

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO.: 1205080

JESUS MARTINEZ,

Employee,

Claimant,

vs.

✓ LANDMARK BUILDERS OF SC, LLC,

Employer,

AND

✓ AMERISURE INSURANCE COMPANY,

Carrier,

Defendants.

vs.

✓ CCS MASONRY, LLC

Employer,

AND

✓ STATE NATIONAL INSURANCE
COMPANY, INC.

Carrier,

Defendants.

vs.

✓ SC UNINSURED EMPLOYERS' FUND

Defendant.

RECEIVED

APR 01 2016

SC Court of Appeals

DECISION AND ORDER

DATE OF HEARING:

Hearing held in Laurens, S.C. on September 29, 2015.
Order Instructions were e-mailed December 4, 2015.

APPEARANCES:

Claimant appeared and represented by H. Jeff McLeod,
Esquire of Law Office of H. Jeff McLeod of Anderson,
South Carolina.

Defendants Landmark Builders of SC, LLC and Amerisure
Insurance Company represented by Kelly F. Morrow,
Esquire of McAngus Goudelock & Courie, L.L.C. of
Columbia, South Carolina.

Defendants CCS Masonry, LLC and State National
Insurance Company, Inc. represented by Jared Pretulak,
Esquire of Gallivan, White & Boyd, P.A.

Defendants SC Uninsured Employers' Fund represented by
Ellen Goodwin, Esquire and Lisa Glover, Esquire

PURPOSE OF THE HEARING:

To determine all issues as set forth in Forms 50 and 51's.

COMMISSIONER:

Commissioner Susan S. Barden

FILED:

March 4, 2016

STIPULATIONS

The parties have stipulated to the following:

1. The South Carolina Workers' Compensation Commission has jurisdiction over the parties and the subject matter of this claim.
2. Venue is proper in Laurens, South Carolina.
3. Notice of Hearing was properly and timely served upon the parties.
4. All parties except the UEF stipulated that the Claimant has an average weekly wage of \$800.00 with a corresponding compensation rate of \$533.36.
5. The Commission file becomes a part of the record with the exception of self-serving declarations and unstipulated medical reports.
6. There are no objections to jurisdiction, venue, or submission of the Administrative Procedures Act submission by either party.

APA SUBMISSIONS

Pursuant to the South Carolina Administrative Procedures Act and Regulations of the South Carolina Workers' Compensation Commission, the following records and documents were submitted into evidence:

Defendants Landmark Builders of SC, LLC and Amerisure Insurance Company's APA Submissions

Exhibits

1. Exhibit 1. Correspondence between Jesus Martinez and Manuel Reyes, dated 4/25/12 pages 1-3.
2. Exhibit 3. Check stubs from CCS Masonry, dated 12/21/11-2/23/12, pages 6-13.
3. Exhibit 4. Subcontract between Landmark and CCS Masonry, pages 14-24.

4. Exhibit 5. Certificate of Liability Insurance, dated 12/9/11, page 25.
5. Exhibit 6. State National Insurance Company Workers' Compensation Employer's Liability Policy, dated 12/9/11-12/9/12, pages 26-43.
6. Exhibit 7. Portions of the Claimant's personnel file materials from CCS Masonry, pages 44-94.
7. Exhibit 8. Correspondence from Manuel Reyes to Gary Manning, dated 02/22/12, pages 95-96.
8. Exhibit 9. Policy Application and Premium Information from Parker Insurance Group/Application for Insurance and Insurance Policy, pages 97-140.

Claimant's APA Submissions

1. Records of Dr. Joseph M. Ratliffe, Waccamaw Community Hospital, dated 04/25/12, pages 3001-3017. (APA #1)
2. Records of Jerry S. Purcell, MD, Redi Care, dated 10/1/12-10/9/12, pages 3018-3025. (APA #2)
3. Records of Christopher B. Clemow, MD, Blue Ridge Orthopaedic Association, P.A., dated 10/12/12-04/04/13, pages 3026-3045. (APA #3)
4. Records of Jennifer M. Thomas, MD, AnMed Health and Vascular Care/AnMed Vascular Medicine, dated 04/05/13-11/22/14, pages 3046-3309. (APA #4)
5. Records of Aaron MacDonald, MD (Brian C. Johnson, PA), Piedmont Spine & Neurosurgical Group, PA, dated 7/3/13, pages 3310-3314. (APA #5)
6. Records of James Huff, Upstate Physical Therapy, dated 11/27/12-8/21/13, pages 3315-3324. (APA #6)

7. Records of Dr. Britenburg & Dr. Rider, AnMed ER, dated 6/1/13-10/30/13, pages 3325-3373. (APA #7)
8. Records of Jared C. Richardson, MD, AnMed Health Family Medicine, dated 11/17/12-11/20/14, pages 3374-3546. (APA #8).
9. Records of Carol W. Burnette, MD, Piedmont Comprehensive Pain Management Group, dated 07/16/13-05/11/15, pages 3547-3583. (APA #9)
10. Records of Kimberly Kyker, MD, AnMed Wren Family Medicine, dated 05/12/14-10/15/14, pages 3584-3639. (APA #10)
11. Records of Anthony Joseph, MD, Nephrology & Internal Medicine, dated 09/24/14-11/13/14, pages 3639-3668. (APA #11)
12. Records of Benson Heckher, PH.D, Rehabilitation Associates, dated 6/4/15, pages 3669-3689. (APA #12)
13. Records of Secretary of State SC & NC - JMZ & CCS Dissolved, pages 3609-3692. (APA #13)
14. State National Policy & Certificate of Insurance for CCS Masonry, Effective Dates 12/09/11 to 12/9/12, pages 3693-3717. (APA #14)
15. Summary of Claimant's Wage Log and Hourly Wage Log, dated 12/9/11-4/11/12, pages 3724-3744. (APA #15)
16. Partial Check Journal from CCS Masonry, LLC From 2011 to 2012, pages 3745-3756. (APA #16)
17. Packet #1 of Bills: From 12/11/11 to 12/17/11; Wages for Week Ending in 12/16/11 from Log, pages 3757-3771. (APA #17)

18. Packet #2 of Bills: From 12/18/11-12/31/11; Wages for Week Ending 12/31/11 from Log, pages 3772-3784. (APA #18)
19. Packet #3 of Bills: From 1/1/12 to 1/7/12, pages 3785-3793. (APA #19)
20. Packet #4 of Bills: From 1/8/12 to 1/14/12, pages 3794-3804. (APA #20)
21. Packet #4 of Bills: From 1/22/12 to 1/28/12, pages 3805-3814. (APA #21)
22. Packet #6 of Bills: From 1/29/12 to 2/4/12; Wages for Week Ending 2/4/12 from Log, pages 3815-3825. (APA #22)
23. Packet #7 of Bills: From 2/5/12 to 2/11/12; Wages for Week Ending 2/11/12 from Log, pages 3826-3836. (APA #23)
24. Packet #8 of Bills: From 2/12/12 to 2/18/12; Wages for Week Ending 2/18/12 from Log, pages 3837-3845. (APA #24)
25. Packet #9 of Bills: From 2/19/12 to 2/25/12; Wages for Week Ending 2/25/12 from Log, pages 3846-3854. (APA #25)
26. Packet #10 of Bills: From 2/26/12 to 3/3/12; Wages for Week Ending 3/2/12 from Log, pages 3855-3861. (APA #26)
27. Packet #11 of Bills: From 3/4/12 to 3/10/12; Wages for Week Ending 3/9/12 from Log, pages 3862-3862. (APA #27)
28. Packet #12 of Bills: From 3/12/12 to 3/18/12; Wages for Week Ending 3/16/12 from Log, pages 3873-3880. (APA #28)
29. Packet #13 of Bills: From 3/20/12 to 3/25/12; Wages for Week Ending 3/23/12 from Log, pages 3881-3889. (APA #29)
30. Packet #14 of Bills: From 3/20/12 to 3/25/12; Wages for Week Ending 3/30/12 from Log, pages 3890-3896. (APA #30)

31. Packet #15 of Bills: From 4/1/12 to 4/6/12; Wages for Week Ending 4/6/12 from Log, pages 3897-3903. (APA #31)
32. Packet #16 of Bills: From 4/8/12 to 4/14/12; Wages for Week Ending 4/11/12 from Log, pages 4/11/12 from Log, pages 3904-391. (APA #32)
33. Packet #17 of Bills: From 4/15/12 to 4/20/12, pages 3912-3917. (APA #33)
34. Packet #18 of Bills: From 4/22/12 to 4/28/12, pages 3917-3923. (APA #34).
35. Summary of Letters, Reports, & Invoices in reverse chronological order from 11/11/11 to 4/25/12, pages 3927-4026 (plus 3924a-f). (APA #35).

Defendants CCS Masonry, LLC and State National Insurance Company Inc.'s APA Submissions

1. Oconee Medical Center, dated 02/11/91 – 05/26/07, pages 4027-4045. (APA #1)
2. AnMed Health, dated 06/09/93 – 02/07/15, pages 4046 – 4314. (APA #2)
3. Med Central Health Resources, dated 03/18/08 – 10/07/09, pages 4315 – 4333. (APA #3)
4. AnMed Health Diabetes, dated 07/29/08 – 01/02/13, pages 4334-4344. (APA #4)
5. Records of Dr. Jerry S. Purcell and Caroline Snow, PA-C, Redi Care, dated 04/06/11 – 10/09/12, pages 4345-4351. (APA #5)
6. Records of Dr. Joseph M. Ratliffe, Waccamaw Community Hospital, dated 04/25/12, pages 4352-4365. (APA #6)
7. Records of Dr. Christopher Clemow, Blue Ridge Orthopaedics, dated 10/12/12 – 04/04/13, pages 4366-4374. (APA #7)
8. Records of Dr. Mark S. Wolken, Medicus Eye Group, dated 11/05/12, pages 4375-4377. (APA #8)

9. Records of Dr. Jared Richardson and Dr. Nicole D. Arthur, AnMed Health Family Medicine Center, dated 11/27/12-04/29/14, pages 4378-4540; 4549-4551. (APA #9)
10. Records of James Huff, PT, Upstate Physical Therapy, dated 11/27/12-08/21/13, pages 4541-4548. (APA #10)
11. Records of Dr. Jennifer Thomas, AnMed Health Vascular Medicine, dated 04/05/13-06/23/15, pages 4552-4641. (APA #11)
12. Records of Dr. Vidal Despradel and Dr. Dennis Whatley, AnMed Health Urology, dated 05/05/13 – 06/05/13, pages 4642-4644. (APA #12)
13. Records of Dr. Monica H. Grier, AnMed Health North Campus, dated 06/18/13, pages 4645. (APA #13)
14. Records of Brian C. Johnson, PA and Debbie Black, Piedmont Spine & Neurosurgical Group, P.A., dated 07/03/13-09/18/13, pages 4646-4657. (APA #14)
15. Records of Dr. Carol W. Burnette, Piedmont Comprehensive Pain Management Group, LLC, dated 07/16/13-10/29/14, pages 4658-4695. (APA #15)
16. Records of Belton EMS, dated 10/20/13, pages 4696-4702. (APA #16)
17. Records of Dr. Dean Reeves, AnMed Health Neurology Consultants, dated 12/18/13-05/12/14, pages 4703-4712. (APA #17)
18. Records of Darius Divina, D.O., AnMed Health Community Orthopaedics, dated 04/02/14-07/01/14, pages 4713-4732. (APA #18)
19. Records of Dr. Kimberly Kyker, AnMed Health Wren Family Medicine, dated 07/21/14-06/02/15, pages 4733-4793. (APA #19)
20. Records of Dr. Anthony B. Joseph, Nephrology & Internal Medicine, dated 09/24/14-02/06/15, pages 4794-4805. (APA #20)

21. Records of Dr. Aathirayen ThiyagaRajah and Elizabeth Carocci, ANCC, FNP-BC, MSN, RN, Spine & Pain Care, dated 10/08/14, pages 4806-4863.
22. Records of Dr. Glenn L. Scott, dated 05/27/15-08/27/15, pages 4864-4871; 4903-4916.
- Exhibit A. Defendants Form 51, dated 04/21/15, pages 4872-4874.
- Exhibit B. Secretary of State Corporation Search – JMZ Masonry, Inc., page 4875.
- Exhibit C. NC SOS – Articles of Dissolution – CCS Masonry, LLC, dated 11/09/11, page 4876.
- Exhibit D. Secretary of State Corporation Search – JBM Masonry, LLC, page 4877.
- Exhibit E. Secretary of State Corporation Search – JBM Performance, LLC, page 4878.
- Exhibit G. ISO Claim Search, pages 4882-4889..
- Exhibit I. SCDMV – DOA: 10/20/2013, dated 10/20/13, pages 4892-4893.
- Exhibit K. Correspondence re: October 20, 2013 MVA, dated 07/09/14, pages 4896-4902.
- Exhibit L. Miscellaneous Email Correspondence with Claimant, dated 10/13/11-10/14/11, pages 4917-4922.
- Exhibit M. Correspondence with Gary Manning, dated 02/21/12-02/22/12, pages 4923-4924.
- Exhibit N. Proposed Contract, pages 4925-4927.

STATEMENT OF THE CASE

The Claimant alleges that he sustained injuries to his lower back, right leg, and right hip during a slip and fall arising out of and in the course and scope of his employment with CCS Masonry, LLC on January 6, 2012. This alleged injury occurred while he was working on the construction of the St. Michael's Catholic Church. The Claimant contended that due to the combination of his injuries, he is permanently and totally disabled, in accordance with §42-9-10. Moreover, the Claimant asserted that he sustained a 50% or greater loss of the use of his back; and pursuant to §42-9-30(21), he maintained that the Defendants could not successfully rebut the

presumption that he is permanently and totally disabled. Alternatively, in the event that the Claimant could not establish permanent and total disability, the Claimant asserted that he was entitled to an award of permanent partial disability benefits under §42-9-30 of the Act. And, the Claimant maintained that he was a statutory employee of CCS Masonry, LLC, not an independent contractor.

Defendants CCS Masonry, LLC and State National Insurance Company, Inc. took several positions. First, CCS Masonry and State National Insurance Company, Inc. contended that the Claimant is an independent contractor, which would obviate any obligation on their part to provide workers' compensation benefits under the Act. Additionally, Defendants CCS Masonry, LLC and State National Insurance Company, Inc. asserted that the Claimant is not a statutory employee under the test set forth in McDowell v. Stilley Plywood. More specifically, they contended that CCS Masonry, LLC was merely a middle man who placed independent contractors with general contractors. Defendants CCS Masonry, LLC and State National Insurance Company, Inc. also asserted that the Commission lacked jurisdiction over CCS Masonry, LLC because there was no evidence proving that it employed four or more regularly employed individuals in South Carolina pursuant to §42-1-150 of Act and also because the entity was dissolved at the time of the alleged work-related accident. Defendants CCS Masonry, LLC and State National Insurance Company, Inc. also took the position that the totality of the Claimant's medical records and Dr. Scott's questionnaire proved that the Claimant suffered, at most, a very minor contusion during the work-related incident. To the extent that the Commission could find the Claimant's alleged injuries compensable, CCS Masonry, LLC and State National Insurance Company, Inc. contended that the Claimant only injured one body part (the iliac stenosis), which resulted in a 0% impairment rating. Consequently, they maintained

that the Claimant could not be permanently and totally disabled. And finally, CCS Masonry and State National Insurance Company, Inc. raised a notice defense because Manuel Reyes, the former member of CCS Masonry, LLC, was not informed of the alleged work accident until April of 2012.

