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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

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SC Court of Appeals

Appellate Case No. 2016-000601

Scott Ledford, Employee, ..... Appellant,

v.

Department of Public Safety, Employer, and
State Accident Fund, Carrier, ..... Respondents.

# AMENDED RECORD ON APPEAL – VOLUME I

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# SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
JUDICIAL CONFERENCE DECISION AND ORDER

**Scott Ledford v Department of Public Safety**
**SCWCC: 1202545**
**Commissioners: Taylor, McCaskill, Campbell**

This matter was heard before the South Carolina Workers' Compensation Full Commission in Judicial Conferenc on a **Motion for Rehearing**. The Commissioners considered the matter and ordered the matter handled in th following manner:

**IT IS, THEREFORE, ORDERED** the pending appeal of the Administrative Order of the Commission i hereby;

_____ Dismissed as Interlocutory. _____Set for Oral Argument.

**IT IS, THEREFORE, ORDERED** the pending motion be, and hereby is;

_____ Granted. ___/___Denied. _____Dismissed _____Set for Hearing.

**BEFORE THE;**

_____ Hearing Comm. _____Jurisdictional Comm. _____Full Commission.

**IT IS, THEREFORE, ORDERED** this matter be, and hereby is; remanded to take such action and enter a Order consistent with the Court's directive.

_____ Remand to Panel as indicated below.
_____Barden _____James _____Taylor
_____Beck _____Campbell _____Wilkerson
_____McCaskill

_____ Remand for Order consistent with the Order of the Court.
_____ Remand to the Hearing Commissioner.
_____ Remand to the Jurisdictional Commissioner.

_____ Other:_____.

_____ Remand: _____ Panel Oral Argument. _____En Banc Oral Argument.

**AND IT IS SO ORDERED.**

**T. Scott Beck, Chair**
**For the Commission**

Columbia, South Carolina
2/22/2016

| **CONCURRING:** | **NOT PARTICIPATING:** | **DISSENTING:** |
|---|---|---|
| Commissioner Susan S. Barden | _____ | _____ |
| Commissioner Melody James | _____ | _____ |
| Commissioner Aisha Taylor | _____ | _____ |
| Commissioner Avery Wilkerson | _____ | _____ |
| Commissioner Michael Campbell | _____ | _____ |
| Commissioner Gene McCaskill | | _____ |

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 February 23, 2016*

DECISION AND ORDER OF THE

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

APPELLATE PANEL

WCC FILE NO. 1202545

| | |
|---|---|
| Scott Ledford, | ) |
| Employee, | ) |
| Claimant, | ) |
| | ) |
| vs. | ) |
| | ) |
| Department of Public Safety, | ) |
| | ) |
| Employer, | ) |
| and | ) |
| | ) |
| State Accident Fund , | ) |
| | ) |
| Carrier, | ) |
| Defendants. | ) |

Appellate Panel Review held in Columbia, South Carolina on March 17, 2015 per notices timely and properly served on all parties of interest.

Appellate Panel Decision and Order filed:

January 21st, 2016

**APPEARANCES:**

Claimant represented by Kevin Holmes, Esquire of Goose Creek, South Carolina.

Defendants represented by Sarah S. Alphin, Esquire of Willson Jones Carter & Baxley, P.A., Columbia, South Carolina.

## I. STATEMENT OF THE CASE

This matter was heard by the Hearing Commissioner on August 15, 2014 in Conway, South Carolina to determine issues set forth on Defendants' Form 21 Request for Hearing. Specifically, Defendants requested termination of temporary total disability benefits, a determination of permanency, if any, and credit for over payment of temporary compensation following the Claimant's release at maximum medical improvement (MMI).

In response, Claimant alleged he was permanently and totally disabled and asserted he sustained injuries to multiple body parts and that his injuries involved significant body parts such as his spine and right leg. Claimant asserted the combination of his two injured body parts, when considered with his vocational report, supported a finding that he was entitled to a permanent and total disability award.

Alternatively, Claimant asserted he was entitled to permanent and total disability benefits under S.C. Code Ann. §42-9-30. Claimant argued the impairment rating alone is single digits away from a greater than 50% loss of use of his spine. Further, Claimant asserted Defendants could not rebut the presumption that he was permanently and totally disabled.

Lastly, Claimant contested Defendants' claim for a credit of 75 weeks of compensation received as a result of Claimant's prior workers' compensation claim. Claimant asserted the impairment rating from his pending claim was unrelated to the impairment rating received as the result his prior claim.

On October 10, 2014, after the hearing on the merits, but before a Decision & Order was filed, Claimant filed a Motion to Recuse the Hearing Commissioner. In that Motion, Claimant alleged the Hearing Commissioner disqualified herself by "threatening criminal proceedings" unless the case settled, going outside the record to make findings from undisclosed materials,

commenting on Claimant's "creative accounting" with regard to his other business, and questioning the Claimant's credibility.

On November 3, 2014, the Hearing Commissioner issued a ruling on the Motion wherein she denied Claimant's Motion and declined to recuse herself on the grounds that Claimant's allegations were not supported by any evidence. Furthermore, the Hearing Commissioner ruled that her post-hearing review of the evidence and her subsequent telephone conference with the attorneys for the parties to discuss the same did not require recusal under the Code of Judicial Conduct. Claimant filed a Form 30 Application for Review of the Order on the Motion on November 14, 2014.

On December 29, 2014, the Hearing Commissioner issued her Decision and Order on the merits of the August 15, 2014 hearing as follows:

FINDINGS OF FACT

1. Claimant injured his right ankle in an admitted accident on March 10, 2012. Claimant's neck and low back injuries were found compensable by Order of Commissioner Roche, dated May 2013.

2. Claimant is 39 years of age (Hearing Transcript, page 19).

3. Claimant is originally from New York, and has 3 school-aged children (Hearing Transcript, pages 20 and 22; Claimant's APA #17, page 123).

4. As of the date of the hearing, Claimant's wife works as a school teacher (Hearing Transcript, page 29; Claimant's APA #17, page 122).

5. Claimant graduated from high school, and attended college for 2 years where he studied criminal justice; Claimant is just 3 courses shy of his Associate's Degree. Claimant also graduated from the S.C. Criminal Justice Academy. According to his vocational expert, Claimant plans to

pursue higher education at a technical college (Hearing Transcript, pages 19-20 and 59; Defendants' APA #10, page 71; Claimant's APA #17, pages 119-120 and 123).

6. On the date of the accident in issue, Claimant's position/rank with Employer was Lance Corporal and ACE team member with the Highway Patrol. Among other things, this job required Claimant to: (a) review files and criminal records to develop possible leads, (b) investigate causes and results of accidents, (d) complete daily activity reports, and (d) testify in court (Hearing Transcript, page 21; Defendants' APA #10, pages 70 and 79).

7. On the date of the accident in issue, Claimant earned approximately $40,000 - $42,000 per year with Employer (Defendants' APA #10, page 79; Claimant's APA #17, page 120).

8. In addition to his job with Employer, Claimant and his wife own (and have owned for 18 years) a mostly commercial landscaping business, the gross receipts for which were $334,906 in **2013, (the year after the 2012 accident in issue)**, and $243,658 in 2012—the year of the accident. I attribute Claimant's lower gross receipts in 2012 to Claimant's accident and recovery therefrom (Claimant's tax returns for 2012 and 2013, as submitted by Defendants; Hearing Transcript, pages 29 and 63-64; Claimant's APA #17, page 120).

9. As to the reason for the dual employment, Claimant testified that (a) it is common and typical for Troopers to have secondary businesses: "you could maybe live off of just being a highway patrolman, but you would – it wouldn't be very good," (b) the purpose of the business was to supplement his income in order to allow his wife to stay home with their three children, so that the children would not be in daycare, and a desire to have "nicer things." Claimant's additional income also enabled him to go on hunting trips to places such as Colorado and Washington State. Medical evidence describes Claimant as a "trooper/business owner" (Hearing Transcript, pages 23-30, 63-65, and 69-71; Claimant's APA #17, page 123; Defendants' APA #5,

page 39; December 2012 Deposition of Dr. Mills, pages 56-57; Claimant's 2012 and 2013 tax returns as submitted by Defendants).

10. As far as his landscaping business is concerned, Claimant initially admitted at the hearing that he is **(present tense)** "somewhat of a hustler" and "*work[s] a lot*" (also present tense). I give this testimony far greater weight than I give Claimant's later, inconsistent testimony that he tries "from time to time to get involved." I also give greater weight to the initial "somewhat of a hustler" and "works a lot" admissions than I give to Claimant's statement to his vocational expert that he mostly "calls his employees to check on their progress." Additionally, because Claimant works out at the gym every day, because his weight has not fluctuated upward since the accident, and because of medical providers' description of Claimant as muscular and very physically fit (*See* finding of fact, *infra*), I believe and find that Claimant is far more active than he lets on **(Hearing Transcript, page 25, lines 7-9**; Claimant's APA #17, pages 119-120; Claimant's APA #13, page 94).

11. Although Claimant told one vocational expert that he earns no personal income from the landscaping business, he admitted to Defendants' evaluator that he "owns a landscaping business" and works as tolerated, has the business in order "to supplement" his income, is stated to be a shareholder via tax returns, and testified at the hearing that he must continue the landscaping business because he "do[es] not have a choice;" I therefore find that Claimant's landscaping business continues to be lucrative for Claimant primarily through deductions taken for his vehicles, a boat, "meals and entertainment," phones, utilities, etc., as the business is located at Claimant's residence, according to Claimant's vocational report and tax returns (Hearing Transcript, pages 23, 25, 28-30, and 63; Claimant's APA #17, pages 119-120 and 122; Claimant's 2012 and 2013 tax returns, as submitted by Defendants; Defendants' APA #10, page 70).

12. Claimant is articulate, and expressed himself well at the hearing. Defendants' vocational report shows that Claimant's academic skills of word reading, sentence comprehension, spelling, and math are all above average. Claimant's vocational report states that Claimant's word reading is at a 12.5 grade equivalent, his sentence comprehension a 12.9 grade equivalent, his spelling a 12.7 grade equivalent, and his math computation is a 10th grade equivalent. **Notwithstanding Claimant's documented academic achievements and abilities, Claimant has not applied or looked for any other work of any description.** I therefore believe and find, based upon this and other evidence, that Claimant has instead chosen to devote his time and efforts to his landscaping business (Hearing Transcript, *e.g.*, pages 63 and 70; testimony of Claimant; observations of the undersigned at the hearing; Defendants' APA #10, page 76; Claimant's APA #17, pages 123-124).

13. Claimant has the appearance of being physically fit. The ankle IME also describes Claimant as *"muscular,"* and Dr. Poletti notes just several months prior to the date of the hearing that Claimant is *"very physically fit."* Dr. Mills similarly describes Claimant as "very fit" and "active." In fact, Claimant goes to the gym for an hour each day, and weighs virtually the same--actually slightly less—than he weighed shortly after the date of the accident (Claimant's APA #13, page 94—Claimant weighed 192 in May 2012--2 months after the accident; Claimant's APA #13, page 101—describing Claimant as "very physically fit;" Claimant's APA #17, page 119--Claimant goes to the gym for an hour each day; Defendants' APA #10, page 71—describing Claimant's weight the month prior to the hearing as approximately 186; Defendants' APA #9, page 67—describing Claimant as "muscular;" observations of the undersigned; August and December 2012 Depositions of Dr. Mills).

14. During both the pre-hearing conference and at the hearing, **Defendants requested credit for Claimant's prior 2011 settlement** for the 2010 spine injury. A copy of the 16A, dated 2011,

was provided by the parties to the undersigned during the pre-hearing conference. Defendants contend that the prior rating was a whole person impairment rating (encompassing the entire spine and not just limited to any particular area of the spine, such as the thoracic spine), and Claimant contends that the rating and settlement were solely attributable to the thoracic spine, as Claimant contends he did not injure his neck or low back in the prior 2010 accident (*"t-spine only"*—Hearing Transcript, page 66). Because of the dispute raised by the parties, adjudication of the issue necessitated my review of Commissioner Roche's 2013 Order, as contained in the Commission's file. In fact, when Defendants impeached Claimant with a prior cervical rating Claimant had solicited on his own behalf, Claimant's counsel specifically stated he had no objection because "I think all of that should be in the file." Additionally, at the hearing before the undersigned, Defendants submitted medical evidence from the prior 2010 case, and Claimant submitted two depositions into evidence (Claimant's APA, Exhibits D and E) in which Claimant's counsel himself refers to Claimant's cervical and low back injuries from the prior (2010) accident (*See e.g.*, various documents as contained in Defendants' APA #1, #2, and #5; Defendants' Exhibit #1, containing the 2011 letter from Dr. Sarb assigning an impairment rating for the neck for the prior claim in response to Claimant's counsel's request for a cervical spine impairment rating). None of these documents was requested by the undersigned. The only document requested of the parties by the undersigned was a post-accident-in-issue deposition indexed in—but inadvertently missing from--Claimant's submissions. No documents (a) outside the Commission's file, as provided to the undersigned by the Judicial Department upon assignment to the undersigned, or (b) other than those provided by the parties were consulted or reviewed in preparation of these findings.

15. For the 2010 claim, Claimant was assigned a 15-18% whole person impairment rating to

the spine (the impairment rating itself does not specify the particular spinal level(s) involved), and settled his claim for in 2011 for 25% to the spine ($38,151.75).

16. **In order to foreclose Defendants' request for credit for the 2011 settlement of the 2010 claim, Claimant testified under oath before the undersigned (a) that he did not injure his neck in the 2010 accident (*"that was a t-spine injury only"–Hearing Transcript, page 66), and "everything that was done was done for my thoracic spine from day one"*; (b) that he had "never" complained of neck pain from the 2010 accident; (c) that he did not have an impairment rating to the neck from the 2010 accident, or (later) was unaware he had an impairment rating to the neck from the 2010 accident (Hearing Transcript, page 50, lines 24-25), even though his attorney requested and received a neck impairment rating on his behalf, and even though Claimant's counsel discussed with Dr. Mills in multiple depositions that Claimant injured his neck and low back in the 2010 accident; and (d) that he had no idea why his treating physician would order any cervical testing because of the 2010 accident. When Claimant was confronted on cross examination with the prior cervical rating, he was evasive and continued to maintain it was for his thoracic spine (Hearing Transcript, *e.g.*, pages 50 and 66-69).**

17. Notwithstanding Claimant's testimony to the contrary, Claimant underwent a cervical MRI in 2010 for the 2010 injury, the reason for which according to the report's "History" was **"neck pain...extending into the right arm with numbness"**); (b) Dr. Poletti (in 2012) refers to Claimant's non-operative neck care with Dr. Sarb in 2010, stating that Claimant has, **since the 2010 accident,** "*remained with neck pain,*" according to Claimant's complaints to Dr. Poletti; without Claimant's own statement to Dr. Poletti, Dr. Poletti would otherwise have no knowledge that Claimant has "remained" with neck pain since the date of the 2010 accident; (c) Commissioner

Roche's 2013 Order refers to the Claimant's 2010 neck treatment, refers to the fact that Claimant's 2010 neck condition deteriorated upon Claimant's return to work after the 2010 accident but **before the 2012 accident**, and refers to Claimant's contention that Claimant is "*now in need of surgery to his cervical spine" as a result of the 2010 accident*; (d) **Claimant's own vocational expert** writes that Claimant's 2010 accident caused cervical spine problems at C4-5 and C5-6, including nerve damage and right arm numbness; (e) Claimant's attorney in 2011 requested a cervical spine impairment rating for the 2010 cervical injury, and in response, received one. Claimant's knowledge of such is imputed through his attorney; however, regardless of whether Claimant knew about the cervical rating (even though his last visit with Dr. Sarb was for that specific purpose), Commissioner Roche's unappealed Order states that Claimant testified at the Roche hearing that he had neck pain/numbness from the 2010 accident, and was in need of surgery because of the 2010 injury; further, 21 pages of records of Dr. Sarb were admitted into evidence at Commissioner Roche's hearing (according to Commissioner Roche's Order); and (f) Claimant's own counsel **points out to Dr. Mills (at both Dr. Mills' December 2012 and August 2012 depositions) that Dr. Sarb treated Claimant for his neck/arm complaints in 2010**, as Claimant's counsel sought to alternately establish the fact that Claimant's cervical condition worsened after the 2010 accident—**Dr. Mills responds to Claimant's counsel that Claimant's neck was in fact injured in the 2010 accident** (Claimant's APA #17, page 118; Defendants' APA #2, page 13, containing a cervical MRI dated September 2010—for "neck pain;" Hearing Transcript, pages 31-33, 50-51, and 66-69; Claimant's APA #13, page 96—he has "remained with neck pain" since the 2010 accident; **Defendants' Exhibit #1—a letter from Dr. Sarb in response to Claimant's counsel's request for a cervical spine impairment rating in 2011**; December 2012 Deposition of Dr. Mills, pages 44-50, particularly 48-49; August 2012 Deposition of Dr.

Mills, *e.g.*, pages 11-16, 19, 37-38, and 40-41; Exhibits to Dr. Mills' August 2012 Deposition; unappealed Order of Commissioner Roche, dated May 2013, as contained in the Commission's file, page 4—Claimant is "now in need of surgery to his cervical spine...as a result of that [2010] accident; page 7--"his neck.....began bothering him...but....he did not seek any medical attention until after his motorcycle accident [of 2012]"--pages 8-10).

18. If there is any question as to whether Claimant injured his neck and low back in the prior (2010) accident, one need look no further than Dr. Mills' depositions (particularly the August 2012 deposition), in which Claimant's own counsel describes and discusses in detail Claimant's prior (*i.e.*, 2010 accident) neck and low back problems, and elicits testimony from Dr. Mills that Claimant injured his neck and low back in the prior 2010 accident. These two depositions were provided to the undersigned by Claimant's counsel.

19. I further note that Commissioner Roche's Order is replete with references to Claimant's contention that he injured his neck and low back in the prior accident. In fact, Claimant was granted a postponement prior to a hearing in order that he could "gather additional information regarding an alleged [2010] cervical spine injury." *See* Order of Commissioner Roche, pages 2, 4, and 7-12.

20. The undersigned is fully cognizant of the fact that at one point Claimant's neck or at least radicular problems from the 2010 accident resolved. However, at Commissioner's Roche's hearing, Claimant testified that his neck problems reappeared **prior to the date of the 2012 injury in issue**, and that he was in need of surgery to his neck as a result of the original 2010 accident. According to Commissioner Roche's Order, Claimant last saw Dr. Sarb in 2011 (prior to the date of the 2012 injury in issue) for the purpose of obtaining a rating to his cervical spine. Commissioner Roche's Order also cites the fact that Dr. Mills testified that Claimant injured his

neck in the 2010 accident. By contrast, at the hearing before the undersigned, Claimant denied the prior neck injury or pain prior to the date of the injury in issue, and initially outright denied--and then denied knowledge of—the prior cervical rating, even though Claimant went to Dr. Sarb for that specific purpose. Claimant's untruthfulness and evasiveness at the hearing greatly damage his credibility in general at the hearing, and call into question his veracity as a whole. If credibility is not important, and oaths are meaningless, then swearing in a witness is mere "window dressing," and could be dispensed with at hearings. In addition to taking an oath to tell the truth, Claimant also testified that he had "absolutely" answered all of his attorney's questions honestly, and that there was no answer he wanted to change (Order of Commissioner Roche, pages 4 and 7-11; Hearing Transcript, pages 50-51; page 62, lines 14-17).

21. According to Commissioner Roche's Order, Claimant testified that he needed surgery to his cervical and lumbar spines because of the 2010 accident. If Claimant asked Commissioner Roche to find a compensable change of condition regarding his neck injury from the 2010 accident, then by necessity, Claimant knew he had injured his neck in the 2010 accident; a change of condition would be impossible for a body part that was never injured or for a body part that Claimant did not know he had injured. By contrast, Claimant testified at the hearing before the undersigned that he only injured his thoracic spine in the 2010 accident:

*Q: You testified that that [2010 accident] was a T-spine injury only, correct?*

*A: Yeah.* (Hearing Transcript, page 66).

22. Based upon the greater weight of the evidence, including but not limited to Commissioner Roche's Order, I find that the $38,151.75 settlement for the spine for the 2010 accident encompasses all three spinal levels (Claimant's Exhibit).

23. Because of his ankle injury, Claimant underwent surgery in January 2013-- arthroscopic

debridement/resection of osteophyte and "resection of posterior process of talus" (Defendants' APA #7, pages 58-59; Claimant's APA #15, page 111).

24. Claimant was untruthful at the hearing when he testified (twice) that the treating surgeon discovered (during surgery) that Claimant's pathology was "a lot worse" than what the surgeon originally thought or expected; this testimony is not supported by the operative notes or by any treatment record in evidence. **In fact, the opposite appears to be true:** as one of the purposes of the surgery was "assessment of the cartilage surface" and resultant treatment of any cartilage pathology found during the assessment (Defendants' APA #1, page 9), the surgeon specifically notes in operative notes that *the lateral gutter was noted to be free of any loose bodies; the lateral shoulder of the talus was noted to be free of any cartilage lesions as was the distal fibula; the talar dome was void of any cartilage defects; the tibial articular surface was noted to be similarly absent of any articular cartilage lesions, and a tibial osteophyte had no corresponding cartilage lesion.* Claimant's exaggerated testimony in this regard is self-serving hearsay that further damages his credibility as medical evidence does not support—and actually refutes--his statement in this regard (Defendants' APA #7, pages 58-59; Defendants' APA #1, page 9; Hearing Transcript, pages 38 and 40).

25. As to Claimant's outcome from the ankle surgery, Claimant's testimony is not believable or credible: Claimant initially testified at the hearing that with post-surgical physical therapy, he "progressively got better and better" (Hearing Transcript, pages 38-39), and then practically in the next breath, Claimant visibly "shifted gears," and inconsistently testified that surgery was "absolutely not" successful, that he was better prior to the surgery than he is now, and that he is "absolutely" worse. Claimant's demeanor and delivery were not believable or persuasive; nor is this testimony—that Claimant was better prior to the surgery--supported by the treatment records.

I also note that after Claimant's recovery from the surgery, his landscaping business gross receipts rose from $243,000 (the year of the accident) to $334,906--the year after the accident (Hearing Transcript, pages 39-40, 43, and 52; Claimant's tax returns as submitted by Defendants).

26. Although the undersigned recognizes that it is entirely possible for a claimant to be initially better after surgery, but then subsequently become worse, a sequential review of the medical evidence after the surgery up through the date of maximum medical improvement does not show this to be applicable in this case:

(a) 1½ months after the date of the surgery, Claimant's treating physician was "pleased with [Claimant's] progress;" Claimant's *only complaint to his physical therapist was "ankle stiffness when he initially stands up;"* Claimant told the treating physician's practice that he was having "no difficulty;" Claimant's gait was only "slightly antalgic" (Defendants' APA #7, pages 61-63; Claimant's APA #15, page 113);

(b) 2½ months after the surgery, Claimant's subjective complaint was "*mild* stiffness and discomfort;" Claimant had *"complete stability."* Claimant was returned to use of a regular shoe (Claimant's APA #15, page 114);

(c) 4 months after the surgery Dr. Taylor found "***complete stability*** of the bilateral hind foot, mid foot, and forefoot joints;" Claimant's complaints were his inability to run, cut, or pivot. Claimant's pain was described as "*intermittent*", and his gait "is *non-antalgic*" [emphasis added] (Defendants' APA #1, page 12);

(d) Claimant's post-surgical restrictions for his leg are cutting, running, pivoting, and unpredictable surfaces. However, prior to the surgery (which Claimant contends made him "worse"): (a) he was on crutches and then had to use a walking boot; (b)

he had an *"antalgic gait,"* and (c) a *"persistently painful" ankle.* After the surgery and reaching MMI, Claimant had a *"nonantalgic" gait and an "intermittent" dull ache.* **Even Claimant's vocational expert notes that Claimant "ambulated [at the evaluation] with no observed problems."** The most recent medical record in evidence—an ER visit—also documents Claimant's "normal" gait. Claimant's surgical outcome is clearly better than he is willing to admit to the Commission for purposes of permanency (*e.g.*, Defendants' APA #1, pages 8-9 and 12; Defendants' APA #3, page 25; Defendants' APA #4, page 31--"ambulates with crutches;" Claimant's APA #15, pages 108-109 and 113-114; Hearing Transcript, pages 39-40 and 43).

27. As to Claimant's surgical outcome and recovery (ankle), I also note that Claimant (a) hikes in Gatlinburg, TN; (b) is able to ride his Harley; (c) hunts; (d) throws baseballs; and (e) goes to the gym and works out. The fact that Claimant no longer coaches his son's baseball team, that he may no longer be able to hike "Clingmans [phonetic] Dome," that he may no longer be able to run, and that he no longer goes to Colorado to hunt is not persuasive evidence toward a finding that Claimant is unable to work (Hearing Transcript, pages 40, 45-48 and 69-70; Claimant's APA #17, page 123).

28. Both prior to and after the ankle surgery, treatment records state that Claimant had and has *"complete stability of the left ankle, hindfoot, bilateral midfoot and forefoot joints"* (medical evidence in its entirety including but not limited to Defendants' APA #1, pages 7, 9, and 12; Claimant's APA #15, pages 108-109 and 114; Defendants' APA #6 in its entirety—documenting no complaint of "giving out" or "giving way;" Claimant's APA #14, page 103—pre-surgical record containing documentation of an ankle exam with no complaint of giving out).

29. Claimant's testimony at the hearing--that his ankle "gives out" on him--is not supported by even a **single** pre- or post-surgical **treatment** record in evidence; if anything, Claimant's testimony is refuted by the medical evidence as referenced in the preceding finding of fact. I find that Claimant complaints in this regard—**made only to his vocational expert and to the ankle IME physician** (however, the IME also interestingly found "no instability" of the ankle joints, and saw no apparent need to take x-rays or other diagnostic films)—are for purposes of litigation and maximization of his claim. In addition to Dr. Taylor's treatment notes (in which there is no complaint of instability), Doctors Care records also state that there is "0 ligamentous laxity." PT records are similarly silent as to any complaint of instability or giving way. I find the treatment records (a) inconsistent with Claimant's self-serving testimony and (b) consistent with Claimant's initial hearing testimony that he **works "a lot" in his landscaping business, that he is able to hike, and that he is able to hunt** (medical evidence in its entirety; Claimant's APA #17, page 119; Hearing Transcript, *e.g.*, pages 25, 40, and 45; Defendants' APA #9, pages 66-67; Defendants' APA #4, pages 32-33).

30. For a person whose leg allegedly gives way or gives out without warning, Claimant inconsistently does not use any assistive device (*e.g.*, Claimant's APA #17, page 118; Hearing Transcript, *e.g.*, page 45).

31. To Defendants' vocational expert, Claimant reported that his ankle problems are (a) pain, (b) swelling, and (c) limited mobility. **There is no complaint or mention of instability or giving out of the ankle** (Defendants' APA #10 in its entirety, including but not limited to page 69).

32. Even Claimant's own vocational expert states that Claimant ambulates with no observed problems and with no assistive devices (Claimant's APA #17, page 118).

33. For the 2012 leg injury in issue, the authorized treating physician assigned a 7%

impairment rating, and recommends no future medicals. I considered the IME rating, but it is not without salient issues: (a) although the IME physician works in an orthopedic practice, the IME admits that he neither ordered nor reviewed any post-surgical films prior to rendering an opinion/assigning an 18% impairment rating; the IME rating is largely based upon Claimant's subjective complaints of instability, etc. The IME physician states that "due to lack of new x-rays, I am unable to evaluate for any post-traumatic ankle arthritis," but **gives no reason why he (in an orthopedics practice) did not have Claimant's leg at least x-rayed, particularly given Claimant's significant complaints to the IME**; (b) the IME physician *admits that Claimant's chronic pain complaints are "not well characterized;"* (c) even though Claimant told the IME that Claimant's ankle "gives out on him frequently," the IME by contrast documented **no instability;** (d) the IME states that Claimant's "hypersensitivity" complaint is not borne out by any diagnostic test; and (e) although Claimant admits that he continues to hike, the IME by contrast states that Claimant "cannot walk on uneven ground" and that Claimant is limited in his ability to walk on an incline; the IME must be unaware of Claimant's ongoing hiking and hunting activities (Defendants' APA #9, pages 66-67; Defendants' APA #1, page 12; Hearing Transcript, page 48).

34. If Claimant can hike, hunt, and throw baseballs, I believe that, notwithstanding any self-serving testimony to the contrary, Claimant is in fact performing physical labor for his landscaping business, and that he (according to his initial testimony) is in fact working "a lot."

35. Claimant takes no prescription medication for his ankle (evidence in its entirety, including but not limited to Claimant's APA #17, page 119; Hearing Transcript, page 44).

36. I give greater weight to the authorized treating physician's restrictions of no running, cutting, pivoting, or unpredictable surfaces, as these restrictions are based upon treatment records. I do not give much weight to the restrictions (light) suggested by the IME, as the IME's restrictions

are based upon Claimant's subjective statements and complaints which are in no way consistent with the treatment records. The IME (in an orthopedics practice) did not order a post-surgical x-ray prior to issuing an 18% impairment rating (Defendants' APA #1, page 12; Defendants' APA #9, pages 66-67).

37. As the authorized treating physician (Dr. Taylor) did not recommend any future medicals for the ankle, none are ordered herein (Defendants' APA #1, page 12).

38. PPD to right leg pursuant to Section 42-9-30(16): 10%. I find that a person who can hike and engage in all the other activities (including but not limited to landscaping work) in which Claimant engages has not sustained more than 10% loss of use to his leg.

39. Claimant was treated conservatively for his back and neck (medical evidence in its entirety).

40. **In spite of his significant spinal pain complaints ("terrible" and "life changing," per Hearing Transcript, page 55), Claimant takes no prescription medication for either his neck or back** (Hearing Transcript, pages 44-45 and 61-62; Defendants' APA #10, page 70; Claimant's APA #17, page 119; Claimant's APA #11, page 84—documenting "none" as far as medications are concerned; Defendants' APA #9, page 66).

41. As to the neck and low back, Dr. Mills states that Claimant has cervical and lumbar spondylosis, or disc degeneration/arthritis which became symptomatic (based upon pain complaints) from the accident (December 2012 Deposition of Dr. Mills, *e.g.*, pages 12-14, 17, 19, 28-29, and 38).

42. Because of Claimant's significant spinal pain complaints, Dr. Mills, in both written records (date of last visit: **June 2012**) and at Dr. Mills' August 2012 and December 2012 depositions, recommended surgery for both the cervical and lumbar spine based on complaints of significant

pain that has allegedly persisted over a long period of time. However, Claimant has not seen Dr. Mills in more than 2 years as of the date of the hearing, and Dr. Mills' last deposition occurred almost 2 years prior to the date of hearing. During Dr. Mills' treatment period throughout 2012, Claimant repeatedly declined surgery. Further, Claimant told Defendants' vocational evaluator that *"no further treatment has been recommended."* This statement is not surprising given the fact that the most recent medical evidence (the ER visit) states that Claimant had no neck pain and only "mild" low back pain; by contrast, Claimant's pain complaints to Dr. Poletti led Dr. Poletti to recommend a rhyzotomy and possible surgery (Claimant's APA #14; Defendants' APA #1, pages 3-8; December 2012 Deposition of Dr. Mills, *e.g.*, pages 29-31, 38-39, and 42-43; August 2012 Deposition of Dr. Mills, *e.g.*, pages 17, 20, and 22; Defendants' APA #10, page 72).

43. More recently (October 2013—more than one year after Claimant last saw Dr. Mills), Dr. Edwards views Claimant's cervical MRI as showing no significant compressive pathology; Claimant told Dr. Edwards that he is "not interested" in surgery (Claimant's APA #12, page 91).

44. As to the neck, I give the greatest weight to the findings of Dr. Edwards, who refers to Claimant's condition as a cervical protrusion without radiculopathy or myelopathy; he states that there is an "absence of focal neurologic deficit." Claimant told Dr. Edwards that Claimant "believes conservative efforts will be appropriate" (medical evidence in its entirety, including but not limited to Claimant's APA #12, page 91).

45. As to the lumbar spine, Dr. Edwards refers to Claimant's condition as disc degeneration (Claimant's APA #12, page 91).

46. Claimant reached maximum medical improvement on October 31, 2013. I do not agree that Claimant was still contemplating surgery after this date, as he has declined surgery from the

outset, and told Dr. Edwards he is "not interested" in any aggressive treatment, but rather only conservative treatment (Claimant's APA #12, page 91).

47. By his own testimony, Claimant apparently does not abide by his restrictions, as I find instructive the specific question asked by his counsel on the issue: Claimant was asked not whether he abides by his restrictions, but whether he is "trying to" abide, and if he does not abide, "what happens?" Claimant responded that if he does not abide by the restrictions, "I hurt [present tense] worse" (Claimant did not use words to the effect "if I did not abide, I would hurt worse" or "if I did not abide, I might injure myself." This leads the undersigned to conclude that Claimant continues to perform physical labor in his landscaping business; in addition to his job with Employer as a Trooper, Claimant worked 40-50 hours a week in his landscaping business prior to the date of the injury. The year after the date of the 2012 injury, Claimant's sales exceeded $300,000 (*e.g.*, Hearing Transcript, page 50; Claimant's APA #17, page 120).

48. I considered both vocational reports, but give greater weight to Defendants' vocational report as far as ultimate conclusions are concerned: although Claimant attended 2 years of college, scored well on tests, is articulate, and runs his own very successful business, Claimant's vocational evaluator identifies only 3 potential jobs (lot attendant, gate guard, and security guard). Claimant's vocational report appears outcome-determinative rather than a credible analysis of Claimant's transferable skills. The conclusions of Defendants' report are well-reasoned and supported by other evidence as well (Defendants' APA #10 in its entirety, including but not limited to pages 70 and 75; *Cf.* Claimant's APA #17, page 127).

49. In this case, Claimant has not met his burden of proof of establishing wage loss:

- Claimant attended two years of college;
- Claimant has run his own successful business (including regular contract sales) for

18 years, including doing so while injured in 2012 and afterwards (even more profitably) in 2013 (Hearing Transcript, page 63);

- Claimant's job with Employer paid $40,000-$42,000; Defendants' vocational evaluator has identified jobs which pay up to $41,600, all of which are within Claimant's restrictions (Defendants' APA #10);
- Claimant admits that he has **not applied or even looked for any other jobs** (Hearing Transcript, pages 63 and 70);
- Claimant was **informed of vocational rehab services (as stated three times in Defendants' vocational report), but Claimant provided no proof to the Commission that he has pursued such services** (Defendants' APA #10, pages 72 and 76-77);
- Claimant has transferable skills, but would not admit at the hearing to having the aptitude/ability to perform jobs which have been vocationally identified for him; the undersigned believes that Claimant is currently concentrating on his landscaping business for the reason that he is a self-described "somewhat of a hustler" who "works a lot" (Defendants' APA #10, page 72; Hearing Transcript, page 25).

50. I considered all the various impairment ratings assigned for the spine, but impairment ratings are not dispositive, and are in part based upon subjective complaints. I also fully considered Claimant's testimony that his low back **"hurt so bad"** ("to the point where I didn't care what happened to me") that he went to an emergency room— the month prior to the date of the hearing. The clinic exam findings of ER personnel are instructive, and refute Claimant's testimony and his self-serving statements/complaints to workers' compensation providers: ER providers (a) examined Claimant's neck; Claimant's neck was negative for neck pain or other neck complaint;

(b) found Claimant's lumbar spine range of motion to be normal; (c) found Claimant's back pain to be "very mild;" and (d) found Claimant's gait "normal." These records are inconsistent with Claimant's testimony at the hearing and with his subjective complaints documented in treatment records. Contrary to this ER report, Claimant testified at the hearing that he is never without neck pain. **Of all the medical evidence relating to the spine, I give the clinical examination findings of ER personnel the greatest weight** (Claimant's APA #11, including but not limited to pages 84-85; Hearing Transcript, pages 55-59).

51. Defendants may stop payment of temporary benefits.

52. For a spinal condition treated conservatively, where Claimant takes no medication for allegedly "life changing" and "terrible" pain, where Claimant has declined surgery in spite of this allegedly severe and constant pain, where Claimant tells a non-workers' compensation provider that he has no neck pain and only "mild" low back pain, and where Claimant's gross receipts for his landscaping business were more than $300,000 for the year after his 2012 injury, I cannot and do not rely on Claimant's subjective statements or testimony regarding his residual condition. Swearing an oath to tell the truth at the hearing meant nothing to Claimant, for after requesting benefits from Commissioner Roche in 2013 for his neck condition from the 2010 accident (including but not limited to surgery), Claimant would not admit--at the 2014 hearing before the undersigned--to injuring his neck or experiencing neck pain from the 2010 accident. If that is not enough, Claimant brought or sent his 2010 cervical MRI to Dr. Poletti for their discussion, and obtained a prior cervical impairment rating from Dr. Sarb (Order of Commissioner Roche in its entirety; Hearing Transcript, *e.g.*, pages 66 and 68; Claimant's APA #13, pages 95-96).

53. Claimant is not permanently and totally disabled. Although Claimant did in fact qualify for state disability retirement (the standard for such being whether Claimant can return to his particular

state job), workers' compensation utilizes a different standard. However, I do note that Claimant's approval for state disability was contingent upon a reevaluation in 2015 (Hearing Transcript, page 20; Claimant's APA, Exhibit B).

54. Considering Claimant told the last provider (at the Emergency Room) that he had "no" neck pain (and this is significant since Claimant takes no pain medication, and Claimant inconsistently testified that he is never without neck pain) and only "mild" lumbar pain, I find that there is no additional permanent partial disability beyond the 25% to the spine already paid to Claimant. Awards cannot be based upon speculation or surmise, and I decline to speculate. Impairment ratings are not dispositive in any case, and I find other evidence more persuasive. 0% additional permanent partial disability to the spine, based upon the recent ER findings of no neck pain and "mild" lumbar pain, such that there is no additional disability beyond the previous 25% settlement for the spine ($38,151.75).

55. Defendants to receive credit for overpayment of temporary benefits paid beyond October 31, 2013.

56. As to future medicals for the spine, I give the greatest weight to the statements/opinions of Dr. Edwards, who examined Claimant much more recently than did Dr. Mills: (a) in fact, as of the date of the hearing, Claimant had not seen Dr. Mills in more than 2 years; (b) Claimant told Dr. Edwards in **2013** that "he is not interested in considering any aggressive treatment" for the neck; Dr. Edwards did not push surgery, because there is an **"absence of focal neurologic deficit," evidence to which I accord great weight;** (c) there is no objective evidence that Claimant has any lower extremity radiculopathy (his straight leg raise is negative) other than his subjective complaints; (d) Claimant told Defendants' vocational expert (the month prior to the date of the hearing) that no further treatment has been recommended; and (e) Dr. Poletti is wholly inconsistent

to the point that I cannot and do not give his opinions any weight. For example, Claimant told Dr. Poletti in 2012 (prior to the Roche hearing) that **Claimant has "remained with neck pain" since the 2010 injury—subjective information that Dr. Poletti could have only obtained from Claimant**; however, in a 180-degree turn in 2014 (**after** the Roche Order--denying Claimant's change of condition--was served), **Dr. Poletti inconsistently in 2014 "parrots" Claimant's statement to him that Claimant "did not have these neck symptoms and low back symptoms prior to the [accident in issue]."** This discrepancy calls into question any conclusion of Dr. Poletti. Second, Dr. Poletti is equivocal as to future surgery: he states in 2012 Claimant could "potentially" (repeatedly the word used) be a surgical candidate. In 2014, when Dr. Poletti makes the point of stating that none of Claimant's cervical or lumbar problems existed prior to the accident in issue, Dr. Poletti states that Claimant "most likely" will require cervical fusion surgery and low back disc surgery which could "potentially" lessen Claimant's disability. Dr. Poletti then inconsistently states that Claimant *"may"* require surgeries in the future [emphasis added]. The "may" is consistent with Dr. Edwards' pronouncement on the issue (Claimant's APA #13 in its entirety; Defendants' APA #10, page 72; Claimant's APA #12, page 91; Defendants' APA #9, page 67; Claimant's APA #11, page 84; Defendants' APA #1, pages 3 and 5-6; December 2012 Deposition of Dr. Mills, pages 29-31 and 37-39; August 2012 Deposition of Dr. Mills, pages 17, 20, and 22).

57. I considered the recommendation of Dr. Mills (who recommended fusion surgeries based upon Claimant's subjective pain complaints), but Claimant has not seen Dr. Mills in 2 years. Dr. Poletti is inconsistent and equivocal, and Dr. Edward's conclusions are consistent and sound, particularly given Claimant's most recent clinical exam at the ER.

58. I give the greatest weight to the opinion of Dr. Edwards. Dr. Edwards does not recommend

surgery, but recommends treatment *if* Claimant's condition *deteriorates in the future.* Dr. Edwards states that Claimant's condition should be observed "over the course of a couple of years." I therefore find that Claimant would be entitled to surgery for his neck and/or low back based upon a change of condition for the worse, as Dr. Edwards does not state Claimant needs surgery now, that Claim nt probably needs it now, or that Claimant even probably needs it in the future (Claimant's APA #12).

59. Dr. Mills ties the need for surgery to "symptoms enough" to warrant surgery. Given the "mild" lumbar spine complaints and nonexistent neck complaints at the last medical visit in evidence (particularly when considering the fact that **Claimant takes no pain medication**), I find Dr. Edwards' opinion to be the most cogent (Claimant's APA #12; 2012 Deposition of Dr. Mills, *e.g.*, page 22).

60. Dr. Poletti recommended/suggested a rhizotomy, but Claimant never followed up for this procedure either. This, in addition to the fact that Claimant takes no pain medication, is further evidence that Claimant's condition is most accurately as he described it to providers at the ER the month prior to the date of the hearing (Claimant's APA #1; Claimant's APA #13).

61. Claimant is entitled to receive recommended physical therapy and injections (Claimant's APA #12, pages 91-92).

62. What deductions Claimant takes on his income tax returns are of no concern to the undersigned. I fully considered the fact that Claimant's tax return shows that Claimant had business income of $688 in 2013 (gross receipts: $334,906), and $716 in 2012 (gross receipts: $243,658). However, $700 in income would not allow Claimant (as he testified) "nicer things," would not have allowed Claimant's wife to stay home, (even Claimant admitted in testimony that he is "not really" living off of $688), and would not explain

Claimant's testimony that he has "no choice" but to continue a business at which he only "realizes" in income $600-$700/year. Regardless of accounting methodology, the point is that Claimant's business continues to be lucrative—particularly the year after the year of his accident in issue. It also shows that Claimant has abilities of which he is hesitant to admit. However, Claimant's tax returns and deductions are of no import otherwise (Hearing Transcript, *e.g.*, pages 23-24, 26, and 29-30).

63. Because Claimant's wife works full time as a school teacher (except for summers) and has 3 children, I do not believe Claimant's later testimony/statements to providers that she does most of the work, and that he only helps out "from time to time" in the landscaping business. Claimant's wife did not testify at the hearing, so Claimant's testimony in this regard is strictly self-serving (Hearing Transcript; Claimant's APA #17, pages 119-120).

64. The March 11, 2012 record from the Emergency Room visit on the date of the accident (stating that Claimant has undergone prior back surgery—Defendants' APA #3, pages 17, 22-23, and 29) is an error, according to Claimant's counsel, which statement I accept from an officer of the court. Claimant's counsel also advised the undersigned that the reference to prior back surgery in Claimant's APA #11, page 84, is an error as well.

65. I do not find credible or even plausible Claimant's stated "reason" at the hearing for not claiming his landscaping income as dual employment to boost his compensation rate. It seemed "canned" and strained when Claimant was asked why he felt so "passionately" about not "burdening" the Highway Patrol with this income to increase his comp rate. I found this colloquy quite puzzling (initially), considering Claimant's claimed net business income for his landscaping business was just $688-$716 per year for 2012 and 2013. However, after reviewing the tax returns (which Defendants subpoenaed, including the gross receipts and deductions), I can understand why

Claimant would rather have avoided calling attention to a successful business if he had plans to claim that he is permanently and totally disabled. Alternatively, Claimant may have chosen to keep private (from Employer and/or co-workers) his lucrative business enterprise. Regardless of the reason, Claimant's business success shows Claimant's marked capabilities (both mental and physical), and shows an increase in gross receipts of almost $100,000 the year after the date of the injury. I have no concrete idea as to whether Claimant is performing most of the work himself (as he "works a lot" and is "somewhat of a hustler," I would assume he is working) or whether in fact he has employees, but I cannot trust his testimony. I do note that in 2013, the business paid $1,195 for "*outside services and subcontractors*" (Hearing Transcript, page 25, lines 10-11; Tax returns).

66. The undersigned did not request, seek, or obtain the prior workers' compensation file relating to the 2010 claim. However, when Defendants sought to introduce the prior (2010) cervical rating at the hearing before the undersigned, Claimant's counsel replied, "...I don't object to that. Yeah, it can come in, because I think all of that should be in the file" (Hearing Transcript, page 67).

67. Claimant's average weekly wage is $709.95, yielding a compensation rate of $473.32 (established by previous Order of the Commission—Order of Commissioner Roche, dated May 2013).

## 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 sustained an injury to his right lower extremity, lumbar

spine, and cervical spine by accident arising out of and in the course and scope of his employment on March 10, 2012.

3. Under §§ 42-9-10 and 42-1-120, Claimant was entitled to compensation for a period of temporary total disability from March 12, 2012 until October 31, 2013, the date on which Claimant reached maximum medical improvement.

4. Under § 42-15-60, Claimant was entitled to medical, surgical, hospital and other authorized treatment until October 31, 2013, the date on which Claimant reached maximum medical improvement.

5. Under § 42-15-60, Dodge v. Bruccoli, Clark, Layman, Inc., 334 S.C. 574 (Ct. App. 199), and other applicable law, Claimant is entitled to receive causally-related physical therapy and injections for the cervical spine described in APA # 12 pages 91-92.

6. Under § 42-9-30(16), Claimant has sustained 10% permanent partial disability to the right lower extremity. Under § 42-9-30(21), Claimant has sustained 0% additional permanent partial disability to his back. From such award, Defendants are entitled to a credit for the overpayment of temporary total compensation since October 31, 2013 to be taken from the permanency awarded herein.

7. Defendants may stop payment of temporary benefits under S.C. Reg. 67-506(B) and other applicable law.

8. Claimant is not permanently and totally disabled under §42-9-10 or §42-9-30(21).

9. Under §42-9-20 and other applicable law, Claimant has not met his burden of proof of establishing wage loss.

ORDER/AWARD

IT IS HEREBY ORDERED that the Application of Employer/Carrier to stop payment of

temporary total compensation is hereby granted, effective October 31, 2013, the date on which Claimant reached maximum medical improvement.

IT IS FURTHER ORDERED that as a result of Claimant's accidental injury occurring on March 10, 2012, he has sustained 10% permanent partial disability to the right lower extremity, for which he is entitled to 19 weeks of compensation, at the compensation rate of $473.32 per week. From this amount, the Defendants are entitled to a credit or offset for the overpayment of temporary total compensation paid after October 31, 2013. Claimant is entitled to 0% permanent impairment to his spine for the 2012 accident in issue.

IT IS FURTHER ORDERED Claimant reached maximum medical improvement on October 31, 2013, and as such Defendants are not liable for any additional medical, surgical, hospital or other medical treatment to Claimant after said date, save the medical treatment aforementioned in paragraph 61 of the Finding of Fact and paragraph 5 of the Conclusions of Law.

No hearing costs are assessed in this instance.

IT IS SO ORDERED.

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Within the statutory period, Claimant filed a Form 30 Application for Review of the merits hearing setting forth the basis for his appeal, copies of which were provided to all parties pursuant to the Act. Oral Arguments for Claimant's Form 30 Application for Review on the Claimant's Motion (filed November 14, 2014) and Form 30 Application for Review on the Form 21 Hearing (filed December 29, 2014) were combined for purposes of judicial economy.

In his appeal of the November 3, 2014 Order on the Motion, Claimant alleges statements contained the Order confirm that the Hearing Commissioner's impartiality might reasonable be

questioned and requests the Appellate Panel to reverse the Order and reassigned the case to another commissioner for a hearing de novo. In his appeal of the December 29, 2014 Decision and Order on the merits of Defendants' Form 21, Claimant reiterates his request for a reversal of the Order denying recusal and alleges the Hearing Commissioner's award on the merits of the claim is neither fair nor impartial, specifically as it relates to the gross income of Claimant's lawn care business and the award of 0% to the back for Claimant's admitted motorcycle accident. Oral arguments on both Form 30 Applications for Review were held on March 17, 2015 before the Appellate Panel and have since been under study and consideration.

In an appellate review, the Panel shall, pursuant to S.C. Code Ann. §42-17-50 (1985), review the award, weight the evidence as presented at the initial hearing and, if good grounds be shown therefore, make its own Findings of Fact and reach its own Conclusions of Law consistent or inconsistent with those of the Hearing Commissioner. Based upon a review of the foregoing, the Appellate Panel hereby (1) AFFIRMS the Hearing Commissioner's Order on Claimant's Motion to Recuse; (2) AFFIRMS IN PART and REVERSES IN PART the Hearing Commissioner's Decision and Order on the Form 21 Hearing; and (3) enters the following Findings of Fact, Conclusions of Law and Order as its own.

## APPELLATE PANEL FINDINGS OF FACT

1. We find the Hearing Commissioner was not required to recuse herself as there is no evidence her actions were in violation of the Judicial Code of Conduct. Specifically, we find all of the evidence reviewed and considered by the Hearing Commissioner were either submitted into evidence in the APA Submissions for the hearing or were already a part of the Commissions' file as the result of prior submissions for prior hearings. As such, we find the Hearing Commissioner

held no personal bias or prejudice towards the Claimant or his counsel and did not have personal knowledge of evidentiary facts in dispute in the proceeding. See Davis v. Parkview Apartments, 409 S.C. 266, 762 S.E.2d 535 (2014), Canon 3(E)(1), Rule 501, SCACR. Lastly, we find there is no evidence to support Claimant's assertion that the Hearing Commissioner "*threatened* criminal proceedings" unless the case settled.

2. Claimant injured his right ankle in an admitted accident on March 10, 2012. Claimant's neck and low back injuries were found compensable by Order of Commissioner Roche, dated May 2013.

3. Claimant is 39 years of age (Hearing Transcript, page 19).

4. Claimant is originally from New York and has 3 school-aged children (Hearing Transcript, pages 20 and 22; Claimant's APA #17, page 123).

5. As of the date of the hearing, Claimant's wife worked as a school teacher (Hearing Transcript, page 29; Claimant's APA #17, page 122).

6. Claimant graduated from high school and attended college for 2 years where he studied criminal justice; Claimant is just 3 courses shy of his Associate's Degree. Claimant also graduated from the S.C. Criminal Justice Academy. According to his vocational expert, Claimant plans to pursue higher education at a technical college (Hearing Transcript, pages 19-20 and 59; Defendants' APA #10, page 71; Claimant's APA #17, pages 119-120 and 123).

7. On the date of the accident in issue, Claimant's position/rank with Employer was Lance Corporal and ACE team member with the Highway Patrol. Among other things, this job required Claimant to: (a) review files and criminal records to develop possible leads, (b) investigate causes and results of accidents, (d) complete daily activity reports, and (d) testify in court (Hearing Transcript, page 21; Defendants' APA #10, pages 70 and 79).

8. On the date of the accident in issue, Claimant earned approximately $40,000 - $42,000 per year with Employer (Defendants' APA #10, page 79; Claimant's APA #17, page 120).

9. In addition to his job with Employer, Claimant and his wife own (and have owned for 18 years) a mostly commercial landscaping business, the gross receipts for which were $334,906 in **2013, (the year after the 2012 accident in issue)**, and $243,658 in 2012—the year of the accident. We attribute Claimant's lower gross receipts in 2012 to Claimant's accident and recovery therefrom (Claimant's tax returns for 2012 and 2013, as submitted by Defendants; Hearing Transcript, pages 29 and 63-64; Claimant's APA #17, page 120).

10. As to the reason for the dual employment, Claimant testified that (a) it is common and typical for Troopers to have secondary businesses: "you could maybe live off of just being a highway patrolman, but you would – it wouldn't be very good," (b) the purpose of the business was to supplement his income in order to allow his wife to stay home with their three children, so that the children would not be in daycare, and a desire to have "nicer things." Claimant's additional income also enabled him to go on hunting trips to places such as Colorado and Washington State. Medical evidence describes Claimant as a "trooper/business owner" (Hearing Transcript, pages 23-30, 63-65, and 69-71; Claimant's APA #17, page 123; Defendants' APA #5, page 39; December 2012 Deposition of Dr. Mills, pages 56-57; Claimant's 2012 and 2013 tax returns as submitted by Defendants).

11. As far as his landscaping business is concerned, Claimant initially admitted at the hearing that he is **(present tense)** "somewhat of a hustler" and "*work[s] a lot*" (also present tense). We give this testimony far greater weight than we give Claimant's later, inconsistent testimony that he tries "from time to time to get involved." We also give greater weight to the initial "somewhat of a hustler" and "works a lot" admissions than we give to Claimant's statement to his vocational

expert that he mostly "calls his employees to check on their progress." Additionally, because Claimant works out at the gym every day, because his weight has not fluctuated upward since the accident, and because of medical providers' description of Claimant as muscular and very physically fit (*See* finding of fact, *infra*), we believe and find that Claimant is far more active than he lets on **(Hearing Transcript, page 25, lines 7-9**; Claimant's APA #17, pages 119-120; Claimant's APA #13, page 94).

12. Although Claimant told one vocational expert that he earns no personal income from the landscaping business, he admitted to Defendants' evaluator that he "owns a landscaping business" and works as tolerated. We find Claimant has the business in order "to supplement" his income, is stated to be a shareholder via tax returns, and testified at the hearing that he must continue the landscaping business because he "do[es] not have a choice." We therefore find that Claimant's landscaping business continues to be lucrative for Claimant primarily through deductions taken for his vehicles, a boat, "meals and entertainment," phones, utilities, etc., as the business is located at Claimant's residence. This finding is based on Claimant's testimony, vocational report and tax returns (Hearing Transcript, pages 23, 25, 28-30, and 63; Claimant's APA #17, pages 119-120 and 122; Claimant's 2012 and 2013 tax returns, as submitted by Defendants; Defendants' APA #10, page 70).

13. Claimant is articulate, and expressed himself well at the hearing. Defendants' vocational report shows that Claimant's academic skills of word reading, sentence comprehension, spelling, and math are all above average. Claimant's vocational report states that Claimant's word reading is at a 12.5 grade equivalent, his sentence comprehension a 12.9 grade equivalent, his spelling a 12.7 grade equivalent, and his math computation is a 10th grade equivalent. **Notwithstanding Claimant's documented academic achievements and abilities, Claimant has not applied or**

**looked for any other work of any description.** We therefore believe and find, based upon this and other evidence, that Claimant has instead chosen to devote his time and efforts to his landscaping business (Hearing Transcript, *e.g.*, pages 63 and 70; testimony of Claimant; observations of the Hearing Commissioner at the hearing; Defendants' APA #10, page 76; Claimant's APA #17, pages 123-124).

14. Claimant has the appearance of being physically fit. The ankle IME also describes Claimant as *"muscular,"* and Dr. Poletti notes just several months prior to the date of the hearing that Claimant is *"very physically fit."* Dr. Mills similarly describes Claimant as "very fit" and "active." In fact, Claimant goes to the gym for an hour each day, and weighs virtually the same--actually slightly less--than he weighed shortly after the date of the accident (Claimant's APA #13, page 94—Claimant weighed 192 in May 2012--2 months after the accident; Claimant's APA #13, page 101—describing Claimant as "very physically fit;" Claimant's APA #17, page 119--Claimant goes to the gym for an hour each day; Defendants' APA #10, page 71—describing Claimant's weight the month prior to the hearing as approximately 186; Defendants' APA #9, page 67—describing Claimant as "muscular;" observations of the undersigned; August and December 2012 Depositions of Dr. Mills).

15. During both the pre-hearing conference and at the hearing, **Defendants requested credit for Claimant's prior 2011 settlement** for the 2010 spine injury. A copy of the 16A, dated 2011, was provided by the parties to the undersigned during the pre-hearing conference. Defendants contend that the prior rating was a whole person impairment rating (encompassing the entire spine and not just limited to any particular area of the spine, such as the thoracic spine), and Claimant contends that the rating and settlement were solely attributable to the thoracic spine, as Claimant contends he did not injure his neck or low back in the prior 2010 accident (*"t-spine only"*—

Hearing Transcript, page 66). Because of the dispute raised by the parties, adjudication of the issue necessitated the Hearing Commissioner's review of Commissioner Roche's 2013 Order, as contained in the Commission's file. In fact, when Defendants impeached Claimant with a prior cervical rating Claimant had solicited on his own behalf, Claimant's counsel specifically stated he had no objection because "I think all of that should be in the file." Additionally, at the hearing before the Hearing Commissioner, Defendants submitted medical evidence from the prior 2010 case, and Claimant submitted two depositions into evidence (Claimant's APA, Exhibits D and E) in which Claimant's counsel himself refers to Claimant's cervical and low back injuries from the prior (2010) accident (*See e.g.*, various documents as contained in Defendants' APA #1, #2, and #5; Defendants' Exhibit #1, containing the 2011 letter from Dr. Sarb assigning an impairment rating for the neck for the prior claim in response to Claimant's counsel's request for a cervical spine impairment rating). None of these documents was requested by the Hearing Commissioner. The only document requested of the parties by the Hearing Commissioner was a post-accident-in-issue deposition indexed in—but inadvertently missing from--Claimant's submissions. No documents (a) outside the Commission's file, as provided to the Hearing Commissioner by the Judicial Department upon assignment to the Hearing Commissioner, or (b) other than those provided by the parties were consulted or reviewed in preparation of these findings.

16. For the 2010 claim, Claimant was assigned a 15-18% whole person impairment rating to the spine (the impairment rating itself does not specify the particular spinal level(s) involved), and settled his claim for in 2011 for 25% to the spine ($38,151.75).

**17. In order to foreclose Defendants' request for credit for the 2011 settlement of the 2010 claim, Claimant testified under oath before the Hearing Commissioner (a) that he did not injure his neck in the 2010 accident (*"that was a t-spine injury only"–Hearing Transcript, page***

**66), and *"everything that was done was done for my thoracic spine from day one"*; (b) that he had "never" complained of neck pain from the 2010 accident; (c) that he did not have an impairment rating to the neck from the 2010 accident, or (later) was unaware he had an impairment rating to the neck from the 2010 accident (Hearing Transcript, page 50, lines 24-25), even though his attorney requested and received a neck impairment rating on his behalf, and even though Claimant's counsel discussed with Dr. Mills in multiple depositions that Claimant injured his neck and low back in the 2010 accident; and (d) that he had no idea why his treating physician would order any cervical testing because of the 2010 accident. When Claimant was confronted on cross examination with the prior cervical rating, he was evasive and continued to maintain it was for his thoracic spine (Hearing Transcript, *e.g.*, pages 50 and 66-69).**

18. Notwithstanding Claimant's testimony to the contrary, Claimant underwent a cervical MRI in 2010 for the 2010 injury, the reason for which according to the report's "History" was **"neck pain...extending into the right arm with numbness"**); (b) Dr. Poletti (in 2012) refers to Claimant's non-operative neck care with Dr. Sarb in 2010, stating that Claimant has, since the **2010 accident,** "*remained with neck pain,*" according to Claimant's complaints to Dr. Poletti; without Claimant's own statement to Dr. Poletti, Dr. Poletti would otherwise have no knowledge that Claimant has "remained" with neck pain since the date of the 2010 accident; (c) Commissioner Roche's 2013 Order refers to the Claimant's 2010 neck treatment, refers to the fact that Claimant's 2010 neck condition deteriorated upon Claimant's return to work after the 2010 accident but **before the 2012 accident**, and refers to Claimant's contention that Claimant is "*now in need of surgery to his cervical spine" as a result of the 2010 accident*; (d) **Claimant's own vocational expert** writes that Claimant's 2010 accident caused cervical spine problems at C4-5 and C5-6,

including nerve damage and right arm numbness; (e) Claimant's attorney in 2011 requested a cervical spine impairment rating for the 2010 cervical injury, and in response, received one. Claimant's knowledge of such is imputed through his attorney; however, regardless of whether Claimant knew about the cervical rating (even though his last visit with Dr. Sarb was for that specific purpose), Commissioner Roche's unappealed Order states that Claimant testified at the Roche hearing that he had neck pain/numbness from the 2010 accident, and was in need of surgery because of the 2010 injury; further, 21 pages of records of Dr. Sarb were admitted into evidence at Commissioner Roche's hearing (according to Commissioner Roche's Order); and (f) Claimant's own counsel **points out to Dr. Mills (at both Dr. Mills' December 2012 and August 2012 depositions) that Dr. Sarb treated Claimant for his neck/arm complaints in 2010**, as Claimant's counsel sought to alternately establish the fact that Claimant's cervical condition worsened after the 2010 accident—**Dr. Mills responds to Claimant's counsel that Claimant's neck was in fact injured in the 2010 accident** (Claimant's APA #17, page 118; Defendants' APA #2, page 13, containing a cervical MRI dated September 2010—for "neck pain;" Hearing Transcript, pages 31-33, 50-51, and 66-69; Claimant's APA #13, page 96—he has "remained with neck pain" since the 2010 accident; **Defendants' Exhibit #1—a letter from Dr. Sarb in response to Claimant's counsel's request for a cervical spine impairment rating in 2011**; December 2012 Deposition of Dr. Mills, pages 44-50, particularly 48-49; August 2012 Deposition of Dr. Mills, *e.g.*, pages 11-16, 19, 37-38, and 40-41; Exhibits to Dr. Mills' August 2012 Deposition; unappealed Order of Commissioner Roche, dated May 2013, as contained in the Commission's file, page 4—Claimant is "now in need of surgery to his cervical spine...as a result of that [2010] accident; page 7--"his neck.....began bothering him...but....he did not seek any medical attention until after his motorcycle accident [of 2012]"--pages 8-10).

19. If there is any question as to whether Claimant injured his neck and low back in the prior (2010) accident, one need look no further than Dr. Mills' depositions (particularly the August 2012 deposition), in which Claimant's own counsel describes and discusses in detail Claimant's prior (*i.e.*, 2010 accident) neck and low back problems, and elicits testimony from Dr. Mills that Claimant injured his neck and low back in the prior 2010 accident. These two depositions were provided to the Hearing Commissioner by Claimant's counsel.

20. We further note that Commissioner Roche's Order is replete with references to Claimant's contention that he injured his neck and low back in the prior accident. In fact, Claimant was granted a postponement prior to a hearing in order that he could "gather additional information regarding an alleged [2010] cervical spine injury." *See* Order of Commissioner Roche, pages 2, 4, and 7-12.

21. We are fully cognizant of the fact that at one point Claimant's neck or at least radicular problems from the 2010 accident resolved. However, at Commissioner's Roche's hearing, Claimant testified that his neck problems reappeared **prior to the date of the 2012 injury in issue**, and that he was in need of surgery to his neck as a result of the original 2010 accident. According to Commissioner Roche's Order, Claimant last saw Dr. Sarb in 2011 (prior to the date of the 2012 injury in issue) for the purpose of obtaining a rating to his cervical spine. Commissioner Roche's Order also cites the fact that Dr. Mills testified that Claimant injured his neck in the 2010 accident. By contrast, at the hearing before the Hearing Commissioner, Claimant denied the prior neck injury or pain prior to the date of the injury in issue, and initially outright denied--and then denied knowledge of—the prior cervical rating, even though Claimant went to Dr. Sarb for that specific purpose. Claimant's untruthfulness and evasiveness at the hearing greatly damage his credibility in general at the hearing, and call into question his veracity as a whole. If

credibility is not important, and oaths are meaningless, then swearing in a witness is mere "window dressing," and could be dispensed with at hearings. In addition to taking an oath to tell the truth, Claimant also testified that he had "absolutely" answered all of his attorney's questions honestly, and that there was no answer he wanted to change (Order of Commissioner Roche, pages 4 and 7-11; Hearing Transcript, pages 50-51; page 62, lines 14-17).

22. According to Commissioner Roche's Order, Claimant testified that he needed surgery to his cervical and lumbar spines because of the 2010 accident. If Claimant asked Commissioner Roche to find a compensable change of condition regarding his neck injury from the 2010 accident, then by necessity, Claimant knew he had injured his neck in the 2010 accident; a change of condition would be impossible for a body part that was never injured or for a body part that Claimant did not know he had injured. By contrast, Claimant testified at the hearing before the Hearing Commissioner that he only injured his thoracic spine in the 2010 accident:

*Q: You testified that that [2010 accident] was a T-spine injury only, correct?*

*A: Yeah.* (Hearing Transcript, page 66).

23. Based upon the greater weight of the evidence, including but not limited to Commissioner Roche's Order, we find that the $38,151.75 settlement for the spine for the 2010 accident encompasses all three spinal levels.

24. Because of his ankle injury, Claimant underwent surgery in January 2013-- arthroscopic debridement/resection of osteophyte and "resection of posterior process of talus" (Defendants' APA #7, pages 58-59; Claimant's APA #15, page 111).

25. Claimant was untruthful at the hearing when he testified (twice) that the treating surgeon discovered (during surgery) that Claimant's pathology was "a lot worse" than what the surgeon originally thought or expected; this testimony is not supported by the operative notes or by any

treatment record in evidence. **In fact, the opposite appears to be true:** as one of the purposes of the surgery was "assessment of the cartilage surface" and resultant treatment of any cartilage pathology found during the assessment (Defendants' APA #1, page 9), the surgeon specifically notes in operative notes that *the lateral gutter was noted to be free of any loose bodies; the lateral shoulder of the talus was noted to be free of any cartilage lesions as was the distal fibula; the talar dome was void of any cartilage defects; the tibial articular surface was noted to be similarly absent of any articular cartilage lesions, and a tibial osteophyte had no corresponding cartilage lesion.* Claimant's exaggerated testimony in this regard is self-serving hearsay that further damages his credibility as medical evidence does not support—and actually refutes--his statement in this regard (Defendants' APA #7, pages 58-59; Defendants' APA #1, page 9; Hearing Transcript, pages 38 and 40).

26. As to Claimant's outcome from the ankle surgery, Claimant's testimony is not believable or credible: Claimant initially testified at the hearing that with post-surgical physical therapy, he "progressively got better and better" (Hearing Transcript, pages 38-39), and then practically in the next breath, Claimant visibly "shifted gears," and inconsistently testified that surgery was "absolutely not" successful, that he was better prior to the surgery than he is now, and that he is "absolutely" worse. Claimant's demeanor and delivery were not believable or persuasive; nor is this testimony—that Claimant was better prior to the surgery--supported by the treatment records. We also note that after Claimant's recovery from the surgery, his landscaping business gross receipts rose from $243,000 (the year of the accident) to $334,906--the year after the accident (Hearing Transcript, pages 39-40, 43, and 52; Claimant's tax returns as submitted by Defendants).

27. Although we recognize that it is entirely possible for a claimant to be initially better after surgery, but then subsequently become worse, a sequential review of the medical

evidence after the surgery up through the date of maximum medical improvement does not show this to be applicable in this case:

(e) 1½ months after the date of the surgery, Claimant's treating physician was "pleased with [Claimant's] progress;" Claimant's *only complaint to his physical therapist was "ankle stiffness when he initially stands up;"* Claimant told the treating physician's practice that he was having "no difficulty;" Claimant's gait was only "slightly antalgic" (Defendants' APA #7, pages 61-63; Claimant's APA #15, page 113);

(f) 2½ months after the surgery, Claimant's subjective complaint was "*mild* stiffness and discomfort;" Claimant had *"complete stability."* Claimant was returned to use of a regular shoe (Claimant's APA #15, page 114);

(g) 4 months after the surgery Dr. Taylor found "***complete stability*** of the bilateral hind foot, mid foot, and forefoot joints;" Claimant's complaints were his inability to run, cut, or pivot. Claimant's pain was described as "*intermittent*", and his gait "is *non-antalgic*" [emphasis added] (Defendants' APA #1, page 12);

(h) Claimant's post-surgical restrictions for his leg are limited to cutting, running, pivoting, and unpredictable surfaces. However, prior to the surgery (which Claimant contends made him "worse"): (a) he was on crutches and then had to use a walking boot; (b) he had an *"antalgic gait,"* and (c) a *"persistently painful" ankle*. After the surgery and reaching MMI, Claimant had a *"nonantalgic" gait and an "intermittent" dull ache*. **Even Claimant's vocational expert notes that Claimant "ambulated [at the evaluation] with no observed problems."** The most recent medical record in evidence—an ER visit—also documents Claimant's

"normal" gait. Claimant's surgical outcome is clearly better than he is willing to admit to the Commission for purposes of permanency (*e.g.*, Defendants' APA #1, pages 8-9 and 12; Defendants' APA #3, page 25; Defendants' APA #4, page 31--"ambulates with crutches;" Claimant's APA #15, pages 108-109 and 113-114; Hearing Transcript, pages 39-40 and 43).

28. As to Claimant's surgical outcome and recovery (ankle), we also note that Claimant (a) hikes in Gatlinburg, TN; (b) is able to ride his Harley; (c) hunts; (d) throws baseballs; and (e) goes to the gym and works out. The fact that Claimant no longer coaches his son's baseball team, that he may no longer be able to hike "Clingmans [phonetic] Dome," that he may no longer be able to run, and that he no longer goes to Colorado to hunt is not persuasive evidence toward a finding that Claimant is unable to work (Hearing Transcript, pages 40, 45-48 and 69-70; Claimant's APA #17, page 123).

29. Both prior to and after the ankle surgery, treatment records state that Claimant had and has *"complete stability of the left ankle, hindfoot, bilateral midfoot and forefoot joints"* (medical evidence in its entirety including but not limited to Defendants' APA #1, pages 7, 9, and 12; Claimant's APA #15, pages 108-109 and 114; Defendants' APA #6 in its entirety—documenting no complaint of "giving out" or "giving way;" Claimant's APA #14, page 103—pre-surgical record containing documentation of an ankle exam with no complaint of giving out).

30. Claimant's testimony at the hearing--that his ankle "gives out" on him--is not supported by even a **single** pre- or post-surgical **treatment** record in evidence; if anything, Claimant's testimony is refuted by the medical evidence as referenced in the preceding finding of fact. We find that Claimant's complaints in this regard—**made only to his vocational expert and to the ankle IME physician** (however, the IME also interestingly found "no instability" of the ankle joints, and saw

no apparent need to take x-rays or other diagnostic films)—are for purposes of litigation and maximization of his claim. In addition to Dr. Taylor's treatment notes (in which there is no complaint of instability), Doctors Care records also state that there is "0 ligamentous laxity." PT records are similarly silent as to any complaint of instability or giving way. We find the treatment records (a) inconsistent with Claimant's self-serving testimony and (b) consistent with Claimant's initial hearing testimony that he **works "a lot" in his landscaping business, that he is able to hike, and that he is able to hunt** (medical evidence in its entirety; Claimant's APA #17, page 119; Hearing Transcript, *e.g.*, pages 25, 40, and 45; Defendants' APA #9, pages 66-67; Defendants' APA #4, pages 32-33).

31. For a person whose leg allegedly gives way or gives out without warning, Claimant inconsistently does not use any assistive device (*e.g.*, Claimant's APA #17, page 118; Hearing Transcript, *e.g.*, page 45).

32. To Defendants' vocational expert, Claimant reported that his ankle problems are (a) pain, (b) swelling, and (c) limited mobility. **There is no complaint or mention of instability or giving out of the ankle** (Defendants' APA #10 in its entirety, including but not limited to page 69).

33. Even Claimant's own vocational expert states that Claimant ambulates with no observed problems and with no assistive devices (Claimant's APA #17, page 118).

34. For the 2012 leg injury in issue, the authorized treating physician assigned a 7% impairment rating, and recommends no future medicals. We considered the IME rating, but it is not without salient issues: (a) although the IME physician works in an orthopedic practice, the IME admits that he neither ordered nor reviewed any **post**-surgical films prior to rendering an opinion/assigning an 18% impairment rating; the IME rating is largely based upon Claimant's subjective complaints of instability, etc. The IME physician states that "due to lack of new x-rays,

I am unable to evaluate for any post-traumatic ankle arthritis," but **gives no reason why he (in an orthopedics practice) did not have Claimant's leg at least x-rayed, particularly given Claimant's significant complaints to the IME**; (b) the IME physician *admits that Claimant's chronic pain complaints are "not well characterized;"* (c) even though Claimant told the IME that Claimant's ankle "gives out on him frequently," the IME by contrast documented **no instability;** (d) the IME states that Claimant's "hypersensitivity" complaint is not borne out by any diagnostic test; and (e) although Claimant admits that he continues to hike, the IME by contrast states that Claimant "cannot walk on uneven ground" and that Claimant is limited in his ability to walk on an incline; the IME physician must be unaware of Claimant's ongoing hiking and hunting activities (Defendants' APA #9, pages 66-67; Defendants' APA #1, page 12; Hearing Transcript, page 48).

35. If Claimant can hike, hunt, and throw baseballs, we believe that, notwithstanding any self-serving testimony to the contrary, Claimant is in fact performing physical labor for his landscaping business, and that he (according to his initial testimony) is in fact working "a lot."

36. Claimant takes no prescription medication for his ankle (evidence in its entirety, including but not limited to Claimant's APA #17, page 119; Hearing Transcript, page 44).

37. We give greater weight to the authorized treating physician's restrictions of no running, cutting, pivoting, or unpredictable surfaces, as these restrictions are based upon treatment records. We do not give much weight to the restrictions (light) suggested by the IME, as the IME's restrictions are based upon Claimant's subjective statements and complaints which are in no way consistent with the treatment records. The IME (in an orthopedics practice) did not order a post-surgical x-ray prior to issuing an 18% impairment rating (Defendants' APA #1, page 12; Defendants' APA #9, pages 66-67).

38. As the authorized treating physician, Dr. Taylor did not recommend any future medicals

for the ankle. Thus, none are ordered herein (Defendants' APA #1, page 12).

39. Claimant has sustained 10% permanent partial disability to his right leg pursuant to Section 42-9-30(16). We find that a person who can hike and engage in all the other activities (including but not limited to landscaping work) in which Claimant engages has not sustained more than 10% loss of use to his leg.

40. Claimant was treated conservatively for his back and neck (medical evidence in its entirety).

41. **In spite of his significant spinal pain complaints ("terrible" and "life changing," per Hearing Transcript, page 55), Claimant takes no prescription medication for either his neck or back** (Hearing Transcript, pages 44-45 and 61-62; Defendants' APA #10, page 70; Claimant's APA #17, page 119; Claimant's APA #11, page 84—documenting "none" as far as medications are concerned; Defendants' APA #9, page 66).

42. As to the neck and low back, Dr. Mills states that Claimant has cervical and lumbar spondylosis, or disc degeneration/arthritis which became symptomatic (based upon pain complaints) from the accident (December 2012 Deposition of Dr. Mills, *e.g.*, pages 12-14, 17, 19, 28-29, and 38).

43. Because of Claimant's significant spinal pain complaints, Dr. Mills, in both written records (date of last visit: **June 2012**) and at Dr. Mills' August 2012 and December 2012 depositions, recommended surgery for both the cervical and lumbar spine based on complaints of significant pain that has allegedly persisted over a long period of time. However, Claimant has not seen Dr. Mills in **more than 2 years as of the date of the hearing, and Dr. Mills' last deposition occurred almost 2 years prior to the date of hearing.** During Dr. Mills' treatment period throughout 2012, Claimant repeatedly declined surgery. Further, Claimant told Defendants'

vocational evaluator that *"no further treatment has been recommended."* This statement is not surprising given the fact that the most recent medical evidence (the ER visit) states that Claimant had no neck pain and only "mild" low back pain; by contrast, Claimant's pain complaints to Dr. Poletti led Dr. Poletti to recommend a rhyzotomy and possible surgery (Claimant's APA #14; Defendants' APA #1, pages 3-8; December 2012 Deposition of Dr. Mills, *e.g.*, pages 29-31, 38-39, and 42-43; August 2012 Deposition of Dr. Mills, *e.g.*, pages 17, 20, and 22; Defendants' APA #10, page 72).

44. More recently (October 2013—more than one year after Claimant last saw Dr. Mills), Dr. Edwards views Claimant's cervical MRI as showing no significant compressive pathology; Claimant told Dr. Edwards that he is "not interested" in surgery (Claimant's APA #12, page 91).

45. As to the neck, we give the greatest weight to the findings of Dr. Edwards, who refers to Claimant's condition as a cervical protrusion without radiculopathy or myelopathy; he states that there is an "absence of focal neurologic deficit." Claimant told Dr. Edwards that Claimant "believes conservative efforts will be appropriate" (medical evidence in its entirety, including but not limited to Claimant's APA #12, page 91).

46. As to the lumbar spine, Dr. Edwards refers to Claimant's condition as disc degeneration (Claimant's APA #12, page 91).

47. Claimant reached maximum medical improvement on October 31, 2013. We do not agree that Claimant was still contemplating surgery after this date, as he has declined surgery from the outset, and told Dr. Edwards he is "not interested" in any aggressive treatment, but rather only conservative treatment (Claimant's APA #12, page 91).

48. We considered both vocational reports, but give greater weight to Defendants' vocational report as far as ultimate conclusions are concerned: although Claimant attended 2 years of college,

scored well on tests, is articulate, and runs his own very successful business, Claimant's vocational evaluator identifies only 3 potential jobs (lot attendant, gate guard, and security guard). Claimant's vocational report appears outcome-determinative rather than a credible analysis of Claimant's transferable skills. The conclusions of Defendants' report are well-reasoned and supported by other evidence as well (Defendants' APA #10 in its entirety, including but not limited to pages 70 and 75; *Cf.* Claimant's APA #17, page 127).

49. In this case, Claimant has not met his burden of proof of establishing wage loss:

- Claimant attended two years of college;
- Claimant has run his own successful business (including regular contract sales) for 18 years, including doing so while injured in 2012 and afterwards (even more profitably) in 2013 (Hearing Transcript, page 63);
- Claimant's job with Employer paid $40,000-$42,000; Defendants' vocational evaluator has identified jobs which pay up to $41,600, all of which are within Claimant's restrictions (Defendants' APA #10);
- Claimant admits that he has **not applied or even looked for any other jobs** (Hearing Transcript, pages 63 and 70);
- Claimant was **informed of vocational rehab services (as stated three times in Defendants' vocational report), but Claimant provided no proof to the Commission that he has pursued such services** (Defendants' APA #10, pages 72 and 76-77);
- Claimant has transferable skills, but would not admit at the hearing to having the aptitude/ability to perform jobs which have been vocationally identified for him; we believe that Claimant is currently concentrating on his landscaping business for the

reason that he is a self-described "somewhat of a hustler" who "works a lot" (Defendants' APA #10, page 72; Hearing Transcript, page 25).

50. We considered all the various impairment ratings assigned for the spine, but impairment ratings are not dispositive, and are in part based upon subjective complaints. We also fully considered Claimant's testimony that his low back "**hurt so bad**" ("to the point where I didn't care what happened to me") that he went to an emergency room— the month prior to the date of the hearing. The clinic exam findings of ER personnel are instructive, and refute Claimant's testimony and his self-serving statements/complaints to workers' compensation providers: ER providers (a) examined Claimant's neck; Claimant's neck was negative for neck pain or other neck complaint; (b) found Claimant's lumbar spine range of motion to be **normal;** (c) found Claimant's back pain to be "**very mild;**" and (d) found Claimant's gait "normal." These records are inconsistent with Claimant's testimony at the hearing and with his subjective complaints documented in treatment records. Contrary to this ER report, Claimant testified at the hearing that he is never without neck pain. **Of all the medical evidence relating to the spine, we give the clinical examination findings of ER personnel the greatest weight** (Claimant's APA #11, including but not limited to pages 84-85; Hearing Transcript, pages 55-59).

51. Defendants may stop payment of temporary benefits.

52. For a spinal condition treated conservatively, where Claimant takes no medication for allegedly "life changing" and "terrible" pain, where Claimant has declined surgery in spite of this allegedly severe and constant pain, where Claimant tells a non-workers' compensation provider that he has no neck pain and only "mild" low back pain, and where Claimant's gross receipts for his landscaping business were more than $300,000 for the year after his 2012 injury, we cannot and do not rely on Claimant's subjective statements or testimony regarding his residual condition.

Swearing an oath to tell the truth at the hearing meant nothing to Claimant, for after requesting benefits from Commissioner Roche in 2013 for his neck condition from the 2010 accident (including but not limited to surgery), Claimant would not admit--at the 2014 hearing before the Hearing Commissioner--to injuring his neck or experiencing neck pain from the 2010 accident. If that is not enough, Claimant brought or sent his 2010 cervical MRI to Dr. Poletti for their discussion, and obtained a prior cervical impairment rating from Dr. Sarb (Order of Commissioner Roche in its entirety; Hearing Transcript, *e.g.*, pages 66 and 68; Claimant's APA #13, pages 95-96).

53. Claimant is not permanently and totally disabled. Although Claimant did in fact qualify for state disability retirement (the standard for such being whether Claimant can return to his particular state job), workers' compensation utilizes a different standard. However, we do note that Claimant's approval for state disability was contingent upon a reevaluation in 2015 (Hearing Transcript, page 20; Claimant's APA, Exhibit B).

54. Considering Claimant told the last provider (at the Emergency Room) that he had "no" neck pain (and this is significant since Claimant takes no pain medication, and Claimant inconsistently testified that he is never without neck pain) and only "mild" lumbar pain, we find Claimant has sustained only 15% additional permanent partial disability to his back beyond the previous 25% to the spine already paid to Claimant. This finding is based on the medical evidence only including the regional impairment ratings issued by Dr. Edwards as well as the deposition testimony of Dr. Mills as it relates to a worsening of Claimant's condition after his previous injury.

55. Defendants are entitled to receive credit for overpayment of temporary benefits paid beyond January 21, 2014, the date Defendants filed their Form 21 Request for Hearing. We decline to award credit back to the date of maximum medical improvement (October 31, 2013) as

we find there was a substantial delay in filing the Form 21 requesting the credit.

56. As to future medicals for the spine, we give the greatest weight to the statements/opinions of Dr. Edwards, who examined Claimant much more recently than did Dr. Mills: (a) in fact, as of the date of the hearing, Claimant had not seen Dr. Mills in more than 2 years; (b) Claimant told Dr. Edwards in **2013** that "he is not interested in considering any aggressive treatment" for the neck; Dr. Edwards did not push surgery, because there is an **"absence of focal neurologic deficit," evidence to which we accord great weight;** (c) there is no objective evidence that Claimant has any lower extremity radiculopathy (his straight leg raise is negative) other than his subjective complaints; (d) Claimant told Defendants' vocational expert (the month prior to the date of the hearing) that no further treatment has been recommended; and (e) Dr. Poletti is wholly inconsistent to the point that we cannot and do not give his opinions any weight. For example, Claimant told Dr. Poletti in 2012 (prior to the Roche hearing) that **Claimant has "remained with neck pain" since the 2010 injury—subjective information that Dr. Poletti could have only obtained from Claimant**; however, in a 180-degree turn in 2014 (**after** the Roche Order--denying Claimant's change of condition--was served), **Dr. Poletti inconsistently in 2014 "parrots" Claimant's statement to him that Claimant "did not have these neck symptoms and low back symptoms prior to the [accident in issue]."** This discrepancy calls into question any conclusion of Dr. Poletti. Second, Dr. Poletti is equivocal as to future surgery: he states in 2012 Claimant could "potentially" (repeatedly the word used) be a surgical candidate. In 2014, when Dr. Poletti makes the point of stating that none of Claimant's cervical or lumbar problems existed prior to the accident in issue, Dr. Poletti states that Claimant "most likely" will require cervical fusion surgery and low back disc surgery which could "potentially" lessen Claimant's disability. Dr. Poletti then inconsistently states that Claimant *"may"* require surgeries in the future [emphasis added]. The

"may" is consistent with Dr. Edwards' pronouncement on the issue (Claimant's APA #13 in its entirety; Defendants' APA #10, page 72; Claimant's APA #12, page 91; Defendants' APA #9, page 67; Claimant's APA #11, page 84; Defendants' APA #1, pages 3 and 5-6; December 2012 Deposition of Dr. Mills, pages 29-31 and 37-39; August 2012 Deposition of Dr. Mills, pages 17, 20, and 22).

57. We considered the recommendation of Dr. Mills (who recommended fusion surgeries based upon Claimant's subjective pain complaints), but Claimant has not seen Dr. Mills in 2 years. Dr. Poletti is inconsistent and equivocal, and Dr. Edward's conclusions are consistent and sound, particularly given Claimant's most recent clinical exam at the ER.

58. We give the greatest weight to the opinion of Dr. Edwards. Dr. Edwards does not recommend surgery, but recommends treatment *if* Claimant's condition *deteriorates in the future.* Dr. Edwards states that Claimant's condition should be observed "over the course of a couple of years." We therefore find that Claimant would be entitled to surgery for his neck and/or low back based upon a change of condition for the worse, as Dr. Edwards does not state Claimant needs surgery now, that Claimant probably needs it now, or that Claimant even probably needs it in the future (Claimant's APA #12).

59. Dr. Mills ties the need for surgery to "symptoms enough" to warrant surgery. Given the "mild" lumbar spine complaints and nonexistent neck complaints at the last medical visit in evidence (particularly when considering the fact that **Claimant takes no pain medication**), we find Dr. Edwards' opinion to be the most cogent (Claimant's APA #12; 2012 Deposition of Dr. Mills, *e.g.*, page 22).

60. Dr. Poletti recommended/suggested a rhizotomy, but Claimant never followed up for this procedure either. This, in addition to the fact that Claimant takes no pain medication, is further

evidence that Claimant's condition is most accurately as he described it to providers at the ER the month prior to the date of the hearing (Claimant's APA #1; Claimant's APA #13).

61. Claimant is entitled to receive recommended physical therapy and injections (Claimant's APA #12, pages 91-92).

62. Because Claimant's wife works full time as a school teacher (except for summers) and has 3 children, we do not believe Claimant's later testimony/statements to providers that she does most of the work, and that he only helps out "from time to time" in the landscaping business. Claimant's wife did not testify at the hearing, so Claimant's testimony in this regard is strictly self-serving (Hearing Transcript; Claimant's APA #17, pages 119-120).

63. The March 11, 2012 record from the Emergency Room visit on the date of the accident (stating that Claimant has undergone prior back surgery—Defendants' APA #3, pages 17, 22-23, and 29) is an error, according to Claimant's counsel, whose statement we accept from an officer of the court. Claimant's counsel also advised the Hearing Commissioner that the reference to prior back surgery in Claimant's APA #11, page 84, is an error as well.

64. We do not find credible or even plausible Claimant's stated "reason" at the hearing for not claiming his landscaping income as dual employment to boost his compensation rate. It seemed "canned" and strained when Claimant was asked why he felt so "passionately" about not "burdening" the Highway Patrol with this income to increase his comp rate. The Hearing Commissioner found this colloquy quite puzzling (initially), considering Claimant's claimed net business income for his landscaping business was just $688-$716 per year for 2012 and 2013. However, after reviewing the tax returns (which Defendants subpoenaed, including the gross receipts and deductions), we can understand why Claimant would rather have avoided calling attention to a successful business if he had plans to claim that he is permanently and totally

disabled

65. The Hearing Commissioner did not request, seek, or obtain the prior workers' compensation file relating to the 2010 claim. However, when Defendants sought to introduce the prior (2010) cervical rating at the hearing before the undersigned, Claimant's counsel replied, "...I don't object to that. Yeah, it can come in, because I think all of that should be in the file" (Hearing Transcript, page 67).

66. Claimant's average weekly wage is $709.95, yielding a compensation rate of $473.32 (established by previous Order of the Commission—Order of Commissioner Roche, dated May 2013).

## APPELLATE PANEL 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 Rule 501 of the South Carolina Code of Judicial Conduct, the Hearing Commissioner was not required to recuse herself from the proceeding below.

2. 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.

3. Under § 42-1-160, Claimant sustained an injury to his right lower extremity, lumbar spine, and cervical spine by accident arising out of and in the course and scope of his employment on March 10, 2012.

4. Under §§ 42-9-10 and 42-1-120, Claimant was entitled to compensation for a period of temporary total disability from March 12, 2012 until October 31, 2013, the date on which Claimant reached maximum medical improvement.

5. Under § 42-15-60, Claimant was entitled to medical, surgical, hospital and other

authorized treatment until October 31, 2013, the date on which Claimant reached maximum medical improvement.

6. Under § 42-15-60, Dodge v. Bruccoli, Clark, Layman, Inc., 334 S.C. 574 (Ct. App. 199), and other applicable law, Claimant is entitled to receive causally-related physical therapy and injections for the cervical spine described in APA # 12 pages 91-92.

7. Under § 42-9-30(16), Claimant has sustained 10% permanent partial disability to the right lower extremity. Under § 42-9-30(21), Claimant has sustained 15% additional permanent partial disability to his back. From such award, Defendants are entitled to a credit for the overpayment of temporary total compensation since January 21, 2015, the date Defendants filed their Form 21 Request for Hearing, to be taken from the permanency awarded herein.

8. Defendants may stop payment of temporary benefits under S.C. Reg. 67-506(B) and other applicable law.

9. Claimant is not permanently and totally disabled under §42-9-10 or §42-9-30(21).

10. Under §42-9-20 and other applicable law, Claimant has not met his burden of proof of establishing wage loss.

## APPELLATE PANEL ORDER & AWARD

IT IS HEREBY ORDERED that the Application of Employer/Carrier to stop payment of temporary total compensation is hereby granted, effective January 21, 2014, the date on which Defendants filed their Form 21 Request for Hearing.

IT IS FURTHER ORDERED that as a result of Claimant's accidental injury occurring on March 10, 2012, he has sustained 10% permanent partial disability to his right leg, for which he is entitled to 19 weeks of compensation, at the compensation rate of $473.32 per week. From this amount, the Defendants are entitled to a credit or offset for the overpayment of temporary total

compensation paid after January 21, 2014. Claimant is entitled to 15% permanent partial disability to his back for the 2012 accident in issue and for which he is entitled to 45 weeks of compensation, at the compensation rate of $473.32 per week.

IT IS FURTHER ORDERED Claimant reached maximum medical improvement on October 31, 2013, and as such Defendants are not liable for any additional medical, surgical, hospital or other medical treatment to Claimant after said date, with the exception of the physical therapy and injections aforementioned in paragraph 61 of the Appellate Panel Findings of Fact and paragraph 6 of the Appellate Panel Conclusions of Law.

IT IS SO ORDERED.

S.C. WORKERS' COMPENSATION COMMISSION

Commissioner Aisha Taylor
For the Appellate Panel

WE CONCUR:

Commissioner Gene McCaskill

Commissioner R. Michael Campbell, II

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 January 21, 2016***

DECISION AND ORDER OF THE

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

WCC FILE NO. 1202545

| | |
|---|---|
| Scott Ledford,<br>Employee,<br>Claimant,<br><br>vs.<br><br>Department of Public Safety,<br><br>Employer,<br>and<br><br>State Accident Fund,<br><br>Carrier,<br>Defendants. | ) |

| | |
|---|---|
| **HEARING:** | Held in Conway, South Carolina on August 15, 2014. |
| **APPEARANCES:** | Claimant represented by E. Hood Temple, Esquire of Florence, South Carolina.<br><br>Defendants represented by Sarah S. Alphin, Esquire of Willson Jones Carter & Baxley, P.A., Columbia, South Carolina. |
| **PURPOSE OF HEARING:** | To determine the issues as set forth on the Form 21. |
| **DECISION AND ORDER:** | **By Susan Barden, Commissioner** |
| **FILED:** | December 17, 2014. |

## 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 Costal Orthopaedic Associates, William L. Mills, M.D., dated 7/28/2010 – 5/23/2013, consisting of pages 1-12.

APA #2: Records of InMed, dated 09/09/2010, consisting of page 13.

APA #3: Records of Conway Medical Center, dated 3/23/2012 – 03/28/2012, consisting of pages 14-30.

APA #4: Records of Doctor's Care, dated 03/13/2012 – 04/06/2012, consisting of pages 31 - 34.

APA #5: Reports of Long Bay Diagnostic Imaging, dated 04/17/2012 – 04/18/2012, consisting of pages 35-40.

APA #6: Records of Atlantic Physical Therapy & Rehabilitation, dated 10/18/2012 – 11/14/2012, consisting of pages 41-57.

APA #7: Records of Carolina Bone and Joint Surgery Center, dated 1/30/2012 – 03/18/2013, consisting of pages 58-63.

APA #8: Records of Community Rehab and Physical Therapy, dated 3/30/2013, consisting of pages 64-65.

APA #9: Records of Pee Dee Orthopaedic Associates, P.A., dated 8/15/2013, consisting of pages 66-67.

APA #10: Records of Initial Vocational Evaluation with Labor Market Survey, dated 7/17/2014 – 7/21/2014, consisting of pages 68-83.

APA #11: Records of Conway Medical Center, dated 07/13/14, consisting of pages 84-90.

APA #12: Records of Dr. W.S. Edwards, Jr. of Pee Dee Orthopaedic Assoc., dated 10/31/13 – 03/27/14, consisting of pages 91-93.

APA #13: Records of Dr. Steven Poletti of Southeastern Spine Institute, dated 05/07/12 – 03/05/14, consisting of pages 94-102.

APA #14: Records of Dr. William Mills of Coastal Orthopaedic Assoc., dated 04/02/12 0 04/27/12, consisting of pages 103-107.

APA #15: Records of Dr. Ross Taylor of Costal Orthopaedic Assoc., dated 08/09/12 – 04/11/13, consisting of pages 108-114.

APA #16: Records of Phillip Lowe, P.T. of Lowe's Therapy, dated 02/28/14, consisting of pages 115-117.

APA #17: Records of Glen K. Adams of Adams & Wilkinson, dated 05/20/14, consisting of pages 118-129.

APA #18: Records of Horry County Fire Rescue, dated 03/10/12, consisting of pages 130-131.

Defendants' Exhibit One: Medical statement of Dr. Sarb from 2011.

Defendants' Exhibit A: Form 19 for WCC# 1009581

Defendants' Exhibit B: Form 16A for WCC# 1009581

Defendants' Exhibit C: Tax returns for ProCutters year 2012 and 2013

Claimant's Exhibit A: Preliminary Disability Cost Projection of Karen Shelton of Project Works, dated 04/09/14, consisting of page 132.

Claimant's Exhibit B: Letter of SC Retirement System approving claim for disability retirement, dated 07/09/12, consisting of page 133.

Claimant's Exhibit C: Claimant's PowerPoint Presentation consisting of pages 134-155.

Claimant's Exhibit D: Deposition transcript of Dr. William Mills dated 12/03/12.

Claimant's Exhibit E: Deposition transcript of Dr. Williams Mills dated 08/23/12.

Claimant's Exhibit F: Claimant's prior workers' compensation file bearing WCC #1009581 incorporated by reference.

Claimant's Exhibit G: Unappealed Decision and Order of the SC Workers' Compensation Commission dated 5/1/14.

## 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 Form 21 and any other issues which may timely come before the Commission;

2. That the Claimant's accident occurred on March 10, 2012;

3. The Claimant's average weekly wage was $709.95 with a corresponding compensation rate of $473.32;

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 issues for determination are whether the Defendants are entitled to stop payment of temporary total compensation and the Claimant's entitlement to temporary total disability compensation, permanent partial disability compensation, total disability compensation, medical benefits and/or disfigurement, if any, and any other issues which may timely come before the Commission.

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. The Commission's file includes (but is not limited to) the Order of Commissioner Roche, dated May 2013.

## III. STATEMENT OF THE CASE

This case was heard by the undersigned Commissioner in Conway, South Carolina, on August 15, 2014. Defendants filed a Form 21 (received by the Commission on February 3, 2014), requesting to stop payment of compensation, a determination of permanency, if any, and credit for over payment of temporary compensation following the Claimant's release at maximum medical improvement (MMI).

It is Claimant's position that he is permanently and totally disabled. Claimant asserts that he has sustained injuries to multiple body parts, that he has significant problems with regard to each of those body parts, and that his injuries involve significant body parts such as his spine and right leg. Claimant asserts that the combination of his two injured body parts when considered with his vocational report support a finding that he is entitled to a permanent and total disability award.

Alternatively, Claimant asserts that he is entitled to permanent and total disability under S.C. Code Ann. §42-9-30. Claimant believes the impairment rating alone is single digits away from a greater than 50% loss of use of his spine. Further, Claimant believes that Defendants cannot rebut the presumption that he is permanently and totally disabled. Therefore, Claimant asserts that he is permanently and totally disabled under either theory. Additionally, Claimant believes that Defendants are not entitled to receive credit for 75 weeks of compensation that he received as a result of his prior workers' compensation claim because the impairment rating from his pending claim is unrelated to the impairment rating received as the result his prior claim.

Claimant seeks the award that is most advantageous to him, whether it is under S.C. Code Ann. §42-9-20 or §42-9-30. Claimant believes the undersigned should consider that he has been removed from his pre-accident job, has not been offered another job, and that he has qualified for disability under the state retirement system for retirement disability. Claimant contends that he has significant permanent partial disability with regard to his injured body parts, which included his right ankle, neck, and spine. Claimant believes that impairment ratings are nothing more than a mere starting point in determining disability. Claimant acknowledges that the authorized treating physicians' impairment ratings are usually given greater deference, but Claimant requests the undersigned to consider his contention that the authorized treating physician's rating is flawed because he only rated his right ankle and not his leg. As such, Claimant believes that the undersigned should give greater difference to the impairment rating by the physician he sought after disapproving of the authorized treating physician's rating. Claimant further asserts that the impairment rating to his cervical and lumbar spine is a new impairment rating according to Dr. Edwards. However, Claimant believes that Dr. Poletti's (Claimant's expert) impairment rating should be given greater deference for reasons set forth in Dr. Poletti's evaluation and narrative.

Regarding credit, Claimant contends that any credit owed to Defendants should begin on March 5, 2014, because he was still treating and considering surgery until the aforementioned date. Alternatively, Claimant contends that any credit owed to Defendants should start from the date Defendants filed the Form 21, received by the Commission on February 3, 2014.

Regarding future medical treatment, Claimant takes the position that he is entitled to future medical treatment in the form of a fusion surgery as recommended by Dr. Poletti and another unauthorized physician as reflected in Claimant's APA submissions. Claimant contends that the physicians have counseled him to defer surgery as long as possible. Claimant believes that he should not be punished for not undergoing surgery after he has been advised to defer the surgery as long as possible. In addition to the fusion surgery, Claimant also wants the undersigned to consider that Dr. Poletti opined that Claimant would need physical therapy and injections as well.

It is Defendants' position in this matter that Claimant reached MMI on October 31, 2013. In addition to stop payment and credit for over payment of temporary compensation, Defendants seek a determination of permanency with regard to Claimant's right ankle, neck, and low back. Defendants believe that the award should be made pursuant to S.C. Code Ann. § 42-9-30(21) for the spine and item (16) for the leg. Defendants believe that Claimant did not sustain permanent partial disability beyond the impairment ratings of the authorized treating physician, and if there is any partial disability, it would be strictly *de minimis*. Defendants strongly oppose Claimant's position that he is permanently and totally disabled due to the fact that he owns and operates a landscaping company. Defendants acknowledge that Claimant may not be able to perform some of the physical labor that he performed prior to his work-related accident; however, Defendants assert that Claimant still runs the company, the company remains profitable, and Claimant is capable of performing some of the tasks necessary to run the company. Defendants assert that based on the

findings of their vocational report and the fact that Claimant continues to run a landscaping company, Claimant is not permanently and totally disabled.

Defendants believe that Claimant's entitlement to a permanency award would be limited to S.C. Code Ann. § 42-9-30. Defendants contend Claimant has not sustained 50% or greater loss of use to his spine, thus his permanency award at most would be based upon a maximum of 300 weeks. Regarding credit for over payment of temporary compensation, Defendants take the position that they are entitled to receive credit for the temporary compensation paid after October 31, 2014, as well as credit for 75 weeks of compensation paid as a result of Claimant's prior workers' compensation claim for the spine. Defendants assert that the Form 16A, which Claimant signed in 2011, includes an impairment rating to the whole spine and not a specific region of Claimant's back. As such, Defendants believe they are entitled to 75 weeks credit to any permanency award for Claimant's back based on Claimant's prior workers' compensation claim with same Employer and Carrier with date of accident July 15, 2010, WCC #.1009581.

Regarding future medical treatment, Defendants construe Dr. Poletti's recommendation of a fusion if Claimant's condition deteriorates as an issue to be addressed as a change of condition for the worse and should not be considered future medical treatment. Therefore, Defendants take the position that Claimant is not entitled to future medical treatment because the authorized treating physician has not recommended future medical treatment and none should be awarded.

Claimant testified at the hearing in this matter, and his testimony allowed this Commissioner to observe the Claimant, to ask questions to the Claimant, and to judge his credibility as a witness.

## IV. EVIDENCE OF THE CASE

**Testimony of the Claimant, Scott Ledford:**

**Direct Examination of Claimant:**

Claimant testified that he is 39 years of age (Hearing Tr. pg. 19). Claimant is originally from New York and has three school-aged children (Id. at pgs. 20 and 22). Claimant's wife works as a school teacher (Id. at pg. 29). Claimant graduated from high school and attended college for two years where he studied criminal justice (Id. at pg. 19-20). On the date of the accident in issue, Claimant's position/rank with Defendant Employer was Lance Corporal and ACE team member with the South Carolina Highway Patrol (Id. at pg. 21). Claimant testified he worked for Defendant-Employer until he was placed on medical disability retirement (Id. at pg. 20).

Claimant testified he and his wife own a landscaping business with gross receipts of $334,906 in 2013 and $243,658 in 2012 (Id. at pgs. 29; 63-64). Claimant testified that it is common and typical for Troopers to have secondary businesses, and the purpose of the landscaping business was to supplement his income in order to allow his wife to stay home with their three children, and his desire to have "nicer things" (Hearing Tr. pgs. 23-30; 63-65). Claimant's additional income also enabled him to go on hunting trips to places such as Colorado and Washington State (Id. at pgs. 69-71). Claimant initially testified that he is "somewhat of a hustler" and that he "work[s] a lot," but later testified that he tries "from time to time to get involved" with the landscaping business (Id. at pg. 25). Claimant testified that he tries to abide by his work restrictions, but when he does not abide by the work restrictions, his pain intensifies (Id. at pg. 50). Claimant also testified that his landscaping business supplements his income and that he must continue operating the business because he "do[es] not have a choice" (Id. at pgs. 28-30).

