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MAR 28 2017

SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SOUTH CAROLINA WORKER'S COMPENSATION
Full Appellate Board

Case No. 2016-001382

Clarence B. Jenkins, Jr., ...Appellant,

v.

South Carolina Worker's Compensation Commission, ... Respondent.

RECORD ON APPEAL

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Attorney for Appellant

Attorney Keith J. Roberts
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IN THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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MAR 28 2017

SC Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Casey L. Manning, Circuit Court Judge

Case No. 2016-001382

Clarence B. Jenkins Jr,

Appellant.

v.

South Carolina Worker's
Compensation Commission

Respondent.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record On Appeal contains all material proposed to be included by any of the parties and not any other material.

March 25, 2017


/s/Clarence B. Jenkins Jr.

Clarence B. Jenkins Jr.

945 Wire Rd.

Neeses, South Carolina 29107

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Clarence B. Jenkins, Jr.,

Plaintiff,

v.

South Carolina Workers' Compensation
Commission,

Defendants.

IN THE COURT OF
COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

C/A NO. 2015-CP-40-07178

ORDER

RICHLAND COUNTY
FILED
2016 MAY 27 AM 11:08
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

This matter comes before the Court to decide Defendant's Motion to Dismiss the Complaint dated December 31st, 2015. This matter was heard before the undersigned on March 22nd, 2016 at 3:30 pm. *Pro se* Plaintiff was present on his own behalf. J. Keith Roberts, Esquire, appeared on behalf of Defendant.

The instant action arises out of Plaintiff's Summons and Complaint filed December 3rd, 2015, alleging a cause of action against the South Carolina Workers' Compensation Commission, a Government Entity created under Title 42, South Carolina Code of Laws. Plaintiff previously filed with the Commission a workers' compensation claim against his employer, which was fully and finally decided by the Appellate Panel of the Commission on February 23rd, 2016. To date, there is no record of Plaintiff appealing this matter to the South Carolina Court of Appeals. While the appeal of his workers' compensation claim was pending before the Commission for adjudication, Plaintiff filed the instant suit in Richland County naming the Commission as the Defendant.

The court finds that Plaintiff's Complaint does not allege a justiciable controversy. Under the laws of this State, the sole remedy available for a claimant alleging he is aggrieved by a decision and order of the Workers' Compensation Commission is provided under S.C. Code Ann. § 42-17-60, which prescribes the method by which a party may appeal a Commission

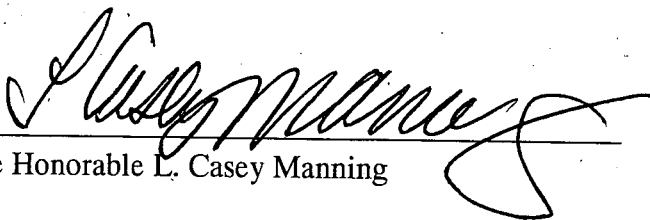
SCANNED

decision to the courts. This court lacks subject-matter jurisdiction over questions arising under the South Carolina Workers' Compensation Act. S.C. Code Ann. § 42-3-180. Plaintiff has failed to state facts sufficient to constitute a cause of action because a government entity is not liable for an alleged loss resulting from judicial or quasi-judicial action or inaction, or the exercise of discretion or judgment by the government entity. S.C. Code Ann. § 15-78-60. Plaintiff has failed to state any facts to support his assertion that the Commission violated any laws in its orders, opinions, or awards issued in relation to his workers' compensation claim.

Therefore, it is ORDERED that Defendant's Motion to Dismiss the Complaint is GRANTED pursuant to Rules 12(b)(1) and 12(b)(6), SCRCP. Accordingly, Plaintiff's Summons and Complaint is hereby DISMISSED WITH PREJUDICE.

As this Order dismissing Plaintiff's Complaint is dispositive of all issues pending in this matter, Plaintiff's remaining Motions are hereby DISMISSED as being moot.

AND SO IT IS ORDERED!


The Honorable L. Casey Manning

May 27, 2016
DATE

SCANNED

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

W.C.C. FILE NO: 1303989

Clarence B. Jenkins

vs.

Amazon.Com DEDC, LLC

AND

American Zurich Ins. Co.

**EMPLOYEE,
CLAIMANT/RESPONDENT**

EMPLOYER

**CARRIER,
DEFENDANTS/APPELLANTS**

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

Appellate Panel Decision and Order Filed: _____

February 26, 2016

APPEARANCES: Claimant/Appellant appeared *pro se*.

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

STATEMENT OF THE CASE

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

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

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

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

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

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

EVIDENTIARY MOTIONS BEFORE THE APPELLATE PANEL

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

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

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

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

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

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

CLAIMANT'S GROUNDS FOR REVIEW BEFORE THE APPELLATE PANEL

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

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

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

FINDINGS OF FACT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CONCLUSIONS OF LAW

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

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

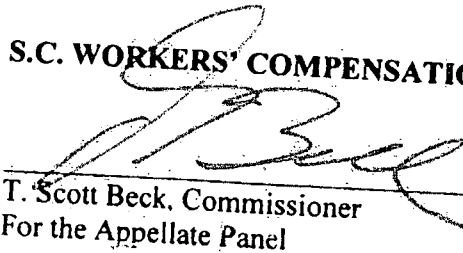
ORDER

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

compensation benefits is hereby **DENIED**.

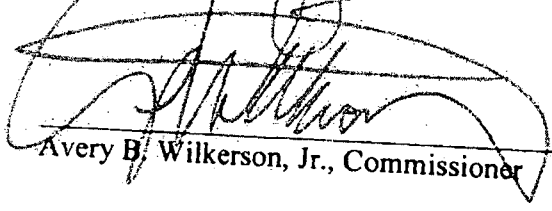
AND IT IS SO ORDERED.

S.C. WORKERS' COMPENSATION COMMISSION


T. Scott Beck, Commissioner
For the Appellate Panel

WE CONCUR:


Aisha Taylor, Commissioner


Avery B. Wilkerson, Jr., Commissioner

CERTIFICATE OF SERVICE

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

By Eugenia Hollmon on February 26, 2016

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 1303989

CLARENCE B. JENKINS,

Employee,

Claimant,

vs.

AMAZON.COM DEDC, LLC,

Employer,

AND

AMERICAN ZURICH INS. CO.,

Carrier,

Defendants.

DECISION AND ORDER

DATE OF HEARING:

Hearing held in Columbia, S.C. on May 21, 2015.

APPEARANCES:

Claimant, Clarence B. Jenkins, appeared *pro se*.

Defendants represented by J. Russell Goudelock, II,
Esquire of McAngus Goudelock & Courie, L.L.C. of
Columbia, South Carolina.

PURPOSE OF THE HEARING:

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

COMMISSIONER:

Commissioner R. Michael Campbell, II

FILED:

August 14, 2015

STATEMENT OF THE CASE

Claimant experienced an admitted incident at work on February 10, 2013 when he leaned over and struck his head on a table. Defendants furnished Claimant with medical evaluation and treatment. No disability compensation benefits were paid.

Claimant filed multiple Forms 50. Claimant contends that he has sustained injuries to multiple body parts, including his head, eyes, ear, legs, feet, neck, shoulders, hands, back, and that he experiences anxiety as a result of his incident at work. He seeks additional medical examination and treatment, temporary total disability compensation benefits from April 22, 2013 to September 23, 2013 and January 22, 2014 to present, and permanent disability benefits.

Defendants have filed responsive Forms 51. Defendants admit that the Claimant experienced an incident at work, but submit that the incident resulted in only mild trauma to the Claimant's head and caused no disabling injury. Defendants deny that the injury was compensable in any manner; deny the extent of the Claimant's alleged injuries to multiple body parts; deny that Claimant was temporarily disabled; and, deny that Claimant sustained any permanent disability. Defendants assert that Claimant was provided with appropriate medical evaluation and treatment to attempt to assess his multiple complaints and submit that Claimant reached maximum medical improvement on or before October 23, 2013. Defendants deny responsibility for any medical evaluation and/or treatment that was not authorized or furnished by Defendants.

A hearing was held on May 21, 2015 to determine these issues.

APA SUBMISSIONS

Defendants submitted medical records and other documentary evidence into the record pursuant to the South Carolina Administrative Procedures Act, as follows:

APA#	PHYSICIAN	MEDICAL PRACTICE	DATES	PAGES
1.	David Stickler, M.D.	Neurology Specialists of Charleston	8/28/14	1-3
2.	Mahmoud Abu-Ata, M.D.	The Neurology and Pain Clinic	8/26/13-2/21/14	4-13
3.	Charles S. Jervey, M.D.	Carolina Neurological Clinic	11/19/13	14-15
4.		Palmetto Health Richland	4/15/13-8/9/13	16-26
5.		Palmetto Health HealthWorks	2/14/13-4/15/13	27-48
6.		AmCare	2/10/13	49-53
EXHIBITS				
7.	Portions of employment personnel records from Voorhees College		10/16/99-10/14/09	54-101
8.	Portions of SC Dept. of Employment Workforce records, including relevant excerpts from SCDEW Hearing Transcript dated 2/5/2007		12/13/06-12/12/11	102-218
9.	Deposition transcript of David Stickler, M.D.		01/15/15	

EVIDENTIARY EXHIBITS

The parties admitted the following evidentiary exhibits into the record:

Claimant's Exhibit No. 1: A printed web page of Mickle & Bass, LLC.

Claimant's Exhibit No. 2: A printed web page definition of "syncope."

Claimant's Exhibit No. 3: Notice of Deposition, dated September 19, 2014, of Mahmoud Abu-Ata, M.D.

Claimant's Exhibit No. 4: Notice of Deposition, dated December 16, 2014, of David Stickler, M.D.

Claimant's Exhibit No. 5: Defendants' subpoenas for medical records.

Defendants' Exhibit No. 1: Claimant's attendance records and time cards.

Defendants' Exhibit No. 2: Transcript of deposition testimony, dated January 15, 2015, of David Stickler, M.D.

Defendants' Exhibit No. 3: Printed Twitter comments from Claimant's online Twitter account, dated May 7, 2014-May 19, 2015.

Defendants' Exhibit No. 4: Printed Facebook comments from Claimant's online Facebook account, dated October 6, 2009-February 25, 2015.

STIPULATIONS

The parties entered the following stipulations into the record:

1. The file of the South Carolina Workers' Compensation Commission was made a part of the record in this case, except for any declarations or medical records not specifically identified for consideration as evidence for purposes of this hearing.
2. The Claimant was employed by Amazon.Com DEDC, LLC ("Amazon") at its facility in West Columbia, SC on February 10, 2013 at the time of his work incident. Amazon had workers' compensation insurance coverage with American Zurich Insurance Company.
3. At the time of this work incident, the Claimant earned average weekly wages of \$489.09 and the applicable compensation rate is \$326.08.
4. The South Carolina Workers' Compensation Commission has jurisdiction to adjudicate and determine the issues pending in this case.
5. Venue is proper in Richland County, South Carolina.

EVIDENCE OF THE CASE

At the commencement of the hearing, the Claimant was advised by the Hearing Commissioner of his right to have and/or obtain legal counsel to represent him. The Claimant had been previously represented by legal counsel, but this relationship was terminated. The Claimant testified that he had been advised by Defendants' legal counsel to obtain legal representation. The Claimant declined to retain legal counsel and elected to proceed *pro se*.

The Claimant testified at the hearing. He is forty-six years old, single, and has no dependents. He is a college graduate with a Bachelor of Science degree in marketing awarded in 1992 from South Carolina State University. He is computer-literate and proficient in Microsoft

Word, Microsoft Excel and Microsoft PowerPoint. He has limited proficiency in Microsoft Access and Microsoft Publisher.

Since 1994, the Claimant has worked as a probation and parole agent for the State of South Carolina for approximately two and one-half years; as a customer service representative for APAC Teleservices for approximately one and one-half years; as a collections and billing specialist for Adecco Staffing for approximately six months; as a resource specialist, case manager, job developer, admissions counselor/recruiter and an assistant director at Voorhees College for approximately six and one-half years; and, as a career skills instructor at Bamberg Job Corp for approximately five months. He received unemployment compensation benefits from 2007 to 2012 prior to commencing work with Amazon as a warehouse associate. Between 1994 and 2015, the Claimant was unemployed for approximately nine years.

The Claimant described the incident that occurred at work on February 10, 2013. He was working at a table when he dropped an object on the floor. He bent over to retrieve the object and struck the right side of his head on the table. He did not lose consciousness. He reported the incident immediately. He continued working.

The Claimant testified regarding his subsequent medical evaluations. He described multiple and varied physical conditions that he contends have resulted from his work incident. He contends that he is prevented from working because activity and environment, including typing on a computer, shopping, walking, attending church or other events, noise, bright lights, heat and smell cause the onset of his multiple symptoms. The Claimant testified that his symptoms have only gotten worse without regard to any medical evaluation or treatment offered to him.

The medical evidence reflects that the Claimant first presented to AmCare, the employer's in-facility first-aid service, later in his shift during the early morning of February 11, 2013. There was no visible evidence of any injury, any swelling, any discoloration or broken skin. Claimant denied dizziness or any visual changes. He complained of a headache and pain to the right side of his forehead. He declined any form of first-aid treatment and requested over-the-counter medication.

The Claimant was seen in follow-up at AmCare on four occasions over the following three days. He continued to complain of varying pain. There was otherwise no evidence of any injury or neurological deficits exhibited. He asked to go home or be placed in another job. AmCare made arrangements for the Claimant to be referred to HealthWorks for further evaluation.

The Claimant was initially seen at HealthWorks on February 14, 2013 with complaints of multiple symptoms. His clinical examination demonstrated no objective manifestations of any neurological deficits or other injury. A CT scan of the head was requested as a safeguard. The CT scan of the head was normal. The Claimant was seen again at HealthWorks in follow-up on February 15, 2013. At that time, he continued to demonstrate no neurological or other deficits. He reported that his symptoms were much improved. He was pronounced able to work full-duty without restriction. No return appointments or further evaluations were recommended.

Two months later, on April 15, 2013, the Claimant presented at the Palmetto Health Richland Memorial Hospital Emergency Room with high blood pressure. Again, his neurological and other clinical examination continued to be normal. All blood work was normal. He was directed to see his family physician for high blood pressure, but otherwise was not found to need any other evaluation or management.

Later on that same date, he was evaluated again at HealthWorks. His neurological examination remained normal. HealthWorks stated that the Claimant's current symptoms did not appear to be related to his February 2013 work injury and were more likely related to other health issues. HealthWorks also recommended that the Claimant see his family physician for follow-up of non-work-related conditions, stating that the cause of Claimant's problems is not known and the objective findings are not consistent with history of a work-related etiology. Claimant was given work restrictions, but it was noted that his limitations were not caused by his work incident.

The Claimant presented on April 30, 2013 to his family physicians, Family Health Centers/Norfield Medical Center. He was diagnosed with hypertension, pre-syncope syndrome and post-traumatic headaches. He was pronounced able to return to work.

On August 9, 2013, the Claimant again presented at Palmetto Health Richland Memorial Hospital Emergency Room complaining of a headache. His clinical examination was normal. He was recommended for a neurological evaluation because of his complaints of post-injury headaches.

The Claimant was evaluated on August 26, 2013 by Mahmoud Abu-Ata, M.D., a neurologist. Dr. Abu-Ata noted that Claimant had experienced a work injury without loss of consciousness or awareness, that he suffered no scalp laceration or bleeding, and that he presented with a normal neurological and other clinical examination. Dr. Abu-Ata assessed Claimant's condition as "description of post traumatic headache," with possible migraine, rebound analgesic headache, hypertension and tension component. The Claimant refused to undergo CSF examination for evaluation of headaches. Dr. Abu-Ata recommended an MRI of the brain, an MRI of the cervical spine and nerve conduction studies with EMG testing.

The Claimant was seen at AmCare during September 2013 and October 2013 for several visits complaining of headaches and dizziness and requesting that his blood pressure be checked. Claimant also commented that he felt his headaches and dizziness may have been contributed to by a recent mass on his left ear that was drained by a physician and treated with antibiotics.

The Claimant underwent an MRI of the brain on October 3, 2013. It was normal. His MRI of the neck revealed multi-level mild-moderate degenerative disc disease.

A follow-up evaluation by Dr. Abu-Ata was conducted on October 23, 2013 where the Claimant again presented with a normal neurological and clinical examination. He continued to refuse CSF testing for his complaints of headaches. Dr. Abu-Ata awaited the results of nerve conduction studies and EMG testing, which was performed on February 21, 2014. This testing was normal. Dr. Abu-Ata recommended that Claimant be evaluated by a spine surgeon for evaluation of cervical spine disease.

The Claimant underwent a second neurological evaluation by Charles S. Jervey, M.D. on November 19, 2013. Dr. Jervey noted that the Claimant experienced no loss of consciousness at the time of his work incident, that the CT and MRI scans of the head were normal, and that the MRI scan of the neck did not reveal anything that would be expected to cause symptoms. Dr. Jervey opined that the Claimant had sustained a mild head injury which would not be expected to cause permanent nor long-term recurring symptoms. He did not find any cognitive impairment. Dr. Jervey was unable to explain the persistence of the Claimant's alleged ongoing symptoms following such relatively mild head trauma, with normal head CT and MRI imaging, and stated that it would be very uncommon. He did not feel that any other symptoms were caused by or related to the Claimant's work incident and did not recommend any work restrictions.

The Claimant failed to show for a follow-up visit with Dr. Abu-Ata on December 23, 2013 and he canceled his appointment with Dr. Abu-Ata on January 23, 2014.

The Claimant was evaluated by David Stickler, M.D., a neurologist, on August 20, 2014. Dr. Stickler also noted that the Claimant had not experienced any loss of consciousness, dizziness, memory loss or laceration initially at the time of his work incident; that he had normal CT and MRI imaging; and, that his clinical examination was unremarkable. Dr. Stickler opined that the history of Claimant's work injury did not support the occurrence of a concussive event and that any current headaches should not be caused by mild head trauma. Dr. Stickler could not attribute the presence of chronic daily headaches to the work incident. Dr. Stickler did not feel that the Claimant's other symptoms were related to the work incident. He felt that the Claimant had previously reached maximum medical improvement.

Dr. Stickler rendered deposition testimony on January 15, 2015. Dr. Stickler testified that the Claimant's history and presentation did not reflect that he had experienced even a mild concussive event. Dr. Stickler did not feel that any current symptoms would result from Claimant's work incident. Dr. Stickler testified that the majority of people who have like degrees of head trauma improve within the first month, or within a matter of weeks, and that it would be most likely that the Claimant had reached maximum medical improvement by the time of his October 23, 2013 evaluation by Dr. Abu-Ata, which was more than eight months following the work incident. Dr. Stickler did not find any permanent impairment to the Claimant's brain. Dr. Stickler testified that any physical restrictions were based solely upon the Claimant's subjective complaints at the time and stated that there were no objective findings that would require that any type of physical restrictions be imposed as any result from Claimant's work incident. Similarly, Dr. Stickler testified that no medications would be required because of

Claimant's work incident. Dr. Stickler did not feel that the work incident required any further evaluation or referral to other medical specialists for examination.

FINDINGS OF FACT

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

1. The Claimant was employed by Amazon.Com DEDC, LLC ("Amazon") at its facility in West Columbia, SC on February 10, 2013 at the time of his work incident. Amazon had workers' compensation insurance coverage with American Zurich Insurance Company. [Stipulation No. 2 above].

2. The Claimant earned average weekly wages of \$489.09 at the time of his work incident. [Stipulation No. 3 above].

3. Claimant experienced an incident at work on February 10, 2013. He struck his head on the edge of a table while bending over to retrieve an object from the floor. Claimant did not fall down and suffered no loss of consciousness or alteration in awareness. [Transcript of Hearing, pp. 49-51 and multiple APA submissions].

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

5. Similarly, Claimant's subsequent presentation for medical evaluation at HealthWorks several days after the work incident demonstrated no objective manifestations of any neurological deficits or other injury. A CT scan of the head was normal. On February 15, 2013, Claimant reported that his symptoms were much improved. He was pronounced able to

work full-duty without restriction. No return appointments or further evaluations were recommended. [APA No. 5, pp. 35-49].

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

7. On August 26, 2013 and October 23, 2013, Mahmoud Abu-Ata, M.D., a neurologist, noted that at the time of the work incident Claimant had no loss of consciousness or awareness and that he suffered no scalp laceration or bleeding. Claimant exhibited a normal neurological and other clinical examination. Dr. Abu-Ata assessed Claimant's condition as "description of post traumatic headache," with possible migraine, rebound analgesic headache, hypertension and tension component. The Claimant refused to undergo CSF examination for evaluation of headaches. Dr. Abu-Ata recommended an MRI of the brain, an MRI of the cervical spine, and nerve conduction studies with EMG testing. MRI scanning of the brain was normal. Nerve conduction studies and EMG testing was normal. MRI scanning of the neck revealed multi-level mild-moderate degenerative disc disease and Dr. Abu-Ata recommended

that Claimant be evaluated by a spine surgeon for evaluation of cervical spine disease. The Claimant failed to show for a follow-up visit with Dr. Abu-Ata on December 23, 2013 and he canceled his appointment with Dr. Abu-Ata on January 23, 2014. [APA No. 2, pp. 4-13].

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

9. Neurological evaluation by David Stickler, M.D., a neurologist, on August 20, 2014 also noted that the Claimant had not experienced any loss of consciousness, dizziness, memory loss or laceration initially at the time of his work incident and that Claimant's current clinical examination was unremarkable. Dr. Stickler opined that the history of Claimant's work injury did not support a concussive event and that Claimant's complaints of chronic daily headaches should not be caused by mild head trauma from Claimant's work incident. Dr. Stickler concluded that the Claimant's other symptoms were not related to the work incident. He felt that the Claimant had previously reached maximum medical improvement. [APA No. 1, pp. 1-3].

10. Dr. Stickler testified that the Claimant's history and presentation did not reflect that he had experienced even a mild concussive event; that any current symptoms would not

result from Claimant's work incident; that the majority of people who have like degrees of head trauma improve within the first month, or within a matter of weeks; that Claimant had most likely reached maximum medical improvement by the time of his October 23, 2013 evaluation by Dr. Abu-Ata, which was more than eight months following the work incident; that there was no permanent impairment to the Claimant's brain; that any physical restrictions were based solely upon the Claimant's subjective complaints and that there were no objective findings that would require that any type of physical restrictions be imposed as any result from Claimant's work incident; that no medications would be required because of Claimant's work incident; and, that no effects of the work incident required further evaluation or referral of Claimant to other medical specialists for examination. [Defendants' Exhibit No. 2].

