

6

22129

THE STATE OF SOUTH CAROLINA
IN THE SOUTH CAROLINA COURT OF APPEALS

APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

APPELLATE CASE NO.: 2015-001606

RECEIVED
OCT 15 2015
SC Court of Appeals

Jenna Foran, Employee Appellant,

vs.

Murphy USA, Employer, and
Liberty Insurance Corporation, Carrier Respondents.

RECORD ON APPEAL

C. Scott Masel
Palmetto Injury Lawyers, LLC
4593 Oleander Drive
Myrtle Beach, SC 29579
(843) 429-2000
Attorney for Appellant Jenna Foran

Anne Veatch Noonan
Willson Jones Carter & Baxley, PA
421 Wando Park Blvd., Suite 100
Mount Pleasant, SC 29464
(843) 284-1097
Attorney for Respondents

INDEX

Appellate Panel of Full Commission Decision and Order dated July 14, 2015.....	2
Decision and Order of Commissioner Avery B. Wilkerson dated January 14, 2015.....	25
Form 50 Employee's Notice of Claim and/or Request for Hearing.....	40
Form 51 Employer's Answer to Request for Hearing.....	43
Pre-hearing Brief and APA Submissions of Claimant dated October 16, 2014.....	45
Pre-hearing Brief and APA Submissions of Defendants dated October 21, 2014.....	118
Transcript of Hearing held on October 31, 2014 before Commissioner Avery B. Wilkerson....	127
Direct Examination of Plaintiff.....	136
Cross-Examination of Plaintiff.....	147
Redirect Examination of Plaintiff.....	152
Direct Examination of Randolph Stokes Rogers, II	155
Cross Examination of Randolph Stokes Rogers, II.....	170
Direct Examination of Amber Goss.....	177
Transcript of Hearing before Appellate Panel of Full Commission on April 21, 2015.....	180
Hearing Exhibit D: Photographs of Floor Mat.....	198
Hearing Exhibit C: CD of Video.....	204
Certificate of Appellant.....	205

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

WCC FILE NO. 1405375

Jenna Foran,

EMPLOYEE,
CLAIMANT/APPELLANT,

vs.

Murphy USA,

EMPLOYER,

AND

Liberty Insurance Corporation,

CARRIER,
DEFENDANTS/RESPONDENTS.

Appellate Panel Review held in Columbia, South Carolina,
on April 21, 2015 per notices timely and properly served
upon all parties of interest.

Appellate Panel Decision and Order filed

July 14th

, 2015

AFFIRMS IN FULL

APPEARANCES:

Claimant/Appellant represented by C. Scott Masel, Esquire
of Myrtle Beach, South Carolina.

Defendants/Respondents represented by Anne Veatch
Noonan, Esquire of Willson Jones Carter & Baxley, P.A.,
Mount Pleasant, South Carolina.

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

This is a denied claim for an injury to the left ankle which occurred on April 29, 2014. The Claimant/Appellant contends the single Commissioner erred by denying the claim and concluding Claimant's injury was idiopathic and not a compensable injury in light of the recent South Carolina Supreme Court cases *Nicholson* and *Barnes* and further contends the single Commissioner erred in giving greater weight to the testimony of Randolph Stokes Rogers, a witness for the Defendants, than to that of the Claimant, Jenna Foran. This incident was captured on video surveillance which was reviewed by the Appellate Panel and single Commissioner.

On October 31, 2014, a hearing was held before the Honorable Avery Wilkerson (hereinafter single Commissioner) in Conway, South Carolina to resolve the issues raised by the Claimant's request for hearing via Form 50.

The Claimant contends she was injured on April 29, 2014 while she was working as a cashier. She contends that while stocking cigarettes, she went to stand up and stepped half on and half off of the mat that was located on the floor behind the register. As a result of this, her ankle rolled on the uneven surface causing her to suffer torn ligaments and requiring surgery. She further contends this is not an idiopathic injury and that her injury is a result of a specific incident and is therefore compensable.

The Defendants contend Claimant suffered an idiopathic injury on April 29, 2014 when she rolled her ankle due to a pre-existing chronic instability of her left ankle documented in the medical records. The video of the incident shows Claimant was standing flat footed on the mat when her ankle merely gave way. The Claimant had pre-existing issues with her left ankle and was having ankle problems with an altered gait at the time immediately preceding this injury. These left ankle issues were originally documented in 2005 when the Claimant underwent

surgical repair of the ankle. At the time of the surgery, Dr. Kane, of Hackensack University Medical Center, diagnosed Claimant with chronic instability of the left ankle. (APA 1 p. 1.) Additionally, Dr. Kane noted that the surgery was due to a protracted "history of recurrent injuries to the left ankle" and indicated that Claimant had "failed conservative treatment including physical therapy." (*Id.*)

The Defendants relied on video taken from the store cameras from April 29, 2014, which clearly shows that the floor mat did not cause Claimant's injury and was not involved in her ankle giving out. Claimant was merely standing at the register when her left ankle gave way. Defendants further argue that there is no special risk associated with the Claimant's work that caused this accident and it is therefore idiopathic in nature.

Prior to the hearing, a review of the video surveillance for the date of accident was viewed with all parties present. The floor mat from the video was also reviewed by Commissioner Wilkerson as provided by the store manager.

On January 14, 2015, the single Commissioner issued a Decision and Order with the following Findings of Fact, Conclusions of Law, and Order/Award:

FINDINGS OF FACT

1. *That Employee, Employer, and Carrier are subject to and bound by the terms and provisions of the South Carolina Workers' Compensation Act, as amended, with Jenna Foran as Employee-Claimant and Murphy USA as Employer and Liberty Insurance Corporation as Carrier, Defendants.*
2. *That the average weekly wage of Employee at the time of the above-described accident was \$168.84, and his compensation rate was \$112.57.*
3. *Order directives and instructions were sent to all parties on October 31, 2014.*
4. *The Claimant's testimony is very confusing as to her description of this accident.*

She verified her personal description multiple times which was different than what the video shows actually happened. The video also clearly shows that after the Claimant was in a kneeling position, her ankle did not roll and she was able to walk over to the other side of the counter. The Claimant's testimony was therefore untrue and inaccurate based on the video surveillance showing this incident.

5. *The Claimant described the mat as being well over an inch thick causing her to fall. This was inconsistent after personally viewing the mat at the hearing.*

6. *The manager of the store, Stokes Rogers, did authenticate the mat and brought it to the hearing. This was the mat in question shown in the video which Claimant states caused her ankle to roll. This mat was personally viewed by the Commissioner.*

7. *Photographs of the mat were taken at the hearing and agreed upon by all parties.*

8. *The mat which Claimant indicates caused her injury is possibly a quarter to half an inch thick at most.*

9. *Stokes Rogers, II, manager of this Murphy Oil station, indicated that he was never told by the Claimant that she felt she had an accident caused by the mat at the store until two weeks before the hearing date when informed by his counsel that that was the Claimant's testimony. The Claimant specifically reported to Mr. Rogers that she went to get up and hurt her left ankle. Mr. Rogers was also aware that the Claimant suffered from a bad left ankle as she generally walked with a significant and noticeable limp on the left side prior to April 29, 2014.*

10. *The medical report from Coastal Orthopedics dated June 12, 2014 specifically shows the Claimant reported to Dr. Taylor that her left ankle pain began after slipping and falling. She did not discuss or describe to Dr. Taylor that she slipped while half on and half off of a mat*

11. *APA #1, pages 1- 5 specifically document the Claimant's prior left ankle issues and chronic instability.*

12. The medical records from Doctor's Care indicate the Claimant reported that her injury occurred when she stood up and may have caught on a mat twisting her left ankle. The Claimant's description of accident to her medical providers all indicate that her injury occurred while she was rising from a kneeling or lower position. This is supported by all of the medical records from Doctor's Care pages 6 - 47.

13. The Claimant submitted as APA #3, pg. 53 a letter signed only by the Claimant's attorney. I therefore do not give any weight to this letter as it is not signed by a medical physician. Even if the medical reports did indicate that the Claimant slipped half on and half off of a mat, this is inconsistent with the video evidence clearly showing this incident.

14. The video surveillance provided for this date of accident is key to the compensability of this case. The video evidence does not show an injury by accident arising out of or within the course and scope of employment. The Claimant is merely standing at the register with both feet forward when her left ankle rolls. The video shows that the ankle rolling is therefore idiopathic in nature regardless of the mat.

15. The Claimant testified that she had a total recovery from her previous ankle injury. However, the store manager described the Claimant with a chronic and noticeable limp on an everyday basis. Based on the Claimant's weakness of her foot and prior instability of her left ankle, I do not feel that the mat whether a quarter inch, half inch, or up to an inch caused her accident or was any type of increased special risk incurred by the Claimant.

16. I find the Claimant's testimony to be unclear as to what actually happened. The Claimant testified repeatedly that she was in a kneeling position and was trying to stand with her foot half off and half on the mat when her ankle rolled. Her description is unclear and is not consistent with the video surveillance. The Claimant was limping around the gas station prior to this accident contrary to her own testimony. The medical evidence also does not match the

Claimant's testimony that she had a 100% recovery from her chronic ankle instability and surgery in 2004.

17. I give greater weight and credibility to the employer witness, Stokes Rogers, than I do to the Claimant. The medical history shown in the medical records indicate the Claimant had chronic instability of the left ankle. I do not find she suffered a compensable injury by accident within the course and scope of her employment as the video shows her standing at the register when her left ankle merely gives out. Furthermore, I do not find the mat to be a special risk that contributed to her ankle giving out. The Claimant therefore suffered an idiopathic fall and is not entitled to benefits under the South Carolina Workers' Compensation Act.

CONCLUSIONS OF LAW

Accordingly, as provided in § 42-17-40, SC Code Ann. (1976), as amended, it is the determination of this Commission that:

- 1. Under § 42-1-130, Claimant was a covered employee at the time in question; and under § 42-1-140, Defendant/Employer was a covered employer under the Act.*
- 2. Under § 42-1-160, Claimant did not suffer a compensable injury by accident within the course and scope of her employment. The Claimant's rolling of the left ankle was idiopathic in nature and not caused or aggravated by her work or any special risk found in her employment. I further find that the video surveillance supports the Claimant's ankle rolling was idiopathic only. Even if the Claimant's foot had been half on and half off of the mat, I do not feel that the mat caused or contributed to the Claimant's injury after personally reviewing the floor mat and the video surveillance of this incident.*

ORDER/AWARD

IT IS HEREBY ORDERED that this claim is denied.

IT IS SO ORDERED.

Claimant filed a Form 30, Application for Review, appealing the single Commissioner's findings regarding the idiopathic nature of her injury, the extent of her preexisting left ankle instability in light of medical and testimonial evidence, and the single Commissioner's award of greater weight and credibility to the testimony of the store manager. In response, Defendants contend Claimant had preexisting left ankle instability prior to the accident as evidenced by medical records and witness testimony regarding the Claimant's chronic limp. Based on her chronic left ankle instability, video surveillance showing Claimant's left ankle merely gave way while standing at the register, Claimant's testimony, and the testimony of the store manager, the Defendants contend the single Commissioner's Decision and Order should be affirmed. Accordingly, the single Commissioner's Decision and Order is hereby **AFFIRMED** in full.

STANDARD OF REVIEW

In an Appellate Review, the Appellate Panel shall, pursuant to S.C. Code Ann. § 42-17-50, review the award, weigh the evidence as presented at the hearing and, if good grounds be shown therefore, make its findings of facts and reach its own conclusions of law consistent or inconsistent with those of the single Commissioner. *See Green v. Raybestos-Manhattan, Inc.*, 250 S.C. 58, 156 S.E.2d 318 (1967); *see also Lowe v. An-Can Transport Servs., Inc.*, 283 S.C. 534, 324 S.E.2d 87 (Cl. App. 1984).

STATEMENT OF THE FACTS

The Claimant, Jenna Foran, testified at the hearing on her own behalf. She stated that in 2004, she underwent surgery on her left ankle. However, she testified that her physician "cleared me at 100% out of medical; therefore, I was able to do everything and anything." Hrg. Tr. pg. 10,

lines 13-17. The Claimant then testified that after her surgery in 2004, her left ankle was fully healed and she had no physical limitations.

The Claimant testified following her 2004 surgery, she worked as a cashier and a lifeguard. She testified that her ankle did not limit her job duties. She also was able to participate in recreational activities including volleyball and softball. She further testified that she was not limited with her left ankle in any way with activities at home or doing daily chores. She was able to do her job without any physical requirements prior to her accident.

The Claimant testified she started working for Murphy Oil in December, 2013 as a third shift cashier. Her job duties included stocking cigarettes, stocking shelves, cleaning, and running the cash register. She worked part time from 11:00pm to 7:00am.

The Claimant testified that her ankle "was really fine until I had stumbled onto the mat where my foot was half on, half off, and my ankle gave out." Hrg. Tr. pg. 12, lines 20-22. The Claimant testified that immediately preceding her stepping on the mat, she was stocking cartons of cigarettes to put on the shelves.

Claimant testified "I noticed I had grabbed - - grabbed too many cartons of cigarettes to put up at the time; therefore I was going to - - I was getting up to put them on the table or the counter behind - - on the other side of me to see what else I needed to grab from the back room; so, I would put those away as well while I was trying to get the others. And I went to get up and my foot was half on, half off, of the mat and my ankle just rolled underneath me." Hrg. Tr. pg. 13, lines 4-12. The Claimant then testified that the mat seen in the video is approximately an inch thick and three to four feet wide. She testified it is cushiony to give comfort to the cashiers around their feet. The Claimant testified that she has seen mats like this before in grocery stores and gas stations. She does not believe her ankle would have rolled but for the floor mat.

The Claimant then testified that she has never seen a mat like this at home and that they are

not common to her neighborhood. She did testify that the store has mats such as this in the doorway where people walk from the parking lot into the store.

The Claimant testified that after she rolled her ankle, she got up and went right back to her duties. Her supervisor, Jean, came into the store later in the morning. She testified that she showed Jean that her ankle had rolled underneath her as she was stocking cigarettes. The Claimant testified that she was told by her supervisor that she would contact the store manager, Mr. Stokes (Mr. Randolph Stokes Rogers, II is referred to in Claimant's testimony as "Mr. Stokes"). Mr. Stokes told her that she needed to go to Doctors Care. Mr. Stokes then met the Claimant at Doctors Care.

The Claimant testified that she told Mr. Stokes "I was stocking the cigarettes; my foot was half on, half off, the mat and my ankle had rolled." Hrg. Tr. pg. 17, lines 22-24. The Claimant was then asked whether she had reviewed the store video tape for the time period when her fall took place. The Claimant testified that she had reviewed the video and that it was accurate. She also confirmed that the floor mat is shown in the video.

The Claimant testified she has been seen by Doctors Care and an orthopedist, Dr. Taylor. She testified she originally came back to work on light duty but was taken out of work by her doctor as of June 12, 2014. Dr. Taylor provided her the boot she was wearing at the hearing. She testified she wears her boot every day and sometimes to bed. The Claimant testified she is not able to walk without it and crawls around her house.

On cross examination, the Claimant was asked specifically about her prior description of accident. She indicated she was kneeling while stocking the shelves, and that she got up from the kneeling position with her foot half on the mat and half off of the mat. The Claimant confirmed that her injury occurred while she was kneeling and went to stand up. When asked whether she would agree that the video actually shows that she had already stood up, turned around, gone over

to where the cashier area was, the Claimant responded "I haven't - - I - - what I've seen was I was in the process of on the way up." Hrg. Tr. pg. 22, lines 17-21.

The Claimant then reiterated on cross examination that she was injured while "in the process of standing up my foot was half on, half off, and my ankle had rolled. Hrg. Tr. pg. 23, lines 2-3. When asked if she was still saying, contrary to the video evidence, that she was in the process of standing up from a kneeling position when she was injured, the Claimant testified "yes." Hrg. Tr. pg. 23, lines 4-7. Defense counsel referred the Commissioner to the video surveillance for the time of 5:33:47am.

Further on cross examination the Claimant was asked whether she testified in her deposition that her ankle just rolled while she was standing up. She indicated she was "down on one knee as if I was proposing, and I had leaned up with this foot was up propping me the other one was underneath me, and when I had gone up my foot was half on, half off, of the mat and it rolled as I was getting up." Hrg. Tr. pg. 24, lines 12-17. The Claimant again confirmed that this was the exact way in which she was injured. The Claimant was again asked whether she watched the video surveillance from the store and whether she thought it was accurate and consistent. The Claimant testified that yes she had seen the video and felt the video was accurate.

The Claimant was asked regarding her testimony that after her 2004 surgery, she was told by the doctor she was 100%. The Claimant denied that she was actually diagnosed instead with "chronic instability of the left ankle." Hrg. Tr. pg. 25, line 12. When asked whether she had been diagnosed by her current doctors with chronic instability of the left ankle, Claimant replied "no, they have not." Hrg. Tr. pg. 25, lines 16-19.

The Claimant then testified on cross examination that before this accident on April 29, 2014, she had not complained to anyone in the store about having left ankle pains and denied having any problems with her left ankle. She denied that any such complaints occurred. Hrg. Tr.

pg. 26, line 2.

On redirect examination, the Claimant testified that she had reviewed the video of the actual accident and that she was facing the register when her foot was half on and half off of the mat.

Mr. Randolph Stokes Rogers, II, then testified on behalf of the Defendants. He testified he is the Manager of Store 8717 for Murphy Oil Corporation. He testified that this is the store where Ms. Foran works and that he has been with the company for four years. He testified the Claimant was hired in December, 2013.

Mr. Stokes Rogers (referred to by Claimant in testimony as Mr. Stokes) testified that before this alleged accident on April 29, 2014, the Claimant would walk around the store with an obvious limp. He testified he asked her multiple times what was wrong with her left foot/ankle. He testified she always replied that "she had a car accident years ago and that's what was bothering her." Hrg. Tr. pg. 30, lines 19-22.

He further testified that he noticed that the Claimant walked with an apparent limp about every time he saw her. He does not recall whether there was ever a day that she walked without a limp. He also testified that before this alleged accident, she complained multiple times about having a "bad ankle." Hrg. Tr. pg. 31, line 7.

Mr. Rogers further testified that on the date of the alleged accident, he spoke with the Claimant. He specifically stated "she told me she was stocking some cigarettes down on the floor level and that she got up and she hurt her ankle." Hrg. Tr. pg. 32, lines 7-9. He further testified that she never mentioned anything about catching her foot on the mat or being half on and half off of the mat. In fact, he testified that the mat had actually never come up before this case was in litigation. Hrg. Tr. pg. 32, lines 14-17.

Mr. Rogers then produced the floor mat in question from the store. He testified the mat is

not an inch or even close to an inch in thickness. Hrg. Tr. pg. 33, lines 20-22.

Commissioner Wilkerson then inspected the mat and instructed defense counsel to take photographs of the mat on the floor. Commissioner Wilkerson noted on the record that the mat was not an inch thick and was possibly quarter to a half inch raised off the floor. Hrg. Tr. pg. 37, lines 11-16. Multiple photographs from all angles were taken at the hearing in the presence of all parties.

On cross examination, Mr. Rogers testified that prior to April 29, 2014 the Claimant was able to perform her job every time he asked her about the pain in her left ankle. Mr. Rogers then testified on cross examination that prior to this alleged injury, he did not know of any restrictions Claimant had that prevented her from doing her job duties. Mr. Rogers further testified as to his conversation with the Claimant after her alleged accident. He testified that he asked her how she was injured and she stated "she was stocking cigarettes and when she went to get up her ankle kind of gave way." Hrg. Tr. pg. 45, lines 23-25. He was then asked whether she said anything regarding the mat and whether the mat caused her injury. Mr. Rogers testified he had no idea about the mat until a couple of weeks ago as she only told him she was stocking cigarettes and went to get up when her ankle rolled. Hrg. Tr. pg. 46, lines 1-12.

Mr. Rogers further testified that the mat brought in today was the mat from the store and was the one in the video surveillance. They use it as a cushion mat kept behind the register for cashiers to stand on instead of concrete. He testified he believes it helps their legs that they do not have to stand on concrete all day. When asked if he has a mat like that at home, he indicated he does not.

Ms. Amber Goss then testified on behalf of Defendants. Ms. Goss testified she is the District Manager for Murphy Oil, USA. She testified that she is not a mat expert, but she has seen these types of mats before outside of work. They sell them in stores and she actually has one in her

kitchen. They are soft, squishy, kind of cushiony mats and they are decorative but also a comfort mat. Hrg. Tr. pg. 51, lines 9-14.

The medical records included in the file are those from Hackensack University from December 2005. These records reflect the Claimant was seen December 6, 2005 with a protracted history of recurrent injuries to the left ankle with now chronic instability that has failed conservative treatment. She underwent Open Watson-Jones reconstruction of the lateral ligament complex of the left ankle. APA #1, pg. 1.

The medical records from Doctors Care from April 29, 2014 through May 23, 2014 were submitted into evidence. The medical report from the date of injury indicates the Claimant's history is significant for tendon reconstruction in the left ankle in 2004 (states after history of "multiple sprains") but since surgery, had been pregnant, working and has had no issues until today. X-rays were reviewed and it was agreed that there was no evidence for any acute boney trauma, changes consistent with prior surgery and referred to a sub-specialist for continued symptoms. APA #2, pg. 15.

The medical records from Dr. Ross Taylor at Coastal Orthopedics were submitted into evidence for dates June 12, 2014 through August 15, 2014. However, included with these reports is a letter dated August 15, 2014 on letterhead of Palmetto Injury Lawyers signed by the Claimant's attorney only. APA #3, pg. 52-53. This document is not a medical record and not signed by a medical doctor. The report dated June 12, 2014 from Dr. Taylor indicates the Claimant "admits to having complete loss of sensation distal to the mid cap area since her previous surgery. This is not related to her most recent injury." APA #3, pg. 48. Dr. Taylor found that the Claimant's previous repair was ruptured and recommended a revision lateral ankle ligament reconstruction using unallographt. APA #3, pg. 48. The Claimant was taken out of work on June 12, 2014. APA #3, pg. 50.

The same medical report dated June 12, 2014 from Dr. Taylor indicates the Claimant was seen with pain in her left ankle that "began when she was at work after slipping and falling." APA #4, pg. 65. He diagnosed her with ankle instability, status post fall left ankle. Defendants further submitted the entire video surveillance for the store from two separate cameras showing the morning of April 29, 2014. These videos were reviewed in detail by the Commissioner. The video surveillance clearly shows that at 5:33am, the Claimant turned around with her back to the register and squatted down on the ground stocking cigarettes. She then stood up without any incident whatsoever and did not roll her ankle. The Claimant turned around and went back to the register where she was standing on the mat. The Claimant partially stepped off of the mat and then stepped fully back on the mat with her left foot. While standing at the register on the floor mat, the Claimant's left ankle then rolled, causing her to lean forward into the counter. When Claimant's left ankle rolled, both of her feet were placed forward. The video surveillance also shows that Claimant was not rising from a crouching position such as a man proposing on one knee. The Claimant also was not half on half off of the mat when her ankle rolled. Photographs of the floor mat further were included with the evidence showing a thin slightly cushioned mat.

DECISION/ANALYSIS

- L. Even in light of the recent South Carolina Supreme Court decisions in *Barnes* and *Nicholson*, the single Commissioner did not err in finding the injury was idiopathic and consequently, not compensable.**

In *Barnes v. Charter I Realty* and *Nicholson v. S.C. Department of Social Services*, the South Carolina Supreme Court was presented with an opportunity to "clarify the idiopathic exception to workers' compensation benefits." *Barnes v. Charter I Realty*, Opinion No. 27479, 2015 WL 161731 at 1 (S.C. S. Ct. Jan. 14, 2015); *Nicholson v. S.C. Dep't of Social Servs.* Opinion No. 27478, 2015 WL 161719 (S.C. S. Ct. Jan. 14, 2015) (emphasis added). While the legal process for evaluating idiopathic injuries has changed, *Barnes* and *Nicholson* illustrate that

the legal principles and policies behind idiopathic injuries remain intact. The holding in *Barnes* and *Nicholson* reaffirms the existing doctrine that an idiopathic injury is (1) brought on by a condition particular to the employee that could have manifested itself anywhere and (2) does not stem from an accident. *Barnes*, Op. No. 27479 at 4 (emphasis added). It is on these unchanged principles that the Panel finds that the single Commissioner correctly based his decision in favor of the Defendants.

- a. **Claimant's injury was idiopathic because the chronic instability and weakness of her left ankle was an internal condition particular to her, and the internal breakdown of the left ankle caused her injury.**

The holding in *Barnes* establishes that an idiopathic injury is one that is brought on by a condition particular to the employee that could have manifested itself anywhere. Specifically, such a condition is characterized by a result of an internal failure or breakdown. *Barnes*, Op. No. 27479 at 4. The Court even provides an additional, broader category— permitting that such conditions could be classified as a “weakness.” *Barnes*, Op. No. 27479 at 5. This is explicitly laid out by the statement in *Barnes*, which finds that “whether [the Claimant] tripped because she was hurrying or she tripped over her own feet, neither [instance is] an internal breakdown or weakness that falls within the ambit of idiopathy.” *Id.* (emphasis added). This statement shows that an idiopathic injury can even be based upon a weakness. Similarly, the facts in *Crosby v. Wal-Mart Store, Inc.* illustrate that the Claimant's fall was characterized as idiopathic because it was a result of an internal breakdown of the knee. 330 S.C. 489, 499 (Ct. App. 1998). *Barnes* confirms the holding in *Crosby* because the accident was “not simply unexplained, but indicated the cause was internal.” *Barnes*, Op. No. 27479 at 4 (finding that the holding in *Crosby* was in harmony with how the courts have consistently applied the idiopathic exception—the circumstances of the fall were not simply unexplained, but indicated the cause was internal). The court in *Barnes* was careful to differentiate that an idiopathic fall was not simply an injury

where no cause could be identified, but instead, as laid out in *Crosby*, was one that was caused by an internal failure, breakdown, or weakness. *Barnes*, Op. No. 27479 at 4-5.

Here, the Claimant's assertion that the Commissioner made no findings of an internal failure or breakdown is incorrect. The single Commissioner specifically found that medical history showed chronic instability of the left ankle, and that the video surveillance shows Claimant's ankle "giving out" while she was simply standing at the register. (FOF 17.)

This finding of weakness or an internal failure, as required by *Barnes*, is further supported by other evidence in the case. Claimant specifically testified that she underwent surgery on her left ankle. (Hrg. Tr. p 10.) That surgery, a left ankle arthroscopy and Watson-Jones ligament reconstruction, was performed by Dr. Kane at Hackensack University Medical Center. (APA 1 p. 5.) Those records indicate that the surgery was performed due to a history of recurrent sprains to the left ankle. (APA 1 p. 1.) Dr. Kane additionally noted that the left ankle had chronic instability. In spite of these medical records, at the hearing Claimant denied that she was actually diagnosed with "chronic instability of the left ankle." At Doctors Care on May 23, 2015, Dr. Denton specifically noted that "the[re] is significant weakness of these lateral ligaments. This is under the surgical scar of [the] tendon repair that patient had at 14 years of age. There is numbness to light touch of entire foot up to the ankle[,] which is old." (APA 3 p. 33.)

Additionally, it was the Claimant's testimony that she had not complained to anyone in the store about having left ankle problems and that she had not had any issues since the surgery. (Hrg. Tr. p.25.) She testified that she had no physical limitations, she was able to work as a lifeguard, cashier, and could play volleyball and softball without limitation. (Hrg. Tr. p. 11). This testimony is contrary to that of Mr. Rogers, the store manager. Mr. Rogers testified that before the alleged accident on April 29, 2014, Claimant would walk around the store with an

obvious limp. (Tr. 30.) He also testified that he asked her multiple times what was wrong with her left foot/ankle. (Tr. 30.) Additionally, he testified that before the alleged accident, she complained multiple times about having a "bad ankle." (Tr. 31.) Therefore, the Panel finds that because the Claimant was found to have a prior weakness in her left ankle, walked with a visible limp, and complained to her employer that she had a "bad ankle," the single Commissioner's finding that Claimant suffered from a chronic instability, which subsequently caused an idiopathic injury, was not in error.

- b. There was no causal connection between the Claimant's injury and her employment, and instead, her injury was a result of an internal breakdown/weakness in her left ankle.**

Nicholson sets forth a new standard in determining whether or not an injury arose out of, or was proximately caused by, the employment. Opinion No. 27478, 2015 WL 161719 (S.C. S.

Ct. Jan. 14, 2015). In *Nicholson*, the Court found that when an employee tripped as she was hurrying down the hall, there was a causal connection between the "conditions under which the work [was] required to be performed and the resulting injury." *Nicholson*, Op. No. 27478 at 7. Additionally, the Court held that whether specific objects or conditions posed a special risk or hazard is now immaterial.

The facts in *Nicholson* are starkly different from the case at hand. In *Nicholson*, the employee's injury was due to a trip and fall, not an internal condition or breakdown. *Nicholson*, Op. No. 27478 at 5. There is no mention in *Nicholson* about prior weakness or internal conditions that caused the employee to fall. In contrast to *Nicholson*, the video surveillance reveals that Claimant's ankle gave out when she was standing at the register with both of her feet placed forward. (FOF 14.) When Claimant was initially in a kneeling position, her ankle did not roll, and when she subsequently walked over to the other side of the counter and placed her feet on the mat, her ankle again, did not roll. Not until after she was stationary did the Claimant's

ankle fail. *Id.*

The Claimant's testimony regarding how her ankle failed was also unclear and contrary to the video surveillance. She testified repeatedly that she was in a kneeling position and she stated that when she "had gone up my foot was half on, half off, of the mat and it rolled." (Hrg. Tr. p.24.) Based on this evidence, the single Commissioner found no causal connection between the conditions under which the work was required to be performed and the injury. (FOF 15.) The Claimant's injury did not stem from an accident and instead, arose from a purely personal physical weakness, unrelated to employment. Therefore, based on the single Commissioner's findings and the Panel's review of the video evidence of the alleged accident, we find that the single Commissioner did not err in finding that the Claimant sustained an injury due to an internal breakdown. We also find that the single Commissioner did not err in finding that the Claimant's testimony regarding her injury was unclear and inconsistent with the actual video.

II. The single Commissioner did not err in determining Claimant's testimony was untrue and inaccurate.

While "the final determination of witness credibility and the weight to be accorded evidence is reserved to the Appellate Panel," a single Commissioner's evaluation of credibility is given deference in evaluating a witness' testimony. *See Frame v. Resort Servs. Inc.*, 357 S.C. 520, 528 (Ct. App. 2004) (internal citation omitted).

Here, the single Commissioner reviewed all of the evidence and properly evaluated the Claimant and Mr. Rogers' testimony. For example, Claimant stated she had total recovery, yet Mr. Rogers testified that the Claimant had a chronic and noticeable limp on an everyday basis. Additionally, Mr. Rogers testified that the Claimant had told him that she had a "bad ankle," but Claimant later testified she had no issues with her ankle after the 2005 surgery. This testimony by Mr. Rogers was corroborated by Dr. Denton's note indicating Claimant had residual ankle numbness following the 2005 surgery. (APA 2 p. 33.) Claimant's credibility was also

compromised by her inability to clearly state how she injured her left ankle and testifying that she “stumbled on the mat,” despite clear video surveillance that shows otherwise. This inability to testify clearly about how her injury occurred is also illustrated in the medical records, which suggest that Claimant did not know how her ankle rolled. (APA 3 p. 8.) Mr. Rogers testified Claimant told him following this incident that her ankle gave way. The medical records from Doctors Care state that Claimant “may” have gotten caught on a mat. *Id.* However, the video surveillance does not show any evidence of Claimant catching her foot or ankle on the mat. (FOF 14.) Therefore, we find the single Commissioner’s finding that the Claimant’s testimony was untrue and inaccurate was not in error.

FULL COMMISSION APPELLATE PANEL FINDINGS OF FACT

After a thorough review of the evidence, including the hearing testimony, medical evidence, exhibits, video, and other documentary evidence submitted by the respective parties pursuant to the Administrative Procedures Act, the Commission File in this matter, and arguments of counsel, WE, THE APPELLATE PANEL, AFFIRM THE FINDINGS OF FACT OF THE SINGLE COMMISSIONER, IN FULL, AND FIND AS FOLLOWS:

1. That Employee, Employer, and Carrier are subject to and bound by the terms and provisions of the South Carolina Workers’ Compensation Act, as amended, with Jenna Foran as Employee-Claimant and Murphy USA as Employer and Liberty Insurance Corporation as Carrier, Defendants.
2. That the average weekly wage of Employee at the time of the above-described accident was \$168.84, and his compensation rate was \$112.57.
3. Order directives and instructions were sent to all parties on October 31, 2014.
4. The Claimant’s testimony is very confusing as to her description of this accident. She verified her personal description multiple times which was different than what the video shows

actually happened. The video also clearly shows that after the Claimant was in a kneeling position, her ankle did not roll and she was able to walk over to the other side of the counter. The Claimant's testimony was therefore untrue and inaccurate based on the video surveillance showing this incident.

5. The Claimant described the mat as being well over an inch thick causing her to fall. This was inconsistent after the mat was personally viewed at the hearing.

6. The manager of the store, Stokes Rogers, did authenticate the mat and brought it to the hearing. This was the mat in question shown in the video which Claimant states caused her ankle to roll. This mat was personally viewed by the single Commissioner.

7. Photographs of the mat were taken at the hearing and agreed upon by all parties.

8. The mat which Claimant indicates caused her injury is possibly a quarter to half an inch thick at most.

9. Stokes Rogers, II, manager of this Murphy Oil station, indicated that he was never told by the Claimant that she felt she had an accident caused by the mat at the store until two weeks before the hearing date when informed by his counsel that that was the Claimant's testimony. The Claimant specifically reported to Mr. Rogers that she went to get up and hurt her left ankle. Mr. Rogers was also aware that the Claimant suffered from a bad left ankle as she generally walked with a significant and noticeable limp on the left side prior to April 29, 2014.

10. The medical report from Coastal Orthopedics dated June 12, 2014 specifically shows the Claimant reported to Dr. Taylor that her left ankle pain began after slipping and falling. She did not discuss or describe to Dr. Taylor that she slipped while half on and half off of a mat.

11. APA #1, pages 1- 5 specifically document the Claimant's prior left ankle issues and chronic instability.

12. The medical records from Doctors Care indicate the Claimant reported that her

injury occurred when she stood up and may have caught on a mat twisting her left ankle. The Claimant's description of accident to her medical providers all indicate that her injury occurred while she was rising from a kneeling or lower position. This is supported by all of the medical records from Doctors Care pages 6 – 47.

13. The Claimant submitted as APA #3, pg. 53 a letter signed only by the Claimant's attorney. I therefore do not give any weight to this letter as it is not signed by a medical physician. Even if the medical reports did indicate that the Claimant slipped half on and half off of a mat, this is inconsistent with the video evidence clearly showing this incident.

