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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

W.C.C. File No.: 1303989

RECEIVED

JUN 20 2016

SC Court of Appeals

Clarence B. Jenkins, Employee, ... Appellant,

v.

Amazon.Com DEDC, LLC, Employer, and
Zurich Ins. Co., Carrier, ... Respondents.

**MOTION FOR CORRECTION OF
AND/OR TO STRIKE ITEMS FROM
DESIGNATION OF MATTER**

Pursuant to Rules 209, 210 and 240, SCACR, Respondents Amazon.Com DEDC, LLC and Zurich Ins. Co. move this Court to order that Appellant's Designation of Matter to be Included in the Record on Appeal ("Designation") be corrected and/or that items be stricken as described below. In particular, a number of Appellant's designations do not comply with Rules 209(a)&(b), SCACR, which provide that the items "shall [be] set forth with specificity," and that "[t]he Designation must clearly identify what the party desires to have included in the Record on Appeal, and the Designation may only propose to include portions of the transcript, pleadings, orders, exhibits, or other materials which may be properly included in the Record on Appeal [See Rule 210(c)]." Rule 210(c) SCACR, in turn, provides that "[t]he Record shall not ... include matter which was not presented to the lower court or tribunal." Appellant has designated materials that are not

part of the record below and which must be stricken. In addition, Appellant has designated and cited to numerous other items that are undated or otherwise unclear.

First, Appellant has designated several items that were not part of the record before the Commission and, therefore, may not be included in the Record before this Court. Although Appellant brought a stack of materials with him to the hearing before Single Commissioner Campbell, those items were never admitted into the Record. (Att. A) (Att. B). Appellant also sought to have a number of items added to the Record after the Single Commissioner hearing, but each of those attempts was denied. (Att. C) (Att. D).

It is well-established that appellate review of a Commission decision is confined to the record before the Commission. S.C. Code Ann. § 1-23-380(4) (“[t]he review must be conducted by the court and must be confined to the record”); *see also Terry v. South Carolina Dept. of Health & Env’l Control*, 377 S.C. 569, 574, 660 S.E.2d 291, 294 (Ct. App. 2008) (appellate review of agency decisions “is confined to the record ...”). “This Court’s review is restricted to the evidence considered by the appellate panel in reaching its decision,” and may not rely on evidence not considered by the Commission. *Martin v. Rapid Plumbing*, 369 S.C. 278, 288, 631 S.E.2d 547, 553 (Ct. App. 2006). Non-record items designed by Appellant include:

#12. “Lexington County Sheriff Report filed by Officer J.R. Brock dated November 12, 2015”;

#13. “A reminder letter from Nurse Kelly Wells, assigned by Amazon.Com DEDC, LLC regarding June 20, 2014 medical appointment with Dr. Mahmoud Abu-Ata”;

- #15. "Documentations from Amazon.Com DEDC, LLC Human Resources (Michelle Doyle) placing Claimant on a leave because of medical condition/work restrictions dated August 14, 2013";
- #17. "Amazon.Com DEDC, LLC Certification of health care Provider completed by Dr. Sharon Eden on September 10, 2013";
- #18. "A letter from Amazon.Com DEDC, LLC Legal representations, Attorney Elizabeth render confirming an appointment with Dr. Charles Jervey dated November 4, 2013"; and,
- #19. "A health Care Provider Certificate for FMLA completed by Dr. Mahmoud Abu-Ata, assigned worker's compensation doctor regarding Claimant medical condition/restrictions on march 9, 2014".

This Court should order Appellant to remove these items from his Designation, as they are not properly included in the Record on Appeal.

Second, a number of Appellant's designations fail to meet the level of specificity called for in Rules 209(a)&(b), SCACR, in that he has failed to provide dates and other identifying information for some of the items that he wishes to have included in the Record on Appeal. Nonetheless, Respondents have attempted to discern the dates and identity of the following documents Appellant has designated, including:

- #14. "Medical records from Dr. Sharon Eden of Norfield Medical Center regarding Claimant's medical condition(post-concussion syndrome) and work restrictions" (*possibly dated May 7, 2013, May 23, 2013, June 6, 2013, July 18, 2013, August 16, 2013, September 10, 2013, and/or September 20, 2013*);
- #16. "Medical Records/Work restrictions from Dr. Mahmoud Abu-Ata, assigned workers' compensation doctor approved by Amazon.Com DEDC, LLC" (*possibly dated October 23, 2013, August 26, 2013, February 21, 2014, and/or June 20, 2014*);
- #21. "Short-term and Long-term Disability payments from liberty Mutual Insurance Company" (*possibly payment information from Liberty Life Assurance Company of Boston, check dates ranging between May 29, 2013 and November 7, 2013*);
- #22. "Long-term Disability payments from Aetna Insurance" (*possibly payment information from Aetna Life Insurance Company dated December 31, 2014*);

#23. “United States Social security Administration Medical Reports and Evaluations from Dr. Carol Benoit and Dr. James H. Way” (*possibly dated July 9, 2015 and August 20, 2015, respectively*); and

#24. “An email from Attorney Russell J. Goudelock stating Claimant will not receive worker’s compensation benefits” (*possibly dated April 24, 2014*).

Respondents request that Appellant be ordered to confirm whether the documents and communications listed above as items #14, #16, #21, #22, #23 and #24, undated in Appellant’s Designation, are the items he intends to designate and, if not, confirm the correct date(s) and identity of the documents he has designated. With the exception of Dr. Abu-Ata’s medical reports dated October 23, 2013 and August 26, 2013, the rest of the items discussed immediately above were never admitted into the Record before the Commission and must be removed from Appellant’s Designation, as they are not proper designations for the Record on Appeal. S.C. Code Ann. § 1-23-380(4); Terry, 377 S.C. at, 574, 660 S.E.2d at 294; Martin, 369 S.C. at 288, 631 S.E.2d at 553.

Finally, Respondents request that the briefing schedule, including the deadline for filing their Initial Brief and Designation of Matter, be stayed until the Court decides this Motion.

CONCLUSION

For the reasons stated herein, Respondents move this Court to strike all non-record material from Appellant's Designation, and to order Appellant to clarify his Designation regarding items that are insufficiently identified therein. Respondents also request that the briefing schedule be stayed while the Court considers this Motion.

McANGUS GOUDELOCK & COURIE, LLC

June 17, 2016

A handwritten signature in black ink, appearing to read 'H. Hiser', is written over a horizontal line.

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*Attorneys for Respondents Amazon.Com DEDC,
LLC and Zurich Ins. Co.*

Attachment A

BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC FILE NO. 1303989

CLARENCE B. JENKINS,	)	
	)	HEARING
CLAIMANT,	)	BEFORE COMMISSIONER
	)	R. MICHAEL CAMPBELL, II
v.	)	
	)	<u>TRANSCRIPT</u>
AMAZON.COM, DEDC, LLC,	)	
	)	
EMPLOYER,	)	
AND	)	
	)	
AMERICAN ZURICH INSURANCE	)	
COMPANY,	)	
	)	
CARRIER,	)	
DEFENDANTS.	)	
	)	

THE WORKERS' COMPENSATION HEARING, TAKEN
BEFORE CORA ELLIS BRUTON, A NOTARY PUBLIC IN AND FOR
THE STATE OF SOUTH CAROLINA, COMMENCING AT THE HOUR OF
3:44 P.M., THURSDAY, MAY 21, 2015, SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION, 1333 MAIN STREET,
COLUMBIA, SOUTH CAROLINA 29201.

CORA ELLIS BRUTON
COURT REPORTER
131 BROWNING COURT
LEXINGTON, SOUTH CAROLINA 29073
803-397-0189

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1 THE COURT: Today is May 21, 2015. This is
2 Workers' Compensation Case File Number 1303989. The
3 Claimant is Clarence B. Jenkins, pro se. The Employer
4 is Amazon.Com, LLC. The Carrier is American Zurich
5 Insurance Company represented by Attorney J. Russell
6 Goudelock.

7 The date of accident is February 10, 2013.
8 There's an average weekly wage of \$489.09 with a
9 corresponding compensation rate of \$326.08.

10 APAs have been submitted. Are there any
11 objections to APAs, jurisdiction, venue, or any other
12 items?

13 MR. JENKINS: I would like to make an objection
14 that the bill that they're submitted, it's incomplete.
15 It's not -- don't have all the records -- proper
16 medical records that has been submitted over time from
17 different doctors that -- that has been approved by
18 Amazon, such as far as Dr. Ata. There's only two
19 specific dates that's in his medical records, but I
20 saw him a total of five times that was approved by
21 Amazon, so his record's incomplete.

22 THE COURT: Okay. All right. Mr. Goudelock.

23 MR. GOUDELOCK: It's not my job to make his case,
24 Your Honor. We've begged him to get a lawyer and he
25 hasn't submitted anything additional.

1 THE COURT: Yes, they are allowed to submit what
2 they want to and what they don't want to.

3 MR. JENKINS: Yes, sir.

4 THE COURT: And if you have -- I'm not trying to
5 give you a hard time, but if you have records that you
6 wanted to come in --

7 MR. JENKINS: Yes, sir.

8 THE COURT: -- you would have had to have handed
9 those -- already had an opportunity for them to see
10 them just like they shared their stuff with you.

11 MR. JENKINS: Yes, sir.

12 THE COURT: Vice versa.

13 MR. JENKINS: The one thing about that, I called
14 your office and I spoke to Ms. Barbara Cheeseboro --

15 THE COURT: Yes, sir.

16 MR. JENKINS: -- about that. I wanted to submit
17 those documents and she told me that I can bring them
18 on the day of and could have them examined, because
19 that's the only reason why I did not submit them prior
20 to. But, even in light of that, they still have those
21 documents because on two of those visits the workers'
22 comp nurse, Ms. Kelly Wells was there with me in the
23 office visit and she received a copy of those medical
24 records while I was there. So the reason why they
25 didn't submit as part of their legal Brief I only can

1 say is -- is they're possibly trying to distort what
2 took place, but they should have those records because
3 I know even me, personally, I have submit those
4 records even though it deals with a different
5 situation. So -- and that's only why I did not submit
6 them in the -- in the beginning because you were
7 talking about duplicates and -- and I know they should
8 have already had those records. Now, they're not part
9 of their legal Brief, and that's their story, but
10 that's not the entire case.

11 THE COURT: Okay. Do you have the documents with
12 you?

13 MR. JENKINS: Yes, sir, I do.

14 THE COURT: If you want to share them with Mr.
15 Goudelock and if he has any objections to them coming
16 in I can't let them in because they're untimely, but
17 if he has no objections to them then I'll allow them
18 in.

19 MR. JENKINS: Okay.

20 MR. GOUDELOCK: I'm going to object to them, Your
21 Honor.

22 THE COURT: Okay. Yeah, here again, I'm sorry
23 about that, but that's not fair to either side. This
24 is something that everybody has -- I know you're
25 sitting here telling me that they had a chance to

1 review it --

2 MR. JENKINS: Right. Right.

3 THE COURT: And your objection is noted for the
4 record, so that's now officially part of the record.

5 MR. JENKINS: Yes, Your Honor.

6 THE COURT: But I'm going to note that I'm ruling
7 not to let those in, but that is part of the record
8 just so you know.

9 MR. JENKINS: Okay.

10 THE COURT: All Right. Are there any further
11 objections to APAs, jurisdiction, venue or any other
12 items?

13 MR. JENKINS: Well, I want -- again, going back
14 to the argument that even though I am objecting to the
15 fact that their entire workman's comp case, their
16 legal Brief is inaccurate, it's incomplete and it's a
17 -- it's a total -- they gave a total distortion of
18 events that have taken place. And Amazon are aware
19 of, approved and assigned and also sent a
20 representative with me to those doctor's appointments.
21 So in light of that by those records not being part of
22 the legal Brief I only see that as far as Amazon
23 trying to distort what actually took place. So I'm
24 still going with that objection because I think that's
25 important to this -- to this entire case. And

1 furthermore, I would have sent them prior notification
2 of the documents I was going to be submitting for two
3 reasons; one, they already had the majority of these
4 documents, so that's one reason. And then the second
5 reason, I called up here and spoke to Ms. Barbara
6 Cheeseboro, which is your staff, and she indicated
7 that I could bring them on the day of, because I
8 wanted to follow the same procedure and I -- I took
9 her advice by her working in workers' comp of being
10 part of your staff, I was ensured that she gave me the
11 right information and so I don't think I should be
12 held to the point where those documents are merely not
13 being -- was not given prior, I don't think I should
14 be held to that standard knowing that I tried to
15 follow the correct procedure. But based on the
16 workers' comp information that was provided to me by
17 someone who works here in your office I went on that
18 understanding.

19 THE COURT: And you're sure you were clear that
20 you understood what she had told you?

21 MR. JENKINS: Right. She said because you are --
22 you are representing yourself you are pro se and she
23 said that's why -- and she said, yes, because you are
24 representing yourself you can bring those documents
25 the day of and present them. I made sure that I -- I

1 called her just to make sure because I didn't want no
2 little hiccup, you know, excuse the language.

3 MR. GOUDELOCK: Your Honor, if I could respond.

4 THE COURT: Yes, please.

5 MR. GOUDELOCK: Mr. Jenkins is a college educated
6 fellow. He's had a lawyer before that he terminated.
7 He has been told ad nauseam to get a lawyer, by me
8 multiple times. We've had two mediations ordered in
9 this case and at the conclusion of the mediation the
10 mediator, Mr. Williams, recommended for him to get a
11 lawyer. He's had every opportunity to know the rules.
12 I have -- I have the right to rely on the evidence
13 he's going to present and he should not be allowed to
14 submit it late. If he needed -- if he doesn't know
15 the rules he needs to hire a lawyer, and if he waits
16 --

17 THE COURT: And I will tell you this, if you
18 really feel like your case -- it's imperative for your
19 case -- I can't let what you want come in, I can't let
20 it come in.

21 MR. JENKINS: Yes, sir.

22 THE COURT: We're here on your Form 50, so you
23 reserve your right -- you can withdraw your Form 50
24 and then refile it and make sure that they have
25 everything that is, you know, they're supposed to

1 have, but I have to agree with Mr. Goudelock, y'all
2 have had plenty of time to get this worked out.

3 MR. JENKINS: Right. Well, when they -- based on
4 that because of this -- because the information that
5 has been compiled, this is very important to my case
6 and I'm going to request that my Form 50 be withdrawn
7 because based on all this documentation and based on
8 the misinformation that -- that he -- or missing from
9 the legal Brief, that's form of distortion of the
10 facts of this case, so I would like to withdraw my
11 Form 50; I'd like to refile it in -- in light of them
12 getting all the documents that I have here. Because
13 it's very important that that -- that be submitted to
14 the -- the Commission; the South Carolina Workers'
15 Comp Commission.

