1) ☐ Single (2) ☐ Married filing jointly (3) ☐ Married filing separately. (4) ☒ Head-of-household (5) ☐ Widow(er) with dependent child Enter spouse's SSN here: _____					

Federal Exemptions

Enter the number of exemptions from your 2011 federal return 4

Enter the number of exemptions listed above that were under the age of 6 years on December 31, 2011 _____

Enter the number of taxpayers age 65 or older, as of December 31, 2011 _____

Dependents:				
First name	Last name	Social security number	Relationship	Date of birth (MM/DD/YYYY)
KAYLI	SMITH	655-20-5652	DAUGHTER	03/10/2005
KENNETH	SMITH	655-16-9700	SON	08/19/2003
KARLI	SMITH	655-16-9699	DAUGHTER	08/19/2003

30751028

INCOME AND ADJUSTMENTS

1 Enter federal taxable income from your federal form. If zero or less, enter zero here. Dollars 0 00
 Nonresident filers complete Schedule NR and enter total from line 49 on line 5 below

ADDITIONS TO FEDERAL TAXABLE INCOME

a State tax addback, if itemizing on federal return (See instructions)	a	00		
b Out-of-state losses (See instructions)	b	00		
Check type of loss: ☐ Rental ☐ Business ☐ Other	c	00		
c Expenses related to National Guard and Military Reserve income	d	00		
d Interest income on obligations of states and political subdivisions other than South Carolina	e	00		
e Other additions to income. Attach an explanation (See instructions)			2	00
2 Add lines a through e and enter the total here. These are your total additions			3	00
3 Add lines 1 and 2 and enter the total here				

SUBTRACTIONS FROM FEDERAL TAXABLE INCOME

f State tax refund, if included on your federal return	f	00		
g Total and permanent disability retirement income, if taxed on your federal return	g	00		
h Out-of-state income/gain - Do not include personal service income (See instructions)	h	00		
Check type of income/gain: ☐ Rental ☐ Business ☐ Other	i	00		
i 44% of net capital gains held for more than one year (See instructions)	j	00		
j Volunteer deductions (See instructions) Check type of deduction: ☐ Firefighter ☐ HazMat ☐ Rescue Squad ☐ DNR ☐ Reserve Police ☐ Other	k	00		
k Contributions to the SC College Investment Program ("Future Scholar") or the SC Tuition Prepayment Program (See instructions)	l	00		
l Active Trade or Business Income deduction (See instructions)	m	00		
m Interest income from obligations of the US government	n	00		
n Certain nontaxable National Guard or Reserve Pay (See instructions)	o	00		
o Social security and/or railroad retirement, if taxed on your federal return	p-1	00		
p Caution: Retirement Deduction (See instructions)	p-2	00		
p-1 Taxpayer: date of birth	p-3	00		
p-2 Spouse: date of birth	p-4	00		
p-3 Surviving spouse #1: date of birth of deceased spouse	q-1	00		
p-4 Surviving spouse #2: date of birth of deceased spouse	q-2	00		
q Age 65 and older deduction (See instructions)	r	4,567 00		
q-1 Taxpayer: date of birth	s	00		
q-2 Spouse: date of birth	t	00		
r Negative amount of federal taxable income	u	00		
s Subsistence allowance _____ days @ \$8.00			4	4,567 00
t Dependents under the age of 6 years on December 31 of the tax year				
u Other subtractions (See instructions)				
4 Add lines f through u and enter here. These are your total subtractions				
5 Residents subtract line 4 from line 3 and enter the difference. Nonresidents enter amount from Schedule NR, line 49. If less than zero, enter zero here			5	0 00
6 TAX: enter tax from SOUTH CAROLINA tax tables	6	00		
7 TAX on Lump Sum Distribution (Attach SC4972)	7	00		
8 TAX on Active Trade or Business Income (Attach I-335)	8	00		
9 TAX on excess withdrawals from Catastrophe Savings Accounts	9	00		
10 Add lines 6 through 9 and enter the total here This is your TOTAL SOUTH CAROLINA TAX			10	00
11 Child and Dependent Care (See instructions)	11	00		
12 Two Wage Earner Credit (See instructions)	12	00		
13 Other non-refundable credits. Attach SC1040TC and other state return(s)	13	00		
14 TOTAL non-refundable credits. Add lines 11 through 13 and enter the total here			14	00
15 SUBTRACT line 14 from line 10. Enter the difference BUT NOT LESS THAN ZERO here			15	0 00

30752026



PAYMENTS AND REFUNDABLE CREDITS

16 SC INCOME TAX WITHHELD (Attach W-2 or SC41)	00	20 Other SC withholding (Attach Form 1099)	00	23	00
17 2011 estimated tax payments	00	21 Tuition tax credit (Attach I-319)	00	24	00
18 Amount paid with extension	00	22 Other refundable credit(s)	00	25	00
19 NR sale of real estate	00	Check type: ☐ Anhydrous Ammonia (Attach I-333) ☐ Milk Credit (Attach I-334)		26	00
23. Add lines 16 through 22 and enter the total here These are your TOTAL PAYMENTS				27	00
24 If line 23 is LARGER than line 15, subtract line 15 from line 23 and enter the OVERPAYMENT				28	00
25 If line 15 is LARGER than line 23, subtract line 23 from line 15 and enter the AMOUNT DUE				29	00
26 USE TAX: (Due on out-of-state purchases. See instructions)				30	00
27 Amount of line 24 to be credited to your 2012 Estimated Tax				31	00
28 Total Contributions for Check-offs (Attach I-330)				32	00
29 Add lines 26 through 28 and enter the total here				33	00
30 If line 29 is larger than line 24, go to line 31. Otherwise, subtract line 29 from line 24 and enter the AMOUNT TO BE REFUNDED TO YOU (see refund check box below) REFUND				34	00
31 Tax Due: Add lines 25 and 29. If line 29 is larger than line 24, subtract line 24 from line 29 and enter the amount					
32 Late filing and/or late payment: Penalties Interest (See instructions) Enter total here					
33 Penalty for Underpayment of Estimated Tax (Attach SC2210)					
(See instructions and enter letter in box if applicable) Exception to Underpayment of Estimated Tax					
34 Add lines 31 through 33 and enter the AMOUNT YOU OWE here BALANCE DUE					

Pay electronically free of charge at www.sctax.org. Click on DORePay and pay with Visa, MasterCard or by Electronic Funds Withdrawal (EFW) or include SC1040-V with your check or money order for the full amount payable to "SC Department of Revenue". Write your social security number and "2011 SC1040" on the payment.

NOTE: A taxpayer owing fifteen thousand dollars or more in connection with any return to be filed with the department must pay electronically per SC Code of Laws Section 12-54-250(A)(1).

I declare that this return and all attachments are true, correct and complete to the best of my knowledge and belief.

Your signature	Date 05-03-2012	Spouse's signature (if married filing jointly, BOTH must sign)
I authorize the Director of the Department of Revenue or delegate to discuss this return, attachments and related tax matters with the preparer.		Preparer's printed name

If prepared by a person other than the taxpayer, his declaration is based on all information of which he has any knowledge.

Paid	Preparer signature	Date 05-03-2012	Check if self-employed ☒	PTIN P00080248
Preparer's Use Only	Firm name (or yours if self-employed) and address and Zip Code	SWANSEA TAX SERVICE LLC P O Box 432 Swansea SC 29160-0432	FEIN 20-0060757	Phone No. 803-568-5739

MAIL TO: **REFUNDS OR ZERO TAX** SC1040 Processing Center, PO Box 101100, Columbia, SC 29211-0100
BALANCE DUE Taxable Processing Center, PO Box 101105, Columbia, SC 29211-0105

☐ REFUND NOTICE: South Carolina will soon offer the option for taxpayers to receive their refund on a VISA Debit Card! If you are not using the direct deposit option for your refund and you still prefer to receive a paper check in the mail, please check this box. Otherwise, if available you will receive a Visa Debit Card.

Go Paperless! SCDOR will soon offer the option to receive your Form 1099-G/INT on its secure, confidential website www.sctax.org instead of receiving it in the mail. Form 1099-G/INT is used when preparing your federal tax return. The website information would allow you to print a copy of the form if needed. Check the box below and provide a valid email address to receive more information and instructions about this new program when available.

☐ Yes, I wish to receive information about accessing my 1099-G/INT information through the SCDOR website.	Email Address

30753024

1040

Overflow Statement

2011
Page 1

Name(s) as shown on return

Your Social Security Number

KENNETH C SMITH

251-17-9487

SCHEDULE C, LINE 15 - INSURANCE

Description	Amount
WORKERS COMP	\$ 750
GEN LIABILITY	825
Total:	<u>\$ 1,575</u>

TAX RETURN COMPARISON
2009 / 2010 / 2011

2011

Name(s) as shown on return

KENNETH C SMITH

Identifying number

251-17-9487

	2009	2010	2011	Difference 2010-2011
Filing Status	4	4	4	
Number of Exemptions	4	4	4	
Income				
Wages, salaries, tips, etc.				
Taxable interest and dividends				
Taxable state and local refunds				
Alimony.				
Business income (loss)	16,410	28,775	20,157	(8,618)
Gains (losses)				
Pensions and IRA distributions				
Rent and royalty income (loss)				
Part, S-corps, trusts income (loss)				
Farm income (loss)				
Unemployment compensation				
Total SS benefits received				
Taxable SS benefits				
Other income (loss)	16,410	28,775	20,157	(8,618)
Total Income	16,410	28,775	20,157	(8,618)
Adjusted Gross Income				
Half of self-employment tax	1,160	2,033	1,424	(609)
IRA deduction				
Other adjustments	15,250	26,742	18,733	(8,009)
Total Adjusted Gross Income				
Deductions				
Medical deductions				
State and local taxes				
Interest				
Contributions				
Employee business expenses	8,650	8,400	8,500	100
Standard or other deductions	8,650	8,400	8,500	100
Total Itemized or Standard Ded	14,600	14,600	14,800	200
Exemption Amount				(3,742)
Tax and Credits		3,742		(373)
Taxable Income		373		(373)
Tax		373		(1,590)
Credits	2,319	4,066	2,476	(1,590)
Self-employment tax				
Other taxes	2,319	4,066	2,476	(1,590)
Total Tax				
Payments				
Withholdings				1,820
Estimated tax payments	5,657	3,502	5,322	(667)
Earned income credit	2,238	3,027	2,360	2,743
Other payments and credits	5,576	2,463	5,206	
Refund				
Balance Due	SC	SC	SC	(92)
Resident State		92		
Taxable income				
Tax				
Refund				
Balance Due	10.00	10.00	10.00	(10.00)
Marginal tax rate		10.00		
Effective tax rate				

South Carolina Workers' Compensation Commission
1612 Marion St.
P.O. Box 1715
Columbia, SC 29202-1715
803-737-5675



WCC File #: **1104798**
Carrier File #: _____
Carrier Code #: _____
Employer FEIN #: _____

Claimant's Name: Kenneth Smith SSN: 251 - 17 - 9487 Employer's Name: Marion Builders Group, LLC
Address: 1442 Highway 6 Address: 300 Wilson Bridge Road
City: Gaston State: SC Zip: 29053 City: Fountain Inn State: SC Zip: 29644
Home Phone: (803) 687 - 1495 Work Phone: () - - Insurance Carrier: Builders Mutual Insurance Co.
Preparer's Name: Everett Hope Garner Law Firm: Holler Garner Corbett Ormond Preparer's Phone #: (803) 765 - 2968
Plante & Dunn

REQUEST FOR COMMISSION REVIEW

Request for Commission Review by ☒ claimant ☐ employer (check one) Date of injury: 4/4/2011 (m/d/yyyy)

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

(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.67-211 by delivering a copy to George A. Taylor, Esquire
Name

P.O. Box 1390 Columbia, South Carolina 29202

Address

on the 28 day of Dec, 2012 by ☒ first class mail ☐ personal service ☐ certified mail.

Everett Hope Garner
Preparer's Signature

Attorney
Title

December 28, 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 four 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.

WCC Form # 30
Rev. 3/97

30

REQUEST FOR COMMISSION REVIEW

Kenneth Smith v. Marion Builders Group and
Builders Mutual Insurance Company

WCC File No: 1104798

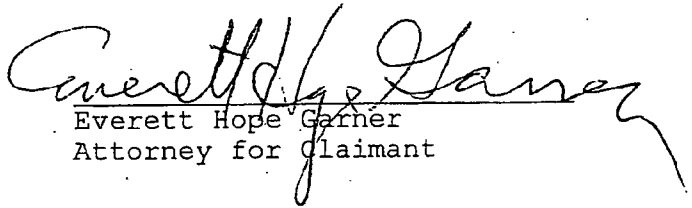
ATTACHMENT TO FORM 30

1. Did the Hearing Commissioner err in finding that Claimant had an average weekly wage of \$553.37 with a corresponding compensation rate of \$369.10; the error being that the preponderance of the evidence indicates a higher average weekly wage.

2. Did the Hearing Commissioner err in utilizing an inaccurate and inequitable method of calculating the claimant's average weekly wage and corresponding compensation rate; the error being that a more global approach to such calculations would be appropriate considering Claimant's vast experience and work history in assessing his loss of earning capacity.

3. Did the Hearing Commissioner err in the use of calculations based on Claimant's 2010 total income as reported on his federal tax return (as referenced in conclusion of law number 16); the error being that, even utilizing such method, the appropriate calculation should be based on the number of weeks worked instead of a total of 52 weeks.

Respectfully submitted,


Everett Hope Garner
Attorney for Claimant

Dated: 12/28/12

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
WCC FILE NO: 1104798

Kenny Smith,

Employee/Claimant

vs.

Marion Builders Group

and

Builders Mutual,

Carrier/Defendant

BRIEF OF THE CLAIMANT

STATEMENT OF THE CASE/FACTS

This case arises out of an admitted accident and injury sustained by the Claimant on April 4, 2011. Claimant sustained injuries to his right wrist, elbow, spine, neck, ribs and mouth when he fell from a scaffold landing on concrete while working as a carpenter for Defendant Marion Builders Group, LLC. At the time, Claimant had been working under the auspices of this Employer for only approximately 12 hours.

The determination of Claimant's average weekly wage and compensation rate was originally based on information purportedly received by the Defendant Carrier from a sub-contractor that he would have been paid \$12.00 per hour for 32 to 34 hours per week. Defendant Carrier began making payments based on an average weekly wage of \$408.00 with a corresponding compensation rate of

\$272.01. Claimant has consistently asserted that he was supposed to be paid \$20.00 per hour which would translate to an average weekly wage of \$800.00 with a corresponding compensation rate of \$533.60. The sub-contractor Todd Mack who hired Claimant testified that he originally planned to pay Claimant \$12.00 per hour but agreed that \$20.00 per hour was more appropriate out of fairness due to Claimant's knowledge and experience and the fact that he was supplying various work related equipment. Claimant also testified he supplied walk boards, air hoses, saw cards, ladders, extension ladders, step ladders, skill saws and sawbucks on the project for which he was hired. (See Tr. P 46 L 4-12). Todd Mack also testified that he intended to continue to pay Claimant at least \$20.00 per hour on subsequent work projects.

The evidence of the case contains multiple tax returns filed by Claimant beginning in 2006. The 2006 return showed a gross income for Claimant's construction company in the amount of \$393,391.00 with business related expenses reported as being \$374,282.00. In regard to his income and expenses in 2006, claimant testified that he tried to put most of the money back into the business purchasing trucks and work vans and supplying a crew with tools and accessories.

Claimant's 2010 return showed a gross business income of \$63,625.00 with expenses of \$34,850.00 yielding a net income of \$28,775.00. Claimant testified that he believed he worked approximately 12 weeks in 2010 to yield the income of \$28,775.00

(see TR. P 42 - 43). Claimant's 2011 tax return showed a net income of \$20,157.00 all of which was earned in the first 3 months of the year before he was injured on April 4, 2011.

Claimant testified without contradiction that he had about 33 years experience as a framing carpenter and 12 - 14 years as a sub-contractor and a business owner in the construction industry.

DISCUSSION/ARGUMENT

The Hearing Commissioner erred in finding that Claimant had an average weekly wage of \$553.37 with a corresponding compensation rate of \$369.10; the error being that the Hearing Commissioner arrived at these figures utilizing inequitable calculations based on Claimant's 2010 total income as reported on his federal tax return based on a total of 52 weeks when the evidence clearly indicates that Claimant did not work 52 weeks during that year.

The Hearing Commissioner found that Claimant's average wage should be calculated based on his 2010 federal tax return which revealed net earnings of \$28,775.00. The evidence indicates that Claimant believed he worked a maximum of 12 weeks to yield this net income. Claimant also worked for only 3 months prior to his injury on April 4, 2011 and earned a net income of \$20,157.00. This net income divided by the number of weeks in January, February and March 2011 would yield a compensation rate in excess of the maximum thus establishing a maximum rate. Even allowing for the vagaries (weather and other factors) of the construction industry, it is clear that Claimant's average weekly wage and compensation rate should be at or near the maximum based on an

equitable assessment of all the circumstances.

Claimant would have no particular argument with the methodology utilized by the Hearing Commissioner but would assert that an equitable application of this methodology would yield a substantially higher compensation rate than the amount ordered.

"The Workers' Compensation Statute which sets forth several different methods for calculating a Claimant's average weekly wage provides an elasticity or flexibility with a view toward always achieving the ultimate objective of reflecting fairly a Claimant's probable future earning loss." Sellers v. Pinedale Residential Center, 350 S.C. 183, 564 S.E.2d 694. "The objective of wage calculation for workers' compensation purposes is to arrive at a fair approximation of the Claimant's probable future earning capacity." "The disability of workers' compensation claim reaches into the future not the past; his loss as a result of injury must be thought of in terms of its impact on probable future earnings for purposes of calculating the Claimant's average weekly wage." Id.

It is uncontrovertible that the downturn of the economy in recent years had a devastating effect on the construction industry but a gradual recovery has already fomented a much better future. Therefore the likely effect of Claimant's injury on his probable future earnings should be based more equitably on his vast experience and actual earning capacity as illustrated in the past. Bennett v. Gary Smith Builders, 245 S.E.2d 129 (1978).

CONCLUSION

Numerous cases in this State have held that the Workers' Compensation Act is remedial legislation which is entitled to a liberal construction in order to accomplish the ends and purposes for which the Act was enacted. Flemon v. Dickert-Keowee, Inc., 259 S.C. 99, S.E.2d 751 (1972); Baldwin v. Pepsi Cola Bottling Co., 234 S.C. 320, 108 S.E.2d 409 (1959); Cokeley v. Robert E. Lee, Inc., 197 S.C. 157, 14 S.E.2d 889 (1941); Ham v. Mullins Lumber Co., 193 S.C. 66, 7 S.E.2d 712 (1940).

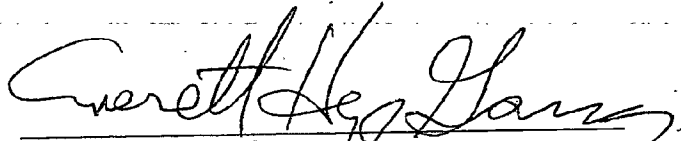
In the present case, equity and fairness require that Claimant's average weekly wage and resulting compensation rate be determined in accordance with actual weeks worked during 2010 and/or 2011 if this methodology is utilized. Alternatively, it should be determined globally based on Claimant's vast work experience and past earning capacity, positive changes in the economy and the impact on his probable future earnings. "As the Commission found but for the severe injury Sellers clearly demonstrated the interest aptitude and ability to become an electrician." In this case Claimant had demonstrated over a long period of time the aptitude and ability to be a master carpenter, a sub-contractor and business owner. Roberts v. McNair Law Firm, 619 S.E.2d 453 (2005).

It is evident that the aim of calculating a wage base is to

fairly approximate the employee's earning capacity and that method may be resorted to which will most nearly approximate the amount which the injured employee would be earning were not for the injury.

If not for the injury, Claimant's approximated earning capacity in the future assessed as required by Sellers would dictate a much higher average weekly wage and compensation rate than that ordered by the Hearing Commissioner.

Respectfully Submitted,


Everett Hope Garner
Attorney for Claimant

Columbia, South Carolina
2/28, 2013

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION'S
APPELLATE PANEL

W.C.C. File No. 1104798

Kenneth C. Smith Appellant

vs.

Marion Builders Group, LLC and
Builders Mutual Insurance Company Respondents

**BRIEF OF RESPONDENTS
MARION BUILDERS GROUP, LLC
AND BUILDERS MUTUAL INSURANCE COMPANY**

APPEAL FROM THE ORDER
OF
COMMISSIONER SUSAN S. BARDEN

DATED: DECEMBER 17, 2012

George A. Taylor, Esquire
CALLISON TIGHE & ROBINSON, LLC
1812 Lincoln Street
Post Office Box 1390
Columbia, South Carolina 29202
Telephone: (803) 404-6900
Facsimile: (803) 404-6901
Email: GeorgeTaylor@CallisonTighe.com

TABLE OF CONTENTS

Statement of the Case/Facts	1
Issue on Appeal	5
Argument	5
Conclusion	10

STATEMENT OF THE CASE/ FACTS:

This case arises out of an admitted injury sustained by the Claimant on April 4, 2011. The only issue in this case is the Claimant's compensation rate. The Claimant only worked approximately twelve hours for Marion Builders Group, LLC ("Marion Builders"). He was injured his second day on the job site. Following the Claimant's injury, Defendants immediately began making temporary total disability payments to the Claimant based on an average weekly wage of \$408.00, with a corresponding compensation rate of \$272.01. The compensation rate was based on a report made by the Claimant's boss, Todd Mack,¹ to an adjuster of Builder's Mutual Insurance Company shortly after Claimant's injury.² The Claimant now asserts that he was supposed to be paid \$20.00 per hour for forty hours per week while working for Marion Builders which would translate to an average weekly wage of \$800.00 with a corresponding compensation rate of \$533.60. A hearing was set before the Hearing Commissioner upon the Form 50, Employee's Request for Hearing and Form 51 filed by the Defendants, on October 24, 2012.

The Hearing Commissioner properly held that the Claimant's 2010 Income Tax Return most nearly approximated the amount which the Claimant would be earning were it not for the injury. In reaching this determination, the Hearing Commissioner reviewed the following records which were submitted prior to the Hearing:

¹Todd Mack was a subcontractor of Marion Builders Group, LLC and hired The Claimant.

² The compensation rate was calculated based on an hourly rate of \$12.00 per hour for thirty-four hours a week.

CLAIMANT'S EXHIBITS**Dates**

1.	Affidavit of Todd Mack	Undated
2.	U.S. Bureau of Labor Statistics Occupational Employment and Wages, May 2011	5/16/12 Internet
3.	Occupational Employment Statistics Occupational Employment and Wages May 2011 47-2031Carpenters	05/16/12 Internet
4.	Joel D. Leonard, CRC, CVE,	10/09/12
5.	Claimant's 2006 Federal Tax Return	
6.	Bank envelope	Undated
7.	Hilton Residence – Bid & receipts	02/26/08
8.	Henry O. Jacobs Builder Subcontractor Checklist & pricing	06/09/09
9.	Sandra Donnelly Proposal & receipts	08/14/08
10.	Carl Kichess Proposals & receipts	04/28/09
11.	Bill Byrd Proposal & receipts	04/28/09
12.	Bob Ivey Proposals & receipts	08/01/08
13.	Unknown Church Job	03/07/08
14.	Bill Byrd Proposals & receipts	04/28/09
15.	Hartley – Job & receipts	09/15/08

16.	George & Maggie Wright & receipts	01/29/08
17.	Bricker/Brewer Residence Supply and labor sheets	12/12/07

**DEFENDANTS', MARION BUILDERS GROUP AND BUILDERS MUTUAL INSURANCE
COMPANY EXHIBITS:**

1. Claimant's 2011 Federal Tax Return.
2. Deposition Transcript of Claimant.

This case presents a challenge in determining the Claimant's actual weekly wage and corresponding compensation rate because, inter alia, the Claimant worked only twelve hours for Marion Builders, the Claimant's boss has offered conflicting reports on the Claimant's hourly wage and expected work hours, and the Claimant's profession has left him without work for significant periods of time.

Todd Mack testified at the hearing and was found to be a non-credible witness by the Hearing Commissioner. (Decision and Order, December 17, 2012, Findings of Fact, ¶¶ 18-19.) Mr. Mack testified that when he hired the Claimant, he was going to pay the Claimant \$12.00 per hour (Tr. p. 16), but that he unilaterally decided to pay the Claimant \$20.00 per hour when the Claimant brought his tools and equipment to the job site (Tr. p. 16).³ Mr. Mack testified that this decision was also based on the Claimant's knowledge and experience (Tr. pp. 21-22.), even though he knew of the Claimant's experience when he agreed to hire the Claimant for \$12.00 per hour (Tr. p. 23.) "Mr. Mack's testimony at the

³ On cross examination, Mr. Mack testified that the only tools the Claimant brought to the jobsite that he did not already have were an aluminum walk board valued at approximately \$500-\$600 and safety equipment, including a harness, valued at \$100.

hearing was inconsistent with his prior representations to Defendant Builders Mutual Insurance Company. Mr. Mack's testimony at the hearing was inconsistent with his prior testimony during his deposition. Mr. Mack's testimony regarding the Claimant's initial wage rate and corresponding pay raise was inconsistent and non-credible." (Decision and Order, Findings of Fact, ¶18.)

The Hearing Exhibits also included the Claimant's 2006 and 2011 Federal Income Tax Returns. The 2006 Tax Returns revealed the Claimant had a Total Income in 2006 of \$19,109.00, although his Gross Income was \$393,391.00. (Cl. Ex. 5.) However, the Claimant testified that his Total Income and his Total Expenses (\$374,282.00) were properly reported on his 2006 Tax Returns. (Tr. pp. 58-60; Cl. Ex. 1; Def. Ex. 1.) The Claimant's 2011 Tax Returns included a Tax Return Comparison sheet showing the Claimant's Total Income for tax years 2009, 2010, and 2011. (Def. Ex. 1.) In 2009, the Claimant's Total income was \$16,410.00; in 2010, \$28,775.00; and in 2011, \$20,157.00. Id. The Claimant admitted that his Total Income in 2010 was properly reported as \$28,775.00. (Tr. p. 56.)

The Claimant's Exhibits also included an expert report of Joel D. Leonard which provided that the National Bureau of Labor Statistics reports a median wage of \$15.86 per hour and mean wage of \$16.53 per hour for carpenters. (Cl. Ex. 4.)

Also included in Claimant's submissions was a bank envelope from GrandSouth Bank. Handwritten on the envelope was "Kenny 12 hours." (Cl. Ex. 6.) The Claimant testified that the envelope was given to him by Todd Mack and contained \$200.00. (Tr. pp. 52-53.) The \$200.00 was compensation for Claimants twelve hours of work. Calculating Claimant's hourly wage based upon his actual pay yields an hourly rate of \$16.67 per hour.

The Claimant also testified at the Hearing. The Claimant disputes that he agreed to work for \$12.00 per hour, but admitted that he had been without work for significant periods of time since 2008. The Claimant testified that finding work was so difficult that he "worked one week at His House ... for \$248 a month so [he] could pay [his] light bill. That's how bad the economy was." (Tr. p. 63.)

ISSUE ON APPEAL

Did the Hearing Commissioner err in calculating the Claimant's compensation rate based on the Claimant's Total Income in 2010 as reported on his Federal Tax Return?

ARGUMENT

The Hearing Commissioner properly found that the Claimant's average weekly wage and corresponding compensation rate should be calculated based on the Claimant's Total Income as reported on the Claimant's 2010 Federal Tax Return.

The Workers' Compensation Act defines average weekly wage for computing compensation and provides a primary method of calculation and three alternative methods. Pilgrim v. Eaton, 391 S.C. 38, 45, 703 S.E.2d 241, 244 (Ct. App. 2011). The primary method to calculate average weekly wage is to take the total wages paid for the last four completed quarters prior to the injury divided by fifty-two weeks or the actual number of weeks for which the wages are paid, whichever is less. S.C. Code Ann. § 42-1-40. "The commission must use this method unless, 'the employment, prior to the injury, extended over a period of less than fifty-two weeks,' or unless 'for exceptional reasons' it would be unfair to do so." Id. (quoting S.C. Code Ann. § 42-1-40).

The first alternative method should be used when the period of employment was for less than fifty-two weeks. Under this method, the Commission calculates average weekly

wage by "dividing the earnings during that period by the number of weeks and parts thereof during which the employee earned wages..." *Id.* (quoting S.C. Code Ann. § 42-1-40). This method should only be used where it is *practicable* and yields results *fair and just* to both parties. *Id.* In Pilgrim, the Court of Appeals found that this method was not appropriate where the Claimant worked only 29.5 hours for the employer because "[t]he 'practicable requirement is not met simply because 29.5 hours of wage data cannot yield a reasonably accurate calculation of an average that is designed to be based on a year of data. The 'fair and just' requirement is not met for the same reason..." 391 S.C. at 245, 391 S.E.2d at 46.

The second alternative method to calculate compensation is to consider the average weekly wage of "a person of the same grade and character employed in the same class of employment in the same locality or community. *Id.* (quoting S.C. Code Ann. § 42-1-40).

The final alternative method provides that where exceptional reasons make it unfair to the employer or employee to use the first three methods, "such other method of computing average weekly wages may be resorted to as will most nearly approximate the amount which the injured employee would be earning were it not for the injury." S.C. Code Ann. § 42-1-40. "The statute provides an elasticity or flexibility with a view toward always achieving the ultimate objective of reflecting fairly a claimant's probable future earning loss." Sellers v. Pinedale Residential Center, 350 S.C. 183, 191, 564 S.E.2d 694, 698 (Ct.App. 2002).

In the present case, the final alternative method was the only practicable and fair method to calculate the Claimant's average weekly wage and compensation rate. Clearly the primary method for calculating compensation is not available because the Claimant was not employed by Defendant Marion Builders for fifty-two weeks. The first alternative

method of dividing total wages by the actual number of weeks for which wages were paid is likewise unavailable where the Claimant only worked approximately twelve hours over a two day period. As in Pilgrim, both the "practicable" and "fair and just" requirements cannot be met because twelve hours of wage data is insufficient to yield a reasonably accurate calculation of an average that is designed to be based on a year of data. 391 S.C. at 245, 392 S.E.2d at 46.

