

Transcript of the Testimony of
FRANK WILSON V. AMERICAN LAFRANCE

Date: September 18, 2012



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SC COURT OF Appeals

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Condensed Transcript and Word Index

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STATE OF SOUTH CAROLINA
BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION FULL COMMISSION
WCC No. 0506037

Frank Wilson,
Claimant/Appellant,
v.
American LaFrance,
Employer/Respondent,
and
AIG c/o Gallagher Basset
Services, Inc.,
Carrier/Respondent.

(COPY)

FULL COMMISSION HEARING

Tuesday, September 18, 2012
9:00 a.m. - 9:22 a.m.

The Full Commission Hearing before Commissioner T. Scott Beck; Commissioner Melody L. James; and Commissioner Susan S. Barden, Chair, was taken at 1333 Main Street, Suite 500, Columbia, South Carolina on the 18th day of September, 2012 before Cassandra E. Vance, Court Reporter and Notary Public in and for the State of South Carolina.

APPEARANCES:

Erin L. Hantske, Esquire
McAngus, Goudelock & Courie, LLC
Post Office Box 650007
735 Johnnie Dodds Boulevard, Suite 200
Mount Pleasant, South Carolina 29465
Attorney for the Defendants/Respondent

Also Present:
Frank Wilson, Pro Se

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1 **THE COURT REPORTER:** Today is Tuesday, September 18,
2 2012. This is South Carolina Workers'
3 Compensation Case Number 0506037. This is the
4 case of Frank Wilson, Claimant, versus American
5 LaFrance, Employer, and AIG care of Gallagher
6 Bassett Services, Incorporated, Carrier.

7 The Appellant is the Claimant, represented by
8 himself. The Respondent is represented by Erin
9 Hantske.

10 Each side is allowed ten minutes for oral
11 argument and the Appellant three minutes in
12 reply. You are requested to argue the grounds
13 of exception and stay within the record.

14 **COMMISSIONER BARDEN:** All right. Mr. Wilson, before
15 you take the podium, we just had our discussion
16 off the record. I advised you of your right to
17 have a lawyer today, sir, and that if you wish
18 to have one or even go talk to a lawyer, too,
19 that I would postpone this proceeding and we
20 would hear it at a later date and you advised
21 me, sir, that you wish to represent yourself
22 today. Is that still the case?

23 **MR. WILSON:** Yes, ma'am.

24 **COMMISSIONER BARDEN:** And I also advised you of your
25 appeal rights; is that correct?

1 MR. WILSON: Yes, ma'am.

2 COMMISSIONER BARDEN: All right, sir. If you'll
3 take the podium and you have up to ten minutes.
4 Thank you.

5 Tell us what, if any, reason -- mistakes that
6 Commissioner Wilkerson made and the relief that
7 you're requesting today based on that decision.

8 ARGUMENT BY MR. WILSON:

9 MR. WILSON: Okay. I would like to start off with
10 the issue number one and that would be the
11 Claimant's back MRI or thoracic spine. And I
12 have the APA submissions that support that
13 claim. And that would be APA submissions page
14 six, nine, ten, 11, 12, 14, 15.

15 Also supporting that same claim would be the
16 hearing transcript from the date of April the
17 10th, 2007. That would be page ten, lines 14
18 through 22; page 14, lines 19 through 25; page
19 15, lines one through 24.

20 Also in supporting that same issue would be
21 hearing transcript from the date of March 10th,
22 2009. That would be page 13, lines 16 through
23 25; page 14, lines 16 through 25; page 15,
24 lines one through 13.

25 Also in support of that same claim, the

1 Claimant's deposition dated February the 20th,
2 2007; that would be page 42, lines one through
3 25.

4 I also would like to -- in support of that same
5 issue, this would be from the decision and
6 order and hearing transcript of April 2007,
7 page nine, lines 23 through -- well, I'm sorry,
8 lines 22 through 23; page nine, lines 22
9 through 23. That's on issue number one.

10 Issue number two pertains to the Claimant's
11 bilateral lower extremities, EMG/nerve
12 conduction study. This would be supported by
13 the APA submissions page six, page seven, page
14 eight, page ten, page 11, page 14 and page 15.
15 Also, as it relates to issue number two, this
16 would be the decision and order hearing
17 transcript of March 10th, 2009. That would be
18 page 18, lines 13 through 23.

19 As it goes to issue number three, the
20 Claimant's first prescription drug coverage,
21 the Defendants, they stated that the Carrier
22 had changed over the prescription drug coverage
23 company --

24 **COMMISSIONER BARDEN:** And that issue has been
25 addressed, sir. Are you receiving your

1 prescriptions now? I understood from
2 Commissioner Wilkerson's order that you are
3 receiving your prescriptions; is that correct?

4 **MR. WILSON:** There have still been some occasional
5 delays.

6 **COMMISSIONER BARDEN:** Okay.

7 **MR. WILSON:** And the statement that the Defendants
8 made was an untrue statement. I did receive a
9 new card. It was the same identical card as I
10 had before, suggesting that there was no change
11 in companies. So that was an untrue statement.
12 And that would be supported by the transcript,
13 new card that I received.

14 As it relates to issue number four, this would
15 be supported by hearing transcript April the
16 10th, 2007. That would be Exhibit I, page one
17 through 40, and APA submissions page 16 through
18 17.

19 Issue number five, that would be the Claimant's
20 motion and that would be supported by APA
21 submissions Exhibit H, page 59 through 72.

22 Also, the statement that the Commissioner
23 stated that he found the Defendants trustworthy
24 including, I guess, everyone involved in the
25 Defendants, I found that to be inconsistent

1 with all the findings in my workers'
2 compensation claim or file.

3 And this would be supported -- well, for one,
4 in his directives, in the Commissioner's
5 directives, item number 14, it clearly states:
6 "The Claimant has had quite the runaround from
7 the Carrier for treatments, checks, and
8 prescription problems."

9 So either they're trustworthy, which is not --
10 which is inconsistent with this statement
11 number 14 on his directives: "The Claimant has
12 had quite the runaround from the Carrier for
13 treatment, checks, and prescription problems."

14 And this would be supported by -- actually, I
15 had a hearing with Commissioner Wilkerson on
16 November 30th, 2011, that got filed February
17 the 10th, 2012, approximately two months prior
18 to that April 18th, 2012 hearing. So he had
19 knowledge of the issues that I was going
20 through at that hearing. Plus, off the record,
21 before commencing the hearing, he did a summary
22 of the previous hearing with Commissioner
23 Roche, which took place on July the 21st, 2011.
24 So I (sic) have knowledge of the issues from
25 the previous hearing that took place on

1 November the 30th, 2011, and the hearing prior
2 to that one. Having all that knowledge, and
3 the statement that he made in his directives,
4 item number 14 --

5 **COMMISSIONER BECK:** Which directives are you
6 referring to, sir? Talking about in the order?

7 **MR. WILSON:** The directives that he gave for the --
8 the instructions that he gave for the order.

9 **COMMISSIONER BECK:** Okay. Well, I'm not seeing
10 that -- unless I'm just missing, I'm not seeing
11 that addressed in the order itself.
12 Is it not -- I mean, I see in here where he
13 indicated he was inclined to assess cost
14 against you, but I don't see any reference in
15 here to you getting the runaround in the order.

16 **MR. WILSON:** Can I submit this? It's ...

17 **COMMISSIONER BARDEN:** Let's see if we've got that in
18 our file.

19 **MR. WILSON:** I submitted it in the packet to the
20 Commission and to the Defense along with my
21 appeal.

22 **COMMISSIONER BARDEN:** We're going to stop your time.
23 I don't want to take your time.

24 **MR. WILSON:** Thank you, ma'am.

25 **MS. HANTSKE:** May I just ask, is that from this

1 April hearing or the November hearing?

2 **MR. WILSON:** This April hearing.. It's dated right
3 here (indicating).

4 **COMMISSIONER BECK:** Can I see a copy of what you
5 have?

6 **COMMISSIONER BARDEN:** Yes, sir, if you can bring it
7 up. Thank you.

8 **MR. WILSON:** (Tendering.) It would be item number
9 14, sir.

10 **COMMISSIONER BARDEN:** Ms. Hantske, you have a copy
11 of the directives that we're looking at? I'm
12 sure you do.

13 **MS. HANTSKE:** That is what I am looking for right
14 now. Unfortunately, I'm not sure we actually
15 print those and put a hard copy in our file.

16 **COMMISSIONER BARDEN:** Well, I'll let you look at
17 this gentleman's and we can make a copy, if
18 necessary. This is his only copy, so we need
19 to get this back to him.

20 **MS. HANTSKE:** Yeah, I won't take his ...

21 **COMMISSIONER BARDEN:** He's speaking to number 14.
22 If you'll give that back to him after you've
23 looked at it.

24 **MS. HANTSKE:** (Reading.)

25 **COMMISSIONER BARDEN:** All right, sir. We'll let you

1 continue your argument. Thank you.

2 **MR. WILSON:** Okay. Just like I stated, due to those
3 inconsistencies, I found it very unreasonable
4 for the Commissioner to make that statement
5 with the inconsistencies.

6 Also, in support of that, just like I stated
7 before, he had knowledge of the issues that I
8 was going through with the hearing that I had
9 with him previously on November the 30th.

10 That hearing -- well, the decision and order
11 didn't get filed until February the 10th, 2012.
12 So two months prior to, he had a chance to
13 review those issues from that hearing.

14 Plus, the summary of the hearing prior to the
15 November the 30th; all that was covered prior
16 to the November the 30th hearing. It was done
17 off the record, but it was a pretty lengthy
18 off-the-record summary of the hearing I was
19 there for, November 30th, and the prior one
20 with Commissioner Roche.

21 So having all that knowledge --

22 **COMMISSIONER BARDEN:** Go ahead and finish your
23 thought, sir.

24 **MR. WILSON:** And having all that knowledge, then to
25 make a statement that he find them trustworthy

1 based on everything I've been through, my
2 argument is simply: With everything I've been
3 through, I just find it very inconsistent --

4 **COMMISSIONER BARDEN:** Okay.

5 **MR. WILSON:** -- with the findings.

6 **COMMISSIONER BARDEN:** You'll have three minutes in
7 reply.

8 All right. Ms. Hantske.

9 **ARGUMENT BY MS. HANTSKE:**

10 **COMMISSIONER BARDEN:** Ms. Hantske, did you prepare
11 the order for Commissioner Wilkerson?

12 **MS. HANTSKE:** Yes, ma'am, it was prepared by my
13 office.

14 **COMMISSIONER BARDEN:** And did you see those
15 directives?

16 **MS. HANTSKE:** I do see those directives and I --

17 **COMMISSIONER BARDEN:** Is there a reason why that
18 finding is not in the order?

19 **MS. HANTSKE:** I -- unfortunately, I can -- I have to
20 say I don't know why that's not in the order.
21 I don't know if it was clearly left out and I
22 guess -- I mean, all I can do is apologize at
23 this point.

24 **COMMISSIONER BARDEN:** All right. Go ahead.

25 **MS. HANTSKE:** I will first respond to the comment

1 about the delays and things of that nature.
2 The previous hearing set in April before
3 Commissioner Wilkerson was -- we attempted to
4 resolve all those matters via telephone to
5 avoid having to go to a hearing.

6 And it's stated in the record from Commissioner
7 Wilkerson that on multiple occasions he
8 attempted to contact Mr. Wilson. I attempted
9 to contact Mr. Wilson to discuss whether he
10 received his prescription card to try and
11 resolve the issues related to that April
12 hearing and Mr. Wilson admitted that he did not
13 respond to me and that he did not respond to
14 the Commissioner regarding those attempts,
15 which is why we had to appear for the hearing
16 in April.

17 With regard to the thoracic spine, the first
18 complaint of pain in the thoracic spine was
19 December 29th of 2011 with the -- during the
20 evaluation with Dr. Johnson. There was no
21 complaints prior to this date, which was six
22 and a half years after the date of accident.

23 There's no statement to a reasonable degree of
24 medical certainty that the thoracic spine is
25 causally related to the original work injury.

1 It merely says that he would benefit from the
2 evaluation. There's no causal relationship
3 statement.

4 It's stated that Dr. Richardson agreed with
5 Dr. Johnson's Form 14-B and that is
6 Mr. Wilson's APA number 14. The 14-B
7 specifically says "lumbar spine injury and
8 cervical spine injury." There's nothing about
9 the thoracic spine.

10 With regard to the bilateral lower extremities,
11 again, the first complaint of -- or the mention
12 in December 29th, 2011 report indicates a new
13 onset of leg pain and Dr. Johnson at that time
14 recommended bilateral lower extremity EMG and
15 nerve conduction study. And he also
16 recommended thoracic MRI to, quote, "rule out
17 any type of thoracic pathology with the new
18 onset of pain."

19 Again, there's no statement to a reasonable
20 degree of medical certainty that the bilateral
21 lower extremities are causally related to the
22 original injury.

23 **COMMISSIONER BARDEN:** This gentleman has had
24 fusion -- lumbar fusion surgery; is that
25 correct?

1 **MS. HANTSKE:** Yes, ma'am. But it's our position the
2 new onset of pain that's noted six and a half
3 years later is what we relied on at the hearing
4 with Commissioner Wilkerson.

5 **COMMISSIONER BARDEN:** Does any doctor link up the
6 thoracic spine with the lumbar spine as another
7 level that's been compromised because of the
8 fusion surgery?

9 **MS. HANTSKE:** No, ma'am. I'm going to -- I will
10 address the prescription drug card again.
11 We were unaware of the change in the
12 prescription coverage. This is something that
13 I was told by the insurance company. We
14 received his motion. In January of this year,
15 I immediately attempted to contact Mr. Wilson.
16 I immediately contacted the insurance company
17 and I sent him a letter in February advising
18 him that he would be getting a new card.
19 Subsequently tried to follow up with him to
20 confirm whether he received a new card. Again,
21 I never received a response, did not know until
22 we walked into the courtroom in April of this
23 year for the hearing with Commissioner
24 Wilkerson that he had not yet -- or he had had
25 problems receiving a prescription card.

1 With regard to the issues he addressed, I'm
2 just going to kind of -- the hearing with
3 Commissioner Bass and the motion, it's my
4 position that those are not properly before the
5 Full Commission.

6 He also addressed reimbursement with Dr. Estes.
7 That's not properly before the Commission as
8 that was ruled on at a hearing with
9 Commissioner Roche in July of 2011.

10 And I believe that's all I have. Thank you.

11 **COMMISSIONER BARDEN:** Any questions?

12 All right. Mr. Wilson, you have three more
13 minutes, sir, or up to three minutes.

14 **REPLY BY MR. WILSON:**

15 **MR. WILSON:** Ma'am, I would like to go back and
16 address the prescription card. There was no
17 change in companies. I got the same exact
18 prescription card, suggesting there was no
19 change. So the delays caused by a change in
20 the companies, no support of that nowhere. And
21 I have the proof that I have that same
22 identical card.

23 As it relates to contacting the Commissioner
24 back, I explained to him that I was sick those
25 three days that he called me and by the time I

1 did call him back, the hearing was already
2 scheduled.

3 And as I tried to explain to Commissioner
4 Wilkerson, based on the Defendant's history, a
5 simple phone call was not going to do anything.
6 I've been in the system since 2005. If it was
7 that simple, trust me, I would make a simple
8 phone call. Because when I have to come to a
9 hearing, prepare for a hearing, pay filing
10 fees, preparation -- unfortunately, I don't
11 have an expense fund that I can take from. All
12 this money comes out of my pocket, takes
13 money -- takes food off my table. I don't have
14 the luxury of pulling from an expense fund.
15 So, if I can just pick up a phone, make a phone
16 call, if it's that easy, I'd be the first to do
17 it. Based on the history, which is
18 well-supported in my file, I find it to be
19 unreasonable.

20 Lastly, I had a Social Security disability
21 hearing on January the 19th, 2012, where
22 they -- the judge, he looked at all the
23 evidence, same evidence that I turned into the
24 South Carolina Workers' Compensation
25 Commission, and he found me disabled on the

1 findings back to 2005.

2 The issue of the difference in treatment from
3 the hand-selected authorized treating
4 physicians that were hand-selected by the
5 Defendants, the big difference in treatment,
6 diagnosing, evaluating, he noticed it. He
7 couldn't address it, but he said, "I noticed a
8 difference."

9 And, to me, that's just unfair treatment. And
10 it's been -- okay -- it's been numerous
11 misrepresentations based on -- just the latest,
12 leaving out a key finding, the directive number
13 14, which is something that's key. I don't see
14 how it can be left out. And that's just one
15 misrepresentation of the latest date.

16 **COMMISSIONER BARDEN:** All right. Thank you, sir.
17 That concludes this proceeding.

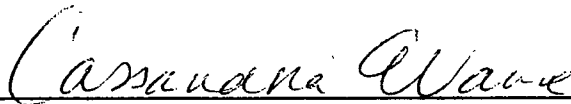
18 **(The proceedings concluded at 9:22 a.m.)**
19
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25

CERTIFICATE

This is to certify that the within hearing consisting of Seventeen (17) pages, is a true and correct transcript of the testimony given by said witnesses after being duly sworn; said hearing was reported by the method of Stenotype with Backup.

I further certify that I am neither employed by nor related to any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF I have hereunto set my hand and seal on October 1, 2012.



Cassandra E. Vance
Court Reporter

Notary Public for South Carolina
My Commission Expires: February 26, 2018

Edisto Spine Center
Jeffrey E. Faaberg Sr. MD
5790 Memorial Boulevard
St. George, SC 29477
PH (843)563-4506 FAX (843)563-9336

INDEPENDENT MEDICAL EVALUATION

The following is an independent medical examination. This patient has not been a previous patient of Edisto Spine Center or Jeffrey E. Faaberg, MD. The patient consented to this examination and a full release of medical records. The patient was instructed to stop any motions or activities that produced pain.

Date: 12/19/2006

Referring Attorney: Steven E. Goldberg

Location: Edisto Spine Center

Patient Name: Frank Wilson

Date of Injury: 5/16/2005

Circumstances of Injury: Mr. Frank Wilson was a right front seat passenger of a Nissan automobile on 5/16/2005. While exiting I-26 and making a left hand turn his vehicle was T-boned from the right by a pick up truck. Mr. Wilson was thrown to the left inside the vehicle.

Treatment History: Mr. Wilson was brought to Trident Regional Medical Center. He was treated for multiple trauma including a collapsed lung and bilateral rib fractures. He was admitted for 3 ½ days. He states that he had a collapsed lung but does not have any memory of a chest tube being inserted.

Mr. Wilson developed neck, lower back, and right shoulder pain. He also had chronic chest wall pain following this accident.

Mr. Wilson was referred to Low Country Orthopedics and was seen by Dr. George Warren of orthopedics and Dr. Don Stovall of orthopedic spine surgery.

Mr. Wilson has had multiple MRI scans of the right shoulder, cervical spine, and lumbar spine. Mr. Wilson has also had multiple injections including lumbar epidurals x 3-4, facet joint injections, trigger point injections and a right shoulder injection. He states that he has had a maximum of 3-4 weeks of relief with all the injections except for the facet injections which gave him very brief relief.

Mr. Wilson's work involved assembly for American LaFrance. He tried a brief period of light duty but was terminated on 12/14/2005.

Current Activity of Daily Living Tolerance: Sitting 30-45 minutes, standing 20-30 minutes, lifting 25lb maximum infrequently. Mr. Wilson currently owns no vehicle and is not driving.

Current History: Currently Mr. Wilson complains of multilocal pain in the mid and lower back, right side of the neck, and both shoulders. He also has persistent chest wall pain. Pain intensity is about 7/10. He reports that he has gotten brief relief with epidural injections and warm showers. Prolonged standing, sitting, bending, stress, and lifting worsen his pain. Current medications include Mobic and Skelaxin.

Past Medical History:

Allergies: None.

Co-existing Medical Conditions: Patient denied other medical conditions.

Previous Surgeries: Patient denied previous surgeries.

Previous Injuries: Patient denied previous injuries.

Review of Studies: Patient brought several scans including a right shoulder MRI scan.

Cervical spine MRI: This indicates a disc osteophyte with protrusion at the C3-4 level. There is moderate bulging at other levels.

There were several lumbar MRI's. The patient has significant loss of disc space height with protrusion at L5-S1 and slight bulging at other levels.

Review of Medical Records:

Trident Regional Medical Center: Emergency room encounter and multiple laboratory tests and computer generated reports.

Chris P. Tountas MD: Independent Medical Evaluation. Dr. Tountas opines that the patient is at maximum medical improvement and was not a candidate for surgical intervention and had no evidence of neurologic deficit of the upper or lower extremities and no findings of cervical or lumbosacral radiculopathy that would correlate with any of the cervical or lumbosacral MRI's. He mentions a right pneumothorax with fracture of the right 5th rib and pulmonary contusion right upper lobe. He also mentions Dr. Benner; apparently he was the trauma specialist in this regard. Physical therapy is also mentioned as is lack of airbag deployment and multiple epidural steroid injections. There are x-ray reports, CT imaging which is negative for sternal fracture, and moderate degenerative disc disease L5-S1.

Portable chest 5/16/2005 status post MVR with pneumothorax semi upright frontal film limited to portable technique, no gross pneumothorax or pleural effusion is seen.

Chest PA and lateral 5/17/2005: Small apical pneumothorax. In the body of the report the right side is mentioned.

Cervical MRI report 9/17/2005: Impression was cervical spondylosis, most impressive at C3-4 with left dominant disc osteophyte complex.

MRI report right shoulder 4/12/2006: Supraspinatus tendonopathy, possible small intrasubstance tear distal infraspinatus tendon. Joseph I. Ganglion MD.

MRI lumbar spine without contrast 7/26/2006: Broad based protrusions at L5-S1. Moderate exit stenoses with L4-5 left intraforaminal annular tear adjacent to exiting left L4 nerve root, which was a new finding since prior film.

MRI left hip: 9mm area of subchondral cystic change left femoral head.

George Warren MD: Multiple injections.

Don O. Stovall Jr. MD: Multiple visits. Cervical spondylosis lumbar L5-S1 DDD with disc bulge. Assessment was cervical whip lash injury, right shoulder contusion, and lumbar strain.

A note of 10/11/2006 mentions MMI with 5% whole person impairment, 7% impairment of the lumbar spine, 14% regional impairment cervical spine, and 5% right upper extremity impairment. He suggested medium work capacity.

Physical Examination:

General Description: Mr. Frank Wilson is a large African American male in no obvious distress. He has a rather flattened affect. Goniometry and dual inclinometry were used and repeated for validity purposes. Waddell's signs were 0/5 and effort appeared to be maximal.

Vital Signs: BP120/80 Pulse60 Resp20 Temp96.9 Ht5'11" Wt225

HEENT: Pupils are equal, reactive to light and accommodation. Extraocular motion is intact. The head is normocephalic without areas of facial or skull tenderness or deformity. The oropharynx is intact. TMJ range of motion is full without crepitus. Funduscopy and tympanic membrane exams are within normal limits.

Neck: Active cervical spine range of motion is as follows: extension 35°, flexion 75°, lateral flexion 50° bilaterally, rotation 50° bilaterally. There is no

cervical spine crepitus. There is myofascial tightness in the paraspinous musculature.

Chest: The patient has decreased breath sounds in the right, mid, and upper lung fields. This is anterior and posterior. There are no areas of chest wall tenderness.

Back: The patient's lumbar lordosis is moderately flattened. Active lumbar spine range of motion is as follows: forward flexion 45°, lateral flexion 30° right and 45° left, extension 5° with significant muscular spasm. Straight leg raising is positive for thigh tightness at 30° on the right and 35° on the left with moderate effort. The patient does have myofascial tenderness in the lower lumbar midline.

Extremities: The patient is right hand dominant. Surface temperature is equal compared left and right in the upper and lower extremities. Circumference measurements are within normal limits compared left and right in the upper and lower extremities. The patient has tenderness across the posterior musculature of the right shoulder. Strength in abduction, external rotation, and extension in the right shoulder is grade 4/5. He reports pain across the upper margins of the left shoulder but range of motion and strength are intact. In the lower extremities the patient's strength at the left knee is grade 4/5 in flexion.

Neurological: The patient is alert, oriented times three, and has a rather flattened mood and affect. Deep tendon reflexes are 2/4 and symmetrical in the upper and lower extremities. Sensory function to pinprick and light touch is symmetrical and intact. Motor function is 5/5 and symmetrical.

Assessment: Mr. Frank Wilson is a 37 yr. old former assembly worker at American LaFrance. He was involved in a motor vehicle accident in May 2005. He was the right front seat passenger and the vehicle was struck on his side without airbag deployment as mentioned by other examiners.

Mr. Wilson was treated for multiple areas of trauma including rib fractures and pulmonary contusion with partial lung collapse on the right.

Mr. Wilson has developed multiple areas of pain in the neck, both shoulders, and low back. He does have MRI evidence of disc osteophyte changes in the cervical spine and a significant degenerative condition at L5-S1 in the lumbar spine. He reports no previous problems with neck or back pain.

Mr. Wilson has decreased breath sounds on examination of the right chest. He also has decreased strength in three motions of the right shoulder. He has loss

of motion in the cervical and lumbar spine with multiple levels of disc bulging and degenerative change in both cervical and lumbar regions.

With a reasonable degree of medical certainty, Mr. Wilson's condition will not significantly change or improve in the next calendar year and I would deem him at maximum medical improvement. Using the 5th ed. Guides to Evaluation of Permanent Impairment I would assign the following regional impairments:

Cervical spine: 5% whole person / 14% regional impairment of the cervical spine.

Lumbar spine: Mr. Wilson has significant loss of lumbar spine range of motion in extension and lateral flexion. He has an obvious disc protrusion with loss of disc space height at L5-S1 with positive straight leg raising. I would assign 10% whole person / whole spine impairment which translates to 13% regional impairment of the lumbar spine using DRE classification. Mr. Wilson does have weakness at the left knee and I would attribute this to spine changes as a radicular change.

Right upper extremity: 10% regional impairment. Mr. Wilson has loss of strength in three motions of the right shoulder.

Mr. Wilson has persistent pain in the left shoulder. This may represent changes due to his disc osteophyte situation at C3-4. I would suggest a follow up MRI of the cervical spine and also left shoulder to rule out joint pathology vs. changes secondary to radicular phenomenon.

Mr. Wilson has a significant reduction in his ability to carry out activities of daily living. His maximum lifting is 25lb on an infrequent basis. His maximum sitting and standing is less than one hour. He is currently not operating a motor vehicle. Unless a functional capacity evaluation can be produced to dissuade otherwise I would place Mr. Wilson in the light physical demand category but he would require significant sheltering with change in position and maximum lifting of 25lb and frequent lifting of less than 10lb.

Mr. Wilson is a candidate for ongoing medical care and as above I would suggest follow up scan of his cervical spine and also the left shoulder. He has had 3-4 week responses from spinally administered steroid in the past. I would suggest no more than 3-4 of these procedures in a calendar year to avoid incurring systemic side effects of spinally administered corticosteroid. Mr. Wilson is also a candidate for behavioral medicine work up and maximization of cognitive and coping skills. He should also be evaluated and managed by a physical therapist to avoid incurring further impairment.

This independent medical evaluation may be amended if any additional information becomes available.

Jeffrey E. Faaberg, Sr., MD, DABPM
JEF/mh

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

FRANK WILSON,
Employee,

vs.

WCC NO. 0506037

AMERICAN LaFRANCE,
Employer,

and

COPY

AIG c/o GALLAGHER BASSETT SERVICES, INC.,
Insurer.

THE DEPOSITION OF FRANK WILSON, taken
on behalf of the Employer/Insurer, on February 20,
2007, commencing at 2:00 p.m., at the offices of
Steinberg Law Firm, 61 Broad Street, Charleston,
South Carolina.

REPORTED BY: Christine A. Smith, Court Reporter
SPECTRUM REPORTING, LLC
P.O. Box 1296
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15 (INDEX AT REAR OF TRANSCRIPT)
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1 STIPULATION

2 It is stipulated by and among Counsel
3 for the parties that this deposition is taken
4 pursuant to notice and that all questions as to the
5 notice are waived; that all objections, save as to
6 the form of the question, are reserved until the
7 time of trial; that the deposition is taken
8 pursuant to the South Carolina Rules of Civil
9 Procedure, for the purposes allowed therein; and
10 that the deponent was explained his right to read
11 and sign the deposition and reserved the right.

12 * * * * * * * *

13 FRANK WILSON,
14 being first duly sworn, testified as follows:

15 EXAMINATION

16 BY MS. MORGAN:

17 Q. Mr. Wilson, my name is Amanda Morgan.
18 I represent American LaFrance and their workers'
19 compensation insurance carrier. Today I'm going to
20 take your deposition. I ask that you just speak up
21 and say yes or no if that's the type of answer the
22 question facilitates. That's so she can take down
23 everything you're saying.

24 I don't intend to trick you or confuse
25 you. If you don't understand a question please

1 have me repeat it or rephrase it. I'm going to
2 assume that if you answered my question that you
3 did understand it and if you need to take a break
4 for any reason just let me know and we can do that.

5 **A. Yes.**

6 Q. Please state your full name.

7 **A. Frank Eugene Wilson.**

8 Q. What is your date of birth?

9 **A. 02/07/69.**

10 Q. Happy birthday.

11 **A. Thanks.**

12 MR. STEINBERG: When was it? Today?

13 MS. MORGAN: No, the 7th of this month.

14 Q. (BY MS. MORGAN) Are you married?

15 **A. Single.**

16 Q. Do you have any children?

17 **A. No.**

18 Q. What is your Social Security number?

19 **A. 333-64-9269.**

20 Q. What is your current address?

21 **A. 3319 Mountain Brook Avenue,**
22 **Apartment 6, North Charleston, South Carolina,**
23 **29420.**

24 Q. Who lives with you at this address?

25 **A. Just myself.**

1 Q. Does anybody else depend upon you for
2 support?

3 A. No.

4 Q. Do you have a South Carolina driver's
5 license?

6 A. Not at the time.

7 Q. What happened to it?

8 A. I don't have one.

9 Q. Have you ever had one?

10 A. No.

11 Q. Have you ever served in the military?

12 A. Yes.

13 Q. What branch?

14 A. United States Navy.

15 Q. How long were you with the Navy?

16 A. From 1988 to 1996.

17 Q. And were you honorably discharged?

18 A. Yes.

19 Q. Did you graduate from high school?

20 A. Yes.

21 Q. What high school?

22 A. Chicago Vocational High School.

23 Q. Did you receive a diploma in anything
24 in particular?

25 A. Accounting.

1 Q. After you graduated from high school
2 did you attend any other schools?

3 A. No.

4 Q. Do you have any kind of vocational
5 training or technical school?

6 A. Post high school I went into the
7 military.

8 (Off-the-record conference.)

9 Q. (BY MS. MORGAN) Do you own a car?

10 A. No.

11 Q. Do you smoke?

12 A. No.

13 Q. Do you drink?

14 A. No.

15 Q. Do you take any prescription
16 medication?

17 A. Outside of what workman's comp gave me,
18 no, just Mobic and Skelaxin, and that's prescribed
19 by Dr. Stovall.

20 Q. Are you up-to-date on your
21 prescriptions?

22 A. Yes.

23 Q. After you left school what did you
24 start doing?

25 A. Went into the military, United States

1 **Navy.**

2 Q. And then after the military did you
3 start working?

4 A. Yes. I came out of the military,
5 relocated to South Carolina, and shortly after that
6 I began my first employment in South Carolina which
7 was with a company called Uniway of Charleston.

8 Q. For what position were you hired?

9 A. Shipping and receiving.

10 Q. And how did you find out about this
11 job?

12 A. Newspaper ad.

13 Q. And when were you hired by Uniway?

14 A. Approximately the end of 1997.

15 Q. How long did you work for them?

16 A. Approximately a year.

17 Q. After you left Uniway where did you
18 start working?

19 A. A company called Diesel Recon.

20 Q. What did you for Diesel Recon?

21 A. Assembly associate/disassembly
22 associate.

23 Q. How long were you with that company?

24 A. From 1998 to 2002.

25 Q. Did you resign from that position or

1 were you terminated?

2 **A. Actually I was laid off due to a**
3 **company shutdown and relocating of the company.**

4 Q. After that what did you start doing?

5 **A. American LaFrance.**

6 Q. What position were you hired for?

7 **A. Assembly associate.**

8 Q. How did you gain experience as an
9 assembly associate prior to starting with American
10 LaFrance?

11 **A. Just on-the-job training.**

12 Q. Who was your supervisor when you were
13 hired at American LaFrance?

14 **A. Frank Prado.**

15 Q. Did you say Prado?--

16 **A. Yes.**

17 Q. Do you know what his title was?

18 **A. At the time it was production manager.**

19 Q. Did your position ever change when
20 working for American LaFrance?

21 **A. Yes. Post assembly associate, I got a**
22 **position in quality assurance. It was a position**
23 **that came available. I applied a couple of times**
24 **and eventually worked myself into the position.**

25 Q. Was this considered a promotion?

1 **A. Promotion in pay, responsibilities,**
2 **yes.**

3 **Q. How much more were you earning an hour**
4 **in quality assurance?**

5 **A. I started out as an assembler in**
6 **October of 2002. That rate was at \$11.75 and**
7 **overtime it escalated close to \$13 an hour. Once I**
8 **received a quality assurance job it exceeded**
9 **shortly over \$13 an hour, and my ending pay was at**
10 **\$15.10 an hour as the quality assurance personnel.**

11 **Q. At any time working for American**
12 **LaFrance did you ever earn more than \$15.10 an**
13 **hour?**

14 **A. Yes.**

15 **Q. When did that raise come about?**

16 **A. Shortly before I was terminated which**
17 **was \$15.55. That came about on my three-year**
18 **anniversary, a three-year anniversary raise.**

19 **Q. Can you describe to me some of the**
20 **things you were doing as an assembly associate?**

21 **A. Basically just -- well, I worked on a**
22 **chassis line when I first started there, and we**
23 **basically complete any unassembled parts on an**
24 **engine from a chassis, we verify torque, we look**
25 **for any safety issues, and correct those.**

1 Basically just do an overall inspection
2 of the truck, any parts that need to be added we
3 add those parts, and that's basically it on the
4 assembly part.

5 Q. Then when you started working in
6 quality assurance how did the types of jobs that
7 you were doing change?

8 A. Basically when I started QA I started
9 out on the same line that I used to do the assembly
10 on. So basically instead of doing assembly I was
11 actually inspecting the workmanship of the
12 assemblers that worked on the line. I basically
13 checked for any safety issues, quality issues,
14 workmanship issues, and just made sure everything
15 was in conformance with the specs that was already
16 documented for the vehicles that we were assembling
17 at the time which were emergency rescue vehicles,
18 Waste Management condors.

19 Q. Other than working in shipping and
20 receiving and as an assembly associate at a couple
21 of different companies, do you have any other job
22 experience?

23 A. No.

24 Q. At the time you were injured working
25 for American LaFrance what was the position you

1 held?

2 **A. QA, quality assurance.**

3 Q. So is it fair to say that assembly
4 associate and then QA are the only two positions
5 you held at American LaFrance?

6 **A. Yes.**

7 Q. Who was your supervisor at that time?

8 **A. Brian Hook.**

9 Q. When were you injured at American
10 LaFrance?

11 **A. May 16, 2005.**

12 Q. What time did you arrive to work that
13 day?

14 **A. Approximately 5:30 a.m.**

15 Q. Is that what time you came into work
16 every day?

17 **A. Approximately, give or taken, ten
18 minutes earlier, ten minutes later.**

19 Q. In quality assurance what were the
20 hours that you worked?

21 **A. A normal workday would be 6:00 to 2:30.
22 Any overtime would be past 2:30.**

23 Q. Did you work time and a half and
24 overtime?

25 **A. Yes.**

1 Q. So when you arrived to work on May
2 16th, 2005, at 5:30 a.m. did you go about your day
3 as usual?

4 A. On that day I was filling in for
5 someone at our sister plant which is located in
6 Jedburg, and me and another work associate were
7 departing American LaFrance, going en route to our
8 sister plant in Jedburg which is SPP and leaving
9 the plant. I guess we left the plant probably
10 between 5:35 a.m. or 5:40 a.m., somewhere around
11 that time frame en route to SPP which was in
12 Jedburg.

13 Prior to arriving at Jedburg, which is
14 when the accident happened, and the accident
15 happened off of Highway 78, exiting on the road
16 going to Jedburg turning left.

17 Q. Is SPP what you just called the sister
18 plant in Jedburg?

19 A. Yes.

20 Q. You can continue. I'm sorry. You were
21 exiting on Highway 78?

22 A. Yes, I made a left turn, and at that
23 time that's when the accident happened. I ended up
24 getting T-boned. At the time I was the front
25 passenger. I ended up getting T-boned on the front

1 passenger's side, and as a result, that's when I
2 gained the multiple injuries to my lung, my back,
3 my right shoulder, the ribs, left shoulder, and the
4 hip, left hip.

5 Q. Going back to when you left the big
6 American LaFrance plant, who told you to go to the
7 Jedburg plant?

8 A. I was instructed to by my supervisor,
9 Brian Hook.

10 Q. And who was with you?

11 A. Mark Crisp.

12 Q. Was Mr. Crisp driving?

13 A. Yes.

14 Q. Were you driving any kind of company
15 vehicle?

16 A. No, his personal vehicle.

17 Q. Whose car was it?

18 A. Mark Crisp's.

19 Q. Just give me a couple more details
20 about the accident. How did this happen as far
21 as -- who hit who?

22 A. Okay. As I can recall, going down 78
23 making an exit to go to get on the road to go to
24 Jedburg, prior to making the left turn, I want to
25 say it was dark that morning. It was real early.

1 And at that time I believe something was in the
2 road. Mark, he swerved to try to miss it prior to
3 making the left on the exit going to Jedburg.

4 At that time oncoming from the left --
5 well, from the right is when we ended up getting
6 T-boned before we could make the turn onto the
7 Jedburg entrance.

8 Q. What kind of vehicle hit you?

9 A. As far as I can remember it was a
10 pickup.

11 Q. Did you lose consciousness?

12 A. Initially while I was still in the
13 vehicle I was pretty much semi-dazed, and I guess I
14 looked pretty bad by the way Mark responded to me.
15 He said, man, I think it's best you get out of the
16 car. I was so dazed -- I'm trying to open the
17 right door really not knowing what I'm doing. He
18 said, oh, man, I don't think you can get out on
19 that side.

