THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Circuit Court

Hon. Alison R. Lee, Circuit Court Judge

Case No. 2011CP4003561

Gertrude Shiver, ...Claimant, Appellant,

v.

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

AMENDED INITIAL BRIEF OF APPELLANT

October 15, 2014

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STATEMENT OF THE CASE

This action begin with the filing of the request for a hearing at the Worker's Compensation Commission on or about October 10, 2006, after receiving several

settlement offers from PHTS and the claimant's inability to obtained legal representation and misunderstanding of the worker's compensation laws. The insurance adjuster had stated, "South Carolina Worker's Compensation Laws are designed so an injured worker could represent themselves."

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

This is a case which is believed to be a case of First Impression held on September 4, 2007, before the single commissioner. It contained seven claims which more or less involved the same injured body parts under worker's compensation. Aggravation of preexisting injuries and conditions was one of the legal components. The first claim in the case was an outstanding 1995 claim against Trident Regional Medical Center which had a long history of abuse, the use of trickery, and fraud against the injured claimant. This was WCC claim No. 9503744. The claimant had asked that this claim be included with the other six claims since it involved the same injured body parts that were subsequently reinjured at Palmetto Health Richland Hospital. The defense Attorney Michael E. Chase had requested that the six claims be combined.

Originally, this claim of January 23, 1995, was supposed to have been held in 2000, but the prior defense attorney for Trident Hospital, E. Douglas Pratt-Thomas had used the defense of "Res Judicata," and an Order that had been drawn up by the defense Attorney Pratt-Thomas and the claimant's prior attorney, Thomas M. White in 1995 which claimant was made to sign and Commissioner G. Bryan Lyndon signed. The Order contained a clause where all injuries of the claimant were dismissed with prejudice except the right shoulder and right foot. The hearing wasn't actually held and the claimant was made to withdraw her Form 50 and she was subsequently given an

Order by Commissioner Mickle where either party could bring up this claim whenever either party wanted too (APA 6). Commissioner Mickle gave the claimant several ultimatums including one where if she had accepted a settlement offer of $7,604.64, then the commissioner would clinch up all of her claims.

The claimant didn't know what was wrong with the case and why Commissioner Mickle was so angry and upset with her in 2000, and why Attorney Pratt-Thomas was putting on such a show about the claim. The claimant knew that she had never received any orthopedic treatment under this Order for her injuries nor had an MRI been done on her right shoulder and arm to identify why she was still having pain and popping in the shoulder which continues to this day and why the injury had affected her handwriting. A rotator cuff tear had not been ruled out. No one would tell the claimant what was wrong with this claim.

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

In 1996, a hearing was held in Charleston with the single Commissioner G. Bryan Lyndon for her claim of September 25, 1994. Unbeknownst to the claimant, Attorney Pratt-Thomas had clumped the remaining known injuries of October 24, 1994 and January of 1995 under this September 25, 1994 hearing so that Commissioner Bryan Lyndon could get rid of the claims. It wasn't until March of 1997, that the claimant found out that this claim of January 23, 1995 had never really been adjudicated. That is why the claimant resubmitted this January 23, 1995, claim again for it to be heard with these six claims from Palmetto Health Richland.

On September 4, 2007, this would have been the first time that this 1995 claim would have been adjudicated that the claimant knew of. When the claimant got to the conference room, the claimant had already been set up by the defense attorney and the single Commissioner. There was a white man with a camera, the insurance adjusters, and defense attorneys present. The claimant was the only black person there. The claimant was already anxious and nervous and the atmosphere only made the condition worst. The single commissioner, Huffstetler, came into the hearing room very angry about how many claims the claimant had against Trident Hospital and the fact that she had written a book and told what Attorney White had done to her and her January 23, 1995 claim. The single commissioner, Huffstetler, started off the hearing by exclaiming that these claims were not a continuum but each case was separate and distinct. He broke the case up into individual parts where he did not spend much time with either one of them. He never asked about the status of the January 23, 1995 claim. He was supposed to have started where Commissioner Mickle left off in 2000. He told the claimant that he didn't want to hear any hearsay. Then he said, "Tom White has come before me." "They have a right to tell you what to do."

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

The commissioner geared his questions toward the defense of the hospitals, insurance companies, and the defense attorneys. In addition, he didn't control the defense attorneys' actions toward the claimant, especially the defense attorney Michael E. Chase.

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

The claimant didn't know why the commissioner had asked her about being fired from her nursing jobs for mistreating patients. He also asked the claimant if she had asked for a doctor with her October 23, 2003 fall. By this time, the claimant wasn't thinking or understanding the questions that were being asked. The claimant had forgotten that she had been in a conversation with Mrs. Libby Holland and the insurance company about providing her with a physician with this fall. The claimant now believes that this was part of the conspiracy of Attorney Chase and the Commissioner. In the end, Attorney Chase chided the claimant about this and about her forgetting that she had asked Mrs. Holland about a physician and about her getting fired from K-mart stores. Attorney Chase has contributed to the claimant's nervous state by standing up and waving the deposition papers in her face. He also contributed to the claimant being forgetful, anxious, nervous, and confused. Attorney Chase had read the claimant's book and he knew about the claimant's past history and her relationship with some white men.

This made the claimant more upset, forgetful, and nervous and the claimant couldn't think rationally. The claimant has a history of trauma from white men. After the commissioner had hurried through this hearing, he was angry with the claimant and

his secretary because the claimant was asking her what to do because she had forgotten some things and she wanted to clarify the trouble that she had had with Attorneys White and Pratt-Thomas concerning the January 23, 1995 claim.

After going home, the claimant wrote the commissioner a letter which he ignored. The claimant had asked for an MRI of her right shoulder to determine what was still causing the pain and popping in her shoulder. The claimant never did receive an MRI of the right shoulder. The single commissioner mind was already made up about the claimant. The claimant received a letter next where he was asking the defense attorney, Michael Chase, to write an Order against the claimant knowing that this was the same attorney who had gotten the claimant fired from Palmetto Health Richland Hospital.

While waiting for the Order from the single commissioner, the claimant's nightmares increased. The single commissioner, the defense attorney, and Willis Gregory from Palmetto Health Richland had joined the group of white men who were abusing her in her nightmares. Sometimes these men would throw the claimant off of a bridge into the water. At other times, they would burn down the claimant's parents home and the church. Sometimes, she would be chased through the woods by a great big black dog. The claimant had nightmares of what the group of white men did to her including the single commissioner and the defense attorney that would be offensive to list here for the Court.