Claimant testified he had a workers' compensation claim in 2010 that "was a t-spine injury only," and that he did not receive an impairment rating to his cervical spine as a result of his 2010 workers' compensation claim (Id. at pgs.50, 66). Claimant's testimony regarding the treatment he

received as a result of his 2010 workers' compensation claim was that he only received treatment to his thoracic spine and that he did not complain of neck pain (Id. at pg. 68). However, after being confronted by a medical report from his 2010 workers' compensation claim on cross-examination as to the prior 5% impairment rating, Claimant first responded "if you say; I don't know" (Id. at pg. 67); when shown the document, Claimant acknowledged its contents, but went on to say that he only saw Dr. Sarb once, that it was for his thoracic spine, and "whether she did something—she only did a nerve study." Claimant denied ever having complained of neck pain (Id. at pg. 68).

Claimant testified that the surgeon who performed his ankle surgery told him that he realized during the surgery that his ankle injury was much worse than he had thought (Id. at pg. 38). However, Claimant testified that after the surgery, physical therapy progressively improved his condition (Id. at pg. 39). Claimant later testified that he feels as if he was in a better condition before the surgery than after the surgery (Id. at pg. 40). Despite feelings that he is ankle is worse now than before the surgery, Claimant testified that he hikes in Gatlinburg, TN, rides a motorcycle, hunts, throws a baseball with his son, and regularly goes to the gym (Id. at pgs. 45-48, 69-70). Even though Claimant testified that he never knows when his ankle will give out, he inconsistently does not use any assistive device to keep him from falling (Hearing Tr. pg. 45). Claimant testified that he always has pain and swelling in his ankle, but he does not take prescription pain medicine because he does not like the way it makes him feel (Id. pgs. 44-45). Claimant testified that his spinal pain is "terrible" and "life changing," but he uses no prescription medication (Id. at pgs. 55, 61-62). Claimant testified that he always has pain in his neck (Id. at pg. 57). Claimant testified that he has pain in his lower back, but it is not as bad as the pain in his neck (Id.) Then, Claimant testified that "a couple of weeks ago...I hurt so bad in my lower back...I went to the Conway E.R" (Id. at pg. 58).

Cross Examination of Claimant:

Claimant admitted he has neither looked for nor applied for any jobs since getting injured at work on March 10, 2012 (Id. at pg. 63). Claimant does own and operate a landscaping and lawn company called Pro-Cutters (Id.) Claimant testified he does not know how much income he makes, but he agreed that his tax returns for 2013—the year after the date of the 2012 accident in issue--indicate gross receipts and sales of $334,906 (Id. at 63-64).

Claimant reiterated that his 2010 work accident was for his t-spine only (Id. at 66). Claimant admitted to treating with Dr. Sarb for his 2010 accident, but when asked if Dr. Sarb treated Claimant's neck and radicular sympoms in the arm, he replied she did a nerve study (Id. at 66-67). Claimant denied being aware of Dr. Sarb's assignment of 5% impairment to Claimant's cervical spine (Id. at 67-68). Defendants submitted, without objection of Claimant's attorney, the report of Dr. Sarb assigning 5% impairment to the cervical spine, and Claimant still maintained that all Dr. Sarb did was a nerve study (Defendants' Exhibit 1; Hearing Tr. pg. 67-78).

Claimant then denied he complained of neck pain to Dr. Sarb and terrified it complained of numbness and tingling and burning in his thoracic area (Hearing Tr. pg. 68-69). He then admitted to having the numbness and tingling down his arm prior to this current workers' compensation claim (Id. at 69).

**Medical Evidence:**

On March 10, 2012, Claimant presented to Conway Medical Center with complaints of right ankle pain as the result of a motorcycle accident (APA #3 pg. 17). On March 13, 2012, Claimant presented to Doctors Care with complaints of right ankle pain and was diagnosed with a right ankle sprain (APA #5, pg. 31). On April 6, 2012, Doctors Care referred Claimant to Dr. Mills for further treatment and evaluation (Id. at pg. 34). On April 20, 2012, Claimant presented to Dr.

Mills with continued complaints of thoracic pain, lower back pain, and right ankle pain (APA #1, pg. 3). Dr. Mills diagnosed Claimant with myofascial pain in the thoracic area, a right ankle contusion, and L5-S1 spondylosis (Id.). Dr. Mills wrote Claimant out of work on April 20, 2012 (Id. at pg. 4).

On May 7, 2012, Claimant presented to Dr. Poletti of Southeastern Spine Institute with complaints of pain to his back, his leg, his neck, and his right arm (APA #13, pg. 94). Dr. Poletti noted in his report that Claimant told him that he is a very active outdoorsman and that he is very aggravated that his pain is not improving (Id.) Dr. Poletti diagnosed Claimant with cervical cord compression, status post compression fracture at T6 and T9 with kyphotic deficit, and disc disruption at L5-S1 (Id. at pg. 96).

On June 4, 2012, Claimant went back to Dr. Mills with complaints of right hand numbness, right arm pain, neck pain, low back pain, and right ankle pain (APA #1, pg. 5). Dr. Mills diagnosed Claimant with C5-6 spondylosis with right cervical radiculopathy, L5-S1 spondylosis, and right ankle contusion with continued pain (Id.). On June 19, 2012, Claimant presented to Dr. Taylor with complaints of right ankle pain (Id. at pg. 7). Dr. Taylor diagnosed Claimant with a right ankle sprain and superficial peroneal neuritis (Id. at pg. 8). On November 15, 2012, Claimant presented to Dr. Taylor with continued complaints of right ankle pain after 12 visits of physical therapy with modest to no relief (Id. at pg. 9). Dr. Taylor diagnosed Claimant with probable impingement lesion, a possible osteochondral lesion, and posterior syndrome to his right ankle, and recommended surgery (Id.) On January 30, 2013, Dr. Taylor performed an anterior arthroscopy with debridement of impinging synovium as well as resection of anterior distal tibial osteophyte and an open resection of posterior process of talus (APA # 7, pg. 58). Claimant attended rehabilitation and physical therapy sessions after his right ankle surgery from March 4 – March 26,

2013 (APA # 8, pg. 64-65). On May 23, 2013, Dr. Taylor opined that Claimant's right ankle had reached maximum medical improvement, issued him a 7% impairment rating to his right ankle, restricted Claimant from running, cutting, pivoting, and unpredictable surfaces, and determined that Claimant did not need future medical treatment (APA #1, pg. 12).

On August 15, 2013, Claimant received an independent medical evaluation on his right ankle from Dr. Edwards of Pee Dee Orthopaedic Associates (APA #9, pg. 66). Dr. Edwards opined that Claimant had suffered from a right ankle sprain with chronic pain status post previous surgery (Id. at pg. 67). Dr. Edwards also opined that Claimant had an 18% impairment to his right lower extremity as a result of the motorcycle accident, ankle surgery, and his complaints of chronic pain (Id.). On October 31, 2013, Dr. Edwards of Pee Dee Orthopaedics opined that Claimant's spine had reached maximum medical improvement (APA #12, pg. 91). Dr. Edwards determined that Claimant had 15% impairment to his spine based on cervical disc protrusion at C5-6 and C6-7 and additional 10% impairment of his spine based on compression fractures of T6 and T9 (Id.). Dr. Edwards noted that Claimant was not interested in pursuing any aggressive treatment as it related to his cervical spine (Id.).

On March 5, 2014, Dr. Poletti opined that Claimant was at maximum medical improvement and issued him a 23% impairment rating to his spine based on his cervical and lumbar radiculopathy (APA #13, pg. 101). Dr. Poletti further opined that it was more likely than not that Claimant will require cervical fusion surgery and lumbar disc surgery versus disc replacement surgery *if Claimant's condition deteriorates in the future* (Id.; emphasis added) On March 27, 2014, Dr. Edwards wrote a letter to Claimant's attorney stating that based on his October 31, 2013, maximum medical improvement note, he believes that it is more likely than not that Claimant will need future medical treatment in the form of physical therapy and therapeutic

injections (Id. at pg. 92).

On July 13, 2014, Claimant presented to Conway Medical Center with complaints of low back pain that did not radiate and had no known mechanism of injury (APA #11, pg. 84). Claimant was discharged from Conway Medical Center in stable condition with a diagnosis of back pain and prescriptions from Naprosyn and Flexeril. (Id. at pg. 87).

**August 23, 2012 Deposition of Dr. Williams Mills—submitted by Claimant**

Dr. Mills testified that he treated Claimant for injuries arising out of Claimant's July 15, 2010 and March 10, 2012 workers' compensation accidents (Dr. Mills Dep. 5:7-20, August 23, 2012). Dr. Mills testified that Dr. Sarb opined in an August 27, 2010 note that Claimant had complaints in the cervical spine and disc pathology that Dr. Sarb wanted to evaluate (Id. at 15:1-16:20). Dr. Mills also testified that Dr. Sarb opined in an August 26, 2011 note that Claimant sustained a 5% impairment rating to his whole person due to cervical degenerative changes and radicular paresthesia symptoms (Id.). Dr. Mills testified to a reasonable degree of medical certainty that Claimant's thoracic area was the most symptomatic as a result of his first workers' compensation accident, but that he also had symptoms in his **neck**, upper back, and lower back (Id. at 19:2-11.) [emphasis added]. Dr. Mills testified to a reasonable degree of medical certainty that Claimant's second workers' compensation accident exacerbated the symptoms in his neck and lower back to the point that he recommended that Claimant have fusion surgery on his neck and his lower back. (Id. at 20:1-11).

**December 3, 2012 Deposition of Dr. William Mills**

Dr. Mills testified that he recommended Claimant undergo cervical spine surgery at C5/6 and lumbar spine surgery at L5/S1, but as of the date of his deposition, he had not performed the recommended surgeries (Dr. Mills Dep. 29:2-31:23, December 3, 2012). Dr. Mills testified that he

believes Claimant is a good candidate for surgery because he does not smoke, does not have diabetes, is not obese, and *seems very active* (Id. at 37:9-24) [emphasis added]. Dr. Mills testified that all the usual conservative measures have failed to provide Claimant with relief, which is why he recommended that Claimant have surgery (Id. at 38:18-39:5). Dr. Mills testified that he indicated in his July 28, 2010 note that Claimant had complaints of **neck** and low back pain as indicated by his diagnosis of lower extremity pain and bilateral upper extremity paresthesia (Id. at 45:9-20) [emphasis added]. Dr. Mills testified that Dr. Sarb treated Claimant for **neck** and low back pain in August of 2010 as a result of Claimant's 2010 workers' compensation accident (Id. at 48-50) [emphasis added]. Dr. Mills testified that for Claimant's 2010 workers' compensation accident, he released Claimant back to work as a state trooper without work restriction, and did not see him again until 15 months later (Id. at 56-57).

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. Claimant injured his right ankle in an admitted accident on March 10, 2012. Claimant's neck and low back injuries were found compensable by Order of Commissioner Roche, dated May 2013.

2. Claimant is 39 years of age (Hearing Transcript, page 19).

3. Claimant is originally from New York, and has 3 school-aged children (Hearing Transcript, pages 20 and 22; Claimant's APA #17, page 123).

4. As of the date of the hearing, Claimant's wife works as a school teacher (Hearing

Transcript, page 29; Claimant's APA #17, page 122).

5. Claimant graduated from high school, and attended college for 2 years where he studied criminal justice; Claimant is just 3 courses shy of his Associate's Degree. Claimant also graduated from the S.C. Criminal Justice Academy. According to his vocational expert, Claimant plans to pursue higher education at a technical college (Hearing Transcript, pages 19-20 and 59; Defendants' APA #10, page 71; Claimant's APA #17, pages 119-120 and 123).

6. On the date of the accident in issue, Claimant's position/rank with Employer was Lance Corporal and ACE team member with the Highway Patrol. Among other things, this job required Claimant to: (a) review files and criminal records to develop possible leads, (b) investigate causes and results of accidents, (d) complete daily activity reports, and (d) testify in court (Hearing Transcript, page 21; Defendants' APA #10, pages 70 and 79).

7. On the date of the accident in issue, Claimant earned approximately $40,000 - $42,000 per year with Employer (Defendants' APA #10, page 79; Claimant's APA #17, page 120).

8. In addition to his job with Employer, Claimant and his wife own (and have owned for 18 years) a mostly commercial landscaping business, the gross receipts for which were $334,906 in 2013, **(the year after the 2012 accident in issue)**, and $243,658 in 2012—the year of the accident. I attribute Claimant's lower gross receipts in 2012 to Claimant's accident and recovery therefrom (Claimant's tax returns for 2012 and 2013, as submitted by Defendants; Hearing Transcript, pages 29 and 63-64; Claimant's APA #17, page 120).

9. As to the reason for the dual employment, Claimant testified that (a) it is common and typical for Troopers to have secondary businesses: "you could maybe live off of just being a highway patrolman, but you would – it wouldn't be very good," (b) the purpose of the business was to supplement his income in order to allow his wife to stay home with their three children, so

that the children would not be in daycare, and a desire to have "nicer things." Claimant's additional income also enabled him to go on hunting trips to places such as Colorado and Washington State. Medical evidence describes Claimant as a "trooper/business owner" (Hearing Transcript, pages 23-30, 63-65, and 69-71; Claimant's APA #17, page 123; Defendants' APA #5, page 39; December 2012 Deposition of Dr. Mills, pages 56-57; Claimant's 2012 and 2013 tax returns as submitted by Defendants).

10. As far as his landscaping business is concerned, Claimant initially admitted at the hearing that he is (present tense) "somewhat of a hustler" and "*work[s] a lot*" (also present tense). I give this testimony far greater weight than I give Claimant's later, inconsistent testimony that he tries "from time to time to get involved." I also give greater weight to the initial "somewhat of a hustler" and "works a lot" admissions than I give to Claimant's statement to his vocational expert that he mostly "calls his employees to check on their progress." Additionally, because Claimant works out at the gym every day, because his weight has not fluctuated upward since the accident, and because of medical providers' description of Claimant as muscular and very physically fit (*See* finding of fact, *infra*), I believe and find that Claimant is far more active than he lets on (**Hearing Transcript, page 25, lines 7-9**; Claimant's APA #17, pages 119-120; Claimant's APA #13, page 94).

11. Although Claimant told one vocational expert that he earns no personal income from the landscaping business, he admitted to Defendants' evaluator that he "owns a landscaping business" and works as tolerated, has the business in order "to supplement" his income, is stated to be a shareholder via tax returns, and testified at the hearing that he must continue the landscaping business because he "do[es] not have a choice;" I therefore find that Claimant's landscaping business continues to be lucrative for Claimant primarily through deductions taken for his vehicles,

a boat, "meals and entertainment," phones, utilities, etc., as the business is located at Claimant's residence, according to Claimant's vocational report and tax returns (Hearing Transcript, pages 23, 25, 28-30, and 63; Claimant's APA #17, pages 119-120 and 122; Claimant's 2012 and 2013 tax returns, as submitted by Defendants; Defendants' APA #10, page 70).

12. Claimant is articulate, and expressed himself well at the hearing. Defendants' vocational report shows that Claimant's academic skills of word reading, sentence comprehension, spelling, and math are all above average. Claimant's vocational report states that Claimant's word reading is at a 12.5 grade equivalent, his sentence comprehension a 12.9 grade equivalent, his spelling a 12.7 grade equivalent, and his math computation is a 10th grade equivalent. **Notwithstanding Claimant's documented academic achievements and abilities, Claimant has not applied or looked for any other work of any description.** I therefore believe and find, based upon this and other evidence, that Claimant has instead chosen to devote his time and efforts to his landscaping business. (Hearing Transcript, *e.g.*, pages 63 and 70; testimony of Claimant; observations of the undersigned at the hearing; Defendants' APA #10, page 76; Claimant's APA #17, pages 123-124).

13. Claimant has the appearance of being physically fit. The ankle IME also describes Claimant as *"muscular,"* and Dr. Poletti notes just several months prior to the date of the hearing that Claimant is *"very physically fit."* Dr. Mills similarly describes Claimant as "very fit" and "active." In fact, Claimant goes to the gym for an hour each day, and weighs virtually the same--actually slightly less—than he weighed shortly after the date of the accident (Claimant's APA #13, page 94—Claimant weighed 192 in May 2012--2 months after the accident; Claimant's APA #13, page 101—describing Claimant as "very physically fit;" Claimant's APA #17, page 119--Claimant goes to the gym for an hour each day; Defendants' APA #10, page 71—describing Claimant's weight the month prior to the hearing as approximately 186; Defendants' APA #9, page

67—describing Claimant as "muscular;" observations of the undersigned; August and December 2012 Depositions of Dr. Mills).

14. During both the pre-hearing conference and at the hearing, **Defendants requested credit for Claimant's prior 2011 settlement** for the 2010 spine injury. A copy of the 16A, dated 2011, was provided by the parties to the undersigned during the pre-hearing conference. Defendants contend that the prior rating was a whole person impairment rating (encompassing the entire spine and not just limited to any particular area of the spine, such as the thoracic spine), and Claimant contends that the rating and settlement were solely attributable to the thoracic spine, as Claimant contends he did not injure his neck or low back in the prior 2010 accident (*"t-spine only"*—Hearing Transcript, page 66). Because of the dispute raised by the parties, adjudication of the issue necessitated my review of Commissioner Roche's 2013 Order, as contained in the Commission's file. In fact, when Defendants impeached Claimant with a prior cervical rating Claimant had solicited on his own behalf, Claimant's counsel specifically stated he had no objection because "I think all of that should be in the file." Additionally, at the hearing before the undersigned, Defendants submitted medical evidence from the prior 2010 case, and Claimant submitted two depositions into evidence (Claimant's APA, Exhibits D and E) in which Claimant's counsel himself refers to Claimant's cervical and low back injuries from the prior (2010) accident (*See e.g.*, various documents as contained in Defendants' APA #1, #2, and #5; Defendants' Exhibit #1, containing the 2011 letter from Dr. Sarb assigning an impairment rating for the neck for the prior claim in response to Claimant's counsel's request for a cervical spine impairment rating). None of these documents was requested by the undersigned. The only document requested of the parties by the undersigned was a post-accident-in-issue deposition indexed in—but inadvertently missing from--Claimant's submissions. No documents (a) outside the Commission's file, as

provided to the undersigned by the Judicial Department upon assignment to the undersigned, or (b) other than those provided by the parties were consulted or reviewed in preparation of these findings.

15. For the 2010 claim, Claimant was assigned a 15-18% whole person impairment rating to the spine (the impairment rating itself does not specify the particular spinal level(s) involved), and settled his claim for in 2011 for 25% to the spine ($38,151.75).

16. **In order to foreclose Defendants' request for credit for the 2011 settlement of the 2010 claim, Claimant testified under oath before the undersigned (a) that he did not injure his neck in the 2010 accident (*"that was a t-spine injury only"–Hearing Transcript, page 66), and "everything that was done was done for my thoracic spine from day one"*; (b) that he had "never" complained of neck pain from the 2010 accident; (c) that he did not have an impairment rating to the neck from the 2010 accident, or (later) was unaware he had an impairment rating to the neck from the 2010 accident (Hearing Transcript, page 50, lines 24-25), even though his attorney requested and received a neck impairment rating on his behalf, and even though Claimant's counsel discussed with Dr. Mills in multiple depositions that Claimant injured his neck and low back in the 2010 accident; and (d) that he had no idea why his treating physician would order any cervical testing because of the 2010 accident. When Claimant was confronted on cross examination with the prior cervical rating, he was evasive and continued to maintain it was for his thoracic spine (Hearing Transcript, *e.g.*, pages 50 and 66-69).**

17. Notwithstanding Claimant's testimony to the contrary, Claimant underwent a cervical MRI in 2010 for the 2010 injury, the reason for which according to the report's "History" was "neck pain...extending into the right arm with numbness"); (b) Dr. Poletti (in 2012) refers to

Claimant's non-operative neck care with Dr. Sarb in 2010, stating that Claimant has, since the 2010 accident, "*remained with neck pain,*" according to Claimant's complaints to Dr. Poletti; without Claimant's own statement to Dr. Poletti, Dr. Poletti would otherwise have no knowledge that Claimant has "remained" with neck pain since the date of the 2010 accident; (c) Commissioner Roche's 2013 Order refers to the Claimant's 2010 neck treatment, refers to the fact that Claimant's 2010 neck condition deteriorated upon Claimant's return to work after the 2010 accident but **before the 2012 accident**, and refers to Claimant's contention that Claimant is "*now in need of surgery to his cervical spine" as a result of the 2010 accident*; (d) **Claimant's own vocational expert** writes that Claimant's 2010 accident caused cervical spine problems at C4-5 and C5-6, including nerve damage and right arm numbness; (e) Claimant's attorney in 2011 requested a cervical spine impairment rating for the 2010 cervical injury, and in response, received one. Claimant's knowledge of such is imputed through his attorney; however, regardless of whether Claimant knew about the cervical rating (even though his last visit with Dr. Sarb was for that specific purpose), Commissioner Roche's unappealed Order states that Claimant testified at the Roche hearing that he had neck pain/numbness from the 2010 accident, and was in need of surgery because of the 2010 injury; further, 21 pages of records of Dr. Sarb were admitted into evidence at Commissioner Roche's hearing (according to Commissioner Roche's Order); and (f) Claimant's own counsel **points out to Dr. Mills (at both Dr. Mills' December 2012 and August 2012 depositions) that Dr. Sarb treated Claimant for his neck/arm complaints in 2010**, as Claimant's counsel sought to alternately establish the fact that Claimant's cervical condition worsened after the 2010 accident—**Dr. Mills responds to Claimant's counsel that Claimant's neck was in fact injured in the 2010 accident** (Claimant's APA #17, page 118; Defendants' APA #2, page 13, containing a cervical MRI dated September 2010—for "neck pain;" Hearing

Transcript, pages 31-33, 50-51, and 66-69; Claimant's APA #13, page 96—he has "remained with neck pain" since the 2010 accident; **Defendants' Exhibit #1—a letter from Dr. Sarb in response to Claimant's counsel's request for a cervical spine impairment rating in 2011**; December 2012 Deposition of Dr. Mills, pages 44-50, particularly 48-49; August 2012 Deposition of Dr. Mills, *e.g.*, pages 11-16, 19, 37-38, and 40-41; Exhibits to Dr. Mills' August 2012 Deposition; unappealed Order of Commissioner Roche, dated May 2013, as contained in the Commission's file, page 4—Claimant is "now in need of surgery to his cervical spine...as a result of that [2010] accident; page 7--"his neck.....began bothering him...but....he did not seek any medical attention until after his motorcycle accident [of 2012]"--pages 8-10).

18. If there is any question as to whether Claimant injured his neck and low back in the prior (2010) accident, one need look no further than Dr. Mills' depositions (particularly the August 2012 deposition), in which Claimant's own counsel describes and discusses in detail Claimant's prior (*i.e.*, 2010 accident) neck and low back problems, and elicits testimony from Dr. Mills that Claimant injured his neck and low back in the prior 2010 accident. These two depositions were provided to the undersigned by Claimant's counsel.

19. I further note that Commissioner Roche's Order is replete with references to Claimant's contention that he injured his neck and low back in the prior accident. In fact, Claimant was granted a postponement prior to a hearing in order that he could "gather additional information regarding an alleged [2010] cervical spine injury." *See* Order of Commissioner Roche, pages 2, 4, and 7-12.

20. The undersigned is fully cognizant of the fact that at one point Claimant's neck or at least radicular problems from the 2010 accident resolved. However, at Commissioner's Roche's hearing, Claimant testified that his neck problems reappeared prior to the date of the 2012 injury

in issue, and that he was in need of surgery to his neck as a result of the original 2010 accident. According to Commissioner Roche's Order, Claimant last saw Dr. Sarb in 2011 (prior to the date of the 2012 injury in issue) for the purpose of obtaining a rating to his cervical spine. Commissioner Roche's Order also cites the fact that Dr. Mills testified that Claimant injured his neck in the 2010 accident. By contrast, at the hearing before the undersigned, Claimant denied the prior neck injury or pain prior to the date of the injury in issue, and initially outright denied—and then denied knowledge of—the prior cervical rating, even though Claimant went to Dr. Sarb for that specific purpose. Claimant's untruthfulness and evasiveness at the hearing greatly damage his credibility in general at the hearing, and call into question his veracity as a whole. If credibility is not important, and oaths are meaningless, then swearing in a witness is mere "window dressing," and could be dispensed with at hearings. In addition to taking an oath to tell the truth, Claimant also testified that he had "absolutely" answered all of his attorney's questions honestly, and that there was no answer he wanted to change (Order of Commissioner Roche, pages 4 and 7-11; Hearing Transcript, pages 50-51; page 62, lines 14-17).

21. According to Commissioner Roche's Order, Claimant testified that he needed surgery to his cervical and lumbar spines because of the 2010 accident. If Claimant asked Commissioner Roche to find a compensable change of condition regarding his neck injury from the 2010 accident, then by necessity, Claimant knew he had injured his neck in the 2010 accident; a change of condition would be impossible for a body part that was never injured or for a body part that Claimant did not know he had injured. By contrast, Claimant testified at the hearing before the undersigned that he only injured his thoracic spine in the 2010 accident:

*Q: You testified that that [2010 accident] was a T-spine injury only, correct?*

*A: Yeah.* (Hearing Transcript, page 66).

22. Based upon the greater weight of the evidence, including but not limited to Commissioner Roche's Order, I find that the $38,151.75 settlement for the spine for the 2010 accident encompasses all three spinal levels (Claimant's Exhibit).

23. Because of his ankle injury, Claimant underwent surgery in January 2013– arthroscopic debridement/resection of osteophyte and "resection of posterior process of talus" (Defendants' APA #7, pages 58-59; Claimant's APA #15, page 111).

24. Claimant was untruthful at the hearing when he testified (twice) that the treating surgeon discovered (during surgery) that Claimant's pathology was "a lot worse" than what the surgeon originally thought or expected; this testimony is not supported by the operative notes or by any treatment record in evidence. **In fact, the opposite appears to be true:** as one of the purposes of the surgery was "assessment of the cartilage surface" and resultant treatment of any cartilage pathology found during the assessment (Defendants' APA #1, page 9), the surgeon specifically notes in operative notes that *the lateral gutter was noted to be free of any loose bodies; the lateral shoulder of the talus was noted to be free of any cartilage lesions as was the distal fibula; the talar dome was void of any cartilage defects; the tibial articular surface was noted to be similarly absent of any articular cartilage lesions, and a tibial osteophyte had no corresponding cartilage lesion.* Claimant's exaggerated testimony in this regard is self-serving hearsay that further damages his credibility as medical evidence does not support—and actually refutes--his statement in this regard (Defendants' APA #7, pages 58-59; Defendants' APA #1, page 9; Hearing Transcript, pages 38 and 40).

25. As to Claimant's outcome from the ankle surgery, Claimant's testimony is not believable or credible: Claimant initially testified at the hearing that with post-surgical physical therapy, he "progressively got better and better" (Hearing Transcript, pages 38-39), and then practically in the

next breath, Claimant visibly "shifted gears," and inconsistently testified that surgery was "absolutely not" successful, that he was better prior to the surgery than he is now, and that he is "absolutely" worse. Claimant's demeanor and delivery were not believable or persuasive; nor is this testimony—that Claimant was better prior to the surgery--supported by the treatment records. I also note that after Claimant's recovery from the surgery, his landscaping business gross receipts rose from $243,000 (the year of the accident) to $334,906--the year after the accident (Hearing Transcript, pages 39-40, 43, and 52; Claimant's tax returns as submitted by Defendants).

26. Although the undersigned recognizes that it is entirely possible for a claimant to be initially better after surgery, but then subsequently become worse, a sequential review of the medical evidence after the surgery up through the date of maximum medical improvement does not show this to be applicable in this case:

(a) 1½ months after the date of the surgery, Claimant's treating physician was "pleased with [Claimant's] progress;" Claimant's *only complaint to his physical therapist was "ankle stiffness when he initially stands up;"* Claimant told the treating physician's practice that he was having "no difficulty;" Claimant's gait was only "slightly antalgic" (Defendants' APA #7, pages 61-63; Claimant's APA #15, page 113);

(b) 2½ months after the surgery, Claimant's subjective complaint was "*mild* stiffness and discomfort;" Claimant had *"complete stability."* Claimant was returned to use of a regular shoe (Claimant's APA #15, page 114);

(c) 4 months after the surgery Dr. Taylor found "*complete stability* of the bilateral hind foot, mid foot, and forefoot joints;" Claimant's complaints were his inability to run, cut, or pivot. Claimant's pain was described as "*intermittent*", and his gait "is *non-*

*antalgic*" [emphasis added] (Defendants' APA #1, page 12);

(d) Claimant's post-surgical restrictions for his leg are cutting, running, pivoting, and unpredictable surfaces. However, prior to the surgery (which Claimant contends made him "worse"): (a) he was on crutches and then had to use a walking boot; (b) he had an *"antalgic gait,"* and (c) a *"persistently painful" ankle*. After the surgery and reaching MMI, Claimant had a *"nonantalgic" gait and an "intermittent" dull ache*. **Even Claimant's vocational expert notes that Claimant "ambulated [at the evaluation] with no observed problems."** The most recent medical record in evidence—an ER visit—also documents Claimant's "normal" gait. Claimant's surgical outcome is clearly better than he is willing to admit to the Commission for purposes of permanency (*e.g.*, Defendants' APA #1, pages 8-9 and 12; Defendants' APA #3, page 25; Defendants' APA #4, page 31—"ambulates with crutches;" Claimant's APA #15, pages 108-109 and 113-114; Hearing Transcript, pages 39-40 and 43).

27. As to Claimant's surgical outcome and recovery (ankle), I also note that Claimant (a) hikes in Gatlinburg, TN; (b) is able to ride his Harley; (c) hunts; (d) throws baseballs; and (e) goes to the gym and works out. The fact that Claimant no longer coaches his son's baseball team, that he may no longer be able to hike "Clingmans [phonetic] Dome," that he may no longer be able to run, and that he no longer goes to Colorado to hunt is not persuasive evidence toward a finding that Claimant is unable to work (Hearing Transcript, pages 40, 45-48 and 69-70; Claimant's APA #17, page 123).

28. Both prior to and after the ankle surgery, treatment records state that Claimant had and has *"complete stability of the left ankle, hindfoot, bilateral midfoot and forefoot joints"* (medical

evidence in its entirety including but not limited to Defendants' APA #1, pages 7, 9, and 12; Claimant's APA #15, pages 108-109 and 114; Defendants' APA #6 in its entirety—documenting no complaint of "giving out" or "giving way;" Claimant's APA #14, page 103—pre-surgical record containing documentation of an ankle exam with no complaint of giving out).

29. Claimant's testimony at the hearing--that his ankle "gives out" on him--is not supported by even a **single** pre- or post-surgical **treatment** record in evidence; if anything, Claimant's testimony is refuted by the medical evidence as referenced in the preceding finding of fact. I find that Claimant complaints in this regard—**made only to his vocational expert and to the ankle IME physician** (however, the IME also interestingly found "no instability" of the ankle joints, and saw no apparent need to take x-rays or other diagnostic films)—are for purposes of litigation and maximization of his claim. In addition to Dr. Taylor's treatment notes (in which there is no complaint of instability), Doctors Care records also state that there is "0 ligamentous laxity." PT records are similarly silent as to any complaint of instability or giving way. I find the treatment records (a) inconsistent with Claimant's self-serving testimony and (b) consistent with Claimant's initial hearing testimony that he **works "a lot" in his landscaping business, that he is able to hike, and that he is able to hunt** (medical evidence in its entirety; Claimant's APA #17, page 119; Hearing Transcript, *e.g.*, pages 25, 40, and 45; Defendants' APA #9, pages 66-67; Defendants' APA #4, pages 32-33).

30. For a person whose leg allegedly gives way or gives out without warning, Claimant inconsistently does not use any assistive device (*e.g.*, Claimant's APA #17, page 118; Hearing Transcript, *e.g.*, page 45).

31. To Defendants' vocational expert, Claimant reported that his ankle problems are (a) pain, (b) swelling, and (c) limited mobility. **There is no complaint or mention of instability or giving**

out of the ankle (Defendants' APA #10 in its entirety, including but not limited to page 69).

32. Even Claimant's own vocational expert states that Claimant ambulates with no observed problems and with no assistive devices (Claimant's APA #17, page 118).

33. For the 2012 leg injury in issue, the authorized treating physician assigned a 7% impairment rating, and recommends no future medicals. I considered the IME rating, but it is not without salient issues: (a) although the IME physician works in an orthopedic practice, the IME admits that he neither ordered nor reviewed any post-surgical films prior to rendering an opinion/assigning an 18% impairment rating; the IME rating is largely based upon Claimant's subjective complaints of instability, etc. The IME physician states that "due to lack of new x-rays, I am unable to evaluate for any post-traumatic ankle arthritis," but **gives no reason why he (in an orthopedics practice) did not have Claimant's leg at least x-rayed, particularly given Claimant's significant complaints to the IME**; (b) the IME physician *admits that Claimant's chronic pain complaints are "not well characterized;"* (c) even though Claimant told the IME that Claimant's ankle "gives out on him frequently," the IME by contrast documented **no instability;** (d) the IME states that Claimant's "hypersensitivity" complaint is not borne out by any diagnostic test; and (e) although Claimant admits that he continues to hike, the IME by contrast states that Claimant "cannot walk on uneven ground" and that Claimant is limited in his ability to walk on an incline; the IME must be unaware of Claimant's ongoing hiking and hunting activities (Defendants' APA #9, pages 66-67; Defendants' APA #1, page 12; Hearing Transcript, page 48).

34. If Claimant can hike, hunt, and throw baseballs, I believe that, notwithstanding any self-serving testimony to the contrary, Claimant is in fact performing physical labor for his landscaping business, and that he (according to his initial testimony) is in fact working "a lot."

35. Claimant takes no prescription medication for his ankle (evidence in its entirety, including

but not limited to Claimant's APA #17, page 119; Hearing Transcript, page 44).

36. I give greater weight to the authorized treating physician's restrictions of no running, cutting, pivoting, or unpredictable surfaces, as these restrictions are based upon treatment records. I do not give much weight to the restrictions (light) suggested by the IME, as the IME's restrictions are based upon Claimant's subjective statements and complaints which are in no way consistent with the treatment records. The IME (in an orthopedics practice) did not order a post-surgical x-ray prior to issuing an 18% impairment rating (Defendants' APA #1, page 12; Defendants' APA #9, pages 66-67).

37. As the authorized treating physician (Dr. Taylor) did not recommend any future medicals for the ankle, none are ordered herein (Defendants' APA #1, page 12).

38. PPD to right leg pursuant to Section 42-9-30(16): 10%. I find that a person who can hike and engage in all the other activities (including but not limited to landscaping work) in which Claimant engages has not sustained more than 10% loss of use to his leg.

39. Claimant was treated conservatively for his back and neck (medical evidence in its entirety).

40. **In spite of his significant spinal pain complaints ("terrible" and "life changing," per Hearing Transcript, page 55), Claimant takes no prescription medication for either his neck or back** (Hearing Transcript, pages 44-45 and 61-62; Defendants' APA #10, page 70; Claimant's APA #17, page 119; Claimant's APA #11, page 84—documenting "none" as far as medications are concerned; Defendants' APA #9, page 66).

41. As to the neck and low back, Dr. Mills states that Claimant has cervical and lumbar spondylosis, or disc degeneration/arthritis which became symptomatic (based upon pain complaints) from the accident (December 2012 Deposition of Dr. Mills, *e.g.*, pages 12-14, 17, 19,

28-29, and 38).

42. Because of Claimant's significant spinal pain complaints, Dr. Mills, in both written records (date of last visit: **June 2012**) and at Dr. Mills' August 2012 and December 2012 depositions, recommended surgery for both the cervical and lumbar spine based on complaints of significant pain that has allegedly persisted over a long period of time. However, Claimant has not seen Dr. Mills in **more than 2 years as of the date of the hearing, and Dr. Mills' last deposition occurred almost 2 years prior to the date of hearing.** During Dr. Mills' treatment period throughout 2012, Claimant repeatedly declined surgery. Further, Claimant told Defendants' vocational evaluator that *"no further treatment has been recommended."* This statement is not surprising given the fact that the most recent medical evidence (the ER visit) states that Claimant had no neck pain and only "mild" low back pain; by contrast, Claimant's pain complaints to Dr. Poletti led Dr. Poletti to recommend a rhyzotomy and possible surgery (Claimant's APA #14; Defendants' APA #1, pages 3-8; December 2012 Deposition of Dr. Mills, *e.g.*, pages 29-31, 38-39, and 42-43; August 2012 Deposition of Dr. Mills, *e.g.*, pages 17, 20, and 22; Defendants' APA #10, page 72).

43. More recently (October 2013—more than one year after Claimant last saw Dr. Mills), Dr. Edwards views Claimant's cervical MRI as showing no significant compressive pathology; Claimant told Dr. Edwards that he is "not interested" in surgery (Claimant's APA #12, page 91).

44. As to the neck, I give the greatest weight to the findings of Dr. Edwards, who refers to Claimant's condition as a cervical protrusion without radiculopathy or myelopathy; he states that there is an "absence of focal neurologic deficit." Claimant told Dr. Edwards that Claimant "believes conservative efforts will be appropriate" (medical evidence in its entirety, including but not limited to Claimant's APA #12, page 91).

45. As to the lumbar spine, Dr. Edwards refers to Claimant's condition as disc degeneration (Claimant's APA #12, page 91).

46. Claimant reached maximum medical improvement on October 31, 2013. I do not agree that Claimant was still contemplating surgery after this date, as he has declined surgery from the outset, and told Dr. Edwards he is "not interested" in any aggressive treatment, but rather only conservative treatment (Claimant's APA #12, page 91).

47. By his own testimony, Claimant apparently does not abide by his restrictions, as I find instructive the specific question asked by his counsel on the issue: Claimant was asked not whether he abides by his restrictions, but whether he is "trying to" abide, and if he does not abide, "what happens?" Claimant responded that if he does not abide by the restrictions, "I hurt [present tense] worse" (Claimant did not use words to the effect "if I did not abide, I would hurt worse" or "if I did not abide, I might injure myself." This leads the undersigned to conclude that Claimant continues to perform physical labor in his landscaping business, in addition to his job with Employer as a Trooper. Claimant worked 40-50 hours a week in his landscaping business prior to the date of the injury. The year after the date of the 2012 injury, Claimant's sales exceeded $300,000 (*e.g.*, Hearing Transcript, page 50; Claimant's APA #17, page 120).

48. I considered both vocational reports, but give greater weight to Defendants' vocational report as far as ultimate conclusions are concerned: although Claimant attended 2 years of college, scored well on tests, is articulate, and runs his own very successful business, Claimant's vocational evaluator identifies only 3 potential jobs (lot attendant, gate guard, and security guard). Claimant's vocational report appears outcome-determinative rather than a credible analysis of Claimant's transferable skills. The conclusions of Defendants' report are well-reasoned and supported by other evidence as well (Defendants' APA #10 in its entirety, including but not limited to pages 70

and 75; *Cf.* Claimant's APA #17, page 127).

49. In this case, Claimant has not met his burden of proof of establishing wage loss:

(a) Claimant attended two years of college;

(b) Claimant has run his own successful business (including regular contract sales) for 18 years, including doing so while injured in 2012 and afterwards (even more profitably) in 2013 (Hearing Transcript, page 63);

(c) Claimant's job with Employer paid $40,000-$42,000; Defendants' vocational evaluator has identified jobs which pay up to $41,600, all of which are within Claimant's restrictions (Defendants' APA #10);

(d) Claimant admits that he has **not applied or even looked for any other jobs** (Hearing Transcript, pages 63 and 70);

(e) Claimant was **informed of vocational rehab services (as stated three times in Defendants' vocational report), but Claimant provided no proof to the Commission that he has pursued such services** (Defendants' APA #10, pages 72 and 76-77);

(f) Claimant has transferable skills, but would not admit at the hearing to having the aptitude/ability to perform jobs which have been vocationally identified for him; the undersigned believes that Claimant is currently concentrating on his landscaping business for the reason that he is a self-described "somewhat of a hustler" who "works a lot" (Defendants' APA #10, page 72; Hearing Transcript, page 25).

50. I considered all the various impairment ratings assigned for the spine, but impairment ratings are not dispositive, and are in part based upon subjective complaints. I also fully considered Claimant's testimony that his low back "**hurt so bad**" ("to the point where I didn't care what

happened to me") that he went to an emergency room— the month prior to the date of the hearing. The clinic exam findings of ER personnel are instructive, and refute Claimant's testimony and his self-serving statements/complaints to workers' compensation providers: ER providers (a) examined Claimant's neck; Claimant's neck was negative for neck pain or other neck complaint; (b) found Claimant's lumbar spine range of motion to be **normal;** (c) found Claimant's back pain to be "**very mild;**" and (d) found Claimant's gait "normal." These records are inconsistent with Claimant's testimony at the hearing and with his subjective complaints documented in treatment records. Contrary to this ER report, Claimant testified at the hearing that he is never without neck pain. **Of all the medical evidence relating to the spine, I give the clinical examination findings of ER personnel the greatest weight** (Claimant's APA #11, including but not limited to pages 84-85; Hearing Transcript, pages 55-59).

51. Defendants may stop payment of temporary benefits.

52. For a spinal condition treated conservatively, where Claimant takes no medication for allegedly "life changing" and "terrible" pain, where Claimant has declined surgery in spite of this allegedly severe and constant pain, where Claimant tells a non-workers' compensation provider that he has no neck pain and only "mild" low back pain, and where Claimant's gross receipts for his landscaping business were more than $300,000 for the year after his 2012 injury, I cannot and do not rely on Claimant's subjective statements or testimony regarding his residual condition. Swearing an oath to tell the truth at the hearing meant nothing to Claimant, for after requesting benefits from Commissioner Roche in 2013 for his neck condition from the 2010 accident (including but not limited to surgery), Claimant would not admit--at the 2014 hearing before the undersigned--to injuring his neck or experiencing neck pain from the 2010 accident. If that is not enough, Claimant brought or sent his 2010 cervical MRI to Dr. Poletti for their discussion, and

obtained a prior cervical impairment rating from Dr. Sarb (Order of Commissioner Roche in its entirety; Hearing Transcript, *e.g.*, pages 66 and 68; Claimant's APA #13, pages 95-96).

53. Claimant is not permanently and totally disabled. Although Claimant did in fact qualify for state disability retirement (the standard for such being whether Claimant can return to his particular state job), workers' compensation utilizes a different standard. However, I do note that Claimant's approval for state disability was contingent upon a reevaluation in 2015 (Hearing Transcript, page 20; Claimant's APA, Exhibit B).

54. Considering Claimant told the last provider (at the Emergency Room) that he had "no" neck pain (and this is significant since Claimant takes no pain medication, and Claimant inconsistently testified that he is never without neck pain) and only "mild" lumbar pain, I find that there is no additional permanent partial disability beyond the 25% to the spine already paid to Claimant. Awards cannot be based upon speculation or surmise, and I decline to speculate. Impairment ratings are not dispositive in any case, and I find other evidence more persuasive. 0% additional permanent partial disability to the spine, based upon the recent ER findings of no neck pain and "mild" lumbar pain, such that there is no additional disability beyond the previous 25% settlement for the spine ($38,151.75).

55. Defendants to receive credit for overpayment of temporary benefits paid beyond October 31, 2013.

56. As to future medicals for the spine, I give the greatest weight to the statements/opinions of Dr. Edwards, who examined Claimant much more recently than did Dr. Mills: (a) in fact, as of the date of the hearing, Claimant had not seen Dr. Mills in more than 2 years; (b) Claimant told Dr. Edwards in 2013 that "he is not interested in considering any aggressive treatment" for the neck; Dr. Edwards did not push surgery, because there is an "absence of focal neurologic deficit,"

evidence to which I accord great weight; (c) there is no objective evidence that Claimant has any lower extremity radiculopathy (his straight leg raise is negative) other than his subjective complaints; (d) Claimant told Defendants' vocational expert (the month prior to the date of the hearing) that no further treatment has been recommended; and (e) Dr. Poletti is wholly inconsistent to the point that I cannot and do not give his opinions any weight. For example, Claimant told Dr. Poletti in 2012 (prior to the Roche hearing) that **Claimant has "remained with neck pain" since the 2010 injury—subjective information that Dr. Poletti could have only obtained from Claimant**; however, in a 180-degree turn in 2014 (after the Roche Order--denying Claimant's change of condition--was served), **Dr. Poletti inconsistently in 2014 "parrots" Claimant's statement to him that Claimant "did not have these neck symptoms and low back symptoms prior to the [accident in issue]."** This discrepancy calls into question any conclusion of Dr. Poletti. Second, Dr. Poletti is equivocal as to future surgery: he states in 2012 Claimant could "potentially" (repeatedly the word used) be a surgical candidate. In 2014, when Dr. Poletti makes the point of stating that none of Claimant's cervical or lumbar problems existed prior to the accident in issue, Dr. Poletti states that Claimant "most likely" will require cervical fusion surgery and low back disc surgery which could "potentially" lessen Claimant's disability. Dr. Poletti then inconsistently states that Claimant *"may"* require surgeries in the future [emphasis added]. The "may" is consistent with Dr. Edwards' pronouncement on the issue (Claimant's APA #13 in its entirety; Defendants' APA #10, page 72; Claimant's APA #12, page 91; Defendants' APA #9, page 67; Claimant's APA #11, page 84; Defendants' APA #1, pages 3 and 5-6; December 2012 Deposition of Dr. Mills, pages 29-31 and 37-39; August 2012 Deposition of Dr. Mills, pages 17, 20, and 22).

57. I considered the recommendation of Dr. Mills (who recommended fusion surgeries based

upon Claimant's subjective pain complaints), but Claimant has not seen Dr. Mills in 2 years. Dr. Poletti is inconsistent and equivocal, and Dr. Edward's conclusions are consistent and sound, particularly given Claimant's most recent clinical exam at the ER.

58. I give the greatest weight to the opinion of Dr. Edwards. Dr. Edwards does not recommend surgery, but recommends treatment *if* Claimant's condition *deteriorates in the future.* Dr. Edwards states that Claimant's condition should be observed "over the course of a couple of years." I therefore find that Claimant would be entitled to surgery for his neck and/or low back based upon a change of condition for the worse, as Dr. Edwards does not state Claimant needs surgery now, that Claimant probably needs it now, or that Claimant even probably needs it in the future (Claimant's APA #12).

59. Dr. Mills ties the need for surgery to "symptoms enough" to warrant surgery. Given the "mild" lumbar spine complaints and nonexistent neck complaints at the last medical visit in evidence (particularly when considering the fact that **Claimant takes no pain medication**), I find Dr. Edwards' opinion to be the most cogent (Claimant's APA #12; 2012 Deposition of Dr. Mills, *e.g.*, page 22).

60. Dr. Poletti recommended/suggested a rhizotomy, but Claimant never followed up for this procedure either. This, in addition to the fact that Claimant takes no pain medication, is further evidence that Claimant's condition is most accurately as he described it to providers at the ER the month prior to the date of the hearing (Claimant's APA #1; Claimant's APA #13).

61. Claimant is entitled to receive recommended physical therapy and injections (Claimant's APA #12, pages 91-92).

62. What deductions Claimant takes on his income tax returns are of no concern to the undersigned. I fully considered the fact that Claimant's tax return shows that Claimant had

business income of $688 in 2013 (gross receipts: $334,906), and $716 in 2012 (gross receipts: $243,658). However, $700 in income would not allow Claimant (as he testified) "nicer things," would not have allowed Claimant's wife to stay home, (even Claimant admitted in testimony that he is "not really" living off of $688), and would not explain Claimant's testimony that he has "no choice" but to continue a business at which he only "realizes" in income $600-$700/year. Regardless of accounting methodology, the point is that Claimant's business continues to be lucrative—particularly the year after the year of his accident in issue. It also shows that Claimant has abilities of which he is hesitant to admit. However, Claimant's tax returns and deductions are of no import otherwise (Hearing Transcript, *e.g.*, pages 23-24, 26, and 29-30).

63. Because Claimant's wife works full time as a school teacher (except for summers) and has 3 children, I do not believe Claimant's later testimony/statements to providers that she does most of the work, and that he only helps out "from time to time" in the landscaping business. Claimant's wife did not testify at the hearing, so Claimant's testimony in this regard is strictly self-serving (Hearing Transcript; Claimant's APA #17, pages 119-120).

64. The March 11, 2012 record from the Emergency Room visit on the date of the accident (stating that Claimant has undergone prior back surgery—Defendants' APA #3, pages 17, 22-23, and 29) is an error, according to Claimant's counsel, which statement I accept from an officer of the court. Claimant's counsel also advised the undersigned that the reference to prior back surgery in Claimant's APA #11, page 84, is an error as well.

65. I do not find credible or even plausible Claimant's stated "reason" at the hearing for not claiming his landscaping income as dual employment to boost his compensation rate. It seemed "canned" and strained when Claimant was asked why he felt so "passionately" about not

"burdening" the Highway Patrol with this income to increase his comp rate. I found this colloquy quite puzzling (initially), considering Claimant's claimed net business income for his landscaping business was just $688-$716 per year for 2012 and 2013. However, after reviewing the tax returns (which Defendants subpoenaed, including the gross receipts and deductions), I can understand why Claimant would rather have avoided calling attention to a successful business if he had plans to claim that he is permanently and totally disabled. Alternatively, Claimant may have chosen to keep private (from Employer and/or co-workers) his lucrative business enterprise. Regardless of the reason, Claimant's business success shows Claimant's marked capabilities (both mental and physical), and shows an increase in gross receipts of almost $100,000 the year after the date of the injury. I have no concrete idea as to whether Claimant is performing most of the work himself (as he "works a lot" and is "somewhat of a hustler," I would assume he is working) or whether in fact he has employees, but I cannot trust his testimony. I do note that in 2013, the business paid $1,195 for "*outside services and subcontractors*" (Hearing Transcript, page 25, lines 10-11; Tax returns).

66. The undersigned did not request, seek, or obtain the prior workers' compensation file relating to the 2010 claim. However, when Defendants sought to introduce the prior (2010) cervical rating at the hearing before the undersigned, Claimant's counsel replied, "...I don't object to that. Yeah, it can come in, because I think all of that should be in the file" (Hearing Transcript, page 67).

67. Claimant's average weekly wage is $709.95, yielding a compensation rate of $473.32 (established by previous Order of the Commission—Order of Commissioner Roche, dated May 2013).

## 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 sustained an injury to his right lower extremity, lumbar spine, and cervical spine by accident arising out of and in the course and scope of his employment on March 10, 2012.

3. Under §§ 42-9-10 and 42-1-120, Claimant was entitled to compensation for a period of temporary total disability from March 12, 2012 until October 31, 2013, the date on which Claimant reached maximum medical improvement.

4. Under § 42-15-60, Claimant was entitled to medical, surgical, hospital and other authorized treatment until October 31, 2013, the date on which Claimant reached maximum medical improvement.

5. Under § 42-15-60, Dodge v. Bruccoli, Clark, Layman, Inc., 334 S.C. 574 (Ct. App. 199), and other applicable law, Claimant is entitled to receive causally-related physical therapy and injections for the cervical spine described in APA # 12 pages 91-92.

6. Under § 42-9-30(16), Claimant has sustained 10% permanent partial disability to the right lower extremity. Under § 42-9-30(21), Claimant has sustained 0% additional permanent partial disability to his back. From such award, Defendants are entitled to a credit for the overpayment of temporary total compensation since October 31, 2013 to be taken from the permanency awarded herein.

7. Defendants may stop payment of temporary benefits under S.C. Reg. 67-506(B) and other applicable law.

8. Claimant is not permanently and totally disabled under §42-9-10 or §42-9-30(21).

9. Under §42-9-20 and other applicable law, Claimant has not met his burden of proof of establishing wage loss.

## VII. ORDER/AWARD

**IT IS HEREBY ORDERED** that the Application of Employer/Carrier to stop payment of temporary total compensation is hereby granted, effective October 31, 2013, the date on which Claimant reached maximum medical improvement.

**IT IS FURTHER ORDERED** that as a result of Claimant's accidental injury occurring on March 10, 2012, he has sustained 10% permanent partial disability to the right lower extremity, for which he is entitled to 19 weeks of compensation, at the compensation rate of $473.32 per week. From this amount, the Defendants are entitled to a credit or offset for the overpayment of temporary total compensation paid after October 31, 2013. Claimant is entitled to 0% permanent impairment to his spine for the 2012 accident in issue.

**IT IS FURTHER ORDERED** Claimant reached maximum medical improvement on October 31, 2013, and as such Defendants are not liable for any additional medical, surgical, hospital or other medical treatment to Claimant after said date, save the medical treatment aforementioned in paragraph 61 of the Finding of Fact and paragraph 5 of the Conclusions of Law.

No hearing costs are assessed in this instance.

**IT IS SO ORDERED.**

Susan S. Barden

# SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
## JUDICIAL CONFERENCE DECISION AND ORDER

**Scott Ledford v Department of Public Safety**
**SCWCC: 1202545**
**Commissioner: Barden**

This matter was heard before the South Carolina Workers' Compensation Full Commission in Judicial Conference on the **Motion to Stay Decision and Order**. The Commissioners considered the matter and ordered the matter handled in the following manner:

**IT IS, THEREFORE, ORDERED** the pending appeal of the Administrative Order of the Commission is hereby;

_____ Dismissed as Interlocutory. _____Set for Oral Argument.

**IT IS, THEREFORE, ORDERED** the pending motion be, and hereby is;

_____ Granted. ___✓___Denied. _____Dismissed _____Set for Hearing.

Matter is now Moot - (Re: 12/15/14 Admin order)

**BEFORE THE;**

_____ Hearing Comm. _____Jurisdictional Comm. _____Full Commission.

**IT IS, THEREFORE, ORDERED** this matter be, and hereby is; remanded to take such action and enter an Order consistent with the Court's directive.

_____ Remand to Panel as indicated below.

_____Barden _____James _____Taylor
_____Beck _____Campbell _____Wilkerson
_____McCaskill

_____ Remand for Order consistent with the Order of the Court.
_____ Remand to the Hearing Commissioner.
_____ Remand to the Jurisdictional Commissioner.

_____ Other:_____.

_____ Remand: _____Panel Oral Argument. _____En Banc Oral Argument.

**AND IT IS SO ORDERED.**

**T. Scott Beck, Chair**

Columbia, South Carolina

12/16/2014

| **CONCURRING:** | **NOT PARTICIPATING:** | **DISSENTING:** |
|---|---|---|
| Commissioner Susan S. Barden | _____ | _____ |
| Commissioner Melody James | _____ | _____ |
| Commissioner Aisha Taylor | _____ | _____ |
| Commissioner Avery Wilkerson | _____ | _____ |
| Commissioner Michael Campbell | _____ | _____ |
| Commissioner Gene McCaskill | _____ | |

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 December 16, 2014*

# SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
## JUDICIAL CONFERENCE DECISION AND ORDER

**Scott Ledford v Department of Public Safety.**
**SCWCC: 1202545**
**Commissioner: Barden**

This matter was heard before the South Carolina Workers' Compensation Full Commission in Judicial Conference. The Commissioners considered the matter and ordered the matter handled in the following manner:

**IT IS, THEREFORE, ORDERED** the pending appeal of the Administrative Order of the Commission is hereby;

___✓___ Dismissed as Interlocutory. _____Set for Oral Argument.

**IT IS, THEREFORE, ORDERED** the pending motion be, and hereby is;

_____ Granted. _____Denied. _____Dismissed _____Set for Hearing.

**BEFORE THE;**

_____ Hearing Comm. _____Jurisdictional Comm. _____Full Commission.

**IT IS, THEREFORE, ORDERED** this matter be, and hereby is; remanded to take such action and enter an Order consistent with the Court's directive.

_____ Remand to Panel as indicated below.

_____Barden _____James _____Taylor
_____Beck _____Campbell _____Wilkerson
_____McCaskill

_____ Remand for Order consistent with the Order of the Court.
_____ Remand to the Hearing Commissioner.
_____ Remand to the Jurisdictional Commissioner.

_____ Other:_____.

_____ Remand: _____ Panel Oral Argument. _____En Banc Oral Argument.

**AND IT IS SO ORDERED.**

**T. Scott Beck, Chair**

Columbia, South Carolina

12/15 2014

| **CONCURRING:** | **NOT PARTICIPATING:** | **DISSENTING:** |
|---|---|---|
| Commissioner Susan S. Barden | _____ | _____ |
| Commissioner Melody James | _____ | _____ |
| Commissioner Aisha Taylor | _____ | _____ |
| Commissioner Avery Wilkerson | _____ | _____ |
| Commissioner Michael Campbell | _____ | _____ |
| Commissioner Gene McCaskill | _____ | _____ |

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 December 16, 2014*

ORDER

OF

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

THE HONORABLE SUSAN S. BARDEN, COMMISSIONER

SCWCC FILE NO.: 1202545

SCOTT LEDFORD,

Claimant,

v.

SC DEPARTMENT OF PUBLIC SAFETY,

Employer, and

SC STATE ACCIDENT FUND,

Carrier.

On Motion of the Claimant

Susan S. Barden, Commissioner

Filed: November 3, 2014

## STATEMENT OF THE CASE

This matter comes before the undersigned pursuant to Claimant's "Motion to Rescuse (sic) Commissioner Barden and to Reassign Case to Another Commissioner" filed on October 10th, 2014. [1] The undersigned previously conducted a Hearing on the merits of the issues raised by the parties on Forms 50/51 on August 15th, 2014, relating to Claimant's 2012 claim assigned to the undersigned as jurisdictional commissioner. Following the Hearing, the undersigned reviewed the records in the 2012 claim file as well as records and other evidence submitted by the parties during the pre-hearing conference. One of these documents was the unappealed Decision and Order of Commissioner Andrea C. Roche, dated May 1st, 2013. Another document provided to the undersigned at the hearing was a Form 16A, documenting Claimant's 2011 settlement of his prior 2010 accident. As Defendants requested credit for the prior (2011) settlement amount/impairment rating, the credit issue was squarely before the undersigned, and by necessity required adjudication.

Based upon my post-hearing review of the evidence, the undersigned conducted a telephone conference with the parties' attorneys to notify them of my tentative findings and to discuss some of the inconsistencies in Claimant's testimony. During that

[1] On October 10th, 2014, Claimant submitted a first version of the Motion. Following receipt of the Motion by the Commission's Judicial Department and prior to referral to the undersigned's office for consideration, Counsel for Defendants objected to the Motion on the grounds that it improperly referenced amounts discussed during settlement negotiations. Following a telephone conference between the attorneys for Claimant and Defendant, the Commission's Judicial Director, and the Commission's General Counsel, Claimant agreed to submit an amended version of the Motion with the objectionable material removed. Shortly thereafter, Claimant resubmitted an amended version of the Motion. However, the Commission's General Counsel reviewed the amended Motion and discovered it still contained information that might be improper for the Commissioner to consider. Specifically the Motion on page 2 and its attachment on page 3 at # 9 stated the exact dollar amount which Claimant believed his claim to be worth. After discussing the potential issue with the undersigned, **but without disclosing to the undersigned the dollar amount,** General Counsel redacted the dollar amounts and instructed the Judicial Department to forward the redacted copy of the Motion to the undersigned for processing. The undersigned has not reviewed the original version of the Motion or the unredacted second version of the Motion, and neither will be included in the Commission's file or considered in this matter. Only the redacted copy of the second version of the Motion will be reviewed by the Commission and preserved as part of the Commission's records.

telephone conference, the undersigned reminded the parties of their right to enter into a settlement agreement under § 42-9-390, which would make unnecessary the promulgation of a written decision on the merits. During the telephone conversation, the undersigned complimented Claimant's counsel on his representation of his client at the hearing, and assured Claimant's counsel that the undersigned's findings were in no way a reflection upon him or his abilities. Claimant's counsel thanked the undersigned for the compliment and for the opportunity to attempt settlement prior to the issuance of the findings as discussed during the conference.

Claimant asserts that during the telephone conference, the undersigned (a) "threatened" Claimant with criminal charges unless he settled his case, (b) went outside the record to make findings from "undisclosed materials," (c) assigned weight to the evidence submitted from Claimant's accountant without hearing the accountant's testimony, and (d) concluded that Claimant lied during his testimony. For these reasons, Claimant moves the undersigned to disqualify herself from considering the matter on its merits, and to reassign the case to another Commissioner for a Hearing *de novo*.

## FINDINGS OF FACT AND RULINGS OF LAW

1. Commissioners are bound by the Code of Judicial Conduct, Rule 501 SCACR. S.C. Code Ann. § 42-3-250 (1976, as amended).
2. ". . . [T]he purpose of the Code [of Judicial Conduct] would be subverted if the Code were invoked by lawyers for mere tactical advantage in a proceeding." Preamble, CJC, Rule 501 SCACR.
3. The Code of Judicial Conduct requires that a Commissioner ". . . shall disqualify himself or herself in a proceeding in which the [Commissioner's] impartiality might *reasonably* be questioned . . ." Canon 3(E) CJC, Rule 501 SCACR. (Emphasis added).
4. The Code of Judicial Conduct also requires that a Commissioner ". . . shall hear and decide matters assigned to the [Commissioner] except those in which disqualification is required." *Id.* at Canon 3(B)(1).

5. "In applying Canon 3 (E)(1), the South Carolina Supreme Court has stated that the movant or petitioner must show some evidence of the bias or prejudice of the judge." *Lyvers v. Lyvers*, 280 S.C. 361, 367, 312 S.E.2d 590, 594 (Ct.App.1984).
6. "Allegations of facts that are merely frivolous or fanciful will not support a motion to disqualify on the ground of prejudice, nor will conclusory statements, conjecture, or innuendo be sufficient to support a motion for disqualification." 46 Am.Jur.2d *Judges* § 208 (1994).
7. "When disqualification is not required, the South Carolina Code of Judicial Conduct holds, "A judge *shall* hear and decide matters assigned to the judge...." Canon 3B(1) of the Code of Judicial Conduct, Rule 501, SCACR (emphasis added)." *Simpson v. Simpson*, 377 S.C. 519, 660 S.E.2d 274 (Ct. App. 2008). *See Adair v. State*, 474 Mich. 1027, 709 N.W.2d 567, 579 (2006) ("[W]here the standards governing disqualification have not been met, disqualification is not optional; rather, it is prohibited; *Millen v. Eighth Judicial Dist. ex rel. County of Clark*, 148 P.3d 694, 700 (Nev.2006) ("Thus, a judge has a general duty to sit, unless a judicial canon, statute, or rule requires the judge's disqualification."); *Tennant v. Marion Health Care Found., Inc.*, 194 W.Va. 97, 459 S.E.2d 374, 385 (1995) ("Also important, however, is the rule that a judge has an equally strong duty to sit where there is no valid reason for recusal.").
8. It is not proper for the undersigned to grant Claimant's motion and disqualify herself in this case. In order for the undersigned to disqualify herself, Claimant's allegations must be supported by evidence of an actual improper prejudice or bias. Otherwise, the undersigned has a duty to issue her decision on the merits. As to bias or prejudice, prior to the date of the hearing, the undersigned commissioner had never met or even heard of Claimant; the undersigned is also unacquainted with Claimant's family or with any business interest(s) he may hold. The undersigned has no interest of any description in the value of any settlement offered to this or any other claimant.
9. Claimant alleges four grounds, which he asserts that any one alone would be sufficient to show an improper prejudice or bias on behalf of the undersigned and therefore require disqualification. Each allegation is addressed in turn.

10. First, Claimant alleges that the undersigned must disqualify herself on the ground that she "threaten[ed] criminal proceedings unless the case settles." This is a false statement of fact and a frivolous allegation. The undersigned made no such proclamation, either expressly or impliedly. Counsel for Claimant has made such statement with the knowledge that it is false, or, at best, a reckless disregard for its truth or falsity. The undersigned will not consider a frivolous and materially false statement as reasonable grounds for disqualification.

11. Commissioners have a statutorily-imposed duty to report "suspected" false statements or misrepresentations by a Claimant to the Office of the Attorney General. "The commission shall report all cases of suspected false statement or misrepresentation . . . to the Insurance Fraud Division of the Office of the Attorney General for investigation and prosecution . . ." S.C. Code Ann. § 42-9-440.

12. "'False statement or misrepresentation' means a statement or representation made by a person that is false, material, made with the person's knowledge of the falsity of the statement and made with the intent of obtaining or causing another to obtain or attempting to obtain or causing another to obtain an undeserved economic benefit . . " S.C. Code Ann. § 38-55-530(D).

13. Section 42-9-440 strictly requires the Commission to report "suspicions" of false statements and misrepresentations to the Office of the Attorney General. It is the duty of the Office of the Attorney General--not the Commission--to investigate the allegations. It is the duty of the Office of the Attorney General--not the Commission--to decide what action should be taken, if any, following the investigation. Claimant's allegation--that the undersigned's reciting a duty under (and interpretation of) this statutory provision of the Workers' Compensation Act equates to the undersigned's having "threatened criminal proceedings"--is fanciful and frivolous.

14. Use of the word "shall" in § 42-9-440 indicates that the duty is not discretionary; if a commissioner suspects false statements or misrepresentation by a Claimant, she must report the matter to the Office of the Attorney General. The undersigned did not manifest bias or prejudice against Claimant, but simply informed the parties of the inconsistencies in Claimant's testimony *vis a vis* other evidence and

of duties the law required of her for pending claims, regarding the findings she had reached after consideration of the evidence. These are not proper grounds for disqualification.

15. Second, Claimant asserts the undersigned should disqualify herself for "going outside the record to make findings from undisclosed materials."

16. "In contested cases, notice may be taken of judicially cognizable facts." S.C. Code Ann. § 1-23-330(4) (1976, as amended). "Parties shall be notified either before or during the hearing or . . . otherwise of the material noticed . . . and they shall be afforded an opportunity to contest the material so noticed." *Id.*

17. "Notice may be taken of judicially cognizable facts in administrative cases." *Wise v. Wise*, 394 S.C. 591, 716 S.E.2d 117 (Ct. App. 2011). "A court can take judicial notice of its own records, files, and proceedings for all proper purposes including facts established in its records." *Freeman v. McBee*, 280 S.C. 490, 313 S.E.2d 325 (Ct. App. 1984).

18. The undersigned reviewed and took judicial notice of the prior Decision and Order of Commissioner Roche issued in the same (2012) workers' compensation claim brought by the same claimant against the same employer; this decision was either provided to the undersigned by one of the parties during the pre-hearing conference or was contained in the 2012 file when it was assigned to the undersigned prior to the hearing. My review of the prior Order was not only permissible under the precedents set by *Wise* and *Freeman*, and § 1-23-330(4), but also required because of the contested credit issue. Furthermore, the undersigned arranged and conducted a conference call with counsel to discuss the contents of Commissioner Roche's Order *vis a vis* Claimant's testimony at the hearing before the undersigned. At the hearing—and even prior to the hearing--both parties had a copy of the Roche Order.

19. At the Hearing on the merits, Defendants requested credit for the prior settlement. Therefore, it was necessary for the undersigned to consult and consider both the prior Decision and Order of Commissioner Roche and the Commission's file in order to address this issue. Although the undersigned could have obtained the file pertaining to the 2010 injury (in order to adjudicate the credit issue), I never requested nor received nor consulted the 2010 file (as can be verified by the

Commission's tracking system); Commissioner Roche's Order made review of the 2010 file unnecessary. No other evidence (except as described herein, *i.e.*, that which was provided to the undersigned by the parties at the hearing) outside the Commission's 2012 file was reviewed or considered by the undersigned. Claimant has presented no evidence that the undersigned conducted her own "investigation." Any allegations that the undersigned conducted some sort of "investigation" are frivolous and false. If reviewing the evidence submitted to me at a hearing qualifies as an investigation, I am unfamiliar with such a meaning or interpretation. Claimant's allegation is unfounded and false.

20. Since the undersigned considered (a) only the 2012 file assigned to me as prepared by the Judicial Department, and (b) the evidence supplied to me by the parties at the hearing, the undersigned has not engaged in any wrongdoing or inappropriate "investigation" of "undisclosed materials." Therefore, these are not reasonable grounds for disqualification or recusal.

21. Third, Claimant asserts that the undersigned should disqualify herself on the grounds that she "derid[ed] 'creative accounting' without hearing from an accountant."

22. At the Hearing on the merits, Defendants submitted Claimant's tax returns prepared by Claimant's accountant; Claimant did not offer the accountant's testimony when Defendants questioned Claimant about deductions, etc. During the telephone conference, the undersigned emphasized that she was unconcerned with any (alleged) "creative accounting" or accounting methodology, as Claimant's tax returns have nothing to do with the credit issue. The tax returns are relevant to other issues as set forth in the Order adjudicating the merits of the claim.

23. "The final determination of witness credibility and the weight to be accorded evidence is reserved to the Full Commission." *Muir v. C.R. Bard, Inc.*, 336 S.C. 266, 519 S.E.2d 583 (S.C. App. 1999). It is wholly within the purview of the single Commissioner to make findings regarding the weight to be assigned to a particular piece of evidence, and to draw conclusions based on such evidence. If a party disagrees with a conclusion the single Commissioner draws from a particular piece of evidence, the law provides that party a remedy pursuant to §

42-17-50. Disagreement with the single Commissioner regarding the conclusion she draws from the evidence does not constitute a manifestation of unreasonable bias or prejudice on the part of the Commissioner and are not grounds for disqualification.

24. Furthermore, in addition to being hearsay, the affidavit of Robert Jayroe offered as an attachment to Claimant's motion was not properly submitted in accordance with R.67-707.

25. Finally, Claimant asserts that the undersigned must disqualify herself because she "jump[ed] to conclude that Ledford lied by offering testimony that is fully consistent with the medical records."

26. As the quote from *Muir, supra,* demonstrates, it is the duty of the hearing Commissioner to weigh the evidence and make findings regarding credibility. If a party disagrees with a conclusion of the single Commissioner regarding credibility of a witness or other findings of fact, the law provides that party a remedy pursuant to § 42-17-50. Disagreements with the single Commissioner regarding findings of fact do not constitute a manifestation of unreasonable bias or prejudice of the Commissioner and are not grounds for disqualification.

27. During the conference call on September 16th, 2014, the undersigned verbally informed the parties of her decision on the merits in anticipation of finalizing her written decision. Claimant did not make his allegations against the undersigned and request disqualification until October 10th, 2014, a full twenty-four days after the conference call during which the alleged judicial misconduct occurred and the parties were informed of how the undersigned had ruled on certain issues such as credibility. A party may not use a request for disqualification under the Code of Judicial conduct to obtain a *de novo* hearing before a new Commissioner after the Commissioner has already reached her decision but before the written Decision and Order has been perfected. *See* Preamble, CJC, Rule 501 SCACR (". . . [T]he purpose of the Code would be subverted if the Code were invoked by lawyers for mere tactical advantage in a proceeding."); *Mallett v. Mallett,* 323 S.C. 141, 146, 473 S.E.2d 804, 808 (Ct.App. 1996) ("A motion to recuse may not be predicated on the judge's ruling in the case before him . . ."); *Payne v. Holiday Towers, Inc.*, 283 S.C. 210, 321 S.E.2d 179 (Ct.App.1984) ("When no evidence is presented

other than claimed "adverse" rulings by the judge, the judge is not required to recuse himself."); *Butler v. Sea Pines Plantation Company*, 282 S.C. 113, 317 S.E.2d 464 (Ct.App.1984) ("Adverse rulings, even if erroneous, are insufficient to establish a trial judge's bias or prejudice.").

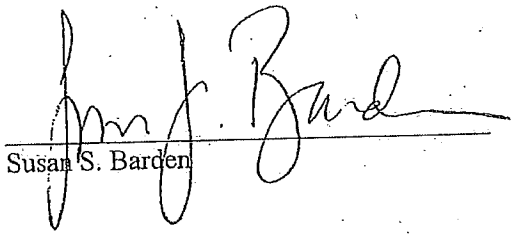
28. As to Claimant's contention or suggestion that the undersigned has, for reasons not expressed in the motion, an interest in State Accident Fund settlements, the undersigned would point out that neither she nor any family member has ever been employed by the Fund. Nor does the undersigned have any personal relationship with any employee of the Fund. Claimant's suggestion, like his other "grounds," is baseless.

29. Claimant made no motion for recusal prior to the hearing, or even after the hearing, until he was dissatisfied with Defendants' settlement offer, and decided he instead would attempt to obtain a new hearing with a different commissioner (which would have the effect of enabling his client to "qualify" and "explain" his testimony at the hearing before the undersigned). Under the Judicial Canons, the undersigned cannot allow Claimant to utilize a recusal mechanism to change the outcome of his case (*i.e.*, to obtain a "second bite at the apple") solely because he is dissatisfied. His remedy is to appeal.

## ORDER

1. IT IS, THEREFORE, ORDERED that Claimant's Motion is DENIED and DISMISSED WITH PREJUDICE. A written Decision and Order on the issues raised at the Hearing on August 15th, 2014 shall be forthcoming from the undersigned. Neither the contents of Claimant's Motion, nor the undersigned's consideration of the issues raised in Claimant's Motion, shall play any role in the undersigned's decision on the merits of this claim.

**IT IS SO ORDERED.**



Susan S. Barden

**CERTIFICATE OF SERVICE**

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

**November 3, 2014**

**By: Kristi Love, Administrative Assistant to Commissioner Barden**

BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

WCC FILE NO. 1009581/1202545

Scott Ledford,

Claimant,

vs.

Dept. of Public Safety,

Employer,

State Accident Fund,

Carrier,
Defendants

CERTIFICATE OF SERVICE

This is to certify the undersigned has this date served this order in the above entitled action upon all parties to this cause by sending an electronic copy hereof by electronic mail addressed to the attorney or attorneys for said parties or by depositing a copy hereof, postage paid, in the United States mail addressed to any unrepresented party.

*By Elaine Boyd on October 8, 2012*

A Motion regarding the following issue(s) has been received.

- ✓ Motion to Consolidate
- ___ Appointment of guardian Ad Litem
- ___ Attorney's appearance before the Commission
- ___ Withdrawal of Representation
- ___ Attorney's Fee
- ___ Claim Pending Commission Review
- ___ Postpone
- ___ Adjourned the Scheduled Hearing
- ___ Self Insurance Privileges
- ___ Penalties and Interest
- ___ Third Party Practice
- ___ Other:

The following disposition has been made: ✓ Granted ___ Denied

- ___ Set for Hearing
- ___ Have Attorneys brief the Issue

Reasons: The Motion to Consolidate is granted. The cases are to be heard back to back before a single Commissioner. WCC 1009581 is to be returned to the Judicial Department to await the Form 51 to be filed on WCC 1202545.

Commissioner

DECISION AND ORDER OF THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC FILE NOS. 1009581 & 1202545

| | |
|---|---|
| Scott Ledford,<br>Employee,<br>Claimant,<br><br>vs.<br><br>South Carolina Department of Public Safety<br>Employer,<br><br>and<br><br>State Accident Fund Carrier,<br><br>Defendants. | DECISION AND ORDER |

HEARING: Held in Myrtle Beach, South Carolina on January 15, 2013.

APPEARANCES: Claimant represented by E. Hood Temple, Esquire, of Florence, South Carolina;

Employer/Carrier, represented by Samuel T. Brunson, Esquire, of Florence, South Carolina on 2010 Claim;

Employer/Carrier, represented by Sarah S. Alphin, Esquire, of Columbia, South Carolina on 2012 Claim.

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

DECISION AND ORDER: By Andrea C. Roche, Commissioner

FILED: May 1, 2013 (Re-served)
(Parties did not receive Order served on April 3, 2013)

## I.STATEMENT OF THE CASE

This case was heard by the undersigned Commissioner on January 15, 2013, in Myrtle Beach, South Carolina. Notices were timely and properly served upon all parties of interest at which time the parties and/their representative appeared in evidence on the Claims were submitted. Without objection, the Workers' Compensation Commission files were made part of the record.

This matter arises out of two admitted accidents involving the Claimant Scott Ledford, a Highway Patrolman employed with the South Carolina Department of Public Safety. The first accident occurred on July 15, 2010 in Florence County, South Carolina. At that time the Claimant was going through Taser training. As part of that training, he was tased causing his back to spasm resulting in compression fractures in his thoracic spine. The Defendants admitted that the Claimant had suffered a compensable injury by accident and provided medical care and temporary total benefits. The Claimant was out of work from July 26, 2010 through January 27, 2011. At that time, he returned to work full-time, full duty.

The matter was scheduled to be heard by Commissioner Derrick L. Williams on July 11, 2011 to determine the Claimants' extent of permanent partial disability. The matter was postponed at that time in order to allow the Claimant to gather additional information regarding an alleged cervical spine injury. The case was reset before Commissioner Williams for August 29,2011 but prior to the matter going forward, the case was settled on a Form 16-A. According to that Form which was approved by Commissioner Bryan Lyndon on September 29, 2011, the parties agreed that the Claimant had suffered a twenty-five (25%) percent loss of use to his spine and compensation for that loss was paid shortly thereafter.

The Claimants' second injury occurred on March 10, 2012. On that date the Claimant, while riding a Highway Patrol motorcycle, attempted to turn around to pursue a vehicle when he lost control of his motorcycle and suffered admitted injuries to his right leg. On April 10, 2012, the Claimant filed a Form 50 in relation to his 2012 accident alleging injuries to his right leg and low back. The Defendants' responded with a Form 51 shortly thereafter admitting that the Claimant had suffered an injury to his right leg but denying other injuries. The matter was set for a hearing in July 2012, but was eventually postponed with the consent of the parties.

On June 8, 2012 the Claimant filed a form 50 in relation to his 2010 claim. In that Form 50, the Claimant alleged injuries to his spine and his right leg. The Claimant further alleged that he has suffered a change of condition for the worse since settling his case on a Form 16. The Defendants' filed a Form 51 in response denying that the Claimant had suffered a change of conditions for the worse related to his original 2010 injury.

A hearing in the 2010 Change of Condition claim was set for August 29, 2012 before Commissioner Avery Wilkerson. The matter was postponed at that time due to a court conflict with the Claimant's Attorney. The case was reset for September 12, 2012. On September 5, 2012, the Claimant, by and through his Attorney, filed a motion to consolidate the above Claims. Because that motion was filed, the September 12, 2012 hearing was postponed. A motion hearing was held before Commissioner Wilkerson on October 3, 2012 in Florence. Following that hearing, Commissioner Wilkerson issued a Form Order consolidating the two Claims and requesting that they be reset before the next Jurisdictional Commissioner.

As stated above, this matter arises out of two admitted Workers' Compensation Claims. The first occurred on July 10, 2012 when the Claimant was involved in the Taser accident. The

Claimant alleges that he has suffered a change of conditions for the worse as a result of that accident and now is in need of surgery to his cervical spine and lumbar spine as a result of that original accident. The Defendants' deny that Claimant suffered injuries to his lumbar spine and cervical spine in his 2010 accident and deny that he has suffered a change of condition for the worse since the Form 16-A was approved.

The Claimants second and most recent accident occurred on March 10, 2012 when the Claimant was involved in a motorcycle accident. In his Form 50, the Claimant alleged injuries to his right leg and lower back. At the call of the case, a Motion was made by the Claimant to amend his Form 50 to include the Claimants cervical spine as well. That amendment is granted. The parties to this matter have been dealing with these Claims for a number of months and the Claimant's alleged injuries to his cervical spine have been part of this Claim throughout. The Defendants, in regards to the Claimants second Claim admit that the Claimant only suffered an injury to his right leg.

## II. APA SUBMISSIONS

Pursuant to the Administrative Procedures Act, the parties offered into evidence the following documents:

APA #1: Medical reports of Dr. Steven Poletti dated 5/7/12-7/18/12, numbered pages 1-7;

APA #2: Medical reports of Dr. William Mills dated 7/27/2010-6/4/2012, numbered pages 8-29;

APA #3: Medical reports of Dr. Barbara Sarb dated 7/28/2010-8/26/2011 numbered pages 30-51;

APA #4: Medical reports of Dr. Ross Taylor dated 6/16/2012-11/15/2012 numbered pages 52-61;

APA #5: Reports of Doctor's care dated 3/16/2012-4/6/2012 numbered pages 62-69;

APA #: 6 Medical reports from Conway Hospital dated 3/10/2012 numbered pages 70-80;

APA #: 7 Report from Horry County Fire Rescue dated 3/10/2012 numbered pages 81-82.

APA #: 8 Report of Dr. Richard Holgate dated 5/16/2012 numbered page 83.

APA #:9 Functional Capacity Act of Therapy dated 1/25/2011 numbered pages 84-95;

APA #:10 Cervical MRI of Inmed Diagnostics Services dated 9/9/2010 numbered page 96;

APA #:11 Report of select physical therapy dated 11/30/2010 numbered pages 97-102;

APA #:12 Medical report of Dr. William Mills dated 1/27/2011 numbered page 103.

## III. EVIDENCE OF THE CASE

The Claimant, Scott Ledford, was the only witness to testify at the hearing. Mr. Ledford at the time of the hearing was thirty-seven (37) years of age. He testified that he is a High School Graduate. The Claimant has three children and is married to Kerry Ledford. The two have been married for fourteen years.

The Claimant testified that he has been in Law Enforcement for Seventeen years. He began employment with the South Carolina Highway Patrol in July of 2005. The Claimant medically retired from the Highway Patrol in September of 2012. At that time, he had been unable to work for One Hundred Eighty (180) days due to his ankle injury and rather than be terminated, he chose medical retirement. At the time of the hearing the Claimant had not been released to return to work as a result of his admitted ankle injury. Surgery was scheduled for January 30, 2013.

Mr. Ledford testified that he was involved in three accidents while working with the South Carolina Highway Patrol. One occurred in May of 2011 and no claim has been filed for that accident.

Mr. Ledford testified that his first filed accident occurred on January 15, 2010. At that time, he was undergoing Taser training in Florence. He had come back from his vacation to attend that training.

Mr. Ledford testified that his second accident occurred on March 10, 2010. He was involved in a motorcycle accident at that time. His right leg was pinned under his motorcycle. Mr. Ledford testified that he was going between 25 and 50 miles per hour when the accident occurred. Damage was caused to the motorcycle. He attempted to stand up following the accident and realized his ankle had been injured. He was taken from the accident scene by ambulance to Conway Hospital. He stated he complained of problems with his knee, ankle and back at that time.

Mr. Ledford testified he was treated by Doctors' Care following his motorcycle accident but was eventually returned to Coastal Orthopedics where he has treated with Dr. Ross Taylor for his ankle injury and Dr. William Mills for his back and neck problems. Surgery has been recommended by Dr. Mills and Dr. Taylor and he is willing to undergo that surgery. He complains of pain in his right ankle and pain in his neck which radiates into arms and low back pain which radiates into his right thigh and leg.

In response to questioning from Attorney Brunson, Mr. Ledford testified that he was released from Dr. Mills' care following his 2010 accident on January 27, 2011 and returned to

work full time, full duty at that time. He further stated he did not return to Dr. Mills during the next 15 months. The only doctor he saw during that time was Dr. Sarb who he only saw on one occasion. Mr. Ledford confirmed that his neck problems had resolved at that time and that her report showed no complaints of radicular symptoms either with the arms or legs. Mr. Ledford stated that his neck and back began bothering him shortly thereafter but admitted that he did not seek any medical attention until after his motorcycle accident and continued to work full time.

In addition, Mr. Ledford testified that he has two businesses. One is known as Pro-Cutters, LLC which does landscape work and the other is Ledford Outdoors, LLC which provides hunting guide services. Mr. Ledford testified he has continued to run those businesses since being released by Dr. Mills in early 2011.

In response to questions from Attorney Alphin, Mr. Ledford testified regarding the circumstances regarding his motorcycle accident. He stated that he was taken by ambulance from the scene to Conway Hospital. Mr. Ledford testified that he complained of back and neck problems at that time while in the hospital. Mr. Ledford further stated that he was sent by the insurance carrier to Doctor's Care. He was seen there on several occasions before his care was transferred to Coastal Orthopedics and Associates. He testified that he made complaints of back and neck pain to the physicians at Doctor's Care as well. Mr. Ledford testified that he sought a second opinion on his own with Dr. Poletti down in Charleston. He was unsure why Dr. Poletti prepared two reports for his first visits. He testified that he informed Dr. Poletti of his motorcycle accident as well.

Medical reports introduced into evidence show that the claimant was primarily treated for his 2010 accident by Dr. William Mills. Dr. Mills reports show a diagnosis of a compression fracture in his thoracic spine. The reports also show that Dr. Mills refer the Claimant to Dr. Barbara Sarb, a neurologist for problems he complained of in his upper extremities and right leg. Dr. Mills treated the claim conservatively with bracing, medications, and physical therapy. Dr. Mills released the Claimant following his first accident on January 27, 2011 to return to work full duty.

Before being released by Dr. Mills in January of 2011, the Claimant received physical therapy and also was given a Functional Capacity Evaluation. That therapy and evaluation were completed by Select Physical Therapy. Reports from Select Physical Therapy show that the Claimant's parenthesis in his upper extremities and numbness in his right lower extremity had resolved. The primary focus of the physical therapy and the functional capacity evaluation was the Claimant's thoracic spine. The Functional Capacity Evaluation, dated January 25, 2011 released the Claimant to return to heavy work, full time. Between January 27, 2011 and the Claimant's second accident of March 10, 2012, the Claimant was only seen by one physician. It seems the Claimant returned to Dr. Barbara Sarb on August 16, 2011. According to Dr. Sarb's report at that time, the Claimant's neck and arm symptoms had resolved. Furthermore, the Claimant was not complaining of any lower extremity pain or radicular symptoms. His chief complaints were persistent discomfort in his thoracic spine. Dr. Sarb did not offer any treatment at that time and rated the Claimant as suffering a Five (5%) percent whole person impairment for cervical degenerative changes and resolved radicular-parasthesia symptoms. It

appears that the Claimant returned to Dr. Sarb to get an additional rating shortly before his scheduled hearing.

After seeing Dr. Sarb in August of 2011, the Claimant did not seek any medical treatment until his accident of March 10, 2012. Since that time, he has been under the care of Dr. Ross Taylor for his ankle problems and Dr. William Mills for his back and neck problems. He also has been to Dr. Steven Poletti for a second opinion regarding his neck and back problems.

The Deposition of Dr. William Mills was taken on Three (3) occasions. All of those depositions were introduced into evidence. Dr. Mills' Deposition was first taken on April 27, 2011. It appears that the purpose of that Deposition was for clarification of the Claimant's impairment rating to his thoracic spine. In that Deposition, Dr. Mills raised his rating from ten (10%) percent up to fifteen (15%) to eighteen (18%) percent of the spine. In that Deposition, Dr. Mills admitted that the Claimant had returned to work full time, full duty. Furthermore, Dr. Mills did not anticipate the Claimant would need any additional medical care for his injuries other than prescription strength Motrin for flare ups.

The second Deposition of Dr. Mills was taken on August 23, 2012 following the Claimants second accident. In that Deposition, Dr. Mills testified that the Claimant had suffered injuries to his lower back and neck as a result of his first accident. His opinions were based upon medical reports of other Doctors. In that Deposition, Dr. Mills admitted that he had not seen the Claimant between January 27, 2011 when he released the Claimant to return to work and early April of 2012, when the Claimant returned following the motorcycle accident.

Although the Claimant testified that his low back and neck condition deteriorated following his returning to work, the medical records show that he was doing pretty well until his motorcycle accident. No medical records show any physical change of condition. The only evidence of a change of condition is the Claimant's testimony. He testified that his pain escalated following his August, 2011 visit with Dr. Sarb but there is no medical evidence to collaborate his complaints. He did not return to any doctor and continued to work full-time, full duty until his motorcycle accident. Thus, I find that the Claimant failed to carry his burden of proving a change of condition for the worse from the Taser accident.

3) The Claimant, Scott Ledford, was an employee of the above named employer prior to March 10, 2012 on which date he did sustain an injury by accident to his right leg which also aggravated his pre-existing neck and back problems. This finding is based upon the deposition of Dr. William Mills, an authorized treating physician who testified that the motorcycle accident aggravated the Claimants pre-existing neck and back problems and that aggravation has caused the Claimant to need surgery.

The Claimant has also been seen by Dr. Steven Poletti. There appeared to be two records from Dr. Poletti dated May 7, 2012. This Commissioner does not have any idea as to why there are two records but must say that it is certainly unusual. Nevertheless, the Claimant did mention the motorcycle accident to Dr. Poletti on his first visit in the second record.

4) The Claimants average weekly wage is Seven Hundred Nine Ninety-Five dollars 95/100 ($709.95) per week thus making the compensation rate of Four Hundred Seventy Three Dollars 32/100 ($473.32) per week. This finding is based upon the Form 20 properly filed by the Defendants. The Claimant failed to prove any good reason to deviate from the Form 20.

5) As a result of the Claimants accident of March 10, 2012, he was drawing temporary total benefits as a result of admitted injuries. The stoppage of temporary total benefits was not an issue in this hearing.

6) As a result of the Claimants accident of March 10, 2012, the Claimant suffered injuries to his right leg and aggravated pre-existing conditions in his neck and low back. The Claimant is entitled to causally related medical care authorized by the Carrier for his admitted injury and aggravations of pre-existing conditions until further order of this Commission.

## V. CONCLUSIONS OF LAW

Accordingly, as provided by the Code of Laws (1976 as amended) Section 42-17-40, is the determination of this Commissioner:

1)That under Section 42-1-130, the Claimant was a covered employee at the time in question; that under Section 42-1-140, the employer, South Carolina of Public Safety, was a covered employer under the South Carolina Workers' Compensation Act.

2) That under Section 42-1-160, the Claimant did sustain an injury by accident arising out of and in the course of his employment on July 15, 2010.

3) That under Section 42-17-90, the Claimant did not suffer a change of conditions for the worse as a result of his accident of July 15, 2010.

4) That under Section 42-1-160, the Claimant did sustain an injury by accident arriving out of and in the course of his employment on March 10, 2012. That as a result of that accident, the claimant suffered injuries to his right leg and aggravated conditions in his low back and neck.

5) That under Section 42-9-60, the Claimant is entitled to medical care for his injuries and aggravations of pre-existing conditions.

## VI. ORDER

**IT IS THEREFORE ORDERED,** that the claim of the Claimant for a change of condition for the worse, pursuant to Section 42-17-90, under WCC claim no. 1009581, be and hereby is, denied and dismissed.

**IT IS FURTHER ORDERED,** under WCC claim no. 1202545, that the Defendants provide Medical Care, Evaluation, and Treatment for injuries to his right leg and Medical Care, Evaluation and Treatment for aggravation of pre-existing conditions to the Claimant's Neck and Low Back.

**AND IT IS SO ORDERED.**

Commissioner Andrea C. Roche

CERTIFICATE OF SERVICE

This is to certify the undersigned has this date served this order in the above entitled action upon all parties to this cause by sending an electronic copy hereof by electronic mail addressed to the attorney or attorneys for said parties or by depositing a copy hereof, postage paid, in the United States certified mail addressed to any unrepresented party.
May 1, 2013

By: Barbara Cheeseboro, Administrative Assistant to Commissioner Roche

IN THE STATE BOARD OF WORKERS' COMPENSATION
STATE OF SOUTH CAROLINA

| | |
|---|---|
| SCOTT LEDFORD,<br><br>Claimant,<br><br>-VS-<br><br>DEPARTMENT OF PUBLIC SAFETY,<br><br>Defendant,<br><br>and<br><br>STATE ACCIDENT FUND,<br><br>Carrier | WCC FILE NO.<br>1202545 |

**APPELLATE HEARING**

Before the Honorable Aisha Taylor,
Michael Campbell, and Avery Wilkerson, Jr., Chair

Commencing on March 17, 2015 at 10:26 a.m.
Columbia, South Carolina

APPEARANCES BY COUNSEL:

FOR THE CLAIMANT:
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The Steinberg Law Firm, LLP
PO Box 9
Charleston, SC 29402

FOR THE DEFENDANTS AND CARRIER:
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## LEGEND OF THE TRANSCRIPT

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| [sic] | written as said |

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## PROCEEDINGS

THE COURT REPORTER: Today is March 17, 2015. This is South Carolina Workers' Compensation Case Number 1202545. This is the case of Scott Ledford, Claimant, versus Department of Public Safety, Employer, and State Accident Fund, Carrier.

The Appellant is the Claimant, represented today by Kevin Holmes. The Respondent is represented today by Sarah Alphin.

Each side is allowed ten minutes for oral argument and the Appellant three minutes in reply. You are requested to argue the grounds of exception and stay within the record.

COMMISSIONER WILKERSON: It's my understanding Mr. Holmes is going to do the presentation here this morning.

MR. HOLMES: That is correct.

COMMISSIONER WILKERSON: Mr. Holmes, please. Thank you.

### APPELLANT ARGUMENT

MR. HOLMES: Good morning. I wish each of you a Happy St. Patrick's Day. It's always the beginning of Spring for me. But I say that knowing that none of us are particularly happy about being here to hear this case this morning. None are less happy than Scott Ledford, his

wife, and his attorney Scott -- Hood Temple.

In his 27 years of practice before this Commission Mr. Temple has never before filed a motion to recuse a Commissioner. He did so in this case only because he felt compelled to do so to protect his client's rights and at his client's direction. The suggestion he filed this motion to gain some imaginary collateral advantage could not be further from the truth.

What has Mr. Hood gained? Well, he's gained the very substantial out of pocket cost to hire associate counsel to help him with the legal issues, to hire associate appellate counsel, to hire a law school ethics professor to counsel all of us.

This hearing isn't about the lawyers. This hearing is about Scott Ledford, a good, decent, hard working citizen, a devoted husband and father, who, yes, he worked hard to provide a better life for his wife and three children. A seventeen year veteran of law enforcement. A distinguished highway patrolman who reached the rank of Lance Corporal, was accepted on the ACE team in motorcycle to do escorts for visiting dignitaries. A man whose record was unblemished. A law enforcement officer that suffered not one, but two admitted accidents.

The first, in 2010 when he volunteered to be the tester, you know, in experiment showing the other law

officers about lasers [sic]. And when they tasered him the muscle spasms were so severe from the 50,000 volts of electricity he got he broke two vertebra in his mid back.

The second occurred after his back had healed, after he'd been back to work for almost a year full duty without restrictions when he was involved in a motorcycle accident. The motorcycle accident pursuing a motorist. A motorcycle accident that, according to the authorized treating physician, according to the objective MRI scans, resulted in a blown cervical disc, an impingement of the spinal cord at C5/C6 and C6/7, a blown lumbar disc that was in facing the nerve roots and impinging on the spinal cord at L4/5. Injuries which the physicians -- the treating and the consulting physicians rated at between thirteen and fifteen percent impairment for the cervical spine and between five and ten percent impairment to the lumbar spine, in addition to the impairment he already had for the two ruptured vertebra in his back. Injuries that the physicians all agree will most probably require future surgery.

An admitted career ending accidents that the State of South Carolina has granted him disability retirement for, because they recognize he's unable to return to his job as a law enforcement officer.

And what is the fair and impartial award that Office

Ledford has received for his career ending injuries? A zero percent impairment to his neck and low back.

Putting aside whether Officer Ledford can work or at what capacity he can work at you have to understand that he is at least entitled to a scheduled award for his cervical and lumbar spine injury that he did not receive, regardless of his earning capacity and to the year to petition if those conditions worsen and he needs that surgery his doctors most probably say he will need.

Not only is he denied an award, Mr. and Ms. Ledford are ordered to pay this State Fund $19,000 of money they do not have to spare. By any measure, this award is not fair and impartial. It's shocking. It undermines confidence in the Commission.

And it's not enough that Officer Ledford should be denied an award, this man with an exemplary record in law enforcement and an unblemished record is called a liar who should be referred for criminal prosecution. And now it's not just Officer Ledford, it's his lawyer is called a liar and unethical, too. His Certified Public Accountant is called either incompetent or a tax crook. All of the doctors that treated Officer Ledford, well, they must be incompetent, because none of them thought that Scott Ledford was trying to gain the system. And while your at it, go ahead and add Commissioner Andrea Roche to the

list.

You may not even have to weigh it in to the ethical dispute over whether or not Commissioner Barden should have recused herself when there was sworn affidavit saying that Scott Ledford felt that he had been threatened and coerced into settlement, because there's an even more fundamental error of law that occurred. After the initial injury -- the taser injury -- Scott Ledford had some radicular problems in his arms and he had a radicular problem in his leg, but he was treated and all of that resolved. When he had the motorcycle accident it wasn't clear whether his -- now his neck and back were a worsening of his taser accident or a result of the motorcycle accident. So Mr. Hood prudently filled for both. And the change of condition came to be heard before Commissioner Roche.

She made very specific findings. She said that, No, the back and neck pain that he had following the accident, all of that resolved. All of the medical records agree it resolved. That he does not have a worsening of his condition. The problem he is having now with his neck and back are the result of the motorcycle accident. Those were her finding. Her finding were never appealed. But Commissioner Barden took it upon herself to -- she says, Well, I have to review her decision. She didn't review

Commissioner Roche's decision, she reversed it, and said that, No, Scott Ledford's neck and back problems, they're the result of the taser accident. That has resulted in two entirely inconsistent awards. And that, I submit, is manifestly unfair to Scott Ledford.

I submit that Commissioner Barden's order can and should be reversed on this ground alone, without you having to get embroiled in the ethical armageddon that's looming.

If, for some reason, you decide you have to get involved in that dispute then I would remiss if I didn't clarify exactly what it is that Mr. Ledford and Mr. Temple said that Commissioner Barden did. They've never claimed that she had a personal interest in the outcome of the case, they never claimed that she had any personal prejudice against Scott Ledford. They said that she threatened to report him to the attorney general unless he settled his workers' comp case, and settled it on terms which, she admitted, would obviously be very unfavorable in view of her comments in the telephone conversation after the hearing.

Scott Ledford has a right to have his claim decided not just by Commissioner Barden, but by an appellate panel like you, by the court of appeals, and by the supreme court, if need be in due course.

You can not threaten to do something that you're actually required by law to do. Actually, threaten, I will not report you if you settle your case, if you give up your rights. The Code of Judicial Conduct admonishes that while judges should encourage settlements, the parties should not feel coerced into surrendering the right to have their case resolved by the courts.

So I ask you, did she say that she'd make the threat? Well, what lawyer in his right mind would accuse a Commissioner of saying something she didn't say when opposing counsel's on the telephone and could refute it?

Mr. Temple didn't file the motion to recuse before the hearing because she hadn't made the statement yet.

If Scott Ledford said in a sworn affidavit that he even felt threatened and coerced then Commissioner Barden should have recused herself to avoid the appearance of impropriety. Her grossly inadequate order should be reversed to preserve public confidence in the fairness and impartiality of the Commission. In this case it is fair to remand the case to a new hearing before a fair and impartial Commissioner to issue an order consistent with the prior order of Commissioner Roche. That's all that Mr. Ledford has asked for, that's what he's entitled to.

Thank you.

COMMISSIONER WILKERSON: Any questions?

Ms. Alphin, on behalf of your client.

MS. ALPHIN: Thank you, Commissioner.

RESPONDENT ARGUMENT

MS. ALPHIN: The Defendants today here argue that the evidence supports a full affirmation of Commissioner Barden's hearing order and that there were not errors in the law.

The hearing Commissioner heard the evidence in the case that was presented, none of which was ever objected to, and she decided the case and made findings of fact and rulings of law, which is exactly what she is charged to do as a hearing Commissioner.

Claimant argues that the outcome is shocking and should be overturned for that reason among others. However, I think that that argument is -- misconstrues some of the evidence. And what I mean by that is the hearing Commissioner did not reverse any prior order of Commissioner Roche. Commissioner Roche heard a claim and decided that the Claimant's neck and back complaints were an aggravation of a preexisting condition and were a part of this claim that we're here about today. That was accepted, no one appealed that, treatment was provided. And what she ruled at the hearing was -- she didn't rule that the neck and the back are no longer related, she ruled that Claimant did not prove disability above what

was already paid to him.

The taser accident that was in 2010, not this accident we're here about, he was paid 25 percent to his back already. And the back is the whole spine, we don't break it up in cervical, thoracic, and lumbar. And that was our argument at the hearing, is he's already been paid 25 percent to the back and any disability to the back would have to be proven above 25 percent, as we're entitled to a credit for that amount. And what the hearing Commissioner found is that she agreed we would be entitled to a credit for that, and she found no disability greater than the 25 percent that he had already been found. And when you read the order instructions I think that's very clear, she does not say, I find no disability, but she finds no disability greater than the 25 percent already paid as part of the prior claim.

I also take exception with the statement that all of the physicians have recommended surgery. Dr. Mills was the original authorized physician. He did discuss surgery and recommended it. The Claimant did not want to proceed that way and all the parties agreed to have a new authorized treating physicians declared. And that was with the consent of the parties that he was sent to Dr. Edwards at that time. And you will see in every medical record that raises surgery that the Claimant did

not want to undergo surgery. And, in fact, Dr. Edwards, as the most recent authorized treating physician, said that surgery may be warranted if his condition deteriorates in the future. And because of that language I think that the hearing Commissioner's award is supported. And she even mentions in the order that if he had a change of condition he could pursue that surgery, but the way the Commissioner -- I'm sorry -- the way the doctor phrased that, that he was not entitled to any surgery at that time.

And it would be the Defendant's position that the hearing Commissioner correctly found the date of MMI to be October 31, 2013 and awarded the appropriate credit for overpayment of TTD benefits. She correctly awarded credit to the Defendants and found that there was no disability greater than the 25 percent previously paid to the Claimant for his back.

The Commissioner found credibility issues with this Claimant. The hearing that was in front of Commissioner Roche actually had a -- it was the 2010 and this 2012 claim were heard together to determine whether he had a change of condition for the worse on the 2010 claim or a new accident or aggravation under this 2012 claim. At that hearing in front of Commissioner Roche the Claimant argued that his neck, and his lumbar spine, and his

not want to undergo surgery. And, in fact, Dr. Edwards, as the most recent authorized treating physician, said that surgery may be warranted if his condition deteriorates in the future. And because of that language I think that the hearing Commissioner's award is supported. And she even mentions in the order that if he had a change of condition he could pursue that surgery, but the way the Commissioner -- I'm sorry -- the way the doctor phrased that, that he was not entitled to any surgery at that time.

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thoracic spine were all injured in the taser accident and that they also were injured in this new accident. Yet, at the hearing that was held -- the hearing we're here about today, the Claimant did not admit to having any of those prior issues and was impeached with a medical record of Dr. Sarb in which he was actually given a rating for his cervical spine from the taser accident. And that goes to show that the Commissioner -- the hearing Commissioner had good grounds for the decisions that she made, it was supported by the evidence.

She also relied heavily -- or it seems that she relied on tax returns that were submitted. Those were submitted as evidence in the case and they were not objected to. And they showed the Claimant's lawn care landscaping business. And he, the year after his accident, had over $300,000 in profit -- gross profits coming into that business.

And we would assert that the evidence in the case supports the hearing Commissioner's decision and would ask for a full affirmance of the matter. Thank you.

COMMISSIONER WILKERSON: Questions? Thank you.

