

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

APPEAL FROM DORCHESTER COUNTY  
Maite Murphy, Circuit Court Judge

Frank Wilson, ..... Claimant, Appellant,

v.

American LaFrance, Employer, and AIG C/O Gallagher Bassett Services, Inc.,  
Carrier, ..... Respondent,

RECORD ON APPEAL

Frank Wilson  
8755 Jessica Court  
North Charleston, SC 29406  
(843) 327-9616  
Appellant

Erin L. Hantske and Helen F. Hiser  
P. O. Box 650007  
Mount Pleasant, SC 29465  
(843) 576-2900  
Attorneys for Respondent

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South Carolina Workers' Compensation Commission

WCC FILE NO. 0506037

WCC Form # 58

(PRE-HEARING BRIEF)

(Date Of Hearing: April 3, 2012 at 12:00PM)

9.) Medical evidence (indicate report pursuant to R.67-612; deposition or appearance):  
Medical evidence report pursuant to R.67-612:

10.) Names, address, and specialty, if any, of the treating physician:

C. J. Malie, MD and Trident Medical Center 9330 Medical Plaza Drive, North Charleston, SC 29406; Orthopaedics: Don O. Stovall, Jr., MD/Chad R. Burgoyne, MD/Shailesh M. Patel, MD 2880 Tricom Street, North Charleston, SC 29406; George Warren, MD 93A Springview Lane, Summerville, SC 29408; John M. Graham, Jr., MD 594 Lone Tree Drive, Bldg. 6, Mount Pleasant, SC 29464; William J. Estes, MD 1300 Hospital Drive, Suite 150, Mount Pleasant, SC 29464; James D. Spearman, MD 93A Springview Lane, Summerville, SC 29408; Spine: Chris P. Tountas, MD 1311 Chuck Dawley Boulevard, Mount Pleasant, SC 29464; Jeffrey E. Faaberg, Sr., MD 5790 Memorial Boulevard, St. George, SC 29477; Thomas Roush, MD/Donald R. Johnson, II, MD 1106 Chuck Dawley Boulevard, Suite 200, Mount Pleasant, SC 29464; Spine/Interventional Pain Management: W. Blane Richardson, MD 913 Bowman Road, Mount Pleasant, SC 29464; Cardio-vascular & Thoracic: James M. Benner, MD 9313 Medical Plaza Drive, Suite 304, North Charleston, SC 29406; Physical Medicine: Richard Gordon, MD, North Charleston, SC 29406; Neurologist: Stephen E. Rawe, MD 2145 Henry Tecklenburg Drive, Charleston, SC 29414; Pulmonary/Lungs: Cary E. Fechter, MD 105 Wappoo Creek Drive, Suite 4-A, Charleston, SC 29412; Michael A. Spandorfer, MD 2097 Henry Tecklenburg Drive, Suite 305, Charleston, SC 29414; Urologist: Colin M. Goudelocke, MD/Eric S. Rovner, MD 1156 Bowman Road, Suite 104, Mount Pleasant, SC 29464

11.) Impairment rating(s); body part(s); physician and date of opinion:

7% Regional Impairment Lumbar Spine 5% Whole Person Impairment- Don O. Stovall, Jr., MD (October 11, 2006) 13% Regional Impairment Lumbar Spine 10% Whole Person Impairment- Jeffrey E. Faaberg, Sr., MD (December 19, 2006) 20% Regional Impairment Lumbar Spine 21% Whole Person Impairment- Donald R. Johnson, II, MD (June 18, 2011)

14% Regional Impairment Cervical Spine 5% Whole Person Impairment- Don O. Stovall, Jr., MD (October 11, 2006) 28% Regional Impairment Cervical Spine 10% Whole Person Impairment- Jeffrey E. Faaberg, Sr., MD (June 25, 2007) 20% Regional Impairment Cervical Spine 5% Whole Person Impairment- Donald R. Johnson, II, MD (June 18, 2011)

5% Regional Impairment Of The Right Upper Extremity Right Shoulder 3% Whole Person Impairment- Don O. Stovall, Jr., MD (October 11, 2006) 10% Impairment Of The Right Upper Extremity Right Shoulder- Jeffrey E. Faaberg, Sr., MD (December 19, 2006) 15% Impairment Of The Right Upper Extremity Right Shoulder 25% Whole Person Impairment- John M. Graham,

South Carolina Workers' Compensation Commission

WCC FILE NO. 0506037

WCC Form # 58

(PRE-HEARING BRIEF)

(Date Of Hearing: April 3, 2012 at 12:00PM)

Jr., MD (September 21, 2011)

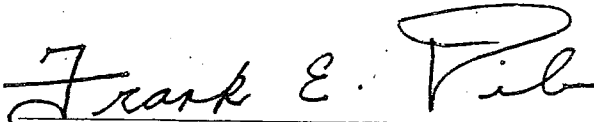
15%-20% Whole Person Impairment Pulmonary/Lungs- Cary E. Fechter, MD (March 23, 2007)

24% Whole Person Impairment Pulmonary/Lungs- Michael A. Spandorfer, MD (October 10, 2008)

10% Whole Person Impairment Pulmonary/Lungs- Michael A. Spandorfer, MD (August 31, 2011)

21% Whole Person Impairment Urologist- Colin M. Goudelocke, MD (July 21, 2011)

