THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION APPELLATE PANEL

Avery Wilkerson, Commissioner; Andrea C. Roche, Commissioner; Melody James, Commissioner

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W.C.C. File No.: 1108693
Appellate Case No.: 2013-002028

Gail Bruce, Employee, Appellant,

v.

Columbia Heart Clinic, Employer, and Hartford Insurance Company of the Midwest c/o The Hartford, Carrier Respondents.

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SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO.: 1108693

GAIL BRUCE, Employee, Claimant, vs. COLUMBIA HEART CLINIC, Employer, AND HARTFORD INSURANCE COMPANY OF THE MIDWEST c/o THE HARTFORD, Carrier, Defendants.	**DECISION AND ORDER**

DATE OF HEARING: Hearing held in Columbia, South Carolina on November 8, 2012.

APPEARANCES: Claimant appeared and represented by Thomas P. Bellinger, Esquire of Bellinger and Associates, Columbia, South Carolina.

Defendants represented by Kelly F. Morrow, Esquire of McAngus Goudelock & Courie, L.L.C. of Columbia, South Carolina.

PURPOSE OF THE HEARING: To determine all issues as set forth in Forms 50 and 51.

COMMISSIONER: Commissioner Derrick L. Williams

FILED: 1·10·13

STIPULATIONS

It is stipulated among the parties that:

1. The Claimant was an employee of Columbia Heart Clinic on the date of the injury.

2. The South Carolina Workers' Compensation Commission has jurisdiction over this claim.

3. Notice of the hearing was timely and properly served upon the parties of interest.

4. Venue is proper in Columbia, South Carolina.

5. The Claimant's average weekly wage is One Thousand Two Hundred Eighty-Nine and 36/100 ($1,289.36) Dollars, with a corresponding compensation rate of the maximum compensation rate of Seven Hundred Four and 92/100 ($704.92) Dollars.

6. The South Carolina Workers' Compensation Commission file is made a part of the record, with the exception of unstipulated medical records and self-serving declarations.

APA SUBMISSIONS

Pursuant to the South Carolina Administrative Procedures Act and Regulations of the South Carolina Workers' Compensation Commission, the following records were submitted into evidence:

The Claimant submitted the following APA Submissions:

1. Palmetto Health dated 07/15/11 to 11/11/11 consisting of 33 pages. (APA #1).

2. Richland County EMS dated 07/14/11 consisting of 2 pages. (APA #2).

3. David B. Fulton, M.D., W. Alaric Van Dam, M.D., Moore Orthopaedics dated 07/20/11 to 05/25/12 consisting of 30 pages. (APA #3).

4. Provide Hospital dated 07/22/11 consisting of 3 pages. (APA #4).

5. Tracy Hill, P.T., Columbia Rehabilitation Clinic dated 06/29/12 consisting of 24 pages. (APA #5).

6. J. Adher Brown, Jr., Rehabilitation Consulting dated 07/12/12 consisting of 7 pages. (APA #6).

7. Letter from Human Resource Coordinator, Angela Jenkins, Columbia Heart; Claimant's Social Security Award; Letter from Hemerly and Company; and Photographs consisting of 16 pages. (APA #7).

The Defendants submitted the following APA Submissions:

8. David E. Koon, Jr., M.D., dated 01/20/04 consisting of 2 pages. (APA #8).

9. Palmetto Orthopaedic Clinic, P.A., dated 12/05/05 to 10/08/10 consisting of 34 pages. (APA #9).

10. Moore Orthopaedic Clinic, dated 09/09/10 to 11/16/11 consisting of 10 pages. (APA #10).

11. Deposition of the Claimant dated 01/17/12 consisting of 27 pages. (Ex. #1)

12. Claimant's approved Settlement Agreement and Release dated 06/07/04 consisting of 6 pages. (Ex. #2).

13. Photographs of the Claimant after the alleged accident consisting of 4 pages. (Ex. #3).

14. Colonial Life Disability Claim Form consisting of 6 pages. (Ex. #4).

15. MetLife consisting 6 pages. (Ex. 5).

The Claimant submitted the following APA Submissions:

16. W. Alaric Van Dam, M.D., dated 06/26/12 to 10/12/12 consisting of 7 pages. (APA #11).

17. Deposition of Dr. Fulton dated 09/05/12 consisting 29 pages. (Ex. #12).

18. Deposition of Dr. Van Dam dated 09/21/12 (Forthcoming). (Ex. #13).

The Defendants submitted the following APA Submissions:

19. Providence Hospital dated 09/20/02 to 01/14/03 consisting of 4 pages. (APA #14).

APA No. 14 was removed from the records on discretion by the Defendants and was not opposed by the Claimant.

STATEMENT OF THE CASE

Gail Bruce alleges that she was injured in the course and scope of her employment on July 15, 2011 while on a smoke break. In particular, she alleges that she injured her right shoulder and both knees. Ms. Bruce seeks an award of compensability, temporary total disability benefits, a finding that she has reached maximum medical improvement, and also a finding pursuant to S.C. Code Ann. §42-9-10 that she is permanently and totally disabled as a result of her injuries. Further, Ms. Bruce seeks an award for lifetime causally-related medical treatment.

Defendants deny that this claim is compensable and indicate that the Claimant has failed to provide sufficient evidence to show that she suffered from a compensable injury by accident that arose out of and in the course in scope of her employment. In particular, Defendants argue that the Claimant was on a non-paid lunch break when she was injured, and that the injury did not occur on the Employer's premise. They rely upon Matute v. Palmetto Health Baptist, 391 S.C. 291, 296-97, 705 S.E.2d 472, 475 (Ct. App. 2011). In the alternative, should the Commission find that her claim is compensable, the Defendants take the position that the injuries resulting from the accident should be limited to the right shoulder, based upon her reporting of the injury to her physicians, and also on the short-term disability paperwork and subsequent

amendment of the Form 50 filed after her termination by the Employer. In addition, Defendants deny that she is entitled to temporary total disability benefits as work was available to her at the time of her termination, which was performance based. Further, the Defendants assert that the Claimant's alleged injuries to her bilateral knees are not compensable as she failed to report them at the time of the accident, or in the medical evidence, as a whole. The medical evidence supports that she had pre-existing conditions that were end-stage osteoarthritis in both knees and knee replacements were previously recommended for both knees that pre-date to the date of the accident.

EVIDENCE OF THE CASE

Testimony of Julie Hunt:

Ms. Hunt testified that she worked with the Claimant at Columbia Hearth for the past twelve years. Ms. Hunt recalls that, on July 15, 2011, Ms. Bruce asked her for a cigarette before going on her lunch break. (H. Tr. p. 8, ll. 20-25). Ms. Hunt testified that there's an area outside the Columbia Heart building where people smoke. She said it is off of the property and it must belong to the City. (H. Tr. p. 9, ll. 5-11).

Ms. Hunt was asked questions about the Claimant's condition before and after her alleged incident. Ms. Hunt stated, that prior to her fall, she didn't notice any problems with Ms. Bruce's right arm or right shoulder. (H. Tr. p. 10, ll. 1-3). After the injury, she noticed that Ms. Bruce favored the right shoulder, (H. Tr. p. 10, l. 7), and Ms. Bruce asked her to get charts. (H. Tr. p. 10, ll. 8-10). As for her knees and legs, before the date of the injury, Ms. Hunt knew Ms. Bruce had arthritis and took steroid shots. (H. Tr., p. 10, ll. 16-19). After the date of the injury, Ms. Hunt said that Ms. Bruce's ability to get around declined. (H. Tr. p. 10, l. 25).

Ms. Hunt also testified that she heard the Claimant crying in the bathroom on a few occasions and occurring near the end of the day. She said that Ms. Bruce was upset due to the pain of walking down the halls and working with patients all day. (H. Tr. p. 11, ll. 13-16). Further, Ms. Hunt testified that the Claimant had a limp after her date of injury. (H. Tr. p. 11, ll. 8-9).

On cross-examination, Ms. Hunt testified that she's been friends with Ms. Bruce for twelve years. (H. Tr. p. 13, l. 7). Ms. Hunt said that she was not Ms. Bruce's supervisor, so she didn't know what Ms. Bruce's job duties were. (H. Tr. p. 14, ll. 1-13). She stated Ms. Bruce was her direct supervisor at Columbia Heart. Further, she said that she only knew what Ms. Bruce was crying about one time. (H. Tr. p. 15, ll. 1-3). She also said that Ms. Bruce walked with a shuffle and a limp prior to her injury. (H. Tr. p. 15, ll. 4-7).

Testimony of Claimant:

The Claimant testified on her own behalf. She testified that she was born on February 20, 1954. (H. Tr. p. 18, l. 5). She is single and lives in Elgin. (H. Tr. p. 18, ll. 6-9). Ms. Bruce was hired by Columbia Heart in August 1995 and was last employed there as a Support Manager. (H. Tr. p. 18, ll. 19-24). Ms. Bruce said that as a Support Manager, she managed twenty-one people. This includes all secretaries and medical assistants, and involved disciplinary action, disputes, and patient flow. (H. Tr. p. 19, ll. 18-25). She also took x-rays and helped with patient care. (H. Tr. p. 20, ll. 1-5).

Ms. Bruce testified that before the accident, she was allowed to manage her own schedule and she did not check charts because there was no time in her schedule. After the accident, she was not allowed to decide whether she worked the floor or not. (H. Tr. p. 20, ll. 12-25). Ms. Bruce said she was told to work the floor every day, which she did. (H. Tr. p. 21, ll. 3-4).

In particular, as to the injury, Ms. Bruce testified that on July 15, 2011 she went downstairs to speak with Angela Jenkins regarding some concerns about her being put on probation in late June. (H. Tr. p. 22, ll. 13-17). After she finished talking with Ms. Jenkins, Ms. Bruce said she went back upstairs and told her team leader that she was going to have a cigarette and she'd be right back. (H. Tr. p. 23, ll. 1-8). Ms. Bruce said it was extremely hot, she took a few puffs and then started back towards the building. She said that the area where everyone smokes is about twenty feet from the entrance to Columbia Heart. There is a parking area around the smoking area and a sidewalk for ingress and egress. (H. Tr. p. 24, ll. 1-15). Ms. Bruce said she was moving fast, headed down the sidewalk and her foot hit the sidewalk where it settled. She said she fell forward, came down hard on her knees and then the top part of her body came down. She turned her face away from the sidewalk and her shoulder was the last part that hit the ground. (H. Tr. p. 25, ll. 1-9). Ms. Bruce testified that she didn't do anything other than go to the smoking area and then back to Columbia Heart. (H. Tr. p. 25, ll. 16-20).

Ms. Bruce said that someone from the hospital asked if she was okay and then an administrative person from Columbia Heart walked out and saw her. (H. Tr. p. 27, ll. 17-25). She was taken to the hospital and Ms. Jenkins came toward speak with her there. (H. Tr. p. 29, ll. 2-4).

Ms. Bruce testified that she had previous right rotator cuff surgery. (H. Tr. p. 27, ll. 21-25). Prior to the injury, Ms. Bruce said that her right shoulder was doing fine. She didn't lift real heavy stuff, but it didn't bother her. She could do anything she wanted to. (H. Tr. p. 30, ll. 7-20). As for her knees, Ms. Bruce said she had prior surgery to both knees when she was twelve. In particular, she testified that she had patella realignment because of congenital anomalies. Ms. Bruce did say she had osteoarthritis in both knees. (H. Tr. p. 31, ll. 1-17). Prior

to the fall, at times, if she was on her feet a lot, her knees would hurt and she had steroid injections about every two-to-three months. She was able to do whatever she wanted to do and she didn't have any problems unless she overdid it. (H. Tr. p. 32, ll. 1-9). Since the injury, she states that she is hardly able to walk. She needs a total knee replacement which she was avoiding if she could help it. (H. Tr. p. 32, ll. 16-18). Ms. Bruce admitted that Dr. Constable recommended total knee surgeries prior to her fall, and she subsequently left her care and began treating with Dr. Van Dam. (H. Tr. p. 33, ll. 3-9).

Ms. Bruce said that her main complaint on the date of the accident was her right shoulder. (H. Tr. p. 34, l. 1). The following day, she saw that both knees were skinned, both ankles were skinned, and bruising on her chest. (H. Tr. p. 34, ll. 14-21). She then went on to testify about her right shoulder dislocating five times. (H. Tr. p. 37, ll. 1-2) and ultimately undergoing surgery on July 22nd. (H. Tr. p. 37, ll. 5-8). Then, she started having problems with her knees. She was in a lot of pain and she asked Dr. Fulton to give her an injection in her knees. (H. Tr. p. 37, ll. 16-22). She has continued to see Dr. Van Dam since August and is currently on Lortab, Ultram and Meloxicam. (H. Tr. p. 38, l. 3). Since her injury she has been using a rolling walker. (H. Tr. p. 39, l. 13) and if she didn't use it she's afraid she would fall. (H. Tr. p. 39, ll. 17-19). Her pain level is worse since the fall and the shots for her knees don't work anymore. (H. Tr. p. 39, ll. 24-25). She's noticed that her knees have steadily gone downhill since the accident. She was on a lot of medications due to her shoulder surgery, so it was hard to tell what was going on with her knees. (H. Tr. p. 40, ll. 15-23).

Ms. Bruce testified that she is unable to clean her house, grocery shop, or cook. She needs help all of the time. (H. Tr. p. 41, ll. 21-25). She requires help getting in and out of the shower, getting dressed, going up and down stairs, and she has given up on any extra activities.

(H. Tr. p. 42, ll. 1-6). Ms. Bruce said that Dr. Van Dam has recommended a shower chair and a rolling walker, neither of which were recommended prior to her fall. (H. Tr. p. 43, ll. 4-11).

Ms. Bruce said that as for her right shoulder, she has almost no range of motion. (H. Tr. p. 43, l. 14). She can't comb her hair with her right hand. (H. Tr. p. 43, ll. 21-23). She can't reach with her right shoulder and has continuous pain. (H. Tr. p. 44, ll. 7-13). Ms. Bruce said she begged Dr. Fulton to release her to return to work without restrictions because she was afraid she would lose her job. (H. Tr. p. 44, ll. 18-25). Ms. Bruce said that she is in agreement with Adger Brown, the vocational expert, that she is permanently and totally disabled. (H. Tr. p. 45, ll. 18-22).

On cross-examination, Ms. Bruce testified that she was outside of Columbia Heart's facility on a sidewalk that is used by anyone choosing to enter the building at that entrance. (H. Tr. p. 47, ll. 9-25). There are multiple ways in and out of the facility. (H. Tr. p. 48, ll. 22-24). Columbia Heart doesn't dictate which door she comes in and out of. (H. Tr. p. 49, ll. 3-7). Ms. Bruce further testified that Columbia Heart doesn't provide her with her means of transportation to and from work. (H. Tr. p. 49, ll. 17-20). Ms. Bruce said that on the day of the accident, she wasn't going out to run an errand for Columbia Heart, but she was on a smoke break. (H. Tr. p. 50, ll. 6-10). Ms. Bruce also testified that the sidewalk where she fell was not under construction. (H. Tr. p. 50, ll. 11-14) and she was leaving the building because she wanted to. (H. Tr. p. 50, ll. 19-23).

Ms. Bruce said that she has had two prior workers' compensation claims with Columbia Heart. (H. Tr. p. 51, ll. 14-16). The most recent claim before this one involved both shoulders. (H. Tr. p. 51, ll. 20-23) and it was also a trip and fall accident. (H. Tr. p. 52, ll. 2-3).

Ms. Bruce testified earlier that, when she fell, her knees were the first thing to hit the sidewalk. When asked why she testified that she fell on both shoulders in her deposition, Ms. Bruce said she didn't understand the question. (H. Tr. p. 53, ll. 4-8). When she arrived at the hospital, she doesn't recall if she told the doctors she was on a smoke break or lunch break when the accident occurred. She claims she was screaming when they took down her history. (H. Tr. p. 53, ll. 17-23). The record submitted into evidence by her attorney from the initial hospital visit indicates that she presented with pain to her right shoulder from a fall during her lunch break at work. Ms. Bruce said when she was initially in the hospital, the only thing she could think about was her shoulder and she did not tell them about her knees. (H. Tr. p. 54, ll. 16-24). Ms. Bruce further said that when she went to see Dr. Fulton days later she didn't mention her knees because she was on a heavy dose of morphine. (H. Tr. p. 55, ll. 1-11). Ms. Bruce said that she told Dr. Fulton and Dr. Van Dam that she injured both knees in this accident. (H. Tr. p. 55, l. 23), yet it is not contained in any of their reports.

Before she went to see Dr. Fulton, Ms. Bruce testified that she filled out short-term disability paperwork with Columbia Heart. (H. Tr. p. 57, ll. 17-19). Ms. Bruce testified that she indicated in the paperwork that she was injured off the job when she tripped on uneven concrete and fell on her right shoulder. She said that she didn't realize at the time that her knees were worse than they were before the accident because she was medicated. (H. Tr. p. 58, ll. 11-18).

Ms. Bruce said she treated with Dr. Constable for a period of time before the accident for her knees. She has been treating there since 2005. (H. Tr. p. 61, ll. 14-17). Dr. Constable was providing bilateral knee injections and medications before her accident and also told her she would need bilateral knee replacements before the accident occurred. (H. Tr. p. 62, ll. 4-17).

Ms. Bruce testified that she was told, prior to the accident, that she was not meeting her administrative responsibilities and a plan of action was put into place as to how she was supposed to rectify those shortcomings in her job. (H. Tr. p. 64, ll. 1-10). Ms. Bruce was not meeting the qualifications of her job, so a portion of her job was removed which in turn reduced her pay. (H. Tr. p. 64, ll. 11-22). Ms. Bruce went on to testify regarding the particulars of her employment and how Columbia Heart took away some of her job responsibilities. She then said she went out for surgery with Dr. Fulton and came back to work without any work restrictions. (H. Tr. p. 70, ll. 6-11). Ms. Bruce testified that she did the best she could to save her job. She was in pain and needed to go to therapy, but she had a difficult time scheduling it. (H. Tr. p. 70, ll. 14-19; p. 71, l. 1).

Ms. Bruce disputed the claim that she told Adger Brown she'd gained sixty pounds due to the use of steroids. (H. Tr. p. 73, ll. 21-25). Further, Ms. Bruce testified that in January 2012 she was able to get up and get dressed without assistance. (H. Tr. p. 75, ll. 13-19).

Testimony of Gloria B. Martin:

Ms. Martin testified on behalf of Ms. Bruce. She has known Ms. Bruce for thirty years. (H. Tr. p. 82, l. 8). Ms. Martin said that she and Ms. Bruce were friends who would get together on holidays, went shopping, and went swimming together. (H. Tr. p. 82, ll. 21-23). Ms. Martin said that, during the times they were together before her accident, she did not have any problems with her right shoulder. (H. Tr. p. 83, ll. 7-10). Before her accident, she knew that Ms. Bruce's knees were scarred. (H. Tr. p. 83, ll. 19-22). Ms. Martin also testified that, in the past, Ms. Bruce would host a July 4th gathering at her house and cook all of the food. This year, they ordered pizza because Ms. Bruce could not do the cooking. (H. Tr. p. 85, ll. 1-21). Ms. Martin

tries to help Ms. Bruce do things, like clean up and fix her hair, get in and out of chairs, and take her shopping. (H. Tr. p. 86, ll. 1-9).

Testimony of Angela Jenkins:

Ms. Jenkins testified on behalf of Columbia Heart. Ms. Jenkins said that she has been employed there for almost seven years. She is the Human Resources Manager. (H. Tr. p. 88, ll. 12-18). Ms. Jenkins handles the workers' compensation claims for Columbia Heart and also does administrative work. Ms. Jenkins handled Ms. Bruce's workers' compensation claim. (H. Tr. p. 89, ll. 2-12).

Ms. Jenkins testified to the break policy of Columbia Heart. She explained that everyone is to take a minimum of a 30-minute lunch break every day. This is for both salaried and non-salaried employees. If you are non-exempt, it is without pay. During those breaks, employees are free to do what they want and are not under the direction or control of Columbia Heart. (H. Tr. p. 90, ll. 5-14). Further, Ms. Jenkins testified that they do not control the manner in which employees come in and out of work. (H. Tr. p. 90, ll. 15-19). With regards to the sidewalk that Ms. Bruce was injured on, it is not the main sidewalk, but one of the sidewalks that leads from the parking area back into the building. Ms. Jenkins said that Columbia Heart did not pay for the Claimant's transportation to and from work, nor did they provide her with a company vehicle. Ms. Jenkins also indicated that there is more than one company located in the building occupied by Columbia Heart. (H. Tr. p. 91, ll. 1-18).

Ms. Jenkins testified that Ms. Bruce's performance had declined prior to her date of accident. Due to a high turnover rate, Ms. Bruce's job was analyzed and a plan of action was formulated. (H. Tr. p. 92, ll. 1-4). Ms. Jenkins said that evaluations are based on the hire anniversary date, which, in Ms. Bruce's case, is in August. So, the evaluation that was handed

up at the hearing and entered into evidence, pre-dated the performance problems the Claimant was having. (H. Tr. p. 92, ll. 16-22). Ms. Jenkins said that, as a result of the Claimant's deficiencies, some of Ms. Bruce's job duties and responsibilities were removed which in turn reduced her pay. (H. Tr. p. 94, ll. 6-9). She also had a discussion with Ms. Bruce right before the accident on July 15th about the reduction in pay. Ms. Jenkins said that Ms. Bruce was upset and after the discussion left for her lunch break. (H. Tr. p. 94, ll. 21-23).

Ms. Jenkins said she spoke with Ms. Bruce right after the accident and she was specifically complaining about her shoulder. Thereafter, the administrative assistant stayed with Ms. Bruce in the hospital and kept updating her. Ms. Bruce and never made any mention about her knees. (H. Tr. p. 95, ll. 17-25). Ms. Jenkins said that Ms. Bruce never told her she suffered an injury to her knees. Up until her termination in January 2012, Ms. Bruce never reported that she had a problem with her knees as a result of the fall. (H. Tr. p. 96, ll. 1-22).

On the date of the accident, the change in her duties and responsibilities had already occurred. The change was to take place July 1st, though they gave her some leeway because of payroll timing. (H. Tr. p. 97, ll. 1-7). The plan of action said what was specifically expected of her and what her responsibilities were. (H. Tr. p. 99, ll. 1-4). When she came back to her job after being released from Dr. Fulton, she did not have any work restrictions. If she had had work restrictions, they would have accommodated her. (H. Tr. p. 99, ll. 21-23). Ms. Jenkins said that Ms. Bruce would still be there working if she had done her job. (H. Tr. p. 100, ll. 3-4).

On cross-examination, Ms. Jenkins testified that Columbia Heart sees, on average, 300 patients per day. (H. Tr. p. 101, l. 21). Further, she said that they use students, however these students are there to learn and not to come in and do a job. (H. Tr. p. 102, ll. 7-9). Ms. Jenkins said that Ms. Bruce complained about pain in her shoulders after physical therapy. (H. Tr. p.

103, ll. 1-3). Ms. Jenkins also testified that Ms. Bruce told her she was having pain in her knees, but she never said it was caused by the accident. (H. Tr. p. 103, ll. 14-15).

Ms. Jenkins did not tell Ms. Bruce that she reported her injury as workers' compensation when she brought her purse to her directly after her fall. (H. Tr. p. 106, ll. 19-25 and p. 107, l. 1).

SUMMARY OF MEDICAL EVIDENCE

1. On July 15, 2011 Ms. Bruce reported to the Emergency Department at Richland Memorial Hospital with complaints that she tripped and fell, landing heavily on her right arm. She denied any other injuries during this fall. (Cl. APA p. 1).

2. On July 17, 2011 Ms. Bruce reported to the Emergency Department at Richland Memorial Hospital with complaints of right shoulder pain that originally occurred during her lunch break at work when she fell and dislocated her right shoulder. (Cl. APA p. 9).

3. On July 20, 2011, Ms. Bruce was seen by Dr. David B. Fulton at Moore Orthopaedics. She was examined for an evaluation of pain and instability in her right shoulder. (Cl. APA p. 36).

4. On July 22, 2011 Ms. Bruce underwent surgery for right arthroscopic Bankart repair, right arthroscopic biceps tenotomy and right arthroscopic rotator cuff repair. (Cl. APA p. 66).

5. On August 3, 2011 Ms. Bruce was seen in follow-up by Dr. Fulton following her surgery and notes that she is doing well. He also notes that she is having knee pain that she recurrently gets cortisone injections in and is past due. (Cl. APA p. 38).

6. On September 15, 2011 Ms. Bruce is evaluated by Dr. W. Alaric Van Dam regarding her bilateral knees. He notes she has severe osteoarthritis and tricompartmental involvement. She has been doing poorly with her knees overall. (Cl. APA p. 41).

7. On November 16, 2011 Ms. Bruce returns to Dr. Fulton regarding increased pain and symptoms in her right shoulder and problems with her left shoulder. She underwent an MRI arthrogram on both shoulders. The right reveals moderate arthritic changes, likely post traumatic in nature, with loss of cartilage from the glenoid, as well as moderate loss of joint space narrowing to the humeral head. Ms. Bruce was told to discontinue therapy, use anti-inflammatories, ice, and heat as needed. Given the fact that there are no acute findings, she is able to return to work full-duty, without restrictions, as tolerated. (Cl. APA p. 46).

8. Ms. Bruce returns on November 18, 2011 regarding her bilateral knees. Dr. Van Dam notes that she has severe osteoarthritis of the bilateral knees. He gave her an injection. (Cl. APA p. 48).

9. On December 16, 2011 Ms. Bruce returns with a report of pain that has been ongoing for some time, especially in the knees. She has a history of end-stage osteoarthritis of both knees. (Cl. APA p. 50).

10. On June 29, 2012 Ms. Bruce underwent an FCE with Columbia Rehabilitation Clinic. (Cl. APA p. 69).

FINDINGS OF FACT

Based upon the testimony and evidence submitted by both parties, the undersigned Commissioner makes the following Findings of Fact:

1. The parties hereto are subject to and bound by the South Carolina Workers' Compensation Commission Act.

2. The Claimant's average weekly wage is $1,289.36, with a corresponding compensation rate of $704.92. I base this finding upon stipulation of the parties.

3. Based on the evidence as a whole, I find that the Claimant's injury while on her personal smoke break (and off the Employer's premises), was a personal act, without any connection to her employment duties. While the personal comfort doctrine was argued by the Claimant, the case law dealing with that doctrine relates to acts that occurred on the employer premises, for the most part. Claimant was on a sidewalk and in an area not maintained by or controlled by the Employer. Her injury was clearly in no way connected to the Employer, her job duties, or the Employer premises.

4. Claimant has not proven that she sustained an injury by accident in the course and scope of her job duties. Specifically, "The South Carolina Workers' Compensation Act requires that, to be compensable, an injury by accident must be one 'arising out of and in the course of employment'." S.C.Code Ann. §42-1-160 (1985). The two parts of the phrase "arising out of and in the course of employment" are not synonymous. Both parts must exist simultaneously before any Court will allow recovery. Hicks v. Piedmont Cold Storage Inc., 324 S.C. 628, 479 S.E.2d 831, 834 (Ct. App. 1996). "Arising out of" refers to the injury's origin and cause, whereas "in the course of" refers to the injury's time, place, and circumstances. Howell v. Pacific Columbia Mills, 291 S.C. 469, 472, 354 S.E.2d 384, 385 (1987). For an injury to "arise out of" employment, the injury must be proximately caused by the employment. Douglas v. Spartan Mills, 245 S.C. 265, 269, 140 S.E.2d 173, 175 (1965). The injury arises out of employment when there is a causal connection between the conditions under which the work is required to be performed and the resulting injury. Id. Osteen v. Greenville County Sch. Dist., 333 S.C. 43, 49-50, 508 S.E.2d 21, 24-25 (1998). Claimant has not sustained her burden of

proving a compensable injury by accident arising out of and in the course and scope of her employment.

5. South Carolina courts have adopted the personal comfort doctrine. In Mack v. Branch No. 12 Post Exchange, Fort Jackson, 207 S.C. 258, 35 S.E.2d 838 (1945), an employee who arrived before the start of work was smoking a cigarette on the employer's premises. His leg was burned when a spark from his cigarette ignited his pants where he had spilled lighter fluid. The Supreme Court found the injury compensable. In reaching this conclusion, the Court recognized the personal comfort doctrine and held: "Such acts as are necessary to the life, comfort, and convenience of the servant while at work, though strictly personal to himself, and not acts of service, are incidental to service, and injury sustained in the performance thereof is deemed to have arisen out of the employment. A man must breathe and occasionally drink water while at work. In these and other conceivable instances he ministers unto himself, but in a remote sense these acts contribute to the furtherance of his work. That such acts will be done in the course of employment is necessarily contemplated, and they are inevitable incidents. Such dangers as attend them, therefore, are incident dangers. At the same time injuries occasioned by them are accidents resulting from the employment." Id. at 264-65, 35 S.E.2d at 840 (quoting Whiting-Mead Co. v. Indus. Accident Comm'n, [178 Cal. 505] 173 P. 1105, 1106 (1918). Osteen v. Greenville County Sch. Dist., 323 S.C. 432, 438-39, 475 S.E.2d 775, 779 (Ct. App. 1996)(rev'd, 333 S.C. 43, 508 S.E.2d 21 (1998). Similarly, if the Claimant's injury, while on a lunch break, had occurred while at work or on the Employer's premises, this claim would have been found compensable.

6. I also find that the case of Howell v. Pacific Columbia Mills, 291 S.C. 469, 354 S.E.2d 384 (S.C. 1987) to be directly on point with this case. In this case, as in Howell, the

Claimant was injured on a public street, not on the Employer's premises. Had the accident occurred in an area which was maintained and controlled by the Employer, then the result would have been different.

7. The case of Matute v. Palmetto Health Baptist, 391 S.C. 291, 296-97, 705 S.E.2d 472, 475 (Ct. App. 2011), is also directly on point with this case. Matute holds the following, in pertinent part: "As a general rule, an employee going to or coming from the place where his work is to be performed is not engaged in performing any service growing out of and incidental to his employment, and, therefore, an injury sustained by accident at such time does not arise out of and in the course of his employment." Gray v. Club Group, Ltd., 339 S.C. 173, 188, 528 S.E.2d 435, 443 (Ct. App. 2000). However, South Carolina has recognized a number of exceptions to this rule, including the following: (1) in going to and returning from work, the means of transportation is provided by the employer, or the time that is consumed is paid for or included in the wages; (2) the employee, on his way to or from his work, is still charged with some duty or task in connection with his employment; (3) the way used is inherently dangerous and is either the exclusive way of ingress and egress to and from his work or constructed and maintained by the employer; (4) the place of injury was brought within the scope of employment by an express or implied requirement in the contract of employment of its use by the employee in going to and coming from work; or (5) an employee sustains an injury while performing a special task, service, mission, or errand for his employer, even before or after customary working hours, or on a day on which he does not ordinarily work. Id. at 188–89, 528 S.E.2d at 443. None of the exceptions to the "going and coming" rule apply under these circumstances. The following evidence supports this conclusion: (1) Palmetto Baptist did not provide Matute with transportation to and from work, nor did it pay for her transportation; (2) Matute was not

fulfilling any duty or task in connection with her employment at Palmetto Baptist when she fell; (3) Matute's route into and out of the hospital was neither the exclusive nor the required means of entry or exit, nor was it inherently dangerous; (4) the Sumter Street crosswalk was open to pedestrian traffic on the date of Matute's fall, but she chose not to use the crosswalk when exiting the hospital; (5) Matute was on a public sidewalk when she fell; and (6) Palmetto Baptist does not own, maintain, or control the sidewalk on which Matute fell. Thus, we hold the appellate panel properly reversed the single commissioner." Matute v. Palmetto Health Baptist, 391 S.C. 291, 296-97, 705 S.E.2d 472, 475 (Ct. App. 2011), reh'g denied (Feb. 28, 2011).

8. I have reviewed all the medical evidence and the depositions of Drs. Van Dam and Fulton. While they are supportive of the Claimant on causation, had this claim been found compensable, the only body part injured was her right shoulder. Claimant had substantial and severely injured bilateral knee problems well before this accident, which already needed to be replaced. Moreover, the earliest medical reports detail only the right shoulder being injured. It was clear from the evidence that only her right shoulder was injured in this case. However, as I do not find the claim compensable under the case law as cited, there are no benefits to be awarded under any theory.

9. All benefits under the S.C. Workers' Compensation Act are hereby denied.

CONCLUSIONS OF LAW

1. The parties to this proceeding are subject to and bound by the provisions of the South Carolina Workers' Compensation Act.

2. Pursuant to S.C. Code Ann. §§ 42-1-130 and 42-1-140, the Claimant was an employee of the Employer.

3. Pursuant to S.C. Code Ann. §§ 42-1-40 and 42-1-50, the Claimant's average weekly wage is $1,289.36, with a corresponding compensation rate of $704.92.

4. Pursuant to S.C. Code Ann. §42-1-160, the Claimant did not suffer from a compensable injury by accident to her right shoulder and bilateral knees on July 15, 2011, as she did not sustain her burden of proof which requires a showing of a compensable injury arising out of and in the course and scope of her employment.

5. Pursuant to Mack v. Branch No. 12 Post Exchange, Fort Jackson, 207 S.C. 258, 35 S.E.2d 838 (1945), South Carolina recognizes the personal comfort doctrine, however the Claimant was not on a smoke break that occurred while at work or on the Employer's premises, thus her injury is not compensable.

6. Pursuant to Howell v. Pacific Columbia Mills, 291 S.C. 469, 354 S.E.2d 384 (S.C. 1987), the Claimant was not injured in an area that was maintained and controlled by the Employer, thus her injury is not compensable.

7. Pursuant to Matute v. Palmetto Health Baptist, 391 S.C. 291, 296-97, 705 S.E.2d 472, 475 (Ct. App. 2011), though South Carolina recognizes exceptions to the going and coming rule, none of the exceptions apply under these circumstances.

8. Pursuant to S.C. Code Ann. §42-15-20, notice of the accident was given to the Employer for her right shoulder, however notice was not given for her bilateral knees.

9. Pursuant to S.C. Code Ann. §42-1-10, et al., Claimant is denied all benefits under the S.C. Workers' Compensation Act.

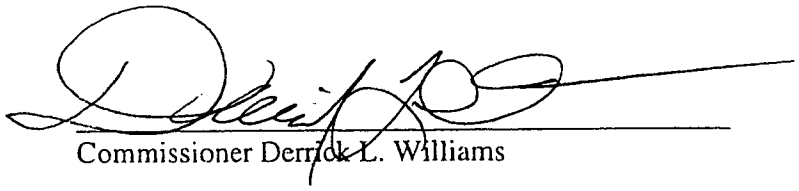
ORDER

IT IS THEREFORE ORDERED that the Claimant did not suffer a compensable injury by accident arising out of or in the course and scope of her employment on July 15, 2011. Therefore, the claim for injuries to her right shoulder and bilateral knees is **DENIED.**

IT IS FURTHER ORDERED the Claimant is denied all benefits under the Act.

IT IS FINALLY ORDERED that no costs are assessed for this hearing.

IT IS SO ORDERED.



Commissioner Derrick L. Williams

CERTIFICATE OF SERVICE

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

By Renee Smith on January 10, 2013

APPELLATE PANEL

DECISION AND ORDER

OF THE

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO.: 1108693

GAIL BRUCE,

EMPLOYEE,
CLAIMANT/APPELLANT,

V.

COLUMBIA HEART CLINIC,

EMPLOYER,

AND

HARTFORD INSURANCE COMPANY OF THE MIDWEST c/o THE HARTFORD,

CARRIER,
DEFENDANTS/RESPONDENTS.

Appellate Panel Review held in
Columbia, South Carolina on May 21, 2013.

Appellate Panel Decision and Order
filed 9-3, 2013.

APPEARANCES:

Claimant/Appellant represented by
Tommy Bellinger, Esquire, McWhirter, Bellinger & Associates
of Columbia, South Carolina.

Defendants/Appellants represented by
Kelly F. Morrow, Esquire of McAngus Goudelock & Courie, L.L.C.
of Columbia, South Carolina.

STATEMENT OF THE CASE

A hearing before the Single Commissioner was held on November 8, 2012. At the hearing, Claimant alleged that she was injured in the course and scope of her employment on July 15, 2011 while on a smoke break. In particular, she alleged that she injured her right shoulder and both knees. Claimant sought an award of compensability, temporary total disability benefits, a finding that she has reached maximum medical improvement, and also a finding pursuant to S.C. Code Ann. §42-9-10 that she is permanently and totally disabled as a result of her injuries. Further, Claimant sought an award for lifetime causally-related medical treatment.

Defendants denied that this claim is compensable and indicated that Claimant failed to provide sufficient evidence to show that she suffered from a compensable injury by accident that arose out of and in the course in scope of her employment. In particular, Defendants argued that Claimant was on a non-paid lunch break when she was injured, and that the injury did not occur on the Employer's premises. Defendants relied upon Matute v. Palmetto Health Baptist, 391 S.C. 291, 296-97, 705 S.E.2d 472, 475 (Ct. App. 2011). In the alternative, should the Commission find that her claim is compensable, the Defendants took the position that the injuries resulting from the accident should be limited to the right shoulder, based upon her reporting of the injury to her physicians, and also on the short-term disability paperwork and subsequent amendment of the Form 50 filed after her termination by the Employer. In addition, Defendants denied that Claimant is entitled to temporary total disability benefits as work was available to her at the time of her termination, which was performance based. Further, Defendants asserted that Claimant's alleged injuries to her bilateral knees are not compensable as she failed to report them at the time of the accident, or in the medical evidence, as a whole. The medical evidence supports that she

had pre-existing conditions that were end-stage osteoarthritis in both knees and knee replacements were previously recommended for both knees that pre-date to the date of the accident.

The Single Commissioner issued a Decision and Order on January 10. 2013 finding that Claimant's injuries suffered while on her break and off Employer's premises was as a personal act without any connection to her duties with Employer. The Commissioner went on to find that the personal comfort doctrine did not apply and that Claimant did not sustain her burden of proving a compensable injury by accident within the course and scope of her employment.

Claimant filed a Request for Commission Review on January 17, 2013 asserting the Single Commissioner erred in numerous findings of fact and conclusions of law. The Full Commission held a hearing on May 21, 2013 to determine issues raised by Claimant.

SINGLE COMMISSIONER FINDINGS OF FACT

Based upon the testimony and evidence submitted by both parties, the undersigned Commissioner makes the following Findings of Fact:

1. The parties hereto are subject to and bound by the South Carolina Workers' Compensation Commission Act.
2. The Claimant's average weekly wage is $1,289.36, with a corresponding compensation rate of $704.92. I base this finding upon stipulation of the parties.
3. Based on the evidence as a whole, I find that the Claimant's injury while on her personal smoke break (and off the Employer's premises), was a personal act, without any connection to her employment duties. While the personal comfort doctrine was argued by the Claimant, the case law dealing with that doctrine relates to acts that occurred on the employer premises, for the most part. Claimant was on a sidewalk and in an area not

maintained by or controlled by the Employer. Her injury was clearly in no way connected to the Employer, her job duties, or the Employer premises.

4. Claimant has not proven that she sustained an injury by accident in the course and scope of her job duties. Specifically, "The South Carolina Workers' Compensation Act requires that, to be compensable, an injury by accident must be one 'arising out of and in the course of employment'." S.C.Code Ann. §42-1-160 (1985). The two parts of the phrase "arising out of and in the course of employment" are not synonymous. Both parts must exist simultaneously before any Court will allow recovery. Hicks v. Piedmont Cold Storage Inc., 324 S.C. 628, 479 S.E.2d 831, 834 (Ct. App. 1996). "Arising out of" refers to the injury's origin and cause, whereas "in the course of" refers to the injury's time, place, and circumstances. Howell v. Pacific Columbia Mills, 291 S.C. 469, 472, 354 S.E.2d 384, 385 (1987). For an injury to "arise out of" employment, the injury must be proximately caused by the employment. Douglas v. Spartan Mills, 245 S.C. 265, 269, 140 S.E.2d 173, 175 (1965). The injury arises out of employment when there is a causal connection between the conditions under which the work is required to be performed and the resulting injury. Id. Osteen v. Greenville County Sch. Dist., 333 S.C. 43, 49-50, 508 S.E.2d 21, 24-25 (1998). Claimant has not sustained her burden of proving a compensable injury by accident arising out of and in the course and scope of her employment.

5. South Carolina courts have adopted the personal comfort doctrine. In Mack v. Branch No. 12 Post Exchange, Fort Jackson, 207 S.C. 258, 35 S.E.2d 838 (1945), an employee who arrived before the start of work was smoking a cigarette on the employer's premises. His leg was burned when a spark from his cigarette ignited his pants where he had spilled

lighter fluid. The Supreme Court found the injury compensable. In reaching this conclusion, the Court recognized the personal comfort doctrine and held: "Such acts as are necessary to the life, comfort, and convenience of the servant while at work, though strictly personal to himself, and not acts of service, are incidental to service, and injury sustained in the performance thereof is deemed to have arisen out of the employment. A man must breathe and occasionally drink water while at work. In these and other conceivable instances he ministers unto himself, but in a remote sense these acts contribute to the furtherance of his work. That such acts will be done in the course of employment is necessarily contemplated, and they are inevitable incidents. Such dangers as attend them, therefore, are incident dangers. At the same time injuries occasioned by them are accidents resulting from the employment." Id. at 264-65, 35 S.E.2d at 840 (quoting Whiting-Mead Co. v. Indus. Accident Comm'n, [178 Cal. 505] 173 P. 1105, 1106 (1918). Osteen v. Greenville County Sch. Dist., 323 S.C. 432, 438-39, 475 S.E.2d 775, 779 (Ct. App. 1996)(rev'd, 333 S.C. 43, 508 S.E.2d 21 (1998). Similarly, if the Claimant's injury, while on a lunch break, had occurred while at work or on the Employer's premises, this claim would have been found compensable.

6. I also find that the case of Howell v. Pacific Columbia Mills, 291 S.C. 469, 354 S.E.2d 384 (S.C. 1987) to be directly on point with this case. In this case, as in Howell, the Claimant was injured on a public street, not on the Employer's premises. Had the accident occurred in an area which was maintained and controlled by the Employer, then the result would have been different.

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in pertinent part: "As a general rule, an employee going to or coming from the place where his work is to be performed is not engaged in performing any service growing out of and incidental to his employment, and, therefore, an injury sustained by accident at such time does not arise out of and in the course of his employment." Gray v. Club Group, Ltd., 339 S.C. 173, 188, 528 S.E.2d 435, 443 (Ct. App. 2000). However, South Carolina has recognized a number of exceptions to this rule, including the following: (1) in going to and returning from work, the means of transportation is provided by the employer, or the time that is consumed is paid for or included in the wages; (2) the employee, on his way to or from his work, is still charged with some duty or task in connection with his employment; (3) the way used is inherently dangerous and is either the exclusive way of ingress and egress to and from his work or constructed and maintained by the employer; (4) the place of injury was brought within the scope of employment by an express or implied requirement in the contract of employment of its use by the employee in going to and coming from work; or (5) an employee sustains an injury while performing a special task, service, mission, or errand for his employer, even before or after customary working hours, or on a day on which he does not ordinarily work. Id. at 188–89, 528 S.E.2d at 443. None of the exceptions to the "going and coming" rule apply under these circumstances. The following evidence supports this conclusion: (1) Palmetto Baptist did not provide Matute with transportation to and from work, nor did it pay for her transportation; (2) Matute was not fulfilling any duty or task in connection with her employment at Palmetto Baptist when she fell; (3) Matute's route into and out of the hospital was neither the exclusive nor the required means of entry or exit, nor was it inherently dangerous; (4) the Sumter Street crosswalk was open to

pedestrian traffic on the date of Matute's fall, but she chose not to use the crosswalk when exiting the hospital; (5) Matute was on a public sidewalk when she fell; and (6) Palmetto Baptist does not own, maintain, or control the sidewalk on which Matute fell. Thus, we hold the appellate panel properly reversed the single commissioner." Matute v. Palmetto Health Baptist, 391 S.C. 291, 296-97, 705 S.E.2d 472, 475 (Ct. App. 2011), reh'g denied (Feb. 28, 2011).

8. I have reviewed all the medical evidence and the depositions of Drs. Van Dam and Fulton. While they are supportive of the Claimant on causation, had this claim been found compensable, the only body part injured was her right shoulder. Claimant had substantial and severely injured bilateral knee problems well before this accident, which already needed to be replaced. Moreover, the earliest medical reports detail only the right shoulder being injured. It was clear from the evidence that only her right shoulder was injured in this case. However, as I do not find the claim compensable under the case law as cited, there are no benefits to be awarded under any theory.
9. All benefits under the S.C. Workers' Compensation Act are hereby denied.

SINGLE COMMISSIONER CONCLUSIONS OF LAW

1. The parties to this proceeding are subject to and bound by the provisions of the South Carolina Workers' Compensation Act.
2. Pursuant to S.C. Code Ann. §§ 42-1-130 and 42-1-140, the Claimant was an employee of the Employer.
3. Pursuant to S.C. Code Ann. §§ 42-1-40 and 42-1-50, the Claimant's average weekly wage is $1,289.36, with a corresponding compensation rate of $704.92.

4. Pursuant to S.C. Code Ann. §42-1-160, the Claimant did not suffer from a compensable injury by accident to her right shoulder and bilateral knees on July 15, 2011, as she did not sustain her burden of proof which requires a showing of a compensable injury arising out of and in the course and scope of her employment.

5. Pursuant to Mack v. Branch No. 12 Post Exchange, Fort Jackson, 207 S.C. 258, 35 S.E.2d 838 (1945), South Carolina recognizes the personal comfort doctrine, however the Claimant was not on a smoke break that occurred while at work or on the Employer's premises, thus her injury is not compensable.

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7. Pursuant to Matute v. Palmetto Health Baptist, 391 S.C. 291, 296-97, 705 S.E.2d 472, 475 (Ct. App. 2011), though South Carolina recognizes exceptions to the going and coming rule, none of the exceptions apply under these circumstances.

8. Pursuant to S.C. Code Ann. §42-15-20, notice of the accident was given to the Employer for her right shoulder, however notice was not given for her bilateral knees.

9. Pursuant to S.C. Code Ann. §42-1-10, et al., Claimant is denied all benefits under the S.C. Workers' Compensation Act.

EVIDENCE OF THE CASE

Testimony of Julie Hunt:

Ms. Hunt testified that she worked with Claimant at Columbia Hearth for the past twelve years. Ms. Hunt recalls that, on July 15, 2011, Claimant asked her for a cigarette before going on her lunch break. (H. Tr. p. 8, ll. 20-25). Ms. Hunt testified that there's an area outside the

Columbia Heart building where people smoke. She said it is off of the property and it must belong to the City. (H. Tr. p. 9, ll. 5-11).

Ms. Hunt was asked questions about Claimant's condition before and after her alleged incident. Ms. Hunt stated, that prior to her fall, she didn't notice any problems with Claimant's right arm or right shoulder. (H. Tr. p. 10, ll. 1-3). After the injury, she noticed that Claimant favored the right shoulder, (H. Tr. p. 10, l. 7), and Claimant asked her to get charts. (H. Tr. p. 10, ll. 8-10). As for her knees and legs, before the date of the injury, Ms. Hunt knew Claimant had arthritis and took steroid shots. (H. Tr., p. 10, ll. 16-19). After the date of the injury, Ms. Hunt said that Claimant's ability to get around declined. (H. Tr. p. 10, l. 25).

Ms. Hunt also testified that she heard Claimant crying in the bathroom on a few occasions and occurring near the end of the day. She said that Claimant was upset due to the pain of walking down the halls and working with patients all day. (H. Tr. p. 11, ll. 13-16). Further, Ms. Hunt testified that Claimant had a limp after her date of injury. (H. Tr. p. 11, ll. 8-9).

On cross-examination, Ms. Hunt testified that she's been friends with Claimant for twelve years. (H. Tr. p. 13, l. 7). Ms. Hunt said that she was not Ms. Bruce's supervisor, so she didn't know what Claimant's job duties were. (H. Tr. p. 14, ll. 1-13). She stated Claimant was her direct supervisor at Columbia Heart. Further, she said that she only knew what Claimant was crying about one time. (H. Tr. p. 15, ll. 1-3). She also said that Claimant walked with a shuffle and a limp prior to her injury. (H. Tr. p. 15, ll. 4-7).

Testimony of Claimant:

Claimant testified on her own behalf. She testified that she was born on February 20, 1954. (H. Tr. p. 18, l. 5). She is single and lives in Elgin. (H. Tr. p. 18, ll. 6-9). Claimant was

hired by Columbia Heart in August 1995 and was last employed there as a Support Manager. (H. Tr. p. 18, ll. 19-24). Claimant said that as a Support Manager, she managed twenty-one people. This includes all secretaries and medical assistants, and involved disciplinary action, disputes, and patient flow. (H. Tr. p. 19, ll. 18-25). She also took x-rays and helped with patient care. (H. Tr. p. 20, ll. 1-5).

Claimant testified that before the accident, she was allowed to manage her own schedule and she did not check charts because there was no time in her schedule. After the accident, she was not allowed to decide whether she worked the floor or not. (H. Tr. p. 20, ll. 12-25). Claimant said she was told to work the floor every day, which she did. (H. Tr. p. 21, ll. 3-4).

In particular, as to the injury, Ms. Bruce testified that on July 15, 2011 she went downstairs to speak with Angela Jenkins regarding some concerns about her being put on probation in late June. (H. Tr. p. 22, ll. 13-17). After she finished talking with Ms. Jenkins, Claimant said she went back upstairs and told her team leader that she was going to have a cigarette and she'd be right back. (H. Tr. p. 23, ll. 1-8). Claimant said it was extremely hot, she took a few puffs and then started back towards the building. She said that the area where everyone smokes is about twenty feet from the entrance to Columbia Heart. There is a parking area around the smoking area and a sidewalk for ingress and egress. (H. Tr. p. 24, ll. 1-15). Claimant said she was moving fast, headed down the sidewalk and her foot hit the sidewalk where it settled. She said she fell forward, came down hard on her knees and then the top part of her body came down. She turned her face away from the sidewalk and her shoulder was the last part that hit the ground. (H. Tr. p. 25, ll. 1-9). Claimant testified that she didn't do anything other than go to the smoking area and then back to Columbia Heart. (H. Tr. p. 25, ll. 16-20).

Claimant said that someone from the hospital asked if she was okay and then an administrative person from Columbia Heart walked out and saw her. (H. Tr. p. 27, ll. 17-25). She was taken to the hospital and Ms. Jenkins came to speak with her there. (H. Tr. p. 29, ll. 2-4).

Claimant testified that she had previous right rotator cuff surgery. (H. Tr. p. 27, ll. 21-25). Prior to the injury, Claimant said that her right shoulder was doing fine. She didn't lift real heavy stuff, but it didn't bother her. She could do anything she wanted to. (H. Tr. p. 30, ll. 7-20). As for her knees, Claimant said she had prior surgery to both knees when she was twelve. In particular, she testified that she had patella realignment because of congenital anomalies. Claimant did say she had osteoarthritis in both knees. (H. Tr. p. 31, ll. 1-17). Prior to the fall, at times, if she was on her feet a lot, her knees would hurt and she had steroid injections about every two-to-three months. She was able to do whatever she wanted to do and she didn't have any problems unless she overdid it. (H. Tr. p. 32, ll. 1-9). Since the injury, she states that she is hardly able to walk. She needs a total knee replacement which she was avoiding if she could help it. (H. Tr. p. 32, ll. 16-18). Claimant admitted that Dr. Constable recommended total knee surgeries prior to her fall, and she subsequently left her care and began treating with Dr. Van Dam. (H. Tr. p. 33, ll. 3-9).

Claimant said that her main complaint on the date of the accident was her right shoulder. (H. Tr. p. 34, l. 1). The following day, she saw that both knees were skinned, both ankles were skinned, and bruising on her chest. (H. Tr. p. 34, ll. 14-21). She then went on to testify about her right shoulder dislocating five times (H. Tr. p. 37, ll. 1-2) and ultimately undergoing surgery on July 22nd. (H. Tr. p. 37, ll. 5-8). Then, she started having problems with her knees. She was in a lot of pain and she asked Dr. Fulton to give her an injection in her knees. (H. Tr. p. 37, ll.

16-22). She has continued to see Dr. Van Dam since August and is currently on Lortab, Ultram and Meloxicam. (H. Tr. p. 38, l. 3). Since her injury she has been using a rolling walker (H. Tr. p. 39, l. 13) and if she didn't use it she's afraid she would fall. (H. Tr. p. 39, ll. 17-19). Her pain level is worse since the fall and the shots for her knees don't work anymore. (H. Tr. p. 39, ll. 24-25). She's noticed that her knees have steadily gone downhill since the accident. She was on a lot of medications due to her shoulder surgery, so she claims it was hard to tell what was going on with her knees. (H. Tr. p. 40, ll. 15-23).

Claimant testified that she is unable to clean her house, grocery shop, or cook. She needs help all of the time. (H. Tr. p. 41, ll. 21-25). She requires help getting in and out of the shower, getting dressed, going up and down stairs, and she has given up on any extra activities. (H. Tr. p. 42, ll. 1-6). Claimant said that Dr. Van Dam has recommended a shower chair and a rolling walker, neither of which were recommended prior to her fall. (H. Tr. p. 43, ll. 4-11).

Claimant said that as for her right shoulder, she has almost no range of motion. (H. Tr. p. 43, l. 14). She can't comb her hair with her right hand. (H. Tr. p. 43, ll. 21-23). She can't reach with her right shoulder and has continuous pain. (H. Tr. p. 44, ll. 7-13). Claimant said she begged Dr. Fulton to release her to return to work without restrictions because she was afraid she would lose her job. (H. Tr. p. 44, ll. 18-25). Claimant said that she is in agreement with Adger Brown, the vocational expert, that she is permanently and totally disabled. (H. Tr. p. 45, ll. 18-22).

On cross-examination, Claimant testified that she was outside of Columbia Heart's facility on a sidewalk that is used by anyone choosing to enter the building at that entrance. (H. Tr. p. 47, ll. 9-25). There are multiple ways in and out of the facility. (H. Tr. p. 48, ll. 22-24). Columbia Heart doesn't dictate which door she comes in and out of. (H. Tr. p. 49, ll. 3-7).

Claimant further testified that Columbia Heart doesn't provide her with her means of transportation to and from work. (H. Tr. p. 49, ll. 17-20). Claimant said that on the day of the accident, she wasn't going out to run an errand for Columbia Heart, but she was on a smoke break. (H. Tr. p. 50, ll. 6-10). Claimant also testified that the sidewalk where she fell was not under construction (H. Tr. p. 50, ll. 11-14) and she was leaving the building because she wanted to of her own accord and not a the direction of her Employer. (H. Tr. p. 50, ll. 19-23).

Claimant said that she has had two prior workers' compensation claims with Columbia Heart. (H. Tr. p. 51, ll. 14-16). The most recent claim before this one involved both shoulders (H. Tr. p. 51, ll. 20-23) and it was also a trip and fall accident. (H. Tr. p. 52, ll. 2-3).

Claimant testified earlier that, when she fell, her knees were the first thing to hit the sidewalk. When asked why she testified that she fell on both shoulders in her deposition, Claimant said she didn't understand the question. (H. Tr. p. 53, ll. 4-8). When she arrived at the hospital, she doesn't recall if she told the doctors she was on a smoke break or lunch break when the accident occurred. She claims she was screaming when they took down her history. (H. Tr. p. 53, ll. 17-23). The record submitted into evidence by her attorney from the initial hospital visit indicates that she presented with pain to her right shoulder from a fall during her lunch break at work. Claimant said when she was initially in the hospital, the only thing she could think about was her shoulder and she did not tell them about her knees. (H. Tr. p. 54, ll. 16-24). Claimant further said that when she went to see Dr. Fulton days later she didn't mention her knees because she was on a heavy dose of morphine. (H. Tr. p. 55, ll. 1-11). Claimant said that she told Dr. Fulton and Dr. Van Dam that she injured both knees in this accident (H. Tr. p. 55, l. 23), yet it is not contained in any of their reports.

Before she went to see Dr. Fulton, Claimant testified that she filled out short-term disability paperwork with Columbia Heart. (H. Tr. p. 57, ll. 17-19). Claimant testified that she indicated in the paperwork that she was injured off the job when she tripped on uneven concrete and fell on her right shoulder. She said that she didn't realize at the time that her knees were worse than they were before the accident because she was medicated. (H. Tr. p. 58, ll. 11-18).

Claimant said she treated with Dr. Constable for her knees for a period of time before the accident. She has been treating there since 2005. (H. Tr. p. 61, ll. 14-17). Dr. Constable was providing bilateral knee injections and medications before her accident and also affirmatively told her that she would need bilateral knee replacements before the accident occurred. (H. Tr. p. 62, ll. 4-17).

Claimant testified that she was told, prior to the accident, that she was not meeting her administrative responsibilities and an administrative plan of action was put into place as to how she was supposed to rectify those shortcomings in her job. (H. Tr. p. 64, ll. 1-10). Claimant was not meeting the qualifications of her job, so a portion of her job was removed which in turn reduced her pay which upset her. (H. Tr. p. 64, ll. 11-22). Claimant went on to testify regarding the particulars of her employment and how Columbia Heart took away some of her job responsibilities. She then said she went out for surgery with Dr. Fulton and came back to work without any work restrictions. (H. Tr. p. 70, ll. 6-11). Claimant testified that she did the best she could to save her job. She was in pain and needed to go to therapy, but she had a difficult time scheduling it. (H. Tr. p. 70, ll. 14-19; p. 71, l. 1).

Claimant disputed the claim that she told Adger Brown she'd gained sixty pounds due to the use of steroids. (H. Tr. p. 73, ll. 21-25). Further, Claimant testified that in January 2012 she was able to get up and get dressed without assistance. (H. Tr. p. 75, ll. 13-19).

Testimony of Gloria B. Martin:

Ms. Martin testified on behalf of Claimant. She has known Claimant for thirty years. (H. Tr. p. 82, l. 8). Ms. Martin said that she and Claimant were friends who would get together on holidays, went shopping, and went swimming together. (H. Tr. p. 82, ll. 21-23). Ms. Martin said that, during the times they were together before her accident, she did not have any problems with her right shoulder. (H. Tr. p. 83, ll. 7-10). Before her accident, she knew that Claimant's knees were scarred. (H. Tr. p. 83, ll. 19-22). Ms. Martin also testified that, in the past, Claimant would host a July 4th gathering at her house and cook all of the food. This year, they ordered pizza because Claimant could not do the cooking. (H. Tr. p. 85, ll. 1-21). Ms. Martin tries to help Claimant do things, like clean up and fix her hair, get in and out of chairs, and take her shopping. (H. Tr. p. 86, ll. 1-9).

Testimony of Angela Jenkins:

Ms. Jenkins testified on behalf of Columbia Heart. Ms. Jenkins said that she has been employed there for almost seven years. She is the Human Resources Manager. (H. Tr. p. 88, ll. 12-18). Ms. Jenkins handles the workers' compensation claims for Columbia Heart and also does administrative work. Ms. Jenkins handled Claimant's workers' compensation claim. (H. Tr. p. 89, ll. 2-12).

Ms. Jenkins testified to the break policy of Columbia Heart. She explained that everyone is to take a minimum of a 30-minute lunch break every day. This is for both salaried and non-salaried employees. If you are non-exempt, it is without pay. During those breaks, employees are free to do what they want and are not under the direction or control of Columbia Heart. (H. Tr. p. 90, ll. 5-14). Further, Ms. Jenkins testified that they do not control the manner in which employees come in and out of work. (H. Tr. p. 90, ll. 15-19). With regards to the sidewalk that

Claimant was injured on, it is not the main sidewalk, but one of the sidewalks that leads from the parking area back into the building. Ms. Jenkins said that Columbia Heart did not pay for Claimant's transportation to and from work, nor did they provide her with a company vehicle. Ms. Jenkins also indicated that there is more than one company located in the building occupied by Columbia Heart. (H. Tr. p. 91, ll. 1-18).

Ms. Jenkins testified that Claimant's performance had declined prior to her date of accident. Due to a high turnover rate, Claimant's job was analyzed and a plan of action was formulated. (H. Tr. p. 92, ll. 1-4). Ms. Jenkins said that evaluations are based on the hire anniversary date, which, in Claimant's case, is in August. So, the evaluation that was handed up at the hearing and entered into evidence, pre-dated the performance problems Claimant was having. (H. Tr. p. 92, ll. 16-22). Ms. Jenkins said that, as a result of Claimant's deficiencies, some of Claimant's job duties and responsibilities were removed which in turn reduced her pay. (H. Tr. p. 94, ll. 6-9). She also had a discussion with Claimant right before the accident on July 15th about the reduction in pay. Ms. Jenkins said that Claimant was upset and after the discussion left for her lunch break. (H. Tr. p. 94, ll. 21-23).

Ms. Jenkins said she spoke with Claimant right after the accident and she was specifically complaining about her shoulder. Thereafter, the administrative assistant stayed with Claimant in the hospital and kept updating her. Claimant and never made any mention about her knees. (H. Tr. p. 95, ll. 17-25). Ms. Jenkins said that Claimant never told her she suffered an injury to her knees. Up until her termination in January 2012 and even after returning to work, Claimant never reported that she had a problem with her knees as a result of the fall. (H. Tr. p. 96, ll. 1-22).

On the date of the accident, the Claimant's change in duties and responsibilities had already occurred. The change was to take place July 1st, though they gave her some leeway because of payroll timing. (H. Tr. p. 97, ll. 1-7). The plan of action set forth what was specifically expected of her and what her responsibilities were. (H. Tr. p. 99, ll. 1-4). When Claimant came back to her job after being released from Dr. Fulton, she did not have any work restrictions. If she had had work restrictions, they would have accommodated her. (H. Tr. p. 99, ll. 21-23). Ms. Jenkins said that Claimant would still be there working if she had done her job. (H. Tr. p. 100, ll. 3-4).

On cross-examination, Ms. Jenkins testified that Columbia Heart sees, on average, 300 patients per day. (H. Tr. p. 101, l. 21). Further, she said that they use students, however these students are there to learn and not to come in and do a job. (H. Tr. p. 102, ll. 7-9). Ms. Jenkins said that Claimant complained about pain in her shoulders after physical therapy. (H. Tr. p. 103, ll. 1-3). Ms. Jenkins also testified that Claimant told her she was having pain in her knees, but she never said it was caused by the accident. (H. Tr. p. 103, ll. 14-15).

Ms. Jenkins did not tell Claimant that she reported her injury as workers' compensation when she brought her purse to her directly after her fall. (H. Tr. p. 106, ll. 19-25 and p. 107, l. 1).

Medical Evidence:

1. In June 2010, Dr. Constable indicated Claimant should consider bilateral total knee replacements. (Van Dam Depo Tr. 8:6-10).
2. Claimant had pre-existing severe arthritis in both knees. (Van Dam Depo Tr.7:12-14).
3. Dr. Van Dam stated that for there to be a recommendation of a total knee replacement there would need to be a near or total loss of cartilage between the bone. (Van Dam Depo

Tr. 9:8-10).

4. On July 15, 2011 Claimant reported to the Emergency Department at Richland Memorial Hospital with complaints that she tripped and fell, landing heavily on her right arm. She denied any other injuries during this fall. (Cl. APA p. 1).

5. On July 17, 2011 Claimant reported to the Emergency Department at Richland Memorial Hospital with complaints of right shoulder pain that originally occurred during her lunch break at work when she fell and dislocated her right shoulder. (Cl. APA p. 9).

6. On July 20, 2011, Claimant was seen by Dr. David B. Fulton at Moore Orthopaedics. She was examined for an evaluation of pain and instability in her right shoulder. (Cl. APA p. 36).

7. On July 22, 2011 Claimant underwent surgery for right arthroscopic Bankart repair, right arthroscopic biceps tenotomy and right arthroscopic rotator cuff repair. (Cl. APA p. 66).

8. On August 3, 2011 Claimant was seen in follow-up by Dr. Fulton following her surgery and notes that she is doing well. He also notes that she is having knee pain that she recurrently gets cortisone injections in and is past due. (Cl. APA p. 38).

9. On September 15, 2011 Claimant is evaluated by Dr. W. Alaric Van Dam regarding her bilateral knees. He notes she has severe osteoarthritis and tricompartmental involvement. She has been doing poorly with her knees overall. (Cl. APA p. 41).

10. On November 16, 2011 Claimant returns to Dr. Fulton regarding increased pain and symptoms in her right shoulder and problems with her left shoulder. She underwent an MRI arthrogram on both shoulders. The right reveals moderate arthritic changes, likely post traumatic in nature, with loss of cartilage from the glenoid, as well as moderate loss of joint space narrowing to the humeral head. Claimant was told to discontinue therapy,

use anti-inflammatories, ice, and heat as needed. Given the fact that there are no acute findings, she is able to return to work full-duty, without restrictions, as tolerated. (Cl. APA p. 46).

11. Claimant returns on November 18, 2011 regarding her bilateral knees. Dr. Van Dam notes that she has severe osteoarthritis of the bilateral knees. He gave her an injection. (Cl. APA p. 48).

12. On December 16, 2011 Claimant returns with a report of pain that has been ongoing for some time, especially in the knees. She has a history of end-stage osteoarthritis of both knees. (Cl. APA p. 50).

13. Dr. Van Dam testified that nothing related to the July 2011 accident necessitated any treatment other than what she was already receiving prior to the accident. (Van Dam Depo Tr. 15:15-23).

14. Claimant's surgical options and her diagnosis as a surgical candidate were the same before her accident as after he accident. (Van Dam Depo Tr. 18:3-10).

15. Dr. Van Dam stated the he could not state that the accident accelerated the timeline under which Claimant would require a knee replacement. (Van Dam Depo Tr. 29:19-22).

16. On June 29, 2012 Claimant underwent an FCE with Columbia Rehabilitation Clinic. (Cl. APA p. 69).

FULL COMMISSION FINDINGS OF FACT

Based upon the testimony and evidence submitted by both parties, We make the following Findings of Fact:

1. The parties hereto are subject to and bound by the South Carolina Workers' Compensation Commission Act.

2. The Claimant's average weekly wage is $1,289.36, with a corresponding compensation rate of $704.92. We base this finding upon stipulation of the parties.

3. Based on the evidence as a whole, we find that the Claimant's injury while on her personal smoke break (and off the Employer's premises), was a personal act, without any connection to her employment duties. While the personal comfort doctrine was argued by the Claimant, the case law dealing with that doctrine relates to acts that occurred on the employer premises, for the most part. Claimant was on a sidewalk and in an area not maintained by or controlled by the Employer. Her injury was clearly in no way connected to the Employer, her job duties, or the Employer premises.

4. Claimant has not proven that she sustained an injury by accident in the course and scope of her job duties. Specifically, "The South Carolina Workers' Compensation Act requires that, to be compensable, an injury by accident must be one 'arising out of and in the course of employment'." S.C.Code Ann. §42-1-160 (1985). The two parts of the phrase "arising out of and in the course of employment" are not synonymous. Both parts must exist simultaneously before any Court will allow recovery. Hicks v. Piedmont Cold Storage Inc., 324 S.C. 628, 479 S.E.2d 831, 834 (Ct. App. 1996). "Arising out of" refers to the injury's origin and cause, whereas "in the course of" refers to the injury's time, place, and circumstances. Howell v. Pacific Columbia Mills, 291 S.C. 469, 472, 354 S.E.2d 384, 385 (1987). For an injury to "arise out of" employment, the injury must be proximately caused by the employment. Douglas v. Spartan Mills, 245 S.C. 265, 269, 140 S.E.2d 173, 175 (1965). The injury arises out of employment when there is a causal connection between the conditions under which the work is required to be performed and the resulting injury. Id. Osteen v. Greenville County Sch. Dist., 333 S.C. 43, 49-50, 508

S.E.2d 21, 24-25 (1998). Claimant has not sustained her burden of proving a compensable injury by accident arising out of and in the course and scope of her employment.

5. South Carolina courts have adopted the personal comfort doctrine. In Mack v. Branch No. 12 Post Exchange, Fort Jackson, 207 S.C. 258, 35 S.E.2d 838 (1945), an employee who arrived before the start of work was smoking a cigarette on the employer's premises. His leg was burned when a spark from his cigarette ignited his pants where he had spilled lighter fluid. The Supreme Court found the injury compensable. In reaching this conclusion, the Court recognized the personal comfort doctrine and held: "Such acts as are necessary to the life, comfort, and convenience of the servant while at work, though strictly personal to himself, and not acts of service, are incidental to service, and injury sustained in the performance thereof is deemed to have arisen out of the employment. A man must breathe and occasionally drink water while at work. In these and other conceivable instances he ministers unto himself, but in a remote sense these acts contribute to the furtherance of his work. That such acts will be done in the course of employment is necessarily contemplated, and they are inevitable incidents. Such dangers as attend them, therefore, are incident dangers. At the same time injuries occasioned by them are accidents resulting from the employment." Id. at 264-65, 35 S.E.2d at 840 (quoting Whiting-Mead Co. v. Indus. Accident Comm'n, [178 Cal. 505] 173 P. 1105, 1106 (1918). Osteen v. Greenville County Sch. Dist., 323 S.C. 432, 438-39, 475 S.E.2d 775, 779 (Ct. App. 1996)(rev'd, 333 S.C. 43, 508 S.E.2d 21 (1998). Similarly, if the Claimant's injury, while on a lunch break, had occurred while at work or on the Employer's premises, this claim would have been found compensable.

6. We also find that the case of Howell v. Pacific Columbia Mills, 291 S.C. 469, 354 S.E.2d 384 (S.C. 1987) to be directly on point with this case. In this case, as in Howell, the Claimant was injured on a public street, not on the Employer's premises. Had the accident occurred in an area which was maintained and controlled by the Employer, then the result would have been different.

7. The case of Matute v. Palmetto Health Baptist, 391 S.C. 291, 296-97, 705 S.E.2d 472, 475 (Ct. App. 2011), is also directly on point with this case. Matute holds the following, in pertinent part: "As a general rule, an employee going to or coming from the place where his work is to be performed is not engaged in performing any service growing out of and incidental to his employment, and, therefore, an injury sustained by accident at such time does not arise out of and in the course of his employment." Gray v. Club Group, Ltd., 339 S.C. 173, 188, 528 S.E.2d 435, 443 (Ct. App. 2000). However, South Carolina has recognized a number of exceptions to this rule, including the following: (1) in going to and returning from work, the means of transportation is provided by the employer, or the time that is consumed is paid for or included in the wages; (2) the employee, on his way to or from his work, is still charged with some duty or task in connection with his employment; (3) the way used is inherently dangerous and is either the exclusive way of ingress and egress to and from his work or constructed and maintained by the employer; (4) the place of injury was brought within the scope of employment by an express or implied requirement in the contract of employment of its use by the employee in going to and coming from work; or (5) an employee sustains an injury while performing a special task, service, mission, or errand for his employer, even before or after customary working hours, or on a day on which he does not ordinarily

work. Id. at 188–89, 528 S.E.2d at 443. None of the exceptions to the "going and coming" rule apply under these circumstances. The following evidence supports this conclusion: (1) Palmetto Baptist did not provide Matute with transportation to and from work, nor did it pay for her transportation; (2) Matute was not fulfilling any duty or task in connection with her employment at Palmetto Baptist when she fell; (3) Matute's route into and out of the hospital was neither the exclusive nor the required means of entry or exit, nor was it inherently dangerous; (4) the Sumter Street crosswalk was open to pedestrian traffic on the date of Matute's fall, but she chose not to use the crosswalk when exiting the hospital; (5) Matute was on a public sidewalk when she fell; and (6) Palmetto Baptist does not own, maintain, or control the sidewalk on which Matute fell. Thus, we hold the appellate panel properly reversed the single commissioner." Matute v. Palmetto Health Baptist, 391 S.C. 291, 296-97, 705 S.E.2d 472, 475 (Ct. App. 2011), reh'g denied (Feb. 28, 2011).

8. We have reviewed all the medical evidence and the depositions of Drs. Van Dam and Fulton. While they are supportive of the Claimant on causation, had this claim been found compensable, the only body part injured was her right shoulder. Claimant had substantial and severely injured bilateral knee problems well before this accident, which already needed to be replaced. Moreover, the earliest medical reports detail only the right shoulder being injured. It was clear from the evidence that only her right shoulder was injured in this case. However, as we do not find the claim compensable under the case law as cited, there are no benefits to be awarded under any theory.

9. All benefits under the S.C. Workers' Compensation Act are hereby denied.

FULL COMMISSION CONCLUSIONS OF LAW

1. The parties to this proceeding are subject to and bound by the provisions of the South Carolina Workers' Compensation Act.
2. Pursuant to S.C. Code Ann. §§ 42-1-130 and 42-1-140, the Claimant was an employee of the Employer.
3. Pursuant to S.C. Code Ann. §§ 42-1-40 and 42-1-50, the Claimant's average weekly wage is $1,289.36, with a corresponding compensation rate of $704.92.
4. Pursuant to S.C. Code Ann. §42-1-160, the Claimant did not suffer from a compensable injury by accident to her right shoulder and bilateral knees on July 15, 2011, as she did not sustain her burden of proof which requires a showing of a compensable injury arising out of and in the course and scope of her employment.
5. Pursuant to Mack v. Branch No. 12 Post Exchange, Fort Jackson, 207 S.C. 258, 35 S.E.2d 838 (1945), South Carolina recognizes the personal comfort doctrine, however the Claimant was not on a smoke break that occurred while at work or on the Employer's premises, thus her injury is not compensable.
6. Pursuant to Howell v. Pacific Columbia Mills, 291 S.C. 469, 354 S.E.2d 384 (S.C. 1987), the Claimant was not injured in an area that was maintained and controlled by the Employer, thus her injury is not compensable.
7. Pursuant to Matute v. Palmetto Health Baptist, 391 S.C. 291, 296-97, 705 S.E.2d 472, 475 (Ct. App. 2011), though South Carolina recognizes exceptions to the going and coming rule, none of the exceptions apply under these circumstances.
8. Pursuant to S.C. Code Ann. §42-15-20, notice of the accident was given to the Employer for her right shoulder, however notice was not given for her bilateral knees.

9. Pursuant to S.C. Code Ann. §42-1-10, et al., Claimant is denied all benefits under the S.C. Workers' Compensation Act.

ORDER

IT IS THEREFORE ORDERED that Claimant did not suffer a compensable injury by accident arising out of or in the course and scope of her employment on July 15, 2011. Therefore, the claim for injuries to her right shoulder and bilateral knees is **DENIED.**

IT IS FURTHER ORDERED the Claimant is denied all benefits under the Act.

IT IS FINALLY ORDERED the Single Commissioner's Decision and Order is **AFFIRMED IN FULL.**

AND IT IS SO ORDERED.

S.C. WORKERS' COMPENSATION COMMISSION

Avery Wilkerson, Commissioner (Chair)

Andrea Roche, Commissioner

Melody James, Commissioner

CERTIFICATE OF SERVICE

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

By Valerie Deller on September 3, 2013

South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500
P.O. BOX 1715
Columbia, SC 29202-1715
(803) 737-5675

WCC File #: 1108693
Carrier File #: YZEC60986
Carrier Code #:
Employer FEIN #:

Claimant's Name: Gail C. Bruce SSN: [redacted]
Address: [redacted]
City: [redacted] State: [redacted] Zip: [redacted]
Home Phone: [redacted] Work Phone:

Employer's Name: Columbia Heart Clinic
Address: 8 Richland Medical Park Drive
City: Columbia State: SC Zip: 29203
Insurance Carrier: Hartford Insurance Co. of the Midwest, SE Workers Comp Claim Center

Preparer's Name: Joseph R. Dasta Law Firm: McWhirter, Bellinger & Associates, P.A. Preparer's Phone #: 803-252-5523

Complete each information blank. To request a hearing, check Box 13b, indicate the kinds of benefits claimed by checking the box(es) at Lines 6, 7, 8, and 9, and file this form in duplicate.
A claim for workers' compensation benefits is made based on the following grounds: **Date of Injury or Illness: 07/15/2011**
☒ Injury ☐ Illness ☐ Repetitive Trauma

1a. The claimant sustained an injury to right shoulder, right arm (Part(s) of Body Injured) on 07/15/2011 (Month/Day/Year) in Richland county, state of South
1b. Carolina.
Body part(s) affected are: right shoulder, right arm
Briefly describe how the accident occurred. Claimant tripped and fell

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

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

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

5. Notice of the accidental injury was given to the Employer on 07/15/2011 (Month/Day/Year) in the following manner:
told HR - Angela Jenkins

☒ 6. Due to injury, the claimant is in need of (check one):
☐ (a) medical examination and treatment for:
☒ (b) additional medical examination and treatment for: right shoulder, right arm

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

☐ 8. Due to the injury, the Claimant has permanent disability of the following nature and extent (check one):
☐ (1) General Disability: ☐ Total ☐ Partial ☐ (2) Specific Disability: ☐ Total ☐ Partial
☐ (3) Wage Loss

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

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

10b. Give names and addresses of all employers for whom the Claimant has worked since the date of the accident: defendant employer

11a. Further grounds or unusual aspects of claim: All available under the Act including penalties, interest, *James v. Anne's Inc.* language in the order, lump sum payment of award, attorney fees and costs.

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

11c. To the best of your knowledge, did you have any prior permanent disability? Yes
If yes, describe: previous WC injury to right and left shoulders – 25% rating to RUE and 25% rating to LUE

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

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

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

14. Estimated time needed for hearing: 60 minutes

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

Preparer's Signature	Title	Email	Date
	Attorney for Claimant	**joe@mcwhirterlaw.com**	10/26/11

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

WCC Form # 50
Revised 9/07

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

South Carolina Workers' Compensation Cor ssion
1333 Main Street, Suite 500
P.O. BOX 1715
Columbia, SC 29202-1715
(803) 737-5675

WCC File #: 1108693
Carrier File #: YZEC60986
Carrier Code #:
Employer FEIN #:

Claimant's Name: Gail C. Bruce SSN: [redacted]
Address: [redacted]
City: [redacted] State: [redacted] Zip: [redacted]
Home Phone: [redacted] Work Phone:

Employer's Name: Columbia Heart Clinic
Address: 8 Richland Medical Park Drive
City: Columbia State: SC Zip: 29203
Insurance Carrier: Hartford Insurance Co. of the Midwest, SE Workers Comp Claim Center

Preparer's Name: Joseph R. Dasta Law Firm: McWhirter, Bellinger & Associates, P.A. Preparer's Phone #: 803-252-5523

Addendum to Form 50: Question 11b:

Richland County Emergency Services Department
1410 Laurens Street
Columbia, SC 29204

Providence Hospital
2435 Forest Drive
Columbia, SC 29204

Dr. David Fulton, MD
The Moore Orthopaedic Clinic
14 Medical Park, Suite 200
Columbia, SC 29203

Palmetto Health Richland
5 Richland Medical Park Drive
Columbia, SC 29203

LAW OFFICES
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ANGELA J. JOHNSON
JENNIFER N. WILLIAMS
L. LISA McPHERSON

ELIZABETH McMAHON PENTZ
RICHARD W. SIMMONS, II
J. TYLER LEE, JR.
CAROLINE CALLISON TIFFIN
BLAKELY L. MOLITOR
MELISSA G. MOSIER
E. MICHAEL CARLTON
JOHN P. MEADORS

CERTIFICATE OF SERVICE BY MAIL

This is to certify that J. Jillian L. Hearn, paralegal for Joseph R. Dasta, attorney for the Claimant, have mailed a copy of the foregoing Form 50, with sufficient postage affixed and return address clearly indicated to:

Danielle Moyer
Hartford Fire Insurance Company
SE Workers' Comp. Claim Center
PO Box 14473
Lexington, KY 40512

Jillian L. Hearn

Dated: October 26, 2011

OFFICES
AIKEN • CAMDEN • COLUMBIA • LEXINGTON • NEWBERRY • ORANGEBURG • SUMTER

SC Workers' Compensation Comm'sion
1333 Main Street, suite 500 · Post Office Box [illegible]5
Columbia, South Carolina 29202-1715
(803)737-5723

WCC File #: 1108693
Carrier File #: YZEC6098C
Carrier Code #:
Employer FEIN #:

Gail Bruce [redacted]
Claimant's Name SSN

[redacted]
Address City State Zip

[redacted]
Home Phone #

Kenya C. Miller — McAngus Goudelock & Courie
Preparer's Name — Law Firm

Columbia Heart Clinic
Employer's Name

Post Office Box 8446
Columbia, South Carolina 29202-8446
Address City State Zip

Hartford Insurance Company of the Midwest c/o The Hartford
Insurance Carrier

(803) 227-2218
Phone Number

Date of Accident: 7/15/11

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

1. It is **denied** that the employee sustained an injury on or about the date set forth in the application. The reasons for de are: The investigation of the Employer/Carrier does not reveal a compensable injury by accident within the course a scope of the Claimant's employment. Additionally, the Employer/Carrier maintains that the Claimant's current problems w her right shoulder and right arm are pre-existing and unrelated to the Claimant's employment with the Defendants.
2. It is **denied** that both the employer and employee were subject to the Workers' Compensation Act at the time in quest The reasons for denial are: See No. 1 above.
3. It is **denied** that the relationship of employer and employee existed at the time in question. The reasons for denial are: S No. 1 above.
4. It is **denied** that at the time in question the employee was performing service growing out of and incidental to employment. The reasons for denial are: See No. 1 above.
5. It is **denied** that notice of injury was given to the employer. The reasons for denial are: See No. 1 above.
6. It is **denied** that the employee needs/is entitled to additional medical care as a result of the injury. The reasons for de are: The Employer/Carrier maintains there is no medical evidence to support the Claimant's entitlement to additic medical treatment.
7. It is **denied** that the employee is entitled to temporary total disability for the period(s) of: The Employer/Carrier maintai there is no medical evidence to support the Claimant's entitlement to temporary total disability benefits.
8. It is **denied** that the employee is permanently disabled. The reasons for denial are: The Employer/Carrier maintains ther no medical evidence to support the Claimant's contention that she is permanently disabled.
9. It is **denied** that the employee has a serious disfigurement.
10. It is contended that an average weekly wage of **Form 20 to be submitted** applies, according to attached accountin employee's earnings as provided by law.
11. Further contentions or grounds of defense are: The Employer/Carrier maintains the Claimant will be unable to satisfy burden of proof pursuant to Section 42-1-160 and/or Section 42-9-35 of the Act.
12. Estimated time needed for hearing: 1 hour

I certify that I have served this document pursuant to R.67-211 by delivering a copy to:

Joseph R. Dasta, Esquire
McWhirter, Bellinger & Associates, PA
1807 Hampton Street
Columbia, South Carolina 29201

on the 28th day of November, 2011 by ☒ first class mail; ☐ personal service; ☐ certified mail.
I verify the contents of this form are accurate and true to the best of my knowledge.

Kenya C. Miller for KCM — Attorney for Employer/Carrier — kenya.miller@mgclaw.com — November 28, 2011
Preparer's Signature — Title — Email — Date

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

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO.: 1108693

GAIL BRUCE,

Employee,

Claimant,

vs.

COLUMBIA HEART CLINIC,

Employer,

AND

HARTFORD INSURANCE COMPANY OF THE MIDWEST C/O THE HARTFORD,

Carrier,

Defendants.

CERTIFICATE OF SERVICE

The undersigned certifies that she is an employee at MCANGUS, GOUDELOCK & COURIE, and that she has served, on the date set forth below, a copy of the document described below, in the above entitled action to the following persons, pursuant to Section 15-9-930 and Section 15-9-940 of the Code of Laws of South Carolina, 1976, by depositing a copy of same in the United States Mail, postage prepaid, addressed to:

TO: Joseph R. Dasta, Esquire
McWhirter, Bellinger & Associates, PA
1807 Hampton Street
Columbia, South Carolina 29201

VIA HAND DELIVERY
South Carolina Worker's Compensation Commission
1333 Main Street, Suite 500 · Post Office Box 1715
Columbia, South Carolina 29202-1715

DOCUMENT: Form 51

DATE OF MAILING: November 28, 2011

Jessica M. Morell
Legal Assistant to Kenya C. Miller

South Carolina Workers' Compensation Comm n
1333 Main Street, Suite 500
P.O. BOX 1715
Columbia, SC 29202-1715
(803) 737-5675

WCC File #: 1108693
Carrier File #: YZEC60986
Carrier Code #:
Employer FEIN #:

Claimant's Name: Gail C. Bruce SSN: [redacted]
Address: [redacted]
City: [redacted] State: [redacted] Zip: [redacted]
Home Phone: [redacted] Work Phone:

Employer's Name: Columbia Heart Clinic
Address: 8 Richland Medical Park Drive
City: Columbia State: SC Zip: 29203
Insurance Carrier: Hartford Insurance Co. of the Midwest, SE Workers Comp Claim Center

Preparer's Name: Thomas P. Bellinger Law Firm: McWhirter, Bellinger & Associates, P.A. Preparer's Phone #: 803-252-5523

Complete each information blank. To request a hearing, check Box 13b, indicate the kinds of benefits claimed by checking the box(es) at Lines 6, 7, 8, and 9, and file this form in duplicate.
A claim for workers' compensation benefits is made based on the following grounds: **Date of Injury or Illness: 07/15/2011**
☒ Injury ☐ Illness ☐ Repetitive Trauma

1a. The claimant sustained an injury to both shoulders, both arms, both legs, both knees (Part(s) of Body Injured) on 07/15/2011 (Month/Day/Year) in Richland
1b. county, state of South Carolina.
Body part(s) affected are: both shoulders, both arms, both legs, both knees

Briefly describe how the accident occurred. Claimant tripped and fell

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

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

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

5. Notice of the accidental injury was given to the Employer on 07/15/2011 (Month/Day/Year) in the following manner:
told HR - Angela Jenkins

☒ 6. Due to injury, the claimant is in need of (check one):
☐ (a) medical examination and treatment for:
☒ (b) additional medical examination and treatment for: both shoulders, both arms, both legs, both knees

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

☒ 8. Due to the injury, the Claimant has permanent disability of the following nature and extent (check one):
☒ (1) General Disability: ☒ Total ☒ Partial
☒ (2) Specific Disability: ☒ Total ☒ Partial
☒ (3) Wage Loss

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

10a. At the time of the injury, the Claimant was paid weekly wages of $1,280.64, and demands accounting of days worked and wages earned as provided by law.

10b. Give names and addresses of all employers for whom the Claimant has worked since the date of the accident: defendant employer, but claimant no longer with them

11a. Further grounds or unusual aspects of claim: All available under the Act including penalties, interest, *James v. Anne's Inc.* language in the order, lump sum payment of award, attorney fees and costs.

