

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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APPEAL FROM SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

SC Court of Appeals

Case No. 2014-001197

Brenda Oswald,
Employee. Appellant,

v

Oswald Law Firm, Employer
and Norguard Insurance Company, Carrier Respondents.

RECORD ON APPEAL

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ATTORNEYS FOR APPELLANT

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BEFORE THE APPELLATE PANEL
OF THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

SCWCC FILE NO - 1022089

Brenda Oswald,	)	
	)	
Employee,	)	
	)	
vs	)	
	)	
Oswald Law Firm,	)	DECISION & ORDER
	)	
Employer,	)	
	)	
and	)	
	)	
NorGuard Insurance Company,	)	
	)	
Carrier,	)	
	)	
Defendants.	)	

HEARING

November 19, 2011 at the S.C. Workers' Compensation
Commission, 1333 Main St , Columbia, SC.

APPEARANCES

The Claimant, Brenda Oswald, was represented by Frank A
Barton, Esquire, Post Office Box 3972 West Columbia, SC 29171

Defendants The Oswald Law Firm, Employer, and NorGuard
Insurance, Carrier, were represented by Peter P Leventis, IV,
Esquire and Mark D Cauthen, Esquire of McKay, Cauthen,
Settana & Stuble, P A of Columbia, South Carolina

PURPOSE OF HEARING:

To determine if the single Commissioner erred as a matter of fact
and/or law for the reasons set forth in the Form 30 appeal filed by
the Claimant Brenda Osawld

OPINION

Commissioner Gene McCaskill, Appellate Panel Chair
Commissioner Susan S Barden
Commissioner Melody L. James

FILED

_____, 2014

000001

BACKGROUND AND PROCEDURAL POSTURE

This matter comes before the Appellate Panel of the Commission upon a Form 30 appeal filed on behalf of the Claimant, Brenda Oswald, who is represented by attorney Frank A Barton of Lexington, SC. The Defendants, The Oswald Law Firm, Employer, and NorGuard Insurance, Carrier, are represented by attorney Peter P Leventis, IV of Columbia, SC. The parties and their attorneys appeared before the Appellate Panel on November 19, 2013 after appellate briefs were filed by the parties, and oral argument was conducted. This was a denied claim for benefits by the Employer/Carrier. This case was originally heard before Commissioner Andrea C Roche on March 21, 2013.

Commissioner Roche issued an Order on July 9, 2013 denying benefits, and finding that the case was not compensable. Commissioner Roche's Order made the following "Findings of Facts" and "Conclusions of Law" in her July 9, 2014 Order as follows:

FINDINGS OF FACT (BY THE SINGLE COMMISSIONER)

- 1 That all parties are bound by and subject to the terms and provisions of the South Carolina Workers' Compensation Act.
- 2 That Claimant, Brenda Oswald, was an employee of the Oswald Law Firm on the date in question of September 27, 2010.
- 3 That the Oswald Law Firm Employer was insured for this date of accident, for purposes of workers' compensation, through NorGuard Insurance.
- 4 That venue for the hearing is proper and agreed upon by the parties in Lexington, South Carolina.
5. That notice of the hearing was timely and properly served upon all parties of interest.
- 6 That notice of the accident was given to the employer in a timely fashion.
- 7 That a claim for benefits was filed with the South Carolina Workers' Compensation Commission within two years of the date of the alleged accident.

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8 That the Claimant's average weekly wage for this accident is \$692 30, and her corresponding compensation rate would be \$461 53

9 That Claimant's sworn testimony at the hearing was not credible due in part to the reasons stated above, and outlined conflicting evidence from her testimony, as well as evidence in the record, the undersigned's own observations of the witness, and specifically in light of the fact that her testimony as to the facts of the accident (such as where she was coming from at the time of the accident) were in direct conflict with a disinterested non-party to the workers' compensation claim, Mr. Franklin Riggins (See Generally, the Deposition Testimony of Franklin Riggins *vis a vis* the sworn deposition and trial testimony of Mrs Brenda Oswald) (Hearing Trans at p 29, Riggins Trans. at p. 18 lines 19-25, and p 19, line 23 - p. 20, line 11).

Namely, that Mrs Oswald testified both in her deposition, and at trial that she was in the midst of going from an accountant's office to a bank at the time of the accident, yet Mr Riggins, who lives approximately 0.2 miles from the Claimant, stated that he followed Mrs Oswald out of the neighborhood that morning, and immediately preceding the motor vehicle accident in which he was the other involved driver.

10 I do not believe the Claimant's version events as to where she was traveling to and from, and her alleged purpose for such travels at the time of the accident which gave rise to her injuries (See Also, Defendants' APA's at p 102, a July 26, 2011 report for treatment of the Sept. 27, 2010 date of accident checking "no" as to whether or not this "the patient's pain or condition arise as the result of a work related injury or accident.")

11. The Claimant has the burden of providing by the greater weight of the evidence that the claim is compensable and falls within the Act. No exhibits from the Claimant were provided in the record as to the alleged transaction(s) which took place on September 27, 2010 at Burkett or SCB&T which would corroborate her version of the events or her alleged actions on that date related to her employment activities at either location. The Claimant has not met her burden of proof under the Act in proving by the greater weight of the evidence that her travel was work related and arose out of or in the course of her employment with the Oswald Law Firm.

12. I find that this claim for benefits is not compensable under the Act and excluded as the claim is barred under the "going and coming" rule exclusion, and no applicable exception to this exclusion would apply. Even assuming the Claimant's version of events is partially accurate (and the undersigned does not in finding the witness not credible (See Findings of Fact No 9-10 above)), the Claimant would have been driving from her home - as opposed to another bank as testified to - to a place of employment, a bank.

First, the bank in question was actually on her way to the Oswald Law Firm from her house. Again, this is even assuming *arguendo* that the Claimant was legitimately headed to work and/or the bank, in the first instance. Under the dual purpose doctrine, the personal trip (to into work at the law firm) would have still taken place, even if the alleged "special errand" or "work trip," that is a trip

by the bank had not been part of the journey. However, I find the "special errand" or "work trip," by the bank (again assuming the Claimant was necessarily telling the truth about this trip at all) would not have taken place at this time 'but for' the trip from home into the office itself for her regular work day.

Therefore, as the trip to the Oswald Law Firm, from home, during regular work hours would be barred under the "going and coming" exclusion, so too would the purported trip by the bank (on the way to, or back to) the office under this set of circumstances pursuant to the "dual purpose." doctrine. Hence, the entire journey would be during a non-covered trip, again even assuming the Claimant's assertions as to her travels and responsibilities to be partially accurate.

13 Based on Findings of Fact Numbered "9," "10," "11," and "12," above, the undersigned finds this claim for benefits is not compensable as stated, and as further outlined hereinabove and below. Therefore, it is not necessary to reach the other defenses raised by the Employer/Carrier and I make no specific findings as to *laches*; Claimant's receipt of ongoing payment in wages for the 30 months following the accident, whether or not there is medical evidence in the record to support an aggravation of the Claimant's pre-existing neck injury; nor the Claimant's entitlement to prior or future medical treatment – specifically in the 25 months prior to her Form 50 filing for this hearing.

CONCLUSIONS OF LAW (BY THE SINGLE COMMISSIONER)

Accordingly, as provided in the South Carolina Code of Law, 1976, as amended, § 42-17-40, it is the determination of this Commissioner that

- 1 Under § 42-3-20 and § 42-3-180, this Commissioner has jurisdiction over the parties to hear the issues in dispute.
- 2 Under § 42-1-130, Claimant, Brenda Oswald was a covered employee of the Oswald Law Firm on September 27, 2010 due to her employment as an office manager for the firm.
- 3 Under § 42-1-140, the Oswald Law Firm is a covered employer under the meaning of the Act.
- 4 Under § 42-1-150, there was an employer/employee relationship between the parties on the date of accident.
- 5 Under § 42-17-20, venue in Columbia, South Carolina was proper and agreed upon by the parties.
- 6 Under § 1-23-320 (b) and Regulation 67-607, notice of the hearing was timely and properly served upon all of the parties of interest.
- 7 Under § 42-15-20, the Claimant gave timely notice of her accident to her employer.

8 Under § 42-15-40, the claim for benefits was filed under the Workers' Compensation Act within two years with the South Carolina Workers' Compensation Commission

9 Under § 42-1-40, Claimant's average weekly wage was \$692.30, and her compensation rate is \$461.53.

10 Under § 42-1-160, has not met her burden of proof in showing that she sustained a compensable injury arising out of or in the course and scope of her employment with the Oswald Law Firm

11 Under §42-15-60, and pursuant to Findings of Fact numbered "10-12" and Conclusions of Law Numbered "10" and "12," no medical benefits are due as this claim for benefits is found by the undersigned to fall outside of the Workers' Compensation Act, and therefore not compensable.

12 In the first instance, the undersigned has found the Claimant not to be credible as noted above, and consequently finds the entire trip to be outside the course and scope of employment, as I do not believe her testimony in relation to where she was traveling to and from and why, or that it was work related travel.

13 Even assuming, *arguendo*, that the part of the Claimant's testimony regarding her travels was accurate, namely that she was on her way to the office and going by the bank to make deposits, this case would still be barred under the "going and coming rule," exclusion and not fall under any applicable exclusion thereto. (See Generally, S.C. Code Ann §42-1-160, and *Sola v Sunny Slope Farms*, 244 S C 6, 14; 135 S.E. 2d 321, 326 (1964)). (See testimony of Franklin Riggins at Trans. at p. 18 lines 19-25, and p. 19, line 23 - p. 20, line 11).

14 As noted, such trip did not fall under any exception to the "going and coming" exclusion of compensability. The bank in question is on the Claimant's way from her house to the Oswald Law Firm. (See Defendants' Trial Exhibit No 19) In conjunction with Finding of Fact numbered "12" above, this journey would not have been a "work related" trip under the "dual purpose" exception to the "going and coming" exclusion from the Act (See *DiMaria v MultiMedia Inc*, 308 S C 387, 417 S.E.2d 324 (1992))

15 Pursuant to the foregoing analysis of the case, and the above Findings of Fact and Conclusions of Law, in that the undersigned has found this case to not be compensable, there is no need to reach or determine the other affirmative legal and factual defenses raised by the Employer/Carrier associated with this claim for benefits (Also see, Finding of Fact No. 13 above).

ISSUES ON APPEAL

Within the applicable time for appeal, Appellant Brenda Oswald, filed a Form 30 appeal on three separate grounds of exception for appellate judicial review by this Panel as follows

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- 1 Whether the Commissioner erred in finding that the Claimant was not on the job at the time of the accident in question on September 27, 2010?
 - 2 Whether the Commissioner erred in concluding the going and coming rule applied in determining that the Claimant was not working at the time of her accident?
 - 3 Whether the Commissioner erred in disregarding testimony of the Defendant employer which stated that the Claimant was on the job at the time of her accident?
- (See Generally the Form 30 of Brenda Oswald filed on July 22, 2013)

No other issues were raised on appeal, and the Defendants did not cross appeal on any ground or grounds

STATEMENT OF THE CASE

The Claimant's/Appellant's position is that on or about September 27, 2010, she was in a motor vehicle accident in which she injured her back, neck and both shoulders. The Claimant/Appellant asserted that this accident, in which her vehicle was rear-ended by another motorist, took place under circumstances which arose out of and in the course of her employment as an office manager for the Oswald Law Firm. The Claimant alleged before the single Commissioner that at the time of the accident she was in the midst of traveling between her firm's accountant's office, and the firm's bank, in order to make withdraws/deposits for the Oswald Law Firm, pursuant to her employment duties.

The Claimant/Appellate requested any and all available benefits under the Act, including but not limited to temporary total disability (TID) benefits from the date of the accident in September 27, 2010 and ongoing, until she attains maximum medical improvement (MMI). She also requested reimbursement or coverage of any all medical treatment from the date of accident to present, as well as continuing medical benefits under the Act. The Claimant did not seek a determination of permanent disability at the time of the original hearing, as her position was that she had not yet attained MMI. In response to one of the Defendants' arguments that such travel

at the time of accident was not in the course and scope of her work, the Claimant argued that even if her trip were not from one place of employment to another (e.g. between the accountant's office and the bank), and if she were traveling from home to the bank, such a trip would not be outside of her scope of employment under the "going and coming" rule exclusion, but rather would be compensable under the "dual purpose" exception to the "going and coming" exclusion.

The Defendants/Respondents, for their part, have continuously denied any and all benefits in this case on several grounds and asserted numerous affirmative defenses. Essentially, the Respondents argued before the single Commissioner that the Claimant did not carry her burden of proof in proving an injury by accident arising out of and in the course and scope of her employment. Moreover, that the travel engaged in by Mrs. Oswald at the time of the accident would have been subject to the going and coming rule exclusion to compensability. The Defendants/Respondents further asserted that there was direct evidence in the record, via sworn testimony of a disinterested third party, that contradicted the Claimant's version of events and her alleged travel that day in the first instance.

Respondent Employer/Carrier also contended that even if the Claimant's injuries were otherwise compensable, that she cannot prove by medical evidence under S.C. Code Ann. §42-9-35 that she has suffered an aggravation of a pre-existing injury to her cervical spine and shoulders from this alleged injury. Employer/Carrier argued before the single Commissioner that the equitable doctrine of *laches*, for failure to timely prosecute her claim for benefits within a reasonable amount of time, would further stand to bar ongoing benefits. Specifically as to TTD benefits, the Defendants/Respondents also argued and provided evidence that the Claimant/Appellant still came into work at the Oswald Law Firm and/or as a real estate agent with Oswald Realty, and still performed job duties and functions for the Oswald Law Firm.

Further on that point, Defendants/Respondents pointed to at the Single Commission hearing that the Claimant has continued receiving ongoing salary benefits and wages from the

Oswald Law Firm for over 30 months by the date of the single Commissioner's hearing, and therefore would not be entitled to back due TTD benefits even if the claim was otherwise compensable. Lastly, Respondents argued that even if the claim was otherwise compensable above and beyond the other defenses raised, the Appellant Oswald failed to even request a hearing for more than a year (and even that hearing request was later withdrawn multiple times) and never fully prosecuted the claim until over 2 ½ years after the accident. The Employer/Carrier asserted that medical treatment during those 2 ½ years was not emergent medical care, nor did the Claimant have the right to direct her own medical treatment at that time. Therefore, according to Defendants/Respondents, such treatment from the date of accident until the date of the most recent hearing request in December of 2012 would not be reimbursable or covered under the Act, even if the claim was otherwise compensable, under the requirements of S C Code Ann §42-15-60.

FINDINGS OF FACT BY THE APPELLATE PANEL

- 1 That all parties are bound by and subject to the terms and provisions of the South Carolina Workers' Compensation Act.
- 2 That Claimant, Brenda Oswald, was an employee of the Oswald Law Firm on the date in question of September 27, 2010.
- 3 That the Oswald Law Firm Employer was insured for this date of accident, for purposes of workers' compensation, through NorGuard Insurance.
- 4 That venue for the hearing is proper and agreed upon by the parties in Lexington, South Carolina.
- 5 That notice of the hearing was timely and properly served upon all parties of interest.
- 6 That notice of the accident was given to the employer in a timely fashion.

7 That a claim for benefits was originally filed with the South Carolina Workers' Compensation Commission within two years of the date of the alleged accident

8 That the Claimant's average weekly wage for this accident is \$692.30, and her corresponding compensation rate is \$461.53

9 That Claimant's sworn testimony at the hearing was not credible due in part to the outlined conflicting evidence from her trial testimony, as well as evidence in the record, and specifically in light of the fact that her testimony as to the facts of the accident (such as where she was coming from at the time of the accident) was in direct conflict with a disinterested non-party to the workers' compensation claim, Mr. Franklin Riggins. (See Generally, the Deposition Testimony of Franklin Riggins *vis a vis* the sworn deposition and trial testimony of Mrs. Brenda Oswald) (Hearing Trans. at p. 29; Riggins Trans. at p. 18 lines 19-25, and p. 19, line 23 – p. 20, line 11)

Namely, that Mrs. Oswald testified both in her deposition and at the hearing that she was in the midst of going from an accountant's office to a bank at the time of the accident, however, Mr. Riggins, who lives approximately 0.2 miles from the Claimant, stated that he followed Mrs. Oswald out of the neighborhood that morning, and immediately preceding the motor vehicle accident in which he was the other involved driver.

10 We do not believe the Claimant's version of events as to where she was traveling to and from, and her alleged purpose for such travels at the time of the accident which gave rise to her injuries. (See also, Defendants' APA at p. 102, a July 26, 2011 report for treatment of the Sept. 27, 2010 date of accident, in which "no" was checked as to whether or not "the patient's pain or condition arise as the result of a work related injury or accident.")

11 The Claimant has the burden of providing by the greater weight of the evidence that the claim is compensable and falls within the Act. No exhibits from the Claimant were provided in the record as to the alleged transaction(s) which took place on September 27, 2010 at

Burkett or SCB&T, which would corroborate her version of the events or her alleged actions on that date related to her employment activities at either location. We find the Claimant has not met her burden of proof under the Act in proving by the greater weight of the evidence that her travel was work related and arose out of or in the course of her employment with the Oswald Law Firm.

12 We further find that this claim for benefits is not compensable under the Act as the claim is barred under the "going and coming" rule exclusion, and no applicable exception to this exclusion would apply. Even assuming the Claimant's version of events is partially accurate (these undersigned Commissioners do not so find, See Findings of Fact No. 9-10 above), the Claimant would have been driving from her home – as opposed to another bank as she testified to – to a place of employment, a bank.

First, the bank in question was actually on the Claimant's way to the Oswald Law Firm from her house. Again, this is even assuming *arguendo* that the Claimant was legitimately headed to work and/or the bank, in the first instance. Under the dual purpose doctrine, the personal trip (to into work at the law firm) would have still taken place, even if the alleged "special errand" or "work trip" (i.e. trip by the bank) had not been part of the journey. However, we find the "special errand" or "work trip" by the bank (again assuming the Claimant was necessarily telling the truth about this trip at all) would not have taken place at this time "but for" the trip from home into the office itself for her regular work day.

Therefore, as the trip to the Oswald Law Firm from the Claimant's home during regular work hours would be barred under the "going and coming" exclusion, so would the purported trip by the bank (on the way to, or back to) the office under this set of circumstances pursuant to the "dual purpose" doctrine. Hence, the entire journey would be during a non-covered trip, again even assuming the Claimant's assertions as to her travels and responsibilities to be partially accurate.

13 Based on Findings of Fact No 9, 10, 11, and 12, the undersigned Commissioners find this claim is not compensable, as further outlined hereinabove and below. Therefore, it is not necessary to reach the other defenses raised by the Employer/Carrier, and we make no specific findings as to *laches*, Claimant's receipt of ongoing payment in wages for the 30 months following the accident, whether or not there is medical evidence in the record to support an aggravation of the Claimant's pre-existing neck injury, nor the Claimant's entitlement to prior or future medical treatment – specifically in the 25 months prior to her Form 50 filing for this hearing.

CONCLUSIONS OF LAW BY THE APPELATE PANEL

Accordingly, as provided in the South Carolina Code of Law, 1976, as amended, § 42-17-50, it is the determination of this Appellate Panel of the Commission that

1 Under § 42-3-20, § 42-3-180, and § 42-17-50, this appellate panel has jurisdiction over the parties to hear the issues in dispute.

2 Under § 42-1-130, Claimant, Brenda Oswald was a covered employee of the Oswald Law Firm on September 27, 2010 due to her employment as an office manager for the firm.

3 Under § 42-1-140, the Oswald Law Firm is a covered employer under the meaning of the Act.

4 Under § 42-1-150, there was an employer/employee relationship between the parties on the date of accident.

5 Under § 42-17-20, venue in this matter was proper before the single Commissioner.

6 Under § 1-23-320 (b) and Regulation 67-607, notice of the hearing was timely and properly served upon all of the parties of interest.

7 Under § 42-15-20, the Claimant gave timely notice of her accident to her employer

8 Under § 42-15-40, the claim for benefits was filed under the Workers' Compensation Act within two years with the South Carolina Workers' Compensation Commission

9 Under § 42-1-40, Claimant's average weekly wage was \$692.30, and her compensation rate is \$461.53

10 Under § 42-1-160, has not met her burden of proof in showing that she sustained a compensable injury arising out of or in the course and scope of her employment with the Oswald Law Firm

11 Under §42-15-60, and pursuant to Findings of Fact No 10-12 and Conclusions of Law No 10 and 12, no medical benefits are due as this claim for benefits is found by the undersigned to fall outside of the Workers' Compensation Act, and therefore not compensable

12. In the first instance, the undersigned Commissioners find the Claimant not to be credible as noted above, and consequently finds the entire trip was outside the course and scope of employment, as we do not believe her testimony in relation to where she was traveling to and from and why, nor that it was work related travel

13 Even assuming, *arguendo*, that the part of the Claimant's testimony regarding her travels was accurate, namely that she was on her way to the office and going by the bank to make deposits, this case would still be barred under the "going and coming rule," exclusion and not fall under any applicable exclusion thereto (See Generally, S C Code Ann §42-1-160, and *Sola v Sunny Slope Farms*, 244 S C 6, 14, 135 S E 2d 321, 326 (1964)) (See testimony of Franklin Riggins at Frans at p 18 lines 19-25, and p 19, line 23 - p 20, line 11)

14 As noted, such trip did not fall under any exception to the "going and coming" exclusion of compensability. The bank in question is on the Claimant's way from her house to

the Oswald Law Firm (See Defendants' Trial Exhibit No 19) In conjunction with Finding of Fact No 12 above, this journey would not have been a "work related" trip under the "dual purpose" exception to the "going and coming" exclusion from the Act (See *DiMaria v MultiMedia Inc*, 308 S C 387, 417 S E 2d 324 (1992))

15 Pursuant to the foregoing analysis of the case, and the above Findings of Fact and Conclusions of Law, in that the undersigned Commissioners have found this case to not be compensable, there is no need to reach or determine the other affirmative legal and factual defenses raised by the Employer/Carrier associated with this claim for benefits (See also Finding of Fact No 13 above)

ORDER

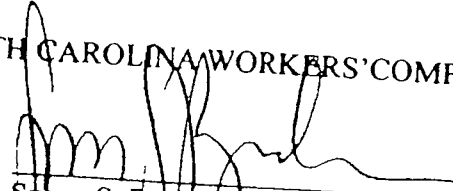
The Appellate Panel of the Commission has reviewed the evidence available in the record, including the Order of the single Commissioner, the briefs filed by the parties, as well as the oral arguments and remarks made by the parties before the Panel, in addition to the pre-hearing filings, and Commission record, to include but not limited to the transcripts, APA expert medical reports and trial exhibits of the parties

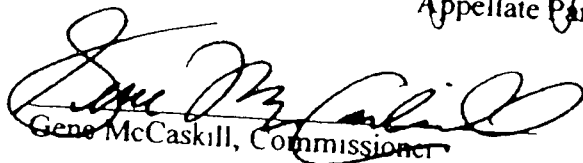
As outlined above, we find that the Claimant was not in the course and scope of her employment at the time of the accident, and further hold that the single Commissioner's Order is affirmed in full, and the findings and conclusions are adopted, verbatim, as the findings and conclusion of this appellate panel, and as outlined herein above. The request for benefits under the Act is therefore denied as this was not a compensable accident under the meaning of the Act pursuant to S C Code Ann §42-1-160

AFFIRMED

AND IT IS SO ORDERED.

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION


Susan S. Barden, Commissioner,
Appellate Panel Chairman


Gene McCaskill, Commissioner


Melody L. James, Commissioner

Columbia, SC May 6th, 2014

CERTIFICATE OF SERVICE

This is to certify that the undersigned has on this date served a copy of this order in the above entitled action upon all parties to this case by sending an electronic copy hereof by electronic mail addressed to the attorneys for said parties, or if there is an unrepresented party(ies), by depositing a copy hereof, postage paid in the United States mail, first class, addressed to the unrepresented party(ies) and to the attorney(s) for the represented party(ies)

By Kim Falls on May 6, 2014 **000014**

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)
Brenda Oswald,)
Employee,)
vs)
Oswald Law Firm,)
Employer,)
and)
NorGuard Insurance Company,)
Carrier,)
Defendants)

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION
COMMISSION

WCC FILE NO 1022089

DECISION & ORDER

HEARING

Held in on March 21, 2013, Lexington, South
Carolina

APPEARANCES

The Claimant, Brenda Oswald, was represented by
Frank A Barton, Esquire, Post Office Box 3972
West Columbia, SC 29171

The Defendants, Oswald Law Firm, Employer, and
NorGuard Insurance, Carrier, were represented by,
Peter P Leventis, IV, Esq , of McKay, Cauthen,
Settana & Stublely, P A , Post Office Box 7217,
Columbia, South Carolina, 29202-7217

PURPOSE

To determine the issues set forth on the Forms 50
and 51 of the parties

DECISION AND ORDER BY

The Honorable Andrea C Roche Commissioner

FILED

July 9, 2013

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STIPULATIONS

At the call of the case the parties agree to the following stipulations

- 1 That the purpose of the hearing is to determine the issues set forth on the Forms 50 and 51 of the parties
- 2 That notice of this hearing was timely and properly served on all parties of interest
- 3 All parties agreed to venue, as set, in Lexington, SC for this hearing
- 4 The Workers' Compensation Commission's file, with the exception of unstipulated medicals and self-serving declarations, was made part of the record
- 5 That the Workers' Compensation Commission has the authority to hear and determine the contested issues in this case
- 6 That notice of the Claimant's accident was given to the Defendant Employer in a timely manner under the Act
- 7 That a claim for workers' compensation benefits was filed against the Defendants within the statutory period under the Act
- 8 That for this date of accident the Claimant had an average weekly wage of \$692.30 and a corresponding compensation rate of \$461.53

APA SUBMISSIONS

CLAIMANT'S EXHIBITS

APA's:

APA No 1	Lexington Family Medical Center	9/27/10	1 – 18
APA No 2	Sunset Family Practice	12/13/10	19 – 33
APA No 3	Midlands Orthopaedics	03/04/11	34 – 59
APA No 4	Human Performance and Rehabilitation	05/02/11	60 – 77

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Exhibits:

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DEFENDANTS' EXHIBITS

APA No 6	Mid Carolina Internal Medicine	09/11/01 – 04/23/12	80 – 108
APA No 7	Lexington Medical Center	06/05/2008	109 – 109E
APA No 8	Sunset Family Practice	08/12/08 – 12/14/10	110 – 122
APA No 9	Lexington Medical Center Radiology	08/15/08	123
APA No 10	Ellis Physical Therapy	09/2/2008	124 – 125

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TAB No 15	Official 10 Year Driving Record		161 – 163
TAB No. 16.	ISO Search [Removed pursuant to a trial objection]		164 – 173
TAB No 17	Public records regarding claimant's real estate license		174 – 177
TAB No 18	Verizon wireless telephone records	9/24/10 – 10/01/10	178 – 183
TAB No 19	Maps of Claimant resident & alleged driving routes		184 - 186
TAB No 20	Numerous maps detailing the alleged route of the Claimant		
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TAB No. 22.	Deposition Transcript of Billy Oswald [Withdrawn]	11/20/12	
TAB No 23	Deposition Transcript of Charles Riggins	11/20/12	

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STATEMENT OF THE CASE

This matter is before the undersigned Commissioner upon a request for hearing on behalf of the Claimant, Brenda Oswald, who is represented by attorney Frank A. Barton of Lexington, SC. The Defendants, The Oswald Law Firm, Employer, and NorGuard Insurance, Carrier, are represented by attorney Peter P. Leventis, IV of Columbia, SC. The parties and their attorneys appeared before this Commissioner on March 21, 2013. This is a denied claim for benefits by the Employer/Carrier.

The Claimant's position is that on or about September 27, 2010, she was in a motor vehicle accident in which she injured her back, neck and both shoulders. The Claimant asserts that this accident, in which her vehicle was rear-ended by another motorist, took place under circumstances which arose out of and in the course of her employment as an office manager for the Oswald Law Firm. The Claimant alleges that at the time of the accident she was in the midst of traveling between her firm's accountant's office, and the firm's bank, in order to make withdraws/deposits for the Oswald Law Firm, pursuant to her employment duties.

The Claimant requests any and all available benefits under the Act, including but not limited to temporary total disability (TTD) benefits from the date of the accident in September 27, 2010 and ongoing, until she attains maximum medical improvement. She also requests reimbursement or coverage of any all medical treatment from the date of accident to present, as well as continuing medical benefits under the Act. The Claimant is not seeking a determination of permanent disability at this time, as her position is that she has not yet reached maximum medical improvement for these injuries. In response to, one of, the Defendants arguments that such travel at the time of accident was not in the course and scope of her work, the Claimant alleges that even if her trip were not from one place of employment to another (e.g. between the accountant's office and the bank), that even if she were traveling from home to the bank, such a trip would not be outside of her scope of employment under the "going and coming" rule.

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exclusion, but rather would be compensable under the “dual purpose” exception to the “going and coming” exclusion

The Defendants, for their part, have denied any and all benefits in this case on several grounds and stated affirmative defenses. Essentially, the Defendants argue that the Claimant cannot carry her burden of proof in proving an injury by accident arising out of and in the course and scope of her employment. Moreover, that the travel engaged in by the Defendant would be subject to the going and coming rule exclusion to compensability. The Defendants further assert there is direct evidence in the record, via sworn testimony of a disinterested third party, that contradicts the Claimant’s version of events and her alleged travel that day in the first instance.

Defendants further contend that even if the Claimant’s injuries were otherwise compensable, that she cannot prove by medical evidence under S.C. Code Ann. §42-9-35 that she has suffered an aggravation of a pre-existing injury to her cervical spine and shoulders from this alleged injury. Moreover, even if otherwise compensable under S.C. Code Ann. §§42-1-160 and 42-9-35, the Defendants assert that the equitable doctrine of *laches*, for failure to timely prosecute her claim for benefits within a reasonable amount of time, would further stand to bar ongoing benefits. Specifically as to TTD benefits the Defendants argue that the Claimant still comes into work at the Oswald Law Firm and/or as a real estate agent with Oswald Law Firm, and still performs job duties and functions for the Oswald Law Firm.

Further on that point, Defendants point to the fact that the Claimant has continued receiving her ongoing salary benefits and wages from the Oswald Law Firm for over 30 months at the date of the hearing, and therefore would not be entitled to back due TTD benefits even if otherwise compensable. Lastly, Defendants point out, again even if otherwise compensable above and beyond the other defenses raised that the Claimant failed to even request a hearing for over a year (which was later withdrawn on multiple occasions) and never fully prosecuted the claim until 30 months after the accident. Therefore, under S.C. Code Ann. §42-15-60, the

Defendants argue that such treatment was neither (a) emergent medical care, nor (b) did the Claimant have the right to direct her own medical treatment at that time. Therefore, according to Defendants, such treatment from the date of accident until the date of the most recent hearing request in December of 2012 would not be reimbursable/covered under the Act, even if the claim was otherwise compensable.

EVIDENCE OF THE CASE

The Claimant, Brenda Oswald, is the office manager for her husband's office, the Oswald Law Firm. The Claimant alleges that at the time of her accident on Sept. 27, 2010 she left from her home in her personal vehicle, then to Burkett, Burkett & Burkett, (Burkett), accountant's for the Oswald Law Firm. After leaving Burkett she was on her way to another bank BB&T and then into her office for work. (Hearing Trans. p. 29). According to the Claimant, it was during her travel between Burkett and BB&T she was involved in an auto accident when she was rear ended by another vehicle. This vehicle was driven by Mr. Franklin Riggins. Mr. Riggins, as it would happen, lives at 2225 Raven Trail Court in West Columbia, SC less than a quarter of a mile from the Claimant who lives at 2124 Raven Trail, West Columbia, SC. (See Riggins Depo. Trans. at p. 5, line 13, The SCWCC file generally, and Trial Exb. 19 of the Defendants).

According to the sworn deposition testimony of Mr. Riggins, Mr. Oswald was actually travelling from her own neighborhood to work at the time of her accident.

Q (By Attorney Barton) Immediately after the accident, did Mrs. Oswald tell you where she was coming from?

A No, sir. I mean, I knew where she was coming from because I had followed her out of the neighborhood. I mean, I was -- She had -- When she went by the house, I backed out, and I pulled out right behind her, and so, --

(Riggins Depo at p 18, lines 19-25)

Q (By Attorney Leventis) You had followed her out of your neighborhood that morning?

A Yes, sir

Q And when I say that morning, I mean just prior to the wreck, just –

A Just prior to the accident, yes

Q So you actually followed her onto 378?

A Yes, sir

Q And when you say she passed you right before you backed out of your driveway, was that on Raven Trail her car –

A Yes, sir

Q -- passed you?

A Yes, sir

(Riggins Depo at p 19 line 23 – p 20, line 11)

This is in direct contravention to Mrs Oswald's testimony that she was traveling from Burkett to BB&T Moreover, in further contradiction of the Claimant's testimony (that she was traveling from Burkett to BB&T as opposed to leaving her home) Mr Riggins testified that the Claimant told him on the date of the accident that she was travelling into work (See Riggins Depo at p 14, lines 17-23)

Of note, the Claimant also previously testified that she had not had significant or ongoing problems with her neck from a prior 2008 car accident – or even injured her neck in that accident (See Hearing Trans at p 42) However, the Claimant clearly had significant ongoing issues with her neck according to a letter she wrote to treatment providers in May of 2009 about

how very significantly the ongoing neck pain from the 2008 accident had affected her and impaired her ability to work, exercise and other aspects of her daily life, back at that time (See Defendants' APA's at p 119)

The Claimant, on page 23 of her deposition stated that she has not worked for the Oswald Law Firm since her September 27, 2010 accident. Nevertheless, she has continually been paid her salary by the firm from Sept of 2010 up to the March 2013 hearing. According to her husband Billy Oswald's testimony at the hearing, Owner of the Oswald Law Firm, these last 30 months of payments are based upon "accrued sick leave" that the Claimant had built up (Hearing Trans at p 27, lines 11-14). However, the Claimant was also apparently laid off from the Oswald Law Firm, and received unemployment for 6 months between December of 2009 and up to June of 2010, just a couple of months prior to this accident (See Hearing Trans at p 23, line 22 – p 24, line3)

Also, in regards to the Claimant's testimony at her deposition that she had not worked at the law firm since her September 27, 2010, a March 2011 report – six months after the date of accident - references the fact that the Claimant is "back at work as office manager for her husband's law practice but under stress over her husband's illness" (See Defendants APA's at p 96) (Also see Defendants APA No 108, dated April 23, 2012 stating under "Occupation" that the Claimant is a "Real estate manager" and "Office manager for her husband's law firm," listing status as "active," for the answers)

The Claimant's husband and owner of the Oswald Law Firm, Billy Oswald, as well as Gene Stockholm each testified at the hearing. Their testimony as well as all of the admitted exhibits and APA submissions of the parties were taken into consideration by the undersigned in reach the below Findings of Fact and Conclusions of Law in determining this case

FINDINGS OF FACT

1 That all parties are bound by and subject to the terms and provisions of the South
Carolina Workers' Compensation Act

2 That Claimant, Brenda Oswald, was an employee of the Oswald Law Firm on the
date in question of September 27, 2010

3 That the Oswald Law Firm Employer was insured for this date of accident, for
purposes of workers' compensation, through NorGuard Insurance

4 That venue for the hearing is proper and agreed upon by the parties in Lexington,
South Carolina

5 That notice of the hearing was timely and properly served upon all parties of
interest

6 That notice of the accident was given to the employer in a timely fashion

7 That a claim for benefits was filed with the South Carolina Workers'
Compensation Commission within two years of the date of the alleged accident

8 That the Claimant's average weekly wage for this accident is \$692.30, and her
corresponding compensation rate would be \$461.53

9 That Claimant's sworn testimony at the hearing was not credible due in part to the
reasons stated above, and outlined conflicting evidence from her testimony, as well as evidence
in the record, the undersigned's own observations of the witness, and specifically in light of the
fact that her testimony as to the facts of the accident (such as where she was coming from at the
time of the accident) were in direct conflict with a disinterested non-party to the workers'
compensation claim, Mr. Franklin Riggins (See Generally, the Deposition Testimony of
Franklin Riggins *vis a vis* the sworn deposition and trial testimony of Mrs. Brenda Oswald)
(Hearing Trans. at p. 29, Riggins Trans. at p. 18 lines 19-25, and p. 19, line 23 – p. 20, line 11)

Namely, that Mrs Oswald testified both in her deposition, and at trial that she was in the midst of going from an accountant's office to a bank at the time of the accident, yet Mr Riggins, who lives approximately 0.2 miles from the Claimant, stated that he followed Mrs Oswald out of the neighborhood that morning, and immediately preceding the motor vehicle accident in which he was the other involved driver

10 I do not believe the Claimant's version events as to where she was traveling to and from, and her alleged purpose for such travels at the time of the accident which gave rise to her injuries (See Also, Defendants' APA's at p 102, a July 26, 2011 report for treatment of the Sept 27, 2010 date of accident checking "no" as to whether or not this "the patient's pain or condition arise as the result of a work related injury or accident ")

11 The Claimant has the burden of providing by the greater weight of the evidence that the claim is compensable and falls within the Act. No exhibits from the Claimant were provided in the record as to the alleged transaction(s) which took place on September 27, 2010 at Burkett or SCB&T which would corroborate her version of the events or her alleged actions on that date related to her employment activities at either location. The Claimant has not met her burden of proof under the Act in proving by the greater weight of the evidence that her travel was work related and arose out of or in the course of her employment with the Oswald Law Firm

12 I find that this claim for benefits is not compensable under the Act and excluded as the claim is barred under the "going and coming" rule exclusion, and no applicable exception to this exclusion would apply. Even assuming the Claimant's version of events is partially accurate (and the undersigned does not in finding the witness not credible (See Findings of Fact No 9-10 above)), the Claimant would have been driving from her home – as opposed to another bank as testified to – to a place of employment, a bank

First, the bank in question was actually on her way to the Oswald Law Firm from her house. Again, this is even assuming *arguendo* that the Claimant was legitimately headed to work and/or the bank, in the first instance. Under the dual purpose doctrine, the personal trip (to into work at the law firm) would have still taken place, even if the alleged “special errand” or “work trip,” that is a trip by the bank had not been part of the journey. However, I find the “special errand” or “work trip,” by the bank (again assuming the Claimant was necessarily telling the truth about this trip at all) would not have taken place at this time ‘but for’ the trip from home into the office itself for her regular work day.

Therefore, as the trip to the Oswald Law Firm, from home, during regular work hours would be barred under the “going and coming” exclusion, so too would the purported trip by the bank (on the way to, or back to) the office under this set of circumstances pursuant to the “dual purpose,” doctrine. Hence, the entire journey would be during a non-covered trip, again even assuming the Claimant’s assertions as to her travels and responsibilities to be partially accurate.

13 Based on Findings of Fact Numbered “9,” “10,” “11,” and “12,” above, the undersigned finds this claim for benefits is not compensable as stated, and as further outlined hereinabove and below. Therefore, it is not necessary to reach the other defenses raised by the Employer/Carrier and I make no specific findings as to *laches*, Claimant’s receipt of ongoing payment in wages for the 30 months following the accident, whether or not there is medical evidence in the record to support an aggravation of the Claimant’s pre-existing neck injury, nor the Claimant’s entitlement to prior or future medical treatment – specifically in the 25 months prior to her Form 50 filing for this hearing.

CONCLUSIONS OF LAW

Accordingly, as provided in the South Carolina Code of Law, 1976, as amended, § 42-17-40 it is the determination of this Commissioner that

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1 Under § 42-3-20 and § 42-3-180, this Commissioner has jurisdiction over the parties to hear the issues in dispute

2 Under § 42-1-130, Claimant, Brenda Oswald, was a covered employee of the Oswald Law Firm on September 27, 2010 due to her employment as an office manager for the firm

3 Under § 42-1-140, the Oswald Law Firm is a covered employer under the meaning of the Act

4 Under § 42-1-150, there was an employer/employee relationship between the parties on the date of accident

5 Under § 42-17-20, venue in Columbia, South Carolina was proper and agreed upon by the parties

6 Under § 1-23-320 (b) and Regulation 67-607, notice of the hearing was timely and properly served upon all of the parties of interest

7 Under § 42-15-20, the Claimant gave timely notice of her accident to her employer

8 Under § 42-15-40, the claim for benefits was filed under the Workers' Compensation Act within two years with the South Carolina Workers' Compensation Commission

9 Under § 42-1-40, Claimant's average weekly wage was \$692.30, and her compensation rate is \$461.53

10 Under § 42-1-160, has not met her burden of proof in showing that she sustained a compensable injury arising out of or in the course and scope of her employment with the Oswald Law Firm

11 Under §42-15-60, and pursuant to Findings of Fact numbered "10-12" and Conclusions of Law Numbered "10" and "12," no medical benefits are due as this claim for

benefits is found by the undersigned to fall outside of the Workers' Compensation Act, and therefore not compensable

12 In the first instance, the undersigned has found the Claimant not to be credible as noted above, and consequently finds the entire trip to be outside the course and scope of employment, as I do not believe her testimony in relation to where she was traveling to and from and why, or that it was work related travel

13 Even assuming, *arguendo*, that the part of the Claimant's testimony regarding her travels was accurate, namely that she was on her way to the office and going by the bank to make deposits, this case would still be barred under the "going and coming rule," exclusion and not fall under any applicable exclusion thereto (See Generally, S C Code Ann §42-1-160, and *Sola v Sunny Slope Farms*, 244 S C 6, 14, 135 S E 2d 321, 326 (1964)) (See testimony of Franklin Riggins at Trans at p 18 lines 19-25, and p 19, line 23 – p 20, line 11)

14 As noted, such trip did not fall under any exception to the "going and coming" exclusion of compensability The bank in question is on the Claimant's way from her house to the Oswald Law Firm (See Defendants' Trial Exhibit No 19) In conjunction with Finding of Fact numbered "12" above, this journey would not have been a "work related" trip under the "dual purpose" exception to the "going and coming" exclusion from the Act (See *DiMaria v MultiMedia Inc*, 308 S C 387, 417 S E 2d 324 (1992))

15 Pursuant to the foregoing analysis of the case, and the above Findings of Fact and Conclusions of Law, in that the undersigned has found this case to not be compensable, there is no need to reach or determine the other affirmative legal and factual defenses raised by the Employer/Carrier associated with this claim for benefits (Also see, Finding of Fact No 13 above)

ORDER

I find this claim not to be compensable as the trip being taken by the Claimant at the time of the accident was outside of the course and scope of her employment, and that the accident did not arise out of her employment. Therefore, I do not reach the additional affirmative factual or legal defenses to the claim raised by the Defendants.

AND IT IS SO ORDERED.

SOUTH CAROLINA WORKERS'
COMPENSATION COMMISSION



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
July 9, 2013

By Barbara Cheeseboro, Administrative Assistant to Commissioner Roche

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South Carolina Workers' Compensation Commission
1333 Main Street Suite 500
P O BOX 1715
Columbia SC 29202-1715
803-737-5675 www.wcc.sc.gov



WCC File # 1022089
Carrier File #
Carrier Code #
Employer FEIN # 570873563

Claimant's Name Brenda M Oswald SSN 247-88-9072 Employer's Name Oswald Law Firm
Address 2124 Raven Trail Address PO Box 5042, 1031 Center Street
City West Columbia State SC Zip 29169 City West Columbia State SC Zip 29171
Home Phone 803 794 1378 Work Phone 803 796 7260 Insurance Carrier Guard Insurance
Preparer's Name Frank A Barton Law Firm Frank A Barton Attorney at Law PA Preparer's Phone # 803 739 1824

REQUEST FOR COMMISSION REVIEW

Request for Commission Review by ☒ Claimant ☐ Employer (check one) Date of Injury or Illness 09/27/2010 (m/d/yyyy)

The undersigned makes application for review of the findings of the Commissioner in the above-captioned case. The request for review is based on the following grounds (State the grounds of your appeal in the form of questions presented. Each question presented must contain a concise statement of one proposition of law or fact. Refer to evidence by title and exhibit number. Use additional pages if necessary.)

- 1 The Commissioner erred in finding the Claimant was not on the job at the time of the accident,
- 2 The Commissioner erred in concluding the going and coming rule applied to determine Claimant was not working at the time of her accident,
- 3 The Commissioner erred in disregarding the testimony of the Defendant which admitted Claimant was on the job at the time of her accident

RECEIVED

JUL 2 2013

(FRONT DESK)
Workers' Comp. Comm.

(Check one) Oral argument ☒ is ☐ is not requested Appellant's request for oral argument is waived if not indicated on this form.

☐ Mediation

☐ Mediation is requested by consent of the Parties pursuant to Reg. 67-1803

Questions regarding mediation may be submitted to mediation@wcc.sc.gov

I certify I have served this document pursuant to Reg. 67-211 by delivering a copy to Peter P. Leventis, IV, Esquire

address PO Box 7217 Columbia SC 29202 7217

by first class postage certified mail personal service on the 22nd day of July 2013

Frank A Barton

Preparer's Signature

Attorney for Claimant

Title

bartonf@hotmail.com

Email

7/22/2013

Date

Check this box if you are not represented by an attorney ☐

Questions about the use of this form should be directed to the Judicial Department at 803 737 5675 or appeals@wcc.sc.gov. If the claimant appeals and is not represented by counsel, the Judicial Department will properly serve this form pursuant to Reg. 67-607 C. Pursuant to Reg. 67-205 and Reg. 701, the appeal must be postmarked no later than 14 days from the date of service of the Decision and Order of the Hearing Commissioner along with the filing fee. Attach a Form 32 if you are unable to pay the filing fee. Refer to Reg. 67-211 and Reg. 67-701 through 711.

STATE OF SOUTH CAROLINA	)	BEFORE THE SOUTH CAROLINA
COUNTY OF LEXINGTON	)	WORKERS' COMPENSATION COMMISSION
Brenda Oswald,	)	WCC File No 1022089
Employee/Claimant,	)	
vs	)	
Oswald Law Firm,	)	BRIEF OF CLAIMANT/APPELLANT
Employer,	)	
And	)	
NorGuard Insurance Company,	)	
Carrier,	)	
<u>Defendants</u>	)	

STATEMENT OF THE CASE

The Claimant was involved in a motor vehicle accident on September 27, 2010, in which she injured her back, neck, and both shoulders. The Claimant asserted at the time of this accident she was in the course and scope of her employment as office manager for the Defendant Oswald Law Firm. At the time of the accident the Claimant had left her home and was in the midst of traveling between the law office's accountant's office, and the firm's bank in order to pick up and deposit payroll checks for the Oswald Law Firm. Defendant took the position the Claimant was not involved in her employment duties at the time of her motor vehicle accident.

The case was heard on March 21, 2013, in Lexington, South Carolina. Appearing as witnesses at that time were the Claimant, Billy Oswald, the owner of the Oswald Law Firm, and Gene Stockholm, an attorney employed by Law Firm. By Decision and Order filed on July 9, 2013, the Hearing Commissioner issued a decision Claimant was not

entitled to workers' compensation benefits as a result of the accident. The Hearing Commissioner ruled her claim was barred by the "going and coming rule". From that decision the Claimant appeals.

ARGUMENT

I. The Hearing Commissioner erred in finding and concluding the claim of the Claimant was barred by the "going and coming rule".

This appeal involves the very narrow and simple issue of the application of the "going and coming rule". Claimant respectfully submits the Commissioner erred in determining this doctrine was applicable in denying her claim.

The Claimant testified she left her home and proceeded to the accounting office to pick up payroll checks for the Defendant Law Firm. She picked up the checks and was on her way to make deposits in the Law Firm bank account. She often ran errands for the Defendant Law Firm and picking up and depositing checks were part of her regular employment duties. The motor vehicle accident occurred shortly after she left the accountant's office.

The testimony of Claimant was confirmed by Billy Oswald, the primary owner and chief officer of the Defendant Oswald Law Firm. Mr. Oswald, the husband of Claimant, confirmed the testimony of the Claimant, that Claimant had left to pick up the checks, did pick up the checks, and he spoke with her shortly after the accident. Mr. Oswald further testified these were part of her normal duties with the Defendant Law Firm. Gene Stockholm, an attorney employed with the Defendant Law Firm, confirmed the testimony of Claimant and Mr. Oswald. He unequivocally stated it was his

recollection Claimant picked up the payroll checks on the morning of the accident and this was one of her typical duties

Claimant respectfully submits the only possible conclusion from the above testimony is she was actively involved in her employment duties at the time of the accident. She had two errands to run, picking up checks at the accountant and making a deposit at the Defendant Law Firm's bank. Both of the office of the accountant and the bank in question were located on Highway 378 in West Columbia, in very close proximity to the accident. There is absolutely no testimony she varied from those duties at the time of the accident. Furthermore, her testimony was confirmed by the primary officer, owner, and manager of the Defendant Law Firm, Mr. Oswald. Finally, an attorney with the firm, Mr. Stockholm, confirmed she did in fact pick up the checks from the accountant. Claimant respectfully submits the testimony from the owner and operator of the employer is binding upon the Defendant and the Hearing Commissioner erred in disregarding these clear admissions of the Defendant employer.

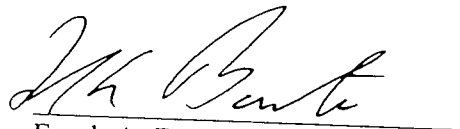
As a general rule an employee going to or from his or her place of employment is not engaged in performing any service incidental to that employment, and therefore, any accident which occurs under those circumstances is not in the course of his or her employment. Therefore, under what has commonly become to be known as the "going and coming rule" an employee injured in those circumstances is not entitled to workers' compensation benefits. Gallman v Springs Mills, 201 S.C. 257, 22 S.E.2d 715 (1942). The "going and coming" exclusion does not apply, however, when the employee is performing some tasks in the furtherance of employer's business. Gregg v Dorchester County School System, 270 S.C. 189, 241 S.E.2d 554 (1978), Whitworth v Window

World, Inc., 377 S.C 637, 661 S E 2d 333 Claimant respectfully submits the evidence clearly showed she was performing errands in the furtherance of the Defendant Law Firm's business Therefore, she came squarely within a clear exception to the "going and coming rule" This is especially clear in view of the admissions by Mr Oswald and Mr Stockholm

CONCLUSION

Claimant respectfully submits the evidence showed she was running errands in furtherance of the business of the employer at the time of her accident These errands were part of her normal duties. For these reasons the Hearing Commissioner erred in concluding the "going and coming rule" was applicable

Respectfully submitted,



Frank A Barton
Attorney at Law, P A
Post Office Box 3972
West Columbia, South Carolina 29169
803-739-1824 / fax 803-739-1888
ATTORNEY FOR CLAIMANT/APPELLANT

October 17, 2013
West Columbia, South Carolina

000033

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
APPELLATE PANEL

Brenda Oswald,	)	WCC FILE NO 1022089
	)	
Employee//Claimant/Appellant,	)	
	)	
vs	)	
	)	
Oswald Law Firm,	)	DEFENDANTS'/RESPONDENTS'
	)	BRIEF TO THE APPELLATE PANEL
Employer,	)	
	)	
and	)	
	)	
NorGuard Insurance Company,	)	
	)	
Carrier,	)	
	)	
<u>Defendants/Respondents</u>	)	

STATEMENT OF THE CASE

This matter originally came before the single Commissioner upon a request for hearing on behalf of the Claimant, Brenda Oswald

On September 27, 2010 the Claimant was in a motor vehicle accident in her personal automobile. The Claimant asserted that this accident, in which her vehicle was rear-ended by another motorist, took place under circumstances which arose out of and in the course of her employment as an office manager for the Oswald Law Firm. The Claimant alleged that at the time of the accident she was in the midst of traveling between her office's (the Oswald Law Firm's) accountant's office, and the firm's bank, in order to make withdraws/deposits for the Oswald Law Firm, pursuant to her employment duties.

The Defendants argued that such travel at the time of accident was not in the course and scope of her work for the Oswald Law Firm, and the Claimant's assertions as to where she was going to and coming from at the time of the accident were not accurate statements of her actual travels. Moreover, the Defendants contended that, even if the Claimant's statements were

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partially accurate as to her travels, under the "going and coming" rule exclusion and even the "dual purpose" exception to that exclusion, her travel at the time of the accident was not in the course and scope of her employment

In addition, the Defendants argued that the Claimant was unable to carry her burden of proof in proving an injury by accident arising out of and in the course and scope of her employment. The Defendants further asserted that there was direct evidence in the record, via sworn testimony of a disinterested third party, which contradicted the Claimant's version of events and her alleged travel that day in the first instance.

At the hearing, the Defendants also contended that even if the Claimant's injuries were otherwise compensable, that she could not prove by medical evidence under S.C. Code Ann. §42-9-35 that she has suffered an aggravation of a pre-existing injury to her cervical spine and shoulders from this alleged injury. Also, even if otherwise compensable under S.C. Code Ann. §§42-1-160 and 42-9-35, the Defendants asserted before the single Commissioner that the equitable doctrine of *laches*, for failure to timely prosecute her claim for benefits within a reasonable amount of time, would further stand to bar ongoing benefits. Specifically as to TTD benefits the Defendants argued that the Claimant still comes into work at the Oswald Law Firm and/or as a real estate agent with Oswald Law Firm, and still performs job duties and functions for the Oswald Law Firm.