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Frank E. Wilson

Date: March 19, 2012

SOUTH CAROLINA WORKER'S COMPENSATION COMMISSION  
WCC File No.: 0506037

Exhibits: A thru F

Delays In The Authorizing Of Medical Evaluation(s) And Or Treatment(s)  
(Recommended And Requested By The Authorized Treating Physicians)/Other

Exhibit A:

- 1.) **Lowcountry Orthopaedics And Sports Medicine:** The Claimant had an updated **Lumbar Spine MRI (7/26/06)**. The following **IMPRESSION:** Dr. Don O. Stovall, Jr., MD omitted or failed to include in the Claimant's office visit note or office visit medical report dated (7/31/06). 2.) L4/5 left intraforaminal annular tear lies adjacent to exiting left nerve root. This finding is new since prior. 3.) L5/S1 type I Modic change could produce nonradicular pain. This finding is also new since prior.
- 2.) **Lowcountry Orthopaedics And Sports Medicine Letter** (Attention Dr. Don O. Stovall, Jr., MD/Dr. George F. Warren, MD) dated 3/6/08 RE: INJECTIONS (Pain Management) sent via fax: (843) 797-3633.
- 3.) **Lowcountry Orthopaedics And Sports Medicine Letter** (Attention Dr. Don O. Stovall, Jr., MD/Dr. George F. Warren, MD) dated 3/10/08 RE: Request For Injection At The Left Shoulder Region... sent via (843) 797-3633.

Exhibit B:

- 1.) **Lowcountry Orthopaedics And Sports Medicine Letter** (Attention Dr. Don O. Stovall, Jr., MD) dated February 26, 2009 RE: February 26, 2009 Letter... To Dr. Don O. Stovall, Jr., MD... RE: March 2, 2009... Medical Evaluation Appointment at 1:10 P.M.
- 2.) **MEDICAL REPORTS AND MRI REPORTS**  
(For Dr. Don O. Stovall, Jr., MD... March 2, 2009 Medical Evaluation Appointment...) Document

Exhibit C:

- 1.) **Lowcountry Orthopaedics And Sports Medicine Letter** (Attention Dr. Don O. Stovall, Jr., MD) dated May 1, 2009 RE: May 1, 2009 Letter... Attention Dr. Don O. Stovall, Jr., MD... Re: **Right and Left Shoulder Evaluation**... Although Dr. Stovall had knowledge of the Claimant's **Left Shoulder Injury** as of 3/10/08 if not earlier, Dr. Stovall failed to

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

WCC File No.: 0506037

include or mention this noted **Left Shoulder Injury** in any of the Claimant's office visit notes or office visit medical reports thru the time frame of 4/27/09...the Claimant's last office visit with Dr. Stoval

SCWCC

Exhibit D:

- 1.) **Lowcountry Orthopaedics And Sports Medicine** office visit on 05/05/09 with Chad R. Burgoyne, MD: Although Dr. Burgoyne reviewed the Claimant's **Left Shoulder MRI (5/31/07)** and reviewed the **Left Shoulder MRI Report (5/31/07)**, Dr. Burgoyne only noted and mentioned in the Claimant's office visit note or office visit medical report (some rotator cuff and biceps tendinosis with no acute tendonitis. The Claimant's **Left Shoulder MRI (5/31/07)** clearly states **Impression:** Supraspinatus and biceps tendinosis with partial tears. No evidence of a full thickness rotator cuff tear. As it relates to the Claimant's **Right Shoulder Injury**, Dr. Burgoyne would reference to a **Right Shoulder MRI and MRI Report** dated (4/12/06). This **MRI and MRI Report** would have been over three (3) years old and would be used for evaluation and or treatment for The Claimant's **Right Shoulder Injury**. This would be in reference to the Claimant's office visit of 05/05/09. Its appears that it would have been reasonable for Dr. Burgoyne to have requested an updated **Right Shoulder MRI** in order to received an updated status of the Claimant's **Right Shoulder Injury**. This is after the fact that the Claimant had related to Dr. Burgoyne that the **Right Shoulder Injury** had worsened. Nevertheless, it should have been reasonable for Dr. Burgoyne to request an updated **Right Shoulder MRI** and not reference to a **Right Shoulder MRI** that's over three (3) years old for the evaluation and or the treatment of the Claimant's **Right Shoulder Injury**.

JUDICIAL

Exhibit E:

- 1.) **Southeastern Spine Institute** (Donald R. Johnson, II, MD): The Claimant's office visit note or office visit medical report of (1/25/10)
- 2.) **Southeastern Spine Institute** (Donald R. Johnson, II, MD): The Claimant's office visit note or office visit medical report of (2/24/10)
- 3.) **Southeastern Spine Institute** (Donald R. Johnson, II, MD): The Claimant's office visit note or office visit medical report of (3/3/10)

Exhibit F:

- 1.) **Palmetto Interventional Pain Management** (W. Blane Richardson, MD): The Claimant's office visit note or office visit medical report of (2/1/11)

SOUTH CAROLINA WORKER'S COMPENSATION COMMISSION

(Date Of Hearing: July 21, 2011 at 1:30PM)

WCC File No.: 0506037

Exhibits

Delays In The Authorizing Of Medical Evaluation(s) And Or Treatment(s)  
(Recommended And Requested By The Authorized Treating Physicians)

