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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Circuit Court

Alison Renee Lee, Circuit Court Judge

Case No. 2011CP4003561

Gertrude Shiver,.....Claimant, Appellant,

v.

Palmetto Health Richland, Employer,
Key Risk Management Services, Inc., TPA
Palmetto Hospital Trust Services, Carrier,
Trident Regional Medical Center, Employer,
Zurich American Insurance Company, Carrier,..... Respondents,

AMENDED INITIAL BRIEF OF APPELLANT

April 28, 2014

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STATEMENT OF ISSUES ON APPEAL

1. Whether The Circuit Court erred in affirming the Full Commission's erroneous Finding and Order denying Appellant's Motion to be allowed to submit additional evidence and documents material to Appellant's Appeal before the Full Commission, such Commission's Finding and Denial Order resulted in a violation of Appellant's substantive rights under the Due Process Clause of The United States and South Carolina Constitutions?
2. Whether The Circuit Court erred in affirming The Full Commission's error in ruling on the Merits of Appellant's claims without oral argument in violation of Due Process of Law and The Equal Protection of Law of the Fourteenth Amendment to The United States Constitutions?
3. Whether The Circuit Court erred in affirming The Full Commission's Findings that the Consent Order dated August 24, 1995, signed by Appellant was lawful and binding on Appellant, where Substantial Evidence exist in The Record to support Appellant's claims that The Consent Order can be described in the term of "Unconscionability" and that Appellant was placed under duress, coercion, undue influence by Attorney Thomas M. White's misconduct and actions.
4. Whether based on a Review of the reliable, probative and substantial evidence in the record as a whole as it relates to WCC. No. 9503744 (DOA 1/23/1995), The Circuit Court erred in affirming The Full Commission's Findings and Conclusion of Law that Appellant be denied Temporary Total Disability, and additional medical treatment?

5. Whether based on a Review of the Reliable, Probative, and Substantial Evidence in the Record as a whole concerning WCC. No. 0126962 (DOA 11/15/2001), The Circuit Court erred in Affirming The Full Commission's Finding and Conclusion of Law that Appellant failed to established evidence of permanent partial disability and failed to request temporary total disability?
6. Whether based on a Review of the Reliable, Probative, and Substantial Evidence in the Record as a whole for WCC. No. 0217755 (DOA 3/23/02), The Circuit Court erred as a matter of Law in affirming The Full Commission's Finding that Appellant failed to established any permanent impairment as a result of an accident on March 23, 2002?
7. Whether based on a Review of the Reliable, Probative and Substantial Evidence in the Record as a whole concerning WCC. No. 0227098, (DOA 10/24/02), The Circuit Court Erred in Affirming The Full Commission's Findings that Appellant failed to established any permanent disability as a result of Appellant's left shoulder and neck injury on October 24, 2002?
8. Whether based on a Review of the Reliable, Probative and Substantial Evidence in The Record as a whole as it relates to WCC. No. 0322274 (DOA 1/21/2003), The Circuit court erred in affirming The Full Commission's Findings of fact and Conclusion of Law that appellant did not establish evidence of any permanent injury?
9. Whether based on a Review of the Reliable, Probative, and Substantial Evidence in the Record as a whole as it pertains to WCC. 0321756 (DOA 10/23/2003), The Circuit Court erred in affirming the Full Commission's

Finding that Appellant failed to established evidence that Appellant's injuries were not related to the October 23, 2003 incident?

10. Whether based on a review of the Reliable, Probative and Substantial Evidence in the Record as a whole concerning WCC. No. 0616756 (DOA 7/16/2006), The Circuit Court erred in affirming The Full Commission's Findings that Appellant failed to established a burden of proof that Appellant's right wrist injury was due to repetitive trauma?

STATEMENT OF THE CASE

This action began with the filing of the request for a hearing at the Worker's Compensation Commission on or about October 10, 2006, after receiving several settlement offers from PHTS and the claimant's inability to obtained legal representation and misunderstanding of the worker's compensation laws. The insurance adjuster had stated, "South Carolina Worker's Compensation Laws are designed so an injured worker could represent themselves."

There was a prehearing conference held before the scheduling of the single commissioner hearing where the Appellant was not told by any of the defense attorneys nor the Judiciary Director why the defendant hospital Palmetto Health Richland was denying her claims of October 23, 2003, and July 16, 2006, even though they were offering the claimant some money for the full release of Palmetto Health Richland. Along with this, the claimant had never been paid for the days that she was out in 2002 with her back injury.

This is a case which is believed to be a case of First Impression held on September 4, 2007, before the single commissioner. It contained seven claims which

more or less involved the same injured body parts under worker's compensation. Aggravation of preexisting injuries and conditions was one of the legal components. The first claim in the case was an outstanding 1995 claim against Trident Regional Medical Center which had a long history of abuse and the use of trickery and fraud against the injured claimant. This was WCC claim No. 9503744. The claimant had asked that this claim be included with the other six claims since it involved the same injured body parts that were subsequently reinjured at Palmetto Health Richland Hospital. The defense Attorney Michael E. Chase had requested that the six claims be combined.

Originally, this claim of January 23, 1995, was supposed to have been held in 2000, but the prior defense Attorney for Trident Hospital, E. Douglas Pratt-Thomas had used the defense of "Res Judicata," and an Order that had been drawn up by the defense Attorney Pratt-Thomas and the claimant's prior attorney, Thomas M. White in 1995 which claimant was made to sign and Commissioner G. Bryan Lyndon signed. The Order contained a clause where all injuries of the claimant were dismissed with prejudiced except the right shoulder and right foot. The claimant was made to withdraw her Form 50 for a hearing and she was subsequently given an Order by Commissioner Mickle where either party could bring up this claim when ever either party wanted too.

The claimant didn't know what was wrong with the case and why Commissioner Mickle was so angry and upset with her in 2000, and why Attorney Pratt-Thomas was putting on such a show about the claim. The claimant knew that she had never received any orthopedic treatment under this Order for her injuries, nor

had an MRI been done on her right shoulder and arm to identify why she was still having pain and popping in the shoulder and why it had affected her handwriting. A rotator cuff tear had not been ruled out. No one would tell the claimant what was wrong with this claim.

The claimant was offered a settlement for all of her outstanding claims and this one if she would agree for Commissioner Mickle to clinch up all of her claims. The claimant couldn't do that because she was not being compensated for all of her injuries and she had a herniated disc in her lumbar spine. Also, the claimant had developed hypertension after this fall and a heart condition. The claimant never had an MRI and the Order that was written up had taken away her injuries to her left foot, ankle, and spine, etc. In addition, the claimant had to have gynecological surgery and breast reduction surgery as a direct result of this fall.

In 1996, a hearing was held in Charleston with the single Commissioner G. Bryan Lyndon for her claim of September of 1994. Unbeknownst to the claimant, Attorney Pratt-Thomas had clumped the remaining known injuries of October of 1994 and January of 1995 under this September 1994 hearing so that Commissioner Bryan Lyndon could get rid of the claims. It wasn't until March of 1997, that the claimant found out that this claim of 1995 had never really been adjudicated. That is why the claimant resubmitted this 1995 claim again for it to be heard with these six claims from Palmetto Health Richland.

On September 4, 2007, this would have been the first time that this 1995 claim would have been adjudicated that the claimant knew of. When the claimant got to the conference room, the claimant had already been set up by the defense attorney and

the single Commissioner. There was a white cameraman there and the insurance adjusters and attorneys. The Claimant was the only black person there. The Claimant was already anxious and nervous and the atmosphere only made the condition worst. The single commissioner, Huffstetler, came into the hearing room very angry about how many claims the claimant had against Trident Hospital and the fact that she had written a book and told what Attorney White had done to her and her January 1995 claim. The single Commissioner, Huffstetler, started off the hearing by exclaiming that these claims were not a continuum but each case was separate and distinct. He broke the case up into individual parts where he did not spend much time with either one of them. He never asked about the status of the 1995 claim. He was supposed to have started where Commissioner Mickle left off in 2000. He told the claimant that he didn't want to hear any hearsay. Then he said, "Tom White has come before me." "They have a right to tell you what to do."