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

When the claimant did received the Order from the single commissioner around October 24, 2007, there were a lot of untruths in it. Some were deliberately put in there by the defense Attorney Chase and Commissioner Huffstetler, and some were obtained by the way they were phrasing the questions to the claimant after they had gotten her confused. The claimant later received the Order where she was not awarded anything

and where the single commissioner was binding up the Order of 1995 signed by Commissioner G. Bryan Lyndon, and dismissing all claims, "With Prejudice." By this time, the single commissioner had read the claimant's book where the claimant talked about her struggles and what had happened to her in the past with her worker's compensation claims.

After receiving the single commissioner Order and seeing the untruths that were written in it, the claimant commenced to appeal the decision and to add new and additional information and clarification so that the untruths could be corrected and the decision appealed.

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

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

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

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

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

Notice of Intent to Appeal and Exceptions were filed with the Circuit Court on June 1, 2011, of the Full Commission's affirmation of the merits of the single Commission Order. On April 26, 2013, an appeal was commenced with the Court of Appeals.

ARGUMENTS

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

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

Appellant further asserts her Motion contained Constitutional valid issues never raised before because the issues concerns the hostile and bias attitude of the Single Commissioner before and during the hearing that prevented Appellant from effectively presenting and arguing her case. Before the hearing had ended, the Commissioner told Appellant that he was going to deny her claims and she had a right to appeal. See hearing transcript. Commissioner Huffstetler was completely bias against Appellant and

that was an issue in her Motion, which he and the Appellate Panel denied. The denial of her Motion to submit Additional Evidence violated The Due Process Clause of the Fourteenth Amendment to the United States Constitution. Palko v. Connecticut, 302 U. S. 319 (1937); Grannis v. Ordean, 234 U. S. 385 (1914).

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

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

The Due Process Clause and The Equal Protection Clause of The Fourteenth Amendment to the United States Constitution required the Commission to allow her to give oral argument as she was facing The Consolidation of seven cases to defend; that each case was nearly ten (10) year old. See Matthews v. Eldredge, 424 U. S. 319 (1976); Bickford v. Alaska, Department of Education and Early Development, 155 P3d 302 (2007); Hannah v. Larche 363 U. S. 420 (1960); Cooper v. Aaron 358 U. S. 1 (1958); Douglas v. People of State of California, 372 U. S. 353 (1963).

III. The Circuit Court erred in Affirming The Full Commission's Finding and Conclusion of Law that Appellant was legally bound to the Consent Order dated August 24, 1995, signed by the Appellant whereas Substantial Evidence exists in the Record to support Appellant's claim that the Consent Order is Statutorily and Constitutionally invalid caused by Attorney Thomas M. White's employment of duress, coercion, undue influence and pressure to Compel Appellant to sign the Consent Order. In addition, Commission Lyndon lacked Subject Matter and personal jurisdiction to have endorsed the parties alleged agreement contained in the terms of the Consent Order in absence of Dr. McCoy's medical report before the signing of the Consent Order.

On January 23, 1995, Appellant sustained an admitted compensable injury to her right arm, shoulder, cervical spine, back, feet, among other related injuries to her body while employed with Trident Regional Medical Center, Charleston, South Carolina. When Appellant received a letter denying her claim coupled with a statement refusing

to provide any further medical care through an authorized treating physician, Appellant sought and obtain legal assistance from Attorney Thomas M. White to represent her claim submitted to the South Carolina Worker's Compensation Commission on February 23, 1995.

Appellant asserts that even though Attorney White represented her, he nevertheless, brought pressure to bear on her will, used coercion, and undue influence to compel Appellant to sign the unlawful Consent Order without Attorney White ever advising and explaining to her that by signing the Consent Order she was knowingly and intelligently agreeing to withdraw "With prejudice" all her injuries claim except the injury to her right shoulder and right foot, an unconscionable term set forth in the Consent Order.

The record in this matter demonstrates that Attorney White breached his fiduciary duties by failing to protect Appellant's rights and interests but instead he used coercion and undue influence to bring about Appellant signing the statutory and Constitutional invalid Consent Order.

For explicit example, the Procedural Due Process Clause of the Fourteenth Amendment required Appellant to receive a hearing instead of signing a Consent agreement in light of Dr. McCoy's medical report dated August 10, 1995. Respondents provided neither Commissioner G. Bryan Lyndon nor Appellant with a copy of Dr. McCoy's medical report before August 24, 1995, signing of the Consent Order and neither did Attorney White give Appellant a copy of Dr. McCoy's medical report. Appellant did not receive a copy of Dr. McCoy's report until long after she signed the Consent Order.

Due Process required Appellant to have received the report before August 24, 1995 signing of the Consent Order. She should have been allowed to challenge the report since the single commission's Order, the Full Commission's Order, and the Circuit Court's Order uses Dr. McCoy's report to substantiate that Appellant had reached Maximum Medical Improvement, had no permanent impairment and thus, is not

entitled to any benefits under the Worker's Compensation Act in regard to the accident on January 23, 1995.

Appellant asserts that Attorney White did not request Dr. McCoy to assign an impairment rating as a critical factor in determining Appellant's disability. Moreover, neither did Attorney White sought a hearing before Commissioner Lyndon with the issue of whether Appellant had reached Maximum Medical Improvement and requested a second medical opinion. Attorney White allowed, without any legal opposition, Respondents and their attorney, E. Douglas Pratt-Thomas, to determine Appellant had reached Maximum Medical Improvement and thus, is not entitled to or in need of any additional medical treatment.

In a letter dated August 30, 1995 to Attorney White, Attorney E. Douglas Pratt-Thomas wrote the following:

> *"I am enclosing a copy of Dr. McCoy's medical report of August 10, 1995, for your review and files.*
>
> *As you will see, Dr. McCoy has indicated that your client can work in a full-duty capacity; does not believe she has any permanent impairment ; and has indicated no additional medical treatment is recommended or necessary. Under these circumstances, it is my clients' position that Claimant has reached maximum medical improvement, has no impairment, and is not in need of any additional medical treatment. Under these circumstances, no additional medical treatment is authorized."*

Attorney Pratt-Thomas' letter dated August 30, 1995, to Attorney White is marked as Exhibit A and will be made a part of the Record on Appeals. In response to Attorney Pratt-Thomas' letter, Attorney White remained silence and allowed Respondents and their attorney, Mr. Pratt-Thomas to determine that Appellant had reached MMI, no longer entitled to Temporary Total Disability benefits and any additional medical care. Attorney White allowed Respondents to make that medical assessment from Dr. McCoy's medical report in violation of Substantive Due Process Clause and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, Case Law and statutory law. The determination of whether a claimant has reached maximum medical improvement is a factual matter for the Commission to decide. Curiel v. Environment Mgmt. Service, 376 S. C. 23, 29, 655 S. E.