14. The video surveillance provided for this date of accident is key to the compensability of this case. The video evidence does not show an injury by accident arising out of or within the course and scope of employment. The Claimant is merely standing at the register with both feet forward when her left ankle rolls. The video shows that the ankle rolling is therefore idiopathic in nature regardless of the mat.

15. The Claimant testified that she had a total recovery from her previous ankle injury. However, the store manager described the Claimant with a chronic and noticeable limp on an everyday basis. Based on the Claimant's weakness of her foot and prior instability of her left ankle, we do not feel that the mat whether a quarter inch, half inch, or up to an inch caused her accident or was any type of increased special risk incurred by the Claimant.

16. We find the Claimant's testimony to be unclear as to what actually happened. The Claimant testified repeatedly that she was in a kneeling position and was trying to stand with her foot half off and half on the mat when her ankle rolled. Her description is unclear and is not consistent with the video surveillance. The Claimant was limping around the gas station prior to this accident contrary to her own testimony. The medical evidence also does not match the Claimant's testimony that she had a 100% recovery from her chronic ankle instability and surgery

in 2004.

17. We give greater weight and credibility to the employer witness, Stokes Rogers, than to the Claimant. The medical history shown in the medical records indicate the Claimant had chronic instability of the left ankle. We do not find she suffered a compensable injury by accident within the course and scope of her employment as the video shows her standing at the register when her left ankle merely gives out. Furthermore, we do not find the mat to be a special risk that contributed to her ankle giving out. The Claimant therefore suffered an idiopathic fall and is not entitled to benefits under the South Carolina Workers' Compensation Act.

FULL COMMISSION APPELLATE PANEL CONCLUSIONS OF LAW

In view of those Findings of Fact, and as provided in the South Carolina Code of Law, WE, THE APPELLATE PANEL, AFFIRM THE CONCLUSIONS OF LAW OF THE SINGLE COMMISSIONER IN FULL:

1. Under § 42-1-130, Claimant was a covered employee at the time in question; and under § 42-1-140, Defendant/Employer was a covered employer under the Act.
2. Under § 42-1-160, Claimant did not suffer a compensable injury by accident within the course and scope of her employment. The Claimant's rolling of the left ankle was idiopathic in nature and not caused or aggravated by her work or any special risk found in her employment. We further find that the video surveillance supports the Claimant's ankle rolling was idiopathic only. Even if the Claimant's foot had been half on and half off of the mat, we do not feel that the mat caused or contributed to the Claimant's injury after personally reviewing the floor mat and the video surveillance of this incident.

ORDER/AWARD

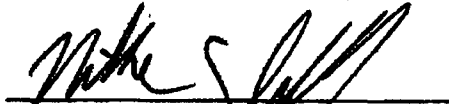
IT IS, HEREBY, ORDERED that Commissioner Wilkerson's Decision and Order dated January 14, 2015, is affirmed, in full. Commissioner Wilkerson's Decision shall remain in effect.

IT IS SO ORDERED.

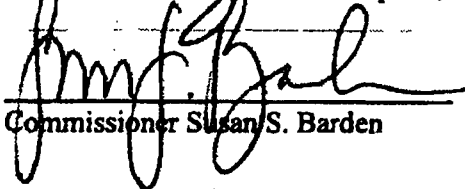
**SOUTH CAROLINA WORKERS'
COMPENSATION COMMISSION**



Commissioner T. Scott Beck, Chair



Commissioner R. Michael Campbell, II



Commissioner Susan S. Barden

CERTIFICATE OF SERVICE

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

By Kim Falls on July 14, 2015

DECISION AND ORDER OF THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

WCC FILE NO. 1405375

Jenna Foran,	)	
	)	
Employee,	)	
Claimant,	)	
	)	
vs.	)	
	)	DECISION AND ORDER
Murphy USA,	)	
	)	
	)	
Employer,	)	
and	)	
	)	
Liberty Insurance Corporation,	)	
	)	
	)	
Carrier,	)	
Defendants.	)	

HEARING: Held in Conway, South Carolina on October 31, 2014.

APPEARANCES: Claimant represented by C. Scott Masel, Esquire of Myrtle Beach, South Carolina.

Defendants represented by Anne Veatch Noonan, Esquire of Willson Jones Carter & Baxley, P.A., Mount Pleasant, South Carolina.

PURPOSE OF HEARING: To determine the issues as set forth on the Forms 50 and 51.

DECISION AND ORDER: By Avery Wilkerson, Commissioner

FILED: January 14, 2015

I. APA SUBMISSIONS

Under the Administrative Procedures Act, the following records were submitted into evidence at the time of the hearing:

- APA #1: Records of Dr. Seth Kane, Hackensack University, dated 12/6/05 – 12/8/05, consisting of pages 1-5.
- APA #2: Records of Maria Baens, MD, Doctor's Care, dated 4/29/14 – 5/23/14, consisting of pages 6-47.
- APA #3: Records of Dr. Ross Taylor, Coastal Orthopedics, dated 6/12/14 – 8/15/14, consisting of pages 48-53.
- Exhibit A: Paystubs, dated 12/8/13 – 5/2/14, consisting of page 54-64.
- APA #4: Records of Coastal Orthopedics, dated 6/12/14, consisting of pages 65-66.
- APA #5: Records of Doctor's Care, dated 4/29/14 – 5/23/14, consisting of pages 67-69.
- Exhibit B: Form 20, consisting of page 70.
- Exhibit C: Video from Store
- Exhibit D: Photographs of floor mat from Store taken at the hearing

II. STIPULATIONS

Counsel for the respective parties stipulated at the time of the hearing to the following issues:

1. The purpose of the hearing is to determine the issues as set forth in the Forms 50 and 51 and any other issues which may timely come before the Commission;
2. That the Claimant's alleged accident occurred on April 29, 2014;
3. The Claimant's average weekly wage was \$168.84 with a corresponding compensation rate of \$112.57;
4. Notices were timely and properly served upon all parties of interest;
5. Venue, set in HORRY, is proper as agreed by all parties;
6. That the South Carolina Workers' Compensation Commission has jurisdiction over

the parties and issues involved;

7. The issue for determination is whether Claimant sustained a compensable injury by accident within the course and scope of her employment.
8. If the claim were to be found compensable, it was agreed by the parties that Claimant would be entitled to temporary total disability benefits accruing as of June 12, 2014 only.

Without objection, the Commission's file was made a part of the record in this matter with the exception of any self-serving declaration or unstipulated medical reports.

III. STATEMENT OF THE CASE

It is the Claimant's position that on April 29, 2014 she was working as a cashier. Part of her job was stocking cigarettes. During the course of her work, she stepped half on and half off of the mat that was located on the floor behind the register. As a result of this, her ankle rolled on the uneven surface causing her to suffer torn ligaments and requiring surgery. It is the Claimant's position that this is not an idiopathic injury and that her injury is a result of a specific incident and is therefore compensable.

It is Defendants' position that the Claimant suffered an idiopathic injury on April 29, 2014 when she rolled her ankle due to a pre-existing chronic instability of her left ankle documented in the medical records and that she was having ongoing problems with this ankle for some time. The Defendants rely on video taken from the store cameras from April 29, 2014 which clearly show that the floor mat did not cause Claimant's injury and was not involved in her ankle giving out. Defendants contend that the video clearly shows the floor mat was not involved in Claimant's accident nor did it cause her injury. The Claimant's left ankle merely gave out. Also, Defendants contend that the Claimant's ankle was injured prior to this time immediately preceding this alleged accident. Defendants further argue that there is no special risk associated with the Claimant's work

that caused this accident and it is therefore idiopathic in nature.

Prior to the hearing, a review of the video surveillance for the date of accident was done with all parties present. The floor mat from the video was also reviewed by Commissioner Wilkerson as provided by the store manager.

IV. EVIDENCE OF THE CASE

The Claimant, Jenna Foran, testified at the hearing on her own behalf. She stated that in 2004, she underwent surgery on her left ankle. However, she testified that her physician "cleared me at 100% out of medical; therefore, I was able to do everything and anything." Hrg. Tr. pg. 10, lines 13-17. The Claimant then testified that after her surgery in 2004, her left ankle was fully healed and she had no physical limitations.

The Claimant testified following her 2004 surgery, she worked as a cashier and a lifeguard. Her ankle did not limit her job duties. She also was able to participate in recreational activities including volleyball and softball. She further testified that she was not limited with her left ankle in any way with activities at home or doing daily chores. She was able to do her job without any physical requirements prior to her accident.

The Claimant testified she started working for Murphy Oil in December, 2013 as a third shift cashier. Her job duties included stocking cigarettes, stocking shelves, cleaning, and running the cash register. She worked part time from 11:00pm to 7:00am.

The Claimant testified that her ankle "was really fine until I had stumbled onto the mat where my foot was half on, half off, and my ankle gave out." Hrg. Tr. pg. 12, lines 20-22. The Claimant testified that immediately preceding her stepping on the mat, she was stocking cartons of cigarettes to put on the shelves.

Claimant testified "I noticed I had grabbed - - grabbed too many cartons of cigarettes to put up at the time; therefore I was going to - - I was getting up to put them on the table or the counter behind - - on the other side of me to see what else I needed to grab from the back room; so, I would put those away as well while I was trying to get the others. And I went to get up and my foot was half on, half off, of the mat and my ankle just rolled underneath me." Hrg. Tr. pg. 13, lines 4-12. The Claimant then testified that the mat seen in the video is approximately an inch thick and three to four feet wide. She testified it is cushiony to give comfort to the cashiers around their feet. The Claimant testified that she has seen mats like this before in grocery stores and gas stations. She does not believe her ankle would have rolled but for the floor mat.

The Claimant then testified that she has never seen a mat like this at home and that they are not common to her neighborhood. She did testify that the store has mats such as this in the doorway where people walk from the parking lot into the store.

The Claimant testified that after she rolled her ankle, she got up and went right back to her duties. Her supervisor, Jean, came into the store later in the morning. She testified that she showed Jean that her ankle had rolled underneath her as she was stocking cigarettes. The Claimant testified that she was told by her supervisor that she would contact the store manager, Mr. Stokes (Roger Stokes). Mr. Stokes told her that she needed to go to Doctor's Care. Mr. Stokes then met the Claimant at Doctor's Care.

The Claimant testified that she told Mr. Stokes "I was stocking the cigarettes; my foot was half on, half off, the mat and my ankle had rolled." Hrg. Tr. pg. 17, lines 22-24. The Claimant was then asked whether she had reviewed the store video tape for the time period when her fall took place. The Claimant testified that she had reviewed the video and that it was accurate. She also confirmed that the floor mat is shown in the video.

The Claimant testified she has been seen by Doctor's Care and an orthopedist, Dr. Taylor. She testified she originally came back to work on light duty but was taken out of work by her doctor as of June 12, 2014. Dr. Taylor provided her the boot she was wearing at the hearing. She testified she wears her boot every day and sometimes to bed. The Claimant testified she is not able to walk without it and crawls around her house.

On cross examination, the Claimant was asked specifically about her prior description of accident. She indicated she was kneeling while stocking the shelves, she got up from the kneeling position with her foot half on the mat and half off of the mat. The Claimant confirmed that her injury occurred while she was kneeling and went to stand up. When asked whether she would agree that the video actually shows that she had already stood up, turned around, gone over to where the cashier area was, the Claimant responded "I haven't - - I - - what I've seen was I was in the process of on the way up." Hrg. Tr. pg. 22, lines 17-21.

The Claimant then reiterated on cross examination that she was injured while "in the process of standing up my foot was half on, half off, and my ankle had rolled. Hrg. Tr. pg. 23, lines 2-3. When asked if she was still saying, contrary to the video evidence, that she was in the process of standing up from a kneeling position when she was injured, the Claimant testified "yes." Hrg. Tr. pg. 23, lines 4-7. Defense counsel referred the Commissioner to the video surveillance for the time of 5:33:47am.

Further on cross examination the Claimant was asked whether she testified in her deposition that her ankle just rolled while she was standing up. She indicated she was "down on one knee as if I was proposing, and I had leaned up with this foot was up propping me the other one was underneath me, and when I had gone up my foot was half on, half off, of the mat and it rolled as I was getting up." Hrg. Tr. pg. 24, lines 12-17. The Claimant again confirmed that this

was the exact way in which she was injured. The Claimant was again asked whether she watched the video surveillance from the store and whether she thought it was accurate and consistent. The Claimant testified that yes she had seen the video and felt the video was accurate.

The Claimant was asked regarding her testimony that after her 2004 surgery, she was told by the doctor she was 100%. The Claimant denied that she was actually diagnosed instead with "chronic instability of the left ankle." Hrg. Tr. pg. 25, line 12. When asked whether she had been diagnosed by her current doctors with chronic instability of the left ankle, Claimant replied "no, they have not." Hrg. Tr. pg. 25, lines 16-19.

The Claimant then testified on cross examination that before this accident on April 29, 2014, she had not complained to anyone in the store about having left ankle pains and denied having any problems with her left ankle. She denied that any such complaints occurred. Hrg. Tr. pg. 26, line 2.

On redirect examination, the Claimant testified that she had reviewed the video of the actual accident and that she was facing the register when her foot was half on and half off of the mat.

Mr. Randolph Stokes Rogers, II then testified on behalf of the Defendants. He testified he is the Manager of Store 8717 for Murphy Oil Corporation. He testified that this is the store where Ms. Foran works and that he has been with the company for four years. He testified the Claimant was hired in December, 2013.

Mr. Stokes Rogers (referred to by Claimant in testimony as Mr. Stokes) testified that before this alleged accident on April 29, 2014 the Claimant would walk around the store with an obvious limp. He testified he asked her multiple times what was wrong with her left foot/ankle. He testified she always replied that "she had a car accident years ago and that's what was bothering

her.” Hrg. Tr. pg. 30, lines 19-22.

He further testified that he noticed that the Claimant walked with an apparent limp about every time he saw her. He does not recall whether there was ever a day that she walked without a limp. He also testified that before this alleged accident, she complained multiple times about having a “bad ankle.” Hrg. Tr. pg. 31, line 7.

Mr. Rogers further testified that on the date of the alleged accident, he spoke with the Claimant. He specifically stated “she told me she was stocking some cigarettes down on the floor level and that she got up and she hurt her ankle.” Hrg. Tr. pg. 32, lines 7-9. He further testified that she never mentioned anything about catching her foot on the mat or being half on and half off of the mat. In fact, he testified that the mat had actually never come up before this case was in litigation. Hrg. Tr. pg. 32, lines 14-17.

Mr. Rogers then produced the floor mat in question from the store. He testified the mat is not an inch or even close to an inch in thickness. Hrg. Tr. pg. 33, lines 20-22.

Commissioner Wilkerson then inspected the mat and instructed defense counsel to take photographs of the mat on the floor. Commissioner Wilkerson noted on the record that the mat was not an inch thick and was possibly quarter to a half inch raised off the floor. Hrg. Tr. pg. 37, lines 11-16. Multiple photographs from all angles were taken at the hearing in the presence of all parties.

On cross examination, Mr. Rogers testified that prior to April 29, 2014 the Claimant was able to perform her job every time he asked her about the pain in her left ankle. Mr. Rogers then testified on cross examination that prior to this alleged injury, he did not know of any restrictions Claimant had that prevented her from doing her job duties. Mr. Rogers further testified as to his conversation with the Claimant after her alleged accident. He testified he asked her how she was

injured and she stated "she was stocking cigarettes and when she went to get up her ankle kind of gave way." Hrg. Tr. pg. 45, lines 23-25. He was then asked whether she said anything regarding the mat and whether the mat caused her injury. Mr. Rogers testified he had no idea about the mat until a couple of weeks ago as she only told him she was stocking cigarettes and went to get up when her ankle rolled. Hrg. Tr. pg. 46, lines 1-12.

Mr. Rogers further testified that the mat brought in today was the mat from the store and was the one in the video surveillance. They use it as a cushion mat kept behind the register for cashier's to stand on instead of concrete. He testified he believes it helps their legs that they do not have to stand on concrete all day. When asked if he has a mat like that at home, he indicated he does not.

Ms. Amber Goss then testified on behalf of Defendants. Ms. Goss testified she is the District Manager for Murphy Oil, USA. She testified that she is not a mat expert, but she has seen these types of mats before outside of work. They sell them in stores and she actually has one in her kitchen. They are soft, squishy, kind of cushiony mats and it is decorative but also a comfort mat. Hrg. Tr. pg. 51, lines 9-14.

The medical records included in the file are those from Hackensack University from December 2005. These records reflect the Claimant was seen December 6, 2005 with a protracted history of recurrent injuries to the left ankle with now chronic instability that has failed conservative treatment. She underwent Open Watson-Jones reconstruction of the lateral ligament complex of the left ankle. APA #1, pg. 1.

The medical records from Doctor's Care from April 29, 2014 through May 23, 2014 were submitted into evidence. The medical report from the date of injury indicates the Claimant's history is significant for tendon reconstruction in the left ankle in 2004 (states after history of

"multiple sprains") but since surgery, had been pregnant, working and has had no issues until today. X-rays were reviewed and it was agreed that there was no evidence for any acute boney trauma, changes consistent with prior surgery and referred to a sub-specialist for continued symptoms. APA #2, pg. 15.

The medical records from Dr. Ross Taylor at Coastal Orthopedics were submitted into evidence for dates June 12, 2014 through August 15, 2014. However, included with these reports is a letter dated August 15, 2014 on letterhead of Palmetto Injury Lawyers signed by the Claimant's attorney only. APA #3, pg. 52-53. This document is not a medical record and not signed by a medical doctor. The report dated June 12, 2014 from Dr. Taylor indicates the Claimant "admits to having complete loss of sensation distal to the mid cap area since her previous surgery. This is not related to her most recent injury." APA #3, pg. 48. Dr. Taylor found that the Claimant's previous repair was ruptured and recommended a revision lateral ankle ligament reconstruction using unallograph. APA #3, pg. 48. The Claimant was taken out of work on June 12, 2014. APA #3, pg. 50.

The same medical report dated June 12, 2014 from Dr. Taylor indicates the Claimant was seen with pain in her left ankle that "began when she was at work after slipping and falling." APA #4, pg. 65. He diagnosed her with ankle instability, status post fall left ankle. Defendants further submitted the entire video surveillance for the store from two separate cameras showing the morning of April 29, 2014. These videos were reviewed in detail by the Commissioner. The video surveillance clearly shows that at 5:33am, the Claimant turned around with her back to the register and squatted down on the ground stocking cigarettes. She then stood up without any incident whatsoever and did not roll her ankle. The Claimant turned around and went back to the register where she was standing on the mat. The Claimant partially stepped off of the mat and then stepped

fully back on the mat with her left foot. While standing at the register on the floor mat, the Claimant's left ankle then rolled, causing her to lean forward into the counter. When Claimant's left ankle rolled, both of her feet were placed on the mat. The video surveillance also shows that Claimant was not rising from a crouching position such as a man proposing on one knee. The Claimant also was not half on half off of the mat when her ankle rolled. Photographs of the floor mat further were included with the evidence showing a thin slightly cushioned mat.

A record such as was necessary for a decision was made of the proceeding and after careful consideration and study of all the evidence, the following findings of fact are accordingly made.

V. FINDINGS OF FACT

IT IS FOUND AS A FACT:

1. That Employee, Employer, and Carrier are subject to and bound by the terms and provisions of the South Carolina Workers' Compensation Act, as amended, with Jenna Foran as Employee-Claimant and Murphy USA as Employer and Liberty Insurance Corporation as Carrier, Defendants.
2. That the average weekly wage of Employee at the time of the above-described accident was \$168.84, and his compensation rate was \$112.57.
3. Order directives and instructions were sent to all parties on October 31, 2014.
4. The Claimant's testimony is very confusing as to her description of this accident. She verified her personal description multiple times which was different than what the video shows actually happened. The video also clearly shows that after the Claimant was in a kneeling position, her ankle did not roll and she was able to walk over to the other side of the counter. The Claimant's testimony was therefore untrue and inaccurate based on the video surveillance showing this incident.

5. The Claimant described the mat as being well over an inch thick causing her to fall. This was inconsistent after personally viewing the mat at the hearing.

6. The manager of the store, Stokes Rogers, did authenticate the mat and brought it to the hearing. This was the mat in question shown in the video which Claimant states caused her ankle to roll. This mat was personally viewed by the Commissioner.

7. Photographs of the mat were taken at the hearing and agreed upon by all parties.

8. The mat which Claimant indicates caused her injury is possibly a quarter to half an inch thick at most.

9. Stokes Rogers, II, manager of this Murphy Oil station, indicated that he was never told by the Claimant that she felt she had an accident caused by the mat at the store until two weeks before the hearing date when informed by his counsel that that was the Claimant's testimony. The Claimant specifically reported to Mr. Rogers that she went to get up and hurt her left ankle. Mr. Rogers was also aware that the Claimant suffered from a bad left ankle as she generally walked with a significant and noticeable limp on the left side prior to April 29, 2014.

10. The medical report from Coastal Orthopedics dated June 12, 2014 specifically shows the Claimant reported to Dr. Taylor that her left ankle pain began after slipping and falling. She did not discuss or describe to Dr. Taylor that she slipped while half on and half off of a mat.

11. APA #1, pages 1- 5 specifically document the Claimant's prior left ankle issues and chronic instability.

12. The medical records from Doctor's Care indicate the Claimant reported that her injury occurred when she stood up and may have caught on a mat twisting her left ankle. The Claimant's description of accident to her medical providers all indicate that her injury occurred while she was rising from a kneeling or lower position. This is supported by all of the medical

records from Doctor's Care pages 6 – 47.

13. The Claimant submitted as APA #3, pg. 53 a letter signed only by the Claimant's attorney. I therefore do not give any weight to this letter as it is not signed by a medical physician. Even if the medical reports did indicate that the Claimant slipped half on and half off of a mat, this is inconsistent with the video evidence clearly showing this incident.

14. The video surveillance provided for this date of accident is key to the compensability of this case. The video evidence does not show an injury by accident arising out of or within the course and scope of employment. The Claimant is merely standing at the register with both feet forward when her left ankle rolls. The video shows that the ankle rolling is therefore idiopathic in nature regardless of the mat.

15. The Claimant testified that she had a total recovery from her previous ankle injury. However, the store manager described the Claimant with a chronic and noticeable limp on an everyday basis. Based on the Claimant's weakness of her foot and prior instability of her left ankle, I do not feel that the mat whether a quarter inch, half inch, or up to an inch caused her accident or was any type of increased special risk incurred by the Claimant.

16. I find the Claimant's testimony to be unclear as to what actually happened. The Claimant testified repeatedly that she was in a kneeling position and was trying to stand with her foot half off and half on the mat when her ankle rolled. Her description is unclear and is not consistent with the video surveillance. The Claimant was limping around the gas station prior to this accident contrary to her own testimony. The medical evidence also does not match the Claimant's testimony that she had a 100% recovery from her chronic ankle instability and surgery in 2004.

17. I give greater weight and credibility to the employer witness, Stokes Rogers, than I

do to the Claimant. The medical history shown in the medical records indicate the Claimant had chronic instability of the left ankle. I do not find she suffered a compensable injury by accident within the course and scope of her employment as the video shows her standing at the register when her left ankle merely gives out. Furthermore, I do not find the mat to be a special risk that contributed to her ankle giving out. The Claimant therefore suffered an idiopathic fall and is not entitled to benefits under the South Carolina Workers' Compensation Act.

VI. CONCLUSIONS OF LAW

Accordingly, as provided in § 42-17-40, SC Code Ann. (1976), as amended, it is the determination of this Commission that:

1. Under § 42-1-130, Claimant was a covered employee at the time in question; and under § 42-1-140, Defendant/Employer was a covered employer under the Act.

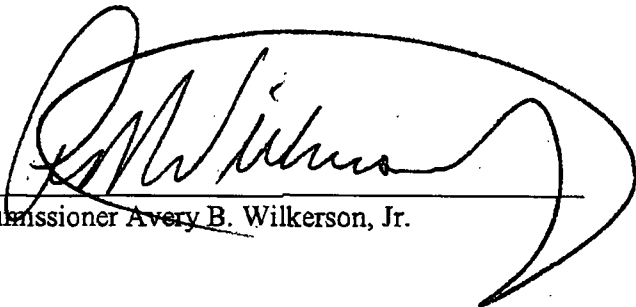
2. Under § 42-1-160, Claimant did not suffer a compensable injury by accident within the course and scope of her employment. The Claimant's rolling of the left ankle was idiopathic in nature and not caused or aggravated by her work or any special risk found in her employment. I further find that the video surveillance supports the Claimant's ankle rolling was idiopathic only. Even if the Claimant's foot had been half on and half off of the mat, I do not feel that the mat caused or contributed to the Claimant's injury after personally reviewing the floor mat and the video surveillance of this incident.

VII. ORDER/AWARD

IT IS HEREBY ORDERED that this claim is denied.

IT IS SO ORDERED.

SOUTH CAROLINA WORKERS'
COMPENSATION COMMISSION



Commissioner Avery B. Wilkerson, Jr.

CERTIFICATE OF SERVICE

This is to certify 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).

January 14, 2015

By: Elaine Boyd, Administrative Assistant to Commissioner Wilkerson



PALMETTO

INJURY LAWYERS
LLC

ph (843) 429-2000
toll free (888) 848-8847
fax (843) 497-3805

C. SCOTT MASEL | MATTHEW VAN WIE

4593 Oleander Drive, Suite 200
P.O. Box 808 (29578)
Myrtle Beach, SC 29577

August 15, 2014

S.C. Workers' Compensation Commission
Attn: Ms. Virginia Crocker
Post Office Box 1715
Columbia, South Carolina 29202-1715

Re: Claimant.....: Jenna Foran
Employer.....: Murphy Oil USA INC.
Date of Injury...: 4-29-14
Claim No.....: WC555C35451
WCC File No..: 1405375

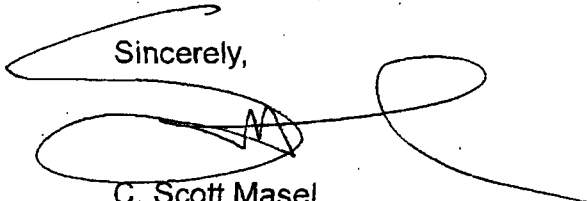
Dear Ms. Crocker:

Please find enclosed a Form 50 in duplicate in the above referenced action along with a Certificate of Service. I am requesting a hearing at this time.

By copy of this letter, I am serving the carrier for the Defendant with a copy of the Form 50. Additionally, enclosed please find the \$25.00 filing fee.

Thank you for your assistance in this matter. With kindest regards, I remain

Sincerely,



C. Scott Masel
Attorney For The Claimant

Enclosures: Form 50
Certificate of Service

cc: Anne V. Noonan, file

South Carolina Workers' Compensation Commission

1333 Main Street, Suite 500 • Post Office Box 1715

Columbia, South Carolina 29202-1715

(803) 737-5723 www.wcc.sc.govWCC File #: **1405375**Carrier File #: **WC555C35451**Carrier Code #: **Unassigned**Employer FEIN #: **Unassigned**

Claimant's Name: Jenna Foran SSN: _____ Employer's Name: Murphy Oil USA, Inc.
 Address: _____ Address: _____
 City: Myrtle Beach State: SC Zip: _____ City: _____ State: SC Zip: _____
 Home Phone: (201) 310-9761 Work Phone: () - Insurance Carrier: Liberty Insurance Corporation
 Preparer's Name: C. Scott Masel Law Firm: Palmetto Injury Lawyers, LLC Preparer's Phone #: (843) 429-2000

A claim for workers' compensation benefits is made based on the following grounds:**Date of Injury or Illness:** 4-29-14
☒ Injury ☐ Illness ☐ Repetitive Trauma ☐ Occupational Disease ☐ Physical Brain Injury ☐ Concurrent Jurisdiction

- The claimant sustained an injury to Left Lower Extremity on 4-29-2014 in Horry county, state of SC.
- Body part(s) affected are: Left Foot, Left Ankle
- Briefly describe how the accident occurred. Claimant was kneeling down stocking cigarettes and went to stand up.
- Both the claimant and the employer were subject to the South Carolina Workers' Compensation Act at the time of injury.
- The relationship of employer and employee existed at the time of injury.
- At the time of the injury the claimant was performing services arising out of and in the course of employment.
- Notice of the accidental injury was given to the Employer on _____ (Month/Day/Year) in the following manner:

☐ 7. Due to injury, the claimant is in need of (check one):

☐ (a) medical examination and treatment for: _____

☒ (b) Additional medical examination and treatment for: The surgery recommended by Dr. Ross Taylor.
☒ 8. Due to injury, the claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of:
 From date of injury until returning to full duty.

☒ 9. Due to the injury, the Claimant has permanent disability of the following nature and extent (check one):

☐ (1) General Disability: ☐ Total ☐ Partial ☐ (2) Specific Disability: ☐ Total ☐ Partial ☐ (3) Wage Loss

 9a. ☒ A determination of permanent disability is premature at this time.

☐ 10. Due to the injury, the Claimant has a serious bodily disfigurement consisting of:

 10a. At the time of the injury, the Claimant was paid weekly wages of \$TBD, and demands accounting of days worked and wages earned as provided by law.

10b. Give names and addresses of all employers for whom the Claimant has worked since the date of the accident:

11. Further grounds or unusual aspects of claim:

 11a. List names and addresses of all physicians or other medical specialists who have seen or treated the Claimant as a result of the accident:
Doctors Care- 1220 21st Avenue North, Myrtle Beach, SC ; Doctors Care Carolina Forest - 200 Middleburg Drive Myrtle Beach, SC 29579 Coastal Orthopedic 237 Cypress Circle, Ste 300 Conway, SC 29526 (Dr. Ross Taylor)

 11b. To the best of your knowledge, did you have any prior permanent disability? No
 If yes, describe: _____

12. Appropriate benefits as provided in the Act for the above grounds and other relief as the Workers' Compensation Commission may direct as just and proper.

☐ 13a. I am filing a claim. I am not requesting a hearing at this time.

 14. Estimated time needed for hearing: 1 hour
☒ 13b. I am requesting a hearing. A \$25 fee is required.
Mediation

- ☐ a. Mediation is requested to be ordered pursuant to Reg. 67-1801 B.
☐ b. Mediation is required pursuant to Reg. 67-1802.
☐ c. Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.
☐ d. Mediation has been conducted by a duly qualified mediator and resulted in an impasse.

 Questions regarding mediation may be submitted to mediation@wcc.sc.gov.

I certify I have served this document pursuant to Reg. 67-211 by delivering a copy to Liberty Insurance Corporation Attn: Claims Department
 Address P.O. Box 31204 Tampa, Florida 33631 on the 2 day of July 2014, by ☒ first class postage ☐ certified mail ☐ personal service.

I verify the contents of this form are accurate and true to the best of my knowledge.

Preparer's Signature

Attorney for Claimant

smasel@newbylaw.com

8-15-14

Title

Email

Date

Questions about the use of this form should be directed to the Claims Department at 803.737.5723. Refer to Regulations 67-204 through 67-211 and Regulations 67-601 through 67-615 as well as Reg.-67-1801.

WCC Form # 50

50

Employee's Notice of Claim and/or
Request for Hearing**R.p.41**

CERTIFICATE OF SERVICE

I, Stacy BeLue, paralegal on staff at Palmetto Injury Lawyers, attorney for the Claimant, Jenna Foran, do hereby certify that I have served Defendant, Murphy Oil USA Inc. and their Carrier, Liberty Insurance Corporation, through their attorney Anne Veatch Noonan, Esquire with the foregoing document(s) by mailing a copy of the same by United States Mail, postage prepaid, to the following address:

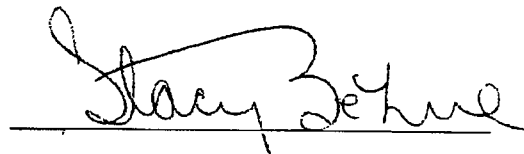
Pleading (s): Form 50

Person(s) Served:

S.C. Workers' Compensation Commission
Attn.: Ms. Virginia Crocker
Post Office Box 1715
Columbia, South Carolina 29202-1715

Willson Jones Carter & Baxley, P.A.
Attn: Anne Veatch Noonan, Esquire
421 Wando Park Boulevard, Suite 100
Mount Pleasant, SC 29464

August 15, 2014


Stacy BeLue

WILLSON JONES CARTER & BAXLEY, P.A.

ATTORNEYS AT LAW

GREENVILLE CHARLESTON COLUMBIA CHARLOTTE RALEIGH ATLANTA

Anne Veatch Noonan
Direct (843) 284-1097
Fax (843) 284-1081
avnoonan@wjlaw.net

421 Wando Park Boulevard, Suite 100
Mount Pleasant, SC 29464
www.wjchlawnet

October 6, 2014

Ms. Amy Bracy
Judicial Director
South Carolina Workers' Compensation Commission
P.O. Box 1715
Columbia, SC 29202-1715

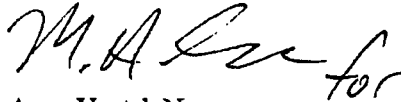
Re: Jenna Foran vs. Murphy Oil USA, Inc.
WCC File No.: 1405375 DOI: 4/29/2014
Carrier: Liberty Insurance Corporation - Claim No.: WC555-C35451
WJC&B File No.: 0010.04220

Dear Ms. Bracy:

Enclosed please find defendants' Form 51 in the above-referenced matter, in response to Claimant's amended Form 50. By copy of this correspondence, a copy of our Form 51 is being provided directly to C. Scott Masel, claimant's counsel.

With kindest regards,

WILLSON JONES CARTER & BAXLEY, P.A.



Anne Veatch Noonan

AVN/ems

Enclosure

cc (w/enclosure): C. Scott Masel, Esquire
Ms. LaQuinda Brown (via e-mail)



Claimant's Name: Jenna Foran SSN: 156-88-7028 Employer's Name: Murphy Oil Corporation
Address: 400 Branigan Court, Unit 1023 Address: 577 International Drive
City: Myrtle Beach State: SC Zip: 29579 City: Myrtle Beach State: SC Zip: 29579
Home Phone: (201) 310-9761 Work Phone: _____ Insurance Carrier: Liberty Insurance Corporation
Preparer's Name: Anne Veatch Noonan Law Firm: Willson Jones Carter & Baxley, P.A. Preparer's Phone #: (843) 284-1097

Date of Injury or Illness: 4/29/2014

Complete each information blank. Specify clearly when contentions are admitted in part and denied in part. The employer/carrier in answer to the claim, respectfully shows:

1. It is ☐ Admitted ☒ Denied the employee sustained an injury or illness on or about the date set forth in the Form 50. The reasons for denial are:
Defendants admit the incident but deny any injury by accident arising out of and in the course of employment.
2. It is ☒ Admitted ☐ Denied both the employer and employee were subject to the Workers' Compensation Act at the time in question. The reasons for denial are:

3. It is ☒ Admitted ☐ Denied the relationship of employer and employee existed at the time in question. The reasons for denial are:

4. It is ☐ Admitted ☒ Denied at the time in question the employee was performing services arising out of and in the course of employment. The reasons for denial are:
See No. 1.
5. It is ☒ Admitted ☐ Denied notice of injury was given the employer. The reasons for denial are:

6. It is ☐ Admitted ☒ Denied the employee ☐ Needs ☒ Is Entitled to Additional medical care as a result of injury or illness. The reasons for denial are:
See No. 1.
7. It is ☐ Admitted ☒ Denied the employee is entitled to temporary total disability for the period(s) of :
See No. 1.
8. It is ☐ Admitted ☒ Denied the employee is permanently disabled. The reasons for denial are:
See No. 1
9. It is ☐ Admitted ☒ Denied the employee has serious disfigurement
[TO BE PROVIDED]
10. It is contended that an average weekly wage of \$ _____ applies, according to attached Form 20 as provided by law.
11. Further contentions, grounds of defense, or unusual aspects are:
Defendants reserve the right to amend and to assert defenses as they become aware of them.