The single Commissioner had read the claimant's letters that she had sent to him about these claims, especially this one in particular. He was very angry and he had raised his eyebrows up at her. He also made the remark that the claimant had three more claims against Trident Hospital. During the proceedings, he wouldn't let the claimant talk and he kept getting at her for putting some papers over the microphone. These were the claimant's notes that she had to help her remember. The claimant has trouble remembering especially when she is nervous and anxious. The Commissioner had told the attorneys, "Don't give her nothing."

The Commissioner geared his questions toward the defense of the hospitals, insurance companies, and the defense attorneys. In addition, he didn't control the

defense attorneys' actions toward the claimant, especially the defense attorney Michael E. Chase.

Attorney Chase had been telling Commissioner Huffstetler what questions to ask the claimant during the hearing. He came and stood over the claimant waving his hand. He had read in the claimant's book where she was afraid of some tall white men. He told the Commissioner, "Ask her if she has been fired from any jobs." When the claimant tried to explain about the firing from Trident Hospital, Attorney Chase stated, "She has testified that she has been fired from 3-4 jobs for abusing patients." Then he stated, "Ask her if she asked her employer, (Palmetto Health Richland) for a physician." "She did not ask her employer for a physician." The defense attorney then held out his hand where he had the e-mails in his hand where the Claimant had asked the nurses at Palmetto Health Richland HealthWorks in writing as well as verbally for a physician for her injuries and she was only offered a nurse practitioner. Then the defense attorney said, "You are going to get fired from K-mart."

The Claimant didn't know why the Commissioner had asked her about being fired from her nursing jobs for mistreating patients. He also asked the claimant if she had asked for a doctor with her October 23, 2003 fall. By this time, the claimant wasn't thinking or understanding the questions that were being asked. The claimant had forgotten that she had been in a conversation with Mrs. Libby Holland and the insurance company about providing her with a physician with this fall. The claimant now believes that this was part of the conspiracy of Attorney Michael E. Chase and the Commissioner. In the end, Attorney Chase chided the claimant about this and

about her forgetting that she had asked Mrs. Holland about a physician and about her getting fired from K-Mart stores. Attorney Chase has contributed to the claimant's nervous state by standing up and waving the deposition papers in her face. He also contributed to the claimant being forgetful, anxious, nervous, and confused. Attorney Chase had read the claimant's book and he knew about the claimant's past history and her relationship with some white men.

This made the claimant more upset, forgetful, and nervous and the claimant couldn't think rationally. The claimant has a history of trauma from white men. After the Commissioner had hurried through this hearing, he was angry with the claimant and his secretary because the claimant was asking her what to do because she had forgotten some things and she wanted to clarify the trouble that she had had with Attorneys White and Pratt-Thomas concerning the January 1995 claim.

After going home, the claimant wrote the Commissioner a letter which he didn't pay any mind to. The claimant had asked for an MRI of her right shoulder to determine what was still causing the pain and popping in her right shoulder. The claimant never did receive an MRI to the right shoulder. The single commissioner's mind was already made up about the claimant. The claimant received a letter next where he was asking the defense attorney, Michael Chase, to write an Order against the claimant knowing that this was the same attorney who had gotten the claimant fired from Palmetto Health Richland Hospital.

While waiting for the Order from the single Commissioner, the claimant's nightmares increased. The single Commissioner, the defense attorney, and Willis Gregory from Palmetto Health Richland had joined the group of white men who were

abusing her in her nightmares. Sometimes these men would throw the claimant off of a bridge into the water. At other times, they would burn down the claimant's parents home and the church. Sometimes, she would be chased through the woods by a great big black dog. The claimant had nightmares of what the group of white men did to her including the single Commissioner and defense attorney that would be offensive to list here for the Court.

In addition to being chased through a graveyard and almost kidnapped by a tall white man when the claimant was about 4 ½ years old, the claimant grew up doing the Civil Rights Era when all kinds of insults were heaped upon black men, women, and children. All of this had affected the claimant abnormally.

When the claimant did received the Order from the single Commissioner around October 24, 2007, there were a lot of untruths in it. Some were deliberately put in there by the defense Attorney Chase and Commissioner Huffstetler, and some were obtained by the way they were phrasing the questions to the claimant after they had gotten the claimant confused. The claimant later received the Order where she was not awarded anything and where the single Commissioner was binding up the Order of 1995 signed by Commissioner G. Bryan Lyndon, and dismissing all claims, "With Prejudice." By this time, the single Commissioner had read the claimant's book where the claimant talked about her struggles and what had happened to her in the past with her worker's compensation claims.

After receiving the single Commissioner Order and seeing the untruths that were written in it, the claimant commenced to appeal the decision and to add new and

additional information and clarification so that the untruths could be corrected and that she could appeal the decision.

Although the Appellant didn't realize it at the time, the single Commissioner had actually retried a December 1997 case against her concerning Trident Hospital instead of the intended 1995 case concerning Trident Hospital. The single Commissioner was supposed to have started the hearing where Commissioner Mickle left off in 2000. Instead, he retried a December 1997 hearing against the Appellant where the nurses at Trident Hospital had submitted some write-ups about the Appellant for alleged abusing of patients to the Worker's Compensation Commission. Since the write-ups didn't stand up in worker's compensation, the Appellant was reported to the State Board of Nursing where she was subsequently cleared of all allegations. This hearing at the worker's compensation level was a retaliatory hearing which occurred after the claimant injured her back in October of 1997. The claimant was subsequently diagnosed with a herniated disc from that accident of October of 1997. The Appellant wasn't present at the hearing of December of 1997, but the hearing commissioner is believed to have been Commissioner Atkins. A decision had already been made concerning the Appellant's right shoulder and arm. (The Appellant does not have any written information about the hearing.) This is the hearing along with the six claims from Palmetto Health Richland that went forward through the Court System.

After receiving the single Commissioner's Order dated November 4, 2007, denying Appellant's claims, Appellant submitted a letter to the Commission requesting to be allowed to submit additional evidence regarding her claims in

addition to requesting the Commission to Conduct a merit review on the merits. The Commission construes Appellant's letter as a Motion for additional evidence and included a Form 30 appeal of the Commissioner's Order.

Appellant appealed to the Circuit Court. The Fifth Circuit Judge Casey Manning dismissed the appeal as interlocutory and the Matter was remanded to the full Commission for a determination of the merits of her appeal of the Commission's Order dated October 23, 2007.

Appellant submitted a second Motion on November 2, 2010, but was subsequently denied by the full Commission. On February 24, 2011, the Full Commission, without oral argument, heard the appeal on the merits of the Commission's Order and affirmed the Commission's Order in its entirety.

Notice of Intent to Appeal and Exceptions were filed with the Circuit Court on June 1, 2011, of the Full Commission's affirmation of the merits of the single Commission Order.

On April 26, 2013, an appeal was commenced with the Court of Appeals.

ARGUMENTS

- 1. The Circuit Court erred in Affirming The Full Commission's Finding and Order Denying Appellant's Motion To Be Allowed To Submit Additional Evidence And Documents Material to Appellant's Appeal Before The Full Commission.**

Appellant asserts that the Circuit Court erred in affirming the Commission's decisions that denied her Motion To Submit Additional Evidence and The Abuse of its discretion in doing so created an error of law that is of Constitutional magnitude. The Commission denial order deprived her of a meaningful judicial review of her appeal; thus violating the principles of due process.

Appellant further asserts her Motion contained Constitutional valid issues never raised before because the issues concerns the hostile and bias attitude of the Single Commissioner before and during the hearing that prevented Appellant from effectively presenting and arguing her case. Before the hearing had ended, the Commissioner told Appellant that he was going to deny her claims and she had a right to appeal. See hearing transcript. Commissioner Huffstetler was completely bias against Appellant and that was an issue in her motion, which he and the Appellate Panel denied. The denial of her Motion to submit Additional Evidence violated The Due Process Clause of the Fourteenth Amendment to the United States Constitution. Palko v. Connecticut, 302 U. S. 319 (1937); Grannis v. Ordean, 234 U. S. 385 (1914).

