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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

Case Number 2016-001154

Matthew Edwards, Employee, ... Appellant,

v.

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

RECORD ON APPEAL

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DECISION AND ORDER OF THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

WCC FILE NO. 1209393

Matthew Edwards,	)
Employee,	)
Claimant,	)
vs.	)
S.C. Department of Public Safety,	)
Employer,	)
and	)
State Accident Fund ,	)
Carrier,	)
Defendants.	)

HEARING:

Held in Spartanburg, South Carolina on July 14, 2015.

APPEARANCES:

Claimant represented by J. Kirkman Moorhead, Esquire of Krause Morehead & Draisen, P.A., Anderson, South Carolina.

Defendants represented by Zachary M. Smith, Esquire of Willson Jones Carter & Baxley, P.A., Greenville, South Carolina.

PURPOSE OF HEARING:

To determine the issues as set forth on the Forms 50 and 51.

DECISION AND ORDER:

By Avery B. Wilkerson, Jr., Commissioner

FILED:

November 9, 2015.

APA SUBMISSIONS

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

By Claimant:

- APA #1: Records of Piedmont Comprehensive Pain Management Group (Eric Loudermilk, MD), dated 2/4/2013 – 3/16/2015, consisting of pages 1-30.
- APA #2: Records of Oaktree Medical Centre, dated 7/30/2012, consisting of pages 31-33.
- APA #3: Records of Pain Management Associates, dated 8/7/2012 – 8/23/2012, consisting of pages 34-41.
- APA #4: Records of Piedmont Neurosurgical Group (Michael Bucci, MD), dated 9/11/2012 – 1/3/2013, consisting of pages 42-53.
- APA #5: Records of Innervision/Anderson Radiology, dated 8/1/2012 – 6/6/2014, consisting of pages 54-59.
- APA #6: Records of Psychological and Training Services (Robert Brabham, Ph.D.), dated 10/15/2013 – 3/8/2015, consisting of pages 60-74.
- APA #7: Records of New Day Physical Therapy, dated 11/20/2014 – 11/21/2014, consisting of pages 75-88.
- APA #8: Records of Doshier Physical Therapy, dated 4/23/2013, consisting of pages 89-101.
- APA #14: Records of Piedmont Comprehensive Pain Management Group (Eric Loudermilk, MD), dated 6/5/2015, consisting of page 142.
- Exhibit 1: Deposition of Dr. Eric Loudermilk, dated 5/27/2015.
- Exhibit 2: Deposition of James Myers, dated 7/8/2015.

By Defendants:

- APA #9: Records of PS Chiropractic, dated 7/17/2012 – 7/23/2012, consisting of pages 102-108.
- APA #10: Records of Greenville Memorial Hospital, dated 7/28/2012, consisting of pages 109-117.
- APA #11: Records of Piedmont Neurosurgical Group (Michael Bucci, MD), dated 1/7/2013 – 12/30/2014, consisting of pages 118-120.
- APA #12: Records of Piedmont Comprehensive Pain Management Group, dated 6/6/2014 – 4/20/2015, consisting of pages 121-124.
- APA #13: Records of James R. Myers, Ma, QRP, CCM, CRC, dated 5/8/2015 – 5/11/2015, consisting of pages 125-141.
- Exhibit A: AMA Guides to the Evaluation of Permanent Impairment, 6th Edition, Table 17:4 – Lumbar Spine Regional Grid, consisting of page A-1.
- Exhibit 3: Deposition of Dr. Carol W. Burnette, dated 7/31/2014.

STIPULATIONS

At the time of the hearing, the parties' counsel stipulated to the following issues:

1. That the purpose of the hearing is to determine the issues as set forth in the Forms 50 and 51 and any other issues which may timely come before the Commission;
2. That Claimant's accident occurred on July 16, 2012;
3. That Claimant's average weekly wage was \$724.88 with a corresponding compensation rate of \$483.27;
4. That Claimant reached maximum medical improvement on May 6, 2013;
5. That Notices were timely and properly served upon all parties of interest;
6. That Venue, set in Spartanburg County, is proper as agreed by all parties; and
7. That the South Carolina Workers' Compensation Commission has jurisdiction over the parties and issues involved.

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.

STATEMENT OF THE CASE

Claimant sustained an admitted injury to his lower back and right leg arising out of and in the course of his employment on July 16, 2012, when he slipped while walking down a flight of stairs. As a result of his injury, Defendants provided Claimant with medical treatment from Dr. Bucci and Dr. Loudermilk. On October 1, 2011, Dr. Bucci performed surgery on Claimant's lumbar spine, consisting of a right L5-S1 laminectomy, facetectomy, foraminotomy, and discectomy. Following surgery, Claimant continued to treat with Dr. Bucci, who ultimately referred him to Dr. Loudermilk for pain management. On May 6, 2013, Dr. Loudermilk opined that Claimant had reached maximum medical improvement ("MMI").

On April 11, 2014, Claimant filed a Form 50, Request for Hearing, contending that he was permanently and totally disabled. Defendants timely filed a Form 51 on April 30, 2014 admitting an injury to the back and right leg, but denying Claimant was permanently and totally disabled. Based

on the nature of Claimant's allegations, mediation was ordered pursuant to Regulation 67-1802. Following an impasse at mediation, a hearing was ultimately held before the undersigned on July 14, 2015.

At the hearing, Claimant maintained he was permanently and totally ("P&T") disabled as a result of his work injury, and he requested a lump sum payment of any award. With regard to SCS recommended by Dr. Loudermilk, Claimant admitted he did not wish to have it at this time; however, he argued the option of a SCS should remain open to allow him to pursue it at any time in the future. Defendants denied Claimant was P&T disabled and noted the FCEs which indicated Claimant was capable of working and the vocational opinion of James Myers. Defendants also argued that it would be speculative to find Claimant P&T disabled given Claimant's refusal to accept recommended medical treatment that would likely lessen his period of disability, specifically a spinal cord stimulator. Defendants took the position that Claimant was entitled to a permanency award to his back under §42-9-30. Defendants also raised issues with Dr. Burnette's impairment rating and objected to a lump sum payment of benefits given the likely change of condition for the better if Claimant was to pursue the recommended, and authorized, spinal cord stimulator.

EVIDENCE OF THE CASE

Claimant's Testimony:

At the time of the hearing, Claimant had just turned 35 years old. He is a high school graduate. With regard to his work history, Claimant testified that he started working around age 12. He worked in a tobacco field during the summer, and he cut trees on a Christmas tree farm during the winter. He subsequently worked for an oil company, where he assisted with deliveries. He also worked as a stocker in the oil company's convenience store. After high school, Claimant obtained his CDL, and he began driving a straight truck for the oil company. At age 19 or 20, Claimant went to work for the Cliffs Vineyards Golf Course. He worked at the Cliffs for approximately two years,

and he testified that he performed golf course maintenance, including cutting grass, raking bunkers, and preparing greens. He testified he then worked as a tanker truck driver for Fayette Arnold Environmental.

Claimant testified he always had an interest in law-enforcement, so he decided to go to the Criminal Justice Academy ("the Academy"). In addition to the training at the Academy, Claimant also obtained his DataMaster certification, and he took a class to become a K-9 handler. After completing the Academy, Claimant went to work for the Pickens County Sheriff's Office. He worked at Pickens County for five years. Claimant testified that he did not perform any type of criminal investigations with Pickens County. He testified the only investigations he performed with Pickens County were standard field investigations and litter investigations.

Claimant testified he was hired by the South Carolina Department of Public Safety ("SCDPS") as a transport police officer in October 2007. When asked about his July 16, 2012 work accident, Claimant testified he was working at the weigh station on Interstate 85. He testified a truck pulled up on the scales, and he had to walk down the stairs of the tower to perform a safety check. As he was walking down the stairs, he slipped. While he did not fall, Claimant testified that his right leg landed on the next step down, and he felt a pop and had immediate pain in his back radiating down his right leg. He testified that he initially did not pay it any attention; however, his pain increased as he was inspecting the truck. Claimant told the truck driver he could leave, and then he walked back into the tower. He testified that he said around for a while, but he ultimately called his supervisor. Claimant told his supervisor he jarred his back and was going home to rest. Claimant testified that he felt terrible the following morning and that his problems continued to worsen. Claimant ultimately went to Dr. Bucci, who performed surgery on his lower back. Claimant testified he continued to have problems in his right leg after surgery.

Claimant testified that he returned to light duty work with the SCDPS in January 2013 and that his light duty job consisted of doing paperwork, reading inspections, watching videos, and

filing tickets. He testified that he wanted to return to law enforcement, but his supervisor told him he could not be in law enforcement with a bad back. Claimant testified the light duty position ended in July 2013 and his last day of employment with SCDPS was June 30, 2013. He testified he subsequently obtained Police Disability Retirement from the State. Claimant testified that he has considered going back to work outside of law enforcement; however, he testified that he did not believe he could return to any type of work due to his ongoing problems.

With regard to his current condition, Claimant testified that he continues to have shooting pains, numbness, and sensation loss in his right leg. He testified that his right calf down to his foot always feels like it is asleep, and that he was in his yard one day and could not feel fire ants biting his right calf. He also testified that his wife poked his right leg with a needle one time, and he could not feel it. Claimant further testified he has difficulty walking and balance issues because of his right leg problems and that he his right leg gives out on him at times. He also testified that he has problems sleeping due to the pain.

Claimant testified that he has been "Mr. Mom" since July 2013. He testified that he tries to keep up with stuff around the house, including laundry and washing dishes, and that he also takes care of his three-year-old daughter. He testified that he has lifted his daughter, but that each time he had instant, increased pain in his lower back. He estimated that his daughter weighs about 30 pounds.

When asked about Dr. Loudermilk's recommendation for a spinal cord stimulator ("SCS"), Claimant testified he has considered it and has talked to people that have received SCS. He specifically testified that one of his friends had a SCS and hated it and that his friend now has a hole in the middle of his back where the SCS was. Claimant also testified that he is afraid of trying a SCS because he had an allergic reaction to a prior injection and because his back surgery did not help his condition.

On cross-examination, Claimant confirmed that he was a certified law enforcement officer. Claimant admitted that he received some training on investigating crimes at the Academy, but he testified it was limited to domestic incidents and other "regular on the field stuff." He also admitted that he had some training in interviewing witnesses. When asked about his job with Pickens County, Claimant testified he performed the normal duties of a deputy sheriff, including responding to calls, interviewing witnesses, taking written statements, and completing incident reports and other paperwork. With regard to his job with the SCDPS, Claimant confirmed that he worked as an officer and that his position at the time of this accident was senior officer. He testified that his job duties required him to him to enforce State and Federal commercial trucking and vehicle laws and that he inspected vehicles, issued citations, prosecuted violators in Magistrate Courts, handled radio and phone calls, and completed paperwork on a computer.

Claimant testified that the surgery Dr. Bucci performed surgery in October 2012 alleviated the majority of his back pain, and that his main problem is the pain in his right leg. Dr. Bucci subsequently referred Claimant to Dr. Loudermilk for pain management. He testified that Dr. Loudermilk recommended and prescribed several medications to help the pain in his right leg. Claimant admitted that he took the pain medications as prescribed and that the pain medications help ease his right leg pain. However, Claimant testified that he did not react well to the pain medications and that he stopped taking the medications because he did not like the way they made him feel. He testified the medications either made him feel jittery or have stomach pain. He also testified he did not want to become addicted to pain medication.

When asked about the light duty position the SCDPS provided him after his work accident, Claimant confirmed it was a full-time time position and that he was working at the District Office in Greenville. Claimant admitted that he drove back and forth from Greenville to Pickens each day, but he testified the driving caused some difficulties. He also testified that the light-duty position was a desk job, and that he could stand up and walk around whenever he needed to.

Claimant testified he underwent an FCE in April 2013 and that Dr. Loudermilk assigned him permanent restrictions based on that FCE. He testified that he resigned from his position with the SCDPS and accepted state retirement disability after being assigned permanent restrictions. He receives \$2,200 per month in state retirement disability benefits. While Dr. Loudermilk recommended he not return to work as a police officer due to his restrictions, Claimant admitted that he had some discussions with Dr. Loudermilk about the possibility of returning to a different type of job. Claimant testified he has searched around for other types of jobs. He also testified he called some of the employers listed on Defendants vocational report. However, he testified some of the numbers were disconnected and one of the employer's website indicated the position required a college degree. Claimant testified that he would love to return to work, but he was concerned about his physical condition.

Claimant confirmed the Defendants had authorized all recommended treatment to date. He also testified that he has talk to Dr. Loudermilk several times about the SCS and that Dr. Loudermilk has recommended a SCS because he does not like taking medications. While he admitted Dr. Loudermilk informed him that he was an ideal candidate for a SCS, Claimant testified he does not want to proceed with the SCS because he does not want anything implanted inside of him. He also testified that he did not want to consider a SCS trial because he was afraid of putting anything on his spine. While Claimant admitted that he has a psychological evaluation scheduled to determine if he is a candidate for SCS, he testified that he is debating on whether or not to cancel that evaluation.

Claimant admitted that if the pain in his right leg improved, he would be able to do more. Claimant testified that he lives on 3 acres of land with his wife and daughter. He testified that his wife works, so he is responsible for taking care of and watching his daughter throughout the day. Claimant also confirmed that the main source of heat in this house during the wintertime is a wood-burning stove and fireplace. He admitted that every weekend during the winters 2013 and 2014, he

used a chainsaw and a hydraulic wood splitter to cut firewood for his house. Claimant also admitted that he helped his mother-in-law move within the last year and a half. He testified that he drove the truck and moved a couple of bags of clothes. Claimant confirmed he is able to surf the Internet and that he has a little knowledge about some Microsoft programs. He admitted that he could learn how to do more on a computer if he had the opportunity.

During re-direct, Claimant testified that after cutting firewood, he is "down" and cannot get anything done the following three to four days. He also testified the cold weather causes increased pain in his back. With regard to his current medication, Claimant testified that he takes Tramadol "as needed" and uses a foot cream. He testified that he takes two or three Tramadol per week on average and that he had not taken any Tramadol on the day of the hearing.

Medical Records & Submissions:

On July 17, 2012, Claimant presented to P&S Chiropractic with complaints of low back pain radiating down his right leg after slipping while walking down stairs at work the previous day. Claimant received 4 chiropractic treatments between July 17, 2012 and July 23, 2012. (Defendants' APA #9). On July 28, 2012, Claimant presented to Greenville Memorial Hospital with complaints of increasing pain in his right leg and lower back. X-rays of his lumbar spine revealed "scoliosis and spondylosis without evidence to suggest acute abnormality." Claimant was diagnosed with sciatica, prescribed Lortab and Prednisone, and instructed to follow up with his family doctor for an MRI of his lower back. (Defendants' APA #10).

Claimant was seen by Dr. Rico Aragon at Oaktree Medical Centre on July 30, 2012. Dr. Aragon suspected nerve compression, ordered a lumbar spine MRI, and referred Claimant to Dr. Jay Patel at Pain Management Associates. (Claimant's APA #2). An MRI of Claimant's lumbar spine, dated August 1, 2012, showed a "[m]igrated fragment from the L5-S1 disc into the right S-1 lateral recess severely compressing the right S-1 transverse root." (Claimant's APA #5). On August 7, 2012, Dr. Patel examined Claimant and recommended a lumbar ESI, which was performed on August 9,

2012. Claimant returned to Dr. Patel on August 23, 2012 and reported increased pain since the injection, as well as numbness in his right leg. Dr. Patel recommended a neurosurgical consultation and noted Claimant would like to see Dr. Bucci. (Claimant's APA #3).

On September 11, 2012, Claimant presented to Dr. Michael N. Bucci for a neurosurgical consultation. Dr. Bucci noted Claimant's MRI was positive for a large free fragment disc herniation at L5-S1 with right S1 nerve root compression, and he recommended surgical intervention. On October 1, 2012, Claimant underwent a right L5-S1 laminectomy, facetectomy, foraminotomy, and discectomy. Following surgery, Claimant continued to treat with Dr. Bucci. On October 30, 2012, Dr. Bucci recommended physical therapy and prescribed Lyrica. Claimant returned to Dr. Bucci on December 6, 2012 and reported therapy helped his strength, but not the right leg discomfort. (Claimant's APA #4). Due to his ongoing complaints, Dr. Bucci recommended another lumbar spine MRI, which was performed on December 10, 2012. (*See Id.* & Claimant's APA #5).

On January 3, 2013, Dr. Bucci reviewed the updated MRI and noted it revealed postsurgical changes with some inflammation in the endplates of L5-S1, but no recurrent disc herniation or nerve compression. Dr. Bucci diagnosed Claimant with lumbar radiculopathy and residual nerve pain, and he recommended a pain management consultation. (Claimant's APA #4). Dr. Bucci also opined Claimant could return to light duty work with a 30 pound weight limit. (Defendants' APA #11).

Claimant was examined by Dr. Eric Loudermilk of Piedmont Comprehensive Pain Management Group on February 4, 2013. Claimant reported his back pain had been better since surgery, but that there was no improvement in his right leg pain. Dr. Loudermilk diagnosed him with persistent right lower extremity radiculopathy, and he ordered a S1 nerve root injection. Dr. Loudermilk also discussed medications with Claimant and noted Claimant "does not wish to be on any medications because he probably would not take the medication anyway." On February 14, 2013, Dr. Loudermilk performed a right S1 nerve root injection. Claimant returned to Dr.

Loudermilk on March 11, 2013 and reported no significant relief from the injection. Dr. Loudermilk believe Claimant had a permanent nerve injury and prescribed Gralise. He also provided Claimant with information on a SCS. On April 1, 2013, Claimant reported he could not tolerate Gralise due to nausea and side effects and that he did not want to take medications. It was noted Claimant was undergoing physical therapy, and he reported some improvement in his pain. Dr. Loudermilk recommended 4 more weeks of therapy followed by an FCE. (Claimant's APA #1).

On April 23, 2013, Claimant underwent an FCE at Doshier Physical Therapy Associates. The FCE revealed he was capable of assuming a position in the Medium strength category with a maximum lifting capacity of 50 pounds and a maximum carrying capacity of 25 pounds. However, he had limitations crawling on his hands and feet and with balancing activities that required crouching. (Claimant's APA #8).

Claimant returned to Dr. Loudermilk on May 6, 2013. Dr. Loudermilk noted Claimant appeared to be at MMI, and he prescribed Cymbalta. On May 20, 2013, Claimant returned to Dr. Loudermilk and reported he did not have any side effects with the Cymbalta, but that he could not tell any significant difference. Dr. Loudermilk increased the dosage of Cymbalta and referred Claimant to Dr. Carol Burnette in his practice for an impairment evaluation. He also reviewed the FCE report and opined that he would not be able to release Claimant back to full duty with no restrictions as a police officer given the results of his FCE. (Claimant's APA #1).

On July 2, 2013, Claimant presented to Dr. Burnette for an impairment evaluation. Dr. Burnette examined Claimant and opined that he had sustained 25% whole person impairment, which she converted to a 32% lumbar spine impairment rating. She also assigned permanent restrictions, based on his FCE, of no lifting greater than 50 pound occasionally, 25 pounds frequently, or 12 pounds constantly; no carrying greater than 25 pounds occasionally, 12 pounds frequently, or 5 pounds constantly; no pushing or pulling greater than 100 pounds; no crawling on his hands and feet; and no crouching on a narrow beam for up to 30 seconds. Finally, Dr. Burnette

opined Claimant may benefit from vocational retraining and counseling. Id.

On July 29, 2013, Dr. Loudermilk instructed Claimant to continue Cymbalta, and he prescribed Ultracet. On September 9, 2013, Claimant indicated he was taking the Ultracet as sparingly as possible, but that it was helping when he takes it. Dr. Loudermilk noted Claimant reported burning pain in his right foot, and he prescribed a neuropathic compound cream and instructed him to continue his other medications. On October 14, 2013, Claimant reported the Cymbalta was not helping, so Dr. Loudermilk prescribed Neurontin. Id.

On October 15, 2013, Claimant was referred by his attorney to Robert E. Brabham, Ph.D for a psychological and vocational evaluation. Following his evaluation, Dr. Brabham diagnosed Claimant with pain disorder, depressive disorder, and generalized anxiety disorder. Dr. Brabham noted Claimant had limitations with his back, right hip, right leg, and bilateral upper extremities that do not allow him to complete tasks or activities on a regular, sustained basis. It was his opinion that Claimant was unable to engage in his past work as a police officer, or in any other alternative work setting, as a result of the medical conditions resulting from his July 2012 work injury. (Claimant's APA #6).

On November 11, 2013, Claimant reported worsening pain with colder weather, and Dr. Loudermilk switched Neurotin to Gralise. Claimant returned on December 20, 2013 and reported that his medications were helping, but that he still had significant pain. On January 17, 2014, Dr. Loudermilk noted Claimant had not been taking Gralise at the appropriate time of day based on misinformation from his pharmacist, and he instructed him on the proper time to take it. Dr. Loudermilk also discussed the option of a SCS, but noted Claimant was reluctant to pursue it. On February 14, 2014, Dr. Loudermilk noted Claimant was stable on a combination of Ultracet, Gralise, and a neuropathic compound cream. He also noted Claimant was taking the medications correctly, was getting much better results, and was tolerating his medications without any side effects. On April 11, 2014, Claimant reported that he was pleased with his current medications and

was tolerating them without any side effects. Dr. Loudermilk refilled his medications. (Claimant's APA #1).

On June 4, 2014, Dr. Loudermilk noted Claimant "has had increased pain in his right leg over the past three to four weeks, but apparently he stopped taking Gralise because he does not like taking pills." He believed Claimant's increase in pain was a result of stopping Gralise. Dr. Loudermilk reassured Claimant that his current medications were not controlled substances and should not be very addictive. Dr. Loudermilk instructed him to restart Gralise. Claimant and his wife requested another MRI to make sure nothing had drastically changed, and Dr. Loudermilk ordered an MRI of his lumbar spine. He also informed Claimant that a SCS could allow him to eliminate the oral medications, and he provided Claimant with the names of two patients who have received a SCS in the past. Id.

An MRI of Claimant's lumbar spine, dated June 16, 2014, revealed mild degeneration at L3-4 with a moderate right paracentral disc protrusion and moderate degeneration at L4-5 with a mild posterior disc bulge. (Claimant's APA #5).

Claimant returned to Dr. Loudermilk on July 18, 2014 and complained of cramping in his right leg and foot. He also reported that he stopped taking Gralise due to side effects. Dr. Loudermilk reviewed the recent MRI and did not believe he was a surgical candidate. Since he was reluctant to consider a SCS and since he reported he could not tolerate most of the medications, Dr. Loudermilk opined the only option was to continue Ultracet and compound cream. On August 15, 2014, Claimant requested literature on a SCS, and Dr. Loudermilk also provided him with names of three patients his age that had received a SCS and were working full time. On September 12, 2014, Claimant returned and reported that he did not contact the patients. Dr. Loudermilk refilled his prescriptions. On November 3, 2014, Claimant reported he was having a lot of pain in his back and right leg. As a result, Dr. Loudermilk referred him back to Dr. Bucci. He also prescribed Topamax and encouraged Claimant to consider a trial SCS. (Claimant's APA #1).

Claimant underwent a two day FCE at New Day Physical Therapy on November 20 & 21, 2014. The FCE results indicated Claimant's capacities decreased between day one and day two. The therapist opined that based on the results of the two day FCE, Claimant was capable of working an eight hour day at a sedentary work level position. (Claimant's APA #7).

Claimant presented to Dr. Bucci on December 30, 2014 for a reevaluation. Dr. Bucci reviewed the June 2014 MRI and opined it showed widespread DDD without spinal stenosis or disc herniation. Dr. Bucci diagnosed him with lumbar DDD and radiculopathy, and he opined Claimant was not a surgical candidate. (Defendants' APA #11).

On January 2, 2015, Claimant returned to Dr. Loudermilk and reported he could not tolerate the Topamax. Due to his issues with medications, Dr. Loudermilk again recommended Claimant consider a SCS. (Claimant's APA #1).

In a letter to Claimant's attorney, dated March 8, 2015, Dr. Brabham noted he reviewed the results of the two day FCE, and he opined that Claimant remains unable to return to any gainful employment at any level of physical activity given his present combination of conditions, limitations, and restrictions. (Claimant's APA #6).

On April 20, 2015, Claimant informed Dr. Loudermilk that he wanted to proceed with a SCS trial. (Defendants' APA #12). On June 5, 2015, Dr. Loudermilk ordered a psychological evaluation to obtain clearance for the SCS trial. (Claimant's APA #14).

Defendants retained James R. Myers, MA, QRP, CCM, CRC, to perform a vocational evaluation on Claimant. Mr. Myers interviewed Claimant and reviewed his medical records. In his report, dated May 8, 2015, Mr. Myers noted he agreed with Dr. Loudermilk that Claimant could not perform his duties as a law enforcement officer. However, it was his opinion with vocational certainty that Claimant was employable and would have little difficulty qualifying for and transitioning into alternative employment options based on Claimant's assessment results, educational background, and previous vocational background. On May 11, 2015, Mr. Myers

completed a labor market survey listing several available jobs he believed Claimant could perform. (Defendants' APA #13).

Deposition of Dr. Carol W. Burnette:¹

Dr. Burnette confirmed she performed an impairment evaluation on Claimant on July 2, 2013. This was the only time she examined Claimant. She testified that her examination of Claimant revealed weakness and altered sensation in his right leg. Dr. Burnette confirmed that she assigned Claimant a 25% whole person impairment rating based on the Table 17-4 (Lumbar Spine Regional Grid) of the 6th Edition of the AMA Guides. She testified that she assigned her rating under Class 4 of the Motion Segment Lesion and Intervertebral Disc Herniation portion of Table 17-4. Dr. Burnette confirmed a Class 4 impairment was for patients with disc herniations at *multiple levels* with documented signs of bilateral or multiple radiculopathy at the clinically appropriate levels. Under Class 4, patients are assigned whole person impairment ratings between 25% and 33%. She also confirmed that a Class 2 impairment was for patients with a *single level* disc herniation with radiculopathy and would yield a whole person impairment rating between 10% and 14%.

Dr. Burnette reviewed Claimant's lumbar spine MRI report from August 1, 2012, as well as Dr. Bucci's initial report, and testified Claimant had a single level disc herniation at L5-S1. She confirmed Claimant did not herniate a disc at any other level; however, she testified that part of the disc had broken off and migrated down to the S1 level. Even though Claimant sustained a single level herniation at L5-S1, Dr. Burnette testified that his impairment rating should be based under Class 4 because it affected the S1-2 level. While Dr. Burnette maintained her opinion that Claimant sustained 25% whole person impairment based on Class 4 (multiple level disc herniations), she testified that if Class 2 (single level disc herniation) was used, Claimant's rating would be 14% whole person impairment.

¹ Dr. Burnette's deposition was taken on July 31, 2014. Dr. Burnette is board certified in physical medicine and rehabilitation.

Deposition of Dr. Eric Loudermilk:²

Dr. Loudermilk testified that he has been treating Claimant since February 2013 and that his treatment has consisted of nerve blocks, therapy, and numerous medications. He testified Claimant is reluctant to take medications, but that when he was taking the Gralise and Ultracet, which are both non-narcotic medications, as prescribed he was getting relief. He also testified that when Claimant went off of Gralise, his pain seemed to get worse. Due to Claimant's issues with medications, Dr. Loudermilk recommended a SCS. He testified he has had extensive conversations with Claimant about the option of a SCS. Dr. Loudermilk testified Claimant is "an ideal candidate" for a SCS because of his symptoms:

First of all, the nature of his pain. The majority of his pain is from the buttock down to the foot, which makes him an ideal candidate for spinal cord stimulation. People that have a lot of back pain don't always get the best results, but people that have leg pain get superior results. Secondly, his pain is 99 percent neuropathic, and spinal cord stimulation works great for nerve damage and nerve pain.

(Depo. pp. 12-13). He also testified Claimant is a reliable patient, which makes him a perfect candidate of a SCS. While Dr. Loudermilk believed it would be difficult for Claimant to do much in his current condition, he testified that based on his experience, a SCS would decrease Claimant's pain and allow him to do more activities. He also testified that while Claimant has trouble sitting due to the pain in his right leg, he would likely sit normal if the SCS is successful. Dr. Loudermilk testified he has had plenty of other patients that start out just like Claimant and then are able to sit normal after a SCS. He believes Claimant's condition could improve drastically with a SCS. Despite the chances for success, Claimant does not want to move forward with the SCS. I believe this is due to the fact that his first back surgery did not go very well

Deposition of James Myers (Defendants' Vocational Expert):³

Mr. Myers testified he is a vocational expert, certified case manager, certified rehabilitation

² Dr. Loudermilk's deposition was taken on May 27, 2015.

³ James Myers' deposition was taken on July 8, 2015.

counselor, and qualified rehabilitation professional. He testified he performs vocation evaluations for both insurance companies and plaintiff's attorneys. Mr. Myers confirmed that in the present case, he obtained information from Claimant, reviewed his medical records and FCEs, and looked at other occupational guidelines and resources. Mr. Myers testified that a person's past vocational experience gives him an idea of the person's transferable skills. He testified there is no way to an evaluator to determine exactly what job a person is capable of performing during a single day evaluation so other sources are used. Mr. Myers testified that after he performs his vocational interview, he uses the Occupational Network, a database published by the Department of Labor, to help determine what transferable skills a person has based on his prior employment and what jobs he should be able to do. He testified that after interviewing Claimant and using the Occupation Network, he believed Claimant's transferable occupations, given his restrictions, included collection clerk, fraud investigator, desk officer, customer service representative, surveillance system monitor, and security guard. Mr. Myers was questioned extensively by Claimant's attorney regarding his labor market survey. Mr. Myers admitted that he could not say with certainty that Claimant would qualify for the jobs listed in the survey, but he testified that the jobs in the survey were jobs he anticipated Claimant could perform based on his capabilities.

Mr. Myers testified Claimant's age was a positive factor in returning to the workforce. He also testified Claimant's work history was a positive factor and that he believes he has several transferable skills based on his prior jobs. Mr. Myers further testified that the jobs listed in his labor market survey were only a sample of the jobs he believed Claimant could perform at this time. He also testified that based on his interview of Claimant and the testing her performed, Claimant had the ability to learn additional skills. He testified that he would recommend Claimant attend vocational rehabilitation so he could receive training in other positions. Mr. Edwards testified that in his opinion, to a reasonable degree of vocational certainty, Claimant was capable of returning to the workforce in his current condition. He also testified that Claimant's pain was his most limiting factor and that if his

pain improved, there would be more jobs that he would be able to perform.

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.⁴

FINDINGS OF FACT

IT IS FOUND AS A FACT:

1. That Employee, Employer, and Carrier are subject to and bound by the terms and provisions of the South Carolina Workers' Compensation Act, as amended, with Matthew Edwards as Employee-Claimant and S.C. Department of Public Safety as Employer and State Accident Fund as Carrier, Defendants.

2. That Claimant's testimony was credible.

3. That Claimant is 35 years old, and he is a high school graduate. Claimant later graduated from the Criminal Justice Academy, and he also obtained his DataMaster certification and took a class to become a K-9 handler. This finding is based on Claimant's testimony.

4. That prior to working for SCDPS, Claimant worked as a deputy sheriff for the Pickens County Sheriff's Office for five years. This finding is based on Claimant's testimony.

5. That Claimant was hired by the SCDPS as a transport police officer in October 2007, and at the time of his work accident on July 16, 2012, his position was senior officer. His job duties required him to enforce State and Federal commercial trucking and vehicle laws, and he inspected vehicles, issued citations, prosecuted violators in Magistrate Courts, handled radio and phone calls, and completed paperwork. This finding is based on Claimant's testimony.

6. That Claimant sustained an admitted injury to his lower back arising out of and in the course of his employment with SCPDS on July 16, 2012, when he slipped while walking down a

⁴ The undersigned's Order Directives were sent to the parties via e-mail on July 23, 2015.

flight of stairs.

7. That Claimant's average weekly wage at the time of the above-described accident was \$724.88, yielding a corresponding compensation rate of \$483.27.

8. That prior to seeking medical treatment through Defendants, Claimant initially treated on his own at PS Chiropractic and Greenville Memorial Hospital. This finding is based on Claimant's testimony. (*See also* Defendants' APAs #9 & #10).

9. That the post-accident lumbar spine MRI, dated August 1, 2012, revealed a single level disc herniation at L4-5 with a "[m]igrated fragment from the L5-S1 disc into the right S-1 lateral recess severely compressing the right S-1 transverse root." (*See* Claimant's APA #5, p. 54). This finding is also supported by the deposition testimony of Dr. Loudermilk and Dr. Burnette.

10. That Defendants ultimately referred Claimant to Dr. Michael Bucci, who diagnosed Claimant with a large free fragment disc herniation at L5-S1 with right S1 nerve root compression and recommended surgical intervention. (*See* Claimant's APA #4, pp. 42-44).

11. That Dr. Bucci performed a right L5-S1 laminectomy, facetectomy, foraminotomy, and discectomy on October 1, 2012. (*See* Claimant's APA #4, pp. 46-47).

12. That Claimant's back pain improved after surgery; however, he has continued to have pain and problems with his right leg since surgery. This finding is based on Claimant's testimony.

13. That Claimant sustained permanent nerve damage as a result of his work related herniated disc at L5-S1. This finding is based on the medical records as a whole and the deposition testimony of Dr. Loudermilk.

14. That Claimant was referred to Dr. Loudermilk for pain management treatment, and Dr. Loudermilk has been providing Claimant with pain management treatment since February 2013. Dr. Loudermilk's treatment has consisted of nerve blocks, therapy, and numerous medications. This

finding is supported by Claimant's testimony and the medical records and deposition testimony of Dr. Loudermilk.

15. That Dr. Bucci released Claimant to return to light duty work on January 7, 2013 with a weight limit of 30 pounds. (See Defendants' APA #11, pp. 118-119).

16. That the SCDPS provided Claimant with a light duty position within his restrictions, and Claimant returned to work on January 14, 2013. This finding is based on Claimant's testimony and the signed Form 17.

17. That while on light duty, Claimant worked in the SCDPS's District Office in Greenville as an assistant to his supervisor. His light duty position was a desk job, and it consisted of doing paperwork, reading inspections, watching videos, and filing tickets. This finding is supported by Claimant's testimony.

18. That Claimant underwent an FCE at Doshier Physical Therapy Associates on April 23, 2013. The FCE revealed he was capable of working a position in the Medium strength category with a maximum lifting capacity of 50 pounds and a maximum carrying capacity of 25 pounds. The FCE also showed he had limitations crawling on his hands and feet and with balancing activities that required crouching. (See Claimant's APA #8).

19. That Dr. Burnette performed an impairment evaluation on Claimant on July 2, 2013. Dr. Burnette opined Claimant had sustained 25% whole person impairment, which she converted to 32% impairment of lumbar spine, as a result of his July 16, 2012 work accident. Dr. Burnette's rating to the whole person took into consideration the ongoing problems Claimant has with his right leg. This finding is based on Dr. Burnette's report and deposition testimony.

20. That at her deposition on July 31, 2014, Dr. Burnette testified she assigned her impairment rating based on "Class 4" under the Motion Segment Lesion and Intervertebral Disc Herniation impairment of Table 17-4 (Lumbar Spine Regional Grid) of the 6th Edition of the AMA Guides. While Claimant sustained a *single level* disc herniation and while "Class 4" is used for

patients with disc herniations at *multiple levels*, Dr. Burnette testified she assigned Claimant's impairment rating under Class 4 because a portion of his herniated disc had broken off, migrated down, and affected the S1-2 level. This finding is based on Dr. Burnette's deposition testimony. (*See also Defendants' Exhibit A*).

21. That even though she maintained her opinion regarding Claimant's rating at her deposition, Dr. Burnette confirmed that a "Class 2" impairment was for patients with a *single level* disc herniation with radiculopathy. She testified that if Class 2 (single level disc herniation) was used, Claimant's rating would be 14% whole person impairment. This finding is based on Dr. Burnette's deposition testimony. (*See also Defendants' Exhibit A*).

22. That Dr. Burnette's rating from July 2, 2013, two years prior to the hearing before the undersigned, is the only impairment rating in the record. This finding is based on the evidence in the record as a whole.

23. That Dr. Loudermilk assigned Claimant permanent restrictions, based on his FCE, of no lifting greater than 50 pound occasionally, 25 pounds frequently, or 12 pounds constantly; no carrying greater than 25 pounds occasionally, 12 pounds frequently, or 5 pounds constantly; no pushing or pulling greater than 100 pounds; no crawling on his hands and feet; and no crouching on a narrow beam for up to 30 seconds. This finding is based on the medical records of Dr. Loudermilk. (*See Claimant's APA #1, p. 14*).

24. That Claimant was unable to return to his regular job as a law enforcement officer due to the restrictions in his FCE. This finding is based on the medical records as a whole and the deposition testimony of Dr. Loudermilk.

25. That Claimant worked light duty with the SCDPS until June 30, 2013, when he resigned from his position and accepted state disability retirement. Claimant receives \$2,200 per month in state disability retirement benefits. This finding is based on Claimant's testimony.

26. That Claimant does not like taking medications. He does not like the way medications make him feel. Claimant is also afraid of becoming addicted to pain medications and will only take the prescribed medications on a limited basis. This finding is based on Claimant's testimony.

27. That Claimant was getting some relief and improvement from his right leg pain when taking the medications -- specifically the combination of non-narcotic Gralise, Ultracet, and pain cream -- as prescribed by Dr. Loudermilk. This finding is supported by Dr. Loudermilk's medical records and deposition testimony.

28. That on October 15, 2013, Robert E. Brabham, Ph.D performed a psychological and vocational evaluation on Claimant at the request of his attorney. Dr. Brabham diagnosed Claimant with pain disorder, depressive disorder, and generalized anxiety disorder, and he opined that Claimant was unable to engage in his past work as a police officer, or in any other alternative work setting, as a result of the medical conditions resulting from his July 2012 work injury. (See Claimant's APA #6).

29. That Claimant underwent a 2 day FCE at New Day Physical Therapy on November 20 & 21, 2014. The FCE results indicated Claimant's capacities decreased between day one and day two, but the therapist opined Claimant was capable of working an eight hour day at a sedentary work level position. (See Claimant's APA #7).

30. That James R. Myers, MA, QRP, CCM, CRC (Defendants' expert) performed a vocational evaluation on Claimant, and on May 8, 2015, Mr. Myers opined, with vocational certainty, that Claimant was employable and would have little difficulty qualifying for and transitioning into alternative employment options based on his assessment results, educational background, and previous vocational background. (See Defendants' APA #13). At his deposition on July 8, 2015, Mr. Myers testified that in his opinion, to a reasonable degree of vocational certainty, Claimant was capable of returning to the workforce in his current condition. (Depo. p. 57).

31. That James Myers also completed a labor market survey listing some of the available jobs he believed Claimant could perform. These positions included surveillance monitor, collection clerk, customer service representative, and fraud investigator. (*See Defendants' APA #13*). Mr. Myers testified the jobs listed on his labor market survey were just a sample of the available jobs. (Depo. p. 53).

32. That Claimant testified he called some of the employers listed on the labor market survey and that some of the jobs did not exist and that some of the employers were not hiring when he called.

33. That Claimant's current medications include Ultracet and a neuropathic pain cream, but he takes the Ultracet very sparingly. He had only taken 2 or 3 Ultracet in the week before the hearing. This finding is supported by Claimant's testimony and the medical records and deposition testimony of Dr. Loudermilk.

34. That because Claimant does not like taking oral medications, Dr. Loudermilk has recommended a spinal cord stimulator ("SCS"). This finding is supported by the medical records and deposition testimony of Dr. Loudermilk.

35. That Claimant is "an ideal candidate" for a SCS because of the nature of his pain of his pain/symptoms and because he is a reliable patient. This finding is based on the deposition testimony of Dr. Loudermilk.

36. That a SCS would likely improve his condition. This finding is based on the deposition testimony of Dr. Loudermilk.

37. That Claimant wanted to proceed with a SCS stimulator trial in April 2015. This finding is supported by the medical records and deposition testimony of Dr. Loudermilk. (*See Defendants' APA #12*, p. 124 & Depo. p. 22).

38. That while he admitted Dr. Loudermilk informed him that he was an ideal candidate for a SCS, Claimant testified at the hearing he does not want to proceed with the SCS. Claimant

testified that he does not want anything implanted inside of him, that a friend of his had a bad experience with a SCS, and that he is scared to have the SCS because he is uncomfortable around doctors now and because he had an allergic reaction to an injection at Greenville Memorial Hospital shortly after his accident. This finding is based on Claimant's testimony.

39. That even though he testified he does not want to pursue a SCS, Claimant is scheduled for a psychological evaluation to obtain clearance for a SCS trial. Claimant testified he was debating on whether to cancel the scheduled psychological evaluation. This finding is based on Claimant's testimony.

40. That Claimant's current daily activities include taking care of and watching his three year-old daughter throughout the day. He also tries to keep up with chores around the house, including laundry and dish washing. This finding is based on Claimant's testimony.

41. That during the winters since being placed at MMI by Dr. Loudermilk, Claimant has used a chainsaw and a hydraulic wood splitter to cut firewood for his house. Claimant also helped his mother-in-law move out of her house within the last year and a half. Claimant testified that he drove the truck and moved a couple of bags of clothes. This finding is based on Claimant's testimony.

42. That Claimant has used computers on the job in the past. He is able to surf the Internet, and he has some knowledge about using Microsoft programs. Claimant admitted he could learn how to do more on a computer if he had the opportunity. This finding is based on Claimant's testimony.

43. That Defendants have provided Claimant with appropriate medical treatment. This finding is supported by the evidence in the record as a whole.

44. That Claimant reached maximum medical improvement on May 6, 2013 for the injuries resulting from his July 16, 2012 work accident. This finding is based on the parties' stipulation.

45. That based on the greater weight of the evidence in the record, including the deposition testimony of Dr. Loudermilk, Claimant has significant disability which could be lessened with a spinal cord stimulator.

46. That based on the greater weight of the evidence in the record, Claimant has failed to meet his burden of proof that he is permanently and totally disabled as a result of his July 16, 2012 work accident. This finding is supported by the evidence in the record as a whole, including but not limited to the medical records, Dr. Loudermilk's deposition testimony, the FCEs, and the vocational report and deposition testimony of James Myers.

47. That Claimant has sustained 45% permanent partial disability to his back as a result of the accidental injury on July 16, 2012. This finding is based on the evidence in the record as a whole, including but not limited to the medical records, Claimant's testimony, Dr. Loudermilk's deposition testimony, the FCEs, and the vocational report and deposition testimony of James Myers.

48. That Claimant is not entitled to a lump sum payment of benefits. Claimant's condition may improve in the future, especially if he pursues the recommended SCS; therefore, because there is a greater than usual chance of a change of condition for the better, I find it would be prejudicial to Defendants to grant Claimant's request for a lump sum.

49. That although Claimant cannot be forced to undergo the SCS, his decision to refuse the recommended SCS, which Defendants have agreed to authorize, should be considered when determining disability. I find that it would be improper to award permanent and total disability benefits in the present case given Dr. Loudermik's testimony that Claimant is "an ideal candidate" for a SCS and the fact that a SCS would likely improve his condition and lessen his disability.

50. That Defendants are responsible for, and Claimant is entitled to, ongoing pain management treatment per Dr. Loudermilk. This finding is based on the evidence in the record as a whole.

51. That with regard to the recommended SCS, I would close the medical on the SCS

issue if Claimant does not want the SCS following psyche evaluation.

CONCLUSIONS OF LAW

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

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

2. Under § 42-1-160, Claimant did sustain an injury to his back by accident arising out of and in the course and scope of his employment on July 16, 2012.

3. Under § 42-9-30, Claimant has sustained 45% permanent partial disability to the back as a result of his July 16, 2012 work injury.

4. Under § 42-9-301, Defendants are not ordered to make payment in lump sum since ordering payment in lump sum would be prejudicial to Defendants as Claimant's condition may improve.

5. Under § 42-15-60, Defendants are responsible for all causally related medical treatment authorized by them, through July 14, 2015, the date of the hearing.

6. Under § 42-15-60, Defendants are also responsible for future, causally related pain management treatment, per Dr. Loudermilk, the authorized treating physician.

ORDER/AWARD

IT IS HEREBY ORDERED that as a result of Claimant's accidental injury occurring on July 16, 2012, Claimant has sustained 45% permanent partial disability to the back, for which he is entitled to 135 weeks of compensation, at the compensation rate of \$483.27 per week.

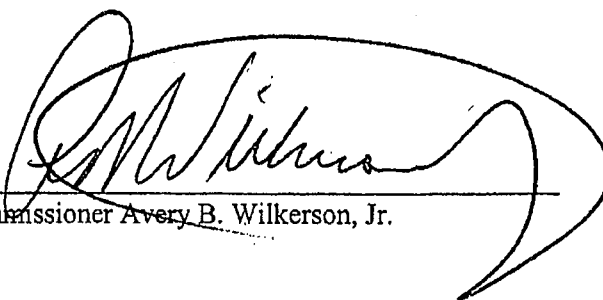
IT IS FURTHER ORDERED that Defendants are responsible for all authorized, causally related medical treatment through July 14, 2015, the date of the hearing. Defendants are also responsible for future pain management treatment, per Dr. Loudermilk, the authorized treating physician, as long as the need for such treatment is causally related to the July 16, 2012 work accident

and tends to lessen the period of disability.

No hearing costs are assessed in this instance.

IT IS SO ORDERED.

**SOUTH CAROLINA WORKERS'
COMPENSATION COMMISSION**



Commissioner Avery B. Wilkerson, Jr.

CERTIFICATE OF SERVICE

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

November 9, 2015

By: Elaine Boyd, Administrative Assistant to Commissioner Wilkerson

**APPELLATE PANEL
DECISION AND ORDER
OF THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC FILE NO. 1209393**

MATTHEW EDWARDS,

EMPLOYEE.
APPELLANT/CLAIMANT.

-VS-

S.C. DEPARTMENT OF PUBLIC SAFETY,

EMPLOYER,

AND

STATE ACCIDENT FUND,

CARRIER,
DEFENDANTS/RESPONDENTS

Appellate Panel Review held in Columbia, South Carolina, on
February 22, 2016 per notices timely and properly served
upon all parties of interest.

Appellate Panel Decision and Order filed May 20, 2016.

APPEARANCES:

Appellant/Claimant represented by J. Kirkman Moorhead, Esquire of
Krause Moorhead & Draisen, P.A., Anderson, South Carolina.

Defendants/Respondents represented by Zachary M. Smith, Esquire
of Willson Jones Carter & Baxley, P.A., Greenville, South Carolina.

STATEMENT OF THE CASE

The parties were heard by Commissioner Avery B. Wilkerson, Jr., on July 14, 2015, in Columbia, South Carolina. On November 9, 2015, Commissioner Wilkerson issued the following Order:

IT IS HEREBY ORDERED that as a result of Claimant's accidental injury occurring on July 16, 2012, Claimant has sustained 45% permanent partial disability to the back, for which he is entitled to 135 weeks of compensation, at the compensation rate of \$483.27 per week.

IT IS FURTHER ORDERED that Defendants are responsible for all authorized, causally related medical treatment through July 14, 2015, the date of the hearing. Defendants are also responsible for future pain management treatment, per Dr. Loudermilk, the authorized treating physician, as long as the need for such treatment is causally related to the July 16, 2012 work accident and tends to lessen the period of disability.

No hearing costs are assessed in this instance.

IT IS SO ORDERED.

In his Decision and Order, dated November 9, 2015, Commissioner Wilkerson made the following specific Findings of Fact and Conclusions of Law:

Findings of Fact

IT IS FOUND AS A FACT:

1. That Employee, Employer, and Carrier are subject to and bound by the terms and provisions of the South Carolina Workers' Compensation Act, as amended, with Matthew Edwards as Employee-Claimant and S.C. Department of Public Safety as Employer and State Accident Fund as Carrier, Defendants.
2. That Claimant's testimony was credible.
3. That Claimant is 35 years old, and he is a high school graduate. Claimant later graduated from the Criminal Justice Academy, and he also obtained his Data Master certification and took a class to become a K-9 handler. This finding is based on Claimant's testimony.
4. That prior to working for SCDPS, Claimant worked as a deputy sheriff for the Pickens County Sheriff's Office for five years. This finding is based on Claimant's testimony.
5. That Claimant was hired by the SCDPS as a transport police officer in October 2007, and at the time of his work accident on July 16, 2012, his position was senior officer. His job duties required him to enforce State and Federal commercial trucking and vehicle laws, and he inspected vehicles, issued citations, prosecuted violators in Magistrate Courts, handled radio and phone

- calls, and completed paperwork. This finding is based on Claimant's testimony.
6. That Claimant sustained an admitted injury to his lower back arising out of and in the course of his employment with SCPDS on July 16, 2012, when he slipped while walking down a flight of stairs.
 7. That Claimant's average weekly wage at the time of the above-described accident was \$724.88, yielding a corresponding compensation rate of \$483.27.
 8. That prior to seeking medical treatment through Defendants, Claimant initially treated on his own at PS Chiropractic and Greenville Memorial Hospital. This finding is based on Claimant's testimony. (*See also* Defendants' APAs #9 & #10).
 9. That the post-accident lumbar spine MRI, dated August 1, 2012, revealed a single level disc herniation at L4-5 with a "[m]igrated fragment from the L5-S1 disc into the right S-1 lateral recess severely compressing the right S-1 transverse root." (*See* Claimant's APA #5, p. 54). This finding is also supported by the deposition testimony of Dr. Loudermilk and Dr. Burnette.
 10. That Defendants ultimately referred Claimant to Dr. Michael Bucci, who diagnosed Claimant with a large free fragment disc herniation at L5-S1 with right S1 nerve root compression and recommended surgical intervention. (*See* Claimant's APA #4, pp. 42-44).
 11. That Dr. Bucci performed a right L5-S1 laminectomy, facetectomy, foraminotomy, and discectomy on October 1, 2012. (*See* Claimant's APA #4, pp. 46-47).
 12. That Claimant's back pain improved after surgery; however, he has continued to have pain and problems with his right leg since surgery. This finding is based on Claimant's testimony.
 13. That Claimant sustained permanent nerve damage as a result of his work related herniated disc at L5-S1. This finding is based on the medical records as a whole and the deposition testimony of Dr. Loudermilk.
 14. That Claimant was referred to Dr. Loudermilk for pain management treatment, and Dr. Loudermilk has been providing Claimant with pain management treatment since February 2013. Dr. Loudermilk's treatment has consisted of nerve blocks, therapy, and numerous medications. This finding is supported by Claimant's testimony and the medical records and deposition testimony of Dr. Loudermilk.
 15. That Dr. Bucci released Claimant to return to light duty work on January 7, 2013 with a weight limit of 30 pounds. (*See* Defendants' APA #11, pp. 118-119).
 16. That the SCDPS provided Claimant with a light duty position within his restrictions, and Claimant returned to work on January 14, 2013. This finding is based on Claimant's testimony and the signed Form 17.
 17. That while on light duty, Claimant worked in the SCDPS's District Office in Greenville as an assistant to his supervisor. His light duty position was a desk job, and it consisted of doing paperwork, reading inspections, watching videos, and filing tickets. This finding is supported by Claimant's testimony.

18. That Claimant underwent an FCE at Doshier Physical Therapy Associates on April 23, 2013. The FCE revealed he was capable of working a position in the Medium strength category with a maximum lifting capacity of 50 pounds and a maximum carrying capacity of 25 pounds. The FCE also showed he had limitations crawling on his hands and feet and with balancing activities that required crouching. (See Claimant's APA #8).
19. That Dr. Burnette performed an impairment evaluation on Claimant on July 2, 2013. Dr. Burnette opined Claimant had sustained 25% whole person impairment, which she converted to 32% impairment of lumbar spine, as a result of his July 16, 2012 work accident. Dr. Burnette's rating to the whole person took into consideration the ongoing problems Claimant has with his right leg. This finding is based on Dr. Burnette's report and deposition testimony.
20. That at her deposition on July 31, 2014, Dr. Burnette testified she assigned her impairment rating based on "Class 4" under the Motion Segment Lesion and Intervertebral Disc Herniation impairment of Table 17-4 (Lumbar Spine Regional Grid) of the 6th Edition of the AMA Guides. While Claimant sustained a *single level* disc herniation and while "Class 4" is used for patients with disc herniations at *multiple levels*, Dr. Burnette testified she assigned Claimant's impairment rating under Class 4 because a portion of his herniated disc had broken off, migrated down, and affected the S1-2 level. This finding is based on Dr. Burnette's deposition testimony. (See also Defendants' Exhibit A).
21. That even though she maintained her opinion regarding Claimant's rating at her deposition, Dr. Burnette confirmed that a "Class 2" impairment was for patients with a *single level* disc herniation with radiculopathy. She testified that if Class 2 (single level disc herniation) was used, Claimant's rating would be 14% whole person impairment. This finding is based on Dr. Burnette's deposition testimony. (See also Defendants' Exhibit A).
22. That Dr. Burnette's rating from July 2, 2013, two years prior to the hearing before the undersigned, is the only impairment rating in the record. This finding is based on the evidence in the record as a whole.
23. That Dr. Loudermilk assigned Claimant permanent restrictions, based on his FCE, of no lifting greater than 50 pound occasionally, 25 pounds frequently, or 12 pounds constantly; no carrying greater than 25 pounds occasionally, 12 pounds frequently, or 5 pounds constantly; no pushing or pulling greater than 100 pounds; no crawling on his hands and feet; and no crouching on a narrow beam for up to 30 seconds. This finding is based on the medical records of Dr. Loudermilk. (See Claimant's APA #1, p. 14).
24. That Claimant was unable to return to his regular job as a law enforcement officer due to the restrictions in his FCE. This finding is based on the medical records as a whole and the deposition testimony of Dr. Loudermilk.
25. That Claimant worked light duty with the SCDPS until June 30, 2013, when he resigned from his position and accepted state disability retirement. Claimant receives \$2,200 per month in state disability retirement benefits. This finding is based on Claimant's testimony.

26. That Claimant does not like taking medications. He does not like the way medications make him feel. Claimant is also afraid of becoming addicted to pain medications and will only take the prescribed medications on a limited basis. This finding is based on Claimant's testimony.
27. That Claimant was getting some relief and improvement from his right leg pain when taking the medications – specifically the combination of non-narcotic Gralise, Ultracet, and pain cream – as prescribed by Dr. Loudermilk. This finding is supported by Dr. Loudermilk's medical records and deposition testimony.
28. That on October 15, 2013, Robert E. Brabham, Ph.D performed a psychological and vocational evaluation on Claimant at the request of his attorney. Dr. Brabham diagnosed Claimant with pain disorder, depressive disorder, and generalized anxiety disorder, and he opined that Claimant was unable to engage in his past work as a police officer, or in any other alternative work setting, as a result of the medical conditions resulting from his July 2012 work injury. (See Claimant's APA #6).
29. That Claimant underwent a 2 day FCE at New Day Physical Therapy on November 20 & 21, 2014. The FCE results indicated Claimant's capacities decreased between day one and day two, but the therapist opined Claimant was capable of working an eight hour day at a sedentary work level position. (See Claimant's APA #7).
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31. That James Myers also completed a labor market survey listing some of the available jobs he believed Claimant could perform. These positions included surveillance monitor, collection clerk, customer service representative, and fraud investigator. (See Defendants' APA #13). Mr. Myers testified the jobs listed on his labor market survey were just a sample of the available jobs. (Depo. p. 53).
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34. That because Claimant does not like taking oral medications, Dr. Loudermilk has recommended a spinal cord stimulator ("SCS"). This finding is supported by the medical records and deposition testimony of Dr. Loudermilk.
35. That Claimant is "an ideal candidate" for a SCS because of the nature of his pain of his pain/symptoms and because he is a reliable patient. This finding is based on the deposition testimony of Dr. Loudermilk.
36. That a SCS would likely improve his condition. This finding is based on the deposition testimony of Dr. Loudermilk.
37. That Claimant wanted to proceed with a SCS stimulator trial in April 2015. This finding is supported by the medical records and deposition testimony of Dr. Loudermilk. (See Defendants' APA #12, p. 124 & Depo. p. 22).
38. That while he admitted Dr. Loudermilk informed him that he was an ideal candidate for a SCS, Claimant testified at the hearing he does not want to proceed with the SCS. Claimant testified that he does not want anything implanted inside of him, that a friend of his had a bad experience with a SCS, and that he is scared to have the SCS because he is uncomfortable around doctors now and because he had an allergic reaction to an injection at Greenville Memorial Hospital shortly after his accident. This finding is based on Claimant's testimony.
39. That even though he testified he does not want to pursue a SCS, Claimant is scheduled for a psychological evaluation to obtain clearance for a SCS trial. Claimant testified he was debating on whether to cancel the scheduled psychological evaluation. This finding is based on Claimant's testimony.
40. That Claimant's current daily activities include taking care of and watching his three year-old daughter throughout the day. He also tries to keep up with chores around the house, including laundry and dish washing. This finding is based on Claimant's testimony.
41. That during the winters since being placed at MMI by Dr. Loudermilk, Claimant has used a chainsaw and a hydraulic wood splitter to cut firewood for his house. Claimant also helped his mother-in-law move out of her house within the last year and a half. Claimant testified that he drove the truck and moved a couple of bags of clothes. This finding is based on Claimant's testimony.
42. That Claimant has used computers on the job in the past. He is able to surf the Internet, and he has some knowledge about using Microsoft programs. Claimant admitted he could learn how to do more on a computer if he had the opportunity. This finding is based on Claimant's testimony.
43. That Defendants have provided Claimant with appropriate medical treatment. This finding is supported by the evidence in the record as a whole.
44. That Claimant reached maximum medical improvement on May 6, 2013 for the injuries resulting from his July 16, 2012 work accident. This finding is based on the parties' stipulation.
45. That based on the greater weight of the evidence in the record, including the deposition testimony of Dr. Loudermilk, Claimant has significant disability which could be lessened with a spinal cord stimulator.

46. That based on the greater weight of the evidence in the record, Claimant has failed to meet his burden of proof that he is permanently and totally disabled as a result of his July 16, 2012 work accident. This finding is supported by the evidence in the record as a whole, including but not limited to the medical records, Dr. Loudermilk's deposition testimony, the FCEs, and the vocational report and deposition testimony of James Myers.
47. That Claimant has sustained 45% permanent partial disability to his back as a result of the accidental injury on July 16, 2012. This finding is based on the evidence in the record as a whole, including but not limited to the medical records, Claimant's testimony, Dr. Loudermilk's deposition testimony, the FCEs, and the vocational report and deposition testimony of James Myers.
48. That Claimant is not entitled to a lump sum payment of benefits. Claimant's condition may improve in the future, especially if he pursues the recommended SCS; therefore, because there is a greater than usual chance of a change of condition for the better, I find it would be prejudicial to Defendants to grant Claimant's request for a lump sum.
49. That although Claimant cannot be forced to undergo the SCS, his decision to refuse the recommended SCS, which Defendants have agreed to authorize, should be considered when determining disability. I find that it would be improper to award permanent and total disability benefits in the present case given Dr. Loudermilk's testimony that Claimant is "an ideal candidate" for a SCS and the fact that a SCS would likely improve his condition and lessen his disability.
50. That Defendants are responsible for, and Claimant is entitled to, ongoing pain management treatment per Dr. Loudermilk. This finding is based on the evidence in the record as a whole.
51. That with regard to the recommended SCS, I would close the medical on the SCS issue if Claimant does not want the SCS following psyche evaluation.

Conclusions of Law

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

1. Under § 42-1-130, Claimant was a covered employee at the time in question; and under § 42-1-140, Defendant/Employer was a covered employer under the Act.
2. Under § 42-1-160, Claimant did sustain an injury to his back by accident arising out of and in the course and scope of his employment on July 16, 2012.
3. Under § 42-9-30, Claimant has sustained 45% permanent partial disability to the back as a result of his July 16, 2012 work injury.
4. Under § 42-9-301, Defendants are not ordered to make payment in lump sum since ordering payment in lump sum would be prejudicial to Defendants as Claimant's condition may improve.
5. Under § 42-15-60, Defendants are responsible for all causally related medical treatment authorized by them, through July 14, 2015, the date of the hearing.

6. Under § 42-15-60, Defendants are also responsible for future, causally related pain management treatment, per Dr. Loudermilk, the authorized treating physician.

On November 23, 2015, within the statutory period, counsel for Claimant filed an application for review in the case setting forth his grounds for review, copies of which were furnished to all interested parties prior to oral argument presented to the Appellate Panel on February 22, 2016. By appeal, counsel for Claimant submitted the following grounds for review:

1. The Hearing Commissioner erred in his Finding of Fact No. 45. Error was committed in that the Hearing Commissioner found that the spinal cord stimulator "could" lessen the Claimant's disability instead of would most probably lessen the Claimant's disability.
2. The Hearing Commissioner erred in his Finding of Fact No. 46. Error was committed in that the greater weight or preponderance of the evidence shows that the Claimant is totally and permanently disabled.
3. The Hearing Commissioner erred in his Finding of Fact No. 47. Error was committed in that the greater weight or preponderance of the evidence shows that the Claimant is totally and permanently disabled.
4. The Hearing Commissioner erred in his Finding of Fact No. 48. Error was committed in denying the Claimant a lump sum payment of his award based on the fact that his condition could improve.
5. The Hearing Commissioner erred in his Order. Error was committed in that the Commissioner failed to award a lump sum payment with a Utica-Mohawk provision.
6. The Hearing Commissioner erred in his Finding of Fact No. 49. Error was committed in denying the Claimant total and permanent disability because he did not want the spinal stimulator.
7. The Hearing Commissioner erred in his Finding of Fact No. 50. Error was committed in that the Commissioner limited the Claimant's future medical care to pain management.
8. The Hearing Commissioner erred in his Finding of Fact No. 51. Error was committed in that the Commissioner arbitrarily denied the Claimant's future accessibility to the spinal cord stimulator.
9. The Hearing Commissioner erred in his Conclusion of Law No. 4. Error was committed in that the Claimant should have been awarded a lump sum payment of his award.
10. The Hearing Commissioner erred in his Order. Error was committed in that the greater weight or preponderance of the evidence shows that the Claimant should have been found to be totally and permanently disabled.

In an appellate review, the Appellate Panel shall, pursuant to S.C. Code Ann. Section 42-17-50 (1985), review the Award, weigh the evidence as presented at the initial hearing, and, if good grounds be shown therefore, make its own Findings of Fact and reach its own Conclusions of Law consistent with or inconsistent with those of the Single Commissioner.

All proffered testimony has been taken. Such, together with all documentary evidence, has been delivered by oral argument to the individual members of the Appellate Panel and has since been under study and consideration. After careful review in the instant case, the Appellate Panel, by unanimous vote, has determined that all of the Single Commissioner's Findings of Fact and Conclusions of Law are correct as stated. As such, the Appellate Panel of the South Carolina Workers' Compensation Commission, by unanimous vote, fully affirms the Single Commissioner's Order, and issues the following Findings of Fact and Conclusions of Law, which shall become, and hereby are, the law of the case.

FINDINGS OF FACT

Based upon the documentary evidence submitted by the respective parties, pursuant to the Administrative Procedures Act, and the Commission's file relative to this claim, WE, THE APPELLATE PANEL, FIND THE FOLLOWING AS FACT:

1. That Employee, Employer, and Carrier are subject to and bound by the terms and provisions of the South Carolina Workers' Compensation Act, as amended, with Matthew Edwards as Employee-Claimant and S.C. Department of Public Safety as Employer and State Accident Fund as Carrier, Defendants.

2. That Claimant's testimony was credible.

3. That Claimant is 35 years old, and he is a high school graduate. Claimant later graduated from the Criminal Justice Academy, and he also obtained his Data Master certification and took a class to become a K-9 handler. This finding is based on Claimant's testimony.

4. That prior to working for SCDPS, Claimant worked as a deputy sheriff for the Pickens County Sheriff's Office for five years. This finding is based on Claimant's testimony.

5. That Claimant was hired by the SCDPS as a transport police officer in October 2007, and at the time of his work accident on July 16, 2012, his position was senior officer. His job duties required him to enforce State and Federal commercial trucking and vehicle laws, and he inspected vehicles, issued citations, prosecuted violators in Magistrate Courts, handled radio and phone calls, and completed paperwork. This finding is based on Claimant's testimony.

6. That Claimant sustained an admitted injury to his lower back arising out of and in the course of his employment with SCPDS on July 16, 2012, when he slipped while walking down a flight of stairs.

7. That Claimant's average weekly wage at the time of the above-described accident was \$724.88, yielding a corresponding compensation rate of \$483.27.

8. That prior to seeking medical treatment through Defendants, Claimant initially treated on his own at PS Chiropractic and Greenville Memorial Hospital. This finding is based on Claimant's testimony. (*See also* Defendants' APAs #9 & #10).

9. That the post-accident lumbar spine MRI, dated August 1, 2012, revealed a single level disc herniation at L4-5 with a "[m]igrated fragment from the L5-S1 disc into the right S-1 lateral recess severely compressing the right S-1 transverse root." (*See* Claimant's APA #5, p. 54). This finding is also supported by the deposition testimony of Dr. Loudermilk and Dr. Burnette.

10. That Defendants ultimately referred Claimant to Dr. Michael Bucci, who diagnosed Claimant with a large free fragment disc herniation at L5-S1 with right S1 nerve root compression and recommended surgical intervention. (*See* Claimant's APA #4, pp. 42-44).

11. That Dr. Bucci performed a right L5-S1 laminectomy, facetectomy, foraminotomy, and discectomy on October 1, 2012. (*See* Claimant's APA #4, pp. 46-47).

12. That Claimant's back pain improved after surgery; however, he has continued to have pain and problems with his right leg since surgery. This finding is based on Claimant's testimony.

13. That Claimant sustained permanent nerve damage as a result of his work related herniated disc at L5-S1. This finding is based on the medical records as a whole and the deposition testimony of Dr. Loudermilk.

14. That Claimant was referred to Dr. Loudermilk for pain management treatment, and Dr. Loudermilk has been providing Claimant with pain management treatment since February 2013. Dr. Loudermilk's treatment has consisted of nerve blocks, therapy, and numerous medications. This finding is supported by Claimant's testimony and the medical records and deposition testimony of Dr. Loudermilk.

15. That Dr. Bucci released Claimant to return to light duty work on January 7, 2013 with a weight limit of 30 pounds. (See Defendants' APA #11, pp. 118-119).

16. That the SCDPS provided Claimant with a light duty position within his restrictions, and Claimant returned to work on January 14, 2013. This finding is based on Claimant's testimony and the signed Form 17.

17. That while on light duty, Claimant worked in the SCDPS's District Office in Greenville as an assistant to his supervisor. His light duty position was a desk job, and it consisted of doing paperwork, reading inspections, watching videos, and filing tickets. This finding is supported by Claimant's testimony.

18. That Claimant underwent an FCE at Doshier Physical Therapy Associates on April 23, 2013. The FCE revealed he was capable of working a position in the Medium strength category with a maximum lifting capacity of 50 pounds and a maximum carrying capacity of 25 pounds. The FCE also showed he had limitations crawling on his hands and feet and with balancing activities that required crouching. (See Claimant's APA #8).

19. That Dr. Burnette performed an impairment evaluation on Claimant on July 2, 2013. Dr. Burnette opined Claimant had sustained 25% whole person impairment, which she converted to 32% impairment of lumbar spine, as a result of his July 16, 2012 work accident. Dr. Burnette's rating to the whole person took into consideration the ongoing problems Claimant has with his right leg. This finding is based on Dr. Burnette's report and deposition testimony.

20. That at her deposition on July 31, 2014, Dr. Burnette testified she assigned her impairment rating based on "Class 4" under the Motion Segment Lesion and Intervertebral Disc Herniation impairment of Table 17-4 (Lumbar Spine Regional Grid) of the 6th Edition of the AMA Guides. While Claimant sustained a *single level* disc herniation and while "Class 4" is used for patients with disc herniations at *multiple levels*, Dr. Burnette testified she assigned Claimant's impairment rating under Class 4 because a portion of his herniated disc had broken off, migrated down, and affected the S1-2 level. This finding is based on Dr. Burnette's deposition testimony. (*See also* Defendants' Exhibit A).

21. That even though she maintained her opinion regarding Claimant's rating at her deposition, Dr. Burnette confirmed that a "Class 2" impairment was for patients with a *single level* disc herniation with radiculopathy. She testified that if Class 2 (single level disc herniation) was used, Claimant's rating would be 14% whole person impairment. This finding is based on Dr. Burnette's deposition testimony. (*See also* Defendants' Exhibit A).

22. That Dr. Burnette's rating from July 2, 2013, two years prior to the hearing before the Single Commissioner, is the only impairment rating in the record. This finding is based on the evidence in the record as a whole.

23. That Dr. Loudermilk assigned Claimant permanent restrictions, based on his FCE, of no lifting greater than 50 pound occasionally, 25 pounds frequently, or 12 pounds constantly; no carrying greater than 25 pounds occasionally, 12 pounds frequently, or 5 pounds constantly; no pushing or pulling greater than 100 pounds; no crawling on his hands and feet; and no crouching on

a narrow beam for up to 30 seconds. This finding is based on the medical records of Dr. Loudermilk. (See Claimant's APA #1, p. 14).

24. That Claimant was unable to return to his regular job as a law enforcement officer due to the restrictions in his FCE. This finding is based on the medical records as a whole and the deposition testimony of Dr. Loudermilk.

25. That Claimant worked light duty with the SCDPS until June 30, 2013, when he resigned from his position and accepted state disability retirement. Claimant receives \$2,200 per month in state disability retirement benefits. This finding is based on Claimant's testimony.