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

12. Medical evidence supports a causal relationship from the work injury to Claimant's complaints of initial headaches only. Drs. Jervey and Stickler state that any work-related headaches should have resolved during the initial months following Claimant's mild head trauma and that any subsequent headaches are not related to Claimant's work incident. [APA No. 4, pp. 23-26; APA No. 5, pp. 27-34; APA No. 2, pp. 4-13; APA No. 3, pp. 14-15; APA No. 1, pp. 1-3; Defendants' Exhibit No. 2].

13. Medical evidence fails to support any causal relationship to Claimant's other complaints or symptoms, including his eyes, ear, legs, feet, neck, shoulders, hands, back and anxiety. Dr. Abu-Ata's records do not comment upon any relationship from Claimant's work injury to his other multiple and varied symptoms. Dr. Jervey opines that Claimant's other symptoms are not related to his work incident. Dr. Stickler similarly opines that Claimant's

other symptoms are not related to his work incident. [APA No. 4, pp. 23-26; APA No. 5, pp. 27-34; APA No. 2, pp. 4-13; APA No. 3, pp. 14-15; APA No. 1, pp. 1-3; Defendants' Exhibit No. 2].

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

15. Claimant complains of ongoing symptoms and multiple conditions that he says prevent him from working. However, Claimant is able to drive a car, work on his computer, actively email, actively post on Twitter and actively post on Facebook. During the year between May 17, 2014 and the hearing on May 21, 2015, the Claimant posted 1,066 tweets on Twitter, which averages greater than three tweets per day. His Facebook posts reflect that he attended at least two political rallies during that same period of time. None of his Twitter or Facebook posts reflect any complaints or descriptions of his symptoms or contentions regarding disability. Claimant's regular and daily use of his computer is inconsistent with his complaints that vision and light trigger his symptoms. His attendance at rallies is inconsistent with his complaints that noise triggers his symptoms. [Transcript of Hearing, pp. 53-55, 58-61, 64-72, 77-80; Defendants' Exhibit No. 3; Defendants' Exhibit No. 4].

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

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

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

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

20. Claimant lacks credibility

CONCLUSIONS OF LAW

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

1. Pursuant to S.C. Code Ann. Sections 42-1-120, 42-1-160, and other applicable law, Claimant did not sustain any compensable disabling injury to his head, brain, eyes, ear, legs, feet, neck, shoulders, hands, back or anxiety by accident arising out of or in the course of his employment.

2. Pursuant to S.C. Code Ann. Sections 42-1-120, 42-15-60, and other applicable law, Claimant is not entitled to provision by Defendants of any additional medical evaluation and/or treatment after October 23, 2013.

3. Pursuant to S.C. Code Ann. Sections 42-1-120, 42-15-60, and other applicable law, Defendants shall be responsible only for payment for medical evaluation or treatment authorized and furnished to Claimant by Defendants, in amounts subject to the medical fee scheduled promulgated by the South Carolina Workers' Compensation Commission.

4. Pursuant to S.C. Code Ann. Sections 42-1-120, 42-1-160, 42-9-10, 42-9-20, and other applicable law, Claimant is not entitled to any temporary disability compensation benefits.

5. Pursuant to S.C. Code Ann. Sections 42-9-120, 42-1-160, 42-9-10, 42-9-20, 42-9-30, and other applicable law, Claimant is not entitled to any permanent disability compensation benefits.

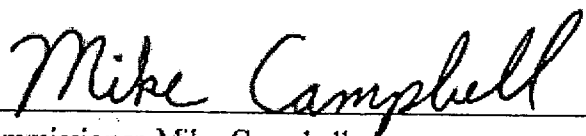
6. Pursuant to S.C. Code Ann. Section 42-1-40 and other applicable law, the applicable compensation rate is \$326.08.

ORDER

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

AND IT IS SO ORDERED.

S.C. WORKERS' COMPENSATION COMMISSION



Commissioner Mike Campbell

State of South Carolina

1333 Main Street, 5th Floor
P.O. Box 1715
Columbia, S.C. 29202-1715



TEL: (803) 737-5700
FAX: (803) 737-5764

Workers' Compensation Commission

May 26, 2015

J. Russell Goudelock, II
MCANGUS GOUDELOCK & COURIE, LLC
P.O. Box 12519, Capitol Station
Columbia, S.C. 29211

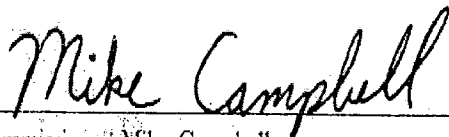
RE: Clarence B. Jenkins v. Amazon.com. DEDC, LLC
WCC File #1303989

Dear Mr. Goudelock:

Please prepare the Order in the above referenced case and submit the original via e-mail in Word document to my attention within thirty (30) days from receipt of this correspondence. The Order should reflect as outlined in my attached directives. When submitting your proposed Order, please be sure to copy Pro se party(s) with the same.

If you have any questions in these regards, do not hesitate to contact me at (803) 737-5678.

Yours very truly,



Commissioner Mike Campbell

MC/bc
CC: Clarence B. Jenkins, Pro se Claimant

REQUEST FOR PROPOSED ORDER

Please note these are general Order Instructions/Directives only. This document is not an Order. It is a request for a proposed Order. The undersigned reserves the right to modify or delete any portion of this document.

WCC File Number: 1303989
Date of Hearing: 05/21/2015
Place of Hearing: Richland County

CLAIMANT: Clarence B. Jenkins
EMPLOYER: Amazon.com. DEDC, LLC
CARRIER: American Zurich Insurance Co.
Claimant's Attorney: Pro Se

Defendant's Attorney: J. Russell Goudelock, II

DOI: 02/10/2013

AWW: \$489.09 CR: \$326.08

Court Reporter: Cora Bruton
131 Browning Court
Lexington, SC 29073
cocobk@windstream.net
(803) 397-0189

FINDINGS & DIRECTIVES

Mr. Goudelock, please draft the Order consistent with the below findings and directives and return to this office within 30 days. Based on sworn testimony and a preponderance of the evidence, I hereby find:

1. Claimant did not meet his burden of proof that his alleged additional body parts listed on his form 50 are causally related to his admitted work injury.
2. Therefore, Claimant's request for additional benefits under the Act is hereby denied.

INSTRUCTIONS: Please let our office know if you have difficulty obtaining a transcript or cannot complete the order within this timeframe. Draft the Order consistent with the above substance of the preceding Findings of Fact; however you may also add additional Findings of Fact consistent with the above ruling. The Order should include biographical information regarding the Claimant's work history and previous medical history, if relevant to the case.

If you need a transcript, order it *immediately* from the court reporter listed above. Provide a copy of the proposed Order to opposing counsel or *pro se* claimant before or at the same time one is submitted to the Commission.

When submitting the proposed Order to the Commission, please email only to bcheeseboro@wcc.sc.gov The Commission no longer requires hard copies of the proposed order unless the claimant is *pro se*.

Matters to include in the Order:

1. APA Submissions (if submitted)
2. Stipulations
3. Statement of the Case (contentions of the parties – stated concisely)
4. Evidence of the Case (synopsis of the evidence – including testimony and medical reports)
5. Findings of Fact [numbered] (Do not delete any of the above findings.) The prevailing party may add to support the decision, except regarding credibility unless you have been so instructed.
6. Conclusions of Law (cite applicable statutory sections and case law)
7. Award

Do not address credibility in the Order, unless it has been addressed in the preceding Order Notes.

The Honorable R. Michael Campbell, II
Commissioner
South Carolina Workers' Compensation Commission
1333 Main Street
Suite 500
Columbia, South Carolina 29201
(803) 737-5672

Order Instructions mailed to parties on May 26, 2015

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND) THE FIFTH JUDICIAL CIRCUIT

Clarence B. Jenkins Jr.

CASE NO: 2015-CP-40-07178

Plaintiff,

vs

**COMPLAINT
(JURY TRIAL REQUESTED)**

South Carolina Worker's
Compensation Commission

Defendant,

The Plaintiff, complaining of the defendants, alleges as follows:

JURISDICTIONAL AND VENUE

1. Plaintiff is a resident of the county of Orangeburg, State of South Carolina.
2. South Carolina Worker's Compensation Commission is an agency of the State of South Carolina doing business and maintaining offices in Richland County, South Carolina.
3. All pertinent actions alleged in the Complaint took place in Richland County.
4. Jurisdictional and venue are proper in this Honorable Court.

FACTS

5. South Carolina Worker's Compensation Commission has violated its law of R-67-611 by not allowing Plaintiff to enter pertinent medical documentations at May 21, 2015 hearing stating self representation must filed a legal brief before hearing.

6. Plaintiff was injured at Amazon on February 10, 2013 by hitting head on metal table while retrieving an item from floor between two other metal table which has caused severe medical problems that has been determined as a chronic condition by Amazon and Sedgwick Assigned Worker's Compensation Doctor, Neurologist Dr. Mohmound Abu-Atta.
7. Amazon and Sedgwick has admitted that injury occurred at their West Columbia, SC Fulfillment Center on February 10, 2013 and have provided some medical care.
8. South Carolina Worker's Compensation Commission has allowed Amazon and Sedgwick to terminate or pay disability benefits when Dr. Mohmound Abu-Atta has not provided a medical rating or medical release which is required.
9. Assigned Worker's Compensation Doctor, Dr. Mohmound Abu-Atta has refused to provide a medical rating when requested by Amazon and Sedgwick which South Carolina Worker's Compensation Commission has rejected.
10. South Carolina Worker's Compensation Commission accepted the second opinion and maximum medical improvement of Dr. Stickler over treating Neurologist, Dr Mohmound Abu-Atta.
11. South Carolina Worker's Compensation Commission allowed Amazon and Sedgwick to distort Plaintiff medical records through misrepresentation and false
12. statements even when Plaintiff expressed to Commissioner Michael Campbell II his concerns.

13. Plaintiff expressed to the Commissioner Michael Campbell II at May 21, 2015 hearing that he was bias and prejudice because he did not apply the same standard to Amazon and Sedgwick.
14. Commissioner Michael Campbell II made an egregious error with understanding R-67-611 after leaving the bench for twenty (20) minutes to research the law regarding Plaintiff admittance of medical documentations stating Plaintiff must submit a pre legal brief before a hearing which greatly disregarded pertinent information which affected the decision.
15. South Carolina Worker's Compensation Commission has allowed Amazon to deny access to work site because of work restrictions without fully paying compensation benefits.
16. Plaintiff has received short-term disability and long-term disability benefits from Amazon for time periods of (May, 2013 to November, 2013 from Liberty Mutual), (February, 2014 to March, 3014 from Amazon) and (July, 2014 to January, 2015 from Aetna) but has not received compensation for (March, 2014 to July, 2014 and January, 2015 to present due absent from work because of work injury and work restrictions.
17. South Carolina Worker's Compensation has allowed Amazon and Sedgwick to terminate short-term and long-term disability benefits without completing and submitting a forms 17 and 21 which is required by this agency.

18. South Carolina Worker's Compensation Commission allowed Amazon and Sedgwick to present evidence at May 21, 2015 hearing which was not part of their legal brief.
19. South Carolina Worker's Commission allowed Amazon and Sedgwick to provide misrepresentation and false statements with regards to past unemployment benefits in signed order by Commission Michael Campbell II.
20. South Carolina Worker's Compensation Commission allowed Amazon and Sedgwick to state that Plaintiff never received any compensation during my absent from work in signed order by Commissioner Michael Campbell II.
21. South Carolina Worker's Compensation Commission was notified in writing that proposed order was a misrepresentations of facts and false statements by Amazon and Sedgwick therefore by signing documents would be held accountable.
22. Plaintiff was sent an email from Michele Doyle of Amazon Human Resources stating that access to work site because of unable to accommodate work restrictions.
23. Amazon and Sedgwick legal representation sent an email stating that Plaintiff will not be receiving worker's compensation when unable to earn an income since access to work site was denied because of work restrictions.
24. South Carolina Worker's Compensation Commission allowed Amazon and Sedgwick to present Plaintiff activity on facebook and twitter accounts which was not part of their legal brief at May 21, 2015 hearing.

25. South Carolina Worker's Compensation Commission allowed Amazon and Sedgwick to present Plaintiff email activity which was not part of their legal brief at May 21, 2015 hearing.
26. South Carolina Worker's Compensation Commission allowed Amazon and Sedgwick to present false documentations regarding Norway Former Chief of Police, James Preacher which was not part of their legal brief at May 21, 2015 hearing.
27. Plaintiff is suffering from Neuropathy Symptoms which Amazon and Sedgwick has been informed by medical documentations, medical updates but refused to accept.
28. Amazon and Sedgwick scheduled a deposition with Dr. Mohmound Abu-Atta that was never completed but scheduled and conducted conducted a deposition with Dr. Stickler who gave a second opinion.
29. Amazon and Sedgwick was very much aware of medical history since work injury on February 10, 2013 through issued subpoenas but chose to distort medical records for financial gains.

LEGAL ARGUMENT

30. 67-611. Pre-hearing Brief. A. A claimant who is representing himself or herself is not required to file a Form 58, Pre-hearing Brief. (1) If the claimant elects to file a Form 58, mail the Form 58 to the Commissioner's office identified on the hearing notice. (2) The

Commissioner's office will send a copy of the Form 58 to the employer's attorney. B. Each attorney representing a party at a hearing shall file and serve a Form 58 according to the following: (1) File a Form 58 and proof of service at least ten days before the hearing with the Hearing Commissioner's office identified on the hearing notice. Complete the Form 58 and give the names and addresses of persons known to the parties or counsel to be witnesses concerning the facts of the case and indicate whether or not written or recorded statements including video recordings and/or transcribed audio recordings have been taken from one of the witnesses including the claimant and indicate who has possession of same. A party is under a duty to promptly supplement a response with respect to any question directly addressed on the form and amend a response if the party obtains information upon the basis of which the party knows the response was incorrect when made, or the party knows the response thought correct when made is no longer true and the circumstances are such that a failure to amend the response is in substance a knowing concealment. (2) Serve the opposing party according to R.67-211. C. The Form 58 shall remain in the Commission's file but shall not constitute evidence or become part of the record of the hearing. D. If an attorney fails to file and serve a Form 58, the Commissioner may postpone the hearing according to R.67-613 or assess against an attorney by written order a fine of up to one hundred dollars. HISTORY: Amended by State Register Volume 16, Issue No. 4, eff April 24, 1992; State Register Volume 21

30. 67-505. Suspending Temporary Compensation after the First One Hundred Fifty Days after the Employer's Notice of the Injury. A. After the one hundred fifty day period, the employer's representative shall not suspend or terminate temporary compensation except as provided in this regulation or R.67-506. B. Disability is presumed to continue until the claimant returns or agrees he or she is able to return to work for fifteen calendar days. C. Temporary compensation may be suspended as follows: (1) When the authorized health care provider reports the claimant is able to return to work without restriction to the same or other suitable job, and such job is provided by the employer, the employer's representative may suspend temporary compensation while the claimant is working unless temporary partial compensation is due. (2) When the authorized health care provider reports the claimant is able to return to work at limited duty and the employer provides limited duty work consistent with the terms upon which the claimant has been released, the employer's representative may suspend temporary compensation while the claimant is working unless temporary partial compensation is due. (3) When the claimant returns to work for another employer, the employer's representative may suspend temporary compensation while the claimant is working, unless temporary partial compensation is due. D. When the claimant is unable to complete fifteen calendar days of work, the employer's representative shall reinstate temporary compensation according to the terms of the Form 15 and may request a hearing to terminate compensation by filing a Form 21 according to R.67-506. E. When the claimant completes fifteen calendar days of work, or fifteen days after the claimant

agrees he or she could have returned to work, the employer's representative immediately shall submit a completed Form 17 to the claimant for signature. (1) The employer's representative shall file the Form 17 signed by the claimant and the employer's representative with the Claims Department within thirty-one days of the date the claimant returned to work or agreed he or she was able to return to work. (2) Temporary compensation is terminated by the filing of the signed Form 17.

31. 67-506. Terminating Temporary Compensation after the First One Hundred Fifty Days after the Employer's Notice of the Injury. A. After the one hundred fifty day period, the employer's representative shall not suspend or terminate temporary compensation except as provided in this regulation or in R.67-505. Disability is presumed to continue until the employee returns to work, except as provided herein. B. After the one hundred fifty day period, when the claimant is receiving temporary compensation and the authorized health care provider reports the claimant has reached maximum medical improvement, the employer's representative shall continue payment of temporary compensation until the Commission finds the employer's representative may terminate compensation unless compensation has been suspended according to R.67-505. When compensation has been suspended according to R.67-505, see section F below. C. After the one hundred fifty day period, when the claimant is receiving temporary compensation and the authorized health care provider reports the claimant may return to work at the same or other suitable job and such job has been offered by the employer but the claimant refuses to return to work, the employer's representative must continue payment of temporary compensation until the

Commission finds the employer's representative may terminate temporary compensation.

D. After the one hundred fifty day period, when the claimant is receiving temporary compensation and the authorized health care provider assigns an impairment rating and reports the claimant is unable to return to work at the same or other suitable job, the employer's representative must continue payment of temporary compensation until the Commission finds the employer's representative may terminate temporary compensation.

E. To request a hearing for permission to terminate temporary compensation, the employer's representative shall file a Form 21 with the Judicial Department. (1) The employer's representative shall serve a copy of the Form 21 on the claimant according to R.67-211. (2) The employer's representative shall certify temporary compensation is current or no hearing will be set. F. After the one hundred fifty day period, when the employer's representative has suspended temporary compensation according to R.67-505, the employer's representative shall request permission to terminate compensation by filing a Form 21 with the Judicial Department. (1) Serve a copy of the Form 21 on the claimant according to R.67-211. (2) The Commission may schedule an informal conference to certify a Form 17 when compensation has been suspended according to R.67-505. HISTORY: Amended by State Register Volume 21, Issue No. 4, eff April 25, 1997. 67-509. Medical Treatment While Receiving Temporary Compensation Benefits. A. The employer's representative chooses an authorized health care provider and pays

32. 67-510. Unauthorized Suspension or Termination of Temporary Compensation

Benefits. A. If the employer's representative suspends, terminates, or reduces temporary total or temporary partial compensation benefits without first complying with the procedures in this Article, the claimant may be entitled to additional compensation and penalty as provided in this Chapter and the Act. B. The claimant may request a hearing as provided in R.67-207 for the relief in section A above.

33. SECTION 42-1-120. "Disability" defined.

The term "disability" means incapacity because of injury to earn the wages which the employee was receiving at the time of injury in the same or any other employment.

FIRST CAUSE OF ACTION

South Carolina Worker's Compensation Commission made an egregious error at May, 21, 2015 hearing by not allowing Plaintiff to submit pertinent medical documentations which is required under R-67-611 therefore an abuse of power.

34. Amazon and Sedgwick distorted Plaintiff medical records to financial gains by not including all documentations obtained through subpoenas to medical providers.

35. Commissioner Michael Campbell II was informed of Amazon and Sedgwick distortion of medical records but allowed it.

36. Misrepresentation and False Statements by Amazon and Sedgwick are intended to brand Plaintiff as being competent for work.

37. Commissioner Michael Campbell II applied a separate standard for Plaintiff at May 21, 2015 hearing which made proceedings unequal under the law which greatly affected the outcome of decision.

SECOND CAUSE OF ACTION

Amazon and Sedgwick stated that no income was ever provided to Plaintiff for any time away from work due to work injury since February 10, 2015. therefore constitutes misrepresentation and false statements under South Carolina Worker Compensation Law.

38. Amazon and Sedgwick willfully lied and distorted compensation payments to deceived South Worker's Compensation Commission.

39. Plaintiff received short-term and long-term disability payments from Liberty Mutual Insurance short-term disability payments from Amazon itself and Long-term disability payments from Aetna Insurance

40. It is illegal to terminate compensation during the 150 days and after first 150 days without following procedures established by South Carolina Worker's Compensation Commission Law under R-67-505 and R-67-506 which Amazon and Sedgwick did not comply .

41. South Carolina Worker's Compensation Commission violated its own policy of R-67-510 by allowing Amazon and Sedgwick to circumvent the law of this agency.

THIRD CAUSE OF ACTION

South Carolina Worker's Compensation Commission has refused to accept disability when Plaintiff was denied access to the work site to earn an income due to work restrictions and injury as determined by Dr. Mohmound Abu-Atta.

42. SC Code of Law 42-1-10 states disability means incapacity because of injury to earn the wages which the employee was receiving at the time of injury in the same or any other employment.

43. South Carolina Worker's Compensation Commission allowed Amazon and Sedgwick to deny the ability to earn an income without compensation.

44. South Carolina Worker's Compensation Commission violated its own laws.

Wherefore, Plaintiff respectfully requests this Court grant Plaintiff the damages requested herein, as well as such other relief the court deems appropriate, including costs and attorney fees.

Pro Se Clarence B. Jenkins Jr



Pro Se Clarence B. Jenkins Jr

945 Wire Rd.

Neeses, SC 29107

(T) 803-263-4514

Email: upscale81@yahoo.com

Attorney for Plaintiff

Neeses, South Carolina

Date: December 1, 2015

STATE OF SOUTH CAROLINA

) IN THE COURT OF COMMON PLEAS
) FIFTH JUDICIAL CIRCUIT
)

COUNTY OF RICHLAND

) Case No. 2015-CP-40-07178
)

Clarence B. Jenkins, Jr.,

) Plaintiff,
)

vs.

) **DEFENDANT'S NOTICE OF MOTION**
) **AND MOTION TO DISMISS**
)

South Carolina Workers' Compensation
Commission,

) Defendant.
)

TO: Clarence B. Jenkins, Jr., *pro se*, Plaintiff, and Jeanette W. McBride, Clerk of Court, Richland County, South Carolina:

NOTICE IS HEREBY GIVEN THAT the Defendant, South Carolina Workers' Compensation Commission ("the Commission"), by and through the undersigned counsel, moves the Court to dismiss the Petitioner's Complaint requesting damages and relief for lack of jurisdiction over the subject matter and failure to state facts sufficient to constitute a cause of action pursuant to Rules 12(b)(1) and 12(b)(6) of the South Carolina Rules of Civil Procedure.

PROCEDURAL BACKGROUND

Mr. Clarence Jenkins, Jr., acting *pro se*, filed a claim with the Workers' Compensation Commission, alleging he suffered an injury by accident arising out of and in the course of his employment with Amazon.Com, LLC. Mr. Jenkins requested benefits under the South Carolina Workers' Compensation Act, Title 42, South Carolina Code of Laws. A Hearing was held on the merits of Mr. Jenkins' claim before the Honorable R. Michael Campbell, II, Commissioner of the South Carolina Workers' Compensation Commission, on May 21st, 2015. Despite being advised by the Commissioner of his right to counsel, Mr. Jenkins insisted on proceeding *pro se*. Commissioner Campbell issued his Decision and Order on August 14th, 2015.