Defendants Landmark Builders of SC, LLC and Amerisure Insurance Company contended that they should be dismissed from this case because the subcontractor, CCS Masonry, maintained workers' compensation coverage with State National Insurance Company, Inc. Assuming that CCS Masonry was deemed to be an intermediary, Landmark and Amerisure maintained that any liability would then shift to the UEF, rather than upstream to them as the general contractor and its insurer. Further, Landmark and Amerisure took the position that the Claimant was an employee of the subcontractor, which would make CCS Masonry and State National Insurance Company responsible for the provision of the Claimant's workers' compensation benefits, in the event the alleged injuries were deemed to be compensable. Furthermore, Landmark and Amerisure asserted that CCS Masonry, LLC operated with four or more employees in South Carolina, which subjected them to the Act. Moreover, Landmark and Amerisure contended that CCS Masonry had a valid workers' compensation insurance policy because they provided a certificate of insurance, and the work-related incident occurred during the thirty day non-cancellation period of the CCS Masonry's insurance policy. And, they contended that those insurance premiums were never returned to Manuel Reyes, a member of CCS Masonry, LLC. Additionally, Landmark and Amerisure contended that an intermediary cannot absolve itself from liability merely by asserting that it bid the job to another individual. To the extent that CCS Masonry asserted that it was not an entity at the time of the work-related incident, Landmark and Amersiure stated that CCS Masonry tendered payments for services

rendered to the Claimant before and after the date of the accident on checks drawn from CCS Masory's bank account supportive of the fact that they continued to operate as a business making them a *de facto* company. Landmark and Amerisure reiterated that they should be dismissed from the case. However, if it were determined that Landmark and Amerisure were proper parties, they asserted that the work-related accident was a minor event that resulted in no impairment to the Claimant. Consequently, they maintained that the Claimant was not permanently and totally disabled; and at most, the Claimant would be subject to §42-9-30. They also denied that they were responsible for temporary total disability benefits because the Claimant was not written out of work until after their construction job was completed. Further, there were no work restrictions at the time that he was on the job for Landmark that could have given rise to an obligation on their part to provide temporary total disability benefits.

The UEF took the position that it should not be a party to this action. Specifically, the UEF contended that the Commission did not have jurisdiction over it because it was not added as a party until 2015, asserting the statute of limitations to include them as a party had run as CCS Masonry was given notice of the alleged work-related injury in 2012. Additionally, the UEF maintained that the Claimant was an independent contractor. But, in the event the Claimant was deemed to be an employee of CCS Masonry, the UEF maintained that CCS Masonry had valid workers' compensation coverage, and those insurance premiums were not returned. Consequently, if there were any liability, the UEF maintained that the liability would reside with CCS Masonry and their insurer, not the general contractor and its insurer. And finally, the UEF took the position that there was no injury as a result of the accident, and certainly no serious injury, that could have given rise to permanent and total disability.

EVIDENCE OF THE CASE

Testimony

Testimony of Jesus Martinez: Direct Examination by H. Jeff McLeod

The Claimant commenced his testimony by describing how he began his working relationship with Manuel Reyes, the former owner of CCS Masonry. The Claimant stated that he once owned a construction business; however, his license expired. (Hr'g. Tr. p. 32:6-11). As a result of the expiration of his license, the Claimant testified that he listed his business on Craig's List to allow him to find a partner with a valid license. (Hr'g. Tr. p. 32:6-13). The Claimant stated that he was contacted by Reyes, who also did not possess a valid license, but Reyes did have a pending construction contract. (Hr'g. Tr. p. 32:12-17). Thereafter, the Claimant asserted that he offered to work as an employee, rather than a partner, for Reyes. (Hr'g. Tr. p. 32:17-20). In his testimony, the Claimant asserted that he offered to work for Reyes for \$20.00/hour, in addition to food and lodging. (Hr'g. Tr. p. 32:17-22). The Claimant then stated that he was given a contract to execute; however, he denied executing the document, as Reyes did not possess a valid license. (Hr'g. Tr. p. 32:22-24; Hr'g. Tr. p. 84:13-18). In fact, the Claimant stated that the contract was not signed by either party. (Hr'g. Tr. p. 33:14-15).

Thereafter, the Claimant was questioned on the nature of the employment relationship between him and Reyes. The Claimant testified that he was paid on a weekly or monthly basis by check. (Hr'g. Tr. p. 34:3-7). Further, the Claimant asserted that Reyes placed him charge of the execution of the construction work, and Reyes asked him to report how many hours the employees worked. (Hr'g. Tr. p. 34:11-14). The Claimant testified that he maintained a log including the number of hours worked by the employees; this log was filled in by Reyes' employees, and the Claimant would add in his own time. (Hr'g. Tr. p. 34:15-23). This is how the Claimant would keep track of the employees' hours. (Hr'g. Tr. p. 34:15-23). In addition to

keeping Reyes apprised of the number of hours worked by the employees, the Claimant testified that he kept Reyes informed on how the construction work was progressing. (Hr'g. Tr. pp. 34:25 – 35:6). Typically, the two would communicate by phone; however, the Claimant stated that he once received a letter from Reyes. (Hr'g. Tr. p. 35:7-11). When asked to describe his role on the church's construction site, the Claimant stated that he does not like to perform manual labor, and he prefers supervising. (Hr'g. Tr. p. 35:10-18). Moreover, the Claimant testified that Reyes placed him in charge of the work and designated him as the safety competent individual and supervisor. (Hr'g. Tr. p. 35:15-23).

Subsequently, the Claimant was questioned about the provision of equipment and tools. According to his testimony, Reyes initially asked to rent the Claimant's tools for the construction job. (Hr'g. Tr. p. 35:12-20). As a result of this request, the Claimant testified that he brought little tractors and scaffolds to the job site. (Hr'g. Tr. p. 35:20-21). However, Reyes did not want to pay for these expenses, so the Claimant stated that he stopped bringing his tools. (Hr'g. Tr. p. 35:21-25). As it relates the gas, diesel, and tires for the Claimant's truck, the Claimant asserted that Reyes did not want to pay for these items, so the general contractor and its superintendent, Mike, assumed responsibility for paying for the gas and tires. (Hr'g. Tr. pp. 36:17 – 37:9). The Claimant testified that he only paid for these items initially. (Hr'g. Tr. pp. 36:17 – 37:9). He also testified that Landmark rented more equipment to be used on the job site. (Hr'g. Tr. p. 36:9-19).

While describing the alleged work accident giving rise to this workers' compensation claim, the Claimant stated that he was in the process of counting blocks that the masons had already positioned. (Hr'g. Tr. p. 38:19-25). Subsequently, the Claimant alleged that he turned around, flew, and fell really hard on his right side. (Hr'g. Tr. p. 39:1-7). The Claimant states

that he saw a “ball of blood,” but he didn’t pay that much attention to it. (Hr’g. Tr. p. 39:7-11). He further alleged during his testimony that there was liquid on the floor where he fell. (Hr’g. Tr. p. 39:7-15). Following his fall, the Claimant testified that he reported the fall to Mike, Landmark’s superintendent. (Hr’g. Tr. p. 39:17-19). Mike then asked the Claimant whether he wanted to see a doctor; however, the Claimant testified that he declined medical attention because he did not view the fall as that serious. (Hr’g. Tr. p. 39:17-20). According to the Claimant’s testimony, he later realized that his injury was worse than he thought when began moving equipment. (Hr’g. Tr. p. 43:16-23). Additionally, the Claimant stated that he reported the accident to Reyes during a phone conversation on the day it occurred. (Hr’g. Tr. p. 40:23 – 41:2). After the accident, the Claimant testified that he was able to continue working because he delegated tasks to the workers and sat in his truck. (Hr’g. Tr. p. 43:5-15, Hr’g. Tr. p. 53:4-8). The Claimant further stated that it was his job to make sure that the work continued. (Hr’g. Tr. p. 43:12-15). The Claimant specifically noted that he does not like to do the actual work, as he prefers to operate in a supervisory capacity. (Hr’g. Tr. p. 43:8-15). Despite this, the Claimant testified that he’d sometimes do manual labor, when he got “bored.” (Hr’g. Tr. p. 52:21-22).

As it relates to the alleged injuries sustained as a result of this work-related fall, the Claimant stated that he had no prior problems with his legs or back; however, he testified that he has been borderline diabetic since the age of 21. (Hr’g. Tr. p. 42:19 – 43:4). And, when questioned about an intervening car accident that occurred on October 20, 2013, the Claimant testified that the only injury he sustained was a broken tooth. (Hr’g. Tr. p. 44:2-21).

Testimony of Jesus Martinez - Cross-Examination by Jared Pretulak, attorney for CCS Masonry, LLC and State National Insurance Company, Inc.

Thereafter, the Claimant was cross-examined by Jared Pretulak, attorney for CCS Masonry, LLC and State National Insurance Company, Inc. Mr. Pretulak began by questioning

the Claimant about the nature of his relationship with CCS Masonry. The Claimant testified that he did not bid the job directly from CCS Masonry; and, he also stated that he declined to work for a percentage of the profits versus a salary. (Hr'g. Tr. p. 46:9-18).

Next, CCS Masonry's attorney questioned the Claimant about his work at the job site. The Claimant testified that the hired workers for the job, with Reyes' permission. (Hr'g. Tr. p. 46:19-21). He further testified that majority of the workers, save 2 or 3, had worked for his old company. (Hr'g. Tr. p. 46:22-25). When asked about his supervisory role, the Claimant asserted that he received daily orders from Mike, Landmark's superintendent; however, he reported the accounts to Reyes at the end of the week. (Hr'g. Tr. p. 47:5-18). Moreover, the Claimant testified that it was his job to read the plans and to instruct the employees regarding the manner in which they were to carry out the work; but, the Claimant stated that he had to check with Mike, prior to beginning work. (Hr'g. Tr. p. 48:19 – 49:7). According to the Claimant's testimony, he stated that he was unsure if Reyes or anyone affiliated with CCS Masonry ever appeared at the job site. (Hr'g. Tr. p. 48:14-23).

Next, the Claimant was questioned about the work-related accident at issue. The Claimant confirmed that the accident took place on January 6, 2012; he took a picture of the floor, which contained a timestamp. (Hr'g. Tr. p. 51:17-22). Thereafter, the Claimant also testified that he initially sought medical care for the January 2012 accident sometime in April 2012. (Hr'g. Tr. p. 52:2-8). The Claimant testified that he sought medical care towards the end of the construction job because he noticed that he was experiencing pain more frequently. (Hr'g. Tr. p. 53:12-20).

Additionally, the Claimant testified that he contacted several church members, after the conclusion of the church's construction, to inform them that he believed one of the walls was

improperly constructed. (Hr'g. Tr. pp. 54:5 – 55:5). Thereafter, the Claimant was questioned about his diabetic condition. The Claimant testified that he has not received much treatment for his diabetes; and, he does not take daily insulin shots. (Hr'g. Tr. pp. 55:21 – 56:14).

CCS Masonry's attorney also questioned the Claimant about his involvement in an intervening motor vehicle accident that occurred on October 20, 2013. When asked about the injuries that he sustained during that car accident, the Claimant testified that he did not hurt his back or leg. (Hr'g. Tr. pp. 60:24 – 61:14). CCS Masonry's attorney attempted to impeach this testimony through the introduction of CCS Masonry/State National APA #2 pp. 4087 and 4097, which are medical records from the date of the motor vehicle accident and medical records ten days after the accident, wherein the Claimant complained of leg and back injuries resulting from the car wreck. (Hr'g. Tr. p. 61:16-17). The Claimant admitted that he settled the motor vehicle wreck case for \$35,000, but he denied that he used back and leg injuries as a basis for that settlement. (Hr'g. Tr. p. 61:21 – 62:15). Once again, CCS Masonry's attorney attempted to impeach that testimony through the introduction of CCS Masonry/State National APA Exhibit K pp. 4096 and 4902, which was a letter authored by the former Claimant's attorney, wherein he alleged that the Claimant experienced back pain and upper/lower extremity pains and numbness as a result of the motor vehicle accident.

Thereafter, the Claimant was questioned regarding an incident wherein the Claimant sustained an injury while carrying an air compressor on March 30, 2014. The Claimant testified that he was carrying an air compressor when he lost strength in his legs and fell, resulting in an injury to his pinky finger. (Hr'g. Tr. p. 64:12-19). When asked whether he told his medical provider that his pain was worse after the fall, the Claimant stated that he couldn't remember. (Hr'g. Tr. p. 66:19-22).

The Claimant was then asked about J.B.M. Masonry, which is a business entity created by the Claimant's son. The Claimant stated that the company was created, in his son's name, so that he could supervise the masonry crew. (Hr'g. Tr. p. 69:16-23). However, the Claimant then testified that the physical limitations and pain he experiences prevent him from fulfilling the role of a supervisor. (Hr'g. Tr. p. 69:25 – 70:23). The Claimant also asserted that he previously owned a masonry company with roughly 250 employees at its height. (Hr'g. Tr. pp. 70:24 – 71:10). Further, the Claimant testified that his company built schools, churches, banks, and a stadium. (Hr'g. Tr. p. 71:11-20). Initially, the Claimant would handle the bids for his business; however, when the company got larger, he testified that he would use project managers. (Hr'g. Tr. p. 72:3-8). When asked about how much equipment he currently has, the Claimant testified that most of it was stored at homes that he lost to foreclosure; but, he retained some scaffolding, mixers, a cutter machine, a bobcat, and a concrete pump. (Hr'g. Tr. pp. 72:19 - 73:14). The Claimant later stated that he has the mental, but not physical, capacity to manage masonry workers. (Hr'g. Tr. p. 74:21-24). However, the Claimant testified that he bid on a job using the J.B.M. Masonry license. (Hr'g. Tr. p. 75:9-14). During the final question on cross-examination from CCS Masonry's attorney, the Claimant testified that he has a pending criminal charge. (Hr'g. Tr. p. 75:15-22).

Testimony of Jesus Martinez - Cross-Examination by Kelly Morrow, attorney for Amerisure Insurance Company

The Claimant initially testified that when his company, J.M.C. Masonry, was operational in South Carolina, he had workers' compensation coverage for the business. (Hr'g. Tr. p. 77:17-22). Further, the Claimant testified that he also elected to cover himself as the owner of his business. (Hr'g. Tr. p. 78:6-22). When questioned about his familiarity with the workers' compensation system as former a business owner, the Claimant asserted that he is not very

familiar with the system, except to the extent that he knew he was required to have workers' comp insurance. (Hr'g. Tr. pp. 78:22 – 79:2). Additionally, the Claimant testified that he sometimes used subcontractors in his work (who he, in some cases, required to have workers' compensation insurance) and regular workers. (Hr'g. Tr. p. 79:3-4). The Claimant also testified that when he closed his business, he did not file any documentation with the Commission to cancel his workers' compensation insurance coverage. (Hr'g. Tr. p. 79:11-17).

Next, the Claimant was questioned about the nature of his relationship with CCS Masonry, LLC. The Claimant testified that he was hired by CCS Masonry to work on the St. Michael's Catholic Church job as a workman in charge and to represent them as the owner. (Hr'g. Tr. p. 79:18-23). Additionally, the Claimant testified he was paid by checks drawn on the CCS Masonry bank account. (Hr'g. Tr. p. 80:2-5; Hr'g. Tr. p. 84:19-21). When presented with two checks dated 12/21/11 and 1/11/12 from CCS Masonry (Landmark/Amerisure's APA #3 pp. 6-7), the Claimant confirmed that the checks were made out to him for work performed on the St. Michael's Catholic Church job. (Hr'g. Tr. pp. 80:5 – 81:13). Thereafter, the Claimant testified that he filled out forms for both Landmark and CCS Masonry. (Hr'g. Tr. p. 82:3-23). More specifically, the Claimant asserted that he filled out nearly all of the forms for Landmark, as he had to notify them daily of what occurred on the job site. (Hr'g. Tr. p. 82:3-23). The Claimant was also presented with Claimant's APA #29, p. 4021, and he testified that the daily masonry report contained both his handwriting and the handwriting of Landmark's superintendent, Mike.