Defendants pointed to the fact that the Claimant had continued receiving her ongoing salary benefits and wages from the Oswald Law Firm for over 30 months at the date of the hearing, and therefore would not be entitled to back due TTD benefits even if otherwise compensable. Lastly, Defendants pointed out, again even if otherwise compensable above and beyond the other defenses raised that the Claimant failed to fully prosecute the claim on the issue of compensability until 30 months after the accident. Therefore, under S.C. Code Ann. §42-15-

60 the Defendants argued that such preceding treatment was neither (a) emergent medical care nor, (b) did the Claimant have the right to direct her own medical treatment at that time

In the Order of the single Commissioner issued on July 9, 2013, Commissioner Roche found that the Claimant was not credible. She further found that the Claimant's trip was not a work related trip, and therefore the injuries sustained were not in the course and scope of her employment for the Oswald Law Firm. Alternatively, the single Commissioner found that, even assuming *arguendo* that the Claimant was on the path from her house to the bank, which was on the way into her office, that such travel would be excluded under the "going and coming" rule, and not compensable under the "dual purpose," exception to the "going and coming" rule exclusion. Because the Commissioner found the claim not to be compensable, she therefore found no need to reach the additional affirmative defenses raised by the Employer/Carrier as to *Laches*, aggravation of a pre-existing injury to the neck and shoulders, §42-9-35, §42-15-60, and entitlement of the Claimant to TTD benefits during the time period she was working and being paid wages.

This appeal to the Appellate Panel by the Claimant followed. In the appellate brief of the Claimant, she solely argued the point of whether or not the single Commissioner erred in finding that this claim was barred under the "going and coming" rule.

ARGUMENT IN REPLY

The Claimant, Brenda Oswald, is the office manager for her husband's office, the Oswald Law Firm. The Claimant alleges that at the time of her accident on Sept. 27, 2010 she left from her home in her personal vehicle, then to Burkett, Burkett & Burkett, (Burkett), accountant's for the Oswald Law Firm, where she actually stopped and got out of the vehicle to go inside. After leaving Burkett she was on her way to another bank BB&T and then into her office for work. (Hearing Trans. p. 29). According to the Claimant, it was during her travel between Burkett and BB&T she was involved in an auto accident when she was rear ended by another vehicle. This

vehicle was driven by Mr Franklin Riggins Mr Riggins, as it would happen, lives at 2225 Raven Trail Court in West Columbia, SC less than a quarter of a mile from the Claimant who lives at 2124 Raven Trail, West Columbia, SC (See Riggins Depo Trans at p 5, line 13, The SCWCC file generally, and Trial Exb 19 of the Defendants)

According to the sworn deposition testimony of Mr. Riggins, Mr Oswald was actually travelling from her own neighborhood to work at the time of her accident

Q (By Attorney Barton) Immediately after the accident, did Mrs Oswald tell you where she was coming from?

A No, sir I mean, I knew where she was coming from because I had followed her out of the neighborhood I mean, I was – She had – When she went by the house, I backed out, and I pulled out right behind her, and so, --

(Riggins Depo. at p 18, lines 19-25)

Q: (By Attorney Leventis) You had followed her out of your neighborhood that morning?

A: Yes, sir.

Q: And when I say that morning, I mean just prior to the wreck, just –

A Just prior to the accident, yes

Q So you actually followed her onto 378?

A. Yes, sir.

Q And when you say she passed you right before you backed out of your driveway, was that on Raven

Trail her car –

A Yes, sir

Q -- passed you?

A Yes, sir

(Riggins Depo at p 19 line 23 – p 20, line 11)

This is in direct contravention to Mrs Oswald's testimony that she was traveling from Burkett to BB&T Moreover, in further contradiction of the Claimant's testimony (that she was traveling from Burkett to BB&T as opposed to leaving her home) Mr Riggins testified that the Claimant told him on the date of the accident that she was travelling into work (See Riggins Depo at p 14, lines 17-23)

Of note, the Claimant also previously testified that she had not had significant or ongoing problems with her neck from a prior 2008 car accident – or even injured her neck in that accident (See Hearing Trans at p 42). However, the Claimant clearly had significant ongoing issues with her neck according to a letter she wrote to treatment providers in May of 2009 about how very significantly the ongoing neck pain from the 2008 accident had affected her and impaired her ability to work, exercise and other aspects of her daily life, back at that time (See Defendants' APA's at p 119)

The Claimant, on page 23 of her deposition stated that she has not worked for the Oswald Law Firm since her September 27, 2010 accident Nevertheless, she has continually been paid her salary by the firm from Sept of 2010 up to the March 2013 hearing. According to her husband Billy Oswald's testimony at the hearing, Owner of the Oswald Law Firm, these last 30 months of payments are based upon "accrued sick leave" that the Claimant had built up (Hearing Trans at p 27, lines 11-14) However, the Claimant was also apparently laid off from the Oswald Law Firm, and received unemployment for 6 months between December of 2009 and up to June of 2010, just a couple of months prior to this accident (See Hearing Trans at p. 23, line 22 – p 24, line3)

Also in regards to the Claimant's testimony at her deposition that she had not worked at the law firm since her September 27, 2010, a March 2011 report – six months after the date of accident - references the fact that the Claimant is “back at work as office manager for her husband's law practice but under stress over her husband's illness ” (See Defendants APA's at p. 96) (Also see Defendants APA No 108, dated April 23, 2012 stating under “Occupation” that the Claimant is a “Real estate manager” and “Office manager for her husband's law firm,” listing status as “active,” for the answers)

The hearing Commissioner's finding that the Claimant was not credible in her testimony was supported by the greater weight of the evidence in the record. In the first instance, the Commissioner found the Claimant was not credible, and not traveling for work at the time she was injured, and that the Claimant did not carry her burden of proof in showing that her accident fell within the Workers' Compensation Act as a compensable injury. These findings are not argued in the Claimant's appellate brief, and therefore the challenging of such findings is abandon on appeal *See Fields v Melrose Ltd Partnership*, 312 S C 102, 106, 439 S E 2d 283, 285 (Ct App 1993) ("An issue raised on appeal but not argued in the brief is deemed abandoned and will not be considered by the appellate court ") Therefore, on this ground alone, the single Commissioner's Order should be affirmed, as the Claimant's appellate brief only argues the issues related to the “coming and going” rule exclusion. However, in the first instance the single Commissioner did not find the travel compensable because she believed the direct testimony of the other driver, over that of the Claimant, and therefore was un-persuaded by the Claimant's own version of events

On these points it is worth citing the single Commissioner's Order at some length

9 That Claimant's sworn testimony at the hearing was not credible due in part to the reasons stated above, and outlined conflicting evidence from her testimony; as well as evidence in the record, the undersigned's own observations of the witness, and specifically in light of the fact that her testimony as to the facts of the accident (such as where she was coming from at the time of the accident)

were in direct conflict with a disinterested non-party to the workers' compensation claim, Mr Franklin Riggins (See Generally, the Deposition Testimony of Franklin Riggins *vis a vis* the sworn deposition and trial testimony of Mrs Brenda Oswald) (Hearing Trans at p 29, Riggins Trans at p 18 lines 19-25, and p 19, line 23 – p 20, line 11)

Namely, that Mrs Oswald testified both in her deposition, and at trial that she was in the midst of going from an accountant's office to a bank at the time of the accident, yet Mr Riggins, who lives approximately 0.2 miles from the Claimant, stated that he followed Mrs Oswald out of the neighborhood that morning, and immediately preceding the motor vehicle accident in which he was the other involved driver

10 I do not believe the Claimant's version events as to where she was traveling to and from, and her alleged purpose for such travels at the time of the accident which gave rise to her injuries (See Also, Defendants' APA's at p 102, a July 26, 2011 report for treatment of the Sept 27, 2010 date of accident checking "no" as to whether or not this "the patient's pain or condition arise as the result of a work related injury or accident")

11 The Claimant has the burden of providing by the greater weight of the evidence that the claim is compensable and falls within the Act. No exhibits from the Claimant were provided in the record as to the alleged transaction(s) which took place on September 27, 2010 at Burkett or SCB&T which would corroborate her version of the events or her alleged actions on that date related to her employment activities at either location. The Claimant has not met her burden of proof under the Act in proving by the greater weight of the evidence that her travel was work related and arose out of or in the course of her employment with the Oswald Law Firm.

12 I find that this claim for benefits is not compensable under the Act and excluded as the claim is barred under the "going and coming" rule exclusion, and no applicable exception to this exclusion would apply. Even assuming the Claimant's version of events is partially accurate (and the undersigned does not in finding the witness not credible (See Findings of Fact No 9-10 above)), the Claimant would have been driving from her home – as opposed to another bank as testified to – to a place of employment, a bank.

First, the bank in question was actually on her way to the Oswald Law Firm from her house. Again, this is even assuming *arguendo* that the Claimant was legitimately headed to work and/or the bank, in the first instance. Under the dual purpose doctrine, the personal trip (to into work at the law firm) would have still taken place, even if the alleged "special errand" or "work trip," that is a trip by the bank had not been part of the journey. However, I find the "special errand" or "work trip," by the bank (again assuming the Claimant was necessarily telling the truth about this trip at all) would not have taken place at this time 'but for' the trip from home into the office itself for her regular work day.

Therefore, as the trip to the Oswald Law Firm, from home, during regular work hours would be barred under the "going and coming" exclusion, so too would the purported trip by the bank (on the way to, or back to) the office under this set of circumstances pursuant to the "dual purpose," doctrine. Hence, the entire

journey would be during a non-covered trip, again even assuming the Claimant's assertions as to her travels and responsibilities to be partially accurate

Roche Order, Findings of Fact No's 9-12

Note, that the single Commissioner specifically found under Conclusion of Law No "10" that "[u]nder § 42-1-160, [Mrs Oswald] has not met her burden of proof in showing that she sustained a compensable injury arising out of or in the course and scope of her employment with the Oswald Law Firm." Again, the single Commissioner did not simply find that this accident was barred under the "going and coming" rule, but essentially that the Claimant failed to prove by the greater weight of the evidence that the accident took place under the circumstances she alleged they did. Underpinning that finding was, that, "[i]n the first instance, [Commissioner] found the Claimant not to be credible [], and consequently finds the entire trip to be outside the course and scope of employment, as I do not believe her testimony in relation to where she was traveling to and from and why, or that it was work related travel" (See Roche Order Conclusion of Law No "12" at p 13). Again, the Claimant does not argue on appeal that the credibility finding was in error.

This finding of lack of credibility was prefaced, in part, upon the contradictory evidence of an eye witness to the accident, Mr Frank Riggins, who followed the Claimant out of her own neighborhood that morning before he ultimately wrecked into the back of her on Highway 378 after travelling briefly out of the neighborhood. The testimony cited by the Claimant in her appellate brief is that of the Claimant's husband, Billy Oswald. Mr Billy Oswald was not in the vehicle or a witness to the accident, or of the Claimant's travels that morning. The Claimant's Brief further cites the testimony of her husband's employee, Mr Gene Stockholm. Mr Stockholm, similarly, was not a witness to the accident, nor a passenger in the vehicle, and neither did he have firsthand knowledge of the Claimant's travels.

CONCLUSION

The single Commissioner's findings and conclusion are supported by the greater weight of the evidence in this case, and binding legal precedent or statutes. Moreover, certain legal and factual findings of the single Commissioner which would necessarily need to be overturned in order to make a finding of compensability in this case, namely credibility, and proving that the circumstances of the accident itself fell within the Act have been abandoned on appeal as they were not argued in the Claimant's Appellate Brief to the full Commission.

These findings, in addition to the finding that such travel would have further been excluded from the Act under the "going and coming" rule, would all have to have been overturned for this claim to be found compensable. Lastly, the Defendants' other legal arguments, as to *laches*, aggravation of a pre-existing injury; ongoing wage payments, and continued work by the Claimant since the date of accident, are all viable affirmative or mitigating defenses still available to the Employer/Carrier in this instance.

Therefore, the factual findings, and legal conclusion of the single Commissioner should be affirmed in full by the Appellate Panel.

Respectfully Submitted



Peter P. Leventis, IV
McKay, Cauthen, Settana & Stubley
Post Office Box 7217
Columbia, South Carolina 29202-7217
(803) 256-4645

Attorneys for the Defendants/Respondents
NorGuard Insurance and the Oswald Law Firm

Columbia, South Carolina
October 28, 2013

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 # 1022089

Carrier File #

Carrier Code #

Employer EIN # 570873563

Claimant's Name Brenda M. Oswald SSN 247-88-9072Address 2124 Raven TrailCity West Columbia State SC Zip 29169Home Phone (803) 794 - 1378Work Phone (803) 796 - 7260Employer's Name Oswald Law Firm, LLCAddress PO Box 5042, 1031 Center StreetCity West Columbia State SC Zip 29171Insurance Carrier Guard InsurancePreparer's Name Frank A. BartonLaw Firm Frank A. Barton, Attorney at Law PAPreparer's Phone # (803) 739 - 1824

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 groundsDate of Injury or Illness: 09/27/2010☒ Injury ☐ Illness ☐ Repetitive Trauma1a The claimant sustained an injury to neck, back, and arms (Part(s) of Body Injured) on 09/27/2010 (Month/Day/Year) in Lexington county, state of SC1b Body part(s) affected are neck, back, and armsBriefly describe how the accident occurred hit from behind in automobile accident

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 09/27/2010 (Month/Day/Year) in the following manner
Employer notified same day☐ 6 Due to injury, the claimant is in need of (check one)☒ (a) medical examination and treatment for neck, back, and arms☒ (b) additional medical examination and treatment for neck, back, and arms☐ 7 Due to injury, the claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of 09/27/2010 - present☐ 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 of10a At the time of the injury, the Claimant was paid weekly wages of \$ 750.00, and demands accounting of days worked and wages earned as provided by law10b Give names and addresses of all employers for whom the Claimant has worked since the date of the accident
None11a Further grounds or unusual aspects of claim
all benefits due under South Carolina law11b List names and addresses of all physicians or other medical specialists who have seen or treated the Claimant as a result of the accident
Lexington Medical Center 2720 Sunset Blvd. Columbia, SC 29169; Midlands Orthopedics 1910 Blanding St. Columbia, SC 29169; Sunset Family Practice 3607 Sunset Blvd. Ste G West Columbia, SC 29169; Cohen Chiropractic Clinic, 1832 Augusta Rd. West Columbia, SC 2916911c To the best of your knowledge, did you have any prior permanent disability? yes
If yes, describe lower back

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 required14 Estimated time needed for hearing 30 minutes**000043**

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

Preparer's Signature Frank A. Barton

Attorney

Title

bartonf@hotmail.com

Email

Date

12-03-12

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

50Employee's Notice of Claim and/ or
Request for Hearing



Claimant's Name Brenda M. Oswald SSN 247-88-9072
Address 2124 Raven Trail
City West Columbia State SC Zip 29169
Home Phone (803)794-1378 Work Phone (803)796-7260
Date of Injury 9/27/2010
Employer's Name Oswald Law Firm, LLC
Address Post Office Box 5042
City West Columbia State SC Zip 29171
Insurance Carrier NorGuard Insurance Company
Preparer's Name Peter P. Leventis, IV, Esquire Law Firm McKay Law Firm Preparer's Phone # (803) 256-4645

Date of Injury or Illness: 9/27/2010

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

1 It is **Denied** the employee sustained an injury or illness on or about the date set forth in the Form 50. The reasons for denial are Pending Investigation; and lack of notice within 90 days of the date of the accident, Election of Remedies under §42-1-560, whether or not the Claimant was in the course and scope of employment at the time of the accident under §42-1-160, and whether or not the Claimant aggravated a pre-existing injury under §42-9-35, as well as the equitable defense of *Laches*.

2 It is **Admitted** both the employer and employee were subject to the Workers' Compensation Act at the time in question. The reasons for denial are.

3 It is **Denied** the relationship of employer and employee existed at the time in question. The reasons for denial are Pending investigation and See No. 1.

4 It is **Denied** at the time in question the employee was performing services arising out of and in the course of employment. The reasons for denial are Pending Investigation and See No. 1.

5 It is **Denied** notice of injury was given the employer. The reasons for denial are Pending Investigation and See No. 1.

6 It is **Denied** the employee **Needs / Is Entitled to Additional** medical care as a result of injury or illness. The reasons for denial are Pending Investigation and See No. 1.

7 It is **Denied** the employee is entitled to temporary total disability for the period(s) of Pending Investigation and See No. 1.

8 It is **Denied** the employee is permanently disabled. The reasons for denial are Pending Investigation and See No. 1, and if compensable, defendant s will require strict proof of same, and causation between scheduled disability and/or loss of earning capacity and the alleged injuries.

9 It is **Denied** the employee has serious disfigurement.

10 It is contended that an average weekly wage of \$ Per Form 20 applies, according to attached Form 20 as provided by law.

11 Further contentions, grounds of defense, or unusual aspects are All defenses available under 42-9-60, 42-15-20, 42-15-60, 42-15-80, 42-1-560 as to election of remedies, and 42-1-160 as to whether or not the Claimant was in the course and scope of employment at the time her injury alleged arose with the Defendant employer. Defendant/Carrier also reserves the right to amend this Answer. Any and all defenses available to employer and carrier in workers' compensation cases, including specifically, but not limited to, all affirmative defenses as set forth in R 67-603.

12 Estimated time needed for hearing 75 Minutes

I certify I have served this document pursuant to R 67-212 by delivering a copy to _____

Name Frank Barton, Esquire

Address Post Office Box 3972, West Columbia, SC 29171

on the 16th day of August, 2012 by ☒ first class mail ☐ personal service ☒ certified mail

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

Peter P. Leventis IV Attorney for Employer/Carrier pleventis@mckayfirm.com December 31, 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 Judicial Department. Pursuant to R 67-606, a Form 20 must be filed with the Claims Department at least 30 days from the date of filing this form.



Claimant's Name Brenda M. Oswald

Address 2124 Raven Trail

City West Columbia State SC Zip 29169

Home Phone 803 794 1378 Work Phone 803 796 7260

Preparer's Name Frank A. Barton

Employer's Name Oswald Law Firm, LLC

Address PO Box 5042

City West Columbia State SC Zip 29171

Carrier Guard Insurance

Preparer's Phone # 803 739 1824

A claim for workers' compensation benefits is made based on the following grounds:

☒ Injury ☐ Illness ☐ Repetitive Trauma

- 1 Compensation Rate \$461.54 2 AWW \$750.00 Date of Injury 09/27/2010
- 3 Type of injury and body part(s) neck, back, and arms
- 4 Facts in controversy Denied claim. Claimant was involved in automobile accident while working for Employer, suffering injuries to her neck, back, shoulders & arms. Claimant has been unable to return to work since the accident & is entitled to back temporary total disability payments, payment of past medicals, payment of future medicals, & continuing temporary total disability benefits.
- 5 Legal issues involved none
- 6 Unusual aspects none
- 7 Witnesses (designate if expert) * Claimant, Billy Oswald, Gene Stockholm
- 8 Exhibits See APA attachments, Claimant reserves the right to submit recent reports of Dr. LaMotta which have been requested, but not yet received.
- 9 Medical evidence (indicate report pursuant to R.67-612, deposition or appearance)
Lexington Medical Center, 2720 Sunset Blvd., Columbia, SC 29169, Midlands Orthopedics, 1910 Blanding St., Columbia, SC 29169, Sunset Family Practice, Gal Margalit, MD, 3937 Sunset Blvd., Ste. G, West Columbia, SC
- 10 Name, address, and specialty, if any, of the treating physician Lexington Medical Center, 2720 Sunset Blvd., Columbia, SC 29169, Midlands Orthopedics, 1910 Blanding St., Columbia, SC 29169, Sunset Family Practice, Gal Margalit, MD, 3937 Sunset Blvd., Ste. G, West Columbia, SC
- 11 Impairment rating(s), body part(s), physician and date of opinion Claimant not at MMI, no ratings
- 12 I am amending my Form 50/51 in the following manner _____

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

Signature Frank A. Barton

Email bartonf@hotmail.com

Date of hearing March 21, 2013

Time needed for hearing 1 hr

On behalf of ☒ Claimant ☐ Employer

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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.



Claimant's Name Brenda Oswald vv Oswald Law Firm, LLC

Employer's Name Oswald Law Firm, LLC

Address 2124 Raven Trail

Address Post Office Box 5042

City West Columbia State SC Zip 29169

City West Columbia State SC Zip 29171

Home Phone 803-794-1378 Work Phone 803-796-7260

Carrier NorGuard Insurance Company

Preparer's Name Peter P Leventis, IV, Esquire

Preparer's Phone # (803) 256-4645

A claim for workers' compensation benefits is made based on the following grounds:

☒ Injury ☐ Illness ☐ Repetitive Trauma

- 1 Compensation Rate \$461.53 2 AWW \$692.30 Date of Injury: 9/27/2010
- 3 Type of injury and body part(s) Back, and Neck, denied
- 4 Facts in controversy 1) Whether the Claimant was in the course and scope of her employment when injured;
2) If so, whether the Claimant was excluded from the Act at the time of the injured due to the "going and coming" rule, and/or due to a deviation from her employment,
3) The Claimant's applicable AWW/CR, Defendants argue that any monies paid on her behalf by her employer for health insurance, other insurance benefits should not be included in her AWW/CR (See Gen. Anderson v Baptist Medical Center 343 S C 487, 541 S E 2d 526 (S.C. 2001))
4) Whether the Claimant for benefits is barred by the equitable doctrine of laches; (a) In that she delayed, (b) unreasonably and without excuse in asserting her right to benefits, (c) with the means and opportunity to act more timely, and (d) causing prejudice to the Defendants ability to timely investigate, accept and direct treatment, and/or reject this claim for benefits in a more timely manner,
5) Even if otherwise compensable, whether the Claimant would be entitled to back due medical benefits, other than on the date of accident, as she did not pursue or request benefits Under the Act, but actively treated for many months prior to ever notifying and requesting acceptance of the claim from the carrier (Note: the Claimant's Husband is the head of the law firm where the Claimant works), and other than the date of accident none of the treatment rendered was emergent medical care under §42-15-60,
6) Even if otherwise compensable, if the Claimant is entitled to TTD or TPD benefits for lost wages as she (a) has continued to receive her wages from the employer since the date of this accident over two years ago without interruption, and (b) still performs similar services for the law firm according to the deposition testimony of her husband (Billy Oswald President of the Oswald Law Firm) – including but not limited the duties she was allegedly performing on the date and time of the accident in question,
7) Whether the Claimant's back and neck have been aggravated pre-existing injuries suffered to those body parts,
8) Whether or not the Claimant has attained MMI,
9) Whether or not the Claimant is currently written out of work by any physician for these injuries from the alleged accident,
10) Whether or not the Claimant is actually working at this time.
- 5 Legal issues involved As listed above, and §42-1-160, §42-9-35, §42-1-705, §42-1-40, §42-15-60, Richey v Dickinson (Ct App 2004), and Muir v CR Bard (2008) as to laches; §1-23-400 (as to judicial notice of locations and and geographical markers of business locations, and see certain APA exhibits
- 6 Unusual aspects **Claimant is requesting the record be left open for the deposition of Dr. Lamotta. This deposition was first noticed on March 6, 2013 (the date of the Claimant's pre-hearing filings) for a March 21, 2013 hearing. This deposition was currently re-set for 4/25/2013.**
Defendants would request that the record **not** be left open for such deposition as the Claimant
 - A) alleges a date of accident in Sept. 2010,
 - B) previously filed for a hearing in May of 2011, a Form 50/51 hearing was set in August of 2011, and then withdrawn by consent of the parties (See Lyndon Order dated 8/23/2011)
 - C) The Claimant subsequently filed another Form 50 hearing request which was set for a hearing on December 3, 2012 Claimant withdrew this hearing request at the hearing without leave of the parties, and refilled and updated Form 50 hearing request the next day (received by the Commission on December 6, 2012), upon which the upcoming hearing on March 21, 2013 is scheduled
 - D) The Claimant has been treating with Dr. Lamotta for the better part of three years and only

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E) See *Trotter v Trane Coil Facility* (393 S.C. 637, 14 S.E.2d 289 (SC 2011)) (noting in part that parties do not have an absolute right to continuance or for leaving the record open, and that trial strategy and other unreasonable delays are not appropriate bases for a continuance or leaving open the record of the trial court)

7 Witnesses (designate if expert) * Gene Stockholm, Billy Oswald, Charles Riggins, and any other employer representative, the Claimant and any witnesses listed by the Claimant

(The Defendants reserve the right to cross-examine any expert submitted by the claimant pursuant to 1-23-330 (3) The Defendants reserve the right to amend their Pre-hearing brief upon receipt of additional information

8 Exhibits Deposition transcript of Claimant, Deposition Transcript of Billy Oswald, Deposition Transcript of Charles Riggins, Numerous maps detailing the alleged route of the Claimant on the date of accident, Also, see listed trial exhibits on the APA and Notice of Witnesses attached herewith

9 Medical evidence (indicate report pursuant to R 67-612, deposition or appearance)
See APA Submissions

10 Name, address, and specialty, if any, of the treating physician N/A

11 Impairment rating(s), body part(s), physician and date of opinion N/A

12 I am amending my Form 50/51 in the following manner

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

Signature

Peter P. Leventis

Email pleventis@mckayfirm.com

Date of hearing March 21, 2013 (Commissioner Roche)

Time needed for hearing 1.5 hours

On behalf of ☐ Claimant ☒ Employer

File this form and proof of service on the opposing party according to R 67-611 and R 67-212 Do not send medical reports
Commissioners reserve the right to admit expert witnesses at hearings

WCC Form # 58
Rev 9/07

58

PRE-HEARING BRIEF

000047

Voice 803-796-2222

Fax 803-796-7839

Chart Document

Brenda Oswald

Female, DOB 09/16/1949

Home: 803-794-1378 Office: (803) 796-7260

247-889072 Ins: Blue Cross (212)

09/11/2001 - Office Visit: cpe

Provider: Gwendolyn C. Galphin

Location of Care: Mid Carolina Internal Medicine

Office Visit

History of Present Illness

Chief Complaint: rib fx in MVA

History of Present Illness: She was in an MVA 6/5 on her way to see Dr. Kern. Someone ran a red light and hit her. She sustained multiple rib fx and had a pneumothorax and had a chest tube. She is still going to physical therapy at Columbia Rehab. She was wearing a seatbelt. She had a severe laceration to her L arm. Her BP was elevated in the hospital and is now on Norvasc 10 mg.

Past, Family, and Social History

Past History: medical—fx ribs in MVA with pneumothorax 6/01, calcaneal spurs, hypothyroidism, obesity, allergic rhinitis, DJD, M/M/CP, HTN

surgical—T&A, thoracostomy 6/01, bilat CTS, L thenar tendonitis injection

health maintenance—yearly flu shot, needs flex sig when ribs better and will do DEXA at 55

Family History: mom 68 DJD, hypothyroidism

dad 76 DJD, s/p CABG and cardiomyopathy, HTN

brother asthma

brother HTN

brother depression

Social History: married x 31 yrs, real estate manager

Risk Factors

Tobacco use: never

Passive smoke exposure: no

Alcohol use: no

Caffeine use (drinks/day): 1

Exercise (times/week): 3

Type of exercise: physical therapy for feet and ribs

Seatbelt use: 100 %

Sun exposure: rarely

Review of Systems

General: Complains of weight loss. Denies fevers, chills, sweats, anorexia, fatigue, malaise. Weight loss due to diet and exercise, has headaches since MVA from neck stiffness.

Eyes: Denies blurring, diplopia, irritation, discharge, vision loss, eye pain, photophobia. Eye check last week.

Ears/Nose/Throat: Complains of nasal congestion, nosebleeds. Denies earache, ear discharge, tinnitus, decreased hearing, sore throat, hoarseness, dysphagia. Got ulcer from astelin, reg dental checks and going today.

Cardiovascular: Complains of see HPI, chest pains. Denies palpitations, syncope, dyspnea on exertion, orthopnea, PND, peripheral edema.

Respiratory: Denies cough, dyspnea, excessive sputum, hemoptysis, wheezing.

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Voice 803-796-2222

Fax 803-796-7839

Chart Document

Brenda Oswald
Female DOB: 09/16/1949 Home: 803-796-1878 Office: 803-796-7260
247-88-9072 Ins: Blue Cross (2/2)

Gastrointestinal: Denies nausea, vomiting, diarrhea, constipation, change in bowel habits, abdominal pain, melena, hematochezia, jaundice. occ indigestion

Genitourinary: Denies vaginal discharge, incontinence, dysuria, hematuria, urinary frequency, abnormal vaginal bleeding, pelvic pain

Musculoskeletal: Complains of see HPI, back pain, joint pain, stiffness Denies joint swelling, muscle cramps, muscle weakness, arthritis

Skin: Denies rash, itching, dryness, suspicious lesions

Neurologic: Denies transient paralysis, weakness, paresthesias, seizures, syncope, tremors, vertigo

Psychiatric: Denies depression, anxiety, memory loss, mental disturbance, suicidal ideation, hallucinations, paranoia.

Endocrine: Denies cold intolerance, heat intolerance, polydipsia, polyphagia, polyuria, weight change.

Heme/Lymphatic: Denies abnormal bruising, bleeding, enlarged lymph nodes

Allergic/Immunologic: Complains of hay fever Denies urticaria

OB History

Total Preg.: 0

Menstrual History

LMP: 10/02/2000

LMP - Reliability: approximate (month known)

Menarche (age onset): 12

Other symptoms: no breast problems

Current Medications (prior to this update):

PREMARIN 2.5 MG TAB (ESTROGENS CONJUGATED) qd

* PROVERA 5 MG TAB qd

MULTIVITAMINS FC TAB (MULTIPLE VITAMIN) qd

CALTRATE 600 + D 600-125 MG-IU TAB (CALCIUM-VITAMIN D) bid

MAXZIDE-25 25-37.5 MG TAB (TRIAMTERENE-HCTZ) qd

CLARITIN-D 12 HOUR 5-120 MG TABSR12 (LORATADINE-PSEUDOEPHEDRINE) bid pm

SYNTHROID 200 MCG TAB (LEVOTHYROXINE SODIUM) qd

Vital Signs

Height: 62.5 inches

Weight: 264 pounds

Pulse rate: 84

Pulse rhythm: regular

Blood Pressure: 130/78 mm Hg

000049

81

Voice 803-796-2222

Fax. 803-796-7839

Chart Document

Brenda Oswald

Female DOB 09/16/1949

Home 803-794-1378 Office 803-796-7260

247-88-9072 Ins. Blue Cross (212)

Calculations

Body Mass Index: 47.69

Physical Exam

General appearance: well nourished, well hydrated, no acute distress

Eyes

External: conjunctivae and lids normal

Pupils: equal, round, reactive to light and accommodation

Ophthalmoscopic: discs sharp and flat, no a/v nicking, hemorrhages, or exudates

Ears, Nose and Throat

External ears: normal, no lesions or deformities

External nose: normal, no lesions or deformities

Otoscope: canals clear, tympanic membranes intact with good movement, no fluid

Hearing: grossly intact

Nasal: septal perf and eschar

Lips/teeth/gums: normal dentition, no gingival inflammation, no labial lesions

Pharynx: tongue normal, posterior pharynx without erythema or exudate

Neck

Neck: supple, no masses, trachea midline

Thyroid: no nodules, masses, tenderness, or enlargement

Chest/Breasts

Breast inspection: no asymmetry, skin changes, or nipple discharge

Breast palpation: no masses or tenderness

Respiratory

Respiratory effort: no intercostal retractions or use of accessory muscles

Auscultation: no rales, rhonchi, or wheezes

Cardiovascular

Palpation: no thrill or palpable murmurs, no displacement of PMI

Auscultation: S1, S2, no murmur, rub, or gallop

Carotid arteries: pulses 2+, symmetric, no bruits

Abdominal aorta: no enlargement or bruits

Femoral arteries: pulses 2+, symmetric, no bruits

Pedal pulses: pulses 2+, symmetric

Periph. circulation: no cyanosis, clubbing, edema, or varicosities

Gastrointestinal

Abdomen: soft, non-tender, no masses, bowel sounds normal

Liver and spleen: no enlargement or nodularity

Hernia: no hernias

Rectal: no masses, tenderness

Stool: guaiac negative

000050

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Voice 803-796-2222

Fax 803-796-7839

Chart Document

Brenda Oswald
Female, DOB 09/16/1949, Home: 803-796-1378, Office: 803-796-7266, 247-88-9072, Ins. Blue Cross (212)

Genitourinary

External genitalia: normal, no lesions or discharge

Urethra: no discharge

Bladder: no cystocele

Cervix: normal appearance, no lesions, no discharge

Uterus: normal size and position, midline, mobile

Adnexa: no masses or tenderness

Lymphatic

Neck: no cervical adenopathy

Axillae: no axillary adenopathy

Groin: no inguinal adenopathy

Misc. lymph nodes: no other adenopathy

Musculoskeletal

Gait and station: normal, can undergo exercise testing and/or participate in exercise program

Digits and nails: no clubbing, cyanosis, petechiae, or nodes

Head and neck: normal alignment and mobility

Spine, ribs, pelvis: toracostomy scar on L

RUE: normal ROM and strength, no joint enlargement or tenderness

LUE: normal ROM and strength, no joint enlargement or tenderness

RLE: normal ROM and strength, no joint enlargement or tenderness

LLE: normal ROM and strength, no joint enlargement or tenderness

Skin

Inspection: scar L arm from MVA

Palpation: no subcutaneous nodules or induration

Neurologic

Cranial nerves: II - XII grossly intact

Reflexes: 2+, symmetric, no pathological reflexes

Sensation: intact to touch, pin, vibration, and position

Mental Status Exam

Judgment, insight: intact

Orientation: oriented to time, place, and person

Memory: intact for recent and remote events

Mood and affect: no depression, anxiety, or agitation

Assessment

New Problems:

HYPERTENSION (ICD-401 1)

CALCANEAL SPUR (ICD-726 73)

HYPOTHYROIDISM (ICD-244 9)

RHINITIS, ALLERGIC (ICD-477 9)

OBESE (ICD-278 00)

000051

83

Voice 803-796-2222

Fax 803-796-7839

Chart Document

Brenda Oswald

Female DOB 09/16/1949

Home: 803-796-1878 Office: 803-796-7260

247-88-9072 Ins. Bldg. Co. (212)

* HEALING RIB FRACTURES

Plan

New Prescriptions/Refills:

BECONASE AQ 0.042 % INH (BECLOMETHASONE DIPROP MONOHYD) 2 sprays per nostril bid
09/11/2001 #1 x 0 : Gwendolyn Marie Cambron

ALLEGRA-D 60-120 MG TABSR12 (FEXOFENADINE-PSEUDOEPHEDRINE) bid 09/11/2001 #60 x 5
Gwendolyn Marie Cambron

PROVERA 5 MG TAB (MEDROXYPROGESTERONE ACETATE) qd 09/11/2001 #30 x 5 Gwendolyn
Marie Cambron

Updated Medication List:

PREMARIN 2.5 MG TAB (ESTROGENS CONJUGATED) qd

PROVERA 5 MG TAB (MEDROXYPROGESTERONE ACETATE) qd

MULTIVITAMINS FC TAB (MULTIPLE VITAMIN) qd

CALTRATE 600 + D 600-125 MG-IU TAB (CALCIUM-VITAMIN D) bid

MAXZIDE-25 25-37.5 MG TAB (TRIAMTERENE-HCTZ) qd

ALLEGRA-D 60-120 MG TABSR12 (FEXOFENADINE-PSEUDOEPHEDRINE) bid

SYNTHROID 200 MCG TAB (LEVOTHYROXINE SODIUM) qd

NORVASC 10 MG TAB (AMLODIPINE BESYLATE) qd for BP

LORTAB 5 5-500 MG TAB (ACETAMINOPHEN-HYDROCODONE) prn pain

CELEBREX 200 MG CAP (CELECOXIB) qd

BECONASE AQ 0.042 % INH (BECLOMETHASONE DIPROP MONOHYD) 2 sprays per nostril bid

* OSTEOBIFLEX bid

Disposition: return to clinic in 3 months

and I will recheck her BP and see if can lower the dose. I will set up her mammogram and will need flex
sig and can do end of year. Labs reviewed and normal.

Prescriptions:

BECONASE AQ 0.042 % INH (BECLOMETHASONE DIPROP MONOHYD) 2 sprays per nostril bid
09/11/2001 #1 x 0

Entered, Authorized and Signed by: Gwendolyn Marie Cambron

Method used: Print then Give to Patient

ALLEGRA-D 60-120 MG TABSR12 (FEXOFENADINE-PSEUDOEPHEDRINE) bid 09/11/2001 #60 x 5

Entered, Authorized and Signed by: Gwendolyn Marie Cambron

Method used: Print then Give to Patient

PROVERA 5 MG TAB (MEDROXYPROGESTERONE ACETATE) qd 09/11/2001 #30 x 5

Entered, Authorized and Signed by: Gwendolyn Marie Cambron

Method used: Print then Give to Patient

Signed by Gwendolyn C. Galphin on 09/11/2001 at 11:50 AM

000052

84

Voice 803-796-2222

Fax 803-796-7839

Chart Document

Brenda Oswald

Female DOB 09/16/1949

Home 803-794-1378 Office 803-796-7260

247-83-9072 Ins Blue Cross (212)

Cranial nerves: II - XII grossly intact

Reflexes: 2+, symmetric, no pathological reflexes

Sensation: intact to touch, pin, vibration, and position

Mental Status Exam

Judgment, insight: intact

Orientation: oriented to time, place, and person

Memory: intact for recent and remote events

Mood and affect: no depression, anxiety, or agitation

Assessment

Status of Existing Problems:

Assessed HYPERTENSION as unchanged - Gwendolyn C Galphin

Assessed HYPOTHYROIDISM as unchanged - Gwendolyn C Galphin

Assessed MORBID OBESITY as unchanged - Gwendolyn C Galphin

Assessed HYPERLIPOPROTEINEMIA, TYPE II-B as unchanged - Gwendolyn C Galphin

Assessed RHINITIS, ALLERGIC as unchanged - Gwendolyn C Galphin

New Problems:

DJD (ICD-715 90)

HELICOBACTER PYLORI INFECTION (ICD-041 86)

Plan

New Prescriptions/Refills:

PREVPAC MISC (AMOXICILL-CLARITHRO-LANSOPRAZ) take as directed for Helicobacter infection #1 pack x 0 Gwendolyn C. Galphin (04/29/2008)

SOMA 350 MG TAB (CARISOPRODOL) 1 pill 4 times daily by mouth as needed for back spasm #120 x 5 Gwendolyn C. Galphin (04/29/2008)

Updated Medication List:

MULTIVITAMINS FC TAB (MULTIPLE VITAMIN) 1 pill by mouth daily

CALTRATE 600 + D 600-125 MG-IU TAB (CALCIUM-VITAMIN D) 1 pill twice daily by mouth

SYNTHROID 200 MCG TAB (LEVOTHYROXINE SODIUM) 1 pill by mouth daily

CELEBREX 200 MG CAP (CELECOXIB) 1 pill by mouth daily

GLUCOSAMINE-CHONDROITIN-MSM 500-400-300 MG TABS (GLUCOSAMINE-CHONDROITIN-MSM) 1 pill three times daily by mouth

SOMA 350 MG TAB (CARISOPRODOL) 1 pill 4 times daily by mouth as needed for back spasm

ACTIVELLA 1-0 5 MG TAB (ESTRADIOL-NORETHINDRONE ACET) 1 pill by mouth daily

HYZAAR 100-25 MG TAB (LOSARTAN POTASSIUM-HCTZ) 1 pill by mouth daily for blood pressure

ASPIRIN EC 81 MG EC TAB (ASPIRIN) 1 pill by mouth daily

* POTASSIUM 500 MG 1 pill by mouth daily

RESTASIS 0 05 % EMUL (CYCLOSPORINE) use to eyes per Dr Milne

FAMVIR 500 MG TAB (FAMCICLOVIR) 1 pill three times daily by mouth as directed

PREVPAC MISC (AMOXICILL-CLARITHRO-LANSOPRAZ) take as directed for Helicobacter infection

New Orders:

Ofc Vst, Est Level V [CPT-99215]

I will treat her pos. H. pylori since it is abnormal but her labs with the exception of the glucose being high.

000053

85

Voice: 803-796-2222

Fax: 803-796-7839

Chart Document

Brenda Oswald

Female DOB 09/16/1949

Home: 803-794-1376 Office: 803-796-7260

247-88-9072 Ins: Blue Cross 212

are good. Her EKG is fine and I feel she is an acceptable risk for her planned surgery and so will send a copy of her EKG and this note to Dr. Antonetti. We have prev faxed her labs. She is given a slip for her mammogram

Medical Decision-Making

Amount/complexity of data to be reviewed

- * review/order clinical lab tests
- * review/order radiology tests
- * review/order other diagnostic or tx interventions

Risk of complications: moderate

Prescriptions:

PREVPAC MISC (AMOXICILL-CLARITHRO-LANSOPRAZ) take as directed for Helicobacter infection #1 pack x 0

Entered and Authorized by Gwendolyn C. Galphin

Signed by: Gwendolyn C Galphin on 04/29/2008

Method used: Print then Give to Patient

SOMA 350 MG TAB (CARISOPRODOL) 1 pill 4 times daily by mouth as needed for back spasm #120 x 5

Entered and Authorized by Gwendolyn C Galphin

Signed by: Gwendolyn C Galphin on 04/29/2008

Method used: Print then Give to Patient

Signed by Gwendolyn C Galphin on 04/29/2008 at 5:18 PM

000054

86

Voice 803-796-2222

Fax 803-796-7839

Chart Document

Brenda Oswald

Female DOB 09/16/1949

Home: 803-796-1878 Office: 803-796-7260

247-88-9072 Ins: Blue Cro (212)

09/02/2009 - Office Visit: cpe

Provider: Gwendolyn C. Galphin

Location of Care: Mid Carolina Internal Medicine

Office Visit

History of Present Illness

Chief Complaint: doing well

History of Present Illness: She is really doing well after all the stress with her husband but regained a lot of her wt. but has been working to get back off. She is exercising and eating well. She wants to maybe decrease or come off BP med as low shen she gets it checked and to come off the activella since close to 60. She is having no hot flashes now. She has no need for PPI since her lab band and is still taking her vitamins. She does drink protein shakes.

Past, Family, and Social History

Past History: medical—fx ribs in MVA with pneumothorax 6/01, calcaneal spurs, hypothyroidism, obesity, allergic rhinitis, DJD, M/M/CP, HTN, trigger finger in both thumbs

surgical—T&A, thorocostostomy 6/01, bilat. CTS, L thenar tendonitis injection, L foot surg for spurs per Dr Kern 11/04, R foot surg for heel spurs 2/06, abdominoplasty 1/07 per Dr. Sexton, IVC filter 5/08, lap band 7/08 per Dr. Antonetti

health maintenance—flu shot 2008, colonoscopy per Dr. Seabrook 1/03 and to repeat in 2010, no blood transfusion, mammo 9/08, pap 9/09, tetanus 2001, CXR 6/01, EKG 9/09, DEXA per ortho and was normal 2003,

eye checks per Dr. Milne 2009, dental checks per Dr. Milwood

Family History: mom 77 DJD, hypothyroidism

dad 83 DJD, s/p CABG and cardiomyopathy, HTN, DJD and had total knee replacement

brother asthma, HTN

brother HTN

brother bipolar depression, HTN and has gone through alcohol rehab

Social History: married x 39 yrs, real estate manager

Risk Factors

Tobacco use: never

Alcohol use: no

Caffeine use (drinks/day): 0

Exercise (times/week): 3

Type of exercise: Health Directions

Seatbelt use: 100 %

Review of Systems

General: Denies fevers, chills, sweats, anorexia, fatigue, malaise, snoring, excess daytime sleepiness, non-restorative sleep, weight loss

Eyes: Denies blurring, diplopia, irritation, discharge, vision loss, eye pain, photophobia

000055

81

Voice 803-796-2222

Fax 803-796-7839

Chart Document

Brenda Oswald

Female DOB 09/16/1949

Home: 803-796-1378 Office: 803-796-7260

247-88-9072 Ins: Blue Cro (212)

Ears/Nose/Throat: Denies earache, hearing loss, sinus pain, ear discharge, tinnitus, decreased hearing, nasal congestion, nasal obstruction, nosebleeds, sore throat, hoarseness, dysphagia

Cardiovascular: Denies chest pains, palpitations, syncope, dyspnea on exertion, orthopnea, PND, ankle swelling

Respiratory: Denies cough, dyspnea, excessive sputum, hemoptysis, wheezing

Gastrointestinal: Denies nausea, vomiting, diarrhea, constipation, change in bowel habits, abdominal pain, melena, hematochezia, jaundice

Genitourinary: Complains of amenorrhea Denies dysuria, hematuria, urinary frequency, incontinence, decreased libido, vaginal discharge, menorrhagia, abnormal vaginal bleeding, pelvic pain

Musculoskeletal: Denies back pain, joint pain, joint swelling, muscle cramps, muscle weakness, stiffness, arthritis

Skin: Denies rash, itching, dryness, suspicious lesions

Neurologic: Denies transient paralysis, weakness, paresthesias, seizures, syncope, tremors, vertigo, headaches.

Psychiatric: Denies depression, anxiety, memory loss, mental disturbance, suicidal ideation, hallucinations, paranoia

Endocrine: Denies cold intolerance, heat intolerance, polydipsia, polyphagia, polyuria, weight change

Heme/Lymphatic: Denies abnormal bruising, bleeding, enlarged lymph nodes.

Allergic/Immunologic: Denies urticaria, hay fever, persistent infections, HIV exposure

OB History

Total Preg.: 0

Menstrual History

Menarche (age onset): 12

Other symptoms: does SBE and no masses

Current Problems (prior to this update):

HYPERTENSION (ICD-401.1)

HYPOTHYROIDISM (ICD-244.9)

RHINITIS, ALLERGIC (ICD-477.9)

MORBID OBESITY (ICD-278.01)

HYPERLIPOPROTEINEMIA, TYPE II-B (ICD-272.2)

HERPES SIMPLEX INFECTION (ICD-054.9)

DJD (ICD-715.90)

HELICOBACTER PYLORI INFECTION (ICD-041.86)

HERPES ZOSTER (ICD-053.9)

Current Medications (prior to this update):

MULTIVITAMINS FC TAB (MULTIPLE VITAMIN) 1 pill by mouth daily

CALTRATE 600 + D 600-125 MG-IU TAB (CALCIUM-VITAMIN D) 1 pill twice daily by mouth

SYNTHROID 200 MCG TAB (LEVOTHYROXINE SODIUM) 1 pill by mouth daily

CELEBREX 200 MG CAP (CELECOXIB) 1 pill by mouth daily

GLUCOSAMINE-CHONDROITIN-MSM 500-400-300 MG TABS (GLUCOSAMINE-CHONDROITIN-MSM) 1 pill three times daily by mouth

SOMA 350 MG TAB (CARISOPRODOL) 1 pill 4 times daily by mouth as needed for back spasm

ACTIVELLA 1-0 5 MG TAB (ESTRADIOL-NORETHINDRONE ACET) 1 pill by mouth daily

HYZAAR 100-25 MG TAB (LOSARTAN POTASSIUM-HCTZ) 1 pill by mouth daily for blood pressure

000056

88

Voice 803-796-2222

Fax 803-796-7839

Chart Document

Brenda Oswald

Female DOB 09/16/1949

Home 803-794-1378 Office 803-796-2260

247-88-9072 Ins: Blue Cro (2/2)

11/16/2009 - Lab Report: CA

Provider: Gwendolyn C. Galphin

Location of Care: Mid Carolina Internal Medicine

Patient: BRENDA OSWALD

Note. All result statuses are Final unless otherwise noted

Tests. (1) CA (LAB)

1 CALCIUM

8.9 MG/DL

8 7-10.2

*1

Note: An exclamation mark (!) indicates a result that was not dispersed into the flowsheet.

Document Creation Date: 11/16/2009 7:36 PM

(1) Order result status: Final

Collection or observation date-time 11/16/2009 10 10

Requested date-time: 11/16/2009 10.10

Receipt date-time:

Reported date-time:

Referring Physician:

Ordering Physician: Galphin, Gwendolyn C (GWENC)

Specimen Source:

Source: SUNQUEST

Filler Order Number: M52474 OADD

Lab site: LAB

Producer ID *1:R ROUTINE LAB

Signed by Gwendolyn C. Galphin on 11/17/2009 at 8:25 AM

000057

89

Voice 803-796-2222

Fax 803-796-7839

Chart Document

Brenda Oswald

Female DOB 09/16/1949

Home: 803-796-1578 Office: 803-796-7260

247-88-90215 Blue Cro (212)

11/19/2009 - Office Visit: sore tailbone on R

Provider: Gwendolyn C. Galphin

Location of Care: Mid Carolina Internal Medicine

Office Visit

History of Present Illness

Chief Complaint: sore tail bone

History of Present Illness: She was stung by a bee in her car today on the way here but here for her appt. due to swelling to R side of her tailbone She just sat down hard on the floor No problems with having a BM.

Past, Family, and Social History

Past History: medical—fx ribs in MVA with pneumothorax 6/01, calcaneal spurs, hypothyroidism, obesity, allergic rhinitis, DJD, M/M/CP, HTN, trigger finger in both thumbs

surgical—T&A, thorocostostomy 6/01, bilat. CTS, L thenar tendonitis injection, L foot surg for spurs per Dr Kern 11/04, R foot surg. for heel spurs 2/06, abdominoplasty 1/07 per Dr Sexton, IVC filter 5/08, lap band 7/08 per Dr Antonetti

health maintenance— flu shot 2009, colonoscopy per Dr Seabrook 1/03 and to repeat in 2010, no blood transfusion, mammo 9/09, pap 9/09, tetanus 2001, CXR 6/01, EKG 9/09, DEXA per ortho and was normal 2003, eye checks per Dr Milne 2009, dental checks per Dr Milwood

Risk Factors

Seatbelt use: 100 %

OB History

Total Preg.: 0

Current Problems (prior to this update):

HYPERTENSION (ICD-401.1)

HYPOTHYROIDISM (ICD-244 9)

RHINITIS, ALLERGIC (ICD-477 9)

MORBID OBESITY (ICD-278 01)

HYPERLIPOPROTEINEMIA, TYPE II-B (ICD-272 2)

HERPES SIMPLEX INFECTION (ICD-054 9)

DJD (ICD-715 90)

HELICOBACTER PYLORI INFECTION (ICD-041 86)

HERPES ZOSTER (ICD-053 9)

HYPERCALCEMIA (ICD-275 42)

Current Medications (prior to this update):

000058

96

Voice 803-796-2222

Fax 803-796-7839

Chart Document

Brenda Oswald

Female DOB: 09/16/1949

Home: 803-794-1378 Office: 803-796-7260

247-88-9072 Ins: Blue Cross (C) 2

MULTIVITAMINS FC TAB (MULTIPLE VITAMIN) 1 pill by mouth daily
CALTRATE 600 + D 600-125 MG-IU TAB (CALCIUM-VITAMIN D) 1 pill twice daily by mouth
SYNTHROID 200 MCG TAB (LEVOTHYROXINE SODIUM) 1 pill by mouth daily
CELEBREX 200 MG CAP (CELECOXIB) 1 pill by mouth daily
GLUCOSAMINE-CHONDROITIN-MSM 500-400-300 MG TABS (GLUCOSAMINE-CHONDROITIN-MSM)
1 pill three times daily by mouth
SOMA 350 MG TAB (CARISOPRODOL) 1 pill 4 times daily by mouth as needed for back spasm
ACTIVELLA 1-0 5 MG TAB (ESTRADIOL-NORETHINDRONE ACET) 1 pill by mouth daily
HYZAAR 100-25 MG TAB (LOSARTAN POTASSIUM-HCTZ) 1 pill by mouth daily for blood pressure
ASPIRIN EC 81 MG EC TAB (ASPIRIN) 1 pill by mouth daily
* POTASSIUM 500 MG 1 pill by mouth daily
RESTASIS 0.05 % EMUL (CYCLOSPORINE) use to eyes per Dr. Milne
FAMVIR 500 MG TAB (FAMCICLOVIR) 1 pill three times daily by mouth as directed

Allergies: (after this update)
ACE INHIBITORS

Vital Signs

Height: 62 inches

Weight: 202 pounds

Pulse rate: 72

Pulse rhythm: regular

Blood Pressure: 118/62 mm Hg

Calculations

Body Mass Index: 37.08

Physical Exam

General appearance: well nourished, well hydrated, no acute distress

Skin

Inspection: bee sting mark upper L arm

Palpation: palpable hematoma to R buttock

Assessment

Status of Existing Problems:

Assessed HYPERTENSION as improved - Gwendolyn C. Galphin

New Problems:

HEMATOMA (ICD-924.9)

Plan

Updated Medication List:

000059

91

Voice 803-796-2222

Fax 803-796-7839

Chart Document

Brenda Oswald

Female DOB 09/16/1949

Home 803-794-1478 Office 803-796-7260

247-88-9072 Ins Blue Cross (212)

MULTIVITAMINS FC TAB (MULTIPLE VITAMIN) 1 pill by mouth daily
CALTRATE 600 + D 600-125 MG-IU TAB (CALCIUM-VITAMIN D) 1 pill twice daily by mouth
SYNTHROID 200 MCG TAB (LEVOTHYROXINE SODIUM) 1 pill by mouth daily
CELEBREX 200 MG CAP (CELECOXIB) 1 pill by mouth daily
GLUCOSAMINE-CHONDROITIN-MSM 500-400-300 MG TABS (GLUCOSAMINE-CHONDROITIN-MSM)
1 pill three times daily by mouth
SOMA 350 MG TAB (CARISOPRODOL) 1 pill 4 times daily by mouth as needed for back spasm
ACTIVELLA 1-0.5 MG TAB (ESTRADIOL-NORETHINDRONE ACET) 1 pill by mouth daily
ASPIRIN EC 81 MG EC TAB (ASPIRIN) 1 pill by mouth daily
* POTASSIUM 500 MG 1 pill by mouth daily
RESTASIS 0.05 % EMUL (CYCLOSPORINE) use to eyes per Dr. Milne
FAMVIR 500 MG TAB (FAMCICLOVIR) 1 pill three times daily by mouth as directed

New Orders:

Ofc Vst, Est Level II [CPT-99212]

Ice to area and I will send copies of labs to Dr. Antonetti and she will call for failure to resolve

Medical Decision-Making

Amount/complexity of data to be reviewed

- * review/order clinical lab tests
- * review/order other diagnostic or tx interventions

Risk of complications: moderate

Signed by Gwendolyn C. Galphin on 11/19/2009 at 3:45 PM

000060

90

Brenda Oswald
Female DOB: 09/16/1949 Home: 803-794-1378 Office: 803-796-7260
24/7-88-9072 Ins: Blue Cross (2/2)

01/25/2010 - Phone Note: RF's for 90 days
Provider: Gwendolyn C. Galphin
Location of Care: Mid Carolina Internal Medicine

--- Converted from flag ---
--- 01/25/2010 5 46 PM, Gwendolyn C. Galphin wrote
ok

--- 01/25/2010 5 29 PM, Joyce B Ivey wrote.
Pt has called for 90 days of Soma, Celebrex & Synthroid OK for all?