The second alternative method is likewise unavailable in this case. As a preliminary matter, it doesn't appear that the Claimant contends this is the appropriate method to be utilized in this case. The Appellant's Brief provides: "Claimant would have no particular argument with the methodology utilized by the Hearing Commissioner..." (Brief of Appellant, p. 4.) Additionally, the Hearing Commissioner held use of this method could yield unfair and impracticable results where the Claimant admits to experiencing substantial periods of time without work since approximately 2008. (Tr. p. 39.) Noteworthy, however, is that the method utilized by the Hearing Commissioner yields an hourly wage of \$16.27 for thirty-four hours per week whereas Mr. Leonard's report provides a median wage for carpenters in South Carolina to be only \$15.86 per hour and the mean wage to be \$16.53 per hour.

Because the other methods are not available in this case, the final alternative method must be utilized to calculate the Claimant's compensation rate. The Hearing Commissioner has held, and this Panel should affirm, that the Claimant's 2010 Federal Tax Return most nearly approximates the amount which the Claimant would be earning were it not for his injury. The Claimant's 2010 Federal Income Tax Return reveals that the Claimant earned \$28,775.00 in 2010.

Use of the Claimant's Total Income in 2010 to calculate compensation is fair and equitable for both parties. This method yields an hourly wage of \$16.27 for thirty-four hours of work per week for fifty-two weeks. This amount is very close to the actual amount (\$16.67) Claimant was paid for 12 hours of work. Further, as noted above, \$16.27 is actually greater than the median wage for carpenters in South Carolina and is only 26 cents less than the average wage for carpenters. Furthermore, the Claimant's Total Income for 2010 is greater than his Total Income in any year in which tax records were provided to this Commission or to the Defendants. In fact, the Claimant's 2006 Federal Tax Return reveals that Claimant's Total Income in 2006 was only \$19,109.00, a year the Claimant claims was a "beautiful" year for him. (Tr. pp. 57-58.)

Use of the Claimant's 2010 Total Income is the only practicable method in this case. The Claimant provides that the Claimant's compensation rate should either: "be determined in accordance with actual weeks worked during 2010 and/ or 2011" or "determined globally based on Claimant's vast work experience and past earning capacity, positive changes in the economy and the impact on his probable future earnings." (Brief of Appellant, p. 5.) However, it would be wholly impracticable (and inequitable) to calculate the Claimant's compensation based only on weeks Claimant claims to have worked where Claimant admits that the very nature of his profession has left him without steady work since 2008, where the Claimant's speculative future earnings would be dependent on work being provided by Todd Mack, a witness found non-credible by the Hearing Commissioner, and where such compensation calculation is intended to be an average based on a year of data. Pilgrim, 391 S.C. at 46, 703 S.E.2d at 245. Additionally, use of Claimant's 2010 Total Income certainly accounts for Claimant's work experience and past earning capacity.

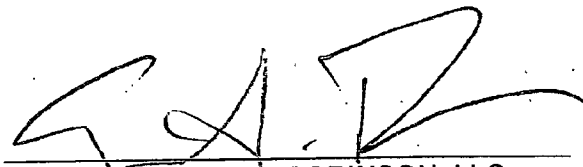
Appellant cites Sellers for the proposition that compensation rate should be based upon future earning capacity. However, the facts in this case are easily distinguishable from Sellers, a case addressing the compensation rate of a sixteen year old where it was established that the claimant "most probably" would earn the income "of an electrician were it not for his spinal cord injury." 350 S.C. at 192, 563 S.E.2d at 699. Here, the Claimant has been working as a carpenter for the vast majority of his working life, and his prior wages, including those in 2010, are for his work as a carpenter. Appellant has not provided any case that supports the proposition that compensation rate should be based on speculative, "positive changes in the economy." (Brief of Appellant, p. 6.) It would be inequitable and impracticable for this Commission to attempt to speculate what Appellant would earn in a more prosperous economy. This is particularly true where the Commission has available to it the Claimant's 2010 Total Income as reported on his Federal Tax Returns, where Claimant was never out of work for injury in 2010, and where the Claimant has represented that he properly reported his Total Income in 2010.

Additionally, Claimant suggests that this Commission consider his "past earning capacity" (presumably prior to 2008). However, the evidence submitted regarding the Claimant's past earning capacity reveals that the Claimant earned a Total Income of only \$19,109.00 in 2006, \$9,666.00 less than the Claimant's Total Income in 2010. Claimant's past earnings, even those going back to 2006, simply don't support a higher compensation rate. In sum, the Claimant has not provided any evidence to support a more just and practicable method for calculating the Claimant's compensation rate or a higher compensation rate.

CONCLUSION

The Hearing Commissioner properly held, and this Commission should affirm, that the Claimant's compensation rate should be calculated based on Claimant's Total Income in 2010 as reported on his Federal Tax Return because such calculation most nearly approximates the amount which the Claimant would be earning were it not for the injury and is both fair and equitable to both parties.

Respectfully submitted,



CALLISON TIGHE & ROBINSON, LLC
George A. Taylor
Post Office Box 1390
Columbia, South Carolina 29202
(803) 404-6900

ATTORNEYS FOR RESPONDENTS

Columbia, South Carolina

April 3 2013

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
COLUMBIA, SOUTH CAROLINA
WCC FILE NO. 1104798

 **COPY**

EMPLOYEE/CLAIMANT: KENNETH SMITH

EMPLOYER: MARION BUILDERS GROUP, LLC

CARRIER: BUILDERS MUTUAL INSURANCE COMPANY

SOUTH CAROLINA WORKERS' COMPENSATION HEARING

PURSUANT TO NOTICE OF WORKERS' COMPENSATION
HEARING, THE WITHIN HEARING WAS TAKEN ON THE 24TH DAY
OF OCTOBER, 2012, COMMENCING AT THE HOUR OF 12:03 P.M.,
IN SPARTANBURG, SOUTH CAROLINA, BEFORE THE HONORABLE
SUSAN S. BARDEN, ATTENDED BY COUNSEL AS FOLLOWS:

TIMMI A. PARRISH
VERBATIM REPORTER

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

APPEARANCES

EVERETT H. GARNER, ESQUIRE, OF THE FIRM
HOLLER, DENNIS, CORBETT, ORMOND, PLANTE & GARNER
POST OFFICE BOX 11006
COLUMBIA, SOUTH CAROLINA 29211

ATTORNEY FOR THE CLAIMANT,

GEORGE A. TAYLOR, ESQUIRE, OF THE FIRM
CALLISON, TIGHE & ROBINSON, LLC
POST OFFICE BOX 1390
COLUMBIA, SOUTH CAROLINA 29202

ATTORNEY FOR THE EMPLOYER/CARRIER.

I N D E X

	<u>PAGE</u>
<u>LINDSEY TODD MACK:</u>	
DIRECT EXAMINATION BY MR. GARNER.....	12
CROSS EXAMINATION BY MR. TAYLOR.....	22
REDIRECT EXAMINATION BY MR. EDGE GARNER...	29
RECROSS EXAMINATION BY MR. TAYLOR.....	32
<u>KENNETH CARLYLE SMITH, JR.:</u>	
DIRECT EXAMINATION BY MR. GARNER.....	37
CROSS EXAMINATION BY MR. TAYLOR.....	50
REDIRECT EXAMINATION BY MR. GARNER.....	65
CERTIFICATE OF NOTARY PUBLIC.....	69

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 SPARTANBURG,
4 SOUTH CAROLINA.

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

6 **BY COMMISSIONER BARDEN:**

7 TODAY'S DATE IS OCTOBER 24, 2012. THIS IS SOUTH
8 CAROLINA WORKERS' COMPENSATION COMMISSION FILE NUMBER
9 1104798. THIS IS THE CASE OF THE CLAIMANT, MR.
10 KENNETH SMITH, WHO IS PRESENT TODAY AND REPRESENTED
11 BY ATTORNEY HOPE GARNER, VERSUS THE EMPLOYER, MARION
12 BUILDERS GROUP, AND ITS CARRIER, BUILDERS MUTUAL,
13 BOTH OF WHICH ARE REPRESENTED BY ATTORNEY GEORGE
14 TAYLOR. THE PURPOSE OF TODAY'S HEARING IS TO
15 DETERMINE ISSUES RAISED IN FORMS 50 AND 51. THE SOLE
16 ISSUE REALLY FOR TODAY'S HEARING IS THE ISSUE OF
17 AVERAGE WEEKLY WAGE AND COMPENSATION RATE. THE DATE
18 OF THIS ADMITTED ACCIDENT WAS APRIL 4TH, 2011.
19 BEFORE I ASK IF THERE ARE ANY OBJECTIONS TO APAs,
20 I'LL PREEMPT MR. TAYLOR BECAUSE HE DOES HAVE AN
21 OBJECTION TO CLAIMANT'S APA NUMBER FOUR, WHICH IS
22 CONTAINED WITHIN PAGES 19 TO 21, AND IT IS A REPORT
23 FROM JOEL LEONARD, WHO IS A VOCATIONAL EXPERT, AND
24 MR. TAYLOR OBJECTS ON BEHALF OF HIS CLIENTS. HE
25 BELIEVES THAT THERE IS A MISSTATEMENT OF -- I

1 BELIEVE, SOME MISCALCULATION OR MISSTATEMENT OF THE
2 EVIDENCE AS WELL. I HAVE NOT REVIEWED IT, BUT I
3 WILL, OF COURSE, REVIEW IT, AND I WILL -- I'M GOING
4 TO OVERRULE THE OBJECTION, BUT TO RAISE HIS AND HIS
5 CLIENT'S COMFORT LEVEL, I CERTAINLY WILL CONSIDER ANY
6 INACCURACIES OR ANY BROAD SWEEPING STATEMENTS THAT
7 HAVE NO BASIS IN FACT. AND SO, I WILL JUST GIVE IT
8 THE WEIGHT THAT I THINK IT SHOULD BE ACCORDED OR
9 AFFORDED, AND WITH THAT, THAT MOTION IS OVERRULED.
10 ARE THERE ANY FURTHER OBJECTIONS TO APAs,
11 JURISDICTION, VENUE, OR ANY OTHER ITEMS?

12 **BY MR. GARNER:**

13 NOTHING, COMMISSIONER.

14 **BY MR. TAYLOR:**

15 NONE FROM THE DEFENSE.

16 **BY THE COMMISSIONER:**

17 WITHOUT FURTHER OBJECTION THE COMMISSION FILE
18 BECOMES A PART OF THE RECORD WITH THE EXCEPTION OF
19 SELF-SERVING DECLARATIONS AND UNSTIPULATED MEDICAL
20 REPORTS. THE BODY PARTS IN THIS CASE ARE ALL
21 ADMITTED. THAT WOULD BE THE RIGHT WRIST AND ELBOW,
22 THE SPINE, THE NECK, THE RIBS, THE MOUTH, AND
23 PSYCHOLOGICAL OVERLAY. WE ARE NOT HERE TO DETERMINE
24 THE COMPENSABILITY OF ANY BODY PART OR THE PERMANENCY
25 THEREOF. WE ARE HERE SOLELY TO DETERMINE -- TO HAVE

1 A HEARING ON THE AVERAGE WEEKLY WAGE AND COMPENSATION
2 RATE. THE PROBLEM PRESENTED ITSELF BECAUSE THE
3 EMPLOYMENT IN THIS CASE WAS FOR TWO DAYS ONLY.

4 THE CLAIMANT BELIEVES THAT THERE ARE EXCEPTIONAL
5 CIRCUMSTANCES, AND THE CLAIMANT CITES THE SELLERS
6 CASE, WHICH WOULD -- THE CLAIMANT BELIEVES THAT THE
7 CORRECT AVERAGE WEEKLY WAGE AND COMPENSATION RATE
8 SHOULD BE BASED AT A MINIMUM ON \$20 PER HOUR AND A
9 SIGNIFICANT NUMBER OF HOURS WORKED EACH WEEK. THE
10 CLAIMANT WOULD POINT TO MY ATTENTION THE FACT THAT HE
11 WAS A 30-YEAR -- OR A CARPENTER WITH 30 YEARS'
12 EXPERIENCE SUCH THAT HE COULD COMMAND A HIGHER DOLLAR
13 FOR HIS EXPERTISE AND HIS WORK AND THAT EXCEPTIONAL
14 CIRCUMSTANCES EXIST TO DEVIATE FROM ANY KIND OF
15 STANDARD CALCULATION. BUT THERE WILL BE TESTIMONY,
16 AND, OF COURSE, I HAVEN'T HEARD ANY WITNESSES
17 TESTIFY, SO I DON'T KNOW WHAT THE TESTIMONY EXACTLY
18 WILL BE. BUT THE CLAIMANT WOULD CONTEND THAT THE
19 AVERAGE WEEKLY WAGE SHOULD BE BASED ON \$20 PER HOUR,
20 AND AT TIMES THERE WERE 70 HOURS WORKED, AND THAT
21 WOULD BE THE CLAIMANT'S POSITION.

22 THE DEFENDANTS WOULD CONTEND THAT THE CORRECT
23 AVERAGE WEEKLY WAGE IS WHAT THEY HAVE BEEN PAYING,
24 WHICH IS THE 408 WITH A CORRESPONDING COMPENSATION
25 RATE OF \$272.01. THE DEFENDANTS HAVE BEEN PAYING

1 THIS BASED UPON THE TESTIMONY OF THE CLAIMANT'S
2 EMPLOYER, WHO INITIALLY TESTIFIED THAT THE CLAIMANT
3 WAS EARNING \$12 AN HOUR AND WAS WORKING APPROXIMATELY
4 32 TO 36 HOURS A WEEK. SO, THEREFORE, THE DEFENDANTS
5 WERE PAYING THE CLAIMANT BASED ON A \$12 PER HOUR WAGE
6 FOR 34 HOURS A WEEK OF WORK. SO THAT -- THE
7 DEFENDANTS BELIEVE THAT THAT SHOULD BE THE CORRECT --
8 THE AVERAGE WEEKLY WAGE AND COMPENSATION RATE SHOULD
9 REMAIN AS THEY HAVE BEEN CALCULATED BY THE
10 DEFENDANTS. AS A BACKUP POSITION, THE DEFENDANTS
11 WOULD POINT TO MY ATTENTION THE INCOME TAX RETURN
12 THAT THE CLAIMANT FILED IN 2010. BUT, AGAIN, THE
13 DEFENDANTS' PRIMARY POSITION IS THAT IT'S THE \$12 PER
14 HOUR FOR A 34-HOUR WORK WEEK. BUT AS A FALLBACK
15 POSITION THE DEFENDANTS WOULD POINT TO MY ATTENTION
16 THE FACT THAT THE INCOME TAX RETURN IS AN OFFICIAL
17 DOCUMENT AND AN OFFICIAL STATEMENT OF THE CLAIMANT'S
18 INCOME FOR 2010, AND THAT WOULD BE A MORE ACCURATE
19 AND REFLECTIVE INDICATOR OF THE CLAIMANT'S EARNING
20 ABILITIES AND ACTUAL EARNINGS THAN WOULD JUST A
21 TESTIMONY OF A \$20 PER HOUR WAGE. SO, THE DEFENDANTS
22 DO DISAGREE WITH A \$20 PER HOUR WAGE AND BELIEVE THAT
23 AT A MAXIMUM THE INCOME TAX RETURN OF 2010 SHOULD BE
24 UTILIZED, BUT, AGAIN, THE DEFENDANTS BELIEVE THAT
25 IT'S \$12 AN HOUR, AND, OF COURSE, THE CLAIMANT, AS

1 I'VE ALLUDED TO EARLIER, BELIEVES THAT HIS 30 YEARS'
2 EXPERIENCE AS A CARPENTER IS AMPLE EVIDENCE TO
3 COMMAND A \$20 PER HOUR WAGE.

4 NOW, THERE IS SOME INFORMATION, I UNDERSTAND,
5 THAT JOEL LEONARD'S REPORT ON LABOR STATISTICS, WHICH
6 I BELIEVE STATED THAT THERE WOULD BE A 16 TO 17
7 DOLLAR MINIMUM FOR SOMEONE WITH THE CLAIMANT'S
8 EXPERTISE. BUT, AGAIN, THERE ARE DIFFERENT FIGURES
9 THAT HAVE BEEN PROPOUNDED OR AT LEAST MENTIONED TO ME
10 IN THE PREHEARING CONFERENCE. SO, THE PARTIES DO
11 DISAGREE, BUT THEY DO AGREE ON BODY PARTS. SO THE
12 ONLY TESTIMONY THAT WE WILL BE TAKING TODAY RELATES
13 TO THE AVERAGE WEEKLY WAGE AND COMPENSATION RATE
14 ISSUE.

15 ALL RIGHT, GENTLEMEN, I DIDN'T REALLY GET INTO
16 EVERY FIGURE THAT WAS DISCUSSED BASED ON DIFFERENT
17 SCENARIOS, BUT IF YOU'RE SATISFIED BASICALLY WITH
18 WHAT I HAVE SAID AS THE POSITION THAT YOU FEEL MOST
19 STRONGLY ABOUT, WHICH IS WHAT THE DEFENDANTS ARE
20 CURRENTLY PAYING AND WHAT YOU BELIEVE TO BE THE
21 CORRECT COMPENSATION RATE OR AVERAGE WEEKLY WAGE, MR.
22 GARNER, FOR YOUR CLIENT, SO I'LL LEAVE IT AT THAT
23 UNLESS THERE'S SOMETHING THAT EITHER OF YOU WOULD
24 LIKE TO ADD TO WHAT I HAVE READ INTO THE RECORD,
25 BECAUSE THAT WAS JUST A SUMMARY.

1 BY MR. TAYLOR:

2 I WOULD LIKE TO JUST ADD THAT ---

3 BY THE COMMISSIONER:

4 YES, SIR.

5 BY MR. TAYLOR:

6 --- YOU MENTIONED THE 2010 TAX RETURNS. I ALSO
7 HAVE A COPY OF THE 2006 TAX RETURNS, WHICH SHOWED A
8 TOTAL BUSINESS INCOME OF \$19,109, AS WELL AS THE 2009
9 RETURNS, WHICH SHOWED TOTAL INCOME FOR 2009 AT
10 \$16,410.

11 BY THE COMMISSIONER:

12 OKAY. ALL RIGHT. MR. GARNER?

13 BY MR. GARNER:

14 AND I WOULD ADD THAT THAT'S A NET INCOME, NOT
15 GROSS, AND THAT'S A LOT OF WRITE-OFFS FOR EQUIPMENT,
16 ONE-TIME EXPENSES, WHICH WILL BE SHOWN BY THE
17 SCHEDULES AND EVERYTHING THAT ARE IN EVIDENCE,
18 COMMISSIONER. I THINK THE ONLY THING THAT I WOULD
19 ADD OR OTHERWISE COMMENT ON THAT YOU SAID WAS THAT
20 MR. MACK HAD TESTIFIED TO \$12 AN HOUR.

21 BY THE COMMISSIONER:

22 THAT WAS A STATEMENT? IT WAS A STATEMENT?

23 BY MR. GARNER:

24 RIGHT.

25 BY THE COMMISSIONER:

1 OKAY.

2 BY MR. GARNER:

3 IT WAS JUST AN ORAL CONVERSATION OF SOME KIND.

4 BY THE COMMISSIONER:

5 OKAY. I STAND CORRECTED. THANK YOU. THANK YOU
6 FOR THAT.

7 BY MR. GARNER:

8 AND I'M GOING TO CLARIFY THAT THROUGH HIM.

9 BY THE COMMISSIONER:

10 OKAY. GOOD ENOUGH. THAT'S A DISADVANTAGE TO
11 NOT HAVING THE INFORMATION THE NIGHT BEFORE. SO, I
12 NOW REMEMBER THAT. IT WAS NOT TESTIMONY; IT WAS A
13 STATEMENT. LET ME SEE. THERE WAS AN ADDITIONAL
14 THING THAT I WAS GOING TO -- I THINK I HAD MISSED.
15 THERE WAS SOMETHING THAT YOU SAID IN THE PREHEARING
16 CONFERENCE THAT I REALIZED AFTER I FINISHED MY
17 REMARKS, IS THAT BECAUSE OF THE ECONOMY, TOO, THAT
18 YOU HAD BASED PART OF YOUR ASSERTION ON THE FACT THAT
19 THE ECONOMY WILL HOPEFULLY RECOVER.

20 BY MR. GARNER:

21 REBOUND, YES.

22 BY THE COMMISSIONER:

23 OKAY. ALL RIGHT. AND OUR FIRST WITNESS IS?

24 BY MR. GARNER:

25 TODD MACK.

1 BY THE COMMISSIONER:

2 ALL RIGHT, MR. MACK, IS THAT M-A-C-K?

3 BY THE WITNESS:

4 YES, MA'AM.

5 BY THE COMMISSIONER:

6 ALL RIGHT. IF YOU'LL RAISE YOUR RIGHT HAND,
7 PLEASE.

8 * * * * *

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

12 LINDSEY TODD MACK,

13 BEING FIRST DULY SWORN, TESTIFIED ON HIS OATH AS
14 FOLLOWS:

15 BY THE COMMISSIONER:

16 PLEASE STATE YOUR FULL NAME FOR THE RECORD.

17 BY THE WITNESS:

18 IT'S LINDSEY TODD MACK.

19 BY THE COMMISSIONER:

20 IS LINDSEY L-I-N ---

21 BY THE WITNESS:

22 --- D-S-E-Y.

23 BY THE COMMISSIONER:

24 OKAY. THANK YOU VERY MUCH, MR. MACK. PLEASE
25 ANSWER ANY QUESTIONS THAT MR. GARNER HAS FOR YOU.

1 BY MR. GARNER:

2 THANK YOU, COMMISSIONER.

3 DIRECT EXAMINATION BY MR. GARNER:

4 Q. MAY I CALL YOU TODD?

5 A. YEAH, THAT'S WHAT I GO BY.

6 Q. TODD, WHERE DO YOU LIVE?

7 A. SWANSEA, SOUTH CAROLINA.

8 Q. AND ABOUT HOW LONG ---

9 BY THE COMMISSIONER:

10 I'M GOING TO ASK YOU TO DO ONE THING, SIR. MOVE
11 YOUR HAND FROM YOUR MOUTH.

12 BY THE WITNESS:

13 OKAY. SORRY.

14 BY THE COMMISSIONER:

15 WE'VE GOT TO BE ABLE TO HEAR AND SEE.

16 WITNESS RESUMES:

17 A. SWANSEA, SOUTH CAROLINA.

18 DIRECT EXAMINATION RESUMED BY MR. GARNER:

19 Q. ABOUT HOW LONG HAVE YOU LIVED IN THAT AREA?

20 A. ALL MY LIFE.

21 Q. DID YOU TRAVEL FROM YOUR HOME IN SWANSEA HERE TO
22 GREENVILLE TODAY TO TESTIFY IN THIS CASE?

23 A. YES, SIR.

24 Q. HAVE YOU TESTIFIED BEFORE UNDER OATH IN A DEPOSITION?

25 A. YES, SIR.

1 Q. HAVE YOU ALSO SUBMITTED AN AFFIDAVIT IN CONNECTION
2 WITH THIS CASE?

3 A. YES, SIR.

4 Q. WHAT DO YOU DO FOR A LIVING, TODD?

5 A. FRAMING.

6 Q. ARE YOU A SUBCONTRACTOR?

7 A. YES, SIR.

8 Q. HOW LONG HAVE YOU BEEN IN THE SUBCONTRACTING
9 BUSINESS?

10 A. EIGHTEEN YEARS.

11 Q. DURING YOUR COURSE OF THAT WORK FOR 18 YEARS, HAVE
12 YOU HAD OCCASION TO HIRE CARPENTERS TO WORK FOR YOU?

13 A. YES, SIR.

14 Q. DID YOU HIRE KENNY SMITH TO WORK FOR YOU ON A PROJECT
15 HERE IN GREENVILLE BACK IN 2011?

16 A. YES, SIR.

17 Q. ALL RIGHT. WHAT -- WERE YOU AWARE OF WHAT KENNY'S
18 EXPERIENCE WAS AS A CARPENTER?

19 A. YES.

20 Q. WERE YOU AWARE THAT HE HAD 30 YEARS OR MORE
21 EXPERIENCE AS A CARPENTER?

22 A. I WAS.

23 Q. WERE YOU AWARE THAT HE HAD BEEN A SUBCONTRACTOR SUCH
24 AS YOU HIMSELF IN THE PAST?

25 A. YES.

1 Q. OKAY. WHERE WERE YOU -- WHERE WAS THIS PROJECT?

2 A. I THINK IT WAS ON BUTLER ROAD.

3 Q. IN GREENVILLE?

4 A. YES, SIR.

5 Q. AND YOU WERE A SUBCONTRACTOR FOR MARION CONSTRUCTION
6 COMPANY; IS THAT CORRECT?

7 A. THAT'S CORRECT.

8 Q. HAD YOU EVER WORKED FOR MARION CONSTRUCTION COMPANY
9 BEFORE THAT PROJECT?

10 A. YES, SIR.

11 Q. OKAY. NOW, WERE THERE ANY MARION CONSTRUCTION
12 EMPLOYEES ON THE JOB WORKING AT THE TIME, TO YOUR
13 KNOWLEDGE?

14 A. UH-HUH.

15 **BY THE COMMISSIONER:**

16 IS THAT A YES?

17 **BY THE WITNESS:**

18 YES.

19 **DIRECT EXAMINATION RESUMED BY MR. GARNER:**

20 Q. OKAY. WHO WOULD THAT HAVE BEEN?

21 A. BEN KANITSU (PHONETIC). REAL STRANGE LAST NAME.

22 Q. OKAY. NOW, DID YOU -- HOW DID YOU COME TO HIRE
23 KENNY? WHAT WERE THE CIRCUMSTANCES LEADING UP TO
24 YOUR HIRING KENNY?

25 A. WELL, I WAS GETTING BEHIND AND NEEDED SOME HELP, AND

1 HE CALLED ME.

2 BY THE COMMISSIONER:

3 WAIT A MINUTE. YOU WERE GETTING BEHIND AND YOU
4 NEEDED SOME HELP, BUT HE CALLED YOU?

5 BY THE WITNESS:

6 ON THE JOB. AND I TALKED TO KENNY ABOUT COMING
7 TO WORK.

8 BY THE COMMISSIONER:

9 YOU CALLED HIM OR HE CALLED YOU?

10 BY THE WITNESS:

11 HE CONTACTED ME.

12 BY THE COMMISSIONER:

13 OKAY.

14 DIRECT EXAMINATION RESUMED BY MR. GARNER:

15 Q. ABOUT STARTING TO WORK. DO YOU REMEMBER ABOUT WHEN
16 HE CONTACTED YOU?

17 BY THE COMMISSIONER:

18 SO HE CONTACTED YOU OUT OF THE BLUE OR ---

19 BY THE WITNESS:

20 I DON'T REMEMBER. I MEAN, THAT'S BEEN ---

21 BY THE COMMISSIONER:

22 AND SAID THAT HE WAS LOOKING FOR WORK, IS THAT
23 RIGHT?

24 BY THE WITNESS:

25 YES, MA'AM.

DIRECT EXAMINATION RESUMED BY MR. GARNER:

Q. WERE YOU ACQUAINTED WITH KENNY BEFORE THAT TIME?

A. I'VE KNOWN KENNY.

Q. HAD YOU EVER WORKED WITH HIM BEFORE?

A. YES, YEARS AGO BACK IN FLORIDA.

Q. NOW, DID YOU AND KENNY DISCUSS WHAT HIS HOURLY WAGE
WOULD BE ON THIS MARION CONSTRUCTION PROJECT?

A. AT FIRST WE DISCUSSED \$12 AN HOUR, AND WHEN KENNY
SHOWED UP THAT SUNDAY HE HAD HIS TRUCK, TRAILER FULL
OF TOOLS, WALK BOARDS. I SAID, YOU KNOW, "KENNY,
HELP ME OUT. LET'S GET THIS THING FINISHED UP. I'LL
GIVE YOU \$20 AN HOUR."

Q. WHY DID YOU CHANGE YOUR MIND BASED ON HIM PRESENTING
WITH THE TRUCK, WALK BOARDS, AND WHATEVER OTHER
EQUIPMENT?

A. I WAS JUST -- I THOUGHT, YOU KNOW, THAT WOULD ONLY BE
FAIR.

Q. IS THAT SOMETHING, HIM PRESENTING WITH THAT, THAT
SAVED YOU MONEY?

A. YES, SIR.

Q. OTHERWISE, WOULD YOU HAVE HAD TO EITHER BOUGHT OR
RENTED THAT EQUIPMENT TO USE ON THAT PROJECT?

A. SOME OF THE EQUIPMENT HE HAD I WOULD HAVE.

Q. OKAY. AND WHEN DID KENNY -- DO YOU RECALL ABOUT WHEN
HE STARTED WORK FOR YOU?

- 1 A. IT WAS ON A SUNDAY.
- 2 Q. AND HOW MANY DAYS DID HE WORK BEFORE HE GOT HURT; DO
- 3 YOU RECALL THAT?
- 4 A. TWO DAYS, DAY AND A HALF.
- 5 Q. DID YOU GIVE HIM AN ENVELOPE WITH SOME MONEY IN IT AT
- 6 SOME POINT IN TIME?
- 7 A. YES, SIR.
- 8 Q. DO YOU REMEMBER ABOUT WHEN YOU DID THAT?
- 9 A. I TOOK IT TO THE HOSPITAL, PROBABLY WOULD HAVE BEEN
- 10 THAT FOLLOWING FRIDAY THE WEEK HE GOT HURT.
- 11 Q. DID YOU INTEND THAT TO BE PAYMENT FOR THE ACTUAL
- 12 HOURS WORKED OR JUST A PAYMENT TO HIM FOR WHAT WAS
- 13 WHAT?
- 14 A. ACTUAL HOURS WORKED.
- 15 Q. AND HOW MANY HOURS WAS THAT; DO YOU RECALL?
- 16 A. I THOUGHT IT WAS TEN HOURS, TEN, IN THAT AREA, TEN,
- 17 TWELVE HOURS.
- 18 Q. IS THERE ANY DOUBT IN YOUR MIND THAT YOU INTENDED TO
- 19 PAY OR AGREED TO PAY KENNY \$20 PER HOUR FOR HIS WORK
- 20 ON THIS JOB?
- 21 A. NO DOUBT, NO.
- 22 Q. NOW, HOW MUCH LONGER DID YOU AND YOUR CREW WORK ON
- 23 THAT JOB BEFORE IT WAS COMPLETED?
- 24 A. WE WAS THERE SIX, SEVEN WEEKS TO COMPLETION.
- 25 Q. DID YOU EXPECT AT THE TIME YOU HIRED KENNY THAT HE

1 WOULD WORK TO COMPLETION OF THAT PROJECT?

2 A. YES, SIR.

3 Q. HOW MANY HOURS PER WEEK WAS HE SUPPOSED TO WORK ON
4 THAT PROJECT?

5 A. WE WAS BEGINNING TO BE PUSHED, SO WE WAS WORKING --
6 HECK, HE COME TO WORK ON A SUNDAY. WE WAS WORKING
7 AROUND SEVEN DAYS A WEEK, SIX, SEVEN DAYS A WEEK.

