

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SOUTH CAROLINA
Workers' Compensation Commission
Appellate Panel

Appellate Case No. 2014-002416

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SC Court of Appeals

William Lee Turner, Employee, Appellant,

v.

SAIIA Construction, Employer, and Old Republic
General Insurance Corp., c/o Gallagher
Bassett Services, Inc., Carrier, Respondents.

RECORD ON APPEAL

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SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 1204039

WILLIAM LEE TURNER,

Employee,

Claimant,

vs.

SAILA CONSTRUCTION,

Employer,

AND

OLD REPUBLIC GENERAL INSURANCE
CORPORATION c/o GALLAGHER
BASSETT SERVICES, INC.,

Carrier,

Defendants.

DECISION AND ORDER

DATE OF HEARING: Hearing held in Columbia, South Carolina on February 4, 2014.

APPEARANCES: Claimant appeared and represented by John K. Koon, Esquire and Stephen H. Cook, Esquire of Koon and Cook, P.A. of Columbia, South Carolina.

Defendants represented by Jason W. Lockhart, Esquire of McAngus Goudelock & Courie, L.L.C. of Columbia, South Carolina.

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

COMMISSIONER: Commissioner Susan S. Barden

FILED: April 14, 2014

STIPULATIONS

1. Jurisdiction is proper with the South Carolina Workers' Compensation Commission.
2. Venue is proper in Richland County, South Carolina.
3. Claimant's average weekly wage is Six Hundred Eighty Four Dollars (\$684.18) and 18/100 with a corresponding compensation rate of Four Hundred Fifty Six Dollars (\$456.14) and 14/100.

APA SUBMISSIONS

Defendants submitted the following:

1. Written Statement of David Bolden and James Speegle, dated 04/19/12, page 1;
2. Peterson and Plante Internal Medicine Associates, P.A., dated 07/23/12-09/18/13, pages 2-10;
3. The Pain Center of First Choice Healthcare, dated 09/18/13-10/17/13, pages 11-19;
4. USC Department of Neurosurgery, dated 05/29/12, page 20;
5. The Moore Orthopaedic Clinic, P.A., dated 10/19/12, pages 21-22;
6. South Carolina Diagnostic Imaging, dated 10/01/13, page 23;
7. ImageCare, LLC, dated 07/17/12, page 24;
8. Sandhills Medical Foundation – Lugoff, dated 03/27/12-04/16/12, pages 25-29;
9. Palmetto Health Baptist, dated 04/17/12, pages 30-32;
10. Palmetto Health Richland, dated 04/19/12-05/22/12, pages 33-40.
11. Deposition of Claimant

Claimant submitted the following:

1. Palmetto Health Richland, dated 04/19/12-04/25/12, pages 1-24;
2. University Specialty Clinics, dated 05/16/12, pages 25-26;

3. Peterson and Plante Internal Medicine Associates, dated 04/30/12-04/15/13, pages 27-37.
4. Deposition of Paul Barnette
5. Deposition of David Bolden
6. Deposition of James Speegle

STATEMENT OF THE CASE

The hearing was scheduled pursuant to a Form 50 filed by the Claimant's attorney, in the above-referenced case, on November 25, 2013. The Claimant maintained that he sustained a compensable injury to the head and thoracic spine while in the course and scope of the Claimant's employment with the Defendants on April 19, 2012. The Claimant maintained that he was entitled to additional medical treatment with Dr. Peterson as well as temporary total disability benefits from April 20, 2012 until January 1, 2013. In response, the Defendants maintained that the Claimant could not satisfy his burden of proof, pursuant to §42-1-160 of the Act, on the basis that the Claimant had no memory or recollection of the facts or circumstances surrounding his alleged April 19, 2012 work related accident. In addition, the Defendants maintained that the Claimant's fall on April 19, 2012 was idiopathic in nature and, therefore, not compensable pursuant to the South Carolina Workers' Compensation Act. Furthermore, the Defendants took the position that the Claimant had reached maximum medical improvement and was not in need of additional medical treatment. The Defendants also maintained that the Claimant was physically capable of working, during the period of time that he was requesting payment of temporary total disability benefits and, therefore, the Claimant was not entitled to temporary total disability benefits.

EVIDENCE OF THE CASE

Testimony

The Claimant was the only witness to testify on his behalf. The Claimant testified that he is currently 28 years of age and resides in Lugoff, South Carolina with his wife. With regard to the Claimant's alleged April 19, 2012 work related accident, the Claimant stated that he has no memory of the facts and circumstances surrounding his alleged work related accident. (Hr'g Tr. 44:2-16) The Claimant indicated that, based on his normal work routine, he would have cleaned the dump truck, which he was operating on April 19, 2012, and likely was injured as the result of a fall that occurred while he was attempting to climb up into the cab of the dump truck in order to place his personal belongings in the cab of the dump truck. The Claimant indicated that not only did he have no memory of the alleged date of accident, but that he also had no memory of the Wednesday prior to his work related accident and the Friday following his work related accident. (Hr'g Tr. 44:7-12) The Claimant testified that, prior to his work related accident, he had not experienced any previous problems with dizziness, seizures, or other instability that could have explained the basis for his alleged fall on April 19, 2012. (Hr'g Tr. 29:16-20) The Claimant testified that his initial memory, following his alleged work related accident, was being hospitalized in Columbia, South Carolina. (Hr'g Tr. 44:13-16) The Claimant stated that he sought and received medical treatment for his work related injuries from a variety of physicians, including Dr. Peterson, who is the Claimant's family physician. The Claimant indicated that Dr. Peterson has provided the Claimant with treatment in the form of anti-seizure medication, and that he was most recently examined by Dr. Peterson in January 2014.

The Claimant testified that he was unable to work with the Defendants for approximately eight months due to the injuries sustained in his alleged April 2012 work related accident. More specifically, the Claimant stated that he has been placed out of work by Dr. Peterson due to seizures, which the Claimant developed following his work-related accident. The Claimant

indicated that he was eventually released to return to work by Dr. Peterson in December 2012, and that he returned to work with the Defendants in January 2013. (Hr'g Tr. 49:19-50:2) The Claimant testified that he returned to work with the Defendants in January 2013 as a heavy equipment operator, and is currently working with the Defendants as a heavy equipment operator, the same position that the Claimant held with the Defendants prior to the date of his April 2012 work related accident. On cross-examination, the Claimant stated that he is currently earning the same wages and essentially working the same hours that he was working prior to his alleged work related accident. (Hr'g Tr. 50:3-11) Most notably, the Claimant testified that he is of the opinion that he is both mentally and physically capable of performing his job duties and responsibilities with the Defendants. (Hr'g Tr. 50:12-52:7)

On cross-examination, the Claimant testified that he has no memory of his alleged work-related accident. (Hr'g Tr. 44:2-6) The Claimant stated that he was not climbing a ladder or standing on top of a truck, on the date of his work related accident, despite medical records indicating that he either fell from a ladder or from the top of a truck. (Hr'g Tr. 44:17-45:5) The Claimant indicated that he was also aware that there were no witnesses to his alleged work related accident, and that both Paul Barnette and David Bolden, whose depositions were submitted to Commissioner Barden for her consideration, did not witness the Claimant's alleged fall. The Claimant indicated that his current job as a heavy equipment operator requires the Claimant to engage in both mental and physical activity, but that the Claimant is capable of performing his job duties and responsibilities as a heavy equipment operator. (Hr'g Tr. 52:1-7) With regard to the Claimant's current back problems, the Claimant initially denied that he sustained a recent injury to the back in September 2013 when he fell from a horse. (Hr'g Tr. 53:24-54:9) Subsequently, the Claimant was presented with a diagnostic report of Dr. Girault,

dated September 18, 2013, in which Dr. Girault noted that the Claimant provided her with a history of reinjuring his thoracic spine after falling from a horse. Despite the above-referenced medical record, the Claimant attempted to downplay the significance of the fall from the horse, in that he did not experience a worsening of his back pain as a result of the above-referenced incident. (Hr'g Tr. 55:5-24) The Claimant stated that during the eight-month period of time that he was out of work, following his alleged work-related accident, he did engage in both farming activities on his property, including bailing of hay and operating tractors, and that he also engaged in activities relating to the construction of his home during the above-referenced period of time. (Hr'g Tr. 60:23-63:23)

Robert Bennett testified on behalf of the Defendants. Mr. Bennett stated that he is currently employed with the Defendants as a superintendent, and has been the Claimant's direct supervisor since July 2013. (Hr'g Tr. 71:23-72:19) Mr. Bennett indicated that the Claimant is currently employed with the Defendants as a heavy equipment operator, and appears to be mentally and physically capable of performing his job duties and responsibilities with the Defendants. (Hr'g Tr. 73:11-16) Mr. Bennett testified that, since becoming the Claimant's direct supervisor in July 2013, the Claimant has not missed any time from work due to the injuries sustained in his alleged April 2012 work related accident. (Hr'g Tr. 73:17-22)

The depositions of Paul Barnette, David Bolden, and James Speegle were submitted by the Claimant without objection from the Defendants. Mr. Barnette admitted that he could only "speculate" as to how the Claimant's fall occurred, as Mr. Barnette did not (a) see Claimant fall or (b) testify that he saw Claimant on the cab steps immediately prior to the fall. Further, Mr. Barnette testified that most of the truck cleaning is done by a high pressure hose, rather than with soap. Mr. Bolden testified that he did not witness the accident, and Mr. Bolden specifically

admitted that he “never saw [Claimant] on the steps of the truck.” Mr. Bolden did, however, see Claimant “standing on the ground” and placing a cooler in the truck sometime before the time of the alleged accident (Depo. of Bolden, pgs. 4-7, 9, and 14). Mr. Speegle testified that he did not witness the Claimant’s alleged accident either, and knows of no one who did witness the Claimant’s alleged accident. (Depo. of Speegle, pgs. 5 and 11).

Medical Evidence

Based on a review of the medical records, three days prior to the date of the alleged accident, Claimant sought treatment with Sandhills Medical Foundation-Lugoff, and provided complaints of low back pain that was “sudden and has been occurring in a persistent pattern for 3 days.” Claimant was prescribed 90 capsules of Neurontin (to be taken three times daily) and 60 tablets of Ultram (to be taken two times daily). (See Defendants’ APA, pgs. 27-28; Defendants’ APA, pg. 30; Claimant’s APA, pg. 25). Based on a review of the medical records, two days prior to the date of the alleged accident, Claimant sought treatment in the Emergency Room at Palmetto Health Baptist. At the Emergency Room, Claimant provided complaints of low back pain, reported that he had vomited one time the day before, and had had diarrhea earlier in the week (Defendants’ APA, pgs. 30-32).

The Claimant underwent an examination with Dr. Scott of The Moore Orthopedic Clinic on October 29, 2012 for his alleged work-related injuries. The Claimant provided Dr. Scott with complaints of high thoracic and low cervical pain. The Claimant informed Dr. Scott that, despite not working with the Defendants at the time of his examination, “he has been doing a lot of work around the house including a lot of farming and building a house and he has not been limited by his back pain.” (See Defendants APA., p. 20). Dr. Scott diagnosed the Claimant with “some myofascial pain related to his fall,” recommended physical therapy and a trigger point injection,

but the Claimant declined the trigger point injection. Dr. Scott stated that he was “comfortable with [the Claimant] returning to work but [the Claimant] is going to be held out according to his other doctor’s recommendations for his seizures which is very appropriate.” (See Defendants APA., p. 20).

The Claimant has continued to seek and receive medical treatment from his family physician, Dr. Peterson, for his alleged work-related injuries. The Claimant has been examined by Dr. Peterson on multiple occasions, since the date of his work-related accident, and has provided Dr. Peterson with complaints of thoracic back pain primarily. (See Defendants APA., p. 2-10). Most notably, the Claimant has not provided complaints to Dr. Peterson regarding seizure activity, and the Claimant’s last seizure occurred approximately six to seven months prior to his returning to work with the Defendants in January 2013. (See Defendants APA., p. 2-3). The Claimant was most recently examined by Dr. Peterson approximately four months ago, and did provide Dr. Peterson with complaints regarding back pain and problems. (See Defendants APA., p. 9-10). Claimant received treatment from Dr. Peterson in the form of prescription medication, but testified in his deposition that he is not currently utilizing prescription medication for his back pain and problems, and last utilized prescription medication approximately three months ago. (Claimant’s 2012 Depo. pg. 18:21-19:14)

The Claimant was provided with a referral by Dr. Peterson by Dr. Girault for additional medical treatment in light of the Claimant’s complaints of back pain and problems. The Claimant was initially examined by Dr. Girault in September 2013, and provided Dr. Girault with a history of his alleged April 2012 work-related accident as well as complaints of pain in the thoracic spine. (See Defendants APA., p. 11). Most notably, the Claimant also informed Dr. Girault that he injured his back, prior to September 2013, when he jumped off of a moving horse.

(See Defendants APA., p. 12, 14). Dr. Girault recommended that the Claimant undergo injections into the thoracic spine, but that the Claimant chose not to undergo the injections that were recommended by Dr. Girault. (See Defendants APA., p. 13; Claimant's 2012 Deposition, pg. 24:6-17). Claimant has not returned to Dr. Girault for additional medical treatment since being examined in October 2013. (See Defendants APA., p. 16-18).

FINDINGS OF FACT

Based upon the testimony and exhibits submitted, the undersigned Commissioner makes the following findings of facts:

1. The South Carolina Workers' Compensation Commission has jurisdiction over the subject matter and parties of this claim.
2. Claimant's average weekly wage is Six Hundred Eighty Four Dollars (\$684.18) and 18/100 with a corresponding compensation rate of Four Hundred Fifty Six Dollars (\$456.14) and 14/100.
3. Based on the entirety of the evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, I find that Claimant failed to carry his burden of proving that he sustained a compensable injury by accident within the course and scope of his employment with the Defendants on April 19, 2012.
4. Based on the entirety of the evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, I find Claimant alleges that he injured his head, brain, and thoracic spine in a work-related accident on April 19, 2012.
5. Based on the entirety of the evidence including the medical records submitted, the

- testimony of the representatives of the Defendants, and the Claimant's testimony, I find Claimant is 28 years of age (medical evidence establishing Claimant's date of birth as 11/29/85; Claimant's 2012 Depo. p. 5).
6. Based on the entirety of the evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, I find Claimant is a high school graduate (Defendants' APA #2, p. 9; Claimant's 2012 Deposition, page 9).
 7. Based on the entirety of the evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, I find Claimant's job with Employer was heavy equipment operator (testimony of Claimant; Claimant's 2012 Depo. pp. 10 & 21).
 8. Based on the entirety of the evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, I find that, in the alleged accident in issue, Claimant was found injured and lying next to Employer's truck. I base this Finding of Fact on the testimony of Barnette and Bolden. (Defendants APA, p. 1)
 9. Based on the entirety of the evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, I find Claimant admits that he remembers nothing about (a) the day prior to the date of the alleged accident, (b) the day of the alleged accident, including "*absolutely no memory of it or what might have precipitated the fall;*" or (c) the day after the date of the alleged accident (Hr'g Tr. 44:2-16; Claimant's APA #2, p. 25; Claimant's 2012 Deposition, pp. 25-26, 29, & 31-32).

10. Based on the entirety of the evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, I find the alleged accident was unwitnessed.
11. Based on the entirety of the evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, I find that no witness claims to have seen the Claimant's alleged accident.
12. Based on the entirety of the evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, I find that, three days prior to the date of the alleged accident, Claimant was prescribed 90 capsules of Neurontin (to be taken three times daily) and 60 tablets of Ultram (to be taken two times daily). I base this Finding of Fact on Defendants' APA #8, pp. 27-28; Defendants' APA #9, p. 30; & Claimant's APA #2, p. 25).
13. Based on the entirety of the evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, I find that, two days prior to the date of the alleged accident, Claimant sought treatment in the Emergency Room. At the Emergency Room, Claimant reported that he had vomited one time the day before, and had had diarrhea earlier in the week (Defendants' APA #9, pp. 30-32).
14. Based on the entirety of the evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, I find that the temporal medical records are of no real utility: (a) one record from the date of the alleged accident erroneously states that Claimant fell off a *ladder*, and Claimant does not contend that he fell off a ladder (Claimant's APA #1, p. 1; Defendants' APA #10, p.

33; Claimant's 2012 Deposition, pp. 28-29); and (b) another record from the date of the accident states that Claimant fell of the back of a truck, when Claimant in fact contends that he must have fallen from the steps of the cab (Claimant's APA #1, p. 20; Defendants' APA #10, p. 35).

15. Based on the entirety of the evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, I find that co-worker Barnette admits he can only "speculate" as to how the fall occurred, as Barnette did not (a) see Claimant fall or (b) testify that he saw Claimant on the cab steps immediately prior to the fall. Further, Barnette testified that most of the truck cleaning is done by a high pressure hose, rather than with soap.
16. Based on the entirety of the evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, I find that if Barnette had seen Claimant on the steps of the cab just prior to the alleged accident, then the result in this case might be vastly different (evidence in its entirety, including but not limited to Depo. of Barnette, pp. 8, 13-17, 21-22, 24-25, & 28).
17. Based on the entirety of the evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, I find that co-worker/friend Bolden did not witness the accident, and Bolden specifically admits he "never saw [Claimant] on the steps of the truck." Bolden did, however, see Claimant "standing on the ground" and placing a cooler in the truck sometime before the time of the alleged accident (Depo. of Bolden, pp. 4-7, 9, & 14).
18. Based on the entirety of the evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, I find

that Supervisor Speegle did not witness the accident either, and knows of no one who did (Depo. of Speegle, pp. 5 & 11).

19. Based on the entirety of the evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, the undersigned does not find persuasive the opinion of Dr. Peterson (Claimant's family doctor): the portion of Claimant's counsel's letter prefacing the request for the causation opinion assumes that Claimant "fell from the cab of" Employer's truck. Further, Dr. Peterson's opinion only states that Claimant's head injuries were "caused by the fall on April 19, 2012." There is no dispute that Claimant injured his head in the fall, but the dispute is whether Claimant fell from a standing position or from the steps of the cab (Defendants' APA #2, p. 6; Claimant's APA #3, p. 37; Claimant's 2012 Deposition, pp. 12-13 & 39).

20. Based on the entirety of the evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, I find that, six months after the date of the alleged accident, Claimant was not limited by back pain, such that he was able to engage in "a lot of farming and building a [log] house" (Defendants' APA #5, page 21; Hr'g Tr. 60:23-63:23; *see also* Claimant's 2014 Deposition, pages 6-7 and 33-34).

21. Based on the entirety of the evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, I find that Claimant sustained an intervening accident in August 2013 (1 year and 4 months after the date of the alleged accident), for which Claimant sought medical treatment. Medical evidence from Claimant's treating physician at this visit states that Claimant was

doing well after the alleged fall at work until Claimant "fell off a horse." (Defendants' APA #3, page 12)

22. Based on the entirety of the evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, I find that Claimant was impeached at the hearing testimony with his initial deposition testimony that he had sustained no accidents since the date of the alleged work accident. Claimant's explanation of the horse incident ("it didn't hurt or anything like that") is not persuasive given the fact that Claimant sought treatment for the after the fall off the horse (53:24-55:24; Defendants' APA #3, pp. 12-14, 16, & 18; Claimant's 2014 Depo., pp. 18 & 21).
23. In his theory of the case, Claimant contends that circumstantial evidence (the fact that Claimant was on Employer's premises; the presence of Claimant's book bag in the cab; Claimant's testimony that he always climbed the steps to place his book bag in the cab; the fact that Claimant must have fallen from a position higher than the floor to sustain the injuries he sustained, and the fact that Claimant's truck had recently been washed--or that Claimant's shoe caught on the step(s) of the cab) is sufficient to prove that Claimant fell from the steps of the cab of the truck and suffered work-related injuries.
24. Based on the entirety of the evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, I find that, even if the undersigned presumes that Claimant was in fact injured through his employment, I am confronted with the following: (a) there is no known cause of the fall in the instant case, (b) Claimant had been taking prescription medication (including Neurontin and Ultram) for back pain in the few days preceding the date of the accident,

(c) Claimant sought treatment at the ER two days before the date of the accident for stomach/dehydration issues, and while there Claimant's family questioned the side effects of the medications he had been taking; (d) no one saw Claimant on the steps of the truck, and in fact one witness saw Claimant place a cooler into the truck from a standing position on the ground—not the steps; (e) although not dispositive, Claimant's friend and co-worker said the steps were not cleaned with soap; only a pressure washer; and (f) very importantly, **Claimant gave sworn testimony at his deposition that two witnesses observed Claimant on the steps just before he fell, which is refuted (or at least inconsistent with) the testimony of Barnette and Bolden.** Claimant's sworn testimony in this regard (as cited in this finding) greatly damages his credibility (*e.g.*, Claimant's 2012 Deposition, pp. 26 & 29-34: *"I was told...I was climbing up in the truck to put something in there or do something... And then they said that they seen me up—they seen me up on the truck. Then they said after they turned around, they seen me laying on the ground"* is not supported by the testimony of any witness; nor is Claimant's testimony—*"they told me, they—they turned around and they seen me climb up in the truck, and they said they turned back around, and as soon as they turned back around again, they said they seen me laying on the ground"*--supported by the testimony of any other witness (Claimant's 2012 Depo., p. 26:18-24; Depo. of Barnette in its entirety; Depo. of Bolden in its entirety).

25. Based on the entirety of the evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, I find that the Claimant did not meet his burden of proof, and his request for benefits under the Act is denied.

CONCLUSIONS OF LAW

It is concluded under the South Carolina Worker's Compensation Act in 42-1-10 S.C. Code of Laws, et. seq., that:

1. Pursuant to South Carolina Code Ann. §42-15-10 and §42-17-20, jurisdiction and venue are proper.
2. Pursuant to South Carolina Workers' Compensation Commission Rules and Regulations, Rule 67-210(B) and Rule 67-213(C), the parties were properly served with Notice of the Hearing.
3. Workers' Compensation awards may not be based upon surmise, conjecture, or speculation, but must be founded on evidence of sufficient substance to afford a reasonable basis for it. Tiller v. Nat'l Health Care Ctr. of Sumter, 334 S.C. 333, 339, 513 S.E.2d 843, 845 (1999) ; Sharpe v. Case Produce Co., 329 S.C. 534, 543, 495 S.E.2d 790, 794 (Ct. App.1997) *rev'd on other grounds*.
4. To be eligible for compensation under the Act in South Carolina, a work-related injury must arise out of and in the course and scope of employment. S.C. Code Ann. § 42-1-160 provides that "'injury' and 'personal injury' shall mean only injury by accident arising out of and in the course of employment." This section "contains a two-pronged test for compensable injuries: the injury must 'arise out of' the employment and simultaneously co-exist 'in the course of' the employment." Kinsey v. Champion Am. Serv. Center, 268 S.C. 177, 182, 232 S.E.2d 720, 722 (1977).
5. The burden of proof is upon the claimant to establish that the accident arose out of employment. "Whether the employee's injuries arose out of employment is, in part, a factual issue, but where the facts are virtually undisputed, the issue is primarily one of

law.” Doe v. South Carolina State Hospital, 285 S.C. 183, 188 n.4, 328 S.E.2d 652, 655 n.4 (Ct. App. 1985).

6. Pursuant to South Carolina Code Ann. §42-1-160, and based on the entirety of the evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant’s testimony, the Claimant failed to carry his burden of proving that he sustained a compensable injury by accident within the course and scope of his employment with the Defendants.
7. Pursuant to South Carolina Code Ann. §42-9-10 and based on the entirety of the evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant’s testimony, Claimant is not entitled to any temporary total disability benefits for the period of time during which the Claimant’s incapacity for work was total due the Claimant’s alleged work-related accident.
8. Pursuant to South Carolina Code Ann. §42-15-60 and based on the entirety of the evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant’s testimony, Defendants are not responsible for the provision of treatment nor the payment of medical bills arising out of the Claimant’s alleged work-related accident.
9. Based on the entirety of the evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant’s testimony, I find that Owens v. Oceans Forest Club does not serve to render the claim at issue compensable. In Owens, the claimant (a game warden hired to patrol Employer’s premises to prevent poaching and trespassers generally) was found dead on the ground of Employer’s premises, but the specific cause of death in Owens was a bullet wound

through the head (*i.e.*, the bullet clearly caused the death and obvious fall to the ground). The Owens court found the claim compensable based upon circumstantial evidence because (a) the claimant was on Employer's property during the claimant's hours of employment, (b) the cause of death was a known gunshot wound, and (c) of the nature of the work duties. The question before the court was whether the death in Owens was the result of a suicide or a trespasser.

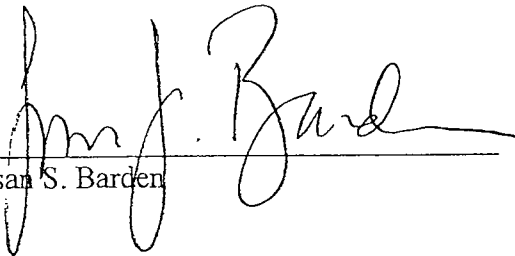
10. Based on the entirety of the evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, I find that the present case is distinguishable from Owens due to the fact that, in the present case and unlike in Owens, the cause of the Claimant's injury (*i.e.* his alleged fall) is unknown. (See Testimony of Claimant; Claimant's APA #2, page 25; Claimant's 2012 Deposition, pages 25-26, 29, and 31-32).
11. Based on the entirety of the evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, I find that the Claimant did not meet his burden of proof, and his request for benefits under the Act is denied.

ORDER

IT IS HEREBY ORDERED that Claimant has failed to meet his burden of proving a compensable injury by accident within the course and scope of his employment.

IT IS FURTHER ORDERED that Claimant's claim for all benefits available under the Act is **DENIED**.

AND IT IS SO ORDERED.



Susan S. Barden

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).
April 14, 2014

By: Kristi Love, Administrative Assistant to Commissioner Barden

APPELLATE PANEL DECISION AND ORDER
OF THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
W.C.C. FILE NO: 1204039

William Lee Turner
VS.
SAIIA Construction
AND
Old Republic General Insurance Corporation
c/o Gallagher Bassett Services, Inc.

EMPLOYEE,
CLAIMANT/RESPONDENT
EMPLOYER,
CARRIER,
DEFENDANTS/APPELLANTS,

Appellate Panel Review held in Columbia, South Carolina
on August 11, 2014 per notices timely
and properly served upon all parties of interest.

Appellate Panel Decision and Order Filed:

October 10, 2014

APPEARANCES: Claimant/Appellant represented by Preston F. McDaniel, Esquire
Defendants/Respondents represented by Jason W. Lockhart, Esquire

44:2-16) The Claimant indicated that, based on his normal work routine, he would have cleaned the dump truck, which he was operating on April 19, 2012, and likely was injured as the result of a fall that occurred while he was attempting to climb up into the cab of the dump truck in order to place his personal belongings in the cab of the dump truck. The Claimant indicated that not only did he have no memory of the alleged date of accident, but that he also had no memory of the Wednesday prior to his work related accident and the Friday following his work related accident. (Hr'g Tr. 44:7-12) The Claimant testified that, prior to his work related accident, he had not experienced any previous problems with dizziness, seizures, or other instability that could have explained the basis for his alleged fall on April 19, 2012. (Hr'g Tr. 29:16-20) The Claimant testified that his initial memory, following his alleged work related accident, was being hospitalized in Columbia, South Carolina. (Hr'g Tr. 44:13-16) The Claimant stated that he sought and received medical treatment for his work related injuries from a variety of physicians, including Dr. Peterson, who is the Claimant's family physician. The Claimant indicated that Dr. Peterson has provided the Claimant with treatment in the form of anti-seizure medication, and that he was most recently examined by Dr. Peterson in January 2014.

The Claimant testified that he was unable to work with the Defendants for approximately eight months due to the injuries sustained in his alleged April 2012 work related accident. More specifically, the Claimant stated that he has been placed out of work by Dr. Peterson due to seizures, which the Claimant developed following his work related accident. The Claimant indicated that he was eventually released to return to work by Dr. Peterson in December 2012, and that he returned to work with the Defendants in January 2013. (Hr'g Tr. 49:19-50:2) The Claimant testified that he returned to work with the Defendants in January 2013 as a heavy equipment operator, and is currently working with the Defendants as a heavy equipment

operator, which is the same position that the Claimant held with the Defendants prior to the date of his April 2012 work related accident. On cross-examination, the Claimant stated that he is currently earning the same wages and essentially working the same hours that he was working prior to his alleged work related accident. (Hr'g Tr. 50:3-11) Most notably, the Claimant testified that he is of the opinion that he is both mentally and physically capable of performing his job duties and responsibilities with the Defendants. (Hr'g Tr. 50:12-52:7)

On cross-examination, the Claimant testified that he has no memory of his alleged work-related accident. (Hr'g Tr. 44:2-6) The Claimant stated that he was not climbing a ladder or standing on top of a truck, on the date of his work related accident, despite medical records indicating that he either fell from a ladder or from the top of a truck. (Hr'g Tr. 44:17-45:5) The Claimant indicated that he was also aware that there were no witnesses to his alleged work related accident, and that both Paul Barnette and David Bolden, whose depositions were submitted to Commissioner Barden for her consideration, did not witness the Claimant's alleged fall. The Claimant indicated that his current job as a heavy equipment operator requires the Claimant to engage in both mental and physical activity, but that the Claimant is capable of performing his job duties and responsibilities as a heavy equipment operator. (Hr'g Tr. 52:1-7) With regards to the Claimant's current back problems, the Claimant initially denied that he sustained a recent injury to the back in September 2013 when he fell from a horse. (Hr'g Tr. 53:24-54:9) Subsequently, the Claimant was presented with a diagnostic report of Dr. Girault, dated September 18, 2013, in which Dr. Girault noted that the Claimant provided her with a history of reinjuring his thoracic spine after falling from a horse. Despite the above-referenced medical record, the Claimant attempted to downplay the significance of the fall from the horse, in that he did not experience a worsening of his back pain as a result of the above-referenced

incident. (Hr'g Tr. 55:5-24) The Claimant stated that during the eight month period of time that he was out of work, following his alleged work related accident, he did engage in both farming activities on his property, including bailing of hay and operating tractors, and that he also engaged in activities relating to the construction of his home during the above-referenced period of time. (Hr'g Tr. 60:23-63:23)

Robert Bennett testified on behalf of the Defendants. Mr. Bennett stated that he is currently employed with the Defendants as a superintendent, and has been the Claimant's direct supervisor since July 2013. (Hr'g Tr. 71:23-72:19) Mr. Bennett indicated that the Claimant is currently employed with the Defendants as a heavy equipment operator, and appears to be mentally and physically capable of performing his job duties and responsibilities with the Defendants. (Hr'g Tr. 73:11-16) Mr. Bennett testified that, since becoming the Claimant's direct supervisor in July 2013, the Claimant has not missed any time from work due to the injuries sustained in his alleged April 2012 work related accident. (Hr'g Tr. 73:17-22)

The depositions of Paul Barnette, David Bolden, and James Speegle were submitted by the Claimant without objection from the Defendants. Mr. Barnette admitted that he could only "speculate" as to how the Claimant's fall occurred, as Mr. Barnette did not (a) see Claimant fall or (b) testify that he saw Claimant on the cab steps immediately prior to the fall. Further, Mr. Barnette testified that most of the truck cleaning is done by a high pressure hose, rather than with soap. Mr. Bolden testified that he did not witness the accident, and Mr. Bolden specifically admitted that he "never saw [Claimant] on the steps of the truck." Mr. Bolden did, however, see Claimant "standing on the ground" and placing a cooler in the truck sometime before the time of the alleged accident (Depo. of Bolden, pgs. 4-7, 9, and 14). Mr. Speegle testified that he did not witness the Claimant's alleged accident either, and knows of no one who did witness the

Claimant's alleged accident. (Depo. of Speegle, pgs. 5 and 11).

Medical Evidence

Based on a review of the medical records, three days prior to the date of the alleged accident, Claimant sought treatment with Sandhills Medical Foundation-Lugoff, and provided complaints of low back pain that was "sudden and has been occurring in a persistent pattern for 3 days." Claimant was prescribed 90 capsules of Neurontin (to be taken three times daily) and 60 tablets of Ultram (to be taken two times daily). (See Defendants' APA, pgs. 27-28; Defendants' APA, pg. 30; Claimant's APA, pg. 25). Based on a review of the medical records, Two days prior to the date of the alleged accident, Claimant sought treatment in the Emergency Room at Palmetto Health Baptist. At the Emergency Room, Claimant provided complaints of low back pain, reported that he had vomited one time the day before, and had had diarrhea earlier in the week (Defendants' APA, pgs. 30-32).

The Claimant underwent an examination with Dr. Scott of The Moore Orthopedic Clinic on October 29, 2012 for his alleged work-related injuries. The Claimant provided Dr. Scott with complaints of high thoracic and low cervical pain. The Claimant informed Dr. Scott that, despite not working with the Defendants at the time of his examination, "he has been doing a lot of work around the house including a lot of farming and building a house and he has not been limited by his back pain." (See Defendants APA., p. 20). Dr. Scott diagnosed the Claimant with "some myofascial pain related to his fall," recommended physical therapy and a trigger point injection, but the Claimant declined the trigger point injection. Dr. Scott stated that he was "comfortable with [the Claimant] returning to work but [the Claimant] is going to be held out according to his other doctor's recommendations for his seizures which is very appropriate." (See Defendants APA., p. 20).

The Claimant has continued to seek and receive medical treatment from his family physician, Dr. Peterson, for his alleged work-related injuries. The Claimant has been examined by Dr. Peterson on multiple occasions, since the date of his work-related accident, and has provided Dr. Peterson with complaints of thoracic back pain primarily. (See Defendants APA., p. 2-10). Most notably, the Claimant has not provided complaints to Dr. Peterson regarding seizure activity, and the Claimant's last seizure occurred approximately six to seven months prior to his returning to work with the Defendants in January 2013. (See Defendants APA., p. 2-3). The Claimant was most recently examined by Dr. Peterson approximately four months ago, and did provide Dr. Peterson with complaints regarding back pain and problems. (See Defendants APA., p. 9-10). Claimant received treatment from Dr. Peterson in the form of prescription medication, but testified, in his deposition, that he is not currently utilizing prescription medication for his back pain and problems and last utilized prescription medication approximately three months ago. (Claimant's 2012 Depo. pg. 18:21-19:14)

The Claimant was provided with a referral by Dr. Peterson by Dr. Girault for additional medical treatment in light of the Claimant's complaints of back pain and problems. The Claimant was initially examined by Dr. Girault in September 2013, and provided Dr. Girault with a history of his alleged April 2012 work-related accident as well as complaints of pain in the thoracic spine. (See Defendants APA., p. 11). Most notably, the Claimant also informed Dr. Girault that he injured his back, prior to September 2013, when he jumped off of a moving horse. (See Defendants APA., p. 12, 14). Dr. Girault recommended that the Claimant undergo injections into the thoracic spine, but that the Claimant chose not to undergo the injections that were recommended by Dr. Girault. (See Defendants APA., p. 13; Claimant's 2012 Deposition, pg. 24:6-17). Claimant has not returned to Dr. Girault for additional medical treatment since

being examined in October 2013. (See Defendants APA., p. 16-18).

FINDINGS OF FACTS AND RULINGS OF LAW

FINDINGS OF FACT

Based upon the testimony and exhibits submitted before the Single Commissioner, the undersigned Appellate Panel adopts the findings of fact as made by the Single Commissioner in their entirety. They are as follows:

1. The parties are subject to and bound by the South Carolina Workers' Compensation Act.
2. Claimant's average weekly wage is Six Hundred Eighty Four Dollars (\$684.18) and 18/100 with a corresponding compensation rate of Four Hundred Fifty Six Dollars (\$456.14) and 14/100.
3. Based on the substantial evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, we find that Claimant failed to carry his burden of proving that he sustained a compensable injury by accident within the course and scope of his employment with the Defendants on April 19, 2012.
4. Based on the substantial evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, we find Claimant alleges that he injured his head, brain, and thoracic spine in a work-related accident on April 19, 2012.
5. Based on the substantial evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, we find Claimant is 28 years of age (medical evidence establishing Claimant's date of birth as 11/29/85; Claimant's 2012 Depo. p. 5).

6. Based on the substantial evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, we find Claimant is a high school graduate (Defendants' APA #2, p. 9; Claimant's 2012 Deposition, page 9).
7. Based on the substantial evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, we find Claimant's job with Employer was heavy equipment operator (testimony of Claimant; Claimant's 2012 Depo. pp. 10 & 21).
8. Based on the substantial evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, we find that, in the alleged accident in issue, Claimant was found injured and lying next to Employer's truck. We base this Finding of Fact on the testimony of Barnette and Bolden. (Defendants APA, p. 1)
9. Based on the substantial evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, we find Claimant admits that he remembers nothing about (a) the day prior to the date of the alleged accident, (b) the day of the alleged accident, including "*absolutely no memory of it or what might have precipitated the fall;*" or (c) the day after the date of the alleged accident (Hr'g Tr. 44:2-16; Claimant's APA #2, p. 25; Claimant's 2012 Deposition, pp. 25-26, 29, & 31-32).
10. Based on the substantial evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, we find the alleged accident was unwitnessed.

11. Based on the substantial evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, we find that no witness claims to have seen the Claimant's alleged accident.
12. Based on the substantial evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, we find that, three days prior to the date of the alleged accident, Claimant was prescribed 90 capsules of Neurontin (to be taken three times daily) and 60 tablets of Ultram (to be taken two times daily). We base this Finding of Fact on Defendants' APA #8, pp. 27-28; Defendants' APA #9, p. 30; & Claimant's APA #2, p. 25).
13. Based on the substantial evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, we find that, two days prior to the date of the alleged accident, Claimant sought treatment in the Emergency Room. At the Emergency Room, Claimant reported that he had vomited one time the day before, and had had diarrhea earlier in the week (Defendants' APA #9, pp. 30-32).
14. Based on the substantial evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, we find that the temporal medical records are of no real utility: (a) one record from the date of the alleged accident erroneously states that Claimant fell off a *ladder*, and Claimant does not contend that he fell off a ladder (Claimant's APA #1, p. 1; Defendants' APA #10, p. 33; Claimant's 2012 Deposition, pp. 28-29); and (b) another record from the date of the accident states that Claimant fell of the back of a truck, when Claimant in fact contends that he must have fallen from the steps of the cab (Claimant's APA #1, p. 20;

Defendants' APA #10, p. 35).

15. Based on the substantial evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, we find that co-worker Barnette admits he can only "speculate" as to how the fall occurred, as Barnette did not (a) see Claimant fall or (b) testify that he saw Claimant on the cab steps immediately prior to the fall. Further, Barnette testified that most of the truck cleaning is done by a high pressure hose, rather than with soap.
16. Based on the substantial evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, we find that if Barnette had seen Claimant on the steps of the cab just prior to the alleged accident, then the result in this case might be vastly different (evidence in its entirety, including but not limited to Depo. of Barnette, pp. 8, 13-17, 21-22, 24-25, & 28).
17. Based on the substantial evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, we find that co-worker/friend Bolden did not witness the accident, and Bolden specifically admits he "never saw [Claimant] on the steps of the truck." Bolden did, however, see Claimant "standing on the ground" and placing a cooler in the truck sometime before the time of the alleged accident (Depo. of Bolden, pp. 4-7, 9, & 14).
18. Based on the substantial evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, we find that Supervisor Speegle did not witness the accident either, and knows of no one who did (Depo. of Speegle, pp. 5 & 11).
19. Based on the substantial evidence including the medical records submitted, the testimony

of the representatives of the Defendants, and the Claimant's testimony, we do not find persuasive the opinion of Dr. Peterson (Claimant's family doctor): the portion of Claimant's counsel's letter prefacing the request for the causation opinion assumes that Claimant "fell from the cab of" Employer's truck. Further, Dr. Peterson's opinion only states that Claimant's head injuries were "caused by the fall on April 19, 2012." There is no dispute that Claimant injured his head in the fall, but the dispute is whether Claimant fell from a standing position or from the steps of the cab (Defendants' APA #2, p. 6; Claimant's APA #3, p. 37; Claimant's 2012 Deposition, pp. 12-13 & 39).

20. Based on the substantial evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, we find that, six months after the date of the alleged accident, Claimant was not limited by back pain, such that he was able to engage in "a lot of farming and building a [log] house" (Defendants' APA #5, page 21; Hr'g Tr. 60:23-63:23; *see also* Claimant's 2014 Deposition, pages 6-7 and 33-34).

21. Based on the substantial evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, we find that Claimant sustained an intervening accident in August 2013 (1 year and 4 months after the date of the alleged accident), for which Claimant sought medical treatment. Medical evidence from Claimant's treating physician at this visit states that Claimant was doing well after the alleged fall at work until Claimant "fell off a horse." (Defendants' APA #3, page 12).

22. Based on the substantial evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, we find that

Claimant was impeached at the hearing testimony with his initial deposition testimony that he had sustained no accidents since the date of the alleged work accident. Claimant's explanation of the horse incident ("it didn't hurt or anything like that") is not persuasive given the fact that Claimant sought treatment for the after the fall off the horse (53:24-55:24; Defendants' APA #3, pp. 12-14, 16, & 18; Claimant's 2014 Depo., pp. 18 & 21).

23. In his theory of the case, Claimant contends that circumstantial evidence (the fact that Claimant was on Employer's premises; the presence of Claimant's book bag in the cab; Claimant's testimony that he always climbed the steps to place his book bag in the cab; the fact that Claimant must have fallen from a position higher than the floor to sustain the injuries he sustained, and the fact that Claimant's truck had recently been washed--or that Claimant's shoe caught on the step(s) of the cab) is sufficient to prove that Claimant fell from the steps of the cab of the truck and suffered work-related injuries.
24. Based on the substantial evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, we find that, even if the undersigned presumes that Claimant was in fact injured through his employment, I am confronted with the following: (a) there is no known cause of the fall in the instant case, (b) Claimant had been taking prescription medication (including Neurontin and Ultram) for back pain in the few days preceding the date of the accident, (c) Claimant sought treatment at the ER two days before the date of the accident for stomach/dehydration issues, and while there Claimant's family questioned the side effects of the medications he had been taking; (d) no one saw Claimant on the steps of the truck, and in fact one witness saw Claimant place a cooler into the truck from a standing position on the ground—not the steps; (e) although not dispositive, Claimant's friend and

co-worker said the steps were not cleaned with soap; only a pressure washer; and (f) very importantly, **Claimant gave sworn testimony at his deposition that two witnesses observed Claimant on the steps just before he fell, which is refuted (or at least inconsistent with) the testimony of Barnette and Bolden.** Claimant's sworn testimony in this regard (as cited in this finding) greatly damages his credibility (e.g., Claimant's 2012 Deposition, pp. 26 & 29-34: "*I was told...I was climbing up in the truck to put something in there or do something... And then they said that they seen me up—they seen me up on the truck. Then they said after they turned around, they seen me laying on the ground*" is not supported by the testimony of any witness; nor is Claimant's testimony—"*they told me, they—they turned around and they seen me climb up in the truck, and they said they turned back around, and as soon as they turned back around again, they said they seen me laying on the ground*"--supported by the testimony of any other witness (Claimant's 2012 Depo., p. 26:18-24; Depo., of Barnette in its entirety; Depo. of Bolden in its entirety).

25. Based on the substantial evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, we find that the Claimant did not meet his burden of proof, and his request for benefits under the Act is denied.

CONCLUSIONS OF LAW

It is concluded under the South Carolina Worker's Compensation Act in Section 42-1-10 S.C. Code of Laws, et. seq., that:

1. Pursuant to South Carolina Code Ann. §42-15-10 and §42-17-20, jurisdiction and venue are proper.

2. Pursuant to South Carolina Workers' Compensation Commission Rules and Regulations, Rule 67-210(B) and Rule 67-213(C), the parties were properly served with Notice of the Hearing.
3. The scope of review of the Full Commission is not limited. The Commission can, like the Single Commissioner, consider all of the evidence and reach its own findings of fact and conclusions of law. Lowe v. Am-Can Transport Services, Inc., 283 S.C. 534, 324 S.E.2d 87 (S.C. Ct. App. 1984).
4. The Full Commission is not necessarily bound by the Single Commissioner's findings of fact, and is empowered to make its own findings of fact and to reach its own conclusions of law consistent or inconsistent with those of the Single Commission. Green v. Raybestos-Manhattan, Inc., 250 S.C. 58, 64, 156 S.E.2d 318, 321 (S.C. 1967). See also Muir v. C.R. Bard, Inc.
5. Workers' Compensation awards may not be based upon surmise, conjecture, or speculation, but must be founded on evidence of sufficient substance to afford a reasonable basis for it. Tiller v. Nat'l Health Care Ctr. of Sumter, 334 S.C. 333, 339, 513 S.E.2d 843, 845 (1999) ; Sharpe v. Case Produce Co., 329 S.C. 534, 543, 495 S.E.2d 790, 794 (Ct. App.1997) *rev'd on other grounds*.
6. To be eligible for compensation under the Act in South Carolina, a work-related injury must arise out of and in the course and scope of employment. S.C. Code Ann. § 42-1-160 provides that "'injury' and 'personal injury' shall mean only injury by accident arising out of and in the course of employment." This section "contains a two-pronged test for compensable injuries: the injury must 'arise out of' the employment and simultaneously co-exist 'in the course of' the employment." Kinsey v. Champion Am. Serv. Center, 268

S.C. 177, 182, 232 S.E.2d 720, 722 (1977).

7. The burden of proof is upon the claimant to establish that the accident arose out of employment. "Whether the employee's injuries arose out of employment is, in part, a factual issue, but where the facts are virtually undisputed, the issue is primarily one of law." Doe v. South Carolina State Hospital, 285 S.C. 183, 188 n.4, 328 S.E.2d 652, 655 n.4 (Ct. App. 1985).
8. Pursuant to South Carolina Code Ann. §42-1-160, and based on the substantial evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, the Claimant failed to carry his burden of proving that he sustained a compensable injury by accident within the course and scope of his employment with the Defendants.
9. The Appellant relies on the Supreme Court's opinion in Packer v. Corbett Canning Co., 238 S.C. 431, 120 S.E.2d 398 to establish that the Claimant suffered from a compensable work related accident due to the unexplained death or injury presumption. Respondents maintain that the Appellant's reliance on Packer is misplaced. In Packer, the decedent was found on a wet concrete floor alongside an electrical cord after an electrical storm. Expert testimony revealed that the decedent was not electrocuted and further showed that had scars from a recent heart attack. Though the Court cited the natural presumption as found in Owens to indicate that the decedent was found where the performance of his duties required him to be, the Court also stated that the presumption may not be availed to establish the incident of accident. Id. at 438. The Court found that even though the decedent was found on the job, there was no accident which caused his death.
10. Much like the Packer case, the Claimant, in the present case, was found on the ground

and there were no witnesses to the accident. However, a presumption cannot be applied to establish that an accident arose out of his employment. The Appellant has the burden of proving facts that will bring his injury within the workers' compensation law and such an award must not be based on surmise, conjecture or speculation. Jennings v. Chambers Dev. Co., 335 S.C. 249, 254, 516 S.E.2d 453, 456 (Ct. App. 1999). Therefore, without satisfying his burden of proving that both an injury that arose out of his employment and an injury occurred in the course of his employment, the Appellant did not sustain a compensable injury pursuant to South Carolina Code Ann. §42-1-160.

11. Pursuant to South Carolina Code Ann. §42-9-10 and based on the substantial evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, Claimant is not entitled to any temporary total disability benefits for the period of time during which the Claimant's incapacity for work was total due the Claimant's alleged work-related accident.
12. Pursuant to South Carolina Code Ann. §42-15-60 and based on the substantial evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, Defendants are not responsible for the provision of treatment nor the payment of medical bills arising out of the Claimant's alleged work-related accident.
13. Based on the substantial evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, we find that Owens v. Occans Forest Club does not serve to render the claim at issue compensable. In Owens, the claimant (a game warden hired to patrol Employer's premises to prevent poaching and trespassers generally) was found dead on the ground of Employer's

premises, but the specific cause of death in Owens was a bullet wound through the head (*i.e.*, the bullet clearly caused the death and obvious fall to the ground). The Owens court found the claim compensable based upon circumstantial evidence because (a) the claimant was on Employer's property during the claimant's hours of employment, (b) the cause of death was a known gunshot wound, and (c) of the nature of the work duties. The question before the court was whether the death in Owens was the result of a suicide or a trespasser.

14. Based on the substantial evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, we find that the present case is distinguishable from Owens due to the fact that, in the present case and unlike in Owens, the cause of the Claimant's injury (*i.e.* his alleged fall) is unknown. (See Testimony of Claimant; Claimant's APA #2, page 25; Claimant's 2012 Deposition, pages 25-26, 29, and 31-32).

15. Based on the substantial evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, we find that the Claimant did not meet his burden of proof, and his request for benefits under the Act is denied.

16. Based on the substantial evidence including the medical records submitted, the testimony of the representatives of the Defendants, and the Claimant's testimony, we find that the Decision and Order of the Single Commissioner is affirmed in its entirety.

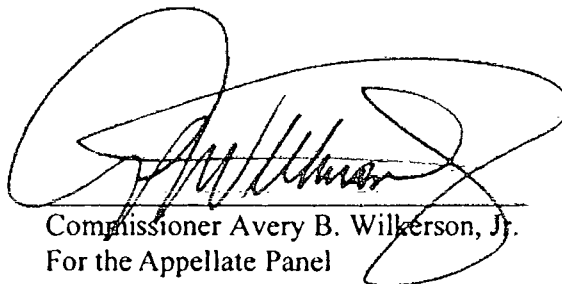
ORDER

IT IS HEREBY ORDERED, that the substantial evidence supports a finding that the Decision and Order of the Single Commissioner is **AFFIRMED** in its entirety.

IT IS HEREBY ORDERED that Claimant has failed to meet his burden of proving a compensable injury by accident within the course and scope of his employment.

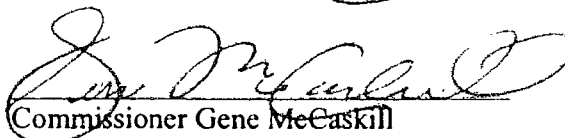
IT IS FURTHER ORDERED that Claimant's claim for all benefits available under the Act is **DENIED**.

AND IT IS SO ORDERED.

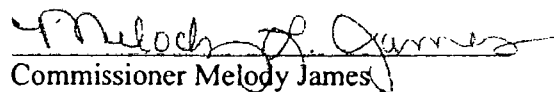


Commissioner Avery B. Wilkerson, Jr.
For the Appellate Panel

WE CONCUR:



Commissioner Gene McCaskill



Commissioner Melody James

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 October 10, 2014

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 #: 1204039
Carrier File #: _____
Carrier Code #: _____
Employer FEIN #: _____

Claimant's Name: William Lee Turner SSN: _____ Employer's Name: Saiia Construction
Address: _____ Address: 4400 Lewisburg Rd
City: _____ State: SC Zip: _____ City: Birmingham State: AL Zip: 35207
Home Phone: (803) Work Phone: _____ Insurance Carrier: Old Republic General Insurance /Gallagher Bassett Services

Preparer's Name: John Koon Law Firm: Koon and Cook PA Preparer's Phone #: (803) 256 - 4082

Complete each information blank. To request a hearing, check Box 13b, indicate the kinds of benefits claimed by checking the box(es) at Lines 6, 7, 8, and 9, and file this form in duplicate.

A claim for workers' compensation benefits is made based on the following grounds: Date of Injury or Illness April 19, 2012

Injury Illness Repetitive Trauma

- 1a. The claimant sustained an injury to back, head and thoracic spine (Part(s) of Body Injured) on April 19, 2012 (Month/Day/Year) in Richland county, state of South Carolina.
- 1b. Body part(s) affected are: back, thoracic spine, and head causing seizure disorder.
Briefly describe how the accident occurred. Claimant was climbing up the side of a work truck when he fell
2. Both the claimant and the employer were subject to the South Carolina Workers' Compensation Act at the time of injury.
3. The relationship of employer and employee existed at the time of injury.
4. At the time of the injury the claimant was performing services arising out of and in the course of employment.
5. Notice of the accidental injury was given to the Employer on 04/19/2012 day/year in the following manner: Claimant was found on the ground unconscious ambulance was called and he was taken from the job site to the hospital.

6. Due to injury, the claimant is in need of (check one):

(a) medical examination and treatment for: back, thoracic spine, head and seizure disorder

(b) additional medical examination and treatment for: back, head and thoracic spine

7. Due to injury, the claimant requests temporary total disability benefits because of lost compensable time from work and wages to be paid for: April 19, 2012 thru January 2, 2013.

8. Due to the injury, the Claimant has permanent disability of the following nature and extent (check one): Claimant has not reached MMI

(1) General Disability:

Total

(2) Specific Disability:

Total

(3) Wage Loss

Partial

Partial

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

10a. At the time of the injury, the Claimant was paid weekly wages of \$684.18 and demands accounting of days worked and wages earned as provided by law.

10b. Give names and addresses of all employers for whom the Claimant has worked since the date of the accident. Saiia Construction

11a. Further grounds or unusual aspects of claim:

All benefits available under the act.

11b. List names and addresses of all physicians or other medical specialists who have seen or treated the Claimant as a result of the accident:
Dr. Alan C. Peterson, Jr. MD, Peterson & Plante Internal Medicine Associates 21 Gateway Corners Park Suite 101, Columbia SC 29203

11c. To the best of your knowledge, did you have any prior permanent disability? No
If yes, describe:

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

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

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

14. Estimated time needed for hearing: 1 hour

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

[Signature]
Preparer's Signature

Attorney
Title

jkoon@koonandcook.com
Email

November 25, 2013
Date

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

Form # 50 Revised 9/07

50
- 38 -

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

WCC File # 1204039

11B Continued

Richland County EMS
PO Box 863
Lewisville NC 27023

Image Care
PO Box 1247
Covington, GA 30015

Palmetto Health Richland
5 Richland Medical Park
Columbia SC 29201

McBee Rescue Squad
PO Box 355
79 S 6th Street
McBee, SC 29101

Sandhills Medical Foundation
1165 Hwy 1 South
Lugoff, SC 29078

Carolina Pines Regional Medical Center
1304 W. Bobo Newsome Hwy.
Hartsville, SC 29550

University Specialty Clinics Surgery
Two Medical Park, Suite 306
Columbia, SC 29203

Providence Hospital
110 Gateway Corp Blvd
Suite 160
Columbia, SC 29203

Moore Sports Rehab
114 Gateway Corp Blvd
Suite 430
Columbia, SC 29203

Palmetto Health ER Physicians
PO Box 402150
Atlanta GA 303842150

Pitts Radiology
PO Box 602728
Charlotte, NC 28260-2728



Claimant's Name: William Lee Turner SSN _____ Employer's Name: SAIIA Construction
Address: _____ Address: 324 Commons Drive
Birmingham, Alabama 35201
Home Phone: (803) _____ Work Phone # _____
Date of Injury: 4/19/12 Insurance Carrier: Old Republic General Insurance Corporation
c/o Gallagher Bassett Services, Inc.
Preparer's Name: Jason W. Lockhart Law Firm McAngus Goudelock & Courie Preparer's Phone #: (803) 227-2283

Date of Injury or Illness: 4/19/12 Estimated time for hearing: 2 hours

Complete each information blank. Clearly specify when contentions are admitted in part and denied in part. The Employer-Carrier in answer to the claim, respectfully shows:

1. It is **Admitted** **Denied** the employee sustained an injury or illness on or about the date set forth in the application. The reasons for denial are: The investigation of the Employer/Carrier does not reveal a compensable injury by accident within the course and scope of the Claimant's employment. In addition, the Employer/Carrier maintain that the Claimant's current problems with his head, back, and/or thoracic spine are not causally connected to the Claimant's alleged April 19, 2012 work-related accident.
2. It is **Admitted** **Denied** both the employer and employee were subject to the Workers' Compensation Act at the time in question. The reasons for denial are: See Number 1 above.
3. It is **Admitted** **Denied** the relationship of employer and employee existed at the time in question. The reasons for denial are: See Number 1 above.
4. It is **Admitted** **Denied** at the time in question the employee was performing service arising out of and in the course of employment. The reasons for denial are: See Number 1 above.
5. It is **Admitted** **Denied** notice of injury was given the employer. The reasons for denial are: See Number 1 above.
6. It is **Admitted** **Denied** the employee **needs** **is entitled to additional** medical care as a result of injury or illness. The reasons for denial are: The Employer/Carrier maintain that there is no medical evidence to support the Claimant's entitlement to additional medical treatment.
7. It is **Admitted** **Denied** the employee is entitled to temporary total disability for the period(s) of: _____
The Employer/Carrier maintain that there is no medical evidence to support the Claimant's entitlement to temporary total disability benefits.
8. It is **Admitted** **Denied** the employee is permanently disabled. The reasons for denial are: _____
The Employer/Carrier maintain that there is no medical evidence to support the Claimant's entitlement to permanent disability benefits.
9. It is **Admitted** **Denied** the employee has serious disfigurement.
10. It is contended that an average weekly wage of \$ Form 20 to be submitted applies, according to attached Form 20 as provided by law.
11. Further contentions, grounds of defense, or unusual aspects are: _____
The Employer/Carrier maintain that the Claimant cannot satisfy his burden of proving a compensable injury to the head, back, and/or thoracic spine pursuant to Section 42-1-160 and/or Section 42-9-35 of the Act.

Mediation

- a. Mediation is requested to be ordered pursuant to Reg. 67-1801 B.
- b. Mediation is required pursuant to Reg. 67.1802.
- c. Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.
- d. Mediation has been conducted by a duly qualified mediator and resulted in an impasse.

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

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

Preparer's Signature: [Signature] Attorney for Employer/Carrier: jlockhart@mqclaw.com Title: _____ Email: _____ Date: December 5, 2013

Refer to R.67-204 through R.67-210 and R.67-601 through R.67-615. Refer to R. 67-1801 for mediation. 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.

Koon and Cook, P.A.

John K. Koon
Stephen H. Cook
Jamie L. Walters

Attorneys at Law
2016 Gadsden Street
Columbia, South Carolina 29201

Telephone: (803) 256-4082
Facsimile: (803) 254-0658

January 23, 2014

VIA HAND DELIVERY

The Honorable Susan S. Barden, Commissioner
South Carolina Workers Compensation Commission
Post Office Box 1715
Columbia, South Carolina 29202-1715

Re: Our Client: William Lee Turner
Employer: Saiia Construction
WCC File No. 1204039
Hearing Date: February 4, 2014 at 02:30 PM

Dear Commissioner Barden:

Please find enclosed the original Form 58 and Notice of Witnesses and Medical Evidence without Submissions, and the Certificate of Mailing/Service that I have prepared on behalf of the Claimant.

By copy of this letter we are serving the Form 58 and APA Submission on the attorney for the employer.

Thank you for your kind cooperation in this matter.

Sincerely,

KOON AND COOK, P.A.

By:



John K. Koon

JKK/awg
Enclosure(s)

cc: Jason W. Lockhart, Esquire



Claimant's Name: William Lee Turner Employer's Name: Saiia Construction
 Address: _____ Address: 4400 Lewisburg Road

City:	State:	Zip:	

City:	State:	Zip:	
<u>Birmingham</u>	<u>AL</u>	<u>35207</u>	

 Home Phone: (803) _____ Work Phone: (803) _____ Carrier: Old Republic General Ins/Gallagher Bassett Services
 Preparer's Name: John K. Koon Preparer's Phone #: (803) 256-4082

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

- Injury Illness Repetitive Trauma
1. Compensation Rate: 456.14 2. AWW: \$684.18 Date of Injury: April 19, 2012
 3. Type of injury and body part(s): Back, thoracic spine, and head and brain leading to seizures
 4. Facts in controversy: Is the Claimant entitled to temporary total disability benefits from April 19, 2012 thru January 2, 2013? Should the carrier be required to pay for past and future medical treatment?
 5. Legal issues involved: Are the injuries sustained by the Claimant's fall compensable under workers' compensation laws?
 6. Unusual aspects: _____
 7. Witnesses (designate if expert):* Claimant, Paul Barnette, David Bolden, James Speegle
 8. Exhibits: Deposition of Paul Barnette, David Bolden, James Speegle
 9. Medical evidence (indicate report pursuant to R.67-612; deposition or appearance):
Palmetto Health Richland medical reports; USC Department of Surgery- medical reports Dr. Alan C. Peterson, Jr. medical questionnaire
 10. Name, address, and specialty, if any, of the treating physician: Alan Peterson, Jr. MD, 21 Gateway Corners Park, Suite 101, Columbia, SC 29203; Board Certified in Internal Medicine.
 11. Impairment rating(s); body part(s); physician and date of opinion: None. Claimant has not reached MMI.
 12. I am amending my Form 50/51 in the following manner: _____

Mediation

- a. Mediation is requested to be ordered pursuant to Reg. 67-1801 B.
 b. Mediation is required pursuant to Reg. 67-1802.
 c. Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.
 d. Mediation has been conducted by a duly qualified mediator and resulted in an impasse.

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

I verify the contents of this form are accurate and true to the best of my knowledge.
 I certify I have served this document pursuant to Reg. 67-211 by delivering a copy to Jason Lochart, Esq. 1320 Main St. 10th Floor Cola SC 29211 address on the _____ day of 2014 by; first class postage certified mail personal service.

Signature: _____ Email: _____
 Date of hearing: February 4, 2014 Time needed for hearing: 1 hr

Questions about the use of this form should be directed to the Jurisdictional Commissioner. Refer to Regulations 67-204 through 67-211 and Regulations 67-601 through 67-615; as well as Regulation 67-1801. 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.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND) BEFORE THE SOUTH CAROLINA
) WORKER'S COMPENSATION
) COMMISSION
) **NOTICE OF WITNESSES AND**
William Lee Turner,) **MEDICAL RECORDS AS DIRECT**
Claimant,) **EVIDENCE ON BEHALF OF THE**
) **CLAIMANT**
vs.)
) W.C.C. FILE NO.: 1204039
SAIIA Construction,)
Employer,)
and)
Old Republic General Insurance Co.,)
c/o Gallagher Bassett Services, Inc)
Carrier,)
) **Defendants.**
)

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION and THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY NOTIFIED that the Employee/Claimant, pursuant to the provisions of Rule 67-30 of the South Carolina Workers' Compensations Commission and Section 1-23-330, Code of Laws of South Carolina (1976), as amended, herewith submit the written medical reports of the below listed physicians, as direct evidence on behalf of the Employee/Claimant:

APA	Physician/Document	Date(s)	Pages
#1	Palmetto Health Richland	4/19/2012- 4/25/2012	1-24
#2	University Specialty Clinics	5/16/2012	25-26
#3	Peterson and Plante Internal Medicine Associates	4/30/2012- 4/15/2013	27-37

EXHIBITS:

1.	Deposition of Paul Barnette	In possession of both parties
2.	Deposition of David Bolden	In possession of both parties
3.	Deposition of James Speegle	In possession of both parties

YOU ARE FURTHER HEREBY NOTIFIED that you have the right of cross-examination, and should you desire to exercise said right, you are to forthwith schedule the deposition of the aforementioned doctor for the purpose of cross-examination.

You are hereby being furnished with copies of the reports of the aforesaid doctors on their examination aforementioned. Copies will be brought to the hearing for insertion in the file of the South Carolina Workers' Compensation Commission and inclusion into evidence on behalf of the Employee/Claimant.

KOON AND COOK, P.A.

By:



John K. Koon
2016 Gadsden Street
Columbia, SC 29201
(803) 256-4082

Attorneys for the Claimant

Columbia, South Carolina

January 22, 2014

Emergency Dept

TURNER, WILLIAM L - R015379577

Result type: Emergency Dept
Result date: 19 April 2012 19:14
Result status: Auth (Verified)
Result title: Emergency Dept
Performed by: Mullins MD, James T on 19 April 2012 19:14
Verified by: Ridley MD, Stephen F on 23 April 2012 00:57
Encounter info: R1211002353, Richland, IPR-Inpatient, 04/19/12 - 04/25/12

Emergency Dept (Verified)

PATIENT: TRAUMA, M120297
MR #:
ADMITTED: 04/19/2012
ACCOUNT #:
DICT: James Mullins, MD-R
DOB:
PT.LOC: STU

DATE OF VISITATION: 04/19/2012

ACCOUNT NUMBER: 1211002353

ATTENDING PHYSICIAN: Stephen F. Ridley, MD

CHIEF COMPLAINT: Fall.

MODE OF ARRIVAL: EMS.

HISTORY OF PRESENT ILLNESS: This patient is a 27-year-old Caucasian male who was involved in a fall coming off of a ladder from questionable 10-15 feet with landing directly on his head. Patient was noted to have a GCS of 3 upon arrival, was a trauma 911. Patient was seizing en route. He did receive Ativan and presented with a GCS of 3 upon arrival here in the emergency department.

REVIEW OF SYSTEMS: Unable to obtain.

PAST MEDICAL HISTORY: Unable to obtain.

PAST SURGICAL HISTORY: Unable to obtain.

MEDICATIONS: Unable to obtain.

SOCIAL HISTORY: Unable to obtain.

ALLERGIES: Unable to obtain.

PHYSICAL EXAMINATION:

VITAL SIGNS: Heart rate 94, respirations 20, [] at 100, BP 160/101 original.

GENERAL APPEARANCE: Patient is unresponsive with GCS of 3.

NEUROLOGIC: GCS of 3 and unresponsive to pain.

EYES: Deviated up and lateral and unresponsive originally.

ENT: Mucous membranes are moist. TMs are clear.

Printed by: Cantey, Precious K
Printed on: 06/14/12 14:07

Emergency Dept

TURNER, WILLIAM L - R015379577

RESPIRATORY: Lungs are clear bilaterally, symmetric chest rise, no wheezes, rales or rhonchi.

CARDIOVASCULAR: S1, S2, no murmurs or gallops. Distal pulses are intact.

GASTROINTESTINAL: No abdominal tenderness to cough, no rebound or guarding, positive bowel sounds, no signs of organomegaly.

MUSCULOSKELETAL: No cyanosis or clubbing noted. No deformities were noted.

SKIN: Void of all rashes, bruises, lesions.

MEDICAL DECISION MAKING: This patient will be evaluated for trauma 911. Due to patient's complaints and risk of complications, a thorough physical exam was done to effect an efficient evaluation.

LABORATORY DATA: Trauma 911 labs are pending at this time, as well as an ABG.

ED COURSE: Patient was seen immediately upon arrival by myself for trauma 911. Due to patient status of fall with GCS of 3 with deviation, we did think the airway was most pertinent; we did intubate the patient here in the trauma bay used an 8-0 tube and was placed to 24. This was done by myself.

PROCEDURE NOTE: After noting the patient had a GCS of 3, we then used lidocaine 100 mg as well as etomidate 30 and 150 of [____]. We did intubate the patient on first attempt with 8-0 tube and was placed at 24. Cuff was inflated, had good color change, no complications.

At that point, we did get bilateral breath sounds, circulation was intact. Patient was not doing anything in terms of responding to pain, was not moving any of his extremities and was not actively seizing; however, at this point we are doing trauma 911 scans. We will continue to monitor this patient and he will be admitted to the trauma team for further care. We do suspect this is most likely a head injury, neck; and at this point, patient will be admitted.

DIAGNOSTIC IMPRESSION: Trauma 911 with concern of head and/or neck injury.

DISPOSITION: Patient will be admitted.

Patient was discussed with Dr. Ridley.

D: 04/19/2012 18:02 T: 04/19/2012 19:14 TID: kf
Job #: 81905 Doc #: 40921063
cc: Jares Mullins, MD-R
Stephen F. Ridley, MD

I was present with the resident during the history and exam. I discussed the case with the resident and agree with the findings and plan as documented in the resident's note. I supervised all above procedures done by the resident.

Printed by: Cantey, Precious K
Printed on: 06/14/12 14:07

Page 2 of 3
(Continued)

Internal Transfer

TURNER, WILLIAM L - R015379577

and a large amount of colonic stool. The patient was placed on a bowel regimen. He had been on Nexium but after he had heme positive gastric contents noted, he was also placed on sucralfate. He was receiving prophylaxis with Nexium as well. At this time, he is stable for transfer to the SSU for further management of his condition.

DISPOSITION: The patient was transferred to SSU for further management. He will require cognitive evaluation was speech therapy until his mental status improves. He will likely need to continue to remain n.p.o. with maintenance fluids in place. He will need to continue his bowel prophylaxis. He will need a post Lovenox CT scan as well, as has Lovenox was started earlier today.

D: 04/21/2012 17:00 T: 04/21/2012 13:30 TID: fy
Job #: 84096 Doc #: 10258948
cc: Joshua Skaggs, MD-R
Mark A Jones, MD

Attending Attestation: I saw this patient on rounds with team on date of transfer and I agree with the above assessment and summary and agree with the plans for transfer to SSU. MAJ.

Completed Action List:

- * Perform by Skaggs MD, Joshua B on 21 April 2012 15:30
- * Modify by Skaggs MD, Joshua B on 02 May 2012 18:23
- * Sign by Skaggs MD, Joshua B on 02 May 2012 18:23 Requested on 26 April 2012 12:15
- * Sign by Jones MD, Mark A on 07 May 2012 21:16 Requested by Skaggs MD, Joshua B on 02 May 2012 18:23
- * Modify by Jones MD, Mark A on 07 May 2012 21:16
- * VERIFY by Jones MD, Mark A on 07 May 2012 21:16

Printed by: Cantey, Precious K
Printed on: 06/14/12 14:08

Page 2 of 2
(End of Report)

Internal Transfer

TURNER, WILLIAM L - R015379577

Result type: Internal Transfer
 Result date: 21 April 2012 15:30
 Result status: Auth (Verified)
 Result title: Internal Transfer
 Performed by: Skaggs MD, Joshua B on 21 April 2012 15:30
 Verified by: Jones MD, Mark A on 07 May 2012 21:25
 Encounter info: R1211002353, Richland, IPR-Inpatient, 04/19/12 - 04/25/12

Internal Transfer (Verified)

PATIENT: TURNER, WILLIAM DICT: Joshua Skaggs, MD-R
 MR #: _____
 ADMITTED: 04/19/2012 DOB:
 DISCHARGED: PT.LOC: SSU

ATTENDING PHYSICIAN: Mark A Jones, MD

TRANSFER DIAGNOSES: Include:

1. Small subdural hemorrhage.
2. Intraparenchymal contusion left lobe.
3. Endplate compression deformity of T3 and T4.

CONSULTATIONS:

1. Neurosurgery.
2. Speech therapy.
3. Physical therapy.
4. Occupational therapy.

PROCEDURES:

1. Endotracheal intubation.
2. Left subclavian central venous catheter placement.
3. Right arterial line placement.

BRIEF HISTORY: This is a 26-year-old male patient who presented to the emergency department after a fall from approximately 10-15 feet, landing on his head. The patient's GCS on arrival was 3. He reportedly was seizing en route to the ER. He was intubated once he arrived to the emergency department. Trauma surgery and neurosurgery were then consulted.

HOSPITAL COURSE: While in the STICU, neurosurgery evaluated the patient and recommended that he be followed with repeat head CT's as well as being given Keppra for seizure prophylaxis. He did have repeat CT scans of his head, which did not show any new intracranial abnormalities and ongoing contusion. In regards to the patient's T3, T4, end-plate fractures, neurosurgery noted that these were stable. No intervention was necessary. The patient's mental status did improve and he was subsequently extubated. However, after extubation, he was somewhat somnolent and was kept n.p.o. with speech therapy and cognitive evaluation pending. The patient did have an NG tube placed was noted to have heme positive secretions from the NG tube. A KUB was ordered, which showed nonobstructive gas pattern with an NG tube in the gastric body,

Printed by: Cantey, Precious K
 Printed on: 06/14/12 14:08

Page 1 of 2
 (Continued)

Internal Transfer

TURNER, WILLIAM L - R015379577

and a large amount of colonic stool. The patient was placed on a bowel regimen. He had been on Nexium but after he had heme positive gastric contents noted, he was also placed on sucralfate. He was receiving prophylaxis with Nexium as well. At this time, he is stable for transfer to the SSU for further management of his condition.

DISPOSITION: The patient was transferred to SSU for further management. He will require cognitive evaluation was speech therapy until his mental status improves. He will likely need to continue to remain n.p.o. with maintenance fluids in place. He will need to continue his bowel prophylaxis. He will need a post Lovenox CT scan as well, as has Lovenox was started earlier today.

D: 04/21/2012 17:00 T: 04/21/2012 13:30 TID: fy
Job #: 84096 Doc #: 10258948
cc: Joshua Skaggs, MD-R
Mark A Jones, MD

Attending Attestation: I saw this patient on rounds with team on date of transfer and I agree with the above assessment and summary and agree with the plans for transfer to SSU. MAJ.

Completed Action List:

- * Perform by Skaggs MD, Joshua B on 21 April 2012 15:30
- * Modify by Skaggs MD, Joshua B on 02 May 2012 18:23
- * Sign by Skaggs MD, Joshua B on 02 May 2012 18:23 Requested on 26 April 2012 12:16
- * Sign by Jones MD, Mark A on 07 May 2012 21:25 Requested by Skaggs MD, Joshua B on 02 May 2012 18:23
- * Modify by Jones MD, Mark A on 07 May 2012 21:25
- * VERIFY by Jones MD, Mark A on 07 May 2012 21:25

Internal Transfer

TURNER, WILLIAM L - R015379577

Result type: Internal Transfer
 Result date: 23 April 2012 08:39
 Result status: Auth (Verified)
 Result title: Internal Transfer
 Performed by: Stachowiak PA, James R on 23 April 2012 08:39
 Verified by: Morrison MD, James E on 16 May 2012 09:33
 Encounter info: R1211002353, Richland, IPR-Inpatient, 04/19/12 - 04/25/12

Internal Transfer (Verified)

PATIENT: TURNER, WILLIAM DICT: James R Stachowiak, PA
 MR #: DOB:
 ADMITTED: 04/19/2012
 DISCHARGED: 04/23/2012 PT.LOC: SSU

ATTENDING PHYSICIAN: James E. Morrison, MD

ADMITTING DIAGNOSES:

1. Fall off a ladder, questionable 10-15 feet, landing directly on his head.
2. Seizure en route to hospital with emergency medical services.
3. T3-T4 end plate fractures:
4. Traumatic subdural hematoma with traumatic hemorrhagic contusions.
5. Acute respiratory failure, intubated in the emergency department trauma bay.

TRANSFER DIAGNOSES:

1. Fall off a ladder, questionable 10-15 feet, landing directly on his head.
2. Seizure en route to hospital with emergency medical services.
3. T3-T4 end plate fractures.
4. Traumatic subdural hematoma with traumatic hemorrhagic contusions.
5. Acute respiratory failure, intubated in the emergency department trauma bay.

CONSULTATIONS THIS ADMISSION: Dr. Maryanov of neurosurgery.

PROCEDURES PERFORMED:

1. Endotracheal intubation in the emergency department.
2. Left subclavian central venous catheter placement.
3. Right arterial line placement.

HISTORY OF PRESENT ILLNESS: At this time, please refer to the internal facility transfer summary dictated by Dr. Joshua Skaggs, MD-R, dictated on 04/21/2012, transferred from STICU to SSU.