26. That Claimant does not like taking medications. He does not like the way medications make him feel. Claimant is also afraid of becoming addicted to pain medications and will only take the prescribed medications on a limited basis. This finding is based on Claimant's testimony.

27. That Claimant was getting some relief and improvement from his right leg pain when taking the medications – specifically the combination of non-narcotic Gralise, Ultracet, and pain cream – as prescribed by Dr. Loudermilk. This finding is supported by Dr. Loudermilk's medical records and deposition testimony.

28. That on October 15, 2013, Robert E. Brabham, Ph.D performed a psychological and vocational evaluation on Claimant at the request of his attorney. Dr. Brabham diagnosed Claimant with pain disorder, depressive disorder, and generalized anxiety disorder, and he opined that Claimant was unable to engage in his past work as a police officer, or in any other alternative work setting, as a result of the medical conditions resulting from his July 2012 work injury. (See Claimant's APA #6).

29. That Claimant underwent a 2 day FCE at New Day Physical Therapy on November 20 & 21, 2014. The FCE results indicated Claimant's capacities decreased between day one and day two, but the therapist opined Claimant was capable of working an eight hour day at a sedentary work level position. (See Claimant's APA #7).

30. That James R. Myers, MA, QRP, CCM, CRC (Defendants' expert) performed a vocational evaluation on Claimant, and on May 8, 2015, Mr. Myers opined, with vocational certainty, that Claimant was employable and would have little difficulty qualifying for and transitioning into alternative employment options based on his assessment results, educational background, and previous vocational background. (*See Defendants' APA #13*). At his deposition on July 8, 2015, Mr. Myers testified that in his opinion, to a reasonable degree of vocational certainty, Claimant was capable of returning to the workforce in his current condition. (Depo. p. 57).

31. That James Myers also completed a labor market survey listing some of the available jobs he believed Claimant could perform. These positions included surveillance monitor, collection clerk, customer service representative, and fraud investigator. (*See Defendants' APA #13*). Mr. Myers testified the jobs listed on his labor market survey were just a sample of the available jobs. (Depo. p. 53).

32. That Claimant testified he called some of the employers listed on the labor market survey and that some of the jobs did not exist and that some of the employers were not hiring when he called.

33. That Claimant's current medications include Ultracet and a neuropathic pain cream, but he takes the Ultracet very sparingly. He had only taken 2 or 3 Ultracet in the week before the hearing. This finding is supported by Claimant's testimony and the medical records and deposition testimony of Dr. Loudermilk.

34. That because Claimant does not like taking oral medications, Dr. Loudermilk has recommended a spinal cord stimulator ("SCS"). This finding is supported by the medical records and deposition testimony of Dr. Loudermilk.

35. That Claimant is "an ideal candidate" for a SCS because of the nature of his pain of his pain/symptoms and because he is a reliable patient. This finding is based on the deposition testimony of Dr. Loudermilk.

36. That a SCS would likely improve his condition. This finding is based on the deposition testimony of Dr. Loudermilk.

37. That Claimant wanted to proceed with a SCS stimulator trial in April 2015. This finding is supported by the medical records and deposition testimony of Dr. Loudermilk. (*See* Defendants' APA #12, p. 124 & Depo. p. 22).

38. That while he admitted Dr. Loudermilk informed him that he was an ideal candidate for a SCS, Claimant testified at the hearing he does not want to proceed with the SCS. Claimant testified that he does not want anything implanted inside of him, that a friend of his had a bad experience with a SCS, and that he is scared to have the SCS because he is uncomfortable around doctors now and because he had an allergic reaction to an injection at Greenville Memorial Hospital shortly after his accident. This finding is based on Claimant's testimony.

39. That even though he testified he does not want to pursue a SCS, Claimant is scheduled for a psychological evaluation to obtain clearance for a SCS trial. Claimant testified he was debating on whether to cancel the scheduled psychological evaluation. This finding is based on Claimant's testimony.

40. That Claimant's current daily activities include taking care of and watching his three year-old daughter throughout the day. He also tries to keep up with chores around the house, including laundry and dish washing. This finding is based on Claimant's testimony.

41. That during the winters since being placed at MMI by Dr. Loudermilk, Claimant has used a chainsaw and a hydraulic wood splitter to cut firewood for his house. Claimant also helped his mother-in-law move out of her house within the last year and a half. Claimant testified that he drove the truck and moved a couple of bags of clothes. This finding is based on Claimant's testimony.

42. That Claimant has used computers on the job in the past. He is able to surf the Internet, and he has some knowledge about using Microsoft programs. Claimant admitted he could learn how to do more on a computer if he had the opportunity. This finding is based on Claimant's testimony.

43. That Defendants have provided Claimant with appropriate medical treatment. This finding is supported by the evidence in the record as a whole.

44. That Claimant reached maximum medical improvement on May 6, 2013 for the injuries resulting from his July 16, 2012 work accident. This finding is based on the parties' stipulation.

45. That based on the greater weight of the evidence in the record, including the deposition testimony of Dr. Loudermilk, Claimant has significant disability which could be lessened with a spinal cord stimulator.

46. That based on the greater weight of the evidence in the record, Claimant has failed to meet his burden of proof that he is permanently and totally disabled as a result of his July 16, 2012 work accident. This finding is supported by the evidence in the record as a whole, including but not limited to the medical records, Dr. Loudermilk's deposition testimony, the FCEs, and the vocational report and deposition testimony of James Myers.

47. That Claimant has sustained 45% permanent partial disability to his back as a result of the accidental injury on July 16, 2012. This finding is based on the evidence in the record as a whole, including but not limited to the medical records, Claimant's testimony, Dr. Loudermilk's deposition testimony, the FCEs, and the vocational report and deposition testimony of James Myers.

48. That Claimant is not entitled to a lump sum payment of benefits. Claimant's condition may improve in the future, especially if he pursues the recommended SCS; therefore, because there is a greater than usual chance of a change of condition for the better, we find it would be prejudicial to Defendants to grant Claimant's request for a lump sum.

49. That although Claimant cannot be forced to undergo the SCS, his decision to refuse the recommended SCS, which Defendants have agreed to authorize, should be considered when

determining disability. We find that it would be improper to award permanent and total disability benefits in the present case given Dr. Loudermilk's testimony that Claimant is "an ideal candidate" for a SCS and the fact that a SCS would likely improve his condition and lessen his disability.

50. That Defendants are responsible for, and Claimant is entitled to, ongoing pain management treatment per Dr. Loudermilk. This finding is based on the evidence in the record as a whole.

51. That with regard to the recommended SCS, we would close the medical on the SCS issue if Claimant does not want the SCS following psyche evaluation.

CONCLUSIONS OF LAW

In view of those Findings of Fact, and as provided in the South Carolina Code of Laws, WE, THE APPELLATE PANEL, CONCLUDE THE FOLLOWING AS MATTERS OF LAW:

1. Under § 42-1-130, Claimant was a covered employee at the time in question; and under § 42-1-140, Defendant/Employer was a covered employer under the Act.
2. Under § 42-1-160, Claimant did sustain an injury to his back by accident arising out of and in the course and scope of his employment on July 16, 2012.
3. Under § 42-9-30, Claimant has sustained 45% permanent partial disability to the back as a result of his July 16, 2012 work injury.
4. Under § 42-9-301, Defendants are not ordered to make payment in lump sum since ordering payment in lump sum would be prejudicial to Defendants as Claimant's condition may improve.
5. Under § 42-15-60, Defendants are responsible for all causally related medical treatment authorized by them, through July 14, 2015, the date of the hearing.
6. Under § 42-15-60, Defendants are also responsible for future, causally related pain management treatment, per Dr. Loudermilk, the authorized treating physician.

ORDER/AWARD

Based upon the foregoing Findings of Fact and Conclusions of Law,

IT IS, THEREFORE, ORDERED that the Order of the Single Commissioner filed in the above-captioned matter on November 9, 2015, is hereby affirmed by the Panel, and the above Findings of Fact and Conclusions of Law shall constitute the Decision and Order of the Appellate Panel.

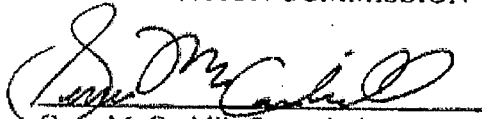
IT IS FURTHER ORDERED that as a result of Claimant's accidental injury occurring on July 16, 2012, Claimant has sustained 45% permanent partial disability to the back, for which he is entitled to 135 weeks of compensation, at the compensation rate of \$483.27 per week.

IT IS FURTHER ORDERED that Defendants are responsible for all authorized, causally related medical treatment through July 14, 2015, the date of the hearing. Defendants are also responsible for future pain management treatment, per Dr. Loudermilk, the authorized treating physician, as long as the need for such treatment is causally related to the July 16, 2012 work accident and tends to lessen the period of disability.

No hearing costs are assessed in this instance.

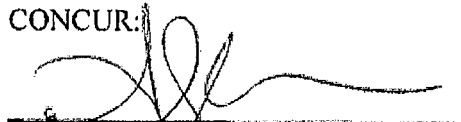
AND IT IS SO ORDERED.

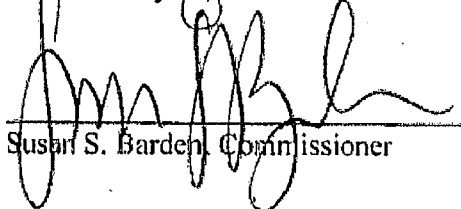
SOUTH CAROLINA WORKERS'
COMPENSATION COMMISSION


Gene McCaskill, Commissioner

FULL AFFIRMATION

CONCUR:


Aisha G. Taylor, Commissioner


Susan S. Barden, Commissioner

CERTIFICATE OF SERVICE

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

By Eugenia Hollmon on May 20, 2016

South Carolina Workers' Compensation Commission
1333 Main Street ♦ Post Office Box 1715
Columbia, South Carolina 29202-1715
(803) 737-5700 www.wcc.sc.gov

WCC File # 1209393
Carrier File #
Carrier Code #
Employer FEIN

Matthew Edwards

Claimant's Name

SSN

SC Department of Public Safety

Employer's Name

Address

City State Zip

Address

City State Zi

Home Phone #

Work Phone #

Insurance Carrier

Krause, Moorhead & Draisen, PA

(864) 225-4000

Preparer's Name

Law Firm

Phone #

A claim for worker's compensation benefits is made based on the following grounds: Date of Injury or Illness: 7/16/12

- ☒ Injury ☐ Illness ☐ Repetitive Trauma ☐ Physical Brain Injury ☐ Concurrent Jurisdiction
1. The Claimant sustained an injury to back, legs on 7/16/12 in Anderson County, South Carolina. Body part(s) affected are: back, legs.
2. Briefly describe how the accident occurred: Claimant slipped on the stairs.
3. Both the Claimant and the Employer were subject to the South Carolina Workers' Compensation Act at the time of the injury.
4. The relationship of employer and employee existed at the time of the injury.
5. At the time of the injury the Claimant was performing services arising out of and in the course of employment.
6. Notice of the accidental injury was given to the Employer on 7/16/12 in the following manner: Claimant notified supervisor
- ☐ 7. Due to the injury, the Claimant is in need of (check one):
☐ (a) medical examination and treatment for back, legs.
☒ (b) additional medical examination and treatment for back, legs, psyche
- ☒ 8. Due to the injury, the Claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of: TBD
- ☒ 9. Due to the injury, the Claimant has permanent disability of the following nature and extent: (check one)
☒ (1) General Disability ☒ Total ☐ Partial ☐ (2) Specific Disability ☐ Total ☐ Partial ☒ (3) Wage Loss
- ☐ 9a. A determination of permanent disability is premature at this time.
- ☐ 10. Due to the injury, the Claimant has a serious bodily disfigurement consisting of
- 10a. At the time of injury the Claimant was paid weekly wages of \$724.88; 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: SC Dept. of Public Safety
11. Further grounds or unusual aspects of claim: Claimant makes claim to any and all rights he is entitled to under the Workers' Compensation laws of South Carolina. Claimant further requests a lump sum payment of any award with a Utica-Mohawk provision in the Order.
- 11a. List names and addresses of all physicians or other medical specialists who have seen or treated the Claimant as a result of the accident: P&S Chiropractic, Pickens, SC; Greenville Hospital System; Oaktree Medical Centre; VBS, Easley, SC; Advanced Physical Therapy; Innervation; Piedmont Neurosurgical Group; Piedmont Comprehensive Pain Mgmt.
- 11b. To the best of your knowledge, did you have any prior permanent disability? Unknown
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.
- ☒ 13b. I am requesting a hearing. A \$25 fee is required.
14. Estimated time needed for hearing: 1 hour.
- ☒ Mediation
- ☐ a. Mediation is requested to be ordered pursuant to Reg. 67-1801 B.
- ☒ b. Mediation is required pursuant to Reg. 67-1802.
- ☐ c. Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.
- ☐ d. Mediation has been conducted by a duly qualified mediator and resulted in an impasse.
- Questions regarding mediation may be submitted to mediation@wcc.sc.gov

I certify that I have served this document pursuant to Reg. 67-211 by delivering a copy to see attached Certificate of Service address _____ on the _____ day of _____, 2013, by ☐ first class postage ☐ certified mail ☐ personal service.

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

Preparer's Signature

Attorney for Claimant
Title

kmoorhead@kmdlawyers.com
Email

April 11, 2014
Date

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

South Carolina Workers' Compensation Commission

1612 Marion Street • Post Office Box 1715

Columbia, South Carolina 29202-1715

(803) 737-5739

www.wcc.sc.gov

WCC File #: **1209393**Carrier File #: **2012-2379**

Carrier Code #:

Employer FEIN #:

Claimant's Name: Matthew Edwards SSN: _____

Address: _____

City: _____ State: _____ Zip: _____

Home Phone: () - - Work Phone: () - -

Date of Injury: 07/16/12Employer's Name: S.C. Department of Public Safety

Address: _____

City: _____ State: SC Zip: 29016Insurance Carrier: State Accident FundPreparer's Name: Ellen Goodwin, Esq. Law Firm: State Accident Fund Preparer's Phone #: (803) 896-5896Date of Injury or Illness: 07/16/12**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 injury to the back and right leg only; however, extent of injury and all other body parts affected are denied..
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 Admitted the employee **Needs / Is Entitled to Additional** medical care as a result of injury or illness. The reasons for denial are:
Claimant is receiving authorized medical care.
7. It is Denied the employee is entitled to temporary total disability for the period(s) of :
To be determined.
8. It is Denied the employee is permanently disabled. The reasons for denial are:
Disability, if any, to be determined by W.C.C.
9. It is Denied the employee has serious disfigurement.
10. It is contended that an average weekly wage of **\$724.88** applies, according to attached Form 20 as provided by law.
11. Further contentions, grounds of defense, or unusual aspects are: _____
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: J. Kirkman Moorhead, Esquire

Judicial Director, SCWCC

Address: 207 East Calhoun Street, Anderson, SC 29621

P.O. Box 1715, Columbia, SC 29202-1715

on the 30th day of April, 2014 by ☒ first class mail ☐ personal service ☐ certified mail.

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

Preparer's Signature

Ellen Goodwin
Asst. Chief Counsel
TitleEgoodwin@saf.sc.gov
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
0047**Employer's Answer to Request for Hearing**

South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500
P.O. BOX 1715
Columbia, SC 29202-1715
803-737-5675 www.wcc.sc.gov



WCC File #: **1209393**
Carrier File #: _____
Carrier Code #: _____
Employer FEIN #: _____

Claimant's Name: Matthew Edwards SSN: _____ Employer's Name: S.C. Department of Public Safety
Address: _____ Address: _____
City: _____ State: _____ Zip: _____
Home Phone: () - _____ Work Phone: () - _____ Insurance Carrier: State Accident Fund
Preparer's Name: J. Kirkman Moorhead, Esq. Law Firm: Krause, Moorhead & Draisen Preparer's Phone #: (864) 225-4000

REQUEST FOR COMMISSION REVIEW

Request for Commission Review by ☒ Claimant ☐ Employer (check one) Date of Injury or Illness: 07/16/2012

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 Grounds.

(Check one) Oral argument ☒ is ☐ is not requested. Appellant's request for oral argument is waived if not indicated on this form.

☐ Mediation

☐ Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.

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

I certify I have served this document pursuant to Reg. 67-211 by delivering a copy to Zachary M. Smith, Esq., address Willson, Jones, Carter & Baxley, 872 S. Pleasantburg Drive, Greenville, SC 29607 on the 23 day of November 2015, by X first class postage certified mail personal service.

[Signature]
Preparer's Signature SC Bar No. 7039

Attorney for the Claimant
Title

kmoorhead@kmdlattorneys.com
Email

11/23/2015
Date

Questions about the use of this form should be directed to the Judicial Department at 803.737.5675 or appeals@wcc.sc.gov.

If the claimant appeals and is not represented by counsel, the Judicial Department will properly serve this form pursuant to Reg. 67-607 C. Pursuant to Reg. 67-205 and Reg. 701, the appeal must be postmarked no later than 14 days from the date of service of the Decision and Order of the Hearing Commissioner along with the filing fee. Attach a Form 32, if you are unable to pay the filing fee. Refer to Reg. 67-211 and Reg. 67-701 through 711.

GROUNDS FOR APPEAL
MATTHEW EDWARDS v. S.C. DEPARTMENT OF PUBLIC SAFETY.
WCC FILE NO. 1209393

1. **THE HEARING COMMISSIONER ERRED IN HIS FINDING OF FACT NO. 45.** ERROR WAS COMMITTED IN THAT THE HEARING COMMISSIONER FOUND THAT THE SPINAL CORD STIMULATOR "COULD" LESSEN THE CLAIMANT'S DISABILITY INSTEAD OF WOULD MOST PROBABLY LESSEN THE CLAIMANT'S DISABILITY.
2. **THE HEARING COMMISSIONER ERRED IN HIS FINDING OF FACT NO. 46.** ERROR WAS COMMITTED IN THAT THE GREATER WEIGHT OR PREPONDERANCE OF THE EVIDENCE SHOWS THAT THE CLAIMANT IS TOTALLY AND PERMANENTLY DISABLED.
3. **THE HEARING COMMISSIONER ERRED IN HIS FINDING OF FACT NO. 47.** ERROR WAS COMMITTED IN THAT THE GREATER WEIGHT OR PREPONDERANCE OF THE EVIDENCE SHOWS THAT THE CLAIMANT IS TOTALLY AND PERMANENTLY DISABLED.
4. **THE HEARING COMMISSIONER ERRED IN HIS FINDING OF FACT NO. 48.** ERROR WAS COMMITTED IN DENYING THE CLAIMANT A LUMP SUM PAYMENT OF HIS AWARD BASED ON THE FACT THAT HIS CONDITION COULD IMPROVE.
5. **THE HEARING COMMISSIONER ERRED IN HIS ORDER.** ERROR WAS COMMITTED IN THAT THE COMMISSIONER FAILED TO AWARD A LUMP SUM PAYMENT WITH A UTICA-MOHAWK PROVISION.
6. **THE HEARING COMMISSIONER ERRED IN HIS FINDING OF FACT NO. 49.** ERROR WAS COMMITTED IN DENYING THE CLAIMANT TOTAL AND PERMANENT DISABILITY BECAUSE HE DID NOT WANT THE SPINAL STIMULATOR.
7. **THE HEARING COMMISSIONER ERRED IN HIS FINDING OF FACT NO. 50.** ERROR WAS COMMITTED IN THAT THE COMMISSIONER LIMITED THE CLAIMANT'S FUTURE MEDICAL CARE TO PAIN MANAGEMENT.
8. **THE HEARING COMMISSIONER ERRED IN HIS FINDING OF FACT NO. 51.** ERROR WAS COMMITTED IN THAT THE COMMISSIONER ARBITRARILY DENIED THE CLAIMANT'S FUTURE ACCESSIBILITY TO THE SPINAL CORD STIMULATOR.
9. **THE HEARING COMMISSIONER ERRED IN HIS CONCLUSION OF LAW NO. 4.** ERROR WAS COMMITTED IN THAT THE CLAIMANT SHOULD HAVE BEEN AWARDED A LUMP SUM PAYMENT OF HIS AWARD.
10. **THE HEARING COMMISSIONER ERRED IN HIS ORDER.** ERROR WAS COMMITTED IN THAT THE GREATER WEIGHT OR PREPONDERANCE OF THE EVIDENCE SHOWS THAT THE CLAIMANT SHOULD HAVE BEEN FOUND TO BE TOTALLY AND PERMANENTLY DISABLED.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS COMPENSATION COMMISSION

SCWCC File No. 1209393

MATTHEW EDWARDS,..... Appellant,

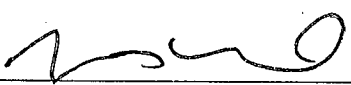
vs.

S.C. DEPARTMENT OF PUBLIC SAFETY
AND
STATE ACCIDENT FUND, ... Respondents

NOTICE OF APPEAL

Pursuant to S.C. Code Ann. § 42-17-60, Matthew Edwards hereby appeals the Appellate Panel Decision and Order of the South Carolina Workers' Compensation Commission, filed on May 20, 2016. Appellant received written notice of the entry of the original Order via electronic mail on May 20, 2016.

May 25, 2016.


J. Kirkman Moorhead SC Bar No. 7039
KRAUSE, MOORHEAD AND DRAISEN, P.A.
207 E. Calhoun Street
Anderson, SC 29621
(864) 225-4000
Attorney for the Appellant

Other Counsel of Record:

Zachary Smith, Esq.
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872 S. Pleasantburg Drive
Greenville, SC 29607
(864) 527-3280
Attorney for Respondents

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE #1209393

MATTHEW C. EDWARDS	)	
	)	
CLAIMANT,	)	
	)	SC WORKERS' COMPENSATION COMMISSION
VS.	)	
	)	HEARING OF
DEPARTMENT OF PUBLIC	)	
SAFETY	)	MATTHEW C. EDWARDS
EMPLOYER,	)	
AND	)	VS
	)	
STATE ACCIDENT FUND	)	DEPARTMENT OF PUBLIC SAFETY
	)	
CARRIER.	)	

This is the Transcript of the South Carolina Workers' Compensation Hearing of Matthew C. Edwards versus Department of Public Safety, taken before Gloria Davis, a Court Reporter and Notary Public in and for the State of South Carolina, commencing at the hour of 2:34 P.M., Tuesday, July 14, 2015, at Spartanburg County Administration Building, 366 N. Church Street, Spartanburg, South Carolina.

COPY

REPORTED

BY

GLORIA DAVIS

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STIPULATIONS

Commissioner Wilkerson: Today's date is the 14th day of July, 2015. This case was originally set for April the 24th, 2015, and I -- there is no objection to us having it heard today here in Spartanburg as opposed to having it heard in Anderson. The Claimant is Matthew C. Edwards, represented by Kirkman Moorhead. The Employer is Department of Public Safety; the Carrier is State Accident Fund represented by Zack Smith. The date of accident is 7/16/2012. The average weekly wage on today's case is seven twenty-four, eighty-eight (\$724.88); thus the comp rate would be four eighty-three, twenty-seven (\$483.27). We're here to determine the issues that are set forth on the Form 50 and 51. Are there any objections to APA's, jurisdiction, venue or any other items by the moving party?

Mr. Moorhead: I -- I had raised an objection to the Vocational Expert's report for the Employer on the bases that he does not give his opinion to a reasonable degree of vocational certainty.

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1 Commissioner Wilkerson: Okay.

2 Mr. Moorhead: I think we had just been
3 through that in pre-trial --

4 Commissioner Wilkerson: We have and --

5 Mr. Moorhead: -- and that's a --

6 Commissioner Wilkerson: -- and let me
7 just say, the report can come in. What I'm
8 going to ask you to do is -- is put the
9 position -- once we get to the position --
10 put your position on the record why you don't
11 feel like it is valid.

12 Mr. Moorhead: -- I will and I --

13 Commissioner Wilkerson: Okay.

14 Mr. Moorhead: -- and I also intend to
15 submit the deposition --

16 Commissioner Wilkerson: The deposition,
17 absolutely.

18 Mr. Moorhead: -- of the Vocational
19 Expert.

20 Commissioner Wilkerson: Absolutely,
21 that's fine. And let me also state that this
22 case has been mediated, is my understanding.

23 Mr. Moorhead: That's correct.

24 Commissioner Wilkerson: And that you
25 all reached an impasse, whatever it is that's

1 okay, I just need that for the record just in
2 case it is appealed to the Full Commission or
3 further up. So, are -- are there any
4 objections to the APA's, jurisdiction, venue
5 or any other items, other than that one (1)
6 issue from the Claimant's perspective?

7 Mr. Moorhead: None.

8 Commissioner Wilkerson: And we'll get
9 you to address that, okay? Thank you.

10 Mr. Smith: None from the Defendants.

11 Commissioner Wilkerson: All right.
12 Without objection, except that one (1) issue
13 that we're going to allow in, you'll put your
14 position on the record as far as that is
15 concerned, is the Commission's file now
16 becomes a part of the record with the
17 exception of self-serving declarations and
18 unstipulated medical reports. At this time
19 I'm going to ask Mr. Moorhead if he will put
20 his client's position on the record and then,
21 likewise, we'll have Mr. Smith do the same.

22 Mr. Moorhead: Thank you, Commissioner.

23 Commissioner Wilkerson: Sure.

24 Mr. Moorhead: My client is Matthew
25 Edwards. Positions in the case are as

1 follows: We -- we are of the position that
2 he had reached MMI in this case. There is a
3 -- an issue about an outstanding recommended
4 treatment of a spinal cord stimulator that
5 has been set forth by Dr. Loudermilk, the
6 pain management physician, he -- and he's
7 been advocating that for some time. Mr.
8 Edwards has spent a considerable amount of
9 time contemplating whether or not he would
10 have a spinal cord stimulator but at least --
11 at least in part due to his bad experience
12 with his -- with his surgery, and a -- a
13 reaction he had to a Demerol injection, and
14 his generalized trepidation about medical
15 treatment, and the possibility of infection
16 and so forth, he has elected not to have that
17 procedure until such time as he feels he can
18 -- can't go forward without doing something
19 else. So, as to the spinal cord stimulator,
20 we would ask that that treatment, which has
21 been -- there has been intent that it be
22 authorized and -- as I understand it, and it
23 is certainly recommended, that if should he
24 in the future, and we would take the position
25 at any time, wish to have the spinal cord

1 stimulator that he be allowed to -- to have
2 that.

3 Commissioner Wilkerson: Tell me where
4 that's -- I can award that underneath the
5 law.

6 Mr. Moorhead: I -- I can't tell you
7 where you can award it --

8 Commissioner Wilkerson: Okay.

9 Mr. Moorhead: -- underneath the law but
10 --

11 Commissioner Wilkerson: Because I was
12 going to ask him to tell me where I can look
13 at it, okay?

14 Mr. Moorhead: -- I --

15 Commissioner Wilkerson: I just asked
16 that, okay?

17 Mr. Moorhead: -- I'm certainly going to
18 ask for it.

19 Commissioner Wilkerson: Absolutely. I
20 understand, absolutely. Let me ask you a
21 question. You said MMI date, tell me where
22 the MMI, your date, is; it's probably going
23 to be the same amongst the parties, but.

24 Mr. Moorhead: Yes. Off the top of my
25 head, I --

1 Mr. Smith: I believe its May 6 of '13.

2 Mr. Moorhead: -- May 6 of '13?

3 Mr. Smith: That is the --

4 Mr. Moorhead: Is that the date of the
5 report?

6 Mr. Smith: -- that's in the note, let's
7 see, number one, page 6, I think.

8 Commissioner Wilkerson: And I've got a
9 doctor's report dated 7/2 of '13; is that the
10 same?

11 Mr. Smith: That would just be --

12 Commissioner Wilkerson: There's no --
13 there's no discrepancy on TTD, all of that
14 has been paid; it's a matter of permanent
15 disability?

16 Mr. Moorhead: TTD has been paid up
17 until he returned to work light duty --

18 Commissioner Wilkerson: Yes. And
19 that's --

20 Mr. Moorhead: -- and then retired --
21 resigned from his job. At this point we'd
22 take the position he's been paid about
23 twenty-five and four sevenths (25 4/7) weeks
24 of TTD.

25 Commissioner Wilkerson: -- that's fine.

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1 Mr. Moorhead: In the event there is an
2 award of permanency that would be relevant,
3 obviously.

4 Commissioner Wilkerson: Yes.

5 Mr. Moorhead: We also take the -- take
6 the position that he is totally and
7 permanently disabled. We would -- we would
8 request a lump sum; I understand there is an
9 objection to lump sum. With regard to the
10 Vocational Expert's report for the Employer,
11 the Employer's Voc Expert is James Myers of
12 Corvel. He has submitted a vocational report
13 and a labor market summary and no where in
14 either of those documents does he state his
15 -- any opinions to a reasonable degree of
16 vocational certainty. In addition, we are
17 submitting his deposition, and in the
18 deposition he -- he no where does he -- is he
19 able to say that the client, Mr. Edwards, can
20 perform the jobs he has set forth, that he --
21 he can't say to a reasonable degree of
22 vocational certainty that the client can
23 perform those jobs. He does give an opinion
24 in a theoretical sense but it's our position
25 that a -- a theoretical sense is speculative

1 as it comes to the particular abilities of my
2 client.

3 Commissioner Wilkerson: Anything else
4 at this point in time?

5 Mr. Moorhead: I don't believe I have
6 anything else at this point.

7 Commissioner Wilkerson: Okay. Thank
8 you. Please, Mr. Smith, and then we'll see
9 if there is a rebuttal. Go ahead.

10 Mr. Smith: Commissioner, it's the
11 Defendant's position that Mr. Edwards did
12 sustain an admitted injury to his lower back
13 on July 16th, 2012, and as a result has
14 developed some ongoing issues with his right
15 leg. To be clear, I don't believe this is a
16 credibility case, there aren't any
17 credibility issues but we do deny that he is
18 totally and permanently disabled based on the
19 fact of his refusal to -- to comply with the
20 recommended treatment or to accept the
21 recommended treatment. Mr. Edwards refuses
22 to take the medications, even though Dr.
23 Loudermilk prescribed them to help him with
24 his pain. When he was on the medications,
25 albeit for a shorter -- a short period of

1 time, his condition was improved and he did
2 work for about six (6) months after his work
3 injury in a light duty position, office type
4 job, with the Employer. Dr. Loudermilk has
5 also recommended the spinal cord stimulator;
6 he testified that Mr. Edwards was an ideal
7 candidate and that it would likely improve
8 his condition. So, it would be speculative
9 at this point to say that he is permanently
10 and totally disabled if there is a treatment
11 option that would improve his condition. He
12 is currently at MMI and we -- I don't think
13 there is any dispute about the date back in
14 -- on May 6, 2013, but that's due primarily
15 because he won't -- because he refuses other
16 treatment. Mr. Edward is thirty-four (34),
17 just turned thirty-five (35) --

18 Mr. Edwards: Yes, sir.

19 Mr. Smith: -- years old --

20 Mr. Edwards: Yes, sir.

21 Mr. Smith: -- I believe. And the FCE
22 that he had back in April of 2013, showed
23 that he was able to work in a medium strength
24 category. James Myers, the Defendant's Voc
25 Expert, did opine in his deposition to a

1 reasonable degree of medical -- or vocational
2 certainty that he believed Mr. Edwards was
3 cable of returning to the workforce, and
4 that's on page 57. We would contend that at
5 this point he is entitled to PPD award to the
6 back under 42-9-30 consistent with -- there
7 is one (1) issue with Dr. Burnett's rating;
8 she -- she rated him twenty-five percent
9 (25%) whole person impairment but she
10 admitted that it wasn't consistent with the
11 guide since Mr. Edwards had the single level
12 disk herniation and she rated it as a double
13 level herniation. That while she said she
14 wasn't going to change her opinion, she did
15 admit that using the single level table,
16 which is -- and the table is Defendant's
17 Exhibit A -- that his impairment would be
18 fourteen percent (14%) to the whole person
19 and we believe that's -- that he is entitled
20 to a rating consistent -- or an award
21 consistent to that. We also object to a lump
22 sum payment of benefits giving the potential
23 change of condition for the better based on
24 Dr. Loudermilk's testimony regarding the
25 spinal cord stimulator.

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1 Commissioner Wilkerson: What's your
2 client's position as far as the spinal cord
3 stimulator if it is not done, and point me to
4 the section of law that you're hanging your
5 hat on?

6 Mr. Smith: I think at some point it
7 needs to be -- you know, we need to make a
8 determination of whether he is going to have
9 it or not. At this point they are still
10 willing to authorize it, in fact, I believe
11 he's got a psyche eval set up for it --

12 Commissioner Wilkerson: On the 28th, I
13 think you all told me --

14 Mr. Smith: -- yes, sir --

15 Commissioner Wilkerson: -- of July?

16 Mr. Smith: -- later this month. And
17 so, it has been authorized; there has never
18 been a dispute about that. But, again, we
19 would -- we would defend that -- you know,
20 the fact that he is pursuing the -- the
21 psyche eval would -- would show that his
22 condition may ultimately improve in the near
23 future if he does pursue -- proceed with the
24 spinal cord stimulator.

25 Commissioner Wilkerson: And so, would

1 your client agree that the spinal cord
2 stimulator issue should be held in abeyance
3 until after the psyche evaluation?

4 Mr. Smith: I -- I think that would be
5 reasonable. You know, if it's -- obviously
6 they -- it's causally related at that point
7 and need and medically necessary, I believe
8 they would agree to provide it. But, you
9 know, I -- I think we would like some type of
10 limit on -- you know, it's been going on for
11 two (2) years and they've kind of been, I
12 guess, up in the air about whether is he
13 going to proceed with it, is he not going to
14 proceed with it. So, I -- I don't know if
15 there is -- you know, I -- if there is a
16 limit of -- of time, you know, the one (1)
17 year; I know there is a one (1) year period
18 if you don't seek medical treatment. I --

19 Commissioner Wilkerson: But it has to
20 be in the order and I -- that's why I'm -- in
21 other words, if it's ordered to be done and
22 it's not done in the one (1) year it gives
23 you something to hang your hat on.

24 Mr. Smith: -- right.

25 Commissioner Wilkerson: If -- if it's

1 held in abeyance until after the psyche
2 evaluation then we're kind of, sort of,
3 looking at another issue and is that really
4 before -- it is before me today, but
5 reasonability tells me until we know if the
6 psyche evaluation can be passed, I don't
7 know, then --

8 Mr. Smith: And -- and I --

9 Commissioner Wilkerson: -- I don't know
10 that I can rule on that, okay?

11 Mr. Smith: -- and -- and that's fair
12 and I --

13 Commissioner Wilkerson: Yes.

14 Mr. Smith: -- I think that just kind of
15 goes to our point regarding finding him
16 permanently and totally disabled.

17 Commissioner Wilkerson: I understand.

18 Mr. Smith: There's a lot of unknowns in
19 this --

20 Commissioner Wilkerson: Yes.

21 Mr. Smith: -- and it may get resolved
22 in a month or so; we just don't know.

23 Commissioner Wilkerson: Including the
24 two (2) year old rating that I don't know if
25 it's still valid, I don't -- it -- that I

1 can't answer because it's --

2 Mr. Smith: Right. Well, he --

3 Commissioner Wilkerson: -- because the
4 only doctor he's seeing now is my
5 understanding is Dr. Loudermilk. He hasn't
6 been sent -- he hasn't been sent back to the
7 doctor that provided the rating two (2) years
8 ago; is that fair?

9 Mr. Smith: -- correct.

10 Commissioner Wilkerson: Okay.

11 Mr. Smith: And if he did undergo the
12 spinal cord stimulator, and it would be our
13 position that the rating would likely
14 decrease assuming -- assuming the spinal cord
15 stimulator worked and his -- his pain and --

16 Commissioner Wilkerson: Yes.

17 Mr. Smith: -- and problems decreased.

18 Commissioner Wilkerson: And if it
19 didn't, it would go the other way?

20 Mr. Smith: Well, I don't know if it
21 would go up because it was -- you know, it's
22 kind of been where it is --

23 Commissioner Wilkerson: Well, it's a
24 two (2) year -- I -- I don't -- my concern,
25 as I told you all before we started is, your

1 client -- Mr. Edwards is going to testify to
2 permanent today, permanent being how I feel
3 today, how I felt last week, how I felt two
4 (2) weeks ago, okay? There's got to be
5 something from a two (2) year old medical
6 report -- I've either got to absorb from
7 either side to determine if that two (2) year
8 old medical report is still valid, okay? I
9 don't know until we have a hearing, as I --
10 as I told you before we started. I mean, it
11 may be as valid as can be; it may be invalid.
12 I may have to send -- at the end of the day,
13 I don't know -- have to send him back to this
14 doctor or someone else to validate a two (2)
15 year old rating because it -- it --

16 Mr. Moorhead: Where is the deposition?

17 Commissioner Wilkerson: -- yes, where
18 is the deposition; I did hear that, yes,
19 because the deposition may help us. My
20 thoughts being --

21 Mr. Moorhead: Her -- her deposition was
22 taken much more recently.

23 Commissioner Wilkerson: -- good.

24 Mr. Moorhead: I think you had offered
25 it as an exhibit.

1 Mr. Smith: July 31st of 2014.

2 Commissioner Wilkerson: Okay. So,
3 we've still got -- well, that's better,
4 instead of moving that --

5 Mr. Smith: So, it's right around a
6 year.

7 Commissioner Wilkerson: -- yes. That's
8 okay. So, we've still got a year old --
9 we've got a year out from that particular
10 situation; I don't -- I don't know. Because
11 --

12 Mr. Smith: And --

13 Commissioner Wilkerson: -- because if
14 one side's position is, you get the spinal
15 cord stimulator forever -- you get it for a
16 year, how can you rely on your doctor's two
17 (2) year old medical report or one (1) year
18 old deposition? That -- that's -- that's why
19 I'm -- and it's probably not going to change,
20 I don't think; but I don't know until I hear
21 the case. That's just some of my concerns
22 before we start taking the testimony.

23 Mr. Smith: -- and -- and I was -- I
24 think Loudermilk has recently recommended it,
25 and continues to recommend it, and says that

1 it's --

2 Commissioner Wilkerson: I'm fine.

3 Mr. Smith: -- necessary and, again,
4 that's something my clients have been willing
5 --

6 Commissioner Wilkerson: To do for
7 years.

8 Mr. Smith: -- to offer.

9 Commissioner Wilkerson: Okay. I'm fine
10 with that. All right, anything else before
11 we take some testimony from Mr. Edwards?
12 Hearing none, sir, I'm going to get you to
13 raise your right hand; I'm going to have the
14 Court Reporter swear you in and we're going
15 to take some testimony from you. Thank you.

16 Whereupon;

17 Matthew Chad Edwards, being duly sworn and cautioned to
18 speak the truth, the whole truth and nothing but the truth,
19 testified as follows:

20 Court Reporter: Please state your full
21 name for the record.

22 Witness: Matthew Chad Edwards.

23 Court Reporter: Thank you, sir.

24 Commissioner Wilkerson: Thank you, Mr.
25 Edwards.

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1 Witness: Yes, ma'am. Yes, sir.

2 Commissioner Wilkerson: Let me get your
3 APA's. Yes, that's okay.

4 Mr. Moorhead: Yes, that -- that
5 probably --

6 Commissioner Wilkerson: You all are
7 going to be referencing some of these --

8 Mr. Moorhead: -- that probably helps.

9 Commissioner Wilkerson: -- once we get
10 started, yes.

11 Mr. Smith: Did you submit Loudermilk's
12 deposition?

13 Mr. Moorhead: I'm going to submit
14 Myers; I'm going to submit it when I --

15 Mr. Smith: Okay. I'm fine.

16 Mr. Moorhead: -- I don't do it -- I
17 don't -- I don't even know that I listed it
18 but --

19 Mr. Smith: And you -- do you want to
20 submit it?

21 Mr. Moorhead: -- yes, I -- I was going
22 to; I don't have an original.

23 Commissioner Wilkerson: You're going to
24 submit who?

25 Mr. Smith: Do I have the original?

1 Mr. Moorhead: Yes, I think you do. I
2 -- I would consent to a -- oh, here it is.

3 Court Reporter: They need to tell me
4 which side.

5 Commissioner Wilkerson: That's the
6 Claimant's, C-1. This one I'm going to do
7 C-1 -- I'm going to do -- we have to -- we
8 mark them and put them in the --

9 Mr. Smith: Okay.

10 Commissioner Wilkerson: -- we mark them
11 and put them in the computer system where --

12 (CLAIMANT'S EXHIBIT ONE WAS MARKED FOR IDENTIFICATION)

13 Court Reporter: All right. That one is
14 C-1.

15 Commissioner Wilkerson: -- C-2.

16 Court Reporter: Is this two (2)?

17 Commissioner Wilkerson: I don't know
18 what's in there; I don't think it's opened.
19 What is that?

20 Court Reporter: I think these might be
21 APA's --

22 Mr. Moorhead: All right.

23 Court Reporter: -- or no, they may be
24 exhibits.

25 Commissioner Wilkerson: No, that's

1 exhibits, part of it, yes. It all came out
2 of the package. Just put them all together
3 and mark that as C-2.

4 (CLAIMANT'S EXHIBIT NUMBER TWO WAS MARKED FOR
5 IDENTIFICATION)

6 Court Reporter: Okay. That's C-1 and
7 C-2.

8 Commissioner Wilkerson: And this is
9 D-1?

10 Court Reporter: D-1.

11 (DEFENDANT'S EXHIBIT NUMBER ONE WAS MARKED FOR
12 IDENTIFICATION)

13 Commissioner Wilkerson: Exhibit D-1, so
14 I know where everything is.

15 Mr. Moorhead: Is he under oath?

16 Commissioner Wilkerson: Not --

17 Court Reporter: Yes.

18 Commissioner Wilkerson: -- yes.

19 Mr. Moorhead: He is?

20 Commissioner Wilkerson: Yes.

21 Court Reporter: He is.

22 Commissioner Wilkerson: Well, let's --
23 let's go off the record.

24 (Off The Record)

25 Commissioner Wilkerson: We're back on

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1 the record? Okay, thank you. Mr. Edwards,
2 you're still under oath. Please, sir.

3 Thanks.

4 DIRECT EXAMINATION

5 By Mr. Moorhead:

6 Q. If you'd state your full name, please, sir?

7 A. Matthew Chad Edwards.

8 Q. Okay. And Mr. Edwards, you were most recently
9 employed with the Department of Public Safety?

10 A. Yes, sir.

11 Q. What we -- what did you do for your job with the
12 Department of Public Safety; just tell the
13 Commissioner, please?

14 A. I just enforced Federal regs on commercial motor
15 vehicles.

16 Q. Okay.

17 A. And --

18 Q. You were with transport police?

19 A. -- yes, sir.

20 Q. Okay. And in the -- in the course of that job,
21 was there any investigative work involved in that job?

22 A. No, sir. No.

23 Q. Okay. Now, before you were with transport police,
24 tell -- if you would, just kind of tell the
25 Commissioner from the time you started working --

- 1 A. Yes, sir.
- 2 Q. -- okay, to the time you got to the transport
- 3 police --
- 4 A. Okay.
- 5 Q. -- what you -- what you did for work --
- 6 A. Yes, sir.
- 7 Q. -- if you would.
- 8 A. When I was a eleven (11), twelve (12), thirteen
- 9 (13) year old I worked is a tobacco field up in Rosman,
- 10 North Carolina and during the summertime, you know,
- 11 we'd cut and bailed all the tobacco, and then after
- 12 that, wintertime I worked for a gentleman, it was the
- 13 same gentleman, he owned a Christmas tree farm; so,
- 14 we'd cut trees and put them all out. And then, I went
- 15 to work for a -- where my dad worked at a -- Moore and
- 16 Balliew's Oil Company; I delivered oil and barrels,
- 17 fifty-five (55) gallon drum -- drums and to different
- 18 businesses and stuff like that and hauled the gas and
- 19 fuel. After I got out of high school I got my CDL, so.
- 20 Q. Did you do delivery or did you drive a truck or
- 21 did you do both?
- 22 A. Yes, sir. I done -- I done both and drove --
- 23 Q. Okay. What type, straight truck?
- 24 A. -- straight truck; yes, sir.
- 25 Q. Okay. All right. How long did you do the oil

1 company job?

2 A. When I worked back-and-forth with the oil company
3 and then I worked for their convenience store that they
4 had and just stocking and stuff like that at night ,
5 after I got done with the oil company and I done that..
6 And then I left them and I went to work for the Cliffs
7 Vineyard Golf Course.

8 Q. About how old were you when you went to Cliffs
9 Vineyards?

10 A. Nineteen (19), twenty (20).

11 Q. Okay. All right. What did you do for Cliffs
12 Vineyards Golf Course?

13 A. Greens work, you know, as far as cutting grass,
14 raking bunkers and just --

15 Commissioner Wilkerson: Golf course
16 type?

17 A. -- yes, sir. Yes, sir.

18 Q. Golf course maintenance?

19 A. Yes, sir.

20 Q. Okay. Did you -- did you have any people that you
21 told what to do or were you the --

22 A. Oh, no.

23 Q. -- low man on the totem pole?

24 A. No. I was -- pretty much everything I did I was
25 the low man on the totem pole --

- 1 Q. Okay.
- 2 A. -- so.
- 3 Q. Okay. And after the Cliffs -- how long did you
- 4 stay with the Cliffs?
- 5 A. Probably -- I don't know, a year and a half, two
- 6 (2) years --
- 7 Q. Okay.
- 8 A. -- somewhere in that area; yes, sir.
- 9 Q. And after that, what did you do?
- 10 A. I went to work for Fayette Arnold Environmental
- 11 driving their truck, hauling --
- 12 Q. Okay.
- 13 A. -- hauling waste water and stuff.
- 14 Q. Again, straight -- straight trucks?
- 15 A. Straight trucks; yes, sir.
- 16 Q. Okay. These are tanker trucks?
- 17 A. Yes, sir.
- 18 Q. Okay. And did you -- was there any special
- 19 training involved in those -- in that other than truck
- 20 driving?
- 21 A. No, sir. Just -- that's it; yes, sir.
- 22 Q. Okay.
- 23 A. No -- nothing special.
- 24 Q. Okay. And after that -- after driving the tanker
- 25 trucks, what did you do?

1 A. I went to work with Pickens County Sheriffs
2 Office.

3 Q. Okay. How did you make that change?

4 A. I needed a -- I mean, I wanted something with a
5 career --

6 Q. Okay.

7 A. -- you know, and I'd always, you know, had a -- I
8 mean, a -- a good interest in law enforcement, you
9 know, several friends, family friends, we knew for
10 years was in it and stuff; so, that's how I kind of got
11 on with it.

12 Q. Okay. You had a contact there?

13 A. Oh, yeah. Yeah, it was -- I don't know if you
14 want me to ramble or not like that but --

15 Q. Well, don't ramble too much but you --

16 A. -- yes, sir.

17 Q. -- you had an in at the Sheriffs Department?

18 A. Yeah, the -- actually the Sheriff.

19 Q. Okay.

20 A. So, he -- I flagged him down one day on the road
21 and told him I was interested and he told me to get an
22 application in and I applied.

23 Q. Did you go to the Criminal Justice Academy?

24 A. Yes, sir.

25 Q. How long were you there?

- 1 A. Just the nine (9) weeks.
- 2 Q. Okay. And after the Criminal Justice Academy, did
- 3 you ever go back for additional training?
- 4 A. Other than just your -- you know, your regular
- 5 like DataMaster just, you know.
- 6 Q. You got your DataMaster certification?
- 7 A. Yes, sir.
- 8 Q. Did you -- you were a canine handler --
- 9 A. I also --
- 10 Q. -- at one point?
- 11 A. -- yes, sir; I done that. Yes, sir.
- 12 Q. Was there a specialized training for that?
- 13 A. I went to one (1) -- I basically relied on just my
- 14 coon hunting experience, is what me and the Captain,
- 15 when he got me set up for that, you know, we just -- he
- 16 knew I'd done a lot of hunting and stuff with dogs.
- 17 Q. You had hunted with dogs before?
- 18 A. Yes, sir.
- 19 Q. Okay.
- 20 A. Yes, sir.
- 21 Q. All right. And so, other than the DataMaster
- 22 certification and the K-9 certification -- was there a
- 23 K-9 certification or was it just --
- 24 A. It was just a class; I mean, it wasn't really a --
- 25 Q. -- okay. So, other than Criminal Justice Academy

1 and the -- and the certification on DataMaster, did you
2 get any other certifications associated with law
3 enforcement?

4 A. -- nothing as far as advance --

5 Q. Okay.

6 A. -- advancement-wise.

7 Q. Did you ever do criminal investigations?

8 A. No, sir. No.

9 Q. You didn't get any training in that?

10 A. No, sir.

11 Q. Ever do any criminal investigations as -- in the
12 course of your work at --

13 A. Just your --

14 Q. -- the Sheriffs Department?

15 A. -- your standard field -- field investigation, you
16 know, what you do --

17 Q. You were the --

18 A. -- when you're trained for the Academy.

19 Q. -- you were the litter investigator, correct?

20 A. Yes, sir.

21 Q. Okay.

22 A. Yeah.

23 Q. All right. And did they give you any special
24 training for that or did they say go investigate
25 litter?

- 1 A. No, just there it is; go do it.
- 2 Q. Okay.
- 3 A. Yes, sir.
- 4 Q. All right. I think we -- we want to talk a little
- 5 bit about your education, I think you told me one time
- 6 -- one time -- I'm sorry, after the Sheriffs
- 7 Department, how long were you there?
- 8 A. Oh, five (5) years. Yes, sir.
- 9 Q. Five (5) years?
- 10 A. Yes, sir.
- 11 Q. Then you went to the transport police --
- 12 A. Yes, sir.
- 13 Q. -- is that correct?
- 14 A. Yes, sir.
- 15 Q. And how long were you the -- with the transport
- 16 police before you were injured?
- 17 A. Till June the 30th of '13, was my last day with
- 18 them.
- 19 Q. Okay. Well, when did you start with the transport
- 20 police?
- 21 A. Oh, October of '07.
- 22 Q. October of '07?
- 23 A. Yes, sir.
- 24 Q. So, you were with them a total of about six (6)
- 25 years or so?

- 1 A. Yes, sir.
- 2 Q. Okay.
- 3 A. Yeah.
- 4 Q. Now, you told me one time that as far as your
5 education, that you had a PHD?
- 6 A. Yes, sir.
- 7 Q. And you said that's a Pickens High Diploma, right?
- 8 A. A Pickens High Diploma; yes, sir.
- 9 Q. Okay. Any other -- did you ever go to Tri-County
10 Tech or anything like that, learned a -- any trades or
11 anything like that?
- 12 A. No, sir.
- 13 Q. Did you ever learn to weld or --
- 14 A. No, sir.
- 15 Q. -- anything like that? Anything -- any other
16 special skills you learned on the job?
- 17 A. Oh, no. No, sir.
- 18 Q. Okay. All right. Now, on the -- on July 16th of
19 2012, you had your injury; is that correct?
- 20 A. Yes, sir.
- 21 Q. Can you tell the Commissioner, briefly, how you
22 got injured?
- 23 A. I was working the waste station over here on I-85
24 at the 9 mile marker, northbound, and as I -- a truck
25 come up on the ramp; I wanted to do a safety check on

1 him. So, I started down stairs. He -- he looked like
2 he was going to take off on me. So, I kind of took off
3 down the stairs and when I did I slipped but I caught
4 myself on the -- the next step or so down; I landed on
5 that right leg. And I didn't -- I felt a pop and I
6 didn't -- I didn't pay it no attention; I was just
7 like, oh no -- you know, ooh, that didn't feel good.
8 So, I went on out yonder and started doing the
9 inspection around the truck, and the more I went around
10 the truck the worser I felt. And finally I told the
11 driver, I said, it's your lucky day; have a good day,
12 sir. I'm -- just have a good one. And I went back up
13 to the -- the tower there at the station and sat around
14 there for a little while. And finally, I called my
15 supervisor and I said, look, I've jarred my back; I'm
16 going to go to the house and lay down. And he said,
17 not a problem; he said he'd get somebody down there to
18 fill in.

19 Q. Okay. And did you -- you went on home that day?

20 A. Yes, sir.

21 Q. Okay. How did you feel the next morning?

22 A. Terrible.

23 Q. Okay.

24 Commissioner Wilkerson: And it's
25 admitted so.

1 Mr. Moorhead: Sure. Sure, I'll -- I'll
2 skip on ahead.

3 Commissioner Wilkerson: I know you need
4 to get a few things in there.

5 Mr. Moorhead: I was going to get a
6 little bit of his medical treatment just to
7 show that he had a full range of treatment.

8 Commissioner Wilkerson: Okay.

9 Mr. Moorhead: Okay.

10 Commissioner Wilkerson: And it's in the
11 APA's; is that correct?

12 Mr. Moorhead: I -- I believe it is; I
13 believe it --

14 Commissioner Wilkerson: Loudermilk of
15 --

16 Mr. Moorhead: -- if -- if you are
17 satisfied with the -- and I don't think its
18 contested but, I mean, he's got his epidural
19 steroid injections, surgery, his physical
20 therapy and so forth all in the records.

21 Commissioner Wilkerson: -- oh.

22 Mr. Moorhead: I just -- I just --
23 because of the issue with the spinal cord
24 stimulator I wanted to establish a full range
25 of treatment related to his back.

1 Commissioner Wilkerson: Okay. And you
2 don't -- none of that has been denied; is
3 that correct?

4 Mr. Smith: Correct.

5 Commissioner Wilkerson: Okay.

6 Mr. Moorhead: Okay.

7 Q. Let's -- let's skip on down then to -- to how you
8 are able to function --

9 A. Yes, sir.

10 Q. -- okay? Now, what -- what sort of problems did
11 you have right at the first associated with -- with
12 your injury?

13 A. Right when it first happened?

14 Q. Right when it first -- when it --

15 A. Yeah, I -- I felt the pain in my lower back and I
16 felt the -- I mean, it just felt like some radiating
17 pain coming down my right leg.

18 Q. -- down your right leg?

19 A. Yes, sir.

20 Q. Did that -- did those same symptoms continue?

21 A. Oh, yeah. Yes, sir.

22 Q. Okay. Did they get worse over time?

23 A. Yes, sir.

24 Q. How did they get worse?

25 A. It got to where -- I mean, I -- I couldn't never

- 1 get comfortable no matter where I sit, no matter how I
2 slept. The -- you -- I could find one position and it
3 would last for about ten (10) minutes where you could
4 lay on your stomach and pull your right leg up to your
5 stomach on a bed, and it would last for about ten (10)
6 minutes, it would finally give you some relief but then
7 it would start kicking back in again and then you
8 couldn't never find that certain spot again and all,
9 so.
- 10 Q. Okay. And you ultimately went to Dr. Bucci and
11 had surgery; is that correct?
- 12 A. Yes, sir.
- 13 Q. It's my understanding that you had a free floating
14 fragment --
- 15 A. Yes, sir.
- 16 Q. -- is that your understanding?
- 17 A. Yes, sir.
- 18 Q. Do you have -- do you know anything about what
19 nerve levels were affected by your -- by this injury?
- 20 A. It was --
- 21 Q. If you don't, that's okay.
- 22 A. -- it was the bottom one down -- I don't know.
- 23 Q. Okay. Did you continue to have problems down the
24 right leg?
- 25 A. Oh, yeah. Yes, sir.

- 1 Q. And you still have those today?
- 2 A. Yes, sir.
- 3 Q. Could you --
- 4 A. Yeah.
- 5 Q. -- could you explain, in a fair amount of detail
- 6 for this --
- 7 A. Yes, sir.
- 8 Q. -- the problems that you're having with the right
- 9 leg in terms of sensation, pain, etcetera?
- 10 A. It's -- it's like it -- whenever you -- your leg
- 11 or arm goes to sleep on you, it's -- it's that -- it's
- 12 that feeling there that just won't go away, and it
- 13 hurts when you put any weight down on it. I mean,
- 14 everything is, like, tender, I mean, it just -- and you
- 15 get like shooting pains; I mean, it's just like it -- I
- 16 mean, they'll take your breath away; it draws your leg
- 17 up. I mean, it's -- it's --
- 18 Q. And is that -- is that sensation -- where -- where
- 19 are you having that -- that sort of foot is asleep or
- 20 leg is asleep --
- 21 A. From my --
- 22 Q. -- sensation?
- 23 A. -- from my right -- on my right leg, roughly from
- 24 my knee down on my calf, around into my foot and into
- 25 my toes. It's just a -- it's -- it's a miserable pain.

- 1 Q. Have you had any occasions where you have -- do
2 you have numbness as well?
- 3 A. Oh, yeah. Yes, sir.
- 4 Q. Okay. So, in addition to the sort of pain and
5 that asleep feeling --
- 6 A. Uh-huh.
- 7 Q. -- do you have a loss of sensation?
- 8 A. Oh, yeah. Yes, sir. I -- I've had -- my wife, we
9 was out in the yard one day and she said, what's that
10 on your leg? And I said, what are you talking about?
11 And I looked down there and there was fire ants all
12 over my leg on that calf and I didn't have a clue they
13 was there and -- so, it's just --
- 14 Q. I understand she's -- has she -- has your wife
15 poked you in that leg --
- 16 A, -- yes.
- 17 Q. -- with a needle before?
- 18 A. Yes, she actually -- I was trying to give our
19 little youngun a little bath one night and she come in
20 there just to -- I guess just to do her own little --
21 her own -- I guess her own doctor's trick. And she
22 stuck a needle in that right leg and I didn't know she
23 was back there; then she went to my other one and I
24 about jumped up -- jumped -- I about threw the youngun
25 down in the shower too because I thought something

- 1 finally grabbed a hold to me when she hit my left leg.
- 2 Q. So, is it -- is it -- and these are my own words,
- 3 is it fair to describe your -- your right calf and foot
- 4 as dead to --
- 5 A. Yes, sir.
- 6 Q. -- to --
- 7 A. Yeah.
- 8 Q. -- to sensation?
- 9 A. Yes, sir.
- 10 Q. Okay.
- 11 A. Yeah.
- 12 Q. And does that create problems for you walking?
- 13 A. Yes, sir.
- 14 Q. Okay. What other problems do you have other than
- 15 -- tell -- how does it create a problem waking?
- 16 A. Well, as far as -- it just -- it don't react -- it
- 17 don't want to go -- it don't want to go like it -- to
- 18 -- to keep you at a normal rate, you know, like to keep
- 19 up. I can't get it to -- it's like it wants to lag
- 20 behind.
- 21 Q. Okay. All right. Do you have pain associated
- 22 with walking?
- 23 A. Yes, sir.
- 24 Q. Tell me about that.
- 25 A. It's -- every time that foot lands -- I mean, I

1 try to -- whenever I stand I try to always keep
2 pressure off that --

3 Q. Okay.

4 A. -- off that leg.

5 Q. So, you've got sort of a weird situation where
6 ever you -- you feel it and it's painful but then at
7 the same time -- like the external stimuli, you can't
8 feel --

9 A. No. That, it's like it's inside like the -- the
10 outer skin, like, you can't feel nothing on the outer
11 skin but the -- the muscle on the inside is what hurts
12 worse than --

13 Q. -- okay.

14 A. -- or the -- I guess you'd call it the meat on the
15 inside where it hurts worse.

16 Q. Okay.

17 A. Yeah.

18 Q. All right. After your -- your operation by Dr.
19 Bucci, I understand you -- did you return to work light
20 duty --

21 A. Yes, sir.

22 Q. -- January of 2013 --

23 A. Yes, sir.

24 Q. -- is that correct?

25 A. Yes, sir.

1 Q. Tell me about -- what -- where did you go; what
2 did you do?

3 A. I went to the Greenville office over here and
4 just, you know, tried -- tried to help my supervisor do
5 -- I mean, it was -- it was his job to perform what I
6 did -- just some paperwork, just read some inspections,
7 you know, watched some video tapes, you know, tried to
8 file a ticket or two (2) but, I mean, it -- you know,
9 it was just -- it was something to try to get us, you
10 know, better than what we was.

11 Q. Who was your supervisor?

12 A. Sergeant Woods.

13 Q. Sergeant Wood?

14 A. Woods.

15 Q. Woods?

16 A. Yes, sir.

17 Q. And was Sergeant Woods -- were the things that you
18 were doing, were they part of his job?

19 A. Yes, sir.

20 Q. Okay.

21 A. Yeah.

22 Q. Was it -- was it your under -- your understanding
23 that you were doing -- you weren't doing a job, you
24 were doing part of his job?

25 A. Yes, sir.

- 1 Q. Okay.
- 2 A. Yeah.
- 3 Q. And he was there; is that correct?
- 4 A. Yes, sir.
- 5 Q. Did you have discussions with him about work?
- 6 A. Oh, yeah. Yes, sir.
- 7 Q. What -- what kind of things did you tell him about
- 8 continuing work?
- 9 A. Well, I mean, I just -- I -- I wanted to -- I
- 10 wanted to get back to -- to doing what I knew. And I
- 11 was concerned -- and he was concerned about, you know,
- 12 well -- you know, was -- is your -- you know, are going
- 13 to be healthy enough to do the job. And I, you know --
- 14 but it was just -- you know, we just wanted to -- I
- 15 mean, he wanted to try to find me something but there
- 16 just -- in law enforcement you can't be a -- you can't
- 17 have a bad back in law enforcement.
- 18 Q. Was there -- was there a particular proposal that
- 19 you recall about trying to keep you --
- 20 A. Oh, yeah. He offered --
- 21 Q. -- in the job?
- 22 A. -- he offered, just on his thinking, to try to put
- 23 me at the weigh station full time working, you know,
- 24 and to keep me down there to where I wouldn't, you
- 25 know, you wouldn't have many of the unknowns as you

1 would on the road working.

2 Q. Yes.

3 A. You know, he -- he felt like that would be a safer
4 environment.

5 Q. Would the weigh station have allowed you to stay
6 up, sort of, in that little tower on the -- on the
7 interstate?

8 A. Well, no, you would still have to proceed down but
9 he was just thinking you would have more of a --

10 Q. You wouldn't be on the side of the interstate?

11 A. -- yes, sir.

12 Q. Okay.

13 A. Yeah, he --

14 Q. So --

15 A. -- because he was concerned more about my leg, the
16 way my leg give out on me --

17 Q. -- okay.

18 A. -- he didn't want me falling in the highway.

19 Q. All right. It's my understanding the light duty
20 ran out in July of '13; is that correct?

21 A. With the -- yes, sir. Yeah.

22 Q. And you are -- and you are on police disability
23 retirement --

24 A. Yes, sir.

25 Q. -- for the State --

- 1 A. Yes, sir.
- 2 Q. -- correct?
- 3 A. (Nodded head in an up-and-down motion).
- 4 Q. Okay. Since that time?
- 5 A. Yes, sir.
- 6 Q. All right. Have you -- what have you been doing
- 7 since July of '13?
- 8 A. Oh, Mr. Mom.
- 9 Q. Okay.
- 10 A. Trying to keep up with stuff around the house.
- 11 Q./ Okay. And do you have a child?
- 12 A. Yes, sir.
- 13 Q. How old is your child?
- 14 A. Three (3) years old.
- 15 Q. A little girl?
- 16 A. Yeah. Yes, sir.
- 17 Q. All right. And tell me about -- your wife works,
- 18 correct?
- 19 A. Yes, sir. Yeah.
- 20 Q. All right. So, what -- what are you doing in
- 21 terms of your day --
- 22 A. Just --
- 23 Q. -- when you're at home?
- 24 A. -- the general -- just trying to keep up with the
- 25 -- the housework the best I can, that way it don't --

1 she don't have a pile of stuff on her whenever she
2 comes home after working all day.

3 Q. Okay. So, what -- what sort of specific things do
4 you do with --

5 A. I just --

6 Q. -- regarding to the housework?

7 A. -- trying to keep that little youngun on tabs. As
8 far as, you know, you try -- I try to do some laundry
9 the best I can.

10 Q. Okay.

11 A. The dishwasher, I'll -- I try to wash some dishes
12 but, you know, it's just the -- it's, you know, trying
13 to stand there and wash dishes and being unbalanced and
14 stuff at the same time ain't too swift, so.

15 Q. So, you have -- do you have balance issues as you
16 just stand -- stand still?

17 A. Yes. Yeah, because I -- I put all my weight on
18 this one leg (indicating) --

19 Q. The left leg?

20 A. -- the left leg because it's -- it's -- it's where
21 I feel stable. I've had my -- I've had too many issues
22 with my right leg giving out on me and I -- I don't
23 trust it.

24 Q. Okay. Have you had instances where you've had --
25 emergency might be too strong of a word but times when

1 you felt like you needed to move --

2 A. Oh, yeah.

3 Q. -- with regard to your child?

4 A. Yes, sir. Oh, she's -- well, back in Easter we
5 was there at her -- at my wife's grandfather's house
6 and she had got into a fire ant hill and she was
7 standing there and she was like, you know, ouchy,
8 ouchy. And I was like, well -- well, move, you know?
9 And -- and she -- you know, she just didn't know
10 nothing but to stand there and they was covering her
11 legs, I mean. And me and my wife, she was on the porch
12 and I was actually closer to the -- to our daughter
13 than she was, and she got there right at about the same
14 time I did but, you know, I -- I scooped her up, just
15 -- I mean, you know, it hurt to scoop her up but, I
16 mean, you know, you -- you've got to do what you've got
17 to do. And she grabbed that leg that had all them fire
18 ants all over it and -- I mean, she had several bites
19 on her but --

20 Q. Well, what -- let's -- let's talk about what that
21 incident did to you. Now, as I -- as you just
22 described it, you basically reached and grabbed her and
23 pulled --

24 A. Yes, sir.

25 Q. -- and pulled her up?

- 1 A. Yes, sir.
- 2 Q. How much does your daughter weigh?
- 3 A. About thirty (30) pounds.
- 4 Q. Okay. And tell me about how that affected you.
- 5 A. Oh, I mean, it -- instantly I -- my back was
- 6 hurting instantly. Once I scooped her up and, you
- 7 know, we got her -- which I wasn't really concerned
- 8 about myself at the time, you know, but we got her
- 9 cleaned up and everything. But I knew my back was
- 10 hurting and it -- I mean, it -- it hurt, Lord mercy, it
- 11 hurt ever worser for two (2) to three (3) days
- 12 afterwards, I mean, it -- it pretty much -- I couldn't
- 13 -- I mean, I couldn't really do nothing.
- 14 Q. Okay. Have -- have you had other instances where
- 15 you've done similar things --
- 16 A. Yes, sir.
- 17 Q. -- especially with regard to your daughter?
- 18 A. Oh, yeah. Yes, sir. She's, you know -- you know,
- 19 how a three (3) year old, they're wide open and she run
- 20 there in the driveway -- my wife was in the house and I
- 21 was outside; I was probably fifty (50) feet or more
- 22 from the little youngun. And she fell out there in
- 23 that gravel in the driveway and she was sitting there
- 24 screaming, you know, because she hurt. And my wife
- 25 actually beat -- she seen it outside and she actually

1 beat me to the youngun, and I wasn't but fifty (50)
2 feet away and she come running from the inside of the
3 house and was able to get to the -- get to our daughter
4 before I could.

5 Q. Were you able to -- I'm going to call it run --
6 were you able to run to your daughter?

7 A. Huh-uh. No. It was just a -- I mean, I -- I done
8 the best I could to get to her --

9 Q. Okay.

10 A. -- but --

11 Q. You -- you took -- you had a -- I think you had an
12 FCE done in, I think, 2014; is that correct?

13 A. -- yes, sir.

14 Q. The second FCE that you've done, correct?

15 A. Yes, sir.

16 Q. Did -- was that -- do you recall that being a --
17 was that a two (2) day FCE?

18 A. Yes, sir.

19 Q. Okay. Do you remember doing a -- treadmill
20 walking?

21 A. Yes, sir.

22 Q. Do you -- do you have any knowledge of how fast
23 you were able to walk?

24 A. No, sir. No, I wasn't -- I never paid it no
25 attention. I just told him when to slow down and when

1 to -- because, I mean, it was -- I wasn't focused in on
2 that; it was focused in on just trying to do a good job
3 and --

4 Q. Okay.

5 A. -- I mean, I -- I give a hundred percent (100%)
6 effort that I could.

7 Q. Okay. And you did that the first -- you did the
8 treadmill walk the first day and the second day?

9 A. Yes, sir. Yes, sir.

10 Q. Do you know if you were any faster on the second
11 day than you were on the first day?

12 A. I don't think so. I don't think I -- I thought I
13 done -- I thought I done decent is what I was thinking
14 --

15 Q. Okay.

16 A. -- but --

17 Q. All right. But in terms of getting to your
18 daughter that day you were slow; is that fair?

19 A. -- yeah, absolutely. Yes, sir.

20 Q. And your day-to-day ability to walk, can you -- do
21 you keep up with your wife?

22 A. Oh, no. No, she -- I used to could out run her; I
23 used to could, I was pretty good at that. But now she
24 takes off and leaves me. She -- I'm always dragging
25 behind as a old --

- 1 Q. I understand.
- 2 A. -- country song would say.
- 3 Q. I understand. Do you -- do you have problems with
- 4 sleep?
- 5 A. Yes, sir.
- 6 Q. Why -- why do you have problems with sleep?
- 7 A. Just the pain in my lower back and the pain in my
- 8 right leg; it just -- it's just a nagging pain all --
- 9 all night long.
- 10 Q. Okay. Are there things that wake you up at times?
- 11 A. Oh, yeah. You get -- I get, like, cramps --
- 12 Q. Okay.
- 13 A. -- in that leg and everything, so, I mean --
- 14 Q. Did you -- did you have a cramp today?
- 15 A. -- yes, sir.
- 16 Q. Okay. All right. We arrived here -- what time
- 17 did you arrive here; I want to ask you that question.
- 18 A. Ten o'clock, roughly.
- 19 Q. Okay. And the hearing is at 2:15?
- 20 A. Yes, sir.
- 21 Q. And in that time period, where were you?
- 22 A. Back yonder in that little room back yonder.
- 23 Q. Okay. Talking to me?
- 24 A. Yes, sir. Yes, sir.
- 25 Q. Okay. And you had a cramp during that time?