8 BY THE COMMISSIONER:

9 GIVE ME AN IDEA. NOW, SOME DAYS YOU COULDN'T
10 WORK, COULD YOU, BECAUSE OF THE WEATHER?

11 BY THE WITNESS:

12 BECAUSE OF THE WEATHER, RIGHT. WE HAD RAINY
13 DAYS HERE OR THERE.

14 DIRECT EXAMINATION RESUMED BY MR. GARNER:

15 Q. HOW MANY HOURS DID YOU -- UNDER THE CIRCUMSTANCES
16 THAT EXISTED THEN, HOW MANY HOURS DID YOU EXPECT
17 KENNY AND THE OTHER CARPENTERS TO WORK?

18 A. ANYWHERE FROM 36 TO 40.

19 Q. AFTER YOU COMPLETED THAT JOB DID YOU GO TO ANOTHER
20 JOB?

21 A. YES, SIR.

22 Q. AND WHERE WAS THAT JOB LOCATED?

23 A. JACKSONVILLE, NORTH CAROLINA.

24 Q. HAD HE NOT BEEN HURT DID YOU EXPECT KENNY TO GO WITH
25 YOU ON THAT JOB?

1 A. YES, SIR.

2 Q. WOULD YOU HAVE PAID HIM AT LEAST \$20 AN HOUR ON THAT
3 JOB?

4 A. YES, SIR.

5 Q. WOULD YOU HAVE EXPECTED HIM TO BRING HIS EQUIPMENT TO
6 THAT JOB?

7 A. YES, SIR.

8 Q. NOW, AS AN 18-YEAR SUBCONTRACTOR ARE YOU FAMILIAR
9 WITH THE NORMAL RATE OF PAY FOR KENNY -- FOR A
10 CARPENTER WITH KENNY'S EXPERIENCE?

11 A. YES, SIR.

12 Q. WOULD \$20 BE AN AVERAGE RATE OF PAY FOR THAT?

13 A. IN THE BAD ECONOMY, THE WAY THINGS ARE TODAY? YES.

14 BY THE COMMISSIONER:

15 YES. TELL ME RIGHT NOW.

16 BY THE WITNESS:

17 YEAH. RIGHT NOW, YES.

18 BY THE COMMISSIONER:

19 WHAT ABOUT IF THE ECONOMY WERE BETTER?

20 BY THE WITNESS:

21 TWENTY-FIVE.

22 BY THE COMMISSIONER:

23 WHAT IF IT WAS WORSE?

24 BY MR. GARNER:

25 HOW MUCH WORSE CAN IT GET?

1 BY THE COMMISSIONER:

2 I DON'T KNOW. I'M ASKING YOU SINCE YOU'RE IN
3 THE INDUSTRY.

4 BY THE WITNESS:

5 TWENTY DOLLARS AN HOUR, I MEAN, IF YOU'VE GOT
6 WORK.

7 BY THE COMMISSIONER:

8 OKAY. WELL, YOU WERE GOING TO PAY HIM 12?

9 BY THE WITNESS:

10 YES, UNTIL HE SHOWED UP WITH HIS TRUCK AND ALL
11 HIS EQUIPMENT.

12 BY THE COMMISSIONER:

13 OKAY.

14 BY THE WITNESS:

15 I DIDN'T KNOW HE WAS BRINGING WHAT HE BROUGHT.

16 DIRECT EXAMINATION RESUMED BY MR. GARNER:

17 Q. WHAT WOULD BE AN -- DID YOU TESTIFY TO WHAT WOULD BE
18 AN AVERAGE WORK WEEK ON ANY JOB THAT YOU -- OR HOW
19 MANY HOURS?

20 A. WE AVERAGE 36 TO 40.

21 Q. AND IS THAT WHAT YOU EXPECTED KENNY TO WORK ON THIS
22 JOB AND ANY OTHER JOB?

23 A. YES, SIR.

24 Q. NOW, YOU'VE BEEN ASKED THIS BEFORE. DID YOU -- DO
25 YOU RECALL HAVING SOME CONVERSATION WITH SOMEBODY

1 WITH AN INSURANCE COMPANY IN CONNECTION WITH THIS
2 CLAIM?

3 A. AT FIRST, YES, I DID.

4 Q. OKAY. AND WHAT WAS THE NATURE OF THAT CONVERSATION?
5 WHO CALLED WHO?

6 A. THEY CALLED ME.

7 Q. ALL RIGHT. AND WHAT KIND OF QUESTIONS DID THEY ASK
8 YOU?

9 A. I CAN'T REMEMBER EVERYTHING. BUT, I MEAN, ONE OF THE
10 STATEMENTS WAS IS THAT WHEN I FIRST TALKED TO KENNY
11 WHAT WAS HIS HOURLY RATE.

12 Q. AND WHAT DID YOU SAY?

13 A. I SAID 12 BECAUSE THAT'S WHAT WE FIRST TALKED ABOUT.
14 THEN HE GOT TO THE JOB AND I TALKED TO KENNY TO THE
15 SIDE AND TOLD HIM IF HE WOULD STAY WITH ME AND, YOU
16 KNOW, AGREE TO USE HIS TOOLS AND ALL THAT, I WOULD
17 AGREE TO GIVE HIM 20.

18 Q. DID YOU TELL THE INSURANCE PERSON THAT, OR DO YOU
19 REMEMBER?

20 A. I CAN'T RECALL.

21 Q. OTHER THAN THE EQUIPMENT AND THE EXPERIENCE -- OTHER
22 THAN THE EQUIPMENT THAT HE PROVIDED, WHY WERE YOU
23 WILLING TO PAY KENNY \$20 AN HOUR?

24 A. BECAUSE OF HIS KNOWLEDGE AND ---

25 Q. HOW MANY PEOPLE DID YOU HAVE WORKING ON YOUR CREW AT

1 THAT JOB?

2 A. I THINK IT WAS AROUND SIX OR SEVEN.

3 Q. WAS KENNY THE MOST EXPERIENCED MAN YOU HAD?

4 A. YES, SIR.

5 Q. WHO WOULD BE IN CHARGE IN YOUR ABSENCE IN REGARD TO
6 RUNNING THAT JOB?

7 A. IT WOULD HAVE BEEN KENNY.

8 Q. WHEN YOU WENT TO THE JACKSONVILLE, NORTH CAROLINA,
9 JOB DID YOU AVERAGE 50 HOURS A WEEK ON THAT?

10 A. YES, SIR; WE DID.

11 Q. AND WHY WOULD THAT BE ABOVE YOUR NORMAL AVERAGE OF 36
12 TO 40?

13 A. THEY WAS BEHIND, PUSHING US, TRYING TO CATCH UP. SO
14 WE WAS WORKING SIX, SOMETIMES SEVEN DAYS A WEEK.

15 Q. AND HOW LONG DID THAT JOB LAST?

16 A. WE WAS THERE A YEAR AND A HALF, CLOSE TO TWO YEARS.

17 Q. AND DID YOU WORK THOSE HOURS THE WHOLE TIME?

18 A. PRETTY MUCH.

19 Q. EXCEPT WHEN YOU HAD RAIN PROBLEMS?

20 A. EXCEPT FOR RAIN PROBLEMS OR BAD WEATHER.

21 **BY MR. GARNER:**

22 I THINK THAT'S ALL I HAVE AT THIS TIME,
23 COMMISSIONER.

24 **BY THE COMMISSIONER:**

25 ALL RIGHT. MR. TAYLOR?

CROSS EXAMINATION BY MR. TAYLOR:

Q. MR. MACK, YOU TESTIFIED THAT WHEN YOU INITIALLY HIRED MR. SMITH YOU HIRED HIM FOR \$12 AN HOUR; IS THAT CORRECT?

A. THAT'S CORRECT.

Q. WHEN YOU HIRED HIM FOR \$12, DID YOU KNOW WHAT HIS KNOWLEDGE AND EXPERIENCE AS A CARPENTER WAS?

A. I DID.

Q. OKAY. DID YOU KNOW THAT HE WOULD BE CAPABLE OF SUPERVISING YOUR CREW WHEN YOU HIRED HIM FOR \$12?

A. YES, SIR.

Q. BUT YOU GAVE HIM AN \$8 RAISE, WHICH IS 67 PERCENT OF HIS WAGE? YOU GAVE HIM THAT MUCH OF A RAISE BECAUSE HE BROUGHT HIS TRUCK AND SOME TOOLS?

A. YES.

Q. THAT'S YOUR TESTIMONY?

A. YES, SIR.

Q. AND FOR A FULL YEAR YOU WOULD BE WILLING TO PAY HIM AN EXTRA \$8 AN HOUR BECAUSE HE HAD A TRUCK AND TOOLS?

A. YES, SIR.

Q. DID YOU HAVE A TRUCK AND TOOLS?

A. I DID.

Q. DID YOU HAVE SUFFICIENT TRUCK AND TOOLS WHEN YOU STARTED THE JOB FOR MARION BUILDERS?

A. WE -- WE WAS -- I HAD, BUT WE WAS LACKING A LOT OF

1 STUFF THAT KENNY HAD ON HIS TRAILER THAT WE USED.

2 Q. DO YOU KNOW WHAT \$8 AN HOUR FOR 40 HOURS A WEEK OVER

3 A FULL YEAR WOULD COME TO?

4 A. I DON'T.

5 Q. DO YOU THINK IT WOULD MAKE ECONOMIC SENSE TO PAY

6 SOMEONE THAT MUCH MORE FOR A TRUCK AND TOOLS?

7 A. YEAH. I MEAN, IT'S A LOT OF HELP.

8 Q. IF HE WAS WILLING TO WORK FOR \$12 AN HOUR, HIM HAVING

9 A TRUCK AND TOOLS WOULD BE WORTH \$8 FOR A FULL YEAR;

10 THAT'S YOUR TESTIMONY?

11 A. YES, SIR.

12 Q. OKAY. NOW, YOU'VE BEEN FRIENDS WITH MR. SMITH FOR

13 ABOUT 20 YEARS, HAVEN'T YOU?

14 A. I'VE KNOWN KENNY FOR ABOUT 20 YEARS; YES, SIR.

15 Q. AND YOU HAD HOW MANY OTHER GUYS ON THE JOB WITH YOU?

16 A. I THINK IT WAS AROUND SIX OR SEVEN.

17 Q. WHO WERE THEY?

18 A. I REMEMBER I HAD SHANE WILKERSON, GARY WETSTONE,

19 MICHAEL PRESTON.

20 Q. DID YOU HAVE BEN KANITSU ON THE JOB?

21 A. HE WORKED FOR MARION.

22 Q. OKAY.

23 A. HE WASN'T WORKING FOR ME.

24 Q. DID YOU HAVE SOMEONE NAMED CHRIS CULPEPPER?

25 A. CHRIS CULPEPPER WAS ON THE JOB.

1 Q. AND YOU PAID CHRIS CULPEPPER \$10; IS THAT CORRECT?

2 A. YES, SIR.

3 Q. AND YOU PAID MR. WILKERSON \$13?

4 A. I THINK THAT'S RIGHT; YES, SIR.

5 Q. AND YOU PAID MR. WETSTONE \$14 AN HOUR?

6 A. YES, SIR.

7 Q. AND YOU PAID MR. PRESTON \$13?

8 A. I THINK SO, RIGHT.

9 Q. AND SO, ALL OF THOSE, THE HIGHEST YOU PAID ANYONE WAS
10 \$14?

11 A. UH-HUH.

12 BY THE COMMISSIONER:

13 IS THAT A YES?

14 BY THE WITNESS:

15 YES.

16 CROSS EXAMINATION RESUMED BY MR. TAYLOR:

17 Q. AND THE PERSON YOU SPOKE WITH AT BUILDERS MUTUAL
18 INSURANCE COMPANY, WAS THAT JANIE WILSON?

19 A. I CAN'T REMEMBER HER NAME. IT WAS A FEMALE.

20 Q. AND YOUR TESTIMONY TODAY IS THAT WHOEVER CALLED YOU
21 FROM BUILDERS MUTUAL WANTED TO KNOW WHAT YOU HIRED
22 MR. SMITH TO WORK FOR, BUT THEY DID NOT WANT TO KNOW
23 WHAT YOU WERE GOING TO ACTUALLY PAY HIM?

24 A. I -- THAT WAS PRETTY MUCH, I THINK, OUR CONVERSATION.
25 I MEAN, SHE ASKED ME AT FIRST WHEN I TALKED TO KENNY

1 WHAT WAS I GONNA PAY HIM AND ---

2 BY THE COMMISSIONER:

3 WELL, AT WHAT POINT DID YOU DECIDE TO PAY HIM
4 THE \$20 AN HOUR?

5 BY THE WITNESS:

6 WHEN HE -- THE SUNDAY WHEN HE SHOWED UP AND HAD
7 ALL HIS TOOLS AND ALL, WITH THE TRUCK AND TRAILER. I
8 MEAN, I WASN'T EXPECTING THAT, AND THEN I THOUGHT TO
9 MYSELF, YOU KNOW, IF THAT WAS ME, I WOULDN'T TAKE ALL
10 MY EQUIPMENT OUT OF TOWN TO USE ON A JOB AND A MAN
11 JUST GIVE ME \$12 AN HOUR; THAT \$20 AN HOUR WOULD BE
12 FAIR FOR A MAN TO DRAG ALL HIS EQUIPMENT OUT OF TOWN
13 TO WORK FOR YOU.

14 CROSS EXAMINATION RESUMED BY MR. TAYLOR:

15 Q. AND YOUR TESTIMONY IS THAT WHEN YOU HIRED HIM AT \$12
16 HE WASN'T GOING TO BRING THAT EQUIPMENT ANYWAY?

17 A. I DID NOT THINK HE WAS GONNA BRING -- I THOUGHT IT
18 WOULD HAVE JUST BEEN KENNY.

19 BY THE COMMISSIONER:

20 SO WHAT WOULD YOU HAVE DONE FOR THE TOOLS THAT
21 HE DIDN'T BRING IF HE HADN'T BROUGHT THEM?

22 BY THE WITNESS:

23 WE -- WE PROBABLY WOULD HAVE STUCK WITH THAT.

24 BY THE COMMISSIONER:

25 YOU WOULD HAVE STUCK WITH WHAT?

1 BY THE WITNESS:

2 THE 12. I MEAN, BUT HE BROUGHT ALL HIS
3 EQUIPMENT AND TOOLS, SO I BUMPED HIM UP LIKE BEING
4 FAIR.

5 BY THE COMMISSIONER:

6 AND WHAT WOULD YOU HAVE DONE IF HE DIDN'T HAVE
7 TOOLS? WOULD YOU HAVE GONE OUT AND RENTED TOOLS OR
8 BOUGHT TOOLS OR WHAT?

9 BY THE WITNESS:

10 YES, I'D HAVE HAD TO. A LOT OF THE TOOLS THAT
11 HE HAD WE WOUND UP USING THAT I DIDN'T OWN. I
12 WOULD'VE HAD TO GO BUY THEM OR RENT THEM.

13 BY THE COMMISSIONER:

14 OKAY.

15 CROSS EXAMINATION RESUMED BY MR. TAYLOR:

16 Q. DID THE OTHER GUYS HAVE TOOLS?

17 A. ONLY HAND TOOLS.

18 Q. AND THEY USED YOUR TOOLS IF THEY DIDN'T HAVE THEM,
19 DIDN'T THEY?

20 A. RIGHT, THEY USED MINE.

21 Q. AND WHEN YOU SPOKE WITH A REPRESENTATIVE OF BUILDERS
22 MUTUAL INSURANCE COMPANY, DID YOU TELL THEM THAT MR.
23 SMITH WAS EXPECTED TO WORK 32 TO 36 HOURS A WEEK?

24 A. I DON'T RECALL THE HOURS, WHAT WE SAID HOUR-WISE. I
25 MEAN ---

1 Q. DO YOU REMEMBER ME TAKING YOUR DEPOSITION IN THIS
2 CASE?

3 A. YES, SIR.

4 Q. MR. GARNER WAS THERE?

5 A. YES, SIR.

6 Q. AND THERE WAS A COURT REPORTER THERE?

7 A. YES, SIR.

8 Q. DO YOU REMEMBER ME ASKING YOU, AND I QUOTE, "DO YOU
9 RECALL STATING THAT MR. SMITH WAS EXPECTED TO WORK
10 BETWEEN 32 AND 36 HOURS A WEEK?" DO YOU REMEMBER ME
11 ASKING THAT QUESTION?

12 A. YES, SIR.

13 Q. AND DO YOU REMEMBER ASKING, "YES, BUT..." -- EXCUSE
14 ME -- "YEAH. WE GOT BEHIND AND STARTED BEING PUSHED,
15 YEAH"?

16 A. YES, I DO REMEMBER SAYING THAT. YES, SIR.

17 Q. SO HE WAS EXPECTED TO WORK 32 -- BETWEEN 32 AND 36
18 HOURS A WEEK?

19 A. WELL, THAT'S DEPENDING ON WEATHER. THAT'S AVERAGE
20 WHAT WE ---

21 Q. OKAY. IS IT COMMON PRACTICE FOR YOU TO SEND YOUR
22 GUYS HOME ONE WEEK OUT OF THE MONTH?

23 A. IF WE'RE OUT OF TOWN?

24 Q. THAT'S RIGHT.

25 A. YES, SIR.

1 Q. SO MOST GUYS WILL WORK APPROXIMATELY THREE WEEKS AND
2 THEN GO HOME FOR A WEEK?

3 A. A WEEKEND. WHEN WE WAS IN JACKSONVILLE, WE WOULD --
4 WE WOULD ROTATE. WE WOULD NORMALLY -- AT THE MOST WE
5 WOULD COME BACK, I THINK, ON A MONDAY.

6 Q. SO YOUR TESTIMONY NOW IS NOT THAT GUYS WOULD WORK FOR
7 ABOUT THREE WEEKS AND GO HOME FOR A WEEK?

8 A. I HAD A FEW THAT WOULD GO HOME FOR A WEEK. I MEAN,
9 IT WAS UP TO THEM. IF THEY NEEDED TO GO HOME AND
10 SPEND TIME WITH THEIR FAMILIES AND THEY NEEDED A
11 WEEK, I WOULD -- I WOULDN'T SAY ANYTHING.

12 Q. WAS MR. SMITH GOING TO GO HOME ONE WEEK A MONTH?

13 A. IF HE CHOSE TO, IF HE WAS -- IF WE WAS OUT OF TOWN
14 AND HE WOULD SAY, "HEY, I NEED TO BE HOME FOR A
15 WEEK."

16 BY MR. TAYLOR:

17 THAT'S ALL THE QUESTIONS I HAVE. THANK YOU, MR.
18 MACK.

19 BY THE COMMISSIONER:

20 OKAY. MR. GARNER, ANYTHING ON REDIRECT?

21 BY MR. GARNER:

22 REDIRECT JUST BRIEFLY, COMMISSIONER.

23 REDIRECT EXAMINATION BY MR. GARNER:

24 Q. TODD, WHEN YOU WERE ASKED ABOUT THE 32- TO 36-HOUR
25 WORK WEEK ON THIS JOB AND YOU SAID YOU WERE BEING

1 PUSHED, DID THAT RESULT IN YOU WORKING MORE THAN 32
2 TO 36 HOURS?

3 A. YEAH, OF COURSE.

4 Q. AND ABOUT HOW MANY HOURS DID YOU END UP WORKING ON
5 THE JOB?

6 A. ON THE JOB, WHEN WE GOT BEHIND AND WHEN WE STARTED TO
7 BE PUSHED TO HURRY, WE WAS WORKING SIX, SEVEN DAYS A
8 WEEK, LIKE I SAID.

9 Q. HOW MANY HOURS A DAY?

10 A. NINE TO TEN.

11 Q. SO UP TO 54 TO 60 HOURS A WEEK?

12 A. WELL, WE DID THAT IN JACKSONVILLE.

13 Q. SO YOU DID IT ON THE JOB IN GREENVILLE, AND YOU DID
14 IT IN JACKSONVILLE?

15 A. YES, SIR.

16 Q. IS IT COMMON PRACTICE WITHIN THE INDUSTRY WHEN YOU
17 GET BEHIND LIKE THAT, THAT YOU DO WORK MORE HOURS TO
18 CATCH UP?

19 A. IF THEY -- IF THE -- YES, SIR. IF YOUR BOSS MAN
20 TELLS YOU, "WE NEED YOU HERE ON SATURDAY AND SUNDAY
21 TO GET CAUGHT UP," THEN WE DO.

22 Q. ON THE ONE SIDE YOU'VE GOT RAIN INTERRUPTIONS, WHICH
23 WOULD CAUSE YOU TO WORK LESS DURING A WEEK; IS THAT
24 CORRECT?

25 A. YES, SIR.

1 Q. BUT ON THE OTHER SIDE IF YOU'VE GOT A DEADLINE TO
2 MEET, THAT WOULD CAUSE YOU TO WORK MORE, IS THAT
3 RIGHT?

4 A. RIGHT.

5 Q. DOES THAT HAPPEN PRETTY OFTEN IN THE INDUSTRY?

6 A. IN COMMERCIAL WORK, YES, SIR.

7 Q. ALL RIGHT. NOW, YOU WERE ASKED ABOUT ALL THE OTHER
8 EMPLOYEES THAT YOU HAD ON YOUR CREW AT THIS MARION
9 JOB, AND YOU NAMED THEM AND WHAT YOU PAID THEM. DID
10 ANY OF THOSE WORKERS HAVE ANYWHERE NEAR KENNY'S
11 EXPERIENCE?

12 A. NO, SIR.

13 Q. WOULD KENNY HAVE BEEN IN CHARGE OF THOSE WORKERS IN
14 YOUR ABSENCE?

15 A. IN MY ABSENCE.

16 Q. NOW, YOU WERE ASKED ABOUT THE EQUIPMENT, AND YOU SAID
17 THERE'S CERTAIN EQUIPMENT THAT YOU USED OF KENNY'S
18 THAT YOU DIDN'T HAVE AND YOU WOULD HAVE HAD TO RENT
19 IT. CAN YOU SPECIFY -- YOU PROBABLY CAN'T GIVE A
20 COMPLETE LIST. CAN YOU SPECIFY WHAT YOU'RE TALKING
21 ABOUT, WHAT KIND OF EQUIPMENT?

22 A. HE HAD A LOT OF SCAFFOLDING WALK BOARDS WE USED. HE
23 HAD A LOT OF FALL PROTECTION EQUIPMENT THAT I DIDN'T
24 HAVE, WE USED. HIS AIR COMPRESSORS, SOME NAIL GUNS.
25 I MEAN, I CAN'T SPECIFICALLY TELL YOU EXACTLY

1 EVERYTHING THAT WE TOOK OFF OF HIS TRUCK, BUT THAT
2 MUCH I REMEMBER.

3 Q. IF HE HAD NOT HAD THAT EQUIPMENT, YOU WOULD HAVE HAD
4 TO GO RENT IT OR BUY IT?

5 A. THAT'S CORRECT.

6 Q. DID YOU MAKE AN ASSESSMENT IN YOUR OWN MIND THAT IT
7 WAS WORTH AND FAIR TO YOU AND KENNY FOR YOU TO PAY
8 HIM THE ADDITIONAL \$8 AN HOUR FOR THAT SITUATION?

9 A. YES, SIR.

10 Q. AND THAT WAS BASED ON YOUR ANALYSIS OF HOW MUCH MONEY
11 YOU'D MAKE NET PROFIT, I ASSUME?

12 A. RIGHT.

13 Q. SO THE LESS YOU PAY KENNY AND THE LESS EQUIPMENT
14 YOU'D HAVE TO RENT, THEN THE MORE MONEY YOU WOULD
15 MAKE AS A PROFIT, IS THAT RIGHT?

16 A. YES, SIR.

17 BY MR. GARNER:

18 THAT'S ALL, COMMISSIONER.

19 BY THE COMMISSIONER:

20 MR. TAYLOR?

21 BY MR. TAYLOR:

22 I HAVE A COUPLE QUESTIONS.

23 BY THE COMMISSIONER:

24 GO AHEAD.

25 RECROSS EXAMINATION BY MR. TAYLOR:

1 Q. CAN YOU NAME ONE THING THAT MR. SMITH BROUGHT TO THE
2 JOB SITE THAT YOU DID NOT HAVE?

3 A. THE WALK BOARDS AND THE -- A LOT OF HIS HARNESS WE
4 USED.

5 Q. NO. I'M ASKING FOR SOMETHING THAT HE HAD THAT YOU
6 DID NOT OWN YOURSELF.

7 A. ALUMINUM WALK BOARDS.

8 Q. WALK BOARDS.

9 A. UH-HUH.

10 Q. WHAT DO ALUMINUM WALK BOARDS COST?

11 A. THEY'RE AROUND FIVE, SIX HUNDRED DOLLARS FOR 24-FOOT
12 WALK BOARDS.

13 Q. BUT EVERYTHING ELSE THAT HE BROUGHT TO THE JOB SITE
14 YOU HAD AT LEAST ONE OF?

15 A. I DIDN'T HAVE ANY HARNESS. HE -- THE SAFETY -- A LOT
16 OF YOUR SAFETY STUFF I DIDN'T HAVE.

17 BY THE COMMISSIONER:

18 WELL, YOU HAD ALREADY STARTED THIS JOB WHEN HE
19 CALLED YOU; IS THAT CORRECT?

20 BY THE WITNESS:

21 YES, MA'AM.

22 BY THE COMMISSIONER:

23 WHAT WERE YOU USING FOR SAFETY HARNESSES?

24 BY THE WITNESS:

25 WAS WASN'T -- WE DIDN'T -- WE HAD -- WE WASN'T

1 UP TO WHERE WE NEEDED THAT KIND OF STUFF YET, YOU
2 KNOW. I MEAN, WE WAS JUST -- WE WAS ON GROUND LEVEL.

3 RECROSS EXAMINATION RESUMED BY MR. TAYLOR:

4 Q. WHAT WOULD A HARNESS COST?

5 A. THEY'RE, I THINK, AT LOWE'S \$99, \$100.

6 Q. BUT EVERYTHING ELSE YOU HAD?

7 A. YES, SIR.

8 Q. AND YOU WERE WILING TO PAY HIM AN EXTRA \$8 AN HOUR
9 FOR A FULL YEAR, 40 HOURS A WEEK OR MORE ---

10 A. UH-HUH.

11 Q. --- BECAUSE HE HAD A HARNESS AND A WALK BOARD?

12 A. WELL, AND BECAUSE HIS EXPERIENCE, AND I JUST THOUGHT,
13 YOU KNOW, I NEED TO TREAT THE MAN LIKE I WOULD WANT
14 TO BE PAID.

15 Q. UNDERSTOOD. BUT HE AGREED TO WORK FOR YOU FOR \$12 AN
16 HOUR; ISN'T THAT RIGHT?

17 A. AT FIRST.

18 Q. OKAY. AND MY MATH MAY BE A LITTLE OFF, BUT I
19 CALCULATE \$8 AN HOUR EXTRA AT 40 WEEKS -- EXCUSE ME,
20 AT 40 HOURS A WEEK FOR 52 WEEKS TO BE \$16,640. DOES
21 THAT SOUND LIKE A GOOD ECONOMIC DECISION ON YOUR PART
22 TO PAY HIM THAT EXTRA MONEY IF HE WAS WILLING TO WORK
23 FOR \$12 AN HOUR?

24 A. WELL, I MEAN, TAKING INTO CONSIDERATION THAT I COULD
25 LEAVE AND GO HOME AND LEAVE HIM IN CHARGE, YES, SIR.

1 Q. BUT YOU KNEW HE COULD DO THAT BEFORE HE SHOWED UP
2 WITH HIS HARNESS AND WALK BOARD, DIDN'T YOU?

3 A. NOT WITH THE CREW I HAD.

4 Q. SO WHEN YOU HIRED HIM -- I THINK EARLIER YOU
5 TESTIFIED WHEN YOU HIRED MR. SMITH YOU KNEW HIS
6 QUALIFICATIONS AND YOU KNEW THAT HE COULD BE IN
7 CHARGE OF YOUR GUYS?

8 A. YES, SIR.

9 BY MR. TAYLOR:

10 THAT'S ALL THE QUESTIONS I HAVE.

11 BY THE COMMISSIONER:

12 OKAY. ANYTHING ELSE?

13 BY MR. GARNER:

14 NOTHING FURTHER.

15 BY THE COMMISSIONER:

16 ALL RIGHT. CAN WE EXCUSE THIS ---

17 BY MR. GARNER:

18 WE'D ASK HE BE EXCUSED.

19 BY THE COMMISSIONER:

20 ALL RIGHT. THANK YOU.

21 BY THE WITNESS:

22 THANK YOU ALL.

23 BY THE COMMISSIONER:

24 ALL RIGHT. MR. SMITH, IF YOU'LL RAISE YOUR
25 RIGHT HAND.

* * * * *

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

KENNETH CARLYLE SMITH, SR.,

BEING FIRST DULY SWORN, TESTIFIED ON HIS OATH AS
FOLLOWS:

BY THE COMMISSIONER:

PLEASE STATE YOUR FULL NAME FOR THE RECORD.

BY THE WITNESS:

KENNETH CARLYLE SMITH, JR.

BY THE COMMISSIONER:

ALL RIGHT. AND I'M GOING TO ASK YOU ALL TO
SWITCH PLACES, IF YOU WOULD, BECAUSE OTHERWISE HE'S
GOING TO HAVE HIS BACK TO ME. I SHOULD HAVE SAID
SOMETHING EARLIER. AND, SIR, IF YOU'LL STATE YOUR
MIDDLE NAME AGAIN.

BY THE WITNESS:

CARLYLE, C-A-R-L-Y-L-E.

BY THE COMMISSIONER:

THANK YOU SO MUCH.

BY THE WITNESS:

YOU'VE GOT TO EXCUSE ME FOR SOME OF MY
PRONOUNCING 'CAUSE I JUST HAD SURGERY ON MY MOUTH.