The patient was transferred to the SSU at this time. We are still waiting for speech therapy to come by to give the patient a swallow evaluation to advance him to a p.o. diet.

The patient has had an uneventful stay while in the SSU. He has made good improvement with his sensorium and awareness of his surroundings. Dr. Maryanov of neurosurgery came by and evaluated the patient on 04/21/2012. At

Printed by: Cantey, Precious K
 Printed on: 06/14/12 14:08

Page 1 of 2
 (Continued)

Internal Transfer

TURNER, WILLIAM L - R015379577

that time, he felt from the closed head injury the patient sustained, he is stable from their standpoint. No surgical intervention was required. Post Lovenox CT ordered for 04/21/2012. Follow-up in the clinic in 3 weeks with repeat CT of the head.

Follow-up CT scan on 04/21/2012, post Lovenox scan, revealed no new intracranial abnormality was identified. A tiny focus of hemorrhage was again seen at the anterolateral margin in the left temporal lobe.

The patient has been seen and evaluated, and the chart was reviewed by Dr. James Morrison of the trauma surgery service today, 04/23/2012. He feels at this time the patient is suitable and stable for transfer to 7-East.

CONDITION ON TRANSFER: The patient is stable.

DISPOSITION: 7-East.

TRANSFER MEDICATIONS: Per the medication reconciliation order form.

ADDITIONAL TRANSFER INSTRUCTIONS:

1. The patient is to follow up with neurosurgery in 3 weeks for CT scan of the head without complications.
2. Physical therapy and occupational therapy to continue to work with the patient, as well as speech therapy for further evaluation and swallow.

The patient's disposition will likely be to home with family. We will talk to Debbie and Peggy about this.

D: 04/23/2012 08:32 T: 04/23/2012 03:39 TID: lry
 Job #: 85513 Doc #: 40923309
 cc: James R Stachowiak, PA
 James E. Morrison, MD

DR MORRISON ADDENDUM: PATIENT EXAMINED WITH MR STACHOWIAK ON 4-23-2012. SEE MY PROGRESS NOTE FROM SAME DAY. TRANSFER TO FLOOR. DETAILS AS ABOVE. JM.

Completed Action List:

- * Perform by Stachowiak PA, James R on 23 April 2012 08:39
- * Sign by Stachowiak PA, James R on 15 May 2012 17:59 Requested on 23 April 2012 08:58
- * Modify by Morrison MD, James E on 16 May 2012 09:33
- * Sign by Morrison MD, James E on 16 May 2012 09:33 Requested by Stachowiak PA, James R on 15 May 2012 17:59
- * VERIFY by Morrison MD, James E on 16 May 2012 09:33

Discharge Summary

TURNER, WILLIAM L - R015379577

* Final Report *

D: 04/25/2012 11:42 T: 04/25/2012 10:40 TID: asc
Job #: 88728 Doc #: 10259842
cc: Stanley Hassinger, MD-R
Raymond P. Bynoe, MD

Signature Line

Electronically Signed & Verified on 04/25/2012 18:53
by Hassinger MD, Stanley

Electronically Signed & Verified on 05/03/12 11:51
by Bynoe MD, Raymond P

Completed Action List:

- * Perform by Hassinger MD, Stanley on 25 April 2012 10:40
- * Sign by Hassinger MD, Stanley on 25 April 2012 18:53 Requested on 25 April 2012 15:35
- * Sign by Bynoe MD, Raymond P on 03 May 2012 11:51 Requested by Hassinger MD, Stanley on 25 April 2012 18:53
- * VERIFY by Bynoe MD, Raymond P on 03 May 2012 11:51

Printed by: Cantey, Precious K
Printed on: 06/14/12 14:07

Page 3 of 3
(End of Report)

Operative Report

TURNER, WILLIAM L - R015379577

* Final Report *

Result type: Operative Report
 Result date: 19 April 2012 21:19
 Result status: Auth (Verified)
 Result title: Operative Report
 Performed by: Huynh MD, Dustin H on 19 April 2012 21:19
 Cosigned by: Jones MD, Mark A on 20 April 2012 09:56
 Verified by: Jones MD, Mark A on 20 April 2012 09:56
 Encounter info: R1211002353, Richland, IPR-Inpatient, 04/19/12 - 04/25/12

* Final Report *

Operative Report (Verified)

PATIENT: TRAUMA, M120297 EICT: Dustin Huynh, MD-R
 MR #: DOB:
 ADMITTED: 04/19/2012 PT.LOC: STU

DATE OF OPERATION: 04/19/2012

PREOPERATIVE DIAGNOSES:

1. Status post fall.
2. Head injury.
3. Hemodynamic instability.
4. Respiratory failure.

POSTOPERATIVE DIAGNOSES:

1. Status post fall.
2. Head injury.
3. Hemodynamic instability.
4. Respiratory failure.

PROCEDURE:

1. Left subclavian central venous catheter placement with quad-lumen catheter.
2. Right arterial line placement of right radial artery (for hemodynamic monitoring).

ATTENDING SURGEON: Mark A Jones, MD.

RESIDENT SURGEON: Dustin Huynh, MD-R.

ANESTHESIA: The patient is currently on propofol.

ESTIMATED BLOOD LOSS: Minimal.

INDICATIONS FOR PROCEDURE: This is a trauma-male-297 who apparently reportedly fell from a dumpster truck and apparently hit his head, with a GCS at the scene of 9. Upon arrival, his GCS was 3. The patient was intubated with appropriate workup. The patient was taken to the CT scanner, where he

Printed by: Cantey, Precious K
 Printed on: 06/14/12 14:08

Page 1 of 3
(Continued)

Operative Report

TURNER, WILLIAM L - R015379577

* Final Report *

was shown to have a subdural hematoma. The patient was then admitted to the ST ICU. The patient required hemodynamic monitoring and required line placement.

PROCEDURE IN DETAIL: Due to the nature of the urgency for the procedure, unable to obtain consent, but emergent consent was done. The patient was then prepped and draped in the usual sterile fashion. First, we focused on obtaining a central line. His left chest was then prepped and draped in the usual sterile fashion. Next, a large bore needle was then inserted from his left deltopectoral groove towards his sternal notch. His left subclavian vein was then entered with good venous blood return. Next, the syringe was then removed. Guidewire was then placed over the needle. The needle was then removed. A nick in the skin was done. Next, a dilator was inserted. Next, the quad-lumen central venous catheter was then inserted in Seldinger technique. The guidewire was then removed. All ports were flushed and had withdraw of good venous blood. It was then sutured to the skin. Appropriate sterile dressing was placed with Bio-Gel and Tegaderm. The patient tolerated it well. No apparent complications. A chest x-ray was ordered to confirm placement.

Next, we then focused on obtaining a right arterial line. His right wrist was then prepped and draped in the usual sterile fashion. Next, Arrow arterial kit was then used. His right radial artery was then entered with Arrow kit. Good arterial blood return. Guidewire was then inserted. Next, the catheter was then inserted using the Seldinger technique. Good arterial blood return after removal of the guidewire and the needle. It was then connected to the monitor with a good arterial waveform. It was then sutured to the skin and appropriate sterile dressing with Bio-Gel and Tegaderm was placed. The patient tolerated it well. No apparent complications.

FINDINGS: Good venous return on his left subclavian and right arterial line with good arterial blood return and good arterial waveform. All ports flushed and withdrew blood without difficulty.

DISPOSITION: The patient is currently in ST ICU.

Attending surgeon, Dr. Mark Jones, was present for the entire procedure.

D: 04/19/2012 20:59 T: 04/19/2012 21:19 TID: 89221
Job #: 82030 Doc #: 30023716
cc: Dustin Huynh, MD-R

Attending Attestation: I was present for the procedure. I agree with the operative description given by Dr. Huynh above on 4-19-2012. MAJ.

Signature Line


Electronically Signed & Verified on 05/01/2012 17:33

Printed by: Cartey, Precious K
Printed on: 06/14/12 14:08

Page 2 of 3
(Continued)

Rehabilitative Services
Comprehensive Evaluation Form

Date: 4/20/12 2:40-2:55
Patient: Wm. Turner
Age: 26 yr M

TURNER, WILLIAM "Lee"
R1211002353
JONES, MARK A


Unit Record Number: 527-1

Diagnosis: Trauma 811 Fall

Date	Treatment/Prescription
4/20/12	Speech - Language - Cognitive Eval

Initial Evaluation ⑤ 4/19/12 pt admitted to PHE. 23 yr. old male - Fell off truck 4-5 feet ^{? seizing} PACT spine ⑤
CT head ⑤ temporal SDH. Pt. intubated 4/19/12 2° resp. Failure extubated 4/20/12. GCS ⑤ scene: 9, combative, vomiting, seizure in transit GCS: 3 upon arrival. LOC?. Pt. is married and works as construction worker. PMH: DM, CAD. Pt. seen @ bs- ⑤ visitors; Pt. semiclient. Responds to verbal/tactile stimuli. ⑤ difficulty maintaining LOA ⑤ Informal cognitive-linguistic evaluation and GOAT (Galveston Orientation and Amnesia Test) Score: 11 (76-100 = normal) Pt. able to state name, where he lives & where is now; unintelligible speech & ⑤ vs. no response ⑤ rest of test. Pt. able to open eyes on command, unable to follow 1 step commands consistently. Unable to maintain alertness ⑤ to eval. ⑤ mod. dysarthria
⑤ Severe cognitive-linguistic deficits. Cont ⑤ Rancho II.

Patient Care Plan: ⑤ Cognitive rehab 5x/week, cont dx to do LOA Test 24 hr ⑤.

Goals: See separate goal sheet

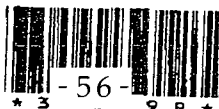
Patient/Family Goals: unable to state

Equipment Needs: N/A.

Rehab, Potential: good

Therapist's Signature: *[Signature]* M.A. Co-SLP / #5461.

r.5X14



① Ltd. Indiv. Eval.

TURNER, WILLIAM
R1211002353 JONES, MARK A



Palmetto Health Richland Rehabilitative Services
Physical Therapy Comprehensive Evaluation Form

Date of evaluation: 4-21-12 Diagnosis: Fall Date of admission: 4-19-12 Patient's age: 26 Room #: 527.1

Order Date:	Order:	Order Date:	Order:
4-20-12	CONSULT PT-eval+TX		
4-20-12	"OK to clear PLS precautions" (per NRS, void)		

History of current admission: 26 y.o.m. slip-fall ~5-10' possibly P. seizure; BCS:9, seizure x2 in transit, GCS 3 upon arrival to PR. CT Head: SDH in @ occipital region, small hemorrhagic contusion @ temporal pole; CT C4/5: sup. endplate compression frs C3+T4 (acute?); intubated 4/19, extubated 4/20 AM.

PMH: recent pt e Baptist 2° dehydration + vomiting

Prior functional status: PTA

Living situation: Alone With spouse With: _____ Comments: questionable home situation

Apartment Mobile home One level Two level Assisted living Nursing home Senior apt. Stairs: Ramp

Home OME: Receiving therapy prior to admit:

SUBJECTIVE: "I have to pee."

Patient/family goals: agreeable to PT

Pain: Rating 10/10 Location/Description: throat Action taken: pain meds given a-tx

OBJECTIVE:

O₂ 2L via N/C Foley NG SBFT PEG Restraints CT/Drains Wound vac Other

Patient Appearance: Pt sleeping upon arrival to room.

Cognition	WFL	Impaired	Comments
Level of alertness		✓	pt dazed + slightly tetragic during tx
Orientation		✓	(-) year, (-) place, (-) situation, (+) name
Following Directions		✓	multiple was to follow simple commands
Judgment/Safety		✓	2° AMS

Strength: Manual Muscle Test	Left	Right
Hip Flexion	3/5	3/5
Hip Abduction/Adduction	↓	↓
Knee Extension	4/5	4/5
Knee Flexion	↓	↓
Ankle Dorsiflexion	↓	↓
Ankle Plantarflexion	↓	↓
Shoulder Flexion	3+/5	3+/5
Shoulder Abduction	↓	↓
Elbow Flexion/Extension	↓	↓
Grip	5/5	5/5

Range of Motion	Left	Right
	(AROM) PROM / AAROM	(AROM) PROM / AAROM
Hip	WFL	WFL
Knee	↓	↓
Ankle	↓	↓
Shoulder	WFL	WFL
Elbow/forearm	↓	↓
Wrist/Hand	↓	↓

Comments: _____

Therapist Signature: Abby Nelson, PT, DPT X5488
(evaluation continued on reverse side)



TURNER, WILLIAM
R1211002253 JONES, MARK A



Physical Therapy Comprehensive Evaluation Form (page 2 of 2)

Gait	Distance	Device	Level of Assistance	Weight Bearing Status	Comments
Ambulation	steps @ bedside	(B) hand held	Min (B)	—	per RN - unable to take NG tube off suction ∴ had to amio bed side; min @ 2° slight l'd balance
W/C Mobility	NT				
Stairs	↓				

Functional Mobility	I	S	SBA	Contact Guard A	Min A	Mod A	Max A	Dep.	Comments
Supine ↔ sit					✓				PT. W/C @ bedside comments in chair position p tx in care of RN. l'd dynamic sitting balance
Sit ↔ stand					✓ XZ				
Sitting Balance				✓ -	✓				
Standing Balance				✓ -	✓				

	WFL	Impaired	Comments		WFL	Impaired	Comments
Edema/skin integrity		✓	abrasions to (B) lower legs	Respiratory Status		✓	pt on 2L O2 via NC
Sensation	✓			Coordination		✓	slight l'd balance
Vision	✓			Muscle Tone	✓		

Ⓞ Patient/Family Education: Role of PT, PT plan in car

ASSESSMENT: Patient presents with the following deficits:

<input type="checkbox"/> LE Strength	<input checked="" type="checkbox"/> Balance	<input checked="" type="checkbox"/> Cognition	<input checked="" type="checkbox"/> Functional transfers
<input type="checkbox"/> LE Range of Motion	<input type="checkbox"/> Sensation	<input type="checkbox"/> Pain	<input checked="" type="checkbox"/> Bed mobility
<input type="checkbox"/> UE Strength	<input checked="" type="checkbox"/> Gross motor coordination	<input checked="" type="checkbox"/> Safety Awareness	<input type="checkbox"/>
<input type="checkbox"/> UE Range of Motion	<input type="checkbox"/> Respiratory endurance	<input checked="" type="checkbox"/> Independent Ambulation	<input type="checkbox"/>

Rehab Potential: Good Fair Guarded Other:

Comments: 2° young age + (B) PTA

PLAN: Patient will be seen 5x/week (frequency) for the following: D/C PT

<input checked="" type="checkbox"/> Gait Training/Ambulation	<input checked="" type="checkbox"/> Functional Transfer Training	<input type="checkbox"/> Patient / family education	<input type="checkbox"/>
<input type="checkbox"/> UE / LE Range of motion	<input type="checkbox"/> Neuromuscular Re-education	<input type="checkbox"/> Energy conservation	<input type="checkbox"/>
<input type="checkbox"/> UE / LE Strengthening	<input type="checkbox"/> W/C Mobility	<input checked="" type="checkbox"/> Safety awareness	<input type="checkbox"/>
<input checked="" type="checkbox"/> Balance training	<input type="checkbox"/> Home exercise program	<input checked="" type="checkbox"/> Stairs	<input type="checkbox"/>

Please see PT flow sheet for patient goals.

Plan has been discussed with Patient IP's family/caregiver SW/Case Management Nurse MD OT SLP

RECOMMENDATIONS:

Recommended Equipment: Rolling Walker Crutches Quad Cane Straight cane W/C Hospital bed Hemi Walker Bedside Commode

To be determined Other:


Recommended Services: Rehab Placement/SNF Outpatient PT Home Health PT 24 hour Supervision/Assist upon D/C 24 hour total care

To be determined Comments:

Therapist's Signature: Archie Wilson, PT, DPT X5480 Time: 9:00-9:13

Procedures: Brief Evaluation Limited Evaluation Intermediate Evaluation Complex Evaluation Re-evaluation

TURNER, WILLIAM
R1211002353
JONES, MARK A



Palmetto Health
Rehabilitative Services
Physical Therapy Flow Sheet

Diagnosis: Fall Precautions: Full
Goals Effective Through: 4/30/12 Frequency: 5x/wk

- Goals: Pt will ① cup-sit-stand ②
② amb ≥ 300' w/ device ③
③ TV 5 steps w/ SBA

Date: <u>4/22/12</u>	Units: <u>1G+</u>	Time: <u>10:57 - 11:12</u>
Gait Distance: <u>1200'</u>	Device: <u>①</u>	Assistance: <u>Contract progressing to SBA</u>
Supine ↔ Sit: <u>⑤</u>	Sit ↔ Stand: <u>SBA</u>	Weight Bearing Status: <u>-</u>
<p>Pt amb initially very slowly / lethargic presentation however pt did ↑ speed & cues. Pt amb ↑ ↓ 5 stairs w/ SBA, ↑ ↓ range SBA. Pt very quiet only answering ?'s w/ cues. Pt returned to bed w/ wife present.</p> <p>Pt presents w/ safe mobility & at ⑤ (A). RN made aware of pt's ability to amb w/ family &</p>		
Assessment/Plan: <u>nursing. DIC PT</u>	Pain:	Signature: <u>J. B. Miller MPT x1885</u>

Date:	Units:	Time:
Gait Distance:	Device:	Assistance:
Supine ↔ Sit:	Sit ↔ Stand:	Weight Bearing Status:
Assessment/Plan:		Pain:
Assessment/Plan:		Signature:

Date:	Units:	Time:
Gait Distance:	Device:	Assistance:
Supine ↔ Sit:	Sit ↔ Stand:	Weight Bearing Status:
Assessment/Plan:		Pain:
Assessment/Plan:		Signature:



TURNER, WILLIAM
 R1211002353
 JONES, MARK, A



Date:	Units:	Time:
Gait Distance:	Device:	Assistance:
Supine ↔ Sit:	Sit ↔ Stand:	Weight Bearing Status:
		Pain:

Assessment/Plan:	Signature:	
Date:	Units:	Time:
Gait Distance:	Device:	Assistance:
Supine ↔ Sit:	Sit ↔ Stand:	Weight Bearing Status:
		Pain:
Assessment/Plan:	Signature:	

Assessment/Plan:	Signature:	
Date:	Units:	Time:
Gait Distance:	Device:	Assistance:
Supine ↔ Sit:	Sit ↔ Stand:	Weight Bearing Status:
		Pain:
Assessment/Plan:	Signature:	

Date:	Units:	Time:
Gait Distance:	Device:	Assistance:
Supine ↔ Sit:	Sit ↔ Stand:	Weight Bearing Status:
		Pain:
Assessment/Plan:	Signature:	

TURNER, WILLIAM
R1211002153
JONES, MARK A



Occupational Therapy Comprehensive Evaluation Form (page 2 of 2)

Functional Mobility	I	Mod I	Setup	SBA/S	Contact guard A	Min A	Mod A	Max A	Dep.	Comments
Rolling										NT
Supine → sit						✓				
Sitting Balance					✓	✓				during MMT for dynamic, 2° over trunk
Sit → stand						✓	✓			2 delayed initiation to motor task. Initial
Standing Balance						✓	✓			
Ambulation						✓	✓			hand-held (B) ~ 3-4 steps → HOB (B) side.
Toilet transfer										
ADL	I	Mod I	Setup	SBA/S	Contact guard A	Min A	Mod A	Max A	Dep.	Comments
Feeding										NT
Grooming										↓
UE dress/bathe										
LE dress/bathe								✓		to arm (B) socks.

Cognition	WFL	impaired	Comments	Cognition (cont.)	WFL	impaired	Comments
Level of alertness	✓	✓	↑ alertness	Problem Solving		✓	2° ↓ mentation, ↓ insight
Orientation		✓	Person, DOB, & year, & place	Judgment/Safety		✓	fall risk
Following Directions	✓	✓	↑ processing time	Memory		✓	pt. unable to recall. fail
Attention Span	✓	✓	shorter attention span	Motivation	✓		

ASSESSMENT: Pt. presents with the following deficits:

<input checked="" type="checkbox"/> Cognition	<input checked="" type="checkbox"/> Basic ADL	<input type="checkbox"/> Sensation	<input checked="" type="checkbox"/> Activity tolerance
<input type="checkbox"/> UE / LE Range of motion	<input checked="" type="checkbox"/> Sit/Stand balance	<input checked="" type="checkbox"/> Gross motor coordination	<input type="checkbox"/> Safety Awareness
<input checked="" type="checkbox"/> UE Strength	<input checked="" type="checkbox"/> Bed mobility	<input type="checkbox"/> Fine motor coordination	<input type="checkbox"/>
<input checked="" type="checkbox"/> LE Strength	<input checked="" type="checkbox"/> Functional transfers	<input type="checkbox"/> Respiratory endurance	<input type="checkbox"/>

Rehab Potential: Good Fair Guarded Comments:

PLAN: PL will be seen 6x week (frequency) for the following:

<input checked="" type="checkbox"/> Cognitive retraining	<input type="checkbox"/> Balance	<input checked="" type="checkbox"/> Patient / family education	<input type="checkbox"/> Training with adaptive equipment
<input type="checkbox"/> UE / LE Range of motion	<input checked="" type="checkbox"/> Functional transfer training	<input type="checkbox"/> Energy conservation	<input type="checkbox"/>
<input checked="" type="checkbox"/> UE / LE Strengthening	<input checked="" type="checkbox"/> Safety awareness	<input type="checkbox"/> Home exercise program	<input type="checkbox"/>
<input checked="" type="checkbox"/> ADL retraining	<input type="checkbox"/> Neuro-muscular re-ed	<input type="checkbox"/> Splinting / positioning	<input type="checkbox"/>

Please see OT flow sheet for patient goals.

Plan has been discussed with: Patient Pt's family/caregiver USW/Case Management Nurse UMD LPT USLP

RECOMMENDATIONS:

Recommended Equipment: BSC Shower chair/Tub bench Hip kit Iw/c Hospital bed Grab bars Splint Rolling Walker To be determined
 Other: _____
 Recommended Services: Rehab Outpatient OT Home Health OT 24 hour supervision/assist upon D/C 24 hour total care
 D/C OT To be determined Comments: _____


Therapist's Signature: Katie Williams OT/CL - 62 - Date: 4-21-12

Procedures: Brief Evaluation Limited Evaluation Intensive Evaluation Complex Evaluation Re-evaluation
03/16/09

Palmetto Health Richland
Rehabilitative Services
Occupational Therapy Progress Flow Sheet

"Lee"

TURNER, WILLIAM
R1211002353
JONES, MARK A



Room: 327-T 503

Diagnosis: Trauma 011 Fall Precautions: Fall Age: 26

Goals Effective Through: 4-29-12 Frequency: 3x week 3 VISITS

Goals: Pt. will (1) follow 515 motor commands to complete grooming task. (2) plan & sequence ADL task & 100% accuracy. (3) complete br. mobility to safe approach mod. (4) complete cognitive strengthening trer. activity & 100% accuracy.

Patient/Family Goals: Agreeable

Date: 4/23/12 Units: 1-cognitive re-eval. Time: 2:15-2:29

Pt seen & okay from nursing, supine in dext state & wife + x2 family members @ bedside. Pt agreeable to OOB, down/doff socks & xl simple common. Supine -> sit mod (D) sit -> stand mod (E) ambulate & SBA x10' to sink. Wash hands & xl cue to initiate task, ambulate 300' & SBA -> contact guard (A) x3 cues to attend to task & obstacles in path requiring min. cues to re-direct path. Pt answers life event questions i.e. wedding anniversary, location questions-long term. Pt & poor Pain.

Plan / Recommendations: short term memory of event + Signature: reports 1st memory yesterday & details. Return to J. Carol Speer, OTR/c
cont. 3 visits

Date: 4/24/12 Units: 1-2 HT Time: 4:30-4:43

Pt standing in DOM on arrival. Demonstrated two transfers & picking up of flow & (S) into (100' & (S) S (loss of balance & C/O difficulty). Pt answered some safety questions correctly & difficulty & giving or accepting. Pt family educated at length. Pt appears to be further aware of needs &

Plan / Recommendations: d/c OT Signature: Kasey Jones 2014 Pain: 0

Date: Units: Time:

Plan / Recommendations: Signature: Pain:

Date: Units: Time:

Plan / Recommendations: Signature: Pain:

Date: Units: Time:

Plan / Recommendations: Signature: Pain:



Consultation Report

TURNER, WILLIAM L - R015379577

* Final Report *

Result type: Consultation Report
 Result date: 19 April 2012 18:41
 Result status: Auth (Verified)
 Result title: Consultation Report
 Performed by: Wehner Jr PA-C, Joseph A on 19 April 2012 18:41
 Verified by: Webb MD, Sharon W on 21 May 2012 20:42
 Encounter info: R1211002353, Richland, IPR-Inpatient, 04/19/12 - 04/25/12

* Final Report *

Consultation Report (Verified)

PATIENT: TRAUMA, M120297 DICT: Joseph Anton Wehner, PA
 MR #: DOB:
 ADMITTED: 04/19/2012 PT.LOC: STU

DATE OF CONSULTATION: 04/19/2012

TIME OF CONSULTATION: 7:00 p.m.

ATTENDING PHYSICIAN: Sharon W. Webb, MD

REFERRING PHYSICIAN: Mark A Jones, MD

REASON FOR CONSULT: Fall.

HISTORY OF PRESENT ILLNESS: Trauma Male 120297 is a 23-year-old white male who fell off the back of a truck approximately 4 or 5 feet, striking his head. The patient was brought to the emergency department in transfer from another facility where he was conscious, alert, and oriented x3. Upon his arrival here, he had a GCS of 3.

PAST MEDICAL HISTORY: None.

PAST SURGICAL HISTORY: None.

MEDICATIONS: No daily medications.

ALLERGIES: No known drug allergies.

FAMILY HISTORY: Positive for diabetes and coronary artery disease.

SOCIAL HISTORY: He is married and lives with his wife. He smokes cigarettes. Denies alcohol and drug use per the wife. He works as a construction worker.

REVIEW OF SYSTEMS: A 13-point review of systems is also negative per the wife. He was feeling fine today.

Printed by: Cantey, Precious K
 Printed on: 06/14/12 14:07

Page 1 of 3
 (Continued)

Consultation Report

TURNER, WILLIAM L - R015379577

* Final Report *

PHYSICAL EXAMINATION:

VITAL SIGNS: A heart rate of 112, pulse ox 100 percent, blood pressure 156/96, and at this time he has a GCS of 9I E3 V1I M5.

NEUROLOGIC: Review of cranial nerves: Unable to obtain due to patient's condition. Pupils 4 mm and reactive. Sensation appears to be intact to his upper and lower extremities. Motor: He moves all extremities equal and well. Unable to evaluate proprioception, coordination or pronator drift due to patient's condition.

HEENT: Nares are patent. Trachea is midline. C-collar is in place. Several abrasions noted.

PULMONARY: Even, clear, and nonlabored. He is intubated.

CARDIOVASCULAR: Regular rate and rhythm.

ABDOMEN: Soft and not distended.

MUSCULOSKELETAL: No obvious deformities noted.

SKIN: Warm and dry.

LABORATORY DATA: PT of 17.3, INR of 1.3. Sodium is 147. Potassium is 3.7.

IMAGING: Reports reviewed and personally reviewed images. CT of the cervical spine: No fractures noted. CT of the head: Two areas of small subdural blood noted. CT of the chest, abdomen and pelvis: Possible thoracic 3 and 4 endplate fractures, unknown if it is acute or chronic.

IMPRESSION:

1. Subdural hematoma.
2. T3 fracture.
3. T4 fracture.

PLAN: We start the patient on Keppra, follow her exam, and repeat a head CT in 6-8 hours.

The patient was also evaluated by Dr. Sharon Webb.

D: 04/19/2012 21:29 T: 04/19/2012 13:41 TID: cc
Job #: 82073 Doc #: 10258622
cc: Joseph Anton Wehner, PA
Sharon W. Webb, MD
Mark A Jones, MD

Signature Line

Electronically Signed & Verified on 04/27/2012 08:14
by Wehner Jr PA-C, Joseph A

Printed by: Cantey, Precious K
Printed on: 06/14/12 14:07

Page 2 of 3
(Continued)

Discharge Summary

TURNER, WILLIAM L - R015379577

* Final Report *

Result type: Discharge Summary
Result date: 25 April 2012 10:40
Result status: Auth (Verified)
Result title: Discharge Summary
Performed by: Hassinger MD, Stanley on 25 April 2012 10:40
Verified by: Bynoe MD, Raymond P on 03 May 2012 11:51
Encounter info: R1211002353, Richland, IPR-Inpatient, 04/19/12 - 04/25/12

* Final Report *

Discharge Summary

PATIENT: TURNER, WILLIAM DICT: Stanley Hassinger, MD-R
MR #:
ADMITTED: 04/19/2012 DOB:
DISCHARGED: 04/25/2012 PT.LOC: 7E

ATTENDING PHYSICIAN: Raymond P. Bynoe, MD

DISCHARGE DIAGNOSES:

1. Small subdural hemorrhage, traumatic.
2. Fall off of a ladder, suspected 10 to 15 feet.
3. Seizure at another hospital with EMS.
4. T3 to T4 endplate fractures.
5. Acute respiratory failure, intubated in the Emergency Department trauma bay.

CONSULTATIONS THIS ADMISSION: Dr. Timothy Maryanov, Neurosurgery.

PROCEDURES PERFORMED:

1. Endotracheal intubation.
2. Left subclavian central venous catheter placement.
3. Right arterial line placement.

HOSPITAL COURSE: Please see the full H&P for complete details. Briefly, this is a 26-year-old male who came into the ED after a fall from approximately 10 - 15 feet landing on his head. GCS on arrival was 3. He was intubated. He was admitted to the STICU. Neurosurgery was consulted. He was admitted under the care of trauma surgery. While on STICU, Neurosurgery evaluated the patient and recommended repeat head CT scan as well as Keppra for seizure prophylaxis. On repeat CT scan of his head, there were no new intracranial abnormalities, but there were ongoing contusions. Neurosurgery evaluated the patient's T3 and T4 endplate fractures and said that these were stable, no intervention was necessary. The patient's mental status gradually improved and he was extubated. He did have some somnolence issues after extubation and was kept n.p.o. An NG tube was placed and did have return of heme positive secretions. He was started on Nexium as well as

Printed by: Cantey, Precious K
Printed on: 06/14/12 14:07

Page 1 of 3
(Continued)

Discharge Summary

TURNER, WILLIAM L - R015379577

* Final Report *

a bowel regimen and Sucralfate. The patient did eventually have speech therapy evaluation and was put on a regular diet.

LABS AND IMAGING:

1. CT of head on 04/19/2012 showed small hemorrhagic contusion left temporal lobe anteriorly in the middle cranial fossa with a tiny amount of acute appearing extra axial blood in this location. Small volume of left temporal acute posttraumatic extra-axial fluid laterally seen. Mild to moderate size subdural hematoma left occipital region. No mass effect. There is no midline shift or any herniation. No skull fracture.
2. CT of the chest, abdomen and pelvis on 04/19/2012 showed minimal superior endplate compression deformities of T3 and T4 inferiorly of uncertain chronicity, cannot exclude acute mild superior endplate compression fractures. No evidence of trauma to the abdomen or pelvis identified. No acute process in the abdomen or pelvis.
3. CT of the cervical spine on 04/19/2012 showed no acute osseous injury of the cervical spine.
4. Repeat head CT on 04/20/2012 showed evolution of the left retro-cerebellar and left occipital epidural hemorrhage. Minimal subarachnoid hemorrhage is again noted along with areas of hemorrhagic contusion in the left temporal lobe, multifocal mucosal sinus disease, mildly progressed.

DISCHARGE MEDICATIONS: Please see medication reconciliation.

FOLLOW-UP APPOINTMENTS:

1. The patient is to follow up with Dr. Raymond Bynoe in his clinic in 1 to 2 weeks.
2. The patient to follow up with Dr. Alan Peterson, his primary care physician, within the next 2 to 4 weeks. The patient is to follow up with Dr. Maryanov in 2 to 4 weeks.

DISCHARGE INSTRUCTIONS: The patient is to follow up in one month with a repeat head CT scan with Neurosurgery. He is not to engage in any contact sports. No strenuous activities and is not to return to work until released by Neurosurgery. He is not to drive until released by Neurosurgery. He can have a regular diet as tolerated. He is to contact his medical doctor if he has any headaches not resolve off the medication, if he has any visual changes, nausea, vomiting, fever over 101.5 sustained, if he has chills or any other general questions. If he has any seizure activity, he is to call 911.

DISCHARGE CONDITION: Stable.

DISPOSITION: The patient is discharged to home.

Attending physician Dr. Raymond Bynoe evaluated the patient on the day of discharge and agreed with the discharge plan.

Printed by: Cantey, Precibus K
Printed on: 06/14/12 14:07

Page 2 of 3
(Continued)

⑦ PT Family ed.

TURNER, WILLIAM
R1211002353
JONES, MARK A

Palmetto Health Richland
Rehabilitative Services
Speech Therapy Progress Flow Sheet
Room: 5277 745



Diagnosis: SDH Precautions: Age:
Goals Effective Through: 4/30/12 Frequency: 5x/wk

Goals: ① Cont dx tx. ② Follow 1 step commands = 90% acc.
③ Sustain attn to task for 1 min w/o min redirection. ④ Montreal Cognitive Assessment (MOCA) WFL ⑤ Short-term memory tasks = 90%. ⑥ Word Fluency task = 11 items/ category

Patient / Family Goals: Unable to state.

Date: 4/23/12 Units: Int. Speech tx Time: 11:00-11:25
⑤ Chart reviewed: pt seen OOB in chair; awake, alert. GCS ⑤. Visitors.
① ② Commands (1,2,3-step) = 100%. ③ Pt sustained alertness & redirection during administration of MOCA. ④ Pt was administered the MOCA to assess cognitive skills. Total score: 21/30 (226/30 Normal); deficits noted in visuospatial, executive functioning skills, short-term memory & word fluency (7 items/1 min, N=11 words)

Plan / Recommendations: ① Rancho VIII; purposeful, appropriate
② Cont cognitive tx 5x/week; require diet (see eval) - dysphagia tx
Signature: Alicia Halper, MSP, CII-SLP #0532
Pain: 0/10 pain
Date: 4/25/12 Units: Int. Indiv. tx Time: 11:00-11:31

⑤ Chart reviewed. PTO planned d/c for today. A family present. GCS ⑤
① ④ MOCA given: 26/30 (226/30 normal) Deficits noted in short-term memory and functional math concepts. ② Pt/family given More than a bump on the head booklet. Ed on TBI, s/s of TBI, when to call MD. All voiced understanding. Discussed pt. deficits, how to compensate via memory log, calendar use, phone alerts, etc. Discussed ↓ insight to deficit can also affect safety. A family asked appropriate ?'s

Plan / Recommendations: ① Inappropriate responses noted @ time of eval. & poor eye contact. Rancho VIII ② Flu tx 1-2x, unless at all home. ③ Flu tx 1-2x, unless at all home. ④ Flu tx 1-2x, unless at all home. ⑤ Flu tx 1-2x, unless at all home.
Signature: L. E. Tapping wife's chest w/ feet to
Pain: 0/10 pain
Date: _____ Units: _____ Time: _____

Plan / Recommendations: _____ Signature: _____

Date: _____ Units: _____ Time: _____

Plan / Recommendations: _____ Signature: _____





Neurology Faculty

Souvik Sen, MD, MS, MPH
Chair

General Neurology
Theodore Faber, MD
David Mrelashvili, MD
James Selph, MD
Souvik Sen, MD, MS, MPH
Y. Swamy Venkatesh, MD,
DM, FRCP (Edin), FAAN

Epilepsy
James Selph, MD

Multiple Sclerosis
David Mrelashvili, MD

Neuroimmunology
David Mrelashvili, MD

Neurophysiology
Miroslav Cuturic, MD
Theodore Faber, MD
James Selph, MD
Y. Swamy Venkatesh, MD,
DM, FRCP (Edin), FAAN

Vascular Neurology
Souvik Sen, MD, MS, MPH
Y. Swamy Venkatesh, MD,
DM, FRCP (Edin), FAAN

Movement Disorders
Theodore Faber, MD
Y. Swamy Venkatesh, MD,
DM, FRCP (Edin), FAAN

Therapeutic Botox
Miroslav Cuturic, MD
Theodore Faber, MD
Y. Swamy Venkatesh, MD,
DM, FRCP (Edin), FAAN

CONSULTATION H&P

PATIENT NAME: William Turner
DATE OF SERVICE: 5/16/12
DOB: [REDACTED]
REFERRING PHYSICIAN: Alan Peterson, M.D.

CHIEF COMPLAINT: Seizure status post head injury.

HISTORY OF PRESENT ILLNESS: The patient is a 23-year-old gentleman who, in early April, was at work when he fell off the back of a truck. Medical records are somewhat variable, suggesting a fall anywhere from 4 to 5 feet vs. 10 to 15 feet. It did occur at work. He himself has absolutely no memory of it or what might have precipitated the fall. His GCS on arrival was 3. He was intubated and admitted to the STICU and was followed by Neurosurgery without surgical treatment. It appears that he had a reported history of a seizure at another hospital while being transferred by EMS. He was subsequently stabilized. He had some T3-4 endplate fractures that were stable, not requiring intervention. He was subsequently discharged. He reports no residual deficits. He has a history of back pain and in fact was taking Ultram prior to his fall. He has continued to have chronic back pain, potentially involving more upper thoracic regions as opposed to lower back regions. He is followed by his primary care physician. He does receive pain medications for this. In addition, he did receive some prophylaxis with Keppra following his transfer to Richland, but has not had any seizures at Richland Hospital or since discharge from Richland Hospital.

PAST MEDICAL HISTORY: Please see those issues as outlined above. There is no other past medical history of neurological disease.

SOCIAL HISTORY:
Marital Status: Married. *Alcohol:* None.
Employment: Salsa *Illicit Drug Use:* None.
Construction. *Caffeine:* 1 dr/day.
Tobacco: none. *Sleep:* 6 hr/night.

MEDICATIONS:
Hydrocodone/APAP.
Levetiracetam

ALLERGIES: No known drug allergies.

FAMILY MEDICAL HISTORY: There is no family history of epilepsy. A family history form was completed by the patient, was reviewed by me, and is included in the chart.

ROS: A templated 14 system ROS was completed by the patient, reviewed by me, and is located in the chart. The reviewed systems included: Constitutional, Eyes, ENT, CV, Respiratory, GI, GU, Musculoskeletal, Skin/breast, Endo, Heme, Immune, Psych, and Neuro. Pertinent and relevant positives and negatives are contained within the HPI.

EXAMINATION
VITALS: BP 110/73, P 83, W 132, H 5 feet 6 inches, BMI 21.2.
GENERAL: Well developed; well nourished; no acute distress.
HEAD: Normocephalic. Atraumatic.
EYES: Normal disc and vessels on fundus exam
SKIN: There are no rashes or lesions noted.

Patient Name: LEE William Turner

Date: 4/30/12

Chart # 35503 DOB: _____ Age: _____ Relative: _____

Chief Complaint:

- Patient presents today for follow up and/or evaluation of _____
- Patient presents today for annual review of chronic conditions (see Summary List)
- Patient presents as a new patient with total PMH and Medication Hx taken
- Patient did/did not have recent MD appointment(s) with _____

Summary List Review: PMSHx reviewed Meds reviewed SocHx reviewed FamHx reviewed

HPI: See Chief Complaint

Pain? Yes / No (If Yes, include quality, intensity and location)

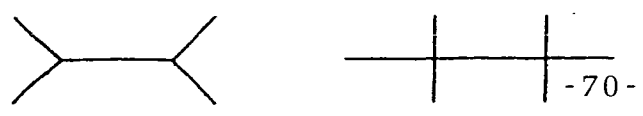
26 yo w/ @ office for initial visit after
recent accident & head trauma requiring
ICU admission & tx. Sp sub-dural hematoma
non-surgical type. At @ office for RN &
eval. At-AD seen ER prior to admission
& ER visit during
at AD seizure & EMS transport.
Sp intubation / mech ventilation.

Review of Systems: (Circle individual complaint if positive. Check box to left if all negative.)

- Constitutional:** Fever / Chills / Change in appetite / Abnormal weight gain or loss / Fatigue / Weakness
- Eyes:** Pain / Discomfort / Change in vision
- HEENT:** Headache / Ear discomfort / Ear discharge / Change in hearing / Nose bleed / Nose discharge / Nose congestion / Nose discomfort / Mouth discomfort / Throat discomfort
- Cardiovascular:** Chest pain / Palpitations / Swelling in legs / Color change in fingers or toes
- Pulmonary:** Cough / Shortness of breath / Wheezing / Expectorations
- Endocrine:** Excessive thirst / Excessive urination / Temperature intolerance / Excessive sweating / Low libido
 - Female:** Breast discharge / Abnormal periods / Pregnant
- GI:** Nausea / Vomiting / Swallowing problems / Abdominal pain / Change in bowel movements / Change in bowel habits / Diarrhea / Constipation / Heartburn
- GU:** Urinary frequency / Urinary urgency / Urinary pain / Blood in urine / Pelvic pain / Discharge
- Musculoskeletal:** Limited range of motion of a joint / Abnormal gait / Joint swelling / Joint pain / Muscle pain
- Skin:** Rash / Cut / Burns / Itching / New or unusual moles or marks
- Heme:** Excessive bleeding / Bruising
- Lymph:** Neck masses / Armpit masses / Groin masses
- Neurologic:** Numbness / Tingling / Weakness / Burning / Seizures / Fainting / Dizziness / Tremors / Memory loss
- Psychiatric:** Change in mood / Poor sleep / Hallucinations / Suicidal thoughts

Pertinent Labs and Studies done on _____ :

____ AST	____ TC	____ TSH	U/A
____ ALT	____ TG	____ ft4	UCx&S
____ TB	____ HDL	____ Insulin	PFT's
____ DB	____ LDL	____ PSA	ABI's
____ GGTP		____ A1C	A-U/S
____ AP	____ Vit D	____ CRP	ECHO
			NucST
____ Ca++	____ Mg++	____ PO4--	CarU/S
			EKG



AM

 MD Init

Examination:

- Vitals: Height 5'0" Weight 134 Temp: _____ R: 14 P: 68 BP: 122/80
 General: W/DN / Pleasant and cooperative / NAD
 HENMT: AT/NC / NI TM's and canals / Nares clear / OP clear
 Eyes: PERRL / Conjunctivae nl / Fundi nl
 Neck: Supple / Trachea midline / No JVD / No TM / No LA / No CB / No masses
 CV: RRR / No MGR / No edema / NI periph pulses
 Pulm: CTAB
 Breasts: Symmetric / No discharge / No masses / No tenderness
 Abd: Soft / NT / No HSM / No hernias / No bruits / No masses / NI BS's
 GU Male: No lesions / No hydrocoele / No tenderness / No masses / NI prostate
 GU Female: No atrophy / No lesions / No discharge / NI urethra / No cystocoele / No rectocoele / NI cervix / NI adnexa / NI uterus
 Rectal: No masses / No fissures / No hemorrhoids
 Lymph: No cervical LA / No axillary LA / No inguinal LA
 MS: w/o Δ for pt OR NI posture / No atrophy / FROM / No tenderness / NI structure and alignment of all joints / No clubbing / No cyanosis / No edema / NI gait
 Skin: No lesions / No rashes / No wounds / No ulcers
 Neuro: w/o Δ for pt OR CN II-XII intact / Motor intact / Sensory intact / Cerebellum intact / NI gait / NI speech / Strength intact and symmetric / DTR's intact and symmetric
 Psych: A&O x 3 / Appropriate affect / Memory intact
- Additional Physical Comments: _____

Assessment and Plan All problems on Summary List reviewed and remain w/o change except as follows:

- ① MULTI TRAUMA - SPD FALL E. TRU ADM
ADMISSION + TREATMENT + MEDICAL VERIFICATION
SPD SUB-DURAL HEMATOMA
+ VERT FX T₃ + T₄ - R/O NEURO-SURG.
+ TRAUMA SURG.
- ② SEIZURE EPISODE DEC 2011
COAR KEPPRA 750 BID
- Will obtain HOSP RECORDS

See Addendum Sheet for additional A&P

Follow-up: As scheduled or _____ Days / Weeks / Months / Years / PRN for _____ minutes with
Labs: Fasting / Non-fasting Full Panel BMP CMP CBC LFT's Lipids TFT's VitD UA PSA A1C BS
 μAlb:Cr Ins PT/INR BNP B12 EKG

Studies: _____
Referrals: _____
HM: UTD or needs / Mammogram / DEXA / Colon / Flu vax / PVX / tobacco counseling
 DM teaching / Annual assessment / Other: _____

Labs / Test results / Medical records discussed with patient Medical recs requested from _____
 Patient and/or family was counseled for _____ mins out of a total visit time of _____ mins as outlined in A&P.
 Treatment options and possible SE's were discussed with patient, and patient voiced understanding.
 Patient is at HIGH RISK for morbidity and/or mortality

Physician Signature _____ Date 4/30/12

PATIENT NAME: William Turner

DATE OF SERVICE: 5/16/12

DOB:

PAGE 2

NEURO:

MENTAL STATUS: Alert. Attention and concentration are good. The patient was oriented to person place and time. Speech is articulate and language is fluent. Repetition and naming intact. Memory is intact. Fund of knowledge is intact.

CRANIAL NERVES: Pupils are equal round and reactive to light. Accommodation is present. Extraocular movements are full. Saccades and smooth pursuit are normal. There is no notable nystagmus. Visual fields are full bilaterally. There is no notable ptosis. Facial sensation is intact bilaterally. Face and smile are symmetric. Jaw opening is strong bilaterally. Eye closure is strong bilaterally. Hearing is intact bilaterally. Palate elevates symmetrically. Shoulder shrug is symmetric. Tongue protrusion is midline.

MOTOR: Muscle tone is normal.

STRENGTH: No drift is noted.

For strength on the LEFT upper extremity, the patient has 5/5 strength both proximally and distally.

For strength on the RIGHT upper extremity, the patient has 5/5 strength both proximally and distally.

For strength on the LEFT lower extremity, the patient has 5/5 strength both proximally and distally.

For strength on the RIGHT lower extremity, the patient has 5/5 strength both proximally and distally.

SENSORY: Sensation is intact to light touch, sharp, vibration, temp, joint position sense in all 4 ext.

REFLEXES: L Biceps=2+, L Triceps=2+, L brachioradialis=2+, L Patellar= 2+, and L Ankle= 2+.

R Biceps=2+, R Triceps=2+, R brachioradialis=2+, R Patellar= 2+, and R Ankle= 2+. Plantar reflex is flexor bilaterally.

COORDINATION/MOVEMENT: There is no tremor noted or other abnormal movements. Coordination and fine motor movements were normal and without ataxia or dysmetria.

GAIT: Patient has a normal gait.

DATA:

Records from Richland Hospital, including his CT and followup CT's as well as Neurosurgery and discharge notes were reviewed and printed out and are included in the chart.

IMPRESSION:

History of head injury with intracerebral hemorrhage, without focal neurological deficits, but with seizure at the time of the bleed.

RECOMMENDATIONS:

He has already been placed on driving restrictions by other physicians. I told him I would not rescind these and that for any seizure he is not to drive for six months after that seizure. I also counseled to avoid heights, ladders, power machinery, power tools and discussed water safety issues as well. I told him at this time it would make the most sense to discontinue the levotiracetam to see how he would do going forward. I recommended Flexeril and Aleve for his back pain issues. He is going to follow up with his primary care physician, but he is welcome to follow up here as needed.



James Selph, M.D.

JS/dmc-m45609

D&T: 5/16/12

Department of Neurology
8 Medical Park, Suite 420, 3390 Medical Park Road, Columbia, SC 29203
803-545-6050, FAX 803-545-6051

Peterson and Plante Internal Medicine Associates Office Note Dr. Heluso

Patient Name: William Turner Date: 5/17/12
Chart # 333 DOB: Age: 2e Relative:

Chief Complaint:

- Patient presents today for follow up and/or evaluation of Backpain
- Patient presents today for annual review of chronic conditions (see Summary List)
- Patient presents as a new patient with total PMH and Medication Hx taken
- Patient did/did not have recent MD appointment(s) with

Summary List Review: PMSHx reviewed Meds reviewed SocHx reviewed FamHx reviewed

HPI: See Chief Complaint

Pain? Yes / No (If Yes, include quality, intensity and location)
26 yo w 3' @ office for FU. D TRUMP
Dr. & 10 Thoracic BACK PAIN TAKING PAIN MEDS
memory + mental function by BROTHER
BACK WORSE + SITTING + Lying Down
ambulating well

Review of Systems: (Circle individual complaint if positive. Check box to left if all negative.)

- Constitutional:** Fever / Chills / Change in appetite / Abnormal weight gain or loss / Fatigue / Weakness
- Eyes:** Pain / Discomfort / Change in vision
- HEENT:** Headache / Ear discomfort / Ear discharge / Change in hearing / Nose bleed / Nose discharge /
Nose congestion / Nose discomfort / Mouth discomfort / Throat discomfort
- Cardiovascular:** Chest pain / Palpitations / Swelling in legs / Color change in fingers or toes
- Pulmonary:** Cough / Shortness of breath / Wheezing / Expectorations
- Endocrine:** Excessive thirst / Excessive urination / Temperature intolerance / Excessive sweating / Low libido
- Female:** Breast discharge / Abnormal periods / Pregnant
- GI:** Nausea / Vomiting / Swallowing problems / Abdominal pain / Change in bowel movements /
Change in bowel habits / Diarrhea / Constipation / Heartburn
- GU:** Urinary frequency / Urinary urgency / Urinary pain / Blood in urine / Pelvic pain / Discharge
- Musculoskeletal:** Limited range of motion of a joint / Abnormal gait / Joint swelling / Joint pain / Muscle pain
- Skin:** Rash / Cut / Burns / Itching / New or unusual moles or marks Thoracic BACK PAIN
- Heme:** Excessive bleeding / Bruising
- Lymph:** Neck masses / Armpit masses / Groin masses
- Neurologic:** Numbness / Tingling / Weakness / Burning / Seizures / Fainting / Dizziness / Tremors / Memory loss
- Psychiatric:** Change in mood / Poor sleep / Hallucinations / Suicidal thoughts

Pertinent Labs and Studies done on _____ :

___ AST	___ TC	___ TSH	___ U/A
___ ALT	___ TG	___ FT4	___ UCx&S
___ TB	___ HDL	___ Insulin	___ PFT's
___ DB	___ LDL	___ PSA	___ ABI's
___ GGTP		___ A1C	___ A-U/S
___ AP	___ Vit D	___ CRP	___ ECHO
			___ NucST
___ Ca++	___ Mg++	___ PO4--	___ CarU/S
			___ EKG



MD Init

Examination:

- Vitals: Height _____ Weight _____ Temp: _____ R: 116 P: 68 BP: 118/72
 General: WDWN 55 / Pleasant and cooperative / NAD AD CTX
 HENMT: AT/NC / NI TM's and canals / Nares clear / OP clear _____
 Eyes: PERRL / Conjunctivae nl / Fundi nl _____
 Neck: Supple / Trachea midline / No JVD / No TM / No LA / No CB / No masses _____
 CV: RRR / No MGR / No edema / NI periph pulses _____
 Pulm: CTAB _____
 Breasts: Symmetric / No discharge / No masses / No tenderness _____
 Abd: Soft / NT / No HSM / No hernias / No bruits / No masses / NI BS's _____
 GU Male: No lesions / No hydrocoele / No tenderness / No masses / NI prostate _____
 GU Female: No atrophy / No lesions / No discharge / NI urethra / No cystocoele / No rectocoele / NI cervix / NI adnexa / NI uterus _____
 Rectal: No masses / No fissures / No hemorrhoids _____
 Lymph: No cervical LA / No axillary LA / No inguinal LA _____
 MS: w/o Δ for pt OR NI posture / No atrophy / FROM / No tenderness / NI structure and alignment of all joints / No clubbing / No cyanosis / No edema / NI gait THORACIC BACK PAIN POINT-TEND
 Skin: No lesions / No rashes / No wounds / No ulcers T₃ - T₄
 Neuro: w/o Δ for pt OR CN II-XII intact / Motor intact / Sensory intact / Cerebellum intact / NI gait / NI speech / Strength intact and symmetric / DTR's intact and symmetric _____
 Psych: A&O x 3 / Appropriate affect / Memory intact _____
 Additional Physical Comments: _____

Assessment and Plan All problems on Summary List reviewed and remain w/o change except as follows:

- (1) MULTITRAUMA HT - SID FALL - C SUB-DURAL HEMATOMA
 + THORACIC VERB - FX T₃ & T₄
 FLU HEAD CT - PEPPERS' FLU NEURO SURG
 CHARGE MORCO 7.5 / 325 + Q80 - WOAD
 TRAMADOL 50 mg Q6 PRN
 (2) SEIZURE EPISODE - WOAD + DC KAPPA
 KAPPA 250 1/2 BID X TUE
 1/2 QDAY X TUE + OAD
 (3) CONSTIPATION -
 20 TO PAIN MEDS
 STool SOFTENER See Addendum Sheet for additional A&P

Follow-up: As scheduled or 7 Days / Weeks / Months / Years / PRN for _____ minutes with
 Labs: Fasting / Non-fasting Full Panel BMP CMP CBC LFT's Lipids TFT's VitD UA PSA A1C BS
 μAlb:Cr Ins PT/INR BNP B12 EKG _____

Studies: _____

Referrals: _____

- HM: UTD or needs / Mammogram / DEXA / Colon / Flu vax / PVX / tobacco counseling
 DM teaching / Annual assessment / Other: DALMEOTO
 Labs / Test results / Medical records discussed with patient Medical recs requested from RICARDA
 Patient and/or family was counseled for _____ mins out of a total visit time of _____ mins as outlined in A&P.
 Treatment options and possible SE's were discussed with patient, and patient voiced understanding.
 Patient is at HIGH RISK for morbidity and/or mortality _____

Physician Signature _____

Patient Name: William Turner Date: 6/18/12
 Chart # _____ DOB: _____ Age: _____ Relative: _____

Chief Complaint:

- Patient presents today for follow up and/or evaluation of follow up
- Patient presents today for annual review of chronic conditions (see Summary List)
- Patient presents as a new patient with total PMH and Medication Hx taken
- Patient did/did not have recent MD appointment(s) with _____

Summary List Review: PMSHx reviewed Meds reviewed SocHx reviewed FamHx reviewed

HPI: See Chief Complaint

Pain? Yes / No (If Yes, include quality, intensity and location)
26 y.o. M of police for medical review
+ Hx: AETRE TRAUMA - CLOSED HEAD INJURY
PT HAD SEIZURE EPISODE AT OFF KAPPA
NOW ON KAPPA 250 BID
PT GO'S WORSE BACK PAIN AFTER SEIZURE
+ RELATED FALL

Review of Systems: (Circle individual complaint if positive. Check box to left if all negative.)

- Constitutional:** Fever / Chills / Change in appetite / Abnormal weight gain or loss / Fatigue / Weakness
- Eyes:** Pain / Discomfort / Change in vision
- HENMT:** Headache / Ear discomfort / Ear discharge / Change in hearing / Nose bleed / Nose discharge /
Nose congestion / Nose discomfort / Mouth discomfort / Throat discomfort
- Cardiovascular:** Chest pain / Palpitations / Swelling in legs / Color change in fingers or toes
- Pulmonary:** Cough / Shortness of breath / Wheezing / Expectorations
- Endocrine:** Excessive thirst / Excessive urination / Temperature intolerance / Excessive sweating / Low libido
 Female: Breast discharge / Abnormal periods / Pregnant
- GI:** Nausea / Vomiting / Swallowing problems / Abdominal pain / Change in bowel movements /
Change in bowel habits / Diarrhea / Constipation / Heartburn
- GU:** Urinary frequency / Urinary urgency / Urinary pain / Blood in urine / Pelvic pain / Discharge
- Musculoskeletal:** Limited range of motion of a joint / Abnormal gait / Joint swelling / Joint pain * Muscle pain
- Skin:** Rash / Cut / Burns / Itching / New or unusual moles or marks
- Heme:** Excessive bleeding / Bruising trauma in back pain
- Lymph:** Neck masses / Armpit masses / Groin masses
- Neurologic:** Numbness / Tingling / Weakness / Burning / Seizures / Fainting / Dizziness / Tremors / Memory loss
- Psychiatric:** Change in mood / Poor sleep / Hallucinations / Suicidal thoughts

inent Labs and Studies done on _____:

<input type="checkbox"/> AST	<input type="checkbox"/> TC	<input type="checkbox"/> TSH	<input type="checkbox"/> U/A
<input type="checkbox"/> ALT	<input type="checkbox"/> TG	<input type="checkbox"/> ft4	<input type="checkbox"/> UCx&S
<input type="checkbox"/> TB	<input type="checkbox"/> HDL	<input type="checkbox"/> Insulin	<input type="checkbox"/> PFT's
<input type="checkbox"/> DB	<input type="checkbox"/> LDL	<input type="checkbox"/> PSA	<input type="checkbox"/> ABI's
<input type="checkbox"/> GGTP	<input type="checkbox"/> Vit D	<input type="checkbox"/> A1C	<input type="checkbox"/> A-U/S
<input type="checkbox"/> AP		<input type="checkbox"/> CRP	<input type="checkbox"/> ECHO
<input type="checkbox"/> Ca++	<input type="checkbox"/> Mg++	<input type="checkbox"/> PO4--	<input type="checkbox"/> NucST
			<input type="checkbox"/> CarU/S
			<input type="checkbox"/> EKG

Examination:

- Vitals: Height _____ Weight _____ Temp: _____ R: 110 P: 68 BP: 122/72
- General: WDNW / Pleasant and cooperative / NAD
- HENMT: AT/NC / NI TM's and canals / Nares clear / OP clear
- Eyes: PERRL / Conjunctivae nl / Fundi nl
- Neck: Supple / Trachea midline / No JVD / No TM / No LA / No CB / No masses
- CV: RRR / No MGR / No edema / NI periph pulses
- Pulm: CTAB
- Breasts: Symmetric / No discharge / No masses / No tenderness
- Abd: Soft / NT / No HSM / No hernias / No bruits / No masses / NI BS's
- GU Male: No lesions / No hydrocoele / No tenderness / No masses / NI prostate
- GU Female: No atrophy / No lesions / No discharge / NI urethra / No cystocoele / No rectocoele / NI cervix / NI adnexa / NI uterus
- Rectal: No masses / No fissures / No hemorrhoids
- Lymph: No cervical LA / No axillary LA / No inguinal LA
- MS: w/o Δ for pt OR NI posture / No atrophy / FROM / No tenderness / NI structure and alignment of all joints / No clubbing / No cyanosis / No edema / NI gait
- Skin: No lesions / No rashes / No wounds / No ulcers
- Neuro: w/o Δ for pt OR CN II-XII intact / Motor intact / Sensory intact / Cerebellum intact / NI gait / NI speech / Strength intact and symmetric / DTR's intact and symmetric
- Psych: A&O x 3 / Appropriate affect / Memory intact
- Additional Physical Comments: _____

Assessment and Plan All problems on Summary List reviewed and remain w/o change except as follows:

① S/P CLOSED HEAD INJURY - ACCIDENT (BAND) WITH SEIZURE

COAG: KEPPRA 750 BID
NOT AWARE OF DRIVING ROADSIDE
② VERT TX T3 T4 - ORB MARCO / TRAMADOL -

Repeat therapeutic spine film for comparison after recent seizure + fall.

W/S/C K... i (Jan 6 2008)

Recommend on OUT OF WORK UNTIL 60% MONTH SEIZURE FREE WITH NO DRIVING UNTIL SEIZURE-FREE & GIMMUS EXPLAINED TO PT

See Addendum Sheet for additional A&P

Follow-up: As scheduled or 1 Days / Weeks / Months / Years / PRN for _____ minutes with
Labs: Fasting / Non-fasting Full Panel BMP CMP CBC LFT's Lipids TFT's VitD UA PSA A1C BS
μAlb:Cr Ins PT/INR BNP B12 EKG

- Studies: _____
- Referrals: _____
- HM: UTD or needs / Mammogram / DEXA / Colon / Flu vax / PVX / tobacco counseling
- DM teaching / Annual assessment / Other: _____
- Labs / Test results / Medical records discussed with patient Medical recs requested from _____
- Patient and/or family was counseled for _____ mins out of a total visit time of _____ mins as outlined in A&P.
- Treatment options and possible SE's were discussed with patient, and patient voiced understanding.
- Patient is at HIGH RISK for morbidity and/or mortality

Physician Signature _____ -76- _____ 8/18/12

Patient Name: William Turner Date: 7/16/12
 Chart # _____ DOB: _____ Age: _____ Relative: _____

Chief Complaint:

- Patient presents today for follow up and/or evaluation of 1mth seizure d/o.
- Patient presents today for annual review of chronic conditions (see Summary List)
- Patient presents as a new patient with total PMH and Medication Hx taken
- Patient did/did not have recent MD appointment(s) with _____

Summary List Review: PMSHx reviewed Meds reviewed SocHx reviewed FamHx reviewed

HPI: See Chief Complaint

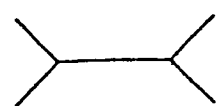
Pain? Yes / No (If Yes, include quality, intensity and location)
26 yo. w d e office. NO FURTHER
SEIZURE C TX. WIFE RELATES MOD
SWAYS AT YO NECK / THORACIC
BACK PAIN.

Review of Systems: (Circle individual complaint if positive. Check box to left if all negative.)

- Constitutional:** Fever / Chills / Change in appetite / Abnormal weight gain or loss / Fatigue / Weakness
- Eyes:** Pain / Discomfort / Change in vision
- HENTMT:** Headache / Ear discomfort / Ear discharge / Change in hearing / Nose bleed / Nose discharge /
Nose congestion / Nose discomfort / Mouth discomfort / Throat discomfort
- Cardiovascular:** Chest pain / Palpitations / Swelling in legs / Color change in fingers or toes
- Pulmonary:** Cough / Shortness of breath / Wheezing / Expectorations
- Endocrine:** Excessive thirst / Excessive urination / Temperature intolerance / Excessive sweating / Low libido
 Female: Breast discharge / Abnormal periods / Pregnant
- GI:** Nausea / Vomiting / Swallowing problems / Abdominal pain / Change in bowel movements /
Change in bowel habits / Diarrhea / Constipation / Heartburn
- GU:** Urinary frequency / Urinary urgency / Urinary pain / Blood in urine / Pelvic pain / Discharge
- Musculoskeletal:** Limited range of motion of a joint / Abnormal gait / Joint swelling / Joint pain / Muscle pain
- Skin:** Rash / Cut / Burns / Itching / New or unusual moles or marks
- Heme:** Excessive bleeding / Bruising
- Lymph:** Neck masses / Armpit masses / Groin masses
- Neurologic:** Numbness / Tingling / Weakness / Burning / Seizures / Fainting / Dizziness / Tremors / Memory loss
- Psychiatric:** Change in mood / Poor sleep / Hallucinations / Suicidal thoughts

Pertinent Labs and Studies done on _____:

____ AST	____ TC	____ TSH	U/A
____ ALT	____ TG	____ ft4	UCx&S
____ TB	____ HDL	____ Insulin	PFT's
____ DB	____ LDL	____ PSA	ABI's
____ GGTP		____ A1C	A-U/S
____ AP	____ Vit D	____ CRP	ECHO
			NucST
____ Ca++	____ Mg++	____ PO4--	CarU/S
			EKG



MD Init

Examination:

- Vitals:** Height _____ Weight _____ Temp: _____ R: 116 P: 72 BP: 110/68
 General: WDNW / Pleasant and cooperative / NAD
 HENMT: AT/NC / NI TM's and canals / Nares clear / OP clear
 Eyes: PERRL / Conjunctivae nl / Fundi nl
 Neck: Supple / Trachea midline / No JVD / No TM / No LA / No CB / No masses
 CV: RRR / No MGR / No edema / NI periph pulses
 Pulm: CTAB
 Breasts: Symmetric / No discharge / No masses / No tenderness
 Abd: Soft / NT / No HSM / No hernias / No bruits / No masses / NI BS's
 GU Male: No lesions / No hydrocoele / No tenderness / No masses / NI prostate
 GU Female: No atrophy / No lesions / No discharge / NI urethra / No cystocoele / No rectocoele / NI cervix / NI adnexa / NI uterus
 Rectal: No masses / No fissures / No hemorrhoids
 Lymph: No cervical LA / No axillary LA / No inguinal LA
 MS: w/o Δ for pt OR NI posture / No atrophy / FROM / No tenderness / NI structure and alignment of all joints / No clubbing / No cyanosis / No edema / NI gait
 Skin: No lesions / No rashes / No wounds / No ulcers
 Neuro: w/o Δ for pt OR CN II-XII intact / Motor intact / Sensory intact / Cerebellum intact / NI gait / NI speech / Strength intact and symmetric / DTR's intact and symmetric
 Psych: A&O x 3 / Appropriate affect / Memory intact
Additional Physical Comments:

Assessment and Plan All problems on Summary List reviewed and remain w/o change except as follows:

- ① Closed head injury - Recurrent Grand mal seizures
 Cogn KODRA 750 BID
 NO DRIVING UNTIL 6 MONTH SEZ. FREE - FREE
 ② vert ex t - t - F/U X-RAY
 PER OPST 4/10
 ✓ TARSAL SPINE - MR
 MOBIC 150 QD
 NORCO 25/325 2 QD
 #90 PAIN
- See Addendum Sheet for additional A&P

Follow-up: As scheduled or 7 Days / Weeks / Months / Years / PRN for _____ minutes with
Labs: Fasting / Non-fasting Full Panel BMP CMP CBC LFT's Lipids TFT's VitD UA PSA A1C BS
μAlb:Cr Ins PT/INR BNP B12 EKG

- Studies:**
- Referrals:**
- HM:** UTD or needs / Mammogram / DEXA / Colon / Flu vax / PVX / tobacco counseling
 DM teaching / Annual assessment / Other:
- Labs / Test results / Medical records discussed with patient Medical recs requested from _____
 Patient and/or family was counseled for _____ mins out of a total visit time of _____ mins as outlined in A&P.
 Treatment options and possible SE's were discussed with patient, and patient voiced understanding.
 Patient is at HIGH RISK for morbidity and/or mortality

Physician Signature _____ -78- _____

Patient Name: William "Lee" Turner Date: 7/23/12
 Chart # _____ DOB: _____ Age: _____ Relative: _____

Chief Complaint:

- Patient presents today for follow up and/or evaluation of 1 week flu - Results MRI T-spine
- Patient presents today for annual review of chronic conditions (see Summary List)
- Patient presents as a new patient with total PMH and Medication Hx taken
- Patient did/did not have recent MD appointment(s) with _____

Summary List Review: PMSHx reviewed Meds reviewed SocHx reviewed FamHx reviewed

HPI: See Chief Complaint

Pain? Yes / No (If Yes, include quality, intensity and location)

26 y.o. w/ 3 @ a Prior for flu.
2 F/W chest ct due to suspected
T3-T4. No further services to meds
at the time well.
at requesting to return to work.

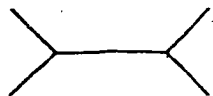
Review of Systems: (Circle individual complaint if positive. Check box to left if all negative.)

- Constitutional:** Fever / Chills / Change in appetite / Abnormal weight gain or loss / Fatigue / Weakness
- Eyes:** Pain / Discomfort / Change in vision
- HENMT:** Headache / Ear discomfort / Ear discharge / Change in hearing / Nose bleed / Nose discharge /
Nose congestion / Nose discomfort / Mouth discomfort / Throat discomfort
- Cardiovascular:** Chest pain / Palpitations / Swelling in legs / Color change in fingers or toes
- Pulmonary:** Cough / Shortness of breath / Wheezing / Expectations
- Endocrine:** Excessive thirst / Excessive urination / Temperature intolerance / Excessive sweating / Low libido
 Female: Breast discharge / Abnormal periods / Pregnant
- GI:** Nausea / Vomiting / Swallowing problems / Abdominal pain / Change in bowel movements /
Change in bowel habits / Diarrhea / Constipation / Heartburn
- GU:** Urinary frequency / Urinary urgency / Urinary pain / Blood in urine / Pelvic pain / Discharge
- Musculoskeletal:** Limited range of motion of a joint / Abnormal gait / Joint swelling / Joint pain / Muscle pain
- Skin:** Rash / Cut / Burns / Itching / New or unusual moles or marks
- Heme:** Excessive bleeding / Bruising
- Lymph:** Neck masses / Armpit masses / Groin masses
- Neurologic:** Numbness / Tingling / Weakness / Burning / Seizures / Fainting / Dizziness / Tremors / Memory loss
- Psychiatric:** Change in mood / Poor sleep / Hallucinations / Suicidal thoughts

4 @ Back Pain
@ times

Pertinent Labs and Studies done on _____ :

____ AST	____ TC	____ TSH	U/A
____ ALT	____ TG	____ ft4	UCx&S
____ TB	____ HDL	____ Insulin	PFT's
____ DB	____ LDL	____ PSA	ABI's
____ GGTP		____ A1C	A-U/S
____ AP	____ Vit D	____ CRP	ECHO
			NucST
____ Ca++	____ Mg++	____ PO4--	CarU/S
			EKG



MD Init

Examination:

- Vitals: Height _____ Weight _____ Temp: _____ R: 116 P: 76 BP: 114/64
 General: WDNW 0 / Pleasant and cooperative / NAD NO OXY.
 HENMT: AT/NC / NI TM's and canals / Nares clear / OP clear _____
 Eyes: PERRL / Conjunctivae nl / Fundi nl _____
 Neck: Supple / Trachea midline / No JVD / No TM / No LA / No CB / No masses _____
 CV: RRR / No MGR / No edema / NI periph pulses _____
 Palm: CTAB _____
 Breasts: Symmetric / No discharge / No masses / No tenderness _____
 Abd: Soft / NT / No HSM / No hernias / No bruits / No masses / NI BS's _____
 GU Male: No lesions / No hydrocoele / No tenderness / No masses / NI prostate _____
 GU Female: No atrophy / No lesions / No discharge / NI urethra / No cystocoele / No rectocoele / NI cervix / NI adnexa / NI uterus _____
 Rectal: No masses / No fissures / No hemorrhoids _____
 Lymph: No cervical LA / No axillary LA / No inguinal LA _____
 MS: w/o Δ for pt OR NI posture / No atrophy / FROM / No tenderness / NI structure and alignment of all joints / No clubbing / No cyanosis / No edema / NI gait NO PAIN TENDERNESS TODAY
 Skin: No lesions / No rashes / No wounds / No ulcers _____
 Neuro: w/o Δ for pt OR CN II-XII intact / Motor intact / Sensory intact / Cerebellum intact / NI gait / NI speech / Strength intact and symmetric / DTR's intact and symmetric _____
 Psych: A&O x 3 / Appropriate affect / Memory intact _____
 Additional Physical Comments: _____

Assessment and Plan All problems on Summary List reviewed and remain w/o change except as follows:

- ① VERT EX T3-T4 - CHEST CT & HEAD CT
ABT SUP ENDPLATE FX
 T3 - T4 :
 ② CLOSED HEAD INJURY LTR
SEIZURE DIS -
COAG KEPPRA 750 BID
MORIC 15 QDAY PRN
WRAP + DC HORCO 7.5/325 Q8 PRN
 ③ AT MDY RETURN TO WORK
NO DRIVING UNTIL 6 MONTHS
FROM LAST SEIZURE

See Addendum Sheet for additional A&P

Follow-up: As scheduled or 3 Days / Weeks / Months / Years / PRN for _____ minutes with
 Labs: Fasting / Non-fasting Full Panel BMP CMP CBC LFT's Lipids TFT's VitD UA PSA A1C BS
 μAlb:Cr Ins PT/INR BNP B12 EKG _____

Studies:

Referrals:

- HM: UTD or needs / Mammogram / DEXA / Colon / Flu vax / PVX / tobacco counseling
 DM teaching / Annual assessment / Other: _____
 Labs / Test results / Medical records discussed with patient Medical recs requested from _____
 Patient and/or family was counseled for _____ mins out of a total visit time of _____ mins as outlined in A&P.
 Treatment options and possible SE's were discussed with patient, and patient voiced understanding.
 Patient is at HIGH RISK for morbidity and/or mortality ADDEN 7/26/12

Physician Signature _____ - 80 - _____

✓ In my opinion, it is more likely than not that the injuries to William Lee Turner's head were caused by the fall on April 19, 2012.

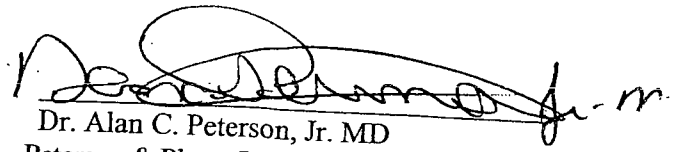
✓ In my opinion, it is more likely than not that William Lee Turner's fall gave rise to the seizures he has experienced since the fall. (Please give the reasoning behind this opinion)

NO KNOWN SEIZURE'S THAT I AM AWARE
OF PRIOR TO ACCIDENT/FALL &
RESULTS ADD TRAUMA

✓ In my opinion, and based on Mr. Turner's medical history, it is more likely than not that Mr. Turner's fall was not a result of a preexisting seizure condition.

Other: _____

4/15/12
Date


Dr. Alan C. Peterson, Jr. MD
Peterson & Plante Internal Medicine Associates
21 Gateway Corners Park, Suite 101
Columbia, SC 29203

Reply To

JASON W. LOCKHART
Direct Dial: (803) 227-2283
jlockhart@mgclaw.com
COLUMBIA

January 24, 2014

VIA HAND DELIVERY

Commissioner Susan S. Barden
S. C. WORKERS' COMPENSATION COMMISSION
1333 Main Street, Suite 500
Columbia, South Carolina 29201

RE: William Lee Turner v. SAIIA Construction and Old Republic
General Insurance Corporation c/o Gallagher Bassett Services, Inc.
Date of Accident: April 19, 2012
WCC File No.: 1204039
Our File No.: 2098.12265
Claim No.: 002979-030511-WC-01

Dear Commissioner Barden:

Please find enclosed our Pre-Hearing Brief and Notice of Witnesses and Written Medical Reports for filing in the above captioned matter.

By copy of this letter to John K. Koon, Esquire, the Claimant's attorney, we are notifying him of these submissions and serving copies of the same upon him by mail.