2d 482, 485 (S. C. 2007) Citing Hall v. United Rental, Inc., 371 S. C. 69, 89, 636 S. E. 2d 876, 887 Ct. App. 2006). Again,the single Commission's Order, the Full Commission's Order, and the Circuit Court's Order all have relied on Respondent's determination from Dr. McCoys report that Appellant had reached MMI instead of the Commission making such determination.

Appellant asserts that Attorney White's conduct in this matter is a product of his coercion and undue influence causing Appellant to unknowingly and unintelligently sign the unlawful Consent Order. In addition, Appellant was not made aware of what was occurring behind the scene with Attorney White and Attorney Pratt-Thomas. Both Attorney White and Attorney Pratt-Thomas colluded together to deprive Appellant of benefits under the Worker's Compensation Act. Because neither Commissioner Lyndon nor Appellant had possession of Dr. McCoy's Report at the signing of the unlawful Consent Order, Appellant asserts that Commissioner Lyndon lacked subject matter and personal jurisdiction to determine any matter of the award granted to Appellant. Commissioner Lyndon lacked jurisdiction to determine that Appellant be referred to Dr. McCoy to have determined whether Appellant had reached MMI and in need of additional medical care when in fact that unlawful determination had already been determined before Appellant had actually signed the Consent Order. Attorney Pratt-Thomas and Respondents, with silent agreement from Attorney White, made that determination from Dr. McCoy's report and acted upon it by taking her off the worker's Compensation Program and closing the file claim against her and ignoring the Commissioner's award granted to her. Even the Consent though Order was signed, she received absolutely nothing in return because Attorney White throughout his representation has used some form of coercion and undue influence to pressure Appellant into signing the unlawful Consent Order.

Attorney White did not make Appellant aware that she was signing away her rights in such unknowing manner because Attorney White kept concealed the true fraudulent nature of his conduct and the Consent Order. Appellant contends that the very terms of the Consent Order are unconscionable and substantially unfair. Petty v.

Timken Corp., 849 F. 2d 130 (4th Cir. 1988). There was no reason Appellant would have signed such one-sided Consent Order without Attorney White's misrepresenting the facts and using undue influence and coercion to force Appellant to sign the Consent Order dated August 24, 1995.

After Appellant became aware of what Attorney White had done, she filed complaints with the Worker's Compensation Commission and the Bar Association against Attorney White. The Commission relieved Attorney White from representing her on November 1995.

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

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

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

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

When Appellant went into the hearing on September 27, 2007, she was prepared for Commissioner Huffstetler to assign a percentage of the monetary award to each insurance company for the compound injuries that she had sustained. The injury to her left foot was a compound injury. This injury plus the injury to her right shoulder and feet had occurred with the 1995 case although she had no new injury to her right shoulder and right foot. She never got the MRI that Commissioner Mickle advised her to get because she had no money and no orthopedist would help her. Commissioner Huffstetler didn't start the hearing where Commissioner Mickle left off concerning her 1995 claim with Trident Hospital.

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

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

This accident had included injuries to multiple body parts. The insurance company Alexsis Risk Management Services representative Robin Beaver had claimant kicked out of worker's compensation because of a letter she had written to the State Board of Nursing. After this, her private insurance was taking care of her medical needs until she could find another physician because she couldn't go back to Trident Industrial Medicine for care. She still needed care for her injured right shoulder, thoracic area, feet, side, wrist, and knees, etc. She had a full body fall after having received two prior falls at Trident Regional Medical Center. After this, the claimant contracted with Attorney Thomas M. White for representation. It was after she thought Attorney White was representing her that he developed an Order that was signed by E. Douglas Pratt-Thomas and Commissioner Bryan Lyndon. E. Douglas Pratt-Thomas was well aware that Thomas M. White had made claimant sign the Order without explaining anything to her or allowing her to finish reading it. After Attorney White was supposed to be representing her, he started to have problems with her private physician and insurance company. He was often frustrated and angry and he then started to take his frustration out on the claimant. Sometimes, he would curse and yell at her. Claimant tried to get rid of him several times, but during the time that she had her gynecological surgery, he

called to her apartment and influenced her sister so that he could stay on as her attorney.

The orthopedic physician that he sent her to, Dr. McCoy, would not do anything for the injury to her feet or right shoulder, etc. He was very angry with her and he pushed her arm up behind her back hurting her chest area and told her not to come back to his office. Afterward, neither Attorney White nor Pratt-Thomas would send the claimant to another physician after Dr. McCoy did not treat her and she didn't have anyone to go to because of continuing abuse she had to endure.

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

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

During the time that she lived in Charleston, Attorney Thomas White was the only attorney that she knew of that would help an injured nurse when she was injured at Trident Hospital. Some nurses would often complain that they had a hard time trying to get anymore care for their injuries; especially the neck, shoulder, and back. They

never got anymore care even if they were misdiagnosed. This "dismissed with prejudice" that was included in the settlement notes prevented them from getting anymore care.

The American with Disabilities Act is not a reason for getting rid of the Second Injury Fund because the claimant was not protected under the ADA even though she has disabilities. She is not finished with her doctors with any of her injuries because her injuries are on-going. She still have pain in her hips, perineum area, right shoulder and arm, both feet, knees, right wrist, left side (rib pain), and back. She continues on pain medications and home exercises. In addition, Trident Hospital never reimbursed her for some pain medications for the 1995 accident, nor did they pay for her myomectomy and breast reduction surgery that she had.

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

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

All of the injuries that she have equal nearly a total body impairment, yet Commissioner Huffstetler got rid of all of her claims, "with prejudice" to absolve Palmetto Health and Trident Hospitals of any responsibility for her physical condition. She has attended programs with the South Carolina Department of Rehabilitation

Services twice because of all of her injuries; especially, the worker's compensation injuries. All of her injuries including the ones from these claims have affected her ability to perform in her nursing occupation. Decisions concerning the injury to her right shoulder had already been made in December of 1997 (The single commissioner is believed to have been Holly S. Atkins). Appellant's right shoulder has not really gotten any better since her breast reduction surgery.

