

22196

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

Appellate Case No. 2014-001816

RECEIVED
SEP 25 2015
SC Court of Appeals

Clarence Winfrey, Employee, ... Appellant,

v.

Archway Services, Inc., Employer,
and American Fire & Casualty Insurance
Company, Carrier, ... Respondents.

RECORD ON APPEAL
Volume II of II

Preston F. McDaniel, Esquire
MCDANIEL LAW FIRM
1315 Elmwood Avenue
Columbia, South Carolina 29201
(803) 771-7211

Counsel for Appellant

Brett H. Bayne, Esquire
MCANGUS GOUDELOCK & COURIE
Post Office Box 12519
Columbia, South Carolina 29211
(803) 779-2300

Counsel for Respondents

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

Appellate Case No. 2014-001815

RECEIVED

SEP 25 2015

SC Court of Appeals

Clarence Winfrey, Employee, ... Appellant,

v.

Archway Services, Inc., Employer,
and American Fire & Casualty Insurance
Company, Carrier, ... Respondents.

RECORD ON APPEAL
Volume II of II

Preston F. McDaniel, Esquire
MCDANIEL LAW FIRM
1315 Elmwood Avenue
Columbia, South Carolina 29201
(803) 771-7211

Counsel for Appellant

Brett H. Bayne, Esquire
MCANGUS GOUDELOCK & COURIE
Post Office Box 12519
Columbia, South Carolina 29211
(803) 779-2300

Counsel for Respondents

INDEX

Order and Award of Commissioner Barden,
dated February 27, 2014 1

Appellate Panel Decision and Order,
dated July 25, 2014 23

WCC Form 50 Request for Hearing,
dated October 21, 2013 46

WCC Form 51 Request for Hearing,
dated November 19, 2013 51

Hearing Notice, dated December 6, 2013 54

Claimant's Pre-Hearing Brief and APA Submissions,
dated December 23, 2013 55

Defendants' Pre-Hearing Brief and APA Submissions,
dated January 2, 2014 151

Defendants' WCC Form 30 Request for Commission
Review, dated March 6, 2014 178

Defendants'-Appellants' Brief to the Full Commission,
dated April 23, 2014 183

Claimant-Respondent's Brief to the Full Commission,
dated May 8, 2014 224

Claimant's Notice of Cross-Appeal to SC Court of
Appeals Pursuant to SCACR, Rule 203(c),
dated August 22, 2014 264

Transcript of Hearing,
dated November 13, 2013 294

Deposition Transcript of Dr. Jeffrey A. Travis,
dated December 16, 2013 322

Deposition Transcript of Dr. Karen Greenfield,
dated January 9, 2014 356

Transcript of Hearing,
dated January 13, 2014 393

Deposition Transcript of Dr. Lanneau D. Lide,
dated January 23, 2014 454

Transcript of Full Commission Hearing,
dated May 19, 2014 502

Email from Commissioner Barden to Counsel for
Parties, dated February 11, 2014 526

Request for Proposed Decision and Order,
dated June 6, 2014 527

Certificate of Counsel 529

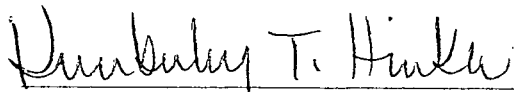
CERTIFICATE OF SERVICE BY MAIL

WCC FILE NO. 1306305

I hereby certify that I have on this day served the following in the matter of Clarence B. Winfrey, Jr. v. Archway Service, Inc. with a copy of the CLAIMANT/RESPONDENT'S BRIEF TO THE FULL COMMISSION by depositing the same in the United States Mail, with adequate postage thereon, addressed as follows:

Virginia Crocker - Judicial Director
SC Workers Compensation Commission
1333 Main Street, Ste. 500
Columbia, South Carolina 29202

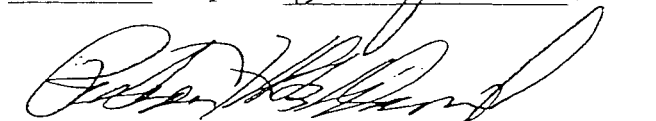
Brett H. Bayne, Esquire
McAngus Goudelock & Courie, LLC
P.O. Box 12519
Columbia, SC 29211



Kimberley T. Hinkle
Paralegal to Preston F. McDaniel

SWORN TO BEFORE ME this

8th day of May, 2014.

 (L.S.)

Notary Public for South Carolina

My Commission Expires: 10/28/18

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SOUTH CAROLINA
Workers' Compensation Commission
Appellate Panel

Trial Court Case No. 1306305

Clarence Winfrey, ... Appellant,

v.

Archway Services, Inc., Employer,
and American Fire & Casualty Insurance
Company, Carrier, ... Defendants/Respondents.

NOTICE OF APPEAL

RECEIVED

AUG 25 2014

SC Court of Appeals

Appellant Clarence Winfrey appeals the Decision of the Appellate Panel of the South Carolina Workers' Compensation Commission filed July 25, 2014. Appellant received notice of entry of the Appellate Panel Order (the final Agency Decision which is attached) according to an unsigned "Affidavit of Service" by email on July 25, 2014.

Pursuant to SC Code §42-17-60, the grounds of the appeal and/or the errors of law presented to the Court are set out hereinafter:

1. That the Full Commission erred as a matter of law by permanently denying the Claimant benefits for the head and brain where the issues before the Hearing Commissioner were whether the

Claimant had sustained compensable injury by accident and whether he was entitled to reinstatement of weekly compensation benefits and to medical benefits for all causally related injuries and conditions stemming from the accident.

2. That where there was no request for an Award for permanent loss of earning capacity, SC Code §42-9-10 and 20, and/or permanent loss of or loss of use of the head or brain under SC Code §42-9-30 and no request for medical care for the head or brain under SC Code §42-15-60, the Full Commission erred as a matter of law by denying the Claimant permanently the right to request any medical benefits or compensation benefits.

3. That the Full Commission erred as a matter of law by permanently denying the Claimant medical and/or compensation benefits for injury to the brain and/or head wherein the Hearing Commissioner in accordance with law found that the Claimant at the time of hearing was not at maximum medical improvement, was seeking benefits for injury to the heart due to the electrocution injury and at the time of hearing there was no evidence of injury to the head or brain, and wherein she found that "if any problems are opined to have stemmed from the electrical shock injury which is outside of the area of expertise of Dr. Lide and Dr. Travis, those doctors may request referral for him for evaluation and treatment but the Defendants retain the right to contest whether those are related to the accident and to select the physician for treatment for any causally related problems."

4. That the Full Commission erred as a matter of law by

allowing Counsel for the Defendants to draft a proposed Order and by not fulfilling its statutory duty under the Administrative Procedures Act and the Workers' Compensation Act by failing to make its own detailed Findings of Fact and Conclusions of Law.

5. That where the Full Commission's decision was to "affirm in part and reverse in part the Decision and Order of the Single Commissioner" and its only instruction as to the reversal was:

"The Panel denies the brain injury based in insufficient evidence."

The Commission erred as a matter of law by issuing an Order written by Defense Counsel that deleted and/or substantially modified unrelated but substantial findings of fact and conclusions of law made by the Hearing Commissioner specifically including but not limited to deleted Findings such as Hearing Commissioner Finding #16:

"For purposes of the hearing before the undersigned, Claimant is very credible! I base this finding on my observations of Claimant's demeanor and on the delivery of his testimony."

and substantially modified Finding such as Hearing Commissioner Finding #15 (see Full Commission #29):

"(Deleted) While the head and brain are listed as bodily parts under #3 in the Pre-hearing Brief that this is a systemic electrical shock and requests treatment for, "all organs, members and bodily parts determined to be related.") I note from the testimony and records of Dr. Greenfield that the Claimant had tenderness in the left arm and shoulder and was diagnosed with muscle shock. In her deposition she stated that this tenderness found on examination is more indicative of actual injury to those areas than just the pain that is

caused by a heart attack. Dr. Lide in his treatment notes and specifically on September 17, 2013, recorded that, 'we tried this patient on Neurontin last month when he appears to have peripheral neuropathy secondary to electrocution at work. Dr. Lide also recorded on the August 13th visit that he was having numbness in his great toe and suggested this neurological symptom was due to the electrical shock he experienced rather than the myocardial infarction. Thus, if any problems are opined to have stemmed from the electrical shock injury which is outside of the area and expertise of Dr. Lide and Dr. Travis, those doctors may request referral for him to other physicians for evaluation and treatment but the Defendants retain the right to contest whether those are related to the accident and to select the physicians for treatment for any causally related problems."

and substantially modified Hearing Commissioner Finding of Fact #19:

"Claimant to receive temporary total disability benefits from September 15, 2013 through the present and continuing...."

Full Commission Finding of Fact #32 modified to:

"Due to the compensable injury to his heart,
Claimant shall receive temporary"

and added Findings outside of the request for proposed Order Full Commission such as Finding of Fact #27:

"We decline to leave the claim open for possibly unlimited future hearings to determine compensability of presently alleged body parts as it would be grossly prejudicial to Defendants."

6. That the Full Commission erred as a matter of law by issuing an Order far exceeding its only specific holding that, "The Panel denies the brain injury based in insufficient evidence" and by making and including Conclusions of Law #2, #3, #4, #5, #6, #7, #8, #9, #10, #11, #12, #13, and especially where

the Order part of the Decision affirms all Findings of Fact and Conclusions of Law of the Hearing Commissioner except as to the Findings on the, "head and/or brain".

7. That where the Full Commission Panel instructions stated that "the Panel denies the brain injury", the Commission erred as a matter of law and in violation of due process rights of the Appellant to notice and an opportunity to be heard by signing an Order denying the, "Claimant's head and/or brain injury."

8. That the Full Commission erred as a matter of law by not applying the basic fundamental principles of the Act and by applying established law that provides that a claimant may withdraw a request at any time prior to or at hearing.

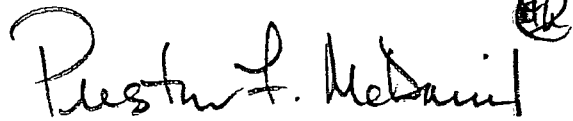
9. That the Full Commission, in what was termed as a decision reversing the Hearing Commissioner's decision on brain injury, erred as a matter of law by making Findings of Fact #14, #15, #16, #17, #18, #19, #20, #21, #22, #23, #24, #25, #26, #27, and #28.

10. That based on the Statement of the Case as set out in the Full Commission Order, the Commission Decision denying the Claimant the right to ever seek any benefits for brain injury should be reversed for numerous reasons as a matter of law specifically including but not limited to, the Panel considered information outside of the evidence in the Record; considered information not relevant or material that was prejudicial to the Claimant; misstatements of the Record; statements about off the

Record conferences; reference to post-hearing matters not part of the Record before the Full Commission for review and thus outside of the Record.

11. That where the Full Commission's only specific Finding it made following the Appeal Hearing was, "The Panel denies ~~the~~ brain injury based in insufficient evidence", the Full Commission erred as a matter of law by issuing an Order, ordering that a request for benefits for the brain and/or head were forever barred.

Respectfully submitted,

A handwritten signature in black ink, reading "Preston F. McDaniel". To the right of the signature is a circular stamp containing the letters "HR".

Preston F. McDaniel, Esquire
MCDANIEL LAW FIRM
1315 Elmwood Avenue
Columbia, South Carolina 29201
(803) 771-7211
Attorney for Appellant

August 22, 2014

Other Counsel of Record:

Brett H. Bayne, Esquire
McAngus Goudelock & Courie, LLC
Post Office Box 12519
Columbia, South Carolina 29211
803-779-2300
Attorney for Respondents

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION.

Trial Court Case No. 1306305

Clarence Winfrey, ... Appellant,

v.

Archway Services, Inc., Employer,
and American Fire & Casualty Insurance
Company, Carrier, ... Respondents.

PROOF OF SERVICE

I certify that I have served the NOTICE OF APPEAL by depositing a copy of it in the United States Mail, postage prepaid, on August 22, 2014 addressed to: Ms. Amy Bracy, South Carolina Workers' Compensation Commission, Post Office Box 1715, Columbia, South Carolina 29202 AND also serving a copy upon Brett H. Bayne, Esquire, McAngus, Goudelock & Courie, Post Office Box 12519, Columbia, SC 29211.

Dated: August 22, 2014

Preston F. McDaniel 

Preston F. McDaniel
MCDANIEL LAW FIRM
1315 Elmwood Avenue
Columbia, South Carolina 29201
(803) 771-7211

Attorney for Appellant

RECEIVED

AUG 25 2014

SC Court of Appeals

APPELLATE PANEL DECISION AND ORDER
OF THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
W.C.C. FILE NO: 1306305

Clarence Winfrey

EMPLOYEE,
CLAIMANT/RESPONDENT

VS.

Archway Services Inc

EMPLOYER,

AND

American Fire & Casualty Insurance Company
c/o Liberty Mutual Group

CARRIER,
DEFENDANTS/APPELLANTS,

Appellate Panel Review held in Columbia, South
Carolina, on May 19, 2014 per notices timely
And properly served upon all parties of interest.

Appellate Panel Decision and Order Filed:

JULY 25, 2014

APPEARANCES: Claimant/Appellant represented by Preston F. McDaniel, Esquire
Defendants/Respondents represented by Brett H. Bayne

STATEMENT OF THE CASE

This claim arises out of an alleged work-related accident on May 22, 2013. On that ~~date~~, Claimant contends he was momentarily shocked by a rotisserie oven he was working ~~on~~. Following the accident, Claimant continued to work for the remainder of the day and ~~the~~ following day. On May 28, 2013—six days after the accident—Claimant presented to Doctor's Care and Lexington Medical Center with severe three vessel coronary disease as well as an ~~acute~~ myocardial infarction which caused an acute ventricular septal defect. At Doctor's ~~Care~~, Claimant reported he was having no chest pressure and had started sweating that morning (May 28th). At Lexington Medical Center, Claimant indicated he was not having chest pain but ~~had~~ been sweating. Following the diagnosis, Claimant underwent surgery to repair the ventricular septal defect caused by the acute myocardial infarction. The medical records in the case ~~revealed~~ that Claimant has a distinct family history of coronary disease with his father passing away at a similar age from coronary disease and a myocardial infarction. Further, the medical records indicated that Claimant was a 35 year pack-a-day smoker and drank a case of beer per week. Based on all of the medical records available to Carrier, this claim was ultimately denied by verbal communication to Claimant on September 13, 2013.

Immediately following the denial of benefits, Claimant filed a Form 15, Section III requesting a hearing as well as a Summons and Complaint in Richland County Circuit Court alleging a bad faith denial of benefits, alleging that S.C. Code Ann. § 42-9-260 is unconstitutional, seeking a temporary restraining order to stop Defendants from denying the claim, and seeking an Order from Judge Lee finding the claim compensable and awarding benefits. Judge Lee issued and then rescinded the temporary restraining order sought by Claimant. A hearing on the merits of Claimant's Complaint has not been set by the Court. After

the temporary restraining order was rescinded, the Commission set Claimant's Form 15, Section III for a hearing before Commissioner Beck. In addition, Defendants filed several motions with the Commission including a Motion to Quash the deposition of the adjuster, a Motion to Quash discovery of the adjuster's claim file, and a Motion to Postpone the Hearing.

A hearing on all of the motions and on Claimant's Form 15, Section III was set on September 30, 2013 for November 11, 2013. Prior to the hearing, Commissioner Beck conducted a standard pre-hearing conference as well as a Motions Hearing wherein Commissioner Beck ruled on all outstanding issues raised by the motions including Defendants' Motion to Postpone. Each of these motions affected the ability to conduct the Form 15 hearing and were necessary to have prior to the hearing. Commissioner Beck gave Claimant the opportunity to postpone the Form 15 hearing in order to spend time preparing for each of the motions that were timely served. Claimant turned down that opportunity. At the hearing, all parties agreed that the only issue for Commissioner Beck was to determine whether or not Defendants had conducted a good faith investigation. In order to make that determination, Commissioner Beck limited the review of evidence to only those documents produced prior to the date of denial – September 13, 2013. Following the hearing, Commissioner Beck issued a Decision and Order on December 5, 2013 finding that Defendants had conducted a good faith investigation. Thereafter, Claimant timely filed a Form 30. The Full Commission has issued a preliminary Decision and Order in that portion of the case and a final Order is forthcoming.

On October 22, 2013, after the Form 15 hearing was set by the Commission, Claimant filed a Form 50 requesting a hearing on compensability for alleged injuries to his head, brain, left hand, left arm, chest, heart, and all other organs, members, and bodily parts. A hearing notice for the Form 50 hearing was sent by the Commission on December 6, 2013 with explicit instructions

that the hearing would be to determine compensability of Claimant's alleged injuries to his head, brain, left hand, left arm, chest, heart, and all other organs, members, and bodily parts. The Form 50 hearing was held before the Single Commissioner on January 13, 2014. Following the hearing, the Single Commissioner issued a Decision and Order on February 27, 2014. Defendants timely filed a Form 30 based on legal errors contained in the Single Commissioner's Decision and Order. The Full Commission conducted a review hearing on Defendants' Form 30 on May 19, 2014 and now issues this Decision and Order. Based on a review of the evidence submitted to the Commission and oral arguments before the Full Commission, the Single Commissioner's Decision and Order on compensability is hereby AFFIRMED IN PART and REVERSED IN PART as set forth below.

SINGLE COMMISSIONER FINDINGS OF FACT

1. Claimant injured his neck and left shoulder in an admitted accident on May 22, 2013. Claimant alleges that he also injured his heart on the date of accident, which injury (a) aggravated a pre-existing condition, and (b) ultimately resulted in a myocardial infarction and subsequent ventricle septal defect.
2. Claimant is 51 years of age (testimony of Claimant).
3. Claimant finished the 12th grade, but did not receive a diploma (Claimant's Deposition, pages 6-7).
4. Claimant's prior employment includes work (a) at USC installing Wi-Fi, (b) as electrical maintenance man at F.B. Johnson, (c) as an electrician for a company that "roughs in" wiring for new houses; and (d) as a roofer (Claimant's Deposition, pages 9-11 and 13; testimony of Claimant).

5. On the date of the accident, Claimant's job with Employer was equipment maintenance worker for deli and bakery departments at Publix and Wal-Mart stores (testimony of Claimant; Defendants' APA #9, page 94; Claimant's Deposition, page 11).
6. In the mechanics of the accident, Claimant was shocked with 240-480 volts of electricity, Claimant believed the actual voltage was 480 volts. Defendants' witness admitted at the hearing that he was unsure of the voltage amount involved, and Defendants did not present any evidence to rebut Claimant's estimation even though Employer had access to the rotisserie in question. The fact that Defendants did not present any specific evidence leads me to rely on Claimant's estimation. (Defendants' APA #7, page 90; testimony of Warren; Claimant's APA #5, page 78).
7. Temporal medical evidence from May 28, 2013, supports Claimant's testimony that Claimant experienced pain (the worst of which was in his neck, but was also in the front of his shoulder and his left arm as well) from the moment of the accident which got progressively worse. Dr. Greenfield testified that Claimant (a) rubbed his arm during the examination, and (b) reported that his arm hurt. Claimant began sweating the same night of the Thursday accident and also the next morning. (Defendants' APA #7, page 90; Defendants' APA #8, page 91; Claimant's APA #2, page 56; Claimant's APA #3, page 66; Deposition of Dr. Feldman, page 35, Claimant's Deposition, pages 13-16, 18, 20-21, and 32; Deposition of Dr. Greenfield, including but not limited to pages 5, 8, 16, and 21).
8. Dr. Travis stated that neck pain is a common presentation for a heart attack (Deposition of Dr. Travis, page 21).
9. Three physicians have all opined to a reasonable degree of medical certainty that the electric shock ultimately resulted in Claimant's heart attack, regardless of the date on

which the infarction occurred. The deposition testimony of Dr. Travis (the treating cardiovascular surgeon) is very compelling, as he—unlike any of the other physicians involved in this case—actually examined Claimant's heart in the operating room. Dr. Lide (the treating cardiologist) also links the electrical shock to Claimant's post-accident heart condition; in fact, Dr. Lide testified twice that he does not "see any way" that Claimant's infarction and VSD are not related to the injury. The third physician is a general physician board certified in family medicine (Claimant's APA #1, page 1; Claimant APA #2, pages 23-24; Claimant's APA #3, page 65; Deposition of Dr. Greenfield, pages 30-31; Deposition of Dr. Travis, including but not limited to pages 8, 13-17, and 23-32; Deposition of Dr. Lide in its entirety, including but not limited to pages 14, 23-24, 28, and 39).

10. Even if I discount or disregard the opinion of the general physician (board certified in family medicine), I give great weight to the opinions of Drs. Travis and Lide, who both opine that the heart condition is causally related. I fully considered the opinion of Dr. Feldman (the only physician who stated that there is no nexus between the electrical shock and the heart condition), but his opinion is outweighed by the opinions of the three other doctors, all three of whom treated Claimant rather than simply reviewing his medical records. I note that Dr. Feldman (a) did not examine Claimant or even speak with Claimant; (b) did not see Claimant's heart, as opposed to Dr. Travis who held it in his hand; (c) initially states in his written opinion that it is "possible" that there was no connection between the plaque rupture and the electrical shock, and then in the very next sentence states that it is of the "highest certainty;"; (d) Dr. Feldman is a cardiologist and not a cardiovascular surgeon; nor has he undergone a surgical residency; and (e) Dr.

Feldman was specifically asked to opine in writing as to whether there was a connection between an electrical shock and a VSD, although he does address other pertinent issues for Defendants in his deposition (Defendants' APA #10, page 97; Deposition of Dr. Feldman in its entirety, including but not limited to pages: 5-6, 10-11, and 17—lines 15 through 25; page 18—lines 1-4; pages 22-23, 31, 42-43, and 45-47; Deposition of Dr. Greenfield, page 4).

11. The statement by Ruppe is dispositive only of the fact that Claimant has a good work ethic. (Defendants' APA, Exhibit 1).
12. Claimant has not reached maximum medical improvement.
13. Drs. Travis and Lide are hereby named the treating physicians. Although Defendants have denied compensability of Claimant's heart condition, Defendants do not object to Drs. Travis and Lide serving as treating physicians.
14. The Claimant is specifically requesting a finding of compensability for the heart and no medical evidence was presented that Claimant sustained or even may have sustained a head or brain injury. I therefore find that at this point he has not met his burden of proof with regard to any injury to head/brain, and any benefits for the head/brain are denied at this juncture.
15. While the head and brain are listed as bodily parts involved under #3 in the Pre-Hearing Brief, the Claimant also notes in his Pre-Hearing Brief that this is a systemic electrical shock and requests treatment for, "all organs, members and bodily parts determined to be related." I note from the testimony and records of Dr. Greenfield that the Claimant had tenderness in the left arm and shoulder and was diagnosed with muscle shock. In her deposition she stated that this tenderness found on examination is more indicative of

actual injury to those areas than just the pain that is caused by a heart attack. Dr. Lide in his treatment notes and specifically on September 17, 2013, recorded that, "we tried this patient on Neurontin last month when he appears to have peripheral neuropathy secondary to electrocution at work. Dr. Lide also recorded on the August 13th visit that he was having numbness in his great toe and suggested this neurological symptom was due to the electrical shock he experienced rather than the myocardial infarction. Thus, if any problems are opined to have stemmed from the electrical shock injury which is outside of the area and expertise of Dr. Lide and Dr. Travis, those doctors may request referral for him to other physicians for evaluation and treatment but the Defendants retain the right to contest whether those are related to the accident and to select the physicians for treatment for any causally related problems.

16. For purposes of the hearing before the undersigned, Claimant is very credible. I base this finding on my observations of Claimant's demeanor and on the delivery of his testimony.

17. In reaching my conclusions, I fully considered the facts that Claimant (a) is a smoker, (b) has hypertension, (c) has a family history of "premature coronary artery disease, and (d) had pre-existing severe 3-vessel disease on the date of the accident. However, those four facts were also specifically considered by the 3 physicians who provided opinions to a reasonable degree of medical certainty. Further, Claimant does not allege that his pre-existing disease was caused by the accident; he only alleges an aggravation resulting in an injury to his heart (Defendants' APA #8, pages 91-92; Defendants' APA #9, page 94; Claimant's APA #2, pages 26 and 28, Deposition of Dr. Feldman, page 37; Claimant's Deposition, pages 26 and 29).

18. Although certainly not dispositive on the issue of compensability, I do not that Claimant had no coronary symptoms prior to the date of the electrical shock (Claimant's Deposition, page 27; Deposition of Dr. Lide, page 7, lines 21-22).
19. Claimant to receive temporary total disability benefits from September 15, 2013, through the present and continuing until further Order of the Commission or by agreement of the parties.
20. Claimant to receive ongoing treatment until he reaches maximum medical improvement
21. Permanency is premature.
22. The issue of average weekly wage/compensation rate is held in abeyance.

SINGLE COMMISSIONER CONCLUSIONS OF LAW

In accordance with SC Code §42-17-40, the following conclusions of law apply in this case:

1. Under SC Code §42-1-160, the decision is made as an injury by accident arising out of and in the course of the employment. The medical problems which the Claimant has and which have resulted in his disability stem from the physical injury, the electrical shock that he sustained on May 22, 2013. Any medical condition and/or disability that either results directly from the physical injury or which is a pre-existing condition that is aggravated, accelerated or caused to become symptomatic by the physical injury is compensable as injury by accident under SC Law. See for example, Buff v. Columbia Baking Co., 215 S.C. 41, 53 S.E.2d 879 (1949); Walker v. City of Columbia, 247 S.C. 241, 146 S.E.2d 856 (1966); (as to the pre-existing conditions being compensable), Mullinax v. Winn Dixie Stores, Inc., 318 S.C. 431, 458 S.E.2d 76 (SC App. 1995).

2. Under SC Code §42-9-10 and SC Code §41-2-120, the determination is made as to the entitlement to disability compensation.
3. Under SC Code §42-15-60 the determination is made as to the provision of medical care.
4. Under the stipulation of the parties, venue is proper and the applicable average weekly wage and compensation rate that applies for the purpose of this hearing is determined. As to jurisdiction, SC Code §42-3-180 provides that this Commission has jurisdiction to decide all questions arising under the Title and states in pertinent part, "all questions arising under this Title...shall be determined by the Commission except as otherwise provided in this Title." The Defendants main argument in taking the position that this Commission does not have jurisdiction is based upon the doctrine of Law of the Case and is based upon certain Findings made by Commissioner Beck in his Order. However, after review of the position of the parties, arguments of the parties, and after review of Commissioner Beck's Order and the general jurisdiction of this Commission to decide issues arising under the Title and the Form 50 and 51 filed in this matter, this Commissioner is found, as a matter of law, to have jurisdiction over these proceedings. The Form 51 filed in this matter specifically admits that both employee and the employer were subject to the Workers' Compensation Act at the time in question. Further, Commissioner Beck's Order which serves as the basis for the Defendants' argument states and holds:

"IT IS FURTHERMORE ORDERED that all other issues in contention, specifically including the question of whether the Claimant sustained an injury by accident arising out of and in the course of his employment with Defendants resulting on compensable disability is preserved for adjudication at the hearing set pursuant to Claimant's October 21, 2013 Form 50 Employee's Request for Hearing."

5. Under the issues before the Commission for decision, all other issues are held in abeyance for further decision by the Commission.

LEGAL ISSUES RAISED BY DEFENDANT-APPELLANTS

- I. Did the Single Commissioner err in holding the hearing over Defendants' objections because, by conducting the hearing and ruling on material compensability issues, the Single Commissioner operated in an appellate capacity without proper jurisdiction?
- II. Did the Single Commissioner err in holding the hearing over Defendants' objections when specific rulings from a prior Single Commissioner Decision and Order may become the law of the case and, if upheld in that proceeding, would render any decision by the Single Commission to be in error?
- III. Did the Single Commissioner err in failing to find a date on which Claimant suffered a plaque rupture in Claimant's heart?
- IV. Did the Single Commissioner err in failing to find what caused the plaque rupture in Claimant's heart?
- V. Did the Single Commissioner err in failing to find a date on which Claimant suffered a myocardial infarction?
- VI. Did the Single Commissioner err in relying on Dr. Travis' written medical opinion when the evidence presented at the hearing and deposition testimony directly contradicts his written medical opinion?
- VII. Did the Single Commissioner err in relying on Dr. Lide's written medical opinion when the evidence presented at the hearing and deposition testimony directly contradicts his written medical opinion?

- VIII. Did the Single Commissioner err in relying on Dr. Greenfield's written medical opinion when the evidence presented at the hearing and deposition testimony directly contradicts her written medical opinion?
- IX. Did the Single Commissioner err in failing to deny compensability for a brain injury because Claimant presented no evidence of any brain injury even though Claimant specifically included a brain injury on his Form 50 and Form 58 as an issue to be determined at the hearing before the Single Commissioner?
- X. Did the Single Commissioner err in failing to deny compensability for a head injury because Claimant presented no evidence of any head injury even though Claimant specifically included a head injury on his Form 50 and Form 58 as an issue to be determined at the hearing before the Single Commissioner?
- XI. Did the Single Commissioner err in failing to deny compensability for a left hand injury because Claimant presented no evidence of any left hand injury even though Claimant specifically included a left hand injury on his Form 50 and Form 58 as an issue to be determined at the hearing before the Single Commissioner?
- XII. Did the Single Commissioner err in failing to deny compensability for a left arm injury because Claimant presented no evidence of any left arm injury even though Claimant specifically included a left arm injury on his Form 50 and Form 58 as an issue to be determined at the hearing before the Single Commissioner?
- XIII. Did the Single Commissioner err in failing to deny compensability for all other organs, members, and bodily parts because Claimant presented no evidence of any injury to any organs, members, or bodily parts even though Claimant specifically included other

organs, members, and bodily parts on his Form 50 and Form 58 as an issue to be determined at the hearing before the Single Commissioner?

- XIV. Did the Single Commissioner err in Finding of Fact #1 in that the Finding is limited ~~only~~ to Claimant alleging an injury to his heart when the record is clear that Claimant alleged injuries to his head, brain, left hand, left arm, and all other organs, members, and bodily parts?
- XV. Did the Single Commissioner err in Finding of Fact #6 by finding that Claimant believed the actual voltage to be 480 volts when Claimant's own testimony refutes that finding?
- XVI. Did the Single Commissioner err in Finding of Fact #6 that Defendants had access to the rotisserie oven when the record is clear that the oven belonged to a third party and Defendants did not own or control the oven?
- XVII. Did the Single Commissioner err in Finding of Fact #7 by finding that Claimant began sweating the night of the electrical shock when Claimant's own testimony refutes that finding?
- XVIII. Did the Single Commissioner err in Finding of Fact #9 that three physicians have opined the electrical shock resulted in Claimant's heart attack regardless of the date on which the heart attack occurred?
- XIX. Did the Single Commissioner err in Finding of Fact #14 that Claimant specifically requested a finding of compensability for the heart when there is no evidence in the record the hearing was limited in scope to the heart, when Claimant's own Form 50 and Form 58 demanded a hearing on compensability of the left hand, arm, shoulder, neck, head, brain, chest, and all organs, members, and bodily parts determined to be related and when the Notice of Hearing from the Commission included a determination of

compensability for the left hand, arm, shoulder, neck, head, brain, chest and all organs, members, and bodily parts determined to be related?

XX. Did the Single Commissioner err by not making any findings of fact or conclusions of law related to an aggravation of a pre-existing heart condition as alleged by Claimant?

EVIDENCE OF THE CASE

Claimant filed a Form 50 on October 21, 2013 alleging injuries to his "heart, left hand/arm/shoulder, neck, head (brain), chest." Thereafter, Defendants filed a Form 51 on or about November 19, 2013 denying every alleged injury and stated that "Claimant has failed to meet his burden of proving that he sustained a compensable injury or illness pursuant to the Act." This matter was set for a hearing on January 13, 2013 by a Notice of Hearing issued on December 6, 2013. That Notice of Hearing specifically stated that the purpose of the hearing was to "determine issues as set forth on Forms 50 and 51." Claimant's Pre-Hearing Brief filed on December 23, 2013 clearly states that the types of injury and body parts to be determined at the January 13, 2013 hearing are "heart, left hand/arm/shoulder, neck, head (brain), chest."

At the hearing, the issues were stated for the record and included an allegation of a head and possible brain injury. The Defendants position was that there was not any credible medical evidence establishing a relationship between the neck and any heart or brain injury.

Claimant notified Employer he was shocked while working on a rotisserie oven on May 22, 2013. (Def. APA p. 8). Employment records of Claimant indicate that he continued working the remainder of the day and the entire following day. (Def. APA p. 10-11). An email from Claimant to Employer indicates that he was experiencing neck pain on May 27, 2013 (5 days post-accident). (Def. APA p. 9). Claimant first presented to Doctor's Care on May 28, 2013 (6 days post-accident) complaining that he woke up sweating that morning (Def. APA p. 1).

Claimant was treated by Dr. Greenfield at Doctors' Care. Dr. Greenfield noted that Claimant had some tenderness in his shoulder and neck area. Id.

Claimant was then referred to and saw Dr. Dasgupta at the South Carolina Heart Center on May 28. Dr. Dasgupta also noted sweating and noted that Claimant denied chest pain but did have minimal left shoulder pain. (Def. APA p. 2). Dr. Dasgupta diagnosed Claimant with an acute myocardial infarction. Id. Dr. Dasgupta also noted that Claimant appeared to have a ventricular septal defect as a possible completion of his acute myocardial infarction. (Def. APA p. 2). Dr. Dasgupta referred Claimant to Lexington Medical Center where Dr. Travis performed surgery to repair an acute ventricular septal defect that formed following the myocardial infarction. (Def. APA p. 5-7).

All of the submissions to the Single Commissioner were reviewed, including the testimony presented at the hearing; medical opinions and records; and depositions of the Claimant, Dr. Lanneau Lide, Dr. Karen Greenfield, Dr. Barry Feldman and Dr. Jeffrey Travis.

FULL COMMISSION FINDINGS OF FACT

1. Claimant injured his neck and left shoulder in an admitted accident on May 22, 2013. Claimant alleges that he also injured his heart on the date of accident, which injury (a) aggravated a pre-existing condition, and (b) ultimately resulted in a myocardial infarction and subsequent ventricle septal defect.
2. Claimant is 51 years of age (testimony of Claimant).
3. Claimant finished the 12th grade, but did not receive a diploma (Claimant's Deposition, pages 6-7).
4. Claimant's prior employment includes work (a) at USC installing Wi-Fi, (b) as electrical maintenance man at F.B. Johnson, (c) as an electrician for a company that "roughs in"

wiring for new houses; and (d) as a roofer (Claimant's Deposition, pages 9-11 and 13; testimony of Claimant).

5. On the date of the accident, Claimant's job with Employer was equipment maintenance worker for deli and bakery departments at Publix and Wal-Mart stores (testimony of Claimant; Defendants' APA #9, page 94; Claimant's Deposition, page 11).
6. In the mechanics of the accident, Claimant was shocked with 240-480 volts of electricity; Claimant believed the actual voltage was 480 volts. Defendants' witness admitted at the hearing that he was unsure of the voltage amount involved, and Defendants did not present any evidence to rebut Claimant's estimation even though Employer had access to the rotisserie in question. The fact that Defendants did not present any specific evidence leads us to rely on Claimant's estimation. (Defendants' APA #7, page 90; testimony of Warren; Claimant's APA #5, page 78).
7. Temporal medical evidence from May 28, 2013 supports Claimant's testimony that Claimant experienced pain (the worst of which was in his neck, but was also in the front of his shoulder and his left arm as well) from the moment of the accident which got progressively worse. Dr. Greenfield testified that Claimant (a) rubbed his arm during the examination, and (b) reported that his arm hurt. Claimant began sweating the same night of the Thursday accident and also the next morning. (Defendants' APA #7, page 90; Defendants' APA #8, page 91; Claimant's APA #2, page 56; Claimant's APA #3, page 66; Deposition of Dr. Feldman, page 35, Claimant's Deposition, pages 13-16, 18, 20-21, and 32; Deposition of Dr. Greenfield, including but not limited to pages 5, 8, 16, and 21).
8. Dr. Travis stated that neck pain is a common presentation for a heart attack (Deposition of Dr. Travis, page 21).

9. Three physicians have all opined to a reasonable degree of medical certainty that the electrical shock resulted in Claimant's heart attack, regardless of the date on which the infarction occurred. The deposition testimony of Dr. Travis is very compelling, as he actually examined Claimant's heart in the operating room. Dr. Lide also links the electrical shock to Claimant's post-accident heart condition. Dr. Lide testified that he does not "see any way" that Claimant's infarction and VSD are not related to the injury. (Claimant's APA #1, page 1; Claimant APA #2, pages 23-24; Claimant's APA #3, page 65; Deposition of Dr. Greenfield, pages 30-31; Deposition of Dr. Travis, including but not limited to pages 8, 13-17, and 23-32; Deposition of Dr. Lide in its entirety, including but not limited to pages 14, 23-24, 28, and 39).
10. We give great weight to the opinions of Drs. Travis and Lide, who both opine that the heart condition is causally related. We fully considered the opinion of Dr. Feldman (the only physician who stated that there is no nexus between the electrical shock and the heart condition), but his opinion is outweighed by the opinions of the three other doctors, all three of whom treated Claimant rather than simply reviewing his medical records. We note that Dr. Feldman (a) did not examine Claimant or speak with Claimant; (b) did not see Claimant's heart; (c) states in his written opinion that it is "possible" that there was no connection between the plaque rupture and the electrical shock and later states that it is of the "highest certainty;"; (d) is a cardiologist and not a cardiovascular surgeon; and (e) was specifically asked to opine in writing as to whether there was a connection between an electrical shock and a VSD, although he does address other pertinent issues in his deposition (Defendants' APA #10, page 97; Deposition of Dr. Feldman in its entirety,

including but not limited to pages: 5-6, 10-11, and 17—lines 15 through 25; page 18—lines 1-4; pages 22-23, 31, 42-43, and 45-47; Deposition of Dr. Greenfield, page 4).

11. The statement by Ruppe is dispositive only of the fact that Claimant has a good work ethic. (Defendants' APA, Exhibit 1).
12. Claimant has not reached maximum medical improvement.
13. Drs. Travis and Lide are hereby named the treating physicians. Although Defendants have denied compensability of Claimant's heart condition, Defendants do not object to Drs. Travis and Lide serving as treating physicians.
14. Claimant filed a Form 50 on October 21, 2013 alleging injuries to his "heart, left hand/arm/shoulder, neck, head (brain), chest."
15. Defendants filed a Form 51 on or about November 19, 2013 denying every alleged injury and stated that "Claimant has failed to meet his burden of proving that he sustained a compensable injury or illness pursuant to the Act."
16. This matter was set for a hearing before the Single Commissioner on January 13, 2013 by a Notice of Hearing issued on December 6, 2013.
17. That Notice of Hearing specifically stated that the purpose of the hearing was to "determine issues as set forth on Forms 50 and 51."
18. Claimant's Pre-Hearing Brief filed on December 23, 2013 clearly states that the types of injury and body parts to be determined at the January 13, 2013 hearing are "heart, left hand/arm/shoulder, neck, head (brain), chest."
19. There is no question that Claimant alleged a head and/or brain injury on his Form 50.
20. There is no question that the Notice of Hearing indicated that all issues on the Form 50 would be determined at the hearing.

21. There is no question that Claimant had sufficient notice of the hearing and what was contained on his own Form 50.
22. There is no question that Claimant filed a Pre-Hearing brief indicating that he was seeking compensation for a head and/or brain injury.
23. There is no question that Defendants filed a Pre-Hearing Brief denying compensability of this claim.
24. There is no question that Claimant did not withdraw his allegations related to a head and/or brain injury prior to or at the hearing.
25. Claimant did not present any evidence at the hearing to substantiate his alleged head and/or brain injury.
26. Claimant had the absolute burden of proving the right to compensation for each and every injury alleged on the Form 50. If Claimant failed to present evidence, as he did in this claim related to the head and/or brain injury, then his right to compensation for the alleged head and/or brain injury should be denied.
27. We decline to leave the claim open for possibly unlimited future hearings to determine compensability of presently alleged body parts as it would be grossly prejudicial to Defendants.
28. Because Claimant failed to present any evidence of a head and/or brain injury, his claim for a head and/or brain injury is denied.
29. We note from the testimony and records of Dr. Greenfield that the Claimant had tenderness in the left arm and shoulder and was diagnosed with muscle shock. In her deposition she stated that this tenderness found on examination is more indicative of actual injury to those areas than just the pain that is caused by a heart attack. Dr. Lide in

his treatment notes and specifically on September 17, 2013, recorded that, "we tried this patient on Neurontin last month when he appears to have peripheral neuropathy secondary to electrocution at work. Dr. Lide also recorded on the August 13th visit that he was having numbness in his great toe and suggested this neurological symptom was due to the electrical shock he experienced rather than the myocardial infarction. Thus, if any neuropathic problems are opined to have stemmed from the electrical shock injury which is outside of the area and expertise of Dr. Lide and Dr. Travis, those doctors may request referral for him to other physicians for evaluation and treatment but the Defendants retain the right to contest whether those are related to the accident and to select the physicians for treatment for any causally related problems.

30. In reaching our conclusions, we fully considered the facts that Claimant (a) is a smoker, (b) has hypertension, (c) has a family history of "premature coronary artery disease, and (d) had pre-existing severe 3-vessel disease on the date of the accident. However, those four facts were also specifically considered by the 3 physicians who provided opinions to a reasonable degree of medical certainty. Further, Claimant does not allege that his pre-existing disease was caused by the accident; he only alleges an aggravation resulting in an injury to his heart (Defendants' APA #8, pages 91-92; Defendants' APA #9, page 94; Claimant's APA #2, pages 26 and 28, Deposition of Dr. Feldman, page 37; Claimant's Deposition, pages 26 and 29).