16 MR. GOUDELOCK: What are all the documents you're
17 going to submit?

18 MR. JENKINS: Well, the documents are I want to
19 -- because your legal Brief focus on my two past
20 Employers and those -- those two past Employers they
21 -- they became very hostile and so I think that --

22 MR. GOUDELOCK: Are you talking about the -- are
23 you talking about -- you're talking about medical
24 records aren't you?

25 MR. JENKINS: No, I'm talking about -- I'm

1 talking about the entire file -- I'm talking about the
2 entire documents, that's what -- goes --

3 MR. GOUDELOCK: All that stuff you've got right
4 there you want -- you want to submit today?

5 MR. JENKINS: Yeah, all this stuff, because it's
6 very important. Very important because -- because you
7 focus -- when you focus on my past Employers and
8 that's -- some of them were hostile -- I need to
9 provide documents to show you that it wasn't even
10 related to that what -- what you have in your legal
11 Brief. There are certificates and awards that I
12 received at those past Employers, so I need to dispute
13 that. I also need to dispute my unemployment record.
14 During it -- my unemployment benefits record is part
15 of the legal Brief as well. During that time that's
16 when the economy had fell out. Everybody was
17 unemployed and I was one of those ones that was
18 unemployed for several years. So I don't want the
19 Workers' Comp Commission to take -- to take it upon
20 themselves that because I received unemployment for
21 several years that I was just sitting at home drawing
22 a check, because that -- that's not true.

23 THE COURT: Okay.

24 MR. JENKINS: And so I wanted to -- so I wanted
25 to dispute that. I also wanted to dispute that Dr.

1 Ata records are incomplete. I also want to dispute
2 the fact that Dr. Eden record is not complete because
3 Amazon -- she was the one -- she was my family health
4 physician. I have documents from Sedgwick that told
5 me because it was a work injury to contact your
6 physician -- your physician. That means mine.
7 Whoever doctor I found, that's who I would go -- Dr.
8 Eden was my primary physician. She was the one that
9 stated that I have a -- a pulled --

10 MR. GOUDELOCK: Object to anything the doctor'
11 said, Your Honor.

12 THE COURT: Yes, you can't --

13 MR. JENKINS: Right, but it's all documentation
14 though. It's medical documentation.

15 THE COURT: Okay.

16 MR. GOUDELOCK: Your Honor, in response to his
17 withdrawing his 50, our 51 joins in his request for a
18 hearing. We would ask to go forward and I -- I
19 respectfully -- it's unfortunate that he can't get all
20 that in, but I don't know how I'm supposed to allow
21 four folders worth of things in. We -- our Form 51
22 requested that we join in the hearing request and we
23 would request that the hearing go forward.

24 THE COURT: Okay.

25 MR. GOUDELOCK: It's gone on long enough.

1 THE COURT: Can I have just one moment if y'all
2 will indulge me and I'll be right back with you.

3 (Off the record at 4:03 p.m.)

4 (On the record at 4:15 p.m.)

5 THE COURT: We'll go back on the record. I've
6 got a couple of things I need to go over real quick.
7 First of all I can't let you let that stuff in. I
8 just can't. Now, I will ask you again. Are you sure
9 you don't want time to go get an attorney?

10 MR. JENKINS: Yeah, yeah, I want to.

11 THE COURT: Let me finish before -- because even
12 if you withdraw your 50 --

13 MR. JENKINS: Yeah.

14 THE COURT: -- since -- Mr. Goudelock with
15 joining him in request for a hearing you were -- what
16 part of the Act were you doing that under?

17 MR. GOUDELOCK: The Section that allows us to
18 petition for hearing.

19 THE COURT: Okay. And that's where I had to get
20 a ruling of law on that to check and make sure. But
21 since you specified on your Form 51 that you were
22 joining in the request he has the right to move
23 forward with the hearing. However, in your right to
24 due process you have the right to go request an
25 attorney. But my point is, unless you're going to go

1 get an attorney even if you withdraw your 50 we're
2 going to go forward with the hearing.

3 MR. JENKINS: Well, we might as well go forward,
4 but you -- and again -- I understand what you're
5 saying, but based on what took place at the very first
6 one that I had at workers' comp, that was under
7 Commissioner Roche --

8 THE COURT: But that wasn't what's before me.

9 MR. JENKINS: Right, but the same process though.
10 We were allowed to bring information the day of at the
11 hearing.

12 THE COURT: You can bring it the day of as long
13 as they've had a chance to look at it, but I'm not
14 going to have trial by ambush, and that's exactly what
15 this is.

16 MR. JENKINS: Well, I want -- one thing, last
17 time we had a hearing I didn't provide anything in
18 prior, so I'm assuming that was a general procedure
19 because she -- she allowed it.

20 THE COURT: But sir, like I said, before we went
21 on the record I explained to you, you're going to be
22 held to the same accountability that the attorneys
23 will be if you decide to represent yourself. And so
24 it's your call, but if we move forward if you're not
25 going to exercise your right to go get an attorney, we

1 move forward regardless of whether you withdraw your
2 50 or not, we're going to move forward on Mr.
3 Goudelock's 51. So it's your case, so you know, you
4 --

5 MR. JENKINS: Right. I'll just -- I'll -- you
6 know, I'll --

7 THE COURT: -- know I've got to make sure that
8 you understand the circumstances.

9 MR. JENKINS: Yes, sir. But, I'm not going to
10 withdraw my 50, we're going to go ahead, but only
11 thing -- position I would like to add, is that the
12 documents that I want to submit that have been denied
13 -- Amazon -- Amazon and Mr. Goudelock has seen those
14 documents either by email or by postal mail and that
15 can be proven because see I brought copies of all the
16 emails showing that they have already had prior
17 knowledge. So that they have already -- that's why
18 they now -- but they were aware of it because their
19 concern about these documents was addressed to them by
20 email. So they have been aware of it.

21 THE COURT: Well, okay. I'll give you an
22 opportunity to respond, Mr. Goudelock.

23 MR. GOUDELOCK: Commissioner, I -- you know, I
24 don't know what he's got in those four folders over
25 there. He talks about some stuff from Voorhees

1 College and other things. I've never seen any of
2 that. Again, the Rules are clear as to what it is.
3 He's been advised to have an attorney long before
4 today; he's been advised to have one today and he
5 elects to move forward. He can cite the law in his
6 emails and everything else. He ought to be held to
7 the standards for the hearings of law for this hearing
8 today.

9 MR. JENKINS: Right. And again, there are
10 documents in here that came from Amazon that are not
11 part of his legal Brief that deals with this case. So
12 they have had prior knowledge because they have sent
13 me the documents. So they can't come -- Amazon cannot
14 come in here and say they're not aware of certain
15 documents. They may not be aware of all of them, but
16 they are aware of the majority of them, either by
17 postal mail or by email and I brought the emails to
18 show. They have his address, they have (inaudible)
19 address, Ms. Keith's address and other people at
20 Amazon address. So they are aware. It's not -- it's
21 not something that just popped out of -- out of
22 wonderland and they don't have any knowledge of it.

23 MR. GOUDELOCK: Your Honor, we're not saying
24 we're not aware of some of the documents I'm sure he
25 has in there. But the point is we have the right to

1 rely on how he's going to present his case and that's
2 what due process is all about and that's what the
3 Rules stand for. He's supposed to make his case; we
4 have an opportunity to respond to it. And to show up
5 with four folders of documents, and I don't know all
6 those documents, I guarantee I don't know all those
7 documents. He's not entitled to submit those -- we
8 submit that he's not entitled to submit those. The
9 hearing needs to move forward if he's not going to get
10 an attorney.

11 MR. JENKINS: I just want to make one more
12 comment, Your Honor, if I could. Sorry I'm sitting
13 down, but --

14 THE COURT: You're fine.

15 MR. JENKINS: Just to make one more comment. The
16 majority -- majority of the documents are not unknown
17 to them and I would know that either address --

18 THE COURT: And sir, I hear what you're saying.
19 I get that point.

20 MR. JENKINS: Right.

21 THE COURT: But the problem is we've got certain
22 Rules and Regulations we have to follow and unless he
23 knows everything that's in there just like you know
24 everything that's been handed up by him on his side, I
25 can't allow it in.

1 MR. JENKINS: Well, I understand, but Amazon
2 cannot come in here and distort the facts.

3 THE COURT: Okay.

4 MR. JENKINS: With -- with known documents --
5 with known documents that they have decided, that's
6 almost like you hiding the truth and you come in here
7 and are lying because they're known documents that
8 came from Amazon, that came from the true Amazon
9 workers' comp doctor that treated me that are not part
10 of their legal Brief. There's medical documentation
11 in there that Amazon accepted from my private
12 physician, Dr. Eden, as to post traumatic concussion
13 that's not in there.

14 THE COURT: Okay. Well, I'm going --

15 MR. JENKINS: Oh -- but thank you, though.

16 THE COURT: I'm going to ask you one more time.

17 MR. JENKINS: Yes, sir.

18 THE COURT: Because I cited the Rules and
19 Regulations that have to be followed, are you sure you
20 don't to go get an attorney in this matter?

21 MR. JENKINS: Yes, sir, I don't. At this time I
22 would like to go ahead and proceed and the reason
23 based on that I had a real bad situation with the one
24 that I did have, so I'm kind of like a little bit
25 weary and I don't want to get myself in that situation

1 again, so I would like to proceed. And we'll -- we'll
2 let the -- I want to just say --

3 THE COURT: I can't tell you what to do. I mean
4 I can't force you to go get an attorney if you don't
5 want to, but you know, Mr. Goudelock has said he would
6 feel more comfortable with you going -- let me ask you
7 this. I can ask you this. The attorney that you had
8 before, was he a workers' comp attorney?

9 MR. JENKINS: He was. He was and the reason why
10 -- (inaudible), I seen (inaudible), that's (inaudible)
11 right now. Things started off pretty good with Ms. --
12 with her, but as time went on I became aware of the
13 information that was coming from Amazon that was not
14 true and he did not provide me that information. I
15 went and found out through -- they was -- what it was
16 they were using a tactic, using that as a tactic for
17 me to go ahead and settle. I said, "Well, why y'all
18 didn't make me aware of this?" I didn't know that
19 Amazon was -- was seeing me as being disruptive at the
20 plant when I did go back. And none of that was true.
21 And she didn't bother to tell me. The only way I
22 understand tried to get me to settle, she said, "Well,
23 you may as well go ahead and settle because Amazon
24 sees you as a trouble maker." And I -- that's -- I
25 never -- I know that that's the reason why I'm a

1 little weary of attorneys at this time basically.

2 THE COURT: But you feel you're going to base
3 your decision on that just all attorneys just because
4 of that one experience?

5 MR. JENKINS: Yeah, I've got to say that -- when
6 --

7 THE COURT: I mean like I say, I can't tell you
8 what to do, but --

9 MR. JENKINS: I know, sir, I appreciate it, I
10 really do.

11 THE COURT: All right. Let's do this because
12 I've given you ample opportunity to go get an attorney
13 --

14 MR. JENKINS: Yes, sir.

15 THE COURT: -- so we need to move forward.

16 MR. JENKINS: Yes, sir.

17 THE COURT: And so the objections on the record
18 have been noted --

19 MR. JENKINS: Yes, sir.

20 THE COURT: -- and that you wanted to hand it in.
21 It's cited untimeliness and Mr. Goudelock objected to
22 it, so without further objection the Commission's File
23 becomes a part of the record with the exception of
24 self-serving declarations and unstipulated medical
25 reports.

1 it alone -- I have to leave it alone for a couple of
2 days.

3 Q As well -- as well as getting those out
4 you're on Twitter aren't you?

5 A I be on Twitter sometimes. I do. I believe
6 -- I believe in staying up with my stuff. I just
7 believe that. So -- so you're right. I don't see me
8 all the time.

9 Q No, you're not on there all the time.

10 A I'm not on all the time, but when I'm on
11 there, I'm on there, because when I get through then
12 I'm through.

13 Q I want to show you a document that I'll have
14 marked in just a second as Defendants' Exhibit Number
15 3.

16 (Defendants' Exhibit Number 3, copy of Twitter
17 Account, marked for identification and entered into
18 the record.)

19 A Right.

20 Q And ask you is that a copy of your Twitter
21 account?

22 A Pretty much.

23 Q Okay.

24 A Wait a minute now, that's quite a bit of
25 time now, -- that's not --

1 Q No, it is. It's over --

2 A That's not even one month.

3 Q No. You can look at it. It starts on May
4 7th, 2014. Right?

5 A I can't see that.

6 Q Right here.

7 A It's made out to -- let's go back and --

8 Q No, I'm going to take it from the front.
9 That's when it starts.

10 A No that could be when -- that could be when
11 you -- that could be your starting point.

12 Q Okay. Well, I just -- let's go with that
13 starting point then and if you're going before -- it
14 goes to April 23rd, correct? I'm sorry, May 19th of
15 this year?

16 A Yeah, but I was -- I was on there the other
17 night.

18 Q Okay. So from --

19 A I don't deny that I have a Twitter Account.
20 I don't deny that I deal with it.

21 Q I'm not saying you deny it. My -- my point
22 is that with all these problems you're having that
23 from May of 2014 to May of 2015 in addition to the
24 inch and a half of emails you send me, you posted 1066
25 tweets.

1 A I don't think that's -- that's correct.

2 MR. GOUDELOCK: Your Honor, we would offer that
3 as Defendants' Exhibit Number 3 and if you'd take
4 judicial notice at the top it counts them.

5 THE WITNESS: I object to that, because there's
6 no way possible that I could have done 1000 or more
7 tweets. There is no way possible. I'm going to have
8 to have proof -- I'm going to have to have proof of
9 that and I'm going to have to go through that piece by
10 piece.

11 Q What does that say?

12 A No, see that -- that's not right.

13 Q Okay.

14 A I know that's not right. I don't even go --

15 Q You can take notice of this --

16 A I don't get -- I don't even get on Twitter
17 that -- I'm on Twitter at times and then when you
18 think about Twitter I'm not on there 24 hours a day
19 seven days a week. I may put -- I may put a note on
20 there in the morning, I may put a note out there late
21 at night because I can't sleep because of illness or I
22 may put it out there early evening. But it's not like
23 I'm out there seven days a week, 24 hours a day.

24 Q But your eyes are bad, the light bothers
25 you?

1 A Oh.

2 Q I mean --

3 A I just told you. It's not that I can't do
4 it, I said when I do too much it wears on me. I can
5 use a computer, I can type, but after so much my
6 shoulders, my neck and my fingers begin to hurt.

7 Q Okay.

8 A And that's not -- I don't -- I -- I can use
9 a computer, I'm not going to deny that. And -- and
10 the reason I be on the computer with Amazon, I have to
11 -- I have to notify you all. I'm not able to come to
12 Columbia every day, so I have to use the necessary
13 communication that's available to me, and that's by
14 email or by phone. So that would be correct.