When questioned about the January 7, 2012 timesheets presented as Landmark/Amerisure's APA #7, the Claimant testified that the timesheets did not contain his handwriting. (Hr'g. Tr. pp. 82:24 – 83:6). However, the Claimant testified that he was

responsible for communicating the contents of the referenced timesheets to Manuel Reyes, via phone, so that the employees would be paid. (Hr'g. Tr. p. 83:9-16; Hr'g. Tr. p. 112:16-22; Hr'g. Tr. p. 154:4-11). According to the Claimant's testimony, the Claimant's name was number 20 on the first timesheet, and it indicated that he worked for 47 hours. (Hr'g. Tr. p. 83:20-21). This timesheet was dated one day after the Claimant's alleged date of accident. (Hr'g. Tr. p. 83:15-19). The 12/3/11 timesheet (Landmark/Amerisure's APA #7, p. 45) contained information for eight employees. (Hr'g. Tr. p. 84:5-8).

Thereafter, the Claimant was questioned about the alleged January 6, 2012 date of accident. The Claimant testified that he continued to work on the St. Michael's Catholic Church project after the alleged date of accident. (Hr'g. Tr. p. 85:6-12). Based on the timesheets presented to the Claimant as Landmark/Amerisure's APA #7, pp. 49-50, the Claimant testified that it appeared as though he worked 36.5 hours the week after the alleged accident and 33 hours from January 16, 2012 to January 21, 2012. (Hr'g. Tr. pp. 85:22 - 86:14). The Claimant testified that he was not sure if the dates were correct; however, assuming they were, he worked 40 hours the next week. (Hr'g. Tr. p. 86:16-22). As the project began winding down, the Claimant testified that he worked 32 hours during a specific week in April of 2012, as reflected in Landmark/Amerisure's APA #7, p. 61. (Hr'g. Tr. pp. 86:25 - 87:6). There was also a week in April of 2012, wherein the Claimant testified that it appeared as though he worked 24 hours. (Hr'g. Tr. p. 87:7-8). The Claimant acknowledged that he did not seek medical treatment until April 25, 2012, when the job was ending; however, he stated that is when he realized that his "body needed help," and he wanted to get help before the job ended. (Hr'g. Tr. p. 87:9-23).

Subsequently, the Claimant was questioned about the intervening October 20, 2013 motor vehicle accident. The Claimant testified that he was provided with an interpreter when he

initially received medical treatment on October 20, 2013. (Hr'g. Tr. p. 88:17-20). According to Claimant's APA # 7 p. 3333, the Claimant reported pain in his mouth, neck, upper and lower back, right hip, and denied any loss of consciousness. When asked about the symptoms he reported to the medical provider following the car accident, the Claimant merely testified that he always tells the doctor what hurts. (Hr'g. Tr. p. 89:8-10). The Claimant also confirmed that he walked without significant difficulty following the motor vehicle accident. (Hr'g. Tr. p. 89:10-14). Thereafter, the Claimant went to the doctor on October 30, 2013 for additional treatment, and he complained of worsening a left-side headache with pain in the neck and back and numbness in the right leg. (Claimants' APA #7 p. 3357). When asked about the symptoms he reported during that visit, the Claimant once again stated that he told the medical providers everything that hurt. (Hr'g. Tr. p. 90:6-11).

Thereafter, the Claimant testified regarding the air compressor incident. He was specifically questioned about whether he complained of injuries to the right hip and right fifth finger when he arrived at the hospital. (Hr'g. Tr. p. 91:8-11). According to Claimant's APA #4 p. 3101, the Claimant alleged injuries to the right hip and right fifth finger when he sought medical treatment. In response, the Claimant stated that he answered the questions he was asked, and he stated that the hospital employees may have misunderstood him because his "English is not good." (Hr'g. Tr. p. 91:12-19). However, on re-direct, the Claimant testified that he only sustained an injury to his finger. (Hr'g. Tr. p. 93:7-13).

Testimony of Manuel Reyes – Direct Examination

Initially, Manuel Reyes was questioned about his business, CCS Masonry, LLC. Reyes testified that he was once a member of CCS Masonry, LLC. (Hr'g. Tr. pp. 94:23 – 95:1). Additionally, he stated that the LLC was incorporated in North Carolina. (Hr'g. Tr. p. 95:10-12).

Thereafter, Reyes testified that CCS Masonry, LLC was dissolved on November 9, 2011. (Hr'g. Tr. p. 97:14-16). The Articles of Dissolution, which were presented to Reyes as CCS Masonry/State National Exhibit C. p. 4876, were filed on September 28, 2011. (Hr'g. Tr. p. 98:2-4). According to Reyes' testimony, the LLC was dissolved about three months prior to the Claimant's alleged work incident. (Hr'g. Tr. p. 98:8-11). When questioned about the circumstances that led to the dissolution of CCS Masonry, LLC, the Claimant testified that he owed the U.S. Department of Labor, and it threatened to fine CCS Masonry, LLC \$25,000, unless the LLC was dissolved. (Hr'g. Tr. p. 99:13-25).

Thereafter, Reyes was questioned about the bidding process utilized by CCS Masonry, LLC. Generally speaking, Reyes testified that when CCS Masonry, LLC was an active entity, they would bid several jobs, and then they would sell the contracts to independent contractors, such as Jesus Martinez. (Hr'g. Tr. p. 100:4-20). Those independent contractors would know how to execute the job. (Hr'g. Tr. p. 100:21-22). Reyes also testified that he has never done masonry work; consequently, he would just bid out the masonry jobs. (Hr'g. Tr. p. 100:23-25). Further, Reyes testified that the LLC determined who to sell the contract to by determining how much they would charge to do the job or what percentage of the profits they would accept. (Hr'g. Tr. p. 101:10-16).

When questioned about the status of the LLC, Reyes asserted that CCS Masonry had no employees or payroll in the state of South Carolina. (Hr'g. Tr. p. 101:23-102:3). According to Reyes' testimony, when the contracts were sold, the independent contractor would provide the tools, the crew, and the laborers. (Hr'g. Tr. p. 101:4-18). Moreover, Reyes testified that the independent contractor exercised control over the laborers executing the masonry job, not the LLC. (Hr'g. Tr. p. 103:4-6). Reyes stated that he only controlled the amount of production and

the weekly reports. (Hr'g. Tr. p. 103:7-11). He also asserted that the independent contractors primarily communicated with the general contractor. (Hr'g. Tr. p. 103:13-17). And, Reyes testified that the Claimant furnished the tools, hired the workers for the St. Michael's Catholic Church job, and supervised them. (Hr'g. Tr. p. 128:24 – 129:25; Hr'g. Tr. p. 110:10-21).

At the time that CCS Masonry bid on the contract for the St. Michael's Catholic Church job, Reyes testified that the LLC has not been dissolved. (Hr'g. Tr. p. 104:3-7). However, a month after dissolution, the now-dissolved LLC determined that it secured the bid on the St. Michael's Catholic Church project. (Hr'g. Tr. p. 104:8-21). Reyes testified that he was advised by a local attorney to complete the St. Michael's Catholic Church job, in order to avoid legal consequences. (Hr'g. Tr. p. 104:8-16).

Next, Reyes was asked about the nature of his relationship with the Claimant. Reyes testified that he offered the bid for the St. Michael's Catholic Church job to the Claimant. (Hr'g. Tr. p. 105:13-15). According to Reyes' testimony, the Claimant indicated a willingness to accept 50% of the job's profits plus expenses as compensation. (Hr'g. Tr. p. 105:16-18; Hr'g. Tr. p. 122:20-123:6; Hr'g. Tr. p. 122:20-123:6; Hr'g. Tr. p. 128:7-14). Thereafter, Reyes was asked whether or not he filled out the document entitled, "Form V "Subcontractor Safety Competent Person," designated as Landmark/Amerisure's APA #4, pg. 21. (Hr'g. Tr. p. 107:13 – 108:4). Reyes acknowledged filling out the document, but he denied signing the bottom of the document. (Hr'g. Tr. p. 108:2-19). The signature reflected the name "Jessie Martinez," as testified to by Reyes. (Hr'g. Tr. p. 108:22-23). However, Reyes then stated that he did sign the bottom of the document. (Hr'g. Tr. p. 110:8-9). Reyes also testified that the hearing was the first time he had ever seen the Claimant in person. (Hr'g. Tr. p. 112:1-3). Additionally, Reyes also stated that he never gave the Claimant a 1099 or W2. (Hr'g. Tr. p. 112:10-15). When shown

Landmark/Amerisure's APA #7, p. 44, Reyes testified that he had never seen the timesheets. (Hr'g. Tr. p. 113:13-19). He stated that he relied on weekly calls from the Claimant to determine how much he should invoice the general contractor. (Hr'g. Tr. p. 114:6-14). And, when asked if the Claimant had worked on any jobs contemporaneously with the St. Michael's Catholic Church job, Reyes testified that the Claimant did some work with Manning Masonry out of Greenville, North Carolina, but Reyes made no money off that job. (Hr'g. Tr. p. 115:9-24). Reyes also testified that he did not believe the Claimant was his employee. (Hr'g. Tr. p. 117:4-5; Hr'g. Tr. p. 139:23-25).

Next, Reyes was questioned regarding when he received notice of the Claimant's alleged work-accident. Reyes testified that he did not receive notice of the work-related incident on the day that it occurred, as the Claimant testified. (Hr'g. Tr. pp. 117:17 – 118:4). Additionally, Reyes testified that he sent an e-mail, designated Landmark/Amerisure's APA #1, p. 3, in which he denied receiving prior notice of the alleged work accident. (Hr'g. Tr. pp. 120:22 – 121:4). However, he acknowledged that the Claimant was required to report any work-related accidents to him. (Hr'g. Tr. p. 149:9-12). When presented with Landmark/Amerisure's APA #7, p. 65, Reyes denied having seen the daily masonry report before the hearing, which contained a handwritten note about the Claimant's alleged work-accident. (Hr'g. Tr. p. 122:7-14).

Thereafter, Reyes was questioned about the unexecuted Contract Agreement designated as CCS Masonry/State National's Exhibit N. Reyes testified that it was an independent contract that CCS Masonry provided to all of its independent contractors. (Hr'g. Tr. p. 124:10-12). Despite having presented one to the Claimant, Reyes testified that the document was not executed by the Claimant. (Hr'g. Tr. p. 124:15-16). Reyes later admitted that the only documentation supporting the contention that the Claimant was an independent contractor was

this unexecuted agreement. (Hr'g. Tr. p. 140:3-9). And, Reyes conceded there was no written, contractual agreement between the parties. (Hr'g. Tr. p. 140:12-15).

Reyes was also asked to testify regarding his opinion on Claimant's truthfulness. He testified that he initially believed the Claimant to be truthful. (Hr'g. Tr. p. 131:19-21). However, this changed when he found out the Claimant's name was Jesus Martinez, not Jesse Martinez, as he had initially believed. (Hr'g. Tr. p. 132:24-133:1). Additionally, Reyes testified that he had doubts about the number of people on the payroll, because the production did not appear to correlate to the number of people that the Claimant alleged to be working on the jobsite. (Hr'g. Tr. p. 133:1-9). As a result, Reyes stated that he contacted Landmark's superintendent to confirm the number of workers, and the numbers did not match what had been reported by the Claimant. (Hr'g. Tr. p. 133:1-9). And finally, Reyes stated that he did not find that Claimant to be trustworthy because he did not sign the presented contract, despite numerous attempts to get him to do so. (Hr'g. Tr. p. 133:13-14).

Testimony of Manuel Reyes - Cross-Examination by Kelly Morrow, attorney for Landmark Builders of SC, LLC and Amerisure Insurance Company

Reyes was initially cross-examined about the contract that CCS Masonry bid with Landmark for the St. Michael's Catholic Church job, which was designated as Landmark/Amerisure's APA #4. During his testimony, Reyes stated that he read the entire contract. (Hr'g. Tr. p. 136:20-22). Pursuant to the terms of the contract, Reyes stated that he was an independent contractor, not an employee of Landmark. (Hr'g. Tr. pp. 135:44 – 136:1). Reyes also testified that the bid required him to carry workers' compensation insurance at all times. (Hr'g. Tr. p. 135:7-11). Additionally, Reyes acknowledged that the specific inclusions in the bid required him to provide all necessary labor, materials, equipment, and other things that were necessary to perform the scope of the work (masonry work) listed in the contract. (Hr'g.

Tr. p. 134:19-25). And, Reyes also testified that he never received the consent of Landmark Builders to transfer the contract to Jesus Martinez, which was required by Subsection 15.0 of the bid. (Hr'g. Tr. p. 135:15-23). Reyes also stated that he failed to provide Landmark with a list of all vendors and tier subcontractors at the start of the project or to update that list monthly with an application for payment, as required by Attachment B, Subsection 12 of the bid, which was designated as Landmark/Amerisure's APA #4, p. 18. (Hr'g. Tr. pp. 136:23 -137:5). When questioned about the method of payment, Reyes admitted that he was issued payments from Landmark, and he in turn rendered payment to the Claimant on checks drawn from CCS Masonry's bank account. (Hr'g. Tr. pp. 138:16-24; Hr'g. Tr. p. 112:4-9; Hr'g. Tr. p. 123:25-124:2). Those checks were drawn on CCS Masonry's account before and after its dissolution. (Hr'g. Tr. pp. 138:25 -139:3). The other workers were also paid by check issued from CCS Masonry. (Hr'g. Tr. p. 16-18).

Next Reyes was questioned about his workers' compensation policy. Reyes testified that he applied for and received a workers' compensation policy effective from December 8, 2011 to December 8, 2012. (Hr'g. Tr. p. 144:19-25). He also acknowledged signing the application for agreement, which was designated as Landmark/Amerisure's APA #9, pp. 106-107. (Hr'g. Tr. p. 142:16-25). The insurance policy application also contained a series of questions. Reyes confirmed that his signed responses to the application's questionnaire affirmed that no portion of the work would be subcontracted, that the LLC would be working in South Carolina, and that one of the LLC's last five jobs was doing church walls. (Hr'g. Tr. p. 143:1-144:12). He also testified that the policy issued by State National Insurance Company covered the state of South Carolina. (Hr'g. Tr. pp. 146:3 -147:4). The witness also acknowledged that he applied for and received the worker's compensation policy after the date of the LLC's dissolution. (Hr'g. Tr. p.

144:14-19). When questioned further about information contained in the workers' compensation insurance application (Landmark/Amerisure's APA # 9, p. 114), the Reyes testified that the application listed the nature of the business as masonry construction and stated that no portion of the work would be subcontracted. (Hr'g. Tr. p. 145:3-13).

Reyes also testified that he did not remember cancelling the aforementioned workers' compensation policy. (Hr'g. Tr. p. 147:7-23). And when asked about the certificate of insurance provided to Landmark, Reyes asserted that he directed Parker Insurance Group to provide the certificate of insurance to Landmark on behalf of CCS Masonry showing a policy covering 12/8/11 to 12/9/11. (Hr'g. Tr. p. 148:5-12).

Testimony of Manuel Reyes - Cross-Examination by Ellen Goodwin, attorney for the UEF

Reyes testified that he did not recall receiving a refund of the premiums that he paid to the insurance company for the workers' compensation policy. (Hr'g. Tr. pp. 152:25 -153:11).

Testimony of Manuel Reyes – Cross-Examination by Jeff McLeod, attorney for the Claimant

During this line of questioning, Reyes testified that the parties did not share the profits from the project, as alluded to in earlier testimony, because there was no money left following the completion of the construction job. (Hr'g. Tr. p. 158:6-25). Reyes also testified that he does not have an accounting of the money received from Landmark and paid to the workers. (Hr'g. Tr. p. 160:4-5).

