THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SOUTH CAROLINA WORKERS COMPENSATION COMMISSION

APPELLATE CASE NO. 2013-001564

WILLIAM E MILLER, JR., EMPLOYEE, CLAIMANT, APPELLANT,

v.

OWEN STEEL COMPANY INC. EMPLOYER AND GREAT AMERICAN INSURANCE GROUP C/O STRATEGIC COMP SERVICES, CARRIER, RESPONDENTS.

APPELLANT'S FINAL REPLY BRIEF

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April 28, 2014

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

CASES PAGE

STATUTES

OTHER AUTHORITIES

None:

STATEMENT OF ISSUES ON APPEAL

1. DID THE COMMISSION HAVE, WITHIN THE ADMINISTRATIVE RECORD, SUBSTANTIAL EVIDENCE ON WHICH IT COULD DETERMINE THAT THE APPELLANT'S NECK SURGERY PERFORMED BY THE NEUROSURGEON AFTER THE INJURY WAS NOT THE RESULT OF THE TRAUMA WHICH OCCURRED ON AUGUST 15, 2012 WHEN THERE WAS NO EVIDENCE IN THE RECORD TO SUPPORT SUCH DETERMINATION, AND THERE WAS SUBSTANTIAL UNDISPUTED MEDICAL EVIDENCE TO SUPPORT CAUSATION?

2. DID THE COMMISSION ERR IN COMING TO A MEDICAL DETERMINATION OF CAUSATION REQUIRING EXPERT TESTIMONY WHEN THERE WAS NO EXPERT OR MEDICAL OPINION OF EVIDENCE IN THE RECORD SUPPORTING ITS DETERMINATION AND WHERE THE ONLY EXPERT TESTIMONY AS TO CAUSATION EXPRESSLY FOUND THAT THE INJURY AND NEED FOR SURGERY WAS CAUSED BY THE AUGUST WORKPLACE TRAUMA?

3. DID THE COMMISSION ERR IN FAILING TO GIVE THE ONLY EXPERT MEDICAL TESTIMONY AND MEDICAL EVIDENCE RELATING TO THE CAUSE OF THE REQUIRED SURGERY CONTROLLING WEIGHT IN ITS DETERMINATION OF COMPENSABILITY?

RESPONSIVE LEGAL ARGUMENT

The single Hearing Commissioner, acting as fact finder, stated expressly that the case turned on the medical reports (ROA P. 52 /Commn. note)(ROA P. 47 ¶ 4), specifically two MRI reports, and then formed an opinion that Mr. Miller's cervical spine condition had not changed from its condition prior to the August accident.[1] (ROA P. 29, 30, 47, 52) The Commissioner

[1] The Commissioner stated that the Claimant/Appellant had symptoms with his cervical spine prior to the accident which was never disputed by Claimant and, in fact, was stated in his incident statement after the accident. (Miller statement)

wrote that the two MRI reports "strike me as nearly identical."(ROA P. 52) No other specific findings of fact were conveyed by the Commissioner to the Defendants/Respondents for the Order preparation. This is verified in the Single Commissioner's Order and the Panel Order; findings of fact. (ROA P. 46-48)(ROA P. 29-33)

The issues in this appeal are 1) whether there was substantial evidence upon which the Commission could determine a lack of causation based on the record as a whole, 2) whether the Commission could, in essence, disregard the opinions of Appellant's physicians regarding the interpretation of Claimant's medical condition from MRI images and other medical techniques absent contrary medical opinion or other pertinent medical information and, 3) whether the Commission's determination was reasonable in light of the record evidence as a whole.

I. THE RECORD DOES NOT PROVIDE EVIDENCE ALLOWING THE COMMISSION TO COME TO A MEDICAL CONCLUSION CONTRARY TO THE TREATING PHYSICIAN'S OPINIONS IN THE RECORD.

A reviewing Court must determine whether substantial evidence existed in the record which would support the determination of the administrative agency. Substantial evidence means evidence which, in viewing the record as a whole, would allow reasonable minds to reach the same conclusion the Commission reached. *Adams v. Texfi Industries*, 330 S.C. 305, 498 S.E.2d 885 (Ct. App. 1998). Substantial evidence is not a mere scintilla of evidence, nor the evidence viewed blindly from one side of the case. *Hargrove v. Titan Textile Co.*, 360 S.C. 276 Ct. App. 2004)(substantial evidence is evidence which considering the record as a whole would allow reasonable minds to reach the conclusion the administrative agency reached in order to justify its action) Substantial evidence is that relevant evidence which reasonable minds might

accept as adequate to support a conclusion. See: *K II Const. Co. V. Crabtree*, 79 S.W.3d 414, (AR Ct. App. 2002)

A. The overwhelming evidence in the record supports the fact that Appellant's trauma on the 15th of August caused the dislodged bone requiring surgery.