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

11c. To the best of your knowledge, did you have any prior permanent disability? Yes
If yes, describe: previous WC injury to right and left shoulders – 25% rating to RUE and 25% rating to LUE

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

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

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

14. Estimated time needed for hearing: 60 minutes

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

Preparer's Signature | Attorney for Claimant (Title) | tommy@mcwhirterlaw.com (Email) | 5/21/12 (Date)

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

WCC Form # 50
Revised 9/07

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

South Carolina Workers' Compensation Comm. on
1333 Main Street, Suite 500
P.O. BOX 1715
Columbia, SC 29202-1715
(803) 737-5675

WCC File #: **1108693**
Carrier File #: **YZEC60986**
Carrier Code #:
Employer FEIN #:

Claimant's Name: Gail C. Bruce SSN: [redacted]
Address: [redacted]
City: [redacted] State: [redacted] Zip: [redacted]
Home Phone: [redacted] Work Phone:

Employer's Name: Columbia Heart Clinic
Address: 8 Richland Medical Park Drive
City: Columbia State: SC Zip: 29203
Insurance Carrier: Hartford Insurance Co. of the Midwest, SE Workers Comp Claim Center

Preparer's Name: Thomas P. Bellinger Law Firm: McWhirter, Bellinger & Associates, P.A. Preparer's Phone #: 803-252-5523

Addendum to Form 50: Question 11b:

Richland County Emergency Services Department
1410 Laurens Street
Columbia, SC 29204

Providence Hospital
2435 Forest Drive
Columbia, SC 29204

Drs. W. Alaric Van Dam and David Fulton
The Moore Orthopaedic Clinic
14 Medical Park, Suite 200
Columbia, SC 29203

Palmetto Health Richland
5 Richland Medical Park Drive
Columbia, SC 29203

LAW OFFICES
MCWHIRTER, BELLINGER & ASSOCIATES, P.A.
119 EAST MAIN STREET,
LEXINGTON, SOUTH CAROLINA 29072
(803) 359-5523
FAX (803) 359-1248
mail@mcwhirterlaw.com

H. PATTERSON McWHIRTER
THOMAS P. BELLINGER
GARLAND P. McWHIRTER
STACEY TARTE MEYER
JOSEPH R. DASTA
JENNIFER N. WILLIAMS

L. LISA McPHERSON
ELIZABETH McMAHON PENTZ
RICHARD W. SIMMONS, II
J. TYLER LEE, JR.
MELISSA G. MOSIER
JOHN P. MEADORS

CERTIFICATE OF SERVICE BY MAIL

This is to certify that I, Doris L. Phillips, paralegal for Thomas P. Bellinger, attorney for the Claimant, have mailed a copy of the foregoing Form 50, with sufficient postage affixed and return address clearly indicated to:

Brittany M. Lozanne, Esquire
Gallivan, White & Boyd, PA
PO Box 7368
Columbia, SC 29202

Kelly F Morrow, Esquire
McAngus Goudelock & Courie, LLC
PO Box 12519
1320 Main Street, 10th Floor, Columbia, SC 29201-3204
Columbia, SC 29211-2519

Doris L. Phillips

Dated: May 25, 2012

SC Workers' Compensation Com. ssion
1333 Main Street, suite 500 · Post Office Box 1715
Columbia, South Carolina 29202-1715
(803)737-5723

WCC File #: 1108693
Carrier File #: YZEC6098C
Carrier Code #:
Employer FEIN #:

Gail Bruce [redacted]
Claimant's Name SSN

[redacted]
Address City State Zip

[redacted]
Home Phone #

Kelly F. Morrow — McAngus Goudelock & Courie
Preparer's Name — Law Firm

Columbia Heart Clinic
Employer's Name

8 Richland Medical Park Drive, Suite 200
Columbia, South Carolina 29203
Address City State Zip

Hartford Insurance Company of the Midwest c/o The Hartford
Insurance Carrier

(803) 227-2238
Phone Number

Date of Accident: **7/15/11**

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

1. It is **denied** that the employee sustained an injury on or about the date set forth in the application. The reasons for denia are: The Employer/Carrier denies the Claimant suffered an injury to the right shoulder, left shoulder, right upper extremity left upper extremity, left lower extremity, right lower extremity, right knee, or left knee as her accident did not arise out of c in the course and scope of her employment. Further, the Defendants deny the extent of the Claimant's injuries as allege on the Form 50.
2. It is **denied** that both the employer and employee were subject to the Workers' Compensation Act at the time in questior The reasons for denial are: See No. 1 above.
3. It is **denied** that the relationship of employer and employee existed at the time in question. The reasons for denial are: Se No. 1 above.
4. It is **denied** that at the time in question the employee was performing service growing out of and incidental to hi employment. The reasons for denial are: See No. 1 above.
5. It is **denied** that notice of injury was given to the employer. The reasons for denial are: See No. 1 above.
6. It is **denied** that the employee needs/is entitled to additional medical care as a result of the injury. The reasons for denia are: See No. 1 above.
7. It is **denied** that the employee is entitled to temporary total disability for the period(s) of: See No. 1 above.
8. It is **denied** that the employee is permanently disabled. The reasons for denial are: See No. 1 above.
9. It is **denied** that the employee has a serious disfigurement.
10. It is contended that an average weekly wage of **$1,289.36** applies, according to attached accounting of employee's earning as provided by law.
11. Further contentions or grounds of defense are: See attachment.
12. Estimated time needed for hearing: 1 hour

I certify that I have served this document pursuant to R.67-211 by delivering a copy to:

Thomas P. Bellinger, Esquire
McWhirter, Bellinger & Associates, PA
119 East Main Street
Lexington, South Carolina 29072

on the 19th day of June, 2012 by ☒ first class mail; ☐ personal service; ☐ certified mail.
I verify the contents of this form are accurate and true to the best of my knowledge.

Preparer's Signature — Attorney for Employer/Carrier (Title) — kmorrow@mgclaw.com (Email) — June 19, 2012 (Date)

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

WCC Form # 51 Revised 9/07 — **51** — **Employer's Answer to Request for Hearing**

Affirmative defenses as set forth in Regulation 67-603; see attached for further grounds of defense:

1. Employee Intoxication or Willful Intention of Employee to Injure or Kill Himself or Another (§ 42-9-60);
2. Notice (§ 42-15-20);
3. Statute of Limitations (§ 42-15-40);
4. Defense Pursuant to § 42-17-90;
5. Doctrine of Stale Claims;
6. Pre-Existing Disability to Allegedly Injured Member(s);
7. Claim Does Not Qualify as Injury by Accident Arising Out Of and In the Course of Employment (§ 42-1-160);
8. Claimant Does Not Qualify as "Employee" (§ 42-1-130) and/or Lack of Employer/Employee Relationship;
9. No Injurious Exposure While Claimant Was Employee and/or While This Carrier Was Engaged in Coverage;
10. Claimant's Alleged Condition is Not Work Related;
11. Claimant Has Refused Medical Care;
12. Degree of Disability, if any, Attributable to This Injury is Speculative;
13. Intervening Trauma;
14. Form 50 is Deficient, Therefore Claim Should be Dismissed (Form 50 is Vague as to Date of Alleged Injury or Disability and/or Form 50 Fails to Adequately Inform the Defendants of the Issues They Might Be Expected to Meet);
15. Laches;
16. Election of Remedies;
17. Personal Jurisdiction;
18. Subject Matter Jurisdiction;
19. Fraud;
20. Fraud in the Application for Employment;
21. Estoppel;
22. Collateral Estoppel;
23. Res Judicata;
24. Claim Does Not Qualify as "Occupational Disease" as Set Forth in §§ 42-11-10 through § 42-11-200;
25. Claim Does Not Meet Requirements of "Disablement" or "Disability" through Occupational Disease (§ 42-11-20);
26. Disease Was Not Contracted by the Employee While in the Employ of the Employer as a Direct Result of the Employment (§ 42-11-40);
27. Compensation Must Be Limited Pursuant to § 42-11-50;
28. Claim Does Not Meet Requirements for Compensability of Pulmonary Disease (§ 42-11-60);
29. Claim Does Not Meet Requirements of Time in Which Disease Must Have Been Contracted (§ 42-11-70);
30. Employee Engaged in Wilful Misrepresentation at Time of Employment as to Absence of Disease (§42-11-80);

31. Compensation Must Be Limited as Set Forth in § 42-11-90;
32. Claim is Not Compensable Pursuant to § 42-11-100.
33. Defendants also request credit for overpayment of temporary total disability benefits, if applicable. Defendants request credit for benefits received by the Claimant, including, but not limited to, unemployment, short-term disability, long-term disability, military disability, or disability awards or settlements under any state or federal act.
34. Defendants reserve the right to amend this Answer and plead additional defenses. Defendants also reserve the right to add additional parties and/or defenses as more information becomes available.

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO.: 1108693

GAIL BRUCE,

Employee,

Claimant,

vs.

COLUMBIA HEART CLINIC,

Employer,

AND

HARTFORD INSURANCE COMPANY OF THE MIDWEST C/O THE HARTFORD,

Carrier,

Defendants.

CERTIFICATE OF SERVICE

The undersigned certifies that she is an employee at MCANGUS GOUDELOCK & COURIE, and that she has served, on the date set forth below, a copy of the document described below, in the above entitled action to the following persons, pursuant to Section 15-9-930 and Section 15-9-940 of the Code of Laws of South Carolina, 1976, by depositing a copy of same in the United States Mail, postage prepaid, addressed to:

TO: Thomas P. Bellinger, Esquire
McWhirter, Bellinger & Associates, PA
119 East Main Street
Lexington, South Carolina 29072

VIA HAND DELIVERY
South Carolina Worker's Compensation Commission
1333 Main Street, Suite 500 · Post Office Box 1715
Columbia, South Carolina 29202-1715

DOCUMENT: Form 51

DATE OF MAILING: June 19, 2012

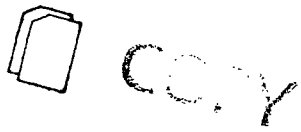
Jessica M. Morell
Legal Assistant to Kelly F. Morrow

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
COLUMBIA, SOUTH CAROLINA
WCC FILE NO. 1108693

EMPLOYEE/CLAIMANT: GAIL C. BRUCE

EMPLOYER: COLUMBIA HEART CLINIC, P.A.

INSURER: HARTFORD INSURANCE COMPANY OF THE MIDWEST



SOUTH CAROLINA WORKERS' COMPENSATION HEARING

PURSUANT TO NOTICE OF WORKERS' COMPENSATION HEARING, THE WITHIN HEARING WAS TAKEN ON THE 8TH DAY OF NOVEMBER, 2012, COMMENCING AT THE HOUR OF 2:54 P.M., IN COLUMBIA, SOUTH CAROLINA, BEFORE THE HONORABLE DERRICK L. WILLIAMS, ATTENDED BY COUNSEL AS FOLLOWS:

SHEILA ROBISON
VERBATIM REPORTER

JAN L. WHITWORTH
COURT REPORTING SERVICES
POST OFFICE BOX 551
ROEBUCK, S.C. 29376

APPEARANCES

THOMAS P. BELLINGER, ESQUIRE, OF THE FIRM
MCWHIRTER, BELLINGER & ASSOCIATES, P.A.
1807 HAMPTON STREET
COLUMBIA, SOUTH CAROLINA 29201

ATTORNEY FOR THE EMPLOYEE,

KELLY FITZHARRIS MORROW, ESQUIRE, OF THE FIRM
MCANGUS, GOUDELOCK AND COURIE, L.L.C.
P.O. BOX 12519
MERIDIAN, 10TH FLOOR
1320 MAIN STREET
COLUMBIA, SOUTH CAROLINA 29211-2519

ATTORNEY FOR THE EMPLOYER/INSURER.

ALSO ATTENDING: ANGELA JENKINS

I N D E X

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GLORIA B. MARTIN:

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ANGELA JENKINS:

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CERTIFICATE OF NOTARY PUBLIC..... 111

PURSUANT TO NOTICE OF HEARING, THE WITHIN HEARING WAS TAKEN BY THE ABOVE-NAMED COURT REPORTER, A NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA, IN COLUMBIA, SOUTH CAROLINA.

* * * * * * * * * * * * * * * *

BY THE COURT REPORTER:

WILL YOU RAISE YOUR RIGHT HAND.

* * * * * * * * * * * * * * * *

THE WITNESS WAS DULY SWORN TO TELL THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH CONCERNING THE MATTER HEREIN:

JULIE HUNT

* * * * * * * * * * * * * * * *

BY COMMISSIONER WILLIAMS:

TODAY'S DATE IS NOVEMBER 8TH, 2012. THIS IS THE WORKERS' COMPENSATION CASE OF MS. GAIL BRUCE VERSES COLUMBIA HEART CLINIC, P.A. HARTFORD IS THE CARRIER. THIS IS WCC FILE NUMBER 1108693. ATTORNEY TOMMY BELLINGER FOR THE CLAIMANT. ATTORNEY KELLY MORROW FOR THE EMPLOYER AND CARRIER. DATE OF ACCIDENT ALLEGED AS JULY 15TH OF 2011. AVERAGE WEEKLY WAGE $1,289.36, MAX COMP RATE OF $704.92. I HAVE THE APA SUBMISSIONS FROM THE PARTIES AND THE DEPOSITION OF DR. VAN DAM, V-A-N D-A-M, DR. FULTON, AND DEPOSITION OF THE CLAIMANT AS WELL, HANDED UP

WITH THE APAs.

ANY OBJECTION TO JURISDICTION, VENUE, OR THE APA SUBMISSIONS, MR. BELLINGER?

BY MR. BELLINGER:

NONE FROM THE CLAIMANT, YOUR HONOR.

BY COMMISSIONER WILLIAMS:

MS. MORROW?

BY MS. MORROW:

NO, YOUR HONOR.

BY COMMISSIONER WILLIAMS:

ALL RIGHT. THEN THE COMMISSION FILE IS PART OF THE RECORD WITH THE EXCEPTION OF ANY SELF-SERVING DECLARATIONS OR ANY UNSTIPULATED MEDICAL REPORTS. JUST FOR THE RECORD, WE DID REMOVE APA PAGE 107 I BELIEVE, WHICH WAS A LETTER FROM...

BY MR. BELLINGER:

THAT'S CORRECT.

BY COMMISSIONER WILLIAMS:

THAT HAS BEEN TAKEN OUT. DENIED CLAIM. THE CLAIMANT WOULD ALLEGE SHE INJURED HER RIGHT SHOULDER AND BOTH KNEES IN THIS ACCIDENT. SHE WOULD SEEK A FINDING THAT HER -- SHE HAS SUFFERED A COMPENSABLE INJURY BY ACCIDENT. SHE WOULD SEEK TEMPORARY TOTAL FROM JULY 15, 2011, THROUGH MAY 22ND, 2012, A FINDING THAT SHE HAS REACHED M.M.I, A FINDING THAT

SHE IS PERMANENTLY AND TOTALLY DISABLED PURSUANT TO SECTION 42-9-10. SHE WOULD SEEK UTICA MOHAWK LANGUAGE UNDER *JAMES VERSES ANNE* IN THE ORDER, LIFETIME CAUSALLY-RELATED MEDICALS UNDER DODGE FOR HER RIGHT SHOULDER AND BOTH KNEES TO INCLUDE ANY FUTURE SURGERIES AND REIMBURSEMENT FOR ANY CAUSALLY-RELATED MEDICALS TO DATE. THE EMPLOYER AND CARRIER DENIES THIS CLAIM IN FULL. THEY DO NOT BELIEVE THE CLAIMANT CAN MEET HER BURDEN OF PROVING A COMPENSABLE INJURY BY ACCIDENT. THEY WOULD ARGUE THAT THIS CASE IS DISSIMILAR TO THE PERSONAL COMFORT CASES WHERE SOMEONE IS INJURED, AND THEY WILL PRODUCE EVIDENCE THROUGH THE TESTIMONY AS TO THAT POINT, AND THAT ALL BENEFITS SHOULD BE DENIED. HOWEVER, IF IT IS COMPENSABLE, WHICH THEY DENY, THEY WOULD ALLEGE THAT THE CLAIMANT ONLY INJURED HER RIGHT SHOULDER, AND THAT SHE WOULD HAVE NEEDED MEDICAL TREATMENT FOR HER BILATERAL KNEES EVEN PRIOR TO THIS. AND THAT IN TERMS OF TEMPORARY TOTAL, SHE HAD BEEN RETURNED TO WORK FULL DUTY. THEREFORE, NO TEMPORARY TOTAL IS ACTUALLY OWED IN THIS CASE IF IT IS COMPENSABLE.

THAT BEING STATED, DO THE PARTIES WANT TO STATE ANYTHING ELSE FOR THE RECORD? MR. BELLINGER?

BY MR. BELLINGER:

I THINK THAT COVERS THE CLAIMANT'S POSITION, YOUR HONOR.

BY COMMISSIONER WILLIAMS:

ALL RIGHT. MS. MORROW?

BY MS. MORROW:

YOUR HONOR, WE JUST RELY ON THE *MATUTE VERSES PALMETTO HEALTH BAPTIST* CASE.

BY COMMISSIONER WILLIAMS:

OKAY. GIVE ME THE SITE FOR THAT ONE.

BY MS. MORROW:

IT'S 391 S.C. 291, OR 705 SOUTHEAST SECOND 472, COURT OF APPEALS 2001.

BY COMMISSIONER WILLIAMS:

OKAY. ALL RIGHT. MS. HUNT HAS BEEN SWORN IN. MR. BELLINGER, WHENEVER YOU'RE READY.

* * * * * * * * * * * * * * * *

JULIE HUNT

BEING FIRST DULY SWORN, TESTIFIED ON HER OATH AS FOLLOWS:

BY MR. BELLINGER:

THANK YOU, YOUR HONOR.

DIRECT EXAMINATION BY MR. BELLINGER:

Q. MS. HUNT, STATE YOUR FULL NAME FOR THE RECORD.

A. JULIENETTE HUNT.

Q. AND JULIE, HOW DO YOU KNOW GAIL BRUCE?

A. WE WERE COWORKERS, AND THEN SHE WAS MY SUPERVISOR AT

COLUMBIA HEART.

Q. AT COLUMBIA HEART?

A. UH-HUH.

Q. OKAY. AND APPROXIMATELY HOW LONG HAVE YOU KNOWN GAIL?

A. TWELVE YEARS.

Q. OKAY. AND BACK ON JULY 15TH OF 2011, AND JUST FOR YOUR INFORMATION, THAT'S THE DATE OF HER INJURY, OKAY?

A. OKAY.

Q. WHERE WAS YOUR DESK LOCATED IN REFERENCE TO GAIL'S OFFICE?

A. ACROSS FROM HER OFFICE.

Q. OKAY. DO YOU REMEMBER THE DAY THAT GAIL FELL ON JULY 15TH, 2011?

A. I REMEMBER IT HAPPENED ON THAT DAY.

Q. OKAY. BEFORE HER FALL, DID SHE COME TO YOU AND ASK FOR ANYTHING?

A. NO.

Q. OKAY. SHE DIDN'T COME TO ASK FOR SOMETHING BEFORE SHE WENT ON BREAK?

A. OH, YES. YES, SHE DID.

Q. DESCRIBE FOR HIS HONOR WHAT SHE ASKED FOR BEFORE SHE WENT ON BREAK.

A. A CIGARETTE.

Q. OKAY. DID YOU FIND THAT IN ANY WAY UNUSUAL?
A. I DID.
Q. WHY?
A. BECAUSE SHE HAD NEVER ASKED ME FOR ONE BEFORE.
Q. OKAY. AND IS THERE AN AREA OUTSIDE OF THE BUILDING NEAR THE SIDEWALK AND THE PARKING AREA OUTSIDE OF COLUMBIA HEART WHERE PEOPLE SMOKE?
A. IT HAS TO BE A CITY PROPERTY.
Q. OKAY.
A. SO, IT HAS TO BE OFF OF COLUMBIA HEART PROPERTY, WHICH IS ---
Q. AND APPROXIMATELY HOW MANY FEET WOULD YOU SAY THAT AREA WHERE PEOPLE SMOKE ARE FROM THE FRONT ENTRANCE TO COLUMBIA HEART, JUST APPROXIMATELY?
A. TEN FEET FROM THE PARKING GARAGE, TWENTY FEET FROM THE BUILDING.
Q. OKAY. SO, IT'S RIGHT THERE?
A. YES, SIR.
Q. OKAY. HAVE YOU EVER SMOKED IN THIS AREA BEFORE?
A. I HAVE.
Q. OKAY. AND I WANT YOU TO THINK BACK TO THE DAY -- WE'LL JUST SAY THE DAY BEFORE HER FALL ON JULY 15TH OF 2011. WAS SHE -- DID YOU PERSONALLY OBSERVE ANY PROBLEMS THE DAY BEFORE THIS FALL, OR ACTUALLY THE MOMENTS BEFORE SHE BORROWED THIS CIGARETTE FROM YOU,

HAD YOU OBSERVED ANY KIND OF PROBLEMS THAT SHE WAS HAVING WITH HER RIGHT ARM OR HER RIGHT SHOULDER?

A. NO. NO, SIR.

Q. OKAY. AFTER SHE RETURNED TO WORK FOLLOWING HER FALL, WHAT PROBLEMS DID YOU START TO NOTICE WITH HER RIGHT ARM AND HER RIGHT SHOULDER?

A. THAT IT WAS -- SHE COULDN'T USE IT. SHE FAVORED IT.

Q. OKAY. WOULD SHE -- DID SHE ASK YOU TO CARRY ANYTHING FOR HER?

A. YES, CHARTS FROM THE DUMB WAITER.

Q. OKAY. AND IS THAT SOMETHING THAT SHE DIDN'T HAVE ANY LIMITATION WITH CARRYING BEFORE HER FALL?

A. CORRECT.

Q. NOW, BEFORE HER FALL, WHAT PROBLEMS DID YOU OBSERVE REGARDING HER KNEES AND HER LEGS?

A. I HAD KNOWLEDGE THAT SHE DID SUFFER WITH SOME ARTHRITIS, AND SHE TOOK STEROID SHOTS TO HELP WITH THAT. SO I KNOW THAT SHE HAD A FALL, WHICH REQUIRED SURGERY ON ONE OF HER ARMS. AND THAT WOULD BE ALL.

Q. OKAY. AS FAR AS ONCE SHE RETURNED TO WORK AFTER THIS FALL ON JULY THE 15TH OF 2011, ---

A. UH-HUH.

Q. --- WHAT DID YOU NOTICE ABOUT HER KNEES AND HER LEGS AS FAR AS HER ABILITY TO GET AROUND?

A. HER ABILITY TO GET AROUND HAD GREATLY DECLINED.

Q. WAS SHE MOVING SLOWER?
A. YES, MUCH SLOWER. IT APPEARED THAT SHE WAS IN A LOT OF PAIN FROM THE LOOK ON HER FACE, FROM THE SWEAT THAT WAS ON HER FACE, FROM ME HEARING HER CRYING IN THE BATHROOM. THE RESTROOM WAS DIRECTLY ACROSS FROM MY DESK. SHE WALKED SLOWER, AND SHE COULDN'T USE HER -- HER ARM, TOO.
Q. DID SHE HAVE ANY KIND OF LIMP AT THAT STAGE?
A. YES.
Q. YOU MENTIONED A MOMENT AGO THAT YOU HEARD HER CRYING.
A. UH-HUH.
Q. DO YOU HAVE ANY IDEA WHAT THAT CRYING WAS IN REFERENCE TO?
A. IT WOULD BE NEAR THE END OF THE DAY FROM THE PAIN OF WALKING DOWN THE HALLS AND WORKING WITH PATIENTS ALL DAY.
Q. OKAY. BEFORE HER FALL ON JULY 15TH OF 2011, HAD YOU EVER HEARD HER CRYING AT ALL AT THE END OF THE DAY?
A. NO, SIR.
Q. NOW, FOLLOWING HER FALL, ONCE SHE RETURNED TO WORK AT COLUMBIA HEART, DID HER JOB DUTIES CHANGE FROM THE WAY THEY WERE IMMEDIATELY BEFORE HER FALL?

BY MS. MORROW:

YOUR HONOR, I OBJECT. SHE'S NOT THE

SUPERVISOR. SHE DOESN'T CONTROL JOB DUTIES AND RESPONSIBILITIES FOR THE EMPLOYER. SHE'S NOT SUITED TO TESTIFY TO IT.

BY MR. BELLINGER:

SHE CAN TESTIFY TO THOSE OBSERVATIONS, YOUR HONOR.

BY COMMISSIONER WILLIAMS:

OKAY. SEE IF SHE HAS ANY KNOWLEDGE OF IT. GO AHEAD IF YOU KNOW.

BY THE WITNESS:

PRIOR TO HER FALL, SHE WAS MAINLY IN -- WORKED IN THE OFFICE AND DID FLOOR WORK. FLOOR WORK AS IN WHEN YOU'RE ASSIGNED TO A -- A DOCTOR AS A MEDICAL ASSISTANT, TAKING PATIENTS BACK INTO EXAM ROOMS. SHE DID THAT WHEN WE WERE SHORT STAFFED. AFTER HER FALL, SHE IMMEDIATELY WORKED THE FLOOR EVERY DAY OR AT LEAST FOUR OUT OF FIVE DAYS THAT I CAN REMEMBER.

DIRECT EXAMINATION RESUMED BY MR. BELLINGER:

Q. SO, THAT WAS A SIGNIFICANT CHANGE WITH HER BEING UP AND ON HER LEGS FOLLOWING HER RETURN TO WORK AFTER HER FALL?

A. IT WAS.

BY MR. BELLINGER:

THAT'S ALL THE QUESTIONS I HAVE, MS. HUNT. PLEASE ANSWER ANY QUESTIONS THAT MS. MORROW MAY

HAVE. THANK YOU.

BY COMMISSIONER WILLIAMS:

MS. MORROW.

CROSS EXAMINATION BY MS. MORROW:

Q. MS. HUNT, HOW LONG DID YOU SAY THAT YOU'VE BEEN FRIENDS WITH MS. BRUCE?

A. I HAVE KNOWN GAIL FOR 12 YEARS.

Q. OKAY. AND Y'ALL ARE STILL FRIENDS NOW OUTSIDE OF WORK?

A. I HAVE -- AFTER LEAVING COLUMBIA HEART AND KNOWING HER PERSONALLY A LITTLE BETTER, WE'VE BECOME FRIENDS. IT WAS NOT EASY TO DO THAT WHILE WE WERE WORKING, SO.

Q. AND YOU CONTINUED TO WORK AT COLUMBIA HEART AFTER MS. BRUCE'S FALL?

A. I DID.

Q. AND AFTER SHE LEFT COLUMBIA HEART?

A. I DID.

Q. OKAY. AND IT WASN'T UNTIL A FAMILY MEMBER OF YOURS GOT SICK THAT YOU JUST STOPPED COMING TO WORK AT COLUMBIA HEART, CORRECT?

A. THAT'S WHEN I QUIT.

Q. WELL, DID YOU ACTUALLY EVER QUIT, OR WERE YOU TERMINATED BECAUSE YOU FAILED TO SHOW UP AT WORK?

A. I QUIT.

Q. OKAY, ALL RIGHT. AND ARE YOU AWARE THAT WORKING ON THE FLOOR WAS ACTUALLY ONE OF MS. BRUCE'S JOB DUTIES AND RESPONSIBILITIES BEFORE THIS ACCIDENT?
A. YES.
Q. SHE JUST WASN'T ACTUALLY FULFILLING THAT JOB DUTY OR RESPONSIBILITY BEFORE THIS ACCIDENT THE WAY THAT SHE WAS SUPPOSED TO BE?
A. I DON'T HAVE KNOWLEDGE OF THAT.
Q. BECAUSE YOU WERE NOT HER SUPERVISOR? IS THAT A YES?
A. I DON'T HAVE KNOWLEDGE OF THAT.
Q. YOU DON'T HAVE KNOWLEDGE OF WHETHER OR NOT YOU WERE HER SUPERVISOR?
A. I WAS NOT HER SUPERVISOR.
Q. OKAY. YOU WEREN'T IN CONTROL OF HER JOB DUTIES OR RESPONSIBILITIES?
A. I WAS NOT.
Q. REGULATING THOSE?
A. I WAS NOT.
Q. ENSURING WHAT SHE WAS DOING DURING THE DAYTIME?
A. I WAS NOT.
Q. OKAY. AND HEARING HER CRYING IN THE BATHROOM, YOU DON'T KNOW WHAT SHE WAS CRYING ABOUT, DO YOU?
A. ONE OF THE TIMES I DO.
Q. SO, IT'S JUST AS PLAUSIBLE ANY OF THE OTHER TIMES SHE COULD HAVE BEEN CRYING ABOUT ANYTHING ELSE IN

THE WORLD, AND YOU HAVE NO WAY OF KNOWING PERSONALLY WHAT SHE ACTUALLY UPSET ABOUT?

A. ONLY ONE OF THOSE TIMES.

Q. OKAY. AND ISN'T IT ALSO TRUE THAT BEFORE MS. BRUCE HAD THIS ACCIDENT, SHE ALREADY WALKED WITH A SHUFFLE AND A SMALL BIT OF A LIMP?

A. SHE DID. IT BECAME WORSE AFTER THE ACCIDENT.

Q. AND THE HELPING AND CARRYING WITH THE CHARTS, YOU WERE NEVER TOLD BY COLUMBIA HEART TO DO THAT FOR HER, TO ASSIST HER IN THAT WAY, WERE YOU?

A. NO.

BY MS. MORROW:

I DON'T HAVE ANY FURTHER QUESTIONS, YOUR HONOR.

BY COMMISSIONER WILLIAMS:

OKAY.

RE-DIRECT EXAMINATION BY MR. BELLINGER:

Q. YOU INDICATED THAT YOU WERE FAMILIAR WITH ONE OCCASION WHEN SHE WAS CRYING AND AS TO WHY SHE WAS CRYING?

A. UH-HUH.

Q. WHAT IS THAT ONE OCCASION?

A. WHEN SHE WAS TAKING A PATIENT IN A WHEELCHAIR DOWN THE HALL, AND WHEN SHE WENT IN THE RESTROOM, I ASKED HER WHEN SHE CAME OUT WHAT WAS WRONG.

Q. AND WHAT WAS SAID?

A. THAT SHE WAS IN PAIN.

BY MR. BELLINGER:

OKAY. THAT'S ALL THE QUESTIONS I HAVE. THANK YOU.

BY COMMISSIONER WILLIAMS:

MS. MORROW, ANY OTHER QUESTIONS?

BY MR. MORROW:

I HAVE NOTHING FURTHER, YOUR HONOR.

BY COMMISSIONER WILLIAMS:

ALL RIGHT.

BY MR. BELLINGER:

YOUR HONOR, I WOULD MOVE -- SHE'S BEEN MOST ACCOMMODATING ON BEING HERE EARLY.

BY COMMISSIONER WILLIAMS:

OKAY.

BY MR. BELLINGER:

AND I THINK SHE ACTUALLY HAS SOMEONE IN THE HOSPITAL ---

BY THE WITNESS:

A BABY ON THE WAY, YEAH.

BY MR. BELLINGER:

--- WHO IS EXPECTING.

BY COMMISSIONER WILLIAMS:

ALL RIGHT. FAIR ENOUGH.

BY MR. BELLINGER:

SO, I WOULD ASK THAT SHE BE EXCUSED.

BY COMMISSIONER WILLIAMS:

ALL RIGHT. HAVE A GOOD DAY.

BY THE WITNESS:

THANK YOU, YOU TOO.

BY COMMISSIONER WILLIAMS:

CALL YOUR NEXT WITNESS.

BY MR. BELLINGER:

AT THIS STAGE, YOUR HONOR, I'D LIKE TO GO AHEAD AND CALL THE CLAIMANT.

BY COMMISSIONER WILLIAMS:

ALL RIGHT. COME ON UP MS. BRUCE. SWEAR MS. BRUCE IN, PLEASE.

BY THE COURT REPORTER:

* * * * * * * * * * * * * * * *

THE WITNESS WAS DULY SWORN TO TELL THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH CONCERNING THE MATTER HEREIN:

GAIL BRUCE

BEING FIRST DULY SWORN, TESTIFIED ON HER OATH AS FOLLOWS:

BY COMMISSIONER WILLIAMS:

ALL RIGHT. MR. BELLINGER.

BY MR. BELLINGER:

THANK YOU, YOUR HONOR.

DIRECT EXAMINATION BY MR. BELLINGER:

Q. GAIL, IF YOU WOULD STATE YOUR FULL NAME FOR THE RECORD, PLEASE, MA'AM.
A. GAIL BRUCE.
Q. AND GAIL, WHAT'S YOUR DATE OF BIRTH?
A. [redacted].
Q. AND I THINK YOU LIVE IN [redacted] OR HAVE AN [redacted] MAILING ADDRESS?
A. YES, I DO.
Q. AND YOU'RE SINGLE?
A. YES.
Q. AND YOU HAVE A HIGH SCHOOL EDUCATION WITH A TWO-YEAR RADIOLOGY TECHNOLOGY DEGREE?
A. YES.
Q. I WANT TO VERY BRIEFLY TALK ABOUT YOUR PRIOR EMPLOYMENT. YOUR LAST JOB AT -- WELL, LET ME ASK YOU THIS. HAVE YOU WORKED ANYWHERE SINCE YOU WORKED AT COLUMBIA HEART?
A. NO.
Q. AND I THINK YOU WERE HIRED AT COLUMBIA HEART AROUND AUGUST OF '95; IS THAT CORRECT?
A. YES.
Q. AND WAS YOUR LAST JOB WITH COLUMBIA HEART CLINICAL SUPPORT MANAGER?
A. YES.
Q. HAVE YOU ALSO AT COLUMBIA HEART WORKED AS A MEDICAL

ASSISTANT?

A. YES.

Q. HAVE YOU WORKED AS A TEAM LEADER?

A. YES.

Q. HAVE YOU WORKED AS A SUPERVISOR?

A. YES.

Q. HAVE YOU WORKED AS A MANAGER?

A. YES.

Q. OKAY. IF YOU WOULD DESCRIBE FOR HIS HONOR WHAT YOUR JOB DUTIES WERE AS CLINICAL SUPPORT MANAGER AS OF JULY 15TH OF 2011.

A. AS OF JULY 15TH?

Q. YES.

A. OKAY.

Q. WHAT WERE YOUR JOB DUTIES -- THE DAY OF YOUR FALL, WHEN YOU WENT INTO WORK THAT MORNING, WHAT WERE YOUR JOB DUTIES?

A. I MANAGED, I BELIEVE, IT WAS 21 PEOPLE, THE SECRETARIES AND THE MEDICAL ASSISTANTS. AND IN MANAGING THE MEDICAL ASSISTANTS AND THE SECRETARIES, THAT INVOLVED ALL DISCIPLINARY ACTION, ALL DISPUTES AND WHATEVER CAME UP WITH THEM. AND THEN I MANAGED THE PATIENT FLOW WHEN THERE WAS -- YOU KNOW, WE WERE OVER BOOKED AND THEY WERE LINED UP, I WOULD TAKE THEM AROUND TO THE DIFFERENT AREAS TO CHECKOUT. AND

SO, I MEAN, THERE WAS JUST SO MUCH. AND I TOOK X-RAYS. I MEAN, I -- I TOOK LIKE 90 PERCENT OF THE X-RAYS. AND THE -- AND I WOULD HELP WITH PATIENT CARE WHEN SOMEONE WOULD GO HOME SICK OR NEEDED ME. YOU KNOW, I WOULD -- I WOULD HELP WITH PATIENT CARE.

Q. OKAY. LET ME BACK UP NOW WHILE WE'RE ON THE SUBJECT AND ASK YOU ONE ADDITIONAL QUESTION. WHEN YOU RETURNED TO WORK FOLLOWING YOUR ACCIDENT, DID YOUR JOB DUTIES CHANGE IN ANY FASHION?

A. YES.

Q. EXPLAIN HOW TO HIS HONOR.

A. BEFORE I WENT OUT ON THE ACCIDENT, I WAS ALLOWED TO MANAGE MY OWN SCHEDULE, WAS -- AS FAR AS WHERE I WORKED, WHEN I WORKED, AND -- AND I DID NOT CHECK CHARTS BECAUSE THAT WAS JUST SOMETHING THAT I DID NOT DO BECAUSE THERE WAS NO -- THERE WAS -- THERE WAS NO TIME FOR ME, YOU KNOW, WITH MY SCHEDULE TO DO IT. AND SO IF I KNEW I WAS GOING TO DO WORK THE FLOOR THE NEXT DAY, ONE OF THE OTHER M.A.s CHECKED THE CHARTS FOR ME. AND THAT'S A REAL TIME CONSUMING JOB. AND YOU HAVE TO LIFT THE CHARTS AND CARRY THEM AND PUT THEM UP IN THE HIGH BINS, AND -- AND THAT SORT OF THING. AND SO IT WAS -- AFTER THE ACCIDENT, I WAS NOT ALLOWED TO DECIDE WHETHER I WORKED THE FLOOR OR NOT. I MEAN, I -- YOU KNOW, I ASKED THAT I

CONTINUE TO BE ABLE TO APPROVE THE SCHEDULES, BUT IF I DISAPPROVED THEM, THEN THEY WERE CHANGED BACK. AND I WAS TOLD THAT I HAD TO WORK THE FLOOR EVERY DAY, AND I DID. I WAS NOT ALLOWED TO CALL IN A P.R.N. PERSON AT ALL TO -- TO -- TO WORK, ALTHOUGH WE HAD A P.R.N. PERSON. SHE COULD ONLY BE CALLED IN IF I WAS WORKING THE FLOOR ALL DAY. AND SO, YES, I -- I DID MUCH MORE PATIENT CARE AFTERWARDS -- AFTER MY FALL THAN I DID PRIOR TO MY FALL.

Q. SO, WHEN YOU WERE WORKING THE FLOOR MORE, WHAT KIND OF ENHANCED -- I GUESS WHEN YOU'RE WORKING THE FLOOR YOU'RE UP ON YOUR FEET, YOU'RE USING YOUR ARMS AND YOUR LEGS, ---

A. RIGHT.

Q. --- AND THOSE KINDS OF THINGS. HOW MUCH MORE OF YOUR DAY WAS DEVOTED TO WORKING THE FLOOR AFTER YOUR FALL VERSES PRE-FALL?

A. EIGHTY-FIVE PERCENT.

Q. EIGHTY-FIVE PERCENT?

A. YES.

Q. YOU FEEL LIKE YOU WERE BEING SETUP TO FAIL?

A. YES, I DO.

Q. LET'S TALK ABOUT PRIOR EMPLOYMENT. DID YOU WORK FOR AN EIGHT-YEAR TIME PERIOD AS AN X-RAY TECH AT DOCTORS CARE?

A. I DID.
Q. HAVE YOU ALSO WORKED FOR A CHIROPRACTOR FOR SOME SEVEN YEARS TAKING X-RAYS AND DOING MANAGERIAL TASKS?
A. YES.
Q. DO THOSE THREE JOBS, THE CHIROPRACTIC JOB, THE DOCTORS CARE JOB, AND THE COLUMBIA HEART JOB ENCOMPASS YOUR ENTIRE WORK HISTORY?
A. YES.
Q. OKAY. I WANT TO MOVE TO JULY 15TH OF 2011. I WANT YOU TO DESCRIBE FOR HIS HONOR WHAT HAPPENED ON THAT DAY.
A. WELL, I HAD -- I HAD GONE DOWNSTAIRS TO SPEAK WITH ANGELA JENKINS BECAUSE I WAS CONCERNED OVER SOME ISSUES THAT HAD BEEN BROUGHT UP EARLIER IN THE MONTH -- EARLIER -- LATER IN JUNE RATHER, WHERE OUT OF NOWHERE I WAS PUT ON PROBATION, AND IT WAS -- IT -- IT MADE ME CONCERNED AND UPSET. AND I NOTICED THAT MY BOSS CONTINUES TO TAKE AWAY ALL OF MY ADMINISTRATIVE TYPE DUTIES WHERE I COULD SIT. AND SHE SAID SHE WANTED ME WORKING THE FLOOR. AND I SAID, "I WOULD," YOU KNOW, I MEAN, I -- I HAD NO PROBLEM WITH WORKING THE FLOOR. BUT I DIDN'T UNDERSTAND IT WHEN SHE CUT MY SALARY. AND SO I WENT DOWNSTAIRS TO DISCUSS THIS WITH ANGELA JENKINS. MY

BOSS WAS NOT THERE. AND WHEN I FINISHED SPEAKING WITH ANGELA JENKINS I WASN'T IN A VERY GOOD MOOD, SO I SAID -- WANTED TO COMPOSE MYSELF. AND I'M KIND OF A STRESS SMOKER, AND I TEXT JULIE AND ASKED HER TO BRING ME A CIGARETTE. AND THEN I WENT BACK UPSTAIRS AND TOLD MY TEAM LEADER, WHO WAS LEAVING AT 12 O'CLOCK TO GO ON HER VACATION, THAT I WAS GOING OUT TO HAVE A CIGARETTE AND I WOULD BE RIGHT BACK. AND ---

Q. AND DID SHE HAVE ANY PROBLEM AT ALL ---

A. NO. NO, SHE DIDN'T.

Q. --- WITH YOUR DOING THAT?

A. NO, SHE SAID, "THAT'S FINE." SHE SAYS -- SHE SAYS "REMEMBER I'M LEAVING AT 12." AND I SAID ---

BY MS. MORROW:

OBJECTION TO ANYTHING ANY OTHER WITNESS SAYS THAT'S NOT HERE TO TESTIFY TODAY AS HEARSAY TESTIMONY.

BY COMMISSIONER WILLIAMS:

OKAY. SUSTAINED.

DIRECT TESTIMONY RESUMED BY MR. BELLINGER:

Q. GO AHEAD.

A. THEN I WENT OUT. AND IT WAS EXTREMELY HOT, AND THERE WAS NOBODY OUT THERE. AND SO I JUST TOOK A FEW PUFFS AND THEN PUT IT OUT AND STARTED BACK

TOWARDS THE BUILDING.

Q. AND LET ME INTERRUPT YOU THERE. YOU HEARD I THINK JULIE'S TESTIMONY A MOMENT AGO THAT THE AREA WHERE EVERYBODY SMOKES IS MAYBE 20 FEET OR SO FROM THE -- I GUESS THE ENTRANCE TO THE COLUMBIA HEART AREA?

A. THAT'S CORRECT.

Q. IS THAT FAIRLY ACCURATE?

A. YES, SIR.

Q. IS THERE ALSO A PARKING AREA IN AND AROUND THIS AREA WHERE PEOPLE SMOKE?

A. YES.

Q. OKAY. AND IS THERE A SIDEWALK AREA IN -- THAT YOU USE INGRESS AND EGRESS INTO COLUMBIA HEART CLINIC IF YOU'RE LEAVING THE SMOKING AREA GOING BACK IN?

A. YES.

Q. OKAY, ALL RIGHT. I'M SORRY, I DIDN'T MEAN TO INTERRUPT YOU. SO YOU TAKE A FEW -- I THINK YOU SAID YOU TOOK A FEW PUFFS, YOU PUT THE CIGARETTE OUT, YOU SAID, "IT WAS HOT OUTSIDE," WHAT -- AND THEN TAKE US FROM THAT POINT, WHAT TRANSPIRED THEREAFTER?

A. WELL, I NOTICED IT WAS GETTING CLOSE TO 12, SO I GUESS I WAS MOVING FAST. AND I WAS -- I HEADED DOWN THE SIDEWALK, AND I -- MY FOOT HIT THE SIDEWALK WHERE IT HAD SETTLED. AND I HAD A LOT OF MOMENTUM

GOING, AND I FELL. AND I FELL FORWARD, AND I SORT OF FELL IN STAGES. I CAME DOWN HARD ON MY KNEES AND THEN CAME DOWN ON MY -- ON -- THE TOP PART OF MY BODY CAME DOWN, AND I -- I TURNED MY FACE AWAY FROM THE SIDEWALK, YOU KNOW, AND I THINK THAT'S ONE REASON WHY THE -- THE SHOULDER HIT IT REALLY HARD, BECAUSE THE LAST PART OF THE FALL WENT INTO THE SHOULDER BECAUSE I WAS TRYING TO KEEP MY FACE FROM HITTING THE SIDEWALK. BUT I -- I DID HAVE SOME -- YOU KNOW, I MEAN, I -- I -- THERE WAS NO WAY I COULD STAND UP. I HAD MY HANDS OUT. I WAS TRYING TO FIND SOMETHING TO HOLD ONTO, AND THERE WAS NOTHING.

Q. OKAY. NOW, THIS AREA WHERE YOU FELL, WAS THE CONCRETE UNEVEN?

A. YES, IT WAS.

Q. ALL RIGHT. DID YOU EVER DEVIATE FROM GOING FROM THE INSIDE OF COLUMBIA HEART TO THE AREA WHERE YOU SMOKED AND THEN BACK TO COLUMBIA HEART AT THE TIME YOU FELL; DID YOU DO ANYTHING ELSE IN BETWEEN?

A. ABSOLUTELY NOT BECAUSE I WASN'T GONE FOUR MINUTES.

Q. OKAY. AND DID YOU GO TO YOUR CAR FOR ANY REASON AND DO ANYTHING ELSE OTHER THAN ---

A. NO.

Q. --- TAKE A FEW PUFFS ON THIS CIGARETTE FOR SOME FOUR MINUTES?

A. NO.

Q. WAS THE ROUTE THAT YOU TOOK TO THE AREA WHERE YOU SMOKED AND BACK INTO COLUMBIA HEART CLINIC OR TOWARD COLUMBIA HEART CLINIC AFTER YOU SMOKED THE SHORTEST ROUTE?

A. YES.

Q. AND YOU WERE ON THE SIDEWALK?

A. YES.

Q. AND PEOPLE USE THAT SIDEWALK EVERY DAY GOING IN AND OUT OF COLUMBIA HEART?

A. YES, THEY DO.

Q. AND WE'VE SUBMITTED A NUMBER OF PHOTOGRAPHS. AND THERE'S A PHOTOGRAPH HERE.

BY MR. BELLINGER:

AND, YOUR HONOR, I'M REFERENCING OUR APA PAGE 109.

DIRECT EXAMINATION RESUMED BY MR. BELLINGER:

Q. DOES THAT INDICATE AN AREA OF THE SIDEWALK THAT WAS REPAIRED AFTER YOUR FALL?

A. (WITNESS VIEWS DOCUMENT). YES.

BY MS. MORROW:

YOUR HONOR, I OBJECT. REMEDIAL MEASURES HAVE NO IMPACT ON A WORKERS' COMPENSATION CLAIM.

BY COMMISSIONER WILLIAMS:

OKAY. SUSTAINED.

DIRECT EXAMINATION RESUMED BY MR. BELLINGER:

Q. BEFORE WE GET OFF THE -- YOU MENTIONED A MOMENT AGO THAT YOU WERE A STRESS SMOKER. I THINK IN YOUR DEPOSITION YOU INDICATED THAT YOU WEREN'T MUCH OF A SMOKER. WERE THERE PERIODS OF TIME WHEN YOU WOULD COMPLETELY QUIT SMOKING AND THEN YOU WOULD START BACK IF YOU WERE STRESSED OR WHATEVER?

A. RIGHT, AND I QUIT SMOKING FOR ABOUT FIVE YEARS. AND THEN I ACTUALLY STARTED BACK THE END OF JUNE HAVING A CIGARETTE OR TWO BECAUSE I WAS STRESSED. AND, I MEAN, I COULDN'T -- COULD SAY I PROBABLY HAD TEN BETWEEN THE END OF JUNE AND THE TIME I FELL.

Q. OKAY. ALL RIGHT. YOU'VE TAKEN US FROM THE TIME YOU GOT THE CIGARETTE UNTIL THE TIME THAT YOU FELL ON THE CONCRETE. DESCRIBE FOR HIS HONOR WHAT HAPPENED AFTER YOU FELL ON THE CONCRETE.

A. WELL, WHEN I FELL, I KNEW I WAS HURT BADLY. AND I HEARD A VOICE SAY "ARE YOU OKAY, LADY?" AND I COULD BARELY SPEAK, AND I SAID, "NO, I'M NOT." YOU KNOW, I SAID, "I NEED HELP." AND IT WAS SOMEBODY FROM THE HOSPITAL. AN EMPLOYEE FROM THE HOSPITAL CAME OVER, AND HE TOOK HIS CELL PHONE, AND I THINK HE CALLED SECURITY. BUT ABOUT THAT TIME, SOMEBODY THAT WORKED AT COLUMBIA HEART, AN -- AN ADMINISTRATIVE PERSON THAT -- THAT WORKS FOR THE C.O.O., SHE'S -- SHE WAS

COMING OUT, AND I THINK MAYBE SHE WAS COMING OUT FOR A CIGARETTE. I DON'T KNOW IF SHE'S A SMOKER. AND SHE SAID SHE SAW ME THERE, AND SHE STAYED. AND -- AND THEN ALL THESE PHONE CALLS WERE BEING MADE, AND SECURITY WAS THERE. AND THEN FINALLY SOME OF MY EMPLOYEES CAME DOWNSTAIRS AND SAID, "WELL, ARE YOU GOING TO LEAVE HER LAYING THERE?"

BY MS. MORROW:

YOUR HONOR, I OBJECT TO ANYTHING THAT ANYONE ELSE HAD TO SAY AS HEARSAY TESTIMONY.

BY MR. BELLINGER:

YOUR HONOR, I THINK ALL OF THIS CLEARLY IS PRESENT SENSE IMPRESSION. IT'S IMMEDIATELY FOLLOWING THE FALL.

BY COMMISSIONER WILLIAMS:

ALL RIGHT. I'LL LET IT GO A LITTLE BIT, BUT JUST SAY ---

BY THE WITNESS:

OKAY. OKAY.

BY COMMISSIONER WILLIAMS:

--- TELL ME WHAT ELSE HAPPENED. WHAT ELSE HAPPENED?

BY THE WITNESS:

ANYWAY, THEY GOT ME IN A WHEELCHAIR AND TOOK ME OVER TO THE HOSPITAL.

DIRECT EXAMINATION RESUMED BY MR. BELLINGER:

Q. IN ROUTE TO THE HOSPITAL, DID ANYBODY WITH H.R. COME OUT AND MAKE ANY STATEMENTS TO YOU?

A. YES, ANGELA JENKINS CAME DOWNSTAIRS.

Q. AND THAT'S MS. JENKINS THAT'S SEATED HERE TODAY?

A. YES. YEAH, SHE WAS THERE, AND SHE SAID THAT SHE HAD -- WOULD GET THE INFORMATION OVER TO THE HOSPITAL, OR SHE HAD GOTTEN THE INFORMATION OVER TO THE HOSPITAL, ABOUT MY WORKMANS' COMP, AND THAT, YOU KNOW, EVERYTHING WOULD BE ALL RIGHT AND NOT TO WORRY. AND THEN I HEARD HER SAY "YES, I SEE WHERE YOU FELL." AND THAT WAS THE -- I MEAN, THEN SHE LEFT ME. YOU KNOW, SHE SAID, "GOOD LUCK," YOU KNOW. SHE SAID, "I HOPE YOU'RE OKAY."

Q. OKAY.

BY MR. BELLINGER:

AND, YOUR HONOR, IN REFERENCE TO THAT, I WOULD POINT YOUR HONOR TO OUR APA SUBMISSIONS AT PAGES 100 AND 101.

DIRECT EXAMINATION RESUMED BY MR. BELLINGER:

Q. ALL RIGHT. HAVE YOU HAD A PRIOR RIGHT SHOULDER SURGERY?

A. YES.

Q. OKAY. AND WHAT KIND OF SURGERY WAS THAT?

A. IT WAS A ROTATOR CUFF SURGERY.

Q. DID IT HAVE ANYTHING TO DO WITH A DISLOCATED SHOULDER?

A. NO.

Q. HAD YOUR SHOULDER EVER DISLOCATED PRIOR TO YOUR FALL ON JULY 15TH OF 2011?

A. NEVER.

Q. DESCRIBE FOR HIS HONOR WHAT KIND OF ONGOING PROBLEMS, IF ANY, YOU HAD WITH YOUR RIGHT SHOULDER WE'LL SAY THE DAY BEFORE YOUR FALL. I MEAN, HOW WAS YOUR RIGHT SHOULDER BEFORE YOUR FALL OCCURRED?

A. WELL, ACTUALLY IT WAS -- IT WAS DOING FINE. I -- I -- IT WAS SO MANY YEARS AGO, OVER THE YEARS IT JUST GOT BETTER AND I DIDN'T THINK ABOUT IT. I MEAN, I DIDN'T -- I DIDN'T, YOU KNOW, PUSH IT AND LIFT REAL HEAVY, HEAVY, HEAVY, HEAVY STUFF. BUT, I MEAN, IT WAS -- I -- I NEVER THOUGHT ABOUT IT AGAIN 'CAUSE IT DIDN'T BOTHER ME.

Q. ASIDE FROM BEING CAUTIOUS, COULD YOU DO PRETTY MUCH ANYTHING WITH THAT RIGHT SHOULDER?

A. I COULD. I COULD DO ANYTHING I WANTED TO DO.

Q. ALL RIGHT. I WANT TO TALK NOW ABOUT YOUR KNEES, OKAY?

A. OKAY.

Q. I THINK YOU'VE HAD PRIOR SURGERIES TO BOTH KNEES; IS THAT CORRECT?

A. RIGHT, WHEN I WAS 12.
Q. OKAY. DESCRIBE FOR HIS HONOR THE TYPE OF PROCEDURE YOU HAD AT AGE 12.
A. I HAD A PATELLA REALIGNMENT BECAUSE OF SOME CONGENITAL ANOMALIES THAT THE TRACKING OF THE KNEE -- - OF THE PATELLA, AND SO THEY -- THEY RETRACK THEM BASICALLY.
Q. AND AFTER YOU HAD THAT DONE, WERE YOUR KNEES IN PRETTY GOOD SHAPE FOLLOWING THE PATELLA RETRACKING SURGERY?
A. OH, YES. I HAD A NORMAL CHILDHOOD.
Q. ALL RIGHT. IS THAT THE ONLY SURGERIES THAT YOU HAVE EVER HAD TO EITHER KNEE?
A. CORRECT.
Q. OKAY. NOW, PRIOR TO YOUR FALL, DID YOU HAVE OSTEOARTHRITIS IN BOTH KNEES?
A. YES.
Q. OKAY. DESCRIBE FOR HIS HONOR WHAT PROBLEMS YOU HAD WITH BOTH KNEES IMMEDIATELY BEFORE YOUR FALL OCCURRED. IN OTHER WORDS, I WANT TO GIVE HIM A COMPARISON OF HOW YOU WERE PRIOR TO THE FALL VERSES AFTER THE FALL. SO HOW WERE YOU PRIOR TO THE FALL JUST WITH YOUR KNEES?
A. WITH MY KNEES, OKAY. I HAD TIMES WHEN I WOULD -- IF I WAS ON MY FEET A LOT THAT THEY WOULD -- THEY WOULD

BEGIN TO HURT. AND I -- I MADE SURE THAT, YOU KNOW, I GOT STEROID INJECTIONS ABOUT EVERY TWO MONTHS OR THREE MONTHS. AND THEN THE -- YOU KNOW, I DIDN'T REALLY -- I -- I -- IT DIDN'T REALLY HAVE PAIN UNLESS I OVERDID. AND THEY -- YOU KNOW, I WAS ABLE TO GROCERY SHOP AND SWIM AND DO WHATEVER I WANTED TO DO. AND, YEAH, I DIDN'T HAVE ANY PROBLEMS, YOU KNOW, OTHER THAN IF I OVERDID, THEN I DID. YOU KNOW, I MEAN, I HAD SOME SORENESS.

Q. SO, YOU WERE ABLE TO MAINTAIN YOUR DAILY LIVING AND WORK FUNCTIONS SO LONG AS YOU HAD THESE INJECTIONS; IS THAT A FAIR STATEMENT?

A. THAT'S A FAIR STATEMENT.

Q. OKAY. DESCRIBE FOR HIS HONOR HOW YOUR KNEES ARE NOW.

A. I'M NOT HARDLY ABLE TO WALK AT ALL. AND I -- I NEED TOTAL KNEE REPLACEMENT, WHICH IS SOMETHING I WAS NOT GOING TO HAVE DONE EVER IF I COULD HELP IT, BUT -- AT LEAST UNTIL I WAS WAY DOWN IN MY 60s BECAUSE YOU -- THEY HAVE TO BE DONE AGAIN. AND IT WOULD -- AND I'M A DIABETIC, AND IT'S SORT OF A DANGEROUS SURGERY, YOU KNOW, WHEN YOU'RE A DIABETIC. SO I JUST -- I JUST NEVER INTENDED TO HAVE IT DONE UNLESS I HAD GOTTEN TO THE POINT WHERE I COULDN'T CARE FOR MYSELF OR COULDN'T DO THE THINGS I WANTED TO DO.

AND SO -- BUT NOW I'M SORT OF AT THAT POINT.

Q. SO, YOU'RE -- SO, JUST SO I'M CLEAR -- AND AM I CORRECT, YOU'RE AWARE THAT DR. CONSTABLE HAD RECOMMENDED TOTAL KNEE SURGERIES PRIOR TO YOUR FALL; IS THAT ACCURATE?

A. YES, THAT'S WHY I LEFT HER.

Q. OKAY. AND THAT'S WHERE I WAS GOING. YOU LEFT HER, AND THEN YOU BEGAN CARE WITH WHOM?

A. WITH DR. VAN DAM, WHO IS A PAIN SPECIALIST THAT JUST -- THAT -- THAT KEEPS YOU GOING THROUGH LIFE.

Q. OKAY. SO, YOUR IMPRESSION WAS THAT YOU WERE GOING TO DO YOUR BEST TO HOLD OFF ON HAVING ANYTHING DONE?

A. YES.

Q. AS FAR AS A KNEE REPLACEMENT GOES?

A. OH, YES. I -- I -- IT WAS TOO DANGEROUS A SURGERY, AND I COULD STILL DO EVERYTHING I WANTED TO DO FOR THE MOST PART, YOU KNOW. I MEAN, I, YOU KNOW, COULDN'T OVERDO, BUT I COULD -- I COULD STILL DO EVERYTHING THAT -- THAT I WANTED TO DO. AND SO I WAS -- I WANTED TO PUT IT OFF AS LONG AS POSSIBLE, IF EVER.

Q. ALL RIGHT. I WANT TO VERY BRIEFLY HIGHLIGHT YOUR MEDICALS, AND I'M GOING TO RUN THROUGH THIS. WHEN YOU FIRST WENT TO RICHLAND MEMORIAL, I THINK YOUR MAIN COMPLAINT WAS RIGHT SHOULDER; IS THAT CORRECT?

A. OH, YES, THAT'S ALL I COULD THINK ABOUT WAS MY ARM.
Q. AND IT HAD DISLOCATED AT THE TIME OF THE FALL?
A. RIGHT.
Q. DID IT ALSO -- DID YOU HAVE A SECOND DISLOCATION IN THE HOSPITAL AT THE E.R.?
A. YES, AFTER THEY PUT IT BACK IN, THEY SENT ME FOR THE CUSTOMARY X-RAY SO THEY COULD SEE IF IT WAS BACK IN PLACE. AND THEN WHEN I TRIED TO STAND UP FOR THE X-RAY, IT FELL BACK OUT. SO THEY HAD TO PUT ME BACK TO SLEEP AND REDUCE IT AGAIN.
Q. OKAY. DID YOU HAVE ABRASIONS ANYWHERE ELSE OTHER THAN THE PROBLEMS WITH THE RIGHT SHOULDER DISLOCATION?
A. WELL, THE NEXT DAY IS WHEN I SAW MOST OF THEM. I HAD -- YOU KNOW, BOTH MY KNEES WERE SKINNED. BOTH MY ANKLES WERE SKINNED. I HAD A SHIN SKIN ON THE BACK OF MY HAND, MY ELBOWS, AND I WAS BRUISED ALL THE WAY ACROSS HERE (INDICATING).
Q. AND WHEN YOU SAY "HERE," YOU'RE REPRESENTING YOUR CHEST?
A. ON MY -- MY CHEST. MY CHEST.
Q. OKAY. DID YOU TWO DAYS LATER HAVE TO GO BACK TO THE EMERGENCY ROOM?
A. YES. I WAS AT HOME ON A SUNDAY AND -- TWO DAYS AFTER THE ACCIDENT. I WAS WAITING TO GET AN

ORTHOPAEDIC APPOINTMENT THE NEXT WEEK, BECAUSE AT THAT POINT THEY STILL THOUGHT IT WAS JUST A DISLOCATED SHOULDER THAT WAS BEING STUBBORN. AND SO I WAS WAITING, AND MY FRIENDS CAME OVER TO WASH MY HAIR. AND IT CAME OUT AGAIN, AND WE HAD TO CALL AN AMBULANCE TO TAKE ME TO THE HOSPITAL.

Q. SO, THAT WAS A THIRD TIME, ---

A. YES.

Q. --- TWO DAYS LATER WHEN IT HAD COME OUT?

A. YES.

Q. NOW, AT THAT STAGE, WAS A FRACTURE DIAGNOSED IN THE SHOULDER?

A. I WAS SO MEDICATED, I THINK SO. I THINK THAT AT THAT POINT THEY SAID SOMETHING ABOUT THAT THEY -- THEY COULDN'T SEE WELL, BUT THEY COULD -- SAID, "IT LOOKED LIKE A -- A -- A FRACTURE, YOU KNOW, GLENOID ---

Q. AND HIS HONOR WILL HAVE -- HIS HONOR WILL HAVE THE MEDICALS.

A. --- A GLENOID FRACTURE."

Q. DID YOU -- DID YOU FOLLOW UP WITH DR. FULTON?

A. YES, I DID.

Q. OKAY. AND IT LOOKS LIKE YOU FIRST SAW HIM ON JULY THE 20TH. WHAT HAPPENED IN HIS OFFICE WITH YOUR SHOULDER AT THAT STAGE?

A. WELL, WE TALKED ABOUT IT, AND HE SAID ---

BY MR. MORROW:

YOUR HONOR, I OBJECT TO ANYTHING THE DOCTOR HAD TO SAY AS HEARSAY TESTIMONY.

BY MR. BELLINGER:

YOU CAN'T SAY ANYTHING THE DOCTOR SAID.

BY COMMISSIONER WILLIAMS:

SUSTAINED.

DIRECT EXAMINATION RESUMED BY MR. BELLINGER:

Q. WHAT HAPPENED TO YOUR SHOULDER IN HIS OFFICE ON JULY 20TH?

A. OH, I'M SORRY. HE -- THEY WENT TO CHANGE THE SLING BECAUSE I HAD A BODY SLING ON FROM THE EMERGENCY ROOM, AND WHEN THEY TOOK THE BODY SLING OFF, THE -- THE SHOULDER FELL OUT AGAIN. AND SO THEY PUT -- SO HE -- HE DID IT WITHOUT ANESTHESIA. I MEAN, HE JUST CAME IN AND PUT HIS FOOT IN MY RIBS AND SNATCHED IT OUT AND PUT IT BACK IN PLACE. AND ONCE HE DID THAT -- THIS WAS DONE WHILE I WAS LYING DOWN, AND THEN ONCE HE DID THAT, HE ASKED ME TO STAND UP. AND I TOLD HIM -- I TOLD HIM I WAS AFRAID TO.

Q. CAN'T SAY ---

A. OH, I CAN'T SAY THAT. BUT I STOOD UP, AND THE SHOULDER FELL OUT AGAIN.

Q. OKAY. SO, YOU HAD TWO ADDITIONAL LOCATION --

DISLOCATIONS FOR A TOTAL OF FIVE DISLOCATIONS; ---

A. YES.

Q. --- IS THAT CORRECT?

A. YES, SIR.

Q. ULTIMATELY, DID YOU UNDERGO SURGERY ON JULY 22ND FOR A GLENOID FRACTURE, A LABRAL TEAR, A ROTATOR CUFF TEAR, AND A BICEPS TENDON ISSUE?

A. YES.

Q. IT LOOKS LIKE YOU FOLLOWED UP AFTER SURGERY ON AUGUST THE 3RD WITH DR. FULTON. AT THAT TIME, WERE YOUR KNEES INJECTED IN ADDITION TO HIS VIEWING YOUR SHOULDER?

A. YES.

Q. WHAT PROBLEMS WERE YOU HAVING WITH YOUR KNEES AS OF THAT STAGE?

A. WELL, I HAD STARTED TO BE ABLE -- I HAD STARTED TO GET UP AND MOVE AROUND, AND I WAS IN A LOT OF PAIN. AND SO I ASKED THEM -- ALTHOUGH HE WASN'T THE DOCTOR WHO DOES MY INJECTIONS, I CALLED AND ASKED HIM IF -- IF WHEN I WENT OVER THERE, SINCE IT WAS DIFFICULT FOR ME TO GET AROUND RIGHT NOW, WOULD HE INJECT MY KNEES. AND HE DID.

Q. OKAY. AND IS DR. VAN DAM -- AFTER AUGUST 3RD OF LAST YEAR, HAS DR. VAN DAM MONITORED YOUR KNEES EVERY SINCE?

A. YES.
Q. OKAY. WHAT MEDS ARE YOU ON REGARDING YOUR KNEES?
A. I TAKE LORTAB AND ULTRAM AND MELOXICAM.
Q. NOW, WERE YOU AT DR. VAN DAM'S DEPOSITION THAT'S BEEN TAKEN IN THE LAST FEW WEEKS?
A. YES, I WAS.
Q. DID YOU HEAR HIM TESTIFY REGARDING YOUR MEDICATION DOSAGES?
A. I DID.
Q. DO YOU AGREE THAT HIS OPINION IS THAT THE MEDICATION DOSAGES HAVE REMAINED THE SAME?

BY MR. MORROW:

YOUR HONOR, I OBJECT TO THAT QUESTION IN THE DEPOSITION TESTIMONY OF DR. VAN DAM SPEAKS FOR ITSELF. SHE CAN TESTIFY TO HER OWN IMPRESSION OF MEDICATIONS, BUT NOT HIS INTERPRETATION.

DIRECT EXAMINATION RESUMED BY MR. BELLINGER:

Q. THAT'S WHAT I WANT, I WANT YOUR IMPRESSION. HAVE YOUR MEDICATION DOSAGE CHANGES THAT YOU HAVE ADMINISTERED, HAVE THEY CHANGED SINCE JULY 15TH, 2011?
A. VERY MUCH SO.
Q. EXPLAIN HOW.
A. THEY -- HE WOULD GIVE ME EVERY THIRTY DAYS -- EVERY SIXTY DAYS, HE WOULD GIVE ME SIXTY LORTABS AND SOME

ULTRAM TO TAKE. AND THAT WOULD BE -- AND I'D STILL HAVE SOME WHEN I'D GO BACK THE NEXT TIME. AND NOW HE GIVES THEM TO ME EVERY TEN DAYS, SIXTY PILLS EVERY TEN DAYS. AND -- TO TRY AND KEEP ME COMFORTABLE.

Q. BEFORE YOUR FALL ON JULY 15TH, WHAT WALKING DEVICES WERE YOU USING?

A. NONE.

Q. WHAT WALKING DEVICES -- I KNOW YOU GOT THE QUAD CANE THAT YOU WALKED UP TO THE WITNESS CHAIR ON, BUT ASIDE FROM THAT QUAD CANE, WHAT OTHER WALKING DEVICES DO YOU USE?

A. I HAVE A ROLLING WALKER THAT DR. VAN DAM PRESCRIBED FOR ME.

Q. WHAT WOULD HAPPEN IF YOU DIDN'T USE THE WALKING DEVICES?

A. I WOULDN'T GET VERY FAR. I MEAN, I'M JUST -- WOULDN'T. I'M -- IT'S VERY, VERY PAINFUL TO WALK, AND I'D BE AFRAID I'D FALL.

Q. OKAY. OTHER THAN THE ISSUES WITH BEING CONCERNED WITH FALLING AND -- WELL, YOU HAVEN'T REALLY, I DON'T THINK, ADDRESSED -- HOW HAS THE PAIN LEVEL IN YOUR KNEES CHANGED PRE-FALL VERSES POST-FALL?

A. OH, IT'S SO MUCH WORSE. THE SHOTS DON'T WORK ANYMORE. AND THEY -- THE LAST TIME I WENT TO SEE

DR. VAN DAM, HE -- I TOLD HIM TO GO AHEAD AND INJECT THE RIGHT KNEE BUT NOT TO GIVE ME THE MEDICINE IN THE LEFT BECAUSE IT WASN'T DOING ANY GOOD. AND -- AND IT -- IT WOULD PROBABLY BE BETTER FOR ME NOT TO HAVE THE -- THE EXTRA STEROIDS AND -- BECAUSE I SAID, "IT WASN'T HELPING AT ALL."

Q. WHAT OTHER CONCERNS DO YOU HAVE WITH YOUR KNEES REGARDING THE WALKING ISSUES THAT YOU'VE DESCRIBED AND THE ENHANCED PAIN ISSUE THAT YOU JUST DESCRIBED?

A. WELL, IT'S DIFFICULT FOR ME TO DO JUST DAILY LIVING.

Q. OKAY. BUT AS FAR AS PHYSICALLY WITH THE KNEES, DO YOU HAVE ANY OTHER PROBLEMS THAT YOU'VE NOTICED WITH YOUR KNEES POST-FALL OTHER THAN WHAT YOU'VE ALREADY DESCRIBED?

A. I'VE JUST NOTICED THAT THEY HAVE STEADILY GONE DOWN HILL SINCE THE -- SINCE THE ACCIDENT. I MEAN, I WAS ABLE TO WALK SOME AFTER THE ACCIDENT, AND THEN, YOU KNOW, AS -- YOU KNOW, JUST AS -- JUST IN A MATTER OF WEEKS, THE PAIN WAS INCREASED RIGHT AFTER THE ACCIDENT. AND -- WELL, SEE IT WAS HARD TO TELL BECAUSE I WAS SO HORRIBLY MEDICATED. I MEAN, I WAS ON MEGA DOSES OF MORPHINE AND EVERYTHING ELSE WITH THE SURGERY. SO -- AND I WAS SEDENTARY.

Q. BECAUSE OF YOUR SHOULDER?

A. RIGHT, BECAUSE OF MY SHOULDER. AND I WAS SEDENTARY,

SO -- I MEAN, IT WAS HARD TO TELL WHETHER MY KNEES WERE HURTING OR NOT. AND THAT WAS -- YOU KNOW, BUT WHEN I BEGAN TO WALK, YOU KNOW, THEY -- THEY -- THEY HURT HORRIBLY. AND THAT WAS WHEN I HAD DOCTOR -- DR. FULTON INJECT THEM ON MY VISIT TO HIM WITH MY SHOULDER.

Q. HAVE YOU EVER -- HAVE YOU HAD POST-FALL ANY GIVING WAY OF EITHER KNEE?

A. YES, THE LEFT KNEE IS -- IS DEFINITELY VERY WEAK AND IS GIVING -- GIVING AWAY FREQUENTLY.

Q. OKAY. WHAT HELPS WITH THE KNEE PAIN; WHAT DO YOU DO TO ASSIST YOUR KNEES?

A. WELL, SOMETIMES I HAVE TO -- IF THE PAIN -- IF -- LIKE TODAY, I WANTED TO BE CLEARHEADED, SO I DID NOT TAKE MEDICATION. AND SO I HAD TO FREEZE MY JOINTS SO I COULD GET DRESSED AND -- AND COME. RIGHT NOW, I'M EXTREMELY UNCOMFORTABLE.

Q. A MOMENT AGO YOU WERE ABOUT TO DESCRIBE HOW YOUR DAILY LIVING ACTIVITIES HAVE BEEN LIMITED. IF YOU WOULD DO SO NOW?

A. RIGHT. I CAN'T CLEAN MY HOUSE. I CAN'T GROCERY SHOP. I CAN'T TAKE THINGS OFF THE STOVE OR -- OR TAKE THINGS OUT OF THE OVEN OR -- OR THINGS OUT OF THE REFRIGERATOR OR -- I -- I HAVE TO HAVE HELP ALL THE TIME. I MEAN, PEOPLE ARE AT MY HOUSE HELPING

ME. THEY HELP ME IN AND OUT OF SHOWER, AND THEY HELP ME DRESS 'CAUSE IT'S LIKE A CIRCUS ACT TO DRESS. AND GOING UP AND DOWN THE STAIRS, SOMEBODY HAS TO BE ON ONE SIDE OF ME AND THE OTHER. I'VE GIVEN UP ANY ACTIVITIES, ANY PLEASURABLE ACTIVITIES, LIKE FISHING OR SWIMMING OR ANYTHING LIKE THAT. I'VE ---

Q. DO YOU HAVE A POOL AT YOUR HOUSE?

A. I DO.

Q. DO YOU HAVE A POND AT YOUR HOUSE?

A. I DO.

Q. ARE YOU WILLING TO UNDERGO BILATERAL KNEE REPLACEMENTS IN THE FUTURE?

A. I'M GOING TO HAVE TO. I HAVE NO QUALITY OF LIFE LIKE THIS.

Q. ON FEBRUARY THE 9TH OF THIS YEAR, DO YOU RECALL GOING TO A FUNCTIONAL CAPACITY EVALUATION?

A. YES, I DO.

BY MR. BELLINGER:

AND, YOUR HONOR, I WOULD REFER YOU TO PAGE 54.

BY COMMISSIONER WILLIAMS:

OKAY.

DIRECT EXAMINATION RESUMED BY MR. BELLINGER:

Q. THAT EVALUATION SAID YOU HAD LIMITED BENDING, TWISTING, TURNING, NO DEEP SQUATTING, NO CONTINUOUS

STANDING OR WALKING WITHOUT BREAKS. ARE YOU IN AGREEMENT WITH THOSE LIMITATIONS?

A. YES, I AM.

Q. HAS DR. VAN DAM RECOMMENDED A SHOWER CHAIR FOR YOU?

A. YES, HE DOES.

Q. AND YOU'VE ALREADY TALKED ABOUT THE ROLLING WALKER, CORRECT?

A. RIGHT.

Q. HAD EITHER OF THESE ITEMS BEEN RECOMMENDED FOR YOU PRIOR TO YOUR FALL ON JULY 15TH OF 2011?.

A. NO.

Q. OKAY. REGARDING YOUR RIGHT SHOULDER, WHERE DO YOU HAVE PAIN AT TODAY?

A. I HAVE ALMOST NO RANGE OF MOTION, AND IF I TRY AND TAKE IT THAT WAY, IT STOPS AND HURTS EXTREMELY BADLY (DEMONSTRATING). I MEAN, I CAN DO THINGS LIKE MY HANDS RIGHT HERE IN FRONT OF ME (DEMONSTRATING), BUT AS FAR AS MOVING MY ARM OUT OR BEHIND ME OR UP, I MEAN, I CAN'T. I MEAN, ---

Q. DO YOU COMB YOUR HAIR WITH YOUR RIGHT ARM?

A. WELL, I USED TO.

Q. NO, I'M TALKING ABOUT NOW.

A. NO. NO. NO, I CAN'T.

Q. I MEAN, IT LOOKS LIKE YOU'RE HOLDING YOUR RIGHT ARM GUARDED.

A. RIGHT, I MEAN, IF I SIT FOR A LONG TIME LIKE THIS, I -- I FORGOT MY LITTLE PILLOW THAT I -- THAT I USUALLY KEEP UP UNDER MY ARM, YOU KNOW, THAT -- BECAUSE IT HAS TO REST ON SOMETHING, YOU KNOW. SO I'M -- I'M HOLDING IT LIKE THIS BECAUSE I FORGOT THE LITTLE PILLOW (DEMONSTRATING).

Q. THE FUNCTIONAL CAPACITY EVALUATION ALSO INDICATES YOU'RE NOT SUPPOSED TO REACH WITH THAT RIGHT ARM AND SHOULDER; DO YOU AGREE WITH THAT?

A. I DO AGREE. I COULDN'T IF I WANTED TO.

Q. OKAY. HOW FREQUENT IS THE PAIN THAT YOU HAVE IN THE RIGHT SHOULDER/ARM AREA?

A. IT'S CONTINUOUS.

Q. ARE YOU WILLING TO UNDERGO A TOTAL SHOULDER REPLACEMENT SURGERY IN THE FUTURE ONCE IT GETS TO THAT POINT?

A. YES.

Q. ARE YOU AWARE THAT DR. FULTON RELEASED YOU TO RETURN TO WORK WITHOUT RESTRICTIONS FOLLOWING YOUR FALL?

A. YES, I'M THE ONE THAT BEGGED HIM TO.

Q. OKAY. SO, YOU ASKED HIM TO NOT PLACE RESTRICTIONS ON YOU?

A. YES, I DID.

Q. WHY DID YOU DO THAT?

A. BECAUSE I WAS AFRAID I WAS GOING TO LOSE MY JOB.

I'D BEEN GETTING PHONE CALLS FROM PEOPLE AT WORK, AND THEY WERE TELLING ME THAT ---

BY MR. MORROW:

YOUR HONOR, I OBJECT TO HEARSAY TESTIMONY.

BY THE WITNESS:

NO, I'M SORRY. I FORGOT.

BY MR. BELLINGER:

YOU CAN'T TESTIFY TO ANYTHING THAT ANYBODY TOLD YOU.

BY THE WITNESS:

OKAY. ALL RIGHT. YOU KNOW, I -- I JUST FELT LIKE I NEEDED TO GET BACK TO WORK IF I WANTED TO KEEP MY JOB.

DIRECT EXAMINATION RESUMED BY MR. BELLINGER:

Q. DO YOU RECALL SEEING ADGER BROWN, A VOCATIONAL PERSON THAT I ARRANGED FOR YOU TO SEE?

A. I DO.

Q. ARE YOU AWARE THAT HE FOUND YOU PERMANENTLY AND TOTALLY DISABLED FROM ANY WORK?

A. YES.

Q. ARE YOU IN AGREEMENT WITH THAT?

A. YES.

Q. ARE YOU CURRENTLY RECEIVING SOCIAL SECURITY DISABILITY?

A. YES.

Q. AND HAVE YOU AND I DISCUSSED THE IMPACT THAT WEEKLY CHECKS WOULD HAVE ON -- THAT WEEKLY CHECKS FROM WORKERS' COMP WOULD HAVE ON YOUR MONTHLY SOCIAL SECURITY AMOUNT?

A. YES, WE HAVE DISCUSSED THAT.

Q. OKAY. AND DO YOU HAVE A PREFERENCE WITH WHATEVER AWARD HIS HONOR MAY DECIDE ON YOUR BEHALF, DO YOU HAVE A PREFERENCE WHETHER OR NOT TO RECEIVE THAT AWARD WEEKLY OR IN A LUMP SUM?

A. WELL, I WOULD PREFER A LUMP SUM BECAUSE OF THE WAY IT WAS EXPLAINED TO ME THAT -- THAT MY SOCIAL SECURITY COULD BE CUT BACK, BUT NOT COMPLETELY OBLITERATED LIKE IT WOULD BE IF I HAD -- IF I HAD WEEKLY -- WEEKLY PAYMENTS. AND A LUMP SUM WOULD HELP ME FINANCIALLY SO I COULD -- I COULD PAY OFF SOME THINGS BECAUSE I'M TAKE -- MY SOCIAL SECURITY'S A FORTH OF WHAT I USED TO TAKE HOME. AND, YOU KNOW, I COULD PAY OFF MY SECOND MORTGAGE AND MY CAR AND -- AND BE ABLE TO LIVE ON THE REDUCED SOCIAL SECURITY, OR THE SOCIAL SECURITY AT ALL. AND SO I WOULD PREFER THE LUMP SUM FOR THAT REASON.

Q. AND DO YOU HAVE A BANK ACCOUNT?

A. I DO.

Q. AND HAVE YOU BEEN ABLE TO MAINTAIN THAT BANK ACCOUNT WITHOUT DIFFICULTY?

A. YES.

BY MR. BELLINGER:

YOUR HONOR, THAT'S ALL THE QUESTIONS I HAVE FOR THE CLAIMANT. PLEASE ANSWER ANY QUESTIONS MS. MORROW MAY HAVE.

BY COMMISSIONER WILLIAMS:

ALL RIGHT. MS. MORROW.

CROSS EXAMINATION BY MS. MORROW:

Q. MS. BRUCE, WHEN YOUR ACCIDENT HAPPENED BACK ON JULY 15TH OF 2011, YOU WERE ACTUALLY OUTSIDE OF COLUMBIA HEART'S FACILITY, THE BUILDING, ON A SIDEWALK, CORRECT?

A. I WAS AT -- RIGHT. I HAD JUST COME FROM THE SMOKING AREA.

Q. OKAY. THAT SIDEWALK IS A SIDEWALK THAT ANYBODY THAT EITHER HAS AN APPOINTMENT IN THE BUILDING, WORKS THERE, THEY CAN ALL USE THAT; IT'S AN ENTRANCE THAT'S FOR EVERYBODY THAT'S IN THAT BUILDING, CORRECT?

A. I -- I DIDN'T UNDERSTAND WHAT YOU -- WHAT YOU SAID. I'M SORRY.

Q. THE SIDEWALK YOU WERE ON, THE ENTRANCE THAT YOU WERE USING AT COLUMBIA HEART.

A. UH-HUH.

Q. COLUMBIA HEART IS ACTUALLY ONE FLOOR OF THE

BUILDING, CORRECT?

A. IT'S TWO FLOORS.

Q. OKAY. I'M SORRY, TWO FLOORS OF THE BUILDING. BUT THEY DON'T -- IT'S NOT THE ONLY THING IN THE BUILDING?

A. CORRECT.

Q. THERE ARE OTHER COMPANIES IN THERE, OTHER DOCTOR'S OFFICES, THINGS LIKE THAT?

A. RIGHT.

Q. PEOPLE COMING AND GOING EITHER TO COLUMBIA HEART OR THOSE OTHER FACILITIES ALSO USE THAT SIDEWALK?

A. WELL, FROM WHERE -- WHERE IT IS -- WHERE I -- YES, THEY DO USE THE SIDEWALK, BUT FROM WHERE I FELL, YOU WOULD ALMOST HAVE TO BE COMING FROM WHERE I WAS COMING FROM TO GET TO THAT POINT. WHERE PEOPLE PARK THEIR CARS, UNLESS THEY'RE GETTING OUT OF THE BACK SEAT, YOU KNOW, I'M -- THEY -- THEY WOULDN'T HAVE COME ACROSS THAT POINT IN THE SIDEWALK.

Q. MY POINT IS MORE PEOPLE THAN JUST COLUMBIA HEART EMPLOYEES USE THAT SIDEWALK?

A. I'M SORRY, YES.

Q. BAD QUESTION. SO, THERE ARE MULTIPLE WAYS IN AND OUT OF THE FACILITY AS WELL?

A. YES.

Q. IT'S NOT THE ONLY ONE EXCLUSIVE IN-AND-OUT OF THE

BUILDING?

A. CORRECT.

Q. OKAY. AND COLUMBIA HEART DOES NOT SPECIFICALLY DIRECT YOU THAT WHEN YOU COME TO WORK AND YOU LEAVE EVERY DAY YOU HAVE TO USE THAT SPECIFIC DOOR TO COME AND GO OUT OF THE FACILITY?

A. OH, NO, I JUST TOOK THAT 'CAUSE IT WAS SHORTER.

Q. OKAY. Y'ALL ARE ALLOWED TO DICTATE WHEN YOU COME AND GO, HOW YOU COME IN AND OUT OF THE BUILDING, FAIR?

A. YES.

Q. OKAY. AND Y'ALL USE DIFFERENT DOORS DEPENDING ON WHAT YOU'RE GOING TO DO: IF YOU'RE GOING HOME TO GET YOUR CAR, IF YOU'RE GOING OUT FOR LUNCH, IF YOU'RE GOING OUT TO SMOKE, IT JUST DEPENDS?

A. CORRECT.

Q. OKAY. YOUR EMPLOYER, COLUMBIA HEART, DIDN'T PROVIDE YOU WITH THE MEANS OF TRANSPORTATION FOR WORK, CORRECT?

A. NO.

Q. NO COMPANY CAR?

A. NO. NO.

Q. DIDN'T PAY YOUR BUS BILL?

A. NO.

Q. NOTHING LIKE THAT?

A. NO.
Q. YOU DROVE YOUR OWN VEHICLE?
A. YES.
Q. YOU PAID FOR YOUR OWN GAS?
A. YES.
Q. OKAY. AND ON THE DAY THAT THIS HAPPENED, NOBODY AT COLUMBIA HEART WAS TASKING YOU WITH AN ERRAND OR TELLING YOU THEY NEEDED YOU TO GO DO SOMETHING FOR THEM, NOTHING LIKE THAT?
A. NO, IT WAS A SMOKE BREAK.
Q. OKAY. AND THE NORMAL ENTRY OR EXIT, THE SIDEWALK INVOLVED WHERE YOU FELL, THAT WASN'T UNDER CONSTRUCTION, ---
A. NO.
Q. --- NOTHING LIKE THAT?
A. NO.
Q. JUST A NORMAL EVERYDAY SIDEWALK?
A. YES.
Q. OKAY. AND WHEN YOUR ACCIDENT HAPPENED, YOU WERE ACTUALLY JUST COMING BACK -- I'M SORRY, YOU WERE LEAVING THE BUILDING BECAUSE YOU JUST WANTED TO LEAVE THE BUILDING AT THAT TIME, CORRECT?
A. CORRECT.
Q. AND AS FAR AS YOUR EMPLOYMENT WITH COLUMBIA HEART, YOU'VE HAD TWO PRIOR WORKERS' COMPENSATION CLAIMS

WITH THEM, CORRECT?

A. I DON'T KNOW WHAT -- I KNOW ABOUT THE SHOULDER. WHAT -- I'M NOT SURE ---

Q. YOU HAD ANOTHER ONE IN THE '90s I THINK TO YOUR HAND OR TO SOME OF YOUR FINGERS WHEN YOU WERE PERFORMING SOME X-RAYS?

A. OH, THAT WAS WHEN THE X-RAY -- BUCKY HAD THE OLD SPRING LOADING THINGS ON THERE, AND WE NEVER GOT RID OF IT, YOU KNOW, WE KEPT IT. AND -- AND IT POPPED AND HIT THE CEILING AND CAME DOWN AND BROKE MY BIG TOE.

Q. I'M SORRY, TOE, NOT HAND.

A. I REMEMBER THAT NOW. OKAY. YES.

Q. I APOLOGIZE. SO, AT LEAST TWO CLAIMS WITH THEM IN THE PAST?

A. YES.

Q. ALL RIGHT. SO, YOU'VE BEEN THROUGH THIS PROCESS AT LEAST TWICE UP UNTIL THIS CLAIM TODAY, CORRECT?

A. YES.

Q. ALL RIGHT. YOUR MOST RECENT CLAIM INVOLVED BOTH YOUR RIGHT AND YOUR LEFT SHOULDER, NOT THE ONE WE'RE HERE TALKING ABOUT TODAY, THE ONE BEFORE?

A. YES. YES.

Q. THE ACCIDENT BEFORE THIS INVOLVED BOTH OF YOUR SHOULDERS, CORRECT?

A. YES.
Q. IT WAS ALSO A TRIP-AND-FALL ACCIDENT, WASN'T IT?
A. YES.
Q. OKAY. AND YOUR DOCTOR RELEASED YOU FROM THAT ACCIDENT WITH IMPAIRMENTS TO BOTH OF YOUR SHOULDERS, CORRECT?
A. YES.
Q. ALL RIGHT. AND WHEN THIS ACCIDENT OCCURRED, YOU HAD IMMEDIATE CARE; IS THAT FAIR?
A. YES.
Q. THEY PICKED YOU UP OFF THE SIDEWALK AND TOOK YOU STRAIGHT TO THE HOSPITAL?
A. YOU'RE TALKING ABOUT THIS -- THIS LAST ACCIDENT?
Q. THIS ACCIDENT WE'RE HERE FOR TODAY, ---
A. YES.
Q. --- CORRECT?
A. YES, THEY -- THEY TOOK ME STRAIGHT TO THE HOSPITAL.
Q. ALL RIGHT. AND I THINK EARLIER YOU WERE TESTIFYING THAT WHEN YOU FELL YOU FELL FORWARD, YOU HIT BOTH SHOULDERS, YOU BRACED WITH AN ARM, AND POTENTIALLY HIT YOUR KNEES AS WELL?
A. WELL, THE KNEES WERE THE FIRST THING TO HIT THE SIDEWALK, AND THEN THE REST OF ME FOLLOWED.
Q. OKAY. AND YOU REMEMBER WHEN MS. MILLER TOOK YOUR DEPOSITION BACK IN JANUARY OF THIS YEAR?

A. YES.
Q. AND SHE WAS ASKING YOU ABOUT THE ACCIDENT ITSELF?
A. YES.
Q. AT THE TIME, YOU TOLD HER THAT YOU FELL ON BOTH OF YOUR SHOULDERS, BUT TODAY, NOW YOU'RE SAYING THAT YOU ALSO FELL AND INJURED YOUR KNEES?
A. WELL, AT -- AT THE TIME, I -- I HURT EVERYTHING. I MEAN, MAYBE I DIDN'T UNDERSTAND HER QUESTION.
Q. OKAY.