On September 15th, 2015 Mr. Jenkins filed an appeal of Commissioner Campbell's Decision and Order to the Full Commission in accordance with S.C. Code Ann. § 42-17-50. Oral Arguments were held on

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Mr. Jenkins' appeal before the Full Commission on December 14th, 2015. As of the date of this writing, the Commission has not ruled on the appeal.

Before his appeal could be considered by the Workers' Compensation Commission, on December 3rd, 2015, Mr. Jenkins served the Commission with the Summons and Complaint giving rise to this action, which names the Workers' Compensation Commission as the Defendant.

The Commission moves for the court to dismiss Mr. Jenkins' complaint on the following grounds:

LACK OF JURISDICTION OVER THE SUBJECT MATTER

1. The Complaint should be dismissed against Plaintiff pursuant to Rule 12(b)(1), SCRCP, because the Court of Common Pleas of the County of Richland lacks subject matter jurisdiction over this dispute. "All questions arising under [Title 42, South Carolina Code of Laws], if not settled by agreement of the parties interested therein with the approval of the Commission, shall be determined by [the Workers' Compensation] Commission, except as otherwise provided in this Title." S.C. Code Ann. § 42-3-180.
2. The sole remedy available for a claimant alleging he is aggrieved by a Decision and Order of the Workers' Compensation Commission is provided under S.C. Code Ann. § 42-17-60 (1976, as amended), which allows a party to appeal a decision from the Commission to the courts.

FAILURE TO STATE FACTS SUFFICIENT TO CONSTITUTE A CAUSE OF ACTION

3. The Complaint should be dismissed against Plaintiff pursuant to Rule 12(b)(6), SCRCP, because Plaintiff's pleading has failed to state facts sufficient to constitute a cause of action.
4. The Workers' Compensation Commission as a governmental entity is not liable for a loss resulting from legislative, judicial, or quasi-judicial action or inaction, or the exercise of discretion or judgment by the governmental entity. S.C. Code Ann. § 15-78-60.

5. Plaintiff failed to exhaust administrative remedies under the South Carolina Workers' Compensation Act. A failure to exhaust administrative remedies precludes original resort to courts where an administrative agency is granted exclusive jurisdiction by the express terms of a statute. See *Unisys Corp. v. S.C. Budget & Control Bd.*, 346 S.C. 158, 176, 551 S.E.2d 263, 273 (2001); *Capital City Ins. Co. v. BP Staff, Inc.*, 382 S.C. 92, 101, 674 S.E.2d 524, 529 (Ct. App. 2009); S.C. Code Ann. § 42-3-180.
6. The Complaint should be dismissed pursuant to Rule 12(b)(6), SCRCPP, because Plaintiff failed to plead facts sufficient to support his assertion that the Commission abused its power under S.C. Code Reg. 67-611. S.C. Code Reg. 67-611 is inapplicable to Plaintiff's assertion that he is entitled to submit medical records as evidence of the case without first providing notice prior to the scheduled Workers' Compensation hearing.
7. Submission of expert reports under the Workers' Compensation Act is governed by S.C. Code Reg. 67-612. The very nature of S.C. Code Reg. 67-612 is wholly discretionary and thus a Hearing Commissioner may accept or exclude expert reports in accordance with the regulation.
8. The Complaint should be dismissed pursuant to Rule 12(b)(6), SCRCPP, because Plaintiff failed to plead facts sufficient to support his assertion that the Commission committed acts that constituted misrepresentation and false statements under the Workers' Compensation Law.
9. According to Black's Law Dictionary, misrepresentation is the act of making a false or misleading assertion about something, usually with the intent to deceive. *Black's Law Dictionary* 1539 (9th Ed. 2009). False statement is defined as an untrue statement knowingly made with the intent to mislead. *Black's Law Dictionary* 1091 (9th Ed. 2009). Plaintiff fails to plead any facts that support his contention that the Commission committed an act that was misleading or intentionally deceptive.

10. The Complaint should be dismissed pursuant to Rule 12(b)(6), SCRCPP, because Plaintiff states no facts to support his assertion that the Commission violated its laws in its orders, opinions, or awards issued in relation to his Workers' Compensation claim.
11. Multiple hearings have been held before the Workers' Compensation Commission to adjudicate and determine the issues of the Plaintiff's Workers' Compensation claim. During the hearing Plaintiff cites in his Complaint, Plaintiff was advised of his right to obtain legal counsel to represent him. Plaintiff declined to obtain legal counsel and elected to proceed *pro se*.
12. All orders, opinions, and awards issued by the Commission in relation to Plaintiff's Workers' Compensation claim against his employer have been issued in accordance with the applicable statutes and regulations found in the Workers' Compensation Act and Administrative Procedures Act. A party dissatisfied with a Decision and Order of the Commission has an adequate remedy at law via appeal under § 42-17-50 and § 42-17-60. Plaintiff has failed to provide facts sufficient to constitute a cause of action to support his assertion that the Commission violated its laws.

CONCLUSION

Defendant's Motion to Dismiss should be granted. Plaintiff has not properly brought his claim due to lack of jurisdiction over the subject matter and failure to state facts sufficient to constitute a cause of action. For these reasons, the Complaint should be dismissed.

WHEREFORE, Defendant prays that the Complaint be dismissed with prejudice.

Respectfully Submitted,

 12/31/15
J. Keith Roberts, Counsel to the South Carolina
Workers' Compensation Commission
S.C. Bar No. 100735
Post Office Box 1715
Columbia, SC 29202-1715
(803)737-5701

1 STATE OF SOUTH CAROLINA) IN COMMON
2 COUNTY OF RICHLAND) COURT
3)
4 CLARENCE B. JENKINS,)
5) TRANSCRIPT
6 -V-) OF
7) RECORD--
8 SC WORKERS COMPENSATION,) 2015-CP-40-07178
9 COMMISSION)
10 DEFENDANT.)

11

12

SEPTEMBER 23, 2016

13

RICHLAND, SOUTH CAROLINA

14

15 B-E-F-O-R-E:

16 HONORABLE CASEY L. MANNING, JUDGE;

17

18 A-P-P-E-A-R-A-N-C-E-S:

19 FOR THE PLAINTIFF:

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21 FOR THE DEFENDANT:

22 JAMES KEITH ROBERTS, JR., ESQ.

23

24

25

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I-N-D-E-X

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PG.

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MOTION:

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E-X-H-I-B-I-T-S

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NO.

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1. Motion and order information.

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1 (The following proceedings were held on
2 March 22, 2016.)

3 THE COURT: Next on the docket is Jenkins versus
4 South Carolina's Workers Comp Commission; is that the case?

5 MR. ROBERTS: Yes, sir.

6 THE COURT: All right. Motion to include
7 plaintiff's supporting document to dispute. What is that
8 all about?

9 THE PLAINTIFF: Thank you.

10 THE COURT: You Mr. Jenkins?

11 THE PLAINTIFF: Yes, sir.

12 THE COURT: Yes, sir. This is your motion?

13 THE PLAINTIFF: Yes, sir. Yes, Your Honor.

14 THE COURT: Okay.

15 THE PLAINTIFF: The motion includes where the
16 commissioner signed off on --

17 THE COURT: Wait. Slow down a little bit.

18 THE PLAINTIFF: Okay. I'm sorry.

19 THE COURT: All right.

20 THE PLAINTIFF: I'm getting a head of myself.

21 THE COURT: Don't worry. I get the same way.

22 THE PLAINTIFF: Yes, sir. What has happened with
23 the -- the single commission on March 21, 2015 he had the
24 attorney for the defendant to do an order saying --
25 basically certain facts of the case, right. So it went

1 before the full commission, and the full commission decided
2 to affirm what the single commission had agreed upon. So
3 the motion to file for -- document will dispute what's in
4 the official order, and stated as fact -- let me see, when
5 they -- in the official order they said I drew unemployment
6 up until 2012. If you look at my unemployment record it
7 showed that my last check was in March of 2010.

8 THE COURT: Uh-huh.

9 THE PLAINTIFF: So that was incorrect. When they
10 said that I missed my December the 23 I think -- no,
11 December 24th, 2014 doctor's appointment with Dr. Mahmoud
12 Abu-Atta that is incorrect because Dr. Abu-Atta's office
13 sent me a reassignment -- a new appointment because they had
14 training on the 24th.

15 THE COURT: All right. Hold on, Mr. Jenkins.

16 THE PLAINTIFF: Yes, sir.

17 THE COURT: There's some additional information
18 you want me to consider --

19 THE PLAINTIFF: Yes, sir --

20 THE COURT: Regarding your case?

21 THE PLAINTIFF: Right.

22 THE COURT: What is that additional information
23 you want me to consider?

24 THE PLAINTIFF: Well, I want you to consider all
25 of the supported documents that the dispute --

1 THE COURT: Okay. This is what I'm asking you,
2 what are those documents? You need to tell me what they
3 are. Do you have a list of them?

4 THE PLAINTIFF: Yes, sir.

5 THE COURT: All right.

6 THE PLAINTIFF: And I have a copy --

7 THE COURT: Have you seen a copy of it?

8 MR. ROBERTS: I believe so.

9 THE COURT: Okay. Well, let me -- hand me a copy.
10 Let me take a look at it, if that's okay.

11 THE PLAINTIFF: Okay.

12 THE COURT: Now, Mr. Jenkins, these documents that
13 are attached to your motion, these are the materials that
14 you want included for me to consider?

15 THE PLAINTIFF: Yes, sir.

16 THE COURT: All right.

17 THE PLAINTIFF: Yes, Your Honor.

18 THE COURT: And your position is that they were
19 left out and should be included, and I should consider them?

20 THE PLAINTIFF: Correct, Your Honor.

21 THE COURT: Okay. And that's your position?

22 THE PLAINTIFF: Correct, yes, sir.

23 THE COURT: And this includes all of the
24 information that you want me to consider?

25 THE PLAINTIFF: Well, at the moment. At the

1 moment. I have a list of documents.

2 THE COURT: Okay. So these document attached to
3 your motion you want me to consider that have not been
4 included in the record; is that correct?

5 THE PLAINTIFF: That's correct.

6 THE COURT: All right. And counsel for the
7 Workers Comp Commission indicates to me that he has copies
8 of these documents. I will be happy to hear your response.

9 MR. ROBERTS: Thank you, Your Honor. May it
10 please the court. My name is Keith Roberts, and I am --
11 counsel for the South Carolina Workers Compensation
12 Commission.

13 THE COURT: Who's with you?

14 MR. ROBERTS: And this is my law clerk and
15 candidate for admissions -- this is Ms. Marlin Johnson
16 Moore.

17 THE COURT: Where are you from, Mr. Moore?

18 SPEAKER2: I'm from Washington D.C. originally but
19 --

20 THE COURT: Well, welcome then.

21 SPEAKER2: Thank you.

22 THE COURT: Go ahead, sir.

23 MR. ROBERTS: Thank you, Your Honor. We're here
24 today as a result of a complaint that Mr. Jenkins has filed
25 with the court of common pleas alleges causes of action

1 against the Workers Compensation Commission, which is a
2 government entity. The commission heard and decided a
3 working compensation claim that Mr. Jenkins had brought
4 against his employer Amazon dot com.

5 THE COURT: Okay.

6 MR. ROBERTS: And after the hearing the single
7 commissioner issued a decision order on August of 2015.

8 THE COURT: Yes, sir.

9 MR. ROBERTS: Following the issuance of that order
10 Mr. Jenkins appealed that decision to the --

11 THE COURT: To the full commission?

12 MR. ROBERTS: Full commission. Yes, sir.

13 THE COURT: All right.

14 MR. ROBERTS: While that appeal was pending before
15 arguments had been heard he instituted this suit with the
16 court of common pleas naming the commission as, as, a
17 defendant, and so we responded with a motion to dismiss
18 pursuant to 12(b)(1) and to 12(b)(6) and while this case has
19 been pending in the court of common pleas. I have been
20 served with eight motions that I'm aware of that had been
21 filed by Mr. Jenkins. All of them essentially seek to
22 submit documents into evidence -- into evidence for you to
23 consider as part of his complaint against the commission.

24 THE COURT: All right.

25 MR. ROBERTS: It is the position of the commission

1 that any documentary evidence is premature at this time. I
2 don't want to take the position that he's not entitled to
3 let the court see anything that he feels is necessary for
4 you to make your decision --

5 THE COURT: Yes, sir.

6 MR. ROBERTS: But we did not -- formal discovery.
7 I believe that essentially at this time the issue to be
8 addressed is our motion to dismiss under 12(b) (1) and
9 12(b) (6) and pending your ruling on that motion further
10 discovery may be --

11 THE COURT: Thank you, sir.

12 Now, Mr. Jenkins, the position of the ~~commission~~
13 is that I can consider this.

14 THE PLAINTIFF: Yes, sir.

15 THE COURT: All right, relax. And they have a
16 motion to dismiss your claims --

17 THE PLAINTIFF: Yes, sir --

18 THE COURT: -- that I need to hear. So I will
19 hear from counsel for the Workers Compensation Commission to
20 why I should dismiss this, and then I will give you a chance
21 to respond.

22 THE PLAINTIFF: Okay.

23 THE COURT: Is that fair enough?

24 THE PLAINTIFF: Yes, sir.

25 THE COURT: You may proceed, sir.

1 MR. ROBERTS: Thank you, Your Honor. So
2 essentially the commission has two grounds as to why his
3 complaint should be dismissed. The first is under 12(b)(1)
4 that this court lacks subject matter jurisdiction. Mr.
5 Jenkins has alleged a complaint against the commission that
6 arises wholly out of the actions that the commission took
7 at the hearings that it held pursuant to 42-1720. To hear
8 and decide his contested case against his employer that he
9 brought to the commission, a typical workers compensation
10 claim. Before the commission Mr. Jenkins was the claimant,
11 and Amazon dot com, and their insurance carrier was the
12 defendants.

13 THE COURT: Okay.

14 MR. ROBERTS: My client issued first a decision
15 and order by the single commissioner on August of 2015 that
16 decided the merits of his claim pursuant to the workers
17 compensation act. Then the full commission conducted a
18 hearing in December of 2015, and their decision in February
19 of 2016 fully, and finally deciding his claim as far as the
20 workers compensation commission was concerned under the
21 workers compensation commission in there.

22 THE COURT: All right, sir. Thank you. Mr.
23 Jenkins, the rule used to be that the workers compensation
24 commission made a decision which was directly appealable to
25 the circuit court.

1 THE PLAINTIFF: Yes, sir.

2 THE COURT: That rule was changed I think about
3 five or six years ago, or something like that.

4 THE PLAINTIFF: Yes, sir.

5 THE COURT: And now all appeals from the Workers
6 Comp Commission goes straight to the court of appeals, and
7 not to the circuit court. His position is you're in the
8 wrong place. You need to appeal to the court -- I meant, to
9 the --

10 THE PLAINTIFF: Court of appeals.

11 THE COURT: Court of appeals, okay. And that's
12 plan and simple, and that's the law that operates now.
13 There's nothing I can do about that. That's his position.

14 THE PLAINTIFF: Yes, sir.

15 THE COURT: He cited the law. Now, I need to hear
16 a response from you as to why I should hear it rather than
17 it being appealed to the court of appeals.

18 THE PLAINTIFF: Yes, Your Honor.

19 THE COURT: Yes, sir.

20 THE PLAINTIFF: One, Statutory 12(b)(1) applies to
21 the residence of the South Carolina Workers Comp being in
22 Richland County that does give the court of common pleas
23 jurisdiction.

24 THE COURT: Okay.

25 THE PLAINTIFF: 12(b)(6) says that you must be

1 able to prove your case, and that's one way it should be
2 dismissed. I'm able to prove my case based on 12(b)(1)
3 which is sufficient evidence, and here's how we got here.
4 I'm not in the place of suing Amazon, and American -- I'm in
5 the place of filing civil lawsuit against South Carolina
6 Workers Comp Commission because they violated their own
7 laws. One, when we had the hearing on May 21, 2015 the law
8 says South Carolina Workers Comp Law Article 67-611 says, if
9 you self representing yourself you do not have to file
10 prelegal brief. On that day I brought my evidence to the
11 court on the hearing Commission Michael Campbell, II denied
12 me access to get my evidence into record. He left the bench
13 for about a half hour, went and researched the record, came
14 back and said I had need to file the prelegal brief. Which
15 is incorrect according to the law 67 -- R-67-611. So by
16 doing so I would like to present the court with a copy of
17 the defendant's brief, prelegal brief, where they destroyed
18 my medical records.

19 THE COURT: They're already considered a part of
20 the record.

21 THE PLAINTIFF: But I don't think you have this.

22 THE COURT: Let me tell you --

23 THE PLAINTIFF: Okay. Okay.

24 THE COURT: Listen to me carefully.

25 THE PLAINTIFF: Okay.

1 THE COURT: They're already considered a part of
2 this record.

3 THE PLAINTIFF: Okay. Yes, sir.

4 THE COURT: They are duplicitas to pile it on top
5 the same thing twice.

6 THE PLAINTIFF: Yes, sir.

7 THE COURT: If I looked at what you suggested -- I
8 take a look at.

9 THE PLAINTIFF: Okay. I appreciate it.

10 THE COURT: That's all right.

11 THE PLAINTIFF: And then also another one of the
12 laws that South Carolina Workers Comp filed is Form 14(b)
13 which states that anyone that is representing themself Form
14 14(b) must be completed by the assigned workers' compensation
15 doctor must also include a medical rating, and must also
16 include a releasement statement. That has not been done by
17 my assigned neurologist that the defendant authorized me to
18 see. And by South Carolina Workers Comp allowing the
19 defendant to distort medical and pertinent information
20 that's why we have the ruling that we have before the
21 Workers Comp Commission. They will -- you do not have a
22 copy of this. I have not submitted this yet.

23 THE COURT: I have a copy.

24 THE PLAINTIFF: Oh, you have a copy? Okay,
25 Brother, I just want to make sure you have it. That's all.

1 THE COURT: Thank you, sir.

2 THE PLAINTIFF: Yeah. And also during the May 21
3 hearing I also stated to Commissioner Campbell that the
4 court was being bias or prejudice toward me by not allowing
5 me to enter my information that the defendant had destroyed.
6 South Carolina Law 42-9-440 says, suspected false statement
7 and misrepresentation must be -- must be sent to the
8 Insurance Fraud Division to the Office of the Attorney
9 General. The commission shall report all cases of suspect
10 false statement of misrepresentation it's defined in Section
11 38-55-530. Back when a request was made to director to the
12 director of the commission Mr. Gary Cannon. I have yet to
13 get a response -- well, I got a denied response from him.
14 He refused to file a complaint with the United States
15 Attorney General's Office.

16 THE COURT: Mr. Jenkins, can I help you out a
17 little bit?

18 THE PLAINTIFF: Yes, sir.

19 THE COURT: I'm here today to decide whether or
20 not I have jurisdiction to entertain --

21 THE PLAINTIFF: -- yes, sir.

22 THE COURT: -- your motions.

23 THE PLAINTIFF: Okay.

24 THE COURT: I'm going to mark what you presented
25 to me.

1 THE PLAINTIFF: Yes, sir.

2 THE COURT: I'm obligated to do that.

3 THE PLAINTIFF: Yes, sir.

4 THE COURT: What I'm going to do is this. I'm
5 going to take into account everything you presented to me --

6 THE PLAINTIFF: -- yes, sir.

7 THE COURT: -- on your motion. I'm going to take
8 into account his arguments, and what you've told me.

9 THE PLAINTIFF: Yes, sir.

10 THE COURT: I will review the record, and I will
11 make a decision.

12 THE PLAINTIFF: Okay.

13 THE COURT: Now, at this point in time, I've heard
14 enough from both parties to make a fair and just decision
15 regarding you, and the commission, and I will do that. I
16 will take my time, consider it, and let you know my decision
17 in due course. Okay?

18 THE PLAINTIFF: Okay. Okay, thank you.

19 THE COURT: Thank you both so very much.

20 THE PLAINTIFF: Your Honor, if I could?

21 THE COURT: Let me help you out. I have
22 everything I need to make a fair and just decision regarding
23 both parties. I will do that, Mr. Jenkins. Thank you very
24 much for your presentation.

25 THE PLAINTIFF: Okay. Okay.

1 THE COURT: This matter is concluded.

2 THE PLAINTIFF: Well, thank you.

3 THE COURT: You're welcome, sir.

4 END OF PROCEEDINGS

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SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE #1303989

CLARENCE B. JENKINS)
CLAIMANT,)
VS.)
AMAZON.COM)
EMPLOYER,)
AND)
AMERICAN ZURICH)
CARRIER.)

SC WORKERS' COMPENSATION COMMISSION

FULL BOARD HEARING OF

CLARENCE B. JENKINS

VS

AMAZON.COM

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

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APPEARANCES

FOR THE APPELLANT:
Pro Se

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

COMMISSIONER PRESENT:

Avery Wilkerson, Chair
T. Scott Beck
Aisha Taylor

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

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1 Mr. Jenkins: Okay.

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

6 Commissioner Taylor: Depending on the motion.

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

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

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

17 Commissioner Beck: Right.

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

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

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

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

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

10 Commissioner Wilkerson: Thank you.

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

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

5 Commissioner Wilkerson: Okay.

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

7 Commissioner Wilkerson: Okay. Thank you.

8 Mr. Jenkins: Okay.

9 Commissioner Wilkerson: Please, sir.

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

1 as that has such a great harm to a -- to a outcome of a
2 case. The second motion on the floor is one where it
3 allows -- 42nd -- 42-17-50 does allow the South
4 Carolina Workers' Comp Commission to compensate the
5 Full Commission to receive further evidence; therefore
6 the admittance of pertinent medical records as
7 supportive documents that was denied on May 21st, 2015.
8 So, here again, another workers' Comp law does allow
9 the Full Commission to receive and -- and review
10 additional documentation that was not allowed on May
11 21st. So, those are the two (2) motions: To have the
12 documents that was brought with me on May 21st to be
13 admitted and also, the additional documentation,
14 medical documentation, that also will verify my current
15 medical condition at this time. Thank you very much.