BY THE COMMISSIONER:

1 OKAY. YOU TAKE YOUR TIME, AND IF ANYBODY HAS
2 ANY TROUBLE, WE'LL LET YOU KNOW.

3 BY THE WITNESS:

4 AS LONG AS YOU UNDERSTAND ME, I'LL BE GOOD.

5 BY THE COMMISSIONER:

6 ALL RIGHT. MR. GARNER?

7 BY MR. GARNER:

8 THANK YOU, COMMISSIONER.

9 DIRECT EXAMINATION BY MR. GARNER:

10 Q. CAN I CALL YOU KENNY?

11 A. YES, SIR.

12 Q. KENNY, HOW OLD ARE YOU?

13 A. FIFTY.

14 Q. WHERE DO YOU LIVE?

15 A. 1442 HIGHWAY SIX AT GASTON, SOUTH CAROLINA.

16 Q. HOW LONG HAVE YOU LIVED IN THAT AREA?

17 A. I'VE OWNED THAT PIECE OF PROPERTY 20 YEARS.

18 Q. HOW MUCH EDUCATION DO YOU HAVE, KENNY?

19 A. RIGHT AT 10TH GRADE, GOING INTO THE 11TH.

20 Q. DID YOU HAVE ANY TRAINING OR GET ANY CERTIFICATES
21 AFTER THAT?

22 A. I WENT TO MIDLANDS TECH AND TOOK TWO COURSES ON
23 BUILDING CODES.

24 Q. ALL RIGHT. ABOUT WHEN -- DO YOU REMEMBER WHAT YEAR
25 YOU DROPPED OUT OF SCHOOL?

- 1 A. '78, AROUND '78, '79.
- 2 Q. DO YOU REMEMBER WHEN YOU WENT BACK AND GOT THE -- OR
- 3 WENT AND GOT THE BUILDING CODE INSTRUCTION?
- 4 A. '98, MAYBE 2001 TO '2 MAYBE.
- 5 Q. AT THAT TIME, WHAT WERE YOU DOING FOR A LIVING?
- 6 A. I WAS FRAMING. I'VE BEEN FRAMING EVER SINCE I QUIT
- 7 SCHOOL.
- 8 Q. WHEN YOU SAY FRAMING, YOU MEAN ---
- 9 A. FRAMING HOUSES, DOING CARPENTRY WORK.
- 10 Q. WERE YOU DOING IT FOR YOURSELF OR WORKING FOR
- 11 SOMEBODY ELSE?
- 12 A. NO, SIR. I STARTED OUT AT THE BOTTOM LEVEL, YOU
- 13 KNOW, TOTING BOARDS, BEING A LABORER, YOU KNOW,
- 14 WHATEVER PEOPLE NEEDED UP TOP I WOULD GET IT TO THEM,
- 15 AND WORKED MYSELF UP TO OWNERSHIP.
- 16 Q. BY 1998 WHAT WERE YOU DOING?
- 17 A. 1998 I WAS IN BUSINESS FOR MYSELF.
- 18 Q. DOING WHAT?
- 19 A. FRAMING HOUSES.
- 20 Q. DID YOU HIRE OTHER EMPLOYEES?
- 21 A. YES, SIR.
- 22 Q. DID YOU HIRE OTHER CARPENTERS?
- 23 A. YES, SIR.
- 24 Q. HOW MUCH TOTAL IN YEARS EXPERIENCE DO YOU HAVE AS A
- 25 FRAMING CARPENTER?

1 A. A LITTLE OVER 30, ABOUT 33.

2 Q. HOW MANY YEARS' EXPERIENCE DO YOU HAVE AS A BUSINESS
3 OWNER, AS A SUBCONTRACTOR AND A BUSINESS OWNER?

4 A. ABOUT 12, 14. I STARTED MY BUSINESS JANUARY THE
5 26TH, 1996. I WAS PARTNERS WITH ANOTHER GUY, STEVE
6 POTTER, WHICH WAS S&P CONSTRUCTION, FOR THREE YEARS,
7 FROM '93 TO '96.

8 Q. DID YOU AT SOME POINT IN TIME DISCONTINUE BEING A
9 SUBCONTRACTOR?

10 A. NEVER. I'VE DONE IT ALL MY LIFE. IT'S THE ONLY
11 THING I CAN MAKE THIS AMOUNT OF MONEY AT.

12 Q. WHAT -- NOW, THE RECORDS INDICATE, YOUR TAX RETURNS
13 INDICATE, VARIOUS DOCUMENTATION INDICATES THAT YOU
14 HAD VARYING AMOUNT OF INCOME IN DIFFERENT YEARS?

15 A. YES, SIR.

16 Q. HOW WOULD YOU ACCOUNT FOR THAT?

17 A. WELL, IN 2007, AS I'VE LOOKED OVER MY PAPERWORK AND
18 EVERYTHING, WAS A VERY GOOD YEAR THAT WE WORKED 12
19 MONTHS CONSTANTLY, A FULL 12 TO MAYBE 8 -- 8 TO 12
20 MEN ON A CREW. AND 2006 WAS ABOUT THE SAME WAY.
21 2008 IT STARTED DROPPING A LITTLE BIT. 2009 WE
22 DIDN'T -- I DIDN'T BUILD A HOUSE ACTUALLY, THE
23 ECONOMY WAS SO BAD. 2010 I STARTED BACK PICKING UP A
24 LITTLE BIT OF WORK, BUT I DIDN'T USE NO EMPLOYEES.
25 THEN 2011 -- 2011 I DID A LITTLE BIT OF WORK WITH

1 LAIRD CONSTRUCTION, SUB WORK, NOT BUILDING HOUSES.
2 YOU CAN'T FRAME A HOME WITH 4,000 FOOT, NOT EVEN
3 1,200 FEET IN IT ---

4 Q. I'M GOING TO ASK YOU ABOUT THAT IN A MINUTE. LET'S
5 GO BACK TO THE ---

6 A. --- BY YOURSELF.

7 Q. YOUR TAX RETURNS SHOW IN SOME YEAR -- I THINK IT WAS
8 '6 OR '7, 2006 OR 2007 -- THAT YOUR GROSS INCOME WAS
9 OVER \$300,000. IS THAT RIGHT?

10 A. YES, SIR.

11 Q. DID YOU HAVE A LOT OF DEDUCTIONS DURING THOSE YEARS?

12 A. YES, I DID.

13 Q. WHY WAS THAT?

14 A. WELL, I PUT MY -- TRIED TO PUT MOST OF MY MONEY BACK
15 INTO MY BUSINESS. I HAD MAYBE -- WELL, I HAD THREE
16 TRUCKS, TWO WORK VANS AND A PERSONAL TRUCK FOR ME TO
17 DRIVE TO GO FROM JOB TO JOB, 'CAUSE AT TIMES I HAD
18 TWO AND THREE JOBS GOING. AT ONE POINT I HAD A
19 CORNICE GOING, A VINYL AND SIDING CORNICE CREW, A
20 ROOFING CREW BUSINESS GOING, 'CAUSE I LEARNED THAT
21 ALSO DURING THE YEARS, AND I SUBBED THAT OUT. AND,
22 YOU KNOW, I HAD TO HAVE A TRUCK TO GET FROM JOB TO
23 JOB, MYSELF AND, PLUS, I HAD -- THEN I HAD TO SUPPLY
24 A TRUCK, A VAN WITH A FULL SET OF TOOLS CONCERNING
25 AIR COMPRESSORS, AIR GUNS, SLEDGE HAMMERS, CROW BARS,

1 SAWZALLS, SKILL SAWS.

2 Q. OKAY. LET'S COME FORWARD TO 2010, KENNY, WHICH IS
3 THE YEAR BEFORE YOU GOT HURT. YOUR INCOME TAX
4 RETURNS SHOW A BUSINESS INCOME OF \$28,775.

5 A. WHAT YEAR WAS THAT?

6 Q. 2010, THE YEAR BEFORE YOU GOT HURT, THE LAST FULL
7 YEAR BEFORE YOU GOT HURT. AND YOUR SCHEDULE "C,"
8 WHICH IS PROFIT AND LOSS FROM BUSINESS, SHOWS INCOME
9 OF \$63,625 WITH WRITEOFFS, EXPENSES OF \$34,850,
10 YIELDING 28,775. WHAT WERE YOU -- DO YOU RECALL WHAT
11 YOU WERE DOING AS FAR AS PUTTING MONEY BACK INTO THE
12 BUSINESS, BUYING EQUIPMENT OR WHATEVER, DURING THAT
13 YEAR?

14 A. YES, SIR. WE WAS HAVING TO TAKE ON DIFFERENT TYPES
15 OF JOBS, YOU KNOW. BEFORE I HAD ACTUALLY SUBBED OUT
16 THE VINYL WORK AND STUFF, WHICH I WAS SET UP TO
17 STRICTLY FRAME WHEN THE BUSINESS -- WHEN THE ECONOMY
18 WAS GREAT. WE WAS TAKING THESE JOBS FAR AS BURNT OUT
19 BUILDINGS FOR INSURANCE COMPANIES, WHERE YOU'D HAVE
20 TO HAVE SPECIAL JACKS AND ALL TO JACK UP THESE BEAMS.
21 YOU KNOW, JUST DIFFERENT JOBS CALLS FOR DIFFERENT
22 TYPE OF TOOLS. CONCRETE SAWS. WE WAS PUTTING ON
23 METAL ROOFS AT TIMES. I HAD TO HAVE A METAL SAW THAT
24 WOULD CUT INTO THE METAL, YOU KNOW.

25 Q. SO THIS WAS DOCUMENTATION OF OTHER JOBS YOU BID

1 HODGEPODGE, FOR LACK OF A BETTER WORD, JOBS YOU BID
2 BACK IN THOSE YEARS, AND ALSO THIS INCOME THAT YOU
3 HAD, WAS THIS FROM WORKING -- BIDDING JOBS WITH
4 INDIVIDUAL HOMEOWNERS AND PEOPLE LIKE THAT, TOO?

5 A. WELL, SIR, YOU COULD CALL IT BIDDING, BUT AT THAT
6 POINT IN TIME IN THE ECONOMY ---

7 Q. MY POINT WAS, YOU WERE DEALING DIRECTLY WITH THEM;
8 YOU WEREN'T SUBCONTRACTING?

9 A. I WAS DEALING DIRECTLY WITH THE CONTRACTOR, GENERAL
10 CONTRACTOR, BUT AT THAT POINT IT WASN'T REALLY
11 BIDDING. IT WAS MORE OR LESS TAKING WHAT THEY'D PAY
12 YOU.

13 Q. ALL RIGHT. IN 2011, YOUR 2011 TAX RETURNS SHOW A
14 BUSINESS INCOME OF \$20,157. AND HOW MANY MONTHS DID
15 YOU WORK IN 2011 BEFORE YOU GOT HURT?

16 A. I WORKED JANUARY, FEBRUARY, MARCH -- AND HAD JUST
17 STARTED APRIL WITH TODD -- WITH LAIRD CONSTRUCTION
18 AND A COUPLE MORE ODD-AND-END JOBS. I THINK I PUT A
19 RAMP ON A ---

20 Q. ALL RIGHT. SO YOU EARNED THIS INCOME IN THAT FIRST
21 THREE MONTHS; IS THAT CORRECT?

22 A. YES, SIR.

23 Q. HOW MANY WEEKS, IF YOU CAN TESTIFY AS ACCURATELY AS
24 YOU CAN, HOW MANY WEEKS DID YOU WORK IN 2010 TO YIELD
25 THE INCOME OF \$28,775?

1 A. I'D SAY APPROXIMATELY 12.

2 Q. TWELVE?

3 A. TWELVE AT THE PROBABLY MOST.

4 Q. DID YOU HAVE ONE SPECIFIC JOB THAT STOOD OUT, ONE BIG
5 JOB THAT STOOD OUT DURING THAT YEAR?

6 A. WELL, TODD -- NOT TODD, BUT LAIRD, HE -- I WORKED
7 WITH HIM ON HIS JOBS RIGHT THERE, AND WE DID -- I'D
8 DO WHAT YOU CALL A PUNCH LIST. HE'D GO IN THERE --
9 WHEN HE WAS FRAMING HOUSES, I'D GO BACK THERE TO
10 MAYBE BOLT ALL THE L.B.L.s TOGETHER, PUT THE DOUBLES
11 UP UNDER THE BEAMS THAT WAS IN, GO ON THE OUTSIDE,
12 PUT THE O.S.B., YOU KNOW, STUFF SO HE COULD MOVE ON
13 TO HIS NEXT JOB.

14 Q. ALL RIGHT. LET ME ASK YOU THIS. DID YOU WORK
15 ANYWHERE NEAR 52 WEEKS TO EARN THAT \$28,000?

16 A. OH, NO, NO.

17 Q. AND YOU THINK PROBABLY 12 WEEKS?

18 A. NO. ABOUT 12 WEEKS.

19 Q. AND IS IT THE NATURE OF THE BUSINESS YOU WERE IN ---

20 A. THAT'S 2011 YOU'RE TALKING ABOUT, RIGHT?

21 Q. 2010.

22 A. 2010? 2010 I'M NOT REALLY SURE 'CAUSE IT WAS WORK A
23 MONTH OR SO AND OFF TWO MONTHS, WORK TWO MONTHS, OFF
24 A MONTH.

25 Q. ALL RIGHT. SO YOU MISUNDERSTOOD MY QUESTION. YOU

1 MISUNDERSTOOD MY QUESTION.

2 A. NO, SIR. I GUESS I MISUNDERSTOOD YOU.

3 Q. GIVE THE COMMISSIONER YOUR BEST TESTIMONY, BEST
4 ESTIMATE YOU CAN FOR 2010. YOU WORKED -- MADE
5 \$28,775, THAT'S YOUR NET INCOME HERE. YOUR GROSS IS
6 LIKE 63. HOW MANY WEEKS DID YOU WORK TO EARN THAT
7 MONEY?

8 A. GOD, THAT WOULD BE HARD TO SAY, 'CAUSE IT WAS SO MUCH
9 TOUCH AND GO. I COULD SAY IT EASIER BY MONTHS. ONE,
10 TWO, THREE, MAYBE FOUR, 'CAUSE, I MEAN, IT WAS REAL
11 BAD TIMES.

12 Q. WHAT DO YOU MEAN ONE, TWO, THREE, FOUR; WHAT DOES
13 THAT MEAN?

14 A. MONTHS.

15 Q. FOUR MONTHS?

16 A. PROBABLY SO. YEAH, THERE WAS A LOT OF STAY AT HOME
17 THERE A MONTH AT THE TIME, YOU KNOW, HAVING TO SELL A
18 BOAT TO GET BY AND, YOU KNOW, JUST SCRATCHING TO
19 SURVIVE.

20 Q. ALL RIGHT. WHY DID YOU TAKE A JOB WITH TODD MACK?

21 A. I WAS AT A COFFEE SHOP ONE MORNING. I HEARD -- YOU
22 KNOW, MOST OF THE CARPENTERS HANG AROUND IN THERE,
23 AND THE CONSTRUCTION WORKERS -- THAT TODD MACK HAD
24 SOME WORK OUT OF TOWN, AND I WENT TO THE PHONE BOOTH,
25 FOUND HIS NUMBER AND EVERYTHING, AND CALLED HIM UP

1 AND FOUND OUT WHAT SITUATION HE WAS IN AND ALL, AND
2 HE NEEDED MORE HELP 'CAUSE, LIKE HE SAID, HE DID NOT
3 HAVE NO EXPERIENCED HELP HARDLY, YOU KNOW. THEY MAY
4 HAVE DROVE THEMSELVES UP THERE, BUT, YOU KNOW, THAT
5 WAS PROBABLY ABOUT THE BEST THING ABOUT IT. BUT ---

6 Q. WHAT DID YOU EXPECT TO BE PAID PER HOUR AFTER YOU HAD
7 YOUR DISCUSSION WITH TODD MACK?

8 A. I -- WHEN I TALKED TO TODD MACK WE WERE TALKING ABOUT
9 TEN HOURS -- I MEAN, EIGHT HOURS A DAY AT \$20 AN
10 HOUR, AROUND \$100 A DAY. WHEN I GOT THERE, WE
11 DECIDED ON \$20 AN HOUR RIGHT THEN, AND HE KNOWED
12 BEFOREHAND THAT I WAS BRINGING ALL MY EQUIPMENT AND
13 EXACTLY WHAT I WAS DOING. I WENT AND BOUGHT AN EXTRA
14 TRAILER HITCH. I'VE GOT SHORT-TERM MEMORY ALSO FROM
15 MY FALL, AND SO I HAVE TO THINK A LITTLE BIT AS FAR
16 AS PRONOUNCE WHAT I'M TRYING TO SAY. BUT I WENT AND
17 BOUGHT A \$100 TRAILER HITCH, A SPECIAL HITCH THAT
18 GOES UP UNDER THERE AND BOLTS TO THE CHASSIS AND
19 COMES OUT AND YOU PUT A TWO-INCH BALL ON IT, TO PULL
20 MY SIX-BY-TEN TRAILER, CLOSED-IN TRAILER WITH ALL MY
21 TOOLS IN IT. YES, SIR; I HAD HARNESSES AND
22 EVERYTHING ELSE. I HAD TWO HARNESSES THAT RUN \$300
23 APIECE. THEY'VE GOT THE ROPES ON THEM, BUNGEE STRAPS
24 ON THE END SO WHEN YOU HIT IT DON'T SNATCH YOU; IT
25 SPRINGS YOU. I HAD TWO THAT WAS 50-FOOT ROPES, WAS A

1 LITTLE LESS THAN 300, AND THEY NEVER USED NONE OF
2 THAT. WHAT -- THE ONLY THING THEY USED -- WHAT THEY
3 USED ---

4 Q. WHAT DID YOU SUPPLY FOR THE JOB?

5 A. I SUPPLIED WALK BOARDS, I SUPPLIED AIR HOSES, SAW
6 CARDS, LADDERS, EXTENSION LADDERS TO CLIMB UP AND
7 DOWN ON TOP OF THE HOUSE, STEPLADDERS TO GET ON TOP
8 OF THE WALLS AND STUFF AND GO BACK AND FORTH, SKILL
9 SAWS, AND SAW BUCKS, METAL SAW BUCKS THAT YOU PUT
10 TOGETHER THEN WORK. EVERYTHING IT WOULD TAKE TO RUN
11 A BUILDING BUSINESS. TODD DID NOT HAVE THAT MUCH
12 TOOLS.

13 Q. ALL RIGHT. TODD TESTIFIED THAT BEFORE YOU GOT THERE
14 THEY WERE WORKING ON LOWER FLOORS. WOULD SOME OF
15 THIS STUFF BE ---

16 A. I STARTED -- WHEN I STARTED BUILDING THEY WAS ON THE
17 SECOND FLOOR.

18 Q. AND WHAT FLOOR DID ---

19 A. I FELL OFF OF THE SECOND FLOOR.

20 Q. SECOND FLOOR. ALL RIGHT. HOW MANY HOURS A WEEK DID
21 YOU EXPECT TO WORK ON THE ---

22 A. I TOLD HIM I WOULD WORK -- WHEN I WOULD COME TO WORK
23 -- WHEN I WOULD GO OUT OF TOWN TO WORK AND
24 EVERYTHING, I WANTED TO WORK ALL I COULD FROM
25 DAYLIGHT TO DARK OR WHATEVER. I AGREED -- I AGREED

1 ON TEN HOURS OR SO A DAY OR WHATEVER, YOU KNOW, AT
2 \$20 AN HOUR. I GOT -- AND I WAS GONNA WORK THROUGH
3 THE WEEKENDS. MY PLAN, MYSELF, AND WHAT I EXPLAINED
4 TO HIM WAS THE DAYS THAT YOU HAD DOWN FOR DOWN DAYS
5 BECAUSE OF RAIN, I WOULD GO HOME WITH MY FAMILY. I
6 HAD GOT MY MOMMA TO MOVE INTO MY HOME FROM NORTH TO
7 SWANSEA AND STAY WITH MY YOUNGER CHILDREN WHILE I WAS
8 OUT OF TOWN WORKING 'CAUSE I DIDN'T HAVE NO INCOME
9 COMING IN, AND SHE AGREED TO DO THAT RIGHT THERE.
10 WHEN IT RAINED, I WAS GOING HOME. SOON AS HE CALLED
11 ME AND SAID WE WAS BACK TO WORK, I WOULD HAVE BEEN
12 BACK IN MY TRUCK, BACK TO THE JOB SITE. ALSO, IN
13 CONSTRUCTION YOU HAVE DOWN TIME WHEN YOU MAY HAVE TO
14 ORDER A SPECIAL BEAM. YOU MAY HAVE TO ORDER SPECIAL
15 WINDOWS. ANYTHING -- THERE'S LOT OF DIFFERENT
16 REASONS THAT SHUT YOU DOWN. I WAS GOING HOME ON THEM
17 DAYS. IF IT TOOK HIM SIX WEEKS TO BUILD IT, I WANTED
18 TO WORK SIX WEEKS STRAIGHT. SIX WEEKS OUT OF MY LIFE
19 AWAY FROM MY CHILDREN RIGHT THERE TO MAKE \$10,000 OR
20 SO, YOU KNOW, THAT'S WHAT I WAS SHOOTING FOR.

21 Q. DID YOU EXPECT TO WORK FULL TIME?

22 A.. YES, I DID. I STARTED ON A SUNDAY MORNING THE TIME I
23 GOT THERE, AND THE REASON IT TOOK ME 'TIL SUNDAY TO
24 GET THERE, BECAUSE I HAD TO PUT THAT TRAILER HITCH ON
25 BY MYSELF. I DIDN'T WANT TO SPEND MONEY TO HAVE

1 SOMEBODY PUT IT ON FOR ME.

2 Q. AFTER THAT WERE YOU AWARE THAT HE WAS GOING TO
3 JACKSONVILLE, NORTH CAROLINA, ON ANOTHER PROJECT?

4 A. YES, I WAS. I WAS AWARE OF THAT AT THE TIME WE
5 STARTED NEGOTIATING.

6 Q. WERE YOU INTENDING TO GO TO THAT JOB?

7 A. I INTENDED. THAT'S WHY I TOOK EVERYTHING I HAD TO
8 IMPRESS THEM AS MUCH AS I COULD TO GET MY FOOT IN THE
9 DOOR AND GET DOWN -- GO UP TO VIRGINIA WITH HIM AND
10 WORK WITH HIM, YOU KNOW, AS LONG AS POSSIBLE 'TIL MY
11 WORK, MY SUB -- MY CONTRACTORS STARTED BACK.

12 Q. BY THAT TIME YOU HAD MOVED YOUR MOTHER IN TO TAKE
13 CARE OF YOUR CHILDREN, AS I UNDERSTAND IT?

14 A. YES, SIR.

15 Q. WAS THAT YOUR PLAN, TOO, WHILE YOU WERE IN
16 JACKSONVILLE, NORTH CAROLINA?

17 A. THAT'S THE PLAN I MADE. THAT'S THE ONLY CHOICE I
18 HAD.

19 Q. WERE YOU INTENDING AT SOME POINT TO RESUME YOUR
20 CAREER AS A SUBCONTRACTOR?

21 A. I NEVER STOPPED. I HAD MY WORKMAN COMP, WHICH I
22 STILL HAVE NOW, WITH BUILDERS MUTUAL. OF COURSE, YOU
23 ONLY PAY 19.2 PERCENT ON WORK THAT YOU WORK.

24 Q. WE DON'T NEED TO GO INTO ALL THAT. JUST YOU WORKED
25 FOR -- YOU SAY YOU NEVER GAVE UP ---

1 A. NO.

2 Q. THAT'S ---

3 A. NO. THAT WAS JUST SOMETHING TO KEEP SOME FOOD IN THE
4 HOUSE.

5 Q. SO THAT'S WHY YOU TOOK THIS JOB WITH TODD MACK?

6 A. YES, SIR.

7 Q. AND WHEN THE ECONOMY WAS GOOD YOUR BUSINESS WAS GOOD,
8 RIGHT?

9 A. UH-HUH.

10 Q. AND WHEN THE ECONOMY IS BAD ---

11 BY THE COMMISSIONER:

12 IS THAT A YES?

13 BY THE WITNESS:

14 REPHRASE THAT QUESTION.

15 DIRECT EXAMINATION RESUMED BY MR. GARNER:

16 Q. WHEN THE ECONOMY IS GOOD, BACK IN THE YEARS YOU HAD A
17 LOT OF INCOME, YOUR BUSINESS WAS GOOD?

18 A. YES, MY BUSINESS WAS GREAT.

19 Q. IT WENT DOWN WHEN THE ECONOMY WENT DOWN?

20 A. YES, SIR.

21 Q. AND DID YOU EXPECT IT TO GO BACK UP AT SOME POINT AND
22 YOU RESUME WORK AS ---

23 A. OH, EVER -- EVER FEW MONTHS, EVER MONTH, FIRST YEAR
24 -- NEXT YEAR IS GONNA BE BETTER. THEN YOU COMING
25 BACK NEXT YEAR, 2010, AND EVERYTHING IS GONNA PICK

1 UP. EVERYBODY IN THE CONSTRUCTION BUSINESS FELT THE
2 SAME WAY, AND POLITICS, I AIN'T THAT GOOD AT AND
3 DON'T KNOW, BUT I WAS FOCUSED ON FOX NEWS, CNN,
4 TRYING TO KEEP UP WITH EVERYTHING I COULD THAT I
5 KNOWNED ABOUT THE ECONOMY, YOU KNOW.

6 BY MR. GARNER:

7 THAT'S ALL I HAVE AT THIS POINT.

8 BY THE COMMISSIONER:

9 ALL RIGHT. MR. TAYLOR?

10 CROSS EXAMINATION BY MR. TAYLOR:

11 Q. THANKS, MR. SMITH. SO, YOU ARRIVED ON A SUNDAY; IS
12 THAT CORRECT?

13 A. I ARRIVED ---

14 Q. TO THE JOB SITE?

15 A. --- ON A SUNDAY MORNING ABOUT 9:00.

16 Q. AND YOU WORKED FROM -- YOU WORKED APPROXIMATELY HOW
17 MANY HOURS THAT FIRST DAY?

18 A. WE ONLY WORKED ABOUT -- THEY ONLY WORKED 'TIL ABOUT
19 2:00 OR SO.

20 Q. OKAY.

21 A. I WAS EXPECTING TO WORK ALL DAY.

22 Q. IS IT POSSIBLE THEY WORKED 'TIL 3:00 OR 4:00?

23 A. NO, SIR; I DON'T THINK SO.

24 Q. OKAY. DO YOU RECALL TESTIFYING AT YOUR DEPOSITION
25 THAT YOU ALL WORKED 'TIL APPROXIMATELY 3:00 OR 4:00?

1 A. I -- WHEN I GOT THERE, I REMEMBER GETTING THERE ABOUT
2 -- AROUND 9:00 THAT MORNING, AND IT COULD HAVE BEEN
3 3:00. I MEAN, I'M NOT -- I DIDN'T WRITE THE HOURS
4 DOWN.

5 Q. SURE. BUT SOMEWHERE FROM 9:00 'TIL APPROXIMATELY
6 2:00 OR 3:00?

7 A. IT'S BASICALLY FIVE HOURS, IS WHAT IT WAS.

8 Q. OKAY. COULD IT HAVE BEEN AS LATE AS 4:00?

9 A. IF IT WAS FIVE HOURS.

10 Q. DID YOU TESTIFY IN YOUR DEPOSITION THAT IT WAS AS
11 LATE AS 4:00?

12 A. I'M TESTIFYING IT WAS FIVE HOURS. I'M NOT SURE RIGHT
13 HERE ON NINE TO FIVE. PROBABLY NINE TO -- IT WASN'T
14 4:00. IT SURPRISED ME THEY WAS KNOCKING OFF KIND OF
15 EARLY. I KNOW I WORKED FIVE HOURS THAT SUNDAY.

16 Q. I'M LOOKING -- FOR THE RECORD I'M LOOKING AT PAGE 17
17 OF THE CLAIMANT'S DEPOSITION. I ASKED YOU, "WHEN YOU
18 WORKED THE FIRST SUNDAY HOW MANY HOURS DID YOU WORK?"
19 YOU ANSWERED, "WE WORKED -- I STARTED AT NINE AND I
20 THINK -- I'M NOT SURE. IT COULD HAVE BEEN AROUND
21 3:00 OR 4:00." AND, AGAIN, YOU WEREN'T SURE, BUT ---

22 A. OKAY.

23 Q. OKAY. AND THEN ON THE FOLLOWING MONDAY HOW MANY
24 HOURS DID YOU WORK?

25 A. I WORKED FROM ABOUT 7:00 THAT MORNING 'TIL AROUND

1 1:30 OR 2:00. I FELL RIGHT AFTER DINNER. OR, I
2 DIDN'T FALL; I WAS KNOCKED OFF THE WALL.

3 Q. SO APPROXIMATELY SEVEN HOURS?

4 A. SEVEN TO -- SEVEN TO TWO OR SO. IT WAS DAYLIGHT WHEN
5 I GOT -- I MEAN, IT WAS DARK WHEN I GOT UP THAT
6 MORNING AND GOT IN THE TRUCK. I HAD A SHORT DRIVE
7 DOWN TO THE JOB, EAT LUNCH, TOOK ABOUT AN HOUR OR SO
8 FOR LUNCH, AND WENT BACK, AND I FELL SHORTLY AFTER
9 LUNCH. I DON'T REMEMBER WHAT TIME IT WAS.

10 Q. IS IT FAIR ---

11 A. I SUSPECT IT WAS AROUND TWO.

12 Q. OKAY. IS IT FAIR TO SAY YOU WORKED A TOTAL OF 12
13 HOURS ON THIS JOB SITE?

14 A. WELL, I WOULDN'T SWEAR TO THAT, THAT IT WASN'T. I
15 WOULDN'T SAY IT WAS FAIR TO SAY THAT. I -- 'CAUSE I
16 DON'T REALLY -- REALLY -- I DID NOT KEEP UP THE
17 HOURS, WRITE DOWN THE DAY AND WROTE HOURS. I TRUSTED
18 TODD. I EXPECTED HIM TO TREAT ME RIGHT.

19 Q. OKAY. I'M LOOKING AT YOUR APA SUBMISSION NUMBER SIX.
20 DO YOU RECOGNIZE THIS?

21 A. YES, I DO.

22 Q. IS THIS ---

23 A. THAT WAS THE ENVELOPE THAT WAS IN THE GLOVE -- IT WAS
24 IN THE DASH BOX OF MY TRUCK WHEN THEY PICKED MY TRUCK
25 UP.

1 Q. AND THIS IS WHAT YOU WERE PAID FOR THE JOB SITE ---

2 A. THAT'S EXACTLY ---

3 Q. --- WITH TODD MACK?

4 A. YEAH.

5 Q. IS THAT -- WHOSE HANDWRITING -- DO YOU KNOW WHOSE
6 HANDWRITING THAT IS THAT SAYS ---

7 A. THAT'S TODD MACK'S HANDWRITING. I CALLED HIM AND
8 ASKED HIM ABOUT THIS WHEN I WAS LEAVING THE HOSPITAL
9 THAT FRIDAY.