With kind regards, I am

Very truly yours,

Jason W. Lockhart

JWL/rds

Enc.

cc: John K. Koon, Esquire (w/enc)
Tara Potter, Gallagher Bassett Services, Inc. (w/enc)(via/email only)
Jimmy Speegle, SAIIA Construction (w/enc)(via/email only)
Rick Leemhuis, SAIIA Construction (w/enc)(via/email only)

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 1204039

WILLIAM LEE TURNER, }
 Employee, }
 Claimant, }
 vs. }
 SAIA CONSTRUCTION, }
 Employer, }
 AND }
 OLD REPUBLIC GENERAL INSURANCE }
 CORPORATION C/O GALLAGHER }
 BASSETT SERVICES, INC., }
 Carrier, }
 Defendants. }

**NOTICE OF WITNESSES AND
 WRITTEN MEDICAL REPORTS
 TO BE INTRODUCED AS
 DIRECT EVIDENCE ON BEHALF
 OF DEFENDANT**

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
 AND JOHN K. KOON, ESQUIRE:

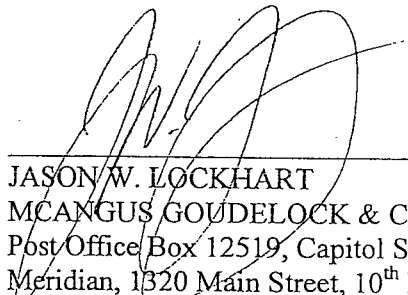
YOU ARE NOTIFIED that the Defendants, pursuant to the provisions of the South Carolina Workers' Compensation Act and Section 1-23-330 of the South Carolina Code of Laws (Cum. Supp. 1988) submit the following medical records and other documents as evidence:

APA#	DOCTOR/EXHIBITS	DATES	PAGES
1.	Written Statement of David Bolden and James Speegle	4/19/12	1
2.	Peterson and Plante Internal Medicine Associates, P.A.	7/23/12-9/18/13	2-10
3.	The Pain Center of First Choice Healthcare	9/18/13-10/17/13	11-19
4.	USC Department of Neurosurgery	5/29/12	20
5.	The Moore Orthopaedic Clinic, P.A.	10/29/12	21-22
6.	South Carolina Diagnostic Imaging	10/1/13	23
7.	ImageCare, LLC	7/17/12	24
8.	Sandhills Medical Foundation - Lugoff	3/27/12-4/16/12	25-29
9.	Palmetto Health Baptist	4/17/12	30-32
10.	Palmetto Health Richland	4/19/12-5/22/12	33-40

YOU ARE FURTHER NOTIFIED that you have the right to cross-examine or otherwise oppose this evidence and, should you desire to exercise this right, you are to promptly schedule the deposition of any provider whose records are submitted, for the purposes of cross-examination, or otherwise promptly submit opposing medical records into evidence.

YOU ARE FURTHER NOTIFIED that these records, or photocopies of the same, will be provided to the South Carolina Workers' Compensation Commission for insertion in their file and for consideration as evidence on behalf of the Defendants.

YOU ARE FURTHER NOTIFIED that the following witnesses may be called on behalf of the Defendants: Robert Bennett, David Bolden, Paul Barnette, James Speegle, and/or other representatives of the Employer.



JASON W. LOCKHART
MCANGUS GOUDELOCK & COURIE, L.L.C.
Post Office Box 12519, Capitol Station
Meridian, 1320 Main Street, 10th Floor
Columbia, South Carolina 29211-2519
(803) 779-2300
Attorneys for the Employer/Carrier

Columbia, South Carolina
January 24, 2014

I David Bolden was talking to Paul Barnett
At the sledge press. Paul said hook Lee Turner
was laying on his back on ground, by Trunk #3031
in SAIA parking lot. By sledge press I David Bolden
call #78 saying we man drop. Then I call Troy Miller
call 5L. man down at SAIA parking lot at
Sledge press.

David Bolden
DJB

4-19-12

David also replied to me that the last time he
seen Lee up, ~~he~~ he was standing beside the truck, not on the truck,
putting items in the truck.

Jimmy Speegle

DJB DAVID Bolden
DJB

Patient Name: William "Lee" Turner Date: 7/23/12
 Chart # _____ DOB: _____ Age: _____ Relative: _____

- Chief Complaint:**
- Patient presents today for follow up and/or evaluation of 1 week flu - Results MRI T-spine
 - Patient presents today for annual review of chronic conditions (see Summary List)
 - Patient presents as a new patient with total PMH and Medication Hx taken
 - Patient did/did not have recent MD appointment(s) with _____

Summary List Review: PMSHx reviewed Meds reviewed SocHx reviewed FamHx reviewed

HPI: See Chief Complaint

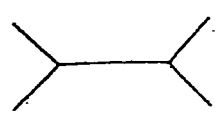
Pain? Yes / No (If Yes, include quality, intensity and location)
26 x 6 - W 3 @ 10 AM - Dier for flu
2 flu chest ct due to suspected
T3 - T4 - NO FURTHER SERVICES TO MEDS
AT ALL MEDS WELL
PT REQUESTING TO RETURN TO WORK

- Review of Systems:** (Circle individual complaint if positive. Check box to left if all negative.)
- Constitutional:** Fever / Chills / Change in appetite / Abnormal weight gain or loss / Fatigue / Weakness
 - Eyes:** Pain / Discomfort / Change in vision
 - HENMT:** Headache / Ear discomfort / Ear discharge / Change in hearing / Nose bleed / Nose discharge /
Nose congestion / Nose discomfort / Mouth discomfort / Throat discomfort
 - Cardiovascular:** Chest pain / Palpitations / Swelling in legs / Color change in fingers or toes
 - Pulmonary:** Cough / Shortness of breath / Wheezing / Expectorations
 - Endocrine:** Excessive thirst / Excessive urination / Temperature intolerance / Excessive sweating / Low libido
 Female: Breast discharge / Abnormal periods / Pregnant
 - GI:** Nausea / Vomiting / Swallowing problems / Abdominal pain / Change in bowel movements /
Change in bowel habits / Diarrhea / Constipation / Heartburn
 - GU:** Urinary frequency / Urinary urgency / Urinary pain / Blood in urine / Pelvic pain / Discharge
 - Musculoskeletal:** Limited range of motion of a joint / Abnormal gait / Joint swelling / Joint pain / Muscle pain
 - Skin:** Rash / Cut / Burns / Itching / New or unusual moles or marks
 - Heme:** Excessive bleeding / Bruising
 - Lymph:** Neck masses / Armpit masses / Groin masses
 - Neurologic:** Numbness / Tingling / Weakness / Burning / Seizures / Fainting / Dizziness / Tremors / Memory loss
 - Psychiatric:** Change in mood / Poor sleep / Hallucinations / Suicidal thoughts

45 BACK PAIN @ times

Pertinent Labs and Studies done on _____:

___ AST	___ TC	___ TSH	U/A
___ ALT	___ TG	___ ft4	UCx&S
___ TB	___ HDL	___ Insulin	PFT's
___ DB	___ LDL	___ PSA	ABI's
___ GGTP		___ A1C	A-U/S
___ AP	___ Vit D	___ CRP	ECHO
			NucST
___ Ca++	___ Mg++	___ PO4--	CarU/S
			EKG



MD Init

Examination:

- Vitals:** Height _____ Weight _____ Temp: _____
 - General:** WDNW W / Pleasant and cooperative / NAD
 - HEENT:** AT/NC / NI TM's and canals / Nares clear / OP clear
 - Eyes:** PERRL / Conjunctivae nl / Fundi nl
 - Neck:** Supple / Trachea midline / No JVD / No TM / No LA / No CB / No masses
 - CV:** RRR / No MGR / No edema / NI periph pulses
 - Palm:** CTAB
 - Breasts:** Symmetric / No discharge / No masses / No tenderness
 - Abd:** Soft / NT / No HSM / No hernias / No bruits / No masses / NI BS's
 - GU Male:** No lesions / No hydrocoele / No tenderness / No masses / NI prostate
 - GU Female:** No atrophy / No lesions / No discharge / NI urethra / No cystocoele / No rectocoele / NI cervix / NI adnexa / NI uterus
 - Rectal:** No masses / No fissures / No hemorrhoids
 - Lymph:** No cervical LA / No axillary LA / No inguinal LA
 - MS:** w/o Δ for pt OR NI posture / No atrophy / FROM / No tenderness / NI structure and alignment of all joints / No clubbing / No cyanosis / No edema / NI gait NO PAIN TRAPEZIUS TODAY
 - Skin:** No lesions / No rashes / No wounds / No ulcers
 - Neuro:** w/o Δ for pt OR CN II-XII intact / Motor intact / Sensory intact / Cerebellum intact / NI gait / NI speech / Strength intact and symmetric / DTR's intact and symmetric
 - Psych:** A&O x 3 / Appropriate affect / Memory intact
- Additional Physical Comments:** _____

R: 16 P: 76 BP: 112/64
~~16~~ Oxy.

Assessment and Plan All problems on Summary List reviewed and remain w/o change except as follows:

- ① VERT EX T3-T4 - CREST CT E HEADCT
OST SUP ENDOPLATE FX
 - ② CLOSED HEAD INJURY LTR
SEIZURE DIS -
COAG: KEPPRA 750g BID
MOBIC 15g QDAY PRN
WRAP + DC HORCO 7.5/325 Q8 PRN
 - ③ PT MAY RETURN TO WORK -
NO DRIVING UNTIL 6 MONTHS
FROM LAST SEIZURE
- See Addendum Sheet for additional A&P

Follow-up: As scheduled or 3 Days / Weeks / Months / Years / PRN for _____ minutes with
Labs: Fasting / Non-fasting Full Panel BMP CMP CBC LFT's Lipids TFT's VitD UA PSA A1C BS
 μAlb:Cr Ins PT/INR BNP B12 EKG

- Studies:** _____
- Referrals:** _____
- HM:** UTD or needs / Mammogram / DEXA / Colon / Flu vax / PVX / tobacco counseling
 DM teaching / Annual assessment / Other: _____
- Labs / Test results / Medical records discussed with patient Medical recs requested from _____
- Patient and/or family was counseled for _____ mins out of a total visit time of _____ mins as outlined in A&P.
- Treatment options and possible SE's were discussed with patient, and patient voiced understanding.
- Patient is at HIGH RISK for morbidity and/or mortality

Physician Signature _____ 7/26/12

-88-3-

Patient Name: William Turner

Date: 1-2-13

Chart # _____

DOB: _____

Age: _____

Relative: _____

Chief Complaint:

- Patient presents today for follow up and/or evaluation of 3mth Flu-Seizure Dis, Thoracic back pain
- Patient presents today for annual review of chronic conditions (see Summary List)
- Patient presents as a new patient with total PMH and Medication Hx taken Irritability
- Patient did/did not have recent MD appointment(s) with _____

Summary List Review: PMSHx reviewed Meds reviewed SocHx reviewed FamHx reviewed

HPI: See Chief Complaint

Pain? Yes / No (If Yes, include quality, intensity and location)

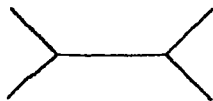
27 yo. w/ w/ @ office for Flu. pt returned to work 1/2/13. pt stopped symptoms & doing well. Back pain & extreme anxiety but getting better.

Review of Systems: (Circle individual complaint if positive. Check box to left if all negative.)

- Constitutional:** Fever / Chills / Change in appetite / Abnormal weight gain or loss / Fatigue / Weakness
- Eyes:** Pain / Discomfort / Change in vision
- HENMT:** Headache / Ear discomfort / Ear discharge / Change in hearing / Nose bleed / Nose discharge / Nose congestion / Nose discomfort / Mouth discomfort / Throat discomfort
- Cardiovascular:** Chest pain / Palpitations / Swelling in legs / Color change in fingers or toes
- Pulmonary:** Cough / Shortness of breath / Wheezing / Expectations
- Endocrine:** Excessive thirst / Excessive urination / Temperature intolerance / Excessive sweating / Low libido
 - Female:** Breast discharge / Abnormal periods / Pregnant
- GI:** Nausea / Vomiting / Swallowing problems / Abdominal pain / Change in bowel movements / Change in bowel habits / Diarrhea / Constipation / Heartburn
- GU:** Urinary frequency / Urinary urgency / Urinary pain / Blood in urine / Pelvic pain / Discharge
- Musculoskeletal:** Limited range of motion of a joint / Abnormal gait / Joint swelling / Joint pain / Muscle pain
- Skin:** Rash / Cut / Burns / Itching / New or unusual moles or marks
- Heme:** Excessive bleeding / Bruising
- Lymph:** Neck masses / Armpit masses / Groin masses
- Neurologic:** Numbness / Tingling / Weakness / Burning / Seizures / Fainting / Dizziness / Tremors / Memory loss
- Psychiatric:** Change in mood / Poor sleep / Hallucinations / Suicidal thoughts

Pertinent Labs and Studies done on _____ :

___ AST	___ TC	___ TSH	U/A
___ ALT	___ TG	___ ft4	UCx&S
___ TB	___ HDL	___ Insulin	PFT's
___ DB	___ LDL	___ PSA	ABI's
___ GGTP		___ AIC	A-U/S
___ AP	___ Vit D	___ CRP	ECHO
			NucST
___ Ca++	___ Mg++	___ PO4--	CarU/S
			EKG



MD Init

Examination:

- Vitals:** Height _____ Weight 29 Temp: _____ R: MC P: 68 BP: 120/78
 - General:** WDWN OOD / Pleasant and cooperative / NAD
 - HEENT:** AT/NC / NI TM's and canals / Nares clear / OP clear
 - Eyes:** PERRL / Conjunctivae nl / Fundi nl
 - Neck:** Supple / Trachea midline / No JVD / No TM / No LA / No CB / No masses
 - CV:** RRR / No MGR / No edema / NI periph pulses
 - Pulm:** CTAB
 - Breasts:** Symmetric / No discharge / No masses / No tenderness
 - Abd:** Soft / NT / No HSM / No hernias / No bruits / No masses / NI BS's
 - GU Male:** No lesions / No hydrocoele / No tenderness / No masses / NI prostate
 - GU Female:** No atrophy / No lesions / No discharge / NI urethra / No cystocoele / No rectocoele / NI cervix / NI adnexa / NI uterus
 - Rectal:** No masses / No fissures / No hemorrhoids
 - Lymph:** No cervical LA / No axillary LA / No inguinal LA
 - MS:** w/o Δ for pt OR NI posture / No atrophy / FROM / No tenderness / NI structure and alignment of all joints / No clubbing / No cyanosis / No edema / NI gait
 - Skin:** No lesions / No rashes / No wounds / No ulcers
 - Neuro:** w/o Δ for pt OR CN II-XII intact / Motor intact / Sensory intact / Cerebellum intact / NI gait / NI speech / Strength intact and symmetric / DTR's intact and symmetric
 - Psych:** A&O x 3 / Appropriate affect / Memory intact
- Additional Physical Comments:** _____

Assessment and Plan All problems on Summary List reviewed and remain w/o change except as follows:

- ① SEIZURE OPS - COAT REDDARD 250mg BID
NO SEIZURE x 2 MONTHS
PT DRIVING AGAIN PLU LRS.
- ② THORACIC BACK PAIN - IMPROVED
- ③ IRRITABILITY - OFF COMBUSTA LATELY

See Addendum Sheet for additional A&P

Follow-up: As scheduled or 4 Days / Weeks / Months / Years / PRN for _____ minutes with
labs: Fasting / Non-fasting Full Panel BMP CMP CBC (LFT's) Lipids TFT's VitD UA PSA A1C BS
μAlb:Cr Ins PT/INR BNP B12 EKG

studies: _____

referrals: _____

IM: UTD or needs / Mammogram / DEXA / Colon / Flu vax / PVX / tobacco counseling
 DM teaching / Annual assessment / Other: _____

- Labs / Test results / Medical records discussed with patient Medical recs requested from _____
- Patient and/or family was counseled for _____ mins out of a total visit time of _____ mins as outlined in A&P.
- Treatment options and possible SE's were discussed with patient, and patient voiced understanding.
- Patient is at HIGH RISK for morbidity and/or mortality

Physician Signature _____ Date 1/21/13 Time _____

Koon and Cook, P.A.

Attorneys at Law
2016 Gadsden Street
Columbia, South Carolina 29201

John K. Koon
Stephen H. Cook
Jamie L. Walters

65615

Telephone: (803) 256-4082
Facsimile: (803) 254-0658

April 11, 2013

Dr. Alan C. Peterson, Jr. MD
Peterson & Plante Internal Medicine Associates
21 Gateway Corners Park, Suite 101
Columbia, SC 29203

Re: William Lee Turner
Date of Injury: 04/19/2012
Your Chart #

Dear Dr. Peterson:

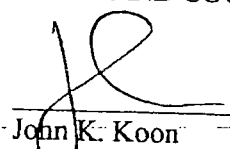
We represent William L. Turner in a Workers' Compensation claim in regard to the injuries he sustained when he fell from the cab of his employer's truck on April 19, 2012. We need additional information to evaluate Mr. Turner's situation.

Are you able to give us an opinion based on his history and your records? Please check the appropriate responses below and return this letter to me via fax or the enclosed return envelope. If there is a fee for completing the questionnaire, please let me know and we will pay it immediately.

Thank you for your attention to this matter.

Sincerely,

KOON AND COOK, P.A.

By: 
John K. Koon
Attorney for William L. Turner

Patient Name: William Turner Date: 7-8-13
 Chart # _____ DOB: _____ Age: _____ Relative: _____

Chief Complaint:

- Patient presents today for follow up and/or evaluation of 4mth Flu - Seizure, irritability
- Patient presents today for annual review of chronic conditions (see Summary List)
- Patient presents as a new patient with total PMH and Medication Hx taken
- Patient did/did not have recent MD appointment(s) with _____

Summary List Review: PMSHx reviewed Meds reviewed SocHx reviewed FamHx reviewed

HPI: See Chief Complaint

Pain? Yes / No (If Yes, include quality, intensity and location)

27 YO. MD @ OFFICE FOR FLU. AT-SCHEDULED
REPPRA 7 F MHA AGO. DROPPED SEIZURE'S
RELATES BACK OUT OF MED. DIDN'T REPLY
DESIRE HAVING SEIZURE. AT WORKING W/
MILITARY @ PRESENT. RECEIVED BACK PAIN FLU
UP BETWEEN SPANISH BUDS.

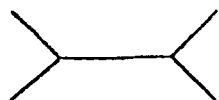
Review of Systems: (Circle individual complaint if positive. Check box to left if all negative.)

- Constitutional:** Fever / Chills / Change in appetite / Abnormal weight gain or loss / Fatigue / Weakness
- Eyes:** Pain / Discomfort / Change in vision
- HENMT:** Headache / Ear discomfort / Ear discharge / Change in hearing / Nose bleed / Nose discharge /
Nose congestion / Nose discomfort / Mouth discomfort / Throat discomfort
- Cardiovascular:** Chest pain / Palpitations / Swelling in legs / Color change in fingers or toes
- Pulmonary:** Cough / Shortness of breath / Wheezing / Expectorations
- Endocrine:** Excessive thirst / Excessive urination / Temperature intolerance / Excessive sweating / Low libido
 Female: Breast discharge / Abnormal periods / Pregnant
- GI:** Nausea / Vomiting / Swallowing problems / Abdominal pain / Change in bowel movements /
Change in bowel habits / Diarrhea / Constipation / Heartburn
- GU:** Urinary frequency / Urinary urgency / Urinary pain / Blood in urine / Pelvic pain / Discharge
- Musculoskeletal:** Limited range of motion of a joint / Abnormal gait / Joint swelling / Joint pain / Muscle pain
- Skin:** Rash / Cut / Burns / Itching / New or unusual moles or marks
- Heme:** Excessive bleeding / Bruising
- Lymph:** Neck masses / Armpit masses / Groin masses
- Neurologic:** Numbness / Tingling / Weakness / Burning / Seizures / Fainting / Dizziness / Tremors / Memory loss
- Psychiatric:** Change in mood / Poor sleep / Hallucinations / Suicidal thoughts

TRAPSCAPULAR
BACK PAIN

Pertinent Labs and Studies done on _____:

____ AST	____ TC	____ TSH	U/A
____ ALT	____ TG	____ FT4	UCx&S
____ TB	____ HDL	____ Insulin	PFT's
____ DB	____ LDL	____ PSA	ABI's
____ GGTP	____ Vit D	____ A1C	A-U/S
____ AP		____ CRP	ECHO
			NucST
____ Ca++	____ Mg++	____ PO4--	CarU/S
			EKG



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MD Init

WV 7-11-13

BP: 110/62

Examination:

- Vitals: Height _____ Weight 1.0 Temp: _____ R: 116 P: 76
- General: WDNW ♂ / Pleasant and cooperative / NAD ASOXY
- HENMT: AT/NC / NI TM's and canals / Nares clear / OP clear
- Eyes: PERRL / Conjunctivae nl / Fundi nl
- Neck: Supple / Trachea midline / No JVD / No TM / No LA / No CB / No masses
- CV: RRR / No MGR / No edema / NI periph pulses
- Pulm: CTAB
- Breasts: Symmetric / No discharge / No masses / No tenderness
- Abd: Soft / NT / No HSM / No hernias / No bruits / No masses / NI BS's
- GU Male: No lesions / No hydrocoele / No tenderness / No masses / NI prostate
- GU Female: No atrophy / No lesions / No discharge / NI urethra / No cystocoele / No rectocoele / NI cervix / NI adnexa / NI uterus
- Rectal: No masses / No fissures / No hemorrhoids
- Lymph: No cervical LA / No axillary LA / No inguinal LA
- MS: w/o Δ for pt OR NI posture / No atrophy / FROM / No tenderness / NI structure and alignment of all joints / No clubbing / No cyanosis / No edema / NI gait
- Skin: No lesions / No rashes / No wounds / No ulcers
- Neuro: w/o Δ for pt OR CN II-XII intact / Motor intact / Sensory intact / Cerebellum intact / NI gait / NI speech / Strength intact and symmetric / DTR's intact and symmetric
- Psych: A&O x 3 / Appropriate affect / Memory intact

Additional Physical Comments: _____

Assessment and Plan

All problems on Summary List reviewed and remain w/o change except as follows:

- ① Seizure Dis - Assmt of Keppra, which was discussed on his own risk of recurrent seizure discussed & no restart Keppra 500 BID
Neuro Surg consult discussed
- ② Therapeutic level pain - Norco 5/325 - # 45 @ 8:00 AM

See Addendum Sheet for additional A&P

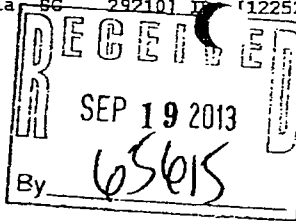
Follow-up: As scheduled or 6 Days / Weeks / Months / Years / PRN for _____ minutes with **labs:** Fasting / Non-fasting Full Panel BMP CMP CBC LFT's Lipids TFT's VitD UA PSA A1C BS μAlb:Cr Ins PT/INR BNP B12 EKG Keppra Level

Studies: _____
Referrals: _____

U: UTD or needs / Mammogram / DEXA / Colon / Flu vax / PVX / tobacco counseling
 DM teaching / Annual assessment / Other: _____

Labs / Test results / Medical records discussed with patient Medical recs requested from _____
Patient and/or family was counseled for _____ mins out of a total visit time of _____ mins as outlined in A&P.
Treatment options and possible SE's were discussed with patient, and patient voiced understanding.
Patient is at HIGH RISK for morbidity and/or mortality

Date: _____ Time: _____



115 Barney Drive Suite 111
Columbia, SC 29223
Phone: 803-419-9091
Fax: 803-419-9199

William L Turner
09/18/2013 02:40 PM
Location: The Pain Center North East Columbia
Patient #: DOB: Gender:

Alan Peterson

(Gisele Girault, MD 09/18/2013 03:26 PM)

The patient is a 27 year old male who presents for evaluation of neck pain. The onset of the neck pain has been sudden and has been occurring in a persistent pattern for 1 year. The course has been increasing. The neck pain is described as a severe cramping. The neck pain is described as being located in the midline of neck and upper shoulders and radiating to the into right shoulder and into left shoulder. The patient describes the pain as 9 out of 10. Aggravating factors have included twisting, lifting, position of arm, flexion and extension. There have been no relieving factors.

Additional reason for visit:

Pain is described as the following:

The onset of the pain has been injury and has been occurring in a persistent pattern for 1 year. The course has been increasing. The pain is characterized as aching, burning, pressure, throbbing and tightness. The pain is described as being located in the upper back and lower back. The patient describes the pain as 9 out of 10. The pain does not radiate. The pain is precipitated by trauma. The symptoms are aggravated by exertion, weight lifting and prolonged standing. The symptoms have no relieving factors.

Allergies *(Gisele Girault, MD: 09/18/2013 03:53 PM)*
No Known Drug Allergies 09/18/2013

Past Medical History *(Gisele Girault, MD: 09/18/2013 03:53 PM)*
No Known Problems - Status is Inactive (09/18/2013) (Marked as Inactive)

Family History *(Gisele Girault, MD: 09/18/2013 03:53 PM)*
The father is living
The mother is living

Social History *(Gisele Girault, MD: 09/18/2013 03:53 PM)*
Marital status: Married
Most recent primary occupation: Construction trade
Highest Education Level Attained: High school graduate
Exercise: Light
No Drug Use
Non Drinker/No Alcohol Use
Tobacco Use: Current every day smoker

W. L. Turner
9/26/13

Medication History *(Gisele Girault, MD: 09/18/2013 03:53 PM)*
Hydrocodone-Acetaminophen (5-325MG Tablet, Oral every four hours) Active.
LevETIRAcetam (500MG Tablet, Oral) Active.

Past Surgical *(Gisele Girault, MD: 09/18/2013 03:53 PM)*
Neck Surgery

William L Turner

Patient #:

DOB:

Wednesday, September 18, 2013

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FAX TRANSMISSION

History & Physical Report #1

William L. Turner

9/18/2013 2:40 PM

Location: The Pain Center North East Columbia

Patient #:

DOB:

Married / Language: English / Race: White

Male

History of Present Illness (Gisele Girault, MD; 9/18/2013 3:26 PM)

The patient is a 27 year old male who presents for evaluation of neck pain. The onset of the neck pain has been sudden and has been occurring in a persistent pattern for 1 year. The course has been increasing. The neck pain is described as a severe cramping. The neck pain is described as being located in the midline of neck and upper shoulders and radiating to the right shoulder and into left shoulder. The patient describes the pain as 9 out of 10. Aggravating factors have included twisting, lifting, position of arm, flexion and extension. There have been no relieving factors.

Additional reason for visit:

Pain is described as the following:

The onset of the pain has been injury and has been occurring in a persistent pattern for 1 year. The course has been increasing. The pain is characterized as aching, burning, pressure, throbbing and tightness. The pain is described as being located in the upper back and lower back. The patient describes the pain as 9 out of 10. The pain does not radiate. The pain is precipitated by trauma. The symptoms are aggravated by exertion, weight lifting and prolonged standing. The symptoms have no relieving factors.

Medication History (Gisele Girault, MD; 9/18/2013 3:24 PM)

Hydrocodone-Acetaminophen (5-325MG Tablet, Oral every four hours) Active.
Levetiracetam (500MG Tablet, Oral) Active.

Allergies (Gisele Girault, MD; 9/18/2013 3:27 PM)

No Known Drug Allergies. 09/18/2013

Problem List/Past Medical (Gisele Girault, MD; 9/18/2013 3:53 PM)

No Known Problems. 09/18/2013 (Marked as Inactive)

Past Surgical History (Gisele Girault, MD; 9/18/2013 3:27 PM)

Neck Surgery

Family History (Gisele Girault, MD; 9/18/2013 3:27 PM)

The father is living

The mother is living

Social History (Gisele Girault, MD; 9/18/2013 3:28 PM)

Marital status. Married.

Most recent primary occupation. Construction trade.

Highest Education Level Attained. High school graduate.

Exercise. Light.

No Drug Use

Non Drinker/No Alcohol Use

Tobacco Use. Current every day smoker.

Review of Systems (Gisele Girault, MD; 9/18/2013 3:27 PM)

General: Not Present- Chills, Fatigue, Fever, Night Sweats and Weight Loss.

Skin: Not Present- Rash.

HEENT: Not Present- Visual Disturbances, Hearing Loss, Ear Pain, Sore Throat and Facial Numbness/Tingling.

Neck: Present- Neck Pain and Neck Stiffness.

Respiratory: Not Present- Cough, Wheezing and Dyspnea.

Cardiovascular: Not Present- Chest Pain, Palpitations and Difficulty Breathing On Exertion.

Gastrointestinal: Not Present- Abdominal Pain, Change in Bowel Habits, Constipation, Diarrhea, Difficulty Swallowing, Nausea and Vomiting.

Male Genitourinary: Not Present- Urgency and Painful Urination.

Musculoskeletal: Present- Sea HPI, Back Pain, Backache, Decreased Range of Motion and Neck Pain.

Neurological: Not Present- Confusion, Dizziness, Fainting, Personality Changes, Seizures, Vertigo and Weakness.

Psychiatric: Not Present- Hallucinations, Memory Loss and Panic Attacks.

Endocrine: Not Present- Cold Intolerance, Excessive Sweating and Excessive Thirst.

Hematology: Not Present- Abnormal Bleeding and Easy Bruising.

Vitals (Gisele Girault, MD; 9/18/2013 3:25 PM)

9/18/2013 3:24 PM

Weight: 135 lb **Height:** 66 in

Body Surface Area: 1.69 m² **Body Mass Index:** 21.79 kg/m²

Pain Level: 9/10

Pulse: 78 (Regular) **Resp.:** 16 (Unlabored)

BP: 122/76 (Sitting, Left Arm, Standard)

Physical Exam (Gisele Girault, MD; 9/18/2013 3:44 PM)

The physical exam findings are as follows:

General

Mental Status - Alert. **General Appearance** - no acute distress and Well groomed. **Orientation** - Oriented X3. **Build & Nutrition** - Well nourished. **Gait** - Normal.

Integumentary

General Characteristics: Overall examination of the patient's skin reveals - no rashes and no suspicious lesions. **Color** - normal coloration of skin. **Skin Moisture** - normal skin moisture.

Chest and Lung Exam

Chest and lung exam reveals - normal excursion with symmetric chest walls and quiet, even and easy respiratory effort with no use of accessory muscles.

Cardiovascular

Cardiovascular examination reveals - (see Vital Signs section for blood pressure measurements) and no digital clubbing, cyanosis, edema, increased warmth or tenderness. Note: Upper extremity pulses are 2+ bilaterally symmetrical LE pulses are 2+ and bilaterally symmetrical

Note: RRR no murmurs

Abdomen

Palpation/ Percussion: Palpation and Percussion of the abdomen reveal - Non Tender.

Neurologic

Sensory:

Light Touch: Intact - Globally.

Overall Assessment of Muscle Strength and Tone reveals:

Upper Extremities: Right Deltoid - 5/5. Left Deltoid - 5/5. Right Bicep - 5/5. Left Bicep - 5/5. Right Tricep - 5/5. Left Tricep - 5/5.

Right Wrist Extensors - 5/5. Left Wrist Extensors - 5/5. Right Intrinsic - 5/5. Left Intrinsic - 5/5.

Lower Extremities: Right Quadriceps - 5/5. Left Quadriceps - 5/5. Right Tibialis Anterior - 5/5. Left Tibialis Anterior - 5/5. Right Gastroc-Soleus - 5/5. Left Gastroc-Soleus - 5/5. Right EHL - 5/5. Left EHL - 5/5.

Reflexes (Dermatomes): 2/2 Normal - All.

Note: CN II-XI grossly intact

Neuropsychiatric

The patient's mood and affect are described as - normal.

Musculoskeletal

Spinal Exam:

Cervical Spine:

Inspection and Palpation: Tenderness - no tenderness or pain on palpation (flexion and extension FROM).

ROM: Cervical ROM - normal cervical spine movements.

Strength and Tone: Strength & Tone - normal strength and tone, no laxity or crepitus.

Lumbosacral Spine:

Inspection and Palpation: Tenderness - no tenderness or pain on palpation (no scoliosis and Kyphosis).

ROM: ROM - normal lumbar spine movements.

Provocative Testing - Bilateral - Straight Leg Raising Test is negative.

Assessment & Plan (Gisele Girault, MD; 9/18/2013 3:53 PM)

Unspecified Diagnosis

Current Plans

Drug Test (80101/G0431)

Baseline drug testing is being performed. Baseline testing is necessary for patient's seeking or modifying treatment involving controlled medications so as to identify the potential presence of illicit substances or substances that may not have been properly disclosed prior to initiating treatment involving controlled medications. Therefore, the patient will undergo drug testing with confirmation. Enzyme immunoassay urine drug testing is being ordered to screen for the following drug classes; amphetamines, barbiturates, benzodiazepines, buprenorphine, cocaine, marijuana, ecstasy, methadone, opiates, oxycodone, and propoxyphene. Confirmation testing using LC/MS will be performed to identify the specific metabolites for the drug classes found to be positive on the immunoassay test. Negative findings for medications prescribed to the patient will also be confirmed by LC-MS, which provides detection of sub-threshold concentrations as patients on lower prescribed doses or drugs that demonstrate poor cross-reactivity with immunoassays (ex, hydrocodone), or who are hypermetabolizers may have concentrations of drugs and metabolites below the detectable threshold of the immunoassay chemistry analyzer. Synthetic medications that are not detectable via enzyme immunoassay will also be tested using LC/MS including: Tramadol, Meperidine, Tapentadol, Fentanyl, Soma, Ubrium, sleep aids (such as Ambien Sonata) Bath Salts, and synthetic marijuana. Confirming the pertinent positive findings, pertinent negative findings and testing synthetics is medically necessary to accurately assess the absence or presence of medications by eliminating false positive and false negative results and to identify substances that may not have been disclosed. This baseline testing assesses the patient's compliance and is necessary for the protection of the patient's health.

A urine drug test is being ordered and is medically necessary due to considerations of initiating this patient on opioid or sedative hypnotic medications (V58.69). Test will include immunoassay for drug classes and complete confirmation with LCMS.

Encounter for therapeutic drug monitoring (V58.83)

CHRONIC PAIN DUE TO TRAUMA (338.21)

Thoracic vertebral fracture (805.2)

Story: Peasant WM who had a fall off a truck last year and had a T3-T4 vertebral fracture with a closed head injury. He was doing well until he fell off a horse a few weeks ago and he has pain in the same T3-4 area and has severe muscle spasm. He has been on Norco and I am willing to continue this for one month until we get another MRI and Plain film of the T0spine. I am concerned that he has a fracture. He has agreed to do PT and possible TESI after I have the MRI results.

Impression: PLAN:

01/14/2014 08:29 am

William L Turner DCE

Page 10/11

1. refill Norco fro one month only
2. MRI T spine
3. plain film t-spine
4. possible TESI after MARI
5. back brace
6. tizanidina fro muscle spasms
7. f/u after MRI
8. PT after MRI

Current Plans

- | Started Hydrocodone-Acetaminophen 5-325MG. 1 (one) Tablet every eight hours, #90. 30 days starting 09/18/2013. No Refill
- | MRI OF THORACIC SPINE
- | THORACIC SPINE 2 VIEW X-RAY (72072)
- | I am recommending a thoracic epidural steroid injection.
- | I have discussed the procedure with the patient in detail covering the risk, benefits and alternatives. The patient voices understanding and has agreed to proceed with the recommended procedure.
- | I am recommending physical therapy evaluation and treatment.
- | The risks and benefits of chronic opioid usage was discussed with the patient. The risk discussed include: addiction, tolerance, constipation, and hypogonadism.
- | A "Controlled Substance Agreement" was given to the patient to read and then explained in detail. After voicing agreement, the patient signed the pain management agreement indicating understanding and agreement to comply.
- | Patient has a painful condition that will be helped by restricting mobility of the trunk to support weak spinal muscles. Thus I am prescribing a lumbar brace (L0637).

Thoracic back pain (724.1)

Signed electronically by Gisele Girault, MD (9/18/2013 3:54 PM)

Laboratories

Drug Test (80101/G0431) Ordered
 Diagnosis: Unspecified Diagnosis

Procedures

MRI OF THORACIC SPINE Performed: 09/18/2013 (Ordered)
 THORACIC SPINE 2 VIEW X-RAY (72072) Performed: 09/18/2013 (Ordered)

History & Physical Report #3

William L. Turner

9/18/2013 4:05 PM

Location: The Pain Center North East Columbia

Patient #:

DOB:

Married / Language: English / Race: White

Male

The patient is a 27 year old Male.

Assessment & Plan (Gisele Girault, MD; 9/19/2013 12:58 PM)

Thoracic vertebral fracture (805.2)

Story: Peasant WM who had a fall off a truck last year and had a T3-T4 vertebral fracture with a closed head injury. He was doing well until he fell off a horse a few weeks ago and he has pain in the same T3-4 area and has severe muscle spasm. He has been on Norco and I am willing to continue this for one month until we get another MRI and Plain film of the T0spine. I am concerned that he has a fracture. He has agreed to do PT and possible TESI after I have the MRI results.

Impression: PLAN:

1. refill Norco for one month only
2. MRI T spine
3. plain film t-spine
4. possible TESI after MRI
5. back brace
6. tizanidine for muscle spasms
7. f/u after MRI
8. PT after MRI

Current Plans

- | Started Diclofenac Sodium 75MG, 1 (one) Tablet DR two times daily, #60, 30 days starting 09/19/2013, No Refill.
- | Started TIZANIDINE HCl 2MG, 1 (one) Capsule three times daily, #90, 30 days starting 09/19/2013, No Refill.

Signed electronically by Gisele Girault, MD (9/19/2013 12:58 PM)

History & Physical Report #2

William L. Turner

9/18/2013 3:52 PM

Location: The Pain Center North East Columbia

Patient #:

DOB:

Married / Language: English / Race: White

Male

The patient is a 27 year old Male.

Signed electronically by Gisele Grault, MD (9/18/2013 3:55 PM)

History & Physical Report #5

William L. Turner

10/17/2013 3:58 PM

Location: The Pain Center North East Columbia

Patient #:

DOB:

Married / Language: English / Race: White

Male

History of Present Illness (Fonda Wilkins, NP; 10/17/2013 4:23 PM)

The patient is a 27 year old male who presents with a complaint of Pain. The onset of the pain has been injury and has been occurring in a persistent pattern for 1 year. The course has been recurrent. The pain is characterized as aching, burning, pressure, throbbing and tightness. The pain is described as being located in the upper back and lower back. The patient describes the pain as 7 out of 10. The pain does not radiate. The pain is precipitated by trauma. The symptoms are aggravated by exertion, weight lifting and prolonged standing. The symptoms have no relieving factors.

Additional reason for visit:

Neck pain is described as the following:

The onset of the neck pain has been sudden and has been occurring in a persistent pattern for 1 year. The course has been recurrent. The neck pain is described as a severe cramping. The neck pain is described as being located in the midline of neck and upper shoulders and radiating to the into right shoulder and into left shoulder. The patient describes the pain as 6 out of 10. Aggravating factors have included twisting, lifting, position of arm, flexion and extension. There have been no relieving factors.

Allergies (ANIKA SCOTT; 10/17/2013 3:58 PM)

No Known Drug Allergies. 09/18/2013

Past Surgical History (ANIKA SCOTT; 10/17/2013 3:58 PM)

Neck Surgery

Family History (ANIKA SCOTT; 10/17/2013 3:58 PM)

The mother is living

The father is living

Social History (ANIKA SCOTT; 10/17/2013 3:58 PM)

Tobacco Use. Current every day smoker.

No Drug Use

Non Drinker/No Alcohol Use

Marital status. Married.

Exercise. Light.

Highest Education Level Attained. High school graduate.

Most recent primary occupation. Construction trade.

Other Problems (ANIKA SCOTT; 10/17/2013 4:22 PM)

Thoracic vertebral fracture (805.2). Peasant WM who had a fall off a truck last year and had a T3-T4 vertebral fracture with a closed head injury. He was doing well until he fell off a horse a few weeks ago and he has pain in the same T3-4 area and has severe muscle spasm. He has been on Norco and I am willing to continue this for one month until we get another MRI and Plain film of the T0 spine. I am concerned that he has a fracture. He has agreed to do PT and possible TESI after I have the MRI results.

Encounter for therapeutic drug monitoring (V58.83)

Unspecified Diagnosis

Thoracic back pain (724.1)

CHRONIC PAIN DUE TO TRAUMA (338.21)

Review of Systems (ANIKA SCOTT; 10/17/2013 4:12 PM)

General: Not Present- Chills, Fatigue, Fever, Night Sweats and Weight Loss.

Skin: Not Present- Rash.

HEENT: Not Present- Visual Disturbances, Hearing Loss, Ear Pain, Sore Throat and Facial Numbness/Tingling.

Neck: Present- Neck Pain and Neck Stiffness.

Respiratory: Not Present- Cough, Wheezing and Dyspnea.

Cardiovascular: Not Present- Chest Pain, Palpitations and Difficulty Breathing On Exertion.

Gastrointestinal: Not Present- Abdominal Pain, Change in Bowel Habits, Constipation, Diarrhea, Difficulty Swallowing, Nausea and Vomiting.

Male Genitourinary: Not Present- Urgency and Painful Urination.

Musculoskeletal: Present- See HPI, **Back Pain, Backache**, Decreased Range of Motion, **Neck Pain** and **Tenderness**.

Neurological: Not Present- Confusion, Dizziness, Fainting, Personality Changes, Seizures, Vertigo and Weakness.

Psychiatric: Not Present- Hallucinations, Memory Loss and Panic Attacks.

Endocrine: Not Present- Cold Intolerance, Excessive Sweating and Excessive Thirst.

Hematology: Not Present- Abnormal Bleeding and Easy Bruising.

Vitals (ANIKA SCOTT; 10/17/2013 4:11 PM)

10/17/2013 4:11 PM

Weight: 137 lb **Height:** 66 in
Body Surface Area: 1.7 m² **Body Mass Index:** 22.11 kg/m²
Pain Level: 7/10
Pulse: 87 (Regular) **Resp.:** 12 (Unlabored)
BP: 133/92 (Sitting, Left Arm, Standard)

Physical Exam (Fonda Wilkins, NP; 10/17/2013 4:30 PM)
The physical exam findings are as follows:

General

Mental Status - Alert. **General Appearance** - no acute distress and Well groomed. **Orientation** - Oriented X3. **Build & Nutrition** - Well nourished. **Gait** - Normal.

Integumentary

General Characteristics: Overall examination of the patient's skin reveals - no rashes and no suspicious lesions. **Color** - normal coloration of skin. **Skin Moisture** - normal skin moisture.

Head and Neck

Head - normocephalic, atraumatic.
Trachea - midline.

Chest and Lung Exam

Chest and lung exam reveals - normal excursion with symmetric chest walls and quiet, even and easy respiratory effort with no use of accessory muscles.

Cardiovascular

Cardiovascular examination reveals - (see Vital Signs section for blood pressure measurements) and no digital clubbing, cyanosis, edema, increased warmth or tenderness. Note: Upper extremity pulses are 2+ bilaterally symmetrical LE pulses are 2+ and bilaterally symmetrical

Note: RRR no murmurs

Abdomen

Palpation/Percussion: Palpation and Percussion of the abdomen reveal - Non Tender.

Neurologic

Sensory:

Light Touch: Intact - Globally.

Overall Assessment of Muscle Strength and Tone reveals:

Upper Extremities: Right Deltoid - 5/5. Left Deltoid - 5/5. Right Bicep - 5/5. Left Bicep - 5/5. Right Tricep - 5/5. Left Tricep - 5/5.

Right Wrist Extensors - 5/5. **Left Wrist Extensors** - 5/5. **Right Intrinsic** - 5/5. **Left Intrinsic** - 5/5.

Lower Extremities: Right Quadriceps - 5/5. Left Quadriceps - 5/5. Right Tibialis Anterior - 5/5. Right

Gastroc-Soleus - 5/5. Left Gastroc-Soleus - 5/5. Right EHL - 5/5. Left EHL - 5/5.

Reflexes (Dermatomes): 2/2 Normal - All.

Note: CN II-XII grossly intact

Neuropsychiatric

The patient's mood and affect are described as - normal.

Musculoskeletal

Spinal Exam:

Cervical Spine:

Inspection and Palpation: Tenderness - no tenderness or pain on palpation (flexion and extension FROM).

ROM: Cervical ROM - normal cervical spine movements.

Strength and Tone: Strength & Tone - normal strength and tone, no laxity or crepitus.

Thoracic (Dorsal) Spine:

Inspection and Palpation: Tenderness - moderate and generalized. **Swelling** - none.

Lumbosacral Spine:

Inspection and Palpation: Swelling - no swelling, edema or erythema of surrounding tissue. **Tenderness** - mild and generalized.

ROM: ROM - normal lumbar spine movements.

Provocative Testing - Bilateral - Straight Leg Raising Test is negative.

Assessment & Plan (Fonda Wilkins, NP; 10/17/2013 4:23 PM)

Thoracic vertebral fracture (805.2)

Story: Peasant WM who had a fall off a truck last year and had a T3-T4 vertebral fracture with a closed head injury. He was doing well until he fell off a horse a few weeks ago and he has pain in the same T3-4 area and has severe muscle spasm. Reviewed his MRI with Dr Girault and then with pt, and we will proceed with TESI series. Norco discontinued.

Impression: PLAN:

1. D/C Norco
 2. MRI T spine reviewed with pt
 3. PT referral
 4. TESI series
 5. back brace
 6. continue tizanidine
 7. continue Diclofenac
- B/f/u 4 weeks

Current Plans

- | Continued Diclofenac Sodium 75MG, 1 (one) Tablet DR two times daily, #60, 30 days starting 10/17/2013, No Refill.
- | Continued TIZANidine HCl 2MG, 1 (one) Capsule three times daily, #90, 30 days starting 10/17/2013, No Refill.
- | Patient has a painful condition that will be helped by restricting mobility of the trunk to support weak spinal muscles. Thus I am prescribing a lumbar brace (L0637).
- | I am recommending a thoracic epidural steroid injection
- | We reviewed the MRI report with the patient today. Questions were answered. A copy of the report is to be scanned into the patients chart.
- | Reports reviewed

Completed and submitted for review by Fonda Wilkins NP (10/17/2013 4:30 PM)
Signed electronically by Gisele Girault, MD (10/18/2013 7:43 AM)

History & Physical Report #4

William L. Turner

9/18/2013 4:12 PM

Location: The Pain Center North East Columbia

Patient #:

DOB:

Married / Language: English / Race: White

Male

The patient is a 27 year old Male.

Signed electronically by Gisele Grault, MD (9/19/2013 12:49 PM)

Moore Orthopaedics
14 Medical Park, Suite 200
Columbia, South Carolina 29203
18032278170 Phone / 18032278270 Fax

10/29/2012

WILLIAM TURNER -

Richland Office

HISTORY:

Mr. Turner is here for evaluation of some high thoracic, low cervical pain. He had a fall out of truck back in April. He does have a MRI which seems to indicate some superior endplate injuries at the level of T3/T4. He has not worked since primarily because he had some seizures associated with this and that is why he cannot return to work but he has been doing a lot of work around the house including a lot of farming and building a house and he has not been limited by his back pain. He actually notes that the back pain feels better when he is working. He has no numbness, no tingling, no weakness in his extremities.

PAST MEDICAL, SURGICAL, FAMILY HISTORY, REVIEW OF SYSTEMS, MEDICATIONS, ALLERGIES, SOCIAL HISTORY: Please see the scanned Moore Intake Form dated October 29, 2012 and reviewed by me today in the clinic.

PHYSICAL EXAMINATION: The patient has good cervical range of motion with just a little stiffness. No impressive pain. He has lots of tenderness to deep palpation in his traps and rhomboids and even cervical paraspinous as well as in the midline of his thoracic and lower cervical spine. Intact sensation to light touch and pressure in all dermatomes in the upper extremities. 5/5 strength in all muscle groups in the upper extremities. Good perfusion and capillary refill in his digits. Good radial pulses bilaterally. Well-nourished, 26-year-old male in no acute distress.

RADIOGRAPHS:

MRI collected previously as described. With regards to his cervical and thoracic spine we did do some images of that today. With regards to AP and lateral of the cervical spine, relatively well maintained disc spaces. No signs of listhesis. No signs of fracture. No impressive signs of pathology. Cervical lordosis is well maintained on the AP, lateral and obliques. With regard to his thoracic spine, AP and lateral films show no impressive signs of fracture, listhesis or other boney abnormality. Some of the fine details are obscured by pulmonary artifact.

PLAN:

I think he has some myofascial pain related to his fall. He has a lot of muscle tightness. I did offer a trigger point injection which he declined. We are going to try a little physical therapy for some soft tissue work and mobilization, stretching, strengthening and posture, etc. I will see him back in about four weeks. I am comfortable with him returning to work but he is going to be held out according to his other doctor's recommendations for his seizures which is very appropriate. I will see him back in about four weeks.

David A. Scott, MD

CC List: Alan Peterson Jr, MD

DAS:ats7

DD: 10/29/2012 DT: 10/30/2012 13:07:19

Moore Orthopaedics
14 Medical Park, Suite 200
Columbia, South Carolina 29203
18032278170 Phone / 18032278270 Fax

10/29/2012

WILLIAM TURNER -

Richland Office

243487

This document was electronically authenticated by David A. Scott, MD on 10/30/2012 16:36:46.



SOUTH CAROLINA DIAGNOSTIC IMAGING

Palmatto Imaging Downtown
 1331 Lady Street, Columbia, SC 29201
 P: (803) 256-7646 (803) 236-8746

PATIENT: TURNER, WILLIAM
 DOB:
 MEN:
 PHYSICIAN: GISELE J GIRAULT, MD
 EXAM DATE: 10/01/2013

EXAM: MR-Thoracic Spine Without Contrast

REASON FOR EXAM: Back pain

TECHNIQUE: The following sequences were obtained on a Siemens 1.5 Tesla magnet: Screening sagittal T2 of the cervical spine, coronal T2, sagittal T1, T2, STIR, axial T1 and T2.

FINDINGS: The conus is seen at L1 and appears normal. The L1-2 and T12-L1 discs are well maintained. The T11-12 disc is well maintained. The T10-11 is well maintained. At T9-10, there is a non-acute Schmorls node seen into the inferior endplate of T9 and disc desiccation without stenosis. At T8-9, there is mild facet arthropathy bilaterally. At T7-8, there is loss of disc height and signal consistent with disc desiccation. There is no significant disc bulge. At T6-7, there is a Schmorls node seen in the inferior endplate of T6. At T4-5, there is facet arthropathy, right greater than left. At T3-4, the disc is well maintained. There is a small non-acute Schmorls node at T4-5 into the superior endplate of T5. At T2-3, there is loss of disc height and signal with mild posterior bulging of the disc without stenosis.

CONCLUSION: Numerous non-acute Schmorls nodes with disc desiccation.

Robin Daum Kowalski, MD

RJ/kp
 DT: 10/02/2013 09:16 A
 DT: 10/02/2013 11:13 A
 Accession#: 08-1706201 VS#: 11555226 CS#: 508564
 cc:

Electronically Signed and Reviewed by Robin Daum Kowalski, MD 10/02/2013 11:37 A

IMAGECARE, LLC

710 RABON ROAD
COLUMBIA, SC 29203
803-462-3680

Name: Turner, William L Jr
Patient ID:
DOB:
Acc#:
Patient Phone #: (803)

Exam Date: 07/17/2012
Exam: MRI T-spine wo contrast
Reason: PAIN IN BACK (724.5)
Referrer: Peterson, Alan

PROCEDURE: MRI of the thoracic spine without contrast, initial exam

CLINICAL HISTORY: Thoracic pain since falling from truck several months ago

TECHNIQUE: 3.9 mm sagittal composed T2-weighted images of the entire spine were obtained with 3 mm sagittal T1, T2, and T2 STIR images of the thoracic spine and 3 mm axial 3-D gradient echo T2 weighted images of the thoracic spine.

FINDINGS: On the composed sagittal T2-weighted images of the entire spine, normal anatomic alignment of the cervical, thoracic, and lumbosacral spine segments is noted. Very mild chronic appearing fracture deformities of the anterior superior endplates of T3 and T4 are noted with no kyphosis or scoliosis or retropulsion of bone into the spinal canal at either level. The remaining thoracic vertebral segments, discs, and spinal cord are normal in appearance with no soft tissue abnormalities of the adjacent paraspinal soft tissues. The cervical spine segments and discs and lumbosacral spine segments and discs appear normal on the composed sagittal images.

IMPRESSION: (1) Mild old healed fracture deformities of the anterior superior endplates of T3 and T4 are noted without associated kyphosis or scoliosis with the remainder of the exam normal in appearance.

(2) The cervical and lumbosacral spine segments and discs are normal in appearance on the sagittal composed images.

Martin P. Dommers, M.D.
Electronic Signature
Date Finalized: 07/18/2012

DD: 07/17/2012 DT:07/18/2012

Sandhills Medical Foundation-Lugoff

40 Baldwin Ave
Lugoff, SC 29078
Phone: 803-408-3262
Fax: 803-408-8895

William Turner, Jr

Patient #: 17

DOB: 03/27/1977

Date of Encounter: 03/27/2012 02:39 PM

History of Present Illness

Meha Minhas, MD 03/27/2012 05:11 PM

Patient words: here today for mid and lower back pain x 3 days. Advil taken for pain but no relief.

The patient is a 26 year old male who presents with a complaint of Low back pain. The onset of the low back pain has been sudden and has been occurring in a persistent pattern for 3 days. The course has been constant. The pain is located in the lower back and is described as dull aching. There is no radiation. The back pain is aggravated by nothing. There has been no use of assistive devices. Note for "Low back pain": pt works in construction and also has been lifting logs.

History

Cynthia Michael, LPN 03/27/2012 02:39 PM

Allergy

Allergy History Unknown

Review of Systems

Meha Minhas, MD 03/27/2012 05:11 PM

General: Present- Feeling well. Not Present- Fatigue and Fever.

Respiratory: Not Present- Cough and Difficulty Breathing.

Cardiovascular: Not Present- Chest Pain, Shortness of Breath and Swelling of Extremities.

Gastrointestinal: Not Present- Abdominal Pain, Heartburn and Indigestion.

Musculoskeletal: Present- Back Pain.

Neurological: Not Present- Difficulty Speaking, Headaches and Weakness.

Psychiatric: Not Present- Anxiety and Depression.

Vital Signs

Date:	03/27/2012 02:40 PM	Height:	66 in	Note: -
Temperature:	97 °F	Weight:	137 lb	
Pulse:	91	Waist:		
Respirations:	20	BMI:	22.11 kg/m ²	
Peak Flow:		BSA:	1.7 m ²	
Blood Pressure:	119/78			
Reading Type:	Manual			

Physical Exam

Meha Minhas, MD, 03/27/2012 05:15 PM

General

Mental Status - Alert. **General Appearance** - Cooperative and Well groomed. **Build & Nutrition** - Well nourished. **Posture** - Normal posture. **Gait** - Normal. **Hydration** - Well hydrated.

Chest and Lung Exam

Chest and lung exam reveals - on auscultation, normal breath sounds, no adventitious sounds and normal vocal resonance.

Cardiovascular

Cardiovascular examination reveals - normal heart sounds, regular rate and rhythm with no murmurs.

Abdomen

Inspection: Inspection of the abdomen reveals - No Visible peristalsis.

Palpation/Percussion: Palpation and Percussion of the abdomen reveal - Non Tender, No Rebound tenderness and No Rigidity (guarding).

Auscultation: Auscultation of the abdomen reveals - Bowel sounds normal.

Neurologic

Neurologic evaluation reveals - alert and oriented x 3 with no impairment of recent or remote memory, pupils equal and reactive to light and accommodation and symmetrical functioning of facial nerves. **Meningeal Signs** - None.

Musculoskeletal

Spine

Other Characteristics - Tenderness over lumbar vertebra.

Assessment & Plan (Meha Minhas, MD; 03/27/2012 05:16 PM)

LUMBAGO (724.2)

will need a x ray if not better in 4-6 weeks.

Plans:

Flexeril 5MG, 1 Tablet two times daily, #60, 03/27/2012, No Refill. Active.

Ultram 50MG, 1 Tablet two times daily, #60, 03/27/2012, No Refill. Active.

FOLLOW-UP AS NEEDED

Meha Minhas MD

Meha Minhas MD

Sandhills Medical Foundation-Lugoff

40 Baldwin Ave
Lugoff, SC 29078
Phone: 803-408-3262
Fax: 803-408-8895

William Turner, Jr

Patient #:

DOB:

Date of Encounter: 04/16/2012 10:18 AM

History of Present Illness

Meha Minhas, MD 05/16/2012 10:41 AM

Patient words: Pt is in for a follow up on back pain

The patient is a 26 year old male who presents with a complaint of Low back pain. The onset of the low back pain has been sudden and has been occurring in a persistent pattern for 3 days. The course has been constant. The pain is located in the lower back and is described as dull aching. There is no radiation. The back pain is aggravated by nothing. There has been no use of assistive devices. Note for "Low back pain": pt works in construction and also has been lifting logs. Pt now has pain in the upper back as well.

History

There is no documented history at this time.

Review of Systems

Mcha Minhas, MD 05/16/2012 10:37 AM

General: Not Present- Fatigue, Feeling well and Fever.
Respiratory: Not Present- Cough and Difficulty Breathing.
Cardiovascular: Not Present- Chest Pain, Shortness of Breath and Swelling of Extremities.
Gastrointestinal: Not Present- Abdominal Pain, Heartburn and Indigestion.
Musculoskeletal: Present- Back Pain.
Neurological: Not Present- Difficulty Speaking, Headaches and Weakness.
Psychiatric: Not Present- Anxiety and Depression.

Vital Signs

Date:	04/16/2012 10:23 AM	Height:	66 in	Note: -
Temperature:	97.5 °F	Weight:	135 lb	
Pulse:	107	Waist:		
Respirations:	18	BMI:	21.79 kg/m ²	
Peak Flow:		BSA:	1.69 m ²	
Blood Pressure:	112/73			
Reading Type:	Manual			

Physical Exam

Meha Minhas, MD, 05/16/2012 10:38 AM

General

Mental Status - Alert, **General Appearance** - Cooperative and Well groomed. **Build & Nutrition** - Well nourished. **Posture** - Normal posture, **Gait** - Normal. **Hydration** - Well hydrated.

Chest and Lung Exam

Chest and lung exam reveals - on auscultation, normal breath sounds, no adventitious sounds and normal vocal resonance.

Cardiovascular

Cardiovascular examination reveals - normal heart sounds, regular rate and rhythm with no murmurs.

Abdomen

Inspection: Inspection of the abdomen reveals - No Visible peristalsis.

Palpation/Percussion: Palpation and Percussion of the abdomen reveal - Non Tender, No Rebound tenderness and No Rigidity (guarding).

Auscultation: Auscultation of the abdomen reveals - Bowel sounds normal.

Neurologic

Neurologic evaluation reveals - alert and oriented x 3 with no impairment of recent or remote memory, pupils equal and reactive to light and accommodation and symmetrical functioning of facial nerves. **Meningeal Signs** - None.

Musculoskeletal

Spine

Other Characteristics - Tenderness between thoracic vertebra and Tenderness over lumbar vertebra.

Assessment & Plan (Meha Minhas, MD; 04/16/2012 04:44 PM)

LUMBAGO (724.2)

Plans:

LOWER SPINE, MIN 4 VIEWS X-RAY (72110) Routine

THORACIC SPINE 3 VIEW X-RAY (72072) Routine

Neurontin 300MG, 1 Capsule three times daily, #90, 04/16/2012, Ref. x3. Active.

Ultram ER 100MG, 1 Tablet ER 24HR two times daily, #60, 04/16/2012, Ref. x2. Active.

Meha Minhas MD

Meha Minhas MD

Procedure

DIAGNOSTIC X-RAY

William Turner, Jr

Final, Reviewed

Diagnosis:

Ordered by Meha Minhas, MD on 4/16/2012 (Routine)

Performed on 4/16/2012 12:43 PM

Reviewed by Meha Minhas, MD on 4/16/2012

Comments: See Note (Outpatient)

Patient: TURNER, WILLIAM LEE Age: Sex:
DOB:

Serv Dt/Tm: 04/16/12 / Ord Dr: MINHAS, MEHA MD MRN: M000342956
Loc: WWRAD Rm/Bed: Acct #: K10000896210
Status: REG CLI Req #: 12-0015807

[rep ct name]
[rep ct add1]
[rep ct city st zip]

Report Status: Draft

REASON FOR EXAM: LUMBAGO

THORACIC SPINE (THREE VIEWS) 4-16-12

Three views reveal minimal scoliosis convex to the left, minimal degenerative disc disease changes at several levels. No acute osseous abnormalities are seen.

LUMBAR SPINE (THREE VIEWS)

Three views reveal minimal degenerative disc disease changes at L1-2 and L3-4, minimal degenerative facet joint changes at L4-5 and L5-S1.

IMPRESSION: MINIMAL DEGENERATIVE CHANGES AS DESCRIBED ABOVE.

Dictated by: DONALD J COPLEY MD

Trans by: GLD
Trans date/time: 04/16/12 1243

)

Emergency Dept

TURNER, WILLIAM L - B000865692

Result type: Emergency Dept
Result date: 17 April 2012 13:14
Result status: Auth (Verified)
Result title: Emergency Dept
Performed by: Robinson MD, John G on 17 April 2012 13:14
Verified by: Robinson MD, John G on 21 April 2012 13:38
Encounter info: B1210801645, Baptist, ERB-Emergency Room, 04/17/12 - 04/17/12
Contributor system: Softmed

Emergency Dept

PLACE OF VISIT: Baptist Emergency Department.

MODE OF ARRIVAL: Ambulatory.

CHIEF COMPLAINT: Screening exam.

HISTORY OF PRESENT ILLNESS: This is a 26-year-old male who was brought in by family. They were concerned because he had low back pain. The patient states he strained his back lifting some heavy logs last week. He was seen in the emergency department last week and started on Flexeril and Ultram. He had a few episodes of diarrhea and earlier this week, he was not urinating very much, but he states he urinated 4 times yesterday. He has urinated today with any problems. He has no abdominal pain. His back pain is minimal at this time. He denies any bowel or bladder incontinence. Denies any extremity paresthesias or weakness. The pain is bilateral low back, does not radiate anywhere else. He felt a little bit up in the left scapular area yesterday but that resolved. His mother was concerned because he had some diarrhea before. They he might be dehydrated. The patient states he urinated right before he came to the emergency department.

REVIEW OF SYSTEMS: No hematochezia or melena. No abdominal pain. No dysuria. Vomiting 1 time yesterday. None since then, none before that. No fever, no bowel or bladder incontinence. No extremity weakness or paresthesias. No abdominal pain. The rest of the review of systems has been reviewed as otherwise unremarkable. He denies any urinary hesitancy. He does not feel like he has to urinate but cannot do so. He just states he does not have to right now.

FAMILY HISTORY: Diabetes.

SOCIAL HISTORY: He is married. He works on log houses. Uses tobacco. No alcohol or drug use.

PAST SURGICAL HISTORY: None.

PAST MEDICAL HISTORY: No significant illnesses.

Printed by: Hamlin, Brenda F
Printed on: 04/26/13 10:26

Page 1 of 3
(Continued)

ALLERGIES: No known drug allergies.

MEDICATIONS: He has been on Ultram and Flexeril for a back strain, seen in the emergency department in Hartsville.

PHYSICAL EXAMINATION: Vital Signs: Presentation is as follows. Temperature 96.1, pulse 94, respirations 16, blood pressure 119/86, satting 100 percent room air. General: He is a well-nourished, well-developed, thin white male in no acute pulmonary or vascular stress, nontoxic in appearance, alert, and oriented x3. He is ambulating without difficulty. HEENT: The head is normocephalic, atraumatic. Eyes: Pupils equal, round, reactive to light. All extraocular motions are intact. The oropharynx is clear, moist, and pink. Neck: Supple. No lymphadenopathy. No thyromegaly is noted. Lungs: Clear to auscultation bilaterally. Cardiovascular: Regular rate and rhythm. No murmurs, rubs, gallops. Two-plus radial pulses bilaterally. Abdomen: Positive bowel sounds, soft, nondistended, nontender. No palpable masses. Musculoskeletal: Full, pain-free, active range of motion in all major joints and all 4 extremities. No areas of erythema, edema, or tenderness. Back: Some mild paraspinal tenderness only. No tenderness of the spine. Full range of motion throughout the spine and the back with negative straight-leg raise bilaterally. Neurological: 5/5 strength in all myotomes and all 4 extremities with 2-plus symmetrical reflexes in the patella. Skin: Warm and dry. No rashes, lesions, bruising, petechia, or ecchymosis noted.

EMERGENCY DEPARTMENT COURSE/MEDICAL DECISION MAKING: The patient was brought in. The family is concerned he is dehydrated. The patient is a young male who is alert and oriented, has virtually no complaints other than some mild low back pain that he states is a muscle strain and is getting better after treatment. His exam is very unremarkable. I do not find anything significantly abnormal on exam, including a normal neurological exam. No evidence of fracture. I do not think he needs any x-rays. His wife and his mother keep interjecting, stating he vomited 1 time last week, he had diarrhea a couple days ago. They told me the pharmacist told him he may have these as side effects. They want to know if these are side effects or is it a virus. Could he of had a virus twice? I almost got overwhelmed by the family members, and it seemed at some point, they were trying to forge a diagnosis, and the patient seemed to be very upset about this too. I think a happy medium at this time is to check a couple of basic labs; a CBC to look for any significant changes as well as a Chem-7 to look for any electrolyte abnormalities to suggest significant dehydration or electrolyte change as well as his renal function. We will also check urinalysis. Again, I do not see any evidence of any acute abdominal process requiring CT scan. This does not sound like kidney stones. He states he is

Emergency Dept

TURNER, WILLIAM L - B000865692

able to urinate, just did not have to, but he urinated right before he came in here, and his exam is otherwise completely normal, and otherwise I do not see any indication for any other workup.

LABORATORY RESULTS: CBC is normal. Chem-7 is normal, including a normal creatinine 0.6.

EMERGENCY DEPARTMENT COURSE: He was given 1 L normal saline bolus. He was unable to void. He states he has a bit of a social anxiety where he can not urinate in public places and the family attests to this, and he would just like to be discharged. If he has worsening symptoms to return. The family is comfortable with this. I found no other problems. At this point, I am going to discharge him. If he has worsening symptoms, he is to return.

IMPRESSION:

1. Acute back pain.
2. Vomiting.

DISPOSITION: Discharged from the emergency department. Comprehensive instructions by FirstNet provided. Follow up with primary care physician in 2 to 4 days. Return immediately for any worsening symptoms or any other concerns.

D: 04/17/2012 15:52 T: 04/17/2012 13:14 TID: lc
Job #: 16263 Doc #: 10158723
cc: John Galt Robinson, MD

Signature Line

Electronically Signed & Verified on 04/21/2012 13:38
by Robinson MD, John G

Completed Action List:

- * Perform by Robinson MD, John G on 17 April 2012 13:14
- * Sign by Robinson MD, John G on 21 April 2012 13:38 Requested on 17 April 2012 19:25
- * VERIFY by Robinson MD, John G on 21 April 2012 13:38

Printed by: Hamlin, Brenda F
Printed on: 04/26/13 10:26

Page 3 of 3
(End of Report)

Emergency Dept

TURNER, WILLIAM - R015362186

Result type: Emergency Dept
Result date: 19 April 2012 19:14
Result status: Auth (Verified)
Result title: Emergency Dept
Performed by: Mullins MD, James T on 19 April 2012 19:14
Verified by: Ridley MD, Stephen F on 23 April 2012 00:57
Encounter info: R1211002353, Richland, IPR-Inpatient, 04/19/12 - 04/25/12

Emergency Dept (Verified)

PATIENT: TRAUMA, M120297
MR #: DICT: James Mullins, MD-R
ADMITTED: 04/19/2012
ACCOUNT #: DOB:
PT.LOC: STU

DATE OF VISITATION: 04/19/2012

ACCOUNT NUMBER:

ATTENDING PHYSICIAN: Stephen F. Ridley, MD

CHIEF COMPLAINT: Fall.

MODE OF ARRIVAL: EMS.

HISTORY OF PRESENT ILLNESS: This patient is a 27-year-old Caucasian male who was involved in a fall coming off of a ladder from questionable 10-15 feet with landing directly on his head. Patient was noted to have a GCS of 3 upon arrival, was a trauma 911. Patient was seizing en route. He did receive Ativan and presented with a GCS of 3 upon arrival here in the emergency department.

REVIEW OF SYSTEMS: Unable to obtain.

PAST MEDICAL HISTORY: Unable to obtain.

PAST SURGICAL HISTORY: Unable to obtain.

MEDICATIONS: Unable to obtain.

SOCIAL HISTORY: Unable to obtain.

ALLERGIES: Unable to obtain.

PHYSICAL EXAMINATION:

VITAL SIGNS: Heart rate 94, respirations 20, [] at 100, BP 160/101 original.

GENERAL APPEARANCE: Patient is unresponsive with GCS of 3.

NEUROLOGIC: GCS of 3 and unresponsive to pain.

EYES: Deviated up and lateral and unresponsive originally.

ENT: Mucous membranes are moist. TMs are clear.

Printed by: Cantley, Precious K
Printed on: 05/17/12 10:34

Emergency Dept

TURNER, WILLIAM - R015362186

RESPIRATORY: Lungs are clear bilaterally, symmetric chest rise, no wheezes, rales or rhonchi.

CARDIOVASCULAR: S1, S2, no murmurs or gallops. Distal pulses are intact.

GASTROINTESTINAL: No abdominal tenderness to cough, no rebound or guarding, positive bowel sounds, no signs of organomegaly.

MUSCULOSKELETAL: No cyanosis or clubbing noted. No deformities were noted.

SKIN: Void of all rashes, bruises, lesions.

MEDICAL DECISION MAKING: This patient will be evaluated for trauma 911. Due to patient's complaints and risk of complications, a thorough physical exam was done to effect an efficient evaluation.

LABORATORY DATA: Trauma 911 labs are pending at this time, as well as an ABG.

ED COURSE: Patient was seen immediately upon arrival by myself for trauma 911. Due to patient status of fall with GCS of 3 with deviation, we did think the airway was most pertinent; we did intubate the patient here in the trauma bay used an 8-0 tube and was placed to 24. This was done by myself.

PROCEDURE NOTE: After noting the patient had a GCS of 3, we then used lidocaine 100 mg as well as etomidate 30 and 150 of [____]. We did intubate the patient on first attempt with 8-0 tube and was placed at 24. Cuff was inflated, had good color change, no complications.

At that point, we did get bilateral breath sounds, circulation was intact. Patient was not doing anything in terms of responding to pain, was not moving any of his extremities and was not actively seizing; however, at this point we are doing trauma 911 scans. We will continue to monitor this patient and he will be admitted to the trauma team for further care. We do suspect this is most likely a head injury, neck; and at this point, patient will be admitted.

DIAGNOSTIC IMPRESSION: Trauma 911 with concern of head and/or neck injury.

DISPOSITION: Patient will be admitted.

Patient was discussed with Dr. Ridley.

D: 04/19/2012 18:02 T: 04/19/2012 19:14 TID: kf
Job #: 81905 Doc #: 40921063
cc: James Mullins, MD-R
Stephen F. Ridley, MD

I was present with the resident during the history and exam. I discussed the case with the resident and agree with the findings and plan as documented in the resident's note. I supervised all above procedures done by the resident.

93721

PALMETTO HEALTH RICHLAND
5 Richland Medical Park Drive
Columbia, SC 29203
(803) 434-7000

William Turner

CONSULTATION REPORT

PATIENT:	TRAUMA, M120297	DICT:	Joseph Anton Wehner, PA
MR #:		DOB:	
ADMITTED:	04/19/2012	PT.LOC:	STU^0527^01^R^

DATE OF CONSULTATION: 04/19/2012

TIME OF CONSULTATION: 7:00 p.m.

ATTENDING PHYSICIAN: Sharon W. Webb, MD

REFERRING PHYSICIAN: Mark A Jones, MD

REASON FOR CONSULT: Fall.

HISTORY OF PRESENT ILLNESS: Trauma Male 120297 is a 23-year-old white male who fell off the back of a truck approximately 4 or 5 feet, striking his head. The patient was brought to the emergency department in transfer from another facility where he was conscious, alert, and oriented x3. Upon his arrival here, he had a GCS of 3.

PAST MEDICAL HISTORY: None.

PAST SURGICAL HISTORY: None.

MEDICATIONS: No daily medications.

ALLERGIES: No known drug allergies.

FAMILY HISTORY: Positive for diabetes and coronary artery disease.

SOCIAL HISTORY: He is married and lives with his wife. He smokes cigarettes. Denies alcohol and drug use per the wife. He works as a construction worker.

REVIEW OF SYSTEMS: A 13-point review of systems is also negative per the wife. He was feeling fine today.

PHYSICAL EXAMINATION:

VITAL SIGNS: A heart rate of 112, pulse ox 100 percent, blood pressure 156/96, and at this time he has a GCS of 9I E3 VII M5.

PATIENT: TRAUMA
MR #:
Patient Type:

CONSULTATION REPORT
Page 1 of 2

PALMETTO HEALTH RICHLAND
5 Richland Medical Park Drive
Columbia, SC 29203
(803) 434-7000

NEUROLOGIC: Review of cranial nerves: Unable to obtain due to patient's condition. Pupils 4 mm and reactive. Sensation appears to be intact to his upper and lower extremities. Motor: He moves all extremities equal and well. Unable to evaluate proprioception, coordination or pronator drift due to patient's condition.

HEENT: Nares are patent. Trachea is midline. C-collar is in place. Several abrasions noted.

PULMONARY: Even, clear, and nonlabored. He is intubated.

CARDIOVASCULAR: Regular rate and rhythm.

ABDOMEN: Soft and not distended.

MUSCULOSKELETAL: No obvious deformities noted.

SKIN: Warm and dry.

LABORATORY DATA: PT of 17.3, INR of 1.3. Sodium is 147. Potassium is 3.7.

IMAGING: Reports reviewed and personally reviewed images. CT of the cervical spine: No fractures noted. CT of the head: Two areas of small subdural blood noted. CT of the chest, abdomen and pelvis: Possible thoracic 3 and 4 endplate fractures, unknown if it is acute or chronic.

IMPRESSION:

1. Subdural hematoma.
2. T3 fracture.
3. T4 fracture.

PLAN: We _____ the patient with Kepra. Repeat a head CT in 6-8 hours.

The patient was also evaluated by Dr. Sharon Webb.

D: 04/19/2012 21:29 T: 04/19/2012 18:41 TID: cc

Job #: 82073 Doc #: 10258622

cc: Joseph Anton Wehner, PA

Sharon W. Webb, MD

Mark A Jones, MD

PATIENT: TRAUMA

MR #:

CONSULTATION REPORT

Page 2 of 2



Palmetto Health Richland
5 Richland Medical Park
Columbia, SC 29203

To: N/A
N/A
N/A, N/A
N/A, N/A N/A

Patient: TURNER, WILLIAM L
Address:
Phone:
DOB: Age:

Ord Phy: Maxey MD, Melissa
FIN: R1211002353
Pt Type: IPR-Inpatient
MRN: R015379577
CC:

R A D I O L O G Y S E R V I C E S

Exam:
CT Cervical Spine W/O IV Cont + Recons

Exam Date/Time:
4/19/2012 6:40:00 PM

Accession Number:
CT-12-022201

Reason for Exam:

Trauma

Findings:

CERVICAL SPINE CT - 04/19/12

INDICATION: MVA, neck pain.

TECHNIQUE: Multiple contiguous axial CT images were obtained from the skull base through the lung apices without contrast. Coronal and sagittal reconstructions were performed on the CT scanner.

FINDINGS: I see no fracture or abnormal alignment. Disc spaces are normal in terms of height. I see no evidence of any definite significant disc herniation. There is an endotracheal tube and NG tube in place.

IMPRESSION: No acute osseous injury of the cervical spine identified.

