

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

The Honorable Marvin H. Dukes, III, Circuit Court Judge

Case No. 2015-CP-07-002074

RECEIVED

NOV 09 2015

SC Court of Appeals

Sharon Denise Anderson, ... Respondent,

v.

Linda Jenkins Holmes, ... Appellant.

**APPELLANT'S MEMORANDUM
ON APPEALABILITY**

In response to this Court's October 27, 2015 request for a memorandum addressing the issue of appealability, Appellant Linda Jenkins Holmes ("Holmes") responds as follows:

BACKGROUND

This case arises out of an automobile accident that occurred on October 7, 2013, involving Sharon Denise Anderson ("Anderson") and Holmes. (Compl. at 2, Attach. A). Immediately after the accident, Anderson engaged in settlement negotiations with Holmes' insurance carrier, Omni Insurance Company ("Omni"). (Def.'s Mem. in Support of Set Aside at 1, Attach. B). Anderson last contacted Omni on September 18, 2014. (Id.). Omni attempted to reach Anderson's counsel several times over the following eight months, both by telephone and through written correspondence. (Id. at 1-2). Anderson filed a Complaint on January 30, 2013, but failed to provide notice to Omni or provide Omni with a courtesy copy of the Complaint.

(Id. at 2). No answer was filed. (Id.).

Anderson moved, pursuant to Rule 55 of the South Carolina Rules of Civil Procedure, for default judgment against Holmes, arguing that 30 days had passed since service was perfected, and no answer had been filed. (Mot. for Entry of Default at 1-2, Attach. C). The trial court entered default against Holmes on April 8, 2015 and ordered that a hearing on damages be held. (Entry of Default, Attach. D). The matter was subsequently referred to a Special Circuit Court Judge on May 7, 2015. On May 8, 2015, the damages hearing was held, and the court ultimately awarded Anderson a total of \$40,275.17 in damages. (Order for Damages, Attach. E).

Omni first learned of the lawsuit after it was informed of the default judgment and damages that had been entered against Holmes. A Motion to Set Aside Default Judgment and accompanying Memorandum were filed with the Court. Proceeding under Rule 60(b), SCRCP, Holmes argued that (1) good cause existed to set aside the entry of default and/or default judgment; (2) the default occurred due to mistake and/or excusable neglect; (3) the motion was timely made after the discovery of the default; and (4) valid defenses existed as to Anderson's claims. (Def.'s Mem. in Support of Set Aside at 3). Anderson filed a response in opposition. (Pl.'s Mem. in Opp'n, Attach. F). On August 26, 2015, Holmes filed a supplemental memorandum, addressing misrepresentations and/or fraud by Anderson. (Def.'s Supp. Mem., Attach. G). Holmes argued that Rule 60(b), SCRCP supports the setting aside of a default judgment for mistake, inadvertence, surprise, excusable neglect, or fraud, misrepresentation, or misconduct of an adverse party. On September 11, 2015, the trial court denied the motion. (Denial Order, Attach. H). Holmes timely appealed the denial of the Rule 60 motion to this Court.

APPEALABILITY OF THE DENIAL OF A RULE 60(B) MOTION FOLLOWING THE
GRANTING OF DEFAULT JUDGMENT

“Appeal may be taken, as provided by law, from any final judgment, appealable order or decision.” Rule 201(a), SCACR; *see also* S.C. Code Ann. § 14-3-330 (providing appellate jurisdiction for the review of final judgments). The South Carolina Supreme Court has explicitly set forth the process to contest a default judgment. “The proper procedure for challenging a default judgment is to move the trial court to set aside the judgment pursuant to Rule 60(b), SCRCR. *An appeal may then be taken from the denial of this motion.*”¹ Winesett v. Winesett, 287 S.C. 332, 334, 338 S.E.2d 340, 341 (1985) (emphasis added); Jean Hoefer Toal, Shahin Vafai & Robert A. Muckenfuss, *Appellate Practice in South Carolina* 100 (2d ed. 2002); *see also* Sadisco of Greenville, Inc. v. Greenville Cty. Bd. of Zoning Appeals, 340 S.C. 57, 530 S.E.2d 383 (2000) (noting that the denial of a Rule 60 motion should be considered on appeal). The appellate courts in South Carolina frequently determine whether Rule 60 motions to set aside default judgments have been properly denied. *See, e.g.,* Delta Apparel, Inc. v. Farina, 406 S.C. 257, 750 S.E.2d 615 (Ct. App. 2013) (reversing trial court’s denial of a Rule 60(b) motion seeking relief from default judgment); ITC Commercial Funding, LLC v. Crerar, 393 S.C. 487, 713 S.E.2d 335 (Ct. App. 2011) (reviewing trial court’s denial of Rule 60(b) motion for abuse of discretion).

Accordingly, this case is properly before the Court at this time. A default judgment was entered against Holmes, and Holmes timely moved the trial court to set aside the judgment

¹ Orders disposing of Rule 60 motions are not treated identically for appellate purposes. Courts distinguish the denial a Rule 60 motion seeking relief from default judgment from an order granting a Rule 60 motion seeking relief from default judgment. Posick v. Sea Coast Constr., 380 S.C. 584, 588, 671 S.E.2d 98, 100 (Ct. App. 2008). The former is immediately appealable, whereas the latter, unlike the order in the case at hand, is not a final order and does not meet the requirements of any other categories for pursuing an appeal. Id. at 588, 671 S.E.2d at 101.

pursuant to Rule 60, SCRCP.² Once the Rule 60(b) motion was denied by the trial court, the order was appealable. The filing of a Rule 60 motion is specifically identified by the South Carolina Supreme Court as the proper method for contesting default judgment.

CONCLUSION

For the reasons stated above, this Court should hold that the appeal of the denial of the Rule 60 motion in this case is a final order. Accordingly, the appeal is properly before this Court.

Respectfully submitted,
MCANGUS GOUDELOCK & COURIE, LLC

November 5, 2015

By: Megan McNeely
Helen F. Hiser, S.C. Bar No.: 76124
Megan McNeely, S.C. Bar No.: 101637
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Attorneys for Appellant Linda Jenkins Holmes

² Holmes acknowledges that the denial of a Rule 55(c) motion is not directly appealable. Jefferson v. Gene's Used Cars, Inc., 295 S.C. 317, 368 S.E.2d 456 (1988). Although Holmes' motion referenced Rule 55(c) in passing, Holmes sought relief from judgment pursuant to Rule 60(b). Moreover, default judgment, not just entry of default, had been entered so Holmes had to proceed under Rule 60, not Rule 55(c). See Rule 55(c), SCRCP.

ATTACHMENT

A

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

SHARON DENISE ANDERSON

vs.

LINDA JENKINS HOLMES

Plaintiff(s)

Defendant(s)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2015-CP - 07- 0218

(Please Print)

Submitted By: Fatima Alexis Zeidan

Address: The Law Office of Clifford Bush, III

28 Old Jericho Road, Beaufort, SC 29906

SC Bar #: 79814

Telephone #: 843-379-9500

Fax #: 843-379-9550

Other:

E-mail: fzeidan@lawofficeofcbushiii.com

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

**If Action is Judgment/Settlement do not complete*

- ☒ **JURY TRIAL** demanded in complaint. ☐ **NON-JURY TRIAL** demanded in complaint.
☐ This case is subject to **ARBITRATION** pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☒ This case is subject to **MEDIATION** pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|---|---|--|--|
| Contracts | Torts - Professional Malpractice | Torts - Personal Injury | Real Property |
| ☐ Constructions (100) | ☐ Dental Malpractice (200) | ☐ Assault/Slander/Libel (300) | ☐ Claim & Delivery (400) |
| ☐ Debt Collection (110) | ☐ Legal Malpractice (210) | ☐ Conversion (310) | ☐ Condemnation (410) |
| ☐ Employment (120) | ☐ Medical Malpractice (220) | ☒ Motor Vehicle Accident (320) | ☐ Foreclosure (420) |
| ☐ General (130) | Previous Notice of Intent Case # | ☐ Premises Liability (330) | ☐ Mechanic's Lien (430) |
| ☐ Breach of Contract (140) | 20 -CP- - | ☐ Products Liability (340) | ☐ Partition (440) |
| ☐ Other (199) | ☐ Notice/ File Med Mal (230) | ☐ Personal Injury (350) | ☐ Possession (450) |
| | ☐ Other (299) | ☐ Wrongful Death (360) | ☐ Building Code Violation (460) |
| | | ☐ Other (399) | ☐ Other (499) |
| Inmate Petitions | Judgments/Settlements | Administrative Law/Relief | Appeals |
| ☐ PCR (500) | ☐ Death Settlement (700) | ☐ Reinstate Driver's License (800) | ☐ Arbitration (900) |
| ☐ Mandamus (520) | ☐ Foreign Judgment (710) | ☐ Judicial Review (810) | ☐ Magistrate-Civil (910) |
| ☐ Habeas Corpus (530) | ☐ Magistrate's Judgment (720) | ☐ Relief (820) | ☐ Magistrate-Criminal (920) |
| ☐ Other (599) | ☐ Minor Settlement (730) | ☐ Permanent Injunction (830) | ☐ Municipal (930) |
| | ☐ Transcript Judgment (740) | ☐ Forfeiture-Petition (840) | ☐ Probate Court (940) |
| | ☐ Lis Pendens (750) | ☐ Forfeiture-Consent Order (850) | ☐ SCDOT (950) |
| | ☐ Transfer of Structured Settlement Payment Rights Application (760) | ☐ Other (899) | ☐ Worker's Comp (960) |
| | ☐ Other (799) | | ☐ Zoning Board (970) |
| Special/Complex /Other | | | ☐ Public Service Commission (990) |
| ☐ Environmental (600) | ☐ Pharmaceuticals (630) | | ☐ Employment Security Comm (991) |
| ☐ Automobile Arb. (610) | ☐ Unfair Trade Practices (640) | | ☐ Other (999) |
| ☐ Medical (620) | ☐ Out-of State Depositions (650) | | |
| ☐ Other (699) | ☐ Motion to Quash Subpoena in an Out-of-County Action (660) | | |
| | ☐ Sexual Predator (510) | | |

Submitting Party Signature: _____

Date: January 27, 2015

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

SHARON DENISE ANDERSON

Plaintiff

v.

LINDA JENKINS HOLMES

Defendant.

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

CIVIL ACTION NO.: 15-CP-07- 2218

COMPLAINT
(JURY TRIAL REQUESTED)

2015 JAN 30 PM 10:30

NOW COMES Plaintiff, above-named, complaining of acts and/or omissions of the Defendant, above-named, and does allege and show unto this Honorable Court as follows:

1. That the parties hereto, the subject matter hereof, and all matters and things hereinafter alleged are within the jurisdiction of this Honorable Court.

2. Plaintiff, Sharon Denise Anderson, was and is at all times material to this Complaint, a resident of 683 Bailer Mill Road, Town of Ridgeland, County of Jasper, Zip Code 29936, State of South Carolina.

3. Defendant, upon information and belief, Linda Jenkins Holmes, (hereafter "Defendant"), was and is at all times material to this Complaint, a resident of 139 Ball Park Road, Town of St. Helena Island, County of Beaufort, Zip Code 29920, State of South Carolina.

4. The automobile accident, which is the subject of the present lawsuit, occurred on October 7, 2013 in the City of Beaufort, County of Beaufort, State of South Carolina.

5. Plaintiff, Sharon Denise Anderson was the driver of a 1997 Cheverolet Sport Utility Vehicle bearing license plate number ILU 336, at the time of the above mentioned motor vehicle accident.

6. Upon information and belief, Defendant was the operator of a 1999 Mazada Sedan bearing license plate number 853 8FE, at the time of the above mentioned motor vehicle accident

FOR A FIRST CAUSE OF ACTION
(Negligence)

7. Plaintiff hereby incorporates by reference paragraphs 1 through 6 of this Complaint as if fully set forth herein.

8. On October 7, 2013, Plaintiff was the driver of a motor vehicle traveling in a northerly direction on U.S. Highway 21/Trask Parkway, all streets being public highways in the City of Beaufort, County of Beaufort, and State of South Carolina.

9. On the date and place alleged, upon information and belief, Defendant was the operator of a motor vehicle that was traveling in a northerly direction on U.S. Highway 21/Trask Parkway, all streets being public highways in the City of Beaufort, County of Beaufort, and State of South Carolina.

10. On October 7, 2013, at or about 7:09 a.m., Plaintiff was operating her vehicle in a lawful and prudent manner traveling northerly on U.S. Highway 21/Trask Parkway, City of Beaufort, County of Beaufort, State of South Carolina. Defendant's motor vehicle was traveling behind Plaintiff's when Defendant, without warning or provocation, suddenly collided with the rear of Plaintiff's vehicle. Defendant failed to maintain proper lookout and disregarded the flow of traffic resulting in her automobile colliding with Plaintiff's vehicle

with great violence, inflicting on Plaintiff serious injuries.

11. At such time and place as above mentioned, Defendant, heedlessly and with reckless disregard of the rights of Plaintiff, operated and managed her automobile, in that she did not observe or attempt to observe where on the street she was driving the automobile and, on the contrary, averted her gaze and turned her head in an opposite direction from that in which the automobile was proceeding, knowing that such failure to maintain herself in a position to observe the obstacle which might or could come in front of the automobile would probably result in danger, damage, and injury to herself and to the Plaintiff. Defendant failed to maintain proper lookout and disregarded the flow of traffic, whereby her automobile collided with the vehicle Plaintiff was traveling in, by reason of which collision Plaintiff sustained serious injuries.

12. The collision and Plaintiff's injuries were the direct and proximate result of Defendant's actions. It was the duty of Defendant to so operate the motor vehicle as not to carelessly or negligently cause injury or damage to others lawfully using the highways. Defendant was, individually, jointly, and in combination of, at the time and place above mentioned, negligent, grossly negligent, wanton, willful, and careless in one or more of the following particulars:

- a. Defendant failed to keep proper lookout for others lawfully using the highways;
- b. Defendant failed to keep her vehicle under proper control at all times;
- c. Defendant failed to maintain a reasonable and safe traveling distance between his vehicle and the Plaintiff's;
- d. In failing to take reasonable and proper precautions to avoid colliding

with Plaintiff's vehicle when the exercise of ordinary care on Defendant's part the collision could have been avoided;

- e. In disregarding the flow of traffic; and
- f. In failing to use the degree of care and caution that a reasonable and prudent person would have used under the circumstances then and there prevailing, all of which was the direct and proximate cause of the damages and injuries suffered by the Plaintiff herein, said acts being in violation of the statutory and common laws of the State of South Carolina.

13. As a direct and proximate result of each of the careless and negligent acts committed by Defendant, the motor vehicle that she was operating was caused to come into direct and violent contact with the Plaintiff's vehicle. As a direct and proximate result of such acts, Plaintiff was thrown against different parts of such motor vehicle, thus sustaining serious injuries.

14. As a direct and proximate result of the accident, Plaintiff was seriously injured, both internally and externally, from the aforesaid collision, all of which has and will in the future cause Plaintiff to undergo much physical pain and suffering, has and will in the future cause Plaintiff to have to spend large amounts of money for medical treatment and services, has and will in the future cause Plaintiff to suffer trauma, anxiety, annoyance, whole body impairment, inconvenience, and travel—all to Plaintiff's general damage and detriment.

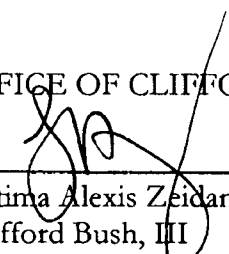
15. As a direct and proximate result of the accident, Plaintiff was caused to suffer severe physical injuries, past and future pain and suffering, loss of enjoyment of life, and past and future lost wages and medical expenses.

WHEREFORE, Plaintiffs prays for judgment against the Defendant in the following:

- 1. For damages for past, present and future medical expenses, and lost wages;

2. For damages for pain and suffering in an amount to be determined by the court;
3. Awarding costs, expenses, reasonable attorney's fees, interest, and disbursement of this action;
4. For punitive damages in an amount necessary to deter and punish Defendants; and
5. Awarding such other and further relief as this Court may deem just and proper.

LAW OFFICE OF CLIFFORD BUSH III, LLC

By: 

Fatima Alexis Zeidan

Clifford Bush, III

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Beaufort, South Carolina 29906

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cbush@lawofficeofcbushiii.com

ATTORNEYS FOR PLAINTIFF

Beaufort, South Carolina
January 27, 2015

ATTACHMENT

B

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS

SHARON DENISE ANDERSON,
Plaintiff,

Civil Action No. 2015-CP-07-00218

vs.

LINDA JENKINS HOLMES,
Defendant.

**DEFENDANT'S MEMORANDUM IN
SUPPORT OF SET ASIDE**

2015 JUN 23 PM 1:36
JENNIFER A. ROSENEAU
CLERK OF COURT
BEAUFORT COUNTY, S.C.

This matter comes before this court on Defendant's Motion to Set Aside Default Judgment.

By way of background, this matter arises out of an automobile accident on October 7, 2013. Plaintiff immediately engaged in settlement discussions with Omni Insurance Company (Defendant's insurance carrier) (hereinafter "Omni"). On March 11, 2014, Plaintiff issued a demand to Omni. This demand indicated Plaintiff had one visit with a physician and three weeks of chiropractic care following the accident. Plaintiff did not indicate she missed any time from work and did not make any lost wage claim. Further, Plaintiff was never written out of work by a doctor and provided no documentation for any missed time from work. Plaintiff demanded \$20,000 to settle the claim. At that time, Plaintiff had incurred a total of \$3,515 in medical expenses. More importantly, Plaintiff only incurred \$322.10 in property damage (which was paid by Omni).

Thereafter, off and on negotiations occurred with Plaintiff. The last time Plaintiff contacted Omni was on September 18, 2014. Following that contact, Omni called opposing counsel with requests for more information and to negotiate settlement on December 2 and

December 16, 2014, as well as January 9, February 4, February 26, April 16, and May 7, 2015. Each time Omni spoke to someone in Plaintiff's counsel's office and was informed counsel was unavailable to speak. Each time, a voicemail was left for Plaintiff's counsel. Plaintiff's counsel refused to return any calls from Omni. In addition, a letter was sent to Plaintiff's counsel on April 2, 2015 reiterating a prior offer to settle and seeking a return demand. This letter also went unanswered by Plaintiff's counsel.

Instead of returning Omni's phone calls and letter regarding the case, Plaintiff's counsel instead filed the underlying suit on January 30, 2015. Plaintiff's counsel did not provide any notice to Omni or provide Omni with a courtesy copy of the Complaint despite Omni's numerous and repeated attempts to make contact with Plaintiff's counsel. Service was allegedly made on Defendant on February 6, 2015. No Answer was filed. A Motion for Default was filed on April 3, 2015—again without notice to Omni despite Omni's numerous and repeated attempts to make contact with Plaintiff's counsel. A default damages hearing was had and a default judgment rendered on May 14, 2015—again without notice to Omni despite Omni's numerous and repeated attempts to make contact with Plaintiff's counsel during the pendency of these events. In fact, from the time the Complaint was filed until the default judgment was rendered, Omni contacted Plaintiff's counsel five (5) different times and Plaintiff's counsel refused to discuss the matter with Omni. The only conclusion that can be drawn is that Plaintiff's counsel willfully and intentionally avoided discussing the claim with Omni in order to avoid notifying Omni of the lawsuit.

Omni was notified on June 1, 2015 that judgment had been entered in the amount of \$40,275.17. Thereafter, Omni immediately filed the underlying Motion to Set Aside Default Judgment on June 1, 2015—the same day Omni was notified of the default.

The basis for the motion was as follows: (1) there exists good cause to set aside the entry of default and/or default judgment in this case; (2) the default occurred due to mistake and/or excusable neglect; (3) this motion has been made within a reasonable time of the discovery of the default; and, (4) this Defendant has valid defenses to the Plaintiff's Complaint.

Rule 60(b) authorizes a motion in the court in which the judgment was rendered seeking relief because of mistake, inadvertence, or excusable neglect. Motions under Rule 60(b)(1) must be made within a reasonable time but not more than one year after the judgment. The movant must justify the failure to act and must establish a meritorious defense to the claim. A meritorious defense is not one that necessarily will prevail at trial, but rather, one raising a question of law deserving of an investigation or a real controversy as to the essential facts arising from conflicting or doubtful evidence. See Graham v. Town of Loris, 272 S.C. 442, 248 S.E.2d 594 (1978).

Relief under Rule 60(b)(1) is discretionary with the trial court and the decision will not be disturbed on appeal unless there is clear showing the trial court abused its discretion. Factual conclusions unsupported by the evidence or orders controlled by errors of law are abuses of discretion. See Tri-County Ice & Fuel Co. v. Palmetto Ice Co., 303 S.C. 237, 399 S.E.2d 779 (1990); Ledford v. Pennsylvania Life Ins. Co., 267 S.C. 671, 230 S.E.2d 900 (1976). Further, confusions over the status of ongoing negotiations may be a basis for finding mistake or inadvertence. See McClug v. Deaton, 380 S.C. 563, 671 S.E.2d 87 (Ct.App. 2008) (indicating that negotiations with insurer led to reasonable belief party would be notified of law suit and satisfied excusable neglect standard).

As noted above, Plaintiff engaged in initial discussions regarding liability and damages with Omni post-accident. From that point until the Complaint was filed (and well after),

discussions continued between the parties related to numerous issues arising out of the accident. Plaintiff then filed this Complaint in January 2015 without notifying Omni. Pursuant to McLurg, the failure to notify Omni of the lawsuit when active negotiations had occurred for a period of more than a year post-accident supports a finding of mistake and/or inadvertence sufficient to set aside the default. In addition, Plaintiff's counsel's conduct in refusing to discuss any part of the claim with Omni after initiating settlement discussions warrants a set aside.

Further, upon information and belief, the only injuries arising out of this accident are very minor soft tissue injuries. Plaintiff reported a total of \$3,515 in medical expenses incurred across one doctor's visit and three weeks of chiropractic care. More importantly, Plaintiff only incurred \$322.10 in property damage (which was paid by Omni). Plaintiff never one made a claim for lost wages. Plaintiff did not provide any evidence she was written out of work—let alone that she was even ever out of work. A judgment of \$40,275.17—of which \$31,000 is alleged lost wages—is wholly unsupported by any evidence in this matter. As noted above, there has been no evidence presented at any time that Plaintiff missed even one day of work. Put another way, three weeks of chiropractic care and \$322 in property damage cannot support a \$40,275.17 judgment.

This judgment constitutes an abuse of discretion because it is unsupported by the evidence. Pursuant to Tri-County and Ledford, cited herein, factual conclusions unsupported by evidence can constitute an abuse of discretion. Because the judgment is clearly unsupported by the evidence, the judgment should be set aside.