Mr. Holmes.

MR. HOLMES: Thank you.

COMMISSIONER WILKERSON: Three minutes in reply.

COMMISSIONER TAYLOR: Mr. Holmes, before you go on to

reply. I wrote down a few questions. I didn't want to take your time on the initial argument.

MR. HOLMES: Please.

COMMISSIONER TAYLOR: Part of the argument on the ethical issue, I think the way it's phrased is that Commissioner Barden, essentially, said that unless the claim was resolved via settlement she would report. And I think the word I kind of focused on when I was reading the documents was the word unless. And I just want to make sure that was the exact word that was used or if that was just your -- the argument that was phrased.

MR. HOLMES: Immediately after the conversation Hood Temple made a contemporaneous note of what was said, and that was what he wrote in his note, was, I have a duty to report this, but if you settle the case I won't report it, is the just of it. And our position is is that when you have a mandatory duty to report you can not say, I won't report it if you give up your legal rights.

COMMISSIONER TAYLOR: Well, and I think to follow up on that exact statement as you phrase it, is that not true, though, because -- and I think if you tie it into what we do during a pre-hearing conference. So let's say this conversation took place before any evidence was even submitted -- and often times we'll have the lawyers come in and kind of informally go over the positions, and a

Commissioner might say, Well, you know, I don't know if I believe what's going on here, you know if I find that it's not true I'll have an obligation to report it so you may want to discuss that with your claimant. And sometimes the attorneys go out and talk about it and settle it. So how is this, even though it was post-hearing, unlike that scenario?

MR. HOLMES: It's exactly, it's post-hearing. And Commissioner Barden said, I have a duty to investigate, and I've been investigating, and I have found that this is what -- that I find that I don't believe anything you've said other than your name and address, and then, unless you settle this case I will report you.

So I think it is a little bit different than saying, If I find that one of you is lying, either side, I have a duty to report you. That is correct. You have an absolute -- it's a statutory, mandatory duty.

But -- and I practice law in the criminal law and very often before the trial you meet with the judge, he said, Well, your client's facing 35 years in prison, you know, and that's true. But he can't say, If you go forward with this trial I'm going to, you know, do this, this, and this, and max you out on everything. That's not permitted. You have a right to a trial by jury, may be foolish to exercise it, but if you want it you can not be

punished for asking for your right to a trial.

COMMISSIONER WILKERSON: So issue is post, not pre.

MR. HOLMES: It's post.

And, you know --

COMMISSIONER TAYLOR: That answered my question, you can go on.

APPELLANT REPLY

MR. HOLMES: Credibility. Credibility doesn't trump everything. It doesn't trump objective medical evidence, doesn't trump the opinions of the medical doctors. And a Commissioner demeans and abuses their authority when they a stoop to base credibility finding on what tense the client is speaking in at the hearing. And it's in the order that he was asked, What happens if you don't follow the doctor's restrictions. And he said, Well, it hurts. And for some reason she thought, well, he spoke in the present tense so that must mean that he's doing more than he says he's doing and I don't know.

I don't know how you can look at tax returns two years after -- and somebody has suffered these kind of injuries -- and make any conclusions about what that business must have been beforehand.

She makes a -- you know, she sort of uses circuitous reasoning that, Well, he operated this small business for seventeen years to provide a better life for his wife, but

now he's got tax returns that show that in the two years after his injury he may have had gross income of $300,000, but his net income was almost zero, $700 one year and $900 the next. And she comes to the conclusion that the business must be much more profitable, he must be using creative accounting to hide income. You know, that just comes out of nowhere.

She ignores the very same records that say the business paid $75,000 in salaries to its workers and $54,000 to subcontractors. Well, gee, what do you think, maybe they might have been the ones doing the physical labor?

You know the bottom line in this case is, if a 17 year old law enforcement officer with a spotless record can't measure up, then nobody can. He can't just turn -- he can't say, I'm going to ignore the MRI that says he's got a ruptured disc in his neck and a ruptured disc in his spine and just say, Well, credibility, I don't believe anything he said so I'm going to give him zero.

And we can say, you know, it's not in addition to the 25 percent that was already approved and agreed to. But if you add the 25 percent that was already approved and agreed to to the 23 to 25 percent he was awarded in this case then he's within percentage points of where a person is entitled, at least, to the rebuttable presumption that

he's totally disabled under the statute.

So I stand by my position. The award is just -- it's not fair to Scott Ledford, to Hood Temple. I ask you to reverse it. This happens all the time. I'm sure you get cases where you look at it and you say, This award, it just doesn't look right. Let's send it back, do it again, let the chips fall where they may.

COMMISSIONER WILKERSON: Any questions?

This concludes the hearing.

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(Whereupon, the hearing was concluded at 10:49 a.m.)

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SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
COLUMBIA, SOUTH CAROLINA
WCC FILE NO. 1202545

COPY

EMPLOYEE/CLAIMANT: SCOTT LEDFORD

EMPLOYER: DEPARTMENT OF PUBLIC SAFETY

CARRIER: STATE ACCIDENT FUND

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SOUTH CAROLINA WORKERS' COMPENSATION HEARING

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PURSUANT TO NOTICE OF WORKERS' COMPENSATION HEARING, THE WITHIN HEARING WAS TAKEN ON THE 15TH DAY OF AUGUST, 2014, COMMENCING AT THE HOUR OF 11:59 A.M., IN CONWAY, SOUTH CAROLINA, BEFORE THE HONORABLE SUSAN S. BARDEN, ATTENDED BY COUNSEL AS FOLLOWS:

TIMMI A. PARRISH
VERBATIM REPORTER

---

*TIMMI A. PARRISH*
COURT REPORTING SERVICES
POST OFFICE BOX 551
ROEBUCK, SC 29376
864-921-8743

SCANNED

## APPEARANCES

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COLUMBIA, SOUTH CAROLINA 29209

ATTORNEY FOR THE EMPLOYER/CARRIER.

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

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**BY COMMISSIONER BARDEN:**

TODAY'S DATE IS AUGUST 15TH, 2014. THIS IS SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION FILE NUMBER 1202545. THIS IS THE CASE OF THE CLAIMANT, MR. SCOTT LEDFORD, WHO IS PRESENT TODAY AND REPRESENTED BY ATTORNEY HOOD TEMPLE, VERSUS THE EMPLOYER, THE SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY, AND ITS CARRIER, THE STATE ACCIDENT FUND, BOTH OF WHICH ARE REPRESENTED BY ATTORNEY SARAH ALPHIN. THE PURPOSE OF TODAY'S HEARING IS TO DETERMINE ISSUES RAISED IN DEFENDANTS' FORM 21, REQUEST TO STOP PAYMENT OF TEMPORARY BENEFITS. THE PARTIES AGREE AND STIPULATE THAT MR. LEDFORD'S AVERAGE WEEKLY WAGE IS $709.95, YIELDING A COMPENSATION RATE OF $473.52. THE DATE OF THIS ADMITTED ACCIDENT WAS MARCH 10TH, 2012. ARE THERE ANY OBJECTIONS TO APAs, JURISDICTION, VENUE, OR ANY OTHER ITEMS?

**BY MS. ALPHIN:**

I'M SORRY, COMMISSIONER. I BELIEVE THE

COMPENSATION RATE IS 473.32.

**BY THE COMMISSIONER:**

THIRTY-TWO?

**BY MS. ALPHIN:**

YES, MA'AM.

**BY THE COMMISSIONER:**

THAT'S A THREE THERE. I CANNOT READ MY OWN WRITING. THANK YOU SO MUCH, MS. ALPHIN, FOR THAT CORRECTION. THANK YOU. ANY OBJECTIONS TO APAs? AGAIN, THANK YOU FOR THAT CLARIFICATION. ANY OBJECTIONS EITHER OF YOU MAY HAVE?

**BY MR. TEMPLE:**

NONE FROM THE CLAIMANT, YOUR HONOR.

**BY MS. ALPHIN:**

NO, COMMISSIONER.

**BY THE COMMISSIONER:**

THANK YOU BOTH. WITHOUT OBJECTION THE COMMISSION FILE BECOMES A PART OF THE RECORD WITH THE EXCEPTION OF SELF-SERVING DECLARATIONS AND UNSTIPULATED MEDICAL REPORTS.

PRIOR TO GOING ON THE RECORD, WE HELD A PREHEARING CONFERENCE. IT IS THE POSITION OF BOTH PARTIES THAT THE CLAIMANT HAS REACHED MAXIMUM MEDICAL IMPROVEMENT. HOWEVER, IT IS THE CLAIMANT'S POSITION THAT HE REACHED MAXIMUM MEDICAL IMPROVEMENT

ON MARCH 5TH, 2014, AND I WILL ELABORATE FURTHER AS TO WHY HE BELIEVES IT IS THAT DATE. THE DEFENDANTS BELIEVE THAT THE CLAIMANT REACHED MAXIMUM MEDICAL IMPROVEMENT AS OF OCTOBER 31ST, 2013.

THE DEFENDANTS, AS THE MOVING PARTY, BELIEVE THAT, AGAIN, THE CLAIMANT REACHED MAXIMUM MEDICAL IMPROVEMENT AS OF OCTOBER 31ST, 2013. THEY REQUEST AN ORDER TO ALLOW THEM TO STOP PAYMENT OF TEMPORARY BENEFITS. THEY SEEK A DETERMINATION OF PERMANENCY WITH REGARD TO THE RIGHT ANKLE, THE NECK, AND THE LOW BACK. THE DEFENDANTS BELIEVE THAT THE AWARD SHOULD BE MADE PURSUANT TO SECTION 42-9-30, WHATEVER THE APPROPRIATE ITEM, FOR THE SPINE, ITEM 21; FOR THE LEG, ITEM 16. BOTH PARTIES AGREE THAT THERE WAS A RIGHT KNEE INJURY, A CONTUSION WHICH RESOLVED. THE DEFENDANTS BELIEVE THAT THERE IS NO PERMANENT PARTIAL DISABILITY BEYOND THE IMPAIRMENT RATINGS OF THE AUTHORIZED PHYSICIAN, AND IF THERE IS ANY PERMANENT PARTIAL DISABILITY, IT WOULD BE STRICTLY DE MINIMIS. THE DEFENDANTS STRONGLY ARGUE THAT THE CLAIMANT IS NOT PERMANENTLY AND TOTALLY DISABLED. THEY WOULD POINT TO MY ATTENTION THE FACT THAT HE RUNS A LANDSCAPING COMPANY, AND WHILE HE MAY NOT BE ABLE TO CURRENTLY PERFORM SOME OF THE PHYSICAL LABOR WHICH HE PREVIOUSLY PERFORMED PRIOR TO THE DATE OF

THE ACCIDENT, HE STILL RUNS THE COMPANY; HE IS STILL ABLE TO DERIVE INCOME FROM THE COMPANY; HE IS CAPABLE OF RUNNING THE COMPANY, AND HE IS CAPABLE OF PERFORMING SOME DUTIES. SUCH IN ADDITION TO THE FINDINGS OF THE VOCATIONAL REPORT OF THE DEFENDANTS, BECAUSE OF THAT FACTOR AND BECAUSE OF THE FACT THAT THE CLAIMANT CONTINUES TO RUN A LANDSCAPE COMPANY, THE DEFENDANTS BELIEVE THAT THE CLAIMANT CANNOT BE FOUND TO BE PERMANENTLY AND TOTALLY DISABLED. AGAIN, THEY BELIEVE THAT WHILE THE CLAIMANT IS ENTITLED TO SOME PERMANENCY AWARD, IT WOULD STRICTLY BE PURSUANT TO SECTION 42-9-30. AS FAR AS THE SPINE IS CONCERNED, THE DEFENDANTS BELIEVE THAT THE CLAIMANT CLEARLY HAS NOT SUSTAINED A 50 PERCENT OR GREATER LOSS OF USE OF THE SPINE, AND, THEREFORE, HIS AWARD WOULD BE BASED UPON 300 WEEKS ONLY.

AS FAR AS CREDIT IS CONCERNED, THE DEFENDANTS DO SEEK A CREDIT FOR TEMPORARY BENEFITS PAID BEYOND THE DATE OF MAXIMUM MEDICAL IMPROVEMENT. THEY ALSO SEEK A CREDIT FOR 75 WEEKS FOR BENEFITS PAID FOR THE THORACIC SPINE IN 2010. THE DEFENDANTS BELIEVE THAT THE 16-A STATES THAT -- IN WHICH THE CLAIMANT ENTERED INTO, I BELIEVE, IN 2011, THAT THE INJURY -- THE 16-A STATES THAT THE INJURY IS TO THE SPINE, THAT THE IMPAIRMENT RATING WAS MADE TO THE WHOLE

PERSON, AND REGARDLESS OF WHETHER IT IS TO THE T-SPINE, AS SPECIFIED IN THE DEPOSITION OF THE AUTHORIZED TREATING PHYSICIAN IN THAT CASE -- AGAIN, MS. ALPHIN DID NOT REPRESENT THE EMPLOYER IN THAT CASE, BUT SHE ARGUES THAT THE CLAIMANT WOULD BE ENTITLED TO RECEIVE -- EXCUSE ME; THE DEFENDANTS, RATHER, WOULD BE ENTITLED TO RECEIVE CREDIT FOR THE 75 WEEKS PAID PURSUANT TO THE 16-A BECAUSE THE SPINE IS THE SPINE AND THAT THE CLAIMANT CANNOT TAKE ADVANTAGE OF THE FACT THAT IT'S A DIFFERENT AREA OF THE SPINE.

AS FAR AS FUTURE MEDICALS IS CONCERNED -- AND I'M GOING TO GO OFF THE RECORD ONE MINUTE.

**(OFF THE RECORD)**

**BY THE COMMISSIONER:**

WE ARE BACK ON THE RECORD. IT IS THE DEFENDANTS' POSITION THAT NO FUTURE MEDICALS HAVE BEEN ORDERED BY OR RECOMMENDED BY AN AUTHORIZED TREATING PHYSICIAN, AND, THEREFORE, NONE SHOULD BE ORDERED BY THE COMMISSION. AS FAR AS THE FUSION IS CONCERNED THAT IS RECOMMENDED, I KNOW SPECIFICALLY BY DR. POLETTI, THE DEFENDANTS BELIEVE THAT AN AUTHORIZED PHYSICIAN HAS NOT RECOMMENDED THAT EXCEPT UNLESS -- EXCEPT AND UNLESS THE CLAIMANT'S CONDITION DETERIORATES. SO, THEREFORE, IF THE CLAIMANT IS

EVER ENTITLED TO RECEIVE FUSION SURGERY, THE DEFENDANTS BELIEVE IT WOULD BE UNDER A CHANGE OF CONDITION FOR THE WORSE BUT NOT AS A FUTURE MEDICAL TO WHICH THE CLAIMANT WOULD BE ENTITLED AND FOR WHICH AN ORDER SHOULD BE MADE.

CONVERSELY, IT IS THE POSITION OF THE CLAIMANT THAT HE IS PERMANENTLY AND TOTALLY DISABLED. HE WOULD POINT TO MY ATTENTION THE FACT THAT HE HAS SUSTAINED INJURIES TO MULTIPLE BODY PARTS, THAT HE HAS SIGNIFICANT PROBLEMS WITH REGARD TO EACH OF THOSE BODY PARTS, AND THAT THEY INVOLVE SIGNIFICANT BODY PARTS, SUCH AS HIS SPINE AND HIS RIGHT LEG, AND TWO LEVELS OF HIS SPINE, THAT BEING HIS CERVICAL SPINE AND HIS LUMBAR SPINE. THAT BECAUSE OF THE COMBINATION OF THE BODY PARTS AND OTHER FACTORS, WHICH WILL BE EXPLORED THROUGH THE TESTIMONY AS WELL AS IN HIS VOCATIONAL REPORT, THAT THE CLAIMANT WOULD CLEARLY BE ENTITLED TO A FINDING OF PERMANENT AND TOTAL DISABILITY. ALTERNATIVELY, HE WOULD BE ENTITLED TO A FINDING OF PERMANENT AND TOTAL DISABILITY UNDER 42-9-30. BECAUSE OF THE IMPAIRMENT RATINGS ALONE, THE CLAIMANT BELIEVES THAT HE IS JUST SINGLE DIGITS AWAY FROM A GREATER THAN 50 PERCENT LOSS OF USE OF HIS SPINE. AND, THEREFORE -- AND THAT THE CLAIMANT CAN'T -- EXCUSE ME; THE DEFENDANTS

CANNOT REBUT THE PRESUMPTION THAT HE IS PERMANENTLY AND TOTALLY DISABLED. AND, THEREFORE, HE IS PERMANENTLY AND TOTALLY DISABLED UNDER EITHER THEORY. BUT IF I FIND THAT HE IS NOT PERMANENTLY AND TOTALLY DISABLED, BECAUSE HIS IMPAIRMENT RATINGS, THE CLAIMANT BELIEVES, ARE HIGH AND THAT THERE SHOULD BE NO CREDIT, THAT THIS IS ADDITIONAL IMPAIRMENT UNRELATED TO THE T-SPINE INJURY OF 2010, THAT, IN ANY EVENT, THE CLAIMANT WOULD BE ENTITLED TO HAVE HIS SPINAL AWARD TO BE BASED UPON A 500-WEEK ANALYSIS. BUT HE BELIEVES HE'S PERMANENTLY AND TOTALLY DISABLED, AND THE EVIDENCE CERTAINLY SUPPORTS HIS CONTENTION.

IF I FIND THAT HE IS NOT PERMANENTLY AND TOTALLY DISABLED, HE OBVIOUSLY SEEKS THE AWARD THAT WOULD BE MOST ADVANTAGEOUS TO HIM, WHETHER THAT'S UNDER 30 OR WAGE LOSS UNDER SECTION 20. AGAIN, I HAVE NOT READ THE VOCATIONAL REPORT BECAUSE IT'S JUST BEEN HANDED TO ME. BUT HE WOULD LIKE THERE TO BE AN ANALYSIS UNDER 20 AS WELL BECAUSE HE HAS BEEN REMOVED FROM HIS PREACCIDENT JOB WITH THE DEPARTMENT. NO JOB HAS BEEN OFFERED TO HIM, EVEN A DISPATCHER JOB. HE IS UNABLE TO DO THAT; AND, THEREFORE, HE HAS QUALIFIED FOR DISABILITY UNDER THE STATE RETIREMENT SYSTEM FOR RETIREMENT DISABILITY.

AND ALTHOUGH PERHAPS THAT MAY NOT BE CONCLUSIVE OR DISPOSITIVE WITH REGARD TO A FINDING IN WORKERS' COMPENSATION, IT'S CERTAINLY SOMETHING THAT SHOULD BE AFFORDED GREAT WEIGHT; AND HE WOULD LIKE, OBVIOUSLY, AS HE BELIEVES HE IS ENTITLED UNDER THE ACT, TO RECEIVE AN AWARD THAT IS MOST ADVANTAGEOUS TO HIM, WHATEVER WITH REGARD TO THE STATUTORY ANALYSIS THAT MIGHT BE. IN A MINIMUM HE WOULD CONTEND THAT HE HAS SIGNIFICANT PERMANENT PARTIAL DISABILITY WITH REGARD TO HIS INJURED BODY PARTS, THAT BEING THE RIGHT ANKLE, THE NECK, AND THE SPINE. HE BELIEVES THAT IMPAIRMENT RATINGS ARE NOTHING MORE THAN MERE STARTING POINTS IN DETERMINING DISABILITY. AND WHILE THE AUTHORIZED TREATING PHYSICIAN MIGHT IN SOME CASES BE GIVEN GREATER DEFERENCE AS FAR AS IMPAIRMENT RATINGS ARE CONCERNED, THE CLAIMANT WOULD CONTEND THAT DR. TAYLOR'S RATING WITH REGARD TO THE LEG IS FLAWED FROM THE OUTSET, THAT'S IT'S A SEVEN PERCENT TO THE ANKLE, THAT DR. TAYLOR DID NOT EVEN MAKE THE RATING TO THE LEG. HIS ANKLE IS NOT HIS FOOT, AND THAT'S THE LEAST OF THE PROBLEMS WITH THAT RATING, AS FAR AS THE CLAIMANT IS CONCERNED. AND THE CLAIMANT, THEREFORE, SOUGHT AN EVALUATION AND RATING FROM DR. O'DELL, AND THE CLAIMANT CONTENDS THAT -- AGAIN, I HAVEN'T READ THIS EITHER, BUT THE

DETAIL THAT DR. O'DELL PROVIDED AND THE RATIONALE FOR HIS IMPAIRMENT RATING SHOULD LEAD THE COMMISSION TO RESOLVE THAT THE O'DELL RATING SHOULD BE GIVEN MUCH GREATER WEIGHT. AND, AGAIN, IT'S A MERE STARTING POINT, AND THERE ARE OTHER IMPAIRMENT RATINGS AS WELL.

I'M NOT GOING TO ELABORATE TOO MUCH UPON IT, BUT SUFFICE IT TO SAY THAT DR. MILLS -- DR. EDWARDS MAKES IT CLEAR THAT THE IMPAIRMENT RATING TO THE CERVICAL AND LUMBAR SPINE IS NEW IMPAIRMENT AND UNRELATED TO THE THORACIC SPINE INJURY OF 2010. AS FAR AS THE SPINE, HOWEVER, THE CLAIMANT DOES BELIEVE THAT THE POLETTI RATING SHOULD BE GIVEN GREATER WEIGHT AS THE CLAIMANT'S EXPERT FOR REASONS THAT DR. POLETTI SETS FORTH IN HIS EVALUATION AND NARRATIVE. THERE IS NO SPINAL RATING, I BELIEVE, FROM DR. MILLS. AS FAR AS CREDIT IS CONCERNED, AGAIN, THE CLAIMANT CONTENDS THAT THE CREDIT, IF THERE IS ANY GIVEN, SHOULD BE -- THE FIRST POSITION WOULD BE FROM MARCH THE 5TH, 2014, BECAUSE THE CLAIMANT WAS STILL TREATING UP UNTIL THAT DATE AND STILL CONSIDERING SURGERY; AND, THEREFORE, THE DATE CHOSEN BY THE DEFENDANTS IS REALLY INAPPROPRIATE. HOWEVER, IF I DON'T AGREE WITH THE MARCH 5TH, 2014, DATE, THE CLAIMANT'S BACKUP POSITION WOULD BE THE DATE OF THE

FILING OF THE 21, WHICH WAS JANUARY 21ST, 2014. SO THE CLAIMANT WOULD LIKE ME TO CONSIDER THAT IF ANY ISSUE OF CREDIT IS VIABLE INSTEAD OF MOOT IF THE CLAIMANT IS PERMANENTLY AND TOTALLY DISABLED.

AND, FINALLY, AS FAR AS FUTURE MEDICALS ARE CONCERNED, THE CLAIMANT BELIEVES THAT THE CLAIMANT HAS, IN FACT, HAD FUSION SURGERY RECOMMENDED, AND NOT JUST BY THE CLAIMANT'S EXPERT, DR. POLETTI, BUT ALSO BY AN UNAUTHORIZED PHYSICIAN, AND, THEREFORE -- AND THE PARTIES DISAGREE ABOUT THAT SOMEWHAT, SO I'VE GOT TO READ THOSE RECORDS, OBVIOUSLY. BUT THE CLAIMANT BELIEVES THAT NOT ONLY ONE BUT I BELIEVE EVEN THREE PHYSICIANS HAVE RECOMMENDED FUSION SURGERY. SO, THEREFORE, THE CLAIMANT SHOULD BE ENTITLED TO RECEIVE THAT AS A FUTURE MEDICAL. THAT PHYSICIANS HAVE COUNSELED HIM TO DEFER THE SURGERY AS LONG AS POSSIBLE, THAT IT WOULD BE MORE IDEAL TO WAIT. THE CLAIMANT DOESN'T FEEL LIKE HE SHOULD BE PUNISHED BY NOT GOING AHEAD AND UNDERGOING THE SURGERY. HE IS FOLLOWING THE ADVICE OF THE PHYSICIANS TO WAIT. HE SHOULD HAVE THAT RIGHT PRESERVED TO HAVE THE SURGERY. HE ALSO WOULD POINT TO THE OPINION OF HIS EXPERT, DR. POLETTI, THAT HE WOULD ALSO NEED PHYSICAL THERAPY AND INJECTIONS AS WELL. BUT, OF COURSE, IF THE CLAIMANT IS

PERMANENTLY AND TOTALLY DISABLED, HE'S ENTITLED TO LIFETIME CAUSALLY-RELATED MEDICALS UNDER EITHER THEORY. SO, I'LL SAY THAT AS WELL.

ALL RIGHT. YOU ALL SAID THAT A LOT BETTER THAN I JUST DID. BUT IF THERE IS ANYTHING THAT I'VE MISSTATED OR MISCHARACTERIZED OR OMITTED -- MS. ALPHIN HAS ALREADY POINTED OUT THAT I CAN'T READ 52 FROM 32. SO, IS THERE ANYTHING THAT YOU ALL WANT TO CORRECT? OBVIOUSLY, THAT'S VERY MUCH ABBREVIATED FROM WHAT YOU TOLD ME, AND I HAVE A LOT TO READ, WHICH I HAVE NOT READ YET. SO, HERE'S YOUR CHANCE, UNLESS YOU'RE SATISFIED.

**BY MS. ALPHIN:**

I DON'T HAVE ANYTHING TO ADD, COMMISSIONER. I THINK THE RECORDS ARE PRETTY CLEAR, AND I KNOW YOU WILL READ THOSE.

**BY MR. TEMPLE:**

THE ONLY THING THAT I WOULD ADD -- AND I'M SURPRISED. I THOUGHT THAT WAS AMAZING. BUT I'LL TELL YOU THIS.

**BY THE COMMISSIONER:**

NO, IT WASN'T. BUT GO AHEAD AND TELL ME WHAT YOU ---

**BY MR. TEMPLE:**

THE ONLY OTHER THING THAT I WOULD ADD IN THERE

IS THAT WHEN WE WERE TALKING ABOUT FUTURE MEDICAL TREATMENT AND YOU INDICATED THAT IF IT WASN'T THE CERVICAL SPINE, THAT THE ONLY PERSON WHO RECOMMENDED ADDITIONAL MEDICAL TREATMENT WAS THE UNAUTHORIZED DOCTOR. DR. EDWARDS, ON PAGE 92 OF HIS CORRESPONDENCE DATED MARCH 27TH SAYS THAT IF -- IT SAID, "IT IS MORE LIKELY THAN NOT THAT HE WILL NEED FUTURE MEDICAL TREATMENT EVEN IF SURGICAL INTERVENTION IS NOT REQUIRED. THIS WOULD INCLUDE PHYSICAL THERAPY FOR MECHANICAL SYMPTOMS AND THERAPEUTIC INJECTIONS, SUCH AS EPIDURAL STEROID INJECTIONS, FOR ANY RADICULAR SYMPTOMS." SO, THAT'S ---

**BY THE COMMISSIONER:**

LET ME ASK YOU, DO YOU AMEND YOUR POSITION ON THAT BECAUSE YOU TOLD ME THAT YOU DON'T ---

**BY MS. ALPHIN:**

COMMISSIONER, WE WOULD KEEP THE SAME POSITION THAT DR. EDWARDS HAS SAID IF THE CONDITION DETERIORATES HE WILL REQUIRE SURGERY.

**BY THE COMMISSIONER:**

SO YOU STILL MAINTAIN YOUR POSITION?

**BY MS. ALPHIN:**

I DO, COMMISSIONER.

**BY THE COMMISSIONER:**

WELL, THANK YOU FOR THAT, MR. TEMPLE. OF COURSE, I WILL READ IT, AND I WILL HAVE TO INTERPRET IT THE WAY I THINK IT NEEDS TO BE INTERPRETED.

**BY MR. TEMPLE:**

THANK YOU, YOUR HONOR.

**BY THE COMMISSIONER:**

THANK YOU.

**BY MR. TEMPLE:**

AND THAT WOULD BE THE ONLY ADDITION AND CERTAINLY NO EXCEPTION TO WHAT YOU SAID.

**BY THE COMMISSIONER:**

OKAY, GREAT. OKAY. MS. ALPHIN, YOU ARE RELYING ON THE MEDICALS, THE RIGHT TO CROSS EXAMINE MR. LEDFORD, AND THE RIGHT TO PRESENT ANY REBUTTAL WITNESSES, IS THAT RIGHT?

**BY MS. ALPHIN:**

THAT'S CORRECT.

**BY THE COMMISSIONER:**

AND I DO APPRECIATE SO MUCH YOU STANDING UP, BUT, PLEASE, FREE FEEL -- I KNOW MR. TEMPLE IS GOING TO WANT TO COME OVER HERE AND POINT TO HIS CHART, BUT HE'S ALREADY POINTED EVERYTHING OUT TO ME. SO ---

**BY MR. TEMPLE:**

I THINK I'M THROUGH WITH THE CHART. WE'VE BEEN

THROUGH THIS. I THINK WE'VE BEATEN THAT HORSE.

**BY THE COMMISSIONER:**

ALL RIGHT. MR. LEDFORD, IF YOU WILL RAISE YOUR RIGHT HAND, PLEASE. IS HE OKAY WHERE HE IS, OR DO YOU WANT HIM NEXT TO YOU?

**BY THE COURT REPORTER:**

WHATEVER IS BEST FOR YOU.

**BY THE COMMISSIONER:**

I'M OKAY WITH HIM RIGHT HERE. AS LONG AS YOU CAN ---

**BY MR. TEMPLE:**

I'M SORRY; I THOUGHT HE WAS GOING TO GET UP AND GO, AND HE DIDN'T.

**BY THE COMMISSIONER:**

THAT'S OKAY. BUT I WANT TO TELL YOU A COUPLE OF THINGS. FIRST OF ALL, JUST TURN UP THE VOLUME ON YOUR VOICE BECAUSE IT'S GOT TO PROJECT ALL THE WAY OVER HERE TO HER, OVER HERE, AND EVEN THE LADY BEHIND YOU WANTS TO HEAR WHAT YOU HAVE TO SAY.

**BY THE WITNESS:**

YES, MA'AM.

**BY THE COMMISSIONER:**

AND NUMBER TWO, WHICH I CAN'T EVEN REMEMBER WHAT NUMBER TWO WAS NOW.

**BY MR. TEMPLE:**

YOU'RE UNDER OATH?

**BY THE COMMISSIONER:**

NO, I HAVEN'T EVEN PUT HIM UNDER OATH. I'M SORRY. IT'LL COME TO ME IN A MINUTE. MAYBE IT WASN'T IMPORTANT, OBVIOUSLY. IF YOU WILL RAISE YOUR RIGHT HAND, PLEASE.

* * * * * * * * * * * * * * *

THE WITNESS WAS DULY SWORN TO TELL THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH CONCERNING THE MATTER HEREIN:

**SCOTT LEDFORD,**

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

**BY THE COMMISSIONER:**

PLEASE STATE YOUR FULL NAME FOR THE RECORD.

**BY THE WITNESS:**

SCOTT ALLEN LEDFORD.

**BY THE COMMISSIONER:**

IS ALLEN, A-L-A-N OR ---

**BY THE WITNESS:**

A-L-L-E-N, MA'AM.

**BY THE COMMISSIONER:**

THANK YOU SO MUCH. AND I REMEMBER WHAT THE OTHER THING WAS. AT ANY TIME THAT YOU NEED TO GET UP, MOVE AROUND, STAND UP, WALK, AS LONG AS WE CAN

HEAR YOU, YOU FEEL FREE TO DO THAT, BUT YOU DON'T NEED TO ASK.

**BY THE WITNESS:**

YES, MA'AM. THANK YOU.

**BY THE COMMISSIONER:**

OKAY. THAT'S WHAT IT WAS. ALL RIGHT, MR. TEMPLE.

**BY MR. TEMPLE:**

THANK YOU, YOUR HONOR. IF IT PLEASE THE COMMISSION.

**DIRECT EXAMINATION BY MR. TEMPLE:**

Q. TROOPER LEDFORD, FIRST OF ALL, LET'S START OFF BY THE EASY QUESTIONS. HOW OLD ARE YOU?

A. I'M 39 TODAY, SIR.

Q. OKAY. HAPPY BIRTHDAY.

**BY THE COMMISSIONER:**

HAPPY BIRTHDAY.

**BY THE WITNESS:**

THANK YOU, YOUR HONOR.

**DIRECT EXAMINATION RESUMED BY MR. TEMPLE:**

Q. IN TERMS OF EDUCATION, YOU HAVE TWO YEARS OF COLLEGE IN CRIMINAL JUSTICE?

A. YES, SIR.

**BY THE COMMISSIONER:**

AND WHAT DID YOU STUDY IN COLLEGE?

BY THE WITNESS:

CRIMINAL JUSTICE, MA'AM.

BY THE COMMISSIONER:

OKAY, ALL RIGHT.

DIRECT EXAMINATION RESUMED BY MR. TEMPLE:

Q. YOU ARE MARRIED, BEEN MARRIED FOR 14 YEARS, AND YOUR BRIDE'S NAME IS CARRIE, WITH A "C"?

A. YES, SIR.

Q. ALL RIGHT. YOU HAVE THREE CHILDREN, AGES 11, 9, AND 7, BOY, BOY, GIRL; IS THAT CORRECT?

A. YES, SIR.

Q. ALL RIGHT. AND ALL OF THOSE, ARE THEY ALL DEPENDENT ON YOU?

A. THEY ARE.

Q. YOU ATTEND CHURCH HERE IN MYRTLE BEACH?

A. I DO.

Q. AND WHERE IS THAT?

A. FIRST BAPTIST AT MYRTLE BEACH.

Q. ALL RIGHT. NOW, TELL ME WHEN YOU BEGAN YOUR EMPLOYMENT WITH THE SOUTH CAROLINA HIGHWAY PATROL.

A. JULY OF 2005.

Q. OKAY. AND DID YOU REMAIN EMPLOYED WITH THE HIGHWAY PATROL UNTIL YOU WERE PLACED ON MEDICAL DISABILITY RETIREMENT; IS THAT CORRECT?

A. YES, SIR.

Q. ALL RIGHT. AND WAS THAT RECOMMENDED TO YOU, THAT YOU PURSUE THAT?

A. YES.

Q. OKAY, ALL RIGHT. PRIOR TO THAT, TELL ME WHAT YOUR RANK WAS.

A. I WAS A LANCE CORPORAL.

Q. ALL RIGHT. AND DID YOU SERVE ON ANY SPECIFIC TEAM WITH THE HIGHWAY PATROL?

A. THE ACE TEAM.

Q. ALL RIGHT. TELL ME ABOUT THE ACE TEAM, AND WHAT DOES IT TAKE TO BE CHOSEN FOR THAT?

A. THERE'S -- YOU HAVE TO PUT IN FOR IT. SIXTEEN MOTOR OFFICERS IN THE STATE WHEN I WAS -- APPLIED FOR IT. THERE MAY BE MORE OR LESS TODAY, BUT THERE WAS 16. AND YOU WERE CHOSEN OVER MAYBE A HUNDRED APPLICANTS TO RIDE A MOTORCYCLE AND ENFORCE THE LAWS THAT -- IT'S NOT SO MUCH SEPARATE, BUT IT'S CALLED THE ACE TEAM. IT'S THE AGGRESSIVE CRIMINAL ENFORCEMENT. YOU'RE JUST RELIED ON TO DO PRESIDENTIAL ESCORTS, DIGNITARY-TYPE STUFF. YOU MAY HAVE TO LEAVE ON A QUICK NOTICE TO GO SOMEWHERE, BUT IT'S BASICALLY -- THERE'S TWO PARTS OF IT. THERE'S AN INTERDICTION PART, WHICH IS MORE OF THE DRUG SIDE, WHICH WE WERE INVOLVED IN A LITTLE BIT, AND THEN THE MOTORCYCLE SIDE, WHICH IS WHAT I DID.

Q. ALL RIGHT. WAS IT AN HONOR TO BE CHOSEN FOR THIS?
A. ABSOLUTELY.
Q. DID YOU WORK HARD TO BE CHOSEN?
A. ABSOLUTELY.
Q. LET ME BACK UP JUST A MOMENT AND TALK ABOUT YOUR -- WHY YOU CHOSE TO BE IN LAW ENFORCEMENT, SPECIFICALLY THE SOUTH CAROLINA HIGHWAY PATROL. WHEN DID THAT DREAM BEGIN?
A. ACTUALLY, WHEN I WAS IN -- MY WHOLE LIFE MY -- THE SHERIFF LIVED NEXT DOOR TO US IN NEW YORK, AND HIS SON NOW IS A STATE POLICE OFFICER IN NEW YORK. BUT, I MEAN, EVEN IN SECOND GRADE IN MY AUTOBIOGRAPHY I WROTE, WHICH I STILL HAVE IT, STATED IT IN THERE MY WHOLE -- IT'S ALL I'VE EVER WANTED TO DO WAS BE A COP, WHETHER IT BE A STATE TROOPER; I DIDN'T KNOW DIFFERENCE, OBVIOUSLY, IN THE SECOND GRADE, BUT I WANTED TO BE IN LAW ENFORCEMENT JUST BECAUSE I GREW UP WITH IT. YOU KNOW, WE GREW UP PLAYING IN POLICE CARS AND COPS AND ROBBERS, AND THAT'S JUST ALWAYS WHAT I WANTED TO DO.
Q. DID YOU ENJOY IT?
A. I LOVED IT.
Q. IF YOU COULD, WOULD YOU STILL BE DOING IT?
A. ABSOLUTELY.
Q. HOW DOES THAT AFFECT YOU NOW?

A. IT'S -- YOU KNOW, IT'S SOMETHING YOU'VE ALWAYS WANTED TO DO, AND ANYTHING THAT YOU LOVE TO DO, IF IT'S TAKEN FROM YOU IT'S TERRIBLE. SO...

Q. ALL RIGHT. IN ADDITION TO THE HIGHWAY PATROL IT'S MY UNDERSTANDING THAT YOU PURSUED SOME BUSINESSES TO SUPPLEMENT YOUR INCOME WITH THE HIGHWAY PATROL?

A. I DID.

Q. NOW, YOU HAVE THREE KIDS AND A WIFE, AND UP UNTIL THE TIME OF YOUR ACCIDENT WAS YOUR WIFE A STAY-AT-HOME MOM?

A. SHE WAS.

Q. OKAY. AND WERE YOU ABLE TO AFFORD HER THAT LIFESTYLE?

A. I WAS.

Q. WHY WAS THAT IMPORTANT TO YOU, SCOTT?

A. JUST, YOU KNOW, IT WAS THE WAY I WAS BROUGHT UP. IT'S -- WHEN YOU HAVE YOUR OWN KIDS, I DIDN'T WANT TO PUT THEM IN DAYCARE. I MEAN, MY WIFE OBVIOUSLY HAD A FOUR-YEAR DEGREE, AND SHE WORKED VERY HARD. SHE WAS A GOOD SCHOOL TEACHER, BUT WE DIDN'T WANT TO -- IF WE COULD AFFORD IT, WE DIDN'T WANT TO HAVE OUR KIDS IN DAYCARE. A LOT OF THINGS HAPPEN IN DAYCARE, AND, YOU KNOW, IT'S -- WE'RE VERY FAMILY ORIENTED. WE'VE NEVER BEEN TO DINNER ONE TIME WITHOUT OUR KIDS. WE'VE NEVER LEFT THEM ONE TIME. SO, WE'RE

VERY -- AND IT WAS REALLY IMPORTANT TO HER THAT SHE HAVE THAT TIME WITH THEM GROWING UP, AS ANY MOTHER WOULD -- I WOULD ASSUME, WOULD WANT. SO, I MEAN, WE JUST MADE ENDS MEET. YOU KNOW, I WORKED EVERY DAY ALL DAY, YOU KNOW, TO AFFORD HER THE ABILITY TO DO THAT, KNOWING THAT, YOU KNOW, ONE DAY IF THEY WERE ALL GROWN UP, SHE, YOU KNOW, OBVIOUSLY HAS A FOUR-YEAR DEGREE, AND SHE WAS A TEACHER. SHE COULD AT ONE POINT, YOU KNOW, DECIDE, BUT, YOU KNOW, IT WAS REALLY IMPORTANT FOR HER TO STAY AT HOME. IT WAS IMPORTANT NOT ONLY FOR HER, BUT IT WAS IMPORTANT FOR OUR CHILDREN, I THINK, YOU KNOW, TO HAVE THEIR MOTHER THERE EVERY DAY.

Q. AND I WANT TO TALK A LITTLE BIT ABOUT YOUR FAMILY. ARE YOU CLOSE WITH YOUR BOYS?

A. YES.

Q. YOU ENJOY THOSE KINDS OF ACTIVITIES WITH THEM?

A. ABSOLUTELY.

Q. DO YOU DRINK?

A. NO.

Q. DO YOU SMOKE?

A. NO.

Q. WHEN WAS THE LAST TIME YOU'VE HAD ANYTHING TO DRINK IN YOUR LIFE?

A. OVER 20 YEARS AGO.

Q. OKAY, ALL RIGHT. IS THAT ALSO IMPORTANT TO YOU?

A. ABSOLUTELY. MY WHOLE LIFE GROWING UP I KNEW WHAT I WANTED TO DO, SO I KNEW I COULDN'T DO -- I COULDN'T GET IN TROUBLE. I COULDN'T DRINK. I COULDN'T -- YOU KNOW, I COULDN'T DO A LOT OF THINGS BECAUSE MY WHOLE GOAL WAS TO BE IN LAW ENFORCEMENT.

Q. NOW, YOUR CONCURRENT EMPLOYMENT, YOU'RE SOMEWHAT OF A HUSTLER, AND YOU WORK A LOT?

A. YES.

Q. AND YOU HAVE A COUPLE OF BUSINESSES, AND COUNSEL HAS SUBPOENAED THOSE TAX RETURNS FROM YOU. AND I WANT TO TALK ABOUT THE TIME -- WE'VE GOT TWO ACCIDENTS THAT WE'RE DEALING WITH HERE, AND THE FIRST ACCIDENT WAS BACK IN JULY OF 2010 AND THIS WAS ---

**BY THE COMMISSIONER:**

I WANT THE RECORD TO REFLECT I WAS NOT ASSIGNED TO THAT CLAIM, AND I KNOW WE'RE GOING TO TALK ABOUT IT BRIEFLY, BUT I JUST WANT THE RECORD REFLECT THAT I ONLY GOT JURISDICTION OVER THE 2012 CLAIM.

**BY MR. TEMPLE:**

YES, MA'AM.

**BY THE COMMISSIONER:**

GO AHEAD.

**BY MR. TEMPLE:**

AND THAT WAS, JUST FOR THE RECORD, JULY 15TH

2010.

BY THE COMMISSIONER:

OKAY, THANK YOU.

BY MR. TEMPLE:

AND THANK YOU, COMMISSIONER.

DIRECT EXAMINATION RESUMED BY MR. TEMPLE:

Q. BUT YOU HAVE -- AT THAT TIME DID YOU HAVE THESE BUSINESSES, THESE SECONDARY PURSUITS?

A. YES.

Q. IS THAT FAIRLY COMMON AND TYPICAL FOR THE TROOPERS TO HAVE SECONDARY BUSINESSES?

A. ABSOLUTELY.

Q. OKAY, ALL RIGHT.

A. WHETHER THEY OWN THEM OR THEY WORK A SECONDARY JOB. YOU COULDN'T -- I MEAN, YOU COULD MAYBE LIVE OFF OF JUST BEING A HIGHWAY PATROLMAN, BUT YOU WOULD -- IT WOULDN'T BE VERY GOOD.

Q. ESPECIALLY WITH THREE CHILDREN?

A. RIGHT.

Q. SO, YOU HAD A COUPLE OF BUSINESSES. ONE -- AND I'M GOING TO FOCUS ON LEDFORD OUTDOOR. THAT BUSINESS, ALTHOUGH IT'S STILL AN OPEN CORPORATION, IT'S ONLY BECAUSE THE BOOKS CAN'T CLOSE YET; IS THAT CORRECT?

A. YES.

Q. AND YOU HAVEN'T MADE ANY MONEY ON THAT IN QUITE SOME

TIME?

A. NO.

Q. IN FACT, I LOOKED AT YOUR TAX RECORDS THAT WERE BROUGHT IN, AND IT LOOKS LIKE FOR 2012, ACCORDING TO YOUR K-1, YOU HAD A LOSS OF 7,349; IS THAT CORRECT?

A. YES.

Q. OKAY. AND IN 2013 YOU HAD A LOSS OF 17,945?

A. PROBABLY, YES.

Q. IS THAT BECAUSE YOU COULDN'T BE PERSONALLY INVOLVED IN THAT?

A. YES.

Q. AND JUST IN SUMMARY -- AND I DON'T WANT TO LEAD YOU.

**BY MR. TEMPLE:**

AND, COUNSEL, IF I STEP OVER THE LINE, LET ME KNOW, AND I'LL STOP.

**BY MS. ALPHIN:**

I WILL.

**DIRECT EXAMINATION RESUMED BY MR. TEMPLE:**

Q. BUT THIS WAS KIND OF A HUNTING GUIDE-TYPE THING?

A. IT WAS. IT WAS A PASSION OF MINE AND MY KIDS, MY WHOLE FAMILY, AND IT WAS SOMETHING THAT WE THOUGHT WE COULD TURN INTO A BUSINESS.

Q. AND THAT HAS NOT -- SINCE YOU'VE BEEN TAKEN OUT OF THAT EQUATION, THAT HAS NOT BEEN ---

A. NO.

Q. --- A PRODUCTIVE OR PROFITABLE BUSINESS AT ALL; IN FACT, IT'S BEEN A LOSS THE LAST TWO YEARS?

A. YES.

Q. IN ADDITION TO THAT, YOU HAVE A LAWN CUTTING SERVICE AND LANDSCAPING?

A. YES.

Q. IT'S CALLED PROCUTTERS LAWN AND LANDSCAPING, IS THAT RIGHT?

A. MM-HMM.

Q. ALL RIGHT. AND IN THAT, PRIOR TO THIS ACCIDENT, WHO DID THE MAJORITY OF THE PHYSICAL LABOR IN THAT?

A. MYSELF.

Q. AND YOU CUT GRASS AND MAINTAINED -- IS IT RESIDENTIAL OR COMMERCIAL?

A. A LITTLE BIT OF BOTH BUT MOSTLY COMMERCIAL. I TRY TO KEEP -- JUST BECAUSE THAT WOULDN'T ALLOW ME TO CONTINUE THROUGH THE WINTER MONTHS.

Q. ALL RIGHT. AND SINCE THAT TIME ---

**BY THE COMMISSIONER:**

AND HOW MANY EMPLOYEES DID YOU HAVE PRIOR TO THIS ACCIDENT HAPPENING?

**BY THE WITNESS:**

ONE. I WOULD HAVE SOMEBODY THAT WOULD HELP ME, YOU KNOW, ONE OR TWO. MAYBE IN THE SUMMERTIME I WOULD HIRE AN EXTRA HAND, MA'AM. AND, OBVIOUSLY,

WITH ME BEING HURT THAT'S CHANGED SOME.

DIRECT EXAMINATION RESUMED BY MR. TEMPLE:

Q. AND SINCE THAT TIME HAVE YOU -- HAS YOUR WIFE KIND OF STEPPED UP A LITTLE BIT AND COME BACK IN TO HELP YOU WITH THAT?

A. ABSOLUTELY.

Q. ARE THERE DAYS THAT YOU CAN'T PHYSICALLY GO MANAGE THAT?

A. ABSOLUTELY.

Q. AND DOES SHE HELP YOU WITH THAT AS WELL?

A. YES, SIR.

Q. AND HAS SHE ACTUALLY GONE BACK NOW TO WORKING AS WELL?

A. SHE'S HAD TO, YES.

Q. NOW, ACCORDING TO THE TAX RETURNS THAT WERE PROVIDED, IN YOUR K-1 PROCUTTERS HAD AN ORDINARY INCOME OF $716; DOES THAT SOUND RIGHT TO YOU?

A. IT DOES; YEAH, WHATEVER IS...

Q. OKAY. AND THEN FOR 2013 IT HAD AN ORDINARY INCOME AFTER EXPENSES AND DEPRECIATION, ETCETERA, $688; IS THAT CORRECT?

A. YES.

Q. SO, ARE YOU LIVING OFF OF THAT MONEY?

A. NOT REALLY.

Q. OKAY, ALL RIGHT. NOW, ARE YOU GOING TO CONTINUE

YOUR PROCUTTERS; ARE YOU GOING TO CONTINUE DOING THAT BUSINESS IF YOU CAN?

A. YEAH, I -- YES. I DON'T HAVE A CHOICE.

Q. OKAY, ALL RIGHT. NOW, IN TERMS OF THAT INCOME, PRIOR TO THIS ACCIDENT AND AT THE TIME OF THIS ACCIDENT, DID WE HAVE A DISCUSSION ABOUT CONCURRENT INCOME WHERE YOU TOLD ME YOU DID NOT WANT TO USE THIS IN THIS CLAIM?

A. I DID.

Q. EXPLAIN TO THE COMMISSION WHY YOU FELT SO PASSIONATELY ABOUT NOT BURDENING THE HIGHWAY PATROL WITH THIS INCOME.

A. WELL, I JUST -- I DIDN'T THINK IT WAS THEIR RESPONSIBILITY. I MEAN, WE ALL MAKE CHOICES IN LIFE, AND UNFORTUNATELY I DIDN'T DO SOMETHING THAT PAID ME A LITTLE BIT BETTER. I WAS A STATE TROOPER, SO I HAD TO DO SOMETHING TO SUPPLEMENT MY INCOME ON THE SIDE, AND I JUST DIDN'T THINK IT WAS THEIR RESPONSIBILITY OF THE LIFE I CHOSE. I DIDN'T THINK THAT THEY HAD TO BE RESPONSIBLE TO PAY FOR SOMETHING THAT I CHOSE TO DO OUTSIDE OF LAW ENFORCEMENT. I DID IT ON MY OWN BECAUSE I WANTED MY WIFE TO STAY HOME AND I WANTED NICER THINGS, BUT IT WAS NEVER -- I JUST -- YOU KNOW, THEY WERE NICE ENOUGH TO ALLOW ME TO DO THAT ON THE SIDE, SO I DIDN'T FEEL LIKE I

SHOULD BURDEN THEM.

Q. OKAY. AND I ADVISED YOU OTHERWISE IN TERMS OF THE LAW AND YOUR RIGHTS ACCORDING TO THAT CONCURRENT INCOME; IS THAT CORRECT?

A. YES.

Q. AND YOU GAVE ME SPECIFIC INSTRUCTIONS ---

A. NOT TO.

Q. --- AND ORDERED ME NOT TO DO THAT; IS THAT CORRECT?

A. YES.

Q. NOW, AT THIS POINT, YOU HAD AN ACCIDENT JULY THE 15TH OF 2010, AND THAT'S NOT BEFORE THIS COMMISSION. BUT, BRIEFLY, YOU WERE ON VACATION; YOU WERE REQUIRED TO COME BACK FOR TASER TRAINING; YOU WERE HELD -- YOUR ARMS WERE HELD, THEY TASED YOU, AND WHEN YOU DID YOU SNAPPED BACK AND FRACTURED THREE OR FOUR VERTEBRAE IN YOUR SPINE FROM THE T-6 TO T-9; IS THAT CORRECT?

A. YES, SIR.

Q. ALL RIGHT. YOU RECEIVED TREATMENT FOR THAT?

A. YES.

Q. AND YOU RETURNED TO WORK, BUT YOU STILL HAD SOME PAIN IN YOUR BACK; IS THAT CORRECT?

A. YES.

Q. AND TO DATE YOU STILL HAVE SOME PAIN IN YOUR THORACIC SPINE?

A. YES.
Q. OKAY. BUT YOU CAME BACK TO FULL-DUTY WORK?
A. I DID.
Q. WITHOUT RESTRICTIONS?
A. I DID.
Q. AND, IN FACT, YOU WENT TO THE ACE TEAM WHEN YOU CAME BACK TO WORK?
A. I DID. I DID; I WAS CLEARED.
Q. ALL RIGHT. AND YOU WERE BACK WITHOUT RESTRICTIONS, DRIVING THE MOTORCYCLE, AND DOING ALL THE ORDINARY PARTS ON YOUR JOB, YOU REGULAR REQUIREMENTS OF YOUR JOB?
A. YES, THAT'S TRUE.
Q. HUMOROUS -- IT WAS HUMOROUS. DO YOU RECALL SEEING ME AT THE HORRY COUNTY POLICE DEPARTMENT RIGHT OUTSIDE OF GLENNS BAY ROAD?
A. YEP; THE SUBSTATION THERE.
Q. WOULD YOU TELL THE COMMISSIONER WHAT HAPPENED ON THAT DAY AND WHY THAT'S RELEVANT TO TODAY.
A. YOU JUST ASKED ME HOW I WAS FEELING. I TOLD HIM I WAS FEELING GOOD AND GLAD TO BE BACK. I WAS RIDING A MOTORCYCLE AND ---
Q. AND THAT WAS BEFORE THE ACCIDENT THAT WE ARE HERE ABOUT TODAY?
A. YES.

Q. ALL RIGHT. IN PARTICULAR, IN REGARDS TO SEEING ME, WHAT DID YOU SAY?

A. I MADE A -- I THINK I MADE A STATEMENT ALONG THE LINES OF -- YOU WERE WITH SOMEBODY ELSE, AND I SAID, "I'M GLAD I DON'T NEED YOU ANYMORE," TO THOSE EFFECTS. JUST NOT BEING RUDE, JUST SAYING, HEY, I'M BETTER NOW, YOU KNOW, AND WE'RE NOT HAVING A MONTHLY INTERACTION OR A QUARTERLY INTERACTION. I WAS JUST GOOFING AROUND. BUT, YEAH, I WAS DOING WELL.

Q. RIGHT. SO YOU WERE BACK AT THE JOB; YOU WERE DOING YOUR FULL WORK; YOU WERE STILL HAVING SOME PAIN IN YOUR THORACIC SPINE ---

A. YEAH.

Q. --- THAT YOU COULD TOLERATE.

A. BUT I KNOW THAT WHEN WE WERE DONE THAT THAT WAS GOING TO BE SOMETHING THAT WAS GOING TO CONTINUE.

Q. OKAY. AND YOU WERE ON THE ACE TEAM AND DOING THAT ---

A. YES.

Q. --- PARTICULAR, INTENSE JOB; IS THAT CORRECT?

A. YES.

Q. ALL RIGHT. NOW, LET'S TAKE US BRIEFLY TO THE DATE OF THIS ACCIDENT. THIS IS AN ADMITTED CLAIM, SO I DON'T WANT TO GO INTO THE DETAILS. BUT JUST FOR THE RECORD, TELL ME BRIEFLY WHAT HAPPENED.

A. ON WHICH ---

BY THE COMMISSIONER:

2012.

DIRECT EXAMINATION RESUMED BY MR. TEMPLE:

Q. THE ACCIDENT WE'RE HERE ABOUT TODAY, THE MOTORCYCLE ACCIDENT.

A. I WAS AT 16TH AVENUE WITH TWO OTHER GUYS FROM THE ACE TEAM, MY CORPORAL AND ANOTHER GUY BY THE NAME OF TROOPER GEDDINGS. GENERALLY HAVE A CUP OF COFFEE IN THE MORNING TO GET STARTED A LITTLE BIT BEFORE WE SIGN ON. WE FUELED UP OUR BIKES. THEY WERE GOING TO WORK IN ONE DIRECTION, BUT WE STAY CLOSE TO EACH OTHER. I KIND OF WAS SITTING AT 16TH AVENUE IN THE MEDIAN KIND OF SECTION AFTER FUELING UP, AND I SAW SOME VIOLATIONS GO BY. UPON TRYING TO APPREHEND ONE OF THE SUSPECTS, I WAS TURNING -- ALREADY GOING BUT DOING A TURN TO TRY TO SPEED UP. MA'AM, ONCE A VEHICLE PROCEEDS PAST YOU AT 45, 50 MILES AN HOUR, YOU HAVE TO GO RELATIVELY QUICK ON YOUR MOTORCYCLE TO CATCH UP BEFORE YOU LOSE THEM IN TRAFFIC, ETCETERA, AND WHEN I DID THAT I REMEMBER A TRUCK BEING THERE. I HAD TO CUT A LITTLE BIT CLOSER, AND I CRASHED. I DON'T -- I MEAN, I CAN'T -- I WRECKED MY MOTORCYCLE. I WENT DOWN, SKIDDED FOR A WAYS, AND I REMEMBER TRYING TO GET UP. OBVIOUSLY I COULDN'T;

I WAS PINNED UNDERNEATH MY BIKE. AN OFF-DUTY FIREFIGHTER FROM NORTH MYRTLE BEACH, WHO ACTUALLY ALMOST HIT ME, HE WAS AS SCARED AS I WAS, CAME UP AND HELPED ME LIFT THE MOTORCYCLE OFF. THEN SOME PEOPLE CAME OVER FROM THE GAS STATION TO HELP ME AS WELL, THAT WERE DRINKING COFFEE, AND I TRIED TO -- ACTUALLY, I BELIEVE I TRIED TO GET BACK ON THE MOTORCYCLE AND COULDN'T, MY LEG, AND SO THEY PUSHED IT ACROSS THE STREET. I WAS GOING TO PUSH. I DIDN'T KNOW WHAT KIND OF CONDITION IT WAS IN. I WAS A LITTLE SHOOK UP. BUT THAT'S BASICALLY THAT.

**BY THE COMMISSIONER:**

THAT'S GOOD ENOUGH. YOU'RE NOT HERE TO PROVE YOU GOT HURT. WE ALL KNOW YOU DID.

**BY THE WITNESS:**

YES, MA'AM.

**BY THE COMMISSIONER:**

THANK YOU FOR GIVING ME AN IDEA.

**BY MR. TEMPLE:**

THANK YOU, COMMISSIONER.

**DIRECT EXAMINATION RESUMED BY MR. TEMPLE:**

Q. NOW, AFTER THAT YOU WERE TREATED AT THE EMERGENCY ROOM, AND THEN YOU SAW -- YOU WERE REFERRED TO DR. TAYLOR; IS THAT CORRECT?

A. I WAS SEEN IN THE EMERGENCY ROOM, AND THEN FOR ABOUT

A MONTH OR FIVE WEEKS, MAYBE A LITTLE BIT LONGER, THEY KEPT SENDING ME TO WORK -- TO WORK OR ---

Q. WORK HARDENING?

A. NO. THEY SENT ME TO A PLACE IN CONWAY, THE -- IT'S JUST LIKE A GENERIC PLACE YOU GO.

Q. THAT'S OKAY. JUST TELL ME WHAT THEY DID FOR YOU.

A. THEY DIDN'T DO ANYTHING. THEY KEPT TELLING ME THAT I HAD TO BE REFERRED TO AN ORTHOPEDIC SURGEON AND -- DOCTORS CARE. IT'S DOCTORS CARE THEY SENT ME TO. AND, FINALLY, LIKE THE FOURTH VISIT, THE GUY SAID, "LISTEN, I'M GOING TO -- I'VE GOT TO SEND YOU BACK TO WORK BECAUSE THERE'S NOTHING WE CAN DO FOR YOU HERE, BUT I THINK YOU NEED TO GO SEE AN ORTHOPEDIC SURGEON." SO AT THE TIME I DID WHAT HE TOLD ME TO DO. I TRIED TO GO BACK TO WORK. THE NEXT DAY AT WORK MY LEG SWELLED UP SO BAD I ACTUALLY SHOWED MY CORPORAL AND THEN WENT HOME, COULDN'T GET MY BOOT OFF, WAS GOING TO CUT MY MOTORCYCLE BOOT OFF, ENDED UP GETTING MY MOTORCYCLE BOOT OFF, AND THAT'S WHEN -- I ACTUALLY ENDED UP GOING BACK TO DOCTORS CARE ONE MORE TIME, AND THE GUY SAID, "LISTEN, I'M TELLING YOU, YOU HAVE GOT TO GO SEE AN ORTHOPEDIC SURGEON." SO, IN THE MEANTIME, I WAS TRYING TO CALL WORKMAN'S COMP, WHICH IS A STRUGGLE, AND I MADE MY OWN APPOINTMENT TO GO SEE -- BECAUSE AT CONWAY

HOSPITAL THERE WAS A DOCTOR ON CALL, WHO WAS DR. MILLS. I JUST DID IT BECAUSE IT WAS CLOSE TO THE HOUSE AS WELL, MA'AM. AND I MADE AN APPOINTMENT, AND THEN THEY APPROVED IT AFTER THE FACT. THEY SAID, "OKAY, YOU CAN GO."

Q. NOW, YOU ENDED UP SEEING ROSS TAYLOR WITHIN THAT PRACTICE WITH DR. MILLS?

A. DR. MILLS LOOKED AT IT, AND HE SAID, "LISTEN, I'VE GOT A FOOT SPECIALIST, AN ANKLE SPECIALIST HERE; YOU REALLY NEED TO SEE HIM." SO I WAS TRANSFERRED OVER TO A DR. ROSS TAYLOR.

Q. ALL RIGHT. NOW, PRIOR TO -- WHEN YOU SAW DR. TAYLOR PRIOR TO HAVING SURGERY, DID YOU DO ANYTHING ELSE? DID HE HAVE ANY OTHER TREATMENT; DID YOU HAVE ANY THERAPY, OR DID YOU JUST GO RIGHT FOR SURGERY?

A. NO, I HAD THERAPY. I HAD THERAPY FOR, I WOULD GUESS, ALONG THE LINES OF SEVERAL MONTHS.

Q. ALL RIGHT. NOW, IT LOOKS LIKE ON JANUARY 30TH IS WHEN HE PERFORMED THE SURGERY ON YOUR ANKLE?

A. YES.

Q. AND AFTER THAT HOW LONG ---

**BY THE COMMISSIONER:**

AND THAT'S 2013, CORRECT?

**BY MR. TEMPLE:**

YES, MA'AM.

BY THE COMMISSIONER:

OKAY.

DIRECT EXAMINATION RESUMED BY MR. TEMPLE:

Q. AND HOW LONG DID YOU STAY IN THE HOSPITAL AFTER THE SURGERY?

A. IT WAS -- I STAYED THE REST OF THAT DAY, AND THEN I CAME HOME, AND THEN I WAS BEDRIDDEN FOR AT LEAST A WEEK. IT WAS BAD. AND THEN I WAS -- I HAD A WHEELCHAIR SO I COULD GET UP AND FUNCTION FOR THE NEXT MONTH OR SO. IF IT WAS LIKE A SHORT PLACE, I COULD GO WITH A SET OF CRUTCHES, BUT MORE THAN LIKELY IF I WENT ANYWHERE OR DID ANYTHING IT WAS WITH A WHEELCHAIR.

Q. AND THEN DID YOU HAVE PHYSICAL THERAPY AFTER THAT?

A. I DID. I DID. I ACTUALLY STARTED PHYSICAL THERAPY, I BELIEVE IT WAS, TWO WEEKS AFTER. HE FELT IT WAS REALLY IMPORTANT TO GET RIGHT IN. BECAUSE WHEN THEY GOT INTO MY ANKLE, HE STATED THAT IT WAS A LOT WORSE THAN WHAT HE HAD -- WHAT HE THOUGHT HE WAS GOING TO HAVE TO DO AND THAT IT WAS REALLY IMPORTANT THAT I WENT IN AND STARTED DOING SOME STRETCHING, JUST REAL LIGHT STUFF AT FIRST. I OBVIOUSLY STILL HAD ALL MY INCISIONS AND EVERYTHING WAS BAD, BUT THEY WOULD DO SOME STUFF WITH SOME BANDS, JUST TRYING TO LOOSEN IT UP A LITTLE BIT. AND THEN AS TIME WENT ON I

PROGRESSIVELY GOT BETTER AND BETTER, DOING MORE THINGS AT PHYSICAL THERAPY.

Q. AND HE ACTUALLY, WHEN HE WENT INTO YOUR ANKLE, SHAVED THE BONE DOWN AND DID A DEBRIDEMENT IN THERE AND A RESECTION OF THAT ANTERIOR DISTAL TIBIAL OSTEOPHYTE, IS THAT RIGHT?

A. YES.

Q. ALL RIGHT. WAS THE SURGERY SUCCESSFUL FOR YOU?

A. MY OPINION? I'M NOT A DOCTOR, BUT, NO, ABSOLUTELY NOT. I FELT BETTER BEFORE THE SURGERY THAN I DO NOW.

**BY THE COMMISSIONER:**

SO YOU FEEL WORSE AFTER THE SURGERY?

**BY THE WITNESS:**

ABSOLUTELY.

**BY THE COMMISSIONER:**

OKAY.

**BY THE WITNESS:**

MA'AM, IF I CAN CLARIFY THAT.

**BY THE COMMISSIONER:**

SURE.

**BY THE WITNESS:**

IT'S JUST, YOU KNOW, BEFORE I DIDN'T FEEL LIKE I WAS WEAK, AND I NEVER -- I HAD A LOT OF SWELLING AND FELT A LITTLE DISCOMFORT, BUT IT WAS NOTHING

LIKE I EXPERIENCE NOW. I CAN WALK AROUND NOW AND YOU WOULD SWEAR IF YOU SAW ME IN A MALL I COULD JUST -- MY LEG WILL GIVE OUT. BUT IT'S -- THE SIZE OF IT RIGHT NOW IS LIKE I HAVE A GOLF BALL STICKING OUT THE SIDES OF MY ANKLE RIGHT NOW, AND IT JUST REALLY -- YOU KNOW, BEFORE I FELT LIKE MAYBE -- I DIDN'T RUN, MA'AM, BUT I FELT LIKE I COULD RUN AND DO CERTAIN THINGS, AND NOW EVEN ROSS TAYLOR WILL TELL YOU, I CAN'T -- I MEAN, I JUST CAN'T -- I CAN'T DO ANY OF THAT STUFF. SO, THE WAY HE TOLD ME I WOULD -- WHICH I KNOW IT'S NOT THE DOCTOR'S FAULT, AND I KNOW THINGS HAPPEN, AND EVERYTHING IN THIS WORLD HAPPENS FOR A REASON. BUT IT WAS, "HEY, YOU'RE GOING TO DO THIS, AND I'M GOING TO GET YOU BACK HERE, AND, YOU KNOW, WE'RE GOING TO BE A TEAM." AND THE SECOND THE SURGERY WAS OVER, HE TOLD ME, HE WAS LIKE, "IT WAS WORSE THAN I THOUGHT, AND WE'RE GOING TO HAVE TO KIND OF PLAY IT BY EAR." SO IT WAS ALMOST LIKE -- IT WAS ALMOST LIKE IT WAS A STEP BACK INSTEAD OF A STEP FORWARD. BUT I'VE ALWAYS HAD A GOOD MINDSET. JUST LIKE WHEN MY FIRST BACK INJURY WAS, YOU KNOW, I'M GOING TO DO WHATEVER IT TAKES TO GET BACK UP ON MY FEET. SO, THAT'S THE WAY I PROCEEDED WITH IT.

**BY MR. TEMPLE:**

COMMISSIONER, AT SOME POINT I WOULD LIKE FOR YOU TO PERSONALLY VIEW THE KNOT.

**BY THE COMMISSIONER:**

OKAY. I WOULD ORDINARILY COME TO YOU ALL, BUT I CAN'T GET BACK IN HERE BECAUSE I DON'T HAVE THE LITTLE MAGIC CARD, SO.... AND I WOULD LIKE YOU TO TAKE OFF BOTH SHOES.

**BY THE WITNESS:**

YEAH, YEAH.

**BY THE COMMISSIONER:**

NO, YOU'RE -- YOU'RE FINE RIGHT THERE. OH, YEAH, I CAN SEE.

**BY THE WITNESS:**

YOU CAN SEE THE SCAR AND EVERYTHING. DO YOU SEE IT?

**BY THE COMMISSIONER:**

OKAY, AND LET ME SEE THE OTHER.

**BY THE WITNESS:**

YOU CAN SEE THE SCAR. SEE HOW IT'S OFF?

**BY THE COMMISSIONER:**

DID YOU SEE, MS. ALPHIN?

**BY MS. ALPHIN:**

I DID SEE THAT.

**BY THE COMMISSIONER:**

ALL RIGHT.

BY THE WITNESS:

I CAN'T PUT ALL MY WEIGHT ON THIS ANKLE.

BY THE COMMISSIONER:

DO YOU WANT TO SIT DOWN?

BY THE WITNESS:

YEAH.

BY MR. TEMPLE:

THERE'S A CHAIR RIGHT HERE.

BY THE WITNESS:

OH, I CAN PUT SOME WEIGHT ON IT.

BY THE COMMISSIONER:

BE CAREFUL.

BY MR. TEMPLE:

SCOTT, THAT TABLE IS GOING TO FALL.

BY THE WITNESS:

SEE, IT'S ALL -- OTHER THAN MY NICE LITTLE TATTOO I GOT WHEN I WAS 18, BUT SEE, JUST THE BONE STICKING; THERE'S NOTHING SWOLLEN OR STICKING OUT.

BY MS. ALPHIN:

THERE'S A CHAIR RIGHT BEHIND YOU.

BY THE WITNESS:

OH, I'M GOOD. I JUST DIDN'T WANT TO....

BY THE COMMISSIONER:

THAT'S GOOD. THANK YOU.

BY THE WITNESS:

SO, IT WAS ---

**BY MR. TEMPLE:**

WELL, JUST SIT DOWN AND PUT YOUR ---

**BY THE WITNESS:**

I'M SORRY.

**BY MR. TEMPLE:**

THAT'S OKAY.

**BY THE WITNESS:**

BUT IT WAS JUST DISCOURAGING BECAUSE I FELT LIKE -- I FELT LIKE I WAS -- YOU KNOW, ANYTIME YOU GO INTO SURGERY YOU ALWAYS FEEL LIKE YOU'RE GOING TO COME OUT BETTER, AND I DIDN'T. SO, I THINK IT WAS DISCOURAGING.

**DIRECT EXAMINATION RESUMED BY MR. TEMPLE:**

Q. ALL RIGHT. AND SO AFTER THAT, HOW LONG DID YOU PARTICIPATE IN THERAPY WITH YOUR ANKLE?

A. I DON'T HAVE A SPECIFIC TIME; PROBABLY SEVERAL MONTHS, THREE MONTHS, TWO, THREE MONTHS AT LEAST. AND I DID MAKE GAINS DURING THAT, BUT NOTHING LIKE WHAT I THOUGHT.

Q. ALL RIGHT. IN ADDITION TO THE FORMAL PHYSICAL THERAPY, WERE YOU GIVEN SOME HOME STRETCHES AND EXERCISES?

A. YES, STILL DO.

Q. AND HOW OFTEN DO YOU DO THOSE?

A. I DO IT EVERY MORNING, AND I DO THEM GENERALLY EVERY NIGHT. I CAN'T SAY I DO THEM EVERY NIGHT, BUT I DO THEM EVERY MORNING, BECAUSE WHEN I GET OUT OF BED I'M SO STIFF, AND IT'S GENERALLY SO SWOLLEN THAT IT -- I JUST HAVE A BAND, AND I DO STRETCHES.

Q. IS THAT THE GREEN BAND THAT WE'RE TALKING ABOUT?

A. YES. I'VE GOT SEVERAL OF THEM NOW. OR I'LL DO, LIKE, REALLY LIGHT LIKE HALF RAISES, ANYTHING TO GET THE BLOOD FLOWING AND TO MAKE IT FEEL A LITTLE BIT BETTER. AND THEN GENERALLY AT NIGHT -- I HAVEN'T BEEN ON IT REALLY AT ALL TODAY. AT NIGHT IF I WAS TO WALK ON IT OR DO SOMETHING, IT WOULD -- IT SWELLS UP REALLY BAD, AND I HAVE A WRAP ICE THING, AND THEN GENERALLY I WON'T DO ANY OF THOSE EXERCISES IF I HAVE TO ICE IT FOR A LONG PERIOD OF TIME.

Q. ALL RIGHT. NOW, IN TERMS OF -- TALK TO US ABOUT YOUR FEELINGS ABOUT PRESCRIPTION MEDICATION.

A. I DON'T DO VERY WELL. IT'S DOCUMENTED IN THERE. IT'S NOTHING AGAINST -- I THINK EVERY PERSON DEALS WITH MEDICATION MORE SO THAN OTHER PEOPLE DO. LIKE I STATED, I'VE NEVER BEEN A DRINKER. I'VE NEVER BEEN A SMOKER, AND I DON'T DO WELL WITH PRESCRIPTION MEDICINE. IT MAKES ME FEEL OUT OF CONTROL. I WOULDN'T NECESSARILY SAY LIKE I'M LOSING MY MIND, BUT SORT OF TO THE POINT WHERE I DON'T LIKE FEELING

LIKE I CAN'T DO SOMETHING, AS FAR AS WHETHER IT BE HELP MY KIDS, HELP MY WIFE, GET OUT OF BED. I FEEL LIKE I JUST DON'T DO WELL.

Q. SO, INSTEAD, WHAT DO YOU DO; WHAT DO YOU TAKE?

A. I TAKE TWO ALEVE GENERALLY EVERY MORNING. IT LOOSENS IT UP, AND THEN AT NIGHT TO GO TO BED GENERALLY I'LL TAKE WHATEVER TYPE OF P.M., MOTRIN P.M., TYLENOL P.M., JUST SOMETHING TO TAKE THE ICING OFF, IF YOU WILL, AND -- SO I CAN FALL TO SLEEP.

Q. ALL RIGHT. IS THERE EVER A TIME IN REGARDS TO YOUR ANKLE THAT YOU DON'T HAVE PAIN?

A. NO.

Q. IS THERE EVER A TIME THAT YOU DON'T HAVE SWELLING IN YOUR ANKLE?

A. NO.

Q. IS THERE EVER A TIME THAT YOU FEEL COMFORTABLE WALKING ON YOUR RIGHT ANKLE?

A. I THINK THAT'S KIND OF A MINDSET. I MEAN, YOU JUST NEVER KNOW WHEN IT'S GOING TO GIVE OUT. THAT'S THE ONLY BAD THING. YOU KNOW, I'VE KIND OF LIVED WITH THE PAIN, BUT, I GUESS, THERE'S JUST THE UNCERTAINTY, WHETHER YOU'RE IN WALMART OR YOU'RE IN THE MALL OR YOU'RE WALKING IN TO GET A BURGER AT RED ROBIN, THE THOUGHT OF LOOKING NOT SO NICE BECAUSE YOU FALL DOWN IS SOMETHING. SO ---

Q. NOW, YOU'RE RIGHT-HANDED?
A. I AM.
Q. ALL RIGHT. AND THIS IS YOUR RIGHT LEG?
A. RIGHT.
Q. NOW, IN THE MORNING WHEN YOU WAKE UP, ON A SCALE OF ONE TO TEN, TEN BEING THE WORST PAIN YOU'VE EVER HAD AND ONE BEING NO PAIN AT ALL, WHERE IS YOUR PAIN LEVEL?
A. WHEN I WAKE UP IN THE MORNING, IT'S GENERALLY PRETTY CALM, MAYBE LIKE A -- I WOULD SAY FROM A TWO, THREE, FOUR STANDPOINT IN THE MORNING, JUST BECAUSE I'VE BEEN OFF OF IT GENERALLY AT NIGHT AND I SLEEP WITH AN ELEVATED, LIKE A LITTLE ROLLER. I GENERALLY WILL LEAVE IT ON THERE, AND IT DOESN'T LAST ALL NIGHT BECAUSE SOMETIMES I GET RESTLESS. SO I TRY TO ELEVATE IT, AND THAT'S FROM THE DOCTOR, WHAT THE DOCTOR TOLD ME TO DO. BUT, I GUESS, THAT WOULD BE A STARTING POINT FOR WHERE YOUR DAY GOES, AND THEN IT WOULD JUST DEPEND ON WHAT YOU DO THAT DAY.
Q. NOW, YOU ARE HARDHEADED?
A. YES.
Q. YOU'RE STUBBORN?
A. ABSOLUTELY.
Q. NOW, WHEN YOU GO TO YOUR JOB SITES, DO YOU TRY FROM TIME TO TIME TO HELP AND TO GET INVOLVED DRIVING THE

TRACTOR, DOING THINGS LIKE THAT?
A. NOT SO MUCH THE TRACTOR BUT OTHER THINGS, YES. I MEAN, I'M NOT ---
Q. WHAT HAPPENS WHEN YOU DO THAT?
A. I HURT. I HURT BEFORE I DO IT, BUT I HURT WORSE AFTER I DO IT.
Q. AS YOU GO THROUGH THE DAY, WHERE DOES YOUR PAIN LEVEL -- WHERE IS YOUR CONSISTENT PAIN LEVEL ON THAT SAME SCALE OF ONE TO TEN?
A. CONSISTENTLY THROUGHOUT THE DAY ONCE I'M UP AND GOING ON IT, PROBABLY BETWEEN A FIVE OR SIX IF I REALLY DO STUFF OR HAVE TO STAND FOR A LONG PERIOD OF TIME, YOU KNOW, JUST LIFE THINGS. YOU GO TO A GROCERY STORE AND YOU HAVE TO GET GROCERIES, OR YOU DO CERTAIN THINGS, OBVIOUSLY IT'S GOING TO BE WORSE, BUT I WOULD SAY THE MINIMUM, BETWEEN A FIVE AND A SIX. IT CAN GO ALL THE WAY UP TO A, YOU KNOW, SEVEN, EIGHT. IT'S -- I WOULDN'T COMPARE IT TO THE WAY I FEEL IN MY BACK, BUT IT'S PAINFUL.
Q. NOW, AS YOU GO FORWARD WITH THIS, WITH YOUR LEG, ARE THERE THINGS THAT YOU USED TO DO FOR FUN THAT YOU CAN'T DO ANYMORE; HOBBIES, AND THINGS LIKE THAT?
A. YEAH.
Q. TALK TO US ABOUT THAT.
A. I MEAN, YOU CAN -- YOU KNOW, I WOULDN'T SAY THAT YOU

CAN'T NECESSARILY DO THEM, BUT YOU DO THEM WITH DISCOMFORT, GREAT DISCOMFORT. YOU KNOW, I CAN'T -- I USED TO BE A HUGE HUNTER, WHICH I STILL LOVE THE OUTDOORS; I STILL HUNT AND HIKE. YOU KNOW, WE GO TO GATLINBURG HIKING, AND THERE'S CERTAIN THINGS THAT I CAN'T DO ANYMORE THAT I WISH I COULD. YOU KNOW, YOU CAN'T GO CLIMB CLINGMANS DOME ANYMORE BECAUSE I KNOW THAT IT'S NOT A MATTER OF WHEN BUT IT'S HOW BAD IT'S GOING TO BE AFTERWARDS. I CAN'T -- SO, THERE'S CERTAIN THINGS THAT YOU JUST HAVE TO NOT DO.

Q. OKAY. WELL, TELL ME THIS. HOW LONG CAN YOU COMFORTABLY STAND AT ONE TIME?

A. COMFORTABLY? IF IT WAS EARLY IN THE MORNING AND I HAVEN'T DONE A LOT, PROBABLY 30 MINUTES.

Q. ALL RIGHT. HOW ABOUT TOWARDS THE END OF THE DAY?

A. YOU KNOW, COMFORTABLY, PROBABLY NOT THAT LONG. YOU KNOW, EVERY DAY IS A DIFFERENT DAY, AND IT'S HARD TO TELL YOU EXACTLY, BUT IT'S JUST A MATTER OF WHAT YOU DO THAT DAY. BUT, I MEAN, IT COULD BE NO TIME; I COULD NOT WANT TO STAND UP AT ALL. YOU KNOW, AS SOON AS I COME IN I MAY HAVE TO JUST SIT DOWN AND START ICING IT. SO, IT'S EVERY DAY, BUT IT'S DEFINITELY WORSE AS THE DAY PROGRESSES.

Q. ALL RIGHT. NOW, WHEN YOU WALK, HOW FAR CAN YOU WALK COMFORTABLY?

A. I THINK IT'S A LOT LIKE STANDING. IF IT'S UNEVEN GROUND, HARDLY AT ALL BECAUSE IT HURTS RIGHT AWAY, JUST THE BENDING AND FLEXATION OF YOUR FOOT IF YOU'RE ON UNEVEN GROUND. BUT IF IT'S STRAIGHT AROUND MY NEIGHBORHOOD, IT'S LIKE A HALF A MILE, IF MY LITTLE DAUGHTER IS RIDING HER BIKE, I CAN -- YOU KNOW, I CAN WALK FOR 15 MINUTES OR SO, 15 MINUTES, 20 MINUTES AND FEEL DECENT. BUT IF IT'S AT THE BEACH OR, YOU KNOW, GOING SOMEWHERE ON UNEVEN GROUND, YOU'RE CAMPING OR YOU'RE -- YOU KNOW, EVEN THROUGH LIKE A GRASSY AREA THAT'S UNEVEN, NOT -- YOU CAN FEEL IT A LOT WORSE.

Q. NOW, YOU UNDERSTAND THAT DR. TAYLOR, THE AUTHORIZED DOCTOR, HAS SAID YOU SHOULDN'T RUN, CUT, PIVOT ---

**BY MS. ALPHIN:**

OBJECT TO LEADING.

**BY THE COMMISSIONER:**

SUSTAINED.

**DIRECT EXAMINATION RESUMED BY MR. TEMPLE:**

Q. ARE YOU FAMILIAR WITH -- HAVE YOU RECEIVED THE REPORTS FROM DR. TAYLOR?

A. I HAVE.

Q. HAVE YOU READ THOSE REPORTS?

A. YES.

Q. ARE YOU FAMILIAR WITH THE RESTRICTIONS THAT HE'S

IMPOSED?

A. YES.

Q. ALL RIGHT. NOW, I'M GOING TO SHOW YOU WHAT WE'VE INDICATED, AND THIS IS DR. TAYLOR'S APA ---

**BY THE COMMISSIONER:**

I HAVE THE REPORT. IT'S GOT RESTRICTIONS IN THERE.

**BY MR. TEMPLE:**

FANTASTIC.

**DIRECT EXAMINATION RESUMED BY MR. TEMPLE:**

Q. AND ARE YOU TRYING TO ABIDE BY THOSE RESTRICTIONS?

A. I DO.

Q. OKAY, ALL RIGHT. AND IF YOU DON'T ABIDE BY THOSE RESTRICTIONS, WHAT HAPPENS?

A. I HURT WORSE.

Q. LET ME TALK TO YOU ABOUT YOUR CERVICAL SPINE, NECK. IN YOUR PRIOR CLAIM, IN THE THORACIC, THE TASER INCIDENT ---

**BY THE COMMISSIONER:**

2010 CLAIM, RIGHT?

**BY MR. TEMPLE:**

YES, MA'AM; THE 2010 CLAIM.

**DIRECT EXAMINATION RESUMED BY MR. TEMPLE:**

Q. DID YOU HAVE ANY RATING TO YOUR NECK?

A. NO.

Q. ALL RIGHT. AND THE RATING THAT YOU GOT WAS FOR WHAT PART OF YOUR SPINE?
A. THORACIC SPINE.
Q. THORACIC SPINE ONLY?
A. YES.
Q. OKAY. NOW, THE COMMISSION FOUND THAT YOU SUSTAINED A COMPENSABLE INJURY TO YOUR CERVICAL SPINE, CORRECT? YOU ARE AWARE OF THAT?
A. YES.
Q. NOW, YOU'VE SEEN DR. MILLS FOR THAT CONDITION; IS THAT CORRECT?
A. YES.
Q. WHAT RECOMMENDATIONS DID DR. MILLS MAKE?
A. SURGERY.
Q. ALL RIGHT. AND WHEN HE DID THAT, WERE YOU THERE FOR HIS DEPOSITION WHEN HE RECOMMENDED SURGERY?
A. YES.
Q. ALL RIGHT. AND HAVE YOU REVIEWED HIS REPORT WHEREIN HE INDICATED THAT SURGERY WAS APPROPRIATE FOR YOU?
A. YES.
Q. ALL RIGHT. NOW, IN THAT -- AND DO YOU RECALL THAT TO BE THE REPORT OF JUNE 4TH, 2012?
A. YES.

**BY MR. TEMPLE:**

FOR THE RECORD, COMMISSIONER, I THINK ---

BY THE COMMISSIONER:

I'M GOING TO READ IT. THANK YOU.

BY MR. TEMPLE:

NUMBER FIVE.

DIRECT EXAMINATION RESUMED BY MR. TEMPLE:

Q. TELL ME WHY INITIALLY YOU WANTED A SECOND OPINION BEYOND DR. MILLS.

A. LIFE EXPERIENCE. YOU DON'T EVER PUT ALL YOUR EGGS IN ONE BASKET, IF I'M ALLOWED TO SAY THAT. BUT YOU JUST DON'T -- I MEAN, I -- YOU'RE TALKING ABOUT MAJOR SURGERY, IN MY EYES, IN MY LIFE. THAT WAS MAJOR TO ME, ESPECIALLY AFTER COMING OFF A NOT SO SUCCESSFUL SURGERY. I WAS SCARED AND WANTED A SECOND OPINION FROM ANOTHER DOCTOR, AS I WOULD IMAGINE ANYBODY WOULD.

Q. WERE YOU PRESENT WHEN DR. MILLS TESTIFIED THAT HE WANTED TO DO BOTH -- OR HE COULD DO BOTH OPERATIONS IN ONE -- AT ONE TIME?

A. YEAH, AT ONE TIME.

Q. DID THAT CAUSE YOU CONCERN?

A. ABSOLUTELY.

Q. NOW, YOU SAW DR. EDWARDS, AND DID HE EVALUATE YOUR CONDITION?

A. HE DID.

Q. WHAT RECOMMENDATIONS DID HE MAKE FOR YOU?

A. THE SAME. AND HE ALSO STARTED OFF BY SAYING HE WAS A LITTLE BIT MORE CONSERVATIVE OF A DOCTOR, VERY CONSERVATIVE. SURGERY FOR HIM WAS -- THAT'S LIKE WHEN I MET WITH DR. MILLS, LITERALLY HE LOOKED AT MY MRIs AND LOOKED AT STUFF, AND HE LOOKED AT HIS ASSISTANT; IT WAS LIKE, OKAY, WE NEED TO SCHEDULE SCOTT FOR ALL THESE WORDS THAT I CAN'T SAY. BUT IT ---

**BY THE COMMISSIONER:**

GO AHEAD AND TELL ME ABOUT EDWARDS. I'M FAMILIAR WITH WHAT MILLS HAS DONE.

**WITNESS RESUMES:**

A. IT WAS SURGERY. AND THEN DR. EDWARDS IS A LITTLE MORE CONSERVATIVE. HE SAID, "HEY, LET'S -- I FEEL THAT YOU'RE GOING TO NEED SURGERY, BUT IF WE CAN PROLONG IT, LET'S MAYBE SEE IF SOME OTHER THINGS WILL ALLEVIATE SOME OF THE PAIN. BUT IF -- I FEEL THAT YOU'RE GOING TO NEED IT, BUT LET'S -- LET'S SEE, LET'S -- YOU KNOW, WE'LL WAIT A LITTLE WHILE. LET'S SEE WHAT HAPPENS."

**DIRECT EXAMINATION RESUMED BY MR. TEMPLE:**

Q. ALL RIGHT. AND DID YOU WANT TO WAIT AT THAT POINT?

A. YES.

Q. AND WAS THAT A GOOD RECOMMENDATION FOR YOU?

A. YES.

Q. AND BETWEEN THE TIME YOU SAW HIM AND YOU WANTED TO GET ANOTHER OPINION FROM DR. POLETTI, WERE YOU STILL DOING WHAT HE TOLD YOU TO DO AND TAKING YOUR MEDICATION AND DOING YOUR EXERCISES AND THINGS OF THAT NATURE?

A. OH, YEAH, ABSOLUTELY.

Q. AND AT THAT POINT WERE YOU STILL CONSIDERING WHETHER YOU WERE GOING TO HAVE THE NECK AND THE LOW BACK SURGERY?

A. ABSOLUTELY.

Q. OKAY, ALL RIGHT. NOW, AT THE POINT YOU SAW DR. POLETTI, WAS THAT THE DEFINITIVE DECISION FOR YOU IN TERMS OF WAITING?

A. IT WAS. I -- OUT OF ALL THE DOCTORS THAT I'VE SEEN, NOT BECAUSE HE WAS ONE THAT I -- I MEAN, I CHOSE TO GO TO SOUTHEASTER SPINE, BUT IF YOU LOOK AT THE TRACK RECORD ---

Q. I DON'T MEAN TO ---

A. YES. I'M SORRY; YES. HE WAS THE DECIDING FACTOR, THAT I SAID I'M GOING TO TRY TO PROLONG AS LONG AS I CAN, KNOWING I'M PROBABLY GOING TO HAVE TO HAVE IT, BUT I DON'T WANT TO PROCEED. I CALLED YOU AFTERWARDS AND SAID I DON'T WANT TO PROCEED WITH SURGERY.

Q. YOU WANT TO WAIT AS LONG AS YOU CAN?

A. I WANT TO WAIT AS LONG AS I CAN.

Q. ALL RIGHT. NOW, AT THAT POINT, WAS THAT MARCH OF 2014?

A. YES.

Q. AND THAT'S THE LAST TIME YOU'VE SEEN DR. POLETTI?

A. THAT'S THE LAST I'VE SEEN HIM.

Q. NOW, LET'S TALK ABOUT YOUR NECK. HOW IS YOUR NECK TODAY?

A. TERRIBLE.

Q. ALL RIGHT. TELL ME, DESCRIBE HOW IT FEELS.

A. I DON'T -- YOU CAN'T PUT -- YOU CAN'T PUT IT INTO WORDS, UNLESS YOU HAVE AN INJURY LIKE THIS; AND I DON'T MEAN TO DRAG IT OUT, BUT IT'S TERRIBLE. IT'S LIFE CHANGING. IT'S SOMETHING THAT NOBODY IN THIS ---

**BY THE COMMISSIONER:**

HOW DOES IT FEEL? IS IT SHARP, DULL? IS IT INTERMITTENT; IS IT CONSTANT? TRY TO EXPLAIN IT.

**BY THE WITNESS:**

IT'S CONSTANT; IT'S SHARP; IT MAKES MY ARMS GO NUMB, ESPECIALLY MY RIGHT ARM; IT'S -- YOU ALWAYS FEEL LIKE YOU HAVE A BULGE UP TOP THAT'S BURNING. IT'S -- YOU KNOW, THE ONLY WAY I CAN EXPLAIN IT THAT I'VE BEEN THROUGH IN LIFE, IT'S LIKE A TOOTHACHE THAT DOESN'T EVER GO AWAY. IT'S -- IT'S AWFUL.

DIRECT EXAMINATION RESUMED BY MR. TEMPLE:

Q. ALL RIGHT. NOW, TELL ME THIS. WHEN YOU SAY -- SO, IT'S CONSTANT PAIN?

A. IT'S CONSTANT PAIN; IT BURNS. SOMETIMES IT'S SHARP, AND SOMETIMES IT GOES AWAY A LITTLE BIT, BUT IT'S LIKE A BURNING SENSATION THAT YOU HAVE THAT -- YOU KNOW, IT'S OBVIOUSLY WORSE AT SOME TIMES THAN IT IS OTHERS. BUT IT'S ---

Q. LET ME STOP YOU THERE, THEN. SO, IN THE MORNINGS WHEN YOU WAKE UP, TELL ME ON A SCALE OF ONE TO TEN HOW IT FEELS.

A. YOU KNOW, AND THAT'S ONE THING ABOUT MY BACK INJURY IS SLEEP SOMETIMES IS WORSE FOR ME LAYING DOWN THAN IT IS STANDING UP. SO, SOMETIMES I WAKE UP AND I'M A NINE. OTHER DAYS I WAKE UP AND I MAY BE A FIVE OR SIX. IT'S -- IT'S NEVER BELOW THAT, BUT I CAN'T TELL YOU -- AND THAT'S WHAT'S SO HARD TO EXPLAIN, ESPECIALLY TO PEOPLE THAT DON'T HAVE IT. IT'S ---

Q. ALL RIGHT. LET ME STOP YOU THERE. BEFORE THIS ACCIDENT OCCURRED, HOW MANY HOURS OF CONTINUOUS SLEEP WERE YOU GETTING A NIGHT?

A. EIGHT, TEN.

Q. OKAY. NOW, HOW ABOUT NOW; HOW MANY HOURS OF CONTINUOUS SLEEP DO YOU GET?

A. THREE, FOUR ON A GOOD NIGHT.

Q. OKAY, ALL RIGHT. DOES ANYTHING YOU DO RELIEVE THAT PAIN OR MAKE IT ANY BETTER?

A. YOU KNOW, IT MAY REQUIRE THAT IF I'M SITTING DOWN, I STAND UP. IT MAY REQUIRE THAT IF I'M STANDING UP AND DOING SOMETHING, THAT I JUST HAVE TO LAY DOWN ON A HEATING PAD, ESPECIALLY ON MY LOWER BACK. I KNOW WE'RE TALKING ABOUT MY NECK AREA, BUT IT JUST -- IT JUST ALL DEPENDS. IT'S JUST HOW YOU HAVE TO DEAL WITH IT AT THE TIME. A LOT OF TIMES, LIKE WHEN MY ARM GOES NUMB, MY HAND, MY ELBOW, BACK LIKE THAT, THAT YOU HAVE TO SIT DOWN BECAUSE IT HURTS SO BAD YOU DON'T WANT TO STAND UP.

Q. ALL RIGHT. ARE THERE TIMES THAT YOU HAVE NO PAIN IN YOUR NECK?

A. NO.

Q. LET'S MOVE ON TO YOUR LOW BACK NOW. IN TERMS OF YOUR LUMBAR SPINE, DESCRIBE THAT AS BRIEFLY AS YOU CAN, THE PAIN THAT YOU HAVE IN YOUR LOW BACK.

A. IT IS NOT LIKE MY CERVICAL SPINE. IT WAS A LOT MORE TOLERABLE TO CERTAIN DEGREES. I WOULD SAY AS LOW AS WAKING UP IN THE MORNING AND BEING A TWO, THREE, FOUR, SORT OF LIKE MY ANKLE. YOU KNOW, IT WAS KIND OF MORE -- YOU COULD KIND OF LIKE TELL WHEN IT WAS GOING TO FLARE UP, WHEN YOU WERE GOING TO HURT REAL BAD. BUT IT'S GOING TO HURT, BUT -- I DON'T KNOW.

A COUPLE WEEKS AGO, AND THIS IS JUST -- I HURT SO BAD IN MY LOWER BACK THAT I THOUGHT -- I MEAN, IT HURT ME SO BAD THAT THAT NIGHT I WENT TO THE CONWAY E.R. I HURT SO BAD. I MEAN, IT WAS -- IT WAS WORSE THAN MY ANKLE; IT WAS WORSE THAN MY CERVICAL SPINE; IT WAS -- IT WAS TO THE POINT WHERE I DIDN'T CARE WHAT HAPPENED TO ME.

**BY THE COMMISSIONER:**

DO I HAVE THOSE RECORDS?

**BY MR. TEMPLE:**

YES, MA'AM; YOU DO.

**WITNESS RESUMES:**

A. I ABSOLUTELY HAD TO BE -- I HAD TO KNOW WHAT WAS GOING -- I MEAN, I HURT SO BAD THAT IT HURT THE MUSCLES AROUND MY BACK.

**DIRECT EXAMINATION RESUMED BY MR. TEMPLE:**

Q. WAS IT JUST IN YOUR BACK, OR DID YOU HAVE IT ---

A. NO. IT WAS DOWN MY BUTT; IT WAS -- I MEAN, I REALLY THOUGHT THAT THERE WAS A POSSIBILITY THAT SOMETHING ELSE WAS GOING ON BECAUSE I HAVE NEVER ---

Q. HAD YOU HAD ANOTHER ACCIDENT OR ANY INTERVENING INCIDENT?

A. NO. NO, AND THAT'S JUST -- IT HAD BEEN LIKE THAT BEFORE. I REMEMBER ONE TIME I WAS AT -- ME AND MY WIFE WERE COMING BACK FROM LAKE CITY, AND IT HURT

THAT -- TO THAT EXCRUCIATING, BUT IT KIND OF WENT AWAY. BUT THIS WASN'T GOING AWAY. IT WAS -- IT WAS -- WE WERE INTO A SEVEN-DAY PERIOD.

Q. ALL RIGHT. NOW, ARE THERE ANY TIMES WHEN YOUR LOW BACK DOESN'T BOTHER YOU TO SOME DEGREE?

A. NO, I WOULDN'T SAY -- IT JUST DOESN'T BOTHER ME TO THE EXTENT THAT MY CERVICAL SPINE AND STUFF HURT. IT -- BUT, I MEAN, IT'S NEVER -- IT'S NEVER GREAT. IT'S NEVER ALWAYS LIKE I WAS.

Q. ALL RIGHT. NOW, LET'S TALK ABOUT YOUR ABILITY TO DO OTHER JOBS. OTHER THAN BEING IN LAW ENFORCEMENT, ARE YOU TRAINED TO DO -- AND OBVIOUSLY YOU CUT GRASS, OR YOU HAVE A COMPANY THAT DOES THAT. BUT DO YOU HAVE ANY TRANSFERABLE SKILLS: WELDING, HVAC, PLUMBING, ANYTHING OF THAT NATURE?

A. NOTHING.

Q. OKAY, ALL RIGHT. AND YOUR SCHOOL THAT YOU WENT TO WAS WHERE; WHERE DID YOU GO TO ---

A. HORRY GEORGETOWN TECHNICAL COLLEGE.

Q. OKAY. AND TWO YEARS THERE IN CRIMINAL JUSTICE?

A. CRIMINAL JUSTICE.

Q. ALL RIGHT. COULD YOU -- DO YOU KNOW OF ANY JOB IN CRIMINAL JUSTICE YOU COULD DO WITH THE RESTRICTIONS YOU HAVE NOW AND THE PAIN YOU HAVE?

A. NO.

Q. IF YOU COULD, WOULD YOU DO THAT?
A. YEAH.
Q. OKAY. NOW, IN THE VOCATIONAL ASSESSMENT IT SUGGESTS THAT MAYBE YOU COULD DO SOMETHING TO EARN $9 AN HOUR. DO YOU KNOW OF ANYTHING THAT YOU COULD DO AT THIS POINT, WORKING A FULL-TIME BASIS, STANDING AND SITTING DOWN?
A. NO, NO.
Q. SO, OTHER THAN WHAT YOU'RE DOING RIGHT NOW, ---
A. RIGHT.
Q. --- IN TERMS OF YOUR WORK ---
A. RIGHT.
Q. --- WITH YOUR SECOND COMPANY AND YOUR OWN ---
A. AND THE REASON WHY I CAN DO THAT IS BECAUSE I CAN CATER IT TO HOW I FEEL THAT DAY. THAT'S THE ONLY REASON WHY I CAN CONTINUE TO DO THINGS OF THAT NATURE, IS BECAUSE IT'S UP TO ME HOW I PROCEED THROUGHOUT THE DAY. I MEAN, SOME DAYS I WAKE UP AND I DO ABSOLUTELY NOTHING; I HAVE TO LAY THERE. AND THERE'S OTHER DAYS THAT I CAN GET OUT AND DRIVE AROUND AND DO STUFF.
Q. ALL RIGHT. NOW, IN TERMS OF GOING FORWARD IN THE FUTURE, ARE YOU ASKING THIS COMMISSION TO ALLOW YOU THE BENEFIT OF SURGERY TO YOUR NECK AND YOUR LOW BACK, AS INDICATED BY DRS. MILLS, EDWARDS, AND

POLETTI, AT THE TIME IT GETS BEYOND ---

A. YES.

Q. --- THE POINT WHERE YOU CAN TOLERATE IT?

A. YES.

Q. ALL RIGHT. AND AT THAT POINT WOULD YOU BE WILLING TO UNDERGO THAT TREATMENT?

A. OH, ABSOLUTELY. I MEAN, I FEEL THAT THERE IS DEFINITELY -- AFTER TALKING TO ALL THREE OF THESE DOCTORS, AND ALL THREE OF THEM ARE WELL-KNOWN DOCTORS, THEY'VE ALL CLEARLY STATED, "YOU'RE GOING TO HAVE THIS. IT'S A MATTER OF WHEN, WHETHER YOU HAVE IT NOW" ---

**BY MS. ALPHIN:**

OBJECT TO HEARSAY.

**BY THE COMMISSIONER:**

SUSTAINED.

**BY MR. TEMPLE:**

OKAY, VERY GOOD.

**DIRECT EXAMINATION RESUMED BY MR. TEMPLE:**

Q. ALL RIGHT. BUT IN TERMS OF YOUR PERSONAL OPINION, IF IT GOT TO THAT POINT, YOU WOULD HAVE THE SURGERY?

A. YES, YES.

Q. ALL RIGHT, OKAY. NOW, LET ME LOOK AND SEE IF I HAVE ANYTHING ELSE. HOW OFTEN DO YOU TAKE YOUR ALEVE MEDICATION?

A. EVERY DAY.
Q. HOW MANY A DAY DO YOU TAKE?
A. TWO.
Q. TWO IN THE MORNING?
A. TWO IN THE MORNING.
Q. AND THEN DO YOU TAKE -- WHAT DO YOU TAKE AT NIGHT?
A. JUST REALLY ANYTHING WITH LIKE A P.M.; SOMETHING TO HELP ME FALL ASLEEP AT NIGHT, MOTRIN P.M., AND GENERALLY I ONLY TRY TO TAKE ONE OF THOSE. AND THERE ARE A DAY OR TWO OR THREE WHERE I MAY FEEL OKAY TO A CERTAIN DEGREE, AND I CAN GO HOME AND JUST LAY DOWN. I TRY NOT TO TAKE ANYTHING THAT I DON'T HAVE TO. THE ALEVE IS EVERY DAY.
Q. ALL RIGHT. HAVE YOU ANSWERED MY QUESTIONS HONESTLY?
A. ABSOLUTELY.
Q. IS THERE ANYTHING THAT YOU WANT TO CHANGE?
A. NO.

**BY MR. TEMPLE:**

COUNSEL MAY HAVE -- THAT'S ALL I HAVE OF THIS WITNESS, COMMISSIONER.

**BY THE COMMISSIONER:**

THANK YOU. MS. ALPHIN.

**BY MS. ALPHIN:**

THANK YOU, COMMISSIONER.