The undisputed evidence set forth by the Appellant/Claimant is that he heard his neck pop and began to suffer significant symptoms including radiating numbness, pain, brain freeze and other symptoms. He reported these symptoms to his primary physician (Dr. Levinson)[2] who had previously diagnosed his prior spinal condition. Although the records clearly demonstrate that he had never suffered "brain freeze" in the past, Appellant/Claimant had suffered on occasion with several of the other symptoms. After the altercation on the 15th of August, Appellant provided un-controverted evidence that he approached his direct supervisor about his symptoms and asked to have a doctor see him. By the weekend of the 24th, the situation was so bad that Mr. Miller (Appellant) and his wife decided to make an appointment with his own physician. (ROA P. 129-131) The appointment occurred on the 27th of August. The only post event medical records to be reviewed by the hearing Commissioner, as set forth in the record, were as follows:

- August 27, 2012: Dr. Levinson states "He (Claimant) **presents with neck pain as a result of his assistant supervisor pushing him against the wall.." - - "Additionally, he presents with history of neck pain**.... "The pain is characterized as severe, stabbing, and patient states it feels like a knife is slicing doen (sic) his neck. **Initial onset was two weeks ago**. ... His assistant manager pushed him up against the wall and patient felt and heard a pop in his neck. He **(Claimant) also states he has the sensation of a "brain freeze" as a result of this.**" (ROA P. 330) "Out of work until I see him back in 8 days." (ROA P. 360, 361)(ROA P. 361)(emphasis added)

[2]As Dr. Levinson was involved and diagnosed Claimant's prior neck and back condition in 2011, it would be difficult for Claimant to mislead him regarding his prior condition.

Appellant brought the leave slip to his employer the following morning and was terminated on either the following or second day. Appellant then followed up as requested by the physician on September 4, 2012. The records are as follows:

- Sept, 4: Pain medication **prescribed and Magnetic resonance imaging, spinal canal and contents, with and without contrast, cervical prescribed.** (APA P. ROA 297, 300, 328) Palmetto Imaging MRI study conducted. (ROA P. 309, 353, 354)(emphasis added)

The Appellant/Claimant then had the MRI done, this time apparently with and without contrast as the prior MRI was without contrast only, and followed up with his physician.

- Sept. 13, 2012: "Bill (Claimant) presents with diagnosis of cervical disc extrusion. **This was diagnosed 09/05/2012.** The course has been progressively worsening. It is of severe intensity. Prior work-up has included a Cervical spine without contrast MRI (results: central disc extrusion at C6-7 causing severe central canal stenosis with cord compression). **The left central/foraminal component has contracted in the interval since prior study**. There is no residual left neural foraminal stenosis." (ROA P. 322) Recommend neurosurgical evaluation/ Boyd. (ROA P. 294) (emphasis added)

The records clearly indicate that there was a prior issue but the post accident study was now different as diagnosed on September 2012, after the trauma. Appellant/Claimant's physician immediately recommended a neurosurgeon. After the results of the prior (February) study, Appellant Miller was prescribed injections only. Mr. Miller (Appellant) made an appointment with the specialist, Neurosurgeon.

- Sept. 19, 2012: "Mr. Miller is a 46 year old heavy equipment operator who stated that on August 15th he was pushed against the wall by his supervisor. He felt an immediate pop in his neck. He states that shortly after that he had severe neck pain and stiffness and began developing numbness, tingling and weakness in his arms. This has progressed since the incident. He has constant numbness in his hands. He can not move his neck because of severe stiffness." "... He (Claimant) states that in the past he has been diagnosed with cervical stenosis and probably also has degenerative disc disease. .... He states that he was doing fine with his neck until this incident ...." (ROA P. 291) "MRI of the cervical spine done at Palmetto Imaging shows a large C6-7 disc herniation with **extruded fragment** that has migrated slightly cephalad. This causes significant

central canal stenosis and cord compression. I believe on the T2 weighted sagittal images there is some suggestion of high signal in the cord. **This is compared to a February 18 (sic) 2012** (ROA P. 291) **study that apparently showed a left central and foraminal disc protrusion at C6-7 but that has contracted since the previous study**." (ROA P. 292) "He (Claimant) has a disc herniation with **extruded fragment** causing cord compression and I believe some signal change in his cord. .... He (Claimant) is hesitant to consider surgery and I have been careful to explain the risks of not doing surgery which would include paralysis." (ROA P. 291-293)(emphasis added)