15 Q All right. I'm going to show you what I
16 mark as Defendants' Exhibit Number 4. Is that your
17 Facebook Account?

18 A Yes.

19 Q Okay.

20 A Uh-huh.

21 (Defendants' Exhibit Number 4, Facebook Account,
22 marked for identification and entered into the
23 record.)

24 A I don't deny being on Facebook.

25 MR. GOUDELOCK: Your Honor, I would offer

1 Defendants' Number 4 into evidence.

2 Q So you -- you're able to be on the computer
3 enough to send us a bunch of emails every week?

4 A I have to. I have to communicate with you
5 all.

6 Q You -- you tweeted an average of three times
7 a day over the last year?

8 A I'm going to object to that because I'll
9 have to verify that because now I have not seen that.

10 THE COURT: And I hear you, but the reason he can
11 submit this is one -- it's a public record, because if
12 you're on Facebook and you're on Twitter that's a
13 public record.

14 THE WITNESS: Right. Right. But the stuff that
15 I had is on public record. It's public record.

16 THE COURT: And that's all -- he's not submitting
17 anything that's not your --

18 THE WITNESS: Yeah.

19 THE COURT: -- because you just testified that
20 these are your accounts.

21 THE WITNESS: Right. But they -- but -- but
22 those -- Commissioner, those are public information
23 sent to me between me and Amazon, so -- so -- and so
24 if his information is going to be allowed, I think --
25 because I have not seen those before today. Those are

1 my email accounts.

2 MR. GOUDELOCK: You see those every day.

3 THE WITNESS: Wait a minute. We don't want to
4 get into -- we don't want to get it mixed.

5 THE COURT: No, but there's a difference between
6 an email exchange between somebody and what you put on
7 Facebook and Twitter. One's public domain and one's
8 private correspondence between you and another
9 individual.

10 THE WITNESS: No, I wouldn't -- I wouldn't
11 necessarily call them --

12 Q Let me ask -- let me ask again. Is -- is --
13 you're on Twitter, correct?

14 A I'm on Twitter.

15 Q That's your Twitter account; the documents
16 that I showed you?

17 A Right. But I'm not -- I'm not exactly sure
18 because I have not seen that document to review it --
19 properly review it.

20 Q You're welcome to look through it.

21 A But I -- well, I should have had it prior.

22 Q You want to look through it?

23 A Not today. It's too -- there's too many
24 documents --

25 Q Let me ask you this. So -- so you --

1 THE COURT: Sure.

2 MR. GOUDELOCK: What he cites, 42-9-10 -- 42-9-10
3 says benefits are due when -- for disability.
4 42-1-120 defines disability as a condition because of
5 the injury. Our contention is that the medical
6 evidence before you that he's complaining of that he's
7 been talking about forever, is not going -- not
8 disabling him because of the injury.

9 THE COURT: Okay. And sir, since you have this
10 on your form I will address that in my Order when I
11 issue my Order.

12 MR. JENKINS: Okay. Okay. Thank you. But I
13 would like to get back to making note of some -- some
14 documents that are public regard to -- to address them
15 before the Court if I could.

16 THE COURT: Do you have exhibits that you want to
17 --

18 MR. JENKINS: Yes, sir.

19 THE COURT: That are social media exhibits?

20 MR. JENKINS: Right. Social media exhibits.

21 MR. GOUDELOCK: I don't know what they are, Your
22 Honor, but same objection I had at the outset of the
23 hearing. He has not filed a Prehearing Brief and
24 listed any exhibits. He has not offered any APA
25 submission notifications to us timely and I don't know

1 what those are, but I would object to them as coming
2 in.

3 MR. JENKINS: And I want to object to Mr. Rusty's
4 objection because then this -- if the Court agrees if
5 that would be advised, because he has been allowed to
6 present documents that's on social media that I had
7 not received prior to now in his Brief. Those emails,
8 those Twitter Accounts, that was not -- that was not
9 part of his Brief, I had not seen those documents
10 before today. And therefore, I'm already going to
11 assume that this Court has been biased because he's --
12 he's getting -- he's being able to do some things that
13 I can't do.

14 MR. GOUDELOCK: So you're accusing me of making a
15 lie?

16 MR. JENKINS: No, I'm accusing -- I'm accusing
17 Amazon of having a little weight a little bit. Not
18 Mr. -- not Mr. Carroll because I don't want to get
19 Judge Carroll -- I don't want to get on his bad side.

20 MR. GOUDELOCK: What social media things do you
21 have?

22 MR. JENKINS: Well, one, I want to present this
23 document here. I went on Mickle and Bass website and
24 I saw where the former Commissioner, Andrea Roche now
25 works for Mickle and Bass.

1 THE COURT: That's correct.

2 MR. JENKINS: That's correct. But during this
3 very first hearing Ms. Roche, she referred us to
4 Mickle and Bass for mediation.

5 THE COURT: Okay.

6 MR. JENKINS: Which was fine. Derrick Williams
7 was the mediator. During the second attempt that
8 Amazon wanted to mediate he used that same -- which I
9 didn't, you know, you know, I was just trying to
10 accommodate Amazon. He used the same mediator, Mr.
11 Williams. So to me by Ms. Roche being the
12 Commissioner at South Carolina Workers' Comp
13 Commission, by Mr. Derrick Williams being a former
14 Commissioner at South Carolina Workers' Comp and now
15 she works with the same law firm and now also too she
16 referred us to Mickle and Bass. So -- and we even --
17 Amazon used them twice to mediate, so I see -- I would
18 like this document, this social media as some type of
19 bias before -- before the Commissioner. This is --

20 THE COURT: I'll let that come in.

21 MR. JENKINS: Yeah, this -- because you know, I
22 think --

23 THE COURT: The reason I'm letting it come in is
24 because that's public record, so I'm going to let it
25 come in.

1 MR. JENKINS: Right, public record, right.
2 Public record.

3 MR. GOUDELOCK: We would object, at least to the
4 standpoint of relevancy, Your Honor.

5 THE COURT: So noted.

6 MR. GOUDELOCK: Commissioner Roche, at the time
7 of the first hearing, did not order us to -- to have
8 Mr. Williams mediate the case at Mickle and Bass. I
9 selected and offered Mr. Williams to Mr. Jenkins
10 because he's a former defense lawyer, he's a former
11 Commissioner and he's now a Claimant's lawyer and I
12 thought would be appropriate to handle a case like
13 this. And Mr. Jenkins agreed to that not only that
14 time, but the second time when nobody ordered him to
15 go to Mr. Williams. So if there's bias and he felt
16 Mr. Williams was inappropriate in some manner he
17 didn't have to have it mediated the second time, but
18 it doesn't matter because the mediation failed both
19 times.

20 MR. JENKINS: I would like -- I would like to
21 object to that because when Commissioner Roche made
22 that recommendation, you know, I -- I had no knowledge
23 of Derrick -- Attorney Derrick Williams of Mickle and
24 Bass. So I -- I think this -- I wasn't going to sit
25 in here and argue and say no, I don't know who that

1 you know I present it to the Court.

2 THE COURT: Okay. And I'm sorry, what's your
3 point in presenting it?

4 MR. JENKINS: My point to show me --

5 THE COURT: I guess what's the relevance of it;
6 is what I'm asking?

7 MR. JENKINS: Well, the relevance, it's showing
8 me as far as my capacity at Voorhees College as job as
9 --

10 THE COURT: Okay. We'll note for the record that
11 you presented that.

12 (Claimant's Exhibit Number 2, newspaper article,
13 marked for identification and entered into the
14 record.)

15 MR. JENKINS: Okay. But the reason I would like
16 to go through Dr. Stickler's deposition if I could.

17 THE COURT: Okay. I'm happy to go through it,
18 but here's my point. Anything that has been submitted
19 up to me I'm going to review every bit of it and weigh
20 -- give what I think is the proper weight to the
21 various statements.

22 MR. JENKINS: Yes, sir.

23 THE COURT: But if you want -- since it's in
24 submission you're welcome to refer to it and point out
25 to me what it is you want to point out to me. But in

1 the interest of maybe saving us all some time I am
2 going to review the deposition.

3 MR. JENKINS: Okay. Let's see. Well, one, in
4 the deposition on page five he stated that he saw me
5 on August --

6 THE COURT: Hold on, let me get it in front of
7 me. Okay.

8 MR. JENKINS: I'm on page five, he stated that he
9 saw me on August 28th, 2014. Well, that's incorrect,
10 he actually saw me on August 20th, 2014.

11 THE COURT: Okay.

12 MR. GOUDELOCK: I believe you didn't -- the August
13 20th appointment got cancelled.

14 MR. JENKINS: No, sir.

15 MR. GOUDELOCK: You've already said that earlier.

16 MR. JENKINS: No, sir, August -- we saw him --
17 the very first visit was August the 13th, that was the
18 one we went down there and we spoke to his assistant
19 and she was the one that cancelled it saying that Dr.
20 Stickler had not received the correct information and
21 we were sent back the following week that -- on the
22 20th. Let's see. On page six, down at question 21 --
23 answer 21, when Dr. Stickler answers that he did --
24 did not -- or he did correct -- that he lost
25 consciousness -- he did not have any loss of

1 consciousness, that is not exactly correct. I didn't
2 mention it -- pass out completely, but there is
3 documentation from Amazon where I was sent home
4 because of possibly having one of those episodes of
5 faint -- of passing out because of -- of the high
6 blood pressure.

7 MR. GOUDELOCK: Because of the high blood
8 pressure?

9 MR. JENKINS: Right. High blood pressure and the
10 headaches and -- and weakness.

11 THE COURT: Okay.

12 MR. JENKINS: Okay. If you go down to question
13 21 on page seven where Dr. Stickler answered
14 "intermittent chest pain, in the legs and light -- and
15 previous mentioned lightheaded and syncope -- I hope
16 I'm --

17 MR. GOUDELOCK: Syncope.

18 MR. JENKINS: Syncope, okay, thank you. I don't
19 know what that is. This is -- this is public
20 documentation here it talks about the symptoms of
21 syncope and based on all of my medical symptoms that
22 have been before documented I meet -- I meet a lot of
23 these symptoms here. So this is public record. This
24 -- I got this off -- off the internet.

25 MR. GOUDELOCK: Your Honor, there -- there --

1 there is nothing that -- you can get anything off of
2 the internet. It's different than a public record.
3 Medical evidence has got to have validity to support
4 it and there's nothing that authenticates the validity
5 of that other than a Google (inaudible).

6 MR. JENKINS: Then that goes to social media far
7 as my Twitter Account and Facebook.

8 MR. GOUDELOCK: That's not so, Your Honor.

9 MR. JENKINS: You just said you can get anything
10 off the internet. In that case that applies to
11 everything. Some people have --

12 THE COURT: I'm sorry. Tell me where that came
13 from again.

14 MR. JENKINS: It came off the web -- web, I got
15 it off the internet, off social media.

16 MR. GOUDELOCK: He Googled symptoms for syncope.

17 THE COURT: Okay.

18 MR. JENKINS: No, I -- I really -- really, to be
19 honest with you I only came across it yesterday when I
20 was going back over Dr. Stickler's deposition. I
21 printed it out today.

22 THE COURT: Okay. I'll allow it to come in if
23 it's just referring to what syncope is, that's fine.

24 (Claimant's Exhibit Number 3, definition of
25 syncope, marked for identification and entered into

1 the record.)

2 MR. JENKINS: Right. But here today --

3 MR. GOUDELOCK: Your Honor, if you'd just note
4 our objection. There's no mathematical basis --

5 MR. JENKINS: Right. But -- thank you. But it's
6 basically --

7 MR. GOUDELOCK: -- of authenticity for it to come
8 in as any type of expert opinion.

9 MR. JENKINS: But if Dr. -- Dr. Stickler made
10 mention of it. He was -- he was the one that Amazon
11 depended on to give them a second evaluation. He made
12 mention of it in his deposition so I think therefore
13 by him referring to it --

14 MR. GOUDELOCK: Do you understand my point, Your
15 Honor?

16 MR. JENKINS: That -- that --

17 THE COURT: Yes, I do.

18 MR. JENKINS: -- but that should be allowed.

19 THE COURT: Okay.

20 MR. JENKINS: On page nine go down to question
21 12. And Ata -- and Dr. Stickler answered -- you got
22 to have two exams from Dr. Ata on June 20, 2014 and
23 one for August 26, 2013. Well, the Amazon legal Brief
24 it does not have the June 20th, 2014 medical
25 documentation from Dr. Ata in their legal Brief. But

1 here Dr. Stickler confirmed here that he had a exam
2 from Dr. Ata that Amazon had submit to him on June 20,
3 2014.. But that's not in their legal Brief.

4 THE COURT: Okay. And that's noted, and here
5 again, keep in mind they have the right to submit what
6 they --

7 MR. JENKINS: Right. Right.

8 THE COURT: -- want to submit and what they don't
9 want to submit.

10 MR. JENKINS: Right. But I got a right to
11 distort any type of mistruth that they --

12 THE COURT: Yeah, you can pull up, but just
13 understand if it's not in their legal Brief they're
14 still within their right.

15 MR. JENKINS: Yes, sir. Let's see. If you go to
16 page ten and question 13 and 19, here's where Dr.
17 Stickler who Amazon referred on a second opinion, now
18 giving a history, Dr. Ata who is approved neurologist,
19 he did not make this determination. This is in
20 addition -- Dr. Stickler made an additional
21 notification of a symptom in my left foot and that's
22 from 13 the question to number 19 on page ten. He
23 said, "I did find a mild what you call hyperthetic
24 sensation. Meaning hypersensitivity in the left foot
25 on both the top and bottom of the foot."

1 with specific type of language, but Dr. Stickler --
2 Dr. Muhammed is the one that feels that more treatment
3 is needed based on his medical determination and my
4 medical symptoms and would not provide Amazon with a
5 medical rating. This is why this deposition has not
6 happened. These are both public documentations and so
7 -- and because -- and because he has stated -- he has
8 stated that he would not give a medical rating until
9 he received additional evaluations --

10 MR. GOUDELOCK: The objection I made earlier,
11 Your Honor, about hearsay. He can't testify to what
12 somebody said unless he can offer proof.

13 MR. JENKINS: But we can submit it as his
14 deposition was properly scheduled.

15 THE COURT: Mr. Goudelock, do you --

16 MR. GOUDELOCK: No objection.

17 THE COURT: Okay. Thank you.

18 MR. JENKINS: So we just can submit that Amazon
19 was --

20 MR. GOUDELOCK: Claimant's one and two?

21 THE COURT REPORTER: Three and four.

22 MR. JENKINS: -- was planning on seeking a
23 deposition with Dr. Muhammed, when it never happened
24 --

25 THE COURT: I'm sorry, he's -- I just want to

1 make this clear for me. I'll let you continue your
2 thought in one second.

3 (Claimant's Exhibit Number Three, notice of
4 Deposition of Dr. Ata, marked for identification and
5 entered into the record.)

6 (Claimant's Exhibit Number Four, notice of
7 Deposition of Dr. Stickler, marked for identification
8 and entered into the record.)