Prescriptions:

SOMA 350 MG TAB (CARISOPRODOL) 1 pill 4 times daily by mouth as needed for back spasm #360 x 3

Entered by: Joyce B Ivey
Authorized by: Gwendolyn C. Galphin
Signed by: Joyce B Ivey on 01/25/2010
Method used: Print then Give to Patient

CELEBREX 200 MG CAP (CELECOXIB) 1 pill by mouth daily #90 x 3

Entered by: Joyce B Ivey
Authorized by: Gwendolyn C. Galphin
Signed by: Joyce B Ivey on 01/25/2010
Method used: Print then Give to Patient

SYNTHROID 200 MCG TAB (LEVOTHYROXINE SODIUM) 1 pill by mouth daily #90 x 3

Entered by: Joyce B Ivey
Authorized by: Gwendolyn C. Galphin
Signed by: Joyce B Ivey on 01/25/2010
Method used: Print then Give to Patient

To be faxed to CVS CAREMARK @ 800-378-0323
Ivey January 25, 2010 6:13 PM

Joyce B

Signed by Gwendolyn C. Galphin on 01/26/2010 at 2:49 PM

000061

93

Voice: 803-796-2222
Fax: 803-796-7839

Chart Document

Brenda Oswald
Female, DOB: 09/16/1949, Home: 803-796-1378, Office: 803-796-7260
247-88-9072 Ins: Blue Cross (212)

04/28/2010 - Phone Note: Knee giving her trouble---
Provider: Chesica G. Horne
Location of Care: Mid Carolina Internal Medicine

Pt said that she will try this

--- 04/28/2010 5 25 PM, Gwendolyn C. Galphin wrote
is she can wrap in ace wrap through the day and see if the extra support will help and if not may need trial
of steroid med

--- 04/28/2010 3 45 PM, Chesica G. Horne wrote
Pt called and said that her knee keeps feeling like it is giving out on her. She said that she can hardly
walk on her left leg. She said that she is taking Celebrex but wants to know what else she needs to do

Signed by Chesica G. Horne on 04/28/2010 at 5:29 PM

000062

94

Voice 803-796-2222

Fax 803-796-7839

Chart Document

Brenda Oswald
DOB: 09/16/1949
Home: 803-794-1373 Office: 803-796-7260
Email: BOW09161949@midcarolina.com
247-88-9072 Ins Blue Cross (2012)

03/16/2011 - Lab Report: Lab Report (MCIMA) CBC

Provider: Gwendolyn C. Galphin

Location of Care: Mid Carolina Internal Medicine

Lab Reports

Date Drawn: 03/16/2011

Date Run: 03/16/2011

Tech: JR - Joyce Reed

CBC

WBC: 4.9	x10 ³ /uL	Normal: (4.5-10.5)
LY: 37	%	Normal: (20.5-51.1)
MO: 5.6	%	Normal: (1.7-9.3)
GR: 57.4	%	Normal: (42.2-75.2)
LY#: 1.8	x10 ³ /uL	Normal: (1.2-3.4)
MO#: .3	x10 ³ /uL	Normal: (0.1-0.6)
GR#: 2.8	x10 ³ /uL	Normal: (1.4-6.5)
RBC#: 4.66	x10 ⁶ /uL	Normal: (4.0-6.0)
Hgb: 14.3	g/dL	Normal: (11-18)
Hct: 41.7	%	Normal: (35-60)
MCV: 89.4	fL	Normal: (80-99.9)
MCH: 3.6	pg	Normal: (27-31)
MCHC: 34.2	g/dL	Normal: (33-37)
RDW: 13.4	%	Normal: (11.6-13.7)
Plt: 213	x10 ³ /uL	Normal: (150-450)

cpe March 21, 2011

Signed by Gwendolyn C. Galphin on 03/17/2011 at 12:43 PM

000063

94

Voice 803-796-2222

Fax 803-796-7839

Chart Document

Brenda Oswald Home: 803-796-1878 Office: 803-796-7260
Female DOB: 09/16/1949 Ins: Blue Cross of SC (212)

03/21/2011 - Office Visit: cpe

Provider: Gwendolyn C. Galphin

Location of Care: Mid Carolina Internal Medicine

Office Visit

History of Present Illness

Chief Complaint: stress at back at work

History of Present Illness: She is here for her annual checkup and has not been seen for a while. She is back at work as office manager for her husband's law practice but under stress over her husband's illness. She had plastic surg last yr. She was in a bad MVA and is seeing Dr. O'Leary for neck pain and she has had an MRI and will have a copy sent here. She still battles the neck spasm. She has trouble sleeping but soma does help. She is seeing Dr. Margalit for the accident and so far only taking tylenol and no narcotics.

Past, Family, and Social History

Past History: medical—fx ribs in MVA with pneumothorax 6/01, calcaneal spurs, hypothyroidism, obesity, allergic rhinitis, DJD, M/M/CP, HTN, trigger finger in both thumbs

surgical—T&A, thoracostomy 6/01, bilat CTS, L thenar tendonitis injection, L foot surg for spurs per Dr Kern 11/04, R foot surg for heel spurs 2/06, abdominoplasty 1/07 per Dr Sexton, IVC filter 5/08, lap band 7/08 per Dr Antonetti, plastic surg on arms after wt loss and breast red. 5/10 Dr Carlin

health maintenance—flu shot 10/10, colonoscopy per Dr Seabrook 1/03 and to repeat in 7-10, no blood transfusion, mammo 9/09, pap 9/09 and due 2012, tetanus 2001, CXR 9/10, EKG 3/11, DEXA per ortho and was normal 2003,

eye checks per Dr Milne 2009, dental checks per Dr Fann

Family History: mom 78 DJD, hypothyroidism

dad 84 DJD, s/p CABG and cardiomyopathy, HTN, DJD and had total knee replacement

brother asthma, HTN

brother HTN, hepatitis C

brother bipolar depression, HTN and has gone through alcohol rehab

Social History: married x 40 yrs, real estate manager

office manager for her husband's law practice

Risk Factors

Tobacco use: never

Alcohol use: no

Caffeine use (drinks/day): 2 coffee

Exercise (times/week): 2

Type of exercise: workout at gym

Seatbelt use: 100 %

Review of Systems

General: Denies fevers, chills, sweats, anorexia, fatigue, malaise, snoring, excess daytime sleepiness,

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Voice 803-796-2222

Fax 803-796-7839

Chart Document

Brenda Oswald
Female DOB 09/16/1949 Home: 803-794-1378 Office: 803-796-7260
247-88-9072 Ins: Blue Cross (2-12)

non-restorative sleep, weight loss

Eyes: Denies blurring, diplopia, irritation, discharge, vision loss, eye pain, photophobia

Ears/Nose/Throat: Denies earache, hearing loss, sinus pain, ear discharge, tinnitus, decreased hearing, nasal congestion, nasal obstruction, nosebleeds, sore throat, hoarseness, dysphagia

Cardiovascular: Denies chest pains, palpitations, syncope, dyspnea on exertion, orthopnea, PND, ankle swelling.

Respiratory: Denies cough, dyspnea, excessive sputum, hemoptysis, wheezing

Gastrointestinal: Denies nausea, vomiting, diarrhea, constipation, change in bowel habits, abdominal pain, melena, hematochezia, jaundice

Genitourinary: Complains of amenorrhea Denies dysuria, hematuria, urinary frequency, incontinence, decreased libido, vaginal discharge, menorrhagia, abnormal vaginal bleeding, pelvic pain

Musculoskeletal: Complains of joint pain, stiffness, arthritis Denies back pain, joint swelling, muscle cramps, muscle weakness general DJD and now her neck from MVA

Skin: Denies rash, itching, dryness, suspicious lesions varicose vein and has seen Dr Espinoza in the past, scaly spots back of hands and arms

Neurologic: Complains of headaches Denies transient paralysis, weakness, paresthesias, seizures, syncope, tremors, vertigo since her accident

Psychiatric: Denies depression, anxiety, memory loss, mental disturbance, suicidal ideation, hallucinations, paranoia.

Endocrine: Denies cold intolerance, heat intolerance, polydipsia, polyphagia, polyuria, weight change.

Heme/Lymphatic: Denies abnormal bruising, bleeding, enlarged lymph nodes

Allergic/Immunologic: Complains of hay fever Denies urticaria, persistent infections, HIV exposure.

OB History

Total Preg.: 0

Current Problems (prior to this update):

HYPERTENSION (ICD-401 1)

HYPOTHYROIDISM (ICD-244 9)

RHINITIS, ALLERGIC (ICD-477 9)

MORBID OBESITY (ICD-278 01)

HYPERLIPOPROTEINEMIA, TYPE II-B (ICD-272 2)

HERPES SIMPLEX INFECTION (ICD-054 9)

DJD (ICD-715 90)

HELICOBACTER PYLORI INFECTION (ICD-041 86)

HERPES ZOSTER (ICD-053 9)

HYPERCALCEMIA (ICD-275 42)

HEMATOMA (ICD-924 9)

Current Medications (prior to this update)

MULTIVITAMINS FC TAB (MULTIPLE VITAMIN) 1 pill by mouth daily

CALTRATE 600 + D 600-125 MG-IU TAB (CALCIUM-VITAMIN D) 1 pill twice daily by mouth

SYNTHROID 200 MCG TAB (LEVOTHYROXINE SODIUM) 1 pill by mouth daily

CELEBREX 200 MG CAP (CELECOXIB) 1 pill by mouth daily

GLUCOSAMINE-CHONDROITIN-MSM 500-400-300 MG TABS (GLUCOSAMINE-CHONDROITIN-MSM) 1 pill three times daily by mouth

SOMA 350 MG TAB (CARISOPRODOL) 1 pill 4 times daily by mouth as needed for back spasm

ACTIVELLA 1-0 5 MG TAB (ESTRADIOL-NORETHINDRONE ACET) 1 pill by mouth daily

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9/17

Voice 803-796-2222

Fax 803-796-7839

Chart Document

Brenda Oswald Home: 803-796-1378 Office: 803-796-7260
Female DOB: 06/16/1949 SSN: 247-88-9972 Ins: Blue Cross (212)

ASPIRIN EC 81 MG EC TAB (ASPIRIN) 1 pill by mouth daily
* POTASSIUM 500 MG 1 pill by mouth daily
RESTASIS 0.05 % EMUL (CYCLOSPORINE) use to eyes per Dr. Milne
FAMVIR 500 MG TAB (FAMCICLOVIR) 1 pill three times daily by mouth as directed

Allergies: (after this update)
ACE INHIBITORS

Vital Signs

Height: 62.25 inches
Weight: 208.5 pounds
Pulse rate: 72
Pulse rhythm: regular
Blood Pressure: 124/70 mm Hg

Calculations

Body Mass Index: 37.97

Physical Exam

General appearance: well nourished, well hydrated, no acute distress

Eyes

External: conjunctivae and lids normal
Pupils: equal, round, reactive to light and accommodation
Ophthalmoscopic: discs sharp and flat, no a/v nicking, hemorrhages, or exudates

Ears, Nose and Throat

External ears: normal, no lesions or deformities
External nose: normal, no lesions or deformities
Otoscopic: canals clear, tympanic membranes intact with good movement, no fluid
Hearing: grossly intact
Nasal: mucosa, septum, and turbinates normal
Lips/teeth/gums: normal dentition, no gingival inflammation, no labial lesions
Pharynx: tongue normal, posterior pharynx without erythema or exudate

Neck

Neck: supple, no masses, trachea midline
Thyroid: no nodules, masses, tenderness, or enlargement

Chest/Breasts

Breast inspection: well healed scars
Breast palpation: no masses or tenderness

000066

9c

Voice 803-796-2222

Fax 803-796-7839

Chart Document

Brenda Oswald
Home: 803-794-1378 Office: 803-796-7260
Email: b@b9161949 217-881-9072 Ins: BBE Cro (2,12)

Respiratory

Respiratory effort: no intercostal retractions or use of accessory muscles

Auscultation: no rales, rhonchi, or wheezes

Cardiovascular

Palpation: no thrill or palpable murmurs, no displacement of PMI

Auscultation: S1, S2, no murmur, rub, or gallop

Carotid arteries: pulses 2+, symmetric, no bruits

Abdominal aorta: no enlargement or bruits

Femoral arteries: pulses 2+, symmetric, no bruits

Pedal pulses: pulses 2+, symmetric

Periph. circulation: no cyanosis, clubbing, edema, or varicosities

Gastrointestinal

Abdomen: healing scar from her surg

Liver and spleen: no enlargement or nodularity

Hernia: no hernias

Rectal: no masses, tenderness

Genitourinary

External genitalia: normal, no lesions or discharge

Vagina: no lesions, discharge

Urethra: no discharge

Bladder: no cystocele

Cervix: normal appearance, no lesions, no discharge

Uterus: normal size and position, midline, mobile

Adnexa: no masses or tenderness

Lymphatic

Neck: no cervical adenopathy

Axillae: no axillary adenopathy

Groin: no inguinal adenopathy

Misc. lymph nodes: no other adenopathy

Musculoskeletal

Gait and station: normal, can undergo exercise testing and/or participate in exercise program

Digits and nails: no clubbing, cyanosis, petechiae, or nodes

Head and neck: normal alignment and mobility

Spine, ribs, pelvis: normal alignment and mobility, no deformity

RUE: normal ROM and strength, no joint enlargement or tenderness

LUE: normal ROM and strength, no joint enlargement or tenderness

RLE: normal ROM and strength, no joint enlargement or tenderness

LLE: normal ROM and strength, no joint enlargement or tenderness, varicose vein back of thigh

Skin

Inspection: lots of actinic keratoses back of hands

Palpation: palpable hematoma to R buttock

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Voice 803-796-2222

Fax 803-796-7839

Chart Document

Brenda S. Svald
Female DOB 09/16/1949
Home: 803-794-1378 Office: 803-796-7260
247-38-9072 Ins: Blue Cro (2-2)

Neurologic

Cranial nerves: II - XII grossly intact

Reflexes: 2+, symmetric, no pathological reflexes

Sensation: intact to touch, pin, vibration, and position

Mental Status Exam

Judgment, insight: intact

Orientation: oriented to time, place, and person

Memory: intact for recent and remote events

Mood and affect: no depression, anxiety, or agitation

Assessment

New Problems:

HELICOBACTER PYLORI INFECTION, HX OF (ICD-V12.71)

WELL ADULT EXAM (ICD-V70.0)

Plan

New Prescriptions/Refills:

FAMVIR 500 MG TAB (FAMCICLOVIR) 1 pill three times daily by mouth as directed #75 x 3 - Gwendolyn C Galphin (03/21/2011)

SOMA 350 MG TAB (CARISOPRODOL) 1 pill 4 times daily by mouth as needed for back spasm #360 x 3 - Gwendolyn C Galphin (03/21/2011)

CELEBREX 200 MG CAP (CELECOXIB) 1 pill by mouth daily #90 x 3 - Gwendolyn C Galphin (03/21/2011)

SYNTHROID 200 MCG TAB (LEVOTHYROXINE SODIUM) 1 pill by mouth daily #90 x 3 - Gwendolyn C Galphin (03/21/2011)

Updated Medication List:

MULTIVITAMINS FC TAB (MULTIPLE VITAMIN) 1 pill twice daily by mouth

CALTRATE 600 + D 600-125 MG-IU TAB (CALCIUM-VITAMIN D) 1 pill twice daily by mouth

SYNTHROID 200 MCG TAB (LEVOTHYROXINE SODIUM) 1 pill by mouth daily

CELEBREX 200 MG CAP (CELECOXIB) 1 pill by mouth daily

GLUCOSAMINE-CHONDROITIN-MSM 500-400-300 MG TABS (GLUCOSAMINE-CHONDROITIN-MSM) 1 pill three times daily by mouth

SOMA 350 MG TAB (CARISOPRODOL) 1 pill 4 times daily by mouth as needed for back spasm

ASPIRIN EC 81 MG EC TAB (ASPIRIN) 1 pill by mouth daily

* POTASSIUM 500 MG 1 pill by mouth daily

FAMVIR 500 MG TAB (FAMCICLOVIR) 1 pill three times daily by mouth as directed

CLARITIN 10 MG TABS (LORATADINE) 1 pill by mouth daily as needed for allergies

I will have her get mammo and then referral to Palmetto derm and she will call for any problems but all looks good on her well adult exam and her labs. She states her ins allowed physical yearly

Prescriptions:

FAMVIR 500 MG TAB (FAMCICLOVIR) 1 pill three times daily by mouth as directed #75 x 3

000068

10.

Voice 803-796-2222

Fax 803-796-7839

Chart Document

Brenda Oswald
Female DOB 09/16/1949 Home 803-794-1378 Office 803-796-7260
247889072 Ins Blue Gro (2/12)

Entered and Authorized by Gwendolyn C Galphin
Signed by Gwendolyn C Galphin on 03/21/2011
Method used Print then Give to Patient
SOMA 350 MG TAB (CARISOPRODOL) 1 pill 4 times daily by mouth as needed for back spasm #360 x 3
Entered and Authorized by Gwendolyn C Galphin
Signed by Gwendolyn C Galphin on 03/21/2011
Method used Print then Give to Patient
CELEBREX 200 MG CAP (CELECOXIB) 1 pill by mouth daily #90 x 3
Entered and Authorized by Gwendolyn C Galphin
Signed by Gwendolyn C Galphin on 03/21/2011
Method used Print then Give to Patient
SYNTHROID 200 MCG TAB (LEVOTHYROXINE SODIUM) 1 pill by mouth daily #90 x 3
Entered and Authorized by Gwendolyn C Galphin
Signed by Gwendolyn C Galphin on 03/21/2011
Method used Print then Give to Patient

Signed by Gwendolyn C. Galphin on 03/21/2011 at 10:30 AM

000069

12

Addendum - Dated 08/07/11

CORRECTION TO DICTATION: Patient's pain/condition DID arise as a result of an injury--MVA Please note this change in dictation

End of Addendum - Dated 08/07/11

Initial Exam

NAME: Oswald Brenda

DATE: 07/26/11

EMPLOYER: Oswald Law Firm

REFERRING PHYSICIAN: Gal Margalit, M D

ACCOUNT 630694

DOB: 09/16/1949

Age: 61 years old

OCCUPATION: office manager

CC: cervical pain

DATE OF INJURY/ONSET/SURGERY: doi 9-29-10 MVA

HPI: []

Did the patient's pain or condition arise as the result of a work-related injury or accident? ☐ Yes ☒ No

Patient is a 61 years old female who presents today with complaints of cervical pain. Symptoms have been present since 9-29-10 after a vehicle accident. Most of the pain is localized to the left side of the neck. The pain does radiate into the left arm laterally down the biceps, radially along the forearm and radially along the hand. Pain is present on constant basis. Numbness and tingling are present in the right upper extremity only. Patient has been seen by Dr. O'Leary for this in the past. The patient has tried physical therapy in the past. Epidural steroid injection have been tried without any significant relief in symptoms. Treatment has also included x-rays, MRI and soma prescribed by an outside physician. Pain rating is 8/10 for the neck and 6/10 for the arms. Pain distribution is 80% neck and 20% arms. Arm pain distribution is right arm 100% and left arm 0%. She also complains of severe night time pain and poor sleep.

Pain is preventing patient from doing activities of daily living ☒ Yes ☐ No

Is the patient's quality of life significantly affected by the pain? ☒ Yes ☐ No

Patient describes the pain as

☒ Radiating☐ Dull☐ Constant☒ Sharp☒ Burning☒ Intermittent☐ Throbbing☒ Numbness/Tingling☐ Ache☐ Stabbing

Patient Activity

Lying

Standing Bending

Bending

Twisting Sitting

Walking

Coughing exercise exercise

000070

18.

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PHYSICAL EXAM

Vital Signs HEIGHT 5'3"
WEIGHT 187 lbs 0 oz
BMI 33.1

Appearance No acute distress
Psychiatric Mood and affect were appropriate
Skin Clean, dry, no lesions, no rashes
Neuro. Alert and Oriented x3

FOCUSED EXAM_ []

Please refer to the initial patient questionnaire (scanned in system) for spine-specific review of systems

CV 2+ symmetrical x 4 extremities
Lymphatic no cervical, supraclavicular, axillary, femoral, or popliteal adenopathy
Gait normal, narrow based gait able to ambulate on toes and heels
Coordination intact finger-nose, heel-shin motion
Ext ROM full range of motion in all major joints in the upper and lower extremities
Spine ROM severely decreased range of motion cervical spine
Palpation
 Greater trochanteric NO tenderness L or R
 Midline NO tenderness
 Paraspinal NO tenderness
 PSIS NO tenderness in L or R
Sensation intact sensation to light touch in all major dermatomes of upper and lower extremities
Muscle tone: normal
Reflexes 3+ symmetrical UE / LE
Other

Strength	Right	Left
Deltoid	5/5	5/5
Biceps	5/5	5/5
Triceps	5/5	5/5
Wrist Flexors	5/5	5/5
Wrist Extensors	5/5	5/5
Supinators	5/5	5/5
Pronators	5/5	5/5
EPL	5/5	5/5
Hand Grip	5/5	5/5
Intrinsics	5/5	5/5
Hip Flexors	5/5	5/5
Quadriceps	5/5	5/5
Hamstrings	5/5	5/5
Tibialis Anterior	5/5	5/5
Gastrocs	5/5	5/5

000072

104

Patient: BRENDA OSWALD
2124 RAVEN TRAIL
WEST COLUMBIA, SC 29169

DOS: 04/23/2012

DOB: 09/16/1949

Gender: F

MR#: 1472072

Provider: Gwendolyn C. Galphin M.D

Vitals

Vital Signs [Data Includes: Current Encounter]

23 Apr 2012 12:52 PM

Blood Pressure: 106 / 70

Heart Rate: 72

Chief Complaint

- Abdominal Pain

Reason For Visit

knot to abdomen and another above groin x 2 weeks, more painful with eating and drinking RF 0

History of Present Illness

Abdominal Pain (Brief): The patient is being seen for an initial evaluation of this episode of abdominal pain. Symptoms: **abdominal pain**, but no nausea and no vomiting. Problem Details: **she reports the symptoms are worsening**. Current Treatment: she is currently not being treated for this problem.

Review of Systems

Constitutional: no fever and no chills

Gastrointestinal: abdominal pain, but no abdominal bloating

Genitourinary: no dysuria and no urinary frequency

Active Problems

- Allergic Rhinitis 477.9
Status: Active; Onset Date: 11 Sep 2001
- Herpes Simplex Generalized 054.9
Status: Active
- Hyperlipoproteinemia Type II-B 272.2
Status: Active; Onset Date: 15 Feb 2005
- Hypothyroidism 244.9
Status: Active; Onset Date: 11 Sep 2001
- Morbid Obesity 278.01
Status: Active; Onset Date: 11 Sep 2001
- Osteoarthritis 715.90
DJD, Status: Active; Onset Date: 29 Apr 2008

Past Medical History

Chronic

- History of Calcaneal Spur 726.73
Category: History of, Status: Resolved; Onset Date: 15 Feb 2005

Patient Name: BRENDA M OSWALD

Patient DOB: 09/16/1949

MR#: 1472072

Gender: F

Provider: Gwendolyn C Galphin M D

- History of Contusion With Intact Skin Surface 924.9
Category: History of; Status: Resolved; Onset Date: 21 Mar 2011
- History of Cough 786.2
Category: History of; Status: Resolved; Onset Date: 11 Nov 2002
- History of Dysmetabolic Syndrome X 277.7
Category: History of; Status: Resolved; Onset Date: 15 Mar 2007
- History of Helicobacter Pylori (H. Pylori) Infection 041.86
History of; Category: History of; Status: Resolved; Onset Date: 29 Apr 2008
- History of Herpes Zoster (Shingles) 053.9
Category: History of; Status: Resolved; Onset Date: 21 Mar 2011
- History of Hypercalcemia 275.42
Category: History of; Status: Resolved; Onset Date: 21 Mar 2011
- History of Hypertension 401.9
Category: History of; Status: Resolved; Onset Date: 21 Mar 2011
- History of Impaired Fasting Glucose 790.21
Category: History of; Status: Resolved; Onset Date: 15 Mar 2007
- History of Itching (Pruritus) 698.9
Category: History of; Status: Resolved; Onset Date: 15 Mar 2007
- History of Measles (Rubeola) 055.9
Category: History of; Status: Resolved
- History of Motor Vehicle Traffic Accident E819.9
had bad MVA and is seeing Dr. O'Leary for neck pain; has had MRI and will have copy sent here
→ (OV 3/21/2011) also seeing Dr. Margalit for the accident; Category: History of; Status: Resolved
- History of Mumps 072.9
Category: History of; Status: Resolved
- History of Nasal Septum Perforated 478.19
Category: History of; Status: Resolved; Onset Date: 08 Jan 2004
- History of Neck Pain 723.1
had bad MVA and is seeing Dr. O'Leary for neck pain; has had MRI and will have copy sent here
→ (OV 3/21/2011); Category: History of; Status: Resolved
- History of Normal Examination V70.0
Category: History of; Status: Resolved; Onset Date: 21 Mar 2011
- History of Reported Positive Pap Smear 795.19
Category: History of; Status: Resolved; Onset Date: 11 Nov 2002
- • History of Rib Fracture 807.00
6/2001 - Rib fx with pneumothorax, Category: History of; Status: Resolved; Onset Date: 6/2001 and 1/2004
- History of Secondary Pneumothorax 512.89
Rib fx with pneumothorax, Category: History of; Status: Resolved; Onset Date: Jun 2001
- History of Trigger Finger Of The Thumb 727.03
both thumbs; Category: History of; Status: Resolved
- History of Vancella 052.9
Category: History of; Status: Resolved

Surgical History

- History of Abdominoplasty
per Dr. Sexton, Category: History of; Status: Resolved; Onset Date: Jan 2007
- History of Breast Surgery Reduction Procedure Elective V50.1
plastic surgery on arms after weight loss and breast reduction - Dr. Carlin, Category: History of; Status: Resolved; Procedure Date: May 2010
- History of Cosmetic Surgery V50.1
plastic surgery on arms after weight loss and breast reduction - Dr. Carlin; Category: History of;

Patient Name: BRENDA M OSWALD

Patient DOB: 09/16/1949

MR#: 1472072

Gender: F

Provider: Gwendolyn C Galphin M D

- Status. Resolved, Onset Date: May 2010
- History of Injection Of Therapeutic Substance
L thenar tendonitis injection; Category History of, Status Resolved
- History of Interruption Inferior Vena Cava Greenfield Filter Placement
Category History of; Status Resolved, Procedure Date May 2008
- History of Laparosc Gastric Restrictive Proc By Adjustable Gastric Band
per Antonetti; Category History of, Status Resolved, Procedure Date Jul 2008
- • History of Neuroplasty Decompression Median Nerve At Carpal Tunnel
bilateral; Category History of, Status Resolved
- • History of Osteotomy Calcaneus For Spur
left foot surgery for spurs per Dr Kern - 11/2004 right foot for heel spurs - 2/2006, Category: History
of, Status: Resolved
- • History of Thoracotomy
pneumothorax with rib fracture; Category: History of, Status: Resolved; Procedure Date: Jun 2001
- • History of Tonsillectomy With Adenoidectomy
Category History of; Status. Resolved
- Denied**
- History of Blood Transfusion
Category. History of; Status Denied

Family History

- Fraternal history of Alcoholism
brother bipolar with depression, HTN and has gone through alcohol rehab; Category Fraternal
history of; Status: Active
- Fraternal history of Asthma V17 5
brother with asthma and HTN; Category Fraternal history of; Status: Active
- Fraternal history of Bipolar Disorder
brother bipolar with depression, HTN and has gone through alcohol rehab, Category: Fraternal
history of; Status: Active
- Fraternal history of Chronic Hepatitis, C Virus
brother with HTN and Hep C, Category: Fraternal history of; Status. Active
- Fraternal history of Hypertension V17 49
brother with asthma and HTN, Category Fraternal history of, Status Active
- Fraternal history of Hypertension V17 49
brother with HTN and Hep C, Category. Fraternal history of, Status. Active
- Paternal history of Cardiomyopathy
dad 84 DJD, s/p CABG and cardiomyopathy, HTN, DJD and had total knee replacement; Category
Paternal history of, Status Active
- Paternal history of Coronary Artery Disease V17 49
dad 84 DJD, s/p CABG and cardiomyopathy, HTN, DJD and had total knee replacement, Category:
Paternal history of; Status Active
- Paternal history of Hypertension V17 49
dad 84 DJD, s/p CABG and cardiomyopathy, HTN, DJD and had total knee replacement; Category
Paternal history of, Status Active
- Paternal history of Osteoarthritis V17.7
dad 84 DJD, s/p CABG and cardiomyopathy, HTN, DJD and had total knee replacement, Category.
Paternal history of, Status Active
- Maternal history of Hyperthyroidism
mom 78 with DJD, hypothyroidism; Category Maternal history of, Status Active
- Maternal history of Osteoarthritis V17 7
mom 78 with DJD, hypothyroidism; Category Maternal history of; Status Active

Patient Name: BRENDA M OSWALD

Patient DOB: 09/16/1949

MR#: 1472072

Gender: F

Provider: Gwendolyn C. Galphin M.D.

Social History

- Caffeine Use
2 coffee; Status Active
- • Exercise Habits
workout at gym 2 days weekly, Status Active
- Eye Doctor - Last Seen
per Dr Milne 2009; Status: Active
- Marital History - Currently Married
married x 40 years; Status: Active
- • Occupation
real estate manager and office manager for her husband's law practice, Status Active
- Seeing A Dentist
per Dr. Fann; Status Active
- Uses Safety Equipment - Seatbelts
Status: Active

Denied

- History of Alcohol Use
Category: History of; Status: Denied
- History of Tobacco Use
Category: History of; Status: Denied

Current Meds

- Aspirin EC 81 MG Oral Tablet Delayed Release, TAKE ONE PILL BY MOUTH DAILY, Status: ACTIVE
- Caltrate 600 + D 600-125 MG-IU TABS; Take 1 tablet twice daily; Status: ACTIVE
- CeleBREX 200 MG Oral Capsule, TAKE 1 PILL BY MOUTH DAILY, Status: ACTIVE
- Clantin 10 MG Oral Tablet; TAKE 1 TABLET DAILY AS NEEDED; Status: ACTIVE
- Famvir 500 MG Oral Tablet; TAKE 1 TABLET 3 TIMES DAILY, Status: ACTIVE
- Glucosamine-Chondroitin-MSM 500-400-300 MG TABS, TAKE 1 PILL 3 TIMES DAILY BY MOUTH, Status: ACTIVE
- Levothyroxine Sodium 200 MCG Oral Tablet, TAKE 1 TABLET DAILY, Status: ACTIVE
- Multiple Vitamins Oral Tablet, TAKE 1 TABLET TWICE DAILY BY MOUTH, Status: ACTIVE
- Potassium TABS, ONE 500MG TABLET DAILY, Status: ACTIVE
- Soma 350 MG Oral Tablet, TAKE 1 TABLET 4 TIMES DAILY AS NEEDED; Status: ACTIVE

Allergies

- ACE Inhibitors . Cough,

Immunizations

Influenza --- Series1: 15Oct2010
Td/DT --- Series1 05Jun2001
Tetanus --- Series1 2001

Results/Data

All Results [Data Includes: Last 1 Week]
No recent results

Physical Exam

Constitutional: alert

Abdomen: The abdomen was flat Bowel sounds were normal There was tenderness in the suprapubic area
The abdomen was firm There was a negative Murphy's sign A 8 cm mass was palpable in the suprapubic

Outpatient Home Medication Regimen Assessment

An updated copy will be given to patient upon discharge

- ☒ The patient has given me permission to forward this medication list to the next care provider.
☐ The patient has not given me permission to forward this medication list to the next care provider.

List All Allergies Below

☒ No Allergies

Drug / Food	Reaction	Drug / Food	Reaction
Known Allergy To		Yes	No
Betadine / Iodine (shellfish)			
Latex			
IVP Dye, CT Prep, or any other Contrast			

- ☐ Patient takes no medications ☐ Unable to obtain history ☐ Patient takes no herbals

LIST ALL MEDICATIONS YOU ARE CURRENTLY TAKING: All prescription and over the counter medications (Examples: Aspirin, Antacids) and herbals (Examples: Ginseng, Gingko). All to include Medication taken as need (Example: Nitroglycerin).

Medication / Dose Example: Lasix 40 mg	How often Daily	Reason Water pill	Date Last taken Example: 2/14	MD Check only If not to Continue
Amlokind 500 mg	4 PO daily Am	Hypertension	7/7/08	
Celebrex 200 mg	4 PO daily Am	Arthritis	6/19	
Hyzaar 100/25 mg	4 PO daily Am	HTN	7/8/08 0630	
ActiVella 1 mg	4 PO daily Am	HRT	7/7/08	
Xenical 120 mg	Before meals	Wt loss	6/1	
Diclofenac 75 mg	2 PO daily	Arthritis	6/19	
Calcitriol 600 mg	2 PO daily HS	Supplement	6/19/08	
Soma Comp 300 mg	4 PO Bid PRN	Back pain	6/19/08	
Aspirin 81 mg	4 PO daily Am	Heart	6/19	
Restasis eye drops 1 drop 4x daily	4x daily	dry eyes	7/8/08	
Multi Vit	4 PO daily Am	Supplement	6/19	
Potassium 500 mg	4 PO daily Am	Supplement	6/19/08	
B-12 2000 mcg	4 PO daily Am	Supplement	6/19	
Post-operative Medications:				
1) Mepergan Fortis	See	prescription		

The above information was obtained from (check all that apply)

- ☐ Medication bottle ☒ Patient / family verbal ☒ Patient family written ☐ Nursing home written
☐ Nursing home verbal/phone ☐ Patient /family member filled out form

From completed by: Spencer Baldwin Title: RN Date / Time: 6/10/08 1233
 Signature: RN / PT / RT

Disposition of Home Meds: ☐ Home meds not bought in ☐ Given to family members

H00034131268 07/02/08 58
 OSWALD, BRENDA M
 M001193432 ANTONETTI, MARC C. MD
 HIAA W F 09/16/1949

Page 1 of 1

000077

H00034131268 07/08/08 58
 OSWALD, BRENDA M
 M001193432 ANTONETTI, MARC C. MD
 HIAA W F 09/16/1949

109

DATE

11445581

5-3-12

Infectious Diseases Consult

Zosyn

1020

1) Abd Wall Abscess - Staph aureus s/p I&D

2) 1/2 lap band 2008 ~~staph~~

3) Excess skin removal panniculectomy 2010

* please see dictation for full consult

62 yo woman w 1/2 lap band 2008 that resulted in dramatic wt loss - pt required removal of excess skin in 2010 but had been doing well since then

- on April 6th pt fell while moving some boxes and scraped belly - next day noted some soreness and thought she had pulled a muscle

- pain continued to increase over next couple of weeks

- pt went to see PC who ordered CT which revealed an abscess of deep sub Q tissues - sent to surgery

- pt taken to OR yesterday and underwent I&D of large abd abscess

- started empirically on Zosyn

- we are now asked to assist w abx

Inp

- pt has had definitive rx of abscess w I&D - wound being packed and plan is for wound vac

- at this time cxs showing staph aureus - will switch

OVER →

Cheryl A. Carter

#00058192618 05/02/12 62
OSWALD, BRENDA M
M001193432 HUGHES, S. GRAY MD
HNT6P 697 1 W F 09/16/1949



000078



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PROGRESS NOTES

DATE

5-3-12 1D (cont)

1020 Zosyn to Vancomycin in case of MRSA - once
sensitivities known can make further ones regarding
type and length of abx
-discussed w pt & husband
-will follow

Chantal L. Lauthen

5/3 Pharmacy
1100 Begin Vancomycin 1.25gm q 12hr
Trough 5/5.

Danny Brown

5-3-12 Ref. rec'd from Tri-County HH
C. Obbard, RN
TCHN

5/4/12 Surg
AFVSS

Wife bc I was to was

H00058192618 05/02/12 62
OSWALD, BRENDA M
M001193432 HUGHES, S. GRAY MD
HNT6P 697 1 W F 09/16/1949

000079



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DATE

5-4-12 Home wound vac ordered from
KCI — C. O. Girard, RN
TCHH

5-4-12 Infectious Diseases Vanco

1002 1) Abd Wall Abscess s/p I&D - staph aureus

2) - ϕ % today, doing well

Tm 98.4 P 60 R 20 BP 114/59

Gen: awake, alert

Abd: (+) wound vac

CV: IZIR

Ext: ϕ C/C/E

Resp: clear (B)

ϕ new labs

Imp

- afebrile, doing well

- awaiting sensitivities on staph aureus

- if MSSA - po options will be Keflex 500mg QID, Dicloxacillin 500mg QID, Amoxicillin 1g po TID^{or}, last choice (inferior) quinolone

- if MRSA - Septa DS II tabs po BID, Minocycline 100mg BID or Zynex 600mg po BID

5/5

Surf
Not MRSA

bc $\bar{c}$ Rx Keflex X 10d

Michelle L. Langer

H00058192618 05/02/12 62
OSWALD, BRENDA M
M001193432 HUGHES, S. GRAY MD
HNT6P 697 1 W F 09/16/1949



000080

PROGRESS NOTES



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CONSULTATION

PATIENT: Oswald, Brenda M	LOCATION: HNT6697 1
ACCOUNT #: H00058192618	MR #: M001193432
ADMITTED: 05/02/2012	D: 05/03/2012 10:38 A
DISCHARGED:	T: 05/03/2012 11:03 A
PROVIDER: Natalie Cauthen, MD	DATE OF BIRTH: 09/16/1949

REQUESTING PHYSICIAN: Dr. Hughes.

REASON FOR CONSULTATION: Abdominal wall abscess.

HISTORY OF PRESENT ILLNESS: The patient is a 62-year-old female who had a history of a lap-band in 2008 which resulted in dramatic weight loss. She required removal of her excess skin in 2010 and had been doing well since then. On April 6, 2012, the patient fell while moving some boxes and scraped her abdominal area. The next day, she noted some soreness and thought she pulled a muscle and was treating herself with alternating ice and heat packs. She developed some erythema of the area but she thought this was secondary to the heat she was putting on it. The pain continued to increase over the next couple of weeks. She went to see her primary care physician, Dr. Galphin who ordered a CT scan which revealed an abscess to the deep subcutaneous tissues and she was referred to surgery. She was taken to the Operating Room yesterday and underwent I&D of a large abdominal abscess. She was started empirically on Zosyn and we are now asked to assist with her antibiotic therapy.

PAST MEDICAL HISTORY: Significant for hypertension, hypothyroidism.

PAST SURGICAL HISTORY: Significant for lap-band 2008 and excess skin removal with panniculectomy 2010.

DRUG ALLERGIES: None known.

CURRENT MEDICATIONS

1. Aspirin 81 mg daily.
2. Vitamin B-12 2000 mcg daily.
3. Heparin 5000 units every 8 hours.
4. Multivitamin daily.
5. Zosyn 3.375 grams IV every 6 hours.
6. Various p.r.n. medications

SOCIAL HISTORY: Denies any tobacco, alcohol or illicit drug use.

FAMILY HISTORY: Denies any significant family history.

REVIEW OF SYSTEMS: GENERAL: Denies any fevers or chills, no anorexia, no weight loss. HEENT: No visual changes. No hearing changes. No taste changes. NECK: No pain. No stiffness. CARDIOVASCULAR: No chest pain. No palpitations. RESPIRATORY: No cough. No shortness of breath. No dyspnea on exertion. GI: No nausea or vomiting, no constipation. No diarrhea. GU: No urinary

CONSULTATION

PAGE 1 OF 2



000081

109-D

LEXINGTON MEDICAL CENTER

PATIENT: Oswald, Brenda M	LOCATION: HNT6697 1
ACCOUNT #: H00058192618	MR #: M001193432

complaints. No hematuria. No history of kidney stones. MUSCULOSKELETAL Denies any specific muscle or joint pain SKIN: Significant only for pain and tenderness over abdominal wound. No rashes. NEUROLOGIC: No seizures. No syncope. ENDOCRINE: No history of diabetes Positive history of hypothyroidism on hormone replacement.

PHYSICAL EXAMINATION

VITAL SIGNS: Temperature 97.7, pulse 70, respirations 18, blood pressure 106/57.

GENERAL: Awake and alert in no apparent distress.

HEENT: Normocephalic, atraumatic. Pupils are equal, round and reactive to light. Extraocular muscles intact Oropharynx clear.

NECK: Supple. No cervical lymphadenopathy.

CARDIOVASCULAR: Regular rate and rhythm. No murmur.

LUNGS: Clear to auscultation bilaterally

ABDOMEN: Dressings in place, clean, dry and intact. Somewhat tender around wound site. No guarding. No rebound.

SKIN: Warm and dry. No rash.

LABORATORY DATA: Reveals white blood cell count 6.6 with H&H of 9.1 and 27.2 with platelets of 364,000 Sodium 136, potassium 4.7, chloride 100, bicarb 30, BUN 15, creatinine 0.72, glucose 134. May 2, 2012 abscess with 2+ staph aureus.

IMPRESSION

1. Abdominal abscess status post incision and drainage with Staph Aureus.
2. History of lap-band in 2008.
3. Excess skin removal and panniculectomy in 2010.

PLAN: The patient has had definitive treatment of the abscess with I&D. The wound is being packed and the plan is for wound vac. At this time, the cultures are showing staph aureus. Will switch Zosyn to vancomycin in case methicillin-resistant staph aureus. Once the final sensitivities are known, I can make further recommendations regarding the type and length of antibiotic therapy. Discussed with the patient and her husband. We will follow with you.

Electronically signed by
Natalie Cauthen, MD 05/03/2012 02:46 P

Natalie Cauthen, MD

cc: Natalie Cauthen, MD

T: 05/03/2012 11:03 A/dji

CONSULTATION
PAGE 2 OF 2



000082

109-E

HISTORY

Brenda

age 58

TYPE OF ACC: S&F
A/A

LIABILITY

W/C

WT

222#

HTS 14"

BP

110/70

PULSE

DOA:

8-12-08

TIME:

P.M. 6³⁰

LMP

OOW

IF W/C, WHERE EMPLOYED AT THE TIME:

SUMMARY OF ACC:

① Dr of vehicle, 7B ✓

② pulling out side entrance → public
park lot

③ hit in front of hallway car

IMMEDIATELY FOLLOWING ACC:

LOC NO

LENGTH OF TIME

HA'S

(and duration)

NAUSEA

DIZZY

STARS

OTHER

PATIENT WAS SEEN BY:

nausea bleed Dr de

1. LMC 8/12/08 → ✓ 2/12/08 to abdo
2. (L) knee hit console
3. O-RALS
4. No wound / Pain

PAIN AT THIS TIME CONSIST OF:

1. Neck / upper back
2. (L) Shoulder, O/S
3. aches in (L) knee → lost 37#

PH:

SURGERY

2/8/08 lap band muscle

PREVIOUS A/A

prev acc 2001 (?) fire in cell(c)

ILLNESS/DISEASE

PREVIOUS LBP:

Aggravated c/s per info

R OR (L) HANDED

CHANGE IN URINARY OR BOWEL HABITS none

ALLERGIES:

NKA

MEDICATIONS

1500 mg with food room

FH:

DM, HT, CAD

SH:

TOBACCO:

0

ALCOHOL:

0

SUNSET FAMILY PRACTICE
GAL G. MARGALIT, M.D.
3937-G SUNSET BOULEVARD
WEST COLUMBIA, SC 29169
(803) 794-8776
FAX (803) 794-4342

INITIAL EVALUATION:

August 13, 2008

PATIENT:

Brenda M. Oswald
Chart #22108
2124 Rain Trail
West Columbia, SC 29169

AGE:

58

DATE OF BIRTH:

September 16, 1949

DATE OF ACCIDENT/INJURY:

August 12, 2008

HISTORY OF PRESENT ILLNESS: On 08/12/08 at 6:00 p.m., the patient was the restrained driver of a vehicle that was pulling out of a side entrance into a public parking lot when she was hit on the front by another vehicle. She was shaken in her car. She had a nosebleed.

She was evaluated at Lexington Medical Center on the same day for complaints of abdominal pain injured by her steering wheel. Her left knee hit the console. She was examined and released on Vicodin and Flexeril. She presents here with neck and upper back pain, left shoulder pain, dorsal spine pain, and aching in her left knee.

PAST MEDICAL HISTORY: She had lap band surgery on 07/08/08 with a loss of 37 pounds by Dr. Antonetti. She was involved in a previous auto accident in 2001 with neck injuries and from which she recovered. She has low thyroid, hypertension, and depression. The patient is left-handed. The patient denies any change in urinary or bowel habits.

ALLERGIES: None.

MEDICATIONS: Synthroid 200mcg daily, Celebrex 200mg daily, Hyzaar 100/25mg one daily, Activella 1mg daily, Prozac 20mg one daily, Osteobiflex triple strength two per day, Caltrate 600mg two per day, Soma compound 200mg as needed, aspirin 81mg once a day, Restasis eye drops morning and afternoon, multivitamin once a day, and potassium over-the-counter 500mg once daily

FAMILY HISTORY: Coronary artery disease.

SOCIAL HISTORY: The patient does not smoke and does not drink.

GENERAL PRACTICE

000084

///

Re: Brenda M. Oswald
August 13, 2008

PHYSICAL EXAM: The patient is a pleasant, cooperative 58-year-old Caucasian female. Weight 222 pounds, height 64 inches, blood pressure 110/70. General examination of the head, ears, eyes, nose, and throat is normal. Cranial exam, II-XII, is normal also. Lungs are clear. Heart sounds 1 and 2 could be heard, no added sounds or murmurs. Her abdomen is soft with normal bowel sounds.

The cervical spine range of motion is as follows:

	<u>Left</u>	<u>Right</u>
Lateral Rotation	60	60
Lateral Flexion	45	45
Ventroflexion		45
Dorsiflexion		45

She is tender in her trapezius muscle.

The dorsolumbar range of motion is as follows:

	<u>Left</u>	<u>Right</u>
Lateral Rotation	30	30
Lateral Flexion	30	30
Ventroflexion		70
Dorsiflexion		30

The patient demonstrates a normal range of motion of the shoulders in forward elevation, backward elevation, abduction, adduction, internal and external rotation. Reflexes are 2+ bilaterally for knees, ankles, biceps, triceps, and supinator. The patient is able to stand on heels and toes. Sciatic notches are free of pain. Straight leg raising is negative.

On sensory pinwheel testing, there is no evidence of asymmetry over the posterior torso, upper or lower limbs.

ASSESSMENT: Status post motor vehicle accident on 08/12/08 with cervical dorsolumbar spine sprain and muscular abdominal pain.

RECOMMENDATION: X-rays of her cervical dorsal spine and left knee are recommended. The patient is to return for follow-up in seven days' time.

Gal G. Margalit, M.D.

GGM/pes
05/08/09

000085

112

PHYSICIAN PRACTICE
GAL G. MARGALIT, M.D.
3937-G SUNSET BOULEVARD
WEST COLUMBIA, SC 29169
(803) 794-8776
FAX (803) 794-4342

PROGRESS NOTE:

August 20, 2008

PATIENT:

Brenda Oswald
Chart #22108

The patient returns today for follow-up.

LAST VISIT: 08/13/08

DIAGNOSIS:

1. Status post motor vehicle accident on 08/12/08.
2. Cervical dorsolumbar spine sprain.
3. Muscular abdominal pain.

MEDICATIONS: Previous medications.

PHYSICAL EXAMINATION:

She has not yet started physical therapy.

X-rays of her thoracic spine are grossly normal. They are noted to be multi-level degenerative changes as well as gastric banding. Her cervical spine reveals diffuse spondylosis, degenerative disk disease without any evidence of acute fracture. X-ray of the left knee reveals a tricompartmental osteoarthritis with a medial compartment of being the worst effected.

She continues to experience pain in the cervical dorsal region and in her left knee.

PLAN:

She is advised to start her physical therapy. She is to continue her medications. I have kept her out of work from 08/12/08 to 09/10/08. The patient is to return for follow-up in seven days.

Gal G. Margalit, M.D.

GGM/pes
05/08/09

000086

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GAL G. MARGALIT, M.D.
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WEST COLUMBIA, SC 29169
(803) 794-8776
FAX (803) 794-4342

PROGRESS NOTE:

August 27, 2008

PATIENT:

Brenda Oswald
Chart #22108

The patient returns today for follow-up.

LAST VISIT: 08/20/08

DIAGNOSIS:

1. Status post motor vehicle accident on 08/12/08.
2. Cervical dorsolumbar spine sprain.
3. Muscular abdominal pain.

MEDICATIONS: Previous medications.

PHYSICAL EXAMINATION:

She is due to start a course of physical therapy. She is doing better with her left knee. She is tender in her cervical dorsal junction. She has an essentially normal range of motion of her left knee. Her neck seems to be the major problem area here. It will be recalled that the patient did have a previous injury to her neck from a previous accident 7-8 years ago and this seems to have flared it up.

PLAN:

We will start therapy with attention to the neck. The patient is to return for follow-up on 09/10/08

Gal G. Margalit, M.D.

GGM/pes
05/08/09

000087

114

GAL G. MARGALIT, M.D.
3937-G SUNSET BOULEVARD
WEST COLUMBIA, SC 29169
(803) 794-8776
FAX (803) 794-4342

PROGRESS NOTE:

September 10, 2008

PATIENT:

Brenda Oswald
Chart #22108

The patient returns today for follow-up.

LAST VISIT: 08/27/08

DIAGNOSIS:

1. Status post motor vehicle accident on 08/12/08.
2. Cervical dorsolumbar spine sprain.
3. Muscular abdominal pain.

MEDICATIONS: Previous medications.

PHYSICAL EXAMINATION:

Physical therapy is helping her. She has slightly diminished range of motion of her neck, primarily in lateral rotation and lateral flexion. She is doing better with her left knee.

PLAN:

We will advise her to continue with therapy primarily directed to her neck. She may also get therapy to her dorsal spine and left knee if symptomatic. The patient is to return for follow-up on 10/01/08.

Gal G. Margalit, M.D.

GGM/pes
05/08/09

000088

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GAL G. MARGALIT, M.D.
3937-G SUNSET BOULEVARD
WEST COLUMBIA, SC 29169
(803) 794-8776
FAX (803) 794-4342

PROGRESS NOTE;

October 1, 2008

PATIENT:

Brenda Oswald
Chart #22108

The patient returns today for follow-up.

LAST VISIT: 09/10/08

DIAGNOSIS:

1. Status post motor vehicle accident on 08/12/08.
2. Cervical dorsolumbar spine sprain.
3. Muscular abdominal pain.

MEDICATIONS: Previous medications.

PHYSICAL EXAMINATION:

Primarily, she is dealing with neck pain which is noted to be diminished in its ability to laterally rotate bilaterally. She is doing well with regards to her dorsolumbar spine. She continues to improve with her knee.

PLAN:

She is advised to continue therapy to her neck. She is allowed to start light duty at work, however, no light duty is available. She is to stay out of work per my recommendation. The patient is to return for follow-up on 10/22/08.

Gal G. Margalit, M.D.

GGM/pes
05/08/09

000089

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PHYSICAL THERAPY PRACTICE
GAL G. MARGALIT, M.D.
3937-G SUNSET BOULEVARD
WEST COLUMBIA, SC 29169
(803) 794-8776
FAX (803) 794-4342

FINAL EVALUATION:

April 22, 2009

PATIENT:

Brenda Oswald
Chart #22108

The patient returns today for follow-up.

LAST VISIT: 10/01/08

DIAGNOSIS:

1. Status post motor vehicle accident on 08/12/08.
2. Cervical dorsolumbar spine sprain.
3. Muscular abdominal pain.

MEDICATIONS: Previous medications.

PHYSICAL EXAMINATION:

She was attending physical therapy when last seen. She was making progress with her left knee. She has continued to have problems with her cervical spine. She was unable to attend physical therapy office visits here due to her husband's medical condition which was life threatening and necessitated a hospital stay of almost two months.

She demonstrates a cervical dorsal range of motion that is within 60-80% of normal with a normal range of motion of her left knee. She continues to experience problems that were not present prior to the onset of her accident and these primarily relate to her neck.

In a letter to me of 05/05/09, she states that prior to her auto accident of 08/12/08, she was a very active person. She worked out four times a week doing aerobics and weight training. She enjoyed swimming several times a week and playing with her 8-year-old nephew. Following the accident, she was not able to work out. She states the pain in her neck and upper back made it impossible to work out. She has difficulty in turning her neck to the left or to the right without pain. When driving her car, she has to twist her entire body to see out the rear window which she states is not only very painful but unsafe.

In addition, she is not able to sit at her desk for long periods of time. The pain in her upper back and neck is severe. After 45 minutes, she needs to get up and move or use the heating pad. Because she needs to get up and move, it takes much longer for her to complete her work. She can no longer go bowling with her nephew. She is not able to swim like she used to and just floats on a float, which is not an aerobic exercise (my words).

000090

111

Re: Brenda Oswald
April 22, 2009

It appears that the patient is likely to be at maximum medical improvement from the injuries of August 2008. The residual problems with her neck are likely related to aggravation of degenerative disk disease of the cervical spine and osteoarthritis of the cervical spine which is pre-existing and was aggravated during the accident. Treatment with physical therapy as well as medications have given her temporary relief. Hopefully, she will continue to improve with time and become more asymptomatic, although there is no guarantee that this will occur.