10 Q. AND THERE WAS \$200 IN THE ENVELOPE, WASN'T THERE?

11 A. THERE WAS \$200 IN THERE.

12 Q. AND THAT WAS FOR 12 HOURS OF WORK?

13 A. RIGHT. AND I WASN'T HAPPY WITH THAT. I CAUGHT THAT.
14 I KNOWED THAT, AND I FELT LIKE THAT WAS PRETTY
15 CHEESY, YOU KNOW, PRETTY CHEAP ANYWAY 'CAUSE THEY
16 STILL USED MY TRUCK AND ALL THE REST OF THE WEEK.
17 SOMEBODY FALLS ON MY JOB AND GETS HURT, I PAY THEM ON
18 THROUGH THE REST OF THE WEEK.

19 Q. I UNDERSTAND.

20 A. TAKE THEM TO THE DOCTOR. I'M IN THE HOSPITAL BROKE
21 TO PIECES, AND I'M ONLY GETTING PAID FOR TEN HOURS.
22 I SPENT MORE THAN THAT ON A TRAILER HITCH TO GO UP
23 THERE.

24 Q. YOU WERE ACTUALLY GETTING PAID FOR 12 HOURS ACCORDING
25 TO THIS, ISN'T THAT RIGHT?

1 A. THAT'S WHAT IT SAYS, AIN'T IT? THAT'S WHAT IT SAYS.
2 I DIDN'T LIKE THAT.

3 Q. OKAY. AND YOU INTENDED WHEN YOU WORKED OUT OF TOWN
4 WITH MR. MACK TO WORK THREE WEEKS ON AND ONE WEEK
5 OFF; IS THAT CORRECT?

6 A. I EXPECTED TO WORK AS MUCH AS THE WEATHER AND THE
7 MATERIAL LIST AND THE WORK WOULD ALLOW ME TO WORK.

8 Q. OKAY.

9 A. WE HAD NO CONVERSATION OF WHAT HOURS I WAS GONNA WORK
10 AND EVERYTHING. MY -- MY ANSWER TO HIM WHEN HE ASKED
11 THAT, I WOULD WORK -- WHEN IT RAINED, I WOULD GO
12 HOME. IF IT RAINED FOR TWO DAYS OR SO, I'D STAY HOME
13 TWO DAYS OR SO. RIGHT THEN THE JOB WASN'T GONNA LAST
14 FOREVER. I WAS GONNA WORK ALL I POSSIBLY COULD.

15 Q. WELL, WERE YOU PLANNING TO WORK THREE WEEKS ON AND
16 ONE WEEK OFF? THAT'S MY QUESTION.

17 A. NO. I WASN'T PLANNING TO TAKE NO WEEK OFF FOR
18 NOTHING.

19 Q. OKAY. AND, AGAIN, YOU RECALL TAKING YOUR DEPOSITION
20 IN THIS CASE?

21 A. YES, SIR.

22 Q. AND A COURT REPORTER WAS THERE?

23 A. YES, SIR.

24 Q. AND I ASKED YOU -- AND THIS IS AT PAGE 19, LINE 13.
25 I ASKED YOU, "AND HOW MANY HOURS DID YOU UNDERSTAND

1 THAT YOU WERE GOING TO WORK?" YOUR ANSWER, I'M
2 LOOKING DOWN NOW TO LINES -- WELL, I'LL READ IT ALL
3 FOR THE RECORD. STARTING AT LINE 15, "I WAS ALLOWED
4 FROM DAYLIGHT TO DARK, SEVEN DAYS A WEEK, AND THAT'S
5 NOT UNUSUAL FOR GOING OUT OF TOWN. I MEAN, WE --
6 I'VE BEEN TO MIAMI, TEXAS. THAT'S ALL WE DO, WORK
7 DAYLIGHT TO DARK, SEVEN DAYS A WEEK, THREE WEEKS AND
8 GO HOME FOR A WEEK." DID YOU SAY THAT?

9 A. I DID DO THAT IN MIAMI. WE WENT -- WE WORKED THREE
10 STRAIGHT WEEKS AND COME HOME FOR ONE WEEK, BUT THAT
11 WAS A DIFFERENT SITUATION. I DID NOT HAVE ANY
12 CHILDREN. I WAS SINGLE. AND I DID THAT IN MIAMI.

13 Q. WAS THAT YOUR PLAN IF YOU WENT TO JACKSONVILLE WITH
14 MR. MACK?

15 A. IF IT COME TO WHERE WE WAS WORKING THREE WEEKS STEADY
16 MAKING 50 HOURS A WEEK, OF COURSE I'D COME HOME WITH
17 MY CHILDREN.

18 Q. OKAY. AND HOW LONG WAS THE JOB WITH TODD MACK
19 SUPPOSED TO LAST, THE ONE WITH MARION BUILDERS?

20 A. HE SAID HE HAD THREE YEARS' WORTH OF WORK IN NORTH
21 CAROLINA.

22 Q. I'M TALKING ABOUT THE JOB SITE THAT YOU WENT TO?

23 A. I DIDN'T -- I DIDN'T ASK. I DIDN'T EVEN KNOW. I
24 MEAN, I DIDN'T KNOW HOW LONG HE WAS GONNA BE THERE.
25 WE NEVER TALKED ABOUT THAT OR NOTHING. I KNOW THE

1 BUILDING HAD 8,000 SQUARE FEET IN IT, AND I NEVER
2 REALLY LOOKED AT THE FULL SET OF PLANS. I SEEN THE
3 FLOOR PLANS. I DIDN'T SEE THE ROOF DESIGN, NONE OF
4 THAT, NONE OF THE ELEVATIONS OR ANYTHING. I DIDN'T
5 KNOW IF IT HAD A TWELVE-TWELVE OR FOUR AND TWELVE.
6 ANY OF THAT, THAT WOULD HAVE MADE A BIG DIFFERENCE.

7 Q. IN 2011, WHEN YOU WERE INJURED, DID YOU HAVE ANY
8 EMPLOYEES WORKING FOR YOU?

9 A. NO, I DIDN'T.

10 Q. HOW ABOUT IN 2010?

11 A. 2010? NO, SIR. I DON'T THINK SO.

12 Q. AND YOU FILED TAX RETURNS FOR BOTH OF THOSE YEARS; IS
13 THAT CORRECT?

14 A. I FILED TAX RETURNS FOR BOTH THOSE YEARS. I WAS LATE
15 ON MY 2010 BECAUSE I GOT HURT IN APRIL THE 4TH, 2011.

16 Q. DID YOU ---

17 A. BUT I DID GET IT FILED.

18 Q. DID YOU PROPERLY REPORT YOUR INCOME THOSE YEARS?

19 A. YES, SIR.

20 Q. AND DID YOU REPORT YOUR TOTAL INCOME FOR THE YEAR
21 2010 TO BE \$28,775?

22 A. YES, SIR.

23 Q. AND THAT IS -- IS THAT AN ACCURATE NUMBER OF YOUR
24 INCOME FOR 2010?

25 A. WELL, THAT'S WHAT MY ACCOUNTANT SAID.

1 Q. OKAY. AND YOU FILED TAX RETURNS IN 2009?

2 A. 2009 I DID NOT BUILD ANY HOUSES WHATSOEVER.

3 Q. THAT'S NOT WHAT I ASKED. DID YOU FILE TAX RETURNS IN
4 2009?

5 A. YEAH, I IMAGINE SO. EVEN IF YOU DON'T MAKE ANYTHING
6 YOU'VE GOT TO FILE.

7 Q. WERE YOU ---

8 A. BUT I HAVE AN ACCOUNTANT TO TAKE CARE OF THAT FOR ME.

9 Q. DID YOU PROVIDE THE INFORMATION TO YOUR ACCOUNTANT
10 HONESTLY ABOUT YOUR INCOME FOR 2009?

11 A. SURE.

12 Q. AND YOUR INCOME IN 2009 WAS \$16,410, IS THAT RIGHT?

13 A. COULD HAVE BEEN.

14 Q. AND I DON'T HAVE YOUR 2007 AND '8 RETURNS, BUT I DO
15 HAVE YOUR 2006 RETURNS. IN 2006 YOU REPORTED GROSS
16 INCOME OFF 393 DOLLARS AND 391 CENTS. IS THAT
17 CORRECT?

18 A. EXCUSE ME?

19 **BY MR. GARNER:**

20 WHAT WAS THAT?

21 **CROSS EXAMINATION RESUMED BY MR. TAYLOR:**

22 Q. FOR THE YEAR 2006 YOU REPORTED GROSS PROFIT OF
23 \$393,391, IS THAT RIGHT?

24 A. OH, YES. I REMEMBER THAT YEAR.

25 Q. OKAY. WAS THAT A GOOD YEAR?

1 A. BEAUTIFUL YEAR.

2 Q. AND YOU CLAIMED YOUR LOSSES THAT YEAR AS WELL, RIGHT?

3 A. I CLAIMED EVERYTHING THAT THE GOVERNMENT ALLOWED ME
4 TO CLAIM.

5 Q. AND YOU CLAIMED LOSSES OF \$374,282, IS THAT RIGHT?

6 A. WELL, THAT WAS -- IF IT WAS ON THERE, I'VE GOT
7 RECEIPTS AND EVERYTHING TO PROVE IT.

8 Q. SO, YOUR TESTIMONY IS THAT ALL OF THOSE DEDUCTIONS
9 AND LOSSES ---

10 A. A LOT OF THAT -- A LOT OF THAT IS PAYROLL, A PILE OF
11 IT.

12 Q. I UNDERSTAND THAT. MY QUESTION IS, IS WHETHER THE
13 \$374,282 WERE LEGITIMATE LOSSES TO YOUR BUSINESS?

14 A. YES, SIR. I'M AN HONEST BUSINESSMAN, AND I TRY TO DO
15 EVERYTHING RIGHT BY THE BOOK AND KEEP PERFECT RECORDS
16 AS GOOD AS POSSIBLE. I LEARNED THAT EARLY IN LIFE,
17 DON'T DO NOTHING IF YOU DON'T PUT IT ON PAPER.

18 Q. VERY GOOD. AND YOU REPORTED YOUR TOTAL INCOME THAT
19 YEAR AFTER YOUR LOSSES AND DEDUCTIONS TO BE \$19,109,
20 IS THAT RIGHT?

21 A. YES.

22 Q. SO, YOUR ---

23 BY THE COMMISSIONER:

24 HOW IS THAT A BEAUTIFUL YEAR?

25 BY THE WITNESS:

1 WELL, I WAS ABLE TO PUT MONEY BACK INTO MY
2 BUSINESS, AND THAT'S WHAT I -- I LOVE MY BUSINESS,
3 AND THAT'S ALL I HAD TO DO AND EVERYTHING. I DID IT
4 EVER SINCE I WAS OUT OF HIGH SCHOOL. I WAS ABLE TO
5 BUY NEW AIR COMPRESSORS, THE TOP LINE OF GUNS. IF I
6 NEEDED IT, I HAD THE MONEY IN THE BANK TO GO PAY IT,
7 YOU KNOW. AND, YOU KNOW, I'M STILL, YOU KNOW, LIVING
8 -- I PUT MY MONEY BACK IN MY COMPANY, AND THE 19,000
9 AND ALL THAT, NO, WE WASN'T GOING TO THE BAHAMAS OR
10 GOING TO CANCUN AND ALL THIS RIGHT HERE, BUT WE LIVED
11 COMFORTABLY. WE HAD A -- YOU KNOW, I WAS ABLE TO BUY
12 A BOAT, YOU KNOW, AND BUILD UP -- LIKE I SAID BEFORE,
13 ON A COUPLE OF OLD WORK VANS AND MADE -- TRIED TO
14 MAKE MY BUSINESS GROW 'CAUSE, YOU KNOW, I WANTED --
15 YOU KNOW, THESE OLDER FELLOWS THAT HAS TAUGHT ME WHAT
16 I KNOW AND EVERYTHING IS STARTING TO GET TO THAT
17 RETIREMENT AGE. I GOT MY FOOT IN THE DOOR AT SEVERAL
18 DIFFERENT CONTRACTORS, AND I WANT TO BE ONE OF THE
19 BEST NAMES IN THE BUSINESS.

20 BY THE COMMISSIONER:

21 GO AHEAD, MR. TAYLOR.

22 CROSS EXAMINATION RESUMED BY MR. TAYLOR:

23 Q. SO, YOUR TESTIMONY IS YOUR TOTAL INCOME, PERSONAL
24 INCOME, WAS \$19,109 AFTER YOUR DEDUCTIONS FOR THE
25 YEAR 2006; IS THAT CORRECT?

1 A. YES, SIR.

2 Q. OKAY. AND YOU TESTIFIED THAT YOU HAVE CHILDREN, IS
3 THAT RIGHT?

4 A. YES, SIR.

5 Q. HOW MANY CHILDREN DO YOU HAVE?

6 A. FOUR.

7 Q. FOUR. AND THEY LIVE WITH YOU?

8 A. THREE OF THEM DO.

9 Q. AND ONE OF THEM IS GROWN?

10 A. AND ONE IS GROWN.

11 Q. AND THE THREE THAT LIVE WITH YOU, THEY WERE GOING --
12 YOUR TESTIMONY IS THAT THEY WERE GOING TO LIVE A FULL
13 YEAR WITH YOUR MOTHER WHILE YOU WORKED IN
14 JACKSONVILLE; IS THAT CORRECT?

15 A. THEY WAS GONNA STAY AT MY HOUSE AND GO TO THEIR
16 SCHOOL AND EVERYTHING, AND WHEN I GOT A BREAK DURING
17 THE RAIN, I WAS GOING HOME TO SPEND TIME WITH MY
18 CHILDREN AND EVERYTHING AND DO EVERYTHING I COULD,
19 BUT IT WAS MORE IMPORTANT AT THAT TIME TO KEEP FOOD
20 IN THE HOUSE FOR THEM, TO PUT CLOTHES ON THEM THAT
21 THEY WAS OUTGROWING, TO PAY FOR PICTURES THAT WANT TO
22 BE TOOK AT SCHOOL, GO ON FIELD TRIPS, AND "DADDY, CAN
23 WE GO BY McDONALD'S?" THAT'S NOT EASY TO TELL YOUR
24 CHILDREN YOU DON'T HAVE THE MONEY TO DO.

25 Q. I UNDERSTAND THAT. I JUST WANT TO MAKE SURE I HAVE

1 YOUR TESTIMONY STRAIGHT, THAT YOU WERE GOING TO WORK
2 OUT OF TOWN FOR A YEAR, AND YOUR MOTHER WAS GOING TO
3 KEEP YOUR KIDS WHILE YOU WERE GOING?

4 A. I WASN'T GONNA BE A WHOLE YEAR AND NOT SEE MY KIDS.
5 I WAS GONNA WORK UNTIL THAT JOB -- TODD DIDN'T HAVE
6 NO MORE WORK OR I FOUND SOMETHING HOME. I MEAN, IF
7 MY WORK PICKED BACK UP, MY BUSINESS PICKED UP -- LIKE
8 MR. GARNER SAID, I NEVER QUIT AS A SUBCONTRACTOR.
9 BUT I WAS GONNA WORK WITH HIM AS LONG AS I HAD TO.

10 Q. WELL, IF YOU DIDN'T FIND ANY OTHER WORK, YOU WERE
11 GOING TO SPEND A YEAR IN JACKSONVILLE AND YOUR KIDS
12 WERE GOING TO BE WITH YOUR MOTHER; IS THAT WHAT
13 YOU'RE SAYING?

14 A. ONCE WE GOT LEVELED OUT AND GOT ON OUR FEET AND I GOT
15 MY BANK ACCOUNT BUILT BACK UP AND I -- IF I COULD GO
16 HOME ON THE WEEKENDS, EVERY WEEKEND OR EVERY OTHER
17 WEEKEND, WHATEVER THE JOB CALLED FOR, THAT'S WHAT I
18 WOULD HAVE DONE. IF WE GOT A RAINY DAY, I WOULD BEAT
19 IT TO THE HOUSE. IF WE HAD SOMETHING DOWN FOR SOME
20 OTHER CAUSE, I WOULD HAVE BEAT IT TO THE HOUSE. NO,
21 I WOULD NOT HAVE LIKED IT; I WOULD HAVE HATED IT.
22 BUT I WOULD HAVE DONE IT.

23 Q. I KNOW YOU WOULDN'T HAVE LIKED IT, BUT MY QUESTION
24 IS, IS WAS YOUR PLAN IF YOU HADN'T FOUND OTHER WORK
25 TO SPEND 52 WEEKS IN JACKSONVILLE AND HAVE YOUR

1 MOTHER AT HOME WITH YOUR KIDS?

2 A. I DIDN'T MAKE A PLAN IN MY MIND AND SAY, LOOK, I'M
3 GOING TO BE GONE A YEAR AND MY MOMMA IS GONNA TAKE
4 CARE OF MY YOUNG'UNS FOR ONE YEAR AND I'M GONNA BE IN
5 JACKSONVILLE. I HAD A PLAN OF GOING DOWN THERE,
6 PLAYING IT BY EAR, DOING WHATEVER I HAD TO DO, AND,
7 YOU KNOW, WHATEVER SITUATION ARISE, YOU KNOW. MY
8 CHILDREN WAS THE MOST IMPORTANT THING. BUT I HAD TO
9 FEED THEM, AND I HAD TO TAKE CARE OF THEM.

10 Q. I UNDERSTAND THAT. YOU HEARD THE TESTIMONY OF MR.
11 MACK A FEW MOMENTS AGO, DIDN'T YOU?

12 A. YES, SIR.

13 Q. AND YOU HEARD HIM TESTIFY THAT HE HIRED YOU AT \$12 AN
14 HOUR?

15 A. YES, SIR.

16 Q. IS IT YOUR TESTIMONY THAT YOU WERE NOT HIRED AT \$12
17 AN HOUR?

18 A. EXACTLY.

19 Q. SO, YOUR ---

20 A. I WOULD HAVE NEVER WENT THERE FOR \$12 AN HOUR AND
21 LEFT MY YOUNG'UNS FOR A YEAR WITH MY MOMMA FOR \$12 AN
22 HOUR.

23 Q. SO, CAN WE THEN AGREE THAT MR. MACK WAS NOT TELLING
24 THE TRUTH?

25 A. YES, SIR.

1 Q. OKAY.

2 A. AND I ALSO TOLD THE ADJUSTER THAT ALSO WHEN SHE ASKED
3 ME ABOUT IT THE VERY FIRST TIME.

4 Q. IF YOU HADN'T FOUND WORK -- YOU HAD TESTIFIED A
5 MOMENT AGO ABOUT PROVIDING FOR YOUR CHILDREN. IF YOU
6 HADN'T FOUND ANY WORK, WOULD YOU HAVE WORKED FOR \$12
7 AN HOUR?

8 A. I WOULD HAVE PICKED UP BOTTLES THE SIDE OF THE ROAD
9 IF I HAD TO, OR CANS OR WHATEVER.

10 Q. WOULD YOU HAVE DONE IT FOR \$12 AN HOUR?

11 A. I DID IT FOR \$2. I WORKED ONE WEEK AT HIS HOUSE UP
12 THERE WHERE -- HIS HOUSE FOR \$248 A MONTH SO I COULD
13 PAY MY LIGHT BILL. THAT'S HOW BAD THE ECONOMY WAS.

14 Q. DID I MISUNDERSTAND YOU THEN? BECAUSE I THOUGHT YOU
15 SAID A MINUTE AGO YOU WOULD NOT HAVE GONE TO WORK FOR
16 TODD MACK FOR \$12 AN HOUR.

17 A. I WOULDN'T HAVE HAD TO AND LEAVE MY CHILDREN AND GO
18 UP HERE FOR A YEAR OR SO AND LEAVE MY CHILDREN. I
19 CAN STAY HOME AND WALK UP AND DOWN THE ROAD THAT GOES
20 PAST MY HOUSE AND PICK UP CANS. I COULDN'T AFFORD TO
21 GO THERE. I COULDN'T AFFORD THE GAS AND ALL TO GO
22 THERE FOR THAT \$12 AN HOUR. I HATE BEING OUT OF
23 TOWN.

24 Q. IN 2010 DID YOU WORK -- I GOT CONFUSED WHEN YOU WERE
25 TESTIFYING ABOUT 2010 AND 2011. 2011 YOU SAID YOU

1 ONLY WORKED ABOUT 12 WEEKS; IS THAT CORRECT?

2 A. YES, SIR.

3 Q. IN 2010 YOU DON'T KNOW HOW MANY WEEKS YOU WORKED?

4 A. I DON'T KNOW EXACTLY HOW MANY WEEKS I WORKED.

5 Q. OKAY. YOU TESTIFIED ABOUT DOWN TIME IN THE TRADE.

6 THE ONE THAT WE'VE HEARD PEOPLE -- OR WE HEARD MR.

7 MACK DISCUSS WAS WEATHER. WHAT OTHER THINGS GIVE YOU

8 DOWN TIME IN THE TRADE BESIDES BAD WEATHER?

9 A. BECAUSE A SPECIAL BEAM, MAYBE 30-FOOT L.B.L. THAT'S
10 GOT TO BE BUILT. YOU'VE GOT TRUSS THAT HAS TO BE
11 DESIGNED OR SOMETHING ANOTHER THAT'S GONNA BE TWO TO
12 THREE, MAYBE FOUR DAYS OUT, MAYBE A WEEK OUT. YOU'VE
13 GOT SPECIAL WINDOWS WITH ARCHES, ELLIPTICALS AND
14 STUFF OVER THE TOP OF THEM THAT HAS TO BE ORDERED
15 THAT MAY HOLD A JOB UP. THE MAIN THING IS BEAMS AND
16 TRUSS, AND THEN YOU MAY JUST HAVE SOMEBODY BEING
17 SLACK AND DIDN'T GET THE ORDER TURNED IN ON TIME AND
18 COST YOU TWO DAYS. THEM TWO DAYS I'D HAVE BEEN HOME
19 WITH MY YOUNG'UNS.

20 Q. RIGHT. IS IT -- SO IN THE AVERAGE MONTH FOR A
21 CONTRACTOR JOB LIKE THE ONE YOU WERE DOING FOR TODD
22 MACK, IS IT COMMON TO HAVE A WEEK OF DOWNTIME?

23 A. IT'S COMMON TO HAVE BAD WEATHER THROUGH THERE AND GET
24 A FEW DAYS OFF FOR RAIN. YOU CAN ABOUT DEPEND ON
25 THAT.

1 Q. SO YOU CAN DEPEND ON A FEW DAYS OFF FOR RAIN, AND
2 THEN WE CAN DEPEND ON SOME TIME OFF FOR ---

3 A. AND YOU CAN ABOUT -- YOU CAN ABOUT DEPEND ON
4 SOMETHING ANOTHER TO GO WRONG WHERE YOU MAY NOT BE
5 WORKING ONE DAY SITTING AROUND IN A MOTEL ROOM WITHIN
6 A MONTH AT THE TIME OF THE JOB.

7 BY MR. TAYLOR:

8 THAT'S ALL THE QUESTIONS I HAVE. THANK YOU, MR.
9 SMITH.

10 BY THE WITNESS:

11 THANK YOU.

12 BY THE COMMISSIONER:

13 MR. GARNER, ANYTHING ON REDIRECT?

14 BY MR. GARNER:

15 THANK YOU, COMMISSIONER.

16 REDIRECT EXAMINATION BY MR. GARNER:

17 Q. KENNY, BACK TO THIS BANK ENVELOPE. THIS HAS "KENNY"
18 ON IT AND "12 HOURS." WHEN DID YOU GET THAT? YOU
19 SAID YOU FOUND IT IN THE GLOVE COMPARTMENT OF YOUR
20 TRUCK?

21 A. WELL, MY MOMMA CAME TO THE HOSPITAL. SHE DROVE MY
22 TRUCK HOME, AND MY SISTER AND MY EX-WIFE HAD WENT TO
23 THE JOB, PICKED UP MY TRUCK, TALKED TO TODD. HE PUT
24 MY ENVELOPE IN THE GLOVE BOX.

25 Q. HOW LONG WAS THAT? HOW LONG?

1 A. HOW LONG WAS THAT?

2 Q. HOW LONG AFTER YOU WERE HURT DID YOU FIND IT?

3 A. WELL, I GOT HURT, WHAT, THAT MONDAY MORNING. FRIDAY,

4 WHEN I -- I GOT OUT THE HOSPITAL FRIDAY.

5 Q. SO, FIVE DAYS AFTER YOU GOT ---

6 A. YES, SIR.

7 Q. ALL RIGHT. WAS ANYTHING -- ANY STATEMENT OF HOURS

8 WORKED OR ANYTHING INSIDE THIS ENVELOPE?

9 A. NO. JUST WHAT I GIVE YOU IS ALL I GOT.

10 Q. AND THERE WAS \$200 IN IT?

11 A. AND THE TWO \$100 BILLS.

12 Q. WERE YOU SATISFIED -- DID YOU CONSIDER ---

13 A. I DIDN'T ARGUE ABOUT IT, YOU KNOW, AND I DIDN'T

14 REALLY LIKE IT, BUT I KNEWED I WASN'T GOING BACK TO

15 WORK NO HOW.

16 Q. ALL RIGHT. SO ---

17 A. I HAD NO IDEA, YOU KNOW, I WOULD HAVE THIS PROBLEM.

18 Q. HELP ME WITH THE MATH. 12 HOURS AT \$20 AN HOUR IS

19 MORE THAN \$200?

20 A. OF COURSE. IT WOULD BE 240.

21 Q. ALL RIGHT. AND 12 HOURS AT \$12 AN HOUR IS \$144,

22 ISN'T IT?

23 A. I RECKON SO; YES, SIR.

24 Q. SO TODD TESTIFIED HE PAID YOU \$12 AN HOUR. THAT'S

25 MORE THAN \$12 -- I MEAN, HE INDICATED HE HIRED YOU AT

1 \$12?

2 A. RIGHT.

3 Q. THAT'S MORE THAN \$12 AN HOUR?

4 A. OF COURSE. YES, SIR.

5 Q. BUT IT IS LESS THAN 20?

6 A. RIGHT.

7 Q. BUT YOU DIDN'T CONSIDER THAT TO BE ---

8 A. I NEVER HAD NO IDEA OR NOTHING ABOUT NO. 12 HOURS, AND
9 34 HOURS AND \$12 AN HOUR BLEW MY MIND.

10 BY MR. GARNER:

11 JUST A SECOND, PLEASE, COMMISSIONER.

12 BY THE COMMISSIONER:

13 GO AHEAD.

14 REDIRECT EXAMINATION RESUMED BY MR. GARNER:

15 Q. DID YOU WORK FOR GREENFIELD CONSTRUCTION COMPANY IN
16 2010?

17 A. YES, SIR.

18 Q. WAS THAT A BIG JOB?

19 A. UH-HUH.

20 BY THE COMMISSIONER:

21 IS THAT A YES?

22 BY THE WITNESS:

23 YES, SIR. YES, MA'AM.

24 REDIRECT EXAMINATION RESUMED BY MR. GARNER:

25 Q. WERE YOU PAID \$36,000, AS INDICATED ON A ---

1 A. YES, SIR.

2 Q. --- 1099?

3 A. UH-HUH. YES, SIR.

4 BY MR. GARNER:

5 THANK YOU. IT'S IN THE APAs, COMMISSIONER.

6 BY THE COMMISSIONER:

7 OKAY.

8 BY MR. GARNER:

9 I THINK THAT'S ALL I HAVE, COMMISSIONER.

10 BY THE COMMISSIONER:

11 ANYTHING ELSE, MR. TAYLOR?

12 BY MR. TAYLOR:

13 I HAVE NOTHING ELSE.

14 BY THE COMMISSIONER:

15 ALL RIGHT. THAT CONCLUDES THIS PROCEEDING.

16 (THERE BEING NO FURTHER QUESTIONS, THIS HEARING WAS

17 CONCLUDED AT THE HOUR OF 1:12 P.M.)

CERTIFICATE OF NOTARY PUBLIC
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
COLUMBIA, SOUTH CAROLINA
WCC FILE NO. 1104798

EMPLOYEE/CLAIMANT: KENNETH SMITH

EMPLOYER: MARION BUILDERS GROUP, LLC

CARRIER: BUILDERS MUTUAL INSURANCE COMPANY

I, TIMMI A. PARRISH, A NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA, DULY COMMISSIONED AND QUALIFIED AS SUCH, DO HEREBY CERTIFY THAT THE FOREGOING 68 PAGES REPRESENTS A TRUE AND ACCURATE TRANSCRIPT OF THE FOREGOING HEARING OF KENNETH SMITH, TAKEN ON THE 24TH DAY OF OCTOBER, 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 14TH DAY OF NOVEMBER, 2012.

TIMMI A. PARRISH
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: 11-20-2018

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

STATE OF SOUTH CAROLINA
BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC No. 1104798

Kenneth Smith,

Employee,

v.

Marion Builders Group,

Employer,

and

Builders Mutual Insurance Company,

Carrier/Defendants.

(CCPY)

HEARING

Tuesday, April 16, 2013
9:06 a.m. - 9:25 a.m.

The hearing before the South Carolina Workers' Compensation Commission Panel A was held at 1333 Main Street, Suite 500, Columbia, South Carolina, on the 16th day of April 2013, before Alexandra A. Patrick, Court Reporter and Notary Public in and for the State of South Carolina.

CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

APPEARANCES:

Everett Hope Garner, Esquire
 HOLLER, DENNIS, ORMOND, PLANTE & GARNER
 1777 Bull Street
 Columbia, South Carolina 29201
 Attorney for Employee/Claimant

George A. Taylor, Esquire
 CALLISON TIGHE & ROBINSON, LLC
 1812 Lincoln Street
 Columbia, South Carolina 29201
 Attorney for the Employer/Carrier

INDEX

<u>OPENING STATEMENT:</u>	<u>PAGE</u>
MR. GARNER	3
MR. TAYLOR	9
 <u>REPLY:</u>	
MR. GARNER	15
Certificate	19

EXHIBITS

(No Exhibits were 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 CHAIRMAN MCCASKILL: All right, Mr. Garner?