- 1 A. Yes, sir.
- 2 Q. Okay. Is that kind of typical?
- 3 A. Oh, yeah. It's -- you just kind of -- kind of
- 4 just live with it, you know. You know what's --
- 5 Q. Okay.
- 6 A. -- what's to be expected now.
- 7 Q. Do you -- when you fall asleep, do you fall asleep
- 8 kind of quickly?
- 9 A. I -- I try to because I know I better get as much
- 10 as I can because I know it's going to be bothering me
- 11 later on in the night --
- 12 Q. All right.
- 13 A. -- so.
- 14 Q. All right. Now, have you -- have you given
- 15 consideration to -- to work -- to other work other than
- 16 as a police officer?
- 17 A. Yeah. I mean, I've thought about it but I -- I
- 18 don't think I can. I mean, I -- you know, I just -- I
- 19 don't --
- 20 Q. You -- is it fair to say until 2013, you've
- 21 basically worked since you were twelve (12)?
- 22 A. -- absolutely. Yes, sir.
- 23 Q. Okay. Are you -- are you frustrated with this
- 24 situation?
- 25 A. Yes, sir; absolutely.

1. Q. Okay. All right. There's been a recommendation
2 in this case for a spinal cord stimulator?

3 A. Yes, sir.

4 Q. Can you tell the -- tell the Commissioner what, if
5 anything, you've done with regard to making a decision
6 about whether or not to have a spinal cord stimulator?

7 A. I've considered it, I mean, I -- I have considered
8 it and I've weighed my -- my options but I -- you know,
9 your doctor tells you to call this person and talk to
10 them, and you talk to them or you make a phone call to
11 talk to them, but then you know somebody who's had a --
12 a failed one. A friend of mine, he's -- he had one in
13 and -- and he's got a big ole hole now in the back of
14 his back where -- he hated it. He did not like it and
15 he -- I mean, he -- he says, do not have it done. He
16 said, you'll hurt --

17 Mr. Smith: I --

18 A. -- worser.

19 Mr. Smith: -- Commissioner, I'm

20 objecting to what the friend --

21 Mr. Moorhead: It's -- it goes to state
22 of mind.

23 Commissioner Wilkerson: Yes. State of
24 mind; I'm fine with that, yes.

25 A. Oh. I mean, I just -- and it don't make me feel

1 good to know that somebody I've known for years that
2 has it, I mean, you know, why do I want to put my body
3 through something that -- you know, he went and had it
4 done -- and I've already been poked and prodded on like
5 a dadburn ole cow you're trying to drive to the corral,
6 you know, and I'm -- I just don't -- I'm terrified
7 about being stuck again because, I mean, I had that --
8 that allergic reaction or whatever it was in
9 Greenville, I mean, and it scared me to death, you
10 know, and then I got the surgery. And I ain't never
11 had none of this stuff done before and I just -- I
12 don't -- I'm uncomfortable around doctors now.

13 Mr. Moorhead: I think that's all I've
14 got.

15 Commissioner Wilkerson: Thank you. Mr.
16 Smith?

17 CROSS-EXAMINATION

18 By Mr. Smith:

19 Q. Mr. Edwards, you're about -- you're thirty-five
20 (35) years old --

21 A. Yes, sir.

22 Q. -- currently? You just turned thirty-five (35) --

23 A. Yeah.

24 Q. -- recently?

25 A. Yes, sir.

1 Q. All right. And do you have any trouble reading
2 and writing?

3 A. Well, I mean, I -- I've -- I can do it, I mean,
4 I'm not fluently probably pretty good but, I mean, I
5 can write -- I can write to where I can read it, nobody
6 else probably can.

7 Q. And do -- do you remember when I asked you that
8 same question at your deposition?

9 A. It was yes, sir. It was verbally, yeah, I can
10 read and write; yes, sir.

11 Q. Okay. You didn't have any trouble reading and
12 writing?

13 A. Oh, no, I mean, I -- I can do it; I just -- you
14 know; yes, sir.

15 Q. And you -- you told me about -- you attended the
16 Criminal Justice Academy?

17 A. Yes, sir.

18 Q. All right. And you became a certified law
19 enforcement officer?

20 A. Yes, sir.

21 Q. And at the Criminal Justice Academy you were
22 trained on how to investigate accidents and crimes?

23 A. No, actually that's -- no, sir.

24 Q. We --

25 A. Just -- just the -- the regular like your domestic

1 stuff. When you -- you know, just your regular on the
2 field stuff, you know. Not as far as -- we had, like,
3 investigation -- we had an Investigation Division with
4 the Sheriff's Office and they went through additional
5 training on the criminal investigation stuff that --
6 you know, I just know basically your firsthand
7 knowledge on the scene of stuff as far as --

8 Q. So -- so you did receive some training on
9 investigating --

10 A. -- just through the --

11 Q. -- crime?

12 A. -- yes, sir. Just through the -- the nine (9)
13 week course of the -- the one (1) week class that we
14 had on CDV investigation; yes, sir.

15 Q. And on -- in that class did they talk to you about
16 how to interview witnesses and --

17 A. Oh, yeah.

18 Q. -- that type of thing?

19 A. Yes, sir. Yeah.

20 Q. So, you had some training in that as well?

21 A. Yes, sir.

22 Q. All right. And I believe you said you worked for
23 Pickens County Sheriffs Department --

24 A. Yes, sir.

25 Q. -- for five (5) years?

- 1 A. Yes, sir.
- 2 Q. And part of your duties included handling the
3 tracking dogs?
- 4 A. Yeah. Yes, sir.
- 5 Q. And you also performed some of the normal sheriffs
6 deputy --
- 7 A. Oh, yeah.
- 8 Q. -- duties?
- 9 A. Yes, sir. Yeah.
- 10 Q. And did those duties include going out and
11 investigating calls that --
- 12 A. Yeah. I mean, as far as like the -- your
13 larcenies and stuff like that you didn't investigate,
14 that's -- everything was -- you know, we'd go out and
15 take the initial report, you know, this was missing,
16 this was missing and have you got any suspects? No.
17 And the report would go straight to the investigate --
18 you know, the Investigation Division for them to hand
19 it out.
- 20 Q. -- okay. So, you would interview the victims and
21 --
- 22 A. Yeah. There wasn't --
- 23 Q. -- to get their statements?
- 24 A. -- yeah. I mean, yeah, you'd take a written
25 statement from them but like I say, if it was something

1 as -- that involved more investigation that -- because,
2 I mean, at the point in time when I was working there
3 you didn't have time to spend a lot of time with
4 people, you know, it was on to the next -- you know,
5 you didn't have a lot of investigation time as far as
6 to actually sit and spend a lot of time with people
7 because you just had to really get their information,
8 this is what's going on, okay. If it's something that
9 involved an arrest right then we'd handle it but if
10 there wasn't nothing then, then we had to just send it
11 to CID for them to -- for them to do a follow up and --
12 Q. And they would handle the more lengthy --
13 A. -- oh, yeah.
14 Q. -- investigations?
15 A. Yes, sir. Yeah.
16 Q. And you mentioned you completed the -- completed
17 reports and other paperwork?
18 A. Yeah. We'd just type up an inspection report -- I
19 mean, a -- I'm sorry -- a -- an incident report.
20 Q. All right. And -- and when you say type it up,
21 you used a computer --
22 A. Yeah. Yes, sir.
23 Q. -- to do that?
24 A. Yeah. Yeah, they had their own little format that
25 you'd get into; you just -- it was just there.

1 Q. And did you have to locate documents and
2 information in the record system if needed?

3 A. Well, I -- on typing the investigation report it
4 was really an icon that you clicked on that -- and it
5 just pulled your incident report up and it was
6 basically tab through it and then type your narrative.

7 Q. Right. But would -- as part of your other duties
8 would you ever have to go into the documents to search
9 for those?

10 A. I mean -- I mean, you'd have to look for, like,
11 where a supplemental form was but it was basically like
12 another icon or you'd go in the -- I mean, that was --

13 Q. And your -- your job with the Pickens County
14 Sheriffs Department, was that your first law
15 enforcement job?

16 A. -- yes, sir.

17 Q. And you were hired by the South Carolina
18 Department of Public Safety in October of 2007?

19 A. Yes, sir.

20 Q. And you worked as an officer?

21 A. Yes, sir.

22 Q. And at the time of your accident your position was
23 senior officer?

24 A. Well, it -- yes, at the time it was. Yes, sir.

25 Yeah.

1 Q. And your job duties were to enforce State and
2 Federal commercial trucking and vehicle laws?

3 A. Yes, sir.

4 Q. And you inspected vehicles?

5 A. Yes, sir.

6 Q. Issued citations?

7 A. Yes, sir.

8 Q. And prosecuted violators --

9 A. Yes, sir.

10 Q. -- in Magistrates Courts?

11 A. Yes, sir.

12 Q. And you handled radio and phone calls?

13 A. Oh, yeah. Yes, sir.

14 Q. And you completed paperwork?

15 A. Yes, sir.

16 Q. And I believe Fridays were your normal paperwork
17 days?

18 A. Yes, sir. Yeah, the -- they had -- my supervisor
19 made up his own little just a weekly form that he would
20 email out to you and you just put your numbers in and
21 tab through it to the next because he had everything
22 already -- you know, how many hand scales you done.
23 You'd just put like if you'd done five (5) or ten (10)
24 hand scales you'd put the number in and go on to the
25 next tab.

1 Q. And so, you used a computer to --

2 A. Oh, yeah.

3 Q. -- to complete your paperwork?

4 A. Yes, sir.

5 Q. All right. And I believe initially -- and just to
6 clear it for the record, initially after your work
7 accident on July 16th you treated on your own --

8 A. Yes, sir.

9 Q. -- with a Chiropractor?

10 A. Yes, sir.

11 Q. And then on your own at the hospital --

12 A. Yes, sir.

13 Q. -- before --

14 A. Workers' --

15 Q. -- before --

16 A. -- ever --

17 Q. -- Workers' Comp --

18 A. -- before I was ever notified by Workers' Comp --

19 Q. -- okay.

20 A. -- yes, sir. I just -- everything had kind of
21 went on for a little while and it finally got to where
22 I just told my wife, we've got to do something; I mean,
23 I'm -- I'm hurting too bad.

24 Q. Right. And when you talked to your Sergeant on
25 the afternoon of the accident, you didn't ask for

1 medical treatment, correct?

2 A. No, I didn't. Like I say, I just -- I thought it
3 was just a, you know, you jarred your back and you go
4 home and lay down for a day or two (2) and that would
5 be the end of it, you know, you'd be back out working.

6 Q. And you were ultimately sent to Dr. Bucci?

7 A. Yes, sir.

8 Q. And --

9 A. For surgery; yes, sir.

10 Q. -- and he performed surgery on your lower back in

11 --

12 A. Yes, sir.

13 Q. -- October of 2012?

14 A. Yes, sir.

15 Q. And the surgery, that alleviated the majority of
16 your back pain?

17 A. It alleviated some of it; yes, sir. I mean, I
18 still have the -- it's a tight feeling. I can't really
19 describe it but it's a -- it's just a -- a tension;
20 it's all the time in my -- in my lower back. And then,
21 like I said, then I've got that -- that nerve pain that
22 runs down my right leg all the time; yes, sir.

23 Q. And is it fair to say that the -- the main problem
24 you have now is the -- the pain in your leg?

25 A. Yes, sir. I mean, I -- I still have to be careful

1 with my back because, I mean, with certain things that
2 you pick up -- I mean, I -- I mean, like I say, I mean,
3 picking up my daughter, I mean, I can tell the -- or
4 when she climbs on me, I mean, and she moves me around
5 I can feel it in my back. I mean, I -- I mean, my back
6 -- I just feel like my back is unstable still but, you
7 know, I ain't no doctor, so.

8 Q. And you worked -- started working light duty on --
9 in January of 2013?

10 A. Oh, yes, sir.

11 Q. And up until January of 2013, you'd been out of
12 work --

13 A. Yes, sir.

14 Q. -- since your work accident?

15 A. Yes, sir.

16 Q. And you were paid for all of your time out of
17 work?

18 A. As far as my -- I used a bunch of my -- all my
19 sick leave up and then Workers' Comp, I -- I come over
20 on Workers' Comp, and then they paid me through the --
21 that other time; yes, sir.

22 Q. Right. And the -- the light duty job you were
23 working at the district office --

24 A. Yes, sir.

25 Q. -- in Greenville?

- 1 A. Yes, sir.
- 2 Q. And you drove to work from --
- 3 A. Yeah, I --
- 4 Q. -- Greenville to Pickens?
- 5 A. -- yeah. I usually tried to get there a little
- 6 early to kind of recover a little bit from the ride
- 7 because it --
- 8 Q. And --
- 9 A. -- it's just a wear on you.
- 10 Q. -- and that light duty position, I mean, it was a
- 11 sedentary job at a desk?
- 12 A. No. No, it -- yeah, I was able to -- I could --
- 13 if I sit, I could sit for a little while but then I
- 14 couldn't get up, you know.
- 15 Q. Right. So, you -- you -- they let you alternate
- 16 --
- 17 A. Oh, yeah. And --
- 18 Q. -- sitting and standing?
- 19 A. -- he let me -- he -- he was just -- he was
- 20 excellent with me, you know, he -- he -- he helped me
- 21 out the best he could, you know, because he knew I was
- 22 hurting.
- 23 Q. Right. But it wasn't -- you weren't lifting --
- 24 A. Oh, no, no.
- 25 Q. -- fifty (50) or a hundred (100) pounds; it was --

- 1 A. Oh, no, no, no, no, no.
- 2 Q. -- it was an office job, correct?
- 3 A. No, it was just -- yeah.
- 4 Q. All right. And I believe you said reviewing
5 inspections, filing paperwork?
- 6 A. Yes, sir.
- 7 Q. And you were working full time?
- 8 A. Yes, sir.
- 9 Q. And you were able to tolerate that job during that
10 time period?
- 11 A. I -- I had to. I mean, because I -- like I said,
12 I wanted my job back, you know.
- 13 Q. And during that time you were working light duty,
14 you were also treating with Dr. Loudermilk?
- 15 A. Yes, sir.
- 16 Q. Okay. And Dr. Loudermilk has recommended and
17 prescribed several different medications --
- 18 A. Yes, sir.
- 19 Q. -- to help with the pain in your right leg?
- 20 A. It did but I -- I didn't like the way it made me
21 feel. Everything there I just -- I feel like I don't
22 react good to medicine. I just -- you know, I -- I can
23 take certain things and then if they give me like that
24 jittery feeling or whatever, I don't want it; I -- I
25 just don't like being on edge or having my stomach

- 1 hurt, you know.
- 2 Q. But the -- the medications he was prescribing you
3 were for your right leg pain?
- 4 A. Yes, sir. Yeah, for the nerve. Yes, sir.
- 5 Q. And -- and the medications, they -- they weren't
6 narcotic medications, were they?
- 7 A. I -- I don't -- I don't know, sir.
- 8 Q. Okay. And when -- did you ever have a discussion
9 with Dr. Loudermilk about narcotic medications and --
- 10 A. I've told him I --
- 11 Q. -- did you tell him that you were a police
12 officer?
- 13 A. -- I've done told him that I -- I don't like -- I
14 don't want no part of it because I've just seen too
15 many people get addicted to that stuff and, you know, I
16 -- you know, I -- I've got to take care of my daughter
17 now and I don't want to be on medication that is going
18 to zone me out or, you know, put me off or put her, you
19 know, in any type of jeopardy.
- 20 Q. All right. When you took the medications they did
21 help with your leg pain?
- 22 A. It eased -- well, it made me so sick that I -- I
23 don't really know, I mean, I --
- 24 Q. Did you -- did you tell Dr. Loudermilk that --
- 25 A. -- I told him that I didn't like it. Yeah, I told

1 him I didn't like the way it made me feel.

2 Q. -- did you ever tell him that the medications were
3 helping --

4 A. Oh, I don't --

5 Q. -- with your leg pain?

6 A. -- I probably did just to try to -- maybe just to
7 -- I wanted to get back to work; I wanted to work.

8 Q. Okay. Is it fair to say you didn't take the
9 medications --

10 A. Oh, no.

11 Q. -- as prescribed?

12 A. I did -- I did take them as prescribed until I
13 just -- until I got to feeling that I didn't like the
14 way they made me feel.

15 Q. And I believe Dr. Loudermilk sent you for an FCE
16 back in April of 2013, while you were still working for
17 the State?

18 A. Oh, yes, sir. Yeah.

19 Q. And I believe you were able to lift up to fifty
20 (50) pounds during that FCE?

21 A. I -- yeah, I'm -- I can't remember, if it's on the
22 paperwork that's what I did, then; yes, sir.

23 Q. Okay. And he assigned you permanent restrictions
24 --

25 A. Yes, sir.

- 1 Q. -- pursuant to --
- 2 A. Yeah.
- 3 Q. -- that FCE?
- 4 A. Yes, sir.
- 5 Q. And then, you resigned from your position with the
- 6 Department of Public Safety --
- 7 A. Yes, sir.
- 8 Q. -- on June 30th?
- 9 A. Yeah, the -- yeah, they wouldn't give me no more
- 10 time to try to get better.
- 11 Q. They --
- 12 A. They said that -- well, they said by State law
- 13 that was all they could give me, so.
- 14 Q. -- and you accepted State Retirement Disability?
- 15 A. Yes, sir.
- 16 Q. And you're receiving about twenty-two hundred
- 17 dollars (\$2,200.00) a month?
- 18 A. Yeah, before -- yeah, after -- before taxes and
- 19 stuff; yes, sir.
- 20 Q. And I know Dr. Loudermilk sent you to Dr. Burnett
- 21 for that one (1) time --
- 22 A. Yes, sir.
- 23 Q. -- evaluation and you've continued to treat with
- 24 Dr. Loudermilk?
- 25 A. Yes, sir.

- 1 Q. And it looks like at one point in late 2013, early
2 2014, you were prescribed Aleve, Ultracet and --
- 3 A. Yeah.
- 4 Q. -- then neuropathic cream?
- 5 A. Yes, sir.
- 6 Q. All right. And did -- those medications, they
7 helped with your leg pain?
- 8 A. The -- the cream --
- 9 Q. Were you using them together?
- 10 A. -- the cream -- the cream did. The foot cream
11 eases it off enough to where I can -- it's not as
12 sensitive to the general -- you know, it -- I mean, it
13 still hurts but it don't -- it knocks a little bit of
14 the edge off.
- 15 Q. All right. And when you -- when you stopped
16 taking those medications together did the pain get
17 worse in your --
- 18 A. They --
- 19 Q. -- in your leg?
- 20 A. -- it stays about the same still.
- 21 Q. And I believe Dr. Loudermilk recommended that you
22 not return to work as a police officer based off of the
23 restrictions?
- 24 A. Yes, sir.
- 25 Q. However, have you had a discussion with him

1 regarding the possibility of you returning --

2 A. Yes, sir.

3 Q. -- to different types of jobs?

4 A. Yes, sir.

5 Q. Have you looked into any other types of jobs?

6 A. I've -- I've searched around like -- like I say, I
7 mean, the -- the gentleman give me the vocational
8 report and I called several of them and, I mean, I -- I
9 mean, I don't know if you'll let me tell you what --
10 what they've -- a couple of them said to me but --

11 Commissioner Wilkerson: Well, if it's
12 your knowledge you can tell me what they told
13 you.

14 Witness: -- yes, sir.

15 A. Well, one of them I called -- well, several of the
16 numbers on there that -- that he give me was
17 disconnected. And then I called one place it was --
18 was AP Security Services and he told me -- he told me
19 that he did have security jobs open. And I said, well,
20 I -- you know, I -- if you -- you know, I -- if you'd
21 like to hear some of my problems I have, I said, you
22 know, before I apply and I told him, you know, that
23 sometimes -- you know, I have to have a cane. And he
24 said its twelve (12) hours on your feet all day long.
25 And he says, this job ain't for you, and that was just

1 what he left it at. The other places that he had
2 listed I called and they said they'd never heard of the
3 jobs. One place, Scan Source, they told me that all
4 their positions was listed on their web site. So, I go
5 on their web site and you've got to have a degree, a
6 college degree, to -- to apply for them and I don't --
7 I don't have that. I'm just, you know, I'm not
8 credited enough with all that college degree stuff, so.

9 Q. Are you -- are you still planning on trying to
10 return to work?

11 A. I -- I would -- I would love -- I would love to.
12 I am -- but I'm just concerned about my -- of what I
13 can and can't do. I mean, I -- I know as far as when I
14 pick something up, I mean, of how it feels on my back
15 and I know as far as my leg when it gives out on me, if
16 I ain't got nothing close to -- that's the reason I --
17 you know, I do keep the cane with me because it
18 stabilizes me more.

19 Q. All right. And given the fact that you don't like
20 taking medications, I believe Dr. Loudermilk has
21 recommended the spinal cord stimulator?

22 A. Yes, sir.

23 Q. And you've talked to him several times about it?

24 A. Oh, yeah. Yes, sir.

25 Q. And are you aware that Dr. Loudermilk believes

1 you're an ideal candidate and -- and that there is a
2 good chance you'll benefit from the spinal cord
3 stimulator?

4 A. Yeah. And like -- I'm just -- I'm ideal for a lot
5 of things. I was ideal, I guess, at Greenville
6 Memorial when they give me them three (3) shots and I
7 got that allergic reaction to it, I guess, and it just
8 -- I mean, like I say, everything that they've done, I
9 mean, I just -- I'm terrified of a doctor now.

10 Q. Okay. Do -- do you want to proceed with the
11 spinal cord stimulator?

12 A. No, sir; I don't. I just -- I don't want nothing
13 implanted in me. I just -- I feel like I just -- I'm
14 -- I don't want to. I mean, my -- my concern is -- is
15 -- I know now what I do and I know when to stop. If I
16 get that thing and it makes you feel all great and
17 everything and then I go out here and do something else
18 that's hurting my body worser and that stimulator is
19 kicking in and its making you all feel good and
20 everything, well then you're actually hurting your body
21 worsen than -- that's my -- I mean, you know, and I'm
22 -- I may be stupid for saying it but, I mean, I just --
23 that's just my concern. I don't want to hurt myself no
24 worsen than what I've already been hurt and if that
25 thing is hiding the pain from you; that's what they

- 1 said it does is dull the pain and -- and numb the pain.
- 2 Q. And is the pain in your leg, is that causing you
- 3 the most problem; out of all the problems --
- 4 A. Oh, yeah.
- 5 Q. -- you're having now --
- 6 A. Yes, sir.
- 7 Q. -- is that the --
- 8 A. Yes, sir.
- 9 Q. -- the worse problem. And so, even though it may
- 10 help that, you don't want to proceed with it?
- 11 A. I'm just -- no -- no, sir.
- 12 Q. Okay. And I believe even though you don't want to
- 13 proceed with it, you've got a psyche appointment for --
- 14 set up for the --
- 15 A. I do.
- 16 Q. -- pre-authorization of the spinal cord
- 17 stimulator?
- 18 A. Yes, sir. I -- I mean, Dr. Loudermilk has pushed
- 19 and pushed and pushed on this and, you know, I -- if I
- 20 can -- I just -- I mean, I -- I don't know what else to
- 21 do, I mean, you know, as far as -- I've got the psyche
- 22 exam but I -- I'm still debating on whether or not to
- 23 cancel it; they told me I had twenty-four (24) hours
- 24 within the appointment time to cancel it. I mean, I
- 25 just -- I don't know if I want anything like that stuck

1 in -- I mean, stuck inside my body, I mean.

2 Q. And -- and when you're talking about stuck inside
3 your body, you're talking about the --

4 A. The main -- the main thing; yes, sir.

5 Q. -- okay. And if that's the -- if that's the case,
6 well, have you considered -- has he talked to you about
7 the spinal cord stimulator trial?

8 A. Yes, sir.

9 Q. And they don't put the main thing in your body --

10 A. No --

11 Q. -- for that, correct?

12 A. -- they don't and I just -- I worry about them
13 lines feeding through your spine. I know they do it
14 all the time but -- and like I say, I'm probably stupid
15 for thinking like this; I just -- I just -- I just
16 don't like nobody messing with my spine anymore.

17 Q. And to date my clients have provided you with all
18 the treatment --

19 A. Oh, yeah.

20 Q. -- that was recommended --

21 A. Yes, sir.

22 Q. -- correct?

23 A. Yes, sir.

24 Q. And you mentioned earlier that you're able to surf
25 the Internet?

- 1 A. Oh, yeah. Yeah.
- 2 Q. And you spend a lot of your time during the day on
3 the computer?
- 4 A. No. I spend a lot more time trying to keep up
5 with that little youngun running around the house.
- 6 Q. And do you have some knowledge with Microsoft Word
7 and Excel?
- 8 A. Not -- I'm not -- I -- I not good -- I mean, I
9 have to -- like to -- I have to check with my wife a
10 lot to make sure I'm on the right program. Once I get
11 on there I can type up what I need to but, you know,
12 then I -- I mean, I have to -- I mean, I'm not computer
13 smart by no means.
- 14 Q. But you do have some knowledge?
- 15 A. Oh, yeah. I mean, I -- I can -- like I say, I can
16 get on the Internet and I can type in web addresses and
17 so forth but as far as getting in there as a -- you
18 know, typing up your -- I -- I don't know, doing all
19 kind of office junk and creating files, I think is what
20 they -- I don't know what all that stuff is.
- 21 Q. And do -- do you think you could learn how to do
22 some of that stuff --
- 23 A. Oh, I --
- 24 Q. -- if you had the opportunity?
- 25 A. -- yeah, I mean, I'm sure -- I mean, I don't --

- 1 Q. And I believe you live with your wife and --
2 A. Oh, yeah.
3 Q. -- and your three (3) year old daughter?
4 A. Yes, sir.
5 Q. And your wife works every day so you take care of
6 your daughter?
7 A. Yes, sir.
8 Q. And you -- you're able to pick up your daughter?
9 A. No. Not -- unless it's a -- an emergency I will
10 pick her up but if I -- if she wants me to hold her
11 I'll usually sit down and let her, you know, climb up
12 on me and, you know, then I'll hold her there for a
13 little while and --
14 Q. Has your daughter grown a lot in the last year?
15 A. -- oh, yeah.
16 Q. All right. Because -- and the only reason I ask
17 is at your deposition you testified she weighed about
18 twenty-seven (27) pounds --
19 A. Uh-huh.
20 Q. -- do you remember that?
21 A. Yeah.
22 Q. Okay. And earlier today you said she only weighs
23 thirty (30) pounds?
24 A. She's about thirty (30), thirty-two (32) pounds.
25 That -- I mean --

- 1 Mr. Moorhead: She can't help you.
- 2 A. -- oh. Yeah, she's about thirty (30) --
- 3 Mr. Moorhead: Do your best.
- 4 A. -- thirty (30) or thirty-two (32) pounds. I mean,
- 5 she's -- she's tall, she's above average on height --
- 6 Q. Okay.
- 7 A. -- but weight-wise she's average. I mean, she
- 8 hasn't growed -- I mean, like, height-wise I think --
- 9 you know, I -- I see her every day so, I mean, I think
- 10 she's growed a lot from -- from my deposition.
- 11 Q. And at three (3) years old the moving around like
- 12 that, are you having to keep up with her?
- 13 A. No. I don't keep up with her.
- 14 Q. But you're watching her throughout the day?
- 15 A. Yes, sir. Yeah, I mean, she -- she's smart.
- 16 She's -- I mean, she's a good little ole youngun.
- 17 Q. Now, I believe -- do you still live on about three
- 18 (3) plus --
- 19 A. Yes.
- 20 Q. -- acres of land?
- 21 A. Yep.
- 22 Q. All right. And the -- the main -- is the main
- 23 source of your heat in the wintertime still --
- 24 A. Wood. Yes, sir.
- 25 Q. -- a wood burning stove --

- 1 A. Yes, sir.
- 2 Q. -- and a fireplace?
- 3 A. Uh-huh.
- 4 Q. And during the winter of 2013, 2014, after you
- 5 resigned from your position with Department of Public
- 6 Safety, I believe you --
- 7 A. Yes, sir.
- 8 Q. -- you cut wood with a chainsaw every weekend?
- 9 A. Yes. I had to, I mean, I -- I couldn't let them
- 10 freeze; so, I had to provide the best I could with
- 11 them. Yes, sir. I mean, it -- I would cut and be down
- 12 for, you know -- I mean, like I say, it wasn't right
- 13 for me to throw everything on my wife.
- 14 Q. And you also used the wood splitter, the hydraulic
- 15 wood splitter?
- 16 A. She rolled the wood to me and I moved the handle
- 17 up-and-down, so.
- 18 Q. And in the last year or so have you helped your
- 19 mother-in-law move out of her house?
- 20 A. Yes, we did.
- 21 Q. Okay. And when you say we did, was it you --
- 22 A. No, it was --
- 23 Q. -- and your wife?
- 24 A. -- it was my wife and her -- her family; yes, sir.
- 25 Q. And did you move --

1 A. No, I drove the truck.

2 Q. -- items around?

3 A. I drove the truck.

4 Q. Did you move anything around?

5 A. Oh, I think I moved like a -- a couple -- like a
6 bag or two (2) of clothes some -- you know, I moved
7 some things, I mean, it wasn't nothing -- nothing by no
8 means that would -- I mean, I moved some things but it
9 wasn't nothing that -- I mean, you had to get -- we had
10 to get them out, so.

11 Mr. Smith: Kirk, I don't have anything
12 further.

13 Mr. Moorhead: A couple -- a couple of
14 follow ups on those.

15 REDIRECT EXAMINATION

16 By Mr. Moorhead:

17 Q. You -- you said that you cut wood on weekends and
18 then you said and I'd be down for -- and you stopped?

19 A. Oh, yeah. I mean, you know, you'd -- you'd saw
20 wood, you know, trying to get your wood sawed on
21 Saturday and busted and then, you know, three (3) or
22 four (4) days you're just -- you're down, I mean.

23 Q. What the definition of down; what does that mean?

24 A. You can't get nothing done. I mean, wintertime is
25 rough. I mean, not only is the -- the weather -- I

1 never thought I'd be like a little doctor running
2 around here but the -- the cold weather just -- I mean,
3 it -- it kills my back, I mean. I mean, you can tell
4 when fronts are coming and everything now and I never
5 did think nothing about that but you can tell when the
6 weather is getting ready to change.

7 Q. Are you taking any medication now?

8 A. Tramadol.

9 Q. Tramadol?

10 A. Yes, sir.

11 Q. Okay. And you --

12 A. And then that foot -- the --

13 Q. -- the foot cream?

14 A. -- foot cream; yes, sir.

15 Q. Is it called Voltaren?

16 A. I don't know.

17 Q. Do you remember?

18 A. I don't know what it's called.

19 Q. Okay.

20 A. Its got a whole bunch of stuff in it.

21 Q. All right. And there -- there's a little bit of
22 discussion about you driving all the way up to
23 Greenville to the -- to the transport police office --

24 A. Uh-huh.

25 Q. -- up there. Tell us a little bit about that

1 ride.

2 A. Oh, I mean, you'd ride up there and, I mean,
3 several times you'd have to pull over to -- you know,
4 you'd leave early because I'd have to pull over because
5 I'd have to get out and stretch this leg, I mean,
6 because I'd -- it would -- I would get a cramp in my
7 leg to where I'd -- I mean, I -- it would -- it would
8 make you jerk your -- you'd get them shooting pains and
9 then you'd have to jerk your foot off the gas. I mean,
10 it -- and then, you know, your best thing to do is pull
11 over to wait just a little bit to -- to let that pain
12 kind of alleviate where then you can get back in your
13 car and drive on down the road.

14 Q. And then you -- you did that light duty job up
15 there with Sergeant Woods --

16 A. Yes, sir.

17 Q. -- for six (6) months?

18 A. Yes, sir.

19 Q. And were you -- did you go in every day and work a
20 full day and --

21 A. No. No, he -- he was -- yeah, if we got -- if he
22 got caught up on everything else where he could knock
23 stuff out he would tell me just -- because he could
24 tell that -- he could tell when I wasn't feeling good
25 --

1 Q. -- okay.

2 A. -- and he would allow me to just mosey on, you
3 know.

4 Q. How often did you -- did you mosey on home early?

5 A. Not counting the weeks that you had -- you know,
6 the days when you had therapy and stuff like that,
7 probably at least once the -- one (1) or two (2) days a
8 week, you know, you'd --

9 Q. Okay.

10 A. -- get on out of there.

11 Q. And did you ever ask to go home early?

12 A. No, sir.

13 Q. Okay.

14 A. Well, there was a couple of days that I'm sure
15 that I did ask; yes, sir.

16 Q. Okay. But Sergeant Woods sent you home a good
17 many more than that?

18 A. Oh, yeah. Yes, sir.

19 Q. Okay. Do you still need your medications that you
20 -- that you take?

21 A. On a -- that I'm on now; yes, sir.

22 Q. Okay. Tell me how -- is there -- your Tramadol,
23 is your Tramadol to be taken as needed?

24 A. As needed; yes, sir.

25 Q. Okay. And was there a period of time when you --

- 1 A. I wanted to try to be without it.
- 2 Q. -- okay.
- 3 A. Yeah, I mean, if I could go without it -- like I
- 4 say, I just -- I don't like taking no type of medicine,
- 5 you know, I just -- I -- you know, you see it too much
- 6 when you're on patrol and see how people -- people are
- 7 when they get on it, you know, and I -- some people are
- 8 spaced out and like I say, I don't -- I don't know that
- 9 much about the medication I was on, other than reading
- 10 some of the side effects and that -- you know, that
- 11 just shielded me away a lot from that medication.
- 12 Q. Do you -- how -- are you taking Tramadol -- and I
- 13 don't mean now, today, but are you taking Tramadol --
- 14 A. Oh, yeah.
- 15 Q. -- in this time period right now --
- 16 A. Yes, sir.
- 17 Q. -- currently?
- 18 A. Yes, sir.
- 19 Q. Are you taking Tramadol today?
- 20 A. No, sir.
- 21 Q. Okay.
- 22 A. No, I hadn't took none this morning. I did not;
- 23 no, sir.
- 24 Q. Okay. How many -- in this past week how many
- 25 Tramadol do you think you've taken?

- 1 A. Probably -- probably two (2) or three (3).
- 2 Q. Probably two (2) or three (3)?
- 3 A. Yeah.
- 4 Q. Is that typical?
- 5 A. Yeah. I mean, like I say, I try to stay away from
- 6 it as much as I can. I mean, like I say, if I can --
- 7 if I can deal with it and hurt, I mean, I -- I'd rather
- 8 be dealing with it and hurting than have to worry about
- 9 taking regular medication.
- 10 Q. Okay. How are you doing today, right now?
- 11 A. I'm hurting right now but --
- 12 Q. Are you going to take a Tramadol?
- 13 A. -- when I get home; yes, sir, I will.
- 14 Q. Okay. All right. How long have you been using
- 15 your cane?
- 16 A. I -- when the injury -- when I happened to get on
- 17 the injury I started out here -- I mean, I -- I got
- 18 down to a walker; it was the only way that I could feel
- 19 stable because that leg just -- and then I had the
- 20 surgery and I kept that cane with me from then on, and
- 21 I tried to go without it some just because I wanted to
- 22 be normal, you know, I don't want -- because, you know,
- 23 everybody tells you, you're a young man, you know.
- 24 Well, I don't want to look the part of an old man --
- 25 Q. Okay.

1 A. -- you know?

2 Q. Now days, does it go with you every --

3 A. Oh, yeah.

4 Q. -- all the time?

5 A. Yes, sir. Yeah, I'll usually try to keep it with
6 me all the time because its -- its stability now.

7 Q. Okay.

8 Mr. Moorhead: All right. That's all
9 I've got.

10 Mr. Smith: Just a couple.

11 RECROSS-EXAMINATION

12 By Mr. Smith:

13 Q. If the pain in your right leg improved, do you
14 think you'd be able to do more?

15 A. Yeah. I mean, I'm -- I'm assuming it would. I
16 just -- as long as it stayed stable underneath me.

17 Q. Because that's your most limiting factor, your
18 right leg?

19 A. My -- and my -- and my -- I mean, my back still
20 hurts too; I mean, I ain't taking nothing away from my
21 back.

22 Q. Right.

23 A. Because I don't -- I don't want to do nothing to
24 jeopardize -- because like I say, and that's -- you
25 went on about the spinal stimulator, and like I told

1 you before, I don't want to -- I don't want to do
2 nothing to -- to hurt my back, to hide the pain to
3 where I know where -- oh, I feel pretty good; I can go
4 pick up fifty (50) pounds or sixty (60) pounds or a
5 hundred (100) pounds and then here I am, the next thing
6 you know, a month or two (2) months later I'm sitting
7 here laid up on a surgeon's table because I've done
8 frigged up more something else worser on me. I mean,
9 you have to excuse me for -- for saying that; I just --
10 that's just the way I feel. I mean, I just don't want
11 to -- I just -- I don't know.

12 Mr. Smith: I don't have anything
13 further.

14 Mr. Moorhead: Nothing.

15 Commissioner Wilkerson: Any other
16 witnesses or any other --

17 Mr. Moorhead: No other witnesses.

18 Commissioner Wilkerson: -- body here to
19 testify?

20 Mr. Smith: None from the Defendants.

21 Commissioner Wilkerson: All right.

22 This concludes the hearing. Thank you all
23 for being here. Let me meet with the
24 attorneys for a few minutes.

25 (There being no further questions, the hearing concluded at

4:01 P.M.)

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STATE OF SOUTH CAROLINA
BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC No. 1209393

Matthew Edwards,)
)
Claimant,)
)
v.)
)
South Carolina Department of)
Public Safety,)
)
Employer,)
)
and)
)
State Accident Fund,)
)
Carrier/Defendants.)
)

FULL COMMISSION HEARING

Monday, February 22, 2016
3:55 p.m. - 4:22 p.m.

The Full Commission Hearing was heard before Commissioners Susan S. Barden, Gene McCaskill and Aisha Taylor, Chair, at the Workers' Compensation Commission, 1333 Main Street, Suite 500, Columbia, South Carolina, on the 22nd day of February, 2016, before M. Sean Cary, Court Reporter and Notary Public in and for the State of South Carolina.

APPEARANCES

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EXHIBITS

(There were no exhibits marked during the hearing.)

STIPULATIONS

It is stipulated and agreed that this deposition is being taken pursuant to the Administrative Procedures Act and the South Carolina Rules of Civil Procedure.

1 COURT REPORTER: Today is Monday. This is South
2 Carolina Workers' Compensation case number
3 12093-93. This is the case of Matthew Edwards,
4 Claimant, vs. SCDPS, Employer, and SAF,
5 Carrier. The Appellant is the Claimant
6 represented by J. Kirkman Moorhead. The
7 Respondent is represented by Zachary M. Smith.
8 Each side is allowed ten minutes for oral
9 argument and the appellant three minutes in
10 reply. You're requested to argue the grounds
11 of exceptions and stay within the record.

12 MR. MOORHEAD: I'm sorry.

13 COURT REPORTER: You're requested to argue the
14 grounds of exception and stay within the
15 record.

16 MR. MOORHEAD: Okay.

17 CHAIRPERSON TAYLOR: Mr. Moorhead.

18 MR. MOORHEAD: Thank you. This is an interesting
19 case involving my client, Matt Edwards. Matt
20 Edwards was injured in 2011. He suffered an
21 injury to his back, which was admitted, and
22 resulted in a nerve injury to his -- that
23 affects his right leg somewhat significantly.

24 COMMISSIONER McCASKILL: Now remind us how old he
25 was at the time of the injury.

1 MR. MOORHEAD: At the time of the injury I believe
2 he was 34 years old -- he's in his early
3 thirties, I think he may be 35 now.

4 COMMISSIONER McCASKILL: Married -- got one child, a
5 daughter I think.

6 MR. MOORHEAD: That is correct. Married with one
7 daughter, daughter's approximately four years
8 old at this time.

9 COMMISSIONER McCASKILL: All right.

10 MR. MOORHEAD: So Commissioner, he -- he -- we, of
11 course, had a hearing and he was -- we had
12 requested a lump sum. So I'm going to talk
13 about the lump sum just very briefly.

14 CHAIRPERSON TAYLOR: Okay.

15 MR. MOORHEAD: Primarily the pro- -- what we've
16 alleged as error with regard to lump sum is
17 that the single Commissioner failed to take in
18 to consideration or -- or comment in any way
19 whether the payment was in the best interest of
20 the Claimant and the Claimant's family as
21 required by Swilling versus Pride Masonry of
22 Gaffney. That -- that case is actually cited
23 in the brief of the Respondents. The
24 Commissioner -- single Commissioner considered
25 only how a lump sum might effect the employer

1 without even giving any consideration to the
2 employee. So we think based on that alone that
3 a -- the failure to consider the best interest
4 of the Claimant's family was in error. Where
5 the -- Where there's no finding that -- that --
6 that would be detrimental, that that ought to
7 be -- the lump sum ought to be awarded. The
8 other issue that I'd like to address very
9 briefly is with regard to future medical
10 availability of a spinal cord stimulator. The
11 -- the claimant, Mr. Edwards, has been going to
12 a pain management doctor for several years
13 through the Workers' Compensation carrier and
14 he has been repeatedly recommended a spinal
15 cord stimulator to deal with his neuropathic
16 pain that he has with his right leg. The
17 Claimant in the course of his Workers'
18 Compensation case, of course, has had a failed
19 back surgery, which is why he was there in the
20 first place. He has -- he had a reaction to
21 Demerol in the emergency room that gave him
22 difficulty with breathing and scared him very
23 badly. And now it was being -- it was being
24 recommended to have a spinal cord stimulator.
25 He was very -- he had a lot of trepidation

1 about that. He also ---

2 COMMISSIONER McCASKILL: But that's a bit concerning

3 to me. He doesn't want to take any pain

4 medication of any kind. Now I think he does

5 end up taking something.

6 MR. MOORHEAD: He does.

7 COMMISSIONER McCASKILL: But, he -- he -- even

8 though the spinal cord stimulator is

9 recommended he doesn't want to do that either.

10 MR. MOORHEAD: Well, he also -- if you -- he

11 testified in -- in the case that he had a

12 friend who had a spinal cord stimulator and had

13 a terrible time with it. The ---

14 COMMISSIONER McCASKILL: But surely they went through

15 the protocol of what you have to do, the eval,

16 the -- the trial run, whatever that's

17 technically called. I'm not a technical

18 person.

19 MR. MOORHEAD: It's called the trial run.

20 COMMISSIONER McCASKILL: And then -- and then surely

21 they went through that but he didn't even -- he

22 didn't want anything to do with it as I read

23 it.

24 MR. MOORHEAD: He had a psychology evaluation.

25 COMMISSIONER McCASKILL: Well I'm talking about --

1 yeah, but I'm talking -- he's -- he is resolute
2 in not wanting it.

3 MR. MOORHEAD: He -- I -- I wouldn't say he's
4 resolute. At times he says yeah ---

5 COMMISSIONER McCASKILL: Semantics; he doesn't want
6 it.

7 MR. MOORHEAD: I don't know that and I can't tr- --
8 I can't tell you that. It changes. The
9 problem ---

10 COMMISSIONER McCASKILL: Explain that to me.

11 MR. MOORHEAD: Well, it changes because he's -- he's
12 scared and he goes back and forth between the
13 fact that he is suffering physically and his
14 doctors recommended this, and that there may be
15 -- and that may be a solution for him, but he
16 also has a great deal of fear about having
17 anything placed into his body. He's already
18 had a poor result from back surgery and a poor
19 result with regard to the Demerol. He's a law
20 -- he came out of law enforcement background.
21 He doesn't want to take drugs because he's
22 concerned about the effect that medications
23 have on people.. He had seen it and he
24 testified to that in the hearing, that that was
25 of great concern for him. I guess the concern

1 and with regard to spinal cord stimulator is
2 that -- is that the single Commissioner ordered
3 that he -- he -- I think his words were, he
4 would essentially cut off the Claimant's right
5 to the spinal cord stimulator if he didn't want
6 it after a psych evaluation. Unfortunately for
7 this case, the psych evaluation took place
8 after the hearing. And when it -- when we
9 discussed it pre-hearing there was a discussion
10 about well maybe there would be a one year
11 period. I, of course, wanted it held open so
12 that he had the option when it got worse in the
13 future. I analogized the spinal cord
14 stimulator in this case to -- to hardware
15 removal for an orthopedic injury, where you may
16 -- you may well need the hardware removed but
17 you don't want to have the surgery if you don't
18 absolutely have to. And a spinal cord
19 stimulator is very similar, if it gets bad
20 enough he wants it. If the hardware is
21 bothersome enough, you want it removed. And
22 Dodge -- under Dodge, that kind of thing gets
23 ordered all the time. So, we -- we would
24 request that that there be an order that the
25 spinal cord stimulator be left open until such

1 time as he decides he wants to make use of it.
2 And if he doesn't want it, he never gets it;
3 but not to foreclose it without -- without any
4 basis because it's -- it's easier for the
5 employer. The third issue we -- that we have
6 argued is -- is with regard to the finding --
7 the extended disability. And in this case, as
8 in many cases, I think the Commissioners can
9 look at the medical records and there's a
10 legitimate reason to go either way. But in
11 this case there's a great deal of emphasis
12 placed on the vocational report of James
13 Meyers, who was the voc expert for the
14 Defendant's employer. And if you'll do
15 anything for me in this case in terms of review
16 of the factual scenario, I'd ask that you read
17 pages 22 to 52 of James Meyers' deposition. He
18 provided a vocation analysis and then he
19 provided a marked survey for jobs, and he
20 provided about a dozen jobs. I went through
21 with him on his -- on his deposition each and
22 every job. As to every job that was presented,
23 he could not opine to a reasonable degree of
24 vocational certainty that my client could do
25 the job. On a -- on a number of the jobs he

1 said well, this employer has to comply with the
2 ADA. And thus, because the employer's got to
3 comply with ADA, they have to take him. I
4 don't think that's true and I don't think
5 that's the standard. I think the standard we
6 need to look at is what are the -- what are the
7 requirements for the job and what -- and what
8 -- whether or not my client can meet those
9 requirements. With regard to other jobs in
10 those dozen jobs, there were numerous jobs that
11 required investigative skills. Well, they
12 looked at the idea of -- we discussed
13 investigative skills and whether or not my
14 client had any training in investigation. And
15 if you read through -- as you read through the
16 -- the transcript, he testified that he didn't
17 have any training in investigation. That he
18 would go out on, for instance, criminal
19 domestic violence calls. He would take
20 statements. He would write down information.
21 He would write the report and then forward it
22 to investigations who followed up the case.
23 He's only a front line -- almost a -- almost
24 worked in a clerical capacity with the
25 Sheriff's Department. The one -- the one place

1 where he did have full investigative authority
2 was litter, and that's what he testified to.
3 He -- he the litter cases were his. So there
4 -- when -- when James Meyers opines that all
5 these jobs are available, he places many, many
6 assumptions in there. And when called on those
7 he didn't come up with a single job he said
8 that my client could do. What he did say, and
9 this is -- this is -- this is not semantics but
10 it's in the details, is he says oh well he's --
11 based on his vocational -- his FCE where he's
12 sedentary and he can work eight hours, he can
13 do these -- these jobs fall within those
14 recommen- -- requirements. But he didn't ever
15 delve into whether or not he was proficient in
16 Microsoft Office or whether he -- whether the
17 job -- whether there -- the jobs were actually
18 in Greenville County. In one case all the jobs
19 were in Charleston but their -- their
20 registered agent for service was in Greenville.
21 I mean he thought that was -- that was where
22 they did business. It's not where they did
23 business. All of those things are pointed out
24 in the deposition, 22 to 52. I think if you --
25 once you look at that -- that part of James

1 Meyers' opinion, that the full Commission can
2 easily look at it and go, this is -- this guy
3 did not do his homework. This -- it can't --
4 it really can't reasonably be relied on, and if
5 you throw that out then we could easily find
6 him permanent (inaudible).

7 CHAIRPERSON TAYLOR: Thank you.

8 MR. MOORHEAD: Thank you.

9 CHAIRPERSON TAYLOR: All right, Mr. Smith.

10 MR. SMITH: If it pleases the Commission, Zack
11 Smith, on behalf of the Respondents, South
12 Carolina Department of Public Safety and the
13 State Accident Fund. It's -- Mr. Moorhead
14 explained Mr. Edwards did sustain an admitted
15 injury to his back, back in July of 2012. I
16 believe at the time of the accident he was 33
17 years old. He is a high school graduate. He
18 is also a graduate of the police academy and
19 he's worked in law enforcement for ten years
20 for Pickens County Sheriffs Department as well
21 as for the South Carolina Department of Public
22 Safety. The issue in this case is he did have
23 surgery, a laminectomy and discectomy on his
24 back, back in October of 2012. The surgery
25 improved his back pain but he continued to have

1 some right leg pain. He was sent to Loudermilk
2 for pain management. And basically the
3 recommendations that Loudermilk has, the
4 Claimant doesn't want to go forward with them.
5 He's recommended several medications. The
6 Claimant's had an issue that said it --
7 basically says he doesn't want to take
8 medication even though the meds, as Loudermilk
9 testified, had helped improve his pain and
10 function the Claimant refuses to take them. He
11 contends he doesn't want to get addicted but
12 Loudermilk says -- explains to him that these
13 aren't narcotics, they don't have the tendency
14 to become addicted. And in fact, Loudermilk
15 testified at his deposition that the Claimant
16 basically tried to find excuses not to take
17 medications. He's also recommended the spinal
18 cord stimulator due to his desire not to want
19 to take oral medications. Louder -- Dr.
20 Loudermilk testified that he was an ideal
21 candidate given the fact that it's -- the
22 majority of his pain is nerve pain in the leg.
23 And he also testified that based on his
24 experience the spinal cord stimulator would
25 decrease his pain and increase his functional

1 abilities; however, he hasn't been interested
2 in the spinal cord stimulator or the trial --
3 or the spinal cord stimulator trial. He
4 initially had an FCE done in April of 2013 that
5 showed he could perform work in a medium level:
6 able to lift up to 50 pounds, carry up to 25
7 pounds, and push pull up to 100 pounds. Prior
8 to that and following the surgery he returned
9 to work on light duty basis in a office
10 sedentary position for the Department of Public
11 Safety. He's working for the supervisor in
12 Greenville. And his job at the time had him
13 doing paperwork, reading inspections, watching
14 videos, filing tickets. And he did that for
15 about six months until being assigned
16 restrictions and then he resigned from his
17 position with the Department. Our position is
18 that he's obviously -- that he is able -- that
19 he's not permanently and totally disabled. I
20 think that the fact that he returned to work
21 for the employer for six months after the
22 surgery helps support ---

23 COMMISSIONER BARDEN: And his restrictions are
24 medium?

25 MR. SMITH: At the original FCE ---

1. COMMISSIONER BARDEN: The FCE.

2. MR. SMITH: --- back in 2013. Now he did have --

3. Mr. Moorhead sent him to a two day FCE in

4. November ---

5. COMMISSIONER BARDEN: Who is the evaluator for the

6. two-day FCE?

7. MR. SMITH: It was at New Day Physical Therapy in

8. Greer, South Carolina. And the two-day FCE

9. showed that he was able to return on a

10. sedentary basis for eight hours a day. Even if

11. those are his restrictions we believe he is not

12. permanently and totally disabled because that's

13. the type of job he was working for the

14. Department of Public Safety for six months.

15. And in addition, his activity since resigning

16. from the Department of Public Safety showed

17. that he's not permanently and totally disabled.

18. He called himself Mr. Mom at the hearing. His

19. daughter who at the time of the hearing last

20. year was three years old, so she would have

21. been around an infant when she was born [sic],

22. he takes care of her all the time because his

23. wife works. He does chores around the house

24. and notably he also cuts and splits fire wood

25. for his family. And he testified that he did

1 that every weekend during the winters of 2013
2 and winters of 2014, which would have been
3 after the two-day FCE that showed he was ---

4 COMMISSIONER McCASKILL: That's their primary heating
5 source is it not?

6 MR. SMITH: Correct. Yes, sir. And the -- the
7 vocational evaluation that we rely on is of
8 James Meyers. He did consider the two-day FCE
9 when making his -- his opinions, and he found
10 that despite his restrictions, the Claimant was
11 capable of working. He noted that the age and
12 experience were all positive factors and his
13 background work history required -- or -- or
14 provided him with several transferrable skills.
15 Now there was some discussion about
16 investigations. Obviously, we contend that he
17 did have some training at the -- and has
18 testified to demonstrating some training of
19 investigating crimes and interviewing witnesses
20 at the police academy. When he was working for
21 Pickens County he responded to calls and
22 interviewed witnesses, took written statements,
23 completed incident reports. And then with the
24 -- working as a transport officer with the
25 Department of Public Safety he inspected

1 vehicles, issued citations, he prosecuted
2 violators in Magistrate's Court, handled radio
3 and phone calls and completed paperwork on the
4 computer. All of those -- a majority -- a good
5 portion of those tasks would be sedentary tasks
6 that we believe he's still able to perform.

7 The -- the issue about him being -- with the
8 labor market survey. James Meyers testified
9 that it was just a sample of all the jobs -- in
10 the different types of jobs that he could
11 perform. I think he said it was 12 out of 100
12 jobs that he believed he was able to perform.

13 And I know several issues have been raised --
14 and one was talking about the accommodations.
15 I believe the main accommodation that was
16 mentioned in -- that James Meyers testified he
17 would need, was the ability to sit and stand
18 occasionally. It's not -- it wasn't a
19 significant accommodation that would -- that he
20 discussed, it was just alternating sitting and
21 standing. I'd also like to note that the
22 Claimant relies on the vocational report of Dr.
23 Robert Brabham; however, in his report he talks
24 about problems that the Claimant's having with
25 his upper extremities. The upper extremities

1 weren't a compensable part of the claim. In
2 fact I ---

3 COMMISSIONER BARDEN: How would he take care of a
4 three year old if he didn't have use of his
5 upper extremities?

6 MR. SMITH: I -- and again, I -- I --- this was the
7 first -- known mention of -- that I recall
8 seeing of upper extremity issues. And
9 Brabham's opinion when he -- when he talks
10 about the limitations that he has with upper
11 extremities, he -- he has this discussion of
12 the upper extremity problems, would put him at
13 limitations to perform unsedentary duty; but
14 again, his opinion, if it's based on the issues
15 with the upper extremities isn't related to
16 this work injury because the injury was to the
17 back and subsequence pain -- right nerve pain
18 down the right leg. So, it -- it's our
19 position that the preponderance of evidence
20 supports that he's not permanently and totally
21 disabled based on the activities he did after
22 work, the activities he's done since. To both
23 opinion [sic] of Dr. Brabham -- and we also feel
24 like the evidence supports the hearing
25 Commissioner's award of 45 percent to the back.

1 It's not like he didn't consider everything and
2 some of the issues that he was having. He
3 obviously took those into consideration when
4 issuing a 45 percent award. One thing to note
5 is that the award was based in part on Dr.
6 Burnett's 25 percent impairment rating.
7 Burnett did assign the 25 percent impairment
8 rating to the whole person; however, in her
9 deposition she testified it was for -- she used
10 the AMA guides for a double level herniation.
11 The Claimant's injury was a single level disc
12 herniation. Now, she ---

13 COMMISSIONER BARDEN: The 25 percent impairment
14 rating is usually for a fusion. This was not
15 fusion, right?

16 MR. SMITH: Correct.

17 COMMISSIONER BARDEN: This was a discectomy and
18 laminectomy?

19 MR. SMITH: Yes. Yes, that's correct. And ---

20 CHAIRPERSON: But the Commissioner nonetheless used
21 the 25 percent?

22 MR. SMITH: He took -- he did. He took that into
23 consideration and -- and awarded 20 percent
24 over the 25 percent rating.

25 COMMISSIONER BARDEN: Well I guess I'm speaking the

1 5th edition anyway. The sixth edition is lower
2 for a fusion, like 25 to 28 percent.

3 MR. SMITH: And -- and in her deposition why she
4 didn't back off her opinion, because she
5 testified that she did a double level because
6 she thought it was the fragment from the disc
7 herniation was affecting the lower level. She
8 did admit that if she were to use the single
9 level table the correct award - rating would
10 have been 14 percent to the whole person.
11 We've argued and the Commission found that the
12 Claimant was entitled to a lump sum. That --
13 the reason why that argument was made is
14 because in our opinion there's a significant
15 chance for a change in condition for the
16 better. Dr. Loudermilk testified in his
17 deposition that the Claimant was an ideal
18 candidate for spinal cord stimulator and that
19 he -- based on his experience he believed that
20 if he went forward with the spinal cord
21 stimulator, his condition and function --
22 functional abilities would improve. And that
23 while the Claimant testified he didn't want to
24 have the spinal cord stimulator, the psyche
25 eval was set up just a few weeks after the

1 hearing was scheduled -- and it was scheduled
2 at the time of the hearing. So we don't
3 believe he should be entitled to a lump sum
4 because that would prejudice us from filing a
5 change of condition for the better if he did
6 decide to move forward with the spinal cord--
7 stimulator given the likelihood that he would
8 improve. We'd also contend that the finding
9 regarding -- the hearing Commissioner's finding
10 regarding the need or the ability for him to
11 obtain the spinal cord stimulator in the future
12 does not close it out at the -- during the pre-
13 hearing conference, and it's on the record
14 there was discussion about -- with the
15 Commissioner about what -- what do we do with
16 the spinal cord stimulator; you know, he
17 doesn't want to have it, does -- do we leave it
18 open. And our position was it wasn't before
19 him at the time but obviously we didn't want to
20 leave it open for 10 -- 15 years something like
21 that to allow him to receive benefits. So we
22 -- the argument wasn't in front of him, you
23 know, and I think it's still open at this
24 point.

25 CHAIRPERSON TAYLOR: Thank you, Mr. Smith. Mr.

1 Moorhead, you have three minutes in rebuttal.

2 MR. MOORHEAD: Thank you. With regard to Dr.

3 Burnett's rating, she specifically noted that
4 the -- this was a weird herniation. I've never
5 seen one like this. But it was -- there was a
6 fragment. It was a one half centimeter --
7 fragment of disc that broke loose and migrated
8 down, and she -- he -- he was affected at two
9 levels. The -- I believe that the -- in the
10 5th edition that the -- if you get to a two
11 level, it doesn't require a fusion, it's with
12 or without surgery, there's ---

13 COMMISSIONER BARDEN: So it's two levels is what she
14 based it on.

15 MR. MOORHEAD: Correct. And that was because of the
16 effect of the injury. With regard to -- the
17 chainsaw thing drives me crazy because he -- on
18 page 77 in the transcript he talks about it.
19 He says, yeah I -- I have to use a chainsaw
20 because that's the only way we can heat up our
21 house is with wood. He lives up in Pickens
22 County, very much a good-ole boy. The reason
23 he was -- he'd operated canines at the
24 Sheriff's Office because he'd been a coon
25 hunter. If that sort of tells you a little bit

1 about him. But -- but in any event. He also
2 says on page 77, yeah, I operated a chainsaw,
3 I cut the logs, my wife rolled them down to the
4 hydraulic log splitter, set them up and
5 operated the handle. And that still put him
6 down for several days at a time. With regard
7 to the upper extremities ---

8 CHAIRPERSON TAYLOR: Where did ---

9 MR. MOORHEAD: --- never been contended. I don't
10 know where it came from and it -- if unless
11 it's just that he's got a form opinion that --
12 where he left in a section for somebody else.
13 It doesn't make sense to me. He picks up his
14 daughter ---

15 CHAIRPERSON TAYLOR: But isn't that a problem if he
16 basis his -- his opinion in -- and even in part
17 on disability for the upper extremities.

18 MR. MOORHEAD: I don't think that's accurate. And
19 that -- this is the first time today that I've
20 -- that I've ever been aware of -- that there's
21 an upper extremity mentioned ---

22 CHAIRPERSON TAYLOR: You didn't ---

23 MR. MOORHEAD: --- that I recall. Now, I -- I may
24 be a liar, I don't think I am, but I don't
25 recall it as I stand here that there was any

1 mention of upper extremities. This has has
2 always been a back and leg case. The -- the
3 FCE -- he did do a two-day FCE. It was
4 sometime later. His condition had worsened and
5 he came up with a -- with a sedentary rating
6 based on the two day -- get worse on the second
7 day then the first day, as we expected, and
8 that's why we made use of that.

9 CHAIRPERSON TAYLOR: Well he's having to pick up a
10 child, is he not? He can't roll a child like
11 you roll a log.

12 MR. MOORHEAD: He testifies in the case to caring
13 for his child. He does not pick up his child
14 if he can avoid it. If he does, he says, yeah
15 I do; it's my kid, I pick her up. I pay for
16 it. It hurts, but I'm going to do it because
17 she's my child. Same thing with the wood ---

18 COMMISSIONER BARDEN: Well what about the
19 medications. Walk us through that. Dr.
20 Loudermilk said that the medications are non-
21 addicting?

22 MR. MOORHEAD: He -- he ---

23 COMMISSIONER BARDEN: And -- and -- that -- if
24 he's in pain why isn't he taking medications?

25 MR. MOORHEAD: He doesn't take the medication. He

1 has a -- and I -- this is a generalized
2 aversion to taking medication. In some cases
3 he says it causes him stomach problems or he
4 doesn't like the way it makes him feel, and in
5 other cases he simply says I take as little of
6 it as I can.

7 CHAIRPERSON TAYLOR: Okay. And I know your time is
8 up. I just wanted to touch on the spinal cord
9 stimulator real quick because you mentioned it
10 in your first ten minutes but you made the
11 comment that it would -- leaving it open would
12 work to the Defendant's, I guess, benefit just
13 for -- closing it would be to their benefit ---

14 MR. MOORHEAD: Sure.

15 CHAIRPERSON TAYLOR: At some point don't we have to
16 make a determination as to what medical
17 treatment would tend to lessen a disability?
18 And if the Claimant has rejected something, how
19 do we then leave it out there?

20 MR. MOORHEAD: And that's why I talked about -- I
21 likened it to removal of hardware. I mean if
22 removal of hardware advances to the point where
23 it becomes a problem [sic], then yes it's going
24 to lessen -- the surgery to remove it should
25 le- -- tend to lessen the period of disability.

1 Same thing with a spinal cord stimulator. He
2 is -- he is resistance to it. He doesn't want
3 it. He's scared of it. But if he -- but if it
4 gets bad enough he may have it. That would
5 tend to lessen his period of disability in the
6 same way the removal -- and those -- and those
7 hardware removals are given under Dodge all the
8 time.

9 CHAIRPERSON TAYLOR: Okay. All right. Thank you.

10 MR. MOORHEAD: Thank you.

11 CHAIRPERSON TAYLOR: All right. That concludes
12 this hearing.

13 (There being nothing further, the hearing concluded
14 at 4:22 p.m.)

1 BEFORE THE SOUTH CAROLINA
2 WORKERS' COMPENSATION COMMISSION

3 MATTHEW EDWARDS,
4 Employee,

5 vs. WCC NO. 1209393

6 SC DEPARTMENT OF PUBLIC SAFETY,
7 Employer,

8 and

9 STATE ACCIDENT FUND,
10 Insurer.

11 DEPOSITION OF: JAMES MYERS

12 DATE: July 8, 2015

13 TIME: 12:01 p.m.

14 LOCATION: MCANGUS GOUDELOCK & COURIE
15 2411 North Oak Street, Suite 401
16 The Founders Centre
17 Myrtle Beach, SC

18 TAKEN BY: Counsel for the Plaintiff

19 REPORTED BY: Lauren A. Balogh, Court Reporter

20 A. WILLIAM ROBERTS, JR., & ASSOCIATES

21 Fast, Accurate & Friendly

22 Charleston, SC Hilton Head, SC Myrtle Beach, SC
23 (843) 722-8414 (843) 785-3263 (843) 839-3376

24 Columbia, SC Greenville, SC Charlotte, NC
25 (803) 731-5224 (864) 234-7030 (704) 573-3919

1 this morning.

2 Are you comfortable going ahead without
3 Mr. Johnson's presence?

4 A. Yes.

5 Q. Okay. All right. Can you give me your
6 full name, please, sir?

7 A. James Robert Myers.

8 Q. All right. And I've been calling you
9 Mr. Myers. Is that a correct --

10 A. Yes.

11 Q. -- correct way to address you? Okay.
12 And Mr. Myers, where do you reside?

13 A. I reside in Surfside Beach in South
14 Carolina.

15 Q. All right. And how long have you been
16 there?

17 A. I have been there nine years.

18 Q. Nine years. Okay.

19 And what do you do for a living?

20 A. I am a vocational expert and I'm also a
21 certified case manager, a certified rehabilitation
22 consultant and a qualified rehabilitation
23 professional as well as I do a lot of medical case
24 management, and I'm also a workplace possibilities
25 coordinator for Conway Hospital.

1 Q. Okay. Do you do case management of
2 Workers' Compensation cases?

3 A. Yes, I do.

4 Q. Do you do that in South Carolina?

5 A. Yes, I do.

6 Q. And you do that for insurance
7 companies?

8 A. I do that for CorVel.

9 Q. For CorVel.

10 And CorVel is typically hired by
11 insurance companies; is that correct?

12 A. That's correct.

13 Q. Okay. Do you also do -- act as a
14 vocational expert in South Carolina; is that
15 correct?

16 A. Yes, I do.

17 Q. And do you, likewise, do all of that
18 work through CorVel?

19 A. Yes, I do.

20 Q. And in the capacity as a vocational
21 expert in South Carolina, are you hired by
22 insurance companies through CorVel?

23 A. Insurance companies and plaintiff
24 attorneys.

25 Q. Okay. What plaintiff attorneys utilize

1 you as a vocational expert?

2 A. Primarily Jeff Chandler here in Myrtle
3 Beach uses me a lot. And I've done some work for
4 the Joye Law Firm in the past.

5 Q. How many cases have you done for the
6 Joye Law Firm?

7 A. It's been over -- it's been just about
8 a handful, I would guess.

9 Q. Three to five?

10 A. Yes, somewhere around in there.

11 Q. How about for Jeff Chandler?

12 A. Jeff Chandler I've probably done --
13 just this year I've probably done ten.

14 Q. Okay. And are these Workers'
15 Compensation cases?

16 A. Yes, they're all Workers' Comp.

17 Q. Okay. How many do you do -- as a
18 percentage of the total number of vocational expert
19 cases that you do, what percentage do you do on
20 behalf of insurance companies?

21 A. I would say right now we're running
22 about between 70 and 30 and 60 and 40.

23 Q. So 60 to 70 percent for insurance
24 companies?

25 A. That's correct.

1 Q. Do you know what your -- do you charge
2 the same rate regardless of who you're working for?

3 A. My company charges the same rate. I'm
4 an employee. I'm salary.

5 Q. Okay. Do you know what your rate --
6 let me ask you this: Do you get paid the same
7 salary regardless of the number of cases you have?

8 A. That's correct, whether I work one or
9 ten.

10 Q. All right. And the work you do outside
11 for Chandler or Joye, is that also through CorVel?

12 A. Yes.

13 Q. Okay. So they are paying CorVel?

14 A. That's correct.

15 Q. All right. You've testified in a
16 deposition before, I assume?

17 A. Many times.

18 Q. Okay. All right. Do you understand if
19 you need a break or whatever you can take a break?

20 A. That's correct.

21 Q. Okay. Do you understand that if I ask
22 a question you don't understand, you will correct
23 me or ask me to reask the question so that you
24 understand it; is that correct?

25 A. That's correct.

1 Q. All right. And make sure to give
2 spoken answers for the court reporter?

3 A. Correct.

4 Q. All right. Tell me a little bit about
5 your involvement with Matthew C. Edwards, if you
6 don't mind.

7 A. I was asked to do a vocational
8 evaluation by the State Accident Fund for
9 Mr. Edwards.

10 Q. Okay.

11 A. And --

12 Q. Were you asked to do anything in
13 addition to a vocational evaluation?

14 A. And a labor market survey.

15 Q. All right. And in the course of doing
16 the vocational evaluation, what information did you
17 utilize?

18 A. I don't understand that question.

19 Q. Well, I mean, you had to gain your
20 information from somewhere to render your opinion
21 in your vocational evaluation. What information
22 did you evaluate?

23 A. Okay. I obtained information from
24 Mr. Edwards.

25 Q. Okay.

1 A. The medical records. The Occupational
2 Outlook Handbook. The guidelines for exploration
3 handbook. I also went through about, I would say,
4 20 different websites for salary verification and
5 also the jobs. I also contacted the employers on
6 the labor market survey. I also used the
7 Occupational Network, the Dictionary of
8 Occupational Titles, just for the job description
9 only for Mr. Edwards' position. And FCEs, and I
10 believe that about covers everything.

11 Q. Okay. All right. What -- in the
12 course of your vocational evaluation, what sort of
13 things are you looking for? What in terms of his
14 -- in terms of Mr. Edwards' ability to work?

15 A. I am looking for -- the main emphasis
16 is on the opinions of the physicians and the FCEs.
17 That leads us on to -- into whether we can go into
18 other areas or not. Because I do have to
19 periodically turn down cases because the person
20 does not have any restrictions whatsoever where
21 they can work.