Testimony of Michael L. White – Direct Examination by Jared Pretulak, attorney CCS Masonry, LLC and State National Insurance Company

White testified that he is employed by Landmark as a superintendent. (Hr'g. Tr. p. 161:13-21). He further testified that the Claimant served as the masonry superintendent/foreman. (Hr'g. Tr. p. 162:1). When asked about how often he saw the Claimant working,

White testified that he saw the Claimant every day. (Hr'g. Tr. p. 166:9-11). Following the alleged work-related incident on January 6, 2012, White testified that he did not notice anything different with respect to the Claimant's ability to execute all of his regular job duties. (Hr'g. Tr. p. 162:15-20). Further, White testified that he saw the Claimant bending and stooping. (Hr'g. Tr. p. 162:23-163:1).

When questioned regarding notice of the accident, White testified that he did not observe the fall; however, the Claimant reported the fall on the evening of January 6, 2012. (Hr'g. Tr. p. 164:11-25). According to White, the Claimant stated that his "feelings" were hurt as a result of the fall. (Hr'g. Tr. p. 164:17-22). White also testified that he did not fill out an accident report because the Claimant indicated that one was not necessary, and he refused medical treatment. (Hr'g. Tr. p. 165:6-17). And aside from occasionally complaining about a bad ankle, White testified that the Claimant did not complain about being injured. (Hr'g. Tr. p. 165:18-24). And finally, White testified that the Claimant reported to several church members that there was not enough rebar in the walls, which resulted in Landmark having to hire a third-party inspection team to confirm that there was enough rebar. (Hr'g. Tr. pp. 166:18-167:24).

Medical Evidence

The Claimant has a history of diabetes dating back to at least 1997, and his diabetic condition has been described as "out of control." (CCS Masonry/State National APA #1, pp. 4034-4035; CCS Masonry/State National APA #3, pp. 4316 and 4322). The Claimant has, at times, completely stopped taking all of his diabetic medications. (CCS Masonry/State National APA #3, p. 4324). The Claimant also has a history of diabetic neuropathy (CCS Masonry/State

National APA 2, p. 4284). And, he has been diagnosed with diabetic retinopathy. (CCS Masonry/State National APA #9, p. 4380).

The Claimant initially sought treatment for his alleged work injury on April 25, 2012 at Waccamaw Community Hospital. (CCS Masonry/State National APA #6, p. 4352). During this visit, the Claimant alleged that he sustained injuries in December 2011, when he fell while moving boxes. (CCS Masonry/State National APA #6, p. 4359). He specifically complained of back pain that radiated down his right leg. (CCS Masonry/State National APA #6, p. 4362). Upon examination, the doctor noted that the Claimant had a normal range of motion of the hips, knees, and feet bilaterally. (CCS Masonry/State National APA #6, p. 4359). Moreover, the x-rays of the hip and lumbar spine were unremarkable. (CCS Masonry/State National APA #6, pp. 4359-4362). When asked about an old contusion located on his right hip, the Claimant stated that it had been there since December [2011]. (CCS Masonry/State National APA #6, p. 4359). Subsequently, the Claimant was discharged in "good condition." (CCS Masonry/State National APA #6, p. 4360).

Nearly six months after going to Waccamaw Community Hospital, the Claimant sought additional medical treatment on October 1, 2012 at Redi Care. (Claimant's APA #2, pp. 3019-3020). During this visit, the Claimant stated that his right leg felt weak at times. (Claimant's APA #2, p. 3019). Dr. Purcell examined the Claimant at this time and determined that the Claimant had a normal range of motion at the hip, no pain on palpitation, no knee pain, no low back pain, and a normal range of motion of the lower back. (Claimant's APA #2, p. 3020). The Claimant's gait was also normal. (Claimant's APA #2, pp. 3019-3020). Following the examination, Dr. Purcell offered treatment for a contusion of the hip and diabetes. (Claimant's APA #2, pp. 3019-3020). The Claimant subsequently returned to Redi Care on October 9, 2012.

(CCS Masonry/State National APA #5, p. 4350). Once again, his examination revealed a normal range of motion at the hip, no pain on palpitation, no knee pain, no lower back pain, and a normal range of motion of the lower back. (CCS Masonry/State National APA #5, p. 4351).

Subsequently, on November 6, 2012, the Claimant saw Dr. Christopher Clemow regarding his right hip. (CCS Masonry/State National APA #7, p. 4369). The Claimant's right hip MRI was negative, with the exception of a distended bladder. (CCS Masonry/State National APA #7, p. 4369). The radiology report created in connection with the right hip MRI specifically stated that "[t]here is no avascular necrosis, bone bruise or fracture seen [on] the pelvis or either hip. (CCS Masonry/State National APA # 2, p. 4061; Claimant's APA # 3, p. 3033).

A few days after seeing Dr. Clemow, the Claimant saw Dr. Richardson at AnMed Health and Family Medicine on November 27, 2012 for treatment related to his diabetic condition. (CCS Masonry/State National APA # 9, p. 4380). The Claimant complained of numbness and tingling in his both of his feet every morning, and stated that he had stopped taking his diabetes medication. (CCS Masonry/State National APA # 9, p. 4380). Dr. Richardson stated that the Claimant has peripheral neuropathy in his feet bilaterally. (CCS Masonry/State National APA # 9, p. 4394). Thereafter, the Claimant returned to Dr. Richardson on January 8, 2013 and February 8, 2013. (CCS Masonry/State National APA #9, p. 4402). During each of these visits, the Claimant did not report any issues related to his back, leg, or hip; and, he specifically denied being in pain. (CCS Masonry/State National APA #9, pp. 4402-4410). Instead, the Claimant was treated solely for issues related to his diabetic condition and impotence. (CCS Masonry/State National APA #9, pp. 4402). Thereafter, on March 11, 2013, the Claimant returned to Dr. Richardson. However, during this visit, the Claimant complained of pain in his

legs and right hip. (CCS Masonry/State National APA #9, p. 4414). The Claimant also complained of tingling and “pins and needles” sensations in his lower extremities. (CCS Masonry/State National APA #9, p. 4414).

Then, the Claimant saw Dr. Janice Fordham, also with AnMed Health and Family Medicine Center, on March 25, 2013. (CCS Masonry/State National APA #9, p. 4418). At this time, the Claimant stated that he was experiencing pain in his lower back and right leg. (CCS Masonry/State National APA #9, p. 4418). Following an examination of the Claimant’s back, Dr. Fordham found no point tenderness and determined that the Claimant had a normal range of motion. (CCS Masonry/State National APA #9, p. 4420). Furthermore, the Claimant’s straight leg raise was normal. (CCS Masonry/State National APA #9, p. 4420). Dr. Fordham prescribed Naproxen and suggested stretching and exercises to the Claimant. (CCS Masonry/State National APA #9, p. 4420).

On April 4, 2013, the Claimant saw Dr. Clemow for a follow-up of his right hip and right leg issues. (Claimant’s APA #3, p. 3044). Dr. Clemow stated that the Claimant’s issues seemed to be either vascular or neurological in nature. (Claimant’s APA #3, p. 3044). The examination did not show any reproducible tenderness, and Dr. Clemow determined that the Claimant had a full range of motion and no pain with rotational movements. (Claimant’s APA #3, p. 3044). Thereafter, the Claimant was diagnosed with a near complete occlusion of an internal iliac artery. (Claimant’s APA #3, p. 3044). Pre-operative tests showed the Claimant had significant plaque at the proximal iliac artery, which indicated a more than 75% right iliac stenosis. (CCS Masonry/State National APA #11 p. 4553). The Claimant saw Dr. Chou of AnMed Health Vascular Medicine; Dr. Chou stated that it was unclear whether the stenosis was related to the alleged work injury, but he instructed the Claimant to stop smoking. (Claimant’s APA # 4, p.

3051; CCS Masonry/State National APA # 11, pp. 4552-4553). Dr. Jennifer Thomas, also with AnMed Health Vascular Medicine, opined that it was her belief that the Claimant's "artery was likely injured at the time of this fall given the timing of his symptoms, and the relatively normal appearance of his other vessels." (Claimant's APA #4, p. 3064; CCS Masonry/State National APA #11, p. 4575). However, Dr. Thomas also stated that the Claimant needed to stop smoking. (CCS Masonry/State National APA #11, p. 4560). As a result of the diagnosis, the Claimant underwent a procedure to have a stent surgically implanted in the right iliac stenosis on April 16, 2013. (CCS Masory/State National APA #11 p.4570-4572). After the surgery, Dr. Thomas issued a causation statement assessing a 50% whole body permanent impairment rating to the back and right hip, which equated to a 50% impairment rating to the back and a 0% impairment to the right leg. (Claimant's APA #4, pp. 3069-3070). However, Dr. Thomas stated that she would defer to "appropriate specialists" to determine whether the Claimant was in fact permanently disabled from the back injury. (Claimant's APA #4, pp. 3069-3070).

Following the surgery, the Claimant saw Dr. Perey with AnMed Health Family Medicine Center on April 29, 2013. (CCS Masonry/State National APA #9, p. 4434). During this visit, the Claimant complained of lower back pain; however, the Claimant stated that the pain in his lower back was not work related. (CCS Masonry/State National APA #9, p. 4435). The lumbar spine MRI revealed "very mild DJD L4-L5." (CCS Masonry/State National APA #9, p. 4435). The Claimant was seen by Dr. Chou, also with AnMed Health Family Medicine Center, a few days earlier on April 4, 2013. (Claimant's APA #8, p. 3425). Dr. Chou also remarked that the lumbar spine MRI was fairly unremarkable with degenerative changes and a Schmorl's node. (Claimant's APA #8, p. 3425).

Thereafter, the Claimant was treated at AnMed Health Emergency Department on May 31, 2013 for right ankle pain. (Claimant's APA #7, pp. 3326-3330). The Claimant stated that he began experiencing right ankle pain three days earlier, without fall or known injury. (Claimant's APA #7, p. 3328). Notably, the Claimant denied any previous injury during this visit. (Claimant's APA #7, p. 3328). Upon examination, Dr. Rider stated that the right ankle was unremarkable with no soft tissue swelling or bruising. (Claimant's APA #7, p. 3328). Moreover, Dr. Rider noted that the Claimant's right ankle had a full range of motion, and the right ankle x-ray was negative. (Claimant's APA #7, p. 3328).

Subsequently, on June 5, 2013, the Claimant was seen at AnMed Health Urology for impotence issues. (CCS Masonry/State National APA #12, p. 4644). The medical provider noted that the Claimant had a full range of motion with respect to his extremities. (CCS Masonry/State National APA #12, p. 4644). Shortly thereafter, on June 16, 2013, the Claimant sought treatment at AnMed Health Emergency Department after he swallowed a soda can tab. (CCS Masonry/State National APA #2, p. 4077). The Claimant's use of his prescription Motrin and Ultracet Tablets was described as "inactive." (CCS Masonry/State National APA #2, p. 4077). And, the Claimant was described as being clinically pain-free. (CCS Masonry/State National APA #2, p. 4079).

On July 3, 2013, the Claimant went to Piedmont Spine and Neurosurgical Group, PA complaining of back pain and leg weakness. (CCS Masonry/State National APA #14, p. 4646). The medical provider stated that the Claimant's symptoms were not explained by the MRI. (CCS Masonry/State National APA #14, p. 4653). The MRI showed no obvious signs of disk herniation, nerve impingement, fractures, or malalignment of the spine. (CCS Masonry/State National APA #14, p. 4657; CCS Masonry/State National APA #2, pp. 4066-4067). Brian C.

Johnson, P.A. also found the Claimant to be neurologically intact. (CCS Masonry/State National APA #14, p. 4655). Consequently, he recommended a referral to pain management for evaluation and treatment. (CCS Masonry/State National APA #14, p. 4655).

Subsequently, the Claimant was referred to Dr. Carol W. Burnette on July 16, 2013. (CCS Masonry/State National APA #15, pp. 4667-4668). The Claimant complained of back pain with intermittent right lower extremity and hip pain. (CCS Masonry/State National APA #15, p. 4668). Like the previous medical providers, Dr. Burnette noted that the previous lumbar spine MRI showed no significant disc protrusion or herniation, no sign of any mass, and no signal abnormalities. (CCS Masonry/State National APA #15 p. 4668). Dr. Burnette further indicated that there were no structural abnormalities shown on the previous imaging. (Defendants' CCS Masonry/State National APA #15, p. 4668). And, during this exam, Dr. Burnette determined that there was no radiation distally into the legs on either side, nor did the Claimant experience increased pain with internal or external rotation of either hip. (Claimant's APA # 9, p. 3549; CCS Masonry/State National APA # 15 p. 4668). Various medical providers have also stated that the Claimant's lumbar MRI did not reveal a conclusive reason for the pain. (CCS Masonry/State National APA #19, p. 4739; CCS Masonry/State National APA #2, p. 4066).

Thereafter, on September 11, 2013, the Claimant returned for a follow-up visit. Dr. Burnette noted that there were some abnormalities with respect to the right hip. (Claimant's APA #9, p. 3559). The EMG nerve conduction study performed in connection with the Claimant's right lower extremity was abnormal; however she determined that the abnormalities were likely due to "more widespread problems related to diabetes." (Claimant's APA #9, p. 3559; CCS Masonry/State National APA #15, p. 4671). The EMG/NCS Electrodiagnostic Report indicated that the Claimant has "moderately severe right Peroneal and Tibial neuropathy,

likely related to chronic diabetes mellitus.” (Claimant’s APA #9, p. 3552). Dr. Burnette also noted that there were “no definite signs of lumbar radiculopathy.” (Claimant’s APA #9, p. 3552; CCS Masonry/State National APA #2, pp. 4111; CCS Masonry/State National APA #15, p. 4671). These findings were also confirmed during a subsequent NCS/EMG test conducted on November 26, 2013. (CCS Masonry/State National APA #2, pp. 4110-4112). Dr. Kumar Patel also found the results of the study abnormal; he stated that there was evidence of “severe, axonal-demyelinating, sensory motor peripheral neuropathy.” (CCS Masonry/State National APA #2, p. 4111). And, like Dr. Burnette, Dr. Patel found there was no evidence of any active lumbrosacral radiculopathy. (CCS Masonry/State National APA #2, p. 4111). Dr. Burnette also noted that the Claimant’s right hip MRI showed a “mild deformity/irregularity and shortening of the left femoral neck.” (CCS Masonry/State National APA # 15, p. 4674; Claimant’s APA #9, p. 3552). At the conclusion of his appointment with Dr. Burnette, she recommended that the Claimant continue his medications as directed, continue daily stretching and exercise, and follow up with his primary care physician, as needed. (Claimant’s APA #9, p. 3560).

The Claimant was involved in an intervening motor vehicle accident on October 20, 2013. (CCS Masonry/State National APA #2, p. 4085; Claimant’s APA #7, p. 3331). Upon arrival at AnMed Health Emergency Department, the Claimant stated that he was a passenger in the vehicle, and the airbag deployed. (CCS Masonry/State National APA #2, p. 4085; Claimant’s APA #7, p. 3333). The Claimant complained of pain in his mouth, neck, upper and lower back, and right hip. (CCS Masonry/State National APA #2, p. 4085; Claimant’s APA #7, p. 3333). Further, the Claimant denied any loss of consciousness. (CCS Masonry/State National APA #2, p. 4085; Claimant’s APA #7, p. 3333). As a result, the Claimant had a lumbar spine x-ray, cervical spine x-ray, a left shoulder x-ray, a chest x-ray, and a pelvic x-ray. (CCS

Masonry/State National APA #2, pp. 4089-4093; Claimant's APA #7, p. 3341-3345). All of the x-rays were normal. (CCS Masonry/State National APA #2, p. 4088).