*** Final ***

Trans On: 04/19/2012 19:00by: SEE

Read by: Taffoni MD, Matthew J
Released By: Taffoni MD, Matthew J
Released on: 04/19/2012 19:18

*.Final Report *

Result type: CT Head W/O IV Contrast
 Result date: 21 April 2012 10:44
 Result status: Auth (Verified)
 Performed by: Wallace, Carolyn J on 21 April 2012 10:44
 Verified by: Marcus MD, Matthew A on 22 April 2012 08:21
 Encounter info: R1211002353, Richland, IPR-Inpatient, 04/19/12 - 04/25/12

*** Final Report ***

Reason For Exam
post lovenox scan

Finding:
NONCONTRAST CT OF THE HEAD - 04/21/12

HISTORY: Post Lovenox scan, trauma.

COMMENTS: Noncontrast CT of the head was performed and compared to the study of 04/20/12. There is a tiny focus of hemorrhage related to a cortical contusion in the left anterolateral temporal lobe. No new foci of intracranial hemorrhage are evident. Subtle increased density along the posterior falx, extending along the tentorium relates to small amounts of residual extra-axial blood. Ventricles are stable in caliber and morphology. No intraventricular hemorrhage is evident. Gray-white differentiation is stable. There is no CT evidence of acute infarct. Calvarium is stable. Patchy paranasal sinus opacification is again evident.

IMPRESSION: No new intracranial abnormality. Tiny focus of hemorrhage again seen at the anterolateral margin of the left temporal lobe, in keeping with a small contusion. Likely trace amounts of residual extra-axial blood along the posterior falx extending along the tentorium.

Signature Line

*** Final ***

Trans On: 04/21/2012 12:5by: WLC

Read by: Marcus MD, Matthew A

Released By: Marcus MD, Matthew A

Released on: 04/22/2012 08:21

Completed Action List:

- * Order by Skaggs MD, Joshua B on 21 April 2012 09:28
- * Perform by Wallace, Carolyn J on 21 April 2012 10:44

Printed by: Sikes, Stacie A
Printed on: 05/01/12 10:26

Page 1 of 2
(Continued)

CT Head W/O IV Contrast

TURNER, WILLIAM - R015362186

* Final Report *

* VERIFY by Marcus MD, Matthew A on 22 April 2012 08:21

Printed by: Sikes, Stacie A
Printed on: 05/01/12 10:26

Page 2 of 2
(End of Report)

69060



Palmetto Health Richland
5 Richland Medical Park
Columbia, SC 29203

To: Maryanov MD, Timothy Y
USC DEPARTMENT OF
NEUROSURGERY
3 RICHLAND MEDICAL PARK DRIVE,
SUITE 310
COLUMBIA, SC 29203

Patient: TURNER, WILLIAM
Address:
Phone:
DOB: Age:

Ord Phy: Maryanov MD, Timothy Y
FIN: R1214301076
Pt Type: 3MP-Op Registration
MRN: R015362186
CC:

R A D I O L O G Y S E R V I C E S

Exam:
CT Head W/O IV Contrast

Exam Date/Time:
5/22/2012 11:26:22 AM

Accession Number:
CT-12-028876

Reason for Exam:

subdural hemorrhage

Findings:

INDICATION: Subdural hematoma.

TECHNIQUE: Axial images are obtained through the brain without contrast and compared to the previous study of 04/21/12.

FINDINGS: The tiny left temporal subdural hematoma seen previously is not identified today and no new findings are evident. Other sites of hemorrhage are no longer visible. Ventricles, cisterns and sulci remain within normal limits in size for age, and they are symmetrical about midline. No mass effect or midline shift has emerged. Calvarium remains intact, and sinuses again show polypoid thickening in the antra, with patchy opacity of several ethmoid cells.

IMPRESSION: Bleeds are no longer evident. Sinusitis is again seen.

*** Final *** Trans On: 05/22/2012 11:5by: DLV
Read by: Friedman MD, Samuel Elias
Released By: Friedman MD, Samuel Elias
Released on: 05/22/2012 12:26

d

USC DEPARTMENT OF NEUROSURGERY
Three Richland Medical Park, Suite 310, Columbia, SC 29203
PHONE 803-434-8323, FAX 803-434-8326
FOLLOW-UP VISIT

PATIENT: William Turner
VISIT DATE: 05/29/12

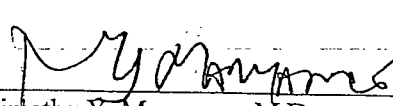
Chart #:
DOB:

HISTORY OF PRESENT ILLNESS: Mr. Turner is a 26-year-old gentleman who sustained a fall on April 19, 2012. As a result of this fall, he had several injuries including closed head injury with traumatic intracranial hemorrhage and mild anterior endplate fractures of his upper thoracic spine. He now comes back for follow up about six weeks after these injuries have occurred. He says that he has been doing well. He denies having headaches. He admits to having some back pain which is better than it was when he was initially discharged from the hospital.

PHYSICAL EXAMINATION: On examination today, he is alert, awake. Gives a good history of his illness. His motor exam shows full 5/5 motor strength in the bilateral upper and lower extremities in all major myotomes. His musculoskeletal examination does show he has a little bit of tenderness to palpation in his upper thoracic spine.

REVIEW OF IMAGING: I reviewed his imaging. This is a head CT performed on 05/22/12. This head CT is normal. The hemorrhage has resolved. There is no evidence of hydrocephalus.

IMPRESSION AND PLAN: A 26-year-old male status post a fall with hemorrhagic closed head injury and upper thoracic anterior endplate fractures. The patient has done well with his recovery. I like his plan of treating his back pain with occasional Ultram. I recommended trying to switch over to Tylenol and Motrin for his back pain. In this setting, I do not feel the patient needs any restriction for his activity. I am okay that he goes back to work without any restrictions starting on June 4. I gave him a note to that effect. I do not feel he need further follow up with Neurosurgery. I answered all of his and his wife's questions to their satisfaction. It was my pleasure to participate in the care of this patient.



Timothy Y. Maryanov, M.D.

TYM:TrUSA0366-339360

OFFICE NOTE

Timothy Y. Maryanov, M.D.

**BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
W.C.C. FILE NO.: 1204039**

William Lee Turner,)		
	Claimant,)		
vs.)		
)		
Saiia Construction,)	BRIEF ON LEGAL ISSUES	
)		
	Employer,)		
and)		
)		
Old Republic General Ins c/o)		
Gallagher Bassett Service, Inc.,)		
)		
	Carrier,)		

STATEMENT OF THE CASE

This matter comes before the South Carolina Workers' Compensation Commission on February 4, 2014. The purpose of the hearing is to determine the issues as set forth in Forms 50 and 51. Claimant filed a claim by way of Form 50 on November 26, 2013, regarding a date of injury on or about April 19, 2012. Employer filed a Form 51 on December 5, 2013 and contests whether Claimant's injuries are compensable and claims that Claimant's current problems are not causally connected to the alleged April 19, 2012 work-related accident. Claimant filed a Form 58 on January 23, 2014.

FACTS OF THE CASE

On the afternoon of Thursday, April 19, 2012, William Lee Turner, the Claimant, was finishing his shift with Saiia Construction in Eastover, South Carolina. Mr. Turner had washed

his Sterling dump truck with soap and water. The Claimant had to climb the first step and the second step because his backpack was placed on the seat according to witness Paul Barnette.

“ It [he backpack] had been put on the seat and to be able to get up to put my stuff up there --it wasn't thrown in, it wasn't in the floorboard, it was in the seat. **So sometime another he did get up the first step and then the second step.**”

Deposition of Paul Barnette, page 13, lines 21-25.

To access the cab, Mr. Turner had to step up two steps, making the cab of the truck roughly five feet and six inches (5'6") off the ground. The reasonable inference is that while he was on these steps, or possibly while he was inside of the cab, Mr. Turner fell to the ground, hitting the back of his head against the ground. As a result of this fall, Mr. Turner does not remember anything from the day before the accident, Wednesday, or the day of the accident, Thursday.

David Bolden and Paul Barnett, two truck drivers who work with the Claimant, were standing roughly 30 yards away from Mr. Turner when he fell. Neither person saw Mr. Turner fall, but each saw Mr. Turner lying on the ground immediately after the fall. The back of his head was bleeding.

APPLICABLE LAW

Generally, a presumption of fact that one charged with the performance of a duty and injured while performing such duty or found injured at a place where his duty may have required him to be is injured “in the course of employment” and as a consequence of the employment within the Workmen’s Compensation Act. Owens v. Ocean Forest Club, Inc., 196 S.C. 97, 12 S.E.2d 839 (1941). *See also* Jake v. Jones, 240 S.C. 574, 126 S.E.2d 721 (1962) (reiterating the presumption stated in Owens).

In Owens, a game warden employed by Ocean Forest Club, Inc. was found deceased in a portion of the wooded premises that he had employed to patrol. The cause of his death was a bullet wound through his head. The game warden's widow filed a claim for compensation under the Workmen's Compensation Act, Act July 17 1935, 39 St. at Large, p. 1231. When Liability was denied, a hearing was held before a Commissioner, who awarded compensation to the plaintiff widow. The defendant company appealed.

Reviewing the factual findings of the Commissioner, the South Carolina Supreme Court held that the evidence was clear that, at the time of his death, the game warden was on the company's property during his hours of employment, and that he was found dead from a gunshot wound. The Court also noted that all the evidence relating to the cause of death of the game warden was circumstantial in nature. The Court went on to say "circumstantial evidence may be sufficient to support a finding of fact or an award, and a finding or award may be based on inferences drawn from circumstantial evidence; the evidence need not, although it may, be direct or positive. Circumstantial evidence, to establish a claim, need not reach such a degree of certainty as to exclude every reasonable or possible conclusion other than that reached." Owens, 196 S.C. 97, 12 S.E.2d 839. Furthermore, when an employee's death occurs "there is a natural presumption, or a presumption of fact, that one charged with the performance of a duty and injured while performing such duty, or found injured at a place where his duty may have required him to be, is injured in the course of, and as a consequence of the employment." Jake v. Jones, 240 S.C. at 579, 126 S.E.2d at 723. In Jake, the Supreme Court affirmed a decision to find that the deceased's accident arose out of and in the course of employment where he was found drowned by a barge that he worked on. Jake, 240 S.C. at 578, 126 S.E.2d at 722. The deceased was found disrobed and could not swim, furthermore, swimming in that area around the

barge that he worked on was prohibited by his employer. Nevertheless, his death was compensable under the Workmen's Compensation Act.

Similarly in our case, the Claimant was injured on his truck, on company property, and during work hours. (Turner Dep. 30:10-25) Claimant's backpack was in the passenger seat which means that he had to climb the first and second steps of the dump truck according to Paul Barnette. The steps had just been washed with soap and water. Furthermore the circumstantial evidence along with more direct evidence points to the fact that the Claimant's fall gave rise to seizures as Dr. Alan Peterson explained in his report. (Claimant's APA, p. 37). Claimant had not complained of dizziness or any problems that day before his fall. While Mr. Turner, in our present case, luckily was only injured and did not die from the incident, his situation is still analogous to that of the plaintiff in Jake. Mr. Turner's situation falls squarely within the course of employment and does not have the same strange outliers—disrobed in the water where swimming was prohibited, and in the water though he could not swim. The presumption should be applied to all unwitnessed falls, and Mr. Turner's injuries should be compensable.

In Jennings v. Chambers Development Co., 335 S.C. 249, 516 S.E.2d 453 (Ct. App. 1999), the Court of Appeals reviewed the elements required for an injury to be compensable. First, it must be by accident arising out of and in the course of employment. Baggott v. Southern Music Inc., 330 S.C. 1, 496 S.E.2d 852 (1998). Second, an injury arises out of employment when there is apparent to the rational mind, upon consideration of the circumstances, a causal relationship between the conditions under which the work is to be performed and the resulting injury. Clade v. Champion Lab, 330 S.C. 8, 11, 496 S.E.2d 856, 857 (1998). Third, an injury occurs in the course of employment if it happens within the period of employment at a place

where the employee reasonably may be in the performance of his duties and where fulfilling those duties. Id.

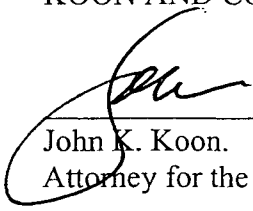
First of all, the Claimant accident was arising out of and in the course of employment. Mr. Turner operates a dump truck on-site, and routinely makes 25 or more trips a day hauling materials to the on-site landfill. (Barnette Dep. 7:16-21). Furthermore, it is apparent to the rational mind, that a fall from the dump truck that Mr. Turner routinely drives and spends the vast majority of his day entering and exiting has a causal relationship as the conditions under which his work is performed and what caused his injury. Finally, the injury occurred within the period of employment at a place where the employee reasonably may be in the performance of his duties. (Turner Dep. 30:10-25). Mr. Turner was on the job site, during working hours, and fell from the dump truck that he routinely operates. Id.

CONCLUSION

Claimant suffered a severe injury on April 19, 2012. Following that date, Employer did not provide medical treatment or payment for temporary disability payments. Claimant's request for temporary total disability benefits from April 19, 2012 thru January 2, 2013 were denied by Employer. All injuries, disabilities, and needed medical care in this incident from April 12, 2012 is attributed to Claimant's fall on his employer's premises at the time of work, and was in a place doing an activity that Claimant would reasonably do in the course and scope of his employment. Therefore, Claimant's injuries related to the accident on April 19, 2012 should be compensable under the South Carolina Workers' Compensation Act.

KOON AND COOK, P.A.

By:



John K. Koon.
Attorney for the Claimant

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 #: 1204039
Carrier File #: _____
Carrier Code #: _____
Employer FEIN #: _____

Claimant's Name: William Lee Turner SSN: _____ Employer's Name: SAIIA Construction
Address: _____ Address: 324 Commons Drive
City: _____ State: _____ Zip: _____ City: Birmingham State: AL Zip: 35201
Home Phone: () - - - - - Work Phone: () - - - - - Insurance Carrier: Old Republic General Ins. Co. c/o Gallagher Bassett Services, Inc.
Preparer's Name: Preston F. McDaniel Law Firm: McDaniel Law Firm Preparer's Phone #: () - - - - -

REQUEST FOR COMMISSION REVIEW

Request for Commission Review by Claimant Employer (check one) Date of Injury or Illness: 4/19/12

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).

SEE ATTACHMENT.

(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 SEE ATTACHED CERTIFICATE OF SERVICE on the ___ day of ___ 20___, by X first class postage ___ certified mail ___ personal service.

Preparer's Signature

Attorney for Claimant
Title

preston@pfmcdlaw.com
Email

4/28/14
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.

ATTACHMENT TO FORM 30

William Lee Turner v. Saiia Construction

WCC File No.: 1204039

1. That pursuant to S.C. Code of Laws §42-17-40, the Claimant requests a review of all of the Findings of Fact, the Conclusions of Law, the Order and Award and of all rulings and decisions made by the Commissioner at the hearing, as contained in the Record or as made at any unrecorded pre-hearing conference, and in any communications concerning the claim, Order, Award and Decision rendered by the Hearing Commissioner in this matter.

2. That the Hearing Commissioner erred as a Matter of Law by failing to apply the unexplained injury and death presumption to this claim.

3. That where the Hearing Commissioner made specific Findings of Fact: that the Claimant had absolutely no memory of the day before, the day of or any of the events surrounding the alleged accident nor of the day after the alleged accident (Findings of Fact number 9); and that, "The alleged accident was unwitnessed" (Findings of Fact number 10 and number 11), the Hearing Commissioner erred as a matter of law by failing in her duty and responsibility as a Commissioner pursuant to her Oath of Office to apply the law of the State of South Carolina and thus erred by failing to apply the unexplained injury or death presumption as applied by our Appellant Courts as specifically established by the Supreme Court that:

"There is a natural presumption, or presumption of fact, that one charged with the performance of a duty and injured while performing such duty, or found injured at a place where his duty may have required him to be, is injured in the course of, and as a consequence of, the employment." Owens v. Ocean Forest Club, 196 S.C., 12 S.E.2d, 839 (1941). Jake v. Jones, 240 S.C. 574, 126 S.E.2d, 721 (1962).

The Commission has been specifically ordered to apply this presumption previously in an undisputed, factual evidence case involving an unwitnessed fall in the case of Daniel Windham v. Sears Roebuck and Company, Docket No. 2007-CP-21-1391, Order of the Honorable Thomas A. Russo, dated February 20, 2008. When the Commission failed to apply the presumption on Remand, the Circuit Court then applied the presumption to the undisputed facts in its subsequent Order in the matter of Daniel C. Windham

v. Sears Roebuck and Company, Docket No. 2009-CP-21-1001, Order of the Honorable Thomas A. Russo, April 6, 2010 holding:

"Therefore it is Ordered, based on the undisputed facts in this case that Mr. Windham is entitled to the application of the presumption established by the Supreme Court in unwitnessed injury or death situations and applying that presumption to the undisputed facts, Mr. Windham is determined to have sustained injury by accident arising out of in the course of his employment as a Matter of Law and is awarded benefits pursuant to the Workers' Compensation Act. This matter shall be remanded to the Commission for the entry of benefits and for determination of the benefits to which Mr. Windham is entitled for both medical care and compensatory compensation for his injuries sustained.

AND IT IS SO ORDERED."

4. That the Hearing Commissioner erred as a matter of law by basing her Decision on conjecture, speculation and innuendo wherein the undisputed facts in evidence, in addition to the undisputed factual findings that the accident was unwitnessed and that the Claimant had absolutely no memory of the accident, comes from his co-worker Mr. Paul Barnette and establishes as uncontested/undisputed facts that the Claimant did not complain of any headaches, he was not complaining of any dizziness nor had he complained of any ill feeling at all and had no complaints of even feeling unusual in any way on the day of the accident. His testimony specifically was:

Q: So would it be fair to say that at all times from seven o'clock that morning until he moved the truck at whatever time it was - - -

A: Between 2:30 and somewhere. I know our time is on our deposition.

Q: And he had no complaints of headache?

A: No.

Q: No complaints of dizziness?

A: No.

Q: No complaints of feeling ill?

A: No.

Q: Any complaints of feeling unusual?

A: Not that day. I thought Lee, I - - you know, in the back of my mind, I thought, you know, Lee was back to one hundred percent. I thought Lee was doing 'A Number One' that day."

Deposition Transcript of Paul Barnette, p. 18, ll. 10-25. (Emphasis added).

Considering this and all of the undisputed facts on the day of the accident, the Commissioner's Decision to the contrary is not based on substantial evidence and is the subject of conjecture, speculation and innuendo.

5. That the Hearing Commissioner erred as a matter of law in her Order and specifically under her Findings of Fact and Conclusions of Law by failing to apply a fundamental construction principle of the Act which is that:

"Workers Compensation Laws constitute a form of social legislation and were enacted primarily for the benefit, protection and welfare of working men and their dependents to relieve them of uncertainties of trial and suit for damages, to cast on industry in which they are employed a share of the burden resulting from industrial accidents and to prevent burden of injured employees and their dependents becoming charges on society. Their right to sue and obtain compensation is taken away and such laws should be construed liberally in favor of the employees and their dependents, in furtherance of beneficent purposes for which they were enacted, and to avoid any incongruous or harsh results."

6. That the Hearing Commissioner erred as a matter of law by making Findings of Fact which are the subject of conjecture, speculation and innuendo and by applying those Findings in an arbitrary and capricious manner to establish a factual basis that does not exist in the Record to deny this Claimant benefits; specifically including Findings of Fact 3, 12, 13, 14, 15, 17, 19, 20, 21, 24, 25.

7. That the Hearing Commissioner erred as a matter of law by characterizing the contentions of the parties and dispute between the parties in Finding of Fact number 19 in an

unwitnessed injury or accident presumption case in an erroneous manner by framing the dispute as follows:

"There is no dispute that Claimant injured his head in the fall, but the dispute is whether the Claimant fell from a standing position or from the steps of the cab."

This is an incorrect statement of the position of the parties, the facts of the case and the undisputed findings that the Commissioner made that this was an unwitnessed case in which the Claimant has no memory of what occurred.

8. That the Hearing Commissioner erred as a matter of law after specifically making Findings of Fact 4, 5, 6, 9, 10 and 11, by failing to apply under Conclusions of Law 9 and 10 the unexplained injury or death presumption and by trying to "factually" distinguish a legal presumption under Conclusion of Law number 10.

9. That the Hearing Commissioner erred as a matter of law in making Finding of Fact 16 that:

"If Barrette had seen Claimant on the steps of the cab just prior to the alleged accident, then the result in this case might be vastly different"


This indicates that the Commissioner's Decision is biased and based on speculation, innuendo and on a set of assumed facts not in evidence and therefore outside of the evidence in the Record; and it adds an additional element to the burden of proof

10. That the Hearing Commissioner erred as a matter of law by failing to apply the concept of circumstantial evidence to the facts of this case.

11. That the Hearing Commissioner erred by applying in fact the wrong burden of proof.

The above-referenced Exceptions are subject to amendment upon receipt of the Transcript.

Respectfully submitted,



Preston F. McDaniel, Esquire
Attorney for the Claimant

April 28, 2014

STATE of SOUTH CAROLINA)
)
COUNTY of RICHLAND)

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
WCC File No. 1204039

WILLIAM LEE TURNER,)
)
Employee/Claimant,)
)
vs.)
)
SAIIA CONSTRUCTION,)
)
Employer,)
)
OLD REPUBLIC GENERAL)
INSURANCE COMPANY,)
)
Carrier,)
)
Defendants.)
)

APPELLANT'S BRIEF
TO THE FULL COMMISSION

STATEMENT OF THE CASE

Mr. Lee Turner worked for Saiia Construction Co. for approximately six (6) years prior to the accident. He is a heavy equipment operator but while working for Saiia, he drove dump trucks exclusively. (Tr., p. 20, l. 18 - p. 21, l. 6; p. 24, ll. 9-13). On Monday before the accident on Thursday, he did see a doctor for minor back problems but he was not having any problems with dizziness or his ability to walk, or any problems with feeling faint or being unsteady on his feet and there is no evidence in the Record from that doctor visit that he was reporting or having any of those problems at that time. (Tr., p. 22, ll. 5-19; Defendants' APA's p. 29). He testified that he has absolutely no memory of the day of or of the accident other than

what he had been told and that after the accident he was in a coma for three (3) days and knows nothing about that period of time. (Tr., p. 26, ll. 3-6). He further testified that there is absolutely no history of seizure or any other type of disorder in his family. (Tr., p. 26, ll. 16-22). He does remember Tuesday and Wednesday before the accident happened on Thursday and he was having no problems of that nature at that time. (Tr., p. 28, ll. 13-21). He has never had high blood pressure, diabetes, or heart problems and no other health problems other than the back problems that he had had prior to the date of this accident. (Tr., p. 29, ll. 2-10).

The testimony and evidence concerning the events of the day of the fall came from Mr. Turner's fellow employees and friends, Mr. Paul Barnette and Mr. Bolden. Mr. Barnette testified that he and Mr. Turner were real close; that they discussed personal matters; that he knew about Mr. Turner's past back problems; that he felt if Mr. Turner was having any problems, he would have discussed those with him freely; that he never heard him complain of any type of dizziness or syncope prior to the date of the accident; and that Mr. Turner was a very energetic young man (Depo. Tr., p. 5, l. 11 - p. 6, l. 1; p. 6, ll. 22-23). On the date of the accident, Mr. Turner was feeling real good; he was very energetic, he was cutting up while driving the truck, blowing

the horn and giving thumbs up and in Mr. Barnette's opinion Mr. Turner was 100% that day. (Depo. Tr., p. 7, l. 1-10).

Mr. Barnette testified that he and Mr. Turner had pulled their trucks in to wash them and that he had backed his on one side of Mr. Turner's. Mr. Turner's was on the wash rack and he had actually helped Mr. Turner wash about half of the truck when he suggested that Mr. Turner go and get their time sheets straight and get Mr. Barnette's lunch cooler and his bag while Mr. Barnette washed his truck. (Depo. Tr., p. 8, l. 21 - p. 9, l. 15). Mr. Turner pulled his truck over to the office and stopped about 40 and no more than 60 feet away. Approximately 7-8 minutes and no more than 10 minutes later, Mr. David Bolden stepped out of the hut and walked over to Mr. Barnette and was talking to him on the blind side away from Mr. Turner at that time and then as Mr. Barnette came around to the back of the truck to wash off the tailgate he caught a glimpse and saw Mr. Turner on the ground on his back. (Depo. Tr., p. 9, l. 17 - p. 10, l. 8).

Mr. Barnette stated that after Mr. Turner had gone in to get their time sheets straight and to get their two backpacks and after he was found on the ground that they found his 12 pack lunch sack and his backpack placed neatly on the seat of the truck. There was no question that the backpack had been put onto the seat and that his stuff was placed on the seat and had not been thrown in there nor was it laying on the floorboard. To be able to do

this, it would require Mr. Barnette or whomever was putting something like that on the seat in the truck to climb the first and second step of the truck. Again, at the time of the accident, they had just completed washing Mr. Barnette's truck with soap and water. (Depo. Tr., p. 13, ll. 4-18). He also stated that the steps on the truck were perforated steps and that the steps would catch a cleat of a boot or shoe and that he had caught his foot on the steps but had been able to correct and not fall. (Depo. Tr., p. 14, l. 21 - p. 15, l. 13). He himself had lost his balance on the steps of the truck and that the truck steps were approximately 18 inches and 36 inches off of the ground and Mr. Turner was 5'3" - 5'4" tall. (Depo. Tr., p. 17, l. 2 - p. 18, l. 9). When they ran over to Mr. Turner after the accident, he was laying on his back. He was trying to move but he was not flailing, thrashing about and was basically laying with his arms straight out with his palms up. He had a small amount of blood on the back of his head and in his opinion, Mr. Turner had not been laying there more than 3-4 minutes before they saw him and got to him. (Depo. Tr., p. 22, ll. 5-17; p. 24, ll. 15-20). He again testified that on the date of the accident Mr. Turner had no complaints of headache, no complaints of dizziness, no complaints of feeling ill, and no complaints of feeling unusual. (Depo. Tr., p. 18, ll. 15-25).

Very importantly, Mr. Barnette also testified specifically that the door of the truck was still open when Mr. Turner was found lying on the ground in addition to the cooler and the backpack being neatly arranged on the seat. (Depo. Tr., p. 28, ll. 2-13.)

Mr. David Bolden, the other fellow employee that came to Mr. Turner's side, said that he was laying on his back just beside the truck and that his feet were nearer to the truck than his head was. He also stated that he was lying flat on his back with his arms outstretched like he was holding his hands above his head. (Depo. Tr., p. 5, ll. 1-20). He testified that he had worked for Saiia for approximately 4 years and that he considered himself to be a friend of Mr. Turner's. He had never known Mr. Turner to complain of any problems with dizziness or passing out or seizures, nor taking any medicine or any of those type problems and that Mr. Turner was in good health as far as he knew that day from the way he was acting. (Depo. Tr., p. 11, l. 24 - p. 12, l. 16). Mr. Bolden actually observed Mr. Turner walking towards the truck after he had done to the trailer and observed him putting the backpack and the cooler while standing on the ground into the floor board of the truck but he did not see him move the backpack and/or cooler from the floorboard of the truck to the seat of the truck where it was found neatly placed after the accident. While he was observing him and watching him place the cooler inside the

truck, the door of the truck was open and the door of the truck was still open when they found him minutes later. (Depo. Tr., p. 13, l. 2 - p. 14, l. 13). There is no testimony of any witness actually to the accident and the Claimant has absolutely no memory of the day of the accident or days that followed it.

The factual evidence establishes that Mr. Turner was lying with his feet towards the truck and his head away from the truck with the door open and was found lying on his back with the back of his head flat against the ground. The medical evidence establishes a subdural hematoma of the anterior lateral (front left) temporal lobe. The temporal lobe is in the middle and to the front of the brain not the back of the head or brain on which Mr. Turner was found lying. The occipital lobe is the back of the head.

ARGUMENTS

I. THE HEARING COMMISSIONER ERRED AS A MATTER OF LAW BY FAILING TO APPLY THE UNEXPLAINED DEATH OR INJURY PRESUMPTION IN THIS CASE.

There is absolutely no question that there was no evidence as to what happened to Mr. Turner that resulted in his injuries other than a fall which is accidental in nature unless caused by a medical condition. However, there is also absolutely no evidence that his injuries were caused by any condition such as epilepsy or seizure disorder, other medical condition or aneurysm or any type of brain lesion; i.e. no evidence of a non-accidental cause of the

fall. The evidence is that his injuries came from a fall which is from Dr. Peterson, who expressed the opinion that due to the, "traumatic" nature of his injuries, in his opinion, the injuries that Mr. Turner sustained were more probable than not from the fall. (Claimant's APA, p. 37).

The Defendants and the Hearing Commissioner inaccurately and inappropriately try to make the "cause" not be accidental in nature and the idiopathic fall cases instead of applying the unexplained death or injury presumption which applies to this case.

As established by the South Carolina Supreme Court in the case of Owens v. Ocean Forest Club, Inc., 196 S.C. 97, 12 S.E.2d 839 (1941) and as has been repeatedly recited since, the unexplained injury presumption is stated as follows:

"There is a natural presumption, or presumption of fact, that one charged with the performance of a duty and injured while performing such duty, or found injured at a place where his duty may have required him to be is injured in the course of, and as a consequence of, the employment." Owens v. Ocean Forest Club, Inc., supra. (Emp. Added).

See also: Halpern v. DeJay Stores, Inc., 236 S.C. 587, 115 S.E.2d 297 (1960), Packer v. Corbit Canning Co., 238 S.C. 431, 120 S.E.2d 398 (1961), Jake v. Jones, 240 S.C. 574, 126 S.E.2d 721 (1962), and Jennings v. Chambers Development Co., 335 S.C. 249, 516 S.E.2d 453 (S.C. App. 1999).

The Hearing Commissioner failed to apply the presumption and she and the Defendants rely instead on the cause of the fall not being accidentally and another distinct line of cases which are referred to as the idiopathic (unknown cause) fall cases. However two of those supposed idiopathic fall cases actually involve witnessed seizure disorders (i.e. medical not accidental in cause), and in the other case Crosby v. Wal-Mart Store, Inc., 330 S.C. 489, 499 S.E.2d 254 (S.C. App. 1998), the claimant testified that she fell for no reason (i.e. truly idiopathic). In Crosby, the claimant knew all of the facts surrounding the fall and testified there was no problem with the floor; there was no wet spot; there no rise in the floor; she did not trip; she did not stumble; there was absolutely nothing that caused or contributed to the fall, she just simply fell. The Court of Appeals held this to be an idiopathic fall, which it was based on the testimony known about the fall.. However, the Crosby case is probably the best evidence for why the Commissioner erred in this case by not finding this case compensable. In Crosby, the Court of Appeals painstakingly established the difference between the two types of injuries. One where there was an unwitnessed and purely unexplained accident, and the other where there was an idiopathic fall or in other words while there were witnesses there was absolutely no cause for the fall or there was a cause for the fall

that was unrelated to the work; i.e. a physical medical injury.

Crosby sets out the proposition as follows:

"Unexplained fall cases may be classified into two (2) main categories: (1) those in which the fall is unwitnessed or was purely unexplained; and (2) those in which the evidence established that the fall, while unexplained had an apparent lack of work connection, the implication arising that the fall resulted from some pre-existing physical condition . . . the present case is the later." Crosby v. Wal-Mart Store, Inc., 330 S.C. 489, 499 S.E.2d 254 at 257 (S.C. App. 1998).

While most of the unexplained fall cases have come from situations where the employee died and dies before he has the opportunity to relate the occurrence, our Supreme Court, as does Professor Larsen, notes that the presumption as to unexplained injury applies in cases like Mr. Turner's case because the reason that no one knows what happened is:

"first there were no witnesses and;

second Mr. Turner as a result of the injuries sustained has absolutely no memory of what occurred."

The Claimant would submit that the Defendants cannot establish one thread of evidence in the Record that would differentiate this case from all of the cases involving an, "accidental type injury" type case which have all applied the unexplained death or injury presumption nor from the Circuit Court's ruling in Daniel C. Windham v. Sears Roebuck & Co. (attached as Exhibit "A"). What would have this Commission decided had Mr. Turner died from his injuries? The gentleman in the Owens case was found dead with a

gunshot wound (accidental type injury) which looked like an apparent suicide but yet there was no conclusive evidence that it was and the Court applied the unexplained death presumption that he could have died accidentally. The same thing is true in the Jake case where Mr. Jake was found naked in the water dead, and the cause of death drowning (accident not physical condition) next to the equipment he was responsible for operating. The same is true for every other case that has applied the unexplained death or injury presumption. There was simply no explanation (ex. physical condition) for the death other than that the injured worker (as was Mr. Turner) was at a place he was required to be and was doing the duties of his job and an unexplained accident occurred at the time and place where his employment reasonably required him to be. There was no evidence of an injury resulting from a physical medical condition. As the Court stated in Crosby in reference to both the facts in that case and in the case of Bagwell and Miller, the evidence establishes that while the occurrence was unexplained there was an, "apparent lack of work connection and the implication of some pre-existing physical condition arose." There is absolutely no indication of any pre-existing physical condition in this case. There is simply an unexplained injury because there were no witnesses. (Remember in Bagwell, Miller, and Crosby there were witnesses to the facts of the injury). Based on this, the Claimant would respectfully

submit that the Hearing Commissioner erred as a matter of law by not applying the unexplained injury and death presumption to the facts of this case. The Claimant would respectfully request that the Full Commission reverse the Decision of the Hearing Commissioner and grant the Claimant benefits.

II. THE HEARING COMMISSIONER HAS PREVIOUSLY BEEN ORDERED AND THE COMMISSION HAS PREVIOUSLY BEEN ORDERED TO APPLY THE UNEXPLAINED DEATH PRESUMPTION IN A CASE IDENTICAL TO THE FACTS OF THIS CASE.

Where the Hearing Commissioner made specific Findings of Fact: that the Claimant had absolutely no memory of the day of or any of the events surrounding the alleged accident nor of the day after the alleged accident (Findings of Fact number 9); and that, "The alleged accident was unwitnessed" (Findings of Fact number 10 and number 11), the Hearing Commissioner erred as a matter of law by failing in her duty and responsibility as a Commissioner pursuant to her Oath of Office to apply the law of the State of South Carolina and thus erred by failing to apply the unexplained injury or death presumption as applied by our Appellant Courts as specifically established by the Supreme Court that:

"There is a natural presumption, or presumption of fact, that one charged with the performance of a duty and injured while performing such duty, or found injured at a place where his duty may have required him to be, is injured in the course of, and as a consequence of, the employment." Owens v. Ocean Forest Club, 196 S.C., 12 S.E.2d, 839 (1941). Jake v. Jones, 240 S.C. 574, 126 S.E.2d, 721 (1962).

The Commission has been specifically ordered to apply this presumption previously in an undisputed, factual evidence case involving an unwitnessed fall and where there was no evidence of a physical condition/induced injury in the case of Daniel C. Windham v. Sears Roebuck & Co., Docket No. 2007-CP-21-1391, Order of the Honorable Thomas A. Russo, dated February 20, 2008. When the Commission failed to apply the presumption on Remand, the Circuit Court then applied the presumption to the identical undisputed facts in its subsequent Order in that case and in the Order of the Honorable Thomas A. Russo, April 6, 2010 Judge Russo held :

"Therefore it is Ordered, based on the undisputed facts in this case that Mr. Windham is entitled to the application of the presumption established by the Supreme Court in unwitnessed injury or death situations and applying that presumption to the undisputed facts, Mr. Windham is determined to have sustained injury by accident arising out of in the course of his employment as a Matter of Law and is awarded benefits pursuant to the Workers' Compensation Act. This matter shall be remanded to the Commission for the entry of benefits and for determination of the benefits to which Mr. Windham is entitled for both medical care and compensatory compensation for his injuries sustained.

AND IT IS SO ORDERED."

III. THE HEARING COMMISSIONER ERRED AS A MATTER OF LAW BY BASING HER DECISION ON CONJECTURE, SPECULATION AND INNUENDO BASED ON THE UNDISPUTED FACTS AND EVIDENCE.

In addition to the undisputed factual findings that the accident was unwitnessed and that the Claimant had absolutely no memory of the accident, the other undisputed facts in evidence comes from his co-worker Mr. Paul Barnette and establishes as

uncontested/undisputed facts that the Claimant did not complain of any headaches, he was not complaining of any dizziness nor had he complained of any ill feeling at all and had no complaints of even feeling unusual in any way on the day of the accident. His testimony specifically was:

Q: So would it be fair to say that at all times from seven o'clock that morning until he moved the truck at whatever time it was - - -

A: Between 2:30 and somewhere. I know our time is on our deposition.

Q: And he had no complaints of headache?

A: No.

Q: No complaints of dizziness?

A: No.

Q: No complaints of feeling ill?

A: No.

Q: Any complaints of feeling unusual?

A: Not that day. I thought Lee, I - - you know, in the back of my mind, I thought, you know, Lee was back to one hundred percent. I thought Lee was doing 'A Number One' that day."

Deposition Transcript of Paul Barnette, p. 18, ll. 10-25. (Emphasis added).

Considering this and all of the undisputed facts on the day of the accident, the Commissioner's Decision to the contrary is not based on substantial evidence and is the subject of conjecture, speculation and innuendo.

IV. THE HEARING COMMISSIONER ERRED AS A MATTER OF LAW BY MAKING FINDINGS OF FACT WHICH ARE THE SUBJECT OF CONJECTURE, SPECULATION AND INNUENDO AND BY APPLYING THOSE FINDINGS IN AN ARBITRARY AND CAPRICIOUS MANNER TO ESTABLISH A FACTUAL BASIS THAT DOES NOT EXIST IN THE RECORD TO DENY THIS CLAIMANT BENEFITS; SPECIFICALLY INCLUDING FINDINGS OF FACT 12, 13, 14, 15, 17, 19, 20, 21, 24, 25.

Webster's: Conjecture - not based on evidence, inference, guesswork. Conjecture - based on whim, impulse.

#12 - Prescribed medication three (3) days before the accident. No statement as to why related to facts of the accident.

#13 - Two (2) days before, Emergency Room and vomiting, no relation established to injury.

#14 - Medical Histories. Fell off ladder, and fell off back of truck. No relationship to facts of the accident and neither relevant or material to issue.

#15 - Witness did not see fall and could only speculate as to cause. Relevancy? Purpose of this finding? Materiality?

#17 - Witness did not see accident and did see Mr. Turner standing on ground. Purpose of finding and relevancy?

#19 - Dispute in Commissioner's opinion was as to whether he fell from a standing position or from steps of truck cab. Wrong as to facts and issues in dispute. Undisputed-injury was not witnessed. Defendants took the position the fall was idiopathic.

Finding is clearly speculation by the Commissioner. Nothing in the Record, statements or evidence to support this Finding.

#24 - There is no known cause of fall. Requirement of known cause is a misstatement of evidence and law.

#25 - Is not a Finding of Fact but is a legal conclusion.

V. THE HEARING COMMISSIONER ERRED AS A MATTER OF LAW BY CHARACTERIZING THE CONTENTIONS OF THE PARTIES AND DISPUTE BETWEEN THE PARTIES IN FINDING OF FACT NUMBER 19 IN AN UNWITNESSED INJURY OR ACCIDENT PRESUMPTION CASE IN AN ERRONEOUS MANNER BY FRAMING THE DISPUTE AS FOLLOWS:

"There is no dispute that Claimant injured his head in the fall, but the dispute is whether the Claimant fell from a standing position or from the steps of the cab."

This is an incorrect statement of the position of the parties, the facts of the case and the undisputed findings that the Commissioner made that this was an unwitnessed injury case in which the Claimant has no memory of what occurred. Further the Defendants' position was that this was an idiopathic fall, not caused by anything at work.

VI. THE HEARING COMMISSIONER ERRED AS A MATTER OF LAW AFTER SPECIFICALLY MAKING FINDINGS OF FACT 4, 5, 6, 9, 10 AND 11, BY FAILING TO APPLY UNDER CONCLUSIONS OF LAW 9 AND 10 THE UNEXPLAINED INJURY OR DEATH PRESUMPTION AND BY TRYING TO "FACTUALLY" DISTINGUISH A LEGAL PRESUMPTION UNDER CONCLUSION OF LAW NUMBER 10.

In every unwitnessed death or injury case where the unexplained death or injury presumption must be applied where the injury resulted from a physical injury type cause, our Appellate Courts have applied the presumption without any additional work

related causal relationship, i.e. that the injury was caused by the work. Examples without all citations: Owens v. Ocean Forrest Club, supra, (gunshot wound); Jake v. Jones, supra, (drowning); Eagles v. Golden Cove, 260 S.C. 113 (1973) (bee sting).

Only in cases where the injury and death is caused by a medical condition such as heart attack or thrombosis, have our Courts required a causal connection to the work activities. For example: Packer v. Corbit Canning Co., supra, (heart attack but no proof of electrical shock); Buff v. Columbia Baking Co. 215 S.C. 41, 53 S.E.2d 879 (1949) (heart attack but proof of electrical shock).

In this case the undisputed evidence is that his injury stemmed from an accidental physical type injury, i.e., his fall and there is no evidence that this fall was caused by a medical condition.

VII. THAT THE HEARING COMMISSIONER ERRED AS A MATTER OF LAW IN MAKING FINDING OF FACT 16 THAT:

Finding of Fact #16:

"If Barnette had seen Claimant on the steps of the cab just prior to the alleged accident, then the result in this case might be vastly different . . ."

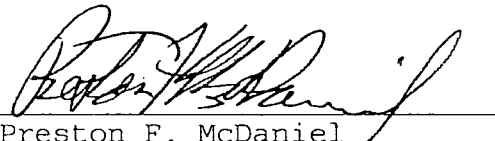
This indicates that the Commissioner's Decision is biased (refused to apply the law) and based on speculation, innuendo and on a set of assumed facts not in evidence and is therefore outside of the evidence in the Record as it adds an additional element to the

burden of proof in an unexplained death or injury case; i.e. from steps vs. ground level. That difference is an, "assumption" of fact necessary to proof and is legal error.

CONCLUSION

For all the foregoing reasons, the Decision of the Hearing Commissioner should be reversed and the Claimant awarded benefits based on the uncontested, undisputed facts that this was an unwitnessed injury that arose out of and in the course of the Claimant's employment and under that presumption there being no question that this was an accidental injury under the facts involved, the Commission must award benefits or remand for a de novo hearing with the application of the unwitnessed injury presumption to be applied.

Respectfully submitted,



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Attorney for the Appellant

June 26, 2014

STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

IN THE COURT OF COMMON PLEAS
FOR THE TWELFTH JUDICIAL CIRCUIT
Docket No.: ~~2007-CP-21-1391~~

2009 / 1001

DANIEL C. WINDHAM,)
)
Employee/Claimant/Appellant,)
)
v.)
)
SEARS ROEBUCK & CO.,)
)
Employer, and)
)
SELF-INSURED/SEDWICK CMS, TPA,)
)
Carrier,)
)
Respondents.)
)

FILED
2010 APR - 7 PM 3: 29
CONNIE REEL-SHEARIN
CLERK OF COURT C.P & G.S.
FLORENCE COUNTY, S.C.
ORDER

This matter came to be heard by me on February 23, 2010 on the basis of an appeal filed by Mr. Windham the Claimant/Petitioner in this Court from the Decision of South Carolina Workers' Compensation Commission. Originally, Mr. Windham had appealed a Decision of the Commission dated July 17, 2007 and received by him on August 20, 2007, which was remanded by this Court to the Commission to apply the unexplained injury and death presumption to this case. He now appeals from the Decision after Remand dated April 28, 2009 and received by him by mail on April 29, 2009. Mr. Windham was represented at the Hearing by Preston F. McDaniel, Esquire of the Richland County Bar. The Defendants/Respondents were represented at the hearing by Ms. Allison C. Nussbaum, Attorney at Law, of the Charleston County Bar.



CERTIFIED A TRUE COPY
Connie Reel-Shearin
CLERK OF COURT C.P & G.S.
FLORENCE COUNTY, S.C.

A procedural history in this matter is necessary to an understanding of the decision of this Court at this time based on the law that is applicable in this matter. Originally, when this matter came before the Hearing Commissioner, the facts were not in dispute. Mr. Windham was a salesman for Sears, Inc. and was inside the Sears auto store working on the floor at the time that the accident occurred. A manager had been brought in to train Mr. Windham, who had recently been made a floor salesman, and his manager and the person that had been brought in for training purposes were not present on the floor at the time that the event occurred which lead to his injuries. It was agreed that there were no witnesses to the event that lead to his injuries. The undisputed facts are that Mr. Windham was found behind the sales counter at a place that his duties required him to be, unconscious and with severe injuries to the front of his head. Upon examination at the Emergency Room, he was found to have not only fractures of the front of his skull but also a large lump on the back of his skull. There was an overhang or computer ledge that stuck out from the counter where Mr. Windham was found laying approximately underneath the edge of this overhand at the time he was discovered injured. The medical evidence establishes that he was taken by ambulance to the hospital where the treating neurosurgeon, Dr. James J. Brennan, performed numerous hours of surgery upon him to repair the severe fractures that he had to his skull and the epidural hematoma and subarachnoid hemorrhage in his

brain, all resulting from the accident. Mr. Windham upon waking up and after recovery has absolutely no memory of what transpired in reference to the time of the incident. He remembers going to work that morning and being on the sales floor but then has absolutely no memory as to what occurred at the time of the incident/accident. The medical records consisted of the medical records at the emergency room and hospital, the treatment records of the neurosurgeon and a questionnaire that was completed by the neurosurgeon for the Claimant. Dr. Brennan, the treating neurosurgeon, in the Questionnaire stated that there was no history of epilepsy or any type of seizure disorder in Mr. Windham; there was no history of seizure disorder of any type in his family; and there was no history of any alcohol or drug use by him at the time that the accident occurred. It was his opinion that the Claimant suffered from an acute right epidural hematoma with acute left diffuse subarachnoid hemorrhage, mild subdural hemorrhage, all most likely secondary to the injury from the fall. He further stated that based on his observation of the Claimant's skull and brain during surgery that he made absolutely no findings during surgery and there was no evidence of any aneurysm or other brain lesion or problem that pre-existed the fall that could have caused the accident. The only other evidence in the Record were the facts Mr. Windham was found lying on the floor next to the computer ledge, that in addition to the severe injuries to the front of his head, there was a bump/lump on the back of his head and the fact that a

customer had fallen in this same area, counter, of the store close to the time of Mr. Windham's accident.

It is important to the decision of this Court to note that the Defendants placed a Memorandum in the Record at the Hearing and took the position that the decision in Crosby v. Wal-Mart, Inc., 330 S.C. 489, 499 S.E.2d 253 (S.C. App. 1998), which is a witnessed idiopathic fall case which applied the idiopathic fall line of cases should be applied to the facts in this case. Mr. Windham took the position at the Hearing that this was an unwitnessed accident and that the unexplained death and injury presumption should be applied as established by the Supreme Court in the case of Owens v. Ocean Forrest Club, 196 S.C. 97, 12 S.E.2d 839 (1941).

The Hearing Commissioner denied the claim applying the decision in Crosby, supra, and on appeal to the Full Commission; the Full Commission affirmed the decision of the Hearing Commissioner. This matter was appealed by Mr. Windham to this Court on the basis that the Commission had committed legal error by applying the idiopathic fall line of cases instead of applying the unexplained injury and death presumption principle and the line of cases that have applied the presumption to unwitnessed injury situations.

On appeal, in reversing the Commission's Decision, this Court noted that unlike Crosby wherein Ms. Crosby had complete and total recall of the incident where she fell and there were witnesses to her fall as there were in all of the idiopathic fall line of cases

and where there was testimony that there was absolutely no connection between the fall and the work activity, in this case there simply were no witnesses and Mr. Windham had no recall or memory of specifically what occurred at the time of the incident. This Court noted that in Crosby, the Crosby Court specifically set out in its Opinion that in reference to unexplained falls that the cases deciding those types of injuries could be classified into two categories. The first category being where the fall was unwitnessed and was purely unexplained. The second category involves that line of cases, which are truly idiopathic fall cases. In all of those cases, the Court of Appeals noted that there were witnesses and there was testimony that there was no connection to the work activity with the implication being from the evidence that the fall arose out of some pre-existing physical condition. In reference to the first category, the Crosby Court specifically held that our Courts have always applied the unexplained injury and death presumption to unwitnessed injury situations.

Based on this Court's review of the law and the undisputed facts in this case, this Court remanded this case to the Commission, "to apply the unexplained injury and death presumption to the facts of this case as created by our Supreme Court in the case of Owens v. Ocean Forest Club, Inc., supra, . . .". The Court further remanded the case for the Commission to, "take such action as it deems appropriate to review the Record and apply the unexplained death or injury presumption to the facts of this case."

It is the opinion of this Court that the Commission did not follow this Court's directive on Remand.

As noted, it has been the position of the Defendants from the outset of this case as a matter of law that the Commission and the Court should apply the idiopathic fall line of cases and not the unexplained death or injury presumption line of cases.

On remand, the Commission heard this matter before a three-member appellate panel. The only insight this Court has as to actual findings that were made by the appellate panel are contained in a letter from the Judicial Director to Counsel for the Defense asking Counsel to prepare a proposed Order and Decision for the Full Commission panel. The only finding that the Commission actually made is set out in that letter and that is that the Commission found that the Claimant was not injured while performing a duty of his employment and that he had not proven that he was performing any duty related to work at all when this unwitnessed fall occurred. It had been admitted by the Defendants and it was agreed that Mr. Windham had reported to work and was at work at a time and place his duties required him to be and that he was performing his duties as a salesperson on the sales floor at his employer's place of business during normal business hours at the time that the incident occurred. Those cursory findings and notes resulted in Counsel for the Defendants preparing and submitting an 11 page Order containing a Statement of the Case, an Evidentiary Summary, a section entitled "Discussion", a section entitled

"Findings of Fact" which consist of almost 3 pages of Findings of Fact and 2 pages under a section entitled "Conclusions of Law" and then the Decision of the Commission. The Petitioner as part of his the appeal submitted to the Court that the Commission disregarded the previous Order directing the Commission to apply the unexplained injury or death presumption in this matter. He also submitted that he knows of no other situation wherein a panel of Commissioners or Judges on appeal who are required to review the facts and evidence and make consensus findings as to the facts and evidence and law that applies, where a party is allowed to write that consensus opinion. He submitted that the procedure followed by the Commission not only violates the Commission Rules but also would be akin to the South Carolina Court of Appeals or Supreme Court hearing a case and then allowing a party to write the Order on behalf of the Court without any direction of the Court as to what the specific Findings of Fact and Conclusions of Law are that were made by the Court Panel members. The Court takes note of the Commission's own Regulations wherein Commission Regulation 67-709(E) (2) provides that as part of the Appellate Panel hearing decision making process:

~~"The Commissioners, together, shall agree upon a modification if any and record their Findings of Fact and Conclusions of Law on a Vote Sheet."~~
(Emp. add.)

The Petitioner cites case law of which the Court is aware that the duty of making factual findings is the responsibility of the

Commission and that the Commission's factual findings are binding upon appeal as the fact-finding body. The Court takes notice of the case of Baldwin v. James River Corp., 304 S.C. 485, 405 S.E.2d 421 (S.C. App. 1991) wherein like this case the Appellate Panel on appeal had modified the decision of the Hearing Commissioner and on appeal to the Court, the Court of Appeals noted specifically that the Panel had made only conclusory Findings of Fact which were in fact insufficient under law and in violation of the their responsibility to make detailed Findings of Fact, Rulings of Law and decisions on all the issues presented as required by our statutory law. In Baldwin, the Court remanded the case to the Commission to make detailed and definite Findings of Fact based upon the evidence which are sufficient to enable the reviewing Court to determine whether the findings of fact are supported by the evidence and whether the law had been properly applied. There is no question from a review of the ruling of the Commission on Remand that they violated their own Regulations and the previous decisions of our appellate courts and that the actual findings made by the Commission are conclusory findings of fact and conclusions of law.

Based on a review of the Record and the previous Order of this Court, this case should be remanded to the Commission again to apply the legal presumption and define coverage for the Petitioner. Due to the passage of time and the Commission's failure to follow the Court's previous directive, this Court orders that coverage be

found in favor of the Petitioner. In support of this Decision, the Court notes where the facts are undisputed, compensability of a particular event as an accident within the purview of the Workers' Compensation Act is a question of law to be decided by the Court. On admitted or established facts, questions of whether an accident is compensable is a question of law and it is not an invasion of the fact finding responsibility of the Workers' Compensation Commission on the part of the Court to make a legal decision based on those facts. Sturkie v. Ballenger Corp., 268 S.C. 536, 235 S.E.2d 120 (1977); Jordan v. Dixie Chevrolet, Inc., 218 S.C. 73, 61 S.E.2d 654 (1950).

The following legal principles apply in this case. An injury occurs in the course of employment if it happens within the period of employment at a place where the employee reasonably may be in the performance of his duties while performing those duties. Baggott v. Southern Music, Inc., 330 S.C. 1, 496 S.E.2d 852 (1998). Further, South Carolina case law recognizes a presumption that when an employee is found injured or dead at a place where his employment reasonably requires him to be, the injury or death is presumed to have arisen out of and in the course of the employment. Davis v. By-Pass Auto Parts, Inc., 304 S.C. 75, 403 S.E.2d 133 (S.C. App. 1991).

I have applied these legal principles to the undisputed facts in this case which specifically include the fact that Mr. Windham who is employed as a salesman was found on the sales floor during

the regular hours of operation of his employer at his employer's place of business performing his duties which were those of being a sales person on the sales floor of the employer when he was found behind the sales counter place where his job duties required him to be. The medical evidence establishes there was no evidence of any seizure disorder of any type or any physical finding upon surgery that would explain or give rise to an inference that there was some pre-existing condition that resulted in his apparent fall. In addition, the evidence establishes that he not only had severe injury resulting in hemorrhages in his brain and numerous fractures of his skull on the front part of his skull but that he had a large lump on the back of his head. There is no evidence of any alcohol or drug use at the time of the incident and there is absolutely nothing to explain or give rise to an unrelated cause or event unrelated to his job duties as being the cause of his injury. Therefore, applying the unexplained death presumption to these undisputed facts, the undisputed evidence establishes that the presumption should be applied and that the employee should be awarded benefits based on the presumption that his injuries arose out of and in the course of and as a result of his employment duties with his employer.

THEREFORE IT IS ORDERED based upon the undisputed facts in this case that Mr. Windham is entitled to the application of the presumption established by the Supreme Court in unwitnessed injury or death situations and applying that presumption to the undisputed

facts, Mr. Windham is determined to have sustained injury by accident arising out of and in the course of his employment as a matter of law and is awarded benefits pursuant to the Workers' Compensation Act. This matter shall be remanded to the Commission for an entry of benefits and for determination of the benefits to which Mr. Windham is entitled for both medical care and compensatory compensation for his injuries sustained.

AND IT IS SO ORDERED.

Thomas A. Russo

Honorable Thomas A. Russo
CIRCUIT COURT JUDGE
Twelfth Judicial Circuit

April 6th

, 2010

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CONNIE REEL-SHEARIN
CCCP & GS
FLORENCE COUNTY

FILED

CERTIFIED A TRUE COPY

Connie Reel-Shearin
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 1204039

W ILLIAM LEE TURNER,

Employee,

Claimant,

vs.

SAHA CONSTRUCTION,

Employer,

AND

OLD REPUBLIC GENERAL INSURANCE
CORPORATION C/O GALLAGHER
BASSETT SERVICES, INC.

Carrier,

Defendants.

RESPONDENTS' BRIEF

A hearing in this matter was held on February 4, 2014. The Single Commissioner by Order dated April 14, 2014 found that the Claimant failed to meet his burden of proof to show that he had a compensable injury by accident arising out of and in the course and scope of his employment. Further, the Single Commissioner found that the Claimant is not entitled to an award for temporary total disability benefits nor is he entitled to payment of medical treatment for his alleged accident.

Thereafter, the Claimant filed a Form 30 Request for Commission Review on April 28, 2014. The Claimant presented eleven (11) questions for review which are listed below.

1. That pursuant to S.C. Code of Laws §42-17-40, the Claimant requests a review of all of the Findings of Fact, the Conclusions of Law, the Order and Award and of all rulings and decisions made by the Commissioner at the hearing, as contained in the Record or as made at any unrecorded pre-hearing conference, and in any communications concerning the claim, Order, Award and Decision rendered by the Hearing Commissioner in this matter.

2. That the Hearing Commissioner erred as a Matter of Law by failing to apply the unexplained injury and death presumption to this claim.

3. That where the Hearing Commissioner made specific Findings of Fact: that the Claimant had absolutely no memory of the day before, the day of or any of the events surrounding the alleged accident nor of the day after the alleged accident (Findings of Fact number 9); and that, "The alleged accident was unwitnessed" (Findings of Fact number 10 and number 11), the Hearing Commissioner erred as a matter of law by failing in her duty and responsibility as a Commissioner pursuant to her Oath of Office to apply the law of the State of South Carolina and thus erred by failing to apply the unexplained injury or death presumption as applied by our Appellant Courts as specifically established by the Supreme Court that:

"There is a natural presumption, or presumption of fact, that one charged with the performance of a duty and injured while performing such duty, or found injured at a place where his duty may have required him to be, is injured in the course of, and as a consequence of, the employment." Owens v. Ocean Forest Club, 196 S.C., 12 S.E.2d, 839 (1941). Jake v. Jones, 240 S.C. 574, 126 S.E.2d, 721 (1962).

The Commission has been specifically ordered to apply this presumption previously in an undisputed, factual evidence case involving an unwitnessed fall in the case of Daniel Windham v. Sears Roebuck and Company, Docket No. 2007-CP-21-1391, Order of the Honorable Thomas A. Russo, dated February 20, 2008. When the Commission failed to apply the presumption on Remand, the Circuit Court then applied the presumption to the undisputed facts in its subsequent Order in the matter of Daniel C. Windham v. Sears Roebuck and Company, Docket No. 2009-CP-21-1001, Order of the Honorable Thomas A. Russo, April 6, 2010 holding:

"Therefore it is Ordered, based on the undisputed facts in this case that Mr. Windham is entitled to the application of the presumption established by the Supreme Court in unwitnessed injury or death situations and applying that presumption to the undisputed facts, Mr. Windham is determined to have sustained injury by accident arising out of in the course of his employment as a Matter of Law and is awarded benefits pursuant to the Workers' Compensation Act. This matter shall be remanded to the Commission for the entry of benefits and for determination of the benefits to which Mr. Windham is entitled for both medical care and compensatory compensation for his injuries sustained.

AND IT IS SO ORDERED."

4. That the Hearing Commissioner erred as a matter of law by basing her Decision on conjecture, speculation and innuendo wherein the undisputed facts in evidence, in addition to the undisputed factual findings that the accident was unwitnessed and that the Claimant had absolutely no memory of the accident, comes from his co-worker Mr. Paul Barnette and establishes as uncontested/undisputed facts that the Claimant did not complain of any headaches, he was not complaining of any dizziness nor had he complained of any ill feeling at all and had no complaints of even feeling unusual in any way on the day of the accident. His testimony specifically was:

Q. So would it be fair to say that at all times from seven o'clock that morning until he moved the truck at whatever time it was - - -

A. Between 2:30 and somewhere. I know our time is on our deposition.

Q: And he had no complaints of headache?

A. No.

Q: No complaints of dizziness?

A: No.

Q: No complaints of feeling ill?

A. No.

Q: Any complaints of feeling unusual?

A. Not that day. I thought Lee, I - - you know, in the back of my mind, I thought, you know, Lee was back to one hundred percent. **I thought Lee was doing 'A Number One' that day,**"

Deposition Transcript of Paul Barnette, p. 18, 11. 10-25. (Emphasis added).

Considering this and all of the undisputed facts on the day of the accident, the Commissioner's Decision to the contrary is not based on substantial evidence and is the subject of conjecture, speculation and innuendo.

5. That the Hearing Commissioner erred as a matter of law in her Order and specifically under her Findings of Fact and Conclusions of Law by failing to apply a fundamental construction principle of the Act which is that:

"Workers Compensation Laws constitute a form of social legislation and were enacted primarily for the benefit, protection and welfare of working men and their dependents to relieve them of uncertainties of trial and suit for damages, to cast on industry in which they are employed a share

of the burden resulting from industrial accidents and to prevent burden of injured employees and their dependents becoming charges on society. Their right to sue and obtain compensation is taken away and such laws should be construed liberally in favor of the employees and their dependents, in furtherance of beneficent purposes for which they were enacted, and to avoid any incongruous or harsh results."

6. That the Hearing Commissioner erred as a matter of law by making Findings of Fact which are the subject of conjecture, speculation and innuendo and by applying those Findings in an arbitrary and capricious manner to establish a factual basis that does not exist in the Record to deny this Claimant benefits; specifically including Findings of Fact 3, 12, 13, 14, 15, 17, 19, 20, 21, 24, 25.

7. That the Hearing Commissioner erred as a matter of law by characterizing the contentions of the parties and dispute between the parties in Finding of Fact number 19 in an unwitnessed injury or accident presumption case in an erroneous manner by framing the dispute as follows:

"There is no dispute that Claimant injured his head in the fall, but the dispute is whether the Claimant fell from a standing position or from the steps of the cab."

This is an incorrect statement of the position of the parties, the facts of the case and the undisputed findings that the Commissioner made that this was an unwitnessed case in which the Claimant has no memory of what occurred.

8. That the Hearing Commissioner erred as a matter of law after specifically making Findings of Fact 4, 5, 6, 9, 10 and 11, by failing to apply under Conclusions of Law 9 and 10 the unexplained injury or death presumption and by trying to "factually" distinguish a legal presumption under Conclusion of Law number 10.

9. That the Hearing Commissioner erred as a matter of law in making Finding of Fact 16 that:

"If Barrette had seen Claimant on the steps of the cab just prior to the alleged accident, then the result in this case might be vastly different . . ."

This indicates that the Commissioner's Decision is biased and based on speculation, innuendo and on a set of assumed facts not in evidence and therefore outside of the evidence in the Record; and it adds an additional element to the burden of proof.

10. That the Hearing Commissioner erred as a matter of law by failing to apply the concept of circumstantial evidence to the facts of this case.

11. That the Hearing Commissioner erred by applying in fact the wrong burden of proof.

STATEMENT OF THE CASE

The Claimant alleges that on April 19, 2012 he sustained a compensable injury to the head and thoracic spine while in the course and scope of his employment with Defendants. The Claimant contends that he is entitled to medical treatment for the injuries sustained in the alleged incident as well as temporary total disability benefits from April 20, 2012 – January 1, 2013. Defendants' position is that the Claimant did not suffer from a compensable injury pursuant to S.C. Code Ann. Section 42-1-160 which requires that an injury both arise out of and in the course and scope of his employment. Further, Defendants position is that the Claimant's alleged injuries were a result of an idiopathic fall and thus not compensable pursuant to the South Carolina Workers' Compensation Act.

ARGUMENTS

I. THE SINGLE COMMISSIONER DID NOT ERR AS A MATTER OF LAW BY FAILING TO APPLY THE UNEXPLAINED DEATH OR INJURY PRESUMPTION IN THIS CASE

Appellant contends that the Single Commissioner erred as a matter of law by failing to apply the unexplained death or injury presumption to this case. In particular, Appellant argues that the Single Commissioner should have found his injury compensable pursuant to Owens v. Ocean Forest Club, Inc., 196 S.C. 97, 12 S.E.2d 839 (1941). The Court in Owens stated that there's a natural presumption that one charged with the performance of a duty and injured while performing such duty or found injured at a place where his duty may have required him to be is injured in the course of and as a consequence of the employment.

However, Appellant's interpretation of this case is flawed. Though the Owens case establishes that one found injured on the job is presumably injured during the course of employment, it does not establish that both elements found in South Carolina Code Ann. Section

42-1-160 have been met.

S.C. Code Ann. Section 42-1-160 defines an injury as meaning only an injury by accident arising out of and in the course of employment. South Carolina case law further expands on this definition by indicating that both parts of the statute requiring an injury to arise out of and in the course of employment must exist simultaneously before a court will allow recovery. Grant v. Grant Textiles, 372 S.C. 196, 641 S.E.2d 869. See also Nicolson v. S.C. Dept. of Social Services, 405 S.C. 537, 748 S.E.2d 256 (arising out of employment and in the course of employment as used to define a compensable injury under the Workers' Compensation Law, are not synonymous; rather both parts must exist simultaneously before recovery is allowed).

Thus by applying the definition of an accident the Appellant must meet his burden of proof to show that he suffered an injury by accident which 1) arose out of and 2) in the course of his employment.

An injury arises *in the course of employment* within the meaning of this section when it occurs within the period of employment, at a place where the employer reasonably may be in the performance of his duties and while he is fulfilling those duties or engaged in doing something incidental thereto. Johnson v. Merchants Fertilizer Co., 198 S.C. 373, 17 S.E.2d 695. The evidence submitted before the Single Commissioner is undisputed that the Claimant was at work on the date of the alleged incident. Further, testimony from the Claimant, Paul Barnette and David Bolden all establish that the Claimant was at a place where he would reasonably be in the performance of his duties. Therefore, the Claimant met one prong of S.C. Code Ann. Section 42-1-160 which established that he had an accident *in the course of his employment*.

The Single Commissioner need not apply the presumption found in Owens, because when the Claimant was found injured on the job he satisfied his burden of proof that the alleged

injury occurred in the course of his employment.

However, as indicated above, the Claimant must meet the two pronged test set forth in S.C. Code Ann. Section 42-1-160. The Claimant failed to establish that the incident *arose out of his employment*. An injury arises out of employment when there is apparent to the rational mind, upon consideration of all circumstances a causal relationship between conditions under which the work is to be performed and the resulting injury. Nicholson v. S.C. Department of Social Services, 405 S.C. 537, 748 S.E.2d 256. This is largely a question of fact for the Workers' Compensation Commission. Id.

The Appellant relies on the court's opinion in Packer v. Corbett Canning Co., 238 S.C. 431, 120 S.E.2d 398 to establish that the Claimant suffered from a compensable work related accident due to the unexplained death or injury presumption. Respondents maintain that the Appellant's reliance on Packer is misplaced. In Packer, the decedent was found on a wet concrete floor alongside an electrical cord after an electrical storm. Expert testimony revealed that the decedent was not electrocuted and further showed that had scars from a recent heart attack. Though the Court cited the natural presumption as found in Owens to indicate that the decedent was found where the performance of his duties required him to be, the Court also stated that the presumption may not be availed to establish the incident of accident. Id. at 438. The Court found that even though the decedent was found on the job, there was no accident which caused his death.

Much like the Packer case, the Appellant was found on the ground and there were no witnesses to the accident. However, a presumption cannot be applied to establish that an incident arose out of his employment. The Appellant has the burden of proving facts that will bring his injury within the workers' compensation law and such an award must not be based on surmise,

conjecture or speculation. Jennings v. Chambers Dev. Co., 335 S.C. 249, 254, 516 S.E.2d 453, 456 (Ct. App. 1999). Therefore, without meeting his burden of proof, to show both an injury that arose out of his employment and an injury in the course of his employment, the Appellant did not have a compensable injury pursuant to S.C. Code Ann. Section 42-1-160.

II. THE SINGLE COMMISSIONER DID NOT ERR IN FAILING TO APPLY THE UNEXPLAINED DEATH OR INJURY PRESUMPTION AS CLAIMANT'S FALL WAS IDIOPATHIC IN NATURE, THEREFORE NON-COMPENSABLE UNDER THE SOUTH CAROLINA WORKERS' COMPENSATION ACT

The Appellant failed to meet his burden of proof to show that he suffered from a compensable injury which both arose out of and in the course of his employment. The Single Commissioner did not need to apply the unexplained death or injury presumption as the facts were not in dispute that the Claimant was injured in the course of his employment.

Regardless of the finding that the Claimant was injured in the course of his employment, the Single Commissioner found that the Claimant suffered from an idiopathic fall. An idiopathic fall has been historically defined in South Carolina case law as a ground level fall which neither the fall or the resulting injury bears a special relationship to the work or the conditions under which the claimant is performing his work. Crosby v. Wal-Mart Store, 330 S.C. 489, 499 S.E.2d 253.

In the Crosby case, the claimant suffered from an idiopathic fall in which the court found was non-compensable. The claimant argued on appeal that her case was different than most unexplained falls because there was no medical evidence indicating an internal breakdown which may have caused the fall. Id. at 494. However, the court found that even without this medical evidence her fall was idiopathic as the fall had no connection to her employment. Similar to Crosby, the evidence in the case at hand shows that the Appellant was not suffering from a known medical condition that would have caused his fall and his fall bore no relationship to his

employment. See also Bagwell v. Ernest Burwell, Inc., 227 S.C. 444, 88 S.E.2d 611 (claimant suddenly falls while standing) and Miller v. Springs Cotton Mills, 225 S.C. 326, 82 S.E.2d 458 (claimant's knee failed to function for some unknown cause).

The Appellant argues that the Single Commissioner should have applied the proposition set forth by the court in Crosby which outlines two types of unexplained falls: 1) those in which the fall was unwitnessed or was purely unexplained and 2) those in which the evidence established that the fall, while unexplained, had an apparent lack of work connection. In Crosby the Court defines the two unexplained falls with supporting case law. In particular, they state that where the fall is unwitnessed or purely unexplained... and there are no eye witnesses to the occurrence itself, our courts have tended to affirm an award of compensation, **deferring to the fact finding discretion of the commission.** Id. at 496. The last portion of this sentence should be given great emphasis as the Single Commissioner heard testimony, reviewed deposition testimony, reviewed medical evidence, and made the findings of fact, conclusions of law and award.

Appellant contends that since there were no witnesses to the accident and the Appellant doesn't remember what happened his claim should be found compensable. The evidence submitted in this claim fails to show that the Appellant's fall was caused by his employment. Further Respondents would argue that the Appellant's resulting injuries from his fall bore no special relationship to his work or the conditions under which it was performed.

III. THE SINGLE COMMISSIONER DID NOT ERR IN FINDING AS FACT, CONCLUDING AS A MATTER OF LAW, AND ORDERING THAT THE CLAIMANT DID NOT SUFFER FROM A COMPENSABLE INJURY

The Appellant contends that the Single Commissioner erred as a matter of law because she made findings of fact, conclusions of law and ordered that the Claimant did not suffer from a compensable injury. Respondents respectfully disagree and refer to the Hearing Transcript, medical evidence submitted into the record as well as additional evidence submitted pursuant to the Administrative Procedures Act. These specific findings of fact, conclusions of law and award are all based on the Single Commissioner's review of the entire record. "Expert medical testimony is designed to aid the Commission in coming to the correct conclusion; therefore, the Commission determines the weight and credit to be given to the expert testimony." Tiller v. Nat'l Health Care Ctr. of Sumter, 334 S.C. 333, 340, 513 S.E.2d 843, 846 (1999). The Commission is also given discretion to weigh and consider all the evidence, including both lay and expert testimony. Id. at 341, 513 S.E.2d at 847.

The Appellant claims that these specific findings of facts (12, 13, 14, 15, 16, 17, 19, 20, 21, 24, and 25) are irrelevant and speculates that by making these findings, the Single Commissioner's award was based on surmise and conjecture. However, the Single Commissioner made these findings of fact which show a pattern of inconsistencies in the Claimant's case. Further, the Single Commissioner used these findings to note a lack of credibility on the part of the Claimant. Deference should be given to the Single Commissioner as she witnessed the Claimant first hand. "It is logical for the [Appellate Panel], which did not have the benefit of observing the witnesses, to give weight to the Hearing Commissioner's opinion." Green v. Raybestos-Manhattan, Inc., 250 S.C. 58, 64, 156 S.E.2d 318, 321 (1967).

Therefore, Respondents maintain that the Single Commissioner, as the sole fact finder in this claim, weighed the evidence presented before her and made findings of fact, conclusions of law and an award that was not based on surmise or conjecture. Thus, the Order of the Single

Commissioner should be affirmed.

CONCLUSION

For the reasons stated above, this Court should affirm the decision of the Single Commissioner and find that the Appellant's claim is non-compensable pursuant to S.C. Code Ann. Section 42-1-160 as he failed to show that he suffered from an injury by accident which arose out of and in the course and scope of his employment.

Jason W. Lockhart /efi

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Attorneys for the Employer/Carrier

Columbia, South Carolina
July 21, 2014

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

Trial Court Case No. 1204039

William Lee Turner, Employee, Appellant,

v.

SAIIA Construction, Employer, and
Old Republic General Insurance
Corporation c/o Gallagher Bassett
Services, Inc., Carrier, Respondents.

NOTICE OF APPEAL

Appellant William Lee Turner appeals the Decision and Order of the Hearing Commissioner filed April 14, 2014 and the Decision and Order of the South Carolina Workers' Compensation Commission Appellate Panel filed on October 10, 2014. Appellant received notice of entry of the Appellate Panel Order via electronic mail only on October 10, 2014. Appellant did not receive notice or a copy of the Order pursuant to SC Code §42-17-60 and/or §1-23-350.

Pursuant to SC Code §42-17-60, the grounds of the appeal and/or the errors of law presented to the Court are set out hereinafter:

1. That pursuant to S.C. Code of Laws §42-17-40, the

Claimant/Appellant requested that the Full Commission review of all of the Findings of Fact, the Conclusions of Law, the Order and Award and of all rulings and decisions made by the Commissioner at the hearing, as contained in the Record or as made at any unrecorded pre-hearing conference, and in any communications concerning the claim, Order, Award and Decision rendered by the Hearing Commissioner in this matter. Based on the Order issued, the Full Commission erred in that review and Appellant requests a review pursuant to SC Code §1-23-380(4).

2. That the Commission erred as a Matter of Law by failing to apply the unexplained injury and death presumption to this claim.

3. That where the Hearing Commissioner made specific Findings of Fact: that the Claimant/Appellant had absolutely no memory of the day before, the day of or any of the events surrounding the alleged accident nor of the day after the alleged accident (Findings of Fact number 9); and that, "The alleged accident was unwitnessed" (Findings of Fact number 10 and number 11), the Commission erred as a matter of law by failing to apply the unexplained injury or death presumption as established by our Appellant Courts and as applied in the Circuit Court that:

"There is a natural presumption, or presumption of fact, that one charged with the performance of a duty and injured while performing such duty, or found injured at a place where his duty may have required him to be, is injured in the course of, and as a consequence of, the employment." Owens v. Ocean Forest Club, 196 S.C., 12 S.E.2d, 839

(1941). Jake v. Jones, 240 S.C. 574, 126 S.E.2d, 721 (1962).

The Commission had specifically been ordered to apply this presumption previously in an undisputed, factual evidence case involving an unwitnessed fall in the case of Daniel Windham v. Sears Roebuck and Company, Docket No. 2007-CP-21-1391, Order of the Honorable Thomas A. Russo, dated February 20, 2008. When the Commission failed to apply the presumption on Remand, the Circuit Court then applied the presumption to the undisputed facts in its subsequent Order in the matter of Daniel C. Windham v. Sears Roebuck and Company, Docket No. 2009-CP-21-1001, Order of the Honorable Thomas A. Russo, April 6, 2010 holding:

"Therefore it is Ordered, based on the undisputed facts in this case that Mr. Windham is entitled to the application of the presumption established by the Supreme Court in unwitnessed injury or death situations and applying that presumption to the undisputed facts, Mr. Windham is determined to have sustained injury by accident arising out of in the course of his employment as a Matter of Law and is awarded benefits pursuant to the Workers' Compensation Act. This matter shall be remanded to the Commission for the entry of benefits and for determination of the benefits to which Mr. Windham is entitled for both medical care and compensatory compensation for his injuries sustained.