For all the foregoing reasons, this court should set aside the judgment and permit Defendant to file an Answer within ten (10) days from the date of the Order.

MCANGUS GOUDELOCK & COURIE, L.L.C.



Brett H. Bayne, Bar No.: 100048

Post Office Box 12519, Capitol Station
Meridian, 1320 Main Street, 10th Floor (29201)
Columbia, South Carolina 29211-2519
(803) 779-2300

ATTORNEYS FOR OMNI INDEMNITY
COMPANY AND DEFENDANT LINDA
JENKINS HOLMES

June 19, 2015

Civil Action No. 2015-CP-07-00218

CERTIFICATE OF SERVICE

I hereby certify that I have this 14 day of June, 2015 served a copy of Defendant's Memorandum in Support of Set Aside by mailing copies of same, postage prepaid, in the United States mail, with sufficient postage affixed as follows:

Fatima Alexis Zeldan, Esq
Law Office of Clifford Bush III, LLC
Post Office Box 6194
Beaufort, South Carolina 29903
Attorney for Sharon Denise Anderson

2015 JUN 23 PM 1:36
CLERK OF COURT
BEAUFORT COUNTY, S.C.
JEROME ROSENEAU

Caroline Marcengill
Caroline M. Marcengill
Legal Assistant to Brett H. Bayne

ATTACHMENT

C

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

SHARON DENISE ANDERSON,

Plaintiff

v.

LINDA JENKINS HOLMES

Defendant.

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO.: 2015-CP-07-00218

**MOTION FOR ENTRY OF
DEFAULT JUDGMENT AGAINST
LINDA JENKINS HOLMES**

2015 APR -3 PM 4:29
CLERK OF COURT
BEAUFORT COUNTY

TO: DEFENDANTS ABOVE NAMED:

Plaintiff, Sharon Denise Anderson, ("Anderson"), by and through her undersigned counsel, pursuant to Rule 55 of the South Carolina Rules of Civil Procedure, hereby moves this Court for the entry of an order holding Defendant, Linda Jenkins Holmes, in default and granting default judgment on Anderson's claims.

Anderson bases this Motion on the following:

1. A complaint in this matter was filed with the Beaufort County Court of Common Pleas on January 30, 2015. (*See*, Exhibit 1- Summons and Complaint).
2. Pursuant to Rule 4(d)(1) of the South Carolina Rules of Civil Procedure, Personal Service was perfected on Linda Jenkins Holmes on February 6, 2015. (*See*, Exhibit 2- Beaufort County Sheriff's Office-Certificate of Service).
3. No answer or responsive pleading was filed by Defendants as indicated by the Affidavit of Default filed concurrently herewith.
4. As more than thirty (30) days have passed since service of Anderson's Summons and

Complaint, Defendant is now in default pursuant to Rules 12(a) and 55, SCRPC.

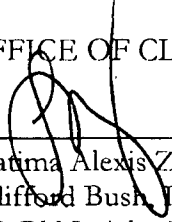
5. Anderson seeks the following judgment against the Defendant: damages for past, present and future medical expenses and lost wages; special damages; awarding costs, expenses, reasonable attorneys' fees, interest and disbursement of this action; for punitive damages and awarding such other and further relief as this Court may deem appropriate.

6. The court may enter default under Rule 55(b)(2), SCRPC.

7. A hearing on damages is required under Rule 55, SCRPC, as it is necessary to determine the amount of damages.

Based on the foregoing, Anderson requests that the Clerk of Court enter the default of Defendant in this matter.

LAW OFFICE OF CLIFFORD BUSH III, LLC

By: 

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Clifford Bush III
28 Old Jericho Road
Beaufort, South Carolina 29906
Tel.: (843) 379-9500 Fax: (843) 379-9550
fzeidan@lawofficeofcbushiii.com
cbush@lawofficeofcbushiii.com
ATTORNEYS FOR PLAINTIFF

Beaufort, South Carolina
March 31, 2015

ATTACHMENT

D

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT
SHARON DENISE ANDERSON,

Plaintiff

v.

LINDA JENKINS HOLMES

Defendant.

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO.: 2015-CP-07-00218

**ENTRY OF DEFAULT AS TO
DEFENDANT LINDA JENKINS
HOLMES**

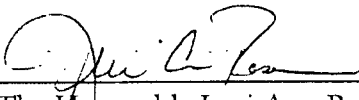
FILED APR -8 P11 3:32

This matter comes before me on motion of Fatima Alexis Zeidan, Esquire, counsel for Plaintiff, Sharon Denise Anderson, in the above-caption, for an Entry of Default.

It appears, according to an Affidavit from the Beaufort County Sheriff's Office that Defendant Linda Jenkins Holmes was personally served on February 6, 2015. More than thirty (30) days have elapsed since service, excluding the date of service. No Answer or other responsive pleading has been served by Defendant or on their behalf within the time required by Rule 12, SCRPC. No Answer has been filed in the Beaufort County Court of Common Pleas. It is therefore,

ORDERED, ADJUDGED, AND DECREED the Defendant is in default in this matter. A hearing on damages is required under Rule 55, South Carolina Rules of Civil Procedure.

IT IS SO ORDERED.


The Honorable Jerri Ann Roseneau
Beaufort County Clerk of Court

Beaufort, South Carolina
Dated: 4-8, 2015

ATTACHMENT

E

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT
SHARON DENISE ANDERSON

Plaintiff,

v.

LINDA JENKINS HOLMES
Defendant

IN THE COURT OF COMMON PLEAS
Civil Action No. 2015-CP-07-00218

ORDER FOR DAMAGES

2015 MAY 14 AM 10:41
BEAUFORT COUNTY
CLERK

This matter came before the Court for hearing on May 8, 2015 at 11:00 a.m., for a hearing on unliquidated damages pursuant to Rule 55, SCRPC. Notice for the hearing was given to all parties. Plaintiff, Sharon Denise Anderson and her attorney, Fatima Alexis Zeidan of the Law Office of Clifford Bush, III, LLC were present for the hearing. The Defendant did not appear, nor did any representative thereof. Testimony was provided by Sharon Denise Anderson.

After due consideration and inquiry into the circumstances surrounding the claims, I make the following findings of fact:

1. This matter arises out of an automobile accident occurring on October 7, 2013 in Beaufort, South Carolina.
2. Plaintiff filed a Civil Action Coversheet, Summons and Complaint with the Beaufort County Court of Common Pleas on January 30, 2015.
3. Service of process was perfected against the Defendant on February 6, 2015.

Defendant was personally served by the Beaufort County Sheriff's Office.

4. Defendant failed to answer the Complaint.

5. Plaintiff filed a Motion for Entry of Default Judgment Against Linda Jenkins Holmes on April 3, 2015.

6. Plaintiff's Counsel contemporaneously filed an Affidavit of Default and Non-Military Service as to Defendant on April 3, 2015.

7. ~~Entry of Default as to Defendant Linda Jenkins Holmes was entered by the~~
Beaufort County Clerk of Court on April 8, 2015.

8. Notice of the Hearing for Damages was served on the Defendant on April 22, 2015.

9. Plaintiff was present at the Hearing for Damages with her attorney.

10. Defendant failed to appear at the Hearing for Damages.

11. Testimony was taken from the Plaintiff regarding damages.

12. Plaintiff testified she sustained medical damages in the amount of \$3,515.17.

13. Plaintiff testified she sustained loss wages in the amount of \$31,760.00.

14. Plaintiff testified that she still has unsolved injury and pain from the automobile accident.

IT IS THEREFORE ORDERED:

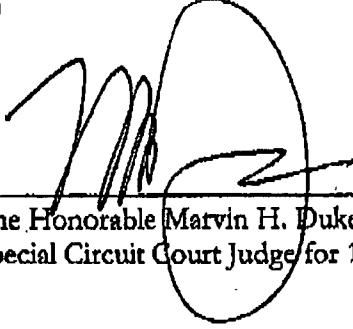
A. Plaintiff is awarded \$40,275.17, as follows:

Medical Expenses: \$3,515.17

Loss Wages: \$31,760.00

Pain/Suffering: \$5,000.00

IT IS SO ORDERED!!!



The Honorable Marvin H. Dukes, III
Special Circuit Court Judge for 14th Circuit

May 14, 2015
Beaufort, South Carolina

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2011 CD 00 00010

Sharon Denise Anderson

Linda Jenkins Holmes

DE LITIGANT(S)

DE LITIGANT(S)

Submitted by: Fatima Alexis Zeldan, Esq.
Law Office of Clifford Bush III, LLC
28 Old Jericho Road, Beaufort, SC 29906

Attorney for: ☒ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk:

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
Sharon Denise Anderson	Linda Jenkins Holmes	\$ 40,275.17
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional tax and fees not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge

3069
Judge Code5/14/15
Date

For Clerk of Court Office Use Only

This judgment was entered on the 14th day of MAY, 2015 and a copy mailed first class or placed in the appropriate attorney's box on this 30th day of MAY, 2015 to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(ES) FOR THE DEFENDANT(S)
Ann Beren - STAFF
 CLERK OF COURT

Court Reporter:

**ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON
PAGE 1.**

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

SCRCP Form 4C (03/2013)

ATTACHMENT

F

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

SHARON DENISE ANDERSON,

Plaintiff,

vs.

LINDA JENKINS HOLMES,

Defendant.

IN THE COURT OF COMMON PLEAS

CIVIL CASE NO.: 2015-CP-07-00218

PLAINTIFF'S MEMORANDUM IN
OPPOSITION TO DEFENDANT'S
MOTION TO SET ASIDE A DEFAULT
JUDGMENT

COMES NOW Plaintiff, Sharon Denise Anderson by and through her undersigned attorney, Clifford Bush, III Esquire and files this memorandum in opposition to the Defendant's Motion to set aside a default judgment.

FACTAUL BACKGROUND

This matter arises out of an automobile accident that occurred on October 7, 2013 in Beaufort, South Carolina. On October 21, 2013, Plaintiff mailed a Letter of Representation to Defendant's insurance company, Omni Insurance Company (hereinafter referred to as "Omni"). On March 11, 2014, the Plaintiff mailed a demand letter to the Omni. Omni Insurance Company also received two invoices regarding the Plaintiff's property damage. The property damage was assessed at *Nine Hundred Eighty Five and 21/100 Dollars (\$985.21)* from Joe Rivers at 843 Kustoms body shop and *Eight Hundred Twenty and 59/100 Dollars (\$820.59)* from Dale Porter of Everett Smith & Associates a property adjuster acquired by Omni Insurance Company. (See Exhibits "A" and "B"). Omni Insurance Company tendered a check to Ms. Anderson for an amount

woefully less than both invoices. In fact, the Defendant's Insurance Company tendered **Three Hundred Twenty-Two and 10/100 Dollars (\$322.10)** for the property damage. (See Exhibit "C"). At said time, Defendant's insurance company was informed that the property damage issue would be litigated.

On April 23, 2014 verbal communications began between Omni insurance company ("Omni") and Clifford Bush, III, at which time Omni offered to settle the matter for an amount far less than the medical bills. Mr. Bush informed Omni's adjuster that he did not have authority to accept any offer that was less than the medical bills. Moreover, he informed the adjuster that he would not negotiate or counter-offer any offer that started less than the medical bills. On May 8, 2014 an adjuster from Omni called the Law Offices of Clifford Bush III, LLC, to inform Mr. Bush of a new offer in the amount of **Three Thousand Two Hundred and 00/100 Dollars (\$3,200.00)** to settle the matter. (See Exhibit "D") Mr. Bush again informed Omni that his client would not accept an offer for less than the medical bills. Furthermore, he informed the adjuster that the case would be transferred to Fatima Alexis Zeidan, Esquire with the litigation department. (See Exhibit "E") On July 10, 2014, Cheryl Brooks an adjuster with Omni called the Law Office of Clifford Bush III, LLC, to make an offer for **Five Thousand Five Hundred and 00/100 Dollars (\$5,500.00)**. Ms. Brooks was told said amount was not enough to cover Plaintiff's damages and no counter-offer was extended.

On September 18, 2014, Ms. Brooks extended another offer for **Five Thousand Five Hundred One and 00/100 Dollars (\$5,501.00)** to settle the case thereby increasing her offer by **One Dollar (\$1.00)**. Mr. Bush told Ms. Brooks she was negotiating in bad faith and asked whether she would accept service on behalf of the Defendant. Ms. Brooks stated that she absolutely would not accept service. Mr. Bush informed Ms. Brooks that a lawsuit would be forthcoming and that

he would like to speak to her supervisor regarding the manner in which the case was negotiated. She was unwilling to give the full name and phone number of her supervisor. After further discussions, Ms. Brooks reluctantly said Justin was her supervisor and agreed to transfer the call. However, Ms. Brooks failed to transfer Mr. Bush to her supervisor. (See Exhibit "F")

On October 16, 2014, Mr. Bush called Ms. Brooks again to obtain her supervisors' contact information but she failed to return the call. On November 9, 2014, another call was made to Ms. Brooks to obtain her supervisor contact information but again she refused to return the call. No calls were ever returned and all communications stopped with the Defendant's insurance company as of December 1, 2014.

On January 30, 2015 a Complaint was filed in the Court of Common Pleas for Beaufort County, State of South Carolina. The Defendant was served by Beaufort County Sheriff's Department on February 6, 2015. The Plaintiff filed a Motion for Summary Judgement against the Defendant, Linda Jenkins Holmes on April 3, 2015. An Entry of Default Judgment was granted against the Defendant on April 8, 2015. A Notice of the Hearing for Damages was served upon the Defendant on April 22, 2015. The Defendant failed to appear at the hearing for damages. The Court found the testimony of the Plaintiff to be credible and awarded *Forty Thousand Two Hundred Seventy-Five and 17/100 Dollars (\$40, 275.17)* in total damages to the Plaintiff. At no time after the Complaint was filed until the Order was issued did any discussions occur between the parties.

STANDARD OF REVIEW

Pursuant to rule 60(b)(1) relief may only be granted because of mistake, inadvertence, surprise, or excusable neglect. A circuit court may relive a party from a final judgement pursuant to Rule 60(b)(1), SCRCP, where a party shows "the judgment or order was induced by mistake,

inadvertence, surprise, or excusable neglect.” Relief from judgment shall be within the sound discretion of the trial court and the court’s findings will not be disturbed on appeal absent an abuse of discretion. *Deidun v. Deidun*, 362 S.C. 47, 606 S.E.2d 489 (Ct. App. 2004). (“An abuse of discretion arises where the judgment is controlled by an error of law or is based on factual conclusions that are without evidentiary support.”) *Paul Davis Sys., Inc. v. Deepwater of Hilton Head, LLC*, 362 S.C. 220, 225, 607 S.E.2d 358-61 (Ct.App.2004). A party seeking to set aside a judgment pursuant to rule 60(b) has the burden of presenting evidence entitling him to the requested relief. Whether to grant or deny a motion under Rule 60(b) lies within the sound discretion of the judge. *Perry v. Heirs at Law of Gadsden*, 357 S.C. 42, 590 S.E.2d 502 (Ct. App. 2003). Our standard of review, therefore, is limited to determining whether there was an abuse of discretion. *Raby Const., L.L.P. v. Orr*, 358 S.C. 10, 17-18, 594 S.E.2d 478, 482 (2004).

To be rendered relief the movant must prove the judgement was taken against the defendant through mistake, inadvertence, surprise or excusable neglect, and (2) that there is a prima facie case of a meritorious defense. When determining whether to grant relief, the factors to consider are: (1) the timing of the motion for relief, (2) whether the party requesting relief has a meritorious defense, and the degree of prejudice to the opposing party if relief is granted. *Williams v. Watkins*, 384 S.C. 319, 324, 681 S.E.2d 914, 916-917 (Ct.App. 2009).

LEGAL ARGUMENTS

I. THE DEFENDANT’S MOTION TO SET ASIDE THE DEFAULT JUDGMENT SHOULD BE DENIED BECAUSE THE DEFENDANT FAILED TO ESTABLISH MISTAKE.

Mistake is defined as an unintentional act, omission, or error arising from ignorance, surprise, imposition, or misplaced confidence. “Under proper circumstances, an insurer may be entitled to an order setting aside a default judgement where the insurer is involved in ongoing

negotiation with a claimant but is not informed that the defendant has been served with a summons and complaint.” *Edwards v. Ferguson*, 254 S.C. 278, 175 S.E.2d 224 (1970).

Here, there is no evidence of the Defendant alleging mistake. Omni was given notice that a lawsuit was being filed prior to the Defendant receiving the Summons and Complaint. Once Omni was informed that the Summons and Complaint was going to be filed, no further communications took place. The Plaintiff properly served the Defendant with the Summons and Complaint on February 6, 2015. Beaufort County Sherriff’s Department served the Defendant. Plaintiff notified Defendant of the damages hearing. Omni knew all negotiations had ceased after Plaintiff filed the lawsuit. Likewise, Mr. Bush discussed accepting service of the Summons and Complaint with Omni’s adjuster and she refused to accept service.

The Defendant failed to answer the complaint and did not appear for the damages hearing. There has been no evidence presented to show the defendant was not able to appear for reasons such as an unintentional act, omission, or error arising from ignorance, surprise, imposition, or misplaced confidence. Moreover, there was no communication between the parties in this case after December 1, 2014. Therefore, this Court should deny the Motion to Set Aside the Default Judgement.

II. THE DEFENDANT’S MOTION TO SET ASIDE THE DEFAULT JUDGMENT SHOULD BE DENIED BECAUSE THE DEFENDANT FAILED TO ESATBLISH INADVERTANCE.

Inadvertence is defined as heedlessness, lack of attention, want of care; carelessness; failure of a person to pay careful and prudent attention to the progress of a negotiation or a proceeding in court by which his rights may be affected. Generally, “the neglect of the attorney is the neglect of the client, and... no mistake, inadvertence, or neglect attributable to the attorney can be successfully used as a ground for relief, unless it would have been excusable if attributable to

the client.' " *Stearns Bank Nat'l Ass'n v. Glenwood Falls, LP*, 373 S.C. 331, 342, 644 S.E.2d 793, 798 (Ct.App.2007) (quoting *Simon v. Flowers*, 231 S.C. 545, 551, 99 S.E.2d 391, 394 (1957)). In addition, lack of familiarity with legal proceedings is not an acceptable excuse and the court will hold a layman to the same standard as an attorney. *Hill v. Dotts*, 345 S.C. 304, 310, 547 S.E.2d 894, 897 (Ct.App.2001).

In this case, there has been no evidence presented by the defendant or opposing counsel that show a lack of attention, want of care; carelessness; failure of a person to pay careful and prudent attention to the progress of a negotiation or a proceeding in court by which his rights may be affected. The Plaintiff properly served the Defendant through Beaufort County Sheriff's Department. In addition, Omni Insurance Company knew the complaint was being filed. The Defendant failed to answer the complaint. Ignorance of the law or judicial process serves as no excuse for any reasonably prudent person. Failure of the Defendant to answer the complaint does not serve as a justifiable cause for relief and opposing counsel has failed to establish the Default Judgement should be Set Aside because of inadvertence. Since the Defendant's counsel failed to establish inadvertence, this Court should deny the Motion to Set Aside the Default Judgement.

III. THE DEFENDANT'S MOTION TO SET ASIDE THE DEFAULT JUDGMENT SHOULD BE DENIED BECAUSE THE DEFENDANT FAILED TO ESTABLISH SURPRISE OR EXCUSABLE NEGLIGENCE.

Excusable neglect is the failure to take the proper steps at the proper time, not in consequence of the party's own carelessness, inattention, or willful disregard of the process of the court, but in consequence of some unexpected or unavoidable hindrance or accident, or reliance on the care and vigilance of his counsel or on the promises made by the adverse party.

For the purposes of the motion to set aside a judgment, "excusable neglect" is that neglect which might have been the act of a reasonably prudent person under the circumstance.

Hollingsworth v. American Finance Corp., 86 Wis.2d 172, 271 N.W.2d 872, 878. For example "Helmy failed to show excusable neglect as the medical evidence does not support that he was incapacitated." *Tri- County Ice and Fuel Co. v. Palmetto Ice Co.*, 303 S.C. 237 , 399 S.E.2d 779, 782 (1990)

The Defendant was served with a copy of the Summons and Complaint by Beaufort County Sheriff's Department on February 6, 2015. Prior to being served, Omni was notified that the Defendant's case would be transferred to the litigation department of The Law Office of Clifford Bush III, LLC. At no time did the Defendant present evidence of incapacitation or any excusable neglect. In fact, acceptance of service for both the Complaint as well as the damages hearing shows the Defendant was not surprised about the lawsuit. Moreover, there was no negotiation taking place at the time the lawsuit was filed. Therefore, this Court should deny the Defendant's Motion to Set Aside the Default Judgement because the Defendant has failed to establish excusable neglect or surprise.

IV. THE DEFENDANT'S MOTION TO SET ASIDE THE DEFAULT JUDGMENT SHOULD BE DENIED BECAUSE THE DEFENDANT FAILED TO ESTABLISH A MERITORIOUS DEFENSE.

A meritorious defense is one which is offered and alleged by the party proceeded against in an action or suit, as a reason in law or fact why the Plaintiff should not recover or establish what he seeks. A meritorious defense need not be perfect nor one which can be guaranteed to prevail at a trial. It need be only one which is worthy of a hearing or judicial inquiry because it raises a question of law deserving of some investigation and discussion or a real controversy as to essential facts arising from conflicting or doubtful evidence. *Graham v. Town of Loris*, 272 S.C. 442, 453, 248 S.E.2d 594, 599 (1978).

Defendant has failed to establish a defense for which she is entitled to relief. The Plaintiff gave testimony and provided documentation justifying her to the relief granted by the court (See Exhibit "A," "B" and "G"). The amount of relief given is a question of fact for a jury. Opposing counsel acknowledges that there were damages and medical expenses. (See Defendant's Memorandum to Set Aside the Default Judgment) This alone establishes the Plaintiff was entitled to relief. The Defendant failed to establish a question of law deserving of an investigation or real controversy to the essential fact arising from doubtful evidence. Therefore, this court should deny the Motion to set Aside because the Defendant failed to establish a Meritorious Defense for which relief should be granted.

V. THE DEFENDANT'S MOTION TO SET ASIDE THE DEFAULT JUDGMENT SHOULD BE DENIED BECAUSE THE DEFENDANT HAS FAILED TO ESTABLISH AN ABUSE OF DISCRETION.

Judgment rests within the sound discretion of the trial court. An abuse of discretion arises where the judge issuing the order was controlled by an error of law or whether the order is based on factual conclusions that are without evidentiary support, *BB & T v. Taylor*, 369 S.C. 548, 551, 633 S.E.2d at 503.