**CROSS EXAMINATION BY MS. ALPHIN:**

Q. MR. LEDFORD, HAVE YOU LOOKED FOR OR APPLIED FOR ANY JOBS?
A. MA'AM?
Q. HAVE YOU LOOKED FOR OR APPLIED FOR ANY JOBS?
A. NO.
Q. YOUR PROCUTTERS BUSINESS, THAT'S THE NAME OF YOUR LAWN COMPANY?
A. IT IS; YES, MA'AM.
Q. AND IT'S PROCUTTERS LAWN AND LANDSCAPING, LLC, CORRECT?
A. YES.
Q. AND THAT'S OWNED BY BOTH YOU AND YOUR WIFE?
A. IT IS; YES.
Q. ALL RIGHT. I WON'T BEGIN TO UNDERSTAND TAX RETURNS.
A. THANK YOU 'CAUSE I DON'T ---
Q. SO I'M NOT GOING TO ASK YOU ---
A. I DON'T EITHER; I JUST BROUGHT THEM TO YOU.
Q. I'M NOT GOING TO ASK A COMPLICATED TAX QUESTION. BUT DO YOU KNOW HOW MUCH INCOME YOUR BUSINESS CLAIMED IN YOUR INCOME TAXES IN 2013?
A. I DON'T. I CAN LOOK REAL QUICK AND TELL YOU.
Q. OKAY. LET ME ASK THIS. YOUR INCOME TAXES CLAIM THAT IN 2013, AND THIS IS THE INCOME TAX FOR YOUR PROCUTTERS, ---
A. RIGHT.

Q. --- THAT YOU HAD $334,906 IN GROSS RECEIPTS AND SALES. WOULD YOU AGREE THAT THAT'S CORRECT?

A. IF THAT'S WHAT IT SAYS, DONE BY MY ACCOUNTANT, ABSOLUTELY.

Q. OKAY. AND YOU WRITE OFF A LOT OF BUSINESS EXPENSES; IS THAT A FAIR STATEMENT?

A. ABSOLUTELY.

Q. OKAY, RIGHT. AND THAT'S SOMETHING YOUR ACCOUNTANT DOES?

A. YES, MA'AM.

Q. OKAY. SO AT THE END OF YOUR TAXES, ONCE THAT'S ALL DONE, THERE IS A TAXABLE INCOME AMOUNT, BUT THAT'S NOT ACTUALLY HOW MUCH MONEY YOU GENERATE FOR THE COMPANY, IS THAT ---

**BY MR. TEMPLE:**

I'M GOING TO OBJECT TO THIS LINE OF QUESTIONING. I DON'T THINK IT'S ---

**WITNESS ANSWERS:**

A. I DON'T UNDERSTAND.

**BY MR. TEMPLE:**

I DON'T THINK IT'S RELEVANT BECAUSE WE HAVEN'T CLAIMED IT AS CONCURRENT, BUT I'M NOT SURE HE'S QUALIFIED TO -- SINCE AN ACCOUNTANT DID THESE RECORDS FOR HIM.

**BY THE COMMISSIONER:**

WELL, I THINK IT IS RELEVANT, AND I REALIZE THAT NONE OF US IN HERE ARE ACCOUNTANTS, AND I'M THE WORST OF THE BUNCH, BUT I THINK IT'S RELEVANT AS FAR AS ABILITY TO WORK, AND I'LL LET YOU CONTINUE. NOW, WE'RE NOT GOING TO GO ON TOO LONG ABOUT THIS, BUT IT'S CROSS EXAMINATION, SO I'M GOING TO ALLOW IT. YOU HAVE A RUNNING OBJECTION, MR. TEMPLE. GO AHEAD.

**BY MR. TEMPLE:**

THANK YOU, YOUR HONOR.

**BY MS. ALPHIN:**

THANK YOU, COMMISSIONER, AND I'M REALLY JUST SUBMITTING IT IN TERMS OF WAGES EARNED.

**CROSS EXAMINATION RESUMED BY MS. ALPHIN:**

Q. YOU HAVE CONTRACTS WITH YOUR PROCUTTERS COMPANY THAT YOU DO REGULAR BUSINESS FOR?

A. YES.

Q. OKAY. AND YOU HAVE NO REASON TO DISPUTE THE TAX RETURNS THAT HAVE BEEN HANDED UP THAT SHOW THAT YOU BROUGHT IN $334,906 IN GROSS RECEIPTS AND SALES?

A. NO, NONE AT ALL.

Q. OKAY, PERFECT. YOU HAVE NOT HAD ANY SURGERY RELATED TO THIS CLAIM OTHER THAN YOUR ANKLE SURGERY, CORRECT?

A. YES, MA'AM.

Q. OKAY. SO THERE'S NOT BEEN ANY SURGERY ON YOUR BACK?

A. NO.
Q. OR ON YOUR NECK OR YOUR LOW BACK?
A. NO.
Q. AND, IN FACT, HAVE YOU HAD ANY TREATMENT WHATSOEVER TO YOUR BACK?
A. JUST SOME INJECTIONS.
Q. AND THAT WAS YOUR LOW BACK OR YOUR CERVICAL?
A. MY LOWER BACK.
Q. OKAY. AND IN THE CERVICAL, YOU HAVEN'T HAD ANY INJECTIONS?
A. I TRIED TO GET SOME, BUT WORKMAN'S COMP DENIED IT.
Q. OKAY. AND LET ME ASK YOU ABOUT THE PRIOR ACCIDENT THAT YOU ANSWERED SOME QUESTIONS ABOUT. THAT WAS YOUR 2010 CLAIM WITH THE TASER?
A. YES.
Q. YOU TESTIFIED THAT THAT WAS A T-SPINE INJURY ONLY, CORRECT?
A. YEAH.
Q. I BELIEVE THAT WAS YOUR TESTIMONY. WELL, DID YOU NOT GO TREAT WITH A DR. SARB IN 2011 RELATED TO THAT INJURY?
A. YEAH.
Q. AND DR. SARB TREATED YOU FOR YOUR NECK AND RADICULAR SYSTEMS IN YOUR ARM; IS THAT CORRECT?
A. SHE TREATED -- SHE DID A NERVE STUDY; THAT'S WHAT

SHE DID.

Q. OKAY. AND DR. SARB ACTUALLY ASSIGNED YOU A FIVE PERCENT IMPAIRMENT RATING TO YOUR CERVICAL SPINE; IS THAT CORRECT?

A. I HAVE -- IF YOU SAY; I DON'T KNOW.

**BY MS. ALPHIN:**

I'D LIKE TO SUBMIT -- I'LL LET HIM TAKE A LOOK AT IT. IT IS A LETTER FROM THE DOCTOR HE TREATED WITH TO YOU.

**BY MR. TEMPLE:**

WAS THAT IN THE -- I DON'T OBJECT TO THAT. YEAH, IT CAN COME IN, BECAUSE I THINK ALL OF THAT SHOULD BE IN THE FILE.

**BY THE COMMISSIONER:**

MARK THIS AS DEFENDANTS' ONE.

**(COURT REPORTER MARKS LETTER DEFENDANTS' EXHIBIT NUMBER ONE, RETAINED IN COMMISSION FILE.)**

**CROSS EXAMINATION RESUMED BY MS. ALPHIN:**

Q. THIS HAS BEEN MARKED DEFENDANTS' EXHIBIT NUMBER ONE. I'M JUST GOING TO HAND THIS TO YOU. TAKE A LOOK AND TELL ME, THAT DOCUMENT RIGHT THERE IS FROM DR. SARB, CORRECT?

A. I DON'T SEE WHERE IT -- YEAH, BARBARA L. SARB.

Q. OKAY. AND THAT APPEARS TO BE A LETTER OR A STATEMENT THAT SHE SENT TO YOUR ATTORNEY; IS THAT

CORRECT? OR IT'S "TO WHOM IT MAY CONCERN." I'M SORRY.

A. TO WHOM IT MAY CONCERN.

Q. IN THAT LETTER IT STATES THAT SHE ASSIGNED YOU A FIVE PERCENT IMPAIRMENT TO YOUR CERVICAL SPINE, CORRECT?

A. YES.

Q. AND THAT IS DATED IN 2011, WHICH IS PRIOR TO THE MOTORCYCLE ACCIDENT WE'RE HERE ABOUT TODAY?

A. RIGHT.

Q. OKAY. THAT'S ALL I HAVE ABOUT THAT. I'LL TAKE THAT DOCUMENT FROM YOU. THANK YOU. SO IT IS NOT CORRECT TO SAY THAT YOUR 2010 ACCIDENT WAS ONLY A T-SPINE INJURY SINCE DR. SARB RATED YOUR CERVICAL SPINE; IS THAT CORRECT?

A. YEAH. I ONLY SAW HER ONCE, BUT IT WAS MY THORACIC SPINE THAT -- MY T-6 THROUGH MY T-9, WHAT WAS TREATED. SO, YEAH, I DIDN'T COMPLAIN OF ANY -- I MEAN, WHETHER SHE DID SOMETHING -- SHE ONLY DID A NERVE STUDY. SO ---

**BY THE COMMISSIONER:**

SO YOU DIDN'T COMPLAIN OF ANY NECK PAIN?

**BY THE WITNESS:**

NO, MA'AM. I JUST COMPLAINED OF THE NUMBNESS AND THE TINGLING FEELING, THAT I WAS HAVING THE

BURNING SENSATION IN MY THORACIC AREA, AND THAT'S WHY DR. MILLS SENT ME DOWN THERE TO HAVE A -- THEY DID ALL KINDS OF -- A NERVE STUDY.

**CROSS EXAMINATION RESUMED BY MS. ALPHIN:**

Q. AND THAT WAS DOWN YOUR ARM, THOUGH, TOO; YOU HAD THE SYMPTOMS DOWN YOUR ARM?

A. YES.

Q. AND THAT WAS BEFORE YOUR MOTORCYCLE ACCIDENT?

A. YEAH, IT WAS LIKE RADIATING.

Q. AND THAT WAS BEFORE YOUR MOTORCYCLE ACCIDENT?

A. IT WAS.

Q. OKAY. SO YOUR 2010 TASER ACCIDENT, YOU RECEIVED A SETTLEMENT AMOUNT FROM THE INSURANCE COMPANY FOR THAT, CORRECT?

A. YES.

Q. OKAY. YOU TESTIFIED YOU WERE STILL ABLE TO HUNT, CORRECT?

A. I MEAN, I TAKE MY KIDS, BUT NOT LIKE I USED TO, IF YOU WANT TO GET TECHNICAL.

Q. OKAY. YOU DON'T HUNT AS MUCH AS YOU USED TO?

A. I DON'T.

Q. DO YOU ---

A. AND I DON'T DO THE TRIPS THAT I USED TO DO. I DON'T GO TO COLORADO. I DON'T DO -- I MEAN, IT'S -- IF YOU TALK ABOUT, DO YOU STILL HUNT? YEAH, I GO DOWN

THE STREET AND I PUT MY KIDS IN A GROUND BLIND. BUT DO I HUNT LIKE I USED TO HUNT? ABSOLUTELY NOT. I CAN'T.

Q. YOU TAKE YOUR KIDS HUNTING SOMETIME?

A. ABSOLUTELY.

Q. OKAY. AND YOU KEEP UP A D.N.R. LICENSE OR WHATEVER LICENSE YOU NEED TO HUNT?

A. I HAVEN'T GOTTEN ONE THIS YEAR, BUT, YES, I WILL.

Q. OKAY. YOU PLAN TO GET ONE?

A. YES, I DO.

Q. OKAY. YOU TESTIFIED TO YOUR ATTORNEY THAT THERE ARE NO JOBS THAT YOU KNOW OF THAT YOU COULD DO IN YOUR CONDITION. HAVE YOU TRIED TO WORK ANYWHERE?

A. NO.

**BY MS. ALPHIN:**

I DON'T HAVE ANY OTHER QUESTIONS. THANK YOU.

**BY THE COMMISSIONER:**

ALL RIGHT. MR. TEMPLE, ANYTHING ON REDIRECT?

**BY MR. TEMPLE:**

YES, MA'AM; THANK YOU.

**REDIRECT EXAMINATION BY MR. TEMPLE:**

Q. IN TERMS OF -- LET ME JUST REVIEW THE TAX RETURNS ONE MORE TIME SINCE COUNSEL HAS BROUGHT THAT UP. IN TERMS OF THE -- WHAT SHE TALKED ABOUT WAS THE GROSS RECEIPTS HERE.

A. RIGHT.
Q. THE INCOME REFLECTED ON YOUR K-1 STATEMENT FOR 2013 FOR PROCUTTERS IS HOW MUCH?
A. SIX HUNDRED AND EIGHTY-EIGHT.
Q. OKAY. AND, AGAIN, YOUR ACCOUNTANT DID THAT FOR YOU?
A. YES.
Q. NOW, BEFORE THIS IN 2012 YOUR INCOME, ACCORDING TO YOUR K-1 STATEMENT, AFTER EXPENSES AND DEPRECIATION WERE TAKEN ---
A. RIGHT. 716, IT SAYS.
Q. ALL RIGHT. AND TO THE BEST OF YOUR KNOWLEDGE, ARE THOSE ACCURATE?
A. YEAH; THEY'RE DONE BY MY ACCOUNTANT.
Q. ALL RIGHT. NOW, IN TERMS OF THE PRIOR CLAIM, WERE YOU EVER COMPENSATED FOR OR HAD A FINDING FROM THE COMMISSION, TO YOUR KNOWLEDGE, THAT YOU HAD A CERVICAL IMPAIRMENT?
A. NO, NOT AT ALL. EVERYTHING THAT WAS DONE WAS DONE FOR MY THORACIC SPINE FROM DAY ONE. IT WAS MY T-6 THROUGH MY T-9, WHICH IS ALL DOCUMENTED. I MEAN, WHETHER SHE WROTE IT UP OR NOT, I HAVE NO CONTROL OVER THAT, BUT THAT'S -- MY TASER INCIDENT WAS MY T-6 THROUGH MY T-9.
Q. AND THAT WAS THE ADMITTED PART OF THAT CLAIM?
A. IT WAS.

BY MR. TEMPLE:

THAT'S ALL I HAVE, YOUR HONOR.

BY THE COMMISSIONER:

ANYTHING ELSE, MS. ALPHIN?

BY MS. ALPHIN:

NO, COMMISSIONER.

BY THE COMMISSIONER:

ANY WITNESSES?

BY MS. ALPHIN:

NO, COMMISSIONER.

BY THE COMMISSIONER:

THAT CONCLUDES THIS PROCEEDING.

**(THERE BEING NO FURTHER QUESTIONS, THIS HEARING WAS CONCLUDED AT THE HOUR OF 1:02 P.M.)**

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
COLUMBIA, SOUTH CAROLINA
WCC FILE NO. 1202545

**EMPLOYEE/CLAIMANT:** SCOTT LEDFORD

**EMPLOYER:** DEPARTMENT OF PUBLIC SAFETY

**CARRIER:** STATE ACCIDENT FUND

I, TIMMI A. PARRISH, A NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA, DULY COMMISSIONED AND QUALIFIED AS SUCH, DO HEREBY CERTIFY THAT THE FOREGOING **72** PAGES REPRESENTS A TRUE AND ACCURATE TRANSCRIPT OF THE FOREGOING HEARING OF **SCOTT LEDFORD,** TAKEN ON THE 15TH DAY OF AUGUST, 2014.

THAT THE WITNESS WAS DULY PLACED UNDER OATH AND ADMONISHED TO SPEAK THE WHOLE TRUTH. THAT THE ORAL HEARING WAS DULY TAKEN AND TRANSCRIBED AS TO THE QUESTIONS PROPOUNDED AND THE ANSWERS GIVEN.

THAT ALL THE OFFERED EXHIBITS, STIPULATIONS AND OBJECTIONS, IF ANY, INVOLVED IN THIS CASE ARE DULY ATTACHED OR INCLUDED HEREIN.

IN WITNESS WHEREOF, I HAVE SET MY HAND AND OFFICIAL SEAL THIS 1ST DAY OF SEPTEMBER, 2014.

_____
TIMMI A. PARRISH
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: 11-20-2018

* THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL IS REPRODUCED AS READ OR QUOTED BY THE SPEAKER.

BEFORE THE APPELLATE PANEL OF THE

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C FILE NOS.: 1202545

| | |
|---|---|
| SCOTT LEDFORD, Employee,<br><br>Claimant/Appellant,<br><br>-vs-<br><br>DEPARTMENT OF PUBLIC SAFETY, Employer, and STATE ACCIDENT FUND, Carrier,<br><br>Defendants/Respondents. | APPELLANT'S MOTION FOR A REHEARING |

TO: COMMISSIONERS AISHA TAYLOR, GENE McCASKILL, and R. MICHAEL CAMPBELL, II; and SARAH S. ALPHIN, Attorney for the Defendants/Respondents:

The Claimant/Appellant, SCOTT LEDFORD, by his undersigned attorneys, respectfully filed a Motion for Rehearing by the Appellate Panel of the Decision and Order of the Appellate Panel filed on January 21, 2016. This motion is filed pursuant to the case of Rhame v. Charleston County School District, 412 S.C. 273, 772 S.E.2d 159 (2015); § 1–23–280 (1), S.C. Code Anno., (Supp. 2014); S.C. Code Anno. Reg. 67-712; and Rule 203 (b) (6), S.C.A.C.R. A copy of the Decision is attached hereto and a copy of this motion is being served on the Commissioners.

The Claimant/Appellant is sincerely grateful the Appellate Panel's amendments to the Single Commissioner's Decision and Order that have saved him and his family from financial bankruptcy, authorized him to receive the ongoing physical therapy and injections recommended by his physicians, and have preserved

his right to seek a change of condition within one year from the last payment of compensation under § 42-17-90, S.C. Code Anno., 1976 as amended. The problem is the Appellate Panel, by adopting the majority of the Single Commissioner's findings, has left the Claimant/Appellant's still accused of being a liar and a cheat whose reputation has been destroyed. The Claimant/Appellant has been faithfully married for fourteen years to his school teacher wife.. He joined the police force and proudly served for seventeen years. He was a Lance Corporal on the South Carolina Highway Patrol, selected to be a member of the prestigious ACE motorcycle team. He law enforcement career was exemplary and untarnished until he suffered two admitted career ending accidents for which he was awarded State disability retirement benefits.[1] The Claimant/Appellant is a good decent, law abiding citizen. Far from being a "hustler," he is the proud owner of small businesses built up over eighteen years to supplement his law enforcement salary. The attack on his reputation and integrity is not just personally devastating to him, it is shocking and undermines public confidence in the Commission.

This motion for rehearing is based on the following grounds:

1. THE APPELLATE PANEL COMMITTED AN ERROR OF LAW IN FINDING AND RULING THERE IS NO EVIDENCE THE SINGLE COMMISSIONER VIOLATED THE CODE OF JUDICIAL CONDUCT BY THREATENING THE CLAIMANT/RESPONDENT WITH CRIMINAL PROSECUTION UNLESS HE SETTLED HIS CLAIM ON GROSSLY UNFAIR TERMS.

[1] The single Commissioner and the Appellate Panel specifically his disability award was subject to reevaluation in 2015. That review has been completed and his disability continued without the necessity for further yearly review.

The first ground for a rehearing and reconsideration is that the Single Commissioner's failure to recuse herself to avoid an appearance of impropriety. The alleged improper conduct never involved any claim the Single Commissioner had any personal prejudice against the Claimant/respondent, any personal relationship with the State Fund, or any personal interest in the outcome of the case. The alleged improper conduct was very specific and was fully supported by the sworn affidavit of the Claimant/Appellant's attorney as an Officer of the Court. The Defendants/Respondents' counsel was party to the conference in which alleged improper conduct occurred and was given every opportunity to challenge or dispute that it had, in fact, occurred in her response to the Motion to Recuse that was filed, in her Defendants/Respondents' brief to the Appellant and in her argument before the Appellate Panel but chose not to do so.

Although the Single Commissioner called the allegation of misconduct false and frivolous, she admitted the substance of allegation in her Order. Settling his claim would have required the Claimant/Respondent to forfeit his right to have his claim determined, not just by Commissioner, but by this Appellate Panel and the Appellate Courts in due course. Had the Appellate Panel found the Claimant/Respondent failed to prove the misconduct alleged based on the preponderance of the disputed evidence, or found that it was all just some misunderstanding and the Single Commission was merely trying to encourage a settlement, not force one, the Claimant/Respondent would let the matter rest.

Finding there is no evidence supporting the alleged misconduct is an error of law and is not supported by the substantial evidence contained in the record. For the Appellate Panel to affirm the Single Commissioner's Decision and Order on the ground there is no evidence supporting that improper conduct occurred will force the Claimant/Appellant to pursue Appellate Court review of this issue potentially undermining public confidence in the fairness and impartiality of the Commission. The Appellate Panel should reconsider its Decision and Order and make specific findings of fact based on the disputed evidence in the record to avoid committing an error of law on this important issue.

2. THE APPELLATE PANEL COMMITTED AN ERROR OF LAW IN FAILING TO RULE THE SINGLE COMMISSIONER DID HAVE THE AUTHORITY TO OVERRULE COMMISSIONER ROCHE'S UNAPPEALED FINDINGS OF FACT AND RULINGS OF LAW IN THE CHANGE OF CONDITION CLAIM ARISING OUT OF W.C.C. FILE NO. 1009581.

The second ground for a rehearing and reconsideration is that Appellate Panel failed to rule on the issue whether the Single Commissioner committed an error of law by overruling the unappealed ruled of another Commissioner. The Claimant/Appellant sustained an admitted injury by accident to his spine on July 15, 2010, W.C.C. File No. 1009581, muscle contractions during a tazer demonstration resulting in him suffering compression fractures to his T6 and T9 vertebra. The parties settled the 2010 claim on a Form 16 for a 25% permanent impairment of the spine on September 29, 2011. The Claimant/Appellant sustained a second admitted injury by accident to his right foot, right leg, and spine on March 10, 2012 the, W.C.C. File No. 1201545, when he was involved in a motorcycle

accident. The Claimant/Appellant was unsure whether his neck and back pain were the result of a change of condition from his 2010 accident or caused by his 2012 motorcycle accident and prudently filed claims for both a change of condition and for a new accident. The change of condition claim was heard before Commissioner Roche on January 15, 2013. The Defendants/Respondents specifically denied the Claimant/Appellant had suffered a cervical spine injury in his 2010 accident.

On May 2, 2013 Commissioner Roche issued her Order ruling that the Claimant had not suffered a change of condition because the neck and low back symptoms he had suffered were temporary and had completely resolved. Commissioner Roche went on to rule, however, that the Claimant was entitled to ongoing medical care and treatment for his right leg and for the aggravation of his pre-existing neck and low back conditions. No appeal was taken from Commissioner Roche's Order.

The failure to appeal findings of fact and rulings of law duly made by a jurisdictional commissioner make those facts and rulings the "law of the case." *See*: Brunson v. American Koyo Bearings, 367 S.C. 161, 623 S.E.2d 870 (Ct. App. 2005); Green v. City of Columbia, 311 S.C. 78, 427 S.E.2d 685 (Ct. App. 1993) (findings of fact not within the scope of an exception in a prior appeal become the law of the case). The reversal of the findings and rulings of a jurisdictional commissioner are reserved for the Appellate panel under § 42-17-60, S.C. Code Anno., 1976 as amended. One judge, or commissioner for that matter, does not have the authority to overrule another. *See*: Enoree Baptist Church v. Fletcher, 287 S.C. 602, 340

S.E.2d 546 (1986); Samonsen v. CGD, Inc., 377 S.C. 442, 661 S.E.2d 81 (2008). The purpose of this rule is to prevent exactly the kind of injustice inconsistent rulings can have and is manifest in this case.

The Single Commissioner improperly reversed Commissioner Roche's findings of fact and ruling of law by attributing all of the Claimant/Appellant's neck and back problems to his 2010 tazer accident and awarding him a 0% impairment to his neck and back as a result of his 2012 motorcycle accident. The Appellate Panel has corrected the error by now awarding an additional 15% impairment for the Claimant/Appellant's neck and back injury but has left all of the Single Commissioner's finding intact making it appear like the Claimant/Appellant was a liar because he advanced the finding made by Commissioner Roche in her unappealed Decision and Order. The Appellate Panel's adoption of the Single Commissioner's findings of fact concerning whether or not he suffered a neck injury in his 2010 accident are inconsistent with the Appellate Panel's award, serve no legitimate purpose, personally insulting defamatory, and are inflammatory and should be deleted from the Appellate Panel's Decision and Order.

3. THE APPELLATE PANEL'S ADOPTION OF THE SINGLE COMMISSIONER'S INSINUATIONS THE CLAIMANT/APPELLANT IS A LIAR WHO SHOULD BE PROSECUTED FOR INSURANCE FRAUD BECAUSE HE OWNS AND OPERATES A SUCESSFUL LAMN CARE BUSINESS ARE SPECULATIVE AND INFLAMMATORY.

The Single Commissioner findings repeatedly present the Claimant/Appellant in a false light as being a "hustler." The Claimant/Respondent didn't say he was a "hustler" in the derogatory sense, he said he owned and

operated small businesses to supplement his income as a police officer so he could provide a better life for his wife and three small children. The Claimant is proud he was able to own and operate two small businesses, a lawn care company and a hunting and fishing guide companies for eighteen years while he served as a police officer.

The Single Commissioner omitted mentioning the Claimant/Appellant was forced to sell his boat and his hunting and fishing guide companies have gone completely out of business since his accidents. The Single Commissioner's reasoning the Claimant/Respondent's lawn care businesses remains successful is based on speculation. The Single Commisioner found the lawn care business must be successful because the Claimant/Respondent, like most husbands and fathers, wanted to provide them with "nicer things." She then jumps to the conclusion the business tax returns must be based on "creative accounting" because the profits from the business for the two years after his two admitted accidents, $688.00 in 2012 and $716.00 in 2013, would not be enough to give his family "nicer things." Then she concluded the Claimant/Appellant must still be performing physical labor because the business still had gross earnings of $334,906.00. "W]hat deductions the Claimant takes on his income tax returns [were] are of no concern to her." (Tr. p. 65, lines 1 – 7; Barden Order, pg. 35, finding of fact 62). Apparently, the Single Commissioner thinks taking deductions for employee salaries of $74,629.00, subcontractors fees of $53,844.00, depreciation of $35,521.00, fuel expenses of $25,793.00, taxes of $9,982.00, interest of $6,651.00, insurance of $8,476.00, legal

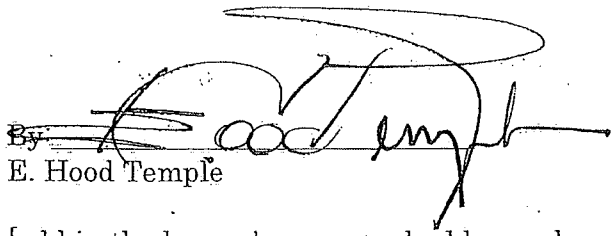
and accounting expenses of $3,285.00, supply expense of $2,444.00, telephone expenses of $1,913.00, mileage expenses of $4,438.00, and utilities of $8,644.00 according to his tax returns prepared by his CPA in accordance with accepted accounting principles constitutes "creative accounting." In finding of fact 65 the Single Commissioner admitted she was merely speculating when she said, "I have no concrete idea as to whether the Claimant is performing most of the work himself (as he "works a lot" and is "somewhat of a hustler"), I would assume he is working and don't trust his testimony about having employees who perform the physical labor." The Appellate Panel having given the Claimant/Respondent an scheduled award under § 42–9–30, S.C. Code Anno., 1976 as amended, makes his earning capacity irrelevant. The Single Commissioner's findings with regard to his earning capacity are now irrelevant. They are based on speculation, couched in personally insulting and defamatory language, and serve no legitimate purpose. The Single Commissioner's findings of fact regarding his earning capacity should be deleted from the Appellate Panel's Decision and Order.

## CONCLUSION

For the forgoing reasons the Claimant/Appellant respectfully requests the Appellate Panel grant a rehearing or reconsideration of its Decision and Order.

Respectfully submitted,

HATFIELD TEMPLE, LLP
170 Courthouse Square
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(843) 662-5000
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By: 
E. Hood Temple

[add in the lawyer's name and address who drafting the recusal memorandum in same format as below if he will agree]

J. Kevin Holmes
THE STEINBERG LAW FIRM, L.L.P.
61 Broad Street
Post Office Box 9
Charleston, South Carolina 29402

Florence, South Carolina

February 9, 2015.

South Carolina Workers' Compensation Commission
1612 Marion Street • Post Office Box 1715
Columbia, South Carolina 29202-1715
(803) 737-5723
www.wcc.sc.gov

WCC File # 1202545
Carrier File #
Carrier Code #
Employer FEIN

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Mr. Scott Ledford 110-58-0432 | | | | South Carolina Department of Public Safety | | | |
| Claimant's Name | | SSN | | Employer's Name | | | |
| 4338 Bradford Circle | | | | Post Office Box 1993 | | | |
| Myrtle Beach, SC 29588-9115 | | | | Blythewood, SC 29016-1993 | | | |
| Address | City | State | Zip | Address | City | State | Zip |
| (843) 742-5330 | | | | State Accident Fund | | | |
| Home Phone # | | Work Phone # | | Insurance Carrier | | | |

E. Hood Temple, Hatfield Temple, LLP (843) 662-5000
Preparer's Name | Law Firm | Preparer's Phone #

## REQUEST FOR COMMISSION REVIEW

Request for Commission Review by [X] claimant [ ] employer (check one) Date of injury: 3/10/2012

The undersigned makes application for review of the findings of the Commissioner in the above captioned case. The request for review is based on the following grounds: (State the grounds of your appeal in the form of questions presented. Each question presented must contain a concise statement of one proposition of law or fact. Refer to evidence by title and exhibit number. Use additional pages, if necessary).

See attached.

SCWCC
DEC 31 2014
JUDICIAL

(Check one) Oral argument [X] is [ ] is not requested. Appellant's request for oral argument is waived if not indicated on this form.

I certify that I have served this document pursuant to R.67-212 by delivering a copy to

Sarah S. Alphin
Willson, Jones, Carter & Baxley, LLC
4500 Fort Jackson Blvd.
Columbia, SC 29209

on the 29 day of December, 2014 by [X] first class mail [ ] personal service [ ] certified mail.

Preparer's Signature | Attorney for Claimant (Title) | 12/29/14 (Date)

Check this box if you are not represented by an attorney. [ ]

If the claimant appeals and is representing himself or herself, the Judicial Department will prepare the additional copies of this form and serve this form on the opposing party. R.67-701B. Otherwise, file the original and four copies of this form with the Judicial Department. The appeal must be postmarked no later than 14 days from the date of service of the Hearing Commissioner's decision. R.67-701 and R.67-205. Attach the filing fee to this form. Attach a Form 32 if you are unable to pay the filing fee. Refer to R.67-701 through R.67-711 for additional information.

WCC Form # 30
Rev. Date 3/97

30

REQUEST FOR COMMISSION REVIEW

Scott Ledford v. SC Department of Public Safety
WCC File #: 1202545
Date of Accident: 03/10/2012

Attachment to Form 30

1. Did the Single Commissioner err as a matter of law and further as unsupported by the substantial evidence in failing to recuse herself and assign the case to another Commissioner after threatening to target the Claimant for an investigation by the Attorney General's office unless he settled his claim?

2. Did the Single Commissioner err as a matter of law and further as unsupported by the substantial evidence in failing to recuse herself and assign the case to another Commissioner for judicially noticing materials without giving Claimant prior notice and an opportunity to contest the materials so noticed?

3. Did the Single Commissioner err as a matter of law and further as unsupported by the substantial evidence in failing to recuse herself and assign the case to another Commissioner when she described the Claimant's tax returns as "creative accounting" without hearing from an accountant or giving Claimant prior notice and an opportunity to be heard?

4. Did the Single Commissioner err as a matter of law and further as unsupported by the substantial evidence in failing to recuse herself and assign the case to another Commissioner after finding inconsistencies in Claimant's testimony without giving the Claimant a chance to explain and that, upon explanation, do not exist?

5. Did the Single Commissioner err in Findings of Fact #8, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

6. Did the Single Commissioner err in Findings of Fact #9 the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

7. Did the Single Commissioner err in Findings of Fact 10, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

8. Did the Single Commissioner err in Findings of Fact 11, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

9. Did the Single Commissioner err in Findings of Fact 12, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

10. Did the Single Commissioner err in Findings of Fact 13, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

11. Did the Single Commissioner err in Findings of Fact 14, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

12. Did the Single Commissioner err in Findings of Fact 15, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

13. Did the Single Commissioner err in Findings of Fact 16, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

14. Did the Single Commissioner err in Findings of Fact 17, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

15. Did the Single Commissioner err in Findings of Fact 18, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

16. Did the Single Commissioner err in Findings of Fact 19, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

17. Did the Single Commissioner err in Findings of Fact 20, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

18. Did the Single Commissioner err in Findings of Fact 21, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

19. Did the Single Commissioner err in Findings of Fact 22, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

20. Did the Single Commissioner err in Findings of Fact 24, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

21. Did the Single Commissioner err in Findings of Fact 25, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

22. Did the Single Commissioner err in Findings of Fact 26, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

23. Did the Single Commissioner err in Findings of Fact 27, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

24. Did the Single Commissioner err in Findings of Fact 28, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

25. Did the Single Commissioner err in Findings of Fact 29, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

26. Did the Single Commissioner err in Findings of Fact 30, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

27. Did the Single Commissioner err in Findings of Fact 31, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

28. Did the Single Commissioner err in Findings of Fact 32, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

29. Did the Single Commissioner err in Findings of Fact 33, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

30. Did the Single Commissioner err in Findings of Fact 34, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

31. Did the Single Commissioner err in Findings of Fact 35, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

32. Did the Single Commissioner err in Findings of Fact 36, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

33. Did the Single Commissioner err in Findings of Fact 37, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

34. Did the Single Commissioner err in Findings of Fact 38, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

35. Did the Single Commissioner err in Findings of Fact 39, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

36. Did the Single Commissioner err in Findings of Fact 40, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

37. Did the Single Commissioner err in Findings of Fact 41, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

38. Did the Single Commissioner err in Findings of Fact 42, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

39. Did the Single Commissioner err in Findings of Fact 43, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

40. Did the Single Commissioner err in Findings of Fact 44, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

41. Did the Single Commissioner err in Findings of Fact 45, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

42. Did the Single Commissioner err in Findings of Fact 46, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

43. Did the Single Commissioner err in Findings of Fact 47, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

44. Did the Single Commissioner err in Findings of Fact 48, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

45. Did the Single Commissioner err in Findings of Fact 49, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

46. Did the Single Commissioner err in Findings of Fact 50, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

47. Did the Single Commissioner err in Findings of Fact 51, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

48. Did the Single Commissioner err in Findings of Fact 52, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

49. Did the Single Commissioner err in Findings of Fact 53, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

50. Did the Single Commissioner err in Findings of Fact 54, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

51. Did the Single Commissioner err in Findings of Fact 55, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

52. Did the Single Commissioner err in Findings of Fact 56, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

53. Did the Single Commissioner err in Findings of Fact 57, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

54. Did the Single Commissioner err in Findings of Fact 58, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

55. Did the Single Commissioner err in Findings of Fact 59, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

56. Did the Single Commissioner err in Findings of Fact 60, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

57. Did the Single Commissioner err in Findings of Fact 61, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

58. Did the Single Commissioner err in Findings of Fact 62, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

59. Did the Single Commissioner err in Findings of Fact 63, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

60. Did the Single Commissioner err in Findings of Fact 65, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

61. Did the Single Commissioner err in Findings of Fact 66, the error being that the Finding is arbitrary, capricious, not supported by the substantial evidence, is based on speculation or surmise, and is an error of law.

62. The Single Commissioner erred as a matter of law in the Conclusion of Law 3, the error being the Conclusion of Law was arbitrary, capricious, based on speculation or surmise, not supported by the substantial evidence, and was an error of law.

63. The Single Commissioner erred as a matter of law in the Conclusion of Law 4, the error being the Conclusion of Law was arbitrary, capricious, based on speculation or surmise, not supported by the substantial evidence, and was an error of law.

64. The Single Commissioner erred as a matter of law in the Conclusion of Law 5, the error being the Conclusion of Law was arbitrary, capricious, based on speculation or surmise, not supported by the substantial evidence, and was an error of law.

65. The Single Commissioner erred as a matter of law in the Conclusion of Law 6, the error being the Conclusion of Law was arbitrary, capricious, based on speculation or surmise, not supported by the substantial evidence, and was an error of law.

66. The Single Commissioner erred as a matter of law in the Conclusion of Law 7, the error being the Conclusion of Law was arbitrary, capricious, based on speculation or surmise, not supported by the substantial evidence, and was an error of law.

67. The Single Commissioner erred as a matter of law in the Conclusion of Law 8, the error being the Conclusion of Law was arbitrary, capricious, based on speculation or surmise, not supported by the substantial evidence, and was an error of law.

68. The Single Commissioner erred as a matter of law in the Conclusion of Law 9, the error being the Conclusion of Law was arbitrary, capricious, based on speculation or surmise, not supported by the substantial evidence, and was an error of law.

69. The Single Commissioner erred in ordering that the employer/carrier was entitled to stop payment of temporary total compensation effective October 31, 2013, the date on which Claimant reached maximum medical improvement, the error being the Order was arbitrary, capricious, based on speculation or surmise, not supported by the substantial evidence, and an error of law.

70. The Single Commissioner erred in ordering that:

> The Claimant sustained a 10% permanent partial disability to the right lower extremity, for which he is entitled to 19 weeks of compensation, at the compensation rate of $473.32 per week. From this amount, the Defendants are entitled to a credit or offset for their payment of temporary total compensation paid after October 31, 2013. Claimant is entitled to 0% permanent impairment to his spine for the 2012 accident.

the error being that this Order is arbitrary, capricious, based upon speculation or surmise, and not supported by the substantial evidence and an error of law.

71. The Single Commissioner erred in ordering that:

> The Claimant reached maximum medical improvement on October 31, 2013, and as such, Defendants are not liable for any

medical, surgical, hospital or other medical treatment to the Claimant after said date, save the medical treatment aforementioned in Paragraph 61 of the Finding of Fact and Paragraph 5 of the Conclusions of Law.

the error being that this Order is arbitrary, capricious, based upon speculation or surmise, and is not supported by the substantial evidence and is an error of law.

South Carolina Workers' Compensation Commission
1612 Marion Street • Post Office Box 1715
Columbia, South Carolina 29202-1715
(803) 737-5723
www.wcc.sc.gov

WCC File # 1202545
Carrier File #
Carrier Code #
Employer FEIN

| | | | |
|---|---|---|---|
| Mr. Scott Ledford | 110-58-0432 | South Carolina Department of Public Safety | |
| Claimant's Name | SSN | Employer's Name | |
| 4338 Bradford Circle, Myrtle Beach, SC 29588-9115 | | Post Office Box 1993, Blythewood, SC 29016-1993 | |
| Address City State Zip | | Address City State Zip | |
| (843) 742-5330 | | State Accident Fund | |
| Home Phone # | Work Phone # | Insurance Carrier | |

E. Hood Temple, Hatfield Temple, LLP (843) 662-5000
Preparer's Name Law Firm Preparer's Phone #

## REQUEST FOR COMMISSION REVIEW

Request for Commission Review by [X] claimant [ ] employer (check one) Date of injury: 3/10/2012

The undersigned makes application for review of the findings of the Commissioner in the above captioned case. The request for review is based on the following grounds: (State the grounds of your appeal in the form of questions presented. Each question presented must contain a concise statement of one proposition of law or fact. Refer to evidence by title and exhibit number. Use additional pages, if necessary).

This is an appeal from an Order denying Claimant's motion for the Commissioner Barden to recuse herself and assign the case to another Commissioner. The appeal raises four issues:

1. May the Commissioner's impartiality be reasonably questioned for threatening to target Claimant for an investigation by the Attorney General's Office unless he settled?
2. May the Commissioner's impartiality be reasonably questioned for judicially noticing materials without giving Claimant prior notice and an opportunity to contest the materials so noticed?
3. May the Commissioner's impartiality be reasonably questioned for describing Claimant's tax returns as "creative accounting" without hearing from an accountant or giving Claimant prior notice and an opportunity to be heard?
4. May the Commissioner's impartiality be reasonably questioned for finding inconsistencies in the Claimant's testimony without giving the Claimant a chance to explain and that, upon explanation, do not exist?

(Check one) Oral argument [X] is [ ] is not requested. Appellant's request for oral argument is waived if not indicated on this form.

I certify that I have served this document pursuant to R.67-212 by delivering a copy to

Sarah S. Alphin
Willson, Jones, Carter & Baxley, LLC
4500 Fort Jackson Blvd.
Columbia, SC 29209

on the ~~14th~~ day of Nov., 2014 by [X] first class mail [ ] personal service [ ] certified mail.

E. Hood Temple — Attorney for Claimant — 11/14/14
Preparer's Signature Title Date

Check this box if you are not represented by an attorney. [ ]

If the claimant appeals and is representing himself or herself, the Judicial Department will prepare the additional copies of this form and serve this form on the opposing party. R.67-701B. Otherwise, file the original and four copies of this form with the Judicial Department. The appeal must be postmarked no later than 14 days from the date of service of the Hearing Commissioner's decision. R.67-701 and R.67-205. Attach the filing fee to this form. Attach a Form 32 if you are unable to pay the filing fee. Refer to R.67-701 through R.67-711 for additional information.

WCC Form # 30
Rev. Date 3/97

30

REQUEST FOR COMMISSION REVIEW

Before the
South Carolina Workers' Compensation Commission
WCC File # 1202545 &1009581

| | | |
|---|---|---|
| Mr. Scott Ledford,<br><br>Claimant<br><br>v.<br><br>South Carolina Department Safety,<br><br>Employer<br><br>and<br><br>State Accident Fund,<br><br>Carrier | ) | Claimant's Appeal from the Denial of the Motion to Recuse Commissioner Barden and Reassign the Case to to Another Commissioner |

A judge should disqualify herself in a proceeding in which her impartiality might reasonably be questioned. *Mortgage Elec. Sys. Inc. v. White,* 384 S.C. 606, 616, 682 S.E.2d 498, 503 (2009). Facts that Commissioner Barden stated within the Order on appeal amply satisfy this objective standard. The Panel should recuse Commissioner Barden and remand for a hearing before another Commissioner.

## Background

Claimant was a Lance Corporal in the South Carolina Highway Patrol and

a member of its distinguished "ACE" Team responsible for providing motorcycle escorts for dignitaries. Ex A, Hearing Tr., p. 21 ll.4-25. During his career, he suffered two admitted on-the-job injuries. In 2010, he was injured during taser training. In March 2012, he suffered a second admitted injury in a motorcycle accident. The Patrol medically retired Ledford later in 2012. Ex. B, Roche Order, pp. 2-3, 5.

On August 15, 2014, Commissioner Barden held a hearing on the 2012 claim for the admitted injuries from the motorcycle accident. Ex. C, Barden Order, p. 2.

1. The Commissioner threatened to target Claimant for a criminal investigation unless Claimant settled.

Over a month after the hearing, the Commissioner on September 16, 2014 conducted a conference call in which she told the parties' attorneys that she had ruled on issues such as Claimant's credibility and that she found inconsistencies in his testimony. Ex. C, Barden Order, p. 2; ¶ 14 pp. 5-6; ¶ 27 p. 8.

The Commissioner also told the attorneys that her findings required her to report Claimant to the AG's Office for an investigation into Claimant's suspected false statements. Specifically, she recited S.C. Code Ann. § 42-9-440 to the attorneys and interpreted it to them to mean that her findings

required her to report Claimant to the AG's Office for investigation and possible prosecution. Ex. C, Barden Order, ¶¶ 11, 13-14, pp 5-6.

As the Commissioner was explaining that her findings would trigger an AG investigation, she "reminded the parties of their right to enter into a settlement agreement under § 42-9-390, which would make unnecessary the promulgation of a written decision on the merits." Ex. C, Barden Order, p. 3.

So the basic facts are now admitted — Commissioner Barden told counsel that her findings required her to report Claimant to the AG's Office but that he could avoid a written decision if he settled. Ex. C, Barden Order, pp. 2-3; ¶¶ 11, 13-14, pp. 5-6. From these facts, an objective, reasonable observer could believe that the Commissioner threatened criminal proceedings unless a settlement made the case disappear.

The Commissioner raises two attacks on this description. She first argues that she did not threaten criminal proceedings because the AG's Office is the one that investigates and decides whether to prosecute. Ex. C, Barden Order, ¶ 13, p. 5. While true, the Commissioner's threatened report to the AG's Office is what starts this ball rolling. The statute that the Commissioner recited to counsel shows that the report is part of criminal proceedings because it is what triggers an investigation into whether or not Claimant committed a crime. S.C. Code Ann. § 42-9-440.

And besides, the threat is the same. The target of the AG investigation remains the target of the AG investigation whether or not the report is considered as part of criminal proceedings. The leverage for a settlement was the threat of getting the AG's Office involved at all.

The Commissioner next suggests that she was duty-bound to report Claimant to the AG whether or not the case settled. Ex. C, Barden Order, ¶¶ 11, 14, p. 5. Then why did the Commissioner interject the effect of a settlement into her views on S.C. Code Ann. § 42-9-440? Why remind counsel that a settlement "would make unnecessary the promulgation of a written decision on the merits[?]." Ex. C, Barden Order, p. 3. Absent another explanation, a reasonable person could believe that the Commissioner was saying that a settlement would avoid written findings that would trigger the AG's involvement.

2. The Commissioner violated Claimant's right to prior notice and the opportunity to heard before she made harmful findings.

While the gravest concern, threatening an AG investigation is only the first of four problematic aspects of the conference call. The Commissioner also said that she was taking judicial notice of materials without giving Claimant a chance to contest the materials so noticed; described Claimant's tax returns as "creative accounting" without hearing from an accountant; and concluded

that Claimant lied when he offered testimony that is fully consistent with the medical records.

On judicial notice, the Order states that Commissioner Barden undertook a post-hearing review of the 2012 claim file in its entirety, and that this review went beyond Commissioner Roche's earlier order and beyond the materials submitted to Commissioner Barden during the hearing. Ex. C, Barden Order, p. 1; ¶¶ 19-20, pp. 6-7.

The problem with this is not that the Commissioner took judicial notice but when she took it. Before taking judicial notice, the Commissioner must tell the parties "before or during the hearing" and afford them "an opportunity to contest the material so noticed." S.C. Code Ann. § 1-23-330(4). Basic due process similarly requires that administrative agencies give parties prior notice and an opportunity to be heard. S.C. Const. Art, I, § 22. Commissioner Barden never gave Claimant that chance. Because her judicial notice did not occur until after the hearing, she foreclosed Claimant's ability to contest materials that she reviewed in reaching her findings. Ex. C, Barden Order, p. 2 (describing the "post-hearing review").

The Commissioner's further description of Claimant's accounting as "creative" suffers a similar flaw because it derides the accountant without giving Claimant prior notice that his accountant's work was at issue.

The Commissioner responds inconsistently. She first uses the term "alleged" to suggest that she did not call the accounting creative. She next says that it does not matter if she called the accounting creative because she was unconcerned with the deductions or accounting methodology. She ends by saying that it does not matter if she was concerned with the methodology because she is entitled to weigh evidence and draw conclusions from it. Ex. C, Order, ¶¶ 22-23, pp. 7-8.

Taking these in order, Claimant did more than just allege that the Commissioner described the accounting as creative. His counsel stated it under penalty of perjury. Ex. D, Temple Affidavit. The Commissioner did not deny it but tried to say, inconsistently, both that it did not matter to her and that she could draw conclusions from it.

This again misses the point. The point is that the tax returns bothered the Commissioner enough for her to describe them as "creative accounting" without hearing from an accountant or giving Claimant prior notice that this could be an issue. Once it became an issue, Claimant submitted his accountant's affidavit on the tax returns' soundness.

And now the Commissioner does not want the Panel to consider the accountant's affidavit because it does not comply with R.67-707. Ex. C. Barden Order, ¶ 24, p. 8. Regulation 67-707 does not apply, however, because

Claimant did not submit the affidavit to complete the record on his claim or as newly discovered evidence. He submitted the affidavit to show the prejudice he suffered from a mistaken *sua sponte* ruling made without notice or a chance to be heard.

On the final ground for recusal, the Commissioner dismisses Claimant's point that she took his testimony about his lack of prior neck pain out of context. In the motion to recuse, Claimant showed that his testimony in context was fully consistent with the medical records. Commissioner Barden does not dispute that the testimony, in context, is consistent but suggests that this is only a disagreement that can be resolved on appeal. Ex. C, Barden Order, ¶¶ 25-26, p. 8.

Yet the consistency between Claimant's testimony and the medical records yet again illustrates that the Commissioner is smearing Claimant's credibility without giving him a chance to clear up any perceived inconsistencies. So it too falls within the Commissioner's pattern of raising credibility issues *sua sponte* without prior notice or opportunity to be heard.

3. Claimant wants a first, fair bite at the apple.

Commissioner Barden ends her Order by arguing that Claimant did not move to recuse until after he learned about the Commissioner's adverse

credibility findings and that the remedy for his dissatisfaction is an appeal. In her view, Claimant just wants a second bite at the apple so that he can qualify or explain his testimony. Ex. C, Barden Order, ¶¶ 27, 29, pp. 8-9.

You must have a first bite at the apple to ask for a second. Commissioner Barden never gave Claimant that first bite. She waited over a month after the hearing ended before telling Claimant that she had judicially noticed the entire file *sua sponte*; derided tax returns as "creative" without prior notice that the accounting was an issue; and identified inconsistencies that, upon explanation, do not exist.

These quarrels are not with what Commissioner Barden decided but with how she went about it. Years ago, the Supreme Court condemned *sua sponte* rulings that are made without notice and an opportunity to be heard. *State v. Brown,* 278 S.C. 281, 284, 294 S.E.2d 781, 782 (1982). That is what happened here.

And arguing that Claimant should have simply appealed overlooks the gravest ground for recusal — Commissioner's Barden threat to initiate an AG investigation against Claimant unless he settled. A settlement would not only render a written decision on the merits unnecessary. Ex. C, Barden Order, p. 3. A settlement would have also foreclosed an appeal.

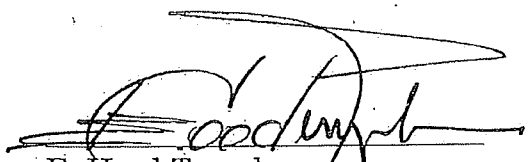
## Conclusion

This case is not about a disgruntled counsel who is trying to use recusal proceedings as a litigation tactic. No one in their right mind picks such a fight. Claimant's counsel is in his right mind, has spent decades practicing before the Commission, and knows how to appeal adverse rulings.

But this long experience did not prepare counsel for the Hobson's choice that Commissioner Barden proposed during her off-the-record telephone conference. Her message was clear. Claimant can become the target of an AG investigation. Or he can settle with the State Accident Fund — after I have told the Fund's counsel that the Fund will win.

Claimant and his counsel spent weeks struggling with what to do before they decided that they had to move to recuse. They did so, reluctantly, only because Commissioner Barden gave them no other choice.

The Panel should reverse Commissioner Barden and reassign the case to another Commissioner. Facts stated within her Order confirm that her impartiality might reasonably be questioned.



E. Hood Temple
Attorney for the Claimant
SC Bar # 12962

HATFIELD TEMPLE, LLP
Post Office Box 1770
Florence, SC 29503-1770
(843) 662-5000

Florence, SC

11-14, 2014

Q. ALL RIGHT. AND WAS THAT RECOMMENDED TO YOU, THAT YOU PURSUE THAT?

A. YES.

Q. OKAY, ALL RIGHT. PRIOR TO THAT, TELL ME WHAT YOUR RANK WAS.

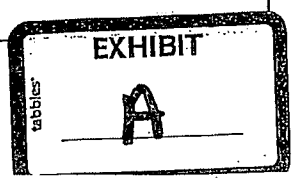
A. I WAS A LANCE CORPORAL.

Q. ALL RIGHT. AND DID YOU SERVE ON ANY SPECIFIC TEAM WITH THE HIGHWAY PATROL?

A. THE ACE TEAM.

Q. ALL RIGHT. TELL ME ABOUT THE ACE TEAM, AND WHAT DOES IT TAKE TO BE CHOSEN FOR THAT?

A. THERE'S -- YOU HAVE TO PUT IN FOR IT. SIXTEEN MOTOR OFFICERS IN THE STATE WHEN I WAS -- APPLIED FOR IT. THERE MAY BE MORE OR LESS TODAY, BUT THERE WAS 16. AND YOU WERE CHOSEN OVER MAYBE A HUNDRED APPLICANTS TO RIDE A MOTORCYCLE AND ENFORCE THE LAWS THAT -- IT'S NOT SO MUCH SEPARATE, BUT IT'S CALLED THE ACE TEAM. IT'S THE AGGRESSIVE CRIMINAL ENFORCEMENT. YOU'RE JUST RELIED ON TO DO PRESIDENTIAL ESCORTS, DIGNITARY-TYPE STUFF. YOU MAY HAVE TO LEAVE ON A QUICK NOTICE TO GO SOMEWHERE, BUT IT'S BASICALLY -- THERE'S TWO PARTS OF IT. THERE'S AN INTERDICTION PART, WHICH IS MORE OF THE DRUG SIDE, WHICH WE WERE INVOLVED IN A LITTLE BIT, AND THEN THE MOTORCYCLE SIDE, WHICH IS WHAT I DID.



20. Forms 59 and APA Submissions for hearing before Commissioner Barden;
21. Dep. Mills 8/23/12, p. 19, lines 14 – 25; p. 22, lines 9 – 13
22. Dep. Mills 12/3/12, p. 53, lines 1 – 6
23. Affidavit of E. Hood Temple dated 10/10/14
24. Affidavit of Robert Jay 10/9/14
25. Letter of Sarah S. Alphin dated 11/24/14

E. Hood Temple
HATFIELD TEMPLE, LLP
170 Courthouse Square
Post Office Box 1770
Florence, SC 29503-1770
(843) 662-5000

and

By: _____
J. Kevin Holmes
THE STEINBERG LAW FIRM, L.L.P.
61 Broad Street
Post Office Box 9
Charleston, South Carolina 29402

Florence, South Carolina

April 21, 2016.

Exhibit B to W.C.C. Form 30 dated 11/14/14 is a copy of the Decision and Order of Commissioner Roche filed 5/1/13 printed at Record, Vol. I, pages 108 to 120.

Exhibit C to W.C.C. Form 30 dated 11/14/14 is a copy of the Order of Commissioner Barden filed 11/3/14 already printed at Record, Vol. I, pages 97 to 106.

BEFORE THE

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

WCC FILE # 1202545

Mr. Scott Ledford,

Claimant,

Vs.

South Carolina Department of Public Safety

Employer,

And

State Accident Fund

Carrier.

AFFIDAVIT
OF
E. HOOD TEMPLE

The Affiant, E. Hood Temple, who, first being duly sworn, deposes and says:

1. I am E. Hood Temple and I practice with the law firm of Hatfield Temple, LLP in Florence, South Carolina.

2. I represent Scott Ledford as counsel of record and represented him before the South Carolina Workers' Compensation Commission in Conway, South Carolina on August 15, 2014.

3. My office received a call from the Jurisdictional Commissioner, Susan Barden, on September 16, 2014 at approximately 9:00 a.m. requesting a conference call with counsel and defense counsel. At that time, I was at a doctor's appointment and not able to receive the call. Commissioner Barden's staff was advised that counsel would be returning very soon and advised that the counsel could participate in the conference call at approximately 10:00 a.m.

EXHIBIT
tabbies
D

4. Commissioner Barden's staff advised that the Commissioner was in Appellate Panel hearings and would call shortly after her 10:00 a.m. appeal. At approximately 10:30 a.m., the conference call was held with the undersigned and Sarah Alphin, counsel for the State Accident Fund.

5. Commissioner Barden began the conference by stating that she regretted having to make this call but she felt she was obligated to do so. Specifically, throughout an extended conference, Commissioner Barden indicated that she thought the Claimant lied about not complaining about neck pain and that "while he may be a former member of the South Carolina Highway Patrol ACE Team, he was not a member of the "Truth Team." Further, she took exception with the Claimant's tax returns that were submitted and called them "creative accounting." Commissioner Barden went on to say that she "did not believe anything the Claimant said except his name and age."

6. Commissioner Barden indicated that she entered a month long investigation of documents which were outside of the record before her; however, she did not identify those documents. She said based upon her review of this file and the Claimant's testimony, that she believed he perjured himself and that she had an obligation to report him to the Attorney General for prosecution.

7. Commissioner Barden indicated, however, that if the parties were able to resolve the claim, she would not have a duty to report the Claimant to the Attorney General's Office for prosecution. In fact, Commissioner Barden said that her notes for the proposed order contain a statement at the beginning that the Claimant would be referred to the Attorney General's office for prosecution. This statement was made with defense counsel on the phone.

8. Commissioner Barden went on to say that she realized that by having this conference call, the State Accident Fund would probably make a minimal offer; however, if the Claimant did not accept their offer and resolve this claim, Commissioner Barden would have an ongoing duty to report him to the Attorney General for prosecution. In other words, if the Claimant did not settle his claim for whatever was offered, Commissioner Barden would report him to the Attorney General for prosecution. At the conclusion of the phone conference, the undersigned immediately prepared a memo detailing the conference. (Attached as Exhibit A)

9. After the call, the State Accident Fund made Ledford a minimal offer to settle a claim that, in my opinion, has exposure to the carrier of at least $200,000.00.

E. HOOD TEMPLE

SWORN to and subscribed before me
this 10th day of Oct, 2014.
Tina L. Stokes
Notary Public for the State of South Carolina
My Commission Expires: 12/16/19

# MEMO TO FILE

RE: Scott Ledford vs. South Carolina Department of Public Safety

FILE #: 2012053

DATE: 9/16/2014 11:30 AM

NOTES FROM PHONE CONF W/ COMM BARDEN - The phone conference started at 10:30am and we had about 30 minutes notice. She began the conversation by saying that she hated to call me like this but if the situation was reversed she would want me to call her.

Comm. Barden said she liked me alot and thought I was a "fabulous attorney and had done an outstanding job for the claimant," however she did not believe anything the Claimant said. She said that for the last month she has been investigating (and she used that word) and reviewing this matter in detail. She believed that she is responsible for going out and looking at other documents to determine if someone has been fraudulent or dishonest before the Commission. She said that based on the 2007 Act, she has an affirdmative duty to report claimants who are dishonest.

She said that she believed that the Claimant lied when he said he did not have prior neck problems even though he asked for surgery for his neck before Commissioner Roche in the first hearing. I explained to her that the first hearing was our position to say that it was a change of condition or a new injury so that the defendants could not point to the other accident in denying responsibility.

The single commissioner (Roche) determined that he had sustained compensable injuries to his neck and low back and as a result, they were compensable and they owed treatment. At this point, now Commissioner Barden has gone back behind that and is trying to undo everything. This is very similar to what she did in Jay Duke's case. We need to figure out what recourse we have.

She was very concerned about the money he made in his side buisness and specifically referenced that he was making $300,000.00 income from that business but only paying taxes on $700.00. This was based on his "creative accounting." There was absolutely no evidence in the record that his tax returns were not appropriate. That obviously tainted her and caused her to be biased and prejudiced in this case.

Right after the case was over, she wanted the medical records relating to the back surgery and the knee surgery he had that was referenced in the medical report. Both parties stipulated and agreed that there was no prior back surgery or knee surgery and that was a mistake in the records as indicated by the medical report that said it was a mistake.

Obviously, she started looking for problems in this case and was very concerned and wanted to attack this guy. She spent an inordinate amount of time trying to impeach his testimony when his credibility was never an issue with the defendants in this case. This was a case where we asked for additional treatment becasue of his admitted injury and now she is threatening us that if we do not settle the claim, that she will report him to the Attorney General's office for prosecution.



Exhibit A

BEFORE THE

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

WCC FILE # 1202545

| | |
|---|---|
| Mr. Scott Ledford,<br><br>Claimant,<br><br>Vs.<br><br>South Carolina Department of Public Safety<br><br>Employer,<br><br>And<br><br>State Accident Fund<br><br>Carrier. | **MOTION TO RESCUSE COMMISSIONER BARDEN AND TO REASSIGN CASE TO ANOTHER COMMISSIONER** |

Commissioner Barden told the parties' counsel that she would initiate criminal charges against Scott Ledford unless he settled his admitted claim against the State Accident Fund. One can reasonably question the partiality of a Commissioner who would leverage criminal charges in a way that allows the State Accident Fund to settle an admitted claim for fractions of pennies on the dollar. The Commissioner should recuse herself and reassign the case to another Commissioner for a de novo hearing.

**Statement of the Facts**

On August 15, 2014, Commissioner Barden held a hearing on an admitted claim involving a motorcycle accident that Ledford had in 2012 while he was a State Highway Patrolman. On September 16, 2014, the Commissioner held a telephone conference with counsel for both parties. Ex. A (Affidavit of E. Hood Temple). During this

conference, the Commissioner told counsel that she had spent the last month "investigating" Ledford and had come to believe that he is a liar. The Commissioner further derided Ledford's tax returns as "creative accounting" and opined that he lied to her when he denied having prior neck pain. Commissioner Barden then opined that she was statutorily obligated to report claimants who are dishonest — and threatened to refer Ledford to the Attorney General's office for prosecution — unless Ledford settled his claim. Ex. A (Affidavit of E. Hood Temple).

The Commissioner never gave Ledford prior notice of her investigation of him or an opportunity to be heard before she relied on her investigation to conclude that Ledford is a liar. Ex. A (Affidavit of E. Hood Temple).

After hearing about the Commissioner's investigation and threat of criminal proceedings, counsel for the State Accident Fund made Ledford a minimal offer to settle his $200,000 + claim. Ex. A (Affidavit of E. Hood Temple).

**Argument**

A judge should disqualify herself in a proceeding in which her impartiality might reasonably be questioned. *Mortgage Elec. Sys. Inc. v. White,* 384 S.C. 606, 616, 682 S.E.2d 498, 503 (2009). In this case, Commissioner Barden's partiality might be reasonably questioned in that she tried to coerce a settlement by threatening criminal proceedings. Lawyers can't do that. Rule 407, SCACR, Rule 4.5. Commissioners should not be able to either. Commissioners should not be allowed to threaten criminal proceedings to leverage favorable settlements for the State Accident Fund. The threat, by itself, warrants a recusal and reassignment.

And this is not all. The threat of criminal proceedings rests on two due process violations and a mistake about the scope of Ledford's testimony.

To bolster the threat of a criminal referral, the Commissioner said that she engaged in a month-long investigation into Ledford before drawing conclusions from it. Ex. A (Affidavit of E. Hood Temple). But all this occurred without any notice. *Id.*

Administrative agencies must give parties notice and an opportunity to be heard. S.C.Const. Art, I, § 22. They cannot take judicial notice of anything unless a party first has an opportunity to contest the materials judicially noticed. S.C. Code Ann. § 1-23-330(4). So one may also reasonably question the partiality of a judge who is willing to go outside the record, and make findings based on undisclosed materials, without first giving the aggrieved a chance to respond.

The Commissioner similarly failed to give Ledford prior notice that he needed to defend his accountant's work. During the hearing, Ledford testified that his tax returns were done by his accountant. Ex. B, Transcript p. 70 l.21 - p. 71 l.13. The Commissioner still condemned Ledford for "creative accounting" without hearing from the accountant who actually prepared the returns or anyone else qualified to opine on them. The accountant who prepared the tax returns stands by the returns and avers that the returns were prepared using generally accepted accounting principles. Exhibit C (Affidavit of Accountant).

Had Ledford known this could be an issue, he would have submitted evidence from his accountant much earlier. As it was, however, the Commissioner used the tax returns to make up her mind about Ledford's credibility before ever letting him know that this was an issue.

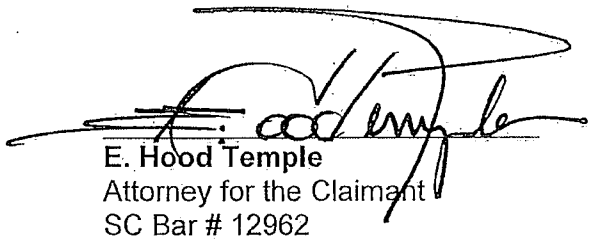
Commissioner Barden lastly mangles Ledford's testimony about his neck. When Ledford denied prior neck pain, he was not being questioned about all of his pre-2012 ailments. The question came sandwiched within Ledford's cross-examination about his treatment with Dr. Sarb. Ex. B, Hearing Tr. p. 66 l.19 - p. 69 l.11. Fairly read, the question asks only about the complaints that Ledford made to Dr. Sarb. Ex. B, Hearing Tr., p. 68 ll.21-24. And Dr. Sarb confirms that Ledford denied neck pain. Claimant's APA at p. 37 ("He denies any neck pain."); p. 38 ("The patient denies neck pain with range of motion and palpation."); p. 49 ("The patient states that he has no further neck or arm symptoms."). So Commissioner Barden threatened perjury charges based on Ledford's testimony about Dr. Sarb that is fully consistent with Dr. Sarb's medical records. This too is enough to reasonably question the Commissioner's partiality.

**Conclusion**

Ledford does not make this motion lightly. He and his counsel understand the motion's gravity and of offering evidence of coercion exerted during an off-the-record conference. But Ledford cannot let baseless criminal charges coerce him into taking on crushing medical bills that the State Accident Fund should pay. All Ledford wants is an impartial Commissioner to determine the amount that the State Accident Fund owes on his admitted claim.

Commissioner Barden unfortunately disqualified herself by threatening criminal proceedings unless the case settles, going outside the record to make findings from undisclosed materials, deriding "creative accounting" without hearing from an accountant, and jumping to conclude that Ledford lied by offering testimony that is fully consistent with the medical records.

Any one of these four factors justifies a recusal. Cumulatively, the appearance of partiality is overwhelming. Commissioner Barden should recuse herself and reassign the case to another Commissioner for a de novo hearing.



**E. Hood Temple**
Attorney for the Claimant
SC Bar # 12962

**Hatfield Temple, LLP**
Post Office Box 1770
Florence, SC 29503-1770
(843) 662-5000

Florence, SC
October 10, 2014

**BEFORE THE**

**SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION**

**WCC FILE # 1202545**

Mr. Scott Ledford,

Claimant,

Vs.

South Carolina Department of Public Safety

Employer,

And

State Accident Fund

Carrier.

**AFFIDAVIT OF E. HOOD TEMPLE**

The Affiant, E. Hood Temple, who, first being duly sworn, deposes and says:

1. I am E. Hood Temple and I practice with the law firm of Hatfield Temple, LLP in Florence, South Carolina.

2. I represent Scott Ledford as counsel of record and represented him before the South Carolina Workers' Compensation Commission in Conway, South Carolina on August 15, 2014.

3. My office received a call from the Jurisdictional Commissioner, Susan Barden, on September 16, 2014 at approximately 9:00 a.m. requesting a conference call with counsel and defense counsel. At that time, I was at a doctor's appointment and not able to receive the call. Commissioner Barden's staff was advised that counsel would be returning very soon and advised that the counsel could participate in the conference call at approximately 10:00 a.m.

4. Commissioner Barden's staff advised that the Commissioner was in Appellate Panel hearings and would call shortly after her 10:00 a.m. appeal. At approximately 10:30 a.m., the conference call was held with the undersigned and Sarah Alphin, counsel for the State Accident Fund.

5. Commissioner Barden began the conference by stating that she regretted having to make this call but she felt she was obligated to do so. Specifically, throughout an extended conference, Commissioner Barden indicated that she thought the Claimant lied about not complaining about neck pain and that "while he may be a former member of the South Carolina Highway Patrol ACE Team, he was not a member of the "Truth Team." Further, she took exception with the Claimant's tax returns that were submitted and called them "creative accounting." Commissioner Barden went on to say that she "did not believe anything the Claimant said except his name and age."

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9. After the call, the State Accident Fund made Ledford a minimal offer to settle a claim that, in my opinion, has exposure to the carrier of at least $200,000.00.

E. HOOD TEMPLE

SWORN to and subscribed before me
this 10th day of Oct, 2014.

Notary Public for the State of South Carolina
My Commission Expires: 12/16/19

# MEMO TO FILE

RE: **Scott Ledford vs. South Carolina Department of Public Safety**

FILE #: **2012053**

DATE: **9/16/2014 11:30 AM**

NOTES FROM PHONE CONF W/ COMM BARDEN - The phone conference started at 10:30am and we had about 30 minutes notice. She began the conversation by saying that she hated to call me like this but if the situation was reversed she would want me to call her.

Comm. Barden said she liked me alot and thought I was a "fabulous attorney and had done an outstanding job for the claimant," however she did not believe anything the Claimant said. She said that for the last month she has been investigating (and she used that word) and reviewing this matter in detail. She believed that she is responsible for going out and looking at other documents to determine if someone has been fraudulent or dishonest before the Commission. She said that based on the 2007 Act, she has an affirdmative duty to report claimants who are dishonest.

She said that she believed that the Claimant lied when he said he did not have prior neck problems even though he asked for surgery for his neck before Commissioner Roche in the first hearing. I explained to her that the first hearing was our position to say that it was a change of condition or a new injury so that the defendants could not point to the other accident in denying responsibility.

The single commissioner (Roche) determined that he had sustained compensable injuries to his neck and low back and as a result, they were compensable and they owed treatment. At this point, now Commissioner Barden has gone back behind that and is trying to undo everything. This is very similar to what she did in Jay Duke's case. We need to figure out what recourse we have.

She was very concerned about the money he made in his side buisness and specifically referenced that he was making $300,000.00 income from that business but only paying taxes on $700.00. This was based on his "creative accounting." There was absolutely no evidence in the record that his tax returns were not appropriate. That obviously tainted her and caused her to be biased and prejudiced in this case.

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BEFORE THE

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

WCC FILE # 1202545

Mr. Scott Ledford,

Claimant,

Vs.

South Carolina Department of Public Safety

Employer,

And

State Accident Fund

Carrier.

**AFFIDAVIT OF ROBERT JAYROE**

The Affiant, Robert Jayroe, who, first being duly sworn, deposes and says:

1. I am Robert Jayroe and I am a licensed practicing Accountant.
2. My accounting practice is located in Murrells Inlet, SC.
3. I have been a licensed Accountant for seventeen (17) years. In my practice, I prepare personal and business tax returns.
4. I have prepared the business tax returns for Scott Ledford for the past ten (10) years. This includes Mr. Ledford's business returns relating to Pro Cutters Lawn & Landscaping, LLC and Ledford Outdoor, LLC.
5. My practice prepared his returns for the years 2011, 2012, and 2013. Those returns were prepared in accordance with the Generally Accepted Accounting Principles and were submitted to the South Carolina Department of Public Revenue and the United States Treasury and received without penalty or correction.

6. It is my opinion within a reasonable degree of accounting certainty that those tax returns were prepared correctly and in accordance with the applicable Federal and State tax law pertaining to Mr. Ledford and these business entities.

The Affiant sayeth nothing further.

ROBERT JAYROE

SWORN to and subscribed before me
this 9th day of Oct, 2014.

Notary Public for the State of South Carolina
My Commission Expires: May 27, 2018

**South Carolina Workers' Compensation Commission**
1612 Marion Street • Post Office Box 1715
Columbia, South Carolina 29202-1715
(803) 737-5723
www.wcc.sc.gov

WCC File # 1009581
Carrier File #
Carrier Code #
Employer FEIN

| | | | | | |
|---|---|---|---|---|---|
| Mr. Scott Ledford | | 110-58-0432 | South Carolina Department of Public Safety | | |
| Claimant's Name | | SSN | Employer's Name | | |
| 4338 Bradford Circle, Myrtle Beach, SC 29588-9115 | | | Post Office Box 1993, Blythewood, SC 29016-1993 | | |
| Address | City | State Zip | Address | City | State Zip |
| (843) 742-5330 | | | State Accident Fund | | |
| Home Phone # | | Work Phone # | Insurance Carrier | | |

E. Hood Temple, The Hyman Law Firm, LLP (843) 662-5000
Preparer's Name — Law Firm — Preparer's Phone #

A claim for workers' compensation benefits is made based on the following grounds: Date of Injury or Illness: 7/15/2010

[x] Injury [ ] Illness [ ] Repetitive Trauma

1a. The Claimant sustained an injury to spine and right leg (Part(s) of Body Injured) on 7/16/2010 (Month/Day/Year) in Florence County, State of South Carolina

1b. Body part(s) affected are: spine and right leg
Briefly describe how the accident occurred. Claimant is a Lance Corporal with the South Carolina Highway Patrol. He was going through taser training. When he was hit with the taser, he received 50,000 bolts of electric charge and instead of going forward, his back spasmed rearing back fracturing at least three vertebrae in his spine.

2. Both the Claimant and the employer were subject to the South Carolina Workers' Compensation Act at the time of injury.

3. The relationship of employer and employee existed at the time of injury.

4. At the time of injury the Claimant was performing services arising out of and in the course of employment.

5. Notice of the accidental injury was given to the Employer on 7/16/2010 (Month/Day/Year) in the following manner:
Claimant notified his supervisor, Jay Parrish. On July 23, 2010, the Claimant also notified his supervisor, Kevin Ella.

[x] 6. Due to injury, the Claimant is in need of (check one):
[ ] (a) medical examination and treatment for:
[x] (b) additional medical examination and treatment for: spine and right leg

[x] 7. Due to injury, the Claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of: From the date of the accident to the present with credit to the employer for benefits paid.

[x] 8. Due to injury, the Claimant has permanent disability of the following nature and extent: (check one):
[x] (1) General Disability [x] Total [ ] Partial
[x] (2) Specific disability: [x] Total [ ] Partial
[x] (3) Wage Loss

[ ] 9. Due to the injury, the Claimant has a serious bodily disfigurement consisting of: Not applicable at this point.

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.
Claimant is still employed with the South Carolina Department of Public Safety, Ledford Outdoors, and Pro-Cutters Lawn and Landscaping, LLC.

11a. Further grounds or unusual aspects of claim: If the Claimant is found to be totally and permanently disabled, the Claimant seeks a lump sum payment. Further, the Claimant requests that the Decision and Order of the Commission finding the Claimant permanently and totally disabled to include Utica Mohawk language. Utica Mohawk Mills v. Orr, 227 S.C. 226, 87 SE2d 593.

11b. List names and addresses of all physicians or other medical specialists who have seen or treated the Claimant as a result of the accident: 1) Dr. J. Stewart Haskin, Jr., Coastal Orthopaedic Associates, P.A., 2376 Cypress Circle #300, Conway, SC 29526; 2) Dr. William L. Mills, Coastal Orthopaedic Associates, P.A., 2376 Cypress Circle #300, Conway, SC 29526; 3) Dr. Barbara Sarb, Strand Regional Specialty Associates, 8171 Rourke Street, Myrtle Beach, SC 29577

11c. 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.
[x] 13b I am requesting a hearing. A $25 fee is required.

14. Estimated time need for hearing: 30 minutes

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

| | | | |
|---|---|---|---|
| Preparer's Signature | Attorney for Claimant<br>Title | ehtemple@hymanlawfirm.com<br>Email | April 28, 2011<br>Date |

Refer to R.67-204 through R.67-210 and R.67-601 through R.67-615. Questions about the use of this form may be directed to the Commission's Claims Department.

WCC Form # 50
Revised 9/07

50

Employee's Notice of Claim and/or Request for Hearing

SCWCC APR 29 2011 JUDICIAL

South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500 • Post Office Box 1715
Columbia, South Carolina 29202-1715
(803) 737-5739
www.wcc.sc.gov

WCC File #: 1009581
Carrier File #: 2010-2824
Carrier Code #:
Employer FEIN #:

Claimant's Name: Scott Leaford SSN: 110-58-0432
Address: 4338 Bradford Circle
City: Myrtle Beach State: SC Zip: 29588
Home Phone: Work Phone:
Date of Injury: 07/15/2010

Employer's Name: SC Department of Public Safety, State of SC
Address: P.O. Box 1993
City: Blythewood State: SC Zip: 29016-1993
Insurance Carrier: State Accident Fund

Preparer's Name: Samuel T. Brunson, Esq. Law Firm: Brunson Law Firm Preparer's Phone #: (843) 669-8111

Date of Injury or Illness: 07/15/10

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 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 injuries to spine only.
2. It is admitted 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 the relationship of employer and employee existed at the time in question. The reasons for denial are:
4. It is admitted at the time in question the employee was performing services arising out of and in the course of employment. The reasons for denial are:
5. It is admitted notice of injury was given the employer. The reasons for denial are:
6. It is denied the employee needs/is entitled to medical care as a result of injury or illness. The reasons for denial are: Claimant has reached MMI
7. It is denied the employee is entitled to temporary total disability for the period(s) of : Claimant has returned to work full duty.
8. It is denied the employee is permanently disabled. The reasons for denial are: Disability, if any, to be determined by WCC.
9. It is denied the employee has serious disfigurement.
10. It is contended that an average weekly wage of $ 763.00 applies, according to attached Form 20 as provided by law.
11. Further contentions, grounds of defense, or unusual aspects are: None
12. Estimated time needed for hearing: 30 minutes

I certify I have served this document pursuant to R.67-212 by delivering a copy to:

Name: Hood Temple, Esq.

Address: The Hyman Law Firm, PO Box 1770, Florence, SC 29503-1770
on the day of 05/17/11, 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.

S. T. B.
Preparer's Signature | Attorney at Law (Title) | bublaw@earthlink.net (Email) | 05/17/2011 (Date)

Refer to R.67-204 through R.67-210 and R.67-601 through R.67-615. Questions about the use of this form may be directed to the Commission's Judicial Department. 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.

WCC Form # 51
Revised 9/07

51 Employer's Answer to Request for Hearing

**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.gov

WCC File # 1009581
Carrier File # 2010-2824
Carrier Code #:
Employer FEIN #:

Claimant's Name: Scott Ledford
Address: 4338 Bradford Circle
City: Myrtle Beach State: SC Zip: 29588
Home Phone: ( 843 )742 -5330 Work Phone: ( )
Preparer's Name: Samuel T. Brunson

Employer's Name: SC Dept. of Public Safety
Address: PO Box 1993
City: Blythewood State: SC Zip: 29016
Carrier: State Accident Fund
Preparer's Phone #: ( 843 ) 669- 8111

**This form is only applicable to injuries by accident occurring on or after July 1, 2007 pursuant to Title 42-15-60 (A) as amended. The execution of this document is an agreement between the parties relating to a Workers' Compensation claim under §§42-1-160, 42-1-172 or 42-11-10.**

**Date of Injury or Illness** 07/15/2010

The above parties agree to pay and accept compensation based on the following facts:
A compensable ☒ Injury ☐ Illness ☐ Repetitive Trauma occurred on: 07/15/2010 (month/day/year).

The injury was to Spine body part(s) injured and also the injury affected not applicable other body part(s).

**The authorized treating physician Dr. William Mills has released the Claimant from his or her care and has found maximum medical improvement on 01/17/2011** (month/day/year).
**with an impairment rating of 15-18% whole person** (rating given in deposition of April 27, 2011)

Average weekly wage $763.00 Compensation rate $508.69
**By agreement of the parties,** the following award has been referred to the Commission for approval:

| | | |
|---|---|---|
| 25 | Percentage loss of use to: spine (body part(s) injured). | 75 weeks |
| --- | Percentage loss of use to: n/a (body part(s) affected). | weeks |
| --- | Percentage loss of use to: whole person | weeks |
| | Disfigurement to: N/A | weeks |
| | Wage Loss: $ amount | weeks |
| | Total and Permanent Disability: N/A | weeks |
| | Other: | weeks |

Estimated award (number of weeks times compensation rate) $ 38,151.75
**The estimated award is subject to verification by the Commission**

Additionally, the Employer's Representative agrees to pay and the Claimant accepts the following medical care and treatment as recommended by the authorized treating physician pursuant to the attached physician's deposition, pages 10-12.

**Additional medical ordered:** x **Yes** ____ **No**
**See attached deposition of Dr. William Mills of April 17, 2011, pages 10-12 :** Deposition of Dr. Mills states that claimant may need prescription strength Motrin 800 periodically to manage his symptoms;
This agreement is binding on approval by the Commission. A claim for additional compensation based on a worsening of the Claimant's condition **must be filed no later than one (1) year from the date of the last payment of compensation.** Only medical care specifically detailed herein will be paid under this agreement. If a dispute arises with regard to continued medical treatment, either party may request a hearing before the Commission pursuant to 42-15-60(B) 3 and (C).

Claimant's Signature — Date Agreement Signed 9/29/11 — Attorney/Witness/Translator

Employer's Representative — Attorney for Carrier Samuel T. Brunson — Email

Deputy Commissioner — Date agreement approved 9/29/11 — Jurisdictional Commissioner

**WCC Form # 16A**
9/07

16A

**Agreement for Permanent Disability/ Disfigurement Compensation**

South Carolina Workers' Compensation Commission
1612 Marion Street • Post Office Box 1715
Columbia, South Carolina 29202-1715
(803) 737-5723
www.wcc.sc.gov

WCC File # 1009581
Carrier File #
Carrier Code #
Employer FEIN

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Mr. Scott Ledford | 110-58-0432 | | | South Carolina Department of Public Safety | | | |
| Claimant's Name | SSN | | | Employer's Name | | | |
| 4338 Bradford Circle, Myrtle Beach, SC 29588-9115 | | | | Post Office Box 1993, Blythewood, SC 29016-1993 | | | |
| Address | City | State | Zip | Address | City | State | Zip |
| (843) 742-5330 | | | | State Accident Fund | | | |
| Home Phone # | Work Phone # | | | Insurance Carrier | | | |

E. Hood Temple, The Hyman Law Firm, LLP (843) 662-5000
Preparer's Name | Law Firm | Preparer's Phone #

A claim for workers' compensation benefits is made based on the following grounds: Date of Injury or Illness: 7/15/2010

[x] Injury [ ] Illness [ ] Repetitive Trauma

1a. The Claimant sustained an injury to spine and right leg (Part(s) of Body Injured) on 7/15/2010 (Month/Day/Year) in Florence County, State of South Carolina

1b. Body part(s) affected are: spine and right leg
Briefly describe how the accident occurred. Claimant is a Lance Corporal with the South Carolina Highway Patrol. He was going through taser training. When he was hit with the taser, he received 50,000 bolts of electric charge and instead of going forward, his back spasmed rearing back fracturing at least three vertebrae in his spine.

2. Both the Claimant and the employer were subject to the South Carolina Workers' Compensation Act at the time of injury.

3. The relationship of employer and employee existed at the time of injury.

4. At the time of injury the Claimant was performing services arising out of and in the course of employment.

5. Notice of the accidental injury was given to the Employer on 7/16/2010 (Month/Day/Year) in the following manner:
Claimant notified his supervisor, Jay Parrish. On July 23, 2010, the Claimant again notified his supervisor, Kevin Elia.

[x] 6. Due to injury, the Claimant is in need of (check one):
[ ] (a) medical examination and treatment for:
[x] (b) additional medical examination and treatment for: spine and right leg

[x] 7. Due to injury, the Claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of: From the date of the accident to the present with credit to the employer for benefits paid.

[x] 8. Due to injury, the Claimant has permanent disability of the following nature and extent: (check one):
[x] (1) General Disability [x] Total [ ] Partial
[x] (2) Specific disability: [x] Total [ ] Partial
[x] (3) Wage Loss

[ ] 9. Due to the injury, the Claimant has a serious bodily disfigurement consisting of: not applicable at this point.

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.
Claimant is still employed with the South Carolina Department of Public Safety, Ledford Outdoors, and Pro-Cutters Lawn and Landscaping, LLC.

11a Further grounds or unusual aspects of claim: If the Claimant is found to be totally and permanently disabled, the Claimant seeks a lump sum payment. Further, the Claimant requests that the Decision and Order of the Commission finding the Claimant permanently and totally disabled to include Utica Mohawk language. Utica Mohawk Mills v. Orr, 227 S.C. 226, 87 SE2d 593.

11b List names and addresses of all physicians or other medical specialists who have seen or treated the Claimant as a result of the accident: 1) Dr. J. Stewart Haskin, Jr., Coastal Orthopaedic Associates, P.A., 2376 Cypress Circle #300, Conway, SC 29526; 2) Dr. William L. Mills, Coastal Orthopaedic Associates, P.A., 2376 Cypress Circle #300, Conway, SC 29526; 3) Dr. Barbara Sarb, Strand Regional Specialty Associates, 8171 Rourke Street, Myrtle Beach, SC 29577; 4) Dr. Steven C. Poletti, Southeastern Spine Institute, 1106 Chuck Dawley Blvd., Suite 200, Mt. Pleasant, SC 29464-3233

11c 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.

[x] 13b I am requesting a hearing. A $25 fee is required.

14. Estimated time need for hearing: 30 minutes

SCWCC JUN 11 2012 JUDICIAL

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

| | | | |
|---|---|---|---|
| Preparer's Signature | Attorney for Claimant | ehtemple@hymanlawfirm.com | June 8, 2012 |
| | Title | Email | Date |

Refer to R.67-204 through R.67-210 and R.67-601 through R.67-615. Questions about the use of this form may be directed to the Commission's Claims Department.

WCC Form # 50
Revised 9/07

50

CHANGE OF CONDITION
Employee's Notice of Claim and/or
Request for Hearing

2012053+2010187



SCOTT A LEDFORD REF: ER CONWAY
62711
DOB: 08/15/1975
06/04/2012

SUBJECTIVE: He has right hand numbness and right arm pain, neck and right arm pain, lower back pain.

OBJECTIVE: Cervical MRI is reviewed. There is disc space narrowing C5-6, C6-7. Lumbar MRI shows a central herniation L5-S1. Advanced spondylosis.

ASSESSMENT:
1. C5-6, C6-7 spondylosis with right cervical radiculopathy.
2. L5-S1 spondylosis.

PLAN: Treatment options were discussed. I recommend ACDF at C5-6 and C6-7 with LDR system, also ALIF at L5-S1. He probably wants to get his neck done first.

William L. Mills, M.D. /5204
1969095

Chart Copy

# SOUTHEASTERN SPINE INSTITUTE

LEDFORD, SCOTT A.
Patient #631380
DOB: 08/15/1975
May 16, 2012

Mr. Ledford returns in follow-up having had the cervical MRI scan. I have reviewed this. He has neck pain and right arm pain, and he does have a retrolisthesis of 5 on 6 with right-sided foraminal stenosis contributing to compression against his exiting C6 nerve.

This is something which could be explaining his neck and arm pain. It most likely is. In addition he has this severe mid-back pain and radiating pain from his T6 to T9 area, and this is radiating in the distribution of his mid-thoracic region consistent with the kyphosis and facet disruption at the T6 level as a consequence of his fracture. On top of that, he does have a degenerative disc in his lumbosacral spine, which is most likely contributing to some element of back and leg pain. If that's not enough, he fractured his ankle and is undergoing treatment for this.

With regards to the fracture, there is nothing that can be done at this point to restore vertebral body height. With regards to his symptoms from the fracture, potentially some form of pain management potentially to involve rhizotomy or injections around his costovertebral joints or facet joints at the T6 level could be of some benefit; and potentially this could give him some measure of relief. In his cervical spine it potentially could come down to surgery.

This man unfortunately has a combination of three things going on. One is the electrocution injury, second is the fracture at T6 with the consequence of the post-fracture changes, and the third is the disc herniation with radiculopathy in the cervical spine. His impairment is significant; and he has dysfunction as a consequence of the electrocution injury, which in my opinion will prevent him from working. Certainly some type of sedentary status may be indicated, but any kind of repetitive or exertional activity is most likely contraindicated.

His follow-up is to be with me after consultation with Dr. Netherton for consideration of the rhizotomy as described.

Steven C. Poletti, M.D.

SCP/dmp
T- 5/29/12

1106 Chuck Dawley Blvd., Ste. 200 Mt. Pleasant, SC 29464 (843) 849-1551 Fax: (843) 884-0629
1941 Savage Rd., Ste. 100-E Charleston, SC 29414 (843) 763-2720 Fax: (843) 769-6022

DISC RAD

Richard C. Holgate, M.D.

The Southeastern Spine Institute
389 Johnnie Dodds Blvd
Suite 117A
Mount Pleasant, SC 29464
843-266-0720

# FINAL REPORT

Patient: Scott Ledford
Patient Phone: ------
SSN: 110-58-0432
Patient #: 631380

Exam Date: 5/16/2012
Exam Name: Cervical
Modality: MRI
Referring Doctor: Poletti, Steven

**Clinical Information:** M/36 WITH PAIN DOWN THE CENTER OF SPINE,NUMBMESS IN BOTH SHOULDER AND ARM INTO HANDS,MAINLY IN THE RIGHT SINCE 7/10/10,INCREASE PAIN 3/3/12. RECENT TRAUMA. HT-5'10" WT-190 LBS.

**TECHNIQUE:** The patient is examined on the High Field GE Horizon LX High Speed MR System which functions at 1.0 Tesla. A dedicated spine coil is used to obtain high resolution images of the cervical spine. **SERIES:** 1) COR, T1, SE, 7 mm; 2) SAG, T2, FSE, 3 mm; 3) AX, T2, GRE, 4 mm. **ADDITIONAL SERIES:** 1) AX, T1, SE, 5 mm; 2) SAG, T1, SE/Fat Sat, 3 mm; 3) AX, T1, SE, 3 mm. **3D REFORMATIONS:** 3mm REFORMATIONS PERFORMED IN 1) AX; 2)COR; 3)SAG/OBL RT; 4) SAG/OBL LT; 5) CORONAL PLANES.

**CONTRAST:** The last two T1 weighted axial sequences were carried out following injection of 19 cc of contrast. ( With and Without Contrast )

**OVERVIEW:** Overview of the cervical spine shows there is normal marrow signal and normal bony alignment with no evidence of a congenital; anomaly of the spine. The visualized paraspinal soft tissues which include the pulmonary apices and the proximal brachial plexus are within normal limits.

**SPINAL CORD** The spinal cord is demonstrated from the craniocervical junction down to the upper thoracic region. It is of normal caliber throughout showing no evidence of compression or enlargement and no area of focal signal abnormality to indicate the presence of intrinsic spinal cord disease. There is no evidence of abnormal enhancement within the spinal cord.

**C2-3, C3-4, C7-T1.** Mild noncompressive spondylosis.

**C4-5, C5-6, C6-7.** Osteophytes with severe bilateral foraminal stenosis.

**3D REFORMATIONS:** Because of movement between sagittal and axial sequences multiplanar 3D reformations were performed for accuracy and confirm the findings set out above. Please refer to the axial and oblique sagittal reformations for accuracy.

**Opinion:** MRI of the cervical spine including multi-planar reformations show a normal spinal cord and severe spondylosis with probable nerve root compression at C4-5, C5-6 and C6-7. No abnormal enhancement is seen in the cervical spine.

Patient: Scott Ledford
Patient #: 631380
Exam Name: Cervical
Exam Date: 5/16/2012

Richard C. Holgate, MD

DISC Radiologists
1341C Old Georgetown Road - Mount Pleasant, SC 29464
(843) 884-8095 - (800) 898-1294 - Fax (843) 856-7312

# SOUTHEASTERN SPINE INSTITUTE

LEDFORD, SCOTT A.
Patient #631380
DOB: 08/15/1975
May 7, 2012

Mr. Ledford has an unusual electrocution injury, which occurred when he was being tasered as part of a police training ritual in Horry County in July of 2010. After this he sustained a fracture of the T6 vertebra and T9 vertebra and underwent nonoperative care per Dr. Mills and Dr. Sarb. He has remained with neck pain, shoulder pain, bilateral arm numbness with exertional activity, mid-back pain; and when he wears his vest (bulletproof vest), he gets severe low back pain to the point where it is at times incapacitating. His pain is position related and variable but more recently been getting more intense to the point where it is interfering with most activities of daily living. He has a new MRI of his thoracic spine and lumbar spine and old MRIs of his cervical spine.

In review of his imaging study, he does have an acute compression fracture at T6 and T9 on the 2010 MRI. The high signal indicates that these fractures are new as of 7/28/10. X-rays taken recently and an MRI taken last month show that there is a disc protrusion at the L5-S1 level with retrolisthesis of L5 on S1 and bilateral neuroforaminal stenosis at L5-S1 consistent with disc disruption at the L5-S1 level. In the thoracic spine the fractures are healed. There is no residual spinal cord compression.

In the cervical spine MRI scan, there are some cuts on this spine screening, which suggest that there is some measure of posterior disc bulging at the C5-6 level and even some measure of posterior ligamentous hypertrophy causing a measure of cord indentation or compression at C5-6.

On his exam he does have hyperreflexia in his upper and lower extremities left greater than right and some measure of Hoffmann's signs in the upper extremities as well.

Diagnoses:

1. Cervical cord compression. Rule out cervical myelopathy.
2. Status post compression fracture at T6 and T9 with kyphotic deficit.
3. Disc disruption L5-S1.

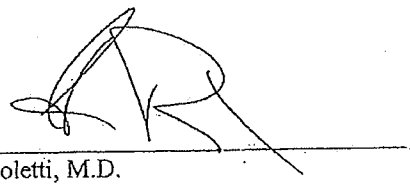
Comment: This man was healthy before this incident in 2010. The electrocution injury obviously caused some measure of spinal cord damage as manifested by the abnormal findings of hyperreflexia and a positive Hoffmann's sign. The degree of neurologic deficit he has is significant, and the question is what could be done about it. I do think that he needs to get an MRI with gadolinium contrasting of his cervical spine to completely evaluate the cord compression in the cervical spine. He potentially could be a candidate for surgery on this. In his thoracic spine he does not have a surgical option.

(Continued)

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1941 Savage Rd., Ste. 100-E Charleston, SC 29414 (843) 763-2720 Fax: (843) 769-6022

Bracing is not an option at this higher level as it is hard to control the upper thoracic kyphosis with bracing. In the lumbar spine he potentially could be a surgical candidate; but the major concern is, with the mid-back issue even with optimal surgical intervention he may not subjectively improve.

His follow-up is to be with me after the MRI scan of his cervical spine, and he is on off-duty status.



Steven C. Poletti, M.D.

SCP/dmp
T- 5/15/12

1106 Chuck Dawley Blvd., Ste. 200 | Mt. Pleasant, SC 29464 | (843) 849-1551 | Fax: (843) 884-0629
1941 Savage Rd., Ste. 100-E | Charleston, SC 29414 | (843) 763-2720 | Fax: (843) 769-6022

# SOUTHEASTERN SPINE INSTITUTE

**LEDFORD, SCOTT A.**
Pt. #631380
DOB: 08/15/1975
May 7, 2012

Mr. Ledford is seen as a new patient today. He is a 36-year-old white male who self-referred here. He was involved in an injury while training on July 15, 2010 as he is a South Carolina Highway Patrolman. He was in a tazing incident while he was training where he ended up having a fracture to his thoracic T6 and T9 levels. He was braced for 2-3 months. He states that since this incident, his quality of life has gone significantly down. His pain is to the mid to lower back. It is intense, achy, stabbing on occasion. He has numbness down his legs greater than left arm. He also has some right buttock and right hamstring pain. He has been followed with Dr. Mills who has done some epidural injections. He has done some EMG/nerve conduction studies. He has recently since gone back to work but was involved in another motorcycle incident on the job where he fractured his right ankle and has been booted, so is currently out. He quantifies his current condition as about a 7/10 on the visual analog pain scale, 75% to his back, 25% to his leg and about 25 % neck, 75% to his right greater than left arm. He states he is very active. He is very busy and an outdoorsman and he is very aggravated with his pain and he has not been improving.

Sitting, standing, rising from a sitting position, leaning forward, walking, driving, coughing, sneezing, and bending forward aggravates his pain. There is nothing that particularly will alleviate these symptoms.

**Past Medical History:** Unremarkable.

**Family History:** Positive for diabetes, hypertension.

**Social History:** The patient is employed as a state trooper, a motorcycle South Carolina Highway Patrolman. He denies alcohol, smoking, illicit drug use.

**Drug Allergies:** No known drug allergies.

**Review of Systems:** He admits to joint pain, stiffness, arthritis, numbness. Denies fever, appetite change, abdominal pain, shortness of breath, difficulty with urination..

**Physical Examination:** Mr. Ledford is a 36-year-old white male. He is 5 feet 10 inches tall, 192 pounds. He is alert and cooperative, oriented x3, in no acute cardiopulmonary distress. He is ambulatory. He is slightly antalgic. He does not have his right ankle boot on presently secondary increased pain in his back while wearing this. He was injured in April and is starting to come out of this. He has negative straight leg

(Continued)

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1941 Savage Rd., Ste. 100-E Charleston, SC 29414 (843) 763-2720 Fax: (843) 769-6022

raising. He does not have an ankle flexion weakness on this left side. He does have some significant difference in hand grip and thumb extension to his upper extremity on the right and about a 4/5 on the right compared to the left thumb extension. Shoulder abductions are bilaterally strong and intact but it did elicit severe mid back pain. Lower extremity reflexes are present. No long tract signs noted. No dysvascular skin changes or lesions noted.

Radiologic Studies: He brought with him updated MRI imaging of his thoracic and lumbar spines taken in April of this year. He also had MRI imaging of his neck done in September of 2010.

Please refer to comments attached for impression, assessment and treatment plan.

Steven C. Poletti, M.D.

SCP/AT/jbb
T: 05/14/2012

South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500 • Post Office Box 1715
Columbia, South Carolina 29202-1715
(803) 737-5739
www.wcc.sc.gov

WCC File #: 1009581
Carrier File #: 2010-2824
Carrier Code #:
Employer FEIN #:

Claimant's Name: Scott Leaford SSN: 110-58-0432
Address: 4338 Bradford Circle
City: Myrtle Beach State: SC Zip: 29588
Home Phone: Work Phone:
Date of Injury: 07/15/2010

Employer's Name: SC Department of Public Safety, State of SC
Address: P.O. Box 1993
City: Blythewood State: SC Zip: 29016-1993
Insurance Carrier: State Accident Fund

Preparer's Name: Samuel T. Brunson, Esq. Law Firm: Brunson Law Firm Preparer's Phone #: (843) 669-8111

Date of Injury or Illness: 07/15/10

**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** 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 injuries to thoracic spine only. Defendants deny claimant's current complaints related to admitted injuries.
2. It is **admitted** 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** the relationship of employer and employee existed at the time in question. The reasons for denial are:
4. It is **admitted** at the time in question the employee was performing services arising out of and in the course of employment. The reasons for denial are:
5. It is **admitted** notice of injury was given the employer. The reasons for denial are:
6. It is **denied** the employee needs/is entitled to medical care as a result of injury or illness. The reasons for denial are: Claimant's current complaints unrelated to 2010 accident.
7. It is **denied** the employee is entitled to temporary total disability for the period(s) of :
8. It is **admitted** the employee is permanently disabled. The reasons for denial are: Claimant paid PPD on Form 16A on 9/29/11.
9. It is **denied** the employee has serious disfigurement.
10. It is contended that an average weekly wage of **$ 763.00** applies, according to attached Form 20 as provided by law.
11. Further contentions, grounds of defense, or unusual aspects are: Defendant's deny change of conditions for worse. Defendants reserve right to Amend Form 51.
12. Estimated time needed for hearing: 60 minutes

I certify I have served this document pursuant to R.67-212 by delivering a copy to:

Name: E. Hood Temple, Esq.

Address: The Hyman Law Firm, PO Box 1770, Florence, SC 29503-1770

on the day of 06/28/12, 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.

| Preparer's Signature | Attorney at Law | bublaw@earthlink.net | 06/28/12 |
|---|---|---|---|
| | Title | Email | Date |

Refer to R.67-204 through R.67-210 and R.67-601 through R.67-615. Questions about the use of this form may be directed to the Commission's Judicial Department. 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.

WCC Form # 51
Revised 9/07

51 Employer's Answer to Request for Hearing

2012053

South Carolina Workers' Compensation Commission
1612 Marion Street • Post Office Box 1715
Columbia, South Carolina 29202-1715
(803) 737-5723
www.wcc.sc.gov

WCC File # 1202545
Carrier File #
Carrier Code #
Employer FEIN

| | | | | | |
|---|---|---|---|---|---|
| Mr. Scott Ledford | 110-58-0432 | | South Carolina Department of Public Safety | | |
| Claimant's Name | SSN | | Employer's Name | | |
| 4338 Bradford Circle, Myrtle Beach, SC 29588-9115 | | | Post Office Box 1993, Blythewood, SC 29016-1993 | | |
| Address | City | State Zip | Address | City | State Zip |
| (843) 742-5330 | | | State Accident Fund | | |
| Home Phone # | Work Phone # | | Insurance Carrier | | |

E. Hood Temple, The Hyman Law Firm, LLP (843) 662-5000
Preparer's Name | Law Firm | Preparer's Phone #

A claim for workers' compensation benefits is made based on the following grounds: Date of Injury or Illness: 3/10/2012

[x] Injury [ ] Illness [ ] Repetitive Trauma

1a. The Claimant sustained an injury to right leg, right ankle, right ankle, and low back (Part(s) of Body Injured) on 3/10/2012 (Month/Day/Year) in Horry County, State of South Carolina

1b. Body part(s) affected are: right leg, right ankle, right ankle, and low back
Briefly describe how the accident occurred. Claimant had a wreck on his patrol motorcycle.

2. Both the Claimant and the employer were subject to the South Carolina Workers' Compensation Act at the time of injury.

3. The relationship of employer and employee existed at the time of injury.

4. At the time of injury the Claimant was performing services arising out of and in the course of employment.

5. Notice of the accidental injury was given to the Employer on 3/10/2012 (Month/Day/Year) in the following manner:
Claimant's supervisor, Kevin Elia, was notified.

[x] 6. Due to injury, the Claimant is in need of (check one):
[ ] (a) medical examination and treatment for:
[x] (b) additional medical examination and treatment for: right leg, right ankle, right ankle, and low back

[x] 7. Due to injury, the Claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of: From the date of the accident to the present with credit to the employer for benefits paid.

[x] 8. Due to injury, the Claimant has permanent disability of the following nature and extent: (check one):
[x] (1) General Disability [x] Total [ ] Partial
[x] (3) Wage Loss
[x] (2) Specific disability: [x] Total [ ] Partial

[ ] 9. Due to the injury, the Claimant has a serious bodily disfigurement consisting of: not applicable at the present.

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.
Claimant is still employed with the South Carolina Department of Public Safety, Ledford Outdoors and Pro Cutters Lawn & Landscaping.

11a Further grounds or unusual aspects of claim: If the Claimant is found to be totally and permanently disabled, the Claimant seeks a lump sum payment. Further, the Claimant requests that the Decision and Order of the Commission finding the Claimant permanently and totally disabled to include Utica Mohawk language. Utica Mohawk Mills v. Orr, 227 S.C. 226, 87 SE2d 593. James v. Anne's Inc., 390 S.C. 188, 701 S.E.2d 730 (2010).

11b List names and addresses of all physicians or other medical specialists who have seen or treated the Claimant as a result of the accident: 1) Dr. William L. Mills, Coastal Orthopaedic Associates, P.A., 2376 Cypress Circle # 300, Conway, SC 29526

11c 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.

SCWCC
SEP 27 2012
JUDICIAL

[ ] 13a I am filing a claim. I am not requesting a hearing at this time.
[X] 13b I am requesting a hearing. A $25 fee is required.