AND IT IS SO ORDERED."

This is a legal error because the Commission is duty bound to apply the law as dictated by a higher Court until it is changed.

4. That the Commission erred as a matter of law by basing its Decision on conjecture, speculation and innuendo wherein the undisputed facts in evidence, in addition to the undisputed factual findings that the accident was unwitnessed and that the

Claimant/Appellant had absolutely no memory of the accident, came from the Claimant/Appellant's co-worker Mr. Paul Barnette and establishes as uncontested/undisputed facts that the Claimant/Appellant did not complain of any headaches, he was not complaining of any dizziness nor had he complained of any ill feeling at all and had no complaints of even feeling unusual in any way on the day of the accident. His testimony specifically was:

"Q: So would it be fair to say that at all times from seven o'clock that morning until he moved the truck at whatever time it was - - -

A: Between 2:30 and somewhere. I know our time is on our deposition.

Q: And he had no complaints of headache?

A: No.

Q: No complaints of dizziness?

A: No.

Q: No complaints of feeling ill?

A: No.

Q: Any complaints of feeling unusual?

A: Not that day. I thought Lee, I - - you know, in the back of my mind, I thought, you know, Lee was back to one hundred percent. I thought Lee was doing 'A Number One' that day."

Deposition Transcript of Paul Barnette, p. 18, ll. 10-25. (Emphasis added).

Considering this and all of the undisputed facts on the day of the accident, the Commission's Decision to the contrary is not

based on substantial evidence and is the subject of conjecture, speculation and innuendo.

5. That the Commission erred as a matter of law in its Order affirming the Hearing Commissioner's and specifically under the Findings of Fact and Conclusions of Law made by failing to apply a fundamental construction principle of the Act which is that:

"Workers Compensation Laws constitute a form of social legislation and were enacted primarily for the benefit, protection and welfare of working men and their dependents to relieve them of uncertainties of trial and suit for damages, to cast on industry in which they are employed a share of the burden resulting from industrial accidents and to prevent burden of injured employees and their dependents becoming charges on society. Their right to sue and obtain compensation is taken away and such laws should be construed liberally in favor of the employees and their dependents, in furtherance of beneficent purposes for which they were enacted, and to avoid any incongruous or harsh results."

6. That the Commissioner err as a matter of law by making Findings of Fact which are the subject of conjecture, speculation and innuendo and by applying those Findings in an arbitrary and capricious manner to establish a factual basis that does not exist in the Record to deny this Claimant/Appellant benefits; specifically including Findings of Fact 3, 12, 13, 14, 15, 17, 19, 20, 21, 24, 25.

7. That the Commission erred as a matter of law by characterizing the contentions of the parties and dispute between the parties in Finding of Fact number 19 in an unwitnessed injury

or accident presumption case in an erroneous manner by framing the dispute as follows:

"There is no dispute that Claimant injured his head in the fall, but the dispute is whether the Claimant fell from a standing position or from the steps of the cab."

This is an incorrect statement of the position of the parties, the facts of the case and the undisputed findings that the Commission made that this was an unwitnessed case in which the Claimant/Appellant has no memory of what occurred.

8. That the Commission erred as a matter of law after specifically making Findings of Fact 4, 5, 6, 9, 10 and 11, by failing to apply under Conclusions of Law 9 and 10 the unexplained injury or death presumption and by trying to "factually" distinguish a legal presumption under Conclusion of Law number 10.

9. That the Commission erred as a matter of law in affirming Finding of Fact 16 that:

"If Barrette had seen Claimant on the steps of the cab just prior to the alleged accident, then the result in this case might be vastly different . . ."

This indicates that the Commissioner's Decision is biased and based on speculation, innuendo and on a set of assumed facts not in evidence and therefore outside of the evidence in the Record. It also adds an additional element to the burden of proof.

10. That the Commission erred as a matter of law by failing to apply the concept of circumstantial evidence to the facts of this case.

11. That the Commission erred by applying in fact the wrong burden of proof.

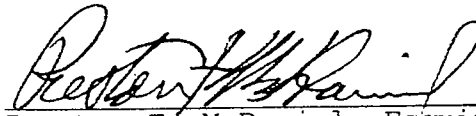
12. That where the Full Commission's only Decision issued on the appeal was, "The Commissioners considered the matter and find a **FULL AFFIRMATION** of the Single Commissioner's Decision and Order", the Full Commission erred by issuing an Order drafted by Defense Counsel that added Conclusions of Law that there is no indication in the Record were made by the Commission.

13. That the Full Commission erred as a matter of law in violation of the Administrative Procedures Act, the Workers' Compensation Act and its own Regulations by failing to make detailed Conclusions of Law on the issues presented to it for review.

14. That the Full Commission erred as a matter of law by failing to properly apply the law to the facts of the case.

The above-referenced Exceptions are subject to amendment upon receipt of the Full Commission Transcript.

Respectfully submitted,



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November 6, 2014

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Attorney for Respondents

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

Trial Court Case No. 1204039

William Lee Turner, Employee, Appellant,

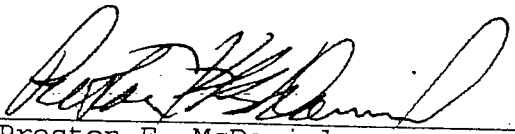
v.

SAIIA Construction, Employer, and
Old Republic General Insurance
Corporation c/o Gallagher Bassett
Services, Inc., Carrier, Respondents.

PROOF OF SERVICE

I certify that I have served the **NOTICE OF APPEAL** by depositing a copy of it in the United States Mail, postage prepaid, on November 7, 2014 addressed to: Ms. Amy Bracy, South Carolina Workers' Compensation Commission, Post Office Box 1715, Columbia, South Carolina 29202 AND also serving a copy upon Jason W. Lockhart, Esquire, McAngus, Goudelock & Courie, Post Office Box 12519, Columbia, SC 29211.

Dated: November 7, 2014


Preston F. McDaniel
MCDANIEL LAW FIRM
1315 Elmwood Avenue
Columbia, South Carolina 29201
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Attorney for Appellant

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
COLUMBIA, SOUTH CAROLINA
WCC FILE NO. 1204039

EMPLOYEE/CLAIMANT:

LEE TURNER

 COPY

EMPLOYER:

SAIIA CONSTRUCTION

INSURER:

OLD REPUBLIC GENERAL INSURANCE CORPORATION

SOUTH CAROLINA WORKERS' COMPENSATION HEARING

PURSUANT TO NOTICE OF WORKERS' COMPENSATION HEARING, THE
WITHIN HEARING WAS TAKEN ON THE 4TH DAY OF FEBRUARY, 2014,
COMMENCING AT THE HOUR OF 1:50 P.M., IN COLUMBIA, SOUTH CAROLINA,
BEFORE THE HONORABLE SUSAN S. BARDEN, ATTENDED BY COUNSEL AS
FOLLOWS:

SHEILA ROBISON
VERBATIM REPORTER

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

APPEARANCES

STEPHEN H. COOK, ESQUIRE, OF THE FIRM
JOHN K. KOON, ESQUIRE, OF THE FIRM
KON & COOK, P.A.
2016 GADSDEN STREET
COLUMBIA, SOUTH CAROLINA 29201

ATTORNEYS FOR THE EMPLOYEE/CLAIMANT,

JASON W. LOCKHART, ESQUIRE, OF THE FIRM
MCANGUS, GOUDELOCK & COURIE, L.L.C.
POST OFFICE BOX 12519
COLUMBIA, SOUTH CAROLINA 29211

ATTORNEY FOR THE EMPLOYER/INSURER.

ALSO PRESENT: ROBERT BENNETT

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

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

BY COMMISSIONER BARDEN:

TODAY'S DATE IS FEBRUARY 4TH, 2014. THIS IS
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION FILE
NUMBER 1204039. THIS IS THE CASE OF THE CLAIMANT
MR. LEE TURNER WHO IS PRESENT TODAY AND REPRESENTED
BY ATTORNEY STEVE COOK VERSES THE EMPLOYER BUCKHORN
MATERIALS AND ITS CARRIER OLD REPUBLIC, BOTH OF
WHICH ARE REPRESENTED BY ATTORNEY JASON LOCKHART.
THE PURPOSE OF TODAY'S HEARING IS TO DETERMINE THE
ISSUES RAISED IN FORMS 50 AND 51. THIS IS A DENIED
CLAIM. HOWEVER, THE PARTIES DO AGREE AND STIPULATE
THAT THE CORRECT AND APPROPRIATE AVERAGE WEEKLY WAGE
IN THIS CASE IS \$684.18 YIELDING A COMPENSATION RATE
OF \$456.14. THE DATE OF THIS ALLEGED ACCIDENT WAS
APRIL 19TH, 2012.

ARE THERE ANY OBJECTIONS TO THE APAs,
JURISDICTION, VENUE, OR ANY OTHER ITEMS? MR. COOK?

BY MR. COOK:

NONE FROM THE CLAIMANT.

BY COMMISSIONER BARDEN:

1 MR. LOCKHART?

2 **BY MR. LOCKHART:**

3 NONE FROM THE DEFENDANTS, YOUR HONOR.

4 **BY COMMISSIONER BARDEN:**

5 THANK YOU, BOTH. WITHOUT OBJECTION, THE
6 COMMISSION FILE BECOMES A PART OF THE RECORD WITH
7 THE EXCEPTION OF SELF-SERVING DECLARATIONS AND UN-
8 STIPULATED MEDICAL REPORTS.

9 PRIOR TO GOING ON THE RECORD, WE HELD A
10 PREHEARING CONFERENCE. IT IS THE POSITION OF THE
11 CLAIMANT THAT HE SUFFERED COMPENSABLE INJURIES BY
12 ACCIDENT ARISING OUT OF AND IN THE COURSE AND SCOPE
13 OF HIS EMPLOYMENT ON APRIL 19TH, 2012, ON WHICH DATE
14 HE INJURED HIS THORACIC SPINE AND HIS HEAD AND HIS
15 BRAIN. HE SEEKS TEMPORARY TOTAL DISABILITY BENEFITS
16 FROM APRIL 19TH, 2012, THROUGH JANUARY 2ND, 2013; HE
17 SEEKS CAUSALLY-RELATED MEDICALS FOR THOSE EXPENSES
18 HE HAS INCURRED THIS FAR WITH REGARD TO THE
19 EVALUATION AND TREATMENT OF HIS SPINE AND HIS HEAD
20 AND BRAIN. HE SEEKS AN ORDER REQUIRING THE
21 DEFENDANTS TO PROVIDE HIM WITH MEDICAL TREATMENT,
22 AND HE SPECIFICALLY REQUESTS THAT DR. PETERSON BE
23 NAMED THE TREATING PHYSICIAN AS THE CLAIMANT HAS
24 ALREADY ESTABLISHED A TREATING RELATIONSHIP WITH DR.
25 PETERSON, AND THAT IT WOULD BE UNWISE OR EVEN FOLLY

1 TO DISRUPT OR DISREGARD THE FACT OF THAT ONGOING
2 TREATMENT, AND DR. PETERSON IS INFINITELY FAMILIAR
3 WITH THE CLAIMANT'S CONDITION AND NECESSARY COURSE
4 OF TREATMENT. AS THE CLAIMANT HAS NOT REACHED
5 MAXIMUM MEDICAL IMPROVEMENT, ANY DETERMINATION OF
6 PERMANENCY IS PREMATURE.

7 AND AT THIS TIME, I'M GOING TO ASK MR. COOK TO
8 ELABORATE FURTHER, OTHER THAN THE RELIEF THAT I
9 BELIEVE I'VE COVERED, AND OF COURSE IF I DIDN'T, YOU
10 CAN ADD SOMETHING TO THAT LIST. BUT ALSO, IS THE
11 LEGAL MEMO THAT YOU HAVE -- AND OF COURSE I HAVEN'T
12 READ IT YET. YOU'VE JUST HANDED TO ME. IF YOU WANT
13 TO SUMMARIZE THAT AND ANY OTHER ISSUE THAT YOU WANT
14 TO TELL ME, SIR.

15 **BY MR. COOK:**

16 THANK YOU, YOUR HONOR. MAY IT PLEASE THE
17 COMMISSION. THE AFTERNOON OF THURSDAY, APRIL THE
18 19TH, THE CLAIMANT WAS FINISHING HIS SHIFT WITH
19 SAIIA CONSTRUCTION COMPANY OVER IN EASTOVER. HE HAD
20 JUST WASHED HIS DUMP TRUCK WITH SOAP AND WATER. HE
21 HAD TO CLIMB THE FIRST AND SECOND STEP OF THAT DUMP
22 TRUCK TO PUT A BOOK BAG IN THE SEAT ACCORDING TO
23 WHAT WITNESS PAUL BARNETT, AND I'VE QUOTED FROM MR.
24 BARNETT IN THE BRIEF; "IT," WHICH REFERRING TO THE
25 BACKPACK, "HAD BEEN PUT ON THE SEAT. AND TO BE ABLE

1 TO GET UP AND PUT MY STUFF ON THERE -- IT WASN'T
2 THROWN IN. IT WASN'T IN THE FLOORBOARD. IT WAS IN
3 THE SEAT." SO SOMETIME OR ANOTHER, HE DID GET UP ON
4 THE FIRST STEP AND THEN THE SECOND STEP. TO ACCESS
5 THE CAB, HE DID HAVE TO GET ON THOSE TWO STEPS. AND
6 THE CAB IS APPROXIMATELY FIVE FEET, SIX INCHES OFF
7 THE GROUND. THE REASONABLE INFERENCE -- HE WAS
8 FOUND LAYING STRAIGHT ON HIS BACK. THE REASONABLE
9 INFERENCE IS THAT HE FELL WHILE ON THESE STEPS OR
10 POSSIBLY WHILE HE WAS INSIDE THE CAB HE FELL ON
11 THE GROUND HITTING THE BACK OF HIS HEAD AGAINST THE
12 GROUND, AND THERE WAS A BLOODY AREA THERE. AS A
13 RESULT OF THE FALL, HE DOESN'T REMEMBER ANYTHING
14 FROM THE DAY BEFORE THAT DAY OR THE DAY AFTER;
15 THAT'S NOT IN DISPUTE. DAVID BOLDEN AND PAUL
16 BENNETT, WHO WERE TWO OF THE DRIVERS WHO WORKED WITH
17 THE CLAIMANT, THEY WERE ABOUT 30 YARDS AWAY FROM HIM
18 WHEN HE FELL. NEITHER PERSON ACTUALLY SAW HIM FALL,
19 BUT EACH SAW HIM LYING ON THE GROUND IMMEDIATELY
20 AFTER THE FALL WITH THE BACK OF HIS HEAD BLEEDING.
21 HIS INJURIES: HE HAD A SUBDURAL HEMATOMA AND
22 HEMORRHAGE. HE HAD A CONTUSION TO THE LEFT LOBE.
23 HE HAD A FRACTURE DEFORMITY AT THE ENDPLATES OF T3
24 AND T4, AND ON THE WAY TO THE HOSPITAL, HE SUFFERED
25 A SEIZURE. HE HAS NO FAMILY HISTORY OF EPILEPSY OR

1 SEIZURES, AND HE HAS NEVER HAD SEIZURES HIMSELF
2 BEFORE THIS HAPPENED. AND ALL THE WITNESSES, IF YOU
3 READ THE DEPOSITIONS, WILL TESTIFY HE HAD NOT
4 COMPLAINED OF ANY DIZZINESS OR ANY PROBLEMS THAT DAY
5 OR EXPRESSED THAT HE WAS HAVING ANY PROBLEMS THAT
6 DAY BEFORE THIS FALL.

7 PAGE 37 OF THE APA IS A QUESTIONNAIRE FROM DR.
8 ALAN PETERSON WHO IS BOARD CERTIFIED IN INTERNAL
9 MEDICINE AND IS LEE'S FAMILY DOCTOR. HE TESTIFIES
10 TO THREE THINGS IN THERE: THAT IT'S MORE LIKELY THAN
11 NOT THAT THE INJURIES TO THE HEAD WERE CAUSED BY THE
12 FALL; IT'S MORE LIKELY THAN NOT THAT THE FALL GAVE
13 RISE TO THE SEIZURES THAT HE'S EXPERIENCED SINCE THE
14 FALL, AND IT'S MORE LIKELY THAN NOT THAT THE FALL
15 WAS NOT A RESULT OF A PREEXISTING SEIZURE CONDITION.
16 THE APPLICABLE LAW HERE, YOUR HONOR, IS GENERALLY
17 THERE'S A PRESUMPTION OF FACT THAT ONE CHARGED WITH
18 THE PERFORMANCE OF A DUTY AND INJURED WHILE
19 PERFORMING SUCH DUTY OR FOUND INJURED AT THE PLACE
20 WHERE THE DUTY MAY OF BEEN -- REQUIRED HIM TO BE WAS
21 WORKING IN THE COURSE OF EMPLOYMENT. AND AS A
22 CONSEQUENCE OF THE EMPLOYMENT WITHIN THE ACT, THAT'S
23 THE *OWENS VERSES OCEAN FOREST CASE*, WHICH I KNOW
24 YOUR HONOR'S FAMILIAR WITH, AND THAT WAS A DEATH
25 CASE. AND THESE CASES ARE SIMILAR BECAUSE THE

1 CLAIMANT'S NOT ABLE TO TESTIFY AS TO EXACTLY WHAT
2 HAPPENED. IN OWENS, THE GAME WARDEN WAS EMPLOYED BY
3 THE OCEAN FOREST CLUB AND WAS FOUND DECEASED IN A
4 PORTION OF THE WOODED PREMISES HE HAD BEEN EMPLOYED
5 TO PATROL. THE CAUSE OF HIS DEATH WAS A BULLET
6 WOUND THROUGH THE HEAD. THE GAME WARDEN'S WIDOW
7 FILED A CLAIM. IT WAS DENIED, AND A HEARING WAS
8 HELD, AND THE CASE WAS FOUND TO BE COMPENSABLE. AND
9 THE DEFENDANT APPEALED. THE SOUTH CAROLINA SUPREME
10 COURT HELD THAT THE EVIDENCE WAS CLEAR THAT AT THE
11 TIME OF THE DEATH THE GAME WARDEN WAS ON THE
12 COMPANY'S PROPERTY DURING HIS HOURS OF EMPLOYMENT,
13 AND HE WAS FOUND DEAD FROM A GUNSHOT WOUND. THE
14 COURT SAID THAT THE EVIDENCE RELATING TO THE CAUSE
15 OF DEATH WAS CIRCUMSTANTIAL, BUT THE COURT WENT ON
16 TO SAY, AND THIS IS THE CRUX OF OUR CASE YOUR HONOR,
17 "CIRCUMSTANTIAL EVIDENCE MAY BE SUFFICIENT TO
18 SUPPORT A FINDING OF FACT OR AN AWARD, AND THE
19 FINDING OF AN AWARD MAY BE BASED ON INFERENCES DRAWN
20 FROM CIRCUMSTANTIAL EVIDENCE. THE EVIDENCE NEED NOT
21 -- ALTHOUGH IT MAY BE DIRECT OR POSITIVE,
22 CIRCUMSTANTIAL EVIDENCE TO ESTABLISH A CLAIM NEED
23 NOT REACH SUCH A DEGREE OF CERTAINTY AS TO EXCLUDE
24 EVERY REASONABLE OR POSSIBLE CONCLUSION OTHER THAN
25 THAT REACHED." AND OF COURSE THAT WAS A DEATH CASE,

1 BUT HE SAID, "WHEN A DEATH OCCURS, THERE'S A NATURAL
2 PRESUMPTION OR PRESUMPTION OF FACT THAT ONE CHARGED
3 WITH THE PERFORMANCE OF A DUTY AND INJURED WHILE
4 PERFORMING THAT DUTY FOUND AT THE PLACE WHERE HIS
5 DUTY WAS TO HAVE DONE ON THOSE HOURS WAS A
6 CONSEQUENCE OF THE EMPLOYMENT." AND THE COURT ALSO
7 WENT TO THE *JAKE VERSES JONES* CASE, WHICH WE CITE IN
8 THE BRIEF, AND IN THAT CASE THE DECEDENT'S ACCIDENT
9 AROSE OUT OF AND IN THE COURSE OF EMPLOYMENT WHERE
10 HE WAS FOUND DROWNED BY A BARGE WHERE HE WORKED.
11 "DECEASED WAS FOUND DISROBED AND COULD NOT SWIM,"
12 AND SWIMMING IN THAT AREA WAS PROHIBITED BY THE
13 EMPLOYER. BUT IN THAT CASE, THE COURT STILL FOUND
14 IT COMPENSABLE BECAUSE HE WAS IN AN AREA WHERE HE
15 WAS SUPPOSED TO BE WORKING, FOUND THERE. IN THIS
16 CASE, THE BACKPACK WAS ON THE SEAT. HE HAD TO CLIMB
17 -- ACCORDING TO EMPLOYER'S TESTIMONY HAD TO CLIMB
18 THE FIRST AND SECOND STEPS TO PUT THE BACKPACK IN
19 THE SEAT. THE STEPS WERE WET FROM BEING WASHED WITH
20 SOAP AND WATER IMMEDIATELY BEFORE HE MOVED THE TRUCK
21 TO THAT AREA. SO THE CIRCUMSTANTIAL EVIDENCE ALONG
22 WITH THE MORE DIRECT EVIDENCE POINTS TO THE FACT
23 THAT HIS FALL CAUSED THE SEIZURES, DR. PETERSON
24 EXPLAINED IN THE APA SUBMISSION. AND YEAH, THEY
25 SAID, "A LADDER." THERE'S ONE REPORT THAT SAYS "A

1 LADDER." WE ASSUME THAT WHAT THEY ACTUALLY --
2 SOMEONE REPORTED "STEPS." AND LEE DID NOT -- LEE
3 STILL HAS NO MEMORY OF WHAT HAPPENED THAT DAY. BUT
4 THE WITNESSES' TESTIMONY'S IMPORTANT. AND I WOULD
5 JUST DIFFERENTIATE THAT THIS IS -- WE HAVE A LEVEL
6 FLOOR, THE IDIOPATHIC FALL CASE THAT CAME OUT. IN
7 THAT SITUATION, WE HAVE A LEVEL FLOOR, AND IT'S
8 ESSENTIALLY THE PERSON FALLS WHILE WALKING ON A
9 LEVEL FLOOR. THIS IS NOT THE CASE HERE, BECAUSE THE
10 EVIDENCE POINTS OUT THAT HE HAD THE WORK WITH THE
11 DUMP TRUCK, AND THE CIRCUMSTANTIAL EVIDENCE WOULD
12 INDICATE HE FELL -- THE DEGREE OF THE INJURY AND THE
13 AMOUNT IF HE JUST FALL FROM THE FLOOR, HE'S UNLIKELY
14 TO HAVE THE SUBDURAL HEMATOMA, THE CUT ON THE BACK
15 OF HIS HEAD AND BROKEN TWO THORACIC VERTABRA. IT'S
16 JUST COMMON SENSE. AND THE PRESUMPTION THAT WHERE
17 HE'S ON THE WORKPLACE WOULD LEAD ONE TO BELIEVE THAT
18 HE FELL OFF THE STEPS AND CAUSED HIS INJURIES, YOUR
19 HONOR. AND IF ANYTHING, LEE IS TO A FAULT HONEST;
20 HE HASN'T EVER CHANGED HIS TESTIMONY. IT'S BEEN
21 FROM DAY ONE, "I DON'T REMEMBER." HE HASN'T CHANGED
22 IT TRY TO MAKE HIS CLAIM VALID OR NOT. HE'S BEEN
23 HONEST ALL THE WAY THROUGH THIS PROCESS, AND I
24 ADMIRE HIM FOR THAT. AND I HOPE THAT DOESN'T
25 PREVENT A RECOVERY WHEN WE HAVE THE PRESUMPTIONS IN

1 THE PRIOR CASE LAW, YOUR HONOR. THANK YOU.

2 **BY COMMISSIONER BARDEN:**

3 THANK YOU. MR. LOCKHART.

4 **BY MR. LOCKHART:**

5 YOUR HONOR, MAY IT PLEASE THE COURT. I
6 APPRECIATE MR. TURNER'S HONESTY THROUGHOUT THIS
7 ENTIRE PROCESS, AND I THINK HIS HONESTY -- AND OF
8 COURSE, IT'S OUR CONTENTION THAT HIS CLAIM IS NOT
9 COMPENSABLE. THERE'S NO ONE WHO HAS TESTIFIED AS TO
10 THE FACTS AND CIRCUMSTANCES SURROUNDING A FALL FROM
11 A CAB. THERE'S NO EVIDENCE OF THAT. MR. TURNER
12 DOESN'T REMEMBER WHAT OCCURRED ON THE DATE OF
13 ACCIDENT, AND THERE'S BEEN NO TESTIMONY FROM ANY
14 WITNESS WHATSOEVER TO CORROBORATE THE THEORY THAT'S
15 NOW BEING PRESENTED TO YOU TODAY THAT HE WAS
16 STANDING ON THE STEPS OF A TRUCK AND THAT HE FELL.
17 AS A MATTER OF FACT, TWO WITNESSES THAT WERE CITED
18 TO BY CLAIMANT'S COUNSEL, MR. BARNETT AND MR.
19 BOLDEN, WHOSE DEPOSITIONS HAVE BEEN OFFERED UP INTO
20 EVIDENCE. BOTH OF THOSE FOLKS SAID UNDER OATH THEY
21 DID NOT WITNESS MR. TURNER FALL. SO NO ONE KNOWS
22 WHAT HAPPENED TO HIM. NOW I WILL -- IN LOOKING AT
23 THE BRIEF THAT WAS PROVIDED TO ME TODAY, THE COURT
24 IN OWENS DOES SAY "THE CIRCUMSTANTIAL EVIDENCE MAY
25 BE SUFFICIENT TO SUPPORT A FINDING OF FACT OR AN

1 AWARD." BUT WHAT IT DOESN'T SAY IS THAT
2 CIRCUMSTANTIAL EVIDENCE SHALL BE SUFFICIENT. IT
3 GIVES YOU THE OPPORTUNITY TO CONSIDER CIRCUMSTANTIAL
4 EVIDENCE, BUT I'LL ALSO POINT OUT TO YOUR HONOR, AND
5 YOU'RE VERY FAMILIAR WITH THE CASE LAW THAT SAYS "AN
6 AWARD CANNOT BE BASED UPON SPECULATION OR SURMISE OR
7 CONJECTURE," AND I THINK IN THIS CASE TO CONCLUDE
8 THAT MR. TURNER WAS STANDING ON THE STEPS OF THE CAB
9 OF HIS TRUCK WHEN HE FELL, IT REQUIRES A CERTAIN
10 LEVEL OF SPECULATION. BECAUSE, AGAIN, THERE'S NO
11 EVIDENCE TO SUPPORT THAT CONCLUSION. I THINK WE
12 POINTED OUT IN OUR PREHEARING CONFERENCE, BUT I'LL
13 REMIND YOUR HONOR THAT THE MEDICAL RECORDS PROVIDE
14 AN INACCURATE DESCRIPTION OF MR. TURNER'S FALL. MY
15 UNDERSTANDING TODAY IS THE ALLEGATION IS THAT HE WAS
16 STANDING ON THE TRUCK ABOUT FIVE TO SIX FEET OFF THE
17 GROUND WHEN HE FELL. THERE'S REFERENCE IN THE
18 MEDICAL RECORDS TO HIM BEING ON A LADDER. MR.
19 TURNER REFUTES THAT IN HIS DEPOSITION. AS A MATTER
20 OF FACT, HE WASN'T COGNIZANT OR COHERENT ENOUGH TO
21 PROVIDE SUCH A HISTORY TO HIS POSITION CONSIDERING
22 THAT HE DOESN'T REMEMBER THE EVENTS BOTH PRIOR TO
23 AND SUBSEQUENT TO THE DATE OF ACCIDENT. WE'RE
24 MAINTAINING TODAY, YOUR HONOR, THAT THE CLAIM SHOULD
25 ALSO BE DENIED NOT ONLY BECAUSE MR. TURNER CAN'T

1 SATISFY HIS BURDEN OF PROOF UNDER 42-1-160, BUT THAT
2 THE ACCIDENT ITSELF WAS IDIOPATHIC IN NATURE, AND
3 UNDER THE RECENT CASE FROM THE COURT OF APPEALS IN
4 NICHOLSON, THE CLAIM SHOULD BE DENIED. THERE'S NO
5 EVIDENCE OF A WORK-RELATED REASON FOR HIS FALL. THE
6 PURPORTED CAUSE OF DANGER, PRESUMABLY IF HE WAS
7 STANDING ON THE GROUND WHEN HE FELL, THAT'S A LEVEL
8 SURFACE; IT'S NOT PECULIAR TO HIS WORK PLACE. IT'S
9 COMMON TO THE NEIGHBORHOOD, AND THEREFORE IT WOULD
10 SUPPORT THE TEST IN NICHOLSON. AND THEN IN THE
11 ABSENCE OF A SPECIAL CONDITION, HIS PLACE OF
12 EMPLOYMENT DIDN'T REPRESENT A HAZARD THAT IN ESSENCE
13 GAVE RISE TO HIS INJURIES AS FAR AS IDIOPATHIC
14 BECAUSE HE'S UNABLE TO IDENTIFY A SPECIFIC NON-
15 INTERNAL REASON FOR HIS FALL, AND THAT'S REFUTED BY
16 HIS DEPOSITION TESTIMONY IN WHICH HE SAYS HE HAS NO
17 MEMORY OF WHAT HAPPENED ON THE DAY IN QUESTION.

18 WE'D ALSO POINT OUT TO YOUR HONOR THAT THE
19 MEDICAL EVIDENCE DOES ALSO REFLECT THAT MR. TURNER
20 HAS SOME PREEXISTING BACK PROBLEMS FOR WHICH HE
21 SOUGHT MEDICAL TREATMENT AS RECENTLY AS TWO TO THREE
22 DAYS BEFORE THE DATE OF ACCIDENT. THIS CAN BE FOUND
23 AT PAGES 26 AND 29 OF THE APA SUBMISSIONS. WITH
24 REGARDS TO THE CAUSATION STATEMENT PROVIDED BY DR.
25 PETERSON, I WILL POINT OUT THIS TO YOUR HONOR, IN

1 OUR APA SIX IS A LETTER FROM MR. KOON THAT HE WROTE
2 TO DR. PETERSON THAT RESULTED IN THE PRODUCTION OF
3 THIS CAUSATION STATEMENT, AND IN THAT LETTER MR.
4 KOON SAYS (AS READ) "WE REPRESENT WILLIAM L. TURNER
5 IN A WORKERS' COMPENSATION CLAIM IN REGARDS TO THE
6 INJURIES HE SUSTAINED WHEN HE FELL FROM THE CAB OF
7 HIS EMPLOYER'S TRUCK ON APRIL 19TH, 2012." SO DR.
8 PETERSON'S GIVING A RESPONSE TO A LETTER BASED ON A
9 FACT THAT IS YET TO BE ESTABLISHED INTO EVIDENCE.
10 AND SO I THINK THAT DR. PETERSON'S -- THE WEIGHT TO
11 BE GIVEN TO HIS CAUSATION OPINION HAS TO BE CALLED
12 INTO QUESTION WHEN THE BASIS FOR THAT OPINION IS A
13 PIECE OF INFORMATION THAT IS YET TO BE ESTABLISHED
14 BY ANYBODY. MR. TURNER DOESN'T REMEMBER WHAT
15 HAPPENED TO HIM ON THAT DAY.

16 WITH REGARDS TO THE REQUEST THAT ADDITIONAL
17 MEDICAL TREATMENT BE AUTHORIZED, I'M UNAWARE OF
18 ANYTHING IN THE APA SUBMISSIONS THAT INDICATES THAT
19 THERE'S A NEED FOR ADDITIONAL MEDICAL TREATMENT FOR
20 THE INJURIES HE SUSTAINED IN HIS ACCIDENT. NOW IF
21 THERE IS SOMETHING IN THERE I'VE OVERLOOKED, I'D BE
22 HAPPY TO TAKE A LOOK AT IT. I KNOW THAT DR.
23 PETERSON RECOMMENDED TO MR. TURNER THAT HE BE SEEN
24 BY A PAIN MANAGEMENT PHYSICIAN, DR. GIRAULT, FOR
25 TREATMENT RELATED TO HIS BACK. DR. GIRAULT SAW MR.

1 TURNER A COUPLE OF TIMES AS RECENTLY AS OCTOBER,
2 OFFERED HIM INJECTIONS INTO HIS BACK, AND MR. TURNER
3 DECLINED THAT RECOMMENDATION FOR TREATMENT. HE
4 TESTIFIED TO THIS IN HIS MOST RECENT DEPOSITION.
5 HE'S BEEN BACK AT WORK FOR MY CLIENT SINCE JANUARY
6 OF 2013 WORKING FULL DUTY WITHOUT RESTRICTIONS AS A
7 HEAVY EQUIPMENT OPERATOR. SO I THINK WE WOULD ARGUE
8 THERE'S AN INFERENCE BASED ON HIS CURRENT WORK
9 STATUS AND HIS DECLINING MEDICAL CARE THAT WAS
10 OFFERED TO HIM AS RECENTLY AS OCTOBER, THAT HE HAS
11 REACHED MAXIMUM MEDICAL IMPROVEMENT. HE WAS ALSO
12 SEEN IN OCTOBER OF 2012 BY DR. SCOTT AT MOORE
13 ORTHOPEDIC CLINIC, DIAGNOSED WITH MYOFASCIAL PAIN
14 RELATED TO THE FALL. HE WAS OFFERED INJECTIONS AND
15 ASKED TO RETURN IN FOUR WEEKS, AND I DON'T SEE WHERE
16 HE EVER WENT BACK. SO THERE HAVE BEEN OFFERS OF
17 MEDICAL CARE IN THE PAST THAT HAVEN'T BEEN FOLLOWED
18 UP ON. AND SO, AGAIN, COMBINE THAT WITH THE ABSENCE
19 OF MEDICAL EVIDENCE TO SUPPORT ADDITIONAL MEDICAL
20 TREATMENT, WE WOULD ASK THAT EVEN IF YOU FIND IT
21 COMPENSABLE, THAT YOU FIND THAT MR. TURNER HAS
22 REACHED MAXIMUM MEDICAL IMPROVEMENT.

23 WITH REGARDS TO THE CLAIM FOR TEMPORARY TOTAL
24 DISABILITY BENEFITS, WE WOULD RELY UPON CERTAIN
25 MEDICAL RECORDS INDICATING THAT MR. TURNER WAS

1 RELEASED TO RETURN TO WORK, THE FIRST OF WHICH IS
2 PAGE 40 OF OUR APA SUBMISSIONS. MR. TURNER WAS SEEN
3 BY A DR. MARYANOV AT U.S.C. ON 5/29/12, IN WHICH DR.
4 MARYANOV SAID, "I'M OKAY THAT HE GOES BACK TO WORK
5 WITHOUT ANY RESTRICTIONS STARTING ON JUNE 4."
6 THAT'S, AGAIN, ON PAGE 40 OF OUR APAs. DR. SCOTT,
7 WHEN HE EXAMINED THE CLAIMANT ON 10/29/12, RELEASED
8 HIM TO RETURN TO WORK. THIS IS AT PAGE 20 OF OUR
9 APA SUBMISSIONS, AND DR. PETERSON RELEASED THE
10 CLAIMANT TO RETURN TO WORK ON JULY 26TH OF 2012.
11 THIS IS AT PAGE 36 OF THE CLAIMANT'S APA
12 SUBMISSIONS. ALSO MR. TURNER AT HIS DEPOSITION, AND
13 I PRESUME TODAY IS GOING TO TESTIFY, THAT DURING THE
14 PERIOD OF TIME HE WAS OUT OF WORK, WHICH IS ABOUT
15 SIX TO EIGHT MONTHS, HE ENGAGED IN SUBSTANTIAL
16 PHYSICAL ACTIVITY DURING THAT TIME INCLUDING FARMING
17 ON HIS PROPERTY AND ALSO BUILDING A HOME THAT I
18 THINK ULTIMATELY HE HAS PLANS ON LIVING IN, AND
19 AGAIN HE WAS RETURNED TO WORK FULL DUTY -- OR
20 RETURNED TO WORK RATHER FULL DUTY FOR MY CLIENTS IN
21 JANUARY OF 2013. IF YOU WERE TO FIND HE'S AT
22 MAXIMUM MEDICAL IMPROVEMENT TODAY, AND I KNOW THAT
23 PERMANENCY IS NOT BEING REQUESTED, BUT WE WOULD
24 MAINTAIN THERE'S NO EVIDENCE TO SUPPORT A CLAIM FOR
25 PERMANENT PARTIAL DISABILITY.

1 AND THEN FINALLY, YOUR HONOR, JUST A VERY BRIEF
2 HOUSEKEEPING MATTER, WHEN YOU CALLED THE CASE, FOR
3 SOME REASON THE CAPTION HAS MY CLIENT LISTED -- THEY
4 SHOULD BE LISTED AS SAIIA, S-A-I-I-A, CONSTRUCTION.
5 AND I DON'T KNOW, ON THE HEARING NOTICE FOR SOME
6 REASON IT IS SHOWING UP AS ANOTHER ENTITY. BUT I
7 JUST WANT TO POINT THAT OUT TO YOUR HONOR.

8 **BY COMMISSIONER BARDEN:**

9 I HAVE NO IDEA WHY THAT IS.

10 **BY MR. LOCKHART:**

11 I DON'T EITHER. AND THAT COULD HAVE BEEN ---

12 **BY COMMISSIONER BARDEN:**

13 WELL, I NEED TO CHECK ON THAT I GUESS.

14 **BY MR. LOCKHART:**

15 YES, MA'AM. BUT IT'S ALWAYS BEEN -- SAIIA'S
16 ALWAYS BEEN THE ---

17 **BY COMMISSIONER BARDEN:**

18 SAIIA CONSTRUCTION?

19 **BY MR. LOCKHART:**

20 YES, YOUR HONOR. THE CARRIER AND THE T.P.A.
21 ARE CORRECT, BUT THE EMPLOYER, WE JUST NEEDED TO
22 POINT THAT OUT.

23 **BY COMMISSIONER BARDEN:**

24 DO YOU AGREE? I MEAN, I'LL HAVE TO GET
25 JUDICIAL TO MAKE THAT CHANGE IF YOU AGREE THAT IT'S

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SO.

BY MR. COOK:

WE HAVE NO OBJECTION.

BY COMMISSIONER BARDEN:

NO OBJECTION TO THAT, OKAY. I WILL ENDEAVOR TO GET THAT DONE, MR. LOCKHART.

BY MR. LOCKHART:

THANK YOU, YOUR HONOR.

BY COMMISSIONER BARDEN:

ALL RIGHT. DO YOU WANT TO REPLY, MR. KOON -- I MEAN, MR. COOK, OR ARE YOU SATISFIED WITH ---

BY MR. COOK:

YOUR HONOR, I THINK WE'LL JUST CALL OUR FIRST WITNESS.

BY COMMISSIONER BARDEN:

OKAY, MR. TURNER, IF YOU'LL COME SIT -- I THINK THE CHAIR'S BEEN MOVED. I THINK WE MOVED IT BECAUSE THE CHAIR IS SO UNCOMFORTABLE. SO IF YOU CAN BRING THAT WITH YOU, IF YOU CAN, OR HAVE ONE OF YOUR ATTORNEYS DO THAT. THANK YOU, SIR. AND ONCE YOU GET SEATED IN THAT CHAIR AND SITUATED AND FACE ME, PLEASE RAISE YOUR RIGHT HAND.

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

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

1 THE MATTER HEREIN:

2 LEE TURNER

3 BEING FIRST DULY SWORN, TESTIFIED ON HIS OATH AS FOLLOWS:

4 BY COMMISSIONER BARDEN:

5 PLEASE STATE YOUR FULL NAME FOR THE RECORD.

6 BY THE WITNESS:

7 WILLIAM LEE TURNER, JUNIOR.

8 BY COMMISSIONER BARDEN:

9 THANK YOU SO MUCH. PLEASE ANSWER ANY QUESTIONS
10 THAT MR. KOON HAS FOR YOU. AND EXCUSE ME, MR.
11 TURNER IS REPRESENTED BY BOTH STEVE COOK AND JOHN
12 KOON, JUST FOR THE RECORD. THANK YOU.

13 BY MR. KOON:

14 AND WE'RE WITH THE SAME OFFICE, YOUR HONOR.

15 BY COMMISSIONER BARDEN:

16 RIGHT.

17 DIRECT EXAMINATION BY MR. KOON:

18 Q. ALL RIGHT. HOW LONG HAVE YOU WORKED FOR SAIIA?

19 A. A LITTLE OVER SIX YEARS.

20 Q. AND WHEN DID YOU GO TO WORK FOR THEM, WHAT YEAR?

21 A. I WENT TO WORK FOR THEM IN 2007.

22 Q. HOW OLD WERE YOU THEN?

23 A. I WAS 21.

24 Q. AND WHAT ARE YOUR JOB DUTIES THERE, AND WHAT HAS IT
25 BEEN THROUGHOUT THE TIME YOU'VE BEEN EMPLOYED THERE?

1 A. HEAVY EQUIPMENT OPERATOR.

2 Q. AND WHAT DOES THAT ENTAIL?

3 A. BULLDOZERS, TRACKHOES AND DUMP TRUCKS AND BACKHOES.

4 Q. SO, YOU ARE DRIVING AND OPERATING HEAVY EQUIPMENT;
5 THAT'S YOUR ONLY JOB?

6 A. YES, SIR.

7 Q. ALL RIGHT. AND WHENEVER YOU WENT TO WORK FOR THEM,
8 DID YOU TAKE A PHYSICAL?

9 A. YES, SIR.

10 Q. DID THEY GIVE YOU A COMPLETE PHYSICAL?

11 A. YES, SIR.

12 Q. AND DID YOU PASS THAT?

13 A. YES, SIR.

14 Q. NOW, IT'S BEEN SOME MENTION THUS FAR ABOUT A COUPLE
15 OF DAYS BEFORE YOU FELL ON 4/19 OF '12. DID YOU GO
16 SEE A DOCTOR THAT MONDAY?

17 A. YES, SIR.

18 Q. WHAT WAS THAT FOR?

19 A. THAT WAS WITH MY LOWER BACK. IT WAS JUST GIVING ME
20 SOME ISSUES. IT WASN'T NOTHING MAJOR. IT WAS JUST
21 IRRITATING ME.

22 Q. AND THAT WAS THE LOWER BACK?

23 A. YES, SIR.

24 Q. DID YOUR UPPER BACK HURT YOU ON THAT DATE THAT YOU
25 WENT TO SEE THE ---

- 1 A. NO, SIR, AND I HAD X-RAYS DONE OFF MY BACK
2 COMPLETELY, AND THERE WAS NOTHING.
- 3 Q. OKAY, LET ME FINISH MY QUESTION.
- 4 A. OKAY.
- 5 Q. YOU'RE JUMPING ON TOP WITH YOUR ANSWERS. THE RECORD
6 WILL COME OUT BETTER IF YOU LET ME FINISH. DID YOU
7 TELL THE DOCTORS ON THAT MONDAY, WHICH WAS ONLY A
8 FEW DAYS BEFORE THE THURSDAY ACCIDENT THAT YOU HAVE
9 ANY PROBLEMS WITH DIZZINESS?
- 10 A. NO, SIR.
- 11 Q. DID YOU HAVE ANY PROBLEMS WITH THE ABILITY TO WALK,
12 ---
- 13 A. NO, SIR.
- 14 Q. --- OR FEELING FAINT?
- 15 A. NO, SIR.
- 16 Q. ALL RIGHT. WERE YOU UNSTEADY ON YOUR FEET FOR ANY
17 REASON WHENEVER YOU WENT TO SEE THE DOCTOR ON THAT
18 MONDAY?
- 19 A. NO, SIR.
- 20 Q. AND WHAT DID THE DOCTOR DO FOR YOU WHEN YOU WENT
21 THAT MONDAY?
- 22 A. THEY TOOK X-RAYS, AND THEN SHE GIVE ME SOME MEDICINE
23 AND SENT ME ON MY WAY.
- 24 Q. DO YOU REMEMBER WHAT THE NAME OF THE MEDICINE WAS?
- 25 A. I BELIEVE IT WAS ULTRAM.

1 Q. AND WAS THAT 50 MILLIGRAMS?

2 A. YES, SIR.

3 Q. ALL RIGHT. NOW, THERE'S BEEN SOME MENTION THUS FAR
4 ABOUT YOU BUILDING YOU A HOUSE AND THAT TYPE THING.

5 A. YES, SIR.

6 Q. DO YOU THINK THE INCIDENT THAT CAUSED YOU TO GO TO
7 THE DOCTOR ON MONDAY WAS BECAUSE OF YOU WORKING AT
8 YOUR HOUSE?

9 A. POSSIBLY.

10 Q. DID YOU DO ANY HEAVY LIFTING THERE?

11 A. YES, SIR.

12 Q. ALL RIGHT. WAS THE HOUSE THAT YOU AND YOUR DAD WERE
13 BUILDING, WAS THAT A LOG HOME?

14 A. YES, SIR.

15 Q. ALL RIGHT. NOW, WE'VE HEARD ALSO THAT YOU WERE OUT
16 WORKING, AND I THINK IT WAS BAILING HAY AND THAT
17 TYPE OF THING, WHEN YOU WERE NOT WORKING AT SAIIA AS
18 A RESULT OF THE INJURY THERE AT THE WORK PLACE?

19 A. CAN YOU REPEAT THE QUESTION?

20 Q. ALL RIGHT. YOU WERE DOING SOME TYPE OF FARMING WHEN
21 YOU COULD NOT DRIVE A TRUCK. WERE YOU KEPT FROM
22 DRIVING A TRUCK FOR A PERIOD OF TIME?

23 A. YES, SIR.

24 Q. ALL RIGHT. WERE YOU ALLOWED TO DRIVE AT ALL DURING
25 THIS PERIOD TIME AFTER YOU WERE INJURED?

- 1 A. NO, SIR.
- 2 Q. ALL RIGHT. WHAT PERIOD OF TIME WAS THAT?
- 3 A. I -- WHEN I FIRST GOT HURT, I COULDN'T DRIVE FOR A
4 MONTH. THEN I HAD THAT SECOND SEIZURE, SO THAT PUT
5 ME UP TO SIX MONTHS.
- 6 Q. ALL RIGHT. NOW, COULD YOU DRIVE YOUR PERSONAL CAR
7 AS WELL?
- 8 A. NO, SIR.
- 9 Q. ALL RIGHT. AND YOUR JOB AT SAIIA WAS DRIVING A
10 TRUCK ---
- 11 A. YES, SIR.
- 12 Q. --- EXCLUSIVELY?
- 13 A. YES, SIR.
- 14 Q. ALL RIGHT. NOW, YOU TALKED ABOUT A SECOND SEIZURE.
15 HAD DR. PETERSON SEEN YOU ADDITIONALLY FOR THIS
16 INJURY AT WORK?
- 17 A. LIKE BEFORE THE INJURY?
- 18 Q. YES.
- 19 A. NO, SIR.
- 20 Q. DID HE SEE YOU AFTER THE INJURY?
- 21 A. YES, SIR.
- 22 Q. AND WAS THAT THE FIRST TIME YOU SAW HIM, DR.
23 PETERSON?
- 24 A. YES, SIR.
- 25 Q. AND WHENEVER YOU WENT TO SEE HIM ON THAT PARTICULAR

1 DAY, DID YOU TELL HIM WHAT HAPPENED; DID YOU KNOW
2 WHAT HAPPENED?

3 A. I TOLD HIM WHAT I HEARD.

4 Q. ALL RIGHT. DID YOU -- WAS THERE ANYONE FROM SAIIA
5 THAT WENT WITH YOU OVER TO THE HOSPITAL? YOU WERE
6 TAKEN TO RICHLAND MEMORIAL, CORRECT?

7 A. YES, SIR, AND I BELIEVE JIMMY AND PAUL BARNETT HAD
8 ARRIVED AT THE SAME TIME I DID.

9 Q. DO YOU KNOW WHO MAY HAVE GIVEN THE HOSPITAL THAT
10 RENDITION OF WHAT HAD HAPPENED?

11 A. I'M ASSUMING JIMMY SPIEGEL DID.

12 Q. WERE YOU TOLD THAT BY SOMEONE AT SAIIA?

13 **BY MR. LOCKHART:**

14 YOUR HONOR, I HAVE TO OBJECT TO THE FORM OF THE
15 QUESTION. IT REQUIRES HEARSAY TESTIMONY.

16 **BY MR. KOON:**

17 WELL, IT'S NOT HEARSAY, YOUR HONOR, IF IT'S BY
18 ONE OF THEIR EMPLOYEES.

19 **BY MR. LOCKHART:**

20 HE'S ASKING THE CLAIMANT, WHO WAS UNCONSCIOUS
21 AND HAS NO MEMORY OF BEING HOSPITALIZED, WHO GAVE A
22 HISTORY OF HIS WORK ACCIDENT TO PHYSICIANS.

23 **BY COMMISSIONER BARDEN:**

24 WELL, IF YOU'RE NOT SURE WHERE THEY GOT THE
25 INFORMATION, OR YOU THINK YOU KNOW BUT YOU'RE NOT

1 SURE; IS THAT CORRECT?

2 **BY THE WITNESS:**

3 WHEN I RETURNED BY TO WORK, JIMMY HAD TOLD ME
4 EVERYTHING BASICALLY. BUT AS FAR AS I KNOW, I GOT
5 KNOCKED OUT WHEN I FELL OFF THE TRUCK, AND THEN I
6 WAS PUT IN A COMA FOR THREE DAYS.

7 **BY COMMISSIONER BARDEN:**

8 ALL RIGHT, WE'LL MOVE ON.

9 **DIRECT EXAMINATION RESUMED BY MR. KOON:**

10 Q. AND YOU HAD MENTIONED JUST A MINUTE AGO ABOUT A
11 SECOND SEIZURE THAT YOU HAD. HAD YOU EVER HAD ANY
12 TYPE OF SEIZURES BEFORE THIS INCIDENT AT WORK?

13 A. NO, SIR.

14 Q. HAD YOU EVER BEEN ON MEDICATION FOR THAT?

15 A. NO, SIR.

16 Q. HAS YOUR MOTHER OR FATHER OR ANYBODY IN YOUR
17 IMMEDIATE FAMILY OR ANYWHERE IN THE HISTORY OF YOUR
18 MOTHER AND FATHER'S FAMILY EVER HAD A SEIZURE?

19 A. NO, SIR.

20 Q. HAVE ANY OF THEM EVER BEEN ON ANY MEDICATION TO
21 PREVENT SEIZURES?

22 A. NO, SIR.

23 Q. AND THIS SECOND INCIDENT THAT TOOK PLACE, HAD YOU
24 BEEN ON KEPPRA BEFORE YOU HAD THAT SEIZURE?

25 A. I WAS ON A TYPE OF SEIZURE -- KEPPRA WHEN THEY

1 RELEASED ME FROM THE HOSPITAL.

2 Q. ALL RIGHT. AND DID YOU STAY ON THAT UNTIL YOU HAD
3 THE SECOND SEIZURE?

4 A. I WAS ON IT FOR APPROXIMATELY TWO WEEKS UNTIL I WENT
5 BACK TO THE NEUROLOGIST, AND HE TOOK ME OFF OF IT.
6 A WEEK LATER I HAD ANOTHER SEIZURE.

7 Q. ONCE YOU CAME OFF OF THE KEPPRA IS WHEN YOU HAD THE
8 SEIZURE?

9 A. YES, SIR.

10 Q. AND HAVE YOU EVER HAD ANYTHING HAPPEN TO YOU LIKE
11 THAT BEFORE?

12 A. NO, SIR.

13 Q. AND WHILE YOU WERE BUILDING YOUR HOUSE AND WORKING
14 ON THE FARM, WERE YOU ALLOWED BY SAIIA TO WORK
15 THERE, OR DID YOU HAVE TO STAY OFF BECAUSE OF THE
16 INABILITY TO DRIVE?

17 A. I HAD TO STAY OFF BECAUSE OF THE INABILITY TO DRIVE.

18 Q. ALL RIGHT. NOW, ON THAT TUESDAY YOU WENT BACK TO A
19 DOCTOR A SECOND TIME. WHAT WAS THAT FOR?

20 A. THAT WAS BASICALLY EVIDENTIALLY I ATE SOMETHING. MY
21 STOMACH WAS MESSED UP, AND MY WIFE WAS FREAKING OUT
22 BECAUSE MY STOMACH WAS MESSED UP, I KEPT USING THE
23 BATHROOM. SO SHE CALLED MY MOTHER, AND THEN MY
24 MOTHER TOLD HER TO TAKE ME TO THE DOCTOR. SO THEY
25 DID. I GOT TO THE DOCTOR. THEY CHECKED ME OUT.

1 EVERYTHING WAS FINE. HE SAID -- BASICALLY THE
2 DOCTOR SAID, "IT WAS JUST SOMETHING YOU ATE."

3 BY MR. LOCKHART:

4 YOUR HONOR, I'M SORRY, I HAVE TO OBJECT TO
5 ANYTHING THAT'S ---

6 BY COMMISSIONER BARDEN:

7 SUSTAINED AS TO WHAT THE DOCTOR SAID.

8 BY MR. KOON:

9 DON'T SAY WHAT THE DOCTOR SAID.

10 BY THE WITNESS:

11 OH, OKAY.

12 DIRECT EXAMINATION RESUMED BY MR. KOON:

13 Q. AND THAT WAS ON A TUESDAY BEFORE THE INJURY ON A
14 WEDNESDAY?

15 A. YES, SIR.

16 Q. DID YOU GO TO WORK ON WEDNESDAY?

17 A. YES, SIR.

18 Q. DID YOU HAVE ANY STOMACH ISSUES ON A WEDNESDAY ---

19 A. NO, SIR.

20 Q. --- AS FAR AS YOU CAN RECALL?

21 A. NO, SIR.

22 Q. DID YOU GET OVER THAT STOMACH ISSUE PRETTY RAPIDLY?

23 A. YES, SIR.

24 Q. WHAT ABOUT YOUR LOWER BACK, DID THAT RESOLVE WITHOUT
25 ANY PROBLEMS AS WELL?

- 1 A. YES, SIR.
- 2 Q. HAVE YOU EVER HAD HIGH BLOOD PRESSURE?
- 3 A. NO, SIR.
- 4 Q. WHAT ABOUT DIABETES?
- 5 A. NO, SIR.
- 6 Q. HEART CONDITION?
- 7 A. NO, SIR.
- 8 Q. YOU EVER HAD ANY HEALTH PROBLEMS AT ALL BEFORE THIS
- 9 FALL?
- 10 A. NO, SIR.
- 11 Q. DOES ANYONE IN YOUR IMMEDIATE FAMILY HAVE ANY OF
- 12 THOSE CONDITIONS THAT I JUST ASKED YOU ABOUT?
- 13 A. NO, SIR.
- 14 Q. HAVE YOU EVER HAD SURGERY BEFORE?
- 15 A. NO, SIR.
- 16 Q. HAVE YOU EVER HAD ANY TYPE OF DIZZY SPELLS OR WHAT'S
- 17 CALLED SYNCOPE OR ANYTHING THAT WOULD CAUSE YOU TO
- 18 FALL OUT SO-TO-SPEAK OR LOSE YOUR BALANCE OR GET
- 19 DIZZY TYPE OF SITUATION?
- 20 A. NO, SIR.
- 21 Q. DID YOU WORK ON THAT WEDNESDAY, 4/18?
- 22 A. YES, SIR.
- 23 Q. ALL RIGHT. AND THE INCIDENT HAPPENED ON 4/19?
- 24 A. YES, SIR.
- 25 Q. AS PART OF YOUR JOB RESPONSIBILITIES AT SAIIA, DO

1 YOU DRIVE THE TRUCK ALL DURING THE DAY?

2 A. YES, SIR, WHEN I'M TOLD TO, I DO.

3 Q. ALL RIGHT. AND DOES THAT USUALLY GO FOR EARLY
4 MORNING 'TIL YOU GET OFF AT NIGHT?

5 A. YES, SIR.

6 Q. AND WERE YOU WORKING OVERTIME THAT PARTICULAR DAY AS
7 YOU UNDERSTAND IT?

8 A. YES, SIR.

9 Q. ALL RIGHT. WHAT WERE YOU DOING THAT DAY?

10 A. WHAT I WAS TOLD, I WAS HAULING FOR THE WOOD YARD.

11 BY MR. LOCKHART:

12 AND, YOUR HONOR, AGAIN, I'M SORRY, I'M GOING TO
13 HAVE TO OBJECT TO THIS BEING HEARSAY UNLESS WE LAY A
14 FOUNDATION AS TO WHO IS TELLING HIM THIS. AND WITH
15 ALL DUE RESPECT, THESE DEPOSITIONS WERE TAKEN -- I
16 ALLOWED THEM INTO EVIDENCE.

17 BY COMMISSIONER BARDEN:

18 RIGHT.

19 BY MR. LOCKHART:

20 THEY WERE NOT DESIGNATED AS DE BENE ESSE
21 DEPOSITIONS AT THE TIME.

22 BY COMMISSIONER BARDEN:

23 THEY WERE DISCOVERY DEPOSITIONS AT THE TIME, --

24 -

25 BY MR. LOCKHART:

1 THEY WERE.

2 **BY COMMISSIONER BARDEN:**

3 --- AND NOW THEY'RE BEING USED ---

4 **BY MR. LOCKHART:**

5 THEY WERE. THEY WERE. I MEAN, I'LL GIVE SOME
6 LATITUDE, BUT WE'RE GETTING TO A POINT IN TIME WHERE
7 THIS IS CALLING FOR HEARSAY TESTIMONY BECAUSE WE'VE
8 ALREADY ESTABLISHED THAT HE HAS NO MEMORY OF THE DAY
9 BEFORE AND THE DAY OF THE INJURY.

10 **BY COMMISSIONER BARDEN:**

11 ALL RIGHT, I AGREE.

12 **DIRECT EXAMINATION RESUMED BY MR. KOON:**

13 Q. WHAT HAD YOU BEEN THAT ENTIRE WEEK BEFORE YOU FELL;
14 MONDAY AND TUESDAY, WHAT WERE YOU DOING?

15 A. I DON'T RECALL.

16 Q. ON MONDAY AND TUESDAY BEFORE YOU FELL?

17 A. I -- IT'S BEEN SO LONG AGO, ---

18 Q. LET ME ASK YOU THIS WAY. \ WOULD YOU HAVE BEEN
19 DRIVING A TRUCK MONDAY, TUESDAY, WEDNESDAY, AND
20 THURSDAY IF YOU WERE DOING YOUR NORMAL JOB?

21 A. YES, SIR.

22 Q. ALL RIGHT. AS PART OF YOUR JOB DUTIES, DO YOU WASH
23 TRUCKS?

24 A. YES, SIR.

25 Q. DO YOU WASH YOUR TRUCK?

- 1 A. YES, SIR.
- 2 Q. DO YOUR RECALL WHAT TYPE OF LIQUID SOAP, IF ANY, IS
3 USED WHEN YOU WASH ---
- 4 A. WE USE DAWN DISH DETERGENT.
- 5 Q. ALL RIGHT. AND IS THAT -- HOW DO YOU USE THAT?
- 6 A. WE JUST PUT IT IN A BUCKET AND PUT WATER IN IT AND
7 SCRUB IT WITH A BRUSH.
- 8 Q. AND DO YOU WASH DOWN THE ENTIRE TRUCK?
- 9 A. YES, SIR.
- 10 Q. ALL RIGHT. AND DO YOU RINSE IT OFF THEN ONCE YOU
11 WASH IT DOWN?
- 12 A. YES, SIR.
- 13 Q. AFTER YOU LEAVE THE WASH AREA, IS THE TRUCK WET WHEN
14 IT LEAVES?
- 15 A. YES, SIR.
- 16 Q. HOW FAR DID YOU PULL AWAY NORMALLY FROM WHERE YOU
17 WASHED TO WHERE IT DRIES?
- 18 A. APPROXIMATELY 75 FEET.
- 19 Q. WHAT ABOUT FUEL; WHAT TYPE OF FUEL DOES YOUR OIL
20 TRUCK USE?
- 21 A. DIESEL FUEL.
- 22 Q. AND HAD YOU BEEN DRIVING A STERLING?
- 23 A. YES, SIR.
- 24 Q. AND DESCRIBE HOW YOU GET UP INTO THAT STERLING
25 VEHICLE.

- 1 A. YOU GOT A HANDLE RIGHT BESIDE THE DOOR WHERE IT
2 OPENS AT.
- 3 Q. SPEAK A LITTLE LOUDER.
- 4 A. AND THEN YOU GOT TWO STEPS. THEN YOU GOT A HANDLE
5 ON THE SIDE OF THE TRUCK RIGHT HERE (DEMONSTRATING).
6 THEN YOU GOT THE DOOR HANDLE ON THE DOOR. THEN YOU
7 CLIMB UP TWO STEPS AND PULL YOURSELF INTO THE TRUCK.
- 8 Q. DO YOU HAVE TO ADD FUEL TO IT?
- 9 A. NO, SIR.
- 10 Q. IS IT A DIESEL VEHICLE?
- 11 A. YES, SIR.
- 12 Q. AND WHO FUELS THOSE VEHICLES?
- 13 A. EASTOVER OIL.
- 14 Q. IS THAT GENERALLY THROUGHOUT THE DAY, OR IS IT ANY
15 GIVEN TIME?
- 16 A. ANY GIVEN TIME.
- 17 Q. AND HAVE YOU SEEN DIESEL FUEL THAT HAS GOTTEN ONTO
18 PARTS OF THE TRUCK BEFORE?
- 19 A. YES, SIR.
- 20 Q. AND IS THE AREA WHERE YOU WORK, IS IT DUSTY?
- 21 A. YES, SIR, IT CAN BE DUSTY. YES.
- 22 Q. IS THAT ONE OF THE REASONS YOU'RE REQUIRED TO WASH
23 YOUR OWN TRUCK?
- 24 A. NO, SIR, WE'RE REQUIRED TO WASH OUR OWN AFTER USE NO
25 MATTER WHAT THE CIRCUMSTANCES ARE.

1 Q. DO YOU KNOW WHERE THE FILL CAP IS FOR THESE TANKS ON
2 THE DIESEL TANKS?

3 A. IT'S ABOUT -- APPROXIMATELY ABOUT SIX, SEVEN INCHES
4 FROM THE TOP STEP.

5 Q. SINCE YOU DON'T KNOW WHAT YOU SLIPPED ON, IF
6 ANYTHING, THAT PARTICULAR DAY SINCE YOU HAVE NO
7 RECOLLECTION, YOU DON'T KNOW WHETHER YOU SLIPPED ON
8 DIESEL FUEL OR SOAP OR NOTHING, DO YOU?

9 A. NO, SIR.

10 Q. AND IT IS TRUE, YOU DON'T RECALL THAT PARTICULAR
11 DAY, DO YOU?

12 A. NO, SIR.

13 Q. AND AS A MATTER OF FACT, THE PREVIOUS DAY, A
14 WEDNESDAY ON THE 18TH, YOU DON'T REMEMBER THAT DAY
15 AS WELL, DO YOU?

16 A. NO, SIR.

17 Q. YOU HAD MENTIONED EARLIER YOUR WIFE WAS KIND OF
18 CONTROLLING ABOUT YOUR HEALTH AND SHE CALLED YOUR
19 MOTHER, ---

20 A. YES, SIR.

21 Q. --- AND THEY TEAMED UP ON YOU AND MADE YOU GO TO THE
22 DOCTOR.

23 A. BASICALLY, PRETTY MUCH, 'CAUSE I WAS ALREADY FEELING
24 BETTER WHEN THEY WANTED ME TO GO TO THE DOCTOR. SO
25 SINCE SHE CALLED MY MOTHER, I WENT.

1 Q. IF YOU HAD INDICATED YOU WERE FEELING BAD ON THAT
2 THURSDAY MORNING OR HAD ANY PROBLEMS AT ALL, WOULD
3 THAT SAME THING LIKELY HAVE HAPPENED A SECOND TIME
4 ABOUT HER SAYING "YOU'RE GOING TO THE DOCTOR"?

5 A. PROBABLY.

6 Q. HAVE YOU RECOVERED FROM THAT BACK ISSUE AND STOMACH
7 PROBLEMS THAT YOU HAD?

8 A. YES, SIR.

9 Q. WHAT TIME DO YOU NORMALLY GET TO WORK IN THE
10 MORNING?

11 A. SEVEN O'CLOCK.

12 Q. ANY REASON TO BELIEVE IT WOULD HAVE BEEN ANY
13 DIFFERENT THAT MORNING?

14 A. NO, SIR.

15 Q. DO YOU RIDE TO WORK BY YOURSELF?

16 A. YES, SIR.

17 Q. RIDE HOME BY YOURSELF?

18 A. YES, SIR.

19 Q. DO YOU CARRY A BACKPACK?

20 A. YES, SIR.

21 Q. IS THAT NORMALLY YOUR DRINKS AND FOOD ---

22 A. YES, SIR.

23 Q. --- AND ALL IN THERE?

24 A. YES, SIR.

25 Q. AND YOU DON'T REMEMBER PLACING IT ON THE SEAT IN THE

1 TRUCK?

2 A. NO, SIR.

3 Q. IF ANYONE HAD PLACED THE -- WELL LET ME ASK YOU
4 THIS: DID YOU NORMALLY KEEP YOUR BACKPACK IN A
5 DIFFERENT PLACE THROUGHOUT THE DAY, OR DID YOU KEEP
6 IT IN YOUR ---

7 A. NO, SIR, I KEPT IT WITH ME.

8 Q. AND DO YOU REMEMBER -- DO YOU KNOW IF YOU HAVE TO
9 CLIMB UP THOSE TWO STEPS YOU JUST TALKED ABOUT IN
10 APRIL IN ORDER TO PUT THE BACKPACK IN ---

11 A. YES, SIR.

12 Q. IS THE STERLING TRUCK -- DOES IT HAVE AIR
13 CONDITIONING?

14 A. YES, SIR.

15 Q. POWER STEERING?

16 A. YES, SIR.

17 Q. POWER BRAKES?

18 A. IT'S AIR BRAKES.

19 Q. AIR BRAKES?

20 A. BASICALLY THE SAME THING.

21 Q. AND IS IT DIFFICULT TO DRIVE ONE OF THOSE TRUCKS?

22 A. NO, SIR.

23 Q. IS IT DEMANDING -- VERY DEMANDING FOR YOU TO DO IT?

24 A. NO, SIR.

25 Q. DO YOU NORMALLY KEEP THE WINDOWS UP THROUGHOUT THE

1 DAY AND ENJOY THE AIR CONDITIONING?

2 A. YES, SIR.

3 Q. HAS ANYBODY WITH SAIIA SINCE 4/19/12 COMPLAINED
4 ABOUT HOW YOU WERE DOING YOUR JOB ON 4/19?

5 A. NO, SIR.

6 Q. WHAT'S THE FIRST THING YOU RECALL AFTER THAT FALL?

7 A. MY SUPERINTENDENT, JIMMY SPIEGEL, WHEN I CAME TO, HE
8 WAS STANDING RIGHT IN FRONT OF ME.

9 Q. ALL RIGHT. SO, YOU WERE ON THE JOB THAT DAY?

10 A. AFTER THE ACCIDENT, YES.

11 Q. WHEN YOU WOKE UP, YOU WERE STILL ON THE JOB AT
12 SAIIA?

13 A. NO, SIR, I WAS IN THE HOSPITAL.

14 Q. ALL RIGHT. SO, YOU DON'T HAVE ANY RECOLLECTION OF
15 BEING ON THE GROUND AT SAIIA ON THE 19TH?

16 A. NO, SIR.

17 Q. SO, WHEN WAS IT WHENEVER YOU WOKE UP AND YOUR BOSS
18 WAS THERE?

19 A. ABOUT THREE DAYS AFTER I ARRIVED AT THE HOSPITAL.

20 Q. WERE YOU PLACED IN A COMA, OR DO YOU KNOW?

21 A. YES, SIR.

22 Q. NOW, IT'S BEEN SOME INDICATION ABOUT THE KEPRA.

23 ARE YOU STILL TAKING THAT?

24 A. YES, SIR.

25 Q. AND HAS DR. PETERSON KEPT YOU ON THAT?

1 A. YES, SIR.

2 Q. NOW, WHEN IS THE LAST TIME YOU SAW HIM ABOUT
3 MEDICATION?

4 A. LAST THURSDAY.

5 Q. AND WAS THERE SOME DISCUSSION AT SOME POINT IN TIME
6 ABOUT DR. PETERSON TAKING YOU OFF THE KEPBRA?

7 **BY MR. LOCKHART:**

8 YOUR HONOR, I'M GOING TO HAVE TO OBJECT TO ANY
9 DISCUSSIONS BETWEEN THE CLAIMANT AND DR. PETERSON.
10 I DON'T ---

11 **BY COMMISSIONER BARDEN:**

12 SUSTAINED.

13 **BY MR. LOCKHART:**

14 THANK YOU.

15 **DIRECT EXAMINATION RESUMED BY MR. KOON:**

16 Q. ARE YOU STILL ON THE MEDICINE TODAY?

17 A. YES, SIR.

18 Q. WHEN DID HE TELL YOU TO COME BACK?

19 A. (ANSWER STRICKEN FROM THE RECORD PER COMMISSIONER
20 BARDEN).

21 **BY COMMISSIONER BARDEN:**

22 IF THAT'S IN A RECORD AND CORROBORATED, THEN
23 THE TREATMENT RECORDS WILL SPEAK FOR THEMSELVES.

24 **BY MR. KOON:**

25 YOUR HONOR, I DON'T KNOW IF IT'S IN THERE, BUT

1 I WOULD ALLEGE THAT HE IS STILL ON THE MEDICATION.
2 HE'S ON THE MEDICATION BECAUSE THE DOCTOR KEPT HIM
3 ON IT.

4 **BY COMMISSIONER BARDEN:**

5 I THINK HE CAN ANSWER THAT HE'S ON MEDICATION.
6 I CERTAINLY THINK HE CAN ANSWER THAT QUESTION. BUT
7 AS FAR AS ANY INSTRUCTIONS OR DIRECTIVES FROM THE
8 DOCTOR AS TO WHEN TO COME BACK, IF THEY'RE NOT IN
9 THE MEDICAL RECORDS, I DO BELIEVE THAT'S HEARSAY,
10 AND IT SHOULD BE STRICKEN.

11 **BY MR. KOON:**

12 OKAY.

13 **BY COMMISSIONER BARDEN:**

14 I AGREE WITH MR. LOCKHART ON THAT ONE.

15 **DIRECT EXAMINATION RESUMED BY MR. KOON:**

16 Q. MR. TURNER, DO YOU STILL TAKE ONE -- I BELIEVE IT'S
17 TWO TABLETS A DAY?

18 A. YES, SIR.

19 Q. AND YOU TAKE THEM TWO DIFFERENT TIMES A DAY?

20 A. YES, SIR, I TAKE ONE IN THE MORNING AND ONE IN THE
21 AFTERNOON.

22 Q. AND ARE YOU ON THAT MEDICATION FOR THE IMMEDIATE
23 FUTURE? DO YOU HAVE ANY TIME YOU HAVE TO GO BACK TO
24 THE DOCTOR TO BE CONCERNED ABOUT WHETHER YOU COME
25 OFF OF IT OR NOT?

1 A. NO, SIR.

2 Q. AND WERE YOU TAKING BLOOD TESTS OCCASIONALLY TO SEE
3 IF IT WAS ANY PROBLEMS WITH TAKING THE MEDICATION?

4 A. YES, SIR, I HAD A BLOOD WORK DONE TWO WEEKS AGO.

5 Q. ALL RIGHT. HOW OFTEN DO YOU HAVE TO DO THAT?

6 A. EVERY SIX MONTHS.

7 Q. AND ARE YOU STILL REQUIRED TO DO THAT?

8 A. YES, SIR.

9 Q. SO, WHEN IS YOUR NEXT APPOINTMENT TO GO BACK?

10 A. UMM...

11 Q. LET ME ASK YOU THIS WAY: WOULD IT BE SIX MONTHS FROM
12 THE LAST TIME THAT YOU WENT TO HAVE IT CHECKED?

13 A. YES, SIR.

14 Q. WHENEVER YOU WOULD WASH THE TRUCK AND FINISH DOING
15 THAT AND PUT IT OVER WHERE YOU SAID SOME NUMBER OF
16 FEET AWAY, WHAT WOULD YOU DO THEN; WOULD YOU GO
17 SOMEWHERE?

18 A. YES, SIR, I'D GO TO THE OFFICE AND FILL OUT ALL OF
19 THE PAPERWORK, TURN IT IN AND GET MY PERSONAL
20 BELONGINGS AND GO BACK OUT TO THE TRUCK AND GET
21 READY TO LEAVE.

22 Q. ALL RIGHT. WHAT WAS YOUR PERSONAL BELONGINGS?

23 A. MY BACKPACK.

24 Q. SO, YOU DID HAVE IT OUT OF THE TRUCK THAT DAY?

25 A. WELL, I TAKE IT JUST ABOUT EVERYWHERE I GO 'CAUSE

1 IT'S GOT MY MONEY AND EVERYTHING ELSE IN IT.

2 Q. SO, YOU DON'T KNOW WHETHER YOU HAD IT OUT OR HAD IT
3 WITH YOU THAT DAY?

4 A. NO, SIR, I DON'T RECALL.

5 Q. YOU SAID YOU NORMALLY TAKE IT WITH YOU EVERYWHERE?

6 A. YES, SIR. USUALLY I HAVE IT WITHIN REACH OR WITHIN
7 WHERE I CAN SEE IT 'CAUSE, LIKE I SAID, IT'S GOT ALL
8 MY MONEY AND EVERYTHING IN IT.

9 Q. ALL RIGHT. AND DO YOU EVER TAKE IT TO WHAT'S CALLED
10 A "SHACK" OR A BUILDING WHERE DRINKS AND ALL ARE
11 STORED?

12 A. YES, SIR.

13 Q. DO YOU NORMALLY TAKE IT WITH YOU WHEN YOU GO THERE?

14 A. YES, SIR.

15 Q. AND WHERE DID YOU GO JUST BEFORE OR JUST AFTER
16 WASHING THE TRUCK; DO YOU RECALL?

17 A. I PARKED THE TRUCK. THEN I GOT OUT OF THE TRUCK AND
18 WENT TO THE OFFICE, LIKE I SAID, AND FILLED OUT THE
19 PAPERWORK AND GOT MY STUFF AND COME BACK OUT AND PUT
20 IT IN THE TRUCK AND GET READY TO LEAVE.