20 Then he said, let me help you out on
21 this side, and once I finally climbed out that's
22 when I just fell to the ground, and all I could
23 hear is him yelling in my ear. Oh, man; oh, man.
24 Hang in there, man. Hang in there, man. You're
25 going to be all right. Hang in there.

1 Eventually I fell to the ground. I
2 could hear him on the phone calling 9-1-1 saying,
3 hey, I need somebody here in a hurry, and from that
4 point I think I blacked out a little bit. After
5 that, I remember the emergency vehicle coming and
6 they asked me, you know, what kind of injuries or
7 how I was feeling. I told them I had problems
8 breathing and I told them I had a whole bunch of
9 chest pains. At that time they were pulling the
10 stretcher out and everything, and I think at that
11 point before they put me on the stretcher they put
12 me in a neck brace.

13 I guess due to my breathing they pulled
14 out a mask, and at that time I guess I got
15 hysterical. I was saying, I can't breathe. I
16 can't breathe. What are you doing? I was just
17 being hysterical. They were trying to give me
18 oxygen, but I thought they were covering my mouth.
19 I'm like, I can't breathe. What are you doing?
20 They finally got the mask over my mouth and got me
21 on the stretcher.

22 After that I guess I passed out. The
23 next thing I remember is being in the emergency
24 room in the hospital gown. I don't know how my
25 clothes got off. I don't remember the ride up

1 there, and the next thing I remember is I was in
2 the emergency room bed, gown off, clothes off, just
3 looking at a doctor, and they were asking me how I
4 feel and saying, you're lucky to still be alive.

5 I said, well, I'm glad I made it here,
6 and I'm glad Mark made the call when he did, and
7 I'm glad they made it out there in a timely manner.
8 I was still not knowing at that time that I was in
9 that bad of a condition until maybe a couple of
10 hours into the accident the pain really hit me.

11 That's when they pretty much gave me
12 the pain medicine and assisted me with my
13 breathing. From that point they got me in a calm
14 manner, calmed me down, and told me everything was
15 going to be all right. They were saying, hey,
16 you're lucky to be alive, and that's a good thing
17 to look at. So after being calm and relaxed and on
18 medication I tend to calm down.

19 Q. Was Mark hurt?

20 A. The only thing he basically got as far
21 as I can remember he told me he got a chipped
22 tooth, and he said he had a couple of bumps and
23 bruises, but shortly after the accident, make three
24 weeks, give or take a week, he went back to work.
25 So basically the impact of the accident happened to

1 be on my side and caused me to take the impact.

2 Q. When you first went to the hospital and
3 received some care from the doctors, what body
4 parts were you aware that were treated?

5 A. The lung and the ribs. That's the most
6 pain, and initially -- I would say the lung and the
7 ribs because of the breathing and really at the
8 time I didn't know that my breathing was affected
9 due to the collapsed lung until they actually told
10 me. The reason you were breathing like that or had
11 problems breathing is because your lung collapsed.
12 The reason you have the chest pain is because you
13 had the fractured ribs. That explains that pain.

14 And then as the process went on they
15 initially thought I had one fractured rib which was
16 on the right side, and during that whole period,
17 you know, I had so much pain on the left side and
18 they said, well, Mr. Wilson, you took a big impact.
19 You're probably feeling pain from the right side
20 going to the left side. I said, well, you're the
21 doctor, but I feel there's something going on on
22 the left side.

23 They said, well, we'll wait. We'll
24 wait, and let the rib heal on its own and then
25 we'll do a reevaluation. So I believe six to eight

1 weeks went past, and I still had a whole bunch of
2 pain on the left side. I said, Doctor, I really
3 think there's something else going on.

4 I guess so much time had passed, and
5 they decided to do a second CT scan on my chest.
6 That CT scan came back with multiple fractures of
7 the ribs. They said, okay, Mr. Wilson. Okay.
8 Well, that explains why you have so much pain on
9 that side. I said, well, I told you guys initially
10 that I had a bunch of pain on that side.

11 They said, well, we don't know why it
12 got missed on the first x-ray. He said, you could
13 have had a whole lot of swelling. We'll just wait
14 for those fractures to heal, and we'll see how
15 things progress. And in the meantime, you know,
16 we'll allow your lung to hopefully go back into
17 place, and after an elapsed time I was relieved
18 from Dr. Benner to Dr. Stovall.

19 At the time I got released from
20 Dr. Benner, I didn't get a chance to do a rescan of
21 the chest to verify everything had healed. I
22 didn't get a chance to reverify the lung, and
23 shortly after that, I still experienced chest pains
24 and breathing problems.

25 I told Dr. Stovall about it, and I

1 guess it was a little bit out of his field. He's
2 basically an orthopedic. He treated me for my back
3 and my right shoulder.

4 Q. When you were at the hospital initially
5 were you having pain in either of your shoulders?

6 A. It wasn't noticeable. The pain was
7 just so noticeable and was just the chest and the
8 breathing. It was just overbearing everybody else.

9 Q. Who referred you to Dr. Stovall?

10 A. Dr. James Benner.

11 Q. So Dr. Benner. Where is he located?

12 A. I want to say out of Trident Medical
13 Center.

14 Q. So when did you first feel that you
15 were experiencing pain in either one of your
16 shoulders?

17 A. Shortly after I got released from
18 Dr. Benner, and once that pain left from my ribs
19 and most of that pain was gone, and I got some of
20 my breathing back that's when I noticed the pain in
21 my back and my neck and my shoulder.

22 Q. Which shoulder are you indicating right
23 now?

24 A. Right shoulder.

25 Q. When you first went to Dr. Stovall did

1 you tell him you were having pain in your neck,
2 your back, and your right shoulder?

3 **A. Yes. I gave him three parts, my neck,**
4 **my shoulder, and my back.**

5 Q. Are there any other body parts that you
6 first told Dr. Stovall about?

7 **A. No. Initially it was just my neck, my**
8 **right shoulder, and my back.**

9 Q. And I understand Dr. Stovall has
10 treated you for those three body parts. Has
11 Dr. Stovall treated you for any another body parts?

12 **A. No.**

13 Q. Have you had any pain in your left
14 shoulder?

15 **A. Yes.**

16 Q. Have you told Dr. Stovall about that?

17 **A. Yes.**

18 Q. When is the first time you started
19 having pain in your left shoulder?

20 **A. When I first noticed it was post -- a**
21 **work conditioning program through workmans' comp.**

22 Q. Do you know approximately the date of
23 this work conditioning program?

24 **A. I want to say approximately -- between**
25 **August -- between July and August of 2006.**

1 Q. Can you describe the pain you were
2 having in your left shoulder?

3 A. It was mainly in my left shoulder blade
4 similar to what I was experiencing in my right
5 shoulder. Similar, having got that severe but
6 dissimilar symptoms that I was feeling in my right
7 shoulder in the beginning stage is what I'm feeling
8 in my left shoulder. At that time was when I told
9 Dr. Stovall about it, and I really didn't know if
10 it was coming from the left side of my neck going
11 into my shoulder or if it was something isolated.
12 That's something that -- something that I will
13 recommend getting looked at.

14 Q. Did all of your lung problems resolve
15 themselves?

16 A. I still have problems breathing.

17 Q. When were you diagnosed with having a
18 collapsed lung?

19 A. 5/16/05, May 16th, 2005.

20 Q. And as far as Dr. Stovall's treatment,
21 what kind of things did he do for you to relieve
22 the pain?

23 A. Epidural injections, physical therapy,
24 the work conditioning programs, home exercise, pain
25 medication, and epidural injections.

1 Q. Have you underwent any surgeries to
2 your neck, your back, your right or left shoulder?

3 A. No.

4 Q. Do you know if that's a possibility?

5 A. The right shoulder they left it open
6 for surgery as an option for myself.

7 Q. Is that something that you would be
8 interested in?

9 A. I would try to delay it as long as
10 possible, just to try to go with other means of
11 treatment.

12 Q. Did you receive any injection in your
13 left shoulder?

14 A. No.

15 Q. What kind of treatment have you
16 received for your left shoulder?

17 A. None at all.

18 Q. Are you still having pain in your left
19 shoulder?

20 A. Yes.

21 Q. Has it gotten any better through
22 physical therapy?

23 A. No.

24 Q. What were Dr. Stovall's recommendations
25 for the left shoulder then?

1 A. It was something he really didn't
2 comment too much on. This was something that came
3 about as a result of -- I want to say the work
4 conditioning program and the physical therapy.

5 Q. Why do you feel that it came about as a
6 result of the work conditioning program?

7 A. My daily activity outside of that
8 program was very light and very limited, and I
9 didn't go past my limitations. Anything that
10 brought on pain I just didn't do. And when it
11 comes down to the work conditioning and -- another
12 thing, the FCE, that was something that brought on
13 a whole lot of pain and it was elevated in the left
14 shoulder after the FCE, and I told that to the
15 instructor that was over the FCE that it was
16 bringing on a whole lot of pain.

17 Q. Did you do the activities that were
18 causing you pain?

19 A. Yes.

20 Q. You went through with them?

21 A. Yes. I did what I was instructed to
22 do. I told him about the pain and he stated, I
23 think you can do more. I said well, I'm in pain.
24 Well, I think you can do more. And that's when I
25 just told him, you're the instructor. I'm here to

1 to do what you're telling me to do, but it's
2 bringing me pain.

3 Q. At the time that this injury occurred
4 I'm assuming you were written out of work, but did
5 you ever get written back to work?

6 A. Yes.

7 Q. When were you first released to return
8 to work in any capacity?

9 A. I want to say approximately August of
10 2005 approximately.

11 Q. Were you released to return to full
12 duty or light duty?

13 A. Light duty, restricted duty.

14 Q. Did you contact your supervisor or
15 somebody at American LaFrance about this?

16 A. Yes.

17 Q. Did in fact you return to restricted
18 duty?

19 A. Yes.

20 Q. What were you doing when you returned
21 to restricted duty?

22 A. I was still doing quality work, but I
23 didn't do any lifting, didn't do any bending,
24 didn't do any access standing, I constantly changed
25 my position, from standing to sitting, didn't do

1 any lifting over 15 pounds, and it was just very
2 light duty.

3 Q. Were the people at American LaFrance
4 able to accommodate your restrictions?

5 A. A majority of the time, and toward the
6 end I just couldn't do the job they were asking me
7 to do because it got more into what I was doing
8 before the injury, and I was doing too much
9 bending, too much crawling around, too much
10 lifting, too much standing.

11 Q. Did you relay these complaints that it
12 was too strenuous for you to your supervisor?

13 A. Yes.

14 Q. Was that Mr. Hook?

15 A. Yes.

16 Q. What was his response?

17 A. They recommended that I go to the
18 company doctor, the company nurse.

19 Q. And who was that?

20 A. Dave Jackson.

21 Q. And did you go to Mr. Jackson?

22 A. I went to Mr. Jackson, told him
23 everything, and the only thing he gave me was -- he
24 gave me a couple of aspirins and said, see if that
25 will help you.

1 Q. Did they change your position at all?

2 A. They kept me in the same position and
3 told me, this is all we've got. You know, this is
4 the best we can do.

5 Q. Was the job that you were doing still
6 within the doctor's restrictions though?

7 A. No. I was doing a lot of bending
8 and -- I was doing a lot of bending. When you're
9 an inspector you have got to do a lot of bending,
10 you have to do a lot of stooping, a lot of
11 crawling, a lot of climbing, and those were things
12 I shouldn't have been doing, and they tried to
13 bring it to a limit, but it was still outside of
14 what was recommended that I do.

15 Q. Was your doctor aware that you were
16 doing work outside your restrictions?

17 A. Yes.

18 Q. What did he say to you?

19 A. He said you really shouldn't be doing
20 it and if need be, we'll see if we can get you on
21 some epidural injections and see how it works and
22 if not we'll just see about pulling you off and
23 getting you back into physical therapy and seeing
24 how that works. So basically we went through that
25 process over a period of maybe three, four, five

1 months of just going back and forth, and at that
2 time it was getting close to American LaFrance
3 during the sale of the company. And I think my
4 last time I worked there was approximately between
5 September and October of 2005.

6 Q. Did you ever stop doing -- just to stop
7 you right there -- did you ever stop doing that
8 restricted duty job?

9 A. No. No.

10 Q. So did you go get the epidural
11 injections like Dr. Stovall recommended?

12 A. Yes.

13 Q. Did that help you do the restricted
14 duty job any better?

15 A. No. No.

16 Q. Then in fact, if it didn't help did you
17 relay that to Dr. Stovall?

18 A. I relayed that to him. I said,
19 epidurals they do fine until I start bending,
20 started doing standing for a long time, sitting for
21 a long time, climbing, overexerting myself. That's
22 when the pain kicks right back in. Outside of
23 that, you know, the epidurals, they work pretty
24 good for a short period of time, but when I'm
25 bending, stooping, climbing, getting on the floor,

1 crawling around, those types of things, too much
2 strain on my back, too much strain on my neck, my
3 shoulder, and that's what the position called for.

4 I guess at the time they terminated me
5 they said -- they basically stated due to you're
6 not being able to work for the company at the time
7 of the sale, we have no option but to terminate
8 you.

9 Q. At any point did Dr. Stovall write you
10 completely out of work?

11 A. Yes.

12 Q. When?

13 A. It was at least two or three times. I
14 can't recall the exact dates.

15 Q. Was it after you had returned to work
16 restricted duty?

17 A. Yes.

18 Q. So was this after the epidural
19 injections that he tried?

20 A. Yes.

21 Q. So there was a period in there that you
22 were out of work full-time?

23 A. Yes.

24 Q. When you returned again what was the
25 restriction?

1 **A. Pretty much the same.**

2 Q. Do you know when you were written out
3 of work as compared to when Dr. Stovall wrote you
4 back with restrictions?

5 **A. Phrase that again.**

6 Q. Let's put this in a time frame like
7 this. If you went back for the first time on
8 restricted duty in August, 2005 how long were you
9 working within that restricted duty job before
10 Dr. Stovall wrote you out again?

11 **A. I would say close to two months.**

12 Q. So is it fair to say that you worked
13 August and September full-time restricted duty for
14 American LaFrance?

15 **A. I would give or take two weeks,**
16 **probably closer to maybe a month, month and a half.**
17 **During that time I was going through the series of**
18 **injections and physical therapy, and basically**
19 **said, we'll try this means, physical therapy along**
20 **with the epidural injections while you stick out**
21 **the restricted duty and we'll see how that works.**
22 **If that works we'll continue on doing that.**

23 **And I worked for a short time and then**
24 **the pain just kicked right back in, and it was due**
25 **to the bending, climbing, crawling around on the**

1 floor, the stomping, the things I have to lift with
2 my hands, and all he was saying is that was part of
3 the quality assure job, but at the time I was able
4 to do them with no problem before the accident.

5 Once I got the disabilities and wasn't
6 able to do them to the full capacity, of course it
7 had an effect on the company and the department
8 itself because now I couldn't keep up with all the
9 other people that was in quality. When you're
10 running a production line speed and being at full
11 capacity is very important.

12 Q. So after you were back for about a
13 month and a half on restricted duty did Dr. Stovall
14 then place you out of work again?

15 A. Yes.

16 Q. For how long did that period last?

17 A. That would be approximately three to
18 four weeks.

19 Q. And then after that three to four weeks
20 did he write you back again restricted duty?

21 A. Yes.

22 Q. Did, in fact, you return?

23 A. Yes.

24 Q. Were you having the same problems you
25 were having before with restricted duty?

1 **A. Yes.**

2 Q. After that, were you terminated or were
3 you written out again completely again?

4 **A. I was written out during that time and**
5 **I never went back.**

6 Q. So at the time you were written out
7 completely by Dr. Stovall -- did you resign or were
8 you terminated during that period?

9 **A. I was terminated.**

10 Q. How did the termination come out?

11 **A. Due to the sale of the company and any**
12 **and everybody who was on workman's comp short-term**
13 **disability -- if you couldn't work the day of the**
14 **sale, you know, they sent out a letter stating they**
15 **had no choice but to terminate anybody and**
16 **everybody who wasn't able to perform work for the**
17 **new company. I fell up under that category, and**
18 **that's how that termination came about.**

19 Q. Can you tell me when this was again
20 that you were terminated?

21 **A. December 14, 2005.**

22 Q. However you testified that September
23 and October was the last date you worked? There
24 was a period in there --

25 MR. STEINBERG: You were terminated in

1 '06?

2 MS. MORGAN: December '05 is --

3 THE WITNESS: Yes. Yes. Yes. Yes.

4 Q. (BY MS. MORGAN) I'm not disagreeing
5 with what you're saying. Was there a period of
6 time where you last worked at American LaFrance and
7 then you were written out of work completely?

8 A. Yes.

9 Q. -And during that period of time you were
10 written out then the December, 2005 termination
11 came?

12 A. It was a couple of times that I went
13 back not knowing that I wasn't supposed to go back.
14 Dr. Stovall he wrote me out for -- I think one time
15 he wrote me out for four weeks, then once the four
16 weeks was up, I just assumed it was time for me to
17 go back to work, and then I think Dave Jackson,
18 which is the company nurse, he asked me was I
19 released to come back.

20 I said, you know, the doctor, he put me
21 out for four weeks and the four weeks is up. So I
22 figured it was automatic to come back to work. So
23 I guess they called Dr. Stovall and he said he
24 hadn't released me to come back to work. At that
25 time he, I think, wrote up an additional three

1 weeks. At that time I think he gave me a facet
2 block in my back and a trigger injection in my neck
3 and I was still going through the work -- going
4 through the physical therapy, also the home
5 exercise program, and just doing things that
6 improved the condition.

7 Shortly after that, I just got out
8 completely as far as not being able to work.
9 Before I can go back, that's when they sent the
10 letter out saying due to your situation we have no
11 choice but to terminate you, and that's where I
12 stood as of that date.

13 Q. Was there ever a point where
14 Dr. Stovall did he tell you that you should go back
15 to work even on restricted duty and you did not go?

16 A. No.

17 Q. Was there ever a point where
18 Dr. Stovall wrote you back to work completely
19 without no restriction?

20 A. No.

21 Q. So were you legitimately written out of
22 work full duty, not supposed to be going anywhere
23 to work, when you received the termination letter?

24 A. Rephrase that one more time.

25 Q. Did you have a note from Dr. Stovall

1 that said you shouldn't be going to work at the
2 time you received the termination letter?

3 **A. Yes.**

4 Q. And was everybody at American LaFrance
5 aware that you were written completely out of work?

6 **A. Yes.**

7 Q. Did you contact anybody at American
8 LaFrance after you received the termination letter
9 to talk about it, or inquire about why you were
10 terminated?

11 **A. No. The letter was pretty**
12 **self-explanatory, so I just took it as that was**
13 **part of a business move they had to make.**

14 Q. After you received the termination
15 letter did you continue to treat with Dr. Stovall?

16 **A. Yes.**

17 Q. Did you apply for any other jobs
18 anywhere else?

19 **A. No.**

20 Q. Did Dr. Stovall ever release you again
21 back to light duty?

22 **A. I can't recall off the top of my head.**

23 Q. Did Dr. Stovall ever recommend that you
24 treat with any other doctors?

25 **A. He recommended a second opinion from a**

1 Dr. Tountas..

2 Q. And did in fact you go to Dr. Tountas?

3 A. Yes.

4 Q. Do you know what Dr. Tountas said?

5 A. He recommended that my lifting not to
6 exceed 25 pounds. I had a bunch of questions I had
7 for him and I'm not sure if he put them in his
8 report, but I told him about the standing, sitting
9 for a long time, how I needed to change my
10 positions in order to control the pain in my back.

11 Also, I told him about my right
12 shoulder, the neck pain. Basically the only thing
13 I can really remember is I know he restricted my
14 lifting to 25 pounds or less and he continued -- he
15 said I should continue getting the epidural
16 injections, and as far as physical therapy in the
17 home, an exercise program, I should continue that.

18 Q. Did Dr. Tountas answer any of the
19 questions you had?

20 A. No. I mean he basically just said, you
21 know, there are too many questions and he said he
22 will note that I brought in some questions, and he
23 did note it. But these were questions that I asked
24 Dr. Stovall and took the same questions to
25 Dr. Tountas just to see if I could get some answers

1 from him.

2 Q. Has Dr. Stovall answered those
3 questions for you?

4 A. Not to my satisfaction.

5 Q. When you say not to your satisfaction,
6 what do you mean?

7 A. He really didn't give me any defined
8 answers. He said basically the questions I had
9 really had no real definite answer he could give
10 me, and I guess, I wasn't too happy with it. You
11 know, any time -- this is just me and this is my
12 body and everything. Any time you can't get a
13 definite answer, I'm looking for more research to
14 see how we can come up with an answer or at least
15 come up with a solution towards getting an answer.

16 Q. Are they questions about your condition
17 and the injuries?

18 A. Yes.

19 Q. What did the doctors explain to you
20 when they couldn't answer your questions to your
21 satisfaction?

22 A. Well, they basically just said it was
23 too broad of a question to pinpoint a definite
24 answer on something so broad.

25 Q. Did you tell Dr. Tountas about your

1 left shoulder?

2 A. No. At the time I hadn't noticed
3 anything out of the ordinary in my left shoulder.
4 Like I say, this is just something that I noticed.
5 When the pain went from the right side of my neck
6 when it was -- initially it was the majority on the
7 right side of my neck 90 percent of the time. Then
8 I would say within the last two months, two and a
9 half months, 90 percent of the time it's on the
10 left side.

11 At that time that's when I noticed it
12 started going into my shoulder. Not being an
13 expert or a doctor, I kind of just put one and two
14 together. Maybe it's coming from the pain in my
15 neck, left side of my neck, going into my shoulder.
16 By me not being a doctor I said I would rather get
17 some experts to just define -- if it's a
18 separate -- if it's a separate incident or isolated
19 or actually coming from my neck going to my
20 shoulder, then that's some treatment that I'm
21 looking forward to getting into along with my lung.

22 I really didn't get a real
23 clarification of my answer when I got released from
24 Dr. Benner. I just basically was getting released
25 based on a time frame, not a verification of

1 anything just basically a time frame. At that time
2 that kind of stuck in my head.

3 Q. What was the time frame Dr. Benner gave
4 you?

5 A. He gave me six to eight weeks for the
6 initial right fractured rib, and after I still had
7 so much pain I think he gave me another six weeks
8 for the rest of the multiple fractured ribs on the
9 left side.

10 Q. Did you continue to complain of the
11 pain in your ribs to Dr. Stovall?

12 A. Yes.

13 Q. Did Dr. Stovall refer you to any other
14 doctors for the rib or chest pain?

15 A. He recommended that I see my family
16 physician.

17 Q. Who is your family physician?

18 A. Dr. Lloyd Hepburn.

19 Q. Where is he located?

20 A. He's located in North Charleston off
21 Ashley Phosphate Road.

22 Q. Did you go see Dr. Hepburn?

23 A. Yes.

24 Q. Did he recommend anything?

25 A. Well, I mean, oh, he just did an

1. overhaul, a general physical, and he said, you
2. know, that's pretty much how they felt, and he was
3. just a general family doctor, and he couldn't
4. really go into too many details on something of
5. that magnitude. At that time I continued to let
6. Dr. Stovall know about it, and several times he
7. said, you know, you may have a case of gas. I knew
8. that wasn't the case.

9. I knew I had a serious injury to this
10. body part and I never got verified that it got
11. healed or further treatment was needed. There was
12. always something that I needed where I wanted to
13. keep open to see the end result which is why I'm
14. still having the chest pains. Is it coming from
15. the ribs or is it coming from something isolated
16. from the chest wall itself?

17. I noticed -- I want to say I noticed
18. the chest pains more than any other time when I'm
19. drinking something with a lot of caffeine in it.
20. Let's say I drink a couple of cups of coffee then a
21. chest pain comes or if I drink like an energy drink
22. with a lot of caffeine in it, the chest pain, I'm
23. like, why is this taking place?

24. Other than that, you know, just like
25. off and on pain, but I notice it more when I drink

1 sports drinks or energy drinks and it's just
2 something unexplained, and I'm not sure if it's
3 coming from the lungs or an injury to the chest
4 wall that never got verified that it was completely
5 healed.

6 Q. When you state you have chest pain, is
7 it rib pain or is it tightness of the chest or the
8 lungs? Can you be a bit more specific?

9 A. It's right in the rib cage area. I
10 mean, a few times I panicked a little bit because I
11 thought it was a heart attack or something.

12 Q. Are you having any trouble breathing
13 throughout these times you're telling Dr. Stovall
14 that you're having chest pain and rib pains?

15 A. Yes. I've had problems breathing as
16 far as shortness of breath, that type of deal, and
17 basically just little or minimum activity.

18 Q. Have you ever had to go to the
19 emergency room because of the shortness of breath?

20 A. Yes. This was early into my injury and
21 basically in the emergency room they were
22 documenting -- they would tell me just to follow up
23 with my treating physician, and if it continues
24 come back in and monitor it.

25 Q. What was the hospital that you would go

1 to the emergency room?

2 **A. Trident. Trident Medical Center.**

3 Q. When was the last time you went to the
4 emergency room because of shortness of breath?

5 **A. I want to say approximately early 2000,**
6 **early to mid 2006 approximately.**

7 Q. At any time have any of the doctors
8 either at Trident Medical Center or Dr. Stovall
9 referred you to a specialist for the pain,
10 shortness, of breath, and concern you're having
11 with your ribs and chest?

12 **A. No.**

13 Q. Have you asked to be seen by somebody?

14 **A. Yes.**

15 Q. Who did you ask?

16 **A. Dr. Stovall.**

17 Q. What was his response?

18 **A. I think you must just have a case of**
19 **gas. That was basically his response. I recommend**
20 **you see your family physician.**

21 Q. Today what are the body parts you're
22 having trouble with or experiencing any kind of
23 pain?

24 **A. My neck, right shoulder, left shoulder,**
25 **my lung, chest, and my back.**

1 Q. Where on your back?

2 A. Low back to mid back.

3 Q. And you've received injections -- let
4 me get this straight -- for your lower back, your
5 neck, and your right shoulder, correct?

6 A. Yes. I have had one facet block in the
7 back of my back just to block off pain riding up my
8 back, but the other injections have been at the
9 left side of my low back.

10 Q. Have you been released by Dr. Stovall?

11 A. Yes. He released me October 11, 2006.

12 Q. And since then have you applied for any
13 jobs?

14 A. I've been looking but it's -- I've been
15 looking, pending getting my restrictions and seeing
16 how they're going to continue to treat me as far as
17 epidural injections and limitations? Basically
18 just continuing the ongoing treatment for my neck,
19 my chest area, my lung, my shoulders, and my back.

20 Before the accident happened, I was a
21 very upbeat guy, just like -- I stay by myself.
22 I'm used to doing everything by myself. I'm
23 staying in Charleston, South Carolina by myself. I
24 have no relatives down here, so I'm put in a
25 position where I have to be dependent because I

1 have nobody else to rely on. Before the accident
2 happened it just really put a damper on the
3 independence. I'm just that type of guy. I like
4 responsibility. I like to be relied upon. The
5 jobs I've always had, I've always tried to take it
6 to the next level. I'm that type of responsible
7 guy. I like responsibility. I'm just a hard
8 worker.

9 That's how basically I learned how to
10 get promoted on jobs that I worked at, just through
11 hard work, and any time I see training being
12 offered I get in there and go for it and I spend
13 extra hours off the clock, come in early off the
14 clock, just to get that extra learning. Each time
15 I done it, it paid off in the end. So you know,
16 getting that experience, it's not all about the
17 money with me. If you do the right thing in the
18 end, then you're going to get compensated for it.

19 I guess a way to describe myself -- I
20 mean, I believe in standards. I believe in order.
21 I'm a man of excellence. I have a high integrity
22 about myself, and I -- that's basically how I would
23 like to be treated, you know, with excellence, you
24 know, people of integrity and it's just the way I
25 carry myself. I'm not the smartest guy but with my

1 hard work and my effort and my integrity, that gets
2 me far in life.

3 Q. And I understand that you stated that
4 you have been looking for jobs. Have you actually
5 applied to any place?

6 A. I actually haven't applied because I
7 know the restrictions I have. There's not too many
8 jobs out there that -- with the restrictions that I
9 have and the injuries that I have that I can just
10 go out there and apply for without them wanting to
11 see some type of documentation from workman's comp
12 as far as my limitations and my restrictions. And
13 to me that just makes sense in any business. They
14 would want to see something like that to keep
15 themselves from being liable.

16 Q. Would you be interested in reapplying
17 to American LaFrance given -- if they had a job
18 within your restrictions?

19 A. Sure. I'm always open to getting back
20 into the work field, and that's why I'm in the
21 position to get these injuries resolved and get
22 back to a position where I can get my independence
23 back and get back into the work force and just
24 start doing for myself again and just being relied
25 upon and getting my responsibility back.

1 I'm open to getting back into the work
2 field, and I've got a couple of places in mind, and
3 you know, upon getting this resolved, and getting
4 my limitations and getting everything that I'm
5 going to need to present to my next employer.

6 Q. Are you currently receiving your weekly
7 benefit checks from the workers' compensation
8 carrier?

9 A. Yes.

10 Q. Are you receiving any kind of
11 unemployment benefits?

12 A. No.

13 Q. Have you applied for unemployment
14 benefits?

15 A. No.

16 Q. Other than the checks you're receiving
17 from the workmans' compensation carrier, what other
18 type of compensation or income are you receiving?

19 A. That's it, just the workmans' comp.

20 Q. Is there anybody that's helping support
21 you?

22 A. No. Just myself, independent.

23 Q. Do you have any upcoming appointments
24 with any doctors?

25 A. I'm in the process of trying to get

1 some epidural injections for my neck, my right
2 shoulder, my back. That's been ongoing for the
3 last month and a half. I'm not quite sure about
4 the hold up, but that's been something that's been
5 ongoing.

6 Q. Did your attorney send you to a doctor,
7 Dr. Faaberg?

8 A. Yes.

9 Q. Have you only been to him one time?

10 A. Yes.

11 Q. Do you plan on returning back to him
12 for any reason? You don't have to tell me anything
13 you and your attorney have spoken about. To the
14 best of your understanding are you planning on
15 going back to him?

16 A. Not to the best of my knowledge.

17 Q. Do you have upcoming appointments with
18 Dr. Stovall?

19 A. No. Other than whoever's doing the
20 epidural injections in the office whether it be --
21 I know he normally gives me something in my
22 shoulder. Everything else is done by Dr. Warren.
23 And I guess as far as going in for a prescription
24 or anything like that, then I see him or -- I guess
25 if I needed to make an appointment to explain my

1 conditions that I'm having or the problems that I'm
2 having I will see him for that. Other than that --

3 Q. Prior to this incident with the car
4 accident in 2005 with American LaFrance, have you
5 ever been injured at work before?

6 A. No.

7 Q. Have you ever been in any other car
8 accidents?

9 A. No.

10 Q. Have you ever injured your lower back
11 before 2005?

12 A. No.

13 Q. Have you ever injured your neck prior
14 to this incident?

15 A. No.

16 Q. What about either of your shoulders?

17 A. No.

18 Q. Do you have any kind of criminal
19 history?

20 A. No.

21 Q. Are you currently receiving any kind of
22 long-term or short-term disability benefits?

23 A. No.

24 Q. Do you suffer from diabetes?

25 A. No.

1 Q. Do you have any kind of heart
2 condition?

3 **A. No.**

4 Q. Do you suffer from high blood pressure?

5 **A. No.**

6 Q. Have you ever had or are currently
7 suffering from any kind of cancer?

8 **A. No.**

9 Q. Other than the Mobic and Skelaxin are
10 you currently on any other kind of prescription
11 medication?

12 **A. No.**

13 Q. Are you taking any over-the-counter
14 medication?

15 **A. Outside of vitamins, iron pills, that's**
16 **it, you know.**

17 Q. Are you suffering from any kind of
18 psychological illness or depression right now?

19 **A. No.**

20 Q. Have you ever treated for any kind of
21 psychological illness?

22 **A. No.**

23 Q. Did you have any hobbies prior to this
24 incident that you can't do today?

25 **A. I enjoyed playing sports.**

1 Q. What type of sports?

2 A. Basketball, football, more basketball
3 than anything, and -- how can I put this? Right
4 now I'm living a Christian lifestyle. Before I was
5 living a Christian lifestyle I was -- I guess it's
6 safe to say I was sexually active on a regular
7 basis. I know that's put a limit on me now.
8 That's a handicap to me.

9 I don't know if that's appropriate, but
10 that's part of my -- once I get married and get
11 back into being sexual that's something that -- to
12 me that's daily living to me. That's something
13 that I would include. Daily housework, I mean,
14 living by myself I have to do all the cleaning, all
15 my cooking, all my just everything. And you know,
16 that hinders me. I mean my daily living has been
17 decreased, you know.

18 Q. Are you able to do all your household
19 activities and cook and clean for yourself?

20 A. Not the way I like to. I have such a
21 high standard of excellence that I do the best I
22 can, but it's really decreased my ability to remain
23 a man of excellence and high standards.

24 Q. What do you do on a typical day?

25 A. During the week, you know, I do my home

1 exercise and I'm active in my church during the
2 week. Two to three times a week I'm active in my
3 church. I do reading. Like I say, I may do some
4 walking just to get some exercise and get my body
5 going. And I'm always reading books and newspapers
6 to see what kind of jobs are out there and what
7 they're paying and just, you know, I try not to
8 exert myself too much to bring on pain, but you
9 know, I don't do a whole lot just outside of being
10 active in my church and exercising.

11 Q. When you say --

12 A. Reading the newspaper, just like I say,
13 I'm constantly trying to see what kind of position
14 the job market is in and seeing how competitive I
15 can be when I get back out there and seeing what
16 kind of wages are out there.

17 Q. When you said that you do home
18 exercises, are they exercises recommended by either
19 a physical therapy facility or Dr. Stovall?

20 A. Yes.

21 Q. How do you get to and from activities
22 at the church if you don't have a car and you don't
23 have a license?

24 A. My church is -- I can roll out of my
25 bed and be at my church. My church is two minutes

1 away from my residence.

2 Q. How did you get here today?

3 A. CARTA.

4 Q. Is that what you rely on for
5 transportation?

6 A. Yes. Yes.

7 Q. Give me one moment, and I believe we
8 can wrap up.

9 Have you ever treated for any lung
10 condition prior to this incident?

11 A. No. I've never had a problem and
12 basically like I said, before the accident I was a
13 very motivated guy and I've always been considered
14 motivated, you know, a guy full of energy and just
15 a guy that does more than expected. So once I lost
16 that, it kind of affected me mentally a little bit
17 but not to the point of depression.

18 It's a man thing, you know, just being
19 able to be strong physically and once I get a wife,
20 I want to be able to, you know, just be able to
21 lift things. And if I have a baby, I want to be
22 able to interact with the baby and stuff like that.

23 Other than that, it hasn't affected me
24 mentally. I keep myself active in church. That's
25 part of my background. That's one of the changes.

1 This is just me. That's about the only good thing
2 that came out of this accident is it got me back on
3 the road to my Christian relationships. So I don't
4 look at it as a total loss. He kept me here for a
5 reason, so I must have a purpose down here.

6 That's -- I can add that to things that I do on a
7 daily basis, seeking purpose, seeking my purpose.

8 That's in a spiritual aspect and a
9 natural. I know a purpose once I find it. No
10 matter my disabilities I'm pretty sure I'm working
11 into it. It may slow me down a little bit, but --
12 you know, it just slows me down, you know. It's
13 something I'm not used to, but all the doctors told
14 me you've got to get used to changing your daily
15 activities to fit your disabilities and -- it may
16 take a while. About you being a man it probably
17 will be a little bit harder, but it's something
18 you've got to do. You've got to get used to not
19 doing what you were doing before.

20 I've been constantly told that, so I
21 just take heed and just, like I say, by me standing
22 by myself and being so independent it becomes hard
23 sometimes. But you know, I have nobody. My
24 closest relative -- he's in green -- Asheville,
25 North Carolina. My closest sister, she's in

1 Georgia. So that's why I do all my cooking and do
2 all my cleaning and just go throughout the day and
3 do what I can do and still endure the pain that I
4 have.

5 MS. MORGAN: Well, I have no further
6 questions for you. You can just answer any
7 questions your attorney has.

8 MR. STEINBERG: I have none.

9 (The deposition was concluded at
10 3:10 p.m.)

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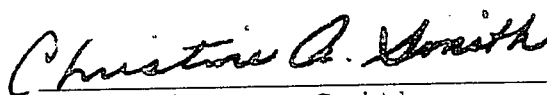
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CERTIFICATE OF REPORTER

I, Christine A. Smith, Court Reporter and
Notary Public for the State of South Carolina at
Large, 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 13th day of February, 2007 at
Charleston, Charleston County, South Carolina.



Christine A. Smith
Court Reporter
My Commission expires
January 17, 2010

I N D E X

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Page

WITNESS/EXAMINATION

FRANK WILSON,

EXAMINATION

BY MS. MORGAN

CERTIFICATE OF REPORTER

3

3

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REQUESTED INFORMATION INDEX

(No Information Requested)

E X H I B I T S

(No Exhibits Proffered)

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 0506037

FRANK WILSON,

Employee,

Claimant,

vs.

AMERICAN LAFRANCE

Employer,

AND

AIG C/O GALLAGHER BASSETT
SERVICES, INC.,

Carrier,

Defendants.

DECISION AND ORDER

DATE OF HEARING:

Hearing held in North Charleston, South Carolina on April 10, 2007.

APPEARANCES:

Claimant appeared and represented by Steven E. Goldberg, Esquire, of The Steinberg Law Firm, L.L.P. of Summerville, South Carolina.

Defendants represented by Amanda M. Morgan, Esquire of McAngus Goudelock & Courie, L.L.C. of Charleston, South Carolina.

PURPOSE OF THE HEARING:

To determine all issues set forth in the Defendants' Form 21.

COMMISSIONER:

Commissioner J. Alan Bass

FILED:

4/17/2008

STIPULATIONS

The parties stipulated at the hearing the following:

1. The South Carolina Workers' Compensation Commission has jurisdiction over this claim.
2. Venue and jurisdiction are proper in Charleston County.
3. The Claimant earns an average weekly wage of \$764.20.
4. The Claimant's compensation rate is \$509.49.
5. The Claimant was involved in an accident on May 16, 2005, arising out of and in the course and scope of his employment with American LaFrance.
6. The Claimant suffered a work-related injury to his back, right shoulder, and ribs on May 16, 2005.