☐ Mediation

- ☐ a. Mediation is requested to be ordered pursuant to Reg. 67-1801 B.
☐ b. Mediation is required pursuant to Reg. 67-1802.
☐ c. Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.
☐ d. Mediation has been conducted by a duly qualified mediator and resulted in an impasse.

Questions regarding mediation may be submitted to mediation@wcc.sc.gov.

I certify that I have served this document pursuant to R.67-212 by delivering a copy to: C. Scott Masel, PO Box 808, Myrtle Beach, SC 29577 and Judicial Department
Name & Address

SC WCC, P.O. Box 1715, Columbia, SC 29202 on the 6th day of October, 2014, by ☒ first class mail ☐ personal service ☐ certified mail.

I verify the contents of this form are accurate and true to the best of my knowledge.

M.A. Veatch Noonan
Preparer's Signature AVN

Attorney for the Employer/Insurer
Title

avnoonan@wilaw.net
Email

10/6/14
Date

Lauren M. Blanton
Certifier, Lauren M. Blanton

Refer to R.67-204 through R.67-210 and R.67-601 through R.67-615. Refer to R. 67-1801 for mediation. Questions about the use of this form may be directed to the Commission's Judicial Department at 803-737-5675 or jud@wcc.sc.gov or mediation@wcc.sc.gov. Pursuant to R.67-606, a Form 20 must be filed with the Claims Department at least 30 days from the date of filing this form.



C. SCOTT MASEL | MATTHEW VAN WIE

ph (843) 429-2000
toll free (888) 848-8847
fax (843) 497-3805

4593 Oleander Drive, Suite 200
P.O. Box 808 (29578)
Myrtle Beach, SC 29577

October 16, 2014

Commissioner Avery B. Wilkerson Jr.
S.C. Workers Compensation Commission
Post Office Box 1715
Columbia, South Carolina 29202-1715

Re: Claimant.....: Jenna Foran
Employer.....: Murphy Oil USA Inc.
Date of Injury.....: 04-29-2014
WCC File No.....: 1405375
Our File No.....: 14-5-0028

Dear Commissioner Wilkerson:

Enclosed please find the Form #58 Pre- Hearing Brief with attached Certificate of Service, and the Notice Of Witnesses And Written Medical Reports To Be Introduced As Direct Evidence On Behalf Of Claimant in reference to the above mentioned claim.

By copy of this letter, I am serving the Attorney, for the carrier, with a copy of the Form #58 and APA submissions.

Sincerely,

C. Scott Masel
Attorney For The Claimant

Enclosures: As Noted

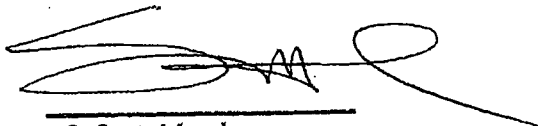
Cc: Anne V. Noonan, Esquire, file

YOU ARE FURTHER HEREBY NOTIFIED that you have the right to cross-exam; if you choose to cross exam, you are to schedule the physicians depositions of only those named doctors whose reports have been submitted.

YOU ARE NOTIFIED that the photocopies our office received from physicians/case nurse & others are being forwarded to the South Carolina Worker's Compensation Commission so it may be placed upon the South Carolina Workers' Compensation Commission's file and introduced as evidence on behalf of the Claimant.

YOU ARE NOTIFIED that the following witnesses may be called on behalf of the Claimant:

1. Jenna Foran, Claimant
2. Any and all witnesses listed by the Defendant.



C. Scott Masel
Attorney for the Claimant
4593 Oleander Drive Suite 200
P.O. BOX 808(29578)
Myrtle Beach, South Carolina 29577

October 16, 2014

CERTIFICATE OF SERVICE

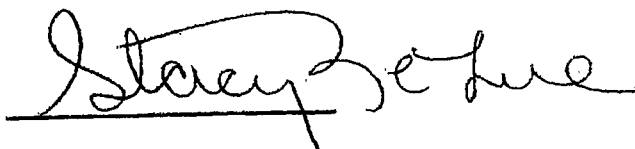
I, Stacy BeLue, Paralegal and employee of Palmetto Injury Lawyers, LLC, attorney (C. Scott Masel) for the Claimant, Jenna Foran, do hereby certify that I have served Defendant Employer, Murphy Oil USA Inc., and their carrier, Liberty Insurance Corporation, through their attorney, Anne V. Noonan, Esquire, with the foregoing document(s) by mailing a copy of the same by United States Mail, postage prepaid, to the following address:

Pleading(s): Form 58 & A.P.A. Submissions

Person(s) Served:

S.C. Worker's Compensation Commission
Attn: Commissioner Avery B. Wilkerson Jr.
Post Office Box 1715
Columbia, South Carolina 29202-1715

Wilson Jones Carter & Baxley, P.A.
Attn: Anne V. Noonan, Esquire
421 Wando Park Boulevard, Ste 100
Mount Pleasant, SC 29464

A handwritten signature in black ink, appearing to read "Stacy BeLue", written over a horizontal line.

Stacy BeLue
Paralegal to C. Scott Masel & Matt Van Wie

October 16, 2014
Myrtle Beach, South Carolina

STATE OF SOUTH CAROLINA
BEFORE THE WORKER'S COMPENSATION COMMISSION

W.C.C. FILE NO. 1405375

Jenna Foran Employee, Claimant, VS. Murphy Oil USA Inc. Employer, Liberty Insurance Corporation Carrier, Defendants.	<u>NOTICE OF WRITTEN MEDICAL REPORTS AND WITNESS TO BE INTRODUCED AS DIRECT EVIDENCE ON BEHALF OF CLAIMANT</u>
--	--

To: SOUTH CAROLINA WORKER'S COMPENSATION COMMISSION AND,

Anne V. Noonan, Esquire ATTORNEY FOR DEFENDANTS:

PLEASE TAKE NOTICE THAT the Claimant's Attorney herewith submit(s) the
following written medical reports & copies of which are attached hereto, as direct evidence on behalf of
the Claimant:

<u>NO.</u>	<u>Physician/other</u>	<u>Facility</u>	<u>Date</u>	<u>Pages</u>
1.	Dr. Seth Kane	Hackensack University	12-06-05- 12-08-05	1-5
2.	Maria Baens, MD	Doctors Care	04/29/14- 05/23/14	6-47
3.	Dr. Ross Taylor	Coastal Orthopedic	06/12/14 08/15/14	48-53
<u>Exhibit</u>				
A.	Paystubs 12/18/13 to 05/02/14			54-64



PRE-HEARING BRIEF
WCC File No: 1405375

Claimant's Name: Jenna Foran Employer's Name: Murphy Oil USA Inc.
Address: 400 Branigan Court Unit 1023 Address: 200 Peach Street
City: Myrtle Beach State: SC Zip: 29579 City: El Dorado State: AR Zip: 71730
Home Phone: (201) 310-9761 Work Phone: () Carrier: Liberty Insurance Corporation 200
Preparer's Name: C. Scott Masel Preparer's Phone #: (843) 429-2000

A claim for workers' compensation benefits is made based on the following grounds:

☒ Injury ☐ Illness ☐ Repetitive Trauma

1. Compensation Rate: TBD 2. AWW: \$TBD Date of Injury: 4-29-2014
3. Type of injury and body part(s): Left Lower Extremity
4. Facts in controversy: 1. Compensability of Left Lower Extremity 2. Claimant is not at MMI 3. Entitlement to ongoing medical care recommended by Dr. Ross Taylor. 4. Claimant is entitled to ongoing TTD. 5. To determine TTD.
5. Legal issues involved: 42-1-160 (Compensability); 42-15-60 (Medical Treatment), 42-9-10 (TTD), 42-1-40 (TTD)
6. Unusual aspects: None
7. Witnesses (designate if expert):* Claimant Jenna Foran, Claimant may reserve the right to add witnesses.
8. Medical evidence (Indicate report pursuant to R.67-612; deposition or appearance):
Exhibits: A. Paystubs
See attached APA Submissions; Claimants may reserve the right to add exhibits.
9. Name, address, and specialty, if any, of the treating physician: Coastal Orthopedic- 2376 Cypress Circle, Ste 300 Conway, SC 29526 (Dr. Ross Taylor)
10. Impairment rating(s); body part(s); physician and date of opinion: Claimant is not at MMI.
12. I am amending my Form 50/51 in the following manner: _____

☐ **Mediation**

- ☐ a. Mediation is requested to be ordered pursuant to Reg. 67-1801 B.
☐ b. Mediation is required pursuant to Reg. 67-1802.
☐ c. Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.
☐ d. Mediation has been conducted by a duly qualified mediator and resulted in an impasse.

Questions regarding mediation may be submitted to mediation@wcc.sc.gov.

I verify the contents of this form are accurate and true to the best of my knowledge.

I certify I have served this document pursuant to Reg. 67-211 by delivering a copy to Anne V. Noonan, Esquire

Address: Willson Jones Carter & Baxley, P.A. 421 Wando Park Blvd, Ste 100 Mount Pleasant, SC 29464 on the 16 day of OCT. 2014 by; ☒ first class postage ☐ certified mail ☐ personal service.

Signature: [Signature]
Date of hearing: 10-31-14

Email: smasel@newbylaw.com
Time needed for hearing: 1 hour

Questions about the use of this form should be directed to the Jurisdictional Commissioner. Refer to Regulations 67-204 through 67-211 and Regulations 67-601 through 67-615; as well as Regulation 67-1801. File this form and proof of service on the opposing party according to R.67-611 and R.67-212. Do not send medical reports. * Commissioners reserve the right to admit expert witnesses at hearings.

STATE OF SOUTH CAROLINA
BEFORE THE WORKER'S COMPENSATION COMMISSION
W.C.C. FILE NO. 1405375

<u>NO.</u>	<u>Facility</u>	<u>Date</u>	<u>Pages</u>
1.	Hackensack University	12-06-05- 12-08-05	1-5
2.	Doctors Care	04/29/14- 05/23/14	6-47
3.	Coastal Orthopedic	06/12/14 08/15/14	48-53

Exhibit

A.	Pay stubs 12/13/13 to 05/02/14	54-64
----	--------------------------------	-------

Hackensack University

Medical Records

HACKENSACK UNIVERSITY MEDICAL CENTER
OPERATIVE RECORD

MEDICAL RECORD #: 0260461-9
BILLING #: 026440016
ADMIT DATE: 12/06/2005
DISCHARGE DATE: 12 8 05
UNIT: 03CO ROOM:
SVC: SMP PT TYPE: I
AGE: 15

PATIENT NAME: MALUDA, JENNA

DATE: 12/06/2005

OPERATOR: Seth Owen Kane, M.D.

ASSISTANT:

OPERATION: Left ankle arthroscopy with debridement of synovitis. Open Watson-Jones reconstruction of the lateral ligament complex of the left ankle.

ANESTHESIA: General.

ANESTHESIOLOGIST:

PREOPERATIVE DIAGNOSIS: Chronic instability of left ankle.

POSTOPERATIVE DIAGNOSIS: Chronic instability of left ankle.

INDICATIONS: This is a 15-year-old girl with a protracted history of recurrent injuries to the left ankle with now chronic instability that has failed conservative treatment including physical therapy.

PROCEDURE: After general anesthesia was induced, the left leg was prepped and draped. First, left ankle arthroscopy was performed using mini arthroscopic tools. Standard anteromedial and anterolateral arthroscopic portals were made. On inspection of the joint, the surface was smooth along the articular surface of the tibia and a portion of talus that were visible. I was able to visualize both medial and lateral gutters. There was anterior synovitis, especially anterolaterally. I placed a shaving tool through the medial portal and did shaving in this area to the synovitis. A little more of this synovitic tissue was removed during the open part of the procedure as well. This part of the procedure was done without a tourniquet to save tourniquet time later. There was blood in the joint which did limit the visibility in evaluating the lateral ligament complex intra-articular component. As I was opening, I opted to visualize what bleeding was preventing me from seeing until the open component of the procedure.

I used an Esmarch and set the tourniquet to 275 mmHg and then made a long incision going a third the way up the calf following the posterior margin of the fibula curving over the lateral malleolus and going anterior for 4 cm anterior to the tip of the lateral malleolus. The incision was carried down through subcutaneous tissue. Dissection deeper than this was done with Metzenbaum scissors. At the proximal end, I looked for the saphenous nerve but it was never visible in my incision. Dissection was done down to the peroneal compartment sheath. This was opened the full length of the upper part of the incision going down to the peroneal retinaculum. The retinaculum with peroneal tendons was left intact.

I then identified the peroneus longus and brevis muscles and tendons. In both cases, the muscular component extended quite distal especially on the peroneus brevis. The muscular component extended all the way down to the top of the peroneal sheath. I used a combination of predominantly #15 blade

OPERATIVE RECORD

CONTINUATION SHEET

PATIENT NAME: MALUDA, JENNA

MEDICAL RECORD #: 0260461-9

and at times periosteal elevator to separate the peroneus brevis muscle from its tendon. At the upper portion, the tendon was relatively attenuated but I did a very careful gentle dissection to get the maximum length of tendon that I could and then divided the upper end of the tendon when there was really no significant additional structural tendon left. I attached the peroneus brevis muscle with 2-0 Vicryl sutures to the peroneus longus tendon.

Next, I continued the deeper dissection distally along the anterior aspect of the incision. I entered the ankle joint just in front of the tip of the fibula distally and further looked at the lateral articular surface of the gutter and anterior articular surface of the talus which were normal. I got a good look at the most distal component of the anterior tibia/fibula ligament which was attenuated at its fibular attachment. I also looked at the anterior talofibular ligament. This was somewhat stretched and especially attenuated at its attachment to the fibular side more than to the talar side. I then planned the position of the tunnel through the fibula and started from posterior 2.5 cm above the distal tip of the lateral malleolus going anteriorly and moderately distal so that the anterior part came out at about the anterior articular level of the tibiotalar joint. The drill hole was made by first placing a cannulated screw pin and then drilling over this with an open 5 mm cannulated drill bit. With a tendon passer, I passed the tendon retrograde through the fibula from posterior to anterior. It went through very nicely. I placed moist 4 x 4s over the peroneal muscles to protect that area.

I then did further dissection along the neck of the talus. As I then observed her mobility with her ankle dorsiflexed and the foot somewhat everted. She still had prominent mobility with the hindfoot locked in this position of the mid-foot joint letting her relatively adduct through the mid-foot joint. She did not dorsiflex her ankle that far. I chose to make my tunnel through the talus starting at the anterior end of the articular margin of the talus junction with the neck. I used the same K wire guide and same drill bit. This time, drill bit did not want to go through as, I ultimately learned, it was skiving on the K wire. It went partially through from superior to inferior. I then made a separate hole along the inferior portion and completed the hole leaving a sturdy bridge of about 1.25 cm in width. I then passed the tendon from inferior to superior through this talus tunnel with the foot dorsiflexed and moderately everted. I then lightened the peroneus brevis tendon through the tunnel in the fibula, the tunnel in the talus and pulled the remainder over the lateral margin of the distal fibula. I made a periosteal window down to the bone at the level that I wanted to tie the tip of my reconstruction tendon to the lateral fibula. I used 0 Ethibond sutures suturing the peroneus brevis tendon reconstruction under tension to the periosteum of the lateral fibula, the graft to itself, and the graft to the anterior periosteal margin of the fibula as well.

At that point, there was good tension and stability. As noted above, since she still had prominent mobility through several mid-foot joints, she could still adduct through the mid-foot joints with the heel nicely locked in stable position. I used a running 2-0 Vicryl to close the peroneal sheath. I used the same sutures to close the lateral ankle joint capsule. Subcutaneous closure was mainly with 2-0 Vicryl and some 3-0 Vicryl and then staples on the skin.

The reconstructed lateral ligament complex was nice and stable at the conclusion. The reconstruction graft went right across and over the weakened talofibular ligament as part of its construct. During the whole repair, the foot position was held in neutral dorsiflexion and slight eversion. Soft dressing and then a short leg cast were applied with the leg in this position.

OPERATIVE RECORD

Page 2 of 3 Original

P.2
R.p.53

CONTINUATION SHEET

PATIENT NAME: MALUDA, JENNA

MEDICAL RECORD #: 0260461-9

CC Seth Owen Kane, M.D.

SIGNED

Seth Owen Kane, M.D. 12/15/2005 09:27

Seth Owen Kane, M.D.

DD: 12/06/2005
DT: 12/07/2005
HUMC/SK/mdq
JOB #: 000454029

OPERATIVE RECORD

HACKENSACK UNIVERSITY MEDICAL CENTER
DEPARTMENT OF PHYSICAL AND MEDICAL REHABILITATION

MALUDA, JENNA X.
U# 2604619
B# 26440016
DOB: 30May90

Unit: 0300
Adm Date: 6DEC05
Age: 15 Sex: F

MEDICAL/SURGICAL EVALUATION

ADMIT MD 005199 KANE, SETH OWEN
ATTN MD 005199 KANE, SETH OWEN

DATE: 12/7/05

P.T. ORDERS: tomorrow NNB PT on L leg By M.D. Dr. Kane

S: "I've been up walking to the bathroom" mother presents

O: GEN'L OBS: ☐ Young ☐ Middle-aged ☐ Elderly ☒ Pleasant/Cooperative
☐ Agitated ☐ Distressed ☒ Alert ☒ Orientation x 3
☐ Lethargic ☐ Impulsive ☐ IV ☐ Catheter
☐ O2 ☐ Telemetry ☐ Posey Restraints ☐ Venodyne Boots
☐ Hemovac ☐ Chest Tubes ☐ Tracheostomy ☐ Ventilator

Other: Short leg cast L lower leg

SKIN: ☒ Warm ☐ Dry ☐ Cool ☐ Clammy
☐ Trophic changes ☐ Hands ☐ Feet
☐ Edema, (mild/mod/severe) Location: _____
☐ Ecchymosis Location: _____
☐ Incisions Location: _____
☐ Other: _____

SENSATION: ☐ Light Touch: INTACT COMPROMISED (degree and location)
☐ Proprioception: INTACT
☐ Pain: INTACT

	R.O.M.	STRENGTH
RUE	<u>WNL</u>	<u>7/8</u>
LUE		
RLE	<u>WNL & L foot and ankle</u>	<u>7/8 & L foot and ankle</u>
LLE		
OTHER		

PAIN: LEVEL (0-10): 8 1/2 / 10 Controlled by pain medication

LOCATION: L LE

TYPE: pt premedicated for pain prior to PT

PHYSICAL THERAPY

HACKENSACK UNIVERS. / MEDICAL CENTER
SUMMARY SHEET

MEDICAL RECORD #: 0260461-9
BILLING #: 026440016
ADMIT DATE: 12/06/2005
DISCHARGE DATE: 12/08/2005
UNIT: 03CO ROOM:
SVC: SMP PT STS: I

PATIENT NAME: MALUDA, JENNA

AGE: 15

This is a 15-year-old with recurrent left ankle sprains and resulting chronic instability. She underwent left ankle arthroscopy and Watson-Jones ligament reconstruction. Postoperatively, she had numbness of her toes. She was not actively dorsiflexing the toes and only minimally plantarflexing. There was no compartment swelling. The cast was fully split and dressing split. She was discharged to elevate at home using crutches and non-weight bearing. She was to return to the office in two weeks.

CC Seth Owen Kane, M.D.

SIGNED

Seth Owen Kane, M.D. 12/15/2005 09:27

Seth Owen Kane, M.D.

DD: 12/08/2005
DT: 12/10/2005
HUMC/SK/mdq
JOB #: 000455693

SUMMARY SHEET

Page 1 of 1

Original

R.56

12-8

Doctors Care Medical Records



Patient Medical History

Today's Date: 29 April 2014
Date of Birth: 5 30 90

Patient Name: Lehna Foran

Allergies

If you have no known allergies, please check the box at right.

☒ No known allergies to report

1. Medication: _____ Reaction: _____
2. Medication: _____ Reaction: _____

Major Illnesses (please check all that apply)

Hypertension: ☐ Current ☐ Past ☒ N/A Notes: _____
Diabetes: ☐ Current ☐ Past ☒ N/A Notes: _____
Cancer: ☐ Current ☐ Past ☒ N/A Notes: _____
Other: ☐ Current ☐ Past ☒ N/A Notes: _____

Surgeries (please list all major surgeries with estimated dates)

If you have never had any major surgeries, please check the box at right.

☐ No surgeries to report

left ankle reconstruction & ligaments, tendons & muscle

Family History

Mother:	☐ Hypertension	☐ Diabetes	☐ Cancer	☐ Other (please specify)	☒ N/A
Father:	☐ Hypertension	☐ Diabetes	☐ Cancer	☐ Other (please specify)	☒ N/A
Brother:	☐ Hypertension	☐ Diabetes	☐ Cancer	☐ Other (please specify)	☒ N/A
Sister:	☐ Hypertension	☐ Diabetes	☐ Cancer	☐ Other (please specify)	☒ N/A
Grandmother (M):	☐ Hypertension	☒ Diabetes	☐ Cancer	☐ Other (please specify)	☐ N/A
Grandmother (P):	☐ Hypertension	☐ Diabetes	☐ Cancer	☐ Other (please specify)	☒ N/A
Grandfather (M):	☐ Hypertension	☒ Diabetes	☐ Cancer	☐ Other (please specify)	☐ N/A
Grandfather (P):	☐ Hypertension	☐ Diabetes	☐ Cancer	☐ Other (please specify)	☒ N/A

Social History

Drink alcohol: ☐ Currently ☐ In the past ☒ Never How much and how often? _____
Use tobacco products: ☐ Currently ☐ In the past ☒ Never How much? _____
Substance abuse: ☐ Currently ☐ In the past ☒ Never What substance? _____

Medications with Dosages (if you need more space, please use back of form)

If you are not currently taking any medications, please check the box at right.

☒ No medications to report

Other Information

Preferred pharmacy name: Walmart Date of Last Tetanus Shot: N/A
Preferred pharmacy address: 5411 Subboard St MB SC 29579

Patient Acknowledgement

To the best of my knowledge, the information provided above is accurate and complete.

* Lehna Foran
Patient or Authorized Person's Signature

29 April 2014
Date

EMR DOCUMENT TYPE: Patient Information
© 2011 Doctors Care, a registered trademark of GCI Medical Affiliates, Inc.

Patient Forms Packet Page 3 of 6 (PAT 4011-111-141)



Notice of Privacy Practices: Doctors Care, PA

Please Read and Sign

This notice describes how medical information about you may be used, disclosed, and how you can get access to this information. Please review this document carefully.

Patient Health Information (PHI)

Under federal law, your patient health information (PHI) is protected and confidential. Patient health information (PHI) includes information about your symptoms, test results, diagnosis, treatment, and related medical information. Your patient health information (PHI) also includes payment, billing, and insurance information. We are committed to protect the privacy of your PHI.

How we use your patient health information (PHI)

This Notice of Privacy Practices (Notice) describes how we may use within our practice or network and disclose (share outside of our practice or network) your PHI to carry out treatment, payment or health care operations, for administrative purposes, for evaluation of the quality of care, and so forth. We may also share your PHI for other purposes that are permitted or required by law. This Notice also describes your rights to access and control your PHI. Under some circumstances we may be required to use or disclose your PHI without your consent.

Treatment: We will use and disclose your PHI to provide you with medical treatment or services. We may also disclose your PHI to other health care providers who are participating in your treatment, to pharmacists who are filling your prescriptions, to laboratories performing tests, and to family members who are helping with your care, and so forth.

Payment: We will use and disclose your PHI for payment purposes. For example, we may need to obtain authorization from your insurance company before providing certain types of treatment. We will submit bills and maintain records of payments from your health plan. PHI may be shared with the following: billing companies, insurance companies, health plans, government agencies in order to assist with qualifications of benefits, or collection agencies.

Operation: We may ask you to complete a sign-in sheet or staff members may ask you the reason for your visit so we can better care for you. Despite safeguards, it is always possible in a doctor's office that you may learn information regarding other patients or they may inadvertently learn something about you. In all cases, we expect and request that our patients maintain strict confidentiality of PHI.

We may use and disclose your PHI to perform various routine functions (e.g. quality evaluations or records analysis, training students, other health care providers or ancillary staff such as billing personnel) to assist in resolving problems or complaints within the practice. We may use your PHI to contact you to provide information about referrals, to follow up with lab results, to inquire about your health or for other reasons. We may share your PHI with Business Associates who assist us in performing routine operational functions, but we will always obtain assurances from them to protect your PHI the same as we do.

Special Situations that DO NOT require your permission: We may be required by law to report gunshot wounds, suspected abuse or neglect, and so on. We may be required to disclose vital statistics, diseases and similar information to public health authorities. We may be required to disclose information for audits and similar activities, in response to a subpoena or court order or as required by law enforcement officials. We may release information about you for workers' compensation or similar programs to protect your health or the health of others or for legitimate government needs, for approved medical research, or to certain entities in the case of death. Your PHI may also be shared if you are an inmate or under custody of the law which is necessary for your health or the health and safety of other individuals.

Military Activity and National Security: When the appropriate conditions apply, we may use or disclose PHI of individuals who are Armed Forces personnel for activities deemed necessary by appropriate military command authorities, for the purpose of a determination by the Department of Veterans

Affairs of your eligibility for benefits, or to foreign military authority if you are a member of that foreign military service.

In some situations, we may ask for your written authorization before using or disclosing any identifiable health information about you. If you sign an authorization, you can later revoke the authorization.

Individual Rights

You have certain rights with regard to your PHI, for example:

Unless you object, we may share your PHI with friends or family members, or other persons directly identified by you at the level they are involved in your care or payment of services. If you are not present or able to agree/object, the healthcare provider using professional judgment will determine if it is in your best interest to share the information. We may use or disclose PHI to notify or assist in notifying a family member, personal representative or any other person that is responsible for your care of your location, general condition or death. We may use or disclose your PHI to an authorized public or private entity to assist in disaster relief efforts.

You may request restrictions on certain uses and disclosures of your PHI. We are not required to accept all restrictions. If you pay in full for a treatment or service immediately, you can request that we not share this information with your medical insurance provider or our Business Associates. We will make every attempt to accommodate this request and, if we cannot, we will tell you prior to the treatment.

You may ask us to communicate with you confidentially by, for example, sending notices to a special address.

In most cases, you have the right to get a copy of your PHI. There will be a charge for the copies.

If you believe information in your record is incorrect, or if important information is missing, you have the right to request that we amend the existing information by submitting a written request. You may request a list of instances where we have disclosed PHI about you for reasons other than treatment, payment, or operations. The first request in a 12 month period is free. There will be charges for additional reports.

You have the right to obtain a paper copy of this Notice from us, upon request. We will provide you a copy of this Notice on the first day we treat you at our facility. In an emergency situation we will give you this Notice as soon as possible. You have the right to receive notification of any breach of your protected health information.

Our Legal Duty

We are required by law to protect and maintain the privacy of your PHI, to provide this Notice about our legal duties and privacy practices regarding PHI, and to abide by the terms of the Notice currently in effect. We may update or change our privacy practices and policies at any time. Before we make a significant change in our policies, we will change our Notice and post the new Notice in the admissions area and on our website at www.DoctorsCare.com. You can also request a copy of our Notice at any time.

If you are concerned about your privacy rights or if you disagree with a decision we made about your records, you may contact the Privacy Officer listed below. You may also send a written complaint in the U.S. Department of Health and Human Services. You will not be penalized in any way for filing a complaint.

Contact Person

If you have any questions, requests, or complaints, please contact:

Doctors Care
Attn: Privacy Officer
1600 Hwy 17 North
Surfside Beach, SC 29575

or email: privacyofficer@doctorscare.com

HIPAA South Carolina
US PHHS
Atlanta Federal Center
Suite 2B70
61 Forsyth Street
Atlanta, GA 30303-8901

Patient Acknowledgement

My signature verifies that I have been provided a copy of Doctors Care "Notice of Privacy Practices" to review. I understand that if I would like a copy of this Notice,

Doctors Care will provide me with a copy of this documentation.

Senna Foran

5/30/90

Senna Foran

5/30/2014

Patient's Name (please print)

Date of Birth

Signature

Today's Date

L115 LIVE APHIL 2013
PMDX DOCUMENT TYPE Patient Information

© 2014 LiveAPHIL is a registered trademark of ULI Medical Alliances, Inc.

Patient Forms Pack 1 Page 4 of 4 PAT 1001 (07/13)

General Progress Note (Physician)

FORAN, JENNA - B159084

Ankle/Foot Problems *

Patient: MALUDA, JENNA MRN: B159084 FIN: 1997502

Age: 23 years Sex: Female DOB: 6/30/1990

Associated Diagnoses: Ankle pain; Left ankle swelling; Tendinopathy of lower extremity; Left ankle sprain; Accident at workplace

Author: Baens MD, Maria

Visit Information

Date of Service: 04/29/2014 10:58 am Performing Location: Doctors Care - Carolina Forest Encounter#: 1997502

Primary Care Provider (PCP): Joslin MD, Richard NPI# 1801901566

Referring Provider: No referring provider recorded for selected visit.

Chief Complaint

4/28/2014 12:05 PM EDT left ankle injury today at Murphy's, while stocking shelves.

History of Present Illness

Was at the bottom shelf of stocking cigarettes this AM when she stood up and may have caught on a mat twisting her left ankle- since then it is painful to bear weight on it. Did not take any NSAIDS or apply ice-Hx significant for "tendon reconstruction" in the left ankle in 2004 (states after hx of "multiple sprains") but since surgery, had been pregent, and working and has had no issues with ankle pain, swelling or giving way- until today.

Review of Systems

Constitutional: Decreased activity.

Eye: Negative.

Ear/Nose/Mouth/Throat: Negative.

Respiratory: Negative.

Cardiovascular: Negative.

Gastrointestinal: Negative.

Immunologic: Negative.

Musculoskeletal: Negative except as documented in history of present illness.

Integumentary: Negative.

Neurologic: States she has chronic numbness and tingling in her toes after surgery on left ankle..

Psychiatric: Negative.

Health Status

Allergies:

Allergic Reactions (All)

No Known Medication Allergies

Problem list:

All Problems (Selected)

Morbid obesity / SNOMED CT 356968010 / Probable

Histories

Past Medical History:

Resolved

none: Resolved.

Family History:

Diabetes Mellitus

Grandmother (M)

Grandfather (M)

Procedure history:

left ankle.. Reconstructive surgery "after multiple sprains" left ankle 2004.

General Progress Note (Physician)

FORAN, JENNA - B159084

Social History:

Alcohol Assessment

Never

Tobacco Assessment

Never

Substance Abuse Assessment

Never

Physical Examination

VS/Measurements

Vital Signs

4/29/2014 12:05 PM EDT

Temperature Tympanic

97.3 DegF LOW

Peripheral Pulse Rate

80 bpm

Respiratory Rate

16 br/min

Systolic Blood Pressure

110 mmHg

Diastolic Blood Pressure

70 mmHg

Mean Arterial Pressure

83 mmHg

Measurements from flowsheet : Measurements

4/29/2014 12:05 PM EDT

Height

66 in

Weight

283 lb

BSA

2.35 m2

Body Mass Index

42.44 kg/m2

General: Alert and oriented, No acute distress.

Eye: Pupils are equal, round and reactive to light, Extraocular movements are intact, Normal conjunctiva, Nonicteric sclerae..

HEENT: Normocephalic, Tympanic membranes are clear, Normal hearing, Oral mucosa is moist, No pharyngeal erythema, No sinus tenderness.

Neck: Supple, Non-tender, No carotid bruit, No lymphadenopathy, No thyromegaly.

Respiratory: Breath sounds are equal, No chest wall tenderness.

Respirations: Are within normal limits.

Pattern: Regular.

Breath sounds: No rales present, No rhonchi present, No wheezes present.

Cardiovascular: Normal rate, Regular rhythm, No murmur, No gallop.

Musculoskeletal: Mild soft tissue swelling along lateral aspect of ankle on left with tenderness to inversion, and palpation of lateral malleolus- long linear surgical scar along lateral distal 1/2 of calf extending to ankle. Capillary refill intact. Can wiggle toes.

Palpable DP/PT pulses. No cords..

Integumentary: Warm, No rash.

Neurologic: Alert, Oriented, Normal motor function, No focal deficits, Normal gait, Normal balance, With exception of CNII (non-dilated pupils limit fundoscopic), CNIII to XII intact).

Psychiatric: Cooperative, Appropriate mood & affect, Normal judgment.

Review / Management

Results review: Lab results

4/28/2014 12:42 PM EDT

hCG QI POC

Negative

hCG QI POC

Negative

Radiology results

No apparent acute bony abnormality- has surgical changes in navicular, (?prior fracture)- advised to await Rad report.

Impression and Plan

Diagnosis

Ankle pain (ICD9 729.5).

Left ankle swelling (ICD9 719.07).

Accident at workplace (ICD9 E928.9).

Printed by: Story, April
Printed on: 8/15/2014 5:09 PM EDTPage 2 of 3
(Continued)

General Progress Note (Physician)

FORAN, JENNA - B159084

Ankle pain (ICD9 729.5).

Tendinopathy of lower extremity (ICD9 727.8).

Left ankle sprain (ICD9 845.00).

Course: Worsening.

Patient Instructions: AIR STIRRUP ANKLE SPLINT, Self-Care for Strains and Sprains, Treating Ankle Sprains.

Counseled: Patient, Verbalized understanding. Employer/ WC has a >5 page form to be filled out which was extremely time consuming-she is advised to stay on light duty and reassess in 5 days. (also works at Walmart).

Orders

Orders

Charges:

73610 radex ankle complete minimum 3 views (Task/Charge) (Order): Quantity: 1.

Orders

Pharmacy:

Naprosyn 375 mg oral tablet (Prescribe): 1 tab(s) (375 mg), po, bld, x 30 day(s), Instructions: with food for relief of pain/ swelling, # 60 tab(s), 0 Refill(s), Type: Maintenance, Pharmacy: Wal-Mart Pharmacy 2712

Charges:

L4350 ankle control orthos: prefab (Task/Charge) (Order): Quantity: 1.