14. Estimated time need for hearing: 30 minutes

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

| | | | |
|---|---|---|---|
| Preparer's Signature | Attorney for Claimant | ehtemple@hymanlawfirm.com | September 25, 2012 |
| | Title | Email | Date |

Refer to R.67-204 through R.67-210 and R.67-601 through R.67-615. Questions about the use of this form may be directed to the Commission's Claims Department.

WCC Form # 50
Revised 9/07

50

Employee's Notice of Claim and/or Request for Hearing

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

WCC File # 1202545
Carrier File # 2012-000722
Carrier Code #
Employer FEIN

| | | | |
|---|---|---|---|
| Scott Ledford | 110-58-0432 | Department of Public Safety | |
| Claimant's Name | SSN | Employer's Name | |
| 4338 Bradford Circle, Myrtle Beach, SC 29587 | | 10311 Wilson Blvd., Blythewood, SC 29016 | |
| Address City State Zip | | Address City State Zip | |
| (843) 241-8750 | | State Accident Fund | |
| Home Phone Work Phone | | Insurance Carrier | |
| Sarah S. Alphin | | (803) 227-2885 | |
| Preparer's Name | | Phone # | |

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

1. It is (admitted) (~~denied~~) that the employee sustained an injury on or about the date set forth in the application. The reasons for denial are: It is admitted the Claimant sustained an injury to the right ankle and right knee on the date alleged; however, it is denied he sustained compensable injuries to the extent alleged in the Form 50. All other alleged injuries are denied.
2. It is (admitted) (~~denied~~) that both the employer and employee were subject to the Workers' Compensation Act at the time in question. The reasons for denial are: See number 1 above.
3. It is (admitted) (~~denied~~) that the relationship of employer and employee existed at the time in question. The reasons for denial are: See number 1 above.
4. It is (admitted) (~~denied~~) that 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 number 1 above.
5. It is (admitted) (~~denied~~) that notice of injury was given the employer. The reasons for denial are: See number 1 above
6. It is (~~admitted~~) (denied) that the employee needs or is entitled to additional medical care as a result of injury. The reasons for denial are: See number 1 above.
7. It is (~~admitted~~) (denied) that the employee is entitled to temporary total disability for the period(s) of: See number 1 above.
8. It is (~~admitted~~) (denied) that the employee is permanently disabled. The reasons for denial are: See number 1 above.
9. It is (~~admitted~~) (denied) that the employee has a serious disfigurement.
10. It is contended that an average weekly wage of $ 709.95 applies, according to attached accounting of employee's earnings as provided by law.
11. Further contentions or grounds of defense are: Defendants reserve the right to amend and to assert defenses as they become aware of them.

I certify that I have served this document pursuant to R.67-212 by delivering a copy to E. Hood Temple, Esquire,
Name

170 Courthouse Square, P.O. Box 1770, Florence, SC 29503-1770, Samuel T. Brunson, P.O. Drawer 431 521 West Evans Street, Florence, SC 29503, and Virginia Crocker, Judicial Director, SC WCC, P.O. Box 1715, Columbia, SC 29202
Address

on the 25th day of October, 2012 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.

Sarah S. Alphin — Ivey L. Gable — October 25, 2012

Preparer's Signature, Attorney for Defendants — Ivey L. Gable, Certifier — Date

Sarah S. Alphin
Willson Jones Carter & Baxley, P.A.
4500 Fort Jackson Boulevard
Columbia, SC 29209

Refer to R.67-205 and R.67-601 through R.67-615. Questions about the use of this form may be directed to the Commission's Judicial Department. 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.

**South Carolina Workers' Compensation Commission**
1333 Main Street, Suite 500
Post Office Box 1715
Columbia, South Carolina 29202-1715
(803) 737-5675

WCC File #: 1202545
Carrier File #: 2012-722
Carrier Code #:
Employer FEIN #:

Claimant's Name: Scott Ledford SSN: 110-58-0432
Address: 4338 Bradford Circle
City: Myrtle Beach State: SC Zip: 29587
Home Phone: ( ) - Work Phone: ( ) -

Employer's Name: S.C. Department of Public Safety
Address: 10311 Wilson Blvd.
City: Blythewood State: SC Zip: 29016
Insurance Carrier: State Accident Fund

Preparer's Name: Erin Farthing, Esq. Law Firm: State Accident Fund Preparer's Phone #: (803) 896-5892

The date of injury reported on Form 12A is: 03/10/12 (m/d/yyyy)

**Check appropriate section(s). The employer's representative requests a hearing to:**

I. ☒ **Stop payment of compensation.** Claimant has reached maximum medical improvement and Claimant continues to receive temporary compensation payments. The employer's representative requests a hearing pursuant to § 42-9-260(D) to stop payment of temporary compensation. A hearing requested pursuant to this section must be held within sixty days of the date of the request.

Claimant reached maximum medical improvement on 10/31/13 (m/d/yyyy) (copy of medical report must be attached).
Compensation payments are current as of 01/21/14 (m/d/yyyy) and shall continue until otherwise ordered or until Form 17 is signed by the claimant.
A Form 17 was offered and refused on 01/23/14 (m/d/yyyy).

II. ☐ **Address suspension, termination, or reduction of temporary disability payments for any cause.**
- ☐a. At any time pursuant to § 42-9-260(E).
- ☐b. After the one-hundred-fifty day period has expired pursuant to § 42-9-260(F), R.67-505 and R.67-506.

The basis for the termination/ suspension is _____

III. ☒ **Determine if compensation is due** pursuant to § 42-9-10, § 42-9-20 or § 42-9-30 and, if so, in what amount, based on the following grounds:

Claimant rated by Dr. Edwards.
Claimant reached maximum medical improvement on 10/31/13 (m/d/yyyy) (copy of medical report must be attached).

IV. ☒ **Request Credit for Overpayment of temporary compensation pursuant to § 42-9-210.**

V. ☐ **Determine amount of compensation for claims involving a fatality.** (Dependency investigation must be attached).
- ☐a. Payment of unpaid balance of compensation when employee dies pursuant to § 42-9-280.
- ☐b. Amount of compensation for death of employee due to accident pursuant to § 42-9-290.

A hearing requested pursuant to this section will be set on an expedited basis.

- A $ 25.00 filing fee and updated Form 18 must be included with an employer's request for a hearing.
- An employer requesting a hearing must include certification that the request has been served on all parties in compliance with R.67-211.

Erin Farthing
Preparer's Signature

Asst. Chief Counsel
Title

1/24/14
Date

P.O. Box 102100, Columbia, SC 29221-5000
Address

Questions about the use of this form should be directed to the Judicial Department at 803-737-5675, or visit us online at www.wcc.sc.gov.

**WCC Form # 21**
Revised 04/18/2011

**21**

**Employer's Request for Hearing**

Pee Dee Orthopaedic Associates, PA

Anthony W. Alexander, M.D., Rakesh P. Chokshi, M.D., Barry L. Clark, D.O.,
Patrick K. Denton, M.D., W.S. (Bill) Edwards, Jr., M.D., Robert E. Elvington, Jr., M.D.,
Dewey M. Ervin, M.D., Jason D. O'Dell, M.D., Chadley M. Runyon, M.D.,
Nigel A.E. Watt, M.D., Matthew D. Welsch, M.D.

901 E. CHEVES ST, SUITE 100 · FLORENCE, SC 29506-2769
(843) 662-5233 · FAX (843) 678-9003 · WWW.PDOA.COM

MRI Review

PATIENT ID: 344946

PATIENT: Scott Ledford
DOB: 8/15/1975
Employer: SCDPS

Date of Service: 10/31/2013
Age: 38 year(s)
Occupation: Highway Patrol

Referring Physician: No data for Referred By
Other Physicians:

Vitals: No data for Vitals
Allergies: NKDA
Current Meds: none

**MRI Review:**
MRI scan was personally reviewed from 5/16/12 and discussed with the patient in detail. This study demonstrates degenerative changes at C5-6 and C6-7 without any significant compressive pathology. X-rays of the thoracic spine showed previous compression fractures at T6 and T9 with stable alignment.

Patient has bilateral radicular symptoms in the upper extremities associated with chronic mechanical neck pain due to disc protrusions at C5-6 and C6-7. He also has some ongoing mechanical symptoms in the thoracic spine related to previous compression fractures at T6 and T9. He is not interested in considering any aggressive treatment as it relates to his cervical spine nor have I have pushed him in this regard given the absence of focal neurologic deficit. He feels that his symptoms are stable and he does not wish to have any aggressive intervention. He is retired from the Highway Patrol and does not plan on trying to return to strenuous activities therefore believes that conservative efforts will be appropriate

**Plan:**
He appears to be at maximum medical improvement. There is a 15% impairment of his spine based on cervical disc protrusion at C5-6 and C6-7 and additional 10% impairment of his spine based on compression fractures of T6 and T9. No return appointment has been made.

**Diagnosis:** T6/T9 compression fractures, healed. Lumbar disc degeneration L4-5; L5/S1. Cervical disc protrusion C5-6, C6-7 without radiculopathy or myelopathy.

W. S. Edwards, M.D.
Spine Surgeon
Pee Dee Spine Center

This document was electronically signed on 10/31/2013

Fax Created - Name: SHARI GABRIEL Number: 1-573-376-8670 Dated: 12/9/2013 6:20:49 PM

This fax was received by GFI FAXmaker fax server. For more information, visit: http://www.gfi.com

*South Carolina Workers' Compensation Commission*
*P.O. Box 1715 ∪ 1612 Marion Street*
*Columbia, South Carolina 29202-1715*
(803) 737-5700

WCC File # 1202545
Carrier File # 2012-000722
Carrier Code # 500 - SF
Employer FEIN 570000K05

Scott Ledford 110-58-0432
4338 Bradford Circle, Myrtle Beach, SC 29587

(home) (843) 241-8750 (work) ( ) -

DEPT OF PUBLIC SAFETY
10311 Wilson Blvd., Blythewood, SC 29016

Preparer's name: Brenna Alsman (803) 896-5905 State Accident Fund, Insurance Carrier

Date of injury: 03/10/2012

1. Temporary Compensation Paid:

| | Number of Weeks | From | To | Amount |
|---|---|---|---|---|
| TT-AN | 1.71 | 11-MAR-12 | 22-MAR-12 | |
| TT-AN | 4.43 | 01-APR-12 | 01-MAY-12 | |
| TT | 90.00 | 02-MAY-12 | 21-JAN-14 | 49,225.50 |

2. The claimant returned to work on
( ) With restrictions but at a salary not less than before the injury
( ) Without restrictions

3. The claimant agrees he or she was able to return to work on 10/31/2013

I agree that I was disabled for the period(s) indicated and I was paid compensation as shown above. I UNDERSTAND THAT MY WEEKLY TEMPORARY COMPENSATION CHECKS WILL STOP; HOWEVER, I GIVE UP NO RIGHTS TO COMPENSATION FOR FUTURE DISABILITY, FOR PERMANENT DISABILITY, DISFIGUREMENT, OR MEDICAL CARE. The effect of this form has been fully explained to me, and I have received a copy of it. I understand that I should not sign this form until 15 days after I have returned to work or agree I was able to return to work.

Claimant's Signature

Employer's Representative Signature

☐ Witness ☐ Claimant's Attorney

Date Agreement Signed

File this form with the Claims Department no later than 31 days from the date the claimant returned to work to terminate temporary compensation after the first 150 days after employer's notice of the injury according to R.67-505. Within the 150 day period, obtain a Form 17 to document that claimant agrees he or she is able to return to work.

WCC FORM # 17 REV. DATE 3/97 17 RECEIPT OF COMPENSATION

*South Carolina Workers' Compensation Commission*
*P.O. Box 1715 ∪ 1612 Marion Street*
*Columbia, South Carolina 29202-1715*
(803) 737-5700

WCC File # 1202545
Carrier File # 2012-000722
Carrier Code # 500 - SF
Employer FEIN 570000K05

Scott Ledford 110-58-0432
4338 Bradford Circle, Myrtle Beach, SC 29587

(home) (843) 241-8750 (work)

DEPT OF PUBLIC SAFETY
10311 Wilson Blvd., Blythewood, SC 29016

Preparer's name: Brenna Alsman (803) 896-5905 State Accident Fund, Insurance Carrier

**A. Total Wages Paid** Date of injury: 03/10/2012

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: 07/08/2005.
   ( ) 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 Employment Security Commission on the Employer Quarterly Contribution and Wage 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 | 12/31/2011 | 10398.72 | | | |
| 2nd | 09/30/2011 | 10265.02 | | | |
| 3rd | 06/30/2011 | 10326.72 | | | |
| 4th | 03/31/2011 | 5927.18 | Total Paid | 2 | 36917.64 |

3. List total value of other allowances of any character made in lieu of wages during four quarters above. 3.
4. Add lines 2 and 3 TOTAL WAGES PAID: 4. 36917.64
5. List total number of weeks paid to employee during the four quarters immediately preceding the quarter in which the injury occurred. 5. 45.00

**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. 820.39

**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. 546.95
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 estimate 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. 546.95

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

WCC File # 1202545
Carrier File # 2012-000722
Carrier Code # 500 SF
Employer FEIN 570000K05

Scott Ledford 110-58-0432
4338 Bradford Circle, Myrtle Beach, SC 29587
Wk#: Home#:(843) 241-8750

DEPT OF PUBLIC SAFETY
10311 Wilson Blvd., Blythewood, SC 29016

Preparer's name: Brenna Alsman (803) 896-5905

State Accident Fund, Insurance Carrier

1. Date of injury: 03/10/2012
month day year

2. Total Weeks of Compensation Paid: 97.14286

3. Type of Compensation Paid (TP or TT)/Periods of Payment:

| | | |
|---|---|---|
| Type: TT-AN | From: 03/11/2012 | To: 03/22/2012 |
| Type: TT-AN | From: 04/01/2012 | To: 05/01/2012 |
| Type: TT | From: 05/02/2012 | To: 01/28/2014 |

4. Date of First Payment: 04/03/2012
month day year

5. Total Amount Paid (a) Compensation: $ 49,772.45

(b) Medical (Include Nursing, Hospital Drugs, Etc.): $ 20,991.50

6. Informal Conference is Requested: ( ) yes (x) no
(check one)

7. Use these lines to send a memo to the Commission:

Employer's Representative Phone # 896-5894

01/31/2014
Date

Type or print all information. File this form 6 months after the alleged injury date and each 6 months until the Commission's File is closed. Form 18 must be filed whether or not compensation is ongoing. Check "yes" after number 6 to request and informal conference. Refer to R.67-413, R.67-507, and R.67-804 for further information.

WCC FORM # 18 REV. DATE 3/96 **18** PERIODIC REPORT

South Carolina Workers' Compensation Commission
1612 Marion Street • Post Office Box 1715
Columbia, South Carolina 29202-1715
(803) 737-5723
www.wcc.sc.gov

**PRE-HEARING BRIEF**
**WCC File No: 1202545/1009581**

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Mr. Scott Ledford | | 110-58-0432 | | South Carolina Department of Public Safety | | | |
| Claimant's Name | | SSN | | Employer's Name | | | |
| 4338 Bradford Circle, Myrtle Beach, SC 29588-9115 | | | | Post Office Box 1993, Blythewood, SC 29016-1993 | | | |
| Address | City | State | Zip | Address | City | State | Zip |
| (843) 742-5330 | | | | State Accident Fund | | | |
| Home Phone # | | Work Phone # | | Insurance Carrier | | | |
| E. Hood Temple, The Hyman Law Firm, LLP (843) 662-5000 | | | | | | | |
| Preparer's Name | | Law Firm | | Preparer's Phone # | | | |

A claim for workers' compensation benefits is made based on the following grounds:
[X] Injury [ ] Illness [ ] Repetitive Trauma

1. Compensation Rate: $508.69 2. AWW: $763.00 Date of Injury: 7/15/2010-3/10/2012
3. Type of injury and body part(s): 1) Right ankle: distal fibula stress fracture, posterior impingement syndrome, impingement lesion – Dr. Ross Taylor, authorized treating surgeon, is recommending surgery to include an arthroscopy debridement of the ankle joint done through an anterior approach and assessment of the cartilage surface. Any underlying cartilage pathology may need to be simultaneously treated. He would then require change to prone position for arthroscopic versus open resection of Stieda process. This surgical intervention has been approved by the carrier. 2) Right knee; 3) Spine lumbar (L5-S1 spondylosis) the authorized treating surgeon, Dr. William L. Mills, has recommended an ALIF at the L5-S1. Cervical spine C5-6, C6-7 spondylosis of right cervical radiculopathy. Dr. William L. Mills has recommended an anterior cruciate disc fusion at C5-6 and C6-7 with LDR system. (See report of June 4, 2012 and depositions of Dr. Mills, August 23, 2012, December 3, 2012).
4. Facts in controversy: See attached.
5. Legal issues involved: 1) §42-1-160 / §42-1-172 compensability of the Claimant's cervical and lumbar injuries; 2) §42-17-90 change of condition of original injury of July 15, 2010; 3) §42-15-60 provision of additional medical treatment to include the recommendations of Dr. Mills and Dr. Poletti for the Claimant's cervical and lumbar spine.
6. Unusual aspects: See Facts in Controversy
7. Witnesses (designate if expert)*: 1) Claimant, Scott Ledford; 2) Carrie Ledford, Claimant's wife, and 3) fellow officers of the South Carolina Highway Patrol
8. Exhibits: 1) Medical summary; 2) portions of Claimant's payroll/personnel records; 3) Claimant's prior workers' compensation file bearing WCC #1009581 incorporated by reference.
9. Medical evidence (indicate report pursuant to R.67-612; deposition or appearance): 1) Medical reports and notes of Dr. Steven Poletti dated 5/7/12 – 7/18/12; 2) Medical reports and notes of Dr. William Mills dated 7/27/10 – 6/4/12; 3) Medical reports and notes of Dr. Barbara L. Sarb dated 7/28/10 – 8/26/11; 4) Medical reports and notes of Dr. Ross Taylor dated 6/16/12 – 11/5/12; 5) Medical reports and notes of Doctor's Care dated 3/13/12 – 4/6/12; 6) Medical reports and notes of Conway Hospital dated 3/10/12; 7) Medical reports and notes of Horry County Fire Rescue dated 3/10/12; 8) Depositions taken of Dr. William Mills dated 4/27/11, 8/23/12 and 12/3/12.
10. Name, address, and specialty, if any, of the treating physician: 1) Dr. William L. Mills, Coastal Orthopaedics, 2376 Cypress Circle, Suite 300, Conway, SC 29526; 2) Dr. Steven C. Poletti, Southeastern Spine Institute, 1106 Chuck Dawley Blvd., Suite 200, Mount Pleasant, SC 29464; 3) Dr. Barbara L. Sarb, Strand Regional Specialty Associates, 8171 Rourke Street, Myrtle Beach, SC 29577
11. Impairment rating(s); body part(s); physician and date of opinion: Claimant has not reached maximum medical improvement.
12. I am amending my Form 50/51 in the following manner:

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

Signature: _____ Email: ehtemple@hymanlawfirm.com
Date of hearing: January 15, 2012 at 11:30 a.m. Time needed for hearing: 30 minutes

On behalf of [X] Claimant [ ] Employer

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.

## FACTS IN CONTROVERSY

The Claimant sustained an admitted injury on March 10, 2012 which is one of the claims presently before the Commission. Historically, the Claimant had suffered a very serious back injury on July 15, 2010 when he was required to participate in Taser training. In fact, when he was tased by his fellow officer, he fractured three thoracic vertebrae from T6-T9. He also suffered injuries to his cervical and lumbar spine which is well documented in the medical records. As a result of his injuries, he received significant treatment from Dr. William L. Mills, authorized treating surgeon, and Dr. Barbara L. Sarb. Unfortunately, once he was released to return back to work, his condition gradually worsened. To further complicate matters, as previously stated, the Claimant suffered a second admitted injury on March 10, 2012 in the course and scope of his employment riding a patrol motorcycle when he turned around on a vehicle and lost control of his motorcycle. As a result, he injured his right leg, including his right knee and ankle, and aggravated his lumbar spine, thoracic spine and cervical spine.

The Claimant filed a Motion to Consolidate these two admitted injuries for the purpose of determining whether the Claimant's current conditions requiring surgical intervention are causally related to a change of condition arising out of the original injury of July 15, 2010, an aggravation of the pre-existing conditions as a result of the March 10, 2012 admitted accident, or a combination of both. Unfortunately, even though the Employer admits both accidents, it will not agree as to whether the Claimant's conditions are a change of condition or aggravation of the pre-existing condition or both despite the conclusive opinions of their authorized treating surgeon, Dr. William L. Mills and Dr. Steven C. Poletti of Southeastern Spine Institute. This matter was heard before the single Commissioner and an Interim Order was issued on October 8, 2012 granting the Claimant's Motion to Consolidate. This matter is presently before the Commission to determine the compensability of the Claimant's lumbar and cervical injuries as well as to determine which accident individually or a combination of the two caused his current condition which requires surgical intervention.

The Claimant would request that this Commission consider the deposition testimony of the authorized treating surgeon, Dr. William L. Mills. Dr. Mills' deposition was taken twice. The first deposition was August 23, 2012. In that deposition, defense counsel for the second admitted injury was not present and did not have notice of the deposition. Beginning on Page 19, Lines 14 through 25, Dr. Mills gave the following testimony.

> Question: All right. And do you think that the condition he is suffering from now is a change of circumstances since the time you found him at maximum medical improvement from his thoracic spine?
>
> Answer: Yes.

Question: Okay. And is that your opinion within a reasonable degree of medical certainty?

Answer: Yes.

Question: Now, subject to counsel's objection – do you have an opinion as to whether this motorcycle event that you're currently treating him for now has contributed to these neck and low back symptoms that he's experiencing?

Answer: Well, it – it seems to me that it made those symptoms worse, because prior to that, I had not seen him and he seemed to be doing pretty well. But then he had that second accident and then it exacerbated the – the symptoms in his neck and his lower back to the point where we were at that time talking about surgery.

Page 22, Lines 9 through 13:

Question: Okay. But today, you were recommended these two surgical procedures and that's your opinion within a reasonable degree of medical certainty?

Answer: Yes.

On Monday, December 3, 2012, Dr. Mills was further deposed with defense counsel for the second admitted injury in attendance. On Page 53, Dr. Mills testified as follows:

Lines 1 through 6:

Question: Right. Then you attribute that to a combination of the first and second accident, or the second accident, or what do you attribute the need for surgery?

Answer: It seems the second accident definitely exacerbated it.

Dr. Mills has emphatically stated in two separate depositions that he believes the Claimant's current conditions requiring surgical intervention for the cervical and lumbar injuries are related to both the first and second accident. Dr. Mills testified in his first deposition that his conditions were a change of condition from his first accident and further in both depositions that his conditions requiring surgical intervention and the cervical and lumbar spines were aggravations of his second admitted injury. Despite this fact, the Employer has hired two very competent attorneys to defend these matters separately. There has been no consensus regarding an agreement to accept this claim and provide medical care from the first, the second or a combination of both accidents. The Claimant is not at maximum medical improvement and is currently receiving temporary total benefits for his other admitted injuries. The Claimant is awaiting surgical intervention for his lower extremity injury which has been approved by the Employer. The only issue at the

present is the compensability of the Claimant's cervical and lumbar conditions and which accident it should be assigned to.

The claimant requests this Commission render a Decision and Order requiring the carrier to provide medical treatment, including surgical intervention, for the Claimant's cervical and lumbar injuries until he reaches Maximum Medical Improvement in accordance with the Act.

BEFORE THE

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

WCC FILE # 1202545/ 1009581

Mr. Scott Ledford,

Claimant,

Vs.

South Carolina Department of Public Safety

Employer,

And

State Accident Fund

Carrier.

**NOTICE OF WITNESSES AND WRITTEN REPORT(S)/PHYSICIAN AND/OR OTHER EVIDENCE TO BE INTRODUCED ON BEHALF OF CLAIMANT**

**TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION AND SARAH S. ALPHIN, ATTORNEY FOR THE EMPLOYER/CARRIER:**

**YOU ARE HEREBY NOTIFIED** that Mr. Scott Ledford, pursuant to the provisions of the South Carolina Workers' Compensation Act and South Carolina Code Sec. 1-23-330, 1976, as amended, herewith submits the following reports/physician or other evidence on behalf of the Claimant, to-wit:

| APA# | DOCTOR | PRACTICE | DATES | PAGES |
|---|---|---|---|---|
| 1. | Dr. Steven Poletti | Southeastern Spine Institute | 05/07/12 – 07/18/12 | 1 – 7 |
| 2. | Dr. William Mills | Coastal Orthopaedic Assoc. | 07/27/10 – 06/04/12 | 8 – 29 |
| 3. | Dr. Barbara L. Sarb | Strand Regional Specialty Assoc. | 07/28/10 – 08/26/11 | 30 – 51 |
| 4. | Dr. Ross Taylor | Coastal Orthopaedic Assoc. | 06/16/12 – 11/15/12 | 52 – 61 |
| 5. | | Doctor's Care | 03/13/12 – 04/06/12 | 62 – 69 |
| 6. | | Conway Hospital | 03/10/12 | 70 – 80 |
| 7. | | Horry County Fire Rescue | 03/10/12 | 81 – 82 |

**YOU ARE FURTHER HEREBY NOTIFIED** that you have the right to cross-examine and, should you desire to exercise said right, you are to forthwith schedule the deposition(s) of any of the physicians or other person(s), whose reports are submitted, for the purposes of cross-examination.

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

**YOU ARE FURTHER NOTIFIED** that the following witnesses may be called on behalf of Mr. Scott Ledford.

| WITNESSES |
|---|
| Scott Ledford, Claimant |
| Carrie Ledford, Claimant's wife |
| Fellow Officers of the South Carolina Highway Patrol |

Florence, SC

December 31, 2012

**E. HOOD TEMPLE,**
Attorney for Claimant
SC Bar No. 12962

**THE HYMAN LAW FIRM, LLP**
170 Courthouse Square
Post Office Box 1770
Florence, SC 29503-1770
(843) 662-5000
ehtemple@hymanlawfirm.com

# SOUTHEASTERN SPINE INSTITUTE

**LEDFORD, SCOTT A.**
Patient #631380
DOB: 08/15/1975
May 7, 2012

Mr. Ledford has an unusual electrocution injury, which occurred when he was being tasered as part of a police training ritual in Horry County in July of 2010. After this he sustained a fracture of the T6 vertebra and T9 vertebra and underwent nonoperative care per Dr. Mills and Dr. Sarb. He has remained with neck pain, shoulder pain, bilateral arm numbness with exertional activity, mid-back pain; and when he wears his vest (bulletproof vest), he gets severe low back pain to the point where it is at times incapacitating. His pain is position related and variable but more recently been getting more intense to the point where it is interfering with most activities of daily living. He has a new MRI of his thoracic spine and lumbar spine and old MRIs of his cervical spine.

In review of his imaging study, he does have an acute compression fracture at T6 and T9 on the 2010 MRI. The high signal indicates that these fractures are new as of 7/28/10. X-rays taken recently and an MRI taken last month show that there is a disc protrusion at the L5-S1 level with retrolisthesis of L5 on S1 and bilateral neuroforaminal stenosis at L5-S1 consistent with disc disruption at the L5-S1 level. In the thoracic spine the fractures are healed. There is no residual spinal cord compression.

In the cervical spine MRI scan, there are some cuts on this spine screening, which suggest that there is some measure of posterior disc bulging at the C5-6 level and even some measure of posterior ligamentous hypertrophy causing a measure of cord indentation or compression at C5-6.

On his exam he does have hyperreflexia in his upper and lower extremities left greater than right and some measure of Hoffmann's signs in the upper extremities as well.

**Diagnoses:**
1. Cervical cord compression. Rule out cervical myelopathy.
2. Status post compression fracture at T6 and T9 with kyphotic deficit.
3. Disc disruption L5-S1.

**Comment:** This man was healthy before this incident in 2010. The electrocution injury obviously caused some measure of spinal cord damage as manifested by the abnormal findings of hyperreflexia and a positive Hoffmann's sign. The degree of neurologic deficit he has is significant, and the question is what could be done about it. I do think that he needs to get an MRI with gadolinium contrasting of his cervical spine to completely evaluate the cord compression in the cervical spine. He potentially could be a candidate for surgery on this. In his thoracic spine he does not have a surgical option.

(Continued)

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Bracing is not an option at this higher level as it is hard to control the upper thoracic kyphosis with bracing. In the lumbar spine he potentially could be a surgical candidate; but the major concern is, with the mid-back issue even with optimal surgical intervention he may not subjectively improve.

His follow-up is to be with me after the MRI scan of his cervical spine, and he is on off-duty status.

Steven C. Poletti, M.D.

SCP/dmp

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# SOUTHEASTERN SPINE INSTITUTE

**LEDFORD, SCOTT A.**
Pt. #631380
DOB: 08/15/1975
May 7, 2012

Mr. Ledford is seen as a new patient today. He is a 36-year-old white male who self-referred here. He was involved in an injury while training on July 15, 2010 as he is a South Carolina Highway Patrolman. He was in a tazing incident while he was training where he ended up having a fracture to his thoracic T6 and T9 levels. He was braced for 2-3 months. He states that since this incident, his quality of life has gone significantly down. His pain is to the mid to lower back. It is intense, achy, stabbing on occasion. He has numbness down his legs greater than left arm. He also has some right buttock and right hamstring pain. He has been followed with Dr. Mills who has done some epidural injections. He has done some EMG/nerve conduction studies. He has recently since gone back to work but was involved in another motorcycle incident on the job where he fractured his right ankle and has been booted, so is currently out. He quantifies his current condition as about a 7/10 on the visual analog pain scale, 75% to his back, 25% to his leg and about 25% neck, 75% to his right greater than left arm. He states he is very active. He is very busy and an outdoorsman and he is very aggravated with his pain and he has not been improving.

Sitting, standing, rising from a sitting position, leaning forward, walking, driving, coughing, sneezing, and bending forward aggravates his pain. There is nothing that particularly will alleviate these symptoms.

**Past Medical History:** Unremarkable.

**Family History:** Positive for diabetes, hypertension.

**Social History:** The patient is employed as a state trooper, a motorcycle South Carolina Highway Patrolman. He denies alcohol, smoking, illicit drug use.

**Drug Allergies:** No known drug allergies.

**Review of Systems:** He admits to joint pain, stiffness, arthritis, numbness. Denies fever, appetite change, abdominal pain, shortness of breath, difficulty with urination.

**Physical Examination:** Mr. Ledford is a 36-year-old white male. He is 5 feet 10 inches tall, 192 pounds. He is alert and cooperative, oriented x3, in no acute cardiopulmonary distress. He is ambulatory. He is slightly antalgic. He does not have his right ankle boot on presently secondary increased pain in his back while wearing this. He was injured in April and is starting to come out of this. He has negative straight leg

(Continued)

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raising. He does not have an ankle flexion weakness on this left side. He does have some significant difference in hand grip and thumb extension to his upper extremity on the right and about a 4/5 on the right compared to the left thumb extension. Shoulder abductions are bilaterally strong and intact but it did elicit severe mid back pain. Lower extremity reflexes are present. No long tract signs noted. No dysvascular skin changes or lesions noted.

**Radiologic Studies:** He brought with him updated MRI imaging of his thoracic and lumbar spines taken in April of this year. He also had MRI imaging of his neck done in September of 2010.

Please refer to comments attached for impression, assessment and treatment plan.

Steven C. Poletti, M.D.

SCP/AT/jbb
T: 05/14/2012

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# SOUTHEASTERN SPINE INSTITUTE

LEDFORD, SCOTT A.
Patient #631380
DOB: 08/15/1975
May 16, 2012

Mr. Ledford returns in follow-up having had the cervical MRI scan. I have reviewed this. He has neck pain and right arm pain, and he does have a retrolisthesis of 5 on 6 with right-sided foraminal stenosis contributing to compression against his exiting C6 nerve.

This is something which could be explaining his neck and arm pain. It most likely is. In addition he has this severe mid-back pain and radiating pain from his T6 to T9 area, and this is radiating in the distribution of his mid-thoracic region consistent with the kyphosis and facet disruption at the T6 level as a consequence of his fracture. On top of that, he does have a degenerative disc in his lumbosacral spine, which is most likely contributing to some element of back and leg pain. If that's not enough, he fractured his ankle and is undergoing treatment for this.

With regards to the fracture, there is nothing that can be done at this point to restore vertebral body height. With regards to his symptoms from the fracture, potentially some form of pain management potentially to involve rhizotomy or injections around his costovertebral joints or facet joints at the T6 level could be of some benefit; and potentially this could give him some measure of relief. In his cervical spine it potentially could come down to surgery.

This man unfortunately has a combination of three things going on. One is the electrocution injury, second is the fracture at T6 with the consequence of the post-fracture changes, and the third is the disc herniation with radiculopathy in the cervical spine. His impairment is significant; and he has dysfunction as a consequence of the electrocution injury, which in my opinion will prevent him from working. Certainly some type of sedentary status may be indicated, but any kind of repetitive or exertional activity is most likely contraindicated.

His follow-up is to be with me after consultation with Dr. Netherton for consideration of the rhizotomy as described.

Steven C. Poletti, M.D.

SCP/dmp
T-5/29/12

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DISC RAD

Richard C. Holgate, M.D.

The Southeastern Spine Institute
389 Johnnie Dodds Blvd
Suite 117A
Mount Pleasant, SC 29464
843-266-0720

# FINAL REPORT

Patient: **Scott Ledford**
Patient Phone: ------
SSN: 110-58-0432
Patient #: 631380

Exam Date: **5/16/2012**
Exam Name: Cervical
Modality: MRI
Referring Doctor: Poletti, Steven

**Clinical Information:** M/36 WITH PAIN DOWN THE CENTER OF SPINE,NUMBMESS IN BOTH SHOULDER AND ARM INTO HANDS,MAINLY IN THE RIGHT SINCE 7/10/10,INCREASE PAIN 3/3/12. RECENT TRAUMA. HT-5'10" WT-190 LBS.

**TECHNIQUE:** The patient is examined on the High Field GE Horizon LX High Speed MR System which functions at 1.0 Tesla. A dedicated spine coil is used to obtain high resolution images of the cervical spine. **SERIES:** 1) COR, T1, SE, 7 mm; 2) SAG, T2, FSE, 3 mm; 3) AX, T2, GRE, 4 mm. **ADDITIONAL SERIES:** 1) AX, T1, SE, 5 mm; 2) SAG, T1, SE/Fat Sat, 3 mm; 3) AX, T1, SE, 3 mm. **3D REFORMATIONS:** 3mm REFORMATIONS PERFORMED IN 1) AX; 2)COR; 3)SAG/OBL RT; 4) SAG/OBL LT; 6) CORONAL PLANES.

**CONTRAST:** The last two T1-weighted axial sequences were carried out following injection of 19 cc of contrast. ( With and Without Contrast )

**OVERVIEW:** Overview of the cervical spine shows there is normal marrow signal and normal bony alignment with no evidence of a congenital; anomaly of the spine. The visualized paraspinal soft tissues which include the pulmonary apices and the proximal brachial plexus are within normal limits.

**SPINAL CORD** The spinal cord is demonstrated from the craniocervical junction down to the upper thoracic region. It is of normal caliber throughout showing no evidence of compression or enlargement and no area of focal signal abnormality to indicate the presence of intrinsic spinal cord disease. There is no evidence of abnormal enhancement within the spinal cord.

**C2-3, C3-4, C7-T1.** Mild noncompressive spondylosis.

**C4-5, C5-6, C6-7.** Osteophytes with severe bilateral foraminal stenosis.

**3D REFORMATIONS:** Because of movement between sagittal and axial sequences multiplanar 3D reformations were performed for accuracy and confirm the findings set out above. Please refer to the axial and oblique sagittal reformations for accuracy.

**Opinion:** MRI of the cervical spine including multi-planar reformations show a normal spinal cord and severe spondylosis with probable nerve root compression at C4-5, C5-6 and C6-7. No abnormal enhancement is seen in the cervical spine.

Patient: Scott Ledford
Patient #: 631380
Exam Name: Cervical
Exam Date: 5/16/2012

Richard C. Holgate, MD

DISC Radiologists
1341C Old Georgetown Road - Mount Pleasant, SC 29464
(843) 884-8095 - (800) 898-1294 - Fax (843) 856-7312

6

# SOUTHEASTERN SPINE INSTITUTE

**LEDFORD, SCOTT A.**
Patient #631380
DOB: 08/15/1975
July 18, 2012

Mr. Ledford follows up after consultation with Dr. Rhame. Dr. Rhame discussed the potential for rhizotomies in his thoracic spine. He does have a compression fracture at the T6 level secondary to a training exercise for the highway patrol where he was tased. This kicked off a cascade of numbness and weakness in his right upper extremity with also right lower extremity symptoms as well. He is attempting to get disability through his work at this point. He is paying out of pocket at this time so he has not really tried any interventions at this point other than physical therapy. Dr. Rhame recommended rhizotomies of the thoracic spine, a TENS unit, medications as well as pain psychology. We would like to get this started for him once his disability begins.

On physical examination, he is alert and oriented x3 in no acute cardiopulmonary distress. He has a negative straight leg raise. He does have some weakness in his right upper extremity. He walks with a mildly antalgic gait. He certainly has some paraspinal muscle tenderness.

His MRI is significant for disc collapse at L5-S1, a retrolisthesis of 5 on 6 in his cervical spine as well as T6 compression fracture.

**Plan:** At this point, I told him he can be as active as he is able to tolerate. We would like to see him back in six weeks time. If his disability has begun at that point, we would like to have him try the rhizotomies with Dr. Rhame.

Bennett D. Grimm, M.D.

BDG/js
T- 8/15/12

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7

Corvel Scan Date: 8/2/2010

SCOTT A LEDFORD

Date: 07/27/2010
Case No. 62711
AGE/SEX: 34/Male

Referred By: MELVIN HECKER, MD

CHIEF COMPLAINT: Upper back pain.

PRESENT ILLNESS: This is a 34-year-old white male who is seen today for orthopedic evaluation. The patient is a police officer. He reports he was doing some training exercises and was struck by a tazer on 07/15/2010. He says when he was shot with the tazer gun he immediately experience severe pain in his upper back. He complains of pain, particularly when he walks any great distance or jogs. He also describes pain in the lateral aspect of his right thigh. He denies bowel or bladder dysfunction. He has not been seen prior to today in the emergency room.

MEDICAL HISTORY: Hypertension.
MEDICATIONS: "None."
ALLERGIES: NKDA.
SOCIAL HISTORY: He is a state trooper/business owner.
REVIEW OF SYSTEMS: Documented in the chart and noted.

PHYSICAL EXAM: Pleasant white male in no acute distress.
NECK: Supple. Trachea midline. No thyromegaly noted.
HEAD: Normocephalic and atraumatic.
ABDOMEN: Deferred.
HEENT: Sclerae are clear.

ORTHOPEDIC: Examination of the thoracic spine reveals point tenderness over T6 and T7. He has a slight kyphosis of the thoracic spine. There is no scapular winging. He has 1+ triceps-biceps brachioradialis reflexes bilaterally.

X-RAYS: X-rays taken today in the office, including AP and

Corvel Scan Date: 8/2/2010



lateral views of the thoracic spine demonstrates a T7 compression fracture.

IMPRESSION: 1. T7 compression fracture.

PLAN: Disposition and treatment options discussed with the patient. H&P corroborated with Dr. Haskin. Dr. Haskin also consulted with Dr. Mills who recommends getting an MRI of the thoracic spine, and then following up with Dr. Mills after that has been performed to discuss further treatment options. Until that time he will remain on light duty and perform only sedentary work.

Doug T. Vick, PA-C
For J. Stewart Haskin, Jr., M.D. /5117
409230

fcc: Melvin Hecker, MD

Coastal Orthopaedic Associates MRI
Conway Health Plaza
235 Singleton Ridge Road
Conway, South Carolina 29527
(843) 234-2094 Office
(843) 347-4375 Fax

Professionally Interpreted by:
Carolina Radiology Associates, LLC

NAME: LEDFORD, SCOTT
DOB:
PHYSICIAN: HASKIN

DATE OF EXAM: 07/28/2010
PATIENT ID: COA62711

EXAM: MRI of the thoracic spine.

HISTORY: T7 compression fracture.

TECHNIQUE: Sagittal and selected axial T1 and T2-weighted imaging as well as sagittal inversion recovery images were obtained through the thoracic spine.

FINDINGS: There is a T6 compression fracture. This is counting from the cervical spine down. There is approximately 25-30% vertebral body height loss. No retropulsed fragment is seen. Edema is seen suggesting that this is acute in nature, consistent with history. Additionally, there is some edema in the superior anterior endplate of T9, likely representing a small contusion.

No significant central canal or foraminal stenosis is identified. Visualized paraspinal soft tissues are unremarkable, as is the cord itself.

IMPRESSION:

1. T6 acute compression fracture with approximately 30% vertebral body height loss. It should be noted that this counting is performed from the top down.

2. Probable contusion of the anterior superior endplate of T9.

Preliminary report faxed to Coastal Orthopaedics at 9:38 a.m. on 7/28/2010.

Images were interpreted at CRA office.

SIGNEDBY
DD: 07/28/2010
DT: 07/28/2010

smj

Aug. 17. 2010 3:49PM COA MEDICAL RECORDS No. 3712 P. 3

Corvel Scan Date: 8/5/2010

SCOTT LEDFORD

Date: 7/28/2010
Case No. 62711
AGE/SEX:

Referred By:

CHIEF COMPLAINT: Thoracic pain, right lower extremity pain and bilateral upper extremity paresthesias.

PRESENT ILLNESS: The patient presents to our office today. He complains of thoracic pain with associated numbness in both of his upper extremities, right greater than left. No radicular pain. He states the numbness in his arms is worse at night. He also complains of pain that begins in the right gluteal region and radiates down to the posterior thigh with associated paresthesias and anesthesias. This all began 07/15/2010 when he was tazed during a training course at work. He is a State Trooper. He denies any history of thoracic, bilateral upper extremity or right lower extremity pain prior to the injury. Overall, his pain in the middle back is the most bothersome. No fever. No weight loss. No bowel or bladder dysfunction. The pain is worse with sitting, moving fast, running, or lifting. He states that standing gives him some relief.

MEDICAL HISTORY: Hypertension.

SURGICAL HISTORY: Left index finger surgery.

MEDICATIONS: None.

ALLERGIES: Shellfish.

SOCIAL HISTORY: No alcohol, tobacco, or drug use.

REVIEW OF SYSTEMS: Noted and reviewed as documented in the chart.

Corvel Scan Date: 8/5/2010



PHYSICAL EXAMINATION:

GENERAL APPEARANCE: Well-developed, well-nourished, alert and oriented x 3. Patient appears to be in no acute distress.

VITAL SIGNS: Respirations 20. Height 5 feet 10 inches. Weight 185.

SPINE EXAM: Thoracic spine, mid-thoracic tenderness. Lumbar spine, no tenderness. Full range of motion. Cervical spine, no tenderness. Full range of motion. Negative Spurling's.

HIPS: No pain with range of motion.

VASCULAR: Positive pedal pulses.

NEUROLOGICAL EXAM: Manual motor testing reveals 5/5 strength to bilateral biceps, triceps, wrist dorsiflexors, grip, quadriceps, tibialis anterior, and extensor hallucis longus. DTRs are normoactive and symmetric. Negative straight leg raise. No clonus.

RADIOGRAPHS: Thoracic MRI shows an acute T6 compression fracture with edema at T9. Thoracic spine x-rays show 22 degree kyphosis at T6.

ASSESSMENT:

1. **Acute T6 compression fracture with 22 degree kyphotic deformity and edema at T9.**

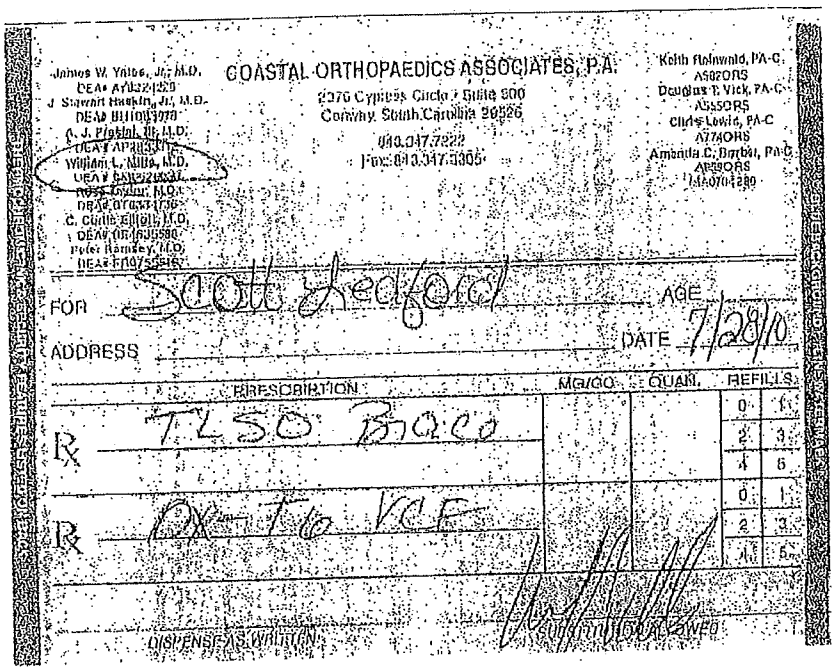
PLAN: The patient's history and management were discussed with Dr. Mills. Dr. Mills was in to see the patient. I recommended in regards to the numbness in his upper extremities and right lower extremity, getting him in to see Dr. Benjamin for his opinion regarding this. We will put him in a TLSO brace for his compression fracture. We will give him Neurontin 1 p.o. b.i.d., precautions provided. AP F&E's cervical spine. AP F&E's lumbar spine. We will also get AP and lateral x-rays of the thoracic spine in the brace. We will see

Corvel Scan Date: 8/5/2010



him back in 2 to 3 weeks or sooner should any new or worsening symptoms develop. AP and lateral x-rays of the thoracic spine upright in the brace.

Amanda C. Barber, PA-C
For William L. Mills, M.D. /5154
410955



COASTAL ORTHOPAEDICS ASSOCIATES, P.A.

James W. Yates, Jr., M.D.
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J. Stewart Hankin, Jr., M.D.
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Amanda C. Dunbar, PA-C
ASSISTANTS
[illegible]

FOR Scott Redford AGE

ADDRESS DATE 7/29/10

| | PRESCRIPTION | MG/CC | QUAN. | REFILLS | |
|---|---|---|---|---|---|
| Rx | TLSO Brace | | | 0 | 1 |
| | | | | 2 | 3 |
| | | | | 4 | 5 |
| Rx | DX- Fx VCF | | | 0 | 1 |
| | | | | 2 | 3 |
| | | | | 4 | 5 |

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SCOTT A LEDFORD REF: ER CONWAY
62711
8/17/2010

SUBJECTIVE: The patient presents to our office today for follow-up of T6 compression fracture. Date of injury is 7/15/2010. He reports he has been wearing the brace. He has seen Dr. Sarb for the upper extremity and right lower extremity pain and upper extremity paresthesias.

OBJECTIVE: The patient is well-developed, well-nourished. The patient is alert and oriented x 3. The patient appears to be in no acute distress. On examination today the patient is neurovascularly intact.

X-RAYS: AP and lateral views of the thoracic spine views show a 15.3-degree kyphotic deformity. AP and lateral flexion and extension views of the cervical spine show disc space narrowing at C6-7. AP and lateral flexion and extension views of the lumbar spine at L4-5 and L5-S1.

**ASSESSMENT:** Acute T6 compression fracture with now measuring 15.3-degree kyphosis and also at T9.

PLAN: We will leave the pain in the right leg and upper extremity paresthesias up to Dr. Sarb. He does report this is improving. Continue his TLSO brace for now. We will see him back in 4-6 weeks or sooner should new or worsening symptoms develop. X-rays out of the brace. We will keep him out-of-work until his follow-up appointment.

Amanda C. Barber, PA-C /5142
for William L. Mills, M.D.
443512

Chart Copy

fcc: Conway Medical Center Emergency Room

15

SCOTT A LEDFORD REF: ER CONWAY
62711
9/29/2010

SUBJECTIVE: The patient presents to our office today for follow-up. He is about 2 1/2 months out status post T6 compression fracture. Date of injury was 7/15/2010. Also, he has a history of right lower extremity pain and upper extremity paresthesias, which is improved. Overall he states his thoracic pain has improved significantly. He complains of a trigger point along the right scapular region.

OBJECTIVE: The patient is well-developed, well-nourished. The patient is alert and oriented x 3. The patient appears to be in no acute distress. On examination today the patient is neurovascularly intact. He does have a right scapular border trigger point.

RADIOGRAPHS: X-rays out of the brace show no change in kyphosis.

**ASSESSMENT:**

1. Acute T6 compression fracture without change in kyphotic deformity and T9 compression fracture.
2. Myofascial pain.

PLAN: We will, at this point, let him discontinue his brace. He can discontinue his brace. I recommend physical therapy for core strengthening and follow-up with a work hardening program and functional capacity evaluation. We will keep him out-of-work until the functional capacity evaluation. He can work within those guidelines.

Also, under aseptic technique, after verbal consent was obtained, I injected right scapular region with 1 cc of lidocaine, 1 cc of Marcaine and 1/2 cc of 40 mg Kenalog. The patient tolerated the injection well. No complications were noted. We will also get him a prescription for Flexor patches he can use on that area. We will see him back in 3-4 months or sooner should new or worsening symptoms develop. AP and lateral views of the thoracic spine at that time centered on C6.

16

Amanda C. Barber, PA-C /5142
for William L. Mills, M.D.
521897

Chart Copy

fcc: Conway Medical Center Emergency Room

SCOTT A LEDFORD REF: ER CONWAY
62711
DOB: 08/15/1975
04/02/2012

SUBJECTIVE: The patient comes in today with continued pain. He is having thoracic, lower back and right ankle pain. He was released back in January to full duty. He does not feel that his pain ever really resolved and he is having trouble now tolerating full duty. Recently he had a motorcycle wreck and this exacerbated his pain. He was having pain in the upper back, lower back and in the right ankle. No fever. No bowel or bladder dysfunction.

OBJECTIVE: He has normal strength. Normal neurologic exam. He is tender over the lumbar region. Also, exam of the right ankle reveals swelling laterally over the distal fibula and lateral ankle ligament area.

X-RAYS: Lumbar x-rays with flexion and extension views show a transitional level. No spondylolisthesis. Thoracic x-rays show mild wedging amid thoracic vertebrae. Right ankle x-rays show no fracture.

ASSESSMENT: 1. Chronic thoracic and lumbar pain. Rule out right ankle distal fibula stress fracture.

PLAN: Thoracic and lumbar MRI. MRI of the right ankle. Warm and form corset. Equalizer boot. Mobic 15 mg daily. Nucynta 100 mg ER q. 12 hours. Equalizer boot. On an out of work status until I have a chance to review his scans.

William L. Mills, M.D. /5204
1795961

Chart Copy

fcc: Conway Medical Center Emergency Room

MAY. 2. 2012 2:17PM COA INSURANCE NO. 345 P. 4/13

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# Work and/or School Release

Date: **4/2/2012**

Patient Name: **SCOTT LEDFORD**
Patient ID: **62711**
Diagnosis: THORACIC/LUMBAR PAIN & RT ANKLE SPRAIN

Please be advised that our patient: **SCOTT LEDFORD**:

☒ Was seen in our office on the following dates: 4/2/2012

☐ May return to full duty on: _____

☒ May not return to work until: AFTER NEXT APPT. (MRI FOLLOW-UP)

☐ May return to light duty: _____

☐ May not participate in: _____

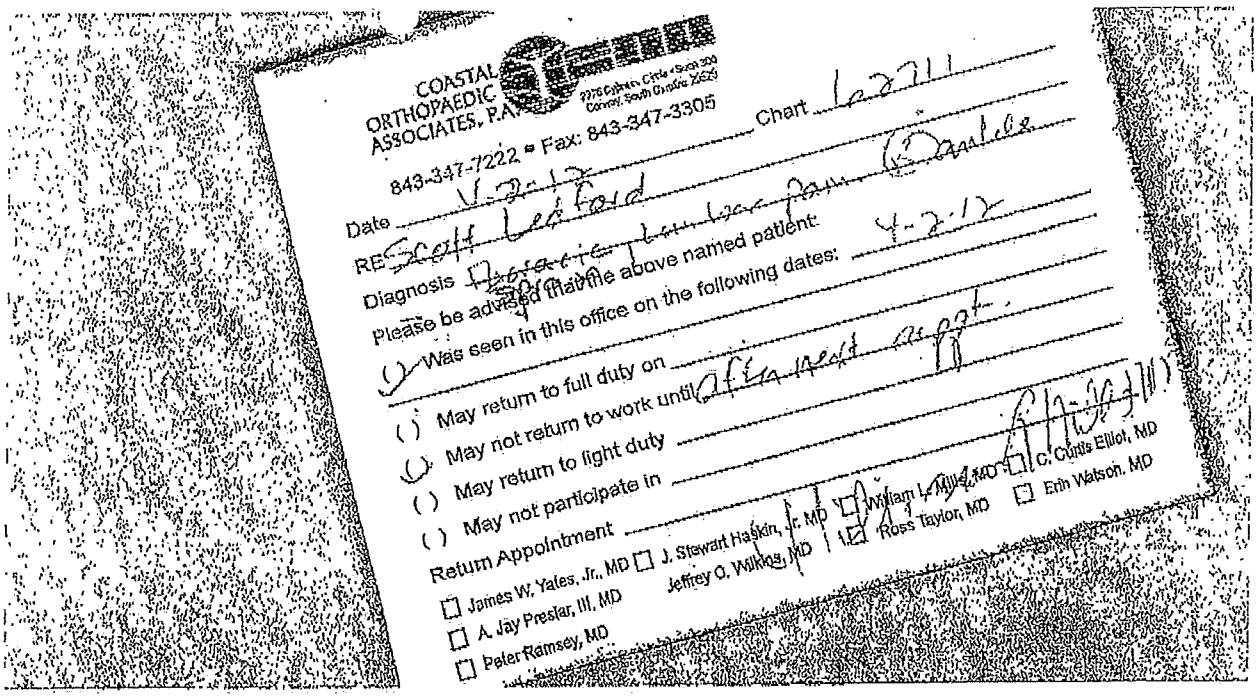
☐ Other: _____

Return Appointment: WHEN MRI'S ARE COMPLETED

Attending MD:

William L. Mills, MD DATE: 4/2/2012

MAY. 2. 2012 2:19PM COA INSURANCE NO. 345 P. 11/13



COASTAL ORTHOPAEDIC ASSOCIATES, P.A.
2276 Oakhurst Circle • Suite 300
Conway, South Carolina 29526
843-347-7222 • Fax: 843-347-3305

Date 5-2-12 Chart 162711

RE Scott Ledford

Diagnosis Bilateral knee pain

Please be advised that the above named patient:

(X) Was seen in this office on the following dates: 4-2-12

( ) May return to full duty on _____

(X) May not return to work until after next appt.

( ) May return to light duty _____

( ) May not participate in _____

Return Appointment _____

☐ James W. Yates, Jr., MD ☐ J. Stewart Haskin, Jr. MD ☐ William L. Miller, MD ☐ C. Curtis Elliot, MD
☐ A. Jay Preslar, III, MD Jeffrey O. Wilkins, MD ☑ Ross Taylor, MD ☐ Erin Watson, MD
☐ Peter Ramsey, MD

MAY. 2. 2012 2:19PM COA INSURANCE NO. 345 P. 12/13

LONG BAY
DIAGNOSTIC IMAGING

| | |
|---|---|
| PATIENT: | Ledford, Scott |
| DOB: | 8/15/1975 |
| MRN: | 838315 |
| PATIENT PHONE: | 843-241-8750 |
| PHYSICIAN: | William Mills, MD |
| DATE: | 4/17/2012 |

EXAM: MRI RIGHT ANKLE WITHOUT CONTRAST

HISTORY: 36-year-old male with a swelling and pain since trauma one month ago.

COMPARISON STUDIES: Not available.

TECHNIQUE: Sagittal T1W/STIR, axial and coronal T1W/fat-saturated PDW imaging sequences acquired at the ankle without contrast on the 1.5 Tesla GE Signa magnet.

FINDINGS: There is patchy bright (STIR/fat-saturated T2W) signal change in the posterior malleolus level, distal tibia and opposing posterior pole of the talus. There is irregularity of outline and low signal linear changes in the outline of the posterior pole of the talus. There is a small tibiotalar joint effusion, particularly at the posterior recess. Posterior ligaments appear intact. There is a small amount of fluid about the flexor hallucis longus tendon at sheath found closely adjacent to this level. The posterior ligaments appear intact. There is a mild signal increase (STIR/fat-saturated T2W) at the subcutaneous soft tissues in front of the lateral malleolus. No underlying fracture nor ligamentous disruption.

Remaining osseous soft tissue outlines of the ankle and included foot prove unremarkable.

IMPRESSION:
1. The most striking finding is opposing marrow edema (consistent with contusion) signal change at the posterior pole talus and posterior malleolus of the distal tibia. There may be minor fracturing change associated at the outline of the posterior talus.
2. Nonspecific soft tissue edema anterolateral of the lateral malleolus without focal underlying internal derangement.
3. Findings consistent with tenosynovitis at the flexor hallucis longus level.

David Kallman, M.D.
DK / dg

DD: 4/18/2012
DT: 4/18/2012
Job: 14978217

900 21ST AVENUE NORTH
MYRTLE BEACH, SC 29577
(843) 916-1700
(843) 916-9460 FAX

MAY. 2. 2012 2:18PM COA INSURANCE NO. 345 P. 7/13

Patient: Ledford, Scott
MRN: 838315
Exam: MRI RIGHT ANKLE WITHOUT CONTRAST

This document has been electronically reviewed and signed by David Kallman, M.D.



MAY. 2. 2012 2:18PM COA INSURANCE NO. 345 P. 8/13

LONG BAY
DIAGNOSTIC IMAGING

| | |
|---|---|
| PATIENT: | Ledford, Scott |
| DOB: | 8/15/1975 |
| MRN: | 838315 |
| PATIENT PHONE: | 843-241-8750 |
| PHYSICIAN: | William Mills, MD |
| DATE: | 4/17/2012 |

EXAM: MRI THORACIC AND LUMBAR SPINE WITHOUT CONTRAST

HISTORY: A 36-year-old male with persisting back pain dating to injury in 2010. Bilateral lower extremity pain associated.

COMPARISON STUDIES: Not available.

TECHNIQUE:
THORACIC: Following a sagittal T2W localizer, sagittal T1W/T2W/STIR, coronal T1W as well as axial T2W imaging sequences conducted through thoracic levels without intravenous contrast on the 1.5 Tesla GE Signa magnet.

LUMBAR: Sagittal T2W (with and without fat-saturation)/STIR, coronal T1W as well as axial T1W/T2W imaging sequences obtained without contrast.

FINDINGS:
THORACIC: Coronal imaging demonstrates no significant scoliosis. Included lungs and cervicothoracic soft tissues as well as those of the upper abdomen prove unremarkable on coronal imaging assessment.

On sagittal T2W localizing images, the least moderate if not more advanced central spinal canal stenosis is in evidence at the cervical spine (C5-C6, C6-C7) levels. There appears to be associated impressions made of impingement upon the volar aspect of the cervical cord.

There is mild anterior wedge configuration at T6. Remaining osseous vertebrae demonstrate unremarkable height and signal as well as alignment. Outlines, signal in caliber of the thoracic cord and included conus unremarkable. There is a mild posterior disc bulge effacing CSF ventral to the cord at T8-T9 and to a lesser degree at T9-T10 without significant impingement upon the cord itself. Mild to moderate loss of disc space height and signal of desiccation is found at mid thoracic segmental levels.

LUMBAR: Coronal imaging demonstrates no significant thoracolumbar scoliosis. Included T1W outlines of hollow and solid viscera unremarkable. Pelvic ring and proximal femora unremarkable as included. Abdominal aorta tapers normally to the bifurcation and beyond. Soft tissues of the included retroperitoneum and paraspinal levels prove

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unremarkable on axial and sagittal assessments.

Signal characteristics, outline and caliber of the conus and cauda equina appear unremarkable. The tip of the conus is found at L1-L2. There is transitional anatomy at L5-S1 - there is "lumbarization" of the S1 vertebral body.

At and above the L4 level, central spinal canal and neural foramina are found patulous throughout. Disc space and vertebral body height, signal and alignment is well maintained.

At L4-L5, there is a mild to moderate circumferential disc bulge present, which has mild effacing effect upon the volar aspect thecal sac. In concert with mild to moderate hypertrophic ligamenta flava and bony facet changes, a mild triangular central spinal canal stenosis results. Neural foramina reasonably patulous.

At L5-S1, there is reasonable disc space height with moderate loss of signal of desiccation. There is a mild to moderate circumferential disc bulge present, which has a slight concave effect upon the volar aspect thecal sac. There is crowding of the lateral recesses, especially the left in concert with moderate hypertrophic ligamenta flava and moderate to more exuberant hypertrophic bony facet changes. Mild to moderate symmetric neural foraminal narrowings are present.

At S1-S2, the central spinal canal and neural foramina appear patulous.

Osseous column outlines, signal and alignment otherwise unremarkable. There is a mild straightening of the normal lordosis.

**IMPRESSION:**
1. Moderate if not more advanced central spinal canal stenosis with impingement upon the cervical cord is manifested at C5-C6 and C6-C7 levels, seen incidentally. Recommend MRI cervical spine assessment.
2. Only mild hypertrophic spondyloarthropathy changes involve the thoracic and lumbar levels. No significant central spinal canal nor neural foraminal encroachment.
3. Otherwise, unremarkable examinations.

David Kallman, M.D.
DK / lb

DD: 4/18/2012
DT: 4/18/2012
Job: 14977691

This document has been electronically reviewed and signed by David Kallman, M.D.



MAY. 2. 2012 2:18PM COA INSURANCE NO. 345 P. 6/13

SCOTT A LEDFORD REF: ER CONWAY
62711
DOB: 08/15/1975
04/20/2012

SUBJECTIVE: He continues with thoracic pain, lower back pain and right ankle pain. He is on the Nucynta. He is out of work.

OBJECTIVE: Thoracic MRI is reviewed. The compression fractures are healed. Lumbar MRI shows fairly advanced spondylosis L5-S1. Right ankle MRI shows a contusion. No definite fracture line.

ASSESSMENT:
1. Myofascial pain thoracic area.
2. Right ankle contusion.
3. L5-S1 spondylosis.

PLAN: Equalizer boot. Out of work. I think probably the best option for him as far as his lower back is an ALIF at L5-S1. First let's try some bilateral facet blocks at L5-S1. Out of work status. Equalizer boot. We will see him back in a couple of weeks.

William L. Mills, M.D. /5204
1848516

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# Work and/or School Release

Date: **4/20/2012**

Patient Name: **SCOTT LEDFORD**
Patient ID: **62711**
Diagnosis:

Please be advised that our patient: **SCOTT LEDFORD**:

☒ Was seen in our office on the following dates: 4/20/2012

☐ May return to full duty on: _____

☒ May not return to work until: further notice

☐ May return to light duty: _____

☐ May not participate in: _____

☐ Other: _____

Return Appointment: _____

Attending MD:

William L. Mills, MD _____ DATE: 4/20/2012

MAY. 2. 2012 2:19PM COA INSURANCE NO. 345 P. 9/13

SCOTT A LEDFORD REF: ER CONWAY
62711
DOB: 08/15/1975
06/04/2012

ADDENDUM
SUBJECTIVE: He is also having some pain in his right ankle.

OBJECTIVE: He still has some swelling over the right ankle area.

**ASSESSMENT: 1. Right ankle contusion with continued pain.**

PLAN: I want him to try some Voltaren gel. We will put him out of work for now. Again, I recommend an ACDF at C5-6 and C6-7. Probably at some point he is going to need an ALIF at L5-S1.

William L. Mills, M.D. /5204
1969096

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2012033T2010181



SCOTT A LEDFORD REF: ER CONWAY
62711
DOB: 08/15/1975
06/04/2012

SUBJECTIVE: He has right hand numbness and right arm pain, neck and right arm pain, lower back pain.

OBJECTIVE: Cervical MRI is reviewed. There is disc space narrowing C5-6, C6-7. Lumbar MRI shows a central herniation L5-S1. Advanced spondylosis.

ASSESSMENT:
1. C5-6, C6-7 spondylosis with right cervical radiculopathy.
2. L5-S1 spondylosis.

PLAN: Treatment options were discussed. I recommend ACDF at C5-6 and C6-7 with LDR system, also ALIF at L5-S1. He probably wants to get his neck done first.

William L. Mills, M.D. /5204
1969095

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28

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# Work and/or School Release

Date: **6/4/2012**

Patient Name: **SCOTT LEDFORD**
Patient ID: **62711**
Diagnosis: Right ankle pain

Please be advised that our patient: **SCOTT LEDFORD**:

☒ Was seen in our office on the following dates: 6/4/2012

☐ May return to full duty on: _____

☒ May not return to work until: appointment with Dr. Taylor.

☐ May return to light duty: _____

☐ May not participate in: _____

☐ Other: _____

Return Appointment: _____

Attending MD:

William L. Mills, MD DATE: 6/4/2012

Kristi S. Johnson

From: Tonya Smith
Sent: Wednesday, July 28, 2010 3:12 PM
To: Kristi S. Johnson
Subject: FW: Scott Ledford DOI : 07/15/10 Dept of Public Safety /Transport Headquarters

**From:** Fowler, Raquel [mailto:rfowler@compendiumusa.net]
**Sent:** Wednesday, July 28, 2010 3:13 PM
**To:** Tonya Smith
**Cc:** Elizabeth Schachner; paulacrockett@scdps.net
**Subject:** Scott Ledford DOI : 07/15/10 Dept of Public Safety /Transport Headquarters

Rec'd verbal report from Kristy at Costal Ortho; DOS: 07/28 - Thoracic MRI has been completed and read by MD - It confirms;
T6 compression Fx w/ 25-30 vertebral body height lost, edema noted and this suggests the Fx is acute in nature and no chronic.
This further confirms direct causal relationship between IW's diagnosis as it's related to the "Description of Injury - of being tazed" causing fx due to muscle rigidity & violent musde contractions.

Dr Mills wants to put IW in a TLSO brace to immobilizing IW from the neck to the waist ASAP before he leaves the office - she's requesting authorization for the brace which they have in stock their office.

IW also needs to be referred for a Neuro evaluation due to bilateral upper ext numbness - Verbal & e-mail Authorization (Auth # 2807104303275) sent for IW to be seen by Dr. Benjamin or any other Neuro at Strand Regional Specialty Associates - There is an office located in Conway and Myrtle beach - awaiting appt info so the correct location can be put in the system.
IW's still in the office at Costal Ortho being evaluated by Dr Mills and NCM still awaiting f/u appt w/ Dr Mills and IW's works status.
Conference call placed to claims adj and she provided verbal auth for DME to be directly faxed to claims, all parties updated/rlf

Raquel Fowler, LPN
Nurse Case Manager
CompEndium Services, Inc.
Office Hours 8:00 am - 5:00pm
Main Phone: 877-709-2667 Ext # 1017
Direct Fax: 678-985-4862
E-mail address: rfowler@compendiumusa.net

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**From:** Fowler, Raquel
**Sent:** Tuesday, July 27, 2010 4:15 PM
**To:** 'tsmith@coaortho.net'
**Cc:** 'Elizabeth Schachner'; 'paulacrockett@scdps.net'
**Subject:** Auth for STAT-MRI - Scott Ledford DOI : 07/15/10 Dept of Public Safety /Transport Headquarters

Update:
Rec'd verbal report from Dr. Haskins at Coastal Orthopedic:
He evaluated IW today DOS: 07/27/10, notes IW also brought in w/ him & MD watch the video of the incident when IW was tazed. Notes IW was gently placed to the ground, however per x-rays IW has a T7 compression fracture and is in need of a STAT MRI of Thoracic spine w/out contrast to help r/o acute or chronic fx then IW needs to f/u w/ their office on 07/28.
**MD notes either way IW is walking around w/ a "broken back" and he needs something done ASAP"

I requested a direct causal relationship between IW's diagnosis as it's related to the "Description of Injury: Tazed".

MD notes it's very possible for IW to have sustained a compression fx, caused by muscle rigidity & violent muscle contractions similar those whom have grand mal seizures. based on this verbal report the request is medically necessary and appropriate Auth # 270710430310O1 -
and due to stat request I was not able to get One call medical to have testing set up in such short time, so Ok'd IW to have MRI done at Coastal Orthopedic and once they get IW on the line to get him scheduled to have scan done no later than 07/28 and also f/u w/ Ortho back spit - Dr. William Mills on same day. Will look for an update from Tonya once all dates have been confirmed.
All parties updated/rlf

Raquel Fowler, LPN
Nurse Case Manager
CompEndium Services, Inc.
Office Hours 8:00 am - 5:00pm
Main Phone: 877-709-2667 Ext # 1017
Direct Fax: 678-985-4862
E-mail address: rfowler@compendiumusa.net

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SRSA
Strand Regional Specialty Associates

## OFFICE VISITS

Name: Ledford, Scott Date of Birth: 8.15.75

Address:

Phone: Medications:

Drug Allergies:

| DATE | NOTES | HT | WT | BP | P | T |
|---|---|---|---|---|---|---|
| | | | 197 | 134/76 | 80 | |

Strand Regional Specialty Associates

## OFFICE VISITS

Name: Ledford, Scott A. Date of Birth: 08/15/75
Address: MR# 110-58-0432 MR# 121838
Phone: Medications:
Drug Allergies:

| DATE | NOTES | HT | WT | BP | P | T |
|---|---|---|---|---|---|---|
| 8/10 | | | 201 | 138/92 | 108 | |

With brace on.

Shifted weight anterior

30 x 1 hr

? Eryhtrocin Zmax

Thoracic comp fx

Rt

SRSA 012 OFF VISIT 8-03

# Strand Regional Specialty Associates, LLC
## Patient Data Base

Providing information about your personal and family medical history is one of the best ways to help your physician learn a great deal about your health in a short period of time. The questions in the Medical History Worksheet are designed to help you remember and communicate important details of your past and current health history. Complete as much of the worksheet as possible, answering as many of the questions as you can.

Name Scott Ledford Date of Birth 8/15/75

Height 5'10 Weight 185 #'s ☒ Right-handed ☐ Left-handed

Please describe the problem you are experiencing:

Numbness Right Arm/Leg slight numbness left arm

How long have you been having this problem? 7/15/2010 Tonya is Trainy Controlled among 10,000 Volts (L) Shoulder + Rhip and

How often does this problem occur? ALOT Dumontdoor + landscaping Yard

How severe is the problem? ☒ Very severe ☐ Moderately severe ☐ Mild Carpentry Thursday Job

Are there things that make this problem worse?

yes Yoga Walking + help up Stairs

Are there things that make this problem better?

yes SOB much pain

What activities can you no longer do because of this problem?

RUN/exercise right arm contracted Rt side & leg Rt Battle post leg of foot of the Rt Hand Wednesday Yoga to Yoga possible tingling sensation

Do you experience this problem with movement? ☒ Yes ☐ No

Do you experience this problem at rest? ☒ Yes ☐ No

### Medical History

Prior Medical Problems (Include any Neurological and/or Orthopaedic related problems):

NONE

Prior Surgical History (List all operations and dates):

Right Index Finger 2005 3 weeks Neuro @ Jolla TPA No B/B No face work Dr. unsure the source

Previous Hospitalizations other than Surgery (Include reason for hospitalization and dates):

NONE

Medications (List all present medications with dosages - include over-the-counter vitamins, Tylenol, etc.):

NONE

Allergic History to Medications (List medication and specific allergy and/or reaction):

Shell fish

**Family History** (List age and medical problems of parents, siblings, and children - if any deaths have occurred in the family please list age and cause of death):

Mother: —

Father: Heart attack / Blood pressure

Brother(s): NONE

Sister(s): NONE

Children: NONE have medical issues

**Social History**

Do you smoke? ☐ Yes ☒ No

How long have you smoked? N/A

Did you ever quit? ☐ Yes ☐ No For How Long? _____

Do you drink alcohol? ☐ Yes ☒ No

If yes, indicate the number of drinks (and type) you take in an average week.

(Please include beer and wine) N/A

Do you use other drugs? ☐ Yes ☒ No

Have you ever had a blood transfusion? ☐ Yes ☒ No

Marital Status: ☐ Single ☒ Married ☐ Widowed ☐ Divorced ☐ Widowed/Divorced/Remarried

Pt Name: Scott Ledford

Date: 8/27/2010

SRSA
Strand Regional Specialty Associates

In order for the physician to be more effective in meeting your medical needs, please answer the following questions for today's visit:

Why are you here today? BACK

Do you have any new problems or symptoms? IF so, what are they?

NO - still have alot of pain on left side of spine middle back

Please list ALL medications taken and how often you take them:

| | | | |
|---|---|---|---|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

Do you need any of these medications refilled? If so, please place a check in the box by that medication above.

Do you have any specific questions for the doctor? Please list below

**DO NOT WRITE BELOW: PHYSICIAN ONLY**

Thank you for allowing us to be of service to you today. Please follow these directions to best assist in the care of your medical condition:

Medications:
- [ ] No Changes
- Make the following changes:

Add the following medications:

- [ ] Tests to be done:
- [ ] Call _____ for an Appt at _____ You will be contacted. Check info
- [ ] Other Instructions: Contact Number:

- [ ] Schedule a follow up appointment on or near:

***Call for follow up appointment at 449-2336 on the day you prefer to be seen or the day before you wish to be seen.***

STRAND REGIONAL SPECIALTY ASSOCIATES

Scott Ledford
DOB: 8/15/1975
Chart: 121838
Date: 8/10/2010
Neurology Consultation

**HISTORY OF PRESENT ILLNESS:** Mr. Ledford is seen in evaluation at the request of Dr. Mills regarding work-related Taser injury. The patient states that on 07/15/2010, he was in a Taser training in a controlled atmosphere, at which time he was tasered with 50,000 volts with impact to left posterior shoulder region and at the right iliac crest at 7 feet distance. The patient states that he extended his back and was held up by two fellow troopers. He noted muscle contraction and spasm. He states that couple of days later, he was having shortness of breath and his muscles continued to feel tight and contracted. He also had numbness and tingling of the right arm, right leg especially down the right buttock, and posterior leg to the foot. There is a little bit of numbness on the left leg, but this has since resolved. He denies any bowel or bladder dysfunction or any face symptoms. He does note if he runs, the pounding seems to cause jolts of increased pain. He was seen by Dr. Mills approximately four or five days later for thoracic back pain and was found to have two compression fractures in the upper thoracic region and has been in a thoracic spine brace. He denies any neck pain.

**PAST MEDICAL HISTORY:** Pertinent for surgery on his right index finger in 2005. He denies any prior spine injury or medical illness.

**MEDICATIONS:** He is currently on no medications.

**ALLERGIES:** He does have any allergy to shellfish.

**FAMILY HISTORY:** Father with history of myocardial infarction and hypertension.

**SOCIAL HISTORY:** The patient denies any tobacco or alcohol use. He is married. He is a state trooper/police officer. He also owns the outdoor guide company and Landscape Company.

**REVIEW OF SYSTEMS:** The patient notes his right grip appears less than the left. He notes difficulty sleeping, shortness of breath which has gotten better, thoracic pain and stiffness, numbness and tingling in right arm appears to be on the undersurface of the arm more so than anywhere else with numbness of all fingers. Numbness and tingling of the right leg down the buttocks and back of leg primarily to the foot.

**PHYSICAL EXAM:**
**VITAL SIGNS:** Blood pressure 138/92, pulse 68, and weight 201 pounds.
**GENERAL:** The patient does have a thoracic back brace in place. He has no signs of shortness of breath.
**HEENT:** Normocephalic.

**NECK:** Supple.
**HEART:** Regular rate and rhythm.
**LUNGS:** Clear.

**NEUROLOGICAL EXAMINATION:**
**CN II-XII:** PERRLA. EOMI. Full visual fields with confrontation. Funduscopic exam is normal with no evidence of papilledema or hemorrhage. Spontaneous venous pulsations are seen. Facial sensation is intact to pinprick. Muscle of mastication are strong with symmetrical facial expressions. Hearing is intact to conversation. Soft palate elevated symmetrically with midline protrusion of the tongue. Gag is intact. Sternocleidomastoid and trapezius strength is symmetric.
**MOTOR:** The patient does have a little bit of decreased right grip compared to the left. He is right-hand dominant. Intrinsic hand muscles are symmetric. Remainder of the motor strength testing is intact.
**SENSORY:** Sensation is intact to pinprick, temperature, vibration and position sense. There is no truncal sensory level.
**DTRs:** 2/4 in the upper and lower extremities with downgoing plantar response.
**CEREBELLAR:** There is an intact finger-nose-finger, rapid alternating movements and heel-to-shin testing.
**MECHANICAL SPINE:** The patient denies neck pain with range of motion and palpation. There is no sensory level in the cervical region. He does have back brace in place.
**GAIT:** His gait is stable. He is able to tandem work.

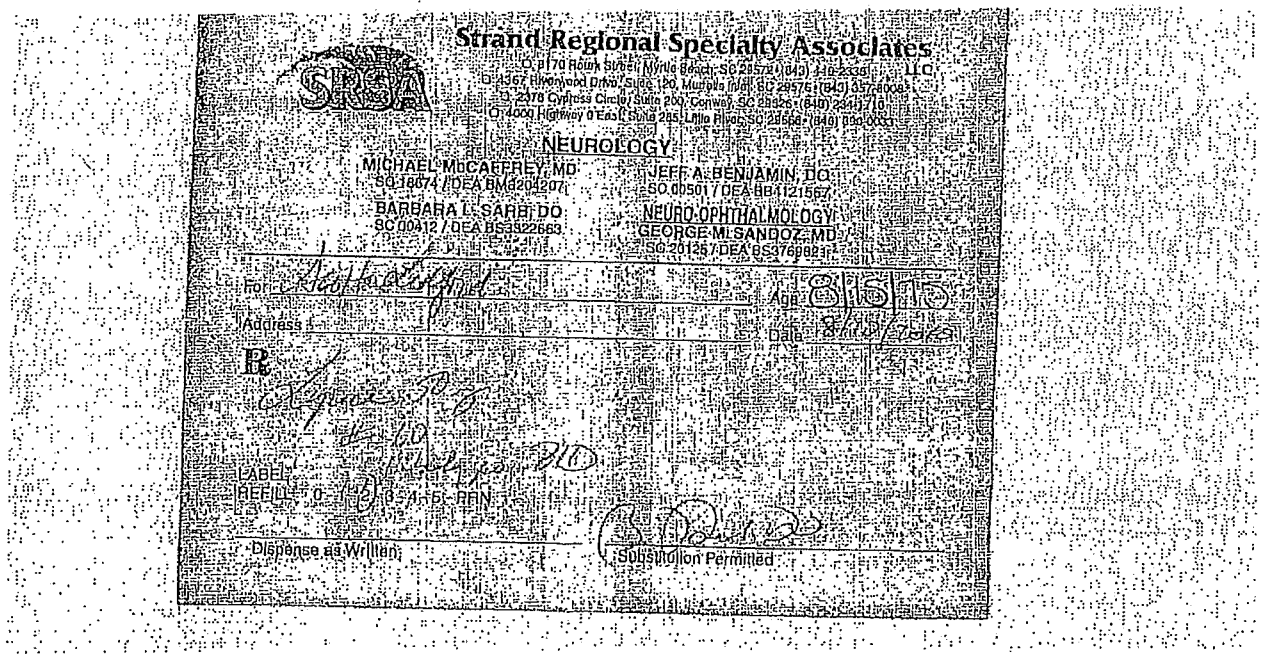
**MEDICAL DECISION MAKING:** Mr. Ledford is seen in evaluation for work-related Taser injury.

**RECOMMENDATIONS:** He has had two thoracic compression fractures and is having numbness, tingling, and paresthesias in the arms and legs secondary to nerve root inflammation/radiculitis post event. I have discussed treatment options with the patient. We are going to try him on some Lyrica 50 mg one to two tablets a day. Side effects to monitor for were discussed with the patient. I would like to see him back in followup in two weeks. If he is not showing improvement, we will proceed with the EMG and nerve conduction study of the right upper and lower extremity in addition to further imaging studies of the cervical and lumbar region at that time.

Barbara L. Sarb, DO

BS/apa

cc: William Mills, M.D.



Strand Regional Specialty Associates

[illegible] Oak Road, Suite 170 Myrtle Beach, SC 29572 (843) 449-2336 LLC
[illegible] Sherwood Drive, Suite 120, Murrells Inlet, SC 29576 (843) 357-6006
2378 Cypress Circle, Suite 200, Conway, SC 29526 (843) 248-7710
[illegible] Highway 9 East, Suite 285, Little River, SC 29566 (843) 390-0000

NEUROLOGY

MICHAEL McCAFFREY, MD
SC 16074 / DEA BM4204207

BARBARA L. SARR, DO
SC 00412 / DEA BS3522663

JEFF A. BENJAMIN, DO
SC 00501 / DEA BB4121567

NEURO-OPHTHALMOLOGY

GEORGE M. SANDOZ, MD
SC 20126 / DEA BS3769921

For: [illegible] Age: [illegible]

Address [illegible] Date [illegible]

Rx

[illegible]

LABEL

[illegible]

Dispense as Written

Substitution Permitted

Scott Ledford
DOB: 8/15/1975
Chart: 121838
Date: 8/27/2010
Page 1

Patient MRN: 121838

Date: 08/27/2010

Category: Dictation

Description: Sarb dictation

Provider ID:C706AC9B-07A5-4436-9BD0-99AC04AF5CE2

Transcription Date: August 27, 2010

Scott Ledford
DOB: 8/15/1975
Chart: 121838
Date: 8/27/2010
Neurology Follow Up

SSN#:

**HISTORY OF PRESENT ILLNESS:** Mr. Ledford is seen in followup after a taser injury. He continues complaint of numbness and tingling of right arm and right leg and pain radiating down the arm. He states he had some cervical x-rays and updated thoracic x-rays at orthopedics. I do not have these notes and we will have him sign a record release. He states that everything, to his knowledge, was stable. He does have an area of tenderness and radiating pain on the right T6 through T9 area from the spine out to the rhomboid area and in towards the scapula area. He also feels like the right arm is just weaker in general. His grip is decreased on the right arm strength testing today. That is his dominate arm. He continues to have right sciatica pain and numbness, however, Lyrica is helping a little. He is just taking one tablet at nighttime. He is tolerating okay. He is really not interested in increasing. He states he is just not a medicine person.

**PHYSICAL EXAM:**
**MOTOR:** He does have decreased grip strength on the right compared to the left. Proximal strenght is intact. He does have subjective tenderness over the T6, T9 area just to the right of the midline. Some increased muscle tone of the paraspinal muscles on the right radiating to the mid-

Scott Ledford
DOB: 8/15/1975
Chart: 121838
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Page 1

shoulder blade area. He does have complaint of pain down the right buttocks, back leg. Motor strength otherwise is intact..
**SENSORY:** No. dermatomal loss.

**MEDICAL DECISION MAKING:** Patient with taser injury. Patient with continued complaint of numbness, tingling in right arm, decreased right grip.

**RECOMMENDATIONS:** I have recommended MRI of the cervical region for evaluation of cervical disc pathology in addition to EMG and nerv.e conduction study of the right arm and right leg for paresthesias neuropathy. He may continue on the Lyrica which does seem to be helping neuropathic pain at this point. I have also placed a Lidoderm patch on the area of thoracic neuropathic pain. If this does help, I will give him a prescription for one patch daily, to remove at nighttime. He will be seen in followup after the above has completed or in four weeks

Barbara L. Sarb, DO

BS/ljh

cc:

Electronically Signed on 09/12/2010 5:00 PM

The End.

Barbara Sarb

# InMed

Diagnostic Services of S.C., LLC

| | |
|---|---|
| PATIENT NAME: | SCOTT LEDFORD |
| DOB: | 8-15-75 |
| REFERRING PHYSICIAN: | B. SARB |
| GENDER: | MALE |
| MR# | 416826 |
| DATE OF STUDY | 9-9-10 |

## MRI CERVICAL SPINE

HISTORY: Neck pain and mid back pain extending into the right arm with numbness. Prior history of thoracic spine fractures.

TECHNIQUE: Sagittal T1/T2 and axial T2 and gradient echo images obtained on a .3 Tesla open MRI unit.

FINDINGS: The paramidline lower cerebellum, lower brainstem and cervicomedullary junction are intact. C1-T2 are normally aligned. The T3 vertebral body is mildly decreased in height at the superior endplate. T4 is also mildly decreased in height and the findings may relate to chronic compression fractures at T3 and T4. There is no posterior bony retropulsion or cortical extension. Currently, no findings of marrow edema. The cervical and upper thoracic spinal cord is normal caliber and signal. Mild disc degeneration is seen at C2-3, C3-4, and C4-5. No significant disc bulge or foraminal stenosis at these levels. C5-6 disc is degenerated and narrowed with broad-based posterior disc protrusion greatest to the left of midline with overlying osteophytes. The findings are typical of moderate spondylosis with thecal sac effacement and mild left foraminal stenosis. Left sided moderate spondylosis is seen at C6-7 as well with osteophyte and chronic disc bulge best seen just ventral to the left C7 ventral rootlets. The foramina remain patent. C7-T1 and T1-2 and T2-3 discs are unremarkable. No defined paraspinal mass or muscle asymmetry. No significant right foraminal stenoses are identified with only mild spondylotic spurring to the right at C4-5, C5-6, and C6-7 levels.

IMPRESSION:

1. Moderate C5-6 and C6-7 left sided dominant spondylosis and degenerative disc disease with left sided thecal sac effacement and possible left C7 ventral rootlet contact. Mild left foraminal stenosis due to the chronic spondylotic spurring. No findings of acute disc herniation with particularly attention to the right side.
2. Mild mild cervical facet arthropathy with no acute fractures.
3. Mild wedge deformity and superior endplate deformities at T3 and T4 vertebral bodies that may relate to remote fractures.

Charles E. Parks, M.D.

CEP/skd

Hx football injs & current complaints →

DW pt 9/21

4701-C Oleander Dr.
Myrtle Beach, S.C. 29577
(843) 692-0040 F: (843) 692-0045

FAXED 9/21 9:20

Ocean Spine & Neurological Inst.
8170 Rourke Street
Myrtle Beach, SC 29572
(843) 449-2336

Patient: Ledford, Scott A
Sex: Female
Age: 35
I.D.#: A121838-1
Ref. M.D.: One Call Medical

Physician: Dr Sarb
Test Date: 09/21/10

History/Comments:

DOB 08-15-75 Paresthesia

Motor Nerve Study

| Right Median Nerve | | | | | | |
|---|---|---|---|---|---|---|
| Rec Site: APB | Lat (ms) | Norm Lat | Amp (mV) | Norm Amp | C.V. (m/s) | Norm C.V. |
| Stim Site | | | | | | 48 |
| Wrist | 3.4 | 4.5 | 11.3 | 3 | | |
| Elbow | 7.8 | | 11.7 | | 60.6 | |

| Right Ulnar Nerve | | | | | | |
|---|---|---|---|---|---|---|
| Rec Site: ADM | Lat (ms) | Norm Lat | Amp (mV) | Norm Amp | C.V. (m/s) | Norm C.V. |
| Stim Site | | | | | | 48 |
| Wrist | 3.3 | 3.6 | 9.1 | 5 | | |
| B.Elbow | 6.3 | | 8.5 | | 64.9 | |
| A.Elbow | 7.8 | | 8.7 | | 70.6 | |

| Right Peroneal Nerve | | | | | | |
|---|---|---|---|---|---|---|
| Rec Site: EDB | Lat (ms) | Norm Lat | Amp (mV) | Norm Amp | C.V. (m/s) | Norm C.V. |
| Stim Site | | | | | | 42 |
| Ankle | 6.4 | 6.6 | 4.3 | 2 | | |
| Fib.Head | 12.8 | | 4.1 | | 44.8 | |
| Pop.Fos. | 14.8 | | 4.0 | | 46.2 | |

| Right Tibial Nerve | | | | | | |
|---|---|---|---|---|---|---|
| Rec Site: AH | Lat (ms) | Norm Lat | Amp (mV) | Norm Amp | C.V. (m/s) | Norm C.V. |
| Stim Site | | | | | | 42 |
| Ankle | 5.8 | 6.6 | 7.5 | 2 | | |
| Pop.Fos. | 14.8 | | 7.4 | | 43.6 | |

Sensory Nerve Study

| Right Median Nerve | | | | | |
|---|---|---|---|---|---|
| Rec Site: Wrist | Norm Lat | Pk Lat (ms) | Amp (uV) | Norm Amp | |
| Stim Site | | | | | |
| Thumb | 2.4 | 2.3 | 40.3 | 40 | |
| Index | | 2.3 | 47.0 | | |

Patient: Ledford, Scott A
I.D.#: A121838-1

Test Date: 09/21/10

Sensory Nerve Study

| Right Ulnar Nerve | | | | |
|---|---|---|---|---|
| Rec. Site: Wrist | Norm Lat | Pk Lat (ms) | Amp (uV) | Norm Amp |
| Stim Site | | | | |
| 5th dig | 2.2 | 2.1 | 22.3 | 11 |
| Ring | | 2.1 | 26.3 | |

| Right Radial Nerve | | | | |
|---|---|---|---|---|
| Rec. Site: Wrist | Norm Lat | Pk Lat (ms) | Amp (uV) | Norm Amp |
| Stim Site | | | | |
| Index | 2.7 | 2.0 | 32.0 | 15 |
| | | 2.0 | 32.7 | |

| Right Sural Nerve | | | | |
|---|---|---|---|---|
| Rec. Site: Ankle | Norm Lat | Pk Lat (ms) | Amp (uV) | Norm Amp |
| Stim Site | | | | |
| mid calf | 4.5 | 3.8 | 20.0 | 6 |
| | | 3.7 | 18.3 | |

F-Wave Study

| Right Median Nerve | | | |
|---|---|---|---|
| Rec. Site: APB | Latency | Normal | |
| Stim Site: Wrist | ms | Latency | |
| M wave | 3.60 | | |
| F wave | 26.67 | 32 | |

| Right Ulnar Nerve | | | |
|---|---|---|---|
| Rec. Site: ADM | Latency | Normal | |
| Stim Site: Wrist | ms | Latency | |
| M wave | 4.00 | | |
| F wave | 26.00 | 32 | |

| Right Peroneal Nerve | | | |
|---|---|---|---|
| Rec. Site: EDB | Latency | Normal | |
| Stim Site: Ankle | ms | Latency | |
| M wave | 7.03 | | |
| F wave | 45.50 | 56/4 | |

Patient: Ledford, Scott A.
I.D.#: A121858-1
Test Date: 09/21/10

**F-Wave Study**

| Right Tibial Nerve<br>Rec Site: AH<br>Stim Site: Ankle | Latency<br>ms | Normal<br>Latency |
|---|---|---|
| M wave | 5.67 | |
| F wave | 46.50 | 55 |

**H-Reflex Study**

| Tibial Nerve<br>Rec Site: Soleus<br>Stim Site: Pop.Fos. | Latency<br>ms | | Normal<br>Latency |
|---|---|---|---|
| | L | R | |
| M wave | 4.83 | 5.60 | |
| H wave | 27.60 | 29.50 | 32 |

**EMG Study**

| Name | Ins.Act. | Fibs | PSW | Fascics | Polyph | MU Firing | MU Amp | MU Dur | Config | Pattern | Recruit |
|---|---|---|---|---|---|---|---|---|---|---|---|
| R. Biceps Brachi. | norm | none | none | none | none | norm | norm | norm | norm | norm | norm |
| R. Deltoid | norm | none | none | none | none | norm | norm | norm | norm | norm | norm |
| R. Triceps | norm | none | none | none | none | norm | norm | norm | norm | norm | norm |
| R. Dors.Int.I. | norm | none | none | none | none | norm | norm | norm | norm | norm | norm |
| R. Pronator Ter. | norm | none | none | none | none | norm | norm | norm | norm | norm | norm |
| R. Tibialis Ant. | norm | none | none | none | none | norm | norm | norm | norm | norm | norm |
| R. Gastroc.Med.H. | norm | none | none | none | none | norm | norm | norm | norm | norm | norm |
| R. Vastus Lat. | norm | none | none | none | none | norm | norm | norm | norm | norm | norm |
| R. Mid Lum Para. | norm | none | none | none | none | norm | norm | norm | norm | norm | norm |
| R. Low Lum Para | norm | none | none | none | none | norm | norm | norm | norm | norm | norm |
| R. Pronator Ter. | norm | none | none | none | none | norm | norm | norm | norm | norm | norm |
| R. Thoracic | norm | none | none | none | none | norm | norm | norm | norm | norm | norm |
| R. Mid Cerv Para | norm | none | none | none | none | norm | norm | norm | norm | norm | norm |
| R. Low Cerv Para | norm | none | none | none | none | norm | norm | norm | norm | norm | norm |

Patient: Ledford, Scott A. Test Date: 09/21/10
I.D.#: A121838-1

Summary/Interpretation:
Right median CMAP normal distal latency, amplitude, and conduction velocity. F-waves normal.
Right ulnar CMAP normal distal latency, amplitude, and conduction velocity. F-waves normal.
Right peroneal CMAP normal distal latency, amplitude, and conduction velocity. F-waves normal.
Right tibial CMAP normal distal latency, amplitude, and conduction velocity. F-waves normal.
Right median SNAP normal distal latency and amplitude.
Right ulnar SNAP normal distal latency and amplitude.
Right radial SNAP normal distal latency and amplitude.
Right sural SNAP normal distal latency and amplitude.
Left tibial H-reflex normal responses.
Right tibial H-reflex normal responses.

Needle electromyography examination of the right upper extremity, right lower extremity, right cervical paraspinals, and right lumbar paraspinal muscles demonstrated: Within normal limits.

Impression: 1. Normal study.
2. clinical correlation is recommended.

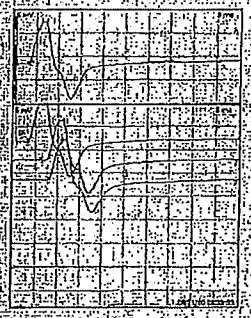
Barbara Sarb, D.O.

Patient: Ledford, Scott A. Test Date: 09/21/10
I.D.#: A121838-1

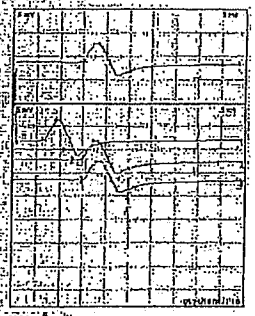
R. Median MNC



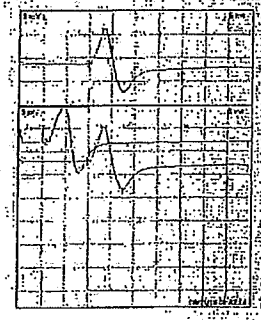
R. Ulnar MNC



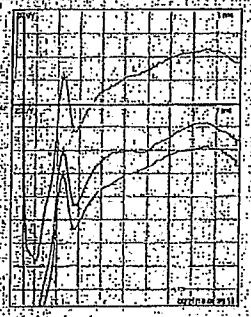
R. Peroneal MNC



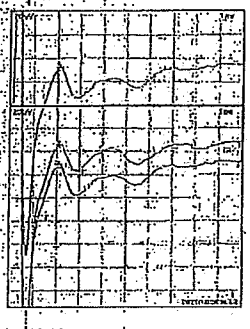
R. Tibial MNC



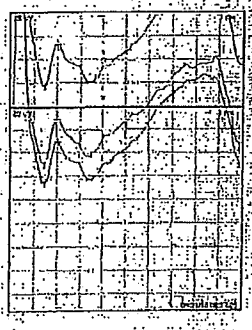
R. Median SNC



R. Ulnar SNC



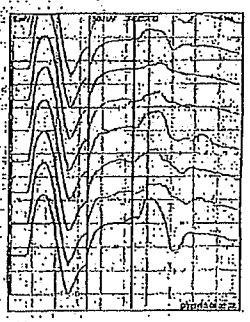
R. Radial SNC



R. Sural SNC



R. Median F-wave



Patient: Ledford, Scott A Test Date: 09/21/10
I.D.#: A121838-1

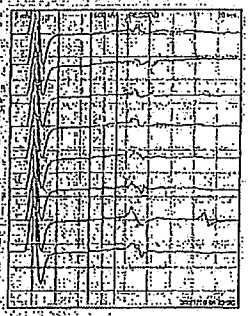
R. Ulnar F-wave



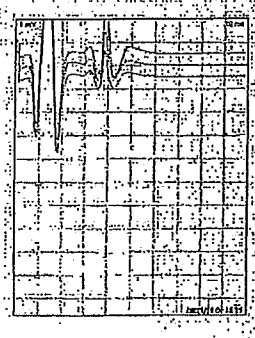
R. Peroneal F-wave



R. Tibial F-wave



L. Tibial H-reflex



R. Tibial H-reflex



GRAND STRAND
SPECIALTY ASSOCIATES
NEUROLOGY

Neurology:
Jeff A. Benjamin, D.O.
Barbara L. Sarb, D.O.
Michael McCaffrey, M.D.

Neurology &
Ophthalmology:
George M. Sandoz, M.D.

Scott Ledford
DOB: 8/15/1975
Chart: 121838
Date: 8/16/2011
Neurology Follow Up

**HISTORY OF PRESENT ILLNESS:** Mr. Ledford is seen in followup. It has been awhile since I have seen him from his Taser injury back July 15, 2010. The patient states that he has no further neck or arm symptoms. He primarily has residual discomfort in the midthoracic region and some feeling of stiffness as though he has to twist and pop his back that he is tight in the area. He has been seen and treated by Dr. Mills for compression fractures T6, T8, T9. His cervical MRI also suggested possibly some old compression fractures at T3, T4. The patient states that he may have had x-rays in January but he is unsure. We will contact his attorney for further information on this. He is still having some change in sensation from this thoracic region approximately one-third down to two-thirds down of thoracic area to the right. He is not having any lower extremity pain or radicular symptoms. There is some radiating anteriorly near the axillary line with the thoracic discomfort, however. Feels like he has a knot at the area of compression fracture. He states that usually the pain is 3 or 4 out of 10; however, with certain activities, it will increase even up to 9.

**CURRENT MEDICATIONS:** He is currently on no medications.

**PHYSICAL EXAM:**
**VITAL SIGNS:** Blood pressure 132/78, pulse 82, and weight 196 pounds.
**HEART:** Regular rate and rhythm.
**NEUROLOGICAL:** Cranial nerves are intact.
**MOTOR:** Strength is intact. His grip on the right hand is a little less than on the left and he states he is right-hand dominant.
**SENSORY:** Examination reveals change in sensation from thoracic region on the right, decreased to pinprick and temperature approximately one-third right down the spine to two-thirds right down the spine, approximately T6 to T9 area.
**DTRs:** Deep tendon reflexes are grade 2/4 in the upper extremities, increased at the patella 3/4, and Achilles 1 to 2 over 4.
**CEREBELLAR:** Testing is intact. His gait is normal except for fairly regularly stretches, turns, moves to "stretch his back."

**MEDICAL DECISION MAKING:** The patient is seen in followup with Taser injury. He has done well with recovering from this except for persistent discomfort in the thoracic region,

Scott Ledford
DOB: 8/15/1975
Chart: 121838
Date: 8/16/2011
Page 2

described more as a stiffness, muscle tightness, and knot in the mid region. He does have some change in sensation in this area. The only other finding I see is some patellar hyperreflexia. If he has not had an MRI of the thoracic region with Dr. Mills which should be done several months out of injury time, I would recommend this looking for any nerve root foraminal compression attributing to the persistent paresthesias, any central column narrowing, or any worsening of compression fracture. If this has been already completed and can be faxed to me, then I do think the patient has met maximal medical improvement. If not, I will hold off on declaring maximal medical improvement until this is completed and reviewed.

Barbara L. Sarb DO

Barbara L. Sarb, DO

BS/aji

cc: The Hyman Law Firm
Attn.: Hood Temple
Fax #: 843-678-9273

Electronically Signed on 08/24/2011 11:12 AM

50



GRAND STRAND
SPECIALTY ASSOCIATES

Orthopedic Surgery/Traumatology:
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Neurosurgery:
Thomas Anderson, MD
Eugene Giddens, MD

Neurology:
Jeff Benjamin, DO
Barbara Sarb, DO
Michael Mccaffrey, MD

Neurology & Ophthalmology:
George Saadoz, MD

August 26, 2011

To Whom It May Concern:

RE: Scott Ledford
DOB: 8/15/1975
Chart: 121838

Dear Sir or Madam:

A letter from attorney Temple in regards to Scott Ledford's impairment regarding cervical spine. The patient's chart was reviewed. Initial examinations and most recent examination, the patient fits the 5% whole-person impairment for cervical degenerative changes with stenosis and resolved radicular/paresthesia symptoms using the AMA Guides to the Evaluation of Permanent Impairment Sixth Edition. If you have any further questions or concerns, please do not hesitate to contact me.

Sincerely,

Barbara L. Sarb, DO

BS/ss

Electronically Signed on 10/11/2011 5:15 PM

| | | |
|---|---|---|
| SCOTT A LEDFORD | Date: | 6/19/2012 |
| | Case No. | 62711 |
| | AGE/SEX: | 36/Male |
| | DOB: | 8/15/1975 |

Referred By: ER CONWAY

---

CHIEF COMPLAINT: Right ankle pain.

PRESENT ILLNESS: The patient is a 36-year-old white male who complains of pain in his right ankle, and points to the anterolateral ankle joint. The pain began in March when he was in a motorcycle accident. He was a seated driver, and State Trooper. He was involved in an accident as he was checking a car. He had pain in his ankle. He was seen at Doctors Care. He was initially seen by Dr. William Mills. The patient was treated for ankle swelling and contusions. He now presents for evaluation. He says the pain is now worse with standing and walking, and somewhat decreased with rest. The pain is somewhat improved, but he has no physical therapy. He says the pain is on the lateral aspect of his ankle.

PHYSICAL EXAMINATION:

GENERAL: Well developed, well nourished white male in no apparent distress.

LYMPHATIC: No cervical lymphadenopathy.

CARDIOVASCULAR: Bilateral upper extremities, radial pulse 1+ bilateral lower extremities, dorsalis pedis, and posterior tibial pulse 1+.

MUSCULOSKELETAL: Anatomic alignment of the right lower extremity. He is tender over the ATFL of his right ankle. There is mild swelling present. He has some anterior ankle joint tenderness as well. His peroneal strength is 4/5 on the right and 5/5 on the left. Full range of motion and complete stability of the left ankle, hindfoot, bilateral midfoot, and forefoot joints. Muscle strength and tone

JUL. 10. 2012 9:23AM COA INSURANCE NO. 847 P. 1

is normal. Gait is antalgic to the right side.