APA SUBMISSIONS

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

Defendants' Submissions: The Defendants submitted the following medical evidence:

APA No. 1: Medical records of Trident Regional Medical Center dated May 16, 2005 through July 13, 2005, 8 pages.

APA No. 2: Medical records of Dr. Richard M. Gordon, Palmetto Physical Medicine, dated April 18, 2006, 2 pages.

APA No. 3: Medical records of Dr. George Warren, Lowcountry Outpatient Surgery Center, dated February 8, 2006 through July 24, 2006, 4 pages.

APA No. 4: Medical records of Dr. Don Stovall, Lowcountry Orthopaedics and Sports Medicine, dated August 4, 2005 through October 11, 2006, 32 pages.

APA No. 5: Medical records of Dr. Chris Tountas dated June 2, 2006, 5 pages.

APA No. 6: Corvel Vocational Progress Report, 14 pages.

APA No. 9: After the hearing, Dr. Cary Fetcher's deposition transcript was submitted to the Hearing Commissioner on September 17, 2007 by the Defendants.

Claimant's Submissions: The Claimant submitted the following medical evidence:

APA No. 7: Medical records of Dr. Jeffrey Faaberg dated December 19, 2006, 5 pages.

APA No. 8: Medical records of Dr. Carey Fechter dated March 23, 2007, 5 pages.

STATEMENT OF THE CASE

The Claimant was involved in a motor vehicle accident on May 16, 2005 when he was traveling from American LaFrance plant in Summerville to the American LaFrance plant in Jedburg. On the date of the accident, the Claimant was working as a quality assurance associate for American LaFrance. The Claimant was transported by EMS to the emergency room at Trident Regional Medical Center. The Claimant experienced pain in his chest and difficulty breathing on the date of the accident. X-rays taken at Trident Regional Medical Center showed the Claimant experienced bilateral rib fractures. He followed up with Dr. James Benner for his rib and chest pain.

Dr. Benner referred the Claimant to Dr. Don Stovall for treatment of his neck, back, and right shoulder pain. The Claimant was first seen by Dr. Stovall on August 4, 2005. The Claimant received physical therapy and injections in his lower back, neck, and right shoulder while under the care of Dr. Stovall. The Claimant did not complain to Dr. Stovall of pain in his

left shoulder while under his care. On October 11, 2006, Dr. Stovall placed the Claimant at maximum medical improvement for his lumbar spine, cervical spine, and right shoulder.

The Claimant was seen by several other physicians. He was seen by Dr. Chris Tountas on May 31, 2006 for an independent medical evaluation with respect to his orthopaedic condition. He was seen by Dr. Jeffrey Faaberg, Sr. on December 19, 2006 for another independent medical evaluation with respect to his orthopaedic condition. The Claimant was seen by Dr. Cary Fetcher on March 23, 2007 for an evaluation of his lung condition. The Claimant also met with a vocational evaluator, Lynn McCain at Corvel Corp., for a vocational evaluation.

On February 8, 2007, the Defendants filed a Form 21 request for a hearing to stop payment of temporary compensation and requesting a finding of permanency. The Defendants also requested a credit for overpayment of temporary compensation beyond the date of maximum medical improvement of October 11, 2006. The Claimant indicated in his Form 58 Pre-Hearing Brief that he sustained injuries to his back, neck, lungs, right shoulder, and right arm. The Claimant contended he was still in need of additional treatment. In their Form 58 Pre-Hearing Brief, the Defendants admitted the Claimant sustained an injury to his back, right shoulder, and chest as a result of the accident but denied the nature and extent of the injuries. The Defendants asserted the Claimant had reached maximum medical improvement.

A hearing was held in front of the undersigned Commissioner on April 10, 2007 in North Charleston, South Carolina. The Defendants asserted that maximum medical improvement was reached with respect to the Claimant's neck, low back, right shoulder, and ribs on October 11, 2006. They contended the Claimant was limited to an award of permanent partial disability. The

Claimant contended that he was not a maximum medical improvement and that he needed additional medical treatment for his lungs as well as an MRI of his left shoulder and neck.

At the hearing on April 10, 2007, the Defendants objected to the submission of Dr. Fechter's medical report based on the fact that it was not submitted within 10 days from the date that the hearing was first scheduled, which was April 2, 2007. The Defendants also moved to leave the record open to obtain a pulmonologist's Independent Medical Evaluation. The undersigned Commissioner overruled the Defendants' objection and denied the Defendants Motion to leave the record open for a pulmonary Independent Medical Evaluation. The undersigned Commissioner left the record open for 30 days for the parties to take Dr. Fechter's deposition. Dr. Cary Fetcher's deposition was taken on April 24, 2007, and Dr. Fecher's deposition transcript was submitted to the Hearing Commissioner on September 17, 2007.

EVIDENCE OF THE CASE - TESTIMONY

The Defendants called the Claimant as an adverse witness in their case in chief. The Claimant stated that he was hired as an assembly associate by American LaFrance, which eventually led to a job in the quality assurance department at American LaFrance. (Hr. Tr. p. 7, l. 24 – p. 8, l. 4) Working in the quality assurance department, the Claimant inspected trucks and the workmanship of the trucks. (Hr. Tr. p. 8, ll. 8-16) The Claimant also addressed safety issues and insured all processes were conducted according to the quality and safety policies in place. (Hr. Tr. p. 8, ll. 8-13)

The Claimant testified that he was in a motor vehicle accident on May 16, 2005, and he was transported to the emergency room from the accident. (Hr. Tr. p. 8, l. 25 – p. 9, l. 5) X-rays taken showed the Claimant had rib fractures, and the Claimant followed up with Dr. Benner for his rib and chest injuries. (Hr. Tr. p. 9, ll. 6-22) Dr. Benner referred the Claimant to Dr. Don

Stovall for his neck, back, and right shoulder. (Hr. Tr. p. 10, ll. 14-22) The Claimant received injections in his neck, lower back, and right shoulder, as well as physical therapy while under the care of Dr. Stovall. (Hr. Tr. p. 10, ll. 14-22)

The Claimant acknowledged at the hearing that he did not complain to Dr. Stovall about his left shoulder while treating with Dr. Stovall. (Hr. Tr. p. 10, ll. 22-25) The Claimant further admitted that during his initial visit with Dr. Stovall he did not complain about his left shoulder. (Hr. Tr. p. 16, ll. 14-16) The Claimant testified that he did not complain of any pain in his chest or ribs or indicate he was having breathing difficulties when he first saw Dr. Stovall. (Hr. Tr. p. 16, ll. 17-21) When the Claimant was seen for an Independent Medical Evaluation by Dr. Chris Tountas, the Claimant did not indicate to Dr. Tountas that he was experiencing left shoulder pain or breathing problems. (Hr. Tr. p. 17, l. 6 – p. 18, l. 6) The Claimant acknowledged that he did not complain about his left shoulder until his deposition in February 2007. (Hr. Tr. p. 21, ll. 21-24)

When asked if he felt he was able to return to work, the Claimant testified that he still had “open issues” with his left shoulder, chest pain, and breathing problems. (Hr. Tr. p. 18, ll. 7-20) The Claimant acknowledged that he met with a vocational expert from Corvel and that he understood that he had a lifting restriction of 25 pounds. (Hr. Tr. p. 19, l. 24 – p. 20, l. 20) The Claimant stated he would not feel comfortable returning to a job within the 25-pound lifting restriction because he feared re-injuring his left shoulder. (Hr. Tr. p. 20, l. 21 – p. 21, l. 16)

On direct examination, the Claimant testified that when the accident occurred, he experienced breathing problems as well as pain in his back, the right side of his neck going into his shoulder, and chest. (Hr. Tr. p. 23, ll. 17-23) The Claimant testified that he began to experience problems with his left shoulder sometime in July to August 2006, as he was going

through work conditioning and a Functional Capacity Evaluation. (Hr. Tr. p. 23, l. 24 – p. 24, l. 19) With respect to his chest pain, the Claimant indicated that he experienced increased pain in his chest with deeper breathing. (Hr. Tr. p. 25, ll. 15-22) He further testified that he could not lift with his right or left shoulder the way he could prior to the accident, and he wished to follow up with Dr. Faaberg for his neck and left shoulder and would consider surgery on his right shoulder in the future. (Hr. Tr. p. 25, ll. 2-10; p. 26, ll. 9-24)

The Claimant indicated that he wished to return to work in some capacity and felt that once he had an MRI for his neck and had his left shoulder looked into, he would be able to make an informed decision on returning to work. (Hr. Tr. p. 27, ll. 6-19) The Claimant stated that he was not asking anyone to find him totally and permanently disabled at his age. (Hr. Tr. p. 27, ll. 12-14) Upon further questioning, the Claimant admitted that he did not tell Dr. Stovall about his left shoulder pain at the time he was released from treatment. (Hr. Tr. p. 30, ll. 13-20) He further conceded that when he met with Dr. Tountas for an Independent Medical Evaluation, he complained of intermittent pain in the neck from the right to the left side, primarily the right. (Hr. Tr. p. 31, l. 13 – p. 32, l. 8) The Claimant testified that the pain going into his left shoulder appeared approximately a month or two months after his Independent Medical Evaluation with Dr. Tountas while he was participating in the work hardening program and undergoing a Functional Capacity Evaluation. (Hr. Tr. p. 32, l. 9 – p. 33, l. 1) The Claimant indicated that he had not re-injured his neck or left shoulder since the accident. (Hr. Tr. p. 34, ll. 7-13) Finally, the Claimant stated that it was shoulder joint in the left shoulder that was bothering him. (Hr. Tr. p. 34, ll. 23-12)

The Claimant then called David Jackson, the occupational nurse of American LaFrance. (Hr. Tr. p. 36, l. 9 – p. 37, l. 8) Mr. Jackson testified that he had a lot of dealings with the

Claimant, mostly after his accident, and that he believed that the Claimant was a good worker and honest person. (Hr. Tr. p. 37, ll. 6-17)

EVIDENCE OF THE CASE – APA SUBMISSIONS

Defendants' APA #1 are x-ray reports from Trident Regional Medical Center that show the Claimant experienced multiple rib fractures bilaterally in the accident of May 16, 2005. The x-ray reports revealed negative impressions of his cervical spine, lumbar spine, and right shoulder.

Dr. Don Stovall first saw the Claimant on August 4, 2005. (Defendants' APA #4) On that date, the Claimant complained of neck pain, lower back pain, and right shoulder pain. Dr. Stovall diagnosed the Claimant with a cervical whiplash injury, right shoulder contusion, and lumbar strain, and he recommended a course of physical therapy. (Defendants' APA #4, p. 15-18)

An MRI scan of the Claimant's cervical spine revealed a disc bulge at C3-4 but no evidence of a large disc rupture or spinal canal stenosis. An MRI scan of the Claimant's lumbar spine revealed some degenerative changes at the L5-S1 level with a broad-based disc bulge. (Defendants' APA #4, p. 20-21) Dr. Stovall recommended the Claimant receive a series of epidural injections, first lumbar then possibly cervical injections. The Claimant received four lumbar epidural injections and two cervical epidural injections in his lumbar spine from Dr. George Warren. (Defendants' APA #3) An MRI of the Claimant's right shoulder revealed supraspinatus tendonitis without evidence of a rotator cuff tear. (Defendants' APA #4, p. 42) The Claimant received two injections in his right shoulder from Dr. Stovall. The Claimant also received physical therapy at the recommendation of Dr. Stovall.

On October 11, 2006, Dr. Stovall placed the Claimant at maximum medical improvement and assigned a 5% impairment of the whole person and 7% regional impairment of the lumbar spine, a 5% whole person impairment and 14% regional impairment of the cervical spine, a 5% impairment of the right upper extremity for rotator cuff tendonitis, and a 3% whole person impairment. Combining these values, Dr. Stovall indicated he would have a 13% whole person impairment.

Also on October 11, 2006, Dr. Stovall recommended the Claimant continue taking Mobic 7.5 mg twice a day and Skelazin 800 mg three times a day as needed and recommended the Claimant continue with the home exercises for his cervical and lumbar spine as learned in physical therapy. Dr. Stovall also stated it would be reasonable for the Claimant to have cervical epidural or lumbar epidural injections every 6 to 12 months. With respect to his right shoulder, Dr. Stovall stated injections every 6 months would be reasonable and that the Claimant would also have the option of surgical intervention which would include an arthroscopy of the Claimant's right shoulder. Dr. Stovall indicated the Claimant could return to medium capacity work and felt the Claimant should be able to return to the work he was performing at American LaFrance prior to the accident. (Defendants' APA #4, p 46-47)

On May 31, 2006, the Claimant was seen by Dr. Chris Tountas for the purpose of performing an Independent Medical Evaluation. (Defendants' APA #5) His chief complaint was intermittent pain in the neck from the right to the left side, primarily the right. The Claimant also told Dr. Tountas that he had symptoms in the right shoulder on the date of the accident and there was pain at the middle of the top of the right shoulder that occurred several times a day. Furthermore, he indicated to Dr. Tountas that he had pain in his entire low back 90% of the time and that it would radiate up the back. Dr. Tountas opined that the Claimant had reached

maximum medical improvement, and he placed permanent restrictions on the Claimant to avoid heavy lifting and carrying more than 25 pounds on a frequent basis. Finally, Dr. Tountas stated the Claimant was not a candidate for surgical intervention.

The Claimant was also seen by Dr. Jeffrey Faaberg, Sr. at Edisto Spine Center on December 19, 2006 for an Independent Medical Evaluation requested by the Claimant. (Claimant's APA #7) After reviewing his treatment history, Dr. Faaberg noted the Claimant developed neck, lower back, chest wall, and right shoulder pain following the accident. When he was seen by Dr. Faaberg, the Claimant complained of multiple areas of pain in the neck, both shoulders, and low back. He assigned a 14% regional impairment of the cervical spine and corresponding 5% whole person impairment. He assigned a 13% regional impairment to the lumbar spine and a corresponding 10% whole person impairment. Finally, he stated the Claimant had a 10% impairment in his right upper extremity.

The Claimant was seen by Dr. Kerry Fechter on March 23, 2007 at the request of the Claimant. (Claimant's APA # 8) The Claimant complained of shortness of breath on exertion and continued chest pain following the accident. Dr. Fechter stated that it was his opinion that the accident initiated a sequence of events which led the Claimant to develop mild asthmatic bronchitis. Dr. Fechter prescribed the Claimant Advair for this condition. Finally, Dr. Fechter stated that the Claimant had a 15% to 20% impairment of the whole person based on the Claimant's lung condition. The Defendants deposed Dr. Fechter on April 24, 2007, and his deposition transcript was submitted to the Hearing Commissioner on September 17, 2007.

On February 9, 2007, a Vocational Evaluation was conducted by Lynn McCain at Corvel Corp. at the request of the Defendants. (Defendants' APA #6) Ms. McCain met with the Claimant to perform her vocational evaluation. It was Lynn McCain's vocational opinion that

the Claimant was capable of returning to work in a sedentary, light or light to medium strength occupation.

FINDINGS OF FACT

The issues for determination are compensability of the Claimant's injuries, permanent partial disability, and future medical treatment. Based on the testimony and the exhibits submitted, the undersigned Commissioner makes the following Findings of Fact:

1. The parties hereto are subject to and bound by the South Carolina Workers' Compensation Act.
2. The Claimant's average weekly wage is \$764.20 and the Claimant's compensation rate is \$509.49.
3. The Claimant was involved in an accident on May 16, 2005, arising out of and in the course and scope of his employment with American LaFrance.
4. The Claimant suffered a work-related injury to his neck, low back, right shoulder, and ribs on May 16, 2005.
5. The Claimant also suffered injury to his lungs, both in the form of pneumothorax and decreased pulmonary function, per Dr. Cary Fetcher's report of March 23, 2007.
6. The Claimant is not at maximum medical improvement with respect to his lungs and is in need of additional medical treatment for his lungs.
7. According to Dr. Cary Fetcher, continued treatment of the Claimant's lungs would most probably decrease impairment to his lungs.
8. The Claimant is at maximum medical improvement with respect to his neck, low back, right shoulder, and ribs.

9. According to Dr. Stovall, the Claimant should continue with his current medications as of October 11, 2006, and it would be reasonable for the Claimant to have cervical epidural or lumbar epidural injections every 6 to 12 months as well as epidural injections in his right shoulder every 6 months, with the option of arthroscopy of the Claimant's right shoulder in the future.
10. The Claimant continues to be unable to work.

CONCLUSIONS OF LAW

It is concluded that under the South Carolina Workers' Compensation Act and Section 42-1-10 S.C. Code of Law, etc. seq., that:

1. Section 42-1-160 governs injuries and includes injuries by accident arising out of and in the course of employment.
2. Pursuant to Section 42-1-160, the Claimant sustained a compensable injury to his neck, low back, right shoulder, ribs, and lungs arising out of and in the course and scope of his employment with the Defendants on May 16, 2005.
3. Pursuant to Section 42-15-60, the Claimant has not reached maximum medical improvement with respect to his lungs, and Defendants are to provide medical treatment for the Claimant's lungs until he reaches maximum medical improvement.
4. Pursuant to Section 42-9-30 and 42-15-60, the Claimant has reached maximum medical improvement with respect to his neck, low back, right shoulder, and ribs, and the Defendants are to provide orthopaedic management for the Claimant's neck, low back, and right shoulder as recommended by Dr. Stovall on October 11, 2006.

5. Pursuant to Regulation 67-503, the Defendants are to continue to pay temporary total disability benefits to the Claimant.

ORDER

IT IS HEREBY ORDERED, that the greater weight of the evidence supports a finding that the Claimant suffered a compensable work-related injury to his neck, low back, right shoulder, ribs, and lungs.

IT IS HEREBY ORDERED, that the Defendants continue to pay temporary total disability benefits to the Claimant.

IT IS HEREBY ORDERED, that the Defendants continue to provide orthopaedic management to the Claimant for his neck, low back, and right shoulder.

IT IS HEREBY ORDERED, that the Defendants provide medical treatment for the Claimant's lungs until the Claimant attains maximum medical improvement with respect to his lungs.

AND IT IS SO ORDERED this 17 day of April, 2008.

Commissioner J. Alan Bass

CERTIFICATE OF SERVICE

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

This 17 day of April, 2008

By M. Ballington
Administrative Assistant to the Commissioner

SEG
AMM
KWH

TriCounty Radiology Associates

(843) 529-0600
North Charleston
Summerville
West Ashley

PATIENT: Wilson, Frank
DOB: 2/7/1969
MRN: 396150
PHYSICIAN: John Graham, MD
DATE: 9/7/2010

EXAM: MRI LEFT SHOULDER

HISTORY: Rotator cuff tear.

COMPARISON STUDIES: 5/31/2007.

TECHNIQUE: Routine MRI of the shoulder was performed at the Tricom 1.5 Tesla Siemens MRI utilizing sagittal oblique PD/T2, oblique coronal T1, fat saturated axial PD, and oblique coronal PD/T2 sequences.

FINDINGS: No significant fluid in the subacromial/subdeltoid bursa. Supraspinatus tendon is again thickened with small defect in the undersurface of the tendon anteriorly consistent with a partial thickness tear, 50% or less of the thickness of the tendon. There is now more well-defined linearity within the substance of the mid to posterior supraspinatus tendon indicating intrasubstance delamination which likely communicates with the bursal surface of the tendon. No full-thickness tear demonstrated. Mild thickening of the subscapularis and infraspinatus tendons. Teres minor muscle and tendon are intact. No atrophy of the rotator cuff muscles.

The long head biceps tendon is again thickened and broadened over the humeral head with increased T2 signal intensity and longitudinal striations indicating tendinosis and longitudinal partial tear.

No confident glenoid labral tear. No glenohumeral joint effusion. There is mild thickening of the glenohumeral joint capsule indicating adhesive capsulitis. Glenohumeral joint articular cartilage is preserved.

The AC joint is intact. Mild degeneration. There is a mildly curved acromion.

IMPRESSION:

1. Supraspinatus tendinosis. Small partial thickness undersurface tear anteriorly is unchanged. Developing intrasubstance delamination of the tendon is noted as a progression.
2. Biceps tendinosis and partial tear.
3. Mild adhesive capsulitis.

James A. Thesing, D.O.
JT / sl

DD: 9/7/2010 / DT: 9/7/2010
JOB: 11272724

This document has been electronically reviewed and signed.



**LOWCOUNTRY ORTHOPAEDICS
AND SPORTS MEDICINE**
Don O. Stovall, Jr., M.D.

PATIENT: Frank Wilson
CHART NO: 103325
DOB: 02/07/69

PAGE: Sixteen

6/15/06 (Continued):

I recommended a repeat MRI scan of the lumbar spine to include the left hip. I will see him back again in follow up after this is performed. If we see no indications for surgical intervention, he would be at MMI for his lower back. DOSjr/tg (6/19)

7/31/06: Workman's Compensation—DOI: 5/16/05

DIAGNOSIS: Cervical spondylosis, lumbar DDD, right shoulder impingement

The patient comes in today for follow up. He had a cervical epidural steroid injection performed on 7/24/06. He did get further relief of his neck pain with the injection. He continues to have some right shoulder pain with overhead activity and reaching. He has had one shoulder injection in the past with some relief. He continues to have lower back pain and some left posterior hip pain. He denies any pain radiating into the lower extremities except for occasional tingling. He has had recent MRI scans.

PHYSICAL EXAMINATION: He has improved ROM of the neck, negative Spurling's maneuver, negative L'hermitte's sign. Right shoulder shows a mildly positive impingement sign, negative drop arm sign.

RADIOGRAPHIC REVIEW: MRI scan of the lumbar spine reveals degenerative changes at the L5-S1 level with disc space narrowing and posterior disc bulging. There is some neural foraminal narrowing, more on the right than on the left. The neural foraminal narrowing on the left is read as improved from previous radiographs. There is no evidence of significant high grade stenosis or nerve root impingement.

ASSESSMENT: Lumbar DDD, cervical spondylosis, right shoulder impingement

RECOMMENDATIONS: I discussed the diagnosis with the patient. At this point, I think he has reached MMI as far as his back is concerned. I do not feel that he is a good candidate for surgical intervention at this time for his lumbar spine, as he does not have any significant radicular symptoms and has gone through a full course of conservative treatment.

**LOWCOUNTRY ORTHOPAEDICS
AND SPORTS MEDICINE**
Don O. Stovall, Jr., M.D.

PAGE: Seventeen

PATIENT: Frank Wilson
CHART NO: 103325
DOB: 02/07/59

7/31/06 (Continued):

We did discuss future treatment with the patient as far as his shoulder is concerned. Under sterile conditions today, we injected the right subacromial space with Marcaine and 80 mg of Depo Medrol. I would recommend a work hardening/work conditioning program for the patient over the next 4-6 weeks. At that time, we would consider MMI for his work injuries. DOSjr/tg (8/2)

8/9/06: Medical records prepared to be sent to Atty Steven Goldberg. tlc

08/24/06: Worker's Compensation DOI: 05/16/05

DIAGNOSIS: Cervical spondylosis, lumbar DDD, right shoulder impingement

HISTORY OF PRESENT ILLNESS: The pt comes in today for follow up. He got relief with the shoulder injection on the last visit. He has not had any recurrence since then. He is completing a work conditioning program. And getting ready to undergo FCE. He complains of some pain in the left lower lumbar spine region. This is the particular area that bothers him. Otherwise, he is gradually increasing his activities. No other changes in history.

PHYSICAL EXAMINATION: He has a tender trigger point region in the left lower lumbar spine region. He has mild limited flexibility. He has good ROM of the shoulder without pain.

ASSESSMENT:

1. Cervical spondylosis
2. Right shoulder impingement
3. Lumbar degenerative disc disease
4. Left lumbar sacral trigger point

RECOMMENDATIONS: I discussed the diagnosis with the pt. He does not have time today so we will set him up for a trigger point injection in the near future. He will continue work conditioning and given a home exercise program. We will set him up for a FCE. DOSjr/mlh (08/29)*

TRANSMISSION VERIFICATION REPORT

TIME : 03/06/2008 12:58
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 FAX : 18435528526
 TEL : 18435528524
 SER. # : 000E6J637439

DATE, TIME	03/06 12:58
FAX NO./NAME	7973633
DURATION	00:00:29
PAGE(S)	02
RESULT	OK
MODE	STANDARD ECM

The UPS Store® 5851
 8421 Dorchester Rd Ste 109
 North Charleston, SC 29420
 843.552.8526 fax



FAX

Frank E. Wilson
 3319 Mountainbrook Ave. Apt. 6
 North Charleston, SC 29420

To	LOWCOUNTRY ORTHOPAEDICS AND SPORTS MEDICINE		From	
Company	ATTENTION: DR. DON O. STOVALL, JR., M.D. DR. GEORGE E. WARREN, M.D.		Phone number	(843) 760-1705
Fax number	(843) 797-3633		Fax number	N/A
Date	3/6/08		Total pages	2
Job number	INJECTIONS (PAIN MANAGEMENT)			

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North Charleston, SC 29420
843.552.8526 fax



FAX

Frank E. Wilson
3319 Mountainbrook Ave. Apt. 6
North Charleston, SC 29420

To LOWCOUNTRY ORTHOPAEDICS From _____
AND SPORTS MEDICINE
ATTENTION: _____
Company DR. DON O. STOVALL, JR., M.D. Phone number (843) 760-1705
DR. GEORGE F. WARREN, M.D.
Fax number (843) 797-3633 Fax number N/A
Date 3/6/08 Total pages 2
Job number INJECTIONS (PAIN MANAGEMENT)

37

March 6, 2008

To: **Lowcountry Orthopaedics & Sports Medicine**

Office of Dr. Don O. Stovall, Jr MD & Dr. George F. Warren, MD

Re: Injections to assist with pain management for the following lower lumbar back region, both right and left sides, cervical, neck region- both right and left sides and right shoulder region. Injuries on 5/16/2005. DOB 02/07/1969.

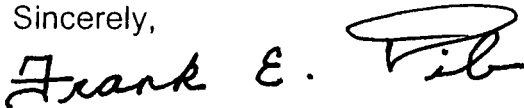
I Frank E. Wilson patient, Steven E Goldberg, and Jonathan Altman were both the legal counsel for self have made several attempts to schedule and set up appointments for the above subject. These attempts started approximately on or around the same time frame as the beginning third quarter of 2006.

All of these attempts went without response from the office of Dr. Don O. Stovall Jr. MD and Dr George F Warren MD.

I Frank E Wilson make this updated attempt for the above subject. I can be contacted at 843-760-1705.

Thank you for your assistance in the above matter.

Sincerely,



Frank E. Wilson

TRANSMISSION VERIFICATION REPORT

TIME : 03/10/2008 13:20
 NAME : THE UPS STORE 5851
 FAX : 18435528526
 TEL : 18435528524
 SER. # : 000E6J637439

DATE, TIME
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 North Charleston, SC 29420
 843.552.8526 fax



FAX

**LOWCOUNTRY ORTHOPAEDICS
 AND SPORTS MEDICINE**

Frank E. Wilson
 3319 Mountainbrook Ave. Apt. 6
 North Charleston, SC 29420

To	ATTENTION:	From	
Company	DR. DON O. STOVALL, JR., M.D. DR. GEORGE F. WARREN, M.D.	Phone number	(843) 760-1705
Fax number	(843) 797-3633	Fax number	N/A
Date	3/10/08	Total pages	2
Job number	REQUEST FOR INJECTION AT THE LEFT SHOULDER REGION...		

The UPS Store® 5851
8421 Dorchester Rd Ste 109
North Charleston, SC 29420
843.552.8526 fax



FAX

**LOWCOUNTRY ORTHOPAEDICS
AND SPORTS MEDICINE**

Frank E. Wilson
3319 Mountainbrook Ave. Apt. 6
North Charleston, SC 29420

To	ATTENTION:	From	
Company	DR. DON O. STOVALL, JR., M.D. DR. GEORGE F. WARREN, M.D.	Phone number	(843) 760-1705
Fax number	(843) 797-3633	Fax number	N/A
Date	3/10/08	Total pages	2
Job number	REQUEST FOR INJECTION AT THE LEFT SHOULDER REGION...		

40

Frank E. Wilson
3319 Mountainbrook Ave. Apt. 6
North Charleston, SC 29420

March 10, 2008

To: Lowcountry Orthopaedics & Sports Medicine

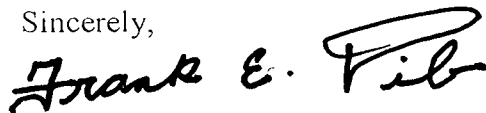
Attention: Dr. Don O. Stovall, Jr., MD & Dr. George F. Warren,
MD

Re: Request injection to assist with pain management at the left
shoulder region. Injury in connection with 5/16/05 injuries. DOB
02/07/1969.

I (Frank E. Wilson) can be contacted at (843) 760-1705.

Thank you for your assistance in the above matter.

Sincerely,

A handwritten signature in black ink that reads "Frank E. Wilson". The signature is written in a cursive style with a large, looping "F" and a stylized "W".

Frank E. Wilson

TRANSMISSION VERIFICATION REPORT

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FAX

**LOWCOUNTRY ORTHOPAEDICS
 AND
 SPORTS MEDICINE**

Frank E. Wilson
 8755 Jessica Court
 North Charleston, SC 29406

To ATTENTION: From DR. DON O. STOVALL, JR., MD
 Company DR. DON O. STOVALL, JR., MD Phone number (843) 327-9616
 Fax number (843) 797-3633 Fax number NONE
 Date FEBRUARY 26, 2009 Total pages TWO (2)
 Job number FEBRUARY 26, 2009
LETTER... TO DR. DON O. STOVALL, JR., MD

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FAX

LOWCOUNTRY ORTHOPAEDICS
AND
SPORTS MEDICINE

Frank E. Wilson
8755 Jessica Court
North Charleston, SC 29406

To _____ From _____
Company _____ ATTENTION: _____
Phone number (843) 327-9616
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LETTER... TO DR. DON O. STOVALL, JR., MD

43

Frank E. Wilson
8755 Jessica Court
North Charleston, SC 29406
(843) 327-9616
Date Of Birth: 2/7/1969

February 26, 2009

To: Lowcountry Orthopaedics & Sports Medicine

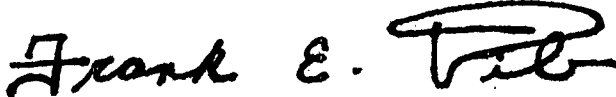
Attention: Dr. Don O. Stovall, Jr., MD

Re: March 2, 2009...Medical Evaluation Appointment at 1:10 P.M.

Dr. Stovall please have your office request the updated M.R.I. films for the following: Head (Brain) M.R.I. (1/23/08), Lumbar Spine M.R.I. (1/9/08) and Cervical Spine M.R.I. (1/9/08) from Neurosciences MRI Center at (843) 724-2150...Left Shoulder M.R.I. (5/30/07) from Tricounty Radiology Associates at (843) 529-0600. I have all of the M.R.I. reports in my possession and will bring them to my appointment on March 2, 2009 at 1:10 P.M...

Thank you in advance for your assistance in the above matter.

Sincerely,

A handwritten signature in black ink that reads "Frank E. Wilson". The signature is stylized, with the first name "Frank" written in a cursive-like script, followed by "E." and a large, sweeping "Wilson".

Frank E. Wilson

MEDICAL REPORTS AND MRI REPORTS
(For Dr. Don O. Stovall, Jr., MD...March 2, 2009 Medical Evaluation Appointment...)

FRANK E. WILSON
(DATE OF ACCIDENT: 5/16/05)

Medical Reports

- | | |
|--------------------------------|--------------------|
| 1.) Jeffrey E. Faaberg Sr., MD | (12/19/06) |
| 2.) Cary E. Fechter, MD | (3/23/07) |
| 3.) Jeffrey E. Faaberg Sr., MD | (6/25/07) |
| 4.) George Del Porto, MD | (11/27/07) |
| 5.) Stephen E. Rawe, MD | (1/7/08 – 1/17/08) |
| 6.) Thomas F. Roush, MD | (6/18/08) |
| 7.) Cary E. Fechter, MD | (10/25/08) |

MRI Reports

- | | |
|--------------------|-----------|
| 1.) Head (Brain) | (1/23/08) |
| 2.) Lumbar Spine | (1/9/08) |
| 3.) Cervical Spine | (1/9/08) |
| 4.) Left Shoulder | (5/31/07) |
| 5.) Right Shoulder | (4/12/06) |

LOWCOUNTRY ORTHOPAEDICS
AND SPORTS MEDICINE
Don O. Stovall, Jr., M.D.

PATIENT: Frank Wilson
CHART NO: 103325
DOB: 02/07/69

PAGE: Twenty

11/28/06: Medical records faxed to Dr. Hepburn. TLC/tg (3/5)

3/2/09: Worker's Compensation-DOI: 5/16/05

DIAGNOSIS: Cervical spondylosis, right shoulder impingement, lumbar DDD

The patient comes in today for further evaluation. He was discharged from care on 10/11/06 at MMI. He comes in today with medical reports from several physicians. He has undergone spine evaluation with Dr. Rawe and Dr. Roush. He has undergone urological evaluation as well. The patient states that he continues to have some neck pain, no significant upper extremity pain other than his right shoulder pain. The pain is bothering him more and aggravates him with overhead activity and reaching. He has had multiple injections in the right shoulder in the past.

The patient continues to complain of lower back pain. He has occasional pain in the medial aspect of the right thigh. There is no significant numbness in the lower extremity. He does complain of some urinary urgency and occasional mild incontinence. He had an MRI scan of his neck and lower back approximately one year ago.

REVIEW OF SYSTEMS/PAST MEDICAL HISTORY/FAMILY HISTORY/SOCIAL HISTORY: Documented, reviewed and signed in the chart.

ASSESSMENT: Cervical spondylosis, right shoulder impingement, lumbar DDD

RECOMMENDATIONS: I discussed the diagnosis with the patient. My opinion is that the patient remains at MMI. I do not feel that he is a surgical candidate for his cervical spine or his lumbar spine. I see no indications that his urinary symptoms are coming from his neck or lower back.

As far as updated studies are concerned, I have recommended EMG and nerve conduction studies of the right lower extremity.

As far as his right shoulder is concerned, he continues to have pain and has a diagnosis of tendinopathy and subacromial bursitis. I recommended evaluation by a sports medicine physician for his right shoulder. DOSjr/tg (3/5)

03/18/09: Medical records sent to Atty Mike Kelly. TLC/mlh (04/24)

**LOWCOUNTRY ORTHOPAEDICS
AND SPORTS MEDICINE**
Shailesh M. Patel, M.D.

PATIENT: Frank Wilson
CHART NO: 103325
DOB: 02/07/69

PAGE: Twenty-one

04/22/09: **CONSULTATION:** Consulting physician, Don O. Stovall, Jr. M.D.

CHIEF COMPLAINT: Low back pain, right leg pain

Workers' Compensation-DOI: 05/16/05

HISTORY OF PRESENT ILLNESS: Mr. Wilson is a 40 YOM pt here for initial consultation at the request of Dr. Stovall in regards to his lower back pain with radiation into the right lower extremity. The pt has had an extensive spine evaluation with Dr. Stovall, Dr. Rawe, and Dr. Roush, whom have stated that the pt is not a surgical candidate in regards to his lower back pain. He is having some continued radiation into the right leg with numbness and tingling in the medial thigh. He does report some hx of bladder incontinence. He states that he did see a urologist who referred him to spine surgery for evaluation. He has some mild complaints on the left. He has not had any back surgery.

PHYSICAL EXAMINATION:

GENERAL: Pt is in no apparent distress.

EYES: Normal, non-icteric sclera, extra-ocular muscles intact.

LYMPHATIC: There are no enlarged cervical or inguinal lymph nodes.

SPINE EXAM: The lumbar area is symmetrical without kyphosis or scoliosis. Range of motion is normal in all planes. There is mild tenderness to palpation in the lumbar paraspinals. ROM limited due to pain and flexion and lateral rotation.

SKIN: Skin is without lesions, rashes or scarring at the back and flank and no lesions on trunk or both feet and hands.

NEUROLOGIC: Sensory is intact to light touch. Motor exam is 5/5 in bilateral lower extremities. Reflexes are symmetrical at 2+. Muscle tone is normal with no clonus or muscle atrophy present. Lower extremity special testing of straight leg raise is normal.

EXTREMITIES: Pulse are intact distally with no cyanosis, clubbing, or edema.

**LOWCOUNTRY ORTHOPAEDICS
AND SPORTS MEDICINE**

Shailesh M. Patel, M.D.

PATIENT: Frank Wilson
CHART NO: 103325
DOB: 02/07/69

PAGE: Twenty-two

04/22/09: (Continued):

PSYCHOLOGICAL: Waddell signs negative.

DIAGNOSTIC TESTING: EMG/NCS performed today reveal no evidence for a chronic right lumbar radiculopathy. Please see EMG/NCS for further details.

DIAGNOSIS/IMPRESSION:

1. Lumbar degenerative disc disease
2. Right lumbar radiculopathy
3. Bladder incontinence

COMMENTARY/MEDICAL DECISION MAKING: Mr. Wilson is a 40 YOM pt here for initial consultation at the request of Dr. Stovall in regards his lower back pain with radiation into the right lower extremity. There is no electrodiagnostic evidence for a chronic right lumbar radiculopathy. Of note, EMG/NCS does not evaluate small sensory pain fibers. Thus a lack of active denervation does not exclude an active radiculopathy. The pt appears to be more concerned about his bladder incontinence. Review of his last MRI shows only a mild disc bulge at L5-S1 that would note likely be the cause of any bladder incontinence. I would recommend that he follow back up with his urologist for further bladder workup as needed.

RECOMMENDATIONS:

1. Follow up with urology for bladder incontinence
2. Continue pain medications as prescribed by Dr. Stovall

SMP/mlh (04/24)

4/27/09 Sm EMG/NCS w 1246

48

LOWCOUNTRY ORTHOPAEDICS
AND SPORTS MEDICINE
Don O. Stovall, Jr., M.D.

PATIENT: Frank Wilson
CHART NO: 103325
DOB: 02/07/69

PAGE: Twenty-three

4/27/09: Worker's Compensation-DOI: 5/16/05

DIAGNOSIS: Cervical spondylosis, right shoulder impingement, lumbar DDD

The patient comes in today for follow up. He had his EMG and nerve conduction studies performed of the right lower extremity. He has not yet seen a sports medicine physician.