22 Q. Okay. What factors determine whether
23 or not an individual can work?

24 A. Whether they're put into a sedentary,
25 light, medium, heavy physical demand level.

1 Q. Okay. Are there other factors?

2 A. Yes. Education, past vocational
3 experience. Because we use these for what's called
4 crosswalks through the Occupational Network.

5 Q. Okay. Does past vocational experience,
6 does that give you an idea of what his transferable
7 skills are?

8 A. That's correct.

9 Q. All right. And what work level did you
10 find Mr. Edwards to be at?

11 A. We found him to be at an SVP 7, which
12 is specific vocational preparation, which
13 demonstrates that it's from -- it would require
14 someone to have over one year and up to two years
15 experience. I think he was also placed into -- and
16 I have to look at the report, but I believe --

17 Q. Hold on just a second. We're having a
18 little bit of a problem again. Let me ask you
19 this: Is there a telephone in the room?

20 A. Yes.

21 Q. Why don't we try a conference call, if
22 we're just going to do it this way?

23 A. Okay.

24 Q. Is that okay?

25 A. That's fine.

1 MR. MOORHEAD: All right. Let's go off
2 the record for just a second.

3 (Off the record.)

4 MR. MOORHEAD: Let me just note that we
5 had a technical problem with our audio
6 transmission. We just switched over to a
7 conference call. It only took us about 15 minutes
8 to figure it out.

9 BY MR. MOORHEAD:

10 Q. Okay. We were talking a little bit
11 about -- I think you mentioned SVP 7?

12 A. Correct.

13 Q. Tell me what SVP 7 is.

14 A. That's the specific vocational
15 preparation. That's the amount of time it would
16 typically take a person to obtain the skills to do
17 the job of a transportation officer for the state
18 of South Carolina.

19 Q. Okay. All right. And so what does
20 that have to do with his ability to return to work?

21 A. That drops into another category, which
22 is called -- which is from the O*NET, the
23 Occupational Network, and it has job zones defined,
24 and then it shows us what job zones he would fall
25 into. In this category he would fall in between a

1 four and a five.

2 Q. And what's the significance of the four
3 to five?

4 A. Extensive preparation to be, like, a
5 doctoral level, doctors, things like that,
6 attorneys, but he's more -- I take that back. He's
7 more into a three or a four.

8 Q. A three or a four?

9 A. Yes, that's what -- medium preparation
10 is needed is what I have listed. I don't have the
11 book in front of me.

12 Q. So when you say medium preparation is
13 needed, medium preparation is needed for
14 Mr. Edwards to return to the workforce?

15 A. That would mean that any job that he
16 would apply for, that he could take on a job that
17 would have significant duties based on his past
18 vocational experiences.

19 Q. Okay. His past vocational experience,
20 is that a synonym for transferable skills?

21 A. It -- I'm trying to --

22 Q. Did you hear me?

23 A. Yes. I'm trying to figure out the best
24 way to answer that.

25 Q. Okay.

1 A. It's kind of a yes or no. The
2 transferable skills is based on past jobs and also
3 it's based on education and I also base it on the
4 Wide Range Achievement Test and things like that.

5 Q. Okay.

6 A. I mean, it encompasses a lot more than
7 just saying, okay, we can give you previous jobs,
8 this is what we can do.

9 Q. Okay. Well, let's kind of back up a
10 little bit. What transferable skills does he have
11 based on his job experience?

12 A. The transferable occupations is what
13 dictates of which -- if his skills -- that they
14 would -- that the crosswalks would walk into.

15 Q. Okay.

16 A. And this is all based on by the
17 Occupational Network and the guidelines for
18 exploration and the Occupational Outlook Handbook
19 that lists the different jobs that his past
20 transferable skills would transfer into.

21 Q. Okay.

22 A. And they came up with these six
23 different things.

24 Q. What six things are those?

25 A. Collection clerk, fraud investigator, a

1 desk officer, customer service representative,
2 surveillance system monitor and security guard.

3 Q. Okay. And that is based on his being
4 an SVP 7?

5 A. No. That is based on all of his
6 previous occupations that -- there's actually a
7 form we use that will list each occupation, and in
8 that occupation it has, like, 25 different things
9 that go across that comes up with these different
10 codes that we use that arrive at these numbers.

11 Q. Okay.

12 A. It's impossible to explain it really.

13 Q. Let's put it in a little bit plainer
14 language. I mean, if I may -- if I was a junior
15 police officer, so an entry police officer, I've
16 been to the police academy and had that training,
17 and I separate from my employment, I obviously
18 would have transferable skills to be an entry-level
19 police officer, correct?

20 A. That's correct.

21 Q. But I might not have transferable --
22 the transferable skills necessary to be a
23 detective?

24 A. That's correct.

25 Q. Okay. So it has to do with the level

1 of training to a certain extent, correct?

2 A. Yes, based upon all of his previous
3 employment.

4 Q. Okay.

5 A. That's what --

6 Q. And then afterwards we have to talk
7 about his physical abilities as they relate to
8 that, correct?

9 A. That's correct.

10 Q. All right. As well as his intellectual
11 capabilities, right?

12 A. That's correct.

13 Q. Okay. So in terms of the -- some of
14 his transferable skills are no longer transferable,
15 I would assume, because of his physical
16 limitations; is that true?

17 A. The physical requirements are not
18 transferable, that is correct.

19 Q. All right. But he may have had -- if
20 I'm a police officer and I have -- and I'm in
21 perfect health physically, but then I get injured
22 and I'm in a sedentary capacity, what skills as a
23 police officer do I have that are still
24 transferable?

25 A. In that situation you're basically

1 looking at jobs that -- when we go back to the
2 crosswalks, which is -- now, this is all put out by
3 the Department of Labor.

4 Q. I understand.

5 A. I have no control over this.

6 Q. I understand that.

7 A. And so --

8 Q. I'm asking you --

9 A. -- when they tell me these are the
10 crosswalks, these are the occupations based on this
11 person in this capacity, then that's what I have to
12 follow. And this is all put out by the Department
13 of Labor.

14 Q. Okay. So once you've made the
15 determination -- so is this sort of a plug-and-play
16 kind of thing that you're doing?

17 A. No, it -- well, yes -- no, it's all
18 hand research.

19 Q. Okay. But, I mean, you're telling me
20 that you're saying -- do you put in his prior
21 experience essentially into a -- essentially to a
22 software program, correct?

23 A. No, I don't have a software program I
24 use for this. I use the Occupational Network,
25 which is online --

1 Q. Right.

2 A. -- which will -- which once I go
3 through and do the transferable skills, the
4 vocational -- it's actually called the vocational
5 diagnostic interview.

6 Q. Right.

7 A. Then I will take those and go through
8 the Occupational Network and it will tell me, okay,
9 these crosswalks -- or these are the different
10 occupations that will crosswalk into -- from where
11 a person that has had experience as being a
12 straight truck driver, a deputy sheriff, a
13 landscaper, K-9 patrol unit, driving box trucks,
14 flatbed trucks and working as a stock clerk, these
15 are the things that will transfer into all of these
16 different occupations.

17 Q. Okay.

18 A. And I have to go through each one to
19 arrive at the actual transferable skills because
20 each occupation that he's had has transferable
21 skills.

22 Q. Right. I understand that.

23 But in terms of real-world jobs, is
24 every job that comes out for him, based on that
25 analysis, necessarily going to suit his condition?

1 A. It should suit based on the -- because
2 the jobs that are looked for, it will tell me,
3 okay, you have to look in a sedentary and light
4 capacity and these are the jobs that would fit that
5 capacity. And a person with his skills should be
6 able to do these jobs.

7 Q. Okay.

8 A. That's all it tells me. Now, him
9 personally, I can't say yes, he can do these jobs.

10 Q. You can't say that?

11 A. No.

12 Q. Okay. So, for instance -- let me ask
13 you specifically: Does Mr. Edwards have any
14 computer skills?

15 A. He would have computer skills working
16 with the police force, working --

17 Q. Did you ask him about his skills using
18 a computer?

19 A. Yes, I did.

20 Q. All right. What did he tell you about
21 his computer skills?

22 A. He just basically told me he looks up
23 -- he works -- he does work on the computer at
24 home. But I don't have any actual way of knowing
25 exactly what his computer skills are unless I sat

1 there and watched him do MS Word or if I was
2 actually doing job placement.

3 Q. All right. So do you know whether he
4 has proficiency with Microsoft Office products?

5 A. I would have no way of knowing that.

6 Q. Okay. And if you have a job that
7 requires proficiency with Microsoft Office
8 products, at this point you don't have sufficient
9 information to make a determination about whether
10 or not he can do that job; is that true?

11 A. No. This is all based off of -- again,
12 this is all based off the Occupational Network.

13 Q. Okay. And I understand that.

14 A. And --

15 Q. So --

16 A. And this is what a typical person with
17 these -- there is no way in two hours that I would
18 be able to tell you exactly what specific jobs
19 based on his -- unless I went through a very
20 detailed over, like, two-or-three-day evaluation
21 with him to tell you exactly, okay, he's proficient
22 in this, he's proficient in that, he's proficient
23 in this. You just can't add all of that
24 information in the time space allotted.

25 Q. So is it fair to say this is a

1 theoretical assessment based upon -- for the
2 generalities of his past occupations?

3 A. This is an assessment based on the
4 thousands of people that have -- that are a part of
5 the Occupational Network that have taken -- that
6 have gone -- and what the skills they've acquired
7 with his specific skills that he should be able to
8 do. And the only way I can really clarify this is
9 through the testing that showed if he was -- that
10 he was testing at an average range, which would
11 lead me to believe that he would be able to do the
12 jobs that an average person would be able to do.

13 Q. Okay. At least you believe that, but
14 it doesn't -- but you cannot say -- can you say, to
15 a reasonable degree of vocational certainty, that
16 he can do the jobs that you recommended in the
17 labor market survey?

18 A. I would say yes.

19 Q. Okay. And what's the basis -- and what
20 is the basis for that?

21 A. The Occupational Network.

22 Q. The medical assessment?

23 A. The Occupational Network.

24 Q. Okay. So you don't know, though -- and
25 I'll tell you ahead of time, several of the jobs

1 that you recommended, the specific ones in the
2 labor market survey, require proficiency in
3 Microsoft Office. Were you aware of that?

4 A. I was very aware of that.

5 Q. But you're telling me you don't know if
6 he can -- if he is proficient in Microsoft Office?

7 A. No.

8 Q. Okay. So on that basis, it would be
9 difficult for you to say, to a reasonable degree of
10 vocational certainty, whether or not he could do
11 those jobs; is that correct?

12 A. All I can base that on is based on what
13 the Occupational Network tells me, that a person
14 with his skills should crosswalk into these
15 positions.

16 Q. Okay. So a person with his skills --

17 A. I can't do any different than that.

18 Q. -- but not necessarily him; is that
19 true?

20 A. That's true.

21 Q. Okay. Let's look at your -- have you
22 got your labor market survey with you?

23 A. Yes.

24 MR. MOORHEAD: All right. Madam Court
25 Reporter, I'm going to start bothering you here in

1 a second, okay?

2 THE REPORTER: Okay.

3 BY MR. MOORHEAD:

4 Q. Let's look at the first one on your
5 labor market survey. You have Sears Holdings?

6 A. Correct.

7 Q. Do you see that one?

8 A. Yes.

9 Q. Mr. Myers?

10 A. Yes.

11 Q. Do you see Sears Holdings?

12 A. Yes.

13 Q. Okay. And it says he -- are you saying
14 he is qualified for a position as a surveillance
15 monitor at Sears Holdings?

16 A. Correct.

17 Q. And it says the minimum qualifications
18 for hire, all training in the detection and
19 detention of shoplifters. Let me ask you about the
20 detention of shoplifters. Is that -- is detention
21 of shoplifters -- where does that fall in the
22 physical requirements for a job?

23 A. I need to clarify that I also spoke to
24 the employer and they are an EOE employer, and they
25 stated that they follow -- are ADA compliant and

1 they would work the individual, and he would not be
2 required to detain shoplifters.

3 Q. Okay. But you agree that this job says
4 it requires, as a minimum qualification, detention
5 of a shoplifter?

6 A. Correct. But the employer stated that
7 they would hire based on his experience and they
8 would not require him to detain shoplifters.

9 Q. Okay. And you spoke to someone there?

10 A. Yes.

11 Q. Who did you speak to and when?

12 A. Mark G. And I don't have the date.

13 Q. Okay. Was it prior to you producing
14 this report?

15 A. Yes.

16 Q. Okay. Give me just a second.

17 So the -- you're telling me that he
18 could do this job, but couldn't do the detention of
19 shoplifters portion and he would have to be
20 accommodated?

21 A. That's correct. And that's what I do
22 with every one of the employers; that I go through
23 and make sure the employer is EOE compliant and
24 that they work with the ADA. And then they tell me
25 yea or nay, and if they don't, then I strike them

1 off the list and move to the next one, because they
2 have to be able to accommodate his situation.

3 Q. Okay. Let's look at the second one
4 Winn-Dixie, 208 Bi Lo Boulevard --

5 A. Uh-huh.

6 Q. -- Greenville, South Carolina?

7 A. Yes. They're actually Southeastern
8 Grocers. Winn-Dixie got bought out.

9 Q. Minimum qualifications for hire, three
10 years of retail asset protection/loss prevention
11 experience or an equivalent.

12 Tell me about that with regard to
13 Matthew Edwards.

14 A. Matthew Edwards was a police officer so
15 he would have ten years of -- ten years of
16 experience in asset protection --

17 Q. Do you have any information whether or
18 not Matthew Edwards was ever involved in
19 investigative or detective work?

20 A. He would have been involved in -- yes,
21 I do. He was in investigative work. He was in --
22 he investigated people that-- when they littered,
23 he did the litter investigations.

24 Q. Yes, he was a litter investigator. Do
25 you know whether or not he had any investigative

1 training?

2 A. That I do not know.

3 Q. Okay.

4 A. But he would -- I would -- again, based
5 on the Occupational Network with people that have
6 worked for the department of -- that are
7 transportation officers have to be able to
8 investigate trucks and their weights and all of
9 that stuff.

10 Q. Do you know if, in fact, he had
11 investigative training as a transportation officer?

12 A. I do not know that. I would assume
13 that.

14 Q. Do you know whether his job consisted
15 primarily of looking at trucks or determining
16 whether or not they were violations of the federal
17 code with regard to their equipment?

18 A. That would be part of it.

19 Q. Okay. That's not investigative
20 training, is it? Is it?

21 A. Well, I would -- when you look at the
22 DOT, it actually would -- states that --

23 Q. Let me ask you this: What's -- don't
24 let me put words in your mouth, but what you're
25 saying is, when you look at the DOT requirements

1 for a transportation officer, it includes
2 investigation work, but -- so someone with that
3 experience should be able to do that, to do the
4 investigative work --

5 A. Yes. And that's correct with
6 everything we're talking about.

7 Q. But as to Matthew Edwards, you don't
8 know if he actually has that skill, do you?

9 A. That's correct.

10 Q. And so you can't say, with a reasonable
11 degree of vocational certainty, that Matthew
12 Edwards is qualified to do this surveillance
13 monitoring job with the grocery distributor?

14 A. All I can state is based on what we're
15 required to follow.

16 Q. Okay. But you can't say that as to
17 Matthew Edwards?

18 A. No.

19 Q. Is that true?

20 A. I don't really know how to answer that.
21 All -- this is what the Occupational Network and
22 the dictionary of occupations, all that's put out
23 by the Department of Labor. If they're wrong, then
24 they're wrong, but this is what all of us as
25 vocational experts have to follow.

1 Q. Okay. I understand. But --

2 A. There isn't anyone --

3 Q. -- you're talking about -- in essence,
4 you're talking about a theoretical Matthew Edwards,
5 not the actual Matthew Edwards and his actual
6 experiences; is that true?

7 A. That is correct, because there's no way
8 I would be able to determine that without actually
9 helping putting him back to work.

10 Q. And does that apply to all of these
11 occupations listed in every labor market survey?

12 A. Yes, it does.

13 Q. Okay. So when we look a little further
14 down on the -- on what we're calling the Winn-Dixie
15 job, it says minimum qualifications, demonstrate
16 strong PC skills with proficiency with Microsoft
17 Office. We don't know if he qualifies, do we?

18 A. No, we do not.

19 Q. Okay. Go down to -- the next one down
20 is AP Professional Services. And I think if you'll
21 -- I think it's AP Professional Security. Are
22 you --

23 A. And that's correct.

24 MR. MOORHEAD: Okay. And Madam Court
25 reporter, if you'll show me -- I've got two

1 documents in the packet pertaining to AP
2 Professional Security. Do you have those?
3 (PLF. EXH. 1, five-page document
4 containing a two-page job description for Uniformed
5 Armed Security Officers at AP Professional
6 Security, LLC and a three-page job description for
7 Uniformed Unarmed Security Officers at AP
8 Professional Security, LLC, was marked for
9 identification.)

10 MR. MOORHEAD: And give those to
11 Mr. Myers, please.

12 BY MR. MOORHEAD:

13 Q. Do you have those, Mr. Myers?

14 A. Yes, I do.

15 Q. Okay. And I've got two documents. One
16 says -- it's AP Professional Security, LLC; one is
17 for uniformed unarmed security officers and one is
18 for uniformed armed security officers.

19 Did you contact AP Professional
20 Security?

21 A. Yes, I did.

22 Q. Okay. Did they tell you that they
23 would make accommodations --

24 A. Yes.

25 Q. -- under the ADA?

1 A. Yes, under the -- they would look at
2 putting him into, like, a guardhouse for a
3 condominium complex or subdivision, something like
4 that.

5 Q. Okay. So uniformed unarmed security
6 officer has -- it says they provide trained
7 certified professional security guards with the
8 authority to arrest in an unarmed capacity. He
9 would not be subject to that requirement; is that
10 correct?

11 A. That is correct. That is correct.

12 Q. Okay. And on the armed side is the one
13 that says uniformed armed security officers.
14 Actively engage and arrest all violent individuals
15 who intentionally inflict bodily harm on people or
16 commit property crimes on your private property.

17 A. He would not be able --

18 Q. He wouldn't be required to deal with
19 that, would he?

20 A. He would not be eligible for that one.

21 Q. Okay. All right. Let's go on down to
22 the next one, Title Max. And did you call them at
23 Title Max?

24 A. Yes, I did.

25 Q. Okay. Did you -- what are the

1 educational requirements for Title Max?

2 A. A high school diploma or GED.

3 Q. And where did you get that information?

4 A. I received that from the manager in --
5 at the Florence store.

6 MR. MOORHEAD: Okay. And Madam Court
7 Reporter, there's another document that is -- at
8 the top has TMX Finance Careers.

9 (PLF. EXH. 2, four-page document
10 pertaining to TMX careers, was marked for
11 identification.)

12 BY MR. MOORHEAD:

13 Q. Mr. Myers, if you could look on what is
14 going to be three of five. It says three of five
15 in the lower right-hand corner. Do you see that?

16 A. Yes.

17 Q. Do you have that document?

18 A. Yes.

19 Q. The qualifications state two-plus years
20 in a sales or customer service oriented position.
21 Does Mr. Edwards qualify for that?

22 A. He would qualify -- there's -- these
23 are what -- from what I -- from dealing with Title
24 Max in the past, these are what they would like you
25 to have. It's not what you have to have to go to

1 work for them.

2 Q. Okay. But you do agree it does say
3 qualifications?

4 A. It says qualifications, but these
5 are what -- again, this is what they tell me, the
6 manager tells me, is what they would like you to
7 have, but they rarely get this because of the
8 quality of people they get to work for them.

9 Q. Okay. And if you look down towards the
10 bottom it says, proficiency in Microsoft Office
11 Suite, Word, Excell and Outlook.

12 A. And again --

13 Q. Do you see that?

14 A. Yes. And, again, they will train him.

15 Q. Okay. But as we sit here today, based
16 on what they're publishing, he doesn't have the
17 qualifications that it needs; is that true?

18 A. No, but you're looking at a website and
19 I'm talking to the people.

20 Q. Okay. We'll keep talking about that.

21 MR. MOORHEAD: Let's make that -- did I
22 make that an Exhibit 2 collectively?

23 THE REPORTER: Yes.

24 MR. MOORHEAD: Attach that to the
25 deposition, please.

1 BY MR. MOORHEAD:

2 Q. Mr. Myers, does Mr. Edwards have a
3 limitation on his ability to walk and stand?

4 A. I don't have that in front of me to
5 know whether he -- as far as what the lifting -- or
6 what the restrictions are as far as standing and
7 sitting are. I don't have the medicals to tell me
8 what -- the answer here, so I would --

9 Q. Would that be significant to your
10 analysis?

11 A. Yes. It all depends on what they're
12 telling me, though. I mean, if they're telling me
13 prolonged, then prolonged would mean that as long
14 as he's getting breaks in between, then he would be
15 able to do the jobs.

16 Q. All right. Tell me what The Home Depot
17 told you?

18 A. Well, there are 462 occupations that
19 Home Depot has. And they told me that they would
20 be able to accommodate a person that has
21 disabilities and they would -- and they could
22 basically fit the position for them.

23 Q. Okay. So, again, we're talking about
24 the ADA coming into play to qualify him for work;
25 is that true?

1 A. Yes. And that's on all the occupations
2 I deal with. I have to make sure they'll make
3 reasonable accommodations.

4 Q. Okay.

5 A. When I'm talking sedentary to light.

6 Q. Okay. And so is it a concern that
7 there might be unlevel surfaces in Home Depot?

8 A. I'm unaware of the customer service job
9 where there's any unlevel surfaces at all that they
10 have to deal with.

11 Q. Okay. Is it a concern that there is
12 regular walking and standing?

13 A. There is regular walking and standing.

14 Q. Okay. So you agree with that?

15 A. Yes.

16 Q. And is that something that Matthew
17 Edwards can do?

18 A. He can do it for a period of time, but,
19 like I said, I don't have the FCE in front of me to
20 be able to see what those limits were.

21 Q. Okay. How about lifting, handling,
22 carrying material or equipment of a moderate
23 weight, 8 to 20 pounds; is he capable of that?

24 A. Yes.

25 Q. Sir?

1 A. Yes.

2 Q. Did you hear me?

3 A. Yes. I said yes.

4 Q. Okay. Thank you.

5 MR. MOORHEAD: All right. Madam Court
6 Reporter, if you'll pull the -- there's a two-page
7 Home Depot document.

8 (PLF. EXH. 3, two-page document listing
9 job details for The Home Depot for title of
10 customer service/deliveries, was marked for
11 identification.)

12 BY MR. MOORHEAD:

13 Q. And Mr. Myers, if you look about
14 60 percent of the way down the first page it says
15 nature and scope. Do you see that?

16 A. Yes, but this is the wrong job.

17 Q. This is the wrong job?

18 A. Yes. This says customer service slash
19 deliveries, and this is just --

20 Q. If you look then in the -- let's look
21 up a little further. It says job description,
22 title, customer service slash deliveries. And if
23 you look at position purpose, do you see -- if you
24 look down, the last full sentence says: Specific
25 customer service/delivery positions may include

1 customer service representative, delivery driver
2 associate, delivery puller associate, delivery
3 will-call coordinator, door monitor associate and
4 phone center associate?

5 A. That's correct, but this is not the
6 correct job that I was looking at.

7 Q. Okay. But you agree that it's
8 contained within those requirements, correct?

9 A. No, I disagree because the job I was
10 looking at was the customer service associate
11 position. And, again, they have 462 different
12 occupations available at the store.

13 Q. All right. So you disagree that this
14 pertains to your job -- there's another job called
15 customer service associate?

16 A. I believe that was the name of it,
17 that's correct.

18 MR. MOORHEAD: Okay. If we could just
19 add Exhibit 3 to the deposition.

20 And then Madam Court Reporter, if
21 you'll pull out -- there's another Home Depot
22 exhibit that was a capture or picture of a computer
23 screen. Do you see that?

24 (PLF. EXH. 4, computer screenshot, was
25 marked for identification.)

1 BY MR. MOORHEAD:

2 Q. Mr. Myers, does that -- does this
3 appear to be a job search for Home Depot in the
4 Greenville area?

5 A. It does.

6 Q. Okay. And do you see listings for
7 customer service slash deliveries?

8 A. I see those.

9 Q. Okay.

10 A. But, again, this is not --

11 Q. Are you essentially saying that it's
12 not customer service representative or customer
13 service associate by itself?

14 A. This job is not listed.

15 Q. Okay. Do you agree that the jobs that
16 are listed appear to be listed in alphabetical
17 order?

18 A. Yes, sir.

19 Q. Do you agree that the jobs that are
20 listed appear to be for multiple locations, not
21 just the 1339 South Pleasantburg location?

22 A. That's correct.

23 Q. And you would agree that that job, the
24 one that you've recited, does not appear on the
25 listing?

1 A. Not on this list, no.

2 Q. Okay. All right. That's Exhibit 4.

3 All right. Let's look at number six on
4 the labor market survey. Esurance, what is the
5 minimum qualifications for hire?

6 A. In this it's been -- a fraud
7 investigator, so it -- three years of investigative
8 experience.

9 Q. Okay. And do we know whether
10 Mr. Edwards has detective or investigative
11 experience?

12 A. No.

13 Q. Okay. So you can't say, to a
14 reasonable degree of vocational certainty, whether
15 or not he qualifies for this job; is that true?

16 A. This is with all the positions. These
17 are entry-level positions that I'm looking at that
18 they would train him how to do these things.

19 Q. Well, doesn't it say the minimum
20 qualification for hire is three years of special
21 investigation unit insurance experience --

22 A. Yes.

23 Q. -- and/or detective investigator within
24 law enforcement?

25 A. And a person that's been in the police

1 department for as long as he has should have those
2 skills.

3 Q. Okay. But do you know if he actually
4 has them?

5 A. No, I don't.

6 Q. Okay. Let's go to number seven,
7 Textron. All right. You spoke with the people at
8 Textron?

9 A. Yes.

10 Q. And they had jobs available as a
11 surveillance monitor in Greenville, South Carolina?

12 A. Yes.

13 Q. Okay. What's the -- what do they do at
14 75 Beattie Place? Do you have any idea?

15 A. They are a machine -- that they do
16 deliveries and make products.

17 Q. Okay. Is this job going to be at 75
18 Beattie Place in Greenville?

19 A. The job was for a security -- to
20 monitor security at the -- at that office, at that
21 business.

22 Q. Okay. Mr. Myers, are you familiar with
23 an entity called CT Corporation?

24 A. I'm familiar that they use
25 subcontractors to fill those positions.

1 Q. Okay.

2 A. Textron does.

3 Q. Okay. Are you aware -- are you
4 familiar with something called CT Corporation?

5 A. No, I'm not. I do know -- all I know
6 is -- from speaking with their corporate is that
7 they normally will hire out for their security
8 positions, but they do advertise that they are
9 looking for security people.

10 Q. Okay. But do you know if they actually
11 do any business in the Greenville area?

12 A. Just based on I was talking about the
13 Greenville area whenever I was talking -- when I
14 was talking with --

15 Q. Let me ask you this question: Did you
16 actually ask them if the jobs were in Greenville or
17 did you just rely on the fact that there was a
18 Greenville address?

19 A. I don't recall.

20 MR. MOORHEAD: Okay. Madam Court
21 Reporter, there's a Textron document, two pages.

22 THE WITNESS: It seems to me I had some
23 problems with this one. I don't...

24 (PLF. EXH. 5, two-page document showing
25 nine jobs at Textron in South Carolina that matched

1 the search, was marked for identification.)

2 BY MR. MOORHEAD:

3 Q. Mr. Myers, if you'll look at the top of
4 the Textron document, and this is kind of small.
5 There's a little GEICO banner ad that appeared on
6 the website. Do you see that?

7 A. Yes.

8 Q. And right below that it says "browse
9 jobs by," and then over to the right a little bit
10 it says "location," correct?

11 A. Correct.

12 Q. What location is selected?

13 A. Charleston and Goose Creek. And that
14 is where --

15 Q. Okay. Look straight to the side of
16 "browse jobs by." What does it say for the
17 location?

18 A. Charleston and Goose Creek.

19 Q. Okay. Okay. Let's try it one more
20 time. Look up, just to show you, it says "browse
21 jobs by" and out to the right, what does it say?

22 A. South Carolina.

23 Q. Ah, okay. Now, looking at that a
24 little more carefully, does that appear to be a
25 location search for the state of South Carolina?

1 A. Yes.

2 Q. And the location then -- what do the
3 location choices appear to be for Textron?

4 A. Charleston and Goose Creek.

5 Q. Okay. Now, do you have any idea
6 whether or not Textron actually does business in
7 Greenville?

8 A. They are known as AAI Corporation.

9 Q. Do you know whether or not Textron does
10 any business in Greenville?

11 A. This is -- this was -- this is the one
12 job that I -- when I was going back through it,
13 that it was confusing to me, is that they advertise
14 Charleston and they also had a Greenville position
15 available, but it was under a company called AAI.

16 Q. Okay.

17 A. Which must be one of their
18 subsidiaries, is all I can --

19 Q. Okay. Now, do you know that Textron --
20 do you have any information that Textron's
21 registered agent for service is CT Corporation at
22 75 Beattie Place in Greenville?

23 A. I don't recall. I just don't know.

24 Q. Okay. You don't know that for sure?

25 A. Yes, I don't know this for sure. I

1 can't answer this one way or the other on this job.

2 Q. Is it fair to say that based on the way
3 you read it, you believe that Textron had a
4 business in Greenville?

5 A. That's correct.

6 Q. But, in fact, you really don't know?

7 A. That's correct.

8 Q. Okay. So if it's a Charleston or a
9 Goose Creek job, that shouldn't come into play for
10 Mr. Edwards?

11 A. No, he would have to -- if they were
12 only in Charleston or Goose Creek -- and, again, I
13 don't have any way of knowing -- then you're
14 correct.

15 Q. Okay.

16 A. Then he would have to move to
17 Charleston or Goose Creek to do it.

18 Q. Okay. Tell me about Cabela's, number
19 eight.

20 A. It's a customer service representative,
21 and they also are an EOE employer and also would do
22 accommodations.

23 Q. Okay. So you agree on this one -- I
24 mean, if -- I hope you've visited Cabela's because
25 I think every man should go there.

1 A. I'm from West Virginia. I've been to
2 Cabela's many times, yes.

3 Q. You would agree with me their customer
4 service representatives, in general, are up and
5 about, true?

6 A. Yes.

7 Q. A lot of walking? A lot of standing?

8 A. Yes.

9 Q. And so in order for him to do this job,
10 it would require an ADA --

11 A. Compliance.

12 Q. -- accommodation?

13 A. That's correct.

14 Q. Okay. Travelers Indemnity Corporation.
15 Is Travelers -- did you call this number?

16 A. I called --

17 Q. I've got 864-254-6010. Or was that
18 number disconnected?

19 A. Yes, the one I had to wind up calling
20 was the number in Columbia.

21 Q. Okay. So this 254-6010, that number is
22 no good, is it?

23 A. As far as I know.

24 Q. Okay. 70 Griffith Creek Drive in
25 Greer, do you know if they do any business there?

1 A. No, I do not. I just know from the --
2 that the job posting was in that area from the --
3 in either the Greer office or the Greenville
4 office.

5 Q. Okay. But you don't know if they
6 actually do any business in Greenville County, do
7 you?

8 A. I do know they do business in
9 Greenville County. And I do know --

10 MR. MOORHEAD: Madam Court Reporter,
11 I've got two print-outs from a webpage that are
12 photographs.

13 (PLF. EXH. 6, two photographs, were
14 marked for identification.)

15 BY MR. MOORHEAD:

16 Q. Do you see -- the two pictures,
17 Mr. Myers, one is where you could see sort of a
18 house; do you see that?

19 A. Yes.

20 Q. Okay. Does that appear to be a
21 subdivision?

22 A. Yes.

23 Q. Okay. Do you see the notation down
24 there? It says, 69 Griffith Creek Drive in Greer,
25 South Carolina; do you see that?

1 A. Yes.

2 Q. In a little box sort of the lower left
3 corner of that picture, do you see that?

4 A. Yes.

5 Q. Okay. And if you look at the second
6 picture, does that appear to be a tinier shot of
7 those bushes and that mailbox?

8 A. Yes.

9 Q. Is that correct?

10 A. Yes.

11 Q. And does that say -- do you see a "70"
12 on that mailbox?

13 A. Yes.

14 Q. Do you agree with that?

15 A. Yes.

16 Q. Is that a "yes?"

17 A. Yes.

18 Q. Okay. Does that appear to be a
19 subdivision?

20 A. Yes. Like I said, it was in Greenville
21 County, the job was, and that was --

22 Q. Now, tell me how you know it was in
23 Greenville County.

24 A. Because it came up --

25 Q. How do you know it was in Greenville

1 County? I mean, Griffith Creek Drive appears to be
2 in a subdivision.

3 A. Yes, sir, but there were also three
4 other listings for Travelers and --

5 Q. Okay. And they were where? I mean,
6 you don't have them listed in your report?

7 A. No, I don't.

8 MR. MOORHEAD: Madam Court Reporter,
9 just -- there's another document that says "real
10 property details." Do you see that one?

11 THE REPORTER: Yes.

12 MR. MOORHEAD: Mark that Number 7.

13 (PLF. EXH. 7, document entitled Real
14 Property Details, was marked for identification.)

15 BY MR. MOORHEAD:

16 Q. Mr. Myers, if you look down at the
17 description portion of the real property details,
18 it says location, 70 Griffith Creek; is that true?

19 A. I agree that that's not a -- that's a
20 subdivision.

21 Q. Okay. All right. Well, let's just put
22 that one in as Number 7 and note for the record
23 that the subdivision is Mahaffey Plantation.

24 Okay. Now, ScanSource. Tell me about
25 ScanSource, number ten. What job could he do for

1 ScanSource?

2 A. This is a collection clerk job.

3 Q. Okay. And what were the educational
4 minimum requirements for the ScanSource job?

5 A. I don't have that one.

6 Q. Okay. If I told you that they require
7 two years of college, would Mr. Edwards qualify for
8 that job?

9 A. And again, we've got to go back to --
10 when I talked to Terri there, she said that they
11 would hire a person without those -- that they
12 train people for those jobs. This is what they
13 would like to have.

14 Q. Okay.

15 A. I mean, you would have to actually go
16 to the employer and get the actual job description
17 to determine the actual job available.

18 Q. Okay. So, again, if my client were to
19 testify that he went to the website and the website
20 requires two years of college, he doesn't have this
21 education, does he?

22 A. That's correct.

23 Q. Okay. And on that basis, he doesn't
24 meet the minimal qualifications; is that true?

25 A. Based on that website, that's correct.

1 Q. Okay. Number 11, Chartis Claims?

2 A. Yes. They are also --

3 Q. In Columbia, South Carolina?

4 A. Yes. They're also --

5 Q. Do they have jobs in Greenville?

6 A. Yes. And they're also known as AIG.

7 Q. Okay. AIG?

8 A. Yes.

9 Q. And give me just a second.

10 Does Mr. -- again, do we have any
11 investigative skills that you're aware of when it
12 comes to Mr. Edwards?

13 A. No, just the skills he should have
14 acquired being a sheriff and also -- a deputy
15 sheriff and also being a transportation officer.

16 Q. Just the theoretical idea that he
17 should have investigative skills based on his prior
18 job?

19 A. Those are what the job does.

20 Q. Okay. And if he was the litterer
21 investigator that otherwise sort of did the
22 transportation officer job, you don't know whether
23 or not he has any formal investigative training
24 skills or OJT investigative training skills, do
25 you?

1 A. Correct.

2 Q. Is that true?

3 A. Correct.

4 Q. To a reasonable degree of vocational
5 certainty, you can't say that he would qualify for
6 this job; is that true?

7 A. No, I can't.

8 Q. All right. Tell me about Hertz.

9 A. That's a customer service
10 representative job.

11 Q. Okay. Have you ever been to -- have
12 you rented a car?

13 A. Yes.

14 Q. What do those customer service
15 representatives do?

16 A. They sit down, they take orders, they
17 also -- they've got different types of positions
18 that they have.

19 Q. Okay. And what is this one for?

20 A. This one is the -- he's selling --
21 basically selling --

22 Q. Selling rentals?

23 A. Selling rentals, yes.

24 Q. Okay. He stands, he's -- well, he's on
25 a computer, correct?

1 A. He's at a computer. He drives the car
2 out.

3 Q. Okay.

4 A. Those sort of things.

5 Q. Walks to the car, gets the car, brings
6 it out, inspects the car for damage?

7 A. That's correct. Make sure the gas tank
8 is full, that sort of stuff.

9 Q. Okay. And checks the car, walks around
10 the car. A lot of standing and walking, correct?

11 A. Yes.

12 Q. And you're telling me this is another
13 one of those ADA jobs that has to have
14 accommodations, correct?

15 A. Yes.

16 Q. And your testimony is that all of the
17 jobs that you've cited in the labor market survey,
18 that they require that he have an accomodation; is
19 that true?

20 A. To one degree or another except the
21 collection jobs. I would say with most of the
22 collection jobs he could do the job except where
23 he's MS proficient -- MS Word proficient or not.
24 But most of the employers told me they would train
25 for that.

1 Q. Okay. So there are questions about
2 whether or not he could operate Word, there are
3 also questions about whether or not he had
4 investigative skills and there are also questions
5 about whether or not he had the minimum level of
6 education; is that true?

7 A. That's true.

8 Q. Okay.

9 A. And that's with any labor market
10 survey.

11 Q. Okay. So it's fair to say that --

12 A. That --

13 Q. -- while you've given opinions in this
14 case, all of those opinions are based upon what the
15 vocational publications say he should have or
16 should be able to do, but they don't -- but the
17 opinions are not based on what he is actually
18 capable of doing; is that true?

19 A. That's true, but it's based on
20 scientific fact that that person should be able to
21 drop down into those other categories and be able
22 to do those jobs.

23 Q. Okay.

24 A. Now with regard to Mr. Edwards, and
25 based on his testing, he seems like he would easily

1 fall into these categories. But, again --

2 Q. But you would agree -- this isn't an
3 opinion that's tailored to the specifics of
4 Mr. Edwards and what his capabilities are; it's
5 tailored to what Mr. -- you would anticipate
6 Mr. Edwards would be capable of based on the jobs
7 he's held; is that true?

8 A. That is very true. That is correct.
9 And, again, this is a labor market survey. Survey.

10 Q. I understand.

11 Okay. Do you have any other opinions
12 that you wish to offer in this case?

13 A. No.

14 MR. MOORHEAD: I don't think I have
15 anything further.

16 EXAMINATION

17 BY MR. SMITH:

18 Q. Mr. Myers, this is Zack Smith and I
19 represent the Department of Public Safety and the
20 State Accident Fund in Mr. Edwards's claim. And I
21 want to ask you a few questions.

22 Mr. Edwards is, I believe, 35 years
23 old. Is that a positive factor in him returning to
24 the workforce?

25 A. Yes, it is.

1 JAMES MYERS - EX. BY MR. SMITH
2 Q. And why is that?

3 A. He should be able to -- he has many
4 years of work experience still left.

5 Q. And you discussed his background and
6 his work history. Are those positive factors in
7 him returning to the workplace?

8 A. Yes.

9 Q. And does he have -- would you
10 anticipate that he has several transferable skills
11 from his jobs?

12 A. Yes.

13 Q. And I believe you were asked a lot
14 about his availability to investigate. Is it your
15 understanding that sheriff's deputies' general
16 duties include investigating crimes?

17 A. That is my understanding.

18 Q. In the labor market survey that you
19 performed, are those the only jobs he'll be able to
20 return to, in your opinion, or are those just a
21 sample of the jobs?

22 A. That is just a sample of 12 jobs.
23 There were actually hundreds of jobs that he would
24 have been able to qualify for, but I only used 12.

25 Q. Okay. And in your opinion, to a
reasonable degree of vocational certainty, based on

JAMES MYERS - EX. BY MR. SMITH

1 Mr. Edwards's education, work history, the testing
2 you performed and -- do you believe that he should
3 be able to perform the jobs in your labor market
4 survey even if he had -- if he were able to obtain
5 some accommodations? Is that what you're saying?

6 A. Yes. Yes, correct.

7 Q. And you also asked -- were asked about
8 his computer skills. Based off of his education
9 and what -- his background, do you believe that he
10 would be able to learn the basic Microsoft skills?

11 A. Yes. And it's also my understanding
12 that they actually have computers in squad cars.
13 As a deputy sheriff, he would be required to use
14 one.

15 Q. And if he used computers while working
16 as a sheriff's deputy, would that add further
17 support that you think he -- or you believe that he
18 should be able to work -- handle Microsoft
19 programs?

20 A. Yes.

21 Q. Okay. And if he hadn't worked with
22 them in the past it may just be something that he
23 would need some training for?

24 A. That's correct.

25 Q. And do you believe he would be able to

1 JAMES MYERS - EX. BY MR. SMITH
2 handle and understand the training?

3 A. Yes.

4 Q. And the jobs that you mentioned in --
5 you were questioned about a lot of the -- about the
6 jobs in the labor market survey, and there were
7 some that they had qualifications, but I believe
8 you testified that those weren't all requirements,
9 that some of the employers you talked to were
10 willing to work around those?

11 MR. MOORHEAD: Object to the form.

12 THE WITNESS: Yes, yes, that is
13 correct.

14 BY MR. SMITH:

15 Q. In your experience, do a lot of people
16 receive training on the job?

17 A. Most.

18 Q. And so if Mr. Edwards doesn't have all
19 of the skills or doesn't have all of the knowledge
20 about certain things, do you think he would be able
21 to learn those on the job?

22 A. Yes.

23 Q. And based on your examination of
24 Mr. Edwards and the testing and his report of his
25 education and work history, do you believe that he
would have the ability to learn additional skills?

JAMES MYERS - EX. BY MR. SMITH

1 A. Yes.

2 Q. And you mentioned that -- in your
3 report that he was a candidate for vocational
4 rehabilitation. Can you explain that?

5 A. Yes. I would highly recommend that --
6 and I mentioned to Mr. Edwards that he would have
7 to be referred to by his attorney, but that the
8 South Carolina Department of Vocational
9 Rehabilitation would retrain him in a different
10 position. And they actually do have positions
11 available that he would qualify for.

12 Q. And what all would vocational
13 rehabilitation consist of?

14 A. It can consist of many things. It can
15 -- they can send the person back to school to
16 acquire the needed skills. They can actually train
17 them right there in their offices on various
18 skills. They also -- and if a person doesn't have
19 a GED, they can send them to get their GED and
20 things like that.

21 Q. And to your knowledge, had Mr. Edwards
22 looked into vocational rehabilitation before your
23 evaluation?

24 A. No. And in actuality, I actually gave
25 him the number and the address whenever we were

JAMES MYERS - EX. BY MR. SMITH

1 there.

2 Q. And did he indicate that he wanted to
3 return to work?

4 A. No. In the beginning I kind of got the
5 opinion that he wanted to return to work and I
6 noted that, and then -- but later on during the
7 interview, he basically -- I got the -- that he did
8 not want to return to work.

9 Q. And in your opinion --

10 MR. MOORHEAD: Object to the form. I'm
11 objecting. Go ahead.

12 BY MR. SMITH:

13 Q. In your opinion, to a reasonable degree
14 of vocational certainty, do you believe that
15 Mr. Edwards is capable of returning to the
16 workforce?

17 A. Yes.

18 Q. Did you answer?

19 A. Yes.

20 Q. Okay. Was "yes" your response? We
21 kind of broke up there over the telephone.

22 A. Yes.

23 Q. Mr. Myers, is Mr. Edwards likely to
24 obtain employment versus another potential
25 candidate who has the minimum skills and does not

JAMES MYERS - EX. BY MR. SMITH

1 need an accomodation? Is he less likely to become
2 employed versus a candidate of that quality?

3 A. Well, an employer would give preference
4 to a person that actually does have those qualities
5 versus one that doesn't, but most of the employers
6 that I speak with, they don't have -- this is what
7 -- this is their wish list, this is what they would
8 like you to have, but they don't require it.

9 Q. Okay. So when they say minimum
10 requirements --

11 A. That is not the minimum requirements.

12 Q. -- it's not really their minimum
13 requirements?

14 A. At all.

15 Q. Is that true?

16 A. That's very true.

17 Q. Okay. And would he be likely -- if he
18 required accommodations and required training that
19 other candidates might have, would he be likely to
20 be brought in at a lower pay rate?

21 A. No, no, that -- they cannot do that
22 based on -- if you're an equal opportunity
23 employer.

24 Q. Okay. I understand the legalities of
25 it all, but is he likely to be brought in at a



1 JAMES MYERS - EX. BY MR. SMITH
lower pay rate?

2 A. No, no, I disagree with that.
3 Especially with the companies that I was talking
4 with.

5 MR. SMITH: All right. That's all I
6 have.

7 MR. MOORHEAD: Just a few more.

8 EXAMINATION

9 BY MR. MOORHEAD:

10 Q. When you talk about the accommodations,
11 are you talking about all of these jobs would
12 require significant accommodations or would the
13 accommodations vary?

14 A. Yes, I think the accommodations -- and
15 some may not require any accommodations at all, but
16 I would think that the major thing would be his
17 ability to get up and change positions like he did
18 during our interview, to be able to stand up and
19 change positions as needed and sit back down,
20 things like that.

21 Q. So when you talk about accommodations,
22 you're referring to the alternate sitting and
23 standing throughout the day?

24 A. That's correct.

25 Q. Would you -- in your opinion, is

1 Mr. Edwards' pain his most limiting factor?

2 A. Yes.

3 Q. And if his pain was to improve
4 significantly, would his -- would the job
5 opportunities also then -- would they increase?

6 A. The required accommodations would
7 definitely increase, where he would not have to
8 have those type of accommodations if he could
9 manage his pain levels.

10 Q. And he may -- in your opinion, if he
11 wasn't having as much pain, would there be more
12 jobs that he would be able to perform?

13 A. Yes.

14 MR. MOORHEAD: All right. No further
15 questions. Thank you, guys.

16 (The witness, after having been advised
17 of his right to read and sign this transcript,
18 waives that right.)

19 (The deposition was concluded at 1:20
20 p.m.)

21

22

23

24

25



SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC FILE NO. 1209393

MATTHEW EDWARDS,)
)
 Claimant,)
 vs.)
 SC DEPARTMENT OF PUBLIC)
 SAFETY,)
)
 Employer,)
 and)
 STATE ACCIDENT FUND,)
)
 Carrier.)

 **COPY**

Deposition of

DR. ERIC LOUDERMILK

Pursuant to Notice of Deposition and/or agreement in
the above-entitled case, a deposition was taken on the
27th day of May, 2015, commencing at approximately
5:10 p.m., attended as follows:

1 Pursuant to Notice and/or agreement to take
2 depositions, the within deposition was taken by Susan L.
3 McCracken, RMR, a Notary Public, as required under South
4 Carolina Court Rule 30, et al, by consent of all parties,
5 at the offices of Piedmont Comprehensive Pain Management,
6 100 Healthy Way, Suite 1260, Anderson, South Carolina.

7 **WAIVER**

8 It is agreed by Counsel for all parties that the
9 reading over of and signing of the deposition by the
10 witness are waived.

11 ** ** ** **

12 The deponent was duly sworn to tell the truth, the
13 whole truth and nothing but the truth of his own
14 knowledge concerning the matter herein:

15 **DR. ERIC LOUDERMILK**

16 having been first duly sworn, was examined
17 and testified as follows:

18 **EXAMINATION**

19 **BY MR. MOORHEAD:**

20 Q. Dr. Loudermilk, my name is Kirk Moorhead, and I
21 represent Matthew Edwards, who is a patient of yours and
22 a client of mine, in a worker's compensation claim that
23 he has associated with his work for the state transport
24 police. I am going to take your deposition today. I am
25 going to ask you a number of questions. I think you have

1 been deposed a few times and you are familiar with it.

2 If at any point I ask you a question you don't
3 understand, if you will, please ask me to restate it or
4 reask it to make sure you know what I am asking so you
5 can give a truthful and accurate answer. I am going to
6 ask today for your medical opinion on certain issues, and
7 if you will agree that if at any time that I ask you for
8 a medical opinion, that you will give that opinion to a
9 reasonable degree of medical certainty, that that opinion
10 is more probable than not.

11 A. Okay.

12 Q. Unless you otherwise state. Have you had a
13 chance to review Mr. Edwards' file before we came in
14 today?

15 A. A little bit, but I am familiar with him.

16 Q. You are familiar with him. Can you kind of
17 summarize for us what his problems are?

18 A. He was referred to me in February, 2013. He was
19 a police officer and suffered an injury at work which
20 occurred in July of 2012, and he had a disc herniation
21 and underwent surgery by Dr. Bucci. Unfortunately, he
22 did not get cured after the operation. He still had pain
23 in his lower back traveling down his right leg, and that
24 pain has persisted since his injury and since I have been
25 taking care of him. I felt based on the MRI report that

1 we were dealing with scar tissue, maybe some adhesions
2 from the surgery and possibly nerve damage, and then over
3 the past two years, I felt that the probability of nerve
4 damage is much more likely because he's pretty much
5 failed every treatment that we have done for him, and he
6 continues to manifest neurological pain in his leg. We
7 have tried nerve blocks. He's been through therapy.
8 He's been through numerous medications, but,
9 unfortunately, he is very sensitive to medications, and
10 we cannot seem to find any medication that he can
11 tolerate and he is just not a medication person, and over
12 the past year or two, we have been discussing spinal cord
13 stimulation as an option for him. Initially he's been
14 sort of reluctant to have something implanted in his
15 back, but since his condition has not been improving at
16 all, in fact, clinically he seems to be getting gradually
17 worse, I think he's finally come around to that option,
18 so I am hoping we can get approval to do a spinal cord
19 stimulator trial to help cover up the pain in his back
20 and leg and get him a better quality of life.

21 Q. Do you find that Mr. Edwards is somewhat
22 reticent to take medication?

23 A. A little bit, yeah. He is afraid of getting
24 addicted, being on medications he might become addicted
25 to.

1 Q. Has he expressed that to you?

2 A. Yes.

3 Q. Has he discussed with you returning to work?

4 A. Yes.

5 Q. Tell me what he has related to you.

6 A. In the beginning, he was hoping to return to
7 work, but over the past two years of taking care of him,
8 he's come to the realization he will not return to work
9 as a police officer because of the injury to his leg and
10 the weakness in his leg. It would put him at risk and
11 his partner at risk, and I think for a while he was very
12 disappointed when he realized that. I haven't really
13 sent him to a psychologist or psychiatrist. He seems to
14 be coping with things fine, but I know he is disappointed
15 he is not going to go back to work as a police officer.

16 Q. You have had fairly extensive conversations
17 about a spinal cord stimulator; is that correct?

18 A. Yes.

19 Q. Did he inquire of you whether or not that would
20 allow him to return to work as a police officer? Do you
21 recall that?

22 A. We may have discussed that, but I expressed a
23 lot of doubt that he should return to work as a police
24 officer with that because that will help control the pain
25 in his leg, but it's not going to fix weakness or other.

1 neurological damage, so it still put him at risk of
2 hurting himself and maybe hurting others, so even with
3 the stimulator, I would not recommend he return to work
4 as a police officer.

5 Q. Okay. I am going to hand you -- these are
6 numbered for what we would refer to in worker's
7 compensation as APAs, and I have got them numbered down
8 at the bottom, but I am going to represent to you this is
9 30 pages of your notes. I am not necessarily
10 representing that it's a complete set, but if you would,
11 just take a glance and make sure those appear to be notes
12 from your file.

13 A. Yes.

14 Q. If we could, let's turn to page 26, and in
15 reviewing -- let's do this. Let's go to page seven very
16 quickly of this exhibit, and I will call it APA-7. Can
17 you kind of summarize for me where you think he was as of
18 May 20 of 2013? That's an awkward question, but just
19 comment on that.

20 A. That was three months after his initial visit
21 with me, and I made a statement that I feel that he has
22 permanent nerve injury to his right leg, and I made that
23 statement because I did a procedure for him to break up
24 scar tissue and adhesions and he really didn't get any
25 better from that, so I felt it was less likely that there

1 is adhesions there, and I felt more likely we are dealing
2 with a nerve injury, so I put him on Cymbalta, and I
3 increased the dose of Cymbalta because we use Cymbalta to
4 treat nerve injury, and then he underwent a functional
5 capacity evaluation there at Doshier Physical Therapy and
6 then I had made arrangements for him to get an impairment
7 rating through Dr. Burnette.

8 Q. So if we look at the pages subsequent to that,
9 it appears that on page nine, by June 17, he had had that
10 FCE, that functional capacity evaluation?

11 A. Yes.

12 Q. Now let's go back to page 26, and I think we are
13 in November of 2014 at this point. I am going to read
14 down a little bit. It says "having a lot of pain in his
15 back and leg which is severely limiting his activity. He
16 has gained weight due to his lack of activity and has
17 been tried on a variety of different medications, but
18 either had side effects or they didn't help. We have
19 discussed spinal cord stimulation. He's been reluctant
20 due to the fact that he is concerned about having more
21 surgery," and then you say "he is clearly not doing very
22 well, and I plan to refer him back to Dr. Michael Bucci
23 for evaluation." Was it your observation -- and the
24 reason I looked at the prior note, was it your
25 observation that between this June of '13 and November of

1 '14 visit, that his condition had worsened somewhat?

2 A. Well, perhaps some, but the reason I sent him
3 back to Dr. Bucci was because we had an MRI that showed a
4 number of disc protrusions and I didn't know how
5 significant that was and I didn't want to just overlook
6 that and have him come back a year later and say "You
7 missed a disc herniation and now I had it taken care of
8 and now I am all better," so I referred him back to Dr.
9 Bucci to have him comment on the disc protrusion at L-3
10 and L-4.

11 Q. I am interested, though, in the statement you
12 say "he is clearly not doing very well." Was that your
13 observation?

14 A. Yes.

15 Q. It says he is not doing well. Does that
16 represent sort of a downturn for him?

17 A. I think he's had sort of a steady slow downturn.
18 He limps into my office, you know. He is clearly
19 dragging his leg and favoring his leg because he is in a
20 lot of pain. I noticed that he had gained weight.
21 Nothing has been working for him and so that's why I made
22 that statement.

23 Q. Okay.

24 A. I think he was -- at that time, too, he had some
25 swelling in his leg which I thought was due to neurogenic

1 edema, which you oftentimes see with a nerve injury.

2 Q. Okay. Would that necessarily create more
3 problems for him?

4 A. Oh, yeah. If your leg is swollen, it is going
5 to be more uncomfortable.

6 Q. Now let's look on page 29. These are your notes
7 from March 16, 2015. I am looking about the fifth line
8 down, says "He continues to have a lot of pain in his
9 back and right leg. It is not only evident from his
10 communication, but also how he postures himself in his
11 chair taking the pressure off his right side." Do you
12 recall if that posturing in the chair, that kind of --
13 and these are my words -- sort of heeling up off his
14 right side, was that a new thing for him?

15 A. He is doing it more.

16 Q. In your opinion as a medical doctor, is it
17 more probable than not that that's going to create an
18 issue for him to be able to sit for extended periods of
19 time?

20 A. Yes.

21 Q. Can you comment on that somewhat, how that
22 becomes a problem?

23 A. Well, it makes it difficult for him to sit in
24 one position for a period of time because he is in pain.
25 He is having to lean on his left side, and he shifts and

1 he moves. Sometimes he stands up and walks around a
2 little bit and sits back down again.

3 Q. In your opinion, is he likely to be able to
4 tolerate sitting for six hours out of an eight-hour work
5 day?

6 A. In his current condition, I think it would be
7 difficult. He would have to have the opportunity to get
8 up and walk around quite often.

9 Q. But assuming he can get up, could be up or in a
10 different position other than sitting for two hours out
11 of an eight hour work day, do you believe he would be
12 able to tolerate the six hours of sitting?

13 A. Possibly.

14 Q. Now, if Mr. Edwards were to make an election at
15 this point not to have the spinal cord stimulator
16 implanted or the trial and have the implant, despite that
17 current choice, would a spinal cord stimulator continue
18 to be a medically reasonable treatment for him into the
19 future should he change his mind?

20 A. Assuming that nothing else changes.

21 Q. Are there certain aspects of his condition that
22 make him a good candidate for a spinal cord stimulator?

23 A. Yes.

24 Q. What are some of those?

25 A. First of all, the nature of his pain. The

1 majority of his pain is from the buttock down to the
2 foot, which makes him an ideal candidate for spinal cord
3 stimulation. People that have a lot of back pain don't
4 always get the best results, but people that have leg
5 pain get superior results. Secondly, his pain is 99
6 percent neuropathic, and spinal cord stimulation works
7 great for nerve damage and nerve pain.

8 Q. Okay.

9 A. Third, he is reliable. I have been seeing him
10 for two years. He comes to every appointment. He has no
11 secondary gain issues. He is not interested in procuring
12 narcotics or medications. There is no other issues for
13 this gentleman other than trying to get better, which
14 makes him another perfect candidate for it. We don't
15 have to figure out any secondary gain issues. He is not
16 trying to get disability. He is not trying to get some
17 big settlement. All he wants to do is get better. I
18 think he's had a big reluctance towards stimulators
19 because it's another surgery and he's had one surgery
20 that didn't go well, and I actually explained it very
21 thoroughly to him a visit or two ago, and he didn't
22 realize there was a trial. He didn't understand that.
23 He thought it was one surgery and it's done. Now he
24 realizes there is a trial, he gets to try it out for a
25 week at first, so now he is much more amenable to doing

1 it, but really, he is an ideal candidate.

2 Q. Okay.

3 A. And he is young enough it is going to make a
4 difference in his quality of life. He's got a lot of
5 years ahead of him.

6 Q. Right.

7 A. And right now he is not going to be able to do
8 much in his current condition. His quality of life will
9 be poor.

10 Q. Let me show you some more documents. These are
11 numbered APA-121 to 123, if you can tell me what those
12 are, if you recognize them.

13 A. These are urine drug screens.

14 Q. Were these ordered by your office?

15 A. Yes.

16 Q. These were procured in June of 2014; is that
17 correct?

18 A. Yes.

19 Q. Can you refer back -- I think it was June 4th in
20 particular. Can you refer back in your notes to June
21 4th, 2013 and tell me what was going on at that point,
22 especially with regard to his medication?

23 A. We had him on Gralise, and he stopped Gralise
24 because he didn't like taking all those pills, and he had
25 some Tramadol to take as needed, which is Ultracet, and

1 then we talked more about spinal cord stimulation, and
2 then I reinforced the importance of him taking Gralise,
3 which is for nerve damage and nerve pain, and so he said
4 "Well, I will try it again," so I refilled his medicines
5 and told him to take the Tramadol as needed, and I think
6 we gave him a compounded cream to try on his leg. The
7 urine drug screen was just random. We do those randomly
8 to make sure patients are compliant.

9 Q. If you look on page 122, is that also a urine
10 drug screen?

11 A. Yes.

12 Q. And about the fifth substance down I believe is
13 Gabapentin. Would that be expected to be found in
14 Gralise?

15 A. Yes.

16 Q. And that is negative?

17 A. That's correct.

18 Q. And that is consistent with his telling you he
19 quit taking it?

20 A. He's not taking them, right.

21 Q. Then you go on down and there is a negative for
22 Tramadol and there is an outcome that says
23 "inconsistent."

24 A. Yes.

25 Q. He was prescribed, I think, Ultram at that

1 time?

2 A. Tramadol.

3 Q. He was prescribed Tramadol at that time or
4 Ultracet? Excuse me.

5 A. That's Tramadol.

6 Q. That is Tramadol. That's the point.

7 A. Yes.

8 Q. Okay. It indicates he is taking it as needed.

9 A. Yes.

10 Q. If he had been off of the Ultracet for three
11 days --

12 A. It wouldn't show up.

13 Q. Okay. So it has a relatively short detection
14 life? Those are my words.

15 A. Yes.

16 Q. Is that fair? Okay. Were you in any way after
17 your appointment with him on the 4th concerned about the
18 results of the urine drug screen?

19 A. No.

20 Q. Let's make the first documents APAs one through
21 30, let's make that collectively Exhibit 1 and APAs 121
22 through 123 collectively Exhibit 2, if we could.

23 **[Plaintiff's Exhibits 1 and 2 were marked for**
24 **identification.]**

25 MR. MOORHEAD: I'm going to leave it right

1 there.

2 **EXAMINATION**

3 **BY MR. SMITH:**

4 Q. Dr. Loudermilk, my name is Zach Smith, and I
5 represent the Department of Public Safety and the State
6 Accident Fund in Mr. Edwards' worker's compensation claim
7 from July 16, 2012. I believe you said you started
8 treating him in February of 2013.

9 A. I believe so, yes.

10 Q. Before that, he had had surgery by Dr. Bucci.
11 What was the purpose of the surgery?

12 A. He had an L5-S1 disc, and I think Dr. Bucci did
13 a microdiskectomy, a laminectomy.

14 Q. So he had a disc herniation at L5-S1?

15 A. I believe so.

16 Q. And you talked about how Mr. Edwards was on --
17 he tried several different medications. From your exams
18 and meetings with Mr. Edwards, was he, I guess, hesitant
19 to take medications because of his job as a police
20 officer?

21 A. Well, he wasn't working. I mean, I think he had
22 a light duty desk job when I saw him. I don't think that
23 was the reason. I think he was a little concerned about
24 getting addicted to pain medicine, but he did try some of
25 the neuropathic medications, and I think there were a few

1 he just didn't like how it made him feel. I think I
2 tried Lyrica or he tried Lyrica and he didn't think it
3 really helped very much. We have tried Neurontin,
4 Cymbalta, Gralise, Topamax and never really had much
5 success with those, so there are some people that just
6 aren't medication people. Some just don't want to be on
7 medications. Unfortunately, most of my patients want to
8 be on too many medications. He is the opposite.

9 Q. Looking on page -- and this is Exhibit No. 1,
10 page 20, and it is your note from February 14, 2014.

11 MR. MOORHEAD: What page?

12 Q. [Mr. Smith] Page 20. At that point, I believe
13 he was on a combination of Ultracet, Gralise and that
14 neuropathic compound cream that you mentioned.

15 A. Yes.

16 Q. Was he having good results with those
17 medications?

18 A. On that day, he said he was taking his
19 medications and he thought they were helping.

20 Q. Then when he returned, looks like, in June --
21 this is page 22 of Exhibit 1. On June 4th, I believe he
22 just decided to stop taking the Gralise?

23 A. I believe so.

24 Q. Is that because he just didn't like taking
25 medications?

1 A. I can't recall why he made that decision then,
2 but a lot of it has been he just didn't like taking a lot
3 of pills.

4 Q. And when he stopped taking the medication, is
5 that when his condition started to worsen, or was he
6 having increased complaints of pain after he stopped
7 taking the medications?

8 A. Well, sometimes he says that, you know, he can't
9 really tell a difference with his pain when he is taking
10 the medications or not taking the medications. The
11 medications won't take away his pain by a hundred
12 percent, and his pain fluctuates, so I think at times,
13 you know, when the weather changes or when something else
14 happens and his pain gets worse, he thinks the medication
15 just isn't helping. I think a lot of times he looks for
16 an excuse not to take the medication because he doesn't
17 like to be on medications.

18 Q. And the medications that you prescribed, were
19 they to help reduce his pain complaints?

20 A. Reduce the pain in his leg. I think the Gralise
21 was helping. I really feel, when he was taking it,
22 assuming that he was taking it as prescribed, it seemed
23 like he did get some relief for a period of time, but
24 then when he went off Gralise, it seemed like the pain
25 did get some worse.

1 Q. And after that visit on June 4th, I believe you
2 recommended an updated MRI.

3 A. Yes.

4 Q. And the MRI, what did the MRI reveal?

5 A. Well, let's go back to the report. I have my
6 notes, but I am going to go back to the actual reading.
7 The MRI was done on June 16, 2014, and it showed that he
8 had an instrumented fusion at L5-S1 and there was no
9 recurrent disc herniation or extrusion at that level, but
10 he had developed a protrusion between L-3 and L-4 and
11 that was different, and that was the reason that I
12 referred him back to Dr. Bucci to evaluate that and make
13 sure that he didn't need more surgery for that new disc
14 protrusion.

15 Q. And the disc protrusion he had at L3-L4 I
16 believe you mentioned, was that a new finding?

17 A. That had developed between the previous MRI.

18 Q. And the previous MRI I believe was from December
19 of 2012?

20 A. Before his initial surgery, yes.

21 Q. Were any of his problems that he was having when
22 you saw him in June and July of 2014, do you believe any
23 of those problems were related to the new disc protrusion
24 at L3-4?

25 A. No; but to cover myself and to make them

1 comfortable with the report, I referred him to Dr. Bucci.
2 That way I have a neurosurgeon to review it and say "I
3 don't think this is a problem." I didn't think it was a
4 problem, but I am not a neurosurgeon. I wanted that
5 validated by Dr. Bucci.

6 Q. And that's when Dr. Bucci said that he wasn't a
7 surgical candidate?

8 A. Yes.

9 Q. When you mentioned in your report from June that
10 he was taking the medications as needed, what exactly
11 were you -- I guess, kind of describe to me what you
12 meant by "as needed." When I think of someone taking
13 medications as needed is when they don't have pain so
14 they don't take medications and then they have pain so
15 they do take medications.

16 MR. MOORHEAD: Object to form.

17 THE WITNESS: The Tramadol is as needed.

18 That is a short-acting pain medication, so you
19 only take that when you need it. The Gralise is
20 to be taken every day with his evening meal.

21 Q. [Mr. Smith] You were asked about the spinal
22 cord stimulator, and I believe you said he was an ideal
23 candidate for that.

24 A. Yes.

25 Q. Do you believe that the spinal cord stimulator,

1 given your experience, would help Mr. Edwards, help
2 decrease Mr. Edwards' pain complaints?

3 A. Yes.

4 Q. And if his pain complaints decreased, do you
5 think he would be able to do more activities?

6 A. Absolutely. And he will have one week to try it
7 out, so we will know after that week whether it is going
8 to help him or not.

9 Q. When was the last time you saw Mr. Edwards?

10 A. April 20, 2015.

11 Q. At that point, did he indicate that he wanted to
12 try the spinal cord stimulator trial?

13 A. Yes.

14 Q. Was that scheduled?

15 A. I think we have to get approval through
16 workman's compensation, and I believe we needed to get a
17 psychological evaluation and clearance before we can
18 actually schedule it.

19 Q. Did Mr. Edwards indicate that he wanted to
20 proceed with the spinal cord stimulator trial?

21 A. At that last visit, he did.

22 Q. Has he indicated anything different to you?

23 A. I haven't spoken to him since.

24 Q. Does he have a follow-up appointment
25 scheduled?

1 A. I can't recall. He may have, but I don't have
2 it written down.

3 Q. Is Mr. Edwards on any medications currently?

4 A. He has prescriptions for Ultracet, which, if he
5 takes it, he takes it very sparingly.

6 Q. You mentioned his posture when he sits, and
7 I believe you said he kind of leans towards his right
8 side.

9 A. He puts all his weight on his left side to take
10 pressure off his right buttock.

11 Q. If he had the spinal cord stimulator, in your
12 opinion, do you believe that that would help with his
13 posture and sitting where he would be able to sit without
14 having to put so much pressure on his left buttock?

15 A. If it is successful, absolutely, he will sit
16 normally because I have plenty of other patients that
17 started out just like him and they come to the office and
18 they sit just like you and I are sitting today, so, yes,
19 it would take care of that problem.

20 Q. And all the questions that I have asked you
21 regarding your opinion, have those been to a reasonable
22 degree of medical certainty?

23 A. Yes.

24 MR. SMITH: I don't have anything
25 further.

EXAMINATION**BY MR. MOORHEAD:**

Q. Let me get you to look at page 23 very quickly. I think we were talking about a June, '14 note. This is a July of 2014 note, and starting at the end of the second line, it says "He stopped taking Gralise because he was having side effects from the medication." That is obviously more specific than the June when you said he apparently stopped Gralise because he doesn't like taking pills. Do you recall that that was the reason he didn't like taking the pills?

A. If he told me that on that day, then that's why I put it there, so he had to tell me that or I wouldn't have dictated that in my note. I can't recall what side effect he had, if he did have a side effect, or if he said that just because he didn't want to take Gralise. He's had some side effects from other neuropathics and other excuses where they just weren't working. I can't recall, if he did have a side effect, what it was. I recall he's been on a couple he said made him feel dizzy and loopy and not himself and he did not like that feeling, so perhaps that was from Gralise.

Q. You also state that, talking about the spinal cord stimulator, say "I feel he would be an excellent candidate for stimulator given his medication

1 limitations, but I don't want to push him in that
2 direction." In other words, he's got to make that
3 decision himself. Is it fair to say he has more
4 medication limitations than most?

5 A. Yes. And that may be even to the nature of his
6 job as a police officer. He sees people, you know,
7 addicted to pain medicine and all the problems that
8 narcotics and pain medicines cause, so maybe that's part
9 of it. I don't know. He's been very reluctant to take
10 medication.

11 Q. In your opinion, is that in any way contrived,
12 or does that just appear to be the way it is with him?

13 A. That is just the way it is with him.

14 Q. Okay.

15 A. He is not a malingerer.

16 **EXAMINATION**

17 **BY MR. SMITH:**

18 Q. The Gralise and the Ultracet or Tramadol -- I
19 believe you said Ultracet and Tramadol were the same
20 things?

21 A. Yes.

22 Q. The Gralise and the Ultracet, are those narcotic
23 medications?

24 A. No.

25 Q. And is there less propensity to become addicted

1 to those medications given the fact that they aren't
2 narcotic medications?