SKIN: No skin changes or rashes bilateral lower extremities.

NEUROLOGIC: Tinel's sign is palpable over the right superficial peroneal nerve and radiates pain out of the dorsal aspect of the right foot. Coordination intact to reciprocal testing. Achilles and patella tendon reflexes are 1+ bilaterally. Sensation is intact to light touch bilateral lower extremities.

MENTAL: The patient is alert and oriented to person, place and time. Mood and affect are appropriate.

ASSESSMENT:

1. Right ankle sprain on rehab.
2. Superficaial peroneal neuritis.

PLAN: The patient was seen and evaluated by Dr. Taylor who recommended he go back into the cam walking boot, and begin physical therapy for ankle sprain protocol, 3 times a week for 4 weeks. Follow up in 4-6 weeks.

J. Chris Lewis, PA-C
For Ross Taylor, M.D. /5117
2011999

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Phone: 843-347-7222 • Fax: 843-347-3305

## COA PHYSICAL THERAPY/OCCUPATIONAL THERAPY PRESCRIPTION

Name: LEDFORD SCOTT

Date: 6/18/2012
Diagnosis: ankle sprain

Type: PT
Frequency: 3 times per week
Duration: 6 weeks
Special Instructions: see attached protocol

Protocols:

**Treatment Goals:**
- ☐ Increase ROM
- ☐ Increase strength
- ☐ Decrease pain
- ☐ Improve edema
- ☐ Establish home program

Anatomic area:

Side:

Site:

| | | |
|---|---|---|
| ☐ Shoulder | ☐ Subtarlar Joint | ☐ Heel |
| ☐ Elbow | ☐ Hallux MTP Joint | |
| ☐ Wrist | ☐ Cervical Spine | |
| ☐ Knee | ☐ Lumbar Spine | |
| ☐ Hip | ☐ Hand: SELECT | |
| ☐ Ankle | ☐ Foot | |

**Weight Bearing Status:**
- ☐ Full Weight Bearing
- ☐ Weight Bearing as tolerated
- ☐ Non Weight Bearing
- ☐ Toe Touch Weight Bearing
- ☐ May use regular shoe at In PT

**Exercise:**
- ☐ AROM
- ☐ PROM
- ☐ Proprioceptive Trainning
- ☐ General Conditioning

☐ADL Training
☐Strengthening: SELECT
☐Gait Training: SELECT

**Modalities:**

| | |
|---|---|
| ☐Ultrasound | ☐Wound Care |
| ☐Phonophoresis | ☐Whirlpool |
| ☐Electrical Stimulation | ☐Intermittent Traction |
| ☐Ice and/or Heat | ☐Water Aerobics |
| ☐Edema Reduction Technique | ☐ Fluidotherapy |

**Occupational:**
☐Work Hardening
☐Functional Capacity Evaluation

**Dressing Changes:**

**Home Health PT:**
☐Wet/Dry Dressing Changes - X QD
☐ Iodoform Packing - X QD
☐Wound Vac Dressing Changes - X QD

**Splint fabrication:**
Side: SELECT
☐ palm based thumb SPICA
☐ wrist cock-up
☐ joint jack
☐ LAPS
☐ post-op flexion tendon
☐ dynamic flexion
☐ dynamic extension
☐ dyna splint
☐ other _____

Ross Taylor, MD
Ordering M.D.

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# Work and/or School Release

Date: 6/19/2012

Patient Name: SCOTT LEDFORD
Patient ID: 62711
Diagnosis:

Please be advised that our patient: **SCOTT LEDFORD**:

☒ Was seen in our office on the following dates: 6/19/2012

☐ May return to full duty on: _____

☒ May not return to work until: follow up appt in 4-6 weeks

☐ May return to light duty: _____

☐ May not participate in: _____

☐ Other: _____

Return Appointment: _____

Attending MD:

Ross Taylor, MD DATE: 6/19/2012

JUL. 10. 2012 9:24AM COA INSURANCE NO. 847 P. 5

SCOTT A LEDFORD REF: ER CONWAY
62711
DOB: 8/15/1975
8/9/2012

Scott is here for follow up, right ankle sprain.

SUBJECTIVE: He reports continued pain and swelling over the lateral aspect of his right ankle. He has been not yet authorized to begin physical therapy. He states he has been wearing his boot.

OBJECTIVE:
PHYSICAL EXAMINATION: Anatomic alignment of the bilateral lower extremities, with gait antalgic to the right side. He demonstrates mild swelling over the lateral aspect of the right ankle and hindfoot, and mild limitation of dorsi and plantar flexion. He demonstrates full range of motion and complete stability of the left ankle, bilateral hindfoot, midfoot, and forefoot joints, and muscle strength and tone is normal. He is tender over the anterolateral aspect of the right ankle, as well as the sinus tarsea region.

**ASSESSMENT: Unrehabilitated ankle sprain, right ankle.**

PLAN: Diagnosis and treatment options were discussed and reviewed. Scott is highly motivated to return to work, but has not yet received necessary treatment for his ankle injury. I have recommended he continue in the Cam walking boot and we keep his work status unchanged, pending treatment of his ankle injury. Again, he would require a course of physical therapy for range of motion and strengthening, as well as ankle stabilizing exercises. It is only after such a course of physical therapy is he likely to improve. He will follow up again in 4-6 weeks time.

Ross Taylor, M.D. /5127
2165628

Chart Copy

OCT. 8. 2012 8:41AM COA INSURANCE NO. 166 P. 3/14

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: 8/9/2012

Patient Name: **SCOTT LEDFORD**
Patient ID: **62711**
Diagnosis:

Please be advised that our patient: **SCOTT LEDFORD:**

☒ Was seen in our office on the following dates: 8/9/2012

☐ May return to full duty on: _____

☒ May not return to work until: follow up appt

☐ May return to light duty: _____

☐ May not participate in: _____

☐ Other: _____

Return Appointment: _____

Attending MD:

Ross Taylor, MD DATE: 8/9/2012

OCT. 8. 2012 8:45AM COA INSURANCE NO. 166 P. 14/14

2012053

# COASTAL ORTHOPEDICS

*Specializing in You*

*843-347-7222 • Fax: 843-347-3305 • www.corthopedics.com*

August 9, 2012

Companion Insurance Company
PO Box 100102
Columbia, SC 29202-3102

RE: SCOTT A LEDFORD
Our Case No.: 62711

TO WHOM IT MAY CONCERN:

Scott has been under my care for a right ankle injury incurred at work. He was seen by me first on 06/19/2012. At that time I placed him in a Cam walking boot and recommended a course of physical therapy. He states he has been unable to perform this physical therapy, as it has not yet been approved by his workman's compensation carrier. He is highly motivated to return to work, and I feel he would do well if he underwent the physical therapy. Unfortunately, he yet has 4-6 weeks of physical therapy prior to even considering MMI. It is my hope that his workman's compensation carrier will approve his necessary physical therapy.

Sincerely,

Coastal Orthopaedic Associates, P.A.

Ross Taylor, M.D.

RT/5127
2165629

cc: Hyman Law Firm
170 Courthouse Square
Florence, SC 29501
Attention: Hood Temple

James W. Yates, Jr., M.D. *Orthopaedic Surgery Retired*
J. Stewart Haskin, Jr., M.D. *Orthopaedic Surgery Surgery of the Hand*
A. Jay Pressler, III, M.D. *Orthopaedic Surgery Shoulder Surgery*
William L. Mills, M.D. *Orthopaedic Surgery Spinal Surgery*
Jeffrey C. Wilkins, M.D. *Physical Medicine & Rehabilitation Electrodiagnosis*
Ross Taylor, M.D. *Orthopaedic Surgery Surgery of the Foot and Ankle*
Curtis Elliot, M.D. *Orthopaedic Surgery Sports Medicine*
Erin Watson, M.D. *Physical Medicine & Rehabilitation Electrodiagnosis*
Peter Ramsey, M.D. *Orthopaedic Surgery Joint Replacement*

SCOTT A LEDFORD REF: ER CONWAY
62711
DOB: 8/15/1975
11/15/2012

The patient is here for follow up of persistently painful right sprained ankle.

SUBJECTIVE: He has completed 12 visits of physical therapy with modest to no relief. He points to the anterolateral aspect of the right ankle joint. The pain in this area is dull and aching in nature. It is exacerbated by standing, walking and weightbearing, and somewhat relieved by rest.

OBJECTIVE:
PHYSICAL EXAMINATION:
MUSCULOSKELETAL: Anatomic alignment of the bilateral lower extremities. He is edematous about the right ankle joint. He demonstrates limitation of dorsiflexion to 8 degrees on the right versus 15 on the left. He demonstrates limitation of plantar flexion to 30 degrees on the right, 40 degrees on the left. he demonstrates full range of motion and complete stability of the bilateral subtalar, midfoot and forefoot joints. Muscle strength and tone is normal. He is tender over the posterolateral aspect of the left ankle in the area of Stieda process but not along there peroneal tendons. He is tender over the anterolateral aspect of the right ankle where palpable crepitus is induced with dorsiflexion.
HEART: Regular rate and rhythm.
LUNGS: Clear to auscultation bilaterally.

ASSESSMENT:
1. Probable impingement lesion, right ankle. Could not rule out osteochondral lesion.
2. Posterior impingement syndrome, right ankle.

PLAN: Diagnosis and treatment options were discussed and reviewed with the patient. Based on lack of response to conservative treatment it is unlikely additional physical therapy and/or bracing, or other conservative modalities would lead to adequate improvement. To reach full MMI and maximal function he will require surgery. Surgery would involve an arthroscopic debridement of the ankle joint done through an anterior approach and assessment of the cartilage surface. Any underlying cartilage pathology may need to be simultaneously treated. He would then require change to prone position for arthroscopic versus open resection of Stieda process. Outline of all surgical incisions, nature of the surgery and the

DEC. 11. 2012 2:58PM COA INSURANCE NO. 007 P. 3

potential risks associated with the surgery, including risk of continued pain, nerve injury, numbness or tingling about the foot, complex regional pain syndrome, deep vein thrombosis or infection were discussed, reviewed and expressed as understood. He is out-of-work.

Ross Taylor, M.D. /5142
2457145

Chart Copy

Rm 3 EXAM ROOM TIME 812 — CHECKOUT TIME 9:52

| ACCOUNT NUMBER | DATE | TIME | | TICKET NO. |
|---|---|---|---|---|
| 115996 | 03/13/12 TUESDAY | 08:09am | DC CONWAY 501, | 1109289 |

NAME & ADDRESS
LEDFORD, SCOTT
4338 BRADFORD CIRCLE

MYRTLE BEACH, SC 29588
843-241-8750
WRK:
INSURED: LEDFORD, SCOTT
INS: WC/STATE ACCIDENT FUND
REASON: WKC ANKLE AND KNEE
NICKNAME: (R)ankle & Knee

DOB: 08/15/1975 (36 years)
GENDER: M
IBG:
CELL:
RELATION: SELF
DOI: 3-10-12
COPAY:

| | |
|---|---|
| INSURANCE BALANCE | $0.00 |
| ACCOUNT BALANCE | $0.00 |
| CURRENT CHARGES | |
| AMOUNT PAID | |
| NEW BALANCE | |

CASH | CHECK | M.O. | C.C.

Personal Hx / Family Hx / Social Hx
DM dad — Alcohol —
HTN dad — Tobacco —

Resident? ☐ yes ☐ no If yes, which state:
Job Accident:
Y. chart rev., no sig chg.: Above Hx rev.:

ROS (/ or O): Fatigue, Dizzy, Weak, Wt. Loss, Fever, Chills, Nasal Congestion, Sinus Pain, Ear Pain, Sore Throat, SOB, CP, Cough, Sputum, Wheeze, ABD Pain, N, V, D, Constip., Dysuria, Freq., Urgency, Back Pain, Pelvic Pain, Vag D/C, Headache, Syncope, Rash yes (R) knee ☒ All others negative

Allergies: shellfish

Medications: 0

☐ Meds/Allergies Reviewed

| | HT | BMI | BP | PULSE | RESP | TEMP | |
|---|---|---|---|---|---|---|---|
| 28 | | | 138/84 | 75 | 16 | 97.9 | ☐ LMP ☐ Tetanus |

PHYSICAL: (see reverse) Omit if N/A
(if nml., O if abnml. & give details)
General WNL
HEENT
Neck
Nodes
Lungs
CV
Abd
Back
Ext
RT knee - medial abrasion over patella; PROM NL
Neuro
Skin/Breasts
Chaperone
I.V.
Injection
Nebulizer
Procedure
Pulse Ox

Chief Complaint:
HPI - (see ER notes)
- PT in MVA
- knee feels fine
- ankle still sore c diff. on ambulating
- mild improved

RT Ankle: - tender swelling lat > med
- mallolus c ROM
- no distal neurovasc
Ankle c crutches (ankle brace)

☐ CBC
☐ EKG
☐ FBS
☐ Flu
☐ Heme
☐ Hgb A1C
☐ H. Pylori
☐ KOH
☐ Microalb
☐ Mono
☐ Strep
☐ Tetanus
☐ U/A
☐ U.Preg
☐ Wet Prep
☐ X-Ray
☐ Labs - Send Out

DIAGNOSIS: RT Ankle injury contusion/sprain 845.00 V44.9 E849.3

Patient Care Instructions Discussed
Lifestyle Modification
Preventative Recommendation(s)
Prescriptions / OTC Meds
Side Effects Discussed
Follow-Up: PRN. on 3-18-2012.
Return:
Worsening symptoms, ER
If not better:
Go to ER if: concern.

Crutches/Splints/Supplies ☐ Given ☐ Recommended
Light duty thru PT
- Norco 5/325 #20
- crutches/ankle brace

Off Work / School

PSR Notes: NEW 99203-142

I, _____, M.D., D.O., P.A., F.N.P.
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 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. 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 Doctors Care Notice of Privacy Practices.
I authorize payment of medical benefits to Doctors Care physicians or their designee for services rendered.

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 or rehabilitation, regarding my medical records and the treatment I have received or will receive.

Patient or Authorized Person's Signature: _____ Date: _____

62

**CompEndium Services Inc.**

1000 Hurricane Shoals Rd.
Bldg C Suite 300C
Lawrenceville, GA 30043
Toll Free 877-709-2667
FAX 877-710-2667 Medical Manager _____ RN

Demographic Information Date 3/8/12 Date of Injury 3/10/12 Treating Physician _____

Patient Name Scott Ledford SSN ___-___-____ Patient DOB 8/15/75

Address 4338 Bradford Circle Job Title _____

Employer _____ Employer Phone(___)___-____ Home Phone(___)___-____

The actions taken during this authorization process will be based upon the information submitted for review. Authorization does not guarantee acceptance of this as a compensible workers' compensation injury. Any payments made will be in compliance with the state law governing workers' compensation.

Medical Information Date of last visit __/__/____ Date of Next Visit __/__/____

Diagnosis RT Ankle injury / sprain / contusion

Treatment Plan cast, crutches / Ankle Immobilizer / RTW

Surgery Date __/__/____ Post OP RTW __/__/____

☐ PT _____ ☐ Diagnostics _____ ☐ Procedures _____

Anticipated MMI __/__/____ Impairment Rating ____ % Body part _____

Medications Ibuprofen 800 TID

Prognosis ☐ Excellent ☐ Good ☐ Fair ☐ Poor

Work Relation ☐ Work Related ☐ Not Work Related ☐ Cannot be determined

Work Status

☐ Return to work on __/__/____ with no limitations Discharge From Care __/__/____

☐ Return to work on 3/13/2012 With abilities noted below ☐ Employee sent home on __/__/____ until __/__/____

☐ Other _____

If any employee is taken off work, it must be pre-certified by a CompEndium Medical Manager or physician advisor who must document the objective findings that warrant not returning to work with modified activity.

| ACTIVITY | AVOID | OCCASIONAL | FREQUENT | CONTINUOUS | NO RESTRICTIONS |
|---|---|---|---|---|---|
| Sit | | | | ✓ | |
| Stand | ✓ | | | | |
| Walk | ✓ | | | | |
| Sedentary | | | | ✓ | |
| Lift up to 10 lbs. | ✓ | | | | |
| Light 10 – 25 lbs | | | | | ✓ |
| Medium 25 – 50 lbs | | | | | ✓ |
| Heavy 50 – 100 lbs | | | | | ✓ |
| Very Heavy 100+ lbs | | | | | ✓ |
| Patient may pull | | | | | ✓ |
| Push | | | | | ✓ |
| Twist | | | | | ✓ |
| Climb | | | | | ✓ |
| Bend | | | | | ✓ |
| Stoop | | | | | ✓ |
| Kneel | | | | | ✓ |
| Crawl | | | | | ✓ |
| Reach | | | | ✓ | |
| Grasp / Pinch | | | | ✓ | |
| Repetitive Movement | | | | | |
| Other | USE ANKLE IMMOBILIZER AND CRUTCHES ALL THE TIME | | | | |

Authorization Number _____ Valid Through 3/18/2012

Physician Signature _____ Date 3/13/2012

63

1:20 EXAM ROOM TIME — Doctors Care — CHECKOUT TIME — 158 TICKET NO.

| ACCOUNT NUMBER | DATE | TIME | | TICKET NO. |
|---|---|---|---|---|
| 115996 | 03/18/12 SUNDAY | 01:10pm | DC CONWAY 501, | 1112374 |

NAME & ADDRESS
LEDFORD, SCOTT
4338 BRADFORD CIRCLE
MYRTLE BEACH, SC 29588
843-241-8750
WRK:
INSURED: LEDFORD, SCOTT
INS: WC/STATE ACCIDENT FUND
REASON: WKC RECHECK
NICKNAME: ("good")

DOB: 08/15/1975 (36 years)
GENDER: M
IBG:
CELL:
RELATION: SELF

803.612 2712 COPAY: Enster

tm

| | |
|---|---|
| INSURANCE BALANCE | $142.00 |
| ACCOUNT BALANCE | $142.00 |
| CURRENT CHARGES | |
| AMOUNT PAID | |
| NEW BALANCE | |

CASH | CHECK | M.O. | C.C.

sonal Hx / Family Hx: DM +, HTN + / Social Hx: Alcohol –, Tobacco –

ROS (/ or O): Fatigue, Dizzy, Weak, Wt. Loss, Fever, Chills, Nasal Congestion, Sinus Pain, Ear Pain, Sore Throat, SOB, CP, Cough, Sputum, Wheeze, ABD Pain, N, V, D, Constip., Dysuria, Freq, Urgency, Back Pain, Pelvic Pain, Vag. D/C, Headache, Syncope, Rash ☐ All others negative

Allergies: Shellfish

Medications: Ibuprofen 800mg bid

ident? ☐ yes ☐ no If yes, which state:
e of Accident:
v. chart rev., no sig chg.: Above Hx rev.:

☐ Meds/Allergies Reviewed

| | HT | BMI | BP | PULSE | RESP | TEMP | |
|---|---|---|---|---|---|---|---|
| 90 | | | 122/77 | 73 | 16 | 97.1 | ☐ LMP ☐ Tetanus |

YSICAL: (see reverse) Omit if N/A
if nml., O if abnml. & give details)
General
HEENT
Neck
Nodes
Lungs
CV
Abd
Back
Ext
GU
Neuro
Skin/Breasts
Chaperone
I.V.
Injection
Nebulizer
Procedure
Pulse Ox

Chief Complaint: DOI 3-10-12

HPI: Pt relates marked improved walking w/o any Noticable Limp. Pt relates the Current hand plastic ~~[illegible]~~ Ankle brace seems to aggravate the (R) ankle. (R) Knee feels 95% better at (R) ankle 90% better. pt Relates VAS Still using ICE. Only using Motrin BID. Pt wants to Resume Normal duties in 3 days

(R) Knee & (R) ankle have full ROM w/o Crepitance Pulses & DTR's were REQ Homans sign REQ ligamentous laxity of (R) Knee, Non (R) ankle.

845.0 844.9 E849.3

- ☐ CBC
- ☐ EKG
- ☐ FBS
- ☐ Flu
- ☐ Heme
- ☐ Hgb A1C
- ☐ H. Pylori
- ☐ KOH
- ☐ Microalb
- ☐ Mono
- ☐ Strep
- ☐ Tetanus
- ☐ U/A
- ☐ U Preg
- ☐ Wet Prep
- ☐ X-ray
- When Rx is Scheduled
- ☐ Labs - Send Out

AGNOSIS: (L) Knee Sprain/Strain (R) ankle Strain tm

Patient Care Instructions Discussed
Lifestyle Modification
Preventative Recommendation(s)
Prescriptions / OTC Meds
Side Effects Discussed
Follow-Up: 3-31-12
Gym:
Worsening symptoms: ER
If not better: RTC Sunday
to ER If:

Crutches/Splints/Supplies ☐ Given ☐ Recommended

↑ Motrin 800, from BID to tid PC
D/C ICE
Use moist heat (R) knee/ankle QID x ppr
D/C Plastic brace
(R) ankle lace up ankle (canvas) brace
OK to resume Normal duties 3/21/12
Off Work / School

PSR Notes: ESTAB 99214 · 141 00051 · 40

Dr. Williams MD, DO, P.A., F.N.P. 03/18/12

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 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. 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 Doctors Care Notice of Privacy Practices.
I authorize payment of medical benefits to Doctors Care physicians or their designee for services rendered.

ent or Authorized Person's Signature: Date:

RTNS faxed to Compendium 64

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 or rehabilitation, regarding my medical records and the treatment I have received or will receive.

ient or Authorized Person's Signature: Date:

**CompEndium Services Inc.**

1000 Hurricane Shoals Rd.
Bldg C Suite 300C
Lawrenceville, GA 30043
Toll Free 877-709-2667
FAX 877-710-2667 Medical Manager _____ RN

Demographic Information Date 3/18/12 Date of Injury 03/10/2012 Treating Physician R A Williams DO

Patient Name Scott Bradford SSN ___-__-____ Patient DOB 8/15/75

Address 4338 Bradford Circle Job Title _____

Employer SC Highway Patrol Employer Phone(___) ___-____ Home Phone(___) ___-____

The actions taken during this authorization process will be based upon the information submitted for review. Authorization does not guarantee acceptance of this as a compensible workers' compensation injury. Any payments made will be in compliance with the state law governing workers' compensation.

Medical Information Date of last visit 3/13/12 Date of Next Visit 3/31/12

Diagnosis (R) knee sprain/strain (R) ankle Strain

Treatment Plan ↑ Motrin from BID to TID for, Change from plastic to canvas ankle brace

Surgery Date __/__/____ Post OP RTW __/__/____

☐ PT N/A ☐ Diagnostics _____ ☐ Procedures _____

Anticipated MMI __/__/____ Impairment Rating ___ % Body part _____

Medications motrin

Prognosis ☐ Excellent ☒ Good ☐ Fair ☐ Poor

Work Relationship ☐ Work Related ☐ Not Work Related ☐ Cannot be determined

Work Status

☒ Return to work on 03/21/12 with no limitations Discharge From Care __/__/____

☐ Return to work on __/__/____ With abilities noted below ☐ Employee sent home on __/__/____ until __/__/____

☐ Other _____

If any employee is taken off work, it must be pre-certified by a CompEndium Medical Manager or physician advisor who must document the objective findings that warrant not returning to work with modified activity.

| Physical Activity | Never | Occasionally | Frequently | Continuously |
|---|---|---|---|---|
| Sit | | | | |
| Stand | | | | |
| Walk | | | | |
| Sedentary | | | | |
| Lift up to 10 lbs. | | | | |
| Light 10 – 25 lbs | | | | |
| Medium 26 – 50 lbs | | | | |
| Heavy 50 – 100 lbs | | | | |
| Very Heavy 100+ lbs | | | | |
| Patient may pull | | | | |
| Push | | | | |
| Twist | | | | |
| Climb | | | | |
| Bend | | | | |
| Stoop | | | | |
| Kneel | | | | |
| Crawl | | | | |
| Reach | | | | |
| Grasp / Pinch | | | | |
| Repetitive Movement | | | | |
| Other | | | | |

Authorization Number _____ Valid Through __/__/____

Physician Signature R A Williams DO Date 3/18/12

65

m3

EXAM ROOM TIME 120

Doctors Care

CHECKOUT TIME

| ACCOUNT NUMBER | DATE | TIME | | TICKET NO |
|---|---|---|---|---|
| 115996 | 03/31/12 SATURDAY | 01:09pm | DC CONWAY 501, | 1121151 |

ME & ADDRESS
LEDFORD, SCOTT
4338 BRADFORD CIRCLE

MYRTLE BEACH, SC 29588
843-241-8750
WRK:
INSURED: LEDFORD, SCOTT
INS: WC/STATE ACCIDENT FUND
REASON: WKC RECHECK Oral ®Knee/ankle
NICKNAME: ®ankle swelling COPAY: 15mg

DOB: 08/15/1975 (36 years)
GENDER: M

IBG:
CELL:

RELATION: SELF

| | |
|---|---|
| INSURANCE BALANCE | $323.00 |
| ACCOUNT BALANCE | $323.00 |
| CURRENT CHARGES | |
| AMOUNT PAID | Fee |
| NEW BALANCE | |

CASH | CHECK | M.O. | C.C.

DOI 3-10-12

sonal Hx | Family Hx | Social Hx
DM dad
HTN dad
Alcohol
Tobacco

New? ☐ yes ☐ no If yes, which state:
Slip/Accident:
v. chart rev., no sig chg.: Above Hx rev.:

ROS (/ or O): Fatigue, Dizzy, Weak, Wt. Loss, Fever, Chills, Nasal Congestion, Sinus Pain, Ear Pain, Sore Throat, SOB, CP, Cough, Sputum, Whooze, ABD Pain, N, V, D, Constip., Dysuria, Freq., Urgency, Back Pain, Pelvic Pain, Vag. D/C, Headache, Syncope, Rash ☐ All others negative

Allergies: Shellfish

Medications: 0

☐ Meds/Allergies Reviewed

| WT | HT | BMI | BP | PULSE | RESP | TEMP | |
|---|---|---|---|---|---|---|---|
| 178 | | | 134/88 | 74 | 20 | 98.1 | ☐ LMP ☐ Tetanus |

YSICAL: (see reverse) Omit if N/A
If nml., O if abnml. & give details)
General
HEENT
Neck
Nodes
Lungs
CV
Abd
Back
Ext
GU
Neuro
Skin/Breasts
Chaperone
A.V.
Injection
Nebulizer
Procedure
Pulse Ox

Chief Complaint: DOI 3-10-12

HPI

Pt relates since last visit, pt returned to Normal activities and Both the ®knee & ®ankle have Both flared up and much more painful.
No Specific re-injuries - just at bearing.

O ligamentous laxity of the ®knee & ankle
⊖ Hoeman's Sign
Patient Reflex's WNL
↑ Edema ®lateral ankle w/ marked subjective pain w/ palpation & ROM of the ankle

845.00 844.9 E849.3

☐ CBC
☐ EKG
☐ FBS
☐ Flu
☐ Hemo
☐ Hgb A1C
☐ H. Pylori
☐ KOH
☐ Microalb
☐ Mono
☐ Strep
☐ Tetanus
☐ U/A
☐ U Preg
☐ Wet Prep
☐ X-Ray
☐ Labs - Send Out

AGNOSIS:

Exacerbation ®ankle Sprain
Exacerbation ®knee Strain

Patient Care Instructions Discussed
Lifestyle Modification
Preventative Recommendation(s)
Prescriptions / OTC Meds
Side Effects Discussed
Follow-Up: 6 days
turn:
Worsening symptoms: ER
If not better: PTC
to ER If:

Crutches/Splints/Supplies ☐ Given ☐ Recommended

Prednisone 10mg 6 day dose Pak po
Moist Heat & Non wt-bearing ROM Exercises
4 to 6 X/day
light duty

PSR Notes: ESTAB
99214-141
99051-40

Off Work / School

M.D. D.O. P.A. F.N.P.

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 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.
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 consistant with Doctors Care Notice of Privacy Practices.
I authorize payment of medical benefits to Doctors Care physicians or their designee for services rendered.

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 or rehabilitation, regarding my medical records and the treatment I have received or will receive.

Patient or Authorized Person's Signature: Date:

66

**CompEndium Services Inc.**

1000 Hurricane Shoals Rd,
Bldg C Suite 300C
Lawrenceville, GA 30043
Toll Free 877-709-2667
FAX 877-710-2667 Medical Manager _____ RN

Demographic Information Date 3/31/12 Date of Injury 3/10/12 Treating Physician _____

Patient Name Ledford SSN ___-__-____ Patient DOB __/__/____

Address _____ Job Title _____

Employer _____ Employer Phone(___)___-____ Home Phone(___)___-____

The actions taken during this authorization process will be based upon the information submitted for review. Authorization does not guarantee acceptance of this as a compensible workers' compensation injury. Any payments made will be in compliance with the state law governing workers' compensation.

Medical Information Date of last visit 3/18/12 Date of Next Visit 4/6/12

Diagnosis (R) Knee & (R) Ankle Sprain w/ re-exacerbation

Treatment Plan Cont. Pak x 6 days Pc Moist heat Light duty

Surgery Date __/__/____ Post OP RTW __/__/____

☐ PT N/A ☐ Diagnostics _____ ☐ Procedures _____

Anticipated MMI __/__/____ Impairment Rating ___ % Body part _____

Medications Cont. Pak

Progress ☐ Excellent ☐ Good ☒ Fair ☐ Poor

Injury ☒ Work Related ☐ Not Work Related ☐ Cannot be determined

Work Status

☐ Return to work on __/__/____ with no limitations Discharge From Care __/__/____

☒ Return to work on 5/01/12 With abilities noted below ☐ Employee sent home on __/__/____ until __/__/____

☐ Other _____

If any employee is taken off work, it must be pre-certified by a CompEndium Medical Manager or physician advisor who must document the objective findings that warrant not returning to work with modified activity.

| Activity Level | Tolerates | Occasional | Continuous | Never |
|---|---|---|---|---|
| Sit | | | | |
| Stand | | X | | |
| Walk | X | | | |
| Sedentary | | | X | |
| Lift up to 10 lbs. | | | X | |
| Light 10 – 25 lbs | | | X | |
| Medium 25 – 50 lbs | | X | | |
| Heavy 50 – 100 lbs | X | | | X |
| Very Heavy 100+ lbs | | | | X |
| Patient may pull | | | | |
| Push | | | | |
| Twist | | | | |
| Climb | | | | |
| Bend | | | | |
| Stoop | | | | |
| Kneel | | | | |
| Crawl | | | | |
| Reach | | | | |
| Grasp / Pinch | | | | |
| Repetitive Movement | | | | |
| Other | | | | |

Authorization Number _____ Valid Through __/__/____

Physician Signature [signature] Date 3/31/12

4 / EXAM ROOM TIME 15 — Doctors Care — CHECKOUT TIME 4:10

| ACCOUNT NUMBER | DATE | TIME | | TICKET NO. |
|---|---|---|---|---|
| 115996 | 04/06/12 FRIDAY | 03:13pm | DC CONWAY 501, | 1125389 |

NAME & ADDRESS
LEDFORD, SCOTT
4338 BRADFORD CIRCLE
MYRTLE BEACH, SC 29588
843-241-8750
WRK:
INSURED: LEDFORD, SCOTT
INS: WC/STATE ACCIDENT FUND
REASON: WKC RECHECK DOI 3.10.12
NICKNAME:

DOB: 08/15/1975 (36 years)
GENDER: M
IBG:
CELL:

RELATION: SELF
Dx (R) KNEE ABRASION, (R) ANKLE PAIN @ CHC
COPAY:

| | |
|---|---|
| INSURANCE BALANCE | $504.00 |
| ACCOUNT BALANCE | $504.00 |
| CURRENT CHARGES | |
| AMOUNT PAID | F/U |
| NEW BALANCE | |

CASH | CHECK | MO | CC

Personal Hx: M — / N —
Family Hx: DM + / HTN +
Social Hx: Alcohol — / Tobacco —

Accident? ☐ yes ☐ no If yes, which state: ____
Date of Accident: ____
Rev. chart rev., no sig chg.: ____ Above Hx rev.: ____

ROS (/ or O): Fatigue, Dizzy, Weak, Wt. Loss, Fever, Chills, Nasal Congestion, Sinus Pain, Ear Pain, Sore Throat, SOB, CP, Cough, Sputum, Wheeze, ABD Pain, N, V, D, Constip., Dysuria, Freq., Urgency, Back Pain, Pelvic Pain, Vag. D/C, Headache, Syncope, Rash ☐ All others negative

Allergies: SULFA

Medications: PREDNISONE 10 mg FINISHED TODAY

| HT | BMI | BP | PULSE | RESP | TEMP | |
|---|---|---|---|---|---|---|
| 5'4" | | 139/80 | 63 | 16 | 99.5 | ☐ LMP ____ ☐ Tetanus ____ |

☐ Meds/Allergies Reviewed ____

PHYSICAL: (see reverse) Omit if N/A (if nml., O if abnml. & give details)
General
HEENT
Neck
Nodes
Lungs
CV
Abd
Back
Ext — mild Edema over (R) lateral malleolus w/ subjectual tenderness to palpation.
GU
Neuro
Skin/Breaste
Chaperone ____
I.V.
Injection
Nebulizer
Procedure
Pulse Ox ____

Chief Complaint: STATUS @ IMPROVEMENT

HPI
DOI 3-10-12

Pt' states he is getting No relief w/ the Prednisone from the pain, NOR swelling. Pt seen Dr Mills (Ortho) who ordered an Xray & suspects 2 fractures & the WKC is requesting MRI & referral to Dr Mills.

415.00 8/10/13

☐ CBC
☐ EKG
☐ FBS
☐ Flu
☐ Heme
☐ Hgb A1C
☐ H. Pylori
☐ KOH
☐ Microalb
☐ Mono
☐ Strep
☐ Tetanus
☐ U/A
☐ U Preg
☐ Wet Prep
☐ X-Ray
☐ Labs - Send Out

DIAGNOSIS:
(R) Ankle Sprain w/o improvement r/o internal derangement DM

Patient Care Instructions Discussed
Lifestyle Modification
Preventative Recommendation(s)
Prescriptions / OTC Meds
Side Effects Discussed
Follow-Up: ____
Return:
Worsening symptoms: ER
not better: RTC
ER If:

Crutches/Splints/Supplies ☐ Given ☐ Recommended

Refer to Dr Mills for Ortho to take over this case & order MRI
Rx Naproxen 500 mg #60 1 po bid pc
Cont. meds at home & Appropriately Show every 0&6 weeks until seen by ortho
Off Work / School

PSR Notes: ESTAB 7/9/2014

K Williams DO M.D., D.O., P.A. F.N.P.

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 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. I consent to the use and disclosure of my/the patient's protected health information for purposes of obtaining payment for services rendered to my/the patient, treatment and health care operations consistent with Doctors Care Notice of Privacy Practices and the payment of medical benefits to Doctors Care physicians or their designee for services rendered.

Authorized Person's Signature: _____ Date: _____

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 or rehabilitation, regarding my injuries and the treatment I have received or will receive.

Authorized Person's Signature: _____ Date: _____

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**CompEndium Services Inc.**

1000 Hurricane Shoals Rd.
Bldg C Suite 300C
Lawrenceville, GA 30043
Toll Free 877-709-2667
FAX 877-710-2667 Medical Manager___ ___RN

Demographic Information Date 7/16/12 Date of Injury 03/10/2012 Treating Physician KA Williams

Patient Name Scott Ledford SSN ___-__-____ Patient DOB 8/15/1975

Address 4358 Bradford Lane Job Title ___

Employer Highway Patrol Employer Phone(___)___-____ Home Phone(___)___-____

The actions taken during this authorization process will be based upon the information submitted for review. Authorization does not guarantee acceptance of this as a compensible workers' compensation injury. Any payments made will be in compliance with the state law governing workers' compensation.

Medical Information Date of last visit 3/30/12 Date of Next Visit With Ortho

Diagnosis Rt lateral ankle Sprain Rupture ? a internal derangement

Treatment Plan Refer to Ortho & Start Naproxen

Surgery Date__/__/____ Post OP RTW__/__/____

☐ PT___ ☐ Diagnostics___ ☐ Procedures___

Anticipated MMI __/__/____ Impairment Rating ___ % Body part___

Medications Naproxen 500 BID pc

Prognosis ☐ Excellent ☐ Good ☒ Fair ☐ Poor

Work Relation ☐ Work Related ☐ Not Work Related ☐ Cannot be determined

Work Status

☐ Return to work on __/__/____ with no limitations Discharge From Care __/__/____

☐ Return to work on __/__/____ With abilities noted below ☐ Employee sent home on __/__/____ until __/__/____

☐ Other Off work Until Evaluated by ortho

If any employee is taken off work, it must be pre-certified by a CompEndium Medical Manager or physician advisor who must document the objective findings that warrant not returning to work with modified activity.

| | Never | Occasional | Frequent | Continuous | Restrictions/Never Activity |
|---|---|---|---|---|---|
| Sit | | | | | |
| Stand | | | | | |
| Walk | | | | | |
| Sedentary | | | | | |
| Lift up to 10 lbs. | | | | | |
| Light 10 – 25 lbs | | | | | |
| Medium 25 – 50 lbs | | | | | |
| Heavy 50 – 100 lbs | | | | | |
| Very Heavy 100+ lbs | | | | | |
| Patient may pull | | | | | |
| Push | | | | | |
| Twist | | | | | |
| Climb | | | | | |
| Bend | | | | | |
| Stoop | | | | | |
| Kneel | | | | | |
| Crawl | | | | | |
| Reach | | | | | |
| Grasp / Pinch | | | | | |
| Repetitive Movement | | | | | |
| Other | | | | | |

| Authorization Number | Valid Through __/__/____ |
|---|---|
| Physician Signature KA Williams MD | Date 07/16/12 |

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OUTPATIENT AND EMERGENCY DEPT. RECORD

CONWAY MEDICAL CENTER
CONWAY, S.C.

MEDICAL RECORDS COPY

| Unit # | Patient | Admit Date and Time | Location/Room | Visit # |
|---|---|---|---|---|
| M000223640 | LEDFORD, SCOTT A<br>4338 BRADFORD CIRCLE<br>MYRTLE BEACH, SC 29588<br>(843)742-5330 | 03/10/12 0833 | ER | V6370886 |

| Discharge Date and Time | Previous Admission/Visit | PTP | MSV | F/C |
|---|---|---|---|---|
| | 03/06 08/11 | ER | | BC |

Patient SS#

Physician: CONWAY EMERGENCY GROUP

Maiden Name: LEDFORD, SCOTT ALLEN

| Sex | Race | Marital | Age | Date of Birth | Religion |
|---|---|---|---|---|---|
| M | CA | M | 36 | 08/15/75 | |

Patient Mother's Name

Local Address, Phone

Emergency Contact: LEDFORD, CARRIE (843)742-5330 SPOUSE

Patient's Occupation and Employer: SOUTH CAROLINA HIGHWAY PATROL (843)365-5001 POLICE OFFICER

Next of Kin (Name and Address): LEDFORD, CARRIE 4338 BRADFORD CIRCLE MYRTLE BEACH, SC 29588 (843)742-5330 SPOUSE

Guarantor (Name and Address): LEDFORD, SCOTT A 4338 BRADFORD CIRCLE MYRTLE BEACH, SC 29588 (843)742-5330 SELF/SAME AS PATIENT ONLY

Guarantor's Employer (Name and Address): SOUTH CAROLINA HIGHWAY PATROL 4195 HIGHWAY 701 N CONWAY, SC 29526 (843)365-5001 POLICE OFFICER

| Insurance 1 | Insurance 2 | Insurance 3 | Insurance 4 | | Work Comp? | Veteran? | By |
|---|---|---|---|---|---|---|---|
| BCBS | | | | | ☐Yes ☐No | ☐Yes ☐No | CBRIDGES |

1. 400 BCBS STATE EMPLOYEE ZCS26327122 LEDFORD, SCOTT A 110-58-0432 08/15/75 SELF
2.
3.
4.

Admitting Diagnosis: MOTORCYCLE ACCIDENT

Healthcare Power of Attorney

Living Will

Time

**General Lab**
- ☐ Blood Culture___
- ☐ BMP
- ☐ BNP (CHF)
- ☐ C. diff (A&B)
- ☐ CBC no diff.
- ☐ CBC w/ AD
- ☐ CBC MD
- ☐ CMP
- ☐ D. Billirubn
- ☐ D. Dimer
- ☐ GC/Chlamydia/Wet Prep
- ☐ Hepatic Panel
- ☐ LP C&S_____
- ☐ LP gram stain___
- ☐ LP Glucose_____
- ☐ LP Protein_____
- ☐ LP Cell Count___
- ☐ NP Flu (A & B)
- ☐ NP RSV
- ☐ QYN HCG
- ☐ Stool Culture
- ☐ Stool heme
- ☐ Stool O&P
- ☐ Stool WBC
- ☐ Strep Screen
- ☐ Type for Rh
- ☐ UA
- ☐ UHCG (qual)
- ☐ Urine C&S
- ☐ Wound Culture___

**☐ Cardiac**
- CBC w/ AD
- CIP #1
- CMP
- EKG T:_____
- Magnesium
- PT, PTT
- Troponin I

**☐ Trauma**
- ABG
- Amylase
- Lipase
- CBC w/ AD
- CIP#1
- CMP
- ETOH
- PT, PTT
- Type & Cross_____
- Type & Screen
- Urine Drug Screen
- UA
- Urine Drug Screen
- CT AP (trauma)

**Radiology**
- ☐ PCXR___Views
- ☐ CXR___Views
- ☐ C-spine Port Lat.
- ☐ C-spine w/Flex + Ex
- ☐ C-spine
- ☐ T-spine
- ☐ L-spine
- ☐ L Shoulder R
- ☐ L Elbow R
- ☐ L Wrist R
- ☐ L Hand R
- ☐ L Finger R____
- ☐ L Hip/Pelvis R
- ☐ Pelvis
- ☐ L Knee R
- ☐ L Ankle R
- ☐ L tib/fib R
- ☐ L Foot R
- ☐ Abdomen___Views
- ☐ CT Abdomen w/o
- ☐ CT Angio Pulm.
- ☐ CT AP Renal
- ☐ CT AP w
- ☐ OT C-Spine
- ☐ CT Head w/o
- ☐ L US Leg R
- ☐ Transvag US
- ☐ Gall Bladder US

| Time | Orders |
|---|---|
| | ☐ CR Monitor |
| | ☐ Pulse OX |
| | ☐ Td 0.5ml IM |

Diagnosis

Physician's Signature | Time

Discharge condition: ☐ Good ☐ Admitted

EPIC Inst. | S | MEDS | Refer | Work/School Days

Other Instructions: Tetanus booster 3 0949

☐ Patient ☐ RAD

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PDF processed with CutePDF evaluation edition www.CutePDF.com

Form # 156

# Conway Medical Center
Conway South Carolina

## EMS RUN REPORT

LEDFORD,SCOTT A
V00006370886 08/15/75 36 M
M000223640
03/10/12
(Patient Admission Label)

Date: 3/10/12 time: (24hr) 0813 Unit: 29 **Priority:** 1 2 3 4

Age: 36 Sex [X] Male [ ] Female

CC: motorcycle - laid Bike Down - ankle swollen

PE:

| BP | P | RR |
|---|---|---|
| 145/87 | 99 | 20 |
| | | |
| | | |

Dextrosstix

| | | | |
|---|---|---|---|
| Oxygen | | IV | |
| Monitor | | NTG | |
| Atropine | | EPI | |
| Lido | | Lasix | |
| D50 | | Narcan | |

ORDERS/PROCEDURES/DRESSINGS

(Time)

Carol Jeremiah a
Nurse Signature

Physician Signature

## AVPU

**MOTOR**
- *Obeys* ... 6
- *Localizes* ... 5
- *Withdraws* ... 4
- *Flexes* ... 3
- *Extends* ... 2
- *None* ... 1

**VERBAL RESPONSE**
- *Normal* ... 5
- *Disoriented* ... 4
- *Inappropriate* ... 3
- *Incomprehensive* ... 2
- *None* ... 1

**EYE OPENING**
- *Spontaneous* ... 4
- *To Voice* ... 3
- *To Pain* ... 2
- *None* ... 1

GCS TOTAL = _____

TRAUMA SCORE = _____

ETA: 8-9 pm

*Nurse's Notes* — *Conway Medical Center*

**Name: Scott Ledford**
**Age:** 36 years **Sex:** Male **DOB:** 08/15/1975
**Arrival Date:** 03/10/2012 **Time:** 08:23
Bed ED9

MRN: M000223640
**Account#:** V00006370886
**Private MD:** Carolina health specialists. Dr

**Presentation:**

03/10 Presenting complaint: EMS states: ***fell on motorcycle and injured right leg. No LOC or back or neck*** bd
08:28 ***pain.*** Care prior to arrival: See EMS report. Transition of care: patient was not received from another setting of care.
08:28 Method Of Arrival: EMS. bd

**Triage Assessment:**

08:24 (08:26) **General:** Appears in no apparent distress, Behavior is appropriate for age. (08:26) **Communication:** No Barriers. (08:26) **Pain:** Complains of pain in right ankle and right knee. (08:26) **Injury Description:** Abrasion sustained to right knee. bd

**Historical:**

**Allergies:**
08:24 (08:26) SHELLFISH; bd

**Home Meds:**
08:24 (08:26) 1. . Fexofenadine HCl Oral 1 tablet daily, as needed (Last dose: 03/10/2012 05:40) bd

**PMHx:**
08:24 (08:26) Hypertension; bd

**PSHx:**
08:24 (08:26) finger; (08:26) nasal; (08:26) Back Surg; bd

**Historical:**

08:24 (08:26) Immunization history: Last tetanus immunization: up to date. < 5 years ago Pneumococcal vaccine is not up to date. Flu vaccine is not up to date. (08:26) Code Status: Full code. (08:26) Do you have an Advanced Directive or Health Care Power of Attorney? No. (08:26) Social history Smoking status: Patient/guardian denies using tobacco, Patient uses N/A, patient denies use of alcohol and/or tobacco products. No barriers to communication noted. (08:26) Family history: Not pertinent. bd
09:03 (09:06) The history from nurses notes was reviewed and I agree with what is documented up to this point. ct

**Screening:**

08:24 (08:28) **Abuse screen:** Denies threats or abuse. (08:28) **Nutritional screening:** No deficits noted. (08:28) **Tuberculosis screening:** No symptoms or risk factors identified. bd

**Assessment:**

08:28 Pain: Complains of pain in right knee and right ankle. bd

**Vital Signs:**

| Time | B/P | Pulse | Resp | Temp | Pulse Ox | Weight | Height | Pain | Staff |
|---|---|---|---|---|---|---|---|---|---|
| 08:24 (08:27) | 138 / 99 | 85 | 18 | 97.8(O) | 99% on R/A | 82.55 kg / 181.99 lbs | 5 ft. 10 in. (178 cm) | 6/10 | bd |

**Vitals:**

## *Nurse's Notes Con't*

08:24 (08:27) Acuity: Level 3. bd

**Glasgow Coma Score:**

| Time | Eye Response | Verbal Response | Motor Response | Modifying Factors | Total | Staff |
|---|---|---|---|---|---|---|
| 08:24 (08:27) | spontaneous(4) | oriented(5) | obeys commands(6) | | 15 | bd |

**ED Course:**

08:23 Patient arrived in ED. bd
08:23 Dougherty, Bronwyn RN is Primary Nurse. bd
08:23 Patient moved to ED9. bd
08:23 Triage completed. bd
08:24 Carolina health specialists, Dr is Private Physician. bd
08:24 (08:28) Arm band placed on. bd
08:26 Tarbert, Charles, MD is Attending Physician. ct
08:26 Patient visited by Tarbert, Charles, MD. ct
08:28 (08:29) Patient has correct armband on for positive identification. Bed in low position. Call light in reach. Side rails up X2. Adult w/ patient. bd
08:29 Patient visited by Dougherty, Bronwyn RN. bd
08:34 Patient name changed from scott^^ledford^ to Scott^A^Ledford. EDMS
08:52 Patient moved to Radiology. bd
08:52 Patient visited by Dougherty, Bronwyn RN. bd
08:52 Knee, Right, Complete, M4v * Sent. bd
08:52 Ankle (4 Views) Right * Sent. bd
08:52 Foot, Right, M3v * Sent. bd
09:01 Knee, Right, Complete, M4v * In Process Unspecified. EDMS
09:01 Ankle (4 Views) Right * In Process Unspecified.. EDMS
09:01 Foot, Right, M3v * In Process Unspecified. EDMS
09:12 Patient moved to ED9. zp
09:22 Patient visited by Dougherty, Bronwyn RN. bd
09:22 Assisted to bathroom. bd
09:29 Mills, William, MD is Referral Physician. ct
09:38 (09:39) Wound care to abrasion, located on right knee was cleaned with soap and water, dressed with Neosporin, 4X4s. bd
09:38 (09:39) Crutch training done. Air stirrup applied to right ankle Knee immobilizer applied on right knee. bd
09:39 Patient visited by Dougherty, Bronwyn RN. bd

**Outcome:**

09:29 Aware of vital signs, to follow up with PMD. ct
09:29 Discharge ordered by MD. ct
09:38 (09:39) Discharged to home ambulatory, with friend. (09:39) Condition: stable. (09:39) Instructed on discharge instructions, no drinking with medication, no driving heavy equipment, follow up and referral plans. crutch walking, Demonstrated understanding of instructions, crutch walking, medications, Prescriptions given : 1. bd

*Nurse's Notes Con't*

09:49 Patient left the ED. ct

| Medication | Prescribing Physician | Dose | Frequency | Last Dose | Physician Order Continue on Admission/Discharge? |
|---|---|---|---|---|---|
| Fexofenadine HCl Oral | | 1 tablet | daily, as needed | 03/10/2012 05:40 | Y N |

**Signatures:**

| | | | | | |
|---|---|---|---|---|---|
| Dispatcher MedHost | | EDMS | Dougherty, Bronwyn RN | RN | bd |
| Tarbert, Charles, MD | MD | ct | Packard, Zachary, MST | MST | zp |

**Name: Scott Ledford**
Age: 36 years Sex: Male DOB: 08/15/1975
Arrival Date: 03/10/2012 Time: 08:23
Bed ED9

MRN: M000223640
Account#: V00006370886
Private MD: Carolina health specialists. Dr

HPI:

03/10 (09:06) This 36 years old Caucasian Male presents to ED via EMS with complaints of **Motorcycle** ct
09:03 **Collision**.

09:03 (09:06) The patient presents with an abscess, an injury. (09:06) The complaints affect the lateral aspect of right foot and right knee and right ankle. (09:06) Context: The problem was sustained at work, the patient can partially bear weight, ***Patient is a state trooper. He was on his motorcycle when he was pulling out to go after a speeding car. He "laid down" the bike on his right leg. He complains of pain at the right knee, ankle and lateral aspect of the right foot..*** (09:06) Onset: The symptoms/episode began/occurred acutely, just prior to arrival. (09:06) Modifying factors: The symptoms are alleviated by nothing. the symptoms are aggravated by movement, weight bearing, bending knee. (09:06) Associated signs and symptoms: Pertinent positives: swelling, Pertinent negatives fever, numbness, tingling, weakness. (09:06) Treatment prior to arrival includes: no previous treatment. (09:06) Severity of symptoms: At their worst the symptoms were moderate, in the emergency department the symptoms are unchanged. (09:06) The patient has not experienced similar symptoms in the past. ct

**Historical:**
**Allergies:**
08:24 (08:26) SHELLFISH; bd
**Home Meds:**
08:24 (08:26) 1. . Fexofenadine HCl Oral 1 tablet daily, as needed (Last dose: 03/10/2012 05:40) bd
**PMHx:**
08:24 (08:26) Hypertension; bd
**PSHx:**
08:24 (08:26) finger; (08:26) nasal; (08:26) Back Surg; bd

**Historical:**

08:24 (08:26) Immunization history: Last tetanus immunization: up to date. < 5 years ago Pneumococcal vaccine is not up to date. Flu vaccine is not up to date. (08:26) Code Status: Full code. (08:26) Do you have an Advanced Directive or Health Care Power of Attorney? No. (08:26) Social history Smoking status: Patient/guardian denies using tobacco, Patient uses N/A, patient denies use of alcohol and/or tobacco products. No barriers to communication noted. (08:26) Family history: Not pertinent. bd

09:03 (09:06) The history from nurses notes was reviewed and I agree with what is documented up to this point. ct

ROS:

09:03 (09:06) **Constitutional:** Negative for fever or chills. **Neck:** Negative for pain, and swelling, **Cardiovascular:** Negative for CP or palpitations. **Abdomen/GI:** Negative for abdominal pain, nausea, vomiting, diarrhea, and constipation, **Back:** Negative for injury and pain, **Neuro:** Negative for headache, weakness, numbness and tingling. (09:06) **MS/extremity:** Positive for injury or acute deformity, pain, swelling, of the lateral aspect of right foot and right knee and right ankle. (09:06) **Skin:** Positive for abrasion(s). ct

Exam:

09:03 (09:08) ct
**Constitutional:** This is a well developed, well nourished patient who is awake, alert, and in no acute distress.
**Head/Face:** Normocephalic, atraumatic.
**Neck:** No mass or lymphadenopathy. Neck is supple without pain with movement.
**Neuro:** Awake and alert, oriented. No gross motor or sensory deficits. (09:08)
**Musculoskeletal/extremity:** ***Abrasion to the patella of the right knee. No effusion, swelling or ligamentous instability noted. There is pain with active and passive ROM. Right ankle with swelling laterally. Pain over the medial and lateral malleoli. Foot with pain over the base of the 5th MT. No swelling. He has normal distal pulses. Neuro exam is also normal..***

## *Physician Documentation Con't.*

Vital Signs:

| Time | B/P | Pulse | Resp | Temp | Pulse Ox | Weight | Height | Pain | Staff |
|---|---|---|---|---|---|---|---|---|---|
| 08:24 (08:27) | 138 / 99 | 85 | 18 | 97.8(O) | 99% on R/A | 82.55 kg / 181.99 lbs | 5 ft. 10 in. (178 cm) | 6/10 | bd |

Glasgow Coma Score:

| Time | Eye Response | Verbal Response | Motor Response | Modifying Factors | Total | Staff |
|---|---|---|---|---|---|---|
| 08:24 (08:27) | spontaneous(4) | oriented(5) | obeys commands(6) | | 15 | bd |

**MDM:**

08:41 Patient medically screened. dn2

08:41 Financial registration complete. dn2

09:28 ct

**Data reviewed:** vital signs, nurses notes, radiologic studies, plain films.
**Counseling:** I had a detailed discussion with the patient and/or guardian regarding: the historical points, exam findings, and any diagnostic results supporting the discharge/admit diagnosis, radiology results, the need for outpatient follow up.
**ED course:** ***Air splint, knee immobilizer and crutches supplied. He will be off normal duties at work until cleared by ortho.***

| Order | Status | Time | By | For |
|---|---|---|---|---|
| Knee, Right, Complete, M4v * | Ordered | 03/10/12 08:47 | ct | ct |
| | Returned | 03/10/12 17:11 | Dispatcher MedHost | |
| Notes: Bed Name: ED9 | Order Method: Electronic | | | |

| Order | Status | Time | By | For |
|---|---|---|---|---|
| Ankle (4 Views) Right * | Ordered | 03/10/12 08:47 | ct | ct |
| | Returned | 03/10/12 17:11 | Dispatcher MedHost | |
| Notes: Bed Name: ED9 | Order Method: Electronic | | | |

| Order | Status | Time | By | For |
|---|---|---|---|---|
| Foot, Right, M3v * | Ordered | 03/10/12 08:47 | ct | ct |
| | Returned | 03/10/12 17:11 | Dispatcher MedHost | |
| Notes: Bed Name: ED9 | Order Method: Electronic | | | |

| Order | Status | Time | By | For |
|---|---|---|---|---|
| Air Splint | Ordered | 03/10/12 09:30 | ct | ct |
| | Completed | 03/10/12 09:38 | Dougherty, Bronwyn RN | |
| Notes: | Order Method: Electronic | | | |

| Order | Status | Time | By | For |
|---|---|---|---|---|
| KNEE IMMOBILIZER: 26 inch | Ordered | 03/10/12 09:30 | ct | ct |
| | Completed | 03/10/12 09:38 | Dougherty, Bronwyn RN | |

*Physician Documentation Con't.*

| Notes: | Order Method: Electronic |
|---|---|

| Order | Status | Time | By | For |
|---|---|---|---|---|
| CRUTCHES | Ordered | 03/10/12 09:30 | ct | ct |
| | Completed | 03/10/12 09:38 | Dougherty, Bronwyn RN | |
| Notes: | Order Method: Electronic | | | |

**Order Signatures:**
Tarbert, Charles, MD MD ct

**Disposition:**
09:28 (09:29) Disposition. ct
09:29 Aware of vital signs, to follow up with PMD. ct
09:29 Chart complete. ct

**Disposition:**
**03/10/12 09:29 Discharged to Home. Impression: Internal Derangement of Knee, Ankle Sprain, Abrasion.**
- Condition is Stable.
- Discharge Instructions: Abrasions, Ankle Sprain, Crutches, Use of, Knee Pain, General.
- Prescriptions for
  Percocet 5
  - 325 mg Oral Tablet - take 1 to 2 tablet by ORAL route every 6-8 hours As needed; 20 tablet.
- Work release 3 day form.
- Follow up: Dr. William Mills; When: Next week; Reason: Recheck today's complaints.
- Problem is new.
- Symptoms are unchanged.

**Signatures:**

| | | | | | |
|---|---|---|---|---|---|
| Dispatcher MedHost | | EDMS | Dougherty, Bronwyn RN | RN | bd |
| Tarbert, Charles, MD | MD | ct | Nelson, Donna | | dn2 |

CONWAY MEDICAL CENTER
PO BOX 829
300 SINGLETON RIDGE ROAD
CONWAY, SC 29526-0829
(843) 347-8132

Name: LEDFORD,SCOTT A
Phys: Tarbert, Charles MD
DOB: 08/15/1975 Age: 36 Sex: M
Acct: V00006370886 Loc: ER
Exam Date: 03/10/2012 Status: DEP ER
Radiology No: 00148701
Unit No: M000223640
Patient Phone: (843)742-5330
CPT4 Code: 73630

ADMITTING DX: MOTORCYCLE ACCIDENT

| EXAM# | TYPE/EXAM | RESULT |
|---|---|---|
| 001046713 | RAD/FOOT, RIGHT, M3V | |

Exam: Right Foot.

Clinical data: Motorcycle accident and pain.

Findings:

AP, oblique and lateral views of the right foot show the bones to demonstrate a normal alignment. No fractures are identified.

*Impression:*

*No fractures of the right foot are seen.*

*P*

** REPORT SIGNED IN OTHER VENDOR SYSTEM 03/10/2012 **
Reported By: ED SHELLEY M.D.

CC: Charles MD Tarbert

Technologist: ROBERT CLARK, R.T.(R)
Transcribed Date/Time: 03/10/2012 (1711)
Transcriptionist: ESHELLEY
Printed Date/Time: 03/10/2012 (1711)

CONWAY MEDICAL CENTER
PO BOX 829
300 SINGLETON RIDGE ROAD
CONWAY, SC 29526-0829
(843) 347-8132

Name: LEDFORD,SCOTT A
Phys: Tarbert, Charles MD
DOB: 08/15/1975 Age: 36 Sex: M
Acct: V00006370886 Loc: ER
Exam Date: 03/10/2012 Status: DEP ER
Radiology No: 00148701
Unit No: M000223640
Patient Phone: (843)742-5330
CPT4 Code: 73610RT

ADMITTING DX: MOTORCYCLE ACCIDENT

| EXAM# | TYPE/EXAM | RESULT |
|---|---|---|
| 001046712 | RAD/ANKLE, RIGHT, COMPLETE, M3V | |

Exam: Right Ankle.

Clinical data: Motorcycle accident.

Findings:

AP, oblique and lateral views of the right ankle show the bones to demonstrate a normal alignment. I do not see a fracture.

*Impression:*

*No fractures of the right ankle are identified.*

*P*

** REPORT SIGNED IN OTHER VENDOR SYSTEM 03/10/2012 **
Reported By: ED SHELLEY M.D.

CC: Charles MD Tarbert

Technologist: ROBERT CLARK, R.T.(R)
Transcribed Date/Time: 03/10/2012 (1711)
Transcriptionist: ESHELLEY
Printed Date/Time: 03/10/2012 (1711)

CONWAY MEDICAL CENTER
PO BOX 829
300 SINGLETON RIDGE ROAD
CONWAY, SC 29526-0829
(843) 347-8132

Name: LEDFORD,SCOTT A
Phys: Tarbert, Charles MD
DOB: 08/15/1975 Age: 36 Sex: M
Acct: V00006370886 Loc: ER
Exam Date: 03/10/2012 Status: DEP ER
Radiology No: 00148701
Unit No: M000223640
Patient Phone: (843)742-5330
CPT4 Code: 73564

ADMITTING DX: MOTORCYCLE ACCIDENT

| EXAM# | TYPE/EXAM | RESULT |
|---|---|---|
| 001046711 | RAD/KNEE, RIGHT, COMPLETE, M4V | |

Exam: Right Knee.

Clinical data: Motorcycle accident.

Findings:

AP, oblique and lateral views of the right knee show the bones to demonstrate a normal alignment. No focal bony abnormalities are seen.

*Impression:*

*Unremarkable right knee.*

*P*

** REPORT SIGNED IN OTHER VENDOR SYSTEM 03/10/2012 **
Reported By: ED SHELLEY M.D.

CC: Charles MD Tarbert

Technologist: ROBERT CLARK, R.T.(R)
Transcribed Date/Time: 03/10/2012 (1711)
Transcriptionist: ESHELLEY
Printed Date/Time: 03/10/2012 (1711)

2012053

Horry County Fire Rescue

| RUN/TRIP NUMBER | PROVIDER NUMBER | DATE CALL RECEIVED | SHIFT | PATIENT NUMBER | EMS UNIT |
|---|---|---|---|---|---|
| FR120310007859.M29.1 | 037 | 03/10/2012 | A | 1 | M29 |

| PATIENT'S NAME LAST | FIRST | MID. INITIAL |
|---|---|---|
| LEDFORD | SCOTT | |

| PATIENT'S ADDRESS | SEX | RACE |
|---|---|---|
| 4338 BRADFORD CIR | M | White |

| CITY | STATE | ZIP CODE | Signature On File |
|---|---|---|---|
| CONWAY | SC | 29526 | Yes |

| PATIENT'S PHONE | AGE | DATE OF BIRTH |
|---|---|---|
| 8432418750 | 36 Years | 08/15/1975 |

| PATIENT'S SOCIAL SECURITY NUMBER | PERSONAL PHYSICIAN |
|---|---|
| 110-58-0432 | |

| PATIENT'S EMPLOYER | PHYSICIAN'S ADDRESS |
|---|---|
| | |

| PATIENT'S CLOSEST RELATIVE | RELATIONSHIP TO PATIENT | RELATIVE'S ADDRESS |
|---|---|---|
| | | |

**BILLING & INSURANCE**

MEDICARE
MEDICAID
INS 1 bcbs state plan Group Policy ZCS26327122
INS 2 Group Policy

| CALL INTO CENTER | DISPATCH TIME | UNIT ENROUTE | F.R. ARRIVES SCENE | UNIT ARRIVES SCENE | TIME AT PATIENT | UNIT DEPARTS SCENE | ARRIVES DEST. | READY FOR SVC. | CALL COMPLETED | SCENE MI. | DEST MI. |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 07:47:15 | 07:49:32 | 07:54:19 | 07:54:44 | 08:00:55 | 08:00:57 | 08:09:03 | 08:19:24 | 08:40:10 | 08:40:10 | | |

**DISPATCH AS / GRID # / LOCATION**

| DISPATCH AS | FROM GRID # | VEHICLE DISPATCHED FROM: |
|---|---|---|
| Lights and Sirens | | |

| INCIDENT LOCATION | TO GRID # | VEHICLE DISPATCHED TO: |
|---|---|---|
| Street or Highway | | CHURCH ST CONWAY SC 29526 |

Assisted by [ ]Air Medical [ ]Bystander [ ]Fire [ ]First Responder [ ]Law Enforcement [ ]MD/RN [ ]Rescue [ ]Other

| PATIENT TRANSPORTED TO: | FACILITY CODE |
|---|---|
| Conway Hospital | 3006 |

OTHER: Loaded Miles: 6.40

| SCENE DELAY | RESPONSE DELAY |
|---|---|
| None; | None; |

**TRANSPORTED AS[ ]AIR [ ]BY [ ]FD [ ]FR [ ]LE [ ]MD**

**CALL OUTCOME**

| CODE | DESCRIPTION |
|---|---|
| | Treated, Transported by EMS |

**APPARENT CAUSE OF INCIDENT**

| CODE | DESCRIPTION |
|---|---|
| 960 | Motorcycle Accident (E81X.1) |

**CATEGORY OF COMPLAINT**

PRIMARY
CODE DESCRIPTION
540 Traffic Accident

SECONDARY
CODE DESCRIPTION

**INJURIES**

**MEDICAL HISTORY / MEDICATIONS**

MEDICATIONS ( ) SEE NARRATIVE
ALLERGIES (X) NKDA
MEDICAL HISTORY ( ) SEE NARRATIVE
ALLERGIES ( ) SEE NARRATIVE

**PHYSICAL ASSESSMENT**

| | Date/Time | Level Cons. | Pulse Rate | Pulse Quality | Resp. Rate | Resp. Quality | Sys BP | Dia BP | ECG | Rhythm | Medic ID |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 1. | 03/10/2012 08:08 | 3255 | 98 | Regular | 20 | Normal | 145 | 87 | | | 000002 |

GLASGOW COMA SCALE ADULT CHILD
EYES
VERBAL
MOTOR
TOTAL

( ) PULSE UPON ARRIVAL AT HOSPITAL
( ) DNR IN PLACE

**BLS PROCEDURES**

| | Time | Proc.Type | Medic |
|---|---|---|---|
| 1) | 08:00 | Assessment-Adult | 000002438 |

**ALS PROCEDURES**

**TRAUMA DETAILS**

TRAUMA DETAILS IN NARRATIVE
(X) MVC
( ) BURNS
( ) FALL
( ) ASSAULT
( ) ELECTROCUTION

**TRAUMA SCORES**

| ADULT SCALE | | PEDIATRIC SCALE |
|---|---|---|
| RESPIRATORY RATE | 4 | SIZE |
| RESP. EXPANSION | | AIRWAY |
| SYSTOLIC BP | 4 | CNS |
| CAP. REFILL | | SYSTOLIC BP |
| GCS POINTS | | OPEN WOUND |
| TOTAL SCORE | | SKELETAL |
| | | TOTAL SCORE |

**MEDICATIONS**

( ) NARCOTICS USED

**SIGNATURES**

| Signature / Certification ID | Level | Name | Medic ID |
|---|---|---|---|
| 1. _____ 000002438 SC007862 | EMT-I | nteSeprish, Regina D. | |
| 2. _____ A.000007837 SC020581 | EMT-P | araSzymoniak, Christopher | |

PATIENT RECEIVED BY
ORDERS RECEIVED FROM
PHYSICIAN SIGNATURE FOR ORDERS

| Additional | RUN/TRIP NUMBER<br>FR1203100 59.M29.1 | PROVIDER NUMBER<br>037 | DATE CALL RECEIVED<br>03/10 12 |
|---|---|---|---|
| | PATIENT'S NAME LAST<br>LEDFORD | FIRST<br>SCOTT | MIDDLE INITIAL |

M29 DISPATCHED TO MVA. WAS CANCELLED TWICE AND THEN REQUESTED BACK ON SCENE BY EMS-1 BECKY PAVILACK. UPON ARRIVAL FOUND PT WALKING AROUND TALKING TO OTHER POLICE OFFICERS. PT IS A HIGHWAY PATORLMAN WHO LAID MC DOWN IN HIGHWAY. PT C/O RIGHT ANKLE PAIN. PT COAX3. SKIN W&D, PEARL. M29 CREW WAS MET BY EMS-1 STATING THAT OFFICER WAS GOING TO HOSPITAL AFTER REFUSING 3 TIMES. PT SUPERVISOR WANTS HIM TO GO AND BE CHECKED OUT. EMS CREW WAS GOING TO LSB AND COLLAR PT WHEN EMS-1 SAYS NO WE ARE NOT GOING TO MAKE HIM DO THAT. PT THEN APPROACHES EMS-1 AND SAYS I WILL GO BY AMBULANCE IF YOU DO NOT STRAP ME DOWN ON BOARD. PAVILACK TELLS HIM "NO WE ARE NOT GOING TO DO THAT TO YOU" IT WAS APPARENT THAT PT HAD BEEN WALKING AROUND WITH NO PROBLEM AND WAS NOT EVEN LIMPING. PT DENIES NECK OR BACK PAIN, DENIES LOC. EMS WAS ASKED TO WAIT ON PT TO GET THINGS TOGETHER BEFORE TRANSPORTING EVEN THOUGH THEY HAD BEEN ON SCENE FOR AWHILE BEFORE EMS ARRIVED. PT WAS ASKED TO LETS GO AHEAD AND LOAD TO GET PT CARE STARTED. WHEN FINALLY IN AMBULANCE PT SAT IN CAPTAINS SEAT, WHICH WAS SAID THAT WE WOULD GET A WHEEL CHAIR WHEN ARRIVE AT HOSPITAL SO HE WOULD NOT HAVE TO WALK, THEN PAVILACK SAID WE HAD TO PUT HIM ON STRETCHER EVEN THOUGH PT DID NOT WANT TO AND WE COULD HAVE GOT A WHEEL CHAIR AT HOSPITAL. WHEN FINALLY GOT TO DO ASSESSMENT, TOOK PT BOOT OFF TO FIND THAT THE ANKLE WAS ALREADY BEGINNING TO SWELL AND THERE WAS ABRASION TO RIGHT KNEE. PT WAS ASKED AGAIN IF THERE WERE ANY OTHER INJURIES OR PAIN. HE SAID NO. NOTHING OBVIOUS WAS NOTED. VITALS TAKEN. ICE PACK WAS PLACED ON ANKLE TO HELP WITH SWELLING. TRANSPORTED PT TO CONWAY ER WITH NO OTHER COMPLICATIONS OR COMPLAINTS. TRANSFERRED CARE TO NURSING STAFF WITH VERBAL REPORT. MOVED PT TO ROOM 9

---------- End of Report ----------

South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500
P.O. BOX 1715
Columbia, SC 29202-1715
(803) 737-5739
www.wcc.sc.gov

# PRE-HEARING BRIEF
## WCC File No: 1202545

Claimant's Name: Scott Ledford
Address: 4338 Bradford Circle
City: Myrtle Beach State: SC Zip: 29587
Home Phone: (843) 241-8750 Work Phone:
Preparer's Name: Sarah S. Alphin, Attorney for Defendants

Employer's Name: Department of Public Safety
Address: 10311 Wilson Blvd.
City: Blythewood State: SC Zip: 29016
Carrier: State Accident Fund
Preparer's Phone #: (803) 227-2885

**A claim for workers' compensation benefits is made based on the following grounds:**
☒ Injury ☐ Illness ☐ Repetitive Trauma

1. Compensation Rate: $473.32 2. AWW: $709.95 **Date of Injury:** March 10, 2012
3. Type of injury and body part(s): Admitted right ankle and right knee
4. Facts in controversy: Whether the Claimant sustained a compensable injury by accident to his back on March 10, 2012; to what additional benefits, if any, is the Claimant entitled.
5. Legal issues involved: § 42-9-35; § 42-1-120; § 42-15-60; § 42-1-160; § 42-9-10; § 42-9-30; Curiel vs. Environmental Management Services 665 S.E.2d 482 (S.C. 2007); Shealy vs. Algernon Blair, Inc. 25 S.C. 106 and other applicable statutes, regulations, and case law.
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):* Claimants, Employer Representative, and multiple depositions of Dr. William Mills.
8. Exhibits: Claimant's Employment/Personnel File; Payroll Records; Deposition of Claimant; Multiple depositions of Dr. William Mills.
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: Coastal Orthopaedics Associates, P.A., 2376 Cypress Circle, Suite 300, Conway, SC 29526
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

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

Signature: Sarah S. Alphin
Sarah S. Alphin, Willson Jones Carter & Baxley, P.A.
Email: ssalphin@wjlaw.net

Date of hearing: January 15, 2013 Time needed for hearing: 1.5hrs
On behalf of ☐ Claimant ☒ Employer

I certify that I have served this document pursuant to R.67-212 by delivering a copy to E. HOOD TEMPLE, Esquire,
Name
170 Courthouse Square, P.O. Box 1770, Florence, SC 29503-1770; and The Honorable Andrea C. Roche, SC WCC, P.O. Box 1715, Columbia, SC 29202-1715; and SAMUEL T. BRUNSON, Esquire, P.O. Drawer 431 521 West Evans Street, Florence, SC 29503
Address
on the 4th day of January ; 2013 by ☒ first class mail; ☐ personal service; ☐ certified mail.

Courtney C. Noble
Courtney C. Noble, Certifier
January 4, 2013
Date

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 # 1202545
Carrier File # 2012-000722
Carrier Code #
Employer FEIN

| | | | |
|---|---|---|---|
| Scott Ledford | 110-58-0432 | Department of Public Safety | |
| Claimant's Name | SSN | Employer's Name | |
| 4338 Bradford Circle, Myrtle Beach, SC 29587 | | 10311 Wilson Blvd., Blythewood, SC 29016 | |
| Address City State Zip | | Address City State Zip | |
| (843) 241-8750 | | State Accident Fund | |
| Home Phone | Work Phone | Insurance Carrier | |
| Sarah S. Alphin | 4500 Fort Jackson Boulevard, Columbia, SC 29209 | (803) 227-2885 | |
| Preparer's Name | Address | Phone # | |

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION AND
E. HOOD TEMPLE, 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:

| NAME OF PHYSICIAN/OTHER | DATE OF REPORT | PAGE |
|---|---|---|
| 8. The Southeasern Spine Institute, Dr. Richard Holgate | 5/16/2012 | 83 |

EXHIBITS

| | | |
|---|---|---|
| Deposition of Claimant | | |
| Multiple Depositions of Dr. William Mills | | |

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: Claimants, Employer Representative, and multiple depositions of Dr. William Mills.

Sarah S. Alphin

Sarah S. Alphin
Willson Jones Carter & Baxley, P.A.
4500 Fort Jackson Boulevard
Columbia, SC 29209

January 4, 2013

January 15, 2013
(hearing date)

DISC RAD

Richard C. Holgate, M.D.

The Southeastern Spine Institute
389 Johnnie Dodds Blvd
Suite 117A
Mount Pleasant, SC 29464
843-266-0720

# FINAL REPORT

Patient: Scott Ledford
Patient Phone: --------
SSN: 110-58-0432
Patient #: 631380

Exam Date: 5/16/2012
Exam Name: Cervical
Modality: MRI
Referring Doctor: Poletti, Steven

Clinical Information: M/36 WITH PAIN DOWN THE CENTER OF SPINE,NUMBMESS IN BOTH SHOULDER AND ARM INTO HANDS,MAINLY IN THE RIGHT SINCE 7/10/10,INCREASE PAIN 3/3/12. RECENT TRAUMA. HT-5'10" WT-190 LBS.

TECHNIQUE: The patient is examined on the High Field GE Horizon LX High Speed MR System which functions at 1.0 Tesla. A dedicated spine coil is used to obtain high resolution images of the cervical spine. SERIES: 1) COR, T1, SE, 7 mm; 2) SAG, T2, FSE, 3 mm; 3) AX, T2, GRE, 4 mm. ADDITIONAL SERIES: 1) AX, T1, SE, 5 mm; 2) SAG, T1, SE/Fat Sat, 3 mm; 3) AX, T1, SE, 3 mm. 3D REFORMATIONS: 3mm REFORMATIONS PERFORMED IN 1) AX; 2)COR; 3)SAG/OBL RT; 4) SAG/OBL LT; 5) CORONAL PLANES.

CONTRAST: The last two T1 weighted axial sequences were carried out following injection of 19 cc of contrast. ( With and Without Contrast )

OVERVIEW: Overview of the cervical spine shows there is normal marrow signal and normal bony alignment with no evidence of a congenital; anomaly of the spine. The visualized paraspinal soft tissues which include the pulmonary apices and the proximal brachial plexus are within normal limits.

SPINAL CORD The spinal cord is demonstrated from the craniocervical junction down to the upper thoracic region. It is of normal caliber throughout showing no evidence of compression or enlargement and no area of focal signal abnormality to indicate the presence of intrinsic spinal cord disease. There is no evidence of abnormal enhancement within the spinal cord.

C2-3, C3-4, C7-T1. Mild noncompressive spondylosis.

C4-5, C5-6, C6-7. Osteophytes with sevére bilateral foraminal stenosis.

3D REFORMATIONS: Because of movement between sagittal and axial sequences multiplanar 3D reformations were performed for accuracy and confirm the findings set out above. Please refer to the axial and oblique sagittal reformations for accuracy.

Opinion: MRI of the cervical spine including multi-planar reformations show a normal spinal cord and severe spondylosis with probable nerve root compression at C4-5, C5-6 and C6-7. No abnormal enhancement is seen in the cervical spine.

Patient: Scott Ledford
Patient #: 631380
Exam Name: Cervical
Exam Date: 5/16/2012

Richard C. Holgate, MD

DISC Radiologists
1341C Old Georgetown Road - Mount Pleasant, SC 29464
(843) 884-8095 - (800) 898-1294 - Fax (843) 856-7312

83

**South Carolina Workers' Compensation Commission**
1333 Main Street, Suite 500
P.O. BOX 1715
Columbia, SC 29202-1715
(803) 737-5739 www.wcc.sc.gov

# AMENDED PRE-HEARING BRIEF
## WCC File No: 1202545

| | | | |
|---|---|---|---|
| Claimant's Name: | Scott Ledford | Employer's Name: | Department of Public Safety |
| Address: | 4338 Bradford Circle | Address: | 10311 Wilson Blvd. |
| City: | Myrtle Beach State: SC Zip: 29587 | City: | Blythewood State: SC Zip: 29016 |
| Home Phone: | (843) 241-8750 Work Phone: | Carrier: | State Accident Fund |
| Preparer's Name: | Sarah S. Alphin | Preparer's Phone #: | (803) 227-2885 |

**A claim for workers' compensation benefits is made based on the following grounds:**
☒ Injury ☐ Illness ☐ Repetitive Trauma

1. Compensation Rate: $709.95 2. AWW: $ 473.32 **Date of Injury:** 3/10/2012
3. Type of injury and body part(s): Right lower extremity and back.
4. Facts in controversy: (1) Whether the Claimant has reached maximum medical improvement; (2) Whether the Claimant is entitled to permanency benefits; (3) Whether the Claimant is entitled to any additional benefits under the Act; and (4) Whether the Defendants are entitled to credit for overpayment of temporary benefits.
5. Legal issues involved: §42-1-120; §42-15-60; §42-1-160; §42-9-10; §42-9-30; §42-9-60; Curiel v. Environmental Management Services; Shealy v. Algernon Blair, Inc.; 250 S.C. 106 and other applicable statutes, regulations, and case law.
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):* The Claimant and Employer Representative and/or Supervisor.
8. Exhibits: Claimant's Employment/Personnel File; Payroll Records; Deposition of Claimant; **Exhibit A: Form 19 for WCC# 1009581; Exhibit B: Form 16A for WCC #1009581; Exhibit C: Tax returns for ProCutters.**
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: William L. Mills, MD, Coastal Orthopaedic Associates, Conway Health Plaza, 235 Singleton Ridge Road, Conway, SC 29527; W.S. Edwards, Jr., M.D. Pee Dee Orthopaedic Associates, 901 E. Cheves Street, Suite 100, Florence, SC 29506.
11. Impairment rating(s); body part(s); physician and date of opinion: 7% to right lower extremity by Dr. Mills on 5/12/13; 15% to the back by Dr. Edwards on 10/31/13.
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: E. Hood Temple, 170 Courthouse Square, P.O. Box 1770, Florence, SC 29503-1770 and Susan S. Barden, P.O. Box 1715, Columbia, SC 29202-1715 on the 11th day of August, 2014 by ☒ first class mail ☐ personal service ☐ certified mail.

Certifier, MaryJo Lawracy

Signature: Sarah S. Alphin
Sarah S. Alphin, Willson Jones Carter & Baxley, P.A.

Email: ssalphin@wjlaw.net

Date of hearing: 8/15/2014 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 # 1202545
Carrier File # 2012-000722
Carrier Code #
Employer FEIN

| | | | |
|---|---|---|---|
| Scott Ledford | 110-58-0432 | Department of Public Safety | |
| Claimant's Name | SSN | Employer's Name | |
| 4338 Bradford Circle, Myrtle Beach, SC 29587 | | 10311 Wilson Blvd., Blythewood, SC 29016 | |
| Address City State Zip | | Address City State Zip | |
| (843) 241-8750 | | State Accident Fund | |
| Home Phone | Work Phone | Insurance Carrier | |

Sarah S. Alphin — 4500 Fort Jackson Boulevard, Columbia, SC 29209 — (803) 227-2885
Preparer's Name — Address — Phone #

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION AND
E. HOOD TEMPLE, 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:

| NAME OF PHYSICIAN/OTHER | DATE OF REPORT | PAGE |
|---|---|---|
| APA #1: Coastal Orthopaedic Associates, William L. Mills, M.D. | 07/28/2010 – 05/23/2013 | 1-12 |
| APA #2: InMed | 09/09/2010 | 13 |
| APA #3: Conway Medical Center | 03/23/2012 – 03/28/2012 | 14-30 |
| APA #4: Doctor's Care | 03/13/2012 – 04/06/2012 | 31-34 |
| APA #5: Long Bay Diagnostic Imaging | 04/17/2012 – 04/18/2012 | 35-40 |
| APA #6 Atlantic Physical Therapy & Rehabilitation | 10/18/2012 – 11/14/2012 | 41-57 |
| APA #7: Carolina Bone and Joint Surgery Center | 01/30/2013 – 03/18/2013 | 58-63 |
| APA #8: Community Rehab and Physical Therapy | 03/20/2013 | 64-65 |
| APA#9: Pee Dee Orthopaedic Associates, P.A. | 08/15/2013 | 66-67 |
| APA #10: Corvel Initial Vocational Evaluation w/Labor Market Survey | 07/17/2014 – 07/21/2014 | 68-83 |

**EXHIBITS**

| | | |
|---|---|---|
| **EXHIBIT A: Form 19 for WCC #1009581** | | |
| **EXHIBIT B: Form 16 A for WCC #1009581** | | |
| **EXHIBIT C: Tax Returns for Procutters** | | |

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: The Claimant and Employer Representative/Supervisor.

Sarah S. Alphin

Sarah S. Alphin
Willson Jones Carter & Baxley, P.A.
4500 Fort Jackson Boulevard
Columbia, SC 29209

August 11, 2014

August 15, 2014
(hearing date)

**AMENDED APA**

Corvel Scan Date: 8/2/2010

Coastal Orthopaedic Associates MRI
Conway Health Plaza
235 Singleton Ridge Road
Conway, South Carolina 29527
(843) 234-2094 Office
(843) 347-4375 Fax

Professionally Interpreted by
Carolina Radiology Associates, LLC

NAME: LEDFORD, SCOTT
DOB:
PHYSICIAN: HASKIN

DATE OF EXAM: 07/28/2010
PATIENT ID: COA62711

EXAM: MRI of the thoracic spine.

HISTORY: T7 compression fracture.

TECHNIQUE: Sagittal and selected axial T1 and T2-weighted imaging as well as sagittal inversion recovery images were obtained through the thoracic spine.

FINDINGS: There is a T6 compression fracture. This is counting from the cervical spine down. There is approximately 25-30% vertebral body height loss. No retropulsed fragment is seen. Edema is seen suggesting that this is acute in nature, consistent with history. Additionally, there is some edema in the superior anterior endplate of T9, likely representing a small contusion.

No significant central canal or foraminal stenosis is identified. Visualized paraspinal soft tissues are unremarkable, as is the cord itself.

IMPRESSION:

1. T6 acute compression fracture with approximately 30% vertebral body height loss. It should be noted that this counting is performed from the top down.

2. Probable contusion of the anterior superior endplate of T9.

Preliminary report faxed to Coastal Orthopaedics at 9:38 a.m. on 7/28/2010.

Images were interpreted at CRA office.

SIGNEDBY
DD: 07/28/2010
DT: 07/28/2010

sm

Corvel Scan Date: 2/1/2011

SCOTT A LEDFORD REF: CONWAY ER
62711
01/27/2011

SUBJECTIVE: He is 6-1/2 months out from T6 compression fracture, doing well having minimal pain. He just has a little bit of tightness across his upper back area.

OBJECTIVE: AP and lateral thoracic x-rays show no significant kyphosis.

**ASSESSMENT: Healed compression fracture.**

PLAN: Core strengthening. Motrin as needed. He is at MMI, 10% residual impairment. He is able to work full duty.

William L. Mills, M.D. /5204
759455

Chart Copy

cc: Conway Medical Center Emergency Room

Corvel Scan Date: 4/30/2012

SCOTT A LEDFORD REF: ER CONWAY
62711
DOB: 08/15/1975
04/20/2012

SUBJECTIVE: He continues with thoracic pain, lower back pain and right ankle pain. He is on the Nucynta. He is out of work.

OBJECTIVE: Thoracic MRI is reviewed. The compression fractures are healed. Lumbar MRI shows fairly advanced spondylosis L5-S1. Right ankle MRI shows a contusion. No definite fracture line.

ASSESSMENT:
1. Myofascial pain thoracic area.
2. Right ankle contusion.
3. L5-S1 spondylosis.

PLAN: Equalizer boot. Out of work. I think probably the best option for him as far as his lower back is an ALIF at L5-S1. First let's try some bilateral facet blocks at L5-S1. Out of work status. Equalizer boot. We will see him back in a couple of weeks.

William L. Mills, M.D. /5204
1848516

Chart Copy

3

COASTAL
ORTHOPEDICS
*Specializing In You*
2378 Cypress Circle – Suite 300 / Conway, SC 29526
843-347-7222 • Fax: 843-347-3305 • www.carthopedics.com

# Work and/or School Release

Date: 4/20/2012

Patient Name: SCOTT LEDFORD
Patient ID: 62711
Diagnosis:

RECEIVED
APR 25 2012
Human Resources Office
D.P.S.

Please be advised that our patient: SCOTT LEDFORD.

☒ Was seen in our office on the following dates: 4/20/2012

☐ May return to full duty on: _____

☒ May not return to work until: further notice

☐ May return to light duty: _____

☐ May not participate in: _____

☐ Other: _____

Return Appointment: _____

Attending MD:

William L. Mills, MD DATE: 4/20/2012

4

2012053+201018?



SCOTT A LEDFORD REF: ER CONWAY
62711
DOB: 08/15/1975
06/04/2012

SUBJECTIVE: He has right hand numbness and right arm pain, neck and right arm pain, lower back pain.

OBJECTIVE: Cervical MRI is reviewed. There is disc space narrowing C5-6, C6-7. Lumbar MRI shows a central herniation L5-S1. Advanced spondylosis.

ASSESSMENT:
1. C5-6, C6-7 spondylosis with right cervical radiculopathy.
2. L5-S1 spondylosis.

PLAN: Treatment options were discussed. I recommend ACDF at C5-6 and C6-7 with LDR system, also ALIF at L5-S1. He probably wants to get his neck done first.

William L. Mills, M.D. /5204
1969095

Chart Copy

5

2012 - 722

C| S. alphin, k-atty 6'22'12e.j.

Corvel Scan Date: 6/12/2012

SCOTT A LEDFORD REF: ER CONWAY
62711
DOB: 08/15/1975
06/04/2012

ADDENDUM
SUBJECTIVE: He is also having some pain in his right ankle.

OBJECTIVE: He still has some swelling over the right ankle area.

ASSESSMENT: 1. Right ankle contusion with continued pain.

PLAN: I want him to try some Voltaren gel. We will put him out of work for now. Again, I recommend an ACDF at C5-6 and C6-7. Probably at some point he is going to need an ALIF at L5-S1.

William L. Mills, M.D. /5204
1969096

Chart Copy

6

# C : S. Alphin, k-atty 7.10.12 ej

Corvel Scan Date: 6/27/2012

SCOTT A LEDFORD

Date: 6/19/2012
Case No. 62711
AGE/SEX: 36/Male
DOB: 8/15/1975

Referred By: ER CONWAY

CHIEF COMPLAINT: Right ankle pain.

PRESENT ILLNESS: The patient is a 36-year-old white male who complains of pain in his right ankle, and points to the anterolateral ankle joint. The pain began in March when he was in a motorcycle accident. He was a seated driver, and State Trooper. He was involved in an accident as he was checking a car. He had pain in his ankle. He was seen at Doctors Care. He was initially seen by Dr. William Mills. The patient was treated for ankle swelling and contusions. He now presents for evaluation. He says the pain is now worse with standing and walking, and somewhat decreased with rest. The pain is somewhat improved, but he has no physical therapy. He says the pain is on the lateral aspect of his ankle.

PHYSICAL EXAMINATION:

GENERAL: Well developed, well nourished white male in no apparent distress.

LYMPHATIC: No cervical lymphadenopathy.

CARDIOVASCULAR: Bilateral upper extremities, radial pulse 1+ bilateral lower extremities, dorsalis pedis, and posterior tibial pulse 1+.

MUSCULOSKELETAL: Anatomic alignment of the right lower extremity. He is tender over the ATFL of his right ankle. There is mild swelling present. He has some anterior ankle joint tenderness as well. His peroneal strength is 4/5 on the right and 5/5 on the left. Full range of motion and complete stability of the left ankle, hindfoot, bilateral midfoot, and forefoot joints. Muscle strength and tone

Corvel Scan Date: 6/27/2012



is normal. Gait is antalgic to the right side.

SKIN: No skin changes or rashes bilateral lower extremities.

NEUROLOGIC: Tinel's sign is palpable over the right superficial peroneal nerve and radiates pain out of the dorsal aspect of the right foot. Coordination intact to reciprocal testing. Achilles and patella tendon reflexes are 1+ bilaterally. Sensation is intact to light touch bilateral lower extremities.

MENTAL: The patient is alert and oriented to person, place and time. Mood and affect are appropriate.

ASSESSMENT:
1. Right ankle sprain on rehab.
2. Superficaial peroneal neuritis.

PLAN: The patient was seen and evaluated by Dr, Taylor who recommended he go back into the cam walking boot, and begin physical therapy for ankle sprain protocol, 3 times a week for 4 weeks. Follow up in 4-6 weeks.

J. Chris Lewis, PA-C
For Ross Taylor, M.D. /5117
2011999

Corvel Scan Date: 11/21/2012

SCOTT A LEDFORD REF: ER CONWAY
62711
DOB: 8/15/1975
11/15/2012

The patient is here for follow up of persistently painful right sprained ankle.

SUBJECTIVE: He has completed 12 visits of physical therapy with modest to no relief. He points to the anterolateral aspect of the right ankle joint. The pain in this area is dull and aching in nature. It is exacerbated by standing, walking and weightbearing, and somewhat relieved by rest.

OBJECTIVE:
PHYSICAL EXAMINATION:
MUSCULOSKELETAL: Anatomic alignment of the bilateral lower extremities. He is edematous about the right ankle joint. He demonstrates limitation of dorsiflexion to 8 degrees on the right versus 15 on the left. He demonstrates limitation of plantar flexion to 30 degrees on the right, 40 degrees on the left. he demonstrates full range of motion and complete stability of the bilateral subtalar, midfoot and forefoot joints. Muscle strength and tone is normal. He is tender over the posterolateral aspect of the left ankle in the area of Stieda process but not along there peroneal tendons. He is tender over the anterolateral aspect of the right ankle where palpable crepitus is induced with dorsiflexion.
HEART: Regular rate and rhythm.
LUNGS: Clear to auscultation bilaterally.

ASSESSMENT:
1. Probable impingement lesion, right ankle. Could not rule out osteochondral lesion.
2. Posterior impingement syndrome, right ankle.

PLAN: Diagnosis and treatment options were discussed and reviewed with the patient. Based on lack of response to conservative treatment it is unlikely additional physical therapy and/or bracing, or other conservative modalities would lead to adequate improvement. To reach full MMI and maximal function he will require surgery. Surgery would involve an arthroscopic debridement of the ankle joint done through an anterior approach and assessment of the cartilage surface. Any underlying cartilage pathology may need to be simultaneously treated. He would then require change to prone position for arthroscopic versus open resection of Stieda process. Outline of all surgical incisions, nature of the surgery and the

Corvel Scan Date: 11/21/2012



potential risks associated with the surgery, including risk of continued pain, nerve injury, numbness or tingling about the foot, complex regional pain syndrome, deep vein thrombosis or infection were discussed, reviewed and expressed as understood. He is out-of-work.

Ross Taylor, M.D. /5142
2457145

Chart Copy

Corvel Scan Date: 1/15/2013

SCOTT A LEDFORD REF:
62711
DOB: 08/15/1975
01/08/2013

The patient presents for a heart and lung check today.

OBJECTIVE: Heart is regular rate and rhythm. Lungs are clear to auscultation bilaterally.

PLAN: We will proceed with surgery as outlined. He will follow up 7 to 10 days afterwards.

J. Chris Lewis, PA-C
for Ross Taylor, M.D. /5204
2598246

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COASTAL
ORTHOPEDICS
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SCOTT LEDFORD
Date: 5/23/2013
Case No. 62711
DOB: 8-15-1975

Patient is here for followup right ankle sprain that occurred while working that led to requirement for arthroscopy and open resection of os trigonum on 1/30/2013

SUBJECTIVE: Intermittent dull aching pain right ankle. He describes inability to run or cut or pivot.

OBJECTIVE: Anatomic alignment of the bilateral lower extremities. Gait is nonantalgic. Range of motion right ankle limited to 5 of dorsiflexion and 20 of plantarflexion first 15 of dorsiflexion and 40 of plantar flexion of the opposite or left ankle. He demonstrates full range of motion complete stability of the bilateral hindfoot midfoot and forefoot joints. Muscle strength and tone is normal.

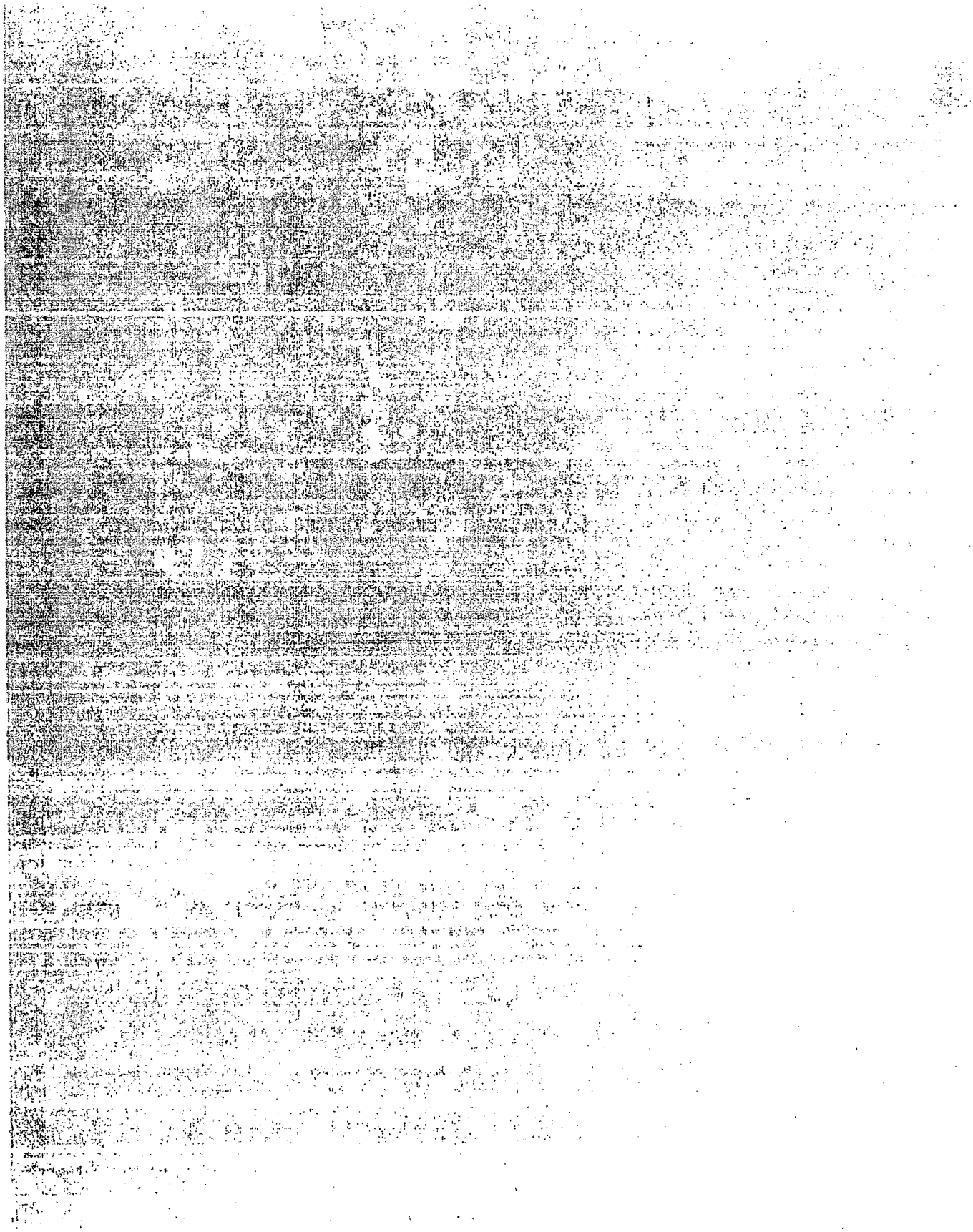
RADIOGRAPHS: None.

ASSESMENT: Residual stiffness right ankle due to sequelae of ankle sprain requiring arthroscopic debridement and open resection of os trigonum.

PLAN: He is reached MMI. Residual impairment rating is 7% based on range of motion restrictions secondary to sprain. Although he has done well he will be unable to safely tolerate running, cutting, pivoting or unpredictable surfaces. He has a possibility but not a likelihood of developing arthritis of his ankle secondary to his injury at a later point in life. At this time he requires no further treatment.

Rose Taylor, M.D.

Fcc: ER Conway,



InMed
Diagnostic Services of S.C., LLC

| | |
|---|---|
| PATIENT NAME: | SCOTT LEDFORD |
| DOB: | 8-15-75 |
| REFERRING PHYSICIAN: | B. SARB |
| GENDER: | MALE |
| MR# | 416826 |
| DATE OF STUDY | 9-9-10 |

MRI CERVICAL SPINE

HISTORY: Neck pain and mid back pain extending into the right arm with numbness. Prior history of thoracic spine fractures.

TECHNIQUE: Sagittal T1/T2 and axial T2 and gradient echo images obtained on a .3 Tesla open MRI unit.

FINDINGS: The paramidline lower cerebellum, lower brainstem and cervicomedullary junction are intact. C1-T2 are normally aligned. The T3 vertebral body is mildly decreased in height at the superior endplate. T4 is also mildly decreased in height and the findings may relate to chronic compression fractures at T3 and T4. There is no posterior bony retropulsion or cortical extension. Currently, no findings of marrow edema. The cervical and upper thoracic spinal cord is normal caliber and signal. Mild disc degeneration is seen at C2-3, C3-4, and C4-5. No significant disc bulge or foraminal stenosis at these levels. C5-6 disc is degenerated and narrowed with broad-based posterior disc protrusion greatest to the left of midline with overlying osteophytes. The findings are typical of moderate spondylosis with theca sac effacement and mild left foraminal stenosis. Left sided moderate spondylosis is seen at C6-7 as well with osteophyte and chronic disc bulge best seen just ventral to the left C7 ventral rootlets. The foramina remain patent. C7-T1 and T1-2 and T2-3 discs are unremarkable. No defined paraspinal mass or muscle asymmetry. No significant right foraminal stenoses are identified with only mild spondylotic spurring to the right at C4-5, C5-6, and C6-7 levels.

IMPRESSION:

1. Moderate C5-6 and C6-7 left sided dominant spondylosis and degenerative disc disease with left sided thecal sac effacement and possible left C7 ventral rootlet contact. Mild left foraminal stenosis due to the chronic spondylotic spurring. No findings of acute disc herniation with particularly attention to the right side.
2. Mild mid cervical facet arthropathy with no acute fractures.
3. Mild wedge deformity and superior endplate deformities at T3 and T4 vertebral bodies that may relate to remote fractures.

Charles E. Parke, M.D.

CEP/skd

4701-C Oleander Dr.
Myrtle Beach, S.C. 29577
P: (843) 692-0040 F: (843) 692-0046

FAX

Corvel Scan Date: 3/23/2012

CONWAY HOSPITAL
P.O. BOX 829
300 SINGLETON RIDGE ROAD
CONWAY, SC 29526-0829
(843) 347-8232

NAME: LEDFORD,SCOTT A
ORD PHYS: TARCH ~Tarbert, Charles MD
DOB: 08/15/75 AGE: 36 SEX: M
ACCT: V00006370886 LOC: ER
EXAM DATE: 03/10/12 STATUS: DIS IN
RADIOLOGY NO: 00148701
UNIT NO: M000223640
RADIOLOGIST: ESHELLEY ~ED SHELLEY M.D.
SIGN PHYS: ESHELLEY ~ED SHELLEY M.D.
PATIENT PHONE: (843)742-5330
CPT4 CODE: 73610RT

ADMITTING DX NSC:
ADMITTING DX 1: L INDEX FINGER AMPUT
ADMITTING DX 2:
EXAM: 001046712 - ANKLE, RIGHT, COMPLETE, M3V

Exam: Right Ankle.

Clinical data: Motorcycle accident.

Findings:

AP, oblique and lateral views of the right ankle show the bones to demonstrate a normal alignment. I do not see a fracture.

Impression:

No fractures of the right ankle are identified.

P

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CONWAY HOSPITAL
P.O. BOX 829
300 SINGLETON RIDGE ROAD
CONWAY, SC 29526-0829
(843) 347-8232

NAME: LEDFORD,SCOTT A
ORD PHYS: TARCH ~Tarbert, Charles MD
DOB: 08/15/75 AGE: 36 SEX: M
ACCT: V00006370886 LOC: ER
EXAM DATE: 03/10/12 STATUS: DIS IN
RADIOLOGY NO: 00148701
UNIT NO M000223640
RADIOLOGIST: ESHELLEY ~ED SHELLEY M.D.
SIGN PHYS: ESHELLEY ~ED SHELLEY M.D.
PATIENT PHONE: (843)742-5330
CPT4 CODE: 73564

ADMITTING DX NSC:
ADMITTING DX 1: L INDEX FINGER AMPUT
ADMITTING DX 2:
EXAM: 001046711 - KNEE, RIGHT, COMPLETE, M4V

Exam: Right Knee.