DIAGNOSTIC TESTING: EMG and nerve conduction studies of the right lower extremity reveal a normal study, no evidence of lumbar radiculopathy.

ASSESSMENT: Lower back pain, lumbar DDD, right shoulder pain

PLAN: I discussed the diagnosis with the patient and went over the results of the EMG and nerve conduction studies with him. I will continue to recommend evaluation by sport medicine for his right shoulder.

As far as his back is concerned, he is not a candidate for surgical intervention or any further evaluation at this time. DOSjr/tg (4/30)

4/27/09 - R/L Bil Shoulder

Tricounty



Specialists In Outpatient Imaging

Jeffery Faaberg, MD
5790 Memorial Blvd
St George, SC 29477

PATIENT: Wilson, Frank
Phone #: 843-760-1705
ID Number: 396150
Birthdate: 2/7/1969

EXAM: MRI LEFT SHOULDER

EXAM DATE: 5/31/2007 COMPARISON: None.

CLINICAL HISTORY: "Internal derangement."

TECHNIQUE: Routine MRI of the shoulder was performed at the Tricom 1.5 Tesla Siemens MRI utilizing sagittal oblique PD/T2, oblique coronal T1, fat saturated axial PD, and oblique coronal PD/T2 sequences.

FINDINGS: Diffuse thickening in the supraspinatus tendon at the insertion consistent with chronic degeneration with areas of mild increased signal intensity. Additionally there is an area of focal thinning of the tendon anteriorly felt to be consistent with a partial thickness tear involving approximately 50% of the thickness of the tendon. No evidence of a full thickness rotator cuff tear. There is no significant atrophy of the rotator cuff muscles. The long head biceps tendon is broadened over the humeral head with longitudinal areas of increased T2 signal intensity suggesting longitudinal split partial tears. No evidence of tendon rupture. Unremarkable glenoid labrum. No glenohumeral joint effusion. AC joint is intact with mild osteoarthritis. There is a minimally curved acromion present.

IMPRESSION: Supraspinatus and biceps tendinosis with partial tears. No evidence of a full thickness rotator cuff tear.

James A. Thesing, D.O. / car Dictated on 06/04/2007 Job # 4318848

This document has been electronically reviewed and signed.

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LOWCOUNTRY ORTHOPAEDICS
To: **SPORTS AND MEDICINE** From: **(843) 327-9616**
Fax: **(843) 797-3633** Pages: **TWO (2)**
Phone: **(843) 797-5050** Date: **MAY 1, 2009**
Re: **MAY 1, 2009 LETTER...** cc:

Frank E. Wilson

8755 Jessica Court
North Charleston, SC 29406

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle
ATTENTION: **DR. DON O. STOVALL, JR., MD**

• Comments

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New Low UPS Rates.

Frank E. Wilson
8755 Jessica Court
North Charleston, SC 29406
(843) 327-9616
Date Of Birth: 2/7/1969

May 1, 2009

To: Lowcountry Orthopaedics & Sports Medicine

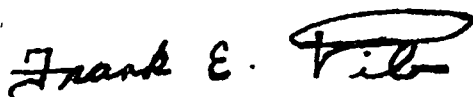
Attention: Dr. Don O. Stovall, Jr., MD

Re: Right and Left Shoulder Evaluation

I received a voice mail message left on my telephone on 4/30/09 in relation to getting a medical evaluation scheduled for my continued right shoulder pain. I am having continued **right and left shoulder** pain and need a medical evaluation scheduled for my continued **right and left shoulder** pain. I notified you at my March 2, 2009 medical evaluation appointment of my continued **right and left shoulder** pain. I also asked about the scheduled **right and left shoulder** medical evaluation at my April 27, 2009 appointment with you and was told that they were in the process of being scheduled. At my March 2, 2009 medical evaluation I left in your possession a copy of the **MRI** report for my **right shoulder** dated (4/12/06) and the **MRI** report for my **left shoulder** dated (5/31/07). Please note that I need a medical evaluation scheduled for both my continued **right and left shoulder** pain.

Thank you in advance for your assistance in the above matter.

Sincerely,

Handwritten signature of Frank E. Wilson in black ink.

Frank E. Wilson

**LOWCOUNTRY ORTHOPAEDICS
AND SPORTS MEDICINE**
Chad R. Burgoyne, M.D.

PATIENT: Frank E. Wilson
CHART NO: 103325
DOB: 02/07/69

PAGE: Twenty-four

05/05/09: **CHIEF COMPLAINT:** Bilateral shoulder pain.

HISTORY OF PRESENT ILLNESS: The patient is a 40-year-old male who is status post MVA on 05/16/05. The patient has a long history of treatment here for bilateral shoulder pain, neck pain, low back pain, bilateral knee pain, and generalized pain. He has been extensively evaluated by Dr. Stovall in regards to his C-spine and L-spine pain and is determined to have a cervical spondylosis, lumbar DJD, and a permanent diagnosis of bilateral shoulder impingement syndrome. He has had multiple epidural and facet injections with essentially no relief. He has been complaining over the years of increasing shoulder pain. He states he has pain in the shoulders with any range of motion, be it at waist level, chest level, shoulder level, or above shoulder level. He states that there are no particular activities that make it worse. He says sometimes the pain starts in his shoulder and shoots up into the neck and sometimes the pain starts in his neck and shoots down into his shoulders. He denies clicking, popping, subluxing, or any other mechanical-type symptoms. He has been evaluated by MRIs in the past and has had multiple shoulder injections as well over the years, all of this with very limited benefit. He is currently on a long pain regimen, which is listed in the chart, as well as attended multiple episodes of physical therapy. There is no numbness, tingling, or other neurologic symptoms, distally. He denies any weakness distally. He only has decreased functional status secondary to pain. Pt comes in referral from Dr. Stovall.

PAST MEDICAL HISTORY: Positive for L-spine pain, C-spine pain, bilateral shoulder pain, and lung problems.

PAST SURGICAL HISTORY: None.

MEDICATIONS: Skelaxin, Mobic, Advair.

ALLERGIES: NO KNOWN DRUG ALLERGIES.

SOCIAL HISTORY: Negative times three.

FAMILY HISTORY: Noncontributory.

REVIEW OF SYSTEMS: Positive for GU, positive for musculoskeletal, and negative for all other review of systems.

LOWCOUNTRY ORTHOPAEDICS
AND SPORTS MEDICINE
Chad R. Burgoyne, M.D.

PATIENT: Frank E. Wilson
CHART NO: 103325
DOB: 02/07/69

PAGE: Twenty-five

05/05/09: (Continued)

PHYSICAL EXAMINATION:

General: He is a very healthy-appearing, young male in no acute distress. He is very well developed and appears appropriate for stated age.

Cervical Spine Exam: There is mild tenderness to palpation of the bilateral paraspinal muscles, bilateral trapezius muscles, and bilateral deltoids. There is positive pain with range of motion with any range of motion of the neck, with forward flexion to 3 inches from chest, extension to 10 degrees, right bending to 25 degrees, left bending to 25 degrees, right rotation to 35 degrees, and left rotation to 35 degrees. There are negative Spurling signs bilaterally. The neurological examination demonstrates normal sensation to C5-T1. There is 4+/5 strength secondary to pain at C5-T1. There are 2+ pulses to radial and ulnar arteries distally.

Upper Extremity Exam: The right shoulder demonstrates range of motion of 130 degrees of flexion, 110 degrees of abduction, 45 degrees of external rotation, and internal rotation to L1. There is positive pain with any range of motion. Passive range of motion is 170 degrees, 160 degrees, external rotation to 60 degrees, and internal rotation to T4. There is a positive impingement. There is negative AC tenderness, negative biceps tenderness, negative Speed's, and negative O'Brien. There is normal sensation to the radial, median, and ulnar nerves. There are 2+ pulses to the radial and ulnar arteries. The left shoulder demonstrates forward flexion to 130 degrees, abduction to 110 degrees, external rotation to 35 degrees, and internal rotation to L1. There is positive pain with any range of motion. Passive range of motion is 170 degrees, 160 degrees, external rotation to 45 degrees, and internal rotation to T10. There is positive impingement. There is negative AC tenderness and negative biceps tenderness. There is negative Speed's and negative O'Brien. There is normal sensation to the radial, median, and ulnar nerves. There are 2+ pulses to the radial and ulnar arteries.

DIAGNOSTIC IMAGING: X-ray examination demonstrates no fracture, no dislocation, and no bony pathology. A MRI examination demonstrates some rotator cuff and biceps

LOWCOUNTRY ORTHOPAEDICS
AND SPORTS MEDICINE

Chad R. Burgoyne, M.D.

PATIENT: Frank E. Wilson
CHART NO: 103325
DOB: 02/07/69

PAGE: Twenty-six

05/05/09: (Continued)

tendinosis with no acute tendonitis. There are no rotator cuff tears. There is no large subacromial spur. This is in bilateral shoulders.

ASSESSMENT:

1. Cervical spine pain.
2. Lumbar spine pain.
3. Bilateral shoulder pain.

A long discussion is had with the patient. Due to the chronic nature of his pain associated with C-spine pain as well as taking into account his failed treatment for bilateral shoulder pain and C-spine pain he has a very difficult situation. It is apparent to me that he has essentially exhausted nonoperative measures, however, having said that I do find any operative indications in regards to the shoulder or his C-spine based on current pathology. He essentially has negative radiographic studies and a very mild clinical examination. My best recommendations at this point are pain control and encourage range of motion and increase functional status.

PLAN:

Encourage range of motion of bilateral shoulders.
Encourage increased function status with bilateral shoulders.
Follow up p.r.n. CRB/ETS:trw (05/12) 0511-055 *

10/16/09
MEDICAL RECORDS PREPARED TO BE
SENT TO ATTY Mike UPCN
RECEIPT OF PAYMENT.

2-12-10
MEDICAL RECORDS SENT TO
VOCATIONAL REHABILITATION.

STATE OF SOUTH CAROLINA

BEFORE THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

Frank Wilson,

Claimant,

vs.

American LaFrance,

Employer,

AIG/Gallagher Bassett,

Carrier,

Defendants.

WCC File No.:0506037

ORDER

Hearing: Held in North Charleston, South Carolina on March 10, 2009.

Appearances: Claimant represented by Lisa Long Cotten, Esquire of the Mike Kelly Law Group, LLC.

Defendants represented by Erin L. Hantske, Esquire of McAngus, Goudelock and Courie.

Purpose of Hearing: To determine the issues as set forth in the Form 21.

Decision and Order: The Honorable David W. Huffstetler, Commissioner

Filed: April 16, 2009

APA Submissions

On behalf of Claimant

1. Low Country Orthopaedics and Sports Medicine
2. Low Country Outpatient Surgery Center
3. Charleston Neurosurgical Associates

4. Dr. Cary E. Fletcher
5. Trident Regional Medical Center
6. Palmetto Cardiovascular and Thoracic Associates
7. Edisto Spine Center
8. Tricountry Radiology Associates
9. Sports Plus
10. Southeastern Spine Institute
11. Ergo Science Physical Work Performance Evaluation Summary

On behalf of Defendants

1. Exhibit A Hearing Transcript
2. Exhibit B Decision and Order
3. Exhibit C Dr. Carey Fechter's deposition transcript
4. Trident Regional Medical Center
5. Dr. Richard M. Gordon/Palmetto Physical Medicine
6. Dr. George Warren/Low Country Outpatient Surgery Center
7. Dr. Don Stovall/Low Country Orthopaedics and Sports Medicine
8. Dr. Chris Tountas/Spine Orthopaedic Specialists of South Carolina
9. Corvel Vocational Progress Report
10. Dr. Carey Fechter
11. Dr. Michael Spandorfer

STIPULATIONS

Counsel for all parties stipulated at the Hearing to the following:

1. The South Carolina Workers' Compensation Commission has jurisdiction over this matter;
2. Notice of Hearing was timely and properly served on all parties of interest;
3. Venue is proper in Charleston County;
4. The Claimant's Average Weekly Wage is \$764.20 and the Compensation rate is \$509.49; and
5. The Claimant suffered a compensable injury on May 16, 2005 to his low back, neck, right shoulder and ribs.

STATEMENT OF THE CASE

On May 16, 2005, Claimant was involved in a motor vehicle accident while traveling to an American LaFrance worksite in Jedburg, South Carolina from an American LaFrance worksite in Summerville, South Carolina. As a result of this motor vehicle accident, Claimant suffered multiple traumatic injuries including: a right-sided pneumothorax, multiple rib fractures, a right shoulder injury as well as lumbar and cervical spine injuries.

Claimant was transported to Trident Regional Medical Center following the motor vehicle accident by Berkeley County Emergency Services. Records from Berkeley County EMS note that the claimant was a passenger in the vehicle when it was struck on the passenger side resulting in extensive damage. They noted that Claimant's chief complaint was of chest pain. Records from Trident Regional Medical Center document that Claimant was treated for impaired respiratory function, chest and back pain, impaired

cardiac function and skin abrasions. X-rays taken showed that Claimant experienced bilateral rib fractures. He was treated at the hospital and discharged on May 17, 2005.

Claimant followed up with Dr. Jim Benner in late March of 2005 concerning shortness of breath due to his rib and chest pain. Dr. Benner again noted multiple bilateral rib fractures. Dr. Benner then referred the claimant to Dr. Don Stovall of Lowcountry Orthopaedics and Sports Medicine who first saw the patient on August 4, 2005. Dr. Stovall noted that Claimant complained of neck, right shoulder and lower back pain. He concluded that Claimant's pain was a result of a cervical and lumbar injury. He recommended a regimen of physical therapy and series of epidural injections; which Claimant undertook with Sports Plus Physical Therapy and Dr. George Warren, respectively. Dr. Chris Tountas examined the claimant on May 31, 2006 and concluded that Claimant had reached maximum medical improvement, did not require any future treatment, and that he probably had permanent restrictions for heavy lifting and carrying. Additionally, there was no evidence for neurologic deficit of the upper or lower extremities or any findings for cervical or lumbosacral radiculopathy that would correlate with any of the cervical or lumbosacral MRIs. Dr. Tountas did not list any impairment ratings.

Dr. Stovall continued to have follow-up visits with Claimant through October 11, 2006. His notes indicated that Claimant received some cessation of pain with physical therapy and a variety of injections, but that he continued to suffer discomfort. Dr. Stovall also remarked that Claimant is not a good surgical candidate and had reached maximum medical improvement. He gave a regional impairment rating of the lumbar spine as 7%; of the cervical spine as 14% and of the upper extremity as 5%. He determined that the

whole person impairment rating of all orthopedic issues was 13%.

On March 23, 2007, Dr. Cary Fechter compiled a detailed pulmonary report, based on an extensive review of Claimants' medical records and work history. He stated that regardless of whether Claimant was predisposed or not, the trauma suffered by the claimant in the May 16, 2005 motor vehicle accident greatly affected Claimant's respiratory function and chest pain issues. He suggested that Claimant use bronchodilators and continue use of the medicine prescribed by his orthopedic doctors in order to reduce chest pain and improve pulmonary function. Dr. Fechter determined that the whole person rating of all pulmonary issues was 15-20%.

A hearing was held in this matter on April 10, 2007 pursuant to the Defendant's Form 21. The Commissioner issued an Order dated April 17, 2008 finding that the Claimant suffered a compensable injury to his neck, low back, right shoulder, ribs and lungs; the Defendants were to continue to pay temporary total disability benefits to the Claimant; Claimant was found to be at maximum medical improvement for his neck, low back, right shoulder, and ribs; the Defendants were to continue to provide orthopaedic management to the Claimant for his neck, low back and right shoulder; and the Defendants were to provide medical treatment for the Claimant's lungs until Claimant attained maximum medical improvement with respect to his lungs.

The Claimant continued to have persistent low back pain since his accident. Following the hearing, the Claimant's attorney requested that Defendants provide treatment with an orthopedic other than Dr. Stovall. As such, Defendants requested an evaluation with Dr. James K. Aymond; however, Dr. Aymond refused to evaluate and treat the Claimant. Defendants did not receive any additional correspondence from the

Claimant following the hearing regarding a request for additional evaluation and/or treatment. However, Claimant sought a referral from his primary care physician to a specialist. Claimant was examined by Dr. Thomas F. Roush of Southeastern Spine Institute on June 18, 2008. Dr. Roush recommended at provocative discography to determine whether interventional means of treatment such as disc decompression or arthroplasty or fusion are necessary to make him employable again.

Claimant was last seen by Dr. Stovall on March 2, 2009 for further evaluation. Dr. Stovall stated that in his opinion Claimant was a MMI and he did not feel Claimant was a surgical candidate for his cervical or lumbar spine. He also stated that he saw no indications that Claimant's urinary symptoms were coming from his neck or lower back. Dr. Stovall then recommended EMG and nerve conduction studies of the right lower extremity and evaluation by a sports medicine physician for Claimant's complaints of right shoulder pain.

In an independent medical examination of the claimant's lung function conducted on October 10, 2008, Dr. Michael A. Spandorfer stated that Claimant suffers from reactive airway disease syndrome. He stated that Claimant is at maximum improvement with respect to his lung condition and that Claimant will require lifetime medication, including inhaled corticosteroids, rescue bronchodilator therapy utilizing a spacer device, and leukotrine antagonists. He also stated that Claimant may require quarterly pulmonary physician evaluations; yearly chest radiographs and emergency room or acute physician evaluations twice yearly. This most recent examination determined that in regards to pulmonary function the whole person impairment level of Claimant is 24%.

Another hearing in this matter was held on March 10, 2009 also pursuant to the Defendant's Form 21. The Claimant was represented by Lisa Long Cotten, Esquire. The Employer/Carrier was represented by Erin L. Hantske, Esquire. The Defendants asserted the Claimant reached maximum medical improvement on October 10, 2008. They sought credit for all temporary compensation paid after that date. The Defendants also conceded permanent partial disability to the lungs, back, neck, right shoulder and the ribs, but denied that the Claimant was permanently and totally disabled.

Claimant contended that he has not reached maximum medical treatment and requires further medical treatment. Claimant sought an evaluation for his shoulder injury as recommend by Dr. Stovall and a provocative discography as recommended by Dr. Roush of Southeastern Spine Institute.

EVIDENCE

Claimant testified that he disagreed with Defense counsel's assertion that his left shoulder was not found to be a compensable injury (Hearing Transcript p. 7 lines 1-6). Claimant testified that Commissioner Bass instructed him to get an updated MRI of his cervical spine to rule out that the pain he was experiencing in his left shoulder was not coming from his cervical spine. Claimant testified that there was no significant change in the MRI, so they ruled that out. He stated that he also had an MRI of his left shoulder that showed partial tears (Hr. Tr. p. 11 lines 12-23). Claimant went on to state that Dr. Favor related his left shoulder to the accident and increased the impairment rating to his neck due to his left shoulder (Hr. Tr. p. 12 lines 4-10). The Defense relied upon the Order of Commissioner Bass at Defendant APAs Exhibit B regarding Claimant's compensable injuries, wherein the testimony addressed the Claimant's allegation of a left

shoulder injury, but Commissioner Bass found that he suffered compensable injuries to the neck, low back, right shoulder, ribs, and lungs only.

Claimant then disagreed with the Defense's summation of his follow up visit with Dr. Stovall on March 2, 2009 (Hr. Tr. p. 7 lines 11-19). Dr. Stovall's report stated that Claimant was at MMI and he did not feel Claimant was a surgical candidate for his cervical or lumbar spine. He also stated that he saw no indication that Claimant's urinary symptoms were coming from his neck or lower back. Dr. Stovall then recommended EMG and nerve conduction studies of the right lower extremity and evaluation by a sports medicine physician for Claimant complaints of right shoulder pain (Defendant APA 4a). Claimant testified that Dr. Stovall told him that he would not benefit from the surgery that Dr. Stovall does, but he may gain some benefit from the type of surgery offered at the Southeastern Spine Institute (Hr. Tr. p. 7 lines 22-25). Claimant testified that he went to the Southeastern Spine Institute because he was frustrated with the lack of medical attention to his lumbar and cervical spine and his right and left shoulder (Hr. Tr. p. 12 lines 20-23). Claimant explained the he had not received the orthopaedic management outlined in Commissioner Bass' Order (Defendant APAs Exh. B p. 12-13) (Hr. Tr. p.14 lines 17-25; p. 15 lines 1-13). When questioned as to whether he followed up with the carrier regarding additional medical treatment, Claimant testified that he sent medical reports and MRIs to the insurance carrier and the Workers' Compensation Commission and believed the attorneys were provided copies through the Commission. Claimant stated that he became frustrated because the carrier was aware of his condition but nothing had been done (Hr. Tr. p. 21 lines 2-25 and p. 22 lines 1-7).

Claimant testified that he asked his family doctor to refer him to Southeastern

Spine Institute. Claimant stated that he was hopeful that someone would give him some benefit from the pain he was experiencing on a daily basis (Hr. Tr. p. 13 lines 23-24). Claimant testified that Dr. Roush gave him the option of disc replacement and/or fusion. Claimant indicated that he was interested in going back to Southeastern Spine to have those options explored (Hr. Tr. p. 14 lines 5-11; see also Claimant's APA 18 pp. 153-155). Claimant also indicated that he wished to pursue the referral to a sport medicine physician for further evaluation of his shoulder pain (Hr. Tr. p. 16 lines 21-24) and EMG and nerve conduction studies recommended by Dr. Stovall (Hr. Tr. p. 18 lines 22-23).

Regarding his lung condition, Claimant testified that he had a follow up visit with Dr. Fechter on March 14, 2009 (Hr. Tr. p. 8 line 24). He further indicated that his lung condition is adequately managed on Advair; however, he must remain in environments free from chemicals and/or smoke (Hr. Tr. p. 10 lines 9-18).

Claimant further testified that his multiple injuries and multiple pain levels have prevented him from returning to work (Hr. Tr. p. 19 lines 2-4). He stated that he is hopeful that further treatment with Southeastern Spine Institute will help return to the workplace (Hr. Tr. p. 19 lines 18-25). Claimant also stated that his condition had actually worsened since his last hearing (Hr. Tr. p. 20 lines 17-23).

FINDINGS OF FACT

Based upon the stipulations of the parties, testimony and evidence received and produced at the hearing, the undersigned Commissioner makes the following findings of facts based on a preponderance of the evidence:

1. The South Carolina Workers' Compensation Commission has jurisdiction over this matter;

2. Notice of Hearing was timely and properly served on all parties of interest;
3. Venue is proper in Charleston County;
4. The Claimant's Average Weekly Wage is \$764.20 and the Compensation rate is \$509.49;
5. The Claimant suffered a compensable injury on May 16, 2005 to his back, neck, right shoulder and ribs;
6. The Claimant has not reached maximum medical improvement;
7. The Claimant is entitled to and the Defense shall provide medical treatment for the Claimant's back through Southeastern Spine Institute; and
8. There was no Form 50 requesting total temporary disability benefits, so I will not speak to that issue.

CONCLUSIONS OF LAW

Accordingly, as provided in the South Carolina Workers' Compensation Act, the undersigned Commissioner makes the following Conclusions of Law:

1. S. C. Code Ann. §42-1-160 governs injuries and includes injuries by accident arising out of and in the course and scope of employment;
2. Pursuant to §42-1-160, the Claimant sustained a compensable injury by accident arising out of and occurring in the course and scope of his employment with the Defendants on or about May 16, 2005, to his low back, neck, right shoulder, ribs, and lungs;
3. The Claimant's Average Weekly Wage is \$764.20 and the Compensation rate is \$509.49;

4. The Claimant has not reached maximum medical improvement;
5. Pursuant to §42-15-160, the Claimant is entitled to and the Defense shall provide medical treatment for the Claimant's back through Southeastern Spine Institute.
6. §42-17-30 provides authority to the Commission to order medical evaluation and treatment.
7. §42-9-10 is not applicable to this order, as the Claimant made no claim for compensation for temporary total disability.

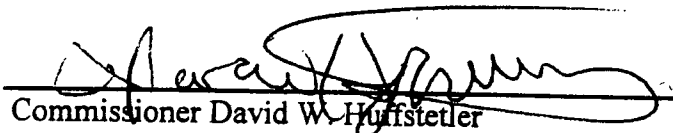
ORDER

IT IS THEREFORE ORDERED that the Findings of Fact and Conclusions of Law are incorporated herein as set forth verbatim.

IT IS THEREFORE ORDERED that Claimant has not reached maximum medical improvement, as the authorized physician, Dr. Stovall, recommends an evaluation to determine the need for surgery and Dr.

IT IS THEREFORE ORDERED that the Defense shall provide medical treatment for the Claimant's back through Southeastern Spine Institute.

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION.


Commissioner David W. Huffstetler

Columbia, South Carolina
April 16, 2009.

CERTIFICATE OF SERVICE
This is to certify that the undersigned has this date served this order in the above entitled action upon all parties to this cause by depositing a copy hereof, postage paid, in the United States mail addressed to the attorney or attorneys for said parties.

This 16 day of April, 2009
By Keller Luster
Administrative Assistant to the Commissioner

LLC
EH



TRICOUNTY RADIOLOGY ASSOCIATES

(843) 529-0600
North Charleston
Summerville
West Ashley

PATIENT: Wilson, Frank
DOB: 2/7/1969
MRN: 396150
PHYSICIAN: Thomas Roush, MD
EXAM DATE: 7/11/2009

EXAM: LUMBAR MRI WITHOUT CONTRAST

COMPARISON: 07/26/2006.

HISTORY: Lumbar disc disease.

TECHNIQUE: Multiplanar multisequence images lumbar spine without contrast.

FINDINGS: *Alignment and bony structures:* Preserved alignment and marrow. *Conus medullaris:* Normal signal and caliber. *Findings by level:*

T12/L1 - L1/2: Normal.

L2/3: Mild disc bulge. No stenosis.

L3/4: Mild disc bulge. Mild left exit narrowing.

L4/5: Disc bulge converts to shallow protrusion biforaminally, extending slightly extraforaminally on both sides. Right intra to extraforaminal linear annular tear. Facet hypertrophy with small right effusion. Mild exit narrowing.

L5/S1: Shallow central protrusion converts to disc osteophyte complex left intra to extraforaminally and also extends right intra to extraforaminally without significant disc component. Facet hypertrophy. Moderate exit and mild left recess narrowing. Slight contact and flattening bilateral exiting L5s, without impingement.

IMPRESSION: L4-5 spondylosis with biforaminal disc bulges has progressed since prior study, though no significant stenotic effect is present at this level at this point. Most impressive level remains L5-S1, where protrusion causes left greater than right moderate exit stenosis with contact and crowding exiting L5s is unchanged since prior exam. Correlation for left greater than right L5 radiculopathies might be helpful.

Troy Marlow, M.D.
TM / cm

DD: 7/13/2009 / DT: 7/13/2009
Job: 8522574

This document has been electronically reviewed and signed.

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
0506037

FRANK WILSON,)
)
Employee,)
Claimant,)
)
vs.)
)
AMERICAN LA FRANCE,)
)
Employer,)
)
and)
)
AIG c/o GALLAGHER)
BASSETT SERVICES, INC,)
)
Carrier,)
Defendants.)

COPY

* * * * *

DEPOSITION OF: FRANK WILSON

DATE TAKEN: 02/15/2010

TIME: 2:00 p.m.

PLACE: D. Dusty Rhoades, Esquire
828 St. Andrews Boulevard
Charleston, SC

REPORTED BY: DENISE LAUDER
Registered Professional
Reporter and Notary Public

* * * * *

POST OFFICE BOX 21784
CHARLESTON, SOUTH CAROLINA 29413-1784

A P P E A R A N C E S

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ERIN L. HANTSKE, ESQUIRE
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78 Wentworth Street
Suite 200
Charleston, SC 29401
(843) 534-0101

I N D E X

Page

WITNESS/EXAMINATION

FRANK WILSON

4

DIRECT EXAMINATION

4

BY MS. HANTSKE

CERTIFICATE OF REPORTER

22

E X H I B I T S

(No Exhibits Proffered)

S T I P U L A T I O N S

It is hereby stipulated and agreed by and between the parties hereto, through their respective counsel, that the reading and signing of the transcript is expressly waived by the Deponent.

FRANK WILSON,
being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. HANTSKE:

Q. Hi, Mr. Wilson. My name is Erin Hantske and I represent American LaFrance and their insurance carrier in the workers' compensation claim that you have filed. I understand you've given two depositions before with regard to this claim. Have you ever given any other depositions?

A. No, ma'am.

Q. All right. Well, let me go over a few more ground rules. This is just a question and answer session. I'm not here to trick you in any way; I'm here to ask you a few questions about your claim and how you're doing today. If you don't understand a question, please let me know and I'll be happy to rephrase to make sure we understand each other. If you do answer a question, I will assume two things; first, that you understood my

1 question, the second that you gave me a truthful
2 answer since you're under oath. Is that fair?

3 A. Yes, ma'am.

4 Q. And you're doing a very good job of it
5 so far, but please make sure to give a verbal yes
6 or no answer instead of shaking your head and
7 saying uh-huh or huh-uh since she's taking down
8 everything we're saying. That will make it read a
9 lot more clearly. Okay?

10 A. Yes, ma'am.

11 Q. Are you on any medications today that
12 might affect your ability to give a truthful and
13 honest answer?

14 A. No, ma'am.

15 Q. Are you on any medications today at
16 all?

17 A. No, ma'am.

18 Q. Are there any medications that you take
19 on a regular basis that you have not taken today?

20 A. Skelaxin, 800 milligrams --

21 Q. Who prescribes that?

22 A. Dr. Stovall. Skelaxin, 800 milligrams,
23 Lexican, 7.5 milligrams --

24 Q. Who prescribes that?

25 A. Dr. Stovall -- and Advair, 250 slash

1 50.

2 Q. Is that Dr. Spandorfer?

3 A. Dr. Spandorfer or Dr. Fechter.

4 Q. When was the last time you saw Dr.
5 Stovall?

6 A. On or about October -- March 2nd, 2009.
7 On or about that time frame.

8 Q. So he's just continuing to prescribe
9 these medications?

10 A. Yes.

11 Q. He hasn't requested that you come back
12 in for evaluation?

13 A. No, ma'am.

14 Q. Do you know exactly what they were
15 prescribed for?

16 A. I believe one was for -- a muscle
17 relaxer, one was for pain.

18 Q. All right. Just -- I want to go
19 through kind of what problems, if any, you're
20 having today. I know that the upcoming hearing is
21 based on your allegation of an injury to your left
22 shoulder and need for tonsil surgery. So if you
23 will, kind of start with the left shoulder.

24 A. Okay.

25 Q. Take me through what kind of problems,

1 if any, you're having today.

2 A. Just basically left shoulder pain.

3 Q. Where in your left shoulder?

4 A. Pretty much in the left shoulder blade,
5 and this can be confirmed through MRI that was
6 taken of my left shoulder and x-rays that was taken
7 of my left shoulder.

8 Q. Okay. I want to go through your
9 objective complaints right now, not like nothing
10 regarding an MRI or x-ray. You said you had pain
11 in your left shoulder blade?

12 A. Yes.

13 Q. So are we talking the back of your
14 shoulder?

15 A. Just the left shoulder blade, inside
16 the blade.

17 Q. Point to me on your shoulder where
18 you're having pain.

19 A. Just inside the shoulder blade.
20 (Indicating)

21 Q. You're kind of pointing right in
22 between the neck and the shoulder --

23 A. Yes, ma'am.

24 Q. -- on the top?

25 A. Well, it radiates up and down.

1 Q. Up and down -- and I'm just trying to
2 get this clear for the record. Up and down where?

3 A. Sometimes from my neck to my shoulder
4 and sometimes from my shoulder to my neck. It
5 radiates down my arm. I mean, it just radiates up
6 and down.

7 Q. How -- sorry, go ahead.

8 A. A doctor probably can better explain
9 since I'm not a physician. I'm just telling you
10 based on my pain, up and down to my neck, down from
11 my neck to my shoulder, radiates down the arm.

12 Q. Okay. How far down your arm?

13 A. Stops right about at my hand.

14 Q. Does it go into your hands?

15 A. No, ma'am.

16 Q. Any pain or anything in your fingers?

17 A. No, ma'am.

18 Q. How often do you have the pain in your
19 left shoulder?

20 A. Daily.

21 Q. How often do you have the radiating
22 pain?

23 A. Daily.

24 Q. Is there anything that you do that
25 aggravates it?

1 A. Lifting, if I sleep on it the wrong
2 way, I wake up in pain, overhead reaching.

3 Q. Does the Skelaxin or do the medications
4 help at all?

5 A. Minimize it until I'm active. I mean
6 -- so it's more like a muscle relaxer, but once
7 I'm active or attempt to do any overhead reaching,
8 any lifting, aggravates the pain. And by it being
9 a shoulder injury, from time to time it radiates
10 into my neck, and I already have a neck injury.

11 Q. I understand that. When did you first
12 start having pain in your left shoulder?

13 A. First noticed it in between the time
14 frame of a work conditioning program and an FCE
15 program.

16 Q. Do you recall when those were?

17 A. On or about the third or fourth quarter
18 of 2006.

19 Q. All right. You were still treating
20 with Dr. Stovall at that time, correct?

21 A. Yes, ma'am.

22 Q. Okay. My medical records show that he
23 released you at maximum medical improvement
24 October 11, 2006. Does that sound about right?

25 A. Yes, ma'am.

1 Q. Did you ever mention -- were you having
2 pain in your left shoulder while you were treating
3 with Dr. Stovall?

4 A. I was having pain in my left shoulder,
5 but I didn't consider it as being a left shoulder
6 injury. I was told that since I had a neck injury,
7 the pain could be coming from my neck.

8 Q. Did you ever mention to anybody that
9 you were having problems with your left shoulder,
10 whether it be from the neck or not?

11 A. At the FCE, when I was doing lifting, I
12 told the instructor that I was having pain in my
13 left shoulder when he had me do the left hand
14 lifting. When I first experienced pain, I told him
15 that I had pain in the left shoulder. And he said,
16 well, I think you can lift more, so lift more.

17 Q. Was the FCE at the end of -- was it
18 before Dr. Stovall released you?

19 A. Yes.

20 Q. When you returned back to Dr. Stovall
21 after the FCE, did you mention the pain you were
22 having in your left shoulder?

23 A. No. Just like I stated before, I was
24 told that it could be coming from my neck going
25 into my shoulder. The first time I mentioned it as

1 the pain increased in my shoulder, I said, hey, we
2 might have a problem. So this is when I told my
3 attorney at the time, Steven Goldberg. He said,
4 well, you've already saw Dr. Stovall, he released
5 you so we'll see if we can get you back in.

6 Q. Let me ask you something. You said
7 that you were told the pain may be coming from your
8 neck. Who told you that?

9 A. People at the work conditioning
10 program, I was told that by Dr. Stovall. And not
11 being sure if it was a shoulder injury or just pain
12 coming from my neck, I didn't know, doctor didn't
13 know because there was no tests taken.

14 Q. Dr. Stovall actually discussed the left
15 shoulder with you?

16 A. No. He just stated that the pain could
17 be coming from the neck going into your left
18 shoulder.

19 Q. Which means he discussed it --

20 A. It would be impossible to actually know
21 that if the MRI is not done or an x-ray is not
22 done. He's guessing, I'm guessing.

23 Q. All right.

24 A. So until -- until actually an MRI was
25 done, no one can confirm that. The doctor's

1 guessing, I'm guessing, until actually the pain got
2 so severe, I said, we need to check this out.

3 Q. When did the pain get, quote, so
4 severe?

5 A. At the FCE, when I told the instructor
6 I'm having pain in this left shoulder. He stated,
7 well, I think you can do more so he made me lift
8 more.

9 Q. All right. You -- what treatment, if
10 any, did you receive or request for your shoulder
11 between the time you were released by Dr. Stovall
12 in October of 2006 and I guess the time you
13 presented to Dr. Graham for a right shoulder
14 evaluation in August of 2009? We have a three-year
15 period there.

16 A. Okay. My first contact was with my
17 attorney at the time, Steven Goldberg, I told him.
18 He said, well, we need to try to get you back in to
19 get that left shoulder checked out to see if it's
20 actually coming from your neck or it's something
21 totally separate. And I said, okay, that sounds
22 good.

23 So two weeks went by, close to a month
24 went by, nothing. I called him and I said, hey,
25 what's going on? So he stated, well, this is

1 what's going on. We're not getting any cooperation
2 with the defense. So he said, we've got you set up
3 for an independent medical exam. This is where Dr.
4 Jeffrey Faaberg came into the picture. And I'm
5 confident that you have the medical records from
6 Dr. Faaberg.

7 Q. Hold on one second.

8 A. Yes, ma'am.

9 Q. All right. What, if anything, did Dr.
10 Faaberg recommend to you?

11 A. He recommended that I first do an
12 updated cervical spine MRI to see if the pain was
13 actually coming from my neck and going into my left
14 shoulder. Then he said, if there's no significant
15 change in the previous cervical spine MRI, we would
16 then do a left shoulder MRI. So first we did the
17 updated cervical spine MRI.

18 Q. Okay.

19 A. That came back, no significant change.
20 So from there I did a left shoulder MRI.

21 Q. Which showed?

22 A. Tears.

23 Q. All right. Then what?

24 A. Then from there we had a hearing, and
25 that evidence was turned into -- to my attorney to

1 bring to the hearing. And this was a hearing with
2 Commissioner Bass, and he recommended that -- he
3 recommended that -- as that evidence was brought
4 in, he went on the recommendations of Dr. Faaberg.
5 And that's when the cervical spine MRI took place
6 and left shoulder MRI took place.

7 Q. All right. Well, I'm not going into
8 the history of a previous hearing, but --

9 A. The left shoulder was addressed first
10 December 19, 2006. That's when it was first
11 addressed.

12 Q. All right. When did you have the left
13 shoulder MRI?

14 A. Somewhere in the time frame of June
15 2007, on or about that time frame. And this was
16 based on the recommendation of Commissioner Bass.

17 Q. All right. Prior to the FCE that you
18 did in late 2006, had you ever had any problems
19 with your left shoulder before?

20 A. No, ma'am.

21 Q. So that was -- when you were lifting at
22 the FCE, that was the first indication of -- let me
23 finish my question.

24 A. I'm sorry.

25 Q. That's okay. That was the first

1 indication of any problems -- any pain you felt
2 since your accident in May of 2005?