II. The Circuit Court erred in Affirming the Full Commission's erred in ruling on the merits of Appellant's claims without oral argument in violation of Due Process of Law and The Equal Protection of Law of Fourteenth Amendment to the United States Constitution.

Appellant asserts that as a Pro se' petitioner, Commissioner David Huffstetler, without consulting the Appellant, consolidated seven of her claims for one single hearing. The consolidation made it virtually impossible to defend as a lay person not versed in the law.

The Due Process Clause and The Equal Protection Clause of The Fourteenth Amendment to the United States Constitution required the Commission to allow her to give oral argument as she was facing The Consolidation of seven cases to defend; that each case were nearly ten (10) years old. See Matthews v. Eldredge, 424 U. S. 319 (1976); Bickford v. Alaska, Department of Education and Early Development,

155 P3d 302 (2007); Hannah v. Larche, 363 U. S. 420 (1960); Cooper v. Aaron, 358 U. S. 1 (1958); Douglas v. People of State of California, 372 U. S. 353 (1963).

III. The Circuit Court erred in Affirming The Full Commission's Finding that the Consent Order dated August 24, 1995 signed by the appellate where substantial Evidence In the record to support Appellant's claims that the Consent Order can be described in term of "Unconscionability" and that Appellant was placed under duress, coercion, undue influence by Attorney Thomas M. White's misconduct and Actions.

On January 23, 1995, Appellant sustained serious injuries to her right shoulder, chest, arm, and feet while employed with Trident Regional Medical Center, Charleston, South Carolina. Attorney Thomas W. White was assigned, not retained by Appellant, to represent her on the claim submitted to the South Carolina Workers Compensation Commission.

Attorney White brought unrelenting pressure to bear against Appellant's will to resist in dismissing all of her claims except to her right shoulder and right foot, thus denying her the opportunity and statutory right to receive medical treatment and compensation.

Attorney White did not make Appellant aware that she was signing away her rights in such unknowing manner because Attorney White kept concealed the true fraudulent nature of Attorney White's conduct and the Consent Order. Appellant contends that the very terms of the Consent Order are unconscionable and substantially unfair. Petty Timken, 849 F.2d 130 (4th Cir. 1988) There was no reason Appellant would have signed such one-sided Consent Order without Attorney White's misrepresenting the facts.

After Appellant became aware of what Attorney White had done, she filed complaints with the Worker's Compensation Commission and the Bar Association against Attorney White. The Commission relieved Attorney White from representing her.

Appellant respectfully request this Court to find that the Consent Order is unconscionable and came about through Attorney White's fraudulent behavior and misrepresentation. Doctor's Associates, Inc., v. Casarotto, 517 U. S. 681, 687 (1985.)

Wherefore, This Court should invalidate The Consent Order and remand This Case to the Circuit Court.

(IV.) WCC. No. 9503744 (DOA 1/23/1995)

Based on a Review of the Reliable, Probative and Substantial Evidence In The Record as a whole, The Circuit Court Erred in Affirming The Full Commission's finding and Conclusion of Law that Appellant be denied Temporary total Disability and Additional Medical treatment.

Appellant's case that wasn't heard continues for she has another injury to her right knee. It should have started from 2007 for the 1995 case against Trident Hospital, because she received an Order from Commissioner Ann Mickle that was marked, "This file be returned to central files and rescheduled for hearing upon request of either party." It was still current until September of 2007.

When Appellant went into the hearing on September 27, 2007, she was prepared for Commissioner Huffstetler to assign a percentage of the monetary award to each insurance company for the compound injuries that she had sustained. The injury to her left foot was a compounded injury. This injury plus the injury to her right shoulder and feet had occurred with the 1995 case although she had no new injury to her right shoulder and right foot. She never got the MRI that Commissioner

Mickle advised her to get because she had no money and no orthopedist would help her. Commissioner Huffstetler didn't start the hearing where Commissioner Mickle left off concerning her 1995 claim with Trident Hospital.

Claimant case that she requested and went to the Worker's Compensation Commissioner to handle was never heard. Instead, Commissioner Huffstetler changed the case to a previous 1997 case that had already been tried and decisions made concerning claimant's shoulder. He was retrying this same case against her. He got rid of all of the claimant claims with prejudice because he was angry with her for writing a book and saying that Attorney Thomas M. White had made her sign the Order of 1995 where he took out all of her injuries except her right foot and right shoulder.

Claimant did fell at the hotel when she slid on a wet carpet, but it was not the source of her continued back pain when she visited Dr. Jones for aggravation of her back for the work related fall. Claimant is a person with disabilities. She should be covered under ADA.

This accident had included injuries to multiple body parts. The insurance company Alexis Risk Management Services representative Robin Beaver had claimant kicked out of worker's compensation because of a letter she had written to the State Board of Nursing. After this, her private insurance was taking care of her medical needs until she could find another physician because she couldn't go back to Trident Industrial Medicine for care. She still needed care for her injured right shoulder, thoracic area, feet, side, wrist, knees, etc. She had a full body fall after having received two prior falls at Trident Regional Medical Center. After this, the

claimant contracted with Attorney Thomas M. White for representation. It was after she thought Attorney White was representing her that he developed an Order that was signed by E. Douglas Pratt-Thomas and Commissioner Bryan Lyndon. E. Douglas Pratt-Thomas was well aware that Thomas M. White had made claimant sign the Order without explaining anything to her or allowing her to finish reading it. After Attorney White was supposed to be representing her, he started to have problems with her private physician and insurance company. He was often frustrated and he then started to take his frustration out on the claimant. He had cursed and yelled at her. Claimant tried to get rid of him several times, but during the time that she had her gynecological surgery, he called to her apartment and influenced her sister so that he could stay on as her attorney.

The orthopedic physician that he sent her to, Dr. McCoy, would not do anything for the injury to her feet or right shoulder, etc. He was angry with her. He pushed her arm up behind her back hurting her chest area.

After her gynecological surgery, Attorney White used to have her meet him downtown in his office where he would often close the door. He used to be angry and frustrated for some reason. The last time that she had contact with him was when he had her to meet him in his downtown office where she had to squeeze her body between a table and chair. There he threw the temporary total check at her and he was looking at the floor grinning. He then asked her if she had loved her doctor. She replied that she did. After this episode, the claimant asked the Worker's Compensation Commission to remove him from her case. She never had any more contact with Attorney White.

Claimant was still having pain and problem lifting with her right shoulder and arm, but no orthopedic physician would help her. Since she couldn't get an orthopedic physician or an attorney to help her, she had a breast reduction surgery done by Dr. Margaret Metcalf to relieve some of the pain and pressure on her shoulders. After the procedure, she still had pain and sometimes muscle spasms in the right arm and shoulder area. She was unable to get an orthopedic physician to do anything about the continued pain, etc. She used medications to help control the pain. The claimant could not get a physician so that she could get a rating or diagnosis of her shoulder.

During the time that she lived in Charleston, Attorney Thomas White was the only attorney that she knew of that would help an injured nurse when she was injured at Trident Hospital. Some nurses would often complain that they had a hard time trying to get anymore care for their injuries; especially, the neck, shoulder, and back. They never got anymore care even if they were misdiagnosed. This "dismissed with prejudiced" that were included in the settlement notes prevented them from getting anymore care.

The American with Disabilities Act is not a reason for getting rid of the Second Injury Fund because the claimant was not protected under the ADA even though she has disabilities. She is not finished with her doctors with any of her injuries because her injuries are on-going. She still have pain in her hips, perineum area, right shoulder and arm, both feet, knees, right wrist, left side (rib pain) and back. She continues on pain medications and home exercises. In addition, Trident Hospital

never reimbursed her for some pain medications for the 1995 accident, nor did they pay for her myomectomy and breast reduction that she had.

The Appellant was supposed to return to Dr. Jones for flare-ups with pain in her back, neck, etc. She has been unable to get any further treatment for her injuries because of lack of health insurance and inadequate funds to pay for her care. She still has a large outstanding medical bill with Dr. Jones and she have to reimburse Blue Cross and Blue Shield.