3 A. Yes.

4 MR. SMITH: I don't have anything further.

5 [DEPOSITION CONCLUDED AT 5:38 P.M.]
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BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION
COMMISSION

W.C.C. FILE NO. 1209393

Matthew C. Edwards,
Employee/Claimant,
vs.
SC Department of Public Safety,
Employer,
and
State Accident Fund,
Carrier.

DEPOSITION OF CAROL W. BURNETTE, M.D.

Pursuant to Notice of Deposition and/or agreements in the above entitled case, the Deposition of Carol W. Burnette, M.D., was taken at the offices of Piedmont Comprehensive Pain Management Group, 100 Healthy Way, Suite 1260, Anderson, South Carolina, on Thursday, July 31st, 2014, commencing at 2:50 p.m.

COPY

KAREN BELANGER, CVR-M
FOOTHILLS COURT REPORTING
-Certified Court Reporters-

864-991-2570

1 The witness was duly sworn to tell the truth, the
2 whole truth, and nothing but the truth concerning the
3 matter herein;

4 CAROL W. BURNETTE, M.D.,

5 being duly sworn, testified as follows:

6 EXAMINATION BY MR. SMITH:

7 Q. Dr. Burnette, my name is Zach Smith, and I represent
8 the South Carolina Department of Public Safety and its
9 insurance carrier in Matthew Edwards' July 16th, 2012
10 workers' Compensation claim. And I have some
11 questions regarding your evaluation of Mr. Edwards.
12 And I know you've had your deposition taken before,
13 but if you would please answer all my questions to a
14 reasonable degree of medical certainty,

15 A. Okay.

16 Q. And for the record, will you give us a brief overview
17 of your background and qualifications?

18 A. Yes. I'm board certified in physical medicine and
19 rehabilitation, and did my residency training at the
20 National Rehab Hospital in Washington, DC. Finished
21 there in 1997. And I've worked here for 11 years with
22 Dr. Lowdermilk, the pain group.

23 Q. And it looks like Mr. Edwards was referred to you by
24 Dr. Lowdermilk for an impairment evaluation on July
25 2nd, 2013.

1 A. Yes.

2 Q. And just out of curiosity, in your practice do you
3 perform all of the impairment evaluations?

4 A. I do.

5 Q. And your examination of Mr. Edwards on July 2nd, 2013,
6 was that the first and only time you've ever examined
7 him?

8 A. Yes.

9 Q. And it looks like you also reviewed a number of Mr.
10 Edwards' prior medical records.

11 A. Yes.

12 Q. And what history did he provide you about his work
13 accident?

14 A. There was a fall, or he almost fell and caught
15 himself, and all the weight landed on his right leg.
16 And he felt a popping sensation in his back, and pain
17 in his back and leg.

18 Q. And then I believe he subsequently started treating
19 with Dr. Aragon at Oaktree Medical Center?

20 A. Yes.

21 Q. And he was ultimately sent for an MRI of his lumbar
22 spine?

23 A. Correct.

24 Q. And I'm going to show you that. I'm going to mark
25 that.

1 MR. MOORHEAD:

2 Give me the date on it, real quick.

3 MR. SMITH:

4 August 1st, 2012.

5 Defendant's Exhibit No. 1 marked for identification (8/1/12
6 MRI Report of Innervision)

7 EXAMINATION RESUMED BY MR. SMITH:

8 Q. Dr. Burnette, this is the MRI report from August 1st,
9 2012, that's been marked as Defendant's Exhibit Number
10 1. Have you seen this report before?

11 A. Yes.

12 Q. And did you have an opportunity to actually review the
13 MRI films or just the report?

14 A. Just the report.

15 Q. And based on the report, the radiologist's impression
16 was a migrated fragment from the L5-S1 disc into the
17 right S1 lateral recess, severely compressing the
18 right S1 transverse root?

19 A. Yes.

20 Q. Is that a lengthy way of saying that Mr. Edwards had
21 a disc herniation at L5-S1?

22 A. Yes, and part of the disc had broken off and affected
23 the level below it.

24 Q. And when you say the level below it --

25 A. The L5-S1, the disc had herniated out, but also part

1 of the disc had broken off and migrated downward to
2 the next level below in the spine.

3 Q. At the S1 level?

4 A. Uh-huh.

5 Q. It looks like Mr. Edwards was referred to Dr. Bucci at
6 Piedmont Spine and Neurosurgical Group after the MRI.

7 A. Yes.

8 Q. And it's my understanding, from your report, that you
9 reviewed Dr. Bucci's records.

10 A. Yes.

11 Q. And this was Dr. Bucci's initial exam on September
12 11th, 2012.

13 Defendant's Exhibit No. 2 marked for identification
14 (9/11/12 Exam Note of Dr. Bucci)

15 EXAMINATION RESUMED BY MR. SMITH:

16 Q. And based on Dr. Bucci's report, and it's in the last
17 sentence of the first paragraph, it appears that his
18 impression of Mr. Edwards' MRI was a huge free
19 fragment disc herniation at L5-S1 with right S1 nerve
20 compression?

21 A. Yes.

22 Q. Even though the disc herniation may have been large,
23 was Mr. Edwards' herniation at a single level?

24 A. It originally occurred at the single level, but a
25 fragment of it broke off and migrated down.

1 Q. But the herniation was at a single level?

2 A. Yes.

3 MR. MOORHEAD:

4 Let me object to the form of the question. It's a
5 little bit ambiguous.

6 EXAMINATION RESUMED BY MR. SMITH:

7 Q. Based on the MRI report from August 1st, 2012 and Dr.
8 Bucci's report, did Mr. Edwards have a herniated disc
9 at L5-S1?

10 A. Yes.

11 Q. Did he have a herniated disc at any other level?

12 A. No.

13 Q. So the only level that he actually had a herniated
14 disc at was L5-S1?

15 A. True.

16 Q. And then Dr. Bucci ended up recommending surgery to
17 repair the disc herniation?

18 A. Yes.

19 Q. And I'll go ahead and mark Defendant's Number 3, and
20 it's the operative report dated October 1st, 2012.

21 Defendant's Exhibit No. 3 marked for identification
22 (10/1/12 Operative Note of Dr. Bucci)

23 EXAMINATION RESUMED BY MR. SMITH:

24 Q. And it looks like, based on this report, Dr. Bucci
25 performed a right L5-S1 laminectomy, facetectomy,

1 foraminotomy, and diskectomy on Mr. Edwards on October
2 1st, 2012.

3 A. Yes.

4 Q. And following his surgery, I believe he was ultimately
5 referred to Dr. Lowdermilk in your practice.

6 A. Yes.

7 Q. And Dr. Lowdermilk's treatment included a right S1
8 nerve block, medications, and physical therapy?

9 A. Yes.

10 Q. And Dr. Lowdermilk ultimately sent Mr. Edwards for an
11 FCE?

12 A. Yes.

13 Q. And I'll mark this as Defendant's 4, and this is the
14 FCE report from Doshier Physical Therapy dated April
15 23rd, 2013.

16 A. Yes.

17 Defendant's Exhibit No. 4 marked for identification
18 (4/23/13 FCE Report of Doshier Physical Therapy)

19 EXAMINATION RESUMED BY MR. SMITH:

20 Q. And you've had an opportunity to review this before?

21 A. Yes.

22 Q. And based on the FCE, it appeared Mr. Edwards would be
23 able to return to work at a job in the medium-strength
24 category --

25 A. Yes.

1 Q. -- with lifting up to 50 pounds occasionally, 25
2 pounds frequently, 10 pounds constantly, and carrying
3 up to 25 pounds occasionally, 12 pounds frequently,
4 and 5 pounds constantly?

5 A. Yes.

6 Q. Now when you examined Mr. Edwards on July 2nd, 2013,
7 what were his complaints?

8 A. Ongoing back and leg pain, and weakness, numbness.

9 Q. And when you say leg pain, was there a particular leg
10 he was having problems with?

11 A. Yes, the right leg.

12 Q. And what did your physical exam reveal?

13 A. He did seem to have some weakness in the right leg.
14 Several muscle groups were weak, and altered sensation
15 in the back and side of the leg and foot.

16 Q. And I believe at some point he had another MRI
17 following surgery, and there was no recurring disc
18 herniation?

19 A. That's true.

20 Q. Following your evaluation, it appears you have
21 assigned Mr. Edwards an impairment rating.

22 A. Yes.

23 Q. And it looks like you did this on a 25 percent whole
24 person impairment rating?

25 A. Yes.

1 Q. Do you recall what table of the AMA Guides you would
2 have used to assign that rating?

3 A. The one dealing with the lumbar spine. It's in the
4 chapter on spine impairment.

5 Q. This is a copy from page 570 of the Sixth Edition of
6 the AMA Guides. I'll go ahead and mark that.

7 A. Okay, sure.

8 Q. Before I mark this as an exhibit, Table 17-4 Lumbar
9 Spine Regional Grid, is this the table you used to
10 assign Mr. Edwards' impairment rating?

11 A. Yes.

12 Defendant's Exhibit No. 5 marked for identification (Table
13 17-4 from Sixth Edition of AMA Guides)

14 EXAMINATION RESUMED BY MR. SMITH:

15 Q. And based off of your report, it looks like you used
16 the class 4.

17 A. Yes.

18 Q. And were you using it under the motion segment lesions
19 and intervertebral disc herniation?

20 A. Yes.

21 Q. And class 4, from looking at it, says that it's for
22 intervertebral disc herniations at multiple levels
23 with medically documented findings with or without
24 surgery, and with documented signs of bilateral or
25 multiple radiculopathy at the clinically appropriate

1 levels present at the time of the examination.

2 A. Yes.

3 Q. And earlier when I asked you about where his disc
4 herniation was; I believe you said it was at L5-S1.

5 A. Right.

6 Q. And that was the only level he had a herniated disc?

7 A. Right.

8 Q. And class 4, from the way I see it and you can correct
9 me if I'm wrong, it appears it's saying that there has
10 to be a disc herniation at multiple levels.

11 A. Right. The basis for that was the fact that he had a
12 migrated disc that affected the level below the disc
13 herniation level. So it was effectively two levels.

14 Q. But he didn't have a herniation at the level below.
15 Is that fair to say?

16 A. Not -- right, as far as that goes. But as far as the
17 outcome, it's the same difference.

18 Q. But he had a herniation at a single --

19 A. At L5-S1.

20 Q. -- level?

21 A. Uh-huh.

22 Q. And when you say that the herniation affected the
23 level below, what's the basis of that opinion?

24 A. Well, the physical findings at surgery, for one.
25 There was a large migrated disc fragment that was

1 removed, that was affecting the level below where it
2 had herniated, and plus his clinical exam.

3 Q. And in the surgical note, which I believe is Exhibit
4 Number 3, can you tell me where it says that the disc
5 fragment was compressing on the level below?

6 A. I'm not sure if I have the actual surgery note in
7 here.

8 COURT REPORTER:

9 It's Exhibit 3.

10 WITNESS ANSWERS:

11 A. Exhibit 3, okay. A huge free fragment herniation was
12 found underneath the nerve root with a ball-tip probe.
13 That's one sentence in here. Let's see. (Reviewing
14 document). So there was a paragraph on the first --
15 on the bottom of the first page, and it says the nerve
16 root was mobilized medially to expose a huge extruded
17 disc at the disc space, which was then incised. And
18 then the next sentence is a huge free fragment
19 herniation was found underneath the nerve root,
20 removed with a ball-tip probe.

21 EXAMINATION RESUMED BY MR. SMITH:

22 Q. And is there any way to tell which, when it talks
23 about it was extruded disc at the disc space? Any way
24 to tell which disc space it was extruded on?

25 A. Well, I mean, from the imaging, you know, the MRI.

1 Q. In the spine, when you have the L5-S1 disc and then it
2 says in the imaging that it was compressing the right
3 S1 transverse root, where in the spine? Is that at
4 the L5-S1 level?

5 A. It's below that, yeah.

6 Q. So it's at the S1-S2 level?

7 A. Uh-huh.

8 Q. Is that a yes?

9 A. Yes.

10 Q. So is it at both levels, or is it just at the lower
11 level? I guess that's what I'm trying to find out.

12 A. Is what?

13 Q. The S1 transverse root. If you have the herniation at
14 L5-S1, that means it's in between the L5 disc and the
15 S1 disc. Correct?

16 A. Uh-huh.

17 Q. Is that a yes?

18 A. Yes.

19 Q. And the S1 transverse root, is that the disc level?
20 I'm trying to figure out where the root is, in
21 relation to the S1 disc. Is it above and below?

22 A. It's below it, yeah.

23 Q. But there was not a herniation at the S1-S2 level; is
24 that correct?

25 A. Correct. There was one herniation, but it migrated.

1 It moved.

2 Q. And from the way I read this Table 17-4, assuming that
3 there was only one level that was herniated, which is
4 the L5-S1 level -- is that okay?

5 A. Uh-huh.

6 Q. Would it be appropriate to use class 2, since there's
7 a disc herniation at a single level?

8 A. I don't think so, no.

9 Q. But in Mr. Edwards' case, there was only a disc
10 herniation of one level. Correct?

11 A. Correct.

12 Q. And assuming you went off of class 2, with the single-
13 level herniation like Mr. Edwards had at L5-S1, what
14 would his rating be using class 2?

15 A. I don't know. I'd have to figure that out.

16 Q. Well, if you look --

17 A. But it's irrelevant, because I'm not changing my
18 opinion about what his impairment is.

19 Q. But there wasn't a herniation at multiple levels.

20 A. That's true. There was one herniation and the disc
21 migrated down.

22 Q. And just assuming that you used the single-level class
23 2, the way I understand it, you start in the middle --

24 A. Correct.

25 Q. -- and under class 2 it would be from 10 to 14

1 percent. Right?

2 A. Uh-huh.

3 Q. Is that a yes?

4 A. Yes.

5 Q. And then in this case, I believe you said his grade
6 modifiers would shift down. Is that what you did?

7 A. In the higher class, yes.

8 Q. Would his grade modifiers shift down in the lower
9 class?

10 A. No, they would shift up.

11 Q. So he would be at the higher end of the class 2?

12 A. Yes.

13 Q. Which would be a 14 percent rating?

14 A. Correct.

15 Q. To the whole person?

16 A. Right.

17 Q. The impairment rating that you assigned with class 4,
18 does that take into consideration the problems with
19 his right leg?

20 A. Yes.

21 Q. And just assuming that class 2 was used -- and I know
22 you say you don't think it should be, because the
23 herniation fragment went downward. But assuming that
24 you used class 2 where the herniation was at the
25 single level and where it says and with documented

1 radiculopathy at the clinically appropriate level,
2 would that rating also take into consideration the
3 problems he has with his right leg?

4 A. Well, it wouldn't be a complete rating, because it's
5 not the -- you know, he's affected at more than one
6 level.

7 Q. But in any case, when you use the motion segment
8 lesions, whether it's class 2 or class 4, you're
9 taking into consideration the problems that a person
10 has with the lower extremities. Correct?

11 A. Yes.

12 Q. And do you stand by your opinion regarding his
13 restrictions, pursuant to the FCE?

14 A. Yes, I do.

15 Q. And do you have any opinion regarding future medical
16 treatment, or do you think Dr. Lowdermilk would be in
17 a better position to address his needs for future
18 medical treatment?

19 A. I mean, I believe he will need ongoing medical
20 treatment, yes.

21 Q. But you don't have any specific recommendations?

22 A. I would defer to Dr. Lowdermilk, since he's his
23 doctor.

24 Q. Another question I have, when you converted it to the
25 lumbar spine. I believe you said the lumbar spine

1 impairment rating was 32 percent.

2 A. Yes.

3 Q. Explain to me how those conversion factors work from
4 the whole person to the lumbar spine.

5 A. Just different regions of the spine are felt to
6 represent different impairments to the whole person.
7 So if you had 100 percent impairment of one region of
8 the spine, it's equal to so much whole person
9 impairment. So if you had 100 percent impairment of
10 the lumbar spine, it would be equivalent to 75 percent
11 whole person impairment. And there's a different
12 number for each region of the spine. So the cervical
13 spine represents 35 percent and the thoracic spine
14 represents 20 percent. So you have a different
15 conversion depending on what region of the spine
16 you're in.

17 Q. So it looks like we take 75, 20, and 35 percent. You
18 get 130 percent whole person? Is that how it's
19 designed?

20 A. It's just the way they designed it, based on old
21 editions of the guides.

22 Q. Is there any way to give a specific rating to the
23 back, in general? Not just the lumbar spine, but
24 taking into consideration the thoracic and cervical
25 spine. Is there a rating to the back?

1 A. No. You can combine values. You can combine if you
2 have two more -- you know, if you have more than one
3 impairment to the spine at different levels.

4 Q. How would you combine the values?

5 A. They have a combined values table in the back of the
6 book. You can look it up.

7 Q. And does that give a rating to the whole spine, or to
8 the back, or does it give a rating to the whole
9 person?

10 A. I mean, I'm just saying for example, if you had a neck
11 injury and a lower back injury and you wanted to rate
12 them as a whole thing, you can combine the values for
13 each.

14 Q. And the reason I ask, the way Workers' Comp is, the
15 statute says there's a disability rating to the back.
16 And the question I had, is when you do the whole
17 person rating it's for each segment. For all three
18 segments, you've got 130 percent. Is that fair?

19 A. I mean, that's not what I'm doing. I'm just saying
20 based on old guides, when you do regional impairment
21 to one part of the spine. That's the logic behind it.

22 Q. But there's no rating to the back in its entirety?

23 A. No.

24 Q. It's just to one certain region?

25 A. Right.

1 MR. SMITH:

2 Kirk, I don't have anything further.

3 EXAMINATION BY MR. MOORHEAD:

4 Q. I'm going to give you three words. And if you can
5 help me with them a little bit, I would appreciate it.
6 I want you to distinguish between them, if they can be
7 distinguished; herniation, protrusion, and bulge.

8 A. They're just different degrees of when a disc has
9 moved out of its position a little bit.

10 Q. Can you tell me what the relation is to one another?
11 Is one less than the another?

12 A. Yes. A disc bulge is just a mild bulge of the disc,
13 outward from its disc space. And a protrusion is a
14 more severe bulge. Basically it's pushing on the
15 ligaments. And a herniation means it's gone beyond
16 the ligaments. So it's just, you know, different
17 degrees of the disc moving out of its disc space.

18 Q. What is an annular tear?

19 A. The annulus is the covering around the disc. It's
20 like a fibrous covering around the disc. So if you
21 have little microscopic tears, sometimes those can
22 cause pain.

23 Q. Would those be characterized by material in the
24 interior of the disc coming out?

25 A. They could, if they're severe, yes.

1 Q. I'm going to show you one of the examples of the AMA
2 Guides. And if you want to refer to it, this is on
3 page 586 in the AMA Guides to the Evaluation of
4 Permanent Impairment, Sixth Edition. If you'll look
5 on page 586. It really starts on page 585. And
6 there's an example for intervertebral disc herniation,
7 and I'm going to skip that, at multiple levels.

8 A. Uh-huh.

9 Q. And if you look on page 586 under the clinical
10 studies, it says, "Original MRI demonstrated right-
11 sided disc protrusion at C5-6 and C6-7."

12 A. Uh-huh.

13 Q. And then I'll skip the rest of that. And then when
14 you go down to the impairment rating portion it says,
15 "Regional impairment diagnosis consisted with
16 intervertebral disc herniations and/or AOMSI at
17 multiple levels with medically documented findings."
18 Significantly, it says intervertebral disc
19 herniations.

20 A. Yes.

21 Q. But the clinical study says protrusion?

22 A. Yes.

23 Q. Does it appear to be using those words
24 interchangeably?

25 A. Yes.

1 Q. Is that how you have read these, in the past?

2 A. Yes.

3 Q. Let me show you what's already marked as an exhibit,
4 the first MRI from August 1st.

5 A. Okay.

6 Q. And if you can look in the findings section. It says
7 L4-5. It says mild degeneration of the disc and disc
8 bulge with annular tear.

9 A. Yes.

10 Q. Can that be considered, for purposes of the AMA
11 Guidelines, a herniation?

12 A. Well, not exactly. But, you know, there is some sign
13 of, you know, damage here to the annulus. So it would
14 be more of a protrusion.

15 Q. And that's the question again, because we've just
16 looked at one of the examples in the AMA Guidelines
17 and it appears that protrusion and herniation are used
18 interchangeably.

19 A. Yes.

20 Q. So you've now said the bulge is a protrusion.

21 A. Uh-huh, it's different degrees.

22 Q. Do you remember the transitive theory of equality? If
23 A equals B and B equals C, then A equals C?

24 A. Oh, right. Sure.

25 Q. Is that sort of what we have in this circumstance?

1 Because as I look at the MRI in Exhibit 1 to your
2 deposition, it appears that there is a disc bulge at
3 L4-5. You would agree with that?

4 A. Correct.

5 Q. It would appear that there was a repaired disc
6 herniation at L5-S1 --

7 A. Yes.

8 Q. -- based on the prior MRI. It would also appear that
9 there's a disc bulge at T12-L1.

10 A. Yes.

11 Q. Do you see that as well?

12 A. Yes.

13 Q. So would you agree that there are at least three
14 levels that had --

15 A. Disc problem.

16 Q. -- herniation, bulge, or protrusion?

17 A. Yes.

18 Q. Is that true?

19 A. Yes.

20 Q. Are those three levels taken into consideration at
21 all, in your opinion, or should they be?

22 A. I was primarily concerned with the level that the disc
23 had migrated out and affected the level below it also.
24 But, I mean, he does have more than one level that's
25 bulging. But the primary basis was based on the L5-

1 S1, with the migrated disc.

2 Q. In the example in the AMA Guidelines, it says original
3 MRI demonstrated right-sided disc protrusions.

4 A. Yes.

5 Q. C5-6 and at C6-7. Postoperative EMG demonstrated
6 significant C6 radiculopathy on the right. Now that's
7 not indicating that there's necessarily radiculopathy
8 coming from those two levels. Is that true? You
9 explain that to me.

10 A. Well, I mean, my assumption would be that it would be
11 affected by the disc protrusion.

12 Q. I guess the question is, it's affected by one of the
13 protrusions; not both. Is that true?

14 A. More than likely, yes.

15 Q. More than likely?

16 A. Yeah.

17 Q. So it's fair to say that you can have disc protrusions
18 at multiple levels that are significant for taking
19 into consideration in doing an impairment rating,
20 whether they are necessarily causing radicular
21 symptoms or not. Correct?

22 A. Correct.

23 Q. And in this case, I think we've got multiple levels of
24 symptomatic or symptoms of radiculopathy. True?

25 A. Right.

1 Q. And that would be, I think you said, L5, S1 and S2?

2 A. Yes.

3 Q. Does the discussion about the multiple levels of disc
4 bulge -- and let me be more specific. There was a
5 repair done by Dr. Bucci at L5-S1?

6 A. Yes.

7 Q. There's a bulge at L4-L5, with an annular tear. This
8 is all on Exhibit 1. And there's a disc bulge at T12-
9 L1. The T12-L1 appears to be asymptomatic for
10 radicular symptoms. True?

11 A. Right.

12 Q. The L5-S1 seems to be symptomatic?

13 A. Right.

14 Q. And does not appear to be symptomatic necessarily at
15 L4-L5, from the L4-L5 bulge. Is that true?

16 A. Correct.

17 Q. Yet is it fair to characterize those as herniations,
18 for purposes of the AMA Guidelines?

19 A. I think it's a gray area. So, you know, it's -- the
20 more significant is at L5-S1 and the level below.

21 Q. I don't think there's a question that's the more
22 significant. But, I guess, from looking at the
23 example, obviously the other levels are taken into
24 consideration whether or not they're causing radicular
25 symptoms or not.

1 A. Uh-huh.

2 Q. True?

3 A. Uh-huh.

4 Q. And that would also apply whether or not they were the
5 subject of a need for surgery. Is that true?

6 A. True.

7 Q. It's also fair to say that there are ratings, lumbar
8 spine ratings given for disc bulges, disc herniations,
9 disc protrusions even when they're not surgical
10 candidates. True?

11 A. True.

12 Q. And so those are, or can be, taken into consideration.
13 Is that true?

14 A. Yes.

15 Q. Are you aware of what types of radicular problems Matt
16 Edwards has, with his leg? And what I'm asking is, in
17 the terms of neurological, does he have motor
18 problems? Does he have sensation problems? What does
19 he have?

20 A. He does have both --

21 Q. He has both.

22 A. -- sensory and motor problems, and pain.

23 Q. Does he have issues with feeling pain, from a sensory
24 standpoint?

25 A. As far as he has loss of sensation in the leg. And he

1 mentioned his wife had pointed that he was being
2 bitten by fire ants on one occasion and he wasn't able
3 to feel it, in part of his leg.

4 Q. I guess that's the point. But he also has neurogenic
5 pain?

6 A. He also has neuropathic pain.

7 Q. Neuropathic pain, okay.

8 A. Yeah.

9 Q. And also, you said, he has some issues with some motor
10 function?

11 A. Yes, weakness in the leg.

12 Q. And the weakness is objectively documented?

13 A. Yes.

14 Q. And has the sensory been objectively documented as
15 well?

16 A. Yes.

17 Q. And have all your opinions been given to a reasonable
18 degree of medical certainty?

19 A. Yes.

20 MR. MOORHEAD:

21 And for purposes of the deposition, Zach, we're
22 stipulating that she's an expert in giving impairment
23 ratings under the AMA Guidelines?

24 MR. SMITH:

25 She's board certified in pain management. I'll

1 stipulate to that.

2 MR. MOORHEAD:

3 But we're not going to stipulate she's an expert in --

4 MR. SMITH:

5 That's up to the Commission to decide.

6 MR. MOORHEAD:

7 So you will not stipulate?

8 MR. SMITH:

9 Correct.

10 MR. MOORHEAD:

11 That's all I have.

12 REEXAMINATION BY MR. SMITH:

13 Q. Dr. Burnette, I have a few questions in followup. The
14 MRI we've been looking at, where it talked about the
15 disc bulge at L4-5, it also mentions some degenerative
16 changes there.

17 A. Yes.

18 Q. In your opinion, did the disc bulge at L4-5 most
19 likely preexist the work accident?

20 A. It's possible.

21 Q. Is there any way to tell that it happened as a result
22 of the work accident?

23 A. No.

24 Q. So it would be speculative to say that it happened as
25 a result of the work accident?

1 A. Yes.

2 Q. And the same thing with the bulge at T12-L1. Would it
3 be speculative to say that that occurred as a result
4 of the work accident?

5 A. Yeah.

6 Q. In your opinion, is the only herniation or bulge,
7 protrusion -- however you want to describe it, that's
8 shown in the MRI -- that's causally related to the
9 work accident, the L5-S1 herniation?

10 A. Yes.

11 Q. And again there's no evidence of a herniation or
12 bulge, or protrusion at S1-S2?

13 A. Right.

14 Q. And even under the guides, this 17-4 when you examined
15 Mr. Edwards, in your opinion what levels were his
16 problems coming from? What was causing his problems?

17 A. L5 through S2.

18 Q. And there's no evidence that anything above L5 was
19 causing any issues?

20 A. No.

21 Q. And under the guides, even if you have a herniated
22 disc at a level that's not causing any problems, it's
23 a zero percent rating for that; is that correct?

24 A. If you have no impairment from it.

25 Q. Right. The protrusions above at L4-5, where he's not

1 having any symptoms from that, that would be a zero
2 percent impairment rating?

3 A. Yes.

4 Q. And so your rating is based off of what he has at L5-
5 S1 --

6 A. Right.

7 Q. -- and which he has at S1 through S2?

8 A. Yes.

9 Q. I'm a math guy. So this is something I wanted to run
10 by you, and I may be completely off base. But when
11 you talked about what each level of the back was to
12 the whole person, I believe you said the lumbar spine
13 was 75 percent, the thoracic spine was 20 percent, and
14 the cervical spine was 35 percent.

15 A. Yes.

16 Q. And that comes out to 130 percent.

17 A. Yeah, they're not meant to be added together. Yeah.

18 Q. But 75 percent of 130 percent --

19 A. I didn't design it.

20 Q. I know.

21 A. It's just the guides, how they designed them.

22 Q. But your rating was just to the lumbar spine?

23 A. Correct.

24 Q. Didn't take into consideration the whole back?

25 A. Correct.

1 Q. And you mentioned that Mr. Edwards had objectively
2 documented complaints of weakness and sensory issues.
3 What testing did you do, to confirm that?

4 A. Just the exam during the evaluation.

5 Q. And when you say the objective findings, what are the
6 objective findings?

7 A. Well, I think they're documented in the paragraph
8 under the exam, under the neurologic paragraph.

9 Q. And do you rely on a patient's response, verbal
10 response when making those findings?

11 A. To some degree, yeah.

12 Q. So there's some subjective input into your objective
13 findings?

14 A. Sure.

15 Q. Under the impairment ratings where it talks about
16 having the documented signs of radiculopathy at the
17 clinically appropriate levels, is that referring to
18 where the herniations are?

19 A. As far as the exam goes it would be, you know,
20 corresponding weakness in the range of where the disc
21 problem is, in the pinched nerve in the back.

22 Q. So you're saying if you've got the herniation at L5-
23 S1, when it talks about the clinically appropriate
24 level, that's referring to the L5-S1 where the
25 herniation is?

1 A. Yes.

2 MR. SMITH:

3 I don't have anything further.

4 MR. MOORHEAD:

5 Give me just a minute. Just go off the record for
6 just a second.

7 (OFF THE RECORD)

8 MR. MOORHEAD:

9 I don't have anything further.

10 (There being no further questions, this deposition
11 concluded at 3:34 p.m.)

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AnMed Health Physician Surgery Center

HISTORY AND PHYSICAL

PATIENT: Edwards, Matthew
PHYSICIAN: Eric Loudermilk, MD
SSN: 248-73-4207
MRN: 6473

DOS: 2/4/2013
DOD: 02-04-13
DOT: 02-05-13

HISTORY: Mr. Edwards is a 32-year-old police officer referred by Dr. Michael Bucci for recurrent severe pain in his right leg. Mr. Edwards slipped on some stairs at work on 07/16/2012. He developed severe pain in his right leg following the injury; and on 10/01/2012, he underwent a lumbar laminectomy by Dr. Michael Bucci for an L5-S1 disc herniation. His back pain has been better since surgery, but there is no improvement in his right leg pain. He presents today complaining of sharp and stabbing pain that is also burning and stinging, which radiates down his right posterior thigh and calf to the heel and bottom of his right foot. There is also pain that radiates to the middle three toes. There is numbness in his right leg and some weakness. He had epidural steroid injections prior to his operation without any benefit. He has tried Lyrica which has not helped. He has since returned to work under light duty with a 30-pound lifting restriction. He had an MRI of his lumbar spine on 12/10/2012, which showed resection of the right-sided L5-S1 disc herniation without evidence of a recurrent herniation. There is evidence of epidural fibrosis and scar tissue at the prior surgical site.

PAST MEDICAL HISTORY: None.

PAST SURGICAL HISTORY: Lumbar laminectomy on 10/01/2012.

CURRENT MEDICATIONS: None.

ALLERGIES: No known drug allergies.

SOCIAL HISTORY: Denies smoking. Denies alcohol abuse. He has been married for 10 years. He has one 11-month-old daughter. He is a police officer, currently working on light duty.

FAMILY HISTORY: Noncontributory.

REVIEW OF SYSTEMS: Noncontributory.

PHYSICAL EXAMINATION:

General Appearance: This is a very pleasant young white male, sitting on a gurney, in no acute distress.
Vital Signs: Blood pressure is 120/78, pulse 92, respiratory rate 16, weight 244 pounds, and height 6 feet.
Head and Neck Exam: Unremarkable.
Chest: Clear to auscultation.
Heart: Regular rate and rhythm without murmur.
Abdomen: Benign.
Extremities: No clubbing, cyanosis, or edema.
Musculoskeletal Exam: Reveals a well-healed lumbar scar from previous back surgery. There was some mild tenderness over the right lumbar paraspinal muscles and in the right gluteal region to deep palpation. Inversion and eversion of both hips were normal. Patrick's test was normal bilaterally. Straight leg raising produced pain in the lower back and right leg on both sides, but particularly on the right side, where straight leg raising was positive at about 15 degrees.
Neurologic Exam: Alert and oriented x3. Cranial nerves II through XII grossly intact.
Sensory: There is diminished light touch over the right posterior thigh, calf, bottom of the right foot, and some decreased sensation over the top of the right foot.
Motor: Decreased strength and flexion and extension of the right leg. Reflexes 2+ in both patellae and 2+ in both Achilles.

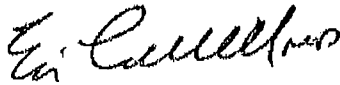
SUMMARY: This is a pleasant 32-year-old gentleman with persistent right leg pain following a work

Page 2
Matthew Edwards
6473
2/4/2013

injury in July 2012 followed by low back surgery in October 2012, who presents today for consultation.

ASSESSMENT: Persistent right lower extremity radiculopathy predominantly in the S1 distribution secondary either to epidural fibrosis and scar tissue versus permanent nerve injury.

PLAN: 1) I plan a selective right S1 nerve root injection using a caudal epidural catheter to help break up any scar tissue in the area. I plan to place the medication directly on the right S1 nerve root. If he fails to get adequate pain relief, then we could be dealing with nerve injury. He understands that it may take 6 to 12 months for a damaged nerve to eventually heal. 2) We discussed medications. He said that he does not wish to be on any medications because he probably would not take the medication anyway. Mr. Edwards said he is not a "pill person." He tried Lyrica and it did not help, and he does not wish to be on any other medications. 3) I will see Mr. Edwards this Thursday, 02/07/2013, for a selective right S1 nerve root injection at Physician Surgery Center.



Eric Loudermilk, MD

EL: hma

cc: Michael N. Bucci, M.D.
Piedmont Spine and Neurosurgical Group

AnMed Health Physician Surgery Center

OUTPATIENT PROCEDURE NOTE

PATIENT: Edwards, Matthew
PHYSICIAN: Eric Loudermilk, MD
SSN: 248-11-1111
MRN: 6473

DOS: 2/14/2013
DOD: 02/14/2013
DOT: 02/15/2013

PREOPERATIVE DIAGNOSES: Lumbar post-laminectomy syndrome with persistent right lower extremity radiculopathy in the S1 distribution, secondary to epidural fibrosis and scar tissue versus permanent nerve injury.

POSTOPERATIVE DIAGNOSES: Lumbar post-laminectomy syndrome with persistent right lower extremity radiculopathy in the S1 distribution, secondary to epidural fibrosis and scar tissue versus permanent nerve injury.

PROCEDURES: 1) Racz catheter at the right S1 nerve root level. 2) Epidurogram. 3) Epidurolysis. 4) Fluoroscopy.

SURGEON: Eric Loudermilk, M.D.

ANESTHESIA: Local with sedation.

INDICATIONS: Mr. Edwards is a 32-year-old retired police officer with pain in his right leg in the S1 distribution. He presents today for a selective Racz catheter directed towards the right S1 nerve root level to help break up and dissolve scar tissue at that level.

DESCRIPTION OF PROCEDURE: After informed consent was obtained, a 22-gauge IV was placed in the right hand and the patient was taken to the block room and positioned prone. Monitors were applied and vital signs were stable. The lower back and buttock were prepped and draped in the usual sterile fashion and a small skin wheal was made over the sacral hiatus using 1% lidocaine. Next, a 15-gauge Tuohy needle was advanced through the sacrococcygeal ligament into the caudal canal and views were confirmed on AP and lateral fluoroscopy. Then 3 mL of Omnipaque revealed the typical Christmas tree pattern in the epidural space indicating accurate placement of the needle. Next, wire reinforced Racz caudal catheter was advanced until it exited the right S1 neuroforamen. Pain was reproduced in the right buttock and leg. Then 3 mL of Omnipaque revealed spread down the right S1 nerve root. There was excellent spread solely down the right S1 nerve root. This was followed by 20 mL of solution consisting of 1500 units of Wdase, 80 mg of triamcinolone and Depo-Medrol and 6 to 8 mL of 0.25% Marcaine. All fluoroscopic views were interpreted by me. He tolerated the entire procedure well. There were no complications and he was discharged home in satisfactory condition.

Estimated blood loss: None.

Fluids: None.

Complications: None.

Condition: Stable.

PLANS: 1) I wrote a prescription for Lortab 7.5 mg every 4 to 6 hours as needed for postoperative pain, #20 with no refills. 2) He will continue light duty work restrictions and no lifting greater than 30 pounds. 3) I will see him back in four weeks for followup at our St. Francis office.



Eric Loudermilk, MD

EL: sm

PIEDMONT COMPREHENSIVE PAIN MANAGEMENT GROUP, LLC
PROGRESS NOTE

PATIENT: EDWARDS, MATTHEW
PHYSICIAN: Eric Loudermilk, M.D.
SSN: -----

DOS: 03/11/13
DOD: 03/11/13
DOT: 03/13/13

Mr. Edwards is a pleasant 32 year-old gentleman with persistent pain in his right leg despite previous back surgery who returns today for follow-up. He underwent a selective right S1 nerve root injection four weeks ago and unfortunately he has not had any significant relief. He had an excellent nerve block with filling of the right S1 nerve root with contrast. I encountered no significant obstruction during the procedure, and given the fact that he is still having pain, I am more convinced that we are dealing with permanent nerve injury. He has tried various medications without much benefit including Neurontin and Lyrica. He has not tried Gralise and I plan to add Gralise to his medications today. He says that he does not like taking "pills" and given the fact that he is a police officer, we are certainly limited as to what medications we can prescribe him. He wants to return back to employment but the pain is a definite limitation for him. I brought up the option of spinal cord stimulation and I plan to give him literature and a DVD on the procedure today. I recommend that he look into it and, over the next few weeks, make a decision whether or not he wishes to undergo a trial of spinal cord stimulation. Otherwise, his pain will be medical management. He was in agreement with this plan.

Assessment: Lumbar post laminectomy syndrome with persistent right lower extremity pain secondary to epidural fibrosis and scar tissue and permanent nerve damage.

Plan:

1. I placed him on Gralise 300 mg with his evening meal advancing to 600 mg 3 Tabs in the evening.
2. I provided him with literature and a DVD on spinal cord stimulation.
3. I will see him back in 2 weeks for follow-up in my office.



Eric Loudermilk, M.D.
EL/DTI operAB X200698
Dictated - Not Read
cc: Michael Bucci, M.D.
Fax: (864) 220-5836

FAX 

PIEDMONT COMPREHENSIVE PAIN MANAGEMENT GROUP, LLC
PROGRESS NOTE

PATIENT: EDWARDS, MATTHEW
PHYSICIAN: Eric Loudermilk, M.D.
SSN:

DOS: 04/01/13
DOD: 04/01/13
DOT: 04/02/13

Mr. Edwards is a very pleasant 32 year-old gentleman with chronic pain in his right leg status post previous low back surgery who returns today for follow-up. I saw him about three weeks ago and I placed him on Gralise but he could not tolerate Gralise due to nausea and side effects. He says the pain is doing some better. I explained that he may get relief the second month following the RACZ catheter procedure and he may be getting some benefit from that procedure. He is currently working light duty and hopes to return to full duty if possible. He is currently undergoing physical therapy and he feels the physical therapy is helping. I would recommend four more weeks of physical therapy followed by a functional capacity evaluation to see what his abilities are. He was in agreement with this plan. Matthew does not want to take medications and he did see the video and read the literature on spinal cord stimulation and he did not wish to undergo that procedure.

Assessment: Lumbar post laminectomy syndrome with persistent right lower extremity pain secondary to epidural fibrosis and scar tissue and permanent nerve damage.

Plan:

1. I wrote an order for 4 more weeks of physical therapy followed by a functional capacity evaluation.
2. I will see him back in 4 weeks for follow-up in my office.



Eric Loudermilk, M.D.

EL/DTI operAB X202111

Dictated - Not Read

cc: Michael Bucci, M.D., Piedmont Spine and Neurosurgical Group, Fax: (864) 220-5836
Kirk Moorhead, Attorney

964-6782

PIEDMONT COMPREHENSIVE PAIN MANAGEMENT GROUP, LLC
PROGRESS NOTE

PATIENT: EDWARDS, MATTHEW
PHYSICIAN: Eric Loudermilk, M.D.
SSN: [REDACTED]

DOS: 05/06/13
DOD: 05/06/13
DOT: 05/07/13

Mr. Edwards is a pleasant 32-year-old gentleman with chronic pain in his right leg status post previous low back surgery who returns today for follow-up and refill of his medications. He is actually not taking any medication at this time because he is trying to avoid taking "pills". He underwent a selective nerve root injection about three months ago with no significant benefit. He is still having discomfort in his right leg and he has completed his physical therapy and underwent a functional capacity evaluation at Doshier Physical Therapy on 04/23/2013. I do not have the report at this time. I plan to contact Doshier Physical Therapy to get that FCE report. He is currently working light duty. He has tried Lyrica and Neurontin and had side effects from those medications. He also tried Gralise but he could not tolerate due to side effects. I plan to give him samples and a prescription for Cymbalta today. We have discussed spinal cord stimulation but he is not interested in that procedure.

Assessment: Lumbar post laminectomy syndrome with persistent right lower extremity pain secondary to epidural fibrosis and scar tissue and permanent nerve damage.

Plan:

1. I placed him on Cymbalta 30 mg per day and I gave him samples of Cymbalta today.
2. I wrote an order to continue light duty work and we will get the copy of his functional capacity evaluation from Doshier Physical Therapy. He will likely need to undergo an impairment rating since he appears to be at maximal medical improvement (MMI).
3. I will see him back in 2 weeks for follow-up in my office.



Eric Loudermilk, M.D.
EL/DTI MA X205007

Dictated - Not Read

cc: Michael Bucci, M.D.
Kirk Moorhead, Attorney, Fax #: (864) 964-0788

FAXED
6

PIEDMONT COMPREHENSIVE PAIN MANAGEMENT GROUP, LLC
PROGRESS NOTE

PATIENT: EDWARDS, MATTHEW
PHYSICIAN: Eric Loudermilk, M.D.
SSN:

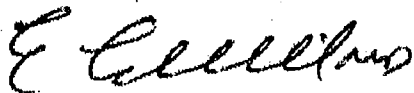
DOS: 05/20/13
DOD: 05/20/13
DOT: 05/21/13

Mr. Edwards is a 32 year-old gentleman with chronic right leg pain status post previous low back surgery who returns today for follow-up. I feel that he has permanent nerve injury to his right leg and I placed him on Cymbalta at his last visit. He cannot tell any significant difference since starting Cymbalta but he has not had any side effects. I plan to increase the dosage of Cymbalta today. He underwent a functional capacity evaluation at Doshier Physical Therapy. Mr. Edwards was given restrictions for climbing, balancing, crawling, and crouching. He was given lifting restrictions of no more than 50 lbs. occasional and 25 lbs. frequently and carrying no more than 13 lbs. frequently and 25 lbs. occasionally. I would not be able to release him back to full duty with no restrictions as a police officer given the results of his functional capacity evaluation. I plan to make arrangements for an impairment rating with my partner, Dr. Carol Burnette, and I plan to continue light duty until August 2013. I plan to adjust the dosage of Cymbalta today. Mr. Edwards was disappointed with the fact that he has restrictions but he understands the importance of making sure that he is able to do his job as a police officer. This is a life and death job that requires him to be 100% not only for himself but for his partner, and I would not want to risk putting him in a harmful situation if he has significant restrictions. He understood the importance of his FCE and will await an appointment for an impairment rating by my partner, Dr. Carol Burnette.

Assessment: Lumbar post laminectomy syndrome with persistent right lower extremity pain secondary to epidural fibrosis and scar tissue and permanent nerve damage.

Plan:

1. I refilled and increased Cymbalta to 60 mg per day.
2. We will make arrangements for an impairment rating by my partner, Dr. Carol Burnette.
3. I will see him back in 3-4 weeks for follow-up in my office.



Eric Loudermilk, M.D.

EL/DTI operAB X206270

Dictated - Not Read

cc: Michael Bucci, M.D., Fax: (864) 220-5836

Kirk Moorhead, Attorney, Fax: (864) 964-0788

FAXED

REDMONT COMPREHENSIVE PAIN MANAGEMENT GROUP, LLC
Eric P. Loudermilk, MD Carol W. Burnette, MD Michael T. Grier, MD
Sung J. Han, MD Stephanie G. Vanterpool, MD
Meredith Purgason, APRN

DEA REG NO: _____

For _____

Edwards, Matthew

Address _____

Telephone _____

Date

*6/13/13***R***Restrictions include:*

*No lifts > 50 lbs occas.
No lifts > 25 lbs frequently
No carrying > 13 lbs frequently
or 25 lbs occasionally
No climbing, balancing, crawling
or crouching.*

Refill X _____

30 Day Supply Unless Noted: _____

E. Cull

Dispense As Written

MD

Substitution Permitted

MD

100 HEALTHY WAY, SUITE 1260
ANDERSON, SOUTH CAROLINA 29621
864 223-3551 FAX 864 328-0328

3 ST. FRANCIS DRIVE, SUITE 480
GREENVILLE, SOUTH CAROLINA 29601
864 269-4416 FAX 864 269-8989

PIEDMONT COMPREHENSIVE PAIN MANAGEMENT GROUP, LLC
PROGRESS NOTE

PATIENT: EDWARDS, MATTHEW
PHYSICIAN: Eric Loudermilk, M.D.
SSN:

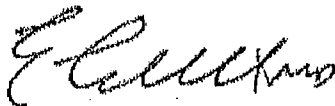
DOS: 06/17/13
DOD: 06/17/13
DOT: 06/18/13

Mr. Edwards is a pleasant 32 year-old gentleman with chronic right leg pain status post previous low back surgery who returns for follow-up and refill of his medications. He has suffered permanent nerve injury to the right leg and is currently taking Cymbalta. He underwent a functional capacity evaluation which provided work restrictions including restrictions on climbing, balancing, crawling, and crouching and he was given lifting restrictions of no more than 50 lbs. occasionally and 25 lbs. frequently. It was recommended that he carry no more than 13 lbs. frequently and 25 lbs. occasionally. Given these restrictions, he is unable to return to full duty as a police officer. I plan to arrange for an impairment rating through my partner, Dr. Carol Burnette, and I plan to refill his medications.

Assessment: Lumbar post laminectomy syndrome with persistent right lower extremity pain and weakness secondary to epidural fibrosis and scar tissue and permanent nerve injury.

Plan:

1. I recommended continuing Cymbalta 60 mg per day.
2. I made arrangements for an impairment rating by my partner, Dr. Carol Burnette.
3. I will see him back in 4 weeks for follow-up in my office.



Eric Loudermilk, M.D.
EL/DTI operAB X208738
Dictated - Not Read

cc: Michael Buccell, M.D., Fax: (864) 226-0680
Kirk Moorehead, Attorney, Fax: (864) 964-0788

**PIEDMONT COMPREHENSIVE PAIN MANAGEMENT GROUP, LLC
IMPAIRMENT EVALUATION**

PATIENT: EDWARDS, MATTHEW
PHYSICIAN: Carol W. Burnette, M.D.
SSN: 040-77-1111

DOS: 07/02/13
DOD: 07/02/13
DOT: 07/03/13

DOB: 06/18/1980

Date of injury: July 16, 2012.

Records reviewed include those of Eric Loudermilk, M.D., Michael Bucci, M.D., Michael Doshier, PT, Advanced Physical Therapy, St. Francis Hospital operative note, and Innervision Medical Imaging MRI report.

History of Present Illness: This pleasant 33-year-old gentleman is referred by Dr. Loudermilk for an impairment evaluation in regard to a work injury that occurred last year on July 16, 2012. At that time, while performing his usual duties as a lance corporal, he was preparing to examine a truck and slipped down some steps. He was able to catch himself without falling completely, but says all his weight landed on his right leg and he felt immediate pain and a popping sensation in his lower back with pain in the back radiating down the right leg. He progressively felt worse over the course of the next few days and was not able to continue working. He notified his employer of the event on the day it happened. He was hoping he would feel better over time, but continued feeling worse. He initially was seen by Dr. Aragon at Oaktree Medical Center and subsequently was referred to Jay Patel, M.D. whose records are not available today for review. The patient indicates he underwent a trial of one lumbar epidural steroid injection and also underwent MRI, which revealed a disk herniation with extrusion at L5-S1. He did not notice any benefit from the lumbar epidural steroid injection. He was referred to Michael Bucci, M.D. for neurosurgical intervention and underwent L5-S1 discectomy and laminectomy on October 1, 2012. The operative note indicates there was a "huge free fragment herniation underneath the nerve root," which had to be removed. Unfortunately, despite surgery he continued having pain. He was eventually referred to see Eric Loudermilk, M.D. for pain management with initial visit on February 4, 2013. He underwent trial of a selective right S1 nerve root block with Racz catheter on February 14, 2013, unfortunately with no significant relief. He was tried on medications including Lyrica, which caused side effects including nausea, as did Neurontin and Gralise. More recently, he was tried on Cymbalta, but has not been able to tell any difference with taking it. He went through several weeks of physical therapy and was felt to have plateaued eventually although he did make some progress. He was referred to Michael Doshier, PT for functional capacity evaluation on April, 23, 2013, which noted some deficits.

PATIENT: EDWARDS, MATTHEW
PHYSICIAN: Carol W. Burnette, M.D.
SSN:

DOS: 07/02/13
DOD: 07/02/13
DOT: 07/03/13

Page 2

He was felt to be safe to lift up to 50 pounds maximum, occasionally, 25 pounds maximum, frequently, or 12.5 pounds constantly. He was recommended not to carry greater than 25 pounds maximum occasionally, or 12 pounds frequently, or 5 pounds constantly. He was noted to have problems with attempts to crawl on his hands and feet, although he was able to manage crawling on hands and knees. He was noted to have difficulty crouching on a narrow beam for up to 30 seconds, whereas he was able to stand on a narrow beam for 30 seconds according to the report.

He was maintained on light duty work restrictions for several months, but apparently lost his job last week when his employer notified him that due to the fact he has permanent work restrictions he would not be eligible to continue employment in his capacity as a lance corporal for the state.

Current Status: In terms of his pain level, he says the pain is constantly "5 to 6" at baseline with episodes of sharp, shooting pain down the right leg, which can escalate the pain to "10." He says his foot and leg constantly feel like they are falling asleep and he did not notice the other day when some fire ants were actually biting his foot and leg and was not aware of it until his wife pointed out that ants were crawling on his foot and leg. He says the pain varies day-to-day and is worse frequently in the mornings. He also has difficulty lying comfortably in bed and cannot tolerate lying on his back for long. He is a little more comfortable on his side, but still has pain that interrupts sleep. He averages 4 to 6 hours of interrupted sleep nightly. He notices a combination of aching, burning, throbbing, and stabbing pain in the back and leg, which limit all activities. The pain is worse with trying to lift, bend, or twist and he has to watch himself to be careful not to aggravate his back with day to day activities. He no longer feels able to take care of the property in the manner he had done in the past including chopping and lifting firewood for the home. In the past, he would ride horses, which he has not been able to do since the injury. He also has not felt able to hunt or partake in outdoor activities related to the pain level. He is also frustrated with not being able to get in the floor and play with his 15-month-old child or lift the child easily. He still has weakness in the right leg and foot, but has not noticed any impairment with driving a car. He is still able to operate the vehicle, but has to pace himself with driving. If the pain becomes severe, he has to stop. He has tried and failed several medications and says he is not one who typically likes taking pills. He typically has side effects with medications and has not found any that really helped with the pain. He admits feeling discouraged, but denies major depression or suicidal ideation.

Past Medical History: Prior to the injury was unremarkable.

Past Surgical History: Prior to the injury, none. Since the injury he has undergone L5-S1 discectomy and laminectomy by Dr. Bucci on October 1, 2012.

Current Medications: None.

Allergies: Demerol.

PATIENT: EDWARDS, MATTHEW
PHYSICIAN: Carol W. Burnette, M.D.
SSN:

DOS: 07/02/13
DOD: 07/02/13
DOT: 07/03/13

Page 3

Family History: Noncontributory.

Social History: He resides with his wife and child in Pickens, South Carolina. They have been married 10 years or so. He has spent the past 10 years in law enforcement, initially at the Sheriff's office for 5 years in Pickens and then later after some federal training as a lance corporal for the state, doing similar activities as the highway patrol, but also having federal authority over commercial vehicles, doing inspections of trucks, etc. He is a nonsmoker and nondrinker.

Review of Systems: Fourteen-point review of systems otherwise noncontributory aside from already mentioned problems.

Physical Exam: General: He is alert, well oriented, neatly dressed and groomed, and appears in some discomfort getting up and down. Gait is antalgic. He was not able to heel walk or toe walk on the right lower extremity. Height 6'0". Weight 244 pounds. Vital signs: Temperature afebrile, pulse 76, respiratory rate 20, blood pressure 112/70.

Exam of the lumbar spine shows well healed midline incision with no heat, erythema, or swelling appreciable. There is some tenderness along the right lumbar paraspinal muscles and sacroiliac region as well as the sciatic notch. No significant tenderness on the left side. Lumbar flexion is painful and restricted, volunteering about 45 degrees forward flexion. He appears to have some discomfort coming back up to a neutral position and volunteers about 10 degrees of extension beyond neutral. Lateral flexion is restricted to about 20 degrees bilaterally with contralateral pulling discomfort noted. Straight leg raise is positive bilaterally in seated and supine position with increased right-sided back and posterolateral leg pain noted at about 20 degrees of flexion.

Extremities show no peripheral edema or focal synovitis. He does have a little crepitus at the knee on the right compared to the left, but no focal joint effusion noted. Calves appear soft and nontender bilaterally. Distal pulses are intact. Range of motion appears within functional limits bilaterally.

Neurologic exam: He is alert, well oriented with normal speech and comprehension. No cranial nerve deficits noted. Light touch and pinprick sensation are diminished in the right posterolateral leg and foot. Manual muscle testing shows weakness in the right lower extremity compared to the left, approximately 2+/5 for hip abduction and extension, 3/5 ankle dorsiflexion and plantar flexion, and 2/5 for flexion of the toes on the right. Knee flexion is also approximately 3/5 on the right. Remainder of muscle groups appear within normal limits. Muscle stretch reflexes appear brisk and symmetric both upper extremities and at the knees bilaterally. Ankle jerk reflexes are asymmetric, 1+/4+ on the left and 0/4+ on the right.

Assessment:

1. Chronic severe back and right lower extremity pain and weakness related to lumbar radiculopathy, status post work-related injury on July 16, 2012.

PATIENT: EDWARDS, MATTHEW
PHYSICIAN: Carol W. Burnette, M.D.
SSN:

DOS: 07/02/13
DOD: 07/02/13
DOT: 07/03/13

Page 4

He has undergone L5-S1 discectomy and laminectomy with no improvement in pain and still has altered sensation and weakness in the right L5 and S1-S2 levels. His follow-up MRI has shown some signs of epidural fibrosis, but no recurrent disk herniation. He has failed several medications and trial of injections. He has reached maximal medical improvement.

2. Based on his history, exam, and using the 6th edition AMA Guides to the Evaluation of Permanent Impairment, he appears to best fit the "class 4" lumbar radiculopathy category based on chronic radiculopathy in the right L5, S1, and S2 distribution related to work injury with extruded disk fragment L5-S1 requiring surgery. The "default" whole person impairment rating for this category is 29%. After consideration of physical exam and functional history grade modifiers (each a value of "3"), the resulting whole person impairment rating is shifted downward to 25%. Since the lumbar spine represents 75% of whole person function, the resulting **lumbar spine impairment rating is 32%.**
3. Based on his FCE performance and recommendations, permanent work restrictions include no lifting greater than 50 pounds maximum, occasionally, or greater than 25 pounds frequently, or greater than 12 pounds constantly. In terms of carrying capacity, he is recommended not to lift greater than 25 pounds occasionally, greater than 12 pounds frequently, or greater than 5 pounds constantly. He is not to push or pull greater than 100 pounds. He is not able to crawl on his hands and feet. He is not able to crouch on a narrow beam for up to 30 seconds.
4. He has follow-up appointment with Dr. Loudermilk and may benefit from vocational retraining and counseling as needed.

I thank Dr. Loudermilk for the opportunity to examine this very pleasant gentleman.

Carol W. Burnette MD

Carol W. Burnette, M.D.
CWB/DTI user7mt X210149
Dictated - Not Read

**PIEDMONT COMPREHENSIVE PAIN MANAGEMENT GROUP, LLC
PROGRESS NOTE**

PATIENT: EDWARDS, MATTHEW
PHYSICIAN: Eric Loudermilk, M.D.
SSN: [REDACTED]

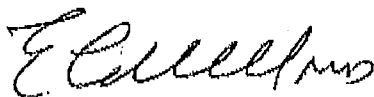
DOS: 07/29/13
DOD: 07/29/13
DOT: 07/30/13

Mr. Edwards is a pleasant 33 year-old gentleman with chronic right leg pain status post previous low back surgery who returns today for follow-up. He has suffered permanent nerve damage to the right leg and is currently taking Cymbalta. He recently underwent impairment rating and was given a lumbar spine impairment rating of 32% by Dr. Carol Burnette. Based on his FCE performance and recommendations, his permanent work restrictions would include no lifting greater than 50 lbs maximum occasionally and no greater than 25 lbs frequently or greater than 12 lbs constantly. In terms of carrying capacity, it was not recommended that he not lift greater than 25 lbs occasionally and no greater than 12 lbs frequently or 5 lbs constantly. It was recommended that he not push or pull greater than 100 lbs. He was not able to crawl on his hands or feet and is not able to crouch on a narrow beam for up to 30 seconds. I did not feel that Mr. Edwards can return to his job as a police officer. I plan to add Ultracet to his medication regimen today and I recommended continuing the Cymbalta. We discussed spinal cord stimulation as a way to manage the pain in his right leg and this will always be an option for him in the future if he is interested. I plan to refill his pain medications today.

Assessment: Lumbar post laminectomy syndrome with persistent right lower extremity pain and weakness due to epidural fibrosis and scar tissue and permanent nerve injury.

Plan:

1. I recommended continuing Cymbalta 60 mg per day and I added Ultracet to take as needed for pain.
2. I will see him back in 4-6 weeks for follow-up in my office.



Eric Loudermilk, M.D.
BL/DTI MA X212141

Dictated - Not Read

cc: Michael Bucci, M.D.

220-5834

Kirk Moorehead, Attorney at Law, Fax: (864) 964-0788

PIEDMONT COMPREHENSIVE PAIN MANAGEMENT GROUP, LLC
PROGRESS NOTE

PATIENT: EDWARDS, MATTHEW
PHYSICIAN: Eric Loudermilk, M.D.
SSN:

DOS: 09/09/13
DOD: 09/09/13
DOT: 09/11/13

Mr. Edwards is a very pleasant 33 year-old gentleman with chronic right leg pain status post prior low back surgery who returns today for follow-up. He is taking Ultracet as needed for pain and Cymbalta. He says that he does not like to take a lot of pain medications and he is only taking the Ultracet as sparingly as possible. This does help the pain when he takes it. He was given a 32% impairment rating to his lumbar spine by Dr. Carol Burnette. He has permanent work restrictions which includes no lifting over 50 lbs, maximum occasionally and no greater than 25 lbs. frequently or greater than 12 lbs. constantly. He has a carrying capacity of no lifting greater than 25 lbs. occasionally and no greater than 12 lbs. frequently or 5 lbs. constantly. He cannot push or pull greater than 100 lbs. He is not able to crawl on his hands or feet, crouch, or on a narrow beam for up to 30 sec. Basically, Mr. Edwards cannot return to his job as a police officer. He is complaining of a lot of burning in his right foot and I explained that this is due to his nerve injury. He is not interested in pursuing spinal cord stimulation. He would rather try to manage the pain as conservatively as possible. I plan to continue with his current medications and I plan to order a neuropathic compounded cream to apply to the right leg and foot.

Assessment: Lumbar post laminectomy syndrome with persistent right lower extremity pain and weakness due to epidural fibrosis and scar tissue and permanent nerve injury.

Plan:

1. He will continue Ultracet p.r.n. for pain and Cymbalta 60 mg/d. I added a standard neuropathic cream to apply to his ankle and foot 3-4x daily p.r.n.
2. I will see him back in 6 weeks for follow-up in my office.



Eric Loudermilk, M.D.

EL/DTI operAB D100970

Dictated - Not Read

cc: Michael Bucci, M.D., Fax: (864) 226-0680

Kirk Moorehead, Attorney At Law, Fax: (864) 964-0788

FAXED

PIEDMONT COMPREHENSIVE PAIN MANAGEMENT GROUP, LLC
PROGRESS NOTE

PATIENT: EDWARDS, MATTHEW
PHYSICIAN: Eric Loudermilk, M.D.
SSN:

DOS: 10/14/13
DOD: 10/14/13
DOT: 10/14/13

Mr. Edwards is a pleasant 33 year-old gentleman with chronic pain in his right leg status post prior low back surgery who returns today for follow-up and refill of his medications. He has chronic pain in his leg due to permanent nerve injury. He has been taking Ultracet and Cymbalta, and using neuropathic cream to his ankle and foot. The cream helps "some". He stopped taking Cymbalta because it is not helping. I plan to try Neurontin instead of Cymbalta. Matthew was given a 32% impairment rating to his lumbar spine by Dr. Carol Burnette and he has permanent work restrictions which includes no lifting over 50 lbs. maximum occasionally and no more than 25 lbs. frequently or greater than 12 lbs. constantly. He has a carrying capacity of no lifting greater than 25 lbs. occasionally, 12 lbs. frequently or 5 lbs. constantly, and he cannot push or pull greater than 100 lbs. He is not able to crawl on his hands or feet, crouch, or walk on a narrow beam for up to 30 sec. Basically, Mr. Edwards is unable to be a police officer. I feel that he would be a good candidate for spinal cord stimulation to try to improve the pain in his right leg and foot given the fact that the majority of pain is neuropathic. He is reluctant to pursue spinal cord stimulation at this time. I plan to add Neurontin to his medication regimen today.

Assessment: Lumbar post laminectomy syndrome with persistent right lower extremity pain and weakness due to epidural fibrosis and scar tissue and permanent nerve injury.

Plan:

1. He will continue Ultracet p.r.n. for pain and I added Neurontin to his medication regimen today. He will begin Neurontin 300 mg at h.s. advancing to b.i.d. and use a standard neuropathic cream for his ankle and foot.
2. I will see him back in 4-6 weeks for follow-up in my office.



Eric Loudermilk, M.D.

EL/DTI MA X216837

Dictated - Not Read

cc: Kirk Moorehead, Attorney At Law, Fax: (864) 964-0788

FAXED

PIEDMONT COMPREHENSIVE PAIN MANAGEMENT GROUP, LLC
PROGRESS NOTE

PATIENT: EDWARDS, MATTHEW
PHYSICIAN: Eric Loudermilk, M.D.
SSN:

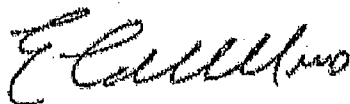
DOS: 11/11/13
DOD: 11/11/13
DOT: 11/13/13

Mr. Edwards is a pleasant 33 year-old gentleman with chronic right leg pain status post prior low back surgery who returns today for follow-up and refill of his medications. He has permanent nerve damage to the right leg and has been trying to manage the pain with Ultracet and Neurontin. He is using a neuropathic cream for his ankle and foot and this has helped. He is reluctant to undergo spinal cord stimulation and wishes to continue with conservative management if possible. He has noticed worsening of his pain with the colder weather. I plan to switch Neurontin to Gralise to try to get improvement with his pain and tolerance to the medication. Mr. Edwards was given a 32% impairment rating to his lumbar spine by Dr. Carol Burnette and has work restrictions that include no lifting over 50 pounds maximum occasionally and no more than 25 pounds maximum frequently, and no more than 12 pounds constantly. He has a carrying capacity of no lifting greater than 25 pounds occasionally, 12 pounds frequently, and 5 pounds constantly, and it was recommended that he cannot push or pull over 100 pounds. He is not able to crawl on his hands or feet, crouch or walk on a narrow beam for up to 30 seconds. Therefore, Mr. Edwards is unable to do his job as a police officer. He has always been compliant with his prescriptions and his appointments and I plan to refill and adjust his medications today.

Assessment: Lumbar post laminectomy syndrome with persistent right lower extremity pain and weakness due to epidural fibrosis and scar tissue and permanent nerve damage.

Plan:

1. I stopped Neurontin and placed him on Gralise 300 mg with his evening meal, advancing to 600 mg two tablets with his evening meal. I recommended Ultracet p.r.n. for pain and the neuropathic compounded cream for his ankle and foot.
2. I will see him back in four weeks to reassess his progress and refill his medications.



Eric Loudermilk, M.D.

EL/DTI MA X218883

Dictated - Not Read

cc: Kirk Moorehead, Attorney At Law, Fax: (864) 964-0788

FAXED

PIEDMONT COMPREHENSIVE PAIN MANAGEMENT GROUP, LLC
PROGRESS NOTE

PATIENT: EDWARDS, MATTHEW
PHYSICIAN: Eric Loudermilk, M.D.
SSN:

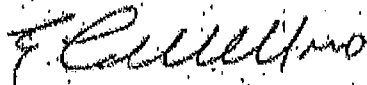
DOS: 12/20/13
DOD: 12/22/13
DOT: 12/23/13

Mr. Edwards is a 33-year-old gentleman with chronic right leg pain, status post prior low back surgery who returns for follow-up and refill of his medications. He has permanent nerve damage to the right leg and we have been trying to manage the pain with oral medications. He has been taking Gralise and Ultracet, and he uses a compounded neuropathic cream which definitely helps. Medications are helping, but he is still having significant pain in the left leg and foot. It is difficult for him to do a lot of his normal activities because he is limited due to the pain. We have discussed spinal cord stimulation in the past and I feel that Matthew is an excellent candidate for a spinal cord stimulator system. He has been reluctant to proceed with this operation and when he makes a decision, I will be happy to proceed with a trial of spinal cord stimulation for him. For now, we will try to manage the pain with medication. I plan to increase the dosage of Gralise today.

Assessment: Lumbar post laminectomy syndrome with persistent right lower extremity pain and weakness due to epidural fibrosis and scar tissue and permanent nerve damage.

Plan:

1. I increased Gralise to 600 mg three tablets with his evening meal. He will continue Ultracet p.r.n. for pain and a neuropathic compounded cream for his ankle and foot.
2. I will see him back in four weeks to reassess his progress.



Eric Loudermilk, M.D.

EL/DTI MA X222014

Dictated - Not Read

cel. Kirk Moorehead, Attorney, Fax #: (864) 964-0788

FAXED

**PIEDMONT COMPREHENSIVE PAIN MANAGEMENT GROUP, LLC
PROGRESS NOTE**

PATIENT: EDWARDS, MATTHEW
PHYSICIAN: Eric Loudermilk, M.D.
SSN:

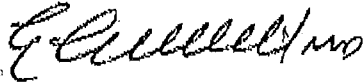
DOS: 01/17/14
DOD: 01/20/14
DOT: 01/20/14

Mr. Edwards is a 33-year-old gentleman with chronic right leg pain, status post prior low back surgery with permanent nerve damage to the right leg who returns today for follow-up and refill of his medications. He is taking Ultracet, Gralise, and uses a compounded neuropathic cream for his ankle and foot. He has not been taking Gralise correctly. Apparently his pharmacist told him to take it every eight hours, but I corrected this and explained that it needs to be taken with his evening meal. All three tablets need to be taken at the same time with his evening meal. Perhaps he will get better results if taken correctly. He needs to inform his pharmacist about the correct way to take this medication. We have discussed spinal cord stimulation in the past and although I feel that Mr. Edwards is an excellent candidate, he is quite reluctant to proceed with a spinal cord stimulator. Therefore we will not press the issue. If we could manage the pain with the medications then this will be satisfactory. I plan to refill prescriptions for Ultracet today and he will start taking Gralise with the evening meal.

Assessment: Lumbar post laminectomy syndrome with persistent right lower extremity pain and weakness due to epidural fibrosis and scar tissue and permanent nerve damage.

Plan:

1. I refilled Ultracet to take p.r.n. for pain and recommended Gralise 600 mg three tablets with his evening meal. He will continue the compounded neuropathic cream for his ankle and foot.
2. I will see him back in four weeks to reassess his progress and refill his medications.



Eric Loudermilk, M.D.

EL/DTI MA X223660

Dictated - Not Read

cc: Attorney, Cook Moorehead

Fax #: (864) 964-0788

PIEDMONT COMPREHENSIVE PAIN MANAGEMENT GROUP, LLC
PROGRESS NOTE

PATIENT: EDWARDS, MATTHEW
PHYSICIAN: Eric Loudermilk, M.D.
SSN:

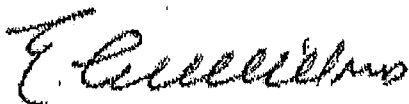
DOS: 02/14/14
DOD: 02/14/14
DOT: 02/14/14

Mr. Edwards is a 33-year-old gentleman with chronic right leg pain, status post prior low back surgery with permanent nerve damage to the right leg who returns today for follow-up and refill of his medications. He is stable with a combination of Ultracet, Gralise, and a neuropathic compounded cream, which she applies to his ankle and foot three to four times daily. He tolerates his medicine without any side effects. He is now taking the medication correctly. He had been taking it every eight hours but now he takes all three tablets with his evening meal and he is getting much better results. We have discussed spinal cord stimulation in the past, but since he is doing better with the medications, we will continue medication management at this time. He does not need any refills of his prescriptions today.