16 Commissioner Wilkerson: Thank you. I appreciate
17 it. Any questions?

18 Mr. Goudelock: Commissioner, just a brief
19 response.

20 Commissioner Wilkerson: Sure.

21 Mr. Goudelock: The -- 67-611 deals with a
22 pre-hearing brief and Mr. Jenkins is correct that that
23 is not required to be submitted by an unrepresented
24 Claimant. 67-612 deals with documentary evidence
25 submissions; that does not afford the same right to --

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

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

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

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

23 Mr. Jenkins: Yes, sir.

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

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

4 (Off The Record)

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

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

21 Commissioner Wilkerson: Okay.

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

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

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

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

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

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

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

13 Commissioner Wilkerson: We're not --

14 Commissioner Taylor: But due --

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

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

19 Commissioner Wilkerson: -- with the hearing --

20 Mr. Jenkins: And I want --

21 Commissioner Wilkerson: -- on your case?

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

23 Commissioner Wilkerson: Okay.

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

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

4 Mr. Jenkins: Yes, sir.

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

7 Mr. Jenkins: Okay. All right.

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

11 Mr. Jenkins: Right.

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

14 Mr. Jenkins: Okay.

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

18 Mr. Jenkins: Okay.

19 ARGUMENT FOR THE APPELLANT

20 By Mr. Jenkins:

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

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

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

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

17 Mr. Jenkins: Yes, they was --

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

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

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

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

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

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

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

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

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

20 Mr. Jenkins: Right, it was accepted.

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

23 Mr. Jenkins: Right.

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

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

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

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

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

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

25 Commissioner Taylor: Mr. Jenkins, and

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

6 Mr. Jenkins: Right.

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

11 Mr. Jenkins: Right.

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

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

19 Commissioner Taylor: Sure.

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

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

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

10 Mr. Jenkins: So, my --

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

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

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

1 Mr. Goudelock: Thank you, Your Honor.

2 ARGUMENT FOR THE RESPONDENT

3 By Mr. Goudelock:

4 Your Honors, I'll be -- I'll be brief. My -- my
5 brief, I think, addresses most of the points that I
6 would make. Let me start by saying that -- that
7 because I don't address them, please do not assume that
8 I agree with everything that Mr. Jenkins has said. Let
9 me also start out by saying that everybody involved
10 with this case has begged Mr. Jenkins to have a
11 lawyer. He has been begged by me; this is in the
12 records. We mediated this case twice. The Mediator,
13 Mr. Williams, recommended to him to get a lawyer.
14 Commissioner Campbell asked him about ten (10) times at
15 the beginning of the hearing to get a lawyer. He has
16 elected to proceed on his own. I wish he had a lawyer.
17 I would love for him to have a lawyer but he doesn't.
18 What -- what happened in this case is on February the
19 10th, 2013, he was working at Amazon and he dropped a
20 -- something at -- by the table, a work table a little
21 bit higher than this; he bent over to pick it up and he
22 hit his head. He didn't fall and land on his head and
23 blow it out on the concrete. He didn't lose
24 consciousness. He didn't lose alteration of -- of --
25 of his presence. He didn't have any bleeding. He

1 didn't have -- at lease the medical records reflect;
2 his testimony is different but he didn't -- didn't have
3 a knot on his head or anything like that. He continued
4 to work. Later he went to Amcare, which is their
5 in-house thing to get some Tylenol. But in any event
6 the -- the -- what this turns on is, there is no
7 dispute that he had something happen to him that day;
8 the question in this case all along has been what
9 happened and what, if anything, resulted from it.
10 We've had to try to sort out allegations of injuries to
11 his head, his eyes, his ear, his legs, his feet, his
12 neck, his shoulders, his hands, his back and his
13 emotional state and we've done the best we can to try
14 to do that and submit the medical records that we felt
15 were relevant to that. Commissioner Campbell heard it;
16 he heard a hearing for several hours and at the end of
17 the hearing it was his determination and the -- and
18 it's set forth in the brief, of course, and in the
19 order with citations to the record, that there was no
20 disabling injury to Mr. Jenkins and that the conditions
21 that he was complaining of now did not result, at this
22 point in the case, from what happened to him on
23 February the 13th or February the 10th of 2013. So, we
24 would submit to you that Commissioner Campbell's
25 decision is supported, not only by substantial evidence

1 but certainly by preponderance of the evidence and
2 should be affirmed.

3 Commissioner Wilkerson: Any questions?

4 Commissioner Taylor: No.

5 Commissioner Wilkerson: Okay. Thank
6 you. Sir, you have three (3) minutes in
7 reply.

8 REPLY FOR THE APPELLANT

9 By Mr. Jenkins:

10 And I want to stand and say that, here again, Mr.
11 Goudelock is distorting my medical information. A day
12 or so after I did have a injury, I did came to work and
13 I had a -- a extreme pounding headache but the very
14 moment that I got in until -- until I was about to lose
15 consciousness and so, that's why Amazon sent me to
16 their medical provider, probably, the second day.
17 You're right, I did continue to work after I had been
18 hit because I -- I continued to -- to have my symptoms
19 continue to increase that night and during that night I
20 left work early; I didn't continue to work the entire
21 shift. And see, by not having any blood; well, I did
22 have bleeding in my ear. I didn't wake up till morning
23 but I couldn't even lift my head off the -- off the
24 pillow because my head was just like in a -- a
25 paralyzed state; if I moved I felt like something was

1 going to happen. And then, finally, this ear right
2 here that -- the reason its still kind of ill formed,
3 when I woke up it had -- it was -- it was breaking out
4 from the inside out; it was about as twice the size as
5 this ear right here. And I thought a bug had bite me.
6 I went to my health -- my family doctor and she said,
7 well, I can tell you up front, this is not from a bug
8 bite; this is from some type of impact to the head.
9 Were you fighting and wrestling and boxing? I said,
10 well, I haven't been in any type of fights or anything
11 or any type of conflict other than when I got hit on
12 the head. So, she -- she -- she opened it up and blood
13 and fluid was going everywhere. And she said, well,
14 the more I squeeze the more blood come out -- comes out
15 of it.

16 Mr. Goudelock: Your Honor, I'm going to
17 object at this point. That condition had
18 already --

19 Mr. Jenkins: Well --

20 Mr. Goudelock: -- been ruled out at a
21 prior hearing.

22 Mr. Jenkins: -- well, he said --

23 Commissioner Wilkerson: Okay.

24 Mr. Jenkins: -- well, he said no blood.
25 He said no blood; so, let me deal with the blood issue.

1 So, she --

2 Commissioner Wilkerson: we'll allow
3 that comment in the record.

4 Mr. Jenkins: -- right. So, she
5 bandaged up my ear and said if it ever happens again
6 you go to the nearest emergency room. And about a day
7 or so later again it did bunged up again about as twice
8 as this ear right here. I went to Providence Health
9 Care Provider. The emergency room doctor said -- he
10 said, I'm not going even touch it, he said, because I
11 don't even know what it is. He said, but I'm going to
12 call a -- a specialist and I'm going to find out from
13 them. He called a specialist. They kept me in the
14 emergency room pretty much until dawn. He said -- he
15 said, he wants you in his office two o'clock the next
16 -- the next day. Two o'clock I went in there and he
17 said, well, this is not a bug bite; it comes from some
18 type of impact to head. And he said, what I'm going to
19 do, he said, I'm going to open it up and while I'm
20 opening it up I'm going to have my nurse to have a
21 suction and she is going to suction while I squeeze and
22 that's what happened on two o'clock that next day. And
23 he puts -- he put -- he put about twenty (20) shots in
24 this ear so he could numb it up. And he kept -- he put
25 about seven (7) stitches in there and I had to keep the

1 stitches in there for a week or so. So, when said
2 there was no -- no gash or no impact, I know they want
3 to make believe that my head was just a simple hit on
4 the table -- table but it was much more than that
5 because my symptoms have only got -- they have
6 increased and they have gotten worse from time -- as
7 time has progressed. And that worse -- the reason why
8 they have gotten worse --

9 Commissioner Wilkerson: Finish your
10 comment.

11 Mr. Jenkins: -- sir?

12 Commissioner Wilkerson: Finish your
13 comment --

14 Mr. Jenkins: That's due to --

15 Commissioner Wilkerson: -- your three
16 (3) minutes are up.

17 Mr. Jenkins: -- that's due to neglect
18 of Amazon and Sedgwick and also this Workers' Comp
19 Commission.

20 Commissioner Taylor: All right. Thank
21 you.

22 Commissioner Wilkerson: Thank you, sir.
23 I appreciate it. What we'll do is, we'll
24 take everything presented today, everything
25 that has been handed in for the hearing,

1 everything that's been in the file and you'll
2 get a decision coming out probably sometime
3 in January or February, okay? At that point
4 in time, if you disagree with what we come up
5 with, I don't know what that is at this point
6 in time, then you have the right to appeal
7 your case to the Court of Appeals --

8 Mr. Jenkins: Right.

9 Commissioner Wilkerson: -- and that
10 would be left totally up to you to move
11 forward.

12 Mr. Jenkins: Right.

13 Commissioner Wilkerson: And I think you
14 live in Richland County; is that correct?

15 Mr. Jenkins: I live -- no, I live in
16 Orangeburg County.

17 Commissioner Wilkerson: Orangeburg
18 County, okay.

19 Mr. Jenkins: Right. That -- let me --
20 let me --

21 Commissioner Wilkerson: We're through
22 with the hearing.

23 Mr. Jenkins: -- yeah, but we --

24 Commissioner Wilkerson: We just wanted
25 to give you your rights.

1 Mr. Jenkins: -- yeah, we're through.

2 Commissioner Wilkerson: Thank you.

3 This concludes the hearing. Thank you.

4 (THERE BEING NO FURTHER DISCUSSION, THE HEARING CONCLUDED

5 AT 2:02 P.M.)

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

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

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

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

APPEARANCES

FOR THE CLAIMANT

CLARENCE B. JENKINS, PRO SE

FOR THE DEFENDANT

J. RUSSELL GOUDELOCK, ESQUIRE
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POST OFFICE BOX 12519
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REPORTED BY

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

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

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

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

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

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

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

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

3 MR. JENKINS: Yes, sir.

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

7 MR. JENKINS: Yes, sir.

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

11 MR. JENKINS: Yes, sir.

12 THE COURT: Vice versa.

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

15 THE COURT: Yes, sir.

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

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

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

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

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

19 MR. JENKINS: Okay.

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

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

1 review it --

2 MR. JENKINS: Right. Right.

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

5 MR. JENKINS: Yes, Your Honor.

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

9 MR. JENKINS: Okay.

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

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

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

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

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

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

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

4 THE COURT: Yes, please.

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

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

21 MR. JENKINS: Yes, sir.

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

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

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

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

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

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

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

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

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

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

23 THE COURT: Okay.

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

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

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

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

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

15 THE COURT: Okay.

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

24 THE COURT: Okay.

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

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

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

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

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

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

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

13 MR. JENKINS: Yeah.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 THE COURT: You're fine.

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

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

20 MR. JENKINS: Right.

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

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

3 THE COURT: Okay.

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

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

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

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

17 MR. JENKINS: Yes, sir.

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

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

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

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

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

1 little weary of attorneys at this time basically.

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

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

6 --

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

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

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

14 MR. JENKINS: Yes, sir.

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

16 MR. JENKINS: Yes, sir.

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

19 MR. JENKINS: Yes, sir.

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

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Clarence B. Jenkins Jr.

Plaintiff,

vs.

S.C. Worker's Compensation
Commission

Defendants;

) IN THE COURT OF COMMON PLEAS
) FIFTH JUDICIAL CIRCUIT

) CASE NO: 2015-CP-40-07178

) **MOTION TO INCLUDE**
) **DR. MAHMOUD ABU-ATA MEDICAL**
) **RECORDS**

Plaintiff's request this Honorable Court accept these medical records from Dr, Mahmoud Abu-Ata as verification to support medical condition. Dr. Mahmoud Abu-Ata was the assigned worker's compensation doctor by Amazon and Sedgwick. Defendants has distorted Plaintiff's medical records under the authority of S.C. Worker's Compensation Commission.

Wherefore, Plaintiff respectfully request this court grant Plaintiff's request to include medical records.

Pro Se Clarence B. Jenkins Jr.



Pro Se Clarence B. Jenkins Jr.

945 Wire Rd.

Neeses, SC 29107

(803) 263-4514

Email: upscale81@yahoo.com

Attorney for Plaintiff

Neeses, South Carolina

Date: May 4, 2016

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

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

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

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

Review of systems:

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

Past medical history:

-Hypertension

Past surgical history -Upper GI

Family history: Diabetes, Heart problems, Cancer

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

Medications:

-Toradol 10mg 1 tab q6hrs

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

Allergies: No known drug allergies.

PHYSICAL EXAMINATION:

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

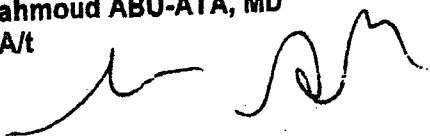
ASSESSMENT:

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

PLAN:

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

Mahmoud ABU-ATA, MD
MA/t



**Dr. Mohammed Alhatou
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DATE: February 21, 2014
PATIENT: Clarence Jenkins
MR#: 99564

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

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

Review of systems:

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

Past medical history:

- Hypertension
- Headaches
- Post concussion syndrome
- Neck pain and cervical degenerative spine disease
- Dizziness

Past surgical history -Upper GI

Family history: Diabetes, Heart problems, Cancer

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

Medications:

- Propranolol 20 mg bid
- Flexeril 10 mg bid
- Meclizine 12.5 mg tid prn dizziness

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Neurontin 300 mg tid

Allergies: No known drug allergies.

PHYSICAL EXAMINATION:

-Vital signs: BP – 133/90, heart rate –90. Weight 168 lb, Resp rate 15. General: conscious, alert, and oriented to time, place and person. Not in any distress. Head and neck exam: normocephalic, non-traumatic, supple neck, no cranial, vertebral or carotid bruits. No scalp or cervical tenderness. No meningismus or neck stiffness. Negative Kernig and Brudzinski signs. ENT: wet mucus membranes, no erythema, no sore throat, intact tympanic membranes, grossly intact hearing. EYE: Pupils equally reactive to light. No papilledema on fundoscopy. Chest: Clear lungs to auscultation bilateral. Not in respiratory distress. Heart: S1, S2 and S3. Regular rate and rhythm. No murmurs, gallops or rubs. Palpable peripheral pulses. Abdomen: soft, non-tender, positive bowel sounds. No palpable masses. Genitourinary: No costo-vertebral tenderness. No suprapubic tenderness. Musculoskeletal and extremities: No deformities, no spine tenderness. Negative Tinel and Phalen signs. Negative straight leg raising test. Skin: old burn scar left leg. No skin rash. Lymphatic: No palpable enlarged lymph nodes. Psychiatric: appropriate, normal affect, non suicidal. Neurological: fluent speech, intact comprehension, repetition and naming. Memory: intact. Cranial nerves II – XII intact. Normal fundoscopy. Motor: Normal tone and bulk. Good strength in the upper and lower extremities 5/5. Sensation: Intact pinprick, light touch, vibration and position all 4 limbs. Deep Tendon Reflexes: Symmetrical +2 in upper and lower extremities. Babinski: both toes are down-going. Coordination: intact finger-to-nose test, heel-shin test and rapid alternating movements. Gait is steady. Romberg is negative. NCS/EMG lower extremities: normal

Previous work up

MRI Brain: Normal

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

ASSESSMENT:

- Headaches, description of post traumatic headache, with possible migraine, rebound analgesic headache, hypertension and tension component.
- Post concussion syndrome
- Neck pain
- Cervical degenerative spine disease
- Arm and leg pain and parasthesia
- Radicular symptoms
- Head trauma
- Dizziness, better
- Hypertension
- Presyncope
- Chest pain
- Non compliance
- Subjective visual difficulties, left eye
- Possible PTSD, anxiety with possible psychosomatic components playing a factor

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

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

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

Review of systems:

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

Past medical history:

-Hypertension

Past surgical history: -Upper GI

Family history: Diabetes, Heart problems, Cancer

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

Medications:

-Propranolol 20 mg bid

-Flexeril 10 mg qhs

Allergies: No known drug allergies.

PHYSICAL EXAMINATION:

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

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

MRI Brain: Normal

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

NCS/EMG upper extremities normal

ASSESSMENT:

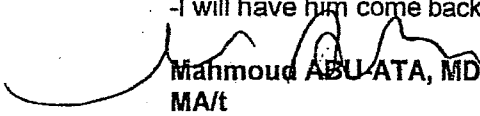
- Headaches, description of post traumatic headache, with possible migraine, rebound analgesic headache, hypertension and tension component.
- Post concussion syndrome
- Neck pain
- Cervical degenerative spine disease with mild to moderate right neural foraminal stenosis and mild left neural foraminal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

PLAN:

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

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



Mahmoud ABU-ATA, MD
MA/t

DATE

10-24-13

NAME

DARRENE JENKINS

ADDRESS

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SC Lic. No. 22951
DEA No. BA6915283
NPI No. 1124057245Mahmoud Abu-Ata, M.D.
SC Lic. No. 27809
DEA No. BA9235765
NPI No. 1841216991

R

(Please Label Contents)

Mg.

No.

Sig.

Rep.

1 Avoid heavy lifting, bending, pushing, pulling
2 or kneeling

3

4

M.D.

DISPENSE AS WRITTEN

GROVE PARK PHARMACY

SUBSTITUTION PERMITTED

536-0007

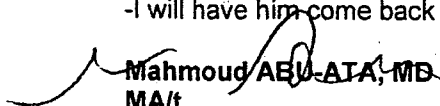
M.D.

Drive-Thru Window

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DATE: February 21, 2014
PATIENT: Clarence Jenkins
MR#: 99564

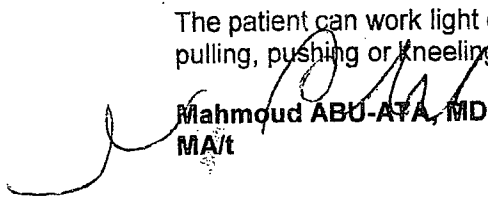
- Start neurontin 300 mg qhs X 1 week then bid X 1 week then tid
- Meclizine 12.5 mg tid prn dizziness
- He is to keep a headache calendar and regular measurement of BP.
- Neck and back strengthening exercises, vestibular exercises
- Physical therapy
- He was counseled about weight reduction.
- Recommend referral and follow up with spine surgery for evaluation of cervical spine disease
- Can work light duties, with following restrictions; Avoid heavy weight lifting, frequent bending, pulling, pushing or kneeling./ Avoid strong odors, strong fumes, loud noises and bright lights,
- I explained to patient in details the side effects of medications.
- Patient was counseled about findings, diagnoses, managements and plan.
- I will have him come back for follow up in about 12 weeks.


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MA/t**

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DATE: February 21, 2014
PATIENT: Clarence Jenkins
MR#: 99564

The patient can work light duties, with following restrictions; Avoid heavy weight lifting, frequent bending, pulling, pushing or kneeling./ Avoid strong odors, strong fumes, loud noises and bright lights



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seen
10/23/14

DATE: June 20, 2014
PATIENT: Clarence Jenkins
MR#: 99564

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

HISTORY: Mr. Jenkins is a 45 year old gentleman who is right handed who comes today for follow up. He said he still has frequent headaches. They occur every day. They would last few hours occurring. He denies any aura but describes phosphenes, black holes and blurry vision during the headache. His headaches are left frontal or temporal, dull aching, or "aggravating" associated with photophobia, phonophobia and odor sensitivity. No relation to coughing, sneezing, straining or changing position. No nausea or vomiting. They are aggravated by bright light, noise and physical activities. He said dizziness and light headedness are better. He still complains of neck pain associated with pain radiating to arms and hands with bilateral hand pain and numbness. He also describes pain and numbness in his legs. He complains of chest pain. He said he keeps tossing and turning at night because of leg pain. He said he had two episodes of recurrent coughing and gagging, felt he was about to pass out but did not lose consciousness. He is not taking the flexeril or propranolol. He is on neurontin which he thinks helps some. He takes aspirin daily. He said his memory and concentration are better. He complains of losing vision in left eye. He denies any double vision. He said overall he is doing worse. He denies any recent vertigo, hearing loss, tinnitus, balance difficulties, falling, lower back pain, bowel or bladder incontinence, upper or lower extremity weakness, eye pain, eye redness, speech or swallowing problems, seizures, syncope, staring spells, change in taste or smell, hallucinations, delusions, depression, anxiety, suicidal or homicidal ideation. He did not go back to work

Review of systems:

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

Past medical history:

- Hypertension
- Headaches
- Post concussion syndrome
- Neck pain and cervical degenerative spine disease
- Dizziness

Past surgical history: -Upper GI

Family history: Diabetes, Heart problems, Cancer

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

Medications:

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

MRI Brain: Normal

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

NCS/EMG upper extremities normal

ASSESSMENT:

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

PLAN:

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

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Allergies: No known drug allergies.

PHYSICAL EXAMINATION:

-Vital signs: BP – 134/89, heart rate –84. Weight 160 lb, Resp rate 15. General: conscious, alert, and oriented to time, place and person. Not in any distress. Head and neck exam: normocephalic, non-traumatic, supple neck, no cranial, vertebral or carotid bruits. No scalp or cervical tenderness. No meningismus or neck stiffness. Negative Kernig and Brudzinski signs. ENT: wet mucus membranes, no erythema, no sore throat, intact tympanic membranes, grossly intact hearing. EYE: Pupils equally reactive to light. No papilledema on fundoscopy. Chest: Clear lungs to auscultation bilateral. Not in respiratory distress. Heart: S1, S2 and S3. Regular rate and rhythm. No murmurs, gallops or rubs. Palpable peripheral pulses. Abdomen: soft, non-tender, positive bowel sounds. No palpable masses. Genitourinary: No costo-vertebral tenderness. No suprapubic tenderness. Musculoskeletal and extremities: No deformities, no spine tenderness. Negative Tinel and Phalen signs. Negative straight leg raising test. Skin: old burn scar left leg. No skin rash. Lymphatic: No palpable enlarged lymph nodes. Psychiatric: appropriate, normal affect, non suicidal. Neurological: fluent speech, intact comprehension, repetition and naming. Memory: intact. Cranial nerves II – XII intact. Normal fundoscopy. Motor: Normal tone and bulk. Good strength in the upper and lower extremities 5/5. Sensation: Intact pinprick, light touch, vibration and position all 4 limbs. Deep Tendon Reflexes: Symmetrical +2 in upper and lower extremities. Babinski: both toes are down-going. Coordination: intact finger-to-nose test, heel-shin test and rapid alternating movements. Gait is steady. Romberg is negative.
NCS/EMG lower extremities: normal

Previous work up

MRI Brain: Normal

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

NCS/EMG upper extremities normal

ASSESSMENT:

- Headaches, description of post traumatic headache, with possible migraine, rebound analgesic headache, hypertension and tension component.
- Post concussion syndrome
- Neck pain
- Cervical degenerative spine disease
- Arm and leg pain and parasthesia
- Radicular symptoms
- Head trauma
- Dizziness, better
- Hypertension

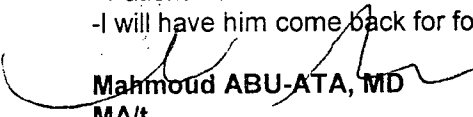
PLAN:

- Patient not interested in doing CSF exam for evaluation of headaches.
- I again explained to him the results of MRI brain, MRI C spine and NCS/EMG
- For preventive treatment of headaches continue propranolol 20 mg bid, later may increase dose as tolerated
- Flexeril 10 mg bid for tension component and neck pain

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PLAN:

- I again explained to him the results of MRI brain, MRI C spine and NCS/EMG
- For preventive treatment of headaches restart propranolol 20 mg bid, later may increase dose as tolerated
- Restart Flexeril 10 mg bid for tension component and neck pain
- Continue neurontin 300 mg tid
- Meclizine 12.5 mg tid prn dizziness
- Stop aspirin and avoid all OTC medications
- I explained to him rebound analgesic medications
- He is to keep a headache calendar and regular measurement of BP.
- Neck and back strengthening exercises, vestibular exercises
- Physical therapy
- He was counseled about weight reduction.
- Recommend referral and follow up with spine surgery for evaluation of cervical spine disease
- Recommend referral to psychiatry for evaluation
- Recommend neuropsychological testing
- He can work light duties, with following restrictions; Avoid heavy weight lifting, frequent bending, pulling, pushing or kneeling./ Avoid strong odors, strong fumes, loud noises and bright lights
- I explained to patient in details the side effects of medications.
- Patient was counseled about findings, diagnoses, managements and plan.
- I will have him come back for follow up as needed


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

NAME

ADDRESS

THE NEUROLOGY AND PAIN CLINIC

2850 Pelham Court
Orangeburg, SC 29118
PHONE: (803) 531-8500

Mohammed Alhatou, M.D.
SC Lic. No. 22951
DEA No. BA6915283
NPI No. 1124057245

Mahmoud Abu-Ata, M.D.
SC Lic. No. 27809
DEA No. BA9235765
NPI No. 1841216991

R

(Please Label Contents)

Mg.