Two days after the motor vehicle accident, the Claimant saw Dr. Richardson at AnMed Health Family Medicine Center. (Claimant's APA #8, p. 3483; CCS Masonry/State National APA #9, p. 4477). The Claimant complained of joint pain, back pain, stiffness, and muscle aches. (Claimant's APA #8, p. 3484; CCS Masonry/State National APA #9, p. 4478). He also stated that the pain was worse in his upper back, lower back, and left leg. (Claimant's APA #8, p. 3484; ; CCS Masonry/State National APA #9, p. 4478). The Claimant reported no loss of consciousness. (Claimant's APA #8, p. 3483).

Thereafter, on October 30, 2013, the Claimant returned to AnMed Health Emergency Department. (CCS Masonry/State National APA #2, p. 4095; Claimant's APA #7, p. 3355). The Claimant complained of a headache, neck pain, back pain, right leg numbness, and intermittent right arm numbness. (CCS Masonry/State National APA #2, p. 4095; Claimant's APA #7, p. 3357). The Claimant denied loss of consciousness. (CCS Masonry/State National APA #2, p. 4097). The doctor observed that the Claimant walked with an antalgic gait and tended to drag his right leg. (CCS Masonry/State National APA #2, p. 4098; Claimant's APA #7, p. 3358). The Claimant received CTs of the cervical spine, thoracic spine, and the lumbar spine, which were normal. (CCS Masonry/State National APA #2, p. 4101-4103; Claimant's APA #8, p. 3486). The Claimant's head CT was also normal. (CCS Masonry/State National APA #2, p. 4099).

Thereafter, the Claimant was seen by Dr. Richardson at AnMed Health Family Medicine Center on October 30, 2013. (Claimant's APA #8, p. 3486). During this visit, the Claimant stated that he could not feel either of his right extremities, and he also complained of numbness

in his right arm and right leg. (Claimant's APA #8, p. 3486). The Claimant further stated that that his pain was getting worse. (Claimant's APA #7, p. 3359). However, the sensory exam of all four extremities was "completely normal." (Claimant's APA #8, p. 3488).

Then, on November 1, 2013, the Claimant saw Dr. Clemow at AnMed Health Family Medicine Center. (Claimant's APA #8, p. 3495). The Claimant stated that he did not remember the accident and that he did not remember much until he woke up at the emergency room. (Claimant's APA #8, p. 3496). The Claimant reported a headache and face pain; and, he stated that he believed he had a brain injury. (Claimant's APA #8, p. 3495). Dr. Clemow noted that the Claimant's strength was equal when he was distracted. (Claimant's APA #8, p. 3496). However, when the Claimant went to the emergency room for vision changes on November 13, 2014, the Claimant denied any head injury. (CCS Masonry/State National APA #2, p. 4268). During that visit, it was noted that the Claimant has a history of hypertension and diabetes. (CCS Masonry/State National APA #2, p. 4268).

Subsequently, on January 6, 2014, the Claimant saw Dr. Richardson at AnMed Health Family Medicine for complaints of back pain and joint pain. (Claimant's APA #8, p. 3505; CCS Masonry/State National APA #9, p. 4504). Dr. Richardson noted that all of the Claimant's "scans and tests have been essentially negative." (Claimant's APA #8, p. 3505). The Claimant returned to Dr. Richardson on January 30, 2014. (CCS Masonry/State National APA #9, p. 4523). At this time, the Claimant complained of right, upper back and right hip/leg pain. (CCS Masonry/State National APA #9, p. 4523). Given the Claimant's repeated negative workup, Dr. Richardson stated that the Claimant's pain was likely musculoskeletal or "malingering because he has lawsuits pending." (CCS Masonry/State National APA #9, p. 4523). Thereafter, the Claimant returned to Dr. Richardson on April 29, 2014. (Claimant's APA #8, pp. 3532-3434).

The medical provider reiterated that the Claimant had an “extensive negative workup,” and he was advised to schedule an appointment with an orthopaedist. (Claimant’s APA #8, p. 3533).

The Claimant also involved an additional, intervening accident on March 30, 2014, wherein he fell while carrying an air compressor, injuring his right hip and his right fifth finger. (CCS Masonry/State National APA #2, p. 4117; Claimant’s APA #4, pp. 3099). During this visit, the Claimant stated the pain in right hip worse than his baseline. (CCS Masonry/State National APA #2, p. 4117; Claimant’s APA #4, pp. 3101). The x-ray of the right hip did not reveal any fractures or subluxation. (CCS Masonry/State National APA #2, p. 4117; Claimant’s APA #4, pp. 3101). The right hip x-ray was normal. (Claimant’s APA #4, p. 3108). Subsequently, the Claimant saw Dr. Darius Divina on April 2, 2014 for his finger and hip issues. (CCS Masonry/State National APA #18, p. 4713-4714). The Claimant stated that the pain could stem from an injury from a long time ago, but he was not sure. (CCS Masonry/State National APA #18, p. 4713-4714).

Thereafter, the Claimant saw Dr. Kimberly Kyker with AnMed Wren Family Medicine Center on July 21, 2014. (CCS Masonry/State National APA #19, p. 4733). Dr. Kyker prescribed diabetic medication for the Claimant. (CCS Masonry/State National APA #19, p. 4733). In addition, Dr. Kyker reviewed the Claimant’s lumbar spine MRI. (CCS Masonry/State National APA #19, p. 4734). She opined that according to the MRI, it did not appear that the Claimant had a significant reason for the pain in his back and leg that could be attributed to radiculopathy. (CCS Masonry/State National APA #19, p. 4734). At a subsequent appointment, Dr. Kyker described the Claimant’s diabetes as not being well controlled. (CCS Masonry/State National APA #19, p. 4738).

On August 18, 2014, the Claimant returned to Dr. Burnette for the first time since December 2013. (CCS Masonry/State National APA # 15, p. 4687). During this visit, the Claimant stated that he was doing much better after the vascular surgery and indicated that his pain had essentially resolved. (CCS Masonry/State National APA # 15, p. 4687). The Claimant reported feeling an occasional twinge of pain in his right lower back and buttocks; however, he stated that he was looking forward to returning to work in a supervisory role, so long as he avoids heavy lifting. (CCS Masonry/State National APA # 15, p. 4687). Additionally, the Claimant reported not taking pain medication at that time. (CCS Masonry/State National APA # 15, p. 4687). However, during a follow up visit with Dr. Burnette on October 29, 2014, the Claimant reported back and bilateral leg pain. (CCS Masonry/State National APA # 15, p. 4689). Dr. Burnette did not refill the Claimant's prescriptions, as he was receiving pain management from Dr. ThiyagaRajah. (CCS Masonry/State National APA # 15, p. 4689). However, Dr. Burnette did fill out disability paperwork given to the Claimant by his attorney. (CCS Masonry/State National APA # 15, pp. 4689-4690).

The Claimant also received medical treatment from Dr. Aathirayen ThiyagaRajah with Spine and Pain Care. The Claimant's first appointment was on October 8, 2014, during which he complained of back pain, neck pain, right leg pain, and headaches. (CCS Masonry/State National APA #21, p. 4823). During the physical examination, Dr. ThiyagaRajah noted that the Claimant's muscle strength could not be fully assessed, because the Claimant did not exert maximum resistance. (CCS Masonry/State National APA #21, p. 4824). The Claimant also failed to exert maximum resistance during his December 3, 2014, December 31, 2014, and January 28, 2015 follow up appointments. (CCS Masonry/State National APA #21, pp. 4843,

4848, and 4859). Further, Dr. ThiyagaRajah noted that the Claimant's pain behaviors were "exaggerated." (CCS Masonry/State National APA #21, p. 4842).

The Claimant was also seen on November 22, 2014 at AnMed Health Emergency Department, wherein he complained of left leg numbness. (Claimant's APA #4, p. 3291). At this time, the Claimant stated that he had no prior issues with the left leg. (Claimant's APA #4, p. 3294). The medical provider noted that the Claimant had a history of diabetic neuropathy. (Claimant's APA #4, p. 3294).

Dr. Glenn Scott did an extensive review of the Claimant's medical records, including medical records pre-dating the Claimant's alleged work-related injury. (CCS Masonry/State National APA #22, pp. 4864-4871; CCS Masonry/State National APA #22, pp. 4903-4916). First, Dr. Scott addressed the issue of stenosis in the right common iliac artery. (CCS Masonry/State National APA #22, p. 4869). Dr. Thomas opined that she believed the trauma to the right common iliac artery, sustained during the alleged work-related incident, caused the Claimant to need the surgical implantation of the stent; however, according to Dr. Scott, the AMA Guide to Causation does not list trauma as a positive factor for this condition. (CCS Masonry/State National APA #22, p. 4869). Rather, diabetes, hypocholesterolemia, and chronic tobacco usage are factors that increase the peripheral vascular risk, and the Claimant was positive for these preexisting conditions/factors. (CCS Masonry/State National APA #22, pp. 4869-4870). Additionally, Dr. Scott noted that Claimant likely suffered no permanent impairment, because Dr. Thomas determined that the stenosis secondary to the trauma was adequately treated with normal flow being restored and no further leg symptoms secondary to vascular causes were present. (CCS Masonry/State National APA #22, p. 4869).

Next, Dr. Scott addressed the Claimant's alleged lumbar spine injury. Dr. Scott determined "within a reasonable degree of medical certainty that the medical records as reviewed do not support the contention that [the Claimant] suffered a significant injury." (CCS Masonry/State National APA #22, p. 4870). This conclusion was predicated on the fact that Claimant continued to work for four months following the alleged work-related injury, and because the initial examination of his back, hips, and legs were negative "with no point tenderness, good range of motion, and intact neurological examination." (CCS Masonry/State National APA #22, p. 4870). To the extent that Dr. Burnette noted tenderness following her exam of the Claimant, Dr. Scott noted that her examination occurred two months after the Claimant's intervening October 2013 motor vehicle accident. (CCS Masonry/State National APA #22, p. 4870). Moreover, the MRIs were consistently negative. (CCS Masonry/State National APA #22, p. 4870). Dr. Scott also noted that the EMG/NCS nerve conduction studies did not show evidence of lumbar radiculopathy. (CCS Masonry/State National APA #22, p. 4870). However, the findings were consistent with symptoms secondary to diabetic neuropathy. (CCS Masonry/State National APA #22, p. 4870).

And finally, Dr. Scott addressed the Claimant's contusion to the right hip. (CCS Masonry/State National APA #22, p. 4870). Dr. Scott noted that the MRI exams of the right hip were negative for any post-traumatic changes. (CCS Masonry/State National APA #22, p. 4870). And once again, Dr. Scott opined that the EMG nerve conduction studies demonstrated evidence of changes that were compatible with the Claimant's diabetic neuropathy. (CCS Masonry/State National APA #22, p. 4871). Dr. Scott also determined that the Claimant's ongoing right lower extremity pain is related to his chronic diabetic neuropathy, rather than

directly related to the effects of the alleged work-related accident. (CCS Masonry/State National APA #22, p. 4871).

Dr. Scott also executed a medical questionnaire on August 27, 2015, based on his review of the Claimant's medical records. (CCS Masonry/State National APA #22, pp. 4903-4905). In response to Question 5, Dr. Scott stated that the Claimant's diagnosis of stenosis of the right iliac artery and resulting any treatment was more than likely not attributable to the alleged work accident. (CCS Masonry/State National APA #22, p. 4903). Further, Dr. Scott found that the Claimant did not sustain any permanent impairment as a result of the Claimant's diagnosis of stenosis of the right iliac artery. (CCS Masonry/State National APA #22, p. 4903). As it relates to the back (cervical, thoracic, or lumbar spine), Dr. Scott found that the Claimant did not sustain any injury that could be directed attributable to his alleged work accident. (CCS Masonry/State National APA #22, p. 4904). Consequently, Dr. Scott determined none of treatment the Claimant received for the back (cervical, thoracic, or lumbar spine) could be directly attributable to the alleged work accident, and the Claimant did not sustain a permanent impairment to the back (cervical, thoracic, or lumbar spine). (CCS Masonry/State National APA #22, p. 4904). And, as it relates to the right hip and/or right leg, Dr. Scott determined that other than a minor contusion, the Claimant did not sustain a permanent injury to his right hip and/or right leg that could be attributed to the alleged work-related incident. (CCS Masonry/State National APA #22, p. 4904). However, Dr. Scott determined that the evaluation by Dr. Ratcliff and the original orthopaedic assessment by Dr. Clemow could be reasonably attributed to the work-related fall; however, those are the only instances of treatment that could be reasonably related to the alleged work-related incident. (CCS Masonry/State National APA #22, p. 4904).

FINDINGS OF FACT

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

1. The South Carolina Workers' Compensation Commission has jurisdiction to hear this claim.
2. Notice of Hearing was timely and properly served upon all parties of interest.
3. Claimant alleges that he injured his back, right hip, and right leg in a work-related accident on January 6, 2012. Claimant does not plead his left leg as an injured or implicated body part, the significance of which is set forth *infra*.
4. Although Claimant seeks treatment at emergency rooms and with his family physicians' practice for myriad unrelated conditions (such as diabetes, impotence, an intervening motor vehicle accident, an intervening accident at home involving a fall while carrying an air compressor, blurry vision, ankle pain, and swallowing a tab from a soft drink can), Claimant did not seek medical treatment for alleged injuries until 3½ months later on April 25, 2012. Although not in and of itself dispositive, this evidence is given great weight (e.g., CCS Masonry/State National APA #2, page 4268).
5. As of the date of this Order, Claimant is 49 years of age (medical evidence establishing Claimant's date of birth as October 1966; Claimant's APA #12, page 3680).
6. Claimant's testimony (twice) that he is only a "borderline diabetic" is refuted by literally hundreds of pages of medical records--in fact too many to cite in this Order. Some of these records are in Claimant's own handwriting, and speak to Claimant's "longstanding" (since at least 1997), uncontrolled, and "untreated" diabetes, insulin use, "poor" glycemic control, elevated glucose A1C, bilateral lower extremity neuropathy, diabetic retinopathy, non-compliance, etc. This testimony damages Claimant's credibility, and calls into

question his veracity in general; if Claimant will prevaricate or fail to be forthright about such an issue, his testimony cannot be relied upon generally. Although Claimant's refusal to admit "full blown," insulin-dependent diabetes may on its face appear unrelated to the issues before me, Claimant has pre-existing foot and leg neuropathy and general weakness in his legs—the same complaints he has made regarding the alleged injuries in issue:

"Q: You've received a lot of medical treatment over the years for your diabetes, right?"

A: No. That's a lie."

(*e.g.*, Hearing Transcript, pages 43 and 55-57; CCS Masonry/State National APA #1, pages 4034-4035; CCS Masonry/State National APA #2, page 4284; CCS Masonry/State National APA #3, pages 4316, 4322, and 4324; CCS Masonry/State National APA #4, pages 4336 and 4339; CCS Masonry/State National APA #5, pages 4349-4350; CCS Masonry/State National APA #9, pages 4380 and 4397; CCS Masonry/State National APA #14, page 4651; CCS Masonry/State National APA #15, pages 4660-4661; CCS Masonry/State National APA #19, pages 4733, 4738, 4769, 4782, and 4789; CCS Masonry/State National APA #21, pages 4820 and 4856; CCS Masonry/State National APA #22, page 4864; Claimant's APA #8, pages 3381 and 3397; CCS Masonry/State National APA #11, pages 4609 and 4613).