Orders

Charges (Evaluation and Management):

99214 office outpatient visit 25 minutes (Charge) (Order): Quantity: 1.

Signature Line

Signed and Authored by Maria Baens on 04/29/2014 01:59 PM EDT

Charted Date: April 29, 2014 1:23 PM EDT

Subject / Title: Ankle/Foot Problems *

Performed By: Baens MD, Maria on April 29, 2014 1:32 PM EDT

Electronically Signed By: Baens MD, Maria on April 29, 2014 1:59 PM EDT

Visit Information: 1997502, Doctors Care - Carolina Forest, Outpatient, 4/29/2014 - 5/1/2014

Doctors Care Carolina Forest
200 Middleburg Dr
Myrtle Beach, SC 29579
(843) 903-6650 Office
(843) 903-0758 Fax

Radiology Overread by:
Carolina Radiology Associates, LLC

NAME: MALUDA, JENNA
DOB: 05/30/1990
PHYSICIAN: Bacns, Maria MD

DATE OF EXAM: 04/29/2014
PATIENT ID: DCGS159084

EXAM: LEFT ANKLE 3V

IMPRESSION: There may have been prior internal fixation. No acute fracture is evident.

Agree.

John J. Daly Jr, M.D.
Electronic Signature
Apr 29 2014 7:33PM

NOTE: This report is an OVERREAD and may not be used as a report for billing purposes to third party payors. The original interpretation by the requesting physician is part of the patient's Medical Record.

ADDENDUM

Administrative Addendum: Patient name should be Jenna Foran, not Jenna Maluda.

Donald Hastings Jr.

Electronic Signature

DD: 04/29/2014
DT: 05/09/2014

FORAN, JENNA - B159084

Patient: MALUDA, JENNA MRN: B159084 FIN: 1997502
Age: 23 years Sex: Female DOB: 6/30/1990
Associated Diagnoses: None
Author: Baens MD, Maria



Dates of Care: 04/30/2014
Return to Work Date: 04/30/2014
Nature of Illness/Injury (if requested):
Work Status: Light Duty Full Duty
Comments: Dear Walmart: Due to acute injury please allow Ms. Maluda to return to work with restrictions: no heavy lifting over 10 lbs; no prolonged standing, walking for over 1 hour continuous. Absolutely no climbing. Will reassess 05/5/2014/

Signed and Authored by Maria Baens on 04/29/2014 02:02 PM EDT

Charted Date: April 29, 2014 2:00 PM EDT
 Subject / Title: Return to Work/School Waiver
 Performed By: Baens MD, Maria on April 29, 2014 2:02 PM EDT
 Electronically Signed By: Baens MD, Maria on April 29, 2014 2:02 PM EDT
 Visit Information: 1987502, Doctors Care - Carolina Forest, Outpatient, 4/29/2014 - 5/1/2014

Page 1 of 1
(End of Report)

FORAN, JENNA - B159084

Patient: **MALUDA, JENNA** MRN: **B159084** FIN: **1987502**
Age: **23 years** Sex: **Female** DOB: **6/30/1990**
Associated Diagnoses: **None**
Author: **Baens MD, Maria**



Dates of Care: 04/30/2014
Return to Work Date: 04/30/2014
Nature of Illness/Injury (if requested): _____
Work Status: Light Duty Full Duty
Comments: Dear Walmart: Due to acute injury please allow Ms. Maluda to return to work with restrictions: no heavy lifting over 10 lbs; no prolonged standing, walking for over 1 hour continuous. Absolutely no climbing. Will reassess 05/5/2014/

Signed and Authored by Maria Baens on 04/29/2014 02:02 PM EDT

Charted Date: April 29, 2014 2:00 PM EDT
Subject / Title: Return to Work/School Waiver
Performed By: Baens MD, Maria on April 29, 2014 2:02 PM EDT
Electronically Signed By: Baens MD, Maria on April 29, 2014 2:02 PM EDT
Visit Information: 1997502, Doctors Care - Carolina Forest, Outpatient, 4/29/2014 - 5/1/2014

Printed by: Rutland , Deborah
Printed on: 9/10/2014 10:24 AM EDT

Page 1 of 1
(End of Report)

General Message

FORAN, JENNA - B159084

Document Contains Addenda

From: Baens MD, Maria
To: Office Pool (CAFR_SC),
Sent: 05/01/2014 2:21:40 PM EDT
Subject: General Message
Actions: Notify the patient with results

RAD reviewed x-rays and agreed there is no evidence for any acute bony trauma- changes consistent with prior surgery. Would seek subspecialist opinion (I think she was referred to {Podiatry?}) for continued symptoms.

Addendum by Arnold, Cynthia on May 04, 2014 1:15:17 PM EDT (Verified)

Pt notified. Pt will RTC tomorrow with nurse case manager for re-evaluation.

Charted Date: May 01, 2014 2:21 PM EDT
Subject / Title: General Message
Performed By: Baens MD, Maria on May 01, 2014 2:21 PM EDT
Visit Information: 1997561, Doctors Care - Carolina Forest, Outpatient, 4/29/2014 - 5/1/2014

Printed by: Rutland, Deborah
Printed on: 9/10/2014 10:23 AM EDT

Page 1 of 1
(End of Report)

General Message

FORAN, JENNA - B159084

Document Contains Addenda

From: Baens MD, Maria
To: Office Pool (CAFR_SC),
Sent: 05/01/2014 2:21:40 PM EDT
Subject: General Message
Actions: Notify the patient with results

RAD reviewed x-rays and agreed there is no evidence for any acute bony trauma- changes consistent with prior surgery. Would seek subspecialist opinion (I think she was referred to {Podiatry?}) for continued symptoms.

Addendum by Arnold, Cynthia on May 04, 2014 1:15:17 PM EDT (Verified)

Pt notified. Pt will RTC tomorrow with nurse case manager for re-evaluation.

Charted Date: May 01, 2014 2:21 PM EDT
Subject / Title: General Message
Performed By: Baens MD, Maria on May 01, 2014 2:21 PM EDT
Visit Information: 1997561, Doctors Care - Carolina Forest, Outpatient, 4/29/2014 - 5/1/2014

Printed by: Rutland, Deborah
Printed on: 9/10/2014 10:23 AM EDT

Page 1 of 1
(End of Report)

POC Testing Form

FORAN, JENNA - B159084

Pregnancy Test POC Entered On: 4/29/2014 12:44 PM EDT
Performed On: 4/29/2014 12:42 PM EDT by Rabon, Kimberly

Pregnancy Test POC
hCG QI POC: Negative

Rabon, Kimberly - 4/29/2014 12:44 PM EDT

Charted Date: April 29, 2014 12:42 PM EDT
Subject / Title: Pregnancy Test POC
Performed By: Rabon, Kimberly on April 29, 2014 12:44 PM EDT
Electronically Signed By: Rabon, Kimberly on April 29, 2014 12:44 PM EDT
Visit Information: 1997561, Doctors Care - Carolina Forest, Outpatient, 4/29/2014 - 5/1/2014

Printed by: Rutland, Deborah
Printed on: 9/10/2014 10:25 AM EDT

Page 1 of 1
(End of Report)

XR Report

FORAN, JENNA - B159084

This document has an image.

Charted Date: April 29, 2014 12:30 PM EDT
Subject / Title: X-ray Lt Ankle
Performed By: Baens MD, Maria on April 30, 2014 12:32 PM EDT
Electronically Signed By: Baens MD, Maria on May 01, 2014 2:21 PM EDT
Visit Information: 1997561, Doctors Care - Carolina Forest, Outpatient, 4/29/2014 - 5/1/2014

Printed by: Rutland, Deborah
Printed on: 9/10/2014 10:25 AM EDT

Page 1 of 1
(End of Report)

FORAN, JENNA - B159084

Smoking Status

Follow up

When: Within As needed

Comments: Reassess under WC in 5 days/ light duty. Sooner if with worse pain/swelling/fever

Patient Education Materials Provided this Visit

D

Charted Date: April 29, 2014 2:00 PM EDT
Subject / Title: Visit Summary
Performed By: Baens MD, Maria on April 29, 2014 2:00 PM EDT
Electronically Signed By: Baens MD, Maria on April 29, 2014 2:00 PM EDT
Visit Information: 1997502, Doctors Care - Carolina Forest, Outpatient, 4/29/2014 - 5/1/2014

Page 3 of 3
(End of Report)

Visit / Encounter Charge(s)

Doctors Care - Carolina Forest
200 MIDDLEBURG DRIVE
MYRTLE BEACH, SC, 29579
Phone: (843) 903-6650 Fax: (843) 903-0578

Patient: **FORAN, JENNA**

Birthdate: 05/30/1990 Age: 23 Years Sex: Female Weight: 263 lb (04/29/14)
MRN: B159084 FIN: 1997502 Height: 66 in (04/29/14)
PCP: Joslin MD, Richard
Allergies: No Known Medication Allergies

Please note - Allergy list may be incomplete

Patient Home Address: 400 BARNICIAN CT
UNIT 1023
MYRTLE BEACH, SC 29579 Home Phone: (201) 310-9761
Work Phone:
Cell Phone:
Insured: CASH PAY DISCOUNT 2011 CASH PAY DISCOUNT 2011
Primary Health Plan: CASH PAY DISCOUNT 2011
Secondary Health Plan:
Birthdate: 01/01/2001
156-88-7028

Secondary Health Plan:

Charge(s)

Charge: 99214 office outpatient visit 25 minutes (Charge)

Charge Code: 99214
Start Date/Time: 04/29/2014 13:59
Quantity: 1
Original Order Date/Time: 04/29/2014 13:59
Ordering Provider: Maria Racus MD (I-Sig)
NPI: 1447256672
Order Status: Completed

Diagnoses: 1 - 719.07 Left ankle swelling
2 - 845.00 Left ankle sprain
3 - 727.9 Tendinopathy of lower extremity
4 - 729.5 Ankle pain
5 - E928.9 Accident at workplace

Charge: 73610 radiol ankle complete minimum 3 views (Task/Charge)

Charge Code: 73610
Start Date/Time: 04/29/2014 13:31
Quantity: 1
Original Order Date/Time: 04/29/2014 13:31
Ordering Provider: Maria Racus MD (I-Sig)
NPI: 1447256672
Order Status: Completed

Diagnoses: 1 - 719.07 Left ankle swelling
2 - 845.00 Left ankle sprain
3 - 729.5 Ankle pain
4 - 727.9 Tendinopathy of lower extremity

78-81330

UNIVERSAL ANKLE BRACE

115

3410

8000, N

48

Patient Consent for Treatment

4554600

1. I voluntarily consent to any and all health care treatment and diagnostic procedures provided by Doctors Care and its associated physicians, clinicians and other personnel. I am aware that the practice of medicine and other health care professions is not an exact science and I further state that I understand that no guarantee has been or can be made as to the results of the treatments or examinations at Doctors Care.
2. I consent to the use and disclosure of my/the patient's protected health information for purposes of obtaining payment for services rendered to me/the patient, treatment and health care operations consistent with the Doctors Care Notice of Privacy Practices.
3. I authorize payment of medical benefits to Doctors Care physicians or their designee for services rendered.
4. I give permission to obtain all my medication/prescription history when using an electronic system to process prescriptions for my medical treatment.

I have received a copy of the Notice of Privacy Practice, Financial Policy Notice and the Release of Information.

☐ Yes
☐ No Initial _____

Patient or Authorized Person's Signature

Date

Workers Compensation Patients

I hereby authorize Doctors Care to speak to a rehabilitation specialist, my employer, my insurance carrier or other professionals involved in my care of rehabilitation, regarding my medical records and the treatment I have received or will receive.

Patient or Authorized Person's Signature

Date

In-House Medication Program (please read and sign)

In order to better serve you, Doctors Care has a medication program, which allows you to take home medications directly from our office.

- Our program allows you to fill your prescriptions while you are in our office
- In most cases, our prices are comparable to your insurance co-pay or those offered at your local pharmacy
- In-house medications **will not** be filed to your insurance and will not go toward your deductible

Please Note: This is a cash/credit/check pay only program. Nothing will be filed to your insurance.

Are you interested in having your prescriptions filled at Doctors Care?

☐ Yes ☐ No ☐ I may consider purchasing once evaluated by the provider on duty

Patient or Authorized Person's Signature

Date

FOR INTERNAL USE ONLY

HPM Account Number

P157084

Co-Pay Collected: \$

N/KC

EMR DOCUMENT TYPE Patient Information

© 2011 Doctors Care is a registered trademark of UCI Medical Affiliates, Inc.

[PAT-F002-(11-13)]

85-11-10-17-58

593826420817

20 R.p.72

SEP-10-2014 13:47 From:UCI-Med Billing Dept

Visit / Encounter Charge(s)

Doctors Care - Conway 501
1133 CHURCH STREET
CONWAY, SC, 29526
Phone: (843) 248-6269 Fax: (843) 248-0535

Patient: FORAN, JENNA

Birthdate: 05/30/1990	Age: 23 Years	Sex: Female	Weight: 263 lb (05/05/14)
MRN: B159084	FIN: 2007591	Height: 66 in (05/05/14)	
PCP: Joslin MD, Richard			
Allergies: No Known Medication Allergies			

****Please note - Allergy list may be incomplete****

Patient Home Address: 400 BARNIGAN CT
UNIT 1023
MYRTLE BEACH, SC 29579

Home Phone: (201) 310-9761
Work Phone:
Cell Phone:

Insured: FORAN, JENNA
Primary Health Plan: ** NO INSURANCE **

Insured Birthdate: 05/30/1990

Secondary Health Plan:

Charge(s)

Charge:
Ordering Provider: SuperUser IQHEALTH550 (li-Sig)

99213 - 1030

719.47
845.00
719.07
727.9

Patient Consent for Treatment

1. I voluntarily consent to any and all health care treatment and diagnostic procedures provided by Doctors Care and its associated physicians, clinicians and other personnel. I am aware that the practice of medicine and other health care professions is not an exact science and I further state that I understand that no guarantee has been or can be made as to the results of the treatments or examinations at Doctors Care.
2. I consent to the use and disclosure of my/the patient's protected health information for purposes of obtaining payment for services rendered to me/the patient, treatment and health care operations consistent with the Doctors Care Notice of Privacy Practices.
3. I authorize payment of medical benefits to Doctors Care physicians or their designee for services rendered
4. I give permission to obtain all my medication/prescription history when using an electronic system to process prescriptions for my medical treatment.

I have received a copy of the Notice of Privacy Practice, Financial Policy Notice and the Release of Information. ☐ Yes ☒ No Initial _____

X

Patient or Authorized Person's Signature

Date

Workers Compensation Patients

I hereby authorize Doctors Care to speak to a rehabilitation specialist, my employer, my insurance carrier or other professionals involved in my care of rehabilitation, regarding my medical records and the treatment I have received or will receive.

X

Patient or Authorized Person's Signature

Date

In-House Medication Program (please read and sign)

In order to better serve you, Doctors Care has a medication program, which allows you to take home medications directly from our office.

- Our program allows you to fill your prescriptions while you are in our office
- In most cases, our prices are comparable to your insurance co-pay or those offered at your local pharmacy
- In-house medications **will not** be filed to your insurance and will not go toward your deductible

Please Note: This is a cash/credit/check pay only program. Nothing will be filed to your insurance.

Are you interested in having your prescriptions filled at Doctors Care?

☐ Yes ☐ No ☐ I may consider purchasing once evaluated by the provider on duty

X

Patient or Authorized Person's Signature

Date

FOR INTERNAL USE ONLY

HPM Account Number: _____

Co-Pay Collected: \$ _____

EMR DOCUMENT TYPE Patient Information

© 2014 Doctors Care is a registered trademark of UCI Medical Affiliates, Inc.

Patient Form Packet: Page 2 of 6, IPAT 100-111 1/11

Wait Time

WOT

Urgent Care Note

FORAN, JENNA - B159084

WKC--Left ankle*

Patient: FORAN, JENNA MRN: B159084 FIN: 2007591
Age: 23 years Sex: Female DOB: 06/30/1990
Associated Diagnoses: Tendinopathy of Lower Extremity; Left Ankle Swelling; Left ankle sprain; Ankle pain, left
Author: Baker PA, Brandy

Visit Information

Date of Service: 05/05/2014 10:54 am Performing Location: Doctors Care - Conway 501 Encounter#: 2007591

Primary Care Provider (PCP): Joslin MD, Richard NPI# 1801801586

Referring Provider: No referring provider recorded for selected visit.

Chief Complaint

05/05/2014 11:45 AM EDT wkc follow up left ankle

History of Present Illness

Was at the bottom shelf of stocking cigarettes this AM when she stood up and may have caught on a mat twisting her left ankle- since then it is painful to bear weight on it. Did not take any NSAIDS or apply ice-Hx significant for "tendon reconstruction" in the left ankle in 2004 (status after hx of "multiple sprains") but since surgery, had been pregnant, and working and has had no issues with ankle pain, swelling or giving way- until today.

5/5/14: Pt here for recheck of left ankle. Pt reports 0% improvement since last visit and states that she believes that she "tore something" inside her ankle again. Pt states that she is taking Naproxen only at night due to somnolence. Pt is wearing brace as directed.

Review of Systems

Constitutional: Negative.
Musculoskeletal: Negative except as documented in history of present illness.
Integumentary: Negative.
Neurologic: Negative.

Health Status

Allergies:

Allergic Reactions (Selected)

No Known Medication Allergies

Medications: (Selected)

PrescriptionsPrescribed

Naprosyn 375 mg oral tablet: 1 tab(s) (375 mg), po, bid, Instructions: with food for relief of pain/ swelling. # 60 tab(s),
0 Refill(s), Type: Maintenance, Pharmacy: Wal-Mart Pharmacy 2712, 1 tab(s) po bid,x30 day(s),Instr:with food for
relief of pain/ swelling

Problem list:

All Problems (Selected)

Morbid obesity / SNOMED CT 358968010 / Probable

Histories

Past Medical History:

Resolved

none: Resolved.

Family History:

Diabetes Mellitus

Grandmother (M)

Grandfather (M)

Printed by: Story, April
Printed on: 8/15/2014 5:09 PM EDT

Page 1 of 3
(Continued)

Urgent Care Note

FORAN, JENNA - B159084

Procedure history:

left ankle.

Social History:

Alcohol Assessment

Never

Tobacco Assessment

Never

Substance Abuse Assessment

Never

Physical Examination**V8/Measurements****Vital Signs**

05/05/2014 11:45 AM EDT

Temperature Oral	87.8 DegF
Peripheral Pulse Rate	62 bpm
Respiratory Rate	18 br/min
Systolic Blood Pressure	111 mmHg
Diastolic Blood Pressure	73 mmHg
Mean Arterial Pressure	88 mmHg

Measurements from flowsheet : Measurements

05/05/2014 11:45 AM EDT

Height	66 in
Weight	263 lb
BSA	2.35 m2
Body Mass Index	42.44 kg/m2

General: Alert and oriented, No acute distress.**Eye:** Pupils are equal, round and reactive to light, Extraocular movements are intact, Normal conjunctiva.**HENT:** Normocephalic, Normal hearing.**Musculoskeletal:**

Mobility/ gait: antalgic gait, Pt is wearing ankle brace.

Lower extremity exam: Ankle (Left, Lateral, Malleolus, Mild, No erythema, No ecchymosis, Swelling, Tenderness, No crepitus,

Range of motion (Diminished, Restricted by pain), Old surgical scar noted on lateral ankle/calf).

Integumentary: Warm, Dry.**Neurologic:** Alert, Oriented, Normal sensory, Normal motor function, No focal deficits.**Psychiatric:** Cooperative, Appropriate mood & affect, Normal judgment.**Health Maintenance****Recommendations**

Pending (in the next year)

Due

Alcohol Misuse Screen (Female) due 05/05/14 and every 1 year(s)

Cervical Cancer Screen (if sexually active) due 05/05/14 and every 3 year(s)

Chlamydia Screen (if sexually active) due 05/05/14 and every 1 year(s)

Depression Screen (Female) due 05/05/14 and every 1 year(s)

Gonorrhea Screen (if sexually active) due 05/05/14 and every 1 year(s)

HIV Screen (if sexually active) (Female) due 05/05/14 and every 1 year(s)

STD Counseling (if sexually active) (Female) due 05/05/14 and every 1 year(s)

Syphilis Screen (if sexually active) (Female) due 05/05/14 and every 1 year(s)

Tetanus Vaccine due 05/05/14 and every 10 year(s)

Tobacco Use Screen (Female) due 05/05/14 and every 1 year(s)

Due In Future

Body Mass Index Check (Female) not due until 04/29/15 and every 1 year(s)

High Blood Pressure Screen (Female) not due until 04/29/15 and every 1 year(s)

Printed by: Story, April
 Printed on: 8/15/2014 5:09 PM EDT

Page 2 of 3
 (Continued)

Urgent Care Note

FORAN, JENNA - B159084

Satisfied (in the past 1 year)

Satisfied

Body Mass Index Check (Female) on 04/28/14. Satisfied by Rabon, Kimberly
High Blood Pressure Screen (Female) on 04/29/14. Satisfied by Rabon, Kimberly

Impression and Plan

Diagnosis

Tendinopathy of Lower Extremity (ICD9 727.9).

Left Ankle Swelling (ICD9 719.07).

Left ankle sprain (ICD9 845.00).

Ankle pain, left (ICD9 719.47).

Patient Instructions: SPRAIN ANKLE (w/ x-ray). ; Follow up with specialist Within As needed.

Counseled: Patient, Regarding diagnosis, Regarding medications, Verbalized understanding.

Summary: F/U with ortho as discussed. Continue to wear brace as directed. Light duty--see WKC sheet, Take meds as directed..

Orders

Orders

Charges (Evaluation and Management):

99213 office outpatient visit 15 minutes (Charge) (Order): Quantity: 1.

Orders

Requests (Consults / Referrals):

Referral (Request) (Order): Referred to: Orthopaedics.

Signature Line

Signed and Authored by Brandy Baker on 05/05/2014 12:27 PM EDT

Charted Date: May 05, 2014 12:10 PM EDT

Subject / Title: WKC--Left ankle*

Performed By: Baker PA, Brandy on May 05, 2014 12:27 PM EDT

Electronically Signed By: Baker PA, Brandy on May 05, 2014 12:27 PM EDT

Visit Information: 2007591, Doctors Care - Conway 501, Outpatient, 5/5/2014 - 5/7/2014



Return To Work Form

CENTER LOCATION:

- ☐ Carolina Forest - 200 Middleburg Dr., Myrtle Beach, SC 29579 • (843) 903-6650
☐ Conway - 1400 Main St., Conway, SC 29526 • (843) 381-8206
☒ Conway 501 - 1113 Church St., Conway, SC 29526 • (843) 248-6260
☐ Georgetown - 1068 North Fraser St., Georgetown, SC 29140 • (843) 545-7200

- ☐ Little River - 2246 Hwy 17, Little River, SC 29566 • (843) 663-2220
☐ North Myrtle Beach - 1714 Hwy 17 South, North Myrtle Beach, SC 29582 • (843) 361-0705
☐ Strand - 1220 21st Ave North, Myrtle Beach, SC 29577 • (843) 676-4174
☐ Surfside - 1600 Hwy 17 North, Surfside Beach, SC 29575 • (843) 238-1461

PATIENT INFORMATION:

Name: Foran, Jenna K. Arrival Time: 10:20 AM Discharge Time: _____
Date: 5-5-14 Company Name: Murphy Express

WORK STATUS: (Check Appropriate Boxes)

- ☐ 1. May perform full duty activities as of _____ without accommodations.
- ☐ 2. Off duty due to work-related condition.
Estimated return to work date with modified duty: _____
Estimated return to work date for full duty: _____
Return for re-evaluation at this location on _____ Time: _____
- ☒ 3. May work with the following accommodations as of: 5/5/14
- ☒ No lifting more than 10 lbs.
 - ☐ No operation of hazardous or fast-moving machinery, no driving.
 - ☒ Ground level work only, no ladders or heights.
 - ☒ No repetitive bending, stooping, squatting, pushing, jerking, twisting, or bouncing.
 - ☒ No continuous standing and/or sitting.
 - ☒ Minimal walking or climbing (including stairs)
 - ☒ Limited use of Back
 - ☐ No overhead lifting.
 - ☐ No high repetitive hand activities for extended periods of time.
 - ☐ No use of _____
- ☐ 4. Has reached Maximum Medical Improvement (MMI)
- ☐ 5. Return for re-evaluation at this office on _____ Time: _____

Additional Comments: _____

PATIENT DISCHARGE INSTRUCTIONS:

Diagnosis: ankle sprain/pain/tenderness/swelling Medications: ☐ as directed ☐ as needed

Wound or Injury Care: ☐ keep dry and clean ☐ do not remove dressing ☐ elevate extremity ☐ warm soaks

☐ ice every _____ ☐ apply heat every _____ ☐ wear elastic support/immobilizer/keep taped

☐ home exercise instructions given ☐ follow instructions sheet given ☐ bed rest for _____

REFERRAL: (If a referral is made for physical therapy, or to another physician, please complete this section.)

To: Ortho Date: _____ Time: _____
For: _____
Address: _____

I understand the above instructions and what to do for my follow-up care. I have received a copy of these instructions for myself and for my employer.

Employee Signature: Jenna Foran Date: _____ Provider Signature: [Signature] Date: 5/5/14

FORAN, JENNA - B159084

*** Final Report ***

Visit Summary for JENNA FORAN

Age: 23 years Sex: Female DOB: 05/30/1990 MRN: B159084
Address: 400 BARNIGAN CT-MYRTLE BEACH, SC 29579
Home: (201) 310-9761 Work: -- Mobile: --
Primary Care Provider: Joslin MD, Richard
Race: White Ethnicity: Not Hispanic or Latino
Preferred Language: English
Health Plan: 1*** NO INSURANCE **

Doctors Caro - Conway 501
1133 CHURCH STREET CONWAY, SC, 29528
Phone: (843) 248-6269 Fax: (843) 248-0535

Future Appointments

Problems and Health Issues

Allergies

All Known Current Prescriptions and Reported Medications

Instructions: with food for relief of pain/ swelling

Page 1 of 3
(Continued)

Visit Summary

FORAN, JENNA - B159084

* Final Report *

Other Reported Medications

No reported medications documented

New Medications this Visit

New Prescriptions

No new prescriptions for this visit

Vitals and Measurements this Visit (last charted value for your 05/05/2014 visit)

Height:: 66 in

Weight:: 263 lb

Body Mass Index:: 42.44 kg/m2

BSA: 2.35 m2

Temperature Oral: 97.8 DegF

Systolic Blood Pressure: 111 mmHg

Diastolic Blood Pressure: 73 mmHg

Mean Arterial Pressure: 86 mmHg

Peripheral Pulse Rate: 82 bpm

Respiratory Rate: 18 br/min

Laboratory and Radiology this Visit (last charted value for your 05/05/2014 visit)

No Laboratory and Radiology documented

Orders this Visit

No visit orders documented

Diagnoses this Visit

Ankle pain, left (719.47)

Left ankle sprain (845.00)

Left Ankle Swelling (719.07)

Tendinopathy of Lower Extremity (727.9)

Referral and Consult Requests this Visit

Referral

Date/Time: 05/05/2014 By: Baker PA, Brandy

Referred To: --

Reason for Referral: --

Procedures this Visit

No Procedures documented

Printed by: Rutland, Deborah
Printed on: 9/10/2014 10:16 AM EDT

Page 2 of 3
(Continued)

Visit Summary

FORAN, JENNA - B159084

* Final Report *

Smoking Status

Never

Follow up

Follow up with: Follow up with specialist

When: Within As needed

Where: --

Comments: --

Patient Education Materials Provided this Visit

0

Additional Visit Comments:

Charted Date: May 05, 2014 12:27 PM EDT
Subject / Title: Visit Summary
Performed By: Baker PA, Brandy on May 05, 2014 12:27 PM EDT
Electronically Signed By: Baker PA, Brandy on May 05, 2014 12:27 PM EDT
Visit Information: 2007591, Doctors Care - Conway 501, Outpatient, 5/5/2014 - 5/7/2014

Printed by: Rutland, Deborah
Printed on: 9/10/2014 10:16 AM EDT

Page 3 of 3
(End of Report)

Intake Form

FORAN, JENNA - B159084

Comprehensive Intake Entered On: 5/23/2014 8:59 AM EDT
Performed On: 5/23/2014 8:56 AM EDT by Ward, Olivia

Summary

Chief Complaint : wkc fu left ankle
Systolic Blood Pressure : 132 mmHg
Diastolic Blood Pressure : 88 mmHg
Mean Arterial Pressure : 103 mmHg
Pulse Rate : 68 bpm
Weight : 266 lb(Converted to: 266 lb 0 oz, 120.66 kg)
Height : 66 in(Converted to: 5 ft 6 in, 167.64 cm)
Body Mass Index : 42.93 kg/m2
Body Surface Area : 2.37 m2
Temperature Tympanic : 98.4 DegF(Converted to: 36.9 DegC)
Respiratory Rate : 20 br/min
Race : Caucasian
Languages : English
Ethnicity : Not Hispanic or Latino

Ward, Olivia - 5/23/2014 8:56 AM EDT

Charted Date: May 23, 2014 8:56 AM EDT
Subject / Title: Comprehensive Intake
Performed By: Ward, Olivia on May 23, 2014 8:56 AM EDT
Electronically Signed By: Ward, Olivia on May 23, 2014 8:56 AM EDT
Visit Information: 2040429, Doctors Care - Carolina Forest, Outpatient, 5/23/2014 - 5/25/2014

Printed by: Rutland, Deborah
Printed on: 9/10/2014 10:14 AM EDT

Page 1 of 1
(End of Report)

30

R.p.82

SEP-10-2014 13:47

SEP-10-2014 13:47

SEP-10-2014 13:47 From:UCI-Med Billing Dept.

Visit / Encounter Charge(s)

Doctors Care - Carolina Forest
200 MIDDLEBURG DRIVE
MYRTLE BEACH, SC, 29579
Phone: (843) 903-0650 Fax: (843) 903-0578

Patient: FORAN, JENNA

Birthdate: 05/30/1990 Age: 23 Years Sex: Female Weight: 266 lb (05/23/14)
MRN: 0159084 PIN: 2040429 Height: 66 in (05/23/14)

PCP: Joslin MD, Richard

Allergies: No Known Medication Allergies

**** Please note -- Allergy list may be incomplete ****

Patient Home Address: 400 BARNIGAN CT
UNIT 1023
MYRTLE BEACH, SC 29579

Home Phone: (201) 310-9761
Work Phone:
Cell Phone:

Insured: FORAN, JENNA
Primary Health Plan: WCLIBERTY MUTUAL SSO

Insured Birthdate: 05/30/1990
156-88-7028

Secondary Health Plan:

Charge(s)

Charge: 99213 office/outpatient visit est (Charge) (99213 office outpatient visit 15 minutes (Charge))

Charge Code: 99213
Start Date/Time: 05/23/2014 10:11
Quantity: 1
Original Order Date/Time: 05/23/2014 10:11
Ordering Provider: John Denton MD (H-Sig)
NPI: 1669635884
Order Entered By: Regine Chapman
Order Status: Completed

Diagnoses: 1 - 845.00 Ankle sprain

105

Urgent Care Note

FORAN, JENNA - B159084

WKC-Left ankle*

Patient: FORAN, JENNA MRN: B159084 FIN: 2040429
Age: 23 years Sex: Female DOB: 5/30/1990
Associated Diagnoses: Ankle sprain
Author: Denton MD, John

Visit Information

Date of Service: 05/23/2014 08:27 am Performing Location: Doctors Care - Carolina Forest Encounter#: 2040429

Primary Care Provider (PCP): Joslin MD, Richard NPI# 1801801686

Referring Provider: No referring provider recorded for selected visit.

Chief Complaint

5/23/2014 8:58 AM EDT wkc fu left ankle

History of Present Illness

Was at the bottom shelf of stocking cigarettes this AM when she stood up and may have caught on a mat twisting her left ankle- since then it is painful to bear weight on it. Did not take any NSAIDS or apply ice-Hx significant for "tendon reconstruction" in the left ankle in 2004 (states after hx of "multiple sprains") but since surgery, had been pregnant, and working and has had no issues with ankle pain, swelling or giving way- until today.

5/5/14: Pt here for recheck of left ankle. Pt reports 0% improvement since last visit and states that she believes that she 'tore something' inside her ankle again. Pt states that she is taking Naproxen only at night due to somnolence. Pt is wearing brace as directed.

5/23/14: RECHECK OF SPRAIN OF LEFT ANKLE. STILL HAS SOME PAIN IN LATERAL ASPECT WITH WEIGHT BEARING. SHE IS WEARING THE ANKLE BRACE ALL DAY AND OFF AT NIGHT. SHE HAS NOT HEARD FROM THE INSURANCE COMPANY ABOUT THE REFERRAL TO ORTHOPEDICS THAT BRANDY BAKER, PA ORDERED ON 5/5/14. PT. CAN FEEL WEAKNESS IN THE ANKLE.

Review of Systems

Constitutional: Decreased activity.

Musculoskeletal: Negative except as documented in history of present illness.

Health Status

Allergies:

Allergic Reactions (Selected)

No Known Medication Allergies

Medications: (Selected)

PrescriptionsPrescribed

Naprosyn 375 mg oral tablet: 1 tab(s) (375 mg), po, bid, Instructions: with food for relief of pain/ swelling, # 60 tab(s),
0 Refill(s), Type: Maintenance, Pharmacy: Wal-Mart Pharmacy 2712, 1 tab(s) po bid,x30 day(s),instr:with food for
relief of pain/ swelling

Problem list:

All Problems

Morbid obesity / SNOMED CT 356968010 / Probable

Resolved: none

Histories

Past Medical History:

Resolved

none: Resolved.

Printed by: Story, April
Printed on: 8/15/2014 5:09 PM EDT

Page 1 of 3
(Continued)

Urgent Care Note

FORAN, JENNA - B159084

Family History:

Diabetes Mellitus
Grandmother (M)
Grandfather (M)

Procedure history:

left ankle.

Social History:

Alcohol Assessment
Never

Tobacco Assessment
Never

Substance Abuse Assessment
Never

Physical Examination

Vital Signs

5/23/2014 8:58 AM EDT

Temperature Tympanic	98.4 DegF
Peripheral Pulse Rate	68 bpm
Respiratory Rate	20 br/min
Systolic Blood Pressure	132 mmHg
Diastolic Blood Pressure	88 mmHg
Mean Arterial Pressure	103 mmHg

Measurements from flowsheet: Measurements

5/23/2014 8:56 AM EDT

Height	66 in.
Weight	266 lb
BSA	2.37 m2
Body Mass Index	42.93 kg/m2

General: Alert and oriented, No acute distress.