BY MS. MORROW:

YOUR HONOR, I'M JUST LOOKING AT HER DEPOSITION, PAGE 27.

CROSS EXAMINATION RESUMED BY MS. MORROW:

Q. WHEN YOU GOT TO THE HOSPITAL, DID YOU TELL THE DOCTORS HOW YOU INJURED YOURSELF?
A. YES.
Q. OKAY. DID YOU TELL THEM YOU WERE ON A SMOKE BREAK?
A. I DON'T REMEMBER ANYTHING. WHEN I GOT TO THE HOSPITAL, I WAS SCREAMING, AND THEY WERE CUTTING MY CLOTHES OFF, YOU KNOW. SO IT WAS A REALLY DIFFICULT TIME FOR WHAT WE WERE TALKING ABOUT. WHEN THEY WERE TRYING TO GET A HISTORY ON ME, I WAS -- YOU COULD HEAR ME ALL OVER THE HOSPITAL.
Q. SO, IF WE LOOK AT THE APAs THAT YOUR ATTORNEY SUBMITTED FOR YOU, THE INITIAL HOSPITAL NOTE THAT WE

HAVE SAYS THAT YOU PRESENTED WITH RIGHT SHOULDER PAIN FROM FALL DURING YOUR LUNCH BREAK AT WORK. THAT'S INCONSISTENT WITH WHAT YOU'RE SAYING TODAY THAT YOU WERE OUT FOR A SMOKE BREAK; IS THAT FAIR?

A. WELL, AT COLUMBIA HEART, A BREAK IS A BREAK. YOU KNOW, I MEAN, AS FAR AS -- I MEAN, IF YOU USE IT TO SMOKE OR YOU USE IT TO DRINK -- USE IT TO -- TO EAT, EXCUSE ME. THAT WAS A SLIP.

Q. LET'S NOT TALK ABOUT THAT.

A. IF YOU USE IT TO EAT, YOU KNOW. I MEAN, THEY DO HAVE SPECIFIED SMOKE BREAKS THAT REGULAR SMOKERS HAVE, BUT THAT WAS THE THIRD CIGARETTE I'D HAD SINCE I HAD MOVED IN THE BUILDING IN 2006.

Q. OKAY.

A. SO IT WASN'T SOMETHING I NORMALLY DID.

Q. ALL RIGHT. SO, EVEN IF THE FIRST MEDICAL RECORD SAYS THAT -- IT ALSO ADDITIONALLY CONSISTENTLY SAYS THAT THE FALL AFFECTED JUST YOUR RIGHT SHOULDER. WOULD YOU AGREE THAT YOU DID NOT TELL THE DOCTORS THAT YOU SUFFERED ANY INJURY TO YOUR KNEE WHEN YOU INITIALLY REPORTED IT -- KNEES?

A. WHEN I INITIALLY WAS IN THE HOSPITAL, THE ONLY THING I COULD THINK ABOUT WAS MY SHOULDER THAT WAS OVER HERE ON MY CHEST (INDICATING).

Q. OKAY. SO, AT LEAST FIVE OR MORE DAYS LATER WHEN YOU

FINALLY GOT TO SEE DR. FULTON, HIS INITIAL MEDICAL RECORD, AT YOUR APA PAGE 36, SAY THAT YOU WERE THERE FOR AN EVALUATION OF INSTABILITY IN YOUR RIGHT SHOULDER?

A. CORRECT.

Q. AND IT SAYS THAT YOU WERE AT COLUMBIA HEART AND INJURED YOURSELF WHEN YOU FELL ON YOUR SHOULDER. HIS MEDICAL NOTE MAKES NO MENTION WHATSOEVER OF YOU INJURING YOUR KNEES.

A. WELL, AT THE TIME, MY -- I WAS ON HEAVY DOSES OF MORPHINE, YOU KNOW, WHEN I SAW DOCTOR -- DR. FULTON. AND IT -- IT WASN'T UNTIL I WAS NOT SEDENTARY ANYMORE, AND COMPLETELY SEDENTARY OR FLAT ON MY BACK, THAT I, YOU KNOW, REALIZED HOW BAD THEY WERE. I MEAN, THEY -- IT WAS ALONG ABOUT MY SECOND OR FIRST POST-OP VISIT WITH DR. FULTON THAT I ASKED HIM TO DO SOMETHING ABOUT THE PAIN, BECAUSE I HAD CUT BACK ON THE PAIN MEDICATION.

Q. SO -- THEN THROUGH THE COURSE OF YOUR TREATMENT WITH DR. FULTON AND DR. VAN DAM, AT SOME POINT, YOU SURELY WOULD HAVE TOLD THEM THAT YOU HAD INJURED BOTH OF YOUR KNEES IN THIS ACCIDENT?

A. I DID.

Q. OKAY. THEN HOW IS IT THAT NONE OF THE MEDICAL RECORDS FOR ANY OF THE MEDICAL TREATMENT YOU'VE HAD

WITH DR. FULTON OR DR. VAN DAM REFERENCE THAT YOU INJURED EITHER YOUR RIGHT KNEE OR YOUR LEFT KNEE AS A RESULT OF THIS ACCIDENT?

A. WELL, SINCE I'M NOT ALLOWED TO SAY WHAT ANYBODY SAYS, I WILL JUST SAY THAT I SAID TO DR. VAN DAM HOW MUCH WORSE THEY WERE SINCE THE FALL. AND HE SAID, "YES, I SEE THAT."

Q. OKAY. BUT CLEARLY INCONSISTENT WITH WHAT YOU INITIALLY REPORTED TO THE HOSPITAL AND COMPLETELY INCONSISTENT WITH WHAT ALL THE MEDICAL RECORDS SAY FROM ---

BY MR. BELLINGER:

YOUR HONOR, I WOULD OBJECT TO THIS. IT'S CLEARLY NOT INCONSISTENT WITH ALL THE MEDICALS. THE QUESTIONNAIRE THAT'S BEEN SUBMITTED CLEARLY GIVES CAUSATION REGARDING THE ACCIDENT, AND I WOULD OBJECT TO THIS LINE OF QUESTIONING IN THAT REGARD.

BY MS. MORROW:

WELL, IN THE DEPOSITION TESTIMONY IS CONTRARY TO THE QUESTIONNAIRE THAT'S PRESENTED IN THE MEDICAL EVIDENCE.

BY COMMISSIONER WILLIAMS:

I'LL READ ALL ---

BY MR. BELLINGER:

I WOULD OBJECT TO THAT, TOO, YOUR HONOR.

BY COMMISSIONER WILLIAMS:

I'LL READ ALL OF THAT, THE DEPOSITION AND THE MEDICAL RECORDS.

CROSS EXAMINATION RESUMED BY MS. MORROW:

Q. ALL RIGHT. BEFORE YOU -- OR AROUND THE TIME THAT YOU STARTED TREATING WITH DR. FULTON, YOU WENT INTO COLUMBIA HEART AND ACTUALLY FILLED OUT SHORT-TERM DISABILITY PAPERWORK; IS THAT RIGHT?

A. NOW, SAY THAT AGAIN.

Q. BEFORE YOU ACTUALLY STARTED TREATING -- OR EXCUSE ME, RIGHT AROUND THE SAME TIME THAT YOU INITIATED YOUR TREATMENT, IT LOOKS LIKE THE SAME DAY THAT YOU WENT TO SEE DR. FULTON, YOU WENT INTO COLUMBIA HEART AND FILLED OUT SHORT-TERM DISABILITY PAPERWORK?

A. RIGHT, MY MOTHER CAME BY AND PICKED UP THE PAPERWORK AND BROUGHT IT TO ME.

Q. AND YOU REVIEWED AND YOU SIGNED THE STUFF, THE SHORT-TERM DISABILITY PAPERWORK; DID YOU NOT?

A. YES.

Q. YOU COMPLETED IT WITH ANGELA?

A. NO, I DIDN'T BRING IT TO ANGELA. MY MOTHER BROUGHT IT BACK.

Q. OKAY. YOU FILLED OUT THE FORM?

A. YES.

Q. YOUR MOM TOOK THE FORM TO ANGELA?

A. YES, I WASN'T ---

Q. ALL RIGHT.

A. --- OUT AND ABOUT.

Q. SO, WHEN IT SAYS THAT YOU WERE INJURED OFF THE JOB AND YOU TRIPPED ON UNEVEN CONCRETE AND FELL ON YOUR RIGHT SHOULDER, HOW IS THAT CONSISTENT WITH WHAT YOU'RE TESTIFYING TO TODAY?

BY MS. MORROW:

YOUR HONOR, I'M LOOKING AT PAGE 200.

BY THE WITNESS:

AT THE TIME, I -- LIKE I SAID BEFORE, AT THE TIME, I WAS BRUISED EVERYWHERE AND HURT EVERYWHERE. I DID NOT REALIZE BECAUSE I WAS COMPLETELY MEDICATED THAT MY KNEES WERE WORSE THAN THEY WERE BEFORE. AND SO, IT WASN'T -- YOU KNOW, THE ONLY THING I WAS CONCERNED ABOUT WAS A DISLOCATING SHOULDER AND -- AT THAT -- AT THAT MOMENT, YOU KNOW. AND -- THAT I FILLED OUT THAT PAPERWORK.

CROSS EXAMINATION RESUMED BY MS. MORROW:

Q. AND THIS IS WELL AFTER YOUR DATE OF ACCIDENT. IT'S AT LEAST FIVE DAYS LATER. AND YOU'RE CERTIFYING TO THIS SHORT-TERM DISABILITY COMPANY THAT YOUR ONLY INJURY AS A RESULT OF THIS ACCIDENT WAS FOR THE RIGHT SHOULDER?

A. THE -- THAT'S WHAT I PUT DOWN THERE BECAUSE THAT'S

WHAT I WAS OUT FOR, THAT'S WHAT I WAS GOING TO HAVE SURGERY FOR. THAT'S THE WAY I UNDERSTOOD THAT THAT WAS THE REASON I WAS OUT OF WORK WAS WHAT I NEEDED TO PUT DOWN THERE.

Q. AND IF YOU WERE REALLY TRULY HAVING PROBLEMS WITH YOUR RIGHT KNEE AT LEAST FIVE DAYS LATER, WOULD YOU NOT HAVE NOTED IN YOUR SHORT-TERM DISABILITY PAPERWORK THAT THAT WAS SOMETHING THAT YOU ALSO INJURED IN YOUR ACCIDENT?

A. WELL, I DIDN'T REALLY THINK THAT NEEDED -- THEY WANTED A MEDICAL HISTORY ON ME. I WAS JUST PUTTING DOWN WHAT I -- WHAT WAS -- WHY I WAS GOING IN THE HOSPITAL FOR FOR SURGERY AND WHY I WAS NOT AT WORK.

Q. BUT THE REASON ---

A. I MEAN, THERE WAS PLENTY OF PLACES THAT WERE -- THAT -- THAT HURT, BUT ---

Q. BUT THE REASON YOU WEREN'T AT WORK WAS BECAUSE OF THIS FALL?

A. RIGHT.

Q. SO, DON'T YOU THINK IT WOULD HAVE BEEN PRUDENT TO HAVE LISTED ALL OF THE INJURIES THAT YOU SAY THAT YOU HAD AS A RESULT OF THAT FALL?

A. WELL, I REPEAT, I WAS DRUGGED OUT OF MY MINE WHEN I FILLED THAT PAPERWORK OUT.

Q. DO YOU NORMALLY SIGN CONTRACTS AND REQUEST BENEFITS

WHILE YOU'RE UNDER THE INFLUENCE OF MEDICATION?

A. I DIDN'T KNOW THAT WAS A CONTRACT. I JUST -- MY MOTHER STOOD THERE AND HELPED ME FILL IT OUT, AND -- THAT'S NOT MY HANDWRITING, YOU KNOW. AND ALL IT IS -- YOU KNOW, IS SHE -- SHE SAID -- SHE -- I TOLD HER -- SHE DID READ THE QUESTION TO ME, AND I WOULD TELL HER WHAT -- I COULDN'T WRITE. AND SO, I MEAN, I WAS HEAVILY MEDICATED WHEN I WROTE IT DOWN, YOU KNOW. SO IF I WASN'T COMPLETE, I CAN UNDERSTAND WHY.

Q. IN THE FIRST NOTE THAT YOU ACTUALLY SAW DR. VAN DAM, HIS MEDICAL NOTE STATES ONLY THAT YOU'RE DOING POORLY WITH YOUR KNEES OVERALL. AND YOU'VE BEEN TESTIFYING EARLIER THAT YOU NOTIFIED HIM THAT YOU HAD SUSTAINED INJURIES TO BOTH YOUR KNEES AS A RESULT OF THIS ACCIDENT. IS IT FAIR TO SAY THAT THAT'S NOT EXACTLY CONSISTENT GIVEN THE FACT THAT HIS MEDICAL RECORDS DON'T REFLECT THAT YOU REPORTED ANY TYPE OF INJURY TO YOUR KNEES IN THIS ACCIDENT?

A. I HAVE NO CONTROL OVER WHAT HE WRITES DOWN WHEN HE LEAVES THE ROOM. I KNOW WHAT WE DISCUSSED.

Q. OKAY. BUT IT'S AWFULLY INTERESTING THAT DR. FULTON NOTED YOUR FALL ON RIGHT ---

BY MR. BELLINGER:

AND I THINK THAT'S ARGUMENTATIVE, "IT'S AWFULLY INTERESTING."

BY COMMISSIONER WILLIAMS:

CAN YOU REPHRASE YOUR QUESTION?

CROSS EXAMINATION RESUMED BY MS. MORROW:

Q. BUT SOMEHOW YOU PROVIDED INFORMATION TO DR. FULTON THAT MADE IT INTO DR. FULTON'S NOTES IN YOUR FIRST EVALUATION THAT YOUR INJURY WAS TO YOUR RIGHT SHOULDER?

A. WELL, THAT'S WHAT I WAS THERE FOR.

Q. AND YOU TREATED WITH DR. CONSTABLE FOR A PROLONG PERIOD OF TIME BEFORE THIS ACCIDENT FOR YOUR KNEES, CORRECT?

A. I DON'T KNOW HOW LONG I WENT TO SEE HER, BUT YES, I -- SHE WAS MY DOCTOR.

Q. WELL, THE FIRST RECORDS THAT SHE SENT TO US WERE FROM AT LEAST DECEMBER OF 2005; DOES THAT SOUND CORRECT?

A. YES, THAT DOES.

Q. SO, A PROLONGED PERIOD OF TIME BETWEEN 2005 AND 2011 WHEN YOU SAY THIS ACCIDENT HAPPENED; IS THAT FAIR, 2005 TO 2011 IS A PRETTY LONG PERIOD OF TIME, SEVERAL YEARS?

A. SINCE I SAW HER, BUT I WAS SEEING DR. VAN DAM. I -- I -- I STOPPED SEEING DR. CONSTABLE.

Q. YOUR LAST NOTE WITH DR. CONSTABLE IS NOT UNTIL OCTOBER OF 2010?

A. RIGHT, AND I -- I STOPPED SEEING DR. CONSTABLE AND WENT ON TO SEE DR. VAN DAM, BECAUSE DR. VAN DAM IS MORE INTO PAIN MANAGEMENT INSTEAD OF SURGERY.

Q. RIGHT. THE ENTIRE TIME YOU WERE SEEING DR. CONSTABLE, FROM 2005 UNTIL 2008, SHE WAS PROVIDING BILATERAL KNEE INJECTIONS FOR YOU, CORRECT?

A. SURE, RIGHT.

Q. SHE WAS PROVIDING MEDICATIONS TO YOU?

A. YES.

Q. THE SAME MEDICATIONS YOU'RE TAKING NOW, SIMILAR MEDICATIONS AT LEAST?

A. NOT IN THAT -- NOT IN THE QUANTITIES THAT I'M TAKING NOW, BUT YES.

Q. AND AS RECENT AS OCTOBER 8 OF 2010, SHE TOLD YOU YOU WERE GOING TO HAVE TO HAVE BILATERAL KNEE REPLACEMENTS?

A. SHE'D BEEN TELLING ME THAT ALL ALONG, BUT ---

Q. SO, YOU KNEW AT SOME POINT THAT YOUR KNEES WERE TO THE -- WERE DETERIORATING SUCH THAT YOU WERE GOING TO REQUIRE TOTAL KNEE REPLACEMENTS?

A. WELL, I'M NOT -- I SAID THAT A TOTAL KNEE REPLACEMENT IS ELECTIVE SURGERY, OKAY. AND SO I DON'T TAKE MY LIFE OR MY LIMB IN -- IN MY HANDS UNLESS I CANNOT CARE FOR MYSELF, OR MY QUALITY OF LIFE IS SOMETHING THAT I CANNOT -- I CANNOT DO. AND

-- AND I NEVER THOUGHT THAT IT WOULD EVER COME TO THIS.

Q. BUT YOU KNEW AS FAR BACK AS OCTOBER OF 2010 THAT THIS WAS A REALISTIC, MORE PROBABLE THAN NOT, RESULT, THAT YOU WERE GOING TO HAVE BOTH OF THOSE KNEES REPLACED?

A. I COULD DO ANYTHING I WANTED TO DO.

Q. THAT'S NOT MY QUESTION, MA'AM.

A. THE QUESTION IS THAT -- THAT -- THAT IT WAS A SUGGESTION TO ME, YES. YOU KNOW, I MEAN, THAT IT'S AN ELECTIVE SURGERY THAT IS TOTALLY UP TO ME, AND BECAUSE OF MY DIABETES AND BECAUSE OF THE DANGER OF THE SURGERY, I -- THAT WOULD BE TOTALLY LEFT UP TO ME WHETHER I WANTED TO HAVE IT DONE, AND THE FACT OF MY -- MY YOUNG AGE, I WOULD HAVE TO HAVE IT DONE AGAIN BEFORE I DIED. AND SO IT WAS SOMETHING THAT I WASN'T EVEN CONSIDERING 'TIL AFTER I HAD RETIRED, AFTER I WAS 65, IF MY QUALITY OF LIFE WAS SUCH THAT I HAD TO HAVE IT.

Q. AND YOU HAD NO CONTROL OVER WHAT THE QUALITY OF LIFE AND YOUR KNEES WERE GOING TO BE, THAT WAS UP TO FATHER TIME? YOU HAD NO IDEA WHEN YOU WERE ACTUALLY GOING TO NEED THOSE KNEE REPLACEMENTS?

A. THEY DIDN'T CHANGE OVER NIGHT; THEY WERE PRETTY STEADY.

Q. ALL RIGHT. AND IS IT ALSO NOT TRUE THAT WHEN YOU WERE WORKING AT COLUMBIA HEART BEFORE THIS ACCIDENT HAPPENED, YOU WERE BROUGHT IN AND YOU WERE TOLD THAT YOU WERE NOT MEETING YOUR ADMINISTRATIVE RESPONSIBILITIES IN THE JOB THAT YOU WERE HOLDING?

A. YES.

Q. AND A PLAN OF ACTION WAS PUT INTO PLACE ONTO HOW YOU WERE SUPPOSED TO RECTIFY YOUR SHORTCOMINGS IN PERFORMING YOUR JOB?

A. YES.

Q. YOU WERE ALSO NOT MEETING THE QUALIFICATIONS OF YOUR JOB; SO THEY ELECTED TO REMOVE A PORTION OF YOUR JOB IN ORDER TO ALLEVIATE YOUR RESPONSIBILITIES AND ALLOW YOU TO ACHIEVE THAT PERFORMANCE LEVEL; DID THEY NOT?

A. WELL, SINCE I CAN'T SAY ANYTHING ANYBODY SAID, THEN YES.

Q. OKAY. AND WITH THE REDUCTION IN RESPONSIBILITIES ALSO BECAME A REDUCTION IN YOUR PAY BECAUSE YOU WERE NOT DOING THE SAME LEVEL OF JOB DUTIES AND RESPONSIBILITIES YOU WERE DOING BEFORE?

A. CORRECT.

Q. AND PART OF WHAT THEY WERE ASKING YOU TO DO ON THIS PLAN OF ACTION THAT THEY GAVE TO YOU WAS THE SAME JOB THAT YOU WERE EXPECTED TO DO BEFORE THIS

ACCIDENT, BUT YOU JUST WERE NOT PERFORMING THOSE ASPECTS OF YOUR JOB? FOR EXAMPLE, THE PATIENT CARE. YOU WERE RESPONSIBLE FOR PATIENT CARE. BEFORE THIS ACCIDENT HAPPENED, YOU WERE NOT ACTUALLY PERFORMING THE QUANTITY OF PATIENT CARE THAT YOU WERE RESPONSIBLE FOR?

A. I WAS ---

BY MR. BELLINGER:

YOUR HONOR, AT THIS STAGE, SHE HAS OPENED THE DOOR. THE CLAIMANT CAN TESTIFY AS TO WHAT ANYONE TOLD HER REGARDING THIS ISSUE. SO I MOVE THAT SHE BE ABLE TO GIVE HEARSAY TESTIMONY REGARDING THIS AS A RESULT OF THIS DOOR BEING OPENED.

BY COMMISSIONER WILLIAMS:

ALL RIGHT. LET ME HEAR WHAT SHE HAS TO SAY ABOUT IT. ASK THE QUESTION AGAIN.

BY THE WITNESS:

ASK THE QUESTION AGAIN.

CROSS EXAMINATION RESUMED BY MS. MORROW:

Q. PRIOR TO YOUR ACCIDENT, THEY HAD -- YOUR JOB DUTIES AND RESPONSIBILITIES INCLUDED PATIENT CARE, BUT YOU WERE NOT ACTUALLY PERFORMING THE LEVEL OF PATIENT CARE THAT WAS REQUIRED OF YOUR JOB?

A. I WAS ACCORDING TO AN AGREEMENT BETWEEN MYSELF AND MS. HOLDER. WHEN SHE GAVE ME THE JOB, I HAD A FULL-

TIME ADMINISTRATIVE JOB DOWNSTAIRS, AND SHE ASKED ME -- WE GOT TOGETHER, AND SHE ASKED ME IF I WOULD TAKE THE JOB UPSTAIRS AND KEEP THAT OTHER FULL-TIME JOB. AND I GOT A $10,000 RAISE TO DO THAT. AND I TOLD HER, I SAID, "YOU KNOW THAT ON MY FEET ALL DAY, EVERY DAY." I SAID, "MY PREDECESSOR WAS NOT ON HER FEET EVERY DAY, ALL DAY. SHE DIDN'T EVEN COME IN THE OFFICE UNTIL TWO." SHE WORKED IN THE HOSPITAL UNTIL TWO O'CLOCK. AND SO SHE -- SHE DIDN'T HAVE MUCH TIME TO BE ON THE FLOOR EVERY DAY, ALL DAY. BUT I SAID, "IF -- IF THAT'S EXPECTED OF ME," YOU KNOW, I SAID, "I DON'T KNOW THAT I WANT TO TAKE THE JOB." AND SHE SAID, "NO, YOU WILL NOT HAVE TO DO THAT." SHE SAID, "YOU" -- SHE SAID, "WE UNDERSTAND NOW." AND SHE HIRED ANOTHER M.A. AT THE POINT -- AT THAT POINT, AND SHE SAID, "YOU WILL HAVE TO DO -- FILL IN IF SOMEBODY GETS SICK, GOES HOME, AND CALLS IN IF -- IF YOU DON'T -- IF YOU CANNOT -- YOU KNOW, YOU CAN'T -- GET IT COVERED ANY OTHER WAY, I WOULD EXPECT YOU TO DO IT." AND THAT'S THE EXACTLY WHAT I DID ALL THAT TIME. I MEAN -- AND SO I WAS AS SURPRISED AND BLIND SIDED AS I COULD BE WHEN A PAPER WAS PUT DOWN IN FRONT OF ME SAYING "YOU HAVE NOT BEEN DOING -- YOU HAVE BEEN NOT DOING THE PATIENT CARE THAT WE EXPECTED OF YOU." YOU KNOW, AND THAT -

- I -- I MEAN, I WAS TOTALLY BLIND SIDED. I MEAN, IT SAID FOR EIGHT MONTHS MY -- MY WORK HAD DECLINED. AND I -- I -- THE LAST CONVERSATION, THE LAST ANYTHING THAT I'D HAD WITH MY BOSS WAS AN EXEMPLARY APPRAISAL IN DECEMBER AND NOTHING BUT COMPLIMENTS UP UNTIL THE TIME SHE PUT THAT PIECE OF PAPER IN FRONT OF ME. AND I WAS BLIND SIDED TOTALLY. THERE WAS NOTHING IN MY PERSONNEL FILE THAT SAYS "WE COUNSELED YOU. WE TOLD YOU YOU'RE NOT DOING IT RIGHT." THAT SAYS -- EIGHT MONTHS YOU WOULD THINK SOMEBODY WOULD SAY "LISTEN, GAIL, YOU'VE GOT TO GET -- YOU KNOW, GET MOVING, GET -- THIS IS NOT WHAT WE WANT ANYMORE." I -- THEY NEVER SAID A WORD TO ME. AND THEN THEY PUT ME ON PROBATION, WHICH IS SKIPPING ALL THE STEPS, AND IT WAS -- IT WAS OBVIOUS TO ME THAT THEY WERE READY TO GET RID OF ME BEFORE I FELL.

Q. THAT'S YOUR PERSONAL OPINION?

A. YES, IT IS.

Q. NOBODY EVER TOLD YOU THAT THAT WAS THE CASE?

A. I'VE BEEN THERE LONG ENOUGH TO SEE IT.

Q. IT'S YOUR PERSONAL OPINION?

A. IT'S MY PERSONAL OPINION.

Q. AND IT'S THE EMPLOYER'S RIGHT TO ADJUST YOUR JOB DUTIES AND RESPONSIBILITIES AT ANY TIME THEY SEE FIT?

A. YES, IT IS.
Q. AND THEY CAN ADJUST YOUR COMPENSATION, UP OR DOWN, AT ANYTIME THAT THEY SEE FIT?
A. YES, THEY CAN.
Q. AND FRANKLY YOU WERE UPSET?
A. I WAS UPSET THAT THEY -- THAT THEY REDUCED MY SALARY, AND BECAUSE WHEN -- AND IT'S ALL -- IT'S IN WRITING, SO I'M NOT SAYING ANYTHING THAT -- THAT'S NOT WRITTEN DOWN. WHEN SHE GAVE ME THAT FORM ON DECEMBER THE 8TH, WE DISCUSSED THE FACT THAT I HAD -- I -- I LOOKED AT HER AND SAID, "DON'T YOU UNDERSTAND, I STILL HAVE THE FULL-TIME JOB THAT I HAD BEFORE WHEN I TOOK ON THE MANAGEMENT UPSTAIRS." AND I SAID, "IT'S -- IT'S A LITTLE HARD FOR ME TO BE ON THE FLOOR ALL DAY, EVERYDAY, BEING AN M.A." BUT I SAID, "I MANAGE ALL OF IT." AND SHE SAID -- SO WHAT HAPPENED WAS, SHE SAID, "WELL, WHAT IS IT THAT'S KEEPING YOU FROM IT?" AND I SAID, "WELL, I MEAN, I HAVE A REALLY --" I SAID, "ORDERING ALL THE SUPPLIES FOR THE OFFICE RIGHT DOWN TO THE LAST PAPERCLIP OR COTTON BALL OR WHATEVER AND DOING THE INVOICES WHEN THEY COME IN AND MAKING SURE THAT EVERYTHING ARRIVED AND -- AND THEN SIGNING OFF -- CODING THEM AND SIGNING OFF AND PAYING FOR THEM," I SAID, "IT'S TAKING SOME TIME." AND SHE SAID, "WELL,

WHAT -- WHAT WOULD YOU LIKE US TO DO ABOUT THAT?" AND I SAID, "IF YOU COULD TAKE CODING AWAY FROM ME," AND IT IS WRITTEN ON THERE, "CODING." YOU KNOW, "IF YOU WOULD TAKE CODING AWAY THEN" -- AND -- WHICH IS -- AND -- AND ANGELA JENKINS WAS SITTING RIGHT THERE. AND SHE SAID, "YES, CODING IS AN ACCOUNTING JOB." AND SHE SAID, "IT SHOULDN'T HAVE BEEN HERS ANYWAY." AND SO THEY APPROVED IT. SHE WROTE IT AT THE BOTTOM OF THING, SAID THAT THEY -- THEY NEVER SAID ANYTHING ABOUT TAKING ORDERING AWAY FROM ME. AND SO THE NEXT -- BECAUSE I WAS ANGRY WITH HER WHEN SHE GAVE ME THAT PAPER, AND I TOLD HER THAT IT WAS BALONEY AND SHE KNEW IT. AND I ASKED HER WHAT WAS REALLY GOING ON. AND SHE GOT ANGRY WITH ME. AND SO THE NEXT DAY SHE TOOK ORDERING AWAY FROM ME, WHICH WAS SOMETHING THAT I -- YOU KNOW, WE HAD NOT DISCUSSED NOTHING. AND SHE TOLD ME TO GO DOWN TO -- I -- I GOT A MESSAGE FROM H.R. TO COME DOWN TO GET MY REDUCED SALARY, WHICH WAS NOT DISCUSSED WITH ME EITHER. AND -- OR WE HAD STILL BEEN TALKING. AND IT -- IT -- IT WAS A -- THAT'S -- THAT'S HOW THAT WENT DOWN. I MEAN, IT WAS -- SHE -- AND THEN SHE ONE BY ONE TOOK AWAY ANYTHING I COULD DO SITTING DOWN, YOU KNOW, UNTIL IT WAS -- UNTIL IT WAS STAND UP OR YOU HAVE NOTHING TO DO.

Q. AND THEY TOOK AWAY THE JOB RESPONSIBILITY THAT YOU HAD ASKED THEM TO TAKE OFF, DIDN'T THEY?
A. I -- THEY TOOK AWAY THE CODING, BUT THEY ALSO TOOK AWAY ORDERING, WHICH IS A TOTALLY SEPARATE JOB FROM IT.
Q. ALL RIGHT. YOU WENT OUT. YOU HAD YOUR SURGERY WITH DR. FULTON, AND YOU CAME BACK?
A. YES.
Q. YOU HAD NO RESTRICTIONS WHATSOEVER FROM DR. FULTON WHEN YOU CAME BACK TO WORK TO THIS JOB?
A. RIGHT, ACCORDING TO WHAT HE SAID, YES.
Q. RIGHT. SO, YOU WERE EXPECTED TO DO YOUR JOB AT A HUNDRED PERCENT?
A. AND I DID THE VERY BEST I COULD. I WAS TRYING TO SAVE MY JOB.
Q. YOU WORKED THAT JOB A HUNDRED PERCENT UP UNTIL THE END WHEN YOU NO LONGER WORKED FOR COLUMBIA HEART IN JANUARY 2012?
A. I WAS IN HORRIBLE PAIN. AND, I MEAN, I DID EVERYTHING I COULD TO -- TO SAVE MY JOB.
Q. DESPITE YOUR HORRIBLE PAIN, YOU NEVER ASKED ANYBODY AT COLUMBIA HEART FOR MORE MEDICAL TREATMENT OR TIME OFF?
A. AFTER I CAME BACK THE FIRST TIME -- SEE, THIS IS THE WAY IT WAS. I NEEDED TO GO TO THERAPY, AND EVERY

TIME I WOULD GO TO THERAPY, SOMETHING WOULD HAPPEN. I TRIED DOING IT IN THE MORNING, AND PEOPLE WOULD CALL IN AND THEN IT WAS MY FAULT. AND IF I TRIED STAYING -- GOING IN THE AFTERNOON, THEN I WAS PILED -- THEY PILED UP ALL THIS STUFF -- WORK FOR ME TO DO. AND IF I DIDN'T GET IT DONE, I WAS WRITTEN UP. SO GOING TO -- BUT THEY WOULD SEND THESE EMAILS TO ME SAYING "WE'RE SO WORRIED ABOUT YOUR ARM. WE WANT YOU TO GO TO THERAPY," BUT THEY WERE NOT MAKING IT POSSIBLE. AND SO WHEN I COULDN'T TAKE IT ANYMORE, I CALLED DR. FULTON, AND DR. FULTON SENT ME -- TOOK ME OUT THREE MORE WEEKS IN THE END OF OCTOBER SO I COULD GO TO THERAPY. AND DURING THAT TIME, THAT WAS WHEN HE DID THE M.R.I. AND EXPLAINED TO ME THAT MY ARM COULD NOT BE FIXED; IT HAD TO BE REPLACED.

Q. AND YOU STILL ---

A. THAT THERAPY WOULD NOT DO ANY GOOD ANYMORE.

Q. --- AND YOU STILL CAME BACK, AND YOU STILL WENT BACK TO WORK A HUNDRED PERCENT?

A. I STILL WENT BACK TO WORK, AND -- BUT I WENT TO MY BOSS, AND I WENT TO ANGELA JENKINS AND ASKED FOR A MEDICAL ACCOMMODATION. AND I SAID, "I NEED" -- I -- I SAID, "WE HAVE STUDENTS HERE," AND I SAID, "THAT STUDENT CAN HELP ME WITH THE WALKING AND THE STRETCHING. AND IF YOU'RE GOING TO ASK ME TO BE ON

THE FLOOR ALL THE TIME INSTEAD OF BEING THE MANAGER THAT I WAS BEFORE," I SAID, "IF THIS IS GOING TO BE MY MAIN JOB, YOU KNOW, THEN," -- I ASKED FOR MEDICAL ACCOMMODATION. BUT WITH HAVING A FREE STUDENT THAT DIDN'T COST US ANYTHING, AND I COULD TRAIN HER, AND SHE COULD DO THE WALKING AND THE BENDING AND STUFF, AND I COULD BE IN THE ROOM, YOU KNOW, TAKING CARE OF THE REST OF IT, WHICH IS WHAT I WANTED. AND TERRY HOLDER TOLD ME AT THAT TIME -- AND SHE SAID, "YOU NEED TO BRING A NOTE FROM YOUR DOCTOR STATING THAT YOU NEED THAT." AND I SAID, "WELL, MY DOCTOR WILL BE HAPPY TO GIVE ME A NOTE." SHE SAID, "BUT UNDERSTAND, IF YOU BRING THE NOTE, I CAN'T PROMISE YOU YOU WILL HAVE A JOB." AND SO, I -- IT'S IN MY -- DOCTOR -- DR. VAN DAM'S DECEMBER OFFICE NOTE WHERE WE DISCUSSED THAT. AND HE -- YOU KNOW, WHERE THEY -- I ASKED FOR A MEDICAL ACCOMMODATION, AND HE WAS READY TO GIVE ME THE NOTE, BUT, YOU KNOW, THEY DENIED ME -- YEAH, ESSENTIALLY DENIED IT BECAUSE THEY SAID -- BECAUSE I WOULD -- I WOULD HAVE BEEN HAPPY TO GIVE THEM A NOTE IF IT WAS GOING TO ALLEVIATE SOME PAIN FOR ME. I -- WHY WOULDN'T I, IF SHE HADN'T HAVE SAID WHAT SHE SAID? AND SO I WASN'T GOING TO GIVE HER THE NOTE, AND -- SO SHE COULD FIRE ME.

Q. SO, YOU'VE READ YOUR MEDICAL RECORDS THEN?
A. NO, DOCTOR -- DOCTOR -- I ASKED DR. VAN DAM WHEN I WAS IN HIS OFFICE. I SAID, "YOU REMEMBER WHEN WE TALKED ABOUT IT?" AND HE PULLED IT UP ON HIS SCREEN, AND HE READ IT TO ME.
Q. SO, YOU'VE AT LEAST SEEN YOUR MEDICAL NOTES?
A. YES.
Q. OKAY. AND WHEN YOU WENT TO SEE DR. ADGER BROWN FOR YOUR VOCATIONAL ASSESSMENT THAT YOUR ATTORNEY SENT YOU TO, HOW MUCH DID YOU TELL HIM YOU WEIGHED?
A. I TOLD HIM I DIDN'T REALLY KNOW. BUT I -- I SAID, YOU KNOW, TWO-FORTY, FIFTY.
Q. OKAY. YOU TOLD HIM TOO THAT YOU'D GAINED AT LEAST 60 POUNDS SINCE THIS DATE OF ACCIDENT?
A. NO, I SAID, "IT FELT LIKE I'D GAINED 60 POUNDS." I DON'T -- HE WAS WRITING EVERYTHING I SAID DOWN. I SAID, "IT FELT LIKE" -- I'M STILL WEARING THE SAME CLOTHES I OWNED THAT -- THAT I WORE BEFORE. SO, I MEAN, I KNOW I'VE GAINED A LITTLE WEIGHT FROM BEING SEDENTARY, BUT I HAVE NOT GAINED 60 POUNDS, NO.
Q. SO, YOU DISPUTE TELLING HIM THAT YOU GAINED 60 POUNDS SINCE THIS DATE OF ACCIDENT, WHICH YOU ATTRIBUTE TO THE USE OF STEROIDS?
A. NO, I -- I -- I DON'T REMEMBER TELLING HIM THAT AT ALL. I TOLD HIM THAT I HAD GAINED -- I FELT LIKE I

HAD GAINED SOME WEIGHT. I SAID, "IT FEELS LIKE 60 POUNDS, BUT I KNOW IT'S NOT BECAUSE I CAN STILL WEAR MY CLOTHES, YOU KNOW." SO HE MUST HAVE JUST STOPPED -- STOPPED LISTENING AFTER THE 60 POUNDS. AND I SAID, "AND OFTEN STEROIDS DO CAUSE YOU TO GAIN WEIGHT." YES, I DID SAY THAT. I DID SAY THAT.

Q. DO YOU KNOW WHAT YOU HAVE SAID AND WHAT YOU HAVEN'T SAID TO YOUR DOCTORS OR YOUR VOCATIONAL ASSESSOR WITH ANY SORT OF CERTAINTY?

A. SURE. I MEAN, WHEN I'M TALKING ABOUT MY WEIGHT, I ALWAYS BRING UP STEROIDS. I DON'T WANT PEOPLE TO THINK I SIT AROUND AND EAT MCDONALD'S HAMBURGERS. SO, I MEAN, I DID SAY THAT. I JUST HAD TO THINK BACK ON IT.

Q. SO, YOU DID TELL HIM THAT YOU HAD GAINED 60 POUNDS SINCE THE DATE OF ACCIDENT?

A. NO, I SAID, "IT FELT LIKE 60 POUNDS." AND I -- AND I -- AND I SAID, "BUT I'M STILL WEARING THE SAME CLOTHES I USED TO WEAR, SO, I MEAN, IT CAN'T BE 60 POUNDS."

Q. AND WHEN THIS ACCIDENT HAPPENED, YOU ACTUALLY WANTED TO GO OUTSIDE BECAUSE YOU HAD JUST HAD A CONVERSATION WITH ANGELA JENKINS ABOUT YOUR JOB, HADN'T YOU?

A. I WANTED TO GO OUTSIDE BECAUSE I HAD TALKED WITH

ANGELA JENKINS ABOUT THE REDUCTION IN MY SALARY. I ASKED HER WHY WAS IT NOT DISCUSSED WITH ME AND TOLD -- WHY WAS I NOT TOLD AT THE TIME WHEN WE WERE TALKING ABOUT IT THAT THEY WERE GOING TO TAKE ORDERING AS WELL AS CODING AWAY FROM ME, BECAUSE IT'S WRITTEN ON THERE PLAINLY THAT JUST CODING WOULD BE TAKEN AWAY FROM ME. AND NO -- THERE WAS NO MENTION OF A REDUCTION IN SALARY.

Q. AND YOU WERE MAD AT ANGELA JENKINS WHEN YOU LEFT THE BUILDING?

A. I WAS NOT MAD AT ANGELA JENKINS AT ALL. I LOVE ANGELA.

Q. WELL, AS FAR BACK AS JANUARY OF THIS YEAR, TOO, YOU WERE STILL CAPABLE OF GETTING DRESSED, GOING TO WORK, DRIVING YOURSELF TO WORK?

A. OF WHEN NOW?

Q. JANUARY OF THIS YEAR, YOU WERE STILL ABLE TO GET UP ---

A. YES, IT WAS VERY, VERY DIFFICULT FOR ME TO GET DRESSED, BUT, YOU KNOW, I DID -- I MEAN, I AM PROGRESSIVELY GETTING WORSE AND WORSE.

Q. AND DR. FULTON HAD ALREADY RELEASED YOU?

A. HE TOLD ME NOT TO COME BACK 'TIL I WAS READY TO GET MY SHOULDER RELEASED -- REPLACED.

Q. HE HAD RELEASED YOU; ---

A. RIGHT.
Q. --- IS THAT CORRECT?
A. YES.
Q. AND DR. VAN DAM WAS DOING NOTHING MORE THAN GIVING YOU INJECTIONS?
A. YES.

BY MS. MORROW:

I HAVE NO FURTHER QUESTIONS, YOUR HONOR.

BY COMMISSIONER WILLIAMS:

ALL RIGHT. RE-DIRECT.

BY MR. BELLINGER:

JUST A FEW IN FOLLOWUP.

RE-DIRECT EXAMINATION BY MR. BELLINGER:

Q. IS YOUR RIGHT ARM YOUR DOMINANT ARM?
A. YES, SIR.
Q. NOW, YOU TALKED A MOMENT AGO ABOUT DECEMBER OF 2010. DO Y'ALL HAVE A PERFORMANCE APPRAISAL AT THE END OF EACH YEAR?
A. WE HAVE ONE ONCE A YEAR; IT'S A CALENDAR YEAR.
Q. OKAY. AND THE ONE THAT YOU HAD IMMEDIATELY BEFORE YOUR FALL ON 7/15/11 WOULD HAVE BEEN IN DECEMBER OF 2010; IS THAT CORRECT?
A. THAT'S WHEN SHE DID IT, YES.
Q. OKAY. I WANT TO SHOW YOU A DOCUMENT AND SEE IF YOU CAN IDENTIFY THIS DOCUMENT.

A. (WITNESS VIEWS DOCUMENT). YES, THAT'S IT.

Q. OKAY.

BY MS. MORROW:

YOUR HONOR, MY ONLY OBJECTION I HAVE IS THAT IT WAS CLEARLY IDENTIFIABLE PRIOR TO THE HEARING. IT SHOULD HAVE BEEN SUBMITTED TIMELY IN THE APAs. AND THE PRESENCE OF IT TODAY IS NOT APPROPRIATE FOR SUBMISSION BEFORE THE COMMISSIONER.

BY MR. BELLINGER:

THIS MATTER CAME UP AS A RESULT OF HER OPENING THE DOOR FROM HER TESTIMONY, YOUR HONOR.

BY COMMISSIONER WILLIAMS:

OKAY. I'LL LET YOU QUESTION HER ON IT.

BY MR. BELLINGER:

CAN IT MARKED AS AN EXHIBIT?

BY COMMISSIONER WILLIAMS:

THAT'S FINE.

BY MR. BELLINGER:

OKAY. I'LL GO AHEAD AND MARK THIS AS CLAIMANT'S ONE.

(COURT REPORTER MARKS DOCUMENT CLAIMANT'S EXHIBIT NUMBER ONE, RETAINED IN COMMISSION FILE)

BY MR. BELLINGER:

THANK YOU.

RE-DIRECT EXAMINATION RESUMED BY MR. BELLINGER:

Q. DOES THIS PERFORMANCE EVALUATION HAVE A RATING SCALE OF ONE THROUGH FIVE?
A. YES, IT DOES.
Q. OKAY. AND ARE NUMBERS THREE WITHIN STANDARD, NUMBER FOUR ABOVE STANDARD, AND NUMBER FIVE WELL ABOVE STANDARD?
A. YES.
Q. OKAY. I'D LIKE FOR YOU TO LOOK AT EACH ONE OF THESE, AND I'D LIKE FOR YOU TO TELL ME HOW MANY THREE, FOURS AND FIVE -- WELL, FIRST OF ALL, IS THERE ANYTHING BELOW THE NUMBER THREE STANDARD CHECKED ON ANY OF THOSE ITEMS ON THAT APPRAISAL?
A. NO.
Q. OKAY. HOW MANY THREES, WHICH IS STANDARD, ARE CHECKED ON THOSE THREE PAGES?
A. ALL RIGHT. SHE GAVE ME A THREE ON COMMUNICATE EFFECTIVELY, SO.
Q. OKAY. IS THAT THE ONLY THREE?
A. YES.
Q. IS EVERYTHING ELSE A FOUR OR A FIVE?
A. YES.
Q. MEANING THAT YOU WERE ABOVE STANDARD OR WELL ABOVE STANDARD?
A. YES.
Q. AND IT LOOKS LIKE THERE ARE APPROXIMATELY TEN AREAS

THAT WERE A PART OF THIS PERFORMANCE APPRAISAL; IS THAT CORRECT?

A. YES.

Q. NOW, A MOMENT AGO YOU INDICATED THAT THERE WAS SOME DISCUSSION IN DECEMBER WITH THE DOCTOR REGARDING YOUR HAVING SOMEONE HELP YOU WITH THE CHARTS AND BRINGING THE PATIENTS BACK, AND THERE WAS GOING TO BE A STUDENT THAT WOULD NOT COST THE CLINIC ANYTHING, BUT UNFORTUNATELY THAT WASN'T -- THAT DIDN'T EVER TAKE PLACE; ---

A. YES, THAT'S CORRECT.

Q. --- IS THAT YOUR TESTIMONY?

A. THAT'S CORRECT.

BY MR. BELLINGER:

AND, YOUR HONOR, I WOULD REFER YOU TO APA PAGE 50 REGARDING THAT. I THINK THAT'S ALL THE QUESTIONS I HAVE ON RE-DIRECT, YOUR HONOR.

BY COMMISSIONER WILLIAMS:

ALL RIGHT. ANY RE-CROSS?

RE-CROSS EXAMINATION BY MS. MORROW:

Q. MS. BRUCE, YOU'RE AWARE THAT THAT PERIOD FOR THAT EVALUATION COVERS YOUR PERFORMANCE FROM AUGUST OF 2009 TO AUGUST OF 2010. AND IS THAT ADMINISTERED IN 2010?

A. YEAH, SHE GAVE IT TO ME WITH A -- AN EMAIL CLIPPED

TO IT, BECAUSE WE WERE BOTH ON VACATION IN DECEMBER, WITH AN EMAIL THAT WAS ATTACHED TO IT SAYING "YOU KNOW, I THINK YOU'RE WONDERFUL. I NEEDED TO GET YOU THIS APPRAISAL BEFORE THE END OF THE YEAR."

Q. MY QUESTION TO YOU WAS, ARE YOU AWARE THAT EVALUATION COVERS YOUR PERFORMANCE PERIOD FROM AUGUST OF 2009 TO AUGUST OF 2010? IT'S ADMINISTERED IN DECEMBER.

A. YEAH, SHE WAS ALWAYS LATE WITH GIVING THEM. YES.

Q. SO, ANYTHING THAT WAS -- AS FAR AS YOUR JOB PERFORMANCE, REFLECTIVE EVALUATIONS, OR ANYTHING, WOULD COME AFTER AUGUST OF 2010 AND AFTER THAT POINT IS WHEN YOU WERE ADMINISTERED A PLAN OF ACTION, WHICH OUTLINED FOR YOU THE PERFORMANCE PROBLEMS THAT HAD BEEN TAKEN PLACE AT WORK?

A. YES -- WELL, YES.

BY MS. MORROW:

I HAVE NO FURTHER QUESTIONS, YOUR HONOR.

BY COMMISSIONER WILLIAMS:

ANYTHING ELSE?

BY MR. BELLINGER:

NOT FROM THE CLAIMANT, YOUR HONOR.

BY COMMISSIONER WILLIAMS:

ALL RIGHT. YOU CAN STEP DOWN.

BY THE WITNESS:

THANK YOU.

BY MR. BELLINGER:

I HAVE ONE VERY, VERY BRIEF WITNESS.

BY COMMISSIONER WILLIAMS:

ALL RIGHT.

BY MR. BELLINGER:

LET ME ASSIST THE CLAIMANT, YOUR HONOR.

BY COMMISSIONER WILLIAMS:

OKAY, THAT'S FINE.

BY COMMISSIONER WILLIAMS:

HOW ARE YOU DOING?

BY THE WITNESS:

GOOD. RIGHT HERE?

BY COMMISSIONER WILLIAMS:

YES, MA'AM. STATE YOUR FULL NAME FOR ME.

BY THE WITNESS:

GLORIA B. MARTIN.

BY COMMISSIONER WILLIAMS:

SWEAR MS. MARTIN IN, PLEASE.

BY THE COURT REPORTER:

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THE WITNESS WAS DULY SWORN TO TELL THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH CONCERNING THE MATTER HEREIN:

GLORIA B. MARTIN

BEING FIRST DULY SWORN, TESTIFIED ON HER OATH AS FOLLOWS:

BY COMMISSIONER WILLIAMS:

MR. BELLINGER.

BY MR. BELLINGER:

THANK YOU, YOUR HONOR.

DIRECT EXAMINATION BY MR. BELLINGER:

Q. MS. MARTIN, HOW LONG HAVE YOU KNOWN GAIL BRUCE?

A. ABOUT 30 YEARS.

Q. AND ON AN AVERAGE WEEK BEFORE JULY 15TH OF 2011, HOW OFTEN WOULD YOU SEE GAIL?

A. AT LEAST ONCE OR TWICE A WEEK.

Q. OKAY. YOU EVER SEEN HER SMOKE?

A. YES, SIR.

Q. HOW WOULD YOU CLASSIFY HER SMOKING?

A. TO ME, I CALL HER A STRESS SMOKER. SHE SMOKES ---

Q. IS IT ON AND OFF?

A. ON AND OFF, YES, SIR.

Q. BEFORE JULY 15TH OF 2011, DESCRIBE FOR HIS HONOR SOME OF THE ACTIVITIES THAT YOU AND GAIL WOULD PERFORM TOGETHER.

A. WE WERE JUST BEST BUDS. WE WOULD GET TOGETHER ON THE HOLIDAYS. WE DID SHOPPING. WE USED TO SWIM TOGETHER. JUST GOOD FRIENDS.

Q. YOU MENTIONED SWIMMING TOGETHER. WOULD Y'ALL SWIM TOGETHER -- DID Y'ALL SWIM TOGETHER IN THE WEEKS AND

MONTHS JUST BEFORE JULY 15TH OF 2011?

A. YES, SIR.

Q. OKAY. WHAT OBSERVATIONS OF HER RIGHT SHOULDER DID YOU HAVE DURING THE TIME PERIODS THAT Y'ALL SWAM TOGETHER?

A. WE -- NORMAL. WE'VE BEEN SWIMMING FOR YEARS.

Q. DID SHE HAVE ANY PROBLEMS WITH HER RIGHT SHOULDER FOR THE MOST PART BEFORE HER FALL ON JULY THE 15TH OF 2011 THAT YOU OBSERVED?

A. NO, SIR.

Q. ARE YOU AWARE THAT SHE HAD A PRIOR SURGERY?

A. OH, YES, SIR.

Q. OKAY. DO YOU HAVE ANY KNOWLEDGE OR -- WELL, HAVE YOU OBSERVED GAIL BRUCE SWIMMING SINCE HER FALL ON JULY 15TH OF 2011?

A. NO, SIR.

Q. AND DOES SHE HAVE A POOL AT HER HOUSE?

A. YES, SIR.

Q. BEFORE JULY 15TH OF 2011, WHAT PROBLEMS DID YOU OBSERVE WITH EACH KNEE?

A. WELL, I KNOW THEY WAS SCARRED. SHE HAS SCARS FROM YEARS AGO WHEN SHE WAS A CHILD, I KNOW.

Q. OKAY. AND FROM A PATELLA SURGERY?

A. RIGHT, SIR.

Q. OKAY. AS FAR AS OBSERVED LIMITATIONS WITH THE KNEES

OR PROBLEMS WITH THE KNEES BEFORE HER FALL ON JULY 15TH OF 2011, WHAT DID YOU OBSERVE?

A. NONE.

Q. SHE WAS ABLE TO GET ALONG FINE?

A. OH, YEAH.

Q. DID YOU KNOW SHE GOT SHOTS PERIODICALLY?

A. OH, YES, SIR.

Q. WOULD SHE COMPLAIN ABOUT HER KNEES ANY BEFORE JULY 15TH, 2011?

A. SHE HAS.

Q. OKAY.

A. SHE HAS.

Q. WOULD Y'ALL HAVE A JULY 4TH -- OR A GATHERING IN AND AROUND JULY 4TH ON ONE OF THE WEEKENDS IN AND AROUND THAT HOLIDAY TIME?

A. YES, SIR, EVERY YEAR.

Q. AND DID Y'ALL HAVE A GATHERING IN AND AROUND JULY 4TH OF 2011, WITHIN A VERY BRIEF PERIOD OF TIME, BEFORE HER FALL ON JULY 15TH OF 2011?

A. YES, SIR.

Q. DESCRIBE FOR HIS HONOR -- AND WAS THIS GATHERING -- WHERE WAS THIS GATHERING HELD?

A. AT GAIL'S HOUSE.

Q. OKAY. DESCRIBE FOR HIS HONOR WHAT ARRANGEMENTS GAIL HAD MADE FOR THAT GATHERING.

A. THE SAME AS SHE ALWAYS DOES. SHE -- SHE DOES EVERYTHING. SHE WOULD FIX ALL THE FOOD, DECORATE FOR US, I MEAN, IT WAS A REAL TREAT. SO, WE -- WE DIDN'T HAVE TO DO ANYTHING BUT BRING OUR BODIES AND OUR TOWELS.

Q. NOW, DID Y'ALL HAVE A GATHERING THIS PAST JULY 4TH?

A. YES, SIR.

Q. WAS IT DIFFERENT?

A. YES, SIR.

Q. HOW?

A. SHE USUALLY, LIKE I SAID, FIXES EVERYTHING. THIS YEAR WE HAD TO ORDER PIZZA. I MEAN, SHE COULDN'T KEEP UP. SHE COULDN'T COOK AND DO ALL THE THINGS SHE WANTED TO DO. SO WE JUST DECIDED THAT WE WOULD KEEP THAT BURDEN OFF OF HER AND ORDER PIZZA 'CAUSE SHE WASN'T ABLE TO. AND THEN, OF COURSE, SHE WASN'T ABLE TO SWIM. WE HELPED HER GET TO THE SIDE OF THE POOL, AND SHE WOULD -- HER FEET WOULD STICK IN THE POOL, AND SHE WOULD DO WHAT SHE COULD, BUT WE HAD TO HELP HER. WE HAD TO HELP HER ALL AROUND.

Q. ONE LAST QUESTION.

A. YES, SIR.

Q. DESCRIBE FOR HIS HONOR HOW YOU HAVE TO ASSIST MS. BRUCE IN HER ACTIVITIES OF DAILY LIVING AS THEY ARE TODAY.

A. WELL, I TRY TO HELP HER AS MUCH AS I CAN. I HAVE A FAMILY OF MY OWN. BUT WHEN I'M THERE, I TRY TO HELP HER CLEAN UP, DO THINGS FOR HERSELF THAT SHE'S NOT ABLE TO, FIX HER HAIR. YOU HAVE TO HELP HER GET IN AND OUT OF THE CHAIRS. I'VE TRIED TO TAKE HER SHOPPING. SHE CAN'T DO ANYTHING LIKE THAT. I MEAN, SHE'S NOT ABLE TO LOOK AND GO AND HOLD UP. AND SHE CAN'T JUST DO LIKE WE USED TO DO. SHE'S JUST NOT ABLE TO.

BY MR. BELLINGER:

THAT'S ALL THE QUESTIONS I HAVE. PLEASE ANSWER ANY MS. MORROW MAY HAVE FOR YOU.

BY COMMISSIONER WILLIAMS:

ALL RIGHT. MS. MORROW, ANY QUESTIONS?

CROSS EXAMINATION BY MS. MORROW:

Q. MS. MARTIN, YOU WERE NOT WITH MS. BRUCE WHEN HER ACCIDENT HAPPENED ON JULY 15TH OF 2011, CORRECT?

A. CORRECT.

Q. YOU DID NOT WITNESS HER ACCIDENT IN ANY CAPACITY?

A. NO, MA'AM.

Q. AND YOU AS HER BEST FRIEND WOULD NOT SAY ANYTHING NEGATIVE ABOUT HER, WOULD YOU?

A. OH, NO, MA'AM.

BY MS. MORROW:

THANK YOU. I HAVE NO FURTHER QUESTIONS, YOUR

HONOR.

BY COMMISSIONER WILLIAMS:

ALL RIGHT. YOU CAN STEP DOWN.

BY MR. BELLINGER:

CAN I ASK ONE LAST QUESTION?

BY COMMISSIONER WILLIAMS:

OH, YEAH, GO AHEAD.

RE-DIRECT EXAMINATION BY MR. BELLINGER:

Q. JUST BECAUSE YOU WOULDN'T SAY ANYTHING NEGATIVE ABOUT HER, YOU ALSO WOULD NOT LIE ON HER BEHALF?

A. OH, NO, SIR. NO, SIR.

BY MR. BELLINGER:

THAT'S ALL I HAVE. YOUR HONOR, THAT WOULD BE THE CLAIMANT'S CASE.

BY COMMISSIONER WILLIAMS:

ALL RIGHT. MS. MORROW.

BY MS. MORROW:

WE HAVE MS. JENKINS, YOUR HONOR.

BY COMMISSIONER WILLIAMS:

ALL RIGHT. IT'S ANGELA JENKINS, RIGHT?

BY THE WITNESS:

YES, SIR.

BY COMMISSIONER WILLIAMS:

OKAY. SWEAR MS. JENKINS IN, PLEASE.

BY THE COURT REPORTER:

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THE WITNESS WAS DULY SWORN TO TELL THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH CONCERNING THE MATTER HEREIN:

ANGELA JENKINS

BEING FIRST DULY SWORN, TESTIFIED ON HER OATH AS FOLLOWS:

BY COMMISSIONER WILLIAMS:

ALL RIGHT. MS. MORROW.

DIRECT EXAMINATION BY MS. MORROW:

Q. MS. JENKINS, DO YOU MIND IF I CALL YOU ANGELA?

A. YES.

Q. IT WOULD BE EASIER. WHERE ARE YOU CURRENTLY EMPLOYED?

A. COLUMBIA HEART.

Q. HOW LONG HAVE YOU BEEN WITH COLUMBIA HEART?

A. ALMOST SEVEN YEARS.

Q. WHAT POSITION DO YOU HOLD AT COLUMBIA HEART?

A. HUMAN RESOURCES MANAGER.

Q. HAS THAT BEEN YOUR POSITION THE ENTIRE TIME THAT YOU'VE BEEN THERE?

A. THE EXCEPTION OF ABOUT SIX MONTHS.

Q. WHAT DID YOU DO DURING THAT SIX-MONTH PERIOD?

A. I WAS THE ACCOUNTS PAYABLE H.R. ASSISTANT.

Q. OKAY. AND THAT'S WHAT YOU DID FIRST BEFORE YOU TRANSFERRED INTO H.R.?

A. CORRECT.
Q. ALL RIGHT. SINCE THAT TIME IN YOUR CAPACITY IN H. R., YOU'VE HANDLED THE WORKERS' COMP CLAIMS THAT COME IN FOR COLUMBIA HEART?
A. YES, I DO.
Q. DO YOU ALSO DO ADMINISTRATIVE WORK, SUPERVISE THE FLOOR, THE EMPLOYEES, THAT TYPE OF THING FROM AN H.R. PERSPECTIVE?
A. FROM AN H.R. PERSPECTIVE, YES.
Q. ALL RIGHT. WOULD YOU BE THE ONE THAT WOULD HAVE HANDLED THIS PARTICULAR CLAIM FOR MS. BRUCE?
A. YES.
Q. DID SHE HAVE PRIOR CLAIMS AGAIN COLUMBIA HEART, WORKERS' COMP CLAIMS?
A. YES.
Q. SHE TESTIFIED EARLIER SHE'S HAD TWO PRIOR CLAIMS; DOES THAT SOUND CONSISTENT?
A. YES.
Q. ALL RIGHT. I THINK YOU HEARD EARLIER WHAT MS. BRUCE DESCRIBED AS FAR AS HER JOB DUTIES AND RESPONSIBILITIES. DO YOU AGREE WITH HER ASSESSMENT?
A. YES, SHE COORDINATED THE WORK FLOW FOR THE MEDICAL ASSISTANTS AND THE MEDICAL SECRETARIES. SHE WAS THE OSHA OFFICER, AND BEFORE JULY THE 1ST, SHE WAS THE SUPPLY MANAGER.

Q. AT COLUMBIA HEART, EXPLAIN FOR THE COMMISSIONER WHAT YOUR EMPLOYEES -- EMPLOYER-TO-EMPLOYEE POLICY IS AS FAR AS PAYING YOUR EMPLOYEES, THEIR WORK BREAKS, LUNCH BREAKS, SMOKE BREAKS, HOW THOSE ARE HANDLED.

A. YES, WE HAVE A POLICY WHERE EVERYBODY IS TO TAKE AT A MINIMUM OF A 30-MINUTE LUNCH BREAK EVERY DAY, SALARIED, NON-SALARIED. AND THAT IS, IF YOU'RE NONEXEMPT, IT'S WITHOUT PAY. BUT IT'S A MINIMUM OF A 30-MINUTE LUNCH, AND THAT MEANS YOU HAVE TO HAVE A SCHEDULE AS WELL. SO YOU WOULD BUILD YOUR SCHEDULE WITH A MINIMUM OF A 30-MINUTE LUNCH.

Q. AND DURING THOSE BREAKS, ARE THOSE EMPLOYEES FREE TO DO WHAT THEY WANT TO?

A. YES.

Q. AT COLUMBIA HEART, DO YOU CONTROL THE WAY YOUR EMPLOYEES COME IN AND OUT OF WORK, IN OTHER WORDS, TELL THEM THEY HAVE TO GO IN EXIT ONE AND LEAVE EXIT TWO?

A. NO.

Q. OKAY. ARE THEY FREE TO COME AND GO IN WHATEVER MANNER THEY CHOOSE?

A. YES.

Q. THERE ARE MORE THAN ONE WAY TO GET IN THE BUILDING, GET OUT OF THE BUILDING?

A. YES.

Q. THE SIDEWALK WHERE MS. BRUCE SAYS THAT SHE FELL AND WAS INJURED, THAT'S THE MAIN GENERAL SIDEWALK THAT LEADS INTO YOUR FACILITY, OR ---

A. ACTUALLY, IT'S NOT THE MAIN ONE. IT'S THE -- THE PARKING AREA.

Q. OKAY. BUT IT'S ONE OF THE SIDEWALKS THAT LEADS FROM THE PARKING AREA BACK INTO THE BUILDING?

A. YES.

Q. YOU DIDN'T PAY FOR HER TRANSPORTATION TO -- "YOU" BEING COLUMBIA HEART, DIDN'T PAY FOR HER TRANSPORTATION TO AND FROM WORK?

A. NO.

Q. DIDN'T PROVIDE HER WITH A COMPANY VEHICLE OF ANY KIND?

A. NO.

Q. AND THERE ARE MULTIPLE COMPANIES THAT ARE HOUSED IN THE BUILDING IN WHICH YOU WORK?

A. CORRECT.

Q. LEADING UP TO THIS DATE OF ACCIDENT, MS. BRUCE WAS PUT ON A PLAN OF ACTION?

A. THAT'S CORRECT.

Q. THIS WAS BASED ON THE FACT THAT SHE COULDN'T COMPLETE A LOT OF HER ADMINISTRATIVE TASKS?

A. CORRECT.

Q. EXPLAIN TO ME ABOUT THAT; TELL ME WHAT HAPPENED.

A. WELL, HER PERFORMANCE HAD DECLINED, AND THE REASON THAT THIS CAME ABOUT WAS BECAUSE THERE WAS A HIGH TURNOVER RATE, AND IT WAS ASKED TO BE ANALYZED AND A PLAN OF ACTION TO COME UP WITH. AND THAT'S WHAT HAPPENED. AND ALL OF OUR MANAGERS AT COLUMBIA HEART ARE WORKING MANAGERS, SO THE PLAN OF ACTION HANDLED IT THAT WAY. SO IT WAS BASICALLY -- SHE DIDN'T -- WASN'T MANAGING THE NO LUNCH OR THE OVERTIME OF THE STAFF. AND ALL OF THE COMPUTER SYSTEMS, THE NEXGEN AND THE HOSPITAL SOFTWARES, SHE WASN'T ABLE TO ASSIST WITH. AND THE ORIENTATION OF NEW EMPLOYEES, SHE WASN'T INVOLVED WITH THAT AS WELL.

Q. SO, THEY HANDED UP A PERFORMANCE EVALUATION EARLIER. THAT WOULD HAVE COVERED AUGUST OF 2009 TO AUGUST OF 2010?

A. YES. YES, EVALUATIONS ARE BASED ON THE ANNIVERSARY DATE, AND I BELIEVE HERS IS IN AUGUST.

Q. OKAY. SO, THAT WOULD HAVE PREDATED A LOT OF THE DOCUMENTED PROBLEMS THAT SHE WAS HAVING ---

A. YES.

Q. --- FROM A PERFORMANCE STANDPOINT?

A. YES.

Q. OKAY.

A. AND IT WAS BEFORE THIS EVALUATION OF THE TURNOVER RATE.

Q. OKAY. AFTER YOUR EVALUATION OF THE TURNOVER RATE, IS THAT WHEN A PLAN OF ACTION WAS PREPARED?

A. YES.

Q. WAS THAT DISCUSSED WITH MS. BRUCE?

A. YES.

Q. WAS SHE TOLD OF THE PLAN OF ACTION?

A. YES, SHE WAS.

Q. DID THIS PREDATE HER DATE OF ACCIDENT?

A. YES, IT DID, JUNE 23RD.

Q. ALL RIGHT. DID YOU HAVE A DISCUSSION WITH HER ABOUT WHAT PORTION OF HER ADMINISTRATIVE RESPONSIBILITIES WERE GOING TO BE REMOVED AS A RESULT?

A. WELL, DURING THE DISCUSSION, GAIL BROUGHT UP SEVERAL THINGS. SHE -- SHE SAID SHE COULDN'T BE IN THE WORKING AREA BECAUSE SHE HAD TOO MANY SUPPLY DUTIES. AND SHE DID REQUEST THAT THE SIGN OFFS, OR CHECKOFFS, OR CODING OF THOSE COME BACK TO ACCOUNTING AREA. AND TERRY WROTE "YES," AND SHE WOULD TAKE CARE OF THE AUDITS AS WELL. AND SHE TOLD HER THAT SHE WOULD TAKE A LOOK AT THE SUPPLY ORDER CHAIN PROCESS, THE WHOLE PROCESS, NOT JUST THAT PORTION OF IT.

Q. SO, WOULD THAT INCLUDE ALL OF THE ACTIVITIES THAT WERE REMOVED FROM MS. BRUCE'S PLATE ---

A. YES.

Q. --- THAT SHE WAS DISCUSSING EARLIER?
A. YES.
Q. OKAY. AND AS A RESULT OF THE REMOVAL OF THOSE JOB DUTIES AND RESPONSIBILITIES, WAS HER PAY REDUCED?
A. YES.
Q. OKAY. DID YOU HAVE MORE THAN ONE DISCUSSION WITH HER ABOUT THIS REDUCTION IN HER RESPONSIBILITIES AND REDUCTION IN PAY?
A. YES.
Q. DID YOU HAVE A DISCUSSION WITH HER RIGHT BEFORE SHE SAYS THAT THIS ACCIDENT HAPPENED ON JULY 15TH OF 2011?
A. YES.
Q. DID SHE TAKE A BREAK AFTER THE DISCUSSION YOU HAD WITH HER?
A. SHE LEFT MY OFFICE, AND IT WAS PROBABLY 20, 25 MINUTES LATER I RECEIVED THE PHONE CALL THAT CAME FROM KATHERINE THAT SAYS "PLEASE GET GAIL'S PURSE," SHE TOLD ME WHERE IT WAS, "AND BRING IT TO GAIL 'CAUSE SHE HAD," YOU KNOW, "HAD THIS ACCIDENT."
Q. OKAY. WAS MS. BRUCE UPSET WITH YOU WHEN SHE LEFT YOUR CONVERSATION?
A. YES, SHE WAS.
Q. AND WAS THAT THE -- FORGIVE ME IF I ASKED THIS, WAS THAT DISCUSSION ABOUT -- AGAIN, ABOUT THE REDUCTION

IN SALARY AND JOB DUTIES AND RESPONSIBILITIES?

A. WELL, GAIL HAD COME ORIGINALLY TO MY OFFICE TO -- TO GET A P.T.O. SLIP TO REQUEST TIME OFF TO HAVE HER INJECTIONS FOR HER KNEES THE -- THE FOLLOWING FRIDAY 'CAUSE HER BOSS WASN'T THERE, SO IT FACILITATED THROUGH ME. AND THEN THE CONVERSATION WENT INTO THE DUTIES AND THE REDUCTION IN THE PAY.

Q. SO, SHE WAS ALREADY ASKING YOU FOR SOME ADDITIONAL TIME FROM WORK BEFORE THE ACCIDENT HAPPENED TO GET ADDITIONAL INJECTIONS IN HER KNEES?

A. YES, AND IT WAS DUE FOR THE FRIDAY AFTER WHATEVER THAT DATE WAS.

Q. OKAY. AFTER YOU RECEIVED NOTE OR INFORMATION THAT SHE HAD SUFFERED AN INJURY, DID YOU TALK TO HER ABOUT HER ACCIDENT; DID SHE TELL YOU WHAT SPECIFICALLY SHE INJURED WHEN SHE FELL?

A. SHE WAS IN THE WHEELCHAIR. SHE WAS VISIBLY UPSET. I GAVE HER HER PURSE, AND SHE JUST KEPT SAYING "MY SHOULDER, MY SHOULDER." AND THAT'S -- AND THAT'S THE WAY IT WAS. AND KATHERINE, OUR ADMINISTRATIVE ASSISTANT, SHE STAYED WITH GAIL ALL DAY IN -- IN THE EMERGENCY ROOM SO SHE'D BE COMFORTABLE, AND SHE WAS GIVING ME AN UPDATE OF WHAT WAS GOING ON. BUT NEVER WAS THERE A MENTION OF ANYTHING WITH THE KNEES. IT WAS ONLY THE SHOULDER.

Q. OKAY. HOW ABOUT LATER WHEN SHE CAME IN AND Y'ALL WERE FILLING OUT -- OR THE SHORT-TERM DISABILITY PAPERWORK CAME TO YOU, DID SHE EVER TELL YOU THAT SHE HAD SUFFERED AN INJURY TO THE KNEES?

A. NO.

Q. AND OTHER THAN HER ASKING FOR SOME TIME OFF FOR SOME INJECTIONS IN HER KNEES BEFORE THE ACCIDENT, WERE YOU AWARE THAT SHE WAS GETTING INJECTIONS IN HER KNEES LONG BEFORE THIS ACCIDENT EVER HAPPENED?

A. YES.

Q. AFTER SHE REPORTED THIS ACCIDENT AND YOU SAW HER AND SHE WENT TO THE HOSPITAL THAT DAY, SHE STARTED HER MEDICAL TREATMENT WITH DR. FULTON, AT ANYTIME WHEN SHE WAS OUT RECEIVING HER TREATMENT WITH DR. FULTON, DID SHE EVER COME TO YOU AND SAY THAT SHE WAS HAVING PROBLEMS WITH HER KNEES AS A RESULT OF THIS FALL?

A. NO.

Q. IN FACT, AT ANY TIME DURING HER EMPLOYMENT WITH YOU, UP UNTIL THE TIME OF HER TERMINATION, DID SHE EVER SAY THAT SHE HAD PROBLEMS WITH HER KNEES AS A RESULT OF THIS FALL?

A. NO.

Q. AND WHEN SHE CAME BACK -- LET ME REPHRASE THAT. BEFORE SHE ACTUALLY WENT OUT AS A RESULT OF THIS ACCIDENT THAT SHE'S ALLEGED, HER REDUCTION IN JOB

DUTIES AND RESPONSIBILITIES HAD ALREADY OCCURRED, RIGHT?

A. YES, IT WAS TO TAKE PLACE JULY THE 1ST.

Q. OKAY.

A. BUT WE GAVE HER SOME LEEWAY WITH -- BECAUSE OF THE PAYROLL TIMING AND THE REQUIREMENT FOR THE NOTIFICATION. IT DIDN'T OCCUR RIGHT ON JULY 1ST.

Q. OKAY. SO, WHEN SHE CAME BACK TO WORK, THAT WAS THE SAME JOB THAT SHE WAS DOING BEFORE THE ACCIDENT OCCURRED?

A. YES, WITHOUT THE SUPPLY FUNCTION.

Q. WHICH HAD ALREADY BEEN REMOVED ---

A. REMOVED.

Q. --- BEFORE THE DATE OF ACCIDENT?

A. YES, THAT'S CORRECT.

Q. OKAY. AND PART OF THE PLAN OF ACTION THAT SHE WAS GIVEN INVOLVED HER NEED TO DO MORE PATIENT CARE, WHICH WAS ONE OF HER JOB DUTIES AND RESPONSIBILITIES, WASN'T IT?

A. WHEN SHE KEEPS SAYING "PATIENT CARE," THAT'S NOT THE WAY I UNDERSTOOD IT. SHE WAS TO BE ABLE TO FILL IN WHEN THERE WERE SHORTAGES OR ON HIGH VOLUME DAYS OR TO BE VISIBLE OUT ON THE FLOOR SO SHE'D BE AWARE OF WHAT WAS GOING ON. AS FAR AS PATIENT CARE, LIKE I SAID, ONLY IF IT WAS A SHORTAGE OR A HIGH VOLUME

DAY.

Q. OKAY. LEADING UP TO HER -- ACTUALLY LET ME REPHRASE THAT. LEADING UP TO THE DATE OF ACCIDENT, HAD SHE BEEN COUNSELED BEFORE THE DATE OF ACCIDENT ABOUT HER JOB PERFORMANCE?

A. SHE WAS GIVEN THE PLAN OF ACTION ON JUNE 23RD.

Q. OF 2012?

A. NO, 2011.

Q. OKAY. SO, BETWEEN JUNE OF 2011 AND JULY OF 2012 -- I'M SORRY, EXCUSE ME, JUNE OF 2011 TO JULY OF 2011, WOULD THERE HAVE BEEN ENOUGH TIME TO COUNSEL HER ON ANYTHING, OR SHE HAD JUST BEEN GIVEN THE PLAN OF ACTION?

A. I'M SORRY, I DON'T FOLLOW YOUR QUESTION.

Q. WERE THERE ANY WRITEUPS OR DISCUSSIONS BETWEEN JUNE AND JULY OF 2011 BEFORE HER ACCIDENT HAPPENED?

A. YES. TERRY WOULD EMAIL HER AND, YOU KNOW, SHE WAS WELL AWARE THAT THERE WAS A HIGH TURNOVER RATE AND THAT WE WERE LOOKING INTO IT. BUT AS FAR AS A WRITTEN OR A FORMAL COUNSELING, NO, SHE AND TERRY WOULD EMAIL -- YOU KNOW, 'CAUSE TERRY IS HER SUPERVISOR, SO SHE WOULD EMAIL QUESTIONS AND -- AND CORRESPONDENCE BACK AND FORTH REGARDING HER JOB DUTIES.

Q. OKAY. AND IN THE PLAN OF ACTION, IT TELLS HER

SPECIFICALLY WHAT'S EXPECTED OF HER, WHAT HER RESPONSIBILITIES ARE, HER ROLES, THAT TYPE OF THING, CORRECT?

A. YES.

Q. ALL RIGHT. AND WHEN SHE CAME BACK TO HER JOB AFTER DR. FULTON RELEASED HER, DID SHE HAVE ANY WORK RESTRICTIONS?

A. NO.

Q. ANYTHING TO SUGGEST THAT SHE WAS PHYSICALLY INCAPABLE OF ACTUALLY DOING THE WORK?

A. NO.

Q. BEFORE THIS ACCIDENT, DID SHE WALK WITH SOME SORT OF A LIMP OR AN ALTERED GAIT?

A. YES, SHE DID.

Q. AND WHEN SHE CAME BACK AFTER SHE HAD BEEN RELEASED BY DR. FULTON, WAS SHE STILL BACK UNDERNEATH THIS PLAN OF ACTION WITH THE SAME EXPECTATIONS AS SHE WAS BEFORE SHE WENT OUT ON THIS DATE OF ACCIDENT?

A. YES, THAT'S CORRECT.

Q. OKAY. AND IF SHE HAD HAD ANY LIMITATIONS FROM THE DOCTORS OR INABILITY TO DO THE WORK, WOULD YOU GUYS HAVE ACCOMMODATED THAT?

A. ABSOLUTELY.

Q. ALL RIGHT. AND BUT FOR HER DEFICIENCIES FROM AN ADMINISTRATIVE STANDPOINT, WHICH LED TO HER

TERMINATION, WOULD YOU HAVE HAD THIS JOB AVAILABLE FOR HER TO WORK?

A. SHE'D STILL BE THERE TODAY AT COLUMBIA HEART IF SHE HAD DONE THE JOB.

Q. WAS SHE SORT OF A VOCAL EMPLOYEE; IF SHE WAS HAVING A PROBLEM YOU COULD EXPECT TO HEAR FROM HER?

A. YES, GAIL WOULD BE ON THE PHONE TO ME VERY QUICKLY OR IN MY OFFICE.

Q. DID SHE EVER COMPLAIN TO YOU ABOUT PAIN AND PROBLEMS DOING HER JOB WHEN SHE CAME BACK?

A. SHE DID TELL US ABOUT THE PAIN DURING PHYSICAL THERAPY, AND WE ENCOURAGED HER OVER AND OVER AND OVER TO CONTINUE THE PHYSICAL THERAPY. AND SHE DID TELL US THAT SHE HAD PAIN IN HER KNEES, BUT THIS WASN'T UNCOMMON.

Q. DID SHE SAY THAT BEFORE THE ACCIDENT?

A. YES.

Q. OKAY. AND THERE WAS SOME DISCUSSION EARLIER ABOUT HER WANTING TO USE A STUDENT TO ASSIST HER IN HER JOB DUTIES AND RESPONSIBILITIES. HAD YOU GUYS USED STUDENTS BEFORE?

A. YES, COLUMBIA HEART DOES USE STUDENTS. AND PART OF OUR EVALUATION OF THE HIGH TURNOVER RATE HAD TO DO WITH THERE WAS TOO MANY STUDENTS THERE, AND THEY WERE NOT GETTING THE EDUCATION THAT THEY NEEDED, AND

THEY WERE PUTTING OUR PRACTICE AT LIABILITY BECAUSE THERE WASN'T ENOUGH PEOPLE TO -- THEY WERE ACTUALLY THERE TO LEARN, NOT TO DO THE JOB.

Q. SO, IN TERMS OF NOT ALLOWING ANYBODY TO USE A STUDENT FOR HELP, DID THAT HAVE ANYTHING TO DO SPECIFICALLY WITH MS. BRUCE OR THAT -- WAS THAT SOMETHING THAT COLUMBIA HEART DECIDED TO DO AS A GROUP OR UNIT?

A. YES. AS A MATTER OF FACT, THAT'S STILL INTACT NOW.

Q. OKAY. BUT IF SHE HAD HAD LIMITATIONS OR NEEDED ACCOMMODATIONS, YOU WOULD HAVE MET THOSE?

A. ABSOLUTELY.

BY MS. MORROW:

YOUR HONOR, I HAVE NO FURTHER QUESTIONS.

BY COMMISSIONER WILLIAMS:

ALL RIGHT. MR. BELLINGER.

CROSS EXAMINATION BY MR. BELLINGER:

Q. ANGELA, WAS IT NORMAL FOR COLUMBIA HEART TO HAVE SOMEWHERE IN THE NEIGHBORHOOD OF 400 OFFICE VISITS IN A DAY?

A. ON CERTAIN DAYS, YES, 300.

Q. AND HAVE STAFF OF EIGHT TO TEN PEOPLE TO DEAL WITH THOSE SOME 400 OFFICE VISITS?

A. THERE ARE TEN MEDICAL ASSISTANTS.

Q. SO, THAT'S 40 A PERSON ON AN AVERAGE?

A. YES.

Q. OKAY. IS IT YOUR TESTIMONY THAT THESE STUDENTS WEREN'T THERE -- I KNOW THEY'RE THERE, IN YOUR WORDS, TO LEARN. BUT THEY WERE ALSO THERE TO ASSIST THOSE EIGHT TO TEN PEOPLE BECAUSE Y'ALL WERE GROSSLY UNDERSTAFFED, WEREN'T YOU?

A. NO, SIR, THE STUDENTS ARE THERE TO LEARN, AND WE'RE RESPONSIBLE FOR TEACHING THEM, NOT FOR THEM TO COME IN AND DO THE JOB.

Q. WERE YOU GROSSLY UNDERSTAFFED?

A. NO, SIR.

Q. EARLIER IN YOUR TESTIMONY, YOUR DIRECT TESTIMONY, YOU INDICATED THAT MS. BRUCE HAD NOT MENTIONED ANY PROBLEM WHATSOEVER ABOUT HER KNEES AFTER HER FALL, DIDN'T YOU?

A. DUE TO THE ACCIDENT.

Q. OKAY. WELL, LET ME ASK YOU THIS. YOU ALSO MENTIONED A MOMENT AGO THAT WHEN SHE WAS UNDERGOING PHYSICAL THERAPY, THAT SHE IN FACT INDICATED TO YOU THAT SHE WAS IN PAIN WITH HER KNEES, DIDN'T YOU?

A. NO, SIR, IN PAIN WITH HER SHOULDER.

BY MR. BELLINGER:

YOUR HONOR, I WOULD ASK THAT YOU GO BACK AND REVIEW THE TESTIMONY. SHE INDICATED ---

BY THE WITNESS:

IF IN FACT I SAID THAT, I WAS INDICATING THE SHOULDER, BECAUSE SHE WAS ONLY HAVING PHYSICAL THERAPY FOR THE SHOULDER.

CROSS EXAMINATION RESUMED BY MR. BELLINGER:

Q. OKAY. SO, IT'S YOUR TESTIMONY NOW REGARDLESS OF WHAT IT WAS EARLIER, THAT SHE WAS HAVING PAIN IN HER RIGHT SHOULDER AND NOT IN HER KNEES WHEN SHE WAS UNDERGOING PHYSICAL THERAPY?

A. CORRECT.

Q. DO YOU RECALL IN DECEMBER OF 2011, THE DECEMBER FOLLOWING HER FALL, HER COMING TO YOU AND TELLING YOU THAT HER SHOTS TO HER KNEES WERE NO LONGER WORKING FOLLOWING THE ACCIDENT?

A. SHE SAID SHE WAS HAVING MORE PAIN IN HER KNEES, BUT SHE DIDN'T SAY IT WAS DUE TO THE ACCIDENT.

Q. OKAY. DID SHE INDICATE TO YOU THAT THE SHOTS WERE NO LONGER WORKING FOR HER KNEES IN DECEMBER OF 2011, WHICH WOULD HAVE BEEN A FEW MONTHS POST-ACCIDENT?

A. IN HER DECEMBER MONTHLY CHECK OR MONTHLY REVIEW WITH TERRY HOLDER, SHE DID SAY THAT HER -- HER KNEES WERE IN PAIN AND THAT -- SHE DID SAY THAT, YES.

Q. OKAY. ALL RIGHT. AND WHEN YOU BROUGHT THE PURSE OUT TO HER AFTER HER FALL, WHEN YOU GOT THAT CALL TO BRING THE PURSE OUT SOME -- I THINK YOU SAID, "TWENTY MINUTES AFTER SHE HAD LEFT THE BUILDING,"

APPROXIMATELY, SOMEWHERE AROUND THERE?

A. AFTER SHE LEFT MY OFFICE. I DON'T KNOW -- I DON'T KNOW WHAT SHE DID ONCE SHE LEFT MY OFFICE.

Q. OKAY. BUT FROM THE TIME THAT SHE LEFT YOUR OFFICE UNTIL THE TIME THAT YOU GOT A CALL FROM SOMEONE TO BRING HER PURSE, ONLY 20 MINUTES HAD ELAPSED; IS THAT A FAIR STATEMENT?

A. YES, SIR, AND IT WAS RIGHT AROUND THE LUNCH HOUR, THE LUNCH BREAK. YES.

Q. ALL RIGHT. ALL RIGHT. AND DID YOU PHYSICALLY TAKE THE PURSE TO HER?

A. YES.

Q. WAS SHE ON THE SIDEWALK AREA AT THAT STAGE, ---

A. NO, SIR.

Q. --- OR WHERE WAS SHE?

A. SHE WAS IN THE WHEELCHAIR INSIDE OF THE MEDICAL OFFICE BUILDING IN ROUTE TO THE E.R.

Q. OKAY. ALL RIGHT. WHAT DID HER SHOULDER LOOK LIKE AT THAT STAGE?

A. I COULD NOT SEE HER SHOULDER. SHE WAS HOLDING IT, AND I COULD NOT SEE IT. SO WE PUT THE PURSE ON THE WHEELCHAIR.

Q. OKAY. AND YOU INDICATED A LITTLE EARLIER THAT WHEN SHE RETURNED TO WORK, SHE RETURNED TO WORK WITHOUT RESTRICTIONS; IS THAT CORRECT?

A. YES, SIR.

Q. OKAY.

BY MR. BELLINGER:

AND, YOUR HONOR, I WOULD ASK THAT YOU TAKE JUDICIAL NOTICE AT APA PAGE 60 WHERE DR. FULTON AT ITEM NUMBER FIVE, SAYS (AS READ) "I DID NOT ASSIGN ANY PERMANENT RESTRICTIONS TO HER AS SHE SPECIFICALLY ASKED TO RETURN TO WORK WITHOUT RESTRICTIONS AFTER HER SHOULDER SURGERY."

BY MS. MORROW:

YOUR HONOR, YOU SHOULD ALSO TAKE NOTE THAT THAT WAS DATED 5/22/2012 AFTER SHE LEFT HER EMPLOYMENT.

BY COMMISSIONER WILLIAMS:

FAIR ENOUGH. ALL RIGHT.

CROSS EXAMINATION RESUMED BY MR. BELLINGER:

Q. NOW, AT THE TIME THAT MS. BRUCE FELL INITIALLY, YOU TREATED HER CASE AT THAT TIME AS A WORKERS' COMPENSATION INJURY, DIDN'T YOU?

A. IT'S MY JOB TO REPORT ALL THE INJURIES DIRECTLY TO THE HARTFORD, AND I DON'T HAVE ANYTHING TO DO WITH THE DETERMINATION ON -- ON ANYTHING.

Q. OKAY. BUT DO YOU AGREE THAT AT APA PAGE 100 AND 101 EVERYONE -- THAT YOU INDICATED THAT IF SHE HAD ANY PROBLEMS -- AND THAT'S DATED JULY 15TH OF 2011, AND AT THAT TIME YOU HAD INDICATED THAT IF SHE HAD ANY

FURTHER PROBLEMS TO CONTACT YOU AND THAT, YOU KNOW, MEDICAL VISITS, ET CETERA, WERE APPROVED?

BY MS. MORROW:

YOUR HONOR, I OBJECT. THE EMPLOYER AND CARRIER HAVE NO OBLIGATION -- OR NO PENALTY FOR PROVIDING MEDICAL TREATMENT TO INVESTIGATE A CLAIM WITHIN THE FIRST 150 DAYS. THERE'S NO PENALTY IN PROVIDING THAT INFORMATION TO THE EMPLOYEE.

BY MR. BELLINGER:

AND I WILL CONTEST THAT, YOUR HONOR.

BY COMMISSIONER WILLIAMS:

OKAY. FAIR ENOUGH. SHE CAN -- THAT'S CERTAINLY TRUE, BUT SHE CAN ANSWER THE QUESTION.