Clinical data: Motorcycle accident.

Findings:

AP, oblique and lateral views of the right knee show the bones to demonstrate a normal alignment. No focal bony abnormalities are seen.

Impression:

Unremarkable right knee.

P

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Corvel Scan Date: 3/23/2012

CONWAY HOSPITAL
P.O. BOX 829
300 SINGLETON RIDGE ROAD
CONWAY, SC 29526-0829
(843) 347-8232

NAME: LEDFORD,SCOTT A
ORD PHYS: TARCH ~Tarbert, Charles MD
DOB: 08/15/75 AGE: 36 SEX: M
ACCT: V00006370886 LOC: ER
EXAM DATE: 03/10/12 STATUS: DIS IN
RADIOLOGY NO: 00148701
UNIT NO: M000223640
RADIOLOGIST: ESHELLEY ~ED SHELLEY M.D.
SIGN PHYS: ESHELLEY ~ED SHELLEY M.D.
PATIENT PHONE: (843)742-5330
CPT4 CODE: 73630

ADMITTING DX NSC:
ADMITTING DX 1: L INDEX FINGER AMPUT
ADMITTING DX 2:
EXAM: 001046713 - FOOT, RIGHT, M3V

Exam: Right Foot.

Clinical data: Motorcycle accident and pain.

Findings.

AP, oblique and lateral views of the right foot show the bones to demonstrate a normal alignment. No fractures are identified.

Impression:

No fractures of the right foot are seen.

P

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16

Corvel Scan Date: 3/27/2012

V00006370886 TARCH

$$START
03/11/2012 10:59 $$
Physician Documentation
Conway Medical Center
Name:Scott Ledford
Age:36 years
Sex:Male
DOB:08/15/1975
MRN:M000223640
Arrival Date:03/10/2012
Time:08:23
Account#:V00006370886
BedED9
Private MD:Carolina health specialists, Dr

HPI:
03/10 This 36 years old Caucasian Male presents to ER via EMS with ct
09:03 complaints of Motorcycle Collision.
09:03 The patient presents with an abscess, an injury. The complaints ct
affect the lateral aspect of right foot and right knee and right ankle. Context: The problem was sustained at work, the patient can partially bear weight, Patient is a state trooper. He was on his motorcycle when he was pulling out to go after a speeding car. He "laid down" the bike on his right leg. He complains of pain at the right knee, ankle and lateral aspect of the right foot.. Onset: The symptoms/episode began/occurred acutely, just prior to arrival.. Modifying factors: The symptoms are alleviated by nothing. the symptoms are aggravated by movement, weight bearing, bending knee. Associated signs and symptoms: Pertinent positives: swelling, Pertinent negatives fever, numbness, tingling, weakness, Treatment prior to arrival includes: no previous treatment. Severity of symptoms: At their worst the symptoms were moderate, in the emergency department the symptoms are unchanged. The patient has not experienced similar symptoms in the past.

Historical:
- Allergies: SHELLFISH;
- Home Meds:
  1. Fexofenadine HCl Oral 1 tablet daily, as needed (Last dose: 03/10/2012 05:40)
- PMHx: Hypertension;
- PSHx: finger; nasal; Back Surg;
- Immunization history: : Last tetanus immunization: up to date. < 5 years ago Pneumococcal vaccine is not up to date. Flu vaccine is not up to date.
- Code Status:: Full code.
- Do you have an Advanced Directive or Health Care Power of Attorney?: No.
- Social history: Smoking status: Patient/guardian denies using tobacco, Patient uses N/A, patient denies use of alcohol and/or tobacco products. No barriers to communication noted.
- Family history:: Not pertinent.
- The history from nurses notes was reviewed: and I agree with what is documented up to this point.

Name:Scott Ledford
MRN:M000223640

Corvel Scan Date: 3/27/2012


Physician Documentation
Conway Medical Center
Name:Scott Ledford
Age:36 years
Sex:Male
DOB:08/15/1975
MRN:M000223640
Arrival Date:03/10/2012
Time:08:23
Account#:V00006370886
BedED9
Private MD:Carolina health specialists, Dr

ROS:
09:03 Constitutional: Negative for fever or chills. Neck: Negative for pain, and swelling, Cardiovascular: Negative for CP or palpitations. Abdomen/GI: Negative for abdominal pain, nausea, vomiting, diarrhea, and constipation, Back: Negative for injury and pain, Neuro: Negative for headache, weakness, numbness and tingling. MS/extremity: Positive for injury or acute deformity, pain, swelling, of the lateral aspect of right foot and right knee and right ankle. Skin: Positive for abrasion(s). ct

Exam:
09:03 Constitutional: This is a well developed, well nourished patient who is awake, alert, and in no acute distress. Head/Face: Normocephalic, atraumatic. Neck: No mass or lymphadenopathy, Neck is supple without pain with movement. Neuro: Awake and alert, oriented. No gross motor or sensory deficits. Musculoskeletal/extremity: Abrasion to the patella of the right knee. No effusion, swelling or ligamentous instability noted. There is pain with active and passive ROM, Right ankle with swelling laterally. Pain over the medial and lateral malleoli. Foot with pain over the base of the 5th MT. No swelling. He has normal distal pulses. Neuro exam is also normal.. ct

Vital Signs:
08:24 BP 138 / 99; Pulse 85; Resp 18; Temp 97.8(O); Pulse Ox 99% on R/A; Weight 82.55 kg / 181.99 lbs; Height 5 ft. 10 in. (178 cm); Pain 6/10; bd

Glasgow Coma Score:
08:24 Eye Response: spontaneous(4). Verbal Response: oriented(5). Motor Response: obeys commands(6). Total: 15. bd

MDM:
08:41 Patient medically screened. dn2
08:41 Financial registration complete. dn2
09:28 Data reviewed: vital signs, nurses notes, radiologic studies, plain films. Counseling: I had a detailed discussion with the patient and/or guardian regarding: the historical points, exam findings, and any diagnostic results supporting the discharge/admit diagnosis, radiology results, the need for outpatient follow up. ED course: Air splint, knee immobilizer ct



18

Corvel Scan Date: 3/27/2012


Physician Documentation
Conway Medical Center
Name:Scott Ledford
Age:36 years
Sex:Male
DOB:08/15/1975
MRN:M000223640
Arrival Date:03/10/2012
Time:08:23
Account#:V00006370886
BedED9
Private MD:Carolina health specialists, Dr

and crutches supplied. He will be off normal duties at work until cleared by ortho.

Orders:
Order; Knee, Right, Complete, M4v *; Ordered: 03/10 08:47; By: ct; For: ct; Returned 03/10 17:11 By: Dispatcher MedHost; Notes: Bed Name: ED9; Order Method: Electronic
Order: Ankle (4 Views) Right *; Ordered: 03/10 08:47; By: ct; For: ct; Returned 03/10 17:11 By: Dispatcher MedHost; Notes: Bed Name: ED9; Order Method: Electronic
Order: Foot, Right, M3v *; Ordered: 03/10 08:47; By: ct; For: ct; Returned 03/10 17:11 By: Dispatcher MedHost; Notes: Bed Name: ED9; Order Method: Electronic
Order: Air Splint; Ordered: 03/10 09:30; By: ct; For: ct; Completed 03/10 09:38 By: Dougherty, Bronwyn RN; Order Method: Electronic
Order: KNEE IMMOBILIZER; 26 inch; Ordered: 03/10 09:30; By: ct; For: ct; Completed 03/10 09:38 By: Dougherty, Bronwyn RN; Order Method: Electronic
Order: CRUTCHES; Ordered: 03/10 09:30; By: ct; For: ct; Completed 03/10 09:38 By: Dougherty, Bronwyn RN; Order Method: Electronic

Order Signatures:
Tarbert, Charles, MD, MD, ct;
Disposition:
09:28 Disposition. ct
09:29 Aware of vital signs, to follow up with PMD. ct
09:29 Chart complete. ct

Disposition:
03/10/12 09:29 Discharged to Home. Impression: Internal Derangement of Knee, Ankle Sprain, Abrasion.
- Condition is Stable.
- Discharge Instructions: Abrasions, Ankle Sprain, Crutches, Use of, Knee Pain, General.
- Prescriptions for Percocet 5- 325 mg Oral Tablet - take 1 to 2 tablet by ORAL route every 6-8 hours As needed; 20 tablet.
- Work release 3 day form.
- Follow up: Dr. William Mills; When: Next week; Reason: Recheck today's complaints.
- Problem is new.

Name:Scott Ledford
MRN:M000223640
Account#:V00006370886
Page 3 of 4
&&PAGE
Physician Documentation
Conway Medical Center
Name:Scott Ledford
Age:36 years
Sex:Male
DOB:08/15/1975
MRN:M000223640
Arrival Date:03/10/2012
Time:08:23
Account#:V00006370886
BedED9
Private MD:Carolina health specialists, Dr

- Symptoms are unchanged.

Signatures:

| | | EDMS |
|---|---|---|
| Dispatcher MedHost | | |
| Dougherty, Bronwyn RN | RN | bd |
| Tarbert, Charles, MD | MD | ct |
| Nelson, Donna | | dn2 |

20

&&START V00006370886 TARCH
03/11/2012 10:59 &&
Order Summary
Name:Scott Ledford
MRN:M000223640
36 years
/Caucasian
/Male
Arrival:03/10/2012
08:23
Chief Complaint:Motorcycle Collision
Departure:03/10/2012
09:49
Orders:
Radiology
Order Name: Knee, Right, Complete, M4v *; Last Status:
Returned; Time: 2012/03/10 08:47; By: ct; For: ct; Order
Method: Electronic; Notes: Bed Name: ED9
Test: 1; Value: Exam; Right Knee,\.br\ \.br\Clinical data:
Motorcycle accident.\.br\ \.br\Findings: \.br\ \,br\AP, oblique
and lateral views of the right knee show the bones
to\.br\demonstrate a normal alignment. No focal bony
abnormalities are seen.\.br\ \.br\ \.br\Impression: \.br\
\.br\Unremarkable right knee. \.br\
\.br\P\.br\\.br\\.br\Reported By: ED SHELLEY
M.D.\.br\\.br\----------
\.br\; Status: F
Order Name: Ankle (4 Views) Right *; Last Status: Returned;
Time: 2012/03/10 08:47; By: ct; For: ct; Order Method:
Electronic; Notes: Bed Name: ED9
Order Name: Foot, Right, M3v *; Last Status: Returned; Time:
2012/03/10 08:47; By: ct; For: ct; Order Method: Electronic;
Notes: Bed Name: ED9

Name:Scott Ledford
MRN:M000223640
36 years
/Caucasian
/Male
Page 1 of 1
Arrival:03/10/2012
Arrival Time:08:23
Chief Complaint:Motorcycle Collision

Corvel Scan Date: 3/27/2012

V00006370886 TARCH

%%START
03/11/2012 10:59 %%
Nurse's Notes
Conway Medical Center
Name:Scott Ledford
Age:36 years
Sex:Male
DOB:08/15/1975
MRN:M000223640
Arrival Date:03/10/2012
Time:08:23
Account#:V00006370886
BedED9
Private MD:Carolina health specialists, Dr

Presentation:
03/10 Presenting complaint: EMS states: fell on motorcycle and injured right leg. No LOC or back or neck pain. Care prior to arrival; See EMS report. Transition of care: patient was not received from another setting of care. bd
08:28
08:28 Method Of Arrival: EMS bd

Triage Assessment:
08:24 General: Appears in no apparent distress, Behavior is appropriate for age. Communication: No Barriers, Pain: Complains of pain in right ankle and right knee. Injury Description: Abrasion sustained to right knee. bd

Historical:
- Allergies: SHELLFISH;
- Home Meds:
 1. Fexofenadine HCl Oral 1 tablet daily, as needed (Last dose: 03/10/2012 05:40)
- PMHx: Hypertension;
- PSHx: finger; nasal; Back Surg;
- Immunization history: : Last tetanus immunization: up to date. < 5 years ago Pneumococcal vaccine is not up to date. Flu vaccine is not up to date.
- Code Status:: Full code.
- Do you have an Advanced Directive or Health Care Power of Attorney?: No.
- Social history: Smoking status: Patient/guardian denies using tobacco, Patient uses N/A, patient denies use of alcohol and/or tobacco products. No barriers to communication noted.
- Family history:: Not pertinent.
- The history from nurses notes was reviewed: and I agree with what is documented up to this point.

Screening:
08:24 Abuse screen: Denies threats or abuse. Nutritional screening: No deficits noted. Tuberculosis screening: No symptoms or risk factors identified. bd

Assessment:
08:28 Pain: Complains of pain in right knee and right ankle. bd

Name:Scott Ledford
MRN:M000223640

22

Corvel Scan Date: 3/28/2012

*Conway Medical Center*

*Physician Documentation*

Name: Scott Ledford
Age: 36 years Sex: Male DOB: 08/15/1975
Arrival Date: 03/10/2012 Time: 08:23
Bed ED9

MRN: M0000223640
Account#: V00006370886
Private MD: Carolina health specialists. Dr

HPI:

03/10 (09:06) This 36 years old Caucasian Male presents to ED via EMS with complaints of Motorcycle ct

09:03 Collision. ct

09:03 (09:06) The patient presents with an abscess, an injury. (09:06) The complaints affect the lateral aspect of right foot and right knee and right ankle. (09:06) Context: The problem was sustained at work, the patient can partially bear weight, *Patient is a state trooper. He was on his motorcycle when he was pulling out to go after a speeding car. He "laid down" the bike on his right leg. He complains of pain at the right knee, ankle and lateral aspect of the right foot.* (09:06) Onset: The symptoms/episode began/occurred acutely, just prior to arrival. (09:06) Modifying factors: The symptoms are alleviated by nothing; the symptoms are aggravated by movement, weight bearing, bending knee. (09:06) Associated signs and symptoms: Pertinent positives; swelling, Pertinent negatives fever, numbness, tingling, weakness. (09:06) Treatment prior to arrival includes: no previous treatment. (09:06) Severity of symptoms: At their worst the symptoms were moderate, in the emergency department the symptoms are unchanged. (09:06) The patient has not experienced similar symptoms in the past.

Historical: bd

Allergies:

08:24 (08:26) SHELLFISH; bd

Home Meds:

08:24 (08:26) 1 . Fexofenadine HCl Oral 1 tablet daily, as needed (Last dose: 03/10/2012 05:40) bd

PMHx:

08:24 (08:26) Hypertension; bd

PSHx:

08:24 (08:26) finger; (08:26) nasal; (08:26) Back Surg;

Historical: bd

08:24 (08:26) Immunization history: Last tetanus immunization: up to date, < 5 years ago Pneumococcal vaccine is not up to date Flu vaccine is not up to date, (08:26) Code Status: Full code, (08:26) Do you have an Advanced Directive or Health Care Power of Attorney? No. (08:26) Social history Smoking status. Patient/guardian denies using tobacco, Patient uses N/A, patient denies use of alcohol and/or tobacco products No barriers to communication noted; (08:26) Family history. Not pertinent,

09:03 (09:06) The history from nurses notes was reviewed and I agree with what is documented up to this point. ct

ROS:

09:03 (09:06) Constitutional: Negative for fever or chills. Neck: Negative for pain, and swelling. Cardiovascular: Negative for CP or palpitations. Abdomen/GI: Negative for abdominal pain, nausea, vomiting, diarrhea, and constipation. Back: Negative for injury and pain. Neuro: Negative for headache, weakness, numbness and tingling. (09:06) MS/extremity: Positive for injury or acute deformity, pain, swelling, of the lateral aspect of right foot and right knee and right ankle. (09:06) Skin: Positive for abrasion(s). ct

Exam:

09:03 (09:08)

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

Head/Face: Normocephalic, atraumatic.

Neck: No mass or lymphadenopathy. Neck is supple without pain with movement.

Neuro: Awake and alert, oriented. No gross motor or sensory deficits. (09:08)

Musculoskeletal/extremity: *Abrasion to the patella of the right knee. No effusion, swelling or lipsmentous instability noted. There is pain with active and passive ROM. Right ankle with swelling laterally. Pain over the medial and lateral malleoli. Foot with pain over the base of the 5th MT. No swelling. He has normal distal pulses. Neuro exam is also normal.*



*** CHART COMPLETE ***

Print Time: 3/12/2012 13:54:36

Corvel Scan Date: 3/28/2012

*Physician Documentation Con't.*

Vital Signs:

| Time | BP | Pulse | Resp | Temp | Pulse Ox | Weight | Height | Pain | Staff |
|---|---|---|---|---|---|---|---|---|---|
| 08:24 (08:27) | 138 / 99 | 85 | 18 | 97.8(O) | 99% on R/A | 82.55 kg / 181.99 lbs | 5 ft. 10 in. (178 cm) | 6/10 | bd |

Glasgow Coma Score:

| Time | Eye Response | Verbal Response | Motor Response | Modifying Factors | Total | Staff |
|---|---|---|---|---|---|---|
| 08:24 (08:27) | spontaneous(4) | oriented(5) | obeys commands(6) | | 15 | bd |

MDM: dn2

08:41 Patient medically screened dn2

08:41 Financial registration complete. ct

09:28

**Data reviewed:** vital signs, nurses notes, radiologic studies, plain films.
**Counseling:** I had a detailed discussion with the patient and/or guardian regarding: the historical points, exam findings, and any diagnostic results supporting the discharge/admit diagnosis, radiology results, the need for outpatient follow up.
ED course: ***Air splint, knee immobilizer and crutches supplied. He will be off normal duties at work until cleared by ortho.***

| Order | Status | Time | By | For |
|---|---|---|---|---|
| Knee, Right, Complete, M4v * | Ordered | 03/10/12 08:47 | ct | ct |
| | Returned | 03/10/12 17:11 | Dispatcher MedHost | |
| Notes: Bed Name: ED9 | Order Method: Electronic | | | |

| Order | Status | Time | By | For |
|---|---|---|---|---|
| Ankle (4 Views) Right * | Ordered | 03/10/12 08:47 | ct | ct |
| | Returned | 03/10/12 17:11 | Dispatcher MedHost | |
| Notes: Bed Name: ED9 | Order Method: Electronic | | | |

| Order | Status | Time | By | For |
|---|---|---|---|---|
| Foot, Right, M3v * | Ordered | 03/10/12 08:47 | ct | ct |
| | Returned | 03/10/12 17:11 | Dispatcher MedHost | |
| Notes: Bed Name: ED9 | Order Method: Electronic | | | |

| Order | Status | Time | By | For |
|---|---|---|---|---|
| Air Splint | Ordered | 03/10/12 09:30 | ct | ct |
| | Completed | 03/10/12 09:38 | Dougherty, Bronwyn RN | |
| Notes: | Order Method: Electronic | | | |

| Order | Status | Time | By | For |
|---|---|---|---|---|
| KNEE IMMOBILIZER: 26 Inch | Ordered | 03/10/12 09:30 | ct | ct |
| | Completed | 03/10/12 09:38 | Dougherty, Bronwyn RN | |

*Physician Documentation Con't.*

| Notes: | Order Method: Electronic | | | |
|---|---|---|---|---|
| | Status | Time | By | For |
| Order | Ordered | 03/10/12 09:30 | ct | ct |
| CRUTCHES | Completed | 03/10/12 09:38 | Dougherty, Bronwyn RN | |
| Notes: | Order Method: Electronic | | | |

**Order Signatures:**
Tarbert, Charles, MD MD ct

**Disposition:** ct
09:28 (09:29) Disposition. ct
09:29 Aware of vital signs, to follow up with PMD ct
09:29 Chart complete

**Disposition:**
03/10/12 09:29 Discharged to Home, Impression; Internal Derangement of Knee, Ankle Sprain, Abrasion.
- Condition is Stable.
- Discharge Instructions Abrasions, Ankle Sprain, Crutches, Use of, Knee Pain, General.
- Prescriptions for
  Percocet 5
  - 325 mg Oral Tablet - take 1 to 2 tablet by ORAL route every 6-8 hours As needed; 20 tablet.
- Work release 3 day form.
- Follow up: Dr. William Mills, When: Next week; Reason. Recheck today's complaints.
- Problem is new.
- Symptoms are unchanged.

**Signatures:**
Dispatcher MedHost EDMS Dougherty, Bronwyn RN RN bd
Tarbert, Charles, MD MD ct Nelson, Donna dn2

Corvel Scan Date: 3/28/2012

CONWAY MEDICAL CENTER
PO BOX 829
300 SINGLETON RIDGE ROAD
CONWAY, SC 29526-0829
(843) 347-8132

Name: LEDFORD, SCOTT A
Phys: Tarbert, Charles MD
DOB: 08/15/1975 Age: 36 Sex: M
Acct: V00006370886 Loc: ER
Exam Date: 03/10/2012 Status: DEP ER
Radiology No: 00148701
Unit No: M000223640
Patient Phone: (843)742-5330
CPT4 Code: 73630

ADMITTING DX: MOTORCYCLE ACCIDENT

| EXAM# | TYPE/EXAM | RESULT |
|---|---|---|
| 001046713 | RAD/FOOT, RIGHT, M3V | |

Exam: Right Foot.

Clinical data: Motorcycle accident and pain.

Findings:

AP, oblique and lateral views of the right foot show the bones to demonstrate a normal alignment. No fractures are identified.

*Impression:*

*No fractures of the right foot are seen.*

*P*

** REPORT SIGNED IN OTHER VENDOR SYSTEM 03/10/2012 **
Reported By: ED SHELLEY M.D.

CC: Charles MD Tarbert

Technologist: ROBERT CLARK, R.T.(R)
Transcribed Date/Time: 03/10/2012 (1711)
Transcriptionist: ESHELLEY
Printed Date/Time: 03/10/2012 (1711)

Corvel Scan Date: 3/28/2012

CONWAY MEDICAL CENTER
PO BOX 829
300 SINGLETON RIDGE ROAD
CONWAY, SC 29526-0829
(843) 347-8132

Name: LEDFORD,SCOTT A
Phys: Tarbert, Charles MD
DOB: 08/15/1975 Age: 36 Sex: M
Acct: V00006370886 Loc: ER
Exam Date: 03/10/2012 Status: DEP ER
Radiology No: 00148701
Unit No: M000223640
Patient Phone: (843)742-5330
CPT4 Code: 73564

ADMITTING DX: MOTORCYCLE ACCIDENT

| EXAM# | TYPE/EXAM | RESULT |
|---|---|---|
| 001046711 | RAD/KNEE, RIGHT, COMPLETE, M4V | |

Exam: Right Knee.

Clinical data: Motorcycle accident.

Findings:

AP, oblique and lateral views of the right knee show the bones to demonstrate a normal alignment. No focal bony abnormalities are seen.

*Impression:*

*Unremarkable right knee.*

*P*

** REPORT SIGNED IN OTHER VENDOR SYSTEM 03/10/2012 **
Reported By: ED SHELLEY M.D.

CC: Charles MD Tarbert

Technologist: ROBERT CLARK, R.T.(R)
Transcribed Date/Time: 03/10/2012 (1711)
Transcriptionist: ESHELLEY
Printed Date/Time: 03/10/2012 (1711)



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Corvel Scan Date: 3/28/2012

CONWAY MEDICAL CENTER
PO BOX 829
300 SINGLETON RIDGE ROAD
CONWAY, SC 29526-0829
(843) 347-8132

Name: LEDFORD,SCOTT A
Phys: Tarbert, Charles MD
DOB: 08/15/1975 Age: 36 Sex: M
Acct: V00006370886 Loc: ER
Exam Date: 03/10/2012 Status: DEP ER
Radiology No: 00148701
Unit No: M000223640
Patient Phone: (843)742-5330
CPT4 Code: 73610RT

ADMITTING DX: MOTORCYCLE ACCIDENT

| EXAM# | TYPE/EXAM | RESULT |
|---|---|---|
| 001046712 | RAD/ANKLE, RIGHT, COMPLETE, M3V | |

Exam: Right Ankle.

Clinical data: Motorcycle accident.

Findings:

AP, oblique and lateral views of the right ankle show the bones to demonstrate a normal alignment. I do not see a fracture.

*Impression:*

*No fractures of the right ankle are identified.*

*P*

** REPORT SIGNED IN OTHER VENDOR SYSTEM 03/10/2012 **
Reported By: ED SHELLEY M.D.

CC: Charles MD Tarbert

Technologist: ROBERT CLARK, R.T.(R)
Transcribed Date/Time: 03/10/2012 (1711)
Transcriptionist: ESHELLEY
Printed Date/Time: 03/10/2012 (1711)



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Corvel Scan Date: 3/28/2012

*Conway Medical Center*

*Nurse's Notes*

**Name: Scott Ledford**
**Age:** 36 years **Sex:** Male **DOB:** 08/15/1975
**Arrival Date:** 03/10/2012 **Time:** 08:23
**Bed** ED9

MRN: M0000223640
Account#: V00006370886
**Private MD:** Carolina health specialists, Dr

**Presentation:**

03/10 08:28 Presenting complaint: EMS states: *fell on motorcycle and injured right leg. No LOC or back or neck pain.* Care prior to arrival: See EMS report. Transition of care: patient was not received from another setting of care. bd

08:28 Method Of Arrival: EMS. bd

**Triage Assessment:** bd

08:24 (08:26) General: Appears in no apparent distress, Behavior is appropriate for age. (08:26) Communication: No Barriers. (08:26) Pain: Complains of pain in right ankle and right knee. (08:26) Injury Description: Abrasion sustained to right knee.

**Historical:**

Allergies:
08:24 (08:26) SHELLFISH; bd

Home Meds;
08:24 (08:26) 1. . Fexofenadine HCl Oral 1 tablet daily, as needed (Last dose: 03/10/2012 05:40) bd

PMHx:
08:24 (08:26) Hypertension. bd

PSHx:
08:24 (08:26) finger; (08:26) nasal; (08:26) Back Surg; bd

**Historical:**

08:24 (08:26) Immunization history: Last tetanus immunization up to date, < 5 years ago Pneumococcal vaccine is not up to date. Flu vaccine is not up to date. (08:26) Code Status: Full code (08:26) Do you have an Advanced Directive or Health Care Power of Attorney? No. (08:26) Social history Smoking status: Patient/guardian denies using tobacco, Patient uses N/A, patient denies use of alcohol and/or tobacco products No barriers to communication noted. (08:26) Family history: Not pertinent bd

09:03 (09:06) The history from nurses notes was reviewed and I agree with what is documented up to this point. ct

**Screening:** bd

08:24 (08:28) Abuse screen:
Denies threats or abuse.
(08:28) Nutritional screening:
No deficits noted.
(08:28) Tuberculosis screening:
No symptoms or risk factors identified.

**Assessment:** bd

08:28 Pain: Complains of pain in right knee and right ankle.

**Vital Signs:**

| Time | B/P | Pulse | Resp | Temp | Pulse Ox | Weight | Height | Pain | Staff |
|---|---|---|---|---|---|---|---|---|---|
| 08:24 (09:27) | 138 / 99 | 85 | 18 | 97.8(O) | 99% on R/A | 82.55 kg / 181.99 lbs | 5 ft. 10 in. (178 cm) | 6/10 | bd |

**Vitals:**

Corvel Scan Date: 3/28/2012

## Encounter Summary

Name: Scott Ledford
Age: 36 years DOB: 08/15/1975
Sex: Male
Race: Caucasian
Martial Status: Married

SSN: 110-58-0432
MRN: M000223640
Account#: V00006370886
Home phone: (843)742-5330
Work phone: (843)365-5001

Arrival: 03/10/2012 08:23

Chief Complaint: Motorcycle Collision
MOA: EMS
Acuity: Level 3

Care Complete Date 03/10/2012
Care Complete Time 09:29
Departure Date 03/10/2012
Departure Time 09:49

Responsible Dept: Ortho

Special Handling:
Family Waiting: No
Bed ED9

Assigned staff & roles

| Name | Role | Specialty |
|---|---|---|
| Carolina health specialists, Dr | Private Physician | |
| Dougharty, Brinwyn | Primary Nurse | |
| Warren, Tamase | | |
| Mills, William | Referral Physician | Orthopaedics |
| Tarbert, Charles | Attending Physician | Emergency Medicine |

Outcome: Discharge
Location: Home
Condition: Stable
Chief Complaint: Motorcycle Collision
Diagnosis: Internal Derangement of Knee, Ankle Sprain, Abrasion
Prescriptions: Percocet 5-325 mg Oral Tablet - take 1 to 2 tablet by ORAL route every 6-8 hours As needed; 20 tablet
Follow up: Mills
Special Notes:
Attending Physician: Tarbert
Mid Level Provider:
Followup Physician: Mills
Orders: Knee, Right, Complete, M4v *, Ankle (4 Views) Right *, Foot, Right, M3v *, Air Splint, KNEE IMMOBILIZER: 26 inch, CRUTCHES
Discharge Instruction: Disposition Documents, Discharge Summary Sheet, Abrasions, Ankle Sprain, Crutches, Use of, Knee Pain, General, Work release 3 day



807CC465659CBA8A4A27 - LEDFORD, S

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Rm 3 EXAM ROOM TIME 812 — CHECKOUT TIME

Corvel Scan Date: 3/22/2012

| ACCOUNT NUMBER | DATE | TIME | | |
|---|---|---|---|---|
| 115996 | 03/13/12 | 08:09am | DC CONWAY 501, | 1109289 |

TUESDAY

NAME & ADDRESS
LEDFORD, SCOTT
4330 BRADFORD CIRCLE
MYRTLE BEACH, SC 29588
843-241-8750
WRK:
INSURED: LEDFORD, SCOTT
INS: WC/STATE ACCIDENT FUND
REASON: WKC-ANKLE AND KNEE
NICKNAME: (R)ankle n knee

DOB: 08/15/1975 (36 years)
GENDER: M
IRG:
CELL:
RELATION: SELF
DOI: 3-12-12
COPAY:

| | |
|---|---|
| INSURANCE BALANCE | $0.00 |
| ACCOUNT BALANCE | $0.00 |
| CURRENT CHARGES | |
| AMOUNT PAID | |
| NEW BALANCE | |

sonal Hx / Family Hx / Social Hx
DM dad — Alcohol
HTN dad — Tobacco

ROS (/ or 0): Fatigue, Dizzy, Weak, Wt. Loss, Fever, Chills, Nasal Congestion, Sinus Pain, Ear Pain, Sore Throat, SOB, CP, Cough, Sputum, Wheeze, ABD Pain, N, V, D, Constip., Dysuria, Freq., Urgency, Back Pain, Pelvic Pain, Vag. D/C, Headache, Syncope, Rash — see Elder — All others negative

Allergies: shellfish

Medications: 0

| | HT | BMI | BP | PULSE | RESP | TEMP | LMP / Telanus |
|---|---|---|---|---|---|---|---|
| 28 | | | 138/84 | 75 | 16 | 97.9 | |

Meds/Allergies Reviewed: KC

PHYSICAL: (see reverse) Omit if N/A
(Comm., ☐ if Abnorm. & give details)
General: WD/WN
Head: Scalp
Eyes: PERRLA, EOMI, NT
ENT: TMs clear
Neck: FROM, NT
Lungs: CTA
Heart: RRR
Abdomen: soft, NT, ND, +BS
Back: FROM, NT
Ext: RT ankle - tender to palp/ROM
Skin: warm & dry
Neuro: A&O x 3, CN II-XII intact, DTR 2+ throughout
Psych: appropriate affect
Pulse Ox

Chief Complaint:
HPI: (see ER notes)
- PT for RT ankle fx
- knee pain
- ankle still swollen & diff. on ambulating
- pain improved

- ☐ CBC
- ☐ EKG
- ☐ FBS
- ☐ Flu
- ☐ Heme
- ☐ Hgb A1C
- ☐ H. Pylori
- ☐ KOH
- ☐ Microalb
- ☐ Mono
- ☐ Strep
- ☐ Telanus
- ☐ U/A
- ☐ U Preg
- ☐ Wet Prep
- ☐ X-Ray
- ☐ Labs - Send C

DIAGNOSIS: RT Ankle injury/contusion/sprain — 845.00 V44.9 E849.3

Patient Care Instructions Discussed
Lifestyle Modification
Preventative Recommendation(s)
Prescriptions / OTC Meds
Side Effects Discussed
Follow-Up: PRN or 3-18-2012.
Return:
Worsening symptoms:
If not better:
Go to ER if:

Crutches/Splints/Supplies ☐ Given ☐ Recommended
Use as directed
- Ibuprofen 800 TID
- continue ice to ankle

Off Work / School

PSR Notes: NEW 99203 - 14?

_____ M.D., D.O., P.A., F.N.P.

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 medicin 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. 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 wit Doctors Care Notice of Privacy Practices.
I authorize payment of medical benefits to Doctors Care physicians or their designee for services rendered.

ent 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 or rehabilitation, regarding m my injury and the services I have received at this facility.

ent or Authorized Person's Signature: _____ Date: _____

Corvel Scan Date: 3/28/2012

1/1:20 — EXAM ROOM TIME — CHECKOUT TIME 158 — WORKERS COMP — WALK-IN/EMG

| ACCIDENT NUMBER | DATE | TIME | DR. CONWAY SM1 | FILE |
|---|---|---|---|---|
| 115996 | 03/18/12 | 0830am | | 1112324 |

NAME & ADDRESS — SUNDAY
LEDFORD, SCOTT
4338 BRADFORD CIRCLE
MYRTLE BEACH, SC 29588
843-241-8750
WRK:
INSURED: LEDFORD, SCOTT
INS: WC/STATE ACCIDENT FUND
REASON: WRC RECHECK
NICKNAME: "good"

DOB: 08/15/1975 (36 years)
GENDER: M
IBG:
CELL:
RELATION: SELF
COPAY:

INSURANCE BALANCE $142.00
ACCOUNT BALANCE $142.00
CURRENT CHARGES
AMOUNT PAID
NEW BALANCE
CASH | CHECK | CARD | NEW

| Personal Hx | Family Hx | Social Hx |
|---|---|---|
| DM — | DM — | Alcohol — |
| HTN — | HTN — | Tobacco — |

Accident? ☐ yes ☐ no If yes, which state:
Date of Accident:
Prev. chart rev., no sig chg.: Above Hx rev.:

ROS (/ or O): Fatigue, Dizzy, Weak, Wt. Loss, Fever, Chills, Nasal Congestion, Sinus Pain, Ear Pain, Sore Throat, SOB, CP, Cough, Sputum, Wheeze, ABD Pain, N, V, D, Constip., Dysuria, Freq., Urgency, Back Pain, Pelvic Pain, Vag. D/C, Headache, Syncope, Rash
☐ All others negative

Allergies: Shellfish
Medications: Ibuprofen 800mg

| WT | HT | BMI | BP | PULSE | RESP | TEMP |
|---|---|---|---|---|---|---|
| 199.0 | | | 122/77 | 73 | 16 | 97.1 |

☐ LMP ☐ Tetanus
☐ Meds/Allergies Reviewed

PHYSICAL: (see reverse) Omit if N/A
(✓ if nml., O if abnml & give details)
☐ General
☐ HEENT
☐ Neck
☐ Nodes
☐ Lungs
☐ CV
☐ Abd
☐ Back
☐ Ext
☐ GU
☐ Neuro
☐ Skin/Incis
☐ Chaperone
☐ I.V.
☐ Injection
☐ Nebulizer
☐ Procedure
☐ Pulse Ox

Chief Complaint: DOI 3-10-12

HPI: Rt ankle + medial foot pain
Walking w/o assist. Notices ↓ pain
Pt rates the current level of pain
Ankle x-rays: Negative for fx
the Ankle. (R) knee feels 95% better
Pt (R) ankle 90% better, pt Robin W/ Swelling
Pt still using ICE.
Orally taking Motrin 800 TID.
Results to pt at next visit

☐ CBC
☐ EKG
☐ FBS
☐ Flu
☐ Hema
☐ Hgb A1C
☐ H. Pylori
☐ KOH
☐ Microalb
☐ Mono
☐ Strep
☐ Tetanus
☐ U/A
☐ U Preg
☐ Wet Prep
☐ X-ray
When test is Sche
☐ Labs - Send C

DIAGNOSIS:
(R) Knee Sprain/strain (R) ankle Sprain

Crutches/Splints/Supplies ☐ Given ☐ Recommended

☑ Patient Care Instructions Discussed
☐ Lifestyle Modification
☐ Preventative Recommendation(s)
☐ Prescription / OTC Meds
☐ Side Effects Discussed
☑ Follow Up: 3-31-12
Return:
☑ Worsening symptoms ER
☐ Improvement:
Go to ER If:

1 Motrin 800, from BID to q6 TID pc
D/C ICE
Use moist heat @ knee/ankle BID+prn
D/C Ankle brace
(R) ankle Use ace wrap (compression) brace
ok to resume normal duties 3/21/12

PSR Notes:
ESTAB
99214 · 141
00051 · 40

Staff: _____ Date: 03/18/12

1. I consent to and authorize treatment and diagnostic procedures as ordered by the doctors listed and as administered by their assistants, technicians and other professionals involved in my care. I understand the nature of treatment and other health considerations. I also authorize payment for services rendered to me by the above-listed doctors at Doctors Care.
2. I consent to the use and disclosure of my health and personal information for purposes of delivering services to me as described in the Doctors Care Notice of Privacy Practices.
3. I authorize payment of medical benefits to Doctors Care physicians or their designee for services rendered.

Patient or Authorized Person's Signature: _____ Date: _____

4. Workers Compensation patients only. I hereby authorize Doctors Care to speak to a rehabilitation specialist, my employer, my insurance carrier or other professionals involved in my care or rehabilitation, regarding my medical records and the treatment I have received at Dr. Inquiry.

Patient or Authorized Person's Signature: _____ Date: _____

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Corvel Scan Date: 4/12/2012

Rm 3 4 EXAM ROOM TIME 120 — Doctors Care — CHECKOUT TIME — STEM CODE

| ACCT NUMBER | DATE OF SERVICE | TIME | | |
|---|---|---|---|---|
| 115996 | 03/31/12 SATURDAY | 01:09pm | DC CONWAY 501, | 112151 |

NAME & ADDRESS
LEDFORD, SCOTT
4338 BRADFORD CIRCLE

MYRTLE BEACH, SC 29588
843-241-8750
WRK:
INSURED: LEDFORD, SCOTT
INS: WC/STATE ACCIDENT FUND
REASON: WKC RECHECK Ankle/Knee
NICKNAME: Crankle Cranking
DOI 3-10-12

DOB: 08/15/1975 (36 Years)
GENDER: M
IBG:
CELL:
RELATION: SELF
COPAY: 7Free

INSURANCE BALANCE $323.00
ACCOUNT BALANCE $323.00
CURRENT CHARGES
AMOUNT PAID free
NEW BALANCE
CASH CHECK M.O. CC

| Personal Hx | Family Hx | Social Hx |
|---|---|---|
| DM — | DM dad | Alcohol — |
| HTN — | HTN dad | Tobacco — |

Accident? ☐ yes ☐ no If yes, which state: ____
Under Accident ____
Prev. chart rev., no sig chg.: ____ Above Hx rev.: ____

ROS (/ or O): Fatigue, Dizzy, Weak, Wt. Loss, Fever, Chills, Nasal Congestion, Sinus Pain, Ear Pain, Sore Throat, SOB, CP, Cough, Sputum, Wheeze, ABD Pain, N, V, D, Constip., Dysuria, Freq., Urgency, Back Pain, Pelvic Pain, Vag. D/C, Headache, Syncope, Rash ☐ All other negative

Allergies: Shellfish

Medications: 0

☐ Meds/Allergies Reviewed ____

| WT | HT | BMI | BP | PULSE | RESP | TEMP | |
|---|---|---|---|---|---|---|---|
| 199.8 | | | 134/88 | 74 | 20 | 98.1 | ☐ LMP: ☐ Tetanus: |

PHYSICAL: (see reverse) Omit if N/A (✓ if norm., O if abnorm. & give details)
☐ General
☐ HEENT
☐ Neck
☐ Nodes
☐ Lungs
☐ CV
☐ Abd
☐ Back
☐ Ext
☐ GU
☐ Neuro
☐ Skin/Proctos
☐ Chaperone ____
☐ I.V.
☐ Infection
☐ Nebulizer
☐ Procedure
☐ Pulse Ox ____

Chief Complaint: DOI 3-10-12

HPI: 61 states since last visit, pt returned to Normal activities and both the Knee & Ankle have Both flared up and much more painful. No specific re-injuried - just ↑ hearing.

☐ CBC
☐ EKG
☐ FBS
☐ Flu
☐ Heme
☐ Hgb A1C
☐ H. Pylori
☐ KOH
☐ Microalb
☐ Mono
☐ Strep
☐ Tetanus
☐ U/A
☐ U Preg
☐ Wet Prep
☐ X-Ray
☐ Labs ☐ Send Out

DIAGNOSIS: Exacerbation (R) Ankle Sprain  Exacerbation (R) Knee Strain

☐ Patient Care Instructions Discussed
☐ Lifestyle Modification
☐ Preventative Recommendation(s)
☐ Prescriptions / OTC Meds
☐ Side Effects Discussed
☐ Follow Up: to Triage
Patient
☐ Worsening Symptoms: ER
☐ If not Better: ATC
Go to ER If:

Crutches/Splints/Supplies ☐ Given ☐ Recommended
Continue Ice, Elevation, Ankle Brace to be worn
Meds: Naxel & Naprosyn 500mg Francis
4 to 6 X/day
Light duty

PSR Notes: ESTAB
99214/101
99051-40

Off Work/School

Date: ____

Patient or Authorized Person's Signature: ____ Date: ____

This fax was received by GFI FAXmaker fax server. For more information, visit: http://www.gfi.com

4 / EXAM ROOM TIME 15 8 — CHECKOUT TIME — TICKET NO

| ACCOUNT NUMBER | DATE | TIME | | TICKET NO |
|---|---|---|---|---|
| 115996 | 04/06/12 FRIDAY | 03:13pm | DC CONWAY 501, | 1125389 |

NAME & ADDRESS
LEDFORD, SCOTT
4338 BRADFORD CIRCLE
MYRTLE BEACH, SC 29588
843-241-8750
WRK:
INSURED: LEDFORD, SCOTT
INS: WC/STATE ACCIDENT FUND
REASON: WKC RECHECK DOI 3.10.12
NICKNAME:

DOB: 08/15/1975 (36 years)
GENDER: M
IBG:
CELL:
RELATION: SELF
COPAY: DX (R) KNEE, ABRASION, ANKLE PAIN @ CHK

| | |
|---|---|
| INSURANCE BALANCE | $504.00 |
| ACCOUNT BALANCE | $504.00 |
| CURRENT CHARGES | |
| AMOUNT PAID | F10 |
| NEW BALANCE | |

CASH | CHECK | M.O. | CC

Personal Hx: DM ___ HTN ___ | Family Hx: DM F HTN F | Social Hx: Abuse ___ Tobacco ___

Accident? ☐ yes ☐ no If yes, which state: ___
Date of Accident: ___
Prev. chart rev., no sig chg.: ___ Above Hx rev.: ___

ROS (+ or -): Fatigue, Dizzy, Weak, Vn, Loss, Fever, Chills, Nasal Congestion, Sore Throat, Ear Pain, Sore Throat, SOB, CP, Cough, Shortness of Breath, N/V/D, Constip, Dysuria, Freq, Urgency, Back Pain, Pelvic Pain, Vag D/C, Headache, Seizures, Rash ☐ All others negative

Allergies: NKDA
Medications: PREDNISONE 10 mg FINISHED TODAY
☐ Meds/Allergies Reviewed ___

| WT | HT | BMI | BP | PULSE | RESP | TEMP | |
|---|---|---|---|---|---|---|---|
| 201 | | | 133/80 | 103 | 16 | 98.5 | ☐ LMP ___ ☐ Tetanus ___ |

PHYSICAL: (see reverse) Omit if N/A (✓ if nrml, ○ if abnrml. & give details)
☑ General
☐ HEENT
☐ Neck
☐ Nodes
☐ Lungs
☐ CV
☐ Abd
☑ Back
☐ Ext
☐ GU
☐ Neuro
☐ Skin/Breasts
☐ Chaperone ___
☐ I.V.
☐ Injection
☐ Nebulizer
☐ Procedure
☐ Pulse Ox ___

Chief Complaint: STATUS @ IMPROVEMENT

HPI
DOI 3-10-12
Pt reports he is getting NO relief w/ the prescribed Ibuprofen 800 mg. Pt states Dr Mills (Ortho) wants a balance on Monday & suspects 2 fractures & the the WKC is requesting MRI & referral to Dr Mills.

Mild Edema over @ Patella / Mild tenderness w/ palpation to Patella.

☐ CBC
☐ EKG
☐ FBS
☐ Flu
☐ Hems
☐ Hgb A1C
☐ H. Pylori
☐ KOH
☐ Microalb
☐ Mono
☐ Strep
☐ Telanus
☐ U/A
☐ U Preg
☐ Wet Prep
☐ X-Ray

845.00 P8403

☐ Labs - Send

DIAGNOSIS: Bumble Spain W/O improvement R/O internal derangement DM

☐ Patient Care Instructions Discussed
☐ Educ. Materials Given
☐ Prescriptions Discussed
☑ Prescriptions / OTC Meds
☐ Side Effects Discussed
☐ Follow-Up: ___
Return:
☐ If worsening symptoms: ER
☐ If not better: RTC
Go to ER if:

Children's Asthma Scripts ☐ Given ☐ Recommended

Refer to Dr Mills for Ortho to take over the case & order MRI
Rx Naproxen 500 mg BID PC
Cont. moist heat & Appropriate Stretches
Off work until seen by ortho
Off Work / School

PSR Notes: ESTAB 99204 14

M Williams DO MD, PA, FAFP

Patient or Authorized Person's Signature: ___ Date: ___

Patient or Authorized Person's Signature: ___ Date: ___

From: 843 248 0535 Page: 1/4 Date: 4/6/2012 8:20:47 PM

LONG BAY
DIAGNOSTIC IMAGING

PATIENT: Ledford, Scott
DOB: 8/15/1975
MRN: 838315
PATIENT PHONE: 843-241-8750
PHYSICIAN: William Mills, MD
DATE: 4/17/2012

EXAM: MRI RIGHT ANKLE WITHOUT CONTRAST

HISTORY: 36-year-old male with a swelling and pain since trauma one month ago.

COMPARISON STUDIES: Not available.

TECHNIQUE: Sagittal T1W/STIR, axial and coronal T1W/fat-saturated PDW imaging sequences acquired at the ankle without contrast on the 1.5 Tesla GE Signa magnet.

FINDINGS: There is patchy bright (STIR/fat-saturated T2W) signal change in the posterior malleolus level, distal tibia and opposing posterior pole of the talus. There is irregularity of outline and low signal linear changes in the outline of the posterior pole of the talus. There is a small tibiotalar joint effusion, particularly at the posterior recess. Posterior ligaments appear intact. There is a small amount of fluid about the flexor hallucis longus tendon at sheath found closely adjacent to this level. The posterior ligaments appear intact. There is a mild signal increase (STIR/fat-saturated T2W) at the subcutaneous soft tissues in front of the lateral malleolus. No underlying fracture nor ligamentous disruption.

Remaining osseous soft tissue outlines of the ankle and included foot prove unremarkable.

IMPRESSION:
1. The most striking finding is opposing marrow edema (consistent with contusion) signal change at the posterior pole talus and posterior malleolus of the distal tibia. There may be minor fracturing change associated at the outline of the posterior talus.
2. Nonspecific soft tissue edema anterolateral of the lateral malleolus without focal underlying internal derangement.
3. Findings consistent with tenosynovitis at the flexor hallucis longus level.

David Kallman, M.D.
DK / dg

DD: 4/18/2012
DT: 4/18/2012
Job: 14978317

900 21ST AVENUE NORTH
MYRTLE BEACH, SC 29577
(843) 916-1700
(843) 916-9460 FAX

Patient: Ledford, Scott
MRN: 838315
Exam: MRI RIGHT ANKLE WITHOUT CONTRAST

This document has been electronically reviewed and signed by David Kalhman, M.D.



36

LONG BAY
DIAGNOSTIC IMAGING

PATIENT: Ledford, Scott
DOB: 8/15/1975
MRN: 838315
PATIENT PHONE: 843-241-8750
PHYSICIAN: William Mills, MD
DATE: 4/17/2012

EXAM: MRI THORACIC AND LUMBAR SPINE WITHOUT CONTRAST

HISTORY: A 36-year-old male with persisting back pain dating to injury in 2010 Bilateral lower extremity pain associated.

COMPARISON STUDIES: Not available.

TECHNIQUE:
THORACIC: Following a sagittal T2W localizer, sagittal T1W/T2W/STIR, coronal T1W as well as axial T2W imaging sequences conducted through thoracic levels without intravenous contrast on the 1.5 Tesla GE Signa magnet.

LUMBAR: Sagittal T2W (with and without fat-saturation)/STIR, coronal T1W as well as axial T1W/T2W imaging sequences obtained without contrast.

FINDINGS:
THORACIC: Coronal imaging demonstrates no significant scoliosis. Included lungs and cervicothoracic soft tissues as well as those of the upper abdomen prove unremarkable on coronal imaging assessment.

On sagittal T2W localizing images, the least moderate if not more advanced central spinal canal stenosis is in evidence at the cervical spine (C5-C6, C6-C7) levels. There appears to be associated impressions made of impingement upon the volar aspect of the cervical cord.

There is mild anterior wedge configuration at T6. Remaining osseous vertebrae demonstrate unremarkable height and signal as well as alignment. Outlines, signal in caliber of the thoracic cord and included conus unremarkable. There is a mild posterior disc bulge effacing CSF ventral to the cord at T8-T9 and to a lesser degree at T9-T10 without significant impingement upon the cord itself. Mild to moderate loss of disc space height and signal of desiccation is found at mid thoracic segmental levels.

LUMBAR: Coronal imaging demonstrates no significant thoracolumbar scoliosis. Included T1W outlines of hollow and solid viscera unremarkable. Pelvic ring and proximal femora unremarkable as included. Abdominal aorta tapers normally to the bifurcation and beyond. Soft tissues of the included retroperitoneum and paraspinal levels prove

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Patient: Ledford, Scott
MRN: 838315
Exam: MRI THORACIC AND LUMBAR SPINE WITHOUT CONTRAST

unremarkable on axial and sagittal assessments.

Signal characteristics, outline and caliber of the conus and cauda equina appear unremarkable. The tip of the conus is found at L1-L2. There is transitional anatomy at L5-S1 - there is "lumbarization" of the S1 vertebral body.

At and above the L4 level, central spinal canal and neural foramina are found patulous throughout. Disc space and vertebral body height, signal and alignment is well maintained.

At L4-L5, there is a mild to moderate circumferential disc bulge present, which has mild effacing effect upon the volar aspect thecal sac. In concert with mild to moderate hypertrophic ligamenta flava and bony facet changes; a mild triangular central spinal canal stenosis results. Neural foramina reasonably patulous.

At L5-S1, there is reasonable disc space height with moderate loss of signal of desiccation. There is a mild to moderate circumferential disc bulge present, which has a slight concave effect upon the volar aspect thecal sac. There is crowding of the lateral recesses, especially the left in concert with moderate hypertrophic ligamenta flava and moderate to more exuberant hypertrophic bony facet changes. Mild to moderate symmetric neural foraminal narrowings are present.

At S1-S2, the central spinal canal and neural foramina appear patulous.

Osseous column outlines, signal and alignment otherwise unremarkable. There is a mild straightening of the normal lordosis.

IMPRESSION:
1. Moderate if not more advanced central spinal canal stenosis with impingement upon the cervical cord is manifested at C5-C6 and C6-C7 levels, seen incidentally. Recommend MRI cervical spine assessment.
2. Only mild hypertrophic spondyloarthropathy changes involve the thoracic and lumbar levels. No significant central spinal canal nor neural foraminal encroachment.
3. Otherwise, unremarkable examinations.

David Kallman, M.D.
DK / lb

DD: 4/18/2012
DT: 4/18/2012
Job: 14977691

This document has been electronically reviewed and signed by David Kallman, M.D.

38

Corvel Scan Date: 8/2/2010

SCOTT A LEDFORD

Date: 07/27/2010
Case No. 62711
AGE/SEX: 34/Male

Referred By: MELVIN HECKER, MD

CHIEF COMPLAINT: Upper back pain.

PRESENT ILLNESS: This is a 34-year-old white male who is seen today for orthopedic evaluation. The patient is a police officer. He reports he was doing some training exercises and was struck by a tazer on 07/15/2010. He says when he was shot with the tazer gun he immediately experience severe pain in his upper back. He complains of pain, particularly when he walks any great distance or jogs. He also describes pain in the lateral aspect of his right thigh. He denies bowel or bladder dysfunction. He has not been seen prior to today in the emergency room.

MEDICAL HISTORY: Hypertension.
MEDICATIONS: "None."
ALLERGIES: NKDA.
SOCIAL HISTORY: He is a state trooper/business owner.
REVIEW OF SYSTEMS: Documented in the chart and noted.

PHYSICAL EXAM: Pleasant white male in no acute distress.
NECK: Supple. Trachea midline. No thyromegaly noted.
HEAD: Normocephalic and atraumatic.
ABDOMEN: Deferred.
HEENT: Sclerae are clear.

ORTHOPEDIC: Examination of the thoracic spine reveals point tenderness over T6 and T7. He has a slight kyphosis of the thoracic spine. There is no scapular winging. He has 1+ triceps-biceps brachioradialis reflexes bilaterally.

X-RAYS: X-rays taken today in the office, including AP and

39

lateral views of the thoracic spine demonstrates a T7 compression fracture.

IMPRESSION: 1. T7 compression fracture.

PLAN: Disposition and treatment options discussed with the patient. H&P corroborated with Dr. Haskin. Dr. Haskin also consulted with Dr. Mills who recommends getting an MRI of the thoracic spine, and then following up with Dr. Mills after that has been performed to discuss further treatment options. Until that time he will remain on light duty and perform only sedentary work.

Doug T. Vick, PA-C
For J. Stewart Haskin, Jr., M.D. /5117
409230

fcc: Melvin Hecker, MD

ATLANTIC PHYSICAL THERAPY & REHABILITATION INC.

Physical Therapy Discharge Summary
DATE of DISCHARGE: 12-04-12
SERVICE FROM: 10-18-12 TO:11-14-12

PATIENT: Scott Ledford DOB: 08-15-1975 Patient account#: 14319
PHYSICIAN: Ross Taylor MD
DIAGNOSIS: Muscle Weakness-General 728.87 Pain joint (arthralgia); ankle/foot 719.47 Stiffness of joint not elsewhere classified; ankle/foot 719.57 Difficulty in Walking 719.7

SUBJECTIVE: Telephone follow up today. He states that he is going have o to have surgery on the ankle later this month.

HOME PROGRAM: Right Ankle Sprain; Residual Functional Limitation; Pain & Edema; Impaired ROM & Strength; PT for modalities and manual therapy as indicated and Therapeutic Exercise/Home Program Instruction

ASSESSMENT: He was seen for 11 visits. He continued to have functional impairments due to ankle pain. For functional status at time of last visit, see summary/letter to Dr. Taylor of 11/14/12.

| Goals | Results |
|---|---|
| Decrease right pain & edema to self manageable level to promote return to full function with gait and stance | Not Met |
| Increase ankle ROM to allow improved function with stance, gait and balance | Partially Met |
| Increase Ankle and LE strength to 4/5 to 4+/5 range to promote return to pre-injury functional activity | Not Met |
| Normalize Gait: normal stance phase with normal push off with R foot and ankle | Not Met |
| Patient independence with progressed home exercise program to improve strength, ROM and function | Partially Met |

DISCHARGE PLAN/INSTRUCTIONS: He will be discharged from PT as he is to have surgery to repair the right ankle.

Dargan Erwin PT

This report was electronically signed by Dargan Erwin PT.

Atlantic Physical Therapy & Rehabilitation, Inc.

106 Waccamaw Medical Park Ct Conway, SC 29526-8989
Phone: 843-234-0015 Fax: 843-234-0017

## Physical Therapy Daily Activity Note

Patient Name: Scott Ledford Patient ID #: 14319 Date: 11-05-2012
Patient DOB: 08-15-1975 Referred By: Ross Taylor MD
Diagnosis:

| | | | |
|---|---|---|---|
| 728.87 | Muscle Weakness-General | 719.47 | Pain joint (arthralgia): ankle/foot |
| 719.57 | Stiffness of joint not elsewhere classified: ankle/foot | 719.7 | Difficulty In Walking |

Diagnosis/Treatment: Right Ankle Sprain; Residual Functional Limitation; Pain & Edema; Impaired ROM & Strength; PT for modalities and manual therapy as indicated and Therapeutic Exercise/Home Program Instruction

TREATMENT/EXERCISES

| Exercise Description | Units/Reps/Weights | Minutes |
|---|---|---|
| PT Evaluation | | |
| Physical Therapy Re-Evaluation | | |
| Manual Therapy | 1/ to right ankle / foot | 15 |
| Ultrasound | 1/1.5 w/cm to the right lateral ankle | 12 |
| Unattended Electrical Stimulation | | |
| Vasopneumatic Devices | 1/ to right ankle medium pressure with elevation | 10 |
| Therapeutic Exercise | 2/ | 27 |
| Therapeutic Activity | | |
| Gait Training | | |
| Certification/Order End Date | open | |
| Home Program/Home Instruction | | |
| Moist Heat-Skin Assessment Prior to During & Post | | |
| Ice-Skin Assessment Prior to During & Post | | |
| Patient Reponse to Today's Treatment | | |
| SPECIFIC INTERVENTIONS INCLUDE: | | |
| AAROM/Passive Stretch | gentle range of motion stretching with therapist | |
| Seated Heel Slides-dorsiflexion stretch | | |
| Bilateral Heel Raises | x 20 ; kimited range | |
| 1/2 roll gastroc stretch | 3 x 30 sec. ; limited range | |
| R unilateral stance/balance | on green pad 2 min; on 1/2 roll in sagital plane | |
| Bike | 8 min, | |
| Leg Press | 30# for PF 3 x 10- limited range, single leg 110# 3 x 10 | |
| Kneeling Activity | | |
| BOSU | inverted- mini squats x 30; flat side down R foot on top- step overs with slight knee flexion x 20 | |
| Squats | | |
| Unilateral Heel Raises | | |
| balance board | | |
| 1/2 roll single leg stance | | |
| Manual Resisted Activity | light resisted AROM and isometric exercise with the ankle; all planes of motion; 2 x 10 reps; effort is sub-maximal to symptom exacerbation | |
| | Total Minutes | 64 |

Corvel Capture 11/27/2012

ATLANTIC PHYSICAL THERAPY & REHABILITATION, INC.

106 Waccamaw Medical Park Ct Conway, SC 29526-8989
Phone: 843-234-0015 Fax: 843-234-0017

## Physical Therapy DAILY TREATMENT NOTE

Patient Name: Scott Ledford Patient ID #: 14319 Date: 11-05-2012
Patient DOB: 08-16-1975 Referred By: Ross Taylor MD

Diagnosis:

| | | | |
|---|---|---|---|
| 728.87 | Muscle Weakness-General | 719.47 | Pain joint (arthralgia): ankle/foot |
| 719.57 | Stiffness of joint not elsewhere classified: ankle/foot | 719.7 | Difficulty In Walking |

SUBJECTIVE: Pt. reports his foot/ankle continues to hurt and swell,

OBJECTIVE: Activities as per grid, Tenderness with palpation in lateral ankle with manual therapy.

ASSESSMENT; Fatigue with activities.

PLAN: Patient returns for follow up on 11-7-12; continue PT and progress as tolerated.

Dargan Ervin PT

Dargan Ervin PT SC # 678

Beth Vorp, ICPTA

Beth Vorp PTA SC # 543

Corvel Capture 11/27/2012

Atlantic Physical Therapy & Rehabilitation, Inc.

106 Waccamaw Medical Park Ct Conway, SC 29526-8989
Phone: 843-234-0015 Fax: 843-234-0017

## Physical Therapy Daily Activity Note

Patient Name: Scott Ledford
Patient DOB: 08-15-1975
Patient ID #: 14319
Referred By: Ross Taylor MD
Date: 11-07-2012

Diagnosis:

| | | | |
|---|---|---|---|
| 728.87 | Muscle Weakness-General | 719.47 | Pain joint (arthralgia): ankle/foot |
| 719.57 | Stiffness of joint not elsewhere classified. ankle/foot | 719.7 | Difficulty In Walking |

Diagnosis/Treatment: Right Ankle Sprain; Residual Functional Limitation; Pain & Edema; Impaired ROM & Strength; PT for modalities and manual therapy as indicated and Therapeutic Exercise/Home Program Instruction

TREATMENT/EXERCISES

| Exercise Description | Units/Rope/Weights | Minutes |
|---|---|---|
| PT Evaluation | | |
| Physical Therapy Re-Evaluation | | |
| Manual Therapy | 1/ to right ankle / foot | 15 |
| Ultrasound | 1/1.5 w/cm to the right lateral ankle | 12 |
| Unattended Electrical Stimulation | | |
| Vasopneumatic Devices | 1/ to right ankle medium pressure with elevation | 10 |
| Therapeutic Exercise | 2/ | 27 |
| Therapeutic Activity | | |
| Gait Training | | |
| Certification/Order End Date | open | |
| Home Program/Home Instruction | | |
| Moist Heat-Skin Assessment Prior to During & Post | | |
| Ice-Skin Assessment Prior to During & Post | | |
| Patient Reponse to Today's Treatment | | |
| SPECIFIC INTERVENTIONS INCLUDE: | | |
| AAROM/Passive Stretch | gentle range of motion stretching with therapist | |
| Seated Heel Slides-dorsiflexion stretch | | |
| Bilateral Heel Raises | x 20 ; kimited range | |
| 1/2 roll gastroc stretch | 3 x 30 sec. ; limited range | |
| R unilateral stance/balance | on green pad 2 min; on 1/2 roll in segital plane | |
| Bike | 8 min. | |
| Leg Press | 30# for PF 3 x 10- limited range, single leg 110# 3 x 10 | |
| Kneeling Activity | | |
| BOSU | inverted- mini squats x 30; flat side down R foot on top- step overs with slight knee flexion x 20 | |
| Squats | x 30 on BOSU | |
| Unilateral Heel Raises | | |
| balance board | | |
| 1/2 roll single leg stance | x 2 min. | |
| Manual Resisted Activity | light resisted AROM and isometric exercise with the ankle; all planes of motion; 2 x 10 reps; effort is sub-maximal to symptom exacerbation | |
| BOSU | with 2.2# medicine ball throw x 30 | |

| | | |
|---|---|---|
| Single leg stance | on BOSU with plyometrics 2.2# ball throw x 30 | |
| | Total Minutes | 64 |

Electronically signed by Dargan Ervin PT (Therapist)

Electronically signed by Beth Vorp PTA (Associate)

Corvel Capture 11/27/2012

ATLANTIC PHYSICAL THERAPY & REHABILITATION, INC.

106 Waccamaw Medical Park Ct Conway, SC 29526-8989
Phone: 843-234-0015 Fax: 843-234-0017

## Physical Therapy DAILY TREATMENT NOTE

Patient Name: Scott Ledford
Patient DOB: 08-15-1975
Patient ID #: 14319
Referred By: Ross Taylor MD
Date: 11-07-2012

Diagnosis:

| | | | |
|---|---|---|---|
| 728.87 | Muscle Weakness-General | 719.47 | Pain joint (arthralgia); ankle/foot |
| 719.57 | Stiffness of joint not elsewhere classified; ankle/foot | 719.7 | Difficulty In Walking |

SUBJECTIVE: Pt. reports continued " ache, not a pain, just a constant ache in my ankle".

OBJECTIVE: Activities as per grid. Progressed with higher level balance and strengthening activities with minimal pain complaints. Noted increased swelling in lateral ankle today.

ASSESSMENT: Decreased tissue tightness and progressed with strengthening activities.

PLAN: Patient returns for follow up on 11-9-12; continue PT and progress as tolerated.

Dargan Ervin PT

Dargan Ervin PT SC # 678

Beth Vorp, R.PTA

Beth Vorp PTA SC # 543

Corvel Capture 11/27/2012

Atlantic Physical Therapy & Rehabilitation, Inc.

106 Waccamaw Medical Park Ct Conway, SC 29526-8989
Phone: 843-234-0015 Fax: 843-234-0017

## Physical Therapy Daily Activity Note

Patient Name: Scott Ledford Patient ID #: 14319 Date: 11-09-2012
Patient DOB: 08-15-1975 Referred By: Ross Taylor MD

Diagnosis:

| | | | |
|---|---|---|---|
| 728.87 | Muscle Weakness-General | 719.47 | Pain joint (arthralgia): ankle/foot |
| 719.57 | Stiffness of joint not elsewhere classified; ankle/foot | 719.7 | Difficulty In Walking |

Diagnosis/Treatment: Right Ankle Sprain; Residual Functional Limitation; Pain & Edema; Impaired ROM & Strength; PT for modalities and manual therapy as indicated and Therapeutic Exercise/Home Program Instruction

TREATMENT/EXERCISES

| Exercise Description | Units/Reps/Weights | Minutes |
|---|---|---|
| PT Evaluation | | |
| Physical Therapy Re-Evaluation | | |
| Manual Therapy | | 0 |
| Ultrasound | 1/1.5 w/cm to the right lateral ankle | 8 |
| Unattended Electrical Stimulation | | |
| Vasopneumatic Devices | 1/ to right ankle medium pressure with elevation | 15 |
| Therapeutic Exercise | 2/ | 37 |
| Therapeutic Activity | | |
| Gait Training | | |
| Certification/Order End Date | open | |
| Home Program/Home Instruction | | |
| Moist Heat-Skin Assessment Prior to During & Post | | |
| Ice-Skin Assessment Prior to During & Post | | |
| Patient Reponse to Today's Treatment | | |
| SPECIFIC INTERVENTIONS INCLUDE: | | |
| AAROM/Passive Stretch | gentle range of motion stretching with therapist | |
| Seated Heel Slides-dorsiflexion stretch | | |
| Bilateral Heel Raises | x 20 ; limited range | |
| 1/2 roll gastroc stretch | 3 x 30 sec. ; limited range | |
| R unilateral stance/balance | on 1/2 roll in sagital plane | |
| Bike | 8 min. | |
| Leg Press | 30# for PF 3 x 10- limited range, single leg 110# 3 x 10 | |
| Kneeling Activity | | |
| BOSU | inverted- mini squats x 30; flat side down R foot on top- step overs with slight knee flexion x 20 | |
| Squats | x 30 on BOSU | |
| Unilateral Heel Raises | | |
| balance board | | |
| 1/2 roll single leg stance | x 2 min. | |
| Manual Resisted Activity | light resisted AROM and isometric exercise with the ankle; all planes of motion; 2 x 10 reps; effort is sub-maximal to symptom exacerbation | |
| BOSU | with 2.2# medicine ball throw x 30 | |
| Single leg stance | on BOSU with plyometrics 2.2# ball throw x | |

| | | |
|---|---|---|
| | 30 | |
| | Total Minutes | 60 |

Electronically signed by Dargan Ervin PT
PTA
(Therapist)

Electronically signed by Lenore McKenzie-Morris

(Associate)

Corvel Capture 11/27/2012

ATLANTIC PHYSICAL THERAPY & REHABILITATION INC

106 Waccamaw Medical Park Ct Conway, SC 29526-8989
Phone: 843-234-0015 Fax: 843-234-0017

## Physical Therapy DAILY TREATMENT NOTE

**Patient Name:** Scott Ledford **Patient ID #:** 14319 **Date:** 11-09-2012
**Patient DOB:** 08-15-1975 **Referred By:** Ross Taylor MD
**Diagnosis:**

| | | | |
|---|---|---|---|
| 728.87 | Muscle Weakness-General | 719.47 | Pain joint (arthralgia): ankle/foot |
| 719.57 | Stiffness of joint not elsewhere classified; ankle/foot | 719.7 | Difficulty In Walking |

SUBJECTIVE: Pt reports his ankle pain is like a toothache, it's always there, it feels like a burning sensation in the morning,

OBJECTIVE: Pt has tenderness on lateral anterior ankle with manual palpation. Restricted dorsiflexion continues with increased stiffness/resistance in upper end of range in active assist. Therapeutic exercises and ultrasound per grid,

ASSESSMENT: Pt reported no change in pain post therapy.

PLAN: Patient returns for follow up on 11-12-12; continue PT and progress as tolerated

Dargan Ervin PT

Dargan Ervin PT SC # 678

Lenore McKenzie-Morris PTA SC # 2764

Corvel Capture 12/3/2012

ATLANTIC PHYSICAL THERAPY & REHABILITATION, INC.

106 Waccamaw Medical Park Ct Conway, SC 29526-8989
Phone: 843-234-0015 Fax: 843-234-0017

## Physical Therapy DAILY TREATMENT NOTE

Patient Name: Scott Ledford | Patient ID #: 14319 | Date: 11-12-2012
Patient DOB: 08-15-1975 | Referred By: Ross Taylor MD

Diagnosis:

| | | | |
|---|---|---|---|
| 728.87 | Muscle Weakness-General | 719.47 | Pain joint (arthralgia): ankle/foot |
| 719.57 | Stiffness of joint not elsewhere classified: ankle/foot | 719.7 | Difficulty in Walking |

SUBJECTIVE: Pt. reports " pain is the same; but I can definately tell my ankle is getting stronger."

OBJECTIVE: Activities as per grid, Pt. has discomfort with some activities; but is able to do activities as asked. Noted continues swelling around lateral ankle with sensitivity to palpation around malleolus.

ASSESSMENT: Decreased tissue tightness, progressed with strengthening activities

PLAN: Patient returns for follow up on 11-14-12; continue PT and progress as tolerated.

Dargan Ervin PT

Fri Aug 2008 [illegible]

Dargan Ervin PT SC # 678

Beth Vorp, RPTA

Thu Oct 2008 [illegible]

Beth Vorp PTA SC # 543

Atlantic Physical Therapy & Rehabilitation, Inc.

106 Waccamaw Medical Park Ct Conway, SC 29526-8989
Phone; 843-234-0015 Fax: 843-234-0017

## Physical Therapy Daily Activity Note

Patient Name: Scott Ledford Patient ID #; 14319 Date: 11-12-2012
Patient DOB: 08-15-1975 Referred By: Ross Taylor MD
Diagnosis:

728.87 Muscle Weakness-General
719.57 Stiffness of joint not elsewhere classified: ankle/foot
719.47 Pain joint (arthralgia): ankle/foot
719.7 Difficulty In Walking

Diagnosis/Treatment: Right Ankle Sprain; Residual Functional Limitation; Pain & Edema; Impaired ROM & Strength; PT for modalities and manual therapy as indicated and Therapeutic Exercise/Home Program Instruction

TREATMENT/EXERCISES

| Exercise/Description | Units/Reps/Weights | Minutes |
|---|---|---|
| PT Evaluation | | |
| Physical Therapy Re-Evaluation | | |
| Manual Therapy | | 0 |
| Ultrasound | 1/1.5 w/cm to the right lateral ankle | 8 |
| Unattended Electrical Stimulation | | |
| Vasopneumatic Devices | 17 to right ankle medium pressure with elevation | 15 |
| Therapeutic Exercise | 2/ | 36 |
| Therapeutic Activity | | |
| Gait Training | | |
| Certification/Order End Date | open | |
| Home Program/Home Instruction | | |
| Moist Heat-Skin Assessment Prior to During & Post | | |
| Ice-Skin Assessment Prior to During & Post | | |
| Patient Reponse to Today's Treatment | | |
| SPECIFIC INTERVENTIONS INCLUDE: | | |
| AAROM/Passive Stretch | gentle range of motion stretching with therapist | |
| Seated Heel Slides-dorsiflexion stretch | | |
| Bilateral Heel Raises | x 20 ; limited range | |
| 1/2 roll gastroc stretch | 3 x 30 sec. ; limited range | |
| R unilateral stance/balance | on 1/2 roll in sagital plane | |
| Bike | ( pt. rode stationary bike at home) | |
| Leg Press | 30# for PF 3 x 10- limited range, single leg 110# 3 x 10 | |
| Kneeling Activity | | |
| BOSU | inverted- mini squats x 30; flat side down R foot on top- step overs with slight knee flexion x 20 | |
| Squats | x 30 on BOSU | |
| Unilateral Heel Raises | | |
| balance board | | |
| 1/2 roll single leg stance | x 2 min. | |
| Manual Resisted Activity | light resisted AROM and isometric exercise with the ankle; all planes of motion; 2 x 10 reps; effort is sub-maximal to symptom exacerbation | |
| BOSU | with 2.2# medicine ball throw x 30 | |
| Single leg stance | on BOSU with plyometrics 2.2# ball throw x | |

| | | |
|---|---|---|
| | 30 | |
| single leg stance on blk.t-pad with trunk rotation | RTB with trunk rotation x.20 reps | |
| | Total Minutes | 59 |

Electronically signed by Dargan Ervin PT
(Therapist)

Electronically signed by Beth Vorp PTA
(Associate)

Corvel Capture 12/3/2012

ATLANTIC PHYSICAL THERAPY & REHABILITATION, INC.

106 Waccamaw Medical Park Ct Conway, SC 29526-8989
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| 719.57 | Stiffness of joint not elsewhere classified; ankle/foot | 719.7 | Difficulty In Walking |

SUBJECTIVE: Pt. reports he sees MD tomorrow Reports he doesn't think his ankle is as swollen today.

OBJECTIVE: Activities as per grid. Active ROM after stretching today is :
DF 9
PF 56
Inv, 34
EV 13
Strength is 3+/5 all planes of motion
Pt. given MD letter to take with him to visit tomorrow.

ASSESSMENT: Improved strength, limited improvement in motion.

PLAN: Pt. to see MD tomorrow.

Dargan Ervin PT

Dargan Ervin PT SC # 678

Beth Vorp, RPTA

Beth Vorp PTA SC # 543

Corvel Capture 12/3/2012

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Phone: 843-234-0015 Fax: 843-234-0017

## Physical Therapy Daily Activity Note

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Patient DOB: 08-15-1975
Patient ID #: 14319
Date: 11-14-2012
Referred By: Ross Taylor MD

Diagnosis:

728.87 Muscle Weakness-General
719.57 Stiffness of joint not elsewhere classified: ankle/foot
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TREATMENT/EXERCISES

| Exercise/Description | Units/Reps/Weights | Minutes |
|---|---|---|
| PT Evaluation | | |
| Physical Therapy Re-Evaluation | | |
| Manual Therapy | | 0 |
| Ultrasound | 1/1.5 w/cm to the right lateral ankle | 8 |
| Unattended Electrical Stimulation | | |
| Vasopneumatic Devices | 1/ to right ankle medium pressure with elevation | 15 |
| Therapeutic Exercise | 2/ | |
| Therapeutic Activity | | 36 |
| Gait Training | | |
| Certification/Order End Date | open | |
| Home Program/Home Instruction | | |
| Moist Heat-Skin Assessment Prior to During & Post | | |
| Ice-Skin Assessment Prior to During & Post | | |
| Patient Response to Today's Treatment | | |
| SPECIFIC INTERVENTIONS INCLUDE: | | |
| AAROM/Passive Stretch | gentle range of motion stretching with therapist | |
| Seated Heel Slides-dorsiflexion stretch | | |
| Bilateral Heel Raises | x 20 ; limited range | |
| 1/2 roll gastroc stretch | 3 x 30 sec. ; limited range | |
| Unilateral stance/balance | on 1/2 roll in sagittal plane | |
| Bike | ( pt. rode stationary bike at home) | |
| Leg Press | 30# for PF 3 x 10- limited range, single leg 110# 3 x 10 | |
| Kneeling Activity | | |
| BOSU | inverted- mini squats x 30; flat side down R foot on top- step overs with slight knee flexion x 20 | |
| Squats | x 30 on BOSU | |
| Unilateral Heel Raises | | |
| balance board | | |
| 1/2 roll single leg stance | x 2 min. | |
| Manual Resisted Activity | light resisted AROM and isometric exercise with the ankle; all planes of motion; 2 x 10 reps; effort is sub-maximal to symptom exacerbation | |
| BOSU | with 2.2# medicine ball throw x 30 | |
| Single leg stance | on BOSU with plyometrics 2.2# ball throw x | |

| | | |
|---|---|---|
| | 30 | |
| single leg stance on blk t-pad with trunk rotation | RTB with trunk rotation x 20 reps | |
| T-band for DF, Inv., and EV | x 20 RTB with fatique | |
| | Total Minutes | 59 |

Electronically signed by Dargan Ervin PT
(Therapist)

Electronically signed by Beth Vorp PTA
(Associate)

02711

ATLANTIC PHYSICAL THERAPY & REHABILITATION INC.

TO: Ross Taylor MD
RE: Scott Ledford DOB: 08-15-1975
**Right Ankle Sprain; Residual Functional Limitation; Pain & Edema; Impaired ROM & Strength; PT for modalities and manual therapy as indicated and Therapeutic Exercise/Home Program Instruction**
DATE: 11-14-2012

Mr. Scott Ledford has been seen in our Conway office for treatment as noted above. He was seen initially on 10/18/12 and he has been seen for a total of 11 visits. He continues to report pain in the ankle area that does limit his higher level of function.

We have been performing ultrasound and manual therapy to the ankle area to address his pain symptoms. We also have been progressing with exercises for foot, ankle and LE strengthening. He does very well with higher level balance but continues to have lateral joint pain with single leg stance and resisted exercises. he is also noted to have consistent crepitus with ankle Active ROM. He continues to have point tenderness over the lateral ankle ligament structures.

His ankle ROM has been varying based on his report of ankle pain. Today his dorsiflexion AROM was slightly less than what was noted on the initial visit. His ankle strength is grossly 3+/5 on the right. His gait on level surfaces is improved but he does have more problems with increased pace and on unlevel surfaces.

He returns to you for follow up on 11-15-12. Please advise regarding continued therapy. Thank you very much for your referral. Also, please feel free to contact me if you have any questions or if I can be of assistance in any way. I can be reached at 843-234-0015.

Sincerely,

Dargan Ervin PT

Dargan Ervin PT


Myrtle Beach 843-293-7713 Fax 843-293-1855
North Myrtle Beach 843-249-7232 Fax 843-280-0206
Conway 843-234-0015 Fax 843-234-0017
Carolina Forest 843-903-4940 Fax 843-903-4950
P.O. Box 1145 Myrtle Beach, SC 29578



DEC. 11. 2012 2:58PM COA INSURANCE NO. 007 P. 6


5:6

# SURGERY SLIP

SURGEON: Ross Taylor, MD
PATIENT NAME: LEDFORD, SCOTT
DOB: 8-15-1975
WORK No: (843) 241-8750
INSURANCE:

Scheduling Rep:
CHART No. 62711
SS# 110-58-0432
HOME PHONE (843) 742-5330
CELL PHONE
LANGUAGE: English

PLACE OF SURGERY: ☑ CB&J ☐ CMC ☐ WCH
TIME ALLOWED: 90 min
DIAGNOSIS: ankle sprain
SURGICAL PROCEDURE:
Right ankle anterior ankle arthroscopy with debridement impingment lesion possible OLT open resection posterior process talus

☐ IN ☑ OUT PATIENT
LENGTH OF STAY:

| TYPES OF ANESTHESIA | BLOCK | INTRA OP MONITORING |
|---|---|---|
| ☑ GENERAL | ☑ POPLITEAL | ☐ SSEP |
| ☐ MAC | ☐ AXILLARY | ☐ FREE RUN EMG |
| ☐ SPINAL | ☐ FEMORAL | ☐ TCMEP |
| ☐ CHOICE | ☐ INTERSCALINE | |
| ☐ BIER | | |

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

SPECIAL ARRANGEMENTS, PROCEDURES, CASE NEEDS, OTHER ORDERS
SEE ATTACHED DR TAYLOR CASE NEEDS

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 |
|---|---|
| 29898 | 905.7 |
| 29891 | 732.7 |
| | |
| | |
| | |

DEC. 11. 2012 2:59PM COA INSURANCE NO. 007 P. 7

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CAROLINA BONE AND JOINT SURGERY CENTER
OPERATIVE REPORT

PATIENT NAME: Ledford, Scott
ID NUMBER: 22236
SURGEON: Ross N. Taylor, M.D.

DATE OF OPERATION: 01/30/13

PREOPERATIVE DIAGNOSES:
1. Right ankle anterior impingement lesion.
2. Posterior ankle impingement.

POSTOPERATIVE DIAGNOSES:
1. Right ankle anterior impingement lesion.
2. Posterior ankle impingement.
3. Post traumatic arthritis.

OPERATION PERFORMED:
Right ankle:
1. Anterior arthroscopy with debridement of impinging synovium as well as resection of anterior distal tibial osteophyte.
2. Open resection of posterior process of talus.

PROCEDURAL INDICATIONS: The patient is a 37-year-old male with persistent right ankle pain following a work related injury. Physical examination, radiographs and MRI are all consistent with the above diagnosis. He has failed conservative treatment and presents for surgery as outlined above.

DESCRIPTION OF PROCEDURE: The patient was brought to the operating room and placed in the supine position on the operating room table. After the induction of general anesthesia, a well-padded thigh cuff tourniquet was placed high about the right thigh. A urology type leg holder was placed under the right popliteal area to flex the knee slightly and suspend the heel off the bed. The right ankle was preliminarily prepped with alcohol and a narrow gauge needle was introduced into the ankle joint and 10 mL of 1% lidocaine with 1;100,000 epinephrine was infiltrated in the ankle joint. The right foot, ankle and lower leg were then prepped and draped in standard sterile fashion. Presurgical time out was performed.

The anteromedial portal was established with an #11 blade knife. Hemostats were used to spread down to and bluntly penetrate the ankle joint capsule and this portal was established in the interval between the medial malleolus and the tibialis anterior tendon. A 2.7 mm arthroscope was introduced over a trocar and sheath into the ankle joint. Transillumination was used to establish the anterolateral portal. The anterolateral portal was established posterior to the shadow of the superficial peroneal nerve with an #11 blade knife through skin only. Hemostats were used to spread down through and bluntly penetrate the ankle joint capsule. An arthroscopic examination of the ankle was performed.

Arthroscopic examination confirmed the following findings. The lateral gutter was noted to be free of any loose bodies. The lateral shoulder of the talus was noted to be free of any cartilage lesions as was the distal fibula.

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PATIENT NAME: Ledford, Scott
OPERATIVE REPORT

The superior talar dome was well visualized from posterior to anterior and was noted to be void of any cartilage defects. The tibial articular surface was noted to be similarly absent of any articular cartilage lesions. The anteromedial gutter was inspected after the portals were switched such that the scope was introduced through the lateral portal over a trocar and sheath. Images of the lateral portal demonstrated the lateral shoulder of the talus to be free of any cartilage lesions as was the lateral gutter to be free of any loose bodies. A tibial osteophyte was documented over the anterior articular margin of the tibia. There was no corresponding cartilage lesion.

Instrumentation was switched such that the scope was introduced anteromedially. A shaver was used to remove an impinging lesion documented in the anterolateral aspect of the joint line. This synovium was liberally debrided until it no longer impinged under direct visualization. The osteophyte was then removed using a high speed arthroscopic rasp. Final image intensification views confirmed. The wounds were liberally irrigated with the shaver in a safe position and the arthroscopic portals were closed with each a simple interrupted 3-0 Monocryl suture. Benzoin and Steri-Strips were placed as well as preliminary sterile dressings.

Drapes were removed and the patient was then repositioned in the prone position by first transferring him to his stretcher gurney. With two long gel pads placed along both sides of the torso the patient was then transferred prone position to the operating room table. The knees were padded with eggcrate foam and a well-padded thigh cuff tourniquet was maintained high about the right thigh. The right foot, ankle and lower leg were prepped and draped in standard sterile fashion. Presurgical time out was again confirmed. Exsanguination of the right foot, ankle and leg was performed with an Esmarch bandage. The tourniquet was deflated to 325 mmHg. An obliquely oriented incision was made over the posterolateral aspect of the right ankle paralleling the course of the sural nerve just medial to the Achilles tendon. The incision was carried down through the skin only with a #15 blade knife. Deep dissection was performed bluntly with a pair of Converse scissors gently spreading through the subcutaneous and deep tissues to avoid injuring the sural nerve, It was not encountered during the dissection and blunt retraction was maintained on both sides of the surgical wound. The dissection was then taken down sharply directly under the posterolateral aspect of the ankle of the subtalar joint, exposing the posterior process. Subperiosteal dissection was used to raise the ligamentous attachments to the posterior process medially and laterally until the FHL tendon was visualized and the peroneus brevis and longus tendons were visualized laterally. A curved osteotome was used to resect a prominent posterior process and it was removed with a rongeur. No cartilage lesions were encountered. The wound was liberally irrigated. Hemostasis was obtained with bipolar electrocautery. After liberal irrigation the deep fascia was closed with simple interrupted 2-0 Vicryl. Subcutaneous tissues were closed interrupted inverted 2-0 Vicryl and the skin was closed with a running subcuticular 3-0 Monocryl. Benzoin and Steri-Strips were placed. A posterior splint was placed over sterile dressings.

Ross N. Taylor, M.D.
RNT/SN/bcorff/FST-14945894
D: 01/30/13 08:16 A
T: 01/30/13 09:11 P

Corvel Capture 4/17/2013

# Progress Note

Patient Name: Ledford, Scott
Chart Number: 1152A
Date of Service: 3/11/13

S: Pt reports pain @ worst is 7-8, least is 3, and present is 3

O: ROM taken @ R ankle

| | |
|---|---|
| Gross fig 8 | 53.3 cm |
| Supra malleoli | 22.8 cm |
| Infra malleoli | 28.5 cm |
| Mid tarsal | 34.8 cm |
| Meta tarsal | 23.0 cm |

aROM

| | |
|---|---|
| DF c knee flex | 5 ° |
| DF c knee ext | neutral |
| PF | 40 ° |
| INV | 20 ° |
| EVE | 12 ° |

Circuit work as per flow sheet X1 hr

A: Pt exhibits ↑ in ROM and ↓ in edema.

P: Send progress note to MD and wait for MD's orders.

LPearce PT

Louise Pearce, RPT

LP/LH

Corvel Capture 4/17/2013

# Progress Note

Patient Name: Ledford, Scott
Chart Number: 1152A
Date of Service: 3/12/13

S: Pt seen by MD this AM and is pleased c his progress. MD wants him to cont working on strengthening and stretching ex and weight shifting.

O: Modified ex X45 min

A: Modified ex today as Pt is still feeling the effects from MD's appt. this AM.

P: Cont.

L Pearce PT

Louise Pearce, RPT

LP/LH

Progress Note

Patient Name Ledford, Scott
Chart Number: 1152A
Date of Service: 3/14/13

S: Pt reports feeling better today. Feels he can do complete circuit work.

O: Circuit work as per flow sheet X1 hr. Pt working c BAPS board in a seated position @ level 2 c min difficulties Worked on weight shifting today c 1 foot on 2nd step.

A: Pt reports muscle fatigue p end of Rx c new activities as noted above.

P: Cont.

L Pearce PT
Louise Pearce, RPT

LP/LH

# Progress Note

Patient Name: Ledford, Scott
Chart Number: 1152A
Date of Service: 3/18/13

S: Pt reports having a good day today. Just noticed ankle stiffness when he initially stands up.

O Ther ex as per flow sheet X1 hr.

A: Pt does indeed exhibit ankle stiffness when initiating coming to stand p sitting.

P: Cont.

Louise Pearce, PT

LP/LH

Community Rehab
Physical Therapy

117 Waccamaw Medical Park Dr.
Conway, SC 29526
Phone: 843-347-2970
Fax: 843-347-2975

Progress Note

Patient Name: Ledford, Scott
Chart Number: 1152A
Date of Service 3/20/13

S: Pt reports pain @ its worst is 7, least is 2-3 and presently is a 3.

O. Girth measurements taken:
R ankle.

| | |
|---|---|
| Gross figure 8 | 65.3 cm |
| Supra malleoli | 24.0 cm |
| Infra malleoli | 28.0 cm |
| Midtarsal | 26.0 cm |
| Metatarsal | 24.0 cm |

AROM
R ankle

| | |
|---|---|
| DF c knee flexed | 5° |
| DF c knee ext | 10° |
| PF | 35° |
| Inversion | 20° |
| Eversion | 13° |

Circuit work as per flow sheet X1 hr.

A: Pt exhibits tenderness c palpation @ incision site and post aspect of lower leg. Pt exhibits slight puffiness in area. Appears suture trying to work its way out. Instructed Pt to keep eye on the area and signs to check for infections and if worsens to contact MD Pt also given a Circa square to use for scar management. Pt had achieved established STGs.

P: To address LTGs.

L Pearce, PT

Louise Pearce, RPT

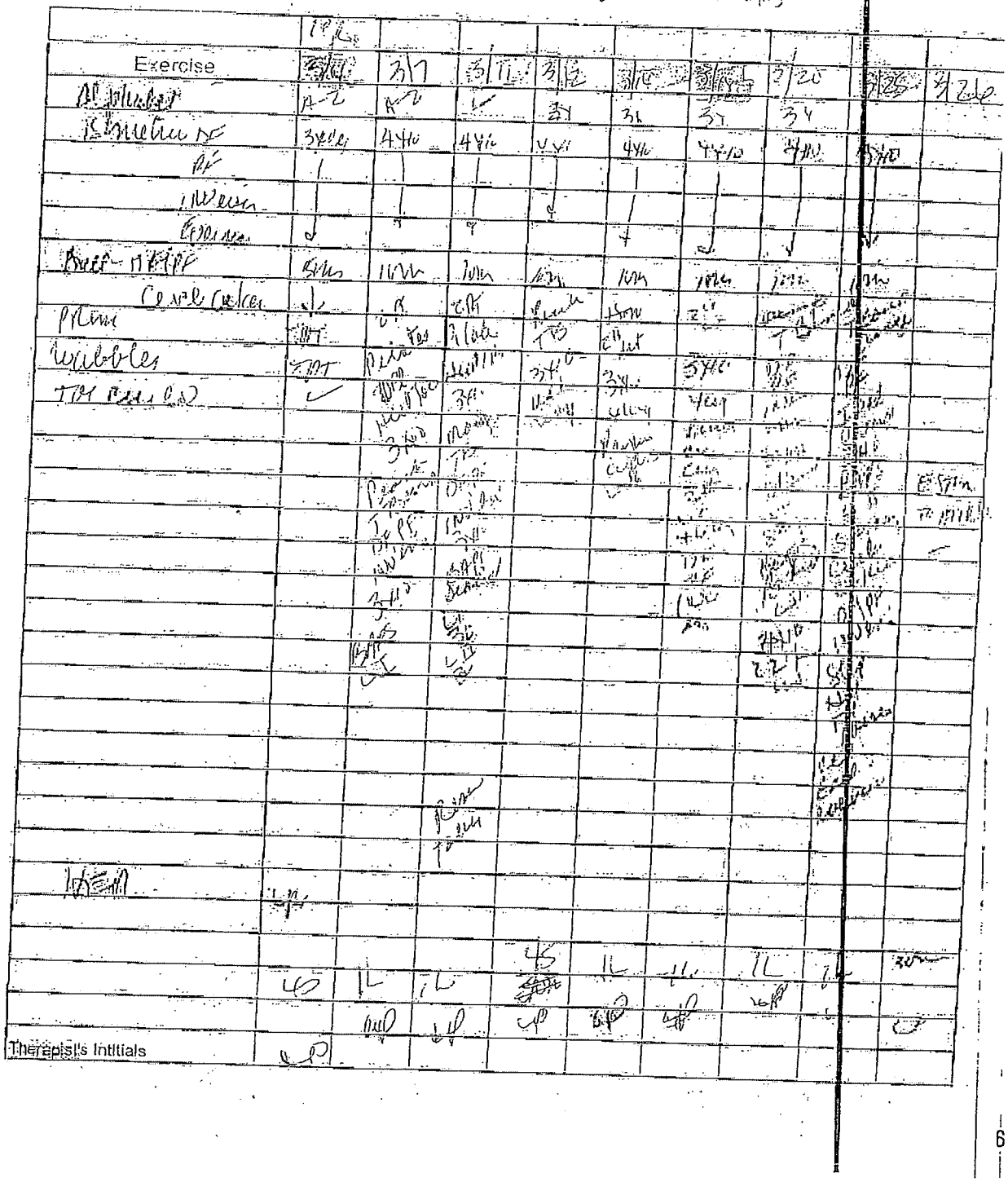
LP/SB

Corvel Capture 4/17/2013

12 visits

Scott Medford

# Community Rehab & Physical Therapy



Pee Dee Orthopaedic Associates, PA

Anthony W. Alexander, M.D., Rakesh P. Cholera, M.D., Barry L. Clark, D.O., Patrick K. Denton, M.D., W.S. (Bill) Edwards, Jr., M.D., Robert E. Flinspach, Jr., M.D., Dewey H. Ervin, M.D., Jason B. O'Dell, M.D., Charley M. Rainey, M.D., Boyd A.R. Viau, M.D., Matthew D. Welch, M.D.

901 E. CHEVES ST., SUITE 100 - FLORENCE, SC 29506-2769
(843) 662-5233 - FAX (843) 678-9003 - WWW.PDOA.COM

Initial Examination

PATIENT ID: 344946

PATIENT: Scott Ledford
DOB: 8/15/1975
Employer: SCDPS

Date of Service: 8/15/2013
Age: 38 year(s)
Occupation: Highway Patrol

Referring Physician: No data for Referred
Other Physicians: By

Date of injury/onset:

| Date | Type injury |
|---|---|
| 07/15/2000 | injury |
| 02/10/2009 | injury |

Chief Complaint: *IME Right ankle pain

HPI:

Scott Ledford is a 38 year old, right hand dominant white male with a history of previous injuries and surgery on the right ankle. He is here for independent evaluation. He had a previous episode of compression fracture in the thoracic spine when a tazer was used on him during some sort of altercation on the job. He worked previously as a highway patrolmen on a motorcycle, and on March 10, 2012, he was again injured when he laid his motorcycle down while on patrol. He was initially seen at a Doctor's Care and diagnosed with an ankle sprain. He had referral to a general orthopedist one month later, and an MRI was obtained at the time of that referral. The general orthopaedist saw him two more months. He immobilized the patient in a boot, and also initiated some treatments on his lower back. The patient was then referred to a foot and ankle specialist, initially on June 19, 2012. At that point, he was placed back in a boot and began some physical therapy. The diagnoses was an under-rehabilitated ankle sprain with peroneal neuritis of the superficial branch of the nerve.

After 12 weeks of physical therapy and based on the results of an MRI, ankle arthroscopy and posterior talar Sinda process excision were discussed with the patient. Surgery was performed January 30, 2013. He began therapy and weightbearing two weeks postoperatively and his incisions healed uneventfully. He has been out of work ever since his injury.

At this point, after continuing postsurgical physical therapy he feels his activities of daily living and exercise are still severely restricted by his right ankle which gives out on him frequently and limits his ability to walk on an incline. He states he can do light work but cannot do any significant lifting, or walking on uneven ground. He has significant complaint of decreased strength in the right lower extremity. He also complains of ongoing hypersensitivity on the dorsal lateral foot. He currently takes no pain medication, occasional anti-inflammatories only.

Allergies: NKDA
Current Meds: none
Past Med Hx: Hypertension
Surgical History: Ankle: Right; Finger: Left Index
Family History: Heart Disease; Parents: Father-Living; Parents: Mother-Living
Social History: Alcohol use: None; Drug Use: Never; Employment: Full Time; Marital Status: Married;

66

Never Smoked; Tobacco: Never Smoked

REVIEW OF SYSTEMS:
General, neuro, psychiatric, respiratory, cardiovascular, GI, GU, blood and lymph, EENT, musculoskeletal, skin and endocrine systems are normal except what is noted: Cardiac: High blood pressure

PHYSICAL EXAM:
Vitals: HEIGHT / LENGTH: 5'10 WEIGHT: 195 lbs 0 oz BMI: 28.0 TEMPERATURE: 98.6
Appearance: No acute distress
Psychiatric: Mood and affect were appropriate.
Head: Normocephalic, atraumatic.
Skin: Clean, dry, no lesions, no rashes.
Neuro: Alert and oriented x 3.
FOCUSED EXAM:
Muscular male patient in no significant distress. 2+ pulses are present in the bilateral lower extremities and are symmetric. He has well-healed incisions on the anterior medial and lateral gutters of the ankle as well as an oblique posterior lateral incision which is also well healed. There is a little hypersensitivity to deep massage of the posterior lateral incision. There is some pain with maximal plantar flexion of the foot as well as maximal dorsiflexion of the ankle. He has hypersensitivity at the dorsal and lateral foot, mostly in the sural nerve distribution, that is somewhat painful. His leg pain with ankle dorsiflexion does not appear to be associated with a straight leg raise test or signs of radiculopathy despite his chronic L5-S1 disease. On standing evaluation, he has a slight medial heel position and subtle cavus alignment bilaterally. He has 2cm decrease in his calf circumference on the right. His subtalar range of motion is symmetric. His ankle range of motion is symmetric with slight decrease in dorsiflexion on the right side. There is no crepitance to range of motion of the joint. There is no instability of the joint. He actively everts the foot without pain.

X-ray: No films are obtained today. No outside imaging is available except for MRI report of April 17, 2012. This indicated significant bone contusion of the posterior talus and posterior malleolus of the tibia with nonspecific edema throughout the foot and ankle with FHL tenosynovitis. No fracture was reported on previous x-rays.

ASSESSMENT:
Diagnosis: Right ankle sprain with chronic pain status post previous surgery.

PLAN:
PRESCRIPTION: No data for Prescription

I have discussed with the patient that if he is able to bring in previous imagings on a disc, I would gladly evaluate them and addend this report.

His residual sensory abnormality of the right lower extremity, 3% of the lower extremity.

Loss of dorsiflexion, 7% of the lower extremity.

8% of the lower extremity for chronic atrophy of the right calf.

Due to the lack of new x-rays, I am unable to evaluate for any posttraumatic ankle arthritis.

I have no other objective studies regarding the nerve hypersensitivity such as a nerve conduction study.

Based on the above information that I do have, the claimant would rate at 18% of the lower extremity which converts to 7% of the whole person, with an additional 1% for his chronic pain complaints that are not well characterized. 8% of the whole person total.

If authorized to treat the patient, after reviewing his past x-rays and films, I would recommend repeat standing x-rays of the ankle, repeat MRI, as well as nerve conduction study of the right lower extremity to evaluate his chronic nerve pain and to determine whether or not this represents an exacerbation of chronic back issues related to this injury. I would also, at some point, likely perform a diagnostic and therapeutic injection of the right ankle with steroid to see if this helps his symptoms.

He would be able to do light work only, his previous job would have been heavy work as a motorcycle patrolman.

I appreciate the opportunity to evaluate this patient and hope to treat him in the future.

CORVEL

200 Center Point Circle
Suite 290
Columbia, S.C. 29210
Telephone: 843-650-0653
Facsimile: 843-650-4941

**Initial Vocational Evaluation**
**Date of Report: 07/17/14**
**Date of Referral: 07/05/14**

**Claimant Name:** Scott A. Ledford
**Claimant Address:** 4338 Bradford Circle
**City, State, Zip:** Myrtle Beach, S.C. 29588

**DOI:** 03/10/12

**Employer:** SC Department of Public Safety
**Employer Address:** 10331Wilson Blvd.
**Employer City, State, Zip:** Blythewood, S.C. 29016

**Plaintiff Attorney:** E. Hood Temple, Esq.
**Plaintiff Address:** 201 Beatty St.
**Plaintiff City, State, Zip:** Florence, S.C. 29503

**Defense Attorney:** Sarah Alphin, Esq.
**Defense Address:** 4500 Fort Jackson Blvd
**Defense City, State, Zip:** Columbia, S.C. 29209

| | |
|---|---|
| **Treating Physician:** Dr. Taylor, MD | **Claimant Phone #:** 843-742-5330 |
| **Physician Address:** 2376 Cypress Circle | **Employer Phone #:** 803-796-7937 |
| **Physician City, State, Zip:** Conway, S.C. 29526 | **Physician Phone #:** 843-347-7222 |

## SUMMARY AND RECOMMENDATIONS:

Overview/Summary of Case from Claimant Perspective:

Mr. Ledford's reported work related injury occurred on 03/10/12, while employed as a Police Officer for the State Highway Patrol. On the day of the reported work related injury, Mr. Ledford was working on team patrol and was attempting to pull over a vehicle when he hit something in the road causing Mr. Ledford to lose control of the motorcycle and hitting the ground. Mr. Ledford reported some people in the area helped pull the bike off of him. Mr. Ledford reported EMS was called and he was transported to Conway Medical Center where X-rays were taken of the foot, medication was prescribed and was released and referred to Doctors Care. Doctors Care reported Mr. Ledford would need to be seen by a specialist and he was referred to Dr. Mills. Dr. Mills placed Mr. Ledford in a boot and he was referred to Dr. Taylor whom placed Mr. Ledford into physical therapy which was unsuccessful. Mr. Ledford returned to Dr. Taylor whom recommended surgery to correct the condition in December 2012. After the surgery, Mr. Ledford was placed into physical therapy for several months and released by Dr. Taylor. Mr. Ledford was also treated conservatively for his back by Dr. Poletti and Dr. Mills.

Identify Potential Barriers:

On 05/23/13, Dr. Taylor placed the claimant at MMI with a 7% impairment with no running, cutting, or pivoting on unpredictable surface. Dr. Poletti reported on 03/05/14 that Mr. Ledford had sustained a 13% whole person impairment and he was restricted to light duty with no overhead lifting greater than 20lbs and no repetitive bending, twisting pushing or pulling.

## MEDICAL ASSESSMENT:

Date of Diagnosis and symptoms started:

03/10/12 –Reported work related injury while attempting to pull over a vehicle.

Treatment history to include hospitalizations and diagnostic testing:

Physical therapy, x-rays, medications, MRI, surgery and conservative treatment

Current symptoms:

Mr. Ledford reported pain and swelling in his right foot.

Current treatment:

Mr. Ledford is currently not being treated by a physician.

Claimant's perception of limitations for work and activities of daily living:

Mr. Ledford owns a landscaping business and works as tolerated within his restrictions. Mr. Ledford reported limited mobility would hinder his ability to return to work as a Police Officer. Mr. Ledford reported he used to enjoy mountain biking and running, but is unable to perform these activities due to his reported work related injury.

Personal and family medical history:

Mr. Ledford reported being allergic to shellfish, no other medical problems were noted which would hinder rehabilitation development. Claimant reported family history of diabetes and heart disease, cholesterol.