31. Although certainly not dispositive on the issue of compensability, we do note that Claimant had no coronary symptoms prior to the date of the electrical shock (Claimant's Deposition, page 27; Deposition of Dr. Lide, page 7, lines 21-22).

32. Due to the compensable injury to his heart, Claimant shall receive temporary total disability benefits from September 15, 2013, through the present and continuing until further Order of the Commission or by agreement of the parties.
33. Claimant shall receive ongoing treatment until he reaches maximum medical improvement.
34. A finding of permanency for Claimant's injuries is premature at this juncture.
35. The issue of average weekly wage/compensation rate is held in abeyance.

FULL COMMISSION CONCLUSIONS OF LAW

In accordance with S.C. Code Ann. § 42-17-50, the following conclusions of law apply in this case:

1. Reg. 67-701 provides the mechanism for the Full Commission review hearing.
2. Pursuant to S.C. Code Ann. § 42-1-160, Claimant sustained a compensable injury to his heart as a result of his May 22, 2013 work accident.
3. Pursuant to S.C. Code Ann. § 42-15-60, Claimant is entitled to medical treatment for his heart condition.
4. Pursuant to S.C. Code Ann. § 42-15-60, Claimant may be entitled to additional medical treatment for other causally related conditions subject to the findings of fact as stated herein.
5. Pursuant to S.C. Code Ann. § 42-15-60, Claimant is not entitled to any medical treatment or evaluation for any alleged head and/or brain injury.
6. Pursuant to S.C. Code Ann. § 42-15-60, Defendants have the right to choose authorized treating physicians for any additional medical care recommended for Claimant.

7. Pursuant to S.C. Code Ann. § 42-15-60, Drs. Travis and Lide will remain the authorized treating physicians for Claimant's heart condition.
8. Pursuant to Reg. 67-607, the Hearing Notice issued by the Commission shall contain the purpose of the hearing. In the present case, the Hearing Notice indicated the purpose of this underlying hearing was to resolve all issues on Claimant's Form 50 and Defendants' Form 51.
9. Pursuant to Reg. 67-610, the Claimant had the right to amend his Form 50 prior to the hearing. Claimant did not amend his Form 50 related to the alleged head and/or brain injury.
10. Pursuant to Reg. 67-611, Claimant was required to file a Form 58 Pre-Hearing Brief and was required to supplement or amend the Form 58 if there was any change. Claimant did not amend his Form 58 related to the alleged head and/or brain injury.
11. Pursuant to Reg. 67-613, the Commission may continue a Hearing if additional discovery is necessary or if it is premature to hear the case. Claimant did not seek a continuance for the purposes of additional discovery or timeliness of the hearing related to the alleged head and/or brain injury.
12. Pursuant to S.C. Code Ann. § 42-9-10 and 42-1-120, Claimant is entitled to temporary total disability benefits at this time.
13. Pursuant to S.C. Code Ann. § 42-3-180, we find the Single Commissioner had jurisdiction over this matter such that a hearing on compensability could be conducted despite the ongoing appeal from a prior order of the Commission.

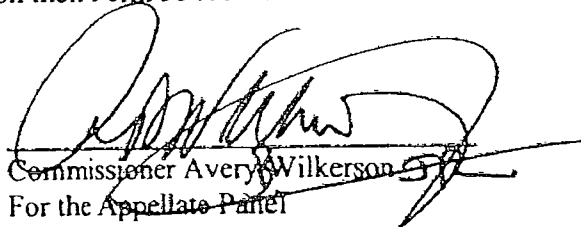
ORDER

IT IS HEREBY ORDERED that the Single Commissioner's findings of facts and conclusions of law related to the alleged head and/or brain injury are REVERSED.

IT IS FURTHER ORDERED that Claimant's alleged head and/or brain injury is hereby DENIED due to insufficient medical evidence presented to the Commission after raising the alleged head and/or brain injury as an issue before the Commission.

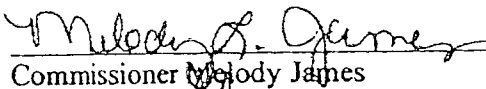
IT IS FURTHER ORDERED that all remaining issues decided by the Single Commissioner and appealed by Defendants on their Form 30 are AFFIRMED.

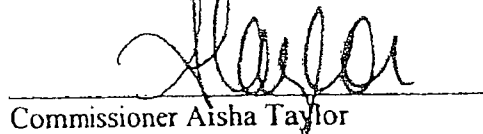
SO ORDERED.


Commissioner Avery Wilkerson
For the Appellate Panel

WE CONCUR:

1st/


Commissioner Melody James


Commissioner Aisha Taylor

CERTIFICATE OF SERVICE

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

By Kim Falls on July 25, 2014

 COPY

SOUTH CAROLINA WORKERS' COMPENSATION HEARING

CLARENCE WINFREY,
Employee

WCC FILE NO.
1306305

-VS-

ARCHWAY SERVICE, INC.,
Employer

and

AMERICAN FIRE AND CASUALTY CO.,
Carrier

Pursuant to Notice of the Workers' Compensation
Hearing taken on the 13th day of November 2013, heard
before the Honorable-T. Scott Beck, and commencing at
the hour of 3:50 p.m. in Columbia, South Carolina.

C. Tatum Court Reporting
P.O. Box 248
Edgefield, SC 29824
706.207.5483
ctatumcr@gmail.com

APPEARANCES

Preston F. McDaniel, Esq.
McDaniel Law Firm
1315 Elmwood Avenue
Columbia, SC 29201
803.771.7211
kim@pfmcdlaw.com
REPRESENTING THE EMPLOYEE

Landon L. Hughey, Esq.
McAngus Goudelock & Courie, LLC
PO Box 12519
Columbia, SC 29211
803.227.2261
rhughey@mgclaw.com
REPRESENTING THE EMPLOYER/CARRIER

Brett Harris Bayne Esq.
SC Circuit Court
1320 Main Street
Meridian, 10th Floor
Columbia, SC 29201
803.227.2281
brett.bayne@mgclaw.com
REPRESENTING THE EMPLOYER/CARRIER

INDEX

DIRECT EXAMINATION BY MR. HUGHEY	9
CROSS-EXAMINATION BY MR. McDANIEL	19
REDIRECT EXAMINATION BY MR. HUGHEY	23
REPORTER CERTIFICATE	28

OBJECTIONS:

BY MR. McDANIEL	5
BY MR. HUGHEY	19

EXHIBITS

<u>NUMBER</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
	(None Offered)	

LEGEND OF THE TRANSCRIPT

dashes [--]	intentional or purposeful interruption
[ph]	denotes phonetically written
[sic]	written as said

This transcript may contain quoted material. Such material is reproduced as read or quoted by the speaker.

P R O C E E D I N G S

1
2 **COMMISSIONER BECK:** Today's date is
3 November 13, 2013. This is Workers' Compensation
4 File Number 1306305. Claimant in this matter is
5 *Clarence Winfrey*, represented today by Attorney
6 *Preston Daniel*. The Employer is *Archway Service,*
7 *Inc.*, the Carrier is *American Fire and Casualty*
8 *Company*, they are represented today by Attorney
9 *Rocky Hughey* and *Brett Bayne*. Date of accident in
10 this matter is May 29, 2013. We are here today as
11 a result of a Form 15 hearing request filed on
12 behalf of the Claimant pursuant to 42-9-260(c).

13 Either of you gentlemen have APAs to submit?

14 **MR. HUGHEY:** Yes, your Honor.

15 **COMMISSIONER BECK:** I will note for the record
16 that there was an objection by the Claimant for me
17 to exclude the APA evidence and/or any witness
18 evidence on behalf of the Defendants as a result of
19 a late filing of their pre-hearing brief and
20 submissions to the Claimant. I'm going to overrule
21 that objection with the caveat that I'm only
22 considering information prior, up to, and including
23 September 13, 2013. That date being the date in
24 which Defendants made a decision to terminate
25 temporary total disability benefits that were

1 previously being paid to Mr. Winfrey.

2 Mr. Hughey, do you have your APAs?

3 MR. HUGHEY: Sure, your Honor. I just wanted
4 to let Preston know what I'm doing, is withdrawing
5 what was marked Exhibit 1, removing it from our APA
6 submissions.

7 Thank you, your Honor.

8 COMMISSIONER BECK: Other than that are there
9 any other objections to APAs, jurisdiction, venue,
10 or any other matter, Mr. Hughey?

11 MR. HUGHEY: None from the Defendants, your
12 Honor.

13 COMMISSIONER BECK: Mr. McDaniel?

14 MR. McDANIEL: Commissioner, I would
15 interpose, just for the record, a further objection
16 to several of the documents. As for those
17 documents under Exhibit 2 there's been -- and
18 Exhibit 3 there has been no foundation laid for the
19 submission of those records under any evidentiary
20 basis, and in addition to those, they're hearsay.
21 But I just want to note that for the record.
22 Really don't have any, you know, problem with them,
23 but, I mean, they are not properly submitted and
24 the proper foundation has not been laid.

25 I don't -- I think as to five, six, and seven,

1 and eight, and nine, those are all court documents,
2 but they're all postdated September 13th and I
3 think you've already stated that in reference to
4 any document that's submitted past that date you
5 would not consider that, so I just note that for
6 the record.

7 COMMISSIONER BECK: And I may also note that,
8 at least as it relates to five, six, seven, those
9 issues were the subjects of some Motions Hearings
10 that we had prior to going on the record today and
11 those matters have been ruled upon and an order is
12 being drafted dealing with each of those respective
13 issues.

14 Other than that, Mr. McDaniel, I'm going to
15 allow them in. Again, with the caveat that I'm
16 only considering information up to and including
17 September 13, 2013.

18 Any other objections?

19 MR. McDANIEL: And the -- Commissioner, just
20 for -- Tab -- what has been given to me as Tab --
21 I'm not sure, I believe that's four?

22 MR. HUGHEY: Yeah, we didn't submit that.

23 MR. McDANIEL: You didn't submit it? Okay.
24 That's fine.

25 COMMISSIONER BECK: Mr. Hughey, any

1 objections?

2 MR. HUGHEY: Not from the Defendants, your
3 Honor.

4 MR. McDANIEL: It's not submitted, so.

5 COMMISSIONER BECK: All right. Without any
6 further objection the Commission File becomes a
7 part of the record with the exception of self-
8 serving declarations or un-stipulated medical
9 reports.

10 Also during the pre-hearing conference the
11 respective position of both the parties was
12 discussed. Parties stipulate that the sole purpose
13 for today's proceeding is to determine whether or
14 not the Defendants properly stopped the Claimant's
15 temporary total disability benefits under Section
16 42-9-260.

17 Mr. Hughey, do you concur with that?

18 MR. HUGHEY: We do, your Honor.

19 COMMISSIONER BECK: Mr. McDaniel?

20 MR. McDANIEL: Yes, your Honor.

21 COMMISSIONER BECK: All right. As a moving
22 party, Mr. Hughey, you may call your first witness
23 and I believe that is Mr. Winfrey.

24 MR. HUGHEY: Thank you, your Honor.

25 ****

1 Whereupon,

2 CLARENCE WINFREY,

3 having been first duly sworn,
4 was examined and testified as follows:

5 *****

6 MR. McDANIEL: Your Honor -- I'm sorry.

7 COMMISSIONER BECK: Please state your full
8 name for the record.

9 THE WITNESS: Clarence B. Winfrey, Junior.

10 COMMISSIONER BECK: Mr. Winfrey, you can put
11 your hand down. I'm going to ask, if you would,
12 during the course of your testimony, sir, try to
13 keep your voice up a little bit. These recording
14 devices have to be able to pick up everything that
15 you're saying and the court reporter actually has
16 to hear the words come out of your mouth, as well,
17 and I'm a little hard of hearing, okay?

18 WITNESS: I understand.

19 COMMISSIONER BECK: Mr. McDaniel, do you have
20 something?

21 MR. McDANIEL: Yeah, I just wanted to note one
22 thing additional for the record. I noted that they
23 did not give me notice of any witnesses as part of
24 their case. They did not list Mr. Winfrey as a
25 part of their case. However, we are allowing him

1 to testify on the limited issues concerning prior
2 to September 13th. However, we did list him as a
3 witness in our case.

4 COMMISSIONER BECK: I understand.

5 Mr. Hughey.

6 MR. HUGHEY: Thank you, your Honor.

7 DIRECT EXAMINATION

8 BY MR. HUGHEY:

9 Q. Mr. Winfrey, can you hear me okay?

10 A. Yeah.

11 Q. Okay. You and I haven't met yet. I'm Rocky
12 Hughey, I represent your employer and their
13 insurance carrier on the workers' compensation
14 claim --

15 A. Nice to met you.

16 Q. I just have a few questions for you, all right?
17 Before we went on the record Mr. McDaniel and the
18 Commissioner let you know you can take a break if
19 you feel uneasy at any point. Just let me know and
20 we'll do that, all right?

21 A. (No Response.)

22 Q. Is that okay?

23 A. Yeah.

24 Q. Okay. Be sure you give verbal responses if you
25 can.

1 A. All right.

2 Q. Mr. Winfrey, I'm going to ask you about some of
3 your medical records. I understand you don't have
4 all of it in front of you. But what I'm going to
5 do is direct the Court to APA four. This is
6 Claimant's APA four.

7 COMMISSIONER BECK: Page four?

8 MR. HUGHEY: APA four, page ten, of the
9 Claimant's APAs.

10 Q. Mr. Winfrey, at some point after your incident at
11 work you went to Doctors Care, is that correct?

12 A. Yes.

13 Q. I'm looking at a report dated May 28, 2013, does
14 that sound like your first visit to Doctors Care?

15 A. I believe so.

16 Q. Okay. And I have a date of injury, or a date of an
17 incident, of May_22, 2013, does that sound about
18 right to-you?

19 A. It was the Thursday before.

20 Q. Your accident was the Thursday before this medical
21 visit?

22 A. Yes.

23 Q. Okay. So you don't disagree with your accident
24 date being May 22, 2013?

25 A. I'm not sure about that, my friend.

1 Q. Did you go to Doctors Care days after your incident
2 at work or did you go to Doctors Care the same day
3 you were hurt?

4 A. It was over the weekend.

5 Q. Okay. So you didn't immediately go to Doctors
6 Care?

7 A. No.

8 Q. I'm looking at this report, says you were shocked,
9 you were complaining of neck pain on that day, is
10 that correct?

11 A. Yes.

12 Q. Did you complain of any chest pressure to the
13 doctor at Doctors Care?

14 A. That was Dr. Greenfield. And my neck was
15 excruciating from my shoulder up and it was so
16 severe I didn't feel nothing else but this.

17 Q. Were you having chest pain on that day?

18 A. If I was I couldn't feel it because of all the pain
19 here (indicating).

20 Q. So you don't have any recollection of feeling chest
21 pain on the day of this visit to Doctors Care?

22 A. No.

23 Q. All right. And just by way of background,
24 Mr. Winfrey, you are, or at least before this
25 accident, were a pack and a half a day smoker, is

1 that right?

2 A. Yes.

3 Q. And you also drank periodically?

4 A. Beer, yes.

5 Q. And in terms of your family history, not to upset
6 you, but unfortunately your father did have some
7 issues with his heart, is that correct?

8 A. He was an alcoholic, yes.

9 Q. And your father's cause of death, did he have a
10 heart attack?

11 A. Yes.

12 Q. Okay. Looks like on page 14 of the APAs for the
13 diagnosis from Doctors Care, and this is on May
14 28th, they diagnosed you with a cardiac arrhythmia,
15 do you know what that is, Mr. Winfrey?

16 A. No, sir.

17 COMMISSIONER BECK: What page?

18 MR. HUGHEY: This is on page 14, your Honor,
19 of the APAs.

20 COMMISSIONER BECK: Got it.

21 MR. HUGHEY: Page two, your Honor, of the
22 Defendant's APAs.

23 Q. Mr. Winfrey, I'm looking at a report from the South
24 Carolina Heart Center, this is dated May 28, 2013,
25 do you remember being seen there?

1 A. Doctor Lide.

2 Q. You did see Dr. -- Dr. Lide is the one you saw
3 there?

4 A. Yeah. I'm not sure about the dates..

5 Q. Okay. And it says in this report at the end of the
6 first paragraph, (As Read): At the time of this
7 interview the patient denied any chest pain, but
8 had minimal left shoulder pain.

9 When you went to the South Carolina Heart
10 Center do you remember whether or not you were
11 having chest pain?

12 A. When I went to the heart center I've already been
13 released from the hospital.

14 Q. Well, I'm looking a report, office consult, May 28,
15 2013 on South Carolina Heart Center letterhead, do
16 remember going there?

17 A. The only time I been there is after I got released
18 to visit Dr. Lide.

19 MR. McDANIEL: Your Honor, not to -- it might
20 be -- well, if there were no objection, but it
21 might be a benefit to Mr. Hughey to look at who
22 that report was from and it might help Mr. Winfrey
23 in properly responding to his questions.

24 COMMISSIONER BECK: All right.

25 Q. It looks like you saw a cardiologist there,

1 Dr. Dasgupta, do you remember seeing her?

2 A. Oh, yeah, that's the one -- I'm sorry. That's the
3 one Dr. Greenfield sent me to over there by
4 Lexington Hospital.

5 Q. And it looks like, down at the bottom of this first
6 page, they counseled you on stopping smoking, do
7 you remember that?

8 A. I was only in there for about an hour. He did an
9 ECHO of my heart and then they rushed me to the
10 hospital in an ambulance.

11 Q. And on page three of the APAs, the second page of
12 this report under Impression and Plan, here it
13 actually says, Chest pain unspecified. On the
14 first page it said you deny chest pain. Do you
15 know if you had chest pain at the time of that
16 visit?

17 A. I was profusely sweating at Dr. Dasgupta's and so
18 he did an ECHO of my heart.

19 Q. Right.

20 A. And then he called the ambulance to take me across
21 the street to the hospital.

22 Q. It looks like they -- part of the impression was
23 obesity. Would you consider yourself overweight at
24 the time of that visit on May 28th?

25 A. I'm overweight, yes.

1 Q. Okay. Looking at page four of the APAs -- of the
2 Claimant's APAs. This looks like a June 8, 2013
3 report when you were discharged from Lexington
4 Medical Center. Were you there for a period of
5 time, at Lexington Medical Center?

6 A. I think it was two and a half, three weeks, but I
7 might be wrong.

8 Q. I'm looking on page five at about the second
9 sentence down. It says you were found to have an
10 occlusion -- (As Read): He was found to have an
11 occlusion of his posterior descending coronary
12 artery, as well as three vessel coronary disease
13 and a VSD.

14 Did your doctors talk to you about any of
15 that?

16 A. I don't remember.

17 Q. On page six of the APAs, looks like this same visit
18 or this same discharge, under Final Diagnoses they
19 have coronary arteriosclerosis of native coronary
20 artery and they, again, mention tobacco use and
21 alcohol abuse, did they talk to you about those
22 items?

23 A. And this is at Lexington Hospital?

24 Q. Lexington Medical Center, it looks like.

25 A. I don't remember nobody talking about smoking and

1 drinking at the hospital.

2 Q. It does look like they performed a procedure that
3 involved a coronary artery bypass, is that your
4 understanding of the procedure that was performed?

5 A. All I know is that Dr. Travis told me that I had
6 entrance and exit wounds from electricity in my
7 heart. He has pictures. And far as everything
8 else, I'm not sure of, buddy. I'm sorry.

9 Q. That's fine.

10 MR. HUGHEY: Your Honor, can you bear with me
11 for just one second?

12 COMMISSIONER BECK: Yes, sir.

13 MR. HUGHEY: Thank you, your Honor.

14 Q. Mr. Winfrey, I'm now looking at page eight of the
15 APAs submitted by your attorney, Mr. McDaniel.
16 This appears to be a May 30, 2013 report and this
17 is the op note from Dr. Travis. Dr. Travis is the
18 one that did your surgery, is that correct?

19 A. Yes.

20 Q. And I'm looking at the paragraph running on to that
21 page, on page eight. It says, (As Read): Patient
22 also had very significant pericarditis with large
23 calcific plaques located anteriorly and
24 posteriorly. It goes on to say, (As Read): They
25 were heavily calcified and there was a real

1 weirdness to the adhesions throughout.

2 Did he talk to you at all about the content or
3 what he found in your heart when he was in there?

4 A. No.

5 Q. And, Mr. Winfrey, you hadn't seen a doctor for your
6 heart in the years leading up to this, is that
7 correct?

8 A. Not to my memory, no.

9 Q. You don't have a regular family doctor that you
10 treat with?

11 A. No, sir, I sure don't.

12 Q. Mr. Winfrey, and finally in conclusion, the day
13 this happened, May 22, 2013, this incident happened
14 at the Publix on Rosewood, is that correct?

15 A. Rosewood Drive, yes.

16 Q. And you finished working that day, is that right?

17 A. Yes.

18 Q. In fact, you traveled somewhere after that, is that
19 correct?

20 A. I went to Aiken and I finished up two rotisseries
21 there and I called Bobby Ruppe and I said I
22 couldn't do no more.

23 Q. You didn't go anywhere else after that that day?

24 A. Well, I went home.

25 Q. Did you work the following day, Friday?

1 A. I got up and I got dressed and I went on to
2 Wal-Mart on 378, and from there I had to call Bobby
3 Ruppe again and say, I can't do it. Because I was
4 dumping sweat and my neck was killing me 'cause I
5 was trying to hold my head up. I couldn't do it.

6 Q. At the time of that conversation with Mr. Ruppe did
7 you tell him you were having chest pain?

8 A. I told him my neck was killing me.

9 MR. HUGHEY: Thank you, Mr. Winfrey. I don't
10 have anything else for you right now.

11 COMMISSIONER BECK: Mr. McDaniel, do you have
12 any questions, sir?

13 MR. McDANIEL: Very briefly. Your Honor,
14 first off, based on Mr. Winfrey's testimony, which
15 was un-objected to, I would ask the Court for it's
16 consideration of -- Mr. Winfrey testified as to
17 what Dr. Travis told him about the entrance and the
18 exit wounds, your Honor will recall that testimony?

19 COMMISSIONER BECK: Yes.

20 MR. McDANIEL: All right. In confirmation of
21 that I would ask for the Court's consideration of
22 Claimant's Exhibit under Tab two, page three from
23 Dr. Jeffery Travis, the authorized and treating
24 cardio vascular surgeon, as to his confirmation of
25 the entrance and the exit places that he found on

1 Mr. Winfrey's heart.

2 CROSS-EXAMINATION

3 BY MR. McDANIEL:

4 Q. Mr. Winfrey --

5 MR. HUGHEY: Your Honor, can I reply to that
6 just briefly?

7 COMMISSIONER BECK: Yes, sir.

8 MR. HUGHEY: We'd object to that coming into
9 evidence in that, number one, it's dated September
10 30, 2013, which is outside of your rule. I
11 understand Mr. McDaniel's trying to link the
12 foundation based on what Mr. Winfrey testified to
13 earlier. However, if this report comes in from
14 Dr. Travis we think it's fair game for any evidence
15 from Dr. Felton to come in.

16 COMMISSIONER BECK: Well, the report's in. If
17 I understand your request, Mr. McDaniel, it's only
18 for the purpose of corroborating the testimony I
19 just heard.

20 MR. McDANIEL: Correct.

21 COMMISSIONER BECK: Not for the opinion --

22 MR. McDANIEL: Not any of the rest of it, just
23 as to that limited part in reference to what
24 Dr. Travis stated in his report about what he found
25 as to being corroborative of what the Claimant

1 testified.

2 COMMISSIONER BECK: Mr. Hughey?

3 MR. HUGHEY: Your Honor, I think the point is
4 that we didn't know anything about that at the time
5 that this was supposedly told to Mr. Winfrey.

6 COMMISSIONER BECK: And that may go to the
7 weight of the evidence.

8 MR. HUGHEY: Sure.

9 COMMISSIONER BECK: But I'll allow it, limited
10 to that specific purpose.

11 MR. HUGHEY: Thank you, your Honor.

12 COMMISSIONER BECK: Any other questions?

13 MR. McDANIEL: Very briefly.

14 Q. Mr. Winfrey, you had an assigned rehab nurse at
15 some point in time, is that correct?

16 A. Yes.

17 Q. All right. And she attended all the appointments
18 with you when you went to your doctors?

19 A. Yes.

20 Q. A couple more questions. Has any adjuster or any
21 person from the insurance company called you and
22 has any way questioned whether or not your injuries
23 stem from your work related accident?

24 A. No.

25 Q. All right. Has at any time anybody from your

1 employer called you and questioned you or contacted
2 you or questioned you in any way as to whether or
3 not this was related to your electrical shock?

4 A. No.

5 Q. Now, when you saw Dr. Greenfield --

6 **MR. McDANIEL:** Commissioner, in reference to
7 Claimant's APA number ten, which was also submitted
8 by Mr. Hughey under their APA submissions, which
9 have been objected to, which have been admitted
10 over objection.

11 Q. According to that you advised Dr. Greenfield that
12 you had a 400 -- you were working on a 480 volt
13 rotisserie, shocked on Thursday, does that sound
14 like the history you gave her?

15 A. Yeah, I got shocked in my neck.

16 Q. And when she saw you what did she do, as far as
17 where did she send you?

18 A. Well, when she seen me I just wanted some Flexeril
19 and stuff and I was going to go back to work. She
20 put a thing on my finger and I had like 117 beats
21 per minute and I was only supposed to have 72.
22 That's when she did the ECHO and she said there's a
23 hole in my heart. That's when she sent me to
24 Gupta.

25 Q. Dasgupta?

1 A. Yeah.

2 MR. McDANIEL: Madam court reporter, it's
3 D-a-s-g-u-p-t-a.

4 Q. Now, when you saw Dr. Dasgupta, I want to ask you
5 if this sounds correct as to the history that you
6 gave him. (As Read): A review of his records
7 today shows that he received an electrical shock in
8 five days ago and since then has complained of pain
9 in his left shoulder radiating into his left
10 scapular region, left side of his neck, left
11 interclavicular region, and left arm.

12 A. Yeah, from the neck, all this right here
13 (indicating).

14 Q. Okay. Now, does that sound correct as to what you
15 told him?

16 A. It sounds it, but I'm not sure.

17 Q. But in other words, when he says that you received
18 an electrical shock five days ago and since then
19 has complained of pain?

20 A. Dr. Greenfield's friends with Dasgupta. She's the
21 one that said, He's my friend, I can send you there
22 or you can go to the emergency room, but you've got
23 to go.

24 Q. And then after that, according to Dr. Dasgupta's
25 records and I believe your testimony, they had EMS

1 take you across the street from his office to the
2 emergency room?

3 A. Yes.

4 Q. And then you were treated there by Dr. Travis?

5 A. No, I met Dr. Lide.

6 Q. There?

7 A. At the hospital.

8 Q. And then after that Dr. Travis did the surgical
9 work?

10 A. Dr. Travis -- I think, I'm not positive about
11 dates, but he -- I think it was the next day, or
12 the following day, that's when they opened me up.

13 MR. McDANIEL: No further questions, your
14 Honor.

15 COMMISSIONER BECK: Mr. Hughey, anything
16 further?

17 MR. HUGHEY: Very briefly, your Honor.

18 REDIRECT EXAMINATION

19 BY MR. HUGHEY:

20 Q. Mr. Winfrey, do you know whether or not Liberty
21 Mutual contacted Mr. McDaniel about taking your
22 recorded statement at any point in the past?

23 A. I'm not sure.

24 Q. In terms of the specific amount of volts that were
25 involved in this wiring -- and I'm not trying to

1 give you a hard time -- are you able to say the
2 precise amount of voltage that was involved in this
3 rotisserie --

4 A. It was high voltage, I mean, 240, 480, one of the
5 two.

6 Q. Sure. But you don't know for sure whether it was
7 480 versus 240?

8 A. I've never been hit that hard.

9 MR. HUGHEY: Thank you, Mr. Winfrey. I don't
10 have anything further.

11 COMMISSIONER BECK: Anything further?

12 MR. McDANIEL: Nothing further. Thank you.

13 COMMISSIONER BECK: You may step down, sir.

14 Thank you very much.

15 WITNESS: Thank you.

16 COMMISSIONER BECK: Any other witnesses on
17 behalf the Defendants?

18 MR. HUGHEY: We'll rest, your Honor. We don't
19 have any other witnesses.

20 COMMISSIONER BECK: Any witnesses on behalf
21 the Claimant?

22 MR. McDANIEL: I understand they've rested?
23 None, your Honor.

24 COMMISSIONER BECK: All right. That will
25 conclude this proceeding. I'd like to see --

1 MR. McDANIEL: Your Honor -- I'm sorry. I
2 would like to put something on the record if I can.

3 We are here on a Form 15 Hearing. They have
4 an obligation to at least put up a *Prima facie*
5 case. They have not established that any of --
6 even any of the medical records were received by
7 them. They have put up no testimony, no evidence,
8 whatsoever, to establish when and if these -- even
9 these medical records were received by the
10 Defendants. They have miserably failed in
11 submitting any evidence to this Court upon which it
12 can -- there is a foundation been laid to submit
13 any evidence as to this man's condition was not
14 caused by -- that they conducted a Good Faith
15 Investigation. I just put that on the record, your
16 Honor.

17 COMMISSIONER BECK: All right.

18 Mr. Hughey, anything in reply to that?

19 MR. HUGHEY: Your Honor, just quickly in
20 response, since Mr. McDaniel felt the need to speak
21 on it. I won't summarize all of it. But, again,
22 we think we certainly had evidence in the record,
23 which was evidence in the Carrier file and the
24 medical records documenting a history of drinking,
25 smoking, coronary artery disease noted in the

1 medical records. No question arrhythmia was
2 diagnosed, but of course winds up with a coronary
3 bypass procedure. By the very language in the
4 medical records we believe it causes -- raises
5 question as to what's related to what. And we
6 certainly would stand by our positions that it was
7 absolutely a Good Faith Denial of benefits, your
8 Honor.

9 COMMISSIONER BECK: All right.

10 MR. McDANIEL: Commissioner, the only thing I
11 would note to you is that in part of Mr. Hughey's
12 discussion he went outside the record and said,
13 Which is obviously in the adjuster's file. And I
14 just ask that to note that that is not into
15 evidence and he has not submitted any evidence of
16 that point.

17 Thank you, your Honor. -

18 MR. HUGHEY: We do have medical records that
19 Mr. McDaniel represented to the Court earlier that
20 he'd provided to the Defendants on multiple
21 occasions. So we did have the records from the
22 initial authorized physicians and that we paid for
23 those records -- paid those bills.

24 COMMISSIONER BECK: All right.

25 MR. McDANIEL: Again, I don't want to belabor

1 the point, but I just make one brief note, and that
2 is, there is nothing that establishes that they had
3 those records between -- before September 13th.

4 COMMISSIONER BECK: All right. That will
5 conclude this proceeding.

6 ****

7 (Whereupon, the hearing concluded at 4:18 p.m.)

STATE OF SOUTH CAROLINA

CERTIFICATE

Be it known that I, Christine Tatum, a Professional Court Reporter and Notary Public, did hear the matter of *Clarence Winfrey -vs- Archway Service, Inc.*, Workers' Compensation File No. 1306305 on, Wednesday, November 13, 2013, in Columbia, South Carolina, before the Honorable T. Scott Beck;

That the witness(s) were duly sworn under pains and penalties of perjury to testify to the truth, the whole truth, and nothing but the truth;

That the foregoing pages constitute a true and accurate transcription of the testimony given at that time and place aforesaid to the best of my skill and ability;

I further certify that I am not counsel or kin to any of the parties to this cause of action, nor am I interested in any matter of its outcome.

In Witness whereof, I have hereunto set my hand this 11th Day of December 2013.



Christine Tatum
Notary Public For South Carolina
My Commission Expires December 29, 2021

STATE OF SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

COUNTY OF RICHLAND

WCC CASE NO.

CLARENCE WINFREY,)

1306305

CLAIMANT/EMPLOYEE,)

-VS-)

ARCHWAY SERVICES, INC.,)

EMPLOYER,)

AMERICAN FIRE and CASUALTY)

INSURANCE,)

INSURER,)

Deposition of JEFFREY TRAVIS, a witness called by
Counsel on behalf of the DEFENDANT, pursuant to the
applicable provisions of the South Carolina Rules of
Civil Procedure, taken before Timothy Robinton, a
Professional Court Reporter and Notary Public in and for
the State of South Carolina, on Monday, December 16,
2013, at The Lexington Cardiovascular Surgery, 2728
Sunset Blvd. Suite 101, Columbia, South Carolina,
commencing at the hour of 7:00 a.m.

Job No. CS1783715

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES

McDaniel Law
Preston F. McDaniel, Esq.
1315 Elmwood Ave.
Columbia, SC 29201
803-771-7211
WWW.PFMCDANIELLAW.COM
REPRESENTING THE PLAINTIFF

McAngus, Goudelock, and Courie, LLC
Brett H. Bayne, Esq.
1320 Main Street Meridian building 10th floor
P.O. Box 12519
Columbia, SC 29211-12519
803-227-2281
brett.bayne@mgclaw.com
REPRESENTING THE DEFENDANT

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX

PAGE

STIPULATIONS	4
DIRECT EXAMINATION BY MR. BAYNE	4
CROSS-EXAMINATION BY MR. MCDANIEL	20
RE DIRECT BY MR. BAYNE	29
RE CROSS BY MR. MCDANIEL	31
REPORTER CERTIFICATE	33

EXHIBITS

page

Plaintiff	
Exhibit No. 1	Letter from Jeffrey A. Travis . . 26

LEGEND OF THE TRANSCRIPT

dashes [--]	intentional or purposeful interruption
[ph]	denotes phonetically written
[sic]	written as said

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

It is hereby stipulated and agreed by counsel for the respective parties that the Witness will waive the reading and signing of the deposition transcript, and also that the witness is a expert in the field.

Whereupon,

JEFFERY A. TRAVIS,

having been first duly sworn,

was examined and testified as follows:

D I R E C T E X A M I N A T I O N

BY MR. BAYNE:

Q. Doctor Travis, how are you doing today?

A. Good. How are you?

Q. Good. My name is Brad Bayne I am an attorney with McAngus Goudelock & Courie. I represent Archway Services and America Fire and Casualty Insurance Company in this case related to Mr. Clarence Winfrey. At this time it's a denied claim based on an investigation that we conducted. It's my understanding that you conducted or you performed the heart surgery on Mr. Winfrey when he presented to the hospital so we are here today to ask a few questions about that. Mostly related to

1 causation, his health history and kind of going forward
2 what needs to be done if the commission determines this
3 claim is dispensable. Do you have any questions before
4 I get started?

5 A. No.

6 Q. Can you give me just a brief run down what your
7 background is, your qualification and everything?

8 A. Sure. Medical Physician finish medical school in
9 1997, attended General Surgeon residency six years at
10 Wake Forest finished fellowship at Wake Forest as
11 Cardiothoracic surgery and been practicing about nine
12 years.

13 Q. And a day to day bases what do you in your
14 practice?

15 A. Open heart surgery, thorastic surgery, including
16 Lung surgery, Esophageal surgery, Vascular surgery,
17 Carotid in pumps and Triple A's.

18 Q. How many heart surgeries have you performed in your
19 nine years plus your fellowship? - -

20 A. About -- Including fellowship probably about 1500,
21 since I have in private practice about a 1000.

22 Q. Okay. Have you any occasion treat Mr. Winfrey in
23 this case?

24 A. I did.

25 Q. And what did you treat Mr. Winfrey for?

1 A. Specifically had a ventricular septal defect was
2 the primary presenting problem?

3 Q. And what is a ventricular septal defect?

4 A. There is a septum between the two ventricles, the
5 right, left ventricle and because the tissue having died
6 between those two septum hole developed or defect, so
7 blood went from one side to the other which is
8 anatomically incorrect and not compatible with long term
9 survival.

10 Q. Okay. That hole is inside of the heart?

11 A. Correct.

12 Q. Okay. And when Mr. Winfrey presented to you what
13 were his complaints at the time?

14 A. He had chest pain, shortness of breath and he just
15 kind of had full body aches all over for four or five
16 days prior to the presentation.

17 Q. Okay. I believe that day he presented been May
18 28th is that correct?

19 A. If that's what record reflects

20 Q. On that morning -- I guess he didn't present to you
21 first thing that morning, he was referred?

22 A. Correct.

23 Q. And if the medical records from that referral
24 indicate that he did not have any chest pressure would
25 that be consistent with what he presented with that

1 morning or did he have some --

2 A. When I saw him that was not his specific complaint
3 he did not relate this specifically to -- what he would
4 considered or what we considered a heart attack pain and
5 he said he had kind of total body didn't feel well all
6 over.

7 Q. And is that typical of someone that has suffered
8 from a ventricular septal defect?

9 A. In general, someone who has post in-fart VSD,
10 ventricular septal defect will present with chest pain,
11 other words they do have acute heart attack, that's what
12 causes the ventricular septal defect.

13 Q. Okay. So, usually, they would, but it's not
14 certainty that they'll have chest pain?

15 A. No. Not everybody has chest pain, but a majority,
16 a great majority people will.

17 Q. You said post in-fart, is that a mild cardio
18 infarction your talking about?

19 A. Correct.

20 Q. Okay. And in this case I think the records had
21 indicated they he had a mild cardio infarction, and then
22 -- I think you said a post in-fart VSD is that correct?

23 A. Mostly likely. Yes, sir.

24 Q. Okay. Is that something like, I don't know, how
25 things in current time, is that infarction would occur

1 days before and then the VSD happened or is it
2 essentially the infarction, the VSD and then within
3 seconds kind of thing?

4 A. In general it takes a little bit of time before the
5 VSD fully develops other words you suffer the infarction
6 and sometime within 36 hours after that, depending on
7 the exact presentation. The muscle dies, as the muscle
8 dies it gets weak, the blood pushes through it, creates
9 the defect,--

10 Q. Okay.

11 A. -- usually there's a time lapse there.

12 Q. So based on that are you able to determine when the
13 infarction occurred in this case?

14 A. Not specifically, no.

15 Q. Is there's time - like a -- ballpark time frame
16 that you're able to back up to figure out?

17 A. It happened sometime with in the last week based on
18 his cardio enzymes.

- 19 Q. Okay. I believe that you've issued a questionnaire
20 in this case, you've indicated that his condition was
21 brought about by electrical shock of 480 volts is that
22 correct?

23 A. I believe it, absolutely, had cause the defect on
24 this presentation.

25 Q. And I wanted to ask specifically about the 480

1 volts, is that something you were able to determine from
2 looking at the equipment or --

3 A. No. I wouldn't have any knowledge of the amount of
4 voltage or the pertinence that.

5 Q. So that would be -- so if that was your opinion
6 that would be based on what you were told by Mr.
7 Winfrey?

8 A. Correct.

9 Q. Okay. Do you have any opinion or knowledge as to
10 what amount of electricity it would take to cause this
11 infarction or is it a case by case, how does that work?

12 A. It would be a case by case bases, it's not a --

13 Q. Okay. What I am asking, generally is, if for
14 example it was 400 volts or 300 volts or 200 volts is
15 there a point at which a shock is so small it's not
16 going to cause an infarction or a point which you hit is
17 becomes more likely and more likely that it's going to
18 cause a mild cardio infarction.

19 A. I think that's known, as far as, a gradation. - -

20 Q. Okay. And Mr. Winfrey in his deposition, I
21 believe, he indicated that he was at work and he
22 suffered from electrical shock working on a rotisserie
23 oven. Is it your understanding that or your believe
24 that's when the mild cardio infarction occurred, when
25 that shock occurred or something that would have

1 occurred later in the day?

2 A. I think it would of occurred within, you know,
3 minutes, hours after that.

4 Q. Okay. In a immediate aftermath of suffering that
5 infarction, so he gets shocked and it minutes to hours
6 after. What in a typical patient what would he be
7 experiencing as far as pain related symptoms or
8 complaints?

9 A. In general, in most people again as we discussed
10 have chest pain a lot of people will interpret that
11 differently. Certainly people will have shortness of
12 breath as a lot of people presenting symptoms of a heart
13 attack or simply or just I don't feel well, shortness of
14 breath they don't truly describe chest pain some people
15 are dull pain. It can be referred in a lot of different
16 ways. And then again, a lot of people don't have the
17 typical pressure or pain they have other symptomatology,
18 nausea or vomiting.

19 Q. Would some who-was-experiencing mild cardio
20 infarction be able to continue work that day?

21 A. Sometimes they are.

22 Q. Okay.

23 A. Sometimes they can.

24 Q. What about the next day would they, as it developed
25 and progress, would they be able to return to work that

1 day as well?

2 A. I have seen people you know struggle through mild
3 cardio infarction for one, two, three, four days and
4 just continue to push through their normal live even
5 though --

6 Q. And as in a scenario in which that occurred where
7 they suffered it and worked or kept and stayed at home,
8 work their kids or whatever. Would those symptoms be
9 worsting on a daily bases or is kind of a plateau?

10 A. Most people will plateau with in 36 to 48 hours but
11 not always.

12 Q. Okay.

13 A. And sometimes it continues to conscendo and that's
14 what brings them into the hospital, so that's why we see
15 them at variable times.

16 Q. And in the medical records, I think they were your
17 records related to the surgery you did, you found that
18 he had three vessel, I believe, artery disease, is that
19 something related to this electrical-shock or is that a
20 congenital condition he had?