BY MR. BELLINGER:

OKAY.

BY THE WITNESS:

YOU MIGHT HAVE TO ASK IT AGAIN, I'M SORRY.

CROSS EXAMINATION RESUMED BY MR. BELLINGER:

Q. DID YOU AT THAT TIME NOTIFY GAIL OR GIVE AN INDICATION TO GAIL -- OR LET ME ASK YOU THIS. DID YOU VERBALLY TELL GAIL ON JULY 15TH OF 2011, IN AND AROUND THE TIME THAT YOU GAVE THE PURSE TO HER, THAT EVERYTHING HAD BEEN REPORTED AS A WORKERS' COMP CLAIM OR THAT WAS IN THAT PROCESS, YOU WERE IN THAT PROCESS OF ---

A. NO, I SAID THAT WILL DO THAT BECAUSE IN 20 MINUTES I -- I MEAN ---

Q. NO, I REALIZE ---

A. --- IN FIVE MINUTES I HAD TO GO DOWNSTAIRS, I HAD TO GO UPSTAIRS TO THE THIRD FLOOR TO GET HER PURSE.

Q. OKAY.

A. AND WE HAVE 45,000 SQUARE FEET ON BOTH FLOORS.

Q. OKAY. A LOT OF ROOM TO WALK AND -- ON THAT FOURTH AND FIFTH FLOOR, ISN'T THERE?

A. THE SECOND AND THE THIRD?

Q. HOW MANY -- HOW MANY SQUARE FEET DID YOU SAY IT WAS?

A. IT'S 45,000 SQUARE FEET.

Q. FORTY-FIVE THOUSAND SQUARE FEET.

A. UH-HUH.

Q. SHE WAS TERMINATED ON JANUARY 19TH OF 2012?

A. YES.

Q. AT A SUBSEQUENT TIME WHEN THESE DISABILITY FORMS WERE BEING COMPLETED, DID YOU INDICATE TO GAIL THAT THE HARTFORD WAS DENYING HER CASE AND THAT IT WAS IN FACT NOT A WORKERS' COMPENSATION CLAIM?

A. I TOLD HER THAT THEY WERE LOOKING INTO IT, AND THAT'S WHAT THEY HAD TOLD ME.

Q. THEY TOLD YOU THAT IT WAS DENIED?

A. THEY SAID THAT IT -- THEY WERE LOOKING INTO IT BUT IT SOUNDED LIKE IT MIGHT BE DENIED, AND THAT THEY

WOULD BE IN CONTACT WITH MS. BRUCE TO -- ASK HER QUESTIONS.

Q. OKAY. RIGHT HERE, AND I'M REFERRING TO APA PAGE 203; MS. JENKINS, IS THIS YOUR SIGNATURE?

A. (WITNESS VIEWS DOCUMENT). YES.

Q. OKAY. AND THE TOP PART OF THIS FORM THAT I'VE HIGHLIGHTED, DOES IT INDICATE THAT THIS WAS A -- THAT THIS WAS DENIED AND THAT "WE DO NOT COMPENSATE EMPLOYEES DURING A LUNCH HOUR," AND THEN THAT -- YOU GOT UP UNDER THERE, "THE HARTFORD," IS THAT WHAT THAT SAYS?

A. YES.

Q. OKAY. NOW, IS THAT AN ABOUTFACE FROM WHAT WAS INDICATED ON JULY 15TH OF 2011?

BY MS. MORROW:

YOUR HONOR, I OBJECT. SHE'S ALREADY TESTIFIED THAT THE HARTFORD NOTIFIED HER THAT THE CLAIM COULD POTENTIALLY BE DENIED, AND SHE'S STILL WITHIN THE HUNDRED AND FIFTY DAY PERMISSIBLE PERIOD.

BY COMMISSIONER WILLIAMS:

ALL RIGHT. SUSTAINED.

CROSS EXAMINATION RESUMED BY MR. BELLINGER:

Q. MY QUESTION, MS. JENKINS, IS THIS. AT THE TIME THESE DISABILITY FORMS WERE COMPLETED, DID THE UNDERSTANDING CHANGE FROM IT GOING FORWARD AS A

WORKERS' COMP CLAIM TO IT BEING A DENIED CLAIM?

BY MS. MORROW:

I WOULD OBJECT TO THE FORM OF THE QUESTION. IT'S ALWAYS A WORKERS' COMP CLAIM.

BY COMMISSIONER WILLIAMS:

OKAY. IT'S NOTED. IF SHE CAN ANSWER THAT, IT'S FINE. CAN YOU ANSWER IT?

CROSS EXAMINATION RESUMED BY MR. BELLINGER:

Q. CAN YOU ANSWER THAT?

A. NO, I DON'T -- I'M NOT SURE. I MEAN, IT'S...

BY COMMISSIONER WILLIAMS:

FAIR ENOUGH.

BY MR. BELLINGER:

COURT'S INDULGENCE.

BY COMMISSIONER WILLIAMS:

ALL RIGHT.

BY MR. BELLINGER:

THAT'S ALL, YOUR HONOR.

BY COMMISSIONER WILLIAMS:

ALL RIGHT. ANY RE-DIRECT?

BY MS. MORROW:

YOUR HONOR, I HAVE NO FURTHER QUESTIONS.

BY COMMISSIONER WILLIAMS:

ANY OTHER WITNESSES FOR THE EMPLOYER AND CARRIER?

BY MS. MORROW:

NO, YOUR HONOR.

BY COMMISSIONER WILLIAMS:

YOU CAN STEP DOWN.

ALL RIGHT. ANYTHING ELSE FOR THE CLAIMANT?

BY MR. BELLINGER:

NOTHING FURTHER, YOUR HONOR.

BY COMMISSIONER WILLIAMS:

ALL RIGHT. THAT BEING THE CASE, THAT WILL CONCLUDE THIS HEARING.

(THERE BEING NO FURTHER QUESTIONS, THIS HEARING WAS CONCLUDED AT THE HOUR OF 4:47 P.M.)

CERTIFICATE OF NOTARY PUBLIC
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
COLUMBIA, SOUTH CAROLINA
WCC FILE NO. 1108693

EMPLOYEE/CLAIMANT: **GAIL C. BRUCE**

EMPLOYER: **COLUMBIA HEART CLINIC, P.A.**

INSURER: **THE HARTFORD INSURANCE COMPANY OF THE MIDWEST**

I, SHEILA ROBISON, A NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA, DULY COMMISSIONED AND QUALIFIED AS SUCH, DO HEREBY CERTIFY THAT THE FOREGOING **110** PAGES REPRESENTS A TRUE AND ACCURATE TRANSCRIPT OF THE FOREGOING HEARING OF **GAIL C. BRUCE** WAS TAKEN THE 8TH OF NOVEMBER, 2012.

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

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

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

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

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

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO. 1108693

GAIL BRUCE,

Employee,

Claimant,

vs.

COLUMBIA HEART CLINIC,

Employer,

AND

HARTFORD INSURANCE COMPANY OF THE MIDWEST,

Carrier,

Defendants.

DEPOSITION OF DAVID B. FULTON, M.D.

(Taken by Defendants)

Lexington, South Carolina

Wednesday, September 5, 2012

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INDEX OF DEFENDANT'S EXHIBITS

NUMBER	DESCRIPTION	MARKED
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APPEARANCES

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DEPOSITION OF DAVID B. FULTON, M.D., a witness called on behalf of Defendant, before Lyn Allen Hudson, Notary Public in and for the State of South Carolina, at the offices of Moore Orthopaedic Clinic, 104 Saluda Pointe Drive, Lexington, South Carolina on Wednesday, September 5, 2012, commencing at 12:15 p.m.

PROCEEDINGS:

BY MR. BELLINGER:

I'm happy to stipulate to Dr. Fulton's credentials as an orthopedic surgeon and also as far as his treatment of the left and right shoulder. We are only pursuing the right shoulder as part of the workers' compensation claim. Now we are going forward on the knees but I anticipate that that will be outside of Dr. Fulton's testimony today.

DAVID B. FULTON, M.D.,

having been duly sworn, testifies as follows:

EXAMINATION

BY MR. LOCKHART:

Q. Dr. Fulton, my name is Jason Lockhart. I'm a lawyer here in Columbia. I represent the Columbia Heart Clinic in a workers' compensation claim involving Gail Bruce who is a patient of yours. I'm actually here today on behalf of one of my colleagues, Kelly Morrow, who's actually handling this file on behalf of the insurance company. And I want to ask you just a few brief questions this morning, or this afternoon, rather, in regards to your treatment of Ms. Bruce. Here today at the deposition of course is Tommy Bellinger. And Mr. Bellinger represents Ms. Bruce in this case. He and I have agreed to stipulate that you are an expert in the area of orthopedic medicine, that you're practicing here in Columbia with the Moore Orthopaedic

Clinic sort of to get through the background questions and to get right down to what we're here to talk to you about today. And I know that you've got your records here electronically. You've treated Ms. Bruce --

A. Yes.

Q. -- for right shoulder problems; is that correct?

A. That's correct.

Q. And in looking at some medical records that were a part of a previous submission from Mr. Bellinger, it's my understanding that you have released Ms. Bruce from your care as it relates to her right shoulder; is that correct?

A. She is released with the ability to come back if she needs further treatment. I didn't like release her from my care as a patient and discharge her.

Q. Okay.

A. At this point in time there's no active ongoing treatment. It was on a PRN basis.

Q. Just for some, just some clarity, the date of maximum medical improvement with regards to her right shoulder, would that be May the 22nd of 2012 which I think is the date of the letter that you wrote to --

A. Yeah. I guess when I was asked to provide it would have been the date because at first when I was caring for her it was not known to me that it was a case that required maximum medical improvement be determined.

Q. Okay.

A. It was not a definitive workman's compensation case. And it was under her private insurance. And I was not asked to quote release her or provide an impairment at that time when I last saw her. And then when I corresponded, you know, with the attorney's office and asked to provide it, then I calculated it. In my medical opinion that would have been the date.

Q. When you corresponded it was with Mr. Dasta who is a lawyer who practices with Mr. Bellinger, you indicated in your letter of May 22nd that Ms. Bruce had a 20 percent impairment rating to the right shoulder; is that correct?

A. Yes.

Q. Now, were you aware that Ms. Bruce had treated previously for some right shoulder problems prior to your seeing her in your office?

A. Yes.

Q. What is your understanding of the extent of previous problem that she had with the right shoulder and the treatment that she received as a result? Or do you have an understanding?

A. I do. And let me clarify because I know she had had treatment on both shoulders --

Q. Correct.

A. -- prior to seeing me. And I want to make sure I

have the sides correct. I know Dr. McFadden had operated on one of her shoulders. And I think Dr. Koon had operated on one. She had had previous right shoulder surgery by Dr. Earl McFadden which consisted of a rotator cuff repair and I believe a sub-acromial decompression and possibly a distal clavicle excision. Let me see if I have that operative report. I'm not certain whether he addressed her distal clavicle or not. But he definitely had done -- do you have the operative report?

MR. BELLINGER: Sure.

A. Thank you. Okay. Thank you very much. I've just been provided with the official operative report from Dr. McFadden which was on September 20th 2002. And he had done an arthroscopic acromioplasty and a distal clavicle excision and a rotator cuff repair at that time.

Q. Dr. Koon also provided Ms. Bruce with treatment for shoulder problems prior to her being seen in your office. Were you aware that Dr. Koon had assigned an impairment rating of 25 percent to the right upper extremity back in February of 2004? Had you had an occasion to see that or be made aware of that?

A. No.

Q. Okay.

A. I was not aware.

Q. All right. What I'm trying to figure out and

trying to help my client figure out is of the rating that you provided to her, that twenty percent rating, is that attributable to her fall for which you treated her or is some of that impairment attributable to the prior shoulder problem that she had?

A. I believe it would all be from the fall. The prior problem which was my understanding primarily her rotator cuff actually had been fixed by Dr. McFadden in 2002 and then unfortunately had retorn likely at the time of her fall when she dislocated her shoulder. And I re-repaired it and luckily it did heal. And the majority of her impairment was actually from the post-traumatic arthritis which had resulted in her shoulder as a result of her dislocation which was a traumatic dislocation and resulted in a cartilaginous shearing type injury to the joint. And after, due to the nature of the injury and it had produced some significant cartilage damage from the traumatic dislocation, and it resulted in arthritis in her shoulder. So my impairment would be calculated almost entirely on the arthritis component of her shoulder problem which is a different problem than she had previously.

Q. Now, when you completed this correspondence to Mr. Dasta in May of this year, is it my understanding that you also did not assign any permanent restrictions to Mrs. Bruce with regards to the right shoulder?

A. Let me pull up that letter unless you have it in front of you.

Q. I have it in front of me.

A. Thank you very much. Yeah. At the time that I dictated this letter and reviewed his questionnaire, it was my, it was my understanding that Ms. Bruce had officially successfully returned to the workplace and in fact had asked me that no restrictions be appointed to her so that she could return to her regular job in regular fashion. And so at that, at her request I had permitted her to go back to work without restrictions which was her desire.

Q. Okay. I'm going to let you hold on to that because I've got a couple more questions I want to ask you. And I just want to make sure that I have it in front of you. You mentioned in that correspondence that Ms. Bruce may need a right shoulder arthroplasty at some point in time in the future?

A. That's correct.

Q. Could you give us an understanding of what is going on pathologically with her shoulder that led you to come to the conclusion as far as what she may need as far as future medical care is concerned?

A. Yes. The initial injury which was a traumatic dislocation of her shoulder that I believe resulted in a retearing of her rotator cuff as well as a labral tear,

rather large labral tear, what we call a Bankart lesion which is a stabilizing structure inside the shoulder. And it actually also resulted in a partial fracture of her cup or the glenoid. And based on the labral tear and the glenoid fracture, she had a very, very unstable shoulder, that even once it was put back into place it wanted to keep coming back out which necessitated surgery. The surgery was successful in stabilizing her shoulder and keeping it in place from keeping it from redislocating. However there was damage caused to the internal cartilage in the shoulder joint when she dislocated it. Actually it came out several times after the initial fall. It was unstable and it kept redislocating. And that resulted in shear stress to the cartilage which produced post-traumatic arthritis in her shoulder. Now the most recent imaging studies she had after her surgery confirmed that the rotator cuff repair had successfully healed but that she had ended up with a very arthritic shoulder, that the shoulder joint was narrow and the cartilage surface was damaged and was not smooth any more which results typically in pain and stiffness in a typical shoulder. And the treatment for a stiff painful arthritic shoulder for those patients who are interested in achieving pain relief and getting better motion is usually a total shoulder arthroplasty.

Q. Okay.

A. So I think she has enough arthritis at this poir in time that that would be a serious treatment option for her.

Q. Going back to a topic we discussed a few moments ago, the prior right shoulder pathology and problems that Ms. Bruce had before she treated in your office, is her need for an arthroplasty in any way related to her prior right shoulder condition or is her need for an arthroplasty at some point in time in the future in your opinion all directly attributable to the traumatic event for which you saw her?

A. I believe it's attributable to the traumatic event.

Q. Okay.

A. Because it's a different problem. And typically a rotator cuff repair does not result in an arthritic shoulder if the repair heals successfully.

Q. Is there any role that the patient's body habitus plays into these treatment recommendations in any way?

A. Not in this situation. I know that she has a known history of rather severe arthritis in other body parts including her knees. So she does have some I guess genetic predisposition for arthritic change. But in my opinion there was none present in her shoulder prior to this injury. And it is very medically likely that her current arthritic

shoulder is a result of the traumatic dislocation and instability that resulted from the fall.

Q. When you are looking at something like an arthroplasty, is there a window of time post-release for example in this case you had indicated that in essence you had placed Mrs. Bruce at MMI in May of 2012. Is there a, I guess what I would term a window of when you would prefer, if you were going to perform an arthroplasty is there a period of time during which you would expect that to be necessary and after a point in time you would not want to perform one?

A. No. It's a total pain issue that's driven basically by patient desire for pain relief but there's no burned bridges by waiting. You can perform an arthroplasty either, you know, immediately or you could wait ten years and still probably get a good result. There's no burned bridges that way.

Q. In the correspondence that I have in front of you, Mr. Dasta asked you in your opinion Mrs. Bruce's right shoulder problems and her need for surgery were attributable or causally related to a fall that she had in July of 2011. And I believe you indicated that in your opinion they were; is that correct?

A. Her what shoulder? What problem? I'm sorry.

Q. Her right shoulder problem for which you sought,

or for which she sought treatment with you and for which you provided her with care.

A. Yes.

Q. And it was your opinion that that those problems were attributable to her fall in July; is that correct?

A. That's correct.

Q. All right. Now when she came to you initially, did she provide you with a history of having fallen onto her right shoulder?

A. Let me pull up that note. Yes. I did obtain that history on 7/20/2011.

Q. And what specifically as far as the details were concerned, what was the history provided to you during that examination as to how her fall occurred?

A. I do not have the details of exactly how the fall occurred. I have that she was at work and she fell on her right shoulder and developed sharp burning immediate pain, eight out of ten severity of pain in her shoulder. But I don't have the details of how the fall occurred.

Q. Okay. I believe the records reflect as well as Ms. Bruce's deposition testimony that at some point in time she went out of work and she pursued a short-term disability claim through her employment. And in seeking those benefits she had to fill out some documentation. And I want to ask you about a document. I'm going to give a copy to Mr.

Bellinger.

MR. LOCKHART: Madame Court Reporter, I'll mark this after. I've got a copy for you after we're done.

BY MR. LOCKHART:

Q. Dr. Fulton, I'm going to show you a copy. This is a disability claim form related to Mrs. Bruce submitted to MetLife Insurance Company. If you could turn with me to the second page if you would.

A. Uh-huh (affirmative response).

Q. Does that bottom half, bottom two-thirds of this document contain your signature at some point on it?

A. It does.

Q. Okay.

A. The bottom third.

Q. Okay. And this would have been documentation that would have been filled out at your office I would presume to assist Ms. Bruce in the pursuit of this disability claim?

A. Yes. The bottom half of the page. Yes.

Q. Let me take you about midway through the, halfway up this page. And do you see there's a question that indicates is condition work-related? Look on the right side about halfway down the page.

A. Okay. Yes. I do see that.

Q. And would you agree with me that at least that

indicates that the answer to the question was no?

A. Correct.

Q. Okay. Can you help me reconcile I guess this particular document where it seems to be indicated that Ms. Bruce's right shoulder problem is not work-related and the correspondence to Mr. Dasta in which you indicate that her right shoulder problem was work-related?

A. Yes. I think I can.

Q. Okay.

A. This, you know, half of the page was filled out by my office staff. Stephanie Williams actually did this.

Q. Okay.

A. And I think she probably saw that this case, both her office visits and the surgery was being taken care of by her private insurance, that she did not state I'm filing workman's comp and we weren't waiting on workman's comp to approve the surgery. So when she was filling out one of these many, many disability forms that we get on many patients, it's a fairly onerous amount of work, I think she looked at the billing sheets and said, is this work comp or not work comp. And therefore checked no. And I am also obviously at fault in that I didn't, you know, bring it up and question it, and say, hey, why did you check not work-related. I mean, I'm given these forms that are filled out and basically, you know, curse over them but then sign

them because my office time has spent the time to fill them out much as a paralegal would help you.

Q. Sure.

A. But I'm sure that, you know, she for some reason at that point had not filed the workman's comp even though she states that she tripped on uneven concrete on the sidewalk outside of her office. So, you know, is that grounds work or not? She wasn't in the building doing work. She was outside. But she was on the grounds. You as attorneys would understand better than I whether that's truly workman's comp. But it was not being filed as a work comp case to that point in time even all the way through her surgical date. And so we checked no. But when asked, you know, by Mr. Dasta did I think she has an impairment and did she fall at work, the answer was yes. I guess she was just outside of work on the premise. So I really don't know how that categorizes. I've seen patients who fell near work and claim it as work comp. So I know it can be.

Q. Sure.

A. But the reason it was checked no is because of how the case was being paid for until that time.

Q. Okay. Fair enough. Just a couple of final questions. And I appreciate your time this morning.

A. Sure.

Q. With regards to the treatment that you provided to

Mrs. Bruce including the surgery and then the recommendations you made for future care, would that treatment have been necessary absent her July 2011 fall? In other words, when we look at her prior right shoulder problems, the surgery that she received from Dr. McFadden, the treatment that she got prior to seeing you in 2011, would she have ultimately needed a right shoulder surgery or would have required medical care based on those pre-existing right shoulder problems absent this event in July of 2011?

A. I don't believe she would have required further shoulder treatment. I think that she likely had a, either a heeled rotator cuff from this surgery or at least one that was doing quite well. But I think that this was a fairly acute severe injury that resulted in a very unstable shoulder. And the findings that I found at the time of arthroscopy of her surgery, it was an acute injury with an acute fracture and a re-tear of her cuff that looked acute. So I believe all these problems were related to the fall.

Q. Okay. Doctor, let me look at my notes. And I think that may be all the questions I have for you.

A. Okay.

Q. I believe in your letter to Mr. Dasta too there was, or to Mr. Dasta in response to his correspondence you were asked some questions about Mrs. Bruce's knees. And I think you indicated that you would defer any opinion on

those to Dr. Van Dam; is that correct?

A. That is. I never formally like examined and treated her for her knees or obtained the x-rays myself.

Q. Okay.

A. I know he was treating her on an ongoing basis.

Q. And finally, Dr. Fulton, have all the answers that you've given to my questions been in your expert opinion and to a reasonable degree of medical certainty?

A. Yes.

Q. Doctor, those are all the questions I have. Thank you.

A. Thank you.

EXAMINATION

BY MR. BELLINGER:

Q. Doctor, Let me ask a number of questions. And I'm largely going to be referring to the little batch of reports. And if you would thumb about halfway to the reports and look at some Richland Memorial Hospital reports dated 7/15/11.

A. Okay.

Q. And under history of present illness does that indicate that she had a trip and fall and basically landed on her outstretched right arm and was having right shoulder pain at that stage?

A. Yes.

Q. And is that consistent with the history tha were given on or about July 20th of 2011 when you first me her?

A. Yes.

Q. And also in that same history down at the very last sentence did she indicate to Richland Memorial at that time that she had previously had rotator cuff surgery on that same arm?

A. Yes.

Q. And was that also consistent with what you, with the report that you saw earlier from Dr. McFadden?

A. Yes.

Q. I'm going to try to go through these things fairly quickly. The second page of that same report reflects an x-ray revealed an acute anterior shoulder dislocation. And it indicates that her shoulder displaced two times while she was in the ER. I understand from looking also at your 7/20 report that she had I think two displacements in your office on the first occasion you saw her following this fall.

A. That's correct.

Q. Do you have an opinion to a reasonable degree of medical certainty as to whether or not the shoulder dislocations were due to her fall on 7/15/11?

A. Yes. I believe with a reasonable degree of medical certainty that they were from the fall.

Q. Doctor, also, and I want to address, I know when Mr., your response to Mr. Dasta's questionnaire that he sent you, your, and his questionnaire is at the latter part of these documents I've handed you. But he phrases his question to a reasonable degree of medical certainty whether or not the July 15th of 2011 fall aggravated or exacerbated a pre-existing condition. I want to address that a little bit because it looks to me that when I look at your surgical report and Dr. McFadden's surgical report that there is the rotator cuff issue on both. And then Dr. McFadden's report had the clavicle excision. But aside from that it looks like there are a number of other things that you addressed during surgery that are what I call new symptoms. So I want to, I would like for you to differentiate between the two if you can.

A. Okay.

Q. There is a reference in the hospital reports, and you've addressed it earlier, of this Bankart fracture. Is it your position that the Bankart fracture is a new condition or is that an aggravation of a pre-existing condition?

A. That's a new condition.

Q. Okay. There's also a reference in some of the medical reports of a Hill-Sachs fracture?

A. Hill-Sachs.

Q. Okay. Would that be a new condition or an aggravation of a pre-existing condition?

A. It's a new condition.

Q. Okay. There's also a reference in the hospital reports of an AC separation. Would that be a new condition or an aggravation of a pre-existing condition?

A. That in all likelihood could have been the radiologist reading a previous distal clavicle excision as an AC separation. So that would be probably more likely related to Dr. McFadden's surgery.

Q. So then I assume from that statement then that your opinion regarding the AC separation is that that would, that the fall would have aggravated that underlying condition?

A. Well, actually it was my opinion clinically that her AC was likely not a source of her pain and that the radiologist who interpreted her films but didn't have the luxury of talking to the patient and examining her just saw a wide AC joint and said AC separation when in fact it was just that she had had a previous distal clavicle excision which makes it look wide on her x-ray. But that her AC joint was probably not injured by the fall.

Q. I see. Okay.

A. Because she wasn't clinically tender there I don't think that's a source of ongoing problem for her.

Q. I noted also when comparing the two surgical reports, Dr. McFadden's surgical report in '02 references an inflamed biceps tendon. And your report indicates a partial tear of the biceps tendon. Do you have an opinion to a reasonable degree of medical certainty as to whether that is a new condition versus an aggravation of a pre-existing condition?

A. I would say new condition.

Q. I did not, when reviewing your report I did not see where you addressed any percentage of a tear to the supraspinatus. I know there's a reference to a full thickness tear. Dr. McFadden's report references a 25 percent tear in his '02 report. Is there any way from looking at your report to determine how those two compare?

A. Probably not. The percentage of tendon tear is a, I would say a little more unique way of describing that most, most surgeons use centimeters more than percentage like how many centimeter tear it is, was it one, two or three centimeters retracted. But I know as I stated earlier that the tear looked acute based on its appearance during surgery. It had a, you can tell as a surgeon if you've done enough of these when a tear looks old or when it looks like a fresh tear. And it struck me as a recent tear. Based on the hemorrhage around it and the thickness of the cuff it looked like an acute injury. So as I stated earlier I

believe she likely retore her rotator cuff when she dislocated her shoulder at the time of her fall.

Q. But based on the acuteness would that be an aggravation of a pre-existing condition or would that be a new condition?

A. That would be a new condition.

Q. Okay. A few other things that your report addressed. And I probably will butcher these terms. Your report references that the anterior inferior glenoid labrum was completely torn off. What does that mean?

A. That's the actual medical terminology for a quote Bankart lesion. When you see the work Bankart lesion, that is an anterior inferior glenoid labral tear. And that's what often creates shoulder instability. So when most patients dislocate their shoulder anteriorly, they often tear the anterior inferior glenoid labrum which is the cartilaginous structure that is inside the shoulder. So the work Bankart lesion is the same way as saying that person has an anterior inferior labral tear.

Q. And I think earlier you stated that the Bankart lesion was a new condition in your opinion?

A. Yes.

Q. Your report also when you're addressing the Bankart lesion references no bone was fixable. What does that mean, Doctor?

A. Her, she had fractured off a part of her glenoid. So the portion of the glenoid that is near the anterior inferior labrum in her case was actually fractured. So sometimes when people dislocate their shoulder, they just tear the labrum. But in other patients, particularly older patients, they can both tear the labrum and knock off a piece of the glenoid which is bone. In her bone there was missing bone but it was kind of impacted and comminuted and it was not good bone quality. It wouldn't support like a screw or something. So I couldn't put it back together and fix it with like internal fixation like screws because it wouldn't have supported a screw. It would have just crumbled. So it was fractured but it wasn't reparable. I couldn't put that glenoid back together and fix it internally because it was not good quality bone.

Q. And Doctor, from a lay standpoint the fact that that bone was not fixable, what does that mean as far as what problems a given patient or what problems Ms. Bruce would potentially anticipate in the future from that?

A. The two problems it could produce are further episodes of instability because the bigger the portion of the glenoid missing the more likelihood of the shoulder to slip back out of place which I think explains why she had two dislocations in the ER and two in my office because, I mean her shoulder was prefoundly unstable. And that's

because she had both torn her labrum and fractured her glenoid. Fortunately since having her surgery she has had no further dislocations that I'm aware of. But now, so but that is a risk when you're missing bone. That's a significant risk is more instability episodes in the future. And then the other risk is developing post-traumatic arthritis because that glenoid bone also has cartilage on it. There's a cartilage lining on the top of it. So the more bone damage there is the higher the likelihood of getting some arthritic change in the shoulder down the road.

Q. And Doctor, have all of your opinions or statements that I've asked you regarding new conditions versus aggravations of a pre-existing condition been made to a reasonable degree of medical certainty?

A. Yes.

Q. I want to follow up on a few of Jason's questions earlier. He indicated or asked you about not assigning any restrictions. And you had indicated that no restrictions were assigned at the patient's request because she wanted to return to work. Taking work out of the equation with someone that has the right shoulder that Ms. Bruce has, what restriction would you normally assign had you not had the request from the patient?

A. Well, that's a good question but it's a difficult one to answer because as you know every patient is different

with their pain tolerance and their ability to deal and accept pain to do activities of what they either like to do or feel they need to do to keep employed. Her condition currently is one of pain and stiffness. And to some degree when assigning permanent restrictions it would be based on her level of pain and ability to perform activities without being miserable. So I think looking at her shoulder, objectively speaking if you look at her x-ray or MRI and you will see the amount of arthritis she has one would guess that she would not be able to comfortably do overhead lifting, overhead reaching, lifting probably more than, you know, at the most ten pounds, maybe five without discomfort. I mean, those are things that would not shock me if the patient said, I can't do that because it hurts too much. Then I would believe them and respect that request and use that as a restriction. On the other hand, sometimes you get a truck driver with a shoulder that looks just as bad as hers that said, hey Doc, you know, I still can drive my 18-wheeler and I want to and I can load it. And the shoulder's a little stiff but I can get by. Everybody's different is what I'm saying. So I would base partly the restrictions. There's no set of restrictions that fits every x-ray or every shoulder. But I would say her shoulder is very arthritic at this point. And it would strike me as unusual if she were able to do heavy manual labor with that

shoulder without, you know, fairly miserable discomfort. So I think restrictions would be in order had she asked for them. But because she specifically did not ask for them I did not put them on.

Q. Doctor, if I indicated to you that Ms. Bruce has undergone a subsequent functional capacity evaluation and that functional capacity evaluation indicated that she was unable to use her right arm for material handling due to shoulder pain, would that surprise you in any way?

A. No.

Q. You've already addressed the questions that I was going to ask you regarding the total arthroplasty. But also when responding to Mr. Dasta's earlier questionnaire you indicated that she most probably would need anti-inflammatory medications and Ultram indefinitely. Is that, Doctor, due to the fall that occurred on 7/15/11?

A. That would be due to the fall for her shoulder arthritis pain that she currently suffers from. If she had a total shoulder arthroplasty in my experience that typically relieves, you know, greater than 90 percent of the pain of an arthritic joint including the shoulder. And I would believe she would not likely require those medications for her shoulder pain in the future if she had that procedure done. But at present I believe that it would be reasonably indicated.

Q. Doctor that's all the questions I have. Thank you for your time.

A. You're welcome. Thank you.

EXAMINATION

BY MR. LOCKHART:

Q. Dr. Fulton, just one brief question. I think I know the answer, just to make sure. As of today and as of your last examination of Ms. Bruce, you have not placed any restrictions upon her with regards to her right shoulder; correct?

A. Correct.

Q. Those are all the questions I have. Thank you.

A. Okay. Thank you.

(Defendant's Exhibit Number One was marked for identification purposes.)

(Plaintiff's Exhibit Number One was marked for identification purposes.)

(Signature Waived)

(Deposition concluded at 12:51 p.m.)

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

REPORTER'S CERTIFICATE

I, Lyn Allen Hudson, a Notary Public, do hereby certify that there came before me on Wednesday, September 5, 2012, the person hereinbefore named who was by me duly sworn to testify to the truth and nothing but the truth of his/her knowledge concerning the matters in controversy in this cause; that the witness was thereupon examined under oath, the examination reduced to typewriting under my direction, and the deposition is a true record of the testimony given by the witness.

I further certify that I am neither attorney nor counsel for, nor related to, or employed by any attorney or counsel employed by the parties hereto or financially interested in the action.

IN WITNESS WHEREOF, I have hereto set my hand this 7th day of September, 2012.

_____
Lyn Allen Hudson, Court Reporter
Notary Public for South Carolina

My commission expires: February 8, 2016

Condensed Transcript

In the Matter Of:

BRUCE vs. COLUMBIA HEART

W.C.C. FILE NO. 1108693

W. ALERIC VAN DAM, M.D.

September 21, 2012



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SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO. 1108693

GAIL BRUCE, Employee,)
)
Claimant,)
)
vs.)
)
COLUMBIA HEART CLINIC, Employer,)
)
-and-)
)
HARTFORD INSURANCE COMPANY)
OF THE MIDWEST c/o THE)
HARTFORD, Carrier,)
)
Defendants.)
_____)

DEPOSITION OF W. ALERIC VAN DAM, M.D.

(Taken by Defendants)

Lexington, South Carolina

Friday, September 21, 2012

APPEARANCES

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DEPOSITION OF W. ALARIC VAN DAM, M.D., a witness called on behalf of the defendants, before Barbara A. Bostrom, Notary Public in and for the State of South Carolina, at Moore Orthopaedic Clinic, P.A., 104 Saluda Pointe Drive, Lexington, South Carolina 29072, at approximately 8:30 A.M.

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(NO EXHIBITS MARKED)

PROCEEDINGS

W. ALARIC VAN DAM, M.D.,
having been first duly sworn, testifies as follows:

DIRECT EXAMINATION
BY MR. GALLAGHER:

Q. Okay. Good morning, Dr. Van Dam. I am George Gallagher. I represent the Heart Clinic, and I am actually here for one of my associates. And, so, we're here today to ask you questions regarding your treatment for Ms. Bruce of the medical treatment given in this case. I know you have probably had your deposition taken before, so I won't go over all the ground rules. But I like to remind folks, first and foremost, if I ask a question you don't understand, if I use erroneous medical terminology, please, just tell me, and I will be glad to ask the question differently. You're the expert about the case, and for someone maybe reading the deposition, it is very important that you wait until after the question is asked before you start to answer. Likewise, I will wait until you answer the question before I ask another one. The reason for that is, if we're talking over one another, it makes it particularly hard on the court reporter. I am particularly bad sometimes

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about jumping in, and I have to resist the urge to go to my next question. Keep that in mind as well. Overall, this isn't a terribly complicated issue, so, we're not going to be here probably for certainly not more then 30 minutes. And I know Mr. Bellinger is not particularly long-winded either. First of all, before we went on the record, Mr. Bellinger and I agreed to stipulate that you are an expert in electrodiagnosis and interventional spinal procedures and so forth. Are you board certified in the specialty of pain management as well?

A. No, no.

Q. Do you practice pain management, or is that part of the overall field of physical medicine and rehabilitation?

A. Correct. We deal with various pain issues and treatment.

Q. Okay. And you're not a surgeon; is that correct?

A. Correct.

Q. And you typically deal with management of those problems?

A. Correct, physicians who deal with medical rehab. Basically, we deal with non-operative

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treatment, nerve, muscles, spine.

Q. Okay. Good. Dr. Van Dam, turning your attention to Ms. Bruce's particular case -- and we have records here for you to reference, but I may reference some specific issues, but I think I want to start out with the big picture. I have reviewed the records, and Mr. Bellinger has reviewed the records. There is no dispute here. Is it fair to say Ms. Bruce has extensive pre-existing bilateral arthritis in her knees?

A. Yes.

Q. And it was first treated with Dr. Constable?

A. Yes.

Q. He first -- she first started seeing -- Dr. Constable treated her fairly regularly for her bilateral knee arthritis, correct?

A. Correct.

Q. And those treatments consisted of medications, correct?

A. Correct.

Q. Mobility?

A. Correct. And treatment of the bilateral inflammatory disease.

Q. And she also had injections regularly in

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her knees; is that correct?

A. That's correct.

Q. And those injections were steroid injections, as well as interstitial -- is that how you pronounce it?

A. Yes.

Q. What's the difference?

A. Cortisone injections is an antiinflammatory. Interstitial basically is not a cortisone steroid. It is actually a gel which actually goes on the knee.

Q. And what was Dr. Constable's understanding of the overall diagnosis of her condition?

A. That she has severe osteoarthritis.

Q. And were there films that Dr. Constable ordered that showed the condition of the cartilage and the symptoms associated with that?

A. I don't recall. I am sure she also obtained preliminary films.

Q. Is severe arthritis -- is that particularly not --

A. It is a little bit subjective, but basically, you say severe in terms of you talk about where the arthritis is, how much cartilage destruction, destruction of the synovial, problems

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with the loss of bone, if that interstitial area is smaller, severe cartilage destruction, arthritis. No cartilage on the bone. And oftentimes, another sign associated with that includes large spurs or cysts.

Q. And at one point in Dr. Constable's notes of June of 2010, she suggested or recommended that Ms. Bruce consider a total knee replacement bilaterally. Is that your understanding?

A. That's likely.

Q. Now, is total knee replacement indicated whenever there is someone that has severe osteoarthritis? Is it always indicated? What is the criteria where a doctor would recommend or depend on, Doctor?

A. Basically, actually, it is an elective decision which means there is very rarely ever a case that does not have to be treated. It is usually determined by the amount of arthritis in the knee, patient symptoms, and then response to certain treatments, seeing that most of the time most of the replacement physicians will tell you, of course, usually the criteria means severe arthritis. And conservative treatment is when medications, injections, and physical therapy is no longer

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providing relief.
Q. That is, there is some element. There is one constant standard. Does there have to be radiographic criteria received before a doctor reasonably recommends total knee replacement, correct?
A. Absolutely.
Q. And that would be near or total loss of cartilage between the bone; is that correct?
A. That's correct.
Q. And Ms. Bruce met those criteria even before she was injured at work on July 15, 2011; is that correct?
A. That's correct.
Q. And it appears in Dr. Constable's records that she was getting injections in her knees fairly regularly, about every three or four months, between 2007 and 2010?
A. That's correct.
Q. I believe Dr. Constable left the practice at some point; is that correct?
A. Yes.
Q. So, you took over Ms. Bruce's treatment when?
A. I don't have the exact date. I think

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Dr. Constable initially sent her to me for lower back problems, and Ms. Bruce asked me to take over her care at that point as she was without a physician, and I agreed to.
Q. So, initially, the referral was for lower back issues; is that correct?
A. I believe that's correct.
Q. And in the process, it looks like you first saw her in September of 2010?
A. That's correct.
Q. And, again, I think, as you said, this record reflects that was primarily for lower back issues?
A. Correct. And understand, as I got to know Ms. Bruce, she asked me to consolidate her care to one physician, and I said I would be happy to do that as well.
Q. And, initially, you saw her again in January 2011, good relief following back injections, and then you injected her knees again?
A. Yes, that's correct.
Q. And you saw her again in March of 2011, and you again injected her knees at that time, correct?
A. Correct.

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Q. Is the two month pain relief a typical duration of relief from the steroid injections?
A. Again, it depends on the severity. Less severe, they may get up to two years, six months. The more severe arthritis, the less amount of time you're going to get relief from injections, or even a month might be expected.
Q. And, again, you saw her in January for injections, and you saw her in March for injections, and then you saw her again in May for injections in her knee. That appears to be a fairly regular pattern of two months of relief of that injection?
A. Yes.
Q. And I am assuming these are not necessarily regularly scheduled appointments. She would make appointments as necessary, depending on the relief she had gotten?
A. I believe we actually scheduled them with the idea she probably would require another one based on the relief she was getting. Of course, if she got more relief, she didn't need to come in. Consistently, it was about a two month period.
Q. Now, your records for 2011 don't particularly note that. Do you have any independent recollection of a discussion made with her?

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A. Yes. We discussed many times her options. She wanted to stay with conservative treatment as long as she could.
Q. And the last time you saw her before her injury -- and her injury was July 15, 2011 -- it looks like the last records I have that you saw her for was May 27, 2011; is that correct?
A. Yes.
Q. Is that correct?
MR. GALLAGHER: Tommy, this is -- I think that is accurate.
THE WITNESS: This was July. This was before that.
BY MR. GALLAGHER:
Q. At that point in time, you noticed that she had severe osteoarthritis bilaterally. Can you tell us what that diagnosis means?
A. Sure. The knee joint has multiple actual compartments in it and various facets, mild, moderate, severe, and end-stage, that determines whether it's severe arthritis. Again, no cartilage, bone-on-bone.
Q. This diagnosis, the first time you reference the term end-stage in your records, or Dr. Constable did, Is that something new, or is that

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another way of saying what's been going on all along?
A. Correct, she had severe arthritis.
Q. So, a significant term end-stage at this juncture?
A. Correct, that could be.
Q. And, again, you injected her knees again on that date, correct?
A. Correct.
Q. And then, of course, she had her accident in July of 2011. What is your understanding of the mechanism of her injury, Dr. Van Dam?
A. I believe she had a fall, if I remember correctly.
Q. Do you know how she fell or how she landed when she fell?
A. No.
Q. And I believe following the accident she obviously had some initial emergency care, and then have you ever reviewed those records?
A. I have not.
Q. Did you know the doctor that followed her after the accident? Her initial complaint was right arm and right shoulder pain primarily?
A. I knew she had a problem, yes, with the

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right shoulder.
Q. And did you know that she obviously was referred to Dr. Fulton for diagnosis and treatment of the shoulder problem?
A. Correct.
Q. Have you reviewed Dr. Fulton's -- I am going to show you physician's notes. This is the first orthopedic evaluation treatment following her accident from Dr. Fulton. Can you just peruse that and tell me when you're done with it, and then I will ask a question.
A. Okay.
Q. There does not appear to be any mention of acute occurrence injury to her knees on this initial record, Doctor?
A. No.
Q. It appears her primary problem was to her shoulder; is that correct?
A. Correct.
Q. And she ultimately had surgery with Dr. Fulton?
A. Yes.
Q. And then it looks like you saw her for the first time after her work accident on -- I am sorry -- here we go, September 15, 2011; is that

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correct?
A. Correct.
Q. So, about two months post-accident. Did she mention anything that reflected this in your records about any injury to her knees? There is a notation here: She has been doing poorly with her knees overall. What does that reference mean?
A. She is just having trouble dealing with the pain in her knees.
Q. Is there anything different about her presentation on this date or any of her presentations before the accident regarding the pain in her knees, the problems she was having with her knees?
A. No.
Q. And I believe you again injected her knees --
A. Correct.
Q. -- On that date? And, of course, she continued to see Dr. Fulton for her shoulder, and I guess, currently she is okay. It looks like you see her again two months later in November 2011?
A. Yes.
Q. The diagnosis at that time was severe arthritis of the knees bilaterally; is that correct?

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A. Yes.
Q. Are there any x-rays taken at this point after her accident?
A. Not that I am aware of.
Q. And you did another injection of her knees, kind of on schedule every two months later. Does that appear to be correct?
A. Correct.
Q. And, I guess, you saw her again December of 2011, and it looks like you just injected her left knee on that date; is that correct?
A. Correct. Now, I have given some opinions to Mr. Bellinger or his associate, that she probably exacerbated her knee.
Q. I want to ask you a question about that. Did the fall in July of 2011 necessitate any treatment that wasn't otherwise necessary before the fall? In other words, she was having injections before the fall. Clearly, she is still having injections after the fall, so have there been any alterations in the course of the medical treatment since before the fall and/or after the fall?
A. No.
Q. Did the dosages of medications change at all? In other words, when you do these injections,

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do you repeat the frequency of the injections to get the best effect, or do you actually change the dosage?
A. A lot of times, you don't really change the dosage. It doesn't necessarily make it any more effective, so, typically, it is the standard dosage.
Q. And that standard dosage never changed before or after her fall; is that correct?
A. That's correct.
Q. Was she necessarily complaining of any more pain per se after the accident?
A. Yes. And I think her response to the injections was to the shoulder, which there was an acute weakness in the shoulder.
Q. Is that based on the duration of relief that she had?
A. Yes. She was telling me she was having more trouble than before.
Q. I believe you testified earlier that the efficacy of the injection actually decreases over time as the condition progresses; is that correct?
A. Yes.
Q. So, in light of that fact, is there any way you can attribute the meniscus injections after the accident as opposed to the natural progression

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of her previous condition?
A. It's difficult.
Q. And has Ms. Bruce -- is Ms. Bruce still a candidate, or would it be reasonable for her to consider a total knee joint replacement today?
A. Yes.
Q. And it was reasonable for her to make that decision even prior to her falling; is that fair to say as well?
A. Yes.
Q. At any point, was there any one worse than the other? At any point during her treatment with Dr. Constable, was there any one knee any worse than the other?
A. No. Just about her being more miserable.
Q. Dr. Constable increased the dosage in one knee and not the other. Is that a physician's decision?
A. Yeah. Based on her arthritis, she may have one bothering her more then the other, as a result of the injections. But really logically, they are similar in terms of severity.
Q. Is that pretty much the same following the accident in her knees since July 2011, giving her any more problems with one more than the other?

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A. I don't believe so.
Q. All right, sir.
MR. GALLAGHER: Dr. Van Dam, that is all the questions I have.
CROSS-EXAMINATION
BY MR. BELLINGER:
Q. Doctor, let me ask you a few questions. George went over a number of medical visits with you, and you had indicated here in your direct examination that you had not reviewed Dr. Fulton's medical report.
A. Correct.
Q. And I would just like to show you a report dated 8-3-2011, which is a report from Dr. Fulton, which is about 18 days or 19 days post-fall. Does that report, Doctor, indicate that she is having problems with her bilateral knees?
A. Yes.
Q. Okay. And you were asked a number of questions about her initial problems which Dr. Fulton treated. Are you aware that on or about her complaint of the fact that her right shoulder was dislocated following this fall?
A. Yes.
Q. And, Doctor, have you noticed over your

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years of practice that oftentimes when somebody has a major injury to one area that seems to take priority with or seems to be their entire focus as compared to other problems?
A. That's correct.
Q. Are you aware from the date of her fall on July the 15th, up until Dr. Fulton's surgery to her right shoulder, that she, in fact, had a shoulder dislocation?
A. No, but I do see in the notes that there was a dislocation associated with that.
Q. Would that be reasonable for that to be a chief complaint of a patient if they were experiencing that kind of problem?
A. Yes, I would expect that would be a lot more painful then a typical knee.
Q. George asked you a number of questions about the question as far as -- that you were kind enough to complete. Actually, two different ones. I am going to refer you to what I would ask you to do, Doctor, if you would, to just review your February 19 questionnaire with George, deposition page 54, and then, Doctor, if you would go to the next half, page 62, and just review those two responses briefly, if you would. Tell me when you

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finish those two, Doctor.
A. Okay.
Q. Doctor, if you would look at the first one, the February 19 of 2012 response. In that response, do you -- first of all, do you defer all questions regarding her shoulder to Dr. Fulton?
A. I do.
Q. Okay. All right. And regarding her knees in that February 19, 2012, report, did you indicate that at that time she presents with osteoarthritis, which was aggravated or exasperated by the fall?
A. That's correct.
Q. And is that still your opinion today?
A. Yes.
Q. And in that same report, you also indicate that she had permanent restrictions of limited bending, twisting, or turning, based on her knees, and no long standing, no continuous standing or walking. Is that still your recommendations today?
A. Yes, sir.
Q. And, Doctor, when you look at page 62, question 2, which indicates what the restrictions are, medications and potential need for bilateral replacement to both knees, is that to a reasonable degree of medical certainty most likely due to the

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aggravation of the osteoarthritis? Is that how you responded to that?
A. Yes.
Q. Doctor, is that still your opinion today?
A. Yes.
Q. Referring back to the February 19 report, you indicate what medications -- do you indicate what Ms. Bruce will need to take?
A. A combination of antiinflammatory medications, pain medications in the form of Bioflex and Ultram and Lortab.
Q. And is it a possibility, Doctor, if she undergoes knee replacement, that you may change the medication regimen?
A. She may not require it.
Q. Do you find, Doctor, typically that they don't want that knee replacement; they try to hold off as long as they can?
A. Absolutely.
Q. Is this when a patient undergoes them -- is there a normal range or period of time that she generally lasts until they need to be revised in some fashion?
A. Correct. It's a limited life, so to speak, is she responding. Also, she may be more

active, or less active, it will last longer
Q. What is the normal range for a replacement?
A. Typically, 10 to 15 years, average being around 12.
Q. Doctor, is there any way -- again, I know that Mr. Gallagher asked a number of questions regarding her pre-existing state versus her state following the accident. Is there any way to address any kind of impairment rating prior to July 15, 2011, versus what it is today?
A. Probably would be the same.
Q. The impairment would be the same?
A. Yes.
Q. Okay. What significance do you place upon the fact that she was able to work prior to July 15, 2011, and for a period of time after that, to her current state of not being able to be employed?
A. Could you rephrase the question?
Q. You have indicated the impairment is probably the same pre-accident versus post-accident, okay?
A. Correct.
Q. Obviously, pre-accident, she was working, and then for a period of time post-accident, she was

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working. Today, she is not working, okay? The restrictions that you have indicated may be due to the aggravation due to her osteoarthritis: The limited bending, twisting, turning of her knees, no deep struts, no continuous standing or walking. What impact did those restrictions have that are due to the aggravation, in your opinion, on her employability?
A. It makes it more difficult. She had to do a lot of walking. That would be more difficult because her knees would give her more problems.
Q. So is it a fair statement then that regardless of the impairment being the same, that the restrictions are, I guess, more significant? Most accidents have an impact on employability; is that fair to say?
A. Her function is decreased.
Q. And that would be consistent, as you stated, during direct examination earlier that her response both in follow-up on July 15, 2012, to your treatments were diminished?
A. That's correct.
Q. Doctor, have you found during your course of treating Ms. Bruce that she was very candid with you about all of her medical problems?

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A. Yes, very much so.
Q. And did that seem to be consistent with the radiographic findings and her overall medical care that you were aware of?
A. Yes.
Q. And, Doctor, have all of your opinions, both to Mr. Gallagher and to myself, with our questions, have they been to a reasonable degree of medical certainty?
A. Yes, they have.
MR. BELLINGER: I have no further questions.
REDIRECT EXAMINATION
BY MR. GALLAGHER:
Q. Dr. Van Dam, number one, I believe you testified under direct examination that her initial response to the injections were not necessarily attributable to the accident, that it would suggest the fact of a natural progression of the pre-existing conditions; is that correct?
A. It is possible.
Q. So, can you say to a reasonable degree of medical certainty that the diminished response to the injections are a response as opposed to after the accident?

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A. It's difficult to make that determination. I did notice a diminished response after the time of the accident.
Q. Diminished is something where we had her -- where Ms. Bruce had over seven years of consistent injections in her knees that was giving anywhere from three to fewer months of her relief, and if already, in light of what your testimony earlier was, over time, the efficacy of injections decreased, is it more likely than not, Doctor, that the diminished efficacy was a product of diminished or a natural progression of previous conditions post anything having to do with this accident?
A. It's possible.
Q. Now, you say that her condition has been aggravated, in response to questions Mr. Bellinger asked, but I believe you also testified, sir, that the course of her treatment has not changed since before the accident or after the accident; is that correct?
A. That is correct.
Q. So, if the course of the treatment hasn't changed because of the accident, then how would the condition have been aggravated?
A. In response to the treatment diminishing,

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but there wasn't any further change that I could make at that point. We were giving her injections as early as possible in that time frame.
Q. So, you say the fact that she -- is it your opinion, then, that the fact that she had diminished pain relief following this accident was the product of the accident as opposed to just a normal diminished efficacy over time for somebody that has a seven-year history of severe arthritis in her knees?
A. It could be a natural course of production. In her case, I felt that she was diminished post-seven years, after treatment was beginning to work, and was unable to do those things afterwards.
Q. Were you aware of any problems she was having at work before this?
A. No.
Q. With getting around, completing her job, doing her job?
A. No.
Q. Do you know whether or not this was a situation where Ms. Bruce was 100 percent before this accident and afterwards she wasn't?
A. I don't know.

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Q. Now, you said that in her restrictions that you included no deep squats, no continuing standing or walking without sitting. If Ms. Bruce had been having problems completing her job duties before this accident, would these type of restrictions have been appropriate at that point in time?
A. Yes.
Q. In other words, based on totally her condition even before she fell in July of 2011, would these restrictions have necessarily been unusual for the type of condition that she had?
A. No.
Q. And given Ms. Bruce's condition and overall body condition, would that have been a reasonable restriction on somebody regardless of any kind of work injury?
A. Yes.
Q. Now, you feel like Ms. Bruce is headed for -- ultimately going to require knee replacement, correct?
A. Correct.
Q. And did you feel like she was heading that way even before July, 2011?
A. Eventually, she would, yes, require it.

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Q. Is there any way to predict, then, even if she had not fallen in 2011, is there any way you could have predicted that, or did it all depend on her primary response?
A. It had been something more.
Q. Can you agree that that tolerance in part is dictated by the treatment?
A. Sure, sure, if you're getting a good relief from the treatment.
Q. And as efficacy of those countermeasures decreased over time as the condition progresses, the need for knee replacement approaches?
A. Correct.
Q. Is there any way you can necessarily say that she needs a knee replacement, or the need for a knee replacement is aggravated by the fact that she fell on her right knee in July of 2011?
A. Repeat that.
Q. Can you state within a reasonable degree of medical certainty that that ultimate knee replacement was accelerated by the accident in 2011?
A. No.
Q. All right.
MR. GALLAGHER: That's all the questions I have.

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RECROSS-EXAMINATION
BY MR. BELLINGER:
Q. Just so I am clear, I believe what you're saying is that your statement to a reasonable degree of medical certainty and as to why Ms. Bruce's condition with her knees was aggravated post-July 15 during her fall was because of her diminished response, as well as her subjective complaints to you. Is that an accurate statement?
A. That's correct. And then also the fact, again, despite having similar symptoms prior to the accident, she was working and doing fine, as far as I know, and then afterwards, a lot of difficulties walking.
MR. BELLINGER: Let me -- I am going to show you, George, reference page 73.
MR. BELLINGER:
Q. Doctor, you have not seen this report. This is a functional capacity evaluation. Particularly referencing income to the last paragraph, down at the bottom, if you could publish that one statement in there.
A. Qualified for limited sedentary work, does not tolerate occasional standing, kneeling, stair-climbing with right upper extremity.

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Q. Are you in agreement with that statement as to what she does not tolerate?
A. Yes.
Q. And, again, she was able to maintain a number of jobs prior to July 15, 2011.
A. That's correct.
Q. One last question: Mr. Gallagher asked you just a moment ago about whether you could determine whether or not the knee is in need for a bilateral knee replacement, was accelerated as a result of the July, 15, 2011, accident, okay? And I understood your response to be you could not make that determination.
A. Correct.
Q. That seems to be a different response than what you indicated on May the 25th, and I just want to address that one issue so I am clear as to what you're saying.
A. Okay.
Q. I am looking at question 2D there. It indicates restrictions, medications, and a need for bilateral knee replacement were due to the aggravation. Are you now, Doctor, modifying the reference to the bilateral knee replacement due to aggravation, or are you not doing that? I just want

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to make sure that is clear.
A. I feel that it did have aggravation due to a pre-existing condition, meaning she was stable in her treatment prior to her injury, and I did feel like, because her being able to work and not being able to work after the work injury, it aggravated and/or accelerated her previous status.
Q. Is there any way, though, to determine whether that acceleration of her condition has accelerated her need for a bilateral knee replacement?
A. It could, yes. In other words, if her treatment was stable and never had an injury, she may automatically require knee replacement, but it seems like after an injury, treatment is less successful, and then you have --
Q. Is that your opinion to a reasonable degree of medical certainty?
A. Yes.
FURTHER REDIRECT EXAMINATION
BY MR. GALLAGHER:
Q. A couple more questions in response to that. Here it appears in part in your opinion of this condition was aggravated based on your understanding or assumption or whatever that

Ms. Bruce was working fine and able to do her job and was not experiencing progressively work functional problems at work; is that correct?

A. That's correct.

Q. And if that, indeed, is not the scenario, are any of the opinions that you have given still applicable?

A. Not as much as if she was having steady decline and problems that would be considered progressive arthritis and you cannot pinpoint a time frame of an exact injury as opposed to --

Q. She was taking medications: Mobisyl, Ultram, Lortab. I believe she was taking all these medications before the accident, correct?

A. Correct.

Q. She was taking it after the accident, correct?

A. Yes.

Q. Did the dosage or treatment with medications change?

A. No.

Q. And then, finally, I just want to ask you, you think that both knees would have been aggravated perhaps by this accident if the evidence in this case reflects that she fell on her right knee only.

Would your opinion apply to the left knee, or could you say to a reasonable degree of medical certainty there was an aggravation of both?

MR. BELLINGER: I would object to the question as it is outside the realm of cross-examination, but subject to that objection, please answer the question.

THE WITNESS: I still believe the other knee would be affected. If one is injured more, it could place more special stress to the opposite side.

MR. GALLAGHER: Okay. All right, sir. Thanks. Nothing further.

(Signature waived.)

(Proceedings concluded at 9:15 A.M.)

CERTIFICATE

I, Barbara A. Bostrom, Certified Court Reporter and Notary Public in and for the State of South Carolina, do hereby certify that the foregoing transcript is a true, accurate and complete record.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

Witness my hand I have hereunto affixed my official seal this 1st day of November, 2012, at Lexington, South Carolina.

Barbara A. Bostrom
CSR-0183, RPR-B-492
My Commission Expires:
11.17.2018

COPY

SOUTH CAROLINA WORKERS' COMPENSATION HEARING

FULL COMMISSION APPELLATE HEARING

GAIL C. BRUCE,

Employee

-VS-

COLUMBIA HEART CLINIC, PA,

Employer

and

HARTFORD INSURANCE COMPANY OF THE MIDWEST,

Carrier

WCC FILE NO. 1108693

Pursuant to Notice of the Appellate Hearing taken on the 21st day of May 2013, heard before the South Carolina Workers' Compensation Commission Full Commission Appellate Panel including; Honorable Andrea Roche, Melody James, and Avery Wilkerson; Chair, and commencing at the hour of 8:54 a.m. in Columbia, South Carolina.

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OBJECTIONS:

(None)

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(None Offered)

LEGEND OF THE TRANSCRIPT

dashes [--]	intentional or purposeful interruption
[ph]	denotes phonetically written
[sic]	written as said

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PROCEEDINGS

COURT REPORTER: Today's date is May 21, 2013. This is South Carolina Worker's Compensation Case Number 1108693. This is the case of *Gail Bruce, Claimant, versus Columbia Heart Clinic, Employer, and Hartford Insurance Company of the Midwest, Carrier.*

The Appellant is the Claimant, represented by Thomas Bellinger. The Respondent is represented by Kelly Morrow.

Each side is allowed ten minutes for oral argument and the Appellant three minutes in reply. You are requested to argue the grounds of exception and stay within the record.

COMMISSIONER WILKERSON: Mr. Bellinger.

APPELLANT ARGUMENT

MR. BELLINGER: Thank you. May it please the Panel.

On July 15, 2011 the Claimant was upset because she had just been informed that some administrative duties were being removed from her with her employment. She testified that she is a stress smoker and that she wanted to go outside and compose herself. Her team leader at the employment had no objection with her taking a smoke break.

There is no smoking area within the Columbia Heart Center, as you can imagine, so she went to a smoking area outside that is approximately 20 feet from the office building of Columbia Heart Clinic. She took a few puffs over what the testimony indicated was four minutes. She was walking back into the building on the sidewalk, she trips on an uneven or a settled down portion of the sidewalk, causing significant injuries. She had five dislocations of her shoulder prior to having surgery and she has, what in our opinion is, an aggravation of significant preexisting conditions to her bilateral knees.

Now, former Commissioner Williams held that since this injury was not on the premises of the employer, Columbia Heart Clinic leases a floor of the building, since it was not on the premises of the employer, nor did it occur at an employer maintained area, that the Personal Comfort Doctrine does not apply. I submit to you that there is no holding with any of our Appellate Courts that say that the Personal Comfort Doctrine or an insubstantial deviation is limited by claims on the premises or is limited to employer maintained areas, does not exist.

Now, this order indicates that there are two cases, and the order says, Directly on Point. I submit to you they're not on point at all. One of the cases is the Howell Case. I ask the Panel to read the case and I promise you in that case there is no reference, whatsoever, to the Personal Comfort Doctrine, nor an insubstantial deviation, does not exist. That case, pursuant to Commissioner Williams, was found to be directly on point. As y'all are probably aware Ms. Howell was hit by a car after exiting her husband's car before she went into work. It occurred on a public street, no test to me, whatsoever, regarding Personal Comfort Doctrine or insubstantial deviation.

Commissioner Williams's order also says that the Matute Case is directly on point. Again, I submit to the Panel there is not one reference in that case to the Personal Comfort Doctrine, not the Doctrine of Insubstantial Deviations, does not exist. That case simply addresses the exceptions to the Going and Coming Rule.

Now, I submit to you what has happened here is that Commissioner Williams has co-mingled two doctrines. He has co-mingled the exceptions to the

Going and Coming Rule and this potential requirement that it needs to occur on premises and has taken, in my opinion, a leap and applied that to the Personal Comfort Doctrine and the Doctrine of Insubstantial Deviations.

Now, Osteen 1998 case upheld smoking as a personal comfort. And that case goes on to say that smoking, though strictly personal to the Claimant and not an act of service to the employer, arises out of employment and such acts, being necessarily contemplated, are done in the course of employment and that is necessarily contemplated. I cite the Osteen Case at page ten of my brief.

Now, in this case I largely relied upon the Mack Case. As y'all are aware of that's the individual that's on a smoke break, he lights up a cigarette, he had lighter fluid on his pants leg, he ended up burning himself horribly and subsequently died. In that case there was no objection that -- Mack holds that if a person is injured during a smoke break and there is no objection to the smoke break -- which is our set of facts, team leader did not object to the smoke break -- the injury arises out of and is in the course of employment. That's exactly what Mack

holds.

Now, in the Dukes Case, Dukes holds that the court -- the court holds that injuries when someone walks outside to clear their head that situation is compensable.

That's our set of facts. I've got a Claimant that's upset because she's been relieved of some of her administrative duties, she borrows a cigarette from a co-employee, she walks outside four minutes, takes puffs of cigarettes, she's clearing her head, she's upset, she's trying to deal with it. It's the exact same scenario and the court says in that situation that when someone's walking outside to clear their head, that that is compensable. That's the Dukes Case, that again, is what we have. And I think, really, it's an insubstantial deviation.

Address one last case on this personal comfort scenario, which I think drives home the fact that I believe it's error to require the personal comfort to occur on the premises, and that is the Artist Case, I cite it at page 11 of my brief.

The Artist Case, the person is on a business trip, he is sleeping in a hotel, there is a fire, he dies from smoke inhalation. The court holds that sleeping is a personal comfort. What else do

they hold? They find that it's compensable.

Now, if you're staying in a hotel and you die as a result of a personal comfort, that clearly is not on the employer's premises, nor did it occur at any maintained area of the employer. That is directly on point and indicates that it is error for the Commissioner to make what I really believe is a leap in this case to say that it has to occur on the premises.

And he clearly in his order says that but for the fact that it happened off the premises, some 20 feet away from the building, that it's not compensable.

Now, Commissioner Williams knew that I was relying on the Mack Case and he also knew that I was relying on -- and the Mack Case addresses really two arguments, the Personal Comfort Doctrine and the Insubstantial Deviation Doctrine. His order does not address, whatsoever, an insubstantial deviation. We've got a four minute break to take a few puffs of a cigarette that's 20 feet outside of the office building -- 20 feet outside of the office building, yet an insubstantial deviation was not even addressed by the Commissioner in the order.

In conclusion, on those two issues, you know, years ago when we all grew up it was commonplace for us to go to a restaurant, it was a smoke filled room, it was commonplace for us to go to an employer, there would be smoke filled employment rooms, etcetera. Well, you know, today you have to go outside to smoke or you have to go to a designated smoking area. Employers should not be able to evade liability because smoke breaks now have to be taken in designated areas or outside of a building, particularly in this case where you have a scenario where an employer only leases a portion of the office building.

Three other quick issues. One thing that I also really believe is a glaring error here is the order holds that timely notice regarding certain body parts was not given in this case. 42-15-20 only requires notice of the accident. I ask each of y'all to review that statute. Only requires notice of the accident.

Angela Jenkins, defense witness, indicates --

COMMISSIONER WILKERSON: Finish your thought.

MR. BELLINGER: Can I have about one more minute?

COMMISSIONER WILKERSON: Not a whole minute,

but you can finish your thought.

MR. BELLINGER: Defense witness testifies that she was given notice immediately.

Also, I ask that y'all look at page 62 of Dr. Van Dam's report and pages 21 and 24 of his deposition regarding causation of the bilateral knees.

COMMISSIONER WILKERSON: Ms. Morrow.

RESPONDENT ARGUMENT

MS. MORROW: Good morning and may it please the Commission.

Your Honors, I would disagree with the Claimant's position that the single Commissioner erred in this case and the Matute Case is directly on point. The Claimant wants to characterize this event as a smoke break because they want it to be within the Personal Comfort Doctrine, but she was not, in fact, on a smoke break at the time that this happened, which is why the Matute Case is actually on point.

COMMISSIONER ROCHE: Actually, Commissioner Williams found she was on a smoke break.

MS. MORROW: She -- if you look at the additional evidence in the record --

COMMISSIONER ROCHE: I'm a little concerned,

though, that Commissioner Williams found that she was on a smoke break, and so I don't think you can -- unless you appealed that...

MS. MORROW: Well, the characterization of her doing nothing more than smoking, I think, is untrue. There's evidence in the record that states, at page nine of the Claimant's APA, that she was on a lunch break at work at the time that this --

COMMISSIONER ROCHE: (As Read): I find that the Claimant's injury, while on her personal smoke break... I mean, that's what he found.

Okay. Go ahead.

MS. MORROW: The facts and circumstances around the case are that she had already been put on administrative notice with her employer, that because of her complaints that she was unable to perform certain aspects of her job, that she was not able to continue in all the facets that were assigned to her. As a result, they removed certain portions of her job, which in turn reduced her pay.

She had already been aware of her administrative process prior to the date of accident itself. She went in, had a discussion with her supervisor, Angela Jenkins. She was upset

at the time that she left the discussion, but she was not, as the Claimant characterizes, expressly allowed to go on a smoke break. She never identified to Angela Jenkins that she was going on a smoke break. They had a discussion about the changes in her job responsibilities and duties and then she left to take a break.

If you look at Ms. Jenkins's testimony, she never at anytime says that she was told by the Claimant that she was leaving to take a smoke break. It was there understanding that this was the 30 minute, required, non-paid lunch break. If you look at Angela Jenkins's testimony at page 94 of the record, she was actually outside for 20 to 25 minutes before she was ever notified there was an accident. Meaning Ms. Bruce left the building, left to do whatever it was that she was doing, if she chose to smoke during that time and was smoking during her break, that's fine, but the break itself was not necessarily for the sole purpose of her going to smoke. It was at the lunch hour, if that was her chosen description of activity, that's fine, but it wasn't one that should keep her in the course and scope of her employment.

It was not a four minute lapse in time as the

Claimant describes. She goes outside of the facility onto a sidewalk that's not owned or maintained by this employer. They own the one floor of the building that's housed by multiple groups for the employer. She exits the building through an ingress and egress that's not controlled by the employer, we don't provide her transportation, we had no direction or control over what activities she was doing during this time. Again, whether she chose to smoke or not, she left the facility, she was under her own control, she chose to go smoke a cigarette, she was coming back on a city owned -- or the company owned -- by company I mean the facility or building that owns and maintains that sidewalk, not the employer owned -- sidewalk, at which time she hit an uneven surface and fell. Nothing about her activity was a special errand or a deviation from any activity. We didn't send her out to do anything in particular that would cause her to be in the cause and scope of her employment. We didn't control what she had -- what her activity was and again, we weren't providing her with any type of transportation.

It's very similar to the Matute Case in that respect, as with the exception of that woman being

done with work for the day, this individual Claimant was off the clock on a break, that should not be categorized as something that was in the course and scope of the employment, which would put it under the Going and Coming Rule, which is why the exceptions under Matute would apply.

Several of the cases that the Claimant cites would not necessarily be analogous of this case, for example, if you're in a hotel. In that case that individual claimant was on the job because they were only there because of the work that was being performed. If they were otherwise not in the course and scope of their employment they wouldn't have been in that hotel, they wouldn't have been subject to those risks.

In this instance she's not in the course and scope of her employment, she's in her own will, she's doing her own activities on her own break. It's not the same in an analogous sense to what we have going on in this claim.

The single Commissioner evaluated all those facts and made the right determination in that aspect. Additionally, if for some reason the Commission were to conclude that Ms. Bruce was somehow in the course and scope of her employment I

would direct you to look at the single Commissioner who listened to the testimony, weighed the evidence, and observed the Claimant, as well as all the other witness, that he only found that it would have been possible for her to have injured her one shoulder and not both of her knees.

The substantial medical evidence, as well as the testimony of the physicians that treated her indicate that there would only be a shoulder injury. It was initially all she ever reported. It was initially all that was ever treated. She received injections in her knees for several years prior. She had already been told that she needed total knee replacements in both of her knees prior to the accident itself.

If you look at Dr. Van Dam's deposition he goes back and forth, but what's consistent throughout the thread of his deposition is that the injections, due to longevity, had reduced in their effective nature at that point based on the fact that she had had them for several years. She had already been told by her personal physician that it was time to have both total knee replacements and she had end stage cartilage reduction, in other words, there was nothing left in the knees. It's

virtually impossible to aggravate, or exasperate, or accelerate something that no longer exists.

You know, if you look at the short term disability policy information, as well as the information she provided to the employer it would only substantiate a shoulder claim. The knees, in terms of notice I think with the single Commissioner perhaps intended in that respect was that notice of the knees was not initially given to the employer. Treatment was initiated and provided for her shoulder, that was initially what she ever reported. It wasn't until several months later, after she lost her job, that she began complaining of knee problems and trying to connect them causally to the claim. Based on that, I believe that's what the single Commissioner intended in regards to notice, all be it, he cited notice, as far as notice of the injury itself. But the Claimant actually had the supervisor come down to the floor where she -- the sidewalk where she was injured at the time of accident where she had unfettered access to report anything she wanted to to the employer and failed to do so at that time with anything other than the shoulder itself. So in that regard I think -- in the alternative, the

single Commissioner was, of course, correct in limiting the injury in this case to the shoulder, if for some reason this Commission found that Matute was not applicable.

However, we maintain our position that the single Commissioner's order is correct in it's entirety and it should be confirmed in it's entirety.

Thank you.

COMMISSIONER WILKERSON: Mr. Bellinger.

APPELLANT REPLY

MR. BELLINGER: Just a further address. The quickness of this smoke break -- Claimant, again, testified that she was outside approximately four minutes. I would indicate that that is corroborated by the defense witness, Ms. Jenkins. At page 104 of the transcript she says (As Read): After she left my office I don't know what she did once she left my office. But from the time that she left your office until the time you got a call from someone to bring her purse only 20 minutes had elapsed, is that a fair statement? Yes.

So we've got a scenario where a person leaves her office being upset after she learns that she's losing administrative duties, she then goes

downstairs and smokes, she then gets injured. After the injury, whatever time period elapses, and then she gets this phone call. All of that transpires within 20 minutes, so I think that corroborates the testimony that the actual smoking scenario was for four minutes.

Now, we're not alleging that they're any -- that any exception to the Going and Coming Rule applies. That's why I don't believe the Matute Case applies, whatsoever.

Now, going back to where I ended up earlier. There is no question, I agree with Kelly, the Claimant had significant preexisting conditions with her knees, no question about that. But the only doctor giving an opinion is Dr. Van Dam. At APA page 62 he opines that the fall aggravated those conditions resulted in her restrictions, additional meds, need for knee replacements were due to the aggravation. That was still his opinion at the time of his deposition, at page 21. He also states that there's an additional restriction of no continuous standing or walking, and in his mind that makes employability more difficult and decreases her function, that's at page 24 of Dr. Van Dam's deposition. Thus, clearly her case

should not have been limited to the shoulder. There is absolutely no testimony that should limit the case in that fashion.

Thank y'all for allowing me to be before you.

COMMISSIONER ROCHE: Mr. Bellinger, I want you to speak to the Dukes versus Rural Metro Corp and the McCoy versus Easley Cotton, those cases seem to tie it to the premises.

In Dukes, that's the one where the guy was on a smoke break and his buddy comes up and shows him a gun and he gets shot by the gun.

MR. BELLINGER: The difference in the Dukes Case, your Honor, is that you've got a gun -- a gun scenario comes into play. Clearly, there is no nexus between someone's job and looking at a gun, resulting in an injury.

COMMISSIONER ROCHE: I agree with that, but the cases says -- the Supreme Court said (As Read): Dukes was injured by a gun which was not naturally found upon his employer's premises and was in no way connected to his employer's business.

So it's two things, no way connected to the business and not found on the premises.

And McCoy talks about the premises, as well. McCoy talks about the Personal Comfort Doctrine and

says -- hold on.

MR. BELLINGER: Well, in this situation, I guess, your Honor, clearly there's a --

COMMISSIONER ROCHE: It says here that (As Read): It seems to be well settled that an employee, in order to be entitled to compensation, need not necessarily be engaged in the actual performance of work at the time of his injury -- which you agree with -- it is enough if he is upon his employer's premises occupying himself consistently with his contract of hire in some manor pertaining to or incidental to his employment.

So that also seems to -- and I'm not saying that's the issue in the case, but that also seems to tie it to the premises.

MR. BELLINGER: Let me pull up the -- I've got the McCoy Case, let me look at it again right quick.

COMMISSIONER ROCHE: Around page 356, I don't know which site that is, but. It's under the first two key note that marks where --

MR. BELLINGER: Right.

COMMISSIONER ROCHE: And I'll agree with you that neither of those actually turned on that

because the --

MR. BELLINGER: Right, it says --

COMMISSIONER ROCHE: But both of those, it gives me a little pause, they do seem tie the Personal Comfort Doctrine to the premises of the --

MR. BELLINGER: I mean, it indicates in that case -- I don't think it's setting out a standard -- it says, as you've indicated, your Honor (As Read): It is enough if he's upon the premises occupying himself consistently with the contract of hire in some manor pertaining to or incidental to his employment.

I don't think that is a requirement that it be on the premises, the case just simply says that is enough. I mean, I think that's setting sort of a floor, if you will, in the requirement.

COMMISSIONER ROCHE: All right, sir.

COMMISSIONER WILKERSON: Thank y'all.

*

(Whereupon, the hearing concluded at 9:18 a.m.)

STATE OF SOUTH CAROLINA

CERTIFICATE

Be it known that I, Christine Tatum, a Professional Court Reporter and Notary Public, did hear the appellate matter of ***Gail C. Bruce -vs- Columbia Heart Clinic, PA***, Workers' Compensation File No. 1108693 on Tuesday, May 21, 2013, in Columbia, South Carolina, before the South Carolina Workers' Compensation Commission Full Commission Appellate Panel including; Honorable Andrea Roche, Melody James, and Avery Wilkerson; Chair;

That the foregoing pages constitute a true and accurate transcription of the testimony given at that time and place aforesaid to the best of my skill and ability;

I further certify that I am not counsel or kin to any of the parties to this cause of action, nor am I interested in any matter of its outcome.

In Witness whereof, I have hereunto set my hand this 29th Day of July 2013.

Christine Tatum
Notary Public For South Carolina
My Commission Expires December 29, 2021

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ELIZABETH McMAHON PENTZ
RICHARD W. SIMMONS, II
J. TYLER LEE, JR.
MELISSA G. MOSIER
JOHN P. MEADORS

August 1, 2012

Commissioner Susan S. Barden
S. C. Workers' Compensation Commission
Post Office Box 1715
Columbia, South Carolina 29202-1715

Re: EMPLOYEE: Gail C. Bruce
EMPLOYER: Columbia Heart Clinic
WCC FILE: 1108693

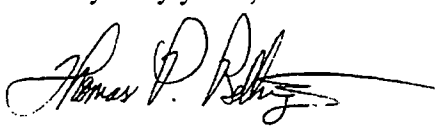
Dear Commissioner Barden:

Enclosed please find our Pre-Hearing Brief along with the Notice of Submission of Written Expert Reports. Copies of reports will be submitted to you at the time of the hearing.

By copy of this letter, we have this day submitted to Kelly F Morrow, attorney for Defendant our Pre-Hearing Brief and our APA package.

With kind regards, I am

Very truly yours,



Thomas P. Bellinger

TPB/dlp

cc: Kelly F Morrow, Esquire
McAngus Goudelock & Courie, LLC
PO Box 12519
1320 Main Street, 10th Floor, Columbia, SC 29201-3204
Columbia, SC 29211-2519

South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500
P.O. BOX 1715
Columbia, SC 29202-1715
(803) 737-5739
www.wcc.sc.gov

PRE-HEARING BRIEF
WCC File No: 1108693

Claimant's Name: Gail C. Bruce
Address: [redacted]
City: [redacted] State: [redacted] Zip: [redacted]
Home Phone: [redacted] Work Phone:
Preparer's Name: Thomas P. Bellinger

Employer's Name: Columbia Heart Clinic
Address: 8 Richland Medical Park Drive
City: Columbia State: SC Zip: 29203
Carrier: Hartford Insurance Co. of the Midwest, SE Workers Comp Cla Center
Preparer's Phone #: 803-359-5522

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

1. Compensation Rate: $704.92 2. AWW: $1,280.64 **Date of Injury:** 07/15/2011
3. Type of injury and body part(s): Both shoulders, both arms, both legs, and both knees
4. Facts in controversy:
1) Whether Claimant's injuries arose out of and in the course and scope of her employment?
2) Whether Claimant is entitled to payment of causally related past and future medical care to include lifetime medical care for total disability; or in the alternative, medical care pursuant to the Dodge case?
3. Whether Claimant is entitled to TTD benefits?
4. Whether Claimant is entitled to permanent and total disability?
5. Whether Claimant is entitled to a lump sum with insertion of a James paragraph as she has been awarded Social Security disability?
5. Legal issues involved: §42-1-160, §42-9-10, §42-9-20, §42-9-30, §42-15-60, §42-9-30, §42-9-35, Dodge case, James case, Mac v. Branch No. 12 Post Exchange, Fort Jackson, et al., 35 S.E. 2d 838 (1945), and McCoy v. Easley Cotton Mills, 62 S.E. 2d 772 (1950).
6. Unusual aspects: Defendants have scheduled deposition of Dr. Fulton for September 5, 2012; and the deposition of Dr. Van Dam for September 21, 2012.
7. ~~Witnesses (designate if expert):*~~ ~~Claimant, Julie A. Hunt, and Gloria Martin. Claimant also reserves the right to call any and all~~ witnesses designated by the Defendants and all other witnesses as needed.
8. Exhibits: Letter from Human Resource Coordinator, Angela Jenkins, Columbia Heart dated 7-15-11; Termination letter dated 1-19-12 from from Human Resource Coordinator, Angela Jenkins, Columbia Heart; Claimant's Social Security Award dated 5-25-12; Letter from Hemerly and Company dated 5-29-12; and photographs.
9. Medical evidence (indicate report pursuant to R.67-612; deposition or appearance): Pursuant to the APA submission.
10. Name, address, and specialty, if any, of the treating physician: David B. Fulton, M.D., & W. Alaric Van Dam, M.D., Moore Orthopaedics, 104 Saluda Pointe Drive, Lexington, SC 29072; Orthopaedic Surgeons.
11. Impairment rating(s); body part(s); physician and date of opinion: 20% to right shoulder by David B. Fulton, M.D. on 5/22/12.

16% upper extremity which converts to 27% shoulder rating; 50% lower extremity rating for each knee on 6/29/12 by Trac Hill, P.T.

"She qualifies for limited sedentary work. She does not tolerate occasional squatting, kneeling, twisting, stairclimbing, or reaching with her right upper extremity." Tracy Hill, P.T. 6/29/12.

Claimant was awarded social security disability on May 25, 2012.

"From a vocational standpoint, it is my opinion within a reasonable degree of vocational certainty, that Ms. Bruce is permanently and totally disabled not only from her former employment but from any other type of work." Adger Brown, 7-15-12.

"Unfortunately due to her multiple medical conditions and joint problems, I do not think she could undergo spinal

12. I am amending my Form 50/51 in the following manner: None.

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

Signature: _____ Email: Tommy@mcwhirterlaw.com

Date of hearing: 8-16-2012 Time needed for hearing: 1 hour

On behalf of ☒ Claimant ☐ Employer

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

WCC Form # 58
Rev. 9/07

58

PRE-HEARING BRIEF

STATE OF SOUTH CAROLINA
BEFORE THE SC WORKERS' COMPENSATION COMMISSION
WCC FILE NO. 1108693

Gail C. Bruce, Claimant, -vs- Columbia Heart Clinic, Employer, Hartford Insurance Co. of the Midwest, SE Workers Comp Claim Center, Carrier, Defendants.	NOTICE OF SUBMISSION OF WRITTEN EXPERT REPORTS AS DIRECT EVIDENCE ON BEHALF OF THE CLAIMANT

TO: SC Workers' Compensation Commission and Kelly F. Morrow, Attorney for Defendants:

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

APA #	MEDICAL PROVIDER	DATES	PAGES
1.	Palmetto Health Richland	7-15-11 - 11-11-11	1-33
2.	Richland County EMS	7-17-11	34-35
3.	David B. Fulton, M.D. W. Alaric Van Dam, M.D. Moore Orthopaedics	7-20-11 - 5-25-12	36-65
4.	Providence Hospital	7-22-11	66-68
5.	Tracy Hill, P.T. Columbia Rehabilitation Clinic	6-29-12	69-92

6.	J. Adger Brown, Jr. Rehabilitation Consulting	7-12-12	93-99
7.	Exhibits:		
	Letter from Human Resource Coordinator, Angela Jenkins, Columbia Heart	7-15-11	100-101
	Termination letter from from Human Resource Coordinator, Angela Jenkins, Columbia Heart	1-19-12	102
	Claimant's Social Security Award	5-25-12	103-106
	Letter from Hemerly and Company	5-29-12	107
	Photographs		108-116

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

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

YOU ARE FURTHER NOTIFIED that the following witnesses may be called on behalf of Claimant: Gail C. Bruce, Claimant, Julie Price, and Gloria Martin. Claimant reserves the right to call any and all witnesses designated by the Defendants.

Thomas P. Bellinger
Attorney for Employee-Claimant

August 1, 2012

CERTIFICATE OF MAILING

The undersigned hereby certifies that she is the paralegal for Thomas P. Bellinger, attorney for the employee-claimant in the above-entitled action, and that the foregoing NOTICE OF SUBMISSION OF WRITTEN EXPERT REPORTS AS DIRECT EVIDENCE ON BEHALF OF EMPLOYEE-CLAIMANT and PRE-HEARING BRIEF were served upon the persons listed below by depositing a copy thereof in the United States Mail, with sufficient postage annexed thereto, addressed as follows:

Kelly F. Morrow, Esquire
McAngus Goudelock & Courie, LLC
PO Box 12519
1320 Main Street, 10th Floor, Columbia, SC 29201-3204
Columbia, SC 29211-2519

Doris L. Phillips

August 1, 2012

Emergency Department Documentation

Performing Physician:	Performed Date/Time:	Authenticated By:	Authenticated Date/Time:
Virkler MD, Jonathan A	7/15/2011 7:05:00 PM	Hals MD, Gary D	7/22/2011 4:19:42 AM

Emergency Dept

PATIENT: BRUCE, GAIL
MR #: 001924143
ADMITTED: 07/15/2011
ACCOUNT #: 1119601238

DICT: Jonathan A Virkler, MD-R
DOB: 02/20/1954
PT.LOC: PD5

DATE OF VISITATION: 07/15/2011

ACCOUNT NUMBER: 1119601238

ATTENDING PHYSICIAN: Gary D. Hals, MD

MODE OF ARRIVAL: Private vehicle.

CHIEF COMPLAINT: Arm complaint.

HISTORY OF PRESENT ILLNESS: This is a 57-year-old Caucasian female with a history of diabetes, hypertension, hyperlipidemia, who presents to the emergency department with complaints that she tripped and fell, landing heavily on her right arm. She landed on an outstretched right arm and states that her shoulder has been painful ever since this happened just prior to arrival. She denies any preceding syncope, chest pain, shortness of breath, tachycardia, palpitations. She denies any other injuries during this fall including any head injury, loss of consciousness, amnesia, nausea or vomiting. She complains only of pain in the right shoulder. She states the pain is 10/10; does radiate somewhat down into proximal arm. She denies any tingling, numbness or weakness in the right arm. She has previously had rotator cuff surgery on this arm before.

REVIEW OF SYSTEMS: No fevers, chills, altered mental status, seizures, chest pain, shortness of breath, abdominal pain, vomiting or diarrhea. All other systems reviewed and negative except as stated above.

PAST MEDICAL HISTORY: Diabetes, hypertension, hyperlipidemia, and a right rotator cuff surgery.

MEDICATIONS: Reviewed, per nursing notes.

ALLERGIES: None.

PRIMARY ORTHOPEDIST: Moore Orthopedic clinic, Dr. Van Dam.

FAMILY HISTORY: None.

SOCIAL HISTORY: The patient lives at home with her mother. She is a manager Columbia Heart. She states occasional [illegible] use. Social alcohol use. No

Emergency Department Documentation

Performing Physician:	Performed Date/Time:	Authenticated By:	Authenticated Date/Time:
Virkler MD, Jonathan A	7/15/2011 7:05:00 PM	Hals MD, Gary D	7/22/2011 4:19:42 AM

drug use.

PHYSICAL EXAMINATION:
VITAL SIGNS: Temperature is 99.1, pulse 126, respirations 24 blood pressure 138/73, pulse ox 100% on room air.
GENERAL: The patient is awake, alert and oriented, not in any distressed, appears nontoxic.
HEENT: Head is normocephalic and atraumatic. Pupils are equal, round, and reactive to light. Extraocular movements are full and intact. Sclerae are anicteric. Conjunctivae are noninjected. Nares patent. Oropharynx is clear.
NECK: Supple. No lymphadenopathy.
HEART: Regular rate and rhythm. No murmurs, gallops, or rubs.
LUNGS: Clear to auscultation bilaterally. No wheezes, rales, or rhonchi.
ABDOMEN: Soft, nontender, nondistended. Bowel sounds present throughout. No guarding or rebound.
EXTREMITIES: Atraumatic. No clubbing, cyanosis or edema. There is fairly obvious deformity of the right shoulder with some scooped out or cupping. The shoulder cannot really move through a range of motion at all. She denies any neurovascular compromise and does have good sensation and 2+ pulses.
SKIN: No rash or lesions. No petechia or purpura. No pallor, jaundice.
NEURO: The patient moves all extremities spontaneously. No evidence of focal neurologic deficit.

MEDICAL DECISION MAKING: This 57-year-old Caucasian female presents with right shoulder pain after a fall. We obtain x-rays to rule out any acute fracture, dislocation.

LABORATORY DATA AND STUDIES: X-ray shoulder demonstrates an acute anterior shoulder dislocation.

EMERGENCY DEPARTMENT COURSE: The patient was evaluated and found to be stable from a cardiovascular standpoint. Vital signs remained stable throughout her entire ED stay. She was initially given a mg of Dilaudid IV and then 25 fentanyl IV. We decided to attempt reduction of the shoulder, did consent the patient to conscious sedation and sedated her as described below under propofol sedation. The shoulder actually did clunk into place. We immobilized it in a sling and went for post reduction x-rays. While she was in post reduction x-ray, she stated that she relaxed her shoulder a little bit and heard it clunk back out of place. She again became very pained and appeared in significant amount of distress and so the decision was made to reattempt shoulder reduction again under propofol sedation. The shoulder was reduced and this time immobilized in a sling and swath with good immobilization. Distal pulses were checked afterwards and was 2+ throughout. Capillary refill is intact. Motor and sensory function were intact in the hand. Post reduction films demonstrated the shoulder was in place. There is a very mild inferior glenoid possible fr-240-nd an AC separation. We gave

Emergency Department Documentation

Performing Physician:	Performed Date/Time:	Authenticated By:	Authenticated Date/Time:
Virkler MD, Jonathan A	7/15/2011 7:05:00 PM	Hals MD, Gary D	7/22/2011 4:19:42 AM

her 2more tablets of Tylox and 50 Fentanyl and discharged her home.