Exhibit A:

- 1.) **Lowcountry Orthopaedics And Sports Medicine:** The Claimant had an updated **Lumbar Spine MRI** (7/26/06). The following **IMPRESSION:** Dr. Don O. Stovall, Jr., MD omitted or failed to include in the Claimant's office visit note or office visit medical report dated (7/31/06). 2.) L4/5 left intraforaminal annular tear lies adjacent to exiting left nerve root. This finding is new since prior. 3.) L5/S1 type I Modic change could produce nonradicular pain. This finding is also new since prior.
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- 2.) **MEDICAL REPORTS AND MRI REPORTS**  
(For Dr. Don O. Stovall, Jr., MD...March 2, 2009 Medical Evaluation Appointment...) Document

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- 1.) **Lowcountry Orthopaedics And Sports Medicine Letter** (Attention Dr. Don O. Stovall, Jr., MD) dated May 1, 2009 RE: May 1, 2009 Letter... Attention Dr. Don O. Stovall, Jr., MD...Re: **Right and Left Shoulder Evaluation**...Although Dr. Stovall had knowledge of the Claimant's **Left Shoulder Injury** as of 3/10/08 if not earlier, Dr. Stovall failed to

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

(Date Of Hearing: July 21, 2011 at 1:30PM)

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include or mention this noted **Left Shoulder Injury** in any of the Claimant's office visit notes or office visit medical reports thru the time frame of 4/27/09...the Claimant's last office visit with Dr. Stovall.

Exhibit D:

- 1.) **Lowcountry Orthopaedics And Sports Medicine** office visit on 05/05/09 with Chad R. Burgoyne, MD: Although Dr. Burgoyne reviewed the Claimant's **Left Shoulder MRI (5/31/07)** and reviewed the **Left Shoulder MRI Report (5/31/07)**, Dr. Burgoyne only noted and mentioned in the Claimant's office visit note or office visit medical report (some rotator cuff and biceps tendinosis with no acute tendonitis. The Claimant's **Left Shoulder MRI (5/31/07)** clearly states **Impression:** Supraspinatus and biceps tendinosis with partial tears. No evidence of a full thickness rotator cuff tear. As it relates to the Claimant's **Right Shoulder Injury**, Dr. Burgoyne would reference to a **Right Shoulder MRI and MRI Report** dated (4/12/06). This **MRI and MRI Report** would have been over three (3) years old and would be used for evaluation and or treatment for The Claimant's **Right Shoulder Injury**. This would be in reference to the Claimant's office visit of 05/05/09. It appears that it would have been reasonable for Dr. Burgoyne to have requested an updated **Right Shoulder MRI** in order to received an updated status of the Claimant's **Right Shoulder Injury**. This is after the fact that the Claimant had related to Dr. Burgoyne that the **Right Shoulder Injury** had worsened. Nevertheless, it should have been reasonable for Dr. Burgoyne to request an updated **Right Shoulder MRI** and not reference to a **Right Shoulder MRI** that's over three (3) years old for the evaluation and or the treatment of the Claimant's **Right Shoulder Injury**.

Exhibit E:

- 1.) **Orthopaedic Specialists Of Charleston** office visit 8/5/09 with John M. Graham, Jr., MD for the evaluation and or treatment of the Claimant's **Right Shoulder Injury** and **Left Shoulder Injury**. The Claimant would only have evaluation done for the **Right Shoulder Injury**. Dr. Graham's initial **Right Shoulder Injury** evaluation was initially referenced from a **Right Shoulder MRI** dated (4/12/06). This **Right Shoulder MRI** was over three (3) years old and this was thought to be unreasonable to conduct an updated **Right Shoulder Injury** evaluation based those findings. The Claimant related to Dr. Graham that the **Right Shoulder Injury** and

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

(Date Of Hearing: July 21, 2011 at 1:30PM)

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associated symptoms had worsened. Dr. Graham proceeded to perform the **Right Shoulder Injury** evaluation based on a three (3) year old **Right Shoulder MRI**. Dr. Graham also refused to perform an evaluation for The Claimant's **Left Shoulder Injury** even after the Claimant brought in a **Left Shoulder MRI (5/31/07)** and **Left Shoulder MRI Report (5/31/07)**. After this unreasonable experience at the Claimant's Initial evaluation appointment with Dr. Graham, the Claimant would seek an evaluation and treatment for the Claimant's **Right Shoulder Injury** and **Left Shoulder Injury**. This would take place after the Claimant would receive an excellent referral from The Southeastern Spine Institute to William J. Estes, MD of Southern Orthopedics and Sports Medicine. Dr. Estes would perform a detailed consultation of the Claimant's **Right Shoulder Injury** and **Left Shoulder Injury** on (8/20/09). The Claimant would also have an office visit with Dr. Estes as it relates to the **Right Shoulder Injury** and **Left Shoulder Injury** on (9/29/09). As it relates to the Claimant's **Right Shoulder Injury** and **Left Shoulder Injury**, Dr. Estes would place a detailed treatment plan in place for the Claimant's **Right Shoulder Injury** and **Left Shoulder Injury** outlined in the Claimant's (8/20/09 and 9/29/09) office visit notes or office visit medical reports. Only upon returning to Dr. Graham on (2/4/10), Dr. Graham would review Dr. Estes detailed consultation, detailed assessment and detailed treatment plan outlined in the Claimant's office visit (8/20/09 and 9/29/09) office visit notes or office visit medical reports. As it relates to the Claimant's office visit (8/20/09 and 9/29/09) office visit notes or office visit medical reports of the Claimant's **Right Shoulder Injury** and **Left Shoulder Injury**, Dr. Graham would review the Claimant's (8/20/09 and 9/29/09) office visit notes or office visit medical reports from Dr. Estes and would be in agreement. Dr. Graham would begin to move forward with the Claimant's **Right Shoulder Injury** and **Left Shoulder Injury** evaluation and treatment until the present time frame.