Assessment: Lumbar post laminectomy syndrome with persistent right lower extremity pain and weakness due to epidural fibrosis and scar tissue and permanent nerve damage.

Plan:

1. He will continue Ultracet p.r.n. for pain along with Gralise 600 mg three tablets with his evening meal and the compounded neuropathic cream for his ankle and foot.
2. I will see Matthew back in two months _____.



Eric Loudermilk, M.D.
EL/DTI MA X225321

Dictated - Not Read

cc: J. Kirk Moorehead, Attorney at Law
Fax #: (864) 964-0788

FAXED

PIEDMONT COMPREHENSIVE PAIN MANAGEMENT GROUP, LLC
PROGRESS NOTE

PATIENT: EDWARDS, MATTHEW
PHYSICIAN: Eric Loudermilk, M.D.
SSN:

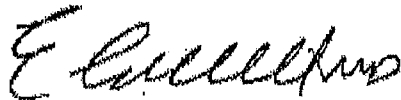
DOS: 04/11/14
DOD: 04/11/14
DOT: 04/11/14

Mr. Edwards is a pleasant 33-year-old gentleman with chronic right leg pain status post prior low back surgery who has permanent nerve damage to the right leg who returns for followup and refill of his medications. He is managing the pain with Ultracet and Gralise and he uses a compounded neuropathic cream on his foot and ankle and this helps. He needs a refill of some of his medications today. He has noticed an improvement in pain since he is taking Gralise with his evening meal. We have discussed spinal cord stimulation, but as long as we are able to manage the pain with medications, we will hold off on spinal cord stimulation at this time. We discussed possibility of a different type of employment because he will not able to return as a police officer given the nature of his injury. He has looked at different options, but it is difficult for him to make a decision with the chronic pain in his right leg. For now, he is pleased with his medications and tolerates them without any side effects. I plan to refill some of his prescriptions today and we will continue with the medication management.

Assessment: Lumbar post laminectomy syndrome with persistent right lower extremity pain and weakness secondary to epidural fibrosis and scar tissue and permanent nerve damage.

Plan:

1. I refilled Ultracet to take p.r.n. for pain and I recommended continuing Gralise 600 mg three tablets with his evening meal. I refilled a prescription for neuropathic compounded cream which contains amantadine, baclofen, gabapentin, amitriptyline, bupivacaine, and clonidine.
2. I will see him back in two months for followup and refill of his medications. If his pain worsens, we will strongly consider spinal cord stimulation.



Eric Loudermilk, M.D.
EL/DTI MA X229875
Dictated - Not Read

PIEDMONT COMPREHENSIVE PAIN MANAGEMENT GROUP, LLC
PROGRESS NOTE

PATIENT: EDWARDS, MATTHEW
PHYSICIAN: Eric Loudermilk, M.D.
SSN:

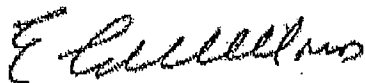
DOS: 06/04/14
DOD: 06/04/14
DOT: 06/06/14

Mr. Edwards is a pleasant 33-year-old gentleman with failed back syndrome and chronic pain in his right leg secondary to permanent nerve damage who returns today for follow up and refill of his medications. His wife is present during today's visit. He has had increased pain in his right leg over the past three to four weeks, but apparently he stopped taking Gralise because he does not like taking pills. I feel that since stopping Gralise his pain has gotten worse. He takes Ultracet as needed. I reassured him that both medications are not controlled substances and should not be very addictive. He is using the compounded cream on his right foot which helps, but is still painful. His wife states that when she clips his toes, he is in severe pain. Mr. Edwards and his wife would like to get another MRI of his lumbar spine to make sure that nothing has drastically changed. I plan to repeat an MRI of the lumbar spine and I plan to restart Gralise today. We also had a long discussion regarding spinal cord stimulation. I feel this would be an excellent option for him since he does not like taking pills. The stimulator could allow him to eliminate the oral medication as well as provide more optimal pain relief. I provide him with the names of two of our patients who have spinal cord stimulators and suggested he give this option strong consideration.

Assessment: Lumbar post laminectomy syndrome with persistent right lower extremity pain and weakness secondary to epidural fibrosis and scar tissue and permanent nerve damage.

Plan:

1. I refilled Gralise 600 mg three tablets with his evening meal. I recommended continuing Ultracet p.r.n. along with the compounded neuropathic cream.
2. I ordered an MRI of his lumbar spine at Anderson Radiology.
3. I checked the urine drug screen today in the office. This will be sent off for confirmation.
4. I provided him with literature and DVD on spinal cord stimulation. I provided him with the names of two patients who have spinal cord stimulators, so that he can ask them questions.
5. I will see him back in four weeks for follow up in our Greenville Office.



Eric Loudermilk, M.D.
EL/DTI MA B115193
Dictated - Not Read

PIEDMONT COMPREHENSIVE PAIN MANAGEMENT GROUP, LLC
PROGRESS NOTE

PATIENT: EDWARDS, MATTHEW
PHYSICIAN: Eric Loudermilk, M.D.
SSN:

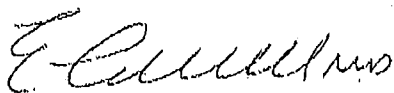
DOS: 07/18/14
DOD: 07/18/14
DOT: 07/18/14

Mr. Edwards is a 34-year-old gentleman with failed back syndrome and chronic pain in his right leg secondary to permanent nerve damage who returns today for followup and refill of his medications. He stopped taking Gralise because he was having side effects from the medication. He takes Ultracet as needed for pain and he uses a compounded neuropathic cream. He had a recent MRI of his lumbar spine at Anderson Radiology and this shows a disk bulge at L3-L4, but no evidence of a large recurrent disk herniation. I do not feel he has a surgical condition to his lumbar spine. He is having a lot of cramping in his right ankle and foot and especially in his thigh at night and this keeps him awake. I had given him literature and a DVD on spinal cord stimulation and I had even provided him with the names of several patients to contact regarding spinal cord stimulation, but he has not done so. He apparently is very reluctant to consider this option. Given the fact that he cannot take most of the medications, there really is not a lot further to offer right now other than tramadol and his cream. I feel that he would be an excellent candidate for stimulator given his medication limitations, but I do not want to push him in that direction. He will need to make that decision entirely on his own. He had a deposition scheduled with my partner Dr. Burnette about three weeks ago, but this was cancelled due to an illness; apparently this is going to be rescheduled. I plan to refill his pain medications today.

Assessment: Lumbar post laminectomy syndrome with chronic right lower extremity pain and weakness secondary to epidural fibrosis and scar tissue and permanent nerve damage.

Plan:

1. I refilled Ultracet to take p.r.n. for pain and I recommended using the compounded neuropathic cream.
2. I encouraged him to contact the patients who had spinal cord stimulator implants to discuss the experience with them. This may help him make a better decision.
3. I will see him back in four to six weeks for followup in my office.



Eric Loudermilk, M.D.
LL/DTT MA X237392
Dictated - Not Read

PIEDMONT COMPREHENSIVE PAIN MANAGEMENT GROUP, LLC
PROGRESS NOTE

PATIENT: EDWARDS, MATTHEW
PHYSICIAN: Eric Loudermilk, M.D.
SSN:

DOS: 08/15/14
DOD: 08/15/14
DOT: 08/15/14

Mr. Edwards is a very pleasant 34-year-old gentleman with failed back syndrome and chronic right leg pain due to permanent nerve damage who returns today for followup. He is having a lot of discomfort in his right leg and is on a combination of tramadol and neuropathic cream. He has tried Lyrica, Neurontin, Gralise and Cymbalta, but he cannot tolerate any of these medications due to side effects. He says that he is a "not a medication person". He wishes to have literature on spinal cord stimulator system. He has looked up this in the past, but apparently misplaced the literature. He would also like to speak with patients who have an implant and I plan to provide him with several names today. Given the fact that Matthew cannot seem to tolerate neuropathic medications, there are really very few other options for him other than spinal cord stimulation. I feel he would be an excellent candidate and I suggested that he contact our office if he decides to proceed with a trial of spinal cord stimulation. He will need to get this authorized through his Workmen's Compensation. I plan to continue with his current pain medications at this time.

Assessment: Lumbar post laminectomy syndrome with chronic right lower extremity pain and weakness secondary to epidural fibrosis and scar tissue and permanent nerve damage.

Plan:

1. He will continue Ultracet p.r.n. for pain and a compounded neuropathic cream.
2. I provided him with a literature and a DVD on Boston Scientific System for spinal cord stimulation. I provided three names and phone numbers of patients who are his age that are working fulltime that he may contact to discuss their experiences.
3. I will see him back in four weeks for followup in my office.



Eric Loudermilk, M.D.
EL/DT1 MA X239360
Dictated - Not Read

PIEDMONT COMPREHENSIVE PAIN MANAGEMENT GROUP, LLC
PROGRESS NOTE

PATIENT: EDWARDS, MATTHEW
PHYSICIAN: Eric Loudermilk, M.D.
SSN:

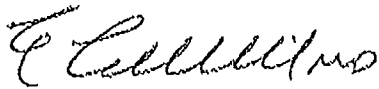
DOS: 09/12/14
DOD: 09/12/14
DOT: 09/13/14

Mr. Edwards is a pleasant 34-year-old gentleman with failed back syndrome and chronic right leg pain due to permanent nerve damage who returns today for followup and refill of his medications. He has a lot of pain and discomfort in his right leg, which is limiting his activity. He has gained weight due to lack of activity. He takes Ultracet as needed for pain and he uses a compounded neuropathic cream. He has had some edema in his right leg, which is most likely neurogenic. He did not contact the patients that I had given him who have implantable spinal cord stimulator systems. He has been reluctant due to concern about further surgery. I will leave this decision up to him, but I do feel he is an excellent candidate especially since we cannot seem to find a combination of medications that he will take or will tolerate. I plan to refill prescriptions today for tramadol and the compounded cream and I plan to write a prescription for Jobst stockings to help with the edema in his right leg and foot.

Assessment: Lumbar post laminectomy syndrome with chronic right lower extremity pain and weakness secondary to epidural fibrosis and scar tissue and permanent nerve damage.

Plan:

1. I refilled Ultracet one tablet q. 6 h. p.r.n. #120 with two refills and I reordered the compounded neuropathic cream.
2. I ordered a Jobst stockings to help with the neurogenic edema in his right leg and foot.
3. He will contact several patients who have spinal cord stimulator implants to discuss the procedure in more detail.
4. I will see him back in four weeks for followup and refill of his pain medications.



Eric Loudermilk, M.D.
BL/DTI MA X240796
Dictated - Not Read

PIEDMONT COMPREHENSIVE PAIN MANAGEMENT GROUP, LLC
PROGRESS NOTE

PATIENT: EDWARDS, MATTHEW
PHYSICIAN: Eric Loudermilk, M.D.
SSN: -----

DOS: 11/03/14
DOD: 11/03/14
DOT: 11/03/14

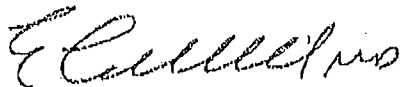
Mr. Edwards is a pleasant 34-year-old gentleman with failed back syndrome and chronic right leg pain due to permanent nerve damage who returns today for followup and adjustment of his medications. He is having a lot of pain in his back and leg which is severely limiting his activity. He has gained weight due to his lack of activity and he has been tried on variety of different medications, but either he had side effects or they did not help. We have discussed spinal cord stimulation, but he has been reluctant due to fact that he was concerned about having more surgery. He is clearly not doing very well and I plan to refer him back to Dr. Michael Bucci for reevaluation. We do have a recent MRI which shows a disk protrusion between L3 and L4, but I do not feel this is surgical. I do feel that Dr. Bucci needs to reevaluate him and make recommendations as to whether he should consider spinal cord stimulation or perhaps consider further surgery. He was in agreement with this plan. I plan to add Topamax to his medication regimen today to help with radiculopathy and hopefully this may help with some weight loss. He takes Ultracet as needed for pain.

Assessment:

1. Lumbar post laminectomy syndrome with worsening pain in the lower back and right leg secondary to epidural fibrosis and scar tissue and permanent nerve injury.
2. Right-sided lumbar disk protrusion at L3-L4 of unclear significance.

Plan:

1. I recommended continuing Ultracet p.r.n. for pain and I placed him on Topamax 25-50 mg at h.s.
2. He is still having some edema in his right leg and foot which I feel is neurogenic. He is wearing the Jobst stockings.
3. I referred him back to Dr. Michael Bucci for reevaluation.
4. I will see him back in three to four weeks for followup in my office. If he is not a candidate for further surgery, I would encourage him to strongly consider trial of spinal cord stimulation as a way to better control the pain in his back and leg.



Eric Loudermilk, M.D.
BL/DTI MA X243009
Dictated - Not Read

PIEDMONT COMPREHENSIVE PAIN MANAGEMENT GROUP, LLC
PROGRESS NOTE

PATIENT: EDWARDS, MATTHEW
PHYSICIAN: Eric Loudermilk, M.D.
SSN: [REDACTED]

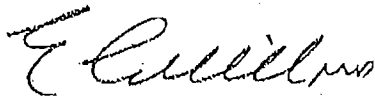
DOS: 01/02/15
DOD: 01/02/15
DOT: 01/02/15

Mr. Edwards is a very pleasant 34-year-old gentleman with failed back syndrome and chronic right leg pain due to permanent nerve damage who returns today for followup and refill of his medications. He is still having a lot of pain in his lower back and right leg due to epidural fibrosis, scar tissue and permanent nerve injury. I referred him back to Dr. Michael Bucci for reevaluation and Dr. Bucci said no further surgery. He tried Topamax; but could not tolerate due to side effects. This has been the case with multiple neuropathic medications. He appears to be very sensitive to the medications and does not do well. He is currently taking Ultracet as needed. He is strongly considering spinal cord stimulation simply because he cannot find any medication that he can tolerate that helps the pain and Ultracet is not doing a great job keeping the pain at a manageable level. He does not like to take medications; therefore I feel that the spinal cord stimulation would be an excellent option for him. I plan to refill a prescription for Ultracet today and I encouraged him to consider trial of spinal cord stimulation as a way of keeping the pain more manageable.

Assessment: Lumbar post laminectomy syndrome with chronic pain in the lower back and right leg most likely due to epidural fibrosis and scar tissue and permanent nerve injury.

Plan:

1. I refilled Ultracet q.6 h. p.r.n. #120 with two refills. I recommended stopping Topamax since this did not help and he has side effects from the medication.
2. I will see Matthew back in four to six weeks for followup in my office.



Eric Loudermilk, M.D.

EL/DTI MA X245641

Dictated - Not Read

cc: Michael N. Bucci, M.D.

Piedmont Spine and Neurosurgical Group

PIEDMONT COMPREHENSIVE PAIN MANAGEMENT GROUP, LLC
PROGRESS NOTE

PATIENT: EDWARDS, MATTHEW
PHYSICIAN: Eric Loudermilk, M.D.
SSN:

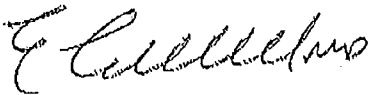
DOS: 01/30/15
DOD: 01/30/15
DOT: 01/30/15

Mr. Edwards is an unfortunate 34-year-old gentleman with failed back syndrome and chronic right leg pain due to permanent nerve damage who returns for followup. He is taking Ultracet occasionally and Topamax, but still has a lot of pain in his right leg to the point where he is not very active. He is extremely sensitive to medications and we have tried a variety of different neuropathic medications, but he could not tolerate them. We have been discussing spinal cord stimulation as a way to manage his pain better. I provided him with the names of two more patients who have spinal cord stimulators for him to discuss and I suggested discussing it also with his wife because he is not making a lot of progress just taking the medication. He has gained weight and his activity levels have been diminished. He does not need any refills of his prescriptions today. We had a long discussion regarding spinal cord stimulation and its risks and benefits and I plan to discuss it again in further detail at his next visit.

Assessment: Lumbar post laminectomy syndrome with chronic pain in the lower back and right leg secondary to epidural fibrosis and scar tissue and permanent nerve injury.

Plan:

1. He will continue Ultracet p.r.n. and Topamax 25-50 mg at h.s.
2. I provided him with the names of several patients who have spinal cord stimulators. He may discuss their situations and ask any questions to them that may help him better make a decision.
3. I will see him back again in four weeks for followup in my office.



Eric Loudermilk, M.D.

EL/DTI MA D104114

Dictated - Not Read

cc: Michael N. Bucci, M.D.

Piedmont Spine and Neurosurgical Group

PIEDMONT COMPREHENSIVE PAIN MANAGEMENT GROUP, LLC
PROGRESS NOTE

PATIENT: EDWARDS, MATTHEW
PHYSICIAN: Eric Loudermilk, M.D.
SSN:

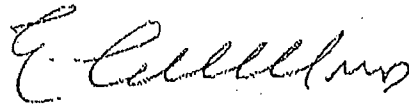
DOS: 03/16/15
DOD: 03/16/15
DOT: 03/16/15

Mr. Edwards is an unfortunate 34-year-old gentleman with failed back syndrome and chronic right leg pain due to permanent nerve damage who returns today for followup and refill of his medications. Matthew could not tolerate Topamax due to GI discomfort. He is only taking Ultracet as needed. We have continued to discuss trial of spinal cord stimulation because he could not tolerate any of the neuropathic medications and he is not a "medication person". He continues to have a lot of pain in his back and right leg and it is not only evident from his communication, but also how he postures himself in his chair taking the pressure off the right side. I have given him the names of several patients who have spinal cord stimulators and he has spoken to one patient. I suggest discussing it with both patients and I would like to meet with him and his wife next week to discuss the procedure in further detail. I feel that he would benefit greatly from spinal cord stimulator given the fact that the medications are not really a good option for him. I plan to refill prescription for Ultracet today and I will see him and his wife back in one to two weeks for followup in my office.

Assessment: Lumbar post laminectomy syndrome with persistent pain in the lower back and right leg secondary to epidural fibrosis, scar tissue and nerve injury.

Plan:

1. I refilled Ultracet one tablet q.6 h. p.r.n. #120 with two refills.
2. I will see him back in one to two weeks for followup in my office to discuss spinal cord stimulation in greater detail. I have asked that he bring his wife so that I can speak with both of them and answer any questions they may have regarding the procedure.



Eric Loudermilk, M.D.

EL/DTI MA X250016

Dictated - Not Read

cc: Michael N. Bucci, M.D., Piedmont Spine and Neurosurgical Group

FAXED

PIEDMONT COMPREHENSIVE PAIN MANAGEMENT GROUP, LLC
PROGRESS NOTE

PATIENT: EDWARDS, MATTHEW
PHYSICIAN: Eric Loudermilk, M.D.
SSN:

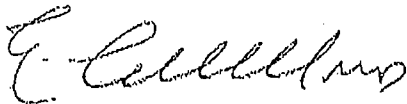
DOS: 03/16/15
DOD: 03/16/15
DOT: 03/16/15

Mr. Edwards is an unfortunate 34-year-old gentleman with failed back syndrome and chronic right leg pain due to permanent nerve damage who returns today for followup and refill of his medications. Matthew could not tolerate Topamax due to GI discomfort. He is only taking Ultracet as needed. We have continued to discuss trial of spinal cord stimulation because he could not tolerate any of the neuropathic medications and he is not a "medication person". He continues to have a lot of pain in his back and right leg and it is not only evident from his communication, but also how he postures himself in his chair taking the pressure off the right side. I have given him the names of several patients who have spinal cord stimulators and he has spoken to one patient. I suggest discussing it with both patients and I would like to meet with him and his wife next week to discuss the procedure in further detail. I feel that he would benefit greatly from spinal cord stimulator given the fact that the medications are not really a good option for him. I plan to refill prescription for Ultracet today and I will see him and his wife back in one to two weeks for followup in my office.

Assessment: Lumbar post laminectomy syndrome with persistent pain in the lower back and right leg secondary to epidural fibrosis, scar tissue and nerve injury.

Plan:

1. I refilled Ultracet one tablet q.6 h. p.r.n. #120 with two refills.
2. I will see him back in one to two weeks for followup in my office to discuss spinal cord stimulation in greater detail. I have asked that he bring his wife so that I can speak with both of them and answer any questions they may have regarding the procedure.



Eric Loudermilk, M.D.

FI/DTT MA X250016

Dictated - Not Read

cc: Michael N. Bucci, M.D., Piedmont Spine and Neurosurgical Group

FAXED

Oaktree Medical Centre, P.C.
115 Brushy Creek Road
Easley, SC 29642
Tel: (864) 855-1633 - Fax: (864) 855-1323

PatientID: 31112ME
Patient Name: MATTHEW C EDWARDS
Date of Birth: _____
Date of Service: 07/30/2012
RICO A ARAGON, MD

CHIEF COMPLAINT: ghs er fu

HISTORY OF PRESENT ILLNESS: UDS done in ER.

GENERAL: Pt states he was at work on 7/16/12, he was going down steps, caught himself on R LE, has pain from R side low back radiating down back RLE. Has numbness and tingling. pain and tingling is continuous. Was given shot for pain in ER, had allergic reaction to Demerol he was given. Pt is unable to sit or stand for more than 10 minutes. Has pain in R LE all of the time. Saw chiropractor on 7/17. did xrays and adjustments. chiropractor took him out of work. He had an XR at the ER on 7/28 which was negative per pt. Given Prednisone 20mg and Lortab 7.5/500mg from ER. Has seen chiropractor. He states has times where he can not move his R foot. Diagnosed with sciatica. Taking Ibuprofen intermittently. was given solumedrol shot and prednisone for home. also given lortab. denies bladder or bowel incontinence

REVIEW OF SYSTEMS:

GENERAL: Normal activity and energy level, no change in appetite. No major weight gain or loss. No fatigue, general feeling of being ill, malaise, chills, fever, or diaphoresis.

RESPIRATORY: No shortness of breath, cough, hemoptysis, or wheezing.

CARDIAC: No chest pain, pressure, discomfort, palpitations, tachyarrhythmias, orthopnea, dyspnea, cyanosis, coldness of extremities, or edema.

MUSCULOSKELETAL: **Has low back pain.**

NEUROLOGICAL: **Has burning sensations, tingling sensations, numbness.**

PSYCHIATRIC: No abnormalities in mood, affect, behavior, coping skills or sleep pattern. Denies suicidal ideation or attempt, change in personality or involvement in abusive relationships.

CURRENT ALLERGY LIST:

NKDA

CURRENT MEDICATION LIST:

PAST MEDICAL HISTORY:

MEDICAL: No history of significant medical diseases.

SURGICAL: No previous surgery.

FAMILY HISTORY:

GENERAL FAMILY ILLNESS: No significant famillal diseases.

SOCIAL HISTORY:

MARITAL STATUS: Patient is married.

RICO A ARAGON, MD

Oaktree Medical Centre, P.C.
115 Brushy Creek Road
Easley, SC 29642
Tel: (864) 855-1633 - Fax: (864) 855-1323

PatientID: 31112ME
Patient Name: MATTHEW C EDWARDS
Date of Birth: _____
Date of Service: 07/30/2012
RICO A ARAGON, MD

TOBACCO USE: Has no smoking history.
ALCOHOL: Does not give any significant history of alcohol usage.
CAFFEINE: Does not use caffeinated beverages.

VITAL SIGNS:

VS-PULSE: 88 Right Radial, Regular
VS-BLOOD PRESSURE: 100/70 Left Arm Sitting

VS-RESPIRATION: 20
VS-HEIGHT: 70in
VS-WEIGHT: 241lbs1oz
BMI: 34.59

PHYSICAL EXAM:

GENERAL APPEARANCE: White male, overweight body habitus, appears stated age, appropriately groomed. In chronic distress. patient unable to sit or stand for any prolonged period of time.

BACK: **Tender lumbar spinous processes**, no paraspinal muscle tenderness. No CVA tenderness.

Positive straight leg raising on the right.

PSYCHIATRIC: Mood and affect appropriate.

ASSESSMENT/PLAN:

724.4-THORACIC/LUMBROSACRAL NEURITIS/RADICULITIS suspect nerve compression, do mri and ffup with Dr. Patle

PLAN: schedule mri of ls spine. refer to Dr. Patel for evaluation

Depo Medrol 120 mg. lot#obxpk

RETURN VISIT: Patient is to return after: outside consultation completed.

ACCOMPANIED BY: The patient was unaccompanied.

Electronically Signed by: Rico A. Aragon, MD on Monday, July 30, 2012 at 02:09 pm

RICO A ARAGON, MD

OAKTREE MEDICAL CENTRE, P.C.
MULTI-SPECIALTY CARE

31112

115 BRUSHY CREEK ROAD
EASLEY, SC 29642
PHONE: 864-855-1633
FAX: 864-855-1323

3505 PELHAM ROAD
GREENVILLE, SC 29615
PHONE: 864-288-8878
FAX: 864-288-8103

PATIENT NAME: Matthew Edwards

EMPLOYER: Department of Public Safety

RETURN TO WORK: 7/30/12

DIAGNOSIS: WUBA RADICULUS

TREATMENT: DATE 7/30/12 INITIAL INJURY 7/16/12 RECHECK BT

WORK STATUS: UNABLE TO WORK UNTIL 24 HOURS UNTIL REFERRAL/NEXT VISIT

REGULAR DUTY

RETURN TO WORK DATE: _____

RETURN TO MODIFIED DUTY WITH THE FOLLOWING RESTRICTIONS

NO LIFTING
LIGHT LIFTING (10 LBS MAX)
MEDIUM LIFTING (20 LBS MAX)
MED-HEAVY LIFTING (50 LBS MAX)
SIT DOWN ACTIVITIES ONLY
NO SITTING GREATER THAN _____ MIN
NO STANDING GREATER _____ HRS
PRESCRIPTION MAY CAUSE DROWSINESS
NO DRIVING/HEAVY MACHINERY ON RX
LIMIT SHIFTS TO _____ PER 24 HOURS
WORK DAY SHOULD NOT EXCEED _____ HOURS
NO DIRECT PATIENT CARE UNTIL _____
OTHER _____

AVOID STOOPING/BENDING
NO LADDER/STAIR CLIMBING
NO OVERHEAD WORK
NO OVER SHOULDER LEVEL WK
NO OUTSTRETCHD REACHING
NO PUSHING/PULLING OVER _____ LB
MUST WEAR SPLINT/SLING/BRACE
NO REPETATIVE ACTIVITY
NO USE OF: RIGHT/LEFT _____
KEEP WOUND DRY/CLEAN
NO FOOD HANDLING

FOLLOW UP WITH
DR: Patel

ON: after discharged from Dr. Patel

AM/PM

DISCHARGED

REFERRED TO DR

Patel (PAYSATUST)

ON

8/20/12

AT

9:30 AM/PM

SIGNATURE

DATE

Pain Management Associates

115 Brushy Creek Road

Easley, SC 29642

Phone: (864) 855-1633 Fax: (864) 855-1323

PatientID: 31112ME

Patient Name: MATTHEW C EDWARDS

Date of Birth:

Date of Service: 08/07/2012

, MD

REFERRING PHYSICIAN:

PRIMARY CARE PHYSICIAN:

CHIEF COMPLAINT: Matthew Edwards is a 32 year old new patient seen in the office today. lower back pain

HISTORY OF PRESENT ILLNESS:

THORACIC, LUMBAR SPINE: The pain began approximately 1 month ago. The onset was spontaneous and sudden. The onset of pain began at work after a fall. There were no symptoms/pain prior to this incident/injury. Overall, the symptoms have been worsening. The pain does not radiate. The quality is achy, burning, dull, sharp, throbbing, tingling, numbing. The duration is continuous. Numerical pain scale is subjectively graded 8/10. The symptoms do not change by standing, walking. The symptoms were worse by lying down on the back, lying down on the belly, lying down on the side, sitting, activity. The patient notes no bowel dysfunction. The patient notes no bladder dysfunction. The patient reports no fevers/chills/night sweats. Associated symptoms include weakness in the legs and feet. The patient reports no unusual weight loss. The patient has tried a chiropractor, cold packs, hot packs, home/independent exercises, anti-inflammatories, analgesics. There was uncertain improvement noted with the therapies tried.

CURRENT ALLERGY LIST:

DEMEROL

MORPHINE DERIVATIVES

CURRENT MEDICATION LIST:

NONE

PAST MEDICAL HISTORY:

MEDICAL: No history of significant medical diseases.

SURGICAL: No previous surgery.

FAMILY HISTORY:

GENERAL FAMILY ILLNESS: No significant familial diseases.

SOCIAL HISTORY:

MARITAL STATUS: Patient is married.

CHILDREN: One child.

OCCUPATION: SC Dept Public Safety

ALCOHOL: Minimal alcohol consumption.

TOBACCO USE: Has no smoking history.

CAFFEINE: Consumes a moderate amount of caffeinated beverages daily.

EXERCISES: The patient does not exercise regularly.

JAYPATEL, MD

Pain Management Associates

115 Brushy Creek Road

Easley, SC 29642

Phone: (864) 855-1633 Fax: (864) 855-1323

PatientID: 31112ME

Patient Name: MATTHEW C EDWARDS

Date of Birth

Date of Service: 08/07/2012

, MD

REVIEW OF SYSTEMS:

GENERAL: Decreased energy level.

EYES: No loss or change in vision.

EARS/NOSE/MOUTH/ THROAT: No hearing changes, hoarseness, or swallowing difficulties.

RESPIRATORY: No shortness of breath, cough, hemoptysis, or wheezing.

CARDIAC: No chest pain, palpitations, tachyarrhythmias, or edema.

GI: No abdominal pain, change in bowel habits or heartburn.

GU: No urinary problems noted.

MUSCULOSKELETAL: **Has muscle cramps, muscle weakness, muscular pain, low back pain, ankle pain, foot pain, toe pain, joint stiffness, joint swelling.**

NEUROLOGICAL: **Has numbness, tingling sensations, burning sensations.**

SKIN/CHEST WALL: No rashes, sores, blisters, growths, changing moles, discolorations or non-healing lesions. No abnormalities in chest wall.

PSYCHIATRIC: No recent change in mood or behavior.

ENDOCRINE: No heat or cold intolerance, change in hair distribution, excessive thirst, hunger, or urination, change in energy level, or significant weight gain or loss.

HEMATOLOGIC/LYMPHATIC: No abnormal bruising or bleeding. No swollen, tender, or painful lymph nodes.

PHYSICAL EXAM:

CONSTITUTIONAL:

VITAL SIGNS:

VS-BLOOD PRESSURE: 124/82 Left Arm Sitting

VS-HEIGHT: 6ft1in

VS-WEIGHT: 240lbs

BMI: 31.66

GENERAL APPEARANCE: Mildly overweight body habitus. In no acute distress.

GENERAL EXAM:

ORIENTATION/MOOD/AFFECT: Oriented to person, place, time and general circumstances.
Mood and affect appropriate.

POSTURE: Normal.

GAIT/STATION: Slow, guarded. Walking on heels/toes: Unable to perform.

MUSCULOSKELETAL EXAM:

SPINE, RIBS, PELVIS: No erythema, ecchymosis, or edema. **Moderate tenderness in the left lumbar paraspinal area, moderate tenderness in the right lumbar paraspinal area.** No kyphosis, lordosis, or scoliosis. **Lumbar flexion severely restricted, lumbar extension severely restricted.** Normal stability. Normal strength and tone.

LEFT LOWER EXTREMITY:

INSPECTION: No erythema. No ecchymosis. No edema.

JAYPATEL, MD

Pain Management Associates

115 Brushy Creek Road

Easley, SC 29642

Phone: (864) 855-1633 Fax: (864) 855-1323

PatientID: 31112ME

Patient Name: MATTHEW C EDWARDS

Date of Birth:

Date of Service: 08/07/2012

, MD

PALPATION: No tenderness. No crepitation.

STRENGTH, TONE, ATROPHY: Muscle strength of the major groups is 5/5. Tone is normal. Normal muscle bulk (no atrophy). No fasciculations.

RIGHT LOWER EXTREMITY:

INSPECTION: No erythema. No ecchymosis. No edema.

PALPATION: No tenderness. No crepitation.

STRENGTH, TONE, ATROPHY: Muscle strength of the major groups is 5/5 except KE -3/5, DEF -3+/5, GTE -3+/5, PF -3+/5. Tone is normal. Normal muscle bulk (no atrophy). No fasciculations.

SENSATION:

DERMATOMES (TOUCH & PRESSURE): Touch and pressure intact on the left side. Touch and pressure intact on the right side. Normal except decreased in R dorsum of foot, lateral/posterior lower leg.

REFLEXES: 2+/4+ patellar bilaterally, 0+/4+ Achilles bilaterally.

SPECIAL TESTS: Positive straight leg raising on the right.

ASSESSMENT/PLAN:

- Status post industrial injury on 7/16/2012. He was at work going down stairs and slipped and landed on his right leg. He immediately noted axial low back pain radiating into the right lower extremity, i.e. in the right lateral thigh to lateral lower leg and foot. He has also had some pain in the left leg.

- MRI of lumbar spine on 8/1/2012:

L4-5 mild degeneration of disc.

L5-S1: mild central and right paracentral disc protrusion/herniation, 15 mm migrated fragment which compresses the anterior aspect of the thecal sac and right S1 transverse root within the lateral recess.

PLAN:

- Recommend trial of right L5-S1 ILES.

- Physical therapy - we will initiate. Pending above.

MEDICATIONS:

- He has tried Prednisone, Advil and Lortab. On 8/7/2012 he stated they did not help at all.

WORK STATUS:

- He is an officer with the state. He does mainly car/truck inspection.

- On 8/7/2012 we put him out of work. When he improves we will plan to get him on light duty then ultimately regular duty.

Electronically Signed by: Jay Patel, M.D. on Monday, August 13, 2012 at 09:54 am

JAYPATEL, MD

Pain Management Associates

115 Brushy Creek Road :

Easley, SC 29642

Phone: (864) 855-1633 Fax: (864) 855-1323

PatientID: 31112ME

Patient Name: MATTHEW C EDWARDS

Date of Birth:

Date of Service: 08/09/2012

, MD

PROCEDURE PERFORMED: INTERLAMINAR EPIDURAL STEROID INJECTION WITH FLUOROSCOPIC GUIDANCE AND EPIDUROGRAM

LEVEL AND SIDE: Right L5-S1

CONSENT: Voluntary informed consent was obtained verbally and in writing. The patient's questions have been answered. The risks, benefits, alternative treatment options, and prognosis have been explained. The risks include but are not limited to infection, allergic reaction, nerve damage, paralysis, epidural hematoma, syncope, headache, respiratory or cardiac arrest, seizures, and scar formation.

PERFORMED BY: Jay S. Patel, MD

Diagnosis: low back pain, Degenerative disc disease, lumbar disc displacement,

FINDINGS: During the steps described below, AP and lateral radiographs were saved for documentation and interpreted. Radiographs revealed appropriate placement of the needle tip at the dorsal epidural space between the lamina of L5-S1

Epidurogram noted excellent flow of contrast in the dorsal epidural space.

STEPS: The patient was placed in the prone position on the fluoroscopy table, the skin was prepped with anti-septic solution over the appropriate area 3 times, and draped in a sterile fashion.

Using fluoroscopic imaging in the AP projection, the target structure was identified. This is the posterior aspect of the inferior lamina at level and side noted above. The soft tissues overlying this structure were infiltrated with 3-5 cc of 1% lidocaine without epinephrine.

Intermittent and continuous fluoroscopic imaging was utilized for the subsequent steps. A 20-gauge spinal needle was inserted into the previously anesthetized tissue down to the periosteum of the lamina. It was then walked off superiorly towards the epidural space. The epidural space was localized using the loss of resistance technique. Aspiration was negative for air, blood, or CSF. A 1-2 cc volume of Omnipaque-300 was injected into the epidural space under continuous fluoroscopy. No vascular uptake was noted and a flow of contrast was observed to confirm needle position.

A volume of fluid containing approximately 1.0 cc of Dexamethasone (10 mg/ml), 1.0 cc Kenalog 40 mg/ml and 2.0 cc of 1% Lidocaine without epinephrine and without preservative was injected. Initially, approximately 2 cc of this solution was injected as a test dose. After 90 seconds, when there was no weakness or numbness in either lower extremity, the remainder of the solution was injected in a slow fractionated manner into the epidural space.

POST-OPERATIVE CONDITION: The patient tolerated the procedure. The patient's condition JAYPATEL, MD

Pain Management Associates

115 Brushy Creek Road

Easley, SC 29642

Phone: (864) 855-1633 Fax: (864) 855-1323

PatientID: 31112ME

Patient Name: MATTHEW C EDWARDS

Date of Birth:

Date of Service: 08/09/2012

, MD

and vitals signs were stable in the post-operative period. The patient did not have any significant new complaints.

DISCHARGE: The patient was discharged. The patient has been given post-procedure and follow up instructions. The patient has been instructed to call us or go to the emergency room if there are any complications.

Electronically Signed by: Jay Patel, M.D. on Thursday, August 09, 2012 at 04:48 pm

JAYPATEL, MD

00310

FOLLOW-UP PATIENT QUESTIONNAIRE

#15

Name: MATTHEW EDWARDS

Date: 8/23/12

How much better are you since your last visit?

0% 10% 20% 30% 40% 50% 60% 70% 80% 90% 100%
☒ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐

How much better are you overall?

0% 10% 20% 30% 40% 50% 60% 70% 80% 90% 100%
☒ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐

Please rate your overall function.

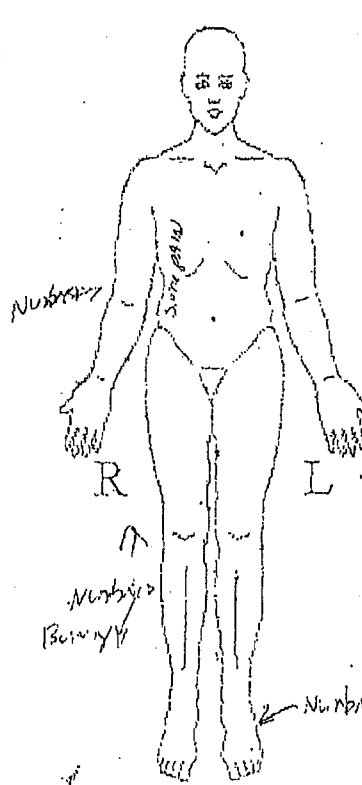
0% 10% 20% 30% 40% 50% 60% 70% 80% 90% 100%
☒ ☐ ☒ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐

Please rate your pain today on a scale of 0 (no pain) and 10 (worst pain ever).

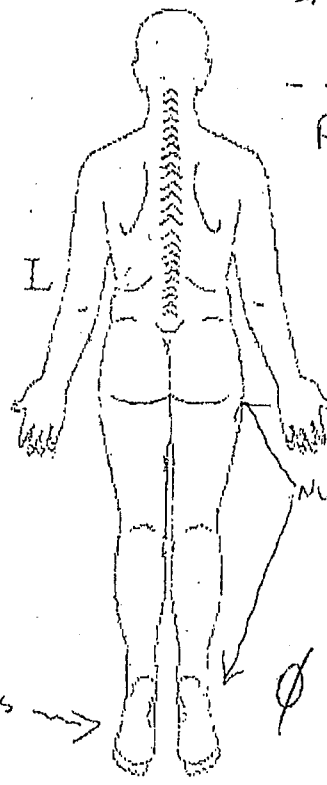
0 1 2 3 4 5 6 7 8 9 10
☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☒ ☐ ☐

Using symbol below, mark the area on your body where you feel the described sensations. Include all the effected areas.

8/9/12
 @65-51



FRONT



BACK

#14 injection
 - Pain increase
 Pain in
 Left leg
 R Rt arm
 Numbness
 - Rt leg
 numbness
 Numbness
 Swelling
 in the
 Rt.
 foot
 toes burning
 walking on
 pain med 5000

Pain Management Associates

115 Brushy Creek Road

Easley, SC 29642

Phone: (864) 855-1633 Fax: (864) 855-1323

PatientID: 31112ME

Patient Name: MATTHEW C EDWARDS

Date of Birth: -----

Date of Service: 08/23/2012

, MD

REFERRING PHYSICIAN:

PRIMARY CARE PHYSICIAN:

CHIEF COMPLAINT: lower back pain

HISTORY OF PRESENT ILLNESS: Patient presents for a follow up visit after injection. Patient states that his pain has increased since the injection. Having a lot of numbness in the right leg - some pain in the left leg. Also having pain in the right arm along with numbness . VAS 8/10

PHYSICAL EXAM:

CONSTITUTIONAL:

GENERAL APPEARANCE: Mildly overweight body habitus. In no acute distress.

GENERAL EXAM:

ORIENTATION/MOOD/AFFECT: Oriented to person, place, time and general circumstances.

Mood and affect appropriate.

MUSCULOSKELETAL EXAM:

ASSESSMENT/PLAN:

- Status post industrial injury on 7/16/2012. He was at work going down stairs and slipped and landed on his right leg. He immediately noted axial low back pain radiating into the right lower extremity, i.e. in the right lateral thigh to lateral lower leg and foot. He has also had some pain in the left leg.

- MRI of lumbar spine on 8/1/2012:

L4-5 mild degeneration of disc.

L5-S1: mild central and right paracentral disc protrusion/herniation, 15 mm migrated fragment which compresses the anterior aspect of the thecal sac and right S1 transverse root within the lateral recess.

PLAN:

- no improvement s/p inj on 8/9/12- right L5-S1 ILES1.

- Physical therapy - initiate

- consult NSGY. he'd like to see Dr. Bucci.

MEDICATIONS:

- He has tried Prednisone, Advil and Lortab. On 8/7/2012 he stated they did not help at all.

- neurontin-initiate

- he wanted to avoid further narcotics.

WORK STATUS:

- He is an officer with the state. He does mainly car/truck inspection.

- we have placed him off work.

JAYPATEL, MD

Pain Management Associates

115 Brushy Creek Road

Easley, SC 29642

Phone: (864) 855-1633 Fax: (864) 855-1323

PatientID: 31112ME

Patient Name: MATTHEW C EDWARDS

Date of Birth:

Date of Service: 08/23/2012

, MD

Electronically Signed by: Jay Patel, M.D. on Thursday, August 23, 2012 at 04:40 pm

JAYPATEL, MD

00313

Piedmont Spine and Neurosurgical Group, P.A.

3 St. Francis Dr. Suite 490
Greenville, SC 29601
Phone: (864) 220-4263
Fax: (864) 220-5836

HISTORY AND PHYSICAL REPORT**Matthew C Edwards****ID: 233700****DOB:****Date of Encounter: 09/11/2012 02:14 PM****History of Present Illness**

Patient words: History of Present Illness (Janice W Blackwell; 9/10/2012 12:33 PM)

Patient words: Patient complains of low back pain radiating to the right leg and foot. He has numbness in the right leg and foot with some numbness in the left foot. Twisting or bending aggravate his symptoms, which have been present since 7/16/2012. He was walking down stairs at work and slipped. Epidural steroid injections and physical therapy have failed. Pain medicines do not work and caused side effects. He uses Aleve occasionally. MRI is positive for huge free fragment disc herniation L5-S1 with right S1 nerve root compression.

The patient is a 32 year old male

Problem List/Past Medical (Janice W Blackwell; 9/10/2012 12:34 PM)

Conservative Treatment. Prescription Medications, Physical Therapy, Injections, OTC Medications.
Patient reports negative past medical history

Allergies (Janice W Blackwell; 9/10/2012 12:34 PM)

Demerol *ANALGESICS - OPIOID*

Family History (Janice W Blackwell; 9/10/2012 12:34 PM)

High Blood Pressure

Cancer

Diabetes

Social History (Janice W Blackwell; 9/10/2012 12:35 PM)

RIGHT HANDED

No alcohol use

Non smoker / no tobacco use

Current Work/Study Status. Full-time.

Medication History (Janice W Blackwell; 9/10/2012 12:35 PM)

Aleve Active.

Past Surgical History (Janice W Blackwell; 9/10/2012 12:34 PM)

Patient reports no prior surgeries

Review of Systems (Janice W Blackwell; 9/10/2012 12:34 PM)

Gastrointestinal: Present- Heartburn.

Musculoskeletal: Present- Swelling of Extremities.

Vitals (Janice W Blackwell; 9/10/2012 12:35 PM)

9/10/2012 12:35 PM

Weight: 230 lb Height: 73 in

Weight was reported by patient.

Height was reported by patient.

Matthew C Edwards

Patient #: 233700

DOB: 06/18/1980 (32 years)

Friday, January 4, 2013

Page 1 / 3

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00314

Body Surface Area: 2.32 m² Body Mass Index: 30.34 kg/m²
Pain Level: 7/10

The patient is a 32 year old male

History

There is no documented history at this time.

Physical Exam

The physical exam findings are as follows:

General

Mental Status - Alert. **General Appearance** - Cooperative.

Eye

Fundi - Bilateral - Normal.

Chest and Lung Exam

Chest and lung exam reveals - on auscultation, normal breath sounds, no adventitious sounds and normal vocal resonance.

Cardiovascular

Cardiovascular examination reveals - normal heart sounds, regular rate and rhythm with no murmurs.

Abdomen

Palpation/Percussion: Palpation and Percussion of the abdomen reveal - Non Tender and No Rigidity (guarding).

Auscultation: Auscultation of the abdomen reveals - Bowel sounds normal.

Neurologic

Mental Status: Affect - normal and appropriate. **Speech** - Normal. **Thought content/perception** - Normal. **Cognitive function** - Normal.

Cranial Nerves: I Olfactory - Normal.

II Optic: - Normal Bilaterally.

III Oculomotor: - Normal Bilaterally.

IV Trochlear - Bilateral - Normal.

V Trigeminal: - Normal Bilaterally.

VI Abducens - Bilateral - Normal.

VII Facial: - Normal Bilaterally.

VIII Acoustic - Bilateral - Hearing normal. **IX Glossopharyngeal / X Vagus** - Normal.

XI Accessory: - Normal Bilaterally.

XII Hypoglossal - Bilateral - Normal.

Eye Movements: Gaze - Bilateral - Extraocular muscles intact. **Nystagmus** - Bilateral - None.

Sensory:

Pain: Intact - Globally.

Motor:

Tone: - Normal.

Strength: 5/5 normal muscle strength - All Muscles.

Reflexes (Dermatomes): 2/2 Normal - All.

Plantar Reflexes (L4-S2) - Bilateral - Flexion. **Coordination** - Normal. **Gait** - Normal.

Except for absent right ankle the tendon reflex, 4/5 right plantar flexor weakness, hypercapnic sensation in the right lateral foot, and positive straight leg raising at 15° on the right. He bears weight with a cane.

Neuropsychiatric

Thought Processes/Cognitive Function - appropriate fund of knowledge, no attention deficit, no impairment of concentration, no impairment of global orientation, no impairment of long term memory and no impairment of short term memory.

Assessments

- LUMBAR HNP (722.10)
- LUMBAR RADICULOPATHY (724.4)
- REVIEW OF FILMS (V72.5)

1 LEVEL LUMBAR DISCECTOMY FOR STENOSIS (63047) (1 Units)

Lumbar Discectomy Consent Lumbar Discectomy Consent:

The relative risks of complication include but are not limited to infection, bleeding, spinal fluid leak, major vascular injury, increased pain, weakness numbness, paralysis, incontinence, impotence, heart attack, stroke and death were discussed with patient and family members present. They have been provided the opportunity to ask any questions regarding the surgical procedure. The patient and family members present expressed understanding and agree to proceed with surgery.

Assessment/Plan Note: Right L5-S1 laminectomy facetectomy and discectomy. Conservative measures have failed and he is not improving.

Michael N. Buccell MD

Michael N Buccell MD

ring Caregiver (Jay S Patel, MD) [(864) 855-1323] - PO Box 484, Easley, SC 29641 ID: [11902.49665], Greenville - Piedmon

Piedmont Spine and Neurosurgical Group, P.A.

3 St. Francis Dr, Suite 490
Greenville, SC 29601
Phone: (864) 220-4263
Fax: (864) 220-5836

Michael N. Buccl, M.D., F.A.C.S.
Aaron C. MacDonald, M.D., F.A.C.S.
Christle B. Mina, M.D.
D. Mark Malton, M.D.

09/11/2012 02:14 PM

Jay S Patel, MD
PO Box 484
Easley, SC 29641

RE: Consultation for Matthew C Edwards

It was a pleasure to see your patient, Matthew C Edwards for a consultation in my office. After my examination of the patient, here are my findings and recommendations:

Assessments

- LUMBAR HNP (722.10)
- LUMBAR RADICULOPATHY (724.4)
- REVIEW OF FILMS (V72.5)

1 LEVEL LUMBAR DISCECTOMY FOR STENOSIS (63047) (1 Units)

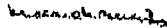
Lumbar Discectomy Consent Lumbar Discectomy Consent:

The relative risks of complication include but are not limited to infection, bleeding, spinal fluid leak, major vascular injury, increased pain, weakness numbness, paralysis, incontinence, impotence, heart attack, stroke and death were discussed with patient and family members present. They have been provided the opportunity to ask any questions regarding the surgical procedure. The patient and family members present expressed understanding and agree to proceed with surgery.

Assessment/Plan Note: Right L5-S1 laminectomy facetectomy and discectomy. Conservative measures have failed and he is not improving.

It is a pleasure participating in the care of Matthew C Edwards. Please let me know if you have any questions.

Sincerely,



Michael N Buccl, MD

1 12:00:19 PM 9/21/2012 19

00317

45

ST FRANCIS DOWNTOWN

One St. Francis Drive
Greenville, S.C. 29601
864-255-1000

OPERATIVE REPORT

NAME: Edwards, Matthew Chad	MR: 781047421
LOC: 3R	SEX: M
DOB:	ACCT: 7243193
AGE: 32	PI: S
ADMIT: 10/01/2012	DSCH:
	MSV: SUR

PRE-PROCEDURE DIAGNOSIS: Right S1 radiculopathy secondary to disk herniation.

POSTPROCEDURE DIAGNOSIS: Right S1 radiculopathy secondary to disk herniation.

NAME OF PROCEDURE: Right L5-S1 laminectomy, facetectomy, foraminotomy, and discectomy.

SURGEON: Michael N. Bucci, MD.

ANESTHESIA: General endotracheal.

ESTIMATED BLOOD LOSS: Minimal.

PREPARATION: Betadine.

COMPLICATIONS: None.

HISTORY OF PRESENT ILLNESS: A 32-year-old male with intractable right leg pain and weakness refractory to conservative measures. MRI was positive for a huge free fragment herniation at the right side at L5-S1 with right S1 nerve root compression. He failed conservative measures and is now admitted for surgery.

OPERATIVE NOTE: The patient was brought to the operating room, carefully placed under general endotracheal anesthesia without complications, carefully turned prone on the Cloward frame and the posterior aspect of the back shaved and prepped in the usual sterile fashion. An incision was made overlying L5 and S1. The muscles were stripped in the right lateral subperiosteal plane with cautery and elevators and deep retractors were placed. Lateral lumbar spine x-ray confirmed instrument pointing at L5-S1.

Laminectomy and facetectomy were carried out with 3 and 4-mm Kerrison rongeurs and a plane was created between the ligamentum flavum and dural ligament was removed to expose the dural sac. Distal foraminotomy and medial facetectomy were carried out. The nerve root was mobilized medially to expose a huge extruded disk at the disk space.

OPERATIVE REPORT - ST. FRANCIS - DOWNTOWN

Page 1 of 2 Physician copy for (Michael N Bucci, MD)

which was then incised with a 15 blade and cleaned with pituitary rongeurs until clear. A large volume of pathological disk material was removed. A huge free fragment herniation was found underneath the nerve root removed with a ball tip probe and straight rongeur. This significantly freed the dural sac and nerve root. After completion of the discectomy, a ball-tip probe was passed easily under the nerve root without further compression. The wound was irrigated until clear. No further bleeding was encountered. Thrombin was placed. The wound was closed, fascia was closed tightly with interrupted 0 Vicryl. Marcaine 0.5% with epinephrine was used to infiltrate the muscle for postoperative analgesia. Subcutaneous tissues were closed with interrupted 3-0 Vicryl. Skin was closed with Dermabond and Steri-Strips and pressure dressings were placed. The patient tolerated the procedure well, was turned supine, awakened, extubated, and taken to PACU in good condition. There were no complications.

DISCHARGE INSTRUCTIONS: Diet regular. Activity up as tolerated. No heavy lifting, bending, or automobile driving. Showers are permissible, but no baths. The patient will contact the physician if she develops any fever, drainage, swelling, cellulitis, or neurological change. Return visit in 10 days for wound check.

DISCHARGE MEDICATIONS: Include admission medicines plus Percocet 10/325 every 6 hours p.r.n.

DISCHARGE CONDITION: Satisfactory.

Michael N Buccia, MD A

This is an unverified document unless signed by physician.

TID: wmx
JOB: 000177921

DOC#: 430191

DT: 10/01/2012 2:31 P
DD: 10/01/2012

cc: Michael N Buccia, MD
Phys Other

OPERATIVE REPORT - ST. FRANCIS - DOWNTOWN
Page 2 of 2 Physician copy for (Michael N Buccia, MD)

Procedure

REMOVAL OF SUTURES (15850)

Matthew C Edwards

Final, Reviewed

Diagnosis: LUMBAR RADICULOPATHY (724.4)

Ordered by Kelly McClintock on behalf of Michael N Buccl, MD on 10/10/2012 (Routine)

Performed on 10/10/2012 10:11 AM

Reviewed by Kelly McClintock on 10/10/2012

SUTURE REMOVAL

Location : Lumbar

Incision: Healing well, Edges well approximated, No redness, swelling or drainage present

Drainage: None

Removal of: 0 suture/s

Recommendations/Patient Instructions: Follow-up appointment, Call office if excessive swelling, redness, fever or pain occur, Discussed appropriate restriction and post operative care

Comments: Dermabond on as directed - Instructed pt on how to remove; pt understood teachings via feedback; pt states right leg remain with burning especially in the foot with numbness and tingling - pt states unable to feel sensation - hot and cold on right leg; generalized swelling of right leg - goes down at night - advised on TED hose

Piedmont Spine and Neurosurgical Group, P.A.

3 St. Francis Dr. Suite 490
Greenville, SC 29601
Phone: (864) 220-4263
Fax: (864) 220-5836

HISTORY AND PHYSICAL REPORT**Matthew C Edwards****ID: 233700****DOB:****Date of Encounter:** 10/30/2012 11:09 AM**History of Present Illness**

Patient words: Patient returned and is still complaining of residual back and right leg discomfort. He has not been fairly active, having complied with the restriction rules following his surgery.

The patient is a 32 year old male

History

There is no documented history at this time.

Physical Exam

The physical exam findings are as follows:

Integumentary

Incision healing well without signs of redness, swelling, drainage or dehiscence

Neurologic

Sensory: - Normal.

Motor:

Tone: - Normal.

Strength: 5/5 normal muscle strength - All Muscles.

Reflexes (Dermatomes): 2/2 Normal - All.

Plantar Reflexes (L4-S2) - Bilateral - Flexion. **Coordination** - Normal. **Gait** - Normal.

Assessments

- LUMBAR HNP (722.10)
- LUMBAR RADICULOPATHY (724.4)

Referral to Physical Therapy

Follow up in 6 weeks Follow up in 6 weeks or as needed

Low Back Pain Exercises

Assessment/Plan Note: Lyrica 50 mg b.i.d.

Matthew C Edwards**Patient #: 233700****DOB: 06/18/1980 (32 years)**

Friday, January 4, 2013

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Piedmont Spine and Neurosurgical Group, P.A.

3 St. Francis Dr. Suite 490
Greenville, SC 29601
Phone: (864) 220-4263
Fax: (864) 220-5836

HISTORY AND PHYSICAL REPORT**Matthew C Edwards****ID: 233700****DOB: 06/18/1980****Date of Encounter: 12/06/2012 09:14 AM****History of Present Illness**

Patient words: The patient returns following physical therapy however he still has right lower kidney pain and some give way weakness. There is helping his strength but not helping the right leg discomfort.

The patient is a 32 year old male

History

There is no documented history at this time.

Physical Exam

The physical exam findings are as follows:

Integumentary

Incision healing well without signs of redness, swelling, drainage or dehiscence

Neurologic

Sensory: - Normal.

Motor:

Tone: - Normal.

Strength: 5/5 normal muscle strength - All Muscles.

Reflexes (Dermatomes): 2/2 Normal - All.

Plantar Reflexes (L4-S2) - Bilateral - Flexion. **Coordination** - Normal. **Gait** - Normal.

Assessments

- LUMBAR HNP (722.10)
- LUMBAR RADICULOPATHY (724.4)

MRI LUMBAR SPINE WITH / WITHOUT (72158) (1 Units)
Follow up in 2 weeks Follow up in 2 weeks or as needed

Matthew C Edwards

Matthew C Edwards

Patient #: 233700

DOB: 06/18/1980 (32 years)

Friday, January 4, 2013

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00322

Jan. 8. 2013 11:24AM

No. 8721 P. 28/39

Michael N Buccì MD

Piedmont Spine and Neurosurgical Group, P.A.

3 St. Francis Dr, Suite 490
Greenville, SC 29601
Phone: (864) 220-4263
Fax: (864) 220-5836

HISTORY AND PHYSICAL REPORT

Matthew C Edwards

ID: 233700

DOB

Date of Encounter: 01/03/2013 09:40 AM

History of Present Illness

Patient words: The patient returns bowing MRI scanning of the lumbar spine with contrast. This shows postsurgical change, no recurrent disc herniation, and some inflammation in the endplates of L5-S1. No nerve compression is seen.

The patient is a 32 year old male

History

There is no documented history at this time.

Physical Exam

The physical exam findings are as follows:

Integumentary

Incision healing well without signs of redness, swelling, drainage or dehiscence

Neurologic

Sensory: - Normal.

Motor:

Tone: - Normal.

Strength: 5/5 normal muscle strength - All Muscles.

Reflexes (Dermatomes): 2/2 Normal - All.

Plantar Reflexes (L4-S2) - Bilateral - Flexion. Coordination - Normal. Gait - Normal.

Assessments

- **LUMBAR RADICULOPATHY (724.4)**

- **REVIEW OF FILMS (V72.5)**

FOLLOW UP AS NEEDED

Referred to: Piedmont Comprehensive Pain Management (Undefined)

Assessment/Plan Note: Return to work with light duty 1/7/13. He has residual nerve pain and we will seek pain management consultation for this.

Matthew C Edwards

Patient #: 233700

DOB: 06/18/1980 (32 years)

Friday, January 4, 2013

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Jan. 8. 2013 11:27AM

No. 8721 P. 39/39

Supplemental

Michael N Bucci MD

Matthew C Edwards

Patient #: 233700

DOB: 06/19/1980 (32 years)

Friday, January 4, 2013

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00325

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INNERVISION MRI & IMAGING

Grove

One Cannon Drive Greenville, SC 29605

Intervision
Intervision at Grove
Open MRI of Simpsonville
Phone (864) 242-4011 Fax (864) 233-2677

PATIENT: Edwards, Matthew
DOB:
MRN: 858056
PATIENT PHONE: 864-442-3143
PHYSICIAN: Rico Aragon, MD
DATE: 8/1/2012

EXAM: MRI LUMBAR SPINE WITHOUT CONTRAST

HISTORY: Slipped going down a flight of stairs. Right leg burning the low back pain.

TECHNIQUE: SAG/AX T1 and T2.

FINDINGS:

L5-S1: Mild degeneration of the disc. Moderate central and right paracentral disc protrusion/herniation. Below this is a 15 mm migrated fragment which compresses the anterior aspect of the thecal sac and the right S-1 transverse root within its lateral recess. This should correlate with a right S-1 radiculopathy.

L4-5: Mild degeneration of the disc and posterior disc bulge with annular tear.

At L1-2 through L3-4, there are no significant disc displacements.

Tip of the conus medullaris terminates at mid L-2. Mild disc bulge and endplate osteophytes at T12-L1 with mild broad anterior cord compression.

IMPRESSION: Migrated fragment from the L5-S1 disc into the right S-1 lateral recess severely compressing the right S-1 transverse root.

Jeff Shramek, MD
JS / hc

DD: 8/1/2012
DT: 8/1/2012
Job: 15604430

This document has been electronically reviewed and signed.

Jeffrey K. Shramek, MD.
Neuroradiologist



SOUTH CAROLINA DIAGNOSTIC IMAGING

Innervision Medical Imaging Grove
#1 Cannon Drive Greenville, SC 29605
p: (864) 242-2020 f: (864) 240-5774

PATIENT: EDWARDS, MATTHEW
DOB: [REDACTED]
MRN: 858056
PHYSICIAN: MICHAEL BUCCI, MD
EXAM DATE: 12/10/2012

EXAM: MR-Lumbar Spine With and Without Contrast

REASON FOR EXAM: lumbar HNP

ADDITIONAL HISTORY: Surgery 10/01/12. Still having right leg numbness on the lateral side of the thigh and calf. Foot feels swollen.

COMPARISON: 06/01/12.

TECHNIQUE: SAG/AX T1 pre and post-contrast and T2.

FINDINGS:

L5-S1: Moderate degeneration of the disc with mild discogenic edema of the endplates. Status post posterior spine intervention and resection of the disc fragment. No recurrent disc herniation. Mild-moderate posterior disc bulge but without significant mass effect on the anterior thecal sac.

L4-5: Mild degeneration of the disc and disc bulge with annular tear. Facet arthropathy and thickened ligamentum flava are again seen.

At T12-L1 through L3-4, there are no new disc findings. Mild T12-L1 disc degeneration with mild disc bulge and small endplate osteophytes.

At L1-2 through L3-4, there are no disc displacements or significant disc height loss. The right L5-S1 ligamentum flavum has been resected. There is enhancement identified especially posterior to the thecal sac and also with enhancement identified within the discectomy site right paracentral.

IMPRESSION:

1. Status post resection of the disc herniation to the right at L5-S1 and without recurrent disc extrusion.
2. L5-S1 disc degeneration with discogenic edema of the endplates and posterior disc bulge.

Jeffrey K Shramak, MD

JS/es

DD: 12/10/2012 02:40 P

DT: 12/10/2012 05:37 P

Accession#: 08-1539221 VS#: 11121107 CS#: 109742

cc:

Electronically Signed and Reviewed by Jeffrey K Shramak, MD 12/11/2012 08:50 A

Fax Server

12/11/2012 8:55:57 AM PAGE 3/003 Fax Server



SOUTH CAROLINA DIAGNOSTIC IMAGING

Innovision Medical Imaging Grove
#1 Cannon Drive Greenville, SC 29605
p: (864) 243-2020 f: (864) 240-5776

PATIENT: PIERCE, SHANNON
DOB: [REDACTED]
MRN: 882755
PHYSICIAN: MICHAEL BUCCI, MD
EXAM DATE: 12/10/2012

EXAM: MR-Pelvis With and Without Contrast

REASON FOR EXAM: sacral pain

ADDITIONAL HISTORY: Severe pain in the tail bone for two weeks. History of fracture seventeen years during childbirth.

TECHNIQUE: Triplane imaging of the pelvis without and with contrast with water and fat sensitive techniques.

FINDINGS: No myometrial or endometrial mass of the uterus. Small amount of cul-de-sac fluid. 16 mm follicular cyst on the left ovary. Moderate amount of fluid surrounds the left ovary.

Symmetric bilateral hip joint fluid volumes. No gluteus minimus or medius tendon tears. Normal iliopsoas tendons. No muscle edema or strain.

Unremarkable alignment and signal of the sacrum and coccyx. Normal hamstring tendon origins. Unremarkable sciatic nerves and sciatic notches.

IMPRESSION:

1. Moderate amount of free pelvic fluid. Benign apparent follicular cyst on the left ovary. No uterine mass.
2. Normal evaluation of the pelvic ring and without muscle edema or strain or tendonitis/bursitis.

Jeffrey R Shramek, MD

JS/cf

DD: 12/10/2012 02:26 P

DT: 12/10/2012 05:14 P

Accession#: 08-1539483 VS#: 11121066 CS#: 109715

CG:

Electronically Signed and Reviewed by Jeffrey R Shramek, MD 12/11/2012 08:49 A

[2]

**ANDERSON RADIOLOGY**

Anderson Radiology
2110 North Highway 81 Anderson, SC 29621
p: (864) 225-6286 f: (864) 231-6738

PATIENT: EDWARDS, MATTHEW
DOB: _____
MRN: 858056
PHONE: 864-442-3143 (Mobile)
PHYSICIAN: ERIC LOUDERMILK, MD
EXAM DATE: 06/16/2014

EXAM: MR-Lumbar Spine With and Without Contrast

REASON FOR EXAM: increased pain rt leg , prior lower back surgery

ADDITIONAL HISTORY: History of surgery 10/1/12. Patient states persistent low back pain with right leg posterior pain down to the knee, then lateral to the foot.

COMPARISON: 12/10/12.

TECHNIQUE: SAC/AX T1 pre and postcontrast and T2. Exam performed from the superior T11 vertebral body through the mid S3 vertebral body in the sagittal plane.

CONTRAST: 20 mL IV Magnevist.

FINDINGS: There are Schmorls nodes of the lower thoracic spine again seen. The tip of the conus medullaris is at lower L2. Moderate T11-12 disc degeneration and with a right paracentral hard disc or disc/osteophyte complex. This is not imaged in the axial plane.

Mild-moderate T12-L1 disc degeneration with Schmorls nodes.

L3-4: Mild degeneration of the disc and based on axial imaging there is a moderate right paracentral disc protrusion producing oblique anterior sac straightening. Mild facet arthropathy.

~~L4-5: Mild degeneration of the disc and mild disc bulge with annular tear.~~

L5-S1: Moderate degeneration of the disc and with a mild posterior disc bulge. Previous posterior spine instrumentation. No significant thecal sac compromise. Mild facet arthropathy.

With contrast there is enhancement of the posterior periphery of the L5-S1 disc and also within the immediate peri disc anterior epidural space. There is no acute facet arthritis. There is enhancement of the annular tear posteriorly at L4-5. There is mild enhancement along the posterior aspect of the L3-4 disc to the right. This may significant some peri disc inflammation. Unremarkable caliber and enhancement of the imaged dorsal ganglia and lumbosacral nerves.

IMPRESSION:

1. Status post posterior spine instrumentation at L5-S1. There has been no development of the disc extrusion in the interim. Posterior disc bulge at L5-S1 with annular tear.
2. There has developed a right paracentral L3-4 disc protrusion producing

Jun. 27. 2014 1:52PM

No. 6312 P. 11

PATIENT: EDWARDS, MATTHEW
DOB: _____
EXAM: MR-Lumbar Spine With and Without Contrast
EXAM DATE: 06/16/2014

~~oblique anterior sac straightening and with enhancement of the posterior
aspect of this disc protrusion and perhaps a mild degree of peri disc
inflammation or enhancement.~~

Jeffrey K Shramek, MD

JS/ab

DD: 06/17/2014 08:00 A

DT: 06/17/2014 08:19 A

Accession#: 08-1863518 VS#: 11931412 CS#: 858850

CC:

Electronically Signed and Reviewed by Jeffrey K Shramek, MD 06/17/2014 09:13 A

PSYCHOLOGICAL AND TRAINING SERVICES, P.A.

920 St. Andrews Rd., Columbia, SC 29210

bobnorabraham@jbeltsouth.net

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ROBERT E. BRABHAM, PH.DLICENSED PSYCHOLOGIST
MASTER'S IN REHABILITATION COUNSELING
CERTIFIED LIFE CARE PLANNER

ROB BRABHAM, JR., MRC, CRC

NORA HHAPE, RN, BA

BETH BURNETT, BA, RD.

DENISE YARBOROUGH, ADMIN. ASST.

PSYCHOLOGICAL and VOCATIONAL EVALUATION

Name: Matthew Chad Edwards

ID Number: xxx-xx-4207

Date of Birth:

Age at Evaluation: 33

Date of Evaluation: 10-15-2013

Date of Report: 12-02-2013

This report was delayed at the request of Mr. Edwards' attorney in order to obtain all available medical records. All such records have now been received and this report is being submitted in a timely manner.

Referral and Background Information: Mr. Edwards is a 33-year-old former State Transport Police Officer. He was referred for an independent psychological and vocational evaluation to determine vocational implications, and earnings issues, if any, related to limitations resulting from on-the-job injuries he sustained on 07-16-2012. Records indicate he had a previous injury to his right shoulder in December 2011 when lifting portable hand scales at a weigh station, but had returned to working on a full-time basis at the time of the injury in July 2012.

Mr. Edwards sustained on-the-job injuries after signaling a truck to pull into a weigh station on I-85. He indicated that while inspecting the 18-wheeler, he "slipped" and landed awkwardly, but attempted to continue working. However, he was unable to continue the inspection due to severe pain in his low back and right leg/foot. He indicated that he had absolutely no feeling in the calf of his right leg.

By the following day, the pain had worsened, requiring that Mr. Edwards call in sick for the next several days. During that time he sought chiropractic treatment and, as will be noted by Dr. Bentley, the chiropractor, Mr. Edwards was suffering from a "nerve issue". He was restricted to light duty beginning January 2013 and actually continued in that capacity through June 30, 2013. However, at that time his employer was unable to accommodate permanent light duty restrictions, and Mr. Edwards accepted Police Disability Insurance Benefits. He indicated that at that time he did not qualify for State Health Insurance and, as a result, it now costs him \$500 per month to cover both himself and his daughter on his wife's health insurance policy.

He has been unable to return to any gainful employment since working in a light duty capacity through June 30, 2013.

He and his wife have been married for 10 years. They have a 20-month old daughter. Mr. Edwards indicated that he was previously the "bread winner" in their family, but now his wife works on a full-time basis in Computer Sales/E-Bay Sales. The inability to be the primary bread winner has been difficult for him to accept and has added to the depression that has resulted thereafter.