Musculoskeletal: Lower extremity exam: Ankle (Left, Lateral, Talofibular, Malleolus, Tenderness, THERE IS MILD TENDERNESS OF LATERAL MALLEOLUS, TALAR -FIBULAR AND SUB-MALLEOLAR LIGAMENTS. THE IS SIGNIFICANT WEAKNESS OF THESE LATERAL LIGAMENTS. THIS IS UNDER THE SURGICAL SCAR OF TENDON REPAIR THAT PT. HAD AT 14 YEARS OF AGE. THERE IS NUMBNESS TO LIGHT TOUCH OF ENTIRE FOOT UP TO THE ANKLE WHICH IS OLD.).

Neurologic: Alert.

Psychiatric: Cooperative, Appropriate mood & affect.

Health Maintenance

Recommendations

Pending (in the next year)

Due

Alcohol Misuse Screen (Female) due 05/23/14 and every 1 year(s)
Cervical Cancer Screen (if sexually active) due 05/23/14 and every 3 year(s)
Chlamydia Screen (if sexually active) due 05/23/14 and every 1 year(s)
Depression Screen (Female) due 05/23/14 and every 1 year(s)
Gonorrhea Screen (if sexually active) due 05/23/14 and every 1 year(s)
HIV Screen (if sexually active) (Female) due 05/23/14 and every 1 year(s)
STD Counseling (if sexually active) (Female) due 05/23/14 and every 1 year(s)
Syphilis Screen (if sexually active) (Female) due 05/23/14 and every 1 year(s)
Tetanus Vaccine due 05/23/14 and every 10 year(s)
Tobacco Use Screen (Female) due 05/23/14 and every 1 year(s)

Due in Future

Body Mass Index Check (Female) not due until 05/05/15 and every 1 year(s)
High Blood Pressure Screen (Female) not due until 05/05/15 and every 1 year(s)

Printed by: Story, April
Printed on: 8/15/2014 5:09 PM EDT

Page 2 of 3
(Continued)

Urgent Care Note

FORAN, JENNA - B159084

Satisfied (in the past 1 year)

Satisfied

Body Mass Index Check (Female) on 05/05/14. Satisfied by Eaddy, Lauren
Body Mass Index Check (Female) on 04/28/14. Satisfied by Rabon, Kimberly
High Blood Pressure Screen (Female) on 05/05/14. Satisfied by Eaddy, Lauren
High Blood Pressure Screen (Female) on 04/28/14. Satisfied by Rabon, Kimberly

Review / Management

Results review: Lab results

4/28/2014 12:42 PM EDT

hCG QI POC

hCG QI POC

Negative

Negative

Impression and Plan**Diagnosis**

Ankle sprain (ICD9 845.00).

Plan: Continue brace for 3 week(s).

Refer to: Orthopedics.

Orders**Orders**

Requests (Consults / Referrals):

Referral (Request) (Order): Referred to: Orthopaedics, Referred to: COASTAL ORTHO, Reason for referral: LEFT ANKLE
SPRAIN ON APRIL 28, 2014 AT WORK. PT. HAS SIGNIFICANT WEAKNESS OF LEFT LATERAL LIGAMENTS
AND NEEDS EVALUATION ASAP. SHE IS WEARING AN ANKLE BRACE.

Orders**Pharmacy:**

Ibuprofen 200 mg oral tablet (Prescribe): See instructions, Instructions: 4 TABS TID PRN FOR PAIN., PRN: for pain, # 60
tab(s), 0 Refill(s), Type: Maintenance, OTC (Rx).

Signature Line

Signed and Authored by John Denton on 05/23/2014 09:59 AM EDT

Charted Date: May 23, 2014 9:33 AM EDT

Subject / Title: WKC-Left ankle*

Performed By: Denton MD, John on May 23, 2014 9:59 AM EDT

Electronically Signed By: Denton MD, John on May 23, 2014 9:59 AM EDT

Visit Information: 2040429, Doctors Care - Carolina Forest, Outpatient, 5/23/2014 - 5/25/2014

Printed by: Story, April
Printed on: 8/15/2014 5:09 PM EDT

Page 3 of 3
(End of Report)



Return To Work Form

CENTER LOCATION:

- ☒ **Carolina Forest** - 200 Middleburg Dr., Myrtle Beach, SC 29579 • (843) 903-6650
☐ **Conway** - 1400 Main St., Conway, SC 29526 • (843) 381-8206
☐ **Conway 501** - 1113 Church St., Conway, SC 29526 • (843) 248-6269
☐ **Georgetown** - 1068 North Fraser St., Georgetown, SC 29440 • (843) 545-7200

- ☐ **Little River** - 2246 Hwy 17, Little River, SC 29566 • (843) 663-2220
☐ **North Myrtle Beach** - 1714 Hwy 17 South, North Myrtle Beach, SC 29582 • (843) 361-0705
☐ **Strand** - 1220 21st Ave. North, Myrtle Beach, SC 29577 • (843) 626-9379
☐ **Surfside** - 1600 Hwy 17 North, Surfside Beach, SC 29575 • (843) 238-1461

PATIENT INFORMATION:

Name: Jenna Foran Arrival Time: _____ Discharge Time: _____

Date: 5-23-14 Company Name: _____

WORK STATUS: (Check Appropriate Boxes)

- ☐ 1. May perform full duty activities as of _____ without accommodations.
- ☐ 2. Off duty due to work-related condition.
Estimated return to work date with modified duty: _____
Estimated return to work date for full duty: _____
Return for re-evaluation at this location on _____ Time: _____
- ☒ 3. May work with the following accommodations as of: 5-23-14
☒ No lifting more than 10 lbs.
☐ No operation of hazardous or fast-moving machinery, no driving.
☒ Ground level work only, no ladders or heights.
☒ No repetitive bending, stooping, squatting, pushing, jerking, twisting, or bouncing.
☒ No continuous standing and/or sitting.
☐ Minimal walking or climbing (including stairs)
☐ Limited use of _____
☐ No overhead lifting.
☐ No high repetitive hand activities for extended periods of time.
☐ No use of _____
- ☐ 4. Has reached Maximum Medical Improvement (MMI)
- ☐ 5. Return for re-evaluation at this office on _____ Time: _____

Additional Comments: _____

PATIENT DISCHARGE INSTRUCTIONS:

Diagnosis: SPRAIN OF LEFT ANKLE WITH TENDON WEAKNESS Medications: ☐ as directed ☐ as needed

Wound or Injury Care: ☐ keep dry and clean ☐ do not remove dressing ☐ elevate extremity ☐ warm soaks
☐ ice every _____ ☐ apply heat every _____ ☐ wear elastic support/immobilizer/keep taped
☐ home exercise instructions given ☐ follow instructions sheet given ☐ bed rest for _____

REFERRAL: (If a referral is made for physical therapy, or to another physician, please complete this section.)

To: ORTHO PEDICS - ASAP Date: _____ Time: _____

For: _____

Address: _____

I understand the above instructions and what to do for my follow-up care. I have received a copy of these instructions for myself and for my employer.

X Jenna Foran 25 May 2014 Doc 2 Jenna Foran MC 5-23-14
Employee Signature Date Provider Signature Date

Visit Summary

FORAN, JENNA - B159084

* Final Report *

* Final Report *

Visit Summary (Verified)

Visit Summary for JENNA FORAN

We would like to thank you for allowing us to assist you with your healthcare needs. Our entire staff strives to provide an excellent experience for our patients and their families. The following includes information regarding your visit.

Age: 24 years Sex: Female DOB: 05/30/1990 MRN: B159084

Address: 400 BARNIGAN CT MYRTLE BEACH, SC 29579

Home: (201) 310-9761 Work: -- Mobile: --

Primary Care Provider: Joslin MD, Richard

Race: White Ethnicity: Not Hispanic or Latino

Preferred Language: English

Health Plan: 1*WC/LIBERTY MUTUAL 550

Visit Information

Doctors Care - Carolina Forest

200 MIDDLEBURG DRIVE MYRTLE BEACH, SC, 29579

Phone: (843) 903-6650 Fax: (843) 903-0578

Visit Date: 05/23/2014 08:00 am

Scheduled Provider: Carolina Forest - 79249

Visit Provider: Denton MD, John

Referring Provider: --

Reason for Visit: wkc fu left ankle

Future Appointments

No future appointments scheduled

Problems and Health Issues

Morbid obesity

Allergies

No Known Medication Allergies

All Known Current Prescriptions and Reported Medications

Prescriptions

ibuprofen 200 mg oral tablet (ibuprofen)

for pain, 0 refills authorized

Instructions: 4 TABS TID PRN FOR PAIN.

Printed by: Rutland, Deborah
Printed on: 9/10/2014 10:12 AM EDT

Page 1 of 3
(Continued)

Visit Summary

FORAN, JENNA - B159084

* Final Report *

Other Reported Medications

No reported medications documented

New Medications this Visit

New Prescriptions

Ibuprofen 200 mg oral tablet (Ibuprofen)

for pain. 0 refills authorized

Instructions: 4 TABS TID PRN FOR PAIN.

Vitals and Measurements this Visit (last charted value for your 05/23/2014 visit)

Height:: 66 in

Weight:: 266 lb

Body Mass Index:: 42.93 kg/m2

BSA: 2.37 m2

Temperature Tympanic: 98.4 DegF

Systolic Blood Pressure: 132 mmHg

Diastolic Blood Pressure: 88 mmHg

Mean Arterial Pressure: 103 mmHg

Peripheral Pulse Rate: 68 bpm

Respiratory Rate: 20 br/min

Laboratory and Radiology this Visit (last charted value for your 05/23/2014 visit)

No Laboratory and Radiology documented

Orders this Visit

No visit orders documented

Diagnoses this Visit

Ankle sprain (845.00)

Referral and Consult Requests this Visit

Referral

Date/Time: 05/23/2014 By: Denton MD, John

Referred To Specialty: Orthopaedics

Referred To: COASTAL ORTHO

Reason for Referral: LEFT ANKLE SPRAIN ON APRIL 29, 2014 AT WORK. PT. HAS SIGNIFICANT WEAKNESS OF LEFT LATERAL LIGAMENTS AND NEEDS EVALUATION ASAP. SHE IS WEARING AN ANKLE BRACE.

Procedures Documented this Visit

Printed by: Rutland, Deborah
Printed on: 9/10/2014 10:12 AM EDT

Page 2 of 3
(Continued)

Visit Summary

FORAN, JENNA - B159084

* Final Report *

No Procedures documented

Smoking Status

Never

Follow up

Follow up with: Follow up with specialist

When: Within 1 week

Where: --

Comments: --

Patient Education Materials Provided this Visit

No Patient Education documented

Additional Visit Comments:

Addendum By Denton MD, John on July 02, 2014 2:37:35 PM EDT (Verified)

JULY 2, 2014--I PHONED PT. WHO REPORTS THAT DR. TAYLOR AT COASTAL ORTHOPEDICS IS TREATING HER ANKLE WITH A BOOT AND PLANS TO DO SURGERY WHEN CLEARED BY INSURANCE CO. SHE IS NOW REPRESENTED BY AN ATTORNEY. JOHN DENTON, MD.

Charted Date: July 02, 2014 2:37 PM EDT

Subject / Title: Visit Summary

Performed By: Denton MD, John on July 02, 2014 2:37 PM EDT

Electronically Signed By:

Denton MD, John on July 02, 2014 2:37 PM EDT

Visit Information: 2040429, Doctors Care - Carolina Forest, Outpatient, 5/23/2014 - 5/25/2014

Printed by: Rutland, Deborah
Printed on: 9/10/2014 10:12 AM EDT

Page 3 of 3
(End of Report)

Administrative Form

FORAN, JENNA - B159084

Referral Information Entered On: 5/28/2014 10:08 AM EDT
Performed On: 5/23/2014 9:47 AM EDT by Platts, Chelsea

Referral Information

Referral Specialty: coastal ortho

Referral Materials Sent: 5/28/2014 EDT

Referral Previsit Tests Completed: Yes

Additional Referral Information: pt information faxed to Coastal Ortho, asked for scheduling to let us know when appt is made

Platts, Chelsea - 5/28/2014 10:07 AM EDT

Charted Date: May 23, 2014 9:47 AM EDT

Subject / Title: Referral Information

Performed By: Platts, Chelsea on May 28, 2014 10:07 AM EDT

Electronically Signed By: Platts, Chelsea on May 28, 2014 10:07 AM EDT

Visit Information: 2040429, Doctors Care - Carolina Forest, Outpatient, 5/23/2014 - 5/25/2014

Printed by: Rutland, Deborah
Printed on: 9/10/2014 10:13 AM EDT

Page 1 of 1
(End of Report)

Patient Handout

FORAN, JENNA - B159084

Patient Handout (Verified)
Ambulatory

Sprain, Ankle, with X-Ray

A sprain is an injury to the ligaments or capsule that holds a joint together. There are no broken bones. Most sprains take from four to six weeks to heal. If the ligament is completely torn (severe sprain), it can take several months to recover.

Mild to Moderate sprains may be treated with an elastic wrap or an in-shoe splint to provide support and prevent re-injury. A mild sprain may not require any additional support. A severe sprain may require surgery to repair.

HOME CARE:

Stay off the injured leg as much as possible until you can walk on it without pain. If you have a lot of pain with walking, crutches or a walker may be prescribed. (These can be rented or purchased at many pharmacies and surgical or orthopedic supply stores). Follow your doctor's advice regarding when to begin bearing weight on that leg.

Keep your leg elevated to reduce pain and swelling. When sleeping, place a pillow under the injured leg. When sitting, support the injured leg so it is level with your waist. This is very important during the first 48 hours.

Apply an ice pack (ice cubes in a plastic bag, wrapped in a towel) over the injured area for 20 minutes every 1-2 hours the first day. You can place the ice pack directly over the splint/cast. If you were given a boot, open it to apply the ice pack. Continue with ice packs 3-4 times a day for the next two days, then as needed for the relief of pain and swelling.

You may use acetaminophen (Tylenol) or ibuprofen (Motrin, Advil) to control pain, unless another pain medicine was prescribed. [NOTE: If you have chronic liver or kidney disease or ever had a stomach ulcer or GI bleeding, talk with your doctor before using these medicines.]

You may return to sports after healing, when you can run without pain.

A sprained ankle is at risk for re-injury during the first six weeks. During that time, protect your ankle with an in-shoe splint that prevents tilting of your ankle from side to side. This is very important if you do active work or play sports during that time.

FOLLOW UP with your doctor, or as advised, if you are not starting to improve within the next five days.

[NOTE: If X-rays were taken, they will be reviewed by a radiologist. You will be notified of any new

Printed by: Rutland, Deborah
Printed on: 9/10/2014 10:17 AM EDT

Page 1 of 2
(Continued)

findings that may affect your care.]

GET PROMPT MEDICAL ATTENTION if any of the following occur:

- The plaster cast or splint gets wet or soft
- The fiberglass cast or splint gets wet and does not dry for 24 hours
- Pain or swelling increases, or redness appears
- Toes become cold, blue, numb or tingly

Re-injure your ankle

© 2000-2012 Krames StayWell, 780 Township Line Road, Yardley, PA 19067. All rights reserved. This information is not intended as a substitute for professional medical care. Always follow your healthcare professional's instructions.

Charted Date: May 05, 2014 12:21 PM EDT
Subject / Title: Patient Handout
Performed By: Baker PA, Brandy on May 05, 2014 12:21 PM EDT
Electronically Signed By: Baker PA, Brandy on May 05, 2014 12:21 PM EDT
Visit Information: 2007591, Doctors Care - Conway 501, Outpatient, 5/5/2014 - 5/7/2014

Printed by: Rutland, Deborah
Printed on: 9/10/2014 10:17 AM EDT

Page 2 of 2
(End of Report)

Patient Handout (Verified)
Ambulatory

Air-Stirrup® Ankle Splint

Traditional splints and casts for the foot and ankle protect the injury by preventing movement at the joints. However, many injuries heal better and faster if the injured joint can be moved, while protected at the same time. This is the reason for using an AirCast Stirrup ankle splint.

This is often used to treat ankle sprains. It contains padded air cells in a plastic frame that fits into your shoe. This allows you to walk while preventing the ankle joint from rolling in or out causing re-injury.

Ankle sprains can take 4-6 weeks to heal. Persons with severe injuries or over age 60 may require more time to heal. During that time, you are prone to re-injury by suddenly twisting your ankle again while the ligaments are still weak.

When treating a sprain, the Air-Stirrup splint should be worn whenever walking for at least four weeks, or as long as you continue to have ankle pain. You should continue to wear it at least 6 weeks whenever running, playing sports or any activity where there is increased risk of re-injury. Talk to your doctor for specific advice about the treatment of your condition.

Air-Stirrup® and SP-Walker® are trademarks of AirCast, LLC.

For more information about their products, see www.aircast.com.

© 2000-2012 Krames StayWell, 780 Township Line Road, Yardley, PA 19067. All rights reserved. This information is not intended as a substitute for professional medical care. Always follow your healthcare professional's instructions.

Orthopaedics

Self-Care for Strains and Sprains

Printed by: Rutland, Deborah
Printed on: 9/10/2014 10:24 AM EDT

Page 1 of 5
(Continued)



Most minor strains and sprains can be treated with self-care. But if you have torn tissue or damaged blood vessels, nerves, or bones, be sure to call your doctor. Recovering from a strain or sprain may take 6–8 weeks. Your self-care goal is to reduce pain and immobilize the injury to speed healing.

- The injured joint won't move, or bones make a grating sound when they move.
- You can't put weight on the injured area, even after 24 hours.
- The injured body part is cold, blue, or numb.

Page 2 of 5
(Continued)

- ## Support the Injured Area

- Support a wrist, elbow, or shoulder with a sling.
- Wrap an ankle or knee with an elastic bandage.
- Tape a finger or toe to the one next to it.

- Apply ice or a cold pack 10–15 minutes every hour you're awake for the first 2 days.
- After the swelling goes down, use cold or heat to control pain. Don't use heat late in the day, since it can cause swelling when you're not active.

- Raise the injured area above your heart level.
- Keep the injured area from moving.
- Limit the use of the joint or limb.

Aspirin substitutes can reduce pain. Some substitutes reduce swelling, too. Ask your pharmacist which substitutes you can use.

Treating Ankle Sprains

Treatment will depend on how bad your sprain is. For a severe sprain, healing may take 3 months or more.



Right After Your Injury: Use R.I.C.E.

Rest: At first, keep weight off the ankle as much as you can. You may be given crutches to help you walk without putting weight on the ankle.

Ice: Put an ice pack on the ankle for 15 minutes. Remove the pack and wait at least 30 minutes. Repeat for up to 3 days. This helps reduce swelling.

Compression: To reduce swelling and keep the joint stable, you may need to wrap the ankle with an elastic bandage. For more severe sprains, you may need an ankle brace or a cast.

Elevation: To reduce swelling, keep your ankle raised above your heart when you sit or lie down.

Medication

Your doctor may suggest an oral anti-inflammatory medication, such as ibuprofen. This relieves the pain and helps reduce any swelling. Be sure to take your medication as directed.

Contrast Baths

After 3 days, soak your ankle in warm water for 30 seconds, then in cool water for 30 seconds. Go back and forth for 5 minutes. Doing this every 2 hours will help keep the swelling down.

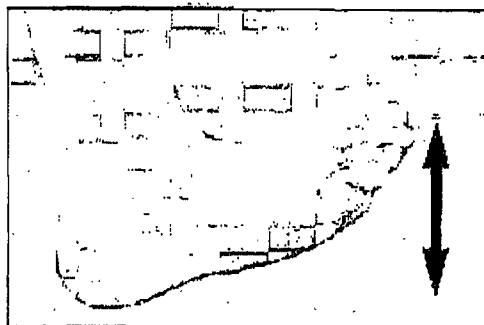
Printed by: Rutland, Deborah
Printed on: 9/10/2014 10:24 AM EDT

Page 4 of 5
(Continued)

An aerial photograph of a coastal town, likely in the Philippines, showing a large harbor, a prominent church spire, and surrounding urban areas. The image is grainy and has a high-contrast, black-and-white appearance.

After 3 days, soak your ankle in warm water for 30 seconds, then in cool water for 30 seconds. Go back and forth for 5 minutes. Doing this every 2 hours will help keep the swelling down.

Page 4 of 5
(Continued)

**Exercises**

After about 2–3 weeks, you may be given exercises to strengthen the ligaments and muscles in the ankle. Doing these exercises will help prevent another ankle sprain. Exercises may include standing on your toes and then on your heels and doing ankle curls.

Ankle Curls

- Sit on the edge of a sturdy table or lie on your back.
- Pull your toes toward you. Then point them away from you. Repeat for 2–3 minutes.

© 2000–2013 Krames StayWell, 780 Township Line Road, Yardley, PA 19067. All rights reserved. This information is not intended as a substitute for professional medical care. Always follow your healthcare professional's instructions.

Charted Date: April 29, 2014 2:00 PM EDT
Subject / Title: Patient Handout
Performed By: Baens MD, Maria on April 29, 2014 2:00 PM EDT
Electronically Signed By: Baens MD, Maria on April 29, 2014 2:00 PM EDT
Visit Information: 1997502, Doctors Care - Carolina Forest, Outpatient, 4/29/2014 - 5/1/2014

Printed by: Rutland, Deborah
Printed on: 9/10/2014 10:24 AM EDT

Page 5 of 5
(End of Report)

Coastal Ortho Medical Records

COASTAL
ORTHOPEDICS

Specializing in You

Jenna Foran

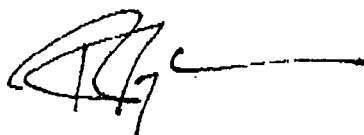
Date: 6/12/2014

Case No. 114078

DOR: 5-30-1990

ASSESSMENT: Recurrent instability left ankle secondary to work-related injury.

PLAN: Diagnosis treatment options were discussed and reviewed. She admits to having complete loss of sensation distal to the mid calf area since her previous surgery. This is not related to her most recent injury. Nonetheless, her left ankle is grossly unstable and the previous repair was ruptured at the time of her most recent injury in all likelihood. She would be unlikely to respond to additional conservative treatment. I recommended surgery. Surgery would involve a revision lateral ankle ligament reconstruction using an allograft. Outline of surgical incision, nature surgery and potential risks including that of infection, delayed wound healing, recurrence of instability were discussed, reviewed and expresses understood. She Tressa desire to proceed as outlined. No guarantees were provided regarding symptomatic improvement or return to work.



Ross Taylor, M.D.

For: Arthur Wilkoszewski, MD

RECEIVED

512
7-25-14

SURGERY SLIP

SURGEON Ross Taylor, MDScheduling Rep: SELECTCHART No. 114078PATIENT NAME Foran, JennaSS# 156-88-7028DOB 5-30-1990HOME PHONE (201) 310-9761WORK No. -CELL PHONE -INSURANCE: -LANGUAGE: EnglishPLACE OF SURGERY: ☒ CB&J ☐ CMC ☐ WCHTIME ALLOWED 2 hoursDIAGNOSIS left ankle pain

SURGICAL PROCEDURE

Left ankle revision lateral ligament reconstruction with hamstring allograft tendon☐ IN ☒ OUT PATIENTLENGTH OF STAY -

TYPES OF ANESTHESIA	BLOCK	INTRA OP MONITORING
☒ GENERAL	☒ POPLITEAL	☐ SSEP
☐ MAC	☐ AXILLARY	☐ FREE RUN EMG
☐ SPINAL	☐ FEMORAL	☐ TCMEP
☐ CHOICE	☐ INTERSCALINE	
☐ RIFR		

SURGERY DATE -HOSPITAL PRE-OP -ASSISTANT SURGEON -MEDICAL CLEARANCE -H&P APPOINTMENT PRIOR TO SURGERY: ☐ YES ☐ NO DATE & TIME -

SPECIAL ARRANGEMENTS, PROCEDURES, CASE NEEDS, OTHER ORDERS

see attached

PRE-OPERATIVE ANTIBIOTICS

- ☒ ANCEF 1GRAM IV
☐ CLINDAMYCIN 600MG IV
☐ ERYTHROMYCIN 500MG IV
☐ GENTAMYCIN 80MG IV
☐ VANCOMYCIN 1 GRAM IV
☐ OTHER -

PROCEDURE CODE	CORRESPONDING ICD-9
29897	719.47

COASTAL ORTHOPEDICS

Specializing in You

2376 Cypress Circle Suite 300 / Conway, SC 29526
843-347-7222 • Fax: 843-347-3305 • www.corthopedics.com

Work and/or School Release

Date: **6/12/2014**

Patient Name: **Jenna Foran**

Patient ID: **114078**

Diagnosis:

Please be advised that our patient: **Jenna Foran**:

☒ Was seen in our office on the following dates: **6/12/2014**

☐ May return to full duty on: _____

☐ May not return to work until: _____

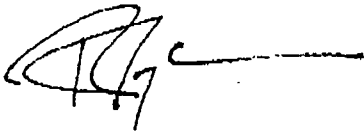
☐ May return to light duty: _____

☐ May not participate in: _____

☒ Other: out of work till further notice

Return Appointment: _____

Attending MD:



Ross Taylor, MD

DATE: 6/12/2014

COASTAL ORTHOPEDICS

Specializing in You

2376 Cypress Circle – Suite 300 / Conway, SC 29526
843-347-7222 • Fax 843-347-3305

Date: 6/12/2014

Patient Name: Jenna Foran

Patient ID: 114078

Patient DOB: 5-30-1990

Patient Address: 400 Branigan Ct | Myrtle Beach, SC 29579

Patient Phone: (201) 310-9761

Diagnosis: non weight bearing left lower extremity after surgery

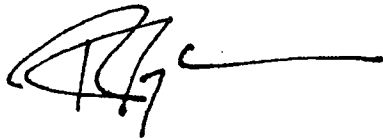
Length of Need:

Rx:

Quantity Ordered:

- | | | |
|---|--|--|
| ☐ Rx Cane | ☒ Wheelchair with Elevated Leg Rests | |
| ☐ 4 Prong Cane | ☒ Walker | |
| ☐ Wheelchair | ☒ Bedside Comode | |
| ☐ Shower Chair | ☒ Crutches | |
| ☒ roll a bout knee walker | ☐ OrthoFix Bone Growth Stimulator | |

Prescribing MD:



Ross Taylor, MD

DATE: 6/12/2014

Doctor's NPI: Dr. Taylor - NPI: 1639240021

This form was electronically signed on: 6/12/2014



ph (843) 429-2000
toll free (888) 848-8847
fax (843) 497-1805

C. SCOTT MASEL | MATTHEW VAN WIE

4593 Oleander Drive, Suite 200
P.O. Box 808 (29578)
Myrtle Beach, SC 29577

August 15, 2014

Coastal Orthopedics
Attn: Dr. Ross Taylor
2376 Cypress Circle Ste 300
Conway, SC 29526

Re: Jenna Foran VS. Murphy Oil USA, Inc.
WCC File No: 1405375
Claim No: WC555-C35451
Date of Accident: 04/29/2014

Dear Dr. Chambers:

Palmetto Injury Lawyers represents Jenna Foran for her Workers' Compensation Claim. We appreciate you treating Ms. Foran for her injury to her left ankle. You initially performed an independent medical evaluation of Ms. Foran on June 12, 2014. As far as treatment was concerned your notes reflect Ms. Foran would not respond to conservative treatment that in order to repair the damage she would need to undergo surgery. She claims she was injured as she was kneeling down stocking cigarettes and went to get up when her ankle rolled.

We would appreciate it if you would answer the following question(s) below:

We appreciate your cooperation and assistance in this matter and your continuing care and treatment of Ms. Foran. If there is a charge for answering these questions please send me an invoice to me. Please also send a copy of your responses me via email at: smasel@newbylaw.com or via fax to (843) 497-3805.

www.palmettoinjury.com

-52
R.p.105

1. In your opinion and reasonable degree of medical certainty, is Ms. Foran's current need for revision of the lateral ankle ligament reconstruction on the left ankle using an allograft casually-related to her April 29, 2014 work related injury?

Yes

2. Please give a brief explanation for the basis of your opinion above:

See note

3. Will there be any additional treatment such as physical therapy ect., that she will need in order to recover from her injury?

physical therapy.

4. Our client stated to you she previously had surgery to her left ankle many years ago and it was successful. Are you aware of any facts that suggest after so many years she would have needed to undergo another surgery if not for the 4/29/14 injury?

No

5. Is there any other factors that could have contributed to her injury?

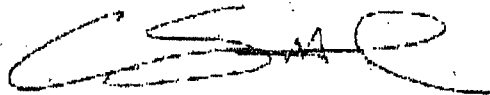
?

6. Can you determine when Ms. Foran will be able to return to her usual customary job or when you could assign modified duty/restrictions?

3-6 months

Very truly yours,

PALMETTO INJURY LAWYERS, LLC



C. Scott Masel

09/22/14
R07186

MURPHY OIL USA INC
P O BOX 7300
EL DORADO AR 71731-7300

5664865

FORAN, JENNA KIRSTEN
400 BRANIGAN COURT UNIT 1023
MYRTLE BEACH, SC 29579-0800

Route: 08717
Check No: 63463
Check Date: 12/20/13
Period End: 12/13/13

Period Earnings	Hours	Rate	Amount	Year to Date	Description	Period Amount	Year to Date
REG HOURLY	42.10	9.250	389.43	389.43	Gross Wages	389.43	389.43
					FEDERAL INCOME TAX	30.48	30.48
					SOCIAL SECURITY TAX	24.14	24.14
					MEDICARE TAX	5.65	5.65
					SOUTH CAROLINA WH	15.72	15.72
Gross Pay	389.43		Total Deductions	75.99	Net Pay	313.44	

54
R.p.107

09/22/14
R07186

MURPHY OIL USA INC
P O BOX 7300
EL DORADO AR 71731-7300

5664865
FORAN, JENNA KIRSTEN
400 BRANIGAN COURT UNIT 1023
MYRTLE BEACH, SC 29579-0000

Route: 08717
Check No: 71970
Check Date: 01/03/14
Period End: 12/27/13

Period Earnings	Hours	Rate	Amount	Year to Date	Description	Period Amount	Year to Date
REG HOURLY	36.50	9.250	337.63	337.63	Gross Wages	337.63	337.63
					FEDERAL INCOME TAX	25.30	25.30
					SOCIAL SECURITY TAX	20.93	20.93
					MEDICARE TAX	4.90	4.90
					SOUTH CAROLINA WH	12.57	12.57
					UNIFORM FEE	1.50	1.50
Gross Pay	337.63						
		Total Deductions		65.20	Net Pay	272.43	

25
R.p.108

09/22/14
R07186

MURPHY OIL USA INC
P O BOX 7300
EL DORADO AR 71731-7300

5664865
FORAN, JENNA KIRSTEN
400 BRANIGAN COURT UNIT 1023
MYRTLE BEACH, SC 29579-0000

Route: 08717
Check No: 80266
Check Date: 01/17/14
Period End: 01/10/14

Period Earnings	Hours	Rate	Amount	Year to Date	Description	Period Amount	Year to Date
REG HOURLY	35.90	9.250	332.08	669.71	Gross Wages	332.08	669.71
					FEDERAL INCOME TAX	24.55	49.85
					SOCIAL SECURITY TAX	20.59	41.52
					MEDICARE TAX	4.81	9.71
					SOUTH CAROLINA WH	12.23	24.80
					UNIFORM FEE	1.50	3.00
Gross Pay	332.08						
		Total Deductions		63.68	Net Pay	268.40	

56
R.p.109

09/22/14
R07186

MURPHY OIL USA INC
P O BOX 7300
EL DORADO AR 71731-7300

5664865

FORAN, JENNA KIRSTEN
400 DRAMIGAN COURT UNIT 1023
MYRTLE BEACH; SC 29579-0000

Route: 08717
Check No. 88503
Check Date: 01/31/14
Period End: 01/24/14

Period Earnings	Hours	Rate	Amount	Year to Date	Description	Period Amount	Year to Date
REG HOURLY	28.10	9.500	266.95	936.66	Gross Wages	266.95	936.66
					FEDERAL INCOME TAX	18.04	67.89
					SOCIAL SECURITY TAX	16.55	58.07
					MEDICARE TAX	3.87	13.58
					SOUTH CAROLINA WH	8.73	33.53
					UNIFORM FEE	1.50	4.50
Gross Pay	266.95						
		Total Deductions		48.69	Net Pay	218.26	

57
R.p.110

09/22/14
R07186

MURPHY OIL USA INC
P O BOX 7300
EL DORADO AR 71731-7300

5664865
FORAN, JENNA KIRSTEN
400 BRANIGAN COURT UNIT 1023
MYRTLE BEACH, SC 29579-0000

Route: 08717
Check No: 97414
Check Date: 02/14/14
Period End: 02/07/14

Period Earnings	Hours	Rate	Amount	Year to Date	Description	Period Amount	Year to Date
REG HOURLY	27.20	9.500	258.40	1,195.06	Gross Wages	258.40	1,195.06
					FEDERAL INCOME TAX	17.19	85.08
					SOCIAL SECURITY TAX	16.03	74.09
					MEDICARE TAX	3.75	17.33
					SOUTH CAROLINA WH	8.30	41.83
					UNIFORM FEE	1.50	6.00
Gross Pay	258.40						
		Total Deductions		46.76	Net Pay	311.64	

53
R.p.111

09/22/14
R07186

MURPHY OIL USA INC
P O BOX 7300
EL DORADO AR 71731-7300

5664865
FORAN, JENNA KIRSTEN
400 BRANIGAN COURT UNIT 1023
MYRTLE BEACH, SC 29579-0000

Route: 08717
Check No: 105776
Check Date: 02/28/14
Period End: 02/21/14

Period Earnings	Hours	Rate	Amount	Year to Date	Description	Period Amount	Year to Date
REG HOURLY	45.40	9.500	431.30	1,626.36	Gross Wages	431.30	1,626.36
					FEDERAL INCOME TAX	34.48	119.36
					SOCIAL SECURITY TAX	26.74	100.83
					MEDICARE TAX	6.25	23.58
					SOUTH CAROLINA WH	18.65	60.48
					UNIFORM FEE	1.50	7.50
Gross Pay	431.30				Total Deductions	87.62	
					Net Pay	343.68	

59
R-P.112

09/22/14
R07186

MURPHY OIL USA INC
P O BOX 7300
EL DORADO AR 71731-7300

5664865

FORAN, JENNA KIRSTEN
400 BRANIGAN COURT UNIT 1023
MYRTLE BEACH, SC 29579-0000

Route: 08717
Check No: 114690
Check Date: 03/14/14
Period End: 03/07/14

Period Earnings	Hours	Rate	Amount	Year to Date	Description	Period Amount	Year to Date
REG HOURLY	33.30	9.500	316.35	1,942.71	Gross Wages	316.35	1,942.71
					FEDERAL INCOME TAX	12.98	142.54
					SOCIAL SECURITY TAX	19.62	120.45
					MEDICARE TAX	4.59	28.17
					SOUTH CAROLINA WU	11.29	71.77
					UNIFORM FEE	1.50	9.00
Gross Pay	316.35				Total Deductions	59.98	
					Net Pay	256.37	

60
R.p.113

09/22/14
R07186

MURPHY OIL USA INC
P O BOX 7300
EL DORADO AR 71731-7300

5664865
FORAN, JENNA KIRSTEN
400 BRANIGAN COURT UNIT 1023
MYRTLE BEACH, SC 29579-0000

Route: 08717
Check No: 122290
Check Date: 03/28/14
Period End: 03/21/14

Period Earnings	Hours	Rate	Amount	Year to Date	Description	Period Amount	Year to Date
REG HOURLY	33.80	9.500	321.10	2,263.81	Gross Wages	321.10	2,263.81
					FEDERAL INCOME TAX	23.46	166.00
					SOCIAL SECURITY TAX	19.91	140.36
					MEDICARE TAX	4.66	32.83
					SOUTH CAROLINA WH	11.57	83.34
					UNIFORM FEE	1.50	10.50
Gross Pay	321.10						
			Total Deductions	61.10	Net Pay	260.00	

6
R-P.114

09/22/14
R07186

MURPHY OIL USA INC
P O BOX 7300
EL DORADO AR 71731-7300

5664865
FORAN, JENNA KIRSTEN
400 BRANIGAN COURT UNIT 1023
MYRTLE BEACH, SC 29579-0000

Route: 08717
Check No: 130663
Check Date: 04/11/14
Period End: 04/04/14

Period Earnings	Hours	Rate	Amount	Year to Date	Description	Period Amount	Year to Date
REG HOURLY	32.30	9.500	306.85	1,570.66	Gross Wages	306.85	2,570.66
					FEDERAL INCOME TAX	22.03	188.03
					SOCIAL SECURITY TAX	19.07	159.38
					MEDICARE TAX	4.44	37.27
					SOUTH CAROLINA WH	10.73	94.07
					UNIFORM FEE	0.00	10.50
Gross Pay	306.85						
		Total Deductions		56.22	Net Pay	250.63	

62

R.p.115

09/22/14
R07186

MURPHY OIL USA INC
P O BOX 7300
EL DORADO AR 71731-7300

5664865
FORAN, JENNA KIRSTEN
400 BRANIGAN COURT UNIT 1023
MYRTLE BEACH, SC 29579-0000

Route: 08717
Check No: 139031
Check Date: 04/25/14
Period End: 04/18/14

Period Earnings	Hours	Rate	Amount	Year to Date	Description	Period Amount	Year to Date
REG HOURLY	33.50	9.750	326.63	2,897.29	Gross Wages	326.63	2,897.29
					FEDERAL INCOME TAX	24.01	212.04
					SOCIAL SECURITY TAX	20.25	179.63
					MEDICARE TAX	4.74	42.01
					SOUTH CAROLINA WH	11.91	105.98
					UNIFORM FEE	1.50	12.00
Gross Pay	326.63						
		Total Deductions		62.41	Net Pay	264.22	

63

R.p.116

09/22/14
R07186

MURPHY OIL USA INC
P O BOX 7300
EL DORADO AR 71731-7300

5664865
FORAN, JENNA KIRSTEN
400 BRANIGAN COURT UNIT 1023
MYRTLE BEACH, SC 29579-0000

Route: 08717
Check No: 148277
Check Date: 05/09/14
Period End: 05/02/14

Period Earnings	Hours	Rate	Amount	Year to Date	Description	Period Amount	Year to Date
REG HOURLY	32.70	9.750	318.83	3,216.12	Gross Wages	318.83	3,216.12
					FEDERAL INCOME TAX	23.23	235.27
					SOCIAL SECURITY TAX	19.77	199.40
					MEDICARE TAX	4.62	46.63
					SOUTH CAROLINA WH	11.44	117.42
					UNIFORM FEE	1.50	13.50
Gross Pay	318.83		Total Deductions	60.56	Net Pay	258.27	

64
R-P.117

SCANNED

WILLSON JONES CARTER & BAXLEY, P.A.