9 MR. GOUDELOCK: I'm sorry.

10 THE COURT: Okay, Mr. Jenkins, you can continue.

11 MR. JENKINS: Okay. Thank you. The next
12 document that I would like to submit -- when we're
13 talking about social media we're talking about public
14 documents, right? Even though he's not a expert
15 medical con -- personnel, but this is in there where
16 retired, Kevin Colby, had concussive symptoms very
17 similar from every day. This is -- this is -- gave
18 you a supportive document. He's not a medical expert,
19 but this is social media and to be safe --

20 THE COURT: I'm not going to let that in.

21 MR. GOUDELOCK: Your Honor, --

22 THE COURT: I'm sorry. I gave you some latitude
23 on this one, but I'm not going to give you latitude on
24 that one. Okay? I just can't let that in.

25 MR. JENKINS: Okay. Well, on this other one this

1 is another social media documentation, but this is by
2 the South Carolina Brain Injury Leadership Council.
3 This is expert testimony from doctors who work in the
4 field who are a part of this Brain Leadership Council
5 that talks about traumatic brain injury, the effects
6 of it, (inaudible) that you need and that each one
7 varies depending on the person age and all that.

8 THE COURT: Okay. And sir, I already have -- I
9 have volumes of information like that, so I don't need
10 it for a determination of the case.

11 MR. JENKINS: Yeah, but I still would like to
12 submit just as for the record, if I could.

13 THE COURT: Well, I --

14 MR. JENKINS: If I could.

15 THE COURT: Mr. Goudelock, do you object to this
16 coming in?

17 MR. GOUDELOCK: I do object to it coming in, Your
18 Honor.

19 THE COURT: Okay. Sir, I'm not going to let that
20 in.

21 MR. JENKINS: Okay.

22 THE COURT: But as far as it affecting a
23 determination of the case I'm aware of information
24 like that, so --

25 MR. JENKINS: I understand, but the only reason

1 why I wanted to have it for the record because just in
2 case you know, we haven't -- I have to proceed to the
3 Court of Appeals it's better off to have those records
4 because see they going to say well you did not have
5 your record during the previous hearing. Another
6 further documentation that I would like to submit. I
7 had it -- during the original hearing Amazon spent so
8 much time having unauthorized visits disputed before
9 Commissioner Roche. Commissioner Roche during her
10 Finding agreed with Amazon. And I come to present to
11 the Court then as of January 20, 2015 Amazon issued
12 subpoenas for all those visits of unauthorized medical
13 care that I was not allowed to get mileage on to that
14 part of the record. So my -- my argument is the
15 workers' compensation already agrees with Amazon then
16 why would Amazon as of January 20th, 2015 issue
17 subpoenas for all those unauthorized medical visits?
18 Such -- such as to the very ones that I'm not being
19 allowed to submit here today such as The Family Health
20 Center.

21 THE COURT: But sir, you're not being allowed to
22 submit those here today --

23 MR. JENKINS: Right. Right.

24 THE COURT: -- because you didn't properly submit
25 them.

1 MR. JENKINS: Right, right, right, right, but the
2 point -- the whole thing about that though, but Amazon
3 be able to subpoena the records. Amazon, even though
4 they were not part of Amazon legal Brief, Amazon have
5 a public document where they issue subpoenas for all
6 those medical records including Richland Medical
7 Center, Dr. Muhammed, Norfield Medical Center, Dr.
8 Eden, but yet, Dr. Tomarchio, Dr. Gonzalez, but yet,
9 you know, I'm not able to present all their records
10 when Amazon is the one that issued subpoenas for the
11 records though.

12 THE COURT: And you could have if you had
13 properly listed stuff.

14 MR. JENKINS: Right. Right, but you -- I
15 understand, sir, but even though -- even though I may
16 have not properly listed them, they saw those things
17 --

18 THE COURT: And here -- be also aware of this, if
19 there were subpoenas that were issued the Commission
20 is aware of that. That's all a part of the record.
21 We have all of that information.

22 MR. JENKINS: Right. So then does the Commission
23 have to ask where are the records then? Why didn't
24 Amazon submit the records? You know why Amazon didn't
25 submit the records; because the records dispute their

1 claim that a injury is not as serious as -- as it has
2 been and that's why they have not submitted the
3 records. But the subpoenas -- they got the records.
4 And so by Amazon saying that --

5 MR. GOUDELOCK: Your Honor, this has been ruled
6 on and --

7 MR. JENKINS: Right. Right. But let me -- let
8 me finish though.

9 MR. GOUDELOCK: -- and determined over and over
10 again.

11 MR. JENKINS: Right. But let me finish though.

12 MR. GOUDELOCK: I'm happy for him to go on and on
13 with the --

14 MR. JENKINS: No, I'm not happy either, I'm a
15 little under the weather; I'm sick. But I want to
16 make my argument. By Amazon saying they're not aware
17 of these documents --

18 MR. GOUDELOCK: Nobody said we weren't aware.

19 MR. JENKINS: These subpoenas verify -- they
20 verify that Amazon got those records, therefore, I
21 should be allowed -- the reason I didn't follow the
22 proper procedure, I wanted to follow what I was told
23 by the Workers' Comp Commission staff. Amazon had
24 prior knowledge because there's no way possible that
25 if you issue subpoenas those medical providers are not

1 going to provide you all the records that they have on
2 that client, that patient if you subpoena those
3 records. So Amazon had prior knowledge, so I'd like
4 to submit these records to the Court. Even though you
5 have them but I still would like to submit them
6 because I'm afraid this is going to have to go to the
7 Court of Appeals, so I want all these things in there.

8 THE COURT: You've already -- let me explain
9 something to you.

10 MR. JENKINS: Yes, sir.

11 THE COURT: You understand that the next appeal
12 is to come --

13 MR. JENKINS: Right. I understand --

14 THE COURT: -- before the Commission?

15 MR. JENKINS: Yes, sir, I do understand. I was
16 told that, I'm sorry.

17 THE COURT: Mr. Godelock?

18 MR. JENKINS: I've got a headache. It's all
19 right though. Thank you though.

20 THE COURT: Thank you.

21 MR. JENKINS: While you doing that Commissioner
22 Carroll, I know you have Dr. Stickler's deposition so
23 you're going to read this, do I need to hand this for
24 the Court record as well, because I know you already
25 have it.

1 THE COURT: That's his deposition?

2 MR. JENKINS: Yes, sir.

3 THE COURT: No, I have his full deposition.

4 MR. JENKINS: Okay. Okay.

5 THE COURT: Mr. Goudelock?

6 MR. GOUDELOCK: Your Honor, for the sake of not
7 cluttering the record, I'm going to object to it. He
8 hasn't listed any of this stuff, there are pages and
9 pages of them. If you let them in that's fine, but --

10 MR. JENKINS: They're your documents.

11 MR. GOUDELOCK: I know. I've already told you we
12 subpoenaed them. We're aware of the records and we've
13 subpoenaed them. I'm not disagreeing with you. I'm
14 just trying --

15 THE COURT: And I'll let them in just because
16 they're part of the record, but Mr. Goudelock has --
17 like I say, I'm giving you a lot of latitude here.

18 MR. JENKINS: Yes, sir, and I appreciate it.

19 THE COURT REPORTER: Am I going to mark these?

20 MR. GOUDELOCK: Mark them as a group.

21 (Claimant's Exhibit Number 5, subpoenas and
22 various documents, marked for identification and
23 entered into the record.)

24 MR. JENKINS: That -- that's it for me, Your
25 Honor. Thank you, sir.

1 THE COURT: Thank you. Mr. Goudelock, anything
2 more?

3 MR. GOUDELOCK: Nothing further, Your Honor.

4 THE COURT: All right. That being said, that
5 concludes this proceeding.

6 (The hearing concluded at 6:30 p.m.)
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10
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12
13
14
15

Attachment B

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 1303989

CLARENCE B. JENKINS,

Employee,

Claimant,

vs.

AMAZON.COM.DEDC, LLC,

Employer,

AND

INSURANCE COMPANY OF THE STATE
OF PENNSYLVANIA C/O SEDGWICK
CLAIMS MANAGEMENT SERVICES,
INC.,

Carrier,

Defendants.

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

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION AND
CLARENCE B. JENKINS, *PRO SE* CLAIMANT;

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

APA#	DOCTOR	PRACTICE	DATES	PAGES
1.	David Stickler, M.D.	Neurology Specialists of Charleston	8/28/14	1-3
2.	Mahmoud Abu-Ata, M.D.	The Neurology and Pain Clinic	8/26/13-2/21/14	4-13
3.	Charles S. Jerve, M.D.	Carolina Neurological Clinic	11/19/13	14-15
4.		Palmetto Health Richland	4/15/13-8/9/13	16-26
5.		Palmetto Health Health Works	2/14/13-4/15/13	27-48
6.		AmCare	2/10/13	49-53
	EXHIBITS			

7.	Portions of employment personnel records from Vorhees College	10/16/99-10/14/09	54-101
8.	Portions of SC Dept. of Employment Workforce records, including relevant excerpts from SCDEW Hearing Transcript dated 2/5/2007	12/13/06-12/12/11	102-218
9.	Deposition transcript of David Stickler, M.D.	01/15/15	

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

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

YOU ARE FURTHER NOTIFIED that the following witnesses may be called on behalf of the Defendants: Claimant; Michael Sarnina; Kelley Wells, RN; Alicia Keisler and/or other representative(s) from Employer.



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

Columbia, South Carolina
May 11, 2015

Mohammed Alhatou, M.D.
Mahmoud Abu-Ata, M.D.

The Neurology and Pain Clinic
2850 Pelham Court
Orangeburg, SC 29118
803 531-8500

Name: Jenkins, Clarence

Patient ID: 99564
Date of Birth: 8/14/1968
Gender: Male
Date of Exam: 2/21/2014 10:44 AM

Referring Physician: W/C
Examining Physician: Dr. Abu-Ata

Patient History:

Leg pain and parasthesia

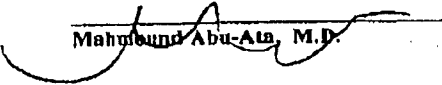
Interpretation:

Sensory nerve conduction studies of both lower extremities showed normal bilateral sural and right superficial peroneal responses.
Motor nerve conduction studies of both lower extremities showed normal bilateral tibial and peroneal responses.
Needle EMG exam of selected muscles of the lower extremities is normal

Conclusions:

This is a normal study. There is no electrophysiological evidence of myopathy, lumbosacral radiculopathy, plexopathy, motor or large sensory fiber neuropathy.

Mohammed Alhatou, M.D.



Mahmound Abu-Ata, M.D.

DATE: 8/26/13
T: BP: 154/84 74
WT: ~~AGE/RACE/SEX~~ 45 M HT: ~~5'7"~~
new patient
ALLERGIES: nick

Clarice Jankins

- Headaches
- Head trauma @ work

fl

10/24/13
P: 120/80 81
AGE/RACE/SEX: 45 BM HT: ~~5'7"~~
Emb
ALLERGIES: NKA

12-26-13 Pt no-showed BMD
1/23/14 Pt was a cancel today BMD

2-20-14 Emb approved for 2-21-14 (H)

2/2/14
BP: 124/84 P: 84
AGE/RACE/SEX: 45 BM HT: ~~5'7"~~
Emb
ALLERGIES: NKA

**Dr. Mohammed Alhatou
Dr. Mahmoud Abu-Ata
2850 Pelham Ct.
Orangeburg, SC 29118
Tel: (803) 531-8500
Fax: (803) 533-5585**

DATE: October 23, 2013
PATIENT: Clarence Jenkins
MR#:

REASON FOR VISIT: Follow up for headaches
Chief Complaint: Headaches and multiple other complains

HISTORY: Mr. Jenkins is a 45 year old gentleman who is right handed who comes today for NCS/EMG and follow up. He said he still has frequent headaches but not as severe. They are down to every other day or once every 3 days now. They would last few hours occurring mostly in evening. He denies any aura but describes phosphenes, black holes and blurry vision during the headache. His headaches are usually left frontal, dull aching, pressure or throbbing associated with photophobia, phonophobia and odor sensitivity. No relation to coughing, sneezing, straining or changing position. No nausea or vomiting. They are aggravated by bright light, noise and physical activities. He said dizziness and light headedness are better. He still complains of neck pain associated with pain radiating to arms and hands with bilateral hand pain and numbness. He also describes pain and numbness in his legs. He said his memory and concentration are better. He denies any recent vertigo, hearing loss, tinnitus, balance difficulties, falling, lower back pain, bowel or bladder incontinence, upper or lower extremity weakness, double vision, eye pain, eye redness, speech or swallowing problems, seizures, syncope, staring spells, change in taste or smell, hallucinations, delusions, depression, anxiety, suicidal or homicidal ideation.

Review of systems:

- Constitutional: No fever, chills, night sweats or fatigue.
- Eye: No visual disturbances, eye pain, eye discharge, eye burning or double vision
- ENT: No ear pain, decreased hearing, nasal congestion, or sore throat.
- Respiratory: No shortness of breath, cough, sputum, hemoptysis, or wheezes
- Cardiovascular: No chest pain, palpitations, edema, syncope, PND or orthopnea.
- Gastrointestinal: No nausea, vomiting, diarrhea, constipation, heartburn, abdominal pain, melena or hematemesis.
- Genitourinary: No dysuria, hematuria, flank or suprapubic pain, hesitancy or urgency
- Hematological/Lymphatic: No bruising tendency, bleeding tendency, or swollen lymph glands.
- Endocrine: No polyuria, polydipsia, cold or heat intolerance, or excessive hunger.
- Immunologic: No recurrent fevers or recurrent infections.
- Neurological: as per History of presenting illness.
- Psychiatric: as per History of presenting illness.

Past medical history:

-Hypertension

Past surgical history: -Upper GI

Family history: Diabetes, Heart problems, Cancer

Social history: No tobacco, alcohol or drug abuse. Back to work

Medications:

- Propranolol 20 mg bid
- Flexeril 10 mg qhs

Allergies: No known drug allergies.