CLINICAL IMPRESSION:
1. Acute anterior shoulder dislocation, status post reduction x2.
2. Conscious sedation x2.
3. AC separation.

DISPOSITION: The patient discharged home. She was given a prescription for Tylox, instructed to follow up with Mocre Orthopedics in a week. Return to the emergency department with any concerns.

PROCEDURE NOTE #1:

SEDATION: Conscious.

INDICATION: Shoulder reduction.

METHOD: The patient is preoxygenated, placed on continuous pulse oximetry and end-tidal CO2 monitoring. She was given a total of 170 mg of propofol IV with good anesthesia obtained. She had no hypotension or hypoxia and no apnea. Her end-tidal CO2 did not go above 35, which was essentially her baseline. She recovered for about an hour in the emergency department prior to re-shoulder reduction.

PROCEDURE NOTE #2:

SEDATION. Conscious:

INDICATION: Repeat shoulder adduction.

METHOD: The patient was preoxygenated using nasal cannula oxygen and placed on continuous pulse oximetry and cardiorespiratory monitoring and continuous end-tidal CO2. She was given a total of 200 mg propofol IV with good anesthesia obtained. She had no hypotension. No hypoxia. No Reisner end-tidal CO2 throughout the entire procedure and was recovered in the emergency department for about an hour following sedation.

PROCEDURE NOTE #3:

SHOULDER REDUCTION:

INDICATION: Anterior shoulder dislocation.

METHODS: The patient is sedated using propofol as described above and the right arm was pulled traction, counter traction, a good clunk was heard. Distal pulses were intact and neurovascular sensation function was intact. This shoulder was immobilized.

Emergency Department Documentation

Performing Physician:	Performed Date/Time:	Authenticated By:	Authenticated Date/Time:
Virkler MD, Jonathan A	7/15/2011 7:05:00 PM	Hals MD, Gary D	7/22/2011 4:19:42 AM

PROCEDURE NOTE #4:

CONSCIOUS: Repeat shoulder reduction.

INDICATION: Repeat anterior dislocation.

METHOD: The patient was preoxygenated, placed on continuous pulse oximetry monitoring. The patient was sedated with propofol, given the traction, counter traction, essentially failed the first time with repeat dislocation of the shoulder. We opted instead to do external rotation and abduction, which resulted in a very good clunk to obvious reduction of the shoulder and reduction of deformity. The patient was placed in a sling-and-swathe comes in the emergency department.

I was present with the resident during the history and exam. I discussed the case with the resident and agree with the findings and plan as documented in the resident's note. I supervised all above procedures done by the resident.

D: 07/15/2011 17:27 T: 07/15/2011 19:05 TID: gba
Job #: 42560 Doc #: 10192258
cc: Jonathan A Virkler, MD-R
Gary D. Hals, MD

Electronically Signed & Verified on 07/18/2011 07:19
by Virkler MD, Jonathan A

Electronically Signed & Verified on 07/22/11 04:19
by Hals MD, Gary D

Radiology Reports

Ordering Provider:	Ordered Test Name:	Accession Number:	Exam Date/Time:
Virkler MD, Jonathan A	CR Shoulder 2 Views Minimum Right	CR-11-108700	7/15/2011 3:51:21 PM

post-reduction

Findings:

RIGHT SHOULDER

INDICATION:
Post reduction.

Comparison is made to prereduction films.

The previously noted anterior shoulder dislocation has been reduced. Glenohumeral alignment is anatomic. There is a focal bone density projecting inferior to the glenoid labrum which is suspicious for a bony fracture of the inferior glenoid. The acromioclavicular joint shows AC joint separation of approximately class I. No other abnormalities are identified.

IMPRESSION:

1. PREVIOUSLY NOTED ANTERIOR SHOULDER DISLOCATION IS NOW REDUCED.
2. FINDINGS SUGGEST A SMALL BONE FRACTURE OF THE INFERIOR GLENOID LABRUM.
3. AC JOINT SEPARATION.

*** Final ***
Read by: Jones MD, Sheila B
Released By: Jones MD, Sheila B
Released on: 07/19/2011 13:24

Trans On: 07/15/2011 16:1by: JAH
Technologist: Sims-Thompson, Tashawna R,Keisler,

Ordering Provider:	Ordered Test Name:	Accession Number:	Exam Date/Time:
Virkler MD, Jonathan A	CR Shoulder 2 Views Minimum Right	CR-11-108647	7/15/2011 3:01:43 PM

dislocation reduction

Findings:

FRONTAL VIEW OF RIGHT SHOULDER:

FINDINGS:
There is inferior dislocation of the humeral head relative to the glenoid.

Radiology Reports

Ordering Provider:	Ordered Test Name:	Accession Number:	Exam Date/Time:
Virkler MD, Jonathan A	CR Shoulder 2 Views Minimum Right	CR-11-108647	7/15/2011 3:01:43 PM

IMPRESSION:

SHOULDER DISLOCATION AS STATED.

*** Final *** Trans On: 07/15/2011 15:3by: SEE
Read by: Lough MD, Lawrence Ren
Released By: Lough MD, Lawrence Ren
Released on: 07/15/2011 17:10 Technologist: Keisler, Danielle H,Sims-Thompson,

Ordering Provider:	Ordered Test Name:	Accession Number:	Exam Date/Time:
Virkler MD, Jonathan A	CR Shoulder 2 Views Minimum Right	CR-11-108608	7/15/2011 1:46:48 PM

fall, r arm pain

Findings:

TWO VIEWS OF THE RIGHT SHOULDER

INDICATION:
Fall and arm pain.

Two views of the right shoulder were obtained.

The humeral head is abnormally inferiorly and medially displaced. No definite fracture is seen. However, the inferior glenoid is not clearly seen. Visualized portions of the right upper lobe are normal.

IMPRESSION:

FINDINGS CONSISTENT WITH ANTERIOR SHOULDER DISLOCATION.

*** Final *** Trans On: 07/15/2011 13:4by: JAH
Read by: Jones MD, Sheila B
Released By: Jones MD, Sheila B
Released on: 07/15/2011 15:32

PALMETTO HEALTH RICHLAND

EMERGENCY DEPARTMENT RECORD

UNIT RECORD	DATE	TIME	BIRTH DATE	AGE	MOTHER'S MAIDEN NAME	SEX	MARITAL STATUS	RACE	PATIENT TYPE	PATIENT NO.
001924143	07/15/2011	12:39	[redacted]	57Y	BRUCE	F	D	80	EQR	1119601238

PATIENT

NAME, ADDRESS: BRUCE, GAIL C [redacted]
SOCIAL SECURITY NUMBER: [redacted]
PHONE: [redacted]
FINANCIAL DATA
ACCIDENT DATE AND TIME
REFERRING PHYSICIAN
ADMITTING PHYSICIAN: 999 EMS, EMS

RESPONSIBLE PARTY: BRUCE, GAIL C [redacted]
SOCIAL SECURITY NUMBER: [redacted]
RELATIONSHIP: Self
PHONE: [redacted]
MODE OF ARRIVAL:
VALUABLES: ☐ YES ☐ NO WHERE? _____
BELONGINGS: ☐ HOME ☐ WITH PATIENT OTHER _____

CHIEF COMPLAINT: ARM COMPLAINT
DATE OF LAST VISIT: 09/28/2010
LAST TETANUS:
TIME TO TREATMENT:

ED VITAL SIGNS: TEMP. ____ ☐ ORAL ☐ RECTAL PULSE ____ RESP. ____ BLOOD PRESS. ____ PULSE OX ____
UP: HORSE'S SIGNATURE: [redacted]
DC VITAL SIGNS: TEMP. ____ ☐ ORAL ☐ RECTAL PULSE ____ RESP. ____ BLOOD PRESS. ____ PULSE OX ____
WEIGHT: TIME OUT: 1705

HISTORY: Tripped + fell
(R) shoulder x-ray
ALLERGIES: NKA

TIME	LABS AND X-RAY

ROS: REST OF ROS:

PH: SH: Smokes Cig 1/day
occ social

PMH / MEDS: DM, HTN,

PHYSICAL: WNL
(R) collar cuff
Mom also

CLINICAL IMPRESSION: 42560

TREATMENT:

○ **Activate Trauma Care Set**

DISPOSITION/SPECIAL PATIENT INSTRUCTIONS

PRESENT AND REVIEWED WITH RESIDENT: EMA

CONDITION OF DISCHARGE ☐ SAME ☐ IMPROVED ☐ OTHER
EXPLAIN _____
ADMIT ROOM:
TIME SEEN BY MD:
RESIDENT SIGNATURE:
MEETS PRUDENT LAYPERSON: ☐ YES ☐ NO
ATTENDING SIGNATURE:

7800108 (1102)

PALMETTO HEALTH RICHLAND

EMERGENCY DEPARTMENT RECORD

UNIT RECORD	DATE	TIME	BIRTH DATE	AGE	MOTHER'S MAIDEN NAME	SEX	MARITAL STATUS	RACE	PATIENT TYPE	PATIENT NO.
001924143	07/17/2011	16:42	[redacted]	57Y	BRUCE	F	D	80	EQR	1119800419

PATIENT

NAME, ADDRESS: BRUCE, GAIL C [redacted]
SOCIAL SECURITY NUMBER: [redacted]
PHONE: [redacted]

FINANCIAL DATA: Medicost all other
ACCIDENT DATE AND TIME: Workers comp
REFERRING PHYSICIAN:
ADMITTING PHYSICIAN: 999 EMS, EMS

RESPONSIBLE PARTY: BRUCE, GAIL C [redacted]
SOCIAL SECURITY NUMBER: [redacted]
RELATIONSHIP: Self
PHONE: [redacted]

MODE OF ARRIVAL:
VALUABLES: ☐ YES ☐ NO WHERE?
BELONGINGS: ☐ HOME ☐ WITH PATIENT OTHER

CHIEF COMPLAINT: SHOULDER PAIN
DATE OF LAST VISIT: 07/15/2011
LAST TETANUS:
TIME TO TREATMENT:

PRE VITAL SIGNS	TEMP. ____	☐ ORAL ☐ RECTAL	PULSE 100	RESP. 15	BLOOD PRESS. 104/40	PULSE OX 98	
POST VITAL SIGNS	TEMP. ____	☐ ORAL ☐ RECTAL	PULSE ____	RESP. ____	BLOOD PRESS. ____	PULSE OX ____	

IMP:
NURSE'S SIGNATURE:
WEIGHT:
TIME OUT:
ALLERGIES:

HISTORY: MCP - Hollins @ Columbia Heart D
NO RESISTANT ORG
Fell @ Columbia Heart dislocated Shoulder
X-Ray after reduction dislocated again reduced
for 2nd time took another XRAY. on way to
went to sit down on toilet & it dislocated
Last PO around 1:30pm

TIME	LABS AND X-RAY

ROS: ∅
REST OF ROS:
FH: Lymphoma
SH: Lives beyond Holmes
Shoulder dislocated X2
Works @ Columbia Heart
PMH / MEDS: DM, S/p Colon resection, Rt Rotatorcuff tear
PHYSICAL:

AC 73 804

CLINICAL IMPRESSION:
TREATMENT:

○ **Activate Trauma Care Set**

DISPOSITION/SPECIAL PATIENT INSTRUCTIONS

PRESENT AND REVIEWED WITH RESIDENT: DAN

CONDITION OF DISCHARGE ☐ SAME ☐ IMPROVED ☐ OTHER
EXPLAIN
ADMIT ROOM:
TIME SEEN BY MD:
RESIDENT SIGNATURE:
MEETS PRUDENT LAYPERSON: ☐ YES ☐ NO
ATTENDING SIGNATURE:

7500(108) (11/07)

Emergency Department Documentation

Performing Physician:	Performed Date/Time:	Authenticated By:	Authenticated Date/Time:
Baird MD, Joshua P	7/17/2011 10:31:00 PM	Davis MD, Danielle E	7/19/2011 2:37:38 PM

Emergency Dept

PATIENT:	BRUCE, GAIL	DICT:	Joshua Baird, MD-R
MR #:	001924143	DOB:	02/20/1954
ADMITTED:	07/17/2011	PT.LOC:	PD6
ACCOUNT #:	1119800419		

DATE OF VISITATION: 07/17/2011

ACCOUNT NUMBER: 1119800419

ATTENDING PHYSICIAN: Danielle E Davis, MD

PRIMARY CARE PHYSICIAN: Dr. Hollins, Columbia Heart.

CHIEF COMPLAINT: Right shoulder pain.

HISTORY OF PRESENT ILLNESS: This is a 57-year-old Caucasian female who presents with a chief complaint of right shoulder pain. Last Friday, patient, during her lunch break at work, went out to the parking deck at Columbia Heart. She reports that she fell and dislocated her right shoulder. She came into the emergency department for reduction of her shoulder. She says that she had her shoulder reduced; she went up to x-ray for followup reduction x-ray, and she reports that while in radiology that the shoulder came back out. Following the dislocation, she returned to the ED; shoulder was again reduced, and x-ray confirmed its placement. She was sent home to follow up at ortho early next week. Patient reports today around 4:00 p.m. she sat on the toilet and immediately after sitting she reports that her shoulder again dislocated. She had no repeat trauma. Patient reports 8/10-9/10 pain in the right shoulder. Pt denies attempts to alleviate pain prior to arrival to the ED. Any movement or palpation worsens the pain.

REVIEW OF SYSTEMS: Negative for nausea, vomiting, diarrhea, shortness of breath, fever, chills, urinary, bowel or bladder complaints. All other review of systems is negative unless otherwise stated.

PAST MEDICAL HISTORY: Significant for;
1. Right rotator cuff tear S/P surgical correction
2. Shoulder dislocation x 3 in the last 48 hours.
3. Diabetes mellitus.
4. She is also status-post colon resection.
5. Right rotator cuff tear, status-post surgical correction.

Emergency Department Documentation

Performing Physician:	Performed Date/Time:	Authenticated By:	Authenticated Date/Time:
Baird MD, Joshua P	7/17/2011 10:31:00 PM	Davis MD, Danielle E	7/19/2011 2:37:38 PM

MEDICATIONS: Please see attached meds summary.

ALLERGIES: Patient has no known drug allergies.

SOCIAL HISTORY: Patient lives at home alone with her dog. She works at Columbia Heart.

FAMILY HISTORY: Significant for lymphoma.

PHYSICAL EXAMINATION:
VITAL SIGNS: Temperature 100.3, heart rate 101, respiratory rate 16, pulse ox 99, blood pressure 106/40.
GENERAL APPEARANCE: Patient is in apparent acute distress secondary to right shoulder pain. She is oriented and cooperative.
NEUROLOGIC: Cranial nerves II-XII appear grossly intact. Motor and sensory intact.
EYES: Anicteric, conjunctivae pink. Pupils are equal, round and reactive to light, extraocular motion intact.
ENT: Mucous membranes are moist.
NECK: Supple without masses.
RESPIRATORY: Clear to auscultation bilaterally with symmetric chest rise. No wheezes, rales or rhonchi appreciated.
CARDIOVASCULAR: Normal S1, S2, no murmurs, rubs or gallops.
GASTROINTESTINAL: Abdomen is soft, nontender, nondistended. Positive bowel sounds.
SKIN: Void of all rashes, bruises or lacerations requiring repair.
MUSCULOSKELETAL: Obvious deformity in right shoulder, which appears to be dislocated. Extreme tenderness to palpation over this joint. Decreased range of motion.

RADIOGRAPHIC DATA: X-ray of the right shoulder status-post reduction showed reduction of the glenohumeral joint.

MEDICAL DECISION MAKING: This is a 57-year-old Caucasian female who presents with a right shoulder dislocation. She reports that she was seen in ED on Friday for dislocation x 2. Due to her recent history and presentation initial x-ray was not deemed to be necessary which would furthur delay reduction. Pt was immediately given 1 mg of dilaudid for pain.

Patient was placed under conscious sedation; she tolerated sedation well. Shoulder reduced without difficulty. Patient tolerated reduction well. Followup x-ray showed reduction of the joint. Because this patient has had over 3 dislocations in the last 48 hours, and this is her first episode of dislocation for this shoulder, the patient adamantly wanted to be admitted to the hospital. Ortho was consulted for admission of this patient.

Emergency Department Documentation

Performing Physician:	Performed Date/Time:	Authenticated By:	Authenticated Date/Time:
Baird MD, Joshua P	7/17/2011 10:31:00 PM	Davis MD, Danielle E	7/19/2011 2:37:38 PM

CLINICAL COURSE: Patient was seen by me immediately upon arrival to the ED. She had apparent right shoulder deformity suggestive of subluxation/dislocation. After arrival to the ED, patient was given 1 mg of Dilaudid for pain. Patient was placed under conscious sedation and shoulder was reduced. Patient tolerated procedure well. Ortho was consulted for admission of this patient.

PROCEDURE NOTE:

ANESTHESIA: Conscious sedation.

Patient consented and understood the risks and benefits of conscious sedation. While fluids were running, approximately 140 mg Propofol was administered in a titrated fashion, with no vital sign changes. She tolerated sedation well. She returned to her baseline shortly after the last dose of propofol was given.

Reduction:
PROCEDURE IN DETAIL: Again, patient understood the risks and benefits of reduction, and under Propofol sedation manipulation of the shoulder was performed until a clunk was felt. Followup x-rays showed good reduction. Sling and swathe was placed, and patient tolerated procedure well.

DIAGNOSES/IMPRESSION:
1. Right shoulder dislocation.
2. Conscious sedation.
3. Right shoulder reduction.

DISPOSITION: Ortho was consulted to come and evaluate this patient in the ED. Care of this patient was handed over to Dr. Spencer Robertson. Please see his addendum for further information regarding this patient.

D: 07/17/2011 22:25 T: 07/18/2011 01:31 TID: kf
Job #: 44457 Doc #: 10807465
cc: Joshua Baird, MD-R
Danielle E Davis, MD

I was present with the resident during the history and exam. I discussed the case with the resident and agree with the findings and plan as documented in the resident's note. I supervised all above

Emergency Department Documentation

Performing Physician:	Performed Date/Time:	Authenticated By:	Authenticated Date/Time:
Baird MD, Joshua P	7/17/2011 10:31:00 PM	Davis MD, Danielle E	7/19/2011 2:37:38 PM

procedures done by the resident.

Electronically Signed & Verified on 07/19/2011 13:56
by Baird MD, Joshua P

Electronically Signed & Verified on 07/19/11 14:37
by Davis MD, Danielle E

Emergency Department Documentation

Performing Physician:	Performed Date/Time:	Authenticated By:	Authenticated Date/Time:
Robinson DO, Spencer F	7/17/2011 9:19:00 PM	Davis MD, Danielle E	7/19/2011 5:49:35 PM

Emergency Dept

PATIENT: BRUCE, GAIL
MR #: 001924143
ADMITTED: 07/17/2011
ACCOUNT #: 1119300419

DICT: Spencer F Robinson, DO-R
DOB: 02/20/1954
PT.LOC: 8W

DATE OF VISITATION: 07/17/2011

ACCOUNT NUMBER: 1119800419

ATTENDING PHYSICIAN: Danielle E Davis, MD

ADDENDUM:

EMERGENCY DEPARTMENT COURSE: Ms. Bruce is a 57-year-old female patient who presented multiple times to the emergency department with dislocations of her shoulder. She was initially evaluated by Dr. Josh Baird upon arrival to the emergency department. I assumed this patient's care at shift change. At shift change orthopedics have been consulted. Dr. Harrison Goodno has since evaluated the patient. He is going to admit this patient for further evaluation and management. She was seen and evaluated by myself and my attending physician, Dr. Danielle Davis, who is in agreement with this course of action and treatment plan.

DIAGNOSIS AND IMPRESSION: Shoulder dislocation.

DISPOSITION: Admit to orthopedics.

D: 07/17/2011 20:48 T: 07/17/2011 21:19 TID: mc
Job #: 44395 Doc #: 10192587
cc: Spencer F Robinson, DO-R
Danielle E Davis, MD

I was present with the resident during the history and exam. I discussed the case with the resident and agree with the findings and plan as documented in the resident's note. I supervised all above

Emergency Department Documentation

Performing Physician:	Performed Date/Time:	Authenticated By:	Authenticated Date/Time:
Robinson DO, Spencer F	7/17/2011 9:19:00 PM	Davis MD, Danielle B	7/19/2011 5:49:35 PM

procedures done by the resident.

Electronically Signed & Verified on 07/18/2011 20:49
by Robinson DO, Spencer F

Electronically Signed & Verified on 07/19/11 17:49
by Davis MD, Danielle B

Problem List

Problem Name: **Shoulder dislocation recurrent**	
Date Recorded	
7/19/2011 5:56:38 AM	**Code:** 718.31; **Confirmation Status:** Confirmed; **Life Cycle Status:** Active;
Date Established: 7/19/2011	**Responsible Provider:** Irani MD, Afraaz R

Consults

Performing Physician:	Performed Date/Time:	Authenticated By:	Authenticated Date/Time:
Hawn MD, Leigh J	7/17/2011 10:16:00 PM	Hawn MD, Leigh J	7/18/2011 6:14:49 AM

Electronic Signature(s) Below: Hawn MD, Leigh J
Signed Date/Time: 7/18/2011 6:14:49 AM

Consultation Report

PATIENT: BRUCE, GAIL
MR #: 001924143
ADMITTED: 07/17/2011
DICT: Leigh J. Hawn, MD
DOB: 02/20/1954
PT.LOC: 8W

DATE OF CONSULTATION: 07/17/2011

ATTENDING PHYSICIAN: Leigh J. Hawn, MD

REFERRING PHYSICIAN: Jeffrey A. Guy, MD

SERVICE: HIM services.

REASON FOR CONSULT: Hypertension and diabetes.

HISTORY OF PRESENT ILLNESS: Ms. Bruce is a 57-year-old female with underlying diabetes, hypertension, and hyperlipidemia who presents to the emergency department for 3 consecutive days of right arm shoulder dislocations. Apparently, the initial complaint was she fell when she tripped in the parking lot of our facility where she works dislocating her right shoulder. It was then repositioned in the emergency department, and she subsequently had 2 spontaneous dislocations while the arm has been at rest and immobilized. She states she otherwise has been in good health. She denies any preceding syncope, chest pain, shortness of breath, tachycardia or palpitations to the original fall. She states it was strictly mechanical over a piece of uneven pavement. She denies any recent illness or medical complaints. She states she has been well controlled of her hypertension, diabetes, and hyperlipidemia on her current medications. She does admit to having had previous right rotator cuff surgery to the affected arm.

ALLERGIES: She denies any allergies.

MEDICATIONS: Reviewed. Please refer to the nursing notes.

FAMILY HISTORY: Denies early onset of heart liver, lung, or kidney disease.

SOCIAL HISTORY: She lives here locally. She is one of the managers for the Columbia Heart Clinic [____]. She states she quit -253- out 5 years ago.

Consults

Performing Physician:	Performed Date/Time:	Authenticated By:	Authenticated Date/Time:
Hawn MD, Leigh J	7/17/2011 10:16:00 PM	Hawn MD, Leigh J	7/18/2011 6:14:49 AM

Electronic Signature(s) Below: Hawn MD, Leigh J
Signed Date/Time: 7/18/2011 6:14:49 AM

She drinks alcohol only socially. No recreational drug use.

REVIEW OF SYSTEMS: She denies any headache, dizziness, seizures, dysphagia, odynophagia, cough, cold symptoms, chest pain, palpitations, abdominal pain, diarrhea, dysuria, hematuria, stroke, or other neurologic disorders. She denies any other known endocrinopathies.

PHYSICAL EXAMINATION:
VITAL SIGNS: Temperature 100.3, heart rate 109, respirations 18, and blood pressure 134/72.
GENERAL: She is alert and oriented, sitting up post relocation of the right shoulder, in no acute distress but stating pain, at times, 7 to 8 out of 10.
HEENT: Atraumatic, normocephalic. Nonicteric. Pupils are [____]. Oropharynx clear.
NECK: No thyromegaly.
LUNGS: Clear bilaterally.
CARDIOVASCULAR: Regular S1, S2. No prominent murmur.
ABDOMEN: Soft, nontender, and nondistended. No palpable pulsatile masses.
EXTREMITIES: No clubbing, cyanosis, or edema. She has intact mobility of the right hand. Range of motion fully not tested of the right arm as an exception, but otherwise strength in the other extremities appears 5/5.
SKIN: No skin sores or rashes. Skin intact.

LABORATORY STUDIES: Reviewed. White count 7.4, hemoglobin 12.2, and platelets 149. Sodium 143, potassium 4.2, chloride 111, CO2 of 26, BUN 25, and creatinine 0.6.

IMPRESSION: A 57-year-old female who presents with 3 consecutive dislocations of the right shoulder following a mechanical fall with trauma.

PLAN:
1. Repeated right arm dislocations. We will defer to Orthopedics for primary management.
2. Hypertension. Continue home medications.
3. Diabetes. We will continue on Byetta. We will her on a sliding scale and continue finger sticks and follow blood sugars. We will change management as needed if she is to go to the OR.
4. Dyslipidemia. We will continue on current medications.
5. With respect to medical management, continue home medications. It is all justifiable at this point. If she is go to the operating room, I do not see any concerns for her preoperative risk. I think she is certainly stable to do so as Orthopedics sees fit. Dr. Joseph Hollins is her primary care provider, who could make that definitive call. However, she reports having had a CTA of her heart about 3 years ago with minimal to no high-level stenosis at that time. I am sure Dr. Hollins would be willing to give his opinion as well verbally, but I do not see any reasons to pursue any further preoperative evaluation. I will check a routine EKG as she has not had one of those recently.

D: 07/17/2011 22:03 T: 07/17/2011 22:16 TID: 420057
Job #: 44450 Doc #: 30010893

Client Name: Palmetto Health Richland

Client Address: 5 Richland Medical Park

Columbia, SC 29203

Admitting Physician: Guy MD, Jeffrey A
Attending Physician: Guy MD, Jeffrey A

Patient Name: BRUCE, GAIL C

Patient Address: [redacted]

[redacted]

Age: 57 years
Date of Birth: [redacted]

MRN: R001924143
FIN: R1119800419
Financial Class: Other Managed Care
Admit Date: 7/17/2011
Admit Time: 4:42:00 PM
Discharge Date: 7/19/2011
Discharge Time: 11:40:00 AM

Consults

Performing Physician:	Performed Date/Time:	Authenticated By:	Authenticated Date/Time:
Hawn MD, Leigh J	7/17/2011 10:16:00 PM	Hawn MD, Leigh J	7/18/2011 6:14:49 AM

Electronic Signature(s) Below:	Signed Date/Time:
Hawn MD, Leigh J	7/18/2011 6:14:49 AM

cc: Leigh J. Hawn, MD
cc: William Joseph Hollins II, MD
Electronically Signed & Verified on 07/18/2011 06:14
by Hawn MD, Leigh J

Discharge Documents

Performing Physician:	Performed Date/Time:	Authenticated By:	Authenticated Date/Time:
Irani MD, Afraaz R	7/19/2011 1:31:00 PM	Guy MD, Jeffrey A	8/23/2011 10:03:59 PM

Electronic Signature(s) Below: per contribution
Signed Date/Time:: per contribution

Signed By: Guy MD, Jeffrey A (8/23/2011 10:03:59 PM); Irani MD, Afraaz R (8/13/2011 1:10:16 PM)

Discharge Summary

PATIENT: BRUCE, GAIL
MR #: 001924143
ADMITTED: 07/17/2011
DISCHARGED: 07/19/2011

DICT: Afraaz Irani, MD-R
DOB: 02/20/1954
PT.LOC: PD6

ATTENDING PHYSICIAN: Jeffrey A. Guy, MD

DISCHARGE DIAGNOSIS: Right recurrent shoulder dislocations.

CONSULTATIONS: None.

PROCEDURES: None.

HISTORY OF PRESENT ILLNESS: Ms. Bruce is a 57-year-old right-hand dominant female with recurrent right shoulder dislocations. She was initially seen in the ED 3 days prior to admission for a right anterior shoulder dislocation. She re-presented to the ED with a repeat shoulder dislocation.

HOSPITAL COURSE: The patient was admitted under orthopedic evaluation. Order was placed for an MRI. She was unable to go through an MRI secondary to claustrophobia and body habitus. Accordingly she was seen again on the morning of 07/19/2011. At this time her pain was well controlled on p.o. pain medications. She was in a shoulder immobilizer and had not dislocated again during the hospital stay. She was tolerating a p.o. diet. Pain was well controlled and she was ambulating without difficulty. Accordingly she was thought to be suitable for discharge at this time.

DISCHARGE MEDICATIONS: MS Contin 15 mg p.o. q.12 h p.r.n. pain, dispense #30.

DISCHARGE INSTRUCTIONS: The patient will be following up with Dr. Koon in 2 weeks. She will hopefully get an MRI in the interim at the open MRI center if she can tolerate. We have also instructed her to keep her shoulder in a shoulder immobilizer and take her pain pills as tolerated.

DISCHARGE CONDITION: Stable.

D: 07/19/2011 11:43 T: 07/19/2011 16:[illegible] dmd

Discharge Documents

Performing Physician:	Performed Date/Time:	Authenticated By:	Authenticated Date/Time:
Irani MD, Afraaz R	7/19/2011 1:31:00 PM	Guy MD, Jeffrey A	8/23/2011 10:03:59 PM

Electronic Signature(s) Below:	Signed Date/Time::
per contribution	per contribution

Signed By: Guy MD, Jeffrey A (8/23/2011 10:03:59 PM); Irani MD, Afraaz R (8/13/2011 1:10:16 PM)

Job #: 46537 Doc #: 40783515
cc: Afraaz Irani, MD-R

Electronically Signed & Verified on 08/13/2011 13:10
by Irani MD, Afraaz R

Electronically Signed & Verified on 08/23/11 22:03
by Guy MD, Jeffrey A

Inpatient Patient Summary

Performed By:
Cooper RN, Rebecca A

Performed Date/Time:
7/19/2011 11:03:27 AM

Patient Summary

Patient Summary
Palmetto Health
Baptist Richland Parkridge

Name: BRUCE, GAIL C **Current Date:** 07/19/11 11:03:27

DOB: 2/20/1954 12:00 AM **MRN:** R001924143 **FIN:** R1119800419

Visit Date: 7/17/2011 4:42 PM

Allergies:

Milk Products; Adhesive Bandage; Statins

Home Meds

dexlansoprazole (Kapidex 60 mg oral delayed release capsule), by MOUTH, once a day, 0 Refill(s)

Misc Medication (Vit D 50,000 iu q Wed am), 0 Refill(s)

tramadol (Ultram), 50 Milligram, by MOUTH, every 4 hours, 2 tabs prn pain, 0 Refill(s)

omega-3 polyunsaturated fatty acids (Lovaza oral capsule), 1,000 Milligram, 1 cap, by MOUTH, once a day, 0 Refill(s)

meloxicam (meloxicam), 7.5 Milligram, by MOUTH, once a day, 0 Refill(s)

aspirin (aspirin), 81 Milligram, once a day, 0 Refill(s)

ezetimibe (Zetia), 10 Milligram, by MOUTH, once a day, 0 Refill(s)

fenofibrate (TriCor 145 mg oral tablet), 145 Milligram, 1 tab(s), by MOUTH, once a day, 0 Refill(s)

exenatide (Byetta), 10 Microgram, by subcutaneous injection, 2 times a day, 0 Refill(s)

olmesartan (Benicar), 20 Milligram, by MOUTH, once a day, 0 Refill(s)

allopurinol (allopurinol), 300 Milligram, by MOUTH, once a day, 0 Refill(s)

levothyroxine (Synthroid), 50 Microgram, by MOUTH, once a day, 0 Refill(s)

Inpatient Patient Summary

Performed By: Cooper RN, Rebecca A
Performed Date/Time: 7/19/2011 11:03:27 AM

Prescriptions

morphine (MS Contin 15 mg oral tablet, extended release), 15 Milligram, 1 tab(s), by MOUTH, every 12 hours, 0 Refill(s), Ordered:07/19/11 05:57:16, Printed

acetaminophen-oxycodone (Tylox 500 mg-5 mg oral capsule), 1 cap, by MOUTH, every 4 hours, 7 Days, As Needed, for pain, 0 Refill(s), Ordered:07/15/11 16:31:30, Printed

Patient Education:

Yes - Patient/Caregiver has received a copy of the Following Education Material:

Patient Follow-Up:

Please be sure to contact your physician as soon as possible and let him/her know about the new prescription you have been given. Be sure to ask for instructions on continuing the medications you were on before you were admitted to the hospital.

End of List

* Final Report *

Result type:	Physician Progress Notes
Result date:	18 July 2011 14:00
Result status:	Auth (Verified)
Result title:	RHIM
Performed by:	Hess MD, Daniel R on 18 July 2011 14:06
Verified by:	Hess MD, Daniel R on 18 July 2011 14:06
Encounter info:	R1119800419, Richland, OBR-Observation, 07/17/11 - 07/19/11

* Final Report *

RHIM

Patient: **BRUCE, GAIL C** **MRN: R001924143** **FIN: R1119800419**
Age: **57 years** Sex: **Female** DOB: [redacted]
Associated Diagnoses: **None**
Author: **Hess MD, Daniel R**

Basic Information
57 year old female with DM and HTN admitted with right shoulder dislocation. Today, main complaint is continued shoulder pain. Otherwise, no new issues. For MRI today.

Review of Systems
Constitutional: Negative.
Eye: Negative.
Ear/Nose/Mouth/Throat: Negative.
Respiratory: Negative.
Cardiovascular: Negative.
Gastrointestinal: Negative.
Genitourinary: Negative.
Hematology/Lymphatics: Negative.
Endocrine: Negative.
Immunologic: Negative.
Musculoskeletal: Negative, Right shoulder pain.
Neurologic: Negative.
Psychiatric: Negative.
All other systems are negative

Health Status
Allergies:
Allergic Reactions (Selected)
Severity not Documented
Adhesive Bandage- Rash and other nonspecific skin eruption.
Milk Products- No reactions were documented.
Statins- Muscle cramps.
Current medications: (Selected).
Inpatient Medications
Ordered
Adult Non-Preg Hypoglycemia Management Guidelines: See Reference Text., daily, Start Date: 07/18/11 9:00:00
Adult Non-Preg Insulin Guidelines: See Reference Text, daily, Start Date: 07/18/11 9:00:00
Benicar: 20 mg, = 1 tab, Tab, PO, daily, Routine, Start Date: 07/18/11 9:00:00
Byetta: 10 mcg, = 1 inj, Inj, SUBQ, 2xdaily, Routine, Start Date: 07/17/11 21:55:00
Colace: 100 mg, = 1 cap, Cap, PO, 2xdaily, Routine, Start Date: 07/17/11 21:26:00
Dextrose 50% Abbojject: 12.5 g, = 25 mL, Inj, IV, On call, PRN, Blood Glucose, Administer for blood glucose 50 to 69

PCN: 4112297013232 DCN: 4112297013232002 DT Received: 8/17/2011 -260- Scanned: 8/17/2011 10:43:12 AM Page 1 of 4

mg/dL. Recheck blood glucose in 15 mins. If < 70 mg/dL, repeat treatment. As directed per Hypoglycemia Guidelines., Routine, Start Date: 07/17/11 23:25:00
Dextrose 50% Abboject: 25 g, = 50 mL, Inj, IV, On call, PRN, Blood Glucose, Administer for blood glucose below 50 mg/dL. Recheck blood glucose in 15 mins. If < 70 mg/dL, repeat treatment. As directed per Hypoglycemia Guidelines, Routine, Start Date: 07/17/11 23:25:00
Novolog - Correction Algorithm: Low Dose Algorithm, Inj, SUBQ, As Directed, PRN, Blood Glucose, PHYSICIAN ONLY TO ADJUST Low Dose Algorithm: DO NOT HOLD UNLESS ORDERED BY PHYSICIAN, Routine, Start Date: 07/17/11 23:25:00
Percocet 5/325: 2 tab, Tab, PO, q4hr(s), PRN, Moderate Pain, Routine, Start Date: 07/17/11 21:28:00
Synthroid: 50 mcg, = 1 tab, Tab, PO, daily, Routine, Start Date: 07/18/11 6:00:00
Tylenol: 650 mg, = 2 tab, Tab, PO, q4hr(s), PRN, Other (see Instructions), For mild pain or temp greater than 101.5., Routine, Start Date: 07/17/11 21:28:00
Ultram: 50 mg, = 1 tab, Tab, PO, q4hr(s), Routine, Start Date: 07/17/11 21:55:00
Zetia: 10 mg, = 1 tab, Tab, PO, daily, Routine, Start Date: 07/18/11 9:00:00
Zofran: 4 mg, = 2 mL, Inj, IV, q8hr(s), PRN, Nausea and Vomiting, Routine, Start Date: 07/17/11 21:28:00
allopurinol: 300 mg, = 1 tab, Tab, PO, daily, Routine, Start Date: 07/18/11 9:00:00
fenofibrate: 145 mg, = 1 tab, Tab, PO, daily, Routine, Start Date: 07/18/11 9:00:00
glucagon: 1 mg, Inj, IM, On call, PRN, Blood Glucose, Recheck blood glucose in 15 mins, if < 70 mg/dL, repeat treatment. As directed per Hypoglycemia Guidelines, Routine, Start Date: 07/17/11 23:25:00
meloxicam: 7.5 mg, = 1 tab, Tab, PO, daily, Routine, Start Date: 07/18/11 9:00:00
morphine: 5 mg, = 1 mL, Inj, IV, q4hr(s), PRN, Severe Pain, Routine, Start Date: 07/17/11 21:28:00
omega-3 polyunsaturated fatty acids: 1,000 mg, = 1 cap, Cap, PO, daily, Routine, Start Date: 07/18/11 9:00:00

Prescriptions

Suspended

Tylox 500 mg-5 mg oral capsule: 1 cap, PO, q4hr(s), PRN for pain, X 7 days, # 24 cap, Refill(s) 0

Documented Medications

Suspended

Benicar: 20 mg, PO, daily, 0 Refill(s), current med (Hx)
Byetta: 10 mcg, SUBQ, 2xdaily, 0 Refill(s), current med (Hx)
Kapidex 60 mg oral delayed release capsule: PO, daily, 0 Refill(s)
Lovaza oral capsule: 1,000 = mg 1 cap, PO, daily, Refill(s) 0
Synthroid: 50 mcg, PO, daily, 0 Refill(s), current med (Hx)
TriCor 145 mg oral tablet: Dose: 145 mg, Give: 1 tab, PO, daily, current med (Hx)
Ultram: 50 mg, PO, q4hr(s), 2 tabs prn pain, 0 Refill(s)
Vit D 50,000 iu q Wed am: Vit D 50,000 iu q Wed am, 0 Refill(s)
Zetia: Dose: 10 mg, PO, daily, current med (Hx)
allopurinol: Dose: 300 mg, PO, daily, current med (Hx)
aspirin: 81 mg, daily, 0 Refill(s)
meloxicam: 7.5 mg, PO, daily, 0 Refill(s)

Problem List:
No qualifying data available

Physical Examination

VS/Measurements

Vital Signs

07/18/11 12:16		
	Temperature Oral	98.0 DegF (Modified)
	Heart Rate Monitored	79 bpm (Modified)
	Peripheral Pulse Rate	20 bpm LOW (Modified)
	Respiratory Rate	18 br/min
	NIBP Systolic	200 mmHg (Modified)
	NIBP Diastolic	105 mmHg (Modified)
	NIBP Mean Calculated	136 mmHg (Modified)
	Pulse Equipment	Dinamap
	NIBP Position	L Arm Sitting

PCN: 4112297013232 DCN: 4112297013232002 DT Received: 8/17/2011 9:00 DT Scanned: 8/17/2011 10:43:12 AM Page 2 of 4

NIBP Equipment Automatic

General: No acute distress.
HENT: Normocephalic.
Neck: Supple, Non-tender, No jugular venous distention.
Respiratory: Lungs are clear to auscultation, Respirations are non-labored.
Cardiovascular: Normal rate, Regular rhythm.
Gastrointestinal: Soft, Non-tender, Non-distended, Normal bowel sounds.
Musculoskeletal
Right shoulder in sling. Trace b/l pretibial edema..
Neurologic: No focal defects.

Review / Management
Laboratory Results
Today's Lab Results : Laboratory

07/18/11 10:57	POC Glucose Screen	120 mg/dL HIGH
07/18/11 05:12	POC Glucose Screen	97 mg/dL
07/17/11 23:44	POC Glucose Screen	131 mg/dL HIGH
07/17/11 17:25	WBC Count	7.4 K/uL
	RBC Count	3.57 M/uL LOW
	Hemoglobin	12.2 g/dL
	Hematocrit	36.3 %
	MCV	101.7 fL HIGH
	MCH	34.2 pg HIGH
	MCHC	33.6 g/dL
	RDW	14.4 %
	Platelet Count	149 K/uL LOW
	MPV	12.0 fL
	Sodium	143 mmol/L
	Potassium	4.2 mmol/L
	Chloride	111 mmol/L HIGH
	CO2	26 mmol/L
	Glucose Level	104 mg/dL HIGH
	BUN	25 mg/dL HIGH
	Creatinine	0.6 mg/dL
	GFR Non-African American	>60 ml/min/1.73 sq meter
	GFR African American	>60 ml/min/1.73 sq meter
	BUN/Creat Ratio	41.7 HIGH
	Calcium	10.2 mg/dL
	Hold specimen	HOLDC

Radiology Results

Reason For Exam
s/p multiple dislocations
Finding:
CLINICAL HISTORY: 57-year-old female with right shoulder dislocation.

TECHNIQUE: Multiple contiguous axial images of the right shoulder girdle were obtained.

PCN: 4112297013232 DCN: 4112297013232002 DT Received: 8/17/2011 9:00:(4 DT Scanned: 8/17/2011 10:43:12 AM Page 3 of 4

* Final Report *

Sagittal, coronal and oblique reformatted images were acquired. Volume rendered images were obtained.

FINDINGS: Sternoclavicular joint is maintained. The clavicle is intact. The acromioclavicular joint is maintained. The body of the scapula is intact. There is a Bankart fracture involving the inferior third of the glenoid with a large fracture fragment displaced inferiorly with angular rotation. The glenohumeral joint is maintained. There is a large Hill-Sachs fracture involving the posterolateral humeral head. The shaft of the humerus is intact.

IMPRESSION:
LARGE HILL-SACHS AND BANKART FRACTURES.

Signature Line
*** Final *** Trans On: 07/17/2011 23:0by: AEC
Read by: Gize MD, Edward A
Released By: Gize MD, Edward A
Released on: 07/17/2011 23:09 Technologist: Wallace, Carolyn J

Impression and Plan
1. Repeated right shoulder dislocations - Per ortho
2. DM - Sugars look good on byetta. If she does go to surgery, Byetta will need to be held on the morning of, and can be resumed post-op when she is eating again.
3. HTN - BPs look OK. She did have one high reading, but states she was angry about an issue when that reading was taken
4. HLD

Will continue to follow.

pager 352-1730

Completed Action List:
* Perform by Hess MD, Daniel R on 18 July 2011 14:06
* Sign by Hess MD, Daniel R on 18 July 2011 14:06
* VERIFY by Hess MD, Daniel R on 18 July 2011 14:06

Printed by: Morrison, Sharon K
Printed on: 08/12/11 08:02

PCN: 4112297013232 DCN: 4112297013232002 DT Received: 8/17/2011 9:00:I 25 DT Scanned: 8/17/2011 10:43:12 AM Page 4 of 4

Radiology Reports

Ordering Provider:	Ordered Test Name:	Accession Number:	Exam Date/Time:
Goodno MD, Harrison B	CT Ext Upper W/O IV Contrast Right	CT-11-039891	7/17/2011 10:38:46 PM

s/p multiple dislocations

Findings:

CLINICAL HISTORY: 57-year-old female with right shoulder dislocation.

TECHNIQUE: Multiple contiguous axial images of the right shoulder girdle were obtained.

Sagittal, coronal and oblique reformatted images were acquired. Volume rendered images were obtained.

FINDINGS: Sternoclavicular joint is maintained. The clavicle is intact. The acromioclavicular joint is maintained. The body of the scapula is intact. There is a Bankart fracture involving the inferior third of the glenoid with a large fracture fragment displaced inferiorly with angular rotation. The glenohumeral joint is maintained. There is a large Hill-Sachs fracture involving the posterolateral humeral head. The shaft of the humerus is intact.

IMPRESSION:
LARGE HILL-SACHS AND BANKART FRACTURES.

*** Final *** Trans On: 07/17/2011 23:0by: AEC
Read by: Gize MD, Edward A
Released By: Gize MD, Edward A
Released on: 07/17/2011 23:09 Technologist: Wallace, Carolyn J

Ordering Provider:	Ordered Test Name:	Accession Number:	Exam Date/Time:
Davis MD, Danielle E	CR Shoulder 2 Views Minimum Right	CR-11-109579	7/17/2011 7:12:53 PM

s/p reduction of anterior dislocation

Findings:

CLINICAL HISTORY: 57-year old female with shoulder dislocation.

TECHNIQUE: Two separate radiographs of the right shoulder were obtained.

COMPARISON: July 15, 2011 at 3:12 PM.

FINDINGS:
There is widening of the acromioclavicular joint likely postoperative in nature. The glenohumeral joint is in anatomic alignment. Hill-Sach's and Bankart deformities are noted. Subacromial space is normal.

IMPRESSION:
REDUCTION OF THE GLENOHUMERAL JOINT DISLOCATION.

Radiology Reports

Ordering Provider:	Ordered Test Name:	Accession Number:	Exam Date/Time:
Davis MD, Danielle E	CR Shoulder 2 Views Minimum Right	CR-11-109579	7/17/2011 7:12:53 PM

HIL-SACH'S AND BANKART LESIONS.

WIDENING OF THE ACROMIOCLAVICULAR JOINT MOST LIKELY POSTOPERATIVE IN NATURE.

*** Final ***
Read by: Gize MD, Edward A
Released By: Gize MD, Edward A
Released on: 07/17/2011 20:32

Trans On: 07/17/2011 20:1

Technologist: Whisenand, Meghan,Sims-Thompson, Ta

PALMETTO HEALTH

Palmetto Health Baptist
TAYLOR AT MARION
COLUMBIA, SC 29220

To: N/A
N/A
N/A, N/A
N/A, N/A N/A

Patient: BRUCE, GAIL C
Address: [redacted]
Phone: [redacted]
DOB: [redacted] *Age*: 57 years

Ord Phy: Fulton MD, David B
FIN: B1131101555
Pt Type: OPB-Outpatient
MRN: B000247462
CC:

RADIOLOGY SERVICES

Exam:	Exam Date/Time:	Accession Number:
RF Arthrogram Shoulder Right	11/9/2011 2:16:11 PM	RF-11-014349

Reason for Exam:

recurrent rotator cuff tear/

Findings:

RIGHT SHOULDER ARTHROGRAM/INJECTION PRIOR TO MRI 11/09/11:

INDICATION: Recurrent rotator cuff repair.

COMPARISON: None.

PROCEDURE: Informed consent was obtained. The patient was placed supine on the fluoroscopic table. Under fluoroscopic guidance, an area was identified for accessing for injection of the right shoulder/for arthrogram. The area was prepped and draped in normal sterile fashion and the tract anesthetized with 1% Lidocaine. Under fluoroscopic guidance, a 22-gauge spinal needle was advanced into the right shoulder joint space. A gentle hand injection of contrast was performed to confirm its position. Approximately 15 cc of dilute gadolinium mixed with saline and iodinated contrast was then injected into the joint space. The needle was withdrawn and a sterile dressing applied to the site. The patient tolerated the procedure without difficulty and was subsequently transferred to MR for imaging. A spot fluoroscopic image was obtained which showed contrast within the joint space. Please see separate dictation of the MRI for further details.

*** Final *** Trans On: 11/09/2011 18:2by: JRJ
Read by: Heaton MD, Charles M
Released By: Heaton MD, Charles M
Released on: 11/10/2011 07:55

Technical Comments

Administered per implementation of contrast protocol:

PALMETTO HEALTH

Palmetto Health Baptist
TAYLOR AT MARION
COLUMBIA, SC 29220

To: Fulton MD, David B
14 MEDICAL PARK
SUITE 200,
COLUMBIA, SC 29203

Patient: BRUCE, GAIL C
Address: [redacted]
Phone: [redacted]
DOB: [redacted] Age: 57 years

Ord Phy: Fulton MD, David B
FIN: B1131101555
Pt Type: OPB-Outpatient
MRN: B000247462
CC:

RADIOLOGY SERVICES

Exam:	Exam Date/Time:	Accession Number:
MR Ext It Upper W/ Contrast Right	11/9/2011 3:18:18 PM	MR-11-026035

Reason for Exam:

recurrent rotator cuff tear/

Findings:

MRI OF THE RIGHT SHOULDER:

INDICATION: Rotator cuff tear.*

COMPARISON: CT scan dated 7/17/11.

TECHNIQUE: Sagittal T1, sagittal STIR, axial T1, axial STIR, as well as axial and sagittal postcontrast T1-weighted sequences were performed of the right shoulder on the open scanner. Image qualities are significantly degraded by motion artifact throughout the entire examination as the patient had marked difficulty in holding still in the scanner despite multiple reattempts at reimaging the patient.

FINDINGS: Unfortunately the motion artifact significantly limits this examination. Evaluation of the osseous structures demonstrates large old bony Bankart injury involving approximately 45% of the articular surface of the glenoid. The bony Bankart injury is flattened and displaced anteriorly. There is also an approximately 1.5 cm in largest dimension previous Hill-Sachs fracture. There is diffuse fold thickness articular cartilage loss of glenohumeral joint with multiple underlying subchondral cysts as well as marginal osteophytes.

Evaluation of the rotator cuff demonstrates what appears to be previous rotator cuff repair of the supraspinatus. I see no fluid signal gap across the supraspinatus. There is no definite significant infraspinatus or teres minor tear.

The subscapularis is grossly intact. It should be noted that a small or subtle tear definitely could be missed on this examination due to the amount of motion artifact.

I do not see the biceps tendon within the joint. I do see the biceps tendon in the bicipital groove.

PALMETTO HEALTH

Palmetto Health Baptist
TAYLOR AT MARION
COLUMBIA, SC 29220

To: Fulton MD, David B
14 MEDICAL PARK
SUITE 200,
COLUMBIA, SC 29203

Patient: BRUCE, GAIL C
Address: [redacted]
Phone: [redacted]
DOB: [redacted] Age: 57 years

Ord Phy: Fulton MD, David B
FIN: B1131101571
Pt Type: OPB-Outpatient
MRN: B000247462
CC:

RADIOLOGY SERVICES

Exam:	Exam Date/Time:	Accession Number:
MR Ext Jt Upper W/ Contrast Left	11/11/2011 11:40:17 AM	MR-11-026221

Reason for Exam:

recurrent rotator cuff tear/

Findings:

MRI LEFT SHOULDER 11/11/2011

INDICATION: Shoulder pain. Rotator cuff tear.

COMPARISON: No prior.

TECHNIQUE: Standard MR arthrogram of the left shoulder performed in the open scanner. Image quality is degraded by motion artifact as the patient had difficult holding still in the scanner due to claustrophobia.

FINDINGS: Evaluation of the osseous structures demonstrates the patient is status post previous AC decompression. There are a few tiny subchondral cysts in the greater tuberosity. I see no fracture or bony destruction. Alignment is grossly normal. I do not see any definite focal area of high grade partial or full thickness articular cartilage loss.

Evaluation of the rotator cuff demonstrates a small amount of partial thickness articular surface fraying of the mid and posterior fibers supraspinatus and anterior fibers infraspinatus at and just proximal to the insertion. This appears to measure slightly less than 50% thickness of the cuff. I see no teres minor tear.

There is signal abnormality in the subscapularis which I believe is related to the arthrogram portion of this examination. This patient had significant extravasation of the contrast through the joint deep to the subscapularis muscle. The patient also had to be scanned in internal rotation as she could not hold her arm in normal position for MRI examination. There is limited evaluation of the biceps tendon.

The proximal biceps tendon does appear grossly intact.

Patient Name:BRUCE, GAIL C
Medical Record Number:B000247462

Ordering Physician: Fulton MD, David B

RADIOLOGY SERVICES

Exam:	Exam Date/Time:	Accession Number:
MR Ext Jt Upper W/ Contrast Left	11/11/2011 11:40:17 AM	MR-11-026221

There does appear to be chronic degenerative type fraying of the anterior labrum from 1:00 down to 5:00. There is a tiny amount of displaced posterior labral tear at 9:00. There is an element of low signal just anterior to the glenoid, which is most likely an element of scarring/synovitis.

The deltoid muscle is grossly intact.

IMPRESSION:
(1) Partial thickness articular surface fraying of essentially entire supraspinatus involving anterior fibers infraspinatus. This measures slightly less than 50% thickness of the cuff. I do not see any retracted fibers or definite full thickness cuff tear.

(2) Chronic degenerative type fraying of the anterior labrum rather diffusely which is scarred down. There is also an oblique nondisplaced posterior labral tear at 9:00, which also appears chronic.

(3) Contrast extravasated within and deep to the subscapularis muscle during the arthrogram portion of this exam. This can be seen in patient's with adhesive capsulitis. This patient did appear to have a small volume joint. Please correlate clinically. There is an element of synovitis just anterior to the glenoid seen on the axial proton density sequence series 102, image #9.

(4) Previous AC decompression noted.

*** Final *** Trans On: 11/11/2011 23:5by: SDH
Read by: Taffoni MD, Matthew J
Released By: Taffoni MD, Matthew J
Released on: 11/15/2011 16:47

Technical Comments

Administered per implementation of contrast protocol:
Type: None
Volume: N/A

PALMETTO HEALTH

Palmetto Health Baptist
TAYLOR AT MARION
COLUMBIA, SC 29220

To: Fulton MD, David B
14 MEDICAL PARK
SUITE 200,
COLUMBIA, SC 29203

Patient: BRUCE, GAIL C
Address: [redacted]
Phone: [redacted]
DOB: [redacted] Age: 57 years

Ord Phy: Fulton MD, David B
FIN: B1131101571
Pt Type: OPB-Outpatient
MRN: B000247462
CC:

RADIOLOGY SERVICES

Exam:	Exam Date/Time:	Accession Number:
RF Arthrogram Shoulder Left	11/11/2011 11:16:04 AM	RF-11-014462

Reason for Exam:

recurrent rotator cuff tear/

Findings:

LEFT SHOULDER ARTHROGRAM 11/11/11:

INDICATION: Rotator cuff tear.

No prior.

DESCRIPTION OF PROCEDURE: Following obtaining written informed consent, the patient was placed supine on the fluoroscopic exam table. An area of skin overlying the left glenohumeral joint was marked. The site was then cleaned and draped in normal sterile fashion. 1% Lidocaine was used for local anesthesia. Following this under fluoroscopic guidance, a 22-gauge spinal needle was introduced into the left glenohumeral joint. 0.5 cc of noniodinated contrast was injected to confirm intraarticular placement. Following this, 12 cc of a mixture of gadolinium, normal saline, and noniodinated contrast were injected into the left glenohumeral joint. Following this, the needle was withdrawn and the site was cleaned and dressed. The patient was then transported to the MRI department for the MR portion of the MR arthrogram.

IMPRESSION: Successful left shoulder arthrogram using fluoroscopy. Please see separate MRI dictation for further evaluation. No acute complications occurred.

*** Final *** Trans On: 11/12/2011 00:0by: JRJ
Read by: Taffoni MD, Matthew J
Released By: Taffoni MD, Matthew J
Released on: 11/15/2011 16:47

Patient Name:BRUCE, GAIL C
Medical Record Number:B000247462

Ordering Physician: Fulton MD, David B

RADIOLOGY SERVICES

Exam:	Exam Date/Time:	Accession Number:
RF Arthrogram Shoulder Left	11/11/2011 11:16:04 AM	RF-11-014462

Technical Comments

Administered per implementation of contrast protocol:
Type: Omnipaque 300
Volume: 10 ml

PRID:14647772 Call #:000886831

Service: Richland County EMS
Base: HQ
Unit: S209
Shift: C
Vehc. Grid: Ballentine
Type of Svc: Scene Unscheduled
Response Code: Lights and Siren
Mode to Ref: Lights / Sirens
Moved Via: Stretcher
Position: Sitting
Outcome: Treated COUNTY RESIDENT, Transported by EMS

Date: July 17, 2011
Team: ALS
Crew 1: *Driver* *Tillison, Deana
Crew 2: *Primary Caregiver* *Boyd, Keiana
* *ALS Provider*
Mode to Rec: No Lights/Sirens
Moved From: Stretcher

Location: [redacted]
Scene Grid: Jackson Creek

Receiving: *Hospital*
Palmetto Richland Memorial

Emergency Department
5 Richland Medical Park
Columbia, SC 29203
803-434-1662
Dest. Grid: HQ

Last Name: BRUCE First: GAIL Middle: C
Address: [redacted]
City: [redacted] ST: [redacted] Zip: [redacted]
County: Richland
Citizenship: United States
Phone: (803) 673-3327
DOB: [redacted] SSN: [redacted]
Age: 57y Sex: F Weight:
Subscriber: No
Race: White, non-Hispanic

Odometer	Times
Ld Miles: 14.5	Received: 15:43
	Dispatch: 15:45
	EnRoute: 15:47
	At Ref: 16:02
	Lv Ref: 16:09
	At Rec: 16:35
	Available: 16:44

Consent Signed: No
~~Medical Necessity Signed: No~~

~~Billing Information:~~

Company	Group	ID
N/A	N/A	N/A

Scene Information

Patient Belongings: N/A

Chief Complaint (Category: Sick Person)

DISLOCATION
Duration: 20 Minutes

History of Present Illness

AOS. PT CAO X 3. FOUND 57 Y/O PT AMBULATORY ON SCENE C/O R SHOULDER DISLOCATION X 20 MIN. PT STATES SHE FELL ON FRIDAY & WAS SEEN @ RMH ER FOR SAME C/O. TREATED & SENT HOME. DENIES LOC. SKIN WARM & DRY. PEAL. LUNGS CLEAR & EQUAL. GOOD ROM X 4. PT LOADED TO UNIT. VITALS TAKEN & RECORDED. WITHIN NORMAL LIMITS. NO CHANGES EN ROUTE. PT T-PORTED TO RMH ER. CARE/REPORT GIVEN TO RECEIVING NURSE

Past Medical History	Current Medications	Allergies
Hypertension Diabetes Mellitus Hypercholesterolemia	None Listed	None

Neurological Exam

Level of Consciousness: Alert Loss of Consciousness: No
Chemically Paralyzed: No

Motor	Sensory

Glasgow Coma Scale

	E	V	M	Tot
Int:	4	5	6	= 15

Neurological Exam

	Left	Right
Size:	Normal	Normal
React:	Reactive	Reactive

LA:	Normal	Normal
RA:	Normal	Normal
LL:	Normal	Normal
RL:	Normal	Normal

Revised Trauma Score
12.00

Airway

Respiratory

Effort: Normal

Sounds: L: Clear R: Clear

Cardiovascular

JVD: Not Appreciated **Cap. Refill:** Less than 2 Seconds

Edema: Not Appreciated

Pulses	Left	Right
Carotid:	Normal	Normal
Radial:	Strong	Strong
Femoral:	Normal	Normal
Dorsalis:	Normal	Normal

Injury Details

Reason for Encounter: Injury/Trauma

Drugs/Alcohol?: None

Initial Physical Findings

Activity

Time	H.R.	B.P.	SaO2	Resp	Rhythm	Pain
	Temp	Method		Resp Effort		
Action						
16:15	88	148 / 90	100	18		10
	Alert			Normal		
16:30	88	148 / 90	100	18		10
	Alert			Normal		

Tillison, Deana: *Electronically Signed on 07/17/2011 17:04:14 EST*

Boyd, Keiana: _____

Moore Orthopaedics
104 Saluda Pointe Drive
Lexington, South Carolina 29072
(803) 227-8124 Phone / (803) 227-8224 Fax

07/20/2011 GAIL BRUCE 32749 **Lexington Office**

CHIEF COMPLAINT: PAIN AND INSTABILITY IN THE RIGHT SHOULDER

HISTORY: Gail Bruce is a 57-year-old, female, who works at Columbia Heart, who is here for evaluation of pain and instability in her right shoulder. The patient is a clinical director at Columbia Heart and injured herself when she fell on her shoulder. She had a CT scan done, which she brings with her. She rates her shoulder pain as 8 out of 10 and sharp and burning in nature. The pain is worse with moving it and better with ice and immobilization. She complains of instability where the shoulder feels like it will come out when she moves it. She does have a previous past history of shoulder problems and has had bilateral rotator cuff repairs here. Dr. McFadden worked on her right shoulder many years ago and Dr. Koon more recently did her left shoulder. The patient has a history of diabetes, gout, arthritis, and hypertension. She is a patient of Dr. Van Dam's. She is divorced. She denies tobacco use.

PHYSICAL EXAMINATION: She is approximately 5'3", 350 lbs. She is very anxious and in moderate distress. She has pain and instability when the right shoulder is moved. The shoulder grossly dislocates when she comes out of her sling. Her axillary nerve sensation is intact. The right wrist has a palpable regular radial pulse. There is normal two-point discrimination testing in her digits. Her hands are warm and pink bilaterally. Her breath sounds are clear. Heart rhythm is regular.

RADIOGRAPHS: Radiographs of her right shoulder show a large boney Bankart lesion.

IMPRESSION: SHOULDER INSTABILITY NOW WITH ACUTE SHOULDER DISLOCATION IN THE OFFICE AS SHE COMES OUT OF HER SLING

PLAN: Plan is for definitive surgery with right shoulder arthroscopy, labral and Bankart repair, and possible rotator cuff repair depending on the intraop findings. We will acutely reduce the shoulder in the office today prior to surgery and still plan to go to the operating room to fix it definitively. The risks of stiffness, infection, recurrent instability, incomplete return of function, nonhealing of the cuff and labrum, and anesthesia risks were discussed and she wishes to proceed.

David B. Fulton, M.D.

DBF:ats47
DD: 11/04/2011 DT: 11/05/2011 09:25:34

152745

Moore Orthopaedics
104 Saluda Pointe Drive
Lexington, South Carolina 29072
(803) 227-8124 Phone / (803) 227-8224 Fax

07/20/2011 GAIL BRUCE 32749 **Lexington Office**

ADDENDUM: Ms. Bruce was seen in the office today and evaluated by myself, as well as Jessamyn Deemer, PA. After the completion of examination and critical decision making and the decision to do surgery, the patient had new-onset new pain in her right shoulder and noted that it was out of place. She became very tearful and anxious. We laid her down supine, and with a towel under the axilla for counter pressure in the Hippocratic technique, we applied linear traction to the arm. An audible palpable pop was felt and the shoulder was seen to go back into place. Afterwards, she had significant pain relief. When putting her sling on, she again dislocated, and I again reduced it, this time again with good pain relief and a palpable clunk, as the shoulder was re-reduced. She was placed in a sling and swathe by the cast tech and myself. She was told to keep it that way until the time of surgery so it does not redislocate, and she demonstrates understanding with this treatment plan.

David B. Fulton, M.D.

CC List:

DBF:ats44
DD: 07/20/2011 DT: 07/21/2011 15:29:58
126457

This document was electronically authenticated by David B. Fulton, M.D. on 07/22/2011 10:10:47.

Moore Orthopaedics
104 Saluda Pointe Drive
Lexington, South Carolina 29072
8032278124 Phone / Fax

08/03/2011 **GAIL BRUCE 32749** **Lexington Office**

CHIEF COMPLAINT: SCHEDULED FOLLOW UP RIGHT SHOULDER AFTER SHOULDER ARTHROSCOPY AND LABRAL REPAIR DONE APPROXIMATELY ONE WEEK AGO

HISTORY: The patient returns for her scheduled appointment with regards to her right shoulder. She is postop from arthroscopy of her shoulder and notes she is doing well. She has not removed the sling. She also notes that she is having knee pain that she recurrently gets cortisone injections in and is past due. She denies constitutional symptoms or shortness of breath. She states that the pain is controlled at this time to the right shoulder. She denies numbness or tingling.

PHYSICAL EXAMINATION: On examination, the patient is a pleasant, 57-year-old female who appears her stated age. On examination of the right shoulder, her skin edges are well approximated by suture and the incisions are well healed. There is no sign of infection. No erythema, warmth or drainage present. There is a trace ecchymosis to one or two of the incisions noted. No significant swelling identified. Crepitus is not appreciated on exam. Intact pulses distally.

In regards to her arthritic knees, there is an anterior incision that is well-healed bilaterally. Squaring off of the knee is noted. No significant effusion present. Crepitus with motion identified. Joint line tenderness present. Negative Homans' exam. Intact pulses distally.

IMPRESSION:

1. STATUS POST ARTHROSCOPY OF THE SHOULDER
2. BILATERAL KNEE DJD

PLAN: At this time, the patient's sutures were removed. She was taught passive range of motion and educated on cautions that she should take. We encouraged her to come out of the sling and then work on flexion/extension of the elbow. She was told not to pick up anything heavy with the right upper extremity.

PROCEDURE: BILATERAL KNEE CORTICOSTEROID INJECTION

Under sterile conditions, after an alcohol prep, the knees were injected with 7 cc of Lidocaine and 1 cc of Celestone. The patient tolerated the injections well. Post injection instructions were provided.

The patient was provided with a prescription of Norco for her pain today.

The patient was seen, evaluated and discussed with Dr. Fulton.

Continued

Moore Orthopaedics
104 Saluda Pointe Drive
Lexington, South Carolina 29072
8032278124 Phone / Fax

Jess Deemer, PA-C, MPAS Physician Assistant to Dr. David Fulton, M.D.

CC List:

JD:ats44
DD: 08/03/2011 DT: 08/05/2011 13:28:45
129949

This document was electronically authenticated by Jess Deemer, PA-C, MPAS Physician Assistant to Dr. David Fulton, M.D. on 08/16/2011 17:21:49.

Moore Orthopaedics
104 Saluda Pointe Drive
Lexington, South Carolina 29072
(803) 227-8124 Phone / (803) 227-8224 Fax

08/17/2011 GAIL BRUCE 32749 Lexington Office

HISTORY: Gail Bruce follows up after large Bankart repair as well as full-thickness cuff repair. Today, her pain is improving dramatically from her preop status. She has no further episodes of instability or apprehension. Her swelling in the arm is minimal.

PLAN: She is instructed on continuing her pendulums and gentle passive external rotation and forward flexion. We will get her in some formal therapy to help her with this. I advised her to wear her sling for at least another two weeks. She is unable to drive and dress comfortably, and certainly cannot usually carry out a normal work day and we will extend her FMLA form through Labor Day at her request. I will see her back in about six weeks to reassess.

David B. Fulton, M.D.

CC List:

DBF:ats65
DD: 08/17/2011 DT: 08/18/2011 08:24:56
132527

This document was electronically authenticated by David B. Fulton, M.D. on 08/18/2011 18:04:20.

Moore Orthopaedics
104 Saluda Pointe Drive
Lexington, South Carolina 29072
(803) 227-8129 Phone / (803) 227-8229 Fax

09/15/2011 GAIL BRUCE 32749 Lexington Office

HISTORY: Ms. Bruce is a pleasant 57-year-old female, who returns today regarding her bilateral knees. She has severe osteoarthritis and tricompartmental involvement. She has been doing poorly with her knees overall. She had one injection previously, which did not help. She states she is having trouble getting around. Getting up and down and out of a chair has also been very hard for her. Walking long distances causes some pain as well. She is back at work however. She is still doing some rehab for her shoulder. No new numbness or tingling in her legs.

PHYSICAL EXAMINATION: Physical exam reveals a well developed, well nourished female in no acute distress. She is alert and oriented X 3. She has antalgic gait more towards the right than the left. Pain over the medial and lateral joint lines. Some pain with compression of the patellofemoral joint. Internal/external rotation of the hips are mildly uncomfortable. Some swelling in the lower extremities is also noted.

RADIOGRAPHS: Previous x-rays of both knees reveal severe osteoarthritis tricompartmental.

IMPRESSION:

1. SEVERE OSTEOARTHRITIS IN LOWER BACK
2. RIGHT SHOULDER ROTATOR CUFF TEAR AND BANKART LESION
3. LUMBAR SPONDYLOSIS

PROCEDURE: BILATERAL KNEE CORTICOSTEROID INJECTIONS

After verbal Consent was obtained, the patient was placed in a seated position. Inferior lateral approach was used on the left knee to inject 40 mg. of Depo-Medrol and 1 cc of 0.5% Marcaine using a 22-gauge 1 ½" needle. The right knee was prepped in normal sterile fashion. A 22-gauge 1 ½" needle was used in an inferior medial approach to inject 40 mg. of Depo-Medrol and 2 cc of 0.5% Marcaine. Patient tolerated the procedure well. No complications occurred.

PLAN: I discussed with Ms. Bruce all her findings. We will go ahead and proceed with injections for her knee again and follow her up for her back depending on her progress.

W. Alaric Van Dam, M.D.

CC List:

AVD:ats28
DD: 09/15/2011 DT: 09/16/2011 09:56:26

139255

Moore Orthopaedics
104 Saluda Pointe Drive
Lexington, South Carolina 29072
(803) 227-8124 Phone / (803) 227-8224 Fax

09/21/2011 **GAIL BRUCE 32749** **Lexington Office**

HISTORY: Gail Bruce is here after her right shoulder surgery. Today, her pain is lessening and her function is improving. She has had no further episodes of instability.

PLAN: We recommended continuation of therapy. I will check her back in about six weeks.

David B. Fulton, M.D.

CC List:

DBF:ats44
DD: 09/21/2011 DT: 09/22/2011 12:35:05
140939

This document was electronically authenticated by David B. Fulton, M.D. on 09/27/2011 10:42:12.

Moore Orthopaedics
14 Medical Park, Suite 200
Columbia, South Carolina 29203
(803) 227-8124 Phone / (803) 227-8224 Fax

10/04/2011 GAIL BRUCE 32749 **Richland Office**

HISTORY: Gail Bruce follows-up after therapy. She said her shoulder pain is worsening with therapy.

PHYSICAL EXAMINATION: On exam, she still has good active control of the shoulder against gravity. She can forward flex to about 100 degrees and abduct to 90 degrees. There is no crepitus or subluxation detectable.

RADIOGRAPHS: Two views of the right shoulder show a located glenohumeral joint with a healing glenoid fracture.

PLAN: We will hold off for formal therapy. She can do her home exercises on her own as her pain is too great during therapy. We will check her back in about four or five weeks.

David B. Fulton, M.D.

CC List:

DBF:ats28
DD: 10/04/2011 DT: 10/05/2011 10:52:17
144239

This document was electronically authenticated by David B. Fulton, M.D. on 10/13/2011 16:35:25.

Moore Orthopaedics
104 Saluda Pointe Drive
Lexington, South Carolina 29072
8032278124 Phone / **Error! Unknown document property name.** Fax

11/02/2011 GAIL BRUCE 32749 Lexington Office

CHIEF COMPLAINT: 1. RIGHT SHOULDER PAIN

HISTORY: This is a 57-year-old female who is known to our clinic and underwent a massive arthroscopic repair of the right shoulder for recurrent dislocations. She states that she is having substantial pain. In both my and Dr. Fulton's recollection, she had done quite well and now has started tapering off in her overall appearance. She states that is not true that she was presenting herself better than she was so that she could return to work. That may be the case; however, she appeared to be relatively comfortable and does not appear as such today. She is also noting that she is having increasing pain to the left shoulder which she previously had a rotator cuff repair done on. She is finding it difficult to do her job and is currently on FMLA.

PHYSICAL EXAMINATION: On examination, range of motion causes the patient to be tearful after elevating beyond 95 degrees. She does not have a rigid endpoint however. External rotation is limited. Strength is limited. Intact grip strength. In regards to the left upper extremity, the incisions previously are well-healed. Range of motion is also painful and limited. Her strength is decreased.

IMPRESSION:

1. CONCERN FOR RECURRENT INJURY TO THE RIGHT SHOULDER IN THE POSTOP PERIOD
2. CONCERN FOR NEW ROTATOR CUFF TEAR OF THE LEFT SHOULDER

PLAN: At this time, the patient is to be sent for bilateral MRI arthrograms. Given the fact that the patient is in the postoperative period, she was also seen by Dr. Fulton who discussed this with her. She will return to the office following the study.

Jess Deemer, PA-C, MPAS Physician Assistant to Dr. David Fulton, M.D.

CC List:

JD:ats35
DD: 11/11/2011 DT: 11/14/2011 14:37:56

154900

This document was electronically authenticated by Jess Deemer, PA-C, MPAS Physician Assistant to Dr. David Fulton, M.D. on 11/22/2011 08:41:00.

Moore Orthopaedics
104 Saluda Pointe Drive
Lexington, South Carolina 29072
(803) 227-8124 Phone / (803) 227-8224 Fax

11/02/2011 GAIL BRUCE 32749 Lexington Office

HISTORY: Ms. Bruce follows up with ongoing complaints of pain in her right shoulder. She states it is interfering with her ability to work. The pain is frequent and sharp. She is also developing pain in the left shoulder and has had a history of a rotator cuff repair on outside by Dr. David Koon in the past. She states that the shoulders are disabling to her and she has trouble lifting. She has had no episodes of instability or giving way on the right shoulder. She rates her pain as frequent and sharp.

PAST MEDICAL HISTORY: Her information sheet was updated and signed.

PHYSICAL EXAMINATION: On exam, she is an obese female. She is in minimal distress. There is no glenohumeral instability detectable in either shoulder. She has weakness in the supraspinatus bilaterally, more pronounced on the right. There are no signs of RSD, such as redness in her feet or skin. Her neck is supple and nontender.

IMPRESSION:

1. BILATERAL SHOULDER PAIN STATUS POST PREVIOUS CUFF REPAIRS AND PREVIOUS SHOULDER STABILIZATION

PLAN: I recommend an MRI to assess the rotator cuff status and the labral status on the right. Follow-up after these are obtained.

David B. Fulton, M.D.

CC List:

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DD: 11/09/2011 DT: 11/10/2011 11:43:30
153779

This document was electronically authenticated by David B. Fulton, M.D. on 11/14/2011 09:51:51.

Moore Orthopaedics
104 Saluda Pointe Drive
Lexington, South Carolina 29072
8032278124 Phone / Error! Unknown document property name. Fax

11/16/2011 GAIL BRUCE 32749 Lexington Office

CHIEF COMPLAINT: 1. BILATERAL ARTHROGRAMS

HISTORY: This is a 57-year-old female who is well-known to our clinic. We have done a reconstruction for her shoulder for instability with a boney Bankart repair and rotator cuff repair. She is greater than three months out now from the time of original surgery. She also has a history of left shoulder pain. The patient has a long history. She does have a history of a right shoulder surgery done by Dr. McFadden in the past. Since that time, she had a left shoulder arthroscopy and rotator cuff repair. Earlier this year, approximately three months ago, she fell on a sidewalk while on break at work, which caused her a dislocation and instability of her shoulder. She is currently under the process of pursuing Workers' Compensation for her shoulder. She notes that the right is more symptomatic and that the left feels similar.

PHYSICAL EXAMINATION: On examination, the skin is intact without rash, ulcerations or lesions. The previous incisions are all healed. Range of motion of the shoulders is not stiff or restricted, but is quite painful above 90 degrees with forward elevation. No crepitation or instability is noted bilaterally. The patient has good rotator cuff strength bilaterally. She is grossly neurologically intact.

RADIOGRAPHS: MRI arthrogram of the right shoulder reveals moderate arthritic changes, likely post traumatic in nature with loss of cartilage from the glenoid as well as moderate loss of joint space narrowing to the humeral head. This is thought to be post traumatic given the multiple instability instances in which she had dislocation of the shoulder prior to having his surgically fixed. The left shoulder shows some partial fraying and partial thickness tearing with previous subacromial decompression, however, no new full thickness tears.

IMPRESSION: 1. BILATERAL SHOULDER PAIN, RIGHT POST TRAUMATIC ARTHRITIC CHANGES OF THE SHOULDER, LEFT IS TENDONITIS

PLAN: At this time, the patient is told to discontinue formal physical therapy. Given the presence of arthritis, it is likely only to agitate the area. She may use an anti-inflammatory, ice, heat as needed for discomfort. Given the fact that there is no new, acute findings, she is able to return to work full duty without restrictions as tolerated. She is to contact our office if she becomes more interested in surgical intervention to the shoulder. She was offered a cortisone injection given the fact that her sugars are well controlled at this point and her last hemoglobin A1C was around 5.2; however, she has upcoming knee injections and would like to space that out, which we feel is medically appropriate. She will call to return to see us.

Continued

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104 Saluda Pointe Drive
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8032278124 Phone / **Error! Unknown document property name.** Fax

PLAN: (Continued)

The patient was seen and the entire evaluation was undertaken by Dr. Fulton today.

Jess Deemer, PA-C, MPAS Physician Assistant to Dr. David Fulton, M.D.

CC List:

JD:ats32
DD: 11/16/2011 DT: 11/17/2011 12:05:20

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This document was electronically authenticated by Jess Deemer, PA-C, MPAS Physician Assistant to Dr. David Fulton, M.D. on 11/22/2011 08:42:37.

Moore Orthopaedics
104 Saluda Pointe Drive
Lexington, South Carolina 29072
(803) 227-8129 Phone / (803) 227-8229 Fax

11/18/2011 GAIL BRUCE 32749 **Lexington Office**

HISTORY: Ms. Bruce is a pleasant 57-year-old female who presents today regarding bilateral knee pain. She, unfortunately, continues to have severe bilateral knee pain. She describes it as pain with ambulation, burning in the anterolateral portion of the knee and also she has pain over the medial portion of the knee. She continues to be active and able to walk. She is returning back to work after leave for her right shoulder. She has had no numbness or tingling into the arms. She does have a lot of shoulder pain bilaterally. She has states she had a previous arthroscopy of the left rotator cuff. The right shoulder she also had repaired, but unfortunately continues to have pain. She had a follow-up MRI arthrogram that revealed severe glenohumeral osteoarthritis of the right shoulder. She has a partial tear of the left shoulder. No numbness or tingling into the hands.

PHYSICAL EXAMINATION: A pleasant female in no acute distress. She is able to get up and out of the chair without difficulty. Internal and external rotation of the hips are within normal. She has grinding along the patellofemoral joint as well as pain over the medial and lateral joint lines with palpation. Anterior and posterior Drawer's of the knee were within normal. No upper motor neuron signs were noted. Distal pulses are +2. She is minus about 40 degrees of abduction of the left shoulder with some pain over the acromioclavicular joint. Spurling's maneuver is negative.

RADIOGRAPHS: Severe osteoarthritis of the bilateral knees.

~~MRI of the right shoulder revealed severe glenohumeral osteoarthritis.~~

MRI of the left shoulder revealed partial supraspinatus tear, per the reading.

IMPRESSION:

1. SEVERE ENDSTAGE OSTEOARTHRITIS OF THE BILATERAL KNEES
2. LUMBAR SPONDYLOSIS, SEVERE, WITH DEGENERATIVE DISC DISEASE AT L4 THROUGH S1
3. OSTEOARTHRITIS OF THE RIGHT SHOULDER
4. IMPINGEMENT IN THE LEFT SHOULDER

PLAN: We will go ahead and proceed with an injection for her shoulder, as well as the bilateral knee, and see her back for possible injection of the right shoulder if she is still having trouble. She states she did speak with Dr. Fulton, who recommended shoulder replacement in the future. He did not have any other further suggestions at this point, she states.

Continued

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11/18/2011 GAIL BRUCE 32749 Lexington Office

Continued

PROCEDURE I: BILATERAL INJECTIONS OF THE KNEES

After verbal consent was obtained, the patient was placed in a seated position. A 22-gauge 1 ½ inch needle was used in an inferolateral approach to inject 40 mg of Depo-Medrol and 2 cc of 0.5% Marcaine. The patient tolerated the procedure well. No complications occurred.

PROCEDURE II: LEFT SHOULDER CORTICOSTEROID INJECTION

After verbal consent was obtained, the patient was placed in a seated position. A 22-gauge 1 ½ inch needle was used in a posterior approach to inject 40 mg of Depo-Medrol and 2 cc of 0.5% Marcaine. The patient tolerated the procedure well. No complications occurred.

W. Alaric Van Dam, M.D.

CC List:

AVD:ats11
DD: 11/18/2011 DT: 11/21/2011 10:59:37
156445

This document was electronically authenticated by W. Alaric Van Dam, M.D. on 11/28/2011 17:04:40.

Moore Orthopaedics
104 Saluda Pointe Drive
Lexington, South Carolina 29072
(803) 227-8129 Phone / (803) 227-8229 Fax

12/16/2011 GAIL BRUCE 32749 Lexington Office

HISTORY: Ms. Bruce is a pleasant 57-year-old female who presents today regarding pain with her right shoulder and left knee. She states this pain has been ongoing for some time, especially with the knees. She has a history of endstage osteoarthritis of both knees. She is also complaining of pain in the right shoulder. Overhead or behind the back activity really aggravates her. She has had a history of torn rotator cuff and also severe osteoarthritis. She has had no numbness or tingling in the arm itself. She has had injection of her left shoulder, which did help her. Her left knee is not significantly improved from her last injection, but the right one is. She is still working 12 hour days. She states she has requested some help with taking charts and bringing patients back. This is going to be through a student, which will not cost the clinic any further cost, but unfortunately, this was denied for her.

PHYSICAL EXAMINATION: A pleasant female in no acute distress. She has obvious osteoarthritic deformities in the bilateral knees. She has pain over the medial joint line and grind bilaterally. There is +1 swelling of the left knee as compared to the right. Anterior and posterior Drawer's of the ankle are within normal. Sensation is intact to light touch and pinprick. No upper motor neuron signs were noted. SI joint compression is negative. In terms of the shoulder, she can only abduct the shoulder approximately 75 degrees. She can forward flex 60 degrees. Full internal and external rotation of the shoulders. She has pain over the insertion of the supraspinatus. No pain over the acromioclavicular joint. Reflexes are +1 and symmetric. Sensation is intact to light touch and pinprick.

RADIOGRAPHS: Previous x-rays of the knees reveal severe bilateral osteoarthritis.

MRI of the right shoulder revealed severe glenohumeral osteoarthritis.

MRI of the left shoulder revealed a partial supraspinatus tear.

IMPRESSION:

1. SEVERE ENDSTAGE OSTEOARTHRITIS OF THE BILATERAL KNEES
2. LUMBAR SPONDYLOSIS WITH SEVERE DEGENERATIVE DISC DISEASE AT L4 THROUGH S1
3. OSTEOARTHRITIS OF THE RIGHT SHOULDER
4. IMPINGEMENT OF THE LEFT SHOULDER

PLAN: I discussed at length with Ms. Bruce all of her findings. Her symptoms are most consistent with osteoarthritis in both areas. We will do an injection for her left knee, as well as the right shoulder. Given her body habitus, the right shoulder injection will be done under ultrasound guidance.

Continued

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(803) 227-8129 Phone / (803) 227-8229 Fax

12/16/2011 GAIL BRUCE 32749 **Lexington Office**

Continued

PROCEDURE I: LEFT KNEE CORTICOSTEROID INJECTION

After verbal consent was obtained, the patient was placed in a seated position. A 22-gauge 1 ½ inch needle was used in an inferolateral approach to inject 20 mg of Depo-Medrol and 2 cc of 0.5% Marcaine. Sterile technique was used throughout. The patient tolerated the procedure well. No complications occurred.

PROCEDURE II: ULTRASOUND GUIDED INJECTION OF THE RIGHT SHOULDER

After verbal consent was obtained, the patient was placed in a seated position. A 15 hertz linear transducer was used to identify the acromion and subacromial bursa region. Dynamic testing was used to confirm bursal fluid. Then the skin was prepped in a normal sterile fashion. A 25-gauge 3 ½ inch needle was advanced down to the bursa under ultrasound guidance. Once the bursa was entered, 40 mg of Depo-Medrol and 1 cc of 0.5% Marcaine. The patient tolerated the procedure well. No complications occurred.

W. Alaric Van Dam, M.D.

CC List:

AVD:ats11
DD: 12/16/2011 DT: 12/19/2011 07:21:07
163010

Moore Orthopaedics
104 Saluda Pointe Drive
Lexington, South Carolina 29072
(803) 227-8129 Phone / (803) 227-8229 Fax

01/20/2012 GAIL BRUCE 32749 Lexington Office

HISTORY: Ms. Bruce is a pleasant, 57-year-old female, who returns today regarding osteoarthritis of her knees and osteoarthritis of the shoulder. She continues to have a lot of discomfort in all three areas. She continues to try to work, despite all of these symptoms. Unfortunately, she states that she was previously released. She continued to function at work when she was at a seated occupation as a supervisor. Unfortunately, she was forced to take a more clinical role, in terms of bringing patients back and forth to the clinic. Unfortunately, she has severe arthritis and this is quite painful for her, but she continued to do her job despite this. Today, she presents with continued pain into the knee bilaterally. The left has recently become somewhat unstable. She feels some lateral sliding at times as well. This is worse when she puts weight on them. She has also had trouble with the right shoulder, which has continued to give her trouble. We have tried injections for this, with only minimal improvement. She is denying any new numbness, tingling, fevers or night sweats.

PHYSICAL EXAMINATION: A pleasant female, in no acute distress, alert and oriented x3. She has limited range of motion of the right shoulder of only about 90 degrees of abduction, cross-arm testing of about five degrees, with some discomfort, and external rotation 10 degrees. No upper motor neuron signs noted. Distal pulse is +2. Sensation is intact to light touch and pinprick in the upper extremities. She has +1 articular swelling in both knees. Flexion/extension of the knees is unchanged, in terms of range of motion. Tinel's is negative at the fibular head and medial malleolus. No upper motor neuron signs are noted. SI joint compression is negative. She has grinding along the patellofemoral joint and pseudo opening along the medial and lateral joint lines. Some pain with McMurray's testing bilaterally. Sensation intact. She does have significant edema in the bilateral lower extremities.

RADIOGRAPHS: Previous x-rays of the knee reveal severe bilateral osteoarthritis. MRIs of the shoulder reveal severe glenohumeral osteoarthritis and a rotator cuff tear of the right shoulder. MRI of the left shoulder revealed a partial supraspinatus tear.

IMPRESSION:

1. SEVERE END-STAGE OSTEOARTHRITIS OF THE BILATERAL KNEES
2. LUMBAR SPONDYLOLYSIS AND DEGENERATIVE DISC DISEASE L4-S1
3. OSTEOARTHRITIS OF THE RIGHT SHOULDER
4. LEFT IMPINGEMENT SYNDROME WITH PARTIAL ROTATOR CUFF TEAR

PLAN: I discussed with Ms. Bruce all our findings. It is unfortunate that she was unable to keep working at this point. She does have severe knee and lower back problems which would hamper her significantly, in terms of mobility; lifting, pushing, pulling and carrying. At this point, we will try to just keep her going until ultimately she

Continued

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Lexington, South Carolina 29072
(803) 227-8129 Phone / (803) 227-8229 Fax

PLAN: (continued)

will require knee replacements and perhaps a reverse shoulder. She is going to continue with her current medications, as well as repeat injections today.

PROCEDURE: BILATERAL CORTICOSTEROID INJECTIONS IN THE KNEES

Informed consent was obtained. The patient was placed in the seated position. A 15-hertz linear transducer was used to isolate the inferolateral compartment by initially identifying the patellar tendon and moving laterally. The area was prepped in a normal sterile fashion. A 22-gauge 1 ½-inch needle was used to inject 40 mg of Depo-Medrol and 2 cc of 0.5% Marcaine for each knee. The patient tolerated the procedure well and no complications occurred.