2 OPENING STATEMENT - BY MR. GARNER:

3 MR. GARNER: Thank you, Commissioner. My name is
4 Hope Garner and I do represent Kenny Smith in
5 this workers' comp claim. The claimant was
6 injured back on April 4, 2011, so about two
7 years ago. Last week, a couple years ago, I
8 guess. But what we have here is a very --
9 y'all have had, everybody has had a very
10 difficult task to decide a very simple issue.
11 What the fair and equitable comp rate should be
12 in this case. There's no Form 20-type
13 situation been applied. There's a very short
14 duration of employment with this employer.
15 This is especially important to Kenny because,
16 as you can tell from the record, of the
17 multiple injuries that he had. He has still
18 not reached maximum medical improvement and
19 will not in the foreseeable future, for that
20 matter, on some of the issues it looks like.
21 So, this comp rate is going to be very
22 important in determining what his overall
23 compensation is because we don't think -- we
24 certainly don't think he's ever going to be
25 able to work again. Kenny, as the record

1 indicates, has 33 years of experience as a
2 master framing carpenter and 12 to 14 years as
3 a subcontractor owning his own business. And
4 even when the economy was in pretty good shape
5 and functioning normally, there are always
6 hills and valleys, peaks and valleys in the
7 construction industry, we are certainly aware
8 of that, but we feel in this case that the
9 methodology employed by the commissioner in
10 determining the comp rate is -- we don't have
11 a particular argument with that, if we could
12 nearly approximate how much time Kenny actually
13 worked during the period of time that's being
14 considered. For instance, in the 2010 tax
15 return, which is what she used as a basis to
16 come to the conclusion that she did, he made 20
17 something thousand dollars, but she divided it
18 by 52. We don't feel that's fair and
19 equitable. Kenny testified that he thought he
20 worked 12 weeks. We probably don't feel like
21 that's probably fair and equitable to, the
22 employer either because of the, you know, if
23 you're still going to have the vagaries of the
24 construction industry in any situation.
25 There's going to be weather delays and stuff

1 like that. It's going to cause the overall
2 income to fluctuate, so we concede that it's
3 probably not fair to divide it by 12, but it's
4 certainly not fair to divide it by 52 because
5 there's absolutely no evidence that he worked
6 anywhere near 52 weeks during that year. There
7 was a 1099 that showed he received \$36,000,
8 almost \$37,000 from one employer during that
9 year. So what we've got in the situation here
10 is a 33-year-experienced framing contractor,
11 who, because of the downturn in the economy was
12 forced, essentially forced into a job to try to
13 support his family. We feel, as the case in
14 *Sellers v. Pinedale* case, which is 564 SE 2nd
15 694, indicates that it's based -- an equitable
16 finding of a compensation rate should be found
17 on earning capacity in the future, what he
18 would be able to earn. Well, unfortunately,
19 Kenny is not going to be able to earn anything
20 in the future, probably. But we have a
21 situation that the economy -- if the economy
22 had been in a normal mode, I don't think
23 there's any question that he would have been at
24 the maximum comp rate. Of course, the economy
25 was not in the normal mode. So it's not fair

1 to the employer ---

2 **COMMISSIONER ROCHE:** According to the evidence that's
3 in the record, Mr. Garner, I don't think he was
4 ever at the maximum comp rate. I mean in 2006
5 he wouldn't have been, 2009 he wouldn't have
6 been, 2010 he wouldn't have been. So why do
7 you say all of the sudden he would have been at
8 the max comp rate?

9 **MR. GARNER:** Well, we've got tax returns, I think
10 the telling tax return is the 2006 where he
11 earned 300 and something thousand dollars.

12 **COMMISSIONER ROCHE:** No, sir. He earned \$19,000.

13 **MR. GARNER:** That was his net income.

14 **COMMISSIONER ROCHE:** Well, that's what you earn, is
15 your net income.

16 **MR. GARNER:** I know, but that's one year of income
17 and he testified -- and I don't think anybody
18 could argue with this point that he plowed all
19 of the money back into the business. That he
20 made one-time purchases of equipment and stuff.
21 So we agreed that he shouldn't, that the 369 is
22 totally out of line. But as you can tell, I
23 think during the course of this case, I brought
24 in evidence to try to do my best to make sure
25 that the comp rate was increased from the \$12

1 an hour, which is ridiculously low, that's only
2 two dollars more than the proposed minimum
3 wage. So, I was trying to get in -- I put in
4 Mr. Leonard's case report and he found that the
5 median income was somewhere around 16 but the
6 higher median income was somewhere around 24,
7 25, 26, which we think Kenny should be. But we
8 just feel that when you've considered all the
9 evidence in this case and Kenny's work history
10 of 33 years, that the fair and equitable thing
11 is -- by whatever method is used to compute
12 this comp rate, it should be higher than that.
13 And, you know -- and both Mr. Taylor and I
14 cited the Sellers case in our brief. It's just
15 -- he tries to distinguish the fact -- the
16 facts of Sellers are of course different, but
17 the principle of the earning capacity extending
18 into the future was certainly the same. He's
19 going to want to emphasize that Mr. Mack, who
20 testified, who is the subcontractor that Kenny
21 Smith directly worked for who testified about
22 he originally told the adjuster \$12 an hour and
23 then \$20. Of course, Mr. Mack was worried
24 about getting stuck with this claim himself.
25 Again, we talk about his credibility. Well,

1 which one is credible? The one that said \$12?
2 Which one is not credible, the one that told
3 the adjuster \$12 or the one that now says \$20.
4 So essentially, we just look at Mr. Mack as a
5 non-factor. And when you put him out of the
6 way, you get to the real meat of the case, we
7 feel. But we just feel if you're going to use
8 2011, too, you also, in the three months before
9 he was injured and, you know, I think this is
10 very telling as to what his future ability to
11 earn would be for those three months he earned
12 28,000 something dollars, which would yield a
13 much higher comp rate for that period. So that
14 would be, even though the fact that you're
15 going to have 52 weeks ordinarily, he still was
16 showing a capacity to earn during those first
17 three months that should support a higher comp
18 rate, I believe.

19 **COMMISSIONER TAYLOR:** Did you submit any of the 2011
20 income information?

21 **MR. GARNER:** Yes, ma'am; it's in the record. And
22 Mr. Taylor handed me a case this morning which
23 he says he wants to argue, which he had not
24 argued before, which talks about the use of a
25 Form 20. When it didn't appear that the Form

1 20 was properly prepared based on what the
2 person was actually paid and it's an
3 unpublished opinion which, of course, can't be
4 cited as precedent, but it essentially affirms
5 the principle, and we agree with it, that the
6 commission has the flexibility and as in the
7 *Sellers* case, talks about the elasticity and
8 whatever to determine what a fair comp rate is
9 based on the overall circumstances. So we
10 really don't have any argument with that. Of
11 course, we have exceptional circumstances in
12 this case. The economy, the short period of
13 time Kenny worked. The economy has recovered
14 and continued to recover but Kenny is being
15 left behind. That's it.

16 **CHAIRMAN MCCASKILL:** Thank you, sir. Mr. Taylor.

17 **OPENING STATEMENT - BY MR. TAYLOR:**

18 **MR. TAYLOR:** Thank you. Of course, I'm George
19 Taylor for the defendants. Ultimately, if both
20 sides concede on the methodology, the only
21 question here is what is the most fair and
22 practicable method to calculate what the
23 claimant would be earning but for his injury.
24 When it comes to Todd Mack and all the
25 testimony before, I think at this point that's

1 really not relevant. He was found by the
2 hearing commissioner to be non-credible in
3 almost every respect. He testified at one
4 point that the claimant was making \$12 an hour.
5 Later testified he was making \$20 an hour. In
6 the record you will see when he actually paid
7 the claimant, he paid the claimant he paid them
8 \$16.67 an hour. So, if we move beyond the fact
9 we can't use Todd Mack, we've got to come up
10 with some sort of method. And the hearing
11 commissioner found that the only fair and
12 practical method was to use the claimant's 2010
13 tax returns. And quite frankly, I can't think
14 of another method that could really be
15 utilized. And when it comes to assessing the
16 fairness of this method, you have to consider
17 a few things. First of all, the claimant
18 testified in 2010 that he properly reported his
19 total income.

20 **CHAIRMAN MCCASKILL:** So, do you think it's fair to
21 take the 2010 income and divide it by the 52
22 weeks?

23 **MR. TAYLOR:** I do. And I ---

24 **CHAIRMAN MCCASKILL:** Do you work 52 weeks a year?

25 **MR. TAYLOR:** Do I work 52 weeks a year? You know,

1 with the exception of some vacation days here
2 and there, yeah. But I think we ---

3 **CHAIRMAN MCCASKILL:** Well, that's what we're talking
4 about. We're talking about somebody in
5 construction.

6 **MR. TAYLOR:** Right. And the reality of it is, in
7 the construction business, folks don't work 52
8 weeks because you have weather.

9 **CHAIRMAN MCCASKILL:** And the economy.

10 **MR. TAYLOR:** But I think if you ---

11 **CHAIRMAN MCCASKILL:** So why is it fair is my
12 question.

13 **MR. TAYLOR:** It's fair because one year's worth of
14 data takes into account all of those things
15 that would keep him out of work and it takes
16 into account the economy. It takes into
17 account his experience and everything else. It
18 is a one year snapshot of precisely what this
19 guy made. And, you know, if you were to
20 utilize the primary method, which you would in
21 most cases, you would do 52 weeks. And if a
22 guy takes time off and it's not ---

23 **CHAIRMAN MCCASKILL:** But would you concede the facts
24 in this case are a little unusual?

25 **MR. TAYLOR:** The facts in this case are very

1 unusual. This guy only worked two days.

2 CHAIRMAN MCCASKILL: Exactly.

3 MR. TAYLOR: And that's what puts us in this
4 problem. But -- and I'll get back to you in a
5 second on particularly why you would use 52
6 weeks, but before I go there, if we look at all
7 his prior years, you know, considering
8 fairness. In 2006, the guy made \$19,000 a
9 year. There's no year whether it wasn't
10 through tax returns handed over via subpoena or
11 APAs to the commission where this guy made more
12 than \$28,775 dollars a year. And if that's the
13 case, if anything, the commission has erred on
14 the side of the claimant. The claimant
15 testified in 2006 it was a beautiful year for
16 him. He made tons of money. But the truth is,
17 his net income reflects that he made \$19,109.
18 And the 2010 returns, yields him more than
19 \$9,000 more in one particular year, so I do
20 think that's fair. I want to address the
21 claimant's experience as well. Because when
22 you take that one year snapshot, it takes into
23 account his experience. It takes into account
24 he was a 33-year carpenter. The *Sellers* case,
25 which dealt with a 16-year-old gentleman who

1 was, I think, if I'm not mistaken, a grocery
2 bagger, who was, you know, had no in particular
3 training, but it was established factually that
4 he was most probably, I think was the language
5 in the case, most probably would have become an
6 electrician. And that's an individual that's
7 going to attain something new. In this case
8 the claimant, you know, 2011 the economy,
9 perhaps, purely speculating may have been
10 better. But his experience wasn't going to
11 change. His knowledge as a contractor wasn't
12 going to change. It was going to be exactly
13 the same. So, for those reasons I think that
14 the 2010 are the most fair way to calculate
15 this thing. And when it comes to
16 practicability, I'm not sure that I truly
17 understand how we would calculate it doing some
18 other method. You know, if we can't use
19 another year's tax return, I'm assuming you
20 wouldn't want to use another year's tax returns
21 because it would hurt his case. And so what do
22 we have where the claimant, you know, quite
23 frankly didn't work long enough for Marion
24 Builders to determine what a comp rate should
25 be and didn't work for anyone else for that

1 matter, to figure out what a fair comp rate
2 was. And, if you want to talk about what the
3 claimant was doing in 2010 and how work was to
4 come by for him -- he testified that he worked
5 a week at His House, His House in Lexington, I
6 think, for \$248 for one week. So it's not like
7 this guy was expecting in the future that he
8 was going to be able to continue working, you
9 know, at \$20 an hour, whatever it is as a
10 framing contractor. Let's see. I'm aware of
11 no case that would stand on the proposition
12 that we should look speculatively into a better
13 economy for the claimant. You know, I don't
14 know that there's any better evidence in the
15 record that 2011 was looking better for the
16 claimant than 2010. Mr. Garner has suggested
17 that the 2011 income tax returns show that he
18 would have made more but for his injury in 2011
19 than he did in 2010, but there's really nothing
20 to support that. I mean, you know, the
21 claimant would go long spans of time without
22 work. And the same thing could have happened
23 in 2011 that happened in 2010 with respect to
24 him not working for substantial periods of
25 time. I do want to point the commission's

CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 attention to one case. *Williams v. Drywall*.
2 I apologize it is not cited in my brief. It's
3 a February of 2013 case; it's unpublished. I
4 came across it yesterday, if I may pass this
5 up. Because I think it's on point and it's
6 telling. In this case, the claimant, Williams,
7 his comp rate was calculated using the primary
8 method divided by 52 weeks and the claimant
9 appealed that decision saying that he went
10 significant periods of time without work
11 because work was unavailable. And the court of
12 appeals found that that wasn't relevant. If
13 work's not available, it's not available. It
14 becomes, you know, it is what it is. And your
15 comp rate will be calculated accordingly. And
16 there was no evidence in the record to adjust
17 the compensation rate because of the claimant's
18 testimony that work was unavailable from the
19 employer. And I'm happy to entertain any
20 questions, but that's all that I have.

21 **CHAIRMAN MCCASKILL:** All right. Thank you, sir.

22 **MR. TAYLOR:** Thank you.

23 **HEARING OFFICER:** Mr. Garner?

24 **REPLY - BY MR. GARNER:**

25 **MR. GARNER:** Yes, briefly in reply commissioners,

1 Mr. Taylor talks about fairness and we
2 certainly agree with that concept in this case.
3 But we're talking about, obviously, I don't
4 have to remind anybody that workers'
5 compensation legislation is remedial
6 legislation, should be interpreted liberally to
7 carry out the purposes for which it was
8 enacted. But the 2010 tax returns,
9 Commissioner McCaskill, as you pointed out, if
10 we want to use that total figure with 52 weeks
11 divided by 52 weeks is simply not fair.

12 **CHAIRMAN MCCASKILL:** What is fair?

13 **MR. GARNER:** I gave that a lot of thought. And I
14 was trying to find some touchstone or some
15 wonderful point I could make to determine
16 what's fair. I don't think I can say to give
17 you a specific figure that's fair. I kicked
18 around 24 weeks and 36 weeks and I came up with
19 a fair, and, again, I was anecdotal. I don't
20 have any experience in the construction
21 industry, but I came up with 36 weeks. Divided
22 by 36 weeks as being fair, just based on the
23 competing equities. Not that there's anything,
24 you know, to point specifically to it, that it
25 should be 36 weeks, but we've got equity on one

1 side and equity on another and so 52 is not
2 fair, 12 is not fair, so let's hit somewhere in
3 the middle, and I even went beyond that to the
4 36. So, we feel that -- and the \$20 an hour
5 figure that we feel -- even though that's lower
6 than we think -- as the commissioner pointed
7 out specifically in her order, that she had no
8 doubt, no question in her mind that Kenny
9 Smith, based on his experience was worth in
10 excess of \$20 an hour in a normal economy, a
11 normal situation. Mr. Taylor points out the
12 *Sellers* case talks about the person having --
13 or being a student and going to school and as
14 they say the interest, aptitude and ability to
15 become an electrician. Well, in this case,
16 Kenny Smith has shown the 33 years of having
17 become a master carpenter, a framing carpenter
18 and a business owner. So he had already
19 demonstrated what the court found in *Sellers*
20 was fair to do by projecting in the future and
21 speculating, frankly speculating into the
22 future. Again, another fair way to do it, I
23 think would be to take the 2011 money that he
24 earned in those first three months, now there
25 probably would have been some periods of where

1 he didn't make as much as he did in those first
2 three months based on that situation. If the
3 economy was normal, he probably would have made
4 more. But those first three months divided by
5 the 13 weeks that are in those three months and
6 you come up with a compensation rate at or
7 above the maximum. So we just feel like, like
8 I said, if we've got competing, as we stated
9 exhaustively by all the lawyers, the hearing
10 commissioner, we've got competing equities,
11 what's fair to the employee and what's fair to
12 the employer. It's fair to the employer ---

13 **CHAIRMAN MCCASKILL:** Finish your thought.

14 **MR. GARNER:** It's fair to the employer not to divide
15 it by the 12 weeks if you're going to use that
16 methodology. It's fair to the employee to not
17 divide it by 52 and find some middle ground and
18 establish an equitable comp rate.

19 **CHAIRMAN MCCASKILL:** All right. Thank you very
20 much. Good to see y'all today.

21 **MR. GARNER:** Thank you.

22 **MR. TAYLOR:** Thank you.

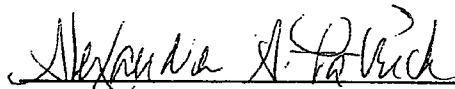
23 (There being nothing further, the hearing was
24 concluded at 9:25 a.m.)
25

CERTIFICATE

This is to certify that the within hearing consisting of eighteen (18) pages, is a true and correct transcript of the testimony given by said witnesses after being duly sworn; said hearing was reported by the method of Stenomask with Backup.

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

IN WITNESS WHEREOF I have hereunto set my hand and seal on July 30, 2013.



Alexandra A. Patrick
Court Reporter

Notary Public for South Carolina
My Commission Expires: February 13, 2019

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

KENNETH SMITH,
Employee,

vs.

WCC NO. 1104798

MARION BUILDERS GROUP,
Employer,
and

BUILDERS MUTUAL INSURANCE COMPANY,
Insurer/Carrier/Defendant.

DEPOSITION OF: KENNETH SMITH

DATE: May 3, 2012

TIME: 10:00 A.M.

LOCATION: Law Offices of
Holler, Dennis, Corbett, Ormond,
Plante & Garner
1777 Bull Street
Columbia, SC

TAKEN BY: Counsel for the Employer/Insurer

REPORTED BY: Leslie T. Stanley,
Certified Shorthand Reporter

A. WILLIAM ROBERTS, JR., & ASSOCIATES

Fast, Accurate & Friendly

Charleston, SC	Hilton Head, SC	Myrtle Beach, SC
(843) 722-8414	(843) 785-3263	(843) 839-3376

Columbia, SC	Greenville, SC	Charlotte, NC
(803) 731-5224	(864) 234-7030	(704) 573-3919

A. WILLIAM ROBERTS, JR., & ASSOCIATES (800) 743-DEPO
scheduledepo.com

COPY

1 APPEARANCES OF COUNSEL:

2 ATTORNEYS FOR KENNETH SMITH:

3 HOLLER, DENNIS, CORBETT, ORMOND,
4 PLANTE & GARNER
5 BY: EVERETT HOPE GARNER
6 1777 Bull Street
7 Columbia, SC 29201
8 (803) 765-2968
9 Ehgarner05@yahoo.com

10 ATTORNEYS FOR MARION BUILDERS GROUP and
11 BUILDERS MUTUAL INSURANCE COMPANY:

12 CALLISON, TIGHE & ROBINSON, LLC
13 BY: GEORGE TAYLOR
14 Palmetto Armory Office Building
15 1812 Lincoln Street, Suite 200
16 Columbia, SC 29201
17 (803) 404-6900
18 GeorgeTaylor@callisontighe.com

19 (INDEX AT REAR OF TRANSCRIPT)
20
21
22
23
24
25

In The Matter Of:
Kenneth Smith v
Marion Builders Group, et al

Kenneth Smith
May 3, 2012

A. William Roberts, Jr. and Associates
We're About Service...Fast, Accurate and Friendly
(800) 743-DEPO
www.scheduledepo.com



A. William Roberts, Jr. & Associates
court reporting | videography | trial presentation
nationwide scheduling
www.scheduledepo.com | (800)743-DEPO

Original File Smith_Kenneth - 120503.TXT

Min-U-Script®

STIPULATION

It is stipulated by and between Counsel that this deposition is being taken in accordance with the South Carolina Rules of Civil Procedure, Rule 30; that all objections as to Notice of this deposition are hereby waived; that all objections except as to form are reserved until the time of trial; and that the deponent waives reading and signing of this deposition.

* * * * *

KENNETH SMITH,

being first duly sworn, testified as follows:

EXAMINATION

BY MR. TAYLOR:

Q. Mr. Smith, my name is George Taylor, and I represent Marion Builders and their carrier, Builders Mutual Insurance Company, and we are here today to just sort of ask you about all the circumstances surrounding this worker's comp claim, so I'm going to ask you questions about your work history, the injury, your previous employers, and then I am going to ask you some questions about your wages and that sort of thing.

A. Uh-huh.

Q. I'm going to ask you to give me verbal

4

1 responses. A head nod would be insufficient.

2 Okay?

3 A. Okay.

4 Q. So if I look at you, I might point at
5 my mouth or something like that, so --

6 A. All right.

7 Q. So you understand that?

8 A. I understand.

9 Q. If I ask you something, and you don't
10 understand it, feel free to just tell me, I don't
11 understand that question, can you rephrase it, and
12 I will be happy to do that.

13 A. Right.

14 Q. But if you answer a question, I will
15 assume you understood what I was asking.

16 A. Right.

17 Q. And if, for any reason, we need to take
18 a break during this deposition, you are not to talk
19 with anyone about your testimony in here today,
20 okay? That includes your attorney. Do you
21 understand that?

22 A. Yes, sir.

23 Q. And if you need a break at any time,
24 feel free to let me know. I will be happy to
25 accommodate you, and I'm sure your attorney,

1 Mr. Garner, will be happy to do that as well.

2 A. Yes, sir.

3 Q. You understand that you are under oath
4 in this deposition?

5 A. Yes, sir.

6 Q. Are you under the influence of any
7 illegal drugs or alcohol this morning?

8 A. No, sir.

9 Q. I see that you brought some
10 medications.

11 A. Uh-huh.

12 Q. Have you taken some prescription
13 medications?

14 A. Yes, sir.

15 Q. Now?

16 A. Yes, sir.

17 Q. Can you tell me what those are?

18 A. Well, it would be -- this morning, I --
19 I've got this, I filled this box up this morning,
20 so it would be easier to keep up with it. I'm on
21 -- I'm on that pain pill right there (Indicating),
22 one of those.

23 Q. Oxycodone?

24 A. Yes. One of those, morphine. And --

25 Q. Morphine, 50 milligrams, and one of

6

1 these (Indicating), you said?

2 A. Uh-huh.

3 Q. One morphine --

4 A. Every -- everything right there is what
5 I take in the morning.

6 Q. This is 100 milligrams?

7 A. That's for spasms.

8 Q. Baclofen, ten milligrams, taking one of
9 those?

10 A. I haven't taken one of these yet. It's
11 a vitamin. And I take one of these a day, in the
12 mornings.

13 Q. And that is Clonazepam. One milligram
14 tablet?

15 A. Yes, sir. That's all the medication.
16 Actually, I have one vitamin I took this morning.

17 Q. Is that a prescription vitamin?

18 A. A prescription vitamin, yes, sir.

19 Q. It's vitamin D?

20 A. Okay, and then this is not a
21 prescription, but it's recommended by the doctor, a
22 stool softener.

23 Q. Given that you are taking and under the
24 influence of all these medications right now, do
25 you feel that you are competent to give your

1 deposition this morning?

2 A. Yes, sir.

3 Q. You feel like your head is not clouded
4 so as to limit your testimony?

5 A. I'm fine.

6 Q. Okay. Would you please state your full
7 name for the record?

8 A. Kenneth Carlisle Smith.

9 Q. And what is your date of birth?

10 A. 5/12/62.

11 Q. And where do you currently live?

12 A. 1442 Highway 6, that's Gaston, South
13 Carolina 29053.

14 Q. And who lives with you there?

15 A. My three children.

16 Q. How old are your children?

17 A. I got a set of twins that's eight, and
18 my youngest daughter is seven.

19 Q. And are you married?

20 A. Divorced.

21 Q. Do you have any other kids that don't
22 live with you?

23 A. Right, I have one daughter, grown,
24 married, 32 years old.

25 Q. Can you tell me your driver's license

8

1 number?

2 A. 008 -- I remember them three. I walked
3 off from the house and forgot my glasses this
4 morning.

5 MR. GARNER: You want me to read it?

6 THE WITNESS: Yes.

7 MR. GARNER: 008190428.

8 BY MR. TAYLOR:

9 Q. And your social security number?

10 A. 251-17-9487.

11 Q. How far did you go in school?

12 A. I went to tenth grade.

13 Q. Do you have a GED?

14 A. No, sir, never did quite complete that.

15 Q. Do you have any other specialty
16 training or education after tenth grade?

17 A. I went to Midlands Tech and got two
18 courses in building codes.

19 Q. What kind of building codes?

20 A. Residential building, framing, stuff
21 like that, link spans, weight capacity, nail
22 patterns, and just anything to do with building.

23 Q. Did you get any certificates for that?

24 A. Uh-huh.

25 Q. Are they still good?

1 A. I think Hope's got a copy of two of
2 them.

3 Q. And what kind of work have you
4 traditionally done since you've been out of school?

5 A. I started framing houses, got a job as
6 a laborer and worked all the way up to the owner.

7 Q. Have you done anything other than
8 construction or framing work?

9 A. No, sir.

10 Q. When did you begin that kind of work?

11 A. Full-time, I would say 17.

12 Q. Do you remember -- could you tell me
13 who all you've worked for?

14 A. I started off my first job was with a
15 man, Goodwin Construction. Second job was with
16 Sharpe Construction out of Swansea, both of them --
17 all three of them, matter of fact, and --
18 Keller-Stabler Construction, I think, and I had a
19 partner in '93, Steve Parker, S&P Construction, as
20 is in Smith & Parker.

21 Q. And you did framing work?

22 A. Yes, sir.

23 Q. Anything else?

24 A. We worked together in '93. I went on
25 my own January 26, 1996.

10

1 Q. So since 1996, have you worked on your
2 own?

3 A. Yes, sir.

4 Q. Have you worked for any particular
5 employer since 1996?

6 A. I got a stack of contractors and all,
7 you know, maybe one contractor, maybe ten houses a
8 year, maybe four, it varies.

9 Q. How are you paid in those jobs?

10 A. We signed a contract on a job, get paid
11 weekly by percentage of the work that was complete.

12 Q. Would you be paid in cash or check?

13 A. Check, check, always check.

14 Q. You never were paid in cash?

15 A. No, sir, not that I can account of.
16 Not that I remember.

17 Q. Since 1996 or ever?

18 A. I've made -- I may have -- well, I'm
19 trying to think of a cash job. No, sir, I can't
20 really think of where I -- you know, maybe a couple
21 hundred dollars on some job I can't remember.

22 Q. I understand. Sure. Now, do you -- do
23 your tax returns reflect all the income that you
24 were paid?

25 A. Yes, sir, yes, sir.

1 Q. Okay.

2 A. Unless I didn't get a 1090 on it.

3 Q. What's that?

4 A. Unless I didn't get a 1090 on it.

5 Q. Prior to this accident, have you had
6 any other injuries?

7 A. I was in an accident January the 10th
8 -- well, I'm not sure about the date, but it was
9 2010.

10 Q. What was that?

11 A. Truck had run off the road, I
12 overcorrected and hit a sign and had a few
13 lacerations and fractured my neck.

14 Q. You had a fracture to your neck? Where
15 were the lacerations?

16 A. My face right here (Indicating).

17 Q. Any other injuries?

18 A. No, that was it.

19 Q. Where were you treated for that?

20 A. Lexington Medical Center, I think is
21 the name of the hospital. Lexington.

22 Q. Is that the only place you were
23 treated?

24 A. Uh-huh.

25 Q. Any others besides the one in 2010?

Kenneth Smith - May 3, 2012

12

1 A. No, sir.

2 Q. So to date, the only medical injuries
3 that you have had are the most recent work accident
4 and your January 10 accident?

5 A. Yes, sir.

6 Q. Were you on any medications prior to
7 this accident or -- prior to your work accident
8 from the January 10 accident --

9 A. Yes, sir, I was taking medication for
10 tendonitis and going through a divorce, and I was
11 taking some medication for anxiety.

12 Q. What medication was that?

13 A. Zoloft.

14 Q. And are those the only prescription
15 medications you were taking between January 10,
16 2010 and the date of your accident?

17 A. Yes, sir.

18 Q. Have you ever filed a worker's comp
19 claim prior to this?

20 A. No, sir.

21 Q. Have you ever been involved in any
22 civil litigation lawsuit?

23 A. No, sir.

24 Q. Not as a Defendant or a Plaintiff?

25 A. None whatsoever.

1 Q. Have you ever been involved in any
2 other accidents where you weren't injured to the
3 extent that you had to go to a hospital?

4 A. When I was around 23, 24, I was in an
5 accident, I'm trying to think -- around 1999, I had
6 an accident -- wasn't no serious injury, none of it
7 really, but -- oh, gosh, I think the first I can
8 remember was around '90, a car accident.

9 Q. But you didn't have any injuries in
10 that accident?

11 A. No, I don't think I even went to the
12 doctor.

13 Q. Have you ever had any surgeries prior
14 to your worker's comp claim?

15 A. No, sir.

16 Q. Not for anything -- it was nothing
17 related to the accident?

18 A. No, sir.

19 Q. How did you get in with Marion
20 Builders?

21 A. Through Todd Mack. He was a
22 subcontractor. Through him, and I was working for
23 him by the hour.

24 Q. Who hired you?

25 A. Todd Mack.

Kenneth Smith - May 3, 2012

14

1 Q. How long did you work for Todd Mack in
2 Marion Builders?

3 A. Two days.

4 Q. Who did you work for? Who did you feel
5 like you worked for?

6 A. Todd Mack.

7 Q. Who was your boss?

8 A. Todd Mack.

9 Q. And he's who you answered to?

10 A. Yes, sir.

11 Q. Is he the one who supervised your work?

12 A. Yes, sir.

13 Q. Who else did Todd Mack hire?

14 A. Like I say, I was there two days, and I
15 really never had a chance to get familiar with
16 nobody. I arrived on a Sunday morning at nine
17 o'clock or so, worked that -- on up to that
18 evening, went to the motel room, went to bed, went
19 to sleep after I ate, got up the next morning and
20 started work right about daylight, ate dinner
21 around lunch, 12:00, started back within an hour,
22 and I fell right around two o'clock, so I really
23 didn't socialize with nobody.

24 Q. How many people were on the job,
25 roughly? If you can remember?

1 A. Well, I can't remember precisely,
2 because I think during that day, they started off
3 with -- that morning, four or five of us was on
4 time, and as the morning went on, a few more people
5 was coming in.

6 And then you had a crew on the ground
7 that was doing the cutting material and a crew up
8 top where I was, and -- where I was, and people in
9 different places doing different things, so I
10 wasn't sure what was going on.