21 A. Well, not a congenital, but an acquire over his
22 life time.

23 Q. Okay. And what would cause someone to acquire that
24 over their life time?

25 A. After a Socratic cardio vascular disease caused by

1 high blood pressure, diabetes, elevated cholesterol
2 family history, cigarette smoking.

3 Q. Pretty much the whole gamete.

4 A. Yeah.

5 Q. Okay. And someone -- so someone for example who
6 smoke a pack a day or a half a pack a day would be an
7 increase risk for that?

8 A. Absolutely.

9 Q. Someone who drank a case a beer a week would be an
10 increase risk to that.

11 A. In general drinking it's not directly correlated to
12 coronary disease.

13 Q. Okay. If someone had a family history of close
14 relatives who suffering from coronary artery disease
15 that would be a risk factor?

16 A. Most likely.

17 Q. Okay. In the medical records it also talks about a
18 occlusion I believe of the coronary artery, is that a
19 condition that resulted from the electrical shock or is
20 that part of the artery disease he had acquire over his
21 life time?

22 A. I think it was related to the electrical shock.
23 Let me explain that just a little bit, you have
24 arterosclerosis or the hardening of the arteries, so you
25 have plaque in your arteries, because there at a base

1 line, based on those things that we talked about and
2 then some, every heart attack is caused by some process
3 causing that plaque to rupture. And so what you have an
4 injury or cut, basically, inside the artery and the body
5 tries to heal that much as it tries to heal a cut on
6 your skin it tries to form a scab, but instead it the
7 scab is forming inside an artery, and so the scab forms
8 and causes that artery to completely occlude . So it
9 doesn't matter if the plaque was ten percent blockage,
10 twenty, thirty, forty, whatever, it goes to 100 percent
11 because the blood begins to clot within the artery. So
12 that's why the artery becomes occluded, that's why
13 people have heart attacks.

14 Q. Okay. And so the -- I guess the question is the
15 plaque build up that was the occlusion. Was that plaque
16 build up directly caused by the electrical shock or did
17 the rupture of that plaque build up?

18 A. The rupture of the plaque is what causes the acute
19 heart attack.

20 Q. Okay.

21 A. The build up happens over years and then it can be
22 any sort of activity that can cause that to rupture.

23 Q. Okay. So for in this scenario if the electrical
24 shock is what caused it, it would be the shock caused
25 the rupture, that then caused the heart attack, and then

1 caused the VSD?

2 A. Correct.

3 Q. Okay. But that plaque rupture could occur as you
4 said, it could occur for many things --

5 A. It can.

6 Q. -- from getting up the wrong way, strenuous
7 activities something like that.

8 A. It can. A stressful event in your life. People
9 that walk in and find a love one dead it can trigger
10 that any type of stress. Or whether it be physical,
11 emotional.

12 Q. And other than the timing of the heart attack, as far
13 as, some time of last week, there's way to know for
14 certain the plaque rupture was caused by the electrical
15 shock, is that correct?

16 A. Is there any definitive way to --

17 Q. Correct.

18 A. -- collate one to another absolutely not.

19 Q. It's more likely not, I guess. This is your
20 opinion on it?

21 A. Correct.

22 Q. Okay. As far as, his treatment goes, what is, I
23 guess once he goes through -- going cardio
24 rehabilitation right now, is that correct? As far as,
25 that treatment goes once he's completed with that care,

1 what is his prognoses or what is his outlook, both for
2 life and for getting back to normal life?

3 A. It certainly most of that depends on ventricular
4 function which is fairly reduced and also depends on his
5 other coronary disease and how stable that stays over
6 time.

7 Q. Okay.

8 A. I'm certainly think he has a short life span and
9 based on his ventricular function difficulty and
10 returning to full activities that he able to
11 accomplished before all this.

12 Q. And is the fact that the coronary disease existed
13 previously that he had acquired, the fact that exist is
14 that something that effects his recovery from the VSD
15 that he suffered?

16 A. It's more related what his ventricular function is
17 going to inhibit his -- I don't know what his
18 ventricular function was prior to all this. We see him
19 at time zero, I don't know what was at t minus one. His
20 ventricular function was normal at that point than
21 certainly this is correlated with his increase of
22 disability, but I don't know what that, that --

23 Q. As a general kind of hypothetical someone presents
24 with type of artery disease that he had absent the VSD
25 is there a reduce ventricular function in a patient that

1 would present with all the symptoms he had except for
2 what you believed caused by the shock?

3 A. In general, no. In general there ventricular
4 function can be anywhere, again there's a thousand
5 different factors that go into that.

6 Q. In the medical reports I believe in the post
7 surgical report you talked about seeing, I guess white
8 marks on either other side of the heart --

9 A. Correct.

10 Q. -- what, I think your opinion was, that probably
11 caused or most likely caused by an electrical shock,
12 entering and exiting the heart, is that correct?

13 A. Correct.

14 Q. Have you've seen anything like that in your career
15 prior to that point?

16 A. Not with the heart, I've certainly seen electrical
17 injuries, when I took care of burn patients, you would
18 see people that were burn electrically and you would see
19 the type of changes as it entered or exited the
20 extremity which is more common. I've never seen it on a
21 heart, I've never seen anything that looked liked that
22 on the heart.

23 Q. Okay.

24 A. That's what made me think this was related to his
25 electrical injury, certainly, looked like a entry, exit

1 wound. It's shriveled, drawn up, kind of welded
2 together around the tissues around it, so I have seen it
3 in other locations, I've never seen it in the heart.

4 Q. Would the electricity if that -- if those marks are
5 indicative of that, would that electricity, I guess,
6 going through the heart had caused any issues other than
7 it may have led to the infarction itself?

8 A. It could of rupture the plaque led to the
9 infarction. I don't think it was directly related to
10 the -- I don't think it made a hole in the heart,

11 Q. Okay.

12 A. -- I think the hole in the heart came from the
13 infarction you know muscle dying over time and the hole
14 developing. I do think it could relate to any
15 electrical disturbance in the heart and ventricular
16 function.

17 Q. Okay.

18 A. Those are the things that it could effect.

19 Q. And in examining Mr. Winfrey, I guess prior to and
20 after surgery where you able to determine if there were
21 any exit wounds from the body of the electricity other
22 than what you observed in the heart, so did it come out
23 of his hand, foot?

24 A. I didn't observe any. No, sir.

25 Q. And in your practice have you've been involved -- I

1 I guess you did the surgeries, are you involved in the
2 post cardiac care, as far as, the rehabilitation for
3 returning someone to work or returning someone to their
4 normal live, or do you --

5 A. I am.

6 Q. Okay. As far as, just a generic heart patient
7 someone that came in and had that ventricular defect,
8 that we talked about just kind of what, what based on
9 ventricular function, but, as far as, for example, going
10 back to our is there a level of work no heart patient
11 should go back to or is it a case by case bases?

12 A. It's always a case by case.

13 Q. Okay. And in someone like Mr. Winfrey's case do
14 you have an opinion yet, is to what, whether or not he
15 be able to return to work or is it still to early to
16 tell in his care?

17 A. I think based on his recovery he could return to
18 some form of work. Correct.

19 Q. Do you think he could be able to return being an
20 electrician or is that an area you would advise he
21 avoid?

22 A. I would advise him to avoid that.

23 Q. Is that because of the risk of electrical shock or
24 is that based on the nature of work?

25 A. A little bit of both.

1 Q. Okay. What is a rough time frame of being able to
2 return to work after a surgery like this?

3 A. In general most open heart surgery patients are
4 ready to go back to work in sometimes two to three
5 months. This is a little bit bigger type problem. I
6 could tell you that I've never had anybody who had this
7 particular injury make it back to work, most people
8 don't live through this. It is very uncommon for people
9 to live through this so.

10 Q. Okay. And your referring to the --

11 A. VSD.

12 Q. -- VSD

13 A. Yes, VSD.

14 Q. Is that based on where it was located or just the
15 fact it was as large as it was or --

16 A. Just --

17 Q. Just happened --

18 A. -- difficult problem to fix -- it's hard to fix.

19 Q. - All right. Once it's fixed, absence some, for
20 example, another electrical shock or something like
21 that, is it an issue that it's going to remain fix or is
22 he kind of going to always be at risk of that patch that
23 was placed rupturing again?

24 A. I think he is at very low risk.

25 Q. Okay.

1 A. Again most -- I don't know of any people that have
2 been followed for twenty years this problem. I think
3 it's a low risk, once it's fixed it should be fixed.

4 Q. Okay. And just to clarify one thing on the plaque
5 rupture itself, the causation of it. You testified that
6 it's -- I guess it's possible or in practice it's
7 possible that those incur from any number stimuli's via
8 physical activity, stress, you said walking in on a
9 loved one that kind of thing?

10 A. Correct. And some people it could happens in the
11 middle of the night while they are sleeping.

12 Q. It could happen.

13 A. Yes.

14 Q. Okay.

15 MR. BAYNE: I believe that is all I have.
16 Preston, do you have anything.

17 MR. MCDANIEL: I got a few questions.

18 CROSS EXAMINATION

19 MR. MCDANIEL:

20 Q. It's been since May that you, actually, had an
21 opportunity to look back at the actual presented history
22 will that be fair?

23 A. Yes, sir.

24 Q. All right. I wanted to ask you a couple of
25 questions in reference to your operate note and found

1 that he had very significant per carditis --

2 A. Right.

3 Q. --I believe that basically inflammation --

4 A. Correct.

5 Q. -- and that presents as far as symptoms your going
6 to have, that presents jointlage pain.

7 A. Correct.

8 Q. Okay. In looking over that, correct me if I'm
9 wrong. A lot of times as you've already testified
10 people don't have chest pain, but I saw and lived here a
11 lot of times the pain is in the neck and over the
12 trapazees area of the shoulder or into the left arm.

13 A. That's correct.

14 Q. Is that a general presenting type process, or that
15 when sustain a mild cardio infarction?

16 A. It is, again presentation can be varied, I mean
17 some people just get shortness of breath or they fell
18 they have reflux, left arm pain, left jaw pain, neck
19 pain all those common in presenting signs and symptoms
20 for a heart attack.

21 Q. And the reason I am asking that is. And I believe,
22 of course your aware, -- had the history available from
23 the emergency doctor that who saw him at the Doctor's
24 Care, then the Cardiologist's who saw him, then sent him
25 directly by ambulance to the hospital. And does this

1 sound familiar on the based, this be the history that
2 you remember Mr. Winfrey presenting with -- when he said
3 that a fifty year old gentleman who on Wednesday prior
4 to admission was working on some electrical equipment
5 got a large shock, he went home from work and experience
6 significant chest pain as well as back and shoulder
7 pain, persisted through the weekend and he really did
8 not do much of the weekend. Then the doctor at the
9 Doctor's care recorded that, he's working got a
10 rotisserie shock on Thursday, sweated Thursday p.m. he
11 had pain immediately down the left shoulder, in the left
12 arm, and had jerk his neck and shoulder -- neck and
13 shoulder pain, tenderness over the left trapezes and
14 that's the area we referred to earlier, an entrance
15 wound on the third finger of the left hand. Is that
16 typical that left arm, left shoulder, neck pain, again I
17 believe you already said that is typical of
18 presentation.

- 19 A. It is. - - -

20 Q. All right. So, let me then ask you this. I'm
21 going to show you a report that you were kind enough to
22 -- when you knew the causation was an issue, you issued
23 that report on September 30th. 2013. Does that
24 represent you're opinions and reference to this?

25 A. It does.

1 Q. I just want to ask you again. I know Mr. Bayne
2 went over this, but just in summary fashion would you
3 just tell me -- I just hand you copy of your optative
4 note, but just specifically -- just tell me -- and you
5 already testified, you haven't seen anything like this
6 before -- just tell me in your own words, basically,
7 what you observed, and just tell me what formulated this
8 opinion, that my opinion, my understanding, you believed
9 everything that caused him, required treatment by you
10 and the open heart surgery stemmed from this electrical
11 shock.

12 A. Right. And so if you mean, your asking me to put
13 together a time line of events. So he's working under
14 goes electrical shock that causes a plaque rupture
15 causing a heart attack. He feels bad all over has some
16 chest pain, pain other places related to that would be
17 typical, goes home and just tries to gut it out sort of
18 speak doesn't get better, finally shows up to the
19 emergency room or urgent care, the signs and symptoms in -
20 the EKG changes components is consistence with him
21 having a heart attack. Brought over to the hospital,
22 optimally taken to the CAT lab found that has blockage
23 that we saw where there was 100 percent occluded artery,
24 including VSD, so sometime along that time course this
25 heart attack caused that muscle to die, the blood pushed

1 through that dead muscle caused the VSD. You know when
2 I saw him it would seemed to me that, that was the
3 typical course of what happened. That he had a plaque
4 rupture, artery occluded, the muscle died, VSD presented
5 in that time course, all of that seemed very normal to
6 me. When we operate on him the thing that was different
7 to me, made me think that this was directly related to
8 the electrical shock and not just two events that happen
9 to co-inside was the amount of change that I saw in his
10 heart. Again what was definitely entry and exit wound
11 where the Peri-cardiac was almost fused like you would
12 weld something together and that was Per carditis. It's
13 not a typical Per carditis that people have after a
14 heart attack, that it's global it's every where, it's
15 just kind of a general Per carditis, this was different
16 these were specific areas interior, posterior. We
17 really had to do a lot of work to clean those off to get
18 the Pericardium which is the sack around the heart off
19 the heart, off the heart proper, almost again, welded to
20 it on the front and back so we can pick the heart up to
21 actually work on it, it really took us thirty minutes to
22 get that done before we really start the operation, so
23 it was after operating on him that it seemed to me that
24 this electrical shock was directly related to the
25 primary problem that he presented with even though he

1 might of have a life long condition coronary disease,
2 I'm sure he did or after arteriosclerosis, I'm sure he
3 did, but I was fairly convinced this electrical shock
4 passed through his heart, it was likely the causative
5 event that started the domino effect. Again a lot of
6 things were in place already, but that electrical shock
7 was the thing that pushed the first domino over and
8 everything that we saw after that followed it. That's
9 just my opinion

10 Q. You also used the term soldier plaques.

11 A. Correct.

12 Q. And tell me about those.

13 A. We find sometimes on the heart what are called
14 soldiers plaque again that just kind of a nomenclature
15 that's been pasted down, they'll just be quarter size,
16 silver dollar size, white areas on the heart. That
17 don't have any type of reason or obvious you know
18 causation you find them variable, I don't know one or
19 two percent of hearts that you operate on, you just see
20 this little white -- whitish plaque areas. They are not
21 inflammatory they are not stuck to anything and they
22 have just passed down through -- along people just
23 called soldier plaques. We don't know what causes them,
24 we don't know why they are there, there just there. And
25 so, you know, I dictated that specifically because this

1 was very different. This was not just simple soldier
2 plaques that we see sometimes, this was you know a
3 fusing and what you know kind of drawn up area, it was
4 whitish, but it was not soldier plaques that sometimes
5 we see.

6 Q. I'm not going to try and keep you much longer I'm
7 going to just ask you. If you could mark that as
8 Plaintiff's exhibit 1

9 MR. MCDANIEL: Mark that as Exhibit No. 1
10 Whereupon, the below described, Report was
11 marked Plaintiff's Exhibit No. 1

12 Q. Doctor, this is a report that was issued on
13 September 30th I believe you dictated that, does that
14 represent your opinions and reference to the causation
15 issue and you opinions about what caused Mr. Winfrey
16 condition?

17 A. That's correct.

18 Q. Is that your opinion to a reasonable degree of
19 certainty?

20 A. It is.

21 Q. Now, I want to ask you one other thing. One
22 conversation you were very nice enough just to call me
23 in reference to another physicians issued reviewed some
24 records and you made a statement to me I'm not forget.
25 You said I held this man's hand in my heart, his heart

1 in my hand. Tell me about how important you think that
2 is based on your observation and opinions in this case
3 as compared to somebody just reviewing records.

4 A. Well it's specifically was reviewed by a
5 cardiologist who has never done a open heart surgery.
6 He does all his works by looking at x-ray's and images.
7 So you know in this gentleman's case you know somebody
8 that, actually, operated on a heart held it in their
9 hands is very important in determine the causation,
10 again causing an effect here and I think anybody that
11 had been in my shoes that had looked at the heart and,
12 actually, seen it and had seen a thousand other hearts
13 have never looked like this that had this exact problem
14 I don't think you can draw any other conclusion, so
15 I think it's hard for somebody that's never seen a heart
16 that certainly never seen -- and also did not see Mr.
17 Winfrey heart, could just make that assumption based on
18 just records. I don't disagree with that's how most
19 heart attacks happen, that's how most VSD happens,
20 plaque rupture, MI, things rupture, but then to say para
21 partitas just post MI para partitas, when they never saw
22 what I saw and have actually never seen a heart. It's
23 just a little hard to say that you could -- your reading
24 ten percent of the important, you know, facts. A lot
25 of the facts are covered up or not revealed by just

1 reviewing the records I guess that was my point is, you
2 know that cardiologist who, one never seen a heart, two
3 never saw Mr. Winfrey's heart to make those assumptions.
4 I think is just a little bit of leap of faith, I just
5 think they have all the information.

6 Q. How much can you, actually, see, if you actually --
7 I know you filmed the heart, the surgery, is that
8 correct?

9 A. Well I have a picture. We just took a picture we
10 just thought, again something we never seen before.

11 Q. Oh okay. So you actually took a picture. So
12 another cardiovascular surgeon could look at that and
13 they would -- I guess you took it because it was so
14 unusual?

15 A. Correct.

16 Q. All right.

17 A. Which is not uncommon in the operating room, we
18 find things that are different, abnormal, education we
19 tried to report those so that others can learn and
20 experience.

21 Q. All right.

22 MR. MCDANIEL: Thank you very much I think
23 that is all the questions I have.

24 MR. BAYNE: I just have a couple of follow
25 ups Doctor if I may.

RE DIRECT EXAMINATION

1
2 Q. In the 1000 to 1500 surgeries you've done. Have
3 you -- was this your first electrocution related open
4 heart surgery or have you had those before?

5 A. No. It's the first one.

6 Q. Okay. Are you -- Have you consulted with anyone to
7 find out if the plaques that you saw if that's kind of a
8 normal thing in a electrocution type surgery or is that
9 something or just to you a regular and --

10 A. Yeah. I never, I never, I didn't discuss this
11 specifically, but I never read about it or seen
12 anything. No.

13 Q. -- Okay. As far as, I think you said a second ago
14 that the main driver of why you believed to cause this
15 electrical shock was those plaques. Is that correct?

16 A. Correct.

17 Q. Okay. And I think you said it has to do with
18 timing but the main thing you got in there, you said
19 these plaques that's what this is, that's why you think
20 it was caused by the electrical shock.

21 A. Right. Again most of the time we can't identify a
22 specific causative trauma, so to speak, but here there
23 was a specific cause of trauma that could of started
24 again the whole domino effect.

25 Q. Is it possible that he was shocked and that and he

1 ends up with these plaques on his heart, but that is not
2 what actually caused the mild cardio infarction?

3 A. I think saying that the two things happened at the
4 same time but weren't related. I just don't think that
5 is plausible.

6 Q. Okay. And we were talking earlier, I was kind of
7 asking you about some symptoms he would be experiencing
8 and Mr. McDaniel went into the shoulder and the scapular
9 and the whole body pain, if -- if the record indicated
10 or the testimony indicated, that the only pain he was
11 experiencing until, say Friday, he was shocked on
12 Wednesday say until Friday, was neck pain, would that be
13 consistence with this mild cardio infarction or would
14 you expect more than just neck pain to be experiencing
15 --

16 A. No. It could be just neck pain.

17 Q. -- okay. And one more time your believe or the
18 records indicate that sometime with in the week prior to
19 him presenting to you when that infarction occurred? -

20 A. Correct.

21 Q. Okay. Is there a more likely than not, for example
22 the week prior could mean that day before, but is it
23 more likely it occurred Wednesday, Thursday, than it did
24 on Sunday?

25 A. I don't remember specific days but the time frame

1 for a heart attack to lead to VSD is usually thirty six
2 hours.

3 Q. Okay.

4 A. And then any time after that within the next
5 probably two weeks is possible.

6 Q. Okay. So it would at least be thirty six hours old
7 and up to two weeks old?

8 A. Correct.

9 Q. Okay.

10 A. That would be the typical time for a post infarct
11 VSD.

12 Q. Okay.

13 MR. BAYNE: That's all I got.

14 MR. MCDANIEL: Nothing further.

15 MR. BAYNE: All right.

16 RE CROSS

17 MR. MCDANIEL:

18 Q. Doctor Travis, Mr. Bayne asked you about this being
19 the first known electrical open heart shock surgery that
20 you did, electrical shock -- but you testified earlier
21 that you seen many electrical shock patients where
22 you've seen the damage to the tissue and other parts of
23 the body.

24 A. Correct.

25 Q. And I believe you testified earlier of coarse you

1 did in these open heart surgeries you done cardio of all
2 types of thorastic surgery and all that, and worked on
3 burn patients?

4 A. Correct. Part of general surgery training is
5 taking care of trauma and burn patients.

6 Q. Okay. And so you have seen in the tissue damage --
7 type of tissue damage you saw in Mr. Winfrey's heart is
8 reminiscent of the tissue damage that you've seen in
9 other parts of the body?

10 A. Correct.

11 Q. Okay.

12 MR. MCDANIEL: Nothing further.

13 MR. BAYNE: No. I got nothing.

14 *

15 Deposition concluded at 7:40 a.m.

16

17

18

19

20

21

22

23

24

25

1
2 STATE OF SOUTH CAROLINA
3 CERTIFICATE

4 Be it known that I, Timothy Robinton, a
5 Professional Court Reporter and Notary Public, did have
6 JEFFREY TRAVIS, appear before me on Monday, December 16,
7 2013, at 7:00 a.m., at The Lexington Cardiovascular
8 Surgery, 2728 Sunset Blvd. Suite 101, Columbia, South
9 Carolina;

10 That the witness was duly sworn under pains
11 and penalties of perjury to testify the truth, the whole
12 truth, and nothing but the truth;

13 That the foregoing pages constitute a true
14 and accurate transcription of the testimony given at
15 that time and place aforesaid to the best of my skill
16 and ability;

17 I further certify that I am not counsel or
18 kin to any of the parties to this cause of action, nor
19 am I interested in any matter of its outcome. -

20 In Witness whereof, I have hereunto set my
21 hand and this 30th Day of December 2013.

22
23
24 Timothy M. Robinton,
25 Notary Public For South Carolina
My Commission Expires May 1, 2023

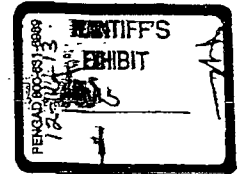


Jeffrey A. Travis, MD

Victor A. Gomez, PA-C

2728 Sunset Boulevard, Suite 101
West Columbia, SC 29169
www.lexingtoncardiovascular.com

Ph (803) 795-7095
Fx (803) 795-7908
Lexington Medical Center



September 30, 2013

Re: Clarence Winfrey

To Whom It May Concern:

Mr. Winfrey is a patient who presented with a very unusual cardiac lesion after suffering a large electrical shock. The lesion, a ventricular septal defect, is normally only seen very rarely in a setting of an acute myocardial infarction. I believe that Mr. Winfrey's electrical shock caused his heart attack and his ventricular septal defect.

Operative photos confirm a large white patch on both sides of his heart that were almost certainly entrance and exit wounds of the electricity. I have never seen anything like these patches in my 15 years of surgery. I have a photo of the anterior surface of the heart that demonstrates either the entrance or exit site.

I find it quite unbelievable that his surgery and postoperative course have been considered separate from his electrical injury at work. I see almost no other plausible explanation other than a direct cause and effect.

Sincerely,

Jeffrey A. Travis, MD

1 South Carolina Workers' Compensation Commission
2 WCC File No.: 1306305

3 CLARENCE WINFREY, :
4 Employee, :
5 Claimant, :
6 vs. :
7 ARCHWAY SERVICES, INC., :
8 Employer, :
9 and :
10 AMERICAN FIRE & CASUALTY :
11 INSURANCE COMPANY C/O LIBERTY :
12 MUTUAL GROUP, :
13 Carrier, :
14 Defendants. :

**Certified
Transcript**

14 THURSDAY, JANUARY 9, 2014

16 ORAL DEPOSITION OF KAREN GREENFIELD, MD,
17 taken at Doctors Care, 100 Jimmy Love Lane,
18 Columbia, South Carolina, commencing at 2:05 p.m.,
19 before Deidre Osborne, a Court Reporter and Notary
20 Public.

25 Job No. CS1787777

1 APPEARANCES:

2 MCDANIEL LAW FIRM

BY: PRESTON F. MCDANIEL, ESQUIRE

3 1315 Elmwood Avenue

Columbia, South Carolina 29201

4 803-771-7211

kim@pfmcdaniellaw.com

5 Representing the Claimant

7 MCANGUS GOUDELOCK & COURIE, LLC

BY: BRETT H. BAYNE, ESQUIRE

8 1320 Main Street, 10th Floor

Post Office Box 12519 (29211)

9 Columbia, South Carolina 29201

803-779-2300

10 brett.bayne@mgclaw.com

Representing the Defendants

11
12
13
14
15
16
17
18 (INDEX AT REAR OF TRANSCRIPT.)
19
20
21
22
23
24
25

(It is hereby stipulated and agreed by and between counsel for the respective parties that this deposition is being taken in accordance with the South Carolina Workers' Compensation Commission and the Administrative Procedures Act; and that the deponent waives reading and signing of this deposition transcript.)

- - -

KAREN GREENFIELD, MD, after having been first duly sworn, was examined and testified as follows:

- - -

EXAMINATION

- - -

BY MR. BAYNE:

Q. Doctor, how are you doing today?

A. Good.

Q. My name is Brett Bayne. I'm an attorney with McAngus, Goudelock & Courie. We represent Archway Services and the insurance carrier in this claim that Mr. Winfrey has filed. I'm just here to ask you a few questions about the care you provided him. I believe it was on May 28, 2013. But before we begin, can you state your full name

1 for the record and also just go through your
2 background for me.

3 A. Karen G. Greenfield, MD. Undergraduate,
4 Wheaton College, Illinois. Doctor of Medicine,
5 University of Illinois, 1979. Residency and
6 internship at Richland Hospital in family practice
7 finishing in '82, and I've been working at Doctors
8 Care since '82.

9 Q. Okay. And what is it that you do at
10 Doctors Care on a daily basis?

11 A. Staff physician. See whatever illnesses,
12 accidents come in.

13 Q. Just general practitioner?

14 A. Right.

15 Q. Do you have any board certifications or
16 specialties?

17 A. Family practice.

18 Q. Okay. And you've -- have you had an
19 occasion to treat Mr. Clarence Winfrey in this
20 case?

21 A. Yes.

22 Q. And what was it that -- when did you
23 treat him and what did you treat him for?

24 A. It was Tuesday the 28th of May, and he
25 presented to the front desk just as a regular

1 patient, no urgency to it, and had complaints
2 about neck pain and left arm pain, and so when he
3 came in, in talking to him it was ascertained that
4 this was in the line of duty, that a rotisserie
5 had shocked him with 480 volts.

6 I have to admit that we don't see a lot
7 of electrocution things in here. Usually that's
8 emergency room kind of stuff, so I went real quick
9 and read what I could on it, and it said, really,
10 anything over probably 220 can cause some damage.
11 So he was saying that his left arm and shoulder
12 were hurting him and that the shock had kind of
13 jerked his neck down, and that's what he was
14 concerned about.

15 But in just observing him I saw that his
16 pulse was rapid and he was a little short of
17 breath which I actually had questioned him about,
18 but he said he didn't feel short of breath, and-
19 then I advised him that it was work-related, that
20 this was going to be an EKG and some other things
21 and that he probably would need to have workmen's
22 comp cover that as opposed to -- because he put
23 himself down as self-pay, didn't have insurance.
24 He was going to just pay for that.

25 And I said, "Well, you better see about

1 workmen's comp on that." So we waited a little
2 while, in the meantime did the EKG and got
3 approval from workmen's comp to go ahead and treat
4 him.

5 Q. When you say he put self-pay, where did
6 he -- where did he put that down?

7 A. Well, where it is on the chart is where
8 it says copay, and S/P means self-pay.

9 Q. Would that have been something he filled
10 out on an intake form?

11 A. Right. Right.

12 Q. Okay. Do you have a copy of his intake
13 form?

14 A. I should because this was before our
15 computer revolution. All I have is his patient
16 information form, and it doesn't have any kind of
17 insurance listed, so if they don't have insurance,
18 by necessity, they're there for self-pay.

19 Q. Is there anywhere on that form to mark
20 whether it was work-related or not?

21 A. No. They don't ask them that at the
22 front desk.

23 Q. That's something you do during your
24 initial --

25 A. Well, I mean, it's obvious if they come

1 in with an authorization to be treated. Then
2 that's fine. And sometimes they'll say it was
3 work-related, but he did not offer that
4 information to start with.

5 Q. Okay. You had mentioned a minute ago
6 that he was shocked with 480 volts of electricity,
7 and I believe you've filled out a questionnaire as
8 well that indicates he was shocked with 480 volts
9 of electricity. Where did that information come
10 from?

11 A. He told me it was 480.

12 Q. So you haven't seen the device he was
13 using?

14 A. No.

15 Q. And you didn't do any testing on it?

16 A. No.

17 Q. Okay. So if it -- 480 volts is correct,
18 it would be because that's where Mr. Winfrey got
19 it from; is that right?

20 A. Right. Uh-huh.

21 Q. Okay. But you don't know for certain?
22 It could have been 240 or 110?

23 A. I would not have the foggiest.

24 Q. Okay. On your -- I believe it is your
25 medical report from that day where you have your

1 handwritten notes on it. You have written that he
2 had no chest pressure. What does that mean?

3 A. He was not complaining of any type of
4 thing that would go along with a heart attack.

5 Q. Okay. So he had no chest pain at that
6 time --

7 A. Right.

8 Q. -- that he was complaining of?

9 A. Right.

10 Q. Did you make any notes at all about
11 whether or not he was complaining of chest pain
12 before May 28th when he came in?

13 A. No.

14 Q. Okay.

15 A. The only thing that I wrote down there
16 was -- I guess it was on Thursday when he was
17 shocked, and he said he had some sweating issues
18 that evening --

19 Q. Okay.

20 A. -- apparently, and then came in on
21 Tuesday because he woke up sweating.

22 Q. Okay. Between the Thursday night
23 sweating and when he came in on Tuesday, did you
24 get any indication from him that he suffered from
25 that sweating or suffered from any chest pain --

1 A. No.

2 Q. -- during that time?

3 A. No.

4 Q. Okay. And you performed an EKG on him;
5 is that correct?

6 A. Yes.

7 Q. And what did that EKG reveal?

8 A. That he was tachycardic, pulse of 122
9 when normal is 60 to 100. He had some ST
10 elevation in the inferior part of his heart as
11 well as depression in the lateral leads which went
12 along with possible cardiac damage and also a
13 bundle branch block which is a widening of the
14 QRS.

15 Q. Okay. And tachycardia is just an
16 elevated heartbeat; is that correct?

17 A. Right. Heart rate. Yeah.

18 Q. And what is -- you said the right bundle -
19 branch block. What does that mean?

20 A. The time interval between the time that
21 the impulse of the heart travels, I believe,
22 through the -- from the top of the heart to the
23 bottom of the heart. There's a regular time
24 period that it should be under, and it was wider
25 than that.

1 Q. Okay.

2 A. So it was taking longer to conduct the
3 electricity.

4 Q. And that would be indicative of a
5 blockage of the heart; is that correct?

6 A. No. That was an electrical problem.

7 Q. Okay.

8 A. Yeah.

9 Q. And then I believe it says inferior, you
10 said, ST elevation. And what does that mean?

11 A. ST elevation goes along with part of the
12 heart not getting blood supply to it.

13 Q. Okay. Are you able to tell from the EKG
14 that you performed and the findings that were
15 found what was wrong with his heart at that time?

16 A. Well, it would lead you to think that the
17 lower part of his heart had some lack of blood
18 control to -- or blood supply to it, and the rate,
19 obviously that his heart was struggling to try and
20 do what it needed to do.

21 Q. And when you say the lack of blood
22 supply, are you -- is that, again, an electrical
23 issue or is that --

24 A. No. That would be --

25 Q. -- a blockage?

1 A. -- a blockage probably.

2 Q. Okay. At that time does this EKG reveal
3 whether or not he was -- he was later -- let me
4 rephrase the question. He was later found to have
5 a -- what's called a ventricle septal defect, a
6 hole in his heart.

7 A. Yeah. You can't -- you can't see that
8 on --

9 Q. Okay.

10 A. -- an EKG.

11 Q. That's -- there's no way to know whether
12 or not he was suffering from it at the time of the
13 EKG or not; is that right?

14 A. Well, I guess. I'm not a cardiologist,
15 but the electrical impulse travels through the
16 septum, so if there was a hole in the septum, it
17 may -- that may explain why that was a little
18 longer delay getting there._

19 Q. But the EKG itself wouldn't actually
20 directly reveal that to you?

21 A. No.

22 Q. Okay. And what was your -- by the time
23 you got -- you read the EKG, what was your
24 determination of what was going on with
25 Mr. Winfrey?

1 A. That he needed someone a little bit
2 higher level of medical care than I, so I called a
3 cardiologist. I called Dr. Dasgupta. I spoke
4 with him, and he said, "Well, send him over right
5 now."

6 Q. Did your evaluation of Mr. Winfrey or the
7 EKG you performed give you any indication as to
8 when it was that Mr. Winfrey may have suffered
9 this heart attack?

10 A. No. I mean, it was -- I would say yes in
11 the fact that it's -- it wasn't three years ago.
12 It wasn't three months ago. Three -- it could
13 have been five days ago, but if it was longer than
14 ten days, he probably would not have had the ST
15 elevation.

16 Q. Okay. It was, obviously, sometime before
17 he did the EKG.

18 A. Right.

19 Q. Is there --

20 A. But not months before.

21 Q. Correct.

22 A. Yeah.

23 Q. Correct. And so we're kind of looking at
24 an upper limit of between five and ten days
25 maybe?

1 A. Probably.

2 Q. Okay. Could it have been sooner than
3 that as well?

4 A. What do you mean by "sooner"?

5 Q. In other words, could it have been that
6 morning? It could have been the night before? Or
7 is it --

8 A. I imagine.

9 Q. Okay.

10 A. Yeah.

11 Q. Other than the treatment on May 28th when
12 he presented, have you seen Mr. Winfrey back for
13 any reason?

14 A. Not as a patient.

15 Q. Okay. Have you had a chance to see him
16 in any setting at all?

17 A. He came back after he got out of the
18 hospital and thanked me for saving his life which,
19 of course, I didn't do.

20 Q. I understand. And then just one more
21 time, again, on the written opinion that you
22 issued on September 17, 2013, when you refer to
23 480 volts, that is based on what Mr. Winfrey told
24 you; is that right?

25 A. Yes. Uh-huh.

1 Q. And all your opinions here today are to a
2 reasonable degree of medical certainty?

3 A. Yes.

4 MR. BAYNE: Okay. That's all I have,
5 Preston.

6 - - -
7 EXAMINATION
8 - - -

9 BY MR. MCDANIEL:

10 Q. Let me ask you just a couple questions,
11 Doctor, and, really, it refers to -- would you
12 mind reading in some of the handwritten language.
13 First, up in the part -- and I'm going to refer.
14 This is found at page 66 of our APA Submissions.
15 Up where you've given the information from
16 Mr. Winfrey, all that's typed in, and then there's
17 handwritten notes. I believe there's a "G," but
18 it looks like your -- your initials to the left of
19 Columbia, South Carolina. You see that, Doctor,
20 in that section?

21 A. No. Those aren't mine.

22 Q. Oh, they're not?

23 A. I do everything below the Vital Sign
24 line.

25 Q. Okay.

1 A. And the other thing, I guess I did write
2 "WKC" in there for workmen's comp.

3 Q. Okay.

4 A. So that's mine, but everything else is --

5 Q. All right. Would you mind just
6 publishing just so -- so we can read all this.
7 Starting with "shocked," can you just tell me what
8 that says, all that written hand --

9 A. "Shocked on hand by 480 volts. Jerked
10 neck down to left shoulder."

11 Q. Okay.

12 A. That would have been written by the nurse
13 that put him back, and I'm trying to think of who
14 that is. Whoever signed the bottom left there.

15 Q. Okay.

16 A. Bax. We don't have a -- I don't know who
17 that is. Sorry.

18 Q. That's okay. That's all right. Now,
19 let's go down. You said you would have filled in
20 all the Physical.

21 A. Right.

22 Q. Would you just read what that says into
23 the record for me.

24 A. Okay. Well, the Complaint is on the
25 right side. 480 volts rotisserie shock on

1 Thursday. Sweated Thursday night. Woke up
2 sweating this morning, which would have been
3 Tuesday. Complained of pain in his left neck and
4 no chest pressure.

5 Now, that was after I asked him if he'd
6 had any discomfort in his chest.

7 Q. Okay.

8 A. So he did not offer that, really, and I
9 didn't write down there, but I do remember he was
10 really -- he was rubbing his arm, and he was like,
11 "My arm hurts." Of course, you have electricity
12 go through it --

13 Q. And that's the left arm and --

14 A. Right. Left arm.

15 Q. Okay. And is that also a common
16 presentation for having sustained a heart attack?

17 A. Yes. Well, you will have pain in your
18 arm but not pain to touch.

19 Q. Okay. And -- but he had actual pain --
20 to your recollection, he had pain to touch.

21 A. Well, yeah. I didn't write anything
22 about the arm, but I did put "tenderness in his
23 left trapezius," and that's the upper -- the
24 muscle up here in the neck, so he was -- he was
25 sore there.

1 Q. Okay. All right. And then in reference
2 to the other side, to the left --

3 A. Oh, okay. Well, the -- "well-developed,
4 well-nourished white male. No acute distress.
5 Appears short of breath but denies." Appears to
6 be. That's a --

7 Q. Okay.

8 A. "Entry wound." He had a entry on the --
9 the back of his third left finger. I didn't say
10 whether it was proximally or distally, but I do
11 remember that there.

12 Q. Okay.

13 A. "Trapezius -- tenderness, left
14 trapezius." And then when I listened to his heart
15 he had a grading of three over six murmur, and
16 his -- his rate was -- was high.

17 Q. All right. Grade three --

18 A. - Over six.

19 Q. -- over six.

20 A. Yeah.

21 Q. What does that mean?

22 A. We grade heart murmurs from one to six.
23 Six is if I was sitting next to you without a
24 stethoscope I could hear your heart --

25 Q. Okay.

1 A. -- murmur. One is like you got to think
2 real hard, is that a heart murmur or not. So a
3 three is like a medical student could figure that
4 one out real easy.

5 Q. Okay. And then so that's the --

6 A. That would actually go along with the
7 ventral -- the septal -- excuse me. VSD, the
8 ventricular septal.

9 Q. It would --

10 A. Because you don't get murmurs from heart
11 attacks. You get murmurs either through blood
12 going over the valves or blood going from one side
13 of the heart to the other.

14 Q. Okay. So that would be further support
15 in reference to the EKG of that he was having --

16 A. Well, not --

17 Q. -- blood not going where it was supposed
18 to.

19 A. No. This would say the blood was -- was
20 turbulent going through some place, so it would
21 either be a valve or the hole between the right
22 side and the left side.

23 Q. Okay.

24 A. But it doesn't say anything about blood
25 getting to all the area of the heart.

1 Q. Right. Exactly. But, in other words,
2 it -- it's further support that the VSD was there
3 at that time.

4 A. Right.

5 Q. Okay. And then those -- I guess those
6 numbers are just diagnostic codes?

7 A. Right.

8 Q. Okay.

9 A. Yeah. For tachycardia, electric shock
10 and muscle shock.

11 Q. Then --

12 A. Okay.

13 Q. -- you discuss --

14 A. So discuss with Dr. Dasgupta at South
15 Carolina Heart Lexington, and he said, "Oh, send
16 him over." Of course, then when he got over
17 there, he said, "I'm calling an ambulance. You're
18 going to the hospital."

19 It's like, "Whoops."

20 Q. Okay. And then -- and so that's in
21 reference to your follow-up now?

22 A. Yeah. That he was to go now. Yeah.

23 Q. Okay. All right.

24 A. And then, depending on what happened, I
25 gave him some muscle relaxers and some pain

1 reliever for -- for what he perceived that he came
2 in here for.

3 Q. You know, your testimony goes along
4 exactly with -- in reference to five, no more than
5 ten days. Tell me what the -- why you said that
6 about the EKG in reference to, I believe -- was it
7 the STV or the ST?

8 A. ST elevation.

9 Q. The ST elevation.

10 A. Right. Yeah.

11 Q. Correct.

12 A. During the -- a heart attack, the ST
13 level grade will go up higher, and then as the
14 heart attack resolves, it comes down.

15 Q. Okay.

16 A. So the cardiologist will be able better
17 to tell you at what point it goes from being up to
18 being down or to being low. I'm not sure about -
19 the evolution of time on that one.

20 Q. Okay. But it -- based on your background
21 and training, I believe you said that
22 normally that --

23 A. It's an acute injury.

24 Q. -- it's an acute injury, meaning within
25 the last ten days.

1 A. Oh, at least. Yeah.

2 Q. Okay. All right. And the opinion that
3 you were kind enough to write to us, you -- that
4 still remains your opinion to a reasonable degree
5 of medical certainty?