W. Alaric Van Dam, M.D.

CC List:

AVD:ats44
DD: 01/20/2012 DT: 01/23/2012 09:26:10

170465

This document was electronically authenticated by W. Alaric Van Dam, M.D. on 01/26/2012 15:46:39.

mooreclinic.com

MOORE
— Orthopaedics —

02/09/2012

Mail To: Joseph Dasta
McWhirter, Bellinger & Associates
1807 Hampton Street
Columbia, SC 29201

Re: GAIL C BRUCE

Dear Mr. Dasta,

I received your letter regarding Gail Bruce, date of birth [redacted]. She is a patient of mine who I have been following regarding lower back and knee pain. I initially saw her 09/09/2010. We have been treating her with medications and injections. Your letter asked a series of questions regarding her knee and shoulders. I would be more than happy to make statements regarding her knees; however, I would defer all shoulder questions to be answered by Dr. Fulton. With regard to the knee, I do feel that her fall at work probably aggravated or exacerbated her preexisting osteoarthritis of her knees. I would assign her some permanent restrictions of very limited bending, twisting or turning based on her knees. I would also recommend no deep squats. I would also recommend no continuous standing or walking without temporary breaks of sitting. Unfortunately, due to the severe nature of her revision, she will probably require medications for the remainder of her life. This may change, however, if she was to have bilateral knee replacements. Currently, she has been taking an anti-inflammatory in the form of Mobic, as well as a pain medication, including Ultram and Lortab. In terms of future care for her knees, I think ultimately she would probably benefit from knee replacements if she so desires to proceed. In the meantime, she has options for the knees, including Corticosteroid injections and medications as listed.

If you have questions regarding her current medical case, please feel free to contact me.

Sincerely,

W. Alaric Van Dam, M.D.
AVD:ats11
175131

Primary Care Sports Medicine
Craig M. Burnworth, M.D.

Hip and Knee Replacement
Kim J. Chiliag, M.D.

Musculoskeletal Medicine and Electrodiagnostics
John Clavet, M.D.

Spine Surgery
William T. Felmly, M.D.

Hand, Upper Extremity Surgery
David B. Fulton, M.D.

Sports Medicine and Arthroscopy Cartilage Repair
S. Wendell Holmes, Jr., M.D.

Children's Orthopaedics
Christopher R. Hydorn, M.D.

Children's Orthopaedics
Mark D. Locke, M.D.

Shoulder Surgery, Hand & Microsurgery
Earl B. McFadden, Jr., M.D.

Sports Medicine, Arthroscopy Shoulder and Knee Surgery
Frank K. Noojin, M.D.

Hip and Knee Replacement
Bradley P. Presnal, M.D.

Primary Care Sports Medicine
David A. Scott, M.D.

Orthopaedic Foot and Ankle
W. Bret Smith, DO, MS

Musculoskeletal Medicine and Electrodiagnostics
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03/23/2012 GAIL BRUCE [redacted] - 32749 Lexington Office

HISTORY: Ms. Bruce is a pleasant 58-year-old female who returns today regarding bilateral knee pain and shoulder pain. She has had trouble with both the right and left shoulders. She states the knee pain is continuing to be excruciating. She has difficulty ambulating and at times she has give way weakness in her knees and she actually has falling episodes. She does use a cane to try to get around. She is denying any fevers, night sweats or bowel or bladder changes. She has chronic, continuous back pain, worse with bending, twisting or turning. Her shoulder pain is worse with overhead or behind the back activities. She has difficulty finding any position that is comfortable for any long period of time. She has had no new numbness or tingling in the arms or legs. She noticed her left shoulder is giving her more trouble than it has in the past. Her overall pain level can be an 8/10. The pain medication helps, but it is not long-lasting. She has not been working but trying to stay active.

PHYSICAL EXAMINATION: A pleasant, well developed and well-nourished female in no acute distress. Alert and oriented x3. She can get up and out of the chair without too much difficulty but does have the use her arms for some support. The knees reveal some increased temperature in the lateral compartment of the left knee. There is pain over the medial and lateral joint lines bilaterally with +1 intraarticular swelling. Lateral tracking of the patella is noted. Anterior and posterior Drawer's of the ankle are within normal. She has significant edema to the upper third of the tibia. Pulses are difficult to palpate in the lower extremities. Sensation is intact to light touch and pinprick. Internal and external rotation of the hips are within normal. No pain over the greater trochanteric bursa or PSIS. She has some pain over the lumbar paraspinal muscles and tightness through the paraspinal muscles as well. In terms of the shoulders, she has very limited motion of the right shoulder has a positive apprehension sign. Abduction is about 40 degrees, external rotation 10 degrees and full internal rotation on the right shoulder. The left shoulder reveals abduction at 40 degrees. Positive impingement signs. Mild pain over the acromioclavicular joint. No upper motor neuron signs are noted. Sensation is intact to light touch and pinprick in the upper extremities. Tinel's is negative at the wrist and elbow. No pain over the medial or lateral epicondyles.

RADIOGRAPHS: Previous x-rays of the knee reveals severe bilateral osteoarthritis.

MRI of the shoulder revealed severe glenohumeral osteoarthritis and a rotator cuff tear of the right shoulder. The left shoulder revealed a partial supraspinatus tear.

IMPRESSION:

1. SEVERE ENDSTAGE OSTEOARTHRITIS OF THE BILATERAL KNEES
2. LUMBAR SPONDYLOSIS WITH DEGENERATIVE DISEASE AT L4 THROUGH S1
3. OSTEOARTHRITIS OF THE RIGHT SHOULDER
4. LEFT SHOULDER IMPINGEMENT WITH PARTIAL ROTATOR CUFF TEAR

Moore Orthopaedics
104 Saluda Pointe Drive
Lexington, South Carolina 29072
(803) 227-8129 Phone / (803) 227-8229 Fax

Continued

PLAN: I discussed at length with Ms. Bruce all of her findings. Her symptoms are consistent with severe osteoarthritis. Unfortunately, due to her multiple medical conditions and joint problems, I do not think she could undergo gainful employment for eight hours. She is very limited in her lifting, pushing, pulling and carrying. I would also like to get her a shower chair, because of her falls, as well as a rolling walker to try to keep her active. Ultimately, she is going to require knee replacements as well.

PROCEDURE I: BILATERAL KNEE CORTICOSTEROID INJECTIONS

After verbal consent was obtained, the patient was placed in a seated position. A 22-gauge 1 ½ inch needle was used in an inferolateral approach bilaterally to inject 40 mg of Depo-Medrol and 2 cc of 0.5% Marcaine. Sterile technique was used throughout. The patient tolerated the procedure well. No complications occurred.

~~PROCEDURE II:~~ ~~LEFT SHOULDER CORTICOSTEROID INJECTION~~

After verbal consent was obtained, the patient was placed in a seated position. A 22-gauge 1 ½ inch needle was used in a posterior approach to inject 40 mg of Depo-Medrol and 2 cc of 0.5% Marcaine. The patient tolerated the procedure well. No complications occurred. She was informed of the possibility of increased blood sugars secondary to the injections.

W. Alaric Van Dam, M.D.

CC List:

AVD:ats11
DD: 03/23/2012 DT: 03/26/2012 11:56:58

186143

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January 31, 2012

Dr. David Fulton
Dr. Alaric Van Dam
Moore Orthopaedic Clinic, PA
14 Medical Park, Suite 200
Columbia, SC 29203

Re: Our Client: Gail Candace Bruce
Date of Birth: [redacted]
DOI: 7/15/2011

Dear Dr. Fulton and Dr. Van Dam:

I am currently representing Ms. Bruce for a Workers' Compensation incident which occurred on July 15, 2011. She fell at work, tripping and falling forward on a sidewalk and landing on both arms and knees. I have your records dated July 20, 2011 through December 16, 2011. She has a history of bilateral shoulder problems, specifically bilateral shoulder surgeries for rotator cuff repairs. She also has a history of bilateral knee arthritis. On July 22, 2011, Dr. Fulton performed right shoulder surgery, specifically a right arthroscopic Bankart repair using Bush Lock suture anchors, an arthroscopic biceps tenotomy, and an arthroscopic rotator cuff repair. She followed up on August 3, 2011 and Dr. Van Dam noted knee pain and both knees were injected.

She had knee injections again on September 15, 2011. On October 4, 2011, the formal physical therapy was stopped because of her right shoulder pain. On November 2, 2011, she was still complaining of right shoulder pain and was also complaining of increasing pain in her left shoulder. Dr. Fulton ordered bilateral shoulder MRI arthrograms. After the arthrograms, she followed up on November 16, 2011 to go over the results. The right shoulder MRI arthrogram revealed moderate arthritic changes, likely post traumatic in nature with loss of cartilage from the glenoid as well as moderate loss of joint space narrowing to the humeral head. Dr. Fulton thought this to be post traumatic given the multiple instability instances in which she had dislocation of the right shoulder prior to having the surgery. The left shoulder MRI arthrogram showed some partial fraying and partial thickness tearing with a previous subacromial decompression, but no new full thickness tears. Regardless, she was returned to work full duties.

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On November 18, 2011, she visited Dr. Van Dam regarding bilateral knee pain. Dr. Van Dam injected both knees and her left shoulder. She saw Dr. Van Dam again on December 16, 2011 and he injected the left knee and her right shoulder.

Therefore, I respectfully request a response to the following questions:

1. In your professional opinions, based upon a reasonable degree of medical certainty, your experience and your treatment of Ms. Bruce, did the fall at work on July 15, 2011, most probably aggravate/exacerbate her pre-existing right shoulder condition to the extent she needed medical treatment to include the surgery that was performed on July 22, 2011? Please keep in mind that "most probably" means only more than a 50 percent chance or more likely than not in this context.

2. Did the fall at work most probably aggravate/exacerbate her pre-existing left shoulder condition to the extent she needed medical treatment to include the injections?

3. Did the fall at work most probably aggravate/exacerbate her pre-existing bilateral knee arthritis to the extent she needed further injections?

4. Has she reached maximum medical improvement for her shoulders? If so, based on the AMA Guidelines, has she suffered any permanent impairment ratings to her shoulders/arms as a result of this fall? If so, what ratings are you assigning?

5. Are you assigning any permanent restrictions to her activities as a result of her shoulders and/or her knees? If so, what restrictions are you assigning?

6. Will it be medically necessary for her to remain on prescription medications indefinitely or the remainder of her life to maintain her current level of function with her shoulders and her knees? If so, what prescriptions would you recommend?

7. Will she most probably require future medical care for her right shoulder to include but not limited to a right shoulder replacement surgery? If so, what future medical care do you foresee for her right shoulder? Please keep in mind that "most probably" means only more than a 50 percent chance or more likely than not in this context.

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8. Do you foresee that she will most probably require future medical care for her left shoulder? If so, what future medical care do you most probably foresee for her left shoulder?

9. Do you foresee that she will most probably require future medical care for her knees? If so, what future medical care do you foresee for her knees?

I appreciate your prompt professional courtesy. I look forward to your responses.

Sincerely,

Joseph R. Dasta

JRD:JLH

Enclosure

mooreclinic.com

MOORE
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Primary Care Sports Medicine
Craig M. Burnworth, M.D.

Hip and Knee Replacement
Kim J. Chillag, M.D.

Musculoskeletal Medicine and Electrodiagnostics
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Spine Surgery
William T. Felmly, M.D.

Hand, Upper Extremity Surgery
David B. Fulton, M.D.

Sports Medicine and Arthroscopy Cartilage Repair
S. Wendell Holmes, Jr., M.D.

Children's Orthopaedics
Christopher R. Hydorn, M.D.

Children's Orthopaedics
Mark D. Locke, M.D.

Shoulder Surgery, Hand & Microsurgery
Earl B. McFadden, Jr., M.D.

Sports Medicine, Arthroscopy Shoulder and Knee Surgery
Frank K. Noojin, M.D.

Hip and Knee Replacement
Bradley P. Presnal, M.D.

Primary Care Sports Medicine
David A. Scott, M.D.

Orthopaedic Foot and Ankle
W. Bret Smith, DO, MS

Musculoskeletal Medicine and Electrodiagnostics
W. Alaric Van Dam, M.D.

05/22/2012

Joseph R. Dasta
McWhirter, Bellinger & Associates, PA
1807 Hampton Street,
Columbia, SC 29201

Re: GAIL C BRUCE

Dear Mr. Dasta,

I am writing you in response to your inquiry on my patient, Gail Candace Bruce. Your questionnaire, dated January 31, 2012, will be answered in numerical order as to how you posed the questions.

1. Yes.
2. No.
3. Defer answer to Dr. Van Dam.
4. 20-percent permanent-partial impairment to right shoulder. I do not believe her left shoulder problem is definitively work related.
5. I did not assign any permanent restrictions to her, as she specifically asked to return to work without restrictions after her shoulder surgery.
6. She may need to remain on prescription medications indefinitely for her right shoulder, such as anti-inflammatories or Ultram.
7. I believe she most probably will require future medical care on her right shoulder, to include a probable total shoulder arthroplasty.
8. I do not foresee that she will most probably require future medical care on her left shoulder.
9. I will defer this answer to Dr. Van Dam, who is caring for her knees.

Continued

Continued

Sincerely,

David B. Fulton, M.D.
DBF:ats44
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This document was electronically authenticated by David B. Fulton, M.D. on 05/29/2012 12:50:47.

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May 21, 2012

Alaric Van Dam, M.D.
Moore Orthopaedic Clinic, PA
14 Medical Park, Suite 200
Columbia, SC 29203

Re: Our Client: Gail Candace Bruce
Date of Birth: [redacted]
SSN: [redacted]
Date of Incident: 7/15/2011

Dear Dr Van Dam:

Please be advised that I am now the attorney handling Gail Bruce's case which was previously handled by Joseph Dasta with our firm. On July 1, 2007, our statutes were reformed to require medical causation establishing an injury arose out of and during the course of employment. I have reviewed your medical reports particularly your correspondence dated February 9, 2012 (see attached correspondence). I understand your correspondence completely; however, I need your responses in the appropriate statutory language. Please address the below questions:

1. To a reasonable degree of medical certainty, did Gail Bruce's fall on July 15, 2011, most probably aggravate her pre-existing osteoarthritis of her bi-lateral knees?

Yes X No _____

2. Also, are the restrictions, medications, and potential need for bi-lateral knee replacements to a reasonable degree of medical certainty most probably due to the aggravation of her pre-existing osteoarthritis as addressed in number one above?

Yes X No _____

Alaric Van Dam, M.D.

5/25/12
Dated

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J. TYLER LEE, JR.
MELISSA G. MOSIER
JOHN P. MEADORS

As always your professional cooperation in addressing these issues is greatly appreciated

Sincerely yours,

Thomas P. Bellinger

TPB/dlp

Enclosure

cc: Gail Candace Bruce
[redacted]

Moore Orthopaedics
104 Saluda Pointe Drive
Lexington, South Carolina 29072
(803) 227-8129 Phone / (803) 227-8229 Fax

05/25/2012 GAIL BRUCE [redacted] - 32749 Lexington Office

HISTORY: Ms. Bruce is a pleasant 58-year-old female who returns today regarding continued pain in the bilateral knees. She has had continued pain that is worse with ambulation. Bending, walking or turning the knees seems to aggravate her. She has been using a cane to try to get around. She has severe end-stage osteoarthritis of the knees. She has even had episodes of some give way weakness with her knees. She feels like her left knee is getting significantly worse. This has also resulted in her lower back aggravating her. She states this is continuing to give her difficulty with axial pain with radiation down the legs as well. The pain level can be basically an 8/10. She has been unable to work secondary to her symptoms. She has also had intermittent trouble with her shoulder; although, this is not bothering her as much as her lower back currently. Any use, particularly on the left side, seems to be the area of the most discomfort at this time. She still has intermittent night pain. She has been taking medication to try to do with the discomfort as well. These include Lortab, Mobic, Cymbalta and Ultram.

PHYSICAL EXAMINATION: A pleasant, well developed and well-nourished female in no acute distress. Alert and oriented x3. No gross deformity or atrophy present. She is using a rolling walker to get around. She is forward flexed in her posture. She has a wide step base. She has obvious deformities of the knees with +1 intra-articular swelling. She has no evidence of rash or erythema. She does have significant edema to the mid tibias. Femoral stretch is negative. Dural tension signs are negative. No pain over the greater trochanteric bursa or PSIS. Percussion of the spinous process is negative. She has tightness in the lumbar paraspinal muscles with deep palpation. She has very limited range of motion of her right shoulder with about 30 degrees of abduction causing some discomfort. Cross arm testing is mildly uncomfortable as well. Neurologically intact in the upper extremities. Tinel's is negative at the fibular head and medial malleolus. Proximal and distal motor testing are 5/5.

RADIOGRAPHS: Previous x-rays of the knee revealed severe tricompartmental osteoarthritis of both knees.

MRI of the shoulder revealed severe glenohumeral osteoarthritis with rotator cuff tear. The left shoulder revealed a partial supraspinatus tear.

IMPRESSION:

1. DIABETES
2. ENDSTAGE OSTEOARTHRITIS OF THE BILATERAL KNEES
3. LUMBAR SPONDYLOSIS WITH DEGENERATIVE DISC DISEASE AT L4 THROUGH S1
4. OSTEOARTHRITIS OF THE GLENOHUMERAL JOINT OF THE RIGHT SHOULDER
5. PARTIAL LEFT SHOULDER IMPINGEMENT WITH ROTATOR CUFF TEAR

Moore Orthopaedics
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Lexington, South Carolina 29072
(803) 227-8129 Phone / (803) 227-8229 Fax

05/25/2012 GAIL BRUCE - [redacted] - 32749 Lexington Office

Continued

Continued

PLAN: I discussed with Ms. Bruce all of her findings. She is definitely considering surgical intervention at this point. Regarding her knees, she does have some numerous factors including her weight and diabetes. I want her to at lease get a consult with Dr. Presnal to determine if she is truly a candidate or what other options might be available for her. She is in agreement with this. She is going to follow-up with an epidural for her back.

PROCEDURE: BILATERAL CORTICOSTEROID INJECTIONS OF THE KNEES

After verbal consent was obtained, the patient was placed in a seated position. A 22-gauge, 1 ½ inch needle was used in an inferolateral approach to inject 40 mg of Depo-Medrol and 2 cc of 0.5% Marcaine. The patient tolerated the procedure well. No complications occurred.

W. Alaric Van Dam, M.D.

CC List:

AVD:ats11
DD: 05/25/2012 DT: 05/29/2012 12:32:16

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This document was electronically authenticated by W. Alaric Van Dam, M.D. on 05/30/2012 16:06:10.

PROVIDENCE HOSPITALS

A Ministry of the Sisters of Charity Health System

2435 Forest Drive • Columbia, SC 29204

OPERATIVE REPORT

PATIENT: BRUCE, GAIL
DOCTOR: David Fulton, MD
REFERRING:
PRIMARY CARE: W Hollins, MD
ADMISSION DATE: 07/22/2011
DISCHARGE DATE:

ACCOUNT: D00504368762
MR: M000868072
SOCIAL SECURITY: [redacted]
AGE: 57 PATIENT TYPE: INO
ROOM: D.422 A BED:
NURSING STATION:

DATE OF OPERATION: 07/22/2011

PREOPERATIVE DIAGNOSES: Right shoulder instability with glenoid fracture and labral tear (Bankart lesion with possible rotator cuff tear).

POSTOPERATIVE DIAGNOSES: Right shoulder instability with glenoid fracture and labral tear (Bankart lesion with possible rotator cuff tear). Full-thickness rotator cuff tear. Degenerative biceps tendon.

PROCEDURE:
1. Right arthroscopic Bankart repair using 3 Arthrex push lock suture anchors.
2. Right arthroscopic biceps tenotomy.
3. Right arthroscopic rotator cuff repair using a Smith & Nephew PK triple loaded 5.5 millimeter suture anchor.

SURGEON: David Fulton, MD

ASSISTANT: Jessamyn Deemer, PA, who was present for the entire case and was critical for positioning and assisting with scope driving. This was a particularly hard case on a very large patient with difficult body habitus.

ANESTHESIA: General with Interscalene block.

ESTIMATED BLOOD LOSS: Minimal.

INDICATION: Gail Bruce has a very unstable right shoulder after a fall. She has gross instability and has dislocated multiple times, even standing still, in the last week. She has a large bony Bankart lesion on her CT scan and is deemed a candidate for the above surgery. She

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OPERATIVE REPORT

PATIENT: BRUCE, GAIL
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REFERRING:
PRIMARY CARE: W Hollins, MD
ADMISSION DATE: 07/22/2011
DISCHARGE DATE:

ACCOUNT: D00504368762
MR: M000868072
SOCIAL SECURITY: [redacted]
AGE: 57 PATIENT TYPE: INO
ROOM: D.422 A BED:
NURSING STATION:

has had previous cuff surgery and realizes the cuff may be re-torn and she is also prepared for further surgery in the form of rotator cuff repair, if necessary. The risk of a long recovery, recurrent instability, post traumatic arthritis, neurovascular injury, anesthesia risk were all discussed.

PROCEDURE DETAILS: After interscalene block, 1.0 gram of Ancef, and a general anesthetic, she was positioned in a beach chair, prepped and draped sterilely. There was gross instability of the shoulder. We put a scope in the glenohumeral joint and had a large bloody effusion, which we irrigated. We then identified a large bony Bankart lesion and loss of anterior inferior glenoid labrum, which was completely torn off. We also found a full-thickness rotator cuff tear and sutures which had come loose from her previous rotator cuff surgery. We irrigated and found a very degenerative, partially torn biceps tendon. We brought in a shaver through an anterior portal and did a biceps tenotomy. We then made 2 portals with 2 cannulae in the front. Due to her large body size, the cannulae barely made it into the joint, which made it even tougher to perform the surgery. She did have some degenerative traumatic changes on her humeral head cartilage. We repaired the bony Bankart lesion. There was no bone that was fixable, but the large labrum was still there. We put in 3 push lock suture anchors and by grabbing the labrum, reapproximated and made a nice bumper up onto the labrum to help with support and repaired the labrum. We did this arthroscopically and got a great repair. After the biceps tenotomy, we removed the old sutures, which were now loose from re-tearing her cuff. We did this with a grabber. We went through subacromial space separate compartment, carried out a bursectomy. We prepared the footprint of the humeral head for attachment of the rotator cuff. We put in a 5.5 millimeter triple-loaded suture anchor by Smith and Nephew, passed our arthroscopic knots with a ePass device and then tied the cuff down to its attachment on the greater tuberosity with some arthroscopic sutures and tied the knot and got a great repair. We irrigated thoroughly. We closed with 4-0 nylon and placed her in a light dressing and a sling and she was taken in stable condition to recovery room. She wished to stay overnight due to the fact that she lives alone. We will allow her to do so.

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OPERATIVE REPORT

PATIENT: BRUCE, GAIL
DOCTOR: David Fulton, MD
REFERRING:
PRIMARY CARE: W Hollins, MD
ADMISSION DATE: 07/22/2011
DISCHARGE DATE:

ACCOUNT: D00504368762
MR: M000868072
SOCIAL SECURITY: [redacted]
AGE: 57 PATIENT TYPE: INO
ROOM: D.422 A BED:
NURSING STATION:

DD: Sat Jul 23 10:51:04 2011
DT: Sat Jul 23 21:54:46 2011
33385521 /21198

Signed: _____
David Fulton, MD

CC: W Hollins MD

Columbia Rehabilitation Clinic, Inc.

Bruce D. Filler, M.Ed., P.T.
Director

www.crcrehab.com

June 29, 2012

Mr. Thomas Bellinger
McWhirter, Bellinger, And Associates
119 East Main Street
Lexington, S.C. 29072

Re: Gail Bruce

Ms. Bruce is a 58 year old female who sustained a work injury to her right shoulder and bilateral knees on July 15, 2011. Radiographs of the right shoulder dated July 15, 2011 indicated an acute anterior shoulder dislocation. A MRI of the right shoulder dated July 17, 2011 indicated a large Hill-Sachs and Bankart fractures. She underwent right shoulder arthroscopy consisting of Bankart repair, biceps tenotomy, and rotator cuff repair on July 22, 2011. A medical note dated August 3, 2011 indicated bilateral knee pain (degenerative joint disease) which she recurrently gets. A medical note dated September 15, 2011 indicated severe bilateral knee osteoarthritis tricompartmental. Radiographs of the right shoulder dated October 4, 2011 indicated a healing glenoid fracture. A medical note dated November 16, 2011 indicated moderate arthritic changes with loss of cartilage from the glenoid as well as moderate loss of joint space narrowing to the right humeral head. A medical note dated December 16, 2011 indicated severe endstage osteoarthritis of bilateral knees and osteoarthritis of the right shoulder. A medical note dated January 20, 2012 indicated severe glenohumeral osteoarthritis and a rotator cuff tear of the right shoulder. Bilateral knee replacements and possibly a reverse right shoulder replacement will be required in the future. Ms. Bruce has a prior history of bilateral rotator cuff repairs ten years ago. Ms. Bruce reports a prior history of bilateral "knee problems but she was able to get around".

Ms. Bruce reports constant right shoulder pain/stiffness. She also reports constant bilateral knee pain (left greater than right). She reports difficulty with dressing, personal hygiene, and lifting since her injury. She also reports difficulty walking, standing, stairclimbing, getting from sitting to standing, cooking, and getting in and out of her pool. She reports inabilty to squat, kneel, reach with her right upper extremity, fish, sleep in a bed, or perform yard maintenance since her injury .

The American Medical Association Guides to the Evaluation of the Permanent Impairment, fifth edition was utilized to determine her impairment. Ms. Bruce qualifies for an impairment rating for loss of right shoulder active range of motion. Please refer to the enclosed Functional Capacity Evaluation for range of motion measurements.

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1 Wellness Blvd., Suite 204, Irmo, SC 29063, 749-0808
1177 Sunset Boulevard, Suite 307, Columbia, SC 29169, 794-3440
115 Blarney Drive, Suite 210, Columbia, SC 29223, 736-4845
BLYTHEWOOD

According to Figure 16-40 on page 476, she qualifies for an upper extremity impairment rating of 6% for loss of right shoulder flexion range of motion. She qualifies for an upper extremity impairment rating of 2% for loss of right shoulder extension range of motion. According to Figure 16-43 on page 477, she qualifies for an upper extremity impairment rating of 5% for loss of right shoulder abduction range of motion.

She qualifies for an upper extremity impairment rating of 1% for loss of right shoulder adduction range of motion. According to Figure 16-46 on page 479, she qualifies for an upper extremity impairment rating of 1% for loss of right shoulder internal rotation range of motion. She qualifies for an upper extremity impairment rating of 1% for loss of right shoulder external rotation range of motion. Adding the above impairment ratings result in a total upper extremity impairment rating of 16% for loss of right shoulder range of motion.

Manual muscle testing was performed and Ms. Bruce's right shoulder strength was 2+/5 to 5/5. However, Ms. Bruce does not qualify for an impairment rating for loss of right shoulder strength as the Guides state, "decreased strength cannot be rated in the presence of decreased motion". Please refer to page 508 of the Guides.

According to the Guides, "the shoulder functional unit represents 60% of the upper extremity function" (see page 474). This 60% is also noted in Table 16-35 on page 510 indicating the shoulder represents 60% of the upper extremity impairment. To convert the 16% upper extremity impairment into a shoulder impairment, 16% is divided by 60% which results in a 26.6% shoulder impairment which rounds up to 27%.

Ms. Bruce also qualifies for an impairment rating for her bilateral knees.

Ms. Bruce does not have atrophy greater than 0.3 centimeters present in her lower extremities. According to Table 17-6 on page 530, Ms. Bruce does not qualify for a lower extremity impairment rating for atrophy.

Ms. Bruce has weakness present in her left knee extensors. Please refer to the enclosed Functional Capacity Evaluation for test results. According to Table 17-8 on page 532, she qualifies for a lower extremity impairment rating of 12% for left knee extensor weakness.

Ms. Bruce has decreased active range of motion present in her bilateral knees. Please refer to the enclosed Functional Capacity Evaluation for test results. According to Table 17-10 on page 537, she qualfies for a lower extremity impairment rating of 20% for each knee due to limited extension range of motion. She also qualifies for a lower extremity impairment rating of 10% for each knee due to limited flexion range of motion. This results in a 30% lower extremity impairment rating for each knee.

Ms. Bruce has severe osteoarthritis present in bilateral knees and it has been noted she will require bilateral knee replacements. According to Table 17-31 on page 544, she most likely qualifies for a lower extremity impairment rating of 25% (1.0 millimeter cartilage interval) for each knee. However, if her cartilage interval is 0.0 millimeters (bone on bone) she would qualify for a lower extremity impairment rating of 50% for each knee. Her cartilage interval was not found in her medical records.

According to Table 17-2 on page 526, the above lower extremity impairments can not be combined. The Guides state, "if more than one method can be used, the method that provides the higher rating should be adopted" (see page 527). Therefore, Ms. Bruce qualifies for at least a lower extremity impairment rating of 30% for each knee. According to Table 17-3 on page 527, a lower extremity impairment rating of 30% converts to a whole person impairment rating of 12%. If her cartilage interval is 0.0 millimeters, she would qualify for a lower extremity impairment rating of 50% for each knee which converts to a whole person impairment rating of 20% for each knee.

In conclusion, Ms. Bruce qualifies for an upper extremity impairment rating of 16% for her right shoulder which converts to a shoulder impairment rating of 27%. She qualifies for either a 30% lower extremity impairment rating for each knee due to limited range of motion or a 50% lower extremity impairment rating for each knee if her cartilage interval is 0.0 millimeters.

Thank you for this referral. If you have any questions please call me at (803) 799-7007.

Sincerely,

Tracy Hill, P.T.

Addendum: A knee replacement with good results qualifies for a lower extremity impairment rating of 37%. Please refer to Table 17-33 on page 546.

FYI - Thanks
Bellinger

Columbia Rehabilitation
Attention: Tracy

Re: Gail Bruce

This is to verify that Ms. Bruces cartilage interval of her bilateral knees is almost 0 percent.

Please let me know if you need any further information.

Thank you.

Torri Ezzell
Moore Orthopaedic Clinic

Columbia Rehabilitation Clinic, Inc.

Bruce D. Filler, M.Ed., P.T.
Director

www.crcrehab.com

June 29, 2012

Mr. Thomas Bellinger
McWhirter, Bellinger, And Associates
119 East Main Street
Lexington, S.C. 29072

Re: Gail Bruce

Ms. Bruce was seen on June 29, 2012 for a Functional Capacity Evaluation.

Ms. Bruce is a 58 year old female who sustained a work injury to her right shoulder and bilateral knees on July 15, 2011. The patient reported an initial pain level of "7" on a "0-10" pain scale in which "0" represents no pain and "10" represents maximal emergency level pain. The highest reported pain level during today's evaluation was "9" and this occurred with stairclimbing.

The results of the Functional Capacity Evaluation performed on this date indicate that she can meet the demands of limited sedentary work. She tolerates occasional walking with a rollator walker, bending, and reaching with her left upper extremity while seated. She does not tolerate occasional stairclimbing, kneeling, squatting, twisting, or reaching with her right upper extremity. She can lift from 5 to 10 pounds at various heights on an occasional basis using her left upper extremity only. She was unable to perform the one and two handed carry due to inability to walk without a rollator walker. She can push 0 pounds loaded in a sled and can pull 0 pounds loaded in a sled. She has a self-reported unlimited sitting tolerance. She has a self reported standing/walking tolerance of 5 minutes. She was observed to sit for a maximal time of 80 minutes and stand/walk for a maximal time of 5 minutes.

The patient's right shoulder and bilateral knee range of motion are limited. Please refer to the enclosed forms for range of motion measurements.

Treadmill testing was not attempted due to Ms. Bruce having significant difficulty ambulating with a rollator walker. Therefore, an estimate of her cardiorespiratory fitness level could not be determined.

Ms. Bruce put forth a consistent effort during the evaluation. She qualifies for limited sedentary work. She does not tolerate occasional squatting, kneeling, twisting, stairclimbing, or reaching with her right upper extremity.

Thank you for this referral. If you have any questions, please call me at (803) 799-7007.

Sincerely,

Tracy Hill

Tracy Hill, P.T.

2362 Two Notch Road, Columbia, SC 29204, 799-7007
1 Wellness Blvd., Suite 204, Irmo, SC 29063, 749-0808
1177 Sunset Boulevard, West Columbia, SC 29169, 794-3440
115 Blarney Drive, Suite 2, Columbia, SC 29223, 736-4845

BLYTHEWOOD

Columbia Rehabilitation Clinic, Inc.

PREPARED FOR:
Mr. Thomas Bellinger
McWhirter, Bellinger, And Associates
119 East Main Street
Lexington, S.C. 29072

Tel: (803) 359-5523 Fax: (803) 359-1248

FUNCTIONAL ABILITIES EVALUATION

BTE TECHNOLOGIES™

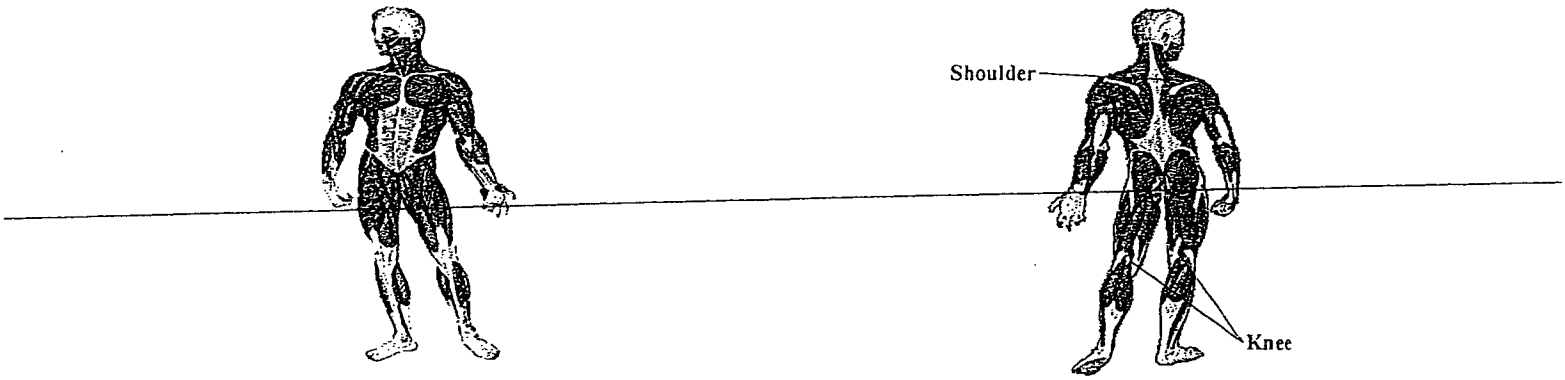
Client Information

Client Name: Ms. Gail Candace Bruce
Address: [redacted]
Injury Date: July 15, 2011
Dominant Hand: Right Hand
SSN: [redacted]

Date of Birth: [redacted]
Gender: Female
Height: 63 inches
Weight: 250 lbs

Start & Finish Date: Jun 29, 2012
Evaluator: Tracy Hill. PT

Areas of Complaint



General Location	Specific Location	Plane	Side	Pain Type	Pain Scale
Knee			Bilateral L>R	Burning/stabbing	7 - Low Intense
Shoulder			Right	Throbbing/sharp	7 - Low Intense

Tracy Hill. PT
Physical Therapist

Name Gail Bruce

Lift	Pounds	Job Demand Category
5" ~~Floor~~ to Waist	5	limited Sedentary
12 Inch to Waist	10	Sedentary
Waist to Shoulder	8	limited Sedentary
Shoulder to Overhead	5	↓
Carry (2 Handed)	unable	——
Right Hand Carry	unable	——
Left Hand Carry	unable	——
Push	0 (14.2 lb FT)	limited light
Pull	0 (14.2 lb FT)	↓

Manual Muscle Testing of the lower extremities was performed and the results are as follows:

Knee Extension: R 5/5 L 4/5

Knee flexion bilat
5/5

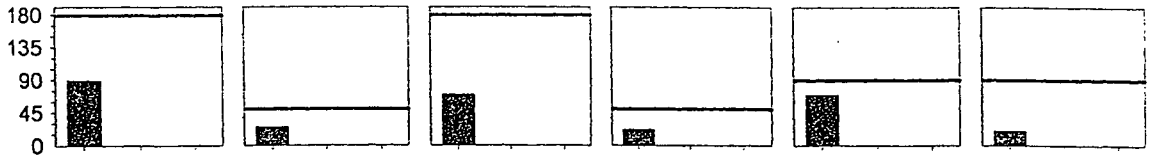
A Manual Muscle Test of the shoulders was performed and the results are as follows:

flexion: L 4/5 R 3/5	abduction: L 4/5 R 2+/5	supraspinatus: L 4/5 R 4-/5
internal rotation: L 5/5 R 5/5	external rotation: L 5/5 R 5/5	

Range of Motion ➤ Shoulder - Right

Jun 29, 2012 12:24:51 PM

	Flexion	Extension	Abduction	Adduction	Internal Rotation	External Rotation
Normals:	180	50	180	50	90	90
	90	25	70	22	70	20
% of Normal	50%	50%	39%	44%	78%	22%



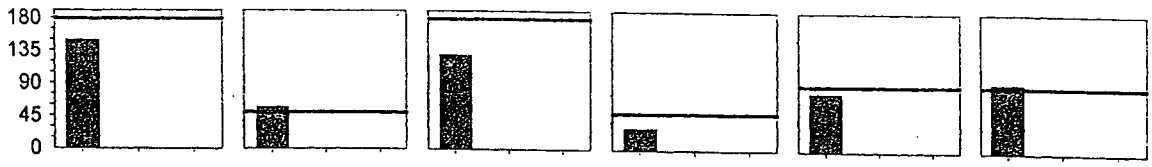
Reference Information

American Medical Association Guides to the Evaluation of Permanent Impairment, Fifth Edition

Range of Motion ➤ Shoulder - Left

Jun 29, 2012 12:25:57 PM

	Flexion	Extension	Abduction	Adduction	Internal Rotation	External Rotation
Normals:	180	50	180	50	90	90
	150	57	130	30	80	95
% of Normal	83%	114%	72%	60%	89%	106%



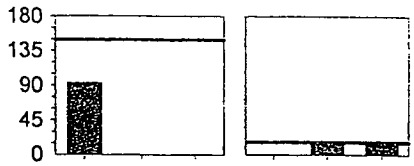
Reference Information

American Medical Association Guides to the Evaluation of Permanent Impairment, Fifth Edition

Range of Motion ➧ Knee - Left

Jun 29, 2012 12:50:29 PM

	Flexion	Extension
Normals:	150	0
	94	-18
% of Normal	63%	82%



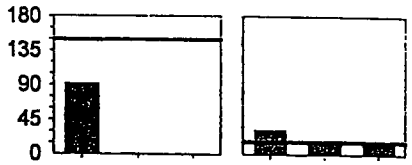
Reference Information

American Medical Association Guides to the Evaluation of Permanent Impairment, Fifth Edition

Range of Motion ► Knee - Right

Jun 29, 2012 12:50:48 PM

	Flexion	Extension
Normals:	150	0
	92	17
% of Normal	61%	117%



Reference Information

American Medical Association Guides to the Evaluation of Permanent Impairment, Fifth Edition

Work Simulation ➤ Dynamic Bending

Jun 29, 2012 1:02:33 AM

The patient was asked to bend forward at the waist 25 repetitions. The results are as follows:

dynamic bending: 25 repetitions

PRE HR 84 POST HR 94

Evaluator Comments

Ms. Bruce was able to bend forward at the waist 25 repetitions.

Work Simulation ➤ Dynamic Rotation

Jun 29, 2012 1:04:02 PM

The patient was asked to rotate at the waist 25 repetitions. The results are as follows:

Dynamic rotation: 10 repetitions

PRE HR 85 POST HR 120

Evaluator Comments

Ms. Bruce was able to rotate at the waist 10 repetitions. Testing was terminated at the request of the patient secondary to complaints of increased bilateral knee pain.

Work Simulation ➢ Squatting

Jun 29, 2012 1:09:38 PM

The patient was asked to assume a squatting position for 2 minutes. The results of squatting are as follows:

squatting: unable

PRE HR 84 POST HR 120

Evaluator Comments

Ms. Bruce was unable to squat. She attempted by holding onto plinth with her left upper extremity. She was only able to minimally squat secondary to complaints of increased bilateral knee pain.

Work Simulation ➤ Kneeling

Jun 29, 2012 1:12:57 PM

The patient was asked to assume a kneeling position for 2 minutes. The results are as follows:

Kneeling: unable

PRE HR 86 POST HR 122

Evaluator Comments

Ms. Bruce was unable to kneel. She attempted and was unable to weightbear through either knee on the mat to get in the kneeling position secondary to complaints of increased bilateral knee pain.

Work Simulation ➧ Dynamic Reaching

Jun 29, 2012 1:15:18 PM

The patient was asked to transfer 1 lb weights from shoulder level to above head level for 5 minutes. The results are as follows:

Dynamic reaching: 5 minutes

PRE HR 84 POST HR 97

Evaluator Comments

Ms. Bruce was able to reach for 5 minutes with her left upper extremity (seated). She did not tolerate reaching with her left upper extremity standing secondary to complaints of increased bilateral knee pain from standing. She was unable to reach with her right shoulder secondary to complaints of increased pain when attempting to do so.

Work Simulation ➨ Stair Climbing

Jun 29, 2012 1:24:39 PM

The patient was asked to ascend/descend a series of 4 stairs for a total of 10 cycles. The results are as follows:

Time (min,secs)	Initial Heart Rate (bpm)	Final Heart Rate (bpm)	Stairs Ascended	Stairs Descended
1:33	98	116	4	4

Evaluator Comments

Ms. Bruce was able to ascend/descend a series of 4 stairs for a total of 1 cycle with difficulty noted. She used a step to step gait pattern and required both handrails. Testing terminated at the request of the patient secondary to complaints of increased bilateral knee and bilateral shoulder pain.

Work Simulation ➧ 12 inch to waist lift

Jun 29, 2012 1:30:05 PM

The patient was asked to lift from 12 inches off of the floor to waist height. The results are as follows:

12 inch to waist: 10 pounds **Physical demand level:** sedentary

MAX HR 126

Evaluator Comments

Ms. Bruce was able to lift 10 pounds with her left upper extremity. She did not use her right upper extremity for any material handling secondary to complaints of increased right shoulder pain when attempting to use. She did not want to attempt additional weight secondary to complaints of increased left shoulder pain. The lowest level lift she could complete was 5 inches from floor level and she was able to lift 5 pounds with difficulty noted and she did not want to attempt additional weight secondary to complaints of increased lumbar and bilateral knee pain.

Work Simulation ➧ Waist to shoulder lift

Jun 29, 2012 1:45:29 PM

The patient was asked to lift from waist height to shoulder height. The results are as follows:

Waist to shoulder: 8 pounds **Physical demand level:** limited sedentary

MAX HR 110

Evaluator Comments

Ms. Bruce was able to lift 8 pounds using her left upper extremity only and this was a maximal effort.

Work Simulation ➤ Shoulder to overhead lift

Jun 29, 2012 1:55:07 PM

The patient was asked to lift from shoulder height to overhead height. The results are as follows:

Shoulder to overhead: 5 pounds **Physical demand level:** limited sedentary

MAX HR 112

Evaluator Comments

Ms. Bruce was able to lift 5 pounds with her left upper extremity only and this was a maximal effort.

Work Simulation ➧ Dynamic Push/Pull

Jun 29, 2012 2:05:05 PM

The patient was asked to push and pull a sled a distance of 30 feet. The results are as follows:

Push: 14.2 lb.ft. **Pull:** 14.2 lb.ft.

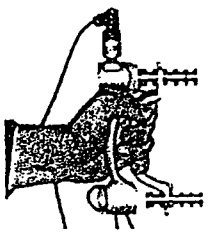
MAX HR 126

Evaluator Comments

Ms. Bruce was able to push 0 pounds and pull 0 pounds loaded in a sled with great difficulty noted. She did not want to attempt additional weight secondary to complaints of increased bilateral knee pain. She was observed using her left upper extremity more than her right.

Hand Grip Strength ➧

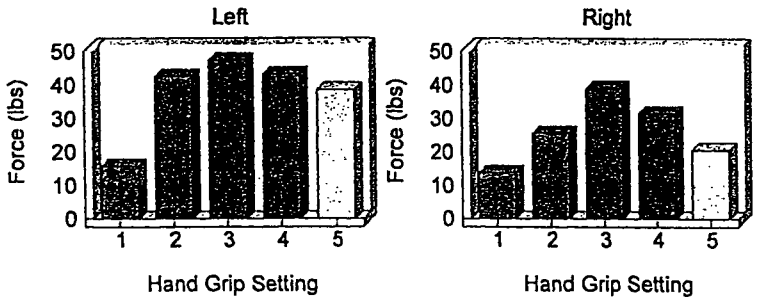
The JAMAR hand dynamometer was used in order to quantify grip strength and determine whether Ms. Gail Candace Bruce exerted consistent effort during grip strength testing. Ms. Gail Candace Bruce was tested using the modified maximum voluntary effort hand grip protocol. Ms. Gail Candace Bruce is right hand dominant. Normative data is based on the assumption that right and left hand dominant subjects, analyzed separately show little functional difference between their mean scores.[1, 2]



The hand dynamometer is set to each of the five available positions which vary the client's grip size. The results for each of the average maximum forces during each position are displayed by the corresponding bar graphs.

Modified Maximum Voluntary Effort (MMVE)

Jun 29, 2012 12:15:32 PM



	Left	COV	Right	COV
Pos #1	15.8 lbs.		13.8 lbs.	
Pos #2	42.7 lbs.	7.3%	25.7 lbs.	7.8%
Pos #3	47.5 lbs.		39.3 lbs.	
Pos #4	43.4 lbs.		31.7 lbs.	
Pos #5	38.6 lbs.		20.7 lbs.	
St. Dev.	11.3 Lbs.		8.8 Lbs.	

Using the Modified Maximum Voluntary Effort (MMVE) protocol over a range of five positions on the hand dynamometer, it is expected that the strength graphs obtained results in a bell-shaped curve[3, 11, 12, 13] even in a disabled population or if the client's hand is injured[3, 13] with the coefficients of variation at position 2 within the acceptable 15% or less limit.

The graph obtained for Ms. Gail Candace Bruce did demonstrate a bell shaped curve which may be an indicator of maximal effort and the coefficients of variation of the underlying data may be an indicator of consistent effort

[3] Stokes H. 1983. The seriously uninjured hand - weakness of grip. J Occup Med 25(9):683-684.
[11] Niebuhr B, Marion R. 1990. Voluntary control of submaximal grip strength. Am J Phys Med Rehabil 69(2): 96-101.
[12] Matheson L, Carlton R, Miemeyer L. 1988. Grip strength in a disabled sample: reliability and normative standards. Ind Rehabil Q 1(3):9,17-23.
[13] Hildreth D, Breidenbach W, Lisiter G, Hodges A. 1989. Detection of submaximal effort by use of the rapid exchange grip. J Hand Surgery 14A(4): 742-745.

Sitting tolerance

Jun 29, 2012

The patient's self-reported sitting tolerance is as follows:

.....

Evaluator Comments

Ms. Bruce has a self reported unlimited sitting tolerance.

Standing tolerance

Jun 29, 2012

The patient's self-reported standing tolerance is as follows:

Evaluator Comments

Ms. Bruce has a self reported standing tolerance of 5 minutes. She has a self reported standing/walking tolerance of 5 minutes. She reports her standing/walking tolerance is limited secondary to complaints of increased bilateral knee pain. She requires a rollator walker to walk.

Cardiovascular Intake

Jun 29, 2012

Resting Rate (Min)	Systolic (mm Hg)	Diastolic (mm Hg)
78	144	62

Result	Normal Heart Rate	Borderline Hypertension	Normal Blood Pressure

J. Adger Brown, Jr., MA, CDMS
Rehabilitation Consulting

Tel: (803) 738-0347
Fax: (803) 787-8662

4705 Crystal Drive
Columbia, SC 29206

July 15, 2012

TRANSMITTED VIA E-MAIL

RE:	Claimant	:Gail Bruce
	Employer	:Columbia Heart Clinic
	DOA	:7/15/11
	SSN	: [redacted]
	Date of Interview	:7/12/12
	Our File No.	:12-0726

VOCATIONAL EVALUATION REPORT

INTRODUCTION:

Gail Bruce is a fifty-eight year old female who is seen on a referral from her attorney in connection with a work-related injury occurring in July of 2011. Ms. Bruce, who was employed as the clinical supervisor of Columbia Heart Clinic, sustained an injury when she tripped over some broken pavement at the entrance to the clinic. As a result she fell, sustaining an injury to her right shoulder and both knees. This evaluation is sought to discuss the impact of Ms. Bruce's injury on her capacity to not only return to her former work but any other type of employment that would be consistent with her age, education, work experience, and physical limitations.

The report that follows is based not only on my interview with Ms. Bruce but also on a review of medical records, including ER and hospitalization records from Palmetto Health Richland, an EMS report for a subsequent, but related shoulder disarticulation, office notes of Dr. David B. Fulton, M.D., Dr. W. Alaric Van Dam, M.D., Dr. W. Joseph Hollins, II, M.D., and on a functional capacity evaluation and impairment rating from Columbia Rehabilitation Clinic completed on June 29, 2012.

MEDICAL HISTORY:

Ms. Bruce advises me that at the time of her accident she was receiving injections in her knees for an arthritic condition. She was also a controlled type 2 diabetic and was being treated for cholesterol and high blood pressure. Ms. Bruce states that since the time of her accident she has not been diagnosed with any other unrelated medical problems nor has she been in any subsequent accidents.

In 2001, also while working for the Columbia Heart Clinic, Ms. Bruce states that she tore both of her rotator cuffs, had bilateral surgery, was out of work for each of the two surgical procedures and ultimately returned to work without vocational limitations. Beyond this, Ms. Bruce's given history is negative for any prior work-related injuries, significant motor vehicle accidents, or any serious personal injuries.

From a surgical standpoint, Ms. Bruce had the two aforementioned rotator cuff surgeries, the right shoulder surgery being in 2001 and the left rotator cuff being about six months later in early 2002. Additionally, Ms. Bruce states she had a total hysterectomy at the age of thirty-seven; when she was twelve, had surgery to both of her knees to "realign" her patellae; in 2005, had a colon resection with a large section of her colon being removed but without the need of an ostomy bag. Further, she states when she was quite young she had her appendix and gall bladder removed.

As relates to the current matter, the records available for my review show that on July 15, 2011, the date of accident, Ms. Bruce was seen at the Emergency Room at Palmetto Health Richland where the Columbia Heart Clinic is located. She was found to have an acute shoulder disarticulation which was reduced.

On July 17, while at home, Ms. Bruce again dislocated her shoulder while sitting on her toilet. EMS took her to the Emergency Room where it was noted that she had had three dislocations within the past forty-eight hours. Again the shoulder was reduced (put back in place) without difficulty. Apparently Ms. Bruce insisted that she be admitted to the hospital. She was so admitted and given an orthopaedic consultation.

Ms. Bruce's care was then assumed by Dr. David Fulton of Moore Orthopaedics. On July 20, 2011, Dr. Fulton diagnosed shoulder instability, with Ms. Bruce actually having a shoulder dislocation in his office as she was being taken out of the sling. Plans were made for surgery and on July 22, 2011, Dr. Fulton performed a right arthroscopic Bankart repair, a biceps tenotomy, and a rotator cuff repair. It was noted that this was a particularly difficult case, complicated by Ms. Bruce's size and weight. Follow-up notes show that Ms. Bruce was started on passive range of motion, but with continuing knee problems for which she was injected. By mid-August, Ms. Bruce was noted to be improving dramatically from her preoperative status and was being scheduled for therapy. By early October of 2011, therapy was being discontinued, with Ms. Bruce reporting substantial pain. By November, it looks like Ms. Bruce had returned to work but was having difficulty lifting and that "the shoulders are disabling to her". Subsequent MRI studies showed arthritic changes, most likely post-traumatic in nature, with Dr. Fulton diagnosing bilateral shoulder pain, right post-traumatic arthritic changes of the shoulder with left tendinitis. Despite this, however, Ms. Bruce was allowed to return to full duty work without restriction as tolerated, with instructions to contact the office if she was interested in surgical intervention.

On May 22, 2012, approximately six months after his last note, Dr. Fulton wrote a letter to Ms. Bruce's attorney giving a 20% impairment to the right shoulder, stating he did not believe the left shoulder was definitely work-related, stated she would need medications indefinitely, including anti-inflammatories, and would probably require a total shoulder replacement for the right but without need for treatment on the left.

While under Dr. Fulton's care, Ms. Bruce was seen by Dr. Van Dam primarily for treatment of her knees. On September 15, 2011, Dr. Van Dam diagnosed severe osteoarthritis of the lower back, a right shoulder rotator cuff tear and Bankart lesion with lumbar spondylosis. At that point, he performed a bilateral knee Corticosteroid injection. Follow-up notes show continued severe knee pain with Dr. Van Dam providing a series of injections, noting end of stage osteoarthritis of both knees. A note of January 20, 2012, shows that by this time Ms. Bruce was no longer working, with complaints of severe knee and low back problems that would hamper her significantly in terms of mobility, lifting, pushing, pulling, and carrying. It was Dr. Van Dam's impression at that time that ultimately Ms. Bruce would require knee replacements and perhaps a reverse shoulder (total shoulder replacement).

On February 9, 2012, Dr. Van Dam stated his opinion that Ms. Bruce's fall probably aggravated or exacerbated her preexisting osteoarthritis of the knees and restricted her to very limited bending, twisting or turning based on the knees. He also recommended no continuous standing or walking without temporary breaks to sit down and, as with Dr. Fulton, stated she would need medication for the rest of her life, ultimately benefitting from knee replacements.

On March 23, 2012, Dr. Van Dam documented chronic continuous back pain, Ms. Bruce using a cane to get around, with her noting the left shoulder was giving her more problems than in the past. He noted symptoms consistent with severe osteoarthritis, stating his belief that due to her problems, she would not be able to engage in employment on an eight-hour-a-day basis, being very limited in her lifting, pushing, pulling, and carrying. He also recommended that she have a shower chair as well as a rolling walker to keep her active, again stating she would require bilateral knee replacement.

On June 29, 2012, Ms. Bruce was seen for an impairment rating and functional capacity evaluation at Columbia Rehabilitation Clinic. Ms. Bruce qualified for an upper extremity impairment of 16% of the right shoulder, which converts to a shoulder impairment rating of 27%, and either a 30% lower extremity impairment for each knee due to limited range of motion or a 50% lower extremity impairment for each knee if her cartilage level is 0.0 millimeters. Functionally, Ms. Bruce was found incapable of meeting even the full range of sedentary activity. Ms. Bruce was unable to do any walking on the treadmill because of her difficulty walking with her rollator walker. She was unable to perform one and two-handed carry due to her inability to walk, she was noted to be able to push and pull nothing in a sled, with a self-reported standing and walking tolerance of five minutes, which was consistent with observations made during the FCE. It was the evaluator's opinion that Ms.

Bruce put forth a consistent effort during the evaluation.

Ms. Bruce is a right-hand dominant individual who is five feet two inches tall and states that she now weighs 240 pounds, having gained about 60 pounds since the time of her accident. She attributes her weight gain to the use of steroids. Presently, she continues under the care of Dr. Van Dam, who has been giving her steroids, with her being scheduled to see him again on August 3, 2012. Ms. Bruce was discharged by Dr. Fulton in November of 2011, and she continues to see her family physician, Dr. Joseph Hollins, for routine medical care including management of her blood pressure and cholesterol. It was also noted that Ms. Bruce is using a C-PAP machine at night for breathing difficulties.

Presently, Ms. Bruce is taking quite an array of medication including Losartan, 100mg once a day for blood pressure; Fenofibrate, 134mg once a day for cholesterol; Zetia, 10mg once a day; Allopurinol, 300mg once a day for kidney stone prevention; Meloxicam, 15mg twice a day; Ultram, 50mg on an as-needed basis alternating with Lortab, 7.5/500 two pills every four to six hours. Ms. Bruce is also taking Levothyroxine, 50mg once a day; Vitamin D, 50,000 units twice a week; Byetta, 10mg injections twice a day for her diabetes, along with over-the-counter 81mg Aspirin and fish oil. Additionally, Ms. Bruce walks with the use of a rollator walker or a hemi walker depending on her location, and also uses the previously mentioned C-PAP machine.

From a functional standpoint, Ms. Bruce denies any particular problems with any loss of feeling or sensation, but has significant problems with range of motion with her upper extremities. Relative to the left, Ms. Bruce states that she has about 50% of her range of motion, although moving her arm is painful. On the right, she states she can reach across the front of her body and extend her elbow but is unable to raise or use her shoulder at all. She describes the ability to sit for about ten to fifteen minutes, perhaps twenty minutes comfortably, but for no more than an hour if she pushes herself to the maximum. She states she can stand and walk for only minimal amounts of time. She is totally avoiding activities such as bending, kneeling or stooping, states that she can climb one or two stairs, albeit with difficulty, but needs help if she has to go up a flight of stairs. Ms. Bruce denies any problems with the use of her hands or fingers, her speech is normal, she wears prescription glasses for distance vision, and denies problems with hearing. She states her balance is poor, requiring that she use either her rollator or hemi walker. She drives minimally only in the local area and then only when necessary. It is noted that Ms. Bruce was driven to our appointment from her home in Elgin to downtown Columbia by her 80+ year old mother who appeared to be in almost as bad a shape as Ms. Bruce.

Ms. Bruce states that when given the opportunity she stays in her recliner, keeping her legs elevated for as much as two-thirds of the day. She states she even sleeps in her recliner to take pressure off of her shoulders.

EDUCATIONAL BACKGROUND:

Ms. Bruce advises me that she completed the twelfth grade at Lower Richland High School in 1972. She then completed her nursing studies at Midlands Technical College in the late 1970s but did not get her license. She then began studying X-ray technology, completing her training at Baptist Hospital in the '80s. Since that time, she has taken innumerable continuing education courses in X-ray technology. Based on Ms. Bruce's educational background and work history, the assumption can be made that she is a quite literate individual who would not have any problems in a job requiring regular reading and writing.

WORK HISTORY:

Ms. Bruce's work history is very straightforward in that she has only had one employer since 1995, that being Columbia Heart Clinic. Ms. Bruce was last working there as a clinical supervisor, earning approximately $68,000 per year. In her job, she supervised approximately twenty-one individuals, mostly medical assistants and secretaries. In her job, she would spend approximately 10% of her time doing office work which consisted of supervising, assisting in the hiring, evaluating and terminating process, helping to resolve disputes, and doing office-related documentation. The other 90% of her time was spent on the floor involved in direct patient care. She would take EKGs, vital signs, take histories, move patients, take X-rays, and perform charting. This work was skilled work typically performed at the medium level of physical exertion. Following Ms. Bruce's accident in July of 2011, she was in and out of work, but attempted to return to her duties, ultimately being terminated in January of 2012. Ms. Bruce states that her termination came about as her employer stated that she was no longer able to keep up with her duties.

Ms. Bruce has accumulated a large number of skills that would be transferable to other jobs both inside and outside of the medical profession and performed at the medium, light, and sedentary levels, assuming an individual to be physically capable of sustained work at such a level.

OBSERVATIONS:

Ms. Bruce arrived on time for her scheduled appointment, accompanied by her elderly mother who drove her to the appointment. Ms. Bruce walked very slowly and deliberately using a hemi walker. Ms. Bruce's presentation was that of an attractively dressed and groomed individual who is significantly overweight and walked with a shuffling gait. Throughout the course of our interview, which lasted approximately an hour and thirty minutes, Ms. Bruce sat uncomfortably in an office-style chair appearing to be in significant distress. Ms. Bruce sat with a pillow on her lap on which she supported her right arm.

The information Ms. Bruce gave was generally consistent with the medical record, but with her adding that discussions have been undertaken regarding shoulder replacement, for which she states she is not qualified due to the advanced degree of damage in her shoulder. She also states that she has sought independent consultation regarding knee replacement but was told that due to her weight and her diabetes, she would be an extremely high risk patient and should avoid that procedure if possible. Those opinions are not documented in the medical records available for my review but are not inconsistent considering the limitations and opinions of the physicians whose records are reviewed.

Ms. Bruce comes across as a rather dependent individual, passive in her approach, who initially approached the interview situation in a rather timid manner. As time progressed, Ms. Bruce warmed up and a reasonably good rapport was established, certainly sufficient for the completion of this evaluation interview.

CONCLUSIONS:

Gail Bruce is a fifty-eight year old individual who, for employment purposes, is now considered of advanced employment age. This is a very serious vocational matter in that individuals of Ms. Bruce's age who are industrially injured have a notoriously poor time in ever returning to employment, particularly if their own employers are unwilling to take them back or they are unable to make significant use of prior skills. Ms. Bruce is an individual with a longstanding history of shoulder and knee problems whose accident of July, 2011 appears to have significantly exacerbated her problems. As a result, Ms. Bruce has undergone complex shoulder surgery, innumerable injections to her knees, and has been diagnosed with end-stage osteoarthritis, being in need of knee replacements at some point, with Dr. Fulton stating that she will probably need a shoulder replacement.

From a vocational standpoint, it is my opinion, within a reasonable degree of vocational certainty, that Ms. Bruce is permanently and totally disabled not only from her former employment but from any other type of work. Dr. Fulton stated in May of 2012 that Ms. Bruce would probably require a total shoulder replacement, Dr. Van Dam stated on February 23, 2012, that Ms. Bruce could not undergone gainful employment for eight hours, with very limited lifting, pushing, pulling, and carrying, requiring a rollator in order to walk, and a functional capacity evaluation completed in June of 2012 puts her at below the level of sedentary activity with an inability to carry anything and with no useful ability to push and pull.

I am also advised that Ms. Bruce has applied for and is now receiving social security disability benefits. This is no surprise as an individual with major deterioration of weight-bearing joints such as the knees whose ability to ambulate is so restricted as to require crutches, wheelchair or a walker, is presumed disabled under their listings. As relates to workers' compensation, an individual who

is incapable of even the full range of sedentary activities with no useful ability to walk and who, after seventeen years of employment, is unable to return to work with a prior employer, can only be considered totally disabled as no stable labor market exists for such an individual assuming their ability to function. In short, there is nothing in the medical record that demonstrates that Ms. Bruce would have the capacity to perform any type of work on a sustained, full-time basis, even at the sedentary level. Sedentary work, by definition, requires, among other things, the ability to use the upper extremities, including hands and arms, for routine activities such as holding, fingering, feeling, grasping, and simple pushing and pulling close to the body. An individual incapable of this activity is unable to work.

J. Adger Brown, Jr.

J. Adger Brown, Jr., MA, CDMS
Rehabilitation Consultant

JAB:gl

Gail Bruce

From: Angela Jenkins
Sent: Friday, July 15, 2011 7:46 PM
To: Gail Bruce
Subject: W/C Letter with claims information.
Attachments: WORKERS COMP CLAIM INFO_001.pdf; Gail Bruce 07 15 11.doc

Gail,

Here's a copy of the W/C Letter with billing information if you need to seek medical treatment other than Palmetto Health. I will fax the letter over on Monday to whatever office you need me to.

Let me know if you need anything this weekend. You can call me at home 732-1353 or on my cell at 917-9883.

Take Care.

Thanks,

Angela Jenkins, HR Coordinator

Columbia Heart
8 Richland Medical Park, Suite 300
Columbia, SC 29203
803-744-8404
ajenkins@columbia-heart.com

Columbia Heart

M. Donald Alexander, Jr., MD, FACC
John T. Beard, MD, FACC
Daniel P. Bouknight, MD, FACC
H. Wade Collins III, MD, FACC
Robert L. Dalphin, Jr., MD, FACC
Stacy H. Graham, MD
C.W. Hendricks, MD, FACC
W. Joseph Hollins II, MD, FACC
David C. Isbell, MD, FACC
Benjamin B. Jones, MD, FACC
J. William Phillips III, MD, FACC
Verne M. Prosser, MD, FACC
Rodney G. Blanchard, MD, FACC
Robert A. Schulze, Jr., MD, FACC
Gopi V. Shah, MD, FACC
William W. Stuck, MD, FACC
M. Timothy Wells, MD, FACC

July 15, 2011

Dear Palmetto Health ER:

Gail C. Bruce is suffering from a worker's compensation injury of 7/15/2011. Her claim # YZEC60986 is covered with The Hartford Medical Billing Center, P O B 14170, Lexington, Kentucky 40512. The customer service telephone number is 1-877-673-9222.

If you have any questions or need additional information, please feel free to give me a call at 803.256.6511 ext. 3152, or my direct line 803-744-8404.

Sincerely,

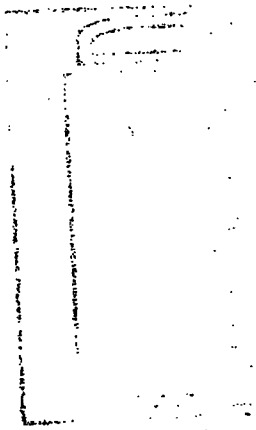
Angela D Jenkins

Angela D. Jenkins,

Columbia Heart
Accountant/Human Resources Coordinator

5 Richland Medical Park
Suite 400
Columbia, SC 29203
Tel: 803 256.6511

www.columbia-heart.com



Columbia Heart

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Benjamin R. Jones, MD, FACC
W. Robert Mazzei, Jr., MD
J. William Phillips III, MD, FACC
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Rodney G. Rhinehart, MD, FACC
Robert A. Schulze, Jr., MD, FACC
Gopi Y. Shah, MD, FACC
William W. Stuck, MD, FACC
M. Timothy Wells, MD, FACC

January 19, 2012

Gail C. Bruce
[redacted]

Dear Gail:

Your last day of employment with Columbia Heart Clinic, P.A. is January 19, 2012. I wanted to provide you with the following items that are affected by your termination:

1) Benefits – Any group or voluntary benefits will terminate on your effective date of termination. You will be notified by TCC of South Carolina with regard to continuation of medical and dental coverage through COBRA. You may notify Colonial if you desire to continue any benefits on an individual basis. Colonial's customer service contact number is (803) 325-4368.

2) 401k & Profit Sharing Plan – Enclosed, please find material regarding your options after termination for your 401k & Profit Sharing accounts with TheHartford. You may contact our representative at Merrill Lynch, Stuart Paulk (803) 733-2170. If you opt for a 401-K distribution, please send signed distribution forms to Columbia Heart, Attn: Tommy Bryson, Finance Director.

3) If you change addresses over the next year, please contact Human Resources to update your information in our system as we will be forwarding your 2012 W-2 to the address that we currently have in our files.

4) Your last pay stub will be mailed to you on 1/27/2012 which will include your pay for 1/9/12 to 1/19/12.

Please do not hesitate to contact me should you have any questions.

Sincerely,

Angela Jenkins

Angela Jenkins/Accounting/HR
Columbia Heart

NOTHING SET FORTH IN THIS NOTIFICATION IS INTENDED TO CREATE, OR SHALL BE CONSTRUED AS CREATING AN EXPRESS OR AN IMPLIED CONTRACT OF EMPLOYMENT FOR A DEFINITE PERIOD. ALL EMPLOYMENT IS AT-WILL.

Signature: Gail C. Bruce

8 Richland Medical Park
Suite 300
Columbia, SC 29203
Tel (803) 256.6511

www.columbia-heart.com

Social Security Administration
Retirement, Survivors and Disability Insurance
Notice of Award

Southeastern Program Service Center
1200 Rev. Abraham Woods, Jr. Blvd.
Birmingham, AL 35285-0001
Date: May 25, 2012
Claim Number: [redacted]

001095 2 MB 0.404 0011 LTR M08 PC3 0521

GAIL C BRUCE
[redacted]

You are entitled to monthly disability benefits beginning July 2012.

What We Will Pay And When

- You will receive $1,649.00 for July 2012 around August 15, 2012.
- After that you will receive $1,649.00 on or about the third Wednesday of each month.
- These and any future payments will go to the financial institution you selected. Please let us know if you change your mailing address, so we can send you letters directly.

The day we make payments on this record is based on your date of birth.

Other Social Security Benefits

The benefit described in this letter is the only one you can receive from Social Security. If you think that you might qualify for another kind of Social Security benefit in the future, you will have to file another application.

Your Responsibilities

You are due disability benefits because you are expected to be disabled under our rules for at least 5 full calendar months. Therefore, you should let us know if your health improves or you are able to return to work.

The decisions we made on your claim are based on information you gave us. If this information changes, it could affect your benefits. For this reason, it is important that you report changes to us right away.

Enclosure(s):
Pub 05-10153
Pub 05-10058

*02011121VTY000780*NOTAFT.X3.PBMCSNOT.PC3.R120521.PAM 000100100 00201003502904841013804595417

We have enclosed a pamphlet, "What You Need To Know When You Get Social Security Disability Benefits". It will tell you what must be reported and how to report. Please be sure to read the parts of the pamphlet which explain what to do if you go to work or if your health improves.

A provider of employment or vocational rehabilitation services may contact you about getting help to go to work. The provider may be a State vocational rehabilitation agency or a provider under contract with the Social Security Administration.

If you go to work, special rules allow us to continue your cash payments and health care coverage. For more information about how work and earnings affect disability benefits, call or visit any Social Security office and ask for the following publications:

- Social Security - Working While Disabled...How We Can Help (SSA Publication No. 05-10095).
- Social Security - If You Are Blind–How We Can Help (SSA Publication No. 05-10052).

Your Benefits May Be Taxed

You may have to pay taxes on the benefits you get from us. Part of your Social Security benefits may be taxed if:

- you are single and your total income is more than $25,000 or
- you are married and you and your spouse have total income of more than $32,000.

You can decide if you want to have federal taxes withheld from your benefits. If you want taxes withheld, you need to complete and return a Form W-4V, Voluntary Withholding Request. You can get Form W-4V from the Internal Revenue Service by calling 1-800-829-3676. You can also get this form at www.ssa.gov/planners/taxwithold.htm on our website. After you complete and sign the form, return it to your local Social Security office by mail or in person.

You can find more information on paying taxes in the enclosed pamphlet, "What You Need to Know When You Get Retirement or Survivors Benefits".



*0202112WTY000280*NOTA.FP.X3.PDMCSNOT.PC3.R120621.PAM 000100100 00200100356280404161280456935417

Do You Disagree With The Decision?

If you disagree with this decision, you have the right to appeal. We will review your case and consider any new facts you have. A person who did not make the first decision will decide your case. We will correct any mistakes. We will review those parts of the decision which you believe are wrong and will look at any new facts you have. We may also review those parts which you believe are correct and may make them unfavorable or less favorable to you.

- You have 60 days to ask for an appeal.
- The 60 days start the day after you get this letter. We assume you got this letter 5 days after the date on it unless you show us that you did not get it within the 5-day period.
- You must have a good reason for waiting more than 60 days to ask for an appeal.
- You have to ask for an appeal in writing. We will ask you to sign a Form SSA-561-U2, called "Request for Reconsideration". Contact one of our offices if you want help.

Please read the enclosed pamphlet, "Your Right To Question The Decision Made On Your Claim". It contains more information about the appeal.

Things To Remember For The Future

Doctors and other trained staff decided that you are disabled under our rules. However, we must review all disability cases. Therefore, we will review your case in 5 to 7 years. We will send you a letter before we start the review. Based on that review, your benefits will continue if you are still disabled, but will end if you are no longer disabled.

If You Want Help With Your Appeal

You can have a friend, representative, or someone else help you. There are groups that can help you find a representative or give you free legal services if you qualify. There are also representatives who do not charge unless you win your appeal. Your local Social Security office has a list of groups that can help you with your appeal.

If you get someone to help you, you should let us know. If you hire someone, we must approve the fee before he or she can collect it. And if you hire a representative who is eligible for direct pay, we will withhold up to 25 percent of any past due benefits to pay toward the fee.

If You Have Any Questions

We invite you to visit our website at www.socialsecurity.gov on the Internet to find general information about Social Security. If you have any specific questions, you may call us toll-free at 1-800-772-1213, or call your local Social Security office at 1-888-810-7373. We can answer most questions over the phone. If you are deaf or hard of hearing, you may call our TTY number, 1-800-325-0778. You can also write or visit any Social Security office. The office that serves your area is located at:

SOCIAL SECURITY
2ND FLOOR
1111 BROAD STREET
CAMDEN SC 29020

If you do call or visit an office, please have this letter with you. It will help us answer your questions. Also, if you plan to visit an office, you may call ahead to make an appointment. This will help us serve you more quickly when you arrive at the office.

Michael J. Astrue
Commissioner
of Social Security

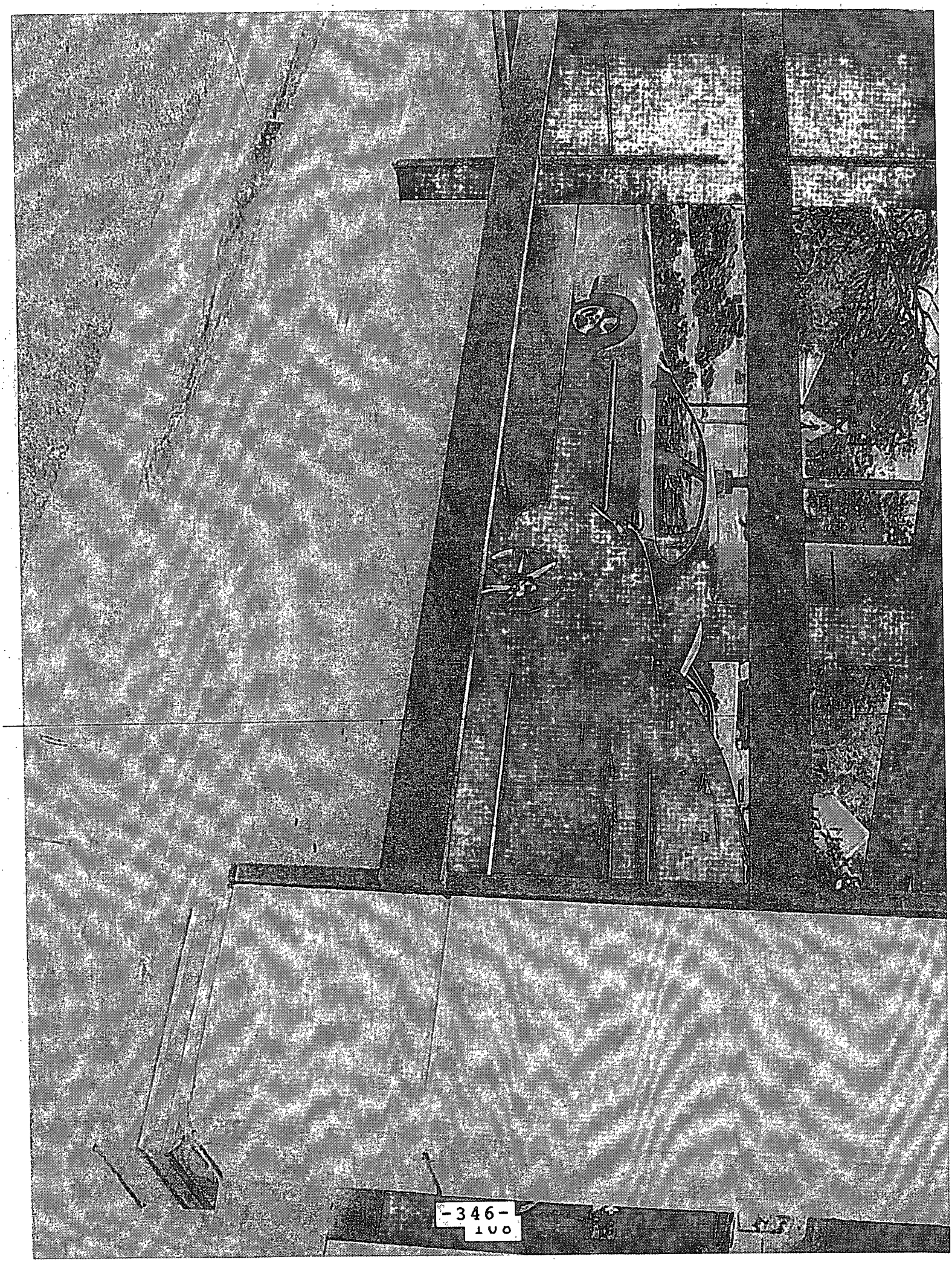
Hemerly and Company
1155 Dan... Lexington SC 803-665-7903

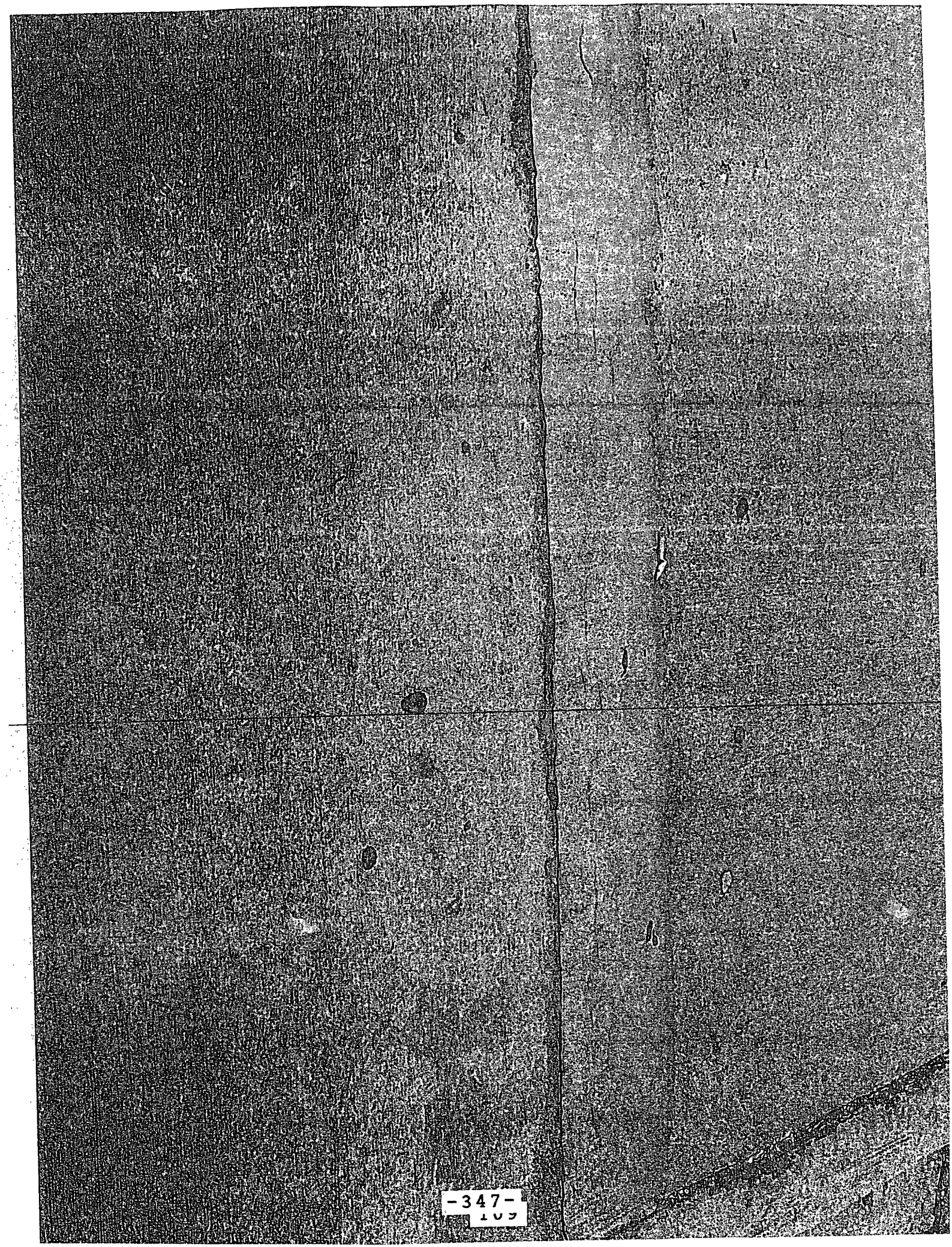
5/29/2012

To whom it May Concern:

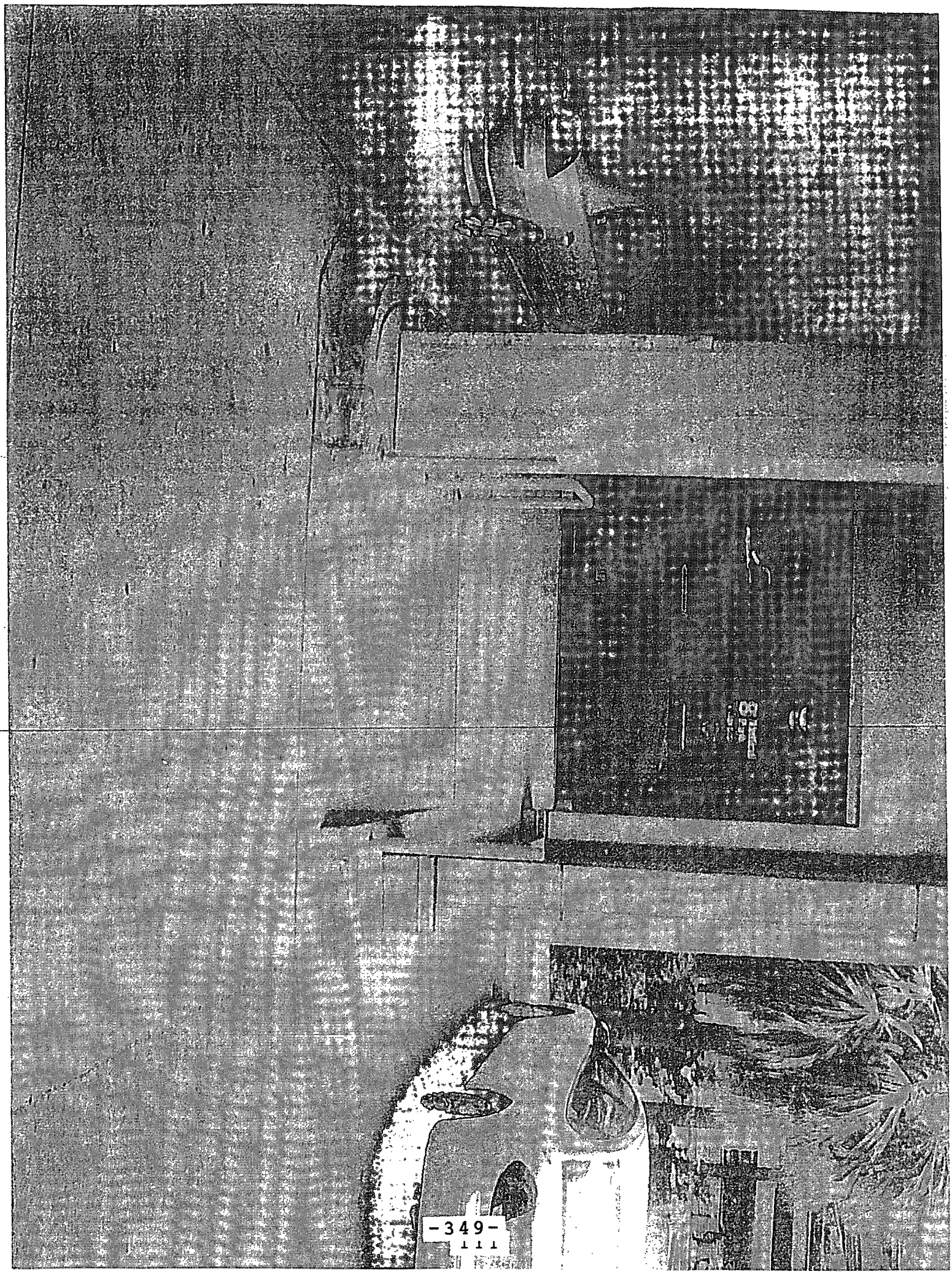
Since July of 2011, Hemerly Company does housecleaning for Ms Gail Bruce at 117 Briarcliffe West. To include vacuuming dusting cleaning of Bathrooms, Laundry, taking out trash and General Cleaning that she is not able to Physically able to do.

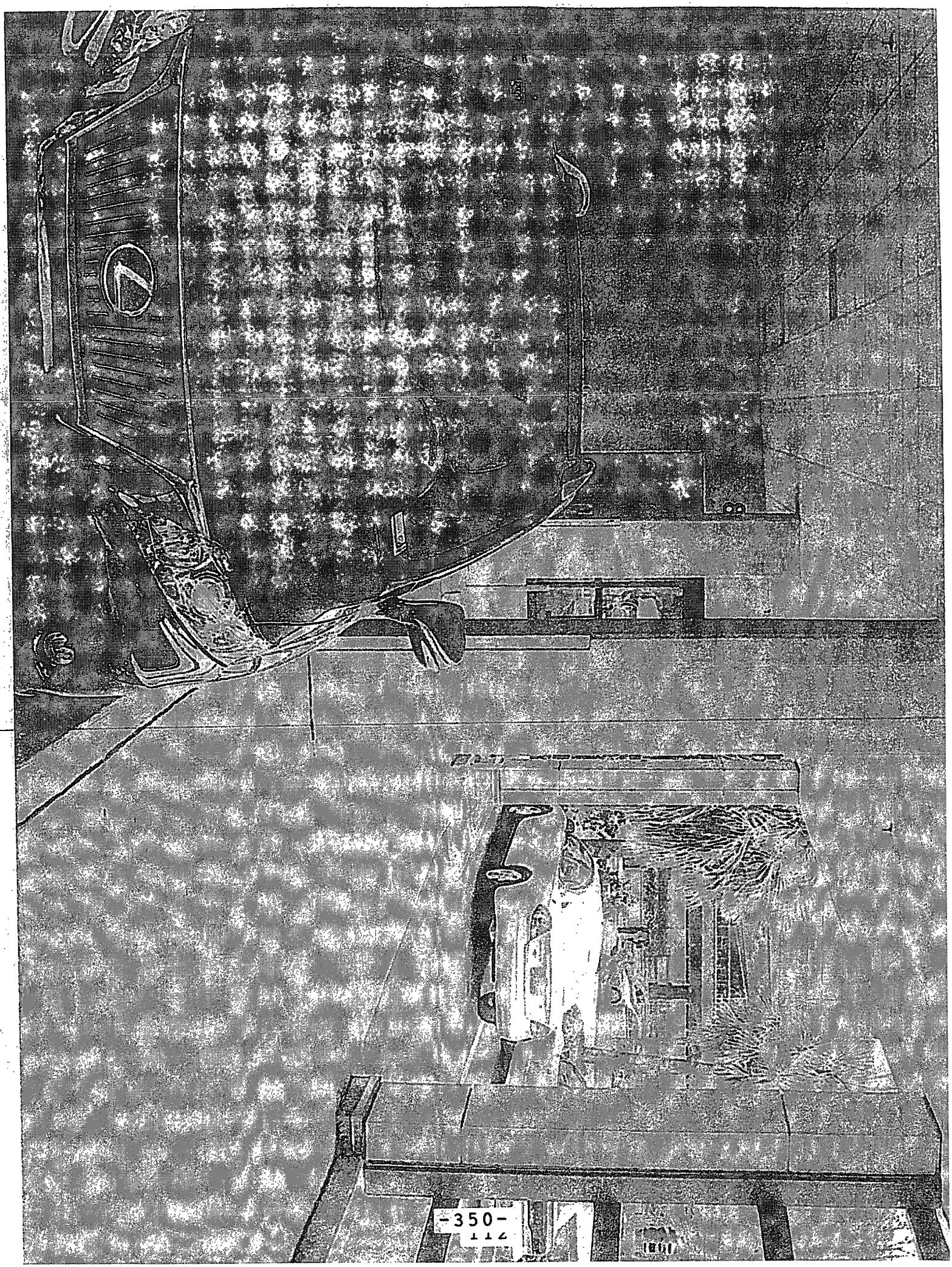
Sincerely
Henry Hmerly
Hemerly @ Company.