She never received any orthopedic treatment for her right shoulder and right foot even though she still have problems with both of her feet being flat and she have to wear insteps and good orthopedic shoes and an ankle brace. The physicians that Palmetto Health Richland sent her to didn't do anything about her injured left Achilles tendon. She continues to have moderate pain in the right shoulder including the shoulder blades and difficulty with her penmanship. She could never get an orthopedic doctor to take care of her when they found out that the injury to her right shoulder, etc. was from Trident Hospital. She still has pain in her hips and perineum area from all of the falls that she have had.

All of the injuries that she have equal nearly a total body impairment, yet Commissioner Huffstetler got rid of all of her claims, "with prejudice" to absolve Palmetto and Trident Hospital for any responsibility for her physical condition. She has attended programs with the South Carolina Department of Rehabilitation Services twice because of all of her injuries; especially, the worker's compensation injuries. All of the injuries that she have had including these claims have affected her ability to perform in her nursing occupation. Decisions concerning the injury to her right

shoulder had already been made in 1997 (I believe by Commissioner Holly Atkins). Appellant's right shoulder has not really gotten any better since her breast reduction.

Some of the nurses were given psychological diagnoses when they continued to complaint of pain, etc. Claimant has not injured her right foot and shoulder anymore. She had injured her left foot and ankle in the two falls of 1997. She injured her back in 1997.

In 2000, at the worker's compensation hearing involving her back, Commissioner Atkins, told her to refile her 1995 claim. Commissioner Atkins is a worker's compensation attorney. After the refiling of the claim, she had the run in with Commissioner Mickle and Attorney E. Douglas Pratt-Thomas. She told the claimant that she needed to get an MRI and a diagnosis for her right shoulder and that she had to pay for it herself. The claimant tried to get in with several orthopedic doctors but was told that she had to get a referral from Trident Regional Medical Center, which she couldn't get. If she had gotten a second injury to her right shoulder, she might have gotten a MRI. She had changed careers from nursing and was in Health Information Management where she wasn't using her right shoulder to lift heavy objects and she didn't have to turn and lift patients. She wasn't standing on her feet as much either.

Claimant has permanent injuries to her right shoulder and both feet but no physician will give her a diagnosis or rating. There are only a few physicians that she can go to for care without being abused. The problem stems from the fact that Trident Hospital and Providence Hospital was sister hospitals when Columbia HCA

was here in Columbia. Information travels from physicians to nurses, etc., and physicians in Columbia have abused her for what went on in Charleston.

She has permanent orthopedic injuries, and Palmetto Health Richland only offered a nurse practitioner for her injuries.

This was an outstanding claim that involved a fall at Trident Hospital where the claimant sustained injuries to both feet, neck, right shoulder and arm, chest (cervico-thoracic area), left side, knees, ankles, and multiple other injuries. The claimant fell on a wet floor. This claim was never settled. The claimant had gynecological surgery because of complications developing after this fall. This claim has a long history of fraud and abuse against the claimant by the insurance carrier, defense and claimant attorneys, physicians, nurses, and etc. Before this fall, the claimant fell in September and October of 1994. The claimant sustained injuries to knees, feet, side, etc. There was a long history of abuse and fraud involving the insurance carrier, the defense attorney, the claimant attorney, nurses, and doctors, etc. After the claim was denied in 1995, the claimant didn't have anyone to take care of her injuries but her private physician. After obtaining Attorney Thomas M. White for representation, an Order was written by the said attorney and the defense attorney E. Douglas Pratt-Thomas where she was made to sign an Order where the words, "With Prejudice" was used to get rid of all of her injuries except her right shoulder and right foot. The Order was signed by Commissioner Bryan Lyndon. After claimant returned to work with her injured right arm, claimant had one incident where a patient's urine got into her eyes, face, and produced a rash on her face while she was

emptying out a Foley catheter. In another instance when she was emptying out a patient's Foley catheter when urine ejected up into her face.

In 1996, the claimant requested that the claim for her fall of September 1994 be heard. Unknown to the claimant, the defense Attorney E. Douglas Pratt-Thomas clumped all of the injuries of the fall of October 1994 and January of 1995 under this hearing so that Commissioner Bryan Lyndon could rule on all of the claims and get rid of the claims. Claimant never asked for this to be done. The claimant never received any orthopedic care under the Order of 1995. The claimant continued to have pain and popping in the right shoulder. The claimant subsequently had breast reduction surgery to alleviate some of the pain in the right shoulder. The claimant never received a rating for the injured shoulder, although she continued to have problems with it including her handwriting.

In 1999, under the direction of Commissioner Atkins, claimant refiled this 1995 claim and the hearing was supposed to take place in 2000. The case was never heard because Commissioner Mickle made claimant withdraw the claim after she was mistreated before the hearing. Claimant never knew what was wrong with this claim. At that time, Trident Hospital was represented by Attorney E. Douglas Pratt-Thomas who used defense of, "Res Judicata" and the Order that he and Attorney White had written up where the words, "withdraw with prejudice was used.." Both of the claimant feet were flat because of injuries to the ligaments and tendons. The injuries that were gotten rid of by the Consent Order that Commissioner Lyndon signed, involved the same body parts that were subsequently injured at Palmetto Health Richland, especially the left foot.

Claimant had received an Order from Commissioner Mickle where she could bring up this case whenever either party wanted to since she was made to withdraw it and there was a question as to the legality of the Consent Order of 1995. Since this claim involved the same body parts that had been injured at Palmetto Health Richland, it was asked if this claim could be held the same time as the other, especially; after the claimant learned what Attorney E. Pratt-Thomas had previously done to this claim. The claimant asked for two days of hearing so all points could be covered. Claimant had previously been offered a settlement for this claim if Commissioner Mickle could get rid of all of claimant's claims with a clincher. This was not satisfactory to the claimant because she was not being compensated for all her injuries and she had a herniated disc in her back.

At the time of the hearing of September 4, 2007, the defendant hospital had substituted another attorney who was not very familiar with the claim, the status of the claim, and what had happened with this claim in the past. Claimant had previously been offered an award for her right shoulder and right foot but the offer was not satisfactory because she had other injuries and all of her claims would have been clinched. After the single commissioner became angry, he didn't award claimant anything with this claim. Claimant still have problems with her right shoulder and arm which affects her ability to lift heavy objects, her ability to adequately write, and some documented disability to her cervico-thoracic area. This also affected her ability to perform her job as a prior staff nurse which had been her occupation for over 10 years.

The Consent Order that Commissioner Bryan Lyndon signed that deprived Appellant of her other known and unknown injuries; especially the injury to her left foot, was bound up by the single Commissioner Huffstetler and the claimant was never awarded anything for any of her injuries that she had suffered.

The Consent Order that the Appellant went into with Attorney White on August 24, 1995, was forced upon her and she didn't understand the Order except that she was going to get treatment for my right shoulder where the insurance company had kicked her out of worker's compensation. She still needed treatment for her injuries where her care had been denied by Alexis Insurance Company. She understood this to be an agreement between Attorneys White and E. Douglas Pratt-Thomas. The words, "With Prejudice" or any other word wasn't explained to her. She had injuries to both feet and other body parts as stated on my Form 50. A new form 58 wasn't submitted at this time because she was told by the worker's compensation commission office that it wasn't necessary that she submit one. She requested that a Form be sent to her but she didn't receive it. She resubmitted her old form 58 at that time, with the credit bureau letter that she believed goes with this accident.

In addition, she never received any compensation from her second job which was at Charleston Memorial Hospital at that time, (APA 1). She was unable to return to her second job after the injury. At that time, she was being represented by Attorney Thomas M. White of Charleston, S. C. He had his secretary to call her where she told Appellant to bring her check stub. When Appellant arrived to the office, Attorney White fussed at her and asked her who told her to bring her check

stub. This wasn't factored into the temporary total that she knows of benefits in August of 1995. (APA 2.) The claimant was afraid of Attorney White, yet she had trouble trying to get rid of him as her attorney. He was angry and abusive to her, and he used to close her up in the room. It was Attorney Allison Carter that first interjected and said that he yelled at her. The Appellant don't know if what he was doing was considered yelling at times, but he was rough with her when he spoke sometimes with her and controlling. It wasn't until 11/14/05, that she got an Order from the Worker's Compensation Commission relieving him of being her counselor. The letter was signed by Deputy Commissioners Herman B. Lightsey. A copy is enclosed although it has the WCC File No. 9457677 on it (APA 3).