11 Q. Can you give me an estimate how many
12 were there? You said four or five in the morning.
13 By the end of the day, was --

14 A. No, by lunchtime, the full crew was
15 there. My educated guess would have been about
16 seven.

17 Q. Seven total?

18 A. Yes, sir.

19 Q. And those were all working for Todd
20 Mack?

21 A. Yes, sir.

22 Q. Were there people there who were
23 working on something for Marion Builders, not for
24 Todd Mack?

25 A. There was one guy on the job that was

16

1 doing actually about the same thing I was, and he
2 was the superintendent for Marion Construction.

3 Q. Okay. Was he the only person?

4 A. He was on the job, but there was
5 another project manager, I seen him on the subfloor
6 and over in the area where I was working, trying to
7 figure out the windows. But he was just trying to
8 get everything lined up and get the order in, and
9 who he was, I don't know, because I was working
10 with Todd Mack. I answered to him.

11 Q. Did Todd Mack provide the tools and
12 equipment?

13 A. I took my own tools in a trailer,
14 truck, compressors, walk board, ladders, saws, air
15 hose equipment, harnesses, the whole 90 yards.

16 Q. Were there any tools that you used that
17 you didn't bring?

18 A. Maybe some drop cords was hooked up
19 that didn't belong to me. A couple air hoses. But
20 hand tools, I was using my skill saw, I used my air
21 gun, I was using -- I think he had his air
22 compressor hooked up.

23 Q. How about materials? Who provided the
24 materials?

25 A. Marion Construction, as far as I know .

1 I don't know that for a fact.

2 Q. But you know it wasn't you?

3 A. I know it wasn't me.

4 Q. Do you know Jonathan Long?

5 A. No, sir.

6 Q. Have you heard his name before?

7 A. No, sir.

8 Q. When you worked that first Sunday, how
9 many hours did you work?

10 A. We worked -- I started at 9:00, and I
11 think -- I'm not sure, it could have been around
12 3:00 or 4:00.

13 Q. You worked about 9:00 to 3:00?

14 A. I got up early that morning to travel
15 to Greenville, and I didn't get there until 9:00.

16 Q. Where were you travelling from?

17 A. Columbia, South Carolina. Actually, 20
18 miles south of Columbia, which is Swansea. I'm
19 right on the line, the town of Swansea and Gaston.

20 Q. How long is that drive?

21 A. Two -- two hours at least, two hours
22 and a half, maybe.

23 Q. And you checked in the hotel Sunday
24 evening after work?

25 A. After work.

Kenneth Smith - May 3, 2012

18

1 Q. And you went to work Monday morning?

2 A. Uh-huh.

3 Q. What time did you get to work?

4 A. Right at daylight, around daylight.

5 Q. What time would that have been?

6 A. Not really sure. I think it was in
7 April, so I'm thinking it was seven o'clock or so.

8 Q. And how long were you planning to work
9 that day?

10 A. Until dark.

11 Q. Which would have been about what time?

12 A. Probably wouldn't have went much
13 further than 6:00 to 7:00, maybe.

14 Q. And did you take a lunch break?

15 A. Yes, sir.

16 Q. How long?

17 A. One hour.

18 Q. And you were going to stay in a hotel
19 while you worked?

20 A. I stayed in the hotel -- I was in a
21 room with two other fellows, I believe.

22 Q. Do you remember their names?

23 A. No, I didn't talk to them. They sort
24 of went out to eat or whatever. I went across the
25 street to the McDonald's and got me a sandwich, and

1 I went straight on to bed. I think they washed
2 some clothes that night, I believe.

3 Q. They watched --

4 A. Washed.

5 Q. Oh, washed?

6 A. Excuse me, I can't pronounce my words.
7 I'm kind of slurring them on account of my mouth.

8 Q. I understand. You've done well so far.
9 As far as your pay goes, what was your
10 understanding that you were going to be getting
11 paid on this job?

12 A. \$20 an hour.

13 Q. And how many hours did you understand
14 that you were going to work a day?

15 A. I was allowed from daylight to dark,
16 seven days a week. And that's not unusual for
17 going out of town. I mean, we -- I've been to
18 Miami, Texas, that's all we do, work daylight to
19 dark, seven days a week, three weeks, and go home a
20 week.

21 I was going to go there and work every
22 day that was possible. If it rained or something,
23 or we was caught up on material, I would go home
24 with my kids. That was my plan, you know, to make
25 that -- that \$20 an hour. That was still underpay

20

1 right there, but that's what it took, you know.

2 Q. So how many hours -- what was your
3 understanding of how many hours you were going to
4 work a week?

5 A. It would have been seven days a week.
6 I imagine it would probably have been close to
7 around 50, and I would have been probably a little
8 understatement, given the -- normally, it runs
9 around about close to 70 when you do that, but you
10 have to put in rain conditions and all that.

11 Q. Did the guys who worked after your
12 injury -- do you know what schedule they worked?

13 A. I don't know -- I don't have any idea.
14 I never had any communication with any of them
15 after I fell.

16 Q. Okay. Was it your understanding that
17 you were allowed to go home on the weekends if you
18 wanted to?

19 A. Uh-huh, uh-huh.

20 Q. So you said that you could have worked
21 sunup to sundown, seven days a week. Did most
22 people do that?

23 A. Yes, Todd did. Todd did, and a few
24 more of his employees. A few people went home, and
25 that's why they was late. It was a Monday morning,

1 you know, on the drive coming in.

2 Q. Do you know how many people were
3 actually working seven days a week on this job?

4 A. No, sir.

5 Q. Okay.

6 A. I know Todd was. I had talked with him
7 on the phone for probably months before I went
8 there, and that's what he was doing. He was either
9 on the job working or on his way home or on the way
10 back.

11 Q. Do you know how long this job was going
12 to take?

13 A. This job, we was talking about the job
14 was going to take approximately probably a month.
15 It was an 8,000-square-foot building, an office
16 building. Then he had about three years of work in
17 North Carolina we was going to go to, which --

18 Q. Todd Mack?

19 A. Yes, sir. Whether it was for the same
20 contractor, Marion, or not, I don't know. But I
21 was going -- I was prepared, he was going to
22 subcontract that to me.

23 Q. Okay.

24 A. I was going to take a crew down there
25 after that. He couldn't be in two places, you

22

1 know, he had to be in Greenville, pulled off a job
2 in North Carolina to come do this job.

3 Q. Okay. And when you were working on
4 that job, were you taking, at that time, the Zoloft
5 and the Clonazepam? Is that what you said?

6 A. That morning -- every morning, I have
7 to take a Zoloft, and at that point, I was taking
8 the other or -- say lunchtime or so, and then at
9 night before I went to bed.

10 Q. Were you taking anything else?

11 A. No, sir.

12 Q. Were you taking any illegal drugs?

13 A. No, sir.

14 Q. You didn't use alcohol on the job site?

15 A. I'm not a very big drinker at all.

16 Q. But that day, had you used any alcohol?

17 A. Oh, no.

18 Q. Were you aware of drug use and alcohol
19 use by other employees on the job site?

20 A. Oh, no.

21 Q. So now I'm going to ask you about your
22 accident, and if you would, just sort of -- you can
23 start by telling me what happened.

24 A. Okay, we was on the -- facing the back
25 of the building, would have been the righthand of

1 the building. We was finishing up the walls on
2 that side.

3 My job was to lay out the place, get
4 the two-by-fours that was being passed up from the
5 ground crew, laying them down, marking out --
6 laying out the doors, the windows, the studs, and
7 then four men or so was coming behind me, fastening
8 everything together.

9 Okay, we had finished all the walls,
10 because the superintendent for Marion Construction
11 was also laying out walls too. And --

12 Q. Was this on a first floor or second
13 floor?

14 A. Second floor. Okay, I was moving back
15 to the lefthand side where I said the project
16 manager was, because that's where the stairway was.
17 And the windows down at the bottom had to be lined
18 up exactly with the windows below them. And he was
19 there getting the window -- there may have been
20 some changes in the plan.

21 Not sure what was going through his
22 head. But we had built -- we was building the
23 walls, two-by-six walls, studs was cut, 13 foot
24 six, and you had three inches of plate, which made
25 another four and a half inches. And the wall was

24

1 so heavy, 13 foot six long, we had to build
2 sections, like eight-foot sections, take all the
3 men, everybody on the house, to raise one. And we
4 had every wall up except for the 12 -- 10- to
5 12-foot sections of the stairway, which was open
6 all the way down, of course, on both sides, outside
7 the house and the inside. Wasn't any stairs, just
8 all --

9 Q. Were you wearing your harness?

10 A. Yeah, well -- well, they had -- they
11 didn't use that option. They used the safety
12 option as going around six foot perimeter all the
13 way around the whole outside with orange spray
14 paint.

15 They had -- I had four harnesses with
16 me, offered to use them, and they didn't want to do
17 that.

18 Q. Were the other people wearing
19 harnesses?

20 A. Nobody was wearing harnesses. They
21 required hard hats, and that was it.

22 Q. Now -- okay, so tell me how you fell.

23 A. Okay, when I was getting the windows
24 laid out and everything, the only way we could do
25 it, because they still hadn't come to a decision on

1 the windows, but for us to connect the walls and
2 tie the whole perimeter together so we could start
3 straightening up the walls and getting prepared for
4 the roof, and -- but to put a window header all the
5 way across.

6 That meant on this side of the
7 stairway, had to be a header jack nailed in. Other
8 side would have a header jack nailed in. I was
9 putting in one on the right side, facing that.
10 Boards running across on a 45-degree angle, one
11 foot out here, right foot on the outside, left foot
12 on the inside of the subfloor, hand-nailing this
13 jack in, and I had to get the jack nailed at the
14 top, two at the top, three down the middle and then
15 two nailed into the bottom plate.

16 Q. How big was the platform you were
17 standing on?

18 A. It was like a two-by-ten board, short
19 board, eight foot. You know, so it wouldn't give.

20 Q. All right. Well, tell me how you fell.

21 A. That day, we was having wind gusts --
22 the radio was pronouncing it, April 4, announcing a
23 60-mile-an-hour wind gust, and to my understanding,
24 Todd told me he had went inside to the general
25 manager to talk about stopping the job that day,

26

1 because we had already had step ladders to blow,
2 12-foot step ladders, to blow off the subfloor.

3 Well, when I went to drive the nail, a
4 gust of wind come up and hit the wall that was
5 approximately four foot, extending out into the
6 stairway, and I was in front of it, and that gust
7 of wind, when it hit the wall, it hit me in my
8 chest and just ejected me back.

9 Last thing I seen was my feet over my
10 -- right over above my head, both feet, and the
11 last thing I touched was a two-by-four that was
12 running down that wall at an angle, and I just --
13 could feel my fingertips went by that.

14 And then the next thing I remember, I
15 put my right hand behind me to break my fall.
16 There was nothing else to stop me. It was a
17 16-foot fall, straight to concrete, and the last
18 thing I remember was putting my wrist down behind
19 my back to stop -- to break my fall, and the next
20 thing I --

21 Q. So you -- the wind blew you off?

22 A. A gust of wind hit the wall, the wall
23 hit me and knocked me off the house.

24 Q. You were not trying to jump off?

25 A. Oh, no, not 16 foot, no, sir.

1 Q. Did anyone see it?

2 A. I don't know. My back was turned to
3 them. I was facing this way (Indicating). They
4 was on the other end still at their job, finishing
5 up nailing the walls and putting them up on the
6 right end and -- I think it was -- width of it on
7 the back -- I'm guessing it was -- I knew at one
8 time, but I'm guessing it was about 80 foot long.

9 Q. I thought you said you were putting up
10 something that took multiple people.

11 A. No, no. What I was doing, I was
12 putting in one board.

13 Q. Okay.

14 A. It was a jack. I was putting it in.
15 Then I would move to the other side and put that
16 jack in. Now, when it come time to set that 12
17 foot header in, I would have had to have two or
18 three men to help me set that in. But I hadn't got
19 to that point yet.

20 Q. And you said the other employees
21 weren't wearing harnesses?

22 A. No, sir, nobody had harnesses.

23 Q. With the wind like it was, no one was
24 concerned that they ought to put on a harness?

25 A. I suggested building a rail to tie it

28

1 around the stairway. You know, you had three
2 options. And the building codes, the safety rules,
3 you got three options at that height. You got the
4 paint, six foot around the perimeter, which is the
5 easiest and the cheapest, you got an option of
6 putting a harness in the middle of the subfloor,
7 which would have broke the fall and left me hanging
8 a little bit. I would have been scratched up.

9 Or you could build a perimeter, which
10 we build the walls around the heat duct and
11 everything, where you had a two foot by two foot
12 hole going all the way through. We built those
13 walls at code, 16 inches off the floor, 32 inches
14 high.

15 Q. So if someone had wanted to wear a
16 harness, they could not have been able to?

17 A. Oh, I don't know about that. I was
18 just doing what I was told to do.

19 Q. And you were told not to wear a
20 harness?

21 A. Well, I had four of them in my truck,
22 two 50-footers and two 100-foot ropes.

23 Q. But you were told not to wear them?

24 A. Uh-huh, on the -- I was told the paint
25 right there was the safety device code method that

1 they was going to use.

2 Q. When you fell, were you knocked out?

3 A. Uh-huh.

4 Q. And when did you come to?

5 A. The ambulance, they -- they was loading
6 me onto that surfboard looking thing and strapping
7 me to that, and that's when I come to, you know,
8 and I said, God Almighty, where am I? For awhile,
9 I just didn't know nothing.

10 I didn't know nothing. And it finally
11 come to me that wall hitting me and my fingers
12 going by there and seeing my feet, you know, in the
13 air, that started coming to me. And eventually, I
14 started realizing I was in Greenville, and my truck
15 was here and --

16 Q. Tell me about your injuries. I see
17 that you've got something on your wrist.

18 A. This wrist right here (Indicating), the
19 doctor described it to me that it was crushed, as
20 if you would take a wine bottle and baseball bat
21 and hit it. He said he couldn't put it back
22 together as good as God, but he could put it back
23 together.

24 He still -- he's got to do surgery
25 again, I'm sure. Last x-ray I had Wednesday two

30

1 weeks ago, he said it was the best x-ray I had yet.
2 This here shoots electricity. It's not sensitive
3 to touch or sound, but it shoots electricity, it
4 sort of saunders the bone back together.

5 Q. And how many hours a day do you wear
6 that?

7 A. I have to wear it four times a day.
8 Four times a day in ten 20-minute segments in two
9 spots, right here where the steel plate is and then
10 right here where this bone is (Indicating), and
11 they tell me that this bone right here in your body
12 is the less blood flow in your whole body, so it
13 takes longer to heal right here, and right now, you
14 know, if I take a pain pill, there's not much pain
15 with it, but don't take it -- I can't pick up a
16 glass of tea.

17 And then -- even taking it, I can't
18 turn the doorknob all the way around, and -- if I
19 pick up a gallon of milk, you know, I would have to
20 set it down.

21 Q. Is it getting better?

22 A. I told him on my last visit I hated to
23 have to tell him that, because the look on his
24 face, he seems to be working so hard on it, but I
25 just can't tell much difference in the pain. As

1 long as I'm taking pain medication, it's fine, but
2 without that, it's no difference.

3 Q. But is the hand stronger now than it
4 was a month ago?

5 A. A month -- weaker. A month ago, could
6 be. He does a test every time. He said last time
7 that was good. I assume it was better than the
8 time before, but he didn't tell me exactly how much
9 more.

10 Q. That's connected to the belt, I
11 presume, that you have?

12 A. I made this right here just so -- I got
13 a tens device on my back. And four patches that
14 shoot -- I wear patches that shoot electrons, they
15 vibrate, sort of massage the muscles and tissue and
16 everything going all the way up my spine, because
17 I've got five fractures in my spine, two in the
18 back and two in my neck. I don't know where, I
19 think one's here (Indicating), and one's on this
20 side.

21 Q. Did you have any other injuries --

22 A. Fractured every rib on my right side.
23 Messed up my pelvis, busted every blood vessel in
24 my buttocks. Head injury, loss of short-term
25 memory and attention span and then knocked off --

32

1 the bridge work I had done, all that was busted
2 out.

3 I cut two teeth on this side, I believe
4 -- two teeth was knocked out, I believe, on this
5 side (Indicating), I can't really remember, and
6 then one or two on this side (Indicating), but one
7 stayed in there.

8 And it was just like on a string. I
9 couldn't eat or nothing, and time I got out of the
10 hospital, when I came up here, there was a
11 dentist's office right here across the street. I
12 went over there and got him to pull it out so I
13 could eat.

14 Q. Well, I tell you what; I don't know
15 that we need to go into all your medicals, because
16 we have all your medical records.

17 A. Right.

18 Q. But is there any injury, or are you
19 suffering anything now that you haven't seen a
20 doctor for?

21 A. No.

22 Q. And everything's being treated and
23 covered that you are suffering from?

24 A. Yes, sir, everything that I mentioned,
25 they are doing a good job with that.

1 Q. And are there any prescription
2 medications that are being provided to you by
3 someone other than a doctor who you've been sent
4 to?

5 A. No, sir, I got a contract with my pain
6 management doctor to get the medication.
7 Dr. Hutchinson is the pain management doctor,
8 Dr. Cousins prescribes the anxiety medication.

9 Q. And you have not done any work? Or
10 have you worked at all since this accident?

11 A. No, sir, maybe just piddling around the
12 house. They told me -- like, one of my son's -- my
13 son's old desk, I got it and refurbished it for him
14 to do his homework on, the doctor told me it was
15 good to try to do some stuff like that, fool around
16 in the swimming pool, stuff like that, you know,
17 scared to do anything else.

18 My nephew is 20 years old, he wanted me
19 to throw a football the other day, and I told him
20 no, I'm not going to try to catch no football. A
21 20-year-old-man and me, so --

22 Q. How long can you stay on your feet at a
23 time?

24 A. That there depends. Like I've had four
25 injections, I believe, and I don't know a whole lot

34

1 about injections --

2 Q. You don't have to tell me about your
3 medical stuff, because we have all those records,
4 but --

5 A. Right, well, that's what I'm saying
6 about standing. Before then, I couldn't sit this
7 long, I would be up and down. But they give me an
8 epidural two weeks ago, I believe, and I've been
9 able to -- before I couldn't drive, I would have to
10 put all my pressure on my feet and take the
11 pressure off my buttocks and everything, so I could
12 drive to the store or something.

13 But after that injection there, you
14 know, I've been a little more comfortable, just
15 now -- just now starting to wear off in the last
16 few days, and then I got another one scheduled for
17 six weeks, I think. In six weeks, I think.

18 Q. Did you -- when you were working, did
19 you ever carry any insurance on yourself, whether
20 general liability or -- or worker's comp?

21 A. I have Mediciad. Medicaid.

22 Q. But I think you said that since '96,
23 you had been working for yourself?

24 A. Uh-huh.

25 Q. You never carried any insurance on

1 yourself?

2 A. No, sir.

3 MR. GARNER: Let me interject. Think
4 about your -- you had Builders Mutual so --

5 THE WITNESS: Yes, I had Builders
6 Mutual on my employees, not myself. So that -- I
7 didn't put myself in dangerous positions, I put my
8 employees there.

9 BY MR. TAYLOR:

10 Q. So when you had your own business and
11 had people working for you, you had worker's comp
12 coverage for them?

13 A. Right.

14 Q. But you never carried it for yourself?

15 A. Right.

16 Q. When you met Todd Mack, did you
17 understand that he would have worker's comp
18 coverage?

19 A. If I'm working by the hour, it's his
20 duty to furnish the insurance.

21 Q. Did he represent to you that he had
22 insurance?

23 A. Of course, yes, sir.

24 Q. Okay.

25 A. He would have had to, me being in

36

1 business 30 years or so, I know there's no way they
2 are going to let him start on a job and -- either
3 the builder is going to supply it, his
4 subcontractor does it, and they take probably 20
5 percent out of his check, his overall check, to
6 cover his workman's comp.

7 Q. But did you know who actually had the
8 worker's comp coverage when you were working for
9 Todd Mack?

10 A. No.

11 Q. You didn't know if it was Todd Mack or
12 if it was his contractor?

13 A. Had no idea.

14 Q. Okay. I'm just now looking at your tax
15 returns, but how often, when you worked these kinds
16 of construction jobs that would maybe take you out
17 of town or whatever, how often would you work 70
18 hours a week or up to 70 hours a week?

19 A. That's the only time I've ever done
20 that, really and -- well, maybe once or twice in a
21 year, I may run up on a job where I've got two jobs
22 and having to work some overtime like that, but
23 normally, those positions right there was just
24 going out of town.

25 You know, going out of town, make all

1 the hours you can, make all the money you can,
2 work, eat, sleep, then go get back home to your
3 family.

4 Q. So when you worked a job with this many
5 hours, how much time would you take off after the
6 job? Just trying to get a feel for -- if you
7 worked 70 hours a week for three weeks, did you
8 then take a week off or --

9 A. A week off.

10 Q. A week off?

11 A. One week.

12 Q. One week for every -- how many --

13 A. Every three weeks.

14 Q. That was routine for you?

15 A. The way we had it set up.

16 Q. For this job?

17 A. No, not this job. That was the one I
18 did a previous -- this job here was set up -- I was
19 going to work seven days a week, but come rain, bad
20 weather, shortage of material, I was coming back
21 home until everything was ready to go again 100
22 percent.

23 Q. Okay. And had you ever worked for Todd
24 Mack before this?

25 A. Never worked for him. Worked with him

38

1 in Miami, '92.

2 Q. How long have you known Todd Mack?

3 A. I met him in Miami in '92.

4 Q. Were you friends?

5 A. Acquaintances, you know, how you doing,
6 I would see him, stuff like that, and -- I reckon
7 we was friends, but --

8 Q. How did you get on this job with him?

9 A. Just word of mouth in the cafeteria,
10 you know. The economy is real slow, Todd Mack's
11 name come up in a coffee shop I was in there in
12 Swansea, and I give him a call, and he said yes, he
13 needed some leadership, he didn't have anybody that
14 was really experienced at all.

15 And me and him negotiated for a couple
16 weeks, maybe, and we finally come to an agreement
17 that I would come and help him finish that job in
18 Greenville, then we would go back to Miami -- I
19 mean, go back to North Carolina and renegotiate
20 what we was going to do.

21 Q. What were the other guys on the job
22 making, do you know?

23 A. I have no idea.

24 Q. What's the most money you've ever made
25 in a year?

1 A. 80,000.

2 Q. What do you make on average years, over
3 the last ten years?

4 A. Probably around 40 or 50.

5 MR. GARNER: Did you say ten years or
6 two years?

7 MR. TAYLOR: Ten.

8 MR. GARNER: Ten years.

9 THE WITNESS: Ten years? Well, 2007, 8
10 and 9, I had some good years, I would say around 50
11 to 60. I'm just guessing. I would have to go back
12 and look.

13 BY MR. TAYLOR:

14 Q. Okay. Sure. When you go to work a job
15 like this, where do your kids stay?

16 A. At this time, I had made arrangements
17 with my mom to come stay at my house until I got
18 back. My dad has passed away, she lives by
19 herself, and she agreed to come and stay at my
20 house and take care of my kids until I get back,
21 you know, so I could go make a living. Before,
22 I've never had kids before when I've been out of
23 town.

24 My oldest daughter, she was -- her mama
25 had custody of her, and I had visitation rights and

40

1 weekends and stuff. These three here, my wife kind
2 of abandoned -- abandonment, that's what the
3 divorce is on, abandonment and a few other things.

4 Q. Now, you know that Todd Mack had signed
5 something representing your wage and hours. Did
6 you give that to him to sign?

7 A. I didn't give it to him. Mr. Garner
8 sent him a paper, you know, from what I explained
9 to him, and you know, that was the agreement that
10 me and Todd had made. I've only talked to Todd two
11 or three times on the phone since all this
12 happened, because I think he is in Virginia now or
13 may be still in North Carolina. I'm really not
14 sure.

15 Q. Have you ever discussed any drug use
16 with Todd Mack before? Would there be any reason
17 for him to think that you may have been on drugs?

18 A. No, sir. No.

19 MR. TAYLOR: All right, well, that's
20 all the questions I have, I think.

21 EXAMINATION

22 BY MR. GARNER:

23 Q. Okay, let me just ask a couple, Kenny.
24 Are you righthanded or lefthanded?

25 A. Righthanded.

1 Q. And you said earlier, you haven't been
2 involved in any kind of lawsuit, with the exception
3 of your divorce?

4 A. No, divorce was the only time, yes,
5 sir.

6 Q. And for the sake of full disclosure,
7 your car accident, where you hurt your neck, you
8 said you were treated at Lexington Medical Center,
9 and you also saw Dr. Rambo?

10 A. Yes, Dr. Rambo.

11 Q. And he's a neurosurgeon?

12 A. Yes, sir.

13 Q. Had you been completely released by him
14 before this accident?

15 A. Yes, sir.

16 Q. About how long, do you know?

17 A. I went straight on back to work, I
18 would say about three weeks or so.

19 Q. Were you having any problems with your
20 neck when you went to work?

21 A. No, oh, no.

22 Q. All right.

23 MR. GARNER: That's all I've got.

24 THE WITNESS: He had released me. He
25 fully released me.

42

1 MR. GARNER: Okay, thank you.

2 (The deposition was concluded at 10:45

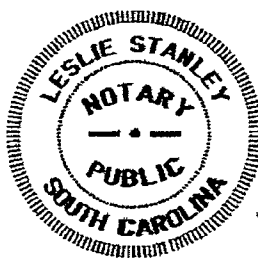
3 a.m.)

1 CERTIFICATE OF REPORTER

2
3 I, Leslie Toole Stanley, Certified
4 Shorthand Reporter and Notary Public for the State
5 of South Carolina at Large, do hereby certify that
6 the foregoing transcript is a true, accurate, and
7 complete record.

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

11 Witness my hand, I have hereunto
12 affixed my official seal this 4th day of May, 2012,
13 at Columbia, Richland County, South Carolina.
14
15
16
17
18



23 Leslie Toole Stanley,
24 Certified Shorthand Reporter
25 My Commission expires
January 13, 2021

I N D E X

	Page	Line
WITNESS/EXAMINATION		
STIPULATION	3	1
KENNETH SMITH	3	
EXAMINATION	3	13
BY MR. TAYLOR:		
EXAMINATION	40	21
BY MR. GARNER:		
CERTIFICATE OF REPORTER	43	

REQUESTED INFORMATION INDEX

(No Information Requested)

E X H I B I T S

(No Exhibits Proffered)

1 BEFORE THE
 2 SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
 3 KENNETH SMITH,
 4 Claimant,
 5 vs. WCC FILE NO. 1104798
 6 MARION BUILDERS GROUP,
 7 Employer,
 8 and
 9 BUILDERS MUTUAL INSURANCE COMPANY,
 10 Carrier, Defendants.

COPY

EXPEDITE

11 DEPOSITION OF: TODD MACK
 12
 13 DATE: May 24, 2012
 14 TIME: 2:04 P.M.
 15 LOCATION: Law Offices of
 Callison Tighe & Robinson, LLC
 1812 Lincoln Street
 Columbia, SC
 16
 17 TAKEN BY: Counsel for the Defendants
 18 REPORTED BY: LORI S. MORTGE,
 Certified Court Reporter
 19
 20

21 **A. WILLIAM ROBERTS, JR., & ASSOCIATES**

22 ***Fast, Accurate & Friendly***

23 Charleston, SC	Hilton Head, SC	Myrtle Beach, SC
(843) 722-8414	(843) 785-3263	(803) 731-5224
24 Columbia, SC	Greenville, SC	Charlotte, NC
25 (803) 731-5224	(864) 234-7030	(704) 573-3919

A. WILLIAM ROBERTS, JR. & ASSOCIATES (800) 743-DEPO

1 APPEARANCES OF COUNSEL:

2 ATTORNEYS FOR KENNETH SMITH:

3 HOLLER, DENNIS, CORBETT, ORMOND, PLANTE
4 AND GARNER
5 BY: EVERETT HOPE GARNER
6 1777 Bull Street
7 Columbia, SC 29201
8 (803) 765-2968

9 ATTORNEYS FOR MARION BUILDERS GROUP and
10 BUILDERS MUTUAL INSURANCE COMPANY:

11 CALLISON TIGHE & ROBINSON, LLC
12 BY: GEORGE A. TAYLOR
13 1812 Lincoln Street
14 Suite 200
15 Columbia, SC 29201
16 (803) 404-6900
17 GeorgeTaylor@callisontighe.com

18 ALSO PRESENT:

19 Kenneth Smith

20
21
22
23
24
25 (INDEX AT REAR OF TRANSCRIPT)

TODD MACK - EX. BY MR. TAYLOR

1 STIPULATION

2 It is stipulated by and between Counsel
3 that this deposition is being taken in accordance
4 with the South Carolina Rules of Civil Procedure;
5 that all objections as to Notice of this deposition
6 are hereby waived; that all objections except as to
7 form are reserved until the time of trial.

8 * * * * *

9 TODD MACK,

10 being first duly sworn, testified as follows:

11 EXAMINATION

12 BY MR. TAYLOR:

13 Q. Mr. Mack, my name is George Taylor and I
14 represent Builders Group through their carrier,
15 Builders Mutual Insurance Company, and we're here
16 today to talk about a Workers' Comp claim of Kenneth
17 Smith.

18 I'm going to ask you a number of
19 questions. If at any point I ask you something you
20 don't understand please tell me, I'll be more than
21 happy to ask you again. Do you understand that?

22 A. Yes.

23 Q. If you do answer something that I ask,
24 I'm going to assume that you understood what I
25 asked. Fair enough?

TODD MACK - EX. BY MR. TAYLOR

1 A. Yes, sir.

2 Q. I don't anticipate this taking too
3 terribly long, but if at any point you need a break
4 let me know. We'll be happy to take a quick -- go
5 off the record, take a break and get back on it. If
6 we do do that, in the event that we do do that,
7 you're not to talk to anyone in here about the
8 testimony that you're giving today.