7. In addition to Claimant's diabetes which is documented frequently as uncontrolled or poorly controlled, Claimant has (a) unrelated chronic "intractable" migraine headaches (for which Claimant has undergone multiple brain CT's; in November 2014, Claimant reported that he had had "headaches almost every day for a year"); (b) poor, changed, and blurred vision ("common for him"—Claimant's APA #8, page 3486) and diabetic

retinopathy; (c) *bilateral* foot pain and chronic numbness/tingling in the legs from diabetes; (d) bladder/urinary/hematuria issues; (e) fatigue and *weakness* (since as early as 2008); (f) low energy; and (g) pre-existing hypertension which is noted at times to be to be uncontrolled or poorly controlled and for which Claimant is documented as noncompliant (e.g., Claimant's APA #8, page 3486; CCS Masonry/State National APA #19, pages 4761, 4770, and 4781-4783; CCS Masonry/State National APA #20, pages 4794-4796, 4799, and 4804-4805; CCS Masonry/State National APA #2, pages 4200-4201, 4203, 4210, 4221, 4223, 4266, 4268, 4270, 4272-4273, 4275, 4280, and 4292; CCS Masonry/State National APA #3, pages 4315-4316 and 4326; CCS Masonry/State National APA #4, page 4339; CCS Masonry/State National APA #9, page 4524; Claimant's APA #4, pages 3111, 3168, 3213-3215, 3220, 3222, 3224, 3276, 3281, 3286, and 3304; Claimant's APA #9, page 3561; Claimant's APA #10, pages 3585, 3592, 3612, 3630, and 3640-3641).

8. As of the date of the injury, Claimant had smoked for 32 years, and has continued to smoke. Although he has told some providers he quit, he told others (even in the same month) that he was continuing to smoke (CCS Masonry/State National APA #14, page 4651; CCS Masonry/State National APA #11, pages 4556-4557, 4587-4588, 4603, 4609, and 4613; CCS Masonry/State National APA #15, pages 4663, 4668, and 4685; CCS Masonry/State National APA #17, page 4706; CCS Masonry/State National APA #18, pages 4715, 4719, 4726, and 4731; CCS Masonry/State National APA #19, pages 4741, 4756, 4765, 4768, 4772, 4779-4782, 4786, and 4792; CCS Masonry/State National APA #20, page 4794; CCS Masonry/State National APA #21, pages 4824-4825, 4833, 4843, 4848, 4856, and 4859; CCS Masonry/ State National APA #2, pages 4117, 4158, 4164,

- 4193, 4201, and 4244; CCS Masonry/State National APA #9, pages 4465, 4469, 4472, 4502-4503, 4528, 4534, and 4549-4550; Claimant's APA #4, pages 3127, 3168, and 3181; Claimant's APA #11, page 3640).
9. In 2005, one of Claimant's listed medications is documented as Lortab; it is unclear for which body part(s) Claimant was taking this medication in 2005, but an April 2013 (post-alleged accident in issue) record relating to the low back documents Claimant's (a) denial of a work injury ("this is not work related"); and (b) statement that his back condition "responds well to lortabs." On this April 2013 date of treatment, Claimant denied an acute injury or even previous trauma. I give great weight to these records, particularly in light of other evidence cited herein (CCS Masonry/State National APA #1, page 4037; CCS Masonry/State National APA #9, page 4435).
10. Claimant completed high school in Mexico (Claimant's APA #12, page 11; CCS Masonry/State National APA #15, pages 4659 and 4668).
11. Although Claimant may not understand every word or idiom of the English language, various medical records (even as far back as 2005) state that Claimant "speaks fluent English." Records from 2007 also state that Claimant "speaks fluent English." A record documenting Claimant's (unrelated) intervening fall while carrying an air compressor at home in March 2014 states that Claimant "speaks "excellent English." However, when Claimant sought treatment after his intervening motor vehicle accident in October 2013 (for which he hired counsel and made a \$225,000 demand for damages), he reported to providers that he spoke "limited English," such that an interpreter was utilized. After a telephonic interpreter was used at a follow-up visit for an intervening MVA, the nurse wrote a special note documenting the fact that upon hanging up the translation line,

Claimant began flirting with the nurse in English (such that she wrote that Claimant does speak English). Other records state that when an interpreter was used, Claimant spoke in English to “help” when an interpreter tried to interpret; at the hearing, Claimant also responded prior to questions being interpreted, and also spoke in English in response to questions. The point of this finding is that Claimant has the proven/documentated ability to verbalize/explain his complaints to providers (CCS Masonry/State National APA #1, pages 4038 and 4043; CCS Masonry/State National APA #2, pages 4087, 4097, 4121 and 4200; CCS Masonry/State National APA #15, pages 4668 and 4684; Claimant’s APA #4, pages 3105, 3214, and 3257—“English-speaking;” Claimant’s APA #9, page 3549 and 3562; Claimant’s APA #7, page 3359; Hearing Transcript, pages 36, 46, 62, and 73-74).

12. Claimant’s employment history includes construction work, primarily masonry work. For a 14-year period from 1996-2010, Claimant was the owner of his own masonry/construction company which employed up to 200-250 employees. Claimant has built schools, churches, banks, and a stadium; employed project managers; and bid on jobs via computer (Claimant’s APA #9, pages 3562-3563; Claimant’s APA #12, page 3680; CCS Masonry/State National APA #15, pages 4684-4685; Hearing Transcript, page 38, 71-73, and 78).
13. On the date of the alleged accident, Claimant’s job with Employer/CCS Masonry was supervisor of a masonry crew (Hearing Transcript, pages 35, 38, 45, 48-49, 53, 85, and 129-130; Claimant’s APA #9, page 3561; Claimant’s APA #35, pages 4001-4004, 4010-4013, and 4017-4019).

14. On the date of the alleged accident, Landmark Builders of SC was the contractor for the St. Michael Catholic Church project (Landmark/Amerisure Mutual APA #4 in its entirety; Claimant's APA #35, pages 3956-3959, 3961-3962, and 3992).
15. Landmark Builders subcontracted the masonry work on the St. Michael Catholic Church project to CCS Masonry (Landmark/Amerisure Mutual APA #4 in its entirety; Claimant's APA #35, pages 3956-3959, 3961-3964, 3967-3969, 3971-3975, 3978-3980, 3984-3985, and 3987-4000).
16. Notwithstanding the fact that Reyes filed articles of dissolution of his LLC, Manuel Reyes was the owner of CCS Masonry and operating as CCS Masonry on the date of the alleged accident (Hearing Transcript, pages 98-100, 115, 135, 139, and 145; Landmark/Amerisure Mutual APA #9, pages 112 and 114-115; Claimant's APA #35, pages 3992 and 4024; CCS Masonry/State National APA, Exhibit C; Claimant's APA #13, page 3692).
17. Claimant was hired by Reyes, and was the direct employee of CCS Masonry--not an independent contractor. I base this finding on the totality of the evidence. Although Claimant may have supplied some of his own tools, Reyes was going to pay rent for some of the tools/equipment. I also specifically note that in his application for workers' compensation insurance, Reyes answered "no" to the question of whether any other subcontractors would be used (Landmark/Amerisure Mutual APA #8, pages 95-96; Landmark/Amerisure Mutual APA #9, pages 116-117; Claimant's APA #35, page 4026; CCS Masonry/State National APA, Exhibit M; Hearing Transcript, pages 33-37, 45, 49, 80, 136, and 144-146).

18. Claimant reported the hours of CCS Masonry employees (including his own hours) to Reyes. If the employees had been Claimant's own employees, he would have had no need/requirement to report their hours to Reyes (Landmark/Amerisure Mutual APA #7, pages 44-63; Claimant's APA #15, pages 3726-3744; Claimant's APA #17, page 3770; Claimant's APA #18, page 3783; Claimant's APA #19, page 3792; Claimant's APA #20, page 3803; Claimant's APA #21, page 3813; Claimant's APA #22, page 3824; Claimant's APA #23, page 3835; Claimant's APA #24, page 3844; Claimant's APA #25, page 3854; Claimant's APA #26, page 3861; Claimant's APA #27, page 3872; Claimant's APA #28, page 3880; Claimant's APA #29, page 3889; Claimant's APA #30, page 3896; Claimant's APA #31, page 3903; Claimant's APA #32, page 3911; Hearing Transcript, pages 35, 41-42, 48, 83-84, 113, 115, 129, and 155-156).
19. Claimant was paid by CCS Masonry checks. CCS Mason issued checks to its other employees, which checks Claimant distributed (Landmark/Amerisure Mutual APA #3 in its entirety; Claimant's APA #16 in its entirety; Claimant's APA #17, page 3771; Claimant's APA #18, page 3784; Claimant's APA #19, page 3793; Claimant's APA #20, page 3804; Claimant's APA #21, page 3814; Claimant's APA #22, page 3825; Claimant's APA #23, page 3836; Claimant's APA #24, page 3845; Claimant's APA #35, page 4024; Hearing Transcript, pages 34, 50-52, 80-81, 85, 112, 124, 139, and 155-158).
20. A contract or agreement purporting to establish a claimant as a subcontractor or independent contractor is never in and of itself dispositive. In this case, the agreement is not persuasive as it is (a) unsigned and (b) outweighed by other evidence as set forth in this Order (CCS Masonry/State National APA, Exhibit N; Hearing Transcript, pages 85, 125-128, and 140-141).

21. CCS Masonry regularly employed 7-14 employees during the period of the work on the St. Michael Catholic Church project (Landmark/Amerisure Mutual APA #7; Landmark/Amerisure Mutual APA #9, page 115; Claimant's APA #15, pages 3726-3744; Claimant's APA #17, page 3770; Claimant's APA #18, page 3783; Claimant's APA #19, page 3792; Claimant's APA #20, page 3803; Claimant's APA #21, page 3813; Claimant's APA #22, page 3824; Claimant's APA #23, page 3835; Claimant's APA #24, page 3844; Claimant's APA #25, page 3854; Claimant's APA #26, page 3861; Claimant's APA #27, page 3872; Claimant's APA #28, page 3880; Claimant's APA #29, page 3889; Claimant's APA #30, page 3896; Claimant's APA #31, page 3903; Claimant's APA #32, page 3911; Claimant's APA #35, pages 4001-4022; Hearing Transcript, page 84).
22. CCS Masonry presented a valid certificate of insurance to Landmark Builders at the beginning of the work on St. Michael Catholic Church. The policy of insurance applied to South Carolina on the date of the alleged accident, and provided coverage from December 2011 to December 2012 (Landmark/Amerisure Mutual APA #5, page 25; Landmark/Amerisure Mutual APA #6 in its entirety; Landmark/Amerisure Mutual APA #9, pages 123-140; Claimant's APA #14; Hearing Transcript, pages 141-142, 145, and 148-149).
23. CCS Masonry's policy of workers' compensation insurance provided coverage in South Carolina on the date of the alleged accident (Hearing Transcript, pages 141 and 144-147).
24. Mike White, the contractor's superintendent on the date of the accident, is very credible. I base this finding on my observations of his demeanor and on the delivery of his

testimony. I also note that White admits that Claimant reported a fall to White on January 6, 2012 (Hearing Transcript, pages 41 and 162).

25. Although Claimant is not at all believable or credible, the greater weight of the evidence shows that there was a work incident on January 6, 2012: (a) Claimant did tell Mike White that he had fallen on January 6, 2012, but said that the only thing he hurt was his feelings; Claimant denied White's offer of medical care; (b) at the bottom of the January 6, 2012 Daily Masonry Report, Claimant wrote (in a different pen) that "Jesus had an accident" and fell where the new concrete was, and that Claimant had "reporte" [sic] to Mike and had "reporte" [sic] to Reyes. I find that Claimant wrote this notation sometime after he completed the form "for his files" (Claimant's APA #35, page 4021; Landmark/Amerisure Mutual APA #7, page 65; Hearing Transcript, pages 40, 42-43, 61, and 165-167).
26. Work on the St. Michael Catholic Church project began "winding down" in April 2012, and ended in mid- to late April 2012 (Landmark/Amerisure Mutual APA #4, page 24; Claimant's APA, page 4023).
27. I accord great weight to (a) White's credible testimony that White was at the church every day, saw Claimant every day, and did not notice anything different with regard to Claimant's performance during 3½ months of work after the alleged fall; (b) the fact that Claimant continued to work his full-time, regular complement of hours for 3½ months (including some physical job duties), with no lost time from work (apart from that of the other employees); and (c) the fact that although Claimant is no stranger to emergencies rooms and family physician practices, Claimant did not seek any medical treatment until

April 25, 2012—3½ months after the date of the alleged injury (Landmark/Amerisure Mutual APA #7; Hearing Transcript, pages 162-163).

28. Claimant states that the fall in issue was witnessed by “many people,” but not even one such witness was presented at the hearing.
29. Claimant’s testimony that White would have to help Claimant pick up things at work because of the alleged injury of January 2012 is refuted by White’s testimony that he did not notice anything out of the ordinary regarding Claimant throughout the duration of the church project (Hearing Transcript, pages 44 and 54).
30. It is undisputed that Claimant continued to work from the date of the alleged accident (January 6, 2012) through April 2012—the date the church project ended. However, Claimant falsely told Dr. Abercrombie that he has not worked since the date of the alleged accident (Claimant’s APA #8, page 3510; CCS Masonry/State National APA #9, page 4510; Hearing Transcript, pages 82, 84, and 86-87).
31. After the church project began, Claimant and CCS Masonry owner Reyes had a dispute over Claimant’s salary and expenses, which dispute culminated in an e-mail exchange of April 25, 2012. In Reyes’ e-mail response at 8:27 a.m. on **April 25, 2012**, he informed Claimant that Claimant’s financial demands regarding salary/expenses were not going to be met (Hearing Transcript, pages 36 and 159-160; Claimant’s APA #35, pages 4025-4026; Landmark/Amerisure Mutual APA #1 in its entirety).
32. On the very same day of the e-mail response by Reyes (April 25, 2012) that he was not going to agree to Claimant’s financial demands, Claimant sought medical treatment for the very first time—more than **3½ months after the date of the January 2012 fall--**

alleging workers' compensation injuries. I find the timing of to be more than a coincidence (Hearing Transcript, page 88).

33. Records from this April 25, 2012 medical visit at an emergency room state no fewer than 5 times that Claimant fell in December 2011. However, the date discrepancy is the least of Claimant's compensability problems: **although Claimant told medical providers that he was shifting some boxes when he slipped and fell, Claimant inconsistently testified at the hearing that he was in the process of counting blocks that the masons had put up that day ("And when I finished [counting the blocks], I turned around, and when I turned around, I flew, and I fell on the side."** In a denied case such as this (particularly given Claimant's credibility issues) this discrepancy is salient. Further, and just as importantly, Claimant's exam on April 25, 2012, showed **non-tenderness to palpation; normal range of motion of the hips, knees, and feet; no abnormalities; and his hip and lumbar spine to be "unremarkable."** I give great weight to this record. Claimant denied that what appeared to be an old contusion over his right hip was a birthmark, and stated that it had been there "since December [2011]" (Hearing Transcript, page 39; CCS Masonry/State National APA #6, pages 4352-4353, 4355, 4359-4360, and 4362-4363; Claimant's APA #1, pages 3002-3004, 3006-3008, 3014, and 3016).
34. Ten days after this first medical visit of April 25, 2012, Claimant filed a Form 50 in early May 2012, alleging workers' compensation injuries to his low back, right hip, and right leg (Commission's file).
35. After the April 25, 2012 visit, Claimant **did not seek medical treatment again until October 1, 2012—6 months later.** On October 1, 2012, Dr. Purcell (at Redi Care) found

through examination that Claimant had a normal gait, normal range of motion in the hip, no low back pain, and normal range of motion of the low back—just as had the Emergency Room providers 6 months earlier. I give this record great weight. The only “assessments” based upon Claimant’s subjective complaints/statements were contusion of the right hip, untreated diabetes, and right leg weakness at times (Claimant’s APA #2, pages 3019-3020; CCS Masonry/State National APA #5, pages 4348-4349).