Exhibit F:

- 1.) **Southeastern Spine Institute** (Donald R. Johnson, II, MD): The Claimant's office visit note or office visit medical report of (1/25/10).
- 2.) **Southeastern Spine Institute** (Donald R. Johnson, II, MD): The Claimant's office visit note or office visit medical report of (2/24/10).
- 3.) **Southeastern Spine Institute** (Donald R. Johnson, II, MD): The Claimant's office visit note or office visit medical report of (3/3/10).

Exhibit G:

- 1.) **Palmetto Interventional Pain Management** (W. Blane Richardson, MD): The Claimant's office visit note or office visit medical report of (2/1/11).

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

WCC FILE NO. 0506037

FRANK E. WILSON,

Employee,

Claimant,

vs.

MOTION

AMERICAN LaFRANCE,

Employer,

AND

AIG C/O GALLAGHER BASSETT SERVICES, INC.,

Carrier,

This MOTION is filed on the behalf of the Claimant as it relates to the Claimant's issues of but not limited to medical négllect, medical malpractice, bias, any inappropriate action and or any inappropriate practice (if any) as it relates to EXHIBITS: A thru G, medical evidence submitted and any supporting evidence submitted at the Claimant's **SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION Hearing on July 21, 2011** with Commissioner Andrea C. Roche. The Claimant's above issues did not get addressed and determined which included the Claimant's EXHIBITS: A thru G- PAGES: 1 thru 3 with the specific issues of Exhibit: A- 1 thru 3- (APA- PAGES: 33 thru 41), Exhibit: B- 1 thru 2- (APA PAGES: 42 thru 45), Exhibit: C- 1- (APA PAGES: 51 thru 53 and 46 thru 50) and Exhibit: D- 1- (APA PAGES: 50 and 54 thru 56). The Claimant's APA SUBMISSIONS and supporting documents were PAGES: 33 thru 56. The Claimant's **SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION Hearing on November 30, 2011** with Commissioner Avery B. Wilkerson, Jr. the Claimant's issues not addressed and determined included the Claimant's EXHIBITS: A thru F- PAGES: 1 thru 2 with the specific issues of Exhibit: A- 1 thru 3 (APA PAGES: 54 thru 55 and 63 thru 69), Exhibit: B- 1 thru 2- (APA PAGES: 70 thru 72), Exhibit: C- 1- (APA PAGES: 63 and 73 thru 75) and Exhibit: D- 1- (APA PAGES: 63 and 60 thru 62). The above issues presented and submitted by the Claimant to the **SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION** on July 21, 2011 and November 30, 2011 at the Claimant's **SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION HEARINGS** did not get addressed and determined. This was due to the **SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION Hearing** Commissioners stating that they did not have jurisdiction to address and determine the above issues of EXHIBITS: A thru G and EXHIBITS: A thru F presented and submitted at the Claimant's **SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION Hearings on July 21, 2011** with Commissioner Andrea C. Roche and on November 30, 2011 with Commis-