9 A. Okay.

10 Q. Do you understand that?

11 A. Yes.

12 Q. Okay. Can you please state your full
13 name for the record?

14 A. Lindsey Todd Mack.

15 Q. And what is your age and date of birth?

16 A. 3/29/69, 43.

17 Q. And what's your address?

18 A. 282 Foxglove Drive.

19 Q. 282?

20 A. Foxglove Drive, Swansea, South Carolina.

21 Q. And how long have you lived at that
22 address?

23 A. All my life.

24 Q. You were raised in that house?

25 A. Yes.

A. WILLIAM ROBERTS, JR. & ASSOCIATES (800) 743-DEPO

TODD MACK - EX. BY MR. TAYLOR

- 1 Q. And who do you live with now?
- 2 A. That's my parents.
- 3 Q. Does anyone else live there?
- 4 A. Just us.
- 5 Q. What kind of work do you do?
- 6 A. Residential building.
- 7 Q. What part of residential building do you
- 8 do?
- 9 A. Framing.
- 10 Q. Do you do any nonresidential work?
- 11 A. We do commercial work as well.
- 12 Q. What kind of work do you do there?
- 13 A. Apartments, duplexes.
- 14 Q. Now, what part of the commercial
- 15 construction business do you do? Do you do framing
- 16 in that as well?
- 17 A. Yeah. That's all framing.
- 18 Q. Who do you work for?
- 19 A. Myself, but I sub from other
- 20 contractors.
- 21 Q. What contractors do you generally work
- 22 for? Is there a few or do you work for a bunch of
- 23 different contractors?
- 24 A. It's a bunch of different contractors.
- 25 Q. And have you worked for Marion Builders

A. WILLIAM ROBERTS, JR. & ASSOCIATES (800) 743-DEPO

TODD MACK - EX. BY MR. TAYLOR

1 before?

2 A. Yes. That was the second job.

3 Q. That was the second job that you took as
4 a subcontractor?

5 A. Working for them, yeah.

6 Q. What was your first job?

7 A. We was on base, duplexes.

8 Q. And who hired you from Marion Builders?

9 A. Oh, gosh. J.B. I don't know his last
10 name.

11 Q. J.B.?

12 A. J.B.

13 Q. Is that Jonathan Long?

14 A. Right. Jonathan Long, yes, sir.

15 Q. How long have you known Jonathan Long?

16 A. I -- a couple of months.

17 Q. Where did you meet Jonathan Long?

18 A. At Jacksonville, North Carolina.

19 Q. And when was that, approximately?

20 A. I think around a year and a half ago,
21 two years. Something like that.

22 Q. Would you remember about what time of
23 year it was?

24 A. No.

25 Q. And he hired you to come and do some

TODD MACK - EX. BY MR. TAYLOR

- 1 work in South Carolina?
- 2 A. Right.
- 3 Q. What work was that?
- 4 A. Office building in Greenville.
- 5 Q. What specifically were you hired to do?
- 6 A. The framing of it.
- 7 Q. Do you remember when you started that
- 8 job?
- 9 A. No, I don't.
- 10 Q. Were you -- who did you work directly
- 11 for? I mean, who did you answer to at Marion
- 12 Builders?
- 13 A. Jonathan or Thomas.
- 14 Q. And who is Thomas?
- 15 A. They was partners, both of them.
- 16 Q. And did you have your own employees?
- 17 A. Yes. I had my fellows that worked
- 18 alongside me, yeah.
- 19 Q. How many?
- 20 A. Between six and eight at the time.
- 21 Q. Do you remember who they were?
- 22 A. I think so, yeah.
- 23 Q. Would you give me their names?
- 24 A. Shane Wilkerson, Gary Whetstone, Michael
- 25 Preston, Ben Knutson I think is how you say it.

TODD MACK - EX. BY MR. TAYLOR

- 1 Q. Do you know how to spell it?
- 2 A. K-N-U-T-S-O-N.
- 3 Q. Okay.
- 4 A. Kenny was there.
- 5 Q. Ken Smith?
- 6 A. Yeah. Chris Culpepper. I think that
- 7 was about it.
- 8 Q. And if you think of any more at any
- 9 point just let me know who it was. Do you stay in
- 10 touch with those folks?
- 11 A. No, not much.
- 12 Q. Have any --
- 13 A. A couple.
- 14 Q. Do any of them still work for you?
- 15 A. Gary Whetstone.
- 16 Q. None of the others?
- 17 A. No.
- 18 Q. Who paid those individuals?
- 19 A. Marion paid me and I paid them.
- 20 Q. When you worked for Marion Builders who
- 21 supplied the equipment?
- 22 A. Marion supplied except for, you know,
- 23 our personal stuff -- saws, compressors, you know,
- 24 stuff like that we supplied our own.
- 25 Q. So the tools of the trade is what I'm --

A. WILLIAM ROBERTS, JR. & ASSOCIATES (800) 743-DEPO

TODD MACK - EX. BY MR. TAYLOR

- 1 A. Ours. Mine. Ours, yes.
- 2 Q. And Marion Builders supplied the
- 3 materials?
- 4 A. Right.
- 5 Q. Okay. And how did you pay your crew?
- 6 A. Cash. 1099 at the end of the year.
- 7 Q. And how often did you pay them?
- 8 A. Weekly.
- 9 Q. And were they paid on hours worked?
- 10 A. Yeah.
- 11 Q. Were they paid any other way?
- 12 A. No. Hourly.
- 13 Q. How did you keep track of the hours each
- 14 person worked?
- 15 A. I wrote them down daily.
- 16 Q. Paid on what day of the week, if you can
- 17 recall?
- 18 A. Friday.
- 19 Q. Friday. And would you distribute the
- 20 cash yourself?
- 21 A. Yes, sir.
- 22 Q. Did you carry Workers' Compensation
- 23 insurance?
- 24 A. No. We worked right under Marion.
- 25 Q. So Marion didn't require you to have

TODD MACK - EX. BY MR. TAYLOR

1 Workers' Comp?

2 A. No. We was working through them.

3 Q. Have you ever carried Workers' Comp
4 insurance for yourself or your employees?

5 A. Mm-hmm. Yes, sir.

6 Q. And you didn't this time why?

7 A. I just -- well, that's -- you know, the
8 economy was down and that's just how they worked.
9 We basically worked for Marion.

10 Q. Okay. Had you done any other work for
11 Marion before or after this?

12 A. No.

13 Q. And you didn't require your employees to
14 carry their own Workers' Compensation insurance, did
15 you?

16 A. No, sir.

17 Q. How were you paid?

18 A. The same way as everyone else.

19 Q. So when you were paid from Marion, you
20 were paid based on the hours that all your guys
21 worked or were you paid on the job you performed?

22 A. The job we performed.

23 Q. So if there was extra money at the end
24 of paying all of your employees, how was that money
25 distributed?

A. WILLIAM ROBERTS, JR. & ASSOCIATES (800) 743-DEPO

TODD MACK - EX. BY MR. TAYLOR

- 1 A. That was where I made my money.
- 2 Q. So you weren't paid on an hourly basis?
- 3 A. Right.
- 4 Q. And did Marion Builders pay you with a
- 5 check?
- 6 A. Right. Yes, sir.
- 7 Q. How often?
- 8 A. Weekly.
- 9 Q. What day of the week did you receive
- 10 that check?
- 11 A. Fridays.
- 12 Q. And how much were they paying you?
- 13 A. Depended on what we had done..
- 14 Q. Okay.
- 15 A. No specific amount.
- 16 Q. How -- I mean, was it based on square
- 17 footage or what?
- 18 A. It was -- yeah, broke down basically
- 19 square footage. I can't remember what the price was
- 20 then.
- 21 Q. Did you always receive enough money to
- 22 pay your employees?
- 23 A. Yes, sir.
- 24 Q. And how much did you pay your crew per
- 25 hour?

A. WILLIAM ROBERTS, JR. & ASSOCIATES (800) 743-DEPO

TODD MACK - EX. BY MR. TAYLOR

- 1 A. It ranged anywhere from 12 up to \$20 an
2 hour.
3 Q. How much an hour did Shane Wilkerson
4 make?
5 A. Shane made 13.
6 Q. Gary Whetstone?
7 A. Gary I paid 14.
8 Q. Michael Preston?
9 A. Michael was 13.
10 Q. Ben Knutson?
11 A. Fifteen.
12 Q. Mr. Smith?
13 A. Twenty.
14 Q. And Chris Culpepper?
15 A. I think I paid him \$10 an hour.
16 Q. So you ranged from \$10 an hour to \$20 an
17 hour?
18 A. Yes, sir.
19 Q. How many hours a week do you
20 generally -- not on this particular project, but do
21 you generally work on a construction site?
22 A. Thirty-seven to 40.
23 Q. And what days of the week do you
24 generally work?
25 A. Monday through Friday.

A. WILLIAM ROBERTS, JR. & ASSOCIATES (800) 743-DEPO

TODD MACK - EX. BY MR. TAYLOR

1 Q. How often -- on this job how many hours
2 a week was your crew working?

3 A. We was putting in -- we was doing some
4 weekends then. We was working anywhere no less
5 than eight -- I mean, eight to ten hours a day. We
6 was -- we was rushed on that job. We were working
7 some Saturdays and half a day -- like half a day
8 Sundays.

9 Q. When you say some Saturdays, would that
10 be like half of the Saturdays?

11 A. I think we worked almost every Saturday
12 on that building. We was kind of being pushed
13 there.

14 Q. Okay. And on Sundays you would
15 generally work half of what you normally would work?

16 A. Right. Yes, sir.

17 Q. How many weeks were you on this job site
18 for Marion Builders?

19 A. I think we was there six weeks. Six to
20 seven weeks.

21 Q. And was it customary for -- did y'all
22 finish the job -- excuse me, I'm sorry. Did y'all
23 finish the job?

24 A. Yes, sir.

25 Q. And how many weeks did y'all work a

TODD MACK - EX. BY MR. TAYLOR

1 month on that job -- I mean, did you work six
2 straight weeks or was there any time off?

3 A. No, we worked straight.

4 Q. How many hours did Mr. Smith work for
5 you?

6 A. Kenny had not started long. About a
7 week, I think.

8 Q. How long was he expected to work for
9 you?

10 A. The full term.

11 Q. For six weeks?

12 A. Well, yeah, in the end, you know. We
13 were going to go on to some more work from there.

14 Q. After you completed this job how many
15 weeks did you wait before you had your next job?

16 A. I don't think we had any time off. We
17 went back to -- left there and went back to
18 Jacksonville.

19 Q. The next job was in Jacksonville?

20 A. Mm-hmm.

21 MR. GARNER: Is that North Carolina?

22 THE WITNESS: Yes, North Carolina.

23 MR. GARNER: Excuse me.

24 BY MR. TAYLOR:

25 Q. And the Claimant indicated to you that

TODD MACK - EX. BY MR. TAYLOR

1 he was going to go to North Carolina on that job?

2 A. Mm-hmm.

3 Q. How long were you in Jacksonville?

4 A. We've been there -- just got finished
5 up. A year, a year and a half.

6 Q. How many hours a week did y'all work
7 there?

8 A. We started off there seven days a week
9 and dropped back to six.

10 Q. How many hours a week approximately are
11 you working there now?

12 A. We was working there 50 -- about 50
13 hours a week up there.

14 Q. Did you take the same crew there that
15 you had with Marion Builders?

16 A. All but a couple, yeah. I added a few
17 different ones.

18 Q. And did you pay the employees more or
19 less or the same while they were there?

20 A. I tried to pay them more. That was more
21 production type work.

22 Q. Do you remember having a conversation
23 with a representative of Builders Mutual Insurance
24 Company after Mr. Smith's injury?

25 A. No, I don't -- not really.

A. WILLIAM ROBERTS, JR. & ASSOCIATES (800) 743-DEPO

TODD MACK - EX. BY MR. TAYLOR

1 Q. Do you recall stating that Mr. Smith was
2 getting \$12 an hour?

3 A. I recall the starting -- we discussed
4 that at the beginning and then he brought his truck,
5 his trailer and his tools and I told him I'd give
6 him \$20 an hour, yes, sir, after we got started.

7 Q. Okay. So when you hired Mr. Smith
8 initially he was going to make \$12 an hour, and then
9 when he brought his stuff you upped him to \$20.

10 A. Correct.

11 Q. But what I'm asking is after his
12 accident did you -- did you remember having a
13 conversation with a representative of Builders
14 Mutual Insurance Company where you stated that
15 Mr. Smith was being paid \$12 an hour?

16 A. Yes, sir. I did then, yeah.

17 Q. Is that because at that time you thought
18 that you were paying him \$12 an hour?

19 A. At the very beginning until he showed up
20 and he had his truck and his tools and walk boards
21 and...

22 Q. I understand that. But what I want to
23 know is if you remember saying after the accident
24 that Mr. Smith was getting paid \$12 an hour by you
25 on the job site?

A. WILLIAM ROBERTS, JR. & ASSOCIATES (800) 743-DEPO

TODD MACK - EX. BY MR. TAYLOR

1 A. I --

2 Q. Do you recall saying that?

3 A. I don't remember that far back. I
4 remember talking somewhat, but...

5 Q. But do you remember having a
6 conversation with a representative of Builders
7 Mutual?

8 A. I do remember talking with someone from
9 an insurance agency, yes.

10 Q. Do you recall stating that Mr. Smith was
11 expected to work between 32 and 36 hours a week?

12 A. Yeah. We got behind and started being
13 pushed, yeah.

14 Q. When -- before you started getting
15 pushed was that what you were expecting the crew to
16 work, was 32 to 36 hours a week?

17 A. That's average, and we started getting
18 behind so we was pushing it.

19 Q. Did y'all get behind before or after
20 Mr. Smith got hurt?

21 A. It was actually about the time he got
22 there.

23 Q. In an average year, I'm going back --
24 back a little bit, I'm sorry. But in an average
25 year you've worked some weeks at 32 to 36 hours a

TODD MACK - EX. BY MR. TAYLOR

1 week, some weeks as high as 70 hours a week.

2 A. Mm-hmm.

3 Q. The average week that you work a year,
4 how many hours do you work?

5 A. Well, 36 to 40.

6 Q. Are you familiar with Mr. Smith's
7 accident?

8 A. Yes, sir.

9 Q. Did you see it?

10 A. No, I had my back turned. I didn't.

11 Q. Now, had you been working with him that
12 day?

13 A. Mm-hmm.

14 Q. And just tell me what happened.

15 A. We was working on an exterior wall, it
16 was real windy that day. Kenny was up on the
17 ladder, we finished up in that area. He come down,
18 I walked away over to where we was trying to work in
19 a safe area because of the high winds and all. And
20 I heard the boy downstairs working hollering man
21 down, and Kenny had -- Kenny had fell.

22 Q. Was he working behind a security line?

23 A. Yeah, that was the handrail and all up
24 there.

25 Q. Was he supposed to be working behind

A. WILLIAM ROBERTS, JR. & ASSOCIATES (800) 743-DEPO

TODD MACK - EX. BY MR. TAYLOR

1 that?

2 A. Mm-hmm.

3 Q. Did anyone see him fall?

4 A. I don't -- I don't think anyone did.

5 Q. Did you talk to anybody after the
6 accident about it besides Mr. Smith?

7 A. I mean, you know, just the fellows on
8 the job talking.

9 Q. Do y'all generally wear harnesses when
10 you work on an upper level like that?

11 A. We do when we're in a position where we
12 have to wear them.

13 Q. Were other people who were working
14 around Mr. Smith wearing harnesses that day?

15 A. I don't think so because we had our
16 walls up and safety rails up.

17 Q. How do you think Mr. Smith fell? I
18 mean, from the safety rail on the wall being on both
19 sides.

20 A. I -- the wind gusting. That's all we
21 could determine.

22 Q. Did other employees speculate that
23 Mr. Smith had jumped?

24 MR. GARNER: Object to the form of the
25 question. Go ahead and answer.

A. WILLIAM ROBERTS, JR. & ASSOCIATES (800) 743-DEPO

TODD MACK - EX. BY MR. TAYLOR

1 THE WITNESS: No, sir.

2 BY MR. TAYLOR:

3 Q. No one told you that?

4 A. I don't -- I don't think anyone seen
5 him. Everybody was way on the other side of the
6 building and I was over there with him and was
7 walking over there to help him. One fellow, I
8 think, was under him working. That's the one that
9 hollered needed help, Kenny had fallen.

10 Q. Did you think that Kenny had jumped?

11 A. I don't think -- I don't think nobody
12 would do that.

13 Q. Did you say anything to Jonathan Long
14 that would make him think that you thought Mr. Smith
15 jumped?

16 A. No.

17 Q. What kind of, if any, drug use were
18 people in your crew using?

19 A. I don't -- I seen nobody using drugs. I
20 mean, I wouldn't...

21 Q. You wouldn't have hired them if you
22 thought they were using drugs?

23 A. No. No.

24 Q. Did you hear about drug use by your
25 other employees?

A. WILLIAM ROBERTS, JR. & ASSOCIATES (800) 743-DEPO

TODD MACK - EX. BY MR. TAYLOR

1 A. You hear a lot of talk about stuff from
2 other people. I don't -- I don't believe nothing I
3 hear really much.

4 Q. I understand that but -- I understand
5 that but you did hear people talking about drug
6 use --

7 A. Yeah.

8 Q. -- in the crew?

9 A. Yes. Yeah. Always.

10 Q. Who were they saying were using drugs of
11 the people you named to me? Was Shane Wilkerson
12 ever accused of using drugs on the job site?

13 A. Not on the job site, no, sir.

14 Q. Or using drugs, excuse me.

15 A. Yeah, he was accused of it.

16 Q. Gary Whetstone?

17 A. No.

18 Q. Michael Preston?

19 A. Yeah.

20 Q. Ben Knutson?

21 A. I think so.

22 Q. Mr. Smith?

23 A. I think that they said something. I
24 can't remember what all they said. Michael Preston
25 was the one doing the talking.

TODD MACK - EX. BY MR. TAYLOR

1 Q. Was anyone else saying anything about
2 drug use --

3 A. Huh-uh.

4 Q. -- about Mr. Smith?

5 A. (Witness moves head from side to side.)

6 No.

7 Q. Do you recall a conversation with
8 Jonathan Long after the accident you recommended
9 that Mr. Smith be drug tested?

10 A. No.

11 Q. Do you recall saying that he seemed kind
12 of foggy before the accident?

13 A. No.

14 Q. Just a second. I think that's about all
15 the questions I have. (Reading.)

16 Did you sign a document that was
17 captioned State of South Carolina, County of
18 Richland regarding Mr. Smith's employment?

19 A. I don't remember.

20 Q. Did you give someone permission to sign
21 it on your behalf?

22 A. I'm not sure.

23 Q. Let me show you what I'm looking at.

24 A. I don't know.

25 Q. (Tendering.) Have you seen this

TODD MACK - EX. BY MR. TAYLOR

1 document before?

2 A. (Reading.) Yeah. Yeah.

3 Q. And is that your signature?

4 A. That's my signature, yes, sir.

5 Q. Did you write that?

6 A. I signed it, yes, sir.

7 Q. But did you write it out?

8 A. Yeah.

9 Q. You wrote this, you drafted this
10 yourself?

11 A. No. I had -- no.

12 Q. It's a reflection of what you said?

13 A. Yes, sir. I didn't know what you was
14 talking about just now, to tell you the truth,
15 according to the way you were asking the question.

16 Q. I'm just trying to figure out if you
17 prepared this or if this was prepared for you.

18 A. Yes. I did, I -- I wrote it and read it
19 and signed it.

20 Q. Okay. So you were the one who actually
21 wrote this out?

22 A. No. I went over it and signed it.

23 Q. I understand. Thank you. And is this
24 true and accurate, everything in here?

25 A. Yes, sir.

TODD MACK - EX. BY MR. TAYLOR

1 Q. How did you know Kenny Smith prior to --
2 prior to the job?

3 A. I've been around Kenny off and on and
4 just knowing him from, you know, for where we're
5 from everybody is framers, carpenters, brick masons.

6 Q. How many years have you known him?

7 A. Gosh, I've known Kenny probably
8 20-some-odd years.

9 Q. Are y'all friends?

10 A. Yeah. I mean, I don't like to think I
11 have any enemies.

12 Q. Do y'all socialize together outside of
13 work?

14 A. We really never have, no. Speak and
15 talk, you know, run across each other or something.

16 Q. Have you ever worked together before?

17 A. That was the first time -- yes, we did
18 work together years ago behind Hurricane Andrew. I
19 forgot about that. That was years -- yeah.

20 Q. What year approximately was that? I
21 can't recall when Hurricane Andrew --

22 A. I can't recall. I can't remember
23 yesterday too good.

24 Q. Were you aware that Mr. Smith had
25 suffered an injury to his spine just a few months

TODD MACK - EX. BY MR. GARNER

1 before you hired him?

2 A. No, sir.

3 Q. Did Mr. Smith complete any kind of
4 employee application?

5 A. No, sir.

6 Q. Is it documented anywhere that he worked
7 for you?

8 A. I mean, I can go back and find where,
9 you know, his name is in a notebook with hours and
10 hourly rates and stuff wrote down from back then.

11 Q. I think --

12 A. Somewhere. We don't keep up, no.

13 MR. TAYLOR: All right. I think that's
14 all the questions I have.

15 MR. GARNER: I have a few questions for
16 you, Mr. Mack.

17 EXAMINATION

18 BY MR. GARNER:

19 Q. This crew that you named, two, four --
20 six people including Kenny, was Kenny the most
21 experienced carpenter in that group?

22 A. He was, yes, sir.

23 Q. Were you aware that Kenny had over 30
24 years experience as a framing carpenter?

25 A. Yes, sir.

TODD MACK - EX. BY MR. GARNER

1 Q. Are you familiar with the experience of
2 the other members of the crew?

3 A. Yeah.

4 Q. How many years experience did Shane
5 have?

6 A. Shane? Probably 16, 17 years.

7 Q. Let me ask you this question. Would all
8 of these crew members, would they all be classified
9 as carpenters?

10 A. No, not all.

11 Q. Which one of the group were carpenters?

12 A. Gary Whetstone, Kenny of course, Ben.

13 Q. And excuse my ignorance of the
14 construction industry but were they all the same
15 kind of carpenter?

16 A. Oh, no.

17 Q. Did you pay them more according to what
18 their duties were or what their experience was or
19 both?

20 A. Combination of both.

21 Q. All right. Who would you have -- would
22 you have considered Kenny in charge of the crew in
23 your absence?

24 A. Yes, sir.

25 Q. Was that because he was the most

A. WILLIAM ROBERTS, JR. & ASSOCIATES (800) 743-DEPO

TODD MACK - EX. BY MR. GARNER

1 experienced carpenter?

2 A. Yes, sir.

3 Q. And you said he supplied certain
4 equipment, I think you mentioned air compressors,
5 trailers, ladders and walk boards; is that correct?

6 A. Yes, sir. That's correct.

7 Q. Did any of these other employees supply
8 air compressors, walk boards and their own trailer?

9 A. No, sir.

10 Q. I believe you testified you expected
11 Kenny to go to the next job with you; is that
12 correct?

13 A. Yes, sir. We had discussed it.

14 Q. Did you expect Kenny to work for you
15 indefinitely as long as everything was okay?

16 A. Yes, sir.

17 Q. On the day that this happened were you
18 wearing a harness?

19 A. No.

20 Q. And you testified that there was no
21 break before the next job. So as far as you were
22 concerned, had Kenny not gotten injured he would
23 have gone from that job to the next job in
24 Jacksonville, North Carolina?

25 A. As long as he wanted to, yes, sir.

TODD MACK - EX. BY MR. GARNER

1 Q. And he never told you that he didn't
2 want to?

3 A. No.

4 Q. And you said -- did you testify --
5 correct me if I'm wrong but I think you testified
6 that on the Jacksonville, North Carolina job, which
7 you worked on for a year, year and a half, you
8 averaged about 50 hours a week?

9 A. Yes, sir.

10 Q. Would you have -- had Kenny not been
11 hurt on that job would you have expected him to work
12 50 hours a week?

13 A. Yes, sir. One of us.

14 Q. Did you anticipate paying Kenny at least
15 \$20 an hour on that job?

16 A. Yes, sir.

17 Q. You were just shown what purports to be
18 your affidavit and you indicated you're familiar
19 with the document and it does show your signature;
20 is that correct?

21 A. Yes, sir.

22 Q. It was not notarized, but you're
23 swearing under oath that everything is accurate and
24 true; is that correct?

25 A. Yes, sir.

A. WILLIAM ROBERTS, JR. & ASSOCIATES (800) 743-DEPO

TODD MACK - EX. BY MR. TAYLOR

1 MR. GARNER: We'll mark this, please.

2 (PLF. EXH. 1, Affidavit of Todd Mack,
3 was marked for identification.)

4 MR. GARNER: That's all I have.

5 MR. TAYLOR: I don't think I have
6 anything else but you did add something that made me
7 think, if I could have one minute.

8 EXAMINATION

9 BY MR. TAYLOR:

10 Q. When y'all worked the Jacksonville job,
11 how many weeks of the year did you work?

12 Approximately, of the 52 weeks in the year.

13 A. We worked about every week.

14 Q. You worked --

15 A. You don't -- those jobs you don't take
16 time off.

17 Q. Okay. So for a year and a half you took
18 no time off?

19 A. We would, you know, alternate. I had
20 the crew leader there like Kenny would have been and
21 he would stay with eight men while I might would
22 come home -- or would come home on Friday, Saturday
23 and be back Sunday evening.

24 Q. So --

25 A. And the next pay period three more would

TODD MACK - EX. BY MR. TAYLOR

1 go.

2 Q. Okay. So did people generally work
3 three weeks on and a week off?

4 A. No.

5 Q. A month on, a week off? Just generally
6 what did people work?

7 A. Yes, sir.

8 Q. I'm asking.

9 A. We would alternate every two weeks. Me
10 and two others would come home while the rest of
11 them worked that weekend, the next pay period, which
12 would be two weeks later. The other lead men and
13 three more would go home for the weekend.

14 Q. So in a month how many hours would you
15 expect one of your crew members to work?

16 A. Well, about 50 hours a week.

17 Q. I'm trying to figure out --

18 A. I'm not good at math like this.

19 Q. I know, and I'm making it complicated.

20 A. Yeah, you are.

21 Q. What I'm trying to figure out is if
22 someone worked 50 hours a week, if they -- if they
23 truly did that all year long and never had a week
24 with less than 50 hours or never had a week off?
25 I'm trying to account for that.

TODD MACK - EX. BY MR. GARNER

1 A. Every couple of weeks -- every two weeks
2 I would come home for a Friday, Saturday, Sunday.

3 Q. And that's what you allowed your crew to
4 do?

5 A. Yes. That was it.

6 MR. TAYLOR: Thank you.

7 MR. GARNER: I'm a little confused now.

8 EXAMINATION

9 BY MR. GARNER:

10 Q. When you say --

11 A. Y'all, I feel like I'm on trial. Do I
12 need me a lawyer?

13 Q. We don't want to do that to you, no.
14 I'm just trying to make sure I understand what
15 you're saying and what George was asking.

16 When you testified that the crew had
17 averaged 50 hours per week, were you accounting for
18 that every other weekend that y'all would take off?
19 Was that already figured in there?

20 A. No.

21 Q. Okay.

22 A. That's not, no.

23 Q. All right. So every other weekend --
24 every other week or every two weeks -- again, I'm
25 getting myself confused. You'd work 50 hours a

TODD MACK - EX. BY MR. GARNER

1 week, 50 hours a week, then the following they might
2 have the weekend off so they might have worked less
3 than 50?

4 A. Yeah.

5 Q. So would you work Saturdays and not
6 Sundays?

7 A. Right.

8 Q. So it would be an eight hour --
9 eight-to-ten-hour Saturday?

10 A. Yes, sir.

11 Q. Which would be after they worked two
12 weeks?

13 A. Yes, sir.

14 Q. I don't know what that averages out to,
15 but that's the way you figured it?

16 A. Yes.

17 Q. Okay. Let me ask you this question.
18 Was \$20 an hour about what you would expect to pay a
19 carpenter with Kenny's experience in view of the
20 fact that that person would have their own equipment
21 and supplies?

22 A. Yeah.

23 Q. Do you consider that an industry norm
24 around here?

25 A. Yeah. This day and time.

TODD MACK - EX. BY MR. GARNER

1 Q. \$20 an hour? Did it used to be more?

2 A. At one time it could have been more when
3 the economy was good.

4 MR. GARNER: That's all. Thank you.

5 MR. TAYLOR: I don't think I have any
6 more questions. I appreciate your time.

7 THE WITNESS: Yes, sir.

8 (The witness, after having been advised
9 of his right to read and sign this transcript,
10 waives that right.)

11 (The deposition was concluded at 2:45
12 p.m.)

13

14

15

16

17

18

19

20

21

22

23

24

25

1 CERTIFICATE OF REPORTER

2

3 I, Lori S. Mortge, Certified Court
4 Reporter and Notary Public for the State of South
5 Carolina at Large, do hereby certify that the
6 foregoing transcript is a true, accurate, and
7 complete record.

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

11 Witness my hand, I have hereunto affixed
12 my official seal this 28th day of May, 2012 at West
13 Columbia, Lexington County, South Carolina.

14

15

16

17

18

19

20

21

22

23

24

25

Lori S. Mortge, CCR
Lori S. Mortge
Certified Court
Reporter, CCR
My Commission expires
December 13, 2016

1 I N D E X

2

3

Page/Line

4

5 STIPULATION 3 1

6 TODD MACK 3 9

7 EXAMINATION 3 11

8 BY MR. TAYLOR

9 EXAMINATION 25 17

10 BY MR. GARNER

11 EXAMINATION 29 8

12 BY MR. TAYLOR

13 EXAMINATION 31 8

14 BY MR. GARNER

15 CERTIFICATE OF REPORTER 34 1

16

17 REQUESTED INFORMATION INDEX

18 (No Information Requested)

19

20 E X H I B I T S

21

Page/Line

22

23 PLF. EXH. 1, Affidavit of Todd 29 2

24 Mack

25

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

APPELLATE PANEL
The Honorable Aisha Taylor, The Honorable Andrea C. Roche
and The Honorable Gene McCaskill

Appellate Case No. 2013-001611
Trial Court Case No. 1104798

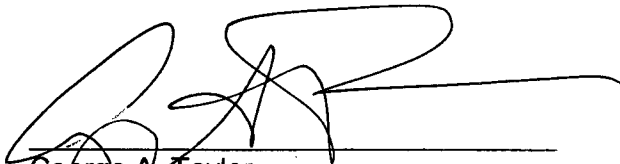
Kenneth Smith, Employee/Claimant.....Respondent,

v.

Marion Builders Group, LLC, Employer
and Builders Mutual Insurance Company,
Carrier/Defendants.....Appellants.

CERTIFICATE OF COUNSEL

The undersigned certifies that the Record on Appeal complies with Rule 211(b),
SCACR, by containing all material proposed to be included by any of the parties and not
any other material.



George A. Taylor
CALLISON TIGHE & ROBINSON, LLC
Post Office Box 1390
Columbia, South Carolina 29202-1390
Telephone: (803) 404-6900
Facsimile: (803) 404-6902
ATTORNEYS FOR APPELLANTS

RECEIVED

FEB 10 2014

SC Court of Appeals