21 Q. THAT'S WHAT YOU NORMALLY DID?

22 A. YES.

23 Q. AND YOU WOULD NORMALLY WHILE DOING THAT HAVE YOUR
24 BACKPACK WITH YOU?

25 A. YES, SIR.

- 1 Q. HAVE YOU HAD ANY SEIZURES SINCE ABOUT -- AND I THINK
2 THAT WOULD FIGURE OUT TO BE ABOUT THE FIRST OF JUNE
3 OF 2012?
- 4 A. NO, SIR.
- 5 Q. YOU WERE MAKING FOURTEEN TWENTY-FIVE PER HOUR?
- 6 A. YES, SIR.
- 7 Q. THAT'S WHAT YOU STILL MAKE?
- 8 A. YES, SIR.
- 9 Q. YOU ENJOY WORKING OVER AT SAIIA?
- 10 A. YES, SIR, I ENJOY -- I ENJOY WHAT I DO.
- 11 Q. AND YOU'RE STILL DOING THE SAME JOB TODAY THAT YOU
12 WERE DOING BACK THEN?
- 13 A. YES, SIR.
- 14 Q. DO YOU STILL USE ANY TYPE OF DEVICES TO HELP WITH
15 SOME OF THE PROBLEMS YOU'RE HAVING NOW?
- 16 A. NO, SIR.
- 17 Q. WHAT ABOUT MEDICATION, DO YOU TAKE ANY PRESCRIPTION
18 MEDICATION?
- 19 A. THE ONLY PRESCRIPTION MEDICATION I'M TAKING IS THE
20 KEPRA.
- 21 Q. ALL RIGHT. YOU TAKE ANY ACROSS-THE-COUNTER
22 MEDICATION FOR YOUR BACK?
- 23 A. NO, SIR.
- 24 Q. JUST TO CLEAR ONE THING UP, I THOUGHT IT WAS FAIRLY
25 CLEAR, BUT IS THERE ANY REASON YOU DIDN'T GO BACK

1 FROM THE TIME OF YOUR INJURY UNTIL JANUARY THE 3RD
2 OF 2013?

3 A. THE TIME I DIDN'T GO BACK TO WORK?

4 Q. YEAH, WHY DIDN'T YOU GO BACK TO WORK?

5 A. I WENT BACK TO WORK APPROXIMATELY A MONTH AFTER I
6 HAD GOT OUT OF THE HOSPITAL. BUT THE WEEKEND
7 BEFORE, I HAD ANOTHER SEIZURE. AND WHEN I WENT
8 BACK, I WASN'T ABLE TO DRIVE OR ANYTHING, SO
9 THEREFORE I COULDN'T STAY, I COULD NOT WORK.

10 Q. WAS THE REASON YOU DIDN'T GO BACK WAS BECAUSE OF
11 YOUR INABILITY TO DRIVE?

12 A. YES, SIR.

13 Q. AND THAT WAS DIRECTIONS FROM SAIIA OUT -- THEY HAD
14 TO PUT YOU OUT OF WORK UNTIL YOU WERE ABLE TO GO
15 BACK DRIVING?

16 A. YES, SIR.

17 **BY MR. KOON:**

18 ALL RIGHT. THANK YOU VERY MUCH. ANSWER ANY
19 QUESTIONS HE HAS.

20 **BY COMMISSIONER BARDEN:**

21 MR. LOCKHART.

22 **CROSS EXAMINATION BY MR. LOCKHART:**

23 Q. MR. TURNER, GOOD AFTERNOON.

24 A. GOOD AFTERNOON.

25 Q. I THINK THIS POINT HAS BEEN MADE, BUT I JUST WANT TO

1 MAKE SURE I UNDERSTAND YOUR TESTIMONY CORRECTLY.
2 YOU HAVE NO MEMORY AT ALL OF THE DATE OF YOUR
3 ACCIDENT, CORRECT?

4 A. NO, SIR. I MEAN, PEOPLE TELL ME THINGS, AND SOME
5 THINGS WILL KIND OF COME BACK. BUT AS FAR AS BEING
6 ACCURATE WITH IT, I'M NOT SURE.

7 Q. AND I BELIEVE YOU TOLD ME IN A DEPOSITION, OR RATHER
8 TOLD ONE OF MY LAW PARTNERS IN A DEPOSITION THAT YOU
9 GAVE A COUPLE OF YEARS AGO, YOU DON'T REMEMBER THE
10 DAY BEFORE YOUR ACCIDENT, THE DAY OF YOUR ACCIDENT,
11 OR THE DAY AFTER YOUR ACCIDENT?

12 A. NO, SIR.

13 Q. AND I BELIEVE YOU TOLD YOU LAWYER A FEW MOMENTS AGO
14 THAT ONE OF YOUR FIRST MEMORIES IS BEING IN THE
15 HOSPITAL AND COMING TO AND SEEING YOUR SUPERVISOR?

16 A. YES, SIR.

17 Q. ALL RIGHT. NOW, LET ME CLEAR UP A COUPLE OF THINGS
18 THAT ARE REFERENCED IN YOUR MEDICAL RECORDS, AND I
19 BELIEVE YOU WERE ASKED ABOUT THIS AT SOME PRIOR
20 DEPOSITIONS. SOME OF YOUR MEDICAL RECORDS
21 IMMEDIATELY AFTER YOUR ACCIDENT OCCURRED MADE
22 REFERENCE TO YOU BEING ON A LADDER. WOULD YOU HAVE
23 BEEN ON A LADDER FOR ANY REASON AT ALL AT WORK ON OR
24 ABOUT APRIL THE 19TH OF 2012?

25 A. NO, SIR.

1 Q. OKAY. THERE ARE OTHER REFERENCES TO YOU STANDING ON
2 TOP OF A TRUCK. WOULD YOU HAVE BEEN STANDING ON TOP
3 OF A TRUCK FOR ANY REASON AT ALL ON APRIL 19TH OF
4 2012?

5 A. NO, SIR.

6 Q. IT'S MORE LIKELY THAN NOT THAT YOU WERE STANDING ON
7 THE GROUND ON OR ABOUT APRIL 19TH OF 2012, CORRECT?

8 **BY MR. KOON:**

9 OBJECTION, YOUR HONOR. I DON'T SEE WHERE IT
10 HAS ANY PROBATIVE VALUE WHATSOEVER. IT'S JUST ---

11 **BY COMMISSIONER BARDEN:**

12 WELL, THIS IS CROSS EXAMINATION. I'M GOING TO
13 GIVE HIM SOME LATITUDE. BUT YOU HAVE A RUNNING
14 OBJECTION TO THAT QUESTION, THE ANSWER, AND A
15 CONTINUING RUNNING OBJECTION. GO AHEAD.

16 **CROSS EXAMINATION RESUMED BY MR. LOCKHART:**

17 Q. I MEAN, YOU SAID A FEW MOMENTS AGO THAT YOUR NORMAL
18 ACTIVITY WAS TO WALK FROM THE TRUCK TO THE SHACK AND
19 THEN FROM THE SHACK BACK TO YOUR TRUCK IN ORDER TO
20 GO HOME, RIGHT?

21 A. UH-HUH.

22 **BY COMMISSIONER BARDEN:**

23 IS THAT A "YES"?

24 **CROSS EXAMINATION RESUMED BY MR. LOCKHART:**

25 Q. IS THAT A "YES"?

1 EXAMINATION. WHEN YOU COME TO WORK OR WHEN -- LET'S
2 GO BACK TO 2012 FOR A MOMENT.

3 A. OKAY.

4 Q. WHEN YOU WOULD COME TO WORK ON A NORMAL DAY, WHAT
5 WOULD BE IN THAT BACKPACK?

6 A. I'D HAVE MY WALLET IN THERE, USUALLY GATORADE, A
7 COUPLE BOTTLES OF WATER AND SOME SNACKS, AND LIKE MY
8 WALLET. SO I'LL TAKE THAT AND I'LL CARRY THAT WITH
9 ME, AND MY KEYS. BUT OTHER THAN THAT, THAT'S ABOUT
10 IT.

11 Q. AND I ASSUME THAT THOSE DRINKS AND WATER AND SNACKS
12 ARE IN THERE FOR YOU TO CONSUME THOSE THROUGHOUT THE
13 COURSE OF A REGULAR DAY?

14 A. YES, SIR.

15 Q. SO, I ASSUME THAT IT'S PRETTY SAFE TO SAY THAT YOU
16 WOULD SHOW UP WITH A BACKPACK THAT HAD WATER AND
17 SNACKS, AND THAT YOU'D LEAVE WORK AND THAT BACKPACK
18 WOULDN'T HAVE SNACKS IN IT ANYMORE BECAUSE YOU'D
19 EATEN THEM. AND THE WATER OR THE GATORADE YOU HAD
20 BROUGHT WITH YOU AT THE BEGINNING OF THE DAY, YOU
21 HAD DRANK AT THE END OF THE DAY?

22 A. YEAH, MORE THAN LIKELY.

23 Q. OKAY. WHEN YOU WOULD GET TO WORK IN THE MORNING,
24 YOUR BACKPACK HAD SNACKS AND WATER AND GATORADE IN
25 IT, HOW MUCH DO YOU THINK THAT BACKPACK WOULD HAVE

1 WEIGHED?

2 A. MAYBE TEN POUNDS.

3 Q. AND AT THE CONCLUSION OF THE DAY WHEN YOU HAD EATEN
4 YOUR SNACKS AND DRANK YOUR WATER AND GATORADE, HOW
5 MUCH DO YOU THINK THAT BACKPACK WOULD HAVE WEIGHED?

6 A. I -- I -- I'LL GUESS ON IT, SEVEN POUNDS.

7 Q. IT WAS LIGHTER WHEN YOU WOULD LEAVE WORK THAN IT WAS
8 WHEN YOU GOT TO WORK?

9 A. YES, MORE THAN LIKELY. A LOT OF TIMES I'LL -- WHEN
10 I'D RUN OUT OF MY WATER OR MY GATORADE, I'LL FILL
11 THE BOTTLES RIGHT BACK UP.

12 Q. BUT THE BACKPACK WEIGHED ANYWHERE FROM SEVEN TO TEN
13 POUNDS?

14 A. YEAH, POSSIBLY.

15 Q. AND IT WEIGHED ENOUGH THAT YOU COULD THROW IT UP
16 INTO THE CAB IF YOU WANTED TO?

17 A. YOU COULD, BUT I WOULDN'T -- I'VE NEVER THROWN
18 ANYTHING IN THE CAB 'CAUSE THEN YOU GOT A CHANCE OF
19 IT COMING BACK DOWN AND HITTING YOU AND ALL THAT
20 GOOD STUFF.

21 Q. YOU COULD HAVE THROWN YOUR BACKPACK UP INTO THE CAB
22 ON THE DATE OF YOUR ACCIDENT; YOU JUST DON'T
23 REMEMBER WHAT HAPPENED THAT DAY?

24 BY MR. KOON:

25 COMPOUND QUESTION, YOUR HONOR. THE FIRST PART

1 OF IT'S ASKED AND ANSWERED.

2 BY COMMISSIONER BARDEN:

3 SUSTAINED. JUST REPHRASE.

4 BY THE WITNESS:

5 IF I WOULD HAVE THROWN IT IN THERE, ---

6 BY MR. KOON:

7 WAIT -- WAIT -- LET HIM ASK THE QUESTION.

8 BY COMMISSIONER BARDEN:

9 WAIT: LET HIM RE-ASK HIS QUESTION:

10 BY MR. LOCKHART:

11 I'LL MOVE ON, YOUR HONOR.

12 BY COMMISSIONER BARDEN:

13 OKAY.

14 BY MR. LOCKHART:

15 I THINK I MADE MY POINT.

16 BY COMMISSIONER BARDEN:

17 ALL RIGHT.

18 CROSS EXAMINATION RESUMED BY MR. LOCKHART:

19 Q. NOW, YOU WENT BACK TO WORK WITH SAIIA IN JANUARY OF
20 2013; IS THAT CORRECT?

21 A. YES, SIR, THE SECOND.

22 Q. I BELIEVE YOU TOLD ME JANUARY THE 2ND; IS THAT
23 CORRECT?

24 A. YES, SIR.

25 Q. AND YOU RETURNED TO WORK AS A HEAVY EQUIPMENT

1 OPERATOR, CORRECT?

2 A. YES, SIR.

3 Q. AND YOU'RE EARNING THE SAME AMOUNT OF MONEY NOW THAT
4 YOU WERE EARNING WHEN YOUR WORK ACCIDENT HAPPENED?

5 A. YES, SIR.

6 Q. AND YOU'RE WORKING THE SAME NUMBER OF HOURS?

7 A. IT VARIES. WE -- IT ALL DEPENDS. IT REALLY DOES.

8 Q. YOUR HOURS VARY BECAUSE OF YOUR EMPLOYER'S NEEDS AND
9 THEIR CUSTOMERS, NOT BECAUSE OF YOUR PHYSICAL
10 CONDITION, ---

11 A. NO, SIR.

12 Q. RIGHT? OKAY. AND JUST SO COMMISSIONER BARDEN
13 UNDERSTANDS, A HEAVY EQUIPMENT OPERATOR -- YOU
14 OPERATE A VARIETY OF EQUIPMENT ON BEHALF OF SAIIA,
15 CORRECT?

16 A. YES, SIR.

17 Q. IT INCLUDES TRUCKS?

18 A. YES, SIR.

19 Q. IT INCLUDES BACKHOES?

20 A. YES, SIR.

21 Q. ARE THERE ANY OTHER PIECES OF EQUIPMENT THAT YOU
22 OPERATE ON A REGULAR BASIS?

23 A. EVERYTHING WE GOT OUT THERE I CAN OPERATE IT. AND
24 WE'VE GOT BULLDOZERS, TRACKHOE, AND A FARM TRACTOR,
25 AND EVERYTHING ELSE IS TRUCKS.

1 Q. WHEN YOU'RE OPERATING THE BACKHOES AND THE
2 BULLDOZERS, THOSE PIECES OF EQUIPMENT REQUIRE YOU TO
3 USE YOUR HANDS AND YOUR FEET TO OPERATE THEM,
4 CORRECT?

5 A. YES, SIR.

6 Q. IT REQUIRES YOU TO CONCENTRATE?

7 A. YES, SIR.

8 Q. THE TRUCKS OBVIOUSLY, YOU'RE DRIVING ON I BELIEVE IS
9 INTERNATIONAL -- ARE Y'ALL STILL DOING WORK OUT AT
10 INTERNATIONAL PAPER?

11 A. YES, SIR.

12 Q. SO, YOU HAVE TO CONCENTRATE WHEN YOU'RE DRIVING OUT
13 THERE, I ASSUME?

14 A. YES, SIR.

15 Q. OKAY. SO, YOUR JOB AS A HEAVY EQUIPMENT OPERATOR,
16 IT REQUIRES NOT ONLY YOUR PHYSICAL ABILITY, BUT IT
17 REQUIRES YOU TO REALLY THINK ABOUT WHAT YOU'RE
18 DOING?

19 A. YES, SIR.

20 Q. BECAUSE IF YOU'RE NOT THINKING CLEARLY, YOU COULD
21 INJURE SOMEBODY, YOU COULD CAUSE SOME DAMAGE OUT
22 THERE. THERE'S A LOT OF REASONS WHY YOU WOULD HAVE
23 TO BE MENTALLY ENGAGED IN WHAT YOU'RE DOING,
24 CORRECT?

25 A. YES, SIR.

1 Q. ALL RIGHT. AND YOU'RE PHYSICALLY ABLE TO PERFORM
2 ALL OF YOUR CURRENT JOB DUTIES AND RESPONSIBILITIES,
3 CORRECT?

4 A. YES, SIR.

5 Q. AND YOU'RE MENTALLY CAPABLE OF PERFORMING ALL OF
6 YOUR JOB DUTIES AND RESPONSIBILITIES?

7 A. YES, SIR.

8 Q. OKAY. NOW, SINCE YOU HAVE RETURNED TO WORK SINCE
9 JANUARY 2ND OF 2013, YOU'VE MISSED NO TIME FROM WORK
10 AT ALL BECAUSE OF ANY OF THE INJURIES YOU SUSTAINED
11 IN THIS FALL, CORRECT?

12 A. JUST HAVING TO GO TO DOCTORS AND STUFF JUST FOR LIKE
13 FOLLOW-UPS AND STUFF LIKE THAT.

14 Q. BUT AS FAR AS BEING UNABLE TO WORK BECAUSE OF ANY
15 PROBLEMS THAT YOU'RE HAVING, YOU HAVEN'T MISSED ANY
16 TIME FROM WORK?

17 A. NO, SIR.

18 Q. AS A MATTER OF FACT, THE REASON YOU WENT BACK IN
19 JANUARY IS BECAUSE DR. PETERSON RELEASED YOU TO GO
20 BACK TO WORK; IS THAT CORRECT?

21 A. THAT'S CORRECT.

22 Q. AND DR. PETERSON RELEASED YOU TO RETURN TO WORK
23 WITHOUT RESTRICTIONS?

24 A. YES, SIR.

25 Q. NOW, AS FAR AS YOUR CURRENT PROBLEMS ARE CONCERNED,

1 PROBLEMS THAT YOU WOULD RELATE BACK TO THIS FALL,
2 ARE YOU HAVING ANY PROBLEMS WITH YOUR BACK AT THE
3 PRESENT TIME?

4 BY COMMISSIONER BARDEN:

5 WELL, PERMANENCY IS NOT BEING DECIDED, SO...

6 BY MR. LOCKHART:

7 IS IT OKAY -- I MEAN, BECAUSE I GUESS I'M -- I
8 WAS ARGUING IN THE ALTERNATIVE IF YOU FIND THAT HE
9 IS AT MAXIMUM MEDICAL IMPROVEMENT, I WOULD AT LEAST
10 LIKE TO GET SOME OF THIS...

11 BY COMMISSIONER BARDEN:

12 WELL, I'M NOT GOING TO BE DECIDING PERMANENCY,
13 AND YOU'RE ASKING WHAT HIS PROBLEMS ARE TODAY.

14 BY MR. LOCKHART:

15 OKAY.

16 BY COMMISSIONER BARDEN:

17 YOU HAVE ESTABLISHED THAT HE WAS RELEASED BY
18 DR. PETERSON WITH NO RESTRICTIONS.

19 BY MR. LOCKHART:

20 OKAY, THANK YOU, YOUR HONOR.

21 BY COMMISSIONER BARDEN:

22 YES, SIR.

23 CROSS EXAMINATION RESUMED BY MR. LOCKHART:

24 Q. MR. TURNER, LET ME ASK YOU THIS: HAVE YOU HAD ANY
25 RECENT INJURIES TO YOUR BACK?

1 A. NO, SIR.

2 Q. ISN'T IT TRUE THAT IN SEPTEMBER OF LAST YEAR YOU
3 FELL OFF OF A HORSE AND RE-INJURED YOUR BACK?

4 A. I DIDN'T REINJURE MY BACK 'CAUSE I NEVER ACTUALLY
5 HIT MY BACK; I FELL ON MY BUTT, AND IT WASN'T THAT I
6 FELL OFF. I JUMPED OFF, AND I LANDED ON MY FEET. I
7 JUST STUMBLED BACK, AND THEN I LANDED ON MY BUTT.
8 BUT IT WASN'T NOTHING HORRIFIC. IT DIDN'T KNOCK ME
9 OUT. IT DIDN'T HURT OR ANYTHING LIKE THAT.

10 **BY MR. LOCKHART:**

11 YOUR HONOR, I'M LOOKING AT PAGE 12 OF THE
12 DEFENDANTS' APA SUBMISSIONS.

13 **CROSS EXAMINATION RESUMED BY MR. LOCKHART:**

14 Q. MR. TURNER, DO YOU RECALL SEEING DR. GIRAULT ON OR
15 ABOUT SEPTEMBER THE 18TH OF 2013?

16 A. YES, SIR.

17 Q. I'M READING FROM HER MEDICAL RECORD, AND THIS IS IN
18 HER RECORD, AND I WANT TO -- LET ME READ THIS TO
19 YOU, AND I WANT TO ASK YOU SOME QUESTIONS ABOUT IT.
20 AT THE BOTTOM OF PAGE 12, IT SAYS (AS READ) "STORY:"
21 IT SAYS "PLEASANT W.M. WHO HAD A FALL OFF OF A TRUCK
22 LAST YEAR AND HAD T3/4 VERTEBRAL FRACTURE WITH
23 CLOSED HEAD INJURY." HE WAS DOING WELL UNTIL HE FELL
24 OFF A HORSE A FEW WEEKS AGO, AND HE HAS PAIN IN THE
25 SAME T3/4 AREA AND HAS SEVERE MUSCLE SPASM." SO LET

1 ME ASK YOU AGAIN; WHEN YOU SAW DR. GIRAULT IN
2 SEPTEMBER, DID YOU TELL HER THAT YOU HAD FALLEN OFF
3 OF A HORSE AND RE-INJURED THE SAME PART OF YOUR BACK
4 YOU INJURED IN THIS ACCIDENT?

5 A. I TOLD HER I FELL OFF A HORSE, BUT AS FAR AS LANDING
6 ON MY BACK IN THE SAME PLACE, NO. AND I TOLD HER
7 THAT COULD BE A POSSIBILITY FOR IT HURTING A LITTLE
8 BIT MORE THAN WHAT IT WAS, BUT STILL TO THIS DAY IT
9 STILL BOTHERS ME A LITTLE BIT, BUT IT'S NOTHING
10 THAT'S KEEPING ME FROM DOING ANYTHING. BUT THAT WAS
11 JUST SOMETHING I HAD BROUGHT UP TO HER.

12 **BY COMMISSIONER BARDEN:**

13 SO, WHEN YOU FELL OFF THE HORSE, WAS IT TO YOUR
14 BUTTOCKS, OR WAS IT TO YOUR THORACIC SPINE, YOUR
15 UPPER SPINE? WHICH ---

16 **BY THE WITNESS:**

17 NO, I DIDN'T HIT MY SPINE AT ALL WHEN I FELL
18 OFF OF IT. LIKE I SAID, I JUMPED OFF THE HORSE. I
19 LANDED ON MY FEET, AND LIKE I SAID, THE HORSE WAS
20 GOING CRAZY, SO I KIND OF STUMBLED, THEN I FELL ON
21 MY BUTT. BUT I DIDN'T KNOW THAT WOULD CAUSE
22 SOMETHING TO INFLAME OR SOMETHING. BUT WHAT HE'S
23 TALKING ABOUT WITH THE MUSCLE SPASMS AND ALL THAT,
24 SHE SAID, "WHENEVER YOU FRACTURE YOUR T ---"

25 **BY MR. LOCKHART:**

1 ACCEPT THE BACK BRACE 'CAUSE MY M.R.I. SHOWED THAT
2 EVERYTHING IS HEALED. I DIDN'T SEE WHERE I NEEDED A
3 BACK BRACE. SHE HAD TALKED ABOUT PHYSICAL THERAPY,
4 BUT THEN IT WENT RIGHT BACK TO THE INJECTIONS. AND
5 THE SECOND TIME I WENT TO DR. GIRAULT, I DIDN'T EVEN
6 SEE DR. GIRAULT; I SEEN THE NURSE PRACTITIONER. AND
7 I WANTED TO SEE THE DOCTOR, BUT ALL THEY KEPT
8 TALKING ABOUT WAS INJECTIONS, AND I NEVER WENT BACK.

9 Q. LET'S TALK ABOUT THESE VISITS THAT YOU HAD TO
10 DOCTORS IN THE DAYS BEFORE YOUR FALL OCCURRED. YOUR
11 LAWYER ASKED YOU ABOUT THAT EARLIER, AND I WANT TO
12 ASK YOU A FEW QUESTIONS ABOUT IT ALSO. THERE ARE
13 SOME RECORDS FROM A GROUP CALLED SANDHILLS MEDICAL
14 FOUNDATION, LUGOFF, A DR. MINHAS, M-I-N-H-A-S. DO
15 YOU RECALL SEEING THIS DOCTOR IN THE DAYS BEFORE
16 YOUR WORK ACCIDENT OCCURRED?

17 A. YES, SIR.

18 **BY MR. LOCKHART:**

19 YOUR HONOR, I'M LOOKING AT PAGE 26 OF THE
20 DEFENDANTS' APA SUBMISSIONS.

21 **CROSS EXAMINATION RESUMED BY MR. LOCKHART:**

22 Q. NOW, YOUR TESTIMONY EARLIER WAS THAT WHEN YOU WENT
23 TO SEE DOCTORS IN THE DAYS BEFORE YOUR ALLEGED WORK
24 ACCIDENT, YOU WERE COMPLAINING OF LOWER BACK PAIN; -
25 ---

1 A. YES, SIR.

2 Q. --- IS THAT CORRECT? ALL RIGHT. NOW, DR. MINHAS,
3 IN HER APRIL 16, 2012, NOTE; THIS IS THREE DAYS
4 BEFORE YOUR FALL.

5 A. CORRECT.

6 Q. SAYS (AS READ) "PATIENT NOW HAS PAIN IN THE UPPER
7 BACK AS WELL." SO DID YOU COMPLAIN TO DR. MINHAS OF
8 UPPER BACK PAIN AS WELL?

9 A. NO, SIR, IT WAS ALL MY LOWER BACK, WHICH IT WAS I'D
10 SAY FROM LIKE RIGHT HERE TO ABOUT RIGHT HERE
11 (INDICATING), AND I DON'T CONSIDER THAT MY UPPER
12 BACK.

13 **BY COMMISSIONER BARDEN:**

14 IF YOU WANT TO SHOW ME AGAIN.

15 **BY THE WITNESS:**

16 YEAH, LIKE FROM LIKE RIGHT HERE, LIKE RIGHT
17 HERE (INDICATING). IT'S IN MY LOWER BACK. IT WAS
18 LIKE BENDING OVER PICKING UP LOGS AND STUFF,
19 STRAINING A LITTLE BIT MORE IN OTHER AREAS.

20 **CROSS EXAMINATION RESUMED BY MR. LOCKHART:**

21 Q. DR. MINHAS APPEARS TO HAVE EXAMINED YOU ON THIS DAY.

22 **BY MR. LOCKHART:**

23 I'M AT PAGE 27 OF THE DEFENDANTS' APAs, YOUR
24 HONOR.

25 **CROSS EXAMINATION RESUMED BY MR. LOCKHART:**

1 Q. SHE NOTES UNDER YOUR -- DURING HER EXAMINE OF YOU,
2 (AS READ) "TENDERNESS BETWEEN THORACIC VERTEBRA AND
3 TENDERNESS OVER LUMBAR VERTEBRA." SO, AGAIN, WERE
4 YOU HAVING MID OR UPPER BACK PAIN WHEN YOU SAW DR.
5 MINHAS BEFORE APRIL 19TH?

6 A. NO, SIR, NOT THAT I RECALL. 'CAUSE LIKE I SAID,
7 THAT DAY THEY DID X-RAYS, AND EVERYTHING IN THERE
8 WAS -- EVERYTHING COME BACK GREAT. IT WAS I
9 STRAINED MYSELF, A STRAINED MUSCLE OR SOMETHING.

10 Q. NOW, LET'S TALK A LITTLE BIT ABOUT THIS VISIT TO THE
11 EMERGENCY ROOM TWO DAYS BEFORE YOUR WORK ACCIDENT,
12 OR ALLEGED WORK ACCIDENT, OCCURRED. I THINK YOU
13 TOLD THE COURT EARLIER THAT YOU WENT THERE KIND OF
14 AT THE BEHEST OF YOUR WIFE AND OF YOUR MOM. AND
15 ISN'T IT TRUE THAT YOU HAD BEEN HAVING SOME
16 VOMITING, YOU'D HAD SOME DIARRHEA, YOU'D HAD SOME OF
17 THOSE SIMILAR ISSUES?

18 A. YEAH, I -- I THINK I HAD THROWN UP LIKE ONCE, AND I
19 WAS USING THE BATHROOM SEVERAL TIMES. MY STOMACH
20 WAS UPSET, BUT ABOUT THE TIME LIKE WHEN MY WIFE HAD
21 CALLED MY MOTHER AND ALL THAT, I TOLD THEM I DIDN'T
22 NEED TO GO TO THE DOCTOR, AND THEY INSISTED THAT I
23 DID. SO I WENT AHEAD AND WENT, BUT. AND HE RAN
24 TESTS AND ALL THAT KIND OF STUFF AND GIVE ME I.V.
25 FLUIDS, BUT ALL THE TESTS AND EVERYTHING CAME BACK

1 GOOD. HE SAID I WAS FINE AND EVERYTHING CHECKED
2 OUT.

3 Q. WERE YOU DEHYDRATED?

4 A. NO, SIR.

5 Q. LET'S GO BACK AND FOR A MOMENT TALK ABOUT THIS
6 PERIOD OF TIME THAT YOU WERE OUT OF WORK. YOU SAY
7 IT WAS EIGHT MONTHS -- SIX MONTHS, EIGHT MONTHS?

8 A. YES, SIR.

9 Q. ALL RIGHT. NOW, OTHER THAN THOSE EIGHT MONTHS, WAS
10 THERE ANY PERIOD OF TIME DURING WHICH YOU RECEIVED
11 LONG-TERM OR SHORT-TERM DISABILITY BENEFITS FROM
12 SAIIA?

13 A. I RECEIVED LONG-TERM DISABILITY A HUNDRED AND EIGHTY
14 DAYS AFTER I'D GOT HURT, AND THAT'S LIKE AN EXTRA
15 THING THAT I GET WITH MY INSURANCE THAT I PAY FOR
16 MYSELF.

17 Q. ALL RIGHT. NOW -- GO AHEAD.

18 A. WELL, NO, NO, NO, I -- SORRY ABOUT THAT. THE
19 COMPANY PAYS FOR THE LONG-TERM DISABILITY. IF YOU
20 WANT A SHORT TERM, YOU HAVE TO PAY FOR THAT
21 YOURSELF, AND I DIDN'T GET IT, SO I DIDN'T HAVE
22 SHORT TERM.

23 Q. OKAY, THANK YOU FOR THAT CLARIFICATION. NOW, DURING
24 THAT PERIOD OF TIME THAT YOU WERE OUT OF WORK, YOU
25 WERE AT YOUR HOME DOING A VARIETY OF DIFFERENT

1 THINGS, CORRECT?

2 A. I WAS OUT AND ABOUT DOING WHAT I COULD DO, AND IT
3 WASN'T A WHOLE LOT, BUT I'M NOT THE TYPE -- I CAN'T
4 SIT AROUND AND DO ABSOLUTELY NOTHING. BUT WHEN I
5 GOT OUT OF THE HOSPITAL, I'D GO OUT THERE AND I'D
6 TRY TO GET ON MY TRACTOR AS MUCH AS I COULD, AND IT
7 DIDN'T WORK OUT LIKE I THOUGHT IT WAS 'CAUSE I
8 COULDN'T STAND IT 'CAUSE IT WAS BOUNCING AROUND,
9 AND I ACTUALLY HAD MY WIFE PLOW THE FIELDS FOR ME.

10 Q. WHAT TYPE OF FARMING ACTIVITIES WERE YOU PERFORMING
11 DURING THAT EIGHT-MONTH PERIOD OF TIME THAT YOU WERE
12 NOT WORKING?

13 A. JUST LIKE WE'D BAIL HAY IS BASICALLY WHAT WE'D DO IS
14 JUST BAIL HAY. I HAVE HORSES.

15 Q. TELL ME FROM A PHYSICAL STANDPOINT WHAT BAILING HAY
16 REQUIRES YOU TO DO. IF I HAD SEEN YOU DURING THAT
17 EIGHT-MONTH PERIOD OF TIME BAILING HAY, WHAT WOULD I
18 HAVE SEEN YOU DOING?

19 A. WELL, THE WORST PART OF BAILING HAY FOR ME WOULD BE
20 HOOKING UP ATTACHMENTS AND STUFF AS FAR AS PHYSICAL
21 'CAUSE I'VE ACTUALLY GOT A THING THAT WE USE THAT
22 HOOKS BEHIND THE TRACTOR. AFTER YOU BAIL THE HAY,
23 IT GOES ALONG. IT PICKS IT UP, AND IT STACKS IT,
24 AND THEN YOU GO AND DUMP IT. AS FAR AS LIKE
25 PHYSICALLY GRABBING BAILS OF HAY AND THROWING 'EM ON

1 A TRAILER, I DIDN'T -- I DIDN'T DO THAT.

2 Q. BUT YOU HAD TO ATTACH EQUIPMENT TO YOUR TRACTOR?

3 A. YEAH, AND LIKE -- LIKE I SAID, I CAN DO THINGS. IT
4 WOULD TAKE ME A WHILE TO DO IT, BUT. AND IT HURTS
5 SOMETIMES TO DO STUFF LIKE THAT, BUT I'M NOT THE
6 TYPE THAT'S GOING TO SIT AROUND. IF I'M NOT DYING,
7 I'M NOT GOING TO SIT THERE AND DO ABSOLUTELY
8 NOTHING.

9 Q. OTHER THAN BAILING HAY, WHAT OTHER TYPES OF FARMING
10 ACTIVITIES DID YOU DO DURING THAT EIGHT-MONTH PERIOD
11 OF TIME?

12 A. BUSH HOGGING AND STUFF LIKE THAT. AS FAR AS LIKE
13 WORKING ON MY HOUSE, I WAS ABLE TO WORK ON MY HOUSE
14 A PERIOD AFTER I'D GOT HURT, BUT IT WASN'T RIGHT
15 AFTER I'D GOT HURT. 'CAUSE, I MEAN, RIGHT AFTER I'D
16 GOT OUT OF THE HOSPITAL, I WAS REALLY IN PRETTY BAD
17 SHAPE. I WAS USING A CANE JUST TO KEEP MYSELF
18 STABLE 'CAUSE I COULDN'T KEEP MY BALANCE VERY WELL
19 'CAUSE MY LEGS WERE KILLING ME AS SOON AS I GOT OUT
20 OF THE HOSPITAL. I DON'T KNOW IF THAT WAS BECAUSE
21 OF BEING IN THE BED FOR SO LONG OR WHAT IT WAS. I
22 STILL PUT EFFORT IN TO DOING THINGS.

23 Q. WHAT PERIOD OF TIME SORT OF LAPSED BETWEEN WHEN YOU
24 GOT OUT OF THE HOSPITAL AND WHEN YOU STARTED WORKING
25 BACK -- BACK WORKING ON YOUR HOME AGAIN?

1 A. I'D SAY I DIDN'T START DOING ANY KIND OF LIKE
2 PHYSICAL STUFF UNTIL ABOUT SIX MONTHS AFTER I'D
3 GOTTEN OUT OF THE HOSPITAL. AND I'D GO DOWN THERE
4 AND KEEP STUFF CLEANED UP AND TRY TO DO A LITTLE BIT
5 OF WIRING. BUT OTHER THAN THAT, I COULDN'T LIFT
6 LOGS. I COULDN'T BEND OVER FOR A LONG PERIOD OF
7 TIME OR ANYTHING LIKE THAT. SO BASICALLY, EVER
8 SINCE I'VE GOT HURT, WE HAVEN'T DONE A WHOLE LOT TO
9 THE HOUSE. WE GOT THE ROOF SYSTEM BUILT. WE USED
10 THE CRANE, AND WE HAD HELP; WE HAD PEOPLE COME DOWN
11 THERE AND HELP DO THAT. BUT EVER SINCE THEN, I
12 HAVEN'T BASICALLY DONE ABSOLUTELY NOTHING TO IT.

13 Q. HOW ABOUT ELECTRICAL WORK, HAVE YOU DONE ANY
14 ELECTRICAL WORK ON IT AT ALL?

15 A. I'VE DONE A LITTLE BIT HERE AND THERE. BUT LIKE MY
16 DAD, HE HAD A BONE MARROW TRANSPLANT. AND HE'S LIKE
17 THE BRAINS OF THIS PROJECT, SO. AND I KNOW A LITTLE
18 BIT ABOUT ELECTRICAL, AND I CAN DO IT, BUT MY
19 BIGGEST THING IS I DON'T KNOW IF I'M DOING IT
20 COMPLETELY RIGHT. SO EVER SINCE -- SEE, I GOT HURT,
21 AND THEN THE YEAR AFTER THAT HE WAS -- OR NOT EVEN A
22 YEAR HE HAD TO GO GET THAT BONE MARROW TRANSPLANT,
23 AND IT JUST PUT EVERYTHING ON -- BASICALLY ON HOLD.

24 Q. DURING THAT EIGHT-MONTH PERIOD OF TIME THAT YOU WERE
25 OUT OF WORK, WERE YOU RIDING HORSES?

- 1 A. NO, SIR.
- 2 Q. WERE YOU DOING ANY TYPE OF HUNTING AT ALL DURING
3 THAT EIGHT-MONTH PERIOD OF TIME?
- 4 A. YES, SIR, I DID A LITTLE BIT OF HUNTING.
- 5 Q. AND WHAT TYPE HUNTING WOULD YOU HAVE DONE DURING
6 THAT EIGHT-MONTH PERIOD OF TIME?
- 7 A. I THINK I BELIEVE I TOLD YOU I DEER HUNTED A FEW
8 TIMES BUT BASICALLY DUCK HUNTING.
- 9 Q. AND DURING THAT EIGHT-MONTH PERIOD OF TIME THAT YOU
10 WERE OUT OF WORK, WERE YOU DRIVING ALL TERRAIN
11 A.T.V. VEHICLES ON YOUR PROPERTY?
- 12 A. YES, SIR, I DRIVE A FOUR-WHEELER.
- 13 Q. AND THE DUCK HUNTING, IS THAT AN ACTIVITY THAT
14 REQUIRES A CERTAIN LEVEL OF CONCENTRATION?
- 15 A. YES, SIR.
- 16 Q. ALL RIGHT. AND IT REQUIRES YOU TO HOLD A FIREARM IN
17 YOUR HANDS?
- 18 A. YES, SIR.
- 19 Q. AND LOCATE A BIRD AND PULL A TRIGGER?
- 20 A. YES, SIR.
- 21 Q. OKAY. IN ORDER TO BE SUCCESSFUL AT IT, RIGHT?
- 22 A. CORRECT.
- 23 Q. AND THAT WAS SOMETHING YOU WOULD HAVE DONE DURING
24 THAT PERIOD OF TIME THAT YOU WERE OUT OF WORK,
25 CORRECT?

1 A. YES, SIR.

2 Q. JUST FOR CLARIFICATION PURPOSES, WHO IS YOUR CURRENT
3 SUPERVISOR AT SAIIA?

4 A. ROBERT BENNETT.

5 Q. AND MR. BENNETT'S HERE IN THE COURT ROOM HERE TODAY?

6 A. YES, SIR.

7 Q. AND HOW LONG'S HE BEEN YOUR SUPERVISOR?

8 A. APPROXIMATELY SIX MONTHS.

9 Q. WHEN WAS THE LAST TIME THAT YOU WOULD HAVE SOUGHT
10 MEDICAL TREATMENT WITH A DOCTOR FOR ANY OF THE
11 PROBLEMS RELATED TO YOUR BACK?

12 A. LAST TIME I WENT TO THE PAIN MANAGEMENT DOCTOR.

13 Q. AND THAT WAS DR. GIRAULT?

14 A. THAT WAS DR. GIRAULT.

15 Q. AND THAT WAS IN OCTOBER?

16 A. YES, SIR. LIKE I SAID, THE LAST TIME I WENT TO HER,
17 I DIDN'T EVEN SEE THE DOCTOR; I SEEN THE NURSE
18 PRACTITIONER.

19 **BY MR. LOCKHART:**

20 CAN I BEG THE COURT'S INDULGENCE FOR JUST A
21 BRIEF MOMENT?

22 **BY COMMISSIONER BARDEN:**

23 GO AHEAD.

24 **CROSS EXAMINATION RESUMED BY MR. LOCKHART:**

25 Q. MR. TURNER, LET ME ASK YOU ONE MORE QUESTION ABOUT

1 THIS PERIOD OF TIME THAT YOU'RE OUT OF WORK, AND I
2 APOLOGIZE FOR GOING BACK TO IT, BUT THERE'S
3 SOMETHING THAT I WANTED TO ASK YOU ABOUT REAL QUICK.

4 **BY MR. LOCKHART:**

5 AND I'M LOOKING AT PAGE 20 OF THE DEFENDANTS'
6 APAs.

7 **CROSS EXAMINATION BY MR. LOCKHART:**

8 Q. DO YOU RECALL GOING TO SEE AN ORTHOPAEDIC PHYSICIAN
9 NAMED DR. SCOTT OVER AT THE MOORE ORTHOPEDIC CLINIC
10 IN LEXINGTON?

11 A. DR. SCOTT, I DON'T BELIEVE THAT WAS IN LEXINGTON,
12 WAS IT?

13 Q. I'M SORRY, THEY DO HAVE AN OFFICE IN LEXINGTON. IT
14 APPEARS YOU WERE SEEN AT THEIR OFFICE IN COLUMBIA AT
15 RICHLAND MEMORIAL.

16 A. YES, SIR.

17 Q. I APOLOGIZE. THANK YOU, THAT'S MY FAULT, MR.
18 TURNER.

19 **BY COMMISSIONER BARDEN:**

20 DID YOU SAY PAGE 20?

21 **BY MR. LOCKHART:**

22 YES, YOUR HONOR.

23 **BY COMMISSIONER BARDEN:**

24 I'VE GOT A NOTE FROM MARYANOV. DO I HAVE THE
25 WRONG ONE; IS THAT THE WRONG ONE? DID YOU SAY

1 "SCOTT"?

2 **BY MR. LOCKHART:**

3 I DID, YOUR HONOR. LET ME SEE HERE. I
4 APOLOGIZE ABOUT THAT, YOUR HONOR.

5 **BY COMMISSIONER BARDEN:**

6 HAVE I GOT THE WRONG...?

7 **BY MR. LOCKHART:**

8 NO, YOU'VE GOT THE RIGHT -- THERE IT IS
9 (INDICATING).

10 **BY COMMISSIONER BARDEN:**

11 THERE IT IS, PAGE 21. ALL RIGHT.

12 **CROSS EXAMINATION RESUMED BY MR. LOCKHART:**

13 Q. MR. TURNER, I HAVE A RECORD -- OR WE'VE SUBMITTED
14 INTO EVIDENCE A RECORD FROM DR. SCOTT FROM OCTOBER
15 29TH OF 2012, WHICH IS ABOUT SIX MONTHS AFTER YOUR
16 ACCIDENT HAPPENED.

17 A. YES, SIR.

18 Q. AND YOU RECALL SEEING DR. SCOTT?

19 A. YES, SIR.

20 Q. OKAY. LET ME READ TO YOU HIS RECORD AND ASK YOU IF
21 THIS IS AN ACCURATE DESCRIPTION OF WHAT YOU TOLD
22 HIM. IT SAYS (AS READ) "MR. TURNER IS HERE FOR AN
23 EVALUATION OF SOME HIGH THORACIC, LOW CERVICAL PAIN.
24 HE HAD A FALL OUT OF A TRUCK BACK IN APRIL. HE DOES
25 HAVE AN M.R.I., WHICH SEEMS TO INDICATE SOME

1 SUPERIOR END PLATE INJURIES AT THE LEVEL OF T3/4.
2 HE HAS NOT WORKED SINCE PRIMARILY BECAUSE HE HAD
3 SOME SEIZURES ASSOCIATED WITH THIS, AND THAT IS WHY
4 HE CANNOT RETURN TO WORK. BUT HE HAS BEEN DOING A
5 LOT OF WORK AROUND THE HOUSE, INCLUDING A LOT OF
6 FARMING AND BUILDING A HOUSE, AND HE HAS NOT BEEN
7 LIMITED BY HIS BACK PAIN. HE ACTUALLY NOTES THAT
8 THE BACK PAIN FEELS BETTER WHEN HE IS WORKING. HE
9 HAS NO NUMBNESS, NO TINGLING, NO WEAKNESS IN HIS
10 EXTREMITIES." DO YOU RECALL TELLING DR. SCOTT --
11 PROVIDING THAT INFORMATION TO HIM?

12 A. YES, SIR, I TALKED TO DR. SCOTT, AND, LIKE I SAID,
13 THE MORE I LIKE MOVE MY ARMS AROUND AND STUFF, LIKE
14 STRETCH AND STUFF LIKE THAT, THE BETTER I FELT. BUT
15 IT'S LIKE SITTING AROUND, DOING ABSOLUTELY NOTHING,
16 IT DIDN'T DO -- IT DIDN'T HELP ME OUT WHATSOEVER.
17 AND DR. SCOTT HAD SENT ME TO PHYSICAL THERAPY, AND
18 THAT HELPED ME OUT PRETTY GOOD.

19 **BY MR. LOCKHART:**

20 YOUR HONOR, THOSE ARE ALL OF THE QUESTIONS THAT
21 I HAVE. THANK YOU, MR. TURNER.

22 **BY COMMISSIONER BARDEN:**

23 ANYTHING ON RE-DIRECT, MR. KOON OR MR. COOK?

24 **BY MR. KOON:**

25 YES, PLEASE.

1 BY COMMISSIONER BARDEN:

2 ALL RIGHT, GO HEAD.

3 RE-DIRECT EXAMINATION BY MR. KOON:

4 Q. WHENEVER YOU GO DUCK HUNTING, IS THAT SOMETHING
5 WHERE YOU SIT IN A BLIND?

6 A. YES, SIR.

7 Q. ALL RIGHT. DO YOU SIT THERE AND HOLD YOUR GUN ALL
8 DAY WHILE YOU'RE WAITING FOR THE DUCKS TO COME?

9 A. YEAH, WE'VE GOT A BLIND THAT WE ACTUALLY JUST -- WE
10 GOT CHAIRS IN THERE, AND WE SIT THERE.

11 Q. DO YOU HOLD THE GUN, OR DO YOU PUT IT UP SOMEWHERE?

12 A. I USUALLY PROP IT UP.

13 Q. DO YOU GET THE GUN WHENEVER YOU SEE A DUCK COMING?

14 A. YEAH, IF I SEE THE DUCK, I'LL GRAB IT.

15 Q. SO, ARE YOU REQUIRED TO HOLD A GUN THE ENTIRE TIME
16 YOU'RE OUT THERE?

17 A. NO, SIR.

18 Q. LET ME CLEAR UP ONE OTHER THING ABOUT LONG-TERM
19 DISABILITY, TOO. HE ASKED YOU IF YOU WERE ON
20 DISABILITY FOR EIGHT MONTHS. HOW MUCH MONEY DID YOU
21 DRAW AS A RESULT OF THE LONG-TERM DISABILITY; DID
22 YOU GET ANYTHING IN THE FIRST SIX MONTHS?

23 A. NO, SIR.

24 Q. WAS THAT DURING THE PERIOD OF TIME THAT WOULD HAVE
25 BEEN COVERED BY SHORT-TERM DISABILITY?

1 A. YES, SIR.

2 Q. ALL RIGHT: AND THEN DID YOU DRAW IT FOR SOME PERIOD
3 AFTER THAT?

4 A. I DREW IT FOR APPROXIMATELY -- I THINK IT WAS A
5 MONTH AND A HALF, TWO MONTHS.

6 Q. ALL RIGHT. DO YOU RECALL HOW MUCH YOU DREW FROM
7 THAT?

8 A. IT WAS -- IT WAS AROUND TWO THOUSAND -- I'M GOING TO
9 SAY TWO THOUSAND, ONE SEVENTY-FIVE. I'M NOT EXACTLY
10 SURE OF THE DOLLAR AMOUNT, BUT IT WAS TWO THOUSAND-
11 AND-SOMETHING.

12 Q. ALL RIGHT. AND DID YOU DRAW THE LONG-TERM
13 DISABILITY UP UNTIL THE TIME YOU WENT BACK TO WORK
14 ON JANUARY THE 2ND?

15 A. YES, SIR. I DREW IT UP TO ABOUT A MONTH BEFORE I
16 WENT BACK TO WORK.

17 Q. AND WHY WAS THAT TERMINATED?

18 A. BECAUSE THEY SAID I WAS PHYSICALLY ABLE TO GO BACK
19 TO WORK EVEN THOUGH THE DOCTOR HAD NOT RELEASED ME.

20 **BY MR. KOON:**

21 ALL RIGHT, THANK YOU VERY MUCH.

22 **BY COMMISSIONER BARDEN:**

23 MR. LOCKHART, ANY OTHER QUESTIONS?

24 **BY MR. LOCKHART:**

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

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BY COMMISSIONER BARDEN:

ALL RIGHT, THAT'S THE CLAIMANT'S CASE. AND DO YOU HAVE ANY WITNESSES, MR. LOCKHART?

BY MR. LOCKHART:

YOUR HONOR, I'LL BRIEFLY CALL MR. BENNETT.

BY COMMISSIONER BARDEN:

ALL RIGHT, MR. BENNETT, WHEN YOU GET SEATED AND SITUATED, IF YOU'LL RAISE YOUR RIGHT HAND.

* * * * *

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

ROBERT BENNETT

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

BY COMMISSIONER BARDEN:

PLEASE STATE YOUR FULL NAME FOR THE RECORD.

BY THE WITNESS:

ROBERT L. BENNETT.

BY COMMISSIONER BARDEN:

THANK YOU. PLEASE ANSWER ANY QUESTIONS MR. LOCKHART HAS FOR YOU FIRST.

DIRECT EXAMINATION BY MR. LOCKHART:

Q. MR. BENNETT, GOOD AFTERNOON.

A. GOOD AFTERNOON.

Q. WHERE ARE YOU CURRENTLY EMPLOYED?

1 A. SAIIA CONSTRUCTION INTERNATIONAL PAPER IN EASTOVER.

2 Q. HOW LONG HAVE YOU BEEN WITH SAIIA CONSTRUCTION?

3 A. I STARTED THERE JULY 12TH OF THIS YEAR.

4 Q. OF 2013?

5 A. CORRECT.

6 Q. OKAY. AND WHAT IS YOUR CURRENT POSITION WITH SAIIA?

7 A. SUPERINTENDENT.

8 Q. OKAY. AND HOW MANY INDIVIDUALS WORK UNDER YOUR
9 SUPERVISION?

10 A. CLOSE TO 14.

11 Q. OKAY. DOES WILLIAM TURNER WORK UNDER YOUR
12 SUPERVISION?

13 A. YES, HE DOES.

14 Q. AND HAS HE WORKED UNDER YOUR SUPERVISION SINCE YOU
15 BEGAN WORKING AS A SUPERINTENDENT?

16 A. YEAH, THAT'S CORRECT.

17 Q. OKAY. WHEN YOU BEGAN WORKING WITH SAIIA, WAS MR.
18 TURNER WORKING THERE AT THE TIME?

19 A. YES, HE WAS.

20 Q. OKAY. YOU'VE BEEN IN THE COURT ROOM TODAY, AND
21 YOU'VE HEARD MR. TURNER DESCRIBE HIS CURRENT JOB
22 WITH SAIIA, AND HIS CURRENT JOB DUTIES AND
23 RESPONSIBILITIES. DID HE PROVIDE AN ACCURATE

24 DESCRIPTION OF HIS JOB?

25 A. YES. YES, HE DID.

- 1 Q. ALL RIGHT. IS THERE ANYTHING ABOUT HIS JOB THAT HE
2 DID NOT COMMENT ON THAT YOU FEEL LIKE THE COURT
3 NEEDS TO KNOW ABOUT WHAT HE DOES ON A DAY-TO-DAY
4 BASIS?
- 5 A. AS AN EQUIPMENT OPERATOR, IT TAKES A LOT OF HAND/EYE
6 COORDINATION, DEXTERITY. YOU'RE DEALING WITH A LOT
7 OF REAL CLOSE TOLERANCES WHEN YOU'RE DIGGING AROUND
8 MACHINES AND STUFF LIKE THAT, AND HE SHOWS A -- I
9 MEAN, NO PROBLEMS WHATSOEVER IN DOING THE TASKS OF
10 WHAT HAS TO BE PERFORMED.
- 11 Q. YOU ARE ABLE TO OBSERVE MR. TURNER PERFORMING HIS
12 JOB ON A REGULAR BASIS?
- 13 A. YES.
- 14 Q. OKAY. AND DOES HE PERFORM HIS JOB DUTIES AND
15 RESPONSIBILITIES TO YOUR SATISFACTION?
- 16 A. OH, DEFINITELY.
- 17 Q. SINCE YOU BEGAN WORKING FOR SAIIA, AND SINCE YOU
18 BEGAN SUPERVISING MR. TURNER, TO YOUR KNOWLEDGE, HAS
19 HE MISSED ANY TIME FROM WORK AT ALL DUE TO BACK
20 PROBLEMS OR PROBLEMS RELATED TO THIS EVENT IN APRIL
21 OF 2012?
- 22 A. NO.
- 23 Q. ALL RIGHT.
- 24 **BY MR. LOCKHART:**
- 25 YOUR HONOR, I DON'T HAVE ANY FURTHER QUESTIONS.

1 BY COMMISSIONER BARDEN:

2 ALL RIGHT. MR. KOON.

3 CROSS EXAMINATION BY MR. KOON:

4 Q. MR. BENNETT, HE DRIVES TRUCKS AND OTHER HEAVY
5 EQUIPMENT THERE AT SAIIA?

6 A. YES, SIR, CORRECT.

7 Q. HE'S BEEN DOING THAT THE ENTIRE TIME YOU'VE BEEN
8 THERE?

9 A. YES, SIR.

10 Q. GOOD EMPLOYEE?

11 A. EXCELLENT EMPLOYEE.

12 Q. HONEST?

13 A. DON'T HAVE -- NEVER (WITNESS NODS HEAD UP AND DOWN).

14 Q. STRAIGHTFORWARD?

15 A. YES, SIR.

16 Q. DON'T TRY TO PULL THE WOOL OVER ANYBODY'S EYES?

17 A. NO, SIR.

18 Q. ALL RIGHT. YOU WANT TO KEEP HIM AS AN EMPLOYEE,
19 DON'T YOU?

20 A. OH, DEFINITELY. HE DOES A GOOD JOB.

21 Q. WHERE ARE YOU FROM, BY THE WAY?

22 A. OHIO ORIGINALLY.

23 Q. DID YOU COME HERE FROM OHIO?

24 A. NO, TEXAS.

25 Q. I HEARD YOU SAY OUTSIDE YOU HAD TO GO BACK TO OHIO

1 NEXT WEEK I BELIEVE?

2 A. YEAH, I GOT SOME TRAINING TO GO THROUGH NEXT WEEK.

3 Q. WHO HANDLES YOUR RESPONSIBILITIES WHEN YOU'RE OUT OF
4 TOWN?

5 A. IT WOULD BE CECIL VAUGHAN. HE'S THE -- WHAT YOU
6 WANT TO CALL LIKE THE LABOR FOREMAN.

7 Q. SO, HE DOES A GOOD JOB FOR YOU FOR SAIIA, AND AS FAR
8 AS YOU KNOW EVER SINCE HE'S BEEN THERE HE'S BEEN A
9 VERY GOOD EMPLOYEE?

10 A. AS FAR AS I KNOW. I JUST -- PEOPLE JUST WANT TO
11 TAKE OVER 'CAUSE PEOPLE WORK DIFFERENTLY FOR OTHER
12 PEOPLE, BUT HE'S DONE AN EXCELLENT JOB. ACTUALLY
13 ALL THE GUYS THAT WORK THERE DO A PHENOMENAL JOB.

14 **BY MR. KOON:**

15 THANK YOU VERY MUCH.

16 **BY COMMISSIONER BARDEN:**

17 MR. LOCKHART, ANY OTHER QUESTIONS?

18 **BY MR. LOCKHART:**

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

20 **BY COMMISSIONER BARDEN:**

21 ALL RIGHT. THAT CONCLUDES THIS PROCEEDING.

22 THAY Y'ALL.

23 (THERE BEING NO FURTHER QUESTIONS, THIS HEARING WAS
24 CONCLUDED AT THE HOUR OF 3:03 P.M.)

CERTIFICATE OF NOTARY PUBLIC
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
COLUMBIA, SOUTH CAROLINA
WCC FILE NO. 1204039

EMPLOYEE/CLAIMANT: LEE TURNER

EMPLOYER: SAIIA CONSTRUCTION

INSURER: OLD REPUBLIC GENERAL INSURANCE CORPORATION

I, SHEILA ROBISON, A NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA, DULY COMMISSIONED AND QUALIFIED AS SUCH, DO HEREBY CERTIFY THAT THE FOREGOING 75 PAGES REPRESENTS A TRUE AND ACCURATE TRANSCRIPT OF THE FOREGOING HEARING OF **LEE TURNER** WAS TAKEN THE 4TH OF FEBRUARY, 2014.

THAT THE WITNESS WAS DULY PLACED UNDER OATH AND ADMONISHED TO SPEAK THE WHOLE TRUTH. THAT THE ORAL HEARING WAS DULY TAKEN AND TRANSCRIBED AS TO THE QUESTIONS PROPOUNDED AND THE ANSWERS GIVEN.

THAT ALL THE OFFERED EXHIBITS, STIPULATIONS AND OBJECTIONS, IF ANY, INVOLVED IN THIS CASE ARE DULY ATTACHED OR INCLUDED HEREIN.

IN WITNESS WHEREOF, I HAVE SET MY HAND AND OFFICIAL SEAL THIS 7TH DAY OF FEBRUARY, 2014.

SHEILA ROBISON
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: 4-20-2019

* THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL IS REPRODUCED AS READ OR QUOTED BY THE SPEAKER.

STATE OF SOUTH CAROLINA
BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC No. 1204039

Lee Turner,)
)
 Claimant,)
)
 v.)
)
 Saliia Holdings,)
)
 Employer,)
)
 and)
)
 Old Republic,)
)
 Carrier/Defendants.)
-----)

COPY

FULL COMMISSION HEARING

Monday, August 11, 2014
3:30 p.m. - 3:52 p.m.

The Full Commission Hearing was heard before Commissioners Gene McCaskill, Melody James and Avery Wilkerson, at the Workers' Compensation Commission, 1333 Main Street, Suite 500, Columbia, South Carolina, on the 11th day of August, 2014, before Jennifer Nottle, Court Reporter and Notary Public in and for the State of South Carolina.



CREEL COURT REPORTING, INC.
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(803-258-1515 / (800) 822-0896

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EXHIBITS

(There were no exhibits marked during the hearing.)



1 **COURT REPORTER:** Today is Monday, August 11th, 2014.

2 This is South Carolina Workers' Compensation
3 Number 1204039. This is the case of Lee
4 Turner, Claimant, versus Saliia Holdings,
5 Employer, and Old Republic, the Carrier. The
6 Appellant is the Claimant represented by
7 Preston F. McDaniel. The Respondent is
8 represented by Jason W. Lockhart. Each side is
9 allowed 10 minutes for oral argument and the
10 Appellant 3 minutes in reply. You are
11 requested to argue the grounds of exception and
12 stay within the record.

13 **COMMISSIONER WILKERSON:** Mr. McDaniel?

14 **ARGUMENT BY MR. MCDANIEL:**

15 **MR. MCDANIEL:** May it please the Commission? First,
16 let me just state -- start with a basic
17 principle that we will all agree on. And that
18 is that the act is supposed to be liberally
19 construed and favorable benefits to the injured
20 worker. Let me start next with, actually, a
21 quotation from one of the cases that Defendants
22 cite in many cases in regards to this type of
23 claim, and that's from the Bagwell case, which
24 cites enough of the black letter law, and that
25 is that the evidence is supposed to be read in



1 light most favorable to the injured worker.
2 Now, next, it is undisputed that this was a
3 non-witness event. There were no witnesses.
4 My client has absolutely no memory of what
5 occurred. The Supreme Court has said that in
6 those types of cases, if it is an unwitnessed
7 event, that we must apply the unexplained death
8 or injury presumption. That presumption has
9 been applied by the Commission. And as you'll
10 find in my brief, and then applied by the
11 Supreme Court, every time in favor of the
12 injured worker and found that an injury had
13 occurred, an accidental injury had occurred,
14 except where the evidence established that
15 there was -- it was caused by a physical
16 condition, such as a heart attack or an
17 aneurysm or a pre-existing seizure disorder.
18 Every time, every time, that a case is
19 unwitnessed and the Supreme Court has been
20 called upon to rule in an accidental injury
21 type case, they have found that the presumption
22 is to apply and have awarded benefits, as to
23 this Commission. Now, just for purposes of
24 what is a presumption. We're dealing with an
25 evidentiary presumption here, and an



1 evidentiary presumption, according to Black's
2 Law Dictionary, is a rule of evidence calling
3 for a certain result in a given case, unless
4 the adversely affected party overcomes that
5 evidence. In other words, it's not a burden
6 shifting, but it's a -- a persuasion shifting.
7 In other words, the presumption establishes a
8 prime aphasia case, and then the adversely
9 affected party to that presumption, that
10 evidentiary presumption, is called upon to put
11 up evidence to more or less rebut that
12 presumption, or in other words, to overcome
13 that presumption of fact that, a prime aphasia
14 case had been established. Now, there must be
15 -- whether this Commission chooses to award
16 benefits or whether or not they choose to deny
17 benefits, the same principle law applies.
18 There must be evidence to award the benefits,
19 or there must be evidence to deny the benefits.
20 Unexplained injury cases, they're basically
21 based on circumstantial evidence. Obviously
22 because there's no witnesses, obviously because
23 either the claimant is dead or the claimant
24 has, in this case, has no memory of what
25 occurred. All the evidence in this case --



1 let's look at it now from a circumstantial
2 evidence standpoint. Look at the medical
3 records, look at all the evidence in the
4 record, and you're going to find that prior to
5 the date of the event, Mr. Turner, there is
6 absolutely no evidence of any problems with
7 dizziness, balance, seizures. He has no pre-
8 existing conditions such as diabetes nor is
9 there any history of anything in his family in
10 reference to a pre-existing condition or
11 condition coming into this event that would
12 have caused this situation. Now, let's go to
13 the day of the event. Everybody agrees, his
14 supervisor testified, he was in great shape
15 that day. He was happy. He was giving thumbs
16 up. He was in the best condition, as one
17 person said, the best condition I've seen him
18 in in weeks. He was great. He was doing fine.
19 There's -- all the testimony was, did you see
20 him have any problems with dizziness that day?
21 No. Any problems with being -- stomach upset
22 or anything like that? No. Any problems with
23 balance issues? No. Any problems with any
24 kind of a seizure or funny situation? No. The
25 evidence is that he was in totally normal



1 condition, as so is the evidence from the
2 medical records. Now, then let's go to the
3 facts surrounding the actual event. At a
4 maximum, we're talking about 10 minutes where
5 he was unseen. Mr. Barnett testified that he
6 and Mr. Turner had washed Mr. Turner's truck.
7 Mr. Turner then goes to the hut to get their
8 time cards straight and to pick up their lunch
9 pails, and to then bring those back. Mr.
10 Turner -- Mr. Barnett testifies that he then
11 saw Mr. Turner on the ground no more than 7 to
12 10 minutes at a maximum from the time that he
13 last saw him to the time that he then saw him
14 on the ground, because he was around the other
15 side of his truck washing his truck. And who
16 should come up and talk to him but Mr. Bolen.
17 Mr. Bolen had been in the hut with Mr. Turner,
18 and he witnessed Mr. Turner walking -- here's
19 what Mr. Bolen does. So we've got Mr. -- this
20 time line cut down to a couple of minutes at
21 max. Mr. Bolen said that during that 7 to 10
22 minutes when Mr. Barnett was not seen, Mr.
23 Bolen had been over at the hut with him, then
24 saw Mr. Turner walk back to his truck, saw him
25 standing on the ground putting their -- the



1 backpacks and their 12-pack cooler into the
2 floorboard -- and this is important, into the
3 floorboard of the truck. Now, why is that
4 important? Because both of them testified that
5 the door was open, both at the time they last
6 saw him and at the time that he was found on
7 the ground. But the reason it's important
8 about the cooler and the backpacks is because
9 they were found placed neatly on the seat, and
10 everybody agrees that if he put those neatly on
11 the seat, he had to have climbed up one or two
12 steps of that truck. In other words, he had to
13 have climbed up. The undisputed testimony is
14 that he would have had to have climbed up into
15 that truck. Then he is then found on the
16 ground, feet first into the truck, laying
17 backwards. And now comes the next important
18 point here. I hadn't picked this up, don't
19 remember too much reference to it in the -- in
20 it, but he was found, and the medical evidence
21 will establish, that they found him, and there
22 was blood on the back of his head. He was
23 found flat backwards with blood on the back of
24 his head. But what did the medical evidence
25 establish? He has a sub-dural hematoma of the



1 left frontal lobe that is generally caused from
2 traumatic origin. How'd he get that? How'd he
3 get that? Now, the Commissioner found it was
4 going to be important that -- that, oh, if they
5 had just testified that they actually saw him
6 on the steps. What you're charged with and
7 what the hearing commissioner was charged with
8 is, how does the evidence preponderate. Is it
9 more likely than not? There is absolutely no
10 evidence of a physical condition causing this
11 man's fall. A fall is caused by two types of
12 things, generally. Number one, it's either
13 traumatic in origin, or number two, it is
14 caused by a physical condition. I would submit
15 to you that there is absolutely no evidence in
16 this record to substantiate that Mr. Turner's
17 injury came from a physical condition. This
18 Commission, I ask you simply to do what the law
19 requires, which is to apply the unexplained
20 injury presumption. It's there for a reason.
21 Nobody knows what happens. And for a better
22 term, the Claimant is supposed to be given the
23 benefit of the doubt unless there's evidence.
24 And if you look at the cases, like for example,
25 there's two electrocution cases. One, the



1 claimant came in and alleged it was
2 electrocution and there was absolutely nothing
3 medical wise or otherwise to connect him with
4 the -- the cause was actually unknown, but
5 there was nothing to connect his injury to that
6 electrocution that they thought he may have
7 had. Now, the other case, the Buff case, when
8 the guy went to repair the Buff case, they
9 didn't know what he died from. There was no
10 cause of death established. But when the guy
11 went to repair the machine that he had been
12 working on, he got shocked. And so there was
13 evidence that it came from electrocution. And
14 the unwitnessed -- and death presumption came
15 into play. He was at a his place work required
16 him to be. He was doing the activities of what
17 he was supposed to be. And by the way, I left
18 out one other thing, everybody agrees that they
19 have fallen or almost fallen -- generally,
20 almost fallen, from -- on those steps of those
21 trucks. They -- you know, so metal -- the grid
22 trucks that are on all the dump trucks. And if
23 you've ever worked on one, then you will know
24 what I'm talking about, how easy it is to catch
25 your foot and turn. So I ask you to apply the



1 presumption, grant Mr. Turner benefits.

2 **COMMISSIONER WILKERSON:** Thank you.

3 **MR. MCDANIEL:** Thank you for your time.

4 **COMMISSIONER WILKERSON:** You have two minutes in
5 reply.

6 **ARGUMENT BY MR. LOCKHART:**

7 **MR. LOCKHART:** Your Honor, may it please the
8 Commission? I'm here this afternoon on behalf
9 of the Employer in this case. We maintain that
10 there is substantial evidence to support
11 Commissioner Barden's decision. We maintain
12 that she correctly applied the law in this case
13 to reach the conclusions that she reached.
14 I've enjoyed listening to Mr. McDaniel's
15 arguments this afternoon, but I would -- I
16 would argue in opposition to him today and say
17 that I think he brings more questions to this
18 panel than answers. One of the obligations the
19 Claimant has in any case is to satisfy the
20 burden of proof that's required under Section
21 42-1160 of the act. And in this case,
22 Commissioner Barden found that that burden
23 wasn't satisfied. And I understand that the
24 act says that application should be liberally
25 construed to benefit the injured worker. But



1 at the same time, a liberal construction is not
2 to do damage to or ignore the principles that
3 are outlined in the statute and the case law.
4 And in this particular case, I think the
5 evidence is pretty clear, the Claimant cannot
6 satisfy his burden of proof here, for a number
7 of different reasons. I think, number one, he
8 has no memory of the accident. Not only does
9 he have no memory of his accident, he has no
10 memory of what occurred the day before, the day
11 of or the day after. There were no witnesses
12 to his fall. And so that, in and of itself,
13 would seem to suggest that he can't satisfy his
14 burden of proof. But let's talk for a moment
15 about this unexplained death presumption that's
16 discussed in the Claimant's brief and brought
17 up by Claimant's counsel this afternoon. That
18 presumption deals with one of the two prongs of
19 42-1160. And you -- and you all know what both
20 prongs are. One is that a Claimant has to
21 prove that they were injured in the course of
22 their employment. And the other prong is that
23 they have to prove that their injury arose out
24 of their employment. And the unexplained death
25 presumption, when you read all the case law,



1 particularly the Packer case, which I think is
2 cited by both parties in this case. It says
3 that the unexplained death presumption may not
4 be availed of to establish that a date of
5 accident -- or I'm sorry, that an accident
6 arose out of the Claimant's employment. That
7 presumption is to address whether or not they
8 were injured in the course of their employment.
9 And so even if you apply that presumption to
10 the facts of this case, you're going to reach
11 the same result, which is that the Claimant
12 cannot satisfy his burden of proof. I'd ask
13 the panel to look specifically at Finding of
14 Fact 24, where Commissioner Barden really goes
15 into detail about the basis for her decision.
16 She says, based on the entirety of the
17 evidence, including the medical records
18 submitted, I find that even if the undersigned
19 presumes that the Claimant was in fact injured
20 through his employment, I'm confronted with the
21 following. And then she lists a collection of
22 information, that there is no known case of the
23 fall, the Claimant had been taking prescription
24 medication for back pain in the few days
25 preceding the date of accident, that he sought



1 treatment at an emergency room two days before
2 the date of accident for stomach and
3 dehydration issues, that no one saw the
4 Claimant on the steps of the truck. Someone
5 saw him actually standing on the ground, which
6 we argue even more so supports our idiopathic
7 injury position. And, of course, the Claimant
8 gave sworn testimony in a deposition that was
9 inconsistent with witness testimony regarding
10 where he was and what he was doing when the
11 accident occurred. So clearly, you know,
12 Commissioner Barden, when you review her order,
13 when you look at the evidence in this case, you
14 took all of this into consideration in reaching
15 her decision. So we think clearly there is
16 substantial evidence to support her
17 conclusions. I think Claimant's counsel
18 maintained that Mr. Turner had no problems at
19 all before this accident occurred that could
20 have necessarily given rise to a fall or an
21 event. I think, as I touched on a moment ago,
22 the medical evidence says the exact opposite.
23 He is alleging an injury to his back in this
24 case, by the way, and we have medical evidence
25 clearly saying that two days before the injury



1 occurred he was in a doctor's office
2 complaining about back problems. They were
3 severe enough to the point he was getting
4 prescription medications. Also I'd point out
5 to the panel that there's medical evidence that
6 shows later on down the road he actually had
7 another injury to his back when he fell from a
8 horse. So -- but with regards to the date of
9 accident, I don't think it's true that he was
10 -- he was perfectly healthy and symptom-free
11 before he had this alleged work-related fall.
12 Let's talk about the issue of whether or not he
13 was involved in or sustained an idiopathic type
14 injury. We maintain that the Commissioner's
15 conclusions regarding those issues or that
16 issue is supported by the Court's decisions in
17 both the Crosby and the Nicholson case. Also,
18 the Bagwell case supports that portion of
19 Commissioner Barden's decision. And Bagwell,
20 as you all know, a claimant must show that the
21 cause of a fall or resulting injury bore some
22 special relation to his work or to the
23 conditions under which it was to be performed.
24 In this case, the Claimant can't satisfy that
25 burden of proof. He can't show you, through



1 the evidence that's been submitted, that the
2 cause of this fall bore some relation to his
3 work. If we think about the last moment that
4 anybody saw him, presumably, he was standing on
5 a level surface, placing his personal items
6 into a company vehicle. If he was standing on
7 a level surface when this fall occurred, the
8 case law that's dealt with this issue many,
9 many times over the years, has said that such
10 a fall would not be considered a compensable
11 work-related injury. So even if we take the
12 last time he was seen and presumably if he fell
13 when he was standing on a level surface, again,
14 we don't know. But if that's where he was when
15 his fall occurred, it would not be a
16 compensable injury under our law. His fall is
17 unexplained. No one remembers it, no one saw
18 it. And an unexplained fall is the definition
19 of an idiopathic fall. And those injuries, as
20 you all know, are not compensable. They have
21 consistently been found not to be compensable
22 by both our appellate courts and by this
23 Commission. You know, again, I think the
24 problem with this case from the Claimant's
25 standpoint is the inability to really piece



1 together the facts and circumstances of what
2 occurred. And I think while the unexplained
3 death presumption is good law in South
4 Carolina, it's not the only obstacle that the
5 Claimant has to overcome in this case to prove
6 that he suffered a compensable injury. And so
7 we would ask this panel to affirm Commissioner
8 Barden's decision. Thank you.

9 **COMMISSIONER WILKERSON:** Mr. McDaniel, any reply?

10 **REPLY BY MR. MCDANIEL:**

11 **MR. MCDANIEL:** Very quickly. Quoting from page nine
12 of my brief, I know there's one thing I want to
13 point out. Here we go again, apples and
14 oranges. This is not an idiopathic fall case.
15 This is an unexplained witness case. In other
16 words, unexplained death or injury case.
17 Idiopathic fall cases do not apply. If you
18 don't believe -- if anybody doesn't want to
19 think that, read Crosby which is what they all
20 cite every time about idiopathic falls. In
21 other words, and -- this is straight from
22 Crosby, those in which the fall is unwitnessed
23 or purely unexplained. That's one type. And
24 those in which the evidence established that
25 the fall, while unexplained, had an apparent



1 lack of work connection. The Crosby case, the
2 lady testified that nothing caused her fall.
3 Bagwell, it was an apparent seizure. They had
4 four witnesses looking at him. The same thing
5 is true in the Miller case. The idiopathic law
6 cases, you must apply -- already, I've been
7 over here and argued this one time before, and
8 the Court -- and over in Circuit Court, the
9 Circuit Court affirmed -- or reversed the
10 decision of this Commission and said, you've
11 got to apply the unexplained death and injury
12 presumption case to this -- the facts of this
13 case. You cannot base it on the idiopathic
14 fall line of cases. That's -- that is a higher
15 level court, and that is the ruling that stands
16 right now. Now, next off -- by the way, my co-
17 counsel wanted me to remind you that my client
18 is aged 26. So in reference to pre-existing
19 conditions and all of that. Next thing is,
20 welcome to reading Bagwell. I told you I cited
21 Bagwell right off the bat. And here's what
22 Bagwell says, you must read the evidence in the
23 light most favorable to the injured worker.
24 The -- what Mr. Lockhart was referencing about
25 special relationship to the work is that even



1 if the fall is not related to the work, if the
2 work increases the effect of the fall. Like,
3 for example, I had a man one time that had a
4 seizure or something happened to him and he
5 fell -- everybody agrees he just fell over into
6 -- but he fell into an auger. Okay? And the
7 -- they said, whether or not it was related
8 that the conditions of the work increased it.
9 You know, in the case of Bagwell, it was on the
10 concrete floor, and they said, no, that's no
11 special relationship, the work didn't --
12 anyway, so that's what that reference to
13 special relationship of the work has to do with
14 it. I ask you to apply the unexplained injury
15 and death presumption, which requires it is a
16 presumption of fact of law that says that where
17 a person is supposed to be -- and I disagree
18 with Mr. Lockhart. And if you read the Supreme
19 Court decisions, you're going to find they
20 disagree with it. It is not to establish the
21 first prong arising out of the course of, but
22 -- in the course of, but arising out of. It's
23 the second prong the presumption applies to.
24 It always applies to that. You know, everybody
25 agrees that the man in Ocean Forest, when he



1 was found with a bullet shot wound to the head,
2 was where he was supposed to be. Everybody
3 agrees to that in Jake's case, every one of
4 them. What it establishes is arising out of
5 the course of -- arising out of the employment.
6 That's the prong it establishes. That's the
7 prong that requires the rebut, and that's the
8 prong that they did not rebut. Thank you.

9 **COMMISSIONER WILKERSON:** Thank y'all. Appreciate
10 y'all being here.