6 A. Right.

7 MR. MCDANIEL: All right. Nothing
8 further.

9 THE WITNESS: Well, not having any
10 previous information on any of his medical
11 status.

12 MR. MCDANIEL: Uh-huh. Uh-huh.

13 THE WITNESS: I mean, you know, if he was
14 seeing a cardiologist for three years and had
15 documented heart disease, that would be
16 another story, but ...

17 BY MR. MCDANIEL:

18 Q. Right. But in other words --

19 A. Just based on the one time.

20 Q. You said you did some brief research?

21 A. Yeah. The -- really, I was looking for
22 the VSD, and I couldn't find anything anywhere
23 about VSDs, but apparently there's some attorney
24 in Florida or in California that loves to do
25 electrical stuff, but on this -- you know,

1 V-fib -- of course, abnormal heart rhythm is the
2 greatest risk for an acute electrical injury
3 because the electricity goes through your heart,
4 just fritzes out your own heart's electrical
5 activity.

6 So V-fib and A-fib are the biggest things
7 that happen on that one, but this goes ahead and
8 says that the shock can actually cause myocardial
9 damage, can cause bundle branch blocks.

10 Q. And where is that from?

11 A. Medscape. Actually, there's another one
12 here. Electrical Injuries and Lightning Strikes
13 under -- this is a UK site. "Cardiac system," it
14 says "Ventricular fibrillation is the usual cause
15 of immediate death. Other arrhythmias have been
16 reported: right bundle branch block, nonspecific
17 ST and T-wave changes" which is that ST thing we
18 were talking about.

19 "Supraventricular tachycardia, atrial
20 fib. Acute myocardial infarction has been
21 reported. It's worth noting cardiac markers will
22 be raised." That's the blood work. To diagnose a
23 heart attack you need either the symptoms, changes
24 in EKG and the blood work to go along with that
25 or, if you don't have the symptoms, those other

1 two things would be adequate. And "delayed
2 arrhythmias are extremely rare, tend to be found
3 in patients with a previous history of EKG
4 abnormality."

5 So, you know, acutely, that's when they
6 need to go to the emergency room, and five days
7 later, I was, frankly, surprised that he would
8 come in, but I was really concerned about his
9 heart findings.

10 Q. Let me -- you know, just one question.
11 Of course, he was obviously reporting these
12 problems that would be associated with --

13 A. Muscle injury.

14 Q. -- muscle from -- from the electrical
15 shock.

16 A. Right. Right.

17 Q. And that would be -- but also that's in
18 the same exact area that many people report pain
19 and --

20 A. When they're having a heart attack.

21 Q. -- discomfort and have -- well, would it
22 be your opinion that there's a substantial
23 likelihood that the electrical shock and where it
24 occurred and the path it took would have masked
25 him -- like -- in other words, saying like, "Well,

1 I've just got to get over this electrical shock,"
2 versus, "I've had a heart attack."

3 A. Well, I don't know about certainty issues
4 because without any pressure in his chest or a
5 heaviness in his chest, by itself, pain in the
6 left arm, I would be concerned about if he came in
7 and said, "I have left arm pain, but I'm fine
8 here."

9 Q. Uh-huh.

10 A. Especially with a EKG. But you're saying
11 with electrical shock pain, he may have confused
12 any pain that might have come from a heart attack
13 in his left arm with that.

14 Q. Correct.

15 A. Yeah. I mean, you can't separate those
16 two out.

17 Q. Okay. All right. Let me ask you -- and
18 you said this came -- and, of course, it says it
19 came off of Medscape. What is Medscape?

20 A. It's just a Web site with usually medical
21 information on it.

22 Q. Okay. Is that something y'all regularly
23 use when you've got --

24 A. No. I did that at home yesterday.

25 Q. Oh, okay.

1 A. No. I didn't do it at the time. I was
2 just doing it to be prepared for today.

3 Q. Okay. All right.

4 A. If you want this, too, you can have
5 that. We can make copies for both of you.

6 MR. MCDANIEL: Would you mind if we make
7 a copy of that?

8 MR. BAYNE: No.

9 MR. MCDANIEL: Okay.

10 THE WITNESS: This one -- I mean, I just
11 summarize it on the side there, but under
12 "Cardiac system" down there it has it.

13 I mean, this says, "This PatientPlus
14 article is written for healthcare
15 professionals so the language may be more
16 technical than the condition leaflets."

17 MR. MCDANIEL: Let me ask. Brett, do you
18 want to take a look at those?

19 MR. BAYNE: Yeah. Just --

20 THE WITNESS: And they were like eight
21 pages long, but I just --

22 MR. MCDANIEL: We can just make those an
23 exhibit to the deposition. Do you have any
24 objection to that?

25 THE WITNESS: And then this one was just

1 a summary of radiation on electrical injury in
2 terms of circulation, which is cardiac
3 disease. It says, "Cardiac complications of
4 electrocution (apropos of a case of myocardial
5 infarction after lightning electrocution.)"

6 Now, I don't know how lightening and 480
7 volts compare, so -- and it's just a
8 bibliography. It doesn't have any information
9 on there. Yeah. Physics wasn't my greatest
10 thing, so volts and amperes and all those
11 things.

12 MR. MCDANIEL: Okay. I don't have any
13 further questions, just subject to us
14 attaching those to -- as --

15 MR. BAYNE: Yeah. Just --

16 MR. MCDANIEL: We can attach them as one
17 of three or however many pages if you want to,
18 Brett.

19 THE WITNESS: Yeah. I was kind of
20 looking for the VSD because that's amazing,
21 but then when you read what Travis said, you
22 know, it looked like burn marks or something.
23 Now, I -- like I said, I wasn't sure whether
24 that was burn marks on the septum or burn
25 marks on the heart, but ...

1 MR. MCDANIEL: Okay. All right. Thank
2 you, Doctor. I don't have any further
3 questions. Let's just see if -- I don't know
4 if Mr. Bayne has any.

5 MR. BAYNE: Can we go off the record real
6 quick?

7 MR. MCDANIEL: Yeah.

8 (A discussion was held off the record.)

9 - - -

10 REEXAMINATION

11 - - -

12 BY MR. BAYNE:

13 Q. Doctor, I just wanted to ask a couple
14 follow-up questions. You said that Mr. Winfrey's
15 pain in his left arm was pain to touch; is that
16 right?

17 A. It was tender to touch.

18 Q. Tender to touch.

19 A. Yeah.

20 Q. You indicated that pain in the left arm
21 that is typically associated with a heart attack
22 is not tender to the touch.

23 A. Yeah.

24 Q. Is that right?

25 So at least based on your observation of

1 him on that day it would not have led you to
2 believe that that pain was related to a heart
3 attack; is that correct?

4 A. Yes.

5 Q. Okay. On the electrical articles that
6 you've referenced that are going to be put into
7 the record in just a second, you indicated that it
8 talked about an electrical shock, lightening; is
9 that right?

10 A. I would have to look at that.

11 MR. MCDANIEL: I think she was referring
12 to --

13 THE WITNESS: Well, the title says both.

14 MR. MCDANIEL: And I have no objection to
15 that page, Brett, if you wanted to put it in.

16 THE WITNESS: Yes. This one says
17 lightening.

18 BY MR. BAYNE:

19 Q. My quick question was, on the second page
20 which is labeled page 2 of 8 on the top right, it
21 does talk about lightening right there. About a
22 third of the way down it indicates lightening is
23 about 10 million volts; is that correct?

24 A. That's what it says.

25 Q. Okay.

1 A. I don't know.

2 Q. And you'd agree that 10 million is more
3 than 480; is that right?

4 A. Right. Uh-huh.

5 Q. And in the other -- the Medscape article
6 that you -- you printed off -- and I'll hand it
7 back to you real quick. It doesn't indicate on
8 there when it's talking about -- I believe you
9 circled a part about heart damage relating --

10 A. Right.

11 Q. -- from electrocution. It doesn't --

12 A. Right.

13 Q. It doesn't refer to the number of volts
14 that would be required or --

15 A. It doesn't say --

16 Q. -- would be typical?

17 A. -- what was causing it. Not of the
18 source. Yeah. -

19 Q. Okay. In your notes on 10/28, one thing
20 I wanted to touch on I forgot about, you noted
21 that he had an entry wound --

22 A. Right.

23 Q. -- on his left hand. Is that a term of
24 art, so to speak, or was there an actual wound?

25 A. No. He actually had a wound there.

1 Yeah.

2 Q. Do you recall what it looked like?

3 A. I think it was a little brownish. It
4 was -- I mean, since it was five days old, I think
5 it was just like a resolving burn.

6 Q. Okay. So it looked -- at the time it
7 looked like a resolving burn?

8 A. Uh-huh.

9 Q. And then you said something about --
10 Mr. McDaniel asked you about the opinion that you
11 had filled out, the questionnaire you'd filled
12 out, and asked if that had changed at all, and I
13 think you said something about depending on his
14 history.

15 A. Oh. No. I mean, it -- my opinion from
16 then until now hasn't changed because I don't have
17 any other history.

18 Q. Okay.

19 A. Yeah.

20 Q. Would the fact that Mr. Winfrey had, for
21 example, a family history of this type of heart
22 condition, would that in any way change your
23 opinion as to what caused --

24 A. No.

25 Q. -- his symptoms?

1 A. Huh-uh.

2 Q. And, in fact, I believe when he did
3 arrive at the hospital finally and Dr. Travis saw
4 him, he did diagnose him with severe three vessel
5 disease. Does that at all change any of your
6 opinions in this case?

7 A. Not as far as what precipitated it, no.

8 MR. BAYNE: Okay. That's all I have.

9 MR. MCDANIEL: Nothing further.

10 - - -

11 (Medical Web Site Documents marked
12 Greenfield Exhibit Number 1, for
13 identification.)

14 - - -

15 (Witness excused.)

16 - - -

17 (Deposition concluded at 2:30 p.m.)

-18 - - -

19

20

21

22

23

24

25

CERTIFICATE OF REPORTER

I, Deidre Osborne, Court Reporter and
Notary Public for the State of South Carolina at
Large, do hereby certify:

That the proceedings and evidence are
contained fully and accurately in the notes taken
by me in the above cause and that it is a correct
transcript of the same.

I further certify that I am neither
related to nor counsel for any party to the cause
pending or interested in the events thereof.
Witness my hand, I have hereunto affixed my
official seal this 9th day of January, 2014, at
Lexington County, South Carolina.

Deidre Osborne

Deidre Osborne,
Court Reporter
Notary Public
State of South Carolina at Large
My Commission Expires:
June 12, 2019

I N D E X

PAGE

Stipulations	3
Examination	
By Mr. Bayne	3,27
By Mr. McDaniel	14
Certificate of Reporter	32

Reporter's Note: This transcript contains quoted material. Such material is reproduced as read or quoted by the speaker.

E X H I B I T S

GREENFIELD	DESCRIPTION	MARKED
1	Medical Web Site Documents	31

More Cognitive Deficits, Depression in Former NFL Players

Does Static Stretching Reduce Maximal Muscle Performance?

Aging Football Players at Higher Risk for Depression

DRUG & REFERENCE INFORMATION

Primary CNS Lymphoma

Initial Evaluation and Management of CNS Injury

Central Nervous System Lymphoma in HIV

duration of exposure, the resistance of the tissues, contact surface, the extent of multisystem involvement, and the circumstances surrounding the incident.

Initial Evaluation

The high voltage direct current (DC) electrocution tends to cause a single muscle contraction, throwing its victim from the source. These patients tend to have more blunt trauma. Direct current electrocution can also cause cardiac dysrhythmias, depending on the phase of the cardiac cycle affected. This action is similar to the effect of a cardiac defibrillator.

Low voltage alternating current (AC) electrocution is three times more dangerous than DC current at the same voltage. The lowest frequency for electrical current in the United States is 60 Hertz (Hz) because this is the lowest frequency at which an incandescent light functions. With AC electrocution, continuous muscle contractions (tetany) may occur, since the muscle fibers are stimulated at between 40 to 110 times per second. With tetany, the victim tends to hold on to the source of current output, thereby increasing the duration of contact and worsening the injury.^[1]

Generally, the longer the duration of contact with high voltage current, the greater the degree of tissue destruction. This is true until the tissue becomes carbonized and resistance develops to the current flow. Current is often concentrated at the contact and ground points of the body, where the greatest amount of tissue damage occurs. However, extensive damage may occur between the contact and ground point.

Electrical injuries occur from direct contact or as an indirect contact with a power source. Indirect contacts can be separated into arc flash, thermal, and blunt trauma injuries. An arc injury is the most destructive of all of the indirect mechanisms. It can generate approximately 2,500°C. An electrical arc is a current spark that develops between two objects that are not in contact with each other. An arc injury occurs when the victim becomes part of the arc itself. Electrical arcs can ignite clothing and cause thermal burns. Flash burns from the electrical source usually result in superficial partial thickness burns. High voltage shocks may cause blunt trauma, usually when the electrical energy causes the victim's muscles to contract violently. This intense and diffuse muscle contraction can cause the victim to fall or fracture bones, especially in AC electrocution.^[1]

Central nervous system injury is common with electrocution, as is blunt head trauma, which results from falls or from being thrown from a high voltage contact. Change in mental status is also common. Cataracts, which may occur immediately after electrocution or months later, develop in 5% of patients who have sustained electrical injury near the head or high voltage electrocution.^[1] Corneal burns, intraocular hemorrhage or thrombosis, uveitis, retinal detachment, and orbital fractures may also result.

Electrical injury in pediatric patients often involves the oral cavity because children typically bite or suck on the electrical cord. Injury to the labial artery with delayed bleeding occurs in 10% of these patients.

Cardiac arrest, either from asystole or ventricular fibrillation, is common in electrocution. However, patients may present with sinus tachycardia, transient ST segment elevation, QT segment prolongation, PVCs, atrial fibrillation, or bundle branch block.^[1] Acute myocardial infarction is rare but has been reported.^[1] Vascular damage is greatest in the medial layer of the vessel. Intimal damage may result from immediate or delayed thrombosis as edema and thrombi form on the damaged endothelial surface. This commonly occurs in small muscle branches, where blood flow is slower. The damage to the small arterioles, along with marginal muscle viability as a direct result of the electrical energy, can lead to progressive tissue necrosis.^[1] Coagulation necrosis, intravascular hemolysis, and delayed vessel rupture may also occur.

Damage to the lungs is rare because the air in the lungs is a poor conductor of electricity. More commonly, blunt pulmonary trauma occurs from falls or other associated events. Respiratory arrest may result from tetanic contraction of the diaphragm. Aspiration pneumonia and pulmonary edema are not the direct result of electrocution.

Injuries to solid abdominal organs directly from electrical current have not been reported. Solid organ damage is usually the consequence of blunt trauma. Hepatic and pancreatic necrosis, paralytic ileus, bowel perforation, esophageal hemorrhage, Curling's ulcers, and gastrointestinal bleeding have been reported. Acute renal failure usually results from rhabdomyolysis or hypovolemia.

Long bone fractures, vertebral compression fractures, and scapular fractures may result from electrical shock, either from the violent and intense muscle contraction or from secondary blunt trauma. Shoulder dislocations may result from tetanic spasm of rotator cuff muscles. Periosteal burns, bony matrix destruction, aseptic necrosis, and osteomyelitis have been reported as delayed complications. Severe muscle necrosis may require fasciectomy.

Altered mental status is usually transient unless associated with significant head injury. The victim may have confusion, agitation, emotional lability, amnesia (with loss of both short-term and long-term memory), cognitive impairment, aphasia, headache, seizures, and prolonged coma. Cerebral edema, hypoxic encephalopathy, and peripheral neuropathy have been reported. Central and peripheral nervous systems symptoms may improve, but long-term disability is common.

In high voltage electrocution, the spinal cord may be injured as a result of fractures or ligamentous injury to the spinal column caused by muscle contraction or blunt trauma. In addition, the electrical current may cause direct injury to the spinal cord. This spinal cord injury may be acute or delayed. Acute insult to the spinal cord may cause weakness and paresthesia within hours of the initial injury. Neurologic deficits are more common in lower extremities than in upper extremities. These patients have a good prognosis for partial or complete recovery. On the other hand, delayed injury may be manifested days to years after

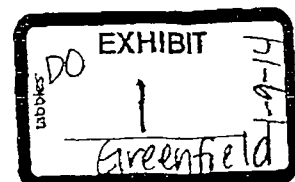
MOST POPULAR ARTICLES

According to PHYSICIANS

1. Are Doctors Suffering From Computer Fatigue?
2. 5 Unexpected Ways You Could Get Sick
3. Antidepressant-Induced Liver Injury: Underestimated?
4. Depression Linked to Low Zinc Levels in Blood
5. What Do You Expect From a Doctor?

» View More

v fib
MI
BBB
a fib



Electrical Injuries and Lightning Strikes

This PatientPlus article is written for healthcare professionals so the language may be more technical than the condition leaflets. You may find the abbreviations list helpful.

Patients presenting with electrical injuries have problems that can range from the very trivial to the fatal (in which case, they are said to have been electrocuted). If patients survive the initial exposure, the outlook is generally very good with few permanent injuries as a result.

Epidemiology^[1]

- Electrical burn injuries account for about 3-4% of burns unit admissions.^[2]
- Electricians and linesmen are at highest risk but those working with electrical tools also form a significant proportion of this patient group.
- Approximately 20% of all electrical injuries occur in children (with a bimodal peak incidence in toddlers and adolescents), usually involving cable extensions or wall outlets.^[3]
- For every death, there are two serious injuries and 36 reported electric shocks.
- Death most often occurs in young males (male:female = 9:1).
- Most deaths occur in the spring and summer months.
- Water greatly increases the risk of fatality.

Save time & improve your
on Patient.co.uk

Add notes to any
clinical page and
create a reflective

Pathophysiology of electrical injury^[1]

Electrical current causes damage through:^[3]

- Direct process of physiological changes (altering cell resting membrane potential).
- Conversion of electrical energy into thermal energy, resulting in massive tissue destruction and coagulative necrosis.
- Secondary damage associated with falls and violent muscle contractions.

Automatically track and log every
page you have viewed

Print and export a
summary to use in
appraisal

There are several factors that affect the degree of damage:

Current

Type of current: this may be direct or alternating. The latter is significantly more dangerous in a number of respects:

- It may result in tetanic muscular contraction, so preventing the casualty from letting go of the source.
- An alternating current of any more than 10 mA induces sweating. Skin moisture decreases its resistance (see below).
- Human tissue is most sensitive to frequencies between 40 and 150 Hz. The frequency best suited for household use is about 50 Hz, so making household current particularly dangerous. This is all the more salient, as this is the frequency that is capable of producing ventricular fibrillation (VF).

Amount of current:

- 1 mA = threshold of perception resulting in tingling sensation.
- >7-9 mA = muscular tetany preventing release of grip from current source (this is lower for children and women).
- 20-50 mA = pain and severe breathing difficulties leading to respiratory arrest.
- 50-100 mA = VF.
- >2 A = asystole.

Current path: the key issue affecting mortality is whether the current passes through the heart. For example, contact of the electrical source with both hands effectively results in a transthoracic pathway which is thought to account for about 60% of mortalities, whereas there is very low mortality related to a pathway passing through one leg and out of the other.

Voltage^[2]

Generally, the greater the voltage, the greater the damage (the exception being with high-tension voltage: above this level, greater voltage doesn't necessarily influence the degree of injury).^[4] This is accentuated or limited by the resistance of the tissue that the electricity passes through (see below):

- **Low voltage:**
 - <50 V: no danger.
 - 240 V: UK household supply ($\pm 10\%$). This creates small, deep entrance and exit wounds.
- **High voltage:**
 - $\geq 1,000$ V: there is often extensive tissue damage and limb loss. Contact with $>70,000$ V is invariably fatal.
 - 100 million V: lightning - this is quite different from a high-voltage electric shock and is treated separately below.

Resistance

As the current travels through the body, it follows the path of least resistance.^[5] Resistance varies in different tissues and will have a great influence on the extent of any injuries.

- At a cellular level, the injury resembles a crush injury more than it does a burn.
- The electrical current will pass through low-resistance tissues in preference, causing necrosis along the way.
- Since the skin resistance can be affected by moisture, electric current can be transmitted to deeper structures before it causes significant skin damage (there may be serious deep injury with spared skin).^[6]
- A current passing along the surface of the body to earth can cause very deep burns over a large area.^[7]
- There will be a range of clinical manifestations with different effects on different organs.
- Be aware of potential secondary injuries from falling or being thrown to the ground.^[8]

Burns^[2]

- These range from first-degree to third-degree: there is typically a depressed charred central area with surrounding oedema. There may be several entry and exit wounds (the latter characteristically have an explosive appearance - round or oval grey craters with no inflammatory changes).^[9]
- Arc burns are produced by the passage of a current of electricity from the source to the ground and may be associated with extensive skin damage.
- So-called 'kissing burns' are produced in flexor creases when muscle tetany causes the joint to flex and the current flows through opposing skin.^[10]
- Flame burns occur when the current ignites clothing.

Cardiac system

- Ventricular fibrillation (VF) is the usual cause of immediate death from electrocution;^[3] this occurs immediately.
- Other arrhythmias have been reported: right bundle branch block and nonspecific ST and T-wave changes occur most commonly;^[9] there may be supraventricular tachycardia and, occasionally, atrial fibrillation.
- Acute myocardial infarction has been reported.
- It is worth noting that cardiac markers will be raised, regardless of cardiac damage, so don't use these as an indication of cardiac damage.^[6]
- Delayed arrhythmias are extremely rare and tend to be found in patients who have a previous history of ECG abnormalities (known or subclinical).^[6]

Nervous system

- **Acute complications:** these include respiratory arrest, seizures, altered mental state, amnesia, coma and expressive dysphasia. Motor deficits have also been reported.
- **Delayed complications:** these include spinal cord injury (common) and complex regional pain syndrome (CRPS).^[4]
- Acute ischaemic stroke has also been reported.^[7]

11. Bodily K, Perry JF Jr, Strate RG, Fischer RP: Salvageability of patients with post-traumatic ruptures of the descending thoracic aorta in a primary trauma center. *J Trauma* 17: 754, 1977
12. Achram M, Rizk G, Haddad FS: Angiographic aspects of traumatic intracranial aneurysms following war injuries. *Br J Radiol* 53: 1144, 1980
13. Reichle FA, Golsorkhi M: Diagnosis and management of penetrating arterial and venous injuries in the extremities. *Am J Surg* 140: 365, 1980

Radiation and Electrical Injury

1. Cohn KE, Stewart JR, Fajardo LF, Hancock EW: Heart disease following radiation. *Medicine* 46: 281, 1967
2. Contreras MD: Myocardial depolarization caused by lightning. Report of a clinical case. *Arch Inst Cardiol Mex* 41: 220, 1971
3. Starmer CF, McIntosh HD, Whalen RE: Electrical hazard and cardiovascular function. *N Engl J Med* 284: 181, 1971
4. Grand A: Cardiac complications of electrocution (apropos of a case of myocardial infarct after lightning electrocution). *Arch Med Prof* 33: 177, 1972
5. Lister GD, Gibson T: Destruction of the chest wall and damage to the heart by x-irradiation from an industrial source. *Br J Plast Surg* 26: 328, 1973
6. Watson AB, Wright JS, Loughman J: Electrical thresholds for ventricular fibrillation in man. *Med J Aust* 1: 1179, 1973
7. Myers RW: Radiation heart disease. *J Tenn Med Assoc* 68: 292, 1975
8. Vireque C, Laguere J: Les accidents de la fulguration. *Anesth Anal Rean* 33: 775, 1976
9. Wilkinson C, Wood M: High voltage electric injury. *Am J Surg* 136: 693, 1978
10. Doherty PW, McLaughlin PR, Billingham M, Kemoff R, Goris ML, Harrison DC: Cardiac damage produced by direct current countershock applied to the heart. *Am J Cardiol* 43: 225, 1979

Iatrogenic Cardiovascular Trauma

1. Libanoff AJ, Silver AW: Complications of transseptal left heart catheterization. *Am J Cardiol* 16: 390, 1965
2. Popper RW, Schumacher D, Quinn CH: Cardiac tamponade due to hyperosmotic contrast medium in the pericardial sac following cineangiography. *Circulation* 35: 933, 1967
3. Evans DW: Traumatic right coronary artery occlusions incident to retrograde left ventricular catheterization with a stiff catheter. *Am J Cardiol* 22: 119, 1968
4. Hagan AD, Trone JN: Ventricular septal perforation following left ventricular angiography. *Am J Cardiol* 22: 885, 1968
5. Meyer JA, Millar K: Perforation of the right ventricle by electrode catheters: A review and report of nine cases. *Ann Surg* 168: 1048, 1968
6. Rudolph AM: Cooperative study in cardiac catheterization. Complications occurring in infants and children. *Circulation* 37 (suppl III): III-59, 1968
7. Swan HJ: Cooperative study on cardiac catheterization. Complications associated with angiocardiology. *Circulation* 37 (suppl III): III-81, 1968
8. Swan HJ: Cooperative study on cardiac catheterization. Perforation and other cardiac complications. *Circulation* 37 (suppl III): III-36, 1968
9. Conti CR, Ross RS: The risks of cardiac catheterization. *Am Heart J* 78: 289, 1969
10. Pictras RJ, May PC, Gunnar RM, Tobin JR Jr: Reappraisal of the posterior percutaneous technique of left heart catheterization. *Dis Chest* 55: 471, 1969
11. Stillman MT, Richards AM: Perforation of the interventricular septum by transvenous pacemaker catheter. Diagnosis by change in pattern of depolarization. *Am J Cardiol* 24: 269, 1969
12. Burnside J, Daggett WM, Austen WG: Coronary artery rupture by a mitral valve prosthesis after closed chest massage. *Ann Thorac Surg* 9: 267, 1970
13. Kerber RE, Ridges TD, Harrison DC: Electrocardiographic indications of atrial puncture during pericardiocentesis. *N Engl J Med* 282: 1142, 1970

14. Kitamura K, Gobel FL, Wang Y: Dissection of the left coronary artery complicating retrograde left heart catheterization. *Chest* 587, 1970
15. Baldwin BJ, Dorney ER: Acute cardiac tamponade following removal of temporary epicardial pacemaker wires after open surgery. *Am J Med Sci* 261: 241, 1971
16. Bernstein V, Rotem CE, Peretz DI: Permanent pacemakers: follow-up study. Incidence and management of congestive failure and perforation. *Ann Intern Med* 74: 361, 1971
17. Enghoff E, Cullhead I: Experiences with transseptal left heart catheterization: a review of 454 studies. *Am Heart J* 81: 398, 1971
18. Goswami M, Gould L, Gomprecht RF, Imperiale A: Perforation of the heart by flexible transvenous pacemaker. *JAMA* 216: 207, 1971
19. Henzel JH, Dewese MS: Morbid and mortal complications associated with prolonged central venous cannulation. Awareness, recognition and prevention. *Am J Surg* 121: 600, 1971
20. Bensard J, Barillon A, Szebat L, Lenegre J: Course of acute myocardial infarction after selective angiography. *Arch Mal Coeur* 66: 1972
21. Berner HW, Seisler EP, Barlow J: Fetal cardiac tamponade: complication of amniocentesis. *Obstet Gynecol* 40: 599, 1972
22. Björk VO, Book K: The hazards to the left circumflex coronary artery during mitral valve surgery in cases with atrial septal defect and corrected transposition. *Scand J Thorac Cardiovasc Surg* 215, 1972
23. Borja AR, Masri Z, Shuck L, Pejo S: Unusual and lethal complications of infraclavicular subclavian vein catheterization. *Chest* 57: 42, 1972
24. Ibcn AB, Firpo R, Hurley EJ: Coronary artery bypass for iatrogenic ostial injuries. *Chest* 61: 304, 1972
25. Imperato AM, Kim GE: Electrical complications in patients with permanent cardiac pacemakers. Ten years' experience. *Arch Intern Med* 105: 705, 1972
26. Agdal N, Jorgensen TG: Penetrating laceration of the pericardium and myocardium and myocardial rupture following closed cardiac massage. *Acta Med Scand* 194: 477, 1973
27. Golden MS, Pinder T Jr, Anderson WT, Chaitin MD: Fatal coronary hemorrhage complicating use of a flow-directed balloon tipped catheter in a patient receiving anticoagulant therapy. *Am J Cardiol* 32: 865, 1973
28. Niede S, Abe T, Kurbayashi R, Sato M, Abe S: Case of a cardiac injury resulting from acupuncture. *Jpn J Thorac Surg* 26: 881, 1973
29. Peterson SR, Singh JB, Reeves G, Kocot SL: Tricuspidal perforation by endocardial pacing electrode. *Chest* 63: 125, 1973
30. Rubenfire M, Aube DT, Drake EH, Ormond RH: Clinical evaluation of myocardial perforation as a complication of permanent transvenous pacemakers. *Chest* 63: 185, 1973
31. Takaro T, Hultgren HN, Littmann D, Wright EC: An analysis of deaths occurring in association with coronary arteriography. *Heart J* 86: 587, 1973
32. Van Durme JP, Heyndrickx G, Snaeck J, Vermerie P, Pannu: Diagnosis of myocardial perforation by intracardiac electrograms recorded from the indwelling catheter. *J Electrocardiol* 6: 97, 1973
33. Barnes RW, Peterson JL, Krugmire RB Jr, Strandness DE: Complications of percutaneous femoral arterial catheterization. *Am J Cardiol* 33: 259, 1974
34. Hurwitz BJ, Zion MM, Obel IWP: Myocardial perforation by flexible Elema endocardial pacing catheters. *Thorax* 29: 678, 1974
35. Stanger P, Heymann MA, Tarnoff H, Hoffman JIE, Rudolph AM: Complications of cardiac catheterization of neonates, infants, and children. A three year study. *Circulation* 50: 595, 1974
36. Atcheson SG, Peterson GV, Fred HL: III-effects of cardiac catheterization: report of two unusual cases. *Chest* 67: 615, 1975
37. Biggart JD, McClure J: Right atrial laceration. Complication of external cardiac massage. *Br Heart J* 37: 652, 1975
38. Dane TEB, King EG: Fatal cardiac tamponade and other medical complications of central venous catheters. *Br J Surg* 62: 6, 1975
39. Harrison LH, Gregg DL, Itscoitz SB, Redwood Dr, Michaels: Delayed coronary artery dissection after angiography. *J Thorac Cardiovasc Surg* 69: 880, 1975
40. Shah A, Gnoj J, Fisher VJ: Complications of selective coronary arteriography by the Judkins technique and their prevention. *Heart J* 90: 353, 1975

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
COLUMBIA, SOUTH CAROLINA
WCC FILE NO. 1306305

EMPLOYEE/CLAIMANT: CLARENCE WINFREY

 COPY

EMPLOYER: ARCHWAY SERVICE, INC.

INSURER: AMERICAN FIRE & CASUALTY COMPANY

SOUTH CAROLINA WORKERS' COMPENSATION HEARING

PURSUANT TO NOTICE OF WORKERS' COMPENSATION
HEARING, THE WITHIN HEARING WAS TAKEN ON THE 13TH DAY OF
JANUARY, 2014, COMMENCING AT THE HOUR OF 9:27 A.M., IN
COLUMBIA, SOUTH CAROLINA, BEFORE THE HONORABLE, SUSAN S. BARDEN
ATTENDED BY COUNSEL AS FOLLOWS:

SALLYE DEANNE NELSON
VERBATIM REPORTER

JAN L. WHITWORTH
COURT REPORTING SERVICES
POST OFFICE BOX 551
ROEBUCK, S.C. 29376

APPEARANCES

PRESTON F. MCDANIEL, ESQUIRE, OF THE FIRM
MCDANIEL LAW FIRM
1315 ELMWOOD AVENUE
COLUMBIA, SOUTH CAROLINA 29201

ATTORNEY FOR THE EMPLOYEE/CLAIMANT,

BRETT HARRIS BAYNE, ESQUIRE, OF THE FIRM
MCANGUS GOUDELOCK & COURIE, L.L.C.
1320 MAIN STREET
COLUMBIA, SOUTH CAROLINA 29201

ATTORNEY FOR THE EMPLOYER/INSURER

ALSO ATTENDING:

SUSAN KISER
STEVE SHULMEISTER
MARK WARREN
CLARENCE WINFREY

I N D E X

PAGE

CLARENCE WINFREY:

DIRECT EXAMINATION BY MR. MCDANIEL	20
CROSS-EXAMINATION BY MR. BAYNE	44

MARK WARREN:

DIRECT EXAMINATION BY MR. BAYNE	58
CROSS-EXAMINATION BY MR. MCDANIEL	59
CERTIFICATE OF NOTARY PUBLIC	61

1 PURSUANT TO NOTICE OF HEARING, THE WITHIN HEARING
2 WAS TAKEN BY THE ABOVE-NAMED COURT REPORTER, A NOTARY
3 PUBLIC FOR THE STATE OF SOUTH CAROLINA, IN COLUMBIA,
4 SOUTH CAROLINA.

5 * * * * * * * * * * * * * * * *

6 BY COMMISSIONER BARDEN:

7 TODAY'S DATE IS JANUARY 13TH, 2014. THIS IS
8 SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION FILE
9 NUMBER 1306305. THIS IS THE CASE OF THE CLAIMANT
10 MR. CLARENCE WINFREY WHO IS PRESENT TODAY. LET'S GO
11 OFF THE RECORD ONE SECOND.

12 (OFF THE RECORD)

13 BY COMMISSIONER BARDEN:

14 MR. WINFREY IS REPRESENTED BY ATTORNEY PRESTON
15 MCDANIEL. THE EMPLOYER IS ARCHWAY SERVICES AND ITS
16 CARRIER AMERICAN FIRE, BOTH OF WHICH ARE REPRESENTED
17 BY ATTORNEY BRETT BAYNE. THE PURPOSE OF TODAY'S
18 HEARING IS TO DETERMINE ISSUES RAISED IN FORMS 50
19 AND 51. CURRENTLY THE CLAIMANT IS BEING PAID A
20 COMPENSATION RATE OF \$442.40. MR. MCDANIEL, YOU
21 MENTIONED THAT AND WE DID NOT, WITH ALL OF THE OTHER
22 THINGS WE TALKED ABOUT IN SPITE OF AN HOUR THAT WE
23 EXPENDED USING OR TALKING ABOUT EVERYTHING, WE
24 REALLY DIDN'T GET INTO THE COMP RATE, ARE YOU --
25 WOULD YOU LIKE THAT HELD IN ABEYANCE? YOU SAID IN

1 YOUR ---

2 BY MR. MCDANIEL:

3 YES.

4 BY COMMISSIONER BARDEN:

5 --- FIFTY-EIGHT, YOU WANTED IT HELD IN
6 ABEYANCE.

7 BY MR. MCDANIEL:

8 YES, COMMISSIONER. WE ARE -- FOR PURPOSES OF
9 HOPEFULLY TRYING TO GET BENEFITS RESTARTED, WE ARE
10 AGREEABLE TO THAT COMP RATE WITH THE ---

11 BY COMMISSIONER BARDEN:

12 STIPULATION THAT YOU WOULD LIKE TO ---

13 BY MR. MCDANIEL:

14 --- THAT WE -- WE HAVEN'T EVER ASKED FOR THE
15 INFORMATION, YOU KNOW, TO CONFIRM THE COMP RATE SO
16 WE -- TO -- THAT WE CAN TRY THAT ISSUE AT A LATER
17 DATE.

18 BY COMMISSIONER BARDEN:

19 OKAY. AND DO Y'ALL HAVE AN OBJECTION TO ---

20 BY MR. BAYNE:

21 HOLDING THAT IN ABEYANCE? NO.

22 BY COMMISSIONER BARDEN:

23 OKAY. THE DATE OF THE INCIDENT, WHICH OCCURRED
24 WHICH WAS ELECTRICAL SHOCK OCCURRED ON MAY 22ND,
25 2013. ALL RIGHT. BUT I'M GOING TO PREEMPT MR.

1 BAYNE BEFORE I ASK IF THERE ARE ANY OBJECTIONS,
2 BECAUSE HE DOES HAVE AN OBJECTION TO GOING FORWARD
3 TODAY. HE SITES FOR HIS OBJECTION THE FACT THAT
4 COMMISSIONER BECK HAD -- HELD A FORM 15 HEARING
5 WHEREIN THE DEFENDANTS WERE FOUND TO HAVE NOT
6 UNLAWFULLY STOPPED MR. WINFREY'S BENEFITS AFTER
7 THEIR INVESTIGATION OF THE CLAIM. IN THAT ORDER,
8 COMMISSIONER BECK MADE A FINDING THAT THE CLAIMANT
9 SUFFERED A MYOCARDIAL INFARCTION ON MAY 28TH, 2013.
10 THE DEFENDANTS BELIEVE AND CONTEND THAT IF I FIND A
11 DIFFERENT ACCIDENT DAY OR IF I FIND A DIFFERENT DATE
12 OTHER THAN THE MAY 28TH, 2013, THAT THAT IS
13 PROCEDURALLY PROBLEMATIC, THAT I SHOULD NOT HOLD
14 THIS HEARING TODAY IN THAT IF THAT -- IF THE APPEAL
15 WERE DROPPED, THE LAW OF THE CASE IS THE MAY 28TH,
16 2013, AND THE DEFENDANTS BELIEVE THAT THAT SHOWS
17 THAT THERE IS NO CAUSAL RELATIONSHIP BETWEEN THE
18 HEART ATTACK AND THE ACCIDENT OF OR THE INJURY OF
19 MAY 22ND, 2013, BECAUSE OF THE TIME GAP. THAT THAT
20 WOULD BE THE LAW OF THE CASE AND, THEREFORE, I WOULD
21 BE SITTING IN A PSEUDO APPELLATE CAPACITY AND THAT
22 IF I FOUND A DIFFERENT DATE OF A HEART ATTACK OR
23 SOME OTHER OCCURRENCE OF AN EVENT THAT I WOULD BE
24 SETTING ASIDE OR REPUDIATING THE ORDER OF ANOTHER
25 COMMISSIONER, WHICH CERTAINLY I DO NOT WANT TO DO.

1 COMMISSIONER BECK DOES MENTION THE DATE, MAY 2ND,
2 2013. I HAVE LISTENED TO THE ARGUMENTS OF COUNSEL,
3 AND MR. BAYNE'S VERY ELOQUENT IN HIS STATEMENT OF
4 WHY I SHOULD NOT GO FORWARD TODAY. BUT CONSIDERING
5 THE FACT THAT THOSE TWO DATES ARE MENTIONED IN THE
6 ORDER, I DO BELIEVE THAT I MAY AND I'M CERTAINLY
7 HOPEFUL THAT I HAVE ENOUGH PROCEDURAL WIGGLE ROOM
8 TODAY TO GO FORWARD. IT MAY BE THAT -- AND I GUESS
9 IT'S THAT ALL THIS WILL HAVE TO COME OUT THROUGH THE
10 APPELLATE PROCESS, AND OF COURSE THINGS ARE WHAT
11 THEY ARE AND THAT -- AND ONCE I SIGN AN ORDER, IT
12 CERTAINLY WON'T BE WITHIN MY PROVENANCE TO DETERMINE
13 WHETHER OR NOT I HAVE HELD A HEARING APPROPRIATELY
14 AND LAWFULLY, BUT THAT WILL ALL HAVE TO BE
15 DETERMINED. SO I CERTAINLY HAVE CONSIDERED YOUR
16 ARGUMENTS. THEY WERE CERTAINLY WELL SPOKEN, BUT I
17 AM GOING TO GO FORWARD TODAY AND TO ADJUDICATE THIS
18 CLAIM THAT HAS BEEN ASSIGNED TO ME. MR. BAYNE, ALSO
19 ON BEHALF OF HIS CLIENTS, REQUESTED THAT I LEAVE THE
20 RECORD OPEN, WHICH I ORDINARILY DO NOT DO, BUT
21 THROUGH NO FAULT OF HIS OWN, MR. BAYNE HAD SCHEDULED
22 THE DEPOSITION OF DR. LIDE, WHO -- WELL, NOT THROUGH
23 NO FAULT OF HIS OWN. HE SCHEDULED THE DEPOSITION OF
24 DR. LIDE, AND THEN DR. LIDE THROUGH NO FAULT OF MR.
25 BAYNE'S NOR HIS CLIENTS, DR. LIDE CANCELLED THAT

1 DEPOSITION. SO AT THE REQUEST OF MR. BAYNE, I HAVE
2 AGREED TO LEAVE THE RECORD OPEN. THAT DEPOSITION IS
3 GOING TO BE HELD LATER IN THE MONTH, SO I CANNOT
4 MAKE A DECISION UNTIL I GET THAT DEPOSITION, BUT I
5 CERTAINLY TRUST THAT DEPOSITION TRANSCRIPT WILL BE
6 EXPEDITED, AND I WILL MAKE A DECISION AS SOON AS I
7 FINISH REVIEWING THAT DEPOSITION.

8 ARE THERE ANY FURTHER OBJECTIONS TO APAs,
9 JURISDICTION, VENUE, OR ANY OTHER ITEMS?

10 BY MR. MCDANIEL:

11 NONE FROM THE CLAIMANT, COMMISSIONER.

12 BY MR. BAYNE:

13 NONE FROM THE DEFENDANT.

14 BY COMMISSIONER BARDEN:

15 THANK YOU. WITHOUT FURTHER OBJECTION AND, MR.
16 BAYNE, YOU OBVIOUSLY HAVE A RUNNING OBJECT TO THIS
17 HEARING STRICTLY, YOU KNOW, SIMPLY EVEN BEING HELD,
18 BUT YOU HAVE A -- OBVIOUSLY YOUR OBJECTION IS
19 PRESERVED FOR THE RECORD. WITHOUT FURTHER OBJECTION
20 THE COMMISSION FILE BECOMES A PART OF THE RECORD
21 WITH THE EXCEPTION OF SELF SERVING DECLARATIONS AND
22 UNSTIPULATED MEDICAL REPORTS.