Mr. Edwards arrived promptly for this evaluation and drove himself. He indicated that he now drives about 4-5 times per week, usually locally only for no more than about 15 minutes at a time. Even for that brief period of time, however, he experiences considerable low back and right leg pain when seated in a relatively fixed position, as driving requires. He contrasted his inability to drive for more than a few minutes now to his pre-injury abilities to often drive throughout his work shift as required.

His general appearance, hygiene and personal grooming were good. He had a clean cut, short hair, policeman look. He is 6' 0" in height, and weighs about 219 pounds, a loss of about 20 pounds due, in his opinion, to loss of appetite and deliberate diet. He wears glasses for reading. He does not require the use of a hearing aid. He does not require the use of any assistive device for mobility or stability. However, he indicated that he occasionally experiences "give way" in his right leg, resulting in falling often. He wriggled and changed positions throughout the evaluation, citing right leg, hip and back pain.

At the time of this evaluation he was receiving \$2100 per month in SC Police Disability Retirement Benefits. He indicated that he is required to pay \$500 per month in health Insurance benefits to cover both he and his daughter. He noted that he and his wife are rapidly depleting their modest savings to try and make ends meet, including payment of their house payment in the amount of \$600 per month. Clearly they are experiencing financial hardship as a result of his dramatic reduction in income resulting from his on-the-job injuries.

Sources of Information:

Medical Records from:

P.S. Chiropractic Inc.	Chase Bentley, DC
St. Francis Downtown	Michael Buccl, M.D.
Piedmont Spine and Neurosurgical Group	Michael Buccl, M.D.
Innerversion MRI & Imaging	Jeff Shramek, M.D.
Dosher Physical Therapy Associates	Michael Dosher, PT
Piedmont Comprehensive Pain Management Group, LLC	Eric Loudermilk, M.D.
	Carol Burnette, M.D.
Oaktree Medical Centre, PC	Rico Aragon, M.D.
Pain Management Associates	Jay Patel, M.D.
AnMed Health Physician Surgery Center	Eric Loudermilk, M.D.

Psychological Testing and Evaluation Results:

Wechsler Adult Intelligence Scale - Fourth Edition

Wide Range Achievement Test - Revision 4

Beck Depression Inventory - II

Diagnostic Screening for Anxiety

Clinical Interview and Behavioral Observations

Mental Status Examination

Activities of Daily Living: He lives with his wife and daughter in a multi-story, single-family home. He indicated that he avoids the upstairs and it is essentially "unused" at this time. On most days, he gets up at about 7 AM and is able to handle his basic personal grooming and toilet needs without assistance, but must move slowly due to right leg stiffness. He indicated that he now mostly takes showers, although he occasionally takes a tub bath. However, he indicated that he now "squats" rather than bends due to worsening pain symptoms with any bending or reaching overhead. He also indicated that he now must lie on his back on the bed when putting on socks, and has also modified the placement of items in his home for ease of reaching them.

He continues to perform a few light chores around the home, but requires frequent breaks when doing so. For example, he is only able to cut the grass with a riding mower for about 30 minutes and then requires a significant period recovery prior to resuming that activity. He also indicated that when sitting for any prolonged period of time his arms "go numb".

He is able to shop alone, but indicated that he typically shops for a limited number of items and is "in and out" of the store as quickly as possible. He also indicated that he can now walk for no more than about 30 minutes at a time and then requires a significant period of recovery due to worsening pain symptoms and fatigue. He continues to perform home exercises and stretching as taught in physical therapy. He is not able to sustain much activity, despite efforts to initiate activity due to pain.

In a typical 8-hour day he indicates he must spend about 4 hours per day reclining/resting with his leg and back supported as a result of his physical limitations and pain. He watches television to pass the time. He indicated that he is presently caring for his 20-month old daughter during the day, due to his inability to afford daycare. However, his mother-in-law lives 1 mile away and assists him frequently. He indicated that there is a computer located in their home, although he has minimal computer skills and would be unable to remain seated at the computer for any prolonged length of time. The inability to remain in an upright position for a full 8-hour day even with sit/stand options clearly prevents his ability to sustain gainful employment at this time.

In a 5-day work week he indicated that he would be unable to remain at any job for a full 8-hour workday and/or would be unable to even report to work all 5 days per week at any potential job due to pain problems associated with medical conditions that resulted from his on-the-job injuries. This would of course greatly exceed the number of days available for personal/sick leave in an average job in South Carolina, about 1-day per month.

He returns to bed at about 10-10:30 PM but gets only about 3-5 hours of non-restorative sleep, often interrupted by pain. He indicated once he is awake he is then unable to get back to sleep due to pain and "thinking" about his ongoing condition and "what the future might hold." He noted no prior history of sleep problems.

As a direct result of his on-the-job injuries he is now able to participate in far fewer social or leisure activities than was the case prior to his injuries. He also admits that he has inadequate patience and is easily irritated. He indicated that his relationships with friends, family and others have also changed as a result of his medical conditions. He noted he could no longer hunt, fish, ride a four-wheeler, shoot pool, ride a bike, go boating, or perform mechanic/maintenance of automobiles, all activities he enjoyed prior to his on-the-job injuries. He noted, "...I used to be a pretty good repairman/mechanic..."

He noted he has difficulty concentrating and sustaining attention to complete nearly any tasks. His sexual activity has also changed as a result of his medical conditions, which adds to the depression he is experiencing. The overall quality of his life has clearly been greatly diminished by his injuries.

Educational Background: He graduated from Pickens High School in 1998. He indicated that he earned average grades while attending high school, and was in "great health." He earned his Commercial Driver's License in 1998, "right after high school", and drove a truck for 2-3 years thereafter. He completed training at the SC Police Academy in 2003. He indicated that he had actually maintained certification as a Police Officer yearly without a problem up and until he was forced to retire due to his ongoing disabilities. He has received no further formal training and has no military experience.

Work History: Mr. Edwards has a stable work history. At the time of his on-the-job injuries, he was working as a State Transport Police Officer for the SC Department of Transportation (DOT) for whom he had worked for the past 6 years. He earned \$39,600.00 annually. He indicated that he was actually "due for a raise/promotion to Lance Corporal" at the time of his work-related injuries.

Work as a State Transport Police Officer is defined by The Dictionary of Occupational Titles as semi-skilled and Medium in physical demands. Such work was actually Heavy as performed, at times, requiring that he operate 40-pound scales, wear a gun belt/vest weighing 20 pounds, lift, bend, stoop, and reach on a regular basis as part of his essential job duties.

Prior work experience included work as a Sheriff's Deputy for the Pickens County Sheriff's Department for approximately 5 years, earning \$29,000 annually. He also previously worked as a Truck Driver for approximately 1 year, earning \$12.00 per hour. He has never held an office/sedentary position, and has no office/computer skills.

He insisted that in his employment he had no personnel or performance problems. He enjoyed his co-workers, his colleagues and got along well with his supervisors.

When asked about any prior work injuries or pre-existing conditions, Mr. Edwards noted a prior right arm injury in 2008/2009. However, he indicated that he lost no time from work as a result of those injuries and continued working on a full-time basis without undue difficulty thereafter. Clearly it is the on-the-job injury in 2012, which began his medical problems which have been the primary basis for his inability to maintain gainful employment.

Medical Problems: The medical aspects of his injury are documented in other reports, and will not be addressed in great detail herein. However, several more recent medical references have vocational significance and are noted accordingly.

On 12-21-11, Dr. Rico Aragon noted, "...accident occurred on 12/20/11 while patient was lifting portable hand scales at the weigh station where he works...felt a pop in his right shoulder...pain began the evening of the accident and when he went to work this morning he talked to his supervisor who advised him to see a physician...pain started a few hours later...hurts only when he picks up something...has shoulder pain, restriction of joint motion, joint weakness...loss of sensation...shoulder region pain...modified duty, no use of right shoulder for now..."

On 01-02-12, Dr. Aragon indicated, "...right shoulder pain...improved...occasional catch on extension...tendonitis...refuses steroid shot...continue rest and Aleve...back to full duty..." (As noted, Mr. Edwards attempted to work as long as possible and did so throughout the year until his employer was unable to make accommodations for his restrictions, ending his work in 2013.)

On 07-17-12, Dr. Chase Bentley, DC indicated, "...at work when he slipped and fell...heard his low back pop and had severe numbness in his low back immediately...pain and numbness then ran down his right leg...as time went by the pain moved into his upper back and neck...low back pain that radiates down his right leg...also complains of neck pain that radiates down the right arm...radiate to right hand...avoid extreme bending...use caution when bending or working overhead...avoid sudden twists and turns...x-ray, abnormal findings, DJD, mild degenerative joint disease displayed at C5-6, disc wedging at L4-5...appears to be causal relationship between the spinal related injuries reportedly sustained...work related accident of 7/16/12 with exacerbation of underlying degenerative findings...lumbar/lumbosacral subluxation, sciatic neuralgia, cervical subluxation, degeneration of cervical disc, thoracic subluxation, thoracic spinal pain, cervicobrachial syndrome..."

On 07-30-12, Dr. Aragon indicated, "...was at work on 7/16/12...caught himself on right lower extremity...has pain from right side low back radiating down back right lower extremity...has numbness and tingling...pain and tingling are continuous...was given shot for pain in ER, had allergic reaction to Demerol he was given...unable to sit or stand for more than 10 minutes...has pain in right lower extremity all of the time...saw chiropractor 7/17, did x-rays and adjustments...chiropractor took him out of work...given Prednisone and Lortab from ER...has times where he cannot move his right foot...diagnosed with sciatica...taking Ibuprofen intermittently...was given Solumedrol shot and Prednisone for home...also given Lortab...has low back pain...has burning sensations, tingling sensations, numbness...tender lumbar spinous processes..."

thoracic/lumbosacral neuritis/radiculitis...suspect nerve compression...schedule MRI of lumbar spine...refer to Dr. Patel for evaluation...Depo Medrol...*unable to work*..."

An MRI of the lumbar spine by Dr. Jeff Shramek on 08-01-12 concluded, "...migrated fragments from the L5-S1 disc into the right S-1 lateral recess severely compressing the right S-1 transverse root..."

On 08-07-12, Dr. Jay Patel noted, "...pain began approximately 1 month ago...onset was spontaneous and sudden...onset of pain began at work after a fall...symptoms have been worsening...achy, burning, dull, sharp, throbbing, tingling, numbing...duration is continuous...8/10...symptoms made worse by lying down on the back, lying down on the belly, lying down on the side, sitting, activity...weakness in the legs and feet...decreased energy level...muscle cramps, muscle weakness, muscular pain, low back pain, ankle pain, foot pain, toe pain, joint stiffness, joint swelling...has numbness, tingling sensations, burning sensations...moderate tenderness in the left lumbar paraspinal area, moderate tenderness in the right lumbar paraspinal area...lumbar flexion severely restricted, lumbar extension severely restricted..."

Dr. Patel concluded, "...injury on 7/16/12...was at work going down stairs and slipped and landed on his right leg...Immediately noted axial low back pain radiating into the right lower extremity, i.e. in the right lateral thigh to lateral lower leg and foot...also had some pain in the left leg...L4-5 mild degeneration of disc...L5-S1 mild central and right paracentral disc protrusion/herniation, 15 mm migrated fragment which compresses the anterior aspect of the thecal sac and right S1 transverse root within the lateral recess...recommend trial of right L5-S1 ILESI...physical therapy...he is an officer with the state...does mainly car/truck inspection...*out of work*..."

On 08-09-12, Dr. Patel performed an interlaminar epidural steroid injection on the right at L5-S1. On 08-23-12, Dr. Patel noted, "...pain increased since injection...having a lot of numbness in the right leg...some pain in the left leg...having pain in the right arm along with numbness...no improvement status post injection on 8/9/12...physical therapy...consult NSGY...initiate Neurontin...*out of work*..."

On 09-11-12, Dr. Michael Buccì indicated, "...complains of low back pain radiating to the right leg and foot...has numbness in the right leg and foot with some numbness in the left foot...twisting or bending aggravate his symptoms, which have been present since 7/16/12...was walking down stairs at work and slipped...epidural steroid injections and physical therapy have failed...pain medicines do not work and caused side effects...uses Aleve occasionally...MRI positive for huge free fragment disc herniation L5-S1 with right S1 nerve root compression...lumbar HNP, lumbar radiculopathy...1 level lumbar discectomy for stenosis...proceed with surgery...right L5-S1 laminectomy facetectomy and discectomy...conservative measures have failed and he is not improving..." On 10-01-12, Dr. Buccì performed surgery described as a right L5-S1 laminectomy, facetectomy, foraminotomy, and discectomy.

Following surgery, Mr. Edwards' sutures were removed on 10-10-12 and records noted, "...right leg remains with burning, especially in the foot with numbness and tingling...unable to feel sensation...hot and cold on right leg...generalized swelling of right leg, goes down at night...advised on TED hose..."

On 10-30-12, Dr. Bucci noted, "...still complaining of residual back and right leg discomfort...complied with restriction rules following surgery, not fairly active...lumbar HNP...lumbar radiculopathy...referral to physical therapy...low back exercises...Lyrical..."

On 12-06-12, Dr. Bucci indicated, "...returns following physical therapy...still has right lower kidney pain and some give way weakness...right leg discomfort...lumbar HNP...lumbar radiculopathy..."

Another MRI by Dr. Jeff Shramek on 12-10-12 concluded, "...status post resection of the disc herniation to the right at L5-S1 and without recurrent disc extrusion...L5-S1 disc degeneration with discogenic edema of the endplates and posterior disc bulge..."

On 01-03-13, Dr. Bucci noted, "...lumbar radiculopathy...referral to Piedmont Comprehensive Pain Management...return to *work with light duty 1/7/13*...he has residual nerve pain and we will seek pain management consultation for this...*no heavy lifting above 30 pounds*..."

On 02-04-13, Dr. Eric Loudermilk indicated, "...recurrent severe pain in his right leg...he developed severe pain in his right leg following the injury...back pain better since surgery, but no improvement in right leg pain...presents today complaining of sharp and stabbing pain that is also burning and stinging, which radiates down his right posterior thigh and calf to the heel and bottom of his right foot...also pain that radiates to the middle three toes...numbness in his right leg and some weakness...has since returned to work under light duty with a 30-pound lifting restriction..."

Dr. Loudermilk concluded, "...persistent right lower extremity radiculopathy predominantly in the S1 distribution secondary either to epidural fibrosis and scar tissue versus permanent nerve injury...plan a selective right S1 nerve root injection using a caudal epidural catheter to help break up any scar tissue in the area..."

On 02-14-13, Dr. Loudermilk performed a Racz catheter at the right S1 nerve root level, epidurogram, and epidurolysis.

On 03-11-13, Dr. Loudermilk noted, "...persistent pain in his right leg despite previous back surgery...underwent a selective right S1 nerve root injection four weeks ago and unfortunately has not had any significant relief...had an excellent nerve block with filling of the right S1 nerve root with contrast...given the fact that he is still having pain, I am more convinced that *we are dealing with permanent nerve injury*...he has tried various medications without much benefit including Neurontin and Lyrical...add Gabapentin to his medications today...he wants to return back to employment but the pain is a definite limitation for him...recommend he look into undergoing a trial of spinal cord stimulation...otherwise, his pain will be medical management...lumbar post laminectomy syndrome

with persistent right lower extremity pain secondary to epidural fibrosis and scar tissue and permanent nerve damage..."

On 04-01-13, Dr. Loudermilk indicated, "...chronic pain in his right leg status post previous low back surgery...saw three weeks ago and placed on Gralise, but he could not tolerate due to nausea and side effects...pain is some better...currently working light duty...currently undergoing physical therapy and feels physical therapy is helping...recommend four more weeks of therapy followed by FCE...does not want to take medications...lumbar post laminectomy syndrome with persistent right lower extremity pain secondary to epidural fibrosis and scar tissue and permanent nerve damage..."

An FCE conducted by Michael Doshier, PT on 04-23-13 concluded, "...Mr. Edwards occupation as a State Highway Police Officer in the medium strength category...Mr. Edwards meets these strength requirements and may return to work as a State Highway Police Officer...capable of assuming a position in a medium strength category...maximum lifting capacity is 50.0 pounds, and maximum carrying capacity is 25.0 pounds...to return to work as a State Highway Police Officer job restrictions must be met, including no balancing activities that require crouching, and no crawling on hands and feet..." (Unfortunately, his work as a Transport Police Officer clearly did require crouching and crawling, as well as balancing activities and therefore he does not meet the requirements of the job. Apparently this information was not made available to Mr. Doshier at the time of his report.)

Even though the FCE indicated he could perform Medium work, Dr. Loudermilk did not agree. On 05-06-13, Dr. Loudermilk indicated, "...chronic pain in his right leg status post previous low back surgery...not taking any medication at this time because he is trying to avoid taking pills...he underwent a selective nerve root injection about three months ago with no significant benefit...still having discomfort in his right leg and has completed physical therapy and underwent an FCE on 4/23/13...he is currently working light duty...has tried Lyrica and Neurontin and has side effects...also tried Gralise but could not tolerate due to side effects...plan to give him samples and a prescription for Cymbalta today...lumbar post laminectomy syndrome with persistent right lower extremity pain secondary to epidural fibrosis and scar tissue and permanent nerve damage...continue *light duty work*...he appears to be at maximal medical improvement..."

On 05-20-13, Dr. Loudermilk noted, "...chronic right leg pain status post previous low back surgery...I feel that he has permanent nerve injury to his right leg and I placed him on Cymbalta at his last visit...he cannot tell any significant difference since starting Cymbalta, but he has not had any side effects...I plan to increase the dosage of Cymbalta today...underwent an FCE...was given restrictions for climbing, balancing, crawling, and crouching...given lifting restrictions of no more than 50 pounds occasional and 25 pounds frequently and carrying no more than 13 pounds frequently and 25 pounds occasionally...*I would not be able to release him back to full duty with no restrictions as a police officer given the results of his FCE...plan to continue light duty until August 2013...plan to adjust dosage of Cymbalta...this is a life and death job that requires him to be 100% not only for himself but for his partner, and I would not want to risk putting him in a harmful situation if he has significant restrictions...*

lumbar post laminectomy syndrome with persistent right lower extremity pain secondary to epidural fibrosis and scar tissue and permanent nerve damage..."

On 06-17-13, Dr. Loudermilk again noted, "...chronic right leg pain status post previous low back surgery...has suffered permanent nerve injury to the right leg and currently taking Cymbalta...*he is unable to return to full duty as a police officer*...lumbar post laminectomy syndrome with persistent right lower extremity pain and weakness secondary to epidural fibrosis and scar tissue and permanent nerve injury...continue Cymbalta..."

On 07-02-13, Dr. Carol Burnette indicated, "...chronic severe back and right lower extremity pain and weakness related to lumbar radiculopathy, status post work-related injury on July 16, 2012...he has undergone L5-S1 discectomy and laminectomy with no improvement in pain and still has altered sensation and weakness in the right L5 and S1-S2 levels...follow-up MRI shows signs of epidural fibrosis, but no recurrent disk herniation...has failed several medications and trial of injections...has reached maximal medical improvement...AMA guides...29% whole person impairment, shifted downward to 25%...since the lumbar spine represents 75% of whole person function, the resulting lumbar spine impairment rating is 32%...based on FCE, permanent work restrictions include no lifting greater than 50 pounds maximum, occasionally, or greater than 25 pounds frequently, or greater than 12 pounds constantly...in terms of carrying, recommended not to lift greater than 25 pounds occasionally, greater than 12 pounds frequently, or greater than 5 pounds constantly...not to push or pull greater than 100 pounds...not able to crawl on his hands and feet...not able to crouch on a narrow beam for up to 30 seconds...may benefit from vocational retraining and counseling..."

On 07-29-13, Dr. Loudermilk noted, "...*I do not feel that Mr. Edwards can return to his job as a police officer*...plan to add Ultracet to his medication regimen today and recommend continuing Cymbalta...discussed spinal cord stimulation as a way to manage the pain in his right leg and this will always be an option for him in the future if he is interested...lumbar post laminectomy syndrome with persistent right lower extremity pain and weakness due to epidural fibrosis and scar tissue and permanent nerve injury..."

On 09-09-13, Dr. Loudermilk indicated, "...chronic right leg pain status post prior low back surgery...he is taking Ultracet as needed for pain and Cymbalta...he does not like to take a lot of pain medications and he is only taking the Ultracet as sparingly as possible...this does help the pain when he takes it...he was given a 32% impairment rating to his lumbar spine by Dr. Burnette...has permanent work restrictions...basically *Mr. Edwards cannot return to his job as a police officer*...he is complaining of a lot of burning in his right foot and I explained that this is due to his nerve injury...he is not interested in pursuing spinal cord stimulation...he would rather try to manage the pain as conservatively as possible...I plan to continue with his current medications and I plan to order a neuropathic compounded cream to apply to the right leg and foot...lumbar post laminectomy syndrome with persistent right lower extremity pain and weakness due to epidural fibrosis and scar tissue and permanent nerve injury...continue Ultracet for pain and Cymbalta..."

On 10-14-13, Dr. Loudermilk noted, "...chronic pain in right leg status post prior low back surgery...has chronic pain in his leg due to permanent nerve injury...has been taking Ultracet and Cymbalta, and using neuropathic cream to his ankle and foot...the cream helps some...he stopped taking Cymbalta because it is not helping...I plan to try Neurontin instead of Cymbalta...*unable to be a police officer due to permanent restrictions*...I feel that he would be a good candidate for spinal cord stimulation to try to improve the pain in his right leg and foot given the fact that the majority of pain is neuropathic...continue Ultracet, add Neurontin...continue neuropathic cream to ankle and foot..."

At the time of this evaluation, Mr. Edwards is still prescribed Cymbalta (1/day), Ultracet (2-3/week), and a "gel" he applies to the bottom of his feet for his medical conditions resulting from his on-the-job injuries. He also takes over-the-counter pain medication, at times. He noted, "...I try to avoid prescription medications...at the Sheriff's Department I saw people taking way too much medication...I don't want to end up like one of them..."

References to pain in records exist over an extended period of time. He indicated treatment has included prescription medications, chiropractic treatment, injections, and physical therapy. When asked to describe his pain, he indicated that since his on-the-job injuries he experiences pain at a level 7 on a 10-point scale, 7-days per week, "no matter what." He noted daily activities, movement, and sitting exacerbate the pain. His pain is best relieved by resting/reclining. His pain would result in unexpected absences and/or an inability to work, all 5 days per week. His pain would prevent his ability to sit and/or stand for an 8-hour day.

Mental Status Evaluation: He was well oriented to all spheres, and neither demonstrated nor reported any hallucinations or delusional thought processes. He noted no prior mental health history. As noted previously, Mr. Edwards is presently prescribed Cymbalta, although he indicated that he is not receiving optimal results from that medication at this time.

He described clinically significant symptoms sufficient to confirm the continued presence of a level of depression. He indicated, "...it's depressing, of course...the financial stress and my wife having to go to work full-time...I lost my state job...and 10 years of hard work is now gone...it's overwhelming..." His depressive symptoms include a considerable loss of interest or pleasure which is nearly always present. This includes social withdrawal even from family activities; significant reduction in previous levels of sexual interest or desire; decreased energy, tiredness and fatigue out of proportion to actual activity; impaired ability to concentrate; easily distracted with memory difficulties. These symptoms have clearly resulted in significant distress/impairment in social, occupational, and other important areas of functioning. These symptoms are not better described by any other general medical condition and there is no evidence of any substance abuse which would cause these same symptoms. In spite of his depression, he denies any suicidal attempts or plans at this time.

In addition to his depression, he is also experiencing considerable anxiety, related to his awareness that in spite of his full cooperation with any and all medical procedures suggested, he continues to experience debilitating pain now more than one year following his injuries.

He does not use illegal drugs, does not consume alcohol, and does not use tobacco products. He reminded me that in his years as a Police Officer he routinely was subjected to a variety of background checks and drug checks as part of recertification.

Psychological Test Results: He appeared to cooperate and to give optimal effort during this evaluation. Thus these results are believed to be valid indicators of his current levels of functioning.

On the Wechsler Adult Intelligence Test – Fourth Edition, he obtained a Full Scale IQ score of 105. Relative to examinees of comparable age, he is currently functioning within the "Average" range of intelligence on this standardized measure of intellectual ability.

On the Wide Range Achievement Test – Revision 4, his Reading Standard Score of 55 is a 10.2 grade level score, his Arithmetic Standard Score of 44 is a 12.4 grade level score, and his Spelling Standard Score of 39 is a 10.3 grade level score.

On the Beck Depression Inventory-II, he obtained a Raw Score of 20, defined as a "Moderate" level of depression, despite the ongoing use of Cymbalta.

He also described credible, but diagnostically significant symptoms sufficient to conclude that he is in fact experiencing a level of anxiety. His anxiety is worsened by the fact that he has cooperated fully with all suggested medical treatment and allied care, but has continued to worsen over a period of years.

Diagnoses: After observing him during this evaluation, and from careful review of records of past behavior and levels of functioning, he is clearly manifesting signs and symptoms consistent with the requirements to establish and/or maintain several diagnoses. He is continuing to experience major pain episodes and references to pain exist in several medical records over an extended period of time. He is also anxious about his future, especially since he realizes that his past work is no longer an option for him, an anxiety-provoking thought for someone at the age of 33. Finally, his multiple losses, personal, financial, social and leisure, all have led to a level of depression. Depression and anxiety are the two most common psychiatric symptoms experienced by adults following major lifestyle changes. Therefore the following diagnoses apply, in keeping with all diagnostic requirements for each:

307.89 Pain Disorder

311 Depressive Disorder NOS

300.02 Generalized Anxiety Disorder

These medical/mental conditions are in addition to his other physical medical problems that are well documented in his files.

Vocational Opinion and Rationale: Several factors must be considered in reaching a vocational opinion. They include his age of 33, still defined as a "younger worker", a positive factor; his post high school graduate educational background is positive; his stable work history would be positive but is offset by his inability to perform any work on a sustained basis; due consideration must also be afforded to the pain that he experiences on a daily basis which requires that he spend 4 hours per day "resting or reclining"; and his depression and anxiety also interfere with his ability to maintain sufficient attention and concentration, which becomes a negative factor.

Taking all of these factors into consideration, it is my opinion, to a high degree of professional certainty, based on more than fifty years of vocational rehabilitation and psychology experience, that he must be expected to permanently remain, unable to engage in his past work as a State Highway Police Officer, or in any alternate work setting as a result of his medical conditions resulting from his on-the-job injuries in July 2012.

The rationale for my opinion is essentially based on the following observations:

Credibility: He appeared credible in his description of his limitations and remaining functional capacities. As a result of the limitations on his back, right leg, right hip, and bilateral upper extremities, he cannot complete significant tasks or activities on a regular, sustained basis.

It is noted that the information provided during this interview was highly consistent with information reported in other reports. This provided additional confirmation that the responses and description of events and circumstances were candid, were not feigned or exaggerated, and do not appear to represent any symptom magnification.

As noted earlier, he has been approved for his State Government Disability Benefits through the Police Retirement System. That approval required a determination that he was unable to continue his work as a Police Officer and that the inability to do so was likely to be a permanent inability to return to that work. As a Vocational Consultant to the State Retirement Systems for many years, I am well aware of the requirements for the approval of such benefits.

Medications: He is prescribed several medications, and is carefully compliant with dosages and times as prescribed, and has been so since his injuries. However, he experiences the usual and predicted side-effects of medication, including feelings of fatigue and an inability to function at optimal levels while taking his medications.

Pain Factors and Attendance Implications: Even with pain medication he continues to experience significant pain at such levels as to interfere with his ability to sustain physical activity. His cognitive deficits would also cause difficulty in his ability to pay attention to job tasks and job duties for hours each week, on average. The inability to maintain concentration and persistence interferes with the ability to meet production expectation for even unskilled jobs.

Limitations on Sitting and Standing: His limitations on sitting and standing are such that vocationally even any sedentary work, which might otherwise have been suggested, is precluded. Vocationally, any work requires some combination of sitting, standing and/or walking for a full 8-hour workday, without the need to rest for prolonged periods of time, something he is unable to do in his present condition.

Limitations on Use of Bilateral Upper Extremities: Persons who have severely limited use of even one arm experience a significant reduction in the occupational base which otherwise have been considered. The inability to use both upper extremities results in functional capacity somewhere between sedentary and light work. Such individuals are unable to perform the usual full range of even sedentary work because the vast majority of even unskilled sedentary jobs require the good use of both hands. This is a finding noted in Social Security Regulations (SSR 83-12) and is often cited. Additionally, gainful employment by definition requires that one be able to use the upper extremities for a full 8-hour workday, without the need to rest for prolonged periods of time, something he is unable to do in his present condition.

Summary and Conclusions: Based on all the evidence as described above, consistent with observations during this evaluation and various reports in his file, unfortunately not only is he unable to effectively perform the essential duties in any of his past work settings as a Police Officer for the Transport Police or for a Sheriff's Department, or as a Truck Driver, but also any other full-time gainful employment. Despite his young age it is unfortunate that it is not reasonable to assume that after these many months that he will now achieve any significant improvement in his pain management related to his symptoms that prevent him from working. It is also clear that the unfortunate combination of factors and characteristics he now faces are directly related to the injuries he sustained while working.

It is reasonable to suggest that Mr. Edwards, who has no useful ability to maintain any position for more than a brief period of time, less than thirty minutes in any one position, and has to frequently change position, would be unable to perform any physically strenuous activity.

Further, Mr. Edwards is also unable to handle any type of work that would require close attention to detail, attention, concentration, persistence or pace. As a result, he would clearly be incapable of performing any of his past work. Directly as a result of his on-the-job injuries the only services he could perform are limited in quality, dependability, or quantity that no reasonable job market exists.

The opinions noted in this report are offered within a reasonable degree of professional certainty, based on more than 50 years of vocational rehabilitation and psychology experience. Thank you for the opportunity to work with you in this matter.

If you have any questions, or if I could address additional issues, please do not hesitate to contact me.

A handwritten signature in black ink, appearing to read "Robert E. Brabham". The signature is stylized with a large, looped "R" and a cursive "Brabham".

Robert E. Brabham, Ph.D.
Licensed Psychologist (SC #77)
Master's in Rehabilitation Counseling

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MASTER'S IN REHABILITATION COUNSELING

CERTIFIED LIFE CARE PLANNER

ROB BRABHAM JR., MRC

NORA HEAPE, RN, BA

BETH BURNETT, BA, ED

To: Mr. J. Kirkman Moorhead, Attorney

From: Robert Brabham, Ph.D.



Date: March 8, 2015

RE: Mr. Matthew C. Edwards v. SCDPS

In response to your recent request, I have reviewed the additional medical records, a two-day Functional Capacity Evaluation (11-20-14 and 11-21-14) performed by David Taylor, PT, at New Day Physical Therapy. In his report, Mr. Taylor indicated that Mr. Edwards is capable of work in the sedentary work level for an eight-hour day. It is interesting to note that Mr. Taylor also acknowledged that Mr. Edwards was not able to repeat the same level of physical exertion on the second day of the FCE evaluation. This is consistent with Mr. Edwards' description of his inability to sustain gainful activity, certainly not for a full 5-day workweek.

Mr. Taylor indicated that Mr. Edwards "attempted but was unable to perform carrying due to significant right lower extremity pain of 9/10 combined with his lack of taxonomy of trying to maintain his balance while toting an object in his hands on Day 1 & 2. He attempted but was unable to tolerate the positioning for ladder climbing, floor level reaching, kneeling, crouching, and crawling due to increased low back and right lower extremity pain of 9/10 on Day 1 and 9-10/10 on Day 2."

Mr. Taylor also noted, "...significantly limited with lifting, pushing, pulling, standing, walking, stair climbing, stooping and balancing...high fall risk...due to lack of balance combined with required taxonomy of the tasks...ambulated with a standard cane..." Mr. Taylor added, "...analysis of an FCE performed on 04-23-13 revealed...capable of performing lifting capacity of 50 pounds on occasional basis...28 pounds on frequent basis...this is in contrast to the findings of this two day FCE...unable to perform carrying..."

A comparison of the FCE from April 2013 to the 2-day evaluation in November 2014 confirms the obvious deterioration in his physical capabilities between the first and second FCEs is also consistent with Mr. Edwards' reports as to his worsening overall conditions with the passage of time.

Therefore, after a careful review of the additional FCE information, I regret to conclude that there have been no improvements in Mr. Edwards' ability to sustain employment activities. Unfortunately, that also means there can be no improvement in my original comments as to his inability to return to gainful employment. Unfortunately, I continue to conclude that, in his present combination of conditions, limitations, and restrictions that he, as yet, remains unable to return to any gainful employment at any level of physical activity.



New Day Physical Therapy

INDUSTRIAL REHAB DIVISION

FUNCTIONAL CAPACITY EVALUATION

NAME: Matthew Edwards
EMPLOYER: South Carolina State Transport Police
DATE OF INJURY: 07/16/12
DATE OF EVALUATION: 11/20/14 & 11/21/14
DATE OF REPORT: 11/21/14
I.D. NO.: 01
DIAGNOSIS: Low Back Pain & Right Leg Pain/724.2
& 720.5

REFERRED BY: Dr. Loudemilk
PHYSICIAN: Dr. Loudemilk
INSURANCE CARRIER: N/A
INSURANCE REP.: N/A
INSURANCE I.D. NO.: 4207
DATE OF BIRTH: 06/18/1980

VITAL SIGNS

HEIGHT: 72" WEIGHT: 238 lbs.
RESTING HEART RATE: 78 bpm
Starting Time 3:30 PM Ending Time 6:30 PM Day 1 & 2
HAND DOMINANCE: RIGHT
RESTING BLOOD PRESSURE: 120/60 mm/Hg

PURPOSE OF ASSESSMENT: Comprehensive Functional Evaluation Two Day FCE

CONCLUSION

The results of this evaluation indicate that Matthew Edwards is currently functionally capable of work in the sedentary work level according to U.S. Department of Labor Standards for an eight hour day. Patient demonstrated a maximum occasional floor to waist lifting capacity of 15 lbs. on Day 1 and 10 lbs. on Day 2. He also demonstrated maximum occasional waist to shoulder and floor to shoulder lifting capacities of 20 lbs. and 15 lbs. respectively on Day 1 and 12.5 lbs. and 10 lbs. respectively on Day 2. Patient also demonstrated a maximum occasional shoulder to overhead lifting capacity of 15 lbs. on Day 1 and 10 lbs. on Day 2. (note decreases in lifting capacity by 5 to 7.5 lbs. on the second day of testing). Patient demonstrated a tolerance to desk level reaching on a constant basis with sitting, overhead reaching, object handling, fingering, simple grasping, firm grasping and fine/gross manipulation on a frequent basis with standing, walking, stair climbing, balancing and stooping on an occasional basis. Patient was consistent with positional tolerances on both days of testing.

Patient attempted but was unable to perform carrying due to significant right lower extremity pain of 9/10 combined with his lack of taxonomy of trying to maintain his balance while toting an object in his hands on Day 1 & 2. He attempted but was unable to tolerate the positioning for ladder climbing, floor level reaching, kneeling, crouching and crawling due to increased low back and right lower extremity pain of 9/10 on Day 1 and 9-10/10 on Day 2.

Functional Limitations: Patient is significantly limited with lifting, pushing, pulling, standing, walking, stair climbing, stooping and balancing due to low back and right lower extremity pain of 8-9/10 both days of testing. He is also a high fall risk while performing gait, carrying, pushing and pulling activities due to his lack of balance combined with the increased required taxonomy of the tasks.

Gait Analysis: Patient ambulated in the clinic independently with a standard cane, significant external rotation of the right hip combined with right forefoot varus, moderate left forefoot varus, decreased stance time on the right lower extremity, incomplete stride lengths and moderate forward trunk flexion. He ambulates with a slow cadence for age and sex due to antalgia and right lower extremity pathology.

Previous Testing: Analysis of a functional capacity test performed on April 23, 2013 revealed that Mr. Edwards was capable of performing at a lifting capacity of 50 lbs. on an occasional basis and 25 lbs. on a frequent basis, as well

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Functional Capacity Evaluation

Re: Matthew Edwards DOB:

Insurance I.D. No: 4207

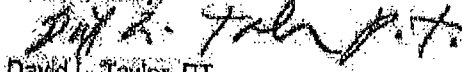
as carry 25 lbs. on an occasional basis and 12 lbs. on a frequent basis. This is in contrast to the findings of this two day functional capacity evaluation, which indicates that patient is capable of performing at a lifting capacity of 10 lbs. on an occasional basis and 5 lbs. on a frequent basis and he is unable to perform carrying due to significant right lower extremity pain of 9/10 combined with his lack of taxonomy of trying to maintain his balance while toting an object in his hands.

Based on the findings of this two day functional capacity evaluation Mr. Edwards is capable of working an eight hour day at a sedentary work level position. Overall he demonstrated consistency of performance on 20 of 20 consistency tests. Patient had a Ball Shaped Curve for his grip testing which is the "Gold Standard" for determining consistency of effort during functional capacity testing. Patient also had a negative Waddell's Test for non-organic low back pain.

PHYSICAL DEMAND LEVEL: SEDENTARY (U.S. Department of Labor Standards)

Thank you for referring Matthew Edwards to New Day Physical Therapy. If you have any further questions regarding this evaluation, please do not hesitate to contact us.

Professionally,



David L. Taylor, PT
Physical Therapist
Industrial Rehab Specialist

cc: Dr. Loudemilk

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Functional Capacity Evaluation

Re: Matthew Edwards DOB: 08/18/1980

Insurance I.D. No.: 4207

PHYSICAL ABILITIES ASSESSMENT (PAA)

SEDENTARY

(U.S. Department of Labor Standards)

	Occasional (0 - 33%)	Frequent (33% - 66%)	Constant (66% - 100%)	Day 2
Material Handling :				
Lift - Floor to Waist	15 lbs.	10 lbs.	N/A lbs.	Occ: 10 lbs. Freq: 5 lbs.
Lift - Waist to Shoulder	20 lbs.	10 lbs.	N/A lbs.	Occ: 12.5 lbs. Freq: 10 lbs.
Lift - Floor to Shoulder	15 lbs.	10 lbs.	N/A lbs.	Occ: 10 lbs. Freq: 5 lbs.
Carry - Bimanual	N/A lbs.	N/A lbs.	N/A lbs.	Occ: N/A lbs. Freq: N/A lbs.
Push	40 lbs.	30 lbs.	N/A lbs.	Occ: 30 lbs. Freq: 20 lbs.
Pull	40 lbs.	30 lbs.	N/A lbs.	Occ: 30 lbs. Freq: 20 lbs.

Postural Tolerance:

	Frequency
Sit (Static)	Frequent
Stand Dynamic Position	Occasional
Walk Even Surface	Occasional
Climb Stairs	Occasional
Climb Ladders	Unable
Reach Desk Level	Constant
Reach Overhead	Frequent
Reach Floor Level	Unable
Balance	Occasional
Sloot	Occasional
Kneel Full Kneel	Unable
Crouch	Unable
Crawl	Unable

Manipulative Ability:

	Right	Frequency	Left	Frequency
Object Handling	Right: Frequent		Left: Frequent	
Fingering	Right: Frequent		Left: Frequent	
Simple Hand Grasp	Right: Frequent		Left: Frequent	
Firm Hand Grasp	Right: Frequent		Left: Frequent	
Fine/Gross Manipulation	Right: Frequent		Left: Frequent	

Consistency Profile:

Maximum Voluntary Effort	Consistent	10 of 10 CV Scores < 15%
Pinch Strength Testing	Consistent	5 of 6 CV Scores < 15%
Isometric Push / Pull	Consistent	2 of 2 CV Scores < 15%
Dynamic Lift Test	Consistent	Expected Linear Heart Rate Increase
Observed Movement Patterns	Consistent	With aware and unaware observation
Waddell's Test	Negative	For non-organic low back pain

Comments: See additional detail on page 11

Evaluator: David L. Taylor, PT
Physical Therapist
Industrial Rehab Specialist

Date: 11/21/14

David L. Taylor, PT
Evaluator Signature

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Functional Capacity Evaluation

Re: Matthew Edwards DOB: 11/18/11

Insurance I.D. No: 4207

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Functional Capacity Evaluation

Re: Matthew Edwards DOB:

Insurance I.D. No. 4207

SUBJECTIVE HISTORY:

Matthew Edwards is a 34 year old male with the current diagnosis of Low Back Pain & Right Leg Pain/724.2 & 726.5, onset 07/16/12. The patient reports that the injury occurred when he was running down the stairs of a control tower to inspect a truck and missed a step, which caused him to land with most of his weight onto his right leg as he grabbed the railing to prevent himself from falling completely. Patient reports feeling immediate pain and a "popping" sensation in his low back. Present symptoms include: Constant low back and right lower extremity pain.

Current medication includes: Tramadol, Topomax (taken as scheduled).

Matthew Edwards reports the following relevant past medical history: Fractured Left Arm when he was 10 years old

Previous testing and treatment for this injury/illness (as reported by patient) includes: X-rays, MRI's

Treatment: S/P Right L5-S1 Laminectomy, Facetectomy, Foraminotomy & Discectomy on 10/01/12

Treatment: Right S1 Nerve Root Block with a Racz Catheter on 02/14/13

Treatment: Physical Therapy

Outcome: Patient reports that overall he is better than he was initially, but still has excruciating pain in his low back and right lower extremity with decreased AROM and strength which is significantly impairing his functional abilities.

Matthew Edwards reported severe pain at an intensity of 7 (0 = no pain; 1,2,3 = low; 4,5,6 = moderate; 7,8,9 = severe; 10 = emergency pain). He reported that the pain ranges from 6 at best to 10 at its worst. He stated that standing and walking aggravates his symptoms, and that rest provides relief. Perceived abilities include: sitting 60 minutes, standing 10 minutes, walking 5 minutes, driving 30 minutes, and lifting 10 lbs.

The patient requires minimal assistance with activities of daily living (ADL's) including: Frequently requires assistance from his spouse to don/doff clothes, socks and shoes.

He describes a typical day as: performing light chores throughout the day as he can tolerate. Matthew Edwards drove an automobile to/from the FCE appointment today. 90 minute drive (Required one rest period on Day 1 and two on Day 2).

Additional subjective information includes: Job duties at South Carolina State Transport Police per patient included frequent driving, standing, walking, bending, climbing, squatting, lifting, carrying, reaching, kneeling, crawling, pushing and pulling.

VOCATIONAL/JOB HISTORY: Matthew Edwards is currently not working. He was employed as a Lance Corporal Officer. He worked for South Carolina State Transport Police for 5 years.

Work History: Patient worked as a Pickens County Sheriff for 5 years.

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Functional Capacity Evaluation

Re: Matthew Edwards

DOB:

Insurance I.D. No.: 4207

PHYSICAL DEMAND CATEGORY (U.S. Department of Labor, Dictionary of Occupational Titles)

Sedentary	Exerting up to 10 lbs. 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 human body.
Light	Exerting up to 20 lbs. force occasionally, and/or up to 10 lbs. 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.
Medium	Exerting 20 lbs. to 50 lbs. of force occasionally, and/or 10 lbs. to 25 lbs. of force frequently, and/or greater than negligible up to 10 lbs. of force constantly to move objects. Physical Demand requirements are in excess of those for Light Work.
Heavy	Exerting 50 lbs. to 100 lbs. of force occasionally, and/or 25 lbs. to 50 lbs. of force frequently, and/or 10 lbs. to 20 lbs. of force constantly to move objects. Physical Demand requirements are in excess of those for Medium Work.
Very Heavy	Exerting in excess of 100 lbs. of force occasionally, and/or in excess of 50 lbs. of force frequently, and/or in excess of 20 lbs. of force constantly to move objects. Physical Demand requirements are in excess of those for Heavy Work.

MUSCULOSKELETAL SCREENING SUMMARY

Gait:	Patient ambulated in the clinic independently with a standard cane, significant external rotation of the right hip combined with right forefoot varus, moderate left forefoot varus, decreased stance time on the right foot, incomplete stride lengths and moderate forward trunk flexion. He ambulates with a slow cadence for age and sex due to antalgia and right lower extremity pathology.
Posture:	Endomesomorph body type, moderate base of support, decreased right shoulder height, significant left lateral shift and decreased weight-bearing on the right lower extremity.
Soft Tissue:	Patient reported tenderness/pain with associated increased tone changes with moderate palpation of the right side lumbar/sacral paraspinal muscles and the right lower extremity external hip rotators.
Flexibility:	Poor flexibility of the bilateral hamstring muscles.
Range of Motion:	Refer to Active Range of Motion / Strength Measurements Form.
Strength:	Refer to Active Range of Motion / Strength Measurements Form.
Neurological:	Decreased sensation with light touch and deep pressure in the right lower extremity L3, L4 & L5 dermatome patterns. Reflexes: +1 in the right lower extremity and +2 in the left lower extremity.
Additional Testing:	A post test musculoskeletal assessment was completed on Day 1 & 2 with no new findings from that of the initial evaluation. Patient also had a negative Waddell's Test for non-organic low back pain.

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Functional Capacity Evaluation

Re: Matthew Edwards DOB

Insurance I.D. No. 4207

ENDURANCE/AEROBIC CAPACITY

Sub-Maximal Treadmill Test

☐ Completed Test

☒ Incomplete Test

☐ Not Tested

Classification: Unable to Determine N/A ml/kg/min N/A METS

HR Increase: YES

Respiration Increase: YES

Blood Pressure: 146/80 mmHg

Comments: Day 1: Patient ambulated for 6:04, achieving a peak HR of 98 bpm and a peak TM speed of 1.2 MPH at 0% Grade. He utilized the handrails for balance 100% of the time. Patient was unable to keep up with the treadmill speed due right leg and low back pain of 8/10. Gait changes observed were significant external rotation of the right hip combined with right forefoot varus, moderate left forefoot varus, decreased stance time on the right foot, incomplete stride lengths and increased forward trunk flexion. He was unable to achieve a high enough workload to predict his aerobic capacity.

Day 2: Patient ambulated for 4:44, achieving a peak HR of 105 bpm and a peak TM speed of 0.8 MPH at 0% Grade. He utilized the handrails for balance 100% of the time. Peak BP= 150/80. Patient was unable to keep up with the treadmill speed due right lower extremity and low back pain of 9/10. Gait changes observed were an audible scuffing of the right lower extremity, increased external rotation of the right hip combined with right forefoot varus, moderate left forefoot varus, decreased stance time on the right foot, incomplete stride lengths and increased forward trunk flexion. He was unable to achieve a high enough workload to predict his aerobic capacity.

Note: On Day 2 patient ambulated for 1:20 less than Day 1 at 0.4 MPH slower. He also had increased pain perception in the right lower extremity and low back.

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Functional Capacity Evaluation

Re: Matthew Edwards

DOB:

Insurance I.D. No.: 4207

MATERIAL HANDLING

Waist to Shoulder Dynamic Lift Test

Occasional Lift	Heart Rate	RPL	RFT	Frequent Lift	Heart Rate	RPL	RFT
20 lbs.	95 bpm	8	Max Lift	10 lbs.	95 bpm	8	Max Lift
Start Heart Rate	80 bpm	HR Increase: Yes		Start Heart Rate:	81 bpm	HR Increase: Yes	
Comments:	Patient utilized moderate trunk extension with his left foot placed forward and mostly his left upper extremity to complete the lifts. He reported low back and right leg pain of 8/10 at the completion of the lifts. Day 2= 12.5 lbs. Occasional/ 10 lbs. Frequent. Patient reported increased low back and right lower extremity pain of 9/10 as he slid the box onto the shelf during each lift. Note decreased lifting capacity by 7.5 lbs. in conjunction with increased low back and right leg pain on Day 2.						

Floor to Waist Dynamic Lift Test

Occasional Lift	Heart Rate	RPL	RFT	Frequent Lift	Heart Rate	RPL	RFT
15 lbs.	102 bpm	8	Max Lift	10 lbs.	105 bpm	8	Max Lift
Start Heart Rate:	83 bpm	HR Increase: Yes		Start Heart Rate:	80 bpm	HR Increase: Yes	
Comments:	Patient utilized significant hip flexion to initiate the lifts. He required contact guard assistance from the therapist to maintain his balance during the lifts. Patient reported low back and right lower extremity pain of 8/10 at the completion of the lifts. Day 2= 10 lbs. Occasional/ 5 lbs. Frequent. Patient utilized just his left upper extremity to lift the box as he held onto the shelf with his right hand to maintain his balance during the lifts. He reported increased low back and right leg pain of 9/10. Note decreased lifting capacity by 5 lbs. in conjunction with increased low back and right lower extremity pain on Day 2.						

Floor to Shoulder Dynamic Lift Test

Occasional Lift							
Heart Rate:	RPL:	RFT:	Frequent Lift:		Heart Rate:	RPL:	RFT:
15 lbs:	105 bpm	8	Max Lift:	10 lbs:	103 bpm	8	Max Lift:
Start Heart Rate:	79 bpm	HR Increase: Yes		Start Heart Rate:	83 bpm	HR Increase: Yes	
Comments:	Patient utilized significant hip flexion to initiate the lifts. Followed by moderate trunk extension and mostly his left upper extremity to complete the lifts. Patient reported low back and right leg pain of 8/10 at the completion of the lifts. Day 2= 10 lbs. Occasional/ 5 lbs. Frequent. Patient utilized just his left upper extremity to lift the box as he held onto the shelf with his right hand to maintain his balance during the lifts. He reported increased low back and right leg pain of 8/10. Note decreased lifting capacity by 5 lbs. in conjunction with increased low back and right lower extremity pain on Day 2.						

Lift Capacity Performance:

Consistent

Expected Linear Heart Rate Increase: Consistent on Day 1 & 2

Carry Testing

Occasional Carry	Heart Rate	RPL	RFT	Frequent Carry	Heart Rate	RPL	RFT
N/A lbs. Bilateral	N/A bpm	N/A	See Comments	N/A lbs.	N/A bpm	N/A	See Comments
N/A lbs. Right	N/A bpm	N/A	N/A	N/A lbs.	N/A bpm	N/A	N/A
N/A lbs. Left	N/A bpm	N/A	N/A	N/A lbs.	N/A bpm	N/A	N/A
Start Heart Rate:	N/A bpm	HR Increase: N/A		Start Heart Rate:	N/A bpm	HR Increase: N/A	
Comments: Patient attempted task but was unable to tolerate due to extreme right lower extremity pain of 9/10-10 and required contact guard assistance from the therapist to maintain his balance on Day 1 & 2.							

Push / Pull Testing

Occasional Push	Occasional Pull	Frequent Push/Pull	Heart Rate	RPL	RFT
40 lbs.	40 lbs.	30 lbs.	90 bpm	5	Max Push
Peak Heart Rates: 87 bpm	Peak Heart Rates: 97 bpm	Start Heart Rate:	80 bpm	HR Increase: Yes	
Comments:	Patient pushed and pulled the cart while holding the handles with his bilateral upper extremities for balance and to decrease the workload on his low back and right lower extremity. He required stand by assistance from the therapist as he almost fell during the task. Patient reported low back and right lower extremity pain of 8/10 at the completion of the task. Day 2= 30 lbs. Occasional/ 20 lbs. Frequent. Patient reported right leg pain of 9/10 at the completion of the task. Note decreased pushing/pulling capacity of 10 lbs. in conjunction with increased right lower extremity pain on Day 2.				

Job Specific Testing

Job Specific Shoulder to Overhead	Heart Rate	RPL	RFT	Frequent N/A	Heart Rate	RPL	RFT
15 lbs.	95 bpm	8	See Comments	10 lbs.	90 bpm	8	See Comments
Start Heart Rate	78 bpm	HR Increase: Yes		Start Heart Rate:	78 bpm	HR Increase: Yes	

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Functional Capacity Evaluation

Re: Matthew Edwards

DOB: _____

Insurance I.D. No.: 4207

Comments:	Patient utilized increased trunk extension and mainly his left upper extremity to complete the lifts as he held onto the shelf with his right arm to maintain his balance during the lifts. He reported low back and right lower extremity pain of 8/10 at the completion of the lifts. Day 2= 10 lbs. Occasional 5 lbs. Frequent. Patient reported increased low back and right lower extremity pain of 8/10. Note decreased lifting capacity by 5 lbs. in conjunction with increased low back and right lower extremity pain on Day 2.

*RPL - Rate of Perceived Load

*RFT - Reason for Termination

Post Material Handling Blood Pressure: 130/80 mmHg

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POSITIONAL TOLERANCE:

	Frequency	Comments
Sitting	Frequent	No deficit observed. Average HR 78 bpm, Day 1 & 2.
Standing	Occasional	Terminated due to pain complaint. Reported increased right leg pain of 8/10 on Day 1 & 9/10 on Day 2. Average HR 92 bpm, Day 1 & 2.
Walking	Occasional	Terminated due to pain complaint. Reported low back and right lower extremity pain of 8/10 on Day 1 and 9/10 on Day 2. Average HR 101 bpm Day 1 & 2.
Stair Climbing	Occasional	Terminated due to pain complaint. Patient ascended all steps with the left lower extremity first. He reported right leg pain of 8/10 on Day 1 and 9/10 on Day 2. Average HR 85 bpm, Day 1 & 2.
Climb Ladders	Unable	Attempted and unable to assume position. Reported low back and right lower extremity pain of 9/10 on Day 1 9-10/10 on Day 2. Required contact guard assistance from the therapist to keep from falling.
Reach Desk Level	Constant	No deficit observed. Average HR 83 bpm, Day 1 & 2.
Reach Overhead	Frequent	No deficit observed. Average HR 84 bpm, Day 1 & 2.
Reach Floor Level	Unable	Attempted and unable to assume position. Reported low back and right posterior leg pain of 9/10 on Day 1 and 9-10/10 on Day 2.
Balance	Occasional	Patient required the use of a standard cane during ambulation 100% of the time. Required stand by assistance from the therapist while performing most tasks. Average HR 83 bpm, Day 1 & 2.
Squat	Occasional	Terminated due to pain complaint. Patient reported increased low back pain of 8/10 on Day 1 & 9/10 on Day 2. Average HR 90 bpm, Day 1 & 2.
Kneel	Unable	Attempted and unable to assume position. Patient had a right hamstring spasm of 9-10/10 on Day 1 & 2.
Crouch	Unable	Attempted and unable to assume position. Reported significant low back and right hamstring pain of 9/10 on Day 1 & 2.
Crawl	Unable	Attempted and unable to assume position. Patient had a right hamstring spasm of 9-10/10 on Day 1 & 2.

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Functional Capacity Evaluation

Re: Matthew Edwards DOB:

Insurance I.D. No.: 4207

MANIPULATIVE ABILITY:

	Frequency	Comments
R Object Handling	Frequent	No deficit observed.
L Object Handling	Frequent	No deficit observed.
R Fingering	Frequent	No deficit observed.
L Fingering	Frequent	No deficit observed.
R Simple Hand Grasp	Frequent	No deficit observed.
L Simple Hand Grasp	Frequent	No deficit observed.
R Firm Hand Grasp	Frequent	No deficit observed.
L Firm Hand Grasp	Frequent	No deficit observed.
R Fine/Gross Manipulation	Frequent	No deficit observed.
L Fine/Gross Manipulation	Frequent	No deficit observed.

Additional Positional and Postural Tolerance Comments:

POST TEST VITAL SIGNS: Heart Rate: Day 1=82, Day 2=87 bpm Blood Pressure: Day 1=126/90, Day 2=114/80 mm/Hg

POST TEST PAIN LEVEL: Day 1= 8/10, Day 2= 9-10/10

ADDITIONAL INFORMATION: A post test musculoskeletal assessment was completed with no new findings from that of the initial evaluation on day 1 & 2. Mr. Edwards was consistent in his observed movement patterns with aware and unaware observation. Patient demonstrated consistency of performance on 20 of 20 consistency tests. He had a Bell Shaped Curve for his grip testing which is the "Gold Standard" for determining consistency of effort during functional capacity testing. Patient also had a negative Waddell's Test for non-organic low back pain.

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Functional Capacity Evaluation

Re: Matthew Edwards

DOB: _____

Insurance I.D. No. 4207

PERFORMANCE CONSISTENCY**Maximal Voluntary Effort**

Grip Test	Grip Position														
	1			2			3			4			5		
Right Hand	86	80	82	100	106	120	148	143	180	145	130	124	129	124	110
Average	82.33			108.67			151.00			133.00			121.00		
Coefficient of Variation*	2%			6%			4%			7%			7%		
Left Hand	46	48	52	105	108	145	132	142	130	123	128	106	103	114	115
Average	51.67			110.33			141.33			117.67			110.67		
Coefficient of Variation*	14%			15%			6%			8%			5%		
10 of 10 Coefficient of Variation < 15% Consistent															
2 of 2 Bell Shaped Curve Distributions															

HR(s): 77 Comments: Patient is right hand dominant.

Pinch Strength Testing

Pinch Test	Tip Pinch			Palmar Pinch			Key Pinch		
Right Hand	23	24	25	25	21	21	25	32	30
Average:	24.00			22.33			29.00		
Coefficient of Variation*	3%			6%			10%		
Left Hand	22	22	24	24	21	22	25	27	25
Average:	22.67			22.33			25.67		
Coefficient of Variation*	4%			5%			4%		
B of 8 Coefficient of Variation < 15% Consistent									

HR(s): 77 Comments: Patient is right hand dominant.

Isometric Push / Pull

Test	Heart Rate	Trials (Pounds of Force)			Average	Standard Deviation	Coefficient of Variation*
		Trial 1	Trial 2	Trial 3			
Isometric Push	84	45.34	40.28	41.70	43.64	3.79	8%
Isometric Pull	84	48.68	49.90	41.68	47.08	3.83	8%
Post Test Blood Pressure: 130/86							
2 of 2 Coefficient of Variation < 15% Consistent							

Comments: HR 84 bpm, Patient reported low back and right leg pain of 7/10 with pushing/pulling.

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Functional Capacity Evaluation

Re: Matthew Edwards

DOB: 01/11/1980

Insurance I.D. No.: 4207

ACTIVE RANGE OF MOTION / STRENGTH

SPINE		NORM	AROM (Degrees)	☐ N/A	
Cervical	Flexion	50°	20		
	Extension	60°	20		
	Right Lateral Flexion	45°	18		
	Left Lateral Flexion	45°	18		
	Right Rotation	80°	38		
	Left Rotation	80°	38		
Thoracic	Flexion	80°	30		
	Right Rotation	30°	20		
	Left Rotation	30°	20		
Lumbar	Flexion	80°	30		
	Extension	25°	8		
	Right Lateral Flexion	25°	15		
	Left Lateral Flexion	25°	15		
	Right SLR	80°	8		
	Left SLR	80°	30		

UPPER EXTREMITY		NORM	Right AROM	Left AROM	Right Strength	Left Strength	☐ N/A	
Shoulder	Flexion	180°	WNL	WNL	5/5	5/5		
	Extension	60°	WNL	WNL	5/5	5/5		
	Abduction	180°	WNL	WNL	5/5	5/5		
	Adduction	40°	WNL	WNL	5/5	5/5		
	Internal Rotation	90°	WNL	WNL	5/5	5/5		
	External Rotation	90°	WNL	WNL	5/5	5/5		
Elbow	Flexion	140°	WNL	WNL	5/5	5/5		
	Extension	0°	WNL	WNL	5/5	5/5		
	Supination	80°	WNL	WNL	5/5	5/5		
	Pronation	80°	WNL	WNL	5/5	5/5		
Wrist	Flexion	80°	WNL	WNL	5/5	5/5		
	Extension	70°	WNL	WNL	5/5	5/5		
	Radial Deviation	20°	WNL	WNL	5/5	5/5		
	Ulnar Deviation	30°	WNL	WNL	5/5	5/5		

LOWER EXTREMITY		NORM	Right AROM	Left AROM	Right Strength	Left Strength	☐ N/A	
Hip	Flexion	120° **	8	WNL	2/5	4/5		
	Extension	30° **	5	WNL	2/5	4/5		
	Abduction	45° **	15	WNL	2/5	4/5		
	Adduction	30° **	0	WNL	2/5	4/5		
	Internal Rotation	45° **	15	WNL	2/5	4/5		
	External Rotation	45° **	30	WNL	2/5	4/5		
Knee	Flexion	135° **	WNL	WNL	2/5	5/5		
	Extension	0° **	WNL	WNL	2/5	5/5		
Ankle	Plantar Flexion	60° **	23	WNL	2/5	5/5		
	Dorsi Flexion	20° **	8	WNL	2/5	5/5		
	Inversion	35° **	18	WNL	2/5	5/5		
	Eversion	15° **	10	WNL	2/5	5/5		

* Normative Data - AAOS Guides to the Treatment of Permanent Injuries, 3rd Edition
 ** Normative Data - Rehabilitation of the Hand, Wrist, and Forearm, 4th Edition
 *** Normative Data - American Academy of Orthopedic Surgeons

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Functional Capacity Evaluation

Re: Matthew Edwards DC

Insurance I.D. No.: 4207

HAND		NORM*	Right AROM (Degrees)	Left AROM (Degrees)	Right Strength	Left Strength
Thumb	CMC Flexion	15° *	WNL	WNL	5/5	5/5
	CMC Extension	20° *	WNL	WNL	5/5	5/5
	CMC Abduction	70° *	WNL	WNL	5/5	5/5
	MCP Flexion	60° *	WNL	WNL	5/5	5/5
	MCP Extension	0° *	WNL	WNL	5/5	5/5
	IP Flexion	80° *	WNL	WNL	5/5	5/5
	IP Extension	0° *	WNL	WNL	5/5	5/5
Index	MCP Flexion	90°	WNL	WNL	5/5	5/5
	MCP Extension	Up to 45°	WNL	WNL	5/5	5/5
	PIP Flexion	110°	WNL	WNL	5/5	5/5
	PIP Extension	0°	WNL	WNL	5/5	5/5
	DIP Flexion	80°	WNL	WNL	5/5	5/5
	DIP Extension	0°	WNL	WNL	5/5	5/5
Long	MCP Flexion	90°	WNL	WNL	5/5	5/5
	MCP Extension	Up to 45°	WNL	WNL	5/5	5/5
	PIP Flexion	110°	WNL	WNL	5/5	5/5
	PIP Extension	0°	WNL	WNL	5/5	5/5
	DIP Flexion	80°	WNL	WNL	5/5	5/5
	DIP Extension	0°	WNL	WNL	5/5	5/5
Ring	MCP Flexion	90°	WNL	WNL	5/5	5/5
	MCP Extension	Up to 45°	WNL	WNL	5/5	5/5
	PIP Flexion	110°	WNL	WNL	5/5	5/5
	PIP Extension	0°	WNL	WNL	5/5	5/5
	DIP Flexion	80°	WNL	WNL	5/5	5/5
	DIP Extension	0°	WNL	WNL	5/5	5/5
Small	MCP Flexion	90°	WNL	WNL	5/5	5/5
	MCP Extension	Up to 45°	WNL	WNL	5/5	5/5
	PIP Flexion	110°	WNL	WNL	5/5	5/5
	PIP Extension	0°	WNL	WNL	5/5	5/5
	DIP Flexion	80°	WNL	WNL	5/5	5/5
	DIP Extension	0°	WNL	WNL	5/5	5/5

* Normative Data - American Academy of Orthopedic Surgeons, Rehabilitation of the Hand, Surgery and Therapy, 5th Edition

Hand Volume		Right	Left
Pretest		ml	ml
Post Test		ml	ml
Difference		ml	ml

* Rehabilitation of the Hand, Surgery and Therapy, 5th Edition - Fluid volume changes are often 20 to 50 ml or more between pre measurement and the post, if swelling is present.

Circumference		Right	Left
Pretest		cm	cm
Post Test		cm	cm
Difference		cm	cm
Right (Pretest)		cm	
Right (Post Test)		cm	
Right Difference		cm	
Pretest		cm	cm
Post Test		cm	cm
Difference		cm	cm

* Rehabilitation of the Hand, Surgery and Therapy, 5th Edition - Circumferential measurements of the hand and fingers or areas of swelling.

Opposition	Right	Index - WNL	Ring - WNL	Long - WNL	Small - WNL
Left		Index - WNL	Ring - WNL	Long - WNL	Small - WNL

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Functional Capacity Evaluation

Re: Mathew Edwards DOB: 04/11/1964

Insurance I.D. No.: #207

*American Academy of Orthopedic Surgeons - Tip of thumb to base of 1st or 2nd digit.

INDUSTRIAL REHAB DIVISION

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Dosher Physical Therapy Associates

Patient: Edwards, Matthew

Date of Birth:

Date of Onset: 7/16/2012

Date of Test: 4/23/2013

Referral: Eric Lowdermilk MD

Dictionary of Occupational Titles Residual Functional Capacity (DOT-RFC) Battery

Introduction:

This report is rendered as the result of Mr. Edwards's participation in a functional capacity evaluation (FCE) which occurred on Tuesday, April 23, 2013. This FCE is based on the Dictionary of Occupational Titles-Residual Functional Capacity (DOT-RFC) Battery. The DOT-RFC consists of a battery of job related tasks from job factors defined in the Dictionary of Occupational Titles (DOT). The DOT-RFC battery is one of the few functional capacity evaluations that has been published in peer reviewed journals^{1,2}. The DOT-RFC battery has the distinction of being published in two journals. The importance of publication in a peer reviewed journal cannot be overstated. Unlike the majority of unpublished functional capacity evaluations, the reliability and validity of the DOT-RFC battery has been established^{1,2}.

Definitions:

1. Dictionary of Occupational Titles (DOT) is a U.S. government publication that provides a description of occupational titles for most jobs in the United States, and establishes a strength classification for each of these occupations. These strength classifications are Sedentary, Light, Medium, Heavy, and Very Heavy.
2. Job Factors are specific job related tasks that are defined by the DOT for each occupation. These "job factors" include standing, walking, sitting, lifting, carrying, pushing, pulling, climbing, balancing, stooping, kneeling, crawling, handling, fingering, and feeling.
3. Residual Functional Capacity (RFC) is defined as "the patient's" performance potential for various activities of daily living and vocational tasks.
4. Demand Minimum Functional Capacity (DMFC) is defined as the "least" acceptable level of activity that an individual may possess before returning to work.

Overview:

The RFC accomplishes three specific tasks. First, it is used to establish the degree of a person's medical impairment. Second, it translates that impairment into functional limitations. Third, it determines a person's work capacity based upon those functional limitations. However, testing residual functional capacity may not accurately reveal that a person can return to a specific occupation, as each job description has a minimal or specific work capacity defined as the "demand minimal functional capacity" (DMFC). The DMFC is based on the physical demands of each occupation. This DMFC as established by Fishbain^{1,2} utilizes the DOT to standardize the Demand Minimum Functional Capacity. The establishing of standards allows for accurate assessment of determining if a person can return to an occupation. Therefore, individuals must be able to meet the established DMFC for each job factor as defined in the DOT in order to return to work. The establishing of values for the RFC distinguishes the DOT-RFC from other functional capacity evaluations that do not define the RFC.

Doshier Physical Therapy Associates

Patient: Edwards, Matthew

Date of Birth: 1/19/1964

Date of Onset: 7/16/2012

Date of Test: 4/23/2013

Referral: Eric Lowdermilk MD

Residual Functional Capacity Classifications:

The following statements reflect the functional status of Mr. Edwards on Tuesday, April 23, 2013. All statements pertain directly to the specific criteria for each activity performed under the DOT-RFC guidelines. The Demand Minimum Functional Capacity classification is stated when indicated:

1. Mr. Edwards stood for 30 minutes. His standing tolerance meets the Demand Minimum Functional Capacity requirement of standing for 30 minutes continuously.
2. Mr. Edwards sat for 30 minutes. His sitting tolerance meets the Demand Minimum Functional Capacity requirement of sitting for 30 minutes continuously.
3. Mr. Edwards walked for 1.0 mile. His walking tolerance meets the Demand Minimum Functional Capacity requirement of walking for one mile continuously (@ 2 mph).
4. Mr. Edwards has a maximum lifting capacity of 50.0 pounds. This places him into the medium category for lifting capacity (as defined by the DOT).

Mr. Edwards has an occasional lifting capacity (0% to 33% of the workday) of 50.0 pounds. His frequent lifting capacity (34% to 66% of the workday) is 25.0 pounds. His constant lifting capacity (67% to 100% of the workday) is 10.0 pounds.
5. Mr. Edwards has a maximum carrying capacity of 50.0 pounds.

Since Mr. Edwards fell into a higher DOT category (heavy) for carrying than he did for lifting (medium), the lower DOT category (medium) is chosen to ensure patient safety. Therefore, the revised carrying capacities are as follows:

Mr. Edwards has an occasional carrying capacity (0% to 33% of the workday) of 25.0 pounds. His frequent carrying capacity (34% to 66% of the workday) is 12.5 pounds. His constant carrying capacity (67% to 100% of the workday) is 5.0 pounds.
6. Mr. Edwards has a pushing capacity of 100.0 pounds. His pushing capacity meets the Demand Minimum Functional Capacity requirement of 100 pounds.
7. Mr. Edwards has a pulling capacity of 100.0 pounds. His pulling capacity meets the Demand Minimum Functional Capacity requirement of 80 pounds.
8. Mr. Edwards does meet the Demand Minimal Functional Capacity requirement of standing on a narrow beam for at least 30 seconds.
9. Mr. Edwards does not meet the Demand Minimal Functional Capacity requirement of crouching on a narrow beam for at least 30 seconds.
10. Mr. Edwards does meet the Demand Minimal Functional Capacity requirement of walking on a narrow beam for at least 6 feet.
11. Mr. Edwards was able to reach for objects in all directions with both arms. His reaching ability does meet the Demand Minimum Functional Capacity requirement of reaching with the left and/or right arm.