PHYSICAL EXAMINATION:

-Vital signs: BP - 126/85, heart rate -81. Weight 162 lb, Resp rate 15. General: conscious, alert, and oriented to time, place and person. Not in any distress. Head and neck exam: normocephalic, non-

Dr. Mohammed Alhatou
Dr. Mahmoud Abu-Ata
2850 Pelham Ct.
Orangeburg, SC 29118
Tel: (803) 531-8500
Fax: (803) 533-5585

traumatic, supple neck, no cranial, vertebral or carotid bruits. No scalp or cervical tenderness. No meningismus or neck stiffness. Negative Kernig and Brudzinski signs. ENT: wet mucus membranes, no erythema, no sore throat, intact tympanic membranes, grossly intact hearing. EYE: Pupils equally reactive to light. No papilledema on fundoscopy. Chest: Clear lungs to auscultation bilateral. Not in respiratory distress. Heart: S1, S2 and S3. Regular rate and rhythm. No murmurs, gallops or rubs. Palpable peripheral pulses. Abdomen: soft, non-tender, positive bowel sounds. No palpable masses. Genitourinary: No costo-vertebral tenderness. No suprapubic tenderness. Musculoskeletal and extremities: No deformities, no spine tenderness. Negative Tinel and Phalen signs. Negative straight leg raising test. Skin: old burn scar left leg. No skin rash. Lymphatic: No palpable enlarged lymph nodes. Psychiatric: appropriate, normal affect, non suicidal. Neurological: fluent speech, intact comprehension, repetition and naming. Memory: intact. Cranial nerves II - XII intact. Normal fundoscopy. Motor: Normal tone and bulk. Good strength in the upper and lower extremities 5/5. Sensation: Intact pinprick, light touch, vibration and position all 4 limbs. Deep Tendon Reflexes: Symmetrical +2 in upper and lower extremities. Babinski: both toes are down-going. Coordination: Intact finger-to-nose test, heel-shin test and rapid alternating movements. Gait is steady. Romberg is negative.

MRI Brain: Normal

MRI CSpine: Mild to moderate right neural foraminal stenosis and mild left neural foraminal stenosis at C6-7 secondary to an asymmetric disc osteophytic bulge to the right with uncovertebral joint hypertrophy. Focal central protrusion at C4-5 causing mild central canal stenosis. Moderate disc degeneration at C5-6 without stenosis. Asymmetric left sided facet arthropathy at the C7-T1 and the T1-2 levels.

NCS/EMG upper extremities normal

ASSESSMENT:

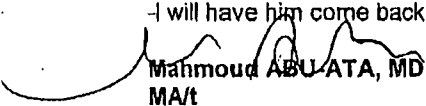
- Headaches, description of post traumatic headache, with possible migraine, rebound analgesic headache, hypertension and tension component.
- Post concussion syndrome
- Neck pain
- Cervical degenerative spine disease with mild to moderate right neural foraminal stenosis and mild left neural foraminal stenosis at C6-7 secondary to an asymmetric disc osteophytic bulge to the right with uncovertebral joint hypertrophy. Focal central protrusion at C4-5 causing mild central canal stenosis. Moderate disc degeneration at C5-6 without stenosis. Asymmetric left sided facet arthropathy at the C7-T1 and the T1-2 levels
- Arm and leg pain and parasthesia
- Radicular symptoms
- Head trauma
- Dizziness, better
- Hypertension

PLAN:

- Patient not interested in doing CSF exam for evaluation of headaches.
- I explained to him the results of MRI brain, MRI C spine and NCS/EMG
- Will do NCS/EMG lower extremities next visit for evaluation of leg pain and parasthesia. He said he could not do tolerate whole test today
- For preventive treatment of headaches continue propranolol 20 mg bid, later may increase dose as tolerated
- Increase flexeril to 10 mg bid for tension component and neck pain
- Start neurontin 300 mg qhs X 1 week then bid X 1 week then tid
- Meclizine 12.5 mg tid prn dizziness

**Dr. Mohammed Alhatou
Dr. Mahmoud Abu-Ata
2850 Pelham Ct.
Orangeburg, SC 29118
Tel: (803) 531-8500
Fax: (803) 533-5585**

- He is to keep a headache calendar and regular measurement of BP.
- Neck and back strengthening exercises, vestibular exercises and refer to physical therapy
- He was counseled about weight reduction.
- Refer to spine surgery for evaluation of cervical spine disease
- Avoid heavy weight lifting, frequent bending, pulling, pushing or kneeling
- I explained to patient in details the side effects of medications.
- Patient was counseled about findings, diagnoses, managements and plan.
- I will have him come back for follow up in about 8 weeks.


Mahmoud ABU-ATA, MD
MA/t

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SOUTH CAROLINA DIAGNOSTIC IMAGING

Palmetto Imaging West Columbia
2997 Sunset Boulevard, W. Columbia, SC 29169
o: (803) 936-0223 f: (803) 936-0229

PATIENT: JENKINS, CLARENCE
DOB: 08/14/1968
MRN: 942500
PHYSICIAN: MOHAMMED ALHATOU, MD
EXAM DATE: 10/03/2013

EXAM: MR-Brain Without Contrast

REASON FOR EXAM: headaches and neck pain

TECHNIQUE: The following sequences were performed on a GE Signa HD Excite 1.5 Tesla magnet: Multiplanar, multisequence imaging was performed through the brain without the use of intravenous contrast. No priors are available for comparison.

FINDINGS: The ventricles and cisterns are normal in size, shape, and configuration. There is no mass effect or midline shift. There is no contusion. Diffusion weighted imaging is normal.

There are no white matter abnormalities. There are no extra-axial fluid collections or masses. Flow voids are present within the circle of Willis and dural sinuses.

The orbits, pituitary gland, and visualized cervical cord are within normal limits. There is no pineal region cyst.

There is no nasopharyngeal soft tissue mass or paranasal sinus mucosal disease. There is no mastoid effusion.

IMPRESSION: Normal MRI of the brain without gadolinium.

Paul Aitchison, MD

PA/bm

DD: 10/03/2013 10:09 A

DT: 10/03/2013 11:49 A

Accession#: 08-1709903 VS#: 11557593 CS#: 510740

cc:

Electronically Signed and Reviewed by Paul Aitchison, MD 10/03/2013 01:45 P

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SOUTH CAROLINA DIAGNOSTIC IMAGING

Palmetto Imaging West Columbia
2997 Sunset Boulevard, W. Columbia, SC 29169
p: (803) 936-0223 f: (803) 936-0229

PATIENT: JENKINS, CLARENCE
DOB: 08/14/1968
MRN: 942500
PHYSICIAN: MOHAMMED ALHATOU, MD
EXAM DATE: 10/03/2013

EXAM: MR-Cervical Spine Without Contrast

REASON FOR EXAM: headaches and neck pain

TECHNIQUE: The following sequences were performed on a GE Signa HD Excite 1.5 Tesla magnet: Sagittal and axial fast spin echo T2, sagittal fast spin echo T1 and STIR, and axial T2* imaging was performed through the cervical spine without the use of intravenous contrast. There are no priors for comparison.

FINDINGS: The prevertebral soft tissue structures are within normal limits. The visualized posterior fossa is without mass. The cervical cord is normal in signal, contour and caliber.

There are mild facet degenerative changes on the left at C2-3 without disc bulge.

There is a small central protrusion at C3-4 with right-sided facet arthropathy but no stenosis.

There is a focal central protrusion at C4-5 just abutting the ventral cord.

There is a diffuse disc-osteophytic bulge at the C6-7 level with asymmetric right-sided uncovertebral joint hypertrophy and mild bilateral facet arthropathy.

The C7-T1 intervertebral disc is normal. There are facet degenerative changes at C7-T1 and T1-2, moderate in severity and predominantly left-sided.

STIR sequences demonstrate no muscle edema or evidence of fracture.

IMPRESSION:

1. Mild to moderate right neural foraminal stenosis and mild left neural foraminal stenosis at C6-7 secondary to an asymmetric disc-osteophytic bulge to the right with uncovertebral joint hypertrophy.
2. Focal central protrusion at C4-5 causing mild central canal stenosis.
3. Moderate disc degeneration at C5-6 without stenosis.
4. Asymmetric left-sided facet arthropathy at the C7-T1 and T1-2 levels.

Paul Aitchison, MD

PA/aep
DD: 10/03/2013 10:20 A
DT: 10/03/2013 12:48 P
Accession#: 08-1709907 VS#: 11557647 CS#: 510899

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Ax T
D4
Ref spine
5/5/13

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PATIENT: JENKINS, CLARENCE
DOB: 08/14/1968
EXAM: MR-Cervical Spine Without Contrast
EXAM DATE: 10/03/2013

CC:

Electronically Signed and Reviewed by Paul Aitchison, MD 10/03/2013 01:51 P

**Dr. Mohammed Alhatou
Dr. Mahmoud Abu-Ata
2850 Pelham Ct.
Orangeburg, SC 29118
Tel: (803) 531-8500
Fax: (803) 533-5585**

DATE: August 26, 2013
PATIENT: Clarence Jenkins
MR#:

REASON FOR VISIT: Evaluation for headaches
Chief Complaint: Headaches and multiple other complains of 6 months duration

HISTORY: Mr. Jenkins is a 45 year old gentleman who is right handed who comes today for evaluation of headaches. He said he only had minimal brief rare headache in the past up until 2/10/2013 when he hit his head at work. He said he works at a warehouse, he dropped an object at floor between two tables and when he tried to pick it up he hit his head on edge of table. He did not lose consciousness or awareness. No scalp laceration or bleeding but felt dizzy and drowsy and started having a headache later on that evening. He also started feeling dizzy and about to faint later that day in addition to generalized weakness. These symptoms continued for several days and he went to ER and had a CT head on 2/14/2014 that per patient was negative. But since then, he is having frequent daily headaches that would last several hours but may continue the whole day. They occur every day. He denies any aura but describes phosphenes, black holes and blurry vision during the headache. His headaches are usually left frontal, dull aching, pressure or throbbing associated with photophobia, phonophobia and odor sensitivity. No relation to coughing, sneezing, straining or changing position. No nausea or vomiting. They are aggravated by bright light, noise and physical activities. He also describes neck pain and intermittent dizziness, light headedness, feeling weak/tired and difficulty with attention and concentration. He takes toradol for his headache and neck pain which helps. He takes it 2 per day. No radiation to arms. Otherwise, he denies any recent vertigo, hearing loss, tinnitus, balance difficulties, falling, lower back pain, upper or lower extremity pain, bowel or bladder incontinence, upper or lower extremity numbness, double vision, eye pain, eye redness, speech or swallowing problems, seizures, syncope, staring spells, change in taste or smell, hallucinations, delusions, depression, anxiety, suicidal or homicidal ideation. He said his BP had been elevated lately.

Review of systems:

- Constitutional: No fever, chills, night sweats or fatigue.
- Eye: No visual disturbances, eye pain, eye discharge, eye burning or double vision
- ENT: No ear pain, decreased hearing, nasal congestion, or sore throat.
- Respiratory: No shortness of breath, cough, sputum, hemoptysis, or wheezes
- Cardiovascular: No chest pain, palpitations, edema, syncope, PND or orthopnea.
- Gastrointestinal: No nausea, vomiting, diarrhea, constipation, heartburn, abdominal pain, melena or hematemesis.
- Genitourinary: No dysuria, hematuria, flank or suprapubic pain, hesitancy or urgency
- Hematological/Lymphatic: No bruising tendency, bleeding tendency, or swollen lymph glands.
- Endocrine: No polyuria, polydipsia, cold or heat intolerance, or excessive hunger.
- Immunologic: No recurrent fevers or recurrent infections.
- Neurological: as per History of presenting illness.
- Psychiatric: as per History of presenting illness.

Past medical history:

-Hypertension

Past surgical history: -Upper GI

Family history: Diabetes, Heart problems, Cancer

Social history: No tobacco, alcohol or drug abuse. Back to work

Medications:

-Toradol 10mg 1 tab q6hrs

**Dr. Mohammed Alhatou
Dr. Mahmoud Abu-Ata
2850 Pelham Ct.
Orangeburg, SC 29118
Tel: (803) 531-8500
Fax: (803) 533-5585**

Allergies: No known drug allergies.

PHYSICAL EXAMINATION:

-Vital signs: BP — 156/84, heart rate — 76. Weight 165 lb, Resp rate 15. General: conscious, alert, and oriented to time, place and person. Not in any distress. Head and neck exam: normocephalic, non-traumatic, supple neck, no cranial, vertebral or carotid bruits. No scalp or cervical tenderness. No meningismus or neck stiffness. Negative Kernig and Brudzinski signs. ENT: wet mucus membranes, no erythema, no sore throat, intact tympanic membranes, grossly intact hearing. EYE: Pupils equally reactive to light. No papilledema on fundoscopy. Chest: Clear lungs to auscultation bilateral. Not in respiratory distress. Heart: S1, S2 and S3. Regular rate and rhythm. No murmurs, gallops or rubs. Palpable peripheral pulses. Abdomen: soft, non-tender, positive bowel sounds. No palpable masses. Genitourinary: No costo-vertebral tenderness. No suprapubic tenderness. Musculoskeletal and extremities: No deformities, no spine tenderness. Negative Tinel and Phalen signs. Negative straight leg raising test. Skin: old burn scar left leg. No skin rash. Lymphatic: No palpable enlarged lymph nodes. Psychiatric: appropriate, normal affect, non suicidal. Neurological: fluent speech, intact comprehension, repetition and naming. Memory: Intact. Cranial nerves II — XII intact. Normal fundoscopy. Motor: Normal tone and bulk. Good strength in the upper and lower extremities 5/5. Sensation: Intact pinprick, light touch, vibration and position all 4 limbs. Deep Tendon Reflexes: Symmetrical +2 in upper and lower extremities. Babinski: both toes are down-going. Coordination: intact finger-to-nose test, heel-shin test and rapid alternating movements. Gait is steady. Romberg is negative.

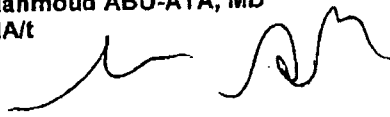
ASSESSMENT:

- Headaches, description of post traumatic headache, with possible migraine, rebound analgesic headache, hypertension and tension component.
- Post concussion syndrome
- Neck pain
- Head trauma
- Dizziness
- Hypertension

PLAN:

- Patient not interested in doing CSF exam for evaluation of headaches.
- Will do MRI brain for evaluation of headaches
- MRI C spine and NCS/EMG for evaluation of neck pain
- For preventive treatment of headaches will try on propranolol 20mg qam X 1 week then 20 mg bid, later may increase dose as tolerated
- Add flexeril 10 mg qhs for tension component and neck pain
- Meclizine 12.5 mg tid prn dizziness
- Later may consider neurontin
- He is to keep a headache calendar and regular measurement of BP.
- Stop toradol
- Neck strengthening exercises, vestibular exercises and refer to physical therapy
- He was counseled about weight reduction.
- Avoid heavy weight lifting, frequent bending, pulling, pushing or kneeling
- I explained to patient in details the side effects of medications.
- Patient was counseled about findings, diagnoses, managements and plan.
- I will have him come back for follow up in about 6 weeks.

**Mahmoud ABU-ATA, MD
MA/t**



Attachment C

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE #1303989

CLARENCE B. JENKINS	)	
	)	
CLAIMANT,	)	
	)	SC WORKERS' COMPENSATION COMMISSION
VS.	)	
	)	FULL BOARD HEARING OF
AMAZON.COM	)	
	)	CLARENCE B. JENKINS
EMPLOYER,	)	
AND	)	VS
	)	
AMERICAN ZURICH	)	AMAZON.COM
	)	
CARRIER.	)	

This is the Transcript of the South Carolina Workers' Compensation Full Board Hearing of Clarence B. Jenkins versus Amazon.com, taken before Gloria Davis, a Court Reporter and Notary Public in and for the State of South Carolina, commencing at the hour of 1:32 P.M., Monday, December 14, 2015, at South Carolina Workers' Compensation Commission, 1333 Main Street Columbia, South Carolina.