I kept her out of work for the first month after her accident and she was only capable working on a limited duty basis right up to this visit because of difficulties with her neck and the length of time that it took her to undertake routine tasks.

RECOMMENDATION: In my opinion, she has sustained a physical impairment function loss of 5 to 10% to her cervical spine on the basis of aggravation of pre-existing degenerative disk disease and osteoarthritis relating to her automobile accident of 08/12/08. She will likely require intermittent courses of physical therapy as well as the use of occasional pain medications or other symptomatic relief. I will be pleased to see her and treat her in the future on a PRN basis.

Gal G. Margalit, M.D.

GGM/pes
05/08/09

000091

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TO: Gal Margalit, MD
FROM: Brenda Oswald
DATE: May 5, 2009
SUBJECT: Auto Accident August 12, 2008

Dear Dr. Margarita:

Before my auto accident on August 12, 2008, I was a very active person. I worked-out four times a week doing aerobic and weight training. I enjoyed going swimming several times a week and playing with my 8 year old nephew.

After the accident I was not able to work-out. The pain in my neck and upper back made it impossible to work out. I am not able to turn my neck to the left or right without pain. When I am driving my car I need to turn my entire body to see out the rear window. This is very painful not to mention unsafe.

I am not able to set at my desk for long periods of time. The pain in my upper back and neck is severe. After about 45 minutes I need to get up and move or use the heating pad. Because I need to get up and move it takes me much longer to do my work.

I can no longer go bowling with my nephew. If I get in the pool I cannot swim. I just set on a float for a short period of time.

000092

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laundries

Brande

age: 61
DOB: 9/16/4

HISTORY

TYPE OF ACC: S&F A/A LIABILITY W/C WT 182 HT 5'7" BP 170/100 PULSE 70
DOA: 9-27-10 TIME: LMP: OOW:

IF W/C, WHERE EMPLOYED AT THE TIME:

SUMMARY OF ACC: ① ingested, 1B

② Stopped

hit thru chest

③ car-ended - HARD hit

④ 3500 damage to car

IMMEDIATELY FOLLOWING ACC: LOC LENGTH OF TIME
HA'S (and duration)
PATIENT WAS SEEN BY: nausea DIZZY STARS OTHER

neck cracked

1. LMC 9-27-10 : XN: CXN, neck, (U)H
2. RP: nauseated, ilio di
3.
4.

PAIN AT THIS TIME CONSIST OF:

1. (L) neck, (U)H
2. D/S pain
3.

PH: SURGERY 2008 : Raviator sp Or aubacetti

PREVIOUS A/A 08, 01; - 2 more

ILLNESS/DISEASE 7 ya thyroid

PREVIOUS LBP: pre-exit LBP (15% w/ LBP)

(R OR (L) HANDED

CHANGE IN URINARY OR BOWEL HABITS none

ALLERGIES: NICA

MEDICATIONS GN MP

FH: HT-B DM Dis

SH: TOBACCO: ALCOHOL:

000093

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SUNSET FAMILY PRACTICE
GAL G. MARGALIT, M.D., P.A.
3937 G SUNSET BLVD.
WEST COLUMBIA S.C. 2916
803-794-8776 (FAX) 803-794-4342

FILE: 22108
SS#: 247-88-9072
HOME# 794-1078

DATE 9-28-10
DRIVERS LIC# 001840207
WORK# 7967260

PATIENTS FULL NAME BRENDA M. DOWALD
ADDRESS 2124 RAVEN TRAIL, W. COLA, SC 29169
AGE 61 number DOB 9-16-49 street SEX F city MARITAL STATUS M state zip

EMPLOYER Dowald Law OCCUPATION OFFICE mgr

SPOUSES NAME Billy WORK# 7967260

IN CASE OF EMERGENCY: NAME & PHONE Billy - 413-5022

WOULD YOU LIKE YOUR HEALTH INS. FILED? yes no
IF YOU ARE FILLING THIS OUT FOR A MINOR, PLEASE SIGN & DATE:

(parent only)
HAVE YOU SEEN DR. MARGALIT BEFORE? yes WHAT YEAR 9-27-10

DATE OF ONSET PROBLEM 9-27-10
LIST ANY PREVIOUS TREATING PHYSICIANS NAME, ADDRESS & PHONE#
1. _____
2. _____
3. _____

PLEASE SEND DR. MARGALIT ANY OF THE REPORTS BELOW:
X-RAYS _____ CT _____ US _____ MRI _____ LABS _____ MED/REC _____

GIVE NAME AND ADDRESS OF HOSPITAL WHERE THEY WERE DONE.
1. LESLINGTON MEDICAL - SUNSET BLVD
2. _____

BRENDA DOWALD 9-28-10 Brenda Dowald
print full name date sign

794-8126 BP mdp

000094

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SUNSET FAMILY PRACTICE

Gal G. Margalit, M.D.
3935-G Sunset Blvd.
West Columbia, SC 29169
(803) 794-8776
(803) 794-4342 Fax

PROGRESS NOTE:

PATIENT:

December 14, 2010

Brenda Oswald
Chart # 22108

The patient returns for follow-up

LAST VISIT: 12/07/10

DIAGNOSIS:

1. Status post motor vehicle accident on 09/22/10.
2. Cervical dorsal spine sprain, worse on the left than on the right
3. Left shoulder sprain.
4. Aggravation of osteoarthritis.

MEDICATIONS:

1. Synthroid.
2. Emergency room medications.
3. Hyzaar.
4. Vicodin one q6h.
5. Soma.
6. Advil.

PHYSICAL EXAMINATION:

She is having good and bad days. She can bend her neck 30° forward, dorsiflex 20°, lateral rotation 40°, lateral flexion 10°.

PLAN:

We may be able to release her if she looks like she is approaching maximum medical improvement. The patient is to return here for follow-up in seven days' time.

Gal G Margalit, M.D

GGM/pes
02/11/11

000095

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RADIOLOGY DEPARTMENT
LEXINGTON MEDICAL CENTER
WEST COLUMBIA, SC 29169
PHONE (803) 791-2460

PATIENT: OSWALD,BRENDA M

AGE 58
DOB 09/16/1949
SEX F

UNIT/MR NO M001193432
ACCT NO H00035557560
SSN 247-88-9072
REQ NO 08-0105783
REPORT NO 0815-0446

ADMITTING DR
ORDERING DR: GAL G MARGALIT MD

ROOM
PT LOCATION HRAD
MARGAL RM

REPORT STATUS: Signed

ORDERED BY GAL G MARGALIT MD
LOCATION. REG CLI HRAD
STUDY TYPE 0815-0115 RAD/CERV SP 2 OR 3 VIEWS OR TRAUMA

DATE OF EXAM: 08/15/08

CLINICAL DATA 58F, NECK SPRAIN

CERVICAL SPINE

Four views of the cervical spine demonstrate alignment of the skull base through T1. The prevertebral soft tissues are unremarkable. There is disc space narrowing and osteophyte formation from C3 to C7. There is no malalignment. There is no evidence of acute bony finding. The odontoid view is nonacute with joint space narrowing for the left T1 and T2 facets.

IMPRESSION Diffuse spondylosis and degenerative disc disease. No acute bony findings.

AKH

EDWIN P PIA MD

REPORT STATUS: Signed

MARGALIT,GAL G,MD
ORDER#/PROCEDURE: 0815-0115 RAD/CERVTRA (72040)
EXAM TECH: SETHI
REP RELEASED BY: PIAEDW RAD 08/15/08 1827
ADD RELEASED BY:
DISC DATE:
ED DISC DIAG:

PT LOC/ROOM: HRAD/

OSWALD,BRENDA M

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ELLIS PHYSICAL THERAPY ASSOCIATES, INC.

CYNTHIA A. ELLIS, P.T.

PRESIDENT

1519 Taylor Street
Columbia, SC 29201
803-779-8327

5910 Garners Ferry Road
Columbia, SC 29209
803-783-0684

3937A Sunset Blvd.
W Columbia, SC 29169
803-794-2213

September 2, 2008

To: Dr. Margalit

Re: Brenda Oswald/ 1-14410
SS# 247-88-9072

This 58 year old female was involved in an automobile accident on 8/12/08 when the vehicle she was driving was hit on the driver's side of the car. She was taken to Lexington Medical Center ER via her husband. She had no problems with her neck or left knee before this accident. She was on the job when she was hit.

SUBJECTIVE: She complains of frequent pain in her neck, upper trapezius and upper back. She also complains of intermittent pain on the anterior left knee. Rates her pain today at 3 or 4/10. States that she feels stiff if she sits too long. Reports that her pain increases if her left knee is bent, with prolonged sitting, turning her neck, lifting her upper extremities and usage of her upper extremities.

GRIP STRENGTH: Grossly 5/5 bilaterally (left hand dominant)

ACTIVE RANGE OF MOTION OF CERVICAL SPINE:

Forward flexion:	26° with slight pain	
Extension:	37° with pain	
Lateral bending:	Right: 21° with pain	Left: 25° with pain
Rotation:	Right: 25° with pain	Left: 40° with pain

ACTIVE RANGE OF MOTION OF KNEES (SUPINE):

Right: 0° to 120°	Left: 0° to 95° with pain

GAIT: Patient ambulates with a slight antalgic gait.

SENSATION: Intact to sharp in both upper extremities.

REFLEXES:

Biceps:	Right: 2+	Left: 1+
Triceps:	0 bilaterally	
Brachioradialis:	2+ bilaterally	

MANUAL MUSCLE TEST: 5/5 in both upper extremities and right knee extension/flexion. Left knee measures the following:

Extension:	3+/5 with slight pain
Flexion:	4/5 with slight pain

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September 2, 2008

Brenda Oswald

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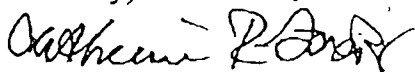
PALPATION: Tenderness noted on bilateral cervical paraspinals, cervical through upper thoracic spinous processes, bilateral levator scapulae, bilateral upper trapezius, bilateral rhomboids, top of left patella, inferior/superior to left patella and slight tenderness noted along medial and lateral aspects of left knee

ASSESSMENT: Patient presents with pain in her neck, upper back and left knee with decreased active range of motion, decreased strength and decreased function.

TREATMENT/PLAN: Today treatment consisted of moist heat with electrical stimulation. I will progress to exercises when tolerated and may add other modalities as needed to decrease pain. I plan to see this patient 3 times a week for 2 weeks as ordered, if needed and if patient's schedule allows.

Please let me know if you have any questions. Thank you very much for this referral.

Sincerely,



Catherine R. Foxe, PT

Director

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4 -3028 OSWALD LAW FIRM LLC

Page 1

Date 08/05/2011 Time 14:20

Earnings Deductions Withholding Taxes

7/01/1999 - 6/01/2011

EXP1 0001 DEPARTMENT ONE

EXP NO	EMPLOYEE NAME	DESCRIPTION	CODE	HOURS	EARNINGS	DESCRIPTION	CODE	DEDUCTIONS	DESCRIPTION	TAXES	DESCRIPTION	TAXES

[REDACTED]

JC2800005 OSWALD, BREND A SALARY \$ 15 238500 00

EXP TOTALS 238500 00

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

SOUTH CAROLIA	22643 52	FUTA	726 00
FEDERAL TAX	191031 23	SOUTH CAROLINA	1035 00
SOCIAL SEC	14367 00	MEDICARE	3458 25
MEDICARE	3458 25	SOCIAL SEC	14767 00
231500 00		20008 25	

[REDACTED]

[REDACTED]

[REDACTED]

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08/08/2011 Time 09 47

CHECK HISTORY LISTING

DEPARTMENT 0001 DEPARTMENT ONE

YEE 302800005 OSWALD, BRENDA M
JC ***--**-9072

RATE 3,000 00

BIRTH DATE

RAISE DATE 6/24/2010

HIRE DATE

TERM DATE

DATE	CHK NUM	REG HRS	OVT HRS	NP HRS	OTR HRS	TIPS+OTR	FED TAX	SOC SEC	ST TAX	401K-DED	OTR-TAX	NET
	ACT GROSS	REG EARN	OVT EARN	NP EARN	OTR EARN	NON PAY	EIC	MEDICARE	SUI/SDI	S125-DED	OTR-DED	DIR DEP
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	12000 00	00	00	00	12000 00	.00	00	174 00	00	00	00	00
1999	800000	00	00	00	00		1281 33	93 00	103 92	00	00	00
	1500 00	00	00	00	1500 00	00	00	21 75	00	00	00	00
1999	90000000	00	00	00	00		1281.33	93 00	103.92	00	00	00
NR	1500 00	00	00	.00	1500.00	.00	00	21 75	00	00	00	00
1999	90000001	00	00	00	00		1281.33	93 00	103 92	00	00	00
NR	1500 00	00	00	00	1500.00	00	00	21 75	00	00	00	00
999	90000002	00	00	.00	00		1281 33	93.00	103 92	00	00	00
NR	1500.00	.00	00	00	1500 00	00	.00	21 75	00	00	00	00
NR 3		00	00	00	.00		10250 64	744 00	831 36	00	00	00
	12000 00	00	00	00	12000 00	00	00	174 00	00	00	00	00
NR 4		00	00	00	00		5125 32	372.00	415 68	00	00	00
	6000 00	.00	00	00	6000 00	00	00	87 00	00	00	00	00
TOTALS		00	00	00	.00		15375 96	1116 00	1247 04	00	00	00
	18000 00	00	00	.00	18000 00	.00	00	261 00	00	00	00	00

000	90000003	00	00	00	00		1281 33	93 00	103 92	.00	00	00
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000	90000000	00	00	00	00		1281 33	93 00	103 92	00	00	00
R	1500 00	00	00	00	1500 00	00	00	21 75	00	00	00	00
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R	1500 00	00	00	00	1500.00	.00	00	21 75	00	00	00	00
000	90000002	00	00	00	00		1281 33	93 00	103 92	00	00	00
R	1500 00	00	00	00	1500.00	00	00	21 75	00	00	00	00
000	90000003	00	00	00	00		1281 33	93 00	103 92	00	00	00
R	1500 00	00	00	00	1500 00	00	00	21 75	00	00	00	00
000	90000004	00	00	00	00		1281 33	93 00	103 92	00	00	00
R	1500 00	.00	00	00	1500 00	00	00	21 75	00	00	00	00

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CHECK HISTORY LISTING

DEPARTMENT 0001 DEPARTMENT ONE

 TEE 302800005 OSWALD, BRENDA M
 VC ***-**-9072

RATE 3,000.00

BIRTH DATE

HIRE DATE

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TERM DATE

DATE	CHK NUM	REG HRS	OVT HRS	NP HRS	OTR HRS	TIPS+OTR	FED TAX	SOC SEC	ST TAX	401K-DED	OTR-TAX	NET
	ACT GROSS	REG EARN	OVT EARN	NP EARN	OTR EARN	NON PAY	EIC	MEDICARE	SUI/SDI	S125-DED	OTR-DED	DIR DEP
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R	1500 00	00	00	00	1500 00	00	.00	21 75	00	00	00	00
000	900000006	.00	00	00	00		1281 33	93.00	103 92	.00	00	00
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000	900000008	00	00	00	00		1281 33	93.00	103 92	00	00	00
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R	1500 00	00	00	00	1500 00	00	00	21 75	00	00	00	00
R 1		00	00	00	00		2562 66	186 00	207 84	00	00	00
	3000 00	00	00	00	3000 00	00	00	43 50	00	00	00	00
R 2		00	00	00	00		3843 99	279 00	311 76	00	00	00
	4500 00	00	00	00	4500.00	00	00	65 25	00	00	00	00
R 3		00	00	00	.00		3843.99	279 00	311 76	00	00	00
	4500 00	00	00	00	4500.00	00	00	65.25	00	00	00	00
R 4		00	00	00	00		5125 32	372 00	415 68	00	00	00
	6000 00	00	00	00	6000 00	.00	00	87 00	00	00	00	00
TOTALS		.00	.00	00	00		15375.96	1116.00	1247 04	00	.00	00
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	1500 00	00	00	00	1500 00	00	00	21 75	00	00	00	00
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	1500 00	00	00	00	1500 00	00	.00	21 75	00	00	00	.00

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DEPARTMENT 0001 DEPARTMENT ONE

EE 302800005 OSWALD, BRENDA M
C ***-**-9072

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TE	CHK NUM	REG HRS	OVT HRS	NP HRS	OTR HRS	TIPS+OTR	FED TAX	SOC SEC.	ST TAX	401K-DED	OTR-TAX	NET
	ACT GROSS	REG EARN	OVT EARN	NP EARN	OTR EARN	NON PAY	EIC	MEDICARE	SUI/SDI	S125-DED	OTR-DED	DIR DEP
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R	1500 00	00	00	00	1500 00	00	00	21 75	00	00	00	00
001	90000021	00	00	00	00		1281 33	93 00	103 92	00	00	00
R	1500 00	00	00	00	1500 00	00	00	21 75	00	00	00	00
001	90000022	.00	00	00	00		1281 33	93 00	103 92	00	00	00
R	1500 00	00	00	00	1500 00	00	00	21 75	00	00	00	00
1		00	00	00	00		2562 66	186 00	207 84	00	00	00
	3000 00	00	00	00	3000 00	00	00	43 50	00	00	00	00
2		00	00	00	00		3843.99	279.00	311.76	00	00	.00
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3		.00	00	.00	.00		3843 99	279 00	311 76	00	00	00
	4500 00	00	00	00	4500 00	00	00	65 25	00	00	00	00
4		00	00	.00	.00		5125.32	372 00	415 68	00	00	00
	6000 00	00	00	00	6000 00	00	.00	87 00	00	00	00	00
TOTALS		00	.00	00	.00		15375 96	1116 00	1247 04	00	00	00
	18000 00	00	00	00	18000 00	00	.00	261 00	00	00	00	00

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R	1500 00	00	00	00	1500 00	.00	00	21.75	00	00	00	00
002	90000031	00	00	00	00		1281.33	93 00	103.92	00	00	00
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R	1500 00	00	00	00	1500 00	00	00	21 75	00	00	00	00
002	90000033	00	00	00	00		1281 33	93 00	103 92	00	00	00
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	1500 00	00	00	00	1500 00	00	00	21 75	00	00	00	00
1		00	00	00	00		2562.66	186 00	207 84	00	00	00
	3000 00	00	00	00	3000 00	00	00	43 50	00	00	00	00
2		00	00	00	00		3843 99	279 00	311 76	00	00	00
	4500 00	00	00	.00	4500 00	00	00	65 25	00	00	00	00

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08/08/2011 Time 09 47

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EE 302800005 OSWALD, BRENDA M
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	ACT GROSS	REG EARN	OVT EARN	NP EARN	OTR EARN	NON PAY	EIC	MEDICARE	SUI/SDI	S125-DED	OTR-DED	DIR DEP
R 3		00	00	00	00		3843 99	279 00	311 76	00	00	00
	4500 00	00	00	00	4500 00	00	00	65 25	00	00	00	00
R 4		00	00	00	00		5125.32	372 00	415 68	.00	.00	00
	6000 00	00	.00	00	6000 00	00	00	87 00	00	00	00	00
TOTALS		00	00	00	00		15375.96	1116 00	1247 04	00	00	00
	18000 00	00	00	.00	18000 00	00	.00	261 00	00	00	00	00

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003 90000037	00	00	00	00	00		1281.33	93 00	103 92	00	00	00
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003 90000040	00	00	00	00	00		1281 33	93 00	103 92	00	00	00
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003 90000042	00	.00	00	00	.00		1281 33	93 00	103 92	00	00	00
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003 90000046	00	00	00	00	00		1281 33	93 00	103 92	00	00	00
R 1500 00	00	00	00	00	1500 00	00	00	21 75	00	00	00	00

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08/08/2011 Time 09 47

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EE 302800005 OSWALD, BRENDA M
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TE	CHK NUM	REG HRS	OVT HRS	NP HRS	OTR HRS	TIPS+OTR	FED TAX	SOC SEC	ST TAX	401K-DED	OTR-TAX	NET
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	3000 00	00	00	00	3000 00	00	.00	43 50	00	00	00	00
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	4500 00	00	00	.00	4500 00	00	00	65 25	00	00	00	00
R 3		00	00	00	00		3843 99	279 00	311 76	00	00	00
	4500 00	00	00	00	4500 00	00	00	65 25	00	00	00	00
R 4		00	00	00	00		5125 32	372 00	415 68	00	00	00
	6000 00	00	00	00	6000 00	00	00	87 00	00	00	00	00
TOTALS		00	00	00	00		15375 96	1116 00	1247 04	00	00	00
	18000 00	00	00	00	18000 00	00	00	261 00	00	00	00	00

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004	90000051	.00	00	00	.00		1281.33	93.00	103.92	00	00	00
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R	1500 00	00	00	00	1500.00	.00	.00	21 75	00	00	00	00
004	90000054	.00	00	00	00		1281 33	93 00	103 92	00	00	00
R	1500 00	00	00	00	1500 00	00	00	21 75	00	00	00	00
004	90000055	00	00	00	00		1281 33	93 00	103 92	00	00	00
R	1500 00	00	00	00	1500 00	00	00	21 75	00	00	00	00

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CHECK HISTORY LISTING

DEPARTMENT 0001 DEPARTMENT ONE

EE 302800005 OSWALD, BRENDA M
C ***-**-9072

RATE 3,000.00

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HIRE DATE

RAISE DATE

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TERM DATE

TE	CHK NUM	REG HRS	OVT HRS	NP HRS	OTR HRS	TIPS+OTR	FED TAX	SOC SEC	ST TAX	401K-DED	OTR-TAX	NET
	ACT GROSS	REG EARN	OVT EARN	NP EARN	OTR EARN	NON PAY	EIC	MEDICARE	SUI/SDI	S125-DED	OTR-DED	DIR DEP
004	90000056	00	00	00	00		1281 33	93 00	103 92	00	00	00
R	1500 00	.00	00	00	1500 00	00	00	21 75	00	00	00	00
004	90000057	00	00	.00	.00		1281.33	93 00	103 92	00	00	00
R	1500.00	00	00	00	1500.00	00	.00	21 75	00	00	.00	.00
004	90000058	00	00	00	00		1281.33	93 00	103 92	00	00	00
R	1500 00	00	00	.00	1500.00	.00	00	21 75	00	00	00	00
004	90000059	00	00	00	00		1281 33	93 00	103 92	00	00	00
R	1500 00	00	00	00	1500 00	00	00	21 75	00	00	00	00
R 1		00	00	00	00		2562 66	186 00	207 84	00	00	00
	3000 00	00	00	00	3000 00	00	00	43 50	00	00	00	00
R 2		00	00	00	00		3843.99	279 00	311 76	00	00	00
	4500 00	00	00	00	4500 00	00	00	65 25	00	00	00	00
R 3		00	00	00	00		3843 99	279 00	311 76	00	00	00
	4500 00	00	00	00	4500 00	00	00	65 25	00	00	00	00
R 4		00	00	00	00		5125 32	372 00	415 68	00	00	00
	6000 00	00	00	00	6000 00	00	00	87 00	00	00	00	00
TOTALS		00	00	00	.00		15375.96	1116 00	1247 04	00	00	00
	18000 00	00	00	00	18000 00	00	00	261 00	00	00	00	00

005	90000060	.00	.00	00	00		1281 33	93.00	103 92	00	00	00
R	1500 00	00	.00	00	1500 00	.00	00	21 75	00	00	00	00
005	90000061	00	00	00	00		1281.33	93.00	103 92	00	00	00
R	1500 00	00	00	00	1500 00	00	.00	21 75	00	00	.00	00
005	90000062	00	00	00	00		1281.33	93.00	103 92	00	00	00
R	1500 00	00	00	00	1500 00	00	00	21 75	00	00	00	00
005	90000063	00	00	00	00		1281 33	93 00	103 92	00	00	00
R	1500 00	00	00	00	1500 00	00	.00	21 75	00	00	00	00
005	90000064	00	00	00	00		1281 33	93 00	103 92	00	00	00
R	1500 00	00	00	00	1500 00	00	00	21 75	00	00	00	00

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CHECK HISTORY LISTING

DEPARTMENT 0001 DEPARTMENT ONE

EE 302800005 OSWALD, BRENDA M
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TE	CHK NUM	REG HRS	OVT HRS	NP HRS	OTR HRS	TIPS+OTR	FED TAX	SOC SEC	ST TAX	401K-DED	OTR-TAX	NET
	ACT GROSS	REG EARN	OVT EARN	NP EARN	OTR EARN	NON PAY	EIC	MEDICARE	SUI/SDI	S125-DED	OTR-DED	DIR DEP
005	90000065	00	00	00	.00		1281.33	93.00	103.92	00	00	00
R	1500 00	.00	00	00	1500 00	00	00	21.75	00	00	00	00
005	90000066	.00	.00	.00	00		1281.33	93.00	103.92	00	00	00
R	1500 00	.00	00	.00	1500.00	00	.00	21.75	00	00	00	00
005	90000067	00	00	00	00		1281.33	93.00	103.92	00	00	00
R	1500.00	00	.00	00	1500 00	.00	00	21.75	00	00	00	00
005	90000068	00	00	00	00		1281.33	93.00	103.92	00	00	00
R	1500 00	00	00	00	1500 00	00	00	21.75	00	00	00	00
005	90000069	00	00	00	00		1281.33	93.00	103.92	.00	00	00
R	1500 00	00	00	00	1500 00	.00	00	21.75	00	00	00	00
005	90000070	00	00	00	00		1281.33	93.00	103.92	00	00	00
R	1500 00	00	00	00	1500 00	00	.00	21.75	00	00	00	00
005	90000071	00	00	00	00		1281.33	93.00	103.92	00	00	00
R	1500 00	00	00	00	1500 00	00	00	21.75	00	00	00	00
2 1		00	00	00	00		2562.66	186.00	207.84	00	00	00
	3000 00	00	00	00	3000 00	00	00	43.50	00	00	00	00
2 2		00	00	00	00		3843.99	279.00	311.76	00	00	00
	4500 00	00	00	00	4500 00	00	00	65.25	00	00	00	00
2 3		00	00	00	00		3843.99	279.00	311.76	00	00	00
	4500 00	.00	00	00	4500 00	00	00	65.25	00	00	00	00
2 4		00	00	00	.00		5125.32	372.00	415.68	00	00	00
	6000 00	00	00	00	6000 00	00	.00	87.00	00	00	00	00
TOTALS		00	00	00	00		15375.96	1116.00	1247.04	00	00	00
	18000 00	00	00	00	18000 00	00	00	261.00	00	00	00	00

106	90000072	00	00	00	00		1281.33	93.00	103.92	00	00	00
	1500 00	00	00	00	1500 00	00	00	21.75	00	00	00	00
106	90000073	00	00	00	00		1281.33	93.00	103.92	00	00	00
	1500 00	00	00	00	1500 00	00	00	21.75	00	00	00	00

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 (EE 302800005 OSWALD, BRENDA M
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	ACT GROSS	REG EARN	OVT EARN	NP EARN	OTR EARN	NON PAY	EIC	MEDICARE	SUI/SDI	S125-DED	OTR-DED	DIR DEP
'006	90000074	00	00	00	00		1281.33	93 00	103 92	00	00	00
R	1500 00	00	00	00	1500 00	00	00	21 75	00	00	00	00
'006	90000075	00	00	00	00		1281.33	93 00	103 92	00	00	00
R	1500.00	00	00	00	1500 00	00	00	21 75	00	00	00	00
006	90000076	00	00	00	00		1281 33	93 00	103 92	00	00	00
R	1500.00	.00	.00	00	1500 00	.00	.00	21.75	00	00	00	00
006	90000077	00	00	00	00		1281 33	93 00	103 92	00	00	00
R	1500 00	00	00	00	1500 00	00	.00	21 75	00	00	00	00
006	90000078	00	00	00	00		1281 33	93 00	103 92	00	00	00
R	1500 00	00	00	00	1500 00	00	.00	21 75	00	00	00	00
006	90000079	00	00	00	00		1281 33	93 00	103 92	00	00	00
R	1500 00	00	00	00	1500 00	00	00	21 75	00	00	00	00
006	90000080	00	00	00	00		1281 33	93 00	103 92	00	00	00
R	1500 00	00	00	00	1500 00	00	00	21 75	00	00	00	00
006	90000081	00	00	00	00		1281 33	93 00	103 92	00	00	00
R	1500 00	.00	00	00	1500 00	00	.00	21 75	00	00	00	00
006	90000082	00	00	.00	00		1281 33	93 00	103 92	00	00	00
R	1500 00	00	00	00	1500 00	.00	00	21 75	00	00	00	00
006	90000083	00	00	00	00		1281 33	93 00	103 92	00	00	00
R	1500 00	00	00	00	1500 00	.00	.00	21 75	00	00	00	00
1		00	00	.00	00		2562 66	186.00	207 84	00	00	00
	3000 00	00	00	00	3000 00	00	00	43.50	00	00	00	00
2		00	00	.00	.00		5125.32	372 00	415 68	00	00	00
	6000 00	00	00	00	6000 00	00	00	87 00	00	00	00	00
3		00	00	00	00		2562 66	186 00	207 84	00	00	00
	3000 00	00	00	00	3000 00	00	00	43 50	00	00	00	00
4		00	00	00	00		5125 32	372 00	415 68	00	00	00
	6000 00	00	00	00	6000 00	00	00	87 00	00	00	00	00

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DEPARTMENT 0001 DEPARTMENT ONE

EE 302800005 OSWALD, BRENDA M
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TE	CHK NUM	REG HRS	OVT HRS	NP HRS	OTR HRS	TIPS+OTR	FED TAX	SOC SEC	ST TAX	401K-DED	OTR-TAX	NET
	ACT GROSS	REG EARN	OVT EARN	NP EARN	OTR EARN	NON PAY	EIC	MEDICARE	SUI/SDI	S125-DED	OTR-DED	DIR DEP
TOTALS		00	00	00	00		15375 96	1116 00	1247 04	00	00	00
	18000 00	00	00	00	18000 00	00	00	261 00	00	00	00	00
007	90000084	00	00	00	00		1281 33	93 00	103 92	00	00	00
R	1500 00	00	00	00	1500 00	00	00	21 75	00	00	00	00
007	90000085	00	00	00	.00		1281.33	93 00	103 92	00	00	00
R	1500 00	00	00	00	1500 00	00	00	21 75	00	00	00	00
007	90000086	00	00	00	00		1281 33	93 00	103 92	00	00	00
R	1500 00	00	00	00	1500 00	00	00	21 75	00	00	00	00
007	90000087	00	00	00	00		1281 33	93 00	103 92	00	00	00
R	1500 00	00	00	00	1500 00	00	00	21 75	00	00	00	00
007	90000088	00	00	00	00		1281 33	93 00	103 92	00	00	00
R	1500 00	00	00	00	1500 00	00	00	21 75	00	00	00	00
007	90000089	.00	.00	00	00		1281 33	93 00	103.92	00	00	00
R	1500 00	00	00	00	1500 00	00	00	21 75	00	00	00	00
007	90000090	00	00	00	00		1281 33	93 00	103 92	00	00	00
R	1500 00	00	00	00	1500 00	00	00	21 75	00	00	00	00
007	90000091	00	00	00	00		1281 33	93 00	103 92	00	00	00
R	1500 00	00	00	00	1500 00	00	.00	21.75	00	00	00	00
007	90000092	00	00	00	00		1281.33	93 00	103 92	00	00	00
R	1500 00	00	00	00	1500.00	.00	.00	21.75	00	00	00	00
007	90000093	00	00	00	00		1281 33	93 00	103 92	00	00	00
	1500 00	.00	00	00	1500 00	00	.00	21 75	.00	00	00	00
07	90000094	00	00	00	.00		1281 33	93.00	103 92	00	00	00
	1500 00	00	00	00	1500 00	00	00	21 75	00	00	00	00
07	90000095	00	00	00	00		1281 33	93 00	103 92	00	00	00
	1500 00	00	00	00	1500 00	00	00	21 75	00	00	00	00
1		00	00	00	00		2562 66	186 00	207 84	00	00	00
	3000 00	00	00	00	3000 00	00	00	43 50	00	00	00	00

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CHECK HISTORY LISTING

DEPARTMENT 0001 DEPARTMENT ONE

CEE 302800005 OSWALD, BRENDA M
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DATE	CHK NUM	REG HRS	OVT HRS	NP HRS	OTR HRS	TIPS+OTR	FED TAX	SOC.SEC	ST TAX	401K-DED	OTR-TAX	NET
	ACT GROSS	REG EARN	OVT EARN	NP EARN	OTR EARN	NON PAY	EIC	MEDICARE	SUI/SDI	S125-DED	OTR-DED	DIR DEP
MR 2		00	00	00	00		3843.99	279 00	311 76	00	00	00
	4500 00	00	00	00	4500 00	00	00	65 25	00	00	00	00
MR 3		00	.00	00	00		3843.99	279.00	311 76	00	00	00
	4500 00	00	00	00	4500 00	.00	.00	65.25	.00	00	00	00
MR 4		.00	00	00	.00		5125.32	372 00	415 68	00	00	.00
	6000 00	00	00	.00	6000 00	00	00	87 00	00	00	00	00
TOTALS		00	00	00	00		15375 96	1116 00	1247 04	00	00	00
	18000 00	00	00	00	18000 00	00	00	261 00	00	00	00	00

008 90000096	00	00	00	00	00		1281.33	93 00	103 92	00	00	00
R 1500 00	00	00	00	00	1500 00	00	00	21 75	00	00	00	00
008 90000097	00	00	00	00	00		1281 33	93.00	103.92	00	00	00
R 1500 00	00	00	00	00	1500 00	00	00	21 75	00	00	00	00
008 90000098	00	00	00	00	00		1281 33	93 00	103 92	00	00	00
R 1500 00	00	00	00	00	1500 00	00	00	21 75	00	00	00	00
008 90000099	00	00	00	00	00		1281 33	93 00	103 92	00	00	00
R 1500 00	00	00	00	00	1500 00	00	00	21 75	.00	00	00	00
008 90000100	00	00	00	00	00		1281 33	93 00	103 92	00	00	00
R 1500 00	00	00	00	00	1500 00	00	00	21 75	00	00	00	00
008 90000101	.00	.00	.00	.00	.00		1281.33	93.00	103 92	00	00	00
R 1500 00	00	00	00	00	1500.00	.00	.00	21.75	.00	00	00	00
008 90000102	00	00	00	00	00		1281 33	93 00	103 92	00	00	00
R 1500 00	00	00	00	00	1500 00	00	00	21 75	00	00	00	00
008 90000103	00	00	00	00	.00		1281.33	93.00	103 92	00	00	00
R 1500 00	00	00	00	00	1500 00	00	00	21 75	00	00	00	00
008 90000104	00	00	00	00	00		1281 33	93 00	103 92	00	00	00
R 1500 00	00	00	00	00	1500.00	00	00	21 75	00	00	00	.00
008 90000105	00	00	00	00	00		1281 33	93 00	103 92	00	00	00
R 1500 00	00	.00	00	00	1500 00	.00	00	21 75	00	00	00	00

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ATE	CHK NUM	REG HRS	OVT HRS	NP HRS	OTR HRS	TIPS+OTR	FED TAX	SOC. SEC.	ST TAX	401K-DED	OTR-TAX	NET
	ACT GROSS	REG EARN	OVT EARN	NP EARN	OTR EARN	NON PAY	EIC	MEDICARE	SUI/SDI	S125-DED	OTR-DED	DIR DEP
2008	90000106	00	00	00	.00		1281 33	93 00	103 92	00	00	00
AR	1500 00	00	00	00	1500 00	00	00	21 75	00	00	00	00
ER 1		00	.00	00	00		2562.66	186 00	207 84	.00	00	.00
	3000 00	00	00	.00	3000 00	00	00	43 50	00	00	00	00
ER 2		00	00	.00	00		5125 32	372.00	415 68	00	00	00
	6000 00	00	00	00	6000.00	00	.00	87.00	00	.00	00	00
ER 3		00	00	00	.00		2562 66	186.00	207 84	00	00	00
	3000 00	00	00	00	3000 00	00	00	43 50	00	00	00	00
ER 4		00	00	00	.00		3843.99	279 00	311 76	00	00	00
	4500 00	00	00	00	4500 00	00	00	65.25	00	00	00	00
TOTALS		00	00	00	00		14094.63	1023 00	1143 12	00	00	00
	16500 00	00	00	00	16500 00	00	00	239 25	00	00	00	00

009	90000108	00	00	00	00		1281 33	93 00	103 92	00	00	00
AR	1500 00	00	00	00	1500.00	.00	00	21.75	00	00	00	00
009	90000109	00	00	00	00		1281.33	93 00	103 92	00	00	00
AR	1500 00	00	00	00	1500 00	00	00	21 75	00	00	00	00
009	90000110	00	00	00	00		1281 33	93.00	103 92	00	00	00
AR	1500.00	00	00	00	1500 00	00	00	21 75	00	00	00	00
009	90000111	00	00	00	.00		1281.33	93 00	103 92	00	00	00
AR	1500 00	.00	00	00	1500 00	.00	00	21 75	00	00	00	00
009	90000112	00	00	00	00		1281.33	93 00	103 92	00	00	00
AR	1500 00	00	00	00	1500 00	00	00	21 75	00	00	00	00
009	90000113	00	00	00	00		1281 33	93 00	103 92	00	00	00
AR	1500 00	00	00	00	1500 00	00	00	21 75	00	00	00	00
009	90000114	00	00	00	00		1281 33	93 00	103 92	00	00	00
AR	1500 00	00	00	00	1500 00	00	00	21 75	00	00	00	00
009	90000115	00	00	00	00		1281 33	93 00	103 92	00	00	00
AR	1500 00	00	00	00	1500 00	00	00	21 75	00	00	00	00

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	ACT GROSS	REG EARN	OVT EARN	NP EARN	OTR EARN	NON PAY	EIC	MEDICARE	SUI/SDI	S125-DED	OTR-DED	DIR DEP
2009	90000116	00	00	00	00		1281.33	93 00	103 92	00	00	00
AR	1500 00	00	00	00	1500 00	00	00	21 75	00	00	00	00
2009	90000117	.00	00	00	.00		1281.33	93 00	103 92	00	00	00
AR	1500 00	00	00	00	1500 00	00	00	21.75	00	.00	00	00
2009	90000118	00	00	00	00		1281 33	93 00	103 92	00	00	00
AR	1500.00	00	00	00	1500.00	.00	.00	21 75	00	00	00	00
2009	90000119	00	00	00	00		1281 33	93 00	103 92	00	00	00
AR	1500 00	00	00	00	1500 00	00	00	21 75	00	00	00	00
ER 1		00	00	00	00		2562.66	186 00	207 84	00	00	00
	3000 00	00	00	00	3000.00	00	00	43 50	00	00	00	.00
ER 2		00	00	00	00		3843 99	279 00	311 76	00	00	00
	4500 00	00	.00	00	4500 00	.00	.00	65 25	00	.00	00	00
ER 3		00	00	00	00		3843.99	279 00	311 76	00	00	00
	4500 00	00	00	00	4500 00	00	.00	65 25	00	00	00	00
ER 4		00	00	00	00		5125.32	372 00	415 68	00	00	00
	6000 00	00	00	00	6000.00	00	00	87.00	00	00	00	00
* TOTALS		00	00	00	00		15375 96	1116 00	1247 04	00	00	00
	18000 00	00	00	.00	18000.00	.00	.00	261 00	00	00	00	00

010	2511	00	00	00	00		1270.50	186.00	500 00	00	00	1000.00
R	3000 00	00	00	00	3000.00	00	.00	43.50	00	00	00	00
010	2523	00	00	00	00		1270.50	186 00	500 00	00	00	1000 00
R	3000 00	00	00	00	3000 00	00	00	43 50	00	00	00	00
010	2533	00	00	00	00		1270.50	186.00	500 00	00	00	1000 00
R	3000 00	00	00	00	3000 00	00	.00	43.50	00	00	00	00
010	2543	00	00	00	00		1270 50	186 00	500 00	00	00	1000 00
R	3000 00	00	00	00	3000 00	00	00	43 50	00	00	00	00
010	2555	00	00	00	00		1270 50	186 00	500 00	00	00	1000 00
R	3000 00	00	00	00	3000 00	00	00	43 50	00	00	00	00

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TERM DATE

TE	CHK NUM	REG HRS	OVT HRS	NP HRS	OTR HRS	TIPS+OTR	FED TAX	SOC SEC	ST TAX	401K-DED	OTR-TAX	NET
	ACT GROSS	REG EARN	OVT EARN	NP EARN	OTR EARN	NON PAY	EIC	MEDICARE	SUI/SDI	S125-DED	OTR-DED	DIR DEP
010	2564	00	00	00	00		1270 50	186 00	500 00	00	00	1000 00
R	3000 00	00	00	00	3000 00	00	00	43 50	00	00	00	00
010	2571	00	00	00	00		1270.50	186 00	500 00	00	00	1000 00
R	3000 00	00	00	00	3000.00	00	00	43.50	00	00	00	00
R 3		00	00	00	00		3811 50	558 00	1500 00	00	00	3000 00
	9000 00	00	00	00	9000.00	00	.00	130 50	00	00	00	00
R 4		00	00	00	00		5082 00	744 00	2000 00	00	00	4000 00
	12000 00	00	00	00	12000 00	00	00	174 00	00	00	00	00
TOTALS		00	00	00	00		8893 50	1302 00	3500 00	00	00	7000 00
	21000 00	00	00	00	21000 00	00	00	304 50	00	00	00	00

011	90000122	00	00	00	00		2040 50	126 00	790 00	00	00	00
R	3000 00	00	00	00	3000 00	00	00	43 50	00	00	00	00
011	90000123	00	00	00	00		2040 50	126 00	790 00	00	00	00
R	3000 00	00	00	00	3000 00	00	00	43 50	.00	00	00	00
011	90000124	00	00	00	00		2040 50	126 00	790 00	00	00	00
R	3000 00	00	00	00	3000.00	00	00	43 50	00	00	00	00
011	90000125	00	00	00	00		2040 50	126 00	790 00	00	00	00
R	3000 00	00	00	00	3000 00	00	.00	43 50	00	00	00	00
011	90000126	00	00	00	.00		2040 50	126 00	790 00	00	00	00
R	3000.00	.00	00	00	3000.00	00	.00	43 50	00	00	00	00
011	90000127	00	00	00	00		2040.50	126 00	790 00	00	00	00
	3000 00	.00	00	00	3000 00	.00	.00	43 50	00	00	00	00
11	90000128	00	00	.00	.00		2040.50	126 00	790 00	00	00	00
	3000 00	00	00	00	3000 00	00	00	43 50	00	00	00	00
1		00	00	00	00		4081 00	252 00	1580 00	00	00	00
	6000 00	00	00	00	6000 00	00	00	87 00	00	00	00	00
2		00	00	00	00		6121 50	378 00	2370 00	00	00	00
	9000 00	00	00	00	9000 00	00	00	130 50	00	00	00	00

000113

140

GE

41-3028 OSWALD LAW FIRM LLC

Page. 15

08/08/2011 Time 09 47

CHECK HISTORY LISTING

DEPARTMENT 0001 DEPARTMENT ONE

EE 302800005 OSWALD, BRENDA M
C ***-**-9072

RATE 3,000.00

BIRTH DATE

HIRE DATE

RAISE DATE

6/24/2010

TERM DATE

TE	CHK NUM	REG HRS	OVT HRS	NP HRS	OTR HRS	TIPS+OTR	FED TAX	SOC.SEC	ST TAX	401K-DED	OTR-TAX	NET
	ACT GROSS	REG EARN	OVT EARN	NP EARN	OTR EARN	NON PAY	EIC	MEDICARE	SUI/SDI	S125-DED	OTR-DED	DIR DEP
R 3		00	00	00	00		4081 00	252 00	1580 00	00	00	00
	6000 00	00	00	00	6000 00	00	00	87 00	00	00	00	00
TOTALS		00	00	.00	.00		14283.50	882.00	5530 00	00	.00	00
	21000 00	00	.00	.00	21000.00	00	00	304 50	00	00	00	00

000114

PO Box 995
1550 Gadsden Street
Columbia, SC 29202
www.dew.sc.gov



Governor

John L. Finan
Executive Director

July 8, 2011

Mr Peter P Leventis, IV
McKay Cauthen Settana & Stublely, PA
PO Box 7217
Columbia, SC 29202-7217

Re Brenda M Oswald v Oswald Law Firm, LLC
SS No . xxx-xx-9072 WCC File No 1022089

Dear Mr Leventis

This is in response to your letter dated June 20, 2011, transmitting to us a subpoena and check #16710 in the amount of \$20 00 for unemployment information and wage records pertaining to the above individual.

Enclosed are certified copies of those records

If I can be of any further assistance, please do not hesitate to contact me

Sincerely,

A handwritten signature in cursive script that reads "Nancy A. Moorer".

Nancy A. Moorer, Paralegal
UI Records
SC Department of Employment and Workforce
803 737 0856
NMoorer@dew sc gov

Enclosures
UI-1

000115

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SOUTH CAROLINA DEPARTMENT
OF EMPLOYMENT AND WORKFORCE
Post Office Box 995
Columbia, South Carolina 29202

I certify that the attached is a true copy of the records pertaining to
Brenda Oswald, XXX-XX- 9072.

A handwritten signature in cursive script, appearing to read "Nancy A. Moorer", is written over a horizontal line.

Nancy A. Moorer, Paralegal
SC Department of Employment & Workforce

Columbia, South Carolina
July 8, 2011

000116

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SSN Wage Record Inquiry

SSN [REDACTED] 9072

Name	Acct #	Report Type	Year	Qtr - 1	Qtr - 2	Qtr - 3	Qtr - 4
BRENDA M OSWALD	128085	Original	2011	\$6,000 00			
B M OSE	128085	Original	2010				\$12,000 00
BRENDA M OSWALD	128085	Original	2010			\$9,000 00	
BRENDA M OSWALD	128085	Original	2009	\$3,000 00	\$4,500 00	\$4,500 00	\$6,000 00
BRENDA M OSWALD	128085	Original	2008	\$3,000 00	\$6,000 00	\$3,000 00	\$6,000 00
BRENDA M OSWALD	128085	Original	2007	\$3,000 00	\$4,500 00	\$4,500 00	\$6,000 00
BRENDA M OSWALD	128085	Original	2006	\$3,000 00	\$6,000 00	\$3,000 00	\$6,000 00
BRENDA M OSWALD	128085	Original	2005	\$3,000 00	\$4,500 00	\$4,500 00	\$6,000 00
BRENDA M OSWALD	128085	Original	2004				\$6,000 00

000117

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NAME BRENDA M OSWALD SSN [REDACTED]-9072 BYE 01/02/11
CLAIMSTAKER ID MRCRV Lo # 320 FILED 01/11/10 EFF DATE. 01/03/10
MAILING ADDRESS 2124 RAVEN TRL
CITY WEST COLUMBIA STATE. SC ZIP: 29169-3748
OTHER NAME

☒ 1-UI	☐ 4-UI/UCFE/UCX	☐ 7-UCX	☒ NEW	☐ TRANSITIONAL
☐ 2-UI/UCFE	☐ 5-UCFE	☐ 8-CW	☐ ADDITIONAL	☐ R-ADD
☐ 3-UI/UCX	☐ 6-UCFE/UCX	☐ OTHER	☐ CONTINUED	

BONA FIDE EMPLOYER NAME & PAYROLL ADDRESS INFORMATION.

NAME OSWALD LAW FIRM LLC

STREET PO BOX 4052

CITY: WEST COLUMBIA

ST: SC

ZIP: 29171-4052

EMP. ACCT. # 128085

DATES OF EMPLOYMENT

FROM:

TO:

06/01/80

12/31/09

BONA FIDE EMPLOYER LOCAL ADDRESS INFORMATION.

STREET:

CITY. WEST COLUMBIA

ST. SC

ZIP

PHONE #:(803) 796-726

SEPARATION REASON: ☒ LOW ☐ VQ ☐ DISCHARGE ☐ STILL WORKING

ISSUE CODES. 09 03 25 26

LIABLE EMPLOYER INFORMATION.

DATES OF EMPLOYMENT.

NAME:

EMP ACCT #

FROM:

TO:

JOB LOCATION (CITY/STATE).

SEPARATION REASON ☐ LOW ☐ VQ ☐ DISCHARGE ☐ STILL WORKING

NARRATIVE REASON FOR SEPARATION FROM LIABLE EMPLOYER

000118

145

Eligibility Review Data

Office Number: 320

Registered for Work and Filed a Claim.

CLMTKR ID: MRCRV

Name: BRENDA M OSWALD

SSN: 9072

Sequence Number:1

Last day worked: 12-31-2009
Type of work performed: Paralegals and Legal Assistants
Type of work seeking 1: OFFICE MGR, PARALEGAL FOR LAW OFFICE

Date of review: 01-11-2010

Expect recall: N

Type of work seeking 2:
Previous wage: 1800.00 MONTHLY

Years experience:

30

Wage willing to accept: 2500.00 MONTHLY

Hours last worked: 9:00AM - 5:30PM

Hours willing to work: 9:00AM-5:30PM

Miles traveled last: 3

Miles willing to travel: 10

Job Location City & State: WEST COLUMBIA, SC

Job Location Phone: (803) 796 - 7260

Transportation: AUTOMOBILE

Attending or plans to attend school: N
School:
Hours:

Days not willing to work: SATURDAY SUNDAY

Dependent/Childcare: N/A

Available Immediately: Y

Self-employed: N

Pensions/Retirement: N

Pension Effective:

% Employer contributed:

Name of employer:

Medical condition: N

Explanation of condition/disability:

000119

146

NAME BRENDA M OSWALD

ADDR 2124 RAVEN TRL

CITY WEST COLUMBIA

TELE 803 794 1378

LIABLE STATE 45

ST SC ZIP 29169

CO 063

ADDR CHG DATE.

CLAIM TAKER 099

LOCAL OFFICE 320

I C PROG CDE 01

ENTRY DATE 01/11/10

FILE DATE : 01/11/10

SOC CODE : 23201100 UNCONVERTED

LAST OCCUPATION: Paralegals and L CHILD SUP PCT

EDUCATION CODE. 14 CHILD SUP EFF

SEVERANCE IND : N EB EFFECTIVE

SEVERANCE AMT : 00 DUA #: -DRSC

PENSION IND : N CLAIM TYPE. T

SOC SEC AMT : 00 F/S WITHHOLDING. Y

OTHER PENSION AMT 00 PAYMENT OPTION CK

WBA : 230 00 METHOD OF FILING: T

TOTAL POSSIBLE: 5,980 00 PAID TO DATE 4,600 00

ACTIVE ISSUES. 0

MONETARY COMP. Y

OVERPAY BAL . 00

PRIOR BYE DTE.

REQUAL IND : Y

EUC EFFECTIVE.

EUC FILE DATE

EUC ELIG IND

EUC2 EFF DATE.

BALANCE: 1,380.00

CLAIM STATUS . REGULAR ACTIVE CLAIM

TRANSACTION OPTION: 01

000120

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BENEFITS WBA 230.00 UI MBA 5980.00 BALANCE 1380 00

PGM CDE	PO DOI	CWE	ENTRY DATE	CHECK BY	PAYMENT OPTION	CHK/SEQ NUMBER	PAY TYPE	AMOUNT PAID	UNR FLG	DISQ REAS	TOTAL AMOUNT
00	053010	060510				00000000	00	.00	0	00	00
01	052310	052910	053010	T	053010	1235663	20	230.00	0	00	230 00
01	051610	052210	052310	T	052310	1140894	20	230.00	0	00	230 00
01	050910	051510	051610	T	051610	1047305	20	230.00	0	00	230 00
01	050210	050810	050910	T	050910	9952142	20	230.00	0	00	230 00
01	042510	050110	050210	T	050210	9857385	20	230 00	0	00	230 00
01	041810	042410	042510	T	042510	9760560	20	230 00	0	00	230.00
01	041110	041710	041810	T	041810	9664840	20	230 00	0	00	230 00
01	040410	041010	041110	T	041110	9567152	20	230 00	0	00	230.00
01	032810	040310	040410	T	040410	9463105	20	230 00	0	00	230 00
01	032110	032710	032810	T	032810	9354013	20	230 00	0	00	230 00
01	031410	032010	032110	T	032110	9242304	20	230 00	0	00	230 00

FOR MORE THAN 12 PAYMENTS DEPRESS PF2

TRANSACTION OPTION:

000121

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BENEFITS		WBA	230 00		UI MBA	5980 00		BALANCE		1380 00	
PGM CDE	PO DOI	CWE	ENTRY DATE	CHECK BY	PAYMENT OPTION	CHK/SEQ NUMBER	PAY TYPE	AMOUNT PAID	UNR FLG	DISQ REAS	TOTAL AMOUNT
01	030710	031310	031410	T	031410	9128472	20	230 00	0	00	230 00
01	022810	030610	030710	T	030710	9013529	20	230.00	0	00	230.00
01	022110	022710	022810	T	022810	8895358	20	230.00	0	00	230.00
01	021610	022010	022110	T	022110	8774283	20	230 00	0	00	230.00
01	020710	021310	021610	T	021610	8737642	20	230 00	0	00	230.00
01	013110	020610	020710	T	020710	8550043	20	230 00	0	00	230.00
01	012610	013010	013110	T	013110	8433423	20	230.00	0	00	230.00
01	012610	012310	012510	T	012810	8415923	20	230 00	0	00	230 00
01	011710	011610	012510	T	012810	8415923	20	230 00	0	00	230 00
01	011210	010910	011710	T		0000000	10	.00	0	00	00

FOR MORE THAN 12 PAYMENTS DEPRESS PF2

TRANSACTION OPTION

000122

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UI-5
81048
OCT 1998

SOUTH CAROLINA
EMPLOYMENT SECURITY COMMISSION
P O BOX 1477
COLUMBIA, S C 29202
OFFICIAL BUSINESS
UCB-104B

FORWARDING SERVICE REQUESTED

BRENDA M OSWALD
2124 RAVEN TRL

WEST COLUMBIA SC 29169

INFORMATION FOR CLAIMANT

This is a monetary determination of your claim for benefits based on wages paid during your Base Period. This determination shows your Base Period Employment Record. It lists your covered employer(s) that paid you wages, their account number and the wages paid to you by quarter and year during the base period of your claim. The total amount of wages paid to you by quarter in the base period is shown beside Base Quarter Total. This determination covers only the monetary portion of your claim. Another determination will be issued that states if you are eligible to receive benefits. It will be based on the reason for separation from your most recent bona fide employer.