Dr. Boyd, specifically compared and contrasted the two studies in his medical notes and, in doing so, was not only simply reading the radiological reports but reading the image as well. In sum, Dr. Boyd recommended surgery immediately and warned the Patient (Appellant) that not doing surgery could lead to paralysis. Dr. Boyd performed the surgery and stated, post surgery, in a questionnaire that "**the injury most probably occurred as a result of recent trauma to the neck/spine**" and included a statement that he found a **"very large, fresh/acute disc fragment compressing (the) spinal cord" to a reasonable degree of medical certainty.** (ROA P. 358, 359)(Emphasis added) This statement was post surgical and the physician had the added information of actually seeing the spine itself during surgery.

The Commission, stating the determination was made from the medical records, denied causation because, as stated by the hearing Commissioner, he felt that the two MRI reports were virtually identical. Appellant's position is simply that the medical records and medical evidence in the record as a whole, including evidence and opinion requiring expert knowledge, do not support the Commissioner's finding.

B. Appellant's spinal stenosis and prior condition of Appellant's cervical spine may have made the Appellant/Claimant more susceptible to a spinal injury but the substantial evidence in the record demonstrates the accident caused the injury.

In this matter, Appellant had been diagnosed with spinal stenosis, a narrowing of the spine, well over a year prior to the altercation. It is not solely an exacerbation of a prior injury for a trauma to cause an already weakened physical condition to fail or to change and that is what can be gleaned from the medical records in light of the submissions and physician notes as a whole. Section 42-9-35 applies to situations where there is no specific injury or traumatic event but the worsening of an existing condition or a new condition made worse by a pre-existing condition. S. C. Code Ann. §42-9-35 (Law Co-Op 2005) This situation would be no different than a worker with a pre-existing bad back picking up a box and dislocating an already problematic spine. Claimant's Form 58 requested a hearing on the issues presented by the records as set forth in the APA (ROA 276) and his Form 50 (ROA P. 436) requested any and all remedies available provisions of the Act.

Appellant did have bouts of pain and other symptoms with his neck prior to the altercation on August 15 and apparently had a partial disc protrusion (ROA P. 291) at that time. Appellant, however, continued to work during the many months prior to his altercation and such symptoms were intermittent and, the claimant states, far lesser than after the altercation. The records also demonstrate that there were new symptoms after the accident that he had never experienced prior such as brain freeze. (ROA P. 330) The fact of this pre-existing neck pain was never hidden by the Appellant and was known to the Employer. During the Claimant's (Appellant's) direct testimony during the hearing, Mr. Miller testified as follows:

Q. Now, have you had back and – neck issues prior to this?
A. Yes, Sir.
Q. Have you gone to a doctor about it?
A. Yes, sir.

Q. Okay. Now, Is - - is Levinson one of the doctors you've gone to?

A. Yes, Sir.

Q. Do you know if there was a diagnosis?

A. I was diagnosed with spinal stenosis.

Q. Okay, what is your understanding of what that means.

A. It's narrowing, and its through the spine.

Q. Have you had any other treatments, and this is prior to the injury, prior to August 15th, any treatments for your neck.

A. I had injections in my lower back and neck. Yes sir.

(ROA. P. 76, L. 24,25, 77 L. 1-18)

The Appellant was asked in direct about what symptoms he had endured related to his spine prior to the injury of August 15, 2012.

Q. What kind of symptoms would you have with your neck or your back prior to the August 15th Altercation we're talking about.

A. I had some - - some of the same symptoms, but they weren't anything like I was experiencing after the situation.

(ROA. P. 78 L. 2-7)

Again, this situation would be no different than an employee with prior back pain and back issues picking up a heavy object and "throwing a disc." He may have been more susceptible to such injury but the injury would be subject to the Act.