3 A. Well, it was the first time I
4 experienced pain enough to say, hey, this is
5 something I need to get checked out. Because it
6 was -- in the beginning I was feeling pain from my
7 neck into my shoulder, so I didn't say anything
8 because I was told, well, you've got a neck injury
9 so the pain could be coming from your neck going
10 into your shoulder, and it was just mild. And it
11 went from mild to moderate to severe at the FCE
12 when he had me lifting the heavy equipment.

13 Q. All right. I want to move on to your
14 treatment with Dr. Spandorfer and Dr. Fechter.

15 A. Okay.

16 Q. I understand you saw Dr. Spandorfer it
17 was I believe October of 2009?

18 A. Yes.

19 Q. Have you -- who have you seen since
20 then regarding your lung condition?

21 A. Dr. Fechter.

22 Q. When did you see Dr. Fechter?

23 A. This was approximately February 5th,
24 2010.

25 Q. What brought about the need for that

1 visit?

2 A. Follow up.

3 Q. All right. When had you seen him prior
4 to that?

5 A. On or about March 14th, 2009.

6 Q. Did he say to come back in a year?

7 A. I'm just -- something that needs to be
8 managed, so...

9 Q. I'm just wondering what brought about
10 you going to see him on February 5th, other than
11 the fact --

12 A. I had heavy breathing and told him
13 about it. He said, well, come on in and let me run
14 some tests and make sure that everything is okay.

15 Q. How long had the heavy breathing been
16 going on before you went to him?

17 A. It was a one-time thing. I was running
18 to catch public transportation, and no more than a
19 block, I was out of breath and that was not normal.

20 Q. How fast were you running?

21 A. Trotting. I mean, I already have a
22 severe back injury so I couldn't do too much.

23 Q. All right. So what did Dr. Fechter --
24 are you still taking Advair?

25 A. Yes.

1 Q. On a daily basis you said?

2 A. Yes.

3 Q. What did Dr. Fechter say?

4 A. Well, he just brought me in and he
5 recommended that -- well, this is back in -- this
6 was back March 14th. That visit he recommended
7 that -- he said, you do have large tonsils. And he
8 said, maybe if you get those tonsils out that will
9 help your breathing a whole lot.

10 MS. HANTSKE: Can we go off the record
11 real quick?

12 (Off-the-record conference.)

13 BY MS. HANTSKE:

14 Q. All right. So other than recommending
15 removal of your tonsils, did he recommend any other
16 treatment -- form of treatment to help your
17 breathing?

18 A. Just to remain on the Advair, and he
19 said, if you get those tonsils out that will help
20 clearing up your airway. I mean, it's a little bit
21 more challenging in the spring when you have all
22 the pollen out there. I'm taking in pollen and --
23 even though I'm on Advair, it's a little bit more
24 challenging getting it out because my airway is
25 blocked because of my tonsils and the impaired

1 lung.

2 Q. All right. Well, right now it's
3 wintertime and there's no pollen. How are you
4 doing now?

5 A. I'm okay now, but we do have a pollen
6 season coming up.

7 Q. I understand that. How would you say
8 your breathing capacity is at this time? Like from
9 1 to 100 percent, how would you say that you're
10 doing?

11 A. About 75 percent, with the use of the
12 Advair.

13 Q. Right.

14 A. And, I'm sorry, if I may add, with the
15 use of the Advair, with the use of avoiding being
16 in a chemical atmosphere and or dusty atmospheres.
17 All that sets off my lung injury.

18 Q. Are you prone to be in those types of
19 situations on a normally basis?

20 A. I'm not right now, but I avoid those to
21 keep my lung from getting any more damaged.

22 Q. Okay. I'm saying before this accident,
23 did you go into high dust places or --

24 A. Just regular work.

25 Q. Okay. What do you do on a daily basis?

1 A. Basically, if I don't have to come out,
2 I don't come out, take my medication, I rest. I'm
3 in pain just about all day due to my back injury,
4 due to all my injuries. That's why I feel that I'm
5 impaired and it's very necessary for me to get
6 these injuries addressed and properly addressed.
7 Right now I'm waiting on a diskogram for my back.

8 Q. Okay. The back is not the subject of
9 this particular deposition, that's separate. So,
10 you know, we don't need to go into that one right
11 now.

12 A. I mean, if all these issues -- all
13 these issues give me great amount of pain.

14 Q. Are you able to drive?

15 A. No, ma'am, I have no license.

16 Q. How did you get here today?

17 A. Public transportation.

18 MR. RHOADES: That's the only way he
19 gets around is public transportation.

20 Q. (BY MS. HANTSKE) Does anybody live
21 with you at your house?

22 A. I stay by myself.

23 Q. Are you able to do chores around the
24 house?

25 A. No, ma'am.

1 Q. Do you have someone come in to do that?

2 A. Maybe once every three months. I mean,
3 it's all I can afford.

4 Q. Are you still receiving your weekly
5 benefits?

6 A. Yes, ma'am.

7 Q. Do you have any other source of income?

8 A. No, ma'am.

9 Q. Have you applied for unemployment?

10 A. No, ma'am.

11 Q. Social Security Disability?

12 A. Yes, ma'am.

13 Q. How long have you been receiving Social
14 Security?

15 A. I don't receive it; I just applied for
16 it.

17 Q. When did you apply?

18 A. Approximately, time frame of about
19 December of '09. Approximate time frame.

20 Q. Have you appealed that?

21 A. I haven't got a decision on it.

22 Q. Okay. I thought you said you were
23 denied. You've just applied for it?

24 A. Yes.

25 Q. And haven't heard back yet?

1 A. No.

2 Q. Since your last deposition, which was
3 March of 2009, have you had any other sort of
4 injuries whether it be a slip and fall or motor
5 vehicle accident, anything?

6 A. No, ma'am.

7 Q. Any types of surgeries outside the
8 scope of your workers' comp claim?

9 A. No.

10 MS. HANTSKE: I think that's about all
11 I've got.

12 MR. RHOADES: No questions. We'll
13 waive.

14 (The deposition was concluded at 2:24
15 p.m.)
16
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25

CERTIFICATE OF REPORTER

I, Carol Denise Lauder, Registered Professional Reporter and Notary Public for the State of South Carolina at Large, 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 24th day of February, 2010 at Charleston, Charleston County, South Carolina.

Denise Lauder

Carol Denise Lauder
Registered Professional
Reporter, CP
My Commission expires
August 2, 2017



SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
COLUMBIA, SOUTH CAROLINA
WCC FILE NO. 0506037

EMPLOYEE/CLAIMANT: FRANK WILSON

EMPLOYER: AMERICAN LAFRANCE

INSURER: AMERICAN HOME INSURANCE

COPY

SOUTH CAROLINA WORKERS' COMPENSATION HEARING

PURSUANT TO NOTICE OF THE WORKERS' COMPENSATION
HEARING, THE WITHIN HEARING WAS TAKEN ON THE 10TH
DAY OF MARCH, 2009, COMMENCING AT THE HOUR OF 2:11
P.M. IN CHARLESTON, SOUTH CAROLINA, ATTENDED BY COUNSEL
AS FOLLOWS:

KATHRYN BOSTROM,
VERBATIM REPORTER

COPY

DIXY MOORE TURNER ASSOC., INC.
836 SHORESBROOK DRIVE
SPARTANBURG, S.C. 29301-6515
864-574-1313

APPEARANCES

LISA L. COTTEN, ESQUIRE, OF THE FIRM
MIKE KELLY LAW GROUP
500 TAYLOR STREET
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COLUMBIA, SC 29202

ATTORNEY FOR THE CLAIMANT,

ERIN L. HANTSKE, ESQUIRE, OF THE FIRM
MCANGUS GOUDELOCK & COURIE, LLC
78 WENTWORTH ST STE 200
PO BOX 877
CHARLESTON SC 29402

ATTORNEYS FOR EMPLOYER/INSURER.

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EXHIBITS:

NONE MARKED

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

5 * * * * *

6 **COMMISSIONER HUFFSTETLER:**

7 THIS IS WORKERS' COMPENSATION FILE NO. 0506037.
8 THE CASE OF THE CLAIMANT FRANK WILSON VERSUS
9 THE EMPLOYER AMERICAN LAFRANCE, CARRIER IS
10 AMERICAN HOME INSURANCE COMPANY. CLAIMANT IS
11 PRESENT REPRESENTED BY ATTORNEY LISA L. COTTEN,
12 EMPLOYER CARRIER REPRESENTED BY ATTORNEY ERIN
13 L. HANTSKE. THE CASE IS SET TO CONSIDER AN
14 APPLICATION FILED BY THE DEFENSE TO STOP
15 PAYMENT OF COMPENSATION. AVERAGE WEEKLY WAGE
16 IS \$764.20. THE COMPENSATION RATE IS \$509.49,
17 AND DATE OF ACCIDENT WAS MAY 16TH, 2005. ANY
18 OBJECTION TO THOSE ITEMS, JURISDICTION, VENUE,
19 OR ANY OF THE APA SUBMISSIONS?

20 **MS. HANTSKE:**

21 NO, SIR, I WOULD JUST ALSO LIKE TO ADD THAT ON
22 OUR FORM 21, WE REQUESTED CREDIT FOR
23 OVERPAYMENT OF BENEFITS SINCE THE DAY OF MMI.

24 **COMMISSIONER HUFFSTETLER:**

25 I WILL GET TO THAT.

1 **MS. HANTSKE:**

2 I APOLOGIZE FOR JUMPING THE GUN.

3 **COMMISSIONER HUFFSTETLER:**

4 WITHOUT OBJECTION THE COMMISSION'S FILE BECOMES
5 PART OF THE RECORD, WITH THE EXCEPTION OF SELF-
6 SERVING DECLARATIONS AND UNSTIPULATED MEDICAL
7 REPORTS. I WILL NOTE A PREVIOUS ORDER OF THE
8 COMMISSION FROM COMMISSIONER BASS WHICH NOTES
9 INJURIES TO THE LUNGS, BACK, NECK AND RIGHT
10 SHOULDER AND THE RIBS. THE DEFENSE IS THE
11 MOVING PARTY. TAKES THE POSITION THAT THE
12 CLAIMANT REACHED MAXIMUM MEDICAL IMPROVEMENT ON
13 OCTOBER 10, 2008. THEY SEEK CREDIT FOR ALL
14 TEMPORARY COMPENSATION PAID AFTER THAT DATE AND
15 CONCEDE PERMANENT PARTIAL DISABILITY TO THE
16 LUNGS, BACK, THE RIGHT SHOULDER AND THE RIBS,
17 THE BACK INCLUDING THE NECK. THE CLAIMANT
18 TAKES POSITION THAT HE HAS NOT REACHED MAXIMUM
19 MEDICAL IMPROVEMENT. HE SEEKS AN EVALUATION
20 FOR SHOULDER SURGERY, ON THE OPINION OF DR.
21 STOVALL. THE CLAIMANT ALSO SEEKS BACK SURGERY
22 AND RELIES ON THE REPORT OF DR. ROUSH. THE
23 DEFENSE TAKES POSITION THAT THE CLAIMANT IS AT
24 MAXIMUM MEDICAL IMPROVEMENT AND HAVE ALSO
25 SUBMITTED A REPORT TODAY FROM DR. STOVALL WHICH

1 IS ADMITTING WITHOUT OBJECTION TO SUPPORT THEIR
2 POSITION CONCERNING THE SHOULDER. HAVE I
3 STATED YOUR POSITIONS CORRECTLY?

4 **MS. HANTSKE:**

5 YES, COMMISSIONER.

6 **MS. COTTEN:**

7 YES, COMMISSIONER.

8 * * * * *

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

12 * * * * *

13 **FRANK E. WILSON,**

14 BEING FIRST DULY SWORN OR AFFIRMED, TESTIFIED ON HIS
15 OATH AS FOLLOWS:

16 **DIRECT EXAMINATION**

17 **BY MS. HANTSKE:**

18 Q MR. WILSON, YOU SUFFERED A COMPENSABLE INJURY, MOTOR
19 VEHICLE ACCIDENT, ON MAY 16TH, 2005, CORRECT?

20 A YES, MA'AM.

21 Q AND, YOU WENT TO A HEARING WHERE IT WAS FOUND THAT
22 YOU SUFFERED COMPENSABLE INJURIES TO YOUR LUNGS,
23 BACK, NECK, RIBS AND RIGHT SHOULDER. IS THAT
24 CORRECT?

25 A YES, MA'AM.

1 Q AND, YOUR LEFT SHOULDER WAS NOT FOUND TO BE A
2 COMPENSABLE INJURY AS A RESULT OF THE MOTOR VEHICLE
3 ACCIDENT, CORRECT?

4 A NO, MA'AM.

5 Q AM I CORRECT IN THAT STATEMENT?

6 A NO, MA'AM.

7 Q I WILL DEFER THE DECISION IN THE ORDER ON THAT ONE.
8 YOU REQUESTED FOR A FOLLOW-UP VISIT WITH DR. STOVALL
9 AND PRESENTED ON MARCH 2ND, 2009, CORRECT?

10 A YES, MA'AM.

11 Q AND, AT THAT VISIT, DR. STOVALL DETERMINED THAT YOU
12 WERE STILL AT MAXIMUM MEDICAL IMPROVEMENT FOR YOUR
13 CERVICAL AND LUMBAR SPINES? IN OTHER WORDS, HE DID
14 NOT RECOMMEND ANY FURTHER TREATMENT FOR YOUR
15 CERVICAL OR LUMBAR SPINE?

16 A THAT'S NOT WHAT HE DISCUSSED WITH ME AT THE
17 APPOINTMENT.

18 Q THAT'S NOT WHAT HE DISCUSSED?

19 A NO, MA'AM.

20 Q HE DIDN'T RECOMMEND ANY SURGERY FOR YOUR CERVICAL OR
21 LUMBAR SPINE, DID HE?

22 A AS FAR AS MY LUMBAR SPINE, HE RECOMMENDED THE
23 SURGERY THAT HE DOES. I MOST LIKELY WOULDN'T
24 BENEFIT, BUT THE SURGERY THAT SOUTHEASTERN SPINE, -
25 WITH THAT SURGERY, I WOULD GAIN SOME BENEFIT DUE TO

1 ONLY A FEW PEOPLE OR PHYSICIANS ARE OFFERING THAT
2 SURGERY, HE WOULD HAVE RECOMMENDED THAT I HAVE THAT
3 SURGERY DONE AT SOMEONE WHO OFFERED THAT SURGERY.
4 THAT'S WHAT HE STATED WITH ME.

5 Q I'LL JUST RELY ON THE SUPPLEMENTAL MEDICAL RECORDS.
6 YOU PRESENTED TO DR. SPIEGLER FOR AN EVALUATION OF
7 YOUR LUNG CONDITION BACK IN OCTOBER OF 2008,
8 CORRECT?

9 A YES, MA'AM.

10 Q AND, AT THAT TIME, HE DETERMINED THAT YOU WERE AS
11 GOOD AS YOU ARE GOING TO GET WITH REGARD TO YOUR
12 LUNG CONDITION, DIDN'T HE?

13 A ONCE AGAIN, HE SAID HE WAS GOING TO GET WITH A DR.
14 FECHTER, GET HIS MEDICAL RECORDS AND BETWEEN THE TWO
15 DETERMINE ANY TYPE OF MAXIMUM MEDICAL IMPROVEMENT.

16 Q WELL, HE DID SAY YOU WOULD NEED FUTURE TREATMENT
17 SUCH AS PRESCRIPTION MEDICATIONS?

18 A YES, I TOLD HIM I WAS ON THE ADVAIR AND HE STATED
19 THAT I SHOULD REMAIN ON IT, AND FROM THERE HE SAID I
20 WOULD DEFINITELY HAVE TO GET WITH DR. FECHTER, SINCE
21 DR. FECHTER WAS DOING THE MAJORITY OF THE TREATMENT.

22 Q WELL, DR. FECHTER HASN'T RECOMMENDED ANY FUTURE
23 TREATMENT, HAS HE?

24 A I HAVE AN APPOINTMENT WITH DR. FECHTER ON MARCH 14TH,
25 AND AT THAT TIME IT'S A FOLLOW-UP, AND I'M PRETTY

1 SURE HE WILL GIVE ME AN UPDATE ON HIS
2 RECOMMENDATIONS.

3 Q WELL, THE LAST TIME YOU SAW HIM WAS OVER THREE
4 MONTHS AGO, CORRECT?

5 A YES.

6 Q AND, HE DIDN'T RECOMMEND ANY THING OTHER THAN GIVING
7 YOU PRESCRIPTIONS?

8 A JUST TO SAY I SHOULD REMAIN ON THE ADVAIR.

9 Q WELL, THE LAST TIME YOU SAW HIM WAS OVER THREE
10 MONTHS, CORRECT?

11 A YES.

12 Q AND, HE DIDN'T RECOMMEND ANYTHING OTHER THAN GIVING
13 YOU PRESCRIPTIONS?

14 A JUST TO SAY I SHOULD REMAIN ON THE ADVAIR.

15 Q WITH REGARD TO YOUR LUNG CONDITION, YOU INFORMED ME
16 AT YOUR DEPOSITION PREVIOUSLY THAT THE MEDICATIONS
17 WERE CONTROLLING UP TO 90% OF THE PROBLEMS YOU WERE
18 HAVING WITH REGARD TO MUCOUS, SHORTNESS OF BREATH
19 AND CHEST PAIN, IS THAT CORRECT?

20 A YES, MA'AM.

21 Q AND, YOU ARE ABLE TO PERFORM YOUR DAILY ACTIVITIES?

22 A UP UNTIL NOW, AND I ALSO STATED THAT DURING THE
23 POLLEN SEASON, MY CONDITION TENDS TO -- WELL,
24 ACTUALLY IT SOMETIMES WORSEN DUE THE POLLEN AND
25 THAT'S A SEASON THAT'S ABOUT TO APPROACH. AND, I

1 REALLY CAN'T SPECULATE ON WHAT IS GOING TO TAKE
2 PLACE WITH THE POLLEN. I'M HOPEFUL THAT THE ADVAIR
3 WILL GIVE ME THE SAME RESULTS THAT IT HAS BEEN
4 GIVING ME IN THE PAST, BUT I CAN'T SPECULATE ON
5 THAT, I'M JUST HOPEFUL. AND, I WILL REMAIN ON THE
6 ADVAIR AND REMAIN HOPEFUL.

7 Q YOUR LUNG CONDITION IS NOT HINDERING ACTIVITIES THAT
8 YOU WOULD HAVE PERFORMED PRIOR TO THE ACCIDENT?

9 A ACTUALLY, AS FAR AS BEING IN AN ENVIRONMENT WITH
10 CHEMICALS SUCH AS WHAT I WAS INVOLVED IN AT AMERICAN
11 LAFRANCE, I WAS TOLD BY DR. FECHTER THAT THAT
12 WOULDN'T BE RECOMMENDED, IT WOULD JUST MAKE MY LUNG
13 CONDITION WORSE TO BE IN AN ENVIRONMENT WITH ALL OF
14 THE CHEMICALS BEING USED. BEING IN A LOCATION WHERE
15 THERE IS A LOT OF SMOKING, THAT WOULD WORSEN MY
16 CONDITION, SO HE TOLD ME TO AVOID THOSE CONDITIONS,
17 AVOID THOSE ATMOSPHERES, AND REMAIN ON THE ADVAIR,
18 AND, I SHOULD CONTINUE TO REMAIN.

19 Q DID YOU GO INTO MANY PLACES THAT WERE SMOKEY PRIOR
20 TO YOUR ACCIDENT?

21 A WELL, THE PLACE OF EMPLOYMENT IS FULL OF CHEMICALS.

22 Q OUTSIDE OF YOUR PLACE OF EMPLOYMENT, DID YOU GO OUT
23 TO BARS OR RESTAURANTS THAT WERE SMOKEY?

24 A NO, MA'AM.

25 Q AND, APART FROM YOUR WORK, WITH THE EMPLOYER, DID

1 YOU ENTER INTO ANY TYPES OF BUILDINGS OR LOCATIONS
2 THAT HAD A LOT OF CHEMICALS?

3 A NO, MA'AM.

4 MS. HANTSKE:

5 I THINK THAT'S ALL I HAVE FOR RIGHT NOW.

6 CROSS EXAMINATION

7 BY MS. COTTEN:

8 Q MR. WILSON, WHY DID YOU DISAGREE ABOUT YOUR LEFT
9 SHOULDER WHEN MS. HANTSKE WAS ASKING YOU ABOUT THE
10 COMMISSIONER'S ORDER FROM 2008?

11 A WELL, FIRST OF ALL, MA'AM, THIS WAS SOMETHING THAT
12 WAS BROUGHT UP AT MY PRIOR HEARING. AND, I WAS
13 INSTRUCTED BY A COMMISSIONER, COMMISSIONER BASS, TO
14 GET A UPDATED MRI SCAN OF MY CERVICAL SPINE TO RULE
15 OUT THAT THE PAIN THAT I WAS EXPERIENCING IN MY LEFT
16 SHOULDER WAS NOT COMING FROM MY CERVICAL SPINE. I
17 DID THAT. THEY FOUND THAT THERE WAS NO SIGNIFICANT
18 CHANGE IN THE CERVICAL MRI THAT WAS DONE AS A
19 UPDATED MRI, SO THEY RULED THAT OUT. THEN I DID A
20 SECOND MRI WHICH WAS OF MY LEFT SHOULDER AND THAT
21 MRI AND ON THAT REPORT, IT SHOWS PARTIAL TEARS, AND
22 I FORGET THE MEDICAL TERM, BUT IT'S A TYPE OF -ITIS.
23 I FORGET THE MEDICAL TERM.

24 COMMISSIONER HUFFSTETLER:

25 HAVE YOU FILED A CLAIM FOR THE SECOND, FOR THE

1 INJURY?

2 Q NO. AND DID THE DOCTOR SAY THAT THE LEFT SHOULDER
3 WAS RELATED TO THE ACCIDENT IN HIS REPORT?

4 A YES, MA'AM. THIS WAS DR. FAVOR. ONCE HE GOT THE
5 REPORT HE INITIALLY ISSUED A 5% IMPAIRMENT RATING TO
6 MY NECK, BUT ONCE HE GOT THE MRI REPORT FOR MY LEFT
7 SHOULDER HE ALTERED IN HIS REPORT FOR HIS UPDATED
8 REPORT THE IMPAIRMENT RATING TO A 10% TO MY CERVICAL
9 SPINE VERSUS A 5% RELATING THE LEFT SHOULDER TO THE
10 NECK ON THE CERVICAL SPINE.

11 Q SO, HE RELATED THE SHOULDER TO YOUR NECK BY
12 INCREASING THE IMPAIRMENT RATING? SO, HE'S DEALT
13 WITH THE ISSUE.

14 A YES, MA'AM.

15 Q NOW, WITH REGARDS TO YOUR BACK, YOU ENDED UP GOING
16 TO SOUTHEASTERN SPINE TO TREAT ON YOUR OWN LAST
17 YEAR, IS THAT CORRECT?

18 A YES, MA'AM.

19 Q WHY DID YOU END UP GOING BACK THERE, OR GOING THERE?

20 A JUST BASICALLY GETTING FRUSTRATED WITH THE LACK OF
21 MEDICAL ATTENTION THAT WAS GIVEN TO MY LUMBAR SPINE,
22 CERVICAL SPINE. AND, THE ISSUE WITH MY RIGHT AND
23 LEFT SHOULDER. THIS ACTUALLY TOOK PLACE AT MY
24 PERSONAL DOCTOR WITH MY FAMILY DOCTOR. I ASKED HIM
25 TO REFER ME TO THE BEST SPINE DOCTOR THAT I CAN GO

1 TO AND OFF THE TOP OF HIS HEAD, HE SAID WELL THE
2 BEST YOU CAN GO TO IS SOUTHEASTERN SPINE. THAT'S
3 ALL THEY DO IS SPINE AND THAT'S THE BEST YOU ARE
4 GOING TO GET. AND, AT THAT TIME, I SAID, WELL, CAN
5 YOU REFER ME THERE, BECAUSE I'M REALLY GETTING
6 FRUSTRATED, AND I NEED THE BEST TO GIVE ME THE BEST
7 EVALUATION IN ORDER TO GIVE ME THE BEST TREATMENT,
8 SO I CAN MAKE SOME PROGRESS ON MY INJURIES WITH MY
9 BACK, MY NECK AND LEFT AND RIGHT SHOULDER.

10 Q SO, YOU WERE STILL HAVING PROBLEMS, THAT'S WHY YOU
11 WENT BACK?

12 A YES, MA'AM.

13 Q OKAY. NOW, WHEN YOU WENT BACK, WAS IT YOUR
14 UNDERSTANDING THAT THERE WAS ADDITIONAL TREATMENT
15 AVAILABLE TO YOU FOR YOUR LUMBAR SPINE?

16 A CAN YOU REPHRASE THAT FOR ME?

17 Q WAS IT YOUR UNDERSTANDING THAT THERE WAS SOMETHING
18 ELSE THAT COULD BE DONE TO ASSIST WITH THE PAIN THAT
19 YOU WERE STILL HAVING IN YOUR BACK?

20 A OUTSIDE OF PAIN MANAGEMENT THAT WAS RECOMMENDED BY
21 COMMISSIONER BASS, WHICH NEVER WAS HONORED, THAT'S
22 HOW SOUTHEASTERN SPINE GOT INTO THE PICTURE. AND,
23 FROM THAT POINT, I WAS JUST HOPEFUL THAT SOMEONE
24 WOULD GIVE ME SOME BENEFITS FROM THE PAIN I WAS
25 EXPERIENCING ON A DAILY BASIS.

1 Q AND, THAT'S WHAT I'M ASKING. DID THEY SAY THEY
2 COULD DO ANYTHING FOR YOU?

3 A YES, MA'AM.

4 Q WHAT DID THEY SAY THEY COULD DO FOR YOU?

5 A THEY SAID -- OPTION OF HAVING DISK REPLACEMENT
6 AND/OR A FUSE IN MY LUMBAR SPINE. AND, THIS WAS AT
7 THE RECOMMENDATION OF DR. ROUSH. AND, I STATED ALL
8 OF MY SYMPTOMS AND THE CONTINUOUS PROBLEMS WITH MY
9 LUMBAR SPINE AND HE STATED THAT THIS IS AN OPTION
10 THAT YOU WILL HAVE AND WE WILL BE OPEN TO TREAT YOU
11 WHENEVER YOU ARE READY TO COME BACK IN.

12 Q SO, YOU ARE INTERESTED IN GOING BACK TO SOUTHEASTERN
13 SPINE TO HAVE THOSE OPTIONS EXPLORED?

14 A YES, MA'AM, I'M VERY HOPEFUL WITH SOUTHEASTERN
15 SPINE.

16 **COMMISSIONER HUFFSTETLER:**

17 SIR, COULD YOU CLEAR UP ONE THING FOR ME BEFORE
18 I FORGET TO ASK YOU? YOU SAID COMMISSIONER
19 BASS RECOMMENDED PAIN TREATMENT, AND YOU DIDN'T
20 GET IT. I'M LOOKING AT HIS ORDER, AND I SEE A
21 FINDING OF FACT NUMBER NINE, ACCORDING TO DR.
22 STOVALL, THE CLAIMANT SHOULD CONTINUE HIS
23 CURRENT WITH HIS MEDICATIONS OF OCTOBER 11,
24 2006, AND IT WOULD BE REASONABLE FOR THE
25 CLAIMANT TO HAVE CERVICAL EPIDURAL, LUMBAR

1 EPIDURAL INJECTION EVERY SIX TO TWELVE MONTHS
2 AS WELL AS EPIDURAL INJECTIONS FOR HIS SHOULDER
3 EVERY SIX MONTHS WITH THE OPTION OF
4 ARTHROSCOPY, CLAIMANT'S RIGHT SHOULDER IN THE
5 FUTURE. IS WHAT YOU ARE TALKING ABOUT?

6 **MR. WILSON:**

7 YES, SIR.

8 **COMMISSIONER HUFFSTETLER:**

9 ARE YOU SAYING THAT THE DOCTOR -- HE SAYS DR.
10 STOVALL RECOMMENDED THESE INJECTIONS. ARE YOU
11 SAYING THAT YOU DID NOT GET THEM?

12 **MR. WILSON:**

13 YES, SIR, THAT'S WHAT I'M SAYING.

14 **COMMISSIONER HUFFSTETLER:**

15 DO YOU HAVE A QUESTION, MA'AM?

16 Q WITH REGARDS TO THE VISIT WITH DR. STOVALL, THE MOST
17 RECENT VISIT THAT YOU HAD WITH DR. STOVALL, HE WANTS
18 TO SEND YOU FOR EVALUATION FOR SHOULDER SURGERY, IS
19 THAT CORRECT?

20 A YES, MA'AM.

21 Q AND, YOU ARE INTERESTED IN GETTING THAT TREATMENT AS
22 WELL?

23 A YES, MA'AM.

24 **COMMISSIONER HUFFSTETLER:**

25 ON WHAT PAGE DID DR. STOVALL RECOMMEND

1 EVALUATION FOR THE SURGERY?

2 MS. COTTEN:

3 WELL, IT DOESN'T ACTUALLY, IT DOESN'T SPECIFY
4 SURGERY IT JUST SAYS EVALUATION BY -- AND
5 THAT'S IN DEFENDANT'S APA 4A -- THE ONE THAT
6 CAME IN -- THE REPORT THAT CAME IN TODAY. AND,
7 IT DOESN'T SPECIFY SURGERY, JUST EVALUATION BY
8 THE SPORTS MEDICINE PHYSICIAN FOR THE RIGHT
9 SHOULDER.

10 COMMISSIONER HUFFSTETLER:

11 THAT'S NOTHING LIKE SURGERY IS IT?

12 MS. COTTEN:

13 NO, SIR, IT'S EVALUATION.

14 COMMISSIONER HUFFSTETLER:

15 WHY WOULD YOU ASK A QUESTION ABOUT EVALUATION
16 FOR SURGERY?

17 Q WHAT FURTHER EVALUATIONS FOR TREATMENT OF YOUR
18 SHOULDER --

19 COMMISSIONER HUFFSTETLER:

20 THANK YOU.

21 Q YOU'RE WELCOME. WOULD YOU BE INTERESTED IN ANY
22 FURTHER EVALUATION OF TREATMENT OF YOUR SHOULDER, I
23 MEAN OF THE SHOULDER.

24 A YES, MA'AM.

25 Q ALL RIGHT. HE ALSO DISCUSSED WITH YOU RECOMMENDING

1 A NERVE STUDY, IS THAT CORRECT -- AN EMG OR NERVE
2 STUDY?

3 A YES, MA'AM.

4 Q WHAT WAS THAT DISCUSSION ABOUT?

5 A THIS WAS IN RELATION TO MY URINE URGENCY AND MY
6 INCONTINENCE OR -- THAT'S THE MEDICAL TERM, I JUST
7 CALL IT LEAKING URINE. I'M NOT A MEDICAL --

8 Q HOW LONG HAS THIS BEEN A PROBLEM?

9 A SINCE ABOUT THE BEGINNING OF THE THIRD QUARTER 2007,
10 AND AT THAT TIME, I -- ANYWHERE FROM SIX TO EIGHT
11 MONTHS, I MEAN SIX TO EIGHT WEEKS WENT PAST AND I
12 DECIDED THAT SINCE THE SYMPTOMS WASN'T GOING
13 ANYWHERE, I NEEDED TO GET SOME MEDICAL ATTENTION.
14 AND, THAT'S WHEN I WENT TO MY FAMILY DOCTOR,
15 EXPLAINED IT TO HIM AND HE RECOMMENDED THAT I SEE A
16 UROLOGIST. AND, AT THAT TIME, AN ULTRASOUND OF MY
17 BLADDER WAS TAKEN AND THEY SAID YOUR BLADDER IS
18 EMPTYING OUT FINE, SO WE DON'T THINK THAT IS THE
19 PROBLEM. AND PRIOR TO THAT APPOINTMENT, I HAD AN
20 APPOINTMENT WITH MY FAMILY DOCTOR TO GET A PROSTATE
21 EXAM, AND HE SAID YOUR PROSTATE IS OKAY. THE
22 BLADDER WAS EMPTYING OUT OKAY AND THEY REFERRED ME
23 TO DR. RAW TO GET SOME UPDATED MRI'S OF MY LUMBAR
24 SPINE, CERVICAL SPINE.

25 Q NOW, DID DR. RAW FIND ANY RELATION BETWEEN THE

1 URINARY PROBLEMS YOU WERE HAVING IN YOUR BACK?

2 A AT THAT TIME, HE STATED NO. HE STATED TWO THINGS,
3 HE SAID "NO", BUT FURTHER STUDY WOULD HAVE TO BE
4 DONE AND HE RECOMMENDED THAT I BE SEEN BY THE
5 TREATING PHYSICIAN I WAS SEEING, BEING SEEN BY IN
6 THE PAST.

7 Q WHICH IS DR. STOVALL, CORRECT?

8 A YES.

9 Q DR. STOVALL INDICATED THAT HE DIDN'T BELIEVE THAT
10 THE URINARY SYMPTOMS WERE RELATED TO YOUR BACK
11 EITHER, IS THAT CORRECT?

12 A YES.

13 Q DO YOU KNOW WHY HE WANTS YOU TO HAVE THAT NERVE
14 STUDY DONE, THEN?

15 A JUST RULING OUT EVERYTHING -- EVERYTHING ELSE, MY
16 PROSTATE IS OKAY, MY BLADDER IS EMPTYING OUT FINE,
17 DOESN'T SEEM LIKE IT IS COMING FROM THE DISK, SO
18 JUST RULING OUT EVERYTHING ELSE -- THERE IS A
19 POSSIBILITY THAT SOME NERVE DAMAGE HAVE OCCURRED
20 SOMEWHERE IN RELATIONSHIP WITH THE MULTIPLE INJURIES
21 THAT I HAVE.

22 Q SO, YOU WISH TO HAVE THAT DONE AS WELL?

23 A YES, MA'AM.

24 Q NOW, HAVE YOU RETURNED TO WORK, MR. WILSON?

25 A NO, MA'AM.

1 Q WHY HAVEN'T YOU RETURNED TO WORK?

2 A JUST DUE TO THE MULTIPLE INJURIES AND MULTIPLE PAIN
3 LEVELS THAT I EXPERIENCE ON A DAILY BASIS. AND,
4 JUST ACTUALLY THOSE REASONS RIGHT THERE. MULTIPLE
5 PAIN LEVELS AND ALL OF MY INJURIES -- MY LOWER BACK,
6 MY LUMBAR SPINE, MY CERVICAL SPINE, RIGHT SHOULDER,
7 LEFT SHOULDER, AND WITH DR. STOVALL, HE ISSUED A
8 HOME EXERCISE PROGRAM WHICH WAS UNSUCCESSFUL. IT
9 WAS UNSUCCESSFUL WHEN I WAS TREATING WITH HIM, AND I
10 FAILED TO UNDERSTAND WHY HE KEPT ME ON THAT PROGRAM
11 WHEN IT WAS UNSUCCESSFUL. AND, JUST THE PAIN LEVEL
12 THAT I EXPERIENCE ON A DAILY BASIS ON, IF NOT ALL
13 THE INJURIES, BUT AT LEAST TWO INJURIES -- IF IT'S
14 NOT MY BACK AND MY NECK, IT'S MY NECK AND MY
15 SHOULDER. IT'S JUST PAIN IN ONE OF THOSE AREAS.

16 Q DO YOU BELIEVE YOU WILL BE ABLE TO RETURN TO WORK AT
17 SOME POINT?

18 A I'M HOPEFUL AFTER GOING TO SOUTHEASTERN SPINE AND
19 EXPLORING THOSE OPTIONS, I FEEL CONFIDENT THEY CAN
20 GIVE ME SOME GOOD TREATMENT JUST BASED ON MY VISIT
21 WITH DR. ROUSH. I JUST REMAIN HOPEFUL. AND, I DO
22 UNDERSTAND THAT, YOU KNOW, THE SITUATION WE ARE IN
23 WITH THE ECONOMY, I THINK SOUTH CAROLINA IS THIRD
24 HIGHEST UNEMPLOYMENT RATE, IT PUTS ME IN A BAD
25 POSITION, SO I REMAIN HOPEFUL WITH SOUTHEASTERN

1 SPINE.

2 Q NOW, YOU KNOW THERE WAS A VOCATIONAL REPORT DONE
3 PRIOR TO THE LAST HEARING THAT SAYS YOU SHOULD BE
4 ABLE TO RETURN TO LIGHT TO MEDIUM WORK?

5 A I'VE SEEN THAT REPORT, AND NO. OF COURSE, I
6 DISAGREE WITH IT, JUST DUE TO THE PAIN THAT I
7 EXPERIENCE EVERY DAY.

8 Q ANY SIDE EFFECTS FROM THE MEDICATION THAT YOU ARE
9 TAKING TO MANAGE THE PAIN?

10 A JUST DROWSINESS, MAKE ME DROWSY AND SOMETIMES IT
11 GIVES ME GAS, JUST MAINLY DROWSY, AND WHEN I HAVE AN
12 APPOINTMENT, I TEND TO WAIT UNTIL AFTER MY
13 APPOINTMENT BEFORE I, YOU KNOW -- I DON'T WANT TO BE
14 GOING TO AN APPOINTMENT ASLEEP. IT'S A REAL, I
15 DON'T WANT TO CALL IT SLEEPING PILLS, BUT IT GIVES
16 ME THAT EFFECT SOMETIMES.

17 Q AND, ONE OF THE FINDINGS OF FACT FROM THAT LAST
18 HEARING AS WELL WAS THAT YOU CONTINUE TO BE UNABLE
19 TO WORK. HAS ANYTHING CHANGED FOR THE BETTER IN
20 YOUR CONDITION SINCE THAT LAST HEARING?

21 A NO, MA'AM.

22 Q HAVE YOUR CONDITIONS GOTTEN WORSE SINCE THEN?

23 A YES, MA'AM.

24 MS. COTTEN:

25 THANK YOU.

1 **MS. HANTSKE:**

2 A FEW FOLLOW-UPS.

3 **REDIRECT EXAMINATION**

4 **BY MS. HANTSKE:**

5 Q FOLLOWING THE LAST HEARING, YOUR ATTORNEY REQUESTED
6 THAT YOU NOT BE SENT BACK TO DR. STOVALL, BUT RATHER
7 RECEIVE TREATMENT FROM A DIFFERENT ORTHOPEDIST,
8 CORRECT?