ATTORNEYS AT LAW

GREENVILLE CHARLESTON COLUMBIA CHARLOTTE RALEIGH ATLANTA

Anne Veatch Noonan
Direct (843) 284-1097
Fax (843) 284-1081
avnoonan@wjlaw.net

421 Wando Park Boulevard, Suite 100
Mount Pleasant, SC 29464
www.wjclaw.net

October 21, 2014

The Honorable Avery Wilkerson
South Carolina Workers' Compensation Commission
P.O. Box 1715
Columbia, SC 29202-1715

SB
10/23/14

Re: Jenna Foran vs. Murphy Oil USA, Inc.
WCC File No.: 1405375 DOI: 4/29/2014
Carrier: Liberty Insurance Corporation - Claim No.: WC555-C35451
WJC&B File No.: 0010.04220

Dear Commissioner Wilkerson:

Enclosed herein please find the defendants' Pre-Hearing Brief as well as the Notice of Witnesses and Written Medical Reports which lists the documents I intend to submit at the hearing of the above-referenced matter pursuant to the South Carolina Administrative Procedures Act.

By copy of this letter, I am providing a copy of these forms and reports to C. Scott Masel, claimant's counsel.

With kindest regards,

WILLSON JONES CARTER & BAXLEY, P.A.



Anne Veatch Noonan

AVN/ems

Enclosnres

cc (w/enclosures): C. Scott Masel, Esquire
Ms. LaQuinda Brown (via e-mail)



Claimant's Name: Jenna Foran Employer's Name: Murphy Oil Corporation
Address: 400 Branigan Court, Unit 1023 Address: 200 Peach Street
City: Myrtle Beach State: SC Zip: 29579 City: El Dorado State: AR Zip: 71730
Home Phone: (201) 310-9761 Work Phone: _____ Carrier: Liberty Insurance Corporation
Preparer's Name: Anne Veatch Noonan Preparer's Phone #: (843) 284-1097

A claim for workers' compensation benefits is made based on the following grounds:

☒ Injury ☐ Illness ☐ Repetitive Trauma

1. Compensation Rate: \$112.57 2. AWW: \$ 168.84 Date of Injury: 4/29/2014
3. Type of Injury and body part(s): Defendants deny an injury by accident occurred within the course and scope of employment.
4. Facts in controversy: 1) Compensability. Claimant has pre-existing problems with her left ankle which resulted in surgery in 2004. Her diagnosis included chronic instability of the ankle. Defendants assert claimant's current ankle problems are due to an internal breakdown of her ankle. Defendants assert this is an idiopathic incident and no accident by injury occurred. Video of incident shows Claimant's ankle "giving way".
5. Legal issues involved: See No. 4.
6. Unusual aspects: Defendants reserve the right to and may move to either postpone or adjourn the scheduled hearing to exercise due process rights afforded by law to cross examine, respond to, and otherwise oppose evidence presented by the claimant.
7. Witnesses (designate if expert):* Employer Representative, Amber Goss, Stokes Rogers
8. Exhibits: Claimant's Employment/Personnel File; Payroll Records; Deposition of Claimant, mat from store, video from store
9. Medical evidence (indicate report pursuant to R.67-612; deposition or appearance): SEE APA SUBMISSION
10. Name, address, and specialty, if any, of the treating physician: N/A
11. Impairment rating(s); body part(s); physician and date of opinion: N/A
12. I am amending my Form 50/51 in the following manner: N/A

☐ **Mediation**

- ☐ a. Mediation is requested to be ordered pursuant to Reg. 67-1801 B.
☐ b. Mediation is required pursuant to Reg. 67-1802.
☐ c. Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.
☐ d. Mediation has been conducted by a duly qualified mediator and resulted in an impasse.

Questions regarding mediation may be submitted to mediation@wcc.sc.gov.

I verify the contents of this form are accurate and true to the best of my knowledge.

I certify that I have served this document pursuant to R.67-212 by delivering a copy to: C. Scott Masel, PO Box 808, Myrtle Beach, SC 29577 and Avery Wilkerson, P.O. Box 1715, Columbia, SC 29202-1715 on the 21st day of October, 2014 by ☒ first class mail ☐ personal service ☐ certified mail.

Certifier, Lauren M. Blanton

Signature: Kate O'Neill for AVN

Anne Veatch Noonan, Willson Jones Carter & Baxley, P.A.

Email: avnoonan@wjlaw.net

Date of hearing: 10/31/2014

Time needed for hearing: 1 hour

Questions about the use of this form should be directed to the Jurisdictional Commissioner. Refer to Regulations 67-204 through 67-211 and Regulations 67-601 through 67-615; as well as Regulation 67-1801. File this form and proof of service on the opposing party according to R.67-611 and R.67-212. Do not send medical reports. * Commissioners reserve the right to admit expert witnesses at hearings.

South Carolina Workers' Compensation Commission

P.O. Box 1715 • 1612 Marion Street
Columbia, South Carolina 29202-1715
(803) 737-5700

WCC File # 1405375

Carrier File # WC555-C35451

Carrier Code #

Employer FEIN

Jenna Foran 156-88-7028

Claimant's Name SSN

400 Branigan Court, Unit 1023, Myrtle Beach, SC 29579

Address City State Zip

(201) 310-9761

Home Phone

Work Phone

Anne Veatch Noonan

Preparer's Name

421 Wando Park Boulevard, Suite 100, Mount Pleasant, SC 29464 (843) 284-1097

Address

Phone #

Murphy USA

Employer's Name

200 Peach Street, Ethel, LA 70730

Address City State Zip

Liberty Insurance Corporation

Insurance Carrier

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION AND C. SCOTT MASEL, ESQUIRE, ATTORNEY FOR CLAIMANT

YOU ARE HEREBY NOTIFIED THAT DEFENDANTS, pursuant to the provisions of the South Carolina Workers' Compensation Act and South Carolina Code Section 1-23-330, (1976, as amended), herewith submits the following medical reports as direct evidence on behalf of the defendants, to wit:

<u>NAME OF PHYSICIAN/OTHER</u>	<u>DATE OF REPORT</u>	<u>PAGE</u>
APA (4) Coastal Orthopedics	6/12/14	65 - 66
APA (5) Doctors Care	4/29/14 - 5/23/14	67 - 69
EXHIBIT (B) Form 20		70
EXHIBIT(C) Video from Store		

YOU ARE FURTHER HEREBY NOTIFIED that you have the right to cross-examination; and, should you desire to exercise said right, you are to forthwith schedule the depositions of any of the physicians, whose reports are submitted, for the purposes of cross-examination.

YOU ARE FURTHER NOTIFIED that the originals of the documents referred to herein, or photocopies received from said physicians/others, are being herewith forwarded to the South Carolina Workers' Compensation Commission, for insertion in the file of the South Carolina Workers' Compensation Commission and inclusion into the evidence on behalf of the employer-defendant.

YOU ARE FURTHER NOTIFIED that the following witnesses may be called on behalf of the defendants: See Pre-Hearing Brief.



Anne Veatch Noonan

Willson Jones Carter & Baxley, P.A.

421 Wando Park Boulevard, Suite 100

Mount Pleasant, SC 2946

October 21, 2014

October 31, 2014
(hearing date)

COASTAL
ORTHOPEDICS

Specializing in You

Jenna Foran

Date: 6/12/14

Case No. 114078

DOB: 5-30-1990

CHIEF COMPLAINT: Pain left ankle

PRESENT ILLNESS: White female complains of pain left ankle that began when she was at work after slipping and falling. She now complains of pain left ankle. She was her lateral ankle and hindfoot. Is worse walking standing some decreased rest. She's had no treatment and presents for evaluation.

REVIEW OF SYSTEMS: Signed and noted in the chart by myself.

MEDICAL HISTORY: Negative

SURGICAL HISTORY: Left previous ankle reconstruction

MEDICATIONS: None

ALLERGIES: None

SOCIAL HISTORY: Denies smoking and alcohol use

FAMILY HISTORY: Noncontributory

PHYSICAL EXAMINATION:

GENERAL: Well developed, well-nourished White female in no apparent distress.

LYMPHATIC: No cervical or supramalleolar lymphadenopathy.

CARDIOVASCULAR: Radial pulse 1+ bilateral upper extremities. Dorsalis pedis and posterior tibial pulse 1+ bilateral lower extremities.

MUSCULOSKELETAL: Anatomic alignment of bilateral lower extremities. She's in about left lateral ankle joint over the peroneal tendons. She's tender over the ATFL. She has subluxation with anterior posterior drawer testing. She otherwise has full range rest. The right ankle hindfoot bilateral midfoot and forefoot joints. Muscle strength and external. Gait is antalgic left side.

SKIN: No skin changes or rashes bilateral lower extremities.

NEUROLOGIC: Coordination intact to reciprocal testing. Achilles and patella tendon reflexes are 1+ bilaterally.

65

Sensation is intact to light touch bilateral lower extremities.

MENTAL STATUS: Alert and oriented to person place and time. Mood and affect are appropriate.

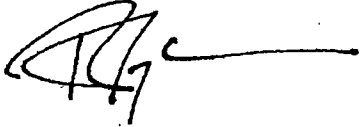
STUDIES: X-rays left ankle taken in our office today including stress use showed widening of the ankle mortise with lateral stress maneuver. No fractures were noted.

ASSESSMENT:

1. Ankle instability, status post fall left ankle.
- 2.

PLAN: She was seen and evaluated by Dr. Taylor.. Please see his assessment and plan.

Dictated by J. Chris Lewis, PA-C for Ross Taylor, M.D.

A handwritten signature in black ink, appearing to be 'RT' followed by a long horizontal stroke.

Ross Taylor, M.D.

Fcc: Artur Wilkoszewski, MD

05/02/2014 10:18

(FAX)

P.008/015

MALUDA, JENNA 1 / 1

Doctors Care Carolina Forest
200 Middleburg Dr
Myrtle Beach, SC 29578
(843) 903-6850 Office
(843) 903-0758 Fax

Radiology Overread by:
Carolina Radiology Associates, LLC

FORAN

NAME: ~~MALUDA~~, JENNA
DOB: 05/30/1990
PHYSICIAN: Baens, Maria MD

DATE OF EXAM: 04/29/2014
PATIENT ID: DCGS159084

B 154084
C

EXAM: LEFT ANKLE 3V

IMPRESSION: There may have been prior internal fixation. No acute fracture is evident.

Agree.

John J. Daly Jr, M.D.
Electronic Signature
Apr 29 2014 7:33PM

NOTE: This report is an OVERREAD and may not be used as a report for billing purposes to third party payors. The original interpretation by the requesting physician is part of the patient's Medical Record.

General Message

FORAN, JENNA - B159084

From: Baens MD, Maria
To: Office Pool (CAFR_SC);
Sent: 05/01/2014 2:21:40 PM EDT
Subject: General Message
Actions: **Notify the patient with results**

RAD reviewed x-rays and agreed there is no evidence for any acute bony trauma- changes consistent with prior surgery. Would seek subspecialist opinion (I think she was referred to {Podiatry?}) for continued symptoms.

Charted Date: May 01, 2014 2:21 PM EDT
Subject / Title: General Message
Performed By: Baens MD, Maria on May 01, 2014 2:21 PM EDT
Visit Information: 1997561, Doctors Care - Carolina Forest, Outpatient, 04/29/2014 - 05/01/2014

Printed by: Cox, Karen
Printed on: 05/02/2014 11:03 AM EDT

Page 1 of 1
(End of Report)

~~3B150140359~~

Urgent Care Note

FORAN, JENNA - B159084

Family History:

Diabetes Mellitus
Grandmother (M)
Grandfather (M)

Procedure history:

left ankle.

Social History:

Alcohol Assessment
Never
Tobacco Assessment
Never
Substance Abuse Assessment
Never

Physical Examination

Vital Signs

5/23/2014 8:56 AM EDT

Temperature Tympanic	98.4 DegF
Peripheral Pulse Rate	68 bpm
Respiratory Rate	20 br/min
Systolic Blood Pressure	132 mmHg
Diastolic Blood Pressure	88 mmHg
Mean Arterial Pressure	103 mmHg

Measurements from flowsheet : Measurements

5/23/2014 8:56 AM EDT

Height	68 in
Weight	266 lb
BSA	2.37 m2
Body Mass Index	42.93 kg/m2

General: Alert and oriented, No acute distress.

Musculoskeletal: Lower extremity exam: Ankle (Left, Lateral, Taloibular, Malleolus, Tenderness, THERE IS MILD TENDERNESS OF LATERAL MALLEOLUS, TALAR -FIBULAR AND SUB-MALLEOLAR LIGAMENTS. THE IS SIGNIFICANT WEAKNESS OF THESE LATERAL LIGAMENTS. THIS IS UNDER THE SURGICAL SCAR OF TENDON REPAIR THAT PT. HAD AT 14 YEARS OF AGE. THERE IS NUMBNESS TO LIGHT TOUCH OF ENTIRE FOOT UP TO THE ANKLE WHICH IS OLD.).

Neurologic: Alert.

Psychiatric: Cooperative, Appropriate mood & affect.

Health Maintenance

Recommendations

Pending (in the next year)

Due

Alcohol Misuse Screen (Female) due 05/23/14 and every 1 year(s)
Cervical Cancer Screen (if sexually active) due 05/23/14 and every 3 year(s)
Chlamydia Screen (if sexually active) due 05/23/14 and every 1 year(s)
Depression Screen (Female) due 05/23/14 and every 1 year(s)
Gonorrhea Screen (if sexually active) due 05/23/14 and every 1 year(s)
HIV Screen (if sexually active) (Female) due 05/23/14 and every 1 year(s)
STD Counseling (if sexually active) (Female) due 05/23/14 and every 1 year(s)
Syphilis Screen (if sexually active) (Female) due 05/23/14 and every 1 year(s)
Tetanus Vaccine due 05/23/14 and every 10 year(s)
Tobacco Use Screen (Female) due 05/23/14 and every 1 year(s)

Due in Future

Body Mass Index Check (Female) not due until 05/05/15 and every 1 year(s)
High Blood Pressure Screen (Female) not due until 05/05/15 and every 1 year(s)

Printed by: Jones, Catherine
Printed on: 5/28/2014 1:18 PM EDT

Page 2 of 3
(Continued)

69



WCC File #: 1405375
Carrier File #: WC555-C35451
Carrier Code #:
Employer FEIN #:

Claimant's Name: Jenna Foran SSN: 156-88-7028 Employer's Name: Murphy Oil Corporation
Address: 400 Branigan Court, Unit 1023 Address: 200 Peach Street
City: Myrtle Beach State: SC Zip: 29579 City: El Dorado State: A Zip: 71730
Home Phone: (201) 310-9761 Work Phone: Insurance Carrier: Liberty Insurance Corporation
Preparer's Name: Erica M. Senn Preparer's Phone #: 843-284-0691

Date of Injury: 4/29/2014
month day year

A. Total Wages Paid

1. Check Applicable Method:
- ☐ Report of earnings of injured employee based on four completed quarters.
 - ☐ Report of earnings of injured employee who did not complete four quarters based on actual time worked.
 - ☐ Report of earnings of similar employee. Injured employee did not work sufficient time before alleged injury. Hire date: 12/2/13
 - ☐ Report of earnings of injured employee based on alternative method because Form 20 results in a compensation rate that is not fair and just (attach documentation to show how average weekly wage and compensation rate were calculated).
2. List total wages paid as reported to the Employment Security Commission on the Employer Quarterly Contribution and Age Reports during the four quarters immediately preceding the quarter in which the injury occurred. Do not include the quarter during which the injury occurred.

Quarter	Ending Date	Total Wages Paid
1st	12/27/13	\$727.06
2nd	3/21/14	\$1,926.18
3rd		
4th		

Total Paid 2. \$2,653.24

3. List total value of other allowances of any character made in lieu of wages during four quarters above. 3. 15.7143
4. Add lines 2 and 3. **TOTAL WAGES PAID:** 4. \$2,653.24
5. List total number of weeks paid to employee during the four quarters immediately preceding the quarter in which the injury occurred. 5.

B. Average Weekly Wage

6. To calculate average weekly wage, divide total wages (line 4) by total weeks paid (line 5). **AVERAGE WEEKLY WAGE:** 6. \$168.84

C. Compensation Rate

7. The general rule for calculating the compensation rate is to multiply average weekly wage (line 6) by .6667. Estimate compensation rate by multiplying average weekly wage (line 6) by .6667. See part 8 below to determine the actual compensation rate. 7.
8. The compensation rate is as follows (choose one):
- ☐ When average weekly wage (line 6) is less than \$75.00, the compensation rate is the average weekly wage. Enter average weekly wage on line 8.
 - ☐ When the estimated compensation rate (line 7) is less than \$75.00 and average weekly wage (line 6) is more than \$75.00, the compensation rate is \$75.00. Enter \$75.00 on line 8.
 - ☐ When the estimated compensation rate (line 7) is more than the maximum compensation rate for the year in which the injury occurred, enter the maximum compensation rate for the year in which the injury occurred on line 8.
 - ☐ Employee is within the exceptions listed in S.C. Code Ann. Section 42-7-65. List applicable exception here and enter appropriate compensation rate on line 8.
 - ☐ The calculated compensation rate (line 7) applies. Enter amount from line 7 on line 8.

WEEKLY COMPENSATION RATE: 8. \$112.57

Employer's representative shall prepare a Form 20 and serve per R.67-211 a copy on the claimant within thirty days of beginning temporary compensation. See R.67-1603 when no temporary compensation is paid. NOTE: Average weekly wage represents average gross pay before taxes and other deductions. WHEN THE CLAIMANT DOES NOT AGREE WITH THE COMPENSATION RATE ON LINE 8, HE OR SHE SHOULD CONTACT THE EMPLOYER'S REPRESENTATIVE TO TRY TO REACH AN AGREEMENT AS TO THE COMPENSATION RATE. IF NO AGREEMENT CAN BE REACHED, THE CLAIMANT SHOULD CONTACT THE CLAIMS DEPARTMENT AT (803)737-5723.

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE #1405375

JEANA FORAN,	)	
	)	
CLAIMANT,	)	
	)	SC WORKERS' COMPENSATION COMMISSION
VS.	)	
	)	HEARING OF
MURPHY OIL, USA, INC)	)	JEANA FORAN
	)	
EMPLOYER,	)	
AND	)	VS
	)	
LIBERTY INSURANCE	)	MURPHY OIL, USA, INCORPORATED
CORPORATION	)	
CARRIER.	)	

This is the Transcript of the South Carolina Workers' Compensation Hearing of Jeana Foran versus Murphy Oil, USA, Incorporated, taken before Gloria Davis, a Court Reporter and Notary Public in and for the State of South Carolina, commencing at the hour of 10:50 A.M., Friday, October 31, 2014, at Horry County Court House, 1301 Second Avenue, Conway, 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 CLAIMANT:
C. Scott Masel, Esquire
Palmetto Injury Lawyers, LLC
4593 Oleander Drive
Myrtle Beach, SC 29577

FOR THE EMPLOYER/CARRIER:
Anne V. Noonan, Esquire
Willson Jones Carter & Baxley, PA
421 Wando Park Boulevard, Suite 100
Mount. Pleasant, SC 29464

ALSO PRESENT:

Ms. Amber Goss

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

**This is an Official Transcript governed by 25A S.C. Code ANN. Regs 67-615 D (Supp. 2000). The unauthorized copying of this document is deemed to be conversion of an asset belonging to the Court Reporter.

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

I N D E X

WITNESSES

All Witnesses:	Page
Ms. Foran for Claimant	
Direct Examination by Mr. Masel	10:9
Cross-Examination by Ms. Noonan	21:12
Redirect Examination by Mr. Masel	26:9
Mr. Rogers for Defense	
Direct Examination by Ms. Noonan	29:25
Cross-Examination by Mr. Masel	44:25
Ms. Goss for Defense	
Direct Examination by Ms. Noonan	51:3
Certificate	53

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

Commissioner Wilkerson: Today's date is the 31st day of October, 2014. We're here in reference to Workers' Comp file number 1405375. The Claimant is Jeana Foran and her attorney is C. Scott Masel; is that right?

Mr. Masel: Masel, yes.

Commissioner Wilkerson: Masel. See I told you I was going to mess it up. The Employer is Murphy Oil USA, Incorporated, the Carrier is Liberty Insurance Corporation; Anne Noonan represents both. The date of the accident is 4/29/2014. We did have a rather lengthy pre-hearing conference on several issues, one of them was to determine the average weekly wage and comp rate and there was an agreement, finally, of one sixty-eight, eighty-four (\$168.84); thus it would be one twelve, fifty-seven (\$112.57). We're here to determine the issues that are set forth on a form 50 and 51. Are there any objections to APA's, jurisdiction, venue or any other items by the moving party, Mr. Masel?

Mr. Masel: No, Your Honor.

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

1 Commissioner Wilkerson: Thank you. Ms.

2 Noonan?

3 Ms. Noonan: None from the Defense, Your
4 Honor.

5 Commissioner Wilkerson: None? Okay.
6 Without objection the Commission file now
7 becomes part of the record with the exception
8 of self-serving declarations and unstipulated
9 medical reports. At this time, Mr. Masel, if
10 you'd put your client's position on the
11 record and then, likewise, I'll have the
12 Defense do the same. Thank you.

13 Mr. Masel: Sure, Your Honor. We're --
14 we are calling the -- the Claimant, Jeana
15 Foran, as our witness and -- do you swear her
16 in?

17 Commissioner Wilkerson: Well, now,
18 while -- I want to get your position on the
19 record first.

20 Mr. Masel: Oh --

21 Commissioner Wilkerson: Your --

22 Mr. Masel: -- for our case?

23 Commissioner Wilkerson: -- your -- for
24 your case; yes, sir.

25 Mr. Masel: I apologize.

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

1 Commissioner Wilkerson: I'm sorry.

2 Mr. Masel: I apologize, Your Honor.

3 Commissioner Wilkerson: I'm going to
4 put you up here closer where I can --

5 Mr. Masel: I -- I think I --

6 Commissioner Wilkerson: Sometimes these
7 court rooms do echo; so, I'm sorry.

8 Court Reporter: I do need you to speak
9 up a little bit.

10 Mr. Masel: -- okay. It is our position
11 that Ms. Foran has suffered a compensable
12 injury. On the date of injury she was
13 working at Murphy Oil and she was working as
14 a cashier; part of her job was stocking
15 cigarettes. And in the course of her work
16 there she stepped half on and half off of a
17 mat that is located on the floor behind the
18 register and as a result of that her ankle
19 rolled on the -- the uneven surface there
20 causing her to suffer torn ligaments and
21 required some surgery. And our position is
22 that it is not an injury that -- that there
23 is no explanation for. It is not an injury
24 that is related to a matter that is common to
25 the neighborhood. That this is a mat that is

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

1 for the purposes of the business where the
2 cashiers stand and that -- that her -- her
3 injury is a result of a specific incident and
4 a specific cause related to the employment
5 and the -- the sub-issues that -- that follow
6 that just relate to her need for future
7 medical care including surgery.

8 Commissioner Wilkerson: Okay. And let
9 me say -- and obviously, Anne, I'll get your
10 stuff -- or Ms. Noonan -- on the record too.
11 We did look briefly at just a small section
12 of that and that's what took us a while to
13 review that as well, as you all both know,
14 but I have a copy of the disk with even
15 instructions of how to get in with the entire
16 thing and that's coming in as an -- as part
17 of the case for the Defense, but I've got it
18 and I'll obviously carry that back and look
19 at it a little more thoroughly but thank you.
20 Please, now from the Defense's perspective.

21 Ms. Noonan: Yes, Your Honor. It's our
22 position that this is an idiopathic injury.
23 It was -- it's an incident that did not arise
24 out of her employment. She has pre-existing
25 chronic instability of the left ankle, as

1 documented by the medical records; she has
2 been having a problem with this for a long
3 time; she originally had surgery in 2004.
4 And that the video clearly shows that the mat
5 did not cause and was not involved in her
6 ankle giving out. That her left ankle, she
7 steps -- she's half off the mat, then she
8 steps on the mat at the time period of 5:33
9 A.M. and 46 to 40 -- .46 to 47 and 48 seconds
10 and that is shows that her left foot went all
11 the way back on the mat and then her left
12 ankle gave out, and then she falls into the
13 counter. So -- so, we would argue that there
14 is no special risk on behalf of Murphy Oil
15 that caused this accident and it is
16 idiopathic only. And also, Your Honor, if
17 you do find that this is a compensable
18 Workers' Compensation claim that arose out of
19 her employment we would argue that she
20 actually worked all the way through her light
21 duty, which was in May, and she was not taken
22 completely out of work by the -- by her
23 treating physician until June 12th of 2014.
24 So, if it was a compensable claim, which we
25 do not feel that it is by any means, but that

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

1 her -- that TTD would have only started
2 accruing as of June 12th, 2014.

3 Commissioner Wilkerson: Is that an
4 issue, Mr. Masel, as when it may or may not
5 start?

6 Mr. Masel: No, it's not an issue.

7 Commissioner Wilkerson: Okay. That's
8 fine. And then the medical -- okay. I'm
9 sorry. Okay.

10 Ms. Noonan: Okay. That's it, Your
11 Honor.

12 Commissioner Wilkerson: Okay. Thank
13 you. I appreciate it. Ma'am, I'm going to
14 get you to raise your right hand; I'm going
15 to have the Court Reporter swear you in and
16 I'm -- we're going to take some testimony,
17 okay?

18 Ms. Foran: Okay.

19 Commissioner Wilkerson: Thank you.

20 Whereupon;

21 Jeana Kirsten Foran, being duly sworn and cautioned to
22 speak the truth, the whole truth and nothing but the truth,
23 testified as follows:

24 Court Reporter: Please speak up for me.

25 Witness: Yes.

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

1 Court Reporter: Please state your full
2 name for the record.

3 Witness: Jeana Kirsten Foran.

4 Court Reporter: Thank you, ma'am.

5 Commissioner Wilkerson: Thank you, Ms.

6 Foran. Please.

7 Mr. Masel: Thank you, Your Honor.

8 DIRECT EXAMINATION

9 By Mr. Masel:

10 Q. Ms. Foran, let's begin with your -- your prior
11 left ankle matter. Tell me what -- what happened in
12 2004.

13 A. I had gone to the doctor, they had requested
14 surgery, I had my surgery, gone through physical
15 therapy. The doctor had cleared me at one hundred
16 percent (100%) out of medical; therefore, I was able to
17 do everything and anything.

18 Q. Okay.

19 A. If it was to get hurt it would be a whole new
20 occurrence.

21 Q. Okay. So, after the -- the surgery in 2004, did
22 you feel that your ankle had fully healed up?

23 A. Yes.

24 Q. And we're talking about your left ankle, right?

25 A. Yes.

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

- 1 Q. Okay. After you had healed up did you have any
2 physical limitations with regard to the left ankle?
- 3 A. No.
- 4 Q. Did you work after that 2004 surgery?
- 5 A. Yes.
- 6 Q. Okay. What kind of jobs did you do?
- 7 A. Cashiers and lifeguards.
- 8 Q. Okay. Did your left ankle limit you in any way
9 from performing those jobs?
- 10 A. No.
- 11 Q. After that surgery did you participate in any
12 recreational activities?
- 13 A. Yes.
- 14 Q. And what kind of activities?
- 15 A. Volleyball, softball.
- 16 Q. Okay. Did your left ankle limit you physically in
17 any way from participating in volleyball and softball?
- 18 A. No.
- 19 Q. And how about activities at home, whether it's
20 playing with the kids or other daily chores; did your
21 left ankle limit you in -- in any way from performing
22 those things?
- 23 A. No.
- 24 Q. When you took the job with Murphy Oil, and prior
25 to the date of injury, were you able to do your job

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

- 1 fully as far as the physical requirements go?
- 2 A. Yes.
- 3 Q. Did your left ankle limit you in any way in regard
- 4 to your job at Murphy Oil when you were hired?
- 5 A. No.
- 6 Q. Okay. And you started working there when?
- 7 A. December of 2013.
- 8 Q. And what was your job then?
- 9 A. Third shift cashier.
- 10 Q. What were your duties as a third shift cashier?
- 11 A. Stock cigarettes, stock shelves, clean.
- 12 Q. And did you also run the cash register?
- 13 A. Yes.
- 14 Q. And was that full time or part time?
- 15 A. Part time.
- 16 Q. And what shifts were you working?
- 17 A. 11:00 P.M. to 7:00 A.M.
- 18 Q. How was your ankle when you went into work on that
- 19 date, April 29th of 2014?
- 20 A. It was really fine until I had stumbled onto the
- 21 mat where my foot was half on, half off, and my ankle
- 22 gave out.
- 23 Q. Okay. Tell me what you were doing immediately
- 24 before that.
- 25 A. Stocking shelves.

1 Q. Okay. And try to describe for us, you know, when
2 you finished stocking the cigarettes -- we can see that
3 in -- in the video -- step-by-step what happened?

4 A. I noticed I had grabbed -- grabbed too many
5 cartons of cigarettes to put up at the time; therefore
6 I was going to -- I was getting up to put them on the
7 table or the counter behind -- on the other side of me
8 to see what else I needed to grab from the back room;
9 so, I would put those away as well while I was trying
10 to get the others. And I went to get up and my foot
11 was half on, half off, of the mat and my ankle just
12 rolled underneath me.

13 Q. And the flooring behind the cash register what --
14 is that like a hard linoleum floor?

15 A. Yes.

16 Q. And the mat that we see in the video, can you
17 describe that for us?

18 A. I'm going to say it's about an inch thick and it's
19 above -- well, it's flat and then on the corners it's a
20 little curved, so.

21 Q. From the -- the top of the mat are you saying it's
22 kind of beveled down to the floor surface?

23 A. Yes.

24 Q. Okay. Is -- what is its size, approximately?

25 A. This big (demonstrating).

- 1 Q. You're spreading your hands apart three (3) to
2 four (4) feet; is that right?
- 3 A. Three (3) to four (4) feet.
- 4 Q. Okay. What -- what is its surface, is it
5 cushiony, is it hard; how would you describe the --
- 6 A. It's --
- 7 Q. -- the top of it?
- 8 A. -- it's a little cushion.
- 9 Q. Okay. And it's located behind the -- the cash
10 register?
- 11 A. Yes.
- 12 Q. Do you have an opinion as to why a -- a mat that
13 is a little bit cushioned is placed behind the -- the
14 cash register?
- 15 A. For the comfort of the cashiers --
- 16 Q. Okay.
- 17 A. -- because they're on their feet.
- 18 Q. Is -- instead of that -- that mat is more cushiony
19 than the hard linoleum floor?
- 20 A. Yes.
- 21 Q. And you said that mat stands approximately an --
22 an inch or so higher than the floor itself?
- 23 A. Yes.
- 24 Q. Of course I want -- I want it to be as -- as clear
25 as I can make it. So, tell me again, what caused your

1 ankle to roll; what caused you to suffer an injury on
2 that day?

3 A. Being half on, half off of the mat. I had rolled
4 towards where the linoleum floor was; my foot wasn't
5 completely flat.

6 Q. Okay. So, we're -- we're talking about your left
7 foot. And which side of your foot was on the mat and
8 which side of your foot was on the linoleum floor?