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

WCC FILE NO. 0506037

MOTION

sioner Avery B. Wilkerson Jr. The Claimant strongly opines that by not having the above issues of EXHIBITS: A thru G and EXHIBITS: A thru F that were presented and submitted by the Claimant to THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION but not addressed and determined by the SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION will only place and leave the Claimant in a vulnerable position. The Claimant opines that this should be considered to be very unreasonable and unfair. This is as it relates to the Claimant's SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION May 16, 2005 claim. The Claimant shall provide an example of why the Claimant's issues of EXHIBITS: A thru G and EXHIBITS: A thru F needs to be addressed and determined. **This would be the example:** The Defendants had knowledge of the issues of EXHIBITS: A thru G and EXHIBITS: A thru F which were presented and submitted to the SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION and to the Defendants through the presenting and submitting of EXHIBITS: A thru G and EXHIBITS: A thru F and the APA SUBMISSIONS presented and submitted at both the SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION Hearings on July 21, 2011 with Commissioner Andrea C. Roche and on November 30, 2011 with Commissioner Avery B. Wilkerson, Jr. With the Defendants having knowledge of the issues of but not limited to medical neglect, medical malpractice, bias, any inappropriate action and or any inappropriate practice (if any) as it relates to EXHIBITS: A thru G, EXHIBITS: A thru F, medical evidence submitted and supporting evidence submitted as it relates to EXHIBITS: A thru G and EXHIBITS: A thru F, the Defendants continued to make efforts to have the Claimant return back to Don O. Stovall, Jr., MD (see the Claimant's APA SUBMISSIONS: PAGES- 88, 76, 77A and 77B from the SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION Hearing of November 30, 2011 with Commissioner Avery B. Wilkerson, Jr.) which was one of the Physicians identified in EXHIBITS: A thru G and EXHIBITS: A thru F along with the supporting medical evidence and supporting documents submitted with EXHIBITS: A thru G and EXHIBITS: A thru F at both the SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION Hearings on July 21, 2011 with Commissioner Andrea C. Roche and on November 30, 2011 with Commissioner Avery B. Wilkerson, Jr. At the Claimant's SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION Hearing on July 21, 2011 with Commissioner Andrea C. Roche, Commissioner Roche stated that she was not able to address and determine the issues of EXHIBITS: A thru G at that Hearing. Commissioner Roche also added that she would note and acknowledge the issues of EXHIBITS: A thru G and would order the Defendants to provide the Claimant's evaluation and treatment as it relates to the Claimant's Right Shoulder and Left Shoulder with another Physician not named in the Claimant's EXHIBITS: A thru G. Commissioner Roche also stated that she would have approve the Physician selected by the Defendants before moving forward with the Claimant's Right Shoulder and Left Shoulder evaluation and treatment (see the DECISION AND ORDER from the SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION Hearing on July 21, 2011 with Commissioner Andrea C. Roche). The Claimant has come to the point of being very frustrated as it relates to the issues of EXHIBITS: A thru G and EXHIBITS: A thru F all submitted to the SOUTH CAROLINA WORKERS' COM-

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

WCC FILE NO. 0506037

MOTION

PENSATION COMMISSION but not being able to be addressed and determined by the SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION. This is due to the SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION Hearing Commissioners not having the jurisdiction to address and determine the issues of EXHIBITS: A thru G and EXHIBITS: A thru F which were all submitted to the SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION at the Hearing with Commissioner Andrea C. Roche on July 21, 2011 and at the Hearing with Commissioner Avery B. Wilkerson Jr. on November 30, 2011. The Claimant's purpose of respectfully requesting that the issues of EXHIBITS: A thru G and EXHIBITS: A thru F be addressed and determined is in an attempt to discontinue and discourage the issues noted in EXHIBITS: A thru G and EXHIBITS: A thru F. The Claimant has also attended a total of six (6) SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION Hearings with the following dates:

- 1.) SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION Hearing with Commissioner J. Alan Bass on April 10, 2007 (see DECISION AND ORDER)
- 2.) SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION Hearing with The Honorable David W. Huffstetler on March 10, 2009 (see DECISION AND ORDER)
- 3.) SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION Hearing with Commissioner Derrick L. Williams on March 23, 2010 (see DECISION AND ORDER)
- 4.) SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION Hearing with Commissioner G. Bryan Lyndon on March 3, 2011 (see DECISION AND ORDER)
- 5.) SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION Hearing with Commissioner Andrea C. Roche on July 21, 2011 (see DECISION AND ORDER)
- 6.) SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION Hearing with Commissioner Avery B. Wilkerson Jr. on November 30, 2011 (see DECISION AND ORDER)

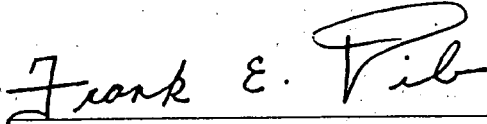
The Claimant's above SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION Hearings were for the purpose of the Claimant's need for additional medical evaluation(s) and treatment(s), etc. (see The Claimant's Form 50(s)- Employee's Request For Hearing, The Claimant's Form 58(s)- PRE- HEARING BRIEF and The Claimant's DECISIONS AND ORDERS in the Claimant's SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION file- (WCC FILE NO. 0506037). Due to the SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION Hearing Commissioners not having the jurisdiction to address and determine the issues of EXHIBITS: A thru G and EXHIBITS: A thru F, the Claimant respectfully request that the SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION forward the issues of EXHIBITS: A thru G and EXHIBITS: A thru F be forwarded and released to the SOUTH CAROLINA STATE ATTORNEY'S OFFICE or the appropriate

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

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MOTION

SOUTH CAROLINA OFFICE or AGENT for the purpose of addressing and determining the issues of EXHIBITS: A thru G and EXHIBITS: A thru F noted in the Claimant's SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION file- (WCC FILE NO. 0506037). The Claimant has presented and submitted all of the Claimant's SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION information to the Defendants through the presenting and submitting of the Claimant's APA SUBMISSIONS presented and submitted at all of the Claimant's previous SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION Hearings. The Claimant will enclose a signed Authorization for the Release of the Claimant's SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION FILE Information document. The enclosed signed Authorization for the Release of the Claimant's SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION FILE Information document will be completed and signed by the Claimant. The Claimant will respectfully request that the issues of EXHIBITS: A thru G and EXHIBITS: A thru F be addressed and determined as noted above through the filing of the Claimant's MOTION request. If the issues of EXHIBITS: A thru G and EXHIBITS: A thru F can not be addressed and determined as noted above through the filing of the Claimant's MOTION, the Claimant will respectfully request that the issues of EXHIBITS: A thru G and EXHIBITS: A thru F be addressed and determined as noted above through the filing of a Form 50- Employee's Request For Hearing.