9 A I BELIEVE THERE WERE SOME ATTEMPTS --

10 Q BECAUSE YOU WEREN'T HAPPY WITH DR. STOVALL'S
11 TREATMENT?

12 A IT WAS JUST SO MUCH JUDGMENT.

13 Q ARE YOU AWARE THAT CARRIER ATTEMPTED TO HAVE DR.
14 AMMON EVALUATE YOU?

15 A I RECEIVED A COPY OF A EMAIL IN THE MAIL STATING
16 THAT DR. AMMON REFUSES TO TREAT ME AT THIS TIME, OR
17 AT THAT TIME. THAT WAS THE STATEMENT THAT I READ IN
18 AN EMAIL. THE PURPOSE OF HIM REFUSING TO TREAT ME
19 AT THAT TIME, I'M NOT SURE.

20 Q DID YOU EVER FOLLOW-UP WITH THE INSURANCE CARRIER TO
21 SAY THAT YOU NEEDED ADDITIONAL MEDICAL TREATMENT FOR
22 YOUR BACK OR YOUR NECK OR ANYTHING?

23 A I WOULDN'T SAY PER SE THE INSURANCE CARRIER, I MEAN,
24 ANYTIME I GOT A MEDICAL REPORT, I SENT IT IN TO THE
25 OFFICE OF THE WORKERS' COMP COMMISSION, AND FROM

1 THERE THEY ISSUED OUT A COPY TO BOTH ATTORNEYS THAT
2 WAS ON FILE ON THE DEFENSE AND THE CLAIMANT'S SIDE.
3 WHOEVER WAS THE ATTORNEY ON FILE, THEY WOULD RECEIVE
4 A COPY OF EACH REPORT, EACH MRI REPORT THAT I SENT
5 IN AND KNOWING THAT I BEGAN TO GET, YOU KNOW,
6 FRUSTRATED STATING THAT THERE IS SOME AWARENESS OF
7 MY CONDITION, BUT NOTHING HAD BEEN DONE.

8 Q WHAT MRI REPORTS ARE YOU REFERRING TO?

9 A I HAD ONE OF THE BRAIN, TO THE HEAD, AND UPDATED ONE
10 OF MY LUMBAR SPINE, A UPDATED ONE OF MY CERVICAL
11 SPINE AND THE ONE OF MY LEFT SHOULDER.

12 Q I HAVE THE REPORTS FROM -- ARE YOU TALKING ABOUT IN
13 JANUARY OF 2008?

14 A YES, MA'AM.

15 Q IF HAVE THE REPORTS THAT SAY WITH REGARD TO THE
16 LUMBAR AND THE CERVICAL SPINE THIS DOES NOT APPEAR
17 TO HAVE CHANGED SINCE THE SCAN WAS DONE A YEAR OR
18 TWO AGO, IS THAT ACCURATE?

19 A NO, MA'AM. THERE WERE SOME NEW FINDINGS THAT'S
20 NOTED IN THE UPDATED MRI.

21 Q I'M REFERRING TO PAGE 86 OF OUR PRE-HEARING BRIEF.
22 WERE YOU SEEING DR. RAW FOR THIS?

23 A YES, MA'AM.

24 Q DID DR. RAW TELL YOU THAT YOUR MRIs HAD NOT CHANGED?

25 A WELL, I GOT A COPY OF THE MRI REPORT ITSELF. I GOT

1 A COPY OF THE MRI OF THE HEAD ITSELF, THE LUMBAR
2 SPINE ITSELF, AND CERVICAL SPINE ITSELF.

3 Q DR. RAW DIDN'T FIND ANY RELATIONSHIP TO YOUR URINARY
4 URGENCIES AS ANY RELATIONSHIP BETWEEN THAT AND YOUR
5 BACK OR NECK INJURY, DID HE?

6 A NO. NO, MA'AM.

7 Q AND, AT THE LAST APPOINTMENT YOU HAD WITH DR.
8 STOVALL, HE ALSO SAID THAT THERE WERE NO INDICATIONS
9 THAT YOUR URINARY SYMPTOMS WERE COMING FROM YOUR
10 NECK OR YOUR LOWER BACK, CORRECT?

11 A YES, MA'AM.

12 Q AND, DR. STOVALL DIDN'T NOTE AT THAT LAST
13 APPOINTMENT YOU HAD LAST WEEK THAT YOU WERE NOT ABLE
14 TO WORK, DID HE?

15 A I GUESS NOT. THERE WAS A DISCUSSION. WELL, HE
16 ASKED ME "HAVE YOU BEEN BACK TO WORK?" I SAID "NO,
17 SIR." SO, HE WAS AWARE.

18 Q BUT, DID HE TELL YOU YOU COULDN'T WORK AT ALL?

19 A HE DIDN'T GIVE ME ANY REPORT OF ANYTHING.

20 Q YOU HAVE A HIGH SCHOOL EDUCATION, CORRECT?

21 A YES, MA'AM.

22 Q YOU COMPLETED THE TWELFTH GRADE?

23 A YES, MA'AM.

24 MS. HANTSKE:

25 THAT'S ALL.

1 **COMMISSIONER HUFFSTETLER:**

2 YOU SAID YOU ARE A HIGH SCHOOL GRADUATE. HOW
3 OLD ARE YOU?

4 **MR. WILSON:**

5 JUST TURNED 40 LAST MONTH.

6 **COMMISSIONER HUFFSTETLER:**

7 WHAT KIND OF WORK HAVE YOU DONE IN YOUR ADULT
8 LIFE?.

9 **MR. WILSON:**

10 MY LAST PLACE OF EMPLOYMENT WAS WITH AMERICAN
11 LAFRANCE, WHICH WAS ASSEMBLY. PRIOR TO THAT
12 ANOTHER ASSEMBLY PLANT. I'VE BASICALLY DONE
13 PRODUCTION WORK.

14 **COMMISSIONER HUFFSTETLER:**

15 ANYTHING ELSE?

16 **MS. HANTSKE:**

17 NO, SIR.

18 **MS. COTTEN:**

19 NO, SIR.

20 **COMMISSIONER HUFFSTETLER:**

21 NOBODY HAS ASKED YOU HOW YOU'RE DOING, WHAT
22 PROBLEMS YOU ARE HAVING. I WANT YOU TO START
23 WITH EACH BODY PART, YOUR RIGHT SHOULDER, HOW
24 HIGH CAN YOU LIFT YOUR ARM, YOUR RIGHT ARM?

25 **MR. WILSON:**

1 HERE AND THE PAIN STARTS.

2 **COMMISSIONER HUFFSTETLER:**

3 ABOUT 90 DEGREES?

4 **MR. WILSON:**

5 YES, YES, SIR.

6 **COMMISSIONER HUFFSTETLER:**

7 CAN YOU EXTEND YOUR HAND OUT?

8 **MR. WILSON:**

9 (DEMONSTRATES)

10 **COMMISSIONER HUFFSTETLER:**

11 OKAY, SO YOU CAN TAKE IT STRAIGHT OUT?

12 **MR. WILSON:**

13 YES.

14 **COMMISSIONER HUFFSTETLER:**

15 CAN'T GO OVERHEAD?

16 **MR. WILSON:**

17 PAIN, MINIMAL PAIN.

18 **COMMISSIONER HUFFSTETLER:**

19 CAN YOU TURN YOUR NECK SIDE TO SIDE?

20 **MR. WILSON:**

21 (DEMONSTRATES)

22 **COMMISSIONER HUFFSTETLER:**

23 GOOD. IS THAT ANY DIFFERENT, THE RANGE OF

24 MOTION ANY DIFFERENT THAT IT WAS BEFORE YOU GOT

25 HURT?

1 **MR. WILSON:**

2 CLOSE TO THE SAME. IT DEPENDS ON HOW MUCH
3 ACTIVITY I GET INVOLVED IN. ACTIVITY TENDS TO
4 BRING ON MORE PAIN.

5 **COMMISSIONER HUFFSTETLER:**

6 AND, YOUR LOWER BACK? WHAT LIMITATIONS, IF
7 ANY, DO YOU HAVE BENDING, STOOPING, WALKING?

8 **MR. WILSON:**

9 BENDING, STOOPING.

10 **COMMISSIONER HUFFSTETLER:**

11 HOW FAR CAN YOU BEND?

12 **MR. WILSON:**

13 FORTY-FIVE DEGREES. I'M NOT SURE, BUT IT'S
14 VERY LIMITING. FOR EXTENDED AMOUNT OF TIME OF
15 STANDING, I WOULD SAY RIGHT NOW IT'S LESS THAN
16 THIRTY MINUTES. SAME THING WITH SITTING,
17 CLIMBING, STOOPING. THESE ARE JUST THINGS THAT
18 BRING ON PAIN AND --

19 **COMMISSIONER HUFFSTETLER:**

20 IS IT BOTH LUNGS OR JUST ONE LUNG?

21 **MR. WILSON:**

22 I BELIEVE IT'S JUST THE RIGHT ONE.

23 **COMMISSIONER HUFFSTETLER:**

24 RIGHT LUNG?

25 **MR. WILSON:**

1 YES, SIR.

2 **COMMISSIONER HUFFSTETLER:**

3 WHAT PROBLEMS, IF ANY, ARE YOU HAVING WITH YOUR
4 RIGHT LUNG?

5 **MR. WILSON:**

6 RIGHT NOW AS WE STATED BEFORE, WITH THE ADVAIR,
7 IT'S GETTING ME AT ABOUT NINETY PERCENT, AND IF
8 I --

9 **COMMISSIONER HUFFSTETLER:**

10 WITHOUT THE ADVAIR?

11 **MR. WILSON:**

12 OH, MUCUS BUILD-UP, SHORTNESS OF BREATH, CHEST
13 PAINS, COUGHING.

14 **COMMISSIONER HUFFSTETLER:**

15 SO THE ADVAIR HELPS YOU WITH THAT. AND WITHOUT
16 IT, YOU HAVE THOSE PROBLEMS?

17 **MR. WILSON:**

18 YES, SIR.

19 **COMMISSIONER HUFFSTETLER:**

20 WHAT PROBLEMS, IF ANY, DO YOU HAVE USING THE
21 ADVAIR?

22 **MR. WILSON:**

23 OTHER THAN, WELL, LET ME SAY ONE TIME, THAT I
24 WAS DOING SOME CLEANING IN MY HOUSE AND I GUESS
25 THE CHEMICAL I WAS USING WAS PRETTY STRONG AND

1 IT IRRITATED IT, SO I KNEW THAT THERE WAS A
2 PROBLEM, SOMETHING THAT I NEED TO AVOID. ALSO,
3 DURING THE POLLEN SEASON, IT KIND OF AGGRAVATES
4 IT, BUT SINCE I HAVE BEEN ON THE ADVAIR,
5 HOPEFUL THERE'S ENOUGH IN MY SYSTEM THAT WILL
6 ELIMINATE ANY SIGNIFICANT CHANGE IN MY
7 CONDITION RIGHT NOW.

8 **COMMISSIONER HUFFSTETLER:**

9 WHAT ABOUT THE RIBS? WHAT PROBLEMS WITH YOUR
10 RIBS?

11 **MR. WILSON:**

12 NO PROBLEMS WITH MY RIBS.

13 **COMMISSIONER HUFFSTETLER:**

14 ALL RIGHT, THANK YOU. IF NOTHING ELSE, THEN
15 THAT CONCLUDES THE HEARING.

16 **(THERE BEING NO FURTHER QUESTIONS, THIS DEPOSITION**
17 **WAS CONCLUDED AT THE HOUR OF 2:42 P.M.)**
18
19
20
21
22
23
24
25

CERTIFICATE OF NOTARY PUBLIC
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
COLUMBIA, SOUTH CAROLINA
WCC FILE NO.050037

EMPLOYEE/CLAIMANT: FRANK WILSON

EMPLOYER: AMERICAN LAFRANCE

INSURER: AMERICAN HOME INSURANCE

I, KATHRYN B BOSTROM, A NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA, DULY COMMISSIONED AND QUALIFIED AS SUCH, DO HEREBY CERTIFY THAT THE FOREGOING **28** PAGES REPRESENT A TRUE AND ACCURATE TRANSCRIPT OF THE FOREGOING HEARING OF FRANK WILSON, TAKEN ON THE 10TH DAY OF MARCH, 2009.

THAT THE WITNESS WAS DULY PLACED UNDER OATH AND ADMONISHED TO SPEAK THE WHOLE TRUTH. THAT THE ORAL DEPOSITION 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 26TH DAY OF MARCH, 2009.

Kathryn Bostrom
KATHRYN B BOSTROM
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: 8-5-2012

* THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL IS REPRODUCED AS READ OR QUOTED BY THE SPEAKER.

ORDER
OF
THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
FILE NO.: 0506037

FRANK WILSON

EMPLOYEE/CLAIMANT

VS.

AMERICAN LAFRANCE,

EMPLOYER/DEFENDANT,

AND

AMERICAN HOME ASSURANCE
CHARTIS CLAIMS, INC.

CARRIER/DEFENDANT.

Hearing, date and place: March 23, 2010 North Charleston, SC

Appearances: Claimant represented by attorney D. Dusty Rhoades
Defendants represented by attorney Erin Hantske

Hearing Commissioner: Derrick Williams

Court Reporter: Nadine Quattlebaum

Purpose of Hearing: To determine issues set forth in the Forms 50 and 51 and the
hearing notice, and as otherwise stated/stipulated to at the hearing.

Date: April 5, 2010

STIPULATIONS

Counsel for all parties stipulated at the hearing to the following issues:

- (1) The purpose of the hearing is to determine the issues set forth in the hearing notice and issues plead in the Forms 50 and 51, and any other issues which may timely come before the commissioner.
- (2) Notice of the hearing was timely and properly served upon all parties of interest.
- (3) Venue, set in Charleston County, is proper and agreed by all parties.
- (4) The claimant seeks additional medical benefits under the South Carolina Workers' Compensation Act, for his left shoulder and tonsils. Defendants deny compensability.
- (5) Defendants admit body parts of neck, low back, right shoulder, ribs and lungs, and deny the left shoulder, and tonsils being causally related to the admitted accident of May 16, 2005.
- (6) Without objection, and with the exception of any self-serving statements or unstipulated medical reports, the Commission's file was made a part of the record

APA SUBMISSIONS

Pursuant to the South Carolina Administrative Procedures Act, South Carolina Code § 1-23-320 et. seq., and Regulation 67-612, the parties submitted the following items as evidence in support of their cases:

Claimant's Exhibits

NAME OF PHYSICIAN/OTHER

DATE

PAGE NUMBERS

1. Claimant Background Information		1 - 4
2. Lowcountry Orthopaedics	03/02/09 - 05/05/09	5 - 12
3. Dr. Faaberg	12/19/06 - 06/25/07	13 - 19
4. Dr. Estes	08/20/09 - 09/29/09	20 - 24
5. Dr. Graham	08/05/09 - 02/24/10	25 - 33
6. Southeastern Spine Institute	06/17/09 - 03/03/10	34 - 65b
7. Dr. Spandorfer	10/10/08	66 - 68
8. Dr. Fechter	03/23/07 - 02/05/10	69 - 79
9. Sports Plus PT	08/10/06 - 10/01/06	80 - 94
10.FCE	09/27/06	95 - 103

Defendants' Exhibits

11. Dr. Stovall	08/4/05	104 - 144
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STATEMENT OF CASE

Claimant requested this hearing for the purpose of determining compensability of the tonsils and left shoulder. Defendants admit compensability to the neck, lower back, right shoulder, ribs, and lungs, but deny the left shoulder and tonsils.

CLAIMANT'S POSITION SUMMARY

It is the position of the Claimant that the Claimant suffered a compensable injury to the left shoulder during "work hardening" physical therapy and during a Functional Capacity Evaluation regarding the admitted injuries of the neck, low back, ribs, lungs, and right shoulder. The position of the Claimant is also that the removal of large tonsils would aid in his breathing which was compromised by the injury to his ribs and lungs. It is also the position of the Claimant that the Motion to Postpone the hearing be denied stating that, "The defense has had ample time to schedule a deposition with Dr. Graham since receiving the Form 50, and since learning that the Claimant had set up the appointment to see Dr. Graham to evaluate his shoulders on January 14, 2010.

DEFENDANT'S POSITION SUMMARY

The Defendants deny and dispute that the Claimant has suffered a compensable injury to his left shoulder asserting that no credible evidence that his left shoulder complaints are causally-related to his work-injury. With regard to the Claimant's lung treatment, Defendants contend Dr. Fechter's March 19, 2009 note stating: "...continued tonsillar enlargement, which would contribute to the obstructive sleep symptoms. This is not related to his motor vehicle accident, but would improve his respiratory status if Workers' Compensation will pay for the tonsillectomy", demonstrates clearly that Claimant's need for the removal of his tonsils is not causally-related to the admitted motor vehicle accident. Defendants filed a Motion to Postpone the hearing pursuant to Regulation 67-613 in order to conduct Dr. Graham's deposition based on his February 4, 2010 medical notes addressing right and left shoulders received by Defendants on March 1, 2010. Defendants were unable to schedule the deposition prior to submitting the pre-hearing brief, but have since been able to schedule the deposition for May 6, 2010.

EVIDENCE OF THE CASE

Medical Evidence Summary and Review

Claimant suffered injuries related to an auto accident on May 16, 2005. Since that date Claimant has been treated for injuries to his neck, back, right shoulder, ribs and lungs. The Claimant underwent physical therapy beginning 8/10/2006 and continuing until 10/1/2006, at which time he was discharged (APAs pgs. 80 - 94). At the start of a work conditioning program, the Claimant's subjective complaints included lower back and cervical pain, right flank pain, and right rotator cuff pain/right shoulder pain (APAs pg. 80). On 9/16/06, while undergoing work conditioning, the Claimant complained of left cervical pain, in particular (APAs pg. 89).

Previously, the Claimant complained of general cervical pain and right shoulder pain (APAs pgs. 80-94).

The Claimant participated in an FCE on 9/27/06 (APA pgs. 95-103). The Claimant testified at the hearing that the FCE further injured his left shoulder. The Claimant also testified that he told the therapist that the exercise he was asked to perform was hurting his shoulders, (including his left shoulder) and was angry when he was asked to continue. The therapist reports on page 99 of the APAs that:

“The client also refused to commit to being able to lift more weight, stating, “You’re the expert, you tell me if I can lift more.” He showed very little incentive to push himself to the maximum. I did not stop adding weight until I saw the signs of maximum effort. This response would continue for the majority of the lifts.”

On 12/19/06 the Claimant underwent an independent medical evaluation with Dr. Faaberg at the request of the Claimant’s attorney. Dr. Faaberg stated that, “He [Claimant] reports pain across the upper margins of the left shoulder but range of motion and strength are intact.” And, “Mr. Wilson has developed multiple areas of pain in the neck, both shoulders, and low back.” (APAs pg.18). The Claimant underwent an MRI of the left shoulder, at the request of Dr. Faaberg, and the impression from the MRI was that Claimant suffered from “Supraspinatus and biceps tendinosis with partial tears.” (APA pg. 19). The Claimant was referred to Dr. Graham for right shoulder pain only on 8/5/09. Dr. Graham recommended that Claimant undergo treatment for his cervical spine and that if the right shoulder pain continued subsequently that further diagnostic testing and treatment for the right shoulder would be considered (APAs pg. 25). The Claimant pursued treatment on his own with Dr. Estes because

the left shoulder injury was denied by the defendants. Dr. Estes reported that Claimant stated he had been experiencing left shoulder pain for about three years (which coincides with the work-conditioning and FCE) (APAs pg. 20). X-rays of the shoulders were abnormal and showed "moderate degenerative changes at the AC joint bilaterally, worse in the right shoulder." (APA pg. 20). Dr. Estes recommended a shoulder scope of both shoulders. (APA pg. 23).

The Claimant was treated with cervical epidural steroid injection on 12/31/09 (APA pg.62). He returned to Dr. Graham for evaluation of his shoulders. Dr Graham states:

"In the process of doing work hardening to address his [Claimant's] right shoulder he injured his left shoulder in he third quarter or fourth quarter of 2006. He continues to have pain in his left shoulder with findings similar to that on the right. It does appear that this is causatively related to the right shoulder accident as well given the way the injury occurred and that he was doing work hardening to address his right shoulder pain." (APA pg. 32).

The Claimant was evaluated by pulmonologist, Dr. Cary Fechter, on 5/23/07, because of continued chest pain and shortness of breath related to the auto accident. Dr. Fechter stated:

"Whether he [Claimant] is/was predisposed or not, the fractured ribs affected his respiratory function, and unfortunately there still has not been complete resolution of his chest tenderness." (APA pg. 73).

At the Claimant's 3/14/09 appointment, Dr. Fechter concludes:

"1) Pneumothorax and pleural effusions after motor vehicle accident with just mild residual disease.

2) Continued tonsillar enlargement, which would contribute to the obstructive sleep symptoms. This is not related to his motor vehicle accident, but would improve his respiratory status if Workers' Compensation will pay for the tonsillectomy." (APA pg. 77).

Dr. Fechter stated that:

“Mr. Frank Wilson’s lung/breathing, limitations/conditions, are affected negatively by his tonsils, removing his tonsils would, more likely than not, prevent more deterioration of his pulmonary condition” (APA pg. 79).

FINDINGS OF FACT

IT IS FOUND AS A FACT:

- (1) Claimant is a credible witness based on my observation of him, during the course of his testimony at the hearing. I have no reason to doubt his version of what caused his injury to his left shoulder, which occurred when he underwent the FCE and “work-hardening”. My impressions as stated herein are limited to the testimony I heard and my observations of Claimant’s demeanor on the date of the hearing.
- (2) Nothing in this order is to preclude a future finding relating to Claimant’s credibility at another hearing regarding permanency, compensability, or other issues.
- (3) I do not find the tonsils compensable body parts in this case. Based on Dr. Fechter’s reports, his notes clearly state that “this is not related to his motor vehicle accident.” (See APAs pgs. 77,79).
- (4) I do find the Claimant’s left shoulder compensable. This finding is based on the greater weight of, medical evidence as a whole, including Dr. Graham’s reports, and the Claimant’s credible testimony.

- (5) The Defendants' Motion to Postpone is denied, based on Dr. Graham's February 4, 2010 medical note relating the left shoulder pain to work hardening and the FCE, as well as Claimant's Reply to Motion, which asserts that:

"The Form 50 was filed January 14, 2010, alerting the Defense that the Claimant was claiming injury to the left shoulder;

On January 14, 2010 an appointment was scheduled by the defense (please see attached e-mail). The original appointment was set up by the Claimant to address both shoulders. When the defense learned that the Claimant had already scheduled the appointment, they authorized the same appointment for the right shoulder only. The Claimant, however asked that Dr. Graham address the left shoulder as well, and that, if there was an additional cost to do so, that an invoice be sent to the Claimant's attorney;

The defense has had ample time to schedule a deposition with Dr. Graham since receiving the Form 50, and since learning that the Claimant had set up the appointment to see Dr. Graham to evaluate his left shoulder on January 14, 2010."

- (6) All other motions are held in abeyance.

RULINGS OF LAW

Upon the foregoing findings of fact, and under the Code of Laws of South Carolina, as amended, it is concluded that:

- (1) In a previous Order, filed April 17, 2008 it was concluded, as a matter of law that:

"Pursuant to Section 42-1-160, the Claimant sustained a compensable injury to his neck, low back, right shoulder, ribs and lungs arising out of and in the course and scope of his employment with the Defendants on May 16, 2005."

- (2) Under § 42-1-160, **Injury and Personal Injury Defined**, Claimant sustained an injury by accident arising out of and in the course of the employment, said injury being to left shoulder.

"In workers' compensation action, new injuries resulting indirectly from treatment of the original injury, are also compensable." (See *Mullinax v. Winn-Dixie Stores*, 318 S.C. 431, 458 S.E.2d 76 (S.C. App. 1995)).

This is what applies as a matter of law in this instance.

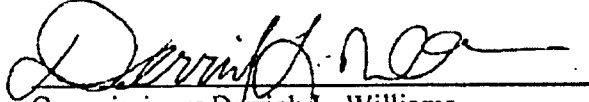
- (3) Under § 42-1-160, **Injury and Personal Injury Defined**, the tonsils are not causally related or connected to the admitted accident and, therefore, are not compensable, but based on the greater weight of the evidence, the left shoulder is a body part affected by the initial injury and is compensable under the Act.
- (4) Pursuant to Regulation 67-613, **Postponement or Adjournment of scheduled hearing**, as a matter of law, the postponement, or adjournment, to take and submit Dr. Graham's deposition after the hearing, is denied.

ORDER

IT IS THEREFORE ORDERED:

- (1) Defendants are to provide Claimant with additional medical evaluation and treatment, with Dr. Graham, for the left shoulder' in addition to the admitted causally related injuries - ribs, lungs, neck, low back, and right shoulder.
- (2) The Defendants' Motion to Postpone is denied.
- (3) All other issues are held in abeyance.

SOUTH CAROLINA WORKERS'
COMPENSATION COMMISSION


Commissioner Derrick L. Williams

Date: April 5, 2010

CERTIFICATE OF SERVICE

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

April 5, 2010

By: Renee Smith, Administrative Assistant to Commissioner Williams

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 0506037

FRANK WILSON,

Employee,

Claimant,

vs.

FREIGHTLINER,

Employer,

AND

AIG c/o GALLAGHER BASSETT SERVICES,
INC.,

Carrier,

Defendants.

DECISION AND ORDER

DATE OF HEARING:

Hearing held in North Charleston, S.C. on July 21, 2011.

APPEARANCES:

Claimant, Frank Wilson, appeared pro se.

Defendants represented by Erin L. Hantske, Esquire of McAngus
Goudelock & Courie, L.L.C. of Charleston, South Carolina.

PURPOSE OF THE HEARING:

To determine all issues as set forth in Forms 50 and 51.

COMMISSIONER:

Commissioner Andrea C. Roche

FILED:

August 11, 2011

STIPULATIONS

The parties stipulated at the hearing to the following:

1. The South Carolina Workers' Compensation Commission has jurisdiction over this claim.
2. Notice of hearing was timely and properly served upon all parties of interest.
3. Venue and jurisdiction are proper in Charleston County.
4. The Claimant's average weekly wage is \$764.20, with a corresponding compensation rate of \$509.49.

APA SUBMISSIONS

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

CLAIMANT'S SUBMISSIONS:

1. Medical records from Carolina Lung and Critical Care, dated 2/8/11 through 5/17/11, consisting of 32 pages;
2. Deposition packet from A. William Roberts, Jr. & Associates, dated 5/16/11;
3. Deposition packet from Dr. Michael A. Spandorfer at Carolina Lung and Critical Care, dated 4/8/11;
4. Deposition packet from Dr. Cary Fechter at Palmetto Pulmonary and Metabolics, dated 4/27/07;
5. Medical records from Lowcountry Orthopaedics and Sports Medicine, dated 7/26/06 through 5/5/09, consisting of 24 pages;
6. Medical records from Orthopaedic Specialists of Charleston, dated 8/5/09 through 6/29/11, consisting of 39 pages;
7. Medical records from Dr. William Estes at Southern Orthopaedics and Sports Medicine, dated 8/20/09 through 9/29/09, consisting of 9 pages;

8. Medical records from Southeastern Spine Institute, dated 1/25/10 through 6/18/11, consisting of 11 pages;
9. Medical records from Dr. Colin Goudelocke at MUSC Urology, dated 3/16/11 through 4/13/11, consisting of 2 pages;
10. Medical records from Palmetto Interventional Pain Management, dated 2/1/11 through 6/21/11, consisting of 14 pages;
11. Medical records from Trident Sports Medicine and Rehabilitation, dated 6/6/11 through 6/28/11, consisting of 39 pages;
12. Deposition packet from the Claimant, dated 2/15/10;

CLAIMANT'S EXHIBITS:

Exhibit A: 1) Lowcountry Orthopaedics and Sports Medicine; 2) Lowcountry Orthopaedics and Sports Medicine letter; 3) Lowcountry Orthopedics and Sports Medicine letter

Exhibit B: 1) Lowcountry Orthopaedics and Sports Medicine letter; 2) Medical reports and MRI reports

Exhibit C: 1) Lowcountry Orthopaedics and Sports Medicine

Exhibit D: 1) Lowcountry Orthopaedics and Sports Medicine

Exhibit E: 1) Orthopaedic Specialists of Charleston

Exhibit F: 1) Southeastern Spine Institute (Donald R. Johnson, II, M.D.); 2) Southeastern Spine Institute (Donald R. Johnson, II, M.D.); 3) Southeastern Spine Institute (Donald R. Johnson, II, M.D.)

Exhibit G: 1) Palmetto Interventional Pain Management

DEFENDANTS' SUBMISSIONS:

1. Medical records from John Graham at Orthopaedic Specialists of Charleston, dated 8/5/09 through 6/11/11, consisting of 16 pages;
2. Medical records from Dr. Michael Spandorfer, dated 4/5/11 through 5/17/11, consisting of 9 pages.

STATEMENT OF THE CASE

The Claimant suffered a compensable injury by accident in the course and scope of his employment on or about May 16, 2005, when he was involved in a motor vehicle accident. Defendants admit compensable injuries to the neck, low back, right shoulder, left shoulder, ribs, lungs, and bladder. The Claimant is currently receiving the following causally-related medical treatment: lumbar and cervical spine with Dr. Blane Richardson, right and left shoulders with Dr. John Graham including a second surgery to the right shoulder on May 19, 2011, lungs with Dr. Michael Spandorfer including a sleep study on April 20, 2011 as well as an echocardiograph on May 13, 2011, and urological treatment with Dr. Goudelocke.

The parties presented to the hearing with Commissioner Roche on July 21, 2011. The parties had a lengthy pre-trial conference and did not go on the record at the hearing. The Claimant expressed his concern regarding his current shoulder treatment with Dr. Graham. He is not happy with the treatment being provided by Dr. Graham and requested that the Carrier authorize a second opinion with another physician to evaluate his left and right shoulder. The Claimant also expressed his concern regarding the alleged delay by the Carrier regarding authorization for recommended treatment and procedures. Finally, he requested reimbursement for the two visits to Dr. William Estes in 2009 regarding the evaluation for his shoulders.

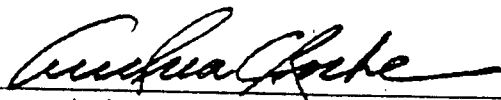
Defendants asserted that the Claimant is currently receiving all appropriate and causally-related medical treatment for his work-injuries. Additionally, Defendants denied responsibility for payment of the visits to Dr. Estes as those visits were not authorized by the Carrier and the compensability of the Claimant's shoulders were in dispute at the time.

ORDER

The parties did not go on the record, but following the lengthy pre-trial conference and review of the parties' respective pre-hearing briefs and the medical evidence submitted, Commissioner Roche ordered the following:

1. The parties hereto are subject to and bound by the South Carolina Workers' Compensation Act.
2. The Claimant's average weekly wage is \$764.20, with a corresponding compensation rate of \$509.49.
3. The Claimant suffered an admitted injury by accident in the course and scope of his employment on or about May 16, 2005, to his neck, low back, left shoulder, right shoulder, ribs, bladder, and lungs.
4. The Claimant is currently receiving all appropriate and causally-related medical treatment with Dr. Richardson, Dr. Graham, Dr. Spandorfer, and Dr. Goudelocke.
5. Per the Claimant's request, Defendants are ordered to provide a second opinion for the Claimant's right and left shoulder and the undersigned will approve the Defendants' choice of a physician prior to authorizing the same. Defendants have selected Dr. James DeMarco at Palmetto Orthopaedics of Charleston for that evaluation.
6. Defendants are to authorize all admitted medical treatment and procedures within fourteen days from receipt of the medical narrative report from the treating physician. Failure to do so will result in a fine to the Carrier pursuant to S.C. Code Ann. Section 42-3-175.
7. Defendants are not responsible for reimbursement related to the Claimant's treatment with Dr. William Estes in 2009.

AND IT IS SO ORDERED.


Commissioner Andrea C. Roche

CERTIFICATE OF SERVICE

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

August 11, 2011

By: Barbara Cheeseboro, Administrative Assistant to Commissioner Roche

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 0506037

FRANK WILSON,

Employee,

Claimant,

vs.

FREIGHTLINER,

Employer,

AND

AIG c/o GALLAGHER BASSETT
SERVICES, INC.,

Carrier,

Defendants.

DECISION AND ORDER

DATE OF HEARING:

Hearing held in Dorchester, S.C. on November 30, 2011.

APPEARANCES:

Claimant, Frank Wilson, appeared *pro se*.

Defendants represented by Erin L. Hantske, Esquire of
McAngus Goudelock & Courie, L.L.C. of Charleston,
South Carolina.

PURPOSE OF THE HEARING:

To determine all issues as set forth in Forms 50 and 51.

COMMISSIONER:

Commissioner Avery B. Wilkerson, Jr.

FILED:

10 Feb 2012

STIPULATIONS

The parties stipulated at the hearing to the following:

1. The South Carolina Workers' Compensation Commission has jurisdiction over this claim.
2. Notice of hearing was timely and properly served upon all parties of interest.
3. Venue and jurisdiction are proper in Charleston County.
4. The Claimant's average weekly wage is \$764.20, with a corresponding compensation rate of \$509.49.

APA SUBMISSIONS

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

Claimant's Submissions

1. Medical records from Southeastern Spine Institute dated January 25, 2010, through June 18, 2011, 13 pages;
2. Medical records from Palmetto Interventional Pain Management dated March 26, 2011, through October 25, 2011, 7 pages;
3. Medical records from MUSC Urology dated April 13, 2011, through July 21, 2011, 2 pages;
4. Medical records from Southern Orthopaedics and Sports Medicine dated August 20, 2009, through September 29, 2009, 5 pages;
5. Medical records from Tricounty Radiology Associates dated September 7, 2010, through January 17, 2011, 2 pages;

6. Medical records from Trident Sports Medicine and Rehabilitation dated July 1, 2011, through August 5, 2011, 17 pages;
7. Medical records from Orthopaedic Specialists of Charleston dated June 29, 2011, through September 21, 2011, 4 pages;
8. Medical records from Carolina Lung and Critical Care dated August 31, 2011, 3 pages;
9. Medical records from Lowcountry Orthopaedics and Sports Medicine dated July 26, 2006, through November 2, 2011, 24 pages;
10. Medical records from Lowcountry Orthopaedics and Sports Medicine dated November 14, 2011, 2 pages;
11. Medical records from Roper Hospital dated April 20, 2011, 1 page;
12. Medical records from MUSC Urology dated August 18, 2010, through November 3, 2010, 3 pages;
13. Erin Hantske letter dated October 14, 2011, 2 pages;
14. Erin Hantske letters dated September 26, 2011, through November 2, 2011, 4 pages;
15. Claimant's copy of check used for July 21, 2011, hearing dated July 21, 2011, 1 page;
16. Claimant's American LaFrance termination letter dated December 14, 2005, 1 page;
17. Claimant's American LaFrance performance evaluations dated February 17, 2004, through March 10, 2005, 3 pages.

Defendants' Submissions

- A. Letter from Defense counsel to Dr. James DeMarco dated August 17, 2011, 2 pages;
- B. Letter from Defense counsel to Claimant dated August 30, 2011, 1 page;
- C. Letter from Defense counsel to Dr. David Jaskwhich dated August 30, 2011, 2 pages;
- D. Letter from Defense counsel to Claimant dated September 26, 2011, 1 page;
- E. Letter from Defense counsel to Claimant dated September 29, 2011, 1 page;
- F. Letter from Defense counsel to Dr. James Spearman dated October 20, 2011, 3 pages;
- G. Letter from Defense counsel to Claimant dated October 27, 2011, 1 page;
- H. Letter from Defense counsel to Claimant dated November 2, 2011, 1 page.

STATEMENT OF THE CASE

The Claimant suffered a compensable injury by accident in the course and scope of his employment on or about May 16, 2005, when he was involved in a motor vehicle accident. Defendants admit compensable injuries to the neck, low back, right shoulder, left shoulder, lungs, ribs, and bladder. The Claimant was released at maximum medical improvement by the following physicians: Dr. Johnson on October 12, 2010 (from a surgical standpoint) for his spine with a 21 percent whole person impairment rating secondary to the lower back and a 5 percent whole person impairment rating secondary to the neck; Dr. Colin Goudelocke on April 13, 2011, (from a urology standpoint) with a 21 percent whole person impairment rating; Dr. Michael Spandorfer on August 31, 2011, with a 10 percent impairment rating to the lungs; Dr. John Graham on September 21, 2011, with a 25 percent impairment rating to the right shoulder.

Pursuant to the Form 14-Bs completed by each of the afore-mentioned physicians, the Claimant is in need of additional medical treatment and the Carrier will continue to provide the same. The Claimant continues to treat with Dr. W. Blaine Richardson for his spine and with Dr. James Spearman for his bilateral shoulders. At the Claimant's appointment with Dr. Spearman on November 17, 2011, Dr. Spearman recommended MRI scans of both the right and left shoulders and the Carrier agrees to provide these scans as well as any additional treatment recommended by Dr. Spearman for the bilateral shoulders.

The parties presented to the hearing with Commissioner Wilkerson on November 30, 2011. The parties had a lengthy pre-trial conference and did not go on the record at the hearing. The Claimant expressed his concern regarding the unpaid bill for the authorized sleep study performed on April 20, 2011, and the subsequent notices from the provider for the same. The Claimant also requested reimbursement for transportation to the hearing with Commissioner Roche on July 21, 2011, as well as to the hearing on November 30, 2011. Finally, the Claimant requested that the Commission address the issue of potential medical neglect, medical malpractice, bias, and any inappropriate action and/or practice as it relates to the Claimant's medical treatment (specifically, No. 7 under the Facts in Controversy on the Claimant's Pre-Hearing Brief).

Defendants asserted the Claimant is currently receiving all appropriate and causally related medical treatment for his work injuries. Additionally, Defendants agreed to pay for the authorized sleep study as well as all other causally related medical treatment. Finally, Defendants denied that they were responsible for payment of transportation to and from a hearing requested by the Claimant as the same is not provided by the South Carolina Workers' Compensation Act.

After hearing the arguments presented by both parties, as well as a review of all evidence presented in this instance, the undersigned issued Order instructions to Defendants to prepare a proposed Decision and Order. Defendants completed the proposed Decision and Order and forwarded to Claimant for approval. The Claimant responded with several requested changes and attached a Motion regarding the same. Upon receipt of Claimant's requested changes and Motion, the Defendants requested a telephone conference with the Claimant and the undersigned to discuss any outstanding issues. The parties conducted this telephone conference on January 9, 2012, at which time all remaining issues were discussed and resolved.