36. Claimant returned to Redi Care on October 9, 2012, where a physician’s assistant documented a bruise on the right hip. Just like Dr. Purcell, the physician’s assistant found normal range of motion at the hip; no pain on palpation, no low back pain; and normal range of motion for the back. I give this record great weight (Claimant’s APA #2, pages 3021-3023; CCS Masonry/State National APA #5, pages 4350-4351).

37. Although Claimant continued to make subjective complaints regarding his alleged injuries, multiple physicians of Claimant’s choosing interpret Claimant’s multiple lumbar MRIs as “essentially “normal” with no sign of herniation or impingement at any level, “no structural abnormalities,” “no signal abnormalities,” and “*very mild*” degenerative disc disease. These physicians state that Claimant’s symptoms “are not explained by MRI,” and that Claimant’s lumbar MRI “does not reveal a conclusive reason for [Claimant’s] current pain level” (Claimant’s APA #10, page 3592; CCS Masonry/State National APA #14, pages 4653 and 4655-4657; CCS Masonry/State National APA #15, page 4668; CCS Masonry/State National APA #11, page 4594; CCS Masonry/State National APA #13, page 4645; CCS Masonry/State National APA #19, page 4739; CCS Masonry/State National APA #2, pages 4066-4067; CCS Masonry/State National APA #9, page 4434; Claimant’s APA #3, pages 3036-3039; Claimant’s APA #4, pages 3083-

3085; Claimant's APA #5, pages 3311 and 3313; Claimant's APA #8, pages 3425 and 3428; Claimant's APA #9, pages 3549 and 3559).

38. Claimant's hip MRI is interpreted by Dr. Clemow (Claimant's physician) as negative with the exception of a distended bladder. It does not show necrosis, a bone bruise, or fracture (CCS Masonry/State National APA #7, page 4369; CCS Masonry/State National APA #1, page 4061; CCS Masonry/State National APA #2, page 4083; CCS Masonry/State National APA #15, page 4674; Claimant's APA #3, pages 3030-3033; Claimant's APA #9, page 3555).
39. Claimant's EMG/NCS show "moderately severe" peripheral neuropathy "likely related to chronic diabetes mellitus" with no signs of active lumbar radiculopathy, as there is "normal insertional activities noted in the lumbar paraspinal muscles;" Claimant's pain management physician found no definite radicular symptoms. Other records show that Claimant has diabetic neuropathy, including diminished tactile sensation in both feet and legs (Claimant's APA #9, page 3552; CCS Masonry/State National APA #2, pages 4111, 4284, 4286, 4289, and 4297; CCS Masonry/State National APA #15, pages 4671-4672, 4674, and 4684; CCS Masonry/State National APA #19, pages 4776 and 4780; Claimant's APA #4, page 3291).
40. Dr. Richardson (Claimant's family physician) states that **all tests** (x-rays, MRI's, CT's, NCS) are essentially negative. Dr. Arthur (Claimant's family physician) also refers to Claimant's "extensive negative workup" and negative/normal MRI's, x-rays, and CT scans (Claimant's APA #8, pages 3505 and 3532-3533; CCS Masonry/State National APA #9, pages 4504 and 4535).

41. Dr. Burnette found no radiation into the legs on either side, and no increased pain with internal or external rotation of either hip. I give greater weight to these clinical findings than I give to her causation statement (Claimant's APA #9, page 3549).
42. Therapists from Upstate Physical Therapy also found Claimant's range of hip motion within normal limits with all testing (Claimant's APA #6, page 3317).
43. Claimant's presentation with various providers is inconsistent and weighs heavily against a finding of compensability:
- a. when Claimant sought treatment with his family doctor in January 2013 for follow-up of diabetes, his physical exam documents no problems or concerns with Claimant's hip, back, or leg. Nor is there any reference to treatment undergone elsewhere for the hip, back, or leg. **Claimant denied having any pain or weakness**. Claimant's "Problem #1" was diabetes and "Problem #2" was impotence (all medical records in evidence either state or suggest or that Claimant's erectile dysfunction "of 10 years" stems from untreated diabetes). There is no "Problem #3." Claimant is noted to have "gained some weight which he is also happy with." Under "prescriptions," no pain medication was prescribed or is documented as ongoing; Claimant was prescribed Viagra for impotence, Lisinopril for blood pressure, and insulin for diabetes. Claimant returned to his family doctor in February 2013 where again, the only conditions mentioned are diabetes and impotence (a prescription for Viagra was changed to Cialis). Claimant was physically examined with no documented complaint or problem of his back, hip, or leg. **Claimant denied having any pain or weakness** (CCS Masonry/State National APA #9, pages 4402-4409);

- b. In March 2013, Claimant returned to his family physician where he reported that he was in pain, that he had bilateral leg weakness, “pins and needles” in both lower extremities, and right hip pain. He is noted to have been “mostly compliant with his insulin but has no[t] checked or injected as often secondary to soreness and pain at the injection sites.” Later in March 2013, Claimant told this family physician practice that he had low back pain radiating down his right hip and right leg that he attributed to the alleged work injury. However, when Dr. Fordham examined Claimant’s back, she found no point tenderness, a normal straight leg raise, and normal range of motion. I give Dr. Fordham’s clinical exam findings great weight (CCS Masonry/State National APA #9, pages 4414-4420; Claimant’s APA #8, pages 3414-3416);
- c. I give great weight to the April 2013 record of Dr. Perey (Claimant’s family physician) in which Claimant sought treatment for his low back, but denied any prior injury, trauma, or connection to work. This record also weighs against a finding of compensability for the spine (CCS Masonry/State National APA #9, pages 4434-4435).
- d. As to the hip, orthopedist Dr. Clemow in April 2013 found Claimant’s right hip to have full range of motion, no reproducible tenderness, no pain with rotational movements, and (as to the back) Claimant’s straight leg raise negative or minimally positive. Dr. Clemow found that Claimant’s **symptom pattern was “atypical,”** and suspected a vascular or neurologic problem. Dr. Clemow states that the pain, “by [Claimant’s] report” started at the time of the fall (CCS

Masonry/State National APA #7, pages 4370-4374; Claimant's APA #3, page 3044).

44. Claimant underwent stenting of his right common iliac artery in April 2013 after being diagnosed as having significant plaque (75%) in the context of Claimant's "**diabetes and tobacco use**;" Dr. Thomas was initially "unsure" if the stenosis was related to the fall to which Claimant attributed his artery stenosis, but regardless, Claimant was again told to quit smoking. Later, Dr. Thomas opined (based upon the faulty premise specifically set forth by Claimant's counsel that Claimant did not work again after the church project ended) that "given the timing of Claimant's symptoms," the "fact" that Claimant has had "disabling" pain since the date of the 2012, and the fact of relatively normal appearance of his other vessels, that the artery was likely injured at the time of Claimant's fall. However, this opinion begs the questions of: (a) if Claimant had "disabling" pain since January 2012 how he was able to continue to work through April 2012 and beyond (apparently unbeknownst to Dr. Thomas); (b) why Claimant did not seek treatment at the emergency room or with one of his family physicians as he has done so for other (unrelated) maladies; and (c) why (as Claimant reported to one provider) Claimant's left leg pain became "identical" to the same right leg pain prior to the stenting when Claimant did not fall onto his left side (CCS Masonry/State National APA #11, pages 4552-4553, 4556, 4560, 4571, 4575, 4577, 4580, and 4582; Claimant's APA #4, pages 3050-3051, 3053, 3064-3065, and 3069-3071; Claimant's APA #8, page 3478).
45. Claimant continued to be inconsistent with other providers:
- a. I give great weight to an Emergency Room record of **May 2013** when Claimant sought treatment for right ankle pain "*with no fall or known injury.*" Claimant

denied any previous injury; nor was there any mention of other conditions except for diabetes, hypertension, and high cholesterol. Claimant's back was examined without any problem noted/documentated (Claimant's APA #7, pages 3326-3330; CCS Masonry/State National APA #2, pages 4072-4076);

- b. When Claimant sought treatment for erectile dysfunction in June 5, 2013, his extremities were examined and showed full range of motion with no complaint noted or verbalized. However, when Claimant sought treatment with a doctor for workers' compensation purposes on July 3, 2013 (one month later), he reported tingling, leg weakness, "gait difficulties," and trouble walking (e.g., CCS Masonry/State National APA #12, page 4644; CCS Masonry/State National APA #14, pages 4651-4653);
- c. When Claimant sought emergency room treatment after swallowing a tab from a soft drink can in June 2013, his back and extremities were examined with no problem noted or complained of; Claimant is described (twice) as "clinically ... pain free." Further, not only did Claimant deny pain, but he also was, according to this record, not even taking any pain medication (Claimant was only taking a statin for high cholesterol, insulin for diabetes, and Cialis for erectile dysfunction. By contrast, Claimant's usage of Motrin and Ultracet is described as "inactive." The conditions reported as problematic were diabetes, hypertension and hyperlipidemia. **No complaint (or even prior history) is documented regarding the back, hip, or leg.** I give this record great weight as I find it is a true picture of Claimant's condition rather than his statements regarding his

alleged workers' compensation injuries (CCS Masonry/State National APA #2, pages 4077 and 4079).

46. Claimant requests temporary benefits from April 11, 2012 (See pre-hearing brief) through December 13, 2013. However, in addition to Claimant's false statement to at least one physician (Dr. Abercrombie) that he has not worked since the date of the alleged injury (January 6, 2012), Claimant's statements to other providers that he has not worked since April 2012 (the date his employment ended with CCS when the church project was finished) are refuted by other more persuasive records revealing that Claimant in fact has worked after the date his employment ended with CCS in April 2012; I give great weight to the following records:

- a. Claimant's statements to his diabetes physician (December 2012—11 months after the date of the alleged accident) that he "works" as a brick mason. Although Claimant had the opportunity to check the "unemployed" box, the "do not work" box, the "retired" box, or the "disabled" box, Claimant instead checked the "employed" box;
- b. I also give great weight to the record of Dr. Clemow of October 12, 2012 (9 months after the date of the alleged accident), which states (twice) that Claimant "works" as a brick mason (*i.e.*, present tense is used). Under "Social History," Claimant reported that he "exercises regularly and works [present tense] as a brick mason;"
- c. Claimant told physical therapy personnel (multiple times) in November and December 2012 that he has pain when he lifts (present tense) heavy objects, when he stands for long periods, and when "working hard;"

d. (e.g., CCS Masonry/State National APA #7, page 4366; Claimant's APA #3, page 3027; CCS Masonry/State National APA #4, page 4340; Claimant's APA #9, pages 3548-3549 and 3562: "*remains out of work since the completion of his last job in Myrtle Beach;*" Claimant's APA #6, pages 3316, 3319-3320, and 3322; CCS Masonry/State National APA #15, pages 4667-4668: "*has not started any new work since [the church] project finished;*" Claimant's APA #2, page 3019, dated October 2012--in which Claimant reported that he is "unemployed;" CCS Masonry/State National APA #10, page 4547).

47. As to Claimant's ability to work, I finally note that in August 2014, Claimant returned to Dr. Burnette (pain management physician) after an 8-month gap; Claimant's last visit with Dr. Burnette was in December 2013). At the August 2014 visit, Claimant reported that after his second vascular surgery, he was doing "much better" and his pain had essentially resolved; he also reported that his workers' compensation attorney had "dropped" him (See Commission Order relieving Attorney Trammell as counsel, dated June 2014). Claimant reported that he is "pleased that he will be starting back to work as soon as he can get some jobs lined up, and feels he will be able to resume at least a supervisory role similar to what he had done in the past" as long as he avoids heavy lifting. Dr. Burnette wrote that (a) Claimant has an occasional twinge of pain, but nothing as severe as before, (b) Claimant "*does not appear in any pain,*" and is "*not taking any pain medication;*" (c) Claimant's gait is "grossly normal;" and (d) Claimant felt "cured;" (CCS Masonry/State National APA #15, pages 4687 and 4689; Cf. Claimant's APA #10, pages 3593 and 3595).

48. Three months later in October 2014, Claimant returned to Dr. Burnette with disability paperwork from his new attorney. Claimant reported that all his pain had returned, and that he was not able to return to work (CCS Masonry/State National APA #15, page 4689; Commission's file).
49. The undersigned believes that Claimant is working: when asked why he and his son would create a masonry company, Claimant initially admitted at the hearing that sometimes when he wakes up, he "feel[s] good," and "sometimes I want to go to work, and "because if one doesn't work, they can't eat." However, Claimant then seemed to realize the import of his testimony, as he almost immediately inconsistently testified that he is unable to work: "But I can't, because my body is heavy and I want to do something, but I can't because it hurts" (Hearing Transcript, page 68; *Cf.* Hearing Transcript, page 70).
50. Of all physician opinions, I give the greatest weight to the opinions of Dr. Scott, whose thorough review of the records is impressive, and whose opinion is therefore meaningful and persuasive. No other physician in this case has reviewed all the records that Dr. Scott reviewed. As Dr. Scott points out, Dr. Thomas first states that she is "unsure" of the etiology of the stenosis in the right common iliac artery (that it "may" have been caused by Claimant's fall), but then because of the timeframe/subjective statements, Dr. Thomas says the stenosis is related to the fall. Dr. Scott points out that trauma is not actually one of the likely positive factors causing stenosis of an artery; Dr. Scott points to hypercholesterolemia, chronic tobacco use, and diabetes as more likely culprits. These and Dr. Scott's other statements are well-reasoned and supported by the medical evidence

(CCS Masonry/State National APA #22, pages 4864-4871 and 4903-4916; Claimant's APA #4, pages 3127 and 3145).

51. Claimant sustained an intervening, head-on motor vehicle collision in October 2013 in which his vehicle's air bag deployed, and he was taken to the emergency room by ambulance on a stretcher. He also was taken for x-rays—including for his low back--by stretcher. Claimant's testimony at the hearing--that he *only injured his mouth/face*--is refuted by emergency room records; further, this denial greatly damages his credibility. If Claimant had not told these providers (via interpreter, although Claimant "speaks excellent English") that he had injured his back (or if he had told providers that his back was not worse than a baseline condition), these body parts would not have been x-rayed. Because of this intervening October 2013 MVA, Claimant hired an attorney who issued a demand letter---including for back pain and lower extremity pain and numbness---for damages totaling \$225,000. **The attorney also referred to medical bills for the injuries which Claimant contended at the hearing did not occur:**

"Q: Okay. Any other injuries besides your face?

A: No."

...

"Q: And you also hurt your back and your leg, didn't you?

A: No, my face just went into the windshield and my tooth got broken."

(CCS Masonry/State National APA #2, pages 4085-4094 and 4097; CCS Masonry/State National APA #16, pages 4696-4698; CCS Masonry/State National APA, Exhibit I; CCS Masonry/State National APA, Exhibit K, page 4897; Claimant's APA #7, pages 3331-3351; Hearing Transcript, pages 45 and 61-63).

52. Two days after the intervening MVA, (October 22, 2013), Claimant sought treatment with his family doctor on October 22, 2013, stating that his pain from the MVA was “10/10,” and “worse” in his lower back (Claimant’s APA #8, pages 3483-3485; CCS Masonry/State National APA #9, pages 4477-4478).
53. Ten days after the intervening MVA, Claimant returned to Emergency Room by wheelchair on October 30, 2013, for worsening back pain and right leg numbness from the MVA, such that he underwent a lumbar spine CT. Claimant indicated that he spoke “limited English.” For the first time, Claimant is noted to be dragging his right leg; he also reported that he cannot feel either of his right extremities. However, Claimant’s extremities were found to be normal on exam. Claimant reported that his back pain from the MVA was “getting worse” (CCS Masonry/State National APA #2, pages 4095-4104, and 4107; Claimant’s APA #8, pages 3486 and 3488; Claimant’s APA #7, pages 3355, 3357, and 3359-3371).
54. The intervening MVA is also relevant as to credibility in another way: although Claimant denied any loss of consciousness to (a) EMS personnel on the date of the MVA, (b) Emergency Room providers on the date of the MVA, (c) Dr. Richardson 2 days later, and (d) Emergency Room providers 10 days after the MVA, Claimant later reported to Dr. Clemow that he (a) did not awaken from the MVA until after he arrived at the hospital; (b) did not remember the accident; and (c) had done some research and believed he had a brain injury. Dr. Clemow found that Claimant’s purported strength loss was equal when Claimant was distracted. Further, at a medical visit for blurry vision and an occipital headache more than one year after the MVA, Claimant denied “any head injury” (apparently including the intervening accident for which he later reported/claimed a brain

injury). Instead, at the visit for blurry vision, Claimant is noted to have “a history of hypertension and diabetes with several prior laser eye surgery presumable [sic] due to diabetic retinopathy” (CCS Masonry/State National APA #2, pages 4087, 4097, 4268 and 4272; CCS Masonry/State National APA #16, page 4699—See list of body parts complained of and conditions problems on the date of the MVA; Claimant’s APA #8, pages 3483 and 3495-3496; Claimant’s APA #7, page 3357).