Medications:

| Medication | Dose/Frequency | Purpose |
|---|---|---|
| None | | |

VOCATIONAL ASSESSMENT:

Physical/Mental demands of job at the time of employment:

375.267-038 - Conducts investigations to locate, arrest, and return fugitives and persons wanted for nonpayment of support payments and unemployment insurance compensation fraud, and to locate missing persons: Reviews files and criminal records to develop possible leads, such as previous addresses and aliases. Contacts employers, neighbors, relatives, law enforcement agencies, and other persons to locate person sought, obtains necessary legal documents, such as warrants or extradition papers, to bring about return of fugitive. Serves warrants and makes arrests to return persons sought, examines medical and dental x rays, fingerprints, and other information to identify bodies held in morgue, completes reports to document information acquired and actions taken, testifies in court to present evidence regarding cases.

Potential return to work with employer?

Mr. Ledford was medically retired in October, 2013 from his pre-injury employer.

Availability of light duty, transitional program, gradual return to work per employer?

Mr. Ledford was not offered a light duty position.

Previous Employment History:

| Employer | Dates of Employment | Position | Wages | Reason for Leaving |
|---|---|---|---|---|
| SC Highway Patrol | 2004-2013 | Police Officer | $1500 every two weeks | Retired |
| Horry County | 1998-2004 | Deputy | Unknown | Better Opportunity |
| Georgetown | 1996-1998 | Deputy | Unknown | Better Opportunity |
| Landscaper | 1993- present | Owner | Unknown | Better Opportunity |

Miscellaneous Comments regarding employment history:

Mr. Ledford has been employed in a variety of occupations. His responsibilities included: Waiter, Police Officer, Deputy, and Owner of a Landscaping Business. Mr. Ledford reported no other transferable skills, which would enhance a successful return to work.

## EDUCATIONAL ASSESSMENT

Education and Training:

Mr. Ledford reported obtaining his diploma from Socastee High School in 2003 and went to Horry Georgetown Technical College. Mr. Ledford's reported passing the SC Criminal Justice Academy in 1996.

Military:

N/A

## CLAIMANT ASSESSMENT:

Appearance and Behavior Observations:

Mr. Ledford is 5'11 and weighs approximately 186 lbs. Mr. Ledford is a well-nourished Caucasian male, was dressed appropriately for the interview in slacks and shirt with a tie and appeared to take care of himself in a hygienic manner. Mr. Ledford reported being a non-smoker, and does not consume alcoholic beverage, is married and has three children all at home. Mr. Ledford reported his wife is employed helping with the Landscaping business and is a school teacher. Mr. Ledford reported owning a home in Myrtle Beach. Affect was appropriate for the interview.

Description of a typical day:

Mr. Ledford reported getting up in the morning around 5am or 6am, may go to the Landscaping business followed by taking the kids to the waterpark or work around the home, may perform light housekeeping, goes to the grocery store, does laundry, may cook, takes walks, watches television and enjoys playing on his I phone as a description of a typical day.

Pain Levels (location and intensity)

Mr. Ledford reported on a scale of 1-10 his current pain level is a 3 which is in his foot and his lower back was described as an 8.

Transportation:

Mr. Ledford reported having reliable transportation and possesses a valid driver's license; this issue would not constitute a barrier for the IW to return to work.

Legal History/Convictions:

The IW reported no illegal history.

## PSYCHOSOCIAL ASSESSMENT

Adaptation to diagnosis and coping strategies:

Mr. Ledford reported no further treatment has been recommended and is trying to manage the best way he can. He reported he is frustrated in not being able to perform the activities he used to do before his reported work related injury. Mr. Ledford reported his injury has been life altering. Mr. Ledford reported he tries to remain positive and he prays.

Family environment and support systems:

Mr. Ledford reported his wife and family are supportive of his current condition.

Motivation:

Mr. Ledford indicated on several occasions his desire to re-enter the work force if he were physically able to do so.

Vocational interests/Goals:

Mr. Ledford reported he would like to return to work in something that coincides with the Police Department. Mr. Ledford reported he was also thinking of going back to school but will be unable to pay for it. Mr. Ledford was informed of services offered through the SC Department of Vocational Rehabilitation.

## FINANCIAL ASSESSMENT

Compensation type and amount:

Mr. Ledford reported receiving $546.00 per week from workers compensation payments.

Other sources of income:

Mr. Ledford reported his wife earns around $40,000 per year.

Financial difficulties:

Mr. Ledford reported his disability has caused some financial difficulties.

## Characteristics of Prior Jobs held and analysis of skills:

On 07/17/14, a Vocational Diagnosis of Residual Employability (VDARE) was completed within his geographic labor market to determine his transferable skills. The VDARE is also known as a Transferrable Skills Analysis (TSA) Mr. Ledford has a variety of transferable skills. Therefore, the following General Educational Development Skills were identified (1=low, 6=high)

Reasoning: 4

Math: 3

Language: 3

Throughout Mr. Ledford's previous work history and experience, the following General Development Skills were identified (1=high, 5=low).

| APTITUDES | GDS | TYPICAL PERFORMANCE LEVEL |
|---|---|---|
| G - Intelligence | 4 | Above Average |
| V - Verbal | 4 | Above Average |
| N - Numerical | 4 | Above Average |
| S - Spatial perception | 4 | Above Average |
| P - Form perception | 4 | Above Average |
| Q - Clerical perception | 3 | Average |
| K - Motor coordination | 2 | Below Average |
| F - Finger dexterity | 4 | Above Average |
| M - Manual dexterity | 2 | Below Average |
| E - Eye/hand/foot coord | 2 | Below Average |
| C - Color discrimination | 2 | Below Average |

The following Physical Demands were identified to be within Mr. Ledford's previous work experience:

STRENGTH:

Very Heavy - Exert force 100lbs. occasionally, 50lbs frequently, or up to 20-25 lbs constantly.

PHYSICAL DEMANDS:

| | |
|---|---|
| Not Present | CL - Climbing |
| Not Present | BA - Balancing |
| Frequent | ST - Stooping |
| Not Present | KN - Kneeling |
| Occasional | CR - Crouching |
| Not Present | CW- Crawling |
| Frequent | RE - Reaching |
| Frequent | HA- Handling |
| Frequent | FI - Fingering |
| Not Present | FE - Feeling |
| Not Present | TA - Talking |
| Occasional | HE - Hearing |
| Frequent | NE - Near Acuity (Under 20 inches) |
| Frequent | FA - Far Acuity (Over 20 feet) |
| Not Present | DE - Depth Perception |
| Not Present | AC - Accommodation (Focal length change) |
| Occasional | CV - Color Vision |
| Occasional | FV - Field of Vision (Peripheral vision) |

The VDARE identified the following environmental conditions within Mr. Ledford's previous employment:

| | |
|---|---|
| Moderate | NO - Noise Intensity Level |
| Frequent | AT - Atmospheric Conditions |

SPECIFIC VOCATIONAL PREPARATION: Over one year up to and including two years (SVP=7). This demonstrates a skilled worker.

Transferable Employment Occupations;

Based upon Mr. Ledford's past work experience and transferable skills, the following positions have been identified as possible alternative employment opportunities,

| | Occupation | Exertion Level |
|---|---|---|
| 1. | Security Guard | Light |
| 2. | Fraud Investigator | Sedentary |
| 3. | Desk Officer | Sedentary |
| 4. | Surveillance System Monitor | Light |
| 5. | Collection Clerk | Sedentary |
| 6. | Dispatcher | Sedentary |
| 7. | Order Clerk | Sedentary |

Sources Utilized to Obtain Transferable Skills Analysis:

Vocational Diagnosis and Assessment of residual Employability (VDARE), Dictionary of Occupational Titles (DOT), and the Classification of Jobs (COJ).

Wide Range Achievement Test (WRAT4):

The Wide Range Achievement Test (WRAT 4) is a norm-referenced test that measures the basic academic skills of word reading, sentence comprehension, spelling, and math computation. It was standardized on a representative national sample of over 3,000 individuals ranging in age from 5-94 years. The normative sample was selected according to a stratified national sampling procedure with proportionate allocation controlled for age, gender, ethnicity, geographic region, and parental/obtained education as an index of socioeconomic status. The WRAT 4 is intended for sound assessment of important fundamental academic skills. Such measures are valuable in initial evaluations or individuals referred for learning, behavioral, or vocational difficulties. The results of the WRAT 4 by themselves are not intended to provide formal identification of learning or cognitive disorders. Use of the WRAT 4 results together with a broad array of comprehensive information such as additional assessment and psychometric data, background history, behavioral observations, and more formal assessments of behavioral functioning will assist in the identification and diagnosis of such disorders.

**Comment Section:**

Mr. Ledford was cooperative throughout the Initial Vocational Evaluation and indicated on several occasions his desire to find employment if he was physically able to do so. It is this CRC's opinion that Mr. Ledford will not be able to return to his pre-injury occupation as a Public Safety Officer and will have difficulty performing work requiring extreme physical exertion. This is also the concurrence of his physicians. Based upon the recommendations of Dr. Taylor and Dr. Poletti, Mr. Ledford is functioning between a light PDL. The counselor used sedentary to light positions as identified by the Transferrable Skills Analysis to arrive at an accurate assessment.

The following are descriptions in which the Strength Factor is expressed: S-Sedentary Work - Exerting up to 10 pounds of force occasionally (Occasionally: activity or condition exists up to 1/3 of the time) and/or a negligible amount of force frequently (Frequently: activity or condition exists from 1/3 to 2/3 of the time) to lift, carry, push, pull, or otherwise move objects, including the human body. Sedentary work involves sitting most of the time, but may involve walking or standing for brief periods of time. Jobs are sedentary if walking and standing are required only occasionally and all other sedentary criteria are met. L-Light Work - Exerting up to 20 pounds of force occasionally, and/or up to 10 pounds of force frequently, and/or a negligible amount of force constantly (Constantly: activity or condition exists 2/3 or more of the time) to move objects. Physical demand requirements are in excess of those for sedentary work. For the purposes of the evaluation sedentary to light positions were located due to the lack of current restrictions, to arrive at an accurate assessment.

The WRAT 4 was administered to Mr. Ledford after the Initial Vocational Evaluation. The WRAT 4 revealed Mr. Ledford was functioning today in the above average range for the basic academic skills of word reading, sentence comprehension, spelling, and math computation. Mr. Ledford achieved a standard score of 207 on the reading composite which is within the mean and using a 95% confidence interval his scores would fall between be 97-109. Mr. Ledford was also informed of services offered through the South Carolina Department of Vocational Rehabilitation Services.

According to O'NET (Occupational Network) published by the Department of Labor "Analysts should supplement their initial judgments with a review of related work experience and on-the-job training. Data on these variables may or may not lead the analyst to modify his or her initial Job Zone assignment. For instance, if the data suggest that a long duration of related work experience and/or training is associated with an occupation, the analyst may raise its Job Zone. A high level of related work experience is more likely to influence Job Zone assignments of occupations associated with lower education levels".

Table 1: The 5 Job Zones Defined
Job Zone Preparation Level

1. Little or No Preparation Needed
2. Some Preparation Needed
3. Medium Preparations Needed
4. Considerable Preparations Needed
5. Extensive Preparations Needed

In other words, Mr. Ledford performed a variety of duties for his previous employers: waiter, Police Officer, Deputy, and Owner of a Landscaping Business. These positions were then compiled to formulate the transferrable Skills Analysis (TSA) and identified numerous occupations that Mr. Ledford would be qualified to pursue and are currently hiring.

Mr. Ledford was informed of the services offered through the South Carolina Department of Vocational Rehabilitation Services and local library to help enhance his skills, if he wishes to return to gainful employment.

The positions located were within the claimant's Geographic area (50 mile radius) of the claimant home and are supported by a local unemployment rate in Myrtle Beach of 5.6% compared to a state average of 5,3 %. This information was obtained from the South Carolina Statistical abstract and US Department of Labor and is based on 2014 data.

**Submitted by: James R Myers MA, QRP, CCM, CRC**
**Certified Rehabilitation Counselor**

**Privileged and Confidential:**
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CORVEL

200 Center Point Circle
Suite 290
Columbia, S.C. 29210
Telephone: 843-650-0653
Facsimile: 843-650-4941

Date: 07/21/14

**Claimant Name:** Scott A. Ledford
**Claimant Address:** 4338 Bradford Circle
**City, State, Zip:** Myrtle Beach, S.C. 29588

**DOI:** 03/10/12

**Employer:** SC Department of Public Safety
**Employer Address:** 10331 Wilson Blvd.
**Employer City, State, Zip:** Blythewood, S.C. 29016

**Plaintiff Attorney:** E. Hood Temple, Esq.
**Plaintiff Address:** 201 Beatty St.
**Plaintiff City, State, Zip:** Florence, S.C. 29503

**Defense Attorney:** Sarah Alphin, Esq.
**Defense Address:** 4500 Fort Jackson Blvd
**Defense City, State, Zip:** Columbia, S.C. 29209

| | |
|---|---|
| **Treating Physician:** Dr. Taylor, MD | **Claimant Phone #:** 843-742-5330 |
| **Physician Address:** 2376 Cypress Circle | **Employer Phone #:** 803-796-7937 |
| **Physician City, State, Zip:** Conway, S.C. 29526 | **Physician Phone #:** 843-347-7222 |

## LABOR MARKET SURVEY

This referral for a Labor Market Survey for Mr. Ledford was received from Ms. Harden with the State Accident Fund. An Initial Vocational Evaluation (IVE) was completed on 07/17/14 that included Mr. Ledford's vocational background, transferable skills analysis, list of jobs he could perform based on his transferable skills and physical restrictions. The jobs identified were: Desk Officer, Security Guard, Fraud Investigator, Surveillance System Monitor, Order Clerk, Collection Clerk, and Dispatcher.

Ledford, S

**Work History**

Job Title: Police Officer

Company: SC State Highway Patrol

Dates: 2004- 2013

DOT: 375.263-014

Salary: $40,000 per year

Duties: Mr. Ledford's responsibilities included: Patrols assigned beat on foot, on motorcycle, in patrol car, or on horseback to control traffic, prevent crime or disturbance of peace, and arrest violators: Familiarizes self with beat and with persons living in area. Notes suspicious persons and establishments and reports to superior officer, reports hazards, and disperses unruly crowds at public gatherings. Renders first aid at accidents, and investigates causes and results of accident. Directs and reroutes traffic around fire or other disruption, inspects public establishments requiring licenses to ensure compliance with rules and regulations. Warns or arrests persons violating animal ordinances, issues tickets to traffic violators, registers at police call boxes at specified interval or time. Writes and files daily activity report with superior officer, may drive patrol wagon or police ambulance, may notify public works department of location of abandoned vehicles to tow away. May accompany parking meter personnel to protect money collected.

BUREAU OF LABOR STATISTICS - 2014 WAGE ESTIMATES **
WITH LOCAL ADJUSTMENT FOR: Myrtle Beach, SC

The Bureau of Labor Statistics (BLS) reports the national annual median values of the weekly wage information collected by the Bureau of the Census during its monthly Current Population Survey (CPS). Monthly results of the CPS are collapsed into an annual pool of data, from which the median value is calculated for each Census occupational group. The median value represents all full-time employed workers. The median wage for the position of a Deputy was 37,660 per year.

Of the twelve employers located during the Labor Market Survey, twelve (100%) indicated they were hiring or would be hiring in the near future. Wages ranged from $22,000 per year to $41,600 per year. The average wage was $31,575 per year.

Details of the twelve employers located:

1. Target
1150 Seaboard St.
Myrtle Beach, S.C.
Phone: (843) 946-6998
Position: Fraud Investigator
Minimum Qualifications for hire: Title: Investigative Specialist - United States-South Carolina-: JOIN US AS AN INVESTIGATIONS etc. With our state-of the-art online case management system, you will be provided all the tools and support necessary to ensure your success and achieve assigned case objectives for our clients.
Current starting salary: $40,000 per year
Physical requirements: Sedentary

2. JC Penney
2000 Coastal Grand Circle
Myrtle Beach, S.C. 29579
Phone: (843) 839-0088
Position: Surveillance System Monitor
Minimum Qualifications for hire: Conducts surveillance –Interviews suspects and write reports – Supports shrinkage and safety awareness programs –.Maintains records – Participates in court Hearings
Current starting salary: $31,803per year
Physical requirements: Light

3. Sears Holdings
2000 Coastal Grand Circle
Myrtle Beach, S.C. 29579
Phone: (843) 839-9100
Position: Security Guard
Minimum Qualifications for hire: Jobs in this category are responsible for protecting company assets through activities in safety, inventory recovery and internal/external theft. Some essential duties include including assisting with reduction of loss of inventory, time, and assets, as well as monitors surveillance equipment and apprehends shoplifting suspects.
Salary: $30,000 per year
Physical Requirements: Light

4. Olsten Staffing
914 Chester St.
Myrtle Beach S.C. 29577
Phone: (843) 626-8202
Position: Surveillance System Monitor
Minimum Qualifications for hire: 2-3 years in related security disciplines, Ability to provide general security guidance on the handling of sensitive or National Security Information. You must have a current and active Secret and be able to obtain a TS, U.S. Security Clearance
Salary: $40,000 per year
Physical requirements: Sedentary

5. Brightwater
101 Brightwater Dr.
Myrtle Beach, S.C. 29579
Phone: (843) 903-8300
Position: Industrial Order Clerk
Minimum Qualifications for hire: Courtesy Officer provides security and/or assists residents, families and guests with the familiarity of the campus services. The Courtesy Officer responds to emergency calls, performs security checks on the hour and coordinates the locking down and unlocking of the buildings under the supervision of the Director of Facility Services.
Salary: $28,600 per year
Physical requirements: Light PDL

6. South Carolina Federal Credit Union
1504 N Cashua Dr.
Florence, S.C. 29501
Position: Fraud Investigator
Minimum Qualifications for hire: We are currently seeking a Collections/Loss Prevention Manager to join our team of outstanding professionals
Current starting salary: $30,000 per year
Physical requirements: Sedentary

7. Security Finance
4107 Main St,
Loris, S.C. 29569
Phone: (843) 756-7555
Position: Collection Clerk
Minimum Qualifications for hire: 18 years of age or older, stable work history. Prior management experience in a related industry, highly preferred. Collections and/or sales experience, preferred Willingness to relocate within the state for a management position after training is complete, Great customer service skills, Valid driver's license, acceptable driving record, and reliable transportation. Ability to travel. Pass a criminal background check.
Current starting salary: $25,000 per year
Physical requirements: Sedentary

8. Title Max
1627 Highway 501
Myrtle Beach, S.C. 29579
Position: Collection Clerk
Minimum Qualifications for hire: Excellent customer service, excellent written and verbal communication skills, High School Graduate, Management skills.
Current starting salary: $41,600 per year
Physical requirements: Sedentary

9. Travelers Indemnity Corp
Columbia, S.C. 29451
Phone: (803) 612-4128
Position: Fraud Investigator
Minimum Qualifications for hire: Timely coverage analysis and communication with insured based on application of policy information, facts or allegations of each case. Consult with Unit Manager on use of Claim Coverage Counsel.
Salary: $38,000 per year
Physical Requirements; Sedentary

10. US Security Associates Inc.
675 Robert Grissom Parkway
Myrtle Beach, S.C. 29161-9685
Phone: (843) 626-3940
Position: Security Guard
Minimum Qualifications for hire: Under direct supervision, patrols assigned area to ensure protection of clients, visitors, property and equipment. Controls and monitors access in and out of assigned site and monitors burglar and fire alarm systems as required. Must be customer service oriented, self-motivated, organized, detail oriented and a team player. Ability to react calmly and effectively in emergency situations. Education: High School or GED
Current starting salary; $22,000 per year
Physical requirements; Light PDL

11. Pee Dee County Aviation Authorities
2100 Airport Dr.
Florence, S.C., 29418
Position: Desk Officer
Minimum Qualifications for hire: Operating from the vital Communications Center, Maintain accurate records and reports; monitor security, safety and air navigational systems
Current starting salary: $26,915 per year
Physical requirements: Light

12. McCloud Healthcare
555 E Cheves Street
Florence, S.C, 29506
Position: Security Guard
Minimum Qualifications for hire: High school diploma or equivalent required. Prior related experience required. SLED eligibility required, Due to insurance regulations, must be at least 24 years of age with a valid SC driver's license to operate a McLeod vehicle
Current starting salary: $25,000 per year
Physical requirements: Light

Ledford, S

**Summary:**

Based on the results of the Labor Market Survey for Desk Officer, Fraud Investigator, Surveillance Monitor, Collection Clerk, Security Guard and Order Clerk, these positions exist in a variety of areas within the 50 mile radius of the claimant's home. The majority of positions located were in and around the city of Myrtle Beach, S.C. The positions located for the survey were in a sedentary to light physical demand level (PDL). Based upon Mr. Ledford's previous vocational experiences; it appears that he would qualify for all of the positions that were surveyed.

As previously noted, 100% of the employers located during the Labor Market Survey were hiring. The average wage of these employers was based upon the sedentary to light physical demand level provided by the Department of Labor, which reflects wages at or above Mr. Ledford's reported pre-injury wage of $40,000 per year. The average starting wage was $31,575 per year based upon a 40 hour work week.

The positions located were within the claimant's geographic area (50 mile radius) of the claimant home and are supported by a local unemployment rate in Myrtle Beach of 5.6% compared to a state average of 5.3 %. This information was obtained from the South Carolina Statistical abstract and US Department of Labor and is based on 2014 data

Sincerely,

James R Myers MA, QRP, CCM, CRC
Certified Rehabilitation Counselor

**South Carolina Workers' Compensation Commission**
1612 Marion Street • Post Office Box 1715
Columbia, South Carolina 29202-1715
(803) 737-5723
www.wcc.sc.gov

**PRE-HEARING BRIEF**
**WCC File No: 1202545**

| | | | |
|---|---|---|---|
| Mr. Scott Ledford | 110-58-0432 | South Carolina Department of Public Safety | |
| Claimant's Name | SSN | Employer's Name | |
| 4338 Bradford Circle, Myrtle Beach, SC 29588-9115 | | Post Office Box 1993, Blythewood, SC 29016-1993 | |
| Address City State Zip | | Address City State Zip | |
| (843) 742-5330 | | State Accident Fund | |
| Home Phone # | Work Phone # | Insurance Carrier | |
| | E. Hood Temple, Hatfield Temple,, LLP (843) 662-5000 | | |
| Preparer's Name | Law Firm | Preparer's Phone # | |

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

[X] Injury [ ] Illness [ ] Repetitive Trauma

1. Compensation Rate: $709.95 2. AWW: $473.32 Date of Injury: 3/10/2012
3. Type of injury and body part(s): 1) **Cervical Spine.** Cervical disc protrusion C5-6, C6-7; Cervical disc herniation; Displaced cervical intervertebral disc; C5-6, C6-7 Spondylosis with right cervical radiculopathy (Authorized treating surgeon, Dr. William Mills has recommended ACDF at C5-6 and C6-7 with LDR system. June 4, 2012.) 2) **Lumbar Spine.** L5-S1 spondylosis; Lumbar disc degeneration L4-5; L5/S1; Lumbar sacral junction with exit foraminal stenosis and compression against the exiting L-5 roots bilaterally; (Authorized surgeon has recommended ALIF at L5-S1 on June 4, 2012); 3) **Right Leg.** Right ankle anterior impingement lesion; Posterior ankle impingement; Post traumatic arthritis. (On Jan. 30, 2013, Dr. Ross Taylor, authorized treating surgeon, performed Anterior arthroscopy with debridement of impinging synovium as well as resection of anterior distal tibial osteophyre; Open resection of posterior talus; 4) **Right Knee.**
4. Facts in controversy: See attached.
5. Legal issues involved: 1) Has Claimant reached maximum medical improvement; 2) If so, §42-9-10; §42-9-20; §42-9-30; 3) If not, §42-15-60 provision of additional medical treatment for all compensable body parts.
6. Unusual aspects: None.
7. Witnesses (designate if expert)*: 1) Claimant, Scott Ledford; 2) Carrie Ledford, Claimant's wife; 3) fellow officers of the South Carolina Highway Patrol; 4) 30(b)(6) witness[1]
8. Exhibits: 1) Medical summary; 2) portions of Claimant's payroll/personnel records; 3) Claimant's prior workers' compensation file bearing WCC #1009581 incorporated by reference; 4) Unappealed Decision and Order of the SC Workers' Compensation Commission dated 5/1/14; 5) PowerPoint Presentation; 6) Cost Projection of Karen Shelton; 7) Letter of SC Retirement System dated 7/9/12.
9. Medical evidence (indicate report pursuant to R.67-612; deposition or appearance): 1) Medical reports and notes of Conway Medical Center dated 7/13/14; 2) Medical reports and notes of Dr. W.S. Edwards, Jr. dated 10/31/13-3/27/14; 3) Medical reports and notes of Dr. Steven Poletti dated 5/7/12 – 3/5/14; 4) Medical reports and notes of Dr. William Mills dated 4/2/12 – 4/17/12; 5) Medical reports and notes of Dr. Ross Taylor dated 8/9/12 – 4/11/13; 6) Impairment Rating of Phillip Lowe dated 2/28/14; 7) Vocational assessment of Glen K. Adams dated 5/20/14; 8) Medical reports of Horry County Fire Rescue dated 3/10/12; 9) Preliminary Disability Cost Projection of Karen Shelton dated 4/9/14.
10. Name, address, and specialty, if any, of the treating physician: 1) Dr. William L. Mills, Coastal Orthopaedics, 2376 Cypress Circle, Suite 300, Conway, SC 29526; 2) Dr. W.S. Edwards, Jr., Pee Dee Orthopaedic Assoc., 901 E. Cheves St., Suite 100, Florence, SC 29506; 3) Dr. Steven C. Poletti, Southeastern Spine Institute, 1106 Chuck Dawley Blvd., Suite 200, Mount Pleasant, SC 29464; 4) Dr. Ross Taylor, Coastal Orthopaedic Assoc., 2376 Cypress Cir., #300, Conway, SC 29526; 5) Dr. Jason O'Dell, Pee Dee Orthopaedic Assoc., 901 E. Cheves St., Suite 100, Florence, SC 29506.
11. Impairment rating(s); body part(s); physician and date of opinion: See attached.
12. I am amending my Form 50/51 in the following manner:

[X] **Mediation**

- [ ] a. Mediation is required 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,
- [X] d. Mediation has been conducted by a duly qualified mediator and resulted in an impass,

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 Sarah S. Alphin
address 4500 Fort ~~Jackson Blvd., Columbia~~, SC 29209 on the 5 day of August 2014
by X First class postage certified mail personal service
Signature:
Email: ehtemple@hlawsc.com
Date of hearing: August 15, 2014 at 11:30 a.m. Time needed for hearing: 1 hour



[1] Deposition may be used in lieu of testimony.

## IMPAIRMENT RATINGS

DR. JASON O'DELL: 18% OF LOWER EXTREMITY, DATED 8/15/13.

DR. W. S. EDWARDS, JR.: 15% IMPAIRMENT OF SPINE BASED ON CERVICAL DISC PROTRUSION AT C5-6 AND C6-7; 5% IMPAIRMENT OF HIS SPINE BASED ON HIS LUMBAR INJURY WITH LUMBAR STRAIN/SPRAIN WITH DISC DEGENERATION AT L4-5 AND L5/S1, DATED 3/27/14.

PHILLIP LOWE, P.T.: 15% FOR CERVICAL SPINE; 5% FOR LUMBAR SPINE; AND 4% RIGHT LOWER EXTREMITY IMPAIRMENT TO ANKLE, DATED 2/28/14.

DR. STEVEN POLETTI: 10% TO LUMBAR; 13% CERVICAL FOR TOTAL OF 23% IMPAIRMENT, DATED 3/5/14.

DR. ROSS TAYLOR: 7% TO RIGHT ANKLE, DATED 5/23/13.

## FACTS IN CONTROVERSY

The Claimant, Scott Ledford, sustained two admitted work related injuries while in the course and scope of his employment with the SC Department of Public Safety. The first accident occurred on July 15, 2010 when the Claimant suffered a very serious back injury while participating in taser training. Specifically, the Claimant was tased by his fellow officer, and fractured three thoracic vertebrae from T6 to T9. Subsequently, he recovered and returned to full duty work as a highway patrolman driving a motorcycle. On March 10, 2012, the Claimant sustained a second admitted injury which is the claim which is presently before the Commission. Specifically, on March 10, 2012 the Claimant was in the course and scope of his employment riding a patrol motorcycle when he turned around on a vehicle and lost control of his motorcycle. As a result, he injured his right leg, including his right knee and ankle, and aggravated his lumbar spine and cervical spine. The Jurisdictional Commissioner issued a Decision and Order dated May 1, 2013 finding that the Claimant sustained injuries to his right leg and aggravated conditions in his neck and low back. Further, the Claimant was found to be entitled to casually related medical care authorized by the carrier for his admitted injury and aggravations of pre-existing conditions until further Order of the Commission. See Finding of Fact No. 6; Conclusion of Law No. 4; and the Ordering provision providing the following:

> "IT IS FURTHER ORDERED, under WCC claim no. 1202545, that the Defendants provide Medical Care, Evaluation, and Treatment for injuries to his right leg and Medical Care, Evaluation and Treatment for aggravation of pre-existing conditions to the Claimant's Neck and Low Back.
>
> AND IT IS SO ORDERED."

Subsequently, the Claimant received additional medical care and has now received ratings from the various providers. Those ratings are as follows:

> DR. JASON O'DELL: 18% OF LOWER EXTREMITY, DATED 8/15/13.
>
> DR. W. S. EDWARDS, JR.: 15% IMPAIRMENT OF SPINE BASED ON CERVICAL DISC PROTRUSION AT C5-6 AND C6-7; 5% IMPAIRMENT OF HIS SPINE BASED ON HIS LUMBAR INJURY WITH LUMBAR STRAIN/SPRAIN WITH DISC DEGENERATION AT L4-5 AND L5/S1, DATED 3/27/14.
>
> PHILLIP LOWE, P.T.: 15% FOR CERVICAL SPINE; 5% FOR LUMBAR SPINE; AND 4% RIGHT LOWER EXTREMITY IMPAIRMENT TO ANKLE, DATED 2/28/14.
>
> DR. STEVEN POLETTI: 10% TO LUMBAR; 13% CERVICAL FOR TOTAL OF 23% IMPAIRMENT, DATED 3/5/14.
>
> DR. ROSS TAYLOR: 7% TO RIGHT ANKLE, DATED 5/23/13.

Upon reviewing the Defendant's Pre-Hearing Brief, they failed to identify the cervical spine as an admitted body part and further have only provided a partial listing of

the ratings rendered by the authorized treating physicians. Significantly, the Claimant has ratings to his right leg and low back which are not identified in the Defendant's Pre-Hearing Brief. Presently, the Claimant continues to receive medical care for his spine injuries and is in need of additional medical treatment for all body parts as provided by the authorized medical providers as well as the Claimant's independent medical evaluators. Further, the Claimant has permanent physical restrictions imposed by his treating physicians which are identified as follows:

## RESTRICTIONS

Dr. Ross Taylor, May 23, 2013, APA Pg. No. 12: Although he has done well, he will be unable to safely tolerate running, cutting, pivoting or unpredictable surfaces. He has a possibility but not a likelihood of developing arthritis of his ankle secondary to his injury at a later point in life.

Dr. Jason O'Dell, August 15, 2013, APA Pg. No. 67: He would be able to do light work only, his previous job would have been heavy work as a motorcycle patrolman.

Dr. W. S. Edwards, Jr., March 27, 2014, APA Pg. Nos. 92-93: He is likely to have difficulty with repetitive bending and lifting activities as well as the activities involving repetitive motion of his motion and overhead activities that would require extension or prolonged reaching.

Dr. Steven Poletti, March 5, 2014, APA Pg. Nos. 101-102: He should be restricted specifically in regards to these and he should have light to sedentary restrictions. That is no overhead lifting greater than 20 pounds. No repetitive bending, twisting, pushing, pulling, no prolonged sitting for periods of 45 minutes or longer. Of note is that his impairment would be higher in the future should he undergo surgical procedures as prescribed.

## FUTURE MEDICAL TREATMENT

Dr. W. S. Edwards, Jr., March 27, 2014, APA Pg. Nos. 92-93: He may need anterior cervical discectomy and fusion with anterior cervical plating in the future. He also would need physical therapy for mechanical symptoms and therapeutic injections such as epidural steroid injections for any radicular symptoms.

Dr. Steven Poletti, March 5, 2014, APA Pg. Nos. 101-102: I do feel that cervical discectomy and fusion at C6-7 and the anterior lumbar discectomy and interbody fusion at L5-S1 could potentially have the affect of lessening his disability and I am in agreement that he should consider these. He will require regular nonoperative follow-up. I would recommend that he have nonoperative office visits every 2 to 3 months. He may require continuing on some measure of analgesic and anti-inflammatory medication. He may require future imaging and injections. He may go for a period of more than ... I would say that the treatment recommendations in terms of office appointments, potential future imaging, and the surgical intervention as described are likely to happen in the future, but it is likely if not probable that this man could go through an extended period of time where he does not receive active interventional treatment. That is he could go for a period of greater than a year where he does not consider this type of surgery. That would not make the above

treatments contraindicated but delaying them as long as possible would be ideal and would be my recommendation. §42-15-60(B)(3).

Dr. William Mills, Authorized Treating Physicians, June 4, 2012, APA Pg. No. 5: I recommend ACDF at C5-6 and C6-7 with LDR system, also ALIF at L5-S1. He probably wants to get his neck done first.

DEPOSITION OF DR. WILLIAM MILLS, DECEMBER 3, 2012:

Pg. 50, ll. 8-15:

Q. Okay, Now, after you last saw him, that has changed. Is that a fair statement? In terms of his need for further medical care to his lumbar spine and cervical spine.

A. Yes. His symptoms had progressed to the point that, and they had persisted over a long enough period of time that, in my mind, you could either live with it or have it corrected with surgery.

Pg. 54, ll. 20-24:

Q. All right. Doctor, the surgeries, the surgical intervention that you recommended, would you be willing to perform that? Would you be willing to continue treating this gentleman?

A. Yes.

Finally, the SC Department of Public Safety admits the Claimant, a former trooper with the Highway Patrol, suffered a substantial disability and is unable to return to work. Specifically, the Claimant was required to apply for medical disability which was reviewed and found appropriate by the SC Department of Public Safety. In that finding, the SC Department of Public Safety expressly admit that they cannot accommodate the Claimant's current physical restrictions and limitations and that he can no longer work as a highway patrolman in any fashion.

The Claimant contends that if he has reached maximum medical improvement, he has suffered a disability well in excessive of his impairment ratings. If he has not reached maximum medical improvement, the Claimant believes he is entitled to additional medical treatment as prescribed by the authorized treating physicians including Drs. Mills, Edwards, Taylor, and O'Dell.

BEFORE THE

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

WCC FILE # 1202545

Mr. Scott Ledford,

Claimant,

Vs.

South Carolina Department of Public Safety

Employer,

And

State Accident Fund

Carrier.

**NOTICE OF WITNESSES AND WRITTEN REPORT(S)/PHYSICIAN AND/OR OTHER EVIDENCE TO BE INTRODUCED ON BEHALF OF CLAIMANT**

**TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION AND SARAH S. ALPHIN, ATTORNEY FOR THE EMPLOYER/CARRIER:**

**YOU ARE HEREBY NOTIFIED** that Mr, Scott Ledford, pursuant to the provisions of the South Carolina Workers' Compensation Act and South Carolina Code Sec. 1-23-330, 1976, as amended, herewith submits the following reports/physician or other evidence on behalf of the Claimant, to-wit:

| APA# | DOCTOR | PRACTICE | DATES | PAGES |
|---|---|---|---|---|
| 11. | | Conway Medical Center | 07/13/14 | 84 – 90 |
| 12. | Dr. W.S. Edwards, Jr. | Pee Dee Orthopaedic Assoc. | 10/31/13 – 03/27/14 | 91 – 93 |
| 13. | Dr. Steven Poletti | Southeastern Spine Institute | 05/07/12 – 03/05/14 | 94 – 102 |
| 14. | Dr. William Mills | Coastal Orthopaedic Assoc. | 04/02/12 – 04/17/12 | 103 – 107 |
| 15. | Dr. Ross Taylor | Coastal Orthopaedic Assoc. | 08/09/12 – 04/11/13 | 108 – 114 |
| 16. | Phillip Lowe, P.T. | Lowe's Therapy | 02/28/14 | 115 – 117 |
| 17. | Glen K. Adams, MRC, CRC, CEES | Adams & Wilkinson | 05/20/14 | 118 – 129 |
| 18. | | Horry County Fire Rescue | 03/10/12 | 130 – 131 |
| | **EXHIBITS** | | | |
| A. | Preliminary Disability Cost Projection of Karen Shelton, RN, CNLCP, Project Works | | 04/09/14 | 132 |

| | | | |
|---|---|---|---|
| B. | Letter of SC Retirement System approving claim for disability retirement | 07/09/12 | 133 |
| C. | Claimant's PowerPoint Presentation | | 134 – 155 |
| D. | Deposition transcript of Dr. William Mills | 12/03/12 | |
| E. | Deposition transcript of Dr. William Mills | 08/23/12 | |

**YOU ARE FURTHER HEREBY NOTIFIED** that you have the right to cross-examine and, should you desire to exercise said right, you are to forthwith schedule the deposition(s) of any of the physicians or other person(s), whose reports are submitted, for the purposes of cross-examination.

**YOU ARE FURTHER NOTIFIED** that the originals of the documents refered herein, or photocopies received from said physicians/ others, are being forthwith forwarded to the South Carolina Workers' Compensation Commission, for insertion in the file of the South Carolina Workers' Compensation Commission and inclusion into evidence on behalf of Mr. Scott Ledford.

**YOU ARE FURTHER NOTIFIED** that the following witnesses may be called on behalf of Mr. Scott Ledford.

| **WITNESSES** |
|---|
| Scott Ledford, Claimant |
| Carrie Ledford, Claimant's wife |
| Fellow officers of the SC Highway Patrol |
| 30(b)(6) Witness* |

*Deposition may be used in lieu of live testimony.

Florence, SC

August 5, 2014

**E. HOOD TEMPLE,**
Attorney for Claimant
SC Bar No. 12962
**HATFIELD TEMPLE, LLP**
170 Courthouse Square
Post Office Box 1770
Florence, SC 29503-1770
(843) 662-5000
ehtemple@htlawsc.com

## CLAIMANT'S INDEX FOR APA SUBMISSION

**SCOTT LEDFORD VS. SC DEPARTMENT OF PUBLIC SAFETY**
**WCC FILE NO: 1202545**

**HEARING: AUGUST 15, 2014**


| APA# | DOCTOR | PRACTICE | DATES | PAGES |
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*Physician Documentation* *Conway Medical Center*

**Name:** Scott Ledford
**Age:** 38 yrs **Sex:** Male **DOB:** 08/15/1975
**Arrival Date:** 07/13/2014 **Time:** 13:30
**Bed** ED24

MRN: M000223640
Account#: V00006660072
**Private MD:** Mack, Almar, Patrice

**HPI:**

07/13 19:52 This 38 yrs old Caucasian Male presents to ED via Walk-In with complaints of Low Back Pain. jc

19:52 The patient presents with pain that is acute, with no known mechanism of injury. The symptoms are located in the low back. jc

19:52 Onset: The symptoms/episode began/occurred 2 day(s) ago. The pain does not radiate. Associated signs and symptoms: The patient has no apparent associated signs or symptoms. The patient has experienced similar episodes in the past, several times, and the symptoms today are exactly the same. jc

**Historical:**

**Allergies:**
13:32 (13:33) SHELLFISH; tw

**Home Meds:**
13:32 (13:33) 1. . None tw

**PMHx:**
13:32 (13:33) Palpitations Sinus Tachycardia (February 2, 2014); (13:33) HYPERTENSION; (13:33) THYROID PROBLEM; tw

**PSHx:**
13:32 (13:33) finger; (13:33) nasal; (13:33) BACK SURG; (13:33) TONSILLECTOMY; (13:33) KNEE SURGERY; (13:33) ankle; tw

**Historical:**

13:32 (13:33) Medication Information obtained from: Patient. (13:33) Social history Smoking status: Patient denies tobacco use. No barriers to communication noted. (13:33) Immunization history: Last tetanus immunization: up to date. Pneumococcal vaccine is not up to date. Flu vaccine is up to date. (13:33) Code Status: Full code. (13:33) Do you have an Advanced Directive or Health Care Power of Attorney? No. (13:33) Family history: Not pertinent. tw

19:52 (19:53) The history from nurses notes was reviewed and my personal history differs from that reported to nursing. jc

**ROS:**

19:52 (19:53) **Constitutional:** Negative for fever, chills, and weight loss, **Eyes:** Negative for injury, pain, redness, and discharge, **ENT:** Negative for injury, pain, and discharge, **Neck:** Negative for injury, pain, and swelling, **Cardiovascular:** Negative for chest pain, palpitations, and edema, **Respiratory:** Negative for shortness of breath, cough, wheezing, and pleuritic chest pain, **Abdomen/GI:** Negative for abdominal pain, nausea, vomiting, diarrhea, and constipation. (19:53) **GU:** Negative for injury, bleeding, discharge, and swelling, **MS/Extremity:** Negative for injury and deformity, **Skin:** Negative for injury, rash, and discoloration, **Neuro:** Negative for headache, weakness, numbness, tingling, and seizure. (19:53) **Back:** Positive for pain with movement, Negative for injury or acute deformity, decreased range of motion, pain at rest, vertebral tenderness, costovertebral angle tenderness. (19:53) **General:** All other systems are negative, jc

**Exam:**

19:52 (19:53) jc

**Constitutional:** This is a well developed, well nourished patient who is awake, alert, and in no acute distress.
**Head/Face:** Normocephalic, atraumatic.
**Eyes:** Pupils equal round and reactive to light, extra-ocular motions intact. Lids and lashes normal. Conjunctiva and sclera are non-icteric and not injected. Cornea within normal limits, Periorbital areas with no swelling, redness, or edema.
**ENT:** Nares patent. No nasal discharge, no septal abnormalities noted. Tympanic membranes are normal and external auditory canals are clear. Oropharynx with no redness, swelling, or masses, exudates, or



PDF processed with CutePDF evaluation edition www.CutePDF.com982E9D34124A4553B9E9, LEDFORD, /

## *Physician Documentation Con't.*

evidence of obstruction, uvula midline. Mucous membrane
**Neck:** Trachea midline, no thyromegaly or masses palpated, and no cervical lymphadenopathy. Supple, full range of motion without nuchal rigidity, or vertebral point tenderness. No Meningismus.
**Chest/axilla:** Normal chest wall appearance and motion. Nontender with no deformity. No lesions are appreciated.
**Cardiovascular:** Regular rate and rhythm with a normal S1 and S2. No gallops, murmurs, or rubs. Normal PMI, no JVD. No pulse deficits.
**Respiratory:** Lungs have equal breath sounds bilaterally, clear to auscultation and percussion. No rales, rhonchi or wheezes noted. No increased work of breathing, no retractions or nasal flaring.
**Abdomen/GI:** Soft, non-tender, with normal bowel sounds. No distension or tympany. No guarding or rebound. No evidence of tenderness throughout.
**Back:** No spinal tenderness. No costovertebral tenderness. Full range of motion.
**Skin:** Warm, dry with normal turgor. Normal color with no rashes, no lesions, and no evidence of cellulitis.
**MS/ Extremity:** Pulses equal, no cyanosis. Neurovascular intact. Full, normal range of motion.
**Neuro:** Awake and alert, GCS 15, oriented to person, place, time, and situation. Cranial nerves II-XII grossly intact. Motor strength 5/5 in all extremities. Sensory grossly intact. Cerebellar exam normal. Normal gait.
**Psych:** Awake, alert, with orientation to person, place and time. Behavior, mood, and affect are within normal limits.

19:54 jc
**Neuro:** Sensation: is normal, Gait: is steady, the gait was normal.

19:54 jc
**Back:** pain; that is very mild, ROM is normal.

19:54 jc
**Neuro:** Deep tendon reflexes are normal.

**Vital Signs:**

| Time | B/P | Pulse | Resp | Temp | Pulse Ox | Weight | Height | Pain | Staff |
|---|---|---|---|---|---|---|---|---|---|
| 13:32 (13:34) | 165 / 88 | 130 | 18 | 98.2(O) | 99% on R/A | 86.18 kg / 189.99 lbs | 5 ft. 11 in. (180.34 cm) | | tw |
| 13:48 | 147 / 98 | 113 | 16 S | | | | | | vh |
| 15:07 (15:09) | 147 / 84 | 102 | | | 99% on R/A | | | | sag |
| 17:07 | 135 / 88 | 85 | | | 98% on R/A | | | | sag |

13:32 Body Mass Index 26.50 (86.18 kg, 180.34 cm) tw

**Glasgow Coma Score:**

| Time | Eye Response | Verbal Response | Motor Response | Modifying Factors | Total | Staff |
|---|---|---|---|---|---|---|
| 13:32 (13:34) | spontaneous(4) | oriented(5) | obeys commands(6) | | 15 | tw |

**MDM:**

14:01 Patient medically screened. mc2
14:01 Financial registration complete. mc2
19:52 (19:53) jc
**Data reviewed:** vital signs, nurses notes, lab test result(s), EKG, radiologic studies. (19:53)
**Counseling:** I had a detailed discussion with the patient and/or guardian regarding: the historical points, exam findings, and any diagnostic results supporting the discharge/admit diagnosis, lab results, radiology results, The patient was informed that the following test (s) is pending: the need for outpatient follow up, to return to the emergency department if symptoms worsen or persist or if there are any questions or concerns that arise at home. (19:53)

## *Physician Documentation Con't.*

**Test interpretations performed by ED physician or midlevel provider:** plain radiologic studies were reviewed, ECG, Lab studies.

| Order | Status | Time | By | For |
|---|---|---|---|---|
| SALINE LOCK | Ordered | 07/13/14 13:48 | jc | jc |
| | Completed | 07/13/14 14:01 | Vickie Hill | |
| Notes: | Order Method: Electronic | | | |

| Order | Status | Time | By | For |
|---|---|---|---|---|
| UA | Ordered | 07/13/14 13:48 | jc | jc |
| | Reviewed | 07/13/14 15:29 | John Cacace | |
| Notes: | Order Method: Electronic | | | |

| Order | Status | Time | By | For |
|---|---|---|---|---|
| EKG ER | Ordered | 07/13/14 13:48 | jc | jc |
| | Completed | 07/13/14 13:56 | Nicholas Johnson | |
| Notes: ER.EKG | Order Method: Electronic | | | |

| Order | Status | Time | By | For |
|---|---|---|---|---|
| ABD SRRIES,PACXR,FLAT,UP+RAD | Ordered | 07/13/14 13:49 | jc | jc |
| | In Process Scheduled | 07/13/14 14:16 | Dispatcher MedHost | |
| Notes: Bed Name: ED24 | Order Method: Electronic | | | |

| Order | Status | Time | By | For |
|---|---|---|---|---|
| NS 0.9% 1000 mL IV at Bolus once | Ordered | 07/13/14 13:49 | jc | jc |
| | Administered | 07/13/14 14:01 | vh | |
| Notes: | Order Method: Electronic | | | |
| 07/13/14 14:01 | Administration: NS 0.9% 1000 mL IV in left antecubital | | | vh |
| 07/13/14 15:06 | Follow Up: IV Status: Completed infusion; IV converted to saline lock | | | sag |

| Order | Status | Time | By | For |
|---|---|---|---|---|
| UDS | Ordered | 07/13/14 13:49 | jc | jc |
| | Reviewed | 07/13/14 15:29 | John Cacace | |
| Notes: | Order Method: Electronic | | | |

**Order Signatures:**

Cacace, John, MD MD jc

**Dispensed Medications:**

| Time | Drug & Dose | Volume | Route | Rate | Infused Over | Site | Delivery | Staff |
|---|---|---|---|---|---|---|---|---|
| 14:01 | NS 0.9% 1000 mL | | IV | Bolus | | left | | vh |

## *Physician Documentation Con't.*

| | | |

Conway Hospital Laboratory
300 Singleton Ridge Road
Conway, South Carolina 29526
***OUTPATIENT CUMULATIVE REPORT***

PAGE 1

RUN DATE: 07/14/14
RUN TIME: 0635

LOCATION

PATIENT: LEDFORD,SCOTT M ACCT #: V0909EEE0072 LOC: ER UR#: H00022640
REG ER: Cacace,John MD ALT/SX: 08/M ROOM: REG: 07/13/14
STATUS: DSC ER DOB: 09/05/75 D-S:

Specimen: 0713:CU00004S Entered: 07/13/14-1350 Collected: 07/13/14-1358
Status: COMP Received: 07/13/14-1406
Tests: MDS,UR
Sub Dr: Cacace,John MD
Comments: Specimen Comment: ED24

| Test | Result | Flag | Reference |
|---|---|---|---|
| **********CHEMISTRY - URINES********** | | | |
| *MEDICAL DRUG SCRN,URINE* | | | |
| PH,UDS | 5.0 | | 5.0-8.0 |
| AMPHETAMINE,UR | NEG | | <=300 ng/mL |
| BARBITURATE,UR | NEG | | <200 ng/mL |
| BENZ,URINE | NEG | | <300 ng/mL |
| COCAINE,URINE | NEG | | <300 ng/mL |
| THC,URINE | NEG | | <50 ng/mL |
| OPIATES,UR | NEG | | <2000 ng/mL |
| *REFERENCE RANGES APPLY TO NEGATIVE CUTOFF VALUES.* | | | |
| COMMENT: | | | |
| *NOT FOR FORENSIC USE. SCREEN ONLY.* | | | |
| *CONFIRMATIONS MUST BE ORDERED SEPARATELY.* | | | |

Specimen: 0713:U00013S Entered: 07/13/14-1349 Collected: 07/13/14-1358
Status: COMP Received: 07/13/14-1406
Tests: UA
Sub Dr: Cacace,John MD
Comments: Specimen Comment: ED24

| Test | Result | Flag | Reference |
|---|---|---|---|
| **URINALYSIS** | | | |
| *URINALYSIS* | | | |
| COLOR | YELLOW | | YELLOW |
| CLARITY | CLEAR | | CLEAR |
| GLUCOSE | NEG | | NEG mg/dL |
| BILIRUBIN | SML | | NEG |
| KETONE | TRC | | NEG mg/dL |
| SP GRAVITY | >=1.030 | | 001.1-1.055 |
| BLOOD | NEG | | NEG |
| PH,URINE | 5.0 | | 5.0-8.0 |
| PROTEIN | NEG | | NEG-TRACE mg/dL |
| UROBILINOGEN | 0.2 | | 0.2-1.0 mg/dL |
| NITRITE | NEG | | NEG |
| LEUKOCYTE ESTER | NEG | | NEG |

** END OF REPORT **

CONWAY HOSPITAL, INC
300 SINGLETON RIDGE RD
CONWAY SC 295260829
8433477111 8433470144

CONWAY HOSPITAL, INC
PO BOX 829
CONWAY SC 29528

1a. PAT ACCT # VAF018660183
4 TYPE OF BILL 0131
3 MED. REC. # MD00223640
5 FED. TAX NO. 57 0314381
6 STATEMENT COVERS PERIOD FROM 071314 THROUGH 071314
7

9 PATIENT NAME LEDFORD, SCOTT A
9 PATIENT ADDRESS 4338 BRADFORD CIRCLE
MYRTLE BEACH SC 29588

| 10 BIRTHDATE | 11 SEX | 12 ADMISSION DATE | 13 HR | 14 TYPE | 15 SRC | 16 DHR | 17 STAT | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 ACCT STATE | 30 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 08151975 | M | 071314 | 13 | 1 | 1 | | 17 | 01 | 80 | C5 | | | | | | | | | | |

| 31 CODE | 31 OCCURRENCE DATE | 32 CODE | 32 OCCURRENCE DATE | 33 CODE | 33 OCCURRENCE DATE | 34 CODE | 34 OCCURRENCE DATE | 35 CODE | 35 OCCURRENCE SPAN FROM | 35 THROUGH | 36 CODE | 36 OCCURRENCE SPAN FROM | THROUGH |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| a 11 | 071314 | | | | | | | | | | | | |
| b | | | | | | | | | | | | | |

LEDFORD, SCOTT A
4338 BRADFORD CIRCLE
MYRTLE BEACH SC
29588

| | 37 CODE | 37 VALUE CODES | 38 CODE | 38 VALUE CODES AMOUNT | 39 CODE | 39 VALUE CODES AMOUNT |
|---|---|---|---|---|---|---|
| a | 02 | 00080 | | 0 | 31 | 0 |
| b | | | | | | |
| c | | | | | | |
| d | | | | | | |

| | 42 REV. CD. | 43 DESCRIPTION | 44 HCPCS / RATE/HIPPS CODE | 45 SERV. DATE | 46 SERV. UNITS | 47 TOTAL CHARGES | 48 NON-COVERED CHARGES | 49 |
|---|---|---|---|---|---|---|---|---|
| 1 | 0260 | IV INF HYDRATION 31 Mn t | 96360 | | 1 | 32600 | | 1 |
| 2 | 0271 | SUPP, ADULT B.P. (502540) | | | 2 | 2600 | | 2 |
| 3 | 0272 | MED/SURG SUPPLY STERILE | | | 4 | 11800 | | 3 |
| 4 | 0300 | MEDICAL DRUG SCREEN | 80101 | | 1 | 15400 | | 4 |
| 5 | 0300 | ROUTINE URINE(CHEM SCRE | 81003 | | 1 | 4000 | | 5 |
| 6 | 0320 | ABD FLAT ERECT/DECUB PAC | 74022 | | 1 | 28100 | | 6 |
| 7 | 0450 | LEVEL IV | 99284 | | 1 | 89000 | | 7 |
| 8 | 0636 | 7983-09 0.9% SOD CL.1L | J7030 | | 1 | 2600 | | 8 |
| 9 | 0730 | ECG MULT LEAD W/O INT | 93005 | | 1 | 15300 | | 9 |
| 10 | 0730 | RHYTHM ECG,1-3 LEADS,TRA | 93041 | | 1 | 13900 | | 10 |
| 11 | | | | | | | | 11 |
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| 22 | | | | | | | | 22 |
| 23 | 0001 | PAGE 1 OF 1 | CREATION DATE | 072814 | TOTALS | 215300 | 00 | 23 |

| 50 PAYER NAME | 51 HEALTH PLAN ID | 52 REL INFO | 53 ASG BEN | 54 PRIOR PAYMENTS | 55 EST. AMOUNT DUE | 56 NPI | 1134172000 |
|---|---|---|---|---|---|---|---|
| A 400 BCBS STATE EMPLOYEE | 570314381 | Y | Y | | 215300 | 57 | 570314381 |
| B | | Y | Y | | | OTHER PRV ID | |
| C | | | | | | | |

| 58 INSURED'S NAME | 59 P REL | 60 INSURED'S UNIQUE ID | 61 GROUP NAME | 62 INSURANCE GROUP NO. |
|---|---|---|---|---|
| A LEDFORD, SCOTT A | 18 | ZCS26327122 | | 999 |
| B | | | | |
| C | | | | |

| 63 TREATMENT AUTHORIZATION CODES | 64 DOCUMENT CONTROL NUMBER | 65 EMPLOYER NAME |
|---|---|---|
| A | | |
| B | | |
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| 67 | 7242 | A | B | C | D | E | F | G | H |
| | I | J | K | L | M | N | O | P | Q |

| 69 ADMIT DX | 7242 | 70 PATIENT REASON DX | a | b | c | 71 PPS CODE | 72 ECI | a | b | c | 76 |
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| 74 PRINCIPAL PROCEDURE CODE | DATE | OTHER PROCEDURE CODE | DATE | OTHER PROCEDURE CODE | DATE | 75 |
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| OTHER PROCEDURE CODE | DATE | OTHER PROCEDURE CODE | DATE | OTHER PROCEDURE CODE | DATE | |
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| 76 ATTENDING | NPI 1891714689 | QUAL 1G | 81383 |
|---|---|---|---|
| LAST CACACE | | FIRST JOHN | |
| 77 OPERATING | NPI | QUAL | |
| LAST | | FIRST | |
| 78 OTHER | NPI | QUAL | |
| LAST | | FIRST | |
| 79 OTHER | NPI | QUAL | |
| LAST | | FIRST | |

80 REMARKS

89

UB-04 CMS-1450 APPROVED OMB 0938-0997 NUBC LIC9213257 FormFast, INC THE CERTIFICATIONS ON THE REVERSE APPLY TO THIS BILL AND ARE MADE A PART HEREOF.

V00006660072 LEDFORD,SCOTT A

ACCT: V00006660072

LEDFORD,SCOTT A
4338 BRADFORD CIRCLE
MYRTLE BEACH, SC 29588
(843)241-8750 (H)

LEDFORD,SCOTT A
4338 BRADFORD CIRCLE
MYRTLE BEACH, SC 29588
(843)241-8750/(843)241-8750 CELL

| | | | | | | |
|---|---|---|---|---|---|---|
| 38 M | ADM/SER: | 07/13/14 | UR CHG: | 0 | BCBS | 2153.00 07/19/14 |
| ER | DISCHARGE: | 07/13/14 | AR CHG: | 2153.00 | SEPA | -150.00 07/19/14 |
| FB 07/19/14 | LST STMT: | | BALANCE: | 2003.00 | | |

| PROCEDURE | DESCRIPTION | COUNT | AMOUNT |
|---|---|---|---|
| 0007459 | ELECTRODE, ADULT 5TAB | 1 | 26.00 |
| 3752856 | SET, PRIMARY PLUM CONV.P | 1 | 69.00 |
| 3753366 | CATHETER PROTECTIV* IV | 1 | 26.00 |
| 3755082 | CUFF, ADULT B.P.(502540) | 1 | 0 |
| 3755164 | KIT, IV PREP 220840 | 1 | 0 |
| 3757001 | SET EXTENSION 11572 | 1 | 23.00 |
| 3771577 | 7983-09 0.9% SOD.CL.1L | 1 | 26.00 |
| 3787403 | LEVEL IV | 1 | 890.00 |
| 3789181 | IV INF HYDRATION 31 Mn to 1 Hr | 1 | 326.00 |
| 3789244 | RHYTHM ECG,1-3 LEADS;TRACING | 1 | 139.00 |
| 3789246 | ECG MULT LEAD W/O INT | 1 | 153.00 |
| 4016041 | ROUTINE URINE(CHEM SCRE | 1 | 40.00 |
| 4044020 | MEDICAL DRUG SCREEN | 1 | 154.00 |
| 4129517 | ER ECG RESPIRATORY STAT | 1 | 0 |
| 4240027 | ABD FLAT ERECT/DECUB PACXR | 1 | 281.00 |
| PSEPACRD | PMT 600 SELF-PAY CREDIT CARD | 1 | -150.00 |
| | | | 2003.00 |

Pee Dee Orthopaedic Associates, PA

Anthony W. Alexander, M.D., Rakesh P. Cholsh, M.D., Barry L. Clark, D.O.,
Patrick K. Denton, M.D., W.S. (Bill) Edwards, Jr., M.D., Robert E. Elvington, Jr., M.D.,
Dewey N. Ervin, M.D., Jason B. O'Dell, M.D., Chadley M. Runyan, M.D.,
Nigel A.R. Watt, M.D., Matthew D. Welsch, M.D.

901 E. CHEVES ST., SUITE 100 - FLORENCE, SC 29506-2769
(843) 662-5253 - FAX (843) 678-9003 - WWW.PDOA.COM

MRI Review

**PATIENT ID:** 344946

| | | | |
|---|---|---|---|
| **PATIENT:** | Scott Ledford | **Date of Service:** | 10/31/2013 |
| **DOB:** | 8/15/1975 | **Age:** | 38 year(s) |
| **Employer:** | SCDPS | **Occupation:** | Highway Patrol |

**Referring Physician:** No data for Referred By
**Other Physicians:**

**Vitals:** No data for Vitals
**Allergies:** NKDA
**Current Meds:** none

**MRI Review:**
MRI scan was personally reviewed from 5/16/12 and discussed with the patient in detail. This study demonstrates degenerative changes at C5-6 and C6-7 without any significant compressive pathology. X-rays of the thoracic spine showed previous compression fractures at T6 and T9 with stable alignment.

Patient has bilateral radicular symptoms in the upper extremities associated with chronic mechanical neck pain due to disc protrusions at C5-6 and C6-7. He also has some ongoing mechanical symptoms in the thoracic spine related to previous compression fractures at T6 and T9. He is not interested in considering any aggressive treatment as it relates to his cervical spine nor have I have pushed him in this regard given the absence of focal neurologic deficit. He feels that his symptoms are stable and he does not wish to have any aggressive intervention. He is retired from the Highway Patrol and does not plan on trying to return to strenuous activities therefore believes that conservative efforts will be appropriate

**Plan:**
He appears to be at maximum medical improvement. There is a 15% impairment of his spine based on cervical disc protrusion at C5-6 and C6-7 and additional 10% impairment of his spine based on compression fractures of T6 and T9. No return appointment has been made.

**Diagnosis:** T6/T9 compression fractures, healed. Lumbar disc degeneration L4-5; L5/S1. Cervical disc protrusion C5-6, C6-7 without radiculopathy or myelopathy.

W. S. Edwards, M.D.
Spine Surgeon
Pee Dee Spine Center

This document was electronically signed on 10/31/2013

# Pee Dee Orthopaedic Associates, PA


W. S. (Bill) Edwards, Jr., M.D.
Surgery of the Spine
Surgery of the Neck & Back
Spine Trauma

Rakesh P. Chokshi, M.D.
Surgery of the Spine
Surgery of the Neck & Back
Spine Deformity
Spine Trauma

Patrick K. Denton, M.D.
Surgery of the Shoulder
Surgery of the Knee
Sports Medicine

Barry L. Clark, D.O.
Total Joint Reconstruction
General Orthopaedics

Nigel A.R. Watt, M.D.
Surgery of the Hip & Knee
Surgery of the Shoulder
General Orthopaedics

Robert E. Elvington, Jr., M.D.
Surgery of the Shoulder
Surgery of the Knee
Total Joint Reconstruction

Jason B. O'Dell, M.D.
Foot and Ankle Surgery
Lower Extremity Reconstruction
Lower Extremity Trauma

Matthew D. Welsch, M.D.
Surgery of the Hand
Surgery of the Wrist, Elbow & Shoulder

Anthony W. Alexander, M.D.
Physiatry
Spine Medicine

Dewey N. Ervin, M.D.
Office Orthopaedics

A. Cecil Bozard, Jr., M.D.
Office Orthopaedics

Joseph W. Dunlap, Jr., M.D., FACS
Surgery of the Hip & Knee

J. Lorin Mason, Jr., M.D.
Emeritus

Geoff McLeod
Practice Administrator


March 27, 2014

E. Hood Temple, Attorney at Law
Hatfield Temple, LLP
Post Office Box 1770
Florence, SC 29503

RE: Scott Ledford

Dear Mr. Temple:

It is a pleasure to respond to your inquiry regarding the above captioned patient as it relates to his current condition and future medical needs. I saw him last on October 31st, 2013 and felt that he was at maximum medical improvement. There is a 15% impairment of his spine based on cervical disc protrusion at C5-6 and C6-7. At this time I have not recommended any surgical treatment for this condition but if it deteriorates in the future he may need anterior cervical discectomy and fusion with anterior cervical plating at these levels. It is more likely than not that he will need future medical treatment even if surgical intervention is not required. This would include physical therapy for mechanical symptoms and therapeutic injections such as epidural steroid injections for any radicular symptoms. There is a 5% impairment of his spine based on his lumbar injury with lumbar strain/sprain with disc degeneration at L4-5 and L5/S1. Previous impairment statement related to his compression fractures from a previous injury in 2010 were not considered and these impairments given related to the cervical and lumbar region are the result of his motorcycle accident that occurred on March 10, 2012.


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He is likely to have difficulty with repetitive bending and lifting activities as well as the activities involving repetitive motion of his motion and overhead activities that would require extension or prolonged reaching.

I hope this information is of assistance to you and if there is anything further you need please let me know.

Sincerely,

W. S. (Bill) Edwards, Jr., M.D.
/pln

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**LEDFORD, SCOTT A.**
Pt. #631380
DOB: 08/15/1975
May 7, 2012

Mr. Ledford is seen as a new patient today. He is a 36-year-old white male who self-referred here. He was involved in an injury while training on July 15, 2010 as he is a South Carolina Highway Patrolman. He was in a tazing incident while he was training where he ended up having a fracture to his thoracic T6 and T9 levels. He was braced for 2-3 months. He states that since this incident, his quality of life has gone significantly down. His pain is to the mid to lower back. It is intense, achy, stabbing on occasion. He has numbness down his legs greater than left arm. He also has some right buttock and right hamstring pain. He has been followed with Dr. Mills who has done some epidural injections. He has done some EMG/nerve conduction studies. He has recently since gone back to work but was involved in another motorcycle incident on the job where he fractured his right ankle and has been booted, so is currently out. He quantifies his current condition as about a 7/10 on the visual analog pain scale, 75% to his back, 25% to his leg and about 25 % neck, 75% to his right greater than left arm. He states he is very active. He is very busy and an outdoorsman and he is very aggravated with his pain and he has not been improving.

Sitting, standing, rising from a sitting position, leaning forward, walking, driving, coughing, sneezing, and bending forward aggravates his pain. There is nothing that particularly will alleviate these symptoms.

**Past Medical History:** Unremarkable.

**Family History:** Positive for diabetes, hypertension.

**Social History:** The patient is employed as a state trooper, a motorcycle South Carolina Highway Patrolman. He denies alcohol, smoking, illicit drug use.

**Drug Allergies:** No known drug allergies.

**Review of Systems:** He admits to joint pain, stiffness, arthritis, numbness. Denies fever, appetite change, abdominal pain, shortness of breath, difficulty with urination..

**Physical Examination:** Mr. Ledford is a 36-year-old white male. He is 5 feet 10 inches tall, 192 pounds. He is alert and cooperative, oriented x3, in no acute cardiopulmonary distress. He is ambulatory. He is slightly antalgic. He does not have his right ankle boot on presently secondary increased pain in his back while wearing this. He was injured in April and is starting to come out of this. He has negative straight leg

(Continued)

raising. He does not have an ankle flexion weakness on this left side. He does have some significant difference in hand grip and thumb extension to his upper extremity on the right and about a 4/5 on the right compared to the left thumb extension. Shoulder abductions are bilaterally strong and intact but it did elicit severe mid back pain. Lower extremity reflexes are present. No long tract signs noted. No dysvascular skin changes or lesions noted.

**Radiologic Studies:** He brought with him updated MRI imaging of his thoracic and lumbar spines taken in April of this year. He also had MRI imaging of his neck done in September of 2010.

Please refer to comments attached for impression, assessment and treatment plan.

Steven C. Poletti, M.D.

SCP/AT/jbb
T: 05/14/2012

LEDFORD, SCOTT A.
Patient #631380
DOB: 08/15/1975
May 7, 2012

Mr. Ledford has an unusual electrocution injury, which occurred when he was being tasered as part of a police training ritual in Horry County in July of 2010. After this he sustained a fracture of the T6 vertebra and T9 vertebra and underwent nonoperative care per Dr. Mills and Dr. Sarb. He has remained with neck pain, shoulder pain, bilateral arm numbness with exertional activity, mid-back pain; and when he wears his vest (bulletproof vest), he gets severe low back pain to the point where it is at times incapacitating. His pain is position related and variable but more recently been getting more intense to the point where it is interfering with most activities of daily living. He has a new MRI of his thoracic spine and lumbar spine and old MRIs of his cervical spine.

In review of his imaging study, he does have an acute compression fracture at T6 and T9 on the 2010 MRI. The high signal indicates that these fractures are new as of 7/28/10. X-rays taken recently and an MRI taken last month show that there is a disc protrusion at the L5-S1 level with retrolisthesis of L5 on S1 and bilateral neuroforaminal stenosis at L5-S1 consistent with disc disruption at the L5-S1 level. In the thoracic spine the fractures are healed. There is no residual spinal cord compression.

In the cervical spine MRI scan, there are some cuts on this spine screening, which suggest that there is some measure of posterior disc bulging at the C5-6 level and even some measure of posterior ligamentous hypertrophy causing a measure of cord indentation or compression at C5-6.

On his exam he does have hyperreflexia in his upper and lower extremities left greater than right and some measure of Hoffmann's signs in the upper extremities as well.

**Diagnoses:**

1. Cervical cord compression. Rule out cervical myelopathy.
2. Status post compression fracture at T6 and T9 with kyphotic deficit.
3. Disc disruption L5-S1.

**Comment:** This man was healthy before this incident in 2010. The electrocution injury obviously caused some measure of spinal cord damage as manifested by the abnormal findings of hyperreflexia and a positive Hoffmann's sign. The degree of neurologic deficit he has is significant, and the question is what could be done about it. I do think that he needs to get an MRI with gadolinium contrasting of his cervical spine to completely evaluate the cord compression in the cervical spine. He potentially could be a candidate for surgery on this. In his thoracic spine he does not have a surgical option.

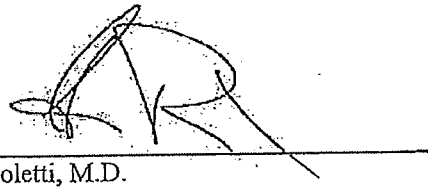
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1941 Savage Rd., Ste. 100-E Charleston, SC 29414 (843) 763-2720 Fax: (843) 769-6022

LEDFORD, SCOTT A.
Patient #631380
DOB: 08/15/1975
May 7, 2012
Page 2

Bracing is not an option at this higher level as it is hard to control the upper thoracic kyphosis with bracing. In the lumbar spine he potentially could be a surgical candidate; but the major concern is, with the mid-back issue even with optimal surgical intervention he may not subjectively improve.

His follow-up is to be with me after the MRI scan of his cervical spine, and he is on off-duty status.



Steven C. Poletti, M.D.

SCP/dmp
T- 5/15/12

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1941 Savage Rd., Ste. 100-E | Charleston, SC 29414 | (843) 763-2720 | Fax: (843) 769-6022

# SOUTHEASTERN SPINE INSTITUTE

**LEDFORD, SCOTT A.**
Patient #631380
DOB: 08/15/1975
May 16, 2012

Mr. Ledford returns in follow-up having had the cervical MRI scan. I have reviewed this. He has neck pain and right arm pain, and he does have a retrolisthesis of 5 on 6 with right-sided foraminal stenosis contributing to compression against his exiting C6 nerve.

This is something which could be explaining his neck and arm pain. It most likely is. In addition he has this severe mid-back pain and radiating pain from his T6 to T9 area, and this is radiating in the distribution of his mid-thoracic region consistent with the kyphosis and facet disruption at the T6 level as a consequence of his fracture. On top of that, he does have a degenerative disc in his lumbosacral spine, which is most likely contributing to some element of back and leg pain. If that's not enough, he fractured his ankle and is undergoing treatment for this.

With regards to the fracture, there is nothing that can be done at this point to restore vertebral body height. With regards to his symptoms from the fracture, potentially some form of pain management potentially to involve rhizotomy or injections around his costovertebral joints or facet joints at the T6 level could be of some benefit; and potentially this could give him some measure of relief. In his cervical spine it potentially could come down to surgery.

This man unfortunately has a combination of three things going on. One is the electrocution injury, second is the fracture at T6 with the consequence of the post-fracture changes, and the third is the disc herniation with radiculopathy in the cervical spine. His impairment is significant; and he has dysfunction as a consequence of the electrocution injury, which in my opinion will prevent him from working. Certainly some type of sedentary status may be indicated, but any kind of repetitive or exertional activity is most likely contraindicated.

His follow-up is to be with me after consultation with Dr. Netherton for consideration of the rhizotomy as described.

Steven C. Poletti, M.D.

SCP/dmp
T- 5/29/12

1106 Chuck Dawley Blvd. Mt. Pleasant, SC 29464 (843) 849-1551 Fax (843) 884-0629

# SOUTHEASTERN SPINE INSTITUTE

**LEDFORD, SCOTT A.**
Patient #631380
DOB: 08/15/1975
May 16, 2012

Scott is seen in follow-up. He has an MRI scan of the cervical spine showing him to have right-sided C5-6 and C6-7 disc protrusions. He is getting some neck pain and some right arm numbness as reflected in his new patient note from 5/7/12. He has an old history of a T6 fracture and a T9 fracture and has severe pain into his mid back and has had this pain moderately severe for approximately two years. His pain seems to be more in the parathoracic region at the T6-7 level at the level of his upper fracture. His problem looks bad enough potentially to consider surgery. His mid back is something that potentially could be treated non-operatively. An injection such as a rhizotomy or evaluation for that could be of some benefit. He is going to follow up with me after this.

Steven C. Poletti, M.D.

SCP/dmp
T- 7/2/12

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DISC RAD

Richard C. Holgate, M.D.

The Southeastern Spine Institute
389 Johnnie Dodds Blvd
Suite 117A
Mount Pleasant, SC 29464
843-266-0720

# FINAL REPORT

**Patient:** Scott Ledford
**Patient Phone:** ----
**SSN:** 110-58-0432
**Patient #:** 631380

**Exam Date:** 5/16/2012
**Exam Name:** Cervical
**Modality:** MRI
**Referring Doctor:** Poletti, Steven

**Clinical Information:** M/36 WITH PAIN DOWN THE CENTER OF SPINE,NUMBMESS IN BOTH SHOULDER AND ARM INTO HANDS,MAINLY IN THE RIGHT SINCE 7/10/10,INCREASE PAIN 3/3/12. RECENT TRAUMA. HT-5'10" WT-190 LBS.

**TECHNIQUE:** The patient is examined on the High Field GE Horizon LX High Speed MR System which functions at 1.0 Tesla. A dedicated spine coil is used to obtain high resolution images of the cervical spine. **SERIES:** 1) COR, T1, SE, 7 mm; 2) SAG, T2, FSE, 3 mm; 3) AX, T2, GRE, 4 mm. **ADDITIONAL SERIES:** 1) AX, T1, SE, 5 mm; 2) SAG, T1, SE/Fat Sat, 3 mm; 3) AX, T1, SE, 3 mm. **3D REFORMATIONS:** 3mm REFORMATIONS PERFORMED IN 1) AX; 2)COR; 3)SAG/OBL RT; 4) SAG/OBL LT; 5) CORONAL PLANES.

**CONTRAST:** The last two T1 weighted axial sequences were carried out following injection of 19 cc of contrast. (With and Without Contrast )

**OVERVIEW:** Overview of the cervical spine shows there is normal marrow signal and normal bony alignment with no evidence of a congenital; anomaly of the spine. The visualized paraspinal soft tissues which include the pulmonary apices and the proximal brachial plexus are within normal limits.

**SPINAL CORD** The spinal cord is demonstrated from the craniocervical junction down to the upper thoracic region. It is of normal caliber throughout showing no evidence of compression or enlargement and no area of focal signal abnormality to indicate the presence of intrinsic spinal cord disease. There is no evidence of abnormal enhancement within the spinal cord.

**C2-3, C3-4, C7-T1.** Mild noncompressive spondylosis.

**C4-5, C5-6, C6-7.** Osteophytes with severe bilateral foraminal stenosis.

**3D REFORMATIONS:** Because of movement between sagittal and axial sequences multiplanar 3D reformations were performed for accuracy and confirm the findings set out above. Please refer to the axial and oblique sagittal reformations for accuracy.

**Opinion:** MRI of the cervical spine including multi-planar reformations show a normal spinal cord and severe spondylosis with probable nerve root compression at C4-5, C5-6 and C6-7. No abnormal enhancement is seen in the cervical spine.

Patient: Scott Ledford
Patient #: 631380
Exam Name: Cervical
Exam Date: 5/16/2012

Richard C. Holgate, MD

SOUTHEASTERN SPINE INSTITUTE
1106 Chuck Dawley Blvd., Suite 200 ■ Mt. Pleasant, SC 29464

Patient Name: Scott A Ledford | Encounter Date: 3/5/2014 | Date of Birth: 8/15/1975
Account Number: 631380

Mr. Ledford is seen in follow-up. He has a complicated history of a thoracic spinal fracture which occurred in a well documented taser incident. This resulted in a 50% compression fracture at T-6 and he has some persistent symptoms from this but improved to the point where he was able to return to work in a full duty capacity in law enforcement. He unfortunately was involved in a well documented motorcycle accident in which he suffered the injury to his ankle which resulted in surgery and he has suffered neck pain and low back pain as a consequence of this. Of note is that he did not have these neck symptoms and low back symptoms prior to the motor cycle accident and the symptoms that he is currently having with his neck and low back are in my opinion most likely related to the motorcycle accident.

I have reviewed his MRI scans showing him to have disc disruption at the lumbar sacral junction with exit foraminal stenosis and compression against the exiting L-5 roots bilaterally. In the cervical spine he has a disc herniation at C6-7 causing symptoms of cervical radiculopathy and nerve root compression.

Scott is very physically fit although he is limited from doing repetitive exertional activities. He has a definite impairment from his thoracic spine and from this ankle injury. This combines to make him a less than perfect candidate for cervical and lumbar surgery although I do believe most likely that he will require cervical fusion surgery and lumbar disc surgery versus disc replacement with regards to this. I do feel that cervical discectomy and fusion at C6-7 and the anterior lumbar discectomy and interbody fusion at L5-S1 could potentially have the affect of lessening his disability and I am in agreement that he should consider these. This is in fact the recommendation from Dr. Mills as well and it is certainly reasonable based on the injuries sustained in the motorcycle accident.

His impairment with regards to current lumbar radiculopathy is 10% to the whole person. His impairment with regards to cervical radiculopathy is 13% to the whole person. This would give him a total of 23% impairment specifically as a consequence of injuries sustained in his motorcycle accident.

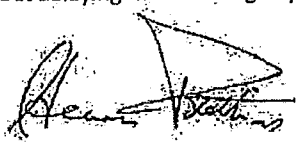
**Diagnosis Codes:**
722.0 DISPLACED CERVICAL INTERVERT DISC

**Impression:** Cervical Disc Herniation

**Treatment Plan:** He should be restricted specifically with regards to these and he should have light to sedentary restrictions. That is no overhead lifting greater than 20 pounds. No repetitive bending, twisting, pushing, pulling, no prolonged sitting for periods of 45 minutes or longer. Of note is that his impairment would be higher in the future should he undergo the surgical procedures as prescribed. For now I am recommending that he observe this. I think he will require regular nonoperative follow-up. I would recommend that he have nonoperative office visits every 2 to 3 months. He may require continuing on some measure of analgesic and anti-inflammatory medication. He may require future imaging and injections. I do believe that he is medically stationary from this. He may require these surgeries in the future but is medically stationary to the point where he is at maximal medical improvement as of today's date.

DIGITALLY SIGNED

The patient has told me that he has seen Dr. Bill Edwards in Florence who has followed him. Dr. Edwards has told the patient that he would recommend observing this even over the course of a couple of years perhaps. I would say that the treatment recommendations in terms of office appointments, potential future imaging, and the surgical interventions as described are likely to happen in the future, but it is likely if not probable that this man could go through an extended period of time where he does not receive active interventional treatment. That is he could go for a period of greater than a year where he does not consider this type of surgery. That would not make the above treatments contraindicated but delaying them as long as possible would be ideal and would be my recommendation.



Seen By: Steven C. Poletti, MD

Date:3/6/2014
SCP/dam

SCOTT A LEDFORD REF: ER CONWAY
62711
DOB: 08/15/1975
04/02/2012

SUBJECTIVE: The patient comes in today with continued pain. He is having thoracic, lower back and right ankle pain. He was released back in January to full duty. He does not feel that his pain ever really resolved and he is having trouble now tolerating full duty. Recently he had a motorcycle wreck and this exacerbated his pain. He was having pain in the upper back, lower back and in the right ankle. No fever. No bowel or bladder dysfunction.

OBJECTIVE: He has normal strength. Normal neurologic exam. He is tender over the lumbar region. Also, exam of the right ankle reveals swelling laterally over the distal fibula and lateral ankle ligament area.

X-RAYS: Lumbar x-rays with flexion and extension views show a transitional level. No spondylolisthesis. Thoracic x-rays show mild wedging amid thoracic vertebrae. Right ankle x-rays show no fracture.

ASSESSMENT: 1. Chronic thoracic and lumbar pain. Rule out right ankle distal fibula stress fracture.

PLAN: Thoracic and lumbar MRI. MRI of the right ankle. Warm and form corset. Equalizer boot. Mobic 15 mg daily. Nucynta 100 mg ER q. 12 hours. Equalizer boot. On an out of work status until I have a chance to review his scans.

William L. Mills, M.D. /5204
1795961

Chart Copy

fcc: Conway Medical Center Emergency Room

MAY. 2. 2012 2:17PM COA INSURANCE NO. 345 P. 4/13

LONG BAY
DIAGNOSTIC IMAGING

| | |
|---|---|
| PATIENT: | Ledford, Scott |
| DOB: | 8/15/1975 |
| MRN: | 838315 |
| PATIENT PHONE: | 843-241-8750 |
| PHYSICIAN: | William Mills, MD |
| DATE: | 4/17/2012 |

EXAM: MRI THORACIC AND LUMBAR SPINE WITHOUT CONTRAST

HISTORY: A 36-year-old male with persisting back pain dating to injury in 2010. Bilateral lower extremity pain associated.

COMPARISON STUDIES: Not available.

TECHNIQUE:
THORACIC: Following a sagittal T2W localizer, sagittal T1W/T2W/STIR, coronal T1W as well as axial T2W imaging sequences conducted through thoracic levels without intravenous contrast on the 1.5 Tesla GE Signa magnet.

LUMBAR: Sagittal T2W (with and without fat-saturation)/STIR, coronal T1W as well as axial T1W/T2W imaging sequences obtained without contrast.

FINDINGS:
THORACIC: Coronal imaging demonstrates no significant scoliosis. Included lungs and cervicothoracic soft tissues as well as those of the upper abdomen prove unremarkable on coronal imaging assessment.

On sagittal T2W localizing images, the least moderate if not more advanced central spinal canal stenosis is in evidence at the cervical spine (C5-C6, C6-C7) levels. There appears to be associated impressions made of impingement upon the volar aspect of the cervical cord.

There is mild anterior wedge configuration at T6. Remaining osseous vertebrae demonstrate unremarkable height and signal as well as alignment. Outlines, signal in caliber of the thoracic cord and included conus unremarkable. There is a mild posterior disc bulge effacing CSF ventral to the cord at T8-T9 and to a lesser degree at T9-T10 without significant impingement upon the cord itself. Mild to moderate loss of disc space height and signal of desiccation is found at mid thoracic segmental levels.

LUMBAR: Coronal imaging demonstrates no significant thoracolumbar scoliosis. Included T1W outlines of hollow and solid viscera unremarkable. Pelvic ring and proximal femora unremarkable as included. Abdominal aorta tapers normally to the bifurcation and beyond. Soft tissues of the included retroperitoneum and paraspinal levels prove

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MAY. 2. 2012 2:17PM COA INSURANCE NO. 345 P. 5/13

unremarkable on axial and sagittal assessments.

Signal characteristics, outline and caliber of the conus and cauda equina appear unremarkable. The tip of the conus is found at L1-L2. There is transitional anatomy at L5-S1 - there is "lumbarization" of the S1 vertebral body.

At and above the L4 level, central spinal canal and neural foramina are found patulous throughout. Disc space and vertebral body height, signal and alignment is well maintained.

At L4-L5, there is a mild to moderate circumferential disc bulge present, which has mild effacing effect upon the volar aspect thecal sac. In concert with mild to moderate hypertrophic ligamenta flava and bony facet changes, a mild triangular central spinal canal stenosis results. Neural foramina reasonably patulous.

At L5-S1, there is reasonable disc space height with moderate loss of signal of desiccation. There is a mild to moderate circumferential disc bulge present, which has a slight concave effect upon the volar aspect thecal sac. There is crowding of the lateral recesses, especially the left in concert with moderate hypertrophic ligamenta flava and moderate to more exuberant hypertrophic bony facet changes. Mild to moderate symmetric neural foraminal narrowings are present.

At S1-S2, the central spinal canal and neural foramina appear patulous.

Osseous column outlines, signal and alignment otherwise unremarkable. There is a mild straightening of the normal lordosis.

IMPRESSION:
1. Moderate if not more advanced central spinal canal stenosis with impingement upon the cervical cord is manifested at C5-C6 and C6-C7 levels, seen incidentally. Recommend MRI cervical spine assessment.
2. Only mild hypertrophic spondyloarthropathy changes involve the thoracic and lumbar levels. No significant central spinal canal nor neural foraminal encroachment.
3. Otherwise, unremarkable examinations.

David Kallman, M.D.
DK / lb

DD: 4/18/2012
DT: 4/18/2012
Job: 14977691

This document has been electronically reviewed and signed by David Kallman, M.D.



MAY. 2. 2012 2:18PM COA INSURANCE NO. 345 P. 6/13
105

LONG BAY
DIAGNOSTIC IMAGING

| | |
|---|---|
| PATIENT: | Ledford, Scott |
| DOB: | 8/15/1975 |
| MRN: | 838315 |
| PATIENT PHONE: | 843-241-8750 |
| PHYSICIAN: | William Mills, MD |
| DATE: | 4/17/2012 |

EXAM: MRI RIGHT ANKLE WITHOUT CONTRAST

HISTORY: 36-year-old male with a swelling and pain since trauma one month ago.

COMPARISON STUDIES: Not available.

TECHNIQUE: Sagittal T1W/STIR, axial and coronal T1W/fat-saturated PDW imaging sequences acquired at the ankle without contrast on the 1.5 Tesla GE Signa magnet.

FINDINGS: There is patchy bright (STIR/fat-saturated T2W) signal change in the posterior malleolus level, distal tibia and opposing posterior pole of the talus. There is irregularity of outline and low signal linear changes in the outline of the posterior pole of the talus. There is a small tibiotalar joint effusion, particularly at the posterior recess. Posterior ligaments appear intact. There is a small amount of fluid about the flexor hallucis longus tendon at sheath found closely adjacent to this level. The posterior ligaments appear intact. There is a mild signal increase (STIR/fat-saturated T2W) at the subcutaneous soft tissues in front of the lateral malleolus. No underlying fracture nor ligamentous disruption.

Remaining osseous soft tissue outlines of the ankle and included foot prove unremarkable.

IMPRESSION:
1. The most striking finding is opposing marrow edema (consistent with contusion) signal change at the posterior pole talus and posterior malleolus of the distal tibia. There may be minor fracturing change associated at the outline of the posterior talus.
2. Nonspecific soft tissue edema anterolateral of the lateral malleolus without focal underlying internal derangement.
3. Findings consistent with tenosynovitis at the flexor hallucis longus level.

David Kallman, M.D.
DK / dg

DD: 4/18/2012
DT: 4/18/2012
Job: 14978217

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MAY. 2. 2012 2:18PM COA INSURANCE NO. 345 P. 7/13

Patient: Ledford, Scott
MRN: 838315
Exam: MRI RIGHT ANKLE WITHOUT CONTRAST

This document has been electronically reviewed and signed by David Kallman, M.D.



MAY. 2. 2012 2:18PM COA INSURANCE NO. 345 P. 8/13
107

SCOTT A LEDFORD REF: ER CONWAY
62711
DOB: 8/15/1975
8/9/2012

Scott is here for follow up, right ankle sprain.

SUBJECTIVE: He reports continued pain and swelling over the lateral aspect of his right ankle. He has been not yet authorized to begin physical therapy. He states he has been wearing his boot.

OBJECTIVE:
PHYSICAL EXAMINATION: Anatomic alignment of the bilateral lower extremities, with gait antalgic to the right side. He demonstrates mild swelling over the lateral aspect of the right ankle and hindfoot, and mild limitation of dorsi and plantar flexion. He demonstrates full range of motion and complete stability of the left ankle, bilateral hindfoot, midfoot, and forefoot joints, and muscle strength and tone is normal. He is tender over the anterolateral aspect of the right ankle, as well as the sinus tarsea region.

**ASSESSMENT: Unrehabilitated ankle sprain, right ankle.**

PLAN: Diagnosis and treatment options were discussed and reviewed. Scott is highly motivated to return to work, but has not yet received necessary treatment for his ankle injury. I have recommended he continue in the Cam walking boot and we keep his work status unchanged, pending treatment of his ankle injury. Again, he would require a course of physical therapy for range of motion and strengthening, as well as ankle stabilizing exercises. It is only after such a course of physical therapy is he likely to improve. He will follow up again in 4-6 weeks time.

Ross Taylor, M.D. /5127
2165628

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OCT. 8. 2012 8:41AM COA INSURANCE NO. 166 P. 3/14

SCOTT A LEDFORD REF: ER CONWAY
62711
DOB: 8/15/1975
11/15/2012

The patient is here for follow up of persistently painful right sprained ankle.

SUBJECTIVE: He has completed 12 visits of physical therapy with modest to no relief. He points to the anterolateral aspect of the right ankle joint. The pain in this area is dull and aching in nature. It is exacerbated by standing, walking and weightbearing, and somewhat relieved by rest.

OBJECTIVE:
PHYSICAL EXAMINATION:
MUSCULOSKELETAL: Anatomic alignment of the bilateral lower extremities. He is edematous about the right ankle joint. He demonstrates limitation of dorsiflexion to 8 degrees on the right versus 15 on the left. He demonstrates limitation of plantar flexion to 30 degrees on the right, 40 degrees on the left. he demonstrates full range of motion and complete stability of the bilateral subtalar, midfoot and forefoot joints. Muscle strength and tone is normal. He is tender over the posterolateral aspect of the left ankle in the area of Stieda process but not along there peroneal tendons. He is tender over the anterolateral aspect of the right ankle where palpable crepitus is induced with dorsiflexion.
HEART: Regular rate and rhythm.
LUNGS: Clear to auscultation bilaterally.

ASSESSMENT:
1. Probable impingement lesion, right ankle. Could not rule out osteochondral lesion.
2. Posterior impingement syndrome, right ankle.

PLAN: Diagnosis and treatment options were discussed and reviewed with the patient. Based on lack of response to conservative treatment it is unlikely additional physical therapy and/or bracing, or other conservative modalities would lead to adequate improvement. To reach full MMI and maximal function he will require surgery. Surgery would involve an arthroscopic debridement of the ankle joint done through an anterior approach and assessment of the cartilage surface. Any underlying cartilage pathology may need to be simultaneously treated. He would then require change to prone position for arthroscopic versus open resection of Stieda process. Outline of all surgical incisions, nature of the surgery and the

DEC. 11. 2012 2:58PM COA INSURANCE NO. 007 P. 3

potential risks associated with the surgery, including risk of continued pain, nerve injury, numbness or tingling about the foot, complex regional pain syndrome, deep vein thrombosis or infection were discussed, reviewed and expressed as understood. He is out-of-work.

Ross Taylor, M.D. /5142
2457145

Chart Copy

SCOTT LEDFORD REF:
62711
DOB:
01/30/2013

DATE OF SURGERY: 1/30/13

PLACE OF SURGERY: CB&J.

PROCEDURE PERFORMED: Right ankle arthroscopy with debridement and resection of osteophyte as well as open resection posterior process talus.

DISCHARGE INSTRUCTIONS: ice, elevation, nonweightbearing right lower extremity, short leg splint.

FOLLOWUP INSTRUCTIONS: He will be placed in a cam walking boot and may begin weightbearing and will begin physical therapy.

Ross Taylor, M.D. /15
2667568

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COASTAL
ORTHOPEDICS
*Specializing in You*

SCOTT LEDFORD
Date: 2/12/2013
Case No. 62711
DOB: 8-15-1975

Patient is here for follow up, status post right Ankle arthroscopy and open resection of os trigonum 1/30/2013.

SUBJECTIVE: No pain

OBJECTIVE: Anatomic alignment of bilateral lower extremities. Incision line is intact. No calf tenderness or swelling is present. Distal neurovascular status is intact. Gait is Nonweightbearing.

RADIOGRAPHS: None.

ASSESSMENT: S/P. right Ankle arthroscopy and open resection of os trigonum.

PLAN: Cam walking boot and weightbearing to pain tolerance. Begin physical therapy for range of motion and strengthening. Work status is unchanged. Follow up in 3-4 weeks time.

Ross Taylor, M.D.

Fee: None.

112

SCOTT A LEDFORD REF:
62711
DOB: 08/15/1975
03/12/2013

He is here for followup status post right ankle scope and open resection of os trigonum on January 30, 2013.

SUBJECTIVE: He has been to 2 visits of physical therapy. He is weight bear in a CAM walking boot, except when he goes to therapy and then he weight bears in his shoe. He is having no difficulty.

OBJECTIVE: Anatomic alignment of the right lower extremity. His peroneal strength, right lower extremity, is 4/5 on the right, invertor strength is 4/5. No calf tenderness or swelling are present. Gait is slightly antalgic to the right side in a CAM walking boot.

ASSESSMENT: Status post open resection of os trigonum and a right ankle scope on January 30, 2013.

PLAN: He will continue physical therapy for strengthening exercises. Work status is unchanged. He will wear his boot at all times, unless at physical therapy, and then he will follow up in 4 weeks for reexamination.

J. Chris Lewis, PA-C
for Ross Taylor, M.D. /5142
2794444

Chart Copy

COASTAL
ORTHOPEDICS
*Specializing in You*

**Scott Ledford**
Date: 4/11/2013
Case No. **62711**
DOB: **3-15-1944**

Patient is here for followup status post right ankle arthroscopy and open resection of os trigonum on 1/30/2013

SUBJECTIVE: He reports to have mild stiffness and discomfort right ankle.

OBJECTIVE: Anatomic alignment of the bilateral lower extremities. Gait is nonantalgic. Full range of motion and complete stability bilateral ankle hindfoot midfoot and forefoot joints with the exception of mild limitation of dorsi and plantarflexion of the right ankle.. Muscle strength and tone is normal.

RADIOGRAPHS: None.

ASSESMENT: Status post right ankle arthroscopy and open resection of os trigonum

PLAN: Continue physical therapy. Discontinue boot. Work status is unchanged. May return to regular shoe. Follow up again in 4-5 weeks' time for rate and release.

Ross Taylor, M.D.

Ecc: ,

2012053

LOWE'S THERAPY

PHYSICAL THERAPY
OCCUPATIONAL THERAPY

507 W. CHEVES STREET
FLORENCE, S.C. 29501-4494
TELEPHONE 843-669-8841
FAX NO. 843-669-7144

February 28, 2014

Patient: Scott Ledford
DOB: 08-15-1975

Impairment Rating

Scott was first seen on February 28, 2014 for an impairment rating following a functional capacity evaluation. The areas of evaluation include cervical and lumbar spine along with the right ankle. Mr. Ledford was involved in an accident on March 10, 2012 while employed as a Highway Patrolman. He is currently retired.

The Guides to the Evaluation of Permanent Impairment, 5th Edition was used to estimate impairment. He is at maximal medical improvement.

The cervical spine has a diagnosis of a retrolisthesis at C6 causing pressure on the spinal cord. He has a loss of motion of the cervical spine with rotation and side bending toward the right. He also has a weakness of his grip strength of approximately 30% of his right dominant hand.

The DRE method was used to estimate the impairment of the cervical spine and is found in table 15-5; page 392. The radicular signs put him in a category III with a 15% whole person impairment related to the cervical spine.

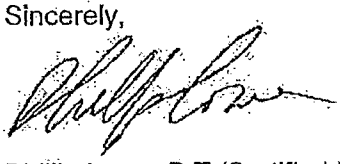
The second area examined is the lumbar spine. He has a diagnosis of a disc disruption of L5/S1 without radicular signs. Table 15-3; page 394 provides for a 5% whole person impairment related to the lumbar spine.

The right ankle has a minimal loss of eversion and weakness of dorsiflexion, eversion and plantar flexion. He has a 1 cm circumference difference in the right calf compared to the left. Page 530; table 17-6 provides for a 4% lower extremity impairment due to the severe ankle sprain. He was treated with physical therapy and had an open debridement and resection of an osteophyte through an arthroscopy.

In summary he has a 15% whole person impairment of the cervical spine. A 5% whole person impairment for the lumbar spine and a 4% right lower extremity impairment related to the ankle.

Should you have any questions, please feel free to contact me. Thank you for the referral to Lowe's Physical Therapy.

Sincerely,



Phillip Lowe, P.T./Certified Disability Examiner II

PL/ab

2012053



**Vocational Assessment**

| | |
|---|---|
| **Date** | May 20, 2014 |
| **Name of referral source** | E. Hood Temple, Attorney at Law |
| **Address** | Hyman Law Firm, LLP<br>170 Courthouse Square<br>Florence, SC 29503-1770 |
| **Evaluee** | **Scott A. Ledford** |
| **Date of Birth** | August 15, 1975 |
| **Age** | 38 |
| **SSN** | xxx-xx-0432 |
| **Employer** | South Carolina Highway Patrol |
| **WCC #** | 1009581 / 1202545 |
| **Date of Injury** | July 10, 2010 / March 10, 2012 |
| **Date of Assessment** | March 18, 2014 |

**Background information**
This vocational assessment was requested by the claimant's attorney to determine the vocational impact of Mr. Ledford's injuries sustained on July 10, 2010 and March 10, 2012 while working for the South Carolina Highway Patrol. Prior to beginning the assessment, the following disclosures were provided to Mr. Ledford: the purpose of the assessment, referral source, scope of services requested, and limits of confidentiality. Mr. Ledford was alert and oriented throughout the assessment. He was appropriately groomed and articulate. He wore blue jeans and a T-shirt. He stood up several times during the assessment due to reported injury-related symptoms. He ambulated with no observed problems and used no assistive devices. The assessment was concluded in two hours.

**Medical Information**
**Mr. Ledford provided the following information in the vocational interview.**

**History of injury.** Mr. Ledford was initially injured on July 10, 2010 while attending training with the South Carolina Highway Patrol. The training was related to the use of the taser. He states that he was tased and he sustained fractures to his T6 through T9 vertebra. He sustained reduced height to his vertebra as well as nerve damage and cervical spine problems at C4-5 and C5-6. He reported his initial injury from the incident and he called his supervisor. He states that he developed problems related to being unable to breathe effectively. The day after the incident he states that he collapsed and he lost feeling in his extremities. His wife took him to Conway Medical Center and then he

was referred to Dr. Mills. He received MRIs, and was placed in a cast for immobilization. He underwent neurological assessments. He attempted to return to work and his right arm was going numb intermittently. He had to take breaks during his work shift due to his symptoms. He was working as a motorcycle trooper at the time.

On March 10, 2012 Mr. Ledford was pursuing someone in Conway when he lost control of his motorcycle. He sustained a fracture to his right ankle that required surgery with Dr. Taylor. He received physical therapy. He continues to have problems with his right leg giving out. He states that he last saw Dr. Taylor more than a year ago and was released at that time.

Mr. Ledford began seeing Dr. Poletti approximately two years ago. He states that workers' comp sent him to Dr. Edwards. He last saw Dr. Poletti one and one-half weeks prior to this assessment. Dr. Poletti is recommending a rhizotomy and is also recommending cervical surgery consisting of a fusion at C4 through C7.

**Secondary medical issues.** Mr. Ledford has high blood pressure. He underwent a stress test and is currently on no medications. In the past he injured his left index finger, stating that he amputated the tip of the finger while riding his motorcycle off duty.

**Current medical status.** Mr. Ledford currently experiences pain in his left neck area radiating down his right arm. He has no feeling in his right arm at times. He also experiences a loss of strength in his right arm. The pain shoots down to his buttocks at times. He states that his L5 disc is deteriorated. He experiences pain up to 8/10. He experiences daily pain rated at 3-4/10. The pain is always present. He is currently taking no prescription medications. He also experiences ongoing low back pain. Mr. Ledford states that his right arm will become numb at night. He usually sleeps by himself. He experiences numbness in his right arm every day lasting up to 15 minutes.

**Daily activities.** Mr. Ledford states that he is up at 5:00 a.m. and he helps with the children. The children leave and Mr. Ledford will lie on the couch and use a heating pad. He calls his employees to check on their progress. He runs errands for the house and he goes to the gym for an hour. He stretches and walks at the gym. He picks up the children at 2:00 p.m. and starts them on homework until 3:30 or 4:00. He fixes dinner and sends the children for showers and bed. He has trouble sitting for prolonged periods of time and is required to walk and stretch. He goes to the grocery store approximately 25 percent of the time.

**Education and Training**
Mr. Ledford attended Horry Georgetown Technical College in pursuit of his criminal justice associate's degree. He was unable to complete his last class for this degree because he went to the police academy. He states that the requirements have since changed and he is now required to have two electives and one computer class in order to complete his requirements for the associate's degree.

Mr. Ledford attended the police academy in 1996 and 1997. The academy lasted nine weeks and he later attended the highway patrol academy for three months. Mr. Ledford is certified to carry a firearm. This certification lasts for three years and he last qualified for the certification in May of 2011. He is undecided on what he will do regarding his renewal.

**Military Experience**
Mr. Ledford has no military experience.

**Work History**

1. Pro Cutters Lawn and Landscape LLC, beginning around 1996 or 1997. Mr. Ledford has been performing this type of work for 20 years and he started his own business in 1996 or 1997. His wife handles the daily operation of the business. He will check on his employees. He states that he does no lifting when he goes out to the job site. He will sit on a mower and use it, stating that he used the mower five times last year. He will sub out the bush hog jobs. He does not earn any personal income from this business. He states that 85 percent of the business is in his wife's name. He has three employees, one of whom is full time. He provides residential and commercial lawn care services. Currently he spends about five hours per week in activity related to this business. Prior to his injury he worked 40 to 50 hours per week during the high season. He estimated the family income from this business in 2013 to be approximately $45,000.00 gross earnings.
   **406.684-014 GROUNDSKEEPER, INDUSTRIAL-COMMERCIAL**
   SVP: 3
   GED: 2 1 2
   STRENGTH: M

2. Ledford Outdoors, starting in approximately 2009. Mr. Ledford opened this business in the hope of being able to take people on outdoors adventures. He did not ever make a profit in this business. He indicates that he was ramping up this business prior to his injury and after his injury he was unable to pursue this business. He did not earn any profit and he plans to close the business.

3. South Carolina Highway Patrol, approximately 2004. Mr. Ledford performed highway patrol duties working from a motorcycle in Horry County. He was on the ACE team (Aggressive Criminal Enforcement). He last earned approximately $42,000.00 annually.
   **375.263-018 STATE-HIGHWAY POLICE OFFICER**
   SVP: 6
   GED: 4 2 3
   STRENGTH: M

4. Horry County Police Department, motorcycle policeman and K9 duties, beginning in 1999. He last earned approximately $33,000.00 annually in this job.
   **375.263-014 POLICE OFFICER I**
   SVP: 6

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

RECEIVED
NOV 03 2016
SC Court of Appeals

Appellate Case No. 2016-000601

Scott Ledford, Employee, ..... Appellant,

v.

Department of Public Safety, Employer, and
State Accident Fund, Carrier, ..... Respondents.

## CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Amended Record on Appeal – Volumbe 1, contains all material proposed to be included by any of the parties and not any other material.

November 1, 2016

J. Kevin Holmes
The Steinberg Law Firm, L.L.P.
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(843)720-2800
Attorney for the Appellant