COPY

REPORTED

BY

GLORIA DAVIS

PALMETTO COURT REPORTING
 321 Mac Circle Lexington, SC 29073
 (803) 358-0515
www.PalmettoCourtReporting.com

APPEARANCES

FOR THE APPELLANT:
Pro Se

FOR THE RESPONDENT:
J. Russell Goudelock, II, Esquire
MGC Insurance Defense
1320 Main Street, 10th Floor
P.O. Box 12519
Columbia, SC 29211

COMMISSIONER PRESENT:

Avery Wilkerson, Chair
T. Scott Beck
Aisha Taylor

*Reporter's Note: -- Indicates incomplete thought or sentence, trailing off or interruption by speakers.

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I N D E X

	Page
Argument for the Appellant by Mr. Jenkins	12:20
Argument for the Respondent by Mr. Godelock	21:3
Reply for the Appellant by Mr. Jenkins	23:9
Certificate	29

1 STIPULATIONS

2 Commissioner Wilkerson: We've got a motion as
3 well as the hearing here today. Mr. Jenkins, let me
4 ask you a couple of things before we start. You do
5 have the right to have an attorney; so, if you want to
6 have an attorney represent you here today you need to
7 let us know that before we start. So, do you want to
8 have an attorney represent you on what's going to come
9 before us here today?

10 Mr. Jenkins: Your Honor, not at this time. I did
11 try and find one but they're saying because it's in the
12 appeals process, most of them don't like to -- to deal
13 with that at this time, sir. So, no thank you, sir.

14 Commissioner Wilkerson: So, we're going to move
15 forward without one?

16 Mr. Jenkins: Yes, sir.

17 Commissioner Wilkerson: Now, we do have a motion

18 --

19 Commissioner Beck: Two (2) of them, aren't there?

20 Commissioner Wilkerson: -- two (2)? Two (2)

21 motions --

22 Commissioner Beck: Two (2) motions, right?

23 Commissioner Wilkerson: -- yes. I'm sorry; yes,
24 there are two (2) motions and I'm going to put those on
25 the record as well, okay?

1 Mr. Jenkins: Okay.

2 Commissioner Wilkerson: So, what I'll do is, I'm
3 going to ask the Court Reporter to call the case for us
4 and then we'll deal with the motions first and we may
5 ask you to step outside before we take the case on --

6 Commissioner Taylor: Depending on the motion.

7 Commissioner Wilkerson: -- it depends on what we
8 want to do with the motions, okay? So, what I'm going
9 to do is give you a couple of minutes for the motion;
10 is that enough or do you all need more than two (2)
11 minutes for the motion part of it?

12 Mr. Jenkins: That should be -- that should be
13 fine.

14 Mr. Goudelock: That's fine. I think,
15 essentially, they are the same; they come from both
16 sides but deal with the same subject matter.

17 Commissioner Beck: Right.

18 Commissioner Wilkerson: They are, okay. So,
19 Madame Court Reporter, if you will call the case.

20 Court Reporter: Today is December 14th, 2015.
21 This is South Carolina Workers' Compensation case
22 number 1303989. This is the case of Clarence B.
23 Jenkins, the Claimant, versus Amazon.com, the Employer
24 and American Zurich is the Carrier. The Appellant is
25 the Pro Se Claimant. The Respondent is represented by

1 J. Russell Goudelock. Each side is allowed ten (10)
2 minutes for oral argument and the Appellant three (3)
3 minutes in reply. You are requested to argue the
4 grounds of exception and stay within the record. The
5 Single Hearing Commissioner was Commissioner Campbell.

6 Commissioner Wilkerson: So, Mr. Goudelock, two
7 (2) minutes to tell us about the motion, even though we
8 have everything.

9 Mr. Goudelock: Thank you. I think --

10 Commissioner Wilkerson: Thank you.

11 Mr. Goudelock: -- Your Honor, I think that the
12 motions are just generally from both sides to deal
13 with. When Mr. -- at the hearing in this case Mr.
14 Jenkins had about four (4) folders worth of documents
15 that he showed up with. He had filed no notice of --
16 of submissions pursuant to Regulation 67-612. He was
17 offered the opportunity to have an attorney; he
18 declined the opportunity to have an attorney. He
19 hearing went forward and the four (4) folders of the
20 stuff he showed up with was excluded. The case, of
21 course, was heard by Commissioner Campbell and an order
22 issued and then Mr. Jenkins appealed it. With his
23 appeal he included -- it depends on how you count them
24 but somewhere between thirty (30) to thirty-eight (38)
25 exhibits of -- in various forms and so we moved to

1 exclude those exhibits as -- as not appropriate
2 evidence; it is not proper after discovery evidence and
3 -- and violates our -- of our due process rights; I
4 think in turn, he moved to admit them. So, that's --

5 Commissioner Wilkerson: Okay.

6 Mr. Goudelock: -- that's the two (2) motions.

7 Commissioner Wilkerson: Okay. Thank you.

8 Mr. Jenkins: Okay.

9 Commissioner Wilkerson: Please, sir.

10 Mr. Jenkins: Yes, sir. The two (2) motions on
11 the floor is one to include the -- the documents, the
12 medical documentation that I tried to have entered on
13 May 21st. By Commissioner Campbell making a -- an
14 egregious error concerning the law, the Workers' Comp
15 law, which R. 67-611 states that a Pro Se Claimant does
16 not have to file a pro -- a pre-legal brief. He was
17 told that on that day. He left the bench for about
18 twenty (20) to thirty (30) minutes saying he'd be -- he
19 had to go research the law. He came back after about
20 thirty (30) minutes saying based on Mr. Goudelock's
21 objection that I was not allowed to enter my supportive
22 medical documentation; so, that's the first error of
23 the law. He violated his own Workers' Comp law. Now,
24 I don't see how this Commission can go forward and
25 accept his finding knowing the fact that an error such

1 as that has such a great harm to a -- to a outcome of a
2 case. The second motion on the floor is one where it
3 allows -- 42nd -- 42-17-50 does allow the South
4 Carolina Workers' Comp Commission to compensate the
5 Full Commission to receive further evidence; therefore
6 the admittance of pertinent medical records as
7 supportive documents that was denied on May 21st, 2015.
8 So, here again, another Workers' Comp law does allow
9 the Full Commission to receive and -- and review
10 additional documentation that was not allowed on May
11 21st. So, those are the two (2) motions: To have the
12 documents that was brought with me on May 21st to be
13 admitted and also, the additional documentation,
14 medical documentation, that also will verify my current
15 medical condition at this time. Thank you very much.
16 Commissioner Wilkerson: Thank you. I appreciate
17 it. Any questions?
18 Mr. Goudelock: Commissioner, just a brief
19 response.
20 Commissioner Wilkerson: Sure.
21 Mr. Goudelock: The -- 67-611 deals with a
22 pre-hearing brief and Mr. Jenkins is correct that that
23 is not required to be submitted by an unrepresented
24 Claimant. 67-612 deals with documentary evidence
25 submissions; that does not afford the same right to --

1 to not provide those. So, we stand by our -- our
2 motion to exclude that evidence.

3 Commissioner Wilkerson: Okay. Thank you all
4 both.

5 Mr. Jenkins: And just one -- one response. On
6 that day, Mr. Goudelock, I did bring at least four (4)
7 folders of medical documentation, also supportive
8 medical documentation. Mr. Goudelock objected to those
9 documentations being presented and by him being a -- a
10 -- a insurance attorney and by him being dealing with
11 Workers' Comp for a long time, he should have known
12 that it was lawful for me to enter those documents on
13 that day. And by Mr. Campbell, being the Commissioner,
14 he should have been informed of the law and that's the
15 egregious -- that's -- that's an egregious error; it is
16 not harm -- it is not harmless, it is harmful. Mr.
17 Goudelock has admitted in his motion that a error was
18 made by Commissioner Campbell and he -- they also have
19 acknowledge that I did have the right to enter those
20 documents on May 21st and I was denied.

21 Commissioner Wilkerson: Okay. Well, thank you,
22 sir --

23 Mr. Jenkins: Yes, sir.

24 Commissioner Wilkerson: -- we appreciate that.
25 I'm going to ask you all, if you all would step outside

1 on the motion and then we'll have you come back in for
2 the hearing. This concludes the motion part of the
3 hearing here today. Thank you.

4 (Off The Record)

5 Commissioner Wilkerson: All right. We're --
6 we're back on the record and we've discussed the
7 motions and the motion to exclude that was from the
8 Defense has been granted. The motion to include the
9 Appellant's exhibits and to include the Appellant's
10 additional medical reports is denied, okay? Now, we
11 wanted to bring everybody back in to do that before the
12 initial appeal of the case takes place, okay? Because
13 before that takes place you still have the right to
14 have an attorney represent you on the appellant part of
15 your case; that's totally left up to you, sir, you get
16 that choice, okay? So, do you want to have an attorney
17 represent you on your case that will now become -- come
18 before the Full Commissioner here?

19 Mr. Jenkins: Not able to -- to -- not able to do
20 so at this time.

21 Commissioner Wilkerson: Okay.

22 Mr. Jenkins: But I would like to get a complete
23 answer on why the Commission has decided to do nothing
24 -- to deny those additional records when they was --
25 they was actually brought on May 21st.

1 Commissioner Wilkerson: I understand that but
2 we've already ruled on that; so, that's out, okay? So,
3 now you --

4 Mr. Jenkins: Wait but -- but is it based on the
5 law or why is that or why? 67 --

6 Commissioner Beck: Of course it's based on the
7 law.

8 Mr. Jenkins: -- R. 67-611 says I have a -- I
9 don't have to file a pre-legal brief.

10 Commissioner Wilkerson: All of our decisions are
11 based on the law.

12 Mr. Jenkins: Not if you -- not --

13 Commissioner Wilkerson: We're not --

14 Commissioner Taylor: But due --

15 Commissioner Wilkerson: -- we're not here to
16 argue that point. Do you want to proceed forward this
17 afternoon --

18 Mr. Jenkins: -- I want to proceed forward.

19 Commissioner Wilkerson: -- with the hearing --

20 Mr. Jenkins: And I want --

21 Commissioner Wilkerson: -- on your case?

22 Mr. Jenkins: -- yes, sir; I do.

23 Commissioner Wilkerson: Okay.

24 Mr. Jenkins: But I'm objecting to the -- the
25 Commission's finding at this time.

1 Commissioner Wilkerson: I understand. That's
2 fine. Okay. So, at this point in time you have ten
3 (10) minutes --

4 Mr. Jenkins: Yes, sir.

5 Commissioner Wilkerson: -- to make your argument
6 about your case, okay?

7 Mr. Jenkins: Okay. All right.

8 Commissioner Wilkerson: Mr. Goudelock has the
9 same amount of time. You don't have to take all the
10 time but you're welcome to take all the time you need.

11 Mr. Jenkins: Right.

12 Commissioner Wilkerson: Then you have three (3)
13 minutes in reply, okay?

14 Mr. Jenkins: Okay.

15 Commissioner Wilkerson: So, if you would, address
16 the Full Commission as to your appeal here this
17 afternoon.

18 Mr. Jenkins: Okay.

19 ARGUMENT FOR THE APPELLANT

20 By Mr. Jenkins:

21 To the Commission, I just want to start off by
22 saying, everything that's in the report concerning the
23 Defendant's report is a distortion; it's a complete
24 lie. And if you look at the documentation that was
25 submitted to the Workers' Commission -- if you start

1 and go line-by-line -- first I'm going to start with
2 67-611 that said I had a right not to file a pre-legal
3 brief; so, my documents should have been submitted and
4 it wasn't and so, this Full Commission is also in
5 violation of that as well. Section 1, Number 2, Amazon
6 and Sedgwick state that no -- just -- just really
7 compensation was ever paid. If you look at these
8 financial records from Liberty Mutual, I was receiving
9 the short term disability and long term disability for
10 several months; so, that's -- so, that's a lie.

11 Mr. Goudelock: Your Honors, those are
12 part of the records that are excluded.

13 Commissioner Wilkerson: You can not go
14 outside of the record and if it's outside of the
15 record those don't come in today. If it's outside
16 -- you've got to stay within the record --

17 Mr. Jenkins: Yes, they was --

18 Commissioner Wilkerson: -- that took
19 place at the hearing. You can't now go try to get
20 those documents in. So, you've got to stay within
21 the record that was presented at the original
22 hearing.

23 Mr. Jenkins: -- at the original
24 hearing? I wasn't given -- I wasn't given a chance to
25 present any documents because of the egregious rule of

1 67-11 -- 611 by Commissioner Michael Campbell. I was
2 not given a chance to enter any documentation. So,
3 you're asking me to do something that was -- that was
4 in error concerning the law. But what I will tell you
5 though, here's another lie, Amazon and Sedgwick stated
6 that I only had two (2) medical visits with Dr.
7 Mohammed but my medical documentation that was denied
8 by Commissioner Campbell, and also by this Full
9 Commission, I had at least a total of five (5) visits
10 with the assigned Workers' Comp doctor, going back, the
11 last appointment was October 23rd, 2014. Mr. Goudelock
12 and Amazon has stated that my last appointment was in
13 October of 2013. Also, another lie was, they assigned
14 a nurse, Kelly Wells. There's a document that I have
15 in here that she sent to me reminding me of my June --

16 Mr. Goudelock: Same objection, Your
17 Honors.

18 Commissioner Wilkerson: If you're
19 outside of the record you can not be
20 presented and that will be stricken from the
21 record.