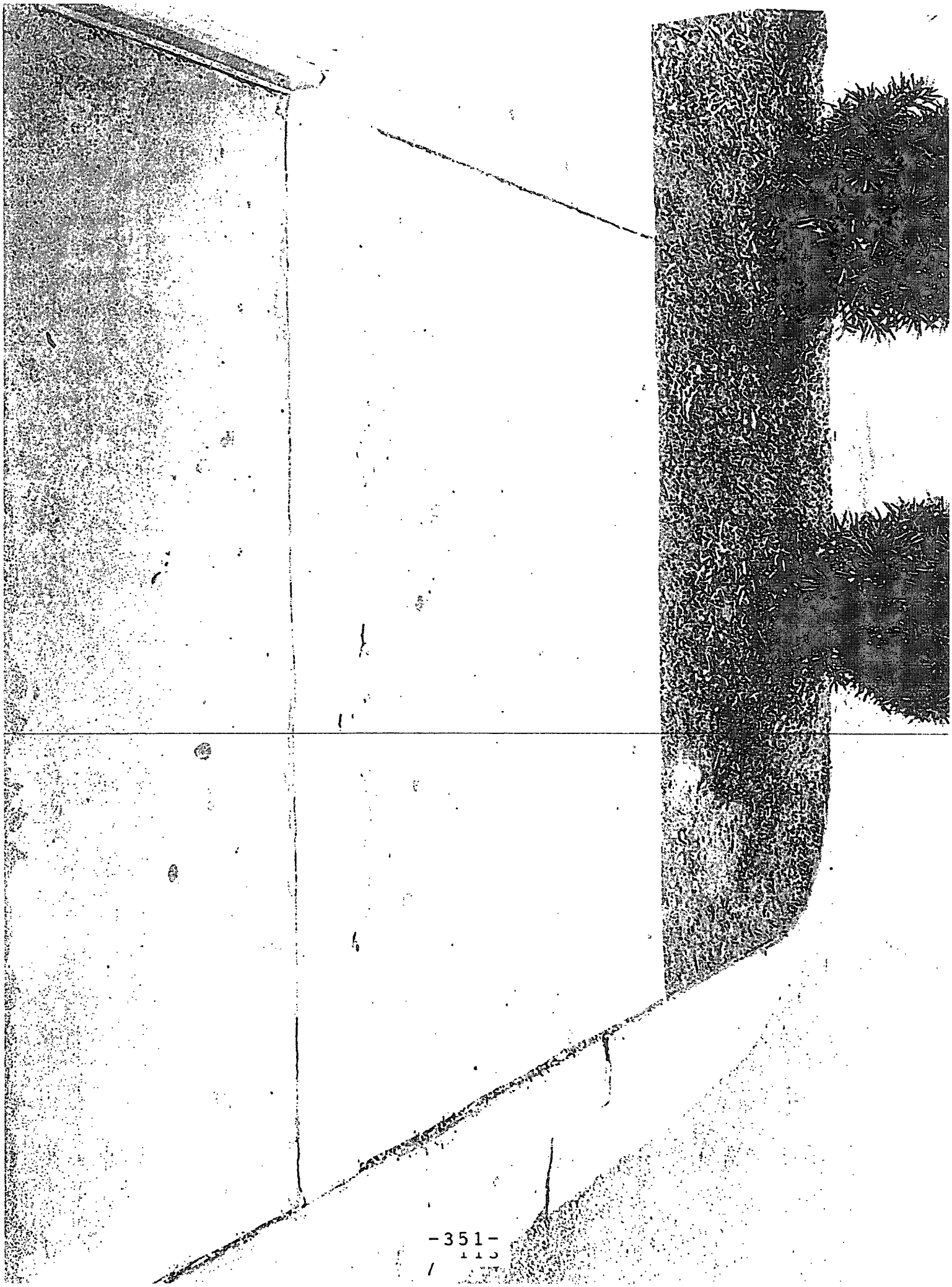


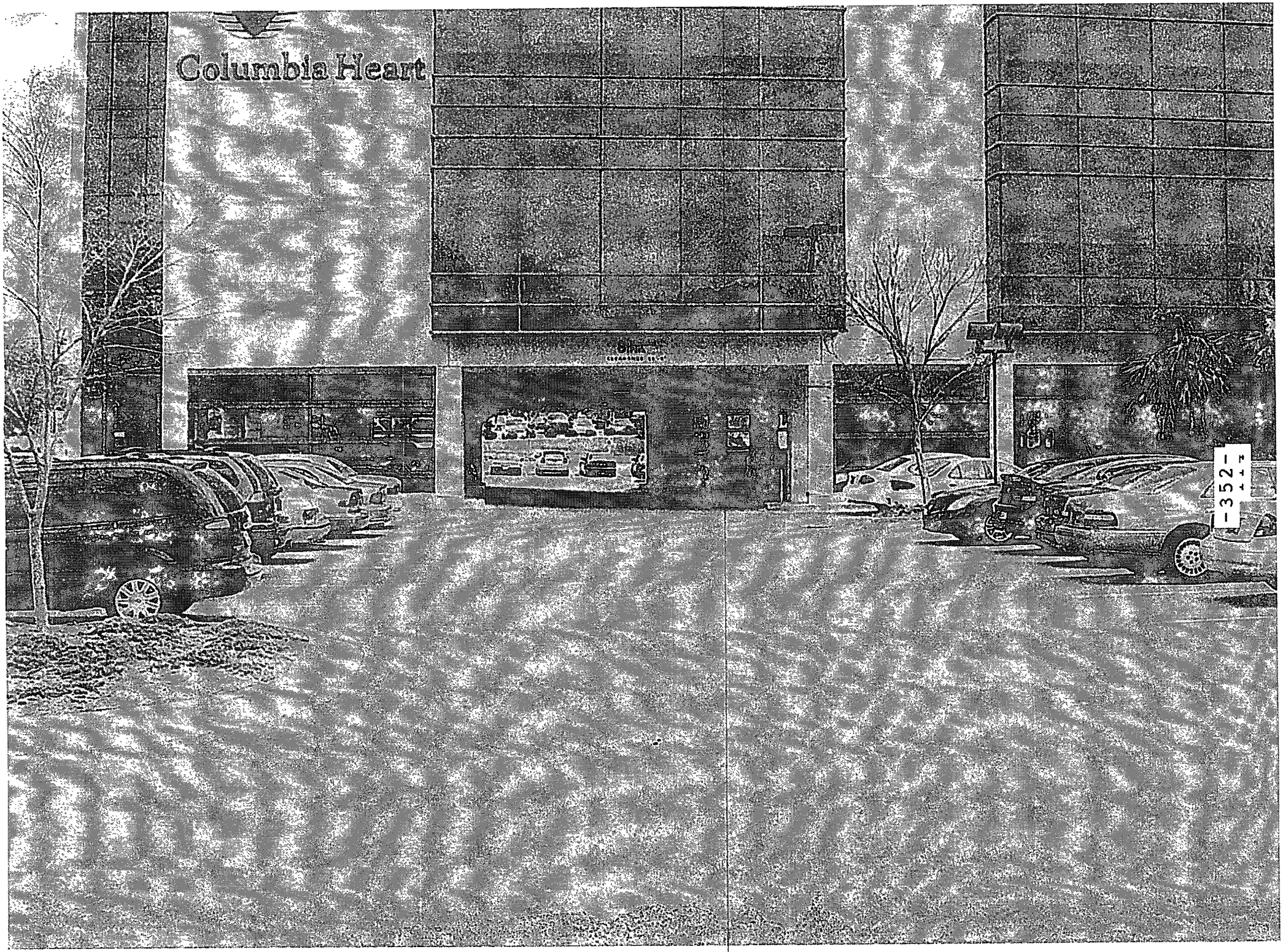


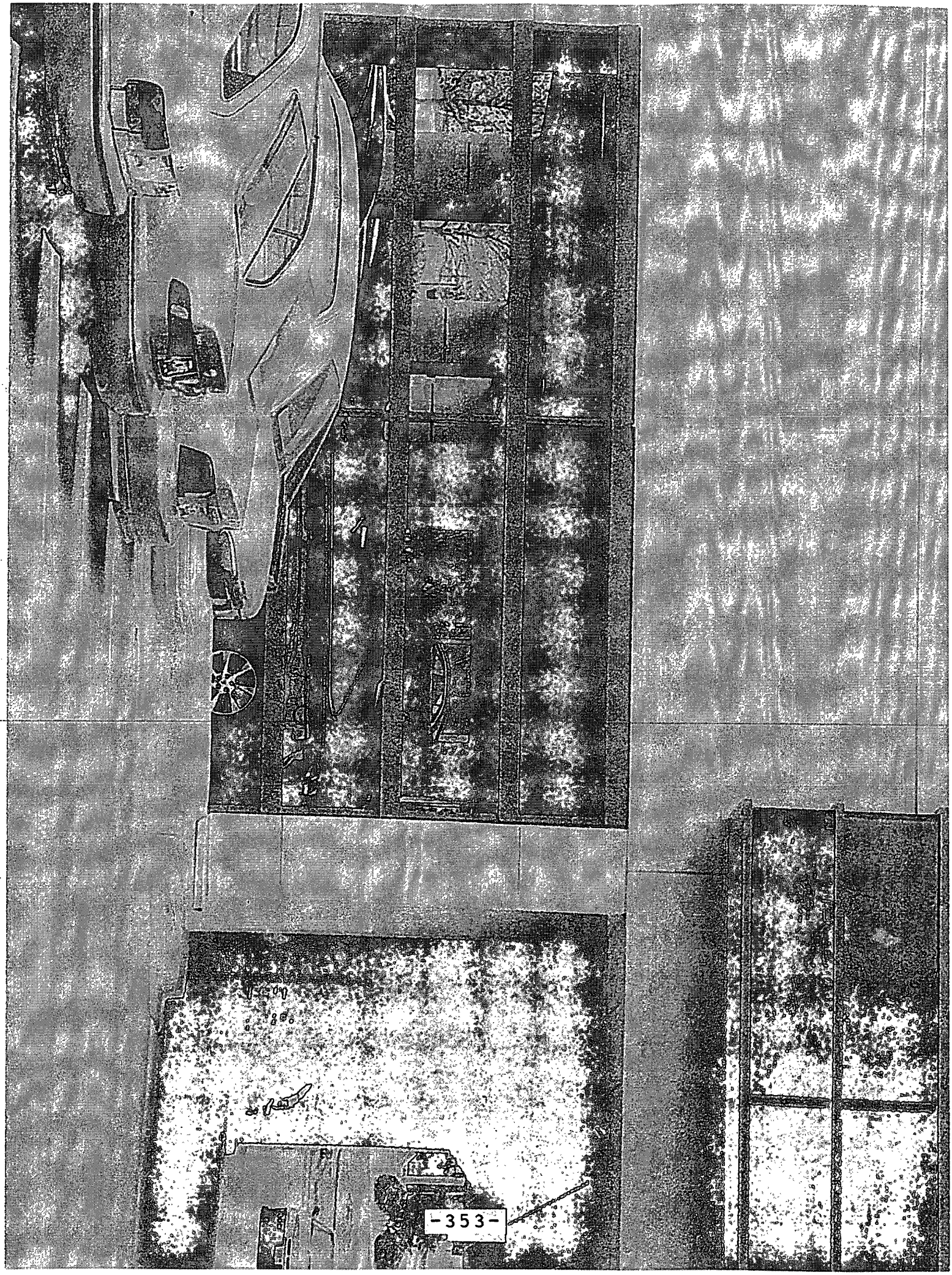
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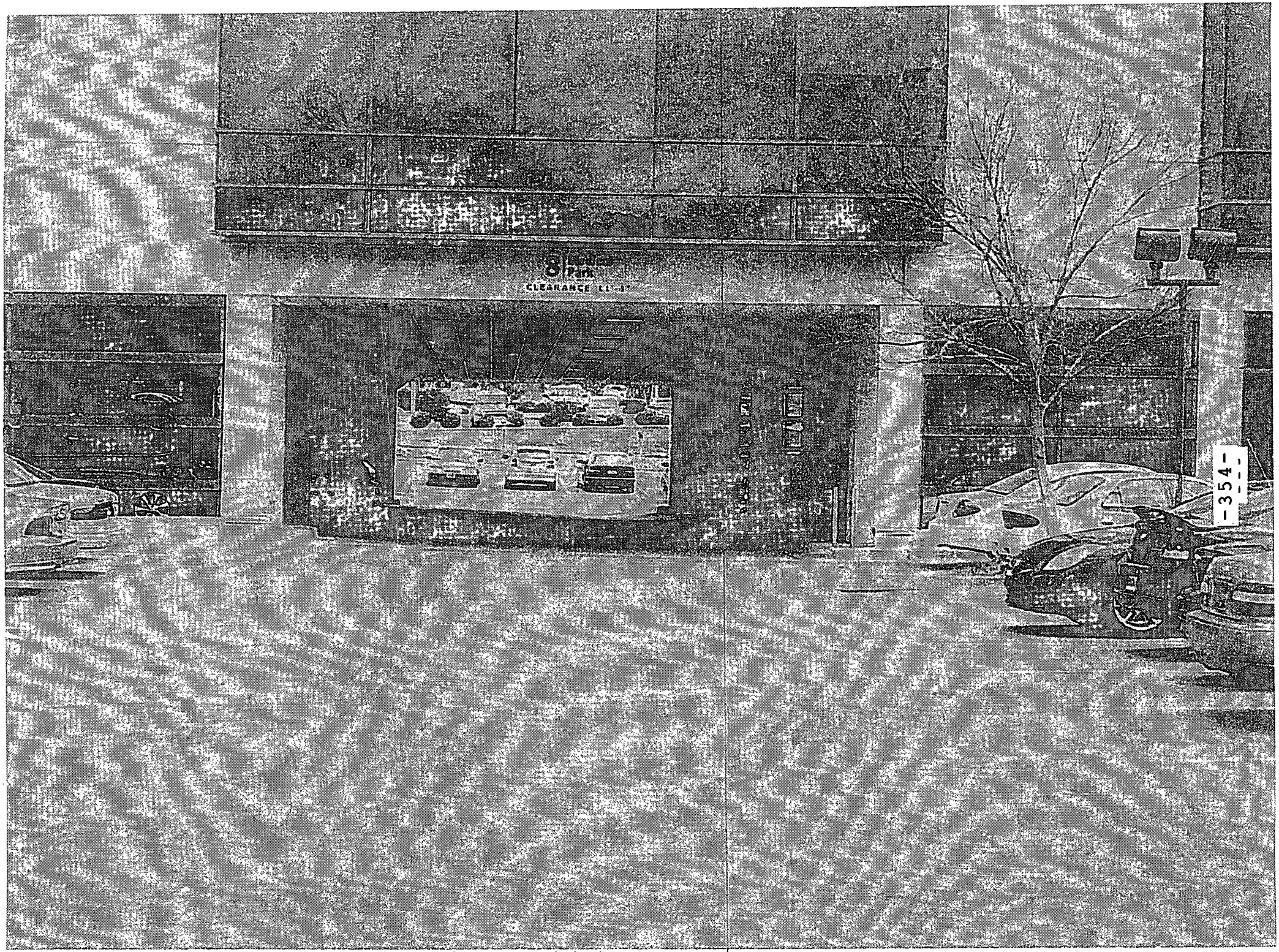







Columbia Heart




CLEARANCE

JANUARY 20, 2004 RE: GAIL BRUCE #27846

CHIEF COMPLAINT: Bilateral shoulder pain.

HISTORY: Ms. Bruce returns to the Orthopaedic Clinic for her final evaluation of her shoulder pain. She would like an impairment rating at this time and, given the fact that she is six months from her left ASAD, I think this is a reasonable option. Currently she continues to have bilateral shoulder pain. She does have relief with Ultram and Aleve, which are taken on a daily basis. She has not had any recent physical therapy. She does not have any recent signs or symptoms of infection. She denies distal numbness or tingling. She does describe persistent right shoulder weakness as well as bilateral shoulder pain and aching, which do limit her job-related activities as well as her activities of daily living.

PHYSICAL EXAMINATION: She is in no acute distress. She is alert and oriented and answers questions appropriately. Both shoulders do have mild impingement signs today. She does maintain a positive crossarm adduction test on the left. Her portal sites are well healed without any focal edema, erythema, or induration. Her range of motion includes 90 degrees of abduction bilaterally, 95 degrees of forward flexion on the right and 105 degrees on the left, internal rotation to the abdomen bilaterally, external rotation of 10 degrees on the right and 20 degrees on the left. Rotator cuff strength includes 5-/5 throughout except 4+/5 on the right supraspinatus isolation test. Her radial pulse is 2+, and her sensation remains intact distally. There is no crepitus with range of motion.

ASSESSMENT: Bilateral shoulder pain.

PLAN: Ms. Bruce does maintain some limitations with her shoulders. Based on the Guides to Evaluation of Permanent Impairment, Fifth Edition, published by the AMA, her ratings would be as follows. Pain rating would be 5% on right and left shoulders. This is based on Table 17-31 on page 544 with an equivalent patellofemoral pain. Her limitations of motion, for a combined lack of flexion and abduction, would equal 10% impairment bilaterally. Her loss of strength is difficult to determine objectively. Based on upper extremity joint impairment due to loss of grip or pinch strength, Table 16-34, given her loss of strength of <30%, I would equate this to a 10% upper extremity impairment for her shoulders. Given these three impairments, her reasonable impairment would be combined at 25% bilaterally. This would equate to a 15% whole person impairment based on Table 16-3 for each shoulder. I did refill Ms. Bruce's Ultram today and have released her from the Orthopaedic Clinic. She will follow up on a PRN basis.

David E. Koon, Jr., M.D.

IC

FEB 12 2004

TrUSA179

c: Gail Bruce, [redacted]

27846
87891

Companion Property and Casualty
P.O. Box 100165
Columbia, SC 29202-3165

Phone: (803) 735-0672
1-800-845-2724
Fax: (803) 419-3212
1-877-379-7389

To: DR. DAVID K. ON DEPT OF ORTHO URGERY	From: JANNETTE BOYD
Fax: 803 434 ~~730~~ 7829	Pages: 1
Re: GAIL BRUCE CHART #: 27846	Date: 2/3/04

Comments:

DR KOON,
PLEASE CLARIFY THE RATING GIVEN TO MS.BRUCE BY ANSWERING THE FOLLOWING QUESTIONS:

1. IS SHE ENTITLED TO A RATING TO THE LEFT UPPER EXTREMITY?
   YES 25 %_____NO_____
2. IS SHE ENTITLED TO A RATING TO THE RIGHT UPPER EXTREMITY?
   YES 25 %_____NO_____

SIGNATURE_____ DECOON 09DEC04
MD

THANK YOU

IC
FEB 12 2004

Palmetto Orthopaedic Clinic, P.A.
114 Gateway Corporate Blvd. #120
Columbia, South Carolina 29203
(803) 699-5540
(803) 699-5547 fax

December 5, 2005 Gail C. Bruce 503723 Northeast Office

HISTORY: Gail is a pleasant 51-year-old woman who kindly presents to the office today for evaluation of both of her knees. She has a long standing history of bilateral knee pain and difficulty. Apparently as a teenager, she was treated for a noted subluxating patella. She does bring medical records with her. She apparently underwent a lateral retinacular release with VMO reefing. It seemed to do well in terms of preventing recurrence of her dislocations. Gail, however, has had significant ongoing patellofemoral type complaints and arthritis changes present. Her knees have given her difficulty for many years. She generally takes Aleve two tablets twice a day and does reasonably well. Gail states that she quit smoking this year and apparently put on 30 pounds. Her knees have felt this weight change. In addition, she has had to do a moderate amount of walking at work. She works for the cardiologists in town which are getting ready to move into a new building that is 53,000 square feet. Gail states that with this, her knees are most uncomfortable. Both knees bother her equally. She complains of swelling as well as pain. She has a sense of crepitance and grinding. There is a moderate amount of discomfort just with ambulation. Arising from a seated position is uncomfortable as well. Gail would like for me to look at this.

PAST MEDICAL HISTORY: Past medical history shows the patient to be followed regularly by Dr. Rutkumar Jani . Illnesses: Hypertension as well as noted arthritis. She has a history of non-insulin dependent diabetes and hypothyroidism. She is otherwise healthy and denies any history of heart disease, stroke, liver disease, asthma, kidney disease, stomach ulcers, blood clots in legs, cancer, or depression. Surgery: Appendectomy, cholecystectomy, hysterectomy, tonsillectomy, partial colectomy for diverticulitis, bilateral knee surgery, bilateral shoulder surgery; rotator cuff repair by Dr. McFadden and the other with a rotator cuff repair by Dr. Koon. Present Medications: Synthroid Welchol, Triglide, fish oil, Lasix, Potassium, Benicar, Tylenol, Avandia, and Aspirin. She has been taking some Toradol which does seem to help her knee. **Allergies: Adhesive tape.** Family History: Positive for cancer and arthritis. Social History: She does not smoke cigarettes. She apparently quit 6-9 months ago. She does drink occasional alcohol. She works as a nurse and an x-ray technician. She is presently divorced. Review of Systems: Positive for some weakness in her legs as well as discomfort.

PHYSICAL EXAMINATION: Body Habitus: Height: 5'3". Weight: 230 pounds. The patient is a well-developed, heavy-set female , alert and cooperative, who is in no acute distress and appears her stated age having a normal mood and affect. On physical exam, the patient's knees are symmetrical. It is difficult to discern whether or not the patient has any significant intra-articular fusion. There is, however, a moderate amount of crepitance just associated with motion. Range of motion of the knees are intact but there is significant pain and discomfort associated with this. There is diffuse tenderness medially, laterally as well as anteriorly. Motion traverses arc of full extension flexion to 115°. There is intact distal pules. The skin and soft tissues are intact distally as well.

RADIOGRAPHS: Radiographs of both knees are obtained, multiple views. Gail does show a moderate amount of degenerative changes tricompartmentally. There is chondrocalcinosis present with narrowing of the joint intervals medially. There is a significant amount of osteophytes present. In addition, there is severe patellofemoral arthrosis as well. The patient has signs of patella alta on the left.

Palmetto Orthopaedic Clinic, P.A.
114 Gateway Corporate Blvd. #120
Columbia, South Carolina 29203
(803) 699-5540
(803) 699-5547 fax

December 5, 2005 **Gail C. Bruce 503723** **Northeast Office**
Continued...

IMPRESSION: BILATERAL KNEE DEGENERATIVE JOINT DISEASE WITH HISTORY OF PREVIOUS PATELLAR DISLOCATIONS.

PROCEDURE: I have prepped the patient's left and right knee today and I have injected the interarticular spaces with Depo-Medrol and Marcaine.

PLAN: At this time I talked with Gail. I have injected both knees today. She is most uncomfortable. Certainly her weight changes this year may have aggravated her pain. She also seems to be more nonresponsive to the anti-inflammatory medicines. I have changed her anti-inflammatory medicines to Feldene. We will see if she gets an improved response with this. I will see Gail back in the office in follow up. I think she will do well with a weight loss program. We talked about long term difficulty with her knees. Hopefully her pain will return more quiescent. I will see Gail back in the office in follow up in 6-7 weeks. She is to call in the interim if she has any difficulty.

Deanna L. Constable, M.D.

DLC:sgf
(Next appointment: 1/23/06 Northeast Office)
DT: 12/7/05

Palmetto Orthopaedic Clinic, P.A.
114 Gateway Corporate Blvd. #120
Columbia, South Carolina 29203
(803) 699-5540
(803) 699-5547 fax

January 23, 2006 **Gail C. Bruce 503723** **Northeast Office**

HISTORY: Gail returns to the office today. She is here for follow up of her knees. She is doing much much better. The shots have helped tremendously. In addition, the Feldene has been helpful for her. She is taking this regularly. The change in the medication seems to help her overall level of function. Gail is here for follow-up.

PHYSICAL EXAMINATION: On physical exam, the patient has improved motion about both knees. There seems to be less crepitance and less pain associated with this.

IMPRESSION: BILATERAL KNEE DEGENERATIVE JOINT DISEASE WITH HISTORY OF PREVIOUS PATELLAR DISLOCATIONS.

PLAN: At this time I talked with Gail. I think she is doing well at present. I have asked her to continue with the Feldene. I have talked to her about the need for kidney liver function tests periodically. She seems to understand. In addition, I have written her a handicap sticker for work. She has to park a moderate distance away and has apparently been instructed to climb five sets of steps. I have asked Gail not to climb the stairs. She is to use an elevator while at work. I have written her a handicap sticker for this. Gail feels comfortable calling me if she needs me. I think this is reasonable. The patient can return to my office on an as-needed basis.

Deanna L. Constable, M.D.

DLC:gh
(Next appointment: PRN)
DT: 1/24/06

Palmetto Orthopaedic Clinic, P.A.
114 Gateway Corporate Blvd. #120
Columbia, South Carolina 29203
(803) 699-5540
(803) 699-5547 fax

March 2, 2006 **Gail C. Bruce 503723** **Northeast Office**

HISTORY: Gail returns to the office today. She is here for follow up of her knees. We gave her injections in December and she did very well. Gail has tried to work with an exercise program but found that it aggravated her knees moderately. She would like to repeat her injections today.

PHYSICAL EXAMINATION: On physical exam, Gail has a moderate amount of discomfort about both knees. There is pain along the peri-articular region. Range of motion of the knees is intact although there is discomfort associated with this.

IMPRESSION: BILATERAL KNEE DEGENERATIVE JOINT DISEASE WITH HISTORY OF PREVIOUS PATELLAR DISLOCATIONS.

PROCEDURE: I have prepped the patient's left and right knees today and have injected the interarticular spaces with Depo-Medrol and Marcaine.

PLAN: At this time I talked with Gail. I think she is doing fair. She does have a moderate amount of arthritis on her radiographs. Ultimately, I think she will come to joint replacement surgery. I have renewed Gail's Feldene today. In addition, I have given her a few Lortab just to take intermittently and episodically. I will see Gail back in my office on a prn basis. She feels comfortable calling me if she needs me.

Deanna L. Constable, M.D.

DLC:gh
(Next appointment: PRN)
DT: 3/4/06

Palmetto Orthopaedic Clinic, P.A.
114 Gateway Corporate Blvd. #120
Columbia, South Carolina 29203
(803) 699-5540
(803) 699-5547 fax

June 13, 2006 Gail C. Bruce 503723 Northeast Office

HISTORY: Gail returns to the office today. She is here for a new problem involving her right foot. A couple of days ago she developed the onset of exquisite right foot pain and discomfort which just occurred insidiously. Gail has not changed her activities. She has not changed her functional level at work. Her pain just became present and was most tender. Gail states that she is unaware as to whether or not she has a history of gout. On further discussion, she has been treated for kidney stones which were uric acid in nature. She has been placed on Allopurinol. She has had an episode of a gouty flare on her left great toe for which she was given Colchicine which did seem to help. Given this history, I do feel that she has systemic gouty processes.

In terms of her right foot, Gail states that she has exquisite pain. This occurs along the dorsolateral aspect of her foot. Weightbearing is most uncomfortable for her. In addition, her knees remain problematic. Her foot is giving her more difficulty at present. Gail continues with her Allopurinol. She has some Colchicine at home but has not been taking it.

PHYSICAL EXAMINATION: On physical exam, the patient does have pain with range of motion of both knees. There is pain along the periarticular region. There is discomfort associated with this. Her calves are soft and nontender.

In terms of her right foot, Gail does have some swelling over the dorsum of her foot. There is exquisite discomfort along the base of the fourth tarsal metatarsal region. Ankle motion is intact although there is tenderness where the peroneus brevis inserts into the base of the fifth metatarsal specifically over the fourth tarsal metatarsal region.

RADIOGRAPHS: Radiographs of the right foot are obtained, multiple views. Gail does show some slight degenerative changes present across her midfoot. There is no evidence of any stress fractures.

IMPRESSION:

1. SEVERE BILATERAL KNEE DEGENERATIVE JOINT DISEASE.
2. RIGHT MIDFOOT TENDINITIS WITH POSSIBLE GOUTY ARTHROPATHY.

PROCEDURES: I have prepped the patient's left and right knees today and have injected the intraarticular spaces with Depo-Medrol and Marcaine.

I prepped the dorsum of the patient's right foot and have injected the fourth tarsal metatarsal area with Depo-Medrol and Marcaine.

PLAN: At this time I talked with Gail. I have injected her right foot today. Hopefully she will find this helpful. I have asked her to start back on her Colchicine, one pill twice a day with food. She will continue with her Allopurinol and her other anti-inflammatory medicines. I have given Gail some Lortab just should she develop a post-steroid flare.

Palmetto Orthopaedic Clinic, P.A.
114 Gateway Corporate Blvd. #120
Columbia, South Carolina 29203
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(803) 699-5547 fax

June 13, 2006 (continued) **Gail C. Bruce 503723** **Northeast Office**

PLAN: (continued)

I will see Gail back in the office in follow-up. If Gail continues to have difficulty, she is to call and we will consider placing her into a 3D walker and possibly ordering an MRI to rule-out a stress fracture.

Deanna L. Constable, M.D.

DLC:gh
(Next appointment: one month)
DT: 6/15/06

Palmetto Orthopaedic Clinic, P.A.
114 Gateway Corporate Blvd. #120
Columbia, South Carolina 29203
(803) 699-5540
(803) 699-5547 fax

July 21, 2006 **Gail C. Bruce 503723** **Northeast Office**

HISTORY: The patient returns to the office today. She is here for follow up of her right foot. She apparently did well after we gave her a shot. She stepped down, however on her step, and felt a popping in her foot which was most uncomfortable. She called the office out of concern. Her MRI was ordered. The patient does have some periosteal edema and swelling about her mid foot region. It is most uncomfortable for her. Gail has had a hard time with ambulation. She has a wood sole shoe, but has a hard time being functional with this. She has taken all of her pain medication after her last injection. She is here today for follow up.

PHYSICAL EXAMINATION: On physical exam, the patient does have some swelling about her right foot. There is tenderness across the mid foot region. Ankle motion is intact with some mild limitation.

IMPRESSION: RIGHT MID FOOT STRAIN WITH NOTED PERIOSTEAL CHANGES.

PLAN: At this time I talked with Gail. I have reviewed her MRI with her. She is most uncomfortable. I have placed her in a 3-D walker. I think she will find this more supportive. I have renewed her Lortab just to take as needed for pain. I will see her back in the office in follow up. **If her foot still remains problematic, we will order radiographs of her right foot on return, three views.**

Deanna L. Constable, M.D.

DLC:sgf
(Next appointment: 8/18/06 Northeast Office)
DT: 7/24/06

August 18, 2006 **Gail C. Bruce 503723** **Northeast Office**

HISTORY: Gail returns to the office today. She is here for follow up of her foot. Her foot is doing much better. The 3D walker helped tremendously. She wore it consistently but has started weaning out of it. Her foot is doing better and she is pleased. Her knees, however, still remain problematic. Gail states that wearing the 3D walker seems to have upset her knee discomfort. She wonders whether or not we can give her an injection here. She continues to work on a full-time basis.

PHYSICAL EXAMINATION: On physical exam, the patient has much less swelling about her right foot. There is less discomfort across the mid metatarsal region. Ankle motion is intact.

In terms of her knees, the patient does have a moderate amount of tenderness about both knees. There is pain along the periarticular region. Range of motion of the knees is intact although with discomfort.

IMPRESSION:

1. RESOLVING RIGHT MID FOOT STRAIN WITH NOTED PERISOTEAL CHANGES
2. BILATERAL KNEE DEGENERATIVE JOINT DISEASE

PALMETTO ORTHOPAEDIC CLINIC, P.A.
114 Gateway Corp. Blvd. • Suite 120 • Columbia, SC 29203 • Office 803-699-5540
110 East Medical Lane. • Suite 225 • West Columbia, SC 29169 • Office 803-794-9191
Thomas W. Ewart, M.D. AE9284453
Deanna L. Constable, M.D. SC#14493
Ralph S. Owings, Jr., M.D. AO1476488
Subhash J. Patel, M.D. AP8137603

NAME Gail Burke AGE

ADDRESS DATE 6.22.12

℞ Lortab 7.5 mg

#60 Lortab

1 po q 6-8hr prn pain

Refill 10 20 30 40 NRO

, M.D.
Dispense As Written

, M.D.
Substitution Permitted

PALMETTO ORTHOPAEDIC CLINIC, P.A.
114 Gateway Corp. Blvd. • Suite 120 • Columbia, SC 29203 • Office 803-699-5540
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Thomas W. Ewart, M.D. AE9284453
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Ralph S. Owings, Jr., M.D. AO1476488
Subhash J. Patel, M.D. AP8137603

NAME Gail Burke AGE

ADDRESS DATE 6.22.12

℞ Ultram 50 mg

#60 (11x1)

1-2 po q 6-8hr prn pain

Refill 10 20 30 40 NRO

Palmetto Orthopaedic Clinic, P.A.
114 Gateway Corporate Boulevard, Suite 120
Columbia, South Carolina 29203
(803) 699-5540
(803) 699-5547 fax

August 18, 2006(continued) **Gail C. Bruce 503723** **Northeast Office**

PROCEDURE: I have prepped the patient's left and right knee today and I have injected the interarticular spaces with Depo-Medrol and Marcaine.

PLAN: At this time I talked with Gail. I have injected both of her knees today. Hopefully, it will helpful for her. Again, she has severe arthritic changes present. Ultimately, she will require joint replacement surgery. She is somewhat young and somewhat heavy. I have encouraged Gail to work with a weight loss program. I will see the patient back in the office in three months. Gail is to call in the interim if she has difficulty.

Deanna L. Constable, M.D.

DLC:hwy
(Next appointment: 11/10/06 @ 2:00 p.m. @ Northeast Office)
D/T: 8/22/06

Palmetto Orthopaedic Clinic, P.A.
114 Gateway Corporate Blvd. #120
Columbia, South Carolina 29203
(803) 699-5540
(803) 699-5547 fax

October 5, 2006 Gail C. Bruce 503723 Northeast Office

HISTORY: The patient returns to the office today. She is seen somewhat early. She is having significant migratory-type arthralgias. She feels that she has gout. She has been treated for uric acid kidney stones in the past and normally takes Allopurinol. Apparently she was placed on Amoxicillin which can precipitate a gouty attack. Gail has been taking Colchicine for the past week to 10 days but it has not helped profoundly. Gail is doing some better. Her right ankle bothers her more than any other area. She does, however, have pain about her knees, wrists and elbows. She has not had any febrile episodes. She denies any history of injury. She is here today for evaluation and treatment.

PHYSICAL EXAMINATION: On physical exam, Gail does appear most uncomfortable. She does not seem to have any profound effusions. There is marked discomfort along the right ankle. Ankle motion is intact although with pain. Knee motion is unchanged from that in the past. There is intact motion although pain associated with this as well.

IMPRESSION: MIGRATORY ARTHRALGIAS, PROBABLE GOUTY ATTACK.

PROCEDURE: I prepped the anterolateral aspect of the patient's right ankle and have injected the tib/talar region with Depo-Medrol and Marcaine.

PLAN: At this time I talked with Gail. I have injected her right ankle today. I told her that I certainly think she needs to see a good internist. She sees Dr. Jani. In addition, she sees a cardiologist at work. I told Gail that she needs to be evaluated to see if she is an over producer or under excreter for the uric acid. They may have some other recommendation for her. I am not sure how long it is safe for her to take the Colchicine. I have asked Gail to talk to the doctor that prescribed it for her. We will see how she does with the ankle injection. I will see her back in the office as scheduled. If she has any fever or chills she is to call. If she seems to have any certain joints that are more uncomfortable than the other she can return to see me as well, but I think it is something more systemic.

Deanna L. Constable, M.D.

DLC:sgf
(Next appointment: 11/10/06 Northeast Office)
DT: 10/11/06

Palmetto Orthopaedic Clinic, P.A.
114 Gateway Corporate Blvd. #120
Columbia, South Carolina 29203
(803) 699-5540
(803) 699-5547 fax

November 10, 2006 Gail C. Bruce 503723 Northeast Office

HISTORY: The patient returns to the office today. She is here for follow up of her migratory arthralgias. She is actually doing better. Dr. Holland treated her gouty arthritis with an elevated dose of Colchicine. She is now taking one pill twice a day. She has stopped taking her Synthroid in that she may think it aggravates her gout. She is taking some black cherry extract which seems to help. Her feet are not as problematic for her. What gives her most difficulty is that of her knees.

PHYSICAL EXAMINATION: On physical exam, Gail has a moderate amount of discomfort about both knees. There is crepitance associated with motion. Range of motion of the knees is intact.

IMPRESSION:
1. BILATERAL KNEE DEGENERATIVE JOINT DISEASE.
2. RESOLVING GOUTY ATTACK.

PROCEDURE: I have prepped the patient's left and right knee today and I have injected the interarticular spaces with Depo-Medrol and Marcaine.

PLAN: At this time I talked with Gail. I have injected both of her knees today and we will see how she does with this. We talked about the long-term side effects of steroids. I certainly think that taking the black cherry extract is reasonable if it helps her discomfort. I will see her back in the office in follow up in 3-4 months. She is to call in the interim if she has any difficulty.

Deanna L. Constable, M.D.

DLC:sgf
(Next appointment: 2/16/06 Northeast Office)
DT: 11/14/06

Palmetto Orthopaedic Clinic, P.A.
114 Gateway Corporate Boulevard, Suite 120
Columbia, South Carolina 29203
(803) 699-5540
(803) 699-5547 fax

January 18, 2007 Gail C. Bruce 503723 Northeast Office

HISTORY: The patient returns to the office today. She is here for follow up of her knees and her gout. She is doing well. Her pain, however, seems to be more recurrent and she would like her injections today. We talked about this at length. I have talked to Gail about the problems with recurrent intraarticular injections. She has so much arthritis. However, she seems willing to accept this. She is not ready for surgery at this time.

In addition, Gail is having some pain about her right foot which is tender. We have given her injections here in the past which was helpful.

PHYSICAL EXAMINATION: On physical exam, Gail's exam is unchanged from that in the past. She does have a moderate amount of irritability about both knees. There is pain and crepitus associated with motion.

In terms of her right foot, Gail does have some tenderness along the 2nd and 3rd tarsometatarsal region.

IMPRESSION:

1. BILATERAL KNEE DEGENERATIVE JOINT DISEASE
2. TENDINITIS, RIGHT FOOT

PROCEDURE: I have prepped the patient's left and right knee today and I have injected the intcrarticular spaces with Depo-Medrol and Marcaine.

I have prepped the dorsum of the patient's right foot. I injected the tarsometatarsal region with Depo-Medrol and Marcaine.

PLAN: At this time I talked with Gail. I have injected her knees and her foot today. Hopefully, they will do well. I have advised her of the possibility of elevated blood sugars as well as complications of recurrent injections. She seems to understand. I will see Gail back in the office in follow up. She is to call in the interim if she has difficulty.

Deanna L. Constable, M.D.

DLC:hwy
(Next appointment: 4/13/07 @ 1:30 p.m. @ Northeast Office)
D/T: 1/22/07

Palmetto Orthopaedic Clinic, P.A.
114 Gateway Corporate Boulevard, Suite 120
Columbia, South Carolina 29203
(803) 699-5540
(803) 699-5547 fax

March 5, 2007 Gail C. Bruce 503723 Northeast Office

NEW PROBLEM

HISTORY: The patient returns to the office today. She is here for a new problem. She has increasing difficulty about her left knee. It just seems to have occurred insidiously. She feels that something is catching and locking in her knee. She does not feel that it is gout. There are no other areas of joint involvement, just her left knee. It has been moderately swollen. Gail wants to consider some Hyalgan injections. She wants to talk about this as well.

PHYSICAL EXAMINATION: On physical exam, Gail does have a moderate amount of swelling about the left knee. This is more so than it usually is. Range of motion of the knee is intact within limits of the soft tissue. The patient lacks full extension by approximately 10 degrees. Gail will further flex to 80 degrees. Flexion beyond this is uncomfortable. There is marked discomfort along the paraarticular region.

RADIOGRAPHS: Radiographs of the left knee are obtained, multiple views. Gail shows her noted profound degenerative changes present without significant change from her last films. I do not see any signs of loose bodies present from a plain radiographic standpoint.

IMPRESSION: SEVERE DEGENERATIVE JOINT DISEASE, LEFT KNEE, WITH ACUTE EXACERBATION

PROCEDURE: I have prepped the patient's left knee today and I have injected the interarticular space with Depo-Medrol and Marcaine.

PLAN: At this time I talked with Gail. I have injected her left knee today. Hopefully, it will give her some relief. We talked about the Hyalgan injections. She wants to consider this on return. We will see if we can't precert it for both knees. I will Gail back in the office in follow up. She is to call in the interim if she has difficulty.

Deanna L. Constable, M.D.

DLC:hwy
(Next appointment: patient to call)
D/T: 3/7/07

Palmetto Orthopaedic Clinic, P.A.
114 Gateway Corporate Boulevard, Suite 120
Columbia, South Carolina 29203
(803) 699-5540
(803) 699-5547 fax

April 13, 2007 Gail C. Bruce 503723 Northeast Office

HISTORY: Gail returns to the office today. She is here for follow up of her knees. She is here for her Hyalgan injections.

HYALGAN KNEE INJECTION
PROCEDURE: After sterile Betadine prep the skin was anesthetized with ethyl chloride. Using a 22 gauge needle injection was made into the right and left suprapatellar pouches on the lateral aspect of both knees. The Hyalgan was injected using the preloaded syringe after entry into the joint was certain. The patient tolerated the procedure well. There were no complications during the procedure. An adhesive bandage was applied. The patient was instructed in aftercare.

PLAN: At this time I talked with Gail. I will see her back in the office on a weekly basis for Hyalgan injections. I have given her some Lortab 7.5 mg to take as needed for pain.

Deanna L. Constable, M.D.

DLC:hwy
(Next appointment: 4/19/07 @ 8:30 a.m. @ Northeast Office)
D/T: 4/18/07

April 19, 2007 Gail C. Bruce 503723 Northeast Office

HISTORY: Gail returns to the office today. She is here for her second Hyalgan injections. She feels that she is doing better but it certainly may talk longer than this.

HYALGAN KNEE INJECTION
PROCEDURE: After sterile Betadine prep the skin was anesthetized with ethyl chloride. Using a 22 gauge needle injection was made into the right and left suprapatellar pouches on the lateral aspect of the knees. The Hyalgan was injected using the preloaded syringe after entry into the joint was certain. The patient tolerated the procedure well. There were no complications during the procedure. An adhesive bandage was applied. The patient was instructed in aftercare.

PLAN: At this time I talked with Gail. I have given her the second injections today. I will see her back in the office in a week for her third.

Deanna L. Constable, M.D.

DLC:hwy
(Next appointment: 4/27/07 @ 2:45 p.m. @ Northeast Office)
D/T: 4/25/07
(transcribed w/o chart)

Palmetto Orthopaedic Clinic, P.A.
114 Gateway Corporate Boulevard, Suite 120
Columbia, South Carolina 29203
(803) 699-5540
(803) 699-5547 fax

April 27, 2007 Gail C. Bruce 503723 Northeast Office

HISTORY: Gail returns to the office today. She is here for her third Hyalgan injection. In addition, she would like me to look at her feet and give her some trigger point injections along the dorsum of her feet.

HYALGAN KNEE INJECTION
PROCEDURE: After sterile Betadine prep the skin was anesthetized with ethyl chloride. Using a 22 gauge needle injection was made into the right and left suprapatellar pouches on the lateral aspect of the knees. The Hyalgan was injected using the preloaded syringe after entry into the joint was certain. The patient tolerated the procedure well. There were no complications during the procedure. An adhesive bandage was applied. The patient was instructed in aftercare.

PROCEDURE: I have prepped the dorsum of the patient's right and left foot. I have injected the 4th midshaft tarsal area with Depo-Medrol and Marcaine.

PLAN: At this time I talked with Gail. I have injected her feet today. I do want her to continue to work with an exercise program. I agree with Dr. Hollins in that she needs to work with weight loss. I will see Gail back in the office in 6 to 8 weeks. We will follow up on her knees at that time.

Deanna L. Constable, M.D.

DLC:hwy
(Next appointment: 6/22/07 @ 2:15 p.m. @ Northeast Office)
D/T: 5/2/07

Palmetto Orthopaedic Clinic, P.A.
114 Gateway Corporate Blvd. #120
Columbia, South Carolina 29203
(803) 699-5540
(803) 699-5547 fax

June 22, 2007 **Gail C. Bruce 503723** **Northeast Office**

HISTORY: The patient returns to the office today. She is here for follow up of her knees. The Hyalgan seems to be helping her right knee more so than that of the left. The left still remains tender and problematic. She states that her mother heard of some type of process or surgery that Pat Robinson had on T.V. I am not quite sure of what she is talking about and see if we can find out more about this. Gail continues to take Ultram intermittently as well as some Lortab. Right now, her right knee is doing well and it is her left one that is bothering her.

PHYSICAL EXAMINATION: On physical exam, the patient's exam is unchanged from that in the past. She does have a moderate amount of discomfort about both knees. There is crepitance associated with motion.

In terms of her feet, these seem to be less uncomfortable today.

IMPRESSION:

1. BILATERAL KNEE DEGENERTAIVE JOINT DISEASE.
2. BILATERAL FOOT DEGENERATIVE JOINT DISEASE.

PROCEDURE: I have prepped the patient's left knee today and I have injected the interarticular spaces with Depo-Medrol and Marcaine.

PLAN: At this time I talked with Gail. I have injected her left knee today with steroids. We will see if we can improve the discomfort she is having here. I have renewed her Ultram as well as a few Lortab just to take as needed for pain. We will see if we can find more information on what Pat Robinson had done in surgery. I will see Gail back in the office in about three months. She is to call in the interim if she has any difficulty.

Deanna L. Constable, M.D.

DLC:sgf
(Next appointment: 9/28/07 Northeast Office)
DT: 6/28/07

Palmetto Orthopaedic Clinic, P.A.
114 Gateway Corporate Boulevard, Suite 120
Columbia, South Carolina 29203
(803) 699-5540
(803) 699-5547 fax

September 28, 2007 Gail C. Bruce 503723 Northeast Office

HISTORY: Gail returns to the office today. Since I last saw her, she apparently was hospitalized with some GI difficulty. She underwent endoscopy. She did not show any signs of ulcer disease in her stomach. She had, however, to stop taking her Naprosyn. She found out that she was very uncomfortable. She started back on it and seems to be doing better. Gail still has a moderate amount of difficulty with her knees. Her feet still give her problems as well.

PHYSICAL EXAMINATION: On physical exam, the patient's exam is unchanged from that in the past. Gail remains moderately overweight. She has well-healed medial arthrotomy incisions from the past. Range of motion of the knees is intact although there is pain and crepitus associated with motion.

In terms of her feet, Gail does have tenderness along the dorsum of her feet bilaterally.

IMPRESSION:

1. BILATERAL KNEE DEGENERATIVE JOINT DISEASE
2. BILATERAL FOOT DEGENERATIVE JOINT DISEASE

PROCEDURE: I have prepped the patient's left and right knee today and I have injected the interarticular spaces with Depo-Medrol and Marcaine.

I have prepped the dorsal aspect of the patient's right and left feet today and I have injected them in the dorsal aspect with Depo-Medrol and Marcaine.

PLAN: At this time I talked with Gail. I have injected both of her knees today as well as her feet. It seems to do well for her. I have changed her from Naprosyn to Mobic 7.5 mg. I have renewed her Ultram as well. Gail, I think, will ultimately come to joint replacement surgery. She is moderately overweight and seems to understand the risks and benefits therein. She sent a form inquiring about minimally invasive knees. She does not meet the criteria for two specific reasons, that being her previous surgery and the second being her weight. I will see Gail back in the office in about three months. She is to call in the interim if she has difficulty.

Deanna L. Constable, M.D.

DLC:hwy
(Next Appointment: 12/27/07 @ 10:00 a.m. @ Northeast Office)
D/T: 10/3/07

Palmetto Orthopaedic Clinic, P.A.
114 Gateway Corporate Boulevard, Suite 120
Columbia, South Carolina 29203
(803) 699-5540
(803) 699-5547 fax

December 17, 2007 **Gail C. Bruce 503723** **Northeast Office**

HISTORY: The patient returns to the office today. Gail is here for follow up of her knees. The Mobic helped tremendously. She has had excellent pain relief. She seems to however have had a gaudy flare and her pain has worsened somewhat. Prior to this she was doing well.

PHYSICAL EXAMINATION: On physical exam, Gail's exam is unchanged from that of the past. She has pain along the peri-articular region bilaterally. Range of motion of the knees intact as well as some discomfort. There is tenderness over the dorsum of the feet.

IMPRESSION:

1. BILATERAL KNEE DEGENERATIVE JOINT DISEASE
2. BILATERAL FOOT DEGENERATIVE JOINT DISEASE

PROCEDURE: I prepped the patient's left and right knee today and have injected the intraarticular spaces with Depo-Medrol and Marcaine.

I prepped the dorsal aspect of the patient's left and right feet and injected the tarsal metatarsal regions with Depo-Medrol and Marcaine.

PLAN: At this time I talked with Gail. I injected her knees and her feet today. Hopefully she will do well. I renewed her Mobic. She was also given a prescription for Ultram to take as needed for pain. I have also given her a few Lortab just for a post-steroid flare. I will see Gail back in the office in a couple months.

Deanna L. Constable, M.D.

DLC:gh
(Next appointment: 3/14/08)
DT: 12/26/07

Palmetto Orthopaedic Clinic, P.A.
105 Office Park Road
Columbia, South Carolina 29223
(803) 699-5540
(803) 699-5547 fax

March 14, 2008 Gail C. Bruce 503723 Northeast Office

HISTORY: The patient returns to the office today. She is doing much better. The injections help moderately. For about 2 ½ months she was pain free. She has doubled her Mobic and it has caused her to swell somewhat. Other than this she is coming along nicely. She would like repeat injections today.

PHYSICAL EXAMINATION: On physical exam, Gail does have tenderness about both knees. There is marked tenderness along the medial and lateral compartments. There is some noted swelling along the left periarticular region. Range of motion of the knees is intact without gross instability.

In terms of her feet, Gail still has discomfort across the mid foot region.

IMPRESSION:

1. BILATERAL KNEE DEGENERATIVE JOINT DISEASE.
2. BILATERAL FOOT DEGENERATIVE JOINT DISEASE.

PROCEDURE: I have prepped the patient's left and right knee today and I have injected the intra-articular spaces with Depo-Medrol and Marcaine. ✓

PROCEDURE: I have prepped the patient's left and right foot today and I have injected the 4th tarsal metatarsal area with Depo-Medrol and Marcaine.

PLAN: At this time I talked with Gail. I have injected both of her knees and feet today. Hopefully she will do well. We have talked about long term side effects with steroid injections. I have given her some Lortab #40 tablets to take should she have a post steroid flare. Gail is to continue with her Ultram. I will see her back in the office in 3-4 months. She is to call in the interim if she has any difficulty.

Deanna L. Constable, M.D.

DLC:sgf
(Next appointment: 6/6/08 Northeast Office)
DT: 3/18/08

Palmetto Orthopaedic Clinic, P.A.
105 Office Park Road
Columbia, South Carolina 29223
(803) 699-5540
(803) 699-5547 fax

June 6, 2008 Gail C. Bruce 503723 Northeast Office

HISTORY: The patient returns to the office today. She is here for routine injections. She is doing well. She apparently has changed jobs at work, but still works for the cardiologist. It involves a fair amount of walking and she needs to be careful with this. I think it may be bad on her knees but it may be helpful because she may lose some weight.

PHYSICAL EXAMINATION: On physical exam, the patient's exam is unchanged from that in the past. She still has pain about both knees as well as her feet. There is tenderness to palpation but intact motion.

IMPRESSION:
1. BILATERAL KNEE DEGENERATIVE JOINT DISEASE.
2. BILATERAL FOOT DEGENERATIVE JOINT DISEASE.

PROCEDURE: I have prepped the patient's left and right knee today and I have injected the intra-articular spaces with Depo-Medrol and Marcaine.

PROCEDURE: I have prepped the patient's feet and I have given a trigger point injection with Depo-Medrol and Marcaine.

PLAN: At this time I talked with Gail. I have injected both of her feet and knees today. I talked to her about possibly having her own internist to see if there is anything she can do for gouty arthropathy. I have renewed her Ultram #120 tablets to take 1-2 every 8-10 hours. I will see Gail back in the office in three months.

Deanna L. Constable, M.D.

DLC:sgf
(Next appointment: 9/12/08 Northeast Office)
DT: 6/12/08

Palmetto Orthopaedic Clinic, P.A.
105 Office Park Road
Columbia, South Carolina 29223
(803) 699-5540
(803) 699-5547 fax

September 4, 2008 Gail C. Bruce 503723 Northeast Office

HISTORY: The patient returns to the office today. She is here for follow up of her knees and feet. Since I last saw her, has had exacerbation of her pain but just doubled her Mobic that seemed to help and quiet down nicely. She still has ongoing discomfort. Gail takes Ultram on a regular basis as well as Mobic. She is now taking 15 mg. Her knees and feet still remain problematic for her.

PHYSICAL EXAMINATION: On physical exam, Gail does have pain about both knees. There is pain and crepitus associated with this. There is tenderness along the periarticular region.

In terms of her feet, there is still discomfort along her forefoot area.

IMPRESSION:

1. BILATERAL KNEE DEGENERATIVE JOINT DISEASE.
2. BILATERAL FOOT DEGENERATIVE JOINT DISEASE.

PROCEDURE: I have prepped the patient's left and right knee today and I have injected the intra-articular spaces with Depo-Medrol and Marcaine.

PROCEDURE: I have prepped the dorsum of the patient's right and left foot and I have given her a trigger point injection along the tarsal metatarsal region with Depo-Medrol and Marcaine.

PLAN: At this time I talked with Gail. I have injected her knees and feet today. Hopefully she will find this as helpful as she has in the past. I have renewed her Ultram as well as her Mobic. Her Mobic is 7.5 mg p.o. b.i.d. I have also given her some Lortab should she develop a post steroid flare. I will see her back in the office in three months. She is to call in the interim if she has any difficulty.

Deanna L. Constable, M.D.

DLC:sgf
(Next appointment: 12/5/08 Northeast Office)
DR: 9/5/08 - DT: 9/6/08

Palmetto Orthopaedic Clinic, P.A.
105 Office Park Road
Columbia, South Carolina 29223
(803) 699-5540
(803) 699-5547 fax

December 5, 2008 **Gail C. Bruce 503723** **Northeast Office**

HISTORY: Gail returns to the office today. She is here for follow-up of her knees and her feet. She did very well until recently. She is taking her Mobic. At times she takes 15mg and at other times 7.5mg. In an over all sense she has done reasonably well. Gail is here for follow-up.

PHYSICAL EXAMINATION: On physical examination, the patient's exam is unchanged from that in the past. Gail has a moderate amount of discomfort about both her knees. There is tenderness along the medial compartments.

In terms of her feet, she still has noted degenerative discomfort across the tarsometatarsal area.

IMPRESSION:
1. BILATERAL KNEE DEGENERATIVE JOINT DISEASE.
2. BILATERAL FOOT DEGENERATIVE JOINT DISEASE.

PROCEDURE: I have prepped the medial aspect of the patient's left and right knee and have injected the intra-articular spaces with Depo-Medrol and Marcaine. A dry dressing was applied.

PROCEDURE: I have prepped the dorsum of the patient's right and left foot and I have given her a trigger point injection along the tarsal metatarsal region with Depo-Medrol and Marcaine.

PLAN: At this time, I have talked with Gail. We have injected her knees and her feet today. Hopefully she will continue to do well. I have renewed her Tramadol, which she takes on a regular basis. In addition, I have given her some Lortab just should she develop a post steroid flare with her injections. I will see Gail back in the office in three months. She is to call in the interim if she has difficulty.

Deanna L. Constable, MD

DLC: dh
(Next appointment: 3/5/09 @ 11:00 a.m. @ Northeast Office)
(D/T: 12/9/2008)

PALMETTO ORTHOPEDIC CLINIC, P.A.
105 Office Park Road • Columbia, SC 29223 • Office 803-699-5540
110 East Medical Lane • Suite 225 • West Columbia, SC 29169 • Office 803-794-9191
Thomas W. Ewart, M.D. AE9284453 Ralph S. Owings, Jr., M.D. AO1476488
Deanna L. Constable, M.D. SC#14493

NAME Gail Bruce AGE

ADDRESS DATE 12-5-08

℞ Ibuprofen 800mg

#30 (thirty)

Sig: 1 po TID prn pain

Refill 1☐ 2☐ 3☐ 4☐ NR☑

M.D. Dispense As Written

M.D. Substitution Permitted

NAME Gail Bruce AGE

ADDRESS DATE 12-5-08

℞ Ultram 50mg

#120 (one hundred twenty)

Sig: 1-2 po q 4-6 hrs prn pain

Refill 1☐ 2☐ 3☑ 4☐ NR☐

M.D. Dispense As Written

M.D. Substitution Permitted

ADDRESS DATE

℞ Mobic 7.5mg

#60 (sixty)

Sig: 1 po QD prn pain

Refill 1☐ 2☐ 3☐ 4☑ NR☐

M.D. Dispense As Written

M.D. Substitution Permitted

Palmetto Orthopaedic Clinic, P.A.
105 Office Park Road
Columbia, South Carolina 29223
(803) 699-5540
(803) 699-5547 fax

March 5, 2009 Gail C. Bruce 503723 Northeast Office

HISTORY: The patient returns to the office today. She is here for follow up of her knees and her foot. She is doing much better. Dr. Hollins has placed her on significant doses of Vitamin D because she is Vitamin D deficient and hit seems to help remarkably. She is still taking her Mobic and episodic Ultram. She wants to try to wean through her injections. I have talked with Gail about this today. I would like to limit her foot injections. They can lead to some rupture of her tendons. I think her knee injections are adequate.

PHYSICAL EXAMINATION: On physical exam, Gail does seem to be less uncomfortable today. She has intact motion about her knees. There is still pain along the periarticular region but with less crepitance.

IMPRESSION: BILATERAL KNEE DEGENERATIVE JOINT DISEASE.

PROCEDURE: I have prepped the patient's left and right knee today and I have injected the intrarticular space with Depo-Medrol and Marcaine.

PLAN: At this time, I talked with Gail. I have renewed her Mobic 7.5 mg to take one twice a day. She is also given some Tramadol #90 tablets. I think taking Vitamin D is very reasonable. Hopefully it will help her pain. I will see her back in the office in four months. She is to call in the interim if she has any difficulty.

Deanna L. Constable, M.D.

DLC:sgf
(Next appointment: 7/6/09 Northeast Office)
cc: Joseph Hollins, M.D. (all notes)
DR: 3/6/09 - DT: 3/6/09

Palmetto Orthopaedic Clinic, P.A.
105 Office Park Road
Columbia, South Carolina 29223
(803) 699-5540
(803) 699-5547 fax

June 8, 2009 Gail C. Bruce 503723 Northeast Office

HISTORY: Gail returns to the office today. Her knees are more problematic for her. Her vitamin D levels are still low. She is here for followup. Two weeks ago, her pain seems to have worsened. She would like injections in both her knees and her feet. I have counseled Gail at length about the foot injections. We need to limit these because of the risk for tendon rupture. She is here for followup.

PHYSICAL EXAMINATION: Gail does have a moderate amount of discomfort to deep palpation of both her knees. There is significant crepitus associated with motion.

In terms of her feet, she has a fair amount of dependent edema as well. There is tenderness along the metatarsal heads bilaterally, especially along the third and fourth metatarsal head region.

IMPRESSION:

1. BILATERAL KNEE DEGENERATIVE JOINT DISEASE.
2. BILATERAL FOOT TENDINITIS.

PROCEDURE #1: I have prepped the patient's left and right knees today and I have injected the intraarticular spaces with Depo Medrol and Marcaine.

PROCEDURE #2: I have prepped the dorsum of the patient's right and left feet and I have injected the metatarsophalangeal joint regions with Depo Medrol and Marcaine.

PLAN: At this time, I talked with Gail. I injected her feet and her knees today. We will see how she does with this. It has always been helpful in the past. Gail has to limit the amount of Tylenol she takes because of some elevated liver function studies. I have written her a prescription for codeine 30 mg to take for pain. She is also to take her Tramadol and Mobic. I will see Gail back in the office in three months. She is to call in the interim if she has any difficulty.

Deanna L. Constable, M.D.

DLC:ld
(Next appointment: 9/3/09 @ 9:00 a.m. Northeast Office)
fxc: W. Joseph Hollins, II, MD
D/T: 6/16/09

503723
(3-5)
Appt. 6-8

COLUMBIA HEART, P.A.

PATIENT: GAIL C BRUCE
DOB: [redacted]
DOS: 06/03/2009

AGE: 55Y SEX: F

CHART ID: R35561
MRN: 233357
SSN: [redacted]

OFFICE NOTE

PROBLEM LIST:

1. Hypercholesterolemia.
2. Hypothyroidism.
3. History of diverticulitis.
4. Lactose intolerance.
5. History of myalgias with Crestor and all other statins.
6. History of GI upset with Glucophage.
7. Cigarette smoker.
8. Diabetes mellitus.
9. Obstructive sleep apnea.
10. Hypertension.
11. Acute abdominal pain with nausea and vomiting.
12. Chronic nonsteroidal use.

INTERVAL HISTORY: Patient has had flare-ups of gout. She has days where she has no pain at all in her joints such as today. Other times, she has had very difficult times moving around whatsoever. Some of this is due to gout flare, other symptoms of her joints however, may not be due to gout flare and may be due to another form of arthritis. I have asked her to consider seeing Dr. Flint to evaluate this.

She sees Dr. Constable on a chronic basis for steroid injections of her knees. We reviewed diet and food choices today and made suggestions. Electrolytes are essentially normal. Calcium is 10.5, creatinine 0.7, alkaline phosphatase 237, SGPT 32, SGOT 56, total cholesterol 181, triglycerides 145, HDL 40, LDL 112, Hemoglobin A1c 7.2. She has not been using her nighttime Byetta dose.

PLAN: Resume nighttime Byetta. Food choices were discussed to include high fiber diet with more monounsaturated fatty acid. Portion control, I suggested 400 calories 4 times a day and protein with each meal along with the monounsaturated fats and high fiber. Her current medications include allopurinol Ultram Mobic Prevacid, fish oil, Zetia, Tricor, Byetta, aspirin, colchicine, Tylenol, Synthroid, Lortab, cortisone, vitamin D, Benicar.

W. JOSEPH HOLLINS, II, MD, FACC
WJH/dtb
cc: DEANNE CONSTABLE MD-faxed
KATHLEEN FLINT MD-faxed
This document has been finalized by W. JOSEPH HOLLINS, II, MD, FACC on 06/03/2009 22:58:12.

D:06/03/2009 11:36:38
T:06/03/2009 22:58:12
348006

Palmetto Orthopaedic Clinic, P.A.
105 Office Park Road
Columbia, South Carolina 29223
(803) 699-5540
(803) 699-5547 fax

HISTORY: The patient returns to the office today. Since I last saw her she has lost 40 pounds. This is certainly wonderful. She is participating in some type of a Mufa diet. I have not heard of this. She is doing well with this. Her foot pain is better since she has lost weight. Her knees are still problematic. Gail continues to take her Mobic and her Tramadol. She is here for follow up. Her knees are still tender.

PHYSICAL EXAMINATION: On physical exam, the patient is still moderately overweight. Evaluation of both knees is symmetrical. Gail does have some pain along the periarticular region with crepitance associated with motion.

IMPRESSION:
1. BILATERAL KNEE DEGENERATIVE JOINT DISEASE.
2. HISTORY OF GOUTY ARTHROPATHY.

PROCEDURE: I have prepped the patient's left and right knee today and I have injected the interarticular space with Depo-Medrol and Marcaine.

PLAN: At this time, I talked with Gail. I have injected both of her knees today and we will see how she does with this. She is to work with her exercise program. I will see her back in the office in follow up. She is to call in the interim if she has any difficulty.

I have renewed her Tramadol today and Mobic as well as have given her Codeine 30 mg tablets to take should she develop a post steroid flare.

Deanna L. Constable, M.D.

DLC:sgf
(Next appointment: 12/4/09 Northeast Office)
cc: W. Joseph Hollins, II, M.D.
DR: 9/8/09 - DT: 9/10/09

JUN-14-2012(THU) 13:13

PALMETTO ORTHOPAEDIC CLINIC, P.A.
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Thomas W. Ewart, M.D. AE9284453 Ralph S. Owings, Jr., M.D. AO1476488
Deanna L. Constable, M.D. SC#14493

NAME Gail Bruce AGE

ADDRESS DATE 9.30

℞ Ultram 50mg
#120 (one tablet every 6 hours)
1-2 p.o. b.i.d.

Refill 10 20 30 40 NRO

M.D. M.D.
Dispense As Written Substitution Permitted

ADDRESS

℞ Cardizem 30mg
#50 1 tab
1 tab p.o. q 6-8h p.r.n. HR > 120

Refill 10 20 30 40 NRO

M.D. M.D.
Dispense As Written Substitution Permitted

NAME Gail Bruce AGE

ADDRESS DATE 9.30.12

℞ Robaxin 750mg
#60 1 tab
1 tab p.o. b.i.d. x 7 days

Refill 10 20 30 40 NRO

M.D. M.D.
Dispense As Written Substitution Permitted

Palmetto Orthopaedic Clinic, P.A.
105 Office Park Road
Columbia, South Carolina 29223
(803) 699-5540
(803) 699-5547 fax

December 4, 2009 Gail C. Bruce 503723 Northeast Office

HISTORY: Gail returns to the office today. She continues to lose weight. She has lost about 65 lbs., and this is encouraging. Her knees were problematic for her, and they remain so. Gail continues to be followed by Dr. Hollins. She is here for follow up.

PHYSICAL EXAMINATION: On physical exam, Gail does look better. She has lost a fair amount of weight. Range of motion of the knees is intact, but there is still some pain along the periarticular region.

IMPRESSION:
1. BILATERAL KNEE DEGENERATIVE JOINT DISEASE.
2. HISTORY OF GOUTY ARTHROPATHY.

PROCEDURE: I have prepped the patient's left and right knees today and I have injected the interarticular spaces with Depo-Medrol and Marcaine.

PLAN: At this time, I talked with Gail. I have injected both of her knees today. We will see how she does with this. She is to work with range of motion exercises. She is to work diligently with this. I will see Gail back in the office in follow up. She is to call in the interim if she has any difficulty.

Deanna L. Constable, M.D.

DLC:ld
(Next appointment: 3/12/10 @ 1:45 p.m. Northeast Office)
cc: W. Joseph Hollins, II, M.D.
D/T: 12/15/09

Palmetto Orthopaedic Clinic, P.A.
105 Office Park Road
Columbia, South Carolina 29223
(803) 699-5540 (803) 699-5547 fax

March 12, 2010 Gail C. Bruce 503723 Northeast Office

HISTORY: Gail returns to the office today. She has lost about 80 lbs. since she started her diet, and this is encouraging. Her knees, however, are still problematic. I do not find this unusual. A couple of weeks ago it was most profoundly painful. Gail doubled up her Mobic. She even tried taking colchicine. I think her arthritis is just changing and worsening in nature. She is here today for followup.

PHYSICAL EXAMINATION: The patient still has well healed incisions about her knees bilaterally. Range of motion of the knees is intact, although with pain and crepitance associated with motion.

IMPRESSION:
1. BILATERAL KNEE DEGENERATIVE JOINT DISEASE.
2. HISTORY OF GOUTY ARTHROPATHY.

PROCEDURE: I have prepped the patient's left and right knees today and I have injected the interarticular spaces with Depo Medrol and Marcaine.

PLAN: At this time, I talked with Gail. I have injected both of her knees today. We will see how she does with this. She will work with her exercises. She can continue with her activities. I have renewed Gail's tramadol, #120 to take 1-2 tablets every 8-10 hours. In addition, I have given her Lortab 7.5 mg, #40 tablets with no refill. I have renewed her Mobic 7.5 mg 1 p.o. b.i.d. with refills. I will see Gail back in the office in about three or four months. She is to call in the interim if she has difficulty.

Deanna L. Constable, M.D.

DLC/ld 3/17/10
Next Appointment: 6/4/10 @ 1:45

Palmetto Orthopaedic Clinic, P.A.
105 Office Park Road
Columbia, South Carolina 29223
(803) 699-5540 (803) 699-5547 fax

June 4, 2010 Gail C. Bruce 503723 Northeast Office

HISTORY: Gail returns to the office today. Both knees are problematic for her. In addition, however, she has had some SI joint pain bilaterally. She mostly complains of central core discomfort. She thought it was her hips, but I have told Gail it is more her back. She denies any radicular symptoms. She denies any claudication. Dr. Hollins apparently ordered a CT scan of her back, which shows a moderate amount of arthritis, which is not new to Gail. It does not, however, show any significant stenosis and no significant lateralizing findings. Gail is here for followup. She would like injections about both knees and her lower back today, but I have told her I think this is too much steroid. We will proceed with that about her back.

PHYSICAL EXAMINATION: Gail does have marked discomfort along the low back paraspinal region. There is tenderness along the PSIS area bilaterally. There is no discomfort about the sciatic notch and negative straight leg raise.

In terms of her knees, her exam is unchanged from that in the past. Gail still has marked tenderness along the periarticular region with crepitance associated with motion.

IMPRESSION:

1. BILATERAL KNEE DEGENERATIVE JOINT DISEASE.
2. HISTORY OF GOUT.
3. DEGENERATIVE JOINT DISEASE, LUMBAR SPINE.
4. BILATERAL SACROILIITIS.

PROCEDURE: We have prepped and draped the patient's back and I have I have injected the PSIS region bilaterally with Depo Medrol and Marcaine.

PLAN: At this time, I talked with Gail. I have injected her lower back today. Hopefully she will find this helpful. I have renewed her medications as outlined in her chart. I will see Gail back in the office in followup. She is to call in the interim if she has difficulty.

Deanna L. Constable, M.D.

DLC/ld 6/11/10
Next Appointment: 6/21/10 @ 11:30
Fxc: W. Joseph Hollins, II, M.D. 254-8226

PALMETTO ORTHOPEDIC CLINIC, P.A.
105 Office Park Road • Columbia, SC 29223 • Office 803-699-5540
110 East Medical Lane • Suite 225 • West Columbia, SC 29169 • Office 803-794-9191
Thomas W. Ewart, M.D. AE9284453 Ralph S. Owings, Jr., M.D. AO1476488
Deanna L. Constable, M.D. SC#14493

NAME Gail Bruce AGE

ADDRESS DATE 6.4.12

℞ Mobic 7.5mg
#60 (sixty)
1 po bid x 1 week

Refill 1☐ 2☐ 3☐ 4☒ NR☐

M.D. Dispense As Written

M.D. Substitution Permitted

Deanna L. Constable, M.D. SC#14493 Ralph S. Owings, Jr., M.D. AO1476488

NAME Gail Bruce AGE

ADDRESS DATE 6.4.12

℞ Ultram 50mg
#120 (one hundred twenty)
1-2 tablets po q 6-8hrs prn pain

Refill 1☐ 2☐ 3☒ 4☐ NR☐

M.D. Dispense As Written

M.D. Substitution Permitted

Thomas W. Ewart, M.D. AE9284453
Deanna L. Constable, M.D. SC#14493

88

NAME Gail Bruce AGE

ADDRESS DATE 6.4.12

℞ Lortab 7.5mg
#40 (forty)
1 po q 6.0hrs prn pain

Refill 1☐ 2☐ 3☐ 4☐ NR☒

M.D. Dispense As Written

M.D.

Palmetto Orthopaedic Clinic, PA
105 Office Park Road
Columbia, SC 29223
(803) 699-5540 (phone)
(803) 699-5547 (fax)

June 21, 2010 **Gail C. Bruce 503723** **Northeast Office**

HISTORY: Gail returns to the office today. Her back is doing much better. The shot seemed to be helpful. She is here for followup of her knees and would like injections here.

PHYSICAL EXAMINATION: On physical examination, Gail has much less pain about her lower back and paraspinal region. There is less discomfort along the PSIS area.

In terms of her knees, Gail's exam is unchanged from that in the past. She has a moderate amount of crepitus associated with motion as well as pain along the periarticular region. Range of motion of the knees are intact but with discomfort.

IMPRESSION:
1) BILATEARL KNEE DEGENERATIVE JOINT DISEASE.
2) HISTORY OF GOUT.
3) DEGENERATIVE JOINT DISEASE, LUMBAR SPINE.
4) BILATERAL SACROILITIS.

PROCEDURE: I have prepped the medial aspect of both of the patient's knees and have injected the intra-articular spaces with Depo-Medrol and Marcaine.

PLAN: At this time, I have talked with Gail. I have injected both her knees today. Hopefully, she will find this helpful. I will see Gail back in the office in 3 months. We will see how she is doing at that time.

Deanna L. Constable, MD

DLC:cmw
(Next appointment: 3 months)
fxc: W. Joseph Hollins, II, MD; fxn: 254-8226
(D/T: 06-23-2010)

October 8, 2010 **Gail C. Bruce 503723** **Northeast Office**

HISTORY: Gail returns to the office today. She is here for follow up of her knees. Since I last saw her, she saw Dr. Van Dam who gave her an epidural steroid injection in her back, and it relieved her pain in its entirety. She is very pleased with this. Gail has ongoing knee discomfort, which is not new for her. I have asked her to consider joint replacement surgery. The steroid shots, however, did very well until recently. She is still 56 years old and is moderately overweight. Gail needs to work with a weight loss program, and I think she would benefit from this. She is here today for followup.

PHYSICAL EXAMINATION: On physical examination, Gail has intact motion about both knees. She has marked pain along the periarticular region. Range of motion of the knees is intact, although with discomfort. There is [illegible]erness.

Palmetto Orthopedic Clinic, P.A.
105 Office Park Road
Columbia, SC 29223
Phone: (803) 699-5540 Fax: (803) 699-5547

October 8, 2010 (continued) Gail C. Bruce 503723 Northeast Office

IMPRESSION: BILATERAL KNEE DEGENERATIVE JOINT DISEASE.

PROCEDURE: I have prepped both of the patient's knees today, and I have injected the intra-articular spaces with Depo-Medrol and Marcaine.

PLAN: At this time, I have talked with Gail. I have injected both her knees today. We will see how she does with this. I have renewed her Tramadol, 120 tablets, as well as her Mobic 7.5 mg to take one p.o. b.i.d. If Gail can get away with just taking one a day, I have asked her to do so and not take it twice a day. I have also given her some Lortab 7.5-mg tablets, 40, just for her postoperative injections. I will see Gail back in the office in 3 months. She is to call in the interim if she has difficulties.

Deanna L. Constable, MD

DLC:cmw
(Next appointment: 01-06-2011 @ 11:15 a.m.)
fxc: W. Joseph Hollins, II, MD; fxn: 771-7422
D/R: 10-11-2010
D/T: 10-13-2010

Moore Orthopaedics
104 Saluda Pointe Drive
Lexington, South Carolina 29072
(803) 227-8129 Phone / (803) 227-8229 Fax

09/09/2010 **GAIL BRUCE 32749** **Lexington Office**

HISTORY: Ms. Bruce is a pleasant 56 year old female who presents today regarding lower back pain. She has had a long history of lower back pain. In her early 20's, she had an injury to her lower back. This resulted ultimately in an autofusion at L5-S1. Since that time, she has done very well until about three months ago when she developed significant lower back and hip pain with occasional radiation down towards the right leg. This is worse with walking. If she sits or lies down, her symptoms are not as bad.

PHYSICAL EXAMINATION: Physical exam reveals antalgic gait towards the right with slightly forward flexed posture. Neurologically intact.

RADIOGRAPHS: A CT scan was reviewed today, which does reveal autofusion at L5-S1 with moderate central stenosis. There is also grade I spondylolisthesis at L4-5 with significant facet arthropathy at this level.

IMPRESSION:
1. LUMBAR SPONDYLOSIS
2. AUTOFUSION AT L5-S1

PLAN: I discussed with Ms. Bruce all of her findings. I think she is having a significant flare up from some of the degenerative changes at the L4-5 disc and the spondylolisthesis at this area. We will proceed with an epidural injection, see how she responds and follow her up to make sure she is improving. She is currently on an anti-inflammatory and an analgesic, which she can continue with as needed.

W. Alaric Van Dam, M.D.

CC List: William J Hollins, MD, Columbia Heart Clinic
AVD:ats11
DD: 09/09/2010 DT: 09/10/2010 07:39:15
60723

This document was electronically authenticated by W. Alaric Van Dam, M.D. on 10/21/2010 15:56:41.

Moore Orthopaedics
104 Saluda Pointe Drive
Lexington, South Carolina 29072
(803) 227-8129 Phone / (803) 227-8229 Fax

11/11/2010 **GAIL BRUCE 32749** **Lexington Office**

HISTORY: Ms. Bruce has also had a history of severe arthritis of her knees. Dr. Constable has been giving her injections. She would like to come here to get her injections as well. I think this will be fine. Certainly, if she ends up needing a replacement, we can refer her back to Dr. Constable if she wishes.

PLAN: I will obtain updated x-rays of her knees since she has not had any in two years. Also, I would be happy to take over the Mobic and Ultram she has been taking.

W. Alaric Van Dam, M.D.

CC List:

AVD:atsl1
DD: 11/11/2010 DT: 11/12/2010 08:53:21
74658

This document was electronically authenticated by W. Alaric Van Dam, M.D. on 11/12/2010 16:54:12.

Moore Orthopaedics
104 Saluda Pointe Drive
Lexington, South Carolina 29072
(803) 227-8129 Phone / (803) 227-8229 Fax

01/19/2011 GAIL BRUCE 32749 **Lexington Office**

HISTORY: Ms. Bruce is a pleasant 56-year-old female who returns today in the clinic regarding bilateral knee pain. We have been following her for her lower back pain, which seems to be getting better, she states, but overall, she has had severe knee pain. She has had this for a long period of time. She has had previous injuries to her knees in the past and has undergone multiple knee surgeries. She describes the pain, at times, as a 9/10. Getting up and out of a chair is difficult. She is having difficulty walking as well. She has had previous Cortisone injections, which did give her up to two months of relief. Coughing and sneezing do not seem to bother her. She is not having any new numbness and tingling down the legs.

PAST MEDICAL HISTORY: Past medical history is signed and reviewed.

PHYSICAL EXAMINATION: A pleasant, well-developed, and well-nourished female in no acute distress. She can get up and out of a chair without difficulty. She has obvious deformities of both knees. She has pain over the medial and lateral joint lines bilaterally. Severe patellar grind is also noted. +1 intraarticular swelling is noted in both knees. Anterior and posterior Drawer's of the ankle are within normal. Sensation is intact to light touch and pinprick. No upper motor neuron signs are noted. Distal pulses are 2.

RADIOGRAPHS: AP, lateral and sunrise views of the bilateral knees were obtained today, which reveal bone-on-bone osteoarthritis of the left knee with a high riding patella. Right knee reveals similar medial and lateral compartment osteoarthritis, not as severe. She does have severe patellofemoral osteoarthritis of the right knee.

IMPRESSION:

1. SEVERE ENDSTAGE DEGENERATIVE JOINT DISEASE OF THE BILATERAL KNEES
2. LUMBAR SPONDYLOSIS WITH AUTOFUSION AT L5-S1 AND MODERATE SPINAL STENOSIS
3. GRADE I SPONDYLOLISTHESIS AT L4-5

PLAN: I discussed with Ms. Bruce all of her findings. We will go ahead and proceed with injections for her knees today and see how she does. She can repeat these in two months if necessary. She was taking pain medication from Dr. Constable, which I will refill for her. She was taking Lortab for severe pain and Ultram for daily pain and some Mobic.

PROCEDURE: BILATERAL KNEE CORTICOSTEROID INJECTIONS

After verbal consent was obtained, the patient was placed in a seated position. A 22-gauge, 1½-inch needle was used in an inferolateral approach bilaterally to inject 40 mg of Depo Medrol and 2 cc of 0.5% Marcaine. The patient tolerated the procedure well. No complications occurred.

Moore Orthopaedics
104 Saluda Pointe Drive
Lexington, South Carolina 29072
(803) 227-8129 Phone / (803) 227-8229 Fax

01/19/2011 **GAIL BRUCE 32749** **Lexington Office**

Continued

Continued

W. Alaric Van Dam, M.D.

CC List:

AVD:ats11
DD: 01/19/2011 DT: 01/20/2011 10:37:39

87551

This document was electronically authenticated by W. Alaric Van Dam, M.D. on 01/20/2011 16:27:52.

Moore Orthopaedics
104 Saluda Pointe Drive
Lexington, South Carolina 29072
(803) 227-8129 Phone / (803) 227-8229 Fax

03/25/2011 **GAIL BRUCE 32749** **Lexington Office**

HISTORY: Ms. Bruce is a pleasant 57-year-old female who presents today regarding bilateral knee pain. She has had a history of severe osteoarthritis of both of her knees. She states the injections did give her some relief. The pain has been ongoing for years. Going up and down steps seems to aggravate her. If she sits for a prolonged period and then gets up, her pain gets quite a bit worse. She is denying fevers, night sweats, bowel or bladder changes. Her lower back continues to give her some discomfort as well.

PHYSICAL EXAMINATION: A pleasant, well-developed, and well-nourished female in no acute distress. Alert and oriented x 3. She can get up and out of a chair without difficulty, except initial motion is a little bit painful for her. She has pain throughout the knee. Increased temperature is also noted with +1 swelling bilaterally. She has a high riding patella on the left side. Patellar grind is positive. There is crepitus throughout the patellofemoral joint. MCL and LCL reveal some pseudo opening bilaterally. Reflexes are +1 and symmetric. Edema is present to the mid tibia.

IMPRESSION:

1. SEVERE ENDSTAGE OSTEOARTHRITIS OF THE BILATERAL KNEES
2. SEVERE LUMBAR SPONDYLOSIS WITH DEGENERATIVE DISC CHANGES AT L4 THROUGH S1

PLAN: We will go ahead and proceed with an injection for Ms. Bruces's knees and see how she responds. ✓

PROCEDURE: BILATERAL KNEE CORTICOSTEROID INJECTIONS

After verbal consent was obtained, the patient was placed in a seated position. A 22-gauge, 1½-inch needle was used in a posterior inferior approach to inject 40 mg of Depo Medrol and 21 cc of 0.5% Marcaine using a 22-gauge, 1½-inch needle. The patient tolerated the procedure well. No complications occurred.

W. Alaric Van Dam, M.D.

CC List:

AVD:ats11
DD: 03/25/2011 DT: 03/28/2011 12:47:52
101701

This document was electronically authenticated by W. Alaric Van Dam, M.D. on 04/01/2011 10:01:47.

Moore Orthopaedics
104 Saluda Pointe Drive
Lexington, South Carolina 29072
(803) 227-8129 Phone / (803) 227-8229 Fax

03/25/2011 GAIL BRUCE 32749 Lexington Office

Moore Orthopaedics
104 Saluda Pointe Drive
Lexington, South Carolina 29072
(803) 227-8129 Phone / (803) 227-8229 Fax

05/27/2011 **GAIL BRUCE 32749** **Lexington Office**

HISTORY: Ms. Bruce is a pleasant 57-year-old female who presents today regarding bilateral knees. She has a history of severe osteoarthritis in the bilateral knees, tricompartmentally. She is stating the pain can be an 8/10 at its worse. She is trying to get around at work. We did an injection for her back, which really helped her lower back and knees. She states medications help her stay active. She has not had any new numbness, tingling, fevers or night sweats.

PHYSICAL EXAMINATION: A pleasant, well developed and well-nourished female in no acute distress. She can get up and out of a chair without difficulty. Straight leg raises and dural tension signs are negative. She has +1 intraarticular swelling of both knees and grinding along the patellofemoral joint. There is pain over both medial and lateral joint lines. Anterior and posterior Drawer's of the ankle are within normal. Hip joint compression is negative. Distal pulses are +2. No upper motor neuron signs are noted. Percussion of the spinous process is negative.

RADIOGRAPHS: Previous x-rays of the lumbar spine revealed severe lumbar spondylosis with degenerative disc disease at L4 through S1. X-rays of the knee revealed tricompartmental osteoarthritis.

IMPRESSION:

1. SEVERE END-STAGE OSTEOARTHRITIS OF THE BILATERAL KNEES
2. SEVERE LUMBAR SPONDYLOSIS WITH DEGENERATIVE DISC DISEASE AT L4 THROUGH S1

PLAN: I discussed with Ms. Bruce all of her findings. At this point, we will repeat injection for her knees. I have refilled her medications as well. We will just monitor her back since this is doing much better.

PROCEDURE: BILATERAL CORTICOSTEROID INJECTIONS OF THE KNEES

After verbal consent was obtained, the patient was placed in a seated position. The skin was prepped in a normal sterile fashion. An inferolateral approach was used to the left knee to inject 40 mg of Depo-Medrol and 2 cc of 0.5% Marcaine using a 22-gauge 1 ½ inch needle. Then the right knee was injected with an inferomedial approach with a 22-gauge 1 ½ inch needle to inject 40 mg of Depo-Medrol and 2 cc of 0.5% Marcaine. The patient tolerated the procedure well. No complications occurred.

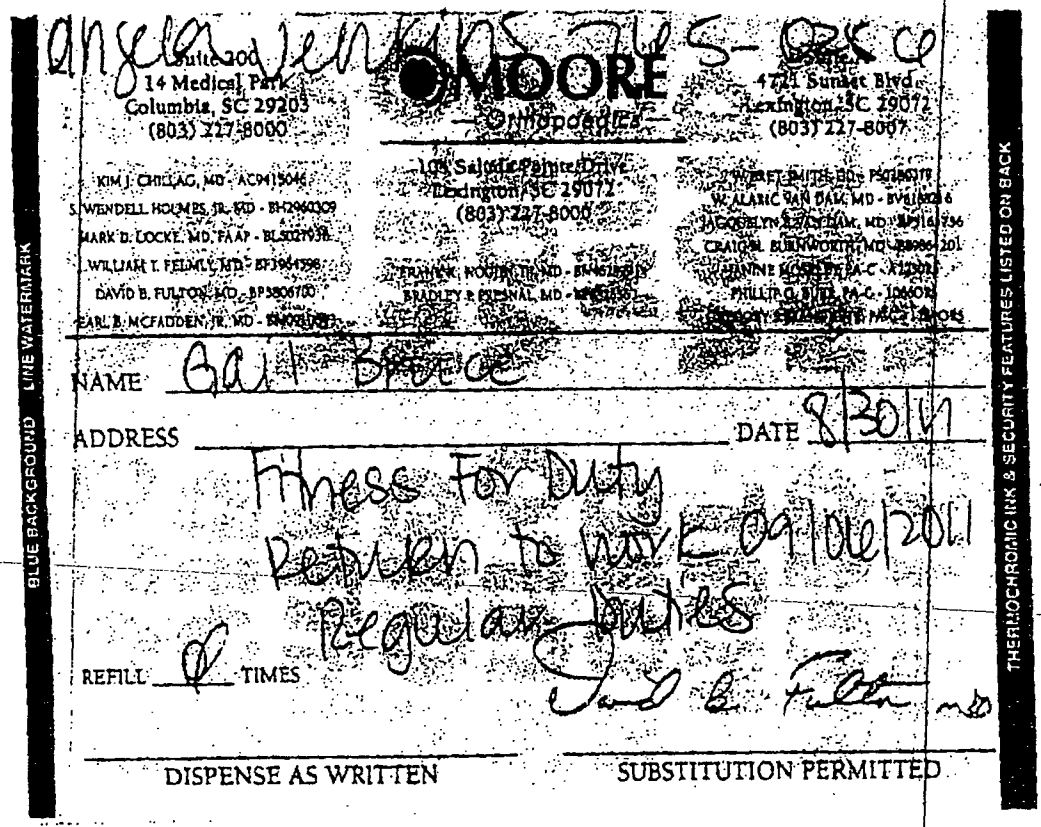
W. Alaric Van Dam, M.D.