Some of the nurses were given psychological diagnoses when they continued to complain of pain, etc. Claimant has not injured her right foot and shoulder anymore. She had injured her left foot and ankle in the two falls of 1994, and her back in 1997.

In 1999 at the hearing involving her back, Commissioner Atkins told claimant to refile her January 1995 claim. Commissioner Atkins is a worker's compensation attorney. After the refiling of the January 1995 claim, claimant had the run in with Commissioner Mickle and Attorney E. Douglas Pratt-Thomas. She told the claimant that she needed to get an MRI and a diagnosis for her right shoulder and that she had to pay for it herself. The claimant tried to get in with several orthopedic doctors but was told that she had to get a referral from Trident Hospital which she couldn't get. If she had gotten a second injury to the right shoulder, perhaps she would have gotten a MRI. She had changed from nursing to health information management where she wasn't using her right shoulder to lift heavy objects and she didn't have to turn and lift heavy patients. She wasn't standing on her feet as much either.

Claimant has permanent injuries to her right shoulder and feet but no physician will give her a diagnosis or rating. There are only a few physicians that she can go to for care without being abused. The problem stems from the fact that Trident and Providence Hospitals were sister hospitals when Columbia HCA was here in Columbia. Information travels from physicians to nurses, etc., and physicians in Columbia have abused her for what went on in Charleston. She has permanent orthopedic injuries and Palmetto Health Richland only offered her a nurse practitioner for care of her injuries each time.

This was an outstanding claim that involved a fall at Trident Hospital where the claimant sustained injuries to both feet, neck, right shoulder and arm, chest (cervico-thoracic area), left side, knees, ankles, and multiple other injuries after she fell on a wet floor. This claim was never settled and the claimant had gynecological surgery because of complications developing after this fall. This claim has a long history of fraud and abuse against the claimant by the insurance carrier, defense and claimant attorneys, physicians, nurses, and etc. Before this fall, the claimant fell in September and October of 1994 at Trident Hospital where she sustained injuries to her knees, feet, side, ankle, etc. There was also abuse and fraud involved with these falls. After the claim of January 23, 1995 was denied, the claimant didn't have anyone to take care of her injuries but her private physician. Attorneys Thomas M. White and E Douglas Pratt-Thomas had written up an Order which the claimant was made to sign where the words, "With Prejudice" was used to get rid of all of her injuries except her right shoulder and right foot and Commissioner Bryan Lyndon had signed it. After claimant returned to work with her injured right arm, claimant had one incident where a patient's urine got into her eyes and face while she was emptying the Foley catheter and produced a rash. In another instance when she was emptying out a patient's Foley catheter, urine ejected up into her face.

In 1996, the claimant requested a hearing for the claim for her fall of September 25, 1994. Unknown to the claimant, the defense Attorney E. Douglas Pratt-Thomas clumped all of the injuries of the fall of October 1994 and January 1995 under this hearing so that Commissioner Bryan Lyndon could rule on all of the claims and get rid of them when the claimant never asked for this to be done. The claimant never received any orthopedic care under the 1995 Order and she continued to have pain and popping in the right shoulder. The claimant subsequently had breast reduction surgery to alleviate some of the pain in the right shoulder, but she never received a rating for the injured shoulder although she continued to have problems with it including her handwriting.

In 1999 under the direction of Commissioner Atkins, claimant refiled this January 23, 1995 claim against Trident Hospital and the hearing was supposed to take place in 2000. The case was never heard because Commissioner Mickle made claimant withdrew the claim after she was mistreated before the hearing and the claimant never knew what was wrong with the claim. The defense Attorney E. Douglas Pratt-Thomas used the defense of, "Res Judicata" and the Consent Order which he and Attorney White had written where the words, "Withdraw with prejudice" was used. Claimant feet were flat because of ligaments and tendons injuries. The injuries that were dismissed with prejudice by the Consent Order that Commissioner Lyndon signed involved the same body parts that were subsequently injured at Palmetto Health Richland, especially the left foot which became a compound injury.

Claimant's Order from Commissioner Mickle allowed either party to bring up this claim at any time and there was a question as to the legality of the 1995 Consent Order. Because these same body parts had been injured at Palmetto Health Richland and the claimant had discovered what Attorney Pratt-Thomas had previous done to the 1995 claim, this claim was held with the others. Claimant asked for two days of hearing so all points could be covered. Commissioner Mickle had offered claimant a settlement for her 1995 claim if she could get rid of all of the claimant claims with a clincher. Claimant was unsatisfied with this because she had not been compensated for all her injuries and she had a herniated disc in her back.

At the hearing of September 4, 2007, Trident Hospital had substituted another attorney who was not very familiar with the claim, its status, and what had happened with it. Claimant still have problems with her right shoulder and arm which affects her ability to lift heavy objects, adequate write, and some documented disability to her cervico-thoracic area. This condition affected her ability to perform her job as a prior staff nurse in a hospital which had been her occupation for over ten years.

The Consent Order that Commissioner Lyndon signed that deprived Appellant of her known and unknown injuries; especially the injury to her left foot, was bound up by

the single Commissioner Huffstetler and the claimant was never awarded anything for none of the injuries that she had suffered.

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

In addition, she never received any compensation from her second job which was at Charleston Memorial Hospital at that time (APA 1). She was unable to return to her second job after the injury. Attorney White was representing the claimant during this time, and he told his secretary to call the claimant and tell her to bring her check stub to the office. When appellant arrived to the office, Attorney White fussed at her and asked her who told her to bring her check stub. This wasn't factored into the temporary total benefits that she knows of in August of 1995 (APA 2). The claimant was afraid of Attorney White, yet she had trouble trying to get rid of him as her attorney. He was angry and abusive to her and he used to close her up in the room. It was Attorney Allison Carter that first interjected and said that he yelled at her The appellant don't know if what he was doing was considered yelling at times, but he was sometimes rough with her when he spoke and controlling. It wasn't until November 14, 2005, that she got an Order from the Worker's Compensation Commission relieving him of being her counselor and the letter was signed by Deputy Commissioners Herman B. Lightsey (APA

3). Attorney White was well aware of some of the claimant's other injuries when the Consent Order was forced upon her (APA 4).