Attorney White was well aware of some of the claimant's other injuries when the Consent Order was forced upon her. See enclosed sheet dated July 20, 1995 (APA 4).

Upon the direction of Commissioner Holly Atkins at the hearing for WCC No. 9721145 that was held on 11/8/1999, claimant filed her claim WCC for the accident of 1/23/1995. She had a disability rating for her cervico-thoracic area of 3-5%. At the time of the hearing on April 12, 2000, E. Douglas Pratt-Thomas had used the defenses of "Res Judicata" and the Consent Order with the words "With Prejudice," against her. During the time of the hearing, Commissioner Mickle and Pratt-Thomas were putting on a show. He made mentioned of an MRI which Trident Hospital had never done on her to see why she was still having continued pain in her right shoulder and to see what was affecting her handwriting. She also was having muscle spasms and some continued popping in her shoulder. All of this is written about in her book,

The Fall of a Nurse: What is Wrong With Gerly. (APA16). She didn't know it at the time, but her hearing that was held on March 14, 2006, WCC 9457677 concerning her fall of 9/25/94, included where Attorney Pratt-Thomas had clumped her injuries of October of 1994, and January 23, 1995, under this hearing to get rid of her claims. She didn't ask him or Commissioner Bryan Lyndon to do this. She brought this information to Commissioner Huffstetler on the day after the hearing.

It wasn't until March of 2007, that the claimant found out what was done. Neither one of the Commissioners nor Attorney Pratt-Thomas would tell her what was done. This was something Attorney Pratt-Thomas and Commissioner Bryan Lyndon had done illegally against her. The claimant had breast reduction surgery to help alleviate the pain and pressure in her shoulders that occurred from the accident on January 23, 2005, after this hearing was done. The surgery was done by Dr. Metcalf in June of 1997. The Appellant never asked for her injuries of January 23, 2005, or the injuries of October of 1994, to be included with the hearing for the accident of September 25, 1994.

After Dr. McCoy told her not to come back to his office, neither Attorney White nor Pratt-Thomas would send her to another doctor. The Appellant didn't have anyone to go to because of the abuse she was continuing enduring. At the present time, Appellant still have some pain and popping in her right shoulder and trouble with her penmanship. At the hearing with Commissioner Mickle that was not really done because she made Appellant withdrew it; Appellant was given several ultimatums. If the claimant accepted the \$7,604.64, then Commissioner Mickle was going to clinch up all of her claims. Claimant has a back injury that is worker's

compensation related. Claimant doesn't know if she will have to have back surgery sometimes in the future. She was given an Order by Commissioner Mickle where she could bring the claim later. (APA 6).

Claimant took a letter to Commissioner's Huffstetler's office the day after the hearing of September 4, 2007, where she had made some corrections for him. The claimant had gotten confused, nervous, anxious, and forgetful after Commissioner Huffstetler had become angry with her because he said that all of her claims were not a continuum but were separate and distinct and after he was told what was done to her by Commissioner Mickle, Attorney White, and Pratt-Thomas. In addition, the claimant submitted Dr. Robert Bowles notes and treatment for her left foot. This was not listed on the Award Order papers.

(IV.) WCC No. 1226962 (DOA 1/15/01)

Based on a Review of the Reliable, Probative and Substantial Evidence In The Record As A Whole, The Circuit Court Erred In Affirming The Full Commission's Finding And Conclusion Of Law That Appellant Did Not Raise Or Prove The Claim of Temporary Total Disability And Did Not Prove Permanent Disability Stemming From "A Minor Heel Contusion" On January 15, 2001.

The single commissioner hurried through this claim also and didn't gathered or considered all of the facts. The Appellant was hit with a metal supply cart on the Achilles tendon and left heel at Palmetto Health Hospital which subsequently aggravated the left ankle and foot which had been previously injured at Trident Hospital.

The Appellant was not provided an orthopedist at the onset of the injury, but a nurse practitioner to care for the injury until she was turned loose by the nurse practitioner. Subsequently, Appellant was still having problems so she returned to

HealthWorks. The orthopedist that she was sent to didn't do anything for the injury. Subsequently, the neurologist, who was the Medical Director of HealthWorks and was provided to the claimant by the defendant hospital, supposedly took care of the injury. There was a question as to his competency.

Claimant has a long history of problems with this injury. Claimant was never placed out of work with this injury, although she had needed to be. Claimant had to seek her own provider since she was not provided adequate care. She was provided with an ankle brace and some specially made orthotics insteps. Claimant received a prescription to purchase orthopedic shoes. Claimant has some nerve damage to the left extremity and foot. This Achilles tendon and heel injury was compounded with the previous foot and ankle injury from the accident of 1/23/1995, claim number 9503744 at Trident Hospital.

Since this injury, claimant has sustained a number of falls. Nothing was awarded for the injury to the Achilles tendon and heel, lack of proper care to these body parts by a nurse practitioner, and the combining of both injuries to the left foot. Nothing was awarded for the foot. The law has not addressed the tendons, ligaments, and joints as scheduled members. Claimant has to wear the ankle brace, orthotics, and orthopedic shoes for the rest of her life. Claimant was never allowed to be off from work with this injury.

(VI) WCC. No. 0217755 (DOA 3/23/02)

Based on a Review of the Reliable, Probative, and Substantial Evidence In The Record As Whole, The Circuit Court Erred As A Matter Of Law In Affirming The Full Commission's Finding That Appellant Failed To Established Any Permanent Impairment As A Result of An Accident On March 23, 2002.

This accident happened while claimant was working in the trauma department at Palmetto Health Richland Hospital and she fell out of a chair when she reached down to pick up her pen that she had dropped. The chair toppled over on top of her. During this time, the claimant was still being treated for her Achilles tendon, heel, and left foot injury. Claimant's left foot would swell and become cold and there still was a lot of pain in the Achilles tendon and heel. The tendon was unsteady at times. The claimant aggravated her back and left sided injury.

Claimant was never paid for the days that she was out with her back injury because the Administration of the Medical Records Department was angry with her. The hospital was punishing the claimant because the emergency room physician had directed her to follow up with her private physician even though the physician knew that this was a worker's compensation injury. The claimant developed some sciatica from this accident, and about two more bulging discs were found on a MRI that was done. There was an aggravation of the prior herniated disc in the lumbar area.

Hargrove v. Titan Textile Co., 360 S.C. 276, 599 S.E.2d 604 (ct. App.2004); Thompson ex re Harvey v. Cisson Construct. Co., (S.C. App.2008); 377 S.C. 137, 659 S.E.2d 171, Rehearing denied, certiorari granted vacated, 385 S.C. 451, 684 S.E.2d 756, and Mullinax v. Winn-Dixie Stores, Inc., 318 S.C. 437, 458 S.E. 2d at 80.

With this injury when she fell out of chair, claimant never received a check from Palmetto Health Trust for temporary total benefits for the days that she was out for her back. She continued to have problems with her back because she had aggravated the prior back injury of 1997. When she returned to Dr. Gregory Jones because he told her on discharged to return to him for any flared ups, there she met

Dr. Timothy Zgleszewski whom Dr. Jones was training. He didn't know anything about her or her condition at that time. Under plan, he wrote, "After reviewing Ms. Shiver's current clinical scenario and physical examination, it is my opinion with a reasonable degree of medical certainty that she has suffered a moderate lumbar strain/lumbar contusion based upon the mechanism of her injury and based upon her current symptomatology." Then he writes, "The lower extremity symptomatology has not worsened since that injury, and therefore, there is no aggravation of that preexisting condition with this most recent injury in March of 2002." Here, he is talking about claimant's left leg after the male employee, James McDonald, had hit her with the metal supply cart on 1/15/01.