II. THE COMMISSIONER ACTED AS AN EXPERT NEUROSURGEON IN DETERMINING THAT DR. BOYD'S MEDICAL RECORDS REGARDING THE STATUS OF THE SPINE IN THE PRIOR MRI VERSUS THE POST ACCIDENT MRI AND A COMMISSIONER IS NOT QUALIFIED TO MAKE A SUCH A DECISION ABSENT SUPPORTING EXPERT EVIDENCE OR OPINION.

Respondents' position appears to be that an administrative body can and does make decisions which would ordinarily require expert opinion. This is certainly true if the

administrative body in question has the personnel to provide facts or opinions with specific expertise. For example, the Department of Health and Environmental Control may use its own engineers and scientists in a contested case relating to an Air Permit or damage from a chemical spill to present evidence or make determinations of fact which would require expertise. However, a non physician Commissioner acting as a fact finder can not make a complex medical expert determination without medical support in the record if the determination of fact requires specific expertise. The Commission could have had a physician employed by or retained by the Commission to review the records and present his or her opinion for consideration to the fact finder even absent an opposing opinion offered by the Employer/Carrier. This was not done. Certainly, the Respondents could have provided disputing medical opinion or evidence related to causation. A Commissioner certainly has expertise in disability and how that may relate to impairment and many other areas of expertise by virtue of what he or she does day in and day out. However, a Commissioner does not have the requisite expertise to compare and contrast MRI medical data, especially using only the radiological reports, in a manner contrary to the only expert evidence presented by physicians in the record.

It is the Appellant's position that the finding made by the Commissioner, that there is no causation based on his review of the two MRI reports, was not appropriate as he was not an expert neurosurgeon nor was there expert testimony or medical records supporting his decision. If the facts and required determination are of such a nature that a lay person or non expert can come to a conclusion absent expert evidence and opinion, a fact finder may make such a decision. Although the Commission is not compelled to rule consistently with expert evidence or opinion, a contrary determination must be based on other competent evidence in the record. See:

Tiller v. National Health Care Center of Sumter, 513 S.E.2d 843 (SC 1999) In this case, however, the interpretation of specific MRI image reports were made by the Commissioner which were contrary to the interpretations of the two physicians, including the specialist neurosurgeon. The Commissioner then found his interpretation to be effectively dispositive. (ROA P. 52, (Comm. Note), P. 47) Again, the interpretation of the MRI reports were done by the Commissioner without having the actual images to review[3] and, in contrast to the opinion of the neurosurgeon, who had the benefit of also performing the actual spine surgery.

Although medical evidence and testimony is entitled to great respect, a fact finder is not compelled to abide by such evidence if there is other competent evidence in the record upon which to find against the medical evidence. See: *Hargrove v. Titan Textile Co.*, 599 S.E.2d 604, 613 (SC Ct. App. 2004); *Hall v. United Rentals, Inc.*, 636 S.E.2d 872 (SC Ct. App. 2004) In this case, however, there is no evidence that the physicians did not have which would contradict the Claimant's testimony that he heard a pop in his neck, began having severe and worsening symptoms after the injury, sought medical attention finally on his own and was diagnosed with needing spinal surgery by a neurosurgeon who was referred by his primary physician.

Respondents have provided the other evidence set forth in the findings of fact, that the Commissioner found the Appellant/Claimant's testimony not to be credible. Specifically, the hearing Commissioner found the Claimant's testimony, that he threw a punch after being pushed against the wall and hearing the pop, was not, in his opinion, believable. (ROA P. 47, 52)

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[3] It is likely that specific image review would be better performed by a physician trained in that particular area of the body. Further, the two MRI prescriptions called for different imaging techniques, the post accident to have both contrast and non contrast.

Although all the nearby witnesses stated that Mr. Miller was in fact pushed against the wall by Raulerson and then Miller threw a punch, the Commissioner determined that such chronology was not credible. The Respondents further point out that the testimony was admitted at hearing that Mr. Miller may have had a temper and had been involved in prior arguments, although none resulting in physical conflict. It was not, however, disputed that Appellant was considered a good mechanic and had been given a larger than normal raise the beginning of that year. (ROA P. 194-197)

Respondents, in their Brief, further argue credibility to this Court with testimony on cross examination of the Claimant (Appellant) relating to a disparity between the primary physician's records (Dr. Levinson) and an event stated in the medical records post surgery. The medical record is approximately two weeks after Claimant's actual neck surgery and the records stated that Claimant was using a "jackhammer." In essence, Claimant was asked on cross if he was using a jackhammer, as it was stated in medical records, immediately after the surgery. The Claimant adamantly stated no, that he did not know what the attorney was speaking of, stating "the information you are presenting to me is not correct, sir." (ROA P. 98 L. 16-18); (ROA P. 95-98) Claimant's wife was asked about this alleged event as stated in the medical records. Ms. Miller stated that her husband did not use a jackhammer after his surgery and she even had to assist him during that time to go to the bathroom. (ROA P. 131)