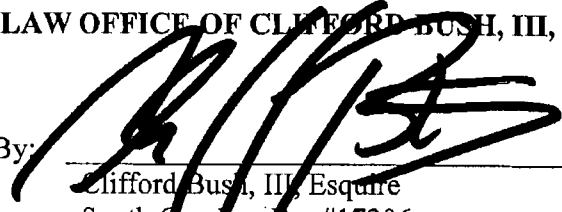
In the instant case, the judge relied on testimony from a credible witness and evidence presented at the hearing. Plaintiff presented evidence and testimony to the Court that included medical expenses, property damage, wages and pain and suffering. Based on the evidence and testimony, the Court formulated a factual conclusion in which to compensate the Plaintiff. An abuse of discretion does not exist in this case because the judge relied upon evidence and testimony to form his conclusion.

Therefore, the court should deny the Motion to Set Aside the Default Judgment because the Defendant failed to establish an abuse of discretion.

CONCLUSION

This Court should deny the Motion to Set Aside the Default Judgement because the Defendant has failed to prove the judgement was taken against the defendant through mistake, inadvertence, surprise or excusable neglect, and (2) that there is a prima facie case of a meritorious defense.

LAW OFFICE OF CLIFFORD BUSH, III, LLC

By: 

Clifford Bush, III, Esquire
South Carolina Bar #17206
28 Old Jericho Road
Beaufort, South Carolina 29906
(843) 379-9500 work
(843) 379-9550 fax
Attorney for the Plaintiff

ESTIMATE

843 Kustoms

Name: Joe	Customer Info	
Date: 10/24/2013	Name	Sha'Ron Anderson
Comments: Call or E-Mail 843 Kustoms. 843-592-7769. 843Kustoms@gmail.com	Year	1997
	Make	Chevy
	Model	Suburban
	Ph #	843-295-8318

ITEMS	Price(ea)	QTY	Hours	Total
Rear Bumper	\$442.99	1	1.5	\$442.99
Rear Bumper Top Cover	\$67.42	1	1	\$67.42
Passenger Rear Door Hinge	\$41.00	2	2.5	\$82.00

Where the hinges are needed repair work is also needed, do to fact that they are push in and is the cause of the rear doors not closing properly. That's where the time come in at with the hinges.

Total Items	\$592.41
Sales Tax	\$35.54
Total Labor	\$315.00
Materials	\$43.26
TOTAL PRICE	\$985.21

EXHIBIT A

10/19/2013 at 05:40 PM
113531

File ID: 105374

EVERETT SMITH & ASSOC
APPRAISAL SERVICE ANYWHERE IN S.C.
"ONE CALL DOES IT ALL" dispatch@everettsmith.com
ALSO SERVING EASTERN GA. BORDER &
SOUTHERN NC BORDER AREAS
** SINCE 1984 **
(803) 731-0317 Fax: (803) 798-6221
Written By: JODY RICKARD 803 7679644

For: AICI INSURANCE GROUP - OMNI-ATLANTA
Adjuster: DALE PORTER

UNRELATED PRIOR DAMAGE

Insured: SHERAN ANDERSON
Owner: SHERAN ANDERSON
Address: 80 MARTIN LANE
LOT 11
SEABROOKE, SC 29947
Day: (843) 644-0123

Claim #2013-95541dsp
Policy #
Date of Loss: 10/07/2013 at 05:00 PM
Type of Loss: Collision
Point of Impact: 6. Rear

Inspect 80 MARTIN LANE
Location: LOT 11
SEABROOKE, SC 29947

Day: (843) 644-0123
HOME

Repair MUST PROVIDE ALL PAGES TO OWNERS
Facility: SHOP OF CHOICE

1 Days to Repair
License #

1997 CHEV C1500 4X2 SUBURBAN LT 8-5.7L-FI 4D UTV GREEN Int:

VIN: 1GNEC16R3VJ407103 Lic: ILU336 SC Prod Date: Odometer: 287895
Intermittent Wipers Tilt Wheel Cruise Control
Rear Defogger Keyless Entry Dual Air Condition
Dual Mirrors Body Side Moldings Privacy Glass
Luggage/Roof Rack Clear Coat Paint Power Steering
Power Brakes Power Windows Power Locks
Power Mirrors Power Driver Seat AM Radio
FM Radio Stereo Search/Seek
Cassette Driver Side Air Bag Passenger Air Bag
Anti-Lock Brakes (4) 4 Wheel Disc Brakes Reclining/Lounge Seats
Leather Seats Rear Step Bumper Automatic Transmission
Overdrive Aluminum/Alloy Wheels

NO.	OP.	DESCRIPTION	QTY	EXT. PRICE	LABOR	PAINT
1		FRONT DOOR				
2**	Repl	A/M RT Power mirror w/o heat	1	97.00	0.4	
3		HOOD				
4	Refn	Hood				3.2
5		Add for Clear Coat				1.3
6		ROOF				
7	Refn	Roof panel				5.0
8		Overlap Major Adj. Panel				-0.4

10/19/2013 at 05:40 PM
113531

File ID: 105374

UNRELATED PRIOR DAMAGE

1997 CHEV C1500 4X2 SUBURBAN LT 8-5.7L-FI 4D UTV GREEN Int:

NO.	OP.	DESCRIPTION	QTY	EXT.	PRICE	LABOR	PAINT
9		Add for Clear Coat					0.9
Subtotals ==>					97.00	0.4	10.0
Parts							97.00
Body Labor			0.4	hrs @	\$ 42.00 /hr		16.80
Paint Labor			10.0	hrs @	\$ 42.00 /hr		420.00
Paint Supplies			10.0	hrs @	\$ 28.00 /hr		280.00
SUBTOTAL							\$ 813.80
Sales Tax				\$	97.00 @	7.0000 %	6.79
TOTAL COST OF REPAIRS							\$ 820.59

THIS DAMAGE APPRAISAL IS NOT AN ACCEPTANCE OF LIABILITY, NOT A CONFIRMATION OF COVERAGE, NOT A GUARANTEE OF ANY PAYMENT & NOT AN AUTHORIZATION TO REPAIR.

** VEHICLE OWNER MUST AUTHORIZE REPAIRS & GUARANTEE PAYMENT IN FULL AT COMPLETION OF REPAIRS.

PLEASE REFER DIRECTLY TO LISTED INSURANCE COMPANY CLAIM REP WITH ANY QUESTIONS REGARDING INSURANCE COVERAGE OR PAYMENTS.

VEHICLE OWNER MUST PROVIDE ALL PAGES OF THIS APPRAISAL REPORT TO SHOP OF OWNER'S CHOICE, PRIOR TO OWNER'S AUTHORIZATION TO REPAIR.

ALL SUPPLEMENTS MUST BE REPORTED TO APPRAISER PROMPTLY & PRIOR TO REPAIR COMPLETION, FOR APPROVAL & MUST BE SUPPORTED WITH PROPER DOCUMENTATION.. FAILURE TO COMPLY MAY RESULT IN DENIAL OF INSURANCE COVERAGE..



OMNI INSURANCE COMPANY
P.O. BOX 105019
ATLANTA, GA 30348-5019
PHONE: 800-727-6664 / FAX: 800-680-1904

SHERAN ANDERSON
80 MARTIN LANE
LOT 11
SEABROOKE, SC 29940

October 24, 2013

Insured: LINDA HOLMES
Our Claim Number: 2013-95451
Loss Date: 10/07/2013

Dear SHERAN ANDERSON,

We have completed our appraisal of your damaged vehicle and enclosed is a copy of the damage appraisal.

A check in the amount of ~~\$820.59~~ ^{322.10} is being mailed under separate cover. The payment is based on the enclosed damage appraisal and included only those damages deemed related to the accident.

There are few instances where additional damage is found during the repair process. If this is the case, the repair facility should immediately contact the appraiser assigned to your claim to discuss the repairs. When a supplement is approved and agreed to, we will then issue a supplemental payment to pay for any related additional damage.

If you have any questions, please feel free to contact me.

Sincerely,

Dale Porter Ext. 3303
Claims Representative

EXHIBIT "C"



OMNI INSURANCE COMPANY
P.O. BOX 105019
ATLANTA, GA 30348-5019
PHONE: 800-727-6664 / FAX: 800-680-1904

CLIFFORD BUSH III
PO BOX 6194
BEAUFORT, SC 29903

May 08, 2014

Claim Number: 2013-95451
Policy Number: 3215074
Loss Date: 10/07/2013
Your Client: SHARON ANDERSON

Dear CLIFFORD BUSH III,

Please let this letter confirm our settlement offer in the amount of \$3200.00. Please present this offer to your client and advise me if acceptable.

I look forward to your prompt response. If you have any questions, please contact me at the number above.

Sincerely,

A handwritten signature in black ink, appearing to read "RCB", followed by a horizontal line.

Robert Croley Ext. 3303
Claims Representative

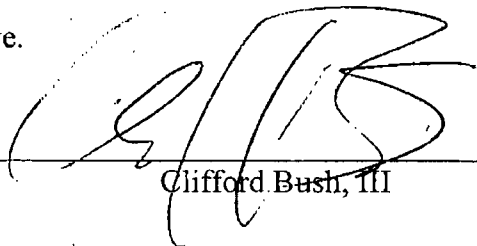
EXHIBIT "D"

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

AFFIDAVIT

PERSONALLY APPEARED BEFORE ME, Clifford Bush III, after being duly sworn says:

1. I am a resident of the County of Beaufort, State of South Carolina.
2. I reside at 65 Pinckney Colony Road, Bluffton, State of South Carolina.
3. I am of lawful age and resided in Beaufort County for more than twenty (20) years.
4. On September 18, 2014, I spoke with Cheryl Brooks, an agent of Omni Insurance company and informed her that I thought she was negotiating in bad faith. I informed Ms. Brooks that I was filing a lawsuit regarding my client's case against Linda Jenkins Holmes. I asked if she would accept service on behalf of Ms. Holmes. She said she would not accept service. I then told her that our communication regarding this case had reached an impasse and that I wanted to speak with her Manager/supervisor. After further discussions, she reluctantly provide the name of Justin. She said his name was Justin but would not provide any additional information as to his last name. I ask her to transfer me to the manager/supervisor and the phone was suddenly disconnected.
5. On October 16, 2014, my office called Ms. Brooks to discuss getting the contact information for her manager/supervisor but she never returned the phone call.
6. On November 9, 2014, my office called Ms. Brooks again to get the contact information for her manager/supervisor but she never returned the call.
7. Since the discussion on September 18, 2014, I nor any attorney in my office ever spoke with Cheryl Brooks or any agent of Omni Insurance Company about settlement of the case.
8. I affirm and attest to the above.



Clifford Bush, III

Sworn to and subscribed before me,

EXHIBIT "F"

This 13 day of July, 2015.

Risa By Williams
Notary Public for South Carolina

My Commission Expires: 4-24-2024

STATE OF SOUTH CAROLINA

AFFIDAVIT

COUNTY OF BEAUFORT

PERSONALLY APPEARED BEFORE ME, Sharon Anderson, after being duly sworn says:

1. I am a resident of the County of Charleston, State of South Carolina.
2. I reside at 5055 North Arco Lane Apartment 118, Charleston, State of South Carolina.
3. I resided at 80 Martin Lane Lot 11, Seabrook, State of South Carolina at the time of the incident.
4. I am of lawful age and resided in Beaufort County for one(1) or more years.
5. On May 8, 2015 I testified in a Hearing for Damages.
6. My attorney Fatima Alexis Zeidan and The Honorable Marvin H. Dukes, III was present.
7. My testimony included medical expenses, property damage, loss wages and that I am also still having pains from the automobile accident.
8. I affirm and attest to the above.

Sharon Anderson
Sharon Anderson

Sworn to and subscribed before me,

This 14 day of July, 2015.

[Signature]
Notary Public for South Carolina

My Commission Expires: 11/4/19

EXHIBIT "G"

ATTACHMENT

G

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT
JERRI ANN ROSENEAU
BEAUFORT COUNTY, S.C.
CLERK OF COURT

SHARON DENISE ANDERSON,

Plaintiff,

vs.

LINDA JENKINS HOLMES,

Defendant.

IN THE COURT OF COMMON PLEAS

Civil Action No. 2015-CP-07-00218

**DEFENDANT'S SUPPLEMENTAL
MEMORANDUM IN SUPPORT OF
MOTION TO SET ASIDE DEFAULT
PURSUANT TO SCRPC 60(B)(1) AND
(3)**

This matter comes before this court on Defendant's Motion to Set Aside Default Judgment. This memorandum incorporates by reference Defendant's initial memorandum filed with the court and served on opposing counsel on or around June 19, 2015. This memorandum addresses additional issues that have come to light following receipt of the hearing transcript from the default damages hearing held on May 8, 2015. The underlying motion was filed on or around June 1, 2015 immediately following receipt of the default judgment order from opposing counsel.

The underlying order and judgment in the amount of \$40,275.17 must be set aside due to either (1) mistake, inadvertence, surprise, or excusable neglect or (2) fraud, misrepresentation, or other misconduct of an adverse party. The basis for this supplemental memorandum is noted in Defendant's Motion and found in SCRPC Rules 60(b)(1) and (3). This memorandum addresses the outright misrepresentation and/or fraud of Plaintiff to this court during the hearing. This clear fraud and/or misrepresentation requires this court to set aside its prior order and set aside the default (or at the very least conduct a new damages hearing). In addition, this memorandum discusses in further detail the mandatory set aside required by McLurg due to mistake,

inadvertance, surprise, and/or excusable neglect.

This court conducted a hearing in this matter on May 8, 2015. Omni, Defendant's insurance carrier, was not notified of this hearing as set out in the prior memorandum. Pursuant to Tri-County, Ledford, and McClurg, discussed therein, Plaintiff was required to notify Omni of the hearing. Failure to notify Omni of the Complaint, Default, and/or hearing despite Omni's continued contact with Plaintiff's counsel constitutes extrinsic fraud on this court¹. However, whether Plaintiff should have notified Omni is not relevant for this supplemental memorandum. What is relevant for this supplemental memorandum is the evidence—or lack thereof—presented at the hearing and the direct intentional fraud and/or misrepresentation carried out on the court by Plaintiff.

Defendant obtained a copy of the May 8, 2015 hearing transcript on July 16, 2015. The transcript is attached as Exhibit A. The transcript shows the hearing took a total of 11 minutes and not one piece of evidence was entered into the record with the exception of the bills for care (but not the records for care). During this hearing, Plaintiff makes several statements, under oath, which are either fraudulent or misrepresentations of the evidence. These statements are summarized as follows:

1. Plaintiff was written out of work by a physician.
2. The damage to Plaintiff's car was severe resulting in a pushed in bumper that prevented the doors from opening.
3. Defendant's car was severely damaged and totaled.

¹ Extrinsic fraud "induces a person not to present a case or deprives a person of the opportunity to be heard." Chewning v. Ford Motor Company, 354 S.C. 72, 579 S.E.2d 605 (citing Hilton Head Ctr. of South Carolina v. Public Serv. Comm'n, 294 S.C. 9, 11, 362 S.E.2d 176, 177 (1987)). Equitable relief from a judgment "is granted for extrinsic fraud on the theory that because the fraud prevented a party from fully exhibiting and trying his case, there has never been a real contest before the court on the subject matter of the action." Id.; see also Bryan v. Bryan, 220 S.C. 164, 167-68, 66 S.E.2d 609, 610 (1951)

4. Plaintiff was employed at Red Roof Inn and/or terminated from her employment with Red Roof Inn due to this accident.

First, Plaintiff testified during the hearing:

"Q. She was – so you were taken out of work

A. Yes."

The entirety of Plaintiff's actual medical record is attached at Exhibit B. At the hearing, Plaintiff presented only the medical bills she contended were incurred. After doing so, she made the above statement that she was taken out of work. Even a cursory review of the medical record reveals that Plaintiff was not written out of work at any time following this accident. The records provided by Beaufort Memorial Hospital show a date of service of October 7, 2013—the date of the accident. Plaintiff was admitted at 11:37 AM. The records note Plaintiff presented to the emergency room as a walk-in complaining of pain in her right hip and right ankle. Plaintiff was diagnosed with a myofascial strain, a hip contusion, and an ankle sprain. X-rays of Plaintiff's right hip and right ankle were completely normal. Dr. Jackson noted "an unremarkable right hip" and "no acute findings in the ankle." Plaintiff was released from the emergency room at 1:28 PM—less than two hours after arriving. Plaintiff's discharge instructions were to follow up with a private physician if pain persisted. No doctor indicated Plaintiff should be out of work or advised Plaintiff of any work restrictions.

Plaintiff did not obtain any additional medical care until going to Carey Chiropractic on October 25, 2013—18 days post-accident. This date is important based on Plaintiff's testimony and will be discussed below. The records from Carey Chiropractic indicate Plaintiff attended six (6) total appointments. Her final appointment and release was on November 20, 2013. In that report, Dr. Carey checked the box that Plaintiff's complaints were "resolved." There is no

notation in any of the six medical records that Plaintiff was out of work, that Plaintiff should be out of work, or that Plaintiff had any restrictions whatsoever.

However, even if a record from Dr. Carey stated that Plaintiff was written out of work, it would be irrelevant. Plaintiff testified in the hearing that she was terminated from her job on October 7, 2014—18 days before she started treating with Dr. Carey. This testimony is as follows:

“Q: Okay. So you were out of work from October 7th until –

A: Yes, sir.”

This statement means that Plaintiff testified she was taken out of work by a treating physician on the day of the accident and for all days thereafter. The medical records from Beaufort Memorial Hospital directly contradict this sworn testimony. Further, Plaintiff testified “I lost my job because in the amount of time that I was due to be released it wasn’t on their time, basically...they didn’t want to wait until I was done.” This testimony, while somewhat difficult to digest, indicates Plaintiff was terminated because of work restrictions placed on her that Red Roof could not accommodate and they would not wait for her release from care. However, as noted above, Plaintiff was fully released from care with Beaufort Memorial Hospital on October 7, 2014—the very same day she claims she was stopped working because she wasn’t released to return to work². Plaintiff clearly either misrepresented her employment situation or committed fraud on the court. This misrepresentation and/or fraud requires this court to set aside its prior order and set aside the default (or at the very least conduct a new damages hearing).

Next, Plaintiff misrepresented to the court the nature of the accident and the damage to the vehicles. Everett Smith & Assoc. was hired to perform an appraisal of the damages following

² Again, the date of release of care from Dr. Carey is irrelevant as the testimony is that she was terminated prior to even setting an appointment with Dr. Carey (notwithstanding Dr. Carey also never provided Plaintiff with work

the report of claim. This appraisal was completed on October 19, 2014. (See Exhibit C). The appraisal included a full evaluation of the damage to the vehicle as well as photographs of Plaintiff's vehicle. (See Exhibit D). The appraiser determined there was property damage related to the accident in the amount of \$322.10³. The appraiser determined the repairs to be done included (1) replace a portion of the bumper assembly, and (2) align the left rear cargo door following replacement of the bumper. The total for parts was \$250.00 and the estimate called for 1.3 hours total of labor. Plaintiff's testimony was that the accident "...was a pretty significant impact." She further stated "my bumper was pushed in and the two doors that open don't open anymore." She also testified the "...Defendant's car might have been totaled⁴."

Despite Plaintiff's colorful testimony about the "significant" impact resulting in severe damage to her vehicle, the photographs taken of the car show a much different story. Photographs attached as Exhibit D were taken by the appraiser. The photographs show very little to no damage to any part of the vehicle. Importantly, they do not provide any evidence the "bumper was pushed in" or that the "two doors don't open anymore." In fact, one of the photographs on the second page of photographs provides shows that the right rear door is open. Therefore, Plaintiff's statement that the "two doors don't open anymore" is clearly false. Plaintiff clearly either misrepresented the severity of the accident and the damage to her vehicle or committed fraud on the court. This misrepresentation and/or fraud requires this court to set aside

restrictions or wrote her out of work).

³ Plaintiff presented a second estimate from Everett Smith & Assoc purporting to be for \$820.59 in damages. However, a review of this record shows that it was for "Unrelated Prior Damage." This statement is made on the face of the record. Additionally, the damage assessed is clearly unrelated. The estimate was for replacing the driver power mirror, refinishing the paint on the hood, and refinishing the paint on the roof. None of these issues are related to a minor impact with a rear bumper. Additionally, Plaintiff has now presented (on 7/20/15) an estimate from a shop named "843 Kustoms." This estimate was never provided to Omni at any time before 7/20/15 and was not presented to this court during the damages hearing. Despite this being a new piece of evidence, it reflects the exact same damage and repairs as Everett Smith identified in the original appraisal for \$322.10 (a bumper and a rear door alignment/hinge).

⁴ The undersigned represents to this court that Defendant's car was not totaled. It was driven from the scene and is

its prior order and set aside the default (or at the very least conduct a new damages hearing).

Finally, Defendant contends Plaintiff misrepresented her employment situation. Plaintiff has presented no evidence, other than her singular statement at the hearing that she lost any time from work and/or was terminated from work as a result of the accident. There has been no evidence presented at any time that Plaintiff missed even one day of work. During the pendency of negotiation and settlement discussions, Plaintiff's counsel did not one time mention lost wages, loss of a job, or any other employment related issues. His formal demands did not contemplate any lost wages or time lost from work. This information was concealed from Defendant. If Plaintiff actually missed time from work, let alone 79 weeks of time, wouldn't that have been included in negotiations?

The lack of evidence on the lost wage issue is further reflected by the fact that Defendant has requested the employment records and evidence that Plaintiff missed time from work and Plaintiff's counsel has refused to provide such records. Defendant obtained the records through subpoena following receipt of the hearing transcript. Plaintiff testified in the hearing that she was terminated from her job on October 7, 2014 and/or that she was out of work from October 7, 2014 forward. This testimony is as follows:

"Q: Okay. So you were out of work from October 7th until —

A: Yes, sir."

Further, Plaintiff testified "I lost my job because in the amount of time that I was due to be released it wasn't on their time, basically...they didn't want to wait until I was done." As noted above, this testimony indicates Plaintiff was terminated because of work restrictions placed on her that Red Roof could not accommodate and they would not wait for her release from care. However, Plaintiff was fully released from care with Beaufort Memorial Hospital on

still in the possession, ownership, and —reportedly—use of Defendant.