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Moore Orthopaedics
104 Saluda Pointe Drive
Lexington, South Carolina 29072
(803) 227-8129 Phone / (803) 227-8229 Fax

05/27/2011 **GAIL BRUCE 32749** **Lexington Office**

This document was electronically authenticated by W. Alaric Van Dam, M.D. on 06/03/2011 10:37:28.



angela Jenkins 795-0850

Suite 200
14 Medical Park
Columbia, SC 29203
(803) 227-8000

MOORE
Orthopaedics

Suite A
4721 Sunset Blvd.
Lexington, SC 29072
(803) 227-8007

105 Saluda Pointe Drive
Lexington, SC 29072
(803) 227-8000

KIM J. CHILLAG, MD - ACP413046
S. WENDELL HOLMES, JR., MD - BH2960309
MARK D. LOCKE, MD, FAAP - BL5027938
WILLIAM T. FELMLY, MD - BF3941396
DAVID B. FULTON, MD - BF3806700
EARL B. MCFADDEN, JR., MD - BM0[illegible]
FRANK H. NOYES, III, MD - BN4618[illegible]
BRADLEY R. PENNAL, MD - BP4[illegible]
J. WILBERT SMITH, III, MD - BS[illegible]
W. ALARIC VAN DAM, MD - BV6[illegible]
JACQUELYN S. CHEEK, MD - BC[illegible]
CRAIG M. BLENKHORN, MD - BB[illegible]
JANINE MOORE, PA-C - X[illegible]
PHILLIP O. [illegible], PA-C - [illegible]
[illegible]

BLUE BACKGROUND LINE WATERMARK

THERMOCHROMIC INK & SECURITY FEATURES LISTED ON BACK

NAME Gail Bruce

ADDRESS _____ DATE 8/30/11

Fitness For Duty
Return to work 09/06/2011
Regular duties

REFILL 0 TIMES

David B. Fulton MD

DISPENSE AS WRITTEN

SUBSTITUTION PERMITTED

BLUE BACKGROUND LINE WATERMARK

Suite 200
14 Medical Park
Columbia, SC 29203
(803) 227-8000

Suite 110
114 Gateway Corporate Blvd.
Columbia, SC 29203
(803) 227-8000

CRAIG M. BURNWORTH, MD - BB9864201
KIM J. CHILLAG, MD - AC9415046
JOHN CLAVET, MD - FC2182361
WILLIAM T. FELMLY, MD - BF3964598
DAVID B. FULTON, MD - BF5806700

MOORE
— Orthopaedics —

S. WENDELL HOLMES, JR, MD - BH2960309
JEFFREY S. HOPKINS, MD - FH0068420
MICHAEL P. HORAN, MD - FH0038035
CHRISTOPHER R. HYDORN, MD - BH8986333
MARK D. LOCKE, MD, FAAP - BL5027936
EARL B. MCFADDEN, JR, MD - BM0910693
FRANK K. NOOJIN, III, MD - BN4628991
BRADLEY P. PRESNAL, MD - BP6328563
DAVID A. SCOTT, MD - FS1613480
W. BRET SMITH, DO - FS0280579

Suite A
4721 Sunset Blvd.
Lexington, SC 29072
(803) 227-8007

104 Saluda Pointe Drive
Lexington, SC 29072
(803) 227-8000

W. ALARIC VAN DAM, MD - BV6188216
ADAM BAIER, PA-C - MB1508196
JAMES C. COFFEY, PA-C - TL1617
JESSAMYN DEEMER, PA-C - MD1579626
GREGORY S. MANGIONE, PA-C - MM1824211
JANINE MOSELEY, PA-C - A2250RS

THERMOCHROMIC INK & SECURITY FEATURES LISTED ON BACK

NAME Gail Bruce

ADDRESS _____ DATE 11/16/11

Dx: (R) Shoulder pain post traumatic OSD
(R) Shoulder

Rx: May return to work Monday without restriction

REFILL _____ TIMES

DISPENSE AS WRITTEN

SUBSTITUTION PERMITTED

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 0215528

GAIL BRUCE, Employee, Claimant, vs. COLUMBIA HEART CLINIC Employer, AND COMPANION, Carrier, Defendants.	**SETTLEMENT AGREEMENT AND RELEASE ORDER APPROVING SETTLEMENT**

APPROVED
JUN 7 2004
S. C. Workers' Comp. Comm.

Gail Bruce "Claimant" alleges to have injured her both shoulders, by accident arising out of and in the course of her employment with Columbia Heart Clinic "Employer" on or about August 23, 2002 when she allegedly tripped over a wheelchair while carrying boxes.

Claimant's average weekly wage is ~~$1363.63~~ $714.55; and the compensation rate is ~~$549.42~~ $476.38.

Claimant contends that she is in need of additional medical examination and treatment; that she has sustained permanent disability in excess of any ratings by treating physicians; and Defendants dispute the Claimant's allegations and deny that any additional benefits are due.

Claimant has been treated and/or evaluated by David Koon, M.D., who has rated the Claimant's permanent impairment at 25 percent to each shoulder on January 20, 2004.

In consideration of the sum of Fifty-Seven Thousand Four Hundred Seventeen and 20/100s Dollars ($57,417.20), Claimant does hereby release and forever discharge Defendants from any and

all claims, demands, actions or causes of action under the South Carolina Worker's Compensation Act, on account of any and all injuries, disability, disfigurement, specific loss, death, operations, medical, hospital or like expense, continuances, recurrences, aggravations, changes of condition, ailments, illnesses, and diseases or other damages, consequences or results, past, present or future in any way connected with, or arising from the alleged injury sustained by Claimant on or about August 23, 2002, and does hereby acknowledge that Defendants have fully, finally and completely paid and discharged all of their obligations, liabilities and responsibilities under the South Carolina Workers' Compensation Act, and that the sum set forth above is being paid to, and received by, Claimant in full and final satisfaction of all claims whatsoever as a result of the alleged accident described above and that Defendants shall not be liable for any additional payments whatsoever.

Defendants have paid or have agreed to pay authorized medical expenses through January 20, 2004 incurred as a result of the alleged accident described above, in such amounts as may be approved by the South Carolina Workers' Compensation Commission.

Claimant represents that she has been fully advised of her rights under the South Carolina Workers' Compensation Act and that she is of the opinion that the proposed settlement is reasonable and fair, and requests that the South Carolina Workers' Compensation Commission approve this settlement as set forth in this Settlement Agreement and Release.

Claimant hereby relinquishes and releases each and every claim which she or anyone on her behalf now has, or may hereafter have, so that she shall not have any other or future claim or demand of any kind or nature as a result of the alleged accident described above.

IT IS ORDERED that the Settlement Agreement and Release be approved and made the Order and Award of the South Carolina Workers' Compensation Commission.

IT IS SO ORDERED.

SOUTH CAROLINA WORKERS'
COMPENSATION COMMISSION

BY: /S/ Sherry Shealy Martschink

/s/ Lisa D. Chavis

/S/ J. Alan Bass

WE CONSENT:

McAngus, Goudelock & Courie, L.L.C.

Gail Bruce
Claimant

Attorney for Defendants

Columbia, South Carolina
May 27, 2004

I certify this to be a true copy
Gregory S. Lee

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

WCC File # 0215528
Carrier File # 000000085891
Carrier Code # 1008
Employer FEIN 570809658

Claimant's Name: GAIL BRUCE
[redacted]
Address: [redacted]
City: [redacted] State: [redacted] Zip: [redacted]
Home Phone: # [redacted]
Work Phone: # [redacted]
Preparer's Name: Jannette Boyd

Employer's Name COLUMBIA HEART CLINIC, PA
Address: 1655 BERNARDIN AVE, STE 220
City / State: COLUMBIA, SC Zip: 29204
Insurance Carrier: COMPANION COMMERCIAL INSURANCE
Phone # 1-800-845-2724

	Compensation Paid:	Number of Weeks	From	To	Amount
1	Number of weeks T.T.	SEE ATTACHMENT			$ 11297.02
2	Number of Weeks T.P				$
3	Number of Weeks P.P.				$
4	Disfigurement .				$
5	Agreement and Final Release				$ 57417.20
	Total Compensation Paid.....				$ 63065.71
6	Total Medical Benefits Paid.....				$ 31776.39
7	Funeral Benefits...				$

☐ Case Denied Date of Injury: 08/23/2002

By signing this receipt, I acknowledge that I have received the compensation shown above.

By: Gail Bruce
claimant

By: Mar Ann
Employer's Representative

Date: 6/8/04

Print or type the name of the person, other than the claimant, receiving benefits and sign below.

By: _____

Report of additional Fees and Re-

A. Carrier Reimbursement by Third Party	$
B. Attorney's Fee Paid by Employer	$
C. Attorney's Fee Paid by Claimant	$
(Non contingent fees, only)	

File this form with the claims Department according to R.67-414 and R.67-1204. A person, other than the claimant, receiving benefits should sign on the line provided. *Do not include as medical costs fees paid for expert testimony, fees for determining carrier's liability, cost of autopsy, birth certificates and impartial examination. Form 19 must be filed within sixteen days of final payment of compensation. Form 19 must be filed when a claim is denied.

WCC FORM # 19 REV. DATE 3/96 19 **STATUS REPORT AND COMPENSATION RECEIPT**

RECEIVED
JUN 09 2004
Division of Policy

South Carolina Workers' Compensation Commission		WCC File #	0215528
P.O. Box 1715 • 1612 Marion Street		Carrier File #	000000085891
Columbia, South Carolina 29202-1715		Carrier Code #	1008
803) 737-5700		Employer FEIN	570809658
Claimant's Name: GAIL BRUCE SSN [redacted]		Employer's Name	COLUMBIA HEART CLINIC, PA
Address: [redacted]		Address:	1655 BERNARDIN AVE, STE 220
City: [redacted] State: [redacted] Zip: [redacted]		City / State:	COLUMBIA, SC Zip: 29204
Home Phone: # [redacted]		Insurance Carrier	COMPANION COMMERCIAL INSURANCE
Work Phone: # [redacted]			
Preparer's Name: Jannette Boyd		Phone #	1-800-845-2724

Compensation Paid:	Number of Weeks	From	To		Amount
Number of weeks	TT - 6 3/7	09/20/2002	11/03/2002	$	2926.33
Number of Weeks	TT - 2 6/7	01/14/2003	02/02/2003	$	1361.09
Number of Weeks	TT - 2 6/7	07/01/2003	07/20/2003	$	1361.09
Number of weeks				$	
Number of Weeks				$	
Number of Weeks				$	
Number of weeks				$	
Number of Weeks				$	
Number of Weeks				$	
Number of weeks				$	
Number of Weeks				$	
Number of Weeks				$	
Number of weeks				$	

19a attachment

BankofAmerica.
Bank of America

COMPANION COMMERCIAL INSURANCE COMPANY
P. O. Box 100165, Columbia, SC 29202-3165
(800) 845-2724

No. 0000203117

32-1
1110

CLAIM NO: 000000085891-0001 LOSS DATE: 08/23/02 DATE: 05/21/04 CHECK NO.: 0000203117
POLICY NO: CWC 1464400 INSURED'S NAME: COLUMBIA HEART CLINIC, PA CLAIMANT NAME: GAIL BRUCE

FIFTY SEVEN THOUSAND FOUR HUNDRED SEVENTEEN & 20/100 DOLLARS $57,417.20

PAY TO THE ORDER OF: GAIL BRUCE

Void after 6 months

CASHIER: For your protection, require two IDs from payee.

AUTHORIZED SIGNATURE

⑈0000203117⑈ ⑆111000012⑆ 375 002 4799⑈

FEIN: 1111111111
Coverage: WORKERS COMPENSATION
Cause of Loss: WORKERS COMPENSATION
Explanation of Payment:
CLINCHER FULL AND FINAL PAYMENT

If you have any questions concerning this payment, please contact Jannette Boyd at ext. 41878

Acct #:5901-00 State: 39 MCO: 03

SCOTT GARRETT
ATTORNEY AT LAW
P.O. BOX 12519
COLUMBIA, SC 29211

Fax to: Claims 1.866.887.6644
From: _____ Number of pages: ____ Fax this direction

Colonial Life.
Making benefits count.

Disability Claim Form

MAIL TO: COLONIAL LIFE & ACCIDENT INSURANCE COMPANY
Attn: Disability Benefits
P.O. BOX 100195
Columbia SC 29202
Questions? Call 1.800.325.4368 • 24 Hours A Day / 7 Days a Week

Please be sure to send the following information:
- ✓ A fully completed physician's section.
- ✓ A fully completed employer's section.
- ✓ A signed and dated authorization.
- ✓ Copies of any related bills – doctor, ambulance, emergency room, hospital, physical therapy, etc.

OPTIONAL SERVICE RELEASE AGREEMENT – Please Initial below for optional services. Any other marks used (check mark, x, etc.) will not be considered as authorization and will be processed as blank.

I authorize Colonial Life to facilitate processing this claim by releasing its details to the individual inquiring on my behalf. Leave blank if you do not want anyone accessing your claim information.

____sales representative ____plan administrator

____spouse, family member or significant other

____I want Colonial Life to update me on the status of my claim through electronic messaging at my home phone number indicated on this form. Messages will be left with anyone that answers the phone or on my answering machine. To avoid blocked calls, I should program the number 1.800.325.4368 into my phone.

____Yes, I want ALL payment(s) for this claim sent by overnight delivery. I understand payment(s) under $100.00 cannot be sent overnight and an $18.00 fee, which is subject to rate increases by carrier and does not include weekend delivery, will be deducted from my claim payment(s). We are unable to overnight mail to a P.O. Box and you must notify us in writing to discontinue this service.

If your name has changed, please attach a copy of legal documentation (i.e. marriage certificate or driver's license)

Section 1 – TO BE COMPLETED BY POLICY OWNER

Claimant name ___Male ✓Female	Birth Date	Claimant Social Security Number
Gail C. Bruce	[redacted]	[redacted]

Relationship to Policy Owner ___spouse ___dependent ✓self ___domestic partner

Policy owner (First, Last)	Birth Date	Social Security Number
Gail Bruce	[redacted]	[redacted]

Mailing Address (Street or PO Box)	Apartment/Unit/Lot Number
[redacted]	

(City)	(State)	(Zip)	Home Telephone
[redacted]	[redacted]	[redacted]	[redacted]

Policy Owner e-mail address (*Please print)	Work Telephone
gbrucc@columbia-heart.com	[redacted]

Claim is for: ___Accident ____Sickness	Condition(s) that keeps you from working
	*Shoulder injury

Date the accident occurred (not when it was treated) 7-15-11 (MM/DD/YYYY)

Check One: _____On-Job ____X____ (Off-Job)

Have you been treated for the same or similar condition prior to this occurrence? ☐ Yes ☒ No
If yes, when? _____ (MM/DD/YYYY)

Description of accident (If auto accident, attach a copy of the traffic report)

Tripped on uneven concrete and fell on Right shoulder

Colonial Life products are underwritten by Colonial Life & Accident Insurance Company, for which Colonial Life is the marketing brand.

Claim Fraud Statements

For your protection, the laws of several states, including Alaska, Arkansas, Delaware, Idaho, Indiana, Louisiana, Minnesota, New Hampshire, Ohio, Oklahoma, and others require the following statement to appear on this claim form.
Fraud Warning : Any person who knowingly, and with intent to injure, defraud, or deceive an insurance company, files a statement of claim containing any false, incomplete, or misleading information is guilty of insurance fraud, which is a felony.

Arizona Residents : For your protection Arizona law requires the following statement to appear on this form: Any person who knowingly presents a false or fraudulent claim for payment of a loss is subject to criminal and civil penalties.

California, Rhode Island, Texas and West Virginia Residents : For your protection, California, Rhode Island, Texas and West Virginia law requires the following to appear on this form: Any person who knowingly presents false or fraudulent claim for the payment of a loss is guilty of a crime and may be subject to fines and confinement in state prison.

Colorado Residents : It is unlawful to knowingly provide false, incomplete, or misleading facts or information to an insurance company for the purpose of defrauding or attempting to defraud the company. Penalties may include imprisonment, fines, denial of insurance, and civil damages. Any insurance company or agent of an insurance company who knowingly provides false, incomplete, or misleading facts or information to a policyholder or claimant for the purpose of defrauding or attempting to defraud the policyholder or claimant with regard to a settlement or award payable from insurance proceeds shall be reported to the Colorado Division of Insurance within the Department of Regulatory Agencies.

District of Columbia and Maryland Residents : WARNING: It is a crime to provide false or misleading information to an insurer for the purpose of defrauding the insurer or any other person. Penalties include imprisonment and/or fines. In addition, an insurer may deny insurance benefits if false information materially related to a claim was provided by the applicant.

Florida Residents : Any person who knowingly and with intent to injure, defraud, or deceive any insurer files a statement of claim or an application containing any false, incomplete, or misleading information is guilty of a felony of the third degree.

Kentucky : For your protection, Kentucky law requires the following to appear on this form: Any person who knowingly and with intent to defraud any insurance company or other person files a statement of claim containing any materially false information or conceals, for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime.

Maine, Tennessee, Virginia and Washington Residents : It is a crime to knowingly provide false, incomplete or misleading information to an insurance company for the purpose of defrauding the company. Penalties may include imprisonment, fines or a denial of insurance benefits.

New Jersey and New Mexico : Any person who knowingly files a statement of claim containing any false or misleading information is subject to criminal and civil penalties.

New York Residents : Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime, and shall also be subject to a civil penalty not to exceed five thousand dollars and the stated value of the claim for each such violation.

Pennsylvania Residents : Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties

Oregon Residents : Any person who makes an intentional misstatement that is material to the risk may be found guilty of insurance fraud by a court of law.

Puerto Rico Residents : Any person who knowingly and with the intention of defrauding presents false information in an insurance application, or presents, helps, or causes the presentation of a fraudulent claim for the payment of a loss or any other benefit, or presents more than one claim for the same damage or loss, shall incur a felony and, upon conviction, shall be sanctioned for each violation with the penalty of a fine of not less than five thousand (5,000) dollars and not more than ten thousand (10,000) dollars, or a fixed term of imprisonment for three (3) years, or both penalties. If aggravating circumstances are present, the penalty thus established may be increased to a maximum of five (5) years; if extenuating circumstances are present, it may be reduced to a minimum of two (2) years.

Fax this direction

CERTIFICATION

Policy owner/Employee's Name Gail C. Bruce Social Security Number 250-42-5542

I have checked the answers on this claim form and they are correct. I certify under penalty of perjury that my correct Social Security Number is shown on this form. I acknowledge that I received the "Claim Fraud Statements" on page 2 of this form and that I read the statement required by the State Department of Insurance for my state, if my state was listed on the form.

Fraud Warning: Any person who knowingly and with intent to defraud any insurance company or other person files a statement of claim containing any materially false information or conceals, for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime.

Please remember to also sign and date the attached authorization required to process your claim.

x Gail Bruce Claimant's Signature

x Gail Bruce Policy Owner's Signature

x 7/29/11 Date (MM/DD/YYYY)

Section 1 cont'd (To be completed by Policyowner)

Were you at work at the time of your accident or sickness? ☐ Yes ☒ No

Have you filed for Workers' Compensation benefits? ☐ Yes ☒ No

Dates unable to work: From 7-13-11 (MM/DD/YYYY) To 9/06/2011 ~~Unknown~~ DOH 8/18/11

If not employed, list dates of house confinement: From _____ (MM/DD/YYYY) To _____ (MM/DD/YYYY)

House Confinement means you are kept at home by your condition. "At Home" means in your house or yard. However you may follow your doctor's orders, even if it means leaving home.

Have you been unable to perform any activities of daily living? ☒ Yes ☐ No

If yes, please list the dates you were unable to perform the activities: From _____ (MM/DD/YYYY) To _____ (MM/DD/YYYY)

Check the activities that you are unable to perform:
☒ dressing ☐ eating ☒ meal preparation ☐ toileting ☐ continence ☒ bathing ☒ transferring

Date you returned to work: Full-time _____ (MM/DD/YYYY) Part-time _____ (MM/DD/YYYY) /Hours worked per week _____

List all doctors who have treated you for this condition and include your primary doctor's name first.

Doctor's name	Phone Number	Address
1. ER doctors		Palmetto Health Richland Hosp
2. Dr. Fulton		Moore Orthopaedics 104 Saluda Pointe Dr. Lexington SC 29072
3.		
4.		

Were you hospital confined? ☒ Yes ☐ No

Admitted _____ (MM/DD/YYYY) Discharged _____ (MM/DD/YYYY)

Hospital name/address/phone number Palmetto Health Richland Hospital Richland and Park Dr Columbia S.C 29203

Please submit detailed billing if confined for dental expenses an oral surgery was performed.

- ✓ Benefits are payable to you unless we receive written authorization from your provider to assign benefits to them. This is called an assignment. If you wish to assign your benefits, please send a signed written request.
- ✓ If this claim is for an individual covered by Medicaid, most non-disability benefits are automatically assigned according to state regulations. This means we must pay the benefits to Medicaid or to the medical provider to reduce the charges billed to Medicaid.

Fax this direction

SECTION 2 - TO BE COMPLETED BY EMPLOYER

Employee name: Gail C. Bruce

Date last worked: 7/15/2011 (MM/DD/YYYY)

Hire date: 8/14/1995

Dates employee unable to work (Full-time)
From: 7/18/2011 AM/PM (MM/DD/YYYY) To: Unknown AM/PM (MM/DD/YYYY)

Average number of scheduled hours per week: 40

Date sick leave was exhausted: _____ (MM/DD/YYYY)

Was employee at work when the accident or sickness occurred?
☐ Yes ☐ No Accident occurred during non-Work time (lunch/break)

Dates approved for FMLA (if eligible)
From: 7/15/2011 (MM/DD/YYYY) To: unknown at this time (MM/DD/YYYY)

Is a Workers' Compensation claim being filed?
☐ Yes ☒ No Was Denied - We do not compensate employees during the lunch hours.

Date employment terminated: _____ (MM/DD/YYYY)

Name of Workers' Compensation carrier: The Hartford

Phone number: 1-877-673-1222

For hourly employees:
Hourly rate of pay: N/A Hours worked per week: N/A

For salaried employees:
Annual salary: $66,513.02

If salary includes commissions, attach a breakdown of commissions for the twelve months prior to date last worked.

Date returned to work: Full-time _____ (MM/DD/YYYY) Part-time _____ (MM/DD/YYYY) /Hours per week ____

If not returned, expected return to work _____ (MM/DD/YYYY)

Employee's job title: Clinical Support Manager

Employee's duties include:

Lifting	☐ Less than 15 lbs.	☐ 15 to 44 lbs.	☑ over 45lbs.
Stooping/bending	☐ none	☐ seldom	☑ frequent
Crawling/kneeling	☒ none	☐ seldom	☐ frequent
Reaching/pulling/pushing	☐ none	☐ seldom	☑ frequent
Repetitive motion	☐ none	☐ seldom	☑ frequent
Management Duties	☐ none	☐ seldom	☑ frequent

Sitting (number of hours each day): 2-4 hrs. Standing (number of hours each day): 2-6 hrs.

Walking (number of hours each day): 2-6 hrs. Climbing Stairs/Ladders (number of hours each day): approx 30 min

Who should we contact for updates on return to work status? *(Please print)*
Name: Angela D. Jenkins Phone: 803-744-8404 E-mail: ajenkins@columbia-heart.com

FRAUD NOTICE: Any person who knowingly submits a statement or claim containing false or misleading information is subject to criminal and civil penalties. This includes Employer and Attending Physician portions of the claim form.

Signed by: Angela Jenkins Title: H.R. Manager

Print Name: Angela Jenkins Date: 7/19/2011 (MM/DD/YYYY)

Telephone Number (803) 744-8404 Fax Number (803) 765-0286

E-mail Address *(Please print)*: ajenkins@columbia-heart.com

Fax this direction

SECTION 3: TO BE COMPLETED BY PHYSICIAN

Patient's Name: Gail Bruce | Patient's DOB: [redacted]

What primary condition prevents the patient from working? Right Shoulder Dislocation

Symptoms: Shoulder pain & popping | Objective Findings: Right shoulder Dislocation & Pain

Date first treated for this condition: 7/20/11 (MM/DD/YYYY) | If pregnancy, what is EDC? N/A (MM/DD/YYYY)

Is condition due to accident? ☑ Yes ☐ No | If yes, date and description of accident 7/15/11 (MM/DD/YYYY)

Are any secondary conditions preventing the patient from working? ☐ Yes ☑ No | If yes, what are these secondary conditions?

When did symptoms first appear? 7/15/11 (MM/DD/YYYY) | Date of new patient consultation 7/20/11 (MM/DD/YYYY) | Date of patient's last visit 7/20/11 (MM/DD/YYYY)

List any test(s) performed and submit a copy of the results N/A

List any surgeries performed with the date and procedure code (CPT) (Attach a copy of the operative report) 7/22/11 Right Shoulder Bankart repair and rotator cuff repair

Restrictions (What the patient SHOULD NOT do) No use of right upper extremity

Limitations (What the patient CANNOT do) No use of right upper extremity

How soon do you expect significant improvement in the patient's medical condition? ☑ 1-2 months ☐ 3-4 months ☐ 5-6 months ☐ more than 6 months | Estimated Return to Work Date 8/29/11 (MM/DD/YYYY)

Dates (MM/DD/YYYY) unable to work full-time From: 7/15/11 To: 8/29/11 | Dates (MM/DD/YYYY) unable to work part-time From: 7/15/11 To: 9/6/11 | Actual date released to return to work: 9/06/11 (MM/DD/YYYY)

Does this patient have permanent restrictions/limitations? ☐ Yes ☑ No

If not employed, list dates of house confinement: From _____ (MM/DD/YYYY) To _____ (MM/DD/YYYY)

House Confinement means you are kept at home by your condition. "At Home" means in your house or yard. However you may follow your doctor's orders, even if it means leaving home.

Please check the activities of daily living that the patient is unable to perform: N/A

☐ dressing ☐ eating ☐ meal preparation ☐ toileting ☐ continence ☐ bathing ☐ transferring

Dates (MM/DD/YYYY) of Office Visits (Last 3 months) 7/20/11 | How often do you see the patient? Varies

Have you referred patient for other types of consultation ☐ Yes ☑ No | Name and address of Specialist

Dates (MM/DD/YYYY) of Hospitalization (Last 3 months) N/A | Name and Address of Hospital

FRAUD NOTICE: Any person who knowingly files a statement or claim containing false or misleading information is subject to criminal and civil penalties. This includes Employer and Attending Physician portions of the claim forms.

Signature of Physician | Date (MM/DD/YYYY) 7/21/11 | Physician's Specialty Orthopaedics

Telephone Number (864) 227-8224 | Fax Number (864) 227-8224 | Tax ID or SSN [redacted]

Physician/Group Name Moore Orthopaedics | Patient Account Number [redacted]

Mailing Address 124 Saluda Pointe Dr. Lexington, SC 29072 | Do you accept Medical Records request by Fax? ☑ Yes ☐ No

Was patient referred to you by another physician? ☐ Yes ☑ No | Do you have an authorization on file to release information to Colonial Life? ☑ Yes ☐ No

Provide the following information for referring doctor: Name: | Phone number

Address | Fax number

Colonial Life products are underwritten by Colonial Life & Accident Insurance Company, for which Colonial Life is the marketing brand.

07/10 5 84387-7

updated 8/18/11 DH

Phone 1.800.325.4368 Fax 1.800.880.9325

Authorization for Colonial Life & Accident Insurance Company

For the purpose of evaluating my eligibility for insurance and eligibility for benefits under an existing policy/certificate including checking for and resolving any issues that may arise regarding incomplete or incorrect information on my application or claim forms, I hereby authorize the disclosure of the following information about me and, if applicable, my dependents, from the sources listed below to Colonial Life & Accident Insurance Company (Colonial Life) and its duly authorized representatives.

Health information may be disclosed by any health care provider or institution, health plan or health care clearinghouse that has any records or knowledge about me including prescription drug database or pharmacy benefit manager, or ambulance or other medical transport service. Health information may also be disclosed by any insurance company, Medicare or Medicaid agencies or the Medical Information Bureau (MIB). Health information includes my entire medical record and insurance claim history but does not include psychotherapy notes. Non health information including earnings or employment history or any other facts deemed appropriate by Colonial Life to evaluate my application or claim forms may be disclosed by any entity, person or organization that has these records about me, including but not limited to my employer, employer representative and compensation sources, insurance company, financial institution or governmental entities including departments of public safety and motor vehicle departments.

Any information Colonial Life obtains pursuant to this authorization will be used for the purpose of evaluating and administering my claim for benefits. Some information obtained may not be protected by certain federal regulations governing the privacy of health information, but the information is protected by state privacy laws and other applicable laws. Colonial Life will not disclose the information unless permitted or required by those laws.

This authorization is valid for two (2) years from its execution or the duration of my claim, whichever is earlier and a copy is as valid as the original. I know that I or my authorized representative may request a copy of this authorization and access to this information. This authorization may be revoked by me or my authorized representative at any time except to the extent Colonial Life has relied on the authorization prior to notice of revocation or has a legal right to contest coverage under the contract or the contract itself. If revoked, Colonial Life may not be able to evaluate my claim or eligibility for benefits. I may revoke this authorization by sending written notice to: Colonial Life & Accident Insurance Company, Claims Department, P. O Box 100195, Columbia, SC 29202-3195.

You may refuse to sign this form; however, Colonial Life may not be able to evaluate and administer your claim. I am the individual to whom this authorization applies or that person's legal Guardian, Power of Attorney Designee, Conservator, Beneficiary or personal representative.

x Gail C. Bruce	XXX-XX-[redacted]	[redacted]
(Signature)	(Social Security Number — last 4 digits)	(Date of Birth)
Gail C. Bruce	7/18/11	
(Printed name of individual subject to this disclosure)	(Date Signed)	

If applicable, I signed on behalf of the insured as _____(Indicate relationship). If legal Guardian, Power of Attorney Designee, Conservator, Beneficiary or personal representative.

(Printed name of legal representative)	(Signature of legal representative)	(Date Signed)

Authorization

Colonial Life products are underwritten by Colonial Life & Accident Insurance Company, for which Colonial Life is the marketing brand.

DISABILITY CLAIM FOR ACCIDENT & SICKNESS (A&S)/ SHORT TERM DISABILITY (STD)/SALARY CONTINUANCE

MetLife®
Metropolitan Life Insurance Company
P.O. Box 14590
Lexington, KY 40511-4590
Fax: 1-800-230-9531

Instructions for completing the claim form:
1. Complete all applicable areas of the claim form. Please print clearly.
2. Please sign – a) bottom of this page and b) Fraud Statement.
3. Faxing this claim form will expedite receipt and eliminate your need to mail it.

Section 1: To Be Completed by the Employer

Name of Employer: Columbia Heart	Group Report #: 5574438	Sub-Code # (Sub-Division):	Sub-Point # (Branch):
Address: 8 Richland Medical Park S.300	City: Cola	State: SC	Zip Code: 29203
Subsidiary or Division Name:			
Contact Person's Name: Angela D. Jenkins			Phone #: 803-744-8404
Contact Person's E-mail Address: ajenkins@columbia-heart.com			FAX #: 803-765-0236
Employee Name (First, MI, Last): Gail C. Bruce	Social Security No.: [redacted]		Employee ID #:
Date of Hire: 8/14/1995	Job Title: Clinical Support Manager	Job Class: ☐ Sedentary ☑ Light ☐ Medium ☐ Heavy ☐ Very Heavy	
Work Location Address: 8 Richland Medical Park S.300		Work Phone #: [redacted]	Home Phone #: [redacted]
Supervisor Name: Terri Holder	Supervisor's E-Mail Address: tholder@columbia-heart.com		Phone #: 803-744-8416

Is condition work related? ☐ Yes ☑ No. If yes, provide: W/C Carrier Name_____

W/C Contact Person's Name_____ Phone#_____ Worker's Comp Claim #_____

Date Last Worked	First Date of Absence	Date Returned To Work	Eff. Date of Coverage	Basic Earnings (exclusive of overtime, bonus, etc.)
7/15/11	7/18/11	? ☐ Actual ☐ Estimated	8/1/04	$ 66,593.02 ☐ Hourly ☐ Weekly ☐ Bi-weekly ☐ Monthly ☑ Annual

Premium contributions: Employer_____% Employee 100 % ☐ Pre-Tax ☑ Post-Tax

Benefit Amount: $500

Payroll Classification: ☑ Exempt ☐ Non-Exempt ☑ Salaried ☐ Hourly ☐ Union ☐ Non Union ☐ Other_____

Employee's Status As Of First Day Absent: ☑ Active ☐ Vacation ☐ LOA ☐ Laid Off ☐ Terminated ☐ Retired

Hours Worked Per Week 40 ☑ Full Time ☐ Part Time

Scheduled Work Week ☑ M ☑ Tu ☑ W ☑ Th ☑ F ☐ Sa ☐ Su

Is work week regular YES or variable_____

If other than Active, please explain:

If STD buy up, date enrollment card signed: LTD Coverage? ☐ Yes ☐ No

Can employee's job be modified/accommodated? ☐ Yes ☑ No If yes, please describe.

Has return to work been discussed with employee? ☑ Yes ☐ No

To the best of your knowledge, indicate if the employee has filed for or is receiving income from any of the following sources:

	Applied for	Receiving	$ Amount	Frequency	From/To Dates
Salary Continuance/Sick Leave	☐	☐	N/A		
Workers' Compensation	☐	☐			
State Disability	☐	☐			
Other (Please identify)_____	☐	☐			

Provide weekly deduction amounts, if applicable:

	Pre Tax	Post Tax	$ Weekly Amount
Medical	☑	☐	21.19
Life	☐	☐	
Dental	☑	☐	7.27
LTD	☐	☐	
Other (Please identify) STD	☐	☑	64.15

Authorizing Signature: Angela D Jenkins Date: 7/19/11

A&S STD LTD UNI 5782 (03/06) eF

*Contact MetLife at 888-444-1433 for any questions you have on completing this form.

Section 2: To Be Completed by Employee

Name (First, MI, Last)	Social Security #	Date of Birth (MM/DD/YY)	Gender
Gail C. Bruce	[redacted]	[redacted]	☐ M ☑ F

Address	City	State	Zip Code	E-mail Address
[redacted]				

Home Phone #	Marital Status	Federal Tax Status	Tax Exemptions (Number)	Date Disability Began
[redacted]	☐ Married ☑ Single ☐ Other	☑ Married ☐ Single	9	7/15/11

Is your disability due to ☐ Illness? ☑ Injury/Accident? If due to injury/accident, provide Date 7/15/2011 Time 12:20 AM ☐ PM ☑
Provide Details (Where and How) Tripped on uneven concrete on side walk outside office during lunch hour

Is this condition work related? ☐ Yes ☑ No | Automobile Related? ☐ Yes ☑ No

Name of physicians/providers who have treated you for this condition within the past 12 months

Name of Physician/Provider	Phone Number	Dates of Treatment	Physician Specialty
Richland Emergency		From 7-15-11 To 7-15-11	ER Doctor
Physicist Dr. Fulton		From [illegible] To	Ortho

Please describe what prevents you from performing the duties of your job. 7-20-11
injured right shoulder

Section 3: To Be Completed by Attending Physician
This report is to assist us in making a disability determination that impacts income replacement for your patient. A MetLife claim representative may telephone your office if additional information is needed

Patient Name	Date Disability Began	Expected Return to Work Date
Gail Bruce	7/16/11	8/29/11

Initial date of treatment for this disability	Most recent date of treatment	Is condition work-related? ☐ Yes ☐ No
7/20/11	7/20/11	

Primary ICD-9 83100 Diagnosis Shoulder Dislocation
Secondary ICD-9 8408 Diagnosis Rotator cuff Tear
Objective Findings: right shoulder pain and dislocation.

CPT4 23455/29827 Procedure Bankart Repair / Rotator cuff repair Date 7/22/11

If pregnancy, delivery date N/A ☐ Expected ☐ Actual Type of delivery

If patient has been hospitalized ☐ Inpatient ☑ Outpatient Admitted Discharged

Treatment Plan: ☐ Additional Testing ☐ Medication ☐ Therapy ☑ Surgery ☐ Hospitalization ☐ Referral
Other (Describe)

Medications prescribed (names, dosages) N/A

Is patient able to work with job modifications or restrictions? (please be specific):
No use of right upper extremity

Signature	Specialty	Tax ID #
	Orthopedics	270743472

Street Address	Date
104 Salvada Pointe Dr.	7/21/11
City/State/Zip Lexington, SC 29072	

E-mail Address	Telephone #	Fax #
N/A	803 227 8124	803 227 8224

MetLife®
Metropolitan Life Insurance Company
P.O. Box 14590
Lexington, KY 40511-4590
Fax: 1-800-230-9531

HIPAA: This Authorization has been carefully and specifically drafted to permit disclosure of health information consistent with the privacy rules adopted subsequently amended by the United States Department of Health and Human Services pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

Instructions for completing the form:

1. Complete all applicable areas of the form.
2. If you are the Authorized Representative, include a copy of the legal document(s) authorizing you to act on the Employee/Claimant's behalf.
3. Sign this form.
4. Fax or return this form as soon as possible to expedite processing of your claim – retain original for your records.

Your refusal to complete and sign this form may affect your eligibility for benefits under your employer's disability plan.

Gail C. Bruce — [redacted]

Name of Employee (Please Print) | Social Security Number

Claim Number: _____

Authorization to Disclose Information About Me

For purposes of determining my eligibility for disability benefits, the administration of my employer's disability benefit plan (which may include assisting me in returning to work), and the administration of other benefit plans in which I participate that may be affected by my eligibility for disability benefits, I permit the following disclosures of information about me to be made in the format requested, including by telephone, fax or mail:

1. I permit: any physician or other medical/treating practitioner, hospital, clinic, other medical related facility or service, insurer, employer, government agency, group policyholder, contractholder or benefit plan administrator to disclose to Metropolitan Life Insurance Company ("MetLife"), my employer in its capacity as of its disability benefit plan, and any consumer reporting agencies, investigative agencies, attorneys, and independent claim administrators acting on MetLife's behalf, any and all information about my health, medical care, employment, and disability claim.

2. I permit: MetLife to disclose to my employer in its capacity as administrator of its benefit plans any and all information about my health, medical care, employment, and disability claim.

This Authorization to Disclose Information About Me specifically includes my permission to disclose my entire medical record, including medical information, records, test results, and data on: medical care or surgery; psychiatric or psychological medical records, but not psychotherapy notes; and alcohol or drug abuse including any data protected by Federal Regulations 42 CFR Part 2 or other applicable laws. **Information concerning mental illness, HIV, AIDS, HIV related illnesses and sexually transmitted diseases or other serious communicable illnesses may be controlled by various laws and regulations. I consent to disclosure of such information, but only in accordance with laws and regulations as they apply to me. Information that may have been subject to privacy rules of the U.S. Department of Health and Human Services, once disclosed, may be subject to redisclosure by the recipient as permitted or required by law and may no longer be covered by those rules. Your health care provider may not condition your treatment on whether you sign this authorization.**

I understand that I may revoke this authorization at anytime by writing to MetLife Disability at P.O. Box 14590, Lexington, KY 40511-4590, except to the extent that action has been taken in reliance on it. If I do not, it will be valid for 24 months from the date I sign this form or the duration of my claim for benefits, whichever period is shorter. A photocopy of this authorization is as valid as the original form and I have a right to receive a copy upon request.

Gail Bruce — 7/20/11

Signature of Employee | Date

Disability Claim Statement (Continued)

Fraud Warning:

New York: [only applies to Accident and Health Benefits (AD&D/Disability/Dental)]: I know it is a crime to fill out this form with facts I know are false or to leave out facts I know are important. I know that if I do this, I may also have to pay a civil penalty of up to $5,000 plus the value of the claim.

Florida: Any person who knowingly and with intent to injure, defraud or deceive any insurer files a statement of claim containing any false, incomplete or misleading information is guilty of a felony of the third degree.

Massachusetts: Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or a statement of claim containing any materially false information or conceals, for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, and may subject such person to criminal and civil penalties.

New Jersey: Any person who knowingly files a statement of claim containing any false or misleading information is subject to criminal and civil penalties.

Oklahoma: Any person who knowingly, and with intent to injure, defraud or deceive any insurer, makes any claim for the proceeds of an insurance policy containing any false, incomplete or misleading information is guilty of a felony.

Kansas, Oregon, Washington and Vermont: Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance containing any materially false information or conceals, for the purpose of misleading, information concerning any fact material thereto may be guilty of insurance fraud, and may be subject to criminal and civil penalties.

Puerto Rico: Any person who, knowingly and with the intent to defraud, presents false information in an insurance request form, or who presents, helps or has presented, a fraudulent claim for the payment of a loss or other benefit, or presents more than one claim for the same damage or loss, will incur a felony, and upon conviction will be penalized for each violation with a fine no less than five thousand (5,000) dollars nor more than ten thousand (10,000), or imprisonment for a fixed term of three (3) years, or both penalties. If aggravated circumstances prevail, the fixed established imprisonment may be increased to a maximum of five (5) years; if attenuating circumstances prevail, it may be reduced to a minimum of two (2) years.

Virginia: It is a crime to knowingly provide false, incomplete or misleading information to an insurance company for the purpose of defrauding the company. Penalties include imprisonment, fines and denial of insurance benefits.

California: For your protection California law requires the following to appear on this form: Any person who knowingly presents a false or fraudulent claim for the payment of a loss is guilty of a crime and may be subject to fines and confinement in state prison.

If you reside in any state other than those listed above, then the following warning may apply to you:

Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or a statement of claim containing any materially false information or conceals, for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties.

Name of Employee (Please Print): Gail C. Bruce Social Security Number: [redacted]

Signature of Employee Gail Bruce Date: 7-20-11

Signature of Employer's Representative Angela O. Jenkins Date: 7/19/2011

Signature of Physician _____ Date: _____

Disability Claim
Employee's Job Description

MetLife
Metropolitan Life Insurance Company
P.O. Box 14590
Lexington, KY 40511-4590
Fax: 1-800-230-9531

Instructions for completing the claim form:
1. Complete all applicable areas of the claim form.
2. Sign the claim form.
3. Fax this form to expedite your claim - retain original for your records.

Name of Employee: Gail C. Bruce
Usual Days Worked M-F / per week
Employee's Job Title: Clinical Support Manager
Hours Worked 40 / per week
Social Security Number: [redacted]
Claim Number:

This section should be completed by someone who is familiar with the employee's job functions (e.g., manager or supervisor). Complete all sections. This section must be completed AND you must also attach a copy of your company's description for the employee.

Name of Person Completing This Section: Terri Holder
Title: COO
Signature Terri Holder
Date: 7/19/2011.

Place an X in each of the appropriate boxesto describe the extent of the specific activity performed by this employee.

	Number of Hours Per Work Shift				
	0	1-2	3-4	5-6	7-8+
1. Sitting			✓		
2. Standing				✓	
3. Walking				✓	
4. Bending Over		✓			
5. Twisting		✓			
6. Climbing		✓			
7. Reaching Above Shoulder Level		✓			
8. Crouching/Stooping					
9. Kneeling					
10. Balancing					
11. Pushing or Pulling			✓		
12. Repetitive Use of Foot Control					
A. Right Foot Only	✓				
B. Left Foot Only	✓				
C. Both Feet	✓				
13. Repetitive Use of Hands					
A. Right Hand Only			✓		
B. Left Hand Only			✓		
C. Both Hands			✓		

	Number of Hours Per Work Shift				
	0	1-2	3-4	5-6	7-8+
14. Grasping					
A. Simple/Light					
1. Right Hand Only			✓		
2. Left Hand Only			✓		
3. Both Hands			✓		
B. Firm/Strong					
1. Right Hand Only		✓			
2. Left Hand Only		✓			
3. Both Hands		✓			
15. Fine Finger Dexterity					
A. Right Hand Only			✓		
B. Left Hand Only			✓		
C. Both Hands			✓		
16. Use of Head and Neck In:					
A. Static Position					
B. Twisting					
C. Looking Up					
D. Looking Down					

	Never 0% of Time	Occasionally 1-33% Of Time	Frequently 34-66% Of Time	Continually 67-100% Of Time
17. Lifting or carrying				
A. Up to 10 lbs				✓
B. 11-20 lbs				✓
C. 21-50 lbs			✓	
D. 51-100 lbs		✓		
E. 100+ lbs		✓		
18. Frequency of Interpersonal Relationships Necessary to Perform the Job				✓
19. Frequency of Stressful Situations Necessary to Perform the Job			✓	

In the course of performing the job, the employee is required to:

	Yes	No
20. Drive cars, trucks, forklifts and/or other equipment		✓
21. Be around moving equipment and/or machinery		✓
22. Walk on uneven ground		✓

	Yes	No
23. Be exposed to dust, gas or fumes		✓
If yes; are respirators required		
24. Be exposed to marked changes in temperature or humidity		✓
25. Is overtime required on a routine basis		✓

JOB.DESC.STD.LTD.UNI.5316 (01/03) FF

Disability Claim Employer Statement (Continued)

Name of Employee: Gail C. Bruce Social Security Number: [redacted]

Fraud Warning:

If you are insured under a policy issued in one of the following states, or if you reside in one of the following states, one of the following state warnings may apply to you:

New York (only applies to Accident and Health Benefits (AD&D/Disability/Dental)): I know it is a crime to fill out this form with facts I know are false or leave out facts I know are important. I know that if I do this, I may also have to pay a civil penalty of up to $5,000 plus the value of the claim.

Florida: Any person who knowingly and with intent to injure, defraud or deceive any insurer files a statement of claim containing any false, incomplete or misleading information is guilty of a felony of the third degree.

Massachusetts: Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or a statement of claim containing any materially false information or conceals, for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, and may subject such person to criminal and civil penalties.

New Jersey: Any person who knowingly files a statement of claim containing any false or misleading information is subject to criminal and civil penalties.

Oklahoma: Any person who knowingly, and with intent to injure, defraud or deceive any insurer, makes any claim for the proceeds of an insurance policy containing any false, incomplete or misleading information is guilty of a felony.

Kansas and Oregon: Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or a statement of claim containing any materially false information or conceals, for the purpose of misleading, information concerning any fact material thereto may be guilty of insurance fraud, and may be subject to criminal and civil penalties.

Virginia: Any person who, with the intent to defraud or knowing that he is facilitating a fraud against an insurer, files a claim containing a false or deceptive statement may have violated state law.

If you are covered under a self-funded plan or insured under a policy issued in any state other than those listed above, or if you reside in any state other than those listed above, then the following warning may apply to you:

Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or a statement of claim containing any materially false information or conceals, for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties.

Employer's Authorized Representative

Name Angela Jenkins Title HR Manager Phone # 803-744-8404

Signature Angela Jenkins Date 7/19/11

6B

306841

PROVIDENCE HOSPITAL
2435 Forest Drive
Columbia, South Carolina 29204

OPERATION

PATIENT: BRUCE, GAIL
DOCTOR: EARL B. MCFADDEN, M.D.
ADMISSION DATE: 09/20/2002
DISCHARGE DATE:
ROOM/BED:
PATIENT TYPE:
SOCIAL SECURITY: [redacted]

ACCOUNT#: 00102942706
MR #: 000032252
AGE:
DOB: [redacted]
NURSING STATION:
CLINIC CODE:

****

PATIENT: BRUCE, GAIL

DATE OF OPERATION: 09/20/2002

PREOPERATIVE DIAGNOSIS: Impingement syndrome, right shoulder.

POSTOPERATIVE DIAGNOSIS: Rotator cuff tear, right shoulder.

SURGEON: EARL B. MCFADDEN, M.D.

ANESTHESIA: General/regional.

OPERATION(S) PERFORMED: Arthroscopic acromioplasty and Mumford with arthroscopic rotator cuff repair, right shoulder.

ATTENDING PHYSICIAN: Earl B. McFadden, M.D.

ESTIMATED BLOOD LOSS: None.

REPLACEMENT: None.

DRAINS: None.

INDICATION: The patient is a 48-year-old white female who had a fall about a month or two ago and injured her right shoulder. Had an MRI showing significant tendonopathy and she is here for the above-mentioned procedure.

PROCEDURE: After adequate anesthesia, the patient was placed in the left lateral decubitus position on the bean bag and all pressure points were padded, including an axillary roll. We prepped and draped the right shoulder in a sterile fashion and suspended it through the shoulder holder using 10 pounds of traction. We grooved

HS 85891

PROVIDENCE HOSPITAL
2435 Forest Drive
Columbia, South Carolina 29204

OPERATION

PATIENT: BRUCE, GAIL
DOCTOR: EARL B. MCFADDEN, M.D.
ADMISSION DATE: 09/20/2002
DISCHARGE DATE:
ROOM/BED:
PATIENT TYPE:
SOCIAL SECURITY: [redacted]

ACCOUNT#: 00102942706
MR #: 000032252
AGE:
DOB: [redacted]
NURSING STATION:
CLINIC CODE:

****

anatomy on the skin with a marking pen and injected the shoulder at the posterior portal, made a nick and introduced the scope in routine fashion. A diagnostic arthroscopy revealed the articular surfaces looked fine. The biceps tendon was a little inflamed close to the insertion. There was some fraying of the labrum and there was no slap lesion or Bankart lesion. She had a negative drive through sign and had a significant tear of the supraspinatus. On the articular surface, I could not tell if it was full thickness from this side. I made a nick anteriorly, put a blunt trocar and then a shaver and debrided this some but still could not tell for sure whether we had a full-thickness tear. So we then removed the instruments for the shoulder, reinserted the scope at the posterior portal into the subacromial space. I inserted an InfoCam through the anterior portal, made a nick laterally and put a blunt trocar and a shaver in, did a bursectomy and then came in with a bur and did an acromioplasty taking about 5 to 6 mm anterior and tapering off to zero and I took out the distal 12 to 15 mm of the clavicle, alternating between the anterior and lateral portals. It was then noted the patient had a large full-thickness tear involving anterior 25% of the supraspinatus. It also had a little bit of a longitudinal component. So I put in a large cannula through my lateral portal. I then came in with a bur through that and roughened up the insertion site with a bur and then came in with an Accu-Med punch, punched a hole in to the bone and then came in with a 5-mm absorbable anchor screw that had two sets of sutures on it. I then came in with a bird beak through the anterior portal with a #2 Ethibond on it and came through the longitudinal component of the pair and passed through both portions with the pair and then came in with the grabber and pulled out the suture and pulled it through back out through the anterior portal. I then used the bird beak to pass one suture from the suture anchor through the posterior portion of the tear and another one through the anterior portion of the tear. I then began my ties. I tied the longitudinal component first and secured that suture and then I tied the posterior component and then the anterior component, and with this, it pulled down very nicely and had an excellent repair of the rotator cuff. I had cut all my sutures. I was very please with the

PROVIDENCE HOSPITAL
2435 Forest Drive
Columbia, South Carolina 29204

OPERATION

PATIENT: BRUCE, GAIL
DOCTOR: EARL B. MCFADDEN, M.D.
ADMISSION DATE: 09/20/2002
DISCHARGE DATE:
ROOM/BED:
PATIENT TYPE:
SOCIAL SECURITY: [redacted]

ACCOUNT#: 00102942706
MR #: 000032252
AGE:
DOB: [redacted]
NURSING STATION:
CLINIC CODE:

****

repair. We them removed the instruments from the shoulder and closed the skin using figure-of-eight 3-0 nylon sutures and dressed the wounds with Neosporin ointment, Adaptic and a sterile soft dressing, put an ABD in the axilla and put the patient in a shoulder immobilizer.

ASSESSMENT: The patient tolerated the procedure and was transported to the recovery room in stable condition.

EARL B. MCFADDEN, M.D.

EBM/MEDQ
DD: 09/20/2002 14:31
DT: 09/25/2002 13:20
11824

LEXINGTON MEDICAL CENTER

7035 St. Andrews Road
Columbia, South Carolina 29212
803-749-0924

IRMO OUTPATIENT SURGERY

PATIENT: BRUCE, GAIL C	
M.R. #: M001015815	
ADMITTED: January 14, 2003	D: 2003-01-14 10:12:07.0
DISCHARGED:	T: 1/14/03 10:42 AM /cir
PHYSICIAN: EARL B MCFADDEN JR, MD	

OPERATIVE REPORT

DATE OF OPERATION: 01/14/03.

PREOPERATIVE DIAGNOSIS(ES): Adhesive capsulitis, right shoulder.

POSTOPERATIVE DIAGNOSIS(ES): Adhesive capsulitis, right shoulder.

OPERATION PERFORMED: Closed manipulation of right shoulder.

ATTENDING: Earl B. McFadden Jr., MD

ANESTHESIA: Regional with IV sedation.

ESTIMATED BLOOD LOSS: None.

REPLACED: None.

DRAINS: None.

RECEIVED JAN 17 2003
RECEIVED JAN 17 2003
Date Mail Received:
Chart #/Location: 3068411
Next Appointment? Yes ✓ No
Appointment Date: 1/29 am (11)

INDICATION: The patient is a 48-year-old white female who had an arthroscopic rotator cuff repair done about 3 months ago. She has developed adhesive capsulitis and is here for the above-noted procedure.

DESCRIPTION OF PROCEDURE: After adequate anesthesia, we performed close manipulation of the right shoulder without any difficulties. We had easy release of adhesions and no difficulties with dislocation, fracture, or anything such as that. We regained full active range of motion without difficulty. The patient tolerated the procedure well and was transported to the recovery room in stable condition.

EARL B MCFADDEN JR, MD

HS 85891

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from the South Carolina
Workers' Compensation Commission

W.C.C. File No.: 1108693
Appellate Case No.: 2013-002028

Gail Bruce, Claimant,

Employee, Appellant,

v.

Columbia Heart Clinic, Employer, and Hartford Insurance Company of the Midwest c/o The Hartford,

Respondents.

Proof of Compliance

The undersigned hereby certifies that the Record on Appeal filed in this matter contains all the material proposed to be included by the parties to this matter and does not include any other material. The undersigned further certifies that the Record on Appeal filed in this matter complies with the South Carolina Supreme Court's August 13, 2007 Order re: Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings.

January 16, 2014
Lexington, South Carolina

Thomas P. Bellinger
Attorney for Appellant
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(803) 359-5523
Tommy@mcwhirterlaw.com

THE STATE OF SOUTH CAROLINA
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Respondents.

Employee, Appellant's
Certificate of Service

I, on January 16, 2014, served the Record on Appeal and Certificate of Service upon respondents by depositing a copy in the United States Mail, sufficient postage prepaid, addressed to their counsel of record:

Helen F. Hiser
McAngus, Goudelock & Courie
735 Johnnie Dodds Boulevard, St. 200
PO Box 650007
Mount Pleasant, SC 29465

January 16, 2014
Lexington, South Carolina

Sharon T. Canada, Paralegal for
Thomas P. Bellinger
Attorney for Appellant
McWhirter, Bellinger, & Associates
119 East Main St, Lex, SC 29072
(803) 359-5523
Tommy@mcwhirterlaw.com

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO. 1108693

GAIL BRUCE, Employee,

Claimant,

vs.

COLUMBIA HEART CLINIC, Employer,

-and-

HARTFORD INSURANCE COMPANY OF THE MIDWEST c/o THE HARTFORD, Carrier,

Defendants.

DEPOSITION OF W. ALERIC VAN DAM, M.D.

(Taken by Defendants)

Lexington, South Carolina

Friday, September 21, 2012

APPEARANCES

On Behalf of Claimant:

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803.359.5523

On Behalf of Employer/Carrier:

GEORGE D. GALLAGHER, Esq.
McAngus, Goudelock & Courie, LLC
Meridian, 10th Floor, Capitol Station
1320 Main Street
Columbia, South Carolina 29201
803.227.2234

DEPOSITION OF W. ALARIC VAN DAM, M.D., a witness called on behalf of the defendants, before Barbara A. Bostrom, Notary Publc in and for the State of South Carolina, at Moore Orthopaedic Clinic, P.A., 104 Saluda Pointe Drive, Lexington, South Carolina 29072, at approximately 8:30 A.M.

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(NO EXHIBITS MARKED)

P R O C E E D I N G S

W. ALARIC VAN DAM, M.D.,

having been first duly sworn, testifies as follows:

DIRECT EXAMINATION

BY MR. GALLAGHER:

Q. Okay. Good morning, Dr. Van Dam. I am George Gallagher. I represent the Heart Clinic, and I am actually here for one of my associates. And, so, we're here today to ask you questions regarding your treatment for Ms. Bruce of the medical treatment given in this case. I know you have probably had your deposition taken before, so I won't go over all the ground rules. But I like to remind folks, first and foremost, if I ask a question you don't understand, if I use erroneous medical terminology, please, just tell me, and I will be glad to ask the question differently. You're the expert about the case, and for someone maybe reading the deposition, it is very important that you wait until after the question is asked before you start to answer. Likewise, I will wait until you answer the question before I ask another one. The reason for that is, if we're talking over one another, it makes it particularly hard on the court reporter. I am particularly bad sometimes

about jumping in, and I have to resist the urge to go to my next question. Keep that in mind as well. Overall, this isn't a terribly complicated issue, so, we're not going to be here probably for certainly not more then 30 minutes. And I know Mr. Bellinger is not particularly long-winded either. First of all, before we went on the record, Mr. Bellinger and I agreed to stipulate that you are an expert in electrodiagnosis and interventional spinal procedures and so forth. Are you board certified in the specialty of pain management as well?

A. No, no.

Q. Do you practice pain management, or is that part of the overall field of physical medicine and rehabilitation?

A. Correct. We deal with various pain issues and treatment.

Q. Okay. And you're not a surgeon; is that correct?

A. Correct.

Q. And you typically deal with management of those problems?

A. Correct, physicians who deal with medical rehab. Basically, we deal with non-operative

treatment, nerve, muscles, spine.

Q. Okay. Good. Dr. Van Dam, turning your attention to Ms. Bruce's particular case -- and we have records here for you to reference, but I may reference some specific issues, but I think I want to start out with the big picture. I have reviewed the records, and Mr. Bellinger has reviewed the records. There is no dispute here. Is it fair to say Ms. Bruce has extensive pre-existing bilateral arthritis in her knees?

A. Yes.

Q. And it was first treated with Dr. Constable?

A. Yes.

Q. He first -- she first started seeing -- Dr. Constable treated her fairly regularly for her bilateral knee arthritis, correct?

A. Correct.

Q. And those treatments consisted of medications, correct?

A. Correct.

Q. Mobility?

A. Correct. And treatment of the bilateral inflammatory disease.

Q. And she also had injections regularly in

her knees; is that correct?

A. That's correct.

Q. And those injections were steroid injections, as well as interstitial -- is that how you pronounce it?

A. Yes.

Q. What's the difference?

A. Cortisone injections is an antiinflammatory. Interstitial basically is not a cortisone steroid. It is actually a gel which actually goes on the knee.

Q. And what was Dr. Constable's understanding of the overall diagnosis of her condition?

A. That she has severe osteoarthritis.

Q. And were there films that Dr. Constable ordered that showed the condition of the cartilage and the symptoms associated with that?

A. I don't recall. I am sure she also obtained preliminary films.

Q. Is severe arthritis -- is that particularly not --

A. It is a little bit subjective, but basically, you say severe in terms of you talk about where the arthritis is, how much cartilage destruction, destruction of the synovial, problems

with the loss of bone, if that interstitial area is smaller, severe cartilage destruction, arthritis. No cartilage on the bone. And oftentimes, another sign associated with that includes large spurs or cysts.

Q. And at one point in Dr. Constable's notes of June of 2010, she suggested or recommended that Ms. Bruce consider a total knee replacement bilaterally. Is that your understanding?

A. That's likely.

Q. Now, is total knee replacement indicated whenever there is someone that has severe osteoarthritis? Is it always indicated? What is the criteria where a doctor would recommend or depend on, Doctor?

A. Basically, actually, it is an elective decision which means there is very rarely ever a case that does not have to be treated. It is usually determined by the amount of arthritis in the knee, patient symptoms, and then response to certain treatments, seeing that most of the time most of the replacement physicians will tell you, of course, usually the criteria means severe arthritis. And conservative treatment is when medications, injections, and physical therapy is no longer

providing relief.

Q. That is, there is some element. There is one constant standard. Does there have to be radiographic criteria received before a doctor reasonably recommends total knee replacement, correct?

A. Absolutely.

Q. And that would be near or total loss of cartilage between the bone; is that correct?

A. That's correct.

Q. And Ms. Bruce met those criteria even before she was injured at work on July 15, 2011; is that correct?

A. That's correct.

Q. And it appears in Dr. Constable's records that she was getting injections in her knees fairly regularly, about every three or four months, between 2007 and 2010?

A. That's correct.

Q. I believe Dr. Constable left the practice at some point; is that correct?

A. Yes.

Q. So, you took over Ms. Bruce's treatment when?

A. I don't have the exact date. I think

Dr. Constable initially sent her to me for lower back problems, and Ms. Bruce asked me to take over her care at that point as she was without a physician, and I agreed to.

Q. So, initially, the referral was for lower back issues; is that correct?

A. I believe that's correct.

Q. And in the process, it looks like you first saw her in September of 2010?

A. That's correct.

Q. And, again, I think, as you said, this record reflects that was primarily for lower back issues?

A. Correct. And understand, as I got to know Ms. Bruce, she asked me to consolidate her care to one physician, and I said I would be happy to do that as well.

Q. And, initially, you saw her again in January 2011, good relief following back injections, and then you injected her knees again?

A. Yes, that's correct.

Q. And you saw her again in March of 2011, and you again injected her knees at that time, correct?

A. Correct.

Q. Is the two month pain relief a typical duration of relief from the steroid injections?

A. Again, it depends on the severity. Less severe, they may get up to two years, six months. The more severe arthritis, the less amount of time you're going to get relief from injections, or even a month might be expected.

Q. And, again, you saw her in January for injections, and you saw her in March for injections, and then you saw her again in May for injections in her knee. That appears to be a fairly regular pattern of two months of relief of that injection?

A. Yes.

Q. And I am assuming these are not necessarily regularly scheduled appointments. She would make appointments as necessary, depending on the relief she had gotten?

A. I believe we actually scheduled them with the idea she probably would require another one based on the relief she was getting. Of course, if she got more relief, she didn't need to come in. Consistently, it was about a two month period.

Q. Now, your records for 2011 don't particularly note that. Do you have any independent recollection of a discussion made with her?

A. Yes. We discussed many times her options. She wanted to stay with conservative treatment as long as she could.

Q. And the last time you saw her before her injury -- and her injury was July 15, 2011 -- it looks like the last records I have that you saw her for was May 27, 2011; is that correct?

A. Yes.

Q. Is that correct?

MR. GALLAGHER: Tommy, this is -- I think that is accurate.

THE WITNESS: This was July. This was before that.

BY MR. GALLAGHER:

Q. At that point in time, you noticed that she had severe osteoarthritis bilaterally. Can you tell us what that diagnosis means?

A. Sure. The knee joint has multiple actual compartments in it and various facets, mild, moderate, severe, and end-stage, that determines whether it's severe arthritis. Again, no cartilage, bone-on-bone.

Q. This diagnosis, the first time you reference the term end-stage in your records, or Dr. Constable did, is that something new, or is that

another way of saying what's been going on all along?

A. Correct, she had severe arthritis.

Q. So, a significant term end-stage at this juncture?

A. Correct, that could be.

Q. And, again, you injected her knees again on that date, correct?

A. Correct.

Q. And then, of course, she had her accident in July of 2011. What is your understanding of the mechanism of her injury, Dr. Van Dam?

A. I believe she had a fall, if I remember correctly.

Q. Do you know how she fell or how she landed when she fell?

A. No.

Q. And I believe following the accident she obviously had some initial emergency care, and then have you ever reviewed those records?

A. I have not.

Q. Did you know the doctor that followed her after the accident? Her initial complaint was right arm and right shoulder pain primarily?

A. I knew she had a problem, yes, with the

right shoulder.

Q. And did you know that she obviously was referred to Dr. Fulton for diagnosis and treatment of the shoulder problem?

A. Correct.

Q. Have you reviewed Dr. Fulton's -- I am going to show you physician's notes. This is the first orthopedic evaluation treatment following her accident from Dr. Fulton. Can you just peruse that and tell me when you're done with it, and then I will ask a question.

A. Okay.

Q. There does not appear to be any mention of acute occurrence injury to her knees on this initial record, Doctor?

A. No.

Q. It appears her primary problem was to her shoulder; is that correct?

A. Correct.

Q. And she ultimately had surgery with Dr. Fulton?

A. Yes.

Q. And then it looks like you saw her for the first time after her work accident on -- I am sorry -- here we go, September 15, 2011; is that

correct?

A. Correct.

Q. So, about two months post-accident. Did she mention anything that reflected this in your records about any injury to her knees? There is a notation here: She has been doing poorly with her knees overall. What does that reference mean?

A. She is just having trouble dealing with the pain in her knees.

Q. Is there anything different about her presentation on this date or any of her presentations before the accident regarding the pain in her knees, the problems she was having with her knees?

A. No.

Q. And I believe you again injected her knees --

A. Correct.

Q. -- On that date? And, of course, she continued to see Dr. Fulton for her shoulder, and I guess, currently she is okay. It looks like you see her again two months later in November 2011?

A. Yes.

Q. The diagnosis at that time was severe arthritis of the knees bilaterally; is that correct?

A. Yes.

Q. Are there any x-rays taken at this point after her accident?

A. Not that I am aware of.

Q. And you did another injection of her knees, kind of on schedule every two months later. Does that appear to be correct?

A. Correct.

Q. And, I guess, you saw her again December of 2011, and it looks like you just injected her left knee on that date; is that correct?

A. Correct. Now, I have given some opinions to Mr. Bellinger or his associate, that she probably exacerbated her knee.

Q. I want to ask you a question about that. Did the fall in July of 2011 necessitate any treatment that wasn't otherwise necessary before the fall? In other words, she was having injections before the fall. Clearly, she is still having injections after the fall, so have there been any alterations in the course of the medical treatment since before the fall and/or after the fall?

A. No.

Q. Did the dosages of medications change at all? In other words, when you do these injections,

do you repeat the frequency of the injections to get the best effect, or do you actually change the dosage?

A. A lot of times, you don't really change the dosage. It doesn't necessarily make it any more effective, so, typically, it is the standard dosage.

Q. And that standard dosage never changed before or after her fall; is that correct?

A. That's correct.

Q. Was she necessarily complaining of any more pain per se after the accident?

A. Yes. And I think her response to the injections was to the shoulder, which there was an acute weakness in the shoulder.

Q. Is that based on the duration of relief that she had?

A. Yes. She was telling me she was having more trouble than before.

Q. I believe you testified earlier that the efficacy of the injection actually decreases over time as the condition progresses; is that correct?

A. Yes.

Q. So, in light of that fact, is there any way you can attribute the meniscus injections after the accident as opposed to the natural progression

of her previous condition?

A. It's difficult.

Q. And has Ms. Bruce -- is Ms. Bruce still a candidate, or would it be reasonable for her to consider a total knee joint replacement today?

A. Yes.

Q. And it was reasonable for her to make that decision even prior to her falling; is that fair to say as well?

A. Yes.

Q. At any point, was there any one worse than the other? At any point during her treatment with Dr. Constable, was there any one knee any worse than the other?

A. No. Just about her being more miserable.

Q. Dr. Constable increased the dosage in one knee and not the other. Is that a physician's decision?

A. Yeah. Based on her arthritis, she may have one bothering her more then the other, as a result of the injections. But really logically, they are similar in terms of severity.

Q. Is that pretty much the same following the accident in her knees since July 2011, giving her any more problems with one more than the other?

A. I don't believe so.

Q. All right, sir.

MR. GALLAGHER: Dr. Van Dam, that is all the questions I have.

CROSS-EXAMINATION

BY MR. BELLINGER:

Q. Doctor, let me ask you a few questions. George went over a number of medical visits with you, and you had indicated here in your direct examination that you had not reviewed Dr. Fulton's medical report.

A. Correct.

Q. And I would just like to show you a report dated 8-3-2011, which is a report from Dr. Fulton, which is about 18 days or 19 days post-fall. Does that report, Doctor, indicate that she is having problems with her bilateral knees?

A. Yes.

Q. Okay. And you were asked a number of questions about her initial problems which Dr. Fulton treated. Are you aware that on or about her complaint of the fact that her right shoulder was dislocated following this fall?

A. Yes.

Q. And, Doctor, have you noticed over your

years of practice that oftentimes when somebody has a major injury to one area that seems to take priority with or seems to be their entire focus as compared to other problems?

A. That's correct.

Q. Are you aware from the date of her fall on July the 15th, up until Dr. Fulton's surgery to her right shoulder, that she, in fact, had a shoulder dislocation?

A. No, but I do see in the notes that there was a dislocation associated with that.

Q. Would that be reasonable for that to be a chief complaint of a patient if they were experiencing that kind of problem?

A. Yes, I would expect that would be a lot more painful then a typical knee.

Q. George asked you a number of questions about the question as far as -- that you were kind enough to complete. Actually, two different ones. I am going to refer you to what I would ask you to do, Doctor, if you would, to just review your February 19 questionnaire with George, deposition page 54, and then, Doctor, if you would go to the next half, page 62, and just review those two responses briefly, if you would. Tell me when you

finish those two, Doctor.

A. Okay.

Q. Doctor, if you would look at the first one, the February 19 of 2012 response. In that response, do you -- first of all, do you defer all questions regarding her shoulder to Dr. Fulton?

A. I do.

Q. Okay. All right. And regarding her knees in that February 19, 2012, report, did you indicate that at that time she presents with osteoarthritis, which was aggravated or exasperated by the fall?

A. That's correct.

Q. And is that still your opinion today?

A. Yes.

Q. And in that same report, you also indicate that she had permanent restrictions of limited bending, twisting, or turning, based on her knees, and no long standing, no continuous standing or walking. Is that still your recommendations today?

A. Yes, sir.

Q. And, Doctor, when you look at page 62, question 2, which indicates what the restrictions are, medications and potential need for bilateral replacement to both knees, is that to a reasonable degree of medical certainty most likely due to the

aggravation of the osteoarthritis? Is that how you responded to that?

A. Yes.

Q. Doctor, is that still your opinion today?

A. Yes.

Q. Referring back to the February 19 report, you indicate what medications -- do you indicate what Ms. Bruce will need to take?

A. A combination of antiinflammatory medications, pain medications in the form of Bioflex and Ultram and Lortab.

Q. And is it a possibility, Doctor, if she undergoes knee replacement, that you may change the medication regimen?

A. She may not require it.

Q. Do you find, Doctor, typically that they don't want that knee replacement; they try to hold off as long as they can?

A. Absolutely.

Q. Is this when a patient undergoes them -- is there a normal range or period of time that she generally lasts until they need to be revised in some fashion?

A. Correct. It's a limited life, so to speak, is she responding. Also, she may be more

active, or less active, it will last longer.

Q. What is the normal range for a total knee replacement?

A. Typically, 10 to 15 years, average being around 12.

Q. Doctor, is there any way -- again, I know that Mr. Gallagher asked a number of questions regarding her pre-existing state versus her state following the accident. Is there any way to address any kind of impairment rating prior to July 15, 2011, versus what it is today?

A. Probably would be the same.

Q. The impairment would be the same?

A. Yes.

Q. Okay. What significance do you place upon the fact that she was able to work prior to July 15, 2011, and for a period of time after that, to her current state of not being able to be employed?

A. Could you rephrase the question?

Q. You have indicated the impairment is probably the same pre-accident versus post-accident, okay?

A. Correct.

Q. Obviously, pre-accident, she was working, and then for a period of time post-accident, she was

working. Today, she is not working, okay? The restrictions that you have indicated may be due to the aggravation due to her osteoarthritis: The limited bending, twisting, turning of her knees, no deep struts, no continuous standing or walking. What impact did those restrictions have that are due to the aggravation, in your opinion, on her employability?

A. It makes it more difficult. She had to do a lot of walking. That would be more difficult because her knees would give her more problems.

Q. So is it a fair statement then that regardless of the impairment being the same, that the restrictions are, I guess, more significant? Most accidents have an impact on employability; is that fair to say?

A. Her function is decreased.

Q. And that would be consistent, as you stated, during direct examination earlier that her response both in follow-up on July 15, 2012, to your treatments were diminished?

A. That's correct.

Q. Doctor, have you found during your course of treating Ms. Bruce that she was very candid with you about all of her medical problems?

A. Yes, very much so.

Q. And did that seem to be consistent with the radiographic findings and her overall medical care that you were aware of?

A. Yes.

Q. And, Doctor, have all of your opinions, both to Mr. Gallagher and to myself, with our questions, have they been to a reasonable degree of medical certainty?

A. Yes, they have.

MR. BELLINGER: I have no further questions.

REDIRECT EXAMINATION

BY MR. GALLAGHER:

Q. Dr. Van Dam, number one, I believe you testified under direct examination that her initial response to the injections were not necessarily attributable to the accident, that it would suggest the fact of a natural progression of the pre-existing conditions; is that correct?

A. It is possible.

Q. So, can you say to a reasonable degree of medical certainty that the diminished response to the injections are a response as opposed to after the accident?

A. It's difficult to make that determination. I did notice a diminished response after the time of the accident.

Q. Diminished is something where we had her -- where Ms. Bruce had over seven years of consistent injections in her knees that was giving anywhere from three to fewer months of her relief, and if already, in light of what your testimony earlier was, over time, the efficacy of injections decreased, is it more likely than not, Doctor, that the diminished efficacy was a product of diminished or a natural progression of previous conditions post anything having to do with this accident?

A. It's possible.

Q. Now, you say that her condition has been aggravated, in response to questions Mr. Bellinger asked, but I believe you also testified, sir, that the course of her treatment has not changed since before the accident or after the accident; is that correct?

A. That is correct.

Q. So, if the course of the treatment hasn't changed because of the accident, then how would the condition have been aggravated?

A. In response to the treatment diminishing,

but there wasn't any further change that I could make at that point. We were giving her injections as early as possible in that time frame.

Q. So, you say the fact that she -- is it your opinion, then, that the fact that she had diminished pain relief following this accident was the product of the accident as opposed to just a normal diminished efficacy over time for somebody that has a seven-year history of severe arthritis in her knees?

A. It could be a natural course of production. In her case, I felt that she was diminished post-seven years, after treatment was beginning to work, and was unable to do those things afterwards.

Q. Were you aware of any problems she was having at work before this?

A. No.

Q. With getting around, completing her job, doing her job?

A. No.

Q. Do you know whether or not this was a situation where Ms. Bruce was 100 percent before this accident and afterwards she wasn't?

A. I don't know.

Q. Now, you said that in her restrictions that you included no deep squats, no continuing standing or walking without sitting. If Ms. Bruce had been having problems completing her job duties before this accident, would these type of restrictions have been appropriate at that point in time?

A. Yes.

Q. In other words, based on totally her condition even before she fell in July of 2011, would these restrictions have necessarily been unusual for the type of condition that she had?

A. No.

Q. And given Ms. Bruce's condition and overall body condition, would that have been a reasonable restriction on somebody regardless of any kind of work injury?

A. Yes.

Q. Now, you feel like Ms. Bruce is headed for -- ultimately going to require knee replacement, correct?

A. Correct.

Q. And did you feel like she was heading that way even before July, 2011?

A. Eventually, she would, yes, require it.

Q. Is there any way to predict, then, even if she had not fallen in 2011, is there any way you could have predicted that, or did it all depend on her primary response?

A. It had been something more.

Q. Can you agree that that tolerance in part is dictated by the treatment?

A. Sure, sure, if you're getting a good relief from the treatment.

Q. And as efficacy of those countermeasures decreased over time as the condition progresses, the need for knee replacement approaches?

A. Correct.

Q. Is there any way you can necessarily say that she needs a knee replacement, or the need for a knee replacement is aggravated by the fact that she fell on her right knee in July of 2011?

A. Repeat that.

Q. Can you state within a reasonable degree of medical certainty that that ultimate knee replacement was accelerated by the accident in 2011?

A. No.

Q. All right.

MR. GALLAGHER: That's all the questions I have.

RECROSS-EXAMINATION

BY MR. BELLINGER:

Q. Just so I am clear, I believe what you're saying is that your statement to a reasonable degree of medical certainty and as to why Ms. Bruce's condition with her knees was aggravated post-July 15 during her fall was because of her diminished response, as well as her subjective complaints to you. Is that an accurate statement?

A. That's correct. And then also the fact, again, despite having similar symptoms prior to the accident, she was working and doing fine, as far as I know, and then afterwards, a lot of difficulties walking.

MR. BELLINGER: Let me -- I am going to show you, George, reference page 73.

MR. BELLINGER:

Q. Doctor, you have not seen this report. This is a functional capacity evaluation. Particularly referencing income to the last paragraph, down at the bottom, if you could publish that one statement in there.

A. Qualified for limited sedentary work, does not tolerate occasional standing, kneeling, stair-climbing with right upper extremity.

Q. Are you in agreement with that statement as to what she does not tolerate?

A. Yes.

Q. And, again, she was able to maintain a number of jobs prior to July 15, 2011.

A. That's correct.

Q. One last question: Mr. Gallagher asked you just a moment ago about whether you could determine whether or not the knee is in need for a bilateral knee replacement, was accelerated as a result of the July, 15, 2011, accident, okay? And I understood your response to be you could not make that determination.

A. Correct.

Q. That seems to be a different response than what you indicated on May the 25th, and I just want to address that one issue so I am clear as to what you're saying.

A. Okay.

Q. I am looking at question 2D there. It indicates restrictions, medications, and a need for bilateral knee replacement were due to the aggravation. Are you now, Doctor, modifying the reference to the bilateral knee replacement due to aggravation, or are you not doing that? I just want

to make sure that is clear.

A. I feel that it did have aggravation due to a pre-existing condition, meaning she was stable in her treatment prior to her injury, and I did feel like, because her being able to work and not being able to work after the work injury, it aggravated and/or accelerated her previous status.

Q. Is there any way, though, to determine whether that acceleration of her condition has accelerated her need for a bilateral knee replacement?

A. It could, yes. In other words, if her treatment was stable and never had an injury, she may automatically require knee replacement, but it seems like after an injury, treatment is less successful, and then you have --

Q. Is that your opinion to a reasonable degree of medical certainty?

A. Yes.

FURTHER REDIRECT EXAMINATION

BY MR. GALLAGHER:

Q. A couple more questions in response to that. Here it appears in part in your opinion of this condition was aggravated based on your understanding or assumption or whatever that

Ms. Bruce was working fine and able to do her job and was not experiencing progressively work functional problems at work; is that correct?

A. That's correct.

Q. And if that, indeed, is not the scenario, are any of the opinions that you have given still applicable?

A. Not as much as if she was having steady decline and problems that would be considered progressive arthritis and you cannot pinpoint a time frame of an exact injury as opposed to --

Q. She was taking medications: Mobisyl, Ultram, Lortab. I believe she was taking all these medications before the accident, correct?

A. Correct.

Q. She was taking it after the accident, correct?

A. Yes.

Q. Did the dosage or treatment with medications change?

A. No.

Q. And then, finally, I just want to ask you, you think that both knees would have been aggravated perhaps by this accident if the evidence in this case reflects that she fell on her right knee only.

Would your opinion apply to the left knee, or could you say to a reasonable degree of medical certainty there was an aggravation of both?

MR. BELLINGER: I would object to the question as it is outside the realm of cross-examination, but subject to that objection, please answer the question.

THE WITNESS: I still believe the other knee would be affected. If one is injured more, it could place more special stress to the opposite side.

MR. GALLAGHER: Okay. All right, sir. Thanks. Nothing further.

(Signature waived.)

(Proceedings concluded at 9:15 A.M.)

C E R T I F I C A T E

I, Barbara A. Bostrom, Certified Court Reporter and Notary Public in and for the State of South Carolina, do hereby certify that the foregoing transcript is a true, accurate and complete record.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

Witness my hand I have hereunto affixed my official seal this 1st day of November, 2012, at Lexington, South Carolina.

/s/ Barbara Bostrom

Barbara A. Bostrom
CSR-0183, RPR-B-492
My Commission Expires:
11.17.2018

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08/03/2012 GAIL BRUCE [redacted]- 32749 **Lexington Office**

HISTORY: Ms. Bruce is a pleasant 58-year-old female who returns today regarding endstage osteoarthritis of her bilateral knees. She did have an opportunity to see Dr. Presnal, who recommended bilateral replacements, which she is waiting medical clearance for. Unfortunately, she has had a drop in hemoglobin, as well as an increased calcium level. She has not been cleared at this point. She continues have severe pain, 9/10 in both knees. Ambulation seems to give her the most discomfort. She is actually trying to lose some weight as well. She states. She has recently lost 13 pounds. She is denying any fevers, night sweats, bowel or bladder changes. She is not having any true radicular symptoms. She has been using assistive devices to get around. She continues to take Ultram as needed for the pain. Unfortunately, due to the decrease in hemoglobin, she has been stopped from her Mobic. She states this has made an enormous difference in the increase in pain since she has been off of it. She is also scheduled with a GI physician. She states she has had some gastritis like symptoms and burning in her stomach. She states her left knee is bothering her more than the right.

PHYSICAL EXAMINATION: A pleasant female in no acute distress. She has antalgic gait bilaterally. She has some pain over the medial and lateral joint lines of both knees with significant edema to the mid tibia. Anterior and posterior Drawer's of the ankle are within normal. She has pain over both the medial and lateral joint lines. There is crepitus of the patellofemoral joint. No pain over the quadriceps or patellar tendon. No pain over the pes anserine. Dural tension signs are negative. Femoral stretch is negative. No upper motor neuron signs are noted. No pain over the PSIS or ischial bursa.

RADIOGRAPHS: Previous x-rays of the knees revealed severe tricompartmental osteoarthritis.

MRI of the shoulder revealed severe glenohumeral osteoarthritis with rotator cuff tear. The left shoulder revealed supraspinatus tear.

IMPRESSION:

1. DIABETES
2. ENDSTAGE OSTEOARTHRITIS OF THE BILATERAL KNEES
3. GASTRITIS
4. LUMBAR SPONDYLOSIS WITH DEGENERATIVE DISC DISEASE AT L4 THROUGH S1
5. OSTEOARTHRITIS OF THE RIGHT GLENOHUMERAL JOINT
6. LEFT SHOULDER IMPINGEMENT

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08/03/2012 GAIL BRUCE - [redacted] - 32749 **Lexington Office**

Continued

Continued

PLAN: I discussed at length today with Ms. Bruce all of her findings. At this point, hopefully she will get clearance for surgical treatment for her knees. In the meantime, we will repeat injections for her. I am going to try her on some topical Voltaren gel to see if this helps as well. She is in agreement and will follow-up with me afterwards.

PROCEDURE: BILATERAL CORTICOSTEROID INJECTIONS OF THE KNEES

After verbal consent was obtained, the patient was placed in a seated position. A 22-gauge, 1 ½ inch needle was used in an inferolateral approach to inject 40 mg of Depo-Medrol and 2 cc of 0.5% Marcaine. This was done for each knee. The patient tolerated the procedure well. No complications occurred.

W. Alaric Van Dam, M.D.

CC List:

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10/12/2012 GAIL BRUCE - [redacted] - 32749 **Lexington Office**

HISTORY: Ms. Bruce is a pleasant, 58-year-old female who returns today in clinic regarding her bilateral knees and feet. She has had a history of severe osteoarthritis for years. This has continued to progress. Her left knee is so severe that injections are not helping. She is considering a knee replacement by Dr. Presnal at this point. Her feet have also given her trouble for many years. She has a dull, burning pain in the dorsum of the feet. This makes ambulating difficult. She has had chronic swelling in her lower legs. She feels some of this may be related to the arthritis. She used to get injections from Dr. Constable regarding the feet, and this helped her significantly. Currently, she states the pain is about an 8/10. She has been taking Ultram and Lortab as needed for severe pain. She is slowly losing weight. She has also had a history of irregular platelet counts, and this seems to be related to a fatty liver. She has been able to restart her Mobic, which has helped with some of the arthritis she has in other areas. Her shoulders continue to give her trouble as well. Overhead or behind the back activities seem to bother her. She has been using a cane to ambulate. The pain at times is very sharp at a 9/10. Other times, it can be about a 6/10 with pain medications. She states the pain medication does help her more functional and get around and help her take care of her basic ADLs.

PHYSICAL EXAMINATION: A pleasant female in no acute distress. She is using a cane to ambulate. She has intra-articular swelling of +1 in the right knee, +2 of the left knee. Flexion of the knee is about 85 degrees. She has pain over both the medial and lateral joint lines. Severe crepitus through the patellofemoral joint. Full extension is noted. There is edema to the upper tibia bilaterally. Some tenderness along the midfoot bilaterally. Anterior and posterior drawers are within normal. Distal pulses are difficult to palpate today. Sensation intact to light touch and pinprick. No upper motor neuron signs are noted. No pain in her PSIS, ischial bursa or greater trochanteric bursa.

RADIOGRAPHS: Previous x-rays of the knee reveal severe tricompartmental osteoarthritis. MRI of the shoulder reveals severe glenohumeral osteoarthritis and a rotator cuff tear. The left shoulder reveals a supraspinatus tear. AP lateral and oblique views of the bilateral feet are obtained. The left foot today reveals osteoarthritis in the second/third cuneiform and metatarsal region. There is some talonavicular osteoarthritis. Hallux valgus deformity also noted. Mild calcification at the calcaneal plantar fascia insertion and some talocalcaneal osteoarthritis also noted. Loss of normal arch. The right foot reveals a mild plantar fascia heel spur, some talocalcaneal osteoarthritis/midfoot osteoarthritis, primarily involving the second and third cuneiform metatarsals, with a hallux valgus deformity. Soft tissue edema is present in both feet with loss of normal arch.

IMPRESSION:

1. END-STAGE OSTEOARTHRITIS OF THE BILATERAL KNEES
2. DIABETES

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Continued

IMPRESSION: (continued)

3. MIDFOOT OSTEOARTHRITIS
4. GASTRITIS
5. LEFT SHOULDER IMPINGEMENT WITH ROTATOR CUFF TEAR
6. GLENOHUMERAL OSTEOARTHRITIS OF THE RIGHT SHOULDER
7. LUMBAR SPONDYLOLYSIS WITH DEGENERATIVE DISC DISEASE, L4 THROUGH S1

PLAN: I discussed with Ms. Bruce all our findings. We will do an injection along the cuneiform area bilaterally for both feet. We will also do a right knee injection. I will have her follow up with Dr. Presnal for a possible left knee replacement. She is in agreement. Medications were refilled today. We are monitoring her lower back and shoulder at this point. She does see Dr. Fulton regarding the shoulders as well.

PROCEDURE ONE: BILATERAL CUNEIFORM NAVICULAR CORTICOSTEROID INJECTION

Informed consent was obtained. The patient was placed in the seated position. The area of maximum tenderness of both feet was prepped in a normal sterile fashion. A 27 gauge 1 ½ inch needle was used to inject 20 mg Depo-Medrol and 1 cc of 0.5% Marcaine. The patient tolerated the procedure well in both feet. No complications occurred.

PROCEDURE TWO: RIGHT KNEE CORTICOSTEROID INJECTION

Informed consent was obtained. The patient was placed in the seated position. The skin was prepped in a normal sterile fashion. An inferolateral approach was used to inject 40 mg of Depo-Medrol and 2 cc of 0.5% Marcaine. The patient tolerated the procedure well and no complications occurred.

W. Alaric Van Dam, M.D.

CC List:

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10/12/2012 **GAIL BRUCE - 02/20/1954 - 32749** **Lexington Office**

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