For purposes of the hearing on compensability, what happened after the surgery was not relevant. Neither the hearing Commissioner or Panel included these allegations in the respective Orders. In fact, the Claimant, prior to the issuance of the Commissioner's initial findings and the subsequent Order motioned the Commissioner with a proffered note from the physician that the

"jackhammer" notation in the records was an error and the proffer also included amended medical records from the physician demonstrating that the medical records used on cross relating to the use of a jackhammer a week or so after the surgery was in fact an error in the records. (ROA 441 - 446) The Commissioner denied a supplement to the record. (ROA P. 447) However, after the motion, the matter was not indicated as a fact finding by the Commission Panel or hearing Commissioner and there is no mention of reliance on that exchange of testimony after the motion was made with the proffered records.

In essence, the Commission found a lack of causation because of its determined lack of credibility of the Claimant. Although each witness and each participant in the altercation did have slightly differing recounts of the facts, (ROA 380 - 385)(ROA P. 139-184), most stated the facts as Appellant stated the facts. The altercation was stated by all witnesses to be only a minute to a few minutes. A review of the hearing testimony and record statements does not support a finding that the Appellant/Claimant lied about the injury itself or the fact of the symptoms.

III. THE RECORD EVIDENCE DOES NOT SUPPORT THE SUPPOSITION THAT THE CLAIMANT/APPELLANT SOMEHOW MISLEAD HIS PHYSICIANS INTO INCORRECT MEDICAL OPINIONS.

The Commission Panel adopted the single Commissioner's factual findings but also added that Claimant did not provide to his physicians information regarding his prior symptoms and history. Appellant-claimant was cross examined on the issue of his prior diagnosis, treatment and symptoms. The attorney, using specific medical records, did remind Mr. Miller of prior treatment and symptoms as placed in the records. (ROA 110-143) The records clearly

demonstrate that both treating physicians were well aware of the prior condition to the cervical spine, stenosis and the symptoms, and their medical notes and opinions reflect their knowledge. Further, both physicians specifically note and compare the two MRI records and images from prior to and after the altercation.

In apparent rebut to these facts, Respondent's argument in part appears to be that William Miller (Appellant) mislead his physicians in coming to that conclusion. Respondent seems to focus in its argument portions of the cross examination of Mr. Miller during the hearing. As set forth in the record, Mr. Miller was referred to Dr. Boyd and the initial visit was in September. In filling out one of the intake questionnaires, a three page document, Mr. Miller apparently did not check the box indicating that he had in fact had injections in his neck on the third page. (ROA P. 424-426) This issue was discussed on cross and, Mr. Miller indicated that he must have made a mistake in not checking that specific box. (ROA P. 88)

It would be difficult for the Claimant to have somehow mislead his primary physician regarding his prior condition as his prior condition was diagnosed by this physician. It can not be disputed that Dr. Boyd, the Neurosurgeon referred by the primary physician, recited in his notes that the Appellant/Claimant's had a prior cervical spine condition prior to the accident. Further, Dr. Levinson also actually contrasted the prior and post altercation MRIs prior to his diagnosis and referral and stated that the diagnosis was post injury. In fact, there is no disputing evidence that the treating physicians both interpreted the actual MRI images as well as the reports and came to a different medical conclusion than the Commissioner in that there had in fact been changes in the MRI images post trauma. The neurosurgeon's opinion that the injury to the cervical spine was from a recent trauma further relies on the actual view of the spine itself during

surgery as well as the actual review of the MRI images themselves and a view of an acute "fresh" bone fragment in the spine which was removed. (ROA P. 358, 359)

IV. THE COMMISSION'S DETERMINATION THAT THE MEDICAL EVIDENCE DID NOT SUPPORT CAUSATION IS NOT REASONABLE IN LIGHT OF THE RECORD AS A WHOLE.