October 7, 2014—the very same day she claims she was stopped working because she wasn't released to return to work. In addition, after receiving the transcript, Omni obtained Plaintiff's termination paperwork from Red Roof Inn and an affidavit from Plaintiff's General Manager. See Exhibit E. Plaintiff was terminated for repeated violations of company policy related to short registers, not charging guests for their stays, not charging guests for movies, no shows to work, and other errors with credit cards. In addition, the employment file indicates she was terminated on October 14, 2013 after an incident with a short register and guest issues on October 11, 2013 (which would mean she worked four (4) days after the date she testified under oath she stopped working and/or was terminated) and a no show on October 13, 2014. Plaintiff clearly misrepresented situation surrounding her termination from employment and/or committed a deliberate fraud on the court requiring a set aside of the default.

Defendant believes the clear fraud setout herein constitutes a combination of extrinsic and intrinsic fraud sufficient to set aside the default (in addition to the issues raised in the prior brief related to mistake, inadvertence, etc). However, even if this court determines the issues raised herein are solely intrinsic, the issues raised herein establish a meritorious defense to damages. Our courts have noted, in determining whether to set aside a default judgment under Rule 60(b), the trial judge should consider the following relevant factors: (1) the promptness with which relief is sought, (2) the reasons for the failure to act promptly, (3) the existence of a meritorious defense, and (4) the prejudice to the other parties. Tobias v. Rice, 379 S.C. 357, 366, 665 S.E.2d 216, 221 (Ct.App.2008); Micronics, Inc. v. S.C. Dep't of Revenue, 345 S.C. 506, 510-11, 548 S.E.2d 223, 226 (Ct.App.2001); Hill v. Dotts, 345 S.C. 304, 309, 547 S.E.2d 894, 897 (Ct.App.2001); New Hampshire Ins. Co. v. Bey Corp., 312 S.C. 47, 50, 435 S.E.2d 377, 378

(Ct.App.1993). Additionally, our courts have stated "We have held that Section 10--1213⁵ should be liberally construed to see that justice is promoted and to strive for disposition of cases on their merits." Gaskins v. California Ins. Co., 195 S.C. 376, 11 S.E.2d 439 (1940). Further, the Fourth Circuit has set out that "no cognizable prejudice inheres in requiring a plaintiff to prove a defendant's liability, a burden every plaintiff assumes in every civil action filed..." Colleton Prep. v. Hoover, 616 F.3d 413, 419 (2010).

First, Defendant filed for the requested relief on the very same day it was notified of the default judgment. Therefore, promptness of the request for relief is not at issue.

Second, Defendant has set out the reasons for the failure to respond. Specifically, as set out in the prior memorandum and the sworn affidavit of Shelby McDonald, Defendant contacted Plaintiff's counsel on seven occasions between December 2014 and May 2015. See Exhibit F. **This included four calls after the Complaint was filed and one call the day before the damages hearing.** None of these calls were ever returned. In addition to the affidavit of Shelby McDonald, these calls and messages were all contemporaneously recorded by Omni in their file. See Exhibit G. Defendant had a reasonable expectation notice of suit would be given based on the communications from Plaintiff's counsel (including, but not limited to, his requests to accept service). Plaintiff's counsel asserts that his request to accept service negates mistake, inadvertence, excusable neglect and/or surprise. See Plaintiff's Memorandum, p. 4-5. Plaintiff cites to Edwards v. Ferguson, 254 S.C. 278, 175 S.E.2d 224 as support for this position. However, Edwards actually *requires* a set aside in this case. In Edwards, the plaintiff's counsel "...orally informed...State Farm on the phone...that summons, notice, and complaint had been

⁵ Revised to S.C. Code Ann. 15-27-130 of the 1976 Code. It provided "at any time within one year of notice thereof" the circuit court may relieve a party from a judgment "taken against him through his mistake, inadvertence or excusable neglect." It was repealed in 1985 and replaced in part by Rules 55 and 60.

served⁶ on the defendant..." The trial judge in Edwards even found as a matter of fact that State Farm was informed of the service by Plaintiff's counsel. Despite the clear notice to State Farm, the court set aside the default judgment because State Farm was not given a copy of the lawsuit. In doing so, the Supreme Court of South Carolina stated "State Farm stands in the shoes of the defendant so far as liability is concerned in spite of the fact that the company...was completely unaware...and in spite of the fact that the defendant has obviously failed to cooperate, to the prejudice of the company." In sum, Edwards, a Supreme Court case, stands for the proposition that an insurance company acts with excusable neglect, mistake, and/or inadvertence when a plaintiff fails to provide a copy of the lawsuit to the insurance company *after telling the insurance company about the lawsuit*. In the present case, that is exactly what occurred—Plaintiff's counsel informed Omni of the pending lawsuit and failed to provide a copy to Omni. Therefore, Edwards clearly requires the default be set aside.

Further, McLurg v. Deaton, 380 S.C. 563, 671 S.E.2d 87 (Ct. App. 2009) clearly sets out the reasons for Defendant's failure to act is justified as excusable neglect and mistake. McLurg was decided after Edwards and relies heavily on the reasoning in Edwards. In McLurg, the plaintiff's counsel informed Zurich in writing he was going to file a lawsuit. While negotiations and attempted communications were ongoing, he filed the lawsuit without notifying Zurich or providing Zurich a copy of the lawsuit. The defendants defaulted and a judgment was entered. The Court of Appeals set aside the default. Specifically, the Court stated "...it is undisputed Zurich...entered into settlement negotiations with [plaintiffs] attorney...based on counsel's conduct and actions, it was reasonable for Zurich and New Prime to believe that...at the very least, that counsel would provide Zurich a copy of any pleadings in the matter when

⁶ In the present case, Plaintiff's counsel admits he only told Omni he was going to *file* a complaint but never told Omni a complaint was *served*. Nevertheless, it is clear that informing of *service* is even more significant than simply

filed.” The court went on to say “...the facts show [Zurich] was taken by surprise when...counsel failed to inform Zurich or New Prime of this action, thereby meeting the surprise or excusable neglect requirement under Rule 60(b)(1)⁷. McLurg sets out in clear language that failing to provide a copy of the lawsuit following negotiations and notice of potential filing constitutes excusable neglect and/or surprise. Therefore, the reason for failure to act promptly is not at issue.

Third, Defendant is required to show the existence of a meritorious defense. Plaintiff has asserted her damages include lost wages. Evidence presented by Defendant in support of this motion also establishes a meritorious defense to the lost wage claim. Plaintiff further made assertions related to damage to her vehicle and the condition of her vehicle. Evidence presented by Defendant in support of this motion also established a meritorious defense to the property damage claim. Therefore, there is a meritorious defense that has been presented to this court.

Fourth, and finally, the court must consider the prejudice to the other nonmoving parties. Specifically, prejudice to Plaintiff. Here there is no prejudice. First, the request for relief is timely filed. Second, there would be no need for a set aside had Plaintiff's counsel complied with the holdings in Edwards and McLurg. Third, Plaintiff's own perjury and fraud negate any aspect of prejudice with having to defend the case on the merits. Fourth, the South Carolina Supreme Court and applicable Federal Courts have held that there is **“a strong preference that, as a general matter, defaults be avoided and that claims and defenses be disposed of on their merits.”** See, for example, Tazco, Inc. v. Director, Office of Workers Compensation Program, U.S. Dep't of Labor, 895 F.2d 949, 950 (4th Cir.1990) (“The law disfavors default judgments as

threatening a suit.

⁷ The Court of Appeals also called into question actions of plaintiff's counsel for misrepresentation and/or misconduct under Rule 60(b)(3) because of the history of communication and negotiation between the parties and the plaintiff's counsel's concealment of the action from Zurich despite communications after the action was filed.

a general matter.”); Consolidated Masonry & Fireproofing, Inc. v. Wagman Constr. Corp., 383 F.2d 249, 251 (4th Cir.1967) (“Generally a default should be set aside where the moving party acts with reasonable promptness and alleges a meritorious defense.”). Additionally, in Colleton Prep. v. Hoover, 616 F.3d 413, 419 (2010), the Fourth Circuit found that “no cognizable prejudice inheres in requiring a plaintiff to prove a defendant’s liability, a burden every plaintiff assumes in every civil action filed.” Plaintiff cannot show there is any prejudice to setting aside the default. The Complaint in this matter was filed in January 2015. If the default is set aside, we would still not even be close to a trial roster or mediation deadline. All discovery to be sought by Defendant has been completed⁸ and Defendant is prepare to proceed immediately to a trial on the merits. Therefore, there is no delay that prejudices Plaintiff. And as set out above, there is no other prejudice to Plaintiff which exists.

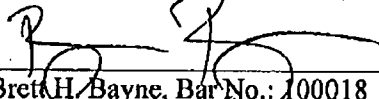
Conclusion

For all the foregoing reasons, the default judgment entered by this court must be set aside due to fraud and/or misrepresentation by Plaintiff. Plaintiff cannot present any evidence that (1) she was every written out of work and/or given work restrictions by any doctor, (2) that she was terminated from employment by Red Roof Inn as a result of her accident, and (3) the severity of the accident is anywhere close to the testimony she gave and which is clearly contradicted by the photographic and appraisal evidence. Any of these is sufficient under Rule 60 to set aside the default judgment. All of them together paint a clear picture of Plaintiff’s egregious actions before this court and should result in a set aside of the default judgment entered against Defendant. Additionally, even if this court determines the evidence discussed herein is wholly intrinsic for the purposes of this hearing, the evidence clearly sets out a meritorious defense to damages and,

⁸ With the exception of Plaintiff’s employment records which is the subject of a motion held in abeyance/denied without prejudice by this court. Those records will take a matter of days to obtain should the discovery be granted.

therefore, pursuant to Tobias, et al, McLurg, Edwards, all other caselaw cited herein, and the South Carolina Rules of Civil Procedure, the judgment and default must be set aside for excusable neglect, inadvertence, and/or mistake and the matter should proceed equitably on the merits.

MCANGUS GOLDBECK & COURIE, L.L.C.


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Columbia, South Carolina 29211-2519
(803) 779-2300

ATTORNEYS FOR DEFENDANT, LINDA
JENKINS HOLMES AND OMNI INDEMNITY
COMPANY

August ²⁶25, 2015

EXHIBIT A

1 State of South Carolina } Court of Common Pleas
2 County of Beaufort } 14th Judicial Circuit
No.: 2015-CP-07-00218

3 Sharon Denise Anderson, }
4 Appellant, }
5 vs. } HEARING
6 Linda Jenkins Holmes, }
7 Respondent. } May 8, 2015
8 _____

9
10 Hearing reported by Deborah S. Thomas,
11 certified Verbatim Reporter and Notary Public in and
12 for the State of South Carolina; said hearing held
13 before the Honorable Marvin H. Dukes, III, Beaufort
14 County Master in Equity and Special Circuit Court
15 Judge in accordance with the South Carolina Rules of
16 Civil Procedure, at the Beaufort County Courthouse,
17 102 Ribaut Road, Room 212, Beaufort, South Carolina,
18 on May 8, 2015, at the hour of 11:01 a.m.

19 _____
20 THOMAS REPORTING SERVICES
21 156 Argent Way
Bluffton, South Carolina 29909
22 (803) 206-7390
23
24
25

1 Appearances
2 Representing the Plaintiff:
3 FATIMA ALEXIS ZEIDAN, ESQUIRE
The Eichholz Law Firm, PC
Page 1

4 5-8-15 anderson hearing.txt
 5 530 Stephenson Avenue, Suite 200
 Savannah, Georgia 31405
 fzeidan@thejusticelawyer.com
 6 LINDA JENKINS HOLMES
 7 Pro Se
 (Not present)
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EXHIBIT INDEX

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Exhibits:

Marked at Page

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(Copy of exhibits attached to
each copy of transcript.)

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1 (Case summary)

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1 This hearing is taken in accordance
2 with the South Carolina Rules of Civil Procedure.

3 JUDGE DUKES: Good morning. We are
4 here in Anderson versus Holmes. This is Case
5 2015-CP-07-218. This comes to me pursuant to Order
6 of Reference executed by the Clerk of Court. The
7 Plaintiff is here with her counsel. The Defendant
8 has not appeared. It appears from the records that
9 Ms. Holmes was originally served with the lawsuit
10 back on the 30th day of January, 2015.

11 Thereafter she failed to respond. An
12 entry of default was entered by the Clerk of Court
13 which was filed April 8th, 2015. And -- let's see.
14 What notice of her hearing appears she was --

15 MS. ZEIDAN: This is a Certificate of
16 service that she was re-served with all the
17 documents and the notice of hearing on April 22nd.

18 JUDGE DUKES: Okay. And, again, I

5-8-15 anderson hearing.txt
19 have checked the hallway. No one is present for
20 this case so we can proceed. I'm happy to hear from
21 you.

22 MS. ZEIDAN: All right, Judge Dukes.
23 You did meet my client before, Ms. Sharon Anderson,
24 the Plaintiff. This matter comes before us pursuant
25 to a car accident that happened on October 7th,

6

1 2013, on Highway 21, Trask Parkway near Grays Hill
2 here in Beaufort.

3 As you noted, the complaint was filed
4 January 30th, 2015, and appropriately served by the
5 Beaufort County Sheriffs Office on February 6, 2015.
6 As a result of the accident my client sustained a
7 right ankle sprain, a right hip contusion. She was
8 diagnosed with myomalacia, lumbar and sacroiliac
9 joint dysfunction.

10 She sought treatment the day of the
11 injury -- the day of the accident with Beaufort
12 Memorial Hospital where her bill was \$1,603.17. She
13 had an x-ray bill for that date of service for a
14 \$130. She had an emergency physician bill in the
15 amount of \$712. She was referred for further
16 treatment to Carey Chiropractic where she
17 conservatively treated for about seven visits. Her
18 total there was \$1,070.

19 Upon release her medical records did note
20 that she was continuing to have pain and twinges.
21 And she was instructed to receive follow-up care.
22 However, for a variety of reasons, including
23 insurance reasons, my client has been unable to do

24 so. At this time we are requesting that the minimum
25 limits of 25,000 be granted in this matter.

7

1 JUDGE DUKES: Okay. And,
2 Ms. Anderson, can you hold your right hand up for
3 me, please.

4 MS. ANDERSON: Uh-huh.

5 JUDGE DUKES: Do you swear or affirm
6 to tell the truth, the whole truth, and nothing but
7 the truth so help you God?

8 MS. ANDERSON: Yes, sir.

9 JUDGE DUKES: All right. Please
10 answer any questions your attorney may have.

11 MS. ANDERSON: Okay.

12 WHEREUPON:

13 SHARON DENISE ANDERSON, being duly
14 sworn and cautioned to speak the truth, the whole
15 truth and nothing but the truth, testifies as
16 follows:

17 DIRECT EXAMINATION

18 BY MS. ZEIDAN:

19 Q. Ms. Anderson, please tell the court what
20 injuries you sustained as a result of the accident.

21 A. My right ankle and my right hip and
22 problems in my lower back area.

23 Q. And, Ms. Anderson, did you receive
24 treatment for those injuries?

25 A. After the accident, yes, but after

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1 everything was done, no. I haven't since then.

2 Q. And when you say after everything is done,
Page 6

3 are you referring to after your visits with Carey
4 Chiropractic ceased?
5 A. Yes, ma'am.
6 Q. Okay. And will you please tell the judge
7 what further injuries you are still -- further
8 ailments you are still complaining of as a result of
9 the accident?

10 A. My right ankle because due to something
11 prior I have screws in there. So now I have
12 arthritis in my right ankle. And still have back
13 problems.

14 Q. And, Ms. Anderson, will you please tell
15 the judge what has transpired with your work
16 situation as a result of the accident?

17 A. I lost my job because in the amount of
18 time that I was due to be released it wasn't on
19 their time, basically. So I lost it because of
20 that. And they didn't want to wait until I was
21 done.

22 Q. She was -- so you were taken out of
23 work --

24 A. Yes.

25 Q. -- by the treating --

9

1 A. I was terminated, basically.

2 Q. Okay.

3 JUDGE DUKES: What were you doing,
4 Ms. Anderson?

5 THE WITNESS: Front desk at Red Roof
6 Inn.

7 JUDGE DUKES: At where? I'm sorry.
Page 7

8 THE WITNESS: Red Roof Inn.
9 JUDGE DUKES: Red Roof Inn?
10 THE WITNESS: Yes, sir.
11 JUDGE DUKES: Okay. What were you
12 making at the Red Roof Inn?
13 THE WITNESS: Ten dollars an hour.
14 JUDGE DUKES: Okay. Have you been
15 able to find work since?
16 THE WITNESS: I just found work the
17 15th of April.
18 JUDGE DUKES: Okay. So you were out
19 of work from October 7th until --
20 THE WITNESS: Yes, sir.
21 JUDGE DUKES: Okay. So how many
22 hours a week would you work?
23 THE WITNESS: The full 40 hours.
24 JUDGE DUKES: Okay. Now, you said
25 you are still in pain. Is that what you said?

10

1 THE WITNESS: Yes, sir.
2 JUDGE DUKES: What are your plans
3 with regard to that? Do you have any other
4 treatment plans?
5 THE WITNESS: Right now I'm talking
6 with a doctor in Charleston. I have to see if my
7 Medicaid will cover them. So I'm just waiting on
8 the notice now.
9 JUDGE DUKES: And this was, what, a
10 stoplight rear-end accident at Grays Hill? Is that
11 what it was?
12 MS. ZEIDAN: It was, Your Honor.

13 THE WITNESS: Yes.

14 JUDGE DUKES: What was the condition
15 of the vehicles after the accident?

16 THE WITNESS: My bumper was pushed in
17 and the two doors that open don't open anymore.

18 JUDGE DUKES: It was a pretty solid
19 hit.

20 MS. ZEIDAN: It was a pretty
21 significant impact, Your Honor. And I want to say
22 the Defendant's car might have been totaled.

23 JUDGE DUKES: I bet it was because it
24 was a Mazda sedan according to the complaint. And
25 you were in a Chevrolet S.U.V. or something?

11

1 THE WITNESS: Yes, sir.

2 JUDGE DUKES: If you can't open the
3 back doors, it got hit pretty hard. Let's go off
4 the record one second.

5 (Recess 11:06 to 11:10.)

6 JUDGE DUKES: Back on the record. My
7 understanding then of the lost wages would be 79
8 weeks of lost wages which I believe totals \$31,760;
9 is that correct?

10 MS. ZEIDAN: Yes, Your Honor. It's
11 79 weeks and two days.

12 JUDGE DUKES: Okay. All right. And
13 I've been handed, and I suppose we need to make this
14 an exhibit, a case summary that has the medical
15 providers. And I don't know if she specifically
16 mentioned those, but maybe she could take a look at
17 that and we can make that Plaintiff's 1 if you would

18 like.

19 MS. ZEIDAN: Are these the bills you
20 recall receiving from Beaufort Memorial, the x-ray
21 bill, the E.R. physician, and Carey Chiropractic?

22 THE WITNESS: Yes, ma'am.

23 JUDGE DUKES: Okay. Why don't we
24 make that Plaintiff's 1.

25 MS. ZEIDAN: Okay. Plaintiff's 1.

12

1 (MARKED PLAINTIFF'S EXHIBIT NO. 1.)

2 JUDGE DUKES: Okay. Anything else
3 from the Plaintiff?

4 MS. ZEIDAN: No, Your Honor.

5 JUDGE DUKES: Okay. Based on the
6 testimony, the documents, and the circumstances, the
7 admissions by default, I'm going to find the
8 Plaintiff is entitled to recover in the amount of --
9 what were the meds there -- \$3,515.17 for the
10 medical amounts, plus \$31,760 for lost wages, plus
11 an additional \$5,000 for pain and suffering, in the
12 total amount of -- off the record a second.

13 (Discussion off the record.)

14 JUDGE DUKES: Okay. Back on the
15 record. A total of \$40,275.17. I would ask that
16 the Plaintiff please prepare an order to that
17 effect. Anything else for the record?

18 MS. ZEIDAN: No, Your Honor.

19 JUDGE DUKES: All right. That will
20 conclude the record.

21 (Whereupon, the hearing was concluded
22 at 11:12 a.m.)

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Certificate of Reporter

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I, Deborah S. Thomas, Certified Verbatim Reporter and Notary Public in and for the State of South Carolina, do hereby certify that I reported the hearing of Anderson vs. Holmes, on the 8th day of May, 2015; and that the foregoing 12 pages constitute a true and correct transcription of the said hearing.

I further certify that I am neither attorney nor counsel for, nor related to or employed by, any of the parties connected with this action, nor am I financially interested in said cause.

I further certify that the original of said transcript shall be hereafter delivered to FATIMA ALEXIS ZEIDAN, ESQUIRE, The Eichholz Law Firm, PC, 530 Stephenson Avenue, Suite 200, Savannah, Georgia.

In witness whereof I set my hand and seal this 15th of July, 2015.

My Commission
expires 1/4/18

Deborah S. Thomas, CVRM
and Notary Public for the
State of South Carolina

EXHIBIT B

Beaufort Memorial Hospital
935 Ribaut Road
Beaufort, South Carolina 29902

MedHost Provider Documentation

Patient Name: ANDERSON, SHARON DENISE
Date of Birth: 08/19/1978
Admit Date:
Attending Doctor:

Account Number: H02232595
Unit Number: D052812
Discharge Date: 10/07/13

HPI:

10/07

13:00 This 37 year old Black Female presents to ER via Walk In with complaints of Motor Vehicle Collision (MVC).

13:00 The patient was a driver of a car. The patient was restrained with a shoulder harness, and air bag was not deployed. The vehicle was impacted on rear end, and traveling an unknown speed. The vehicle did not rollover, the patient was not ejected from the vehicle, extrication of the patient from vehicle was not required, the patient was ambulatory at the scene, the force of impact was moderate. Onset: The symptoms/episode began/occurred at 07:00. Associated injuries: The patient sustained right iliac crest AND RIGHT ANKLE, TENDERNESS. Associated signs and symptoms: The patient has no apparent associated signs or symptoms. Loss of consciousness: the patient experienced no loss of consciousness. Severity of symptoms: At their worst the symptoms were mild, earlier today, in the emergency department the symptoms are unchanged. PT HAS NO RIGHT ANKLE SX.

Historical:

- Allergies: No Known Drug Allergies;
- Home Meds:
 1. None
- PMHx: NONE;
- PSHx: HYSTERECTOMY; Right foot surgery;
- The history from nurse notes was reviewed; and I agree with what is documented.
- Immunization History: Last tetanus Immunization: up to date. Flu vaccine is up to date.
- Social History: The patient lives with family. The patient/guardian denies using tobacco, alcohol, street drugs. The patient works full time FRONT DESK CLERK. The patient lives with family. The patient/guardian denies using tobacco, alcohol, street drugs.
- Family history: Not pertinent.