23 PRIOR TO GOING ON THE RECORD, WE HELD A PRE-
24 HEARING CONFERENCE. IT IS THE POSITION OF THE
25 CLAIMANT THAT NOT ONLY DID HE INJURE HIS NECK AND

1 HIS LEFT SHOULDER AND ARM, WHICH ARE ADMITTED BODY
2 PARTS, THAT HE ALSO SUSTAINED A MYOCARDIAL
3 INFARCTION FROM THE SHOCK, WHICH ULTIMATELY RESULTED
4 IN V.S.D. OR A HOLE IN HIS HEART. HE ALSO CONTENTS
5 THAT HE SUFFERED A HEAD AND POSSIBLY A BRAIN INJURY,
6 BUT BECAUSE THE FOCUS OF HIS TREATMENT HAS BEEN JUST
7 ABOUT EXCLUSIVELY ON THE HEART, HIS HEAD AND HIS --
8 AND POSSIBLE BRAIN INJURY HAVE NOT BEEN EXPLORED OR
9 PROPERLY AND THOROUGHLY EVALUATED. SO HE SEEKS A
10 FINDING OF COMPENSABILITY OF NOT ONLY THE NECK AND
11 THE LEFT SHOULDER, WHICH THE DEFENDANTS ADMIT, AND
12 THOSE ARE THE ONLY ADMITTED BODY PARTS, I WANT TO
13 EMPHASIZE THAT, THE NECK AND THE SHOULDER. BUT HE
14 ALSO BELIEVES AND CONTENTS AND WOULD CONTEND THAT
15 THE MEDICAL EVIDENCE SUPPORTS HIS FINDING BY MORE
16 THAN A GREATER WEIGHT OF THE EVIDENCE STANDARD, BUT
17 HE BUT AT LEAST MEETS THAT STANDARD, AND HE ALSO
18 INJURED HIS HEART AND HIS HEAD. HE SEEKS TEMPORARY
19 TOTAL DISABILITY BENEFITS FROM SEPTEMBER 15TH, 2013,
20 TO THE PRESENT AND CONTINUING. HE SEEKS
21 REIMBURSEMENT FOR THOSE EXPENSES HE'S INCURRED THUS
22 FAR WITH REGARD TO THE EVALUATION AND TREATMENT OF
23 HIS INJURED BODY PARTS. HE SEEKS AN ORDER REQUIRING
24 THE DEFENDANTS TO PROVIDE TREATMENT WITH DR. TRAVIS,
25 WHO IS HIS TREATING CARDIOVASCULAR SURGEON, AS WELL

1 AS DR. LIDE, HIS CARDIOLOGIST. DOCTORS TRAVIS AND
2 LIDE WERE INITIALLY AUTHORIZED BEFORE BENEFITS WERE
3 DENIED. AND IF THIS CLAIM IS COMPENSABLE, THE
4 DEFENDANTS DO NOT -- AND OBVIOUSLY THE DEFENDANTS
5 BELIEVE THIS CLAIM IS NOT COMPENSABLE WITH REGARD TO
6 THE HEART AND BRAIN, BUT IF IT IS FOUND TO BE
7 COMPENSABLE, THE DEFENDANTS WOULD AGREE THAT DR.
8 TRAVIS AND DR. LIDE WOULD BE APPROPRIATE PROVIDERS
9 AND THAT THAT THEY ARE FAMILIAR WITH THE CLAIMANT'S
10 CONDITION AND THEY HAVE TREATED HIM AND THEY
11 INITIALLY WERE SELECTED BY THE DEFENDANTS. AS THE
12 CLAIMANT HAS NOT REACHED MAXIMUM MEDICAL
13 IMPROVEMENT, ANY DETERMINATION OF PERMANENCY WOULD
14 BE PREMATURE. THE CLAIMANT WOULD CONTEND THAT EVEN
15 IF HE HAD PRE-EXISTING HEART PROBLEMS THAT THEY WERE
16 AGGRAVATED SIGNIFICANTLY BY THE ELECTRICAL SHOCK,
17 WHICH CAUSED THE MYOCARDIAL INFARCTION, AND THEN THE
18 BURN CAUSED THE V.S.D. TOWARD HIS CONTENTION THAT
19 THIS IS A COMPENSABLE CLAIM, THE CLAIMANT WOULD
20 POINT TO MY ATTENTION THE FACT THAT THREE TREATING
21 PHYSICIANS HAVE ALL OPINED TO A REASONABLE DEGREE OF
22 MEDICAL CERTAINTY THAT THE CLAIMANT'S CONDITION IS
23 RELATED TO THE SHOCK OF MAY 22ND, 2013. AS FAR AS
24 THE DEFENDANTS' EXPERT, DR. FELDMAN, THE CLAIMANT
25 CONTENDS THAT THAT OPINION SHOULD NOT BE ACCORDED AS

1 MUCH WEIGHT IN THAT DR. FELDMAN NEVER SAW OR
2 EXAMINED THE CLAIMANT. THAT THE -- THAT DR. FELDMAN
3 IS A CARDIOLOGIST, AND THE ONLY CARDIOVASCULAR
4 SURGEON IN THIS CASE, DR. TRAVIS, DOES FIND THAT THE
5 CONDITION IS RELATED TO THE EMPLOYMENT. DR. FELDMAN
6 BY CONTRAST IS A CARDIOLOGIST. AND FINALLY THE
7 CLAIMANT WOULD POINT TO MY ATTENTION THE FACT THAT
8 DR. FELDMAN WAS ONLY ASKED IF THE V.S.D. WAS CAUSED
9 BY THE SHOCK AND NOT THE MYOCARDIAL INFARCTION. SO
10 THE CLAIMANT BELIEVES THAT DR. FELDMAN'S OPINION
11 SHOULD BE VIEWED WITH THOSE DEFICIENCIES. AND EVEN
12 IF DR. FELDMAN'S OPINION IS NOT VIEWED WITH ANY --
13 AS FLAWED OR FAULTY OR WITH ANY DEFICIENCIES, THE
14 CLAIMANT WOULD CONTEND THE FACT THAT DR. FELDMAN,
15 ACCORDING TO THE CLAIMANT'S INTERPRETATION, SAYS HE
16 DOES ADMIT THAT THE SHOCK COULD HAVE CAUSED THE
17 CLAIMANT'S CONDITION.

18 CONVERSELY, IT IS THE POSITION OF THE
19 DEFENDANTS THAT EXCEPT FOR THE NECK AND THE
20 SHOULDER, BENEFITS UNDER THE ACT SHOULD BE DENIED.
21 THE DEFENDANTS DISPUTE THAT THERE IS ANY CREDIBLE
22 MEDICAL EVIDENCE WHICH ESTABLISHES A RELATIONSHIP
23 BETWEEN THE SHOCK OF MAY 22ND, 2013, AND ANY HEART
24 OR BRAIN INJURY. THE DEFENDANTS POINT TO MY
25 ATTENTION THE OPINION OF DR. FELDMAN WHO THE

1 DEFENDANTS BELIEVE OUGHT TO BE GIVEN THE GREATEST
2 WEIGHT OF ALL THE OPINIONS IN THAT -- THAT THERE WAS
3 A SIGNIFICANT TIME GAP BETWEEN THE MAY 22ND, 2013,
4 INJURY AND THE HEART ATTACK. AND AGAIN THE
5 DEFENDANTS WOULD POINT TO MY ATTENTION THAT
6 COMMISSIONER BECK MADE A SPECIFIC FINDING THAT THERE
7 WAS A MYOCARDIAL INFARCTION ON THE 28TH, BUT EVEN
8 NOT WITHSTANDING THAT FINDING THAT COMMISSIONER BECK
9 MADE, JUST THE MEDICAL EVIDENCE ALONE DOES NOT
10 ESTABLISH A SUFFICIENT LINK OR CAUSAL NEXUS BETWEEN
11 THE SHOCK AND THE MYOCARDIAL INFARCTION. THE
12 DEFENDANTS BELIEVE THAT THERE WAS NO CHEST PAIN
13 UNTIL THE CLAIMANT WENT TO THE HOSPITAL ON THE 28TH.
14 AND OF COURSE THE DEFENDANTS CONTEND THAT THE MAIN
15 ISSUE IS WHAT CAUSED THE PLAQUE RUPTURE, WHICH
16 ULTIMATELY CAUSED THE HEART ATTACK. THE DEFENDANTS
17 BELIEVE THAT IT WAS NOT A SHOCK THAT JUST CAUSED A
18 HEART ATTACK. IT WAS THE CLAIMANT'S PLAQUE, HIS
19 DISEASED ARTERIES, WHICH THE DEFENDANTS BELIEVE
20 BECAUSE OF THE TIME GAP THERE CANNOT -- IT CANNOT BE
21 SHOWN THAT THERE WAS AN AGGRAVATION OF THE
22 CLAIMANT'S PRE-EXISTING CONDITION. THAT THE
23 CLAIMANT HAS SEVERE VESSEL DISEASE IN I BELIEVE
24 THREE OF HIS CORONARY VESSELS. SO THE DEFENDANTS
25 BELIEVE THAT THERE WAS A PLAQUE BUILD UP WHICH

1 ULTIMATELY RUPTURED, WHICH IS JUST COINCIDENTAL WITH
2 THE TIME -- WITH THE FACT THAT THERE WAS A SHOCK
3 INCIDENT OR INJURY SIX DAYS PRIOR, AND SO THAT THERE
4 -- THE TIME GAP ALONE AND PER THE OPINION OF DR.
5 FELDMAN IS REASON ENOUGH AND CLEAR AND CONVINCING TO
6 THEM THAT BENEFITS UNDER THE ACT SHOULD BE DENIED,
7 BECAUSE IT CANNOT BE STATED WITH A REASONABLE DEGREE
8 OF MEDICAL CERTAINTY WHEN THE PLAQUE DISRUPTION
9 OCCURRED, AND IT IS THE PLAQUE DISRUPTION WHICH
10 CAUSED THE MYOCARDIAL INFARCTION, WHICH IN TURN
11 CAUSED THE V.S.D.

12 ALL RIGHT. Y'ALL SAID IT FOR AN HOUR, AND YOU
13 SAID IT A LOT BETTER THAN I JUST DID, BUT IF YOU'RE
14 SATISFIED WITH THAT SUMMARY, UNLESS I'VE
15 MISCHARACTERIZED OR MISSTATED ANYTHING, AGAIN, I
16 HAVE NOT -- Y'ALL, I DON'T GET THESE DOCUMENTS UNTIL
17 THE VERY TIME OF THE HEARING. SO I AM -- I HAVEN'T
18 READ THEM. SO IF I'VE MISSTATED SOMETHING, I WANT
19 TO KNOW AND WILL CORRECT IT ON THE RECORD RIGHT NOW.
20 I STARTED WITH YOU AS YOU'RE THE MOVING PARTY,
21 UNLESS YOU'RE SATISFIED WITH THAT SUMMARY, SIR.

22 BY MR. MCDANIEL:

23 COMMISSIONER, I NEVER WAS -- CAN I JUST BRIEFLY
24 PUT ---

25 BY COMMISSIONER BARDEN:

1 YES.

2 BY MR. MCDANIEL:

3 --- MY POSITION ON THE RECORD IN REFERENCE TO
4 THE -- THAT YOU CANNOT GO FORWARD POSITION THAT
5 THEY'RE TAKING?

6 BY COMMISSIONER BARDEN:

7 I GUESS I DID NOT DO THAT ON YOUR BEHALF SO I --
8 - YOU CERTAINLY MAY.

9 BY MR. MCDANIEL:

10 RIGHT. AND I JUST WANT TO JUST FOR -- FOR THE
11 RECORD, NUMBER ONE, THAT WAS NOT AN ISSUE THAT WAS
12 BEFORE COMMISSIONER BECK. NUMBER TWO, THAT ---

13 BY COMMISSIONER BARDEN:

14 WHEN YOU SAY "THAT," YOU MEAN THE DATE?

15 BY MR. MCDANIEL:

16 THE -- THE DATE ---

17 BY COMMISSIONER BARDEN:

18 OKAY.

19 BY MR. MCDANIEL:

20 --- THAT HE REFERRED TO ON THE 28TH, NUMBER
21 ONE. NUMBER TWO, THAT IS NOT THE LAW OF THE CASE.
22 THEIR POSITION IS THAT IT'S THE LAW OF THE CASE.
23 THAT IS ON APPEAL. THAT ISSUE HAS NOT BEEN FOUND TO
24 BE A FINAL FINDING BY THE -- THE ALL THE -- ALL THE
25 APPELLATE PANEL THAT MAY LOOK AT THAT, THE APPELLATE

1 PANEL OF THE COMMISSION, COURT OF APPEALS, SUPREME
2 COURT. THIRD, AND -- AND MORE IMPORTANTLY IS THAT
3 COMMISSIONER BECK MADE A SPECIFIC FINDING, A FACT
4 AND CONCLUSION OF LAW. ANY CONCLUSION OF LAW --
5 NUMBER FIVE, HE SPECIFICALLY STATED, "SPECIFICALLY,"
6 COMMA, "THE CLAIMANT HAS REQUESTED A HEARING ON THE
7 MERITS OF WHETHER CLAIMANT SUSTAINED A COMPENSABLE
8 INJURY BY ACCIDENT AS IN -- AND IS ENTITLED TO
9 BENEFITS BY OPERATION OF FORM 50 EMPLOYEES REQUEST
10 FOR HEARING FILED ON OCTOBER 21ST, 2013. THEREFORE,
11 THE QUESTION OF WHETHER THE CLAIMANT SUSTAINED A
12 COMPENSABLE INJURY BY ACCIDENT IS ENTITLED TO -- AND
13 IS ENTITLED TO BENEFITS UNDER THE ACT WILL BE
14 DECIDED BY THE COMMISSION AT THE HEARING SET
15 PURSUANT TO THE CLAIMANT'S FORM 50 REQUEST FOR
16 HEARING." THEN IN HIS ORDER HE FURTHER FOUND, "IT
17 IS FURTHER ORDERED THAT ALL OTHER ISSUES AND
18 CONTENTIONS SPECIFICALLY INCLUDING THE QUESTION OF
19 WHETHER CLAIMANT SUSTAINED AN INJURY BY ACCIDENT
20 ARISING OUT OF AND IN THE COURSE OF HIS EMPLOYMENT
21 WITH DEFENDANTS RESULTING ON COMPENSABLE DISABILITY
22 IS PRESERVED FOR ADJUDICATION AT THE HEARING SET
23 PURSUANT TO THE CLAIMANT'S OCTOBER 21ST, 2013, FORM
24 50 EMPLOYEE'S REQUEST FOR HEARING." I THINK IT'S
25 VERY CLEAR FROM COMMISSIONER BECK'S ORDER THAT HE

1 WAS IN NO WAY TRYING TO MAKE A DETERMINATION AT THAT
2 HEARING AS TO WHETHER OR NOT BASED ON THE FACTS AS
3 TO WHETHER OR NOT THOSE FACTS WOULD SUBSTANTIATE
4 AFTER THEY WERE DEVELOPED AS TO WHETHER OR NOT
5 CLARENCE SUSTAINED A COMPENSABLE INJURY BY ACCIDENT.
6 I THINK HE MAKES IT VERY CLEAR. I WOULD JUST ADD
7 THAT. THE OTHER THING IS IN REFERENCE TO DR. BARRY
8 FELDMAN, THERE ARE TWO WAYS THAT AN EXPERT'S OPINION
9 MAY BE SUBMITTED INTO EVIDENCE. ONE IS BASED ON
10 THEIR PERSONAL KNOWLEDGE. AS -- AS YOU
11 APPROPRIATELY STATED, COMMISSIONER, DR. FELDMAN HAS
12 NOT REVIEWED, HAS NOT EVALUATED, HAS NOT ANY WAY
13 SEEN NOR ACTUALLY SEEN THE NOT ONLY THE PICTURES BUT
14 HE HAS NOT EVALUATED OR HAD ANY PHYSICAL CONTACT OR
15 EVALUATION OF -- OF MR. WINFREY. HIS -- HE HAS
16 ABSOLUTELY NO PERSONAL KNOWLEDGE. HE DID A RECORDS
17 REVIEW. THE SECOND WAY AN EXPERT OPINIONS MAY BE
18 SUBMITTED INTO EVIDENCE IS BASED ON A PROPERLY
19 PHRASED HYPOTHETICAL QUESTION. THERE IS NO EVIDENCE
20 WHEN YOU REVIEW THIS TRANSCRIPT THAT OF ANY PROPERLY
21 PHASED HYPOTHETICAL QUESTION BEING PRESENTED TO HIM
22 AND, THEREFORE, I BELIEVE THAT HIS EVIDENCE --
23 HOWEVER, FIRST TIME FOR SIMPLICITY SAKE I'M GOING TO
24 PLACE THAT ON THE RECORD, BUT AS I STATED BEFORE, WE
25 WANT TO MOVE FORWARD, AND SO I WOULD ASK YOU TO GIVE

1 IT SUCH WEIGHT AS YOU -- YOU'VE ALREADY PREVIOUSLY
2 STATED TO GIVE IT. HOWEVER, I BELIEVE IT'S ENTITLED
3 TO NO WEIGHT BECAUSE THERE'S NO EVIDENCE THAT ~~HE~~ HAS
4 ANY PERSONAL KNOWLEDGE OF MR. WINFREY AND HIS
5 CONDITION, NOR IS THERE ANY EVIDENCE OF A PROPERLY
6 PHRASED HYPOTHETICAL QUESTION, HOWEVER, I JUST --
7 THAT'S IT. AND WE'RE READY TO MOVE FORWARD.

8 BY COMMISSIONER BARDEN:

9 ALL RIGHT. MR. BAYNE, I'M GOING TO ALLOW YOU
10 TO RESPOND, SIR, IF WANT TO.

11 BY MR. BAYNE:

12 THANK YOU, COMMISSIONER. AS FAR AS THE -- THE
13 PROCEDURAL ASPECT OF THE CASE HERE, WE DON'T
14 DISAGREE THAT COMMISSIONER BECK IN HIS DECISION AND
15 ORDER INDICATED THAT COMPENSABILITY WILL BE
16 DETERMINED AT A LATER DATE AND INDICATED THAT THERE
17 WOULD BE A HEARING PURSUANT TO THE FORM 50 FILED BY
18 MR. WINFREY AND MR. MCDANIEL. ALL WE'RE POINTING
19 OUT IN RELATION TO COMMISSIONER BECK'S ORDER AND THE
20 PROCEDURAL ASPECT HERE TODAY IS THAT HE HAS MADE A
21 FINDING OF FACT THAT THE HEART ATTACK, THE
22 MYOCARDIAL INFARCTION, DID NOT OCCUR UNTIL MAY 28TH,
23 2013. THAT SPECIFIC FACT DOES NOT NECESSARILY
24 INDICATE CAUSATION OR DISPROVE CAUSATION, BUT IT IS
25 SOMETHING THAT IS THE LAW OF THE CASE AND THAT IS ON

1 APPEAL AT THIS MOMENT. OUR POSITION IN THE PRE-
2 HEARING AND CONTINUING IS THAT THAT DATE CANNOT BE
3 MODIFIED BY A SUBSEQUENT HEARING ONLY BY THE
4 APPELLATE PANEL ON APPEAL THAT MR. MCDANIEL HAS
5 FILED. SO THAT IS OUR PROCEDURAL APPEAL TO IT. WE
6 DON'T DISAGREE THAT HE INDICATED THAT THAT A
7 COMMISSIONER AT A LATER DATE WOULD DETERMINE
8 COMPENSABILITY AND THAT WE WOULD HAVE THIS HEARING.
9 THAT'S NOT AT -- AT ISSUE. RELATED TO DR.
10 FELDMAN, HE IS A CARDIOLOGIST. HE'S QUALIFIED TO
11 GIVE AN EXPERT OPINION. IN HIS DEPOSITION, HE WAS
12 ASKED HYPOTHETICAL QUESTIONS RELATED TO MR.
13 WINFREY'S CONDITION. FURTHER, COMMISSIONER, WHILE
14 HE WAS ASKED SPECIFICALLY TO SPEAK ON THE V.S.D.,
15 HIS OPINION AS WELL AS DR. TRAVIS'S AND I BELIEVE
16 DR. LIDE'S WILL INDICATE THAT THE V.S.D. WAS CAUSED
17 BY A MYOCARDIAL INFARCTION THAT WAS CAUSED BY A
18 PLAQUE RUPTURE. SO INDIRECTLY DR. FELDMAN WAS ASKED
19 TO SPEAK AS TO WHETHER OR NOT THE PLAQUE RUPTURE WAS
20 CAUSED BY AN ELECTRICAL SHOCK, WHICH THEN TRIGGERED
21 THE CHAIN OF EVENTS THAT LED US HERE TODAY AND LED
22 MR. WINFREY UNFORTUNATELY TO HAVE TO HAVE AN OPEN
23 HEART SURGERY. SO WHILE MR. -- AND WHAT DR.
24 FELDMAN'S OPINION OR IN HIS DEPOSITION, HE STATED,
25 "I WAS ASKED TO SPEAK ON THE V.S.D.," IMPLICITLY HE

1 IS REFERRING TO THE FACT THAT HE WAS ASKED TO ~~SPEAK~~
2 ABOUT WHAT CAUSED THE V.S.D., AND WHAT CAUSED ~~THE~~
3 V.S.D. WAS A MYOCARDIAL INFARCTION, AND WHAT ~~CAUSED~~
4 THE MYOCARDIAL INFARCTION WAS THE PLAQUE RUPTURE,
5 AND WHAT CAUSED THE PLAQUE RUPTURE IS WHY WE'RE HERE
6 TODAY. WETHER OR NOT IT WAS CAUSED BY ELECTRICAL
7 SHOCK OR NOT IS SOMETHING THAT YOU'RE GOING TO HAVE
8 TO DETERMINE, AND IF IT WAS IT'S COMPENSABLE, IF IT
9 WAS NOT THEN IT IS NOT COMPENSABLE, AND THAT IS OUR
10 POSITION AT THIS HEARING.

11 BY COMMISSIONER BARDEN:

12 OKAY. THANK YOU, GENTLEMEN. ANYTHING ELSE
13 BEFORE WE HEAR FROM MR. WINFREY?

14 BY MR. BAYNE:

15 NOTHING FROM ME, YOUR HONOR.

16 BY COMMISSIONER BARDEN:

17 ALL RIGHT, SIR. DO YOU NEED ANY WATER OR
18 ANYTHING?

19 BY MR. WINFREY:

20 I'M FINE. THANK YOU.

21 BY COMMISSIONER BARDEN:

22 YOU SURE? ALL RIGHT. WILL YOU RAISE YOUR
23 RIGHT HAND, PLEASE. DO YOU SWEAR OR AFFIRM THE
24 TESTIMONY YOU'RE ABOUT GIVE IN THIS PROCEEDING IS
25 THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE

1 TRUTH?

2 BY MR. WINFREY:

3 I DO.

4 CLARENCE WINFREY

5 BEING FIRST DULY SWORN, TESTIFIED ON HIS OATH AS FOLLOWS:

6 BY COMMISSIONER BARDEN:

7 PLEASE STATE YOUR FULL NAME FOR THE RECORD.

8 BY THE WITNESS:

9 CLARENCE P. WINFREY, JUNIOR.

10 BY COMMISSIONER BARDEN:

11 ALL RIGHT. THANK YOU. AND I KNOW IT'S
12 DIFFICULT TO SPEAK UP, BUT YOUR VOICE HAS TO REACH
13 OVER TO THOSE GENTLEMEN OVER THERE AND THE PEOPLE IN
14 THE BACK AS WELL, AS WELL AS OUR COURT REPORTER AND
15 ME, SO JUST DO THE BEST YOU CAN.

16 BY THE WITNESS:

17 OKAY.

18 BY COMMISSIONER BARDEN:

19 AND IF WE NEED TO BREAK, YOU JUST LET ME KNOW.

20 OKAY?

21 BY THE WITNESS:

22 OKAY.

23 BY COMMISSIONER BARDEN:

24 MR. MCDANIEL.

25 DIRECT EXAMINATION BY MR. MCDANIEL:

1 Q. CLARENCE, IS -- IF YOU CAN -- IF -- IF IT'S ALL
2 RIGHT, CAN YOU DIRECT YOUR COMMENTS TO COMMISSIONER
3 BARDEN IF I SIT OVER HERE AND JUST LIKE WHISPER IN
4 YOUR LEFT EAR?

5 A. YEAH.

6 Q. ALL RIGHT. SO I'M GOING TO GO OVER HERE AND JUST
7 LET YOU -- YOU AND COMMISSIONER BARDEN ---

8 BY COMMISSIONER BARDEN:

9 OR IF YOU WANT TO SIT HERE, MR. MCDANIEL,
10 (INDICATING) AND PUT YOUR STUFF THERE AND YOU CAN
11 SIT DOWN. I ---

12 BY MR. MCDANIEL:

13 THAT'S ---

14 BY COMMISSIONER BARDEN:

15 --- THAT'S WHAT ATTORNEYS DO, EITHER STAND OR
16 SIT THERE.

17 BY MR. MCDANIEL:

18 THANK YOU.

19 BY COMMISSIONER BARDEN:

20 AND I'M FINE WITH THAT.

21 BY MR. MCDANIEL:

22 OKAY.

23 BY COMMISSIONER BARDEN:

24 JUST SO THAT HE ISN'T GOING TO BE HEARING YOU
25 OVER THERE AND THEN LOOKING AT ME, THAT MIGHT BE A

1 LITTLE HARD. ALL RIGHT.

2 DIRECT EXAMINATION RESUMED BY MR. MCDANIEL:

3 Q. CLARENCE, I'M GOING TO DO JUST A LITTLE BIT OF
4 BACKGROUND AND -- AND HOW OLD ARE YOU?

5 A. FIFTY-ONE.

6 Q. FIFTY-ONE. AND I BELIEVE YOU'RE DIVORCED AND HAVE
7 ONE CHILD WHO'S OVER THE AGE OF 18; IS THAT CORRECT?

8 A. YEAH.

9 Q. ALL RIGHT. AND YOU'VE BASICALLY -- YOUR BACKGROUND
10 EXPERIENCE IS IN MECHANICAL AND IN MAINTENANCE WORK
11 AND IN ELECTRICAL?

12 A. YEAH. YEAH.

13 Q. FOR THE LAST 15 YEARS LEADING UP TO THE TIME THAT
14 YOU WENT TO WORK FOR ARCHWAY SERVICES, WHAT -- WHAT
15 TYPES OF JOBS DID YOU DO; WHAT -- WHAT AREA DID YOU
16 WORK IN?

17 A. I WAS THE MAINTENANCE MAN AT F.P. JOHNSON, A PLANT
18 IN CHAPIN; ROOF ELECTRIC; CAROLINA WINGS, I WAS
19 THEIR MAINTENANCE MAN BASICALLY DOING THE SAME THING
20 AS ARCHWAY. AND ---

21 BY COMMISSIONER BARDEN:

22 CAN YOU GENTLEMEN HEAR OKAY?

23 BY MR. BAYNE:

24 OKAY.

25 BY COMMISSIONER BARDEN:

1 YOU CAN? ALL RIGHT.

2 THE WITNESS RESUMES ANSWER:

3 A. AND I WORKED WITH STEVE SCHULMEISTER; HE WAS A
4 MASTER ELECTRICIAN.

5 DIRECT EXAMINATION RESUMED BY MR. MCDANIEL:

6 Q. OKAY. ALL RIGHT. AND SO BASICALLY YOU DID
7 MAINTENANCE WORK BUT DID A LOT OF WORK IN THE
8 ELECTRICAL FIELD?

9 A. ELECTRICAL AND MAINTENANCE. YES, SIR.

10 Q. ALL RIGHT. AND ARCHWAY SERVICES, HOW LONG HAD YOU
11 BEEN WITH THEM BEFORE THIS ACCIDENT?

12 A. I'VE BEEN WITH THEM EIGHT, NINE MONTHS; I MIGHT BE
13 WRONG.

14 Q. ALL RIGHT. AND THEN -- AND SO WHAT -- WHAT WERE YOU
15 DOING, WHAT WAS YOUR JOB AT ARCHWAY SERVICES?

16 A. WE TOOK CARE OF ALL THE WAL-MART DELIS. WE JUST
17 TOOK OVER PUBLIX'S ABOUT TWO MONTHS PRIOR AND WORKED
18 ON ALL OF THEIR EQUIPMENT FOR LIKE THE ROTISSERIES
19 AND FRYERS AND THINGS LIKE THAT.

20 Q. LET ME ASK YOU THIS ON A GENERAL BASIS, WHAT LEVEL
21 OF CURRENT IS IT -- YOU WORKED ON COMMERCIAL
22 EQUIPMENT, ELECTRICAL EQUIPMENT AND -- AND ALL THAT
23 TYPE OF -- AND THAT ARE FOUND IN THE KITCHEN. TELL
24 ME WHAT THE GENERAL VOLTAGE IS OF THAT KIND OF
25 EQUIPMENT?

1 A. LIKE THE ROTISSERIE I WAS WORKING ON WAS HIGH
2 VOLTAGE. I DIDN'T LOOK TO SEE HOW MUCH EXACTLY IT
3 WAS, BUT IT HAD TO BE 240 OR HIGHER.

4 Q. AND BASICALLY, I KNOW IT'S -- IT'S ALWAYS HELPFUL TO
5 ME TO GET THIS EXPLAINED TO ME. HOW DOES -- YOU --
6 YOU HAVE TRUNK LINE FOR A BETTER TERM THAT COMES IN
7 TO -- TO A BUSINESS, AND THEN HOW DOES THAT FILTER
8 DOWN TO LIKE YOUR 220 OR YOUR 240 CURRENT OR YOUR
9 480?

10 A. YOU HAVE BARS ON THE BACK WHERE YOUR MAIN POWER
11 COMES IN, AND THAT'S WHERE YOU PUT YOUR BREAKERS,
12 AND IT DEPENDS ON THE AMP DRAW OF THE EQUIPMENT.
13 'CAUSE LIKE THAT ROTISSERIE THAT HURT ME, IT HAD
14 THREE BREAKERS FOR THAT ONE ROTISSERIE. I MEAN
15 THERE WAS ONE ON TOP, ONE ON BOTTOM. SO THERE ARE
16 THREE MORE FOR THE BOTTOM.

17 Q. AND SO BASICALLY, FOR EXAMPLE, THERE'S VOLTAGE EVEN
18 880 OR HIGHER THAT COMES INTO THE MAIN LINE?

19 A. OH, YES.

20 Q. AND THEN IT'S DISTRIBUTED OUT?

21 A. THAT'S CORRECT. THERE'S GREATER COMING IN.

22 Q. AND THEN -- THEN THAT -- THAT'S DISTRIBUTED ON OUT,
23 SO THIS -- THIS ROTISSERIE HAD AT LEAST THREE
24 BREAKERS. SO IT WAS AT LEAST 220 OR 240?

25 A. IT WAS AT 240. I MEAN, IT'S 240 OR ABOVE, YES.

1 Q. OH. OKAY. NOW, JUST TELL COMMISSIONER BARDEN WHAT
2 HAPPENED, YOU KNOW, WHAT TIME OF DAY AND YOU WERE
3 AND -- AND WHAT -- WHERE YOU WERE AND WHERE THE
4 ACCIDENT OCCURRED?

5 A. I WAS AT A PUBLIX, STORE 67 ON ROSEWOOD DRIVE. THEY
6 HAVE A ROTISSERIE STACKED ON TOP OF ROTISSERIE AND
7 SO I MADE -- I WENT THERE AND MADE ARRANGEMENTS
8 WHERE I COULD GET THERE AT 6:30 IN THE MORNING,
9 BECAUSE YOU ONLY GOT A LITTLE WALKWAY SO I COULD
10 PULL THE ROTISSERIES OUT. SO THE NEXT DAY I WENT,
11 AND I WAS THERE ABOUT 6:15. THE LADY MANAGER LET ME
12 IN, AND THERE WAS ONE GIRL BACK AT THE DELI. AND I
13 PULLED THE ROTISSERIES OUT. THE FRYERS ARE BEHIND
14 ME. I TOOK THE PANEL OFF AND SET IT ON THE BOTTOM
15 ROTISSERIE ON THE -- THE BOTTOM OF THE TOP
16 ROTISSERIE ON THE LITTLE LEDGE, AND I HAD MY HAND
17 LIKE THIS (INDICATING). I WAS TRACING WIRES OUT.

18 BY COMMISSIONER BARDEN:

19 SO YOU WERE HOLDING AND USING WIRES WITH YOUR
20 RIGHT, LEFT HAND?

21 BY THE WITNESS:

22 YEAH, TRACING WIRES WITH MY RIGHT.

23 BY COMMISSIONER BARDEN:

24 RIGHT HAND. OKAY.

25 BY THE WITNESS:

1 AND THEN ONE OF THE WIRE PRONGS WERE BROKEN OFF
2 THE SWITCH, WHICH IS DOWN BY MY HAND.

3 BY COMMISSIONER BARDEN:

4 BY YOUR RIGHT HAND?

5 BY THE WITNESS:

6 WHICH I DID NOT SEE, AND I JUST LOOKED TO MAKE
7 SURE ALL THE WIRES WERE ATTACHED, BUT IT WAS JUST
8 FLOATING. AND WHEN I WAS MOVING THE WIRES, THAT
9 WIRE MOVED, AND I MEAN IT BLEW UP. I MEAN NOT NO
10 POW, IT WENT KABAM. AND THAT'S WHEN I SNATCHED BACK
11 REAL HARD, BUT I COULD FEEL IT FROM HERE
12 (INDICATING), MY NECK.

13 BY COMMISSIONER BARDEN:

14 SO YOU'RE USE -- YOU'RE INDICATING YOUR LEFT
15 ARM ALL THE WAY UP?

16 BY THE WITNESS:

17 YEAH, I GOT A SCAR RIGHT THERE.

18 BY MR. MCDANIEL:

19 COMMISSIONER, YOU -- YOU CAN STILL SEE THE SCAR
20 WHERE THE ---

21 BY COMMISSIONER BARDEN:

22 YOU CAN SIT DOWN. I'LL COME OVER TO YOU.
23 GENTLEMEN, IF Y'ALL WANT TO COME OVER AND LOOK AT
24 THE SCAR YOU'RE WELCOME TO. (COMMISSIONER VIEWS
25 SCAR) OKAY. ALL RIGHT. THANK YOU.

1 BY THE WITNESS:

2 AND THAT'S WHERE THE POWER WENT IT.

3 BY COMMISSIONER BARDEN:

4 ALL RIGHT.

5 BY THE WITNESS:

6 AND IT WENT UP MY ARM AND FROM MY EARS DOWN
7 THROUGH MY SHOULDER.

8 BY COMMISSIONER BARDEN:

9 IS THAT YOUR MIDDLE FINGER THE SCAR WAS ON?

10 BY THE WITNESS:

11 YES, MA'AM.

12 BY COMMISSIONER BARDEN:

13 OKAY. SO IT WENT UP YOUR ARM INTO YOUR NECK?

14 BY THE WITNESS:

15 RIGHT THROUGH HERE AND RUN DOWN THROUGH HERE
16 (INDICATING).

17 BY COMMISSIONER BARDEN:

18 OKAY. AND YOU'RE INDICATING YOUR CHEST AND UP
19 INTO YOUR HEAD A LITTLE BIT?

20 BY THE WITNESS:

21 YEAH.

22 BY COMMISSIONER BARDEN:

23 ALL RIGHT.

24 BY THE WITNESS:

25 AND THAT'S HOW -- WHEN I CALLED BOBBY RUPPE AND

1 EXPLAINED TO HIM THEY GOT MORE PROBLEMS THAN A --
2 THE LIGHT THAT I WAS WORKING ON. THEY GOT WIRES
3 BUSTING OFF THE SWITCH. AND THAT'S WHAT HAPPENED AT
4 THAT PUBLIX. AND I PUT EVERYTHING BACK TOGETHER AND
5 -- WELL, FIRST I HAD TO GO OUTSIDE TO GET MY
6 COMPOSURE BACK. THEN I CALLED BOBBY RUPPE. THEN I
7 TOOK PICTURES OF THE WIRES AND THE SWITCHES AND ALL
8 OF THAT, AND I SENT THEM TO BOBBY.

9 BY MR. MCDANIEL:

10 COMMISSIONER, IF I -- I CAN STOP CLARENCE RIGHT
11 THERE JUST A MINUTE. LOOK AT THAT, IF YOU WILL LOOK
12 AT PAGE 78, BOTH OF US ---

13 BY COMMISSIONER BARDEN:

14 YOURS?

15 BY MR. MCDANIEL:

16 --- BOTH THE DEFENDANTS AND WE HAVE PUT IN MR.
17 RUPPE'S STATEMENT CONFIRMING MR. WINFREY'S TESTIMONY
18 ABOUT THAT -- THAT HE CALLED MR. RUPPE.

19 BY COMMISSIONER BARDEN:

20 OKAY.

21 BY MR. MCDANIEL:

22 PAGE 78.

23 BY COMMISSIONER BARDEN:

24 AND THAT'S R-U-P-P-E.

25 DIRECT EXAMINATION RESUMED BY MR. MCDANIEL:

1 Q. AND THEN SO YOU CALLED?

2 A. I CALLED BOBBY AND TOLD HIM WE'RE HAVING MORE
3 PROBLEMS THAN THE LIGHT WITH THE WIRES WERE BROKEN
4 OFF THE SWITCH. I SENT HIM ALL THE PICTURES OF THE
5 WIRES AND THE WIRE BROKEN OFF. AND HE TOLD ME IF
6 THERE WAS NOTHING ELSE I COULD DO WITH THAT STORE TO
7 GO TO MY NEXT JOB, AND I WENT TO ---

8 Q. DID YOU TELL HIM ABOUT THE SHOCK?

9 A. OH, YEAH. I TOLD HIM I WAS HURT.

10 Q. OKAY.

11 A. I TOLD HIM I WAS HURT. I SAID, "I'VE NEVER BEEN HIT
12 THIS HARD BEFORE IN MY LIFE."

13 Q. OKAY.

14 A. AND THAT'S WHEN I WENT TO MY NEXT JOB, AND THAT WAS
15 I HAD TO DRIVE TO AIKEN, AND IT WAS GETTING WORSE,
16 AND WORSE, AND WORSE DURING THE DAY.

17 BY MR. MCDANIEL:

18 COMMISSIONER, IF YOU WILL LOOK AT PAGE 80.
19 THEY ACTUALLY HAVE GIVEN US A COPY, AND THEY HAD --
20 THEY SUBMITTED AND WHEN -- WHEN THEY SUBMITTED IT,
21 WE WERE ABLE TO OBTAIN A COPY, AND IT'S THE ACTUAL
22 DRIVER'S LOG SHOWING THAT HE WAS -- THE TIME HE WAS
23 AT PUBLIX AND WHAT HE'D LIKE ---

24 DIRECT EXAMINATION RESUMED BY MR. MCDANIEL:

25 Q. WERE YOU ABLE -- CLARENCE, WERE YOU ABLE TO FINISH -

1 - AFTER THE ELECTRICAL SHOCK, YOU WENT OUTSIDE AND
2 CLEARED YOUR HEAD AND GOT -- GOT YOUR COMPOSURE AND
3 ALL THAT; HOW WERE YOU FEELING? WHERE WERE YOU HURT
4 AND ALL?

5 A. MY ARM AND NECK AND DOWN THROUGH HERE WAS
6 (INDICATING).

7 BY COMMISSIONER BARDEN:

8 YOUR CHEST?

9 BY THE WITNESS:

10 YES, AND IT WAS ---

11 BY COMMISSIONER BARDEN:

12 YOUR LEFT SIDE OF YOUR CHEST?

13 BY THE WITNESS:

14 YES, MA'AM.

15 BY COMMISSIONER BARDEN:

16 OKAY.

17 BY THE WITNESS:

18 AND THEN I'M SAYING THE NEXT DAY WHEN I GOT UP,
19 I WAS GOING TO GO TO WORK.

20 BY COMMISSIONER BARDEN:

21 YOUR SHOULDER AREA?

22 BY THE WITNESS:

23 YES.

24 BY COMMISSIONER BARDEN:

25 WHEN YOU ARE EXTENDING THAT -- WHEN YOU SAY

1 THAT IT'S DOWN ---

2 BY THE WITNESS:

3 MY -- RIGHT THROUGH HERE (INDICATING).

4 BY COMMISSIONER BARDEN:

5 HOW FAR DID IT EXTEND?

6 BY THE WITNESS:

7 RIGHT -- LEFT THROUGH HERE.

8 BY COMMISSIONER BARDEN:

9 THROUGH YOUR SHOULDER OR YOUR SHOULDER AREA?

10 BY THE WITNESS:

11 YEAH. AND THE NEXT MORNING WHEN I GOT UP, I
12 WAS JUST DRIPPING SWEAT. AND I TRIED TO WORK. I
13 WENT TO THE WAL-MART ON ---

14 BY COMMISSIONER BARDEN:

15 WHEN DID THE SWEATING OCCUR, THE NEXT MORNING?

16 BY THE WITNESS:

17 I MEAN, I WAS DRIPPING.

18 BY COMMISSIONER BARDEN:

19 OKAY.

20 BY THE WITNESS:

21 AND I WENT TO THREE SEVENTY-EIGHT, THE WAL-
22 MART, AND I CAN'T -- I THINK IT WAS EIGHT EIGHTY-ONE
23 OR SOMETHING LIKE THAT, EIGHT -- EIGHT ONE EIGHT. I
24 CAN'T REMEMBER THE NAME OF THE -- THE NUMBER.