55. Notwithstanding the restrictions Claimant’s various providers have imposed because of Claimant’s subjective complaints, Claimant sustained another intervening accident on March 30, 2014, when he fell backwards onto his right hip while carrying an “extra-large air compressor.” Claimant reported to providers that he “injured his right hip,” and that he was worse than his baseline condition. As a result, Claimant’s right hip was x-rayed. Claimant was notably evasive when asked at the hearing about his injuries, and claimed that (despite speaking “excellent English”) medical providers did not understand “because my English is not good” (CCS Masonry/State National APA #2, pages 4115-4117 and 4121; Claimant’s APA #4, pages 3099-3105 and 3108; CCS Masonry/State National APA #18, page 4714; Hearing Transcript, pages 64-67 and 92).
56. Three days after the intervening air compressor accident, Claimant reported pain in both hips on April 2, 2013. In this record, Claimant “states *maybe an injury a long time ago, not sure*” [emphasis added] (CCS Masonry/State National APA #18, page 4714).
57. Ostensibly in an attempt to keep the pursuit of his workers’ compensation claim and pursuit of his personal injury claim separate, Claimant on May 12, 2014, told AnMed Neurology Consultants that his back and leg pain were present prior to the MVA and unchanged. However, two months later, Claimant inconsistently sent a demand letter for

\$225,000, including for his back and lower extremity problems (Claimant's APA #8, page 3535; CCS Masonry/State National APA, Exhibit K).

58. I also give great weight to the records of Dr. Aathirayen ThiyagaRajah (Spine & Pain Care—beginning September 2014), who found that Claimant's pain behaviors are "exaggerated," and that she could not assess his muscle strength because Claimant "did not exert maximum resistance." This physician noted the same during multiple visits (CCS Masonry/State National APA #21, pages 4823-4824, 4842-4843, 4847-4848, and 4858-4859).
59. There are other inconsistencies in Claimant's presentation to providers: in October 2012, Claimant's gait is documented as normal; in April 2013, Claimant's gait is documented as normal; in August 2014, Dr. Burnette found Claimant's gait to be grossly normal; Claimant's gait is also documented as normal in August 2014 by another physician. Claimant's gait is documented as normal in September 2014, October 2014, November 2014, March 2015, and June 2015. At other times, however, Claimant has presented with an antalgic gait, including but not limited after the intervening motor vehicle accident in October 2013, when one physician describes Claimant as tending to "drag" his right leg (CCS Masonry/State National APA #11, pages 4558 and 4562; CCS Masonry/State National APA #19, pages 4757, 4766, 4773, 4787, and 4793; CCS Masonry/State National APA #15, page 4687; Claimant's APA #2, page 3020; Claimant's APA #10, pages 3616 and 3635; CCS Masonry/State National APA #2, page 4098).
60. Claimant has bilateral leg and feet problems related to his diabetic neuropathy: (a) in November 2012, Claimant reported numbness and tingling/neuropathy in his feet from diabetes every day causing "gait disturbances;" Claimant is noted to have sensory deficits

in both feet; (b) in March 2013, Claimant reported a “pins and needles” sensation with regard to his bilateral lower extremities and that both legs were weak; (c) in May 2013, Claimant had bilateral diminished foot sensation; (d) in October 2013, Claimant told Dr. Richardson that his left leg problems are “identical” to the previous right leg pain that required placement of a stent; (e) in November 2013, Claimant reported continued left leg weakness; (f) in October 2014, Claimant had bilateral numbness in both legs; and (g) in November 2014, Claimant’s left leg was numb (CCS Masonry/State National APA #9, pages 4380, 4392, 4394, 4414, 4416, 4439, and 4498; Claimant’s APA #8, pages 3381, 3438, and 3478; Claimant’s APA #4, pages 3215, 3291, and 3304).

61. Claimant is not at all believable or credible as to the origin of any alleged conditions from which he may suffer. I base this finding on my observations of his demeanor, the delivery of his testimony, his failure to be forthright at the hearing (including but not limited to the denial of injuries sustained in the intervening accidents), the timing of the e-mail/first medical visit of April 25, 2012, the inconsistencies in his presentation/statements to providers, and other reasons. If statements to medical providers—such as the ones Claimant has made regarding the source of his problems--were dispositive, Commission involvement would be unnecessary. I do find Claimant to be slightly more credible than Reyes as to the employment relationship between the two men.

62. Whether Claimant brought a workers’ compensation claim against Reyes (a) because of the salary/expenses he believes that Reyes owes to him, (b) secondary gain, (c) a combination of these two, or (d) for other reasons, is not for the undersigned to ponder. However, Claimant, whom Landmark identified/dealt with as Reyes’ employee,

contacted one or more church members to advise them—not during the project but instead after the project--that insufficient/improper rebar had been used in the church project. Claimant's action in this regard would have the potential effect of ending any future work between Landmark and Reyes (Hearing Transcript, pages 54-55 and 168-169).

63. Given Claimant's (a) normal clinical exams on April 25, 2012 (4 months after the fall), (b) normal MRI's/CT's/EMGs, (c) intervening accidents (for which he injured the same body parts but flatly denied this at the hearing, and (d) unrelated Claimant's bilateral leg problems including documenting numbness, weakness, and gait disturbance from diabetes which could cause a later fall or falls), I would have to engage in rank speculation that any problems from which Claimant suffers are attributable to the fall he reported to Mike White on January 6, 2012.

64. Claimant's causation opinions do not take into account his intervening accidents and are premised on the "fact" that Claimant has been unable to work since the end of the church project. However, even Dr. Richardson by narrative note of January 2014 states that Claimant's continued complaints despite a "negative workup" for back pain is most likely secondary to either musculoskeletal pain or "*malingering because he has lawsuits pending.*" In March 2014, Dr. Richardson reiterates the negative workup and comments on the fact that Claimant brought cell phone videos about hip and leg injuries "to discuss possibilities." Dr. Arthur also found a negative workup in April 2014. Dr. Clemow's causation opinion is premised that Claimant's problems started "*by [Claimant's] report*" with the fall even though Claimant had a normal exam 4 months afterward in April 2012. I finally note that Claimant told Dr. Richardson that his left leg problems are "identical"

to the previous right leg pain that required placement of a stent (e.g., CCS Masonry/State National APA #9, pages 4524, 4533, and 4549; Claimant's APA #8, pages 3478, 3521-3522, 3524, 3529, and 3531; Claimant's APA #3, page 3043; CCS Masonry/State National APA #7, pages 4372-4374).

65. Although I do not find the claim compensable, I considered Claimant's vocational report along with the other evidence. Nowhere in the report as far as Claimant's transferable skills are concerned is there any discussion or even an admission that Claimant owned a construction business for 14 years in which he employed up to 200-250 people, bid jobs, and had multiple project managers. Either Claimant did not tell the evaluator the truth, or the report is simply outcome-determinative. Although Claimant testified at the hearing that he reads blueprints/plans and has supervised/directed others, the vocational evaluator states that Claimant has never performed any light and/or sedentary job functions. I find it noteworthy that nowhere in the report is there any mention of a language barrier (i.e., that Claimant does not speak fluent English or understand English) as such is not the case. Finally, the vocational report does not address the injuries Claimant sustained in his intervening accidents nor the fact that Claimant's subjective complaints are "unexplained" given the "extensive negative workup" (Hearing Transcript, pages 38, 43-44, 73, and 75; See Claimant's APA #12; medical evidence in its entirety).
66. Reyes is not credible. I base this finding on my observations of his demeanor and on the delivery of his testimony. Because neither Reyes nor Claimant is credible, I would have to speculate as to whether Claimant did in fact give timely notice to Reyes. Even Claimant qualified his testimony at the hearing when Claimant testified that he notified Reyes the same day "*if I remember correctly.*" Claimant's first answer to the question

posed to him regarding notice is non-responsive (Landmark/Amerisure APA #1, page 96; Hearing Transcript, page 41).

67. I find that at most, Claimant's fall was a minor event from which there were no injuries. I base this finding on the totality of the evidence, including but not limited to the fact that the description of the mechanics of the fall as Claimant described to providers is far different from the description Claimant testified to at the hearing. Further, at the first post-accident medical visit, Claimant's exam was negative and normal. I strongly believe that Claimant's financial dispute with Reyes is at least part of Claimant's motivation in filing the claim.
68. I find that Claimant's intervening accidents would be sufficient to break any causal chain; however, I do not believe that Claimant was injured at work on January 6, 2012. That is not to say that Claimant did not fall in December 2011 or January 2012 at work. Whether he gave timely notice to Reyes is another matter altogether.
69. Claimant has difficulty keeping his various "stories" (testimony/statements to providers) and claims straight.
70. Official records of the Department of Public Safety and the office of the Secretary of State office are properly before the Commission, and any objection to them is overruled.
71. I find that (a) Claimant's driving record is irrelevant and of no utility in adjudicating this case, as the undersigned is not tasked with determining whether Claimant is a good driver. I therefore give this record no weight, as it has no bearing on the issues before me (CCS Masonry/State National APA, Exhibit J);
72. A previous collision record is not relevant to the issues before me, and therefore does not factor into my findings and conclusions (CCS Masonry/State National Exhibit H).

73. If Claimant were entitled to receive workers' compensation benefits, Defendants CCS Masonry/State National would be liable. However, I find that no benefits are due.
74. Defendants Landmark Builders/Amerisure have no liability in this claim.
75. Defendant UEF has no liability in this claim.
76. Reyes testified that he did not recall receiving any returned insurance premiums from his workers' compensation coverage, which indicates that his workers' compensation policy was in full force and effect on the date of the alleged work-related incident.
77. Claimant's average weekly wage is \$800, yielding a compensation rate of \$533.36

CONCLUSIONS OF LAW

It is concluded that under the South Carolina Workers' Compensation Act, Section 42-1-10, SC Code of Laws, et. seq., that:

1. Pursuant to §42-15-15 and §42-17-20, and based on the substantial evidence, jurisdiction and venue and proper.
2. Pursuant to SC Workers' Compensation Commission Rules and Regulations, Rule 67-210(b) and Rule 67-213(c), and based on the substantial evidence, the parties were properly served with a Notice of Hearing.
3. Pursuant to §42-1-40 and based on the substantial evidence, the Claimant's average weekly wage is \$800 with a corresponding compensation rate \$533.36.
4. Pursuant to §42-1-30, Claimant was an employee of the Defendant-Employer CCS Masonry, LLC at the time of the alleged work accident and injury. The Claimant was not an employee of Landmark Builders of SC, LLC.
5. Pursuant to §42-7-200, the UEF has no liability in this case.

6. Based on the substantial evidence, including the medical records of Claimant and the testimony of Claimant, the Claimant has not met his burden of proof.
7. Pursuant to §42-1-160, and based on the substantial evidence, including the medical records of Claimant and the testimony of Claimant, the Claimant has not sustained an “injury,” as defined by the Act. At most, there was a minor event occurring on January 6, 2012 with no resulting injury. The Claimant has not suffered a compensable injury to the back, right hip, right lower extremity, or any other member.
8. Pursuant to §42-9-30, and based on the substantial evidence, including the medical records of Claimant and the testimony of Claimant, the Claimant has suffered no permanent partial disability, as a result of the minor event occurring on January 6, 2012.
9. Pursuant to §42-9-10 and §42-9-30(21), and based on the substantial evidence, including the medical records of Claimant and the testimony of Claimant, the Claimant has suffered no permanent and total disability, as a result of the minor event occurring on January 6, 2012.
10. Pursuant to §42-9-10, and based on the substantial evidence, including the medical records of Claimant and testimony of Claimant, the Claimant is not entitled to receive any temporary total disability benefits.
11. Pursuant to §42-15-60, and based on the substantial evidence, including the medical records of Claimant and testimony of Claimant, the Claimant is not entitled to receive any future medical care.

ORDER

IT IS HEREBY ORDERED that the greater weight of the evidence supports a finding that the Claimant did not sustain a compensable injury to the lower back, right leg, right hip, or

any other member as a result of the minor work-related event occurring on January 6, 2013, in accordance with §42-1-160.

IT IS HEREBY ORDERED that the greater weight of the evidence supports a finding that the Claimant has not sustained a permanent partial disability as a result of the minor work-related event occurring on January 6, 2013, in accordance with §42-9-30.

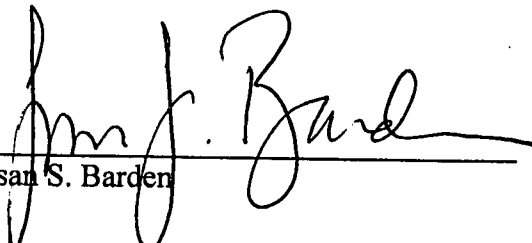
IT IS HEREBY ORDERED that the greater weight of the evidence supports a finding that the Claimant is not permanently and totally disabled as a result of the minor work-related event occurring on January 6, 2013, in accordance with §42-9-10 and §42-9-30(21).

IT IS HEREBY ORDERED that the greater weight of the evidence supports a finding that the Claimant is not entitled to receive any temporary total disability benefits, in accordance with §42-9-10.

IT IS FURTHER ORDERED that the Claimant is not entitled to receive any future medical care in accordance with §42-15-60.

IT IS FINALLY ORDERED that the Claimant's request for all benefits under the Act is DENIED.

AND IT IS SO ORDERED.



Susan S. Barden

CERTIFICATE OF SERVICE

This is to certify that the undersigned has on this date served a copy of this order in the above entitled action upon all parties to this case by sending an electronic copy hereof by electronic mail addressed to the attorneys for said parties; or if there is an unrepresented party (ies) by

RECEIVED
APR 01 2015
SC Court of Appeals

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).
March 4, 2016

By: Kristi Love, Administrative Assistant to Commissioner Barden

CERTIFICATE OF SERVICE

WCC FILE NO. 1205080

Martinez v Landmark Builders of S.C., LLC

RECEIVED
APR 01 2016
SC Court of Appeals

This is to certify that the undersigned has this date served this Order in the above-captioned action upon all parties to this cause depositing a copy hereof, first class postage paid, in the United States mail addressed to the attorney or attorneys for said parties.

March 4, 2016 .

—
Jesus Martinez
3736 Todd Quarter Road
Waterloo, S.C. 29384
(Claimant's address on file with the Commission as of today's date)

||
Kevin Couch ✓
Willson Jones Carter & Baxley, PA
872 S. Pleasantburg Drive
Greenville, S.C. 29607

||
Jared Pretulak ✓
Gallivan White & Boyd, PA
PO Box 10589
Greenville, S.C. 29603.

||
Lisa C. Glover ✓
SC UEF
PO Box 210039
Columbia, S.C. 29221

—
Kelly Morrow
McAngus Goudelock & Courie
PO Box 12519
Columbia, S.C. 29211