ROS:

13:02 Constitutional: Negative for fever, chills, and weight loss. Eyes: Negative for injury, pain, redness, and discharge. ENT: Negative for injury, pain, and discharge. Cardiovascular: Negative for chest pain, palpitations, and edema. Respiratory: Negative for shortness of breath, cough, wheezing, and pleuritic chest pain. Abdomen/GI: Negative for abdominal pain, nausea, vomiting, diarrhea, and constipation. GU: Negative for injury, bleeding, discharge, and swelling. Neuro: Negative for headache, weakness, numbness, tingling, and seizure. Neck: Negative for mass, pain with movement, pain at rest, tenderness, bony tenderness. Back: Negative for decreased range of motion, pain at rest, pain with movement, radiated pain, vertebral tenderness. MS/extremity: Positive for tenderness, of the right ankle and right lower quadrant. Negative for abrasion, confusion, decreased range of motion, deformity, ecchymosis, erythema, laceration, paresthesias, swelling. Skin: Negative for acute changes.

Exam:

13:08 Constitutional: This is a well developed, well nourished patient who is awake, alert, and in good no acute distress.

Beaufort Memorial Hospital
955 Ribaut Road
Beaufort, South Carolina 29902

MedHost Provider Documentation

Patient Name: ANDERSON, SHARON DENISE
Date of Birth: 08/18/1978
Admit Date:
Attending Doctor:

Account Number: HD2222595
Unit Number: D082812
Discharge Date: 10/07/13

Head/Face: Normocephalic, atraumatic.

Eyes: Pupils equal round and reactive to light, extra-ocular motions intact. Lids and lashes normal. Conjunctiva and sclera are non-injected and not injected. Cornea within normal limits. Periorbital areas with no swelling, redness, or edema.

ENT: Nares patent. No nasal discharge, no septal abnormalities noted. Tympanic membranes are normal and external auditory canals are clear. Oropharynx with no redness, swelling, or masses, exudates, or evidence of obstruction, uvula midline. Mucous membranes Cardiovascular: Regular rate and rhythm with a normal S1 and S2. No gallops, murmurs, or rubs. Normal PMI, no JVD. No pulse deficits.

Respiratory: Lungs have equal breath sounds bilaterally, clear to auscultation and percussion. No rales, rhonchi or wheezes noted. No increased work of breathing, no retractions or nasal flaring.

Abdomen/GI: Soft, non-tender, with normal bowel sounds. No distention or tympany. No guarding or rebound. No evidence of tenderness throughout.

13:08 Neuro: Awake and alert, GCS 15, oriented to person, place, time, and situation. Cranial nerves II-XII grossly intact. Motor strength 5/5 in all extremities. Sensory grossly intact. Cerebellar exam normal. Normal gait.

13:08 Neck: External neck: Is normal, no swelling, no tenderness, C-spine: Nexus Criteria: ROM/movement: Is normal, without pain, no range of motion limitations.

13:08 Back: pain, is absent, ROM is normal, painless.

13:08 Musculoskeletal/Extremity: Extremities: grossly normal except: noted in the right iliac crest: tenderness. There is no evidence of abrasion, contusion, decreased ROM, deformity, ecchymosis, erythema, laceration, pain, swelling, noted in the right ankle: tenderness, no evidence of contusion, decreased ROM, deformity, ecchymosis, erythema, laceration, swelling, ROM: intact in all extremities. Circulation is intact in all extremities. Sensation intact. Weight bearing: able to fully bear weight, without difficulty. Calves: are non-tender, have equal circumference.

13:08 Skin: Exam negative for any evidence of obvious injury, laceration, swelling.

13:08 Special observations: no evidence of discomfort.

Vital Signs:

11:45 BP 125 / 78 RA stilling (auto/rep); Pulse 71; Resp 18 A; Temp 98.3(O); Pulse O₂ 100% on R/A; ht
Weight 63.5 kg / 139.99 lbs; Height 5 ft. 5 in. (165.10 cm); Pain 0/10;
11:48 Body Mass Index 23.30 (63.50 kg, 165.10 cm) ht

MDM:

11:54 Patient medically screened.

13:08 Differential diagnosis: MYOFASCIAL STRAIN, HIP CONTUSION, ANKLE SPRAIN. Data reviewed: Vital
sgts

signs, nurses notes, radiologic studies, plain films, and as a result, I will discharge patient. Test Interpretation: by ED physician or midlevel provider; plain radiologic studies. Counseling: I had a detailed discussion with the patient and/or guardian regarding: to return to the emergency department if symptoms worsen or persist or if there are any questions or concerns that arise at home, the historical points, exam findings, and any diagnostic results supporting the discharge/admit diagnosis, radiology results. Medication response: The patient's symptoms have improved. Response to treatment: the patient's symptoms have markedly improved after treatment.

09/11/2014 TUE 14:11 FAX

0014/023

11/22/2013 FRI 11:42 FAX 867731396

0004/005

Patient: ANDERSON, SHARON
MRN
Ref: Boneport Medical Imaging, Inc

Date of Service: 10/07/2013
Account: H02232535
LifeCode Date: 10/08/2013

DocID: 539500690
Page: 1

<LCD>

Patient Name: ANDERSON, SHARON DENISE MRN: D082812 Acct#: H02232535
Ref: Status: DEPER Ordering Phys: Carey G Tucker, PA
Type Exam Date Exam Accession#
XRAY Hip Right AP and Lateral 10/07/13 403901.001 403901.001
** WACKSON Auth:
Birthdate: 08/18/1938 Age/Sex: 37 F Loc: ED Adm: 10/07/13 Dis: 10/07/13
Exam Date: 10/07/13 Report Status: REC
Ref: Request: William A. Jackson, MD Sign Date: 10/07/13 Time: 1434

Report Memorial Hospital
Imaging Services
958 Robert Road
Spartanburg, South Carolina 29902
(803) 522-5130

Patient Name: ANDERSON, SHARON DENISE Account Number: H02232535
Date of Birth: 08/18/1938 Unit Number: D082812
Age: 37 Exam Date: 10/07/13
Sex: F Ref: Location: DEPER
Primary Insurance: MEDICAID MED HOMES NETWORK
Physician: Carey G. Tucker PA

Type/Exam

Imaging Xray / Hip Right AP and Lateral
<LCD>
EXAM: Xray / Hip Right AP and Lateral

RIGHT HIP

HISTORY: Pain.

AP radiograph of pelvis and AP and (non lateral) radiograph of the right hip demonstrate the bones to be intact without fracture, subluxation, or dislocation.

IMPRESSION: Unremarkable right hip.

<LCD>

** REPORT SIGNATURE ON FILE 10/07/13 **

Reported By: William A. Jackson, MD
Dictated Date and Time: 10/07/13 1247
Signed By: William A. Jackson, MD
OK

<LCD>

Printed by: acmm8

Date / Time: 11/10/2013 1:50 PM

7351026/RT

7217026

719.95

03/11/2014 TUE 14:11 FAX

0015/023

11/22/2013 FRI 11:42 FAX BF 231396

0005/003

Pat Name: ANDERSON, SHARON
MR#: 002232638
Ref: Desford Medical Imaging, Inc

Date of Service: 10/07/2013
Account: H02232638
Life Order Date: 10/07/2013

DocID: 000000000
Page: 1

<L>

Pat Name: ANDERSON, SHARON DENISE MR#: 0022012 Acct#: H02232638
Pat Status: DEP ER Ordering Phys: Garay G Tucker PA
Type: Exam Date: Exam# Accession#
XRAY Ankle 3 Views Right 10/07/13 400000.001 493000.001
W JACKSON AUGER
Birthdate: 00/19/19 Age/Sex: 57 F Log: ED Adm: 10/07/13 Dis: 10/07/13
Exam Date: 10/07/13 Report Status: REG
Radiologist: William A. Jackson, MD Sign Date: 10/07/13 Time: 1430

Desford Memorial Hospital
Imaging Services
850 Ribaut Road
Desford, South Carolina 29502
(843) 822-5130

Pat Name: ANDERSON, SHARON DENISE Account Number: H02232638
Date of Bkth: 08/19/1970 Unit Number: 0002012
Age 37 Exam Date: 10/07/13
Sex: Female Location: DEP ER
Primary Insurance: MEDICAID MED HOMES NETWORK
Physician: Garay G. Tucker PA

Type / Exam

Imaging: Xray / Ankle 3 Views Right

<L>

EXAM: Xray / Ankle 3 Views Right

RIGHT ANKLE THREE VIEWS

HISTORY: Pain,

AP, lateral, and oblique radiograph of the right ankle demonstrate two hollow threaded screws in the talus. Osteophytes at the talonavicular and tibiocalcaneal joint are noted. The ankle itself is intact without acute changes.

IMPRESSION: Arthralgia changes in the midfoot. No acute findings in the ankle.

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" REPORT SIGNATURE ON FILE 10/07/13 "

Reported By: William A. Jackson, MD

Dictated Date and Time: 10/07/13 1248

Signed By: William A. Jackson, MD

OK

<L>

Printed by: tom13

Date / Time: 11/16/2013 1:37 PM

7361026/RT

716.97

719.47

Beaufort Memorial Hospital
855 Ribaut Road
Beaufort, South Carolina 28502

MedHost Provider Documentation

Patient Name: ANDERSON, SHARON DENISE
Date of Birth: 08/19/1976
Admit Date:
Attending Doctor:

Account Number: H02232535
Unit Number: D082812
Discharge Date: 10/07/13

10/07

12:17 Order name: Ankle, Right

cgt

10/07

12:17 Order name: Hip, Right Ap&lateral XRAY

cgt

Dispensed Medications:

12:40 Drug: Ultram 50 mg; Route: PO;

pa

13:00 Follow up: Response: Medication effective for treatment.

ps

Disposition:

10/07/13 13:09 Discharged to Home Self Care. Impression: Ankle Sprain, Hip Pain.

- Condition is Stable.

- Discharge Instructions: ANKLE SPRAIN (no X-ray), HIP CONTUSION.

- Prescriptions for Flexal 10 mg Oral Tablet - take 1 tablet by ORAL route Every 8 hours as needed As needed; 16 tablet. Mobio 7.5 mg Oral Tablet - take 1 tablet by ORAL route once daily; 20 tablet.

- Medication Reconciliation form.

- Follow up: Emergency Department; When: ASAP; Reason: Change in condition. Follow up: Private Physician; When: As needed; Reason: Pain.

- Problem is new.

- Symptoms have improved.

Signatures:

Dispatcher: MedHost

EDMB

Blady, Maureen, RN

RN mb4

Gothie, Jessica, RN

RN jpg

Sprafkin, Paige, RN

RN ps

Tucker, Carey, PA-C

PA-C cgt

Supervising Physician: Stephen Larson, MD

Transcriptionist: MedHost EDIS

Supervising Physician E-Sign Date and Time: 10/08/13 1328

Supervising Physician E-Sign: Stephen Larson, MD

Beaufort Memorial Hospital
 666 Ribaut Road
 Beaufort, SC 29902
 (843)822-8101

MedHost Nurse Documentation

Patient Name: ANDERSON, SHARON DENISE

Account Number: H02282636

Date of Birth: 06/19/1978

Unit Number: D082812

Admit Date:

Discharge Date: 10/07/13

Attending Doctor:

Presentation:

10/07

11:37 Presenting complaint: Patient states: I WAS IN A CAR ACCIDENT AT 0700. MY RIGHT LOWER SIDE
 mb4

HURTS AND I WANT TO GET CHECKED OUT. Mechanism of Injury: MVC Patient was driver, restrained with lap & shoulder harness. Vehicle was impacted on rear end. Force of impact was severe. Secondary impact was in Vehicle was traveling approximately 45 mph. Not extricated from vehicle. Air bags were not deployed. Did not impact windshield. Vehicle did not roll over.

11:37 Method Of Arrival: Walk In

mb4

Triage Assessment:

11:58 General: Appears in no apparent distress, well nourished, well groomed, Behavior is
 cooperative, pleasant. Pain: Complaints of pain in abdomen.

jpg

History:

- Allergies: No Known Drug Allergies;
- Home Meds:
 1. None
- PMHx: NONE;
- PSYH: HYSTERECTOMY; Right foot surgery;
- The history from nurses notes was reviewed; and I agree with what is documented.
- Immunization history: Last tetanus immunization: up to date. Flu vaccine is up to date.
- Social history: The patient lives with family. The patient/guardian denies using tobacco, alcohol, street drugs. The patient works full time FRONT DESK CLERK. The patient lives with family. The patient/guardian denies using tobacco, alcohol, street drugs.
- Family history: Not pertinent.

Screening:

11:58 Abuse screen: Denies threats or abuse. Denies injuries from another. Fall Risk None
 Identified. Nutritional screening: No deficits noted.

jpg

Assessment:

11:58 General: Appears in no apparent distress, well developed, well nourished, well groomed,
 Behavior is cooperative, Patient is calm. Pain: Complaints of pain in right lower quadrant Pain
 currently is 8 out of 10 on a pain scale. Pain began 30 min ago after MVC. States this is
 where the seat belt she was wearing snatched her lower right abdomen is continuous.
 Respiratory: Airway is patent Respiratory effort is even, relaxed, Respiratory pattern is
 regular, symmetrical. Cardiovascular: No deficits noted. EENT: No deficits noted. GI: Reports
 Pain is 8 out of 10 on a pain scale. Denies nausea, vomiting. Abdomen is non-distended. GU:
 No deficits noted. Neuro: Level of Consciousness is awake, alert, obeys commands. Oriented to
 person, place, time. Speech is normal. Facial symmetry appears normal. Derm: Skin temperature
 is warm. Musculoskeletal: Range of motion intact in all extremities.

jpg

Beaufort Memorial Hospital
MedHost Nurse Documentation

Patient name: ANDERSON, SHARON DENISE
Date of Birth: 06/10/1976
Admit Date:
Attending Doctor:

Account Number: H02232535
Unit Number: D002812
Discharge Date: 10/07/13

Vital Signs:

11:45 BP 125/75 RA Sittling (auto/reg); Pulse 71; Resp 18 A; Temp 98.3(O); Pulse Ox 100% on R/A; ht
Weight 63.6 kg / 139.99 lbs; Height 5 ft. 6 in. (168.10 cm); Pain 6/10;
11:46 Body Mass Index 23.30 (33.50 kg, 168.10 cm) ht

Vitals:

11:58 Acuity: Level 4

jpg

ED Course:

11:31 Patient arrived in ED.

EDMS

11:40 Arm band placed on right wrist. Patient placed in exam room in chair in view of nurse.

mb4

11:48 Call light in reach.

ht

11:58 Triage completed.

jpg

12:40 Ankle, Right Sent.

ps

12:40 Hip, Right Ap&lateral XRAY Sent.

pa

Administered Medications:

12:40 Drug: Ultram 50 mg; Route: PO;

pa

13:00 Follow up: Response: Medication effective for treatment

ps

Outcome:

13:08 Discharge ordered by MD.

cgt

13:27 Discharged to home ambulatory.

jpg

13:27 Condition: stable

13:27 Discharge instructions given to patient, (instructed on discharge instructions, follow up and referral plans, medication usage, Demonstrated understanding of instructions, medications, Prescriptions given X 2.

13:28 Patient left the ED.

jpg

Signatures:

Dispatcher MedHost

EDMS

Taylor, Heather, ERT

ERT ht

Brady, Maureen, RN

RN mb4

Goethle, Jessie, RN

RN jpg

Sprafelma, Paige, RN

RN ps

Tucker, Corey, PA-C

PA-C cgt

Transcribed Electronically by: MedHost EDIS

Beaufort Memorial Hospital
Imaging Services
865 Ribaut Road
Beaufort, South Carolina 29902
(843) 522-5130

Patient Name: ANDERSON, SHARON DENISE

Date of Birth: 08/18/1976

Age: 37

Sex: F

Primary Insurance: MEDICAID MED HOMES NETWORK

Physician: Carey G. Tucker PA

Account Number: H02232636

Unit Number: D082812

Exam Date: 10/07/13

Status/Location: DEP ER

Type / Exam

Imaging-Xray / Ankle 3 Views Right

RIGHT ANKLE THREE VIEWS

HISTORY: Pain.

AP, lateral, and oblique radiograph of the right ankle demonstrate two hollow threaded screws in the talus. Osteophytes at the talonavicular and naviculocuneiform joint are noted. The ankle itself is intact without acute changes.

IMPRESSION: Arthritis changes in the midfoot. No acute findings in the ankle.

** REPORT SIGNATURE ON FILE 10/07/13 **

Reported By: William A. Jackson, MD

D dictated Date and Time: 10/07/13 1248

Signed By: William A. Jackson, MD

CC:

Transcribed Date / Time: 10/07/13 1251

Transcriptionist: Meridian Health Speechmotion

Printed Date / Time: 10/07/13 1611

Beaufort Memorial Hospital
Imaging Services
865 Ribaut Road
Beaufort, South Carolina 29902
(843) 522-5130

Patient Name: ANDERSON, SHARON DENISE

Date of Birth: 08/19/1978

Age: 37

Sex: F

Primary Insurance: MEDICAID MED HOMES NETWORK

Physician: Carey G. Tucker PA

Account Number: H02232635

Unit Number: D082812

Exam Date: 10/07/13

Status/Location: DEP ER

Type / Exam

Imaging-Xray / Hip Right AP and Lateral

RIGHT HIP

HISTORY: Pain.

AP radiograph of pelvis and AP and frog lateral radiograph of the right hip demonstrate the bones to be intact without fracture, subluxation, or dislocation.

IMPRESSION: Unremarkable right hip.

** REPORT SIGNATURE ON FILE 10/07/13 **

Reported By: William A. Jackson, MD

Dictated Date and Time: 10/07/13 1247

Signed By: William A. Jackson, MD

CC:

Transcribed Date / Time: 10/07/13 1249

Transcriptionist: Meridian Health Speechmation

Printed Date / Time: 10/07/13 1611

Date:

OCT 26 2013

Name:

Sharon Anderson

Cray Chiropractic

30 Robert Smalls Parkway

Beaufort, SC 29806

(843) 828-1168 Office

(843) 822-8082 Fax

Subjective

Subjective Symptoms

Headache	L	R
Neck Pain	L	R
Shoulder/Joint	L	R
Thoracic Pain	L	R
Lumbar Pain	L	R
Sacroiliac Pain	L	R
Hip Joint Pain	L	R
Knee Pain	L	R
Ankle Pain	L	R
Leg Pain	L	R
Arm Pain	L	R
Chest Pain	L	R
Trap/Law/Rhom	L	R
Other		

Height: 55 Weight: 145 Pulse: _____

Pale pain T+T / mild - mod spasms

L3-L5 mainly to rt with pain spread around side to front of rt hip, sub occ, ct, ji

Pain - L -> / pain flex, ext, lt lat, rt rot - c -> / pain sub occ / flex, ct, ji ext. d/n neg.

89201

98941

IST

89203

98211

Polyads

99219 Release

HP/CP

EMS

Ice Pack

US

Massage 1 2 3 4 5 6

Objective

Visual Status	_____
Ambulatory with aid of cane, crutch, walker assistance, etc	_____
Antalgic Posture	_____
Difficult and painful rising from sitting	_____
Ambulates with gait	_____
Lacerations	_____
Bruises	_____

Palpation Status	_____
Vary painful and attempts to move away from pressure	_____
Painful/Tolerates pressure	✓
Sore/Tender	_____
No discomfort upon pressure	_____
Muscle Status	_____
Spasm	_____
Extremes	_____
Moderate	✓
Mild, some tenderness	_____
Good muscle tone	_____

Pain Levels	_____
Minimal pain, not noticed significantly	_____
Mild pain, constantly annoying	✓
Moderate pain, modification of activity required	✓
Severe pain, patient cannot perform normal activity	_____
Asymptomatic	_____
Activity aggravates condition	_____
Rest alleviates	_____
Stiff in morning	_____

Range of motion status	_____
Restricted	_____
Some improvement	_____
Seg Dysfunction	_____
Normal Range	_____
Improving	_____
Regression	_____
Resolving	_____
Resolved	_____

Assessment Condition:	Same			
Plan	CS	TS	LS	SI
Hot Pack				
Cold Pack				
Ultrasound				
Electrical Muscle Stim				
IST				
Massage				
Manipulation				

Adjustment/Manipulation	_____
O.C.C.	_____
C1, 2, 3, 4, 5, 6, 7	_____
T1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12	_____
L1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12	_____
S1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12	_____
Drop Table	_____

Diagnosis

Myalgia
L/ST seg dysfunction

10/28/13

OCT 28 2013

Date:

Name:

Sharon Anderson

Caray Chiropractic

30 Robert Smalls Parkway

Beaufort, SC 29906

(843) 525-1306 Office

(843) 521-7092 Fax

Subjective	Height:	Weight:	Pulse:
Subjective Symptoms			
☒ Headache			
☒ Neck Pain	L	R	
☐ Shoulder/Joint	L	R	
☐ Thoracic Pain			
☒ Lumbar Pain	L	R	
☒ Sacroiliac Pain	L	R	
☐ Hip Joint Pain	L	R	
☐ Knee Pain	L	R	
☐ Ankle Pain	L	R	
☐ Leg Pain	L	R	
☐ Arm Pain	L	R	
☐ Chest Pain			
☐ Traps/Low/Thoracic	L	R	
☐ Other			
99201	99241	1ST	
99203	99215	Polypads	
99213 Release	HP/CP	EMS	
Ice Pack	US	Massage 1 2 3 4 5 6	

Objective

Vital Status

Ambulatory with aid of cane, crutch, walker assistance, etc

Postural Posture

Difficult and painful rising from sitting

Palpation Status

Very careful and attempts to move away from pressure

L Painful/tolerates pressure

C Sore/Tender

No discomfort upon pressure

Pain Levels

Minimal pain, not noticed significantly

C Aching pain, constantly annoying

L Moderate pain, modification of activity required

Date:

NOV 01 2013

Name:

Sharon Andersen

Curry Chiropractic
 90 Robert Smalls Parkway
 Beaufort, SC 29906
 (843) 525-2100 Office
 (803) 821-9052 Fax

Subjective

Height: _____ Weight: _____ Pulse: _____

Subjective Symptoms

☒ Headache
☒ Neck Pain
☒ Shoulder/Joint
☒ Thoracic Pain
☒ Lumbar Pain
☒ Sacroiliac Pain
☐ Hip Joint Pain
☐ Knee Pain
☐ Ankle Pain
☐ Leg Pain
☐ Arm Pain
☐ Chest Pain
☐ Traps/Lav/Rhom
☐ Other

L R
 L R
 L R
 L R
 L R
 L R
 L R
 L R
 L R
 L R
 L R
 L R
 L R

99201

99201

IST

99203

99211

Polyanda:

99213 Release

HB/CP

EMS

Ice Pack

US

Massage 1 2 3 4 5 6

Objective

Visual Status

_____ Ambulatory with aid of cane,
 crutch, walker assistance, etc

_____ Antalgic Posture

_____ Difficult and painful
 rising from sitting

_____ Ambulates with gait

_____ Lacerations

_____ Bruises

Palpation Status

_____ Very painful and attempts to
 move away from pressure

_____ Painful/Tolerates pressure

☒ Sore/Tender

_____ No discomfort upon pressure

Muscle Status

_____ Spasm

_____ Extreme

_____ Moderate

☒ Mild, some tenderness

_____ Good muscle tone

Pain Levels

_____ Minimal pain, not noticed
 significantly

☒ Mild pain, constantly annoying

☒ Moderate pain, modification
 of activity required

_____ Severe pain, patient cannot
 perform normal activity

_____ Asymptomatic

_____ Activity aggravates condition

_____ Rest alleviates

_____ Stiff in morning

Range of motion status

_____ Restricted

☒ Some improvement

_____ Sag Dysfunction

_____ Normal Range

Assessment Condition:

_____ Same

_____ Improving

_____ Regression

_____ Resolving

_____ Resolved

Plan	CS	TS	LS	SI
Hot Pack	☒	☒	☒	☒
Cold Pack	☒	☒	☒	☒
Ultrasound	☒	☒	☒	☒
Electrical Muscle Stim	☒	☒	☒	☒
IST	☒	☒	☒	☒
Massage	☒	☒	☒	☒
Manipulation	☒	☒	☒	☒

Adjustment/Manipulation

O.C.C.