ORDER

The parties did not go on the record, but following a lengthy pre-trial conference, review of the parties' respective Pre-Hearing Briefs and the medical evidence submitted, as well as the telephone conference held on January 9, 2012, the undersigned Commissioner ordered the following:

1. The parties hereto are subject to and bound by the South Carolina Workers' Compensation Act.
2. The Claimant's average weekly wage is \$764.20, with a corresponding compensation rate of \$509.49.
3. The Claimant suffered an admitted injury by accident in the course and scope of his employment on or about May 16, 2005, to his neck, low back, left shoulder, right shoulder, ribs, bladder, and lungs.
4. Dr. Donald Johnson of Southeastern Spine Institute released the Claimant at maximum medical improvement on October 12, 2010, from a surgical standpoint and assigned a 21 percent impairment rating to the whole person secondary for his lower back condition as well

as a 5 percent impairment rating to the whole person secondary to his neck condition. Per the Form 14-B, Dr. Johnson opined that the Claimant is unable to return to work at his current employment and he will need future medical care related to his work injury. (Claimant's APA p. 13)

5. Dr. Colin Goudelocke of MUSC Urology released the Claimant at maximum medical improvement from a urology standpoint on April 13, 2011, with a 21 percent impairment rating to the whole person. Per the Form 14-B, Dr. Goudelock opined that the Claimant will need future medical care as related to his work injury. (Claimant's APA p. 22)

6. Dr. Michael Spandorfer of Carolina Lung Associates released the Claimant at maximum medical improvement on August 31, 2011, with a 10 percent impairment rating to the lungs. Per the Form 14-B, he opined that the Claimant was able to return to work with restrictions of avoiding exposure to airborne dust particles, gases, fumes, and extreme humidity and temperature and he will need future medical treatment as related to his work injury. (Claimant's APA p. 53)

7. Dr. John Graham of Orthopaedic Specialists of Charleston released the Claimant at maximum medical improvement for his right shoulder on September 21, 2011, with a 25 percent impairment rating to the shoulder. Per the Form 14-B, Dr. Graham opined that the Claimant is able to return to work with no overhead activities and no lifting over 10 pounds and will need future medical care as related to his work injury. (Claimant's APA p. 50)

8. The Claimant is not yet at maximum medical improvement for his left shoulder. The parties discussed Dr. Spearman's recent refusal to evaluate and treat the Claimant during the telephone conference and agreed that the Defendants will provide Claimant with an authorized evaluation by Dr. William Estes. This appointment is currently scheduled for January 12, 2012.

9. The Defendants further agree to provide Claimant with additional treatment as recommended By Dr. Estes, if any, until he releases the Claimant at maximum medical improvement.

10. The Claimant is not at maximum medical improvement for all accepted body parts and therefore, permanency is premature at this time.

11. The undersigned Commissioner does not have jurisdiction to address the allegation of medical neglect, medical malpractice, bias, or any inappropriate action and/or practice on behalf of the authorized treating physicians. (No. 7 under the Facts in Controversy of the Claimant's Pre-Hearing Brief.)

12. The Claimant requested changes made to the above portion of this Order (#11), by and through his Motion, and again requested these changes during the parties' telephone conference with the undersigned. The Claimant requested this Decision and Order reflect additional physicians by which the Claimant was allegedly mistreated. The South Carolina Workers' Compensation Commission lacks jurisdiction to address those pleadings for relief alleged by the Claimant. Therefore, no changes will be made to the above portion of this Order (#11).

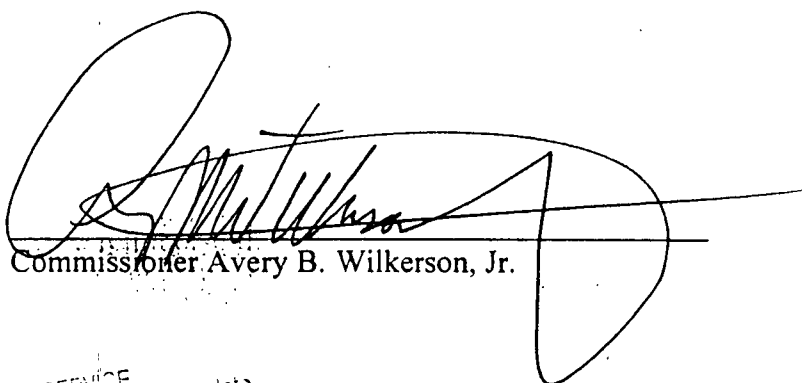
13. The undersigned Commissioner orders the Carrier to pay the bill for the authorized sleep study dated April 20, 2011, within 30 days of approval of this Order. If the Carrier does not comply with this Order, the Claimant is to send a letter to defense counsel and the Commission advising of the same and requesting a hearing. The undersigned Commissioner will retain jurisdiction and will schedule the hearing immediately. Furthermore, the undersigned Commissioner will require a representative to present to the hearing and will charge the Carrier court and transportation costs.

14. The Carrier is to pay all bills for authorized and causally related medical treatment within 30 days of receipt. If the Carrier does not comply with this Order, the undersigned Commissioner will schedule a hearing regarding the same to address the issue.

15. The Claimant is entitled to reimbursement for transportation to one of the two recent hearings (July 21, 2011 and November 30, 2011). Pursuant to the payment reflected in Claimant's APA (page 90), the Carrier is to reimburse the Claimant \$20.00 for the transportation to the hearing on July 21, 2011. During the telephone conference on January 9, 2012, the Commissioner again confirmed the Claimant's entitlement to reimbursement for only one transportation cost.

16. The Carrier will continue to authorize all causally related and appropriate treatment with the Claimant's authorized treating physicians.

AND IT IS SO ORDERED.



Commissioner Avery B. Wilkerson, Jr.

CERTIFICATE OF SERVICE
This is to certify that on this date
served this order on the Carrier by all
pages to the Carrier by first class mail,
postage paid, in that the order is addressed to
the attorney or attorney at law for the Carrier.

This 10 day of February, 2012
By Erin M. B...
Administrative Assistant to the Commissioner

FW-C
ELH

HEARING DATE: April 18, 2012
WCC FILE NO.: 0506037

CLAIMANT: Frank Wilson
EMPLOYER: American LaFrance
CARRIER: American Home Assurance Co.

ATTORNEY(C): pro se
ATTORNEY(D): Erin L. Hantske

AWW: \$ CR: \$ MMI:

Period of TTD: Return to Work: DOI: 5/16/05

Extent of Disability:

COURT REPORTER: Gigi Davis, 321 Mac Circle, Lexington, SC 29073

Mailed on 4/27/12

DIRECTIVES

Attorney Hantske, please draft the order consistent with the below findings and return to this office within 30 days:

1. Please note in the order the date these instructions were sent to the parties.
2. The MRI of the lumbar spine was already authorized at the time of the hearing. A copy of the authorization was provided to the Claimant at the hearing and another copy was sent by e-mail from defense counsel to the Commissioner that same afternoon.
3. The Claimant testified that he would like treatment before he gets worse.
4. The carrier is to provide all casually related medical treatment that was previously ordered.
5. The Claimant wants treatment to both the right and left lower extremities, but those body parts are not compensable under the 2005 case.

6. The prescriptions were delayed. There was a change with the prescription company. Defense lawyer has tried to call the Claimant and has written letters to the Claimant without a response. The Commission file indicates that he was called by the Commissioner's office on 3/2, 3, 5, and 9, 2012. The Commissioner indicated 3/3/12 at the hearing, but he had misread his notes. This was to try to resolve some issues. The Claimant never returned those calls. The Claimant indicated he did call back on 4/2, but the hearing was already scheduled.
7. The Claimant requested transportation costs to attend the hearing. This is denied as the Claimant requested the hearing and he has been very uncooperative.
8. The carrier is to provide authorized medical treatment on a timely basis.
9. Defense counsel requests expenses of \$1150. Please note the exact request from the transcript. I would have awarded \$500, but due to the fact that defendants would be bearing the cost of writing the order, I waive it at this time. Any future request, the Commissioner would strongly consider 100% reimbursement to the defendants.
10. Please note all body parts accepted in this claim.
11. Note the position of insured and carrier on this claim.
12. The Claimant testified he is now on Social Security and his case was accepted back to 2005.
13. The Claimant testified that he is very distrustful of Defense counsel, her law firm and the carrier. This seems to be the main problem. I find Defense counsel and her firm to be trustworthy and have been trying to assist the Claimant. The Claimant agrees to return phone calls to the Commissioner's office and to Defense counsel today at the hearing..
14. The Claimant has had quite the runaround from the carrier for treatment, checks and prescription problems.
15. At the hearing on 11/30/2011 and again on 4/18/2012, the Commissioner informed the Claimant to communicate with all parties to help reduce expenses on all.
16. All unauthorized medical care needs to be filed with Medicare now that the Claimant has been accepted by Social Security.

INSTRUCTIONS: Please let our office know if you have difficulty obtaining a transcript or cannot complete the order within this timeframe. Draft the Order consistent with the above substance of the preceding Findings of Fact; however, you may add additional Findings of Fact consistent with the above ruling. The Order should also include biographical information, information regarding the Claimant's work history and previous medical history, if relevant to the case.

If you need a transcript, order it *immediately* from the court reporter, or contact my assistant, Elaine Boyd, in writing at P.O. Box 1715, Columbia, SC 29202-1715 or via e-mail at eboyd@wcc.sc.gov . Provide a copy of the proposed Order to opposing counsel or *pro se* claimant before or at the same time one is submitted to the Commission. When submitting the proposed Order, please e-mail it to eboyd@wcc.sc.gov .

Matters To Include In The Order:

1. APA Submissions
2. Stipulations
3. Statement of the Case (contentions of the parties, stated concisely)
4. Evidence of the Case (synopsis of the evidence, including testimony and medical reports)
5. Findings of Fact – numbered (Do NOT delete any of the above findings, however, the prevailing party may add to support the decision, except regarding credibility, unless I have instructed you to)
6. Conclusions of Law (cite applicable statutory sections and case law)
7. Award

Do not address credibility in the Order, unless it has been addressed in the preceding Order Notes.

Commissioner Avery B. Wilkerson, Jr.
S.C. Workers' Compensation Commission
1612 Marion Street
Columbia, SC 29202-1715

South Carolina Workers' Compensation Commission

1333 Main Street, Suite 500 • Post Office Box 1715

Columbia, South Carolina 29202-1715

(803) 737-5723

www.wcc.sc.gov



WCC File #: 0506037

Carrier File #: 2098.05297

Carrier Code #:

Employer FEIN #:

Claimant's Name: Frank E. Wilson SSN: 333-64-9269

Address: 8755 Jessica Court

City: North Charleston State: SC Zip: 29406

Home Phone: (843) 327 - 9616 Work Phone: (N/A) N/A - N/A

Preparer's Name: Frank E. Wilson Law Firm: N/A

Employer's Name: American LaFrance

Address: 1090 Newton Way

City: Summerville State: SC Zip: 29483

Insurance Carrier: AIG: C/O Gallagher Bassett Services, Inc.

Preparer's Phone #: (843) 327 - 9616

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: May 16, 2005

☒ Injury ☐ Illness ☐ Repetitive Trauma1a. The claimant sustained an injury to Back/Neck/Ribs/Lungs/Right Shoulder/Left Shoulder/Bladder of SC (Part(s) of Body Injured) on May 16, 2005 (Month/Day/Year) in Berkley county, state1b. Body part(s) affected are: Back/Neck/Ribs/Lungs/Right Shoulder/Left Shoulder/Bladder/Right Leg/Left Leg/Right Arm/Left ArmBriefly describe how the accident occurred. M. V. A.

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 May 16, 2005 (Month/Day/Year) in the following manner:
The Employer was called while the injured employee was awaiting on the arrival of the EMS Department.☐ 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: Back And Bilateral Lower Extremity- EMG/Nerve Conduction Study☐ 7. Due to injury, the claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of:
Ongoing☐ 8. Due to the injury, the Claimant has permanent disability of the following nature and extent (check one):☒ (1) General Disability:☒ Total☐ (2) Specific Disability:☐ Total☐ (3) Wage Loss☐ Partial☐ Partial☐ 9. Due to the injury, the Claimant has a serious bodily disfigurement consisting of:10a. At the time of the injury, the Claimant was paid weekly wages of \$ 764.20, 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:

American LaFrance: American LaFrance terminated the Claimant's employment on December 14, 2005.

11a. Further grounds or unusual aspects of claim:

***SEE ENCLOSED WCC Form # 50- PAGES: 2 thru 4

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 ENCLOSED WCC Form # 50- PAGES: 4 thru 511c. To the best of your knowledge, did you have any prior permanent disability? No
If yes, describe: N/A

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: Two (2) Hours**I verify the contents of this form are accurate and true to the best of my knowledge.**Frank E. Wilson

Claimant

N/A

February 17, 2012

Preparer's Signature

Title

Email

Date

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

WCC Form # 50

Revised 9/07

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

South Carolina Workers' Compensation Commission

WCC FILE NO. 0506037

WCC Form # 50
(Employee's Request for Hearing)

11a. Further grounds or unusual aspects of claim:

(The Claimant respectfully request that the following issues be addressed and determined at this Hearing): *****The Claimant respectfully request that this Hearing be held on the record for the purpose of generating a transcript to have for any future Hearing(s) and or future Hearing(s) set for Commission review (Appeal).**

- 1.) The Claimant's **Back MRI** which was requested and recommended by the **Authorized Treating Physician** at the Claimant's Palmetto Comprehensive Center For Pain Of The Southeastern Spine Institute office visit of December 29, 2011. The Claimant's **Back MRI** would be well supported by the **DECISION AND ORDER** by The Honorable David W. Huffsteler, Commissioner from the Hearing Date of March 10, 2009...states that the Defense shall provide medical treatment for the Claimant's **Back** through Southeastern Spine Institute. The Claimant's **Back MRI** would also be well supported by the Claimant's **Form 14B (Physician's Statement)** from Southeastern Spine Institute (Donald R. Johnson, II, MD) dated June 18, 2011- *Body part(s) affected: Back, Legs and Arms.
- 2.) The Claimant's **Bilateral Lower Extremity EMG/nerve conduction study** which was requested and recommended by the **Authorized Treating Physician** at the Claimant's Palmetto Comprehensive Center For Pain Of The Southeastern Spine Institute office visit of December 29, 2011. The Claimant's **Bilateral Lower Extremity EMG/nerve conduction study** would be well supported by the Claimant's **Form 14B (Physician's Statement)** from the Claimant's **Form 14B (Physician's Statement)** from Southeastern Spine Institute (Donald R. Johnson, II, MD) dated June 18, 2011- *Body part(s) affected: Back, Legs and Arms.
- 3.) The Claimant's **First Script (Medco) prescription drug coverage** was terminated by the Carrier on January 31, 2012. The Claimant presently has no prescription drug coverage. The Claimant contacted **First Script (Medco)** on January 31, 2012 at 4:29PM at 1 866 445-7344 and the Claimant spoke with **First Script (Medco)** associate (Rafael) while at CVS Pharmacy (The Pharmacy used by the Claimant). The **First Script (Medco)** associate (Rafael) related and confirmed to the Claimant and the CVS Pharmacy associate that the **Carrier** had terminated the Claimant's **First Script (Medco) prescription drug coverage**. The **First Script (Medco)** associate (Rafael) stated to the Claimant that he would contact the **Carrier/Adjuster** and would give the Claimant notice of any updated information. The Claimant left his telephone contact number of (843) 327-9616 with the **First Script (Medco)** associate (Rafael). The Claimant currently has **no prescription drug coverage**.

South Carolina Workers' Compensation Commission

WCC FILE NO. 0506037

WCC Form # 50
(Employee's Request for Hearing)

- 4.) The Claimant had a **South Carolina Workers' Compensation Commission Hearing** on April 10, 2007 with Commissioner J. Alan Bass to address and determine the issues brought forth. The **DECISION AND ORDER** as it relates to the Claimant's **Left Shoulder** was that the Defendants would provide the Claimant a **Cervical Spine MRI** to determine if there were any significant changes that could be related to the Claimant's **Left Shoulder pain**. If there were no significant changes noted on the Claimant's **Cervical Spine MRI**, then the Defendants would provide the Claimant with a **Left Shoulder MRI** to verify and determine if there were any related issues noted on the Claimant's **Left Shoulder MRI** that could be related to the Claimant's **Left Shoulder pain**. Commissioner Bass stated that the record would be held open for thirty (30) days for the Claimant's **Cervical Spine MRI** and the Claimant's **Left Shoulder MRI** if there were no significant changes noted on the Claimant's **Cervical Spine MRI**. This would include the involvement of Don O. Stovall, Jr., MD of Lowcountry Orthopaedics And Sports Medicine and Jeffrey E. Faaberg, Sr., MD of Edisto Spine Center. The Claimant's **Cervical Spine MRI** took place on April 24, 2007 and revealed no significant changes from the Claimant's **Cervical Spine MRI** that took place on September 17, 2005. Therefore as a result of there being no significant changes **Cervical Spine MRIs**, it would be necessary to move forward with the Claimant's **Left Shoulder MRI**. The Defendants authorized the Claimant's **Cervical Spine MRI** on April 24, 2007. The Defendants delayed the authorizing of the the Claimant's necessary **Left Shoulder MRI** until twenty-three (23) days after Commissioner Bass stated that the record would be held open for the Claimant's **Cervical Spine** and or the Claimant's **Left Shoulder MRI**. This would be an effort to determine the Claimant's **Left Shoulder pain**. It is the Claimant's opinion that the delay in the Defendants authorizing the Claimant's **Left Shoulder MRI** twenty-three (23) days after the record for the South Carolina Workers' Compensation Commission Hearing held on April 10, 2007 would be held open was simply an effort to omit the Claimant's **Left Shoulder** claim. The Claimant respectfully request that this issue be addressed and determined by The South Carolina Workers' Compensation Commission. Furthermore, the original **DECISION AND ORDER** from The South Carolina Workers' Compensation Commission Hearing with Commissioner Bass on April 10, 2007 was altered from its original version of April 10, 2007. The Claimant's **Left Shoulder MRI** report and the Claimant's **Left Shoulder** claim was omitted from the original **DECISION AND ORDER** from The South Carolina Workers' Compensation Commission Hearing with Commissioner Bass on April 10, 2007. The original **DECISION AND ORDER** from The South Carolina Workers' Compensation Commission Hearing with Commissioner Bass on April 10, 2007 was not returned to The South Carolina Workers' Compensation Commission until over one (1) year later after the Hearing date of April 10, 2007. Commissioner Bass signed the altered **DECI-**

South Carolina Workers' Compensation Commission

WCC FILE NO. 0506037

WCC Form # 50
(Employee's Request for Hearing)

SION AND ORDER on April 17, 2008. The Claimant respectfully request that this issue be addressed and determined The South Carolina Workers' Compensation Commission. The Claimant will include and provide supporting documents through the presenting and submitting of the Claimant's **Form 58- (PRE-HEARING BRIEF)**.

- 5.) The Claimant respectfully request that any and all of the issues not completed on the Claimant's **MOTION** originally submitted to The South Carolina Workers' Compensation Commission and the Defendants on January 17, 2012 (via **CERTIFIED MAIL/RRR**) be addressed and completed at this Hearing. The Claimant will resubmit and include the Claimant's **MOTION** (originally dated and submitted on January 17, 2012) at the Claimant's Hearing. The Claimant will date the **MOTION** February 17, 2012.
- 6.) The Claimant respectfully request that the **UTICA-MOHAWK** language be included and inserted in any and all of the Claimant's final settlement(s) and or any and all of the Claimant's final agreement(s).
- 7.) The Claimant respectfully request reimbursement for, but not limited to, the following: *** (This is due to the ongoing and continuing issues brought forth at this Hearing request: see the Claimant's previous six (6) South Carolina Workers' Compensation Commission Hearings **DECISION AND ORDER**)
 - 1.) The Claimant's **Form 50 (Employee's Request for Hearing)** filing fee
 - 2.) The Claimant's postage fee for, but not limited to, the mailing of the Claimant's **Form 50 (Employee's Request for Hearing)** to The South Carolina Workers' Compensation Commission and to the Defendants
 - 3.) The Claimant's postage fee for, but not limited to, the mailing of the Claimant's **Form 58 (PRE-HEARING BRIEF)** and the Claimant's **APA SUBMISSIONS** and supporting documents to The South Carolina Workers' Compensation Commission and to the Defendants
 - 4.) The Claimant's transportation cost to and from The South Carolina Workers' Compensation Commission HearingThe Claimant will provide receipts for the cost of all of the Claimant's reimbursement request to The South Carolina Workers' Compensation Commission and to the Defendants.

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

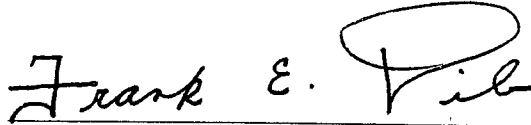
C. J. Malie, MD and Trident Medical Center 9330 Medical Plaza Drive, North Charleston, SC 29406; **Orthopaedics**: Don O. Stovall, Jr., MD/Chad R. Burgoyne, MD 2880 Tricom Street North

South Carolina Workers' Compensation Commission

WCC FILE NO. 0506037

WCC Form # 50
(Employee's Request for Hearing)

Charleston, SC 29406; George Warren, MD 93A Springview Lane, Summerville, SC 29408; John M. Graham, Jr., MD 594 Lone Drive, Bldg. 6, Mount Pleasant, SC 29464 William J. Estes, MD 1300 Hospital Drive, Suite 150, Mount Pleasant, SC 29464; James D. Spearman, MD 93A Springview Lane, Summerville, SC 29408; **Spine:** Chris P. Tountas, MD 1311 Chuck Dawley Boulevard, Mount Pleasant, SC 29464; Jeffrey E. Faaberg, Sr., MD 5790 Memorial Boulevard, St. George, SC 29477; Thomas Roush, MD/Donald R. Johnson, II, MD 1106 Chuck Dawley Boulevard, Suite 200, Mount Pleasant, SC 29464; **Spine/Interventional Pain Management:** W. Blane Richardson, MD 913 Bowman Road, Suite B, Mount Pleasant, SC 29464; **Cardiovascular & Thoracic:** James M. Benner 9313 Medical Plaza Drive, Suite 304, North Charleston, SC 29406; **Physical Medicine:** Richard Gordon, MD North Charleston, SC 29406; **Neurologist:** Stephen E. Rawe, MD 2145 Henry Tecklenburg Drive, Charleston, SC 29414; **Pulmonary/Lungs:** Cary E. Fechter, MD 105 Wappoo Creek Drive, Suite 4-A, Charleston, SC 29412; Michael A. Spandorfer, MD 2097 Henry Tecklenburg Drive, Suite 305, Charleston, SC 29414; **Urologist:** Colin M. Goude-locke, MD/Eric S. Rovner, MD 1156 Bowman Road, Suite 104, Mount Pleasant, SC 29464

 Frank E. Wilson

Date: February 17, 2012



PRE-HEARING BRIEF

WCC File No: 0506037

Claimant's Name: Frank E. Wilson Employer's Name: American LaFrance
Address: 8755 Jessica Court Address: 1090 Newton Way
City: North Charleston State: SC Zip: 29406 City: Summerville State: SC Zip: 29483
Home Phone: 843 327 9616 Work Phone: N/A Carrier: AIG: C/O Gallagher Bassett Services, Inc.
Preparer's Name: Frank E. Wilson Preparer's Phone #: 843 327 9616

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

☒ Injury ☐ Illness ☐ Repetitive Trauma

1. Compensation Rate: \$509.49 2. AWW: \$ 764.20 Date of Injury: May 16, 2005
3. Type of injury and body part(s): M.V.A. Back/Neck/Ribs/Lungs/Right Shoulder/Left Shoulder/Bladder
4. Facts in controversy: ***SEE Form # 58 (PRE-HEARING BRIEF)- PAGES: 2 thru 5
5. Legal issues involved: ***The Claimant's MOTION dated February 27, 2012. The Claimant's MOTION dated February 27, 2012 was processed and served by The South Carolina Workers' Compensation Commission on February 29, 2012.
6. Unusual aspects: American LaFrance terminated the Claimant's employment on December 14, 2005.
7. Witnesses (designate if expert):* The Claimant and The Claimant's Deposition(s)
8. Exhibits: EXHIBITS: A thru G, EXHIBITS: A thru F, EXHIBIT: H- (The Claimant's MOTION dated February 27, 2012: *(processed and served on February 29, 2012), EXHIBIT: I, EXHIBIT: J and EXHIBIT: K
9. Medical evidence (indicate report pursuant to R.67-612; deposition or appearance):
Medical evidence report pursuant to R.67-612
10. Name, address, and specialty, if any, of the treating physician: ***SEE Form # 58 (PRE-HEARING BRIEF)- PAGE: 6 of 7
11. Impairment rating(s); body part(s); physician and date of opinion: ***SEE Form # 58 (PRE-HEARING BRIEF)- PAGES: 6 thru 7
12. I am amending my Form 50/51 in the following manner: ***SEE Form # 58 (PRE-HEARING BRIEF)- PAGE: 4- *Item 4.) and *Item 8.) and PAGE: 5- *Item 9.) and *Item 10.)

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

Signature: Frank E. Wilson Email: N/A

Date of hearing: April 3, 2012 at 12:00PM Time needed for hearing: Two (2) Hours

On behalf of ☒ Claimant ☐ Employer

File this form and proof of service on the opposing party according to R.67-611. Do not send medical reports.

* Commissioners reserve the right to admit expert witnesses at hearings.

South Carolina Workers' Compensation Commission

WCC FILE NO. 0506037

WCC Form # 58

(PRE-HEARING BRIEF)

(Date Of Hearing: April 3, 2012 at 12:00PM)

***The Claimant respectfully request that this South Carolina Workers' Compensation Commission Hearing be held on the record for the purpose of generating a transcript to have for any future Hearing(s) and or any future Hearing(s) set for Commission review (Appeal).

(The Claimant respectfully request that the following issues be addressed and determined at this South Carolina Workers' Compensation Commission Hearing).

4.) Facts in controversy:

- 1.) The Claimant's Back MRI which was requested and recommended by the Authorized Treating Physician at the Claimant's Palmetto Comprehensive Center For Pain Of The Southeastern Spine Institute office visit of December 29, 2011 and February 24, 2012. The Claimant's Back MRI would be well supported by the DECISION AND ORDER by The Honorable David W. Huffstetler, Commissioner from the Hearing Date of March 10, 2009...states that the Defense shall provide medical treatment for the Claimant's Back through Southeastern Spine Institute. The Claimant's Back MRI would also be well supported by the Claimant's Form 14B (Physician's Statement) from The Southeastern Spine Institute (Donald R. Johnson, II, MD) dated June 18, 2011- *Body part(s) affected: Back, Legs and Arms.
- 2.) The Claimant's Bilateral Lower Extremity EMG/nerve conduction study which was requested and recommended by the Authorized Treating Physician at the Claimant's Palmetto Comprehensive Center For Pain Of The Southeastern Spine Institute office visit of December 29, 2011. The Claimant's Bilateral Lower Extremity EMG/nerve conduction study would be well supported by the Claimant's Form 14B (Physician's Statement) from The Southeastern Spine Institute (Donald R. Johnson, II, MD) dated June 18, 2011- *Body part(s) affected: Back, Legs and Arms.
- 3.) The Claimant's First Script (Medco) prescription drug coverage was terminated by the Carrier on January 31, 2012. The Claimant currently has prescription drug coverage through Caremark but this prescription drug coverage process has been interrupted and delayed causing delays in getting the Claimant's prescription drug medication processed and authorized by the Carrier (Adjuster) in a timely manner. Furthermore, the Claimant has not received his Caremark prescription drug ID card as of March 18, 2012.
- 4.) The Claimant had a South Carolina Workers' Compensation Commission Hearing on April 10, 2007 with Commissioner J. Alan Bass to address and determine the issues

South Carolina Workers' Compensation Commission

WCC FILE NO. 0506037

WCC Form #58

(PRE-HEARING BRIEF)

(Date Of Hearing: April 3, 2012 at 12:00PM)

brought forth. The **DECISION AND ORDER** as it relates to the Claimant's **Left Shoulder** was that the Defendants would provide the Claimant a **Cervical Spine MRI** to determine if there were any significant changes that could be related to the Claimant's **Left Shoulder pain**. If there were no significant changes noted on the Claimant's **Cervical Spine MRI** in comparison to the Claimant's previous **Cervical Spine MRI**, then the Defendants would provide the Claimant with a **Left Shoulder MRI** to verify and determine if there were any related issues noted on the Claimant's **Left Shoulder MRI** that could be related to the Claimant's **Left Shoulder pain**. Commissioner Bass stated that the record would be held open for thirty (30) days for the Claimant's **Cervical Spine MRI** and the Claimant's **Left Shoulder MRI** if there were no significant changes noted on the Claimant's **Cervical Spine MRI**. This would include the involvement of Don O. Stovall, Jr., MD of Lowcountry Orthopaedics And Sports Medicine and Jeffrey E. Faaberg, Sr., MD of Edisto Spine Center. The Claimant's **Cervical Spine MRI** took place on April 24, 2007 and revealed no significant changes from the Claimant's **Cervical Spine MRI** that took place on September 17, 2005. Therefore as a result of there being no significant changes on the Claimant's two (2) **Cervical Spine MRIs**, it would be necessary to move forward with the Claimant's **Left Shoulder MRI**. The Defendants authorized the Claimant's **Cervical Spine MRI** on April 24, 2007. The Defendants delayed the authorizing of the Claimant's necessary **Left Shoulder MRI** until twenty-one (21) days after Commissioner Bass stated that the record would be held open for the Claimant's **Cervical Spine MRI** and or the Claimant's **Left Shoulder MRI**. This would be an effort to determine the Claimant's **Left Shoulder pain**. It is the Claimant's opinion that the delay in the Defendants authorizing the Claimant's **Left Shoulder MRI** twenty-one (21) days after Commissioner Bass stated that the record for the South Carolina Workers' Compensation Commission Hearing held on April 10, 2007 would be held open was simply an effort by the Defendants to omit the Claimant's **Left Shoulder claim**. The Claimant respectfully request that this issue be addressed and determined by The South Carolina Workers' Compensation Commission. Furthermore, the original **DECISION AND ORDER** from The South Carolina Workers' Compensation Commission Hearing held on April 10, 2007 with Commissioner Bass was altered from its original version of April 10, 2007. The Claimant's **Left Shoulder MRI** report and the Claimant's **Left Shoulder Claim** was omitted from the original **DECISION AND ORDER** from The South Carolina Workers' Compensation Commission Hearing held with Commissioner Bass on April 10, 2007. The original **DECISION AND ORDER** from The South Carolina Workers' Compensation Commission Hearing with Commissioner Bass on April 10, 2007 was not returned to The South Carolina Workers' Compensation Commission until over one (1) year later after the Hearing date of April 10, 2007. Commissioner Bass signed the altered **DECISION AND ORDER** on April 17, 2008. The Claimant respectfully request that this issue be addressed and determined by The South Carolina Workers' Compensation Commission. The Claimant will include and provide supporting documents through the presenting and submitting of the Claimant's **Form # 58 (PRE-**

South Carolina Workers' Compensation Commission

WCC FILE NO. 0506037

WCC Form #58

(PRE-HEARING BRIEF)

(Date Of Hearing: April 3, 2012 at 12:00PM)

HEARING BRIEF, the Claimant's APA SUBMISSIONS, the Claimant's supporting documents and the Claimant's testimony.

- 5.) The Claimant respectfully request that any and all issues not completed on the Claimant's **MOTION** originally submitted to The South Carolina Workers' Compensation Commission and to the Defendants on January 17, 2012 (via CERTIFIED MAIL/RRR). The Claimant resubmitted the **MOTION** on February 17, 2012 to The South Carolina Workers' Compensation Commission and to the Defendants (via CERTIFIED MAIL/RRR). The Claimant resubmitted the Claimant's **MOTION** on February 27, 2012 with the **MOTION** filing fee of \$25.00 included. The Claimant submitted the **MOTION** dated February 27, 2012 to The South Carolina Workers' Compensation Commission and to the Defendants (via CERTIFIED MAIL/RRR). The Claimant's **MOTION** dated February 27, 2012 was processed and served by The South Carolina Workers' Compensation Commission on February 29, 2012.
- 6.) The Claimant respectfully request that the **UTICA-MOHAWK** language be included and inserted in any and all of the Claimant's final settlement(s) and or any and all of the Claimant's final agreement(s).
- 7.) The Claimant respectfully request reimbursement for, but not limited to, the following:
*** (This due to the **continuing and ongoing issues** brought forth at this Hearing request: see the Claimant's previous six (6) South Carolina Workers' Compensation Commission Hearings **DECISION AND ORDER** included in the Claimant's South Carolina Workers' Compensation Commission file).
 - 1.) The Claimant's **Form 50 (Employee's Request for Hearing)** filing fee of \$25.00.
 - 2.) The Claimant's postage fee for, but not limited to, the mailing of the Claimant's **Form 50 (Employee's Request for Hearing)** to The South Carolina Workers' Compensation and to the Defendants.
 - 3.) The Claimant's postage fee for, but not limited to, the mailing of the Claimant's **Form 58 (PRE-HEARING BRIEF)** and the Claimant's **APA SUBMISSIONS** and supporting documents to The South Carolina Workers' Compensation Commission and to the Defendants.
 - 4.) The Claimant's transportation cost to and from The South Carolina Workers' Compensation Commission Hearing.The Claimant will provide receipts for the cost of all of the Claimant's reimbursement request to The South Carolina Workers' Compensation Commission and to the Defendants.
- 8.) The Claimant respectfully request reimbursement for the medical expenses as it relates to the Claimant's **Right Shoulder** and **Left Shoulder** evaluation by William J. Estes, MD of Southern Orthopedics And Sports Medicine. The Claimant's **Right Shoulder** and **Left Shoulder** evaluation

South Carolina Workers' Compensation Commission

WCC FILE NO. 0506037

WCC Form # 58
(PRE-HEARING BRIEF)

(Date Of Hearing: April 3, 2012 at 12:00PM)

by William J. Estes, MD of Southern Orthopedics And Sports Medicine took place due to the ongoing and continuing delays in the evaluation and treatment of the Claimant's Left Shoulder injury and the ongoing and continuing worsening of the Claimant's Left Shoulder injury. This would be well supported by the facts explained on the Claimant's Form 50 (Employee's request for Hearing)- 11a. Further grounds or unusual aspects of claim: *issue 4.) and The South Carolina Workers' Compensation Commission Hearing transcript from the Hearing with Commissioner J. Alan Bass on April 10, 2007. As it relates to the Claimant's Right Shoulder injury, this would be well supported by the facts explained on the Claimant's EXHIBITS: A thru G and EXHIBITS: A thru F. Furthermore, this would also be due to the Claimant's ongoing and continuing worsening of the Claimant's Right Shoulder injury.