  
Frank E. Wilson

DATE: February 27, 2012

ORDERED

DATE: \_\_\_\_\_



6. The prescriptions were delayed. There was a change with the prescription company. Defense lawyer has tried to call the Claimant and has written letters to the Claimant without a response. The Commission file indicates that he was called by the Commissioner's office on 3/2, 3, 5, and 9, 2012. The Commissioner indicated 3/3/12 at the hearing, but he had misread his notes. This was to try to resolve some issues. The Claimant never returned those calls. The Claimant indicated he did call back on 4/2, but the hearing was already scheduled.
7. The Claimant requested transportation costs to attend the hearing. This is denied as the Claimant requested the hearing and he has been very uncooperative.
8. The carrier is to provide authorized medical treatment on a timely basis.
9. Defense counsel requests expenses of \$1150. Please note the exact request from the transcript. I would have awarded \$500, but due to the fact that defendants would be bearing the cost of writing the order, I waive it at this time. Any future request, the Commissioner would strongly consider 100% reimbursement to the defendants.
10. Please note all body parts accepted in this claim.
11. Note the position of insured and carrier on this claim.
12. The Claimant testified he is now on Social Security and his case was accepted back to 2005.
13. The Claimant testified that he is very distrustful of Defense counsel, her law firm and the carrier. This seems to be the main problem. I find Defense counsel and her firm to be trustworthy and have been trying to assist the Claimant. The Claimant agrees to return phone calls to the Commissioner's office and to Defense counsel today at the hearing..
14. The Claimant has had quite the runaround from the carrier for treatment, checks and prescription problems.
15. At the hearing on 11/30/2011 and again on 4/18/2012, the Commissioner informed the Claimant to communicate with all parties to help reduce expenses on all.
16. All unauthorized medical care needs to be filed with Medicare now that the Claimant has been accepted by Social Security.

**INSTRUCTIONS:** Please let our office know if you have difficulty obtaining a transcript or cannot complete the order within this timeframe. Draft the Order consistent with the above substance of the preceding Findings of Fact; however, you may add additional Findings of Fact consistent with the above ruling. The Order should also include biographical information, information regarding the Claimant's work history and previous medical history, if relevant to the case.

If you need a transcript, order it *immediately* from the court reporter, or contact my assistant, Elaine Boyd, in writing at P.O. Box 1715, Columbia, SC 29202-1715 or via e-mail at [eboyd@wcc.sc.gov](mailto:eboyd@wcc.sc.gov) . Provide a copy of the proposed Order to opposing counsel or *pro se* claimant before or at the same time one is submitted to the Commission. When submitting the proposed Order, please e-mail it to [eboyd@wcc.sc.gov](mailto:eboyd@wcc.sc.gov) .

**Matters To Include In The Order:**

1. APA Submissions
2. Stipulations
3. Statement of the Case (contentions of the parties, stated concisely)
4. Evidence of the Case (synopsis of the evidence, including testimony and medical reports)
5. Findings of Fact – numbered (Do NOT delete any of the above findings, however, the prevailing party may add to support the decision, except regarding credibility, unless I have instructed you to)
6. Conclusions of Law (cite applicable statutory sections and case law)
7. Award

**Do not address credibility in the Order, unless it has been addressed in the preceding Order Notes.**

Commissioner Avery B. Wilkerson, Jr.  
S.C. Workers' Compensation Commission  
1612 Marion Street  
Columbia, SC 29202-1715

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



WCC File #: 0506037  
Carrier File #: 2098.05297  
Carrier Code #:  
Employer FEIN #:

Claimant's Name: Frank E. Wilson SSN: 333-64-9269 Employer's Name: American LaFrance  
Address: 8755 Jessica Court Address: 1090 Newton Way  
City: North Charleston State: SC Zip: 29406 City: Summerville State: SC Zip: 29483  
Home Phone: 843 327 9616 Work Phone: N/A Insurance Carrier: AIG; C/O Gallagher Bassett Services, Inc.  
Preparer's Name: Frank E. Wilson Law Firm: N/A Preparer's Phone #: 843 327 9616

**DIRECTIONS: Please print or type. Answer the following questions about your claim to the best of your ability. If you cannot answer a question, leave it blank. Use additional sheets of paper, if necessary. Please use short statements.**

Questions

Did the Commissioner fail to consider important reasons for award of compensation? If so, what reasons? Yes... The Claimant's APA SUBMISSIONS and the Claimant's supporting evidence presented and submitted at the Claimant's SCWCC Hearing on April 18, 2012. \*\*\*SEE PAGES 2 thru 5- The Commissioner's DECISION AND ORDER from the Claimant's SCWCC Hearing on April 18, 2012 appears to be very inconsistent with the Claimant's APA SUBMISSIONS and the Claimant's supporting evidence presented and submitted at the Claimant's SCWCC Hearing.

Did the Commissioner incorrectly decide the facts? If so, what facts? Yes... All of the Claimant's disputed items listed on the Claimant's Form # 30 (REQUEST FOR COMMISSION REVIEW)- SEE PAGES: 2 thru 5... The Commissioner DECISION AND ORDER appears inconsistent with the Claimant's APA SUBMISSIONS and the Claimant's supporting evidence presented and submitted at the Claimant's SCWCC Hearing.