At the hearing for WCC No. 9721145 held on November 8, 1999, Commissioner Holly Atkins told claimant to refile her claim for her accident of January 23, 1995. She had a disability rating of 3-5% for her cervico-thoracic area. At the hearing on April 12, 2000, Attorney Pratt-Thomas used the defenses of "Res Judicata" and the Consent Order with the words "With Prejudice," against the claimant and Commissioner Mickle and Attorney Pratt-Thomas were putting on a show. Attorney Pratt-Thomas mentioned an MRI which Trident Hospital or no one had ever done on her to determine why the claimant was still having continued pain and popping in her right shoulder along with some muscle spasms in her right arm and a poor penmanship. All of this is written about in her book, *The Fall of a Nurse: What is Wrong With Gerly. (APA 16).* The claimant didn't know at the time of the hearing on March 14, 1996, for WCC 9457677 for her fall of September 25, 1994, that Attorney Pratt-Thomas had clumped the injuries of the accident of October 24, 1994 and January 23, 1995, under this hearing so Commissioner Lyndon could get rid of the claims. The claimant never asked Commissioner Lyndon to include her injuries of these claims with the hearing for the September 25, 1994 claim and she brought this information to Commissioner Huffstetler on the day after the hearing in 2007.

In March of 2007, the claimant found out what had illegally been done to her claim of January 23, 1995, because neither Commissioners nor Attorney Pratt-Thomas would tell her. Claimant was continually being run over by the worker's compensation system. Claimant had breast reduction surgery done in June of 1997 by Dr. Margaret Metcalf to help alleviate the pain and pressure in her shoulders that occurred from the January 23, 2005 accident.

Claimant took a letter to Commissioner's Huffstetler office the day after the hearing of September 4, 2007, where she had made some corrections for the record. The claimant had gotten confused, nervous, anxious, and forgetful after the commissioner had become angry with her and stated that the claims were not a

continuum but each one was separate and distinct. He became angrier when the claimant told him what Commissioner Mickle, Attorneys White and Pratt-Thomas had done to her. The claimant submitted Dr. Robert Bowles notes and treatment for her left ankle (foot) which was not listed on the award Order papers.

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

Based on a Review of the Reliable, Probative and Substantial Evidence In The Record as a Whole, The Circuit Court Erred in Affirming The Full Commission's Finding and Conclusion of Law that Appellant did not raise or prove the claim of Temporary Total Disability and Did Not Prove Permanent Disability stemming from "A Minor Heel Contusion" on January 15, 2001.

The single commissioner hurried through this claim and didn't gathered or considered all of the facts. The Appellant was hit hard with a metal supply cart on the Achilles tendon and left heel at Palmetto Health Richland Hospital which subsequently aggravated the left ankle and foot which had been previously injured at Trident Hospital resulting in a compound injury with some nerve damage to the left extremity and foot.

The claimant was not provided an orthopedic at the onset of the injury, but a nurse practitioner to care for the injury until the nurse practitioner turned her loose. Appellant was still having problems so she returned to Healthworks. She was sent to an orthopedic who didn't do anything for the injury; so the neurologist, the Medical Director of Healthworks provided by the defendant hospital, supposedly took care of the injury. There was a question as to his competency.

Claimant has a long history of problems with this injury and she was not placed out of work with this injury although she had needed to be. Claimant had to seek her own provider since she was not provided adequate care and she continued to fall. She was provided an ankle brace, some specially made orthotic insteps, and a prescription for orthopedic shoes.

Since this injury, claimant has sustained a number of falls. Claimant was not awarded anything for the injury to the Achilles tendon and heel, lack of proper care by a nurse practitioner, the injury to the left ankle and foot, nor the combination of both injuries to the left foot. Claimant has some tendons and ligaments damage from the

injury at Trident Hospital of January 23, 1995. Claimant has to wear the ankle brace, orthotics, and orthopedic shoes for the rest of her life.

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

Based on a Review of the Reliable, Probative, and Substantial Evidence In The Record as a Whole, The Circuit Court Erred as a Matter of Law in affirming The Full Commission's Finding that Appellant Failed to Established Any Permanent Impairment As A Result of an Accident on March 23, 2002.

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

The Administration of the Medical Records Department was angry with the claimant for not going over to Health work to the nurse practitioner for care, therefore; the hospital punished her by not paying her temporary total benefits for the days that she was out with her back injury. After the emergency room physician at Baptist Hospital found out about the prior injury to the claimant's Achilles tendon and heel and that the nurse practitioner was taking care of the injury, he directed her to follow up with her private physician and not to go back over to Health works even though he was well aware that this was a worker's compensation injury. There was an aggravation of a prior herniated disc in the lumbar area and the development of some sciatica. Dr. Jones ordered an MRI which showed about two more bulging discs, one in the sacral area. See Hargrove v. Titan Textile Co., 360 S C. 276, 599 S. E. 2d 604 (Ct. App. 2004); Thompson ex re Harvey v. Cisson Construct. Co., (S. C. App 2008); 377 S. C. 137, 659 S. E. 2d 171, Rehearing denied, certiorari granted vacated, 385 S. C. 451, 684 S. E. 2d 756, and Mullinax v. Winn-Dixie Stores, Inc., 318 S. C. 437, 458 S. E. 2d 80.

Claimant had prior back problems with a disability rating of 8% and Dr Jones was her treating physician ever since 1998 after Dr. George Warren intended to paralyze her

with a spinal needle. Upon her last visit, he had given her instructions upon discharged to return to him for any flare ups. When she returned to Dr Jones office after this back injury, claimant met Dr. Timothy Zgleszewski whom Dr. Jones was training. He didn't know anything about the claimant or her condition at that time. Under plan he wrote, "After reviewing Ms. Shiver's current clinical scenario and physical examination, it is my opinion with a reasonable degree of medical certainty that she has suffered a moderate lumbar strain/lumbar contusion based upon the mechanism of her injury and based upon her current symptomatology." Then he writes, "The lower extremity symptomatology has not worsened since that injury, and therefore, there is not aggravation of that preexisting condition with this most recent injury in March of 2002." Here, he is talking about claimant's left leg after the male employee, James McDonald, had hit her with the metal supply cart on 1/15/01.

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

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

Based On A Review of the Reliable, Probative and Substantial Evidence In The Record as a Whole, The Circuit Court erred in Affirming The Full Commission's Finding That Appellant did not established any Permanent Disability as a result of Appellant's left shoulder and neck injury on October 24, 2002.