- 9.) The Claimant respectfully request lifetime maintenance as it relates to the Claimant's Back injury. The Claimant respectfully request lifetime hardware maintenance as it relates to the Claimant's Back injury.
- 10.) The Claimant respectfully request lifetime maintenance as it relates to the Claimant's Right Shoulder injury. The Claimant respectfully request lifetime hardware maintenance as it relates to the Claimant's Right Shoulder injury. This would be well supported by the Claimant's Right Shoulder MRI and MRI report dated February 8, 2012.
- 5.) Legal issues involved:
***The Claimant's MOTION dated February 27, 2012. The Claimant's MOTION dated February 27, 2012 was processed and served by The South Carolina Workers' Compensation Commission on February 29, 2012. The Claimant's MOTION dated February 27, 2012 will be introduced *EXHIBIT: H at the Claimant's South Carolina Workers' Compensation Commission Hearing on April 3, 2012 at 12:00PM.
- 6.) Unusual aspects:
American LaFrance terminated the Claimant's employment on December 14, 2005. The Claimant's employment termination was due to the Claimant's South Carolina Workers' Compensation claim.
- 7.) Witnesses (designate if expert):*
Claimant and Claimant's Deposition(s)
- 8.) Exhibits:
EXHIBITS: A thru G, EXHIBITS: A thru F, EXHIBIT: H- (The Claimant's MOTION dated February 27, 2012: *(processed and served on February 29, 2012), EXHIBIT: I, EXHIBIT: J and EXHIBIT: K

South Carolina Workers' Compensation Commission

WCC FILE NO. 0506037

WCC Form # 58

(PRE-HEARING BRIEF)

(Date Of Hearing: April 3, 2012 at 12:00PM)

9.) Medical evidence (indicate report pursuant to R.67-612; deposition or appearance):
Medical evidence report pursuant to R.67-612;

10.) Names, address, and specialty, if any, of the treating physician:

C. J. Malie, MD and Trident Medical Center 9330 Medical Plaza Drive, North Charleston, SC 29406; **Orthopaedics:** Don O. Stovall, Jr., MD/Chad R. Burgoyne, MD/Shailesh M. Patel, MD 2880 Tricom Street, North Charleston, SC 29406; George Warren, MD 93A Springview Lane, Summerville, SC 29408; John M. Graham, Jr., MD 594 Lone Tree Drive, Bldg. 6, Mount Pleasant, SC 29464; William J. Estes, MD 1300 Hospital Drive, Suite 150, Mount Pleasant, SC 29464; James D. Spearman, MD 93A Springview Lane, Summerville, SC 29408; **Spine:** Chris P. Tountas, MD 1311 Chuck Dawley Boulevard, Mount Pleasant, SC 29464; Jeffrey E. Faaberg, Sr., MD 5790 Memorial Boulevard, St. George, SC 29477; Thomas Roush, MD/Donald R. Johnson, II, MD 1106 Chuck Dawley Boulevard, Suite 200, Mount Pleasant, SC 29464; **Spine/Interventional Pain Management:** W. Blane Richardson, MD 913 Bowman Road, Mount Pleasant, SC 29464; **Cardio-vascular & Thoracic:** James M. Benner, MD 9313 Medical Plaza Drive, Suite 304, North Charleston, SC 29406; **Physical Medicine:** Richard Gordon, MD, North Charleston, SC 29406; **Neurologist:** Stephen E. Rawe, MD 2145 Henry Tecklenburg Drive, Charleston, SC 29414; **Pulmonary/Lungs:** Cary E. Fechter, MD 105 Wappoo Creek Drive, Suite 4-A, Charleston, SC 29412; Michael A. Spandorfer, MD 2097 Henry Tecklenburg Drive, Suite 305, Charleston, SC 29414; **Urologist:** Colin M. Goudelocke, MD/Eric S. Rovner, MD 1156 Bowman Road, Suite 104, Mount Pleasant, SC 29464

11.) Impairment rating(s); body part(s); physician and date of opinion:

7% Regional Impairment **Lumbar Spine** 5% Whole Person Impairment- Don O. Stovall, Jr., MD (October 11, 2006) 13% Regional Impairment **Lumbar Spine** 10% Whole Person Impairment- Jeffrey E. Faaberg, Sr., MD (December 19, 2006) 20% Regional Impairment **Lumbar Spine** 21% Whole Person Impairment- Donald R. Johnson, II, MD (June 18, 2011)

14% Regional Impairment **Cervical Spine** 5% Whole Person Impairment- Don O. Stovall, Jr., MD (October 11, 2006) 28% Regional Impairment **Cervical Spine** 10% Whole Person Impairment- Jeffrey E. Faaberg, Sr., MD (June 25, 2007) 20% Regional Impairment **Cervical Spine** 5% Whole Person Impairment- Donald R. Johnson, II, MD (June 18, 2011)

5% Regional Impairment Of The Right Upper Extremity **Right Shoulder** 3% Whole Person Impairment- Don O. Stovall, Jr., MD (October 11, 2006) 10% Impairment Of The Right Upper Extremity **Right Shoulder**- Jeffrey E. Faaberg, Sr., MD (December 19, 2006) 15% Impairment Of The Right Upper Extremity **Right Shoulder** 25% Whole Person Impairment- John M. Graham,

South Carolina Workers' Compensation Commission

WCC FILE NO. 0506037

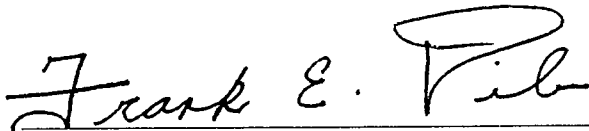
WCC Form # 58
(PRE-HEARING BRIEF)

(Date Of Hearing: April 3, 2012 at 12:00PM)

Jr., MD (September 21, 2011)

15%-20% Whole Person Impairment Pulmonary/Lungs- Cary E. Fechter, MD (March 23, 2007)
24% Whole Person Impairment Pulmonary/Lungs- Michael A. Spandorfer, MD (October 10,
2008) 10% Whole Person Impairment Pulmonary/Lungs- Michael A. Spandorfer, MD (August
31, 2011)

21% Whole Person Impairment Urologist- Colin M. Goudelocke, MD (July 21, 2011)



Date: March 19, 2012

Frank E. Wilson

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



WCC File #: 0506037
Carrier File #: 2098.05297
Carrier Code #:
Employer FEIN #:

Claimant's Name: Frank E. Wilson SSN: 333-64-9269 Employer's Name: American LaFrance
Address: 8755 Jessica Court Address: 1090 Newton Way
City: North Charleston State: SC Zip: 29406 City: Summerville State: SC Zip: 29483
Home Phone: 843 327 9616 Work Phone: N/A Insurance Carrier: AIG: C/O Gallagher Bassett Services, Inc.
Preparer's Name: Frank E. Wilson Law Firm: N/A Preparer's Phone #: 843 327 9616

DIRECTIONS: Please print or type. Answer the following questions about your claim to the best of your ability. If you cannot answer a question, leave it blank. Use additional sheets of paper, if necessary. Please use short statements.

Questions

Did the Commissioner fail to consider important reasons for award of compensation? If so, what reasons? Yes... The Claimant's APA SUBMISSIONS and the Claimant's supporting evidence presented and submitted at the Claimant's SCWCC Hearing on April 18, 2012. ***SEE PAGES 2 thru 5- The Commissioner's DECISION AND ORDER from the Claimant's SCWCC Hearing on April 18, 2012 appears to be very inconsistent with the Claimant's APA SUBMISSIONS and the Claimant's supporting evidence presented and submitted at the Claimant's SCWCC Hearing.

Did the Commissioner incorrectly decide the facts? If so, what facts? Yes... All of the Claimant's disputed items listed on the Claimant's Form # 30 (REQUEST FOR COMMISSION REVIEW)- SEE PAGES: 2 thru 5... The Commissioner DECISION AND ORDER appears inconsistent with the Claimant's APA SUBMISSIONS and the Claimant's supporting evidence presented and submitted at the Claimant's SCWCC Hearing.

Do you think the Commissioner applied the wrong law? If so, what law? This is just based on the Claimant's own personal opinion. The Claimant strongly opines that there may have been some, but not limited to, bias, prejudice and or inappropriate action against the Claimant. This is due to the fact of the Claimant's observation of the Commissioner's demeanor at the Claimant's SCWCC Hearing on April 18, 2012.

Do you feel there are any other reasons why the Commissioner's judgment was wrong? If so, what? The Claimant's strongly opines that the Commissioner's DECISION AND ORDER may have been predetermined and not based on the Claimant's APA SUBMISSIONS and the Claimant's supporting evidence presented and submitted at the Claimant's SCWCC Hearing on April 18, 2012. This opinion is very concerning.

What action do you want the Commission to take in this case? The Claimant respectfully request that all of the disputed items listed on the Claimant's Form # 30 (REQUEST FOR COMMISSION REVIEW) be carefully reviewed along with the Claimant's APA SUBMISSIONS and the Claimant's supporting evidence presented and submitted (SEE PAGES: 2 thru 5) and then make the correct and fair DECISION AND ORDER.

Frank E. Wilson
Signature

August 3, 2012

Date

IMPORTANT: A copy of this Brief and any attachments must be filed with the Commission within 10 days of receipt of the Review Hearing Notice, Form 31. The Commission will serve your Brief on the employer's representative. Questions about the use of this form may be directed to the Commission's Judicial Department.

South Carolina Workers' Compensation Commission

WCC FILE NO. 0506037

WCC Form # 59
(APPELLANT'S INFORMAL BRIEF)

The Claimant respectfully request that this REQUEST FOR COMMISSION REVIEW be held on the record for the purpose of generating a transcript to have for any future South Carolina Workers' Compensation Commission Hearing(s) and or any future Court Hearing(s)

***The Claimant respectfully request that the following disputed issues/topics, issues/topics not determined and or addressed or clearly addressed and clearly determined be determined and addressed at this REQUEST FOR COMMISSION REVIEW.

11a. Further grounds or unusual aspects of claim: South Carolina Workers' Compensation Commission Hearing April 18, 2012 at 11:45am- (Form # 58- PRE-HEARING BRIEF)

- 1.) The Claimant's Back (Thoracic Spine) MRI- supported by APA SUBMISSIONS- PAGES: 6, 9, 10, 11, 12, 14 and 15: Hearing Transcript April 10, 2007- PAGE: 10- Lines 14-22, PAGE: 14 Lines 19-25, PAGE: 15- Lines 1-24; Hearing Transcript- March 10, 2009: PAGE: 13- Lines 16-25, PAGE: 14- Lines 16-25, PAGE: 15- Lines 1-13; Claimant's Deposition February 20, 2007- PAGE: 42- Lines 1-25
- 2.) The Claimant's Bilateral Lower Extremity EMG/nerve conduction study- supported by APA SUBMISSIONS- PAGES: 6, 7, 8, 10, 11, 14 and 15
- 3.) The Claimant's First Script (Medco) prescription drug coverage...The Claimant received in the mail a new First Script (Medco) prescription drug ID card on or about May 1, 2012. The new First Script (Medco) prescription drug ID card was an exact duplicate First Script (Medco) prescription drug ID card as before. The Claimant presented and submitted the new exact duplicate First Script (Medco) prescription drug ID card to CVS Pharmacy located on 5212 Ashley Phosphate Road North Charleston, SC 29420 at (843) 767-4500. This took place on May 4, 2012. This was also when the Claimant request a prescription refill from CVS Pharmacy for the prescription Promethazine 25MG/Phenergan 25MG and this prescription medication received a rejection message from First Script (Medco). The CVS Pharmacy associate contacted First Script (Medco) by telephone and First Script (Medco) associate replied by stating that the Carrier (Adjuster) would contact CVS Pharmacy in 48 hours as it relates to the Claimant's prescription refill request the prescription Promethazine 25MG/Phenergan 25MG. The Claimant will provide the documentation from CVS

South Carolina Workers' Compensation Commission

WCC FILE NO. 0506037

WCC Form # 59
(APPELLANT'S INFORMAL BRIEF)

Pharmacy for this ongoing and continuing delay(s) as it relates to the Claimant's pre prescription drug medication(s).- supported by APA SUBMISSIONS- PAGE: 38A-38E...The Claimant will provide the documentation for the Claimant's recent pre-prescription drug delay at the Claimant's REQUEST FOR COMMISSION REVIEW Hearing.

- 4.) The Claimant's South Carolina Workers' Compensation Commission Hearing on April 10, 2007 with Commissioner J. Alan Bass to address and determine the issues brought forth...(Form # 58- PRE-HEARING BRIEF- 4.) Facts in controversy: issue # 4.) PAGE: 2 of 7 and PAGE: 3 of 7 was not determined or addressed.- supported by Hearing Transcript April 10, 2007- (EXHIBIT: I- PAGES- 1-40) and APA SUBMISSIONS- PAGES: 16-17.
- 5.) The Claimant's MOTION dated February 27, 2012 and served by the South Carolina Workers' Compensation Commission on February 29, 2012- supported by APA SUBMISSIONS- (EXHIBIT: H- PAGES: 59-72)...The Claimant paid an additional \$25.00 filing fee for the Claimant's MOTION dated February 27, 2012 and served by the South Carolina Workers' Compensation Commission on February 29, 2012. The Claimant's MOTION dated February 27, 2012 was not determined, addressed or filed with the South Carolina Workers' Compensation Commission. This was after the fact of the Claimant paying the additional \$25.00 filing fee for this MOTION to be determined, addressed and or filed by and or with the South Carolina Workers' Compensation Commission.
- 6.) The Claimant respectfully request that the UTICA-MOHAWK language be included and inserted in any and all of the Claimant's final settlement(s) and or any and all of the Claimant's final agreement(s).
- 7.) The Claimant respectfully request reimbursement for, but not limited to, the following: Please refer to the Claimant's (Form # 58- PRE-HEARING BRIEF- 4.) Facts in controversy- issue 7.) – PAGE: 4 of 7) *** (This is due to the ongoing and continuing issues of delays in the Claimant's medical treatment that is requested and recommended by the Authorized Treating Physician(s) this has been an ongoing and continuing issue since the early stages of the Claimant's claim to the present.- supported by Hearing Transcript April 10, 2007- (EXHIBIT I- PAGES: 1-40, Hearing Transcript March 10, 2009- (EXHIBIT K- PAGE: 13- Lines 16-25, PAGE: 14- Lines 16-25, PAGE: 15-

South Carolina Workers' Compensation Commission

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WCC Form # 59
(APPELLANT'S INFORMAL BRIEF)

Lines 1-13 and issues of delays in the Claimant's medical treatment noted in the Claimant's South Carolina Workers' Compensation Commission Hearing file on July 21, 2011 with Commissioner Andrea C. Roche- (refer to the Claimant's Form # 58- PRE-HEARING BRIEF) also refer to APA SUBMISSIONS- PAGES: 1-5, the Defendants delays in providing payment(s) for the Claimant's medical treatment noted in the Claimant's South Carolina Workers' Compensation Commission Hearing file on November 30, 2011 with Commissioner Avery B. Wilkerson Jr.- (refer to the Claimant's Form # 58- PRE-HEARING BRIEF) and the ongoing and continuing delay(s) as it relates to the Claimant's prescription drug medication(s)- supported by APA SUBMISSIONS- PAGES: 38A-38E...the Claimant will provide additional documentation for the recent delay(s) in the Claimant's prescription drug medication(s) at the Claimant's South Carolina Workers' Compensation Commission (REQUEST FOR COMMISSION REVIEW) Hearing.

- 8.) The Claimant respectfully request reimbursement for the medical expenses as it relates to the Claimant's Right Shoulder and Left Shoulder evaluation by William J. Estes, MD of Southern Orthopedics And Sports Medicine.- supported by APA SUBMISSIONS- PAGES: 21-38, PAGES: 16-17 and Hearing Transcript April 10, 2007- (EXHIBIT: I- PAGES: 1-40)
- 9.) The Claimant respectfully request lifetime maintenance as it relates to the Claimant's Back injury. The Claimant respectfully request lifetime hardware maintenance as it Relates to the Claimant's Back injury.

***The Claimant disagree with having to provide payment expenses of the Defendants in this claim. This is due to the treatment towards the Claimant as noted throughout the Claimant's South Carolina Workers' Compensation claim. This would include the unreasonable treatment from the Defendants, including but not limited to, the Carrier, the hand selected Authorized Treating Physicians by the Defendants and the Defendants representation which was and is aware of all of the above through the exchanging of APA SUBMISSIONS and during the Claimant's South Carolina Workers' Compensation Commission Hearings.

***The Claimant strongly disagree with the statement of Commissioner Avery B. Wilkerson Jr. as it states that he finds the Defense counsel and her law firm to be trustworthy and have been trying to assist the Claimant. Commissioner Wilkerson's statement is

South Carolina Workers' Compensation Commission

WCC FILE NO. 0506037

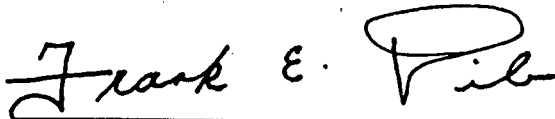
WCC Form # 59
(APPELLANT'S INFORMAL BRIEF)

considered to be very inconsistent with all of the above facts and enclosed information given by the Claimant which is also noted in the Claimant's South Carolina Workers' Compensation Commission file.

***If all of the above issues and concerns of the Claimant are not clearly and properly addressed at the Claimant's South Carolina Workers' Compensation Commission (REQUEST FOR COMMISSION REVIEW), then the Claimant has no other option but to seek the attention of, but not limited to, the South Carolina State Governor's office, the South Carolina State Attorney's office and or the South Carolina State NAACP office.

The Claimant would like to thank you and your staff in advance for your attention.

Sincerely,



DATE: August 3, 2012

Frank E. Wilson
8755 Jessica Court
North Charleston, SC 29406

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

WCC FILE NO.: 0506037

FRANK E. WILSON,

Employee,

Claimant,

vs.

MOTION
(January 16, 2013)

AMERICAN LaFRANCE,

Employer,

AND

AIG C/O GALLAGHER BASSETT SERVICES INC.,

Carrier,

This **MOTION** is filed on the behalf of the Claimant as it relates to the Claimant's scheduled **SCWCC Hearing at 11:00am on February 4, 2013 at 1333 Main Street, Suite 500, Hearing Room A in Columbia, SC 29202 with Commissioner Avery B. Wilkerson, Jr.** This SCWCC hearing is to address and determine the issues brought forth on the Claimant's **WCC Form # 50 (Claimant's Request for Hearing) dated September 6, 2012.** The Claimant respectfully request that Commissioner Avery B. Wilkerson, Jr. be removed and or replaced as the Hearing Commissioner for the Claimant's SCWCC Hearing scheduled for February 4, 2013 at 11:00am. and any and all future SCWCC Hearing(s). This is based on the following grounds:

- 1.) The Claimant had a SCWCC Hearing on April 18, 2012 with Commissioner Avery B. Wilkerson, Jr. as the Hearing Commissioner for that Hearing. At the conclusion of the Claimant's SCWCC Hearing on April 18, 2012 with Commissioner Avery B. Wilkerson, Jr., the Claimant noticed several inconsistencies with **DIRECTIVES** issued by Commissioner Wilkerson as it would relate to the drafting of the **DECISION AND ORDER** for the Claimant's SCWCC Hearing which took place on April 18, 2012. The **DIRECTIVES** were issued by Commissioner Wilkerson on April 27, 2012. The **DIRECTIVES** were numbered as followed:

DIRECTIVE 1.) thru DIRECTIVE 16.) which is enclosed with this **MOTION** dated January 15, 2013- the **DIRECTIVES** were issued on April 27, 2012- **PAGES: 1 thru 3.** The Claimant noticed **DIRECTIVE 6.) [***FINDING OF FACT number fourteen (14)]** The prescriptions were delayed. There was a change with the prescription company. Defense lawyer has tried to call the Claimant and has written letters to the Claimant without a response. The Commission file indicates that he was called by the Commissioner's office on 3/2, 3, 5 and 9, 2012. The Commissioner indicated 3/3/12 at the hearing, but he misread his notes. This was to try to resolve some issues. The Claimant never returned those calls. The Claimant indicated he did call back on 4/2, but the

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

WCC FILE NO. 0506037

MOTION
(January 16, 2013)

hearing was already scheduled. ***This DIRECTIVE was deleted from the April 18, 2012 SCWCC Hearing DECISION AND ORDER by the SCWCC COMMISSION REVIEW panel due to the inconsistencies with the facts of the case. There was no change in the Claimant's prescription drug company. This was one of several untrue statements by the Defendants. This would be supported by the COMMISSION REVIEW Hearing transcript- PAGE: 5- Lines 19 thru 25, PAGE: 6- Lines 1 thru 13, PAGE: 15- Lines 15 thru 25, PAGE: 16- Lines 1 thru 25 and PAGE: 17- Lines 1 thru 15. This is all documented in the transcript from the SCWCC COMMISSION REVIEW Hearing dated September 18, 2012. DIRECTIVE 7.) The Claimant has been very uncooperative. ***This DIRECTIVE was deleted from the April 18, 2012 SCWCC Hearing DECISION AND ORDER by the SCWCC COMMISSION REVIEW panel due to some inconsistencies with the facts of the case. The SCWCC COMMISSION REVIEW Hearing was held on September 18, 2012. This would be supported by the SCWCC COMMISSION REVIEW Hearing transcript- PAGES: 1 thru 18 from the SCWCC COMMISSION REVIEW Hearing held on September 18, 2012. DIRECTIVE 9.) [FINDING OF FACT number sixteen (16)] Defense counsel requests expenses of \$1150. Please note the exact request from the transcript. I would have awarded \$500, due to the fact that defendants would be bearing the cost of writing the order, I waive it at this time. Any future request, the Commissioner would strongly consider 100% reimbursement to defendants. ***This DIRECTIVE was deleted from the April 18, 2012 SCWCC Hearing DECISION AND ORDER by the SCWCC COMMISSION REVIEW panel which was inconsistent with the facts of the case. This would be supported by the SCWCC COMMISSION REVIEW Hearing transcript- PAGES: 1 thru 18 from the SCWCC COMMISSION REVIEW Hearing held on September 18, 2012. DIRECTIVE 13.) [FINDING OF FACT number nineteen (19)] I find Defense counsel and her firm to be trustworthy and have been trying to assist the Claimant. ***This DIRECTIVE was deleted from the April 18, 2012 SCWCC Hearing DECISION AND ORDER by the COMMISSION REVIEW panel which was inconsistent with the facts of the case. This would be supported by SCWCC COMMISSION REVIEW Hearing transcript- PAGE: 6- Lines 22 thru 25, PAGE: 7- Lines 1 thru 25, PAGE: 8- Lines 1 thru 25, PAGE: 9- Lines 1 thru 25, PAGE: 10- Lines 1 thru 25 and PAGE: 11- Lines 1 thru 23 which is all documented in the SCWCC COMMISSION REVIEW Hearing transcript from the SCWCC COMMISSION REVIEW Hearing held on September 18, 2012. In addition the Claimant noticed that DIRECTIVE 14.) "The Claimant has had quite the runaround from the carrier for treatment, checks and prescription problems." was omitted from the DECISION AND ORDER from the SCWCC Hearing held on April 18, 2012 with Commissioner Avery B. Wilkerson Jr. The DECISION AND ORDER from the SCWCC Hearing held on April 18, 2012 with Commissioner Avery B. Wilkerson Jr. was prepared by the Defendants. The DECISION AND ORDER from the SCWCC Hearing held on April 18, 2012 was reviewed and signed by Commissioner Wilkerson. It is the Claimant's strong opinion that the DIRECTIVE 14.) "The Claimant has had quite the runaround from the carrier for treatment, checks and prescription problems." was allowed to be omitted from the DECISION AND ORDER from the SCWCC Hearing held on April 18, 2012 as an effort to make the DECISION AND ORDER more favorable with the Defendants. The DECISION AND ORDER from the SCWCC Hearing held on April 18, 2012 was prepared by the Defendants

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

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MOTION
(January 16, 2013)

and then reviewed by Commissioner Wilkerson.

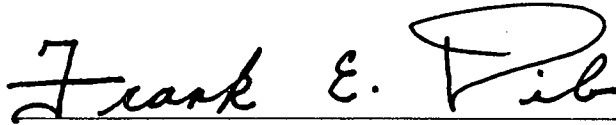
Due to this reason along with the ***FINDING OF FACT number fourteen (14) The Claimant has been very uncooperative in the resolution of these issues. ***FINDING OF FACT number sixteen (16) Counsel for the Defendants requested expenses of \$1,150.00 in preparation for this hearing including time spent responding to the Claimant's Motion and Form 50 as well as preparation for and travel to and from the hearing. The undersigned Commissioner would have likely awarded up to \$500.00 in defense costs, but due to the fact that the Defendants would be bearing the cost of writing that order, the undersigned Commissioner waives awarding costs at this time. The undersigned Commissioner would strongly consider a 100% reimbursement to the Defendants on any future request for defense costs in further defending this claim. ***FINDING OF FACT number nineteen (19) The undersigned Commissioner finds defense counsel and her firm to be trustworthy and diligent in efforts to assist the Claimant with his workers' compensation claim. The above ***FINDING OF FACT number fourteen (14), ***FINDING OF FACT number sixteen (16) and ***FINDING OF FACT number nineteen (19) were all deleted from the DECISION AND ORDER from the SCWCC Hearing held on April 18, 2012 with Commissioner Avery B. Wilkerson Jr. The ***FINDING OF FACT number fourteen (14), ***FINDING OF FACT number sixteen (16) and ***FINDING OF FACT number nineteen (19) were all deleted by the SCWCC COMMISSION REVIEW panel at the SCWCC COMMISSION REVIEW Hearing held on September 18, 2012. This was due to strong inconsistencies with the facts of the case. This would be strongly supported by the entire SCWCC COMMISSION REVIEW Hearing transcript- PAGES: 1 thru 18 from the SCWCC COMMISSION REVIEW Hearing held on September 18, 2012. It is the Claimant's strong opinion that he will not be able to receive a fair SCWCC DECISION AND ORDER at the SCWCC Hearing scheduled at 11:00am on February 4, 2013 at 1333 Main Street, Suite 500, Hearing Room A, Columbia, SC 29202 and or any other future SCWCC Hearing as Commissioner Avery B. Wilkerson Jr. as the SCWCC Hearing Commissioner hearing the case. It is the Claimant's strong opinion that the DECISION AND ORDER issued at the SCWCC Hearing held on April 18, 2012 with Commissioner Avery B. Wilkerson Jr. was an attempt to treat the Claimant unfair due to the Claimant's ***race or based on the color of the Claimant's skin. The Claimant's strong opinion is supported by the facts outlined in this MOTION dated January 16, 2013, the Claimant's APA SUBMISSIONS well documented in the Claimant's SCWCC file- (WCC FILE NO. 0506037), any and all supporting documents in the Claimant's SCWCC file (for an example SCWCC Hearing transcripts, the Claimant's Deposition(s) transcript and or any other supporting documents. Once again the Claimant respectfully request that Commissioner Avery B. Wilkerson Jr. be removed and or replaced as the SCWCC Hearing Commissioner for the SCWCC Hearing scheduled at 11:00am on February 4, 2013 and or any other future SCWCC Hearing(s).

Sincerely,

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

WCC FILE NO. 0506037

MOTION
(January 16, 2013)



DATE: January 16, 2013

Frank E. Wilson
8755 Jessica Court
North Charleston, SC 29406

Enclosures: ***DIRECTIVE 1.) thru DIRECTIVE 16.)- issued on April 27, 2012 by Commissioner Avery B. Wilkerson Jr.- PAGES: 1 thru 3**
***DECISION AND ORDER from the SCWCC Hearing held on April 18, 2012 with Commissioner Avery B. Wilkerson Jr.- PAGES: 1 thru 13**
***WCC Form # 59 (APPELLANT'S INFORMAL BRIEF)- PAGES: 1 thru 5**
***SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION REQUEST FOR A PROPOSED DECISION AND ORDER from the SCWCC COMMISSION REVIEW panel issued on October 4, 2012**
***APPELLANT PANEL DECISION AND ORDER OF THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION- WCC FILE NO. 0506037 from the COMMISSION REVIEW Hearing held on September 18, 2012- PAGES: 1 thru 13**

FRANK E. WILSON
8756 JESSICA COURT
NORTH CHARLESTON, SC 29406

1996
68-7497/2560

Pay to the Order of SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION 1/16/13 Date
P.O. Box 1715 COLUMBIA, SC 29202-1715 \$ 25.00

TWENTY-FIVE DOLLARS AND NO CENTS

NAVY
FEDERAL
Credit Union

WCC FILE NO. (0506037)
(MOTION 1/16/13)
(FILING FEE)

Frank E. Wilson

⑆256074974⑆1996⑈1317338703⑈001

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

WCC FILE NO. 0506037

FRANK E. WILSON

Employee,

Claimant,

vs.

AMERICAN LaFRANCE,

Employer,

AND

AIG C/O GALLAGHER BASSETT SERVICES
INC.

Carrier,

**CERTIFICATE
OF
SERVICE**

(January 16, 2013)

The undersigned certifies that I have served, on the date set forth below, a copy of the documents described below, in the above entitled action to the following persons, by depositing a copy of the same in the United States Mail, postage paid, addressed to:

To: Erin Hantske
McAngus, Goudelock and Courie
P. O. Box 650007
Mount Pleasant, SC 29465

To: Judicial Department and
The South Carolina Workers' Compensation Commission
P. O. Box 1715
Columbia, SC 29202-1715

Documents: **The Claimant's SCWCC Letter dated January 16, 2013, the Claimant's MOTION dated January 16, 2013- PAGES: 1 thru 4, the Claimant's MOTION dated January 16, 2013- PAGES: 1 thru 4 \$25.00 filing fee, DIRECTIVE 1.) thru DIRECTIVE 16.)- issued on April 27, 2012 by Commissioner Avery B. Wilkerson Jr.- PAGES: 1 thru 3, DECISION AND ORDER from SCWCC Hearing held on April 18, 2012 with Commissioner Avery B. Wilkerson Jr.- PAGES: 1 thru 13, WCC Form # 59 (APPELLANT'S INFORMAL BRIEF)- PAGES: 1 thru 5, SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION REQUEST FOR A PROPOSED DECISION AND ORDER from the SCWCC COMMISSION REVIEW panel issued on October 4, 2012 and APPELLANT PANEL DECISION AND ORDER OF THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION- WCC FILE NO. 0506037 from the COMMISSION REVIEW Hearing held on September 18, 2012- PAGES: 1 thru 13 and the SCWCC COMMISSION REVIEW**

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

WCC FILE NO. 0506037

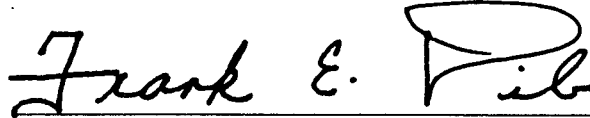
Hearing transcript dated September 18, 2012- PAGES: 1 thru 18

Date Of
Mailing: January 16, 2013

**CERTIFICATE
OF
SERVICE**

☒ VIA CERTIFIED MAIL/RETURN RECEIPT REQUESTED

(January 16, 2013)

A handwritten signature in cursive script, reading "Frank E. Wilson", written over a horizontal line.

Frank E. Wilson
8755 Jessica Court
North Charleston, SC 29406
(843) 327-9616

WILSON, FRANK

Patient #133723

DOB: 02/07/69

June 4, 2012

Subjective: Mr. Wilson is a 43-year-old gentleman with significant history of neck, upper extremity as well as lower back and lower extremity pain who is here for routine follow up. He persistently has lower back as well as mid back pain. He got an MRI of his thoracic spine showing a disc bulge at T6-7 with no stenosis at that level. He has had complaints of his lower back since 2007 which was documented in his deposition after his injury at that time where he stated he had both lower back, mid back and neck pain. Again, it was documented and is noted in the transcription from the deposition from the work-related injury and is not a new finding which was somehow documented somewhere in the chart by one of the PA's on one of his visits in December which is incorrect. He is currently taking Oxycodone and Baclofen on a p.r.n. basis. He is here for routine follow up after the imaging to decide what his plan of care is. He also has the MRI results from the lumbar spine which shows some degeneration at the L4 level which is slightly higher than his previous fusion. He has done well with the rhizotomy in the past with L3, 4, 5 approximately a year ago as well as good relief from a rhizotomy done in the cervical region at C4, 5, and 6 on the right. He says he has pain bilaterally. We attempted to have a medial branch block done on the left and possible rhizotomy on the left at the cervical spine of C4, 5, and 6 but currently that has been denied. Despite the degenerative changes as well as facet hypertrophy and arthropathy he has of the cervical spine and good relief from the rhizotomy he had on the right side. Otherwise, he denies any new functional changes today such as bladder/bowel dysfunction or upper or lower extremity weakness. He does state that he was put on Hydrocodone/Homotropine syrup by his Pulmonologist for a chronic cough. This is a little concerning since he takes a narcotic from us as well as getting it from them. It would be better to find a different cough suppressant than an opiate based cough suppressant since he already gets narcotics from us and that can be a systemic effect from a combination of opiates. His past medical history and review of systems are otherwise consistent with the HPI today.

Objective: Height 5 feet 11 inches; weight 215 pounds; blood pressure 170/89; temperature 98.7°; pulse 88. Pain is 6/10 on the numeric pain scale. He is a well-developed, well-nourished male who is alert and oriented x3, in no acute distress, pleasant, cooperative, with appropriate behavior, intact thought content, fluent speech, normal affect. He has no obvious skin breakdown or lesions on exposed areas of neck, face, hands, arms, or wrists. Deep tendon reflexes are +1 in the patella and Achilles. Strength is 4/5 at the biceps, triceps and brachioradialis and decreased range of motion at the deltoids bilaterally with negative straight leg raise and negative Patrick's bilaterally. Sensory is slightly decreased in the thigh, buttock, calf and lower extremities as well as the trapezius and upper extremities but intact in the foot and hands. Cranial nerves II-XII are grossly intact.

Assessment:

1. Cervical radiculitis
2. Cervical spondylosis
3. Degenerative disc disease of the cervical spine
4. Lumbar radiculitis
5. Lumbar spondylosis
6. Post laminectomy pain syndrome of the lumbar spine

WILSON, FRANK

Patient #133723

DOB: 02/07/69

June 4, 2012

Page 2

Plan: We will repeat the rhizotomy at L3, 4, and 5. In the meantime, we will proceed with a medial branch block at C4, 5, and 6 on the left for alleviation of symptoms approximately a week after the rhizotomy. We will refill his Oxycodone and Baclofen today. We will see him back in approximately a month and reassess on his next visit.

William Blane Richardson, M.D.

WBR/ms

T- 06/14/12

TriCounty Radiology Associates

(843) 529-0600

North Charleston

Summerville

West Ashley

PATIENT: Wilson, Frank
DOB: 2/7/1969
MRN: 396150
PATIENT PHONE: 843-327-9616
PHYSICIAN: William Richardson, MD
DATE: 5/21/2012

EXAM: MRI THORACIC SPINE WITHOUT CONTRAST

HISTORY: Thoracic spondylosis.

COMPARISON: None.

TECHNIQUE: Multiplanar multisequence images thoracic spine without contrast.

FINDINGS: *Alignment and bony structures:* T11/12 mild type I Modic change. T6, T7 and T8 chronic mild anterior wedge deformities. Patent central canal and neural foramina. Remaining marrow preserved. *Spinal cord:* Normal signal and caliber. *Findings by abnormal level:*

T2/3: Minimal disc bulge. No stenosis.

T3/4: Mild disc bulge. No stenosis.

T4/5: Minimal disc bulge. No stenosis.

T6/7: Focal central protrusion. Mild anterior cord flattening. No stenosis.

T10/11: Right intraforaminal superior extrusion extends 9 mm above the endplate and causes moderate exit crowding of right T10.

T11/12: Disc bulge converts to shallow protrusion left intraforaminally. Mild left exit narrowing.

IMPRESSION:

1. T5/6 focal central protrusion causes mild anterior cord flattening but no stenosis.
2. T10/11 right intraforaminal superior extrusion causes moderate exit crowding of right T10.
3. Lesser findings discussed above.

Troy Marlow, M.D.

TM / dg

DD: 5/22/2012 / DT: 5/22/2012

JOB: 15190136

This document has been electronically reviewed and signed.



SOUTHEASTERN SPINE INSTITUTE

January 11, 2013

TO WHOM IT MAY CONCERN

RE: **FRANK WILSON**

Patient#133723

DOB: 02/07/69

Mr. Wilson is a 43-year-old gentleman with significant history of bilateral shoulder pain, cervical and lumbar issues after a motor vehicle accident in 2005 with a work related history who sustained rib fractures with pain discomfort, pneumothoraces at the time of the incident who has persistent complaints of cervical, thoracic and lumbar spine. He has had previous surgical intervention by Dr. Donald Johnson with some relief but has persistent lower back pain as well as neck and shoulder pain with subsequent shoulder surgery by Dr. Estes bilaterally. He again is now going through physical therapy. He has had persistent mid back and thoracic pain since rib fractures have healed and the pneumothoraces healed from the initial vehicle accident.

He had a scan done in May, 2012 which essentially shows a disc bulge at C5-6 and T9-10. However, he is having persistent worsening symptoms in the thoracic and rib area, and that may be progressively worsening disc disease and so it is requested by this office that he proceed with a repeat scan to see if there is any worsening disc disease that may warrant further surgical or interventional therapy at those levels.

Subsequently due to the fact that he has had persistent lower back pain and lower extremity pain since the initial injury as well as the surgery done by Dr. Donald Johnson with still persistent lower back and lower extremity radiating symptomatology into the foot with worsening pain as well as weakness.

I think it is reasonable to get a nerve conduction study of the lower extremities to see if there is anything that have changed with surgery or worsening lumbar disease.

SOUTHEASTERN SPINE INSTITUTE

WILSON, FRANK

Patient#133723

DOB: 02/07/69

January 11, 2013

Page 2

Furthermore, if the nerve conduction does show any changes, then we would refer him back to Dr. Johnson for re-evaluation or possible revision or further surgical workup of the lumbar spine because he consistently has complaints of mid back, lower back and lower extremity pain. These are certainly reasonable, and would be important in guiding his further care.

If you have any questions, please contact our office at (843) 849-1551.

Sincerely,

William Blane Richardson, M.D.

WBR/ms

ORTHOPAEDIC SPECIALISTS OF CHARLESTON**John M. Graham, Jr., MD****Patient Name:** WILSON, FRANK**DOB:** 2/7/1969**PATIENT #:** 77-52-9**2093 Henry Tecklenburg Drive****Suite 200 East****Charleston, SC 29414****Telephone (843) 958-2500****Fax (843) 958-2680****Date of Service:** 2/4/2010**FOLLOW-UP**

The patient is seen today for evaluation of his shoulders. He has continued to have discomfort in both shoulders, the right worse than the left. He has also been followed by Dr. Johnson with respect to his lumbar spine. He continues to have severe back pain which continues evaluation and MRI scan has demonstrated degeneration, but discogram has been recommended and not yet obtained. With respect to his shoulder he has restricted range of motion and ongoing pain. Previous MRI dated 2006 demonstrates a small tear of the distal portion of the supraspinatus tendon on the right. Because of ongoing discomfort despite therapy and injection and conservative measures, it appears that he is a candidate for arthroscopy of his right shoulder. This will likely be delayed until after a completed evaluation with respect to his lumbar spine. Risks, benefits and possible complications are discussed with respect to his right shoulder. In the process of doing work hardening to address his right shoulder he injured his left shoulder in the third or fourth quarter of 2006. He continues to have pain in his left shoulder with findings similar to that on the right. It does appear that this is causatively related to the right shoulder accident as well given the way the injury occurred and that he was doing work hardening to address his right shoulder pain. The patient's left shoulder will be subsequently evaluated as needed.

John M. Graham, Jr., MD

JMG/gl

DD: 2/4/2010 9:34:00 AM

DT: 2/9/2010 2:15:23 PM

10920422

This document was electronically signed by John Graham, Jr., MD

Date and Time: 2/10/2010 9:47:37 PM

FRANK E. WILSON
8755 JESSICA COURT
NORTH CHARLESTON, SC 29406

STORE YOUR DUPLICATE CHECKS IN YOUR CHECK BOX

☒ Track your expenses...

☐ Clothing ☐ Food ☐ Transportation
☐ Credit Card ☐ Utilities ☐ Mortgage
☐ Entertainment ☐ Insurance ☐ Other: _____

☐ TAX DEDUCTIBLE ITEM

1405

8/20/09

SOUTHERN ORTHOPEDICS
AND SPORTS MEDICINE
THREE HUNDRED EIGHTY DOLLARS AND

(DR. WILLIAM ESTES
RIGHT AND LEFT SHOULDER
MEDICAL EVALUATION)

BALANCE
FORWARD

THIS ITEM

BALANCE

DEPOSIT

OTHER

BALANCE
FORWARD

380.00

NO CENTS

1405

For added security, your name and account number do not appear on this copy.

NOT NEGOTIABLE

FRANK E. WILSON
8755 JESSICA COURT
NORTH CHARLESTON, SC 29406

STORE YOUR DUPLICATE CHECKS IN YOUR CHECK BOX		1429
☒ Track your expenses...	☐ TAX DEDUCTIBLE ITEM	
☐ Clothing	☐ Food	
☐ Credit Card	☐ Utilities	
☐ Entertainment	☐ Insurance	
☐ Transportation	☐ Mortgage	
☐ Other:		
9/29/09		
SOUTHERN ORTHOPEDICS AND SPORTS MEDICINE		
SEVENTY — EIGHT DOLLARS AND NO CENTS		
WILLIAM J. ESTES, MD		
FOLLOW — UP		
(9/29/09)		
1429		
For added security, your name and account number do not appear on this copy.		
NOT NEGOTIABLE		