Do you think the Commissioner applied the wrong law? If so, what law? This is just based on the Claimant's own personal opinion. The Claimant strongly opines that there may have been some, but not limited to, bias, prejudice and or inappropriate action against the Claimant. This is due to the fact of the Claimant's observation of the Commissioner's demeanor at the Claimant's SCWCC Hearing on April 18, 2012.

Do you feel there are any other reasons why the Commissioner's judgment was wrong? If so, what? The Claimant's strongly opines that the Commissioner's DECISION AND ORDER may have been predetermined and not based on the Claimant's APA SUBMISSIONS and the Claimant's supporting evidence presented and submitted at the Claimant's SCWCC Hearing on April 18, 2012. This opinion is very concerning.

What action do you want the Commission to take in this case? The Claimant respectfully request that all of the disputed items listed on the Claimant's Form # 30 (REQUEST FOR COMMISSION REVIEW) be carefully reviewed along with the Claimant's APA SUBMISSIONS and the Claimant's supporting evidence presented and submitted (SEE PAGES: 2 thru 5) and then make the correct and fair DECISION AND ORDER.

Frank E. Pilb

Signature

August 3, 2012

Date

IMPORTANT: A copy of this Brief and any attachments must be filed with the Commission within 10 days of receipt of the Review Hearing Notice, Form 31. The Commission will serve your Brief on the employer's representative. Questions about the use of this form may be directed to the Commission's Judicial Department.

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(APPELLANT'S INFORMAL BRIEF)

The Claimant respectfully request that this REQUEST FOR COMMISSION REVIEW be held on the record for the purpose of generating a transcript to have for any future South Carolina Workers' Compensation Commission Hearing(s) and or any future Court Hearing(s)

\*\*\*The Claimant respectfully request that the following disputed issues/topics, issues/topics not determined and or addressed or clearly addressed and clearly determined be determined and addressed at this REQUEST FOR COMMISSION REVIEW.

11a. Further grounds or unusual aspects of claim: South Carolina Workers' Compensation Commission Hearing April 18, 2012 at 11:45am- (Form # 58- PRE-HEARING BRIEF)

- 1.) The Claimant's Back (Thoracic Spine) MRI- supported by APA SUBMISSIONS- PAGES: 6, 9, 10, 11, 12, 14 and 15; Hearing Transcript April 10, 2007- PAGE: 10- Lines 14-22, PAGE: 14 Lines 19-25, PAGE: 15- Lines 1-24; Hearing Transcript- March 10, 2009: PAGE: 13- Lines 16-25, PAGE: 14- Lines 16-25, PAGE: 15- Lines 1-13; Claimant's Deposition February 20, 2007- PAGE: 42- Lines 1-25
- 2.) The Claimant's Bilateral Lower Extremity EMG/nerve conduction study- supported by APA SUBMISSIONS- PAGES: 6, 7, 8, 10, 11, 14 and 15
- 3.) The Claimant's First Script (Medco) prescription drug coverage...The Claimant received in the mail a new First Script (Medco) prescription drug ID card on or about May 1, 2012. The new First Script (Medco) prescription drug ID card was an exact duplicate First Script (Medco) prescription drug ID card as before. The Claimant presented and submitted the new exact duplicate First Script (Medco) prescription drug ID card to CVS Pharmacy located on 5212 Ashley Phosphate Road North Charleston, SC 29420 at (843) 767-4500. This took place on May 4, 2012. This was also when the Claimant request a prescription refill from CVS Pharmacy for the prescription Promethazine 25MG/Phenergan 25MG and this prescription medication received a rejection message from First Script (Medco). The CVS Pharmacy associate contacted First Script (Medco) by telephone and First Script (Medco) associate replied by stating that the Carrier (Adjuster) would contact CVS Pharmacy in 48 hours as it relates to the Claimant's prescription refill request the prescription Promethazine 25MG/Phenergan 25MG. The Claimant will provide the documentation from CVS

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(APPELLANT'S INFORMAL BRIEF)

- Pharmacy for this ongoing and continuing delay(s) as it relates to the Claimant's prescription drug medication(s) - supported by APA SUBMISSIONS- PAGE: 38A-38E... The Claimant will provide the documentation for the Claimant's recent prescription drug delay at the Claimant's REQUEST FOR COMMISSION REVIEW Hearing.
- 4.) The Claimant's South Carolina Workers' Compensation Commission Hearing on April 10, 2007 with Commissioner J. Alan Bass to address and determine the issues brought forth... (Form # 58- PRE-HEARING BRIEF- 4.) Facts in controversy: issue # 4.) PAGE: 2 of 7 and PAGE: 3 of 7 was not determined or addressed. - supported by Hearing Transcript April 10, 2007- (EXHIBIT: I- PAGES- 1-40) and APA SUBMISSIONS- PAGES: 16-17.
  - 5.) The Claimant's MOTION dated February 27, 2012 and served by the South Carolina Workers' Compensation Commission on February 29, 2012- supported by APA SUBMISSIONS- (EXHIBIT: H- PAGES: 59-72)... The Claimant paid an additional \$25.00 filing fee for the Claimant's MOTION dated February 27, 2012 and served by the South Carolina Workers' Compensation Commission on February 29, 2012. The Claimant's MOTION dated February 27, 2012 was not determined, addressed or filed with the South Carolina Workers' Compensation Commission. This was after the fact of the Claimant paying the additional \$25.00 filing fee for this MOTION to be determined, addressed and or filed by and or with the South Carolina Workers' Compensation Commission.
  - 6.) The Claimant respectfully request that the UTICA-MOHAWK language be included and inserted in any and all of the Claimant's final settlement(s) and or any and all of the Claimant's final agreement(s).
  - 7.) The Claimant respectfully request reimbursement for, but not limited to, the following: Please refer to the Claimant's (Form # 58- PRE-HEARING BRIEF- 4.) Facts in controversy- issue 7.) - PAGE: 4 of 7) \*\*\* (This is due to the ongoing and continuing issues of delays in the Claimant's medical treatment that is requested and recommended by the Authorized Treating Physician(s) this has been an ongoing and continuing issue since the early stages of the Claimant's claim to the present. - supported by Hearing Transcript April 10, 2007- (EXHIBIT I- PAGES: 1-40, Hearing Transcript March 10, 2009- (EXHIBIT K- PAGE: 13- Lines 16-25, PAGE: 14- Lines 16-25, PAGE: 15-