9 A. The big toe was on the mat and the other toes were
10 on the floor.

11 Q. If that cushiony mat was not there do you believe
12 that you would have rolled your ankle?

13 A. No.

14 Q. Have you ever seen a mat like this before?

15 A. I have.

16 Q. Okay. Where have you seen mats like this before?

17 A. Grocery stores, gas stations.

18 Q. And where at grocery stores and gas stations have
19 you seen this type of mat?

20 A. Cashiers, where they stand.

21 Q. Okay. Have you had any mats like this at home?

22 A. No.

23 Q. Have you ever seen or met anybody that has a mat
24 like this at home?

25 A. No.

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

- 1 Q. Are mats like this common to your neighborhood?
- 2 A. No.
- 3 Q. Does the store have mats like this up and down the
- 4 -- the aisle ways where people shop?
- 5 A. No.
- 6 Q. Does -- does the store have mats like this at the
- 7 doorway where people walk into from the parking lot and
- 8 into the store?
- 9 A. Sometimes, yes.
- 10 Q. Okay. After this happened, what did you do?
- 11 A. I had gotten up and went right back to my duties.
- 12 My manager, Jean, was coming in and when she came in I
- 13 let her know about what had happened.
- 14 Q. Okay. What did you tell Jean?
- 15 A. That -- I actually showed her how my feet were
- 16 standing and that I had rolled; my ankle had rolled
- 17 underneath me as I was doing the cigarettes.
- 18 Q. Okay. Did you demonstrate that to her?
- 19 A. I did not. I just stood and I showed her how my
- 20 feet were standing.
- 21 Q. Okay. Did you actually place your feet on the mat
- 22 when you showed her?
- 23 A. No. I put my hand on the mat.
- 24 Q. Okay. So, you put your hand on the mat in the
- 25 same position as how your foot was at the time of the

1 injury?

2 A. Yes.

3 Q. Okay. When you placed your hand on the mat was
4 half of it on the mat and half of it on the linoleum
5 floor?

6 A. Yes.

7 Q. And did you talk to the store manager, Mr. Stokes,
8 about that --

9 A. She --

10 Q. -- about what happened?

11 A. -- she had told me she was going to call him to
12 see what was the next step to take.

13 Q. Okay. And what was the next step you took?

14 A. He had called me and told me that I needed to go
15 to Doctor's Care with him.

16 Q. Okay. Did he ask you how it happened?

17 A. When I had got there, yes.

18 Q. Did he meet you at Doctor's Care?

19 A. Yes.

20 Q. And what did you tell him when he asked you how it
21 happened?

22 A. He had said, well, how did it happen? And I told
23 him I was stocking the cigarettes; my foot was half on,
24 half off, the mat and my ankle had rolled.

25 Q. And what was his response to you?

- 1 A. He didn't really have a response. He just said,
2 well, let's see what the doctor has to say.
- 3 Q. Okay. Have you ever discussed with Jean or Mr.
4 Stokes what the -- the video -- the store video tape
5 shows?
- 6 A. No.
- 7 Q. And you've reviewed the -- the video tape, at
8 least of the -- the time period when the fall took
9 place, at -- at my office; is that right?
- 10 A. Yes.
- 11 Q. Did that look to be accurate to you?
- 12 A. Yes.
- 13 Q. Did it show where the mat was located?
- 14 A. Yes.
- 15 Q. Could you see where it showed where your foot was
16 half on and half off?
- 17 A. I believe, yes.
- 18 Q. Okay. And did you see how -- how it caused you to
19 roll your ankle?
- 20 A. Yes.
- 21 Q. Did you go see a -- a doctor? You went to
22 Doctor's Care; is that right?
- 23 A. Yes.
- 24 Q. Okay. And then that -- is that -- is that the
25 doctor that Mr. Stokes told you to go to?

1 A. I was told to meet him at Doctor's Care because
2 that's where the company goes to.

3 Q. Okay. After going to Doctor's Care did you
4 ultimately return to work for a period of time?

5 A. Yes.

6 Q. Okay. And what were -- what were you doing when
7 you returned to work?

8 A. I was told light duty.

9 Q. Okay. And is that what you performed was light
10 duty?

11 A. Yes.

12 Q. Okay. And you also visited an orthopedic; is that
13 correct?

14 A. Yes.

15 Q. Is that Dr. Taylor?

16 A. Yes.

17 Q. Based on your visits with Dr. Taylor, what's --
18 what is your understanding of the nature of your
19 injury?

20 A. Well, he had first taken the x-rays of the -- my
21 ankle and it was stressed in ways it really shouldn't
22 be going, and when he had viewed them he had seen gaps
23 of where the ligaments should be held but they weren't.
24 He had came in and talked to me about it. He said a
25 revision was simply -- what has happened, it needs to

1 be reconnected because it -- it just came apart.

2 Q. Okay. So, you believe you need additional medical
3 treatment?

4 A. Yes.

5 Q. Okay. And -- and that includes the -- the
6 revision surgery and -- and any treatment after that?

7 A. Yes.

8 Q. And is that something you want?

9 A. Yes.

10 Q. And did -- did the doctor take you out of work
11 fully?

12 A. Yes, until further notice.

13 Q. Okay. And that was on --

14 A. June 12th.

15 Q. -- June 12th? And we saw that you are wearing a
16 boot today; who -- who provided that to you?

17 A. Dr. Taylor.

18 Q. Okay. And describe the boot to us, briefly.

19 A. It's Velcro half way up my leg and it has straps
20 to hold my foot down and my leg against the -- the
21 little things to stabilize my ankle from not moving at
22 all.

23 Q. Okay. And how often do you wear that boot?

24 A. Every day.

25 Q. Do you wear it at night?

1 A. Sometimes I wear it to bed.

2 Q. Are you able to walk without it?

3 A. No, it hurts. I crawl around my house.

4 Mr. Masel: That's all I have,

5 Commissioner.

6 Commissioner Wilkerson: Ms. Noonan?

7 Ms. Noonan: Okay. Yes, sir.

8 Commissioner Wilkerson: I'm sorry. I

9 was finishing up my notes.

10 Ms. Noonan: Okay.

11 CROSS-EXAMINATION

12 By Ms. Noonan:

13 Q. Ms. Foran, my name is Anne Noonan. I just want to
14 ask you a couple -- a couple of questions about this.

15 You've described your accident as you were kneeling,
16 stocking the shelves, and you got up with your foot
17 half on the mat, half off the mat; is that right?

18 A. Yes.

19 Q. Okay. But you -- you actually were no longer
20 kneeling; isn't that right, and that the mat was on the
21 opposite side; you had already turned around?

22 A. I was in the process of turning.

23 Q. Okay. But when you were kneeling --

24 A. When I -- my foot was half on, half off, as I was
25 doing it.

- 1 Q. -- okay. But were you kneeling right where the
2 mat is or were you kneeling behind the mat on the
3 opposite side where the cartons go?
- 4 A. I was near it.
- 5 Q. But you weren't on the mat when you were kneeling?
- 6 A. No.
- 7 Q. Okay. So, just so that the record is clear, you
8 were not kneeling down over the top of the mat; you
9 were on the, from what the video shows, the opposite
10 side --
- 11 A. Yes.
- 12 Q. -- behind you?
- 13 A. Yes.
- 14 Q. Okay. And you had actually stood up already from
15 your kneeling position; is that right?
- 16 A. I was in the process of it.
- 17 Q. Okay. Would you agree that the video shows that
18 you had already stand -- stood up and had turned around
19 and gone over to where the cashier area was?
- 20 A. I haven't -- I -- what I've seen was I was in the
21 process of on the way up.
- 22 Q. So, it's your testimony that in the video you're
23 not already standing up, turned around, and stepped
24 over to the cashier --
- 25 A. I was --

1 Q. -- to the register?

2 A. -- in the process of standing up and my foot was
3 half on, half off, and my ankle had rolled.

4 Q. Okay. So, let's get this -- this straight,
5 though. Are you still saying that you were standing up
6 from a kneeling position when you were injured?

7 A. Yes.

8 Q. Okay.

9 Ms. Noonan: And, Your Honor, I would
10 just refer you to the video for that at 5:00
11 A.M. 33 minutes and 47 seconds.

12 Q. Okay. And you testified just a few moments ago
13 that you actually stumbled on the mat; is that right?

14 A. Yes.

15 Q. Okay. How did you stumble on the mat?

16 A. Because my foot was half on, half off --

17 Q. Okay.

18 A. -- and my ankle had rolled.

19 Q. Okay.

20 Ms. Noonan: And, Your Honor, I would
21 again just refer you to the video for that.

22 Q. Now, when you were deposed by my associate, Matt
23 Schonfeld, he asked you how you were injured, and did
24 you tell him that your ankle just rolled while you were
25 standing up?

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

- 1 A. No.
- 2 Q. Okay. You didn't tell him, "I went to stand up, I
3 had lost balance and my ankle just rolled underneath
4 me?"
- 5 A. No.
- 6 Q. Okay. And it's just -- we really need to clear
7 this up because your testimony is that you were down on
8 one knee and you said in your deposition that you were
9 actually down on one knee as if you were --
- 10 A. Proposing --
- 11 Q. -- you were a man proposing.
- 12 A. -- as if I was proposing, and I had leaned up with
13 this foot was up propping me and the other one was
14 underneath me, and when I had gone up my foot was half
15 on, half off, of the mat and it rolled --
- 16 Q. Okay.
- 17 A. -- as I was getting up.
- 18 Q. Okay. So, it's your testimony that you were down
19 on one knee like in a --
- 20 A. Uh-huh.
- 21 Q. -- in a proposal type thing, while standing up
22 from that position your foot was half on the mat, half
23 off?
- 24 A. Yes.
- 25 Q. Okay. And have you seen the video?

1 A. Yes.

2 Q. And you think that that is accurate and consistent
3 with the video?

4 A. Yes.

5 Q. Okay. All right. Now, your diagnosis, you talked
6 a little bit earlier about how you had your surgery
7 back in 2004; was -- and you said that the doctor told
8 you you were one hundred percent (100%)?

9 A. Yes.

10 Q. Do you recall that the doctor actually told you
11 that you have chronic instability of your left ankle?

12 A. No, he did not.

13 Q. Okay. And have you been diagnosed with chronic
14 instability for your ankle since then?

15 A. No, I have not.

16 Q. Okay. And has -- the doctors that have been
17 treating you now, have they told you that you have
18 chronic instability of your left ankle?

19 A. No, they have not.

20 Q. Okay.

21 Ms. Noonan: And, Your Honor, I would
22 just refer you to the medical records.

23 Q. Okay. Before this accident, which happened on
24 April 29th of 2014, have you complained to anyone in
25 the store about having left ankle pain or problems with

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

1 your left ankle?

2 A. No.

3 Q. Okay.

4 Ms. Noonan: I don't have anything else
5 for the -- for the Claimant, Your Honor.

6 Commissioner Wilkerson: Anything else?

7 Mr. Masel: Just very briefly.

8 REDIRECT EXAMINATION

9 By Mr. Masel:

10 Q. For clarity as far as what happened, you -- you
11 reviewed the video in my office?

12 A. Yes.

13 Q. Everything that you saw in the video accurately
14 reflects what took place at the store that day?

15 A. Yes.

16 Q. Okay. And in the video you are holding something
17 in your hand; do you remember what that was?

18 A. Cartons of cigarettes.

19 Q. Okay. And why were you holding cartons of
20 cigarettes?

21 A. Because I had --

22 Ms. Noonan: Objection, Your Honor.

23 Commissioner Wilkerson: Oh?

24 Ms. Noonan: It's outside of the scope
25 of redirect.

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

1 Commissioner Wilkerson: Yes, it is.

2 Mr. Masel: All right.

3 Q. When you were stocking cigarettes were you facing
4 the back wall of -- of the cashier area?

5 A. Yes.

6 Q. Okay. And when you looked at the video did you
7 see that you were facing where the -- the cashier -- or
8 where the -- the cash register is?

9 Ms. Noonan: Objection, leading.

10 Commissioner Wilkerson: Yes. Don't
11 lead her. I -- because I think when she's
12 facing the back of the store, or the back of
13 the wall, we can't see her anyway; is -- is
14 that fair?

15 Ms. Noonan: If you -- there are two (2)
16 angles on the video.

17 Commissioner Wilkerson: Oh, I'm sorry.
18 Okay.

19 Ms. Noonan: And if you look at the
20 other one --

21 Commissioner Wilkerson: The part I saw
22 --

23 Ms. Noonan: -- you can see her stocking
24 the --

25 Commissioner Wilkerson: -- that's fine.

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

1 Ms. Noonan: -- the cigarettes.

2 Commissioner Wilkerson: Okay. The one
3 I looked at I couldn't see her.

4 Ms. Noonan: Right.

5 Commissioner Wilkerson: Okay. That's
6 fine. Yes, don't lead her; get her to --

7 Mr. Masel: Okay.

8 Q. Which way were you facing when your -- when you
9 say your foot was half on and half off of the mat?

10 A. The registers.

11 Q. Okay.

12 Mr. Masel: Then that -- that's all I
13 have.

14 Commissioner Wilkerson: Anything else?

15 Ms. Noonan: Nothing further, Your
16 Honor.

17 Commissioner Wilkerson: Okay. Thank
18 you. Any other witnesses from the Claimant's
19 perspective?

20 Mr. Masel: No further witnesses.

21 Commissioner Wilkerson: Okay. Okay.
22 Any witnesses from the Defense?

23 Ms. Noonan: Yes, Your Honor. The
24 Defense call Stokes Rogers.

25 Commissioner Wilkerson: Okay.

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

1 Ms. Noonan: I'm going to go get him
2 real quick.

3 Commissioner Wilkerson: Yes.

4 (Off The Record)

5 Ms. Noonan: Commissioner Wilkerson,
6 this is Stokes Rogers --

7 Commissioner Wilkerson: Hey, Mr.
8 Rogers, how are you doing?

9 Ms. Noonan: -- he's the --

10 Commissioner Wilkerson: We'll go ahead
11 and have you sit here --

12 Ms. Noonan: -- manager of the store.

13 Commissioner Wilkerson: -- it will be
14 easier. Thank you. If you'll take a seat
15 and -- and raise your right hand and I'll get
16 the Court Reporter to swear you in.

17 Whereupon;

18 Randolph Stokes Rogers, II, being duly sworn and
19 cautioned to speak the truth, the whole truth and nothing
20 but the truth, testified as follows:

21 Court Reporter: Please state your full
22 name for the record.

23 Witness: Randolph Stokes Rogers, II.

24 DIRECT EXAMINATION

25 By Ms. Noonan:

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

- 1 Q. Okay. Stokes, what is your position with Murphy's
2 Oil?
- 3 A. I'm the store manager of 8717.
- 4 Q. Okay. And is that the same store where Ms. Foran
5 works?
- 6 A. Yes.
- 7 Q. Okay. And how long have you been with the
8 company?
- 9 A. Four (4) years.
- 10 Q. Okay. And were you, obviously, with the company
11 when she was hired in December of 2013?
- 12 A. That's correct.
- 13 Q. Okay. And were you with the company at the time
14 of this incident on April 29th of 2014?
- 15 A. That's correct.
- 16 Q. Okay. Now, before this incident, which occurred
17 on April 29th, had you ever heard Ms. Foran complain
18 about problems with her left ankle?
- 19 A. Yes. She would walk around the store and she
20 would limp and I -- I'd ask her what was wrong with
21 her. She said she had a car accident years ago and
22 that's what was bothering her.
- 23 Q. Okay. And how often would you notice a limp?
- 24 A. A lot of times; about every time I saw her.
- 25 Q. Okay. Were there ever days where she didn't walk

1 with a limp?

2 A. Offhand I don't -- I don't recall any. I mean,
3 it's been a long time now since she's been there, so.

4 Q. Okay. Did she ever complain to you about any
5 problems with the ankle -- the left ankle before April
6 29th?

7 A. Just that she had a bad ankle.

8 Q. Okay. Did she refer to it as anything other than
9 a bad ankle?

10 A. No. I asked her what was wrong with it and she
11 said, you know, she got in a car accident years ago.

12 Q. Okay. And how bad was the limp; do you know?

13 A. It -- it was noticeable but it wasn't -- I mean, I
14 -- it was a noticeable limp.

15 Q. Okay. And after --

16 Ms. Noonan: -- and, Your Honor, can you
17 hear him?

18 Commissioner Wilkerson: No. What was
19 that last word?

20 A. It was a noticeable limp.

21 Commissioner Wilkerson: Oh, noticeable.

22 Okay. I put noticeable on here. Okay.

23 Ms. Noonan: Okay.

24 Q. And -- and was it there -- was it noticeable to
25 you every time you saw her?

1 A. Yes, ma'am.

2 Q. Okay. And now, after this accident on April 29th,
3 did you speak with her regarding what happened?

4 A. Yes, ma'am.

5 Q. Okay. And how did she describe the incident to
6 you that -- at that date?

7 A. She told me she was stocking some cigarettes down
8 on the floor level and that she got up and she hurt her
9 ankle.

10 Q. Okay. Did she ever mention to you when she was
11 first injured anything about catching her foot on the
12 mat?

13 A. No.

14 Q. Okay. Did the mat ever come up before --

15 A. No, ma'am.

16 Q. -- before we got involved?

17 A. No, ma'am.

18 Q. All right. And do you have that mat with you,
19 sir?

20 A. I do. Do you want to see it?

21 Q. Yes, if you could show that to the Commissioner.

22 Commissioner Wilkerson: It looks like
23 it's a rubber mat, whether it's an inch or
24 two (2) I don't know.

25 Ms. Noonan: Well, actually, I have a

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

1 ruler.

2 Commissioner Wilkerson: Oh, do you?

3 Ms. Noonan: Yes, sir.

4 Q. Ms. Foran testified that --

5 Commissioner Wilkerson: She brought
6 that ruler because last time I caught her on
7 something that --

8 Ms. Noonan: -- yes --

9 Commissioner Wilkerson: -- didn't you?

10 Ms. Noonan: -- you did and I couldn't
11 measure it --

12 Commissioner Wilkerson: She couldn't
13 measure it.

14 Ms. Noonan: -- and couldn't remotely
15 get close to it. So, yes, I -- I now come
16 prepared to your hearings, Your Honor.

17 Q. But Ms. Foran testified that that mat was an inch
18 thick; would -- do you believe that that is an inch in
19 width?

20 A. No, ma'am. I mean, an inch is more -- rule of
21 thumb is your thumb, I guess. That's not an inch --
22 even close to an inch.

23 Commissioner Wilkerson: It's the same
24 -- all right, it seems to be a little thicker
25 on the end than it is right there; would you

1 --

2 Witness: Where do you want to see it;
3 from that way?

4 Commissioner Wilkerson: -- yes. It
5 seems to be a little thicker on that end.

6 Witness: Right here?

7 Commissioner Wilkerson: But, no, I
8 mean, I'm not -- I'm not talking
9 significantly.

10 Ms. Noonan: Right.

11 Commissioner Wilkerson: I'm just
12 talking a little bit, whatever a little bit
13 means.

14 Q. And, Stokes, do you mind -- since he does not want
15 to keep that mat with him --

16 Commissioner Wilkerson: I'm -- no, I'm
17 not.

18 Q. -- do you mind walking around and just showing it
19 to him so he can see it closer?

20 Commissioner Wilkerson: He -- he --

21 Witness: Do you want to hold on to it?

22 Ms. Noonan: Scott, do you want to see
23 it?

24 Commissioner Wilkerson: -- no, I don't
25 want it.

1 Ms. Noonan: Well, it -- okay.

2 Commissioner Wilkerson: Just where you
3 all can see it is the main -- I mean, I'm
4 more concerned that -- because I'm going to
5 get you to take a photograph of it.

6 Witness: Do you want to see it closer?

7 Commissioner Wilkerson: Yes, just bring
8 it up and just lay it right there.

9 Witness: Okay. It's a little dirty,
10 now.

11 Commissioner Wilkerson: That's all
12 right. That's -- I'm not going to touch it.
13 That's where I want it. That won't fit in my
14 file to go back home. And it still won't --

15 Ms. Noonan: Okay. Will you leave it
16 right there and I'm going to get a --

17 Commissioner Wilkerson: -- no, leave it
18 right there a second. Leave it right there a
19 second.

20 Ms. Noonan: -- yes, sir. I'm just
21 going to get a picture of the edge.

22 Commissioner Wilkerson: What does the
23 ruler say it is?

24 Ms. Noonan: Okay. Thank you. You'll
25 actually believe it?

1 Commissioner Wilkerson: Hey, you
2 brought it. You brought it up; I didn't.

3 Mr. Masel: About an eighth (1/8) of an
4 inch.

5 Commissioner Wilkerson: That's not an
6 inch; I would say it's close to a quarter but
7 I -- yes.

8 Ms. Noonan: Okay.

9 Mr. Masel: Are we measuring just the --
10 the lip of it or the center of it where it's
11 thicker?

12 Commissioner Wilkerson: Well, we might
13 as well get it here (indicating) and then I'm
14 going to get it here (indicating), which
15 looks thicker.

16 Ms. Noonan: Okay.

17 Commissioner Wilkerson: Let's move it
18 out there.

19 Ms. Noonan: And actually my phone --
20 the side of my iPhone is wider than the mat
21 so it won't -- I guess I could hold it like
22 that. It looks like it's in centimeters.

23 Commissioner Wilkerson: I'm going to
24 look and see if you've got a case --

25 Mr. Rogers: It's not close to an inch.

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

1 Commissioner Wilkerson: -- I'm going to
2 start bringing a ruler.

3 Ms. Noonan: Yes, it's -- it's not close
4 to an inch.

5 Commissioner Wilkerson: I don't think
6 it's an inch but it's not -- I mean, it's not
7 -- it's not like its three (3) inches, five
8 (5) inches; it's somewhere between --

9 Mr. Masel: It's between zero (0) and an
10 inch.

11 Commissioner Wilkerson: -- I would
12 agree with that. I don't think it -- I don't
13 think it combines to be a total inch but I do
14 think it's probably -- I'm going to just say
15 a quarter to a half inch. The -- the bottom
16 line is it's raised off the floor.

17 Ms. Noonan: Right.

18 Commissioner Wilkerson: Yes. I think
19 nobody --

20 Ms. Noonan: But not an inch.

21 Commissioner Wilkerson: -- but I think
22 nobody would disagree that it's raised off
23 the floor.

24 Ms. Noonan: Okay.

25 Commissioner Wilkerson: And I

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

1 understand for comfort level --

2 Ms. Noonan: Correct.

3 Commissioner Wilkerson: -- and I think

4 --

5 Ms. Noonan: Right.

6 Commissioner Wilkerson: -- yes, that's

7 what it's there for, so.

8 Ms. Noonan: Okay. Thank you.

9 Commissioner Wilkerson: Why don't you
10 lay it flat, take an entire picture of it.

11 Ms. Noonan: Okay.

12 Commissioner Wilkerson: Is that -- and
13 you get -- I'm just going to get her to send
14 it to you.

15 Ms. Noonan: Okay.

16 Mr. Masel: Send the picture?

17 Commissioner Wilkerson: Yes.

18 Mr. Masel: That's how --

19 Commissioner Wilkerson: I don't -- yes,
20 just where we can put that in the file more
21 than anything.

22 Ms. Noonan: I've got it. I should get
23 paid extra for this by the way.

24 Commissioner Wilkerson: You were a
25 cheerleader; you can handle it.

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

1 Ms. Noonan: I was not a cheerleader and
2 please stop saying that.

3 Commissioner Wilkerson: You weren't?

4 Ms. Noonan: On the record, I was a
5 basketball player and a softball player.

6 Commissioner Wilkerson: I thought you
7 cheered at Carolina?

8 Ms. Noonan: No, I did not cheer.

9 Commissioner Wilkerson: Okay. Excuse
10 me, she was an athlete.

11 Ms. Noonan: Do you want to take any
12 pictures of this while I'm down here --

13 Mr. Masel: Do you want to take it from
14 --

15 Ms. Noonan: -- do you want a different
16 angle or anything?

17 Mr. Masel: -- I mean, it's your phone.

18 Ms. Noonan: Or should we take it off
19 that side if this is the side?

20 Mr. Masel: Let's do -- let's do one
21 from here.

22 Commissioner Wilkerson: I'll let you
23 all --

24 Ms. Noonan: Okay.

25 Commissioner Wilkerson: -- my

1 daughter-in-law was a cheerleader; she always
2 argues with my son that that's an athletic
3 event and I stay out of those arguments; I
4 leave the house.

5 Ms. Noonan: Yes.

6 Commissioner Wilkerson: I've seen her
7 fall and turn. They wouldn't do that to me.

8 Ms. Noonan: It is kind of --

9 Commissioner Wilkerson: It's pretty
10 dangerous.

11 Ms. Noonan: -- now they're all
12 flipping.

13 Commissioner Wilkerson: She broke a
14 bone in her back.

15 Ms. Noonan: Okay. Where -- what am I
16 taking?

17 Mr. Masel: Let's -- let's go ahead and
18 do that one.

19 Ms. Noonan: Okay.

20 Commissioner Wilkerson: That's fine.

21 Ms. Noonan: Like from the ground?

22 Mr. Masel: Yes.

23 Ms. Noonan: Okay.

24 Commissioner Wilkerson: Just send them
25 all to -- and you can send them to me. I

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

1 feel like I'm building a house.

2 Court Reporter: I hope you all aren't
3 saying anything important down there.

4 Ms. Noonan: No --

5 Commissioner Wilkerson: No, they
6 aren't.

7 Ms. Noonan: -- we're not. No, Your
8 Honor. No, no. No, no.

9 Commissioner Wilkerson: I think we're
10 building a house.

11 Court Reporter: I think we are.

12 Ms. Noonan: And kind of --

13 Mr. Masel: Yes.

14 Ms. Noonan: -- thank you.

15 Mr. Masel: Well, yes, get all sorts of
16 important stuff.

17 Ms. Noonan: That's what I figured.

18 Mr. Masel: Just like mine.

19 Ms. Noonan: And, Your Honor, we're
20 going to -- I'm -- for the record, I'm going
21 to send all pictures that we just took --

22 Commissioner Wilkerson: Yes,
23 absolutely.

24 Ms. Noonan: -- to Scott.

25 Commissioner Wilkerson: Yes,

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

1 absolutely.

2 Ms. Noonan: Okay.

3 Commissioner Wilkerson: And then, once
4 he gets them then, if there's no objection,
5 just send me an email of those photographs
6 and we'll put those photographs in the file
7 of the mat.

8 Ms. Noonan: I've got it.

9 Commissioner Wilkerson: Is that fair?

10 Mr. Masel: That will work,
11 Commissioner.

12 Ms. Noonan: Okay. Yes. I was just
13 making sure so you didn't think I was cherry
14 picking which pictures to send.

15 Commissioner Wilkerson: No, no. Send
16 them -- and absolutely. Yes, and you all can
17 send a memo saying I took six (6) pictures,
18 nine (9) pictures, and they will be attached
19 and all that, yes.

20 Ms. Noonan: Okay.

21 Commissioner Wilkerson: You're not
22 going to do that but that way I'll know what
23 I've --

24 Ms. Noonan: Yes, sir.

25 Commissioner Wilkerson: -- got back.

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

1 Okay.

2 Ms. Noonan: I'll send them all.

3 Q. Okay. And -- and just for the record, Mr. Stokes,
4 is this the mat from the store where Ms. Foran was
5 injured?

6 A. Yes, it is.

7 Q. Okay. And is this the mat that was at the
8 register, just to authenticate it?

9 A. Yes, ma'am.

10 Q. Okay.

11 Ms. Noonan: I don't have anymore
12 questions, Your Honor.

13 Commissioner Wilkerson: Okay. Thank
14 you.

15 Ms. Noonan: Please answer any questions
16 Mr. Masel has.

17 Commissioner Wilkerson: We don't need
18 to mark this as --

19 Mr. Masel: Mark the mat itself? I will
20 be -- I will be fine with -- with your visual
21 observation of it and the pictures --

22 Commissioner Wilkerson: -- okay.
23 That's fine.

24 Mr. Masel: -- that we submit.

25 Commissioner Wilkerson: That's fine

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

1 because I -- yes. That's fine.

2 Mr. Masel: Okay.

3 Commissioner Wilkerson: Did you say no
4 -- no other questions? I'm sorry.

5 Ms. Noonan: No. No other questions,
6 Your Honor.

7 Commissioner Wilkerson: Okay. Thank
8 you. I'm sorry, I was --

9 Ms. Noonan: I was just trying to
10 imagine her marking it.

11 Commissioner Wilkerson: Okay.

12 Court Reporter: I've got stickers.

13 Commissioner Wilkerson: I've got some
14 spray paint out in the car.

15 Ms. Noonan: I know you do.

16 Court Reporter: I'm not afraid to use
17 them.

18 Commissioner Wilkerson: Please --

19 Ms. Noonan: Have you got a bright
20 Sharpie?

21 Commissioner Wilkerson: -- questions
22 from the -- from the Claimant. I apologize.

23 Mr. Masel: Okay.

24 CROSS-EXAMINATION

25 By Mr. Masel:

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

- 1 Q. Mr. Stokes, you had made mention of Ms. Foran's
2 limp. Was there at any time to your knowledge prior to
3 this injury that her left ankle precluded her from
4 doing any job duty whatsoever while working at Murphy
5 Oil?
- 6 A. No, she said she was fine --
- 7 Q. Okay.
- 8 A. -- each time I asked her about it.
- 9 Q. Each time she -- you asked her she said she was
10 fine?
- 11 A. That's correct.
- 12 Q. Did she ever call off from work or say I can't do
13 this or that because of the ankle?
- 14 A. Not to my knowledge.
- 15 Q. Okay. And when you first talked to her about the
16 injury she told you that she hurt her ankle?
- 17 A. What injury? Are we talking about the --
- 18 Q. This -- the -- the injury that we're here on
19 today.
- 20 A. -- okay.
- 21 Q. She told you that she hurt her ankle; is that what
22 you said?
- 23 A. I called her, she said -- I asked her how she got
24 injured, she said she was stocking cigarettes and when
25 she went to get up her ankle kind of gave way, I guess;

1 I don't know the exact term that she used but it was
2 that she stood up and that's when the injury happened.

3 Q. Okay. And she didn't say anything that the mat
4 particularly caused it to you; is that right?

5 A. I had no idea about the mat until a couple of
6 weeks ago.

7 Q. Okay. In your mind if it wasn't the mat do you
8 have any other -- did she give you any other
9 explanation for why her ankle turned?

10 A. No. She -- she said she was stocking cigarettes
11 and when she went to get up that's when her ankle
12 rolled.

13 Q. Okay.

14 A. Yes.

15 Q. And the mat that you brought in with you today,
16 that -- that's a -- a cushion mat; is that right?

17 A. Yes, sir.

18 Q. And that's normally kept behind where cash --
19 cashiers stand; is that right?

20 A. Yes, sir.

21 Q. And --

22 A. For the concrete.

23 Q. -- why is that mat placed where the cashier
24 stands?

25 A. Because the cashier stands there all day and it's

1 kind of -- it helps their legs --

2 Q. Okay. It was just --

3 A. -- from standing straight on concrete all day

4 long.

5 Q. -- okay. So it assists the employees with their

6 day-to-day work?

7 A. (Nodded head in an up-and-down motion).

8 Q. Do you have a mat like that at home?

9 A. I do not, no.

10 Q. Okay. Do you know of anyone that has a mat just

11 like this in their house?

12 A. No.

13 Ms. Noonan: Objection, Your Honor.

14 This is not -- this -- Mr. -- I want to call

15 him Mr. Stokes, I'm sorry, Mr. Rogers is a

16 factual witness for this case.

17 Commissioner Wilkerson: Yes. He --

18 that wouldn't go to the --

19 Mr. Masel: Part of --

20 Commissioner Wilkerson: -- it doesn't

21 matter if he understands if anybody has it at

22 home or not because we haven't established

23 he's a mat expert.

24 Mr. Masel: -- part -- part of what I'm

25 getting at is that one of the -- the

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

1 standards we look at is if this is an element
2 that's common to the neighborhood and I think
3 if -- if he can testify --

4 Commissioner Wilkerson: Whose
5 neighborhood?

6 Mr. Masel: -- that's how the case law
7 reads.

8 Commissioner Wilkerson: I understand,
9 because I've got one in my house; that's why
10 I'm asking you.

11 Mr. Masel: So, I'm not asking him
12 questions as a mat expert.

13 Commissioner Wilkerson: Okay. That's
14 fine.

15 Mr. Masel: So, that's all I have.
16 Thank you.

17 Commissioner Wilkerson: Okay.

18 Ms. Noonan: I don't have anymore
19 questions for Mr. Rogers but I do have -- I
20 have one (1) question for my employer
21 representative.

22 Commissioner Wilkerson: Okay. Sir, you
23 may step down.

24 Ms. Noonan: Can I put Amber -- Amber --
25 does she need to go up there?

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

1 Commissioner Wilkerson: Well, she can
2 sit right there if you've got one (1)
3 question.

4 Ms. Noonan: Okay.

5 Commissioner Wilkerson: I don't -- I
6 don't have a problem with it.

7 Ms. Noonan: Okay. It's just one (1)
8 question for Amber Goss.

9 Court Reporter: I'll need to swear her
10 in.

11 Commissioner Wilkerson: Yes, swear her
12 in --

13 Ms. Noonan: Okay. Please.

14 Commissioner Wilkerson: -- that's fine.
15 Ma'am, I'll get you to raise your right hand.
16 Was she listed as a witness? I don't know.
17 I always ask that.

18 Ms. Noonan: She is; yes, sir.

19 Commissioner Wilkerson: Yes, that's
20 fine. Amber?

21 Ms. Noonan: Goss, G-O-S-S.

22 Commissioner Wilkerson: Okay.

23 Ms. Noonan: Yes, I list everyone that's
24 coming just in case.

25 Commissioner Wilkerson: I just -- I

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

1 didn't know; I always like to ask.

2 Ms. Noonan: And I bring a ruler.

3 Commissioner Wilkerson: And she's not a
4 cheerleader; I've got that too. I'm going to
5 start --

6 Ms. Noonan: Okay.

7 Commissioner Wilkerson: -- I'm going to
8 start packing --

9 Ms. Goss: As long as I don't have to
10 get on the floor.

11 Commissioner Wilkerson: -- I'm going --

12 Ms. Noonan: No.

13 Commissioner Wilkerson: -- I'm going to
14 take my ruler from my grandchild; every case
15 I've got I'm going to bring it with me. Go
16 ahead. Raise your right hand, ma'am.

17 Whereupon;

18 Amber Goss, being duly sworn and cautioned to speak the
19 truth, the whole truth and nothing but the truth, testified
20 as follows:

21 Court Reporter: Please state your full
22 name for the record.

23 Witness: Amber Goss.

24 Court Reporter: Thank you, ma'am.

25 Commissioner Wilkerson: Okay. Thank

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

1 you.