The first quote is concerning the claimant's back. Her left leg in the area of the Achilles tendon and above was still hurting, but it hadn't gotten any worse with this accident of 3/23/02. As her back condition worsened, she developed some pain in her left buttocks and thigh. She had another MRI done which showed L4-5 and L5-S1 annular tears/protrusions, rule out symptomatic disc lesion(s), S/P recent work related fall 3/23/02 (with history of prior stable L4-5 disc protrusion/shallow HNP left paracentral with annular tear, symptomatic S/P work-related MVA 10/11/97, flared/worsened S/P MVA 11/25/00.) She received some steroid injections for her back on 9/19/02, 10/17/02, and 11/14/02. Dr. Jones wrote, "It is my opinion that patient can be considered at MMI regarding injuries sustained on the job to lumbar spine 3/22/02, and based on **AMA Guides to the Evaluation of Permanent Impairment, 5th Edition**, patient has likely suffered no additional impairment to

lumbar spine relating to those injuries, to a reasonable degree of medical certainty. It was an aggravation of her prior condition.

(VII.) WCC No. 0227098 (DOA 10/24/02)

Based On A Review Of The Reliable, Probative And Substantial Evidence In The Record As A Whole, The Circuit Court Erred In Affirming The Full Commission's Finding That Appellant Did Not Established Any Permanent Disability As A Result Of Appellant's Left Shoulder And Neck Injury On October 24, 2002.

The injuries to Appellant's left neck and shoulder were more than minor. She developed severe hoarseness after being hit with the heavy chart and she had to visit an ENT physician Dr. Jacquelyn Goings for an examination. She doesn't have her medical records at present because they are reportedly stored at Carolina ENT. Ass. P.A. P. O. Box 791, Camden, S. C. 29020. She sent for them over two months ago, but she has not received them. The only thing that she has with a diagnosis on it is a request for speech therapy. (APA 9). Dr Hook mentions this in his notes. (APA 10). The diagnosis that she was given is, "muscle tension dysphonia". (APA10.) She will submit these notes when she has received them. She did claimed medical benefits because Lori Sharpe from PHTS had promised Dr. Jones that she would pay for her care, but as far as the claimant knows, she never did. Ms. Sharpe later changed her mind after Dr. Jones had started treating the Appellant. The explanations of the benefits are on the addendum to the form 50 which was attached and stamped by the Judiciary Department.

On her Form 50 that was submitted on October 10, 2006, and stamped, claimant marked partial for number 8 under specific disability. This Form 50 was in

her files with an addendum. (APA 11). Claimant never did receive her medical records that were supposedly stored in Camden, S. C.

Appellant was never examined by Dr. Wade. She was examined by Dr. Douglass Ross, a resident physician. Upon her reporting to the ER after she was sent there by Ms. Beverly Fulton, Appellant notified the triage nurse of the pain in her shoulder and neck. After which, she notified Dr. Ross of the pain in her neck and shoulder. In the emergency room report dictated by Dr. Ross a resident, first he dictates. "This 48-year-old, about 1800 was working here at Richland in the Medical Records Department, and a large paper NICU chart, approximately 2 inches thick, fell off a shelf and landed on the left side of her neck over the trapezius muscle. She has had increasing pain in this area throughout the night." Then he turns right around and dictates, "Denies any neck pain, denies any radicular symptoms, focal weakness or paresthesias." This is incorrect. Jason Morgan, the supervisor dropped the chart on the left side of claimant's neck and shoulder. It was a thick heavy chart, and it was more than two inches. The reason why Appellant went to the ER was because she was having increasing neck and shoulder pain. On the triage sheet it is written **neck pain. On the face sheet, it is written acute L trapezius strain.** Appellant was sent to the ER because of increasing pain in her neck and left shoulder.

(VIII.) WCC. No . 0322274 (DOA 1/20/03)

Based On a Review of the Reliable, Probative and Substantial Evidence In The Record as a Whole, The Circuit Court Erred In Affirming The Full Commission's Finding of Fact and Conclusion of Law That Appellant did Not Establish Evidence of Any Permanent Injury.

With the WCC No. 0322274 (DOA 1/21/03), Appellant fell on the wet floor in the hallway near the Medical Records Department as she was going to punch out.

Ms. Mary Kay Parham accused her of seeking narcotics for pain and using alcohol. Her manager, Annette Sullivan, gave Appellant a disciplinary action report. She was marched over to HealthWorks where she had to do a breath analysis for alcohol. She tried to blow air into the breathalyzer but she could not blow enough. She was still sick with the hoarseness and throat pain that she had gotten on December 25, 2002, and her voice had not returned yet. Since she couldn't performed the breath analysis test, she was humiliated when she was told that she had to catch a taxi home or have someone pick me up since she was under the suspicion for alcohol and narcotics. Appellant had to sign a statement that released Palmetto Health Richland from all liabilities before they would let her go to get some X-rays done at Baptist Hospital. She was told by the nurse practitioner to seek care from her own physician. Dr. Hook was notified earlier about Appellant's fall right after it happened. The office was called and a message relayed to Dr. Hook about the fall. Appellant may have been diagnosed with a UTI but she wasn't having any symptoms of a UTI. She went to Baptist ER also for a visit and she was on pain medications.

Appellant continued to have severe left sided pain and suprapubic pain. She also had some bruised ribs. Her abdominal and CT scan was normal. This was a slip and fall accident where she fell on a wet waxy floor at Palmetto Health Hospital around 12:30 a.m., where she hurt her left side, neck, back, left leg and foot, both wrists and hands, feet, perineum area, lower abdomen, and her whole body except her head. Management at the defendant hospital was angry at her for not following their worker's compensation policy and procedure. On this particular night, Appellant followed the policy and called the night nursing supervisor but she did not send

Appellant to the Emergency Room. Instead, Appellant followed the night nursing supervisor direction and nothing was done to Appellant.

Appellant was directed by the nursing supervisor, Lenora Bell, and Ms. Schglione to call over to HealthWorks before going because Appellant had been mistreated by Dr. Durkins, Ms. Barbara Griffin, and the nurse practitioner Coleen Collins.

On Friday, January 24, 2003, when Appellant called Mrs. Parham about some narcotics for pain, she was reported to Ms. Annette Sullivan where she was made to come in, be written up, and placed on suspension for a week. She was taken to HealthWorks where she had to submit some urine for a drug screen and was held at HealthWorks to do the breathe analysis test. Appellant was never able to do the breathe analyzer test for alcohol. After this, Appellant was humiliated by Ms. Annette Sullivan and Elizabeth Holland, and finally let go to go over to Baptist Hospital to have some X-Rays done. She was barred from returning to work. Appellant continued to have pain in her vaginal and perineum area which she should be compensated for.

When Appellant called Mrs. Parham on January 24, 2003, she was asked what problems that she was having that was worker's comp. related and Appellant told her that her whole body was hurting; that she had left sided pain; and that she was nauseated and having dry heaves, and her perineum hurts. The doctor in the ER ordered some narcotics and flexeril when Appellant was last injured. Mrs. Parham replied, "Ms Shiver, if you are having other problems, you need to see your own physician." Claimant was told by Mrs. Parham from HealthWorks to go to her own

doctor. Mrs. Parham was called on January 24, 2003, because she was not in the office on January 22, 2003. Appellant had been instructed to call Mrs. Mary Kay Parham on Wednesday morning by Ms. Schglione and Mrs. Lenora Bell, the two nursing supervisors because they knew Appellant had already had a bad experience with Dr. Durkin, Coleen Collins, and Barbara Griffin concerning the care of her Achilles tendon, heel, and left foot after the accident of November 15, 2011, where they were taking care of her orthopedic problems. Appellant believes Coleen Collins had gotten into trouble because of her actions toward her but the nursing supervisors wouldn't go into it with her.

The management of Palmetto Health Richland was angry with Appellant saying that she wasn't following their worker's compensation policy and procedure when she followed the direction of the Emergency Room Physician and went to her primary doctor as instructed. The emergency room physicians never directed Appellant to go to the nurse practitioners for care nor did they ever direct her to go to Dr. Durkin. Dr. Durkin shouldn't have taken care of patients anyway because his practice was not up to par. He was the medical director of HealthWorks and a neurologist.