C.S. 1 2 3 4 5 6 7

T.S. 1 2 3 4 5 6 7 8 9 10 11 12

L.S. 1 2 3 4 5

S.I. 1 2

Drop Table

Diagnosis

Date: NOV 04 2013

Name:

Sharon Andersson

Carey Chiropractic
 30 Robert Smalls Parkway
 Beaufort, SC 29906
 (843) 328-3366 Office
 (843) 321-8082 Fax

Subjective

Height: _____ Weight: _____ Pulse: _____

Subjective Symptoms

☒ Headache
☒ Neck Pain
☐ Shoulder/Joint
☐ Thoracic Pain
☒ Lumbar Pain
☐ Sacroiliac Pain
☐ Hip Joint Pain
☐ Knee Pain
☐ Ankle Pain
☐ Leg Pain
☐ Arm Pain
☐ Chest Pain
☐ Traps/Lev/Rhom
☐ Other

L R
 L R
 L R
 L R
 L R
 L R
 L R
 L R
 L R
 L R
 L R
 L R

Less pain around side to hip.

B9201

B9202

IST

B9203

B9211

Polyads

B9218 Release

HP/CP

EMS

Ice Pack

US

Massage 1 2 3 4 5 6

Objective

Visual Status

☐ Ambulatory with aid of cane,
 crutch, walker assistance, etc

Antalgic Posture

☐ Difficult and painful
 rising from sitting

Ambulates with gait

Lacerations

Bruises

Pain Status

☐ Very painful and attempts to
 move away from pressure

Painful/Tolerates pressure

☒ Sore/Tender☐ No discomfort upon pressure

Muscle Status

☐ Spasm☐ Extreme☐ Moderate☒ Mild, some tautness☐ Good muscle tone

Range of motion status

☐ Restricted☒ Some improvement☐ Seg Dysfunction☐ Normal Range

Assessment Condition:

Same

Improving

Regression

Resolving

Resolved

Plan

Hot Pack

Cold Pack

Ultrasound

Electrical Muscle Stim

IST

Massage

Manipulation

	CS	T5	L5	S1
Hot Pack	☒	☒	☒	☒
Cold Pack	☒	☒	☒	☒
Ultrasound	☒	☒	☒	☒
Electrical Muscle Stim	☒	☒	☒	☒
IST	☒	☒	☒	☒
Massage	☒	☒	☒	☒
Manipulation	☒	☒	☒	☒

Adjustment/Manipulation

O.C.C.

CS: 1 2 3 4 5 6 7

T5: 1 2 3 4 5 6 7 8 9 10 11 12

L5: 1 2 3 4 5

S1: 1 2

Drop table

Diagnosis

Date:

NOV 18 2013

Name:

Sharon Anderson

Cary Chiropractic

30 Robert Smalls Parkway

Spartanburg, SC 29806

(803) 528-1166 Office

(803) 521-8052 Fax

Subjective

Subjective Symptoms

☒ Headache	L	R	
☒ Neck Pain	L	R	
☐ Shoulder/Joint	L	R	
☐ Thoracic Pain			
☐ Lumbar Pain	L	R	
☐ Sacroiliac Pain	L	R	
☐ Hip Joint Pain	L	R	
☐ Knee Pain	L	R	
☐ Ankle Pain	L	R	
☐ Leg Pain	L	R	
☐ Arm Pain	L	R	
☐ Chest Pain			
☐ Traps/Lav/Rhom	L	R	
☐ Other			

99201

88941

IST

99208

99211

Polypads

99213 Release

HP/CP

EMS

Ice Pack

US

Massage 1 2 3 4 5 6

Objective

Visual Status

☐ Ambulatory with aid of cane, crutch, walker assistance, etc☐ Antalgic Posture☐ Difficult and painful rising from sitting☐ Ambulates with gait☐ Lacerations☐ Bruisesmainly
Rt
L

Palpation Status

☐ Very painful and attempts to move away from pressure☐ Painful/Tolerates pressure☒ Sore/Tender☐ No discomfort upon pressure☐ Muscle Status☐ Spasm☐ Extremes☐ Moderate☒ Mild, some tenderness☐ Good muscle tone

Range of motion status

☐ Restricted☒ Some improvement☐ Leg Dysfunction☐ Normal Range

Assessment Condition:

Some

Improving

Regression

Resolving

Resolved

Plan

Hot Pack

Cold Pack

Ultrasound

Electrical Muscle Stim

IST

Massage

Manipulation

	CS	TS	LS	SI
Hot Pack	☒	☒	☒	☒
Cold Pack	☒	☒	☒	☒
Ultrasound	☒	☒	☒	☒
Electrical Muscle Stim	☒	☒	☒	☒
IST	☒	☒	☒	☒
Massage	☒	☒	☒	☒
Manipulation	☒	☒	☒	☒

Adjustment/Manipulation

O.C.C.

CS: 1 2 3 4 5 6 7

TS: 1 2 3 4 5 6 7 8 9 10 11 12

LS: 1 2 3 4 5

SI: 1 2 3 4 5

Drop Table

Diagnosis

Date:

NOV 20 2013

Name:

Sharon Anderson

Curry Chiropractic
 50 Robert Smalls Parkway
 Beaufort, SC 29906
 (843) 828-1200 Office
 (843) 821-5052 Fax

Subjective

Subjective Symptoms

☒ Headache	L	R
☒ Neck Pain	L	R
☒ Shoulder/Joint	L	R
☒ Thoracic Pain	L	R
☒ Lumbar Pain	L	R
☒ Sacroiliac Pain	L	R
☒ Hip Joint Pain	L	R
☒ Knee Pain	L	R
☒ Ankle Pain	L	R
☒ Leg Pain	L	R
☒ Arm Pain	L	R
☒ Chest Pain	L	R
☒ Traps/Lav/Rhom	L	R
☒ Other		

Height:

Weight:

Pulse:

Doing ok, occasional LBS twinge

Release today

99201

98941

1ST

99208

98211

Polyps

99218 Release

HP/CY

GMS

US Pack

US

Massage 1 2 3 4 5 6

Objective

Visual Status

☒ Ambulatory with aid of cane,
 crutch, walker, assistance, etc

☒ Antalgic Posture

☒ Difficult and painful
 rising from sitting

☒ Ambulates with gait

☒ Lacerations

☒ Bruises

Palpation Status

☒ Very painful and attempts to
 move away from pressure

☒ Painful/Tolerates pressure

☒ Sore/Tender

☒ No discomfort upon pressure

☒ Muscle Status

☒ Spasm

☒ Extremes

☒ Moderate

☒ Mild, some tenderness

☒ Good muscle tone

Pain Levels

☒ Minimal pain, not noticed
 significantly

☒ Mild pain, constantly annoying

☒ Moderate pain, modification
 of activity required

☒ Severe pain, patient cannot
 perform normal activity

☒ Asymptomatic

☒ Activity aggravates condition

☒ Rest alleviates

☒ Stiff in morning

Range of motion status

☒ Restricted ☒ Some Improvement ☒ Sag Dysfunction ☒ Normal Range

Assessment Conditions:

Some

Improving

Regression

Resolving

Resolved

Plan

Hot Pack

Cold Pack

Ultrasound

Electrical Muscle Stim

1ST

Massage

Manipulation

	CS	TS	LS	SI
Hot Pack				
Cold Pack				
Ultrasound				
Electrical Muscle Stim				
1ST				
Massage				
Manipulation				

Adjustment/Manipulation

O.C.C.

CS 1 2 3 4 5 6 7

TS 1 2 3 4 5 6 7 8 9 10 11 12

LS 1 2 3 4 5

SI 1 2 3

Gms Table

Diagnosis

Rel

EXHIBIT C

10/19/2013 at 05:41 PM
113531

File ID: 105374

EVERETT SMITH & ASSOC
APPRAISAL SERVICE ANYWHERE IN S.C.
"ONE CALL DOES IT ALL" dispatch@everettsmith.com
ALSO SERVING EASTERN GA. BORDER &
SOUTHERN NC BORDER AREAS
** SINCE 1984 **
(803)731-0317 Fax: (803)798-6221

Written By: JODY RICKARD 803 7679644 10/19/2013 05:40 PM

For: AICI INSURANCE GROUP - OMNI-ATLANTA
Adjuster: DALE PORTER

ESTIMATE OF RECORD

Insured: SHERAN ANDERSON
Owner: SHERAN ANDERSON
Address: 80 MARTIN LANE
LOT 11
SEABROOKE, SC 29947
Day: (843)644-0123

Claim #2013-95541dsp
Policy #
Date of Loss: 10/07/2013 at 05:00 PM
Type of Loss: Collision
Point of Impact: 6. Rear

Inspect: 80 MARTIN LANE
Location: LOT 11
SEABROOKE, SC 29947

Day: (843)644-0123
HOME

Repair MUST PROVIDE ALL PAGES TO OWNERS
Facility: SHOP OF CHOICE

1 Days to Repair
License #

1997 CHEV C1500 4X2 SUBURBAN LT 8-5.7L-FI 4D UTV GREEN Int:
VIN: 1GNEC16R3VJ407103 Lic: ILU336 SC Prod Date: Odometer: 287895
Intermittent Wipers Tilt Wheel Cruise Control
Rear Defogger Keyless Entry Dual Air Condition
Dual Mirrors Body Side Moldings Privacy Glass
Luggage/Roof Rack Clear Coat Paint Power Steering
Power Brakes Power Windows Power Locks
Power Mirrors Power Driver Seat AM Radio
FM Radio Stereo Search/Seek
Cassette Driver Side Air Bag Passenger Air Bag
Anti-Lock Brakes (4) 4 Wheel Disc Brakes Reclining/Lounge Seats
Leather Seats Rear Step Bumper Automatic Transmission
Overdrive Aluminum/Alloy Wheels

NO.	OP.	DESCRIPTION	QTY	EXT. PRICE	LABOR	PAINT
1		REAR BUMPER				
N 2*	Repl	LKQ bumper assy +25%	1	<u>250.00</u>	0.5	
3		Clean & inspect			0.3	
4#	Rpr	Align Lt Rear Cargo Door			0.5	
Subtotals ==>				250.00	1.3	0.0

Line 2 : MCALLISTER'S AUTO 800-922-7223 - TRENT

10/19/2013 at 05:41 PM
113531

File ID: 105374

ESTIMATE OF RECORD

1997 CHEV C1500 4X2 SUBURBAN LT 8-5.7L-FI 4D UTV GREEN Int:

Estimate Notes:

NO SUPPLEMENTAL PAYMENT WITHOUT PRIOR APPROVAL & INSPECTION, IF NEEDED. ****
VEHICLE APPEARS TO BE SAFELY DRIVABLE. DATE RECEIVED: 10-16 CONTACTED:
10-16 INSPECTED: 10-18 COMPLETED: 10-19-13 APPRAISAL DELIVERY** NOT
SHARED, SUBJECT TO CLAIM REP REVIEW & DISTRIBUTION VEHICLE OWNER MUST
AUTHORIZE REPAIRS & GUARANTEE OF PAYMENT AT COMPLETION OF REPAIRS. ***
SUBJECT TO CONFIRMATION OF COVERAGE & INSURANCE OFFICE APPROVAL--THIS IS NOT A
GUARANTEE OF PAYMENT OR AUTHORIZATION TO REPAIR. ***

Parts		250.00
Body Labor	1.3 hrs @ \$ 42.00 /hr	54.60

SUBTOTAL		\$ 304.60
Sales Tax	\$ 250.00 @ 7.0000%	17.50

TOTAL COST OF REPAIRS		\$ 322.10
ADJUSTMENTS:		
Deductible		0.00

TOTAL ADJUSTMENTS		\$ 0.00
NET COST OF REPAIRS		\$ 322.10

THIS DAMAGE APPRAISAL IS NOT AN ACCEPTANCE OF LIABILITY, NOT A CONFIRMATION OF
COVERAGE, NOT A GUARANTEE OF ANY PAYMENT & NOT AN AUTHORIZATION TO REPAIR.

** VEHICLE OWNER MUST AUTHORIZE REPAIRS & GUARANTEE PAYMENT IN FULL AT
COMPLETION OF REPAIRS.

PLEASE REFER DIRECTLY TO LISTED INSURANCE COMPANY CLAIM REP WITH ANY QUESTIONS
REGARDING INSURANCE COVERAGE OR PAYMENTS.

VEHICLE OWNER MUST PROVIDE ALL PAGES OF THIS APPRAISAL REPORT TO SHOP OF
OWNER'S CHOICE, PRIOR TO OWNER'S AUTHORIZATION TO REPAIR.

ALL SUPPLEMENTS MUST BE REPORTED TO APPRAISER PROMPTLY & PRIOR TO REPAIR
COMPLETION, FOR APPROVAL & MUST BE SUPPORTED WITH PROPER DOCUMENTATION..
FAILURE TO COMPLY MAY RESULT IN DENIAL OF INSURANCE COVERAGE..

10/19/2013 at 05:41 PM
113531

File ID: 105374

ESTIMATE OF RECORD

1997 CHEV C1500 4X2 SUBURBAN LT 8-5.7L-FI 4D UTV GREEN Int:

THIS DAMAGE APPRAISAL IS NOT AN ACCEPTANCE OF LIABILITY, NOT A CONFIRMATION OF COVERAGE, NOT A GUARANTEE OF ANY PAYMENT & NOT AN AUTHORIZATION TO-REPAIR.

** VEHICLE OWNER MUST AUTHORIZE REPAIRS & GUARANTEE PAYMENT IN FULL AT COMPLETION OF REPAIRS.

PLEASE REFER DIRECTLY TO LISTED INSURANCE COMPANY CLAIM REP WITH ANY QUESTIONS REGARDING INSURANCE COVERAGE AN/OR PAYMENTS.

VEHICLE OWNER MUST PROVIDE ALL PAGES OF THIS APPRAISAL REPORT TO SHOP OF OWNERS CHOICE PRIOR TO OWNERS AUTHORIZATION TO REPAIR.

ALL SUPPLEMENTS MUST BE REPORTED TO APPRAISER PROMPTLY & PRIOR TO REPAIR COMPLETION, FOR PRIOR APPROVAL.

FAILURE TO COMPLY MAY RESULT IN DENIAL OF INSURANCE COVERAGE & PROPER DOCUMENTATION MUST BE PROVIDED TO SUPPORT ALL CLAIMS.

10/19/2013 at 05:41 PM
113531

File ID: 105374

ESTIMATE OF RECORD

1997 CHEV C1500 4X2 SUBURBAN LT 8-5.7L-FI 4D UTV GREEN Int:

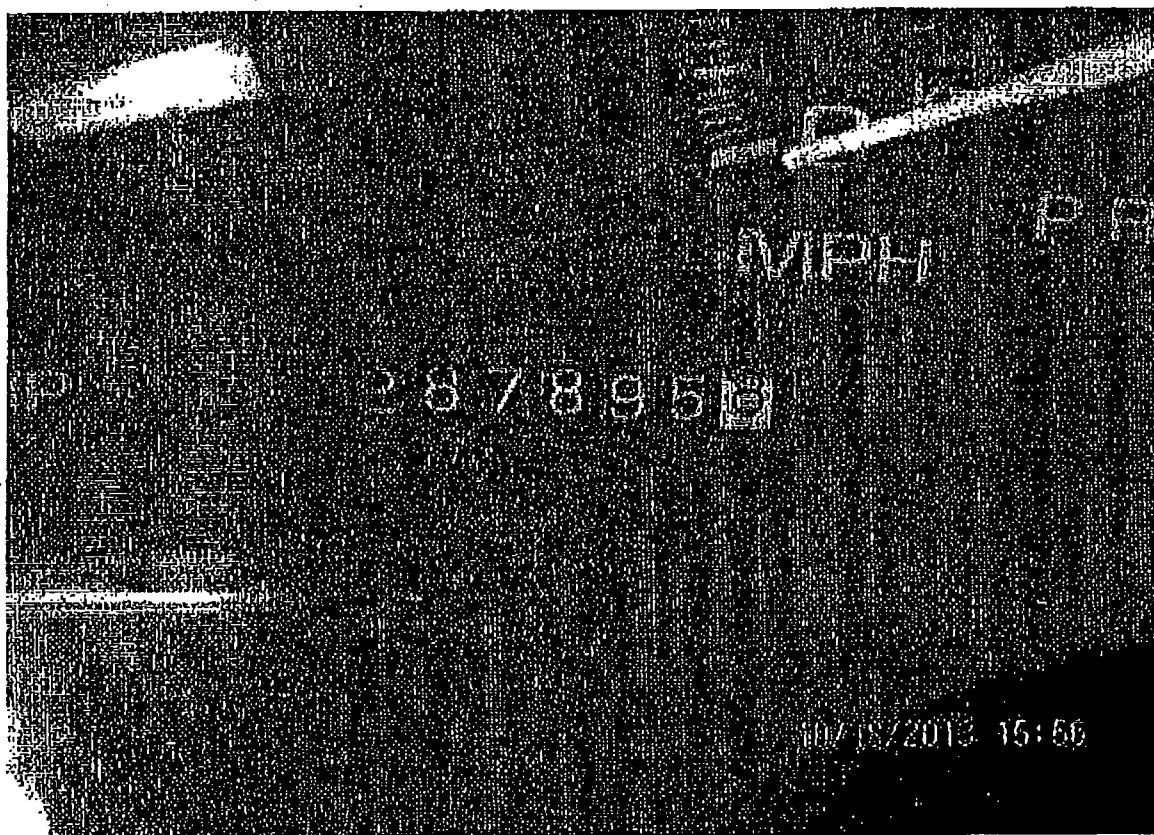
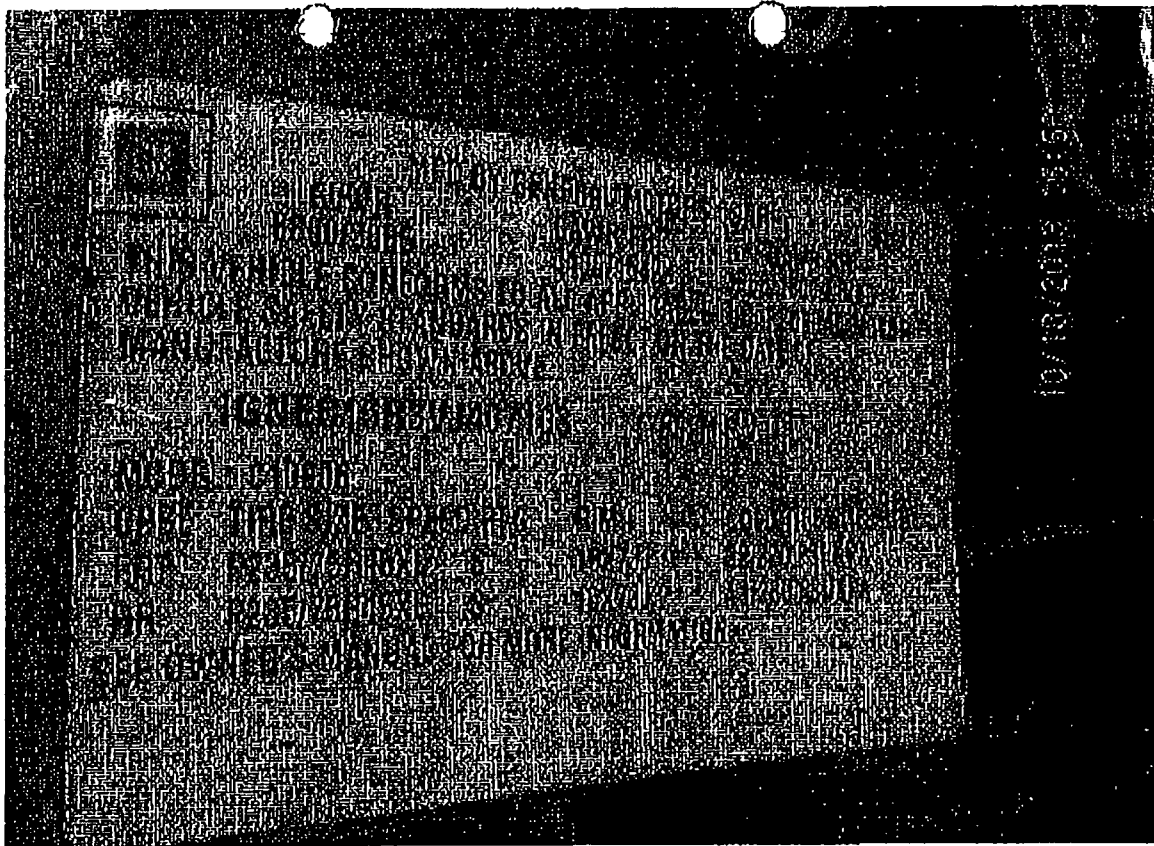
Estimate based on MOTOR CRASH ESTIMATING GUIDE. Unless otherwise noted all items are derived from the Guide DE1GA9Z, CCC Data Date 09/03/2013, and the parts selected are OEM-parts manufactured by the vehicles Original Equipment Manufacturer. OEM parts are available at OE/Vehicle dealerships. OPT OEM (Optional OEM) or ALT OEM (Alternative OEM) parts are OEM parts that may be provided by or through alternate sources other than the OEM vehicle dealerships. OPT OEM or ALT OEM parts may reflect some specific, special, or unique pricing or discount. OPT OEM or ALT OEM parts may include "Blemished" parts provided by OEM's through OEM vehicle dealerships. Asterisk (*) or Double Asterisk (**) indicates that the parts and/or labor information provided by MOTOR may have been modified or may have come from an alternate data source. Tilde sign (~) items indicate MOTOR Not-Included Labor operations.