11 **(There being nothing further, the hearing concluded**
12 **at 3:52 p.m.)**

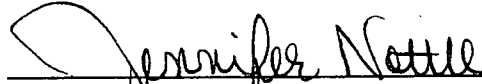


CERTIFICATE

This is to certify that the within hearing consisting of twenty (20) pages, is a true and correct transcript of the testimony given by said witnesses after being duly sworn; said hearing was reported by the method of Stenomask with Backup.

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

IN WITNESS WHEREOF I have hereunto set my hand and seal on January 6, 2015.



Jennifer Nottle
Court Reporter

Notary Public for South Carolina
My Commission Expires: 7/11/2023



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BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

William Lee Turner)
Claimant,)
vs.)
Saiaa Construction,)
Employer,)
and)
Old Republic General Ins c/o)
Gallagher Bassett Service, Inc.,)
Carrier,)
Defendants.)

COPY

W.C.C. File No.: 1204039

DEPOSITION OF PAUL BARNETTE

August 20, 2012
10:15 a.m. - 10:45 a.m.

The deposition of Paul Barnette taken by John K. Koon, Esquire, at McAngus Goudelock & Courie, LLC, 1320 Main Street, 10th Floor, Columbia, South Carolina on Monday, August 20th, 2012, beginning at 10:15 a.m. pursuant to the South Carolina Rules of Civil Procedure before Susie Kell, Court Reporter and Notary Public for the purpose of discovery, use at trial and all other purposes as are permitted under the rules of the Commission and all applicable statutes and laws.

APPEARANCES

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Representing the Defendant

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EXHIBITS

(There were no exhibits marked in this deposition).

STIPULATIONS

It is stipulated and agreed that this deposition is being taken pursuant to Section 42-3-160 of the South Carolina Code of Laws, 1976, and any other rules agreed upon by and between counsel.

It is stipulated by and between counsel and the witness that the reading and signing of the following deposition be, and the same are, hereby WAIVED.

1 PAUL BARNETTE, being duly sworn and cautioned to speak the
2 truth, the whole truth and nothing but the truth, testifies as
3 follows:

4 MR. BARNETTE - DIRECT EXAMINATION BY MR. KOON:

5 Q Mr. Barnette, I introduced myself earlier. I'm John
6 Koon. I represent Lee in the injury out there on the
7 job. I think you referred to him as Lee?

8 A Yes.

9 Q Instead of William?

10 A Yes.

11 Q You've been given a few instructions in how a deposition
12 goes. Have you ever had your deposition taken before?

13 A No, I have not.

14 Q Have you ever been involved in any workers' comp, on-the-
15 job injury, yourself?

16 A I have not.

17 Q Okay. How long have you been with Saiia?

18 A It will be two years this coming -- the middle of March,
19 end of March, a year and a half, seven or eight months.

20 Q What's your job responsibilities with them?

21 A Just an operator. You know, everybody there is a driver
22 and operator.

23 Q You do essentially the same thing that Lee does then?

24 A He had been there a few more years, so he was a little
25 bit more trained, a little bit more than I am on some of

1 the equipment, but, you know, initially the same thing.

2 Q Who did you work for before Saiaa?

3 A I worked with ATM Services doing ATM work, building
4 ATM's, and then I worked 21 1/2 years inside IP, inside as
5 an operator, industrial operator.

6 Q I'm sorry, did you retire from them?

7 A Didn't really retire from them. My Mother died of
8 alzheimers and I kind of felt like I wanted to do
9 something different. You know, working shift work was
10 kind of hard on me and I got my girls out of college and
11 my house paid for and I decided to relax some.

12 Q Okay. Sounds like a good plan to me. Did you work at
13 Eastover?

14 A Yes, I did.

15 Q What did you do there?

16 A Operating technician.

17 Q Do you know any of the engineers there?

18 A Some.

19 Q Jim Oakley?

20 A Yes, I know Jim, a fine fellow.

21 Q Yes, Jim's a buddy of mine. He retired, too, by the way.

22 A Yeah?

23 Q He actually retired. So you've worked with Lee Turner
24 two years or so?

25 A From the date I started -- Yeah, between a year and a

1 anything like that.

2 Q Whenever you say feeling good, are you talking in general
3 terms or are you talking about the time frame about when
4 he fell?

5 A I'd say within three to three and a half weeks before, in
6 that two to three weeks before, just not having the
7 energy and, you know, a little bit, but never felt
8 anything. I think Lee was the type gentleman if he felt
9 like he was a danger with a truck, he would have went
10 home. He had very good integrity.

11 Q Whenever you're talking about feeling good or not feeling
12 good, do you know if that had anything to do with a
13 stomach problem he may have had?

14 A Yeah, you know, I knew he had went to the emergency room
15 and got some medications or something like that. I don't
16 know all the details. You know, your records show that.
17 But he worked a few days and he was off checking with the
18 doctors in the two or three weeks before that.

19 Q Do you know also that he had seen a doctor for a low back
20 problem, his back was hurting and he went to see a
21 doctor?

22 A He had discussed he had a back problem when he was a
23 teenager, younger, a teenager, you know, and I knew that.

24 Q All right, and did he seem to get over those two problems
25 without any ---

1 A It seemed -- the day that he had the accident, Lee was
2 feeling as good. He was energetic. He was cutting up.
3 He was driving a truck. Every time he seen me he would
4 honk the horn and give me a thumbs up or something, so I
5 thought Lee was a hundred percent that day. I mean, you
6 know, he was back to himself.

7 Q So nothing unusual ---

8 A No.

9 Q --- was going on that day?

10 A No.

11 Q Well, let's say did you come to work about seven o'clock
12 in the morning?

13 A Yes. I come to work at seven. Lee was doing the same
14 job I was. We were hauling for the wood yard. We were
15 hauling debris, sticks, and limbs, and debris, to a
16 landfill and we got to push it up. We were -- I'd say
17 both of us probably hauled 25 loads that day. You know,
18 I'd say we passed each other every 10 or 15 minutes. You
19 know, I met him. I seen him all during the day meeting
20 on back, you know, on dirt roads and going to that
21 landfill.

22 Q How far was the landfill from IT?

23 A It's on IT's property.

24 Q Oh, it is?

25 A We were only going say 250 or 350 yards from where we was

1 being loaded around a wood yard into a little debris, a
2 debris place just dumping debris. It's not really the --
3 we've got a commercial landfill that takes debris out of
4 the company and then we had a little wood yard place that
5 they just put limbs and debris to be taken care of later
6 and it was right beside the hill storage area. There's a
7 place there, the hill storage area, where exterior wood
8 is stored.

9 Q So you think that you, as well as Lee, had hauled 25 plus
10 loads of debris that day?

11 A Yes, I think 25 loads each.

12 Q And he would have also come to work about seven o'clock
13 in the morning?

14 A Yes.

15 Q Did you actually see him when he fell?

16 A No, sir.

17 Q Were you close to where he fell?

18 A Yes, sir.

19 Q Were you on the passenger side of the truck when he fell
20 or were you on the driver side?

21 A His truck was pulled in a wash rack. His truck was
22 pulled head on into the wash rack. I come in and I
23 backed my truck on the outside of his backed in and I got
24 out and helped him. The wash rack, the hose and
25 everything was right here (indicating), and that truck

1 was right there (indicating), and the press was right
2 there (indicating), that pressed out. The truck was
3 being loaded to haul press out. So there were really
4 four trucks within a bay of a 50 or 60 square yard area.
5 And I got -- I pulled my truck out on the left-hand side.
6 I backed in on the left-hand side of his and got out and
7 helped him wash his truck. We, you know, cleaned the
8 hood and the windshield and everything, and it was --
9 don't quote me the exact time, between the two to three
10 o'clock time. We were getting ready to go to work and
11 I said, Lee -- I helped him wash about half of his truck
12 and I said, Lee, if you want to go in and get our time
13 straight and get our time sheets turned in and get my
14 cooler, my lunch cooler and his bag, you could do that
15 while I wash my truck.

16 Q Okay.

17 A So he backed his truck out and drove it over here
18 (indicating), in the parking lot, which is -- I always
19 said 40, 50, 60 feet at the most, and he parked his truck
20 over there, and I was on the blind side of the truck over
21 here where his truck was parked initially washing the
22 truck. So I was over there I would say seven, eight,
23 maybe ten minutes at the most. And, you know, at that
24 time, David stepped out of the hut. The hut is right
25 over here (indicating), and walked over to my truck and

1 was in the blind side talking to me.

2 Q That's David Bolden?

3 A David Bolden. Now you know, when I got finished washing
4 the side of my truck, I went around to the tailgate and
5 was washing the tailgate off and I just turned and caught
6 a glimpse and I just looked to my left and he was on the
7 ground, fell with his hands just like up there and just
8 fell completely backwards on the backside of his head.

9 Q All right. Let me back you up a little bit.

10 A Okay.

11 Q Whenever you're talking about trucks, you're talking
12 about a very large dump truck?

13 A Yes.

14 Q What's the yardage on that, cubic yardage?

15 A I'd say, I think it was 15 or 18 cubic yards, dual wheel.
16 He was driving a KW.

17 Q Is that normally what he drives?

18 A Yeah. He drives the KW or the Sterling. The KW is the
19 truck he preferred. I think he was in -- it was either
20 the KW or the Sterling that he was in. But I'm pretty
21 sure it was the KW.

22 Q Okay. He had mentioned Sterling when his deposition was
23 taken.

24 A Might have been the Sterling.

25 Q That could be right or it could be wrong. We don't know.

- 1 A He may have been in the sterling that day, but he drove
2 either one of those trucks. And I was driving a Mack.
- 3 Q And the Mack and the KW or the Sterling all are big dump
4 trucks?
- 5 A All the same trucks.
- 6 Q And you had indicated you were about 40 to 60 feet away
7 from where he was going and you also mentioned the hut.
8 Is the hut where he was going?
- 9 A No. Okay. You can say right here -- here's the wash
10 rack right there (indicating). He pulled the truck in.
11 Right here (indicating), was his truck, and that was the
12 front. I backed mine right here (indicating), and my
13 rear -- and right here is an unloading thing that stuff
14 comes in. The hut is right here (indicating).
- 15 Q And what's in the hut?
- 16 A The hut is just a 10, 10 by 12 little personal building
17 that they stay in the air conditioning and stay cool and
18 put their lunch.
- 19 Q So when you finished his truck or when you were going to
20 wash your truck, he was to go to the hut to get the
21 personal papers?
- 22 A No, uh-uh. He didn't go to the hut. See you back up and
23 the hut is right here (indicating), with the people, with
24 David in it. We have an office trailer I would say right
25 here (indicating), and he went to the trailer. And this

1 is all parking area here (indicating), and there's a big
2 old water tower right here (indicating), and he backed
3 up, and all this is parking area (indicating), and pulled
4 the truck about right in here (indicating).

5 Q Okay.

6 A And maybe a little bit -- It was more over like in here
7 (indicating).

8 Q A little bit beyond the water tower?

9 A Yes, a little bit beyond. I was washing my truck right
10 here (indicating), and I could not see him right here
11 (indicating). He walked -- he parked the truck and went
12 inside the office and got his time sheets.

13 Q All right. Can I slow you down a little bit?

14 A Okay.

15 Q Whenever he backed out, did he pull forward with the
16 truck? He would have been ---

17 A Yeah, yeah, he pulled forward.

18 Q If I put an arrow here (indicating) ---

19 A He was facing ---

20 Q --- and put "front" ---

21 A Yeah.

22 Q --- that would be the front of his truck?

23 A Yeah.

24 Q Now so the passenger side would have been toward where
25 you were on that truck?

1 A Yes. The passenger door was right here (indicating) and
2 you know in an angle like that (indicating).

3 Q Okay.

4 A And I was washing right over in here (indicating). And
5 then you know when I was washing down that way and I went
6 around to the back. And, you know, this might not --
7 it's not an accurate drawing, but you know we looked at a
8 diagonal over here. When I got back over here and backed
9 off the back of the truck about 6 foot, I looked over and
10 he was laid out.

11 Q Okay. Did you see him at all after he got out of the
12 truck to go into the ---

13 A No, I didn't. I didn't see anything as far as that. I
14 was more focused on getting my truck ready and going home
15 with him, me and him leaving at the same time. He went
16 in to get the time sheets and get our two sacks and our
17 bags and, you know, he brought them up. But when he did
18 fall with my 12-pack lunch sack and his backpack was in
19 the seat of the truck.

20 Q So it had been put in there?

21 A It had been put on the seat and to be able to get up to
22 put my stuff up there -- it wasn't thrown in, it wasn't
23 in the floorboard, it was in the seat. So sometime
24 another he did get up the first step and then the second
25 step.

1 Q Now the trucks, whenever they're washed, is that a daily
2 responsibility ---

3 A Yes.

4 Q --- of cleaning the trucks up ---

5 A Yeah, yes.

6 Q --- before you go home you have to do that?

7 A Before you go home, we will clean them up just for
8 maintenance of the truck and the cleanliness of the
9 truck.

10 Q And that's what you were instructed to do?

11 A Yeah. Yes, sir.

12 Q And do you use a soap on the truck?

13 A On the hood and the windshield a little bit. We've got a
14 -- it's an 8 foot stick with a brush on it and we'll
15 clean it a little bit. But most of it, just being honest
16 with you, most of it is done by a high pressure hose.

17 Q Yes. And the sides where you step up and all ---

18 A They were all -- the trucks were clean.

19 Q Well, what I'm driving at though is would any soap, you
20 think, get over on perhaps the steps as you step up?

21 A Not that type of step. It's one of those perforated
22 steps with the little things sticking up like that
23 (indicating).

24 Q For ---

25 A For traction.

1 Q --- surefootedness?

2 A Surefooted traction, yes. Those steps you don't hardly
3 slip on. If anything happened, he got up there and the
4 step caught his shoe when he was trying to slide -- if
5 you don't pick your shoe up, those steps will grab a
6 cleat on a boot.

7 Q Has that happened to you in the past?

8 A I never fell, but it is something that I realize that can
9 happen.

10 Q Well, what I'm talking about though, have you ever caught
11 your foot and been able to correct it and not fall from
12 climbing up on these?

13 A Yes, sir. Anytime you get up on that truck there's a
14 rail beside the door, a hand rail, a stainless hand rail
15 about this far off (indicating), and, you know, when you
16 open up the door, you almost have to have -- you know,
17 you got to have two or three point connections there. On
18 the record now, I don't know. I know speculation is not
19 really a thing, but my speculation is that he got on the
20 first step, got on the second step, put the lunch box up
21 there and my speculation is he was on the second -- you
22 make sure this is speculation, but my speculation is he
23 was on the top step when he fell backwards because of the
24 amount of injury on the back of his head and the way he
25 fell on the ground.

1 Q Now you've talked about a backpack that was his?

2 A Yes.

3 Q And what was yours, a cooler?

4 A A 12-pack cooler. You know, there's a cooler that you
5 put 12 drinks in and you know.

6 Q Do you know if you had drank all of those or would that
7 be a lot?

8 A Most of them -- most of the time I bring four to six
9 drinks and if there were anything in there, I'd say there
10 was a minimum of two drinks left. I usually drink a
11 drink on the way home and that's the reason one to two
12 drinks, and some empty containers.

13 Q Do you know if he carried both of those up at once?

14 A Do not know that, that would be speculation on my part.

15 Q All right.

16 A Knowing Lee, I would say no, you know.

17 Q Was he pretty safety conscious?

18 A He was a very young man, very agile, very strong for his
19 size. You know Lee didn't weigh 145, 55 pounds soaking
20 wet, but he was real wiry and by knowing Lee, I don't, I
21 wouldn't speculate, but I wouldn't think he would even
22 attempt to take both of them up and hold the guard rail,
23 but that, I did not see that.

24 Q Okay. Now it's two steps. I assume it's a foot or so?

25 A The first step is about this high (indicating) off, and

1 the second step is about ---

2 Q All right now, she can't put down this high. How far off
3 the ground?

4 A Fifteen to 18 inches, the first step, and say 36 to 42
5 inches on the next step.

6 Q And then would you go higher to step into the truck?

7 A No. It's -- the second step is right on the lip of the
8 fuel tank and then you step into the floor bed of the
9 truck and you got a handrail for your left hand. And
10 also, you've got the door open, so you've got the door,
11 the left hand and the steps. And you know, it's only
12 this high (indicating), to the floorboard of the
13 passenger side of the truck.

14 Q And this high?

15 A Six inches.

16 Q Okay. So then the seat is how far above that?

17 A Normally, 30 inches, 28, 30, just normal height of the
18 seat for somebody to sit comfortable.

19 Q And if he were standing on the top steps let's say, when
20 he fell or slipped or whatever caused the fall, you know,
21 how high would his head be above the ground? Any idea?

22 A Yeah. Lee was 5'3", 5'4", so you're talking 8 ½ feet, 8
23 ½, 9 feet at the most.

24 Q Okay. And what about other people, has anybody ever fell
25 from these, slipped off of the steps on trucks that you

1 recall?

2 A I don't know of any, anybody getting injured, you know,
3 so. If you're not careful and you haven't got two or
4 three point connections, it's very easy.

5 Q To?

6 A To lose your balance and have to grab yourself. I've
7 lost my balance and grabbed hold real quick or something
8 like that, just spinning or something like that, you
9 know.

10 Q So would it be fair to say that at all times from seven
11 o'clock that morning until he moved the truck at whatever
12 time it was ---

13 A Between 2:30 and somewhere. I know our time is on our
14 deposition.

15 Q And he had no complaints of headache?

16 A No.

17 Q No complaints of dizziness?

18 A No.

19 Q No complaints of feeling ill?

20 A No.

21 Q Any complaints of feeling unusual?

22 A Not that day. I thought Lee, I -- you know, in the back
23 of my mind, I thought, you know, Lee was back to a
24 hundred percent. I thought Lee was doing "A number one"
25 that day.

1 Q Is he an honest type of fellow?

2 A Very honest.

3 Q Now, whenever he walked away, did you notice him walk
4 away from where you were washing the truck?

5 A Did not, I didn't pay him that much attention. I knew
6 where he was going and the only thing I did, he went
7 around the front side of the truck and I stayed on the
8 blind side of -- I guess it would be the driver's side of
9 the truck, between there and where the wash rack was,
10 right there with the hose washing.

11 Q Now where was David, David Bolden?

12 A He was in the hut, which is approximately 25, 35 feet.
13 He was inside.

14 Q Had David worked alongside the two of you that day?

15 A No, he had not. He was doing a different job hauling
16 inside the place. We were just washing our truck inside
17 his -- where he -- where he stays at when he's waiting on
18 a truck to be loaded.

19 Q Okay. Is it air conditioned?

20 A Yes.

21 Q So it would be unusual for somebody to get overheated?

22 A He is an "A number one" boss. Everybody there knows to
23 stop and get drinks, stop and take a break. There's no
24 extra push or anything where you're going to be fussed at
25 for taking a break.

1 Q I guess the trucks are air conditioned?

2 A Yes.

3 Q Do you run them when it's hot?

4 A Oh, yeah.

5 Q Do you recall if you had run it that day?

6 A The Sterling, which truck he was in, is very good. It
7 would almost make you roll the window down on a hot day.
8 The Mack is not quite as good, the one I was in, but the
9 Sterling had an extra good air conditioner in it, the
10 best one in the fleet of trucks we've got there.

11 Q And whenever like the 25 or more loads that you had
12 carried, would you spend most of your time inside the
13 truck?

14 A All the time.

15 Q All right.

16 A You never get out of the truck. You just back up and
17 they blow the horn at you and you stay in the truck in
18 the air conditioner with the radio on. You crack your
19 window and wait for them to blow for you to move on and
20 go unload it. Very seldom do you get out of the truck
21 when you unloading. If you get a tailgate that's got mud
22 or debris on it, you may have to get out and scrape it
23 like every third, fourth load. It's not a physically
24 real draining job.

25 Q How did you first learn that he had fallen? Did somebody

1 holler out ---

2 A No.

3 Q --- or did you notice it?

4 A I was the first to notice it. You know, after I washed
5 the blind side of the truck and went around to the
6 tailgate, I looked up and said, Lord, Lee, you know, and
7 David was four foot beside me. And I walked toward Lee
8 and tried to -- you know, Lee, Lee, Lee, and went over
9 and got down to him and he was trying to move a little
10 bit. I was trying to keep him from moving because of the
11 fear of him injuring his neck or anything. And I did not
12 know that he had drank Gatorade. He had went to the
13 cafeteria between when we left hauling and I started
14 washing my truck. He went by the cafeteria and got a 16
15 ounce Gatorade. He had drank half of that Gatorade. It
16 was that Passion Fruit or whatever, so he had scared me
17 to death when I went over and he had red stuff coming out
18 his mouth and I think it was more of the Gatorade, but I
19 did say in my statement he had blood, I thought, in his
20 mouth and I turned his head and made sure that he didn't
21 get choked on any vomit.

22 Q Did he actually vomit?

23 A He, yes. In about a minute and a half, he was starting
24 some -- I don't know if I could say seizure, but that's
25 what I would call it. He was vomiting just from the lick

1 on his head.

2 Q Whenever -- I'm sorry, go ahead.

3 A We turned his head over to the side and tried to keep him
4 as still as we could.

5 Q Whenever you first arrived there, was he throwing up?

6 A No, it was a minute or a minute and a half later.

7 Q Whenever you first arrived there, was he thrashing about?

8 A At first of all, he was not completely.

9 Q Whenever you first arrived there, were his arms flailing
10 about or anything like that?

11 A Straight out.

12 Q By straight out, you're talking about the palms up?

13 A Oh, yes. Palms up, just like he had been in a stickup.

14 Q All right.

15 A I mean that may be just a bad way to say it, but flat on
16 his back, no, no -- he didn't seem to twist, turn or
17 nothing, you know.

18 Q It seems like when you hesitate, I'm wanting to ask
19 another question, but if you want to say something ---

20 A All right.

21 Q --- else, if you'll let me know and you can talk as long
22 as you like.

23 A Okay.

24 Q Now whenever you first got there, you had mentioned a
25 seizure at some point, a minute, a minute and a half

1 after you got there.

2 A He seemed like he just wanted to vomit.

3 Q All right, and that's what you're calling a seizure?

4 A Yeah. I don't know, you know.

5 Q Was he trembling or anything?

6 A Not at that time. You know, like I said, three to five
7 minutes. David was communicating to the 78 (?) and the
8 other people to come and I was making sure he didn't move
9 and hurt himself and just checking on him. And he
10 started vomiting and I was concerned you know about him
11 choking, so I turned his head. And within two to three
12 minutes or in the two to five minute time frame -- we've
13 got First Responders throughout the mill. Within five
14 minutes there were three or four responders there.

15 Q And those are emergency personnel?

16 A They're trained First Responders that's on the fire
17 brigade. They are trained. So as soon as they showed
18 up, I backed up. I was just there for support and trying
19 to -- because Lee knew my voice. You know, I might be
20 able to calm him more than what they could.

21 Q Well, we are now at a pretty critical juncture and I want
22 to ask you and walk through with baby steps on this.

23 A Okay.

24 Q Would you say what you're describing as throwing up or
25 seizure or whatever it may have been, was that different

1 than what you saw when you first got there or did it
2 manifest itself in three to five minutes as you said?

3 A It manifested a little bit later. I think he was knocked
4 so unconscious or silly to start with and as he started
5 coming to and as the different people got around him
6 trying to move him, trying to check his injuries, he got
7 more combative because of that. And seizure might have
8 been the wrong word at the first, the beginning, but as
9 he -- as they moved him around, you know, he was trying
10 to -- Boy, he wanted to get up. You know, as he started
11 coming to a little bit, he wanted to move around. And
12 they were trying to stabilize him and stabilize his neck
13 and get him on a backboard and make sure he was taken
14 care of the best he could be taken care of.

15 Q Did you notice any injuries to the back of his head?

16 A Yes, sir.

17 Q Was he bleeding?

18 A Slightly. It was just a little blood matted in his hair
19 in the middle of his back, in the middle right there
20 (indicating).

21 Q And would it be fair to say that you don't know how long
22 he was laying there before you got to him, before you
23 noticed it?

24 A Yes. You know, I would say I seen it within three to
25 four minutes at the most that he could have been there.

1 Now, you know, David -- when David walked out of the hut
2 now -- and I'm not speaking for David, but he said that
3 he seen him walking toward the truck and he kept
4 continuing walking over to me, where he was blinded when
5 he was putting stuff in the truck or whatever he did on
6 the side of the truck.

7 Q So David indicated he saw him coming back from the
8 trailer?

9 A From the trailer doing the time cards.

10 Q Would that have been a time that he had the cooler and
11 had the backpack?

12 A In speculation, he had to have the cooler and the
13 backpack then, bringing it to the truck, so what happened
14 after that was very critical, of how he -- how he tried
15 to put the stuff in the truck.

16 Q Okay, so did Lee say anything to you? Was he able to
17 speak?

18 A He wasn't able.

19 Q He apparently knew who you were though, do you think?

20 A He knew who I was, but it was vague. He could -- he
21 recognized my voice, but anything else for the first
22 three or four minutes, no, I don't think. He knew my
23 voice. You know, you could see him kind of move around
24 or something like that, but no, I don't think -- besides
25 knowing my voice, he wasn't coherent enough to speak or

1 anything like that.

2 Q Did you guys normally work on Friday? This thing
3 happened on Thursday, right?

4 A We always worked Monday through Friday usually. At that
5 time we wasn't real, real busy. We worked from seven to
6 three, seven to 2:30 in that time frame. When we were
7 hauling for the wood yard, we were on the wood yard's
8 schedule. They sometime worked to four or 4:15. So
9 since we were contract haulers for the wood yard, we
10 worked whatever hours they wanted us to work is what we
11 worked.

12 Q So it could have been as late as 4:15 or 4:30, you're
13 thinking?

14 A No, not that day. My deposition showed -- kind of told
15 the time, you know. I wrote it within two days of the
16 same day of the accident, so whatever time is on my
17 deposition that I wrote as far as the written letter.

18 Q Okay. You had mentioned a statement earlier in the
19 deposition. Now you just gave a statement to somebody?

20 A We'd give a little written statement. Jimmy got us to
21 write down what we saw that day and I think both those
22 lawyers got copies of those.

23 Q Right, but the lawyer didn't take it? Jimmy -- you gave
24 it to Jimmy?

25 A We wrote it down in our words and signed it and then give

1 it to Jimmy Speegle.

2 Q Do you have a copy of that?

3 A No, sir.

4 MR. KOON: Can I get a copy of that?

5 MR. LOCKHART: Sure.

6 MR. KOON: Do you mind if I look at it before we go
7 forward?

8 MR. LOCKHART: Oh, you want it right now? You want
9 it right now?

10 MR. KOON: I want to see if there's anything in
11 there to make sure.

12 (Off the Record while Mr. Koon reviews the statement)

13 Q Paul, it says on this thing that around 4:15 or 4:30, and
14 this was taken the day ---

15 A Yeah.

16 Q You think that may be a little more accurate then?

17 A Yes, that's correct. And all that right there was
18 written down right at the end because that's 4:15 to 4:30
19 when the wood yard probably, you know, knocked off.

20 Q Okay.

21 A Everything there is exactly what happened that day. You
22 know, my memory on that day is a whole lot better than my
23 memory was back in May.

24 Q I'm not being critical. I just want to ---

25 A Oh, yeah, I know that, yes. I know what you're saying,

1 yes. That's why I said that there is the written gospel.

2 Q The only thing I see in here you hadn't already told me
3 and I might have missed it anyway, was the door to the
4 truck was still open whenever he was laying there on the
5 ground?

6 A It was. And like I said, the cooler and the backpack was
7 in the seat in a neatly arranged -- it wasn't throwed
8 from the ground up there.

9 Q And you said Lee appeared to have fallen back, but you
10 didn't witness it?

11 A I did not witness that.

12 Q That's based on how he was laying there?

13 A Yes, sir.

14 Q Now have you only given one statement?

15 A That's it, sir.

16 Q And you're still employed there?

17 A Yes, sir.

18 Q Have you seen him since he was injured?

19 A I talk to Lee two times a week. I invited him to ride up
20 to the farm with me yesterday. Lee seemed like he was
21 doing fairly well.

22 Q Now the EMS personnel there on the plant was not the same
23 people that took him to the hospital, was it?

24 A No, sir.

25 Q Another ambulance was called?

1 A Another ambulance from Richland Memorial, I think, or one
2 of them in Columbia came to the -- came to there and
3 picked him up. And me and Jimmy followed them.

4 Q Would you like to see Lee back to work when he's able?

5 A I would like to see Lee 110 percent better than what he
6 was. Lee's a fine gentleman.

7 Q He's improving okay though, you think, in your
8 conversations with him?

9 A He's improving good. You know, I was concerned the first
10 month, the first five weeks, you know, about how he was
11 acting or when you was carrying on a conversation with
12 him and it seems like he's back to the same Lee.

13 MR. KOON: Thank you very much.

14 MR. BARNETTE: Thank you, I appreciate it.

15 (There being no further questions or testimony, the deposition
16 of Paul Barnette concluded at 10:45 a.m.).

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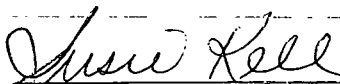
CERTIFICATE OF REPORTER

I, SUSIE KELL, COURT REPORTER AND NOTARY PUBLIC IN AND FOR THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT I REPORTED THE DEPOSITION OF PAUL BARNETTE ON MONDAY, THE 20TH DAY OF AUGUST, 2012, AT THE OFFICE OF MCANGUS, GOUDELOCK & COURIE, LLC, 1320 MAIN STREET, COLUMBIA, SOUTH CAROLINA; AND THE FOREGOING PAGES CONSTITUTE A TRUE AND CORRECT TRANSCRIPTION TO THE BEST OF MY ABILITY.

I FURTHER CERTIFY THAT I AM NEITHER ATTORNEY NOR COUNSEL FOR, NOR RELATED TO OR EMPLOYED BY, ANY PARTY CONNECTED WITH THIS ACTION, NOR AM I FINANCIALLY INTERESTED IN SAID CAUSE.

THE ORIGINAL TRANSCRIPT SHALL BE SEALED AND DELIVERED TO JOHN K. KOON, ESQUIRE OF KOON & COOK, P.A. IN COLUMBIA, SOUTH CAROLINA WHO SHALL BE RESPONSIBLE FOR FILING WITH THE COURT PRIOR TO TRIAL OR ANY HEARING WHICH MIGHT RESULT IN A FINAL ORDER ON ANY ISSUE.

IN WITNESS WHEREOF, I HAVE SET MY HAND AND SEAL THIS 3RD DAY OF SEPTEMBER, 2012.



SUSIE KELL, COURT REPORTER

NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA
MY COMMISSION EXPIRES MARCH 21, 2012

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EXHIBITS

(There were no exhibits marked in this deposition).

STIPULATIONS

It is stipulated and agreed that this deposition is being taken pursuant to Section 42-3-160 of the South Carolina Code of Laws, 1976, and any other rules agreed upon by and between counsel.

It is stipulated by and between counsel and the witness that the reading and signing of the following deposition be, and the same are, hereby WAIVED.

1 DAVID BOLDEN, being duly sworn and cautioned to speak the
2 truth, the whole truth and nothing but the truth, testifies as
3 follows:

4 MR. BOLDEN - DIRECT EXAMINATION BY MR. KOON:

5 Q David, good morning. I appreciate you coming this
6 morning. Your deposition is being taken, you said, not
7 like this. You had given a deposition before?

8 A Oh, yes, sir, over the phone.

9 Q Just a statement?

10 A Just a statement over the phone.

11 Q Did it have to do with this case?

12 A No, sir, no.

13 Q Okay. Have you given a statement in this case?

14 A I wrote a statement from what I saw that day.

15 Q All right. Do you refer to William Lee Turner as Lee,
16 also?

17 A Yes, sir. Yes.

18 Q Paul said that he did, so I figured everybody called him
19 Lee. How long have you worked with Saiaa?

20 A Going on four years.

21 Q Four years?

22 A Yes, sir.

23 Q And is it your responsibility and duty to drive a truck
24 and other heavy equipment?

25 A Mine is just driving a truck.

- 1 Q All right. You have a CDL though?
- 2 A No, sir.
- 3 Q You do not?
- 4 A Onsite.
- 5 Q Okay, so you drive a truck there on IP property?
- 6 A Yes, sir.
- 7 Q And you have no other responsibilities other than driving
- 8 the truck itself? And I don't mean like washing it and
- 9 that type thing. Or any other heavy equipment, you don't
- 10 operate it?
- 11 A I don't operate no heavy equipment, no, sir.
- 12 Q Is truck number 4031, is that a Sterling, or do you know?
- 13 A I think it's a Sterling, sir.
- 14 Q All right. I've got a copy of your statement that you
- 15 apparently gave on the day that Lee was injured. Is that
- 16 right?
- 17 A Yes, sir.
- 18 Q Did you give that to Jimmy Speegle or ---
- 19 A Yes, sir.
- 20 Q Okay. Did Jimmy ask you for it?
- 21 A He wanted for us to give statements of what happened.
- 22 Q Okay. And as I understand it, you didn't actually see
- 23 him get injured or fall from the truck, did you?
- 24 A No, sir.
- 25 Q I believe the first indication you had that he was

1 injured was that Paul said there's Lee laying on the
2 ground?

3 A Yes, sir.

4 Q And was he laying on his back?

5 A Just like that (indicating). Laying on his back.

6 Q Like a stick up?

7 A Like he was holding his hands up above his head.

8 Q Was the door open on the truck then or do you remember?

9 A Was the door open?

10 Q He was just beside the truck, wasn't he?

11 A Yes, sir.

12 Q And was the door still open?

13 A (No response).

14 Q Let me say this.

15 A Okay.

16 Q It's okay if you don't know. I mean it's ---

17 A I would assume the door was still open, yes, sir.

18 Q Okay. And were his feet nearer to the truck than his
19 head was?

20 A Yes, sir.

21 Q And did he seem to be unconscious whenever you and Paul
22 got there?

23 A Well, when I went over, yes, he was not unconscious, but
24 he wasn't -- he was like in and out.

25 Q All right. And I've asked a lot of questions of Paul I

1 don't intend to repeat with you because I think I got the
2 answers to most of those.

3 A Yes, sir.

4 Q But did you come to work about seven o'clock in the
5 morning, also?

6 A No, sir. I got to work at six o'clock.

7 Q Six. So you would have been leaving before they do?

8 A I would have been leaving at three.

9 Q All right.

10 A Three.

11 Q Do you recall if this thing happened after three then or
12 do you remember?

13 A I know it happened before three.

14 Q All right. And whenever you got over to Lee, were you
15 and Paul essentially rushing over together?

16 A No. Paul went over. I didn't go over.

17 Q You wouldn't?

18 A I didn't go over.

19 Q Was there any particular reason you didn't go over?

20 A I didn't want to see. When you see a man laying flat on
21 the ground, you don't know if he's dead or alive, so I
22 didn't want to go see.

23 Q Did it scare you then?

24 A Yes, sir. So I just called on the radio.

25 Q Okay. And called for help?

- 1 A Yes, sir.
- 2 Q And they responded?
- 3 A Yes, sir.
- 4 Q All right. Now whenever you first saw him, was he laying
5 still at that time or was he thrashing about?
- 6 A He was laying -- he was laying flat on his back.
- 7 Q So he appeared from what you saw to be unconscious?
- 8 A Yes, sir.
- 9 Q Did you after or while making the call or after making
10 the call, did you continue to observe from a distance?
- 11 A Yes, sir.
- 12 Q And about how far away were you?
- 13 A I never changed the distance from when he had first
14 fallen and I first saw him. I didn't go nowhere near him
15 at the first beginning of -- before -- when all the EMT
16 people got there and all of them were there, after that,
17 then I went over and just looked.
- 18 Q Okay.
- 19 A But I did not go over at first.
- 20 Q Okay, well, what I'm trying to figure out is about how
21 far do you think you may have been from him whenever you
22 made the call? And you don't have to be that accurate.
- 23 A From 45 to 50 feet.
- 24 Q All right. But you were able to observe him even while
25 you were on the radio calling for help?

1 A Yes, sir. All I saw was a man laying flat on the ground.
2 I called on the radio and said we've got a man down and I
3 called the mill supervisor and the Rescue Squad 51.

4 Q Did you know it was Lee?

5 A Yes, sir.

6 Q Okay. You recognized him as being the person on the
7 ground?

8 A Yes, sir.

9 Q All right. Do you know how long it was before he began
10 to stir about or move or indicate he was regaining
11 consciousness, or was it too much going on at that time?

12 A It was -- it was everything. Everybody was running this
13 way and that way. I couldn't give a definite time on it
14 because like I said, I stayed over here (indicating), at
15 the sludge press. You could say five, ten minutes at the
16 most. It ain't been real long because the EMT's were
17 there real quick, BAM, BAM.

18 Q All right. So let me see if I get a better understanding
19 of what five to ten minutes, before he started moving
20 about, is that what you mean?

21 A (No response).

22 Q I asked you earlier did you notice when he started moving
23 about and you gave me an estimate.

24 A Well, they -- when the EMT's got there, he started moving
25 about. To say the time from I called to they getting

1 there, I'm saying five to ten minutes.

2 Q All right. And that's the first time that you noticed he
3 started moving about?

4 A Uh-huh. Yes, sir.

5 Q All right. And would you consider yourself, you and Lee,
6 to be friends?

7 A Yes, sir.

8 Q All right. You've known him the whole time you've been
9 there?

10 A Yes, sir, because he used to work on the same side I work
11 on.

12 Q Right, and he had been there a couple of years longer
13 than you?

14 A Yes, sir.

15 Q All right. And he has more responsibilities, other than
16 driving a truck? He operates other heavy equipment, as
17 well?

18 A Yes, sir.

19 Q All right. At the end of your shift, are you required to
20 wash the truck, also?

21 A Yes, sir.

22 Q Now is your truck about the same height as that Sterling?

23 A One of them. The roll-off is the same height as the
24 Sterling, but we got two 40-yard trucks and they a little
25 bit higher.

1 Q Now a roll-off, does that carry a bin for carrying debris
2 and dumping it?

3 A Yes, sir.

4 Q So it can be separated from the truck?

5 A Yes, sir.

6 Q And it's kind of like a rollback? It rolls on and rolls
7 off?

8 A Yes, sir, right.

9 Q And you climb these steps to get up to these two trucks
10 to operate them as well, do you not?

11 A Yes, sir.

12 Q Have you ever lost your balance going to or from these?

13 A I try not to, but they preach three points of contact.

14 Q All right.

15 A You're supposed to always have three points of contact
16 going in and out.

17 Q I guess what I'm asking you though, David, even with all
18 of the precautions, even being as safe as you possibly
19 can and knowing that it may be dangerous coming and
20 going, do you sometimes just lose your balance and catch
21 yourself before you fall? Has that ever happened to you?
22 And this is not anything to criticize you, I just want to
23 know if that sometimes happens?

24 A Well, being -- being human, all of us do stupid things
25 sometimes. Maybe yes. I might have not paid attention

1 and -- but I never fell.

2 Q Well, that's what I'm driving at.

3 A Yes, sir. No, I never -- I never fell.

4 Q It can be dangerous, that you could fall, they preach
5 don't do this ---

6 A Yes, sir.

7 Q --- maintain three-point contact because it is dangerous,
8 right, going and coming?

9 A Yes, sir.

10 Q All right, sir. Now whenever you made the call, you
11 never had any conversation when you went back over closer
12 to Lee? You didn't talk with him, did you?

13 A No, sir.

14 Q All right. And did you talk to Paul about anything?

15 A That day? No.

16 Q All right.

17 A Not after all of that, no.

18 Q Have you had any conversation or contact with Lee since
19 he's been off the job?

20 A I saw him that one day he came back. He came back for
21 one day and I talked to him. I just said how you doing
22 and he said he was doing pretty good, but I guess he
23 wasn't doing pretty good because he went right back home.

24 Q Have you ever known him to take any type of medicine for
25 seizures or passing out, getting dizzy or syncope ---

- 1 A No, sir.
- 2 Q --- or anything of that nature?
- 3 A No, sir.
- 4 Q All right. Do you think, or are you close enough friends
5 you think that you would know if he was taking medicine
6 like that or had felt that way? Do you think you would
7 know? Do you think he would discuss that with you?
- 8 A If he was -- yes, if he was feeling real bad, he would
9 probably tell me, yes, sir.
- 10 Q And had you noticed anything unusual about him on that
11 particular day, when he fell that Thursday?
- 12 A No, sir.
- 13 Q All right. Did he act his same old self that day?
- 14 A Yes, sir.
- 15 Q Did he have any complaints at all about how he felt?
- 16 A No, sir.
- 17 Q Now I understand the Sterling and the Mack, and some of
18 the trucks have air conditioning in it. Does your truck
19 have air conditioning?
- 20 A Yes, sir.
- 21 Q It works pretty good?
- 22 A Yes, sir.
- 23 Q It's not common you would get overheated, would it be?
- 24 A Not -- not in the trucks, no, sir.
- 25 Q And that's where you are 90 or 95 percent of the day?

- 1 A Yes, sir.
- 2 Q Paul had indicated -- and I may be wrong on this -- that
3 you may have seen Lee walking toward the trailer before
4 he fell?
- 5 A No, walking toward the truck.
- 6 Q After he went to the trailer?
- 7 A Yes, sir.
- 8 Q All right. Do you remember if he had the backpack and
9 the cooler with him at that time?
- 10 A Yes, sir.
- 11 Q Okay, did he have both of them?
- 12 A I saw him putting them in the truck.
- 13 Q Oh, you did?
- 14 A Yes, sir.
- 15 Q Okay.
- 16 A That's what I saw.
- 17 Q Did he have both of them carrying them up at one time?
- 18 A I saw him putting the cooler -- like, he looked like he
19 was putting it in the truck on the floorboard to me.
- 20 Q And where was the backpack then? Did he have it on the
21 ground?
- 22 A I'm not really seeing a backpack in my mind. I'm seeing
23 a cooler.
- 24 Q Okay. And you didn't see a backpack?
- 25 A I don't remember a backpack. I remember a cooler though.

1 Q But you saw him climbing up?

2 A No, sir. I saw him placing it. I never saw him on the
3 steps of the truck.

4 Q You saw him placing it inside the truck?

5 A Yes, sir. With the door open, the door open, standing on
6 the ground, placing it in the truck. I did not see him
7 on the steps.

8 Q Oh, I see. And he would be able to slide the cooler into
9 the floorboard of the truck?

10 A Yes, sir.

11 Q If that cooler had been on the seat when he fell, you
12 didn't see him move it from the floorboard to the seat?

13 A No, sir.

14 Q All right.

15 MR. KOON: That's all I have then Mr. Bolden. I
16 appreciate you coming and telling us what you know about
17 it.

18 MR. BOLDEN: Okay, yes, sir. I do all I can.
19 (There being no further questions or testimony, the deposition
20 of David Bolden concluded at 11:05 a.m.).

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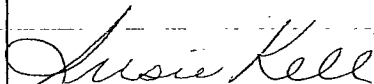
CERTIFICATE OF REPORTER

I, SUSIE KELL, COURT REPORTER AND NOTARY PUBLIC IN AND FOR THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT I REPORTED THE DEPOSITION OF DAVID BOLDEN ON MONDAY, THE 20TH DAY OF AUGUST, 2012, AT THE OFFICE OF MCANGUS, GOUDELOCK & COURIE, LLC, 1320 MAIN STREET, 10TH FLOOR, COLUMBIA, SOUTH CAROLINA; AND THE FOREGOING PAGES CONSTITUTE A TRUE AND CORRECT TRANSCRIPTION TO THE BEST OF MY ABILITY.

I FURTHER CERTIFY THAT I AM NEITHER ATTORNEY NOR COUNSEL FOR, NOR RELATED TO OR EMPLOYED BY, ANY PARTY CONNECTED WITH THIS ACTION, NOR AM I FINANCIALLY INTERESTED IN SAID CAUSE.

THE ORIGINAL TRANSCRIPT SHALL BE SEALED AND DELIVERED TO JOHN K. KOON, ESQUIRE OF KOON & COOK, P.A. IN COLUMBIA, SOUTH CAROLINA, WHO SHALL BE RESPONSIBLE FOR FILING WITH THE COURT PRIOR TO TRIAL OR ANY HEARING WHICH MIGHT RESULT IN A FINAL ORDER ON ANY ISSUE.

IN WITNESS WHEREOF, I HAVE SET MY HAND AND SEAL THIS 3RD DAY OF SEPTEMBER, 2012.



SUSIE KELL, COURT REPORTER

NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA
MY COMMISSION EXPIRES MARCH 21, 2012

APPEARANCES

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Representing the Defendant

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EXHIBITS

(There were no exhibits marked in this deposition).

STIPULATIONS

It is stipulated and agreed that this deposition is being taken pursuant to Section 42-3-160 of the South Carolina Code of Laws, 1976, and any other rules agreed upon by and between counsel.

It is stipulated by and between counsel and the witness that the reading and signing of the following deposition be, and the same are, hereby WAIVED.

1 JAMES SPEEGLE, being duly sworn and cautioned to speak the
2 truth, the whole truth and nothing but the truth, testifies as
3 follows:

4 MR. SPEEGLE - DIRECT EXAMINATION BY MR. KOON:

5 Q Mr. Speegle, I introduced myself to you. I'm John Koon.
6 I represent Lee in the fallout there at work where he was
7 injured when he fell off the truck. I'm going to ask you
8 a few questions about what you know. And you may not
9 know a whole lot about it because you weren't anywhere
10 near. And I understand that you're the supervisor, Lee's
11 supervisor?

12 A Yes.

13 Q Were you also the supervisor for Paul Barnette and David
14 Bolden?

15 A Yes.

16 Q All right. How many folks do you supervisor?

17 A I've got 11 right now.

18 Q And are they operators, primarily?

19 A Yes.

20 Q Okay. Heavy equipment operators?

21 A Uh-huh (yes).

22 Q And the majority of them have CDLs?

23 A No. I have one I think has a CDL. I think that's Mr.
24 Barnette.

25 Q And so Lee wouldn't have a CDL?

1 A No, sir.

2 Q ~~And they don't need it as long as they're onsite?~~

3 A Onsite, on the site.

4 Q Onsite. And how long have you been with Saiia?

5 A I've been with Saiia for nine years, I believe.

6 Q So you would have been there when Lee came then?

7 A Not at this site. I was in Alabama.

8 Q Oh, I see.

9 A I have been at this site for right at two years.

10 Q And were you working with the mining operations down
11 there?

12 A I was working at the civil side. We done shopping
13 centers and grade work, subdivisions and such.

14 Q What did they mine in Alabama?

15 A They do mining of -- they remove overburden and stuff for
16 the quarries and sometimes they do production hauling,
17 rock and stuff, not any coal or anything like that, it's
18 just rock.

19 Q So when would you have come from Alabama here?

20 A It was in October 2010, I guess so.

21 Q So you've been here almost three years?

22 A Yes.

23 Q So Lee was already here working ---

24 A Yes, sir.

25 Q --- for Saiia at that time?

- 1 A Yes.
- 2 Q ~~Has his job been essentially the same the entire time~~
3 you've been here?
- 4 A Yes.
- 5 Q Did you understand it was the same even before you got
6 here?
- 7 A Yes.
- 8 Q Is he a good employee?
- 9 A Absolutely.
- 10 Q Have you found him to be honest, open, straightforward
11 about anything that you've ever quizzed him about?
- 12 A Yes.
- 13 Q Now as I understand it, you didn't see what happened that
14 day, did you?
- 15 A No, sir.
- 16 Q As a matter of fact, in your investigation and statements
17 you were able to get, you asked Paul and David for
18 statements and they've been kind enough to give me a copy
19 of those as well as yours?
- 20 A Correct.
- 21 Q But nobody actually saw what happened, did they?
- 22 A No, sir.
- 23 Q And as you understand it, the first person that saw him,
24 saw him out on the ground, laying on the ground, right?
- 25 A Right, was Paul Barnette.

1 Q Were you aware of the back problem that he had within say
2 30 days of this fall? He had a low back problem and went
3 to see a doctor about it?

4 A He never told me he went to the doctor, but he had said
5 his back was bothering him just a little bit and he acted
6 like it wasn't no big deal.

7 Q Did he also tell you about some stomach problem? He
8 seemed to eat the wrong thing and he had a stomach
9 problem and went to see the doctor for that?

10 A I don't know what the cause was of him going to the
11 doctor, but I know he was not feeling well and he had
12 went to the doctor.

13 Q Did both of those seem to be -- clear up pretty quickly?
14 Was he out of work any length of time or did he miss any
15 time?

16 A I don't think he missed any time.

17 Q Did he have any complaints shortly before this fall?

18 A Yes. He was complaining he wasn't feeling well, I want
19 to say like on a Monday and the Tuesday of that -- I
20 think it was Thursday that this accident took place.

21 Q Did he say what not feeling well was? What that ---

22 A Just -- just didn't feel well, stomach messed up,
23 couldn't eat. He had -- he had -- said he was wanting to
24 drink all the time. I had recommended to him like on
25 Tuesday or Monday or one of those days, I can't remember

1 which one exactly, that, you know, he's probably
2 dehydrated. He needed to drink plenty of fluids. He
3 just -- he just looked like he was dry-mouthed and just
4 seemed like to me signs of dehydration. I told him that
5 I thought he was dehydrating.

6 Q And is that the time that we were talking about earlier
7 about a stomach issue?

8 A I guess so. I mean he's -- you know, he had had little
9 sicknesses here and there prior to this incident, but the
10 week of the incident is what I'm referring to, is he was
11 not feeling well, sick.

12 Q Did he ever come back and tell you that he had actually
13 gone to the doctor for not feeling well?

14 A He did. He came -- I want to say he went on Tuesday and
15 he came on Wednesday and said he had went and got fluids
16 or something for dehydration.

17 Q Do you remember him saying that he got fluids though?

18 A Yes.

19 Q And that would have been Monday and Tuesday before the
20 fall on Thursday?

21 A Yes. It's been so long now, I can't remember exactly
22 what day it was, but it was before the fall. I want to
23 say it was on Wednesday morning is when he come and told
24 me that or either Tuesday or Wednesday morning.

25 Q And did you see him that week, Monday, Tuesday,

1 Wednesday, Thursday?

2 A Yes.

3 Q Did he seem to be okay the Thursday that he fell?

4 A Oh, absolutely. Thursday he was -- he was like himself,
5 better than he had been, than he had been all week. I
6 mean he was just -- he was lively and from what I
7 understand he was blowing his horn and having fun,
8 cutting up, you know, when they were driving and working
9 that day, no signs of -- not that I know of that anything
10 was wrong with him prior to that.

11 Q Had he ever complained of getting dizzy at any point in
12 time when you were working for Saia, after you came from
13 Alabama?

14 A Not that I recollect, no.

15 Q Any claims of not being able to keep his balance or
16 anything like that?

17 A No, sir. He was a very agile individual.

18 Q A good worker?

19 A A good worker, sure of himself.

20 Q And it's been some claim by Lee at least that he's hoping
21 to be able to get back there, that you all had kept him
22 out of work because of a seizure or passing out ---

23 A Yes.

24 Q --- or whatever it was?

25 A Yes.

1 Q I know since he's not a CDL, that your Federal Motor
2 Carrier regulations don't apply, do they?

3 A They don't, but the mill requirements for inside the mill
4 is they can't, you know. Of course, it does apply if he
5 has a seizure. You know, he's got to be able to -- if he
6 can't drive a vehicle, he can't operate, or if he can't
7 operate a piece of equipment or anything, the mill won't
8 allow it until he's cleared to be able to do it unless
9 there is just strictly labor work to be done.

10 Q But he can't operate heavy equipment?

11 A He can't drive, operate, do anything other than physical
12 labor.

13 Q And that's all he has ever done that entire time, is
14 drive?

15 A Well, he's done a small percentage of physical labor.
16 The rest of it has been drive or operate equipment.

17 Q Well, let me explore that a little bit more then. Is it
18 six months after the last seizure that he's allowed to
19 come back pursuant to IP regulations?

20 A According to his doctor, that he could have come back if
21 he hadn't had the second seizure. He had a second
22 seizure a couple of months after that because they took
23 him off medicine or something.

24 Q Right.

25 A But that first seizure, he was fine as long as the doctor

1 cleared him to come back to work. He came back to work
2 ~~on that Monday with a cleared -- whatever day that was he~~
3 had that second seizure, he come back that Monday with a
4 clear from Friday to where he could come back to work.
5 On Sunday he had his second seizure while he was working
6 on his house or something, he had his second seizure, and
7 he come back with his excuse saying he couldn't operate
8 or do anything with machines or whatever. He was cleared
9 here and then he brought something back so I had to send
10 him home because that was conflicting statements.

11 Q Yes. Would you like to hire him again if he's cleared to
12 come back to work?

13 A Absolutely. I mean he's still got a job as long as --
14 when he's cleared for work.

15 Q And the last day he's actually worked was 4-19-12, on
16 that Thursday when he fell?

17 A Yes. He came to work, to try to work, on that Monday of
18 his second seizure, after his second seizure, but he did
19 not work.

20 Q Y'all sent him home?

21 A Right.

22 Q He told you about the second seizure?

23 A Yes. He brought me the excuses in and he was -- he
24 wasn't to hisself and I noticed that before he ever got
25 anything to me.

1 Q Did you ever go out to where he was laying on the ground?

2 A Yes, sir.

3 Q Was anybody -- well, who was there whenever you got
4 there?

5 A Paul and ---

6 Q I understand there was a large crowd?

7 A There was a large crowd, but you had Paul Barnette and
8 David Bolden was there and Troy Miller was there, but he
9 was across the shed because he had heard the calls. He
10 came in. And then the EMTs and the ambulance had pulled
11 up at the same time as I did, and so there was probably
12 five of those.

13 Q Nobody has ever claimed that they ever actually saw him
14 fall?

15 A No, sir, no one.

16 Q And how long was it do you think, Mr. Speegle, after the
17 fall that you got there? Do you have any idea?

18 A Probably, three minutes. I heard -- I had an operator
19 come and tell me that they had heard that somebody was
20 done over at what we call the sludge press and then we
21 found out that it was Lee and I was -- I was right in
22 behind the ambulance coming to the site.

23 Q Did you drive there?

24 A Yes.

25 Q How far away would you have been?

1 A I would have been less than a quarter of a mile.

2 Q ~~Was he unconscious when you got there?~~

3 A No. He was sitting up on his side. Not sitting up, but
4 trying to sit up over to the side and he was gagging.

5 Q Did you see him vomit, throw up or anything like that?

6 A Yeah, he was trying to, nothing really coming out. It
7 was either red Gatorade or it was blood coming out his
8 mouth. I don't know which one, couldn't tell you.

9 Q By saying red Gatorade, somebody apparently told you he
10 had been drinking Gatorade?

11 A Yes. He had left from where he was working and went
12 straight to the cafeteria and got him a red Gatorade and
13 he had come back because Polly had told Paul that he had
14 went and got him a Gatorade and he was -- it was in his
15 bag half empty. This had been placed back in his bag and
16 it was half empty, so we didn't know whether it was blood
17 or what it was. We assumed it was blood, but we don't
18 really -- I don't know what it was.

19 Q Whenever you first got there, was he thrashing about, was
20 he having any type of uncontrolled movement or anything?

21 A No. He was just trying to sit up. He wanted to sit up
22 the whole time and that was basically all he wanted, but
23 he wasn't thrashing and kicking. He was just wanting to
24 sit up and he was just gagging. His eyes rolled back in
25 his head. He would look at you and then his eyes would

1 roll back in his head.

2 Q What did you think when you observed him?

3 A I was very concerned that he -- you know, he was injured
4 severely.

5 Q You knew he hit the back of his head?

6 A Yes. I mean that's the first thing I asked is where is
7 he hurt at and they said he's got an abrasion on the back
8 of his head.

9 MR. KOON: Okay, that's all I have, Mr. Speegle.

10 Thank you very much.

11 (There being no further questions or testimony, the deposition
12 of James Speegle concluded at 11:30 a.m.).

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CERTIFICATE OF REPORTER

I, SUSIE KELL, COURT REPORTER AND NOTARY PUBLIC IN AND FOR THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT I REPORTED THE DEPOSITION OF JAMES SPEEGLE ON MONDAY, THE 20TH DAY OF AUGUST, 2012, AT THE OFFICE OF MCANGUS, GOUDELOCK & COURIE, LLC, 1320 MAIN STREET, COLUMBIA, SOUTH CAROLINA; AND THE FOREGOING PAGES CONSTITUTE A TRUE AND CORRECT TRANSCRIPTION TO THE BEST OF MY ABILITY.

I FURTHER CERTIFY THAT I AM NEITHER ATTORNEY NOR COUNSEL FOR, NOR RELATED TO OR EMPLOYED BY, ANY PARTY CONNECTED WITH THIS ACTION, NOR AM I FINANCIALLY INTERESTED IN SAID CAUSE.

THE ORIGINAL TRANSCRIPT SHALL BE SEALED AND DELIVERED TO JOHN K. KOON, ESQUIRE OF KOON & COOK, P.A. IN COLUMBIA, SOUTH CAROLINA WHO SHALL BE RESPONSIBLE FOR FILING WITH THE COURT PRIOR TO TRIAL OR ANY HEARING WHICH MIGHT RESULT IN A FINAL ORDER ON ANY ISSUE.

IN WITNESS WHEREOF, I HAVE SET MY HAND AND SEAL THIS 3RD DAY OF SEPTEMBER, 2012.



SUSIE KELL, COURT REPORTER

NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA
MY COMMISSION EXPIRES MARCH 21, 2012

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC FILE # 1204039

WILLIAM LEE TURNER,)	
)	
CLAIMANT,)	
)	DEPOSITION
VS.)	
)	OF
SAIIA CONSTRUCTION,)	
)	WILLIAM LEE TURNER
EMPLOYER,)	
)	
OLD REPUBLIC GENERAL)	
INSURANCE C/O GALLAGHER)	
BASSETT SERVICES, INC.,)	
)	
CARRIER,)	
)	
DEFENDANTS.)	
)	

Deposition of William Lee Turner, taken pursuant to the South Carolina Rules of Civil Procedure and the Administrative Procedures Act, commencing at the hour of 8:59 a.m., Wednesday, August 1st, 2012, at the law offices of Koon & Cook, 2016 Gadsden Street, Columbia, South Carolina.

COPY

Reported by

Sandra M. Snead

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Appearances

For the Claimant: John K. Koon, Esquire
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Reported By: Sandra M. Snead

Also Present: Nicole Turner

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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.

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Stipulations

The reading and signing of this deposition is waived by the deponent and counsel for the respective parties.

Whereupon,

William Lee Turner, 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: William Lee Turner, Junior.

Examination

By Ms. George:

Q Mr. Turner, my name is Mundi George. We met right before the deposition. I am the attorney that is representing Saia Construction and their workers' comp insurance carrier. This is a file handled by Jason Lockhart in my office. We work together, --

A Okay.

Q -- and I'm simply covering this deposition for him today because he had a conflict. This deposition is not a test. I know that Mr. Cook has explained this to you and -- I'm sorry -- Mr. Koon has

1 explained this to you. It's not a test. You might
2 not know the answers to some of my questions. You
3 ~~might have to guess or estimate. That's fine with~~
4 me. If you don't know, tell me that you don't
5 know. If you're guessing or estimating, let me
6 know you're guessing or estimating. If you don't
7 understand my question, if it confuses you or it
8 just did not make sense, feel free to let me know
9 that, and I will repeat it or rephrase it or just
10 try to ask a better question. If you're
11 uncomfortable sitting in that chair, I welcome you
12 --

13 A I'm okay.

14 Q -- to get up and move around. It doesn't usually
15 take any more than about an hour, and sometimes a
16 little less than that, but if you feel like you
17 need to get up and stretch, the recording equipment
18 can probably pick you up just about anywhere in
19 this room. The court reporter will let us know if
20 you've moved too far away from the table and she
21 can't hear you anymore.

22 A Okay.

23 Q Has all that made sense?

24 A Mm-hmm.

25 Q You have to answer yes or no or a spoken word for

1 the record that the court reporter can spell and
2 type out. So, if you give me a gesture or say uh-
3 huh or uh-uh, she won't be able to spell that, --

4 A Okay.

5 Q -- so make sure you say yes or no. Are you taking
6 any prescription medications which will affect your
7 ability to answer my questions today?

8 A No. Well, I'm taking Keppra. It's a seizure
9 medicine, but it does not affect me.

10 Q Okay. All right. And you stated your name
11 earlier, and you are William Lee Turner, Junior?

12 A Yes, ma'am.

13 Q And what is your date of birth?

14 A

15 Q How old are you today?

16 A Twenty-six.

17 Q And how old -- You'll be twenty-seven on your next
18 birthday?

19 A Yes, ma'am.

20 Q And your wife, Nicole, is here today with you?

21 A Yes, ma'am.

22 Q How long have you been married to Nicole?

23 A Two -- About two and a quarter years, since May
24 15th.

25 Mr. Koon: (to the deponent) She didn't

1 have to kick you.

2 The Deponent: Yeah, I think I got that
3 right.

4 Q Okay. May 15th. This past May was your --

5 A Right.

6 Q -- two-year anniversary?

7 A Yeah. Yeah, that's right.

8 Q Okay. And what is your address?

9 A

10 Q What town?

11 A

12 Q And the ZIP code?

13 A

14 Q And is the street address, -- is that the same
15 as your mailing address?

16 A Yes, ma'am.

17 Q Okay. And is it a house or a mobile home or
18 apartment?

19 A It's a mobile home. We're staying --

20 Q I was going to ask you that. Do you rent it or own
21 it, or are you staying --

22 A No.

23 Q -- with someone --

24 A We're staying with her parents. We're building a
25 house on the other side of Camden, but we're

1 working on that for about a year and a half now.

2 Q So, the mobile home on is Nicole's
3 parents' home?

4 A Yes, ma'am.

5 Q And then do you own -- own property in Camden?

6 A Yes, ma'am.

7 Q And you're trying to build a house there?

8 A Yeah, we're actually building it right now.

9 Q Are you doing that yourself?

10 A We were, but now I'm not. We had some -- my
11 situation, and my dad just found out he's got a
12 situation, so we can't do it anymore.

13 Q And I'm not trying to be nose-y. Just in general,
14 is your dad's situation a health --

15 A Yeah, --

16 Q -- situation?

17 A -- it's a health situation.

18 Q Okay. You'll have to excuse me. Sometimes we talk
19 a little bit faster than I can write, and I like to
20 take notes, --

21 A No. That's fine.

22 Q -- so I have to catch up with myself. Okay. What
23 is your telephone number?

24 A

25 Q Is that 803?

- 1 A Yes, ma'am.
- 2 Q And is that the home phone or --
- 3 A That's my cell phone.
- 4 Q Your cell phone. Okay. And do you have any
- 5 children?
- 6 A No, ma'am.
- 7 Q And is Nicole your -- Have you ever been married
- 8 before Nicole?
- 9 A No, ma'am.
- 10 Q And Nicole's parents, you and Nicole live at the
- 11 [REDACTED] Does anybody else live
- 12 there?
- 13 A No, ma'am.
- 14 Q Does anybody besides Nicole depend on you for
- 15 financial support, or money?
- 16 A No.
- 17 Q Does Nicole work?
- 18 A Yes, ma'am.
- 19 Q Where does she work?
- 20 A Sam's Club on Forest Drive.
- 21 Q That's a busy one.
- 22 A Mm-hmm.
- 23 Q I don't think I've ever driven by there when the
- 24 parking lot wasn't almost full. Okay. How far did
- 25 you go in school, Mr. Turner?

- 1 A I graduated high school.
- 2 Q What year?
- 3 A 2004.
- 4 Q All right. And did you work while you were in
5 school?
- 6 A I worked with my dad.
- 7 Q What kind of work does your dad do?
- 8 A He was building countertops.
- 9 Q Is he a carpenter?
- 10 A Yeah, he was -- Well, yeah, you could say that.
- 11 Q But when you were in school and you were working
12 for your dad, you were working building
13 countertops?
- 14 A Yes, ma'am.
- 15 Q And what type of work did you do when you graduated
16 high school?
- 17 A The same thing, until I went to work for Saiia.
- 18 Q So, how long did you work for your dad after high
19 school before you went to work for Saiia?
- 20 A Until I was twenty-one -- or, actually, it was
21 right before I was twenty-one. I got hired right
22 before I turned twenty-one.
- 23 Q And, so, the job at Saiia, was that the first job
24 you'd ever done for another company besides working
25 for your dad?

- 1 A Yes, ma'am.
- 2 Q Okay. Do you know what year it was that you
- 3 started working for them?
- 4 A 2007.
- 5 Q And what were you hired to do there?
- 6 A Operator.
- 7 Q Operator of what?
- 8 A Heavy equipment.
- 9 Q And what type of equipment did you have to operate?
- 10 A Bulldozers; trackhoes; backhoes; skid steers; dump
- 11 trucks.
- 12 Q How did you know how to operate all that equipment?
- 13 A Doing farming and stuff like that. So, I've got a
- 14 little bit of experience with it.
- 15 Q Did you grow up on a farm?
- 16 A No, I didn't grow up on a farm. My mom grew up on
- 17 a farm, and that's where we're building our house
- 18 now; so --
- 19 Q Okay.
- 20 A -- we do a lot of stuff out there.
- 21 Q When you were hired as an operator by Saiia in
- 22 2007, was it a full-time job?
- 23 A Yes, ma'am.
- 24 Q How many hours per week?
- 25 A Average, 40. Most of the time, 45.

- 1 Q Were you paid --
- 2 A We never get under 40.
- 3 Q ~~Were you paid time and a half for overtime?~~
- 4 A Yes, ma'am.
- 5 Q And were you an hourly or a salaried employee?
- 6 A Hourly.
- 7 Q What was your hourly rate?
- 8 A When I started?
- 9 Q Yes, sir.
- 10 A It was like 11.50.
- 11 Q And what about the last time you worked, which was
- 12 the time of your accident?
- 13 A 14.25.
- 14 Q Okay. And is the date of your accident April 19th,
- 15 2012?
- 16 A Yes, ma'am.
- 17 Q Is that the last day that you've worked anywhere?
- 18 A Yes, ma'am.
- 19 Q Did you work anywhere at the same time you were
- 20 working at Saiia, or was that your only job?
- 21 A That was it.
- 22 Q Before this accident on April 19th, 2012, did you
- 23 have any serious physical conditions or illnesses
- 24 or chronic health problems?
- 25 A No, ma'am. I went to the doctor the Monday before

1 the accident --

2 Q Okay.

3 A -- because my lower back was hurting, --

4 Q Okay.

5 A -- but I didn't have any problems with it, -- did

6 x-rays and all that -- so they just sent me on my

7 way.

8 Q What doctor did you go to?

9 A It was Dr. Minhas -- Minhas. It's -- She's an

10 Indian, so -- It's Minhas, I believe is what it

11 is, but --

12 Q Okay. And she's a female Indian doctor?

13 A Yeah, she's a female out of Lugoff. I guess you

14 consider that Lugoff, Lugoff-Elgin. It's right on

15 the line, but it's --

16 Q What is -- Do you know what the name of her

17 practice is? Is it a Doctors Care or Lugoff Family

18 Medicine?

19 A I think it's Family Medicine. I'm not sure.

20 Q Is she your family doctor?

21 A No. Dr. Peterson, Alan Peterson, is my doctor now.

22 He's my family doctor.

23 Q So, how -- how did Dr. Minhas end up being the one

24 that you saw?

25 A Well, he -- I got Dr. Peterson after I got out of

1 the hospital because he's my -- he's been my
2 parents' doctor for several years.

3 Q Mm-hmm.

4 A So, he's my family doctor now. So, I got him right
5 after I got out of the hospital.

6 Q For you -- For this accident?

7 A No. Just for -- For this and just to be my
8 regular doctor, --

9 Q Okay.

10 A -- because he's a regular doctor. He's not one of
11 them --

12 Q When you went to Dr. Minhas the Monday before this
13 accident, what -- how did -- why did you go to her?
14 Why was she the doctor that you picked to go to?

15 A Because it was close.

16 Q Why was your back hurting on that Monday before the
17 accident?

18 A Probably from lifting up logs and stuff like that.

19 Q Oh. Building your --

20 A I mean, it wasn't --

21 Q Building your house?

22 A Yeah. I mean, it wasn't nothing like -- It was
23 just aggravating, --

24 Q Okay.

25 A -- basically. It wasn't nothing that was killing

- 1 me.
- 2 Q And she just did some x-rays and --
- 3 A Yeah, basically:
- 4 Q -- released you?
- 5 A Yeah.
- 6 Q Did she give you any medications?
- 7 A She gave me Ultram, like a 50-milligram Ultram.
- 8 Q Did she give you a sample or a prescription?
- 9 A A prescription.
- 10 Q Did you get it filled?
- 11 A Yes, ma'am.
- 12 Q Where do you get your prescriptions filled?
- 13 A Normally, CVS or whatever is close.
- 14 Q Do you know where you got that particular
- 15 prescription filled?
- 16 A I think I got it filled there, because they've got
- 17 their own pharmacy.
- 18 Q At Dr. Minhas's office?
- 19 A Yes, ma'am.
- 20 Q And when you said typically you get something
- 21 filled at CVS, is that CVS in Lugoff?
- 22 A Most of the time it's on Sparkleberry Road, right
- 23 off of Sparkleberry.
- 24 Q In Columbia?
- 25 A Yeah. It's like at the corner of Sparkleberry and

1 Clemson Road.

2 Q Okay. And then did you only see her one time that
3 Monday before your accident for back pain?

4 A Yes, ma'am.

5 Q Did you have any other problems that week?

6 A I did go to the doctor, the emergency room, again
7 the day after that because it -- my stomach was
8 kind of messed up.

9 Q So, this would have been on a Tuesday?

10 A Yeah, and I really didn't want to go because I
11 didn't feel, like, really bad or anything, just my
12 stomach was messed up, but my mom and my wife
13 basically made me go.

14 Q Okay. And where did you go, what --

15 A To Baptist.

16 Q Here in Columbia?

17 A Yes, ma'am.

18 Q Okay. And what did you -- When you checked in,
19 your symptoms were just your stomach was, what,
20 hurting, or did you have --

21 A Yeah, it was just bothering me. And they thought
22 maybe I was dehydrated or something, but I'd been
23 drinking plenty of fluids. And they gave me some
24 IV fluids, and they did some tests, and everything
25 come back good, so they sent me on my way.

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- 1 Q So, you were not dehydrated, or do you know?
- 2 A No, I was not dehydrated.
- 3 Q Okay. So, they never figured out why your stomach
4 was bothering you?
- 5 A No. It might have been something I ate because --
6 It all depends. Some things I eat, I get -- my
7 stomach gets messed up. That's normal.
- 8 Q Okay. And do you take any, you know, heartburn or
9 antacid kind of medication?
- 10 A No.
- 11 Q So, you've told me about the back pain you had and
12 the stomach problems you had in the week leading up
13 to this accident. What about before that? And
14 you're young, so this may not apply to you. You
15 don't have high blood pressure, --
- 16 A No.
- 17 Q -- diabetes or any other health conditions? Did
18 you see a doctor regularly or take regular
19 prescription medication before April 19th of --
- 20 A No, ma'am.
- 21 Q -- 2012? Okay. All right. And have you ever had
22 surgery before this accident?
- 23 A No, ma'am.
- 24 Q Did you have to have any kind of physical or
25 medical clearance in order to get hired at Saia

- 1 and be able to operate the equipment?
- 2 A Yeah, we had to do a physical and all that stuff,
3 but, other than that, -- It was like a physical
4 and vision test and drug test, but they do that
5 everywhere, so --
- 6 Q Mm-hmm.
- 7 A But we did have to take a physical.
- 8 Q Was it at the company and through the company, or
9 did they send you to a doctor to have that done?
- 10 A They sent us to a doctor.
- 11 Q Do you remember where they sent you?
- 12 A Doctors Care in Sumter.
- 13 Q Okay. And you passed that?
- 14 A Yes, ma'am.
- 15 Q No problems with anything?
- 16 A Uh-uh.
- 17 Q Make sure you say yes or no.
- 18 A Yes.
- 19 Q And do yo have a special kind of driver's license,
20 like a commercial driver's license?
- 21 A I do.
- 22 Q Do you have a South Carolina driver's license?
- 23 A Yes, ma'am.
- 24 Q Do you have it with you?
- 25 A Yeah, actually, I do.

- 1 Q I was -- I'm asking you because I want your
2 driver's license number and the expiration date.
- 3 A Yeah.
- 4 Q And while your wife is getting your license for
5 you, does your license have any restrictions on it
6 or limitations on it?
- 7 A No, ma'am.
- 8 Q Has your license ever been revoked or suspended?
- 9 A It has, when I was younger.
- 10 Q What for?
- 11 A Simple possession of marijuana.
- 12 Q Okay. And are all those offenses now resolved and
13 cleared?
- 14 A Oh, yeah. Yeah. That was before I was even
15 eighteen -- or seventeen.
- 16 Q Okay. You just handed me your South Carolina
17 driver's license. And the number is [REDACTED] and
18 the expiration date is [REDACTED]. Wow. Did they
19 change the format of the driver's license? The --
- 20 A Yeah. That's --
- 21 -- pictures used to be longways.
- 22 A Yeah, that's actually kind of new there.
- 23 Q Yeah. Very good. Thank you very much. Okay. And
24 the simple possession of marijuana, was that the
25 only charge you ever had?

- 1 A I've had more than that, but --
- 2 Q Within the last ten years?
- 3 A Oh, no.
- 4 Q So, nothing -- It's 2012, --
- 5 A It --
- 6 Q -- so go back ten years. Nothing --
- 7 A No.
- 8 Q -- besides that? Okay.
- 9 A As soon as I become -- not a teenager, I was pretty
- 10 good after that.
- 11 Q Have you ever been injured on the job before?
- 12 A No, ma'am.
- 13 Q So, you've never filed a workers' comp claim before
- 14 this one?
- 15 A No, ma'am.
- 16 Q Have you ever even had a minor injury on the job,
- 17 like cut your finger or anything, that you needed
- 18 medical --
- 19 A Yeah.
- 20 Q -- medical attention for?
- 21 A Yeah, I have drilled a hole in my finger at work,
- 22 but --
- 23 Q Did you just go get treated and go back to work?
- 24 A Yeah, basically.
- 25 Q Have you ever received any money or a settlement

- 1 from a workers' comp claim?
- 2 A Never.
- 3 Q Have you been involved in any other kind of
- 4 lawsuits, sued anyone, been sued by anyone?
- 5 A No, ma'am.
- 6 Q Have you ever had a lawyer take your deposition
- 7 like I'm doing here today?
- 8 A No, ma'am.
- 9 Q Have you ever filed for bankruptcy?
- 10 A No, ma'am.
- 11 Q Do you have bank accounts?
- 12 A Yes, ma'am.
- 13 Q Do you have checking and savings?
- 14 A Yes, ma'am.
- 15 Q What bank do you bank with?
- 16 A I've got my checking account with BB&T.
- 17 Q Mm-hmm.
- 18 A I have a savings account with South Carolina Telco.
- 19 Q And you know how to manage your own money, balance
- 20 your own checkbook, --
- 21 A Yeah.
- 22 Q -- take care of your own expenses?
- 23 A Mm-hmm.
- 24 Q Make sure you say yes or no.
- 25 A Yes, ma'am. Sorry.