Under Potential Benefits Established, your Weekly Benefit Amount, Maximum Benefit Amount and the date your Benefit Year Ends are shown. BASE PERIOD The first four of the last five completed calendar quarters prior to the effective date of your initial claim. If you earned wages in covered employment not shown on the face of this form, give the information to your claimstaker at the unemployment office.

HIGH QUARTER The quarter in our Base Period during which wages paid to you for insured work were highest.

WEEKLY BENEFIT AMOUNT The amount of benefits you may receive weekly if unemployed and otherwise eligible shall be one half of the average weekly wage in the high quarter of your base period but shall not be less than \$20.00 nor greater than the maximum weekly benefit amount as determined by the Commission on or before June 30 of each year for benefit years on or after July 1 of such current calendar year and prior to July 1 of the succeeding calendar year as provided in Section 41-35-40 of the Law.

MAXIMUM POTENTIAL BENEFITS The greatest amount of compensation that you may receive during your benefit year.

BENEFIT YEAR The one (1) year period following the effective date of your Initial Claim. To establish a Benefit Year in accordance with the provisions of the Law, you must meet the following wage requirements:

1. You were paid at least \$540.00 for insured work during the high quarter of your base period.
2. You were paid at least \$900.00 for insured work during your base period.
3. The total of your base period wages for insured work equaled or exceeded one and one half times the total of your high quarter wages.

AVERAGE WEEKLY WAGE Shall be determined by dividing the high quarter wages by 13 weeks.

REDETERMINATION RIGHTS You have the right to request a correction if you do not agree that this determination is correct. Your request for redetermination may be made by letter or by personal visit to the office where your claim was filed and it should be made without delay. No change can be made on this determination after one year from the date of this notice.

BE SURE TO NOTIFY YOUR LOCAL OFFICE ANYTIME YOUR MAILING ADDRESS CHANGES WHILE FILING A CLAIM FOR BENEFITS.

EXAMPLE OF COMPUTATION OF BENEFITS

High Quarter Wages	\$1040.00
Base Period Wages	\$3462.00
Average Weekly Wage	\$1040.00 divided by 13 = \$ 80.00
Weekly Benefit Amount	80.00 divided by 2 = \$ 40.00

Maximum Potential Benefits

Your maximum total benefit amount for this benefit year is the lesser of

1. Twenty six (26) times your Weekly Benefit Amount or
2. One third (1/3) of your total Base Period Wages as shown on this determination

(1) $26 \times \$40.00 = \$1040.00$ (2) $1/3 \text{ of } \$3462.00 = \$1154.00$

Maximum Benefits would be \$1040.00 since that amount is less than \$1154.00

000123

156

INITIAL DETERMINATION OF STATUS AS AN INSURED WORKER

LOCAL OFFICE 320

EFFECTIVE DATE 01/03/10

DATE FILED 01/11/10

DATE PREPARED 01/12/10

O

9072

BRENDA M OSWALD
2124 RAVEN TRL

WEST COLUMBIA

SC 29169

POTENTIAL BENEFITS ESTABLISHED

MILITARY ASSIGNMENTS

WEEKLY BENEFIT AMOUNT 230.00

MAXIMUM TOTAL BENEFITS 5980.00

BENEFIT YEAR ENDS 01/02/11

SEE BACK FOR CLAIMANT INFORMATION

EMPLOYMENT RECORD			BASE PERIOD QUARTERLY EARNINGS			
EMPLOYER	ACCOUNT NO		YEAR	QTR	YEAR	*QTR
OSWALD LAW FIRM LLC	128085		2008	04	2009	01
			6000.00		3000.00	
					2009	02
					4500.00	
					2009	03
					4500.00	
BASE QUARTER TOTAL			6000.00		3000.00	
					4500.00	
						4500.00

*QTR

1 JAN FEB MAR 3 JULY AUG SEPT

2 APR MAY JUNE 4 OCT NOV DEC

000124

151

UI-5
8104B
OCT 1998

SOUTH CAROLINA
EMPLOYMENT SECURITY COMMISSION
P O BOX 1477
COLUMBIA, S C 29202
OFFICIAL BUSINESS
UCB-104B

FORWARDING SERVICE REQUESTED

BRENDA M OSWALD
2124 RAVEN TRL

WEST COLUMBIA SC 29169

INFORMATION FOR CLAIMANT

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Under Potential Benefits Established your Weekly Benefit Amount, Maximum Benefit Amount and the date your Benefit Year Ends are shown.

BASE PERIOD: The first four of the last five completed calendar quarters prior to the effective date of your initial claim. If you earned wages in covered employment not shown on the face of this form, give the information to your claimstaker at the unemployment office.

HIGH QUARTER: The quarter in our Base Period during which wages paid to you for insured work were highest.

WEEKLY BENEFIT AMOUNT: The amount of benefits you may receive weekly if unemployed and otherwise eligible shall be one-half of the average weekly wage in the high quarter of your base period but shall not be less than \$20.00 nor greater than the maximum weekly benefit amount as determined by the Commission on or before June 30 of each year for benefit years on or after July 1 of such current calendar year and prior to July 1 of the succeeding calendar year as provided in Section 41-35-40 of the Law.

MAXIMUM POTENTIAL BENEFITS: The greatest amount of compensation that you may receive during your benefit year.

BENEFIT YEAR: The one (1) year period following the effective date of your Initial Claim. To establish a Benefit Year in accordance with the provisions of the Law, you must meet the following wage requirements:

1. You were paid at least \$540.00 for insured work during the high quarter of your base period.
2. You were paid at least \$900.00 for insured work during your base period.
3. The total of your base period wages for insured work equaled or exceeded one and one-half times the total of your high quarter wages.

AVERAGE WEEKLY WAGE: Shall be determined by dividing the high quarter wages by 13 weeks.

REDETERMINATION RIGHTS: You have the right to request a correction if you do not agree that this determination is correct. Your request for redetermination may be made by letter or by personal visit to the office where your claim was filed, and it should be made without delay. No change can be made on this determination after one year from the date of this notice.

BE SURE TO NOTIFY YOUR LOCAL OFFICE ANYTIME YOUR MAILING ADDRESS CHANGES WHILE FILING A CLAIM FOR BENEFITS.

EXAMPLE OF COMPUTATION OF BENEFITS

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2. One-third (1/3) of your total Base Period Wages as shown on this determination.
(1) $26 \times \$40.00 = \$1040.00$ (2) $1/3$ of $\$3462.00 = \$1154.00$

Maximum Benefits would be \$1040.00 since that amount is less than \$1154.00.

000125

152

INITIAL DETERMINATION OF STATUS AS AN INSURED WORKER

LOCAL OFFICE 320

EFFECTIVE DATE 01/03/10

DATE FILED 01/11/10

DATE PREPARED 01/12/10

O

-9072

BRENDA M OSWALD
2124 RAVEN TRL

WEST COLUMBIA

SC 29169

POTENTIAL BENEFITS ESTABLISHED

MILITARY ASSIGNMENTS

WEEKLY BENEFIT AMOUNT 230.00

MAXIMUM TOTAL BENEFITS 5980.00

BENEFIT YEAR ENDS 01/02/11

SEE BACK FOR CLAIMANT INFORMATION

EMPLOYMENT RECORD			BASE PERIOD QUARTERLY EARNINGS							
EMPLOYER	ACCOUNT NO		YEAR	*QTR	YEAR	*QTR	YEAR	*QTR	YEAR	*QTR
OSWALD LAW FIRM LLC	128085		2008	04	2009	01	2009	02	2009	03
			6000.00	3000.00	4500.00	4500.00				

*QTR

1 JAN FEB MAR 3 JULY AUG SEPT

2 APR MAY JUNE 4 OCT NOV DEC

000126

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www.sces.org

COMMISSIONERS
J. William McLeod
McKinley Washington, Jr.
Becky D. Richardson

LEXINGTON
ESC WORKFORCE CENTER
714 SOUTH LAKE DRIVE
LEXINGTON SC 29071

01/15/10

Dear BRENDA OSWALD . [REDACTED]-9072)

You have been selected to receive services through the S C Employment Security Commission's **WORKER INFORMATION FOR EARLY INTERVENTION AND ASSISTANCE PROGRAM**. Information from your unemployment insurance claim indicates that you may benefit from the orientation sessions this program offers.

This program's **orientation** will provide you with information about the various types of human services and job search assistance that are available to you through the **WIA One-Stop System**.

These services are available even if it turns out that you are not eligible for UI benefits. If you are eligible for UI benefits, your participation will immediately be required unless exempted. Orientations are scheduled soon after claim filing to make our assistance available as soon as possible.

You are currently scheduled for an initial orientation at the ESC Workforce Center above ON 01-28-10 AT 2.00 P.M.

Please bring your glasses or contacts if used, the orientation will not accommodate children. **FAILURE TO ATTEND OR TO CONTACT THE OFFICE PRIOR TO THE ORIENTATION COULD RESULT IN YOUR UI BENEFITS BEING DENIED IF YOU HAVE ANY QUESTIONS, PLEASE CALL (803) 359-6131** and ask for the Program Representative for the **WORKER INFORMATION FOR EARLY INTERVENTION AND ASSISTANCE PROGRAM**.

SOUTH CAROLINA
EMPLOYMENT SECURITY COMMISSION
P O BOX 1406
COLUMBIA, S C 29202

OFFICIAL BUSINESS

3200

BRENDA M OSWALD
2124 RAVEN TRL
WEST COLUMBIA SC 29169

000127

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SOUTH CAROLINA EMPLOYMENT SECURITY COMMISSION
P O BOX 995, COLUMBIA, S C 29202

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DETERMINATION OF ELIGIBILITY FOR BENEFITS					
CLAIMANT'S NAME		SOCIAL SECURITY NUMBER	L O NO	TYPE	CATEGORY
BRENDA M OSWALD		[REDACTED]-9072	320	I	01
WEEKLY BENEFIT AMOUNT	MAXIMUM BENEFIT AMOUNT	EFFECTIVE DATE	BENEFIT YEAR ENDS	DATE OF NOTICE	
\$ 230.00	\$ 5,980 00	01/03/10	01/02/11	01/28/10	

It has been determined that you are eligible without disqualification for unemployment compensation. This determination is made based on the South Carolina Employment Security Law and on evidence available at the time of this notice.

☐ The last separation was from a non-labile employer

BRENDA M OSWALD
2124 RAVEN TRL
WEST COLUMBIA, SC 29169 3748

MAILING DATE 01/29/2010

IMPORTANT:

THIS DETERMINATION WILL BE THE FINAL DECISION OF THE COMMISSION UNLESS YOU FILE AN APPEAL SETTING FORTH IN DETAIL THE GROUNDS FOR APPEAL WITHIN TEN (10) CALENDAR DAYS, INCLUDING WEEKENDS AND HOLIDAYS, FROM THE MAILING DATE SHOWN ABOVE. IF THE TENTH (10TH) DAY FALLS ON A SATURDAY, SUNDAY, OR HOLIDAY, THE APPEAL PERIOD IS EXTENDED TO THE NEXT BUSINESS DAY. YOUR APPEAL MAY BE FILED IN PERSON AT ANY EMPLOYMENT SECURITY OFFICE OR BY MAIL TO THE "APPEAL TRIBUNAL," AT THE ADDRESS BELOW. FOR ADDITIONAL INFORMATION OR ASSISTANCE IN FILING AN APPEAL, YOU MAY CONTACT YOUR LOCAL EMPLOYMENT SECURITY OFFICE.

UCB-103B
5-98

APPEAL TRIBUNAL
P O BOX 995
COLUMBIA, S C 29202

UI 5

SOUTH CAROLINA
EMPLOYMENT SECURITY COMMISSION
P O BOX 995
COLUMBIA S C 29202
OFFICIAL BUSINESS
UCB-103B
FORWARDING SERVICE REQUESTED

BRENDA M OSWALD
2124 RAVEN TRL
WEST COLUMBIA, SC 29169 3748

000128

155

SOUTH CAROLINA EMPLOYMENT SECURITY COMMISSION
P O BOX 995, COLUMBIA, S C 29202

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DETERMINATION OF ELIGIBILITY FOR BENEFITS					
CLAIMANT'S NAME		SOCIAL SECURITY NUMBER	L O NO	TYPE	CATEGORY
BRENDA M OSWALD		[REDACTED]-9072	320	I	01
WEEKLY BENEFIT AMOUNT	MAXIMUM BENEFIT AMOUNT	EFFECTIVE DATE	BENEFIT YEAR ENDS	DATE OF NOTICE	
\$ 230.00	\$ 5,980 00	01/03/10	01/02/11	01/28/10	

It has been determined that you are eligible without disqualification for unemployment compensation. This determination is made based on the South Carolina Employment Security Law and on evidence available at the time of this notice.

☐ The last separation was from a non-labile employer

OSWALD LAW FIRM LLC
PO BOX 4052
WEST COLUMBIA SC 29171

MAILING DATE 01/29/2010

IMPORTANT:

THIS DETERMINATION WILL BE THE FINAL DECISION OF THE COMMISSION UNLESS YOU FILE AN APPEAL SETTING FORTH IN DETAIL THE GROUNDS FOR APPEAL WITHIN TEN (10) CALENDAR DAYS, INCLUDING WEEKENDS AND HOLIDAYS, FROM THE MAILING DATE SHOWN ABOVE. IF THE TENTH (10TH) DAY FALLS ON A SATURDAY, SUNDAY, OR HOLIDAY, THE APPEAL PERIOD IS EXTENDED TO THE NEXT BUSINESS DAY. YOUR APPEAL MAY BE FILED IN PERSON AT ANY EMPLOYMENT SECURITY OFFICE OR BY MAIL TO THE "APPEAL TRIBUNAL," AT THE ADDRESS BELOW FOR ADDITIONAL INFORMATION OR ASSISTANCE IN FILING AN APPEAL, YOU MAY CONTACT YOUR LOCAL EMPLOYMENT SECURITY OFFICE.

UCB-103B
5-98APPEAL TRIBUNAL
P O BOX 995
COLUMBIA, S C 29202

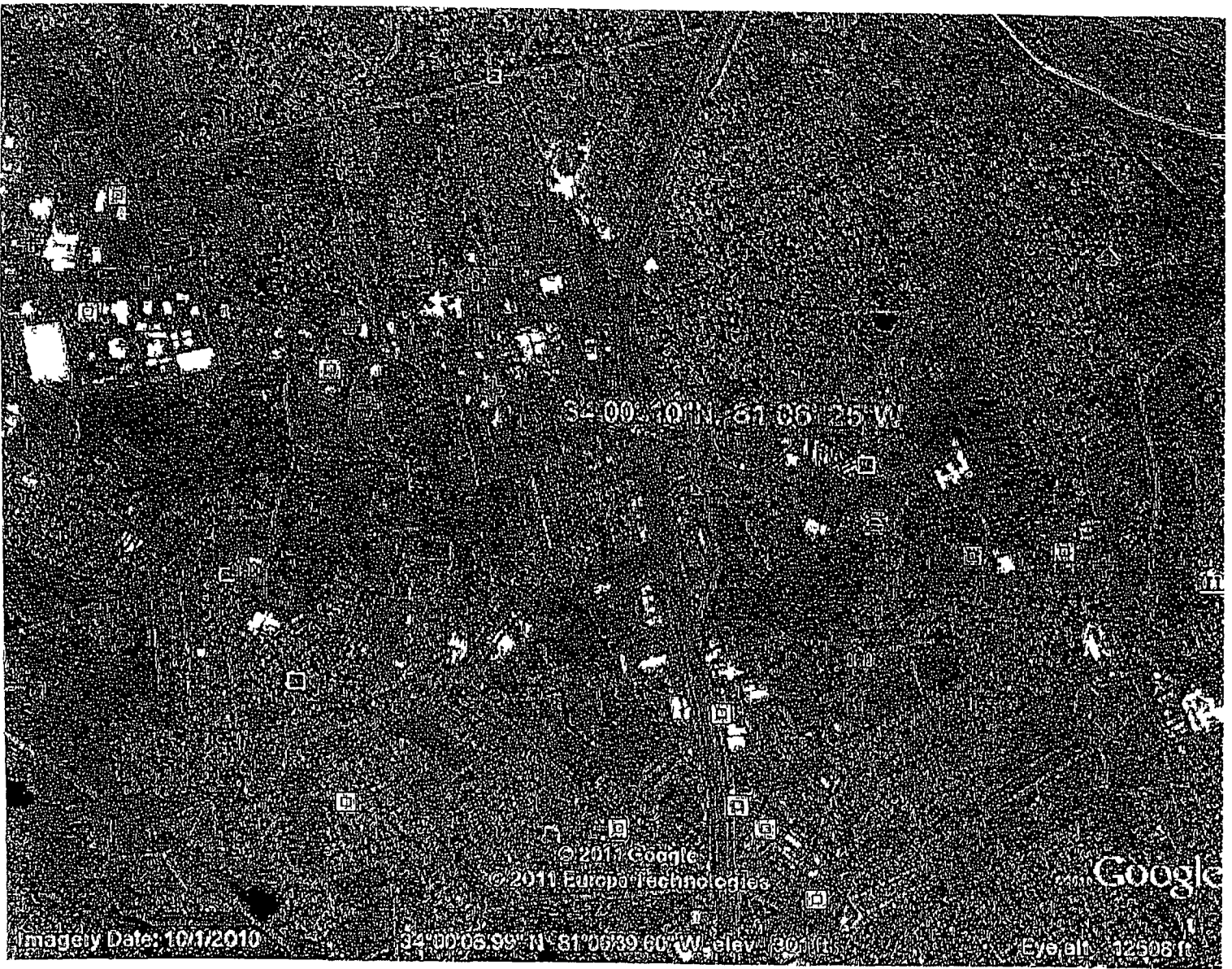
UI 5

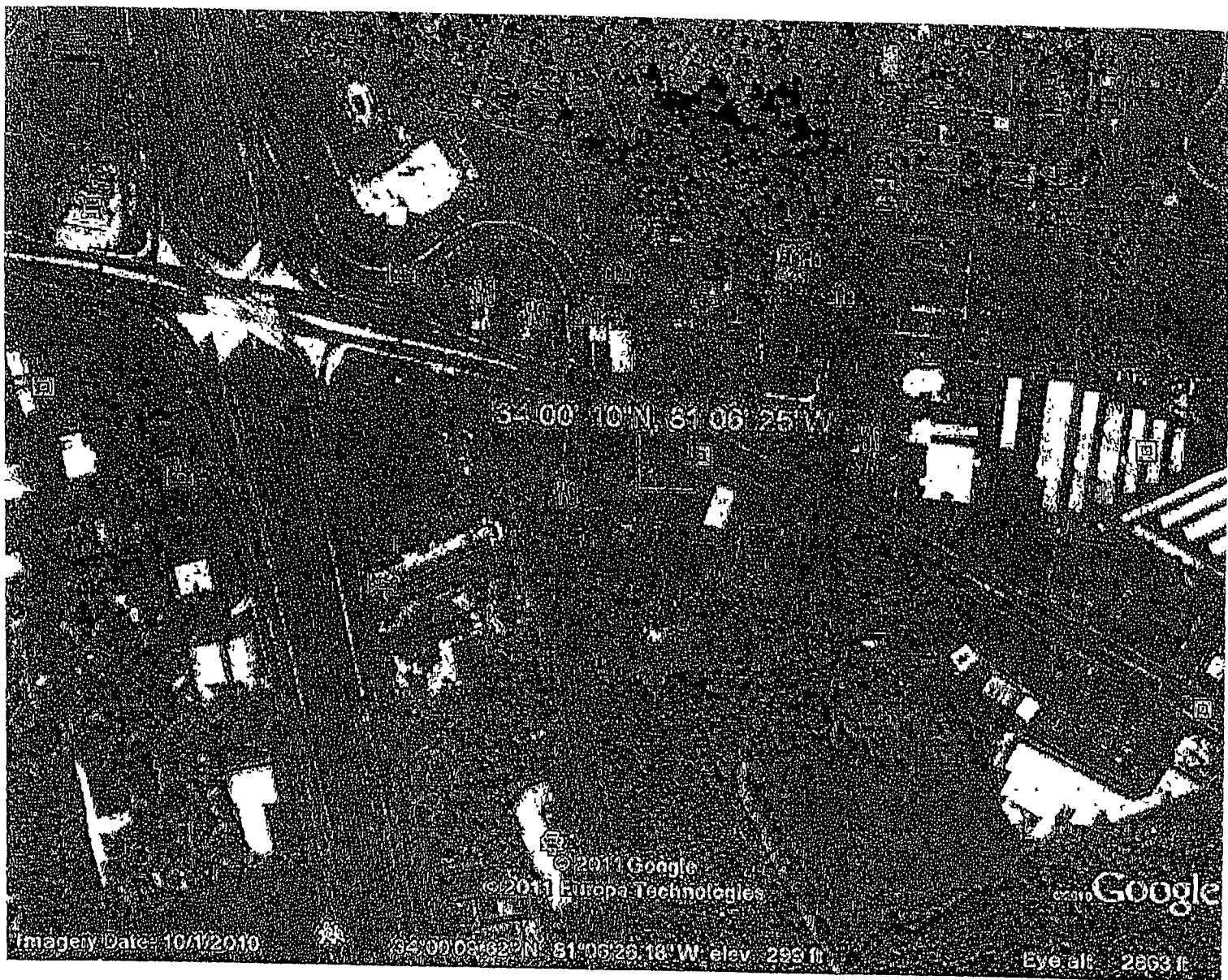
SOUTH CAROLINA
EMPLOYMENT SECURITY COMMISSION
P O BOX 995
COLUMBIA S C 29202
OFFICIAL BUSINESS
UCB-103B
FORWARDING SERVICE REQUESTED

OSWALD LAW FIRM LLC
PO BOX 4052
WEST COLUMBIA SC 29171

000129

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000131

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[illegible]

000133

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Verified to be a true and correct
copy of the original document on file
with the South Carolina Department of
Motor Vehicles

[Signature]
Deputy Director

OFFICIAL 10 YEAR DRIVER RECORD

Customer No.: 24923921 Driver License No.: 1840237
Name OSWALD, BRENDA M
Address 2124 RAVEN TRL
City WEST COLUMBIA State: SC Zip: 291693748
County LEXINGTON Sex: F Driver Training: N
DOB: 09/16/1949

Status - DL: NO SUSPENSION CDL NO DISQUALIFICATION

License Information

Type	Class	Function	Issued	Expires	First Issued	Rest.	Endor
Current							
DL	D	Duplicate	05/26/2009	09/16/2017	09/11/1997	Y	N
Prior							
DL	D	Renewal	09/05/2007	09/16/2017	09/11/1997	Y	N
DL	D	Renewal	03/29/2002	09/16/2007	09/11/1997	Y	N
DL	D	Reissue	03/29/2002	09/16/2007	09/11/1997	Y	N

Current
Restrictions: A Corrective Lens

Point Summary

Total Current Points: 0
Driver Credit: - 0
Adjusted Current Points: 0

VIOL: 421-Speeding 10-mph or less
Violation: 04/01/2010 Conviction: 08/09/2010
ACD: S51 Conviction Loc Ref
Conviction State: SC

Ticket#: 54646EZ
Recd. 08/23/2010 Post. 09/27/2010
Conviction Reference:
Court Type Municipal Court
Violation Points: 2 Current Points: 0

ACC: REPORTABLE

Accident: 09/27/2010
Accident Case Number 10111558
Accident Jurisdiction SC Accident Loc Ref. SCHDPT
Contributed: N

Posted: 10/18/2010
FR-10 Audit Number: B-668113
History: N

ACC: REPORTABLE

Accident: 08/12/2008
Accident Case Number: 8089207
Accident Jurisdiction: SC Accident Loc Ref SCHDPT
Contributed: Y

Posted: 08/20/2008
FR-10 Audit Number: X-816221
History: N

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OFFICIAL 10 YEAR DRIVER RECORD

Customer No : 24923921

Name OSWALD, BRENDA M

Driver License No. 1840237

End of Report

000135



SLED CATCH
Citizens Access to Criminal Histories
Results



Hello

Name **Brenda Oswald**

Date of Birth **1949 09 16**

Maiden Name

Gender **Female**

SSN ***** ** 9072**

Transaction **004833590**

Date of Check **July 27, 2012 at 16:40**

NO ARREST DATA
IN ACCORDANCE WITH
SEARCH CRITERIA SUBMITTED
S.C. Law Enforcement Division
WWW

To Whom it may Concern

The criminal history search was based upon the criteria furnished. It did not include a fingerprint comparison, which is the only means of positive identification. This **NO ARREST DATA** verification is only valid as of July 27, 2012 at 16:40 since a record may be established after that time. Therefore, if no action is taken within a reasonable period, it is recommended that another check be made.

Sincerely,

Chief Mark Keel.
South Carolina Law Enforcement Division

Credit Card Transaction Number **1343421526ICE316120727164026**

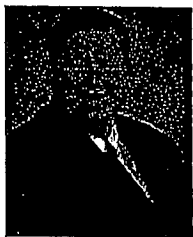
[Return] [Another Check]

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- Listings
- Rentals
- Recreational and Commercial Properties
 - Agents
 - The Area
 - Programs

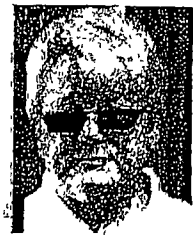
Meet Our Agents



Billy R. Oswald, Broker In Charge
(803) 413-5022



James L. Oswald, Jr., Managing Broker
(803) 413-1222
oswaldrealtyinc@yahoo.com



Sally Oswald, Sales Agent/Business Manager
(803) 413-9895
sallygal@scrr.com



Tommy Plonk, Real Estate Broker
803 331-2526
tplonk@gmail.com

Frank Cook, Real Estate Salesman
(803) 479-1695

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Kurt Summer, Real Estate Salesman
(803) 603-9380



©2008 Oswald Realty, Inc.
1031 Center Street,
West Columbia, SC 29169.

(803) 791-5359 office / (803) 796-1055 fax

MULTIPLE LISTING SERVICE
MLS



000138

1/15

BRENDA M OSWALD
WEST COLUMBIA, SC

License number: 51261
License type: Salesman
Status: ACTIVE
Expiration: 6/30/2014 12 00 00 AM
Office: OSWALD REALTY INC

[File a Complaint against this Licensee](#)

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Professional Licensing Boards | Board Member Lookup

[Main Menu](#) **Real Estate Commission**

Note All fields are not required for searching

Last / Office name:
License number:

First name:
City:
State:

License Type:

To perform a lookup retype the
characters in the box to the right

BEY 

Find

Your search returned: 1 record(s).

CLICK ON THE LICENSE NUMBER BELOW TO DISPLAY VERIFICATION INFORMATION FOR THAT RECORD

Lic #	Last	First	Middle	City	Type
<u>51261</u>	OSWALD	BRENDA	M	WEST COLUMBIA	Salesman

Search Tip:

You do not have to enter complete names
For example, "J" and "Smith" will search for records
with a last name of "Smith" and a first name beginning
with "J."

Questions / Contact Information

Tracey McCarley, Administrator

Beau Tiller, Education Manager

Phone (803) 896-4400

Fax (803) 896-4427

PO Box 11847

Columbia, S C 29211-1847

South Carolina Department of Labor, Licensing & Regulation

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P.O. BOX 105378
ATLANTA, GA 30348

Manage Your Account & View Your Usage Details	Account Number	Date Due
My Verizon at www.verizonwireless.com	915566199-00001	Past Due
	Invoice Number	6492479072

KEYLINE

|||||

OSWALD LAW FIRM, LLC
1031 CENTER ST
WEST COLUMBIA, SC 29169-6749

Quick Bill Summary

Sep 22 - Oct 21

Save On Your Wireless Bill Every Month!

As a valued small business customer you may qualify for exclusive discounts that can help save your business money every month! See the back page of this bill for more details

Our records indicate your account is past due. Please send payment now to avoid service disruption

Pay from Wireless	Pay on the Web	Questions
#PMT (#768)	My Verizon at www.verizonwireless.com	1.800.922.0204 or *611 from your wireless



VE

OSWALD LAW FIRM, LLC
1031 CENTER ST
WEST COLUMBIA, SC 29169-6749

Bill Date October 21, 2010
Account Number 915566199-00001
Invoice Number 6492479072

Total Amount Due

Make check payable to Verizon Wireless
Please return this remittance slip with payment

\$.

PO BOX 660108
DALLAS, TX 75266-0108

|||||

☐ Check here and fill out the back of this slip if your billing address has changed or you are adding or changing your email address.

6492479072010915566199000010000536870000916314

NOTICE: Bank account and routing numbers will be retained to enable future payments by phone or online. To opt out call 1-866-544-0401

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Invoice Number	Account Number	Date Due	Page

Invoice Number	Account Number	Date Due	Page
6492479072	915666199-00001	Past Due	6 of 50

Detail for Brenda Oswald 00002: 803-413-9895

Voice, continued

[illegible]

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Invoice Number Account Number Date Due Page

8/9/24 9072 01556399-0000H Past Due 7 of 60

Detail for Brenda Oswald 00002: 803-413-9895

Voice, continued

Date	Time	Number	Rate	Usage Type	Origination	Destination	Min	Airtime Charges	Long Dist/ Other Chgs	Total
9/26	11 43A	803-413-5022	Off-Peak	M2MAIlow	Lexington SC	Columbia SC	1	--	--	--
9/26	1 39P	803-397-8848	Off-Peak	PromoAIlow	Columbia SC	Incoming CL	2	--	--	--
9/26	3 19P	Data Airtime	Off-Peak	PromoAIlow Data	Lexington SC	Data CL	4	--	--	--
9/26	6 25P	411-000-0000	Off-Peak	PromoAIlow	Lexington SC	411Search CL	1	--	1 99	1 99
9/26	6 25P	803-731-0672	Off-Peak	PromoAIlow	Lexington SC	Columbia SC	2	--	--	--
9/26	6 27P	803-794-1378	Off-Peak	PromoAIlow	West Colum SC	Columbia SC	1	--	--	--
9/26	6 29P	803-413-5022	Off-Peak	M2MAIlow	Lexington SC	Incoming CL	1	--	--	--
9/27	7 41A	803-740-3759	Peak	PlanAIlow	Lexington SC	Columbia SC	2	--	--	--
9/27	8 46A	000-000-0086	Peak	PlanAIlow CallVM	Lexington SC	Voice Mail CL	1	--	--	--
9/27	9 32A	803-960-1661	Peak	M2MAIlow	Lexington SC	Columbia SC	2	--	--	--
9/27	9 35A	411-000-0000	Peak	PlanAIlow	West Colum SC	411Search CL	1	--	1 99	1 99
9/27	9 38A	803-794-1378	Peak	PlanAIlow	West Colum SC	Columbia SC	1	--	--	--
9/27	9 39A	803-794-1378	Peak	PlanAIlow	West Colum SC	Columbia SC	1	--	--	--
9/27	9 41A	803-796-7260	Peak	PlanAIlow	West Colum SC	Columbia SC	1	--	--	--
9/27	9 50A	803-796-7260	Peak	PlanAIlow	West Colum SC	Columbia SC	1	--	--	--
9/27	9 51A	803-794-1378	Peak	PlanAIlow	West Colum SC	Columbia SC	1	--	--	--
9/27	9 52A	803-429-1228	Peak	PlanAIlow	West Colum SC	Columbia SC	3	--	--	--
9/27	9 58A	803-413-1222	Peak	M2MAIlow	West Colum SC	Columbia SC	2	--	--	--
9/27	10 16A	803-413-5022	Peak	M2MAIlow	West Colum SC	Incoming CL	3	--	--	--
9/27	10 18A	803-429-1228	Peak	PlanAIlow	West Colum SC	Columbia SC	2	--	--	--
9/27	10 20A	803-429-1228	Peak	PlanAIlow	West Colum SC	Columbia SC	1	--	--	--
9/27	10 20A	803-429-1228	Peak	PlanAIlow	West Colum SC	Columbia SC	1	--	--	--
9/27	10 21A	803-429-1228	Peak	PlanAIlow	West Colum SC	Columbia SC	2	--	--	--
9/27	10 22A	803-359-4388	Peak	PlanAIlow	West Colum SC	Lexington SC	2	--	--	--
9/27	10 30A	803-397-8848	Peak	PlanAIlow	West Colum SC	Incoming CL	1	--	--	--
9/27	10 38A	803-413-5022	Peak	M2MAIlow	West Colum SC	Incoming CL	2	--	--	--
9/27	10 42A	803-429-1228	Peak	PlanAIlow	West Colum SC	Incoming CL	1	--	--	--
9/27	11 16A	803-960-1661	Peak	M2MAIlow	West Colum SC	Incoming CL	3	--	--	--
9/27	11 26A	803-429-1228	Peak	PlanAIlow	West Colum SC	Columbia SC	2	--	--	--
9/27	11 46A	000-000-0086	Peak	PlanAIlow CallVM	West Colum SC	Voice Mail CL	1	--	--	--
9/27	11 47A	Data Airtime	Peak	PlanAIlow Data	West Colum SC	Data CL	3	--	--	--
9/27	11 58A	803-796-7262	Peak	PlanAIlow	West Colum SC	Columbia SC	2	--	--	--
9/27	12 24P	803-791-0004	Peak	PlanAIlow	West Colum SC	Columbia SC	1	--	--	--
9/27	12 26P	803-413-5022	Peak	M2MAIlow	West Colum SC	Columbia SC	2	--	--	--
9/27	12 28P	803-429-1228	Peak	PlanAIlow	West Colum SC	Columbia SC	2	--	--	--
9/27	12 29P	803-413-5022	Peak	M2MAIlow	Columbia SC	Columbia SC	1	--	--	--
9/27	12 30P	803-413-5022	Peak	M2MAIlow	Columbia SC	Columbia SC	1	--	--	--
9/27	12 31P	803-397-8848	Peak	PlanAIlow	Columbia SC	Columbia SC	1	--	--	--
9/27	12 42P	803-796-7260	Peak	PlanAIlow	West Colum SC	Columbia SC	1	--	--	--
9/27	12 43P	803-429-1228	Peak	PlanAIlow	West Colum SC	Columbia SC	1	--	--	--
9/27	1 29P	803-429-1228	Peak	PlanAIlow	Cayce SC	Columbia SC	1	--	--	--
9/27	1 31P	803-429-1228	Peak	PlanAIlow	Cayce SC	Columbia SC	1	--	--	--
9/27	2 22P	803-318-4029	Peak	PlanAIlow	Cayce SC	Incoming CL	2	--	--	--
9/27	2 57P	000-000-0086	Peak	PlanAIlow CallVM	Lexington SC	Voice Mail CL	1	--	--	--
9/27	2 57P	803-791-1912	Peak	PlanAIlow	Lexington SC	Columbia SC	1	--	--	--

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Invoice Number	Account Number	Date Due	Page

6492479072 985566199-00000 Past Due 8 of 50

Detail for Brenda Oswald 00002: 803-413-9895

Voice, continued

[illegible]

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Invoice Number Account Number Date Due Page

6492479072 915566199-00001 Past Due 8 of 50

Detail for Brenda Oswald 00002: 803-413-9895

Voice, continued

Date	Time	Number	Rate	Usage Type	Origination	Destination	Min.	Airtime Charges	Long Dist/ Other Chgs	Total
9/27	3 42P	803-772-0081	Peak	PlanAllow	Lexington SC	Columbia SC	1	--	--	--
9/27	3 51P	803-791-1912	Peak	PlanAllow	West Colum SC	Columbia SC	1	--	--	--
9/27	4 04P	803-429-1228	Peak	PlanAllow	Gaston SC	Columbia SC	2	--	--	--
9/27	4 07P	803-429-1228	Peak	PlanAllow	Gaston SC	Columbia SC	1	--	--	--
9/27	4 17P	803-796-7268	Peak	PlanAllow	Gaston SC	Columbia SC	2	--	--	--
9/27	4 18P	803-429-1228	Peak	PlanAllow	Gaston SC	Columbia SC	3	--	--	--
9/27	4 54P	803-796-7268	Peak	PlanAllow	Lexington SC	Incoming CL	2	--	--	--
9/27	5 24P	803-413-5022	Peak	M2MAIlow	Lexington SC	Incoming CL	1	--	--	--
9/28	8 53A	803-740-3759	Peak	PlanAllow	Lexington SC	Incoming CL	2	--	--	--
9/28	8 56A	803-794-3712	Peak	PlanAllow	Lexington SC	Columbia SC	2	--	--	--
9/28	9 03A	800-798-2207	Peak	PlanAllow	West Colum SC	Toll-Free CL	2	--	--	--
9/28	9 09A	803-794-8776	Peak	PlanAllow	West Colum SC	Columbia SC	2	--	--	--
9/28	9 12A	803-796-7260	Peak	PlanAllow	Columbia SC	Columbia SC	2	--	--	--
9/28	9 24A	803-740-3759	Peak	PlanAllow	Columbia SC	Incoming CL	2	--	--	--
9/28	10 05A	803-794-8776	Peak	PlanAllow	Columbia SC	Columbia SC	1	--	--	--
9/28	10 06A	803-413-5022	Peak	M2MAIlow	Columbia SC	Columbia SC	4	--	--	--
9/28	10 54A	803-397-8848	Peak	PlanAllow	Lexington SC	Incoming CL	2	--	--	--
9/28	10 58A	803-794-8776	Peak	PlanAllow	Lexington SC	Columbia SC	1	--	--	--
9/28	11 03A	803-791-0004	Peak	PlanAllow	Lexington SC	Columbia SC	2	--	--	--
9/28	11 06A	803-739-1111	Peak	PlanAllow	Columbia SC	Columbia SC	4	--	--	--
9/28	12 12P	803-429-1228	Peak	PlanAllow	Cayce SC	Columbia SC	2	--	--	--
9/28	12 17P	803-296-5513	Peak	PlanAllow	Cayce SC	Columbia SC	2	--	--	--
9/28	12 19P	803-296-9594	Peak	PlanAllow	Cayce SC	Columbia SC	1	--	--	--
9/28	12 19P	411-000-0000	Peak	PlanAllow	Cayce SC	411Search CL	2	--	1 99	1 99
9/28	12 20P	803-296-5657	Peak	PlanAllow	Cayce SC	Columbia SC	2	--	--	--
9/28	12 49P	000-000-0086	Peak	PlanAllow CalIVM	Cayce SC	Voice Mail CL	1	--	--	--
9/28	1 13P	803-796-1102	Peak	PlanAllow	Cayce SC	Columbia SC	3	--	--	--
9/28	1 21P	803-960-1661	Peak	M2MAIlow	Cayce SC	Columbia SC	2	--	--	--
9/28	2 42P	803-739-1111	Peak	PlanAllow	Cayce SC	Columbia SC	1	--	--	--
9/28	2 43P	803-397-8848	Peak	PlanAllow	Cayce SC	Columbia SC	2	--	--	--
9/28	2 58P	803-739-1111	Peak	PlanAllow	Gaston SC	Columbia SC	1	--	--	--
9/28	3 01P	803-796-7260	Peak	PlanAllow	Gaston SC	Columbia SC	5	--	--	--
9/28	3 08P	205-981-7650	Peak	PlanAllow	West Colum SC	Incoming CL	1	--	--	--
9/28	3 14P	803-397-8848	Peak	PlanAllow	West Colum SC	Columbia SC	1	--	--	--
9/28	3 25P	803-739-1111	Peak	PlanAllow	Gaston SC	Columbia SC	1	--	--	--
9/28	3 26P	803-587-0293	Peak	M2MAIlow	Cayce SC	Columbia SC	3	--	--	--
9/28	3 29P	803-413-9858	Peak	M2MAIlow	West Colum SC	Columbia SC	1	--	--	--
9/28	3 30P	803-661-1137	Peak	PlanAllow	West Colum SC	Columbia SC	1	--	--	--
9/28	3 31P	803-661-1137	Peak	PlanAllow	West Colum SC	Columbia SC	1	--	--	--
9/28	3 31P	803-661-1137	Peak	PlanAllow	West Colum SC	Columbia SC	1	--	--	--
9/28	3 31P	803-661-1137	Peak	PlanAllow	West Colum SC	Columbia SC	1	--	--	--
9/28	3 32P	803-397-8848	Peak	PlanAllow	West Colum SC	Columbia SC	2	--	--	--
9/28	3 40P	803-587-0293	Peak	M2MAIlow	Columbia SC	Incoming CL	3	--	--	--
9/28	3 48P	803-413-9858	Peak	M2MAIlow	Cayce SC	Incoming CL	8	--	--	--
9/28	4 22P	803-413-5022	Peak	M2MAIlow	Cayce SC	Columbia SC	2	--	--	--

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Invoice Number	Account Number	Date Due	Page

6492479072 915566199 00001 Past Due 9 of 5

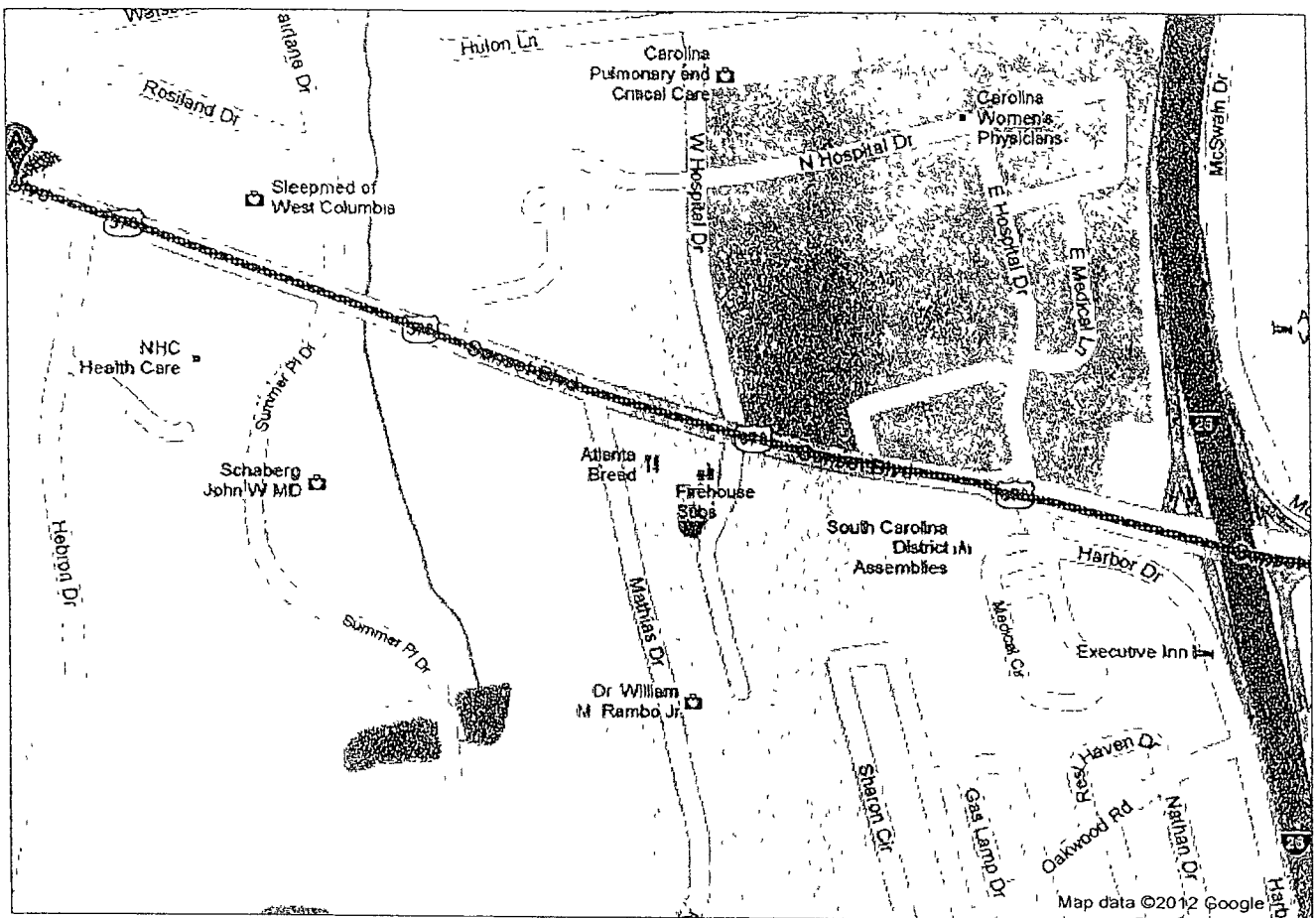
Detail for Brenda Oswald 00002: 803-413-9895

Voice, continued

[illegible]

000146

18.



Driving directions to 2404 Sunset Blvd, West Columbia, SC 29169

3D

A 3101 Sunset Blvd
West Columbia, SC 29169

1. Head east on US-378 E/Sunset Blvd toward Pine Lake Dr
Destination will be on the left

B 2404 Sunset Blvd
West Columbia, SC 29169

1.1 mi

These directions are for planning purposes only. You may find that construction projects, traffic, weather, or other events may cause conditions to differ from the map results, and you should plan your route accordingly. You must obey all signs or notices regarding your route.

Map data ©2012 Google

000147

184-



3D



West Columbia, SC 29169

- 000148



1031 Center St
West Columbia, SC 29169

To see all the details that are visible on the screen, use the "Print" link next to the map

These directions are for planning purposes only. You may find that construction projects, traffic, weather, or other events may cause conditions to differ from the map results, and you should plan your route accordingly. You must obey all signs or notices regarding your route.

Map data ©2012 Google

000149

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003

Directions to 1031 Center St West Columbia,
SC 29169
4.8 mi - about 15 mins



000150

2124 Raven Trail West Columbia, SC 29169

- 1 Head north on Raven Trail toward Wuail Lake Dr
go 344 ft
total 344 ft
- ➡ 2 Take the 1st right onto Blackbird Dr
go 358 ft
total 0 1 mi
- ➡ 3 Take the 1st right onto Beaver Ln
go 0 2 mi
total 0 4 mi
- ↩ 4 Turn left onto Ephrata Dr
go 0 2 mi
total 0 5 mi
- ➡ 5 Take the 1st right onto Pine Lake Dr
About 45 secs
go 0 3 mi
total 0 8 mi
- 6 Continue onto Fairlane Dr
About 48 secs
go 0 3 mi
total 1 0 mi
-  7 Turn left onto US-378 E/Sunset Blvd
About 8 mins
go 3 1 mi
total 4 1 mi
- ➡ 8 Turn right onto 9th St Exd
About 2 mins
go 0 4 mi
total 4 6 mi
- 9 Continue onto 9th St
About 1 min
go 322 ft
total 4 6 mi
- ➡ 10 Turn right onto Center St
Destination will be on the left
About 46 secs
go 0 2 mi
total 4 8 mi

 1031 Center St, West Columbia, SC 29169

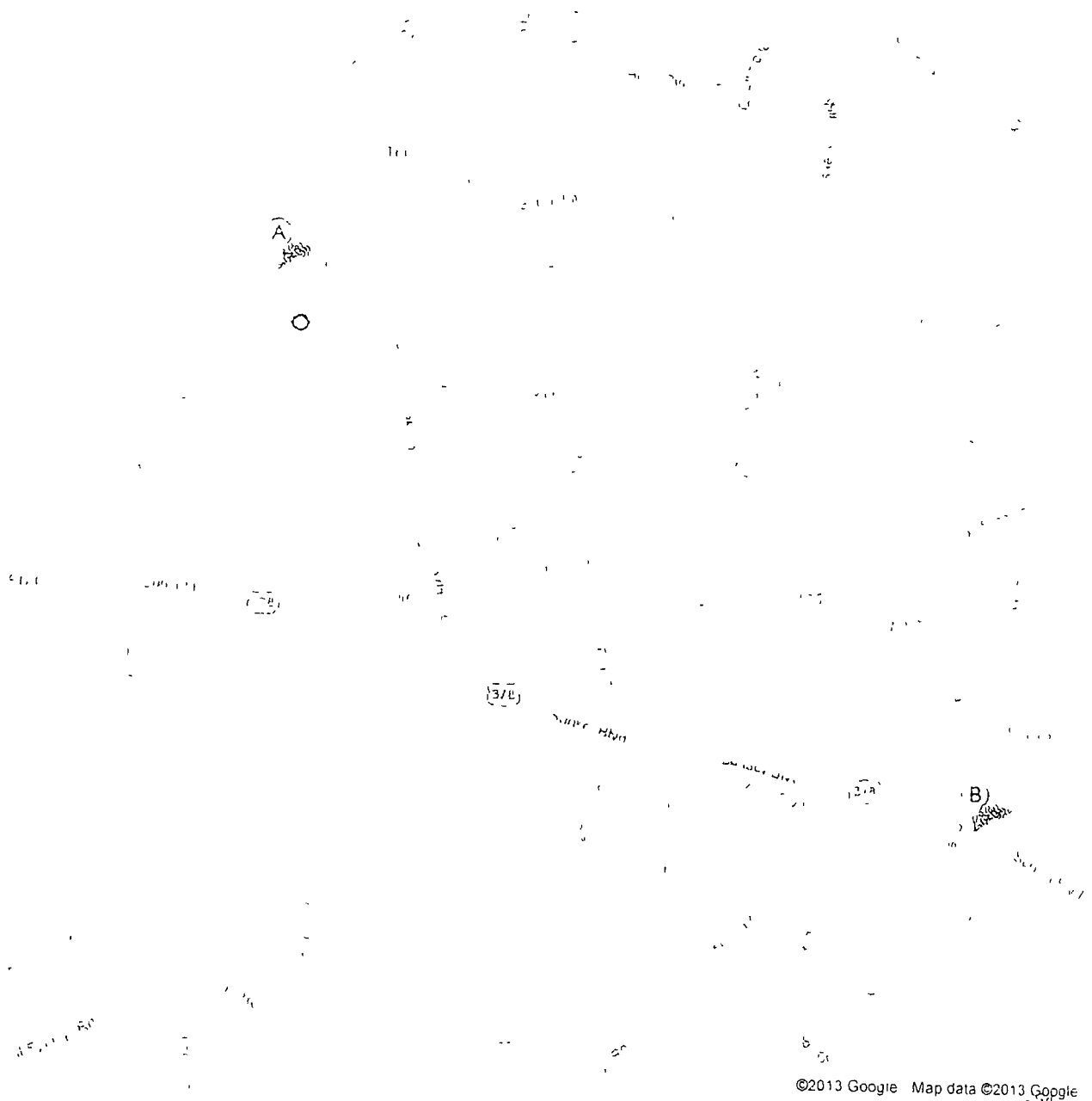
These directions are for planning purposes only. You may find that construction projects, traffic, weather, or other events may cause conditions to differ from the map results, and you should plan your route accordingly. You must obey all signs or notices regarding your route.

Map data ©2013 Google

Directions weren't right? Please find your route on maps.google.com and click "Report a problem" at the bottom left.

000151

Directions to 2404 Sunset Blvd, West
Columbia, SC 29169
1.9 mi - about 8 mins



©2013 Google Map data ©2013 Google

000152

A 2124 Raven Trail, West Columbia SC 29169

- 1 Head north on **Raven Trail** toward **Wuail Lake Dr**
go 344 ft
total 344 ft
- ➡ 2 Take the 1st right onto **Blackbird Dr**
go 358 ft
total 0.1 mi
- ➡ 3 Take the 1st right onto **Beaver Ln**
go 0.2 mi
total 0.4 mi
- ↩ 4 Turn left onto **Ephrata Dr**
go 0.2 mi
total 0.5 mi
- ➡ 5 Take the 1st right onto **Pine Lake Dr**
About 45 secs
go 0.3 mi
total 0.8 mi
- 6 Continue onto **Fairlane Dr**
About 48 secs
go 0.3 mi
total 1.0 mi
-  7 Turn left onto **US-378 E/Sunset Blvd**
Destination will be on the left
About 5 mins
go 0.9 mi
total 1.9 mi

B 2404 Sunset Blvd, West Columbia, SC 29169

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000153

Directions to 1031 Center St West Columbia,
SC 29169
2.9 mi – about 7 mins



000154

2404 Sunset Blvd, West Columbia, SC 29169



- 1 Head southeast on US-378 E/Sunset Blvd toward Kleckley Dr
About 3 mins

go 2.2 mi
total 2.2 mi



- 2 Turn right onto 9th St Exd
About 2 mins

go 0.4 mi
total 2.7 mi

- 3 Continue onto 9th St
About 1 min

go 322 ft
total 2.7 mi



- 4 Turn right onto Center St
Destination will be on the left
About 46 secs

go 0.2 mi
total 2.9 mi

(B) 1031 Center St, West Columbia, SC 29169

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000155

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC FILE # 1022089

BRENDA OSWALD,	)	
	)	
CLAIMANT,	)	
	)	DEPOSITION
VS	)	
	)	OF
OSWALD LAW FIRM,	)	
	)	BRENDA OSWALD
EMPLOYER,	)	
	)	
NORGUARD INSURANCE COMPANY,	)	
	)	
CARRIER,	)	
	)	
DEFENDANTS.	)	

Deposition of Brenda Oswald, taken pursuant to the South Carolina Rules of Civil Procedure and the Administrative Procedures Act, commencing at the hour of 10:21 a.m., Tuesday, July 10th, 2012, at the law offices of Frank A. Barton, 1611 Augusta Road, West Columbia, South Carolina.

COPY

Reported by
Sandra M. Snead

SCOTT REPORTING SERVICE
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000156

Appearances

For the Claimant Frank A. Barton, Esquire
 1611 Augusta Road
 P O. Box 3972
 West Columbia, SC 29171

For the Employer: Peter P. Leventis, IV, Esquire
 McKay, Cauthen, Settana &
 Stubley, PA
 1303 Blanding Street
 P O Box 7217
 Columbia, SC 29202-7217

Reported By: Sandra M. Snead

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Exhibits

No exhibits marked.