25 BY COMMISSIONER BARDEN:

1 THAT'S OKAY.

2 BY THE WITNESS:

3 AND I WAS LAYING ON MY BACK 'CAUSE THAT'S THE -
4 - YOU KNOW WHAT I MEAN? IT HURT IF I STOOD UP AND
5 THEN ON MY HEAD, SO I LAID DOWN. I HAD TO GO TO
6 WHALEY'S TO GET SOME FUSES. I DROVE TO WHALEY'S IS
7 DOWN THE ROAD, CAME BACK, PUT THE FUSES IN. THAT'S
8 WHEN I CALLED BOBBY RUPPE, AND I SAID, "MAN, I CAN'T
9 DO IT. I'M SORRY." I EVEN APOLOGIZED TO PEOPLE IN
10 THE DELI, BUT I WAS IN TOO MUCH PAIN. AND WHEN I
11 LEFT THAT WAL-MART, BOBBY HAD PEGGY DUNCAN CALL ME.
12 SHE WORKS FOR THE COMPANY AND SAID THAT THEY JUST
13 CALLED -- WAL-MART JUST CALLED AND SAID ALL THE
14 FRYERS ARE DOWN. AND I SAID, "WELL, PEGGY, I'M
15 SEVERELY HURT, BUT I WILL GO BACK 'CAUSE I JUST LEFT
16 THERE." SO I WENT BACK AND THEY LOST POWER TO ALL
17 THE FRYERS. THAT'S WHEN I CALLED BOBBY BACK AND
18 SAID "THEY LOST POWER, AND THEY NEED AN
19 ELECTRICIAN." AND I TOLD HIM "I CAN'T DO NOTHING
20 ELSE. I'VE GOT TO GO HOME," AND THAT'S WHAT I DID.

21 DIRECT EXAMINATION RESUMED BY MR. MCDANIEL:

22 Q. AND THEN WHAT DID YOU DO BETWEEN THEN AND -- WE'RE
23 GOING TO TALK ABOUT THE 27TH IN JUST A MINUTE, BUT
24 BETWEEN THAT -- THE DAY THAT YOU CALLED BOBBY AND
25 SAID "I CAN'T DO IT ANY MORE; I'M GOING HOME," DID

1 YOU -- WHAT DID YOU DO BETWEEN THEN AND WHEN YOU
2 FINALLY WENT TO I BELIEVE WE'RE GOING TO TALK ABOUT
3 THE MINUTE CLINIC IN A SECOND?

4 A. YEAH, THAT WAS A MONDAY; THAT WAS A HOLIDAY.

5 Q. SO WHAT DID YOU DO -- SO OVER THE WEEKEND?

6 A. OH, I HAD -- I WENT BY WALGREENS AND BOUGHT MOTRIN
7 AND TYLENOL, YOU KNOW, ANYTHING TO WHAT I THOUGHT
8 WOULD HELP.

9 BY COMMISSIONER BARDEN:

10 SO YOU WERE EXPERIENCING PAIN ---

11 BY THE WITNESS:

12 BAD, SEVERE.

13 BY COMMISSIONER BARDEN:

14 OKAY.

15 BY THE WITNESS:

16 YEAH.

17 DIRECT EXAMINATION RESUMED BY MR. MCDANIEL:

18 Q. AND IT WAS -- IT -- IT WAS IN THE SAME PLACE AS IT
19 WAS FROM THE -- FROM THE MINUTE OF THE SHOCK?

20 A. YES.

21 Q. IS THAT CORRECT?

22 A. YES, IT WAS MY ARM. IT WENT UP TO MY EAR, AND IT
23 DROPPED LIKE THAT (INDICATING). BUT I JUST ATE
24 MOTRIN AND TYLENOL AND THINGS LIKE THAT, IBUPROFEN.
25 I WAS TRYING TO GET THE PAIN TO GO AWAY, AND I JUST

1 -- I LAID IN BED. THEN MONDAY WAS A HOLIDAY, AND I
2 WENT TO THE MINI CLINIC AT THE C.V.S. ON LAKE MURRAY
3 BOULEVARD, AND I SAT THERE FOR AN HOUR AND TWENTY
4 MINUTES. THE NURSE FINALLY CALLED ME IN, AND SHE
5 GOES, "I CAN'T DO NOTHING FOR YOU. YOU'RE IN TOO
6 MUCH PAIN." I MEAN, SHE COULD TELL BY JUST LOOKING
7 AT ME. AND I SAID, "WHY DID YOU LET ME SIT OUT
8 THERE FOR A HOUR AND TWENTY MINUTES?" SHE SAID SHE
9 CAN'T TALK AROUND OTHER PEOPLE, YOU KNOW WHAT I
10 MEAN, SO SHE HAD TO WAIT 'TIL IT WAS MY TURN TO CALL
11 ME IN. I CALLED BOB SMITH. HE'S PARTIAL OWNER OF
12 THIS COMPANY. I SAID, "BOB, Y'ALL GOT TO -- BOB
13 SMITH IS THE ONE WHO CAME HERE TO INTERVIEW ME;
14 HE'S IN GEORGIA. AND I SAID, "WE GOT TO DO
15 SOMETHING." I SAID, "I'M -- I'M -- I'M IN A LOT OF
16 PAIN. I'VE GOT TO GO TO THE DOCTOR." AND AT THE
17 C.V.S. CLINIC, THE LADY TOLD ME, THE NURSE, SAID
18 "YOU HAVE TO HAVE A DOCTOR. YOU NEED A DOCTOR,"
19 AND THAT'S WHEN I CALLED BOB SMITH WHEN I LEFT
20 THERE, AND ITOLD HIM, I SAID, "I MEAN, WHAT -- I
21 DON'T KNOW IF Y'ALL ARE GOING TO PAY THIS OUT OF
22 POCKET OR WHAT ARE Y'ALL GOING TO DO, BUT I GOT TO
23 GO TO THE DOCTOR." AND THEN THAT FOLLOWING MONDAY -
24 - I MEAN THAT TUESDAY, I WENT TO DR. GREENFIELD AT
25 URGENT CARE, AND SHE'S BASICALLY THE ONE THAT SAVED

1 MY LIFE.

2 Q. NOW, ALSO ON MONDAY THE 27TH, DID YOU -- WHAT ~~KIND~~
3 OF A -- OF -- OF EQUIPMENT DID YOU HAVE TO
4 COMMUNICATE WITH BOBBY RUPPE? WHAT DID YOU USE TO
5 COMMUNICATE?

6 A. I HAD A COMPANY CELL PHONE, AND THEY FAX -- THEY
7 SENT ALL OF MY WORK ORDERS ON THE IPAD AND WENT BACK
8 AND FORTH.

9 Q. SO YOU HAD A COMPANY PHONE AND A COMPANY IPAD?

10 A. YES.

11 Q. SO THE COMMUNICATIONS YOU'RE TALKING ABOUT WITH MR.
12 RUPPE AND EVERYBODY ELSE WAS EITHER ON THAT COMPANY
13 PHONE OR THAT COMPANY IPAD?

14 A. RIGHT.

15 Q. OKAY. NOW, WHERE -- DO YOU STILL HAVE THOSE?

16 A. NO. THEY CAME AND GOT THE VAN I THINK THE FIRST
17 WEEK I WAS IN THE HOSPITAL.

18 Q. NOW, SO THE -- THE COMPANY PHONE ANE THE COMPANY
19 IPAD, THAT ---

20 A. THEY CAME AND GOT IT, YEAH.

21 Q. OKAY. THAT'S FINE. AND BUT THE REASON I SAY THAT
22 IS THAT WE DO HAVE THE BENEFIT ON PAGE 79, YOU
23 ACTUALLY HAD COMMUNICATED VIA THE IPAD WITH MR.
24 RUPPE?

25 A. YEAH.

1 Q. ON THE 27TH?

2 A. YES. HE WANTED ME TO WRITE SOMETHING ABOUT WHAT
3 HAPPENED. AND I TOLD HIM BASICALLY I WAS TRAC~~ING~~
4 THE WIRE DOWN FROM THE LIGHTS, AND THE THING BLEW
5 UP. THE WIRE WAS BROKEN OFF THE SWITCH.

6 Q. OKAY.

7 A. AND ---

8 Q. OKAY. AND -- AND SO -- AND SO THE SERIES OF --
9 WE'VE LOOKED AT THESE BEFORE, CLARENCE, ON PAGE 79,
10 THIS SERIES OF COMMUNICATION BETWEEN YOU AND MR.
11 RUPPE. THAT'S -- THAT'S THE COMMUNICATIONS YOU HAD
12 THAT DAY ON THE 27TH?

13 A. I BELIEVE SO. YES.

14 Q. ALL RIGHT. NOW, THEN ON THE 20 -- SO TELL ME BASED
15 ON YOUR CONVERSATIONS WITH THE -- WHO WAS THE
16 GENTLEMAN FROM THE COMPANY THAT YOU TALKED TO?

17 A. FOR?

18 Q. OTHER -- NO -- THAN MR. RUPPE?

19 A. OH. BOB SMITH.

20 Q. ALL RIGHT. AND THEN YOU TALKED TO MR. RUPPE, AND
21 THEN WHAT DID THEY TELL YOU TO DO?

22 A. THE REASON I TALKED TO BOB SMITH WAS BECAUSE HE'S
23 THE ONE THAT GOT THE PUBLIX ACCOUNT. THAT WAS HIS
24 ACCOUNT, PUBLIX. AND HE'S A VERY NICE MAN, AND I
25 JUST TOLD HIM "WE GOT TO DO SOMETHING FOR ME. YOU

1 KNOW, WE GOT TO PUT THIS UNDER WORKMAN'S COMP, OR
2 Y'ALL GOING TO PAY FOR IT OUT OF CASH. LET ME ~~KNOW~~
3 SOMETHING, PLEASE, YOU KNOW WHAT I MEAN?" AND ~~SO~~
4 THE NEXT DAY THAT'S WHEN I WENT TO GREENFIELD. I --
5 I PAID HER FOR MY VISIT, CASH. SHE, DR. GREENFIELD,
6 I THINK TALKED TO PEGGY, AND THAT'S -- SHE GOT ~~THE~~
7 WORKMAN'S COMP INSTATED 'CAUSE THIS HAPPENED AT WORK
8 AND ---

9 BY MR. MCDANIEL:

10 COMMISSIONER, DR. GREENFIELD'S INITIAL REPORT
11 IS FOUND ON PAGE 66.

12 BY COMMISSIONER BARDEN:

13 THANK YOU.

14 DIRECT EXAMINATION RESUMED BY MR. MCDANIEL:

15 Q. ALL RIGHT. TELL ME -- BASICALLY BETWEEN THE DATE OF
16 THE ELECTRICAL SHOCK AND -- AND WHEN YOU FINALLY
17 WENT TO THE MINUTE CLINIC AND THEN THE NEXT DAY,
18 WHAT WERE YOU HOPING WAS GOING TO HAPPEN WITH THIS
19 PAIN THAT YOU WERE HAVING IN THE LEFT HAND, ARM, AND
20 ALL THAT?

21 A. I THOUGHT THE IBUPROFEN, MOTRIN WAS GOING TO MAKE IT
22 GO AWAY, BUT LIKE I SAY EVERY DAY IT JUST GOT WORSE
23 AND WORSE, I MEAN, EXCRUCIATING.

24 Q. AND IT WAS ALL UP IN THROUGH YOUR HAND, ARM, LEFT --
25 -

1 A. ALL THE WAY UP.

2 Q. --- LEFT SHOULDER?

3 A. TO MY EAR.

4 Q. AND UP IN WHAT YOU'VE DESCRIBED IT ---

5 A. --- AND DOWN THROUGH HERE (INDICATING).

6 Q. OKAY. AND REFERRING TO THE FRONT PART OF YOUR
7 SHOULDER?

8 A. YEAH.

9 Q. OKAY. ALL RIGHT. NOW, TELL ME WHAT DR. GREENFIELD
10 DID FOR YOU, AND TELL ME ABOUT WHAT HAPPENED AFTER
11 THAT?

12 A. I WENT TO HER. I JUST WANTED SOME MUSCLE RELAXER,
13 AND I WAS GOING TO GO BACK TO WORK. AND A MATTER OF
14 FACT, I THINK SHE WROTE OUT A PRESCRIPTION FOR
15 MUSCLE RELAXER, FLEXERIL I THINK IT WAS. AND THEN
16 SHE PUT THIS LITTLE THING ON MY FINGER. IT MONITORS
17 I GUESS YOUR HEART BEAT. AND SHE SAID, "WHOA,
18 THERE'S SOMETHING WRONG." SHE SAID, "I THINK" -- I
19 -- I CAN'T REMEMBER EXACTLY. IT WAS LIKE 112 OVER
20 SOMETHING, I CAN'T REMEMBER, BEATS PER MINUTE. IT'S
21 SUPPOSED TO BE 70 BEATS OR SOMETHING LIKE THAT, AND
22 IT WAS 112. AND THAT'S WHEN SHE DID THE WHERE YOU
23 LOOK WITH THE -- THEY PUT THIS GEL ON YOU, AND YOU
24 CAN LOOK, YOU KNOW, AND AT THE HEART. SHE SAID I
25 DONE BLEW A HOLE IN MY HEART, AND THAT'S WHEN SHE

1 STARTED FREAKING OUT, AND SHE SENT ME TO DASGUPTA AT
2 LEXINGTON. AND DASGUPTA, I MEAN I WAS RIGHT ACROSS
3 THE STREET FROM THE LEXINGTON HOSPITAL. HE GOT AN
4 AMBULANCE TO DRIVE ME FROM ACROSS -- THAT'S WHERE
5 DR. LIDE WAS WAITING ON ME. AND THAT'S WHEN I MET
6 DR. TRAVIS, WHICH IS A -- A -- A -- PREVENTATIVE --
7 GOOD PEOPLE.

8 Q. AND THEN YOU -- THEY IMMEDIATELY TOOK YOU INTO
9 SURGERY RIGHT AFTER THAT, AFTER THEY DID SOME
10 TESTING?

11 A. MY MEMORY'S NOT SO GREAT, BUT I REMEMBER MEETING DR.
12 LIDE. HE STUCK SOME STUFF INTO MY VEIN AND LOOK --
13 LOOKED AT MY HEART, AND THEN THEY SHAVED ME. AND I
14 THINK IT WAS THE NEXT MORNING I BELIEVE, I MIGHT BE
15 WRONG, THAT'S WHEN TRAVIS -- DR. TRAVIS, AND HE TOLD
16 ME THAT IT WAS A GOOD CHANCE I WOULDN'T BE COMING
17 BACK OUT OF SURGERY. SO THAT'S HOW ALL THAT WENT.

18 BY MR. MCDANIEL:

19 COMMISSIONER, YOU'LL FIND IT IN DR. TRAVIS'S
20 DEPOSITION, DR. TRAVIS SAID THAT WITH THE
21 VENTRICULAR SEPTAL DEFECT, THE HOLE IN HIS HEART,
22 BETWEEN -- THAT IT'S -- MANY TIMES PEOPLE DON'T LIVE
23 THROUGH THAT SURGERY, AND THAT CLARENCE WAS VERY
24 FORTUNATE TO HAVE LIVED THROUGH IT, AND THAT'S --
25 THAT'S IN HIS DEPOSITION SO...

1 BY COMMISSIONER BARDEN:

2 I'LL READ IT ALL.

3 BY MR. MCDANIEL:

4 I KNOW.

5 BY COMMISSIONER BARDEN:

6 THANK YOU.

7 DIRECT EXAMINATION RESUMED BY MR. MCDANIEL:

8 Q. AND SINCE THAT TIME, YOU'VE BEEN UNDER THE TREATMENT
9 OF DR. LIDE AND DR. TRAVIS?

10 A. TRAVIS WANTED ME TO COME BACK IN TEN MONTHS SO HE
11 CAN CHECK THE PATCH. AND I'VE BEEN SEEING DR. LIDE
12 UNTIL THIS -- ALL THIS HAPPENED, AND I DON'T HAVE NO
13 MONEY.

14 Q. HOW ARE YOU -- HOW -- HOW ARE ABLE TO PAY FOR YOUR
15 MEDICATIONS NOW THAT YOU ---

16 A. I WENT TO DR. LIDE THE LAST TIME AND I SAID, "WHAT
17 PILLS DO I -- IF I DON'T GET THESE PILLS, WILL I
18 DIE?" AND HE SAID, "MOST LIKELY." AND THAT'S WHEN I
19 SAID, "PLEASE GIVE ME WHAT I NEED TO EAT," AND HE
20 CUT IT DOWN TO FIVE PILLS. SO -- BUT I FOUND A
21 CHEAPER PLACE, WHICH WAS BI-LO GROCERY STORE, TO
22 HAVE THEM FILLED. AND IF IT WASN'T FOR FRIENDS
23 HELPING ME, I WOULDN'T BE ABLE TO AFFORD THEM.

24 Q. AND YOU'VE BEEN OUT OF WORK SINCE THEN?

25 A. YEAH.

1 Q. AND SO SINCE THEY'VE STOPPED BENEFITS YOU'VE HAD NO
2 MONEY COMING IN. DO YOU HAVE ANY OTHER SOURCE OF
3 INCOME?

4 A. FRIENDS HAVE BEEN HELPING ME; THAT'S IT.

5 Q. I BELIEVE ONE FRIEND UNDER THE DEALERSHIP EXTENDED A
6 LOAN; IS THAT RIGHT?

7 A. OH, YEAH. MR. WAYNER HELPED ME.

8 Q. AND THEN ALSO WE'VE NOW GOT YOU A -- A -- A LOAN?

9 A. YEAH. THE LOAN FOR THE -- AT HICKORY WHATEVER IT
10 WAS. AND MY LANDLORD, SHE BRINGS ME FOOD EVERY
11 NIGHT, JUST ABOUT EVERY NIGHT, TO MAKE SURE I'M
12 EATING.

13 Q. OKAY. LET'S TALK BRIEFLY ABOUT ONE OTHER THING. IT
14 -- IT'S -- IT'S IN HIS RECORD, BUT BASICALLY DR.
15 LIDE -- I MEAN EXCUSE ME -- DR. TRAVIS, WHO'S THE
16 CARDIOVASCULAR SURGEON, WHAT DID HE TELL YOU ABOUT
17 THAT HE FOUND IN -- IN YOUR HEART?

18 A. HE SAID HE HAS PICTURES AND VIDEO OF WHERE THE POWER
19 WENT IN ---

20 BY MR. BAYNE:

21 WE'LL OBJECT, YOUR HONOR. TO ANY ---

22 BY COMMISSIONER BARDEN:

23 SUSTAINED AS TO HEARSAY.

24 BY MR. BAYNE:

25 --- ANY REFERENCE OF PICTURES OR VIDEOS.

1 BY MR. MCDANIEL:

2 WELL, YOU KNOW.

3 BY COMMISSIONER BARDEN:

4 I'LL READ THE RECORDS, AND THEY'LL SPEAK FOR
5 THEMSELVES.

6 BY MR. MCDANIEL:

7 I KNOW YOU WILL. IT'S ---

8 BY MR. BAYNE:

9 THOSE HAVE NEVER BEEN PRODUCED, SO WE DON'T
10 HAVE ---

11 BY COMMISSIONER BARDEN:

12 OH, OKAY. WELL, I THOUGHT YOU WERE OBJECTING
13 TO HEARSAY, BUT YOU DON'T HAVE THOSE.

14 BY MR. BAYNE:

15 AND -- AND TO HEAR -- I MEAN IT'S HEARSAY AS
16 WELL.

17 BY COMMISSIONER BARDEN:

18 OKAY. ALL RIGHT.

19 BY MR. MCDANIEL:

20 WELL, THAT'S FINE, YOU KNOW.

21 BY COMMISSIONER BARDEN:

22 ALL RIGHT. GO AHEAD, MR. MCDANIEL.

23 BY MR. MCDANIEL:

24 THAT'S ALL RIGHT, COMMISSIONER. IT -- IT --
25 THE FACT THAT HE FOUND A CLEAR ENTRANCE AND EXIT

1 WOUND, HIS TESTIMONY, HIS BACKGROUND EXPERIENCE IS
2 ALL THE ---

3 BY COMMISSIONER BARDEN:

4 I WILL READ IT, SIR.

5 BY MR. MCDANIEL:

6 I KNOW YOU WILL, AND I -- I'M NOT GOING TO
7 BELABOR IT ANY LONGER. I -- AT THIS ---

8 BY COMMISSIONER BARDEN:

9 OKAY.

10 BY MR. MCDANIEL:

11 I HAVE NO FURTHER QUESTIONS.

12 BY COMMISSIONER BARDEN:

13 YES, SIR. THANK YOU. ALL RIGHT. MR. BAYNE.

14 BY MR. BAYNE:

15 THANK YOU, COMMISSIONER.

16 BY COMMISSIONER BARDEN:

17 AND YOU ARE FREE TO USE THE CHAIR OR STAND OVER
18 HERE AS WELL.

19 BY MR. BAYNE:

20 CERTAINLY.

21 BY COMMISSIONER BARDEN:

22 I THINK IT'D BE EASIER FOR HIM AS FAR AS
23 PROJECTING HIS VOICE TOO.

24 BY MR. BAYNE:

25 SURE.

1 BY THE WITNESS:

2 THANK YOU.

3 BY COMMISSIONER BARDEN:

4 YES, SIR. IF YOU WANT TO SIT YOU CAN. ~~YOU~~

5 MIGHT WANT TO SPREAD YOUR STUFF OUT SO...

6 BY MR. BAYNE:

7 SURE. IT'LL MAKE IT EASIER. THANK YOU.

8 CROSS EXAMINATION BY MR. BAYNE:

9 Q. MR. WINFREY, HOW ARE YOU TODAY?

10 A. ALL RIGHT.

11 Q. I JUST WANT TO TALK A LITTLE BIT ABOUT SOME OF THE
12 STUFF YOU JUST TESTIFIED TO. YOU -- YOU TALKED
13 ABOUT THE WIRE, THE LOOSE WIRE HIT YOU ON THE LEFT
14 HAND; IS THAT CORRECT?

15 A. YEAH.

16 Q. AND THAT IS -- THAT'S WHAT YOU CONSIDER TO BE THE
17 ENTRANCE WOUND FOR ---

18 A. THAT'S WHAT ---

19 Q. --- THE ELECTRICAL SHOCK?

20 A. THAT'S WHAT DR. GREENFIELD TOLD ME. IT WENT IN HERE
21 (INDICATING). IT CAME THROUGH MY TOES, AND I WAS
22 TOLD THAT'S WHERE THE POWER TRIED TO GET OUT.

23 Q. OKAY. YOU DON'T HAVE AN EXIT WOUND ON YOUR TOES, DO
24 YOU?

25 A. NO. THEY'RE JUST NUMB.

1 Q. TO -- TO YOUR KNOWLEDGE, ARE THERE ANY EXIT WOUNDS
2 ANYWHERE IN YOUR BODY FROM THIS ELECTRICITY?

3 A. NOT THAT I KNOW OF.

4 Q. OKAY. YOU ALSO TALKED ABOUT AFTER THE ELECTRICAL
5 SHOCK, YOU WERE POINTING TO YOUR LEFT ARM, YOUR
6 SHOULDER, UP INTO YOUR NECK, AND I BELIEVE THE
7 COMMISSIONER WAS TRYING TO CLARIFY. YOU WEREN'T
8 EXPERIENCING ANY CHEST PAIN AT THAT TIME, WERE YOU?

9 A. WELL, THIS IS CHEST TO ME (INDICATING).

10 Q. OKAY. SO YOU WERE HAVING CHEST PAIN?

11 A. WELL, I MEAN, WHEN IT ORIGINALLY HAPPENED, AT THIS -
12 - ALL THIS HURT (INDICATING) HERE AND DOWN THROUGH
13 HERE.

14 Q. OKAY.

15 BY COMMISSIONER BARDEN:

16 SO WOULD YOU SAY, JUST SO THAT THE RECORD IS
17 CLEAR, WHEN YOU SAY SHOULDER I KNOW -- WELL, YOU'RE
18 POINTING BELOW ---

19 BY THE WITNESS:

20 YEAH. RIGHT -- RIGHT THROUGH IT -- AND THEN
21 DROPPED DOWN (INDICATING).

22 BY COMMISSIONER BARDEN:

23 SO YOU MEAN THE FRONT OF YOUR SHOULDER AND YOUR
24 ---

25 BY THE WITNESS:

1 YES.

2 BY COMMISSIONER BARDEN:

3 --- TOP OF YOUR SHOULDER?

4 BY THE WITNESS:

5 YES, MA'AM.

6 BY COMMISSIONER BARDEN:

7 ALL THE WAY UP TO YOUR NECK?

8 BY THE WITNESS:

9 YES, MA'AM.

10 BY COMMISSIONER BARDEN:

11 AND INTO YOUR HEAD?

12 BY THE WITNESS:

13 YES, MA'AM.

14 BY COMMISSIONER BARDEN:

15 OKAY.

16 CROSS EXAMINATION RESUMED BY MR. BAYNE:

17 Q. SO YOU WERE HAVING PAIN IMMEDIATELY AFTER THE SHOCK
18 IN YOUR CHEST; IS THAT RIGHT?

19 A. COMING DOWN, YEAH.

20 Q. OKAY. IN YOUR EMAIL, AND IT'S DEFENDANT'S 99, I
21 BELIEVE WE'VE ALREADY TALKED ABOUT IT. IT WAS A
22 CALL BETWEEN BOBBY RUPPE AND YOURSELF THAT YOU SENT
23 FROM THE IPAD. YOU STATED THAT ---

24 BY COMMISSIONER BARDEN:

25 THIS IS MAY 22ND?

1 BY MR. BAYNE:

2 MAY ---

3 BY COMMISSIONER BARDEN:

4 I MEAN 27TH?

5 BY MR. BAYNE:

6 MAY 27, 2013.

7 BY COMMISSIONER BARDEN:

8 THANK YOU. I GOT IT. THANK YOU.

9 CROSS EXAMINATION RESUMED BY MR. BAYNE:

10 Q. YOU STATED THAT YOU GOT HIT BY POWER, JERKED MY NECK
11 TO GET AWAY FROM THE ROTISSERIE; DO YOU REMEMBER
12 SAYING THAT?

13 A. OH, YEAH. UH-HUH. IF IT WASN'T FOR THE FRYER, I'D
14 A BEEN ON MY BACK.

15 Q. DID YOU MAKE ANY MENTION AT THAT TIME OF PAIN IN
16 YOUR LEFT ARM OR IN YOUR CHEST?

17 A. I TOLD BOBBY "I'VE NEVER BEEN HIT THIS HARD BEFORE
18 IN MY LIFE."

19 Q. OKAY. DID YOU ASK -- DID YOU TELL HIM THAT YOU WERE
20 HAVING PAIN IN YOUR LEFT ARM OR IN YOUR CHEST AT
21 THAT TIME?

22 A. I SENT HIM PICTURES.

23 Q. OKAY. AGAIN MY -- MY QUESTION WAS DID YOU TELL
24 BOBBY THAT YOU WERE HAVING PAIN? DID YOU TELL BOBBY
25 YOU WERE HAVING PAIN IN EITHER YOUR LEFT ARM OR YOUR

1 CHEST AT THAT TIME?

2 A. I CAN'T SAY EXACTLY 'CAUSE I DON'T REALLY REMEMBER.

3 Q. OKAY.

4 A. BUT I THINK I DID TELL HIM IT HIT ME IN THE FINGER,
5 AND I BELIEVE I DID, BUT I MIGHT BE WRONG.

6 BY MR. BAYNE:

7 COMMISSIONER, I WOULD POINT YOU ALSO TO
8 DEFENDANTS' NUMBER 98, WHICH IS THE LETTER FROM
9 BOBBY RUPPE, THAT INDICATES ONLY PAIN IN HIS NECK AT
10 THE TIME.

11 CROSS EXAMINATION RESUMED BY MR. BAYNE:

12 Q. I WANT TO TALK ABOUT ALSO AFTER THIS -- THIS SHOCK,
13 WHICH OCCURRED I BELIEVE IN LOOKING AT YOUR DAILY
14 DRIVER'S LOG AT DEFENDANTS' 100, YOU ARRIVED AT
15 PUBLIX AT ABOUT 5:30 IN THE MORNING; IS THAT RIGHT?

16 A. I THINK IT WAS MORE LIKE 6:00.

17 Q. OKAY. WOULD IT HELP YOU TO LOOK AT THE DRIVER'S LOG
18 REAL QUICK JUST TO GET THE TIMES?

19 A. I CAN'T; I AIN'T GOT MY READING GLASSES.

20 Q. OKAY. IF IT SAYS START TIME 5:30, END TIME 6:00.
21 START TIME 6:00, END TIME 7:45, WOULD THAT BE ABOUT
22 RIGHT?

23 A. IT SOUNDS -- IT'S CLOSE.

24 Q. OKAY. SO THE SHOCK THAT -- THAT YOU HAD ON YOUR
25 LEFT HAND OCCURRED SOME TIME BETWEEN 5:30 AND 7:45

1 WHEN YOU LEFT PUBLIX?

2 A. IT HAPPENED ABOUT 7:15, 7:20, 'CAUSE I CALLED ~~BOBBY~~.
3 BOBBY WAS STILL AT HOME.

4 Q. SO IT WAS SOME TIME BETWEEN 7:15 AND 7:20 IN ~~THE~~
5 MORNING ---

6 A. YES.

7 Q. --- AT PUBLIX. OKAY. AFTER THE PUBLIX, YOU ~~WENT~~ TO
8 A WAL-MART FROM IT LOOKS LIKE ABOUT 7:45 UNTIL
9 10:15; IS THAT ABOUT RIGHT?

10 A. DOWN IN AIKEN.

11 Q. OKAY. THAT WAS THE AIKEN WAL-MART?

12 A. AND I WORKED ON TWO ROTISSERIES THERE, AND I PUT
13 COTTER PINS IN THEM, GOT THEM RUNNING. AND TOLD
14 BOBBY "I CAN'T -- I'M DONE." I COULDN'T DO NOTHING
15 ELSE, AND IT WAS GETTING WORSE AND WORSE.

16 Q. AND THAT WAS ABOUT 12:15 WHEN YOU ENDED THE DAY?

17 A. LIKE THREE-AND-A-HALF HOURS, SO I GOT BACK PROBABLY
18 AT 1:30 I THINK IT WAS -- 1:00.

19 Q. OKAY. AND YOU STATED YOU WENT HOME AFTER THAT?

20 A. YEAH.

21 Q. AFTER THAT LAST APPOINTMENT. ALL RIGHT. BUT YOU
22 DIDN'T START EXPERIENCING ANY SWEATING UNTIL THE
23 NEXT MORNING?

24 A. NEXT MORNING 'CAUSE I MEAN I JUST WANTED TO WORK. I
25 LOVE MY JOB. AND WHEN I WAS PUTTING MY BOOTS ON, IT

1 LOOKED LIKE RAIN.

2 Q. AND THE -- WHAT TIME DID YOU WAKE UP THAT MORNING?

3 A. I USUALLY WAKE UP AROUND 6:00 EVERY MORNING.

4 Q. SO IT WAS ABOUT 24 HOURS, 23 HOURS AFTER THE SHOCK
5 THAT YOU STARTED EXPERIENCING ALL THAT SWEATING?

6 A. YEAH. WELL, I MEAN, I -- I WOKE UP SWEATING, YOU
7 KNOW.

8 Q. YOU WOKE UP SWEATING. ALL RIGHT. AND YOU WENT TO
9 WORK THAT DAY AT A WAL-MART, WHERE WAS THAT WAL-MART
10 AGAIN?

11 A. THREE SEVENTY-EIGHT, I THINK IT WAS EIGHT EIGHT ONE
12 OR EIGHT ONE EIGHT.

13 Q. OKAY. AND THE -- THE DRIVER'S LOG, WHICH IS AT PAGE
14 101 OF THE DEFENDANTS' APAs SAYS START TIME OF 8:00
15 A.M. AND END TIME OF 3:30; IS THAT CORRECT?

16 A. WELL, LIKE I SAID I -- I WENT TO WHALEY'S. I GOT
17 SOME FUSES, CAME BACK, PUT THE FUSES IN, AND I
18 COULDN'T DO IT NO MORE. I EVEN APOLOGIZED TO THE
19 PEOPLE IN THE DELI. THEY ALL SAID SORRY. I MEAN I
20 WAS IN TOO MUCH PAIN. I LEFT AND THEN THEY -- PEGGY
21 DUNCAN CALLED ME, AND SHE'S NOT THE NORMAL -- BOBBY
22 RUPPE OR, YOU KNOW, THE GUY NAMED DREW THAT WOULD
23 CALL, BUT SOMEWHERE IN THERE PEGGY CALLED ME AND
24 SAID ALL THE FRYERS WERE DOWN. AND I SAID, "WELL,
25 PEGGY, I'M SEVERELY HURT," AND I SAID, "I'M BAD." I

1 SAID, "BOBBY KNOWS THIS." AND I SAID, "BUT I JUST
2 LEFT THERE, AND I'LL TURN AROUND AND GO BACK." AND
3 THAT'S -- I CHECKED THE POWER, AND THEY LOST ALL THE
4 POWER TO ALL THE FRYERS SO THEY HAVE TO -- WAL-MART,
5 IF IT'S A POWER ISSUE THEY HAVE TO HAVE AN
6 ELECTRICIAN. I CAN'T DO IT. DO YOU SEE WHAT I'M
7 SAYING? WORKING ON EQUIPMENT I CAN DO, CERTAIN
8 EQUIPMENT. SO I TOLD THEM THEY HAD LOST THE POWER
9 AND THEY GOT TO GET A ELECTRICIAN. THAT'S THE THIRD
10 TIME THAT I'VE BEEN AT THE SAME WAL-MART WHERE THEY
11 LOST POWER TO THEM FRYERS.

12 Q. SO MY QUESTION WAS YOUR TIME SHEET SAYS 8:00 A.M.
13 'TIL 3:30, WAS -- WERE YOU THERE UNTIL 3:30, OR DO
14 YOU THINK YOU LEFT BEFORE THEN?

15 A. I -- I CAN'T REMEMBER.

16 Q. OKAY. WHO -- WHO FILLS OUT THESE TIME SHEETS?

17 A. I THINK I JUST -- THIS IS IN THEM, RIGHT?

18 BY COMMISSIONER BARDEN:

19 JUST -- YOU CAN'T GIVE ME ---

20 BY THE WITNESS:

21 I CAN'T LOOK ---

22 BY COMMISSIONER BARDEN:

23 --- JUST BEST YOU CAN. IT'S ALL RIGHT.

24 BY THE WITNESS:

25 AGAIN, I MEAN, IT'S HARD.

1 BY COMMISSIONER BARDEN:

2 IF YOU DON'T KNOW THE ANSWER, YOU DON'T ~~KNOW~~
3 THE ANSWER.

4 BY THE WITNESS:

5 I DID -- ON THE IPAD, I WRITE DOWN WHERE I
6 WENT, AND THERE'S TIME AND THEN IF I WENT TO FOUR OR
7 FIVE PLACES THAT DAY, THAT'S HOW YOU DETERMINE THE
8 TIME AND EVERYTHING, TIME THAT YOU LEAVE, TIME YOU
9 GET HOME.

10 CROSS EXAMINATION RESUMED BY MR. BAYNE:

11 Q. SO YOU WOULD OF ---

12 A. SO I THINK ---

13 Q. --- YOU WOULD HAVE SUBMITTED THOSE TIMES?

14 A. I THINK SO. OKAY.

15 Q. OKAY.

16 A. I'M NOT SURE.

17 Q. THAT'S FINE. SO YOU -- YOU ARRIVED HOME SOMEWHERE
18 AROUND 3:30 THEN?

19 A. I'M -- I'M SAYING I'M NOT SURE.

20 Q. OKAY. BUT IF THAT'S WHAT YOU SUBMITTED THAT WOULD
21 PROBABLY BE CORRECT?

22 A. YES.

23 Q. OKAY. IN YOUR DEPOSITION THAT WE TOOK, DO YOU
24 RECALL ---

25 A. YOU AND ME?

1 Q. --- GIVING YOUR DEPOSITION?

2 A. YEAH.

3 Q. YES, SIR. I HAD ASKED YOU SEVERAL TIMES IN VARIOUS
4 COURSES OF YOUR TREATMENT BOTH THE DAY OF, THE DAY
5 AFTER, THE TIMES THAT YOU TALKED TO BOBBY RUPPE, IF
6 YOU HAD TALKED ABOUT ANY CHEST PAIN AT ALL; DO YOU
7 REMEMBER THE ANSWERS YOU GAVE AT THAT TIME?

8 A. I BELIEVE I SAID ALL THIS PAIN UP HERE (INDICATING)
9 WAS SO EXCRUCIATING I COULDN'T FEEL NOTHING ELSE. I
10 BELIEVE THAT'S WHAT I SAID, I MEAN ---

11 Q. CORRECT. AND ---

12 BY COMMISSIONER BARDEN:

13 AND YOU'RE POINTING TO YOUR SHOULDER AND TO
14 YOUR ---

15 BY THE WITNESS:

16 MY ARM. THERE, YEAH. MY -- WENT THROUGH HERE
17 AND DOWN MY BACK. YOU KNOW WHAT I MEAN?

18 CROSS EXAMINATION RESUMED BY MR. BAYNE:

19 Q. - AND MY -- MY QUESTION IS TODAY YOU'VE TALKED ABOUT
20 YOU TALKED TO BOBBY ABOUT SOME CHEST PAIN, AND I'D
21 LIKE TO -- TO READ YOU A -- A QUESTION AND YOUR
22 ANSWER, AND LET ME KNOW IF THAT HAS CHANGED OR IF --
23 IF YOUR ANSWER IS STILL THE SAME. YOU WERE ASKED,
24 AND THIS IS ON PAGE 19 OF MR. WINFREY'S DEPOSITION
25 AT LINE 24, "ON THE NEXT DAY THAT YOU WORKED, DID

1 YOU TALK TO BOBBY AT ALL ABOUT HAVING CHEST PAIN?"
2 AND YOUR ANSWER WAS, "I JUST TOLD HIM I HAD A LOT OF
3 PAIN IN MY NECK"; IS THAT CORRECT?

4 A. MY ARM AND NECK, YEAH.

5 Q. OKAY. SO YOU WEREN'T -- AT THE TIME, YOU DID NOT
6 TELL HIM YOU WERE HAVING ANY CHEST PAIN; IS THAT
7 RIGHT?

8 A. AND LIKE I SAID THEN TOO WAS THIS PAIN WAS SO GREAT
9 I COULDN'T FEEL NOTHING ELSE.

10 Q. OKAY. WHEN YOU WENT TO DR. GREENFIELD ON THE 28TH
11 OF MAY, YOU INDICATED YOU WEREN'T HAVING ANY CHEST
12 PRESSURE AT THAT TIME; IS THAT RIGHT?

13 A. JUST MY ARM AND NECK.

14 Q. AND YOU INDICATED TO HER THAT IT WAS DUE TO A SHOCK
15 OF 480 VOLTS; IS THAT RIGHT?

16 A. I TOLD HER HIGH VOLTAGE.

17 Q. DID YOU TELL HER 480 VOLTS?

18 A. I SAID 240, 480, YES. I MEAN, I'VE NEVER BEEN HIT
19 LIKE THIS BEFORE, NEVER.

20 Q. TODAY I THINK YOU WERE TALKING EARLIER ABOUT IT WAS
21 240 VOLTS, IS THAT ---

22 A. OR GREATER IS WHAT I SAID.

23 Q. OR GREATER, SO IS AT LEAST 240 VOLTS?

24 A. WELL, YEAH. IT SAYS HIGH VOLTAGE.

25 Q. OKAY. YOU ALSO INDICATED THAT DR. GREENFIELD TOLD

1 YOU THAT YOU HAD A HOLE IN YOUR HEART; IS THAT
2 RIGHT?

3 A. WHEN SHE DID THE -- I THINK THEY CALL IT ECHO, I'M
4 NOT SURE. YEAH, SHE SAID "YOU GOT MORE PROBLEMS
5 THAN JUST YOUR, YOU KNOW, YOUR NECK AND" -- SHE
6 SAID, "YOU DONE BLEW A HOLE IN YOUR HEART." AND
7 THEN SHE GOES, "WHERE DID THIS HAPPEN AT?" AND I
8 SAID -- SHE'S THE ONE THAT POINTED OUT THE HOLE IN
9 MY FINGER. AND SHE SAID, "THAT'S WHERE THE POWER
10 WENT IN," AND SHE SAID, "IT'S BEGIN WITH, BOOM, LIKE
11 THAT AND BLEW A HOLE IN HEART." THAT'S WHAT SHE
12 TOLD ME.

13 Q. DID -- DID DR. GREENFIELD TELL YOU AT ALL ABOUT THE
14 PAIN IN YOUR LEFT ARM OR SHOULDER AND -- AND WHAT
15 THAT INDICATED OR WHAT THAT CAME FROM?