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Lines 1-13 and issues of delays in the Claimant's medical treatment noted in the Claimant's South Carolina Workers' Compensation Commission Hearing file on July 21, 2011 with Commissioner Andrea C. Roche- (refer to the Claimant's Form # 58- PRE-HEARING BRIEF) also refer to APA SUBMISSIONS- PAGES: 1-5, the Defendants delays in providing payment(s) for the Claimant's medical treatment noted in the Claimant's South Carolina Workers' Compensation Commission Hearing file on November 30, 2011 with Commissioner Avery B. Wilkerson Jr.- (refer to the Claimant's Form # 58- PRE-HEARING BRIEF) and the ongoing and continuing delay(s) as it relates to the Claimant's prescription drug medication(s)- supported by APA SUBMISSIONS- PAGES: 38A-38E... the Claimant will provide additional documentation for the recent delay(s) in the Claimant's prescription drug medication(s) at the Claimant's South Carolina Workers' Compensation Commission (REQUEST FOR COMMISSION REVIEW) Hearing.

8.) The Claimant respectfully request reimbursement for the medical expenses as it relates to the Claimant's Right Shoulder and Left Shoulder evaluation by William J. Estes, MD of Southern Orthopedics And Sports Medicine.- supported by APA SUBMISSIONS- PAGES: 21-38, PAGES: 16-17 and Hearing Transcript April 10, 2007- (EXHIBIT: I- PAGES: 1-40)

9.) The Claimant respectfully request lifetime maintenance as it relates to the Claimant's Back injury. The Claimant respectfully request lifetime hardware maintenance as it Relates to the Claimant's Back injury.

\*\*\*The Claimant disagree with having to provide payment expenses of the Defendants in this claim. This is due to the treatment towards the Claimant as noted throughout the Claimant's South Carolina Workers' Compensation Commission claim. This would include the unreasonable treatment from the Defendants, including but not limited to, the Carrier, the hand selected Authorized Treating Physicians by the Defendants and the Defendants representation which was and is aware of all of the above through the exchanging of APA SUBMISSIONS and during the Claimant's South Carolina Workers' Compensation Commission Hearings.

\*\*\*The Claimant strongly disagree with the statement of Commissioner Avery B. Wilkerson Jr. as it states that he finds the Defense counsel and her law firm to be trustworthy and have been trying to assist the Claimant. Commissioner Wilkerson's statement is

South Carolina Workers' Compensation Commission

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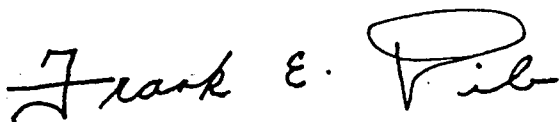
WCC Form # 59  
(APPELLANT'S INFORMAL BRIEF)

considered to be very inconsistent with all of the above facts and enclosed information given by the Claimant which is also noted in the Claimant's South Carolina Workers' Compensation Commission file.

\*\*\*If all of the above issues and concerns of the Claimant are not clearly and properly addressed at the Claimant's South Carolina Workers' Compensation Commission (REQUEST FOR COMMISSION REVIEW), then the Claimant has no other option but to seek the attention of, but not limited to, the South Carolina State Governor's office, the South Carolina State Attorney's office and or the South Carolina State NAACP office.

The Claimant would like to thank you and your staff in advance for your attention.

Sincerely,



DATE: August 3, 2012

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

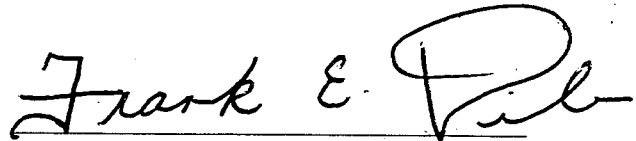
PAGE: 5 of 5

Certificate of Appellant

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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 material.

July 15, 2015

A handwritten signature in cursive script that reads "Frank E. Wilson". The signature is written in black ink and is positioned above a horizontal line.

Frank E. Wilson  
8755 Jessica Court  
North Charleston, SC 29406  
(843) 327-9616  
Appellant