Court Reporter's Note This transcript may contain quoted material. Such material is reproduced as read or quoted by the speaker. Double hyphens (--) denote interruption of speech, incomplete sentence/phrase, or trailing off. [ph] denotes phonetically written. [sic] denotes written as spoken. Social Security number, if present, has been redacted or blacked out.

Stipulations

The reading and signing of this deposition is reserved by the deponent and counsel for the respective parties.

Whereupon,

Brenda Oswald, being duly sworn and cautioned to speak the truth, the whole truth, and nothing but the truth, testified and deposed as follows:

The Court Reporter: State your name for the record.

The Deponent: Brenda Oswald.

Examination

By Mr. Leventis:

Q Okay. Ms. Oswald, my name is Peter Leventis. I represent the Oswald Law Firm and their insurance carrier for your accident. Have you ever had your deposition taken before?

A No.

Q Okay. You don't recall having your deposition taken before previously?

A I've never had a deposition taken.

Q Okay. I'm just going to go through a series of questions about your claim, and, if you can, -- I'll go over a few ground rules for the deposition.

1 First, if you can remember to try to answer yes and
2 no, if that's an appropriate answer, --

3 A Mm-hmm.

4 Q -- or verbally, rather than nodding your head or
5 saying uh-huh or uh-uh so she -- the court reporter
6 can transcribe it. If you need to take a break for
7 any reason, whether -- to use the restroom or
8 anything like that during the deposition, just let
9 me know. Also, if you can answer the questions
10 fully, even if they don't seem to you to be
11 directly about your workers' compensation claim.

12 A Mm-hmm.

13 Q And, also, even if you anticipate the question I'm
14 going to ask, if you can just let me finish asking
15 it so she can properly transcribe it.

16 A Okay.

17 Q Lastly, my goal today is not to trick you or to
18 trip you up on anything. If you can -- If you
19 don't understand a question that I'm asking you, if
20 you can just let me know so I can rephrase the
21 question so I can get the information and you can
22 understand the question that I'm trying to ask of
23 you. And, also, some of the questions I'm going to
24 ask quickly because I do a lot of depositions and I
25 know the questions I'm going to ask, but I don't

1 want you to feel pressured or stressed to answer
2 the questions quickly Just take your time and
3 think about them. Let me start by asking, have you
4 had any drugs or alcohol on today's date, whether
5 prescription or otherwise?

6 A Just high blood pressure and -- and thyroid
7 medicine.

8 Q Okay. And would either of those medications affect
9 your ability to understand and answer my questions?

10 A No.

11 Q Okay. Is there any other reason today why you
12 wouldn't be able to understand and answer my
13 questions?

14 A No.

15 Q Okay. What's your current home address and
16 telephone number?

17 A 2124 Raven, R-a-v-e-n, Trail, West Columbia, South
18 Carolina, 29169. And the home phone is 794-1378

19 Q Okay. And how long have you lived at that address
20 for?

21 A Since 1983.

22 Q Okay. And you -- Were you living there on the
23 date of this accident?

24 A Yes.

25 Q And if you can tell me your Social Security number,

1 --

2 A Sure

3 Q -- and they will -- When they do the record,

4 they'll redact it from the transcript

5 A [REDACTED]-[REDACTED]-[REDACTED]

6 Q And have you ever had any other Social Security

7 numbers?

8 A No

9 Q Okay. Who lives with you at your address at Raven

10 Trail?

11 A Billy Oswald.

12 Q Is that your husband?

13 A Yes.

14 Q Okay. And how long have you and Billy been married

15 for?

16 A Forty-two years.

17 Q Okay. Does anybody else live with you at that

18 address currently?

19 A No.

20 Q Was anybody else living with you at that address in

21 2010 when this accident took place?

22 A No.

23 Q Okay. Do you have any children?

24 A No

25 Q Okay. Do you have anyone else who is dependent

- 1 upon you for support financially?
- 2 A No.
- 3 Q Other than your husband, is there anybody who you
- 4 are financially dependent upon for support?
- 5 A That I'm dependent -- No.
- 6 Q Okay. Is there anybody who you voluntarily support
- 7 financially periodically, from time to time, such
- 8 as parents or relatives?
- 9 A Yes.
- 10 Q Who would that be?
- 11 A Parents
- 12 Q Your parents?
- 13 A And his --
- 14 Q Okay.
- 15 A -- father.
- 16 Q And that -- That's voluntarily you said?
- 17 A Yes.
- 18 Q Okay And what are your parents' names, and what
- 19 city do they live in?
- 20 A Okay Betty McQuartters -- it's M-c-Q-u-a-t-t-e-r-
- 21 s -- and Kenneth Mcquartters.
- 22 Q And what city do they live in?
- 23 A Lexington
- 24 Q And do you help them out by giving them a specific
- 25 amount of money periodically, or do you just help

- 1 periodically with bills --
- 2 A Just --
- 3 Q -- and things like that?
- 4 A Just help them out periodically
- 5 Q Okay And you also said your husband's parent or
- 6 parents?
- 7 A His -- Yeah, James Oswald.
- 8 Q Okay. And where does James Oswald live?
- 9 A Columbia.
- 10 Q Okay. And at the time of this accident, were you
- 11 helping them out financially?
- 12 A Every now and then, you know.
- 13 Q Okay. I want to ask you a little bit about your
- 14 educational background. How far did you go in
- 15 school?
- 16 A I have two years of college.
- 17 Q Okay. And did you get a -- any sort of degree or
- 18 certificate for the college? Did --
- 19 A No.
- 20 Q -- you finish? Okay Do you have your high school
- 21 diploma --
- 22 A Yes
- 23 Q -- or GED? Your --
- 24 A High school
- 25 Q Okay Where did you go to college?

- 1 A Carolina
- 2 Q And what was the last year that you were --
- 3 A Oh, my gosh '69.
- 4 Q Okay. Do you have any other certificates or
- 5 training or anything like that?
- 6 A I have a real estate license.
- 7 Q Okay. Is that still in good standing?
- 8 A Yes.
- 9 Q And when did you get a real estate license? Do you
- 10 remember the first year you had it?
- 11 A 1988.
- 12 Q Did you ever practice as a realtor --
- 13 A Yeah -- Well, --
- 14 Q -- or agent?
- 15 A My licenses are with a real estate company, but I
- 16 don't actively do that, no.
- 17 Q Okay. When did you -- Did you ever actively do
- 18 that?
- 19 A No.
- 20 Q Have you ever sold any homes --
- 21 A No.
- 22 Q -- okay -- or properties, I should say? No homes
- 23 or properties?
- 24 A No
- 25 Q Okay. And any other licenses or certificates that

1 you've obtained in regards to -- in regards to
2 working and vocation?

3 A No.

4 Q Did you ever serve in the military?

5 A No

6 Q Okay At the time of this accident, how long had
7 you been employed with the Oswald Law Firm?

8 A 1974.

9 Q Okay. And had you worked anywhere prior to that?

10 A Yes

11 Q And where did you work -- do you remember -- most
12 recently prior to starting with Oswald --

13 A The University of South Carolina.

14 Q And what did you do with the University of South
15 Carolina?

16 A I was an administrative assistant at the medical --
17 the new medical school.

18 Q And how long did you work in that position?

19 A Two years.

20 Q Okay. And since 1974, has your employment been
21 continuous with the Oswald Law Firm, or were there
22 ever any periods where you didn't work for them?

23 A Let me think It seems like I've been there
24 forever It -- There could have been some periods
25 that I wasn't working at the office.

1 Q Okay Did you ever -- Since 1974, have you worked
2 anywhere else other than the Oswald Law Firm,
3 either simultaneously or --

4 A No.

5 Q Okay No that you haven't worked anywhere else?

6 A No.

7 Q Okay And you said there could have been some
8 periods where you were not working with the firm?

9 A I think there might have been a -- Oh, gee, I'm
10 -- Yeah, there -- there could have been some
11 periods. Maybe in 2001, I think, I was out for
12 about a year.

13 Q And what was the reason for your absence?

14 A I was involved in an auto accident. Someone hit
15 me.

16 Q Okay. Was that associated with work, or was that
17 outside of work?

18 A That was associated with work.

19 Q Okay Did you file a workers' compensation claim
20 for that?

21 A Yes.

22 Q And did you have an attorney?

23 A Yes.

24 Q Who was your attorney?

25 A Oh, Lord I cannot remember

1 Q Okay

2 A It was probably somebody at the -- I'm not sure

3 I really am not sure who the attorney was

4 Q Okay And what injuries did you sustain from the

5 2001 accident?

6 A A lady ran a red light and T-boned me in a big

7 truck. I was taken to the trauma center at

8 Richland Memorial Hospital I had collapsed lungs

9 I had about -- I had some bones coming out of my

10 lower spine that were broken, and for about four

11 days they didn't know if I'd be able -- would walk

12 again.

13 Q Which bones were broken?

14 A It was in the lower back. I'm not sure which ones

15 they were. They -- It was not -- The back wasn't

16 broken. It was the little bones coming out from

17 the spine.

18 Q Okay.

19 A And I had several ribs broke. Most of my ribs were

20 broke, most of them broke two and three times

21 Q And were you -- Were you paid weekly benefits

22 while you were out of work --

23 A I received --

24 Q -- under the workers' compensation claim?

25 A Yes. Yes.

1 Q Okay Did you -- You said you treated initially
2 at Richland Memorial Hospital?
3 A Mm-hmm.
4 Q Where did you treat after that?
5 A Well, I was in there for, I think, five or six
6 days, and I came home
7 Q Okay And did you follow up with anybody after
8 that?
9 A Yes. I know Dr. Bynoe was the trauma doctor and --
10 Q Do you know how to spell Bynoe?
11 A B-y-n-o-e. And I -- I can't remember if it was
12 Moore or Midlands they sent me to.
13 Q Okay And was it Moore or Midlands Orthopaedics
14 you said?
15 A Yes.
16 Q Did you -- And you treated with one of them in
17 Lexington, or was it in Richland where you treated?
18 A I went to Richland.
19 Q Okay. I mean with the orthopedist --
20 A Yes, it was with Richland.
21 Q Okay Do you remember who your doctor was, your
22 orthopedist, that you followed up with?
23 A Oh, Lord, no
24 Q Did you continue treating after you went back to
25 work?

- 1 A I -- No, I don't think so I think I, like I
2 said, was out of work for about a year
- 3 Q Did you ultimately make a settlement --
- 4 A Yes.
- 5 Q -- for the workers' compensation claim?
- 6 A Yes
- 7 Q Do you recall the amount of the settlement that you
8 made?
- 9 A Oh, my Lord. No, I don't. I'm sorry.
- 10 Q Do you recall the amount -- Even if you don't
11 recall the total amount of the settlement, do you
12 recall the amount that you received from it?
- 13 A I should remember, but I don't. I'm sorry.
- 14 Q Okay. Do you believe it was more than \$10,000 or
15 --
- 16 A Oh, it was more --
- 17 Q -- less than ten --
- 18 A -- than 10,000.
- 19 Q Okay Do you believe it was more than 25,000?
- 20 A Yes.
- 21 Q Do you recall if it was more or less than \$50,000?
- 22 A It was more than 50 --
- 23 Q Okay And do you recall if it was a -- a total
24 settlement of your entire claim, or do you know if
25 you were entitled to any further benefits, like

1 medical benefits, ongoing medical benefits?

2 A No, I didn't get any ongoing medical benefits

3 Q Do you know who the insurance carrier was?

4 A No.

5 Q Do you recall if there was -- Do you recall the
6 attorney that represented the Oswald Law Firm or
7 the insurance carrier in that matter?

8 A No Unfortunately, I don't remember too much about
9 that accident. I don't even remember being hit I
10 don't remember anything

11 Q Okay.

12 A I'm sorry.

13 Q And have you had any other accidents while at work,
14 other than this two thousand -- 2001 accident and
15 the one that you and I are going to talk about
16 today?

17 A Not -- Not -- I don't believe, not a workers'
18 comp.

19 Q Okay.

20 A I don't think so

21 Q Have you had any other -- Have you had any other
22 workers' compensation claims that you've filed,
23 whether they were accepted or you made a settlement
24 or not for them?

25 A I believe there might have been one in -- oh, Lord

1 -- two thousand -- I'm not sure what date the --
2 2007 or eight.
3 Q Okay Do you recall the circumstances of that
4 accident?
5 A Yeah Somebody hit me in my car again
6 Q Okay And was that while you were working --
7 A Yes. I had --
8 Q -- at the Oswald Law Firm?
9 A -- just pulled out of Office Depot, buying office
10 supplies --
11 Q Okay
12 A -- in Lexington.
13 Q And were you out of work for any period of time for
14 that?
15 A Yes.
16 Q About how long were you out of work for?
17 A I'm not sure. It was -- I'm really -- I'm not
18 sure
19 Q What body parts did you hurt or injure in that '07,
20 '08 accident?
21 A My elbow, my left elbow, and my left leg and knee
22 Q Any other body parts that you felt that you hurt?
23 A No, I don't think so I think that was all.
24 Q Did you injure your neck or your back in that
25 accident?

- 1 A I -- I think it was just my left elbow and my arm
2 --
- 3 Q Okay.
- 4 A -- and my -- my leg
- 5 Q And who did you treat with for that accident?
- 6 A Again, I think that one was Midlands Orthopaedic
- 7 Q Okay Did you go to the emergency room afterwards?
- 8 A Yes
- 9 Q And which emergency room did you go to?
- 10 A Lexington
- 11 Q Do you recall the doctor that you saw, treated
12 with, at Midlands?
- 13 A Hmm I'm thinking it was Ugino.
- 14 Q Okay. And I believe you said you did file a
15 workers' compensation claim for that?
- 16 A Yes.
- 17 Q Did you have an attorney for that claim?
- 18 A Yeah.
- 19 Q Do you recall who your attorney was?
- 20 A I'm not sure if -- I don't think it was anybody at
21 the law office I'm not so sure -- Maybe -- I'm
22 not sure if Gene Stockholm did it or not.
- 23 Q Okay. You think it may -- it might have been --
- 24 A It might --
- 25 Q -- Gene Stockholm?

1 A -- have been

2 Q Okay And did you make a settlement for that
3 claim?

4 A Yeah.

5 Q Do you recall the amount of that settlement?

6 A It was under 25,000

7 Q Do you think it was less than 25,000?

8 A Yes.

9 Q Okay. And other than those two car accidents
10 related to work, the 2001 and the 2008 accident,
11 and the one for -- that we're talking about today,
12 have you had any other workers' compensation claims
13 or injuries at work, whether you filed a claim or
14 not?

15 A No.

16 Q Okay. And for the 2001 claim, did you -- did you
17 file a claim or make a settlement with the at-fault
18 driver for the 2001 claim?

19 A Yes

20 Q Did you have -- Do you recall who your attorney
21 was for that, if you had an attorney?

22 A I'm not sure I can't recall who the attorney was.

23 Q Okay And do you recall the amount of a settlement
24 or the amount that you received from that
25 settlement, from the -- from the 2001 case for the

1 auto claim?

2 A I'm thinking it was around 80,000. I'm not quite
3 sure, but I'm thinking that might have been what it
4 was.

5 Q And was 80,000 -- Do you believe that was the
6 amount that you received from it, or do you think
7 that was the -- about the total settlement?

8 A I think that was probably -- I'm not -- It could
9 have been -- Well, that might have been what I
10 got, --

11 Q Okay.

12 A -- received.

13 Q And I was going to ask you, also, for the 2008
14 claim, did you file an auto -- a claim against the
15 at-fault driver --

16 A Yes.

17 Q -- in the case?

18 A And that was where the 25 -- the -- was it -- the
19 25,000 -- under 25,000 came in

20 Q Okay That was for the auto claim?

21 A Yeah, that was for the auto claim.

22 Q Okay. And do you -- Do you remember who your
23 attorney was for the auto claim, if it was somebody
24 different?

25 A I think it was somebody -- I think it was Gene.

1 Q Okay Now, just to clarify, because I thought a
2 moment ago when you said less than 25, --

3 A Oh. I'm sorry.

4 Q -- you were talking about the workers' comp claim

5 A Oh. No

6 Q Did you make a settlement for the workers' comp
7 claim for your 2008 case?

8 A I think so, yes.

9 Q Okay. Do you recall the amount or --

10 A It was --

11 Q -- the amount that you received?

12 A Yeah -- No, I don't. I don't think it was a big
13 amount, though.

14 Q Okay. Do you think it was more than \$5,000?

15 A It was probably around between five and ten, I
16 think.

17 Q Okay. And you don't recall -- Other than those
18 two auto accidents and this auto accident related
19 to work, you don't recall any other workers'
20 compensation claims that you filed?

21 A No

22 Q Okay And then, also, just to clarify again, you
23 don't recall any other times that you've been
24 injured at work, whether you filed a claim or not?

25 A No, I don't recall. I don't think so I think

1 it's just those -- It was always odd. It was
2 always -- I was always running errands for the
3 office.

4 Q Okay. For this claim -- And I'll get back to it a
5 little bit later on, as well, but were you the at-
6 fault driver in this accident?

7 A No.

8 Q Okay. And when I say this claim, I mean the 2010
9 claim.

10 A No.

11 Q Okay. Do you know the name of the at-fault driver?

12 A I should. He's a neighbor. But I can't recall his
13 name.

14 Q Was it a male driving the car?

15 A It was a male driver

16 Q Do you think his last name may be Riggins?

17 A I -- That might have -- I think that's who it
18 was.

19 Q Okay. You said he's a neighbor?

20 A Well, he lives in the same -- in Quail Hollow.

21 Q Okay. Did you know him prior to this accident?

22 A No.

23 Q Okay. Have you filed a claim -- or have you filed
24 a claim or made a settlement against his insurance
25 company, --

- 1 A We --
- 2 Q -- his auto insurance company?
- 3 A We haven't made a settlement yet, no.
- 4 Q Okay. Do you know the name of the insurance
- 5 company of the driver for the 2010 accident?
- 6 A I should know that I don't know why State Farm's
- 7 sticking in my head
- 8 Q Okay. But you're --
- 9 A I'm not --
- 10 Q -- sure?
- 11 A I'm not sure of that, no.
- 12 Q Okay. Have you retained an attorney for the -- for
- 13 the auto claim for 2010?
- 14 A Yes.
- 15 Q Okay. And who is your attorney for that?
- 16 A Frank.
- 17 Q Frank Barton?
- 18 A Mm-hmm.
- 19 Q Okay. And, to your knowledge, you don't believe a
- 20 lawsuit has actually been filed?
- 21 A No
- 22 Q Okay. And to clarify, against --
- 23 A The -- Mr Riggins
- 24 Q Okay.
- 25 A No, I don't --

- 1 Q Going back to your work history, other than the
2 time that you were out of work for about a year in
3 two thousand -- after your 2001 accident and also
4 for a short period of time after your 2007 or 2008
5 --
- 6 A Mm-hmm
- 7 Q -- accident, have you been out of work for -- any
8 other times, periods, from the Oswald Law Firm?
- 9 A No -- Just since this one.
- 10 Q Okay. And since two --
- 11 A Well, there -- No, I -- I've been there.
- 12 Q Okay. Do you -- Do you work full-time for the
13 Oswald Law Firm?
- 14 A Yes. I was working between 30 and 35 hours a week,
15 and 35 hours is full-time at Oswald Law Firm.
- 16 Q Okay. You were working that many hours at -- about
17 at the time of this accident in 2010?
- 18 A Yes.
- 19 Q Okay. Have you worked at all since this accident?
- 20 A No
- 21 Q Okay. Have you worked at all, whether it be for
22 the Oswald Law Firm or for anyone, since this
23 accident in 2010?
- 24 A No
- 25 Q Okay Have you earned any wages since this

1 accident took place in 2010?

2 A I earned sick leave from the law office, sick pay

3 --

4 Q Okay

5 A -- and --

6 Q When did you last -- Let me first ask you, how

7 often are you paid at the law firm? Is it once a

8 week, twice a month?

9 A Once a month.

10 Q Once a month. So, you received 12 paychecks per

11 year?

12 A Mm-hmm.

13 Q Did you receive --

14 Mr. Barton: (to the deponent) You need

15 to say yes or no.

16 The Deponent: Oh. I'm sorry.

17 A Yes.

18 Q I remind you of that at the beginning, but then I

19 stop --

20 A Oh, I --

21 Q -- myself.

22 A Yes

23 Q And do you receive any type of bonus from the law

24 firm?

25 A No

- 1 Q Okay. Do you receive any other types of monies or
2 reimbursements, other than your 12 paychecks per
3 year?
- 4 A No.
- 5 Q Okay When did you last receive a paycheck from
6 the Oswald Law Firm?
- 7 A I had one dated July the 1st
8 Of 2012?
- 9 A Yes.
- 10 Q Okay. Since this accident in 2010, have you been
11 receiving -- have you continued to receive monthly
12 paychecks each month?
- 13 A Yes, --
- 14 Q Okay.
- 15 A -- for my sick leave
- 16 Q Okay. Are the paychecks the same amount as they
17 were at the time you were injured?
- 18 A Yes
- 19 Q Okay. Do you know how much sick leave you had
20 available at the time you got hurt?
- 21 A No, I'm not sure how much sick leave It was quite
22 a bit.
- 23 Q Okay Have you -- Since this accident took place
24 in 2010, have you filed for unemployment benefits?
- 25 A No.

1 Q Okay Have you filed for Social Security
2 Disability benefits?

3 A Yes.

4 Q When did you file for Social Security Disability
5 benefits?

6 A In April.

7 Q Of 2012?

8 A Yes.

9 Q Did you do that yourself, or did you do that
10 through an attorney?

11 A I did it myself.

12 Q Was that the first time you had ever applied for
13 Social Security Disability?

14 A Yes.

15 Q And have you heard anything back from the Social
16 Security Administration?

17 A No.

18 Q And what was the basis for your filing for the
19 Social Security Disability?

20 A Medical records from Midlands Orthopaedics, from
21 Dr. LaMotta, stating that I had severe -- the neck
22 injury, and it was almost impossible for me to sit
23 at a desk' because I cannot move my head from left
24 to right And he suggested having the surgery and
25 having my neck fused --

1 Q Okay

2 A -- so I could not move it.

3 Q And when you say he, that's Dr LaMotta?

4 A Dr LaMotta.

5 Q Okay. Have you -- And I'm sorry You said you

6 have not heard anything back yet from Social

7 Security?

8 A No.

9 Q Okay And when I say not heard --

10 A That was in late April, too, so --

11 Q Okay And I don't mean necessarily determination.

12 Have they requested --

13 A Oh.

14 Q -- any further information?

15 A Yes.

16 Q Okay. And have you provided the additional

17 information?

18 A Yes

19 Q Okay. And you testified you have not filed for

20 unemployment benefits since this accident took

21 place. Had you ever previously filed --

22 A Yes, --

23 Q -- for unemployment?

24 A -- I did back in -- I believe it was 2010, we --

25 Yes.

1 Q And --

2 A And I think it was for nine months

3 Q So, were you -- You were unemployed for
4 approximately nine months in --

5 A Yeah.

6 Q -- 2010?

7 A Yes. Yes. We had to let somebody go at the
8 office, and everybody else had children, so -- I
9 didn't have any. So, I didn't want them to lose
10 their job

11 Q I'm sorry.

12 A No. I'm sorry Did I -- It's not 2010. It was
13 2009.

14 Q Okay.

15 A Excuse me.

16 Q Can you explain that to me a little bit further?

17 A Yes.

18 Q You said everybody had -- you had to let some
19 people go --

20 A Yeah. My husband had been in the hospital in 2008
21 for like 60 days, and the law firm dropped way, way
22 down.

23 Q And what do you mean by dropped way, way down?

24 A Oh, --

25 Q The number of employees?

1 A No The money coming in, --

2 Q Okay

3 A -- because he wasn't expected to live, and he was
4 literally out for a year. And we decided to --
5 since the -- the other young ladies were not --
6 didn't have any -- they were single mothers --
7 instead of laying them off, I would be laid off so
8 they could keep their job and their insurance.

9 Q Okay. So, when were you laid off?

10 A That was back in -- let's see -- Billy came home --
11 June -- I think around June of 2009.

12 Q Okay. And you filed for unemployment at that time?

13 A Uh-huh.

14 Q And --

15 A Yes, I did. Sorry.

16 Q And you believe you were on unemployment for
17 approximately nine --

18 A Nine months.

19 Q -- months? Okay. And when were you rehired by the
20 Oswald Law Firm? When did you start back to work?

21 A January of 2010. January -- or February 2010.
22 Excuse me.

23 Q Okay During that time period, did you -- Did you
24 work at all at the Oswald Law Firm between --
25 during the time period that you were out on

- 1 unemployment?
- 2 A No, other than if they'd call and ask me a question
3 or something.
- 4 Q Okay. Well, whether you earned a wage or not from
5 them, did you work there at all?
- 6 A No
- 7 Q Okay. Do you recall the amount of your Social --
8 or -- excuse me -- your unemployment benefits per
9 week?
- 10 A I think it was like -- Does 180 sound right? I'm
11 not sure. You'd think --
- 12 Q I don't --
- 13 A -- I'd remember.
- 14 Q I don't know, so --
- 15 A I'm not sure. I never -- I had never done that
16 before. I'm not sure. I could find out, but I'm
17 not sure.
- 18 Q Okay. And did you retain your sick time with the
19 Oswald Law Firm after you came back to --
- 20 A Yes.
- 21 Q -- to work in February of 2010?
- 22 A Yes, I started -- Yes. I kept my sick time When
23 we -- What you mean retain it?
- 24 Q You had -- I'm assuming you had built up --
- 25 A Yes

1 Q -- sick leave.
2 A Yes, I did
3 Q And when you came back to work in the fall --
4 A It was --
5 Q -- winter or spring of 2010, --
6 A Yeah
7 Q -- did you have that sick time available?
8 A Yes.
9 Q Okay. Do you have health insurance through the
10 Oswald Law Firm?
11 A Yes
12 Q Did you lose your health insurance benefits?
13 A No.
14 Q You did not?
15 A No
16 Q Okay. What was your salary with the Oswald Law
17 Firm, either per month or per year, when you left
18 in approximately June of 2009?
19 A The same as it's been for years I think it's --
20 It is 3,600 a month.
21 Q Is that your gross pay?
22 A Yes
23 Q Is that the amount -- Is 3,600 per month the
24 amount you've been receiving since this accident --
25 A It's the sick leave --

- 1 Q -- in 2010?
- 2 A Yes
- 3 Q Okay And when was the last time -- And to
4 clarify, that was also the monthly amount you
5 believe you were receiving in 2009, as well, --
- 6 A Yes.
- 7 Q -- prior to leaving?
- 8 A Yes.
- 9 Q When was the last time you received a raise? Do
10 you know?
- 11 A Being married to the -- the boss, never. Look,
12 Frank's laughing. He knows
- 13 Q And do you know what your annual salary was? Was
14 it 3600 times 12?
- 15 A Yeah.
- 16 Q And you don't recall the last time that your salary
17 had changed?
- 18 A Maybe about eight years ago. It went up from 3,000
19 a month to 3,600 a month.
- 20 Q You said that was about eight years ago?
- 21 A I think so, yeah
- 22 Q Okay I want to talk with you about your health
23 history prior to this accident
- 24 A Mm-hmm.
- 25 Q Well, first, other than these three auto wrecks

1 that we've talked about, all three of which were
2 also associated with work, --

3 A Mm-hmm.

4 Q -- the 2001, 2007 or eight, --

5 A Mm-hmm

6 Q -- and then this one in 2010, have you ever been in
7 any other car wrecks?

8 A Yes, a couple

9 Q Okay. Other than these three, what's the most
10 recent one you remember?

11 A Riding in the backseat with some friends and they
12 hit a big ol' hole in the road. And that was back
13 in -- oh, Lord -- the '80s.

14 Q Okay. Did you receive any medical treatment for
15 that?

16 A Just went to the emergency room to be checked out.

17 Q Okay Did you receive any follow-up treatment
18 after that?

19 A I think very little, maybe about a month's worth.

20 Q And which ER was that?

21 A Lexington.

22 Q Okay. And you said a couple Was there at least
23 one other one --

24 A Yeah, Billy and I were in the backseat, and another
25 couple was in the front

1 Q Okay. And when was that?

2 A That was in the '80s. There was a big ol' hole in
3 the road. Half of the road had washed out. It was
4 a big gap in it.

5 Q Was that -- Is that a different time from --

6 A No. No.

7 Q -- the one you mentioned --

8 A That's the same one that -- That's the one.

9 Q Okay.

10 A That's the -- That's the only one I can remember
11 -- that I remember late -- recent.

12 Q Okay. And then -- Well, you had said --
13 originally had said a couple others. Do you
14 remember --

15 A Oh. No. It was a couple in the car. I'm sorry.
16 It was a couple in the car with us. Did I say --

17 Q Okay.

18 A -- a couple others?

19 Q Well, when I said had you been in any other ones,
20 other --

21 A Oh.

22 Q -- than those three, you said a couple others.

23 A Way back in the '70s, when my dad was driving,
24 somebody hit the van.

25 Q Okay. Were you injured?

1 A No.

2 Q Okay. What county or city were you in at that
3 time?

4 A The van with my dad was Richland, and the one where
5 we were in the car with the other couple was
6 Lexington.

7 Q Did you go to the hospital?

8 A Not with my dad, --

9 Q Okay.

10 A -- but we just were checked out, the one with the
11 couple in Lexington.

12 Q Okay. I was asking specifically about car
13 accidents. Have you ever been in any other type of
14 motor vehicle accident, like an ATV, a boat or a
15 motorcycle?

16 A No.

17 Q Okay. Have you had any other -- any other injuries
18 where you've had to seek medical treatment or go to
19 the emergency room?

20 A Not injuries from an accident, no.

21 Q Okay. What other type of injuries have you had
22 that you've --

23 A Well, I had carpal tunnel surgery on my left hand,
24 and then I had to -- had to have it on my right
25 hand, also. And that was back in the early '80s.

- 1 Q Both of them were?
- 2 A Yes. They were about three years apart.
- 3 Q Do you remember where you had the surgeries done?
- 4 A Midlands Orthopaedic, Dr. Ugino.
- 5 Q And do you still -- Do you have any issues now
- 6 with carpal tunnel?
- 7 A No, none at all.
- 8 Q Okay. Did you -- Did you file workers'
- 9 compensation claims for those?
- 10 A No.
- 11 Q Okay. And have you had any other surgeries, other
- 12 than the ones for your carpal tunnel?
- 13 A Just to remove a -- On my heel, to remove a bone
- 14 spur.
- 15 Q Okay. Which heel was that?
- 16 A Left.
- 17 Q And when did you have that done?
- 18 A Lexington -- Well, the heel spurs were removed at
- 19 Lexington in Irmo.
- 20 Q So, you had more than one bone spur on the heel?
- 21 A Well, she removed one. I'm sorry. Dr. Kern.
- 22 Q You had mentioned you had the heel spurs removed at
- 23 Lexington and Irmo, --
- 24 A Yes.
- 25 Q -- so was there more than one surgery?

1 A No. That's where they did that surgery. They were
2 set up at Lexington Medical Center at Irmo to do
3 that surgery.

4 Q Oh. Okay. Okay. And when was that?

5 A That was ninety -- let's see -- about '93.

6 Q And you said Dr. Kern?

7 A Dr. Kern.

8 Q Okay. So, other than the carpal tunnel, the two
9 carpal tunnel surgeries for each side, and then the
10 bone spur removal, have you had any other surgeries
11 that you recall?

12 A You mean cosmetic surgery?

13 Q Whether cosmetic or otherwise.

14 A Yeah, I had the Lap-Band.

15 Q Okay. And when did you have that done?

16 A In '97.

17 Q And where did you have that done?

18 A Lexington.

19 Q Lexington Medical Center?

20 A Yes.

21 Q Okay.

22 A Riverside Surgery.

23 Q Okay. Any other surgeries?

24 A They removed the fat, because I weighed 300 and
25 like 60 pounds. They had to remove fat from around

- 1 my -- my abdomen. That was back in nine -- in '99.
- 2 Q Okay. Did they do any skin removal, as well?
- 3 A Oh, skin and fat.
- 4 Q Okay. And was that at Lexington Medical Center,
- 5 also?
- 6 A That one was at the Richland out there in -- I
- 7 believe it was Irmo, -- it -- the new Richland.
- 8 Q Okay. Any other surgeries that you've had?
- 9 A Uh, --
- 10 Q You mentioned the two cosmetic ones, the --
- 11 A And I had the fat removed up under my arms.
- 12 Q Okay.
- 13 A And that was done at Lexington, and that was -- let
- 14 me think -- 2008 or 2009. No. Wait a minute. Let
- 15 me think. Yeah, that's 2009, I believe.
- 16 Q Okay. So, other than the two times you had the
- 17 removals and the Lap-Banding done, the heel spur
- 18 and your carpal tunnel surgeries, have you had any
- 19 other --
- 20 A No.
- 21 Q -- surgical procedures done?
- 22 A Other than tonsils out when I was seven.
- 23 Q Okay. And that's it?
- 24 A That's it.
- 25 Q Okay. Had you -- Prior to this 2010 accident, who

1 was your family doctor?

2 A Dr. Gwendolyn Galphin.

3 Q And what practice group is Dr. Galphin --

4 A Mid- --

5 Q -- associated with?

6 A Midlands Internal -- Internists.

7 Q Do you know how to spell the last name?

8 A Yeah, G-a-l-p-h-i-n.

9 Q And how long has Dr. Galphin been your family
10 doctor for?

11 A For at least 20 -- 20 years. There was another
12 surgery I forgot I just had. I --

13 Q Okay.

14 A I had that this past April. I had fallen going up
15 the steps, and I thought I had pulled a muscle,
16 and, come to find out, I had an abscess in my
17 abdomen, and they had to outpatient -- do the --
18 remove the abscess in my -- in -- It was in the
19 soft tissue.

20 Q In April of 2012?

21 A Yes.

22 Q Okay. Where had you -- Where was it -- Where
23 were you at when you fell?

24 A We were visiting a house in the mountains, in Black
25 -- It was Black Mountain.

- 1 Q Okay. And where -- Did you fall down the stairs
2 or --
- 3 A Yeah.
- 4 Q -- did you fall --
- 5 A I had on flip-flops, and my shoe fell off, and I
6 was going up the step.
- 7 Q And where did you first go to treat for that?
- 8 A Well, I went to see Dr. Galphin.
- 9 Q And where was the abscess that you had removed?
- 10 A In my stomach, in my lower abdomen.
- 11 Q And where did you have the surgery when you had it
12 removed?
- 13 A Lexington.
- 14 Q And when you -- When you fell, did you have any
15 other injuries or --
- 16 A No. I just thought I had pulled a muscle in my
17 stomach, to be honest with you.
- 18 Q Okay.
- 19 A It took me two weeks before I finally went to the
20 doctor. I just thought it would get better.
- 21 Q Prior to this 2010 accident, had you ever treated
22 with a chiropractor before?
- 23 A The -- Yes, I had.
- 24 Q Which chiropractor?
- 25 A I -- Cohen Chiropract- -- Cohen.

- 1 Q Cohen Chiropractic?
- 2 A Yeah.
- 3 Q Okay. Are they in Lexington or West Columbia?
- 4 A West Columbia.
- 5 Q And when prior to -- Prior to this accident in
- 6 2010, when was the last time you had treated with
- 7 them?
- 8 A Probably that auto -- other -- the auto accident I
- 9 had coming out of Office Depot.
- 10 Q Was that in two thousand -- the one in 2007 or
- 11 eight?
- 12 A Yes.
- 13 Q Okay. And what did you treat with them for, what
- 14 body parts or --
- 15 A The arm and the knee.
- 16 Q Had you ever treated with this chiropractor or
- 17 another chiropractor for pain or problems with your
- 18 low back or your neck?
- 19 A With this accident in 2010, Midlands sent me to
- 20 Human Performance, but that's not a chiropractor,
- 21 but it is a physical therapist.
- 22 Q Okay. How about prior to this 2010 accident? Had
- 23 you ever treated with a chiropractor for your back
- 24 or neck?
- 25 A No, I don't think so. No.

1 Q Okay. Had you -- Have you ever treated with
2 another chiropractor other than Cohen Chiropractic?

3 A No.

4 Q Okay. And had you ever had any pain or problems
5 with your low back or neck prior to two thousand --
6 the 2010 accident?

7 A Yeah, the 2001 accident is when I really had all
8 those broken bones in my lower back, coming out of
9 my back.

10 Q Okay. Did you -- Have you retained or do you
11 still have any of the documents, filings or
12 workers' compensation forms from your 2001
13 accident?

14 A I don't think they would have them at the law
15 office. I think they shredded -- after about seven
16 or eight years. I don't think there would be any
17 at the law office.

18 Q Okay. Did you retain any?

19 A I think so, --

20 Q Okay.

21 A -- but I might have shredded those, too. I could
22 check and see.

23 Q Okay. And after the 2001 accident, you said you
24 did have -- you had problems, or pain, in your low
25 back?

- 1 A Mm-hmm.
- 2 Q Okay. And what type of -- Did you have surgery
3 after the 2001 accident?
- 4 A No.
- 5 Q Okay. What did they diagnose you with, for your
6 low back or your neck?
- 7 A The one in 2001 was for the lower back, and I -- it
8 was -- Because I had all those little bones that
9 were broken, it caused me to have, I guess, -- is
10 it -- no -- rheumatoid arthritis in those bones.
- 11 Q Okay. Do you remember which doctor diagnosed you
12 with rheumatoid arthritis?
- 13 A You mean for the lower back?
- 14 Q Yes, ma'am.
- 15 A I know Dr. Bynoe was the trauma doctor. It was --
16 I cannot think of the doctor's name at the
17 orthopedic clinic. I can't remember his name. I'm
18 sorry. I don't think he's there anymore.
- 19 Q Did you ever -- Were you ever referred to or did
20 you ever treat with a rheumatologist?
- 21 A I don't think they sent me to a rheumatologist.
- 22 Q Okay. And did you continue treating after you
23 finished -- For your 2001 accident, did you finish
24 treating at some point with the orthopedist?
- 25 A Yes.

- 1 Q And was that in 2001, 2002?
- 2 A In 2002. It was a long process.
- 3 Q Okay. Did you do physical therapy?
- 4 A Yes.
- 5 Q Did you ever receive injections in your back for
- 6 pain?
- 7 A Yes.
- 8 Q Were you on pain medication at that time, in 2001
- 9 and 2002?
- 10 A Yes.
- 11 Q Were you referred -- Do you know if you ever were
- 12 referred to pain management for your back?
- 13 A No, not at -- not for that accident, no.
- 14 Q Okay. You say not for that accident?
- 15 A I was for the 2010. That's who Dr. LaMotta is.
- 16 He's the pain management -- and he's their surgeon.
- 17 Q Okay. And who referred you to pain management for
- 18 the 2010 accident?
- 19 A Dr. O'Leary at Midlands.
- 20 Q Okay. Had you ever been in pain management or
- 21 referred to pain management prior to 2010, --
- 22 A No.
- 23 Q -- whether for your back or another body part?
- 24 A No.
- 25 Q Okay. You mentioned -- You mentioned you think

1 after the '01 accident you believe you had some
2 broken bones in your lower back. Have you ever had
3 -- Have you ever previously had any other broken
4 bones before?

5 A No.

6 Q Okay. Let me ask you, prior to the 2010 accident,
7 did you have any other physical conditions that you
8 have been diagnosed with or treated for, like
9 diabetes --

10 A No.

11 Q -- or high blood pressure?

12 A No.

13 Q Okay. Did you have any medications that you
14 periodically or routinely took, any prescription
15 medications prior to the 2010 accident?

16 A Just Synthroid.

17 Q Okay. And which doctor prescribed the Synthroid
18 for you?

19 A Dr. Galphin.

20 Q Okay. And prior to the 2010 accident, had you ever
21 been diagnosed or treated for any psychological
22 issues, like anxiety or depression?

23 A No.

24 Q Okay. Were there any other prescription
25 medications you were taking, other than Synthroid,

1 prior to the car wreck in 2010?

2 A No.

3 Q Okay. Whether you were diagnosed or took
4 medication for it prior to the 2010 accident, do
5 you feel you ever suffered from depression or
6 anxiety?

7 A No.

8 Q Okay. Since that accident, since the 2010 car
9 wreck, --

10 A Mm-hmm.

11 Q -- have you been diagnosed with any other physical
12 conditions, like high blood pressure or diabetes?

13 A No diabetes. I was -- I have high blood pressure,
14 but I believe when I go in for my physical, she's
15 taking me off the medication for that --

16 Q Okay.

17 A -- since I got rid of the weight.

18 Q And what is the medication that you take for the
19 blood pressure?

20 A My list -- Let's see. I have a list. Well, I
21 must have spoke too soon. It's Ly -- Lysine, L- --
22 Not Lysine. I can't remember the -- the medical --
23 the medical name for it.

24 Q Okay. And I was just giving you those as examples
25 --

1 A Okay.

2 Q -- when I said high blood pressure or diabetes.

3 Any other physical conditions that you treat with

4 the doctor for?

5 A No.

6 Q Okay. Where do you fill your prescriptions at?

7 A CVS on Sunset.

8 Q Is there anywhere else that you fill your

9 prescriptions?

10 A No.

11 Q Okay. Are Synthroid and Lysine the only two

12 prescription medications --

13 A Yes.

14 Q -- you're currently taking?

15 A Well, and Celebrex.

16 Q Okay. And who prescribed you the Celebrex?

17 A Dr. Galphin.

18 Q And what do you take the Celebrex for?

19 A For the lower back -- in the bone. It's for

20 inflammation in the lower -- bones in the lower

21 back. And she also prescribes Soma compound when

22 the muscles get real intense in the lower back, --

23 Q Okay.

24 A -- which I do not take all the time, only when

25 needed.

- 1 Q And can you say that one for me again?
- 2 A Soma, S-o-m-a, compound.
- 3 Q Soma compound. Okay. So, other than the Celebrex
- 4 and Soma and then the Synthroid and Lysine that you
- 5 mentioned, are there any other prescription
- 6 medications --
- 7 A Not --
- 8 Q -- you take?
- 9 A Not prescription, no.
- 10 Q Okay. Are there other over-the-counter
- 11 medications?
- 12 A Osteo Bi-Flex. Calcium. A vitamin.
- 13 Q Okay. When did you last see Dr. LaMotta?
- 14 A I last saw Dr. LaMotta about three months ago, and
- 15 I had an appointment two weeks ago, but he didn't
- 16 -- but I had to also go to the doctor with the --
- 17 the surgeon, and I had to reschedule with Dr.
- 18 LaMotta, and it's coming up in three weeks.
- 19 Q Okay. You had to reschedule with him because you
- 20 had an appointment --
- 21 A Yes.
- 22 Q -- with the surgeon? Is that what you said?
- 23 A -- both were at the same time.
- 24 Q Okay. And who was the surgeon?
- 25 A Riverside Surgery, Dr. Hughes. He's the surgeon

1 who did the removal of the abdomen -- the abscess
2 in the abdomen.

3 Q Okay. And, so, that follow-up with Dr. Hughes was
4 about the abscess?

5 A Mm-hmm.

6 Q Okay.

7 A Yes.

8 Q I want to talk with you about back in -- During
9 the 2001 accident, do you recall if you were
10 assigned an impairment rating to your back?

11 A Yes, the lower back, I was.

12 Q Okay. And do you recall what that impairment
13 rating was?

14 A I think it was like 20 to -- I think it's either
15 20 or 25 percent.

16 Q Okay. Do you think that was the impairment rating
17 assigned by the doctor, or do you think --

18 A It was assigned by -- yeah, a doctor. Yes, a
19 doctor.

20 Q Okay. And prior your workers' compensation claim
21 in 2001, we talked about the amount that you
22 settled it for. Was that from a settlement or was
23 that from an order of the Commission? Do you
24 recall?

25 A You mean from workers' comp? I don't recall. I'm

1 sorry.

2 Q Do you recall if you went to a hearing?

3 A No hearing.

4 Q You didn't appear before a commissioner, --

5 A No.

6 Q -- like a judge?

7 A No, I don't recall that.

8 Q Okay. And do you recall which doctor assigned that
9 rating to you, the -- You said you thought you may
10 have received a 20 or 25 percent rating?

11 A It was -- It was -- They sent me to an
12 independent doctor, --

13 Q Okay.

14 A -- independent. And I'm sorry. I don't remember
15 his name.

16 Q Do you think that might have been Dr. Margalit?

17 A No. This was a -- a gentleman that I had to go to
18 see. I believe he was in Aiken.

19 Q When you say they sent me to an independent doctor,
20 was that your attorney or the insurance carrier, or
21 you're not sure which one?

22 A Not sure which one.

23 Q Okay. Do you recall if you received an impairment
24 rating from the doctor you were treating with at
25 that time?

1 A I believe -- I believe I got an impairment rating
2 -- It was from two separate doctors.

3 Q Okay. Do you recall what your other impairment
4 rating was?

5 A I think one was 25 and one was 20.

6 Q Oh. Okay.

7 A Okay.

8 Q Prior to the 2010 accident, had you ever had any
9 pain or problems in your neck or your thoracic
10 spine, kind of in the middle of your back between
11 your shoulder blades?

12 A Other than the 2001 accident when I had those
13 little -- the bones, you know, coming out the --
14 the spine, but --

15 Q Okay. Did you -- So, did you feel you had pain or
16 injury to your neck from the 2001 accident?

17 A It -- It was -- No, not really. It was mostly in
18 my lower back. It was in my lower back, where most
19 of the pain was.

20 Q Okay. Did you -- Did you treat or ever do any
21 physical therapy for your mid back or your neck
22 prior to 2010?

23 A They may have -- They may have done some treatment
24 in the hospital after that accident because it was
25 so severe.

- 1 Q Okay. And from the 2007, 2008 accident, did you
2 ever have any pain or injury, in your own opinion,
3 to your lower back or neck?
- 4 A No. No. The way the gentleman hit me, the car
5 door came in on my knee and my elbow, --
- 6 Q Okay.
- 7 A -- my left knee and elbow.
- 8 Q Prior to the 2010 injury, when was the last time
9 that you recall treating for pain or problems in
10 your low back or neck?
- 11 A I still have problems with that. I still --
12 That's why they gave me the Soma, --
- 13 Q Okay.
- 14 A -- and -- but I still have problems with my lower
15 back.
- 16 Q Okay. Well, I want to -- I want to clarify.
- 17 A Okay.
- 18 Q Prior to the car accident in 2010, --
- 19 A Okay.
- 20 Q -- when was the last time you treated for problems
21 or symptoms in your low back?
- 22 A Well, I didn't go to a doctor specifically for the
23 lower back. You know, a heating pad every now and
24 then, something like that.
- 25 Q Okay. But you don't recall the last time you

1 treated for pain or problems --

2 A In the lower back?

3 Q -- in the low back prior to the 2010 accident?

4 A I don't -- When you say treated, you mean going to

5 a doctor or a --

6 Q Going --

7 A -- chiropractor?

8 Q Yes, ma'am.

9 A I haven't been to -- for the lower back, prior to

10 2010, -- Gee, I wish I could remember all this.

11 Q Do you believe it was more than a year?

12 A It was, for a doctor, probably more than a year

13 because they told me they couldn't do anything else

14 for it, --

15 Q Okay.

16 A -- so --

17 Q Do you remember which physician told you they

18 couldn't do anything else for it?

19 A Dr. Margalit was one of them.

20 Q And do you recall when that was, about what year?

21 A A couple -- Probably -- Well, he told me there

22 was nothing they could do about that around 2006 or

23 something like -- I mean, about a couple of years

24 after that bad wreck in 2001.

25 Q Okay.

1 A He just said it would be something I had to live
2 with.

3 Q Okay.

4 A And the -- Also, the other -- the doctor, the one
5 that they sent me to in Aiken, said that there was
6 really nothing they could do, --

7 Q Okay.

8 A -- you know, other than medication.

9 Q Do you recall the name of the doctor from Aiken?

10 A No, but I can get it if I -- if you need it.

11 Q Okay. And then prior to the 2010 accident, do you
12 recall the last time you treated with a physician
13 or chiropractor for pain or problems in your neck?

14 A I -- Like I said, when that accident was --
15 happened in 2001, they treated me for my whole --
16 You know, it was mainly the lower back, but I had
17 broken bones, you know, all -- coming out of my
18 spine --

19 Q Okay.

20 A -- not the spine but the little tiny bones feeding
21 into the spine.

22 Q Okay. But there was nine years between --

23 A Mm-hmm.

24 Q -- 2001 and 2010.

25 A Right.

1 Q Do you recall the last time prior to two -- the
2 2010 accident that you treated for any pain or
3 problems in your neck?

4 A A couple of years before that -- My neck?

5 Q Mm-hmm.

6 A No. My neck, mainly, is bothering me with the 2010
7 accident.

8 Q Did -- And it's your testimony today that you did
9 not hurt or injure your neck in the 2007, 2008
10 accident?

11 A I don't think so. I think it was my left arm and
12 my -- my left knee.

13 Q Okay. Did you have any pain or problems with your
14 neck in the year prior to the 2010 accident?

15 A Could have been. I might have had a neck ache or
16 something, you know, but --

17 Q Did you ever treat with a doctor in the two years
18 prior to your 2010 accident --

19 A Let me --

20 Q -- for your neck?

21 A Let me think. If I did, it might have been Dr.
22 Margalit or Dr. Galphin.

23 Q But you're not sure if you did?

24 A I can't remember. I really -- I really cannot
25 remember.

- 1 Q Okay.
- 2 A That was a bad time, because my husband was sick
- 3 and I -- It gets -- It gets kind of confusing.
- 4 Q Okay. Let's talk about the accident itself, --
- 5 A Okay.
- 6 Q -- the car wreck. About what time of day was it?
- 7 Do you recall?
- 8 A It was around -- I had just left Burkett, picking
- 9 up payroll, and it was around -- early morning,
- 10 around ten or 9:45, ten, 10:30, something like
- 11 that?
- 12 Q Okay. So, you -- When you started out your day,
- 13 did you go from your house to the office or did you
- 14 go from your house to Burkett?
- 15 A Well, when I started out my day, I got a call from
- 16 Burkett saying payroll was ready. So, I went to
- 17 pick that up because it was -- I left -- I left
- 18 my house, because it was right down the street --
- 19 because I live off Sunset Boulevard, and they're
- 20 only about a half a mile away.
- 21 Q Is that Burkett, Burkett & Burkett --
- 22 A That's --
- 23 Q -- on 378?
- 24 A -- it. That's it.
- 25 Q Okay. And that's where you went first?

- 1 A Right.
- 2 Q Okay. And do you recall who you met there?
- 3 A I went to the front desk to pick up payroll.
- 4 Q Okay. Is that something you always did on the same
5 day of the week?
- 6 A They would call me -- because payroll is once a
7 month, and they would call me at different, you
8 know, -- It was never on the same day. Sometimes
9 it would be the day of payroll or a couple days
10 before payroll and sometimes a week before payroll.
11 It just --
- 12 Q Okay. And, so, that was at the -- either at the
13 end of the month or the first week of the month
14 usually?
- 15 A Yeah. Well, the payroll was due on October the
16 1st, and, so, I would pick payroll usually three to
17 four days up before payroll, sometimes the day of,
18 sometimes the week before, but usually three or
19 four days before payroll was due.
- 20 Q Okay. So, you were picking up checks?
- 21 A I was picking up checks.
- 22 Q Okay. And when you left -- When you left Burkett,
23 where were you headed to at that point?
- 24 A I was headed to the bank --
- 25 Q Okay.

1 A -- to make a deposit.
2 Q And which bank were you headed to?
3 A Congaree State Bank on 378 and BB&T because that
4 had our payroll account, and I had to make a
5 deposit in that.
6 Q Okay. Which one were you headed to at the time the
7 accident --
8 A BB&T.
9 Q To BB&T. And which BB&T branch was it?
10 A Sunset.
11 Q So, you were headed there when the accident took
12 place, to BB&T?
13 A Yes.
14 Q And what car were you driving at the time?
15 A A Crown Vic.
16 Q And is that your car?
17 A Yes.
18 Q Okay. And if you can tell me how the accident took
19 place.
20 A Okay.
21 Q Were you at a stop light? Were you in the --
22 A I --
23 Q -- middle of driving.
24 A I left Burkett. It was raining really -- It was
25 one of those bad rainy days, --

1 Q Okay.

2 A -- and I had just crossed over I-26.

3 Q Okay.

4 A And I don't know if you're familiar with the area,
5 but there used to be a Maurice's Barbeque place on
6 the right. And I had just crossed over I-26, and I
7 heard somebody skid behind me, and I looked up in
8 the mirror, and I saw this truck coming, and I knew
9 he was gonna hit me. And he did hit me. He hit
10 me. He had a wench on the front of the truck, --

11 Q Okay.

12 A -- and he hit me.

13 Q So, is the Maurice's Barbeque off to your right --

14 A It's off to the right.

15 Q -- from the location you were hit at?

16 A It's closed now, but it's off to the right.

17 Q Okay. And, so, was it -- Was it raining pretty
18 badly --

19 A Bad, --

20 Q -- when the accident happened?

21 A -- yes.

22 Q Okay.

23 A Yes, it was.

24 Q You said you had just crossed I- --

25 A I --

1 Q -- crossed over I-26?
2 A -- crossed over I-26.
3 Q Okay. And were you -- Were you stopped at the
4 time or were you driving? Were you moving?
5 A No. We were moving very slowly.
6 Q Okay. So, you were in -- in slow moving traffic?
7 A Yes.
8 Q Did you -- Did you hit the car in front of you?
9 Were you --
10 A No.
11 Q -- pushed into the car in front of you?
12 A No, I was not.
13 Q Okay. And was there anybody else in the car with
14 you at the time?
15 A No.
16 Q Okay. You said it was a male driver; you think it
17 may have been Mr. --
18 A Yeah, --
19 Q -- Riggins?
20 A -- Riggins.
21 Q Was there anybody else in the car with him at the
22 time?
23 A No.
24 Q Okay. You said it was a truck with a wench on the
25 front. Was it like a pickup truck?