22 Mr. Jenkins: -- well, let's see what
23 else. And, again, I -- I mean, I don't know what you
24 -- you're asking but I will tell you this though,
25 Amazon and Sedgwick was aware of all my medical

1 appointments from all health care providers because --
2 now, this was submitted on May 21st -- because Amazon
3 had subpoenaed all health care providers and -- and the
4 Workers' Comp Commission was provided those subpoenas.
5 So, they -- it's not like they didn't know who I saw or
6 where I went, how often I went because they have
7 submitted subpoenas to the Workers' Comp Commission,
8 which you -- which you all should have been aware
9 because those same subpoenas was also provided to me.
10 So, therefore, Amazon and Sedgwick can not say they was
11 not aware of all of my medical appointments, whether it
12 was one (1) or whether it was five (5) or whether it
13 was ten (10) and neither can the Workers' Comp
14 Commission deny that they was not aware of my medical
15 appointments because you also was provided a copy of
16 those subpoenas. It was stated during the Commission
17 here on May 21st that my Workers' Comp doctor did not
18 take me out of work. It was Amazon HR that stated that
19 we will not allow you to -- because of your work
20 restriction -- to enter the plant and that was in
21 February of 2014; that was Amazon HR. There is no
22 medical documentation from any of my health care
23 providers that state that you can not work. They
24 placed me on work restrictions. It was Amazon HR,
25 Michelle Doyle, who sent me an email. That was -- it

1 was -- the email was not provided to the Commission but
2 he was told that during the hearing; so, that's just as
3 well, the Commission was made aware. That we will not
4 allow you to enter the work site because of your work
5 restrictions and that took place February of 2014, and
6 I was terminated as of April of 2015. So, that's
7 pretty much an entire year without any type of
8 compensation from the Workers' Comp Commission or
9 Amazon and -- and Sedgwick. What else was -- was
10 stated? In the deposition where they completed with
11 Dr. Stickler out of Charleston, he -- he stated -- he
12 stated that there was some type of hypersensitivity in
13 my left foot and he also talked about there could be a
14 possibility of a neuroscope, which Amazon was -- with
15 the hearing, Commissioner Campbell, he did accept that
16 on May 21st. Let's see can I find it. I can't find it
17 at this time but I'll come back to it.

18 Commissioner Wilkerson: If that was
19 accepted as part of the record --

20 Mr. Jenkins: Right, it was accepted.

21 Commissioner Wilkerson: -- we already
22 have that.

23 Mr. Jenkins: Right.

24 Commissioner Wilkerson: Yes, sir; we
25 already have that. Yes, sir.

1 Mr. Jenkins: Right. And so, I don't
2 see how Commissioner Campbell could accept some
3 documents but yet refuse to accept permanent --
4 pertinent medical documentation. Neuroscope was just
5 something I pulled off the Internet; that's from my own
6 research. So, he refused to accept pertinent medical
7 documentation from the assigned Workers' Comp doctor?
8 That's an egregious error on the Workers' Comp
9 Commission. Also, I want to point to Mr. Goudelock's
10 legal brief and this is where it was biased at the
11 hearing on -- on May 21st; it's -- it's been biased
12 here -- here today. On May 21st -- this is Mr.
13 Goudelock's brief -- there is no exhibits in here that
14 talks about -- like in his pre-legal brief that talks
15 about my Twitter activity nor my Facebook activity nor
16 gave reference to -- oh, and a situation that I had
17 with the local town Police Chief James -- oh, I can't
18 think of his name -- James Preacher. But yet
19 Commissioner Campbell allowed Mr. Goudelock to enter
20 those on -- on May 21st. So, how -- how could there be
21 a different standard? He gave -- he gave Mr. Goudelock
22 free range. This is his legal brief; do you want -- do
23 you want to go through it?

24 Commissioner Wilkerson: We've already
25 gotten that from the last hearing.

1 Mr. Jenkins: Right. So, you -- so,
2 therefore you're able to verify -- let's go through it
3 now while we're here.

4 Commissioner Wilkerson: You've got two
5 (2) minutes, so.

6 Mr. Jenkins: Okay. Well, you can --
7 well, you can verify that there was no -- there was no
8 listing of my Facebook activity, my Twitter activity
9 nor the situation with James Preacher listed as part of
10 his legal brief but he was given the free way by
11 Commissioner Campbell to enter that in -- on the May
12 21st but I was denied the opportunity to enter
13 pertinent medical records; so, there's a different
14 standard. So, the -- Commissioner Campbell was biased
15 then and I'm going to put it on the record, this
16 Commission today is biased today because you, again,
17 have refused -- you, again, have refused to honor
18 67-611, which you should be a expert on. It does not
19 -- it does not say I had to file a legal brief. So, if
20 I brought ten (10) -- if I brought ten (10) folders of
21 documents with me on May 21st, if I felt they was
22 worthy of me defending my case, I should have had a
23 right to allow those documents to enter into the Court
24 record; I should have been allowed to.

25 Commissioner Taylor: Mr. Jenkins, and

1 part of this goes to the -- to the motion and
2 I -- I'm sure I'm going to kick myself but I
3 -- I don't want you to leave here
4 misunderstanding the Statute. You keep
5 referring to Regulation 67-611.

6 Mr. Jenkins: Right.

7 Commissioner Taylor: Your records were
8 excluded under 67-612. You did not have to
9 file a pre-hearing brief; you are absolutely,
10 one hundred percent (100%) correct.

11 Mr. Jenkins: Right..

12 Commissioner Taylor: But the documents,
13 the doctors evidence, is called expert
14 reports; those fall under 67-612. You do
15 have to provide those to the other side
16 fifteen (15) days in advance of the hearing.

17 Mr. Jenkins: Well -- well, not to --
18 not to cut you off in disrespect.

19 Commissioner Taylor: Sure.

20 Mr. Jenkins: But let's clarify this.
21 If they had issued subpoenas to all my health care
22 medical providers, and I'm aware that the subpoenas was
23 issued, they already had those documents; whether I had
24 delivered to them or not, they already had them. And
25 then, I'm going to go a little bit further. By Mr.

1 Goudelock submitting partial medical records from Dr.
2 Mohammed, we should have all -- we should have had all
3 of them. Then, therefore, I don't see how you can use
4 67-612. If he had partial documents, what's the
5 difference with him -- me having all and he having
6 partial? I don't -- I don't understand that myself.
7 I'm -- I'm a simple person; I'm very simplicité [sic].

8 Commissioner Wilkerson: Go ahead and
9 finish your thought --

10 Mr. Jenkins: So, my --

11 Commissioner Wilkerson: -- and then
12 you'll have three (3) minutes in reply.

13 Mr. Jenkins: -- so -- so, my -- my
14 thought is this, I don't think I'm getting a fair -- a
15 fair hearing. I didn't get one on May the 21st and I'm
16 not getting it today. But I did come here with the
17 hopes of doing so but, you know, I take nothing -- I --
18 I never -- I never assume anything from anybody, you
19 know, because see, sometimes people can know the law,
20 they can't -- and interpret the law for what it is and
21 they will still turn a blind eye to the law.

22 Commissioner Wilkerson: Okay. Well,
23 thank you and you'll have three (3) minutes
24 in reply. Mr. Goudelock, you have up to ten
25 (10) minutes.

Attachment D

**APPELLATE PANEL DECISION AND ORDER
OF THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION**

W.C.C. FILE NO: 1303989

Clarence B. Jenkins

vs.

**EMPLOYEE,
CLAIMANT/RESPONDENT**

Amazon.Com DEDC, LLC

EMPLOYER

AND

American Zurich Ins. Co.

**CARRIER,
DEFENDANTS/APPELLANTS.**

Appellate Panel Review held in Columbia, South
Carolina, on December 14, 2015 pursuant to notices timely
and properly served upon all parties of interest.

Appellate Panel Decision and Order Filed: _____

February 26, 2016

APPEARANCES: Claimant/Appellant appeared *pro se*.

Defendants/Respondents represented by J. Russell Goudelock, II Esquire
of McAngus Goudelock & Courie, LLC of Columbia, South Carolina.

STATEMENT OF THE CASE

This claim arises out of an admitted incident at work occurring on February 10, 2013 when Claimant/Appellant ("Claimant") leaned over and struck his head on a table. Defendants/Respondents ("Defendants") furnished Claimant with medical evaluation and treatment. No disability compensation benefits were paid.

Claimant filed multiple Forms 50. Claimant contends that he has sustained various compensable injuries and conditions as a result of his incident at work. He seeks additional medical examination and treatment, temporary total disability compensation benefits and permanent disability benefits.

Defendants timely filed responsive Forms 51. Defendants admit that the Claimant experienced an incident at work, but submit that the incident resulted in only mild trauma to the Claimant's head and caused no disabling injury entitling Claimant to any compensation benefits or additional medical benefits. Defendants assert that that Claimant has reached maximum medical improvement from any affects from his mild head trauma.

The issues presented were heard by the Hearing Commissioner on May 21, 2015 in Columbia, South Carolina. In a Decision and Order dated August 14, 2015, the Hearing Commissioner concluded that Claimant failed to meet his burden of proof by a preponderance of the evidence that he sustained any disabling injury or that he is entitled to any compensation benefits or further medical benefits. Claimant's claim for further medical benefits and disability compensation benefits was denied.

Within the statutory period, Claimant timely filed a Form 30 Request for Commission Review, dated August 25, 2015. Claimant asserted 38 grounds for review of purported errors in the Hearing Commissioner's Decision and Order. Claimant also attached to his Form 30

numerous exhibits, including some exhibits that were not part of the record before the Hearing Commissioner. Subsequently, multiple motions and replies seeking to exclude and include Claimant's post-record exhibits were filed by the parties on September 24, 2015, September 28, 2015, October 9, 2015, and October 15, 2015. Additional exhibits were attached to Claimant's motions that were also not part of the record before the Hearing Commissioner. Claimant and Defendants filed appellate briefs on October 19, 2015 and November 11, 2015, respectively. The Appellate Panel heard oral arguments by the parties at a review hearing held in Columbia, South Carolina on December 14, 2015.

EVIDENTIARY MOTIONS BEFORE THE APPELLATE PANEL

Prior to receiving oral arguments by the parties addressing Claimant's substantive grounds for review, the Appellate Panel heard oral arguments addressing the parties' motions and replies regarding Claimant's exhibits attached to his Form 30 and subsequent motions. Claimant contends that the Hearing Commissioner improperly applied *S.C. Code Reg. 67-611* regarding Claimant's failure to submit a Pre-hearing Brief. Defendants assert that *S.C. Code Reg. 67-612* governs admission of documentary evidentiary exhibits offered by Claimant and submit that Claimant failed to properly comply. Defendants contend that Claimant's attempts to admit evidentiary exhibits after the close of the record before the Hearing Commissioner violates applicable law and such exhibits should be excluded as inadmissible evidence. We agree.

At the commencement of the hearing below, the Transcript of Record set forth extensive discussions that took place between the Hearing Commissioner and the parties regarding Claimant's attempts to submit bundles of unidentified evidentiary exhibits. In response to Defendants' objections, Claimant was advised by the Hearing Commissioner that the hearing would be postponed if Claimant wished to exercise his right to have and/or obtain legal counsel

to represent him. The Claimant had been previously represented by legal counsel, but this relationship was terminated. The Claimant testified that he had been advised by Defendants' legal counsel to obtain legal representation. The Claimant declined to retain legal counsel and elected to proceed with the hearing *pro se*.

Since Claimant proceeded *pro se*, the Hearing Commissioner improperly applied S.C. Code Reg. 67-611 regarding Claimant's failure to submit a Pre-hearing Brief. However, such error is harmless. S.C. Code Reg. 67-611 does not govern admission of experts' reports. Claimant failed to comply with S.C. Code Reg. 67-612 regarding admission of experts' reports as evidence at the hearing. Nonetheless, S.C. Code Ann. Section 42-17-50 and S.C. Code Reg. 67-707 permit the Appellate Panel broad discretion to receive further evidence and/or rehear the parties if good grounds exist or new evidence arises that is of the same nature and character required for granting a new trial. See Spearman v. F.S. Royster Guano Co., 188 S.C. 393, 199 S.E. 530 (1938).

In the discretion and judgment of the Appellate Panel, good grounds do not exist to permit into the record admission of Claimant's proposed exhibits that reflect evidence already in existence at the time of the hearing below. It was incumbent upon Claimant to comply with S.C. Code Reg. 67-612 and other applicable law regarding such evidence. He failed to do so. Claimant was afforded an opportunity, and in fact urged to take advantage of it, at the beginning of the hearing to cure the circumstances and he elected to proceed. Other exhibits reflecting any purported new evidence do not satisfy the requirements set forth in S.C. Code Reg. 67-707C. Admission of such evidence violates due process and other rights set forth in the South Carolina Administrative Procedures Act, the South Carolina Workers' Compensation Act, the South Carolina Workers' Compensation Regulations and other applicable law.

Pursuant to *S.C. Code Ann. Section 42-17-50, S.C. Code Regs. 67-611, 67-612, 67-707* and other applicable law, the exhibits offered by Claimant after the close of the record in the hearing below are not properly before the Workers' Compensation Commission as admissible after-discovered or new evidence, or as admissible evidence in any other manner at the hearing below. Consideration of such exhibits at this time by the Appellate Panel is legally inappropriate. Defendants' Motion to Exclude Claimant's Exhibits is **GRANTED**. Claimant's Motions to Include Claimant's Exhibits is **DENIED**.

CLAIMANT'S GROUNDS FOR REVIEW BEFORE THE APPELLATE PANEL

The Appellate Panel also heard oral arguments by the parties addressing Claimant's substantive grounds for review of the Hearing Commissioner's Decision and Order. In the Appellate Review, the Appellate Panel shall, pursuant to *S.C. Code Ann. Section 42-17-50* and other applicable law, review the award, weigh the evidence as presented at the initial hearing, and, if good grounds be shown therefore, make its own findings of fact and reach its own conclusions of law consistent with or inconsistent with those of the Hearing Commissioner. *Pack v. State Dept. of Transportation*, 381 S.C. 526, 673 S.E.2d 461 (S.C. Ct. App. 2009). The scope of review of the Appellate Panel is not limited. The Appellate Panel can, like the Hearing Commissioner, consider all of the evidence and reach its own findings of fact and conclusions of law. *Lowe v. Am-Can Transport Services, Inc.*, 282 S.C. 534, 324 S.E.2d 87 (S.C. Ct. App. 1984). The Appellate Panel is not necessarily bound by the Hearing Commissioner's findings of fact, and is empowered to make its own findings of fact and to reach its own conclusions of law consistent or inconsistent with those of the Hearing Commissioner. *Green v. Raybestos-Manhattan, Inc.*, 250 S.C. 58, 64, 156 S.E.2d 318, 321 (S.C. 1967). Workers' compensation awards may not be based on surmise, conjecture, or speculation, but must be founded on

evidence of sufficient substance to afford a reasonable basis for it. *Tiller v. Nat'l Health Care Ctr. of Sumter*, 334 S.C. 333, 339, 513 S.E.2d 843, 845 (1999); *Sharpe v. Case Produce Co.*, 329 S.C. 534, 543, 495 S.E.2d 790, 794 (Ct.App.1997), rev'd on other grounds.

After careful and complete review and consideration of all documentary evidence and testimony in the record, the file of the Workers' Compensation Commission, the Appellate Briefs and the oral arguments by the parties, the Appellate Panel, by unanimous vote, has determined that all of the Hearing Commissioner's Findings of Fact and Conclusions of Law in his Decision and Order, dated August 14, 2015, are correct as stated. Accordingly, the Findings of Fact and Conclusions of Law set forth below shall become the law of the case. The Decision and Order of the Hearing Commissioner is **AFFIRMED IN FULL**.