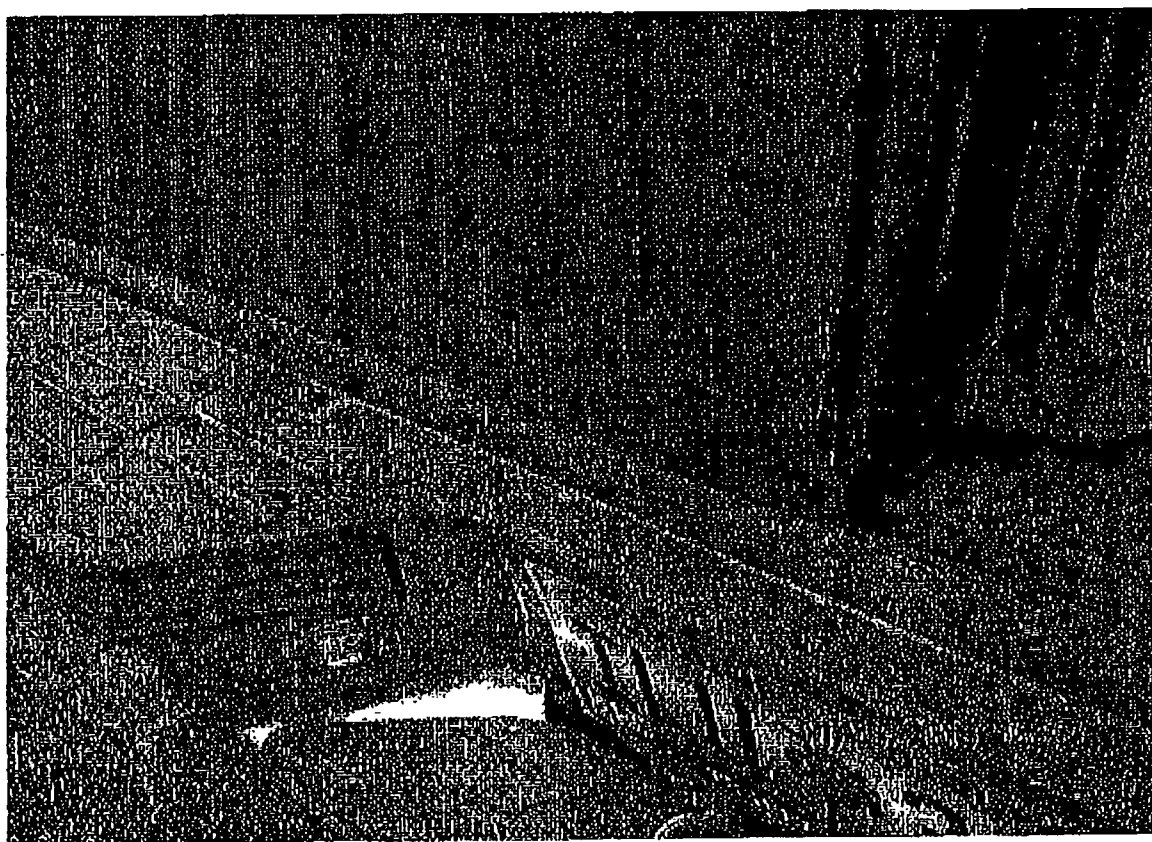
The symbol (<>) indicates the refinish operation WILL NOT be performed as a separate procedure from the other panels in the estimate. Non-Original Equipment Manufacturer aftermarket parts are described as Non OEM, A/M, Qual Repl Parts or Comp Repl Parts which stands for Competitive Replacement Parts. Used parts are described as LKQ, Qual Recy Parts, RCY, or USED. Reconditioned parts are described as Recond. Recored parts are described as RECOR. NAGS Part Numbers and Benchmark Prices are provided by National Auto Glass Specifications. Labor operation times listed on the line with the NAGS information are MOTOR suggested labor operation times. NAGS labor operation times are not included. Pound sign (#) items indicate manual entries. Some 2014 vehicles contain minor changes from the previous year. For those vehicles, prior to receiving updated data from the vehicle manufacturer, labor and parts data from the previous year may be used. The Pathways estimator has a complete list of applicable vehicles. Part numbers and prices should be confirmed with the local dealership. The following is a list of additional abbreviations or symbols that may be used to describe work to be done or parts to be repaired or replaced.

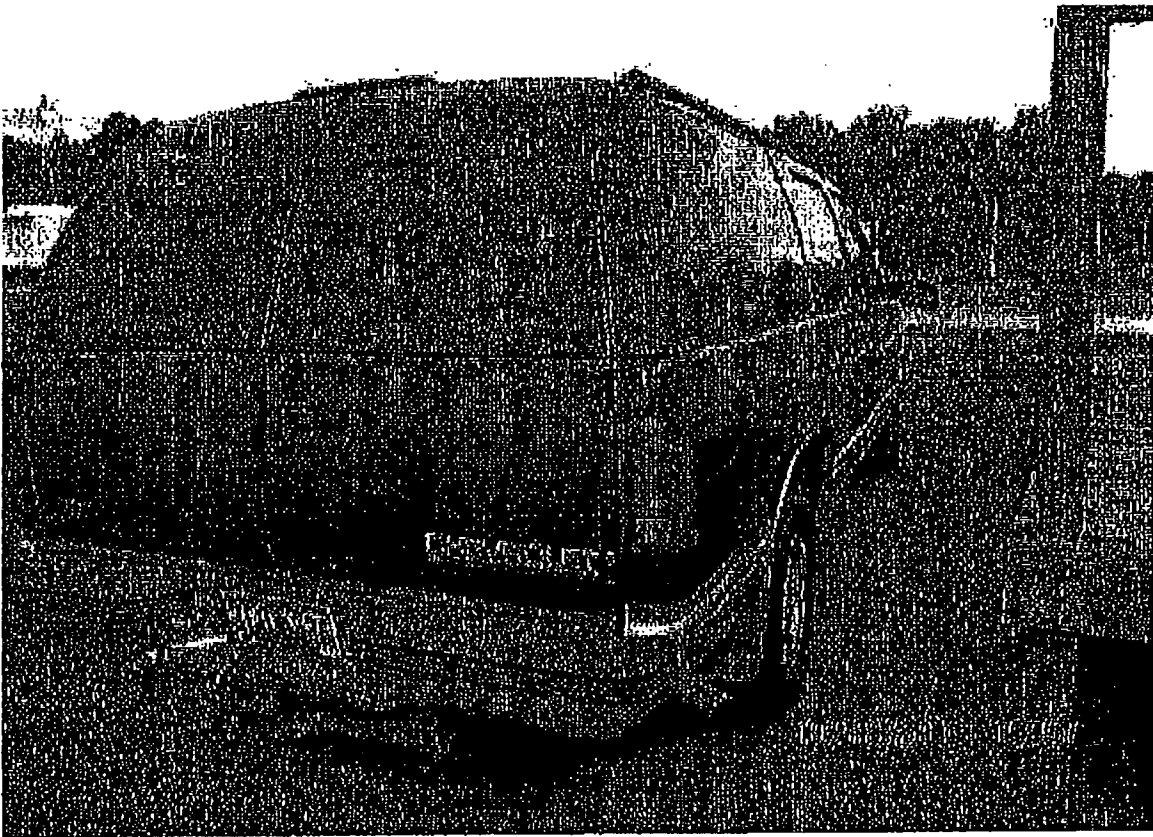
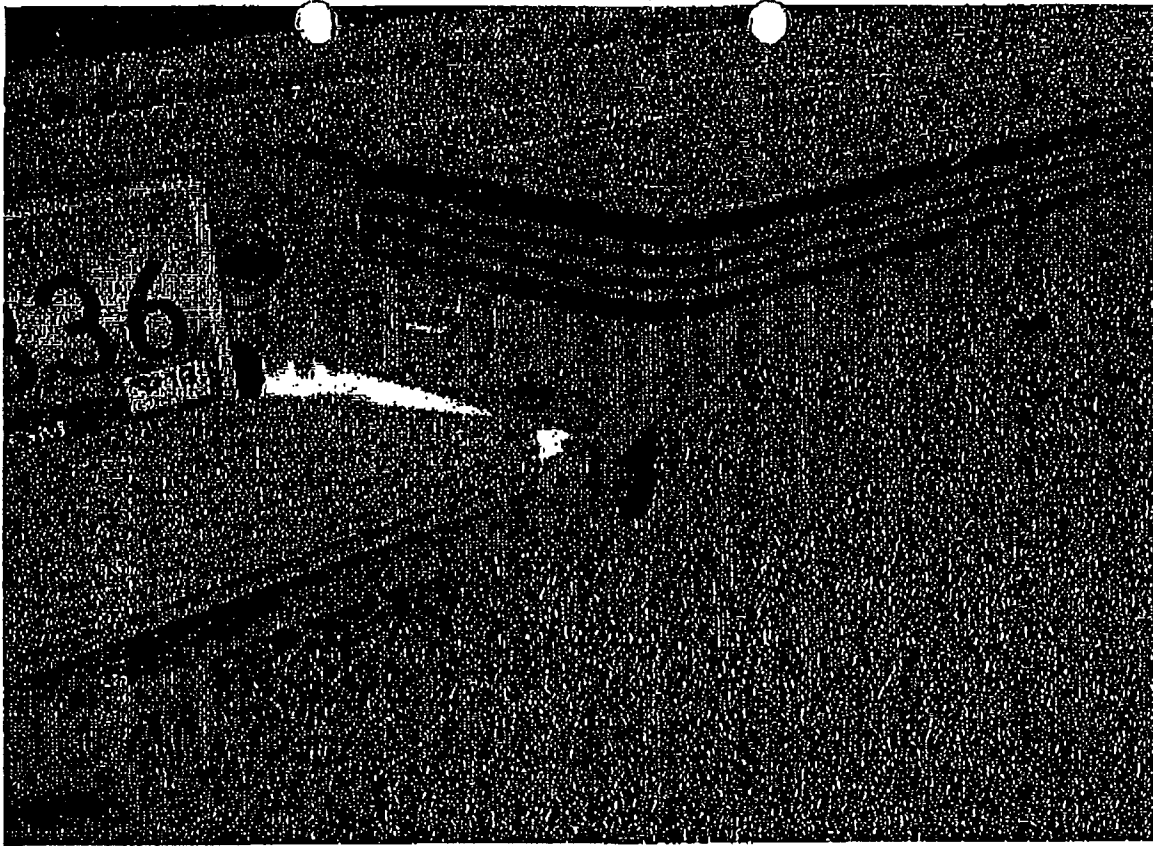
SYMBOLS FOLLOWING PART PRICE: m=MOTOR Mechanical component. s=MOTOR Structural component. T=Miscellaneous Taxed charge category. X=Miscellaneous Non-Taxed charge category. SYMBOLS FOLLOWING LABOR: D=Diagnostic labor category. E=Electrical labor category. F=Frame labor category. G=Glass labor category. M=Mechanical labor category. S=Structural labor category. (numbers) 1 through 4=User Defined Labor Categories. OTHER SYMBOLS AND ABBREVIATIONS: Adj.=Adjacent. Algn.=Align. ALU=Aluminum. A/M=Aftermarket part. Blind=Blend. BOR=Boron steel. CAPA=Certified Automotive Parts Association. Comp Repl=Competitive Replacement (part). D&R=Disconnect and Reconnect. HSS=High Strength Steel. HYD=Hydroformed Steel. Incl.=Included. LKQ=Like Kind and Quality. LT=Left. MAG=Magnesium. Non-Adj.=Non Adjacent. NSF=NSF International Certified Part. O/H=Overhaul. Qty=Quantity. Qual Recy=Quality Recycled (part). Qual Repl=Quality Replacement (part). Refn=Refinish. Repl=Replace. R&I=Remove and Install. R&R=Remove and Replace. Rpr=Repair. RT=Right. SAS=Sandwiched Steel. Sect=Section. Subl=Sublet. UHS=Ultra High Strength Steel. N=Note(s) associated with the estimate line.

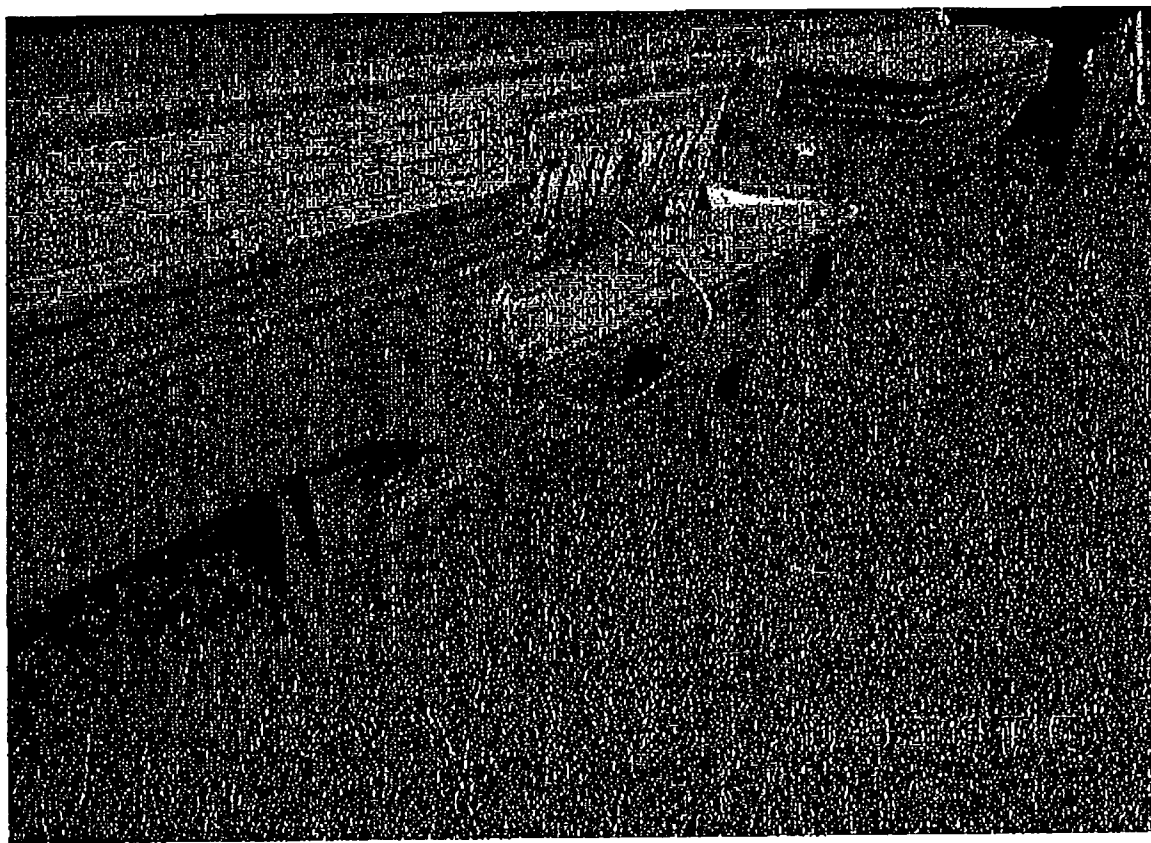
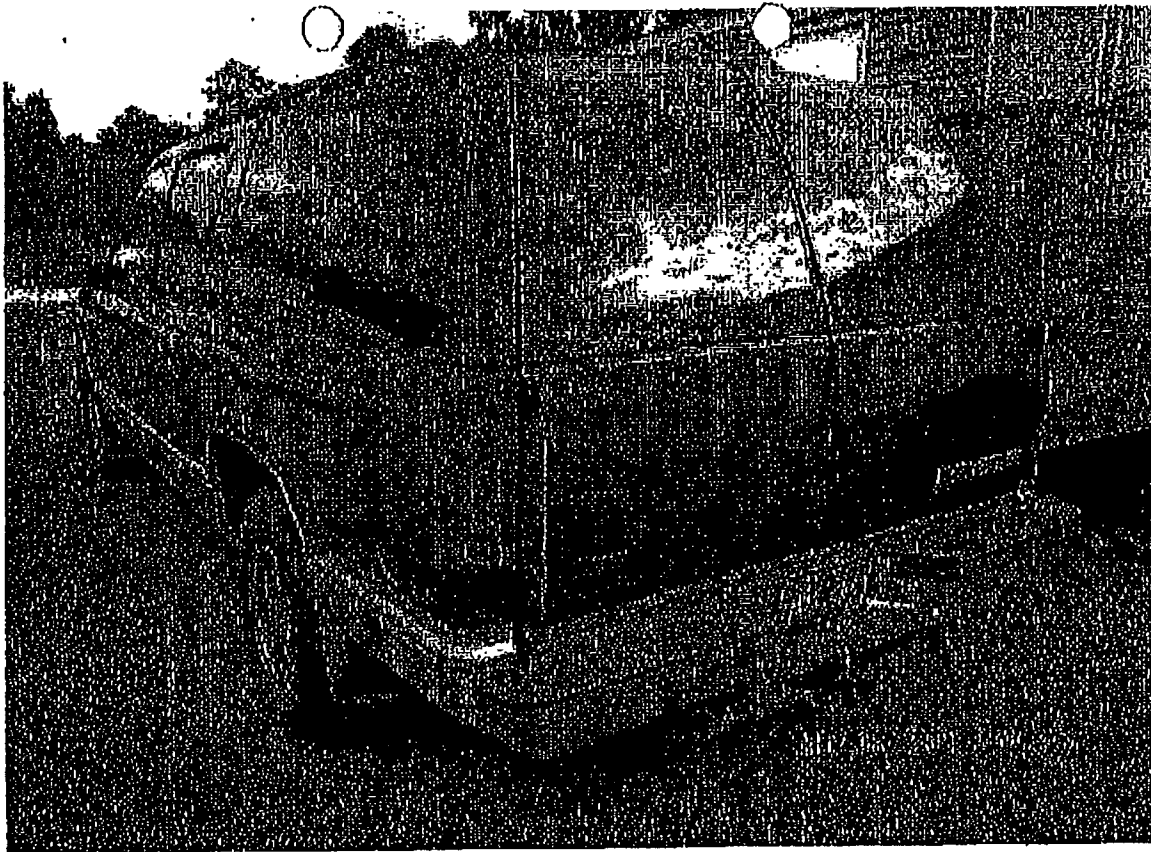
CCC Pathways - A product of CCC Information Services Inc. The following is a list of abbreviations that may be used in CCC Pathways that are not part of the MOTOR CRASH ESTIMATING GUIDE: BAR=Bureau of Automotive Repair. EPA=Environmental Protection Agency. NHTSA=National Highway Transportation and Safety Administration. PDR=Paintless Dent Repair. VIN=Vehicle Identification Number.

EXHIBIT D









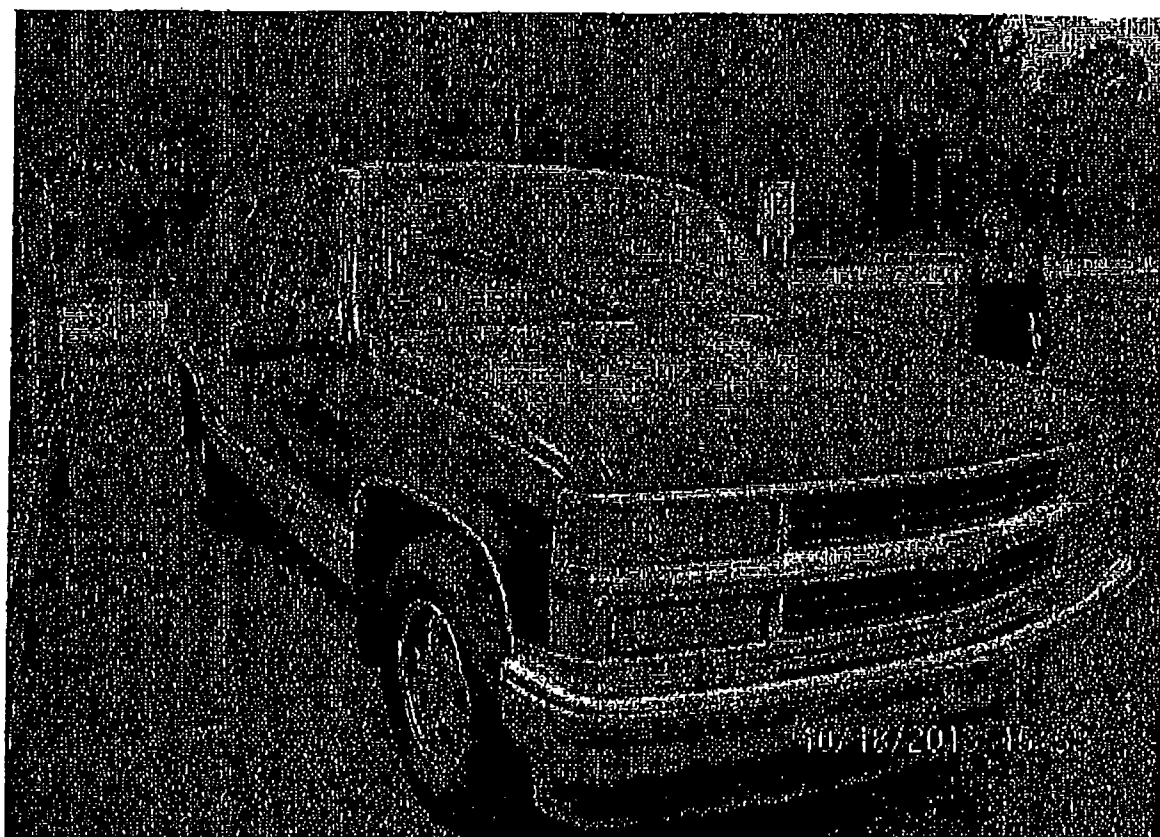
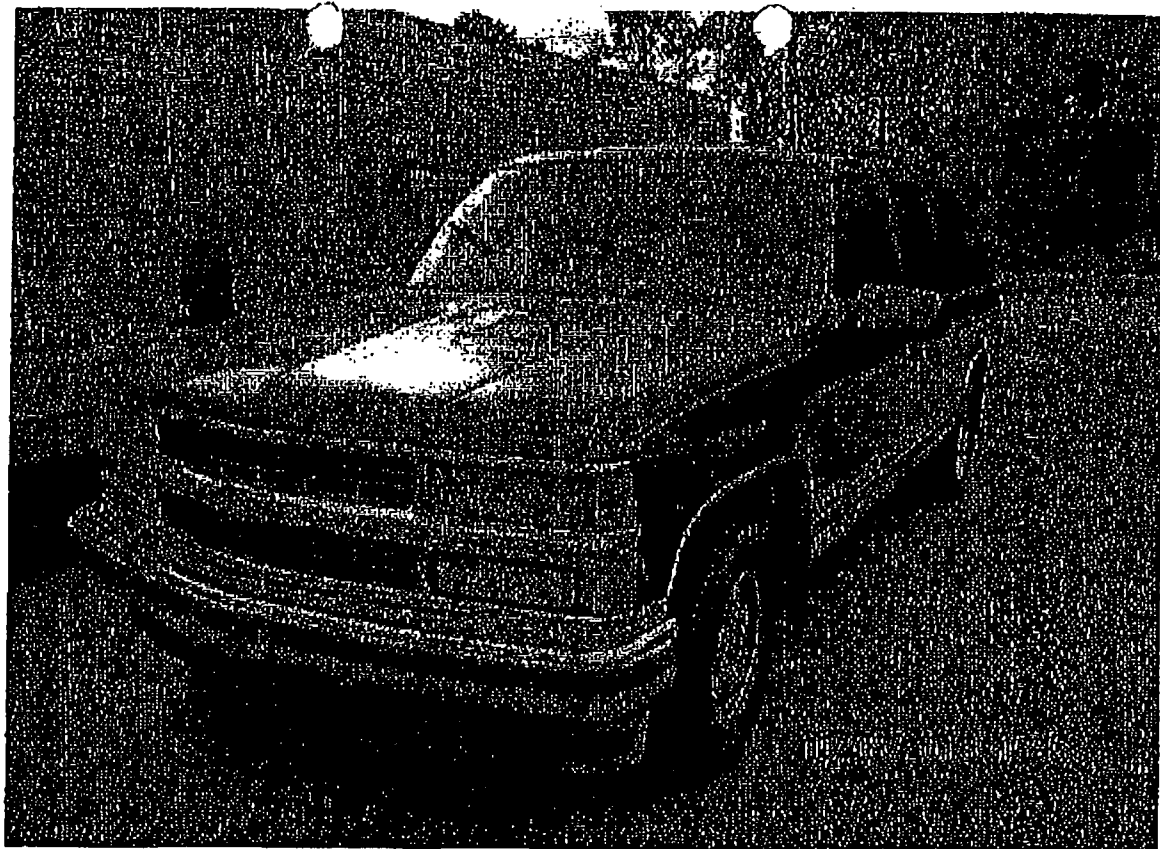


EXHIBIT E

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

SHARON DENISE ANDERSON,

Plaintiff,

vs.