Substantial evidence is not just some evidence which can be cited from the evidentiary record. It is evidence which, considering the record as a whole, would allow reasonable minds to reach the conclusion the agency reached. *Rodney v. Michelin Tire Corp.*, 466 S.E.357 (SC 1996); see also: *Tims v. J. D. Kitts Const.*, 713 S.E.2d 340 (SC Ct. App. 2011); *Rogers v. Kunja Knitting Mills, Inc.*, 440 S.E.2d 401 (SC Ct. App. 1994). Substantial evidence is that evidence which a reasonable mind would accept as adequate to support a decision.[4] *Connaway v. Welded Const. Co.*, 233 Mich. Ap. 150, 592 N.W.2d 414 (Mich App. 1998) For an administrative determination to be reasonable it must make sense in light of the totality of the evidence and circumstances of the case.

In this matter the Commission ruled that, based on the evidence in the record, Claimant did not suffer an injury or trauma to his neck during the altercation. The supporting evidence cited is the prior and post MRI reports and a finding of a lack of credibility of the Appellant in that he stated he punched the man who pushed him into the wall after hearing his neck pop. (ROA P. 52, 47)(ROA P. 29-33) The Commission also found, apparently as part of its

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[4]Substantial evidence on the record as a whole is evidence demonstrating the reasonableness of an agency's decision. *Dewitt v. Rent-A-Center, Inc.*, 146 N.M. 453, 212 P.3d 341 (2009)

determination of credibility, that evidence was presented indicating Claimant had a temper.[5] (ROA P. 3) In determining reasonableness one would be required to look at what the import of the Commission's fact finding and determination would mean actually happened in this matter. In sum, the Commission found that William Miller, a six-year employee of Owen Steel, got into an altercation and was pushed against the wall by a much larger man, but Miller did not feel a pop in his neck as he had testified to and as provided in his statement to the Employer prior to his termination. The Commission essentially found that Mr. Miller did not have worse or different symptoms after the altercation than he had prior to the altercation but reported falsely that he had such worsened and new symptoms to his supervisor and his wife after the incident. Appellant asked for a physician referral from the Employer but, when this request was refused, he then went to his own physician. The Commission finding at this point is, in essence, that William Miller stated falsely to his primary physician that he had new, significant neck and radiating pain along with brain freeze. It is not disputed that the physician (Levinson) wrote him out of work and Appellant then went in and gave his supervisor the leave slip (ROA P. 361), along with his written statement about what happened. (ROA P. 380) Mr. Miller was then terminated by the Employer the next day or the following day dated retroactively to August 27th which was the day of the first physician appointment. His primary physician prescribed an MRI and Mr. Miller submitted to having the MRI. After a review of the post and prior MRI images noted in the physician notes, Appellant's physician referred him to a neurosurgeon, Dr. Boyd.

Again, per the crux of the Commission's Order, Appellant then provided false

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[5]Such a finding, whether true or false, is not relevant to the issue of credibility or the medical records.

information regarding his current or past symptoms to Dr. Boyd, the neurosurgeon. Dr. Boyd then reviewed the prior and post accident MRI images and found differences as set forth in his medical notes. (ROA P. 291) Dr. Boyd found medical issues that concerned him enough to recommended immediate spine surgery. Mr. Miller, despite allegedly falsely stating that he heard a pop in his neck during the altercation and falsely indicating to his physicians that he was having significant and painful symptoms different and greater than symptoms he had intermittently suffered in the past, agreed to wear a neck brace and actually undergo spine surgery.

Further, the Commission's determination means that Dr. Boyd, the neurosurgeon, although finding a "fresh and acute" fragment in his neck during surgery (ROA P. 358, 359) was mistaken in his opinion that this injury was from the recent trauma. In light of the record evidence as a whole, the Commission's findings and the import of those findings make little sense and are not reasonable.

THEREFORE, for the reasons stated above, this Court should reverse the Order of the South Carolina Workers Compensation Commission.

Respectfully, Submitted,

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CERTIFICATE OF COMPLIANCE

The below signed attorney certifies that the Final Reply Brief of Appellant Complies with 210(b) and Rule 211(b), SCARC.

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PROOF OF SERVICE

I certify that I have served three (3) copies of the **Appellant's Final Reply Brief** on Respondents (Great American Insurance Group c/o Strategic Comp. Services, by **(Hand Delivery)**, on April 28, 2014, its/their attorney/s of record, Helen Hiser, Esq., Weston Adams, III, Jason Lockhart McAngus Goudelock & Courie,. LLC, P.O. Box 12519, Columbia, SC 29211. Meridian Building, Columbia, SC. 29201.

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