FINDINGS OF FACT

Based upon the greater weight and preponderance of the substantial evidence in the whole record, the following Findings of Fact are rendered:

1. The Claimant was employed by Amazon.Com DEDC, LLC ("Amazon") at its facility in West Columbia, SC on February 10, 2013 at the time of his work incident. Amazon had workers' compensation insurance coverage with American Zurich Insurance Company. [Stipulation No. 2 by the parties].
2. The Claimant earned average weekly wages of \$489.09 at the time of his work incident. [Stipulation No. 3 by the parties].
3. Claimant experienced an incident at work on February 10, 2013. He struck his head on the edge of a table while bending over to retrieve an object from the floor. Claimant did not fall down and suffered no loss of consciousness or alteration in awareness. [Transcript of Hearing, pp. 49-51 and multiple APA submissions].

4. Claimant's initial presentation for medical evaluation reflected no visible evidence of any injury, any swelling, any discoloration or broken skin, and no outward evidence of any injury or neurological deficits. [APA No. 6, pp. 50-53].

5. Similarly, Claimant's subsequent presentation for medical evaluation at HealthWorks several days after the work incident demonstrated no objective manifestations of any neurological deficits or other injury. A CT scan of the head was normal. On February 15, 2013, Claimant reported that his symptoms were much improved. He was pronounced able to work full-duty without restriction. No return appointments or further evaluations were recommended. [APA No. 5, pp. 35-49].

6. Subsequent medical evaluations two months later at Palmetto Health Richland Memorial Hospital Emergency Room and at HealthWorks reflected that Claimant's neurological and other clinical examination continued to be normal. The emergency room physician directed Claimant to see his family physician for high blood pressure, but otherwise he was not found to need any other evaluation or management. HealthWorks stated that the Claimant's current symptoms did not appear to be related to his February 2013 work injury and were more likely related to other health issues. The HealthWorks physician recommended that the Claimant see his family physician for follow-up of non-work-related conditions, stating that the cause of Claimant's problems is not known and the objective findings are not consistent with a history of a work-related etiology. Claimant was given work restrictions but it was noted that they were not caused by the work incident. [APA No. 4, pp. 23-26; APA No. 5, pp. 27-34].

7. On August 26, 2013 and October 23, 2013, Mahmoud Abu-Ata, M.D., a neurologist, noted that at the time of the work incident Claimant had no loss of consciousness or awareness and that he suffered no scalp laceration or bleeding. Claimant exhibited a normal

neurological and other clinical examination. Dr. Abu-Ata assessed Claimant's condition as "description of post traumatic headache," with possible migraine, rebound analgesic headache, hypertension and tension component. The Claimant refused to undergo CSF examination for evaluation of headaches. Dr. Abu-Ata recommended an MRI of the brain, an MRI of the cervical spine, and nerve conduction studies with EMG testing. MRI scanning of the brain was normal. Nerve conduction studies and EMG testing was normal. MRI scanning of the neck revealed multi-level mild-moderate degenerative disc disease and Dr. Abu-Ata recommended that Claimant be evaluated by a spine surgeon for evaluation of cervical spine disease. The Claimant failed to show for a follow-up visit with Dr. Abu-Ata on December 23, 2013 and he canceled his appointment with Dr. Abu-Ata on January 23, 2014. [APA No. 2, pp. 4-13].

8. Neurological evaluation by Charles S. Jervey, M.D., a neurologist, on November 19, 2013 noted that the Claimant experienced no loss of consciousness at the time of his work incident, that the CT and MRI scans of the head were normal, and that the MRI scan of the neck did not reveal anything that would be expected to cause symptoms. Dr. Jervey opined that the Claimant had sustained a mild head injury which should not cause Claimant's alleged ongoing symptoms and would not be expected to cause permanent nor long-term recurring symptoms. He did not find any cognitive impairment. Dr. Jervey did not feel that any other symptoms were caused by or related to the Claimant's work incident and did not recommend any work restrictions. [APA No. 3, pp. 14-15].

9. Neurological evaluation by David Stickler, M.D., a neurologist, on August 20, 2014 also noted that the Claimant had not experienced any loss of consciousness, dizziness, memory loss or laceration initially at the time of his work incident and that Claimant's current clinical examination was unremarkable. Dr. Stickler opined that the history of Claimant's work

injury did not support a concussive event and that Claimant's complaints of chronic daily headaches should not be caused by mild head trauma from Claimant's work incident. Dr. Stickler concluded that the Claimant's other symptoms were not related to the work incident. He felt that the Claimant had previously reached maximum medical improvement. [APA No. 1, pp. 1-3].

10. Dr. Stickler testified that the Claimant's history and presentation did not reflect that he had experienced even a mild concussive event; that any current symptoms would not result from Claimant's work incident; that the majority of people who have like degrees of head trauma improve within the first month, or within a matter of weeks; that Claimant had most likely reached maximum medical improvement by the time of his October 23, 2013 evaluation by Dr. Abu-Ata, which was more than eight months following the work incident; that there was no permanent impairment to the Claimant's brain; that any physical restrictions were based solely upon the Claimant's subjective complaints and that there were no objective findings that would require that any type of physical restrictions be imposed as any result from Claimant's work incident; that no medications would be required because of Claimant's work incident; and, that no effects of the work incident required further evaluation or referral of Claimant to other medical specialists for examination. [Defendants' Exhibit No. 2].

11. The Claimant was able to continue working during the initial months following his work injury. [Transcript of Hearing, p. 50; Defendants' Exhibit No. 1].

12. Medical evidence supports a causal relationship from the work injury to Claimant's complaints of initial headaches only. Drs. Jervey and Stickler state that any work-related headaches should have resolved during the initial months following Claimant's mild head trauma and that any subsequent headaches are not related to Claimant's work incident. [APA

No. 4, pp. 23-26; APA No. 5, pp. 27-34; APA No. 2, pp. 4-13; APA No. 3, pp. 14-15; APA No. 1, pp. 1-3; Defendants' Exhibit No. 2].

13. Medical evidence fails to support any causal relationship to Claimant's other complaints or symptoms, including his eyes, ear, legs, feet, neck, shoulders, hands, back and anxiety. Dr. Abu-Ata's records do not comment upon any relationship from Claimant's work injury to his other multiple and varied symptoms. Dr. Jervy opines that Claimant's other symptoms are not related to his work incident. Dr. Stickler similarly opines that Claimant's other symptoms are not related to his work incident. [APA No. 4, pp. 23-26; APA No. 5, pp. 27-34; APA No. 2, pp. 4-13; APA No. 3, pp. 14-15; APA No. 1, pp. 1-3; Defendants' Exhibit No. 2].

14. Claimant has seen numerous medical care practitioners in several different settings over a period of almost two years without acknowledgement by Claimant that any treatment has improved the Claimant's description of his complaints and symptoms. [Transcript of Hearing, pp. 56-58].

15. Claimant complains of ongoing symptoms and multiple conditions that he says prevent him from working. However, Claimant is able to drive a car, work on his computer, actively email, actively post on Twitter and actively post on Facebook. During the year between May 17, 2014 and the hearing on May 21, 2015, the Claimant posted 1,066 tweets on Twitter, which averages greater than three tweets per day. His Facebook posts reflect that he attended at least two political rallies during that same period of time. None of his Twitter or Facebook posts reflect any complaints or descriptions of his symptoms or contentions regarding disability. Claimant's regular and daily use of his computer is inconsistent with his complaints that vision and light trigger his symptoms. His attendance at rallies is inconsistent with his complaints that

noise triggers his symptoms. [Transcript of Hearing, pp. 53-55, 58-61, 64-72, 77-80; Defendants' Exhibit No. 3; Defendants' Exhibit No. 4].

16. Claimant reached maximum medical improvement by October 23, 2013 from any effects from his work incident. After that date, no further medical treatment or evaluation was because of the injury or tended to lessen any period of disability. [APA No. 4, pp. 23-26; APA No. 5, pp. 27-34; APA No. 2, pp. 4-13; APA No. 3, pp. 14-15; APA No. 1, pp. 1-3; Defendants' Exhibit No. 2].

17. Claimant was not incapable because of his work incident from earning the same or similar wages. Any lost time from work was not because of any disabling injury from his work incident. [Transcript of Hearing, pp. 50, 53-61, 64-72, 77-80; APA No. 4, pp. 23-26; APA No. 5, pp. 27-34; APA No. 2, pp. 4-13; APA No. 3, pp. 14-15; APA No. 1, pp. 1-3; Defendants' Exhibit No. 2; Defendants' Exhibit No. 3; Defendants' Exhibit No. 4].

18. Claimant has sustained no permanent lost earnings capacity because of his work incident. [Transcript of Hearing, pp. 50, 53-61, 64-72, 77-80; APA No. 4, pp. 23-26; APA No. 5, pp. 27-34; APA No. 2, pp. 4-13; APA No. 3, pp. 14-15; APA No. 1, pp. 1-3; Defendants' Exhibit No. 2].

19. Claimant has sustained no permanent specific loss of use to any body parts because of his work incident. [Transcript of Hearing, pp. 50, 53-61, 64-72, 77-80; APA No. 4, pp. 23-26; APA No. 5, pp. 27-34; APA No. 2, pp. 4-13; APA No. 3, pp. 14-15; APA No. 1, pp. 1-3; Defendants' Exhibit No. 2].

CONCLUSIONS OF LAW

Based upon the Findings of Fact determined above and applicable law as set forth below, the following Conclusions of Law are rendered:

1. Pursuant to S.C. Code Ann. Sections 42-1-120, 42-1-160, and other applicable law, Claimant did not sustain any compensable disabling injury to his head, brain, eyes, ear, legs, feet, neck, shoulders, hands, back or anxiety by accident arising out of or in the course of his employment.
2. Pursuant to S.C. Code Ann. Sections 42-1-120, 42-15-60, and other applicable law, Claimant is not entitled to provision by Defendants of any additional medical evaluation and/or treatment after October 23, 2013.
3. Pursuant to S.C. Code Ann. Sections 42-1-120, 42-15-60, and other applicable law, Defendants shall be responsible only for payment for medical evaluation or treatment authorized and furnished to Claimant by Defendants, in amounts subject to the medical fee scheduled promulgated by the South Carolina Workers' Compensation Commission.
4. Pursuant to S.C. Code Ann. Sections 42-1-120, 42-1-160, 42-9-10, 42-9-20, and other applicable law, Claimant is not entitled to any temporary disability compensation benefits.
5. Pursuant to S.C. Code Ann. Sections 42-9-120, 42-1-160, 42-9-10, 42-9-20, 42-9-30, and other applicable law, Claimant is not entitled to any permanent disability compensation benefits.
6. Pursuant to S.C. Code Ann. Section 42-1-40 and other applicable law, the applicable compensation rate is \$326.08.

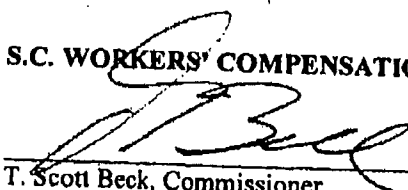
ORDER

IT IS HEREBY ORDERED that the Decision and Order of the Single Commissioner is **AFFIRMED IN FULL**. Claimant failed to meet his burden of proof by a preponderance of the evidence that he sustained any disabling injury or that he is entitled to any compensation benefits or further medical benefits. Claimant's claim for further medical benefits and disability

compensation benefits is hereby **DENIED**.

AND IT IS SO ORDERED.

S.C. WORKERS' COMPENSATION COMMISSION

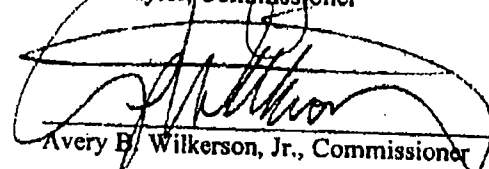


T. Scott Beck, Commissioner
For the Appellate Panel

WE CONCUR:



Aisha Taylor, Commissioner



Avery B. Wilkerson, Jr., Commissioner

CERTIFICATE OF SERVICE

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

By Eugenia Hollmon on February 26, 2016

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

JUN 20 2016

APPEAL FROM SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

SC Court of Appeals

W.C.C. File No.: 1303989

Clarence B. Jenkins, Employee, ... Appellant,

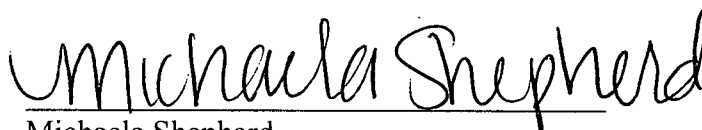
v..

Amazon.Com DEDC, LLC, Employer, and
Zurich Ins. Co., Carrier, ... Respondents.

PROOF OF SERVICE

I certify that on the 17th day of June 2016, I served the Respondents' **Motion for Correction of and/or to Strike Items From Designation of Matter** on Clarence B. Jenkins, *pro se*, by depositing a copy of it in the United States Mail, postage prepaid, addressed as follows:

Clarence B. Jenkins
945 Wire Road
Neeses, South Carolina 29107



Michaela Shephard
Legal Assistant to Helen F. Hiser
McAngus, Goudelock & Courie LLC
735 Johnnie Dodds Blvd., Suite 200
P.O. Box 650007
Mount Pleasant, South Carolina 29465
(843) 576-2900

*Attorneys for Respondents Amazon.Com DEDC,
LLC and Zurich Ins. Co.*

mgc

Reply To

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

RECEIVED

June 17, 2016

JUN 20 2016

Via U.S. Mail

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

SC Court of Appeals

RE: Clarence B. Jenkins v. Amazon.com and Insurance Company of the State
of Pennsylvania c/o Sedgwick Claims Management Services, Inc.
Date of Accident: February 10, 2013
WCC File No.: 1303989
Our File No.: 20194.13164
Claim No.: 30130262998

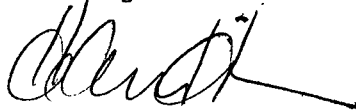
Dear Ms. Kitchings:

Enclosed please find the original and seven (7) copies of Respondents' Motion for Correction of and/or to Strike Items From Designation of Matter, and the original and one copy of the Proof of Service in the above-referenced matter. Please file the originals and return a clocked-in copy in the self-addressed, stamped envelope. Also enclosed is our firm's check in the amount of \$25 for filing the motion.

If you have any questions, please do not hesitate to contact me.

Yours truly,

McAngus Goudelock & Courie, LLC



Helen F. Hiser

Enclosures

cc: Clarence B. Jenkins, *pro se*

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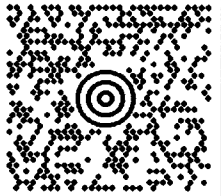
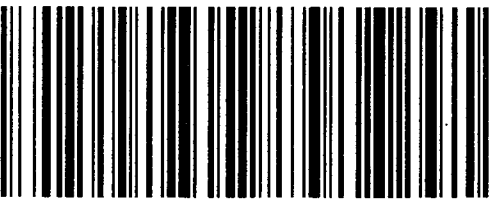
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JUN 20 2016

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