1 A Mm-hmm. Yes.

2 Q And what happened after you were hit? Did you

3 slide off the road? Did you pull --

4 A No. We just --

5 Q -- to a stop?

6 A We just stopped, and I called the police from the

7 cell phone, and we waited for the police to get

8 there.

9 Q Okay. Did -- You called the police immediately

10 after?

11 A Yes.

12 Q Okay. And did -- Did anybody else come to the

13 scene other than the police? Did anybody from the

14 office come to the scene, or Billy, your husband?

15 A No.

16 Q Okay. And where did you go from -- Where did you,

17 personally, go from there? Did you go --

18 A Well, --

19 Q Was -- Go ahead. I'm sorry.

20 A I went to the bank. My car I could drive.

21 Q Okay.

22 A I went to the bank, and then I went to the office.

23 Q Okay. You went to BB&T?

24 A Yes. And then when I told Billy, he sent me to the

25 hospital to -- to get checked out.

- 1 Q Was that Lexington Medical Center?
- 2 A Yes.
- 3 Q Okay. Did you -- Did you go -- The deposit you
4 made at BB&T was the deposit of the checks from
5 Burkett?
- 6 A No. I made a deposit into our payroll account. I
7 picked up the payroll checks from Burkett, but I
8 had to make a deposit into the payroll account to
9 cover the checks.
- 10 Q Right.
- 11 A Yeah.
- 12 Q Right. At -- And that was at BB&T?
- 13 A Yes.
- 14 Q Did you end up going to Congaree State Bank?
- 15 A No.
- 16 Q Okay. Other than the -- The cell phone that you
17 used, is that your personal cell phone?
- 18 A Yes.
- 19 Q And is that the same cell phone that you still use?
- 20 A The same number, yes.
- 21 Q Okay. Who is your service provider for your cell
22 phone?
- 23 A Verizon.
- 24 Q And what is your cell phone number?
- 25 A 803-413-9895.

1 Q 98 --
2 A 95.
3 Q 95. Okay. Did you -- At the time of the
4 accident, after you were hit, did you call anyone
5 other than the police?
6 A I don't think so.
7 Q Okay. When you called the police, did you dial --
8 A Now, wait a minute. I may have called Billy when
9 that happened.
10 Q Okay.
11 A I may -- I probably did call him, but he -- he did
12 not come to the --
13 Q To the scene of the accident?
14 A Right.
15 Q Okay. When you called the police, did you dial 9-
16 1-1?
17 A Yes.
18 Q Okay. And other than dialing 9-1-1 and maybe
19 Billy, did you call anyone else --
20 A No.
21 Q -- at that time?
22 A No.
23 Q Okay. Did you call anyone else before you went
24 back to the office?
25 A I don't think so, no.

- 1 Q Okay. And you said you did not know Mr. Riggins or
2 --
- 3 A No.
- 4 Q -- whatever the name of the at-fault driver was --
- 5 A I met him --
- 6 Q -- prior to this?
- 7 A -- at the accident.
- 8 Q Okay. Were you -- Were you able to -- When did
9 you first get out of the car after the accident?
- 10 A Right after it happened, after I called the police,
11 --
- 12 Q Okay.
- 13 A -- to see if he was okay. And he did the same.
- 14 Q The other driver?
- 15 A Yes.
- 16 Q Okay. And what type of pain or physical symptoms
17 were you having right after the accident?
- 18 A Well, when I heard the skid marks, I looked up in
19 the rearview mirror, and that was probably not the
20 smart thing to do, because I was looking up, and
21 then he hit me.
- 22 Q Okay. And what type of pain were you having at
23 that time, after -- once the accident took place?
- 24 A A sharp pain and a headache.
- 25 Q Okay. And where was the sharp pain located?

1 A In my neck. In my -- my neck and my shoulder.
2 Q Okay. At that time, right after the accident, any
3 -- was there anywhere else that you were having
4 pain or symptoms, that you recall?
5 A No. Just my neck -- my neck and my shoulder at --
6 right at that moment.
7 Q Which shoulder?
8 A It -- This -- It's my -- It was my left
9 shoulder.
10 Q Left shoulder. And you also said a headache, as
11 well?
12 A Yes.
13 Q Okay. And do you remember what they did for you
14 when you first went to the emergency room? Did
15 they take x-rays --
16 A Yeah.
17 Q -- or anything?
18 A They did.
19 Q Okay. Did they give you a diagnosis when you left
20 the --
21 A They just told me I had trauma to my neck.
22 Q Okay. Did -- Did they refer you to see an
23 orthopedist or someone else?
24 A No. They told me if I had any problems, that I
25 probably should contact my doctor.

1 Q Okay. And after you treated at the emergency room,
2 when did you next contact or see a doctor?

3 A I think I saw Dr. Margalit within three or four
4 days.

5 Q Okay. And what did Dr. Margalit tell you at that
6 time, or --

7 A Well, he sent me --

8 Q -- do for you?

9 A He was concerned. He sent me to the hospital to
10 have additional x-rays on my neck.

11 Q Okay. And did you get them that day or shortly
12 after you saw --

13 A It was --

14 Q -- Dr. Margalit?

15 A It was, I think, the next day, or no more than two
16 days after that.

17 Q Okay. Do you know if at that time, or since then,
18 -- if you ever had an MRI or a CT scan of your neck
19 done?

20 A Yeah, I did.

21 Q Okay.

22 A The -- Midlands Orthopaedic sent me.

23 Q And when was that, that you had that done?

24 A I think they did that -- gee -- probably a month
25 after they did the -- They did a -- They sent me

1 to the Baptist Hospital to have a -- No. I'm
2 sorry. They sent me to Midlands Orthopaedic, and
3 they did that, --
4 Q Okay.
5 A -- the CAT scan.
6 Q Was that -- Was that done at Midlands
7 Orthopaedics, --
8 A Yeah, at Barnwell --
9 Q -- or was that done at the hospital?
10 A -- at Barnwell. That was done on Barnwell Street.
11 Q Okay. And did they -- Dr. Margalit or Dr.
12 LaMotta, have they given you a specific diagnosis
13 --
14 A Well, at that time --
15 Q -- for your neck?
16 A I was seeing Dr. O'Leary --
17 Q Okay.
18 A -- at that time.
19 Q Well, did Dr. O'Leary give you a diagnosis to your
20 neck?
21 A Yeah, he said -- Oh, how did he put it? He showed
22 me the -- the x-rays. I had terrible inflammation
23 in the bones and in the neck, --
24 Q Okay.
25 A -- in the bones coming out of the upper spine.

1 Q And you had said a moment ago that you believe Dr.
2 LaMotta said there may be a surgical option for
3 your neck?

4 A Yeah, he's still holding on that. He said the only
5 thing he could do for the pain would be to -- to
6 fuse them together so I wouldn't be -- I try not
7 to move my head left or right because the pain's
8 real bad, but he would fuse it so I wouldn't have
9 to -- I wouldn't move my neck, and I don't -- You
10 know, that's about the only option left.

11 Q Okay. Did you -- Did you continue having any pain
12 in your left shoulder?

13 A Yeah, my left shoulder, but then my right arm went
14 numb, and I didn't realize that that was part of --
15 I was having tingling in my right -- my right hand.

16 Q Okay. When did you first start noticing --

17 A Well, that -- Well, I -- I noticed that -- He
18 asked me about it, and I said yeah, I'm having a
19 little bit of tingling. I didn't think anything of
20 it -- because I knew my shoulder got hit, but it
21 was the opposite shoulder, and he said that's
22 because one side of your neck -- I didn't
23 understand what he said, but, anyway, --

24 Q Okay. Was that Dr. LaMotta or --

25 A That was Dr. --

- 1 Q -- Dr. O'Leary?
- 2 A -- LaMotta.
- 3 Q Okay. After the accident, when did you first start
- 4 noticing the numbness or tingling in --
- 5 A I didn't feel the numbness --
- 6 Q Let me -- Let me finish.
- 7 A Okay. I'm sorry.
- 8 Q Okay. When did you first start noticing the
- 9 numbness or tingling?
- 10 A It was a good two or three weeks after the
- 11 accident.
- 12 Q Okay. And that was only -- Was it only in your
- 13 right arm?
- 14 A Mm-hmm.
- 15 Q Okay. Had you ever noticed any numbness or
- 16 tingling in your right arm prior to this accident?
- 17 A No.
- 18 Q Okay. And your left shoulder problems, did you
- 19 continue having pain or problems in your left
- 20 shoulder after the accident?
- 21 A Minor. It wasn't -- It wasn't severe pain. It
- 22 was just minor. Most of the pain was in the neck
- 23 part, --
- 24 Q Okay.
- 25 A -- in the neck.

- 1 Q Did you ever have any further treatment or
2 diagnostic testing done on your left shoulder?
- 3 A Yeah, when they did that first MRI, they sent me to
4 the doctor at Midlands Orthopaedic to do
5 injections.
- 6 Q In your shoulder?
- 7 A In my back. In my neck. They did it in my
8 vertebra.
- 9 Q Did that help -- After the injections, did it help
10 the pain in your neck?
- 11 A Not at all.
- 12 Q Okay. Did it help or alleviate any of the pain in
13 your left shoulder or your right arm?
- 14 A Nothing.
- 15 Q Okay. Did they ever put you on pain medication?
- 16 A Yes.
- 17 Q When were you last on prescription pain medication?
- 18 A About a year ago.
- 19 Q And --
- 20 A They would -- They started off with OxyContin, and
21 I told them I would not take that.
- 22 Q Okay.
- 23 A I didn't want it, so they put me on oxycodone -- or
24 Vicodin -- is that -- whatever -- and --
- 25 Q And that was about a year ago, --

1 A Yeah, that was --
2 Q -- was the last time --
3 A -- about a year ago. But I have it at home. When
4 it gets really severe, I take it. I live off
5 arthritis-strength Tylenol, but I have to take the
6 Vicodin, you know, more and more these days than I
7 have -- was having to take it. When I was taking
8 physical therapy, it helped out a lot.
9 Q When did you last do physical therapy?
10 A About a year ago was my last one.
11 Q And where did you do the physical therapy at?
12 A Human Performance at Midlands Orthopaedic.
13 Q In Columbia, in West Columbia or --
14 A Barnwell --
15 Q -- Lexington?
16 A Columbia.
17 Q Okay. Did you ever fill the prescription for the
18 OxyContin?
19 A Yes, I did.
20 Q Okay. Did you start to take it and had problems
21 with it?
22 A Yeah, it made me nauseous, really nauseous.
23 Q Okay. And you said you took it, the oxycodone,
24 during your --
25 A Mm-hmm.

- 1 Q -- physical therapy?
- 2 A Well, they -- After the OxyContin, they gave me
- 3 Oxy -- or Vicodin is --
- 4 Q Okay.
- 5 A Yeah.
- 6 Q And you said you've been taking it more and more
- 7 lately?
- 8 A Yeah. They gave me a prescription, and I --
- 9 Q And when did you last fill a prescription? It
- 10 sounded like, a moment ago, you were saying it was
- 11 about a year ago.
- 12 A No. No. I -- I think I filled a prescription
- 13 about a couple months ago for the Vicodin. He gave
- 14 --
- 15 Q Okay.
- 16 A Yeah.
- 17 Q And how often do you take it, the Vicodin?
- 18 A I try not to take it often because it makes me
- 19 sleepy.
- 20 Q Do you take it once a day?
- 21 A No. I probably take it maybe once or twice a week,
- 22 --
- 23 Q Okay.
- 24 A -- and I take --
- 25 Q Have you -- Have you been to the Oswald Law Firm

1 since your accident?

2 A Let's see. I go in there to meet the girls
3 sometimes. I do meet Billy for lunch. And if I
4 need to make a copy here or there, I go in there,
5 but that's just, you know, -- Other than social or
6 meeting Billy --

7 Q Do you go there once a week, would you say, or more
8 often, less often?

9 A Maybe a couple times a week.

10 Q Okay. Do you still have a desk at the Oswald Law
11 Firm?

12 A Yeah, but it -- they got it -- using it for other
13 stuff.

14 Q Okay. So, you said you go there to meet Billy for
15 lunch --

16 A Mostly, --

17 Q -- sometimes?

18 A -- yeah.

19 Q Okay. And what are the other -- What are the
20 other reasons you go in for? You said to talk with
21 the girls?

22 A Yeah. Sometimes they'll call and ask me a
23 question.

24 Q And what was your position there when you were
25 working there?

- 1 A I'm the office manager.
- 2 Q Are you able to drive?
- 3 A I have to be -- Yes, I -- I do drive, but make --
- 4 I make sure I don't have to turn my head a lot.
- 5 Q Okay.
- 6 A It mainly goes -- You know, I can't -- I have to
- 7 turn my whole body like this (demonstrating) when I
- 8 have to look, you know, --
- 9 Q Okay.
- 10 A -- that way.
- 11 Q Have you -- Since this accident took place, have
- 12 you traveled out of state?
- 13 A Let's see. Yeah, to North Carolina.
- 14 Q Okay. And what were you -- Where were you in
- 15 North Carolina?
- 16 A Black Mountain.
- 17 Q Okay. And what were you there for?
- 18 A Vacation.
- 19 Q Okay.
- 20 A We have a house up there.
- 21 Q And how many times have you been up there since
- 22 this accident?
- 23 A Maybe once -- Not quite once a month, maybe once
- 24 every other month --
- 25 Q Okay.

1 A -- when --
2 Q And --
3 A I'm sorry. Go ahead.
4 Q Oh --
5 A No. That's --
6 Q And how far of a drive is it up there?
7 A I think it's about a two-hour drive, kind of like
8 from here to Charleston, a little bit -- About a
9 two-hour -- hour, 45 minutes -- two-hour drive.
10 Q Are you able to ride or drive that far?
11 A I'm able to ride.
12 Q Okay. What's the farthest you've personally driven
13 since this accident?
14 A My mom's house at Lexington, maybe. She lives at
15 the lake.
16 Q Okay. And about how far is that?
17 A That's about 20 miles.
18 Q And what type of car do you drive?
19 A A Crown Vic.
20 Q And is it a stick-shift or automatic?
21 A Automatic.
22 Q Okay. Is it the same car you were driving at the
23 time of the accident?
24 A Yeah. They fixed it for me.
25 Q Okay. Did you -- Did you also have another

1 insurance claim for benefits on the date of the
2 accident?

3 A I don't think so, no.

4 Q Okay. Was Billy at the office when you got to the
5 office after the accident?

6 A No -- Let's see. Yes, he was. He was at the
7 office.

8 Q Okay. Well, when I asked if you had another
9 insurance claim for benefits, I didn't necessarily
10 mean for an injury to yourself. Was one of your
11 cars broken into?

12 A Yes, Billy's car was broken into.

13 Q Okay. Was it broken into that day or --

14 A It --

15 Q -- the night before?

16 A I -- It was broken into in our driveway. We were
17 having a lot of break-ins in Quail Hollow. But I
18 didn't -- It wasn't -- I didn't -- I don't know
19 if it was close to the accident or not.

20 Q You weren't sure if it was close to the date of the
21 accident?

22 A I'm not sure.

23 Q Did you have items stolen?

24 A Now, I think he did have some guns he -- some -- I
25 think he had guns stole, some rifles or a shotgun

1 or hunting stuff. That, I'm not sure. You'd have
2 to check with him on that.

3 Q Okay. Did you have any personal items of yours
4 stolen at that time?

5 A Not -- I don't recall having any, no.

6 Q Like a fur coat or anything like that?

7 A No. I wouldn't -- No. No. No. No. No. No.

8 Q Do you own a fur coat?

9 A Heck no. I wouldn't do that to an animal.

10 Q Okay. Do you -- Let me ask you, do you have the
11 Internet at your house?

12 A Yes.

13 Q Are you able to type? Do you type with all your
14 fingers?

15 A Yeah.

16 Q Do you have an e-mail account?

17 A Yes.

18 Q Do you use that pretty frequently?

19 A Not -- Not very much. Not like most normal
20 people.

21 Q Okay. Do you have a Facebook account or a MySpace
22 account?

23 A I have a Facebook.

24 Q Do you use that frequently?

25 A Just to -- Yeah, mostly on my phone.

- 1 Q Okay. Do you -- When I say frequently, do you use
2 it once a day or more frequently than that?
- 3 A On my phone, yes.
- 4 Q Okay. More frequently than once a day?
- 5 A Yeah.
- 6 Q Okay. Since you've -- Since you've been out of
7 work, since this accident in 2010, what sort of
8 things do you do to pass your time?
- 9 A I'm bored.
- 10 Q Okay. Do you -- Are you a member of any --
- 11 A Used to working.
- 12 Q Are you a member of any clubs?
- 13 A No.
- 14 Q Are you a member of any social groups?
- 15 A No. I'm a member of the Quail Hollow pool which I
16 haven't been able to use.
- 17 Q Okay. Are you a member of a church or synagogue?
- 18 A Church.
- 19 Q Okay. Do you regularly attend?
- 20 A Not too much.
- 21 Q Okay.
- 22 A I'm a heathen.
- 23 Q Since this accident in 2010, have you had any other
24 car wrecks?
- 25 A No.

- 1 Q Okay. Have you ever -- Have you had any other
2 accidents or injuries since this accident --
- 3 A Other than --
- 4 Q -- in 2010?
- 5 A -- fall -- my flip-flop coming off and falling up
6 the steps and injuring my stomach --
- 7 Q Okay.
- 8 A -- in April.
- 9 Q Other than that, no accidents?
- 10 A No.
- 11 Q Okay. We talked about the right arm numbness and
12 some pain in your left shoulder. How about the
13 headaches? Have you -- Have you continued to have
14 headaches?
- 15 A Every -- Every now and then I'll have a bad
16 headache.
- 17 Q Okay. The pain in your neck, since the accident in
18 2010, has it -- in your opinion, has it gotten
19 better, gotten worse or stayed about the same?
- 20 A Stayed the same.
- 21 Q Okay. And other than the -- the sensations in your
22 shoulder and arm and the headaches and the pain in
23 your neck, do you have any other symptoms or
24 problems from the 2010 accident, in your opinion?
- 25 A No, not really.

1 Mr. Leventis: Okay. Can y'all give me
2 just one second and take a break? We'll go
3 off the record for just a moment.

4 [Off the record at 11:53 a.m.;
5 back on the record at 11:54
6 a.m.]

7 Examination Continues

8 By Mr. Leventis:

9 Q We're back on the record after a brief personal
10 break. I just want to clarify one last thing about
11 your wages and salary with the Oswald Law Firm.
12 You said you were making \$3600 per month, --

13 A Mm-hmm.

14 Q -- or you're currently being paid \$3600 per month,
15 --

16 A Mm-hmm.

17 Q -- based on your sick leave?

18 A Yes.

19 Q And that's -- The rate of pay you were receiving
20 at the time of this accident in 2010 you believe
21 was \$3600 --

22 A Yes.

23 Q -- per month? Prior to the period when you were
24 out on unemployment, do you believe that the -- the
25 paychecks you were receiving prior to that period

1 in 2008 or 2009 were also \$3600 per month?

2 A Yeah. Sometime around there it changed, but I
3 think it was around \$3600, yes.

4 Q Okay. Your testimony earlier in the deposition was
5 that the last time you received a change in your
6 pay rate was about eight years prior to that.

7 A I think that's about right.

8 Q Okay. But just a question ago, you said sometime
9 around in there it had changed?

10 A Yeah. I'm not sure. I can check. I have my
11 payroll records at the office. I -- I can't
12 remember, because I stayed at \$3,000 for so long
13 and -- a month, and he raised it to -- wow -- 3600.

14 Q So, -- But was it about eight years prior that it
15 changed, or was it sometime in there, meaning
16 sometime close --

17 A This is 2012. I believe it was about seven or
18 eight years ago, yeah.

19 Q That it last --

20 A I think -- I think --

21 Q That your pay last changed?

22 A Yes. Yes.

23 Mr. Leventis: Okay. I don't have any
24 further questions for you at the moment, but
25 if you'll answer any questions your attorney

1 has, if any, for you.

2 Mr. Barton: I've just got one real
3 quick.

4 Examination

5 By Mr. Barton:

6 Q Your husband's law firm would have records of what
7 checks they paid you over the last ten years or so,
8 correct?

9 A Yeah.

10 Q Okay.

11 A And I can get them from Burkett, too.

12 Mr. Barton: Nothing further.

13 Mr. Leventis: Okay. That will conclude.
14 (Whereupon the deposition was concluded
15 at 3:11 p.m.)

16 (Deponent will read and sign her
17 deposition transcript.)

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC FILE # 1022089

BRENDA OSWALD,	)	
	)	
CLAIMANT,	)	
	)	DEPOSITION
VS.	)	
	)	OF
OSWALD LAW FIRM,	)	
	)	FRANKLIN S. RIGGINS
EMPLOYER,	)	
	)	
NORGUARD INSURANCE COMPANY,	)	
	)	
CARRIER,	)	
	)	
DEFENDANTS.	)	

Deposition of Franklin S. Riggins, taken pursuant to the South Carolina Rules of Civil Procedure and the Administrative Procedures Act, commencing at the hour of 12:59 p.m., Tuesday, November 20th, 2012, at the law offices of McKay, Cauthen, Settana & Stublely, 1303 Blanding Street, Columbia, South Carolina.

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Reported By: Sandra M. Snead

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Exhibits

No exhibits marked.

Court Reporter's Note: This transcript may contain quoted material. Such material is reproduced as read or quoted by the speaker. Double hyphens (--) denote interruption of speech, incomplete sentence/phrase, or trailing off. [ph] denotes phonetically written. [sic] denotes written as spoken. Social Security number, if present, has been partially or fully redacted or blacked out.

Stipulations

The reading and signing of this deposition is waived by the deponent and counsel for the respective parties.

Whereupon,

Franklin S. Riggins, being duly sworn and cautioned to speak the truth, the whole truth, and nothing but the truth, testified and deposed as follows:

The Court Reporter: State your name for the record.

The Deponent: Franklin Scott Riggins.

Examination

By Mr. Leventis:

Q Mr. Riggins, my name is Peter Leventis. I represent the Oswald Law Firm and their workers' compensation insurance carrier, GUARD Insurance, in regards to the workers' compensation claim of Brenda Sally Oswald. Let me ask you first, have you had any drugs or alcohol, whether prescription or otherwise, on today's date?

A Prescription --

Q Okay.

A -- heart medicine.

Q Anything that would impair -- Were any of the

1 medications or alcohol or whatever you've had
2 something that would impair your ability to
3 understand and answer my questions?

4 A No, sir. No, sir.

5 Q Okay. Is there any other reason you wouldn't be
6 able to fully understand and accurately answer my
7 questions?

8 A No, sir.

9 Q Okay. Just a few ground rules for the deposition.
10 One, it is being transcribed, so if you can answer
11 yes or no, if that's appropriate, or a verbal
12 response. It's a very common habit to say uh-huh
13 or uh-uh or nod. If you do that, I'll just note
14 the court reporter or I'll say is that a yes, to
15 make sure you -- I get the answer that you're --
16 you're giving me. A couple other things are, one,
17 my goal today is just to get some information about
18 your relationship to this claim and some -- some
19 information about you. It's not to trick you or to
20 trip you up. If you don't understand something I
21 ask, just let me know. I'll rephrase the question
22 so you can understand it and I get the information
23 I'm trying to get.

24 A Okay.

25 Q Lastly, if -- if you -- Like I said, if you need

1 me to repeat something, -- If you don't know
2 something, that's fine, but, also, let me -- Even
3 though you may anticipate the question I'm going to
4 ask you, so we've got a clear record, let me finish
5 asking the question, and if you're not -- If I
6 start asking another question and you're not
7 finished answering, just let me know and follow up.
8 If you say something incorrectly, that's okay.
9 Just let me know while we're still on the record,
10 so -- I said three months, I meant three years, or
11 whatever the case may be. Let me start by asking,
12 what is your current home address?
13 A 2225 Raven Trail.
14 Q And is that in West Columbia?
15 A Yes, sir.
16 Q And how long have you lived at that address for?
17 A Six years.
18 Q And if you can tell me your current home telephone
19 number.
20 A 936-0724.
21 Q And is that 803?
22 A Yes, sir.
23 Q Okay. Do you have a cell phone?
24 A Yes, sir.
25 Q What is your cell phone number?

1 A 803-862- -- not 8 -- wait a minute -- 206 -- I'm
2 sorry --
3 Q No. That's okay.
4 A -- 8262.
5 Q That's 206-8262?
6 A Right. Yes, sir.
7 Q And who is your cell phone provider?
8 A Verizon.
9 Q And who lives with you at the address on Raven
10 Trail?
11 A My wife, my son and my daughter.
12 Q And what is your wife's name?
13 A Margaret.
14 Q Is it Margaret Riggins?
15 A Yes, sir.
16 Q Okay. And do you know her -- Does she have a cell
17 phone?
18 A Yes, sir.
19 Q Do you know her cell phone number?
20 A It's 803-206-7740.
21 Q And, as you know, I'm going to go through the
22 questions with you, but I'm -- I'm here to talk to
23 you today in large part about an accident that you
24 were in back in 2010. Let me first ask, do you
25 know a Ms. Brenda Sally Oswald?

1 A I know -- I know of her. She is a neighbor, --
2 Q Okay.
3 A -- but I've never -- I had never met her before
4 that day.
5 Q About how far does she live from you?
6 A About six to eight houses up.
7 Q And when you say you never met her before that day,
8 what day are you talking about?
9 A The day of the accident.
10 Q Okay. And did you get in an automobile accident
11 with her, her vehicle, in September of 2010?
12 A Yes, sir.
13 Q Okay. Let me ask you, what kind of car do you
14 drive?
15 A I drive a Dodge Dakota pickup truck.
16 Q Is that the type of vehicle you were driving on the
17 date of the accident?
18 A Yes, sir.
19 Q Okay. And what year is that car?
20 A '96. '95. I'm sorry.
21 Q Is the Dakota a half-ton, or is that like an S10?
22 Is that a smaller truck or --
23 A A smaller truck.
24 Q Okay. And if you can tell me about, first, in your
25 own words, -- I'll ask you some specific questions,

1 as well, -- what took place on the date of the
2 accident.

3 A I was coming toward town on 378, just across --
4 Just had crossed over 26, and traffic had stopped.
5 I hit the brakes. It was a rainy day, by the way.
6 I had -- You know, I hit the brakes and didn't
7 stop quick enough and hit her in her rear.

8 Q And about how fast do you believe you were going at
9 the time of impact?

10 A We had just left the red light before, so it wasn't
11 -- we weren't really going that fast.

12 Q Okay.

13 A We were stopped at the red light there at -- at
14 Lexington Medical Center. So, we had just started
15 off moving. I would say probably 30, 35 miles an
16 hour at the most.

17 Q That's how fast you were going when you applied the
18 brakes, you think, or when you hit her?

19 A When I applied the brakes.

20 Q Do you feel your brakes were working at the time,
21 they just didn't stop you in time, or did your
22 brakes not work?

23 A Oh, my brakes worked fine. They just -- When I
24 slammed on brakes on the slick roads, I just slid
25 into her.

1 Q Okay. Were the police called -- do you recall --
2 to the scene?

3 A Yes, sir.

4 Q Okay. About how long after the impact -- could you
5 estimate, if you can, -- did the police arrive
6 after the -- after the accident itself took place?

7 A I would say no more than ten minutes. It was
8 fairly quick.

9 Q And did you have any damage to your vehicle? Do
10 you recall?

11 A Yes, sir.

12 Q What type of damage did you have?

13 A The front bumper was bent in -- you know, not real
14 bad. It's still on there, but, I mean, it's still
15 -- it's still damaged.

16 Q Okay.

17 A I didn't have it repaired, so --

18 Q You did not have it repaired?

19 A No, sir.

20 Q So, the car was driveable afterwards?

21 A Yes, sir.

22 Q Okay. Have -- Did you get anything repaired that
23 was messed up that day?

24 A No, sir.

25 Q Was it only the front bumper, or did you have any

1 other damage you're aware of?

2 A That was it.

3 Q Okay. Was there anybody else in the vehicle with
4 you?

5 A No, sir.

6 Q Okay. You said you were headed to town. Where
7 were you headed to at that time? Were you headed
8 to an appointment or work?

9 A I was going to pick my son up from Midlands Tech.

10 Q Okay. What time did you usually -- What time were
11 you slated to pick him up? Do you know?

12 A I -- I want to say around ten.

13 Q And what is your son's name and age, the one you
14 were going to pick up?

15 A Joshua Riggins, and he is now twenty.

16 Q He's twenty today, as we sit here in --

17 A Yes. Right.

18 Q In November of 2012, he's twenty years old?

19 A Correct.

20 Q Okay. Did you -- What did you do after the
21 initial impact?

22 A Once I -- We -- Once we hit, I got out, went up
23 -- She was getting out of her car. We stepped to
24 the side. She had already called the police. So,
25 we stood there, you know, and that's how I found

1 out she was our -- my neighbor, just average
2 friendly chit-chat, --
3 Q Okay.
4 A -- waiting on the police.
5 Q And did you -- Did you sustain any injuries that
6 you're aware of?
7 A No, sir.
8 Q Okay. Did you -- Whether you believe you
9 sustained any injuries, did you go get checked out
10 at the doctor's office or the hospital?
11 A No, sir.
12 Q Okay. Did an ambulance ever come to the scene?
13 A No, sir.
14 Q Okay. What was your observations of Ms. Oswald at
15 that time?
16 A She seemed to be fine, and she said she was fine.
17 Q Okay. Did she seem like she was in any pain or
18 distress, --
19 A No, sir.
20 Q -- from looking at her?
21 A No, sir.
22 Q Okay. Was she like wincing or grimacing that you
23 could tell?
24 A No, sir.
25 Q Okay. Could you tell if she was limping at all?

- 1 A None whatsoever.
- 2 Q Okay. From her body language, could you see if she
- 3 was guarding or, you know, sort of crouched up?
- 4 A No, sir.
- 5 Q Okay. Did she -- Did she seem to you to be moving
- 6 fluidly?
- 7 A Yes, sir.
- 8 Q Okay. Whether you -- Whether you could see it or
- 9 not, whether she showed any signs of -- the ones
- 10 I'm asking about, did she indicate to you that she
- 11 was in pain or had any particular issues at that
- 12 time?
- 13 A No, sir.
- 14 Q Okay.
- 15 A She -- She told me she was in -- she was fine.
- 16 Q Okay. Did you get a chance to observe or see any
- 17 damage to her vehicle at that time?
- 18 A I looked her vehicle over. I couldn't really tell
- 19 if anything was damaged.
- 20 Q Do you recall what type of vehicle it was, whether
- 21 you recall the make and model, if it was a sedan or
- 22 a truck or a van?
- 23 A I want to say a Crown Vic, Crown Victoria.
- 24 Q Okay. And you said, from looking over the vehicle,
- 25 you didn't see any apparent damage?

1 A Not anything other than, you know, I could see a --
2 a scuff mark on the bumper where I hit it.

3 Q Could you tell if the bumper was bent in or bent
4 down at all --

5 A It did not look --

6 Q -- from looking at it?

7 A -- like it.

8 Q Okay. You're just saying whether it was, it didn't
9 look like it to you?

10 A Yes, sir.

11 Q Okay. Do you recall if you had any other
12 communications with Ms. Oswald at that time, at the
13 --

14 A Yes, --

15 Q -- time of the accident?

16 A At the time of the accident, no. That evening, I
17 called her in concern, making sure she was okay.
18 She said she was fine.

19 Q Okay. Was that over the telephone?

20 A Yes, sir.

21 Q Do you remember if you called her from your home
22 phone or from your cell phone?

23 A My cell phone.

24 Q And what number did you call? Did you call a
25 number you got from her or a number from the

1 traffic report?

2 A The number from the traffic report.

3 Q And what -- And you had said -- Can you tell me
4 one more time what she told you?

5 A I asked her what -- how she was doing, if she was
6 okay, and she said she was doing fine, thanks for
7 calling.

8 Q Did you ask her if she had been to the doctor?

9 A No, sir.

10 Q Was that pretty much the extent of your
11 conversation?

12 A Yes, sir.

13 Q Okay. Either that night when you spoke with her or
14 when you spoke with her at the side of the road, --
15 Did you talk with her at any other times that day?

16 A No, sir.

17 Q Okay. Did you talk with her about what she was
18 doing at that time, in either of those two
19 conversations, where she was headed or what she was
20 up to?

21 A Yes, sir. I -- And I'm not positive. I believe
22 she -- Yes, sir. She said she was on her way to
23 work.

24 Q Okay. Did she tell you where -- At that time --
25 You may know where she works now, but I'm talking

1 about -- I'm taking you back to the date of the
2 accident. Did she tell --

3 A No, sir.

4 Q -- you where she worked or what she did?

5 A No, sir.

6 Q Okay. And do you believe she was telling you she
7 was on her way in to work?

8 Mr. Barton: Object to the form.

9 Q You can still answer the question.

10 A She -- I just -- That's the way I took it, as she
11 was on her way in, going from home to work.

12 Q Okay. Did she use those specific words, or that
13 was your understanding?

14 A That was my understanding. She just -- Like I
15 said before, she said she was on her way to work.

16 Q Okay. Who was your auto insurance carrier at that
17 time? Do you recall?

18 A GEICO.

19 Q Okay. Did you -- Do you have an auto insurance
20 agent, or did you do it over the phone or online?

21 A I have no idea. My wife takes care of that.

22 Q Okay. But you believe GEICO was your insurance
23 carrier at the time of this accident?

24 A Yes, sir.

25 Q Okay. Did you ever file the claim for injury to

- 1 yourself or to your vehicle with GEICO?
- 2 A No, sir.
- 3 Q Okay. Whether you filed a claim or not, did you
- 4 ever receive a check or any settlement or any
- 5 monies from GEICO?
- 6 A No, sir.
- 7 Q Okay. Are you aware if Ms. Oswald ever filed a
- 8 claim against your insurance?
- 9 A Yes, sir.
- 10 Q You say yes, you're aware --
- 11 A Yes, I'm aware that she did file a claim.
- 12 Q Okay. And how did you become aware of that?
- 13 A From phone calls from GEICO wanting to know my side
- 14 of the --
- 15 Q Do you recall when you first received any phone
- 16 calls from GEICO? You can tell me within the --
- 17 how long from the accident or the month or the time
- 18 of year, if you recall.
- 19 A I'd say within the first six months after the
- 20 accident, but, other than that, I couldn't be
- 21 specific.
- 22 Q Do you still have car insurance through GEICO?
- 23 A Yes, sir.
- 24 Q Okay. Other than the phone call that you just
- 25 referenced that, you know, you were asked by GEICO

1 your side of the story, have you had any other
2 communications with GEICO about the accident?

3 A No, sir.

4 Q Okay. Since you spoke with Ms. Oswald that
5 evening, the evening of the accident, or that --
6 that day, later that day, --

7 A Yes.

8 Q -- have you spoken with Ms. Oswald or communicated
9 with her since then?

10 A No, sir.

11 Q Okay. Have you received any -- any letters or any
12 other communication from anyone else, other than
13 GEICO and Ms. Oswald, about this accident?

14 A No, sir.

15 Q Okay. I'm going to ask you this. This will be
16 redacted from the -- from the transcript once they
17 print it. What is your Social Security number?

18 A [REDACTED]-[REDACTED]-[REDACTED].

19 Q Have you ever had any other Social Security
20 numbers?

21 A No, sir.

22 Q Okay. Do you have a valid South Carolina driver's
23 license?

24 A Yes, sir.

25 Q Okay. What is your date of birth? This won't be

1 redacted. This actually will be printed on the
2 record.

3 A January 21st, 1959.

4 Q Are you aware or do you know of any lawsuits that
5 have been filed against you in regards to this
6 accident?

7 A No, sir.

8 Q Okay. Do you know Ms. Oswald's husband, or have
9 you ever met Mr. Billy Oswald?

10 A No, sir.

11 Mr. Leventis: Okay. I don't have any
12 further questions for you at the moment, but I
13 ask you to answer any questions that Mr.
14 Barton may have.

15 Mr. Barton: Okay. Just a couple real
16 quick.

17 Examination

18 By Mr. Barton:

19 Q Immediately after the accident, did Mrs. Oswald
20 tell you where she was coming from?

21 A No, sir. I mean, I knew where she was coming from
22 because I had followed her out of the neighborhood.
23 I mean, I was -- She had -- When she went by the
24 house, I backed out, and I pulled out right behind
25 her, and, so, --

1 Q All right. When you talked to her that night, how
2 long did you speak with her?

3 A No more than two to three minutes.

4 Q Okay. Did you ask her if she'd been to the doctor?

5 A No, sir.

6 Q Did you ask her if she was intending on going to
7 the doctor?

8 A No, sir.

9 Q Do you know what kind of bumper she had on her
10 vehicle?

11 A Just the regular bumper the -- that comes on that
12 car. It --

13 Q Is it a collapsible bumper, or do you know?

14 A No, sir, I don't know --

15 Q Okay.

16 A -- for sure.

17 Mr. Barton: All right. No further
18 questions.

19 Mr. Leventis: Just one follow-up on one
20 of your answers to Mr. Barton.

21 Re-examination

22 By Mr. Leventis:

23 Q You had followed her out of your neighborhood that
24 morning?

25 A Yes, sir.

1 Q And when I say that morning, I mean just prior to
2 the wreck, just --

3 A Just prior to the accident, yes.

4 Q So, you actually followed her onto 378?

5 A Yes, sir.

6 Q And when you say she passed you right before you
7 backed out of your driveway, was that on Raven
8 Trail her car --

9 A Yes, sir.

10 Q -- passed you?

11 A Yes, sir.

12 Mr. Leventis: Okay. No further
13 questions.

14 Mr. Barton: No further questions.
15 (Whereupon the deposition was concluded at
16 1:19 p.m.)

17 **(Deponent has waived reading and signing.)**

State of South Carolina)
) Certificate
County of Lexington)

Be it known that the foregoing deposition of Franklin S. Riggins, was taken before me;

That I was then and there a Notary Public in and for the State of South Carolina-At-Large;

That by virtue thereof I was duly authorized to administer an oath;

That the witness was by me first duly sworn to testify the truth, the whole truth, and nothing but the truth concerning the matter in controversy aforesaid;

That the foregoing transcript of 20 typewritten pages represents a true, accurate and complete transcription of the testimony so given at the time and place aforesaid to the best of my skill and ability;

That I am not related to nor an employee of any of the parties hereto, nor a relative or employee of any attorney or counsel employed by the parties hereto, nor interested in the outcome of this action.

Signed this 27th day of November 2012.

Sandra M. Snead

Sandra M. Snead

Notary Public for South Carolina
My commission expires October 17, 2013.

Note: Recordings are retained for twelve (12) months from date of certification.

VEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC FILE NO. 1022089

BRENDA M. OSWALD,	)	
	)	
CLAIMANT,	)	HEARING
	)	BEFORE COMMISSIONER
v.	)	ANDREA C. ROCHE
	)	
OSWALD LAW FIRM,	)	<u>TRANSCRIPT</u>
	)	
EMPLOYER,	)	
AND	)	
	)	
NORGUARD INSURANCE	)	
COMPANY,	)	
	)	
DEFENDANT.	)	
_____	)	



COPY

THE WORKERS' COMPENSATION HEARING, TAKEN BEFORE
CORA ELLIS BRUTON, A NOTARY PUBLIC IN AND FOR THE STATE OF
SOUTH CAROLINA, COMMENCING AT THE HOUR OF 1:10 A.M.,
THURSDAY, MARCH 21, 2013, COUNTY JUDICIAL CENTER, 205 EAST
MAIN STREET, LEXINGTON, SOUTH CAROLINA 29072.

CORA ELLIS BRUTON
COURT REPORTER
131 BROWNING COURT
LEXINGTON, SOUTH CAROLINA 29073
803-397-0189

000259

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REPORTED BY

CORA ELLIS BRUTON
COURT REPORTER
131 BROWNING COURT
LEXINGTON, SOUTH CAROLINA 29073
803-397-0189

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EXHIBITS

(No Exhibits Proffered)

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CORA ELLIS BRUTON - COURT REPORTER
131 BROWNING COURT - LEXINGTON, SOUTH CAROLINA 29073
803-397-0189

1 THE COURT: Today's date is March the 21st, 2013
2 This is WCC File Number 1022089. This is the case of the
3 Claimant, Brenda Oswald, represented by Attorney Frank
4 Barton, versus the Employer, Oswald Law Firm, LLC, its
5 Carrier Norguard Insurance Company; both Defendants
6 represented by Attorney Peter Leventis.

7 We have a date of accident of September 27th, 2010, an
8 average weekly wage of \$692.30 with a resulting
9 compensation rate of \$461.54.

10 We're here today to determine the issues as set forth
11 on the Forms 50 and 51.

12 Are there any objections to jurisdiction or venue?

13 MR. BARTON: No, ma'am.

14 MR. LEVENTIS: None from the Defense, Your Honor.

15 THE COURT: There was an objection to one of the APAs.
16 It was an ISO report, a Claims search that the Defendants
17 were attempting to submit and I have sustained the
18 objection to that and have removed that from the record and
19 I believe that was under Tab 16, so that is no longer in
20 the record.

21 Other than that, any objections to APAs?

22 MR. BARTON: None from the Claimant, Your Honor.

23 MR. LEVINTIS: None from the Defense, Your Honor. We
24 have not turned in Billy Oswald's deposition. It was -- it
25 was noticed as an exhibit but only if necessary for

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1 impeachment purposes. I'm not handing it out at this time.

2 THE COURT: All right. Before going on the record we
3 did have a pre-hearing conference.

4 It is the position of the Claimant that she sustained
5 an injury by accident arising out of the course and scope
6 of her employment on September 27th, 2010, when she was in
7 a motor vehicle accident. It is the position of the
8 Claimant she injured her neck and her back and both of her
9 shoulders. It is the position of the Claimant that she
10 would be entitled to past causally related medical
11 treatment, has not reached maximum medical improvement and
12 is in need of additional medical treatment. It is the
13 position of the Claimant that she would be entitled to
14 temporary total disability benefits from the date of the
15 accident to the present and continuing.

16 It is the position of the Defendants that the Claimant
17 cannot carry of burden of proving an injury by accident
18 arising out of the course and scope of her employment. It
19 is the position of the Defendants that the Claimant was --
20 that this case is subject to the Going and Coming Rule,
21 that the Claimant was going to work and, therefore, would
22 not be compensable. It is the position of the Defendants
23 that there is -- although the Claimant claims she was going
24 from -- going to the bank, I believe, that there's evidence
25 from a non-interested party to indicate otherwise. It is

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1 the position of the Defendants that, furthermore, the
2 Claimant cannot prove by medical evidence that she has
3 suffered an aggravation of a preexisting injury pursuant to
4 42-9-35, so even if I did find that the accident itself was
5 compensable, that her injuries are not compensable pursuant
6 to that and that she has failed her burden there.

7 Furthermore, it is the position of the Defendants that this
8 case would be barred by the Doctrine of Laches, that the
9 Claimant worked for a lawyer's office, her husband's a
10 lawyer, that she waited and filed a Form 50 in 2010 but
11 then withdrew that and didn't file another Form 50 until
12 2012, and then withdrew that one as well. It would be the
13 position of the Defendants that the Claimant has waited an
14 unreasonable time to pursue her claim and that this has
15 caused prejudice to the Defendants in that they've been
16 unable to direct medical care and to lessen the Claimant's
17 period of disability. Furthermore, it is the position of
18 the Defendants that if I find the claim compensable that
19 the Claimant would not be entitled to temporary total
20 disability benefits. First, the Claimant has waited an
21 unreasonable amount of time, not just Laches, but just in
22 general, to pursue her temporary total disability benefits.
23 Furthermore, the Claimant has been able to work, has been
24 working, has held herself out as Office Manager and as a
25 real estate agent and does come into the office and work

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1 and that the Claimant has been paid the entire time she has
2 been out.

3 Is there anything either of you would like to add?

4 MR. BARTON: No, ma'am.

5 MR. LEVINTIS: Yes, Your Honor, just one small point
6 on the Going and Coming Rule. That if, indeed, you find --
7 or the facts support the position of the Claimant was
8 coming from her house, even if she were going to the bank,
9 that if it were on the way to the office, under the Dual
10 Purpose Doctrine, it would still be barred by the Going and
11 Coming Rule.

12 THE COURT: Anything in addition?

13 MR. BARTON: No, ma'am.

14 MR. LEVINTIS: None, Your Honor.

15 THE COURT: All right. Mr. Barton, I understand that
16 the Claimant is your first witness?

17 MR. BARTON: No, ma'am, I'm going to call Mr. Oswald
18 first.

19 THE COURT: All right. Mr. Oswald, please raise your
20 right hand. Do you swear to tell the truth, the whole
21 truth and nothing but the truth?

22 THE WITNESS: Yes, I do.

23 THE COURT: Please state your full name for the
24 record.

25 THE WITNESS: Billy R. Oswald.

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1 THE COURT: Mr Barton, your witness

2 Billy R. Oswald,

3 Having first been duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. BARTON:

6 Q Mr. Oswald, what is your occupation?

7 A I'm a lawyer.

8 Q Okay. And what is your relationship to the
9 Claimant?

10 A That's my wife.

11 Q It's my understanding that you're the president
12 of Oswald Law Firm, LLC; is that correct?

13 A Yeah, I'm the owner and president.

14 Q Okay. And you're the sole owner of the law firm?

15 A Yes, I am.

16 Q All right. In September of 2010, was Brenda
17 working for the law firm?

18 A Yes.

19 Q Was she working as office manager?

20 A Yes, she was.

21 Q Now, tell the Commissioner what her duties were
22 as office manager.

23 A As office manager she kind of supervised all the
24 paralegals and was the main person between the attorneys
25 and paralegals, kind of the middle person there. She also

000265

1 -- she kept up with the books in the law office She, like
2 -- payroll, she did payroll, went to the accountant, picked
3 up payroll, brought it back up, and made sure everybody got
4 the right check, the right amount and those kinds of
5 things.

6 Q Okay. Were -- as part of her duties did she run
7 errands for the law firm?

8 A Yes, she did. That was part of her --

9 Q And was one of the duties in running errands
10 picking up payroll checks?

11 A Yeah, like we are one/ of those few people that
12 get away with paying our employees once a month and on
13 September the 27th, it was time to pick up the October
14 payroll at the accountant's office.

15 Q Okay. What -- who was the accountant at the
16 time?

17 A Ronnie Burkett, which is right around from where
18 we live.

19 Q Okay. On the morning of September 27th, 2010,
20 were you present at home when she left?

21 A Yes, I was.

22 Q Okay. Was it your understanding that when she
23 left that morning that she was supposed to go by Burkett,
24 CPA and pick up payroll checks for the law firm?

25 A Actually, she left the house that morning to go

000266

1 pick up the payroll and to make deposits at the bank. She
2 was doing both of those.

3 Q Okay. And the bank would have been BB&T,
4 correct?

5 A BB&T on past Burkett.

6 Q Okay. Which was still along 378 in West
7 Columbia?

8 A Yeah, still on Highway 378.

9 Q All right. Now, if she had left the house and
10 gone into the office -- okay, she'd gone directly into the
11 office, would it have still been her duty to go back to
12 pick up --

13 A Yes.

14 Q -- the checks from Burkett?

15 A Yes, and to make the deposit.

16 Q Okay. All right. How did you find that -- how
17 did you find out about the accident she was in that
18 morning?

19 A Brenda called me and said she had just left
20 Burkett's and was headed to make the deposit and that
21 someone had rear ended her on Highway 378.

22 Q Okay. At that time did you advise her to go to
23 the emergency room?

24 A I did. I said that you need go on Brenda and get
25 checked out because she said her neck was hurting.

000267

1 Q All right. Now, did she pick up the checks from
2 Burkett?

3 A Yes, she picked up the checks from Burkett.

4 Q Okay. Now, there -- it's my understanding at
5 that time there are only two people that would pick up the
6 payroll checks and that would have been Brenda, who did it
7 pretty much all the time, or Gene Stockholm if for some
8 reason Brenda couldn't do it; is that correct?

9 A Yes, but -- but really it's Brenda.

10 Q Okay. And Mr. Stockholm is sitting outside
11 subject to my subpoena, correct?

12 A Yes, he is.

13 Q Okay. So he would know whether or not he had to
14 go pick up the checks that morning, correct?

15 A Right. He would have --

16 Q All right. Do you know a Robert Rice?

17 A Yes, I do. He's downstairs, by the way, I just
18 saw him. He's in a hearing up here for something else.

19 Q Was that the guy that came in when we were out
20 there? Never mind -- never mind.

21 A No, it was earlier this morning.

22 Q Okay. All right. Now, is he an insurance --
23 does he sell insurance for the law firm building?

24 A Yes, he insures the building that we're in.

25 Q Okay.

000268

1 A Or he was -- well, Frank, he was -- he insures it
2 now. In 2010 he was talking to us about insuring it.

3 Q Okay. But that would have been -- but the only
4 insurance you were talking to him about was related to the
5 law office building, correct?

6 A That's it.

7 Q All right. Is -- is it your position that Brenda
8 was working for the law firm at the time that she had the
9 accident?

10 A There's absolutely no question that she was doing
11 what she was supposed to be doing as a part of the law
12 firm.

13 Q Okay. And you found out about the accident by a
14 phone call shortly after it happened?

15 A Yes, Brenda called me from the scene of the
16 accident.

17 Q And you actually advised her to go to the
18 emergency room, correct?

19 A I told her to go on to Lexington Hospital.

20 Q Now, it's my understanding after she went to the
21 emergency room, she was later seen by Dr. Margalit over in
22 West Columbia?

23 A That's correct.

24 Q Has she seen Dr. Margalit before?

25 A Yes, it was a couple of things. Dr. Margalit is

000269

1 our company doctor

2 Q Okay. That's who --

3 A That's who we would send anybody to that worked
4 for us.

5 Q And did you advise her to go see Dr. Margalit?

6 A I did.

7 Q And it's my understanding Dr. Margalit
8 subsequently referred her to Dr. O'Leary with Midlands
9 Orthopedics; is that correct?

10 A That is correct.

11 Q Did you have any objections to her going to see
12 Dr. O'Leary?

13 A No, he -- he thought she should see an
14 orthopedist and he sent her to O'Leary.

15 Q Okay. And subsequently -- well, O'Leary had her
16 seen by Dr. LaMotta; is that correct?

17 A That is correct.

18 MR. LEVENTIS: Object. Based on knowledge.

19 A Dr. LaMotta was Dr. O'Leary's partner and --

20 THE COURT: Overruled.

21 Q Okay. Did you have any objections to her seeing
22 Dr. LaMotta?

23 A No, I did not.

24 Q Now, I believe a Form 50 was first filed by your
25 -- by your wife -- by Brenda, back in May of 2011; is that

000270

1 correct?

2 A I think that's right but I don't really remember
3 that.

4 Q Okay. Since that has been filed has anybody
5 through workers' compensation insurance carrier called you
6 and told you to send her to some -- to another doctor?

7 A No.

8 Q To your knowledge, has anybody called her and
9 told her she needed to see another doctor?

10 A Nobody has called anybody in that regards.

11 Q Has -- has any -- has anybody from the insurance
12 carrier called you to object to the doctor she was seeing?

13 A No, they haven't.

14 Q Off and on approximately how many years has
15 Brenda worked for the firm as office manager?

16 A Frankly, the truth of the matter is, I've been
17 practicing law 38 years and Brenda -- within the first year
18 I was out of law school started working with me. Now in
19 that period, she has worked some and then not worked some
20 and she may have worked for some other people during that
21 timeframe, but the truth of the matter, for the last say 20
22 years, Brenda's been there permanently but she's actually
23 been there a little bit longer than that.

24 Q Okay. All right. Now, it's my understanding she
25 had gone out on -- and received unemployment benefits for a

000271

1 while I'd say up until about June of -- was it June of
2 2011?

3 A Well, what happened there, just briefly --

4 Q Okay.

5 A -- is I almost -- I was put in the hospital in
6 2008. I had a five percent chance to survive. As a result
7 of that I missed about six months of work at the office.
8 During that timeframe the office took a big hit, like in a
9 couple of months we didn't get a case in. That was when I
10 was sick and out and after we looked at that we thought
11 that we probably needed to cut back some and we really
12 needed to lay some people off until we could build back
13 what was going on. And in 2009, we decided we would lay
14 Brenda off because the other girls working at the office
15 all had children, Brenda and I didn't, and we wanted to --
16 it would be less of an impact if Brenda was laid off during
17 that period so we laid her off, brought her back to work in
18 June of -- right before the wreck.

19 Q Okay. And the other reason that she was -- when
20 she was laid off she was able -- she was spending a lot of
21 time caring for you, wasn't she?

22 A Yeah, a lot of people were spending a lot of time
23 caring for me.

24 Q Yes, sir.

25 A Yeah, but Brenda was the one that spent all the

000272

1 time basically.

2 Q You actually had serious health problems, didn't
3 you?

4 A Five percent chance to live.

5 Q Now, Brenda's had some accident -- accidents and
6 injuries in the past, correct?

7 A Yes, she has.

8 Q And I think the last one she had before the
9 accident we're here on today was in 2008?

10 A Yes, that is correct.

11 Q All right. In September of 2010, before this
12 accident, did Brenda Oswald have any problems, any physical
13 problems that prevented her from doing her job as office
14 manager?

15 A Frank, she was working -- when she came back to
16 work in June until she had this wreck, she never missed a
17 day from work, she was there, she was complaining about
18 nothing, and it wasn't until the wreck that all this came
19 about.