This was a work related accident. HealthWorks at that time and Appellant believe it is still being staffed by nurses only. The accident happened when Appellant was leaving out of the Medical Records Department and she was still on the time clock. The defense counselor lied in what he said about the Appellant. Appellant called Mrs. Parham as she was instructed to do by the nursing supervisors. It was Mrs. Parham that told Appellant to go to her own doctor. Dr. Durkin is not at

HealthWorks on Friday mornings. In addition, he is a neurologist and Director of HealthWorks. He is not a person to be doing a vaginal exam, etc., on anybody.

Falling at the hospital does not have anything to do with falling at the hotel. Appellant's perineum and vaginal area was hurting her from the fall at the hospital. Appellant doesn't have a broken pelvis that she is aware of. Appellant believes she is having pain because of the ligaments and tendons. Appellant doesn't know who Ms. Stafford is and no one at HealthWorks repeatedly offered to see her at HealthWorks. Mrs. Parham could not order Appellant any narcotic for pain. All that is written in the record from these two nurses is nothing but lies to try to cover themselves. Appellant doesn't know why Attorney Lana Sims put them up to it. What Appellant wrote in her letter to the worker's compensation office that is attached to her form 50 and 58 is accurate. You can see it for the information that you need for this section. (APA 15.)

Appellant was supposed to have been sent to the ER that night to be examined, but Mrs. Sass did not send her. In addition she didn't tell Appellant to come back that next morning. Instead, she told Appellant when she came back to work the next day that she would leave the accident report and a note with the evening supervisor and that the Appellant must go by the office and fill out the form. Appellant was sent out to have a CT scan done. These tests were not performed by Dr. Hook.

Mrs. Parham did not say anything about how she tried to get Appellant fired that day while she was making her notes just because Appellant was trying to find out if she wrote orders for narcotic for the pain that she was having since she didn't get

any from Coleen Collins with her accident of 11/15/2001. Appellant was never offered a physician and the nurses at Health Works were not taking care of her from the incident with her foot.

The nurse practitioner doesn't order the necessary tests, give pain medication, etc., that the injured worker needs. There is not a doctor on site to take care of the injured workers. HealthWorks is being run by the nurse practitioners and the occupation health nurses. The staff in HealthWorks was mistreating the Appellant every since she went to them with her first worker's compensation injury. This is especially true of Mrs. Libby Holland. They weren't providing care for Appellant. Appellant was discharged from the ER with a (prescription) for Darvocet for pain and flexeril for muscle spasms. She had 15 of each pill and a work excuse for 2 days. (APA 12). It was written that she should follow-up with her primary MD for recheck.

Commissioner Huffstetler skips some of Dr. Jones notes which have a bearing on the Appellant. Starting at the second paragraph, "Assuming MMI as of today's date for work injury sustained 3/23/02 to cervical spine and left shoulder girdle, and based on **AMA Guides to the Evaluation of Permanent Impairment, 5th edition**, I can assess no additional impairment for this injury, as previous impairments have been assessed for both myofascial and cervical facet-generated pain, which was present in this patient to great extent even prior to 10/24/02 injury on the job. Although patient does have residual anterior shoulder and left upper chest wall pain and discomfort which has appeared as "New" myofascial injury following 10/24/02 accident on the job, this would require assessment for myofascial pain, and based on recommendations per **AMA Guides to the Evaluation of Permanent Impairment**,

5th Edition interpretation, it is inappropriate to add further impairments for this of injury, particularly when impairments have addressed myofascial injuries in this region previously.”

“Although patient is released today from active care regarding injuries sustained 10/24/02, patient is candidate for intermittent use of cervical facet and/or trigger point management with focal injections for flares. I can address issues regarding future medical care via Life Care Plan if this becomes necessary. Patient to continue with home exercise protocol life-long. Patient would also benefit from regular aerobic activity at least 3x weekly. Patient is allowed to continue with usual duties, as her work site requirements are primarily for sedentary work at desk/computer, where she is in health information management, working in Columbia for Palmetto Richland Memorial hospital. There have been no addition restrictions regarding this patient relating to work injury 10/24/02. follow up hereafter prn” (APA 14).

This was an aggravation of my left neck injury which Claimant should be compensated for. See Hargrove v. Titan Textile Co., 360 S.C. 276, 599 S.E.2d 604 (ct. App.2004); Thompson ex re Harvey v. Cisson Construct. Co., (S.C. App.2008); 377 S.C. 137, 659 S.E.2d 171, Rehearing denied, Certiorari granted vacated, 385 S.C. 451, 684 S.E.2d 756, and Mullinax v. Winn-Dixie Stores, Inc., 318 S.C. 437, 458 S.E. 2d at 80.

(IX) WCC. No. 0321756 (DOA 10/23/2003)

Based on A Review of the Reliable, Probative And Substantial Evidence in The Record As A Whole, The Circuit Court Erred In Affirming The Full Commission’s Finding That Appellant’s Injuries Were Not Related To The October 23, 2003 Incident.

Appellant tripped over a telephone cord at work. She was sent to the emergency room physician by the nursing supervisor, Pam Schglione because the nursing supervisor, Lenora Bell would not send her there to get check. Palmetto Health Richland wouldn't let the immediate supervisor who worked in the Medical Records Department send Appellant to the emergency room to get check. Afterward, Appellant went to Health Works on 10/24/2003, where Mrs. Holland, LPN, taunted her, "If you go to your own doctor, worker's comp. is not going to pay for it." The emergency room physician had instructed Appellant to go to her own doctor. They were doing this ever since Coleen Collins did not take care of Appellant's Achilles tendon and heel properly. Appellant followed up with her doctor as the emergency room physician had instructed her to. Dr. Hook treated Appellant until she finally had to return to Dr. Jones because of the flaring up of her low back pain and left sciatica. Appellant received some steroid injections for her back. On July 7, 2004, Dr. Jones indicated, "No additional impairment rating assessed today's date, date of maximum medical improvement, relating to 10/23/03 work injury to lumbar spine, as patient aggravated pre-existent pathology lumbar spine with that work injury, based on current understanding of patient's condition." Appellant was sent to Dr. Thomas Brandt for continued pain in her left side that had been injured with the fall.

This accident occurred when the claimant's right foot got caught in a telephone cord which a co-worker had left partly in the aisle in the Medical Records Department. Subsequently, claimant fell on the hard cement floor. The claimant sustained injuries to both knees, both wrists, all of left side, back, and whole body except head.

The claimant was sent to the emergency room for care and the physician there instructed her to follow-up with her physician. This incident also happened at night. None of the Emergency Room Physicians ever told the claimant to follow-up with the occupational health nurse and nurse practitioner over at HealthWorks. No physicians are located on site at HealthWorks. Claimant had to have gynecological surgery as a result of this fall and treatment for left costal pain and continued pain in the left leg.

This was one of the claims that Palmetto Health Hospital denied. The defense attorney claimed that there was not a connection between the left sided pain and the fall. The claimant's side was hurting after the onset of the fall. The insurance company refused to pay the physician after the emergency room physician told claimant to follow-up with her physician and the claimant was already under his care. The insurance company wanted the claimant to leave the physician and go to a nurse practitioner for care. A physician was never offered to the claimant, even after the claimant asked the occupational health nurse about one. The single commissioner said that this was not a worker's compensation injury upon the urging of the defense Attorney Michael E. Chase.

On 4/14/2004, claimant went to visit Dr. Odom for continued pelvic pain. The fall of 10/23/2003, had aggravated claimant's fibroids which she didn't know that she had and an ovarian cyst. This was the same thing that had happened when she fell at Trident Hospital in 1995. She had to have gynecological surgery again. She ended up having some lyses of adhesions which she didn't know that she had. The abdominal adhesions had come as a result of the 1995 gynecological surgery that she had as a result of the 1995 fall at Trident Hospital.

(X) WCC. No. 0616756 (DOA 7/16/2006)

Based on a Review of The Reliable, Probative, and Substantial Evidence In the Record As A Whole, The Circuit Court Erred In Affirming The Full Commission's Finding That Appellant Failed To Established A Burden Of Proof That Appellant's Right Wrist Injury Was Due to Repetitive Trauma.