LINDA JENKINS HOLMES,

Defendant.

IN THE COURT OF COMMON PLEAS

Civil Action No. 2015-CP-07-00218

**AFFIDAVIT OF CRYSTABEL
ANSELMO**

PERSONALLY APPEARED BEFORE ME, the undersigned, Crystadel Anselmo, who,
after being duly sworn, deposes and states:

1. I am over the age of eighteen.
2. I am of sound mind and body to swear this affidavit.
3. I am the General Manager of the Red Roof Inn in Hilton Head Island, South Carolina located at 5 Regency Parkway, Hilton Head Island, SC 29928.
4. Sharon Denise Anderson was employed at Red Roof Hilton Head Island from August 2013 until October 13, 2013.
5. I also knew her by the name "Shay Anderson" during that period of time.
6. I was Sharon's supervisor during her employment at Red Roof.
7. Sharon was employed as a front desk clerk with Red Roof.
8. Sharon was terminated from her employment with Red Roof on October 14, 2013.
9. Sharon was terminated on October 14, 2013 for the following reasons:
 - a. Sharon had been counselled on numerous occasions about being careful

with transactions for "Redi Stay" stays including credit cards. Despite this repeated counselling, Sharon repeatedly forgot to charge Expedia credit cards on a regular basis.

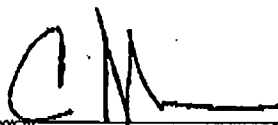
- b. Sharon failed to collect payment from a guest for \$90.00 worth of rented movies on October 11, 2013.
 - c. Sharon extended a guest stay and improperly charged the guests credit card resulting in an uncollectible balance from the guest.
 - d. Sharon's register was short \$20.00 on October 11, 2013.
 - e. Sharon was a no show to work on October 13, 2014. She did not follow procedure for calling in to the manager to inform the manager of her absence from work.
10. Sharon was not terminated because of an automobile accident.
11. Sharon was not terminated because of work restrictions from an automobile accident.
12. Sharon never discussed any work restrictions with me or any other management.
13. Sharon never presented any medical records or doctor's note indicating she had any work restrictions following an automobile accident.
14. Sharon's statements that she was terminated from employment due to Red Roof's inability to accommodate work restrictions is patently false.
15. Even if Sharon had work restrictions, Red Roof Inn would have accommodated those restrictions and would not have terminated her employment.
16. Sharon's statements that she did not work after on October 7, 2013 or any

time after is patently false.

17. Sharon worked on October 11, 2013 as reflected by her termination paperwork and receipts and violations of company policy related to collecting payment for guests.

18. In sum, Sharon was terminated from employment for repeated violations of company policy, failing to collect balances owed from guests, missing money from her register, and failing to show up for regularly scheduled shifts.

FURTHER, AFFIANT SAYETH NAUGHT.



Crystabel Anselmo

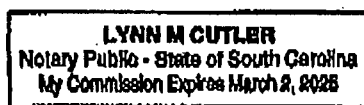
SWORN TO AND SUBSCRIBED BEFORE ME

This 21st day of August, 2015.

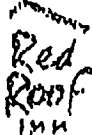


Notary Public for South Carolina

My Commission Expires: 3/2/25



Use the <Tab> key to move from field to field. DO NOT use the <Enter> key.



TERMINATION RECORD

Employee Name:	Shay Anderson	Date:	10/14/2013
Position:	Front Desk GSR		
Employee ID #:	404300	Inn #:	148

Specific conduct, infraction of rules, job performance or other basis for termination (describe in detail):

1. Shay had been counseled on being careful on transactions on Redi stay including credit cards. She is still forgetting to charge Expedite cards on a regular basis.
2. Forgot again to mark do not post when making and checking in new cash guest. Guest rented \$11.00 worth of movies and did not pay. 10/11/2013
3. Extended a guest and did not charge the card the right amount, guest owed 7.00 and the credit card declined.
4. Her drawer was short \$20.00 on 10/11/2013
4. Shay called off on Sunday 10/13/2013 to the front desk instead of the manager, she has signed the attendance rule which clearly states you must call management. Shay has the managers cell phone.

Inn management's summary of employee's comments.

 Inn Management's Signature	10/14/2013 Date
_____ Witness Signature	_____ Date

EXHIBIT F

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS

SHARON DENISE ANDERSON,

Plaintiff,

vs.

LINDA JENKINS HOLMES,

Defendant.

Civil Action No. 2015-CP-07-00218

AFFIDAVIT OF SHELBY
MCDONALD

2015 JUN 29 PM 2:11
JESSICA ANN ROSENEAU
BEAUFORT COUNTY, S.C.
CLERK OF COURT

PERSONALLY APPEARED BEFORE ME, the undersigned, Shelby McDonald, who,
after being duly sworn, deposes and states:

1. I am over the age of eighteen.
2. I am of sound mind to swear this affidavit.
3. I am employed by Omni Indemnity Company.
4. I was the employee in charge of handling the claim file for the above referenced case.
5. Despite liability for the alleged injuries being contested, we entered into settlement discussions with Plaintiff's counsel.
6. Plaintiff's counsel contacted my supervisor on September 18, 2014 to discuss settlement of the claim.
7. At no time during the course of settlement discussions on this claim did Plaintiff's counsel ever mention any lost wage claim.
8. At no time during the course of settlement discussions on this claim did Plaintiff submit any documentation related to a lost wage claim.

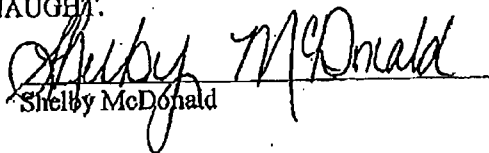
9. Plaintiff's counsel presented only medical bills totaling \$3,515.17.
10. Omni paid a property damage claim to Plaintiff in the amount of \$322.10.
11. After hearing nothing from Plaintiff's counsel following September 18, 2014, I called Plaintiff's counsel on December 2 and December 16, 2014, as well as on January 9, February 4, February 26, April 16, and May 7, 2015.
12. During each of these phone calls, I spoke to employees in Plaintiff's counsel's office.
13. During each of these phone calls, I was informed Plaintiff's counsel was unavailable to speak to me.
14. During each of these phone calls, I left a voicemail for Plaintiff's counsel to call me back so that we could discuss the claim and resolve it in a timely manner.
15. Plaintiff's counsel refused to call me back.
16. On April 2, 2015, I sent a letter to Plaintiff's counsel reiterating a prior offer and seeking a demand to resolve the case.
17. Plaintiff's counsel refused to respond to this letter.
18. Plaintiff's counsel apparently filed a lawsuit on January 30, 2015 despite the fact that I had contacted him to discuss the claim three different times in the preceding 2 months (as noted above, everyone one of these calls was refused).
19. Plaintiff's counsel never informed Omni of this lawsuit despite numerous attempts to reach Plaintiff's counsel.
20. Plaintiff's counsel never informed Omni that no Answer was filed in this matter despite numerous attempts to reach Plaintiff's counsel.
21. Plaintiff's counsel never informed Omni of any default damages hearing in

this matter despite numerous attempts to reach Plaintiff's counsel.

22. In fact, I attempted to contact Plaintiff's counsel on five different occasions after the suit was apparently filed—each and every one of these attempts was willfully ignored by Plaintiff's counsel.

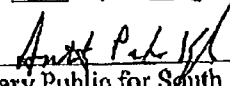
23. I believe Plaintiff's counsel intentionally failed to return any phone calls or letters in an attempt to avoid notifying Omni of the lawsuit despite his willful engagement in negotiations over this claim.

FURTHER, AFFIANT SAYETH NAUGHT.


Shelby McDonald

SWORN TO AND SUBSCRIBED BEFORE ME

This 8th day of June, 2015.


Notary Public for South Carolina

My Commission Expires: 2/9/18

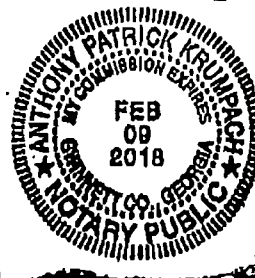


EXHIBIT G

ISO Claim Claim Search -

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Task for: SYSTEM

Date Created: Friday May 23, 2014 1:48 AM

GENERAL NOTE - R/C TO MIKHAL W/ ATTY CLIFFORD BUSH

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Task for: CROLEYR

Date Created: Wednesday June 4, 2014 9:11 AM

AT 843-379-9500. SPOKE TO MIKHAL, STATED ATTY WOULD LIKE TO DISCUSS FILE W/ ME BUT HE IS NOT IN AT THIS TIME. GVE CTC INFO TO HAVE ATTY C/B TO DISCUSS FILE. ADV WE ARE CONSIDERING LOSS AS LSI DUE TO MINIMAL DMG TO REAR BUMPER.

GENERAL NOTE - 2nd review file--the notes state to offer atty generals and chlrop and protect medicaid lien \$2441

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Task for: Cheryl Brooks

Date Created: Thursday July 10, 2014 5:04 PM

Coverage good for loss date

NI was driving the listed veh

ID re CV--clmt damages \$322.10-no photos of IV however NI completed the accd form and state her damages are grill, hood, lte and damages ove \$500

Sharon Anderson age 36 5'5" 139 lbs went to er on dol and then 18 days later start w/chlrop for 4 weeks for 7 visits-rt ankle pain /prior surg to ankle --note Medicaid paid bills so we need to make sure we protect the interest-total meds can we settle w/atty for chlrop and generals auth up to 3570 to atty and agree to handle Medicaid lien when present

the file notes state to offer atty generals and chlrop and pay medicaid lien \$2441

auth was meds \$ 3110 plus generals ok auth up to 6000--atty refuse to reduce his

demsdn but request my best offer--offer \$ 5500.00

this inc a medicaid lien

• Claimant: SHARON ANDERSON

GENERAL NOTE - Certified mail

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Task for: Amber White

Date Created: Tuesday July 29, 2014 9:12 AM

From: Healthy Connections Medicaid

Cert# 9171-9690-0935-0031-8946-99

Fwd to: RAC/Team leader

GENERAL NOTE - Returned voicemail to attorney Clifford Bush - 843-379-9500 - LMTCB with assistant,

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Task for: Justin Mendelson

Date Created: Thursday September 18, 2014 10:24 AM

GENERAL NOTE - --delay typing this note--- sw Atty Bush for 19 mins discussing the settlement on this case

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Task for: Cheryl Brooks	Date Created: Thursday September 18, 2014 10:28 AM
atty continue to want more to settle--told him we sw him 2 other times prior to me getting to in July and we cont to increase our offer--again he is asking for more money for er and 7 chirop visit	
told atty if he had to have movement 5501 but he cont this conversastion and we are not going nowhere---atty disagree w/value and wish to sw my boss--gave ext and transf call	
• Claimant: SHARON ANDERSON	

GENERAL NOTE - ARBI X 1 reassigned to CNT from RAC. Please reconvene negotiations. 41 of 77	
Task for: WILSONT	Date Created: Wednesday October 1, 2014 10:14 AM

GENERAL NOTE - rtn call to Atty Bush 843 379 9500--left mess w/Ron Lewis 42 of 77	
Task for: Cheryl Brooks	Date Created: Thursday October 16, 2014 4:49 PM

DIARY REVIEW - HOLMES - SC/SC - \$3,200.00 OFFER MADE, F/U W/ ATTY 43 of 77	
Task for:	Date Created: Friday January 24, 2014
Requested By: PORTERD	
Date Due: Monday July 14, 2014	
Completed By: BAILEYS	Completed: Friday October 24, 2014 8:25 AM

GENERAL NOTE - PC to 843-379-9500, left msg for atty 44 of 77	
Task for: Shelby McDonald	Date Created: Tuesday November 18, 2014 3:36 PM
requested status of the offer made to resolve claim	

GENERAL TASK - ARBI X 1 reassigned to CNT from RAC. Please reconvene negotiations. 45 of 77	
Task for: Shelby McDonald	Date Created: Wednesday October 1, 2014
Requested By: WILSONT	
Date Due: Tuesday November 18, 2014	Completed: Tuesday November 18, 2014 3:36 PM

GENERAL NOTE - response to offer? 46 of 77	
Task for: Shelby McDonald	Date Created: Tuesday November 18, 2014 3:37 PM

GENERAL NOTE - PC to 843 379 9500, left message for atty regarding settlement 47 of 77	
Task for: Shelby McDonald	Date Created: Tuesday December 2, 2014 9:50 AM
• Claimant: SHARON ANDERSON	

DIARY REVIEW - response to offer

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Task for: Shelby McDonald
Requested By: WILSONT**Date Created:** Wednesday October 1, 2014**Date Due:** Tuesday December 2, 2014**Completed:** Tuesday December 2, 2014 9:50 AM**GENERAL NOTE - PC to 843-379-9500, left message for atty**

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Task for: Shelby McDonald**Date Created:** Tuesday December 16, 2014 1:49 PM

advised I wanted to obtain status of the offer.

- Claimant: SHARON ANDERSON

ISO Claim Claim Search -

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Task for: SYSTEM**Date Created:** Friday December 19, 2014 1:10 AM**GENERAL NOTE - PC to 843-379-9500, left message for atty**

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Task for: Shelby McDonald**Date Created:** Friday January 9, 2015 2:05 PM

requested status of the offer

DIARY REVIEW - f/u with atty regarding settlement

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Task for: Shelby McDonald
Requested By: WILSONT**Date Created:** Wednesday October 1, 2014**Date Due:** Friday January 9, 2015**Completed:** Friday January 9, 2015 2:05 PM**GENERAL NOTE - PC to 843-379-9500, left message for atty**

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Task for: Shelby McDonald**Date Created:** Wednesday February 4, 2015 10:26 AM

advised I wanted to speak with him regarding settlement of the claim.

- Claimant: SHARON ANDERSON

GENERAL NOTE - PC to 843-379-9500, left msg for atty

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Task for: Shelby McDonald**Date Created:** Thursday February 26, 2015 12:04 PM

advised I wanted to speak with him regarding settlement of the claim.

- Claimant: SHARON ANDERSON

DIARY REVIEW - f/u with atty

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Task for: Shelby McDonald
Requested By: WILSONT**Date Created:** Wednesday October 1, 2014**Date Due:** Thursday February 26, 2015**Completed:** Thursday February 26, 2015 12:04 PM**GENERAL NOTE - offer letter sent to atty**

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Task for: Shelby McDonald	Date Created: Thursday April 2, 2015 9:20 AM
• Claimant: SHARON ANDERSON	

DIARY REVIEW - f/u with atty- offer 67 of 77	
Task for: Shelby McDonald	Date Created: Wednesday October 1, 2014
Requested By: WILSONT	
Date Due: Thursday April 2, 2015	Completed: Thursday April 2, 2015 9:20 AM

GENERAL NOTE - Certified Mail 68 of 77	
Task for: Amber White	Date Created: Tuesday April 14, 2015 9:05 AM
From: South Carolina Healthy Connections Cert# 9171-9690-0935-0075-4775-06 Fwd to: SHM/Team lead	

GENERAL NOTE - PC to 843-379-9500, left msg for atty 69 of 77	
Task for: Shelby McDonald	Date Created: Thursday April 16, 2015 11:27 AM
advised I wanted to f/u with him regarding offer to resolve the claim.	

GENERAL NOTE - PC to 843-379-9500 60 of 77	
Task for: Shelby McDonald	Date Created: Thursday May 7, 2015 3:05 PM
left message for atty advising I wanted to speak with him regarding settlement of the claim.	

DIARY REVIEW - f/u with atty 61 of 77	
Task for: Shelby McDonald	Date Created: Wednesday October 1, 2014
Requested By: WILSONT	
Date Due: Thursday May 7, 2015	Completed: Thursday May 7, 2015 3:23 PM

GENERAL NOTE - Certified Mail 62 of 77	
Task for: Amber White	Date Created: Monday June 1, 2015 8:59 AM
From: Law Office of Clifford Bush Cert# 7013-2250-0002-2475-7636 Fwd to: SHM/Team lead	

GENERAL NOTE - Lit Review 63 of 77	
Task for: Anthony Krumpach	Date Created: Monday June 1, 2015 9:11 AM
Rush assigned to DC Andy Delaney.	
He says PC is a Magistrate in the area so may get 'home cooking'.	
They will file a Motion to Set-aside.	

ATTACHMENT

H

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT
IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2015 CP-07-00218

SHARON DENISE ANDERSON

LINDA JENKINS HOLMES

2015 SEP 17 PM 4:00

PLAINTIFF(S)

JERRI ANN ROSEHEAD
BEAUFORT COUNTY, S.C.
CLERK OF COURT

DEFENDANT(S)

Submitted by: BEAUFORT COUNTY MASTER IN EQUITY

Attorney for : ☐ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

THIS CAME BEFORE ME ON DEFENDANT'S MOTION TO SET ASIDE DEFAULT JUDGMENT, FILED 6/4/2015. AFTER HEARING FROM PARTIES I HEREBY DENY THE MOTION.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

Additional Information for the Clerk :

INFORMATION FOR THE PUBLIC INDEX		
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.		
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$
If applicable, describe the property, including tax map information and address, referenced in the order:		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest

or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge

3069

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

CLIFFORD BUSH III

BRETT H. BAYNE

JOHN A. DELANEY

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter: N/A

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

NOV 09 2015

The Honorable Marvin H. Dukes, III, Circuit Court Judge

SC Court of Appeals

Case No. 2015-CP-07-002074

Sharon Denise Anderson, ... Respondent,

v.

Linda Jenkins Holmes, ... Appellant.

PROOF OF SERVICE

I certify that I have served Appellant's **Memorandum on Appealability** on the attorneys of record for Respondent Sharon Denise Anderson by depositing a copy of it in the United States Mail, postage prepaid, on the 5th day of November, 2015, addressed as follows:

Jasmine D. Wyman, Esq.
Clifford Bush III, Esq.
Law Office of Clifford Bush III, LLC
PO Box 6194
Beaufort, SC 29903



Jami L. Richards
Paralegal to Helen F. Hiser
McANGUS GOUDELOCK & COURIE LLC
735 Johnnie Dodds Blvd., Suite 200
P.O. Box 650007
Mount Pleasant, South Carolina 29465
(843) 576-2900
Attorneys for Appellant

**Reply To**

HELEN F. HISER
Direct Dial: (843) 576-2930
helen.hiser@mgclaw.com

November 5, 2015

Via U.S. Mail

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
P.O. Box 11629
Columbia, South Carolina 29211

RECEIVED

NOV 09 2015

SC Court of Appeals

RE: Sharon Denise Anderson vs. Linda Jenkins Holmes
Civil Action No.: 2015-CP-07-00218 (Beaufort)
Date of Incident: October 7, 2013
Carrier Claim No.: 2013-95451
MGC File No.: 20777.15018
Appeal No.: 2015-CP-002074

Dear Ms. Kitchings:

Pursuant to the Court's letter dated October 27, 2015, enclosed for filing please find the original and seven (7) copies of the Appellant's Memorandum on Appealability, and the original and one copy of the Proof of Service in the above-referenced matter. Please file the original documents and return the clocked-in copies in the enclosed, self-addressed stamped envelope. Thanking you in advance for your assistance, I am

Yours truly,

Megan M. McNeely

cc: Jasmine Wyman, Esq., Law Office of Clifford Bush III, LLC
Clifford Bush III, Esq., Law Office of Clifford Bush III, LLC

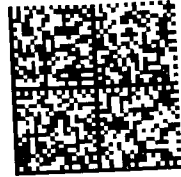
mgc

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MOUNT PLEASANT, SC 29465

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NOV 09 2015

SC Court of Appeals

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	PRIORITY MAIL 2-DAY™ Delivery Date: 11/07/2015		
Jami Richards McAngus Goudelock & Courie 735 Johnnie Dodds Blvd Mt. Pleasant SC 29464			
			0024
The Honorable Jenny Abbott Kitchings South Carolina Court of Appeals 1220 Senate St Columbia SC 29201-3769			C076
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