- 1 Q It's okay. It doesn't bother me a bit. Okay. At
2 your job, other than just simply getting on a piece
3 of equipment and operating it, did you have any
4 other job duties?
- 5 A No, ma'am.
- 6 Q Who was your immediate boss or supervisor?
- 7 A Jimmy Speagle.
- 8 Q How do you spell his last name?
- 9 A S-p-e-e-g- -- I have no idea, really.
- 10 Mr. Koon: It's like beagle, S-p-e-a- --
- 11 The Deponent: Yeah, --
- 12 Mr. Koon: -- g-l-e.
- 13 Q Oh. Speagle. Okay.
- 14 A Yeah.
- 15 Q And, so, when you got to work every day, is Jimmy
16 the one that told you what you were doing for the
17 day that day?
- 18 A Yes, ma'am.
- 19 Q Did you have to clock in to a time clock?
- 20 A No, ma'am.
- 21 Q What were your work hours?
- 22 A From seven to three. It depends on what we were
23 doing really.
- 24 Q You told me earlier it was at least 40 and
25 sometimes more, but --

- 1 A Yeah.
- 2 Q -- the day started at seven AM?
- 3 A Yes, ma'am.
- 4 Q Did you take a break for lunch?
- 5 A Yes, ma'am.
- 6 Q An hour or how long?
- 7 A It's usually about 30 minutes.
- 8 Q Okay. When you went to work for Saiia, did you
9 have to fill out an employment application, a job
10 application?
- 11 A Yes, ma'am.
- 12 Q Do you remember if that employment application
13 asked you about if you'd had any accidents or
14 injuries or health problems --
- 15 A Yes, --
- 16 Q -- before you started working there?
- 17 A -- it did.
- 18 Q Did you have any accidents, injuries or health
19 problems before you started?
- 20 A No, ma'am.
- 21 Q Okay. Since the accident, since April 19th of
22 2012, have you filed for South Carolina
23 unemployment benefits?
- 24 A No, ma'am.
- 25 Q Does your company have short-term disability or

- 1 long-term disability?
- 2 A Yes, ma'am. I've got long-term, but it does not go
3 in effect until 180 days after your --
- 4 Q Okay. So, the --
- 5 A I didn't have short-term, but never would have
6 thought anything like this would have happened
7 either, but --
- 8 Q So, you don't have short-term?
- 9 A No, ma'am.
- 10 Q Meaning it's just not even an option for you to get
11 through the company, right? They don't --
- 12 A No. You --
- 13 Q -- even offer -- Oh. You didn't --
- 14 A They -- They offer it.
- 15 Q -- pay for it?
- 16 A I just didn't get it.
- 17 Q Okay. I understand. And the long-term disability
18 isn't an option for you until 180 days?
- 19 A Yes, ma'am. I believe 180 days.
- 20 Q I understand. That's usually about right. Do you
21 have health insurance?
- 22 A Yes, ma'am.
- 23 Q And is it through Saiia?
- 24 A Yes, ma'am.
- 25 Q What company -- What company is the health

1 insurance through?

2 A Blue Cross Blue Shield.

3 Q Have you applied for Social Security disability

4 benefits --

5 A No, ma'am.

6 Q -- or are you on Medicare?

7 A No, ma'am.

8 Q Are you on Medicaid?

9 A No, ma'am.

10 Q Do you get any government benefits or assistance?

11 A No, ma'am.

12 Q Have you ever been in the U.S. military?

13 A No, ma'am.

14 Q Have you ever had a history of, problems with or

15 treatment for drugs or alcohol?

16 A No, ma'am.

17 Q Have you ever had a history of, problems with or

18 treatment for depression or anxiety or any

19 emotional conditions?

20 A No, ma'am.

21 Q Okay. And you -- Again, you told me about the

22 Monday before your accident when your back was

23 bothering you and the Tuesday before your accident

24 when your stomach was bothering you. Other than

25 that, were you feeling okay before --

- 1 A Yeah, I was feeling --
- 2 Q -- this accident?
- 3 A -- fine.
- 4 Q And --
- 5 A Yeah, -- Wednesday and the whole day Thursday, I
- 6 was doing pretty good. I don't really remember
- 7 what happened Wednesday or Thursday, but I do
- 8 remember Monday and Tuesday.
- 9 Q Okay. But as far as you know, as time has passed,
- 10 you weren't sick or having problems on Wednesday
- 11 and Thursday; you didn't go to any doctors; you
- 12 weren't having any trouble doing your job?
- 13 A No, ma'am.
- 14 Q And I understand very well that you said you don't
- 15 remember. Sometimes people remind you of things as
- 16 time passes.
- 17 A Yeah.
- 18 Q Okay. And then tell me about, then, Friday. Is
- 19 Friday the day you got hurt?
- 20 A Thursday.
- 21 Q Thursday. Okay. So, Thursday, did you come to
- 22 work like normal, seven --
- 23 A Yes, ma'am.
- 24 Q -- seven o'clock?
- 25 A (Nods head.)

- 1 Q What did you do that day?
- 2 A Drove a truck, I believe. Like I said, I know what
3 people have told me, but --
- 4 Q Right.
- 5 A -- I really can't say because I don't really know
6 for sure.
- 7 Q On a normal day, is that what you would have done,
8 driven a truck or operated a piece of equipment?
- 9 A Yeah, on a normal day I would have.
- 10 Q Okay.
- 11 Mr. Koon: (to the deponent) You've got
12 to speak up.
- 13 The Deponent: Okay.
- 14 Q Okay. And, again, I understand that you're piecing
15 some of this together, but what -- what do you
16 think or what do you remember happened that day
17 after driving the truck?
- 18 A I was told that I was -- I had washed the truck,
19 then I took the truck and parked it and that I was
20 climbing up in the truck to put something in there
21 or do something, and that's all I know. And then
22 they said that they seen me up -- they seen me up
23 on the truck. Then they said after they turned
24 around, they seen me laying on the ground.
- 25 Q Okay. But washing a truck, driving the truck and

- 1 parking it, climbing up in the truck and putting
2 stuff in it, is that something that you would
3 normally do --
- 4 A Yeah.
- 5 Q -- during a workday? Okay. What kind of truck is
6 it?
- 7 A It's a Sterling. It's a big dump truck.
- 8 Q So, when you climb from the ground into the truck,
9 do you have to step on a running board?
- 10 A Yeah, you've got to step on -- You step on two
11 steps, and then you step up into the cab.
- 12 Q Is it something where you have to hold onto a
13 handle to pull yourself up into it?
- 14 A Yes, ma'am.
- 15 Q How far -- When you step up into the cab -- Let's
16 talk first about your feet. If your feet are
17 standing in the cab, how far is that from the
18 ground?
- 19 A I'd say -- Let's see. The cab is about level with
20 me. So, about five-foot-six is about the height of
21 the cab floor.
- 22 Q Okay. So, about five feet, six inches. And --
- 23 A Yeah.
- 24 Q -- I think we all understand very well you don't
25 have any specific measurements of this; you're just

1 --

2 A Yeah.

3 Q -- estimating. But about five feet, six inches

4 from the floor of the cab down to the ground?

5 A Yes, ma'am.

6 Q So, then from a seated position, just if you were

7 sitting on the seat of the cab, that would be

8 another -- what, another two feet?

9 A Yeah, maybe two feet.

10 Q And you wouldn't have any reason to be on top of

11 the truck?

12 A No.

13 Q You would have either been sitting on the seat or

14 standing --

15 A Yes, ma'am.

16 Q -- or in between, one or the other?

17 A (Nods head.)

18 Q Okay. And there was no -- Some of your medical

19 records say that you fell from a ladder. You

20 weren't, as far as you know, climbing a ladder?

21 A No, I wasn't on a ladder.

22 Q Did you ever have to climb a ladder at work?

23 A Yeah, I've been on ladders at work, and we -- we

24 wear safety harnesses when we're on ladders and

25 stuff like that, but, normally, we don't do

1 anything like that.

2 Q Okay.

3 A But we have done it before, like working on a
4 building or something.

5 Q But as far as you can piece together from that day,
6 you weren't doing any work that involved you
7 climbing on a ladder?

8 A No, ma'am.

9 Q What's the last thing you remember that day before
10 the accident?

11 A I really don't remember anything that day, really.
12 I can remember all the way up to Tuesday, but I
13 don't even remember what happened Wednesday.

14 Q And you just kind of assume that Wednesday was a
15 normal day?

16 A Mm-hmm.

17 Mr. Koon: (to the deponent) Take your
18 hands down --

19 The Deponent: Oh. Sorry.

20 Mr. Koon: -- because you're talking kind
21 of low anyway.

22 The Deponent: Yeah, I talk quiet.

23 Ms. George: I talk quiet, too. I can
24 hear you just fine.

25 Q Okay. And do you remember or has anyone told you

1 what you might have been putting in the cab of the
2 truck?

3 A ~~Like personal stuff, I guess, getting ready to~~
4 leave. They said it was at the end of the day.

5 Q Okay. Is that what your understanding is, that you
6 fell very near the end of your --

7 A Yeah.

8 Q -- your shift that day?

9 A Yes, ma'am.

10 Q Do you know what time it was?

11 A It was around 4:30.

12 Q So, it was a -- You already told me you always
13 work 40, usually more than --

14 A Yeah, usually from seven to three, like seven to
15 3:30. That would be 40 hours a week. But we were
16 working over that day.

17 Q Okay. So, it was around 4:30, and you said it was
18 -- you might have been putting your personal stuff
19 in. Would --

20 A Yeah, I might have been.

21 Q Would you have been driving that truck to go home
22 or --

23 A Yeah, we drive it to the front

24 Q Okay. And then is your car parked out front?

25 A Yes, ma'am.

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1 Q How far is it from the back, where you keep the
2 truck, up to the front where your car is?

3 A It's probably about 150 yards.

4 Q And I keep saying it. I know that you don't
5 remember, but, as best as you understand, it would
6 make sense that if you were putting some stuff in
7 the cab of the truck, probably your personal
8 belongings, the point would be to take the truck
9 back up to the front and then get your stuff and
10 get in your car and go home?

11 A Yes, ma'am.

12 Q Is that what you would have done on other days?

13 A Yes, ma'am.

14 Q And you don't know if you were in the truck when
15 you fell?

16 A I have -- I don't remember. I don't know.

17 Q You don't know if you could have been standing
18 beside the truck?

19 A I don't know. From where I was laying, I had to
20 have been up on the truck.

21 Q Okay. How do you know where you were laying?

22 A They just told me. They said that I was laying
23 right beside the -- They said it looked like I
24 fell from the truck, from the position where I was
25 at, because I was several feet from the truck with

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1 my arms straight behind me. That's what I was
2 told.

3 Q Arms straight behind you like you had fallen
4 backwards?

5 A Yeah.

6 Q And when you hit your head, did you hit the back of
7 your head?

8 A Yes, ma'am.

9 Q And we're going to get -- We're going to talk
10 about all the injuries and the medical treatment in
11 just a minute. Okay. And for the last couple of
12 minutes, we've been talking about what you don't
13 really remember and that people have told you
14 things and you've kind of pieced it together. Who
15 at work have you talked to about it, or who has
16 told you things?

17 A Just about everybody. I've talked to Paul Little.

18 Q Tell me --

19 A I call him Paul Little. He's Paul Barnett. Sorry
20 about that.

21 Q That's okay. And what does -- What's his job?

22 A He's a truck driver.

23 Q Okay. Was he near you when the accident happened?

24 A They were -- Yeah, he was near me. I guess they
25 were probably about -- If they were where they're

1 saying they were at, they were about 25, 30 yards
2 from me.

3 Q Did he actually see you when you fell?

4 A No, ma'am.

5 Q Did he see you before you fell?

6 A Yes, ma'am.

7 Q And then -- So, he saw you before you fell. Where
8 did he see you? Where were you?

9 A Up in the truck.

10 Q And did he see you again after you fell?

11 A Yeah, he seen me laying on the ground.

12 Q Okay. Okay. Paul Little Barnett. And who else?

13 A David Bolden.

14 Q And what's his job?

15 A He's a truck driver.

16 Q And kind of the same questions. Was he near you
17 when you fell?

18 A Him and Paul Little were standing together talking.

19 Q Okay. That was about 25 to 30 yards away?

20 A Yeah.

21 Q And did David see you when you fell?

22 A No, ma'am.

23 Q Did he see you before you fell?

24 A Yes, ma'am. I believe both of them did, because
25 they were standing there talking, and, from what

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1 they told me, they -- they turned around and they
2 seen me climb up in the truck, and they said they
3 turned back around, and as soon as they turned back
4 around again, they said they seen me laying on the
5 ground.

6 Q Okay. Anybody else besides Paul and David?

7 A No, ma'am.

8 Q So, they were the only two people that were really
9 kind of very close to you, saw you before and saw
10 you after?

11 A Yes, ma'am.

12 Q And have you -- I mean, did other people come in
13 later?

14 A Oh, yes, ma'am.

15 Q Okay. Did an ambulance come to get you?

16 A Yes, ma'am. We have an onsite ambulance and
17 paramedics.

18 Q Is that who came to your attention, the onsite
19 ambulance and paramedics?

20 A Yes, ma'am.

21 Q And did they take you to the hospital?

22 A No, ma'am. They took me to the front.

23 Q Okay. The front meaning the front building?

24 A Yeah.

25 Q And then what happened?

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- 1 A Then the ambulance from Richland Hospital came and
2 picked me up.
- 3 Q Do they have a -- For lack of a better word, do
4 they have a jurisdiction problem? Like the
5 ambulance and paramedics onsite just handle you on
6 the property?
- 7 A Yeah, they just handle you on the property.
- 8 Q And you went to Richland Hospital, Richland
9 Memorial?
- 10 A Yes, ma'am.
- 11 Q Through a Richland County ambulance?
- 12 A Yes, ma'am.
- 13 Q And you know all this just from people filling you
14 in later on?
- 15 A (Nods head.)
- 16 Q How long were you in the hospital?
- 17 A For six days, I believe it was.
- 18 Q Where did you go after the six days?
- 19 A I went home.
- 20 Q Have you been re-hospitalized since then?
- 21 A No, ma'am. I went to the hospital once after that
22 for probably about five or six hours.
- 23 Q For what?
- 24 A Because I had another seizure.
- 25 Q Okay. And, so, other than the six days after the

1 accident and then one more time in the hospital for
2 a seizure, you've been staying at home?

3 A Yes, ma'am.

4 Q What injuries did you get in the fall?

5 A A head injury. I got --

6 Q What's your head injury? You told me before. Did
7 you get a cut?

8 A A hematoma --

9 Q Did you have a cut on the skin --

10 A Yeah, I had a cut on the skin, --

11 Q -- of your head?

12 A -- but there was like bleeding between my skull and
13 my brain, so they had to put me in a coma to keep
14 my head from swelling.

15 Ms. Turner: A subdural hematoma.

16 Q And did they have to drill a hole in your skull and
17 drain it out, or did it heal on its own?

18 A No, ma'am. They just put me in a coma so it would
19 quit swelling, and it finally started going back
20 down.

21 Q Okay. All right. So, you had the cut on the
22 actual skin on the back of your head, the bleeding
23 between your brain and the skull, which was that
24 hematoma, and they put in you in the coma to help
25 the swelling go down on that. What other injuries

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1 did you have?

2 A Two spinal fractures at T3 and T4.

3 Q What kind of treatment did they do for that?

4 A They just give me medicine, and, basically, it's
5 healed on its own, because I just had an MRI done.
6 So, it's starting to heal.

7 Q Okay. No surgery?

8 A No.

9 Q Did you have any surgery related to the hematoma,
10 or was that all just a wait -- a waiting process?

11 A Not that I know of. I didn't have any kind of
12 surgery. I had to go to surgery -- some kind of
13 surgery because they had to put some -- surgically
14 put some kind of tube in me or something like that.

15 Q Was it a drainage tube? Do you know what it I was?

16 A I really don't know. They had everything hooked up
17 to me, I believe.

18 Q All right. When they released you from the
19 hospital after six days -- Do you remember being
20 in the hospital for six days?

21 A Yeah, I remember being in the hospital. I remember
22 I was in -- I went in Thursday, and Sunday I
23 realized I was there.

24 Q Were you in -- Were you in the induced coma from
25 Thursday to Sunday?

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- 1 A They say it was for two days, but I don't remember
2 anything until Sunday, so I don't -- I mean, they
3 had me on medicine and stuff, so I was kind out of
4 it anyway.
- 5 Q Of course. Okay. When they released you from the
6 hospital after the six days, were you able to walk?
- 7 A I could walk, but I was real sore. I had to use a
8 cane.
- 9 Q And then after they released you from the hospital,
10 what doctors did you keep following up with?
- 11 A The ones at the hospital, the ones that did
12 everything. I have no idea what their names are
13 because there are several of them.
- 14 Q There were more than one?
- 15 A Oh, yeah.
- 16 Q And were they checking you for your back and your
17 hematoma --
- 18 A My head, my spine, and stuff like that.
- 19 Q Do you know what kind of medication you were on
20 when they released you from the hospital?
- 21 A Keppra and hydrocodone.
- 22 Q Okay. And Keppra is for seizures?
- 23 A Yes, ma'am.
- 24 Q And hydrocodone is for pain?
- 25 A Yes, ma'am.

- 1 Q Had you ever taken a seizure medication before?
- 2 A No, ma'am.
- 3 Q Are you still taking it now?
- 4 A Yes, ma'am.
- 5 Q Has any doctor explained to you why you're having
- 6 seizures?
- 7 A From head trauma.
- 8 Q Do they think it's something that will be
- 9 permanent?
- 10 A I'm not sure. They're not saying it will be, but
- 11 -- They're saying I'm actually pretty lucky not to
- 12 have any kind of brain damage from having the
- 13 seizures, so I don't know.
- 14 Q Do you have any main doctors that you're following
- 15 up with now regularly?
- 16 A Just Dr. Peterson.
- 17 Q He's your family doctor?
- 18 A Yes, ma'am.
- 19 Q So, all the hospital doctors have released you into
- 20 the hands of your family doctor?
- 21 A Yes, ma'am.
- 22 Q Do you have any appointments with or are you
- 23 supposed to go back and see any kind of specialists
- 24 or any doctors at the hospital?
- 25 A No, ma'am.

- 1 Q And I think you said a moment ago -- and I wanted
2 to give you a chance to explain that -- you
3 recently had an MRI on your spine?
- 4 A Yes, ma'am.
- 5 Q Is that through Dr. Peterson or through the
6 hospital?
- 7 A Through Dr. Peterson.
- 8 Q And that was to see how the fractures in your back
9 were doing?
- 10 A Yeah.
- 11 Q And what did that show?
- 12 A They're healing.
- 13 Q Okay.
- 14 A That's all he really told me. He didn't really --
15 He just had it on a piece of paper, explaining it
16 to us.
- 17 Q Are you healing normally, I mean as he would expect
18 you to heal?
- 19 A Yeah. He said it looks like it's doing pretty
20 good, but --
- 21 Q Okay.
- 22 A It still gives me problems, but it's just something
23 I have to deal with.
- 24 Q And we're going to talk about that in a minute,
25 too. Okay. You told me the company ambulance from

1 the ground to the front, Richland County ambulance
2 from the front to the hospital, and you told me
3 about your stay in your -- in the hospital, and now
4 you're with Dr. Peterson. What is Dr. Peterson
5 doing for you?

6 A He's just checking to make sure -- my seizure
7 problems and just the back. That's about it. But
8 so far I'm doing pretty good on the seizures now. I
9 haven't had no more seizures.

10 Q Okay. Let's -- The back, you said, is -- is still
11 bothering you?

12 A I mean, it does, but it takes time for things like
13 that to heal. It's not like something that's going
14 to keep me from doing anything, but it does bother
15 me.

16 Q Where -- Does it hurt in the middle of your back?

17 A It hurts up at the top.

18 Q At the top?

19 A Yeah, right there (indicating).

20 Q Right before your neck?

21 A Yes, ma'am.

22 Q And you said it bothers you. Is it just painful?

23 A I mean, it's not like it was. I've pretty much got
24 used to it, but, I mean, it does bother me, but
25 there's not a whole lot you can really do with it.

1 Q Are you still taking hydrocodone for it?

2 A No, ma'am.

3 Q Are you taking anything, even over the counter?

4 A No. I mean, I've got pain medicine and stuff, but
5 the only thing I'm taking now is Keppra. You can
6 take pain medicine, but it's not going to really do
7 anything.

8 Q It doesn't solve the problem?

9 A Yeah. That can cause more problems than solving
10 problems.

11 Q Okay. The cut that you had on the back of your
12 head, has that healed?

13 A Yes, ma'am.

14 Q Did you have any stitches for it?

15 A No, ma'am.

16 Q Do you know if you have a scar there?

17 A I don't know.

18 Q If you have a scar, is your hair covering it?

19 A Yeah, I'm -- I doubt I have a scar because it
20 wasn't a bad cut. It was more of a hard blow than
21 a cut, so --

22 Q Okay. And the hematoma in your head, is that all
23 healed now?

24 A It's showing that it's healed, but they were saying
25 that there's still like dried blood or something

1 like that in there. Until that's completely gone
2 away, you can possibly have a seizure, so -- But
3 it should be pretty much gone.

4 Q Is that something that's supposed to dissolve by
5 itself over time?

6 A Yes, ma'am.

7 Q And they're not doing anything else to treat that
8 other than just look at it to make sure the blood
9 is gone --

10 A Yeah, --

11 Q -- and drying up?

12 A -- basically.

13 Q And -- Okay. Your seizures, when is the last time
14 you had a seizure?

15 A It was about -- a little over a month ago.

16 Q Have they kept you on the same dosage of Keppra, or
17 are they --

18 A Yes, ma'am.

19 Q When you last had a seizure, what can you tell me
20 about it? What kind of seizure was it, or what
21 happens to you?

22 A It was a -- what they call a grand mal seizure, a
23 full-blown seizure. I mean, I had a seizure, but I
24 don't really know what happened --

25 Q Are you aware of it when it's happening?

- 1 A No, ma'am.
- 2 Q And has Dr. Peterson told you that he just can't
- 3 predict if or when you'll have another one?
- 4 A I shouldn't have another, but you never know. I
- 5 never would have thought I would have had that one,
- 6 but, I mean, -- But that was shortly after I got
- 7 out of the hospital, too, so --
- 8 Q Right.
- 9 A Ever since then, no, I've been better.
- 10 Q And has -- Is Dr. Peterson just going to keep
- 11 monitoring you until he feels like it's safe to
- 12 take you off the Keppra?
- 13 A Yeah. I have to be on it for at least a year.
- 14 Q Okay. A year after the accident?
- 15 A Yeah.
- 16 Q Okay.
- 17 A Or a year after I had this last seizure.
- 18 Q I see. So, the last seizure was about a month ago,
- 19 which means you'll, at minimum, be on the Keppra
- 20 for at least 11 more months --
- 21 A Yes, ma'am.
- 22 Q -- to make it a year? Okay. And that's just as a
- 23 precaution to keep you from having the seizures.
- 24 Other than the, I guess, awareness that you might
- 25 have a seizure and the pain that you're having in

1 your -- in your back up near your neck, are you
2 having any other problems?

3 A No, ma'am.

4 Q Are you able to care for all of your own personal
5 needs and do everything you need to do to bathe and
6 dress yourself and feed yourself?

7 A Yes, ma'am.

8 Q Are you still kept out of work by your doctors?

9 A No, ma'am. I was released last Monday, but since I
10 had that other seizure and I'm not able to drive --
11 My primary job is operating equipment, so they
12 don't want me to come back for at least five
13 months.

14 Q Okay. Was it Dr. Peterson who released you last
15 Monday?

16 A Yes, ma'am.

17 Q But then who -- Who is it, then, that's deemed you
18 not able to drive?

19 A Dr. Peterson -- Well, after you have a second
20 seizure, you're not able to drive for six months,
21 but that's like a rule of thumb I guess you could
22 say.

23 Q I got you. And it's been -- So, you've got five
24 months left --

25 A Yeah.

1 Q -- in that period? And, so, what happens after no
2 seizure for six months? What will you be able to
3 do then?

4 A I should be able to do what --

5 Q Whatever you want?

6 A -- whatever I was doing, doing the same thing,
7 hopefully.

8 Q Okay. Have you talked to anybody with Saia about
9 whether you still have a job or if your --

10 A Oh, yes, ma'am.

11 Q -- job is available? Who did you talk to?

12 A I talked to Jimmy last week.

13 Q Okay. Are they going to have a job for you if you
14 can come back to work?

15 A Yeah, he says I'll have a job, but you don't ever
16 know until you see it happen. So, I don't know.

17 Q And as far as you know, does Jimmy understand
18 you've got at least five more months to go?

19 A Yeah, that's -- that's what they come up -- Well,
20 he knows that you're not supposed to drive for six
21 months, and --

22 Q Okay.

23 A -- he said being the case that it's -- that it
24 already is, it'll take at least five more months,
25 just to be careful about it. He had stuff for me

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1 to do there, but since my primary job is operating
2 equipment, they want to wait five months.

3 Q What kind of stuff did he have for you to do?

4 A I have no idea.

5 Q So, you -- Was it -- Did you decide to wait it
6 out?

7 A No, ma'am.

8 Q Who decided that you wouldn't go back and do this
9 other stuff?

10 A I guess Saiia. The company.

11 Q So, they just -- They decided just to wait it out?

12 A Yes, ma'am.

13 Q I understand. And you don't know what the job
14 duties were? I mean, is it something in the office
15 or --

16 A I have no idea. I really don't know.

17 Q What are you doing every day?

18 A Well, when my wife is home and she's not working,
19 we do things. We go places. And we've got horses
20 and dogs and stuff. We take care of them.

21 Q Are you able to do everything you want to do?

22 A Some things I can do. Some things I can't do.

23 Q What can't you do?

24 A Like twist my back certain ways. I can't do that,
25 but --

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1 Q Okay.

2 A -- that's about the only thing. If I, like, do

3 like that (demonstrating) a bunch, it gets really

4 bad, but other than that --

5 Q Sort of standing still from the waist down and then

6 twisting from the waist up? That's --

7 A Yeah, that --

8 Q Is that painful?

9 A Yeah, that hurts, but other than that, I seem to be
10 all right.

11 Q What about lifting? Do you have any problems with
12 lifting?

13 A No, ma'am.

14 Q Have you tried to work on your house at all?

15 A I've tried.

16 Q Are you able to do all the stuff that's required?

17 A Not really. I can't lift, like, the heavy stuff
18 like I was lifting. And the main reason to that is
19 I don't want to mess my back up any worse than it
20 already is. I want to let it heal.

21 Q You try to be a little cautious?

22 A Yeah. If I get hardheaded and do stupid stuff,
23 I'll be right be back in the same shape I was.

24 I've just got to take it easy.

25 Q I don't know if you know this, but if you had

- 1 another seizure, would the six months start over,
2 or do they change how they treat and evaluate you?
- 3 A Yeah, I think it does start over. I'm not sure. I
4 just know from one seizure to the next. That's
5 really all --
- 6 Q Of course.
- 7 A But I'm thinking it's every six months, and it
8 might go to a year. I don't know.
- 9 Q So, is your -- Does your wife mainly drive you?
- 10 A Yes, ma'am.
- 11 Q Have you tried to drive at all?
- 12 A I have drove once or twice, but I ain't supposed
13 to, so I shouldn't do that, but I have --
- 14 Q When you did, were you able to? I mean, could you
15 drive?
- 16 A Yeah, I can drive. If I feel like, I don't know,
17 feel real bad or something, I won't do anything
18 like that, but --
- 19 Q Right.
- 20 A I'm not supposed to drive, so she's driving me now.
- 21 Q I understand.
- 22 A I don't want to take no chance.
- 23 Q So, have you been getting any money at all since
24 the accident?
- 25 A No, ma'am.

- 1 Q How have your medical bills been paid for?
- 2 A Insurance is still paying for them and --
- 3 Q And that's your Blue Cross Blue Shield health
4 insurance?
- 5 A Yes, ma'am.
- 6 Q What have you had to pay out of your own pocket?
- 7 A Copays.
- 8 Q Do you know how much?
- 9 A Not exactly, but it's -- I don't know. It's a
10 pretty good bit, because I've been, you know, to
11 several doctors since this happened.
- 12 Q Let me ask you this. Have you had the money to pay
13 every time they've asked you to pay a copay?
- 14 A Yes, ma'am.
- 15 Q And then what about the deductible part of your
16 insurance where you have to pay some and they pay
17 the rest? Have you had --
- 18 A Yeah.
- 19 Q -- to pay any of that?
- 20 A They paid -- My insurance company paid like some
21 of the hospital bill, like not even half of it.
22 That's about it.
- 23 Q So, the other half, is it unpaid?
- 24 A Yes, ma'am.
- 25 Q Do you know why workers' comp isn't paying for your

1 case?

2 A No, ma'am, not really. It's denied I guess you
3 could say.

4 Q Do you know why it's denied?

5 A No, ma'am.

6 Q Do you think the best people at Saiia to talk to
7 for any information sort of right before and right
8 after the accident would be Paul Barnett --

9 A Yeah.

10 Q -- and David Bolden?

11 A Yes, ma'am. They were the two there, so that would
12 be the best people to talk to.

13 Q You don't have any problems with anybody at Saiia?
14 Y'all all got along fine?

15 A I had a good -- a good relationship with everybody
16 there pretty much.

17 Q If the other five months goes by with no seizure,
18 and say your back felt in five months the same way
19 it feels right now, do you feel like you could go
20 back to work doing the same job?

21 A I mean, operating equipment is really not a
22 strenuous job, so -- As long as I'm not really
23 lifting real heavy stuff, it doesn't really bother
24 me, but I think by then I should be a lot better
25 than I am now. Like I said, I can do things. I

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1 just -- If I get to twisting my back or something,
2 or picking up something real heavy, that'll bother
3 me, but it's healing now, so -- I know it's
4 healing.

5 Q Okay. And other than Dr. Peterson, do you have
6 appointments or plans to see any other doctors?

7 A No, ma'am.

8 Q Do you feel like he's taking good care of you?

9 A Yes, ma'am.

10 Q Does he have all your medical records from the
11 hospital and he's aware of all the treatment and
12 everything you had there?

13 A Yes, ma'am.

14 Ms. George: I don't have any other
15 questions, Mr. Turner. Your attorney may have
16 some for you.

17 Mr. Koon: No, I don't have anything.

18 Ms. George: That's it. That concludes
19 the deposition. Thank you so much.

20 (Whereupon the deposition was concluded at
21 9:51 a.m.)

22 **(Deponent has waived reading and signing.)**

State of South Carolina)
) Certificate
 County of Lexington)

Be it known that the foregoing deposition of William Lee Turner 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 52 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 13th day of August 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.

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
WCC FILE NO.:1204039

William Lee Turner,)
)
 Claimant,) Deposition
)
 vs.)
)
SAIIA Construction,)
)
 Employer,) William Lee Turner
)
Old Republic General)
Insurance Corporation c/o)
Gallagher Bassett Services,)
Inc.,)
)
 Carrier.)
)

Deposition of William Lee Turner, pursuant to the
Rules of the South Carolina Workers' Compensation
Commission, commencing at 3:02 p.m., Thursday, January
16th, 2014, at the office of Koon and Cook, P.A., 2016
Gadsden Street, Columbia, South Carolina.

Reported by:
Cheri B. Williams, CVR-M

WILLIAM LEE TURNER

Appearances

For the Claimant: John K. Koon, Esquire
Koon and Cook, P.A.
2016 Gadsden Street
Columbia, SC 29201

For the Employer/
Carrier: Jason W. Lockhart, Esquire
McAngus, Goudelock & Courie,
LLC
1320 Main Street, 10th Floor
Post Office Box 12519
Columbia, SC 29211

Also Present: Robert Bennett

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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.

1 Stipulations

2 The reading and signing of this deposition is
3 waived by the deponent and counsel for the
4 respective parties.

5 Whereupon,

6 William Lee Turner, being duly sworn and
7 cautioned to speak the truth, the whole truth,
8 and nothing but the truth, testified as
9 follows:

10 Direct Examination

11 By Mr. Lockhart:

12 Q Mr. Turner, good afternoon, sir.

13 A Good afternoon.

14 Q My name is Jason Lockhart. I'm a lawyer here in
15 Columbia. I represent SAIIA and their workers'
16 comp insurance company in your workers' comp case.
17 We've got a hearing coming up in a few weeks in
18 your case and I'm here to take your deposition
19 today.

20 A Yeah.

21 Q You've given a deposition before, so let me just
22 explain to you a little about why I'm here today to
23 ask you some questions. I know you were deposed --
24 we're going on about a year and a half maybe.
25 August 1st of 2012 was when you gave a deposition

1 previously. I'm not here today to ask you about
2 all the things you got asked about before, okay?

3 **A Okay.**

4 **Q** What I'm here to do is to talk to you about what's
5 been going on with you since August the 1st of 2012
6 up through today.

7 **A Okay.**

8 **Q** So we're not going to spend any time talking about
9 your accident again. I do want to talk to you
10 about what medical care you've gotten for your
11 injuries since August 1 of 2012. I do want to talk
12 to you about your work status and how you're doing
13 at work from August 1 up through today. Then I
14 want to talk to you about what kind of problems you
15 still may be having today as a result of your work
16 accident.

17 **A Okay.**

18 **Q** So, again, we're not going to spend a lot of time
19 covering a lot of the things that were covered
20 before by Ms. George, who's my law partner here in
21 Columbia. A couple things to keep in mind during
22 the deposition. The first is that the court
23 reporter is taking down everything we say to each
24 other so I need you to speak your answers for me,
25 okay? If you nod your head or you shake your head,

1 she can't make a record of that so I need you to
2 speak or verbalize your answers. The other thing
3 is if I ask you a question at any point that is
4 confusing to you, let me know and I'm happy to
5 repeat myself, okay?

6 **A Yes, sir.**

7 **Q** I'm not here to trick you or mislead you in any way
8 so it's important that you understand my questions.
9 And if you understand my questions and you answer
10 them, I'm going to assume you understood what I was
11 asking you, okay?

12 **A Okay.**

13 **Q** If any point during the deposition you need to take
14 a break or go to the restroom or do anything like
15 that, let me know and I'm happy to let you take
16 whatever breaks you need to, okay? Mr. Turner, I
17 do want to confirm a little bit of the biographical
18 information you gave at the last deposition. I
19 have your full name as William Lee Turner, Jr., is
20 that correct?

21 **A That's correct.**

22 **Q** Are you still living at [REDACTED] in [REDACTED]

23

24 **A Yes.**

25 **Q** And is that residence -- that's a mobile home, is

1 that correct?

2 **A Yes.**

3 **Q** In your previous deposition I saw some discussion
4 between you and Ms. George about you possibly
5 building a home somewhere.

6 **A Yes, sir.**

7 **Q** What's the status of that?

8 **A** It's still in the process of getting built because
9 we haven't worked on it in the past year because me
10 and my father are working on it and he had MDS and
11 he went through a bone marrow transplant so he's
12 still recovering from that.

13 **Q** When was the last time that you and your dad did
14 any type of work on this home that y'all were
15 building?

16 **A** We actually did some work over the -- this past
17 weekend.

18 **Q** Okay. And what type of work was that?

19 **A** I was just putting up some plywood, covering up
20 things.

21 **Q** Has the house been framed already?

22 **A** Oh, yeah. Yeah, it's dried in.

23 **Q** Have y'all done any type of electrical, plumbing
24 work or anything?

25 **A** Yeah. We've done electrical work.

1 Q How long ago has it been since you did the
2 electrical work on it?

3 A It's been probably a year and a half. You have --
4 well, it's a log home so you have to do it as
5 you're building the house.

6 Q And the plumbing work, how long ago has it been
7 since you did that?

8 A We haven't done any plumbing yet.

9 Q All right. The roof, I presume, was completed?

10 A The roof's not completed, but it is dried in. It
11 has seven different roofs on it.

12 Q And when did you and your dad do that work?

13 A We did it approximately two weeks before he went to
14 get his bone marrow transplant.

15 Q So how long ago has that been? I'm sorry.

16 A That's been a little over a year.

17 Q How old are you today?

18 A I'm 28.

19 Q Are you still married?

20 A Yes, sir.

21 Q Do you and your wife have any children now?

22 A No, sir.

23 Q Is your wife still employed?

24 A Yes, sir.

25 Q She was working at Sam's, I think, according to

1 this last deposition.

2 **A Yeah.**

3 **Q Is she still,there?**

4 **A Yeah, that's correct.**

5 **Q And I think according to your previous deposition**
6 **you graduated from high school in 2004, is that**
7 **correct?**

8 **A That's correct.**

9 **Q Any studies at a college or a technical school or**
10 **any university at all since August 1 of 2012?**

11 **A No, sir.**

12 **Q Have you been arrested at all since August 1 of**
13 **2012?**

14 **A No, sir.**

15 **Q Any work-related injuries with SAIIA since August 1**
16 **of 2012?**

17 **A No, sir.**

18 **Q Have you been in any type of automobile accident at**
19 **all since August 1 of 2012?**

20 **A No, sir.**

21 **Q Since August 1 of 2012, have you been involved in a**
22 **lawsuit as a plaintiff? And when I ask you that**
23 **question, I mean have you sued anyone since August**
24 **1 of 2012?**

25 **A No, sir.**

1 Q Have you been involved in a lawsuit as a defendant?
2 And when I ask you that question, I mean has anyone
3 sued you at all for any reason since August 1 of
4 2012?

5 A No, sir.

6 Q Since August 1 of 2012, have you received
7 unemployment benefits?

8 A No, sir.

9 Q I know there was a period of time -- perhaps even
10 when you were deposed before, but there was a
11 period of time when you were out of work, correct?

12 A Yeah. Yeah. Eight months.

13 Q During that eight months, did you have any income
14 at all besides your wife's wages with Sam's?

15 A No, sir. I started getting -- I had long-term
16 disability and 180 days after you've been out of
17 work you can receive long-term and I received that
18 for two months before I went back to work.

19 Q The long-term disability benefits, was that
20 something that you paid for out of your paycheck?

21 A Yes, sir.

22 Q Okay. And how much did you receive in long-term
23 disability?

24 A It was 2,000 something. I can't remember exact
25 amount, but it was -- it was between 2,000 and

1 **\$2500.**

2 **Q** And you received those for about two months?

3 **A** **Yes, sir.**

4 **Q** And the benefits stopped because you went back to
5 work for SAIIA?

6 **A** Well, I didn't go back to work actually a month
7 after the benefits stopped because I was going
8 through physical therapy and all that and the
9 doctor wouldn't release me until that was complete.

10 **Q** Okay. So the benefits stopped. Then you were out
11 of work for about another month --

12 **A** **Yeah.**

13 **Q** -- and then you went back to work?

14 **A** **Yeah.**

15 **Q** Do you know why the benefits stopped?

16 **A** They said because there's no like physical reason
17 why I couldn't return back to work, but the doctor
18 hadn't released me yet and -- because he wanted
19 physical therapy done first.

20 **Q** And who were you treating with at that time?

21 **A** **It's Dr. Alan Peterson.**

22 **Q** Okay. All right. Since August 1 of 2012, have you
23 worked anywhere at all other than SAIIA?

24 **A** **No, sir.**

25 **Q** When did you go back to work?

WILLIAM LEE TURNER

1 A I went back to work on the 2nd of January, 2013.

2 Q And when you returned to work with SAIIA on January
3 the 2nd of 2013, what was your position? What did
4 you return to doing?

5 A Operating equipment.

6 Q And what type of equipment do you -- or did you
7 begin operating when you returned to work on
8 January 2, 2013?

9 A Excavator, backhoe, dump truck.

10 Q Do you have a CDL?

11 A No, sir.

12 Q When you went back to work for SAIIA in January of
13 2013, what was your rate of pay?

14 A 14.25.

15 Q Is that your rate of pay currently?

16 A Yes, sir.

17 Q Okay. And when you went back to work for SAIIA in
18 January of 2013, how many hours a week were you
19 working?

20 A We work 40 hours and more. Most of the time more.

21 Q Last week, for example, how many hours did you
22 work? Was it 40 or more or less?

23 A I believe it was 51.

24 Q Okay.

25 A Or 50, something like that.

1 Q When you went back to work in January of 2013, who
2 was your supervisor?

3 A Jimmy Spiegel.

4 Q Is Mr. Spiegel still your supervisor?

5 A No, sir.

6 Q Who is your supervisor at the present time?

7 A Robert Bennett.

8 Q And is Mr. Bennett here at the deposition today?

9 A Yes, sir.

10 Q Okay. And how long has Mr. Bennett been your
11 supervisor?

12 A For about six months. That's about right, yeah.

13 Q Do you have anybody else besides Mr. Bennett that
14 you answer to on a daily basis?

15 A No, sir.

16 Q And you're still working as a heavy equipment
17 operator?

18 A Yes, sir.

19 Q Other than the operation of the equipment itself,
20 being in the equipment, utilizing the controls to
21 make the machines do what they do, do you have any
22 other job duties and responsibilities with SAIIA?

23 A We do several different things, but 90 percent of
24 my job is operating equipment. But sometimes we
25 have to do -- like fix up fences or something like

1 **that.**

2 Q Do you perform any maintenance on the equipment if
3 it, say, were to break down or malfunction?

4 A **We help our mechanic out sometimes.**

5 Q What types of things do you do when you help the
6 mechanic out?

7 A **Just get tools and stuff like that.**

8 Q But as far as actually repairing the equipment
9 itself, do you do any of that?

10 A **No, sir.**

11 Q Do y'all have to wash the equipment, clean it, when
12 it get debris or dirt or things on it? Do you do
13 that?

14 A **Yes, sir.**

15 Q How often do y'all have to clean the equipment?

16 A **We clean it -- say if we like have to go inside the
17 mill or something, then we'll clean it.**

18 Q Is that something you do on a regular basis?

19 A **No, sir.**

20 Q Since January the 2nd of 2013, which is, again, the
21 day you say you went back to work, have you missed
22 any time from work at all for the injuries that you
23 suffered in your work accident?

24 A **No, sir.**

25 Q And did Dr. Peterson, was he the one that released

1 you to go back to work?

2 **A Yes, sir.**

3 Q Okay. And did he release you to go back to work,
4 would that have been in December at some point or
5 in January? When did you --

6 **A He actually released me to go back to work on
7 December the 27th. I still had vacation left so
8 they let me have my vacation. So that's the reason
9 why I come back on the 2nd of January.**

10 Q Remind me. And I apologize. When you got -- when
11 you were involved in this work event, this alleged
12 accident, was your rate of pay 14.25?

13 **A Yes, sir.**

14 Q So you're making the same amount of money you're
15 making now?

16 **A Yes, sir.**

17 Q Working the same number of hours?

18 **A Yes, sir.**

19 Q Performing the same job?

20 **A Yes, sir.**

21 Q Okay. All right. You mentioned Dr. Peterson a
22 moment ago. And in looking back at your prior
23 deposition, it's my understanding Dr. Peterson did
24 treat you for a period of time -- or rather treated
25 you for the injuries you suffered in this work

1 accident, correct?

2 **A Yes, sir.**

3 **Q** Are you still under the care of Dr. Peterson?

4 **A Yes, sir.**

5 **Q** Okay. Since August 1 of 2012, how frequently have
6 you been seeing Dr. Peterson?

7 **A** It's been several -- several times. I'm not sure
8 right off the top of my head what the number would
9 be, but it's been at least 12 or 15 times if not
10 more.

11 **Q** Okay. Do you see him monthly?

12 **A** I was at first. I was having to come in there
13 every month and now I got to the point where it's
14 every six months.

15 **Q** Let's talk about this visit in December of 2012.
16 You said he released you to go back to work on
17 December 27th?

18 **A Yes, sir.**

19 **Q** Did you see him on or about the 27th of December?

20 **A Yes. I believe it was a week before the 27th.**

21 **Q** Okay. Prior to his releasing you to return to work
22 and during this visit, the visit during which he
23 released you to go back to work, what type of
24 problems, if any, did you tell him you were having
25 as a result of your work accident?

1 **A** Other than just a little bit of back problems,
2 that's the only thing.

3 **Q** I know that following your work accident you had
4 some seizures, is that correct?

5 **A** Yeah. I had a seizure.

6 **Q** A seizure. I'm sorry. In December of 2012 when he
7 released you to go back to work, were you having
8 any seizures at all?

9 **A** No, sir.

10 **Q** Okay. How long had it been in December of 2012
11 since you had last had a seizure?

12 **A** Seven months.

13 **Q** So that would have been sometime around May,
14 April/May, of 2012?

15 **A** Yeah. Yes, sir.

16 **Q** When Dr. Peterson released you to go back to work
17 in December of 2012, was he providing you with any
18 treatment at all for your work injuries?

19 **A** I'm still on Keppra, which is a seizure medicine.

20 **Q** And how do you pay for that? Is that paid by your
21 health insurance or do you pay for that out of
22 pocket?

23 **A** Yeah. They pay so much and it costs me about \$10 a
24 month.

25 **Q** Now, since being released to go back to work by Dr.

1 Peterson, you said you've continued to see him with
2 some regularity?

3 **A Yes, sir.**

4 **Q** What are you seeing him for?

5 **A** It's probably been about four -- well, about four
6 months since the last time I seen him. Maybe a
7 little bit longer than that. And I was having some
8 back issues then so he sent me to a specialist and
9 they gave me medicine like they normally do. Then
10 they wanted to do injections and I didn't want to
11 do the medicine or injections so they basically
12 just started doing what I was doing in physical
13 therapy and that's helped me out better than
14 anything.

15 **Q** The -- you said he referred you to another doctor.
16 Who was that?

17 **A** I can't even remember her name. It was a -- it was
18 a pain specialist.

19 **Q** I've got some records from a lady named Dr.
20 Girault. Does that sound right?

21 **A** Yes. That's -- Yeah.

22 **Q** G-i-r-u-a-u-l-t.

23 **A** Yeah, that's it.

24 **Q** Gisele Girault.

25 **A** Yeah, that's it.

1 Q Okay. All right. I'll talk to you about her in
2 just a minute, but -- so you think you last saw Dr.
3 Peterson about four months ago?

4 A Yes, sir.

5 Q And you provided him with some complaints about
6 your back?

7 A Yes, sir.

8 Q Were these problems related to your work accident
9 or were they related to something else?

10 A It's -- well, where the problems where I'm having
11 in my back is where I had problems in my back from
12 where I fell off the truck, but it gets better as
13 time goes by.

14 Q Other than your work accident, have you had any
15 other accidents or falls or events where you
16 injured your back?

17 A No, sir.

18 Q So you've had no other back injuries at all since
19 the date of your work accident?

20 A No, sir.

21 Q When you last saw Dr. Peterson, did he provide you
22 with any treatment at all?

23 A No, sir.

24 Q Other than prescribing the medications --

25 A Yeah. Just medicine. But other than that,

1 nothing.

2 Q The medicine that he gave to you, was it just the
3 Keppra or did he give you anything else?

4 A No. It was 525 Hydrocodone.

5 Q And are you still taking it?

6 A No, sir.

7 Q When was the last time you would have taken that
8 pain medication?

9 A Probably about three months ago.

10 Q Do you have a follow up scheduled with Dr.
11 Peterson?

12 A Yes, sir. I've got to get blood work done next
13 week and then the following week I've got to go get
14 the results from him.

15 Q Is that for -- is that a regularly scheduled
16 appointment?

17 A Well, the blood work's to see -- like check your
18 liver and all from taking the seizure medicine.

19 Q Okay. All right. As far as Dr. Peterson goes,
20 does he have any -- has he placed any work
21 restrictions upon you at the present time?

22 A No, sir.

23 Q To your knowledge, has he still released you to go
24 back to doing your regular job?

25 A Yes, sir.

1 Q Is he aware that you've gone back to work?

2 A Yes, sir.

3 Q And is he aware that you've been back to work for
4 about a year?

5 A Yes, sir.

6 Q Okay. Let's talk about Dr. Girault for just a
7 moment. I've got her medical records so I don't
8 need to ask you about each and every time that
9 you've seen her. I'll kind of go through this with
10 you.

11 A Okay.

12 Q It looks like she saw you for the first time on or
13 about September the 18th of 2013. Does that sound
14 about right to you?

15 A Yes, sir.

16 Q Okay. And when you saw her for the first time,
17 what type of problems did you tell her you were
18 having?

19 A Basically the same problems. And she -- about
20 where my T3 and my T4 was where I had fractures and
21 she kind of explained what was going on with it.

22 It's healed and it's doing good, but it's -- like
23 the muscles are tense around it, which I can't
24 really explain it to you the way she explained it
25 to me.

1 Q Did you tell her that you had been involved in a
2 work accident?

3 A Yes, sir.

4 Q Did you provide her with a history of any other
5 back injuries other than your work accident?

6 A No. Which I had told her -- I did tell her that I
7 didn't really fall off the horse. I basically
8 jumped off the horse, but that really didn't bother
9 me.

10 Q When did that happen?

11 A Sometime before September.

12 Q Were you on your property or were you somewhere --

13 A Yes, sir.

14 Q Kind of tell me about what happened. I assume you
15 don't jump off a horse for fun.

16 A Well, I got on the horse bareback and the other
17 horse was out there being stupid and then that
18 horse went stupid so I just jumped.

19 Q Okay. Did you land on your feet?

20 A I landed on my feet. Then I basically like went
21 backwards for a little ways. Then I fell on my
22 butt.

23 Q Do you still ride horses?

24 A Yes, sir.

25 Q How frequently do you ride horses?

1 A Not very often. It's maybe once every couple
2 months.

3 Q When was the last time you rode one?

4 A It's probably been four or five months ago.

5 Q Are these ones that belong to you or they belong to
6 somebody else?

7 A No. They belong to me.

8 Q How many do you have?

9 A I've got three.

10 Q Are they boarded, I guess for a better term, on
11 your property?

12 A Yes, sir.

13 Q And so do you have to take care of them?

14 A Yes, sir.

15 Q Do you have to feed them?

16 A Yes, sir.

17 Q And clean them?

18 A Yes, sir.

19 Q And shoe them?

20 A I don't shoe them. They just have -- we have a
21 horse farrier come out there and they trim their
22 feet.

23 Q Okay. Are they -- do you use them, you know, for
24 farming or are they --

25 A They're just basically like yard ornaments.

1 Q Okay. All right. So you saw Dr. Girault in
2 September. You told her that you were having some
3 problems with your back. Did she provide you with
4 any treatment at all at that time?

5 A She had continued me on the same medication Dr.
6 Peterson had given me. Then she had given me like
7 an anti-inflammatory medicine and a muscle relaxer.

8 Q It looks like she recommended that you also have an
9 MRI?

10 A Yes, sir. And I did that.

11 Q And did you go back to see her after you had the
12 MRI?

13 A Yes, sir.

14 Q And I've got a note from October 17, 2013. Does
15 that sound about right to you?

16 A Yes, sir.

17 Q All right. What happened at this follow up visit?

18 A Basically just keep taking like the anti-
19 inflammatory medicine and the muscle relaxers and
20 get off the narcotic pills. Then she wanted to do
21 injections and all that and I wanted to look more
22 into that before I made that decision. And all the
23 stuff I looked up on it, it wasn't nothing but
24 something that causes more problems. So when I
25 went back I told them I didn't want to do the

1 injections and they kept pushing towards that way
2 so I haven't went back.

3 Q So was there another visit with her after October
4 17th?

5 A No, sir. I've only been there twice.

6 Q So did you inform her office that you didn't want
7 to have these injections?

8 A They had set it up. We were going to do it and --
9 well, they had set it up for me to come back and
10 talk to her because when I went back the second
11 time I talked to the nurse practitioner, not
12 actually the doctor.

13 Q Okay.

14 A And I wanted to talk to the doctor.

15 Q Did you ultimately inform them that you didn't want
16 to have the injections?

17 A Yes, sir.

18 Q And so you haven't been back at all since October
19 17th?

20 A No, sir.

21 Q And in her note she talks about giving you a
22 prescription for a back brace. Did you ever go and
23 get a back brace?

24 A No, sir.

25 Q You don't wear one at the present time?

1 **A** **No, sir.**

2 **Q** Other than Dr. Girault, has Dr. Peterson referred
3 you to see any other doctors at all?

4 **A** **The only doctor he referred me to was -- he was**
5 **like -- this was more towards the beginning. He**
6 **referred me to like a sports doctor and then he**
7 **sent me to physical therapy and that's when I**
8 **started doing that.**

9 **Q** Okay. All right. But since, let's say -- let's
10 just go back to when you returned to work, January
11 of last year. Since January of last year, has Dr.
12 Peterson referred you to see any doctors other than
13 Dr. Girault?

14 **A** **No, sir.**

15 **Q** Since you were deposed on August 1 of 2012, have
16 you been hospitalized for any reason?

17 **A** **No, sir.**

18 **Q** Since August 1 of 2012, have you had any type of
19 surgery at all?

20 **A** **No, sir.**

21 **Q** Since August 1 of 2012, have you visited an
22 emergency room at any hospital anywhere?

23 **A** **No, sir. No emergency room.**

24 **Q** Have you treated with any other doctors at all
25 since August 1 of 2012 other than Dr. Peterson and

1 Dr. Girault?

2 **A** Yeah. I went like the -- or Doctors Care or
3 Kershaw Health or whatever it is right up there in
4 Elgin because my shin right here. But other than
5 that, no.

6 **Q** Did you injure your shin somehow?

7 **A** Well, it's been messed up for a while and then I
8 hit it again and it just made it bruise real bad
9 basically.

10 **Q** It was messed up from some injury you had had in
11 the past?

12 **A** Well, I hit a stump driving a four wheeler one time
13 and that's been probably 15 years ago, if not
14 longer.

15 **Q** All right. Has your lawyer sent you to see a
16 doctor?

17 **A** No, sir.

18 **Q** Do you have any visits scheduled with a doctor that
19 have been scheduled by your lawyer?

20 **A** No, sir.

21 **Q** And so other than Dr. Peterson and Dr. Girault,
22 those are the two doctors that have essentially
23 seen you since August 1 of 2012 for the injuries
24 you sustained in your accident?

25 **A** Yes, sir.

1 Q As far as your job is concerned at the present
2 time, are you physically able to perform your job
3 duties and responsibilities?

4 A Yes, sir.

5 Q Do you supervise anyone?

6 A No, sir.

7 Q I've never operated a backhoe. That may be a shock
8 to you.

9 A It would be.

10 Q I assume that when you get on one you have to use
11 your hands?

12 A Yes, sir.

13 Q You have to use your feet?

14 A Yes, sir.

15 Q You have to use your eyes?

16 A Yep.

17 Q You have to use your brain?

18 A Yes, sir.

19 Q You have to use them all at the same time?

20 A Yep.

21 Q Okay. So operating heavy equipment requires -- it
22 requires you to concentrate?

23 A Yes, sir.

24 Q Okay. Sometimes harder than other times, I assume,
25 right?

1 A Yes, sir.

2 Q You said you drive a dump truck?

3 A Yeah. I do every once in a while. Not very often,
4 though.

5 Q When you drive it, are you driving it on a job site
6 or are you driving it over the road from point A --

7 A No, sir. It's on the site. That's why we don't
8 have CDLs. We don't ever drive on the public
9 roads.

10 Q Okay. All right. If you're on a job site and
11 you're driving a dump truck, I assume that requires
12 concentration, too?

13 A Yes, sir.

14 Q And are these manual transmission trucks?

15 A We have manual and automatic.

16 Q Any problems operating those vehicles at all?

17 A No, sir.

18 Q As far as the seizure activity goes, it's been a
19 while since you had one?

20 A It's been a while, yeah.

21 Q Almost two years now?

22 A Yeah.

23 Q Okay. All right. Mr. Turner, as far as your
24 current problems are concerned, problems related to
25 this work accident, are you having any problems at

1 the present time?

2 **A** I still like -- like right now sitting in this
3 chair it bothers me, but I had -- I lean back a lot
4 and put a pillow behind my back so I don't hunch
5 because I hunch a lot and the physical therapy
6 people basically told me if I didn't quit hunching
7 that I was going to be that way forever so -- but
8 other than that, I'm pretty good.

9 **Q** And when you say -- are you talking about your
10 back?

11 **A** Yeah.

12 **Q** Where do you have back pain?

13 **A** Right almost -- well, a little bit higher than the
14 middle.

15 **Q** Okay. Is it generally worse in the mornings or in
16 the evenings or does it stay the same throughout
17 the day?

18 **A** In the mornings I feel pretty good and afternoons
19 I'll be a little bit sore, but other than that, it
20 ain't something that's slowing me down.

21 **Q** Is there anything that you do from a physical
22 standpoint that causes your back pain to flare up?

23 **A** If I'm bending over -- bending over a lot. That's
24 usually when it hurts the worst. But other than
25 that, it doesn't really bother me.

1 Q If you had to rate your back pain on a scale of
2 zero to ten, zero being no pain and ten being the
3 most excruciating pain you've ever experienced, how
4 would you rate your daily back pain?

5 A Sometimes it doesn't bother me at all. I'd say
6 around a two, maybe.

7 Q When you have back pain, what do you do to try to
8 alleviate it or make it go away?

9 A Just stretch.

10 Q Do you take any prescription medications for your
11 back?

12 A No, sir.

13 Q Do you take any over-the-counter medications for
14 your back?

15 A I might take Aleve every once in a while.

16 Q How often in the course of an average week do you
17 take Aleve?

18 A Maybe twice.

19 Q Do you ever put an ice pack on your back?

20 A I put heat pads on it.

21 Q How often do you put a heating pad on it?

22 A Probably about three or four times a week.

23 Q Is this something that you do when you get home
24 from work?

25 A Yeah. See, I did the same thing. They did the

1 same thing when I was in physical therapy. It
2 helps out big time. It's like -- it's about the
3 best thing you could possibly do.

4 Q Do you ever do anything -- what we call home
5 exercises? You know, stretching or things that the
6 physical therapists have given to you that you can
7 perform at home, do you ever do anything like that?

8 A Yes, sir.

9 Q How often do you do home exercises?

10 A I do that about three times a week.

11 Q And how long do you spend doing those when you do
12 them?

13 A Approximately 30 minutes.

14 Q Do you ever put any kind of medicated rub at all on
15 your back?

16 A No, sir.

17 Q As far as your head is concerned, do you have any
18 ongoing problems with your head as a result of your
19 work accident?

20 A No, sir.

21 Q No headaches?

22 A No, sir.

23 Q All right. And, again, you haven't had a seizure
24 in almost two years?

25 A That's correct.

1 Q You mentioned a few minutes ago that you injured
2 your shin a few years ago driving a four wheeler.
3 Do you still drive four wheelers on your property?

4 A **Yes, sir.**

5 Q How often do you do that?

6 A **Just about every week.**

7 Q Are these four wheelers or are these more like
8 Gators where you're sitting inside the cab?

9 A **No. They're not side by sides. They're actually
10 four wheelers.**

11 Q All right. Do you do any hunting out on your
12 property?

13 A **Yes, sir.**

14 Q What type of hunting do you do out there?

15 A **Mostly just duck hunt.**

16 Q How often do you go duck hunting?

17 A **Well, about every weekend when duck season's in.**

18 Q In order to shoot duck you've got to be able to use
19 your eyes?

20 A **Yeah.**

21 Q Hold your gun, kind of concentrate on where they're
22 going and what they're doing. Are you able to do
23 those types of things?

24 A **Yes, I can do that.**

25 Q Any other hunting at all out there? Deer hunting

1 at all?

2 **A I do it every once in a while.**

3 **Q When was the last time you went deer hunting?**

4 **A I went one time this year. It was right at the**
5 **beginning.**

6 **Q As in 2014? As in this year, 2014?**

7 **A No.**

8 **Q You mean last year, 2013?**

9 **A Yeah. It -- deer season's out on the first.**

10 **Q Sure. Okay. Let me make sure I'm clear about one**
11 **thing, too. You were telling me earlier at the**
12 **very beginning of your deposition about all the**
13 **work you and your dad had done on your house.**

14 **A Yeah.**

15 **Q Was any of this work being done during the period**
16 **of time that you were out of work when you -- you**
17 **told me you were out of work for about eight months**
18 **after you work accident happened. Was any of the**
19 **work that you and your dad did on your home done**
20 **during that period of time?**

21 **A Yeah. I -- I was working. I was doing anything I**
22 **possibly could do.**

23 **Q Were you working anywhere at all for anybody during**
24 **those eight months?**

25 **A No. I was just working on the farm.**

1 Q You were working on the farm and you were working
2 on your house?

3 A Yes, sir.

4 Q And when you say working on the farm, you told me
5 about your horses and taking care of them. What
6 other things would you have been doing during that
7 time?

8 A We cut hay and plant corn.

9 Q All right. And operating a tractor?

10 A Yes, sir.

11 Q And having to do everything that's associated with
12 baling hay and planting corn?

13 A Yes, sir.

14 Q And you were doing that during that time?

15 A I was doing it the best I could, yes, sir.

16 Q Was that with your dad or did y'all have other
17 people that y'all hired to come out there to help?

18 A No. We just do it as -- we're basically hobby
19 farmers.

20 Mr. Lockhart: Mr. Turner, those are all
21 the questions I have. Thank you, sir.

22 Mr. Koon: None. And we'll waive.

23 (Whereupon the deposition was concluded at
24 3:35 p.m.)

25

South Carolina Workers' Compensation Commission

1333 Main Street, Suite 500
P.O. BOX 1715
Columbia, SC 29202-1715
(803) 737-5723



WCC File #: 1204039
Carrier File #: 002979030511WC01
December 16, 2013

NOTICE OF HEARING

LEE TURNER v. BUCKHORN MATERIALS

Subject: To determine issues as set forth on Forms 50 and 51.
Date: February 4, 2014 at 02:30 PM
Location: SC Workers' Compensation Commission, 1333 Main Street, Suite 500, Hearing Room A
Columbia, SC 29202

South Carolina Regulations 67-601 through 67-615 govern hearings before the South Carolina Workers' Compensation Commission. The claimant must attend when not represented by an attorney or when disfigurement is involved. Corporations must be represented by an attorney, and uninsured employers must attend.

Attorneys must file a Form 58 with proof of service pursuant to Regulation 67-611. Postponements are only granted pursuant to Regulation 67-613. Please visit www.wcc.sc.gov/Commissioners to view Commissioners' Preferences. If you have questions regarding this matter, please contact the office of the undersigned Jurisdictional Commissioner.

Commissioner Susan S. Barden
803-737-5660, klove@wcc.sc.gov

CERTIFICATE OF SERVICE – This is to certify the undersigned has served this notice in the above entitled action upon all parties to this cause by sending a copy hereof by electronic mail or United States mail.

By: Kristi L Love, SC Workers' Compensation, December 16, 2013

Party

Employee: LEE TURNER

Attorney

John K Koon
jkoon@koonandcook.com
803-256-4082

Employer: BUCKHORN MATERIALS
Carrier: Old Republic General Insurance Corporation

Jason W. Lockhart (5)
jlockhart@mgclaw.com
803-227-2283

REQUEST FOR PROPOSED ORDER

This document is not an Order. It is a request for a proposed Order. The undersigned reserves the right to modify or delete any portion of this document.

WCC #: 1204039

DATE OF HEARING: February 4, 2014
PLACE OF HEARING: Columbia, SC

CLAIMANT: Lee Turner

EMPLOYER: SAIIA Construction

CARRIER: Old Republic

CLAIMANT'S ATTY: Steve Cook / John Koon

DEFENDANTS' ATTY: Jason Lockhart

FINDINGS OF FACT

1. Claimant alleges that he injured his head, brain, and thoracic spine in a work-related accident on April 19, 2012.
2. Claimant is 28 years of age (medical evidence establishing Claimant's date of birth as Claimant's 2012 Deposition, page 5).
3. Claimant is a high school graduate (Defendants' APA #2, page 9; Claimant's 2012 Deposition, page 9).
4. Claimant's job with Employer was heavy equipment operator (testimony of Claimant; Claimant's 2012 Deposition, pages 10 and 21).
5. In the alleged accident in issue, Claimant was found injured and lying next to Employer's truck. I base this on the testimony of Barnette and Bolden.
6. Claimant admits that he remembers nothing about (a) the day prior to the date of the alleged accident, (b) the day of the alleged accident, including "*absolutely no memory of it or what might have precipitated the fall;*" or (c) the day after the date of the alleged accident (testimony of Claimant; Claimant's APA #2, page 25; Claimant's 2012 Deposition, pages 25-26, 29, and 31-32).
7. The alleged accident was unwitnessed. No witness claims to have seen it.
8. Three days prior to the date of the alleged accident, Claimant was prescribed 90 capsules of Neurontin (to be taken three times daily) and 60 tablets of Ultram (to be taken two times daily). I base this finding on Defendants' APA #8, pages 27-28; Defendants' APA #9, page 30; and Claimant's APA #2, page 25).

9. Two days prior to the date of the alleged accident, Claimant sought treatment in the Emergency Room. At the ER, Claimant reported that he had vomited one time the day before, and had had diarrhea earlier in the week (Defendants' APA #9, pages 30-32).
10. The temporal medical records are of no real utility: (a) one record from the date of the alleged accident erroneously states that Claimant fell off a *ladder*, and Claimant does not contend that he fell off a ladder (Claimant's APA #1, page 1; Defendants' APA #10, page 33; Claimant's 2012 Deposition, pages 28-29); and (b) another record from the date of the accident states that Claimant fell of the back of a truck, when Claimant in fact contends that he must have fallen from the steps of the cab (Claimant's APA #1, page 20; Defendants' APA #10, page 35).
11. Co-worker Barnette admits he can only "speculate" as to how the fall occurred, as Barnette did not (a) see Claimant fall or (b) testify that he saw Claimant on the cab steps immediately prior to the fall. Further, Barnette testified that most of the truck cleaning is done by a high pressure hose, rather than with soap. If Barnette had seen Claimant on the steps of the cab just prior to the alleged accident, the result in this case might be vastly different (evidence in its entirety, including but not limited to Deposition of Barnette, pages 8, 13-17, 21-22, 24-25, and 28).
12. Nor did co-worker/friend Bolden witness the accident, and Bolden specifically admits he "never saw [Claimant] on the steps of the truck." Bolden did, however, see Claimant "standing on the ground" and placing a cooler in the truck sometime before the time of the alleged accident (Deposition of Bolden, pages 4-7, 9, and 14).
13. Supervisor Speegle did not witness the accident either, and knows of no one who did (Deposition of Speegle, pages 5 and 11).
14. The undersigned does not find persuasive the opinion of Dr. Peterson (Claimant's family doctor): the portion of Claimant's counsel's letter prefacing the request for the causation opinion assumes that Claimant "fell from the cab of" Employer's truck. Further, Dr. Peterson's opinion only states that Claimant's head injuries were "caused by the fall on April 19, 2012." There is no dispute that Claimant injured his head in the fall, whether from a standing position or from the steps of the cab (Defendants' APA #2, page 6; Claimant's APA #3, page 37; Claimant's 2012 Deposition, pages 12-13 and 39).
15. Six months after the date of the alleged accident, Claimant was not limited by back pain, such that he was able to engage in "a lot of farming and building a [log] house" (Defendants' APA #5, page 21; testimony of Claimant; *See also* Claimant's 2014 Deposition, pages 6-7 and 33-34).
16. Claimant sustained an intervening accident in August 2013 (1 year and 4 months after the date of the alleged accident), for which Claimant sought medical treatment. Medical evidence from Claimant's treating physician at this visit states that Claimant was doing well after the alleged fall at work until Claimant "fell off a horse." Claimant was impeached at the hearing testimony with his initial deposition testimony that he had sustained no accidents since the date of the alleged work accident. Claimant's explanation of the horse incident ("it didn't hurt or anything like that") is not persuasive given the fact that Claimant sought treatment for the after the fall off the horse

(testimony of Claimant; Defendants' APA #3, pages 12-14, 16, and 18; Claimant's 2014 Deposition, pages 18 and 21).

17. In his theory of the case, Claimant contends that circumstantial evidence (the fact that Claimant was on Employer's premises; the presence of Claimant's book bag in the cab; Claimant's testimony that he always climbed the steps to place his book bag in the cab; the fact that Claimant must have fallen from a position higher than the floor to sustain the injuries he sustained, and the fact that Claimant's truck had recently been washed--or that Claimant's shoe caught on the step(s) of the cab) is sufficient to prove that Claimant fell from the steps of the cab of the truck and suffered work-related injuries. However, I find that *Owens v. Oceans Forest Club* does not serve to render the claim in issue compensable. In *Owens*, the claimant (a game warden hired to patrol Employer's premises to prevent poaching and trespassers generally) was found dead on the ground of Employer's premises, but the specific cause of death in *Owens* was a bullet wound through the head (*i.e.* the bullet clearly caused the death and obvious fall to the ground). The *Owens* court found the claim compensable based upon circumstantial evidence because (a) the claimant was on Employer's property during the claimant's hours of employment, (b) the cause of death was a known gunshot wound, and (c) of the nature of the work duties. The question before the court was whether the death in *Owens* was the result of a suicide or a trespasser.
18. Even if the undersigned presumes that Claimant was in fact injured through his employment, I am confronted with the following: (a) there is no known cause of the fall in the instant case; (b) Claimant had been taking prescription medication (including Neurontin and Ultram) for back pain in the few days preceding the date of the accident; (c) Claimant sought treatment at the ER two days before the date of the accident for stomach/dehydration issues, and while there Claimant's family questioned the side effects of the medications he had been taking; (d) no one saw Claimant on the steps of the truck, and in fact one witness saw Claimant place a cooler into the truck from a standing position on the ground--not the steps; (e) although not dispositive, Claimant's friend and co-worker said the steps were not cleaned with soap: only a pressure washer; and (f) very importantly, **Claimant gave sworn testimony at his deposition that two witnesses observed Claimant on the steps just before he fell, which is refuted (or at least inconsistent with) the testimony of Barnette and Bolden.** Claimant's sworn testimony in this regard (as cited in this finding) greatly damages his credibility (*e.g.*, Claimant's 2012 Deposition, pages 26 and 29-34: "*I was told... I was climbing up in the truck to put something in there or do something... And then they said that they seen me up--they seen me up on the truck. Then they said after they turned around, they seen me laying on the ground*" is not supported by the testimony of any witness; nor is Claimant's testimony--"*they told me, they--they turned around and they seen me climb up in the truck, and they said they turned back around, and as soon as they turned back around again, they said they seen me laying on the ground*"--supported by the testimony of any other witness (Claimant's 20-12 Deposition, page 26, lines 18-24; Deposition of Barnette in its entirety; Deposition of Bolden in its entirety).

19. As Claimant did not meet his burden of proof, his request for benefits under the Act is denied.

20. Claimant's average weekly wage is \$684.18, yielding a compensation rate of \$456.14.

INSTRUCTIONS: Attorney Jason Lockhart to prepare proposed Order unless otherwise agreed upon by the parties.

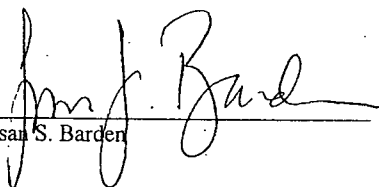
Proposed Order shall include **VERBATIM** Findings of Fact attached hereto, **unless there is a mistake, in which case, it may be corrected. ATTORNEYS ARE RESPONSIBLE FOR PROOFING ORDERS PRIOR TO SUBMISSION.** Any other Findings of Fact not inconsistent with those attached hereto may also be included. Proposed Order shall be submitted within 35 days of the date of these order instructions. If you need a transcript order it *immediately* from court reporter Sheila Robison *in writing* at Post Office Box 551, Roebuck, South Carolina 29376. Provide a copy of the proposed order to opposing counsel or *pro se* claimant **at least five (5) days prior to the time** one is submitted to the Commission. **IN YOUR COVER LETTER TO ME, PLEASE INCLUDE A STATEMENT THAT THE OPPOSING PARTY HAS NO OBJECTION TO THE ORDER AS WRITTEN.**



The Commission now requires the proposed order be e-mailed to klove@wcc.sc.gov and all parties in Word format.

FORMAT for DECISION & ORDER:

1. APA Submissions
2. Stipulations
3. Statement of Case (Contentions of parties, stated concisely)
4. Evidence of Case (synopsis of evidence, including testimony and medical reports)
5. Findings of Fact – numbered (*Do NOT delete any of the above findings; however, the prevailing party may add to support decision, except re: credibility.*)
6. Conclusions of Law (Cite code sections and case law as applicable.)
7. Award



Susan S. Barden

South Carolina Workers' Compensation Commission

Preston mcDaniel

From: Hollmon, Eugenia <EHollmon@wcc.sc.gov>
Sent: Friday, August 29, 2014 11:21 AM
To: Jason Lockhart; preston@pfmcdlaw.com
Cc: -Katie F. Morris -
Subject: Turner

Below is a request for a proposed decision and order

**SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
REQUEST FOR A PROPOSED DECISION AND ORDER**

This document is not a Decision and Order. It is a request for a proposed order. The Commissioners reserve the right to modify and/or delete any or all portions of the submitted Decision and Order.

Lee Turner v Saliia Holdings
SCWCC: 1204039
Commission Panel: McCaskill, James, Wilkerson; Chair
Order Assigned to Commissioner: James
Court Reporter – Jennifer Nottle – 803-252-3445

Preston F. McDaniel
Jason W. Lockhart

Claimant/Appellant
Defendants/Respondents

This matter was heard before the South Carolina Workers' Compensation Full Commission Appellate Panel during the last term of Review. The Commissioners considered the matter and find a **FULL AFFIRMATION** of the Single Commissioner's Decision and Order.

Mr. Lockhart please prepare a proposed order and submit to the Judicial Department within thirty (30) days of this notice. The proposed order shall be submitted in Word format to appeals@wcc.sc.gov and shared with each Party. Please make sure the Appellate Panel Decision and Order recites the specific Finds of Fact and Rulings of Law of the Single Commissioner's Decision and Order and reflects any comments requested by a Commissioner.

The signature page shall include a signature line for each Commissioner and the first signature should be the name of the Commissioner assigned the case as indicated above.

If you have any questions, please do not hesitate to email me at ehollmon@wcc.sc.gov or call at 803-737-5737

Judicial

Transmitted via email and regular mail this 29 August 2014

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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SOUTH CAROLINA
Workers' Compensation Commission
Appellate Panel

Appellate Case No. 2014-002416

William Lee Turner, Employee, Appellant;

v.

SAIIA Construction, Employer, and Old Republic
General Insurance Corp., c/o Gallagher
Bassett Services, Inc., Carrier, Respondents.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other materials.

Dated: April 24, 2015



Preston F. McDaniel
MCDANIEL LAW FIRM
1315 Elmwood Avenue
Columbia, SC 29201
(803) 771-7211

Attorney for Appellant

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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APR 24 2015

SC Court of Appeals

APPEAL FROM SOUTH CAROLINA
Workers' Compensation Commission
Appellate Panel

Appellate Case No. 2014-002416

William Lee Turner, Employee, Appellant,

v.

SAIIA Construction, Employer, and
Old Republic General Insurance Corporation
c/o Gallagher Bassett Services, Inc.,
Carrier, Respondents.

PROOF OF SERVICE

I certify that I have served the **RECORD ON APPEAL** by depositing a copy of it in the United States Mail, postage prepaid, on April 24, 2015, addressed to: Helen F. Hiser, Attorney, McAngus Goudelock & Courie, 735 Johnnie Dodds Blvd., Suite 200, Post Office Box 650007, Mt. Pleasant, SC 29465.

Dated: April 24, 2015



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Attorney for Appellant