No.

Sig.

Rep.

1 can work light duties with following restrictions
2 avoid heavy weight lifting frequent bending, pulling
3 pushing or kneeling. avoid long drives, strong turns
4 loud noises and bright lights

DISPENSE AS WRITTEN
GROVE PARK PHARMACY

M.D.

536-0007

SUBSTITUTION PERMITTED

M.D.

Drive-Thru Window

DATE

6-20-14

NAME

Clarence Jenkins

ADDRESS

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R

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Mg.

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1 refer for neuropsych testing

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M.D.

SUBSTITUTION PERMITTED

536-0007

M.D.

NEUROLOGY AND PAIN CLINIC, LLC • 2850 PELHAM COURT, ORANGEBURG SC 29118-1400
 JENKINS, CLARENCE B (id #16386, dob: 08/14/1968)

NEUROLOGY AND PAIN CLINIC LLC
 2850 PELHAM COURT
 ORANGEBURG, SC 29118-1400
 Phone: (803) 531-8500, Fax: (803) 531-7654

Date: 10/23/2014

Dear Clarence Jenkins,

The following is a summary of your visit today. If you have any questions, please contact our office.

Sincerely,

Electronically Signed by: MAHMOUD ABU-ATA, MD

Patient Care Summary for Clarence B Jenkins

Most Recent Encounter

10/23/2014 Mahmoud Abu-Ata: 2850 Pelham Court, Orangeburg, SC 29118-1400, Ph. (803) 531-8500

Reason for Visit

None recorded.

Assessment and Plan

The following list includes any diagnoses that were discussed at your visit.

1. Postconcussion syndrome
 - postconcussion syndrome: after your visit
2. Headache
 - headache: after your visit
3. Posttraumatic headache
4. Migraine
 - propranolol 20 mg tablet
5. Analgesic overuse headache
6. Tension-type headache
 - cyclobenzaprine 10 mg tablet
 - tension headache: after your visit
7. Essential hypertension
 - high blood pressure: after your visit
 - learning about high blood pressure
8. Noncompliance with treatment
9. Neck pain
 - neck pain: after your visit
10. Degeneration of cervical intervertebral disc
 - cervical disc disease: after your visit
11. Degenerative cervical spinal stenosis
12. Numbness of upper limb
13. Numbness of lower limb
14. Radicular pain
15. Injury of head
16. Dizziness
 - dizziness: after your visit
17. Near syncope
 - lightheadedness or faintness: after your visit

18. Chest pain

- chest pain: after your visit

19. Subjective visual disturbance

20. Posttraumatic stress disorder

- post-traumatic stress disorder (ptsd): after your visit

21. Psychosomatic factor in physical condition, psychological component of unknown degree

22. Nausea

- nausea and vomiting: after your visit
- promethazine 25 mg tablet

23. Insomnia

- insomnia: after your visit

Discussion Note

-I again explained to him the results of MRI brain, MRI C spine and NCS/EMG

- For preventive treatment of headaches restart propranolol 20 mg bid, later may increase dose as tolerated

-Restart Flexeril 10 mg qhs for tension component and neck pain

-Continue neurontin 300 mg tid

-Meclizine 12.5 mg tid prn dizziness

-phenergan 25 PRN when needed for migraine, vomiting and/or nausea. No more than 2 per day or 4 per week

-Stop ibuprofen, naprosyn, hydrocodone, and avoid all OTC medications

-I explained to him rebound analgesic medications

-He is to keep a headache calendar and regular measurement of BP.

-Neck and back strengthening exercises, vestibular exercises

-Physical therapy

-He was counseled about weight reduction.

-Recommend referral and follow up with spine surgery for evaluation of cervical spine disease

-Recommend evaluation by ophthalmology for left eye subjective loss of vision

-Recommend referral to psychiatry for evaluation

-Recommend neuropsychological testing

-He can work light duties, with following restrictions; Avoid heavy weight lifting, frequent bending, pulling, pushing or kneeling./ Avoid strong odors, strong fumes, loud noises and bright lights

- I explained to patient in details the side effects of medications.

- Patient was counseled about findings, diagnoses, managements and plan.

-I will have him come back for follow up as needed

Plan of Care

None recorded.

Current Medications

Your medical record indicates you are on the following medicine. If this list is not consistent with the medications you are currently taking, or if you are taking additional over-the-counter medicines, please inform your provider.

Name	Prescribed Date	Start Date
cyclobenzaprine 10 mg tablet Take 1 tablet(s) every day by oral route at bedtime.	10/23/2014	
gabapentin 300 mg capsule		
hydrocodone 5 mg-acetaminophen 325 mg tablet		
ibuprofen 800 mg tablet		
naproxen sodium 550 mg tablet		
promethazine 25 mg tablet Take 1 tablet(s) as needed by oral route. When needed for vomiting and/or nausea. No more than 2 per day or 4 per week	10/23/2014	
propranolol 20 mg tablet Take 1 tablet(s) twice a day by oral route.	10/23/2014	

Medications Administered

None recorded.

Vitals

Height	Weight	BMI	Blood Pressure
5 ft 4 in	156 lbs	26.8	141/85
Age (years)			Pulse
46			80 bpm

Lab Results

None recorded.

Allergies

Please review your allergy list for accuracy. Contact your provider if this list needs to be updated.

Name	Reaction	Severity	Onset
NKDA			

Problems

Name	Status	Onset Date	Source
Postconcussion Syndrome	Active	10/22/2014	History
Headache	Active	10/22/2014	History
Neck Pain	Active	10/22/2014	History
Dizziness	Active	10/22/2014	History
History of Hypertension	Active	10/22/2014	History
Psychosomatic Factor in Physical Condition, Psychological Component of Unknown Degree	Active	10/23/2014	Encounter
Tension-type Headache	Active	10/23/2014	Encounter
Posttraumatic Stress Disorder	Active	10/23/2014	Encounter
Posttraumatic Headache	Active	10/23/2014	Encounter
Analgesic Overuse Headache	Active	10/23/2014	Encounter
Migraine	Active	10/23/2014	Encounter
Subjective Visual Disturbance	Active	10/23/2014	Encounter
Essential Hypertension	Active	10/23/2014	Encounter
Degeneration of Cervical Intervertebral Disc	Active	10/23/2014	Encounter
Degenerative Cervical Spinal Stenosis	Active	10/23/2014	Encounter
Radicular Pain	Active	10/23/2014	Encounter
Near Syncope	Active	10/23/2014	Encounter
Insomnia	Active	10/23/2014	Encounter

Numbness of Upper Limb	Active	10/23/2014	Encounter
Numbness of Lower Limb	Active	10/23/2014	Encounter
Chest Pain	Active	10/23/2014	Encounter
Nausea	Active	10/23/2014	Encounter
Injury of Head	Active	10/23/2014	Encounter

Procedures

Date	Name	Performed by
	Other	
	Notes: upper GI	Information not available

Vaccine List

Here is a copy of your most up-to-date vaccination list.

None recorded.

Smoking Status

Smoking Status Never Smoker

Past Encounters

10/23/2014

Postconcussion Syndrome; Headache; Posttraumatic Headache; Migraine; Analgesic Overuse Headache; Tension-type Headache; Essential Hypertension; Noncompliance with Treatment; Neck Pain; Degeneration of Cervical Intervertebral Disc; Degenerative Cervical Spinal Stenosis; Numbness of Upper Limb; Numbness of Lower Limb; Radicular Pain; Injury of Head; Dizziness; Near Syncope; Chest Pain; Subjective Visual Disturbance; Posttraumatic Stress Disorder; Psychosomatic Factor in Physical Condition, Psychological Component of Unknown Degree; Nausea; Insomnia
Mahmoud Abu-Ata, MD: 2850 Pelham Court, Orangeburg, SC 29118-1400, Ph. (803) 531-8500

Demographics

Sex:	Male	Ethnicity:	Not Hispanic or Latino
DOB:	08/14/1968	Race:	Black or African American
Preferred language:	English	Marital status:	Never Married

Contact: 945 Wire Road, Neeses, SC 29107, Ph. (803) 263-4514

Note: Patients are solely responsible for maintaining the privacy and security of all information printed from the Patient Portal.

DATE

6-20-14

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DEA No. BA9235765
NPI No. 1841216991

Rx

(Please Label Contents)

Mg.

No.

Sig.

Rep.

1 referral - to spine surgery

2

3

4 Dx: Cervical spine disease.

M.D.

M.D.

DISPENSE AS WRITTEN

GROVE PARK PHARMACY

SUBSTITUTION PERMITTED

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Drive-Thru Window

Health Care Provider Certification for the Family and Medical Leave Act (FMLA) Employee's Own Serious Health Condition

Employee Section

Important!

1. Your health care provider must complete all questions on this form.
2. You must call the Leave of Absence and Accommodations (LOAA) team at 1-888-892-7180, option 1, to initial of absence before you submit this form. Failure to contact the LOAA team to report your leave without justification result in delay or denial of leave.
3. Fax this completed form to 1-847-554-1812, email to AmazonAM@aonhewitt.com, or mail to LOAA team, P.O. Box 1000, Charlotte, NC 28256-3937.

Name (Print) Clarence Jenkins JrEmployee ID [REDACTED]

Health Care Provider Section

1. Check the serious health condition(s) requiring this employee to take a leave of absence: (See definitions page for)

- ☐ Absence Plus Treatment ☒ Chronic Conditions Requiring Treatment ☐ Hospital Care ☐ Pregnancy
☐ Permanent/Long-Term Conditions Requiring Supervision ☐ Multiple Treatments (Nonchronic Conditions)

2. List the date(s) you treated the employee for the above condition(s):

First Visit: 8/26/14 Most Recent Visit: 2/21/14 Next Scheduled Visit: 3/2/143. Is/was it medically necessary for the employee to miss work due to the above condition(s)? ☐ No ☒ Yes

4a. Describe the medical facts that support the serious health condition(s) indicated in #1 (patient complaints, examination or diagnostic test/study findings, prescribed medications): (not required for employees working in California)

headaches, past concussion, neck pain, cervical spine disc disease

4b. Diagnosis(es): Provide the serious health condition(s):

Primary Diagnosis: CONCUSSION Co-morbid Diagnosis (include if it impacts work capacity): Cervical spine disc disease

5a. The employee needs/needed to miss work:

- ☒ Continuously-An uninterrupted absence for a single illness or injury because the employee can/could not do his/her job
☐ Intermittently-Occasional absences due to a single illness or injury (includes reduced schedule)

5b. If intermittent leave is expected and/or has occurred, check one and provide the related information:

- ☒ Reduced Work Schedule from 2/21/14 to 2/25/14
How many days does/did the employee need to miss work (e.g., 1 day a week)? one day/week
How many hours does/did the employee need to miss work each day (e.g., 5 hours)? 4 hours
☐ Unplanned, Unknown, or as Medically Necessary
How often does/did this employee need to be away from work (e.g., twice a month)? 4-5 days
How long does/did this employee need to be away from work each absence (e.g., 4 hours)? full day

Note: The employee is required to provide a requested leave schedule to his or her manager

6. Certification Start Date: Date employee is/was first unable to work due to the serious health condition(s) above:

02 / 10 / 2013
mm dd yyyy

If intermittent, use the first date of the most recent period of absence.

7. Certification End Date: Date employee can/could work at his or her normal schedule:

unknown
mm dd yyyy

If chronic or permanent condition(s), the return date will be one year after the leave start date

Health Care Provider Acknowledgment

Name (Print): Mahmoud Abu-Ata Type of Practice/Specialization: neurologyAddress: 2860 perham Ct Orangeburg SC 29118 Phone: 803-554-1812Signature: [Signature]Date: 3/9/14

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND)

THE FIFTH JUDICIAL CIRCUIT

Clarence B. Jenkins Jr.)

CASE NO. 2015-CP-40-07178

Plaintiff,)

v.)

**MOTION TO INCLUDE MEDICAL
REPORTS BY DR. CAROL BENOIT AND**

S.C. Worker's Compensation
Commission)

**DR. JAMES WAY AND DISABILITY
DETERMINATION BY SOCIAL SECURITY
ADMINISTRATION**

Defendant,)

RICHLAND COUNTY
FILED
2015 DEC 14 AM 11:51
JEANNETTE M. MERIDIE
C.C.P. & S.C.

Plaintiff's request that this Honorable Court accept these medical reports by Dr.

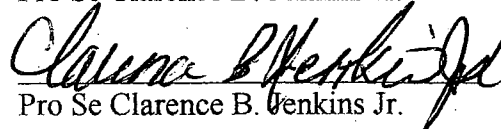
Carol Benoit and Dr. James Way as verification to support medical condition. Plaintiff's

request that this Honorable Court accept the medical determination by Social Security

Administration as verification to support medical condition.

Wherefore, Plaintiff respectfully requests this Court grant Plaintiff's request to
include reports and determination.

Pro Se Clarence B. Jenkins Jr.



Pro Se Clarence B. Jenkins Jr.

945 Wire Rd.

Neeses, SC 29107

(803) 263-4514

Email: upscale81@yahoo.com

Attorney for Plaintiff

Neeses, South Carolina

Date December 14, 2015

CAROL E. BENOIT, D.O.
909 SUMMERS AVENUE
ORANGEBURG, SC 29115

CLAIMANT: Clarence Burnett Jenkins, Jr.

CLAIM NO: Q00555

DISABILITY EXAMINER: Charles Gwaltney

DATE OF EXAMINATION: 07/09/2015

ALLEGATIONS/DIAGNOSES: This is a 46-year-old right-handed African-American male, whose allegations/diagnoses are "chest pains, migraines, numbness, tingling, hernia, vision."

RECORDS REVIEW: Disability sent nine pages of records including an office visit at Orangeburg Eye Center on March 20, 2015 with diagnosis of refraction disorder, NOS. He was given a prescription for new glasses. Another encounter in a very small print, which I could not decipher, with neurologist Dr. Abu-Ata for leg pain/paresthesias. Nerve conduction study with needle EMG, read as normal. A brain MRI, without contrast, normal, performed on October 3, 2013, for headaches and neck pain.

HISTORY OF PRESENT ILLNESS: The claimant comes alone and is extremely garrulous and somewhat tangential and repetitive. He says that he is unable to afford the prescribed eye glasses. "I'm hurting, in a lot of pain. A lot of stuff is going on that I did not have before. I can still do things, but not do them long-term. Pain from my head, pretty much all over, eyesight is bad, neck, shoulder, back, lower back, both arms, and fingers, right and left legs, and right and left feet and my ears bother me some time and just starting from head to my toes." He says his pain began on February 10, 2013 "that is when I got my injury, hit my head on a metal table, everything just out of whack." He explained that he dropped an object between two tables; he immediately reached down to retrieve the object, but failed to realize that there was a lower table, and I believe he struck his head against that table, which caused dizziness and sweating, and he says also bloodshot eyes and made him "very irritable and nervous." He said he did not lose consciousness, but was stunned, and he heard something pop or move out of place. He was able to continue working at that time, but he says he was "unable to do as much bending/standing as I used to, I was not able to bend up and down and pull items, could not stand much noise, could not stand to be aggravated. Leg weakness, started in the right leg and went to the left leg." He says he has been on and off his job per doctor's orders. Since then, at least twice he was sent home for elevated blood pressure; ultimately he was fired in April of this year, after having been on leave of absence since February 2014. He says his doctor gave him work restrictions, but his employer was unable to accommodate them, and therefore he was terminated in April 2015. He says he has continued to be affected by those injuries, with daily headaches; he says he had to have surgery on his left pinna in 2013 because of banging his head on that table, causing the ears to "swell from the inside out." The doctor did attribute the injury to the ear to the impact of his head on the table, and drained lots of blood and fluid. Two or three days later, the left ear swelled again and he presented to the emergency department in Columbia and was sent to an ear, nose, and throat physician, who drained and sutured his ear. "I'm suffering now, right and left legs got weak - One day, my right leg just lap over," by that he means the right leg lost strength and fell onto his left leg. Then the left leg did the same thing. He says these events stemmed from the traumatic brain injury when he struck his head on the table. He says he still hears a pop/snap sound

TDN:

in his head and twice a week he is awakened by the sound of a car horn, which seems to be coming from the center of his head; they never identified any car in the neighborhood. He has been vomiting off and on since the injury and continues to vomit about once a week. He says this week on Tuesday, he awoke gasping and vomited "to no end." He goes on, "there is a bulging disc in my neck and my spine. I have not been to the doctor or never before that problem. I vomit at least once a week. My legs caused me to toss and turn all night long. I can't stand the smell of strong odors, I'll pass out." He goes on that additional symptoms included "I feel kind of lost", unsure what day it was. He has also been intolerant of loud noises since the head injury; noises "aggravated" him. On repeat questioning, he says that when he fell onto that table at work, he did not lose consciousness.

PAST MEDICAL HISTORY:

1. Chest pain, was initially told everything was normal; he was seen at Regional Medical Center in November 2014 for bad chest pain and was told it was due to anxiety; he was also seen earlier for the same symptoms at Providence Hospital, and was told that his heart was normal.
2. Heartburn, on Prilosec, and he says he was "about to have a bleeding ulcer at one time, there were white spots on my esophagus."
3. Diarrhea occurring biweekly, up to 5 or 6 bowel movements in a day.
4. Nocturia, getting him up once or twice every night.
5. Low back pain with pain across shoulders, also since his fall onto his head.
6. Long-standing headaches.
7. Loss of memory since the fall onto his head, he is slow to retrieve memories and becomes confused about what day it is. He sometimes, without noticing, dons his underwear backwards, and recently he realized while at Wal-Mart that he was wearing his T-shirt backwards.
8. Vision is "fuzzy" and he may see double, since the head injury, and he has also developed presbyopia since the injury.
9. Tinnitus has also started, and continued, since the head injury.
10. He additionally has "some problems" with swallowing and talking since the injury.
11. Pain down all 4 limbs since his injury and some numbness; he has been awakened by the symptoms and he has not found that he was lying on a limb.
12. Restless leg syndrome, which lasts until he finally falls asleep; he may be kept awake for hours by the RLS, also occurring since his injury.
13. Weakness in legs and feet, and "paralysis" in both upper limbs and fingers since falling on the table.
14. Since his injury, he tends to limp if he is walking for a short while.
15. Weight gain of 10 to 15 pounds since his injury.
16. Several times, since the injury, he feels hot and then develops chills upon awakening.
17. He believes he has some depression and anxiety since his head injury.
18. Also, since the injury, nonhealing sores on his back, which are pruritic and burning.
19. He needs glasses for his vision and he is unable to afford them.

HABITS: No tobacco, social alcohol, which is apparently infrequent; his only comment was "I never liked alcohol at all", and no use of illicit drugs. He gives his height as 5 feet 8 inches and weight as 160 pounds.

Clarence Burnett Jenkins, Jr.

Q00555

PAGE 3

PAST SURGICAL HISTORY: None.

CURRENT MEDICATIONS: Medications, which he brought: gabapentin 300 mg one t.i.d., Prilosec OTC 20.6 mg one daily, and cyclobenzaprine 10 mg one t.i.d.

SOCIAL HISTORY: He obtained a Bachelor's of Arts degree in marketing at South Carolina State. He did college recruitment which entailed travel to different states. He has worked in customer service and he was a packer at Amazon warehouse in West Columbia when his fall and injury occurred. He is single, never married and has not fathered any children.

FAMILY HISTORY: Mother is alive, age 75 with diabetes, hypertension, and hip problems. Father died age 64 of cirrhosis of the liver. Of three brothers, one died in a motor vehicle accident, and one has diabetes.

PHYSICAL EXAMINATION:

GENERAL: This is a trim, light-skinned African-American male, who is a somewhat difficult historian and has logorrhea and gives a huge amount of details and repetition.

VITAL SIGNS: Blood pressure 127/91, pulse 74, weight 171 pounds, height 5 feet 6-1/4 inches. Visual acuity without corrective lenses is 20/70 OD and 20/50 OS.

HEENT: Pupils equal, round, and sluggishly reactive to light at 4.5 mm. Sclerae are white and visual fields are presented as slightly less than full, with slightly slow responses I believe; I doubt that he has constricted visual fields. Extraocular movements are intact. He has thinning biparietal hair and his eyebrows demonstrate mild thinning in the lateral quarter, more noticeable on right than left. Oral exam reveals that palatal elevation is symmetric, tonsils not seen and tongue protrudes in the midline. Teeth are somewhat crooked and he is missing a few distal molars, which he says started breaking off at age 40. Right tympanic membrane is well visualized with normal light reflex, the left TM obscured by wax. Nares are patent.

NECK: Supple with a palpable thyroid with slight enlargement bilaterally, and it is tender to palpation bilaterally. There are no carotid or supraclavicular bruits.

HEART: Regular rate and rhythm without murmur.

LUNGS: Clear to auscultation.

ABDOMEN: Fairly flat, soft, nontender without organomegaly or masses, with normal hair growth on the abdomen and no organomegaly or masses.