The injuries to claimant's left neck and shoulder after the white supervisor dropped the heavy thick chart on her were more than minor. She developed severe hoarseness where she had to visit an ENT physician, Dr. Goings, where she was given a diagnosis of "muscle tension dysphonia" (APA 10). She claimed medical benefits because Lori Sharpe from PHTS promised Dr. Jones that she would pay for her care. After Dr. Jones, a specialist, started treating claimant, Ms. Sharpe changed her mind and wanted claimant to go to Healthworks to the nurse practitioner for care. Since claimant would not leave a physician and go to a nurse practitioner, Ms. Sharpe never paid for her care that the claimant knows of.

On her Form 50 that was submitted and stamped on October 10, 2006, claimant marked partial for number 8 under specific disability. This Form 50 was in her files with an addendum (APA 11).

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

Commissioner Huffstetler skips some of Dr. Jones which has a bearing on the claimant. Starting at the second paragraph, "Assuming MMI as of today's date for work injury sustained 3/23/02 to cervical spine and left shoulder girdle, and based on **AMA**

Guides to the Evaluation of Permanent Impairment, 5th edition, I can assess no additional impairment for this injury, as previous impairments have been assessed for both myofascial and cervical facet-generated pain, which was present in this patient to great extent even prior to 10/24/02 injury on the job. Although patient does have residual anterior shoulder and left upper chest wall pain and discomfort which has appeared as "New" myofascial injury following 10/24/02 accident on the job, this would require assessment for myofascial pain, and based on recommendations per **AMA Guides to the Evaluation of Permanent Impairment, 5th Edition** interpretation, it is inappropriate to add further impairments for this type of injury, particularly when impairments have addressed myofascial injuries in this region previously."

"Although patient is released today from active care regarding injuries sustained 10/24/02, patient is candidate for intermittent use of cervical facet and/or trigger point management with focal injections for flares. I can address issues regarding future medical care via Life Care Plan if this becomes necessary. Patient to continue with home exercise protocol life-long. Patient would also benefit from regular aerobic activity at least 3x weekly. Patient is allowed to continue with usual duties, as her work site requirements are primarily for sedentary work at desk/computer, where she is in health information management, working in Columbia for Palmetto Richland Memorial Hospital. There have been no addition restrictions regarding this patient relating to work injury 10/24/0. follow up hereafter prn" (APA 14).

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

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

Based on a Review of the Reliable, Probative and Substantial Evidence In The Record as a whole, The Circuit Court erred in Affirming The Full Commission's finding of Fact and Conclusion of Law that Appellant did not establish evidence of any permanent Injury.

Appellant fell around 12:30 a. m. on the wet waxy floor in the hallway near the Medical Records Department as she was going to punch out and Ms. Mary K. Parham, NP of Health Works accused her of seeking narcotics for pain and using alcohol. She was marched over to Health Works where she had to do a breath analysis for alcohol, but she was not able to blow enough air into the breathalyzer. She still had hoarseness and throat pain ever since December 25, 2002, and her voice had not returned yet. Since she couldn't performed the breath analysis test, she was humiliated when she was told that she had to catch a taxi home or have someone pick her up since she was under the suspicion for alcohol and narcotics. Appellant had to sign a statement that released Palmetto Richland Hospital from all liabilities before they would let her go to get some X-rays done at Baptist Hospital. The nurse practitioner told her to seek care from her own physician. Dr. Hook was notified earlier about the fall because the office was called and a message relayed to him. Claimant may have received a diagnosis of UTI but she was not having any symptoms of an infection.

Claimant continued to have severe left side pain and suprapubic pain from the fall and some bruised ribs. With this fall, claimant had pain in her left side, neck, back, left leg and foot, wrists and hand, feet, vaginal and perineum area, lower abdomen, and her whole body except her head. Management was angry at the claimant for not following their worker's compensation policy and procedure, so on this particular night she followed the policy and called the night nursing supervisor but she did not send the claimant to the ER. Instead claimant followed the night supervisor direction and the claimant did not receive any care. Ms. Lenora Bell and Ms. Schglione told claimant to call over to Health Works before going because she had been mistreated by Dr. Durkins, Ms. Griffin, and the nurse practitioner Coleen Collins related to the injury to her Achilles tendon, heel, and left foot.

On Friday, January 24, 2003, when claimant called Ms. Parham about some narcotics for pain, she was reported to Ms. Annette Sullivan where she was made to come, be written up, and placed on suspension for a week. She was barred from returning to work. She had to submit some urine for a drug screen after she was

marched over to Healthworks and held there to do the breath analysis test. She was also humiliated by Elizabeth Holland, LPN. Mrs. Parham also asked claimant what problems that she was having that were worker comp. related. When she was told that the claimant's whole body was hurting; that she had left sided pain; perineum pain; and that she was nauseated and having dry heaves, Ms. Parham replied, "Ms Shiver, if you are having other problems, you need to see your own physician." The ER doctor ordered some narcotics and Flexeril for claimant when she was last injured, but Mrs. Parham could order claimant any narcotic for pain. The nurse practitioner Collins did not give claimant any narcotics for pain with the injury of 11/15/2001.

At the time of this accident, Health Works was being staff by nurses only and Dr. Durkins, the neurologist only came there on Wednesday. The ER physicians never directed the claimant to go to the nurse practitioner for care nor did they ever direct her to go to Dr. Durkins, who was a neurologist and the medical director of Health Works and not anyone to be doing a vaginal exam. This was a work related accident and the claimant was still on the time clock. The defense attorney lied in what he said about the claimant.

Falling at the hospital does not have anything to do with falling at the hotel. Claimant's perineum and vaginal area was hurting her from the fall at the hospital. Claimant does not know who Ms. Stafford is and no one at Health Works repeatedly offered to see her at Health Works. What claimant wrote in her letter to the worker's compensation office that is attached to her form 50and 58 if accurate (APA 15).

Appellant was supposed to have been sent to the ER the night of the accident night to be examined, but Mrs. Sass didn't send her, nor did she tell claimant to come back that next morning. Instead, she told claimant when she came back to work the next day that she would leave the accident report and a note with the evening supervisor and that the claimant must go by the office and fill out the form. Claimant was sent out to have a CT scan done, and these tests were not performed by Dr. Hook.

The nurse practitioner doesn't order the necessary tests, give pain medication, etc., that the injured worker needs, and there is not a doctor on site to take care of the

injured worker. Health works is being run by nurse practitioners and occupational health nurses, and the staff was mistreating the claimant every since she went to them with her first worker's compensation injury. This is especially true of Ms. Libby Holland.