For this case, the claimant felt pain in her right wrist while using the hole puncher in the Medical Records Department at Palmetto Health Richland. Claimant hadn't had any pain in her right wrist before now. It was at night around 11 p. m. when it happened. Toni Pait, Claimant's immediate supervisor was notified by e-mail and she was also notified of claimant going to an orthopedist for some other orthopedic problems and that she was going to get him to check her right wrist since Palmetto Health Richland would not offer her a doctor or an orthopedic doctor. The orthopedists that the claimant had previously been sent to would not do anything for her orthopedic problems. Mrs. Pait was in agreement with claimant going and she didn't tell claimant not to go. She knew how claimant was being treated by Palmetto Health Richland and HealthWorks with her prior falls and injuries at the hospital. Claimant wasn't being given an orthopedic physician when she had documented impairments and many other orthopedic problems. Dr Noojin office was located on Palmetto Health Richland campus at that time. He is considered one of Palmetto Health physicians. The injury to Appellant's right wrist didn't fit the description of a repetitive trauma. The pain just started at the time that she was using the hole puncher.

On the first day that the claimant visited Dr. Noojin, she told him that she had developed some pain in her right wrist while using the hole puncher at work which was in July of 2006. Her left wrist and both knees were injured at Red Hill Baptist

Church when she fell while headed up the steps to go into the church to put some job information on the bulletin board. The church wasn't responsible for claimant's fall. There wasn't any wetness or water on the steps or on the porch which caused claimant to fall. There wasn't any unevenness on the steps or porch. Claimant hurt her left wrist and both knees with this accident which was in May of 2006. At the time of the hearing at the Worker's Compensation Office, claimant didn't know that Dr. Noojin had deliberately lied on her medical records so that she would not be compensated for the injury to her right wrist. When she discovered what he had done, she tried several times to get him to correct the mistake. He would not correct the error. Under the Health Insurance Portability and Accountability Act, claimant has a right to have her medical record amended to reflect the truth. Someone from the Civil Rights Division in Atlanta, Georgia had to intervene on claimant's behalf to get Dr. Noojin to correct her records. Claimant then knew that Michael E. Chase had set up the doctors and nurses to lie in the records to prevent claimant from getting worker's compensation as well as to set her up with Commissioner Huffstetler to prevent her from getting workers compensation and to get rid of her claims, "With Prejudice."

Before claimant filed for the hearing, she had been approached by Key Risk and Palmetto Health Trust Services about accepting some money for her injuries. Claimant doesn't understand worker's compensation and she had no one to give her any guidance or advice. Worker's Compensation is not practice the same in Columbia as it is in Charleston. Claimant was told by one of the insurance agents that South Carolina Worker's Compensation Laws were designed for the injured

worker to represents him/herself. She didn't know that she was being tricked into losing her claims. She could never find an attorney to help her. Claimant have been told that she would never find an attorney to help me against Trident Hospital in a worker's compensation case and it is next to nil to find an attorney to represent her in a worker's compensation case against Palmetto Health Richland. It is the concept of businesses contracting with as many attorneys as they want to represent them. Commissioner Huffstetler did not give claimant much chance to discuss anything about her injuries.

With the accident of 11/15/2001, claimant did go to HealthWorks where an occupational health nurse, nurse practitioner, and neurologist was taking care of an orthopedic injury. When claimant fell out of the chair with the accident of 3/23/2002, and the emergency room physician at Baptist Hospital found out about the injury to her left Achilles tendon and heel and that the above providers were taking care of an orthopedic injury and that claimant was still having problems with the injury, he told claimant not to go back over to HealthWorks.

Claimant had begged for an orthopedic physician but was only offered a nurse practitioner each time at HealthWorks. Subsequently with claimant's other injuries and falls, the emergency room physicians told claimant not to go back to HealthWorks but to follow up with her physician.

In addition, from 1994 to about the present time, the claimant has suffered from collateral (horizontal) violence and abuse from professional nurses and vertical violence and abuse from the medical professionals.

In recapturing claimant's arguments for **W.C.C. No. 9503744 (DOA 1/23/95)**, claimant should not have been denied a settlement and or additional medical treatment. From this fall, the Appellant ended up having a myomectomy and subsequently breast reduction. The Appellant was never compensated for these procedures. If it was not for this fall and the injuries that the Appellant sustained, she would not have had these surgeries.

For **W.C.C. No. 0126962 (DOA 11/15/2001)**, the Appellant was not give a settlement or compensated for any aggravation of a prior condition or disability as a result of a combined injury involving the heel, Achilles tendon, ankle, and left foot. The Appellant have some permanent disability to her feet. Every time that the Appellant falls, she aggravate a prior condition or injury.

As for **W.C.C. No. 021755 (DOA 3/23/02)**, Claimant had to missed work in the allotted time for temporary total benefits for injuring her back which she never received. The appellant was covered under the Worker's Compensation Laws of South Carolina at the time of the accident. Worker's Compensation Laws cover accident or aggravation of any prior injuries or conditions concerning the lower back and side.

As for **W.C.C. No. 0227098 (DOA 10/24/02)**, Claimant's left shoulder and neck were injured with the injury to the left neck being worst. Claimant still has been having pain and spasms in the left side of neck.

As for **W.C.C. No. 0322274 (DOA 1/20/03)**, Claimant does have some permanent injuries and there was an aggravation of a prior injury to neck, back, left side, left leg and foot, both wrists and hands.

As for **W.C.C. No. 0321756 (DOA 10/23/03)**, there was also an aggravation of pain on the left side and back, and the whole body except the Appellant's head which was related to the October 23, 2003 accident, and aggravation of Appellant's abdominal adhesions (which Appellant didn't know that she had which ended up being surgically released) and aggravation of a left ovarian cyst which claimant wasn't aware that she had was related to the October 23, 2003 accident. The Appellant was subjected to multiple traumas because of inadequate or no orthopedic care.

As for **W.C.C. No. 0616756 (DOA 7/16/2006)**, Appellant's injury to her right wrist did not occurred as a result of falling at Red Hill Baptist Church on 5/20/2006. Furthermore, the church was not responsible for Appellant's fall. Instead the injury to the right wrist occurred as a result of using the hole puncher at Palmetto Health Richland Hospital on July 16, 2006. Attorney Chase put this injury on Red Hill Baptist Church and it was placed into Judge Lee's Order where she signed it in agreement.


CONCLUSION

This Court should reverse the judgment of the Circuit Court and remand it back to the Circuit Court or the Worker's Compensation Commissioner where the right hearing can be heard and Appellant compensated for all of her injuries and all of her bills paid. A qualified unbiased Commissioner should hear the Appellant's case. The Commissioner should be an attorney who currently practices worker's compensation. Both hospitals should be held accountability for malpractice. Appellant's records in the Worker's Compensation Office should be corrected as to

the notation of the Appellant being fired from her nursing jobs for mistreatment of patients. She should be compensated for all of her injuries and some punitive damages assess for her employers and the employees who has mistreated her. Both hospitals should be made to pay for firing her. Each insurance company should be assessed a monetary portion for the injuries to Appellant's body as a whole. Any and everything else the Court deemed is just.

April 28, 2014

Respectfully submitted,



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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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APR 28 2014

APPEAL FROM RICHLAND COUNTY

SC Court of Appeals

Court of Common Pleas

Hon. Alison R. Lee, Circuit Court Judge

Case No. 2011CP4003561

Gertrude Shiver,Claimant, Appellant,

v.

Palmetto Health Richland, Employer, Key Risk Management Services, Inc., TPA
Palmetto Hospital Trust Services, Carrier, Trident Regional Medical Center, Employer,
Zurich American Insurance Company, Carrier.....Respondents,

PROOF OF SERVICE

I, Gertrude Shiver, do hereby certify that I have served all counsel in this action with a copy of the Amended Initial Brief and Amended Designation of Matter to be included in the Record of Appeal by depositing a copy of the same in the United States Mail, postage paid, addressed as indicated below on the 28th day of April, 2014.

April 28, 2014

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