EXTREMITIES: Radial pulses 2/4 bilaterally, fingers warm; dorsal pedal pulses 1+/4 and feet are warm. Feet are moderately flat with normal toenails, legs are trim. Calves have decent musculature and knees are normal. He can raise both upper limbs to his head and internally rotate them.

Clarence Burnett Jenkins, Jr.

Q00555

PAGE 4

NEUROLOGIC: Reveals intact speech, language, and cranial nerves II through XII including facial sensory, motor, shrug, and hearing of rubbed fingers at 5 feet bilaterally. With light touch on the face, he says that it feels as if I am pressing more firmly on the right side of the face than the left, although my pressure is equal. With arms extended, there is no drift or extinction and finger-to-nose is performed well, but he complains that heel-to-shin causes pain on the distal anterior ankles, but he is able to raise each heel up the contralateral shin to near the knee. Motor strength is intact in grips, deltoids, hip flexion, and knee extension, 4+ to 5. He complains of pain upon flexing his right hip; he says the pain is felt in his distal tibiae. I note dry skin on his legs, especially at the ankles. Deep tendon reflexes are symmetric, 1/4 at biceps, brachioradialis, patellas, and Achilles, with downgoing plantar reflexes. Exam of the spine reveals that shoulder heights are equal, as are hip heights and the spine is straight. He has a little bit of truncal obesity. I did not note any sores or other abnormalities on his back. Gait is what I would call "sloppy," a bit off balance, and he complains that any activities, including slow gait, will bring on a headache. With attempted tandem walking, he lost balance and had to stop. He says he cannot walk much on heels or on toes due to pain. At this point, I think he is putting forth honest effort, but I do suspect minor embellishment with regards to all of his many, intense complaints.

ASSESSMENT:

1. The patient describes a probable mild traumatic brain injury occurring at work with unremitting sequelae affecting most of his body.
2. Thyroid swelling and tenderness was noted, but I did not see physical stigmata of severe hypothyroidism. I do not think that he has been given any other diagnoses.
3. The claimant states that he has developed depression and anxiety since his head injury, and in today's encounter I would tend to agree.

Carol E. Benoit, D.O.

CEB/ag

This is to certify that the above was transcribed from the recorded voice of Carol E. Benoit, D.O. on 07/11/2015.

IMEDX

JAMES H. WAY, PH.D.
P.O. BOX 1481
HOLLY HILL, SC 29059

CLAIMANT: Clarence B. Jenkins, Jr.
CLAIM NO: Q00555
DISABILITY EXAMINER: Charles Gwaltney
DATE OF EXAMINATION: 08/20/2015

MENTAL STATUS EVALUATION

IDENTIFYING INFORMATION: The patient is a 47-year-old, black male, date of birth, August 14, 1958. He was referred by South Carolina Vocational Rehabilitation, Disability Determination Services, for a mental status evaluation to assist with completing a disability determination process. He presented a South Carolina driver's license as a means of confirming his identity. He reported that he was transported to today's session by his mother.

ASSESSMENT PROCEDURES:

1. Review of October 23, 2014 Medical Note (Mahmoud Abu-Ata, M.D.).
2. Clinical Interview.
3. Mini-Mental State Examination.

PRESENTING PROBLEM: The patient reported that he is unable to work secondary to effects of a head injury. He reported headaches and balance difficulties. He reported sleep disturbance, memory disturbance, back and neck pain, and numbness in his fingers.

PERSONAL HISTORY: The patient has resided alone since 2000. He resided with his aunt for 20 years, beginning at age 12 years. He has not married and has no children.

EDUCATIONAL HISTORY: The patient reported that he graduated from high school, receiving regular educational instruction and a high school diploma. He earned a Bachelor of Science degree in marketing.

EMPLOYMENT HISTORY: The patient stated that he performed various clerical tasks in different settings for approximately 12 years. He completed case notes for a probation and parole facility. He worked at a college, completing clerical tasks, as well. He also worked as a college recruiter. He worked in shipping and receiving at a factory during one summer. He most recently worked at an Amazon warehouse in the shipping department for approximately a total of 11 months. He was injured in February 2013

TDN:

Clarence B. Jenkins, Jr.
Q00555
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and was on medical leave until his employment was eventually terminated in April 2015. He noted that he has not attended work since January 2014.

MEDICAL HISTORY: The patient stated he suffered a head injury in February 2013 while at work. He stated that he leaned forward to obtain an item from the floor and struck his head on a metal table. The patient reported experiencing headaches, sleep disturbance, balance difficulties, memory deficits, back pain, neck pain, and numbness in his fingers. He reported that he had a 2nd head injury on August 4, 2015. He noted that he drove a friend to a VA Medical Center for an appointment. As he sat in a chair, his head struck on a suggestion box. He denied loss of consciousness.

The aforementioned medical note indicated that the patient had a history of postconcussion syndrome, headache, hypertension, degeneration of cervical intervertebral disc, and degenerative cervical spinal stenosis.

MEDICATIONS: The patient reported that he has been taking no medications since July 2015 secondary to financial constraints.

PSYCHIATRIC HISTORY: The patient has no history of receiving treatment by mental health professionals. He denied a history of emotionally traumatic events. He denied a history of psychiatric disturbance prior to the aforementioned head injury.

The patient reported that he is not currently happy. He noted that he is impatient and irritable. He noted that he wishes to be left alone. He is depressed for 3 to 4 hours on any given day when he experiences medical difficulties. His mood is slightly improved when he experiences fewer medical symptoms. He reported feeling somewhat less irritable when he experiences less pain and is able to function more effectively. The patient made numerous references during today's session regarding the fact that his emotional situation is highly dependent upon his medical situation. He appears to be experiencing frequent negative cognitions about various life areas. He is tearful twice per week. He experiences decreased interest in activities, diminished sense of pleasure, and disturbed sleep. He denied significant anxiety. His ability to concentrate is sporadic. He feels helpless at times. He denied suicidal ideations, hallucinations, and a history of mania.

SUBSTANCE USE HISTORY: The patient denied current alcohol and illicit drug usage. He denied a history of substance abuse.

LEGAL HISTORY: At approximately age 42 years or 43 years, the patient turned himself in to police officers secondary to property destruction associated with an altercation with another individual.

Clarence B. Jenkins, Jr.
Q00555
PAGE 3

ACTIVITIES OF DAILY LIVING: The patient stated that he spends most of his time alone. He often experiences a "down" mood. He walks to his mother's home. His mother lives nearby. He may respond to emails and occasionally play games via computer. He sleeps and occasionally watches television. He does not typically interact with friends. He attends church but reported that he typically gets headaches when he goes to church. He shops on a limited basis because of the experience of headaches. He occasionally goes to restaurants. He has a driver's license. He is able to cook full meals. He completes self-care tasks independently. He is able to complete grooming tasks, to choose his clothing appropriately, to make appointments, and to take medications appropriately. The patient is able to direct funds management. He is able to use a debit card and to make change while shopping. He shops independently. He performs "light" cleaning chores. He occasionally washes dishes, as necessary. He completes laundry tasks. His brother completes lawn maintenance tasks for him.

MENTAL STATUS EXAMINATION: The patient ambulated independently and without apparent significant difficulty. He was attired in a T-shirt, jeans, and brown shoes. His overall grooming and hygiene were adequate.

The patient was alert, responsive, and cooperative. He was somewhat fidgety during the session. Eye contact with the examiner was inconsistent. The patient's speech was coherent, spontaneous, goal-directed, and without articulation difficulties. His speech was normal in rate and volume. He exhibited a somewhat pleading voice quality. He exhibited a pained facial expression. Tone of speech also reflected frustration at times. The patient frequently complained of headaches throughout the session. He rubbed his head and held his head in his hands at times during this session.

As noted above, the patient exhibited a rather pained facial expression. His mood was somewhat depressed. He appeared somewhat frustrated and irritable at times. He did not appear to be anxious. Irritability was not directed towards the examiner. He was not tearful. He was in no acute distress. His affective range was somewhat restricted during this session. However, his affect was congruent with his overall presentation and the topic of conversation. The patient's thought processes were logical. There was no evidence of hallucinations, delusions, or other thought disturbance.

The patient appeared to provide adequate effort. His cognitive speed was typically normal, although he was quite slow to complete certain items from the MMSE. Persistence was adequate. The patient struggled to concentrate. The assessment results are believed to be a valid estimate of his functioning.

On the MMSE, the patient obtained a total score of 28 points, of 30 maximum points. This score falls in the range of normal cognitive functioning. The patient was able to recall 2 of 3 words after an interval of several minutes. He did not accurately repeat a

Clarence B. Jenkins, Jr.
Q00555
PAGE 4

phrase made by the examiner. However, the patient's cognitive speed was slow during this administration. He struggled to concentrate. He lost his place when performing serial 7's. He wished for the examiner to repeat a 3-step command. He was able to provide accurate responses to 2 items measuring abstract reasoning skills.

CONCLUSIONS: The patient is intellectually capable of completing self-care tasks, of completing basic instrumental activities of daily living, of avoiding common physical dangers, and of directing funds management. His report of his functional capacity with daily living tasks has been outlined above

The patient's educational history and lengthy work history have been outlined above. He noted that he has been unable to work secondary to aforementioned medical difficulties. Additionally, the patient is frequently irritable and appears to have difficulty concentrating consistently well. He may have difficulty with persistence secondary to aforementioned psychiatric disturbance. He is capable of interacting adequately on a social basis. He is able to understand the spoken word, to follow the flow of conversation, and to follow simple instructions. He appears capable of learning a variety of occupational tasks and of making simple adjustments and decisions in an occupational setting.

IMPRESSIONS:

1. Adjustment disorder with depressed mood.
2. Postconcussion syndrome; headaches; hypertension; degeneration of cervical intervertebral disk; degenerative cervical spinal stenosis (per medical records).

James H. Way, Ph.D.
Licensed Clinical Psychologist

JHW/SAR

This is to certify that the above was transcribed from the recorded voice of James H. Way, Ph.D. on 08/21/2015.

IMEDX

346/Q00555

EXPLANATION OF DETERMINATION

Name of Claimant	NH's Name(if CDB or DWB Claim)	SSN	Type of Claim
CLARENCE B JENKINS JR		[REDACTED]	DIB

The following evidence, listed with receipt date, was used to decide this claim.

PALMETTO RICHLAND MEM HOSPITAL, 07/02/15
REGIONAL MED CTR-O'BURG/CALHOU, 04/16/15
NEUROLOGY AND PAIN CLINIC, 04/17/15
NORFIELD MEDICAL CENTER, 04/21/15
ORANGEBURG EYE CENTER, 06/26/15

Consultative Exams and/or x-rays and lab studies, if listed below, were also used to decide this claim:
DR JAMES H WAY PHD, 08/20/15
DR CAROL E BENOIT-FISCHER DO, 07/09/15

You state you are disabled and unable to work due to chest pains, migraines, hernia paresthesia, and anxiety . You are not performing any substantial work now.

The evidence we received shows that your condition(s) causes some work-related restrictions. However, based on the evidence in file, we have determined that you can adjust to other work. Therefore, your claim is denied.

If your condition gets worse and keeps you from working, write, call or visit any Social Security office about filing another application.

Suspect Social Security Fraud?

If you suspect Social Security fraud, please visit <http://oig.ssa.gov/r> or call the Inspector General's Fraud Hotline at 1-800-269-0271 (TTY 1-866-501-2101).

MGS/
SNO:

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 1303989

CLARENCE B. JENKINS,

Employee,

Claimant,

vs.

AMAZON.COM.DEDC, LLC,

Employer,

AND

INSURANCE COMPANY OF THE STATE OF
PENNSYLVANIA c/o SEDGWICK CLAIMS
MANAGEMENT SERVICES, INC.,

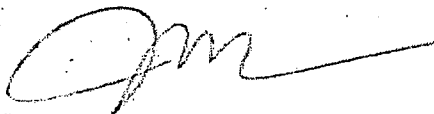
Carrier,

Defendants.

**NOTICE OF DEPOSITION
OF
MAHMOUD MUSTAFA ABU-ATA, M.D.**

TO: CLARENCE JENKINS, PRO SE CLAIMANT:

PLEASE TAKE NOTICE that the oral deposition of Mahmoud Mustafa Abu-Ata, M.D. in the above-captioned action, will be taken pursuant to Section 42-3-160 of the South Carolina Code of Laws, 1976, before a Notary Public for South Carolina, or before some other officer authorized by law to take depositions on **Monday the 10th day of November, 2014, at 2:30 p.m.** and from day to day thereafter until the taking of the deposition is adjourned, at the offices of Mahmoud Mustafa Abu-Ata, 2850 Pelham Court Orangeburg, South Carolina 29118. You are hereby notified of the time and place, and you are further invited to attend and participate. This deposition is being taken for the purpose of discovery, for use at trial and for all other purposes as are permitted under the rules of the Commission and all applicable statutes and laws.



J. Russell Goudelock, II
MCANGUS GOUDELOCK & COURIE, L.L.C.
Post Office Box 12519, Capitol Station
Columbia, South Carolina 29211-2519
(803) 779-2300
Attorneys for the Employer/Carrier

September 19, 2014
Columbia, South Carolina





TAS
393
2-19

WCC File #: 1303989
Carrier File #: 30130262998
Carrier Code #: _____
Employer FEIN #: _____

Claimant's Name: Clarence B. Jenkins Jr SSN: _____ Employer's Name: Amazon.com, d/b/a, LLC
Address: 945 Wire Rd Address: 7200 Discovery Drive
City: Neeses State: SC Zip: 29107 City: Chattanooga State: TN Zip: 37421
Home Phone: 8032634514 Work Phone: 8037916542 Insurance Carrier: Insurance company, state of Pennsylvania
10 Sedgwick Management Services

Preparer's Name: Clarence B. Jenkins Jr Law Firm: NA Preparer's Phone #: 8032634514
A claim for workers' compensation benefits is made based on the following grounds: Date of Injury or Illness: 2-10-2013

- ☒ Injury ☐ Illness ☐ Repetitive Trauma ☐ Occupational Disease ☐ Physical Brain Injury ☐ Concurrent Jurisdiction
- The claimant sustained an injury to head part(s) of Body Injured on 2-10-13 (Month/Day/Year) in Lexington county, state of SC.
 - Body part(s) affected are: head, eyes, neck, legs and feet.
Briefly describe how the accident occurred: Bending over to pick an item and hit forehead on metal table
 - Both the claimant and the employer were subject to the South Carolina Workers' Compensation Act at the time of injury. yes
 - The relationship of employer and employee existed at the time of injury. yes
 - At the time of the injury the claimant was performing services arising out of and in the course of employment. yes
 - Notice of the accidental injury was given to the Employer on 2-10-13 (Month/Day/Year) in the following manner: Reported to supervisor Mike Sermina who took me to a care for treatment and filed a report.

☒ Due to injury, the claimant is in need of (check one):

☐ (a) medical examination and treatment for: _____

☒ (b) additional medical examination and treatment for headaches, eyes, neck, arm, legs, feet because of nerve damage

☒ Due to injury, the claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of: 4-22-2013 to 9-23-2013 and 01-22-2014 to present

☒ 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.

☒ Due to the injury, the claimant has a serious bodily disfigurement consisting of:

A bulging disc in several locations in neck and spine that has caused nerve damage

10a. At the time of the injury, the claimant was paid weekly wages of 600.00 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:

Amazon 4400 12th West Columbia SC 29172

11. Further grounds or unusual aspects of claim: Amazon and Sedgwick has refused to allow medical treatments as recommended by Dr. Otta and others - See Attachment

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:

Dr. Otta, Orangeburg, SC / Dr. Eden, Norway, SC / Dr. Tomarchio, Norway, SC. See Attachment

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

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

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

14. Estimated time needed for hearing: 2 hours

☒ 13b. I am requesting a hearing. A \$25 fee is required.

☐ Mediation

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

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

I certify I have served this document pursuant to Reg. 67-211 by delivering a copy to Self Worker's Compensation Commission
address PO Box 1715 Columbia, SC 29202-1715 on the 25th day of 2 2015 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: Clarence B. Jenkins Jr Title: Plaintiff Email: upscale81@yahoo.com Date: 2-25-2015

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

CC Form # 50
Revised 7/13

50

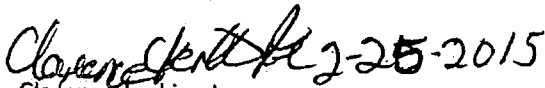
Employee's Notice of Claim and/or
Request for Hearing

Attachment
Additional Comments

Question 11: Amazon and Sedgwick recently subpoena records from unauthorized medical visits as of 2/2015 even though they have went before SC Worker's Compensation Commission on two occasion to address this. SC Worker's Commission agreed with Amazon and Sedgwick regarding unauthorized therefore has allowed them to not accept responsibility and I was denied mileage. By Amazon and Sedgwick subpoena unauthorized medical records after SC Worker's Compensation Commission ruled in their favor in 2014 should now therefore be made to accept responsibility by both parties. SC Worker's Commission previous rulings exempted Amazon and Sedgwick from recognizing unauthorized medical visits and their continuing efforts to obtain records therefore nullify prior orders. Under SC Codes of Laws 42-9-10 states weekly payments shall be made weekly to a person injured on the job when they are unable to work with additional comments.

Question 12: Dr. Paysinger, Columbia, SC/Dr. Stickler, Charleston, SC/Dr. Jervy, Charleston, SC/Dr. Tonia Gantt, Norway, SC and NP Dr. Gonzalez, Norway, SC

Submitted by,


Clarence Jenkins Jr

CASE SUPPLEMENTAL REPORT

Printed: 11/23/2015 11:46

Lexington County Sheriff's Department

OCA: 15021961

THE INFORMATION BELOW IS CONFIDENTIAL - FOR USE BY AUTHORIZED PERSONNEL ONLY

Case Status: ADMINISTRATIVELY

Case Mng Status: ADMINISTRATIVELY CLOSED

Occurred: 11/11/2015

Offense: INFORMATION ONLY-NO CRIMINAL OFFENSE

Investigator: BROCK, J. R. (E73974)

Date / Time: 11/12/2015 18:54:47, Thursday

Supervisor: BRYANT, J. F. (E70581)

Supervisor Review Date / Time: 11/13/2015 08:44:27, Friday

Contact:

Reference: Investigative Supplemental

On 11/12/2015 RD Treaster ran a clear report in an attempt to locate a different address for Clarence with negative results.

I contacted the LCSD intel unit to locate additional information on Clarence.

I contacted the attorney's law firm named in the Rusty Goudelock Jr. and spoke to the receptionist, Brenda Bullard. Brenda advised their law firm received the email from Clarence yesterday. Brenda told me that they feel as if Clarence was putting them on notice. Brenda was unable at the time to provide additional information for me to locate Clarence. Brenda stated that the South Carolina worker's compensation commission is located across the street.

I contacted the SC compensation commission. Spoke with their general council, Keith Roberts and the Executive Director, Gary Cannon. Both were unaware of the email with the concerning comments. Mr. Cannon notified South Carolina Bureau Protective Services and SLED officers located in the same building. Keith advised that he is going to put together a packet for me with Clarence's violent history and PTSD.

I spoke with Chief Kinsey with Orangeburg County Sheriff's Department he advised that he would like to have me come to Neeses and meet with an investigator. RD Treaster and I met with Investigator Jared Kittrell. I allowed Inv. Kittrell to read the emails from Clarence. Inv. Kittrell agreed with me that it is prudent to have EMS come and transport Clarence for a mental health evaluation. As we arrived at 945 Wire Rd in Neeses, Darryl Jenkins just pulled into the driveway. Inv. Kittrell spoke with Darryl asking the whereabouts of Clarence. Darryl said Clarence doesn't live here. Darryl told us that he told an Orangeburg Deputy last night Clarence didn't live here. Darryl did tell us that Clarence lived in the white house to the left of the residence we were at but that Clarence was not home. Inv. Kittrell asked Darryl if Clarence had a phone number. Darryl said he didn't know the phone number. Darryl said he would be going to see Clarence and tell him we came by. Inv. Kittrell asked Darryl where Clarence was at. Darryl said, "He is in Orangeburg." Inv. Kittrell asked, "Where in Orangeburg?" Darryl said, "At a Toyota dealership." Darryl said that Clarence was at a Toyota dealership in the City of Orangeburg. Darryl became very uncooperative stating, "I have to go I can't talk. I have to go to the doctor now." Inv. Kittrell said, "Hey, hold on a second we need to ask you more questions." Darryl responded, "I have to pick up my son and go to the doctor." Inv. Kittrell and I relocated to the white house next door where we were told Clarence lived. Inv. Kittrell knocked on the front door with negative results.

[REDACTED] Gloria Jenkins walked over to us. Gloria wanted to know why we were out looking for Clarence. I explained to Gloria that Clarence made several comments in an email to four different parties that he was a great risk to himself and others. Gloria made a comment that we were just trying to make the news. Gloria said she didn't believe what we were doing was right and that she would not help us locate Clarence. The entire time Darryl along with Tyrone Jenkins sat in their car next to us while we talked to Gloria. There was a mobile home behind the white house. We knock on that door as well and no one answered. Clarence has sent two more emails to Amazon, Sedgwich, and SC workers compensation commission. One at 1430 and one at 1443.

Investigator Signature

Supervisor Signature

CASE SUPPLEMENTAL REPORT

Printed: 11/23/2015 11:46

Lexington County Sheriff's Department

OCA: 15021961

THE INFORMATION BELOW IS CONFIDENTIAL - FOR USE BY AUTHORIZED PERSONNEL ONLY

Case Status: ADMINISTRATIVELY

Case Mng Status: ADMINISTRATIVELY CLOSED

Occurred: 11/11/2015

Offense: INFORMATION ONLY-NO CRIMINAL OFFENSE

Investigator: BROCK, J. R. (E73974)

Date / Time: 11/12/2015 18:54:47, Thursday

Supervisor: BRYANT, J. F. (E70581)

Supervisor Review Date / Time: 11/13/2015 08:44:27, Friday

Contact:

Reference: Investigative Supplemental

I received an email from Sgt. Bryant notifying me that Clarence contacted Mrs. Crawford and to make contact with him.

At 1519 I called Clarence Jenkins 803-614-8678. I identified myself to Clarence by first and last name and gave him my title of Resident Deputy of Dixiana. I asked Clarence if he just wanted to explain why and how I was attempting to make contact with him. Clarence said "yes please". I explained that what I wrote is my original report and read him the quotes. Clarence said I did not need to read him the quotes he wrote them. I explained that I was not the police in Orangeburg County and that is why I had to call Orangeburg County to be able to conduct my follow-up investigation. I also told him that it is our practice not to conduct follow-up investigation by ourselves. Therefore three officers showed up at you house looking for you but only in two vehicles.