2 DIRECT EXAMINATION

3 By Ms. Noonan:

4 Q. Amber, what is your position with Murphy Oil, USA?

5 A. I'm the district manager.

6 Q. The mats that we just discussed, and I know you're
7 not a mat expert, but have you seen those before
8 outside of work?

9 A. Yes, I have.

10 Q. And where is that?

11 A. They sell them in stores and I actually have one
12 in my kitchen. They are a soft, squishy, kind of
13 cushiony mats and it's -- it's decorative but it is a
14 comfort mat.

15 Ms. Noonan: No further questions, Your
16 Honor.

17 Mr. Masel: No questions.

18 Commissioner Wilkerson: Okay. Any
19 other witnesses?

20 Ms. Noonan: None from the Defendants,
21 Your Honor.

22 Commissioner Wilkerson: All right.

23 This concludes the case. Let me meet with
24 the attorneys for a few minutes. Thank you.

25 (There being no further questions, the hearing concluded at

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

11:26 A.M.)

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

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

STATE OF SOUTH CAROLINA)
)
 COUNTY OF HORRY)

CERTIFICATE

Be it known that I took the foregoing South Carolina Workers' Compensation Commission Hearing of Jeana Foran, vs. Murphy Oil, USA, Incorporated;

That I was then and there a Notary Public in and for the State of South Carolina-At-Large;

That by virtue thereof I was duly authorized to administer an oath;

That the witness was first duly sworn to testify the truth, the whole truth, and nothing but the truth, concerning the matter in controversy aforesaid;

The foregoing transcript of 52 typewritten pages represents a true, accurate and complete transcription of the testimony so given at the time and place aforesaid to the best of my skill and ability;

That I am not related to nor an employee of any of the parties hereto, nor a relative or employee of any attorney or counsel employed by the parties hereto, nor interested in the outcome of this action;

Witness my hand and seal this 21st Day of November, 2014.

 Gloria Davis
 Notary Public for South Carolina
 My Commission Expires 12/21/21

*This Transcript may contain quoted material, such material is reproduced as read or quoted by the speaker.

**This is an Official Transcript governed by 25A S.C. Code Ann. Regs. 67-615 D (Supp. 2000). The unauthorized copying of this document is deemed to be conversion of an asset belonging to the Court Reporter.

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

STATE OF SOUTH CAROLINA
BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION FULL COMMISSION
WCC No. 1405375

Jeana Foran,)
)
Claimant/Respondent,)
)
v.)
)
Murphy Oil USA,)
)
Employer/Appellant,)
)
and)
)
Liberty Insurance,)
)
Carrier/Appellant.)
-----)

COPY

FULL COMMISSION HEARING

Tuesday, April 21, 2015
9:53 a.m. - 10:08 a.m.

The Full Commission Hearing before Commissioner R. Michael Campbell, II; Commissioner T. Scott Beck; and Commissioner Susan S. Barden, Chair, was taken at 1333 Main Street, Suite 500, Columbia, South Carolina on the 21st day of April, 2015 before Cassandra E. Vance, Court Reporter and Notary Public in and for the State of South Carolina.

CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

APPEARANCES:

C. Scott Masel, Esquire
 Newby, Sartip, Masel & Casper, LLC
 4593 Oleander Drive
 Post Office Box 808 (29578-0808)
 Myrtle Beach, South Carolina 29577
 Attorney for the Claimant/Appellant

Anne Veatch Noonan, Esquire
 Willson, Jones, Carter & Baxley, P.A.
 421 Wando Park Boulevard, Suite 100
 Mount Pleasant, South Carolina 29464
 Attorney for the Defendants/Respondent

INDEX

<u>ARGUMENT BY:</u>	<u>PAGE:</u>
Mr. Masel	3
 <u>ARGUMENT BY:</u>	
Ms. Noonan	12
 <u>REPLY BY:</u>	
Mr. Masel	15
Certificate	18

1 THE COURT REPORTER: Today is Tuesday, April 21st,
2 2015. This is the South Carolina Workers'
3 Compensation Case Number 1405375.

4 This is the case of Jeana Foran, Claimant,
5 versus Murphy Oil USA, Employer, and Liberty
6 Insurance, carrier.

7 The Appellant is the Claimant represented by
8 Scott Masel. The Respondent is represented by
9 Anne Noonan.

10 Each side is allowed ten minutes for oral
11 argument and the Appellant three minutes in
12 reply. You are requested to argue the grounds
13 of exception and stay within the record.

14 COMMISSIONER BARDEN: Mr. Masel.

15 ARGUMENT BY MR. MASEL:

16 MR. MASEL: Thank you very much. Good morning.
17 Again, it's Scott Masel and I represent the
18 Employee, Jeana Foran in this Employee appeal
19 from the Commissioner's Order that denied her
20 claim finding that her injury was idiopathic.
21 As we note in my brief, I think that if the
22 *Nichols* (sic) and *Barnes* cases had come out one
23 day earlier, we would have had a different
24 result from the Commissioner in this case. So
25 the -- in light of the arguments that are

1 before you today, I'm going to start off with
2 the idiopathic injury issue.

3 The Commissioner did find that Ms. Foran
4 suffered an idiopathic injury. And I think by
5 reading his Decision and Order, it's clear that
6 that decision was made based on the old law
7 rather than the new law in *Nichols* and *Barnes*.
8 So under the new law, what we're looking at is
9 if Jeana Foran's ankle ligaments spontaneously
10 ruptured that particular day or did she roll
11 her ankle while she was walking in using her
12 ankle as part of her work that day without
13 looking to whether the mat had any effect on
14 it, whether there was any special
15 circumstances, any hazards, whether that injury
16 could have happened at home --

17 COMMISSIONER BARDEN: Well, take the mat out for a
18 minute. You're saying then even
19 notwithstanding the mat, whether it was
20 implicated or not implicated, it would be
21 compensable because she was at work? Or are
22 you saying -- and she standing?

23 MR. MASEL: No, not simply because she was present
24 at work --

25 COMMISSIONER BARDEN: And standing?

1 MR. MASEL: -- but also because she was performing
2 work duties, job tasks, walking, using her
3 ankle, turning, carrying cigarettes. She was
4 at the cash register when it happened and
5 because she was performing a work task when she
6 suffered that injury and --

7 COMMISSIONER BARDEN: Okay. What about the part of
8 the Order where she was testifying that she was
9 coming up from a kneeling position and the
10 video, it looks like she's at the register? Is
11 there -- isn't there some kind of dispute about
12 whether she was actually getting up from a
13 kneeling position or whether she was walking or
14 can you kind of clarify that with us?

15 MR. MASEL: I think it's fair to say that depending
16 on what parts of her testimony you're looking
17 at, there's going to be that question.
18 And if we did not have a video of everything
19 that took place, we could probably scratch our
20 heads all day as to what happened.
21 But the truth of the matter is that she
22 testified on three occasions that what the
23 video showed was how the injury took place.
24 Her testimony is --

25 COMMISSIONER BARDEN: Because Commissioner

1 Wilkerson -

2 MR. MASEL: -- I agree, a little bit confusing. But
3 she also does say that she was in the process
4 of getting up, that she was facing the cash
5 register.

6 And, you know, when you review the video, it is
7 one fluid motion from stocking, getting up,
8 taking one step, maybe two, facing the cash
9 register when she stepped on the mat and her
10 ankle rolled.

11 COMMISSIONER BARDEN: And she steps onto the mat,
12 doesn't she? She doesn't step on the edge.
13 She steps onto the mat, right?

14 MR. MASEL: I think if you look at the video and
15 particularly the still shot that I included in
16 the brief, you'll see that her foot is not
17 fully 100 percent on the mat. It is partially
18 on and it is partially off.

19 I think to find that there was an idiopathic
20 injury, to find that the Commissioner was
21 correct in their Order, there would need to be
22 some sort of finding that her ankle rupture was
23 similar to some sort of either seizure or a
24 heart attack, something that on its own
25 volition takes place. That her ankle ruptured

1 on its own volition --

2 COMMISSIONER BARDEN: But when her left ankle is --

3 MR. MASEL: Yes. Yes, ma'am?

4 COMMISSIONER BARDEN: -- which is her left and her
5 knee is -- it looks like it's giving way, her
6 left foot is fully on the mat, is it not? And
7 it looks like the first picture it's the right
8 foot that's ...

9 COMMISSIONER BECK: Sort of twisted under.

10 COMMISSIONER BARDEN: Right. So you're saying the
11 left -- the mat caused the left foot to -- I'm
12 just trying to make sure I understand, because
13 the left foot on the second photo is fully on
14 the mat and I can't see which foot -- in the
15 first picture, it looks like it's her right,
16 but I can't really ...

17 MR. MASEL: Yeah, I ...

18 COMMISSIONER BARDEN: I'm just trying to figure
19 out -

20 MR. MASEL: Yeah, I understand.

21 COMMISSIONER BARDEN: -- what you're arguing is the
22 mechanism of injury is how it all happened.

23 MR. MASEL: Right. And let me address that in two
24 parts.

25 COMMISSIONER BARDEN: Sure.

1 MR. MASEL: Part one is, under the new law, you
2 know, it can be as simple as clumsiness, a flat
3 surface; as in *Nichols*, carpet like this that
4 anybody might have (indicating) --

5 COMMISSIONER BARDEN: You're talking about *Nichols*,
6 so then you're saying -

7 MR. MASEL: -- their own.

8 COMMISSIONER BARDEN: -- just clumsiness would
9 cause -- would be compensable?

10 MR. MASEL: Absolutely.

11 COMMISSIONER BARDEN: Absent any kind of --

12 MR. MASEL: I think in *Nichols* -

13 COMMISSIONER BARDEN: -- object, substance, anything?

14 MR. MASEL: I think in *Nichols*, the lady was just
15 walking down the carpet and stumbled and
16 tripped.

17 COMMISSIONER BECK: Well, *Nicholson* case, she
18 actually alleged she caught it on the carpet.

19 MR. MASEL: Right, right, right. So when you look
20 at the video on this, you'll see that her --
21 when she comes around, her left leg swings over
22 and -- and I'll submit to you that that top
23 photo in my brief, that is indeed her left foot
24 that is on the left side of the mat and that
25 her right foot kind of goes down -- or her

1 right leg goes down right where you kind of see
2 the 4:29 on the time stamp.

3 Then when she stumbles, when her ankle rolls,
4 she kind of hops, and that's what you see on
5 the bottom picture.

6 And as you see, there's -- this is just a one
7 second difference. This is from 5:30 a.m. and
8 46 seconds to 5:33 a.m. and 47 seconds.

9 And so that all -- and from when she was in the
10 kneeling position and making the turn toward
11 the cash register, that was one second before
12 that; 5:33 a.m. and 45 seconds.

13 So we've gone from kneeling with her back to
14 the cash register to standing up and turning
15 around, her left foot going on partially the
16 mat on -- at the 46-second mark, and at the
17 47-second mark is where she had rolled and kind
18 of hopped and caught herself.

19 During this entire time, she had cartons of
20 cigarettes in her hand. She was stocking them
21 behind the cash register. She was -- she had
22 them in her hand. You can see that in the top
23 picture, as well, as she was swinging around to
24 face the cash register.

25 Part of the issue that we're looking at, as

1 well, is the prior surgery to her left ankle.
2 And this was a surgery that took place when she
3 was 15 years old. And I'd submit to you that
4 when you look at the actual records and the
5 testimony in this case, by any measure, that
6 surgery was a success.

7 You can see that in the surgeon's notes. You
8 can also see it in the Employee testimony where
9 she testified that she was playing basketball,
10 she was playing softball, she was
11 life-guarding, she was working, she was
12 performing every job duty asked of her from any
13 number of jobs, all of them requiring her to be
14 on her feet all day every day without any
15 problems.

16 And to do all that following the type of
17 surgery she had, even if there was a limp, a
18 residual limp because of it, I'd say that's a
19 success.

20 And there's no evidence at all that on
21 April 29 -- or on April 29th at 5:33 a.m., that
22 ankle was extra weak or unstable or had any
23 tendency or medical reason to just
24 spontaneously give out on its own.

25 For almost a decade after her surgery at the

1 age of 15, she was doing everything; physical,
2 athletic, you name it. And there's just
3 nothing to show that there was some sort of
4 weakness or instability that was present at the
5 time of that injury.

6 Like I said before, Barnes and Nichols doesn't
7 look to see whether the injury arose out of the
8 employee being clumsy or whether or not there
9 was a mat or whether there was some unique
10 circumstance or special --

11 COMMISSIONER BARDEN: Finish your thought, then
12 you'll have three minutes in reply.

13 MR. MASEL: Okay. Thank you.

14 COMMISSIONER BARDEN: Go ahead and finish your
15 thought.

16 MR. MASEL: Oh, just that it doesn't require
17 anything hazardous, no special conditions, and
18 whether it could have happened at home or
19 whether it could have happened anywhere else
20 is -- is no longer relevant. It just has to
21 happen while the employee is performing a job
22 task.

23 COMMISSIONER BARDEN: Thank you.

24 MR. MASEL: Thank you.

25 COMMISSIONER BARDEN: Ms. Noonan.

1 ARGUMENT BY MS. NOONAN:

2 MS. NOONAN: Yes, Your Honor. Thank you.

3 COMMISSIONER BECK: Does a day make a difference?

4 MS. NOONAN: I'm sorry?

5 COMMISSIONER BECK: Does a day make a difference?

6 MS. NOONAN: Yes, it does nowadays, in January.

7 I just wanted to briefly go over this. The --
8 as far as the Nicholson and Barnes case -- and
9 I know you all know this, so please humor me.

10 COMMISSIONER BECK: Well, that was my point when I
11 said, "Does a day make a difference?"

12 He indicated that Nicholson came out --

13 MS. NOONAN: Oh, that's why I was agreeing with you,
14 yes.

15 COMMISSIONER BECK: Okay.

16 MS. NOONAN: When they came out the next day, we all
17 were like, "Whoa," and prepared for this.

18 COMMISSIONER BECK: Does it make a difference in
19 this?

20 MS. NOONAN: Oh, I don't think it does at all.

21 COMMISSIONER BECK: Okay.

22 MS. NOONAN: Nicholson and Barnes are completely
23 different from this and that's what I was going
24 to explain.

25 And what Barnes actually says is, "As

1 discussed, an idiopathic fall arises from an
2 internal breakdown personal to the employee and
3 thus negating a causal connection." *Nicholson*
4 promulgates the same -- the same theory.
5 Those apply when it's not an idiopathic injury,
6 such as walking down, getting your foot caught
7 on the carpet and falling, or rushing down a
8 hallway to go check on a co-employee's e-mail
9 and she just falls. And that's what happened
10 in both of those.
11 In this case, we actually have an idiopathic
12 fall. If you look at the video, you can see
13 Ms. Foran is standing there -- she -- she
14 testified to a bunch of different ways that she
15 fell.
16 First, she was coming up from a crouching
17 position; then she said she was leaning with
18 cigarettes; then she said she stumbled on the
19 mat. There are all these different theories
20 for her fall from her, but the video, which we
21 did watch at the hearing multiple times,
22 actually shows she stands up, she turns back to
23 the cash register, she's standing on the mat,
24 and as you can see from the second photograph
25 in Mr. Masel's brief, it actually shows her

1 left foot is solid on the mat. It's not half
2 on, half off like she testified to. It's
3 actually 100 percent on the mat.
4 And the video shows she's just standing there
5 and her left ankle caves outward and that's
6 when she falls and the right foot goes down.
7 There wasn't anything else that happened. Her
8 left ankle just gave out, internal breakdown.
9 And if you look at the medical evidence, the
10 medical evidence shows, as Dr. Taylor noted,
11 that she admits to having complete loss of
12 sensation since her previous surgery.
13 We also have the store manager, who before this
14 happened, came in earlier that month and was
15 talking to her and she was badly limping around
16 the store.
17 He said she clearly had an altered gate and he
18 asked her what was wrong with her left foot.
19 And she just said, "I have a really bad left
20 ankle and have always had that."
21 So you have someone who does have chronic
22 instability and, as I said, weakness in her
23 tendons and her ligaments, is what the medical
24 evidence shows.
25 So chronic instability, weakness in her

1 ligament, is standing there on video and her
2 left ankle gets out -- gives out and she just
3 caves to the side. I think that's about as
4 idiopathic as you can get and it's on video
5 evidence.

6 So we would just -- we would just argue that
7 Nicholson and Barnes do not apply, that this
8 case is much more of a Bagwell/Crosby case
9 where you just have an internal breakdown.

10 There's medical evidence to support it. We
11 have a manager that said she was already having
12 problems with it and it was giving out before
13 this occurred and it's on video. So we would
14 ask for a full affirmation.

15 COMMISSIONER BARDEN: Thank you.

16 MS. NOONAN: Thank you.

17 COMMISSIONER BARDEN: Mr. Masel.

18 REPLY BY MR. MASEL:

19 MR. MASEL: I'll make this very, very brief. I
20 don't think the manager ever said that her
21 ankle had been giving out. He just testified
22 to a continuous limp.

23 As far as the chronic instability and weakness
24 goes and what the medical records show, she had
25 chronic instability before the surgery fixed

1 it. She had chronic instability and diagnosed
2 with instability after this injury that's the
3 subject of this case.

4 She had weakness of her left ankle prior to the
5 surgery that fixed it. She had weakness in her
6 left ankle immediately after this injury took
7 place.

8 But there is no evidence, no medical evidence,
9 that there's any chronic instability, no
10 weakness that was present in between her
11 successful surgery and the date of this injury.
12 And, in fact, she was playing sports, working.
13 Her employer said she's doing all job duties
14 without problem.

15 She had a limp following a surgery, but it
16 didn't preclude her from anything. In fact,
17 she was doing more athletic things than I've
18 been doing lately.

19 So I think that arguments that there was
20 chronic instability and weakness are only
21 pertaining to prior to her reconstructive
22 surgery and subsequent to this injury. There's
23 nothing in there during the window of time and
24 particularly relating to when this injury
25 actually took place.

1 COMMISSIONER BARDEN: All right. Thank you.

2 MR. MASEL: Thank you.

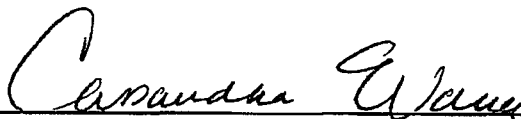
3 COMMISSIONER BARDEN: That concludes this proceeding.
4 (There being nothing further, the hearing concluded
5 at 10:08 a.m.)
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE

This is to certify that the within hearing consisting of seventeen (17) pages, is a true and correct transcript of the testimony given by said witnesses after being duly sworn; said hearing was reported by the method of Stenomask with Backup.

I further certify that I am neither employed by nor related to any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF I have hereunto set my hand and seal on October 6, 2015.



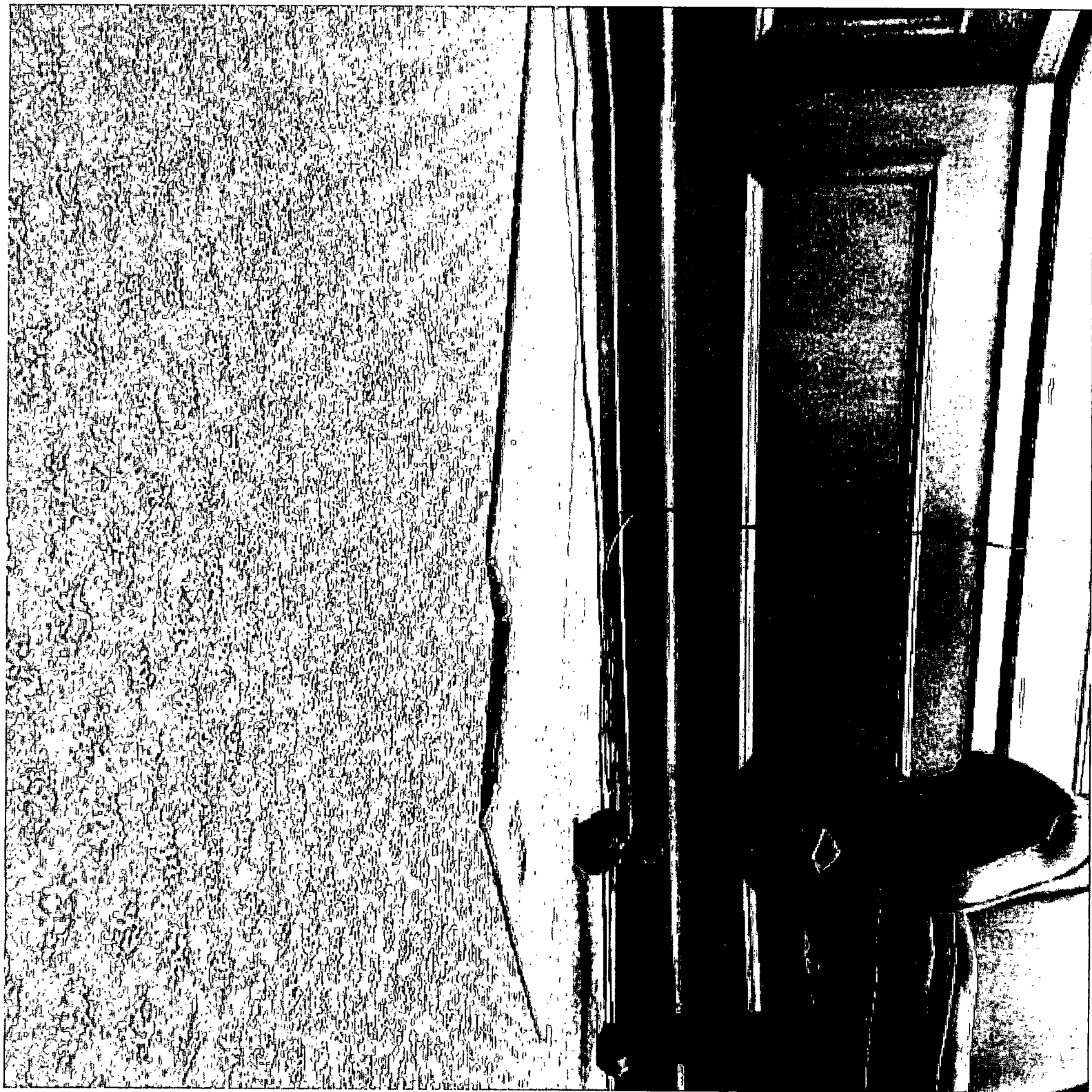
Cassandra E. Vance
Court Reporter

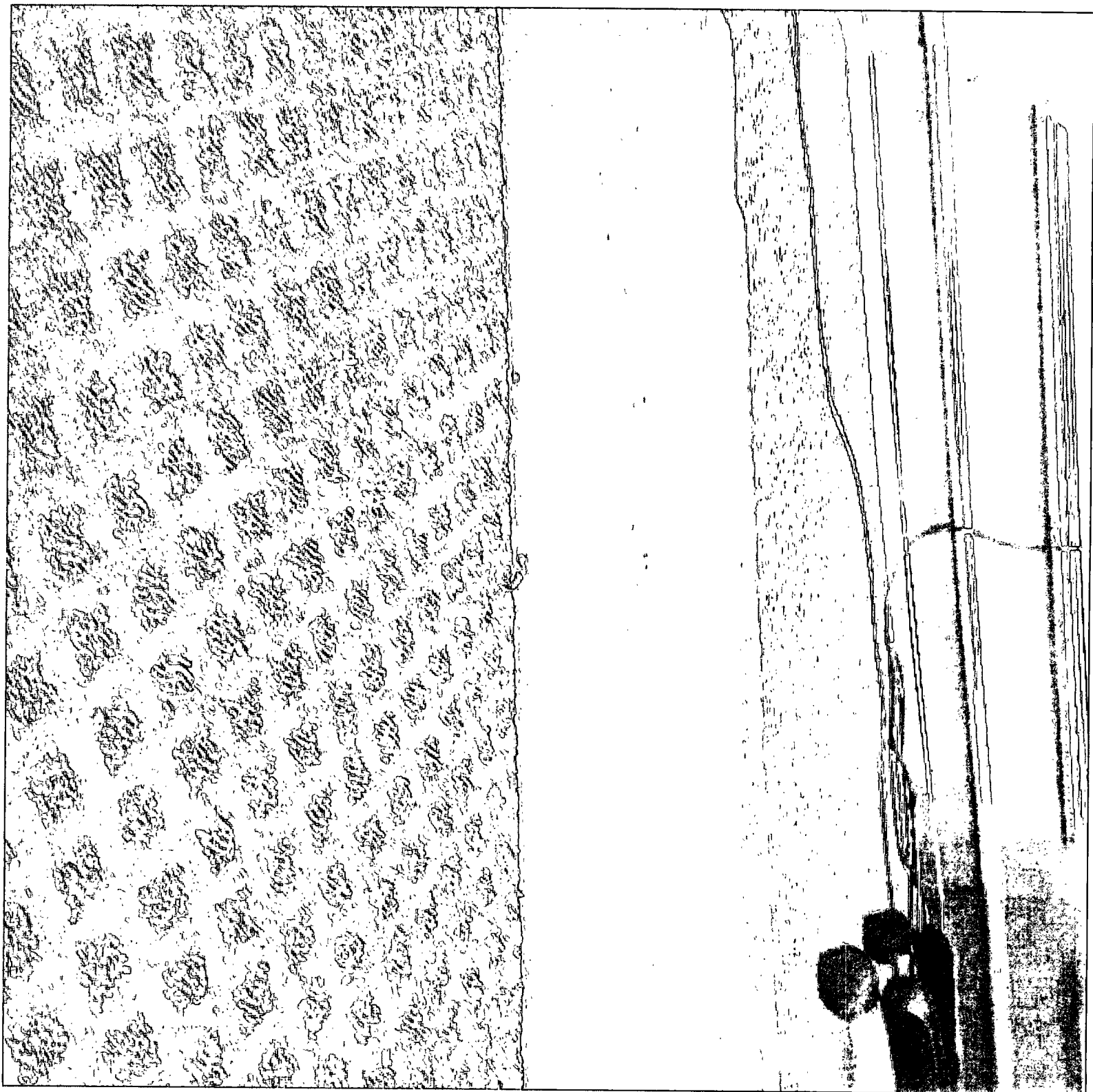
Notary Public for South Carolina
My Commission Expires: February 26, 2018

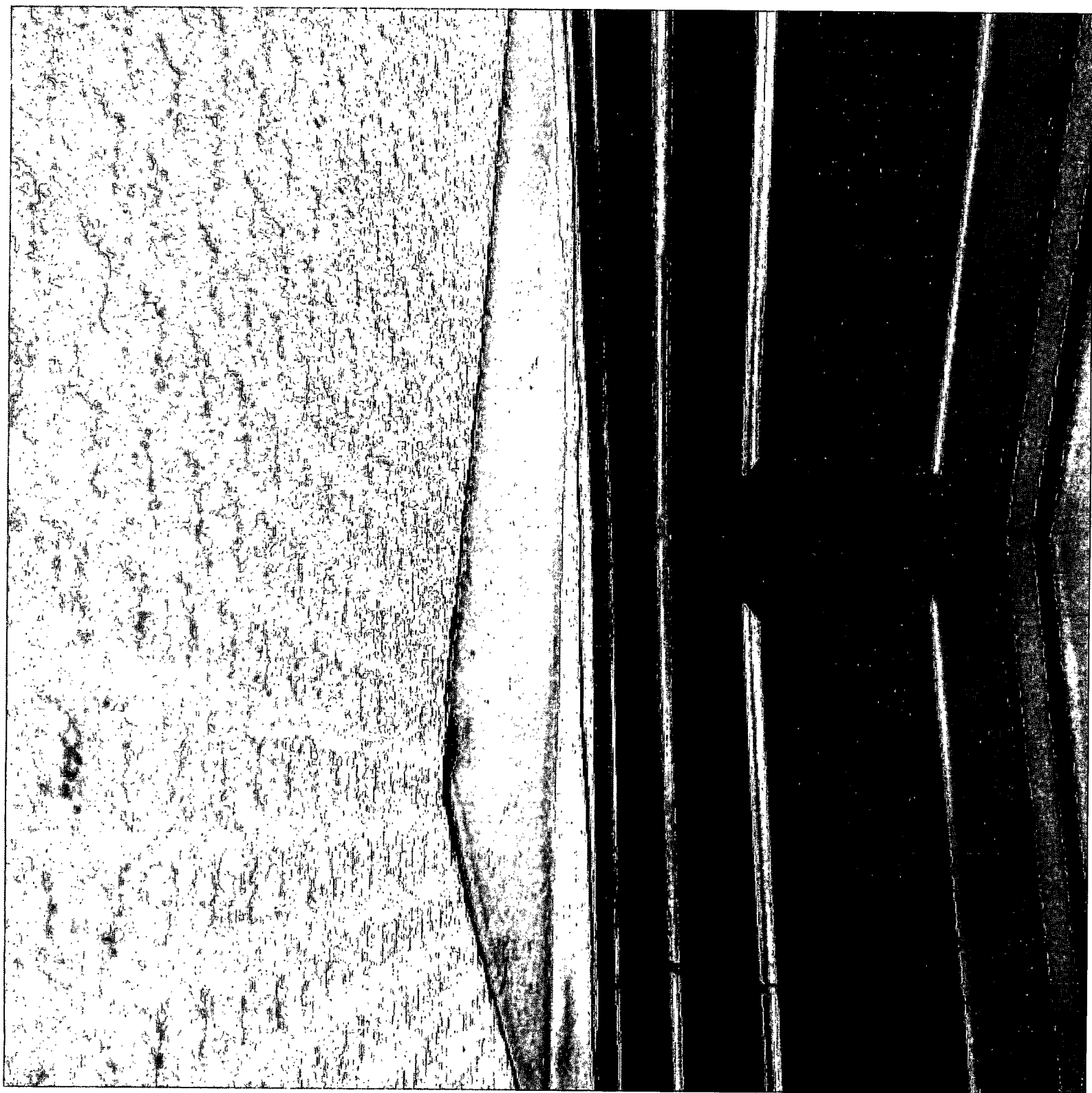


CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

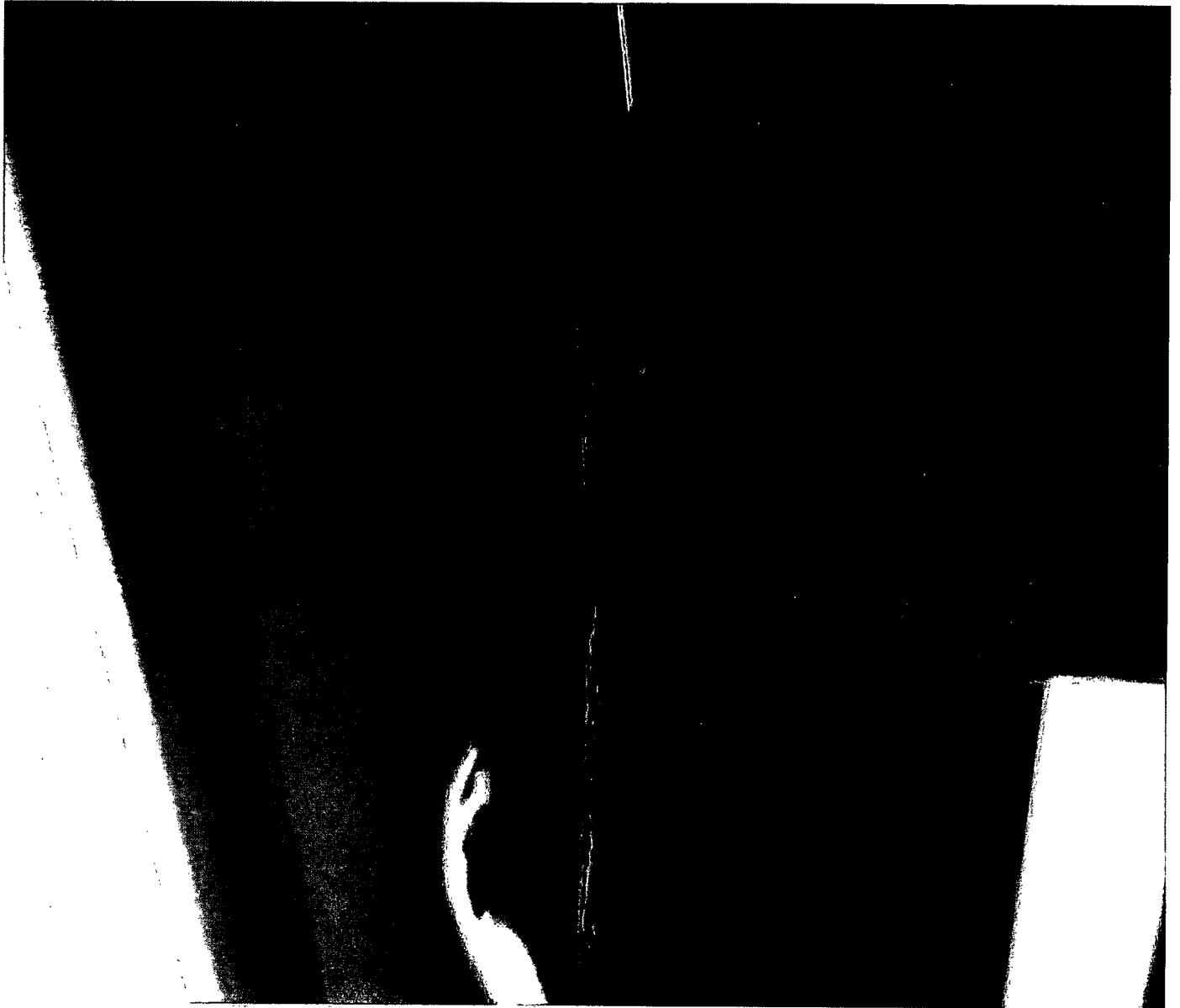












HEARING EXHIBIT D
CD OF VIDEO

THE STATE OF SOUTH CAROLINA
IN THE SOUTH CAROLINA COURT OF APPEALS

**APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION**

APPELLATE CASE NO.: 2015-001606

RECEIVED
OCT 15 2015
SC Court of Appeals

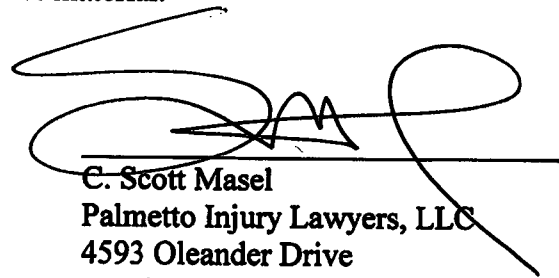
Jenna Foran, Employee Appellant,

vs.

Murphy USA, Employer, and
Liberty Insurance Company, Carrier Respondents.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any parties, and not any other material.



C. Scott Masel
Palmetto Injury Lawyers, LLC
4593 Oleander Drive
Myrtle Beach, SC 29579
(843) 429-2000
Attorney for Appellant Jenna Foran