16 A. SHE SAID THE POWER PROBABLY WENT UP, HIT THIS MAIN
17 MUSCLE HERE (INDICATING) AND THEN DROPPED DOWN.

18 BY MR. BAYNE:

19 OKAY. I HAVE NO FURTHER QUESTIONS.

20 BY COMMISSIONER BARDEN:

21 THANK YOU, MR. BAYNE. ANY QUESTIONS, OTHER
22 QUESTIONS, MR. MCDANIEL?

23 BY MR. MCDANIEL:

24 NONE, COMMISSIONER.

25 BY COMMISSIONER BARDEN:

1 OKAY. THAT'S THE CLAIMANT'S CASE.

2 BY MR. MCDANIEL:

3 CLAIMANT'S CASE, COMMISSIONER.

4 BY COMMISSIONER BARDEN:

5 ALL RIGHT. MR. BAYNE, YOU HAVE A WITNESS HERE?

6 BY MR. BAYNE:

7 COMMISSIONER, I HAVE AN EMPLOYER REPRESENTATIVE
8 THAT I'D LIKE TO PUT UP FOR JUST A MINUTE TO ---

9 BY COMMISSIONER BARDEN:

10 SURE. ALL RIGHT.

11 BY MR. BAYNE:

12 --- ASK A COUPLE OF QUESTIONS.

13 BY COMMISSIONER BARDEN:

14 SIR, I'M GOING TO LET YOU GO SIT NEXT TO MR.
15 MCDANIEL.

16 BY THE WITNESS:

17 THANK YOU.

18 BY COMMISSIONER BARDEN:

19 THANK YOU, SIR.

20 BY MR. BAYNE:

21 AND IF -- IF IT'S ALL RIGHT WITH YOUR HONOR,
22 ONCE WE'RE DONE WITH THAT I HAVE A COUPLE OF
23 SECTIONS IN THE DEPOSITIONS I'D JUST LIKE TO POINT
24 YOUR ATTENTION TO.

25 BY COMMISSIONER BARDEN:

1 YOU'RE WELCOME TO DO THAT. AND I'D LIKE TO
2 SPEAK TO Y'ALL ANYWAY ---

3 BY MR. BAYNE:

4 OKAY. ALL RIGHT.

5 BY COMMISSIONER BARDEN:

6 --- AFTERWARDS.

7 BY MR. BAYNE:

8 MR. WARREN.

9 BY COMMISSIONER BARDEN:

10 SIR, ONCE YOU GET SEATED AND SITUATED, IF
11 YOU'LL FACE ME. OKAY. THANK YOU.

12 BY MR. WARREN:

13 THANK YOU.

14 BY COMMISSIONER BARDEN:

15 DO YOU SWEAR OR AFFIRM --- RAISE YOUR HAND
16 PLEASE. DO YOU SWEAR OR AFFIRM THE TESTIMONY YOU'RE
17 ABOUT TO GIVE IN THIS PROCEEDING IS THE TRUTH, THE
18 WHOLE TRUTH, AND NOTHING BUT THE TRUTH?

19 BY THE WITNESS:

20 I DO.

21 MARK WARREN

22 BEING FIRST DULY SWORN, TESTIFIED ON HIS OATH AS FOLLOWS:

23 BY COMMISSIONER BARDEN:

24 PLEASE STATE YOUR FULL NAME FOR THE RECORD.

25 BY THE WITNESS:

1 WESLEY MARK WARREN.

2 BY COMMISSIONER BARDEN:

3 IS THAT M-A-R-K?

4 BY THE WITNESS:

5 YEP.

6 BY COMMISSIONER BARDEN:

7 THANK YOU. PLEASE ANSWER ANY QUESTIONS MR.

8 BAYNE HAS.

9 DIRECT EXAMINATION BY MR. BAYNE:

10 Q. MR. WARREN, WHAT DO YOU DO FOR A LIVING?

11 A. RIGHT NOW, I'M ASSISTANT SERVICE MANAGER FOR ARCHWAY
12 SERVICE.

13 Q. OKAY. AND ARE YOU FAMILIAR WITH MR. WINFREY?

14 A. YES.

15 Q. ARE YOU FAMILIAR WITH THE DEVICES THAT MR. WINFREY
16 WAS WORKING ON THE DAY THAT HE WAS INJURED?

17 A. AS FAR AS I CAN TELL YOU, IT WAS A ROTISSERIE AND
18 IT, YOU KNOW, IT'S THREE PHASE CURRENT.

19 Q. THOSE ROTISSERIE OVENS, WE -- WE'VE HEARD SOME
20 TESTIMONY THAT IT MIGHT HAVE BEEN BETWEEN 240 AND
21 480 VOLTS. ARE YOU FAMILIAR AT ALL WITH THE ACTUAL
22 VOLTAGE RUNNING THROUGH THOSE MACHINES?

23 A. WITHOUT CHECKING IT WITH A METER, I COULDN'T TELL
24 YOU THE ACTUAL VOLTAGE, BUT THE MACHINE IS RATED FOR
25 480 VOLT, BUT IT CAN ALSO RUN ON 208 VOLT, THREE

1 PHASE.

2 Q. OKAY. DO YOU HAVE ANY IDEA ON A GIVEN DAY WHAT KIND
3 OF VOLTAGE IS RUNNING THROUGH THAT MACHINE?

4 A. NORMALLY IT SHOULD BE 208 VOLT PER LEG.

5 Q. OKAY.

6 A. YEAH.

7 BY MR. BAYNE:

8 COMMISSIONER, I HAVE NO FURTHER QUESTIONS.

9 BY COMMISSIONER BARDEN:

10 MR. MCDANIEL, ANY QUESTIONS OF THIS WITNESS?

11 CROSS EXAMINATION BY MR. MCDANIEL:

12 Q. TELL ME ABOUT THE THREE LEGS AND THE...

13 A. WELL, YOU GOT -- YOU GOT THREE LEGS OF CURRENT.
14 YOU'VE GOT YOUR -- IF YOU CHECK BETWEEN EACH LEG,
15 YOU'LL HAVE 208 VOLT NORMALLY.

16 Q. RIGHT.

17 A. NOW, I -- I DON'T -- I DON'T KNOW ABOUT THIS UNIT,
18 IF IT'S A -- IF IT WAS -- IT COULD BE WIRED 480. I
19 DO NOT KNOW WITHOUT CHECKING WITH A METER.

20 Q. OKAY.

21 BY MR. MCDANIEL:

22 NOTHING -- NOTHING FURTHER, COMMISSIONER.

23 BY COMMISSIONER BARDEN:

24 THANK YOU.

25 BY MR. MCDANIEL:

1 OH.

2 BY COMMISSIONER BARDEN:

3 GO AHEAD.

4 CROSS EXAMINATION RESUMED BY MR. MCDANIEL:

5 Q. NO. I WAS JUST GOING TO SAY, IS MR. RUPPE STILL
6 WITH THE COMPANY?

7 A. YES.

8 Q. OKAY. AND THE OTHER -- ARE ALL THE OTHER FOLKS
9 WE'VE REFERRED -- YOU'VE HEARD REFERRED TO TODAY,
10 ARE THEY STILL WITH Y'ALL?

11 A. YEAH, EVERYBODY'S STILL THERE. YEAH.

12 BY MR. MCDANIEL:

13 NOTHING FURTHER.

14 BY COMMISSIONER BARDEN:

15 ALL RIGHT.

16 BY MR. BAYNE:

17 NO REDIRECT.

18 BY COMMISSIONER BARDEN:

19 ALL RIGHT. THAT CONCLUDES THIS PROCEEDING.

20 (THERE BEING NO FURTHER QUESTIONS, THIS HEARING WAS
21 CONCLUDED AT THE HOUR OF 10:19 A.M.)

CERTIFICATE OF NOTARY PUBLIC
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
COLUMBIA, SOUTH CAROLINA
WCC FILE NO. 1306305

EMPLOYEE/CLAIMANT: CLARENCE WINFREY

EMPLOYER: ARCHWAY SERVICE, INC.

INSURER: AMERICAN FIRE & CASUALTY COMPANY

I, SALLYE DEANNE NELSON, A NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA, DULY COMMISSIONED AND QUALIFIED AS SUCH, DO HEREBY CERTIFY THAT THE FOREGOING 60 PAGES REPRESENTS A TRUE AND ACCURATE TRANSCRIPT OF THE FOREGOING HEARING OF CLARENCE WINFREY TAKEN ON THE 13TH DAY OF JANUARY, 2014.

THAT THE WITNESS WAS DULY PLACED UNDER OATH AND ADMONISHED TO SPEAK THE WHOLE TRUTH. THAT THE ORAL HEARING WAS DULY TAKEN AND TRANSCRIBED AS TO THE QUESTIONS PROPOUNDED AND THE ANSWERS GIVEN.

THAT ALL THE OFFERED EXHIBITS, STIPULATIONS AND OBJECTIONS, IF ANY, INVOLVED IN THIS CASE ARE DULY ATTACHED OR INCLUDED HEREIN.

IN WITNESS WHEREOF, I HAVE SET MY HAND THIS 6TH DAY OF FEBRUARY, 2014.

SALLYE DEANNE NELSON
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: 5-08-2022

* THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL IS REPRODUCED AS READ OR QUOTED BY THE SPEAKER.

1 South Carolina Workers' Compensation Commission
 2 WCC File No.: 1306305

3 CLARENCE WINFREY, :

4 Employee, :

5 Claimant, :

6 vs. :

7 ARCHWAY SERVICES, :

8 Employer, :

9 and :

10 AMERICAN FIRE & CASUALTY
 11 INSURANCE, :

12 Carrier, :

Defendants. :

13 - - -
 14 Thursday, January 23, 2014

15 - - -
 16 - ORAL DEPOSITION OF DR. LANNEAU D. LIDE,
 17 JR., taken at South Carolina Heart Center, 2001
 18 Laurel Street, Columbia, South Carolina,
 19 commencing at 7:52 a.m., before Deidre Osborne, a
 20 Court Reporter and Notary Public.

21 - - -
 22
 23
 24
 25 Job No. CS1795646

1 APPEARANCES:

2 MCDANIEL LAW FIRM

BY: PRESTON F. MCDANIEL, ESQUIRE

3 1315 Elmwood Avenue

Columbia, South Carolina 29201

4 803-771-7211

kim@pfmcdaniellaw.com

5 Representing the Claimant

6
7 MCANGUS GOUDELOCK & COURIE, LLC

BY: BRETT H. BAYNE, ESQUIRE

8 1320 Main Street, 10th Floor

Post Office Box 12519 (29211)

9 Columbia, South Carolina 29201

803-779-2300

10 brett.bayne@mgclaw.com

Representing the Defendants

11
12
13
14
15
16
17
18 (INDEX AT REAR OF TRANSCRIPT.)
19
20
21
22
23
24
25

1 (It is hereby stipulated and agreed by and
2 between counsel for the respective parties
3 that this deposition is being taken in
4 accordance with the South Carolina Workers'
5 Compensation Commission and the Administrative
6 Procedures Act; and that the deponent waives
7 reading and signing of this deposition
8 transcript.)

9 - - -

10 DR. LANNEAU D. LIDE, JR., after having
11 been first duly sworn, was examined and
12 testified as follows:

13 - - -

14 EXAMINATION

15 - - -

16 BY MR. BAYNE:

17 Q. Dr. Lide, how are you doing today?

18 A. Fine. Thank you.

19 Q. My name's Brett Bayne. I'm an attorney
20 with McAngus Goudelock & Courie. We represent the
21 defendants in this workers' compensation claim,
22 and I'm here today just to ask you a few questions
23 about some opinions that you've -- you've issued
24 as well as the medical records related to
25 Mr. Clarence Winfrey's heart case.

1 Can we start with -- just give me a brief
2 background of your medical qualifications, that
3 type of stuff.

4 A. I'm a cardiologist. I've been in
5 practice here in Columbia since 1981. I've been
6 board-certified since 1981 in cardiology. I've
7 been in practice continually.

8 Q. All right. And how did you get involved
9 in this case?

10 A. Mr. Winfrey went to see his -- to see a
11 doctor and was referred to my partner,
12 Dr. Dasgupta, who saw him in the office, and
13 Dr. Dasgupta realized that Mr. Winfrey was sick
14 and admitted him to the hospital for a heart
15 catheterization and other treatment.

16 Q. And --

17 A. And I did the heart catheterization.

18 Q. And your records reflect that he
19 presented on May 28th, 2013?

20 A. If you say so.

21 Q. And --

22 A. I won't challenge it.

23 Q. That's fine.

24 A. I know that's the date of the heart
25 catheterization, May 28th.

1 Q. And the -- the process of Mr. Winfrey's
2 treatment, I think you -- you mentioned was that
3 he went to a doctor. He was referred to
4 Dr. Dasgupta, and then eventually he ended up with
5 you before moving on to Dr. Travis. Is that
6 correct?

7 A. Yes.

8 Q. Okay. And the visit with you as the
9 cardiologist was to, I guess, run some tests,
10 observe Mr. Winfrey and determine whether or not
11 additional treatment was needed. Is that right?

12 A. Well, Dr. Dasgupta admitted him to the
13 hospital.

14 Q. Okay.

15 A. And Dr. Dasgupta is my partner, and --
16 and I did the heart catheterization.

17 Q. And then after you did the
18 catheterization, did you refer him to Dr. Travis?

19 A. Yes. Yes.

20 Q. Okay. Let's step back for a second. You
21 have a patient history, I believe. There's a
22 catheterization report that we'll enter as Exhibit
23 1 for this deposition purposes.

24 MR. BAYNE: Do you want to tag it real
25 quick?

1 THE COURT REPORTER: Yes, please.

2 MR. BAYNE: And this is a document that
3 neither Mr. McDaniel or myself, we believe,
4 have seen before today, but we're going to
5 enter it into the record.

6 - - -

7 (Catheterization Report Dated 5/28/2013
8 marked Lide Exhibit Number 1, for
9 identification.)

10 - - -

11 BY MR. BAYNE:

12 Q. When Mr. Winfrey presented to
13 Dr. Dasgupta and then to you, what history did you
14 have at that time before you took a history from
15 him? In other words, were you provided with
16 any -- with any background on this case or did you
17 take an initial history when you first saw him?

- 18 A. Well, I -- of course, I spoke to the
19 patient before we did the -- the procedure. The
20 history that would have been given to me was the
21 history that Dr. Dasgupta had from the office.

22 Q. Okay.

23 A. And I should have a copy of that here on
24 this computer, but you should also have it.

25 Q. If you can just give me a brief rundown

1 of what the history that -- that Dr. Dasgupta gave
2 you was, I would appreciate it.

3 A. I'm going to pull up Dr. Dasgupta's
4 office note on the computer. You want me to read
5 this?

6 Q. If you can, just -- what I'm looking for
7 is what symptoms he complained of to
8 Dr. Dasgupta --

9 A. Okay.

10 Q. -- and then what your understanding of
11 the history was.

12 A. All right. Well, he says that
13 Mr. Winfrey was 50 years old and been found to
14 have an abnormal EKG and a heart murmur when he
15 went to see Dr. Greenfield, that he had an
16 electric shock five days before, complained of
17 pain in his shoulder going into the left scapula
18 region, left side of the neck, left upper
19 extremity, et cetera, been sweaty, been short of
20 breath with exertion and that he'd gotten some
21 relief with Tylenol and Motrin, had no -- no
22 previous heart history.

23 And Dr. Dasgupta did an echocardiogram in
24 the office, and he saw that the -- the inferior
25 segment of the left ventricle was not moving and

1 that there was a defect in the interventricular
2 septum with blood flowing abnormally from the left
3 ventricle to the right ventricle through that
4 defect.

5 Q. Did Dr. Dasgupta make any notes about any
6 complaints of chest pain at that time?

7 A. I don't see anything in -- in this about
8 pain in the chest itself.

9 Q. Did he make any notes about any history
10 of chest pain leading up to his admission to the
11 hospital that day?

12 A. I don't see it in here, but --

13 Q. Have you -- in addition to Dr. Dasgupta's
14 notes, were you ever given the opportunity to
15 review Dr. Greenfield's notes who was the
16 referring physician to your office?

17 A. I probably did not see any notes from
18 Dr. Greenfield. -

19 Q. And just referencing her notes, if her
20 notes indicated that he did not have any chest
21 pain on both presentation and leading up to coming
22 to the office, would you have any reason to
23 dispute that he was not having any chest pain?

24 A. I don't have any -- any reason to dispute
25 it based on what you say. Although, I do see my

1 little note here in which I reference chest pain.

2 Q. And that -- that was my next question,
3 Doctor. In Exhibit 1 you mentioned that he's
4 complained of chest pain, I believe, since the
5 accident. Do you know where that particular note
6 came from?

7 A. Well, this -- this note would have been
8 the note that I generated as part of the -- the
9 cardiac catheterization report.

10 Q. Right. Did that come -- if you recall,
11 was that something that Mr. Winfrey told you or
12 was that something that came from another doctor?

13 A. It would have been what he told me.

14 Q. Okay. If Mr. Winfrey had told
15 Dr. Dasgupta he was having chest pain, would that
16 have been in Dr. Dasgupta's notes to your
17 knowledge?

18 A. Probably. However, I can't speak for
19 what everybody else is going to think and put in
20 their notes.

21 Q. Certainly. Doctor, Mr. Winfrey was
22 ultimately diagnosed with -- I think you said a
23 ventricular septal defect. And that was caused by
24 a myocardial infarction; is that correct?

25 A. Well, we say it was caused -- cause by a

1 myocardial infarction. I mean, we do blood tests
2 and EKGs and all that, and I can't say it wasn't
3 caused by -- by an electrical shock. I don't know
4 how we would tell the difference.

5 Q. Well, you -- the VSD could have been
6 caused by an electrical shock or the --

7 A. Sure.

8 Q. -- heart attack could have been caused by
9 the electrical shock?

10 A. I mean, an electrical shock creates a
11 burn.

12 Q. And so in your opinion it's possible that
13 an electrical shock actually just punched a hole
14 in the heart?

15 A. Possibly.

16 Q. Okay. Is -- typically, a ventricular
17 septal defect is cause by a myocardial infarction;
18 is that correct?

19 A. Well, most ventricular septal defects are
20 congenital.

21 Q. Okay.

22 A. I mean, they're not caused by -- by
23 anything. They're just a developmental
24 abnormality. You can end up with a ventricular
25 septal defect by being shocked through the heart,

1 which you have other injuries, and -- but I guess
2 the most common cause for an acquired ventricular
3 septal defect would be a myocardial infarction.

4 Q. Okay. And a myocardial infarction, it's,
5 I believe, in this case and, according to
6 Dr. Travis, was caused by what's called a plaque
7 rupture. Are you aware of his opinion on that?

8 A. I -- I don't know that we could -- you
9 know, a myocardial infarction is damage to heart
10 muscle due to lack of blood flow, so I don't know
11 how you separate that out from damage due to a
12 burn in a case like this.

13 Q. Correct. My -- my question --

14 A. We don't have specific tests. We don't
15 have chemical tests that tell us that damage was
16 due to -- to a burn instead of -- instead of lack
17 of blood flow. You know, all our tests are
18 focused on the common disease of myocardial
19 infarction due to the lack of blood flow.

20 Q. So there's no way to know for sure
21 whether or not any of the injuries to his heart
22 were from electrical shock or were from just, I
23 guess, a congenital defect or from a poor heart
24 condition. Is that --

25 A. Oh, it's not a congenital defect.

1 Q. Okay.

2 A. A congenital defect causing a ventricular
3 septal defect would -- would have been known. I
4 mean, that -- he would have had a -- a murmur from
5 birth.

6 Q. Okay.

7 A. And that would have been diagnosed long
8 ago.

9 Q. But it would either -- so it would either
10 be something that would have been developed over
11 time such as coronary artery disease that would
12 have caused this or it would be the electrical
13 shock. Is that what your opinion is?

14 A. I guess so.

15 Q. In other words --

16 A. Yeah.

17 Q. -- your statement was --

18 A. Yeah.

19 Q. -- that we can't know whether it was
20 shock. He did have three vessel artery disease,
21 so it's possible it was that. It's possible it
22 was electrical shock. Is that a correct
23 statement?

24 A. He had -- he had heart muscle damage
25 which resulted in -- in -- in this rupture of the

1 septum which means -- which is the wall between
2 the left ventricle and the right ventricle.

3 Q. And what causes heart muscle damage?

4 A. Well, he had the electrical shock. We
5 know that. And it's also true that we saw that
6 the artery going into that area was blocked.

7 Q. And can you --

8 A. But it's hard to know which came first.

9 Q. Okay. So the artery block can cause
10 heart muscle damage. The electrical shock can
11 cause heart muscle damage. Is that right?

12 A. That's right.

13 Q. Okay. In your written opinion that you
14 issued, it was a questionnaire you filled out, you
15 indicated that it was your opinion that the
16 electrical shock caused the symptoms that
17 Mr. Wihfrey was suffering from, and you indicated
18 that it was when he was shocked with 480 volts of
19 electricity. Where did that information come
20 from?

21 A. I'm sure I had nothing in any note that I
22 generated about 400 volts.

23 Q. Okay. So when you --

24 A. That's not something I would have known.

25 Q. When you indicated that it was caused by

1 a 480-volt shock, that information would have come
2 from Mr. Winfrey, I guess?

3 A. I don't know what document you're
4 referring to.

5 Q. I apologize. I'll show you. There's a
6 questionnaire that you filled out, Dr. Lide, that
7 asked for your medical opinion, and you checked
8 the box that indicated this was caused by 480
9 volts of electricity.

10 A. I imagine that part was probably -- I
11 don't know whether that was generated by workers'
12 comp or whatever, but I -- I don't see any way
13 that we can say that that is not secondary to the
14 shock.

15 Q. Okay.

16 A. The details of the shock are beyond me.

17 Q. And I understand that. My -- my question
18 was -- was, getting to the amount of the shock
19 that your opinion indicates caused this -- the
20 symptoms Mr. Winfrey's suffering from, do you have
21 any evidence or do you have any research you've
22 done that indicates it was actually 480 volts that
23 he suffered electrical shock from?

24 A. I don't -- I don't -- I did not
25 investigate the scene. I don't know what

1 equipment he was working on. I'm taking everybody
2 else's word for it that he had an electrical
3 shock, and I certainly would have no data to
4 indicate to me whether 480 volts would be strong
5 enough to cause the problem that 120 volts
6 wouldn't cause.

7 Q. Okay. What about 10 volts?

8 A. I have no -- I have done no research on
9 this.

10 Q. Okay. And in your day-to-day practice as
11 a cardiologist, you use electrical current to
12 stimulate the heart or stop a heart murmur or
13 apply electrical shock to hearts; is that correct?

14 A. Occasionally, yes.

15 Q. How many volts are you using when you do
16 that?

17 A. It can be as much as 360 joules, but
18 physics at this point in my life is not my strong
19 suit. And I can't tell you exactly how that
20 translates into volts. I can tell you it's a very
21 brief shock. If someone has an electrical shock
22 for -- for a termination of a cardiac arrhythmia,
23 it's typically given over one millisecond or less.

24 Q. Okay. And those shocks, have you ever
25 caused a myocardial infarction by applying those

1 shocks?

2 A. Not that I know of.

3 Q. Have you ever caused a ventricular septal
4 defect by providing those shocks?

5 A. No.

6 Q. In your practice have you ever had the
7 chance to look at the heart -- actually look at
8 the heart after providing those electrical shocks?

9 A. I suspect I probably have seen some
10 autopsy hearts after patients have had cardiac
11 arrests.

12 Q. And in those cases have you ever
13 discovered what would be called entrance and exit
14 wounds on either side of the heart from that
15 electrical current that you've provided?

16 A. I have not. But I am quite sure I would
17 not be able to recognize them.

18 Q. Have you had a chance to review
19 Dr. Travis's medical records in the course of
20 providing care to Mr. Winfrey both of the surgery
21 and of the follow-up that he provided before he, I
22 believe, returned him back to you for care?

23 A. We have -- we probably have received
24 some -- some limited notes from Dr. Travis.

25 Q. And I'll -- my question is, Dr. Travis's

1 opinion, at least the mechanism of injury, is that
2 Mr. Winfrey suffered a plaque rupture in his
3 coronary artery that caused a myocardial
4 infarction that caused the ventricular septal
5 defect. And I think we talked a minute ago about
6 what can cause the damage in the heart. Would
7 that be a -- would that be a correct order of
8 events that would cause the damage in
9 Mr. Winfrey's heart?

10 A. I think it's one of the possibilities.

11 Q. Okay. And a plaque rupture occurs --
12 what causes a plaque rupture?

13 A. Would you like to win the Nobel Prize?

14 Q. I would love to win the Nobel Prize.

15 A. Well, explain that then.

16 Q. And that was -- that was, I believe,
17 Dr. Travis's opinion and Dr. Feldman's opinion.
18 Their statements were, "We don't really know what
19 causes plaque rupture. There's no way to test for
20 it."

21 Is that an accurate statement?

22 A. That's -- that's correct.

23 Q. And -- and their opinion was that the
24 electrical shock caused -- or Dr. Travis's opinion
25 was that the electrical shock caused the plaque

1 rupture. Dr. Feldman's opinion was that it was
2 not. And, again, we -- we don't know for sure
3 whether or not electrical shock caused the plaque
4 rupture or not. Is that right?

5 MR. MCDANIEL: I'm going to object on --
6 and I don't think that's an accurate statement
7 of Dr. Feldman's testimony. But with that ...

8 MR. BAYNE: That's fine.

9 BY MR. BAYNE:

10 Q. The question is, we don't know for sure
11 whether or not electrical shock can cause a plaque
12 rupture or did cause a plaque rupture in this
13 case. Is that right?

14 A. I don't know whether the electrical shock
15 caused the plaque rupture. I don't know which
16 came first, whether -- whether -- because it does
17 seem to me this could have all started off as a
18 burn injury, and I can tell you that for decades
19 after people began to have myocardial infarctions,
20 there was a -- a big debate about which came
21 first, blood clot in the coronary artery or the
22 injury of the -- of the tissue, and I think that
23 if you have -- it does seem to me if you had badly
24 damaged tissue, you're not going to have perfect
25 blood flow through there.

1 This doesn't apply only to the heart, and
2 you'll end up with the artery to the area being
3 blocked, so I don't know which came first.

4 Q. Okay. In your review of Mr. Winfrey, I
5 think it's not disputed that he touched a wire
6 with his left hand, and -- and the question is
7 what happened with the electricity; did it go into
8 his neck, heart.

9 Did you ever find an exit wound on
10 Mr. Winfrey's body where the electricity would
11 have exited?

12 A. I did not look for an exit wound.

13 Q. Okay. Has he ever reported that he has
14 an exit wound to you from the electricity leaving
15 his body?

16 A. I don't know why he would report that to
17 me.

18 Q. As far as the VSD or the heart attack,
19 the plaque rupture, whatever came first in this
20 case, when would -- following the electrical
21 shock, when would he have first started
22 experiencing symptoms of the actual heart
23 condition that he suffered from? In other words,
24 if -- if he -- if he suffers this shock that goes
25 into his heart, is there going to be an immediate

1 "I've got a problem with my heart" or is it
2 something that may develop over several days where
3 he later starts realizing he's got a problem with
4 his heart?

5 A. Well, he probably felt worse when he
6 developed the VSD. And VSDs, after myocardial
7 infarction, they can occur in the first 24 hours.
8 They can occur any time up to a week later.

9 Q. Would he have felt any or noticed any
10 symptoms of the myocardial infarction following
11 electrical shock or would it have been the VSD
12 that triggered him to know something was wrong?

13 A. I think after he developed VSD and after
14 it became large enough for him to have significant
15 flow, he would have become more short of breath.

16 Q. Okay.

17 A. Now, that may not have occurred in a few
18 seconds. It may have been hours before that --
19 before that occurred.

20 Q. In Dr. Dasgupta's notes, on the day he
21 was admitted he talks about -- I believe it was
22 diaphoresis. And that is intense sweating; is
23 that right?

24 A. It's sweating.

25 Q. And that is a symptom of suffering from a

1 myocardial infarction; is that right?

2 A. That is a symptom of suffering from
3 illness, period.

4 Q. Okay.

5 A. That is so non-specific a symptom that it
6 doesn't tell you. It doesn't lead you in any --
7 any specific direction.

8 Q. If the sweating was a -- was a symptom of
9 the myocardial infarction he experienced, when
10 would you expect that sweating to start as a
11 result of the myocardial infarction?

12 A. Well, it could start right away.

13 Q. Would it start before he suffered the
14 myocardial infarction?

15 A. He could have been sweating because he
16 had an electric shock. He could have been
17 sweating because he had an electric shock and he
18 was frightened.

19 Q. If the sweating didn't start until 24
20 hours after the electrical shock, would that be
21 indicative of when the myocardial infarction
22 occurred?

23 A. I don't think that -- I don't think you
24 can time anything by the onset of sweating.

25 Q. Can --

1 A. Maybe his temperature went up a little
2 bit a day after he had the shock.

3 Q. Are you able to time when the myocardial
4 infarction occurred based on any of the tests you
5 were able to run?

6 A. No. Some time after the shock.

7 Q. Is there -- is there any -- any window
8 that we're looking at or it's just sometime
9 between when he suffered the shock and when he was
10 entered -- admitted into the hospital?

11 A. I think we'd be on safer ground
12 considering that to be the window.

13 Q. Okay. Are you -- in your work as a
14 cardiologist and any research you've done, do you
15 have any -- any information about electrical
16 shocks causing a myocardial infarction or causing
17 a VSD and the time period related to that as far
18 as how soon after the shock do these things --
19 occur? Can they occur a week later? A month
20 later? What are we looking at as far as timeline
21 with an electrical shock?

22 A. I have not done any research on this, and
23 I'm not -- I don't know of -- of specific
24 research. Somebody's probably done some. The --
25 so, no, I don't have any specific information on

1 that.

2 Q. Would it be safe to say that the farther
3 we get away from the event, the less likely it is
4 that the -- the heart condition is related to that
5 event?

6 A. Yes. I think that's right. I think
7 that -- that it would be unlikely for him to pop
8 up with a VSD a month after having the -- the
9 original injury or a myocardial infarction.

10 Q. In other words, it's more likely that he
11 would suffer a heart attack an hour later than it
12 is a day later, than it is a week later, than it
13 is a month later. The farther we get removed from
14 it, the less likely the odds become that that was
15 the precipitating event.

16 A. I -- I think to the extent that the heart
17 muscle was damaged by the electric shock, that
18 would have occurred immediately.

19 Q. Okay.

20 A. Now, at what point later the
21 interventricular septum gave way and he actually
22 had the defect allowing blood to flow from the
23 left ventricle to the right ventricle, that could
24 have been any time.

25 Q. And related to -- you mentioned, and you

1 said it previously as well, that the -- the shock
2 caused the heart muscle damage. You did say --

3 A. It could have.

4 Q. Could have caused it.

5 A. It could have, yeah.

6 Q. But there's no way to know for sure
7 whether or not his -- the condition his heart was
8 in caused that damage or whether the shock caused
9 that damage; is that right?

10 A. I don't have any way that I can say that
11 the shock was not related to the injury.

12 Q. Okay.

13 A. There's no way I can say that.

14 Q. You don't have any way to say it was not
15 related or that it was related?

16 A. I don't have any way to say that it was
17 not related to it.

18 Q. Do you have any way to say that it was
19 related other than the proximity in time?

20 A. No. The proximity in time is -- is -- is
21 overwhelming evidence as far as I'm concerned.

22 Q. And that's the sole evidence that -- that
23 shock caused the heart damage; is that right?

24 A. Well, that and Dr. Travis's description.

25 Q. And which description are you referring

1 to from Dr. Travis?

2 A. That what he saw in the operating room
3 was, and I think he's given this to you in a
4 deposition, something to the effect that -- that
5 he saw tissue that looked like it had been burned.

6 Q. Okay. And are you referring to the white
7 patches that I think he called plaques on either
8 side of the heart?

9 A. I'm just referring to -- to -- no. I --
10 I can't -- I can't relate that back to anything
11 specific, just that I think he's given you that
12 opinion in a -- in a deposition.

13 Q. So it's -- your opinion's based on the
14 timing and then Dr. Travis's -- what you
15 understand Dr. Travis's opinions to be.

16 A. Right. That's right.

17 Q. Okay. As far as providing Mr. Winfrey
18 care after the surgery, what -- what ongoing care
19 are you providing him at this time?

20 A. I have seen him a few times in the
21 office, and he's on some medications. He's -- I
22 think he's been through -- he's been involved in
23 the cardiac rehab program.

24 Q. What is the cardiac rehab program?

25 A. Basically it's supervised exercise.

1 Q. And is that part of a standard program to
2 be able to return him to, hopefully, the life he
3 was living before --

4 A. Yes.

5 Q. -- he suffered this event?

6 In your experience is that a -- does that
7 program usually work as far as getting people back
8 to what they were doing beforehand?

9 A. It usually results in improvement in
10 functional status. Now, whether it's enough
11 improvement to get somebody back to work depends
12 on the individual case.

13 Q., Have you -- at this point do you have
14 any -- any idea or any opinion about where
15 Mr. Winfrey's going to end up once he completes
16 all of his cardiac rehab or is it too early to
17 tell?

18 A. It may be too early to tell, but I -- I
19 don't know that he's going to be able to get back
20 to work.

21 Q. In general or work as an electrician?

22 A. In general.

23 Q. Okay. And other than here today at this
24 deposition, have you had any -- any contact with
25 Mr. McDaniel or Mr. Winfrey outside of the

1 appointments that -- that Mr. Winfrey comes to?

2 A. Had no contact with Mr. Winfrey except
3 here in the office, and I've not had any contact
4 with Mr. McDaniel.

5 Q. Other than the -- the questionnaire
6 that --

7 A. Yes.

8 Q. That you filled out.

9 A. Yes.

10 MR. BAYNE: Okay. I have no further
11 questions.

12 - - -

13 EXAMINATION

14 - - -

15 BY MR. MCDANIEL:

16 Q. Doctor, let me ask you a few questions.
17 Let's just -- I believe that I sent you a copy of
18 a report that Dr. Travis -- it was briefly after
19 the report that you were kind enough to fill out
20 whenever --

21 A. Uh-huh.

22 Q. -- causation became a question in
23 September, and, first, I'm going to -- this has
24 been put into evidence, and I'm going to ask you
25 if you can look at that --

1 A. If I can look at this? Uh-huh.

2 Q. -- of Dr. Travis and if you -- if that
3 is, in fact, a copy of a report that you have in
4 your records that I sent to you after we received
5 it.

6 A. I think this is, yes.

7 Q. And just in reference to -- Counsel asked
8 you some questions about what Dr. Travis had found
9 and the information. If you would -- does it not
10 refer to the -- his observations during surgery in
11 reference to the entrance and exit wounds in
12 paragraph -- I believe it's paragraph two. You
13 can look at that.

14 A. Uh-huh.

15 Q. Does this concur with what your
16 understanding is in either your discussion with
17 Dr. Travis and/or review of the records and this
18 information?

19 A. I think that Dr. Travis's opinion is
20 probably correct, and I certainly don't have any
21 reason to challenge him.

22 Q. And what I was referring to is, Counsel
23 asked you some questions. In other words, he
24 refers in there that he's never seen anything like
25 this in his 15 years of cardiovascular surgery and

1 that he identified what he -- in his opinion was a
2 clear entrance and exit wound to the heart and
3 damage caused by the electrical shock.

4 Now, I want to look -- ask you a few
5 questions. Counsel back -- bounced back and forth
6 between using the term "VSD" and a "heart attack"
7 in asking his questions in timing. And I want to
8 ask you just a couple questions. We -- you've
9 kindly provided us a report that we should have
10 received from Lexington Medical Center. For some
11 reason we didn't.

12 And if you would, that history -- I know
13 that Counsel asked you about the history that was
14 taken by Dr. Dasgupta, and he specifically asked
15 you about reference to chest pain, and then you've
16 recorded a history there. I know you've stated
17 earlier in your testimony that you reviewed
18 Dr. Dasgupta's history, and you also talked to the
19 patient.

20 A. Yes.

21 Q. Now, is this -- the history that's
22 recorded in this report, is that the history that
23 your -- that you dictated based on both your
24 conversation with Mr. Winfrey and Dr. Dasgupta's
25 report?

1 A. I'm sure this is the only history that I
2 recorded at the time.

3 Q. Right.

4 A. It's -- it was not my role to do a
5 detailed history and physical examination at the
6 time I saw him. I needed no focus on -- on those
7 aspects of the history and the exam that would be
8 relevant for the testing that we were doing.

9 Q. Okay.

10 A. And so, you know, I don't have anything
11 in this little note about how long he had chest
12 pain; where it was, et cetera. It's just a little
13 summary, and as such, I certainly stand by what
14 I've got in this brief paragraph.

15 Q. Okay. And -- and -- and you record in
16 there that he was having left arm, shoulder and
17 chest pain.

18 A. -I just have here he had left shoulder and
19 chest pain.

20 Q. Now -- and Counsel asked you about
21 whether Dr. Dasgupta had recorded anything in his
22 history about chest pain. And I'm going to ask
23 you to look at Dr. -- do you have Dr. Dasgupta's
24 on your --

25 A. I should. I do have it here.

1 Q. I've got it right here. I'll just --

2 A. Yeah.

3 Q. -- ask you.

4 MR. BAYNE: It's the May -- the office
5 consultation?

6 MR. MCDANIEL: May 28th.

7 THE WITNESS: May 28th, 2013?

8 BY MR. MCDANIEL:

9 Q. Office consultation. That's would be the
10 report we're referring to.

11 A. Yeah. Uh-huh.

12 Q. Look at the second sentence that begins,
13 "A review of his records today shows."

14 A. Uh-huh.

15 Q. All right. And then after that he goes
16 on. He says, "Since -- since -- he had electrical
17 shock five days ago and since then." So in
18 reference to the symptoms that Dr. Dasgupta -- and
19 him being your partner, records that. And since
20 then he has complained of pain.

21 Would it be your understanding and is it
22 consistent with the history that you took from
23 Mr. Winfrey that everything started after this
24 electrical shock?

25 A. That's my understanding.

1 Q. Okay. All right. Now, let's look at,
2 then, what Dr. Dasgupta recorded. He said, "He
3 has complained of pain in his left shoulder
4 radiating to his left scapula region, the left
5 side of his neck, left infraclavicular region."

6 Am I right that when you refer to the
7 scapula and clavicular region we're talking about
8 the shoulder and front part of the shoulder?

9 A. Well, infraclavicular means below the
10 collarbone.

11 Q. Okay.

12 A. Yeah.

13 Q. So, in other words, if Mr. Winfrey was
14 reporting that his pain was -- after the shock he
15 had pain in his hand, arm, up into his shoulder
16 and when he -- when he uses his hand and would
17 place it in -- with my fingers on top of the
18 shoulder and then my hand extending into the front
19 of the chest, would that be consistent with the
20 description that he's given Dr. Dasgupta there?

21 A. Yes.

22 Q. All right. And then so is that basically
23 the same thing that he's recording here as saying
24 that he's having pain in the upper part of his
25 chest or on the left side?

1 A. It's all consistent.

2 Q. Okay. I just wanted to clarify that
3 because -- because of just the word -- the very
4 detailed description Dr. Dasgupta gave versus just
5 simply saying "chest pain." Now ...

6 A. I will also tell you that the next person
7 to take a history gets a different history.

8 Q. Right. Actually, as a matter of fact,
9 Doctor, I use that. I tell my clients all the
10 time if they -- if I ask them the same thing five
11 different days in a row, they're going to tell me
12 five different things, not because they're trying
13 to lie to me, but because it's just -- it'll be a
14 little different consistency.

15 Let me ask you this. There's been some
16 discussion about 480 volts, and I'm going to show
17 you Dr. Greenfield's note who referred him to
18 Dr. Dasgupta, and I'll just ask you to look at the
19 right side of that note under the history that she
20 took. Do could you see "480 V rotisserie shock"?

21 A. I see that.

22 Q. And it shows that it occurred on
23 Thursday, and I believe it refers to sweating
24 that -- that evening. Is that -- do you see that?

25 A. Well, it may be referring to woke up

1 sweating this a.m.

2 Q. Well, it's also sweating and -- okay.

3 A. It's a little hard to tell --

4 Q. Okay.

5 A. -- what -- what that --

6 Q. Well, she testified that -- that she --
7 what she recorded, the shock on Thursday, sweating
8 Thursday p.m., woke up sweating this a.m.

9 A. Uh-huh.

10 Q. That he had had sweating following the --
11 the evening after the shock. Let me ask you. I
12 don't want to make this -- I'm trying to make this
13 not too long. You referred that when you did the
14 heart catheterization that you took some
15 pictures.

16 A. Yes.

17 Q. Is there anything -- and you say would we
18 like to see them. And my question to you, really,
19 though, is, Dr. Travis has testified that he held
20 this man's heart in his hands. He looked at it.
21 You actually did a heart catheterization and you
22 have pictures. Dr. Feldman said the only thing
23 he's reviewed is records.

24 The -- would -- would those picture that
25 you took lend anything in reference to your

1 opinion in this case as far as, you know -- I
2 mean, is it your opinion that -- that his problems
3 with his heart, based on the history and
4 everything you saw, is it still your opinion that
5 it was caused by this electrical shock?

6 A. It is. We did find -- you know, we did
7 find that he had atherosclerosis as well.

8 Q. Okay. I mean, so Dr. Feldman actually
9 testified that many times a plaque rupture is
10 caused by some type of stress, either physical or
11 emotional stress, there's many, many studies that
12 show that, and that -- that the shock was a
13 possible cause to the stress that caused the
14 sheering force causing the plaque rupture.

15 My question to you is -- here again, I
16 want to go back to the pictures. Are there any --
17 do you think there's anything you could tell that
18 would help us one way or the other in reference to
19 what you saw and what those pictures reveal as far
20 as damage that would, you know, either strengthen
21 or add to your opinion in -- in reference to
22 the -- the electrical shock?