I explained to Clarence that I have an email sent to me that says "I am at great risk to myself and others" I told him I take that statement at face value. So I not only came out to your house to ensure you were ok but also that your family was ok. I reread the quote about Clarence putting his family on notice. Clarence said he would never harm himself or anyone else. I told Clarence that I would like for him to be seen by a medical professional. Clarence said he did not have the money to pay for a doctor. I told Clarence if he had money problems that he could come to Lexington County and meet with me. I told him our EMS would transport him to the hospital and we would say it was involuntarily. Clarence said he did not have gas money to come all the way to Lexington. I told Clarence that if he told me where he was I would have Orangeburg County Sheriff's Department come to him and again Orangeburg County EMS could transport him. Clarence said he did not want to be transported to the hospital. I told Clarence I would not be satisfied that he was in the right state of mind unless he underwent a mental health evaluation. Clarence said he would make an appointment tomorrow with Orangeburg County Mental Health to be seen as soon as possible. I asked Clarence to quit emailing Amazon. He said he needed to in order to keep them up to date on his medical status. I told him to refrain from using the language he did in the email I mentioned earlier. Clarence told me to ask Amazon about the hundreds of other emails he has sent Amazon in regards to his medical condition. I told Clarence I did ask Amazon for the emails. Clarence said, "Good, I like you. Did they give you the emails? I replied, "No." Clarence then started to talk about how Amazon is trying to hide the fact they knew of his medical conditions. Clarence told me that he would call me tomorrow to advise when he has his mental health evaluation.

Clarence does not have a legitimate reason to continue to contact Amazon due to the fact that his worker's comp claim was denied. Clarence does have a pending appeal with SC workers compensation commission.

Investigator Signature

Supervisor Signature

CASE SUPPLEMENTAL REPORT

Printed: 11/23/2015 11:46

Lexington County Sheriff's Department

OCA: 15021961

THE INFORMATION BELOW IS CONFIDENTIAL - FOR USE BY AUTHORIZED PERSONNEL ONLY

Case Status: ADMINISTRATIVELY

Case Mng Status: ADMINISTRATIVELY CLOSED

Occurred: 11/11/2015

Offense: INFORMATION ONLY-NO CRIMINAL OFFENSE

Investigator: BROCK, J. R. (E73974)

Date / Time: 11/23/2015 11:36:14, Monday

Supervisor: BRYANT, J. F. (E70581)

Supervisor Review Date / Time: 11/23/2015 11:39:00, Monday

Contact:

Reference: Case Status Change

On 11/19/2015 I took the facts of the case to Judge Whittle. Judge Whittle agreed that no crime has been committed and that Clarence has a lawful reason to contact Amazon.

On 11/20/2015 I picked up a letter from Clarence in my mailbox at HQ. The letter contained a work/school excuse from the Orangeburg Area Mental Health Center, South Carolina Department of Mental Health. The only information contained on the excuse is that Clarence Jenkins was seen for an appointment at the clinic on November 13, 2015 from 0930 to 1030. The excuse does not give any details on why Clarence was seen.

On 11/20/2015 I received two CDs from the South Carolina Workers' Compensation Commission containing emails from Clarence and Clarence's case file. Amazon has not sent me copies of their emails from Clarence as requested. I recommend this case be administratively closed due to no crime being committed.

Investigator Signature

Supervisor Signature

State of South Carolina

1333 Main Street, 5th Floor
P.O. Box 1715
Columbia, S.C. 29202-1715



TEL (803) 737-5700
FAX (803) 737-5764

Workers' Compensation Commission

REGULATORY PROCEDURES ADVISORY

January 25, 2012

FORM 14B (PHYSICIAN'S STATEMENT)

This is a Commission Advisory clarifying the requirements for filing a Form 14B (Physician's Statement).

Background

The Commission created Form 14B (Physician's Statement) as a result of an amendment to Section §42-15-60 of the SC Code of Laws in 2007. The language in this Section was amended to add paragraph (B) (1), which states:

When a claim is settled on the commission's Agreement for Permanent Disability/Disfigurement Compensation form, the employer is not required to provide further medical treatment or medical modalities after one year from the date of full payment of the settlement unless the form specifically provides otherwise.

Applicability

For injuries occurring on or after July 1, 2007 which require future medical care and treatment, settlements on the Commission's Form 16A (Agreement for Permanent Disability/Disfigurement) must be accompanied by a Form 14B. The Form 14B must indicate whether or not future medical care and treatment will be required. (SC WCC Regulations R67-802 and R67-803)

Requirements

The Commission's Form 14B (Physician's Statement) is required when a matter is to be resolved at an informal conference or when a Form 16A (Agreement for Permanent Disability/Disfigurement) is submitted to the Commission for approval. The Form 14B is required for the record to reflect the need for future medical care and treatment. If, in the course of evaluation and treatment, the treating physician makes a determination of any restrictions on the claimant, the need for future medical care and treatment, and an impairment rating due to the injury, the treating physician is required to provide the impairment rating on Form 14B.

**SC Workers' Compensation Commission
Regulatory Procedures Advisory
January 25, 2012**

The Form 14B is to be used by authorized treating physician to render an opinion with regard to these issues.

The Jurisdictional Commissioner requires either a Form 14B or a physician's narrative report when considering Final Agreement and Release documents where the Claimant is not represented by Counsel. The 14B or the narrative report must indicate the impairment rating, restrictions on the Claimant, and the need for future medical care and treatment in order to properly consider the agreement.

Form 14B or a narrative report from the treating physician is required for proper filing by the Defense to request stop payment of compensation citing the Claimant has reached maximum medical improvement.

A Form 14B is not required as documentation for the filing of a Form 21 (Employer's Request for Hearing).

If you have any questions regarding this notice or the proper filing of form or documents with the Commission, please contact Virginia Crocker, Judicial Director, (803) 737-5739 or vcrocker@wcc.sc.gov.

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Ashford University
Ashford University Online

Information(3)

Me Amazon and Sedgwick: I have not receive shortterm disability paymer Apr 23

Cook, Kathy Mr. Jenkins, please contact our attorney, Russell Goudelock. Apr 24

Rusty Goudelock Apr 24

To: 'Cook, Kathy', Me, 'Trina Smith', 'doylemic@amazon.com', 'keislera@amazon.com'
CC: Fern Potter

Clarence.

I am happy to speak with you at any time. Please feel free to call me.

You will not be receiving any workers' compensation payments at this time. I do not have anything to do with your short-term disability, but I have previously offered to try to help you address that. And, I know that Ms. Keisler has also offered to help you with that. My understanding is that short-term disability still may need some type of clarification from your doctor, but I am not certain of that. And, yes, an employee can be terminated while out of work on work restrictions and following a work-related injury. Amazon has a very favorable return-to-work and work continuation policy, but the law does not strictly protect or preserve anyone's job position during the pendency of a workers' compensation claim.

Please let me know if I can answer any further questions. Please understand that I represent Amazon and am not in a position to provide any formal legal counsel to you. You should consider consulting with legal counsel of your own.

Bio

Location

V-card

INSURANCE
DEFENSE

J. Russell Goudelock
Attorney
Main: 803-779-2300
Direct: 803-227-2222
Fax: 803-748-0526

1320 Main St.
10th Floor
Columbia, SC 29201
rgoudelock@mgclaw.com

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Disability Care Management Professionals of Western Pennsylvania, Inc.

227 N. Main Street, Suite 2, Irwin, PA 15642

June 9, 2014

Mr. Clarence Jenkins
945 Wire Rd.
Neeses, SC 29107

Dear Mr. Jenkins,

I just wanted to drop you a few lines to remind you of your appointment with Dr. Alhatou on Friday, June 20, 2014 at 9:30.

Please do not hesitate to call should you have any questions or if this appointment changes.

Sincerely,

Kelley Wells

Kelley Wells, RN, CCM
Case Manager
803-446-5579 m

cc:

DCMP
Mary Kae Vacsulka
227 Main Str.
Irwin, PA 15642

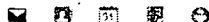
Kathy Cook, adjuster
Sedgwick CMS
PO Box 14480
Lexington, KY 40512

Dr. Stickle 843-410-0924
843-818-1181 phone #
843-818-1145 fax #

Phone: 724-864-9300 / Fax: 724-864-9302

Other DCMP, Inc. addresses include:

100 North Wilkes-Barre Blvd. Suite 310, Wilkes-Barre, PA 18702
P.O. Box 45 Camp Hill, PA 17001 & P.O. Box 169 Media, PA 19063



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Me Dear Amazon: If I suffer any financial mishaps in any way th...

Feb 19

Doyle, Michelle

To Me, Smith, Trina, Keisler, Alicia

Feb 19

Hi Clarence

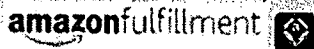
I wanted to let you know that the site has reviewed the restrictions on your RMI that we received and at this time we are not able to accommodate your restrictions. The doctor lists loud noise and bright lights to be an issue. As you know, the site is loud and bright. Since we are unable to accommodate your restrictions, please reach out to the LOA team to request an LOA starting with the first day of work missed on 1.20.14. The LOA team will also be able to put you in contact with the short-term disability team in regards to potential compensation for missed time.

Thanks

MD

Michelle Doyle | HR Business Partner | Amazon fulfillment-CAE1
E: doylem1k@amazon.com

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Me Amazon: Michele, thanks for responding. I am disappointed

Feb 19

Me On Wednesday, February 19, 2014 8:11 PM, Clarence Jr <up...

Feb 21

Me On Friday, February 21, 2014 7:39 PM, Clarence Jr <upscale81@yaho...

Feb 21

Me On Friday, February 21, 2014 7:51 PM, Clarence Jr <upscale81@yaho...

Feb 22

Me

To: clarence491@live.com

> Hide message history

On Saturday, February 22, 2014 7:43 PM, Clarence Jr <upscale81@yahoo.com> wrote:

On Friday, February 21, 2014 7:51 PM, Clarence Jr <upscale81@yahoo.com> wrote:

On Friday, February 21, 2014 7:39 PM, Clarence Jr <upscale81@yahoo.com> wrote:



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South Carolina Workers' Compensation Educational Association

TWO HONORED WITH SCWCEA LIFETIME SERVICE AWARD

The South Carolina Workers' Compensation Educational Association (SCWCEA) is pleased to announce the two newest recipients of the Lifetime Service Award, J. Russell "Rusty" Goudebeck, II, of McAngus Goudebeck & Courie, LLC and Wallace G. "Buster" Holland of Young Clement Rivers, LLP.



J. Russell "Rusty" Goudebeck, II

Wallace G. "Buster" Holland

The SCWCEA Lifetime Service Award is given by the SCWCEA Board to individuals who have contributed significantly to the growth and betterment of the SCWCEA and the South Carolina workers' compensation system. The Board unanimously determined two individuals who completely fit the criteria of this designation.

"Rusty Goudebeck and Buster Holland have worked tirelessly over the years to help build this association into what it is today. Their leadership and educational knowledge of the association and the South Carolina workers' compensation system is remarkable," said Bill Davis, 2011 SCWCEA President and Shareholder with Christian and Davis Law Firm in Greenville, SC.

The Lifetime Service Award is not an annual event. It is given sparingly and

only to those individuals who have made their life's work to enhance the SCWCEA and the South Carolina workers' compensation system. It is the highest honor bestowed by the organization.

Goudebeck graduated from The Citadel with a degree in Business Administration and received his Juris Doctor from the University of South Carolina School of Law. He is a member of the Council on Litigation Management, the South Carolina Bar and its Workers' Compensation and Labor and Employment Law Sections, the South Carolina Defense Trial Advocates' Association, and the South Carolina Workers' Compensation Educational Association. He is a Past Chair of the South Carolina Bar's Workers' Compensation Section and served on the association's board of directors. Mr. Goudebeck has also served as President of the South Carolina Workers'

Compensation Educational Association. Additionally, he served as Treasurer and Past President for Kids' Chances of South Carolina, a non-profit organization that awards scholarships to children in need.

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Membership Elects 2013 Officers and New Members to Board of Directors

The South Carolina Workers' Compensation Educational Association is pleased to announce the newly elected 2013 Officers and Members to the Board of Directors at its annual business meeting on October 17, 2012.

President Richard V. Davis, Esq., Charleston and Davis Law Firm, Greenville, SC

Vice President Roy A. Horvath, III, Esq., Trull & Horvath, LLC, Mt. Pleasant, SC

Secretary Gerald M. Thumason, Nicholas - PHILLIP, Greenville, SC

Treasurer Harry B. Gregory, Jr., SC State Accident Fund, Columbia, SC

Richard V. Davis, Esq., is a partner in the law firm of Charleston and Davis in Greenville serving as a trial advocate for injured workers. He received his Bachelor of Arts degree from Clemson University and his Juris Doctor from the University of South Carolina School of Law. He is past Chairman and Commissioner of the State Public Compensation and is an active member of the SCWCEA Educational Conference and Annual Medical Seminar. He also serves as Scholarship Society Chairman and on the Board of Risk Choice of South Carolina and in an Eagle Scout.

Roy A. Horvath, III, Esq., is a founding member of Trull & Horvath, LLC, practices in the firm's Mt. Pleasant

South Carolina office. Roy received his B.A. degree from the College of Charleston and his J.D. degree from Campbell University Norman Adrian Wiggins School of Law where he served as editor-in-chief for the Campbell Law Review and a member of the Order of Barristers. Roy is a member of the SC Defense Trial Attorneys Association where he previously served on the Executive Board. Roy has served on numerous boards in the Charleston area, including the College of Charleston's Cougar Club. He currently serves on the Horry-Georgetown High School Advisory Board. Roy has served on the Board of Directors of the SCWCEA for the last three years and as Chairman of the Annual Medical Seminar for the past two years. He is an active member of St. Mary's Catholic Church and the Holy Name Society. He practices exclusively in the areas of Workers' Compensation and Federal Longshore and Harbor Workers' Compensation Law.

Gerald M. Thumason is the Employee Relations and Workers' Comp Coordinator for Michelin North America in Greenville, SC. She is a graduate of Radcliffe Business College and received certification in Workers' Compensation from Michigan State University.

Harry B. Gregory, Jr., Esq., is the Director of the South Carolina State Accident Fund. A magna cum laude graduate of the University of South Carolina, he received his Juris Doctor degree from the University of South Carolina School of Law. A former

South Carolina Workers' Compensation Commissioner, Harry has also been elected Vice-President of the American Association of State Compensation Insurance Funds and serves on numerous other boards and committees including Risk Choice of South Carolina.

Five new Board of Directors were also elected during this meeting and they are Mark T. Arden, Esq., Chappell Smith & Arden, PA, Columbia, SC; Linda A. Means, Key Risk, Columbia, SC; and Jo Lee Parsons MacLeod, GENEX Services, Inc., Charleston, SC; Ann Margaret McCraw, Midshore Orthopaedic Associates, Columbia, SC; and Benjamin M. Rowson, Rowson Jones Carter & Hestley, PA, Greenville, SC.

"We are pleased to welcome these five notable individuals to the SCWCEA Board," says Richard Davis, President. "The addition of these new professionals shows a broad scope of workers' compensation professionals with all segments of the industry well represented and we look forward to the opportunities that lie ahead to advance the programs of the SCWCEA."



Mark T. Arden, Esq., practices in the Columbia, SC office of Chappell Smith & Arden, PA in the area of workers' compensation, administrative law, litigation and personal injury. He is

a cum laude graduate from the University of South Carolina and the University of South Carolina School of Law where he was a member of Phi Alpha Delta. Mr. Arden is a member of the American Bar Association and the South Carolina Association for Justice and the Injured Workers' Association where he served as President.



Linda A. Means, AIC, is a claims supervisor and claims manager in administrative and services for Key Risk Management in Columbia, SC. She is a graduate of the University of Tennessee, the Insurance Institute of America and the National Center for Professional Training and is a licensed Property & Casualty Adjuster. Ms. Means is a member of the SC Self-Insured Association and has served on numerous committees of the SCWCEA.

Jo Lee Parsons MacLeod serves as Claims Development Manager for GENEX Services, Inc. in Charleston, SC. With over 18 years of experience and professional experience in South Carolina, North



Carolina, Tennessee and Virginia, she has held numerous positions with American Rehabilitation, Inc. and GENEX Services, Inc. Ms. MacLeod is a graduate of the University of North Carolina-Charlotte and is licensed as a North Carolina Adjuster.



Ann Margaret McCraw is the Chief Executive Officer of Midshore Orthopaedic, PA in Columbia, SC. She served in numerous capacities with this organization which include COO, Director of Administration, HR Director to mention a few since 2000. She is currently a teacher at Newberry Middle School. Ms. McCraw is a graduate of the South Carolina Honors College, University of South Carolina. She serves on the Board of the SC Association of Orthopaedic Executives and the SCMA Financial

Services & Practice Management Services and is a member of the American Association of Orthopaedic Executives, the Medical Group Management Association and the SC Department of Health & Environmental Control Certificate of Need Review Panel. Ms. McCraw has also been active on the SC Workers' Compensation Commission's Medical Services Provider Manual Advisory Committee and the Surgical Implant Peer Care Unit Advisory Committee.



Benjamin M. Rowson practices with Rowson Jones Carter & Hestley, PA in their Greenville, SC office. He is a graduate of Wakefield College and the University of South Carolina School of Law where he was a member of the Moot Court team. Mr. Rowson practices primarily in the area of workers' compensation defense. He serves on the Board of the National College Trialer Club.

2013 Board of Directors

PRESIDENT Richard V. Davis, Esq. Charleston & Davis Law Firm	Vice President Roy A. Horvath, III, Esq. Trull & Horvath, LLC	Secretary Gerald M. Thumason Nicholas - PHILLIP	Treasurer Harry B. Gregory, Jr., Esq. SC State Accident Fund	2013 Board of Directors Richard V. Davis, Esq. Charleston & Davis Law Firm	2013 Board of Directors Roy A. Horvath, III, Esq. Trull & Horvath, LLC	2013 Board of Directors Gerald M. Thumason Nicholas - PHILLIP	2013 Board of Directors Harry B. Gregory, Jr., Esq. SC State Accident Fund
2013 Board of Directors Mark T. Arden, Esq. Chappell Smith & Arden, PA	2013 Board of Directors Linda A. Means Key Risk	2013 Board of Directors Jo Lee Parsons MacLeod GENEX Services, Inc.	2013 Board of Directors Ann Margaret McCraw Midshore Orthopaedic Associates	2013 Board of Directors Benjamin M. Rowson Rowson Jones Carter & Hestley, PA	2013 Board of Directors Andrew C. Ruck, Esq. SC Workers' Compensation Commission	2013 Board of Directors William B. Shaw, Esq. Rally Law Firm, LLC	2013 Board of Directors William E. Shugart, Esq. Rural Hospital
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(3) A party shall plead in response to an amended form within the time remaining for response to the original form or within ten days after service of the amended form, whichever period may be longer, unless the Commission otherwise orders.

(4) Attorneys for the parties shall serve the opposing party according to R.67-211.

(5) If the claimant is not represented by an attorney, the Commission will serve the employer's representative or attorney.

C. An amended form must be timely filed and served. The Commissioner will determine at the hearing whether to allow a party to rely on new facts or defenses.

HISTORY: Amended by State Register Volume 16, Issue No. 4, eff April 24, 1992; State Register Volume 21, Issue No. 4, eff April 25, 1997.

67-611. Pre-hearing Brief.

A. A claimant who is representing himself or herself is not required to file a Form 58, Pre-hearing Brief.

(1) If the claimant elects to file a Form 58, mail the Form 58 to the Commissioner's office identified on the hearing notice.

(2) The Commissioner's office will send a copy of the Form 58 to the employer's attorney.

B. Each attorney representing a party at a hearing shall file and serve a Form 58 according to the following:

(1) File a Form 58 and proof of service at least ten days before the hearing with the Hearing Commissioner's office identified on the hearing notice. Complete the Form 58 and give the names and addresses of persons known to the parties or counsel to be witnesses concerning the facts of the case and indicate whether or not written or recorded statements including video recordings and/or transcribed audio recordings have been taken from one of the witnesses including the claimant and indicate who has possession of same. A party is under a duty to promptly supplement a response with respect to any question directly addressed on the form and amend a response if the party obtains information upon the basis of which the party knows the response was incorrect when made, or the party knows the response thought correct when made is no longer true and the circumstances are such that a failure to amend the response is in substance a knowing concealment.

(2) Serve the opposing party according to R.67-211.

C. The Form 58 shall remain in the Commission's file but shall not constitute evidence or become part of the record of the hearing.

D. If an attorney fails to file and serve a Form 58, the Commissioner may postpone the hearing according to R.67-613 or assess against an attorney by written order a fine of up to one hundred dollars.

HISTORY: Amended by State Register Volume 16, Issue No. 4, eff April 24, 1992; State Register Volume 21, Issue No. 4, eff April 25, 1997.

67-612. Admission of Expert's Report as Evidence.

A. This regulation does not apply to the Form 14A filed according to R. 67-1301; nor shall this regulation be construed to limit a party's right to call a witness (lay or expert) or present evidence (lay or expert) in the form of a deposition.

B. A written expert's report to be admitted as evidence at the hearing must be provided to the opposing party as follows:

(1) The moving party must provide the report to the opposing party at least fifteen days before the scheduled hearing.

(2) The non-moving party must provide to the moving party any report not provided by the moving party at least ten days before the scheduled hearing.

(3) Where both parties file hearing requests the first party to file shall be considered the moving party.

(4) The carrier shall be deemed the moving party in all hearings scheduled pursuant to a request under R. 67-504C.

South Carolina Legislature

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South Carolina Code of Laws Unannotated

Title 15 - Civil Remedies and Procedures

CHAPTER 77

Suits Involving State, State Agencies and Officials and United States

ARTICLE 1

General Provisions

SECTION 15-77-10. Persons appointed by United States may prosecute in its behalf.

Every person authorized and appointed by the United States for the purpose, in its name and in its behalf, may commence and prosecute to final decree, judgment and execution any action for the recovery from individuals of debts due and effects belonging to the United States. Every such action shall be conducted in the same manner and subject to the same rules and regulations as when commenced by one citizen of this State against another citizen thereof, and the defendant shall be allowed the same privileges and advantages as he would be entitled to if sued by a citizen of this State.

HISTORY: 1962 Code Section 10-2601; 1952 Code Section 10-2601; 1942 Code Section 336; 1932 Code Section 336; Civ. P. '22 Section 292; Civ. C. '12 Section 3925; Civ. C. '02 Section 2822; G. S. 2169; R. S. 2298; 1785 (4) 667.

SECTION 15-77-20. Suits affecting obligations of the State.