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

Based on a Review of the Reliable, Probative and Substantial Evidence in The Record As A Whole, The Circuit Court erred in Affirming The Full Commission's Finding that Appellant's Injuries were not related to the October 23, 2003 Incident.

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

The claimant right foot was caught in a telephone cord which a co-worker had left partly in the aisle in the Medical Records Department and she fell on the hard cement floor injuring her knees, wrists, all of left side, back and whole body except head. Claimant was sent to the ER where the physician instructed her to follow-up with her physician, not with the occupational health nurse or nurse practitioner at Health-

works. As a result of this fall, claimant had to have gynecological surgery, treatment for left costal pain, and continued pain in the left leg.

The defendant hospital denied the claim because the defense attorney claimed that there was not a connection between the left side pain and the fall even though the claimant's side started to hurt after the onset of the fall. The insurance adjuster refused to pay the claimant's physician for her care even though the ER physician told her to follow-up with her physician and the claimant was already under his care when they wanted her to go to Health Works to the nurse practitioner. Claimant was never offered a physician, even though the claimant asked the occupational health nurse for one. The single commissioner said that this was not a worker's compensation injury upon the urging of the defense Attorney Michael E. Chase.

On 4/14/2004, claimant visited Dr. Odom for continued pelvic pain since the fall. The fall had aggravated claimant's fibroids which she didn't know had returned and an ovarian cyst and she had to have gynecological surgery. This was the same thing that happened to the claimant when she fell at Trident Hospital in 1995. She had lyses of abdominal adhesions which came as a result of the 1995 gynecological surgery that she had as a result of the 1995 fall at Trident Hospital.

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

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

The claimant first felt pain in her right wrist while using the hole puncher in the Medical Records Department at Palmetto Richland Hospital around 11 p.m. Claimant notified her immediate supervisor, Toni Pait, by e- mail of the injury and she notified her in person about the injury and that she was going to an orthopedic for some other orthopedic problems and that she was going to get him to check her right wrist since the defendant hospital would never offer the claimant a doctor but a nurse practitioner for her injuries. The orthopedic physicians that the claimant was sent to with her injury of 2001 would not provide any treatment for the injuries. Mrs. Pait was in

agreement with claimant going to an orthopedic and she didn't tell her not to go. Mrs. Pait know how claimant was being treated by the defendant hospital and Health Works with her prior falls and injuries. Claimant wasn't being given an orthopedic physician when she had documented impairments and many other orthopedic problems. Dr. Noojin office is located on the defendant hospital's campus and Dr. Noojin is considered one of defendant's hospital physicians. The injury that Appellant sustained didn't fit the description of a repetitive trauma.

On the first day that the claimant visited Dr. Noojin which was July of 2006, she told him that she developed some pain in the right wrist while using the hole puncher at work in the Medical Records Department of Palmetto Health Richland. Her left wrist and both knees were injured at Red Hill Baptist Church when she fell while headed up the steps to go into the church to put some job information on the bulletin board. The church wasn't responsible for the fall because there wasn't any wetness, water, or unevenness on the steps or porch. The claimant knew she have some worker's compensation injuries to both feet including the tendons, knees, ankles, left heel and Achilles tendon, and her pelvic area. These injuries came from Trident Hospital and Palmetto Health Richland Hospital. Claimant believed the fall at the church was a remote and proximate cause from these prior worker's compensation injuries to the lower extremities. Every natural consequence that flows from a work related compensable injury is also compensable unless the consequence is the result of an independent, intervening cause sufficient to break the chain of causation. See Whitfield v. Daniel Construction Co. 226 S. C. 37, 40-41, 83 S. E. 2d 460, 462 (1954), and Swilling V. Pride Masonary of Gaffney, 401 S. C. 178, 736 S.E. 2d 672, 673, 677-678 (S. C. App. 2012). Also, Tims v. J. D. Kitts Const., 393 S. C. 496, 713 S. E. 2d 340-341, 344. Dr Noojin gave Claimant a rating of 2% impairment for each upper extremity for wrist sprain and a rating of 10% for the right lower extremity for patellofemoral disorder. This is a total of 14% disability. Appellant had another worker's compensation injury to her right knee on December 6, 2010, before the three men Appellate Panel signed the permanent

Order against the claimant, but claimant has not received a rating to the right knee from this accident yet.

At the hearing of 2007, claimant wasn't aware that Dr. Noojin had lied in the records about the injury to her right wrist. After discovering what he had done, she tried several times to get him to correct the mistake but he didn't. Someone from the Civil Rights Division in Atlanta, Georgia had to intervene on claimant's behalf to get Dr. Noojin to correct the records. Before the hearing, claimant had been approached by Key Risk and Palmetto Health Trust Services about accepting some money for her injuries. She didn't understand worker's compensation and she didn't have any one to give her guidance or advice. Worker's compensation is not practice the same in Columbia as in Charleston and one of the adjusters told claimant that South Carolina Worker's Compensation Laws were designed for the injured worker to represent themselves. She didn't know that she was being tricked into losing her claims and she could never find an attorney to help her. Claimant has been told that she would never find an attorney to represent her against Trident Hospital and it would be next to nil to find representation against Palmetto Health Richland. It is the concept of business contracting with as many attorneys as they want to represent them.

Commissioner Huffstetler didn't give claimant much chance to discuss anything about her injuries. Commissioner Lyndon had been the hearing commissioner on several of her claims against Trident Hospital in the past. Each time the claimant asked for a hearing, Commissioner Lyndon name would be on the hearing notice and he would run down to Charleston to be at the hearing. His name was on a hearing notice for 2007.

Claimant went to Health Works with the accident of 11/15/2001, but the nurse practitioner, occupational health nurse, and neurologist was taking care of an orthopedic injury. After claimant fell out of the chair on 3/23/2002, the ER physicians told claimant not to go back over to Health Work. Even though claimant begged for an orthopedic, she was only offered a nurse practitioner. Claimant was subjected to multiple traumas because inadequate or no orthopedic care. From 1994 to about the

present, claimant has suffered from collateral (horizontal) violence and abuse from professional nurses and vertical violence and abuse from the medical professionals.