23 A. There's nothing on the pictures that's
24 not reflected in the written report.

25 Q. Okay. And so there's -- is there any

1 question that a plaque rupture can lead to --
2 well, lead to a myocardial infarction which can
3 lead to a VSD? Is that a --

4 A. That -- there's no question that that
5 sequence of events can occur.

6 Q. Okay. All right. And -- and so either
7 the shock in your opinion could have caused the
8 damage that resulted in the myocardial infarction
9 and the VSD or it could have caused the rupture
10 that lead to the blockage, the myocardial
11 infarction which lead to the VSD. Is that a fair
12 statement of --

13 A. I think there's no question that the
14 shock can cause the burn injury that -- that
15 damages the heart muscle and -- and then leads to
16 the VSD. I don't know of any -- I don't know the
17 mechanism --

18 Q. Right.

19 A. -- by which the shock would -- would --
20 would exactly lead to blockage in the coronary
21 artery causing the -- the myocardial infarction in
22 the conventional sense. Certainly there's lots of
23 data indicating that in stressful times they're
24 more myocardial infarctions and more cardiac
25 deaths, and there have been population studies of

1 people after earthquakes and fires and whatever
2 that usually show a slight increase in -- in
3 occurrence.

4 You know, how many people died in South
5 Carolina after Hurricane Hugo. You know, it
6 looked like there was a little blip in the death
7 rate in the next few days, maybe ten extra deaths,
8 something like that.

9 Q. Right.

10 A. But -- but I don't know exactly what the
11 mechanism is -- is for that.

12 Q. Okay. But there's a clear correlation
13 between stress as being a -- a cause of myocardial
14 infarction or, you know, in other words, the
15 plaque rupture and that type of thing.

16 A. There -- there is a temporal association
17 between stressful events and increased risk of
18 myocardial infarction.

19 Q. And the reason I asked you originally
20 about the -- the -- the domino effect, either that
21 the heart attack -- it -- it -- by the way, let me
22 ask you this. Is it unusual that somebody has a
23 heart attack and then they don't show up for like
24 five days later?

25 A. Most people show up before five days but

1 population studies would suggest that perhaps as
2 many as 25 percent of -- of heart attacks that
3 people survive are not recognized immediately. A
4 person who has it doesn't have enough symptoms to
5 recognize that it's a heart attack, doesn't go to
6 the hospital, and it's discovered later and --
7 when they have an EKG or some other test.

8 Q. Of course, in this case we have -- and
9 one of the normal -- a very usual presentation is
10 left hand and arm and shoulder pain for a heart
11 attack, correct?

12 A. (Witness nodding head.)

13 Q. And so -- and we all agree that this
14 man's electrical shock came to his left hand and
15 he immediately and since then up until the time he
16 went to Dr. Greenfield was experiencing hand, arm
17 and shoulder pain.

18 A. Right. Right.

19 Q. Would it -- there -- would there be any
20 way for the patient to distinguish between those
21 two, just an average layperson?

22 A. Probably not.

23 Q. Okay. Now -- now I want to go back to
24 what I was asking you about, the -- the one series
25 of plaque rupture leading to the myocardial

1 infarction leading to the VSD or the heart muscle,
2 as you said, being damaged immediately from the
3 electrical shock. Let's just refer to one of
4 those as being absolutely direct and the other one
5 being indirect cause.

6 But in your opinion, based on this
7 history and everything you observed and your
8 conversations with Mr. Winfrey and this history
9 and development of his problems, is it your
10 opinion that -- that this electrical shock, is it
11 still your opinion that this electrical shock
12 caused all the problems that lead to him coming to
13 see you?

14 A. That is my opinion --

15 Q. Okay.

16 A. -- that -- that the electrical shock was
17 the proximate cause of -- of all this illness.

18 Q. Okay. And that's stated to a reasonable
19 degree of medical certainty?

20 A. As certain as I can be.

21 MR. MCDANIEL: Okay. All right. Doctor,
22 I'm not going to belate anything any further.
23 Thank you very much.

24 - - -

25 REEXAMINATION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BY MR. BAYNE:

Q. Doctor, I just have a few follow-up questions.

A. Uh-huh.

Q. The left arm and shoulder pain that -- that Mr. Winfrey(sic) just asked you about, in a heart attack case when you're experiencing the left arm and shoulder pain, it is not pain that is tender to the touch or it's not typically pain associated with, for example, running into a door and bashing your shoulder into it, is it?

A. It's typically not pain relieved by changes in position, but people are different. Some people have, you know, as I say, no pain that they recognize as being something serious, and other people have excruciating pain, and it's very variable.

Q. Okay. And Dr. Greenfield, when she observed Mr. Winfrey and when she gave her deposition, she talked about the fact that the left arm pain and shoulder pain that Mr. Winfrey was having was tender to the touch. It was more indicative of an injury to the arm than it was of a heart attack. Would you agree that -- that --

1 would you agree with her assessment, I guess, that
2 when you have pain that's more indicative of an
3 actual injury to the arm that it is not the same
4 type of pain you're going to suffer with a heart
5 attack injury?

6 A. Well, I don't have any opinion about
7 Dr. Greenfield and her assessment of it that was,
8 you know, before me, and I didn't have any
9 specific contact with -- with Dr. Greenfield. I
10 can just say the -- you know, we would probably
11 have expected this patient to have pain related to
12 the shock, and if the shock was in the left upper
13 extremity, it wouldn't surprise me if it involved
14 the arm and shoulder as well as the hand. I can't
15 say anything about any other pain that he had.

16 Q. I think you mentioned that -- that
17 every -- every person who takes a history may get
18 a different -- you know, there may be something -
19 added, may be something removed depending on what
20 exactly is going on at that time when they
21 presented to you.

22 Again, going back to Dr. Greenfield
23 briefly, if her testimony and her records indicate
24 that the -- Mr. Winfrey had no chest pressure and
25 that he did not experience any chest pain or heart

1 attack symptoms from Thursday on the day of the
2 shock until he presented that morning, would --
3 would you have any reason to dispute her
4 understanding of his history at that time?

5 A. I don't have any reason to -- to dispute
6 it. Although, as I've said, he's got all this
7 pain in his upper extremity from -- from the
8 shock. If he has pain in the same area from his
9 myocardial infarction, he's not going to be able
10 to tell the difference.

11 Q. But that pain in the upper extremity, you
12 can't say for a certainty that it was caused
13 because of the heart attack versus simply jerking
14 away from the machine and landing against another
15 machine at the facility he was working at.

16 A. I think that's correct. Yeah.

17 Q. Mr. McDaniel had asked you about stress
18 causing the plaque rupture, if the -- if the
19 mechanism of injury was plaque rupture infarction,
20 VSD, that -- that, for example, the stress of the
21 electrical shock can cause that plaque rupture.

22 Is it correct or am I correct in saying that there
23 is no way to know, though, what stress would cause
24 a plaque rupture?

25 A. That is correct.

1 Q. In other words --

2 A. And it's also true -- you know, y'all
3 keep using the term "plaque rupture." That's not
4 the only mechanism by which blood clots in
5 arteries and blocks arteries.

6 Q. Well --

7 A. A lot of these plaques are not ruptured.
8 They're just -- when they have an eroded surface
9 and -- and platelets aggregate on them, and the
10 next thing you know, you have a clot there
11 without -- without plaque rupture. Plaque rupture
12 is not an essential component to -- to coronary
13 thrombosis.

14 Q. Well, for either the -- I guess the
15 plaque rupture or just where you said it erodes
16 away and stops blood flow. Is that right? To
17 the -- certain parts of the heart.

18 A. You may have an erosion of the
19 endothelium, the -- the thin layers of cells that
20 is the innermost lining of the artery such that
21 blood clots there.

22 Q. And would that also be caused by an
23 outside stressor of some sort?

24 A. Hard to know.

25 Q. It could be caused by -- by nothing at

1 all? It could just happen?

2 A. Most of the time when people have
3 myocardial infarctions, we don't -- we're not able
4 to identify any specific stressor most of the
5 time.

6 Q. And in this case there is no way other
7 than, again, the proximity in time to electrical
8 shock to identify any stressor that -- that could
9 have caused his heart condition; is that right?

10 A. I guess that's correct.

11 MR. BAYNE: That's all the questions I
12 have.

13 MR. MCDANIEL: I did forget to ask you a
14 couple of questions. I'm trying to be very
15 brief.

16 (Pause.)

17 Actually, no further questions. No more
18 questions. -

19 MR. BAYNE: Thank you, Doctor.

20 - - -

21 (Witness excused.)

22 - - -

23 (Deposition concluded at 8:39 a.m.)

24 - - -

25

CERTIFICATE OF REPORTER

I, Deidre Osborne, Court Reporter and
Notary Public for the State of South Carolina at
Large, do hereby certify:

That the proceedings and evidence are
contained fully and accurately in the notes taken
by me in the above cause and that it is a correct
transcript of the same.

I further certify that I am neither
related to nor counsel for any party to the cause
pending or interested in the events thereof.
Witness my hand, I have hereunto affixed my
official seal this 23rd day of January, 2014, at
Lexington County, South Carolina.

Deidre Osborne,
Court Reporter
Notary Public
State of South Carolina at Large
My Commission Expires:
June 12, 2019

I N D E X

PAGE

Stipulations	3
Examination	
By Mr. Bayne	3
By Mr. McDaniel	27
Reexamination	
By Mr. Bayne	39
Certificate of Reporter	45

Reporter's Note: This transcript contains quoted material. Such material is reproduced as read or quoted by the speaker.

E X H I B I T S

LIDE	DESCRIPTION	MARKED
1	Catheterization Report Dated 5/28/2013	6

Winfrey, Clarence B (MR # M002010261)

Patient Information		
Patient Name	Sex	DOB
Winfrey, Clarence B	Male	

Procedures signed by Lide, Lanneau D, MD at 05/29/13 1318					
Author:	Lide, Lanneau D, MD	Service:	(none)	Author	Physician
Filed:	05/29/13 1318	Note	05/28/13 1503	Type:	
Trans	Available	Time:		Trans ID:	3M926593
Status:					
Dictation	05/28/13 1503	Trans	05/28/13 1831	Trans	Cath Lab Report
Time:		Time:		Doc	
				Type:	

DATE: May 28, 2013

SUMMARY: Triple-vessel coronary artery disease. Recent acute inferior myocardial infarction with inferior left ventricular akinesis on left ventriculography. Ventriculoseptal defect.

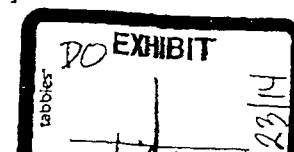
CLINICAL ABSTRACT: A 50-year-old man who has had left shoulder and chest pain since last Thursday when he experienced an electric shock through his left hand while at work. There is no previous history of heart disease, hypertension, diabetes or hyperlipidemia, although the patient smokes cigarettes. He will be considered for coronary bypass grafting and repair of ventriculoseptal defect.

RIGHT CORONARY ARTERY: The dominant right coronary artery was a large-caliber vessel. There was diffuse atherosclerosis including 50 - 60% stenosis in the proximal 1/3rd. The posterior descending branch was a medium-caliber vessel and was completely occluded in its middle 1/3rd. The left ventricular extension branch beyond the posterior descending artery was at least 70% stenotic over a short distance. The terminal posterolateral ventricular branch appeared free of severe focal stenosis, but appeared likely to be no more than 2 mm in diameter proximally and smaller distally. The left ventricular extension branch itself may be graftable. It is possible that the posterolateral ventricular branch is graftable proximally.

LEFT CORONARY ARTERY: The left main coronary artery was a medium length, medium-caliber segment, probably no more than 30% stenotic distally. The left anterior descending artery was a medium-caliber vessel with 75% stenosis distal to the 1st diagonal branch. The LAD beyond that point appeared diffusely atherosclerotic. Whether the LAD is graftable is not clear. The 1st diagonal had moderate plaque proximally and divided into 2 smaller caliber limbs distally. There was diffuse disease in these diagonal branches. The ramus intermedius branch of the left main coronary artery was a 2.5 mm diameter vessel proximally with 90% proximal stenosis. The ramus intermedius is probably graftable distally. The nondominant circumflex was a medium-caliber vessel with 90% proximal stenosis. The circumflex had only 1 branch which extended very far from the AV groove. This is the terminal posterolateral branch. It may not be graftable. The circumflex itself could probably be stented proximally.

LEFT VENTRICULOGRAM: Left ventriculograms were recorded in both 25-degree RAO and 45-degree

Winfrey, Clarence B (MR # M002010261) Printed by Soles, Cheryl M [4708] at 1/23/14
7:43 AM



Winfrey, Clarence B (MR # M002010261)

LAO

projections. The RAO view showed the left ventricular cavity to be at the upper limit of normal size. The diaphragmatic segment was akinetic, but the posterobasal segment appeared to contract well as did the apex, anterobasal and anterolateral segment. No mitral regurgitation was evident. There was prompt flow into the right ventricle through an inferior ventriculoseptal defect. The pulmonary artery and aorta opacified about equally well after left ventricular injection. In the LAO projection, all left ventricular segments appeared to contract well. Again, there was prompt flow from the left ventricle through the VSD into the right ventricle, and only slightly less opacification of the right ventricular outflow tract, then of the aorta itself.

HEMODYNAMICS: Initial aortic pressures was approximately 130/75 mmHg. LV pressure was 140/32 when the aortic valve was crossed. Final left ventricular and aortic pressures following coronary arteriography and ventriculography were 140/25 and 140/75 mmHg, respectively.

PROCEDURE: The patient was transferred to the Cardiac Catheterization Laboratory from Dr. Dasgupta who saw this patient in the office. The echocardiogram done in the office showed a ventriculoseptal defect. In the Cardiac Catheterization Laboratory, the patient was found to have a normal right radial pulse and normal right Allen test. Skin and subcutaneous tissues were anesthetized with 2% Xylocaine before the right radial artery was cannulated percutaneously with a 6-French sheath. Heparin 5000 units was given IV. Initially a 6-French TIG guide catheter was used for measurement of left ventricular and aortic pressure, and for selective right coronary arteriography. This catheter appeared too stiff at the secondary curve to cannulate the left coronary artery. A 5-French diagnostic TIG catheter cannulated the left coronary artery; however, and was used for selective left coronary arteriography. A pigtail catheter was then used for a power injected 25-degree RAO left ventriculogram, followed by a 45-degree LAO power injected left ventriculogram. The patient tolerated the procedure well. We have consulted Dr. Travis to consider this patient for coronary bypass grafting and surgical repair of his ventriculoseptal defect. In the meantime, the patient has been transferred to Intensive Care for further treatment. Following cardiac catheterization, the catheter and sheath were removed, and a TR band was applied. Patient received several doses of intraarterial verapamil during this procedure. There were no apparent immediate complications.

cc: Karen Greenfield, MD
Lanneau Lide, MD
Jeffrey A. Travis, MD

T: 05/28/2013 06:31 P/saw

Winfrey, Clarence B (MR # M002010261) Printed by Soles, Cheryl M [4708] at 1/23/14
7:43 AM

STATE OF SOUTH CAROLINA
BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION FULL COMMISSION
WCC No. 1306305

Clarence Winfrey,)
)
Claimant/Appellant,)
)
v.)
)
Archway Services, Inc.,)
)
Employer/Respondent,)
)
and)
)
American Fire & Casualty,)
)
Carrier/Respondent.)
-----)

COPY

FULL COMMISSION HEARING

Monday, May 19, 2014
2:10 p.m. - 2:31 p.m.

The Full Commission Hearing before Commissioner Aisha Taylor, Commissioner Melody L. James, and Commissioner Avery B. Wilkerson, Jr., Chair, was taken at 1333 Main Street, Suite 500, Columbia, South Carolina on the 19th day of May, 2014 before Cassandra E. Vance, Court Reporter and Notary Public in and for the State of South Carolina.

APPEARANCES:

Preston F. McDaniel, Esquire

McDaniel Law Firm
1315 Elmwood Avenue
Columbia, South Carolina 29201
Attorney for the Claimant/Employee/Respondents

Brett H. Bayne, Esquire

McAngus Goudelock & Courie, LLC
Post Office Box 12519
Meridian, 10th Floor, 1320 Main Street
Columbia, South Carolina 29201
Attorney for the Defendants/Appellants

INDEX

PAGE

ARGUMENT BY:

Mr. Bayne 3

ARGUMENT BY:

Mr. McDaniel 14

REPLY BY:

Mr. Bayne 22

Certificate 24

-

1 **THE COURT REPORTER:** Today is Monday, May 19th,
2 2014. This is South Carolina Workers'
3 Compensation Case Number 1306305. This is the
4 case of Clarence Winfrey, Claimant, versus
5 Archway Services, Incorporated, Employer, and
6 American Fire and Casualty, Carrier.
7 The Appellant is the Defendant represented by
8 Brett Bayne. The Respondent is represented by
9 Preston McDaniel.

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

14 **COMMISSIONER WILKERSON:** Mr. Bayne.

15 **ARGUMENT BY MR. BAYNE:**

16 **MR. BAYNE:** Thank you, Commissioners. By way of
17 background on this case, this is a Claimant who
18 was at work working on a rotisserie oven when
19 he was tracing a loose wire and he received an
20 electrical shock somewhere between 220 and 480
21 volts, depending on which testimony you look
22 at.

23 Immediately following that electrical shock, he
24 jerked back and I believe the testimony is that
25 he bumped into a machine behind him. He

1 contacted his employer, indicated that he had
2 been shocked, that he had some pain in his
3 shoulder and in his neck.

4 He continued to work the rest of that day. He
5 worked the following the day. He had a day
6 off. He had a weekend. He presents to
7 Lexington Medical Center -- actually presents
8 to Doctors Care on May 28th complaining of --
9 there's some chest pain and some severe pain in
10 his either upper chest area, shoulder, neck.
11 It's been varied throughout the course of this
12 claim.

13 He is diagnosed at that time with an acute
14 myocardial infarction and an acute ventricular
15 septal defect, which is hole in the heart. In
16 this case, the hole in the heart was located
17 between the two walls at the base of the heart.
18 So there's two chambers and there was a hole in
19 between those two chambers.

20 That hole was formed as a result of the
21 myocardial infarction. It resulted in some
22 deadening of the issue that weakened the wall
23 and caused a hole in the heart.

24 We presented this issue -- as you're aware, we
25 denied this claim. The issue was presented

1 before Commissioner Barden. The issue at that
2 hearing, amongst other things, the main issue
3 related to the heart -- and I'll get to the
4 brain and the other issues in a second -- but
5 for the heart is, what caused the myocardial
6 infarction? And that can be phrased another
7 way is, what caused the plaque rupture?
8 Because in this case, we have two possible
9 causes of the ventricular septal defect.

10 There's a plaque rupture and there's a
11 myocardial infarction. And the doctors in this
12 case have basically said they occurred at about
13 the same time, one caused the other. They both
14 ended up causing the VSD. And what that means
15 is, either the plaque rupture in his coronary
16 artery essentially ruptured and exploded down
17 his heart causing a myocardial infarction that
18 caused the hole or he had a myocardial
19 infarction that caused the plaque to rupture,
20 explode down his heart and cause a hole.

21 It really doesn't matter which order it went
22 in. The question is, what caused that to
23 happen? And that's the answer that
24 Commissioner Barden had to come up with in
25 order to find this claim is compensable,

1 because if there's no causation, obviously
2 there's not a compensable injury.

3 So we approached Commissioner Barden and we
4 addressed that issue. If you look at her order
5 and several of our exceptions, she doesn't
6 address that issue. She does not address what
7 caused the myocardial infarction. She does not
8 address what caused the plaque rupture. And
9 the reason she didn't do that is because of the
10 prior order that we just spoke about in which
11 Commissioner Beck made a finding that the heart
12 attack or the myocardial infarction occurred on
13 May 28th.

14 So in an attempt to avoid, in effect, sitting
15 in an appellate capacity, she did not make
16 those findings. But by not making those
17 findings, her order doesn't reach the requisite
18 level of causation in that there is no
19 causation in her order--other than there was an
20 electrical shock and there was a heart attack,
21 which is a logical fallacy.

22 And all of the doctors in this case -- and we
23 can't deny the doctors. There are three
24 medical doctors, two heart doctors, and one
25 general practitioner: Dr. Greenfield, Dr. Lide

1 and Dr. Travis, and they all issued written
2 opinions saying that this heart condition was
3 caused by the electrical shock. We don't deny
4 that.

5 The problem with their opinions is, when you
6 look at the underlying evidence and when you
7 read their deposition testimony, it becomes
8 clear that their reasoning for saying that the
9 electrical shock caused the myocardial
10 infarction is pure speculation. And I'd like
11 to take you through a few of those. They're
12 all in the brief and each of the exceptions,
13 but I'll walk you through those briefly.

14 And there are -- when you look at it, this is
15 piecemealed out of it. There are other times
16 where they revert back to other things, but
17 this was under my questioning when talking to
18 Dr. Travis.

19- He indicates that a plaque rupture can be
20 caused by anything. There's no way to tell
21 what causes a plaque to rupture. He said it
22 could be caused by walking in on your loved
23 one, could be caused by sitting up too fast,
24 coughing too hard. There's any number of
25 things that can cause it.

1 Dr. Lide asked, when I asked him the same
2 question, told me I'd be a millionaire if I
3 could answer what causes plaque to rupture,
4 that there is no way to test for that and there
5 is no way to know.

6 Dr. Lide indicated that there's no research
7 that indicates whether this type of shock can
8 cause a myocardial infarction or a ventricular
9 septal defect, that his overwhelming evidence
10 that the heart condition was caused by
11 electrical shock was proximity in time.

12 Dr. Lide also said that he doesn't know whether
13 a shock can cause a plaque rupture in the
14 heart.

15 Dr. Travis indicated that there's no definitive
16 way to tell whether the plaque rupture caused
17 a shock and he later says in his deposition
18 that the shock "could" have caused the domino
19 effect that led to this heart condition and
20 "could" is not sufficient to establish
21 causation in this case.

22 Whether or not he issued a written opinion on
23 that, when his underlying reasoning is "it
24 could have caused it," that is not sufficient
25 to establish causation for this heart

1 condition.

2 In addition with Dr. Travis -- and Mr. McDaniel
3 is going to talk about this and it's in his
4 brief, as well, that Dr. Travis held the
5 patient's heart in his hand, that he actually
6 did the surgery on this case. And when you
7 look at Dr. Travis' opinion, he talks about
8 seeing some plaques on the side of the heart.
9 Dr. Feldman, who is an expert that we engaged,
10 said those appear in most heart attack patients
11 like that. But the more important thing when
12 you look at Dr. Travis' opinion --

13 **COMMISSIONER JAMES:** Didn't Dr. Travis distinguish
14 those -- I think he called them "soldiers"?

15 **MR. BAYNE:** He --

16 **COMMISSIONER JAMES:** Didn't he distinguish those by
17 saying that they looked like -- that they were
18 actually in this case fused?

19 **MR. BAYNE:** He said that they looked like entrance
20 and exit wounds, like burn marks. But when you
21 read his deposition, this was the first surgery
22 he had done of an electrical shock patient.
23 He --

24 **COMMISSIONER JAMES:** I read the deposition.

25 **MR. BAYNE:** He had never seen these before. He

1 didn't do any research to see if that's what it
2 actually was. He didn't consult any doctors to
3 find out if this is typical in an electrical
4 shock patient. He basically saw them and said,
5 "Yeah, that's what this is. It's an electrical
6 shock. It went through the heart." He guessed
7 when it came down to it.

8 **COMMISSIONER JAMES:** He distinguished them from the
9 other plaques he'd seen.

10 **MR. BAYNE:** He did. He indicated they appeared
11 slightly differing in -- I believe it was
12 "texture," was the word he used, that they
13 were -- they required more effort to get off
14 the side of the heart, because you have to
15 scrape those off the heart. So he did
16 distinguish them, yes.

17 But our -- our position is that he guessed at
18 what they were because he'd never seen them
19 before. He didn't do any research on them. He
20 didn't follow-up with them. He just said,
21 "That's what it is," without any support in
22 either fact or science for that. And that was
23 our position on him.

24 Dr. Greenfield, who is not a heart doctor;
25 she's just the general practitioner that

1 treated Mr. Winfrey first when he went to
2 Doctors Care, indicated again that the
3 myocardial infarction could have occurred five
4 days ago, which at that time would have been
5 about the time that he received the electrical
6 shock, or it could have occurred the evening of
7 May 27th or the morning of May 28th, which is
8 the night before or the day that he presented
9 to Doctors Care. She couldn't give an opinion
10 as to when it actually occurred.

11 She also based her opinion on articles that she
12 researched through the PubMed systems,
13 specifically one of a gentleman that received
14 a myocardial infarction after an electrocution
15 in Brazil. However, that article, when she
16 presented it to us, indicated that he was
17 struck by lightning and received almost ten
18 million volts of electricity, which is about
19 40,000 times the electricity we're dealing with
20 in this case.

21 Dr. Greenfield also indicated that the pain in
22 the Claimant's arm and shoulder that at one
23 point had been described perhaps as heart
24 attack pain was actually muscular pain from
25 either the jolt of the shock or banging back

1 against the machine behind him and was not
2 indicative of the myocardial infarction.

3 As far as the brain condition and the head
4 condition goes, in this case the Claimant filed
5 a Form 50 indicating he suffered a brain injury
6 and a head injury; amongst other things, a
7 hand, an arm, a shoulder, organs, shock
8 symptoms, that type of thing, but specifically
9 with the brain and the head.

10 The Claimant filed a Form 50 indicating he
11 suffered brain and head injuries. He filed --
12 a Form 51 was filed denying the brain and the
13 head injuries. A hearing was set on this claim
14 to address the brain and the head injuries, as
15 well as everything else filed on the Form 50.

16 Claimant filed a Form 58 indicating that he was
17 proceeding on head and brain injuries at this
18 hearing. A Form 58 was filed by the Defendants
19 denying all benefit -- or all injuries related
20 to this claim.

21 At the hearing on this case, we proceeded to it
22 and the head and the brain injury was not
23 withdrawn by the Claimant. The hearing was not
24 restricted in the pretrial and/or on the record
25 or off the record that only the heart would be

1 considered in this case. All aspects of the
2 Form 50 were proceeded upon at the hearing
3 before Commissioner Barden.

4 No evidence has ever been presented related to
5 a brain injury or a head injury. No evidence
6 was presented before the trial. No evidence
7 was presented at the trial. No evidence has
8 been presented since that time. There is no
9 evidence of a head or brain injury.

10 The Claimant was required to present that
11 evidence at the hearing in which he alleged
12 that he suffered a head and a brain injury.
13 Because he did not do that, that specific
14 injury should be denied and it should be denied
15 in its entirety and it should be denied with
16 prejudice and it should not be permitted to be
17 raised at a later date unless evidence is
18 presented that comes to that point.

19 But at this time, the way the order reads is,
20 it's not at this time they're free to go get
21 evidence and present it. It should just be
22 denied because he chose to proceed at the
23 hearing and he did not present any evidence of
24 it.

25 Likewise, with the hand, the arm and the

1 shoulder, the left hand, left arm and left
2 shoulder, those were raised in the pleadings.
3 There was no evidence presented at the hearing
4 related to any injuries resulting to the hand,
5 the arm or the shoulder. There is indication
6 in the medical records that there was pain to
7 the --

8 **COMMISSIONER WILKERSON:** Go ahead and finish your
9 thought.

10 **MR. BAYNE:** There was pain to the hand, arm and
11 shoulder. There was no indication or any
12 evidence that that is continuing. And there's
13 a case, as you're well aware, that just aches
14 and pains even if caused by the job are not
15 compensable injuries. There's no evidence that
16 they're anything other than aches and pains to
17 the hand, arm and shoulder. Thank you,
18 Commissioner.

19 **COMMISSIONER WILKERSON:** Mr. McDaniel.

20 **ARGUMENT BY MR. MCDANIEL:**

21 **MR. MCDANIEL:** First off, Mr. Bayne, in his
22 recitation of facts, left out a couple of
23 important points and that is, after my client
24 was not backed -- the testimony first is not at
25 odds, that the machine is rated between 240 and

1 480 volts. He was knocked backwards. He went
2 outside, tried to gather himself, immediately
3 called his employer. No question about that.
4 They decided to accept benefits and then 118
5 days later decided to stop benefits.

6 Now, what happened immediately after the
7 accident is this. He developed arm, shoulder
8 and neck pain radiating from where he got hit
9 on the middle finger on his left hand. He had
10 that pain from the very time of that electrical
11 shock all the way through the time that he went
12 to Dr. Greenfield -- or he first went to the
13 Minute Clinic. They said, "You're in too much
14 pain. You need to see a doctor."

15 Immediately he went to -- then he went to
16 Dr. Greenfield. Dr. Greenfield sent him
17 immediately to the cardiologist. The
18 cardiologist would not even let him cross the
19 road from one side of Lexington Medical Center
20 at 378 to Lexington Medical Center, required an
21 ambulance to take him over there and Dr. Travis
22 did immediate surgery. Now, that pain did
23 nothing but intensify from the very beginning
24 of the accident.

25 Our burden of proof is to prove beyond -- is to

1 prove by preponderance of the evidence that the
2 injuries and conditions for which we are
3 requesting benefits are related to the
4 accident.

5 I would submit to you that this actually almost
6 proves beyond a reasonable doubt that the
7 problems with the condition -- Claimant's heart
8 stem from this accident.

9 Dr. Travis stated -- after they denied
10 benefits, he gave us a report and simply said,
11 you know, in that report that "I find it quite
12 unbelievable that his surgery and post
13 operative course have been considered separate
14 from his electrical injury at work. I see
15 almost no plausible explanation other than a
16 direct cause and effect."

17 Then in his -- in his testimony, in his
18 deposition, he went through and explained what
19 he thought occurred and that is that the
20 electrical -- he explained two things. Number
21 one, there's damage to the heart that clearly
22 appeared to be -- to be an entrance and exit
23 wound to the heart. He had never seen anything
24 like that in his 15 years of surgery in
25 reference to the heart.

1 Now, in reference to Mr. Bayne, Mr. Bayne said
2 this is the first patient he had done surgery
3 on on electrical shock injury, but Dr. Travis
4 said he had extensive experience in recognizing
5 the kind of condition that occurs in reference
6 to the condition of skin and tissue in
7 reference to electrical shock injuries. He had
8 treated many of those in surgical residency in
9 his past career.

10 So for him to sit here and say that this man
11 had no background experience in reference to
12 identifying what appears to be electrical shock
13 damage or damage caused by electrical shock
14 injury, is just not right. I mean, this man
15 had -- the doctor testified he had seen many
16 electrical shock and burn injury cases.

17 Now, to the contrary, their doctor said he had
18 never treated any electrical shock injuries and
19 had not ever been involved in an actual
20 surgical situation where he actually held a
21 man's hand in his heart (sic). He did
22 everything by scope.

23 Now, in addition to Dr. Travis, we have
24 Dr. Lide and going -- getting ready for this
25 deposition, I had even forgot about this;

1 didn't even know it -- in the Claimant's APA
2 submissions, right in his treatment record,
3 right after they denied benefits -- actually,
4 this occurred on September the 17th. On that
5 date, he wrote, "Workers' comp was paying for
6 his care but he -- but has recently refused.
7 I do not see how anyone could argue that the
8 electrocution on the job was not the proximate
9 cause of his myocardial infarction and
10 ventricular septal defect."

11 All three of the authorized treating doctors
12 said there's no question that all the problems
13 and all the conditions of this man's heart stem
14 from that electrical shock injury.

15 Now, in reference to -- we requested -- they
16 stopped benefits. We then filed a 50 for
17 compensability, to resume temporary total
18 benefits, and to request medical care for
19 all -- and this is in my prehearing brief,
20 everything in there -- all causally related
21 medical care related to the injury.

22 Now, I am required by law -- they got to list
23 all body parts we think might be affected. We
24 were not requesting benefits and I -- clearly,
25 when there was any question -- we got this

1 straight at the beginning of the hearing. We
2 were not requesting treatment for or did we
3 know, in fact, whether or not there'd been any
4 injury to these other body parts because the
5 whole focus of this man's treatment has been on
6 his heart to keep him alive. That's the major
7 injury in this case.

8 Now, I did cite from the record where Dr. Lide
9 had put him on Neurontin because he was having
10 neuropathy in his toes, that Dr. Greenfield
11 talked about, you know, in her deposition that
12 the -- some of the pain and all that he was
13 experiencing, some of the problems he was
14 experiencing in his left hand and arm were more
15 related to muscular damage than they were to
16 actual heart attack pain. You know, in other
17 words, we all know you have the pain running up
18 your arm from heart attack, but this was more
19 consistent with, you know, some type of damage
20 or involvement of the arm from the
21 electrocution injury part of it.

22 There was testimony about the headaches,
23 problems with the head and the ear and the pain
24 radiating up into the head. So, in other
25 words, that's the head. The last time I

1 checked, your ears are attached to the head.

2 So we put all that in.

3 But, again, we were not requesting that. And

4 what did Commissioner Barden do? She

5 appropriately did what should be done.

6 All the cases that we're talking about and most

7 of the cases we're referring to in reference to

8 denying somebody benefits is where somebody's

9 come over here and requested a permanency award

10 for benefits and then they come back again and

11 try to allege permanency benefits for those

12 benefits.

13 There are two -- a couple cases that are

14 exceptions to that and those cases awarded

15 medical care for -- like Andy's case, Andy

16 Safran, who's outside right now waiting to come

17 see y'all or see somebody -- but Andy's case,

18 they found out he had a torn meniscus when

19 nobody had realized that before and they

20 thought it was an undiagnosed condition. They

21 awarded benefits. You awarded benefits and

22 then after that the Supreme Court upheld that.

23 Now -- so, we're not requesting any --

24 Commissioner Barden said, "Okay, they haven't

25 proved -- they're not asking for any benefits

1 right now."

2 The two designated treating physicians,
3 Dr. Travis and Dr. Lide -- and if they
4 determined that anything may stem from this
5 accident, it's not related to that, the Defense
6 had the perfect right to deny those benefits.
7 We then have to come over here and prove that
8 they did stem from the accident. And, also,
9 they had the right to choose the doctor to send
10 him to for treatment for those or a
11 determination. So, no harm, no fowl.

12 There is nothing -- we didn't request any
13 benefits for those injuries. We are required
14 by law to allege that those were affected. I
15 would ask you to sustain the opinion in its
16 entirety in reference to that and in reference
17 to all issues.

18 I wish I had every case this type of medical
19 evidence, so totally uncontroverted in a case.
20 Please give Mr. -- my client, Mr. Winfrey,
21 benefits. He's been out there struggling for
22 quite sometime and I hope you'll decide to
23 sustain the Commissioner's decision.

24 COMMISSIONER WILKERSON: Mr. Bayne, anything in
25 reply?

1 MR. BAYNE: Briefly, Commissioner.

2 REPLY BY MR. BAYNE:

3 MR. BAYNE: I'll try to bring it back to my original
4 simplified point in that the medical causation
5 in this case is A then B. It's there was an
6 electrical shock, he had a myocardial
7 infarction; therefore, the electrical shock had
8 to have caused the myocardial infarction.

9 Again, I go back to we don't dispute there are
10 three written medical records or medical
11 opinions that say the shock caused the heart
12 attack. But when you read the underlying data,
13 when you read the underlying medical evidence
14 from the different doctors, and when
15 Dr. Travis, the treating physician, is saying,
16 "It could have been caused by this;" when
17 Dr. Lide and Dr. Travis are saying, "We have no
18 idea whether or not the plaque rupture that
19 caused this VSD is caused by an electrical
20 shock. We have no way to know whether that's
21 the case. We can't test for that. We can't
22 tell you that. The only thing we can tell you
23 is, he had it sometime after he had an
24 electrical shock and, therefore, it had to have
25 been caused by that.

1 That is insufficient evidence under the law to
2 support and sustain a holding of medical
3 compensability. There has to be more than
4 something happened after something else, so we
5 think that's what caused it.

6 That's all, Commissioners. Thank you.

7 **COMMISSIONER WILKERSON:** This concludes the hearing.

8 Thank y'all both.

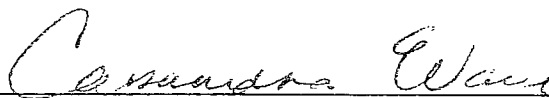
9 (The hearing concluded at 2:31 p.m.)

CERTIFICATE

This is to certify that the within hearing consisting of twenty-three (23) pages, is a true and correct transcript of the testimony given by said witnesses after being duly sworn; said hearing was reported by the method of Stenotype with Backup.

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

IN WITNESS WHEREOF I have hereunto set my hand and seal on September 9, 2014.



Cassandra E. Vance
Court Reporter

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



CREEL COURT REPORTING, INC.

1230 Rice Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

Kim Hinkle

From: Preston mcDaniel <preston@pfmcdlaw.com>
Sent: Tuesday, February 11, 2014 9:30 AM
To: kim@pfmcdlaw.com
Subject: FW: Winfrey vs ARchway Service, Inc. wcc# 1306305

From: Love, Kristi [<mailto:klove@wcc.sc.gov>]
Sent: Tuesday, February 11, 2014 9:22 AM
To: preston@pfmcdlaw.com; Brett Bayne (brett.bayne@mgclaw.com)
Subject: Winfrey vs ARchway Service, Inc. wcc# 1306305

Good morning Gentlemen:

Commissioner Barden asks that I forward you the following:

Brett and Preston:

Thank you both for your correspondence regarding Finding of Fact #14 (regarding Claimant's alleged brain injury). I apologize for not getting back to you sooner, but was in the middle of issuing findings for two complex remands (cases in which neither of you are involved).

I reviewed my handwritten notes for this case, which state that the "main thing" Preston asked for (and why he filed the 50) was for the heart, as you both already had a temporary benefits hearing on the issue with Commissioner Beck. Looking at my notes, I perhaps was in error to adjudicate the brain injury, because it is rather clear that Preston did not want to pursue the issue at the hearing; if he wanted it adjudicated at the hearing, he clearly would have put up some sort of evidence. Further, I should have specifically asked if the issue was to be held in abeyance. I fear it is all a misapprehension on my part. Therefore, out of an abundance of caution, I am allowing Preston to add, "denied at this juncture," (or words to that effect) because Claimant specifically requested a finding of compensability for the heart. As Preston filed the pleading, he does get to determine which issues are on the "table."

There won't (hopefully) be a "next time" for this sort of thing because I will make sure I know which body parts are to be held in abeyance. I take responsibility for this one.

As to other disputes, I will make those decisions when I receive/review the Order.

Thanks so much. I hope you both stay safe in the upcoming weather.

Sincerely,

Susan Barden

Preston mcDaniel

From: Hollmon, Eugenia <EHollmon@wcc.sc.gov>
Sent: Friday, June 06, 2014 2:56 PM
To: Brett Bayne (brett.bayne@mgclaw.com); preston@pfmcdlaw
Cc: BMOORE@MGCLAW.COM
Subject: Winfrey 2

Below is a request for a proposed decision and order.

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
REQUEST FOR A PROPOSED DECISION AND ORDER

This document is not a Decision and Order. It is a request for a proposed order. The Commissioners reserve the right to modify and/or delete any or all portions of the submitted Decision and Order.

Clarence Winfrey v Archway Service Inc.
SCWCC: 1306305
Commission Panel: Taylor, James, Wilkerson; Chair
Order Assigned to Commissioner: James
Court Reporter – Cassandra Vance – 803-252-3445

Brett Harris Bayne
Preston F. McDaniel

Defendants/Appellant
Claimant/Respondent

This matter was heard before the South Carolina Workers' Compensation Full Commission Appellate Panel during the last term of Review. The Commissioners considered the matter and **affirm in part and reverse in part** the Decision and Order of the Single Commissioner.

The Panel denies the brain injury based in insufficient evidence.

Mr. Bayne, please prepare a proposed order and submit to the Judicial Department within thirty (30) days of this notice. The proposed order shall be submitted in Word format to appeals@wcc.sc.gov and shared with each Party. Please make sure the Appellate Panel Decision and Order recites the specific Findings of Fact and Rulings of Law of the Single Commissioner's Decision and Order and reflects any comments requested by a Commissioner.

The signature page shall include a signature line for each Commissioner and the first signature should be the name of the Commissioner assigned the case as indicated above.

If you have any questions, please do not hesitate to email me at ehollmon@wcc.sc.gov or call at 803.737.5737

Judicial

Transmitted via email and regular mail this 6 June 2014

P.527

CONFIDENTIAL & PRIVILEGED

The preceding email message, including any attachments, may be confidential and/or protected by the attorney-client or other applicable privileges. It is intended for the sole use of the individual or entity named above. If the reader of this transmission is not the intended recipient, please notify the sender immediately and destroy any copies, electronic, paper or otherwise, that you may have of this communication. Any unauthorized review, use, disclosure or distribution is strictly prohibited and may be unlawful.

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

Appellate Case No. 2014-001816

RECEIVED

SEP 25 2015

SC Court of Appeals

Clarence Winfrey, Employee, ... Appellant,

v.

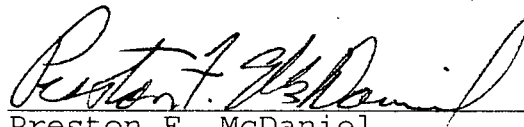
Archway Services, Inc., Employer,
and American Fire & Casualty Insurance
Company, Carrier, ... Respondents.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other materials.

Dated:

9/24/15



Preston F. McDaniel
MCDANIEL LAW FIRM
1315 Elmwood Avenue
Columbia, SC 29201
(803) 771-7211

Attorney for Appellant