20 Q Okay. Has she returned to actually working as
21 the office manager since this accident?

22 A No. One time she came in and worked a part of
23 the day and then left.

24 Q All right. Does she still come by the office?

25 A Yeah.

000273

1 Q How often does she come by the office?

2 A I don't know, she could come by once or twice a
3 week because we go out to lunch, she goes out to lunch with
4 the girls. You know, she's not working, she just runs by
5 the office.

6 Q All right. On average, how -- how many hours
7 would you say she spends in the office? Let -- let me back
8 up and ask this this way. Since this accident in September
9 of 2010, this workers' comp accident; how many hours a week
10 would you say she spends at the firm?

11 A I'd say less than four or five.

12 Q Okay. How would you describe her con --
13 condition physically now as compared to immediately before
14 this accident?

15 A Before the accident she was performing all of
16 what she wanted to do, both at work and in her free time.
17 Right now she is very limited in what she can do. She
18 cannot sit for long periods. She cannot stand up for long
19 periods. She certainly cannot drive as well as she did.
20 She drives some now but it's not like it is if -- she
21 really doesn't do anything like going fishing or anything
22 like that, you know, prior.

23 Q Okay. You need to explain to me and to the
24 Commissioner what -- what her -- explain to us how she was
25 being paid. First, let's go -- how was she being paid

000274

1 immediately before this accident occurred?

2 A Brenda was getting paid \$36,000.00 a year. She
3 was being paid monthly like everybody else. The difference
4 was Brenda's check always showed zero and the point to that
5 was every dollar that was paid to Brenda was sent to pay
6 federal taxes. In other words, she took out 100 percent of
7 her salary to pay taxes, state and federal; it was both of
8 them.

9 Q Okay. Whose taxes was that being set aside to
10 pay?

11 A For our family.

12 Q Okay. Was -- y'all filed --

13 A We filed a joint return, and it was to pay for
14 our taxes.

15 Q Okay. After this accident, can you -- because I
16 -- this is kind of confusing to me too. Explain to the
17 Commissioner how she was being paid after this accident.
18 What was going on?

19 A It's the same thing. Brenda, after the accident,
20 we continued to pay her sick leave and that money was taken
21 out the same way it had been prior to the accident. I mean
22 her -- her actual salary is \$36,000.00 a year and if you
23 look at our tax returns for any year, including the ones
24 after, it will show she's making \$36,000.00. But in
25 essence, it's the same thing as if she was getting paid

000275

1 sick leave. I mean, that's just a benefit she's earned for
2 38 year's work.

3 Q Okay. Is that a voluntary payment the law firm's
4 making to her?

5 A Yes, absolutely, volunteer. I mean not -- not,
6 when -- no, that is payment before the accident for earned
7 income. Since the accident, it is a sick pay benefit that
8 she received. You know, it -- it -- it ends up being the
9 same thing, her checks are still zero. They've always been
10 zero.

11 Q All right. But those aren't payments that are
12 actually being made to her for actually working since the
13 accident.

14 A Brenda has not worked at all since the accident
15 but that one day. She has not contributed a bit. As a
16 matter of fact, we probably had to hire a few people since
17 Brenda's gone to fill in for everything she used to do
18 before the accident.

19 Q All right. Now, were the six -- were the sick
20 pay payments you were making to her, were those intended by
21 you to take the place of workers' compensation payments?

22 A Absolutely not. It was intended that when we
23 received our workers' comp that we would be paid back for
24 what we had given her as a benefit.

25 MR. BARTON: Nothing further, Your Honor.

000276

1 THE COURT: All right Mr. Leventis

2 CROSS EXAMINATION

3 BY MR. LEVINTIS:

4 Q Mr. Oswald, are you currently on Social Security
5 disability?

6 A What now?

7 Q Are you currently out of work on disability?

8 A Yes, I am.

9 Q And is that 100 percent disability?

10 A Yes, it is.

11 Q Okay. Through Social Security?

12 A Yes.

13 Q Okay. How long have you been out of work
14 completely?

15 A When I went in the hospital and had my problem in
16 2008, I was on a ventilator four months and then I just
17 haven't been back to work. I mean, I -- I -- I do the same
18 thing Brenda -- I go by and have lunch with whoever happens
19 to be there to kind of pass the day away but I haven't
20 worked at all -- I haven't been to one hearing --

21 Q Okay.

22 A -- since then. Not -- I haven't done anything.

23 Q You -- you just testified about how many hours a
24 week Ms. Oswald was at the firm --

25 A Right.

000277

1 Q -- what was your basis for knowledge then if you
2 have not been at the firm?

3 A Just being there the time that I was there and
4 I'm generally there maybe ten hours a week. I just know
5 how much Brenda came by based on the fact that I'm around.

6 Q Okay. Prior to this accident, did Ms. Oswald do
7 things outside of the firm?

8 A Yes.

9 Q Okay. Like dropping off payroll?

10 A That was a part of her job as -- with the law
11 firm was to drop off payroll.

12 Q Okay. Did she look over settlement numbers for
13 cases that the firm worked?

14 A Yeah, that's a part of her job.

15 Q Okay. Did she hand out payroll checks?

16 A Yes, that was a part of her job.

17 Q Okay. Has she done those types of things since
18 this accident in September of 2010?

19 A The only thing she may have done in that regards
20 is she may have asked one of the girls to go by Burkett and
21 pick up the payroll now and bring it to the office but as
22 far as -- as far as really being involved in that she's
23 kind of tried to stay away from that.

24 Q Does she -- has she ever answered phones in the
25 office since this accident in September of 2010?

000278

1 A She might have occasionally when she came by. If
2 the phone rang she might have answered it if there was no
3 one else there. We've got a small firm now and sometimes
4 our firm may not have anybody waiting on anybody for a
5 couple hours at a time.

6 Q Okay. Do you remember when I took your
7 deposition along with Attorney Barton?

8 A Yes, I do.

9 Q Okay. Do you remember telling me at that time --

10 MR. BARTON: Your Honor, this is his own client. I --
11 I would object to him -- to impeaching his own client.

12 THE COURT: Overruled.

13 MR. BARTON: Yes, ma'am.

14 THE COURT: You tried, but overruled.

15 Q Mr. Oswald, do you recall testifying at that time
16 that she still did make drop offs of payroll checks and
17 accounting for the firm?

18 A I don't remember that but I know that she does
19 not do that, you know every month she does not do that
20 monthly as a part of what she's doing anymore. I'm not
21 saying that in the last two and a half years, if she was at
22 home coming to the office to eat lunch with the girls that
23 she didn't go by and pick up the payroll and bring it to
24 the office. But on the morning that the wreck happened,
25 that was a part of her job was to go get the checks coming

000279

1 in and that's what she was doing She was going from
2 picking up the payroll to making the deposit at the bank.

3 Q But my question to you is, since this accident in
4 September of 2010, when we had spoken before during the
5 sworn deposition testimony --

6 A Right.

7 Q -- you discussed things she did such as answering
8 the telephone, handing out payroll, dropping off settlement
9 checks --

10 A She may have done some of those things.

11 Q -- picking up accounting checks --

12 A She may have done some of those things.

13 Q Did -- did she or did she not do those things --

14 A She occasionally --

15 Q -- after September of 2010?

16 A -- she occasionally did those. She did
17 occasionally do those.

18 Q Okay.

19 A Like out of a 40 hour week, she might have spent
20 one hour doing that or something.

21 Q Okay. And you're saying she only came into the
22 firm one time since September of 2010, to do work --

23 A She tried to work the day.

24 Q Okay.

25 A She came in in the morning and said I'm here to

000280

1 go to work at 9:00 and then by 11:00 or so, 10.00 or 11:00,
2 she just couldn't keep going and she left and went home.

3 Q Okay You testified a moment ago in response to
4 your attorney's questions that -- excuse me, in response to
5 Attorney Barton's questions, that she would be at the
6 office four or five hours a week; is that correct?

7 A Probably; I'd say she comes by the office --

8 Q Okay.

9 A -- four or five hours, mainly to go to lunch with
10 me or some of the girls.

11 Q Okay. Does she still do work or hold herself out
12 as a realtor to your knowledge?

13 A She's a -- she is a licensed real estate agent
14 and I would have to say yes. She earns no money as a
15 realtor and has not received any money in the last several
16 years. She might have gotten one \$900.00 check one time.

17 Q Okay. In -- in -- in her work as a realtor?

18 A Yes.

19 Q Okay. Just prior to this accident you mentioned
20 that she was -- she was laid off by the Oswald Law Firm?

21 A Yes, she was.

22 Q Okay. Was she out of work on unemployment to
23 your knowledge at that time?

24 A Yes, she was on unemployment:

25 Q Okay. And she was laid off for six months; is

000281

1 that correct; approximately six months?

2 A Yes, she was -- it was like December of 2009
3 until June of 2010.

4 Q Mr. Oswald, was her rate of pay \$18,000.00 before
5 you laid her off?

6 A Yes, it was.

7 Q Okay. And when she came back to work after being
8 off for six months, did she come back at a rate of pay of
9 \$36,000.00?

10 A She did.

11 Q Okay. You mentioned just a moment ago that you
12 were trying to cut expenses and you had to lay people off,
13 including your wife. What was the basis for doubling her
14 salary from \$18,000.00 to \$36,000.00 while you're cutting
15 expenses?

16 Q Okay. Remember now what I've also said a while
17 ago, is her whole raise went to pay taxes, she never
18 received a nickel of that. Her check always read zero, so
19 when you say pay expenses, unfortunately for me, I don't
20 know about y'all, I get stuck with paying federal and state
21 taxes, so that's not really paying expenses. That's really
22 shifting money to an expense and that's all we did. We --
23 her salary was raised to \$36,000.00 which is what it should
24 have been for the last 20 years so what it should have been
25 but every penny of it went to taxes.

000282

1 Q When you say her check was zero you mean her net
2 paycheck was zero, her pay?

3 A The pay check that's handed to Brenda reflects
4 zero, every time.

5 Q Okay. But the gross amount was a monthly check
6 representing one twelfth of \$36,000.00 or \$3,000; is that
7 correct?

8 A Which every penny went to federal and state
9 taxes.

10 Q Okay. But it was a check cut from the firm to
11 Ms. Oswald, no matter how it inured to her benefit.

12 A No, there was never a check written to Brenda --
13 the taxes were taken out and Brenda's check was zero.

14 Q And you said y'all filed joint taxes, you and Ms.
15 Oswald?

16 A Yes, we do.

17 Q Okay. So that went to pay joint taxes; is that
18 correct?

19 A It went to pay joint taxes for Brenda and I, it
20 did.

21 Q Okay. Prior to her going out on unemployment for
22 six months and you represented that she was laid off from
23 the Oswald Law Firm; is that correct?

24 A Right.

25 Q Did she receive zero net pay checks prior to that

000283

1 time?

2 A Yes.

3 Q Okay. And what was -- but was the rate of pay
4 one twelfth of \$18,000.00 annually?

5 A It was -- prior to the layoff, it was \$18,000.00.
6 When she came back it was \$36,000.00. During the lay off
7 from a family standpoint, Brenda and I did better because,
8 even though the checks were zero, she did receive a little
9 bit of unemployment, a couple of hundred dollars a week, so
10 during that period it did really benefit for her to be laid
11 off. Now we could have laid off another employee but we
12 didn't want to do that.

13 Q And is it your -- is she still receiving --
14 whether -- whatever her net is, is she still receiving that
15 \$3,000.00 per month from the Oswald Law Firm?

16 A No.

17 Q A \$3,000.00 payment from the Oswald Law Firm?

18 A No.

19 Q When did that stop?

20 A That -- she's never gotten \$3,000.00 from us.
21 The money --

22 THE COURT: And I think he means gross. I understand
23 her net check was zero but he's -- obviously you're paying
24 her gross \$36,000.00.

25 THE WITNESS: No, but we don't pay it to her, it's

000284

1 automatically taken out --

2 THE COURT: Right. But if the check -- if the
3 accountants have it as a gross payment and then taxes are
4 taken, her net is zero.

5 THE WITNESS: Right.

6 THE COURT: But she's still getting that amount gross?

7 THE WITNESS: She still is paid \$36,000.00 a year.
8 It's just Brenda does not get it. She has never gotten a
9 \$3,000.00 check like you just said. She's never --

10 BY MR. LEVENTIS:

11 Q I -- I understand that. Is it your
12 representation that she is working off of accrued sick
13 leave at this time, over the past two and a half years?

14 A Yes, that -- that we could have done it one of
15 two ways. I could have just quit paying Brenda and paid
16 what's called estimated income tax through the firm and
17 just not shown anything, but we chose to make it easier for
18 us just to keep sending the taxes the way that we had
19 always sent it.

20 Q Mr. Oswald, has Brenda had any accident or
21 injuries that you're aware of since the car accident?

22 A No.

23 Q In 2010?

24 A No, not accidents.

25 Q Okay. Did you go on vacation to North Carolina

000285

1 with Ms. Oswald since September of 2010?

2 A Yes, I have.

3 Q Did she fall down the stairs while you were
4 there?

5 A Not while I was there.

6 Q Okay. Did she -- do you believe she fell down
7 the stairs while you were on vacation in North Carolina?

8 A I -- you know, Brenda did fall, I understand,
9 from the people that were there. Now I was not there.
10 It's hearsay to me.

11 Q Okay. Do you know if Ms. Oswald injured herself
12 moving boxes in May of 2012?

13 A No.

14 Q Okay. Did she ever indicate that to you --

15 A No.

16 Q -- were you aware of that?

17 A No, no, she has not.

18 Q Okay.

19 MR. LEVENTIS: I have no further questions for this
20 witness, Your Honor.

21 THE COURT: Okay. Any redirect?

22 MR. BARTON: No, ma'am.

23 THE COURT: All right. Any other witnesses for the
24 Claimant?

25 MR. BARTON: I'll call the Claimant.

000286

1 THE COURT All right. Please raise your right hand.
2 Do you swear to tell the truth, the whole truth and nothing
3 but the truth?

4 THE WITNESS: I do.

5 THE COURT: Please state your full name for the
6 record.

7 THE WITNESS: Brenda M. Oswald.

8 THE COURT: All right. Mr. Barton.

9 Brenda M. Oswald,

10 Having first been duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MR. BARTON:

13 Q Ms. Oswald, what were you doing on the morning of
14 this accident of September 27th of 2010?

15 A I left my house to go to Burkett to pick up the
16 payroll checks and then after I left Burkett I was to go to
17 BB&T and take all that back to the office.

18 Q Okay. Were you -- did you make it to BB&T?

19 A No.

20 Q What happened?

21 A I had an accident.

22 Q Okay. How far away from the Burkett office was
23 that?

24 A About a mile.

25 Q Okay. What road was it on?

000287

1 A 378.

2 Q Was picking up payroll one of your jobs as office
3 manager at Oswald Law Firm?

4 A Yes.

5 Q What other duties did you have besides payroll?

6 A I did all the books; I took care of the escrow
7 account, the operating account. I supervised all the
8 clerical employees. I made sure the office had all the
9 supplies. I also worked on files, like personal injury
10 files, and that mainly was what I worked on.

11 Q Okay. Was running errands one of your duties as
12 office manager?

13 A Yes, it wasn't very many days that went by that I
14 didn't have get up to go run errands, either to a bank, go
15 pick up the printer cartridges, or something like that.

16 Q Okay. Did you have a cell phone back in
17 September, 2010?

18 A Yes.

19 Q Were you subject to being called by the office or
20 by Mr. Oswald at any time to run a chore or do an errand
21 for him?

22 A Yes.

23 Q In fact, referring --

24 MR. BARTON: Commissioner, this is their submission --
25 APA submission page 180. I need to get my glasses out

000288

1 here

2 Q Now they had submitted a copy of your cell
3 phone bill, and if you look at 9/27 at 9:32 in the morning
4 -- do you recognize that number 960-6 -- here, 1661?

5 A That's Robert Rice's insurance agency.

6 Q Okay. What was -- did you call Robert Rice that
7 morning?

8 A I can't remember if I called him or he called me
9 then.

10 Q Okay. Well, let's -- the record shows that you
11 called him.

12 A Okay.

13 Q The phone call lasted approximately two minutes.

14 A Right.

15 Q Would that have been something related to the law
16 office building?

17 A Yeah, we were talking about a couple of things.
18 One is covering the law building. The second one we were
19 thinking about switching workers' comp carriers and we
20 wanted to talk to him about the liability insurance.

21 Q Okay. But that was actually related to the law
22 office business, correct?

23 A Yes.

24 Q So as of 9.32 that morning you were doing law
25 office work, correct?

000289

1 A Uh-huh

2 Q And I believe that was before the accident,
3 correct?

4 A Yes.

5 Q Did you consider yourself to be on the job at the
6 time this accident occurred?

7 A Yes.

8 Q All right. Who was the first person you called
9 after the accident?

10 A Billy.

11 Q What did Mr. Oswald tell you to do?

12 A First he asked me if I was okay and, you know,
13 and I told him no, not really and he said that after the
14 police had left I should go to the hospital.

15 Q Okay. Did you go to the hospital?

16 A Yes, I did.

17 Q What hospital did you go to?

18 A Lexington Medical on Sunset.

19 Q When you went to Lexington -- it was the
20 emergency room, correct?

21 A Correct.

22 Q Okay. What complaints did you make to -- to the
23 medical personnel at the Lexington emergency room?

24 A It was my left shoulder but the main thing that I
25 was worried about -- when the gentleman -- he hit me it was

000290

1 raining real bad and his truck was sliding and I heard him
2 put on brakes and I looked up in the rear view mirror and
3 when I did that he hit -- I felt my neck pop and that's
4 what -- the main thing I was concerned about was my neck,
5 but my knee and my shoulder.

6 Q Okay. But did your -- did you tell them about
7 your neck popping and your knee?

8 A Yes.

9 Q Had you ever had your neck pop before?

10 A No.

11 Q How long did they keep you at the emergency room?

12 A Oh, Lord, I can't remember, three -- two or three
13 hours, I'm not sure.

14 Q Okay. When did you next -- approximately how
15 long was it before you saw a doctor again for these
16 injuries?

17 A I saw, I think, Dr. Margalit a couple days later.

18 Q Okay. What were your complaints when you went to
19 see Dr. Margalit?

20 A My shoulder and -- but I was real concerned about
21 the popping I heard in my neck.

22 Q Okay. Was it -- was your neck hurting you on any
23 one side more than the other?

24 A At first it was just hurting and then it got to
25 where I couldn't move from one -- turn my neck to both

000291

1 sides.

2 Q Okay. Now you were in an accident back in 2008,
3 correct?

4 A Yes.

5 Q Were you treated for your neck for that accident?

6 A I -- my knee, my shoulder and then I had a, a --
7 I believe -- it was definitely my shoulder and around in
8 this area.

9 Q Okay. Now when you're asked a question about the
10 2008 accident in your deposition, do you recall what you
11 told opposing counsel that you hurt?

12 A I know I mentioned my knee and my shoulder, I may
13 have mentioned my neck.

14 Q All right. Have you reviewed the records from
15 Dr. Margalit prior to coming to this hearing?

16 A Yes.

17 Q And Dr. Margalit actually gave you a five to ten
18 percent impairment to your neck as a result of that
19 accident, correct?

20 A Yes.

21 Q Okay. What was -- what did you think your main
22 injury were -- injuries were as a result of that accident;
23 that 2008 accident?

24 A Well, I mean -- I thought it was my -- my knee,
25 mainly my knee. But anything, you know, I -- everything

000292

1 got better I mean I was able to go back to doing what I
2 was normally doing.

3 Q Okay After you released -- after you -- excuse
4 me, let me slow down. After you were released by Dr.
5 Margalit for that 2008 accident, were you able to return to
6 full duties as office manager at Oswald Law Firm?

7 A Yes.

8 Q Were you -- was your neck bothering you at all to
9 prevent you from doing your work?

10 A No.

11 Q Were you working full time?

12 A Yes.

13 Q Were -- was the injury to your neck from this
14 accident that we're here for today, in September 27th,
15 2010, was the injury to your neck different from the
16 accident of 2008?

17 A Yes.

18 Q How?

19 A For one thing that popping that I felt in my neck
20 that scared me. And then I -- from that wreck I didn't
21 have any trouble after a little while, the one in 2008 with
22 my neck, but when this -- when I hadn't been able to move
23 my head side to side, I had to move my body.

24 Q And since this accident of September 27 of 2010,
25 have you returned to your duties as office manager at

000293

1 Oswald Law Firm?

2 A No.

3 Q Did you -- did you ask Dr. O'Leary if he would
4 release you to go back for light duty?

5 A No, he suggested I go back and try it.

6 Q You sure -- are you sure you didn't tell him that
7 you wanted to try it?

8 A Well, I might have. I'm sorry. I could have
9 said I wanted to try and go back to work.

10 Q Okay.

11 A I've been working my whole life.

12 Q And was this back in approximately May of 2011?

13 A That sounds right.

14 Q Did you try to go back to work?

15 A Yes.

16 Q Tell the Commissioner what happened.

17 A I went in, I tried to work, I'd sit at my desk.
18 I would have to get up after about 15 or 20 minutes and
19 kind of move around. You know while I was at -- my
20 computer is to the left and my desk was in front and I
21 would forget and turn my neck and the pain was just
22 terrible, you know, and I just couldn't take the pain
23 anymore and I had to take pain medication and that made me
24 sleepy so I really wasn't very productive. I just couldn't
25 -- as a matter of fact somebody had to take me home that

000294

1 day, I couldn't drive

2 Q Okay On average, how often do you go by the
3 Oswald Law Firm since this accident happened?

4 A Maybe once or twice a week and maybe pick Billy
5 up for lunch or go with him to lunch or my mom and dad walk
6 -- ride over there with me. And sometimes, you know, I do
7 go to lunch with the girls at the office.

8 Q What's the longest amount of time you have spent
9 at the office since this accident happened?

10 A Waiting on Billy, sometimes maybe 15 minutes if
11 he was there. I know -- I remember one time my neck was
12 hurting bad so I went and laid down on his sofa in his
13 office about 45 minutes I believe. Never -- I was never
14 there more than a hour at one time.

15 Q Okay. Now, did Mr. Oswald refer you to Dr.
16 Margalit?

17 A Yes.

18 Q Had you been to Dr. Margalit before?

19 A Yes.

20 Q Okay. Do you go see him for -- what types of
21 things have you seen Dr. Margalit for in the past? Do you
22 see him for things other than just accidents --

23 A Oh, yes.

24 Q -- let me put it that way

25 A Sore throat, you know, congestion, colds, flu.

000295

1 Q And was it Dr. Margalit that referred you to Dr
2 O'Leary?

3 A Yes.

4 Q And then Dr. O'Leary referred you to Dr. LaMotta,
5 correct?

6 A Yes.

7 Q All right. I believe you filed a Form 50 in May,
8 2000 -- 2011, on your own, you signed it yourself, correct?

9 A I -- I didn't file it but I signed it, I think.

10 Q Okay. You think somebody from the law office
11 might have filed it?

12 A I mean, they filled it out and I signed it.

13 Q Okay. Since that time, has anybody from the
14 workers' compensation insurance carrier contacted you to
15 tell you to go to a different doctor?

16 A No.

17 Q Has anybody from the workers' compensation
18 insurance carrier called you to object to your treatment by
19 Dr. O'Leary or Dr. LaMotta?

20 A No.

21 Q That -- if -- when Dr. LaMotta was treating you,
22 were you having problems in addition to your neck? Were
23 you having problems with your shoulders when you saw him?

24 A Yeah -- well, I hit my left shoulder during the
25 accident and about three -- I can't remember the time

000296

1 period, but my right arm started tingling and going numb so
2 I mentioned that to him. I said I think it's got -- and
3 you would think it would be my left arm, and he said, "No,
4 that's pretty normal in the situation that I was in", and
5 he suggested I have inject -- go and have steroid
6 injections.

7 Q Did you try that?

8 A I did.

9 Q What was the next -- did those work?

10 A No.

11 Q What was the next step if those didn't work?

12 A Well, he gave -- he gave me -- and of course,
13 they sent me to physical therapy and everything, but as
14 time went by, the right arm got much better and I wasn't
15 having any problems with it.

16 Q Okay. Are you having problems with your left
17 shoulder today as a result of this accident?

18 A Well, in -- in -- in connection with my neck,
19 yes.

20 Q Okay. Are you having any problems with your
21 right arm or right shoulder as a result of this accident?

22 A No.

23 Q So that's completely resolved?

24 A Uh-huh.

25 Q You need to say yes.

000297

1 A Yes. I'm sorry

2 Q Okay. Prior to this accident on September 27th,
3 2010, had any doctor told you you needed surgery on your
4 neck?

5 A No.

6 Q Do you feel like you're able to return to work
7 now?

8 A No.

9 Q Why not?

10 A Well, I'm having a hard time sitting up here but
11 I -- I cannot function on a computer and I have -- and part
12 of my job is running errands. When I'm in the car I can't
13 turn my neck, I have to turn my body so I have to be real
14 careful of where I go and, you know, how much I drive.
15 After I'm in my -- my chair for 20 or 30 minutes -- I mean
16 at home I'm on the heating pad all the time and I -- I just
17 can't function. I can't concentrate from the pain also
18 with my neck.

19 MR. BARTON: Excuse me one second, Commissioner.

20 Q As part of your job as office manager with the
21 Oswald Law Firm, were you also taking care of some rental
22 houses?

23 A Yes.

24 Q How many rental houses were you taking care of?

25 A Units, around 40 -- 40, 45.

000298

1 Q What were your job -- what were your job duties
2 in regard to those units?

3 A I rented the units and I oversaw repairs of the
4 units. I oversaw the collection of the rent of the units.
5 Any problem with the units and the renters, that -- that
6 was my job

7 Q Okay. And that was part of your duties with the
8 Oswald Law Firm?

9 A That's correct.

10 Q You didn't receive any extra compensation from
11 any real estate company?

12 A Oh, no.

13 Q Have you been able to do any of that since this
14 accident?

15 A No.

16 Q Who does that now?

17 A The girls at the office have taken over a lot of
18 that, and we have some -- a -- young man, a gentleman that
19 works -- does some work for us and he handles the repairs
20 and a few situations like that.

21 MR. BARTON: Nothing further, Your Honor.

22 THE COURT: All right. Mr. Leventis.

23 CROSS EXAMINATION

24 BY MR. LEVENTIS:

25 Q Ms. Oswald, you do recall I asked you during your

000299

1 deposition in July of 2012 if you had hurt your neck in the
2 2008 car accident; do you recall me asking you that?

3 A Yes.

4 Q Okay. And you -- do you recall what you answered
5 me at that time?

6 A Yes, I said it was my left knee, my shoulder and
7 my neck.

8 Q You believe that's what you told -- told me?

9 A Yeah.

10 Q Okay.

11 MR. LEVENTIS: Your Honor, I would call your attention

12 --

13 A I'm sorry. Which wreck are you talking about?

14 Q In the 2008 car accident?

15 A No, it was my left knee and my -- and my left
16 shoulder.

17 Q Okay. But not your neck?

18 A No.

19 Q Okay. You just responded to questions that your
20 attorney had asked were you able to get back to work
21 without any problems after the 2008 car accident?

22 A Uh-huh.

23 Q And you responded in the affirmative; is that
24 correct, no more problems?

25 A Yes.

000300

1 Q Okay.

2 MR. LEVENTIS: Your Honor, I'd call your attention to
3 page 119 of the record.

4 Q Ms. Oswald, I'm going to read you from a letter
5 to Dr. Margalit. It says "Before my auto accident on
6 August 12th of 2008, I was a very active person. I worked
7 out four times a week doing aerobic weight training. I
8 enjoyed swimming several times a week and playing with my
9 eight year old nephew. After the accident, I was not able
10 to work out. The neck pain and upper back pain made it
11 impossible to work out. I'm not able to turn my neck to
12 the left or right without pain. When I'm driving a car I
13 need to turn my entire body to see out the rear window.
14 This is very painful, not to mention unsafe. I'm not able
15 to sit at my desk for long periods of time. The pain in my
16 upper back and neck is severe. After about 45 minutes, I
17 need to get up and use the heating pad". This note says
18 from Brenda Oswald, date May 5th, 2009. Do you recall
19 writing that letter?

20 A Yes, I do.

21 Q Okay. Is that -- was that letter accurate at
22 that time?

23 A At that time it was accurate.

24 Q Okay. So do you believe that you did injure your
25 neck in the 2008 accident, upon reflection?

000301

1 A Well I did injure my shoulder, yes, in that upper
2 part, yes.

3 Q Okay. And did that affect your ability to work
4 at that time?

5 A For a couple of months, yes.

6 Q Okay. This was -- this letter was written almost
7 eight months after the accident. Was that accurate at that
8 time? As of May of 2009, you were having those problems?

9 A I was having some problems, yes.

10 Q Okay. Was it affecting your quality of life in
11 the manner that you wrote about in this letter?

12 A Well, I couldn't work out, I couldn't swim and I
13 was limited playing with my nephew.

14 Q And did you have inability to drive without
15 turning your whole body, like you've talked about now?

16 A I had to turn my body but not near as much as I
17 have to do now.

18 Q Okay. Were you treating for a doctor at that
19 time -- for your neck with a doctor at that time?

20 A I'm sorry?

21 Q At that time, in 2009, were you treating with a
22 physician for your neck?

23 A I believe that letter was to Dr. Margalit.

24 Q Okay. When I had deposed you in July of 2012,
25 did you just not recall whether or not your neck was

000302

1 hurting from the 2008 accident -- that you hurt your neck?

2 A I can't re -- I'm sorry. I don't know. I was so
3 nervous at that deposition; I'd never been to one before.
4 I don't know.

5 Q You'd never been deposed before prior to the time
6 I deposed you?

7 A No, I hadn't.

8 Q Okay. I asked you in your deposition,

9 MR. LEVENTIS: This was on page 23.

10 Q Had you worked since the accident or had you
11 returned to work at the Oswald Law Firm and your answer was
12 "No". Do you recall that?

13 A Which accident?

14 Q After the 2010 accident that give -- that gave
15 rise to this case.

16 A Uh-huh. Well, did I say no?

17 Q On page 23 --

18 A Well, I mean like -- went in at 9:00 and was home
19 by 11:30.

20 Q Okay. So you only went in that one time?

21 A Uh-huh.

22 Q Okay.

23 MR. LEVENTIS: Your Honor, I'm going to call your
24 attention to page 96 of the record.

25 Q This a medical note dated 3/21/2011. It says

000303

1 "Chief Complaint: stress At back at work History of
2 Present Illness: She is here for an annual checkup and has
3 not been seen for a while. She is back at work as office
4 manager for her husband's law practice but under stress
5 over her husband's illness". This was in March of 2011.

6 A My husband's illness was in 2009. And he -- I
7 mean he, you know -- what doctor are you talking about?
8 Dr. Galphin?

9 Q This is with Dr. Galphin.

10 A I wasn't back at work then I don't know where
11 she got that from.

12 Q Okay. Did you report this to all your doctors as
13 a work injury?

14 A Yes.

15 Q Did -- did your -- did the different doctors you
16 go to ask you if this happened at work or while you were
17 working?

18 A Well, no, I -- I reported it as an automobile
19 accident. When I told them it was a motor vehicle accident
20 I don't believe they went into how it happened or what I
21 was doing.

22 Q Okay.

23 MR. LEVENTIS: Your Honor, I'd call your attention to
24 page 102 of the record.

25 Q Did Dr. Margalit ever refer you to Dr. Galphin

000304

1 for anything?

2 A No.

3 Q Okay. Just noting that -- checking "no", this
4 was -- this was -- did not arise out of a work related
5 accident. I asked you if you'd had any injuries or
6 accidents, Ms. Oswald, since the accident in 2011 when I
7 deposed you in July of 2012 Do you recall what your
8 answer was at that time?

9 A Yes, in -- about Mountain Hill?

10 Q You did mention falling down the stairs --

11 A I had on flip flops. I was going up the steps
12 and my flip flop came off and I just fell.

13 Q Okay.

14 A And I -- I hit my abdomen. I just thought I'd
15 pulled a muscle. I didn't realize anything was wrong 'til
16 about two or three weeks later.

17 Q Okay. In approximately May of 2012 did you have
18 -- did you have or suffer an injury moving boxes?

19 A No.

20 Q Okay.

21 MR. LEVENTIS: Your Honor, I'd call your attention to
22 page 109A.

23 Q Did you ever treat at Lexington Medical Center in
24 May of 2012?

25 A Yes.

000305

1 Q Okay. This report says on April 6th, patient
2 fell while moving some boxes.

3 A I fell when my flip flop came off on the steps.

4 Q Okay. That was at same incident then?

5 A That was Mountain Hill.

6 Q Okay. Were you moving boxes at that time?

7 A No.

8 Q Okay. Have you reported to any other medical
9 providers that you've been back to work at the law office
10 with your husband?

11 A No.

12 MR. LEVENTIS: Your Honor, I'd call your attention to
13 page 108, record page four of five. This is with Dr.
14 Galphin.

15 Q Ms. Oswald, under "Occupation" it reads "Real
16 estate manager, office manager for her husband's law
17 practice. Status: Active. Notes: Exercise Habits.
18 Works out at the gym two days weekly. Status: Active".
19 Was that correct at that time?

20 A I don't know where you're getting that. What
21 date is that?

22 Q That's -- this record is dated April 23rd of
23 2012.

24 A Doing a physical? A physical, I believe?

25 Q I'm just asking you if that was correct as of May

000306

1 4th?

2 A Well, she has in my records that I was the office
3 manager, yes.

4 Q Okay.

5 A She has all -- that's my history.

6 Q Ms. Oswald, have you answered phones at the
7 office at the Oswald Law Firm since this accident in
8 September of 2010?

9 A I -- I may have a couple of times if nobody was
10 there and the phones were ringing but not -- I mean, if I
11 was walking in the door and -- and somebody -- the phones
12 were ringing and all the girls were busy, out of habit
13 probably picked up the phone.

14 Q Okay. Has that happened multiple occasions that
15 you've been at the office since this accident --

16 A Not too many, no.

17 Q -- and no one was there?

18 A No, no, no, they could be there.

19 Q Right.

20 A It's a small office, but they may have somebody
21 in their office or they may be have been on the phone.

22 Q But you mentioned a second ago before that -- you
23 said if nobody was there. Have you been in the office --

24 A Well, if no -- nobody was there to answer the
25 phones.

000307

1 Q Okay And you would answer the phone?

2 A No, there's always girls there but they could be
3 in the back or --

4 Q Okay. And you would answer the phone at those
5 times?

6 A No, if I was going by and it was ringing, I would
7 answer. I may have answered the phone no more than three
8 or four times because I don't go in the office that much
9 anymore, I just stay at home.

10 Q Okay. Your husband testified that you're up at
11 the office maybe as much as four or five hours a week. Do
12 you think that's accurate?

13 A No.

14 Q Okay. Do you think it's less or more than that?

15 A He's up there about four or five hours a week.

16 Q Okay. But I'm asking about you. Do you think
17 you're up there more or less than that?

18 A Maybe to pick him -- to go eat with him for lunch
19 or go out with the girls for lunch and that's just our --
20 I've had to fax two papers a couple of times and I had to
21 go in and use the fax.

22 Q Okay. Have you had --

23 A But that was personal business not office.

24 Q Have you handed out payroll for the office since
25 this accident?

000308

1 A No. I guess he's -- Gene's been doing that

2 Q Okay. Your husband testified that you have. Is
3 that incorrect? Have you not handed out payroll since this
4 accident?

5 A Maybe if I was coming into the office he'd ask me
6 to go to Burkett's and pick it up and bring in the payroll,
7 \ but right off hand I can't remember anything of handing out
8 the payroll --

9 Q In --

10 A -- I'm not there.

11 Q -- in your deposition you told me that the
12 payroll would have to be picked up from Burkett's and
13 deposited at BB&T before it could actually be handed out,
14 is that correct?

15 A Well, if we're lucky, the money's deposited
16 before I pick the payroll up.

17 Q Okay.

18 A Sometimes, while being a small firm, it might be
19 down to the wire. That's when the deposits were made.

20 Q Okay. Is picking up and dropping off payroll
21 deposits something you've done for the office since your
22 accident in --

23 A No.

24 Q -- September of 2010? You have not?

25 A No. I may have went -- I'm saying I could have

000309

1 gone by and picked payroll up when going to meet them for
2 lunch to save some of them to come in, because Burkett's
3 about a half a mile from my house.

4 Q Okay. So you believe that you have or have not
5 done it?

6 A I may have done it once, I'm not sure. I don't
7 want to tell you I have not done it and I may have done it
8 once to help, you know, --

9 Q Okay.

10 A -- just a favor to them.

11 Q Is that something you did before this accident?

12 A I did it all -- every month.

13 Q Okay. Is going over settlement paperwork, the
14 breakdown of settlement figures from claims, something you
15 did prior to this accident?

16 A Yes.]

17 Q Okay. Is that something that you did after this
18 accident for the firm at any time?

19 A No.

20 Q Okay. Is your husband incorrect as to that, that
21 you've done that since this accident took place?

22 A I haven't worked on any settlement papers.

23 Q Since --

24 A Since the accident.

25 Q -- September of 2010?

000310

1 A Yes.

2 Q Okay. When was the last time you saw a physician
3 for treatment for your neck or injuries you believe you
4 sustained in this accident?

5 A I saw Dr. LaMotta about three weeks ago.

6 Q Okay. Do you know if you're written out of work
7 by any physician at this time?

8 A Written out of work?

9 Q Yes, have a work excuse that you're unable to
10 perform your --

11 A Well, Dr. LaMotta, in one of his reports, said I
12 was in that.

13 Q Okay. Do you know what date that report was and
14 how long ago that was that you received that from him?

15 A No, sir, I don't.

16 Q Okay. In response to your attorney's testimony,
17 you said you were leaving from Burkett, Burkett and Burkett
18 -- at the time of your accident you were in between
19 Burkett, Burkett and Burkett and BB&T; is that correct?

20 A That's correct.

21 Q Okay. Is it possible that you were actually
22 leaving your neighborhood and not leaving Burkett, Burkett
23 and Burkett?

24 A Well, I have to leave my neighborhood to get to
25 Burkett's.

000311

1 Q Correct, but your -- your testimony is that you
2 stopped at Burkett --

3 A Yes.

4 Q -- and then what did you do at Burkett?

5 A Picked up the payroll, got in the car, it was
6 raining real bad that day and I was on my way to --
7 Burkett's and BB&T are maybe a mile apart.

8 Q Okay. And you were on your way to BB&T?

9 A Right.

10 Q And you were leaving Burkett after having
11 physically walked in the building?

12 A Yes.

13 Q Okay. So it's not possible that you were leaving
14 your neighborhood and went from your house directly to
15 BB&T?

16 A No.

17 Q It's not possible that you left your house and
18 did not get out of your car and drove directly to the site
19 of the accident where you were hit?

20 A No, when I left my house I went direct --
21 straight to Burkett's.

22 Q Okay. Do you recall the name of the driver in
23 the accident?

24 A I do now after seeing it. Mr. Riggins.

25 Q Okay. Mr. Franklin Riggins lives on your same

000312

1 street to your knowledge?

2 A I didn't know that until the accident

3 Q Okay.

4 MR. LEVENTIS: Your Honor, I'm not going to pit
5 witnesses, I'll just cite the testimony of Mr. Riggins on
6 page 18.

7 THE COURT: I've got the deposition.

8 Q Ms. Oswald, back in the fall of 2009,
9 approximately, you were laid off from the Oswald Law Firm;
10 is that correct?

11 A I was laid -- my last work in 2009 at work, was
12 December the 31st, 2009.

13 Q Okay. And did you start receiving unemployment
14 benefits after that?

15 A I received unemployment benefits from January
16 until the end of May.

17 Q Okay. Now I'm not talking about the net pay that
18 you may or may not have received, but was your rate of pay
19 at that time \$18,000.00 per year?

20 A Unemployment?

21 Q No, your rate of pay when you left employment
22 with the Oswald Law Firm; the last rate of pay?

23 A Yes. Yes.

24 Q It was \$18,000.00 per year

25 A Uh-huh.

000313

1 Q Okay. Was there an understanding that you would
2 come back to work with the Oswald Law Firm?

3 A It was hopeful I would come back, yes, sir.

4 Q Okay. And when did you start back with the
5 Oswald Law Firm?

6 A July the 1st.

7 Q Approximately six months later?

8 A Uh-huh.

9 Q And was your rate of pay increased at that time?

10 A Yes, let me explain that to you. During the six
11 months I was out two of the girls left the office for
12 another job. That's why I came back.

13 Q Okay. And your -- your rate of pay doubled at
14 that time?

15 A From \$18,000 to \$36,000, yes.

16 Q Okay. And are you still -- even though the net
17 -- whatever the net amount may be, are you still receiving
18 a monthly pay check -- or is monthly pay still being drawn
19 from the Oswald Law Firm in your name --

20 A I am receiving --

21 Q -- in the amount of \$3000?

22 A I'm receiving -- I'm receiving a check with the
23 stub -- with a check that says zero. It is my
24 understanding that this money is for the years that I had
25 worked and from leave that I had built up with the office.

000314

1 It's probably going to soon come to an end.

2 Q And what's your basis for believing it soon will
3 come to an end?

4 A I -- my leave's just about out. I mean, I had --
5 I had leave built up.

6 Q Do -- do you believe you had over 30 months of
7 leave built up?

8 A Well, I've been there on and off for 30 years.

9 Q Okay. So did you keep your -- did your sick
10 leave accrue then; is that correct?

11 A I -- I assume -- I got the same sick leave as
12 everybody else in the office.

13 Q Okay. So even during the time when you were
14 technically unemployed and receiving unemployment benefits,
15 you believe your sick time was still banked with the Oswald
16 Law Firm?

17 A I don't think it was -- and I'm not sure. I
18 don't think so.

19 Q Okay. Now --

20 A Because I wasn't working there, how could they
21 bank it?

22 Q Okay. Well, how long were you back to work
23 before you got injured in September of 2010?

24 A July -- three months.

25 Q Okay. Do you think you've built up 24, 30 months

000315

1 --

2 A I think after --

3 Q -- of sick leave in that time?

4 A -- I think after 30 years of not taking a lot of
5 sick leave and vacations, I've built up quite a bit and
6 good will and good faith too, working at the office.

7 Q Okay. You mentioned previously that you filed a
8 Form 50 in May of 2011; is that correct? Of 20 -- excuse
9 me, May of 2011?

10 A Yes.

11 Q Okay. Did you subsequently -- subsequently
12 withdraw that Form 50 hearing request?

13 A I think it was withdrawn.

14 Q Okay.

15 MR. LEVENTIS: No further questions for this witness
16 at this time, Your Honor.

17 THE COURT: All right. Mr. Barton, any redirect?

18 REDIRECT EXAMINATION

19 BY MR. BARTON:

20 Q Are you sure you picked up the payroll checks
21 that morning before this accident?

22 A Yes.

23 Q All right. Now you were asked a question and
24 this is Dr. Galphin's report that you were asked about.
25 Let me make sure I get the date on this right. Okay. You

000316

1 were asked a question about Dr Galphin's report dated
2 April 23rd of 2012. This is the same report that says your
3 status is active as -- as the office manager, as real
4 estate manager. But this says that you were working out at
5 a gym two days weekly. When was the last time you worked
6 out at the gym?

7 A September of 2010.

8 Q Have you been to a gym since this accident?

9 A I went into Health Directions to join Billy about
10 three weeks ago. That's the closet to a gym I've been.

11 Q Okay. Were you working out then?

12 A No. I was paying them to -- for him to join.

13 Q All right. There's no doubt in your mind you
14 haven't been to a gym since this accident?

15 A No doubt.

16 Q Nothing further, Your Honor.

17 THE COURT: Okay. Any re-cross?

18 RE-CROSS EXAMINATION

19 BY MR. LEVINTIS:

20 Q Just two quick follow-up questions. You just
21 testified on redirect to your attorney that you're sure you
22 picked up the checks from Burkett that morning; is that
23 correct?

24 A Yes.

25 Q Okay. Would there have been any reason for you

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1 to go to BB&T --

2 A No.

3 Q -- if you had not gone to Burkett?

4 A Okay. When you come out of Quail Hollow, you
5 turn right, you go down two blocks, turn left and you go to
6 Burkett. After I left Burkett's, I turned right, went over
7 I-26 and he hit me right at the I-26 and Bur -- BB&T is
8 over about two or three blocks from where he hit me.

9 Q My question to you is if you had not gone to
10 Burkett, would there have been any reason for you to go to
11 BB&T?

12 A Well I had deposits to make, yes.

13 Q But if you had not gone to Burkett, would you
14 have had deposits to make?

15 A Well, see, when you say deposits, I have deposits
16 for the operating account and for the trust accounts. So,
17 I -- I don't know how to answer your question. I'm sorry.

18 Q Okay. Did you have those with you absent picking
19 them up at Burkett?

20 A I had deposits in my car and I was going -- I
21 went to Burkett. I drove over to Burkett, I was going to
22 BB&T. I never made it to BB&T.

23 Q Okay. And you said BB&T was about two or three
24 blocks from where you got hit?

25 A Right.

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1 Q Was it on the left hand side or did you have to
2 make a left?

3 A BB&T is on the left hand side.

4 Q Okay. Were you in the right hand lane --

5 A I was --

6 Q -- when you got hit?

7 A I was leaving Bur -- I was in the right hand
8 lane, the outside right hand lane headed to BB&T.

9 MR. LEVENTIS: No further questions, Your Honor.

10 MR. BARTON: I just need to clear this up real quick.

11 REDIRECT EXAMINATION

12 BY MR. BARTON:

13 Q Okay. What checks did you pick up from Burkett?

14 A Payroll.

15 Q And who -- who did those checks go to?

16 A All the employees of Oswald Law Firm.

17 Q Okay. Those checks did not need to be deposited.

18 A No, no, those weren't deposits. I had deposits
19 for the operating account and also deposits for making the
20 payroll.

21 Q Okay. So did you pick up anything from Burkett
22 that actually had to be deposited at BB&T?

23 A No, no, that was the -- the employees' checks.

24 Q Gotcha. Okay.

25 MR. BARTON: Nothing further.

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1 THE COURT: All right Any other witnesses for the
2 Claimant?

3 MR. BARTON: No, ma'am.

4 THE COURT: Okay. Any witnesses for the Defendants?

5 MR. LEVINTIS: Your Honor, I would like to call Gene
6 Stockholm of the Oswald Law Firm if he's still available.
7 Your Honor, the Defendants call Gene Stockholm.

8 THE COURT: All right. Please raise your right hand.
9 Do you swear to tell the truth, the whole truth and nothing
10 but the truth?

11 THE WITNESS: Yes, I do.

12 THE COURT: Please state your full name for the
13 record.

14 THE WITNESS: Gene Stockholm.

15 THE COURT: All right. Mr. Leventis.

16 Gene Stockholm,
17 Having first been duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. LEVENTIS:

20 Q Mr. Stockholm, where are you currently employed?

21 A Oswald Law Firm, LLC.

22 Q And what are your current job responsibilities as
23 to the administration of the firm?

24 A I do all the trial work, the litigation work. As
25 far as -- I try to keep track of things as far as bills and

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1 things such as that. Sometimes I do a good job, sometimes
2 I don't.

3 Q Okay. Since September of 2010, has Ms. Brenda
4 Oswald helped on any of the settlement paperwork or
5 settlement numbers for any of the claims and settlements
6 made by the firm?

7 A Yes. Every -- before she got hurt she was like
8 the person you -- you know when you pull your file
9 together, she was the one that would go through the file,
10 make sure all the medical is correct, everything like that.
11 We had a -- I think I might have mentioned this to you. We
12 had a virus in our system -- our computer system. It cost
13 us a lot of money to get it out and we started to have to
14 hand check the disbursement sheets. And every now and then
15 I would still call her and say, hey, can you check this.

16 Q And is that something she would still do?

17 A Yes. I mean I would -- I would call her at home
18 and say look, you know, my secretary's out, the people are
19 here, I'm having a problem. Can you check this for me?

20 Q Since September of 2010 -- and I'm not talking
21 about 40 hours a week or full time, but would Ms. Brenda
22 Oswald still come into the firm at times?

23 A Yes, I saw her. I mean, she'd come in odd hours
24 -- it might -- it used to be she'd come in around quarter
25 of ten, stay until around 3:00 and then after she got hurt

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1 it would just vary and, I mean she might come in at 11:30
2 and she'd disappear at, you know, 12:15. Other days, you
3 know -- I'd go weeks I wouldn't even see her.

4 Q Okay.

5 A At times she would just pop in.

6 Q Would she still do work at the firm such as
7 answering telephones, picking up payroll, handing out
8 checks?

9 A She would try to follow-up with the payroll. We
10 have a payroll service that sometimes would forget to, for
11 instance, pay me and she would, you know, come back by and
12 say look, you know, you didn't get your check.

13 Q Okay. And would she help straighten out issues
14 like that?

15 A Yes, she would, you know, occasionally, you know,
16 she'd have to call the payroll service which is an adjunct
17 of our accounting office and say, look, what's going on,
18 you know, he's been here 27, you know, 28 years, how come
19 he doesn't have a payroll check?

20 Q Okay.

21 MR. LEVENTIS: No further questions for this witness,
22 Your Honor.

23 THE COURT: All right. Mr. Barton.

24 CROSS EXAMINATION

25 BY MR. BARTON:

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1 Q So you said you'd go weeks without seeing her
2 after this accident?

3 A Yes.

4 Q Okay. How was she as a worker before this
5 accident?

6 A She was excellent.

7 Q Did she exhibit any problems with her neck or
8 back or shoulders before this accident; immediately before
9 this accident?

10 A No.

11 Q And was she capable of doing her job duties?

12 A Yes.

13 Q Do you recall the time in May of 20 -- let me
14 make sure I get this right. Did she attempt to come back
15 to work in May of 2011? Was there one day that she came
16 back to work, do you recall?

17 A I think she did. I -- I'm in court quite a bit.
18 I mean, I -- like I said, she would come in and come, you
19 know.

20 Q Do you recall her actually coming back,
21 specifically, one time to actually resume working again?
22 Do you remember that?

23 A No. I mean --

24 Q All right.

25 A -- she'd come and go.

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1 Q How did you -- how did you find out about this
2 accident that we're here about today?

3 A I was in the back office. I believe I had a
4 client with me and a call came in that she had been in a
5 wreck. I can't remember what happened after that except
6 she was going to go, I think, to the emergency room, and I
7 was like, okay, I'll go get payroll and I didn't have to go
8 get it.

9 Q Okay. So when you heard she was in a wreck, you
10 offered to go get the payroll checks, if necessary?

11 A Well, after I found out she wasn't in an
12 ambulance I was like, yeah.

13 Q Okay. But you found out that the payroll checks
14 had been picked up, correct?

15 A Yes.

16 Q All right. And she's the one that picked them
17 up, correct?

18 A Yes.

19 Q I asked you about how she was before. The times
20 that you've seen her -- let me ask this a little better.
21 You described how she was before this accident when she was
22 working. How would you describe her physically after this
23 accident when you saw her in the office?

24 A Worn down, she wasn't herself. She was -- she
25 did, you know, she'd sigh a lot, acted like she was

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1 uncomfortable. But again, she wasn't there that much for
2 me to get in depth with her.

3 MR. BARTON: Nothing further, Your Honor.

4 THE COURT: Mr. Leventis.

5 MR. LEVENTIS: Nothing further from the Defendants,
6 Your Honor. No further witnesses.

7 THE COURT: All right. That concludes the hearing.

8 (The hearing concluded at 11:27 a.m.)

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STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON)

CERTIFICATE

RECEIVED

APR 08 2015

BE IT KNOWN THAT I TOOK THE FOREGOING
 WORKERS' COMPENSATION HEARING;

THAT I WAS THEN AND THERE A NOTARY PUBLIC
 AND FOR THE STATE OF SOUTH CAROLINA-AT-LARGE;

SC Court of Appeals

THE FOREGOING TRANSCRIPT CONSISTING OF 67
 TYPEWRITTEN PAGES REPRESENTS A TRUE, ACCURATE AND
 COMPLETE TRANSCRIPTION OF THE TESTIMONY SO GIVEN AT
 THE TIME AND PLACE AFORESAID TO THE BEST OF MY SKILL
 AND ABILITY;

THAT I AM NOT RELATED TO NOR AN EMPLOYEE OF
 ANY OF THE PARTIES HERETO, NOR A RELATIVE OR EMPLOYEE
 OF ANY ATTORNEY OR COUNSEL EMPLOYED BY THE PARTIES
 HERETO, NOR INTERESTED IN THE OUTCOME OF THIS ACTION.

WITNESS MY HAND AND SEAL THIS 20TH DAY OF MAY,
 2013.

 CORA ELLIS BRUTON
 NOTARY PUBLIC FOR SOUTH CAROLINA
 MY COMMISSION EXPIRES JANUARY 18, 2015

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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

Case No. 2014-001197

RECEIVED
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SC Court of Appeals

Brenda Oswald, Employee. Appellant,

v.

Oswald Law Firm, Employer
and

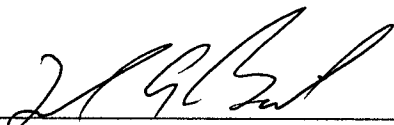
Norguard Insurance Co., Carrier.....Respondents.

PROOF OF SERVICE

The undersigned does hereby certify three copies of the **RECORD ON APPEAL**
was served in the foregoing action by depositing the same in the United States mail, with
sufficient postage affixed thereon and return address clearly visible on ~~April 8, 2015~~ ^{March 19, 2015},
addressed to the following:

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West Columbia, South Carolina
April 8, 2015



Frank A. Barton
Attorney for the Appellant

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

Case No.. 2014-001197

RECEIVED
APR 08 2015
SC Court of Appeals

Brenda Oswald,
Employee..... Appellant,

v.

Oswald Law Firm, Employer
and Norguard Insurance Company, Carrier Respondents.

CERTIFICATE OF COUNSEL

The undersigned counsel does hereby certify the Record on Appeal contains all
material designated by both parties and no other materials.

West Columbia, South Carolina
March 19, 2015



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