In recapturing claimant's arguments for **WCC No. 9503744 (DOA 1/23/95),** claimant should not be denied an award and or additional medical treatment. As a result of the fall, claimant ended up having a myomectomy and a subsequent breast reduction which she was never compensated for these procedures. If it was not for this fall and the injuries that the claimant sustained, she would not have had these surgeries. As for **WCC No. 0126962 (DOA 11/15/2001),** the claimant wasn't given an award or compensated for an aggravation of a prior condition or disability as a result of a combined injury involving the heel, Achilles tendon, ankle, and left foot. The claimant has some permanent disability to her feet. Every time the claimant fell, she aggravates a prior condition or injury. For **WCC No. 021755 (DOA 3/23/02),** claimant missed work within the allotted time for injuring her back where she never received her TTB. It wasn't until 2014 after going before another commissioner, that claimant finally received her TTB. Defendant Insurance Company never paid for all of claimant's medical bills that they were supposed to pay. As for **WCC No. 0227098 (DOA 10/24/02),** claimant' left shoulder and neck was injured with the neck injury being the worst. Claimant still has been having pain and spasms in the left side of neck. Claimant bills were never paid, especially Dr. Jones which the adjuster had promised to pay. As for **WCC No. 0322274 (DOA 1/20/03),** claimant does have some permanent injuries and there was an aggravation of a prior injury to neck, back, left side, left leg and foot, wrists and hands. As for **WCC No. 0321756 (DOA 10/23/03),** there was also an aggravation of pain on the left side and back, and the whole body except the claimant's head. There also was an aggravation of claimant's abdominal adhesions which was surgical released, and aggravation of a left ovarian cyst. **With WCC No. 0616756 (DOA 7/16/2006),** claimant injury to her right wrist did not occur as a result her falling at the church on 5/20/2006, and the church was not responsible for the claimant's fall. Instead the injury to the right wrist occurred as a result of using the hole puncher at defendant hospital.

Attorney Chase put this injury on the church and it was placed into Judge Lee's Order where she signed it in agreement.

CONCLUSION

This Court should reverse the judgment of the Circuit Court and remand it back to the Circuit Court or the Worker's Compensation Commission where the right hearing can be held and Appellant compensated for all of her injuries and all her bills paid. A qualified unbiased Commissioner should hear the Appellant's case. Each insurance company should be assessed a monetary portion for the injuries to Appellant's body as a whole. Any and everything else the Court deemed is just.

October 15, 2014

Respectfully submitted,

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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY

Court of Common Pleas

Hon. Alison R. Lee, Circuit Court Judge

Case No. 2011CP4003561

Gertrude Shiver, ...Claimant, Appellant,

v.

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

---

PROOF OF SERVICE

I, Gertrude Shiver, do hereby certify that I have served all counsel in this action with a copy of the Amended Initial Brief and Designation of Matter to be included in the Record of Appeal by depositing a copy of the same in the United States Mail, Postage paid on the 15th day of October 2014.

Parties Served:

Via Postage Paid Mail, RRR
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October 15, 2014

Honorable Jenny Abbott Kitchings, Clerk
P. O. Box 11629
Columbia, S. C. 29211

Re: Gertrude Shiver v. Palmetto Health Richland, Key Risk Management Services, Inc., Palmetto Hospital Trust Services, Trident Regional Medical Center and Zurich American Insurance Company.
Appellate No. 2013-000887

Dear Honorable Kitchings:

Here is the Amended Initial Brief along with the proof of service for the Amended Designation of Matter and the Amended Reply Brief.

Yours truly,

Gertrude Shiver

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cc. Andrew W. Fajardo, Esquire, Allison M. Carter, Esquire, and Carmelo B. Sammataro, Esquire.

October 15, 2014

Carmelo B. Sammataro
Turner Padget Graham Laney, P. A.
P. O. Box 1473
Columbia, S. C. 29202

Re: Gertrude Shiver v. Palmetto Health Richland, Key Risk Management Services, Inc., Palmetto Hospital Trust Services, Trident Regional Medical Center and Zurich American Insurance Company.
Appellate No. 2013-000887

Dear Attorney Sammataro:

Thank you very much for sending me the documents to include in the Records on Appeal. I went through the records but there are some that are still missing from your package and I have not been able to find them among my documents. Could you please send me the following:

14. August 8, 2007, Form 51, Employer's Answer (WCC Claim No. 0217755).
17. July 23, 2007, Form 50 Request for Hearing (WCC Claim No. 9503744).
18. November 13, 2006, Form 51, employer's answer.
25. October 18, 2005, Form 50, Request for Hearing.
29. APA-Respondent's Trident Regional Medical Center and Zurich Insurance Company's APA pp. 9-38, 106 (WCC Claim No. 9503744)

Yours truly,

Gertrude Shiver

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cc. Honorable Jenny Abbott Kitchings, Andrew W. Fajardo, Esquire, and Allison M. Carter, Esquire.

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PROOF OF SERVICE

I, Gertrude Shiver, do hereby certify that I have served all counsel in this action with a copy of the Amended Reply Brief to be included in the Record of Appeal by depositing a copy of the same in the United States Mail, Postage paid on the 15th day of October 2014.

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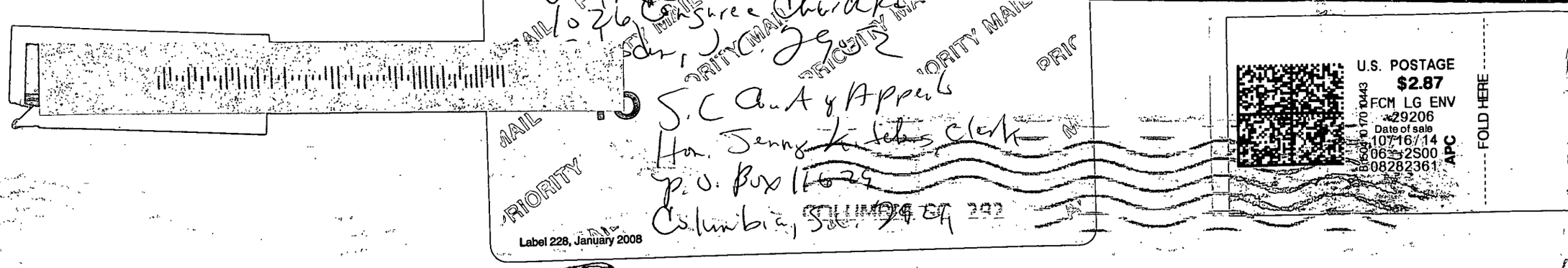

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