Dosher Physical Therapy Associates

Patient: Edwards, Matthew

Date of Birth

Date of Onset: 7/16/2012

Date of Test: 4/23/2013

Referral: Eric Lowdermilk MD

12. Mr. Edwards was able to climb up and down one flight of stairs. Mr. Edwards does meet the Demand Minimum Functional Capacity requirement of climbing up and down one flight of stairs.
13. Mr. Edwards's crouching ability does meet the Demand Minimum Functional Capacity requirement of stooping at least 75° while bending both knees.
14. Mr. Edwards's stooping ability meets the Demand Minimum Functional Capacity requirement of flexing the trunk at least 75 degrees.
15. Mr. Edwards did meet the Demand Minimum Functional Capacity requirement of kneeling on one knee and on both knees.
16. Mr. Edwards is able to crawl on hands and knees, but he is not able to crawl on hands and feet. He does meet the Demand Minimum Functional Capacity requirement of crawling on hands and knees for six feet, but does not meet the Demand Minimum Functional Capacity requirement of crawling on hands and feet for six feet.
17. Mr. Edwards is able to seize an object with either hand. He meets the Demand Minimum Functional Capacity requirement of seizing an object using either hand.
18. Mr. Edwards is able to hold an object with either hand. He meets the Demand Minimum Functional Capacity requirement of holding an object using either hand.
19. Mr. Edwards is able to grasp an object with either hand. He meets the Demand Minimum Functional Capacity requirement of grasping an object using either hand.
20. Mr. Edwards is able to turn an object with either hand. He meets the Demand Minimum Functional Capacity requirement of turning an object using either hand.
21. Mr. Edwards is able to pick up a nut using all fingers of either hand. He meets the Demand Minimum Functional Capacity requirement of picking up a nut using all fingers of either hand.
22. Mr. Edwards has a left hand tip pinching capacity of 23.0 pounds. His left hand tip pinching capacity meets the Demand Minimum Functional Capacity requirement of 8 pounds.
Mr. Edwards has a right hand tip pinching capacity of 24.0 pounds. His right hand tip pinching capacity meets the Demand Minimum Functional Capacity requirement of 8 pounds.
23. Mr. Edwards has a left hand key pinching capacity of 25.0 pounds. His left hand key pinching capacity meets the Demand Minimum Functional Capacity requirement of 9 pounds.
Mr. Edwards has a right hand key pinching capacity of 28.0 pounds. His right hand key pinching capacity meets the Demand Minimum Functional Capacity requirement of 9 pounds.
24. Mr. Edwards has a left hand Palmer (3-Chuck) pinching capacity of 240.0 pounds. His left hand Palmer (3-Chuck) pinching capacity meets the Demand Minimum Functional Capacity requirement of 9 pounds.
Mr. Edwards has a right hand Palmer (3-Chuck) pinching capacity of 27.0 pounds. His right hand Palmer (3-Chuck) pinching capacity meets the Demand Minimum Functional Capacity requirement of 9 pounds.



Doshier Physical Therapy Associates

Patient: Edwards, Matthew

Date of Birth

Date of Onset: 7/16/2012

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Referral: Eric Lowdermilk MD

25. Mr. Edwards is able to recognize different shapes with his hands. He meets the Demand Minimum Functional Capacity requirement of tactile shape recognition without visual assistance.
26. Mr. Edwards is able to recognize different sizes with his hands. He meets the Demand Minimum Functional Capacity requirement of tactile size recognition without visual assistance.
27. Mr. Edwards is able to distinguish between hot and cold with his hands. He meets the Demand Minimum Functional Capacity requirement of tactile temperature recognition without visual assistance.
28. Mr. Edwards is able to recognize different textures with his hands. He meets the Demand Minimum Functional Capacity requirement of tactile texture recognition without visual assistance.

Report Summary

Strength Category:

The Dictionary of Occupational Titles places Mr. Edwards's occupation as a State-Highway Police Officer in the medium strength category. Therefore, Mr. Edwards meets these strength requirements and may return to work as a State-Highway Police Officer.

Based on the strength classifications as established by the Dictionary of Occupational Titles, Mr. Edwards is capable of assuming a position in the medium strength category. His maximum lifting capacity is 50.0 pounds, and his maximum carrying capacity is 25.0 pounds. According to the Dictionary of Occupational Titles, the medium strength category is defined as having the ability to lift 20 to 50 pounds and carry 10 to 25 pounds.

Job Factor Restrictions:

In order for Mr. Edwards to successfully return to work as a State-Highway Police Officer, the following job factor restrictions must be met:

- No balancing activities that require crouching. (reference section 9)
- No crawling on hands and feet. (reference section 16)

Patient Strength Capacities			
Strength Category: Medium			
	Occasional	Frequent	Constant
Lifting	50 pounds	25 pounds	10 pounds
Carrying	25 pounds	13 pounds	5 pounds

Doshier Physical Therapy Associates

Patient: Edwards, Matthew

Date of Birth: _____

Date of Onset: 7/16/2012

Date of Test: 4/23/2013

Referral: Eric Lowdermilk MD

Clinician Comments:

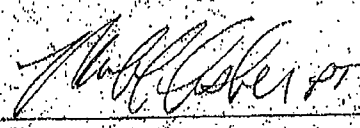
Pt reports he was injured on July 16, 2012 while at work when he slipped going down stairs. He was treated with chiropractic treatments and injections in the emergency room. He also underwent epidural steroid injection without relief leading to lumbar laminectomy October 1, 2012 by Michael Bucci MD. Pain has persisted throughout physical therapy and he underwent a Racz catheter on Feb. 14, 2013. He has been in rehabilitation since surgery. Present medications include Tylenol as needed. Pt lives in a single level home with his wife and child. He is independent with all ADL's and drives independently. Resting HR is 77 bpm. Resting BP is 116/70. Resting pain level is 5/10. Pt presents into the clinic ambulating in an antalgic gait pattern with an abducted stance. He does not use an assistive device. He has functional AROM of bilateral upper extremities and lower extremities. He is independent with all transfers. Post walking one mile @ 2.3m/hr, HR was increased to 106 bpm (38% increase). AROM TESTING of the Lumbar spine reveals DEFICITS as noted in the report. STRENGTH TESTING of the Right LE vs Left reveals DEFICITS of 43% R Hamstrings and 73% R Quadriceps with ACCEPTABLE coefficient of variation. Following MATERIAL HANDLING TESTING, HR increased to 136 bpm (77% increase). His self scored Oswestry Score reveals his interpretation of disability as MODERATE. Pt displayed 0/5 Waddell's signs. Increases in heart rate, sweating and low coefficient of variation support sincerity of effort and VALID results.

Michael Doshier PT

1905

Provider:

License #:

Signature: 

References:

- 1) Fishbain DA, et al. Measuring residual functional capacity in chronic low-back pain patients based on the Dictionary of Occupational Titles, Spine 1994;19(8):872-880.
- 2) Fishbain DA, et al. Validity of the Dictionary of Occupational Titles-Residual Functional Capacity Battery, Clinical Journal of Pain 1999;15(2):102-110.
- 3) U.S. Department of Labor, Employment and Training Administration. Dictionary of Occupational Titles, 4th edition: Supplement. Washington, DC: U.S. Government Printing Office, 1986.

Dosher Physical Therapy Associates

Patient: Edwards, Matthew

Date of Onset: 07/16/12

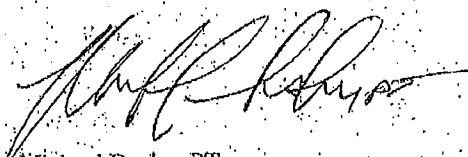
Date of Birth:

Referring Physician: E. Lowdermilk MD

4/23/2013

MATERIAL HANDLING SUMMARY

LIFT	OCCASSIONAL	FREQUENT	CONSTANT	CLASSIFICATION
FLOOR TO KNUCKLE	50 lbs	25 lbs	10 lbs	Medium
LNUCKLE TO SHOULDER	50 lbs	25 lbs	10 lbs	Medium
SHOULDER TO OVERHEAD	60 lbs	30 lbs	12 lbs	Heavy
CARRYING	50 lbs	25 lbs	10 lbs	Heavy

Michael Dosher PT
SC lic# 1905

Dosher Physical Therapy Associates

Oswestry Low-Back Pain Progress Report (Original Version)

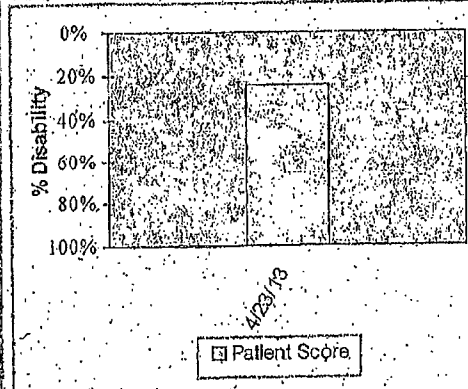
Patient: Edwards, Matthew

Date of Onset: 7/16/2012

The Oswestry Low Back Disability Index is a self-administered questionnaire that quantifies the degree of disability of individuals with low back pain¹. The Oswestry Low Back Disability Index consists of ten sections that assess pain and limitations in activities of daily living. These ten sections are pain intensity, personal care, lifting, walking, standing, sleeping, sex life, social life and travel. Each section consists of 6 possible choices and is scored on a 0 to 5 point ordinal scale. The first choice for each question is scored as 0 (no disability) and the last choice is scored as 5 (complete disability). Overall scores range from 0% (no disability) to 100% (complete disability).

Interpretation of test results is as follows: Minimal Disability (1-20%), Moderate Disability (21-40%), Severe Disability (41-60%), Crippled (61-80%), and Complete disability (81-100%). The Oswestry Low Back Disability Index is a well known outcome measure used for treatment planning, monitoring progress, and to determine one's disability as it relates to his or her daily functional activities. This test has a strong test retest reliability and the individual items have a strong internal consistency¹. The study for validity was done on 25 patients suffering from their first attack of back pain. The scores over 3 weeks of recovery followed the expected improvement curve indicating strong concurrent validity¹.

Low Back Disability Score



Date of Exam	Patient's Disability	No Disability	Percent Progress	Disability Interpretation
4/23/13	24.0%	0.0%	Baseline	Moderate

Testing By: Dosher Physical Therapy Associates
Lower scores indicate less low back disability.

References

- 1) Falibanks JCT, Cooper JD, Davis JB, O'Brien JR. The Oswestry disability questionnaire. Physiotherapy. 1980;66:271-273.

Dosher Physical Therapy Associates

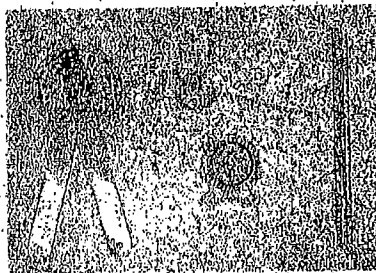
Active Range of Motion Progress Report

Patient: Edwards, Matthew

Date of Onset: 7/16/2012

The measurement of joint range of motion (ROM) provides information that will affect many facets of physical rehabilitation and orthopedic medicine. The data obtained from ROM measurements may be used for comparison against normal predetermined values to establish joint motion deficits, and to monitor patient improvement/progress. Examination of joint range of motion will help identify and quantify impairments. This information will assist with establishing or altering the patient's diagnosis, and is employed to assist with determining a patient's plan of care. The pre-determined method established by the American Medical Association, and the American Academy of Orthopedic Surgeons, measures active range of motion (AROM). Therefore, measurements of this patient's range of motion is in conformance with this AROM method. AROM is defined as the unassisted voluntary movement of a joint.

The instruments used to measure ROM are the universal goniometers, inclinometers, and tape measures (ruler). The most common values that these devices produce are represented in degrees, centimeters, millimeters, and inches. Normative data has been published by the American Academy of Orthopedic Surgeons (AAOS), Joint Motion: Method of Measuring and Recording (1), and the American Medical Association (AMA), Guides to the Evaluation of Permanent Impairment (2). Reliability and validity of range of motion measurements have demonstrated to be good to excellent (3-8).



References

- 1) American Academy of Orthopedic Surgeons: Joint Motion: Method of Measuring and Recording, Chicago, AAOS, 1964.
- 2) American Medical Association: Guides to the Evaluation of Permanent Impairment, 5th ed., AMA, 2002.
- 3) Boone DC, Azén SP, Lin C, et al. Reliability of goniometric measurements. Phys Ther 1978;58:1355-1360.
- 4) Greene BL, Wolf SL. Upper extremity joint movement: comparison of two measurement devices. Arch Phys Med Rehabil 1989;70:288-290.
- 5) Rheault W, Miller M, Nothnagel P, et al. Intertester reliability and concurrent validity of fluid-based and universal goniometers for active knee flexion. Physiotherapy 1991;77:89-91.
- 6) Clapper MP, Wolf SL. Comparison of the reliability of the orthoranger and the standard goniometer for assessing active lower extremity range of motion. Phys Ther 1988;68:214-218.
- 7) Mayer T, Brady S, Boyasso B, et al. Noninvasive measurement of cervical tri-planar motion in normal subjects. Spine 1993;18:2191-2195.
- 8) Mayer TG, Tencer AR, Kristoferson S, et al. Use of noninvasive techniques for quantification of spinal range of motion in normal subjects and chronic low back dysfunction patients. Spine 1984;9:588-595.

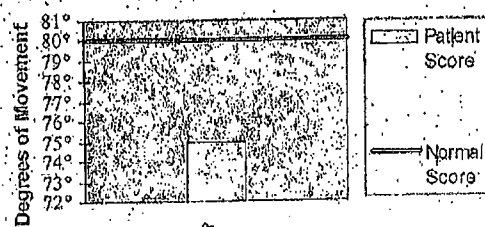
Dosher Physical Therapy Associates

AAOS Thoraco-Lumbar Spine Range of Motion Progress Report

Patient: Edwards, Matthew

Date of Onset: 7/16/2012

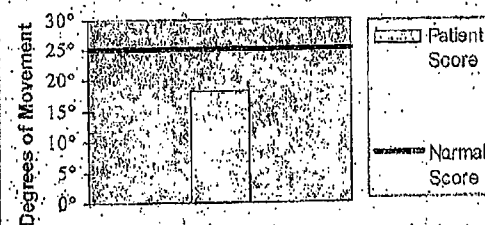
Thoraco-Lumbar Flexion



Date of Exam	Patient Score	Normal Score	Percent Improvement	Percent Deficit
4/23/13	75.0°	80.0°	Baseline	6.25%

Testing By: Dosher Physical Therapy Associates
Normative Data: American Academy of Orthopedic Surgeons¹

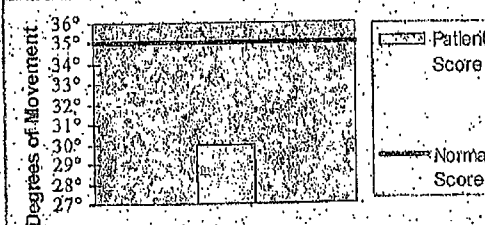
Thoraco-Lumbar Extension



Date of Exam	Patient Score	Normal Score	Percent Improvement	Percent Deficit
4/23/13	18.0°	25.0°	Baseline	28.00%

Testing By: Dosher Physical Therapy Associates
Normative Data: American Academy of Orthopedic Surgeons¹

Thoraco-Lumbar Left Lateral Flexion



Date of Exam	Patient Score	Normal Score	Percent Improvement	Percent Deficit
4/23/13	30.0°	35.0°	Baseline	14.29%

Testing By: Dosher Physical Therapy Associates
Normative Data: American Academy of Orthopedic Surgeons¹

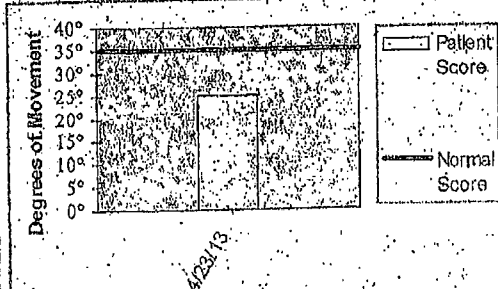
Dosher Physical Therapy Associates

AAOS Thoraco-Lumbar Spine Range of Motion Progress Report

Patient: Edwards, Matthew

Date of Onset: 7/16/2012

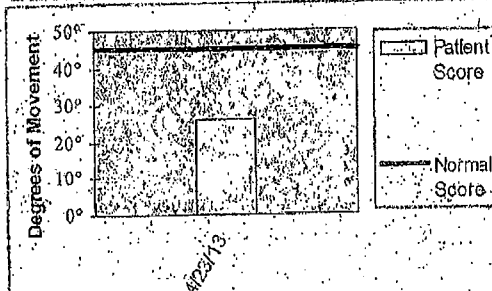
Thoraco-Lumbar Right Lateral Flexion



Date of Exam	Patient Score	Normal Score	Percent Improvement	Percent Deficit
4/23/13	25.0°	35.0°	Baseline	28.57%

Testing By: Dosher Physical Therapy Associates
Normative Data: American Academy of Orthopedic Surgeons¹

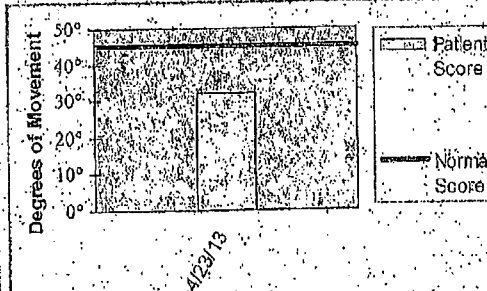
Thoraco-Lumbar Left Rotation



Date of Exam	Patient Score	Normal Score	Percent Improvement	Percent Deficit
4/23/13	26.0°	45.0°	Baseline	42.22%

Testing By: Dosher Physical Therapy Associates
Normative Data: American Academy of Orthopedic Surgeons¹

Thoraco-Lumbar Right Rotation



Date of Exam	Patient Score	Normal Score	Percent Improvement	Percent Deficit
4/23/13	32.0°	45.0°	Baseline	28.89%

Testing By: Dosher Physical Therapy Associates
Normative Data: American Academy of Orthopedic Surgeons¹

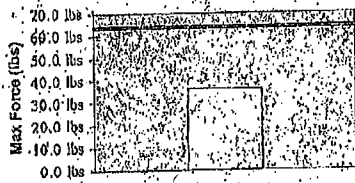
Dosher Physical Therapy Associates

Right Knee Hand Held Dynamometry Progress Report

Patient: Edwards, Matthew

Date of Onset: 7/16/2012

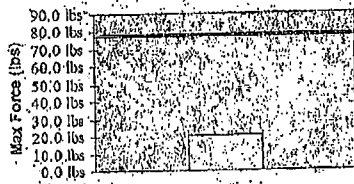
Right Knee Flexion



Date of Exam	Affected Knee (Right)	Unaffected Knee (Left)	Coefficient of Variation	Percent Improvement	Percent Deficit
4/23/13	36.3 lbs.	63.7 lbs.	8.8%	First Test	42.9%

Testing By: Dosher Physical Therapy Associates

Right Knee Extension



Date of Exam	Affected Knee (Right)	Unaffected Knee (Left)	Coefficient of Variation	Percent Improvement	Percent Deficit
4/23/13	20.8 lbs.	78.3 lbs.	8.4%	First Test	73.4%

Testing By: Dosher Physical Therapy Associates

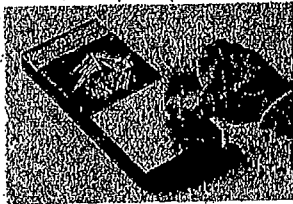
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Dosher Physical Therapy Associates

Grooved Pegboard Test Progress Report

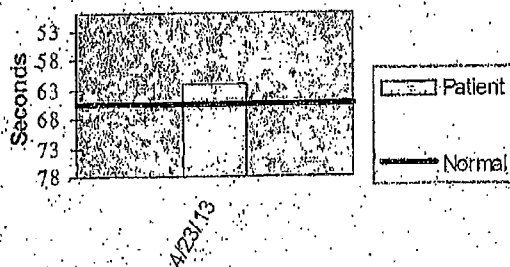
Patient: Edwards, Matthew

Date of Onset: 7/16/2012



The Grooved Pegboard Test measures motor speed and eye-hand coordination. Twenty-five grooved metal pegs are placed in an array of 25 slotted holes as quickly as possible. The number of seconds required to place the 25 pegs into the slotted holes is tallied and compared against normative data for the test. Each hand is timed and recorded separately.

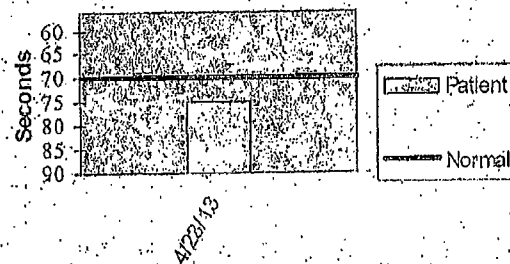
Dominant Hand Score - Right Hand



Date of Exam	Patient Score	Normal Score	Percent Improvement	Percent Deficit
4/23/13	62.0 sec.	65.7 sec.	Baseline	No Deficit

Testing By: Doshier Physical Therapy Associates
Normative Score is generalized for the entire population
Lower scores indicate greater performance

Non-Dominant Hand Score - Left Hand



Date of Exam	Patient Score	Normal Score	Percent Improvement	Percent Deficit
4/23/13	75.0 sec.	70.0 sec.	Baseline	7.1%

Testing By: Doshier Physical Therapy Associates
Normative Score is generalized for the entire population
Lower scores indicate greater performance

References

- 1) Ruff RM, Parker SB. Gender and age specific changes in motor speed and eye-hand coordination in adults; normative values for the finger tapping and grooved pegboard tests. Perception and Motor Skills. 1993;76:1219-1230.
- 2) Photo courtesy Sammons Preston.

Dosher Physical Therapy Associates

Hand Held Dynamometry

Patient: Edwards, Matthew

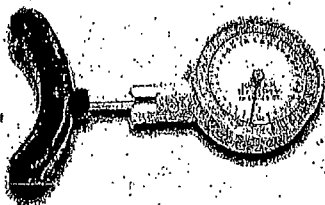
Date of Onset: 7/16/2012



Hand Held Dynamometry (HHD) employs a portable hand-held device that measures mechanical force. Hand Held Dynamometry measures an individual's muscle performance. The test positions used for Hand Held Dynamometry are derived from those employed for Manual Muscle Testing. Hand Held Dynamometry provides a quantitative measurement of the patient's force in pounds or kilograms. During the Hand Held Dynamometry examination, patients are typically asked to push against the clinician performing a maximal isometric contraction (make test), or hold a position until the clinician overpowers the tested muscle (break test).

Reliability and validity of Hand Held Dynamometry has been established (1-5). Hand Held Dynamometry is an objective and accurate method in measuring maximal isometric strength in healthy individuals and individuals with neurologic disorders and orthopedic conditions.

Test Procedure: Each position tested consists of three trials. The maximum isometric force of each trial is recorded and averaged. To ensure maximum effort is generated by the patient, a coefficient of variation is calculated. A coefficient of variation of less than 10% for males and 12% for female has been suggested to reflect maximum effort during testing (6).



References

- 1) Bohannon RW, Andrews AW. Interrater reliability of hand held dynamometry. *Phys Ther*. 1987;67(6):931-941.
- 2) Kilmer DD, McCort MA, Wright NC, et al. Hand-held dynamometry reliability in persons with neuropathic weakness. *Arch Phys Med Rehabil*. 1997;78(12):1364-1368.
- 3) Trudelle-Jackson B, Jackson AW, Frankowski CM, et al. Interdevice reliability and validity assessment of the Nicholas Hand-Held Dynamometer. *J Orthop Sports Phys Ther*. 1994;20(6):302-306.
- 4) Surburg PR, Shohl R, Poppy WK. Validity and reliability of a hand held dynamometer applied to adults with mental retardation. *Arch Phys Med Rehabil*. 1992;73(6):535-539.
- 5) Bohannon RW. Test-retest reliability of hand-held dynamometry during a single session of strength assessment. *Phys Ther*. 1986;66(2):206-209.
- 6) Matheson LN. How do you know that he tried his best? Reliability crisis in industrial rehabilitation. *Indus Rehab Q*. 1988;1(1):11-12.
- 7) Photo courtesy GNR.
- 8) MediClip image copyright 2002 Lippincott Williams & Wilkins. All Rights Reserved.

PIEDMONT COMPREHENSIVE PAIN MANAGEMENT GROUP, LLC
PROGRESS NOTE

PATIENT: EDWARDS, MATTHEW
PHYSICIAN: Eric Loudermilk, M.D.
SSN:

DOS: 06/05/15
DOD: 06/05/15
DOT: 06/06/15

Mr. Edwards is an unfortunate 34-year-old gentleman with failed back syndrome and chronic low back and right leg pain due to permanent nerve damage who returns today for followup and refill of his medications. He takes Ultracet as needed, but is not taking any other medications due to the lack of tolerance and effect. We are in the process of trying to get approval for a trial of spinal cord stimulation. I feel this is the obvious best step in his treatment. If we can improve the pain in his back and right leg, it will improve his quality of life by increasing his activity. He was recently evaluated by a vocational rehabilitation specialist and told that he could be a security guard as well as other different job positions; however I doubt any company would ever hire him as a security guard since he requires use of a cane. I have never seen a security guard using a cane. Mr. Edwards would have a very difficult time finding any type of gainful employment in his current predicament. He is using compounded cream on his right leg which helped some and I plan to reorder the cream today. I feel that if he does well with the trial of spinal cord stimulation, this could definitely improve his quality of life and perhaps even allow him to return back to a status of gainful employment. He will need psychological evaluation and clearance and we will need to get approval through his Workmen's Compensation adjustor. I really see no other good treatment options for him at this time.

Assessment: Lumbar post laminectomy syndrome with persistent severe pain in the lower back and right leg secondary to epidural fibrosis and scar tissue and permanent nerve injury.

Plan:

1. He may continue Ultracet p.r.n. for pain and I reordered a compounded cream.
2. I scheduled a trial of spinal cord stimulation in about three weeks and we will try to arrange for psychological evaluation and clearance provided we have approval through his Workmen's Compensation adjustor.



Eric Loudermilk, M.D.

EL/DTI MA X255289

Dictated - Not Read

cc: Attorney, Kirk Moorhead

964-0788

P.S. Chiropractic, Inc
430 Hampton Ave
Pickens, SC 29671
Phone: 864-878-8190
Fax: 864-878-6800

Shortened Soap report

Matthew Edwards 5025

Date of Visit: 7/17/2012

Date of Onset: 7/16/2012

- * Low Back Pain - 8, Neck Pain - 4, Mid Back Pain - 3
- * Restricted motion, tenderness, inflammation was found in right C2, C5-6, T4-6,
- * After today's assessment condition is guarded. At this time Patient's prognosis is excellent.
- * Manipulated right C2, C5-6, T4-6, L4-5 and SI.

Date of Visit: 7/18/2012

Date of Onset: 7/16/2012

- * Low Back Pain - 8, Neck Pain - 4, Mid Back Pain - 3 Pt. states that he felt good yesterday after the adj. but he woke up this morning feeling a little stiff and sore.
- * Restricted motion, tenderness, inflammation was found in right C2, C5-6, T4-6,
- * After today's assessment condition is guarded. At this time Patient's prognosis is excellent.
- * Manipulated right C2, C5-6, T4-6, L4-5 and SI.

Date of Visit: 7/20/2012

Date of Onset: 7/16/2012

- * Low Back Pain - 8, Neck Pain - 4, Mid Back Pain - 3 Pt. states that he felt good yesterday after the adj. but he woke up this morning feeling a little stiff and sore.
- * Restricted motion, tenderness, inflammation was found in right C2, C5-6, T4-6,
- * After today's assessment condition is guarded. At this time Patient's prognosis is excellent.
- * Manipulated right C2, C5-6, T4-6, L4-5 and SI.

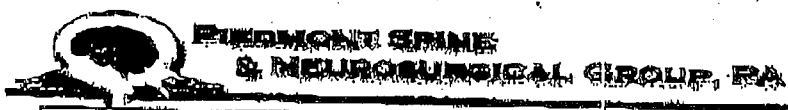
Date of Visit: 7/23/2012

Date of Onset: 7/16/2012

- * Low Back Pain - 8, Neck Pain - 4, Mid Back Pain - 3 Pt. states that his low back is pretty bad today.
- * Restricted motion, tenderness, inflammation was found in right C2, C5-6, T4-6,
- * After today's assessment condition is guarded. At this time Patient's prognosis is excellent.
- * Manipulated right C2, C5-6, T4-6, L4-5 and SI.

00374

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Michael W. Buccl, M.D., F.A.C.S. Chdeilo B Mina, M.D. H. Earle Russell Jr, M.D.
 Larry S. Davidson, M.D.
 351, Francis Dr, Suite 400 Greenville, SC 29601
 864-220-4283 phone 864-220-5836 fax

Leave of Absence/Return to Work

Matthew Edwards was seen in our office on 01.03.13 with a
 diagnosis of Lumbar HNP

- ☐ Please excuse him/her from work/school today.
- ☐ The patient will be unable to perform the duties of his/her occupation from _____ through _____ inclusive. An appointment for reassessment has been scheduled for the patient on _____ and the status of occupational abilities will be reviewed at that time.
- ☐ The patient requires surgical intervention and has been scheduled for surgery on _____. The patient will be unable to perform duties of his/her occupation from _____ to _____ inclusive. Reassessment of the patient's occupational abilities will be performed at the first scheduled post-op appointment approximately six to eight weeks after surgery.
- ☒ Patient may return to work/school on 01.07.13.

The following restrictions apply:

- ☐ No restrictions.
- ☐ No heavy lifting above _____ lbs.
- ☐ 2-5 lb weight limit, no bending, twisting, overhead work, or ladder climbing.
 Position changes every 30 minutes.
- ☒ Other Light duty

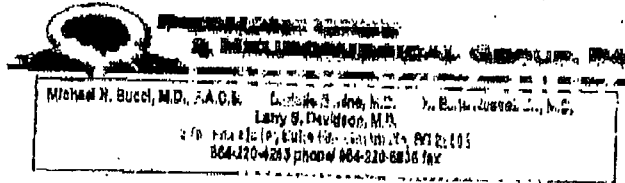
Michael W. Buccl
 Physician's Signature

01.03.13
 Date

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Jan 4 7:20 AM

Attention
Brenna



Leave of Absence/Return to Work

Matthew Edwards was seen in our office on 01.03.13 with a
diagnosis of Lumbar HNP

- ☐ Please excuse him/her from work/school today.
- ☐ The patient will be unable to perform the duties of his/her occupation from through inclusive. An appointment for reassessment has been scheduled for the patient on and the status of occupational abilities will be reviewed at that time.
- ☐ The patient requires surgical intervention and has been scheduled for surgery on . The patient will be unable to perform duties of his/her occupation from to inclusive. Reassessment of the patient's occupational abilities will be performed at the first scheduled post-op appointment approximately six to eight weeks after surgery.

☒ Patient may return to work/school on 01.07.13

The following restrictions apply:

- ☐ No restrictions.
- ☒ No heavy lifting above 30 lbs. with
- ☐ 2-5 lb weight limit, no bending, twisting, overhead work, or ladder climbing. Position changes every 30 minutes.

☒ Other Light duty

1-4-13 added 30 lb weight limit

Michael H. Buch
Physician's Signature

01.03.13
Date

FAXED

Piedmont Spine and Neurosurgical Group, P.A.

3 St. Francis Dr. Suite 490
Greenville, SC 29601
Phone: (864) 220-4263
Fax: (864) 220-5836

HISTORY AND PHYSICAL REPORT

Matthew C Edwards

ID: 233700

DOB:

Date of Encounter: 12/30/2014 09:21 AM

History of Present Illness

Patient words: The patient returns for reevaluation. He was sent to pain management. Unfortunately he still describes back pain and right leg pain. MRI scanning in June 2014 shows widespread degenerative disc disease without spinal stenosis or disc herniation.

The patient is a 34 year old male

History

Allergy

Demerol *ANALGESICS - OPIOID*

Past Medical

Patient reports negative past medical history

Conservative Treatment

Social

Non smoker / no tobacco use

No alcohol use

RIGHT HANDED

Current Work/Study Status

Medications

Aleve Active.

Family

Diabetes

Cancer

High Blood Pressure

Review of Systems

All other systems negative

Physical Exam

The physical exam findings are as follows:

Integumentary

Incision healing well without signs of redness, swelling, drainage or dehiscence

Neurologic

Sensory: - Normal.

Motor:

Tone: - Normal.

Strength: 5/5 normal muscle strength - All Muscles.

Reflexes (Dermatomes): 2/2 Normal - All.

Plantar Reflexes (L4-S2) - Bilateral - Flexion. Coordination - Normal. Gait - Normal.

Use of a cane chronically and right foot numbness.

Matthew C Edwards

Patient #: 233700

DOB: 06/18/1980 (34 years)

Tuesday, February 10, 2015

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Assessments

- LUMBAR DDD (722.52)
- LUMBAR RADICULOPATHY (724.4)
- REVIEW OF FILMS (V72.5)

FOLLOW UP AS NEEDED FOLLOW-UP AS NEEDED

Assessment/Plan Note: Nonsurgical situation at present

Michael N. Buccì

Michael N Buccì MD

Matthew C Edwards

Patient #: 233700

DOB: 06/18/1980 (34 years)

Tuesday, February 10, 2015

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Piedmont Comprehensive Pain Mgt. Group
Director - Dawn L. Huo Ph.D.
100 Healthy Way
Suite 1260
Anderson, SC 29621

Patient: Edwards, Matthew Corvel Scan Date: 6/18/2014
Patient ID: MF06181980
DOB: Age: 33
Sex: Male
Location: Laboratory
Provider: Loudermilk, Eric MD
Phone:
C: 803.235.6015
884.235.6015

Sample #: 3256
Collected By: TS
Final Report Date: 06/06/2014 15:25

Report Printed: 06/13/2014 13:21
Specimen Collected Date: 06/04/2014 14:28
Specimen Received Date: 06/06/2014 14:10
Sample Type: Urine Priority: Routine

Test	Result	Flags	Units	Normal
Profile = Drug Screen				
Amphetamine	Negative			Cutoff 1000 ng/ml
Barbiturate	Negative			Cutoff 200 ng/ml
Buprenorphine	Negative			Cutoff 5.0 ng/ml
Benzodiazepine	Negative			Cutoff 150 ng/ml
Carisoprodol	Negative			Cutoff 100 ng/ml
Cocaine	Negative			Cutoff 100 ng/ml
Ethanol	Negative			Cutoff 100 mg/dl
Methamphetamine	Negative			Cutoff 1000 ng/ml
Methadone	Negative			Cutoff 300 ng/ml
Opiate	Negative			Cutoff 100 ng/ml
Oxycodone	Negative			Cutoff 100 ng/ml
THC	Negative			Cutoff 50 ng/ml
Tramadol	Negative			Cutoff 200 ng/ml
Gabapentin	Negative			Cutoff 2500 ng/ml
pH	6.1			4.5-8.5
Urine Creatinine	pH values < 3.0 or > 11.0 are considered adulterated 57 >20 mg/dL consistent with human urine sample 6-20 mg/dL possible diluted urine sample < 6 mg/dL possible substituted urine sample > 300 mg/dL consider clinical investigation		mg/dL	

Sample Comments
Patient Meds: Ultracet.

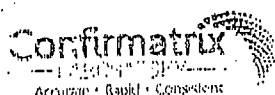
End Of Report
Screening test done by High Complex Method,
Performed By: [DRUG1 - LAG]

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864-235-6015

CC: Z003/19

6.30.14



Laboratory Report

Laboratory Director Stanley Y. Wu, Ph.D., NRCC-TC
CJA Number 11D2047928
1770 Cedars Rd., Suite 200
Lawrenceville, GA 30045
(678) 407-9118 - Fax (678) 407-9819

Clinic Information

Client: Piedmont Comprehensive Pain Ma
P.O. Box 1209
Anderson, SC 29621
Requesting Physician / Practitioner:
Loudermilk, Eric MD

Patient Information

Patient Name: Edwards, Matthew
Patient ID: 161190
Date of Birth:
Male/Female: Male

Sample Information

Lab Sample ID: 1406100236.
Specimen Type: Urine
Collected: 06/04/14
Received: 06/10/14
Reported: 06/11/14

Medications Prescribed

Tested For	Result	Quantitation	Normalization	Outcome	Cutoff
Ultracet					
Amphetamines/Stimulants/ADHD					
Methamphetamine	Negative				100 ng/mL
Amphetamine	Negative				500 ng/mL
Barbiturates					
Bulbital	Negative				100 ng/mL
Phenobarbital	Negative				100 ng/mL
Anticonvulsants and other neurologic meds					
Gabapentin	Negative				1000 ng/mL
Pregabalin	Negative				150 ng/mL
Muscle Relaxants					
Carisoprodol	Negative				100 ng/mL
Meprobamate	Negative				200 ng/mL
Alcohol					
Ethyl Glucuronide	Negative				500 ng/mL
Ethyl Sulfate	Negative				200 ng/mL
Illicit Drugs					
Benzoyllecgonine	Negative				50 ng/mL
PCP	Negative				10 ng/mL
THC-COOH	Negative				15 ng/mL
MDMA	Negative				100 ng/mL
Opiates/Opioids					
Hydrocodone	Negative				50 ng/mL
Hydromorphone	Negative				50 ng/mL
Dihydrocodone	Negative				50 ng/mL
Norhydrocodone	Negative				50 ng/mL
Morphine	Negative				50 ng/mL
Codeine	Negative				50 ng/mL
Oxycodone	Negative				60 ng/mL
Noroxycodone	Negative				50 ng/mL
Oxymorphone	Negative				50 ng/mL
Methadone	Negative				100 ng/mL
EDDP	Negative				100 ng/mL
Propoxyphene	Negative				100 ng/mL
Norpropoxyphene	Negative				100 ng/mL
Fentanyl	Negative				2 ng/mL
Norfentanyl	Negative				8 ng/mL
Meperidine	Negative				50 ng/mL
Normeperidine	Negative				100 ng/mL
Buprenorphine	Negative				10 ng/mL
Norbuprenorphine	Negative				20 ng/mL
Tramadol	NEGATIVE			INCONSISTENT	100 ng/mL
Tapentadol	Negative				50 ng/mL
Norlapentadol	Negative				50 ng/mL
Benzodiazepines					
Alprazolam	Negative				20 ng/mL
A-hydroxylprazolam	Negative				20 ng/mL
Diazepam	Negative				50 ng/mL

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Corvel Scan Date: 6/27/2014



Laboratory Report

Laboratory Director Stanley Y. Wu, Ph.D., NRCC-TC
(LIA Number 11D2047828)
170 Cedars Rd., Suite 200
Lawrenceville, GA 30045
(678) 407-9118 • Fax (678) 407-9819

Clinic Information

Client: Piedmont Comprehensive Pain Ma
P.O. Box 1209
Anderson, SC 29621
Requesting Physician / Practitioner:
Loudemilk, Eric MD

Patient Information

Patient Name: Edwards, Matthew
Patient ID: 161190
Date of Birth:
Male/Female: Male

Sample Information

Lab Sample ID: 1408100236
Specimen Type: Urine
Collected: 06/04/14
Received: 06/10/14
Reported: 06/11/14

Medications Prescribed

Ultracet

Tested For	Result	Quantitation	Normalization	Outcome	Cutoff
Nordiazepam	Negative				40 ng/mL
Clonazepam	Negative				40 ng/mL
7-Aminoclonazepam	Negative				100 ng/mL
Lorazepam	Negative				50 ng/mL
Oxazepam	Negative				40 ng/mL
Temazepam	Negative				50 ng/mL
Midazolam	Negative				50 ng/mL
A-Hydroxymidazolam	Negative				50 ng/mL
Triazolam	Negative				50 ng/mL
A-Hydroxytriazolam	Negative				50 ng/mL
Sleep aids and non-benzodiazepine anxiolytics					
Zolpidem	Negative				10 ng/mL
Carboxyzolpidem	Negative				50 ng/mL

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PIEDMONT COMPREHENSIVE PAIN MANAGEMENT GROUP, LLC
PROGRESS NOTE

PATIENT: EDWARDS, MATTHEW
PHYSICIAN: Eric Loudermilk, M.D.
SSN:

DOS: 04/20/15
DOD: 04/20/15
DOT: 04/20/15

Mr. Edwards is an unfortunate 34-year-old gentleman with failed back syndrome and chronic right leg pain due to permanent nerve damage who returns for followup and refill of his medications. He takes Ultracet as needed, but this only helps the pain "some". He has simply not tolerated medications well and he is not a "medication person". We have discussed numerous times the possibility of spinal cord stimulation and I really see no other good options for him. He wishes to proceed with a trial of spinal cord stimulation to see if it takes the pain away to a significant degree. I feel this is the next step in his treatment and I really cannot think of any other good options for him since we have tried virtually all of the neuropathic medications. I plan to make arrangements for a trial of spinal cord stimulation in two to three weeks provided we have approval through his Workmen's Compensation adjuster. Matthew is sleeping very poorly at night due to the pain, but he does not want to take any medications. I plan to continue Ultracet and we will attempt to get approval for the Boston Scientific spinal cord stimulator trial.

Assessment: Lumbar post laminectomy syndrome with persistent pain in the lower back and right leg due to epidural fibrosis, scar tissue, and nerve injury.

Plan:

1. He will continue Ultracet p.r.n. for pain. I performed a surprise urine drug screen today in the office and this will be sent off for confirmation.
2. I made arrangements for trial of spinal cord stimulation in three weeks in our office. If he gets greater than 50% pain relief during the one week then we will proceed with the permanent implant. He was in agreement with this plan.

Eric Loudermilk, M.D.
EL/DTI MA X252168
Dictated - Not Read

Edwards, M

C O R V E L

200 Center Point Circle
Suite 290
Columbia, SC 29210
Telephone: 843-650-0653
Facsimile: 843-650-4941

Initial Vocational Evaluation

Date of Report: 05/08/15

Date of Referral: 04/01/15

Claimant Name: Matthew C. Edwards
Claimant Address: 479 Mile Creek Rd.
City, State, Zip: Pickens, SC 29102

DOI: 07/16/12

Employer: SC Department of Public Safety
Employer Address: 10331 Wilson Blvd
Employer City, State, Zip: Blythewood, SC 29016

Plaintiff Attorney: J. Kirkman Moorhead, Esq.
Plaintiff Address: 207 East Calhoun St.
Plaintiff City, State, Zip: Anderson, SC 29621

Adjuster: Jessica Backman
Adjuster Address: PO Box 102100
Adjuster City, State, Zip: Columbia, SC 29221

Defense Attorney: Zack M. Smith, Esq.
Defense Address: 872 S. Pleasantburg Dr.
Defense City, State, Zip: Greenville, SC 29607

Treating Physician: Dr. Loudermilk, MD	Claimant Phone #: 864-442-3143
Physician Address: 3150 SC 153	Employer Phone #: 803-796-7937
Physician City, State, Zip: Piedmont, SC	Physician Phone #: 864-269-4416

SUMMARY AND RECOMMENDATIONS:

Overview/Summary of Case from Claimant Perspective:

Mr. Edwards's work related injury occurred on 07/16/12 while employed as a Transportation Officer with the SC Department of Public Safety. On the day of the incident, Mr. Edwards was working at the Way Station and a truck pulled on the deck. Mr. Edwards thought the truck was going to leave the station prematurely and proceeded out of the office and down the stairs to pursue the truck. While walking down the stairs Mr. Edwards lost his footing and landed on his right leg,

causing injury to his lower back. Mr. Edwards reported the incident to his supervisor and informed his supervisor that he would be going home for the rest of the day. Mr. Edwards's originally went to a chiropractor for treatment whom performed manipulations on his back. Mr. Edwards received little relief from the chiropractic treatment and decided to seek treatment at Greenville Medical Center. Mr. Edwards reported being examined at the facility. While at the facility he was administered a couple of shots. He developed a reaction and was released and referred to Oak Tree Orthopedics in Easley, SC. Mr. Edwards was examined at the facility by Dr. Patel whom recommended conservative treatment which included injections and physical therapy. The injections and therapy did not provide any significant relief and Mr. Edwards was referred to Dr. Bucci. Dr. Bucci examined Mr. Edwards and recommended surgery at L5-S1 to remove the disk fragments from a ruptured disk. Following the surgery, Mr. Edwards was placed into physical therapy for several months at Advance Physical Therapy in Easley, SC. Mr. Edwards reported the therapy provided some relief but the pain continued and he returned to Dr. Bucci. Dr. Bucci referred Mr. Edwards to Dr. Loudermilk for pain management. Dr. Loudermilk examined Mr. Edwards and recommended an epidural injection. This did not provide any relief. Dr. Loudermilk is currently treating Mr. Edwards conservatively with medications.

Identify Potential Barriers:

On 01/03/13, Dr. Bucci released Mr. Edwards to return to work in a light physical demand level. Dr. Loudermilk reported on 7/29/13 that Mr. Edwards could return to work with the following restrictions: No lifting greater than 50lbs, no greater than 25lbs frequently or 12 lbs. constantly. These restrictions were based on Mr. Edwards FCE completed on 04/23/13 at Doshier Physical Therapy. Dr. Loudermilk also reported he did not feel Mr. Edwards would be able to return to work as a Police Officer. Mr. Edwards underwent a follow-up FCE on 11/20/14 that reported Mr. Edwards was functioning in a sedentary capacity.

MEDICAL ASSESSMENT:

Date of Diagnosis and symptoms started:

07/16/12 -Reported work related injury while stepping down a flight of stairs.

Treatment history to include hospitalizations and diagnostic testing:

Physical therapy, x-rays, injections, medications, surgery, MRI, FCE, and conservative treatment.

Current symptoms:

Mr. Edwards reported having lower back pain with pain shooting down the right leg to the calf which will radiate to the toes.

Current treatment:

Conservative, medications prescribed by Dr. Loudermilk.

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Claimant's perception of limitations for work and activities of daily living:

Mr. Edwards would like to re-enter the work force but reported limited mobility and pain would hinder his ability to sustain any type of work for an eight hour day. Mr. Edwards used to take care of his lawn and enjoyed hunting, fishing and going to the races, but is unable to perform these activities due to his reported work related injury.

Personal and family medical history:

Mr. Edwards reported no other medical problems which would hinder rehabilitation development. Mr. Edwards does have a family history of hypertension, diabetes and cancer.

Medications:

Medication	Dose/Frequency	Purpose
Tramadol	50 mg x 2 daily	Pain

VOCATIONAL ASSESSMENT:Physical/Mental demands of job at the time of employment:

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. 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. May be designated according to assigned duty as Airport Safety and Security Officer (government ser.); Dance-Hall Inspector (government ser.); Traffic Police Officer (government ser.); or according to equipment used as Ambulance Driver (government ser.); Motorcycle Police Officer (government ser.); Mounted Police Officer (government ser.). May be designated: Emergency-Detail Driver (government ser.); Patrol Driver (government ser.); Pool-Hall Inspector (government ser.); Radio Police Officer (government ser.); Show Inspector (government ser.).

GOE: 04.01.02 STRENGTH: M GED: R4 M2 L3 SVP: 6 DLU: 81

Potential return to work with employer?

Mr. Edwards is currently on disability retirement.

Availability of light duty, transitional program, gradual return to work per employer?

Mr. Edwards was placed on light duty for five months which ended on June 30, 2013.

Previous Employment History:

Employer	Dates of Employment	Position	Wages	Reason for Leaving
State Transport Police	2007-2013	Transportation Officer	40,000 per year	Retired
Pickens County	2002-2007	Deputy Sheriff	28,000 per year	Better opportunity
A&R Environmental	2001-2002	CDL class B Straight Truck Driver	15,000 per year	Change Careers
Cliffs Golf Course	1999-2001	Landscaping	10.00 per hour	Change career
Moore Brothers Oil	1997-1999	Straight Truck Driver	Unknown	Unknown

Miscellaneous Comments regarding employment history:

Mr. Edwards has been employed in a variety of occupations. His previous responsibilities while working as a police officer included: Transportation Officer, Litter Investigator, K-9 Patrol and Sheriff Deputy. Mr. Edwards also reported previous employment driving a Strait Truck, Box Truck, Flatbed Trucks. Mr. Edwards has experience with grounds maintenance and landscaping at a golf course, and was a Stock Clerk at a convenience store. Mr. Edwards reported no other transferable skills, which would enhance a successful return to work.

EDUCATIONAL ASSESSMENTEducation and Training:

Mr. Edwards obtained his high school diploma in 1998 and graduated from the Police Academy in 2003. Mr. Edwards also received certifications in first aid, K9 certification and obtained his class B CDL in 1998.

Military:

N/A

CLAIMANT ASSESSMENT:Appearance and Behavior Observations:

Mr. Edwards is 6'0 and weighs approximately 230 lbs. Mr. Edwards is a well-nourished Caucasian male, was dressed appropriately for the interview and appeared to take care of himself in a hygienic manner. Mr. Edwards arrived a ½ hour late for the interview and was observed ambulating with a cane and changing positions periodically and standing during the interview which lasted approximately 2 hrs. Mr. Edwards reported he is a non-smoker and does not consume any alcoholic beverages. Mr. Edwards is married, has one 3 year old and owns his home in Pickens,

SC. Affect was appropriate for the interview. Mr. Edwards reported his wife is employed as a Sales Representative for a junk yard where she is responsible for listing parts on EBay.

Description of a typical day:

Mr. Edwards reported waking at 7:00 AM. Mr. Edwards will then take care of his daughter throughout the day. Mr. Edwards will clean the home and may try to take a walk during the day. Mr. Edwards will watch television, surf on the computer, and may take his daughter to his grandmother's or visit his wife. Mr. Edwards will also go to the grocery store, this was described as a description of a typical day.

Pain Levels (location and intensity)

Mr. Edwards reported on a scale of 1-10 his current pain level is a 6 and radiates from the hip to the leg.

Transportation:

Mr. Edwards reported having reliable transportation and a valid driver's license; this issue would not constitute a barrier for the IW to return to work.

Legal History/Convictions:

Mr. Edwards has no previous legal history.

PSYCHOSOCIAL ASSESSMENT

Adaptation to diagnosis and coping strategies:

Mr. Edwards reported no further treatment has been recommended and is trying to manage his condition on a day by day basis. Mr. Edwards is frustrated in not being able to perform activities he used to do prior to his reported work related injury. Mr. Edwards reported he becomes angry easily and really does not have any coping skills to deal with his anger.

Family environment and support systems:

Mr. Edwards identified his family as supportive of his current condition.

Motivation:

Mr. Edwards expressed little desire to re-enter the work force at this time and believes he is unable to return to work, due to his reported work related injury.

Vocational interests/Goals:

Mr. Edwards reported he would like to return to his previous occupation as a Transportation Officer or Deputy Sheriff, but feels he would be unable return to work in these positions, due to the physical demands of the position. Mr. Edwards expressed no other interests or goals.

FINANCIAL ASSESSMENT**Compensation type and amount:**

Mr. Edwards reported receiving 28,000 per year from disability payments from the SC State Department.

Other sources of income:

Mr. Edwards reported his spouse is earning 19,000.00 employed as a Sales Representative.

Financial difficulties:

Mr. Edwards reported his disability has caused serious financial difficulties, due to the length of the disability and inability to earn an income.

Characteristics of Prior jobs held and analysis of skills:

On 05/07/15, a Vocational Diagnosis of Residual Employability (VDARE) was completed on within his geographic labor market to determine his transferable skills. Mr. Edwards has a variety of transferable skills. Therefore, the following General Educational Development Skills were identified (1=low, 6=high)

Reasoning: 4

Math: 2

Language: 3

Throughout Mr. Edwards'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

Edwards, M

C O R V E L

The following Physical Demands were identified to be within Mr. Edwards's previous work experience:

STRENGTH:

Heavy - Exert force 50lbs. occasionally, 25-50lbs frequently, or up to 20 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. Edwards'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. Edwards's past work experience and transferable skills, the following positions have been identified as possible alternative employment opportunities.

	Occupation	Exertion Level	O'NET/SVP
1.	Collection Clerk	Sedentary	33-3031/5
2.	Fraud Investigator	Sedentary	13-2099/7
3.	Desk Officer	Sedentary	33-3021/5
4.	Customer Service Representative	Sedentary	43-4051/5
5.	Surveillance System Monitor	Sedentary	33-9031/5

CorVel Corporation
www.corvel.com

200 Center Point Circle
Suite 290
Columbia SC 29210

843/650-0653 Phone
843/650-4941 Fax

131

6. Security Guard

Light

33-9031/5

Sources Utilized to Obtain Transferable Skills Analysis:

Vocational Diagnosis and Assessment of Residual Employability (VDARE), Dictionary of Occupational Titles (DOT), Occupational Network (O'NET), Occupational Outlook Handbook (OOH) Guidelines of Exploration (GOE) 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:

It is this CRC's opinion that Mr. Edwards is a viable candidate for Vocational Rehabilitation Services and will benefit from his continued participation with those services. Based upon the recommendations of Dr. Loudermilk, Dr. Bucci and two Functional Capacity Evaluations (FCE), Mr. Edwards is functioning between a Sedentary to Medium PDL. Mr. Edwards was employed in a light duty position prior to going on disability retirement. The counselor used sedentary to light positions which were 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. Edwards after the Initial Vocational Evaluation. The WRAT 4 revealed Mr. Edwards was functioning today in the average range for the basic academic skills of word reading, sentence comprehension and math computation. Mr. Edwards achieved a standard score of 95

on the reading composite which is within the mean and using a 95% confidence interval his scores would fall between 89-101.

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. Edwards performed a variety of duties for his previous employers: Transportation Officer, Litter Investigator, K-9 Patrol, Sheriff Deputy, Strait Truck Driver, Box Truck Driver, Flatbed Truck Driver, Grounds Maintenance, Landscaper and Stock Clerk. Mr. Edwards would be considered in Zone 3, medium preparations needed.

Mr. Edwards was cooperative throughout the Initial Vocational Evaluation and reported on several occasions during the interview that he has no desire to return to work at this time, believing no one will hire him with his current restrictions. Based upon Mr. Edwards's assessment results, educational background, and previous vocational experiences, it is with a Vocational certainty Mr. Edwards would have little difficulty qualifying for and transitioning into all the positions identified by the transferrable skills analysis. This counselor is in agreement with Dr. Loudermilk's assessment that Mr. Edwards is unable to return to work in his pre-injury position as a Police Officer, but is employable.

Mr. Edwards 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.

Mr. Edwards lives in a rural area of Northwestern SC, current unemployment is 5.6% compared to a state average of 6.4 %. This information was obtained from the South Carolina Statistical Abstract and US Department of Labor and is based on 2015 data.

Submitted by: James R Myers MA, QRP, CCM, CRC
Certified Rehabilitation Counselor

Cc:

Privileged and Confidential:

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Edwards, M

CORVEL

CorVel Corporation
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Columbia SC 29210

843/650-0653 Phone
843/650-4941 Fax

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00392

Edwards, M

C O R V E L

200 Center Point Circle
Suite 290
Columbia, SC 29210
Telephone: 843-650-0653
Facsimile: 843-650-4941

Date: 05/11/15

Claimant Name: Matthew C. Edwards
Claimant Address: 479 Mile Creek Rd.
City, State, Zip: Pickens, SC 29102

DOI: 07/16/12

Employer: SC Department of Public Safety
Employer Address: 10331 Wilson Blvd
Employer City, State, Zip: Blythewood, SC 29016

Plaintiff Attorney: J. Kirkman Moorhead, Esq.
Plaintiff Address: 207 East Calhoun St.
Plaintiff City, State, Zip: Anderson, SC 29621

Adjuster: Jessica Backman
Adjuster Address: PO Box 102100
Adjuster City, State, Zip: Columbia, SC 29221

Defense Attorney: Zack M. Smith, Esq.
Defense Address: 872 S. Pleasantburg Dr.
Defense City, State, Zip: Greenville, SC 29607

Treating Physician: Dr. Loudermilk, MD	Claimant Phone #: 864-442-3143
Physician Address: 3150 SC 153	Employer Phone #: 803-796-7937
Physician City, State, Zip: Piedmont, SC	Physician Phone #: 864-269-4416

LABOR MARKET SURVEY

This referral for a Labor Market Survey for Mr. Edwards was received from Ms. Backman with the State Accident Fund. An Initial Vocational Evaluation (IVE) was completed on 05/07/15 that included Mr. Edwards'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 Clerk/Officer, Fraud Investigator, Surveillance Monitor, Collection Clerk, and Customer Service Representative.

Edwards, M

Work History

Job Title: Transportation Officer

Company: South Carolina Department of Public Safety

Dates: 2007-2013

DOT: 375.263-014

Salary: 40,000 per year or 19.23 per hour

Duties: Mr. Edwards'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. 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. May be designated according to assigned duty as Airport Safety and Security Officer (government ser.); Dance-Hall Inspector (government ser.); Traffic Police Officer (government ser.); or according to equipment used as Ambulance Driver (government ser.); Motorcycle Police Officer (government ser.); Mounted Police Officer (government ser.). May be designated: Emergency-Detail Driver (government ser.); Patrol Driver (government ser.); Pool-Hall Inspector (government ser.); Radio Police Officer (government ser.); Show Inspector (government ser.).

A Labor Market Survey was conducted within a 50 mile radius of Greenville, SC. Employers were located via the Internet, Newspapers and Skill Tran services.

**BUREAU OF LABOR STATISTICS - 2015 WAGE ESTIMATES **
WITH LOCAL ADJUSTMENT FOR: Greenville, 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 Police Officer was 38,810 per year or 18.66 per hour.

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 12.98 per hour to 22.11 per week. The average wage was 16.75 per hour.

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Edwards, M

Details of the twelve employers located:

1. Sears Holdings

700 Haywood Rd

Greenville, SC

Phone: (864) 234-1155

Position: Surveillance Monitor

O'Net: 55-3015

Minimum Qualifications for hire:

Ensures all training in the detection and detention of shoplifters, including certification has been completed in the assigned store. Ensures accurate and timely completion of all case management procedures, coaches and delivers corrective action as necessary. Holds associates and management accountable for adherence to all laws and policies relating to the detection and resolution of external and internal theft.

Current starting Salary: 19.23 per hour

Physical requirements: Light PDL

2. Winn Dixie

208 BI-LO Blvd

Greenville, SC 29601

Phone: 864-213-2500

Position: Surveillance Monitor

O'Net: 55-3015

Salary: 19.00 per hour

Minimum Qualifications for hire:

(2) Years retail asset protection/loss prevention experience; or an equivalent Combination of education and experience.

Demonstrated knowledge point of sale (POS) exception based monitoring systems, Closed circuit television (CCTV), burglar, fire alarms and key controls.

Demonstrated strong PC skills including proficiency with Microsoft Office Applications. Compliance with all company policies and procedures.

Ability to read, write and speak English proficiently.

Physical requirements: Light PDL

3. AP Professional Services

300 Pettigru Street, Suite 203

Greenville, SC 29601

Phone: 864-271-7901

Fax: 864-271-7902

Position: Security Guard

O'NET: 33-9031

Salary: 12.26 per hour

Minimum Qualifications for hire: High School or GED, pay based upon previous experience.

Physical Requirements: Sedentary

4. TitleMax

6114 Whit Horse Road

Greenville, SC 29615

Phone: 864-220-5055

Current Starting salary: 22.11 per hour

Position: Collection Clerk

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Edwards, M

O'NET: 33-3031

Minimum Qualifications for hire: If you are looking for a fast growing company that pays great and actually values your quality of life, then this is the position for you! The Manager Trainee of this store can earn \$46K. High School Diploma or GED required

Physical Requirements: Sedentary

5. Home Depot

1339 S Pleasantburg Drive

Greenville, SC 29609

O'NET:43-4051

Position: Customer Service Representative

Minimum Qualifications for hire: Communicates with customer and delivery personnel to verify delivery of product. Fills out completion slip after order is filled, May route products not meeting specifications to production units for correction.

Minimum Qualifications:

18 years or older

Pass the Drug Test

Pass the background check

Pass the validated Selection Test

Current starting Salary: 12.83 per hour

Physical Requirements: Lifting no more than 20lbs

6. Esurance

1200 Brookfield Boulevard

Greenville, SC

Phone: 877-287-9070

Position: Fraud Investigator

O'NET: 13-2099

Minimum Qualifications for hire: Three years of special investigation unit insurance experience and/or detective/investigator within law enforcement. Property damage experience, *preferred*.

Additional requirements include:

Detail-oriented with strong organizational skills, able to work well under deadlines in a changing environment and perform multiple tasks effectively and concurrently.

Demonstrated ability to manage relationships with both internal and external customers.

Demonstrated ability to work effectively under pressure and within a collaborative team oriented environment using sound judgment in decision-making.

Excellent communication skills both oral and written with strong analytical skills to effectively investigate suspected insurance fraud •Excellent customer service and solid negotiation skills.

Demonstrated proficiency with Microsoft Office products (Excel, PowerPoint, and Word) and claims related software programs.

Current starting Salary: 15.00 per hour

Physical Requirements: Sedentary

7. Textron

75 Beattie Place

Greenville, SC

Phone: 843-627-8470

Position: Surveillance System Monitor

O'NET:33-9031

Salary: 16.34 per hour

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Edwards, M

Minimum Qualifications for hire: AAI Corporation has an immediate opening for a well-rounded mid-level industrial security professional to fulfill the position of Facility Security Officer (FSO) / Information System Security Officer (ISSO), Greenville South Carolina location
Physical Requirements: Sedentary

8. Cabela's

1025 Woodruff Rd
Greenville SC 29601
Phone: 864-516-8100
O'NET: 43-4051

Position: Customer Service Representative

Salary: 13.65 per hour

Minimum Qualifications for hire:

High School Diploma or Equivalent

0 to 2+ Years' Experience

Advanced firearm handling knowledge (preferred)

Ability to provide legendary customer service and exceed customer's expectations (required)

Ability to use good judgment and logic (required)

Hiring preference is given to those with solid knowledge of firearms and at least six months to one year of related field experience. Physical Requirements: Sedentary

9. Travelers Indemnity Corp

70 Griffiths Creek Dr.

Greer SC, 29561

Phone: (864) 254-6010

Position: Fraud Investigator

O'NET: 13-2099

Salary: 18.26 per hour

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.

Physical Requirements: Sedentary

10. Scan Source

6 Logue Court

Greenville, SC 29506

Phone: 864-288-2432

Position: Collection Clerk

O'NET: 33-3031

Minimum Qualifications for hire: Effectively manage an assigned Accounts Receivable portfolio by building positive relationships with customers' executive teams and Scan Source sales units while keeping past due percentages and Days Sales Outstanding at acceptable levels.

Monitor customers' financial condition on a periodic basis. Communicate with customers' executive team and staff in order to resolve past due balances, discrepancies and financial issues.

Conduct reviews of customer files to ensure the files contain proper, accurate, and complete documentation for the RFS team's collaboration.

Current Starting salary: 19.18 per hour

Physical Requirements: Sedentary

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Edwards, M

11. Chartis Claims

5000 Thurmond Mall

Columbia, SC 29201

Phone: (803) 748-1223

Current Starting salary: 20.19 per hour

Position: Fraud Investigator

O'NET: 13-2099

Minimum Qualifications for hire: Position is in Greenville SC. Investigates insurance claims or insurance related activities covering all lines of business involving claimants, agents, brokers, attorneys, medical providers, etc., to support the Claims

Organization or for the pursuit of appropriate remedies through the civil or criminal justice system.* Gathers facts on issues in question through interviewing and statement taking of employers, claimants and other relevant witnesses.* Obtains physical and documentary evidence to support investigations.* Prepares objective and concise written reports of investigations.* Testifies and presents evidence at administrative and criminal court proceedings as required.* Establishes and maintains professional working relationships with insured's, claimants, witnesses, attorneys, corporate employees, and the general public.* Demonstrates appropriate liaison with the fraud department, regulatory and law enforcement agencies as applicable. * Provides prompt courteous customer service to our internal and external customers and business partners to include timely contacts with employers, complainants and others.

Physical Requirements: Sedentary

12. Hertz

518 N St.

Greenville, SC 29601

Phone: (864) 848-7357

O'NET:43-4051

Position: Customer Service Representative

Minimum Qualifications for Hire- High School Diploma/GED, Competitive drive and confidence to succeed, Demonstrated ability to develop relationships with customers and coworkers, High level of ownership, accountability and initiative, Ability to work in a fast paced environment with a variety of tasks, Ability to demonstrate professionalism, excellent communication and interpersonal skills, Flexibility to work days, nights, weekends, and holidays.

Proficiency in English

Current starting Salary: 12.98 per hour

Physical Requirements: Sedentary

Summary:

Based on the results of the Labor Market Survey for Desk Officer, Security Guard, Fraud Investigator, Customer Service Representative, Surveillance Monitor and Collection 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 Greenville, SC. The positions located for the survey were in a sedentary physical demand level (PDL), which is within the physical restrictions Dr. Bucci on 01/03/13, Dr. Loudermilk on 7/29/13, FCE completed on 04/23/13 at Doshier Physical Therapy and a follow-up FCE on 11/20/14. Based upon Mr. Edwards's previous vocational experiences; it appears that he would qualify for all of the positions that were surveyed.

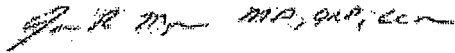
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Edwards, M

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 below Mr. Edwards's reported pre-injury wage of 40,000 per year or 19.23 per hour. The average starting wage was 16.75 per hour.

Mr. Edwards lives in a rural area of Northwestern SC, current unemployment is 5.6% compared to a state average of 6.4 %. This information was obtained from the South Carolina Statistical Abstract and US Department of Labor and is based on 2015 data.

Sincerely,

A handwritten signature in cursive script, appearing to read "James R. Myers", followed by the printed text "MA, QRP, CCM, CRC".

James R Myers MA, QRP, CCM, CRC
Certified Rehabilitation Counselor

TABLE 17-4 Lumbar Spine Regional Grid: Spine Impairments

 Lumbar Spine Regional Grid					
CLASS	CLASS 0	CLASS 1	CLASS 2	CLASS 3	CLASS 4
IMPAIRMENT RATING (WPI %)	0	1%-9%	10%-14%	15%-24%	25%-33%
Non-specific chronic, or chronic recurrent low back pain (also known as: chronic sprain/strain, symptomatic degenerative disc disease, facet joint pain, SI joint dysfunction, etc)	0 Documented history of sprain/strain-type injury, now resolved, or continued complaints of back pain with no objective findings on examination	0 1 2 3 3 Documented history of sprain/strain type injury with continued complaints of axial and/or non-verifiable radicular complaints and similar findings documented in previous examinations and present at the time of evaluation (see Sec. 17.2, General Considerations)			
MOTION SEGMENT LESIONS					
Intervertebral disk herniation and/or AOMSI <i>Note: AOMSI includes instability (specifically as defined in the Guides), arthrodesis, failed arthrodesis, dynamic stabilization or arthroplasty, or combinations of those in multiple-level conditions</i>	0 Intervertebral disk herniation or documented AOMSI at 1 or more levels (see definition in footnote), with medically documented injury; with or without surgery, with no residual signs or symptoms	5 6 7 8 9 Intervertebral disk herniation or documented AOMSI, at a single level or multiple levels with medically documented findings; with or without surgery <i>and</i> with documented resolved radiculopathy at clinically appropriate level or nonverifiable radicular complaints at clinically appropriate level(s), present at the time of examination	10 11 12 13 14 Intervertebral disk herniation and/or AOMSI at a single level with medically documented findings; with or without surgery <i>and</i> with documented radiculopathy at the clinically appropriate level present at the time of examination (see Physical Examination adjustment grid in Table 17-7 to grade radiculopathy)	15 17 19 21 23 Intervertebral disk herniations and/or AOMSI at multiple levels, with medically documented findings; with or without surgery <i>and</i> with or without documented radiculopathy at a single clinically appropriate level present at the time of examination (see Table 17-7 to grade radiculopathy)	25 27 29 31 33 Intervertebral disk herniations and/or AOMSI, at multiple levels, with medically documented findings; with or without surgery <i>and</i> with documented signs of bilateral or multiple-level radiculopathy at the clinically appropriate levels present at the time of examination (see Table 17-7 to grade radiculopathy)
Pseudarthrosis <i>Note: Only applies after spinal surgery intended for fusion with resultant documented motion (not necessarily AOMSI by definition provided in footnote) with consistent radiographic findings or hardware failure; with or without surgery to repair</i>	0 Pseudarthrosis (post surgery) with no residual signs or symptoms	5 6 7 8 9 Pseudarthrosis (post surgery) at a single level or multiple levels with medically documented findings <i>and</i> with documented resolved radiculopathy or nonverifiable radicular complaints at the clinically appropriate level(s) present at the time of examination	10 11 12 13 14 Pseudarthrosis (post surgery) at a single level with medically documented findings <i>and</i> with documented signs of radiculopathy at the clinically appropriate level present at the time of examination (see Table 17-7 to grade radiculopathy)	15 17 19 21 23 Pseudarthrosis (post surgery) at a multiple levels with medically documented findings <i>and</i> with or without documented radiculopathy at a single clinically appropriate level present at the time of examination (see Table 17-7 to grade radiculopathy)	25 27 29 31 33 Pseudarthrosis (post surgery) at a multiple levels with medically documented findings <i>and</i> with documented signs of bilateral or multiple-level radiculopathy at the clinically appropriate levels present at the time of examination (see Table 17-7 to grade radiculopathy)

(continued)

AI