No suit shall be filed nor shall any pending suit be prosecuted in any court of this State affecting the issuance or sale of any state security, certificate of indebtedness or bond the intent or effect of which is to prevent, delay or affect the sale or other disposition thereof or which would have this effect unless and until the plaintiff in such action shall make application to the circuit judge presiding in the circuit in which the action is brought or, if there be no judge presiding, then to the resident judge of such circuit or to the Chief Justice of the Supreme Court, if the action be brought in the original jurisdiction thereof, or if he be disabled or disqualified to an associate justice, for leave to bring or prosecute such action and shall convince such judge or justice of the merit in such action or proceeding. Such suit shall not then be filed or prosecuted unless and until the plaintiff shall file in such court a bond in such amount as will adequately protect the State against loss, damage, injury and costs in an amount of not less than twenty-five thousand dollars, subscribed by a duly licensed surety company or secured by the deposit of a like amount in cash, conditioned to pay all loss, damage, injury and costs, including attorney's fees, which the State may sustain in any such action. And before any such action shall be commenced at least ten days' notice thereof, together with a copy of the proposed complaint, shall be given to the Governor and the State Treasurer, so as to afford them an opportunity to appear before the judge or justice in opposition to the filing of the suit and to be heard upon the amount of the bond to be required.

HISTORY: 1962 Code Section 10-2602; 1952 Code Section 10-2602; 1942 Code Section 442; 1932 Code Section 442; 1930 (36) 1221.

SECTION 15-77-30. State as defendant in action affecting title to real estate.

In any action or suit at law affecting the title to real estate when it appears that the State has or claims a judgment lien upon such real estate the State may be made a party defendant in such action or suit at law, provided no money demand is made in such suit or action at law against the State.

HISTORY: 1962 Code Section 10-2603; 1952 Code Section 10-2603; 1942 Code Section 405; 1932 Code Section 405; 1926 (34) 963.

SECTION 15-77-40. Action for forfeiture of property to State.

Whenever by the provisions of law any property, real or personal, shall be forfeited to the State or to any officer for its use an action for the recovery of such property, alleging the ground of the forfeiture, may be brought by the proper officer in the circuit court.

HISTORY: 1962 Code Section 10-2604; 1952 Code Section 10-2604; 1942 Code Section 846; 1932 Code Section 846; Civ. P. '22 Section 794; Civ. P. '12 Section 481; Civ. P. '02 Section 443; 1870 (14) 526 Section 462.

SECTION 15-77-50. Jurisdiction and venue of actions affecting State agencies and officials.

The circuit courts of this State are hereby vested with jurisdiction to hear and determine all questions, actions and controversies, other than those involving rates of public service companies for which specific procedures for review are provided in Title 58, affecting boards, commissions and agencies of this State, and officials of the State in their official capacities in the circuit where such question, action or controversy shall arise.

HISTORY: 1962 Code Section 10-2605; 1954 (48) 1541.

ARTICLE 5

Attorney's Fees in State Initiated Actions

SECTION 15-77-300. Allowance of fees.

(A) In any civil action brought by the State, any political subdivision of the State or any party who is contesting state action, unless the prevailing party is the State or any political subdivision of the State, the court may allow the prevailing party to recover reasonable attorney's fees to be taxed as court costs against the appropriate agency if:

- (1) the court finds that the agency acted without substantial justification in pressing its claim against the party; and
- (2) the court finds that there are no special circumstances that would make the award of attorney's fees unjust.

The agency is presumed to be substantially justified in pressing its claim against the party if the agency follows a statutory or constitutional mandate that has not been invalidated by a court of competent jurisdiction.

(B) Attorney's fees allowed pursuant to subsection (A) must be limited to a reasonable time expended at a reasonable rate. Factors to be applied in determining a reasonable rate include:

- (1) the nature, extent, and difficulty of the case;
- (2) the time devoted;
- (3) the professional standing of counsel;
- (4) the beneficial results obtained; and

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Title 15 - Civil Remedies and Procedures

CHAPTER 79

Medical Malpractice Actions

SECTION 15-79-110. Definitions.

As used in this chapter:

- (1) "Ambulatory surgical facility" means a licensed, distinct, freestanding, self-contained entity that is organized, administered, equipped, and operated exclusively for the purpose of performing surgical procedures or related care, treatment, procedures, and/or services, by licensed health care providers, for which patients are scheduled to arrive, receive surgery or related care, treatment, procedures, and/or services, and be discharged on the same day. This term does not include abortion clinics.
- (2) "Health care institution" means an ambulatory surgical facility, a hospital, an institutional general infirmary, a nursing home, and a renal dialysis facility.
- (3) "Health care provider" means a physician, surgeon, osteopath, nurse, oral surgeon, dentist, pharmacist, chiropractor, optometrist, podiatrist, or any similar category of licensed health care provider, including a health care practice, association, partnership, or other legal entity.
- (4) "Hospital" means a licensed facility with an organized medical staff to maintain and operate organized facilities and services to accommodate two or more nonrelated persons for the diagnosis, treatment, and care of such persons over a period exceeding twenty-four hours and provides medical and surgical care of acute illness, injury, or infirmity and may provide obstetrical care, and in which all diagnoses, treatment, or care are administered by or performed under the direction of persons currently licensed to practice medicine and surgery in the State of South Carolina. This term includes a hospital that provides specialized service for one type of care, such as tuberculosis, maternity, or orthopedics.
- (5) "Institutional general infirmary" means a licensed facility which is established within the jurisdiction of a larger nonmedical institution and which maintains and operates organized facilities and services to accommodate two or more nonrelated students, residents, or inmates with illness, injury, or infirmity for a period exceeding twenty-four hours for the diagnosis, treatment, and care of such persons and which provides medical, surgical, and professional nursing care, and in which all diagnoses, treatment, or care are administered by or performed under the direction of persons currently licensed to practice medicine and surgery in the State of South Carolina.
- (6) "Medical malpractice" means doing that which the reasonably prudent health care provider or health care institution would not do or not doing that which the reasonably prudent health care provider or health care institution would do in the same or similar circumstances.
- (7) "Nursing home" means a licensed facility with an organized nursing staff to maintain and operate organized facilities and services to accommodate two or more unrelated persons over a period exceeding twenty-four hours which is operated either in connection with a hospital or as a freestanding facility for the express or implied purpose of providing skilled nursing services for persons who are not in need of hospital care. This term does not include assisted living, independent living, or community residential care facilities that do not provide skilled nursing services.
- (8) "Renal dialysis facility" means an outpatient facility which offers staff assisted dialysis or training and supported services for self-dialysis to end-stage renal disease patients.
- (9) "Skilled nursing services" means services that:
 - (a) are ordered by a physician;
 - (b) require the skills of technical or professional personnel such as registered nurses, licensed practical (vocational) nurses, physical therapists, occupational therapists, and speech pathologists or audiologists; and
 - (c) are furnished directly by, or under the supervision of such personnel.

HISTORY: 2005 Act No. 32, Section 5, eff July 1, 2005, for causes of action arising after that date.

SECTION 15-79-120. Mediation and arbitration.

At any time before a medical malpractice action is brought to trial, the parties shall participate in mediation governed by procedures established in the South Carolina Circuit Court Alternative Dispute Resolution Rules in effect at the time for the State or any portion of the State. Parties may also agree to participate in binding arbitration, nonbinding arbitration, early neutral evaluation, or other forms of alternative dispute resolution.

HISTORY: 2005 Act No. 32, Section 5, eff July 1, 2005, for causes of action arising after that date; 2006 Act No. 354, Section 3, eff June 9, 2006.

Effect of Amendment

The 2006 amendment in the second sentence added "nonbinding arbitration; early neutral evaluation, or other forms of alternative dispute resolution".

SECTION 15-79-125. Notice of Intent to File Suit as prerequisite to filing action; subpoena of medical records; depositions; mandatory prelitigation mediation; initiating action; ADR participation.

(A) Prior to filing or initiating a civil action alleging injury or death as a result of medical malpractice, the plaintiff shall contemporaneously file a Notice of Intent to File Suit and an affidavit of an expert witness, subject to the affidavit requirements established in Section 15-36-100, in a county in which venue would be proper for filing or initiating the civil action. The notice must name all adverse parties as defendants, must contain a short and plain statement of the facts showing that the party filing the notice is entitled to relief, must be signed by the plaintiff or by his attorney, and must include any standard interrogatories or similar disclosures required by the South Carolina Rules of Civil Procedure. Filing the Notice of Intent to File Suit tolls all applicable statutes of limitations. The Notice of Intent to File Suit must be served upon all named defendants in accordance with the service rules for a summons and complaint outlined in the South Carolina Rules of Civil Procedure.

(B) After the Notice of Intent to File Suit is filed and served, all named parties may subpoena medical records and other documents potentially related to the medical malpractice claim pursuant to the rules governing the service and enforcement of subpoenas outlined in the South Carolina Rules of Civil Procedure. Upon leave of court, the named parties also may take depositions pursuant to the rules governing discovery outlined in the South Carolina Rules of Civil Procedure.

(C) Within ninety days and no later than one hundred twenty days from the service of the Notice of Intent to File Suit, the parties shall participate in a mediation conference unless an extension for no more than sixty days is granted by the court based upon a finding of good cause. Unless inconsistent with this section, the Circuit Court Alternative Dispute Resolution Rules in effect at the time of the mediation conference for all or any part of the State shall govern the mediation process, including compensation of the mediator and payment of the fees and expenses of the mediation conference. The parties otherwise are responsible for their own expenses related to mediation pursuant to this section.

SECTION 42-1-610. Agreement or regulation does not limit liability of employer.

No contract or agreement, written or implied, and no rule, regulation or other device shall in any manner operate to relieve any employer, in whole or in part, of any obligation created by this title except as otherwise expressly provided in this title.

HISTORY: 1962 Code Section 72-131; 1952 Code Section 72-131; 1942 Code Section 7035-7; 1936 (39) 1231.

SECTION 42-1-620. Agreements of employee to waive rights invalid.

No agreement by an employee to waive his rights to compensation under this title shall be valid.

HISTORY: 1962 Code Section 72-132; 1952 Code Section 72-132; 1942 Code Section 7035-24; 1936 (39) 1231.

SECTION 42-1-630. Situation in which provisions of title are not admissible in trial.

Upon the trial of any action in tort for injuries not coming under the provisions of this title no provisions of this title shall be placed in evidence or be permitted to be argued to the jury.

HISTORY: 1962 Code Section 72-20; 1952 Code Section 72-20; 1942 Code Section 7035-16; 1936 (39) 1231; 1937 (40) 153, 613; 1939 (41) 323.

SECTION 42-1-640. Performance of statutory duty not excused.

Nothing in this title shall be construed to relieve any employer or employee from penalty for failure or neglect to perform any statutory duty.

HISTORY: 1962 Code Section 72-21; 1952 Code Section 72-21; 1942 Code Section 7035-14; 1936 (39) 1231.

SECTION 42-1-650. Limitation of actions after claim erroneously made.

If any claim for compensation is made upon the theory that such claim, or the injury upon which the claim is based, is within the jurisdiction of the commission under the provisions of this title and if the commission, or the Supreme Court or court of appeals on appeal, shall adjudge that the claim is not within this title, the claimant, or if he dies his personal representative, shall have one year after the rendition of a final judgment in the case within which to commence an action at law.

HISTORY: 1962 Code Section 72-22; 1952 Code Section 72-22; 1942 Code Section 7035-27; 1936 (39) 1231; 1999 Act No. 55, Section 44, eff June 1, 1999.

SECTION 42-1-660. Immunity from liability on construction projects; exceptions.

No architect, engineer, land surveyor, landscape architect, or their employees or a corporation, partnership, or firm offering architectural services, engineering services, land surveyor services, or landscape architectural services who is retained to perform professional services on a construction project is liable in any action brought pursuant to Section 42-1-560 for any injury resulting from the employer's failure to comply with safety standards on a construction project for which compensation is recoverable under this title, unless responsibility for safety practices is specifically assumed by contract or by direct supervision or continual direction of the injured employee relative to the segment of the job which results in the injury.

The immunity provided by this section does not apply to the negligent preparation of design plans or specifications.

HISTORY: 1996 Act No. 320, Section 1, eff May 20, 1996.

SECTION 42-1-700. Specificity of description of injured or affected body parts; Employee's Notice of Claim and Request for Hearing (Form 50).

(A) Injured or affected body parts and conditions shall be set forth with as much specificity as possible on the commission's Employee's Notice of Claim and/or Request for Hearing form, hereinafter referred to as Form 50. A Form 50 shall not describe the injured body part(s) or condition(s) as "whole person", "whole body", "all body parts", or other similar language unless the injured employee died as a result of the accident. No hearing shall be held on a Form 50 which does not conform to the requirements of this subsection.

(B) Nothing in this section prohibits a commissioner from determining the compensability of a body part or condition not listed or described on a Form 50 if:

(1) the body part or condition is proved by a preponderance of the evidence to have arisen from the injury or injuries out of and in the course of employment as set forth on the Form 50;

(2) it is proven to the satisfaction of the commissioner that the employee had no knowledge of the injury or condition on the date of the completion of the Form 50. However, the employee is required to amend the Form 50 upon discovery of the injury or condition within a reasonable time period pursuant to regulation; or

(3) in the case of a represented employee, the body part or condition is set forth on the commission's Prehearing Brief form, and such prehearing brief is timely filed with the commission and timely served upon the parties.

(C) A Form 50 must be signed by an attorney if the employee is represented, verifying that the contents of the form are accurate and true to the best of the attorney's knowledge. If the employee is not represented, the employee who signs a Form 50 must verify that the contents of the form are accurate and true to the best of the employee's knowledge.

HISTORY: 2007 Act No. 111, Pt I, Section 9, eff July 1, 2007, applicable to injuries that occur on or after that date.

SECTION 42-1-705. Employer's Answer to Request for Hearing (Form 51); specificity as to possible defenses.

(A) The commission's Employer's Answer to Request for Hearing form, hereinafter referred to as Form 51, must describe with as much specificity as possible the defenses to be relied upon by the defendants. A Form 51 shall not state that "all defenses apply" or other similar language, unless such is actually the case. A Form 51 which does not conform to the requirements of this subsection shall not be considered at a hearing.

(B) Nothing in this section prohibits a commissioner from considering a defense not listed on a Form 51 if:

(1) it is proven to the satisfaction of the commissioner that the defendants had no knowledge of the facts supporting the defense on the date of the completion of the Form 51; and

(2) in the case of represented defendants, the defense omitted on the Form 51 is set forth on the commission's Prehearing Brief form, and such brief is timely filed with the commission and timely served upon the parties.

(C) A Form 51 must be signed by an attorney, verifying that the contents of the form are accurate and true to the best of the attorney's knowledge. If the employer is unrepresented and completes a Form 51, the employer must sign the form, verifying that the contents are accurate and true to the best of the employer's knowledge.

HISTORY: 2007 Act No. 111, Pt I, Section 10, eff July 1, 2007, applicable to injuries that occur on or after that date.

SECTION 42-1-610. Agreement or regulation does not limit liability of employer.

No contract or agreement, written or implied, and no rule, regulation or other device shall in any manner operate to relieve any employer, in whole or in part, of any obligation created by this title except as otherwise expressly provided in this title.

HISTORY: 1962 Code Section 72-131; 1952 Code Section 72-131; 1942 Code Section 7035-7; 1936 (39) 1231.

SECTION 42-1-620. Agreements of employee to waive rights invalid.

No agreement by an employee to waive his rights to compensation under this title shall be valid.

HISTORY: 1962 Code Section 72-132; 1952 Code Section 72-132; 1942 Code Section 7035-24; 1936 (39) 1231.

SECTION 42-1-630. Situation in which provisions of title are not admissible in trial.

Upon the trial of any action in tort for injuries not coming under the provisions of this title no provisions of this title shall be placed in evidence or be permitted to be argued to the jury.

HISTORY: 1962 Code Section 72-20; 1952 Code Section 72-20; 1942 Code Section 7035-16; 1936 (39) 1231; 1937 (40) 153, 613; 1939 (41) 323.

SECTION 42-1-640. Performance of statutory duty not excused.

Nothing in this title shall be construed to relieve any employer or employee from penalty for failure or neglect to perform any statutory duty.

HISTORY: 1962 Code Section 72-21; 1952 Code Section 72-21; 1942 Code Section 7035-14; 1936 (39) 1231.

SECTION 42-1-650. Limitation of actions after claim erroneously made.

If any claim for compensation is made upon the theory that such claim, or the injury upon which the claim is based, is within the jurisdiction of the commission under the provisions of this title and if the commission, or the Supreme Court or court of appeals on appeal, shall adjudge that the claim is not within this title, the claimant, or if he dies his personal representative, shall have one year after the rendition of a final judgment in the case within which to commence an action at law.

HISTORY: 1962 Code Section 72-22; 1952 Code Section 72-22; 1942 Code Section 7035-27; 1936 (39) 1231; 1999 Act No. 55, Section 44, eff June 1, 1999.

SECTION 42-1-660. Immunity from liability on construction projects; exceptions.

No architect, engineer, land surveyor, landscape architect, or their employees or a corporation, partnership, or firm offering architectural services, engineering services, land surveyor services, or landscape architectural services who is retained to perform professional services on a construction project is liable in any action brought pursuant to Section 42-1-560 for any injury resulting from the employer's failure to comply with safety standards on a construction project for which compensation is recoverable under this title, unless responsibility for safety practices is specifically assumed by contract or by direct supervision or continual direction of the injured employee relative to the segment of the job which results in the injury.

The immunity provided by this section does not apply to the negligent preparation of design plans or specifications.

HISTORY: 1996 Act No. 320, Section 1, eff May 20, 1996.

SECTION 42-1-700. Specificity of description of injured or affected body parts; Employee's Notice of Claim and Request for Hearing (Form 50).

(A) Injured or affected body parts and conditions shall be set forth with as much specificity as possible on the commission's Employee's Notice of Claim and/or Request for Hearing form, hereinafter referred to as Form 50. A Form 50 shall not describe the injured body part(s) or condition(s) as "whole person", "whole body", "all body parts", or other similar language unless the injured employee died as a result of the accident. No hearing shall be held on a Form 50 which does not conform to the requirements of this subsection.

(B) Nothing in this section prohibits a commissioner from determining the compensability of a body part or condition not listed or described on a Form 50 if:

(1) the body part or condition is proved by a preponderance of the evidence to have arisen from the injury or injuries out of and in the course of employment as set forth on the Form 50;

(2) it is proven to the satisfaction of the commissioner that the employee had no knowledge of the injury or condition on the date of the completion of the Form 50. However, the employee is required to amend the Form 50 upon discovery of the injury or condition within a reasonable time period pursuant to regulation; or

(3) in the case of a represented employee, the body part or condition is set forth on the commission's Prehearing Brief form, and such prehearing brief is timely filed with the commission and timely served upon the parties.

(C) A Form 50 must be signed by an attorney if the employee is represented, verifying that the contents of the form are accurate and true to the best of the attorney's knowledge. If the employee is not represented, the employee who signs a Form 50 must verify that the contents of the form are accurate and true to the best of the employee's knowledge.

HISTORY: 2007 Act No. 111, Pt I, Section 9, eff July 1, 2007, applicable to injuries that occur on or after that date.

SECTION 42-1-705. Employer's Answer to Request for Hearing (Form 51); specificity as to possible defenses.

(A) The commission's Employer's Answer to Request for Hearing form, hereinafter referred to as Form 51, must describe with as much specificity as possible the defenses to be relied upon by the defendants. A Form 51 shall not state that "all defenses apply" or other similar language, unless such is actually the case. A Form 51 which does not conform to the requirements of this subsection shall not be considered at a hearing.

(B) Nothing in this section prohibits a commissioner from considering a defense not listed on a Form 51 if:

(1) it is proven to the satisfaction of the commissioner that the defendants had no knowledge of the facts supporting the defense on the date of the completion of the Form 51; and

(2) in the case of represented defendants, the defense omitted on the Form 51 is set forth on the commission's Prehearing Brief form, and such brief is timely filed with the commission and timely served upon the parties.

(C) A Form 51 must be signed by an attorney, verifying that the contents of the form are accurate and true to the best of the attorney's knowledge. If the employer is unrepresented and completes a Form 51, the employer must sign the form, verifying that the contents are accurate and true to the best of the employer's knowledge.

HISTORY: 2007 Act No. 111, Pt I, Section 10, eff July 1, 2007, applicable to injuries that occur on or after that date.

South Carolina Legislature

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South Carolina Code of Laws Unannotated Current through the end of the 2014 Session

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Title 42 - Workers' Compensation

CHAPTER 9

Compensation and Payment

§ 42-9-5. Basis for award.

Any award made pursuant to this title must be based upon specific and written detailed findings of fact substantiating the award.

Y: 2007 Act No. 111, Pt I, Section 16, eff July 1, 2007, applicable to injuries that occur on or after that date.

§ 42-9-10. Amount of compensation for total disability; what constitutes total disability.

If the incapacity for work resulting from an injury is total, the employer shall pay, or cause to be paid, as provided in this chapter, to the injured employee during the period of total disability a weekly compensation equal to sixty-six and two-thirds percent of his average weekly wages, but not less than seventy-five dollars a week so long as the compensation does not exceed his average weekly salary; if this amount does exceed his average weekly salary, the injured employee may not be paid, each week, less than his average weekly salary. The injured employee may not be paid more each week than the average weekly wage in this State for the preceding fiscal year. In no case shall the period covered by the compensation exceed five hundred weeks except as provided in subsection (C).

Loss of both hands, arms, shoulders, feet, legs, hips, or vision in both eyes, or any two thereof, constitutes total and permanent disability to be compensated under the provisions of this section.

Notwithstanding the five-hundred-week limitation prescribed in this section or elsewhere in this title, any person determined to be totally and permanently disabled as a result of a compensable injury is a paraplegic, a quadriplegic, or who has suffered physical brain damage is not subject to the five-hundred-week limitation and shall receive the benefits for life.

Notwithstanding the provisions of Section 42-9-301, no total lump sum payment may be ordered by the commission in any case under this section where the employee is entitled to lifetime benefits.

1962 Code Section 72-151; 1952 Code Section 72-151; 1942 Code Sections 7035-32, 7035-34; 1936 (39) 1231; 1937 (40) 613; 1941 (42) 221; 1953 (48) 2753; 1972 (57) 2339; 1974 (58) 2265; 1976 Act No. 532 Section 3; 1978 Act No. 500 Section 1; 1984 Act No. 417; 1986 Act No. 389, eff April 29, 1986; 1991 Act No. 111, Pt I, Section 17, eff July 1, 2007, applicable to injuries that occur on or after that date.

§ 42-9-20. Amount of compensation for partial disability.

Otherwise provided in Section 42-9-30, when the incapacity for work resulting from the injury is partial, the employer shall pay, or cause to be paid, as provided in this chapter, to the injured employee during such disability a weekly compensation equal to sixty-six and two-thirds percent of the difference between his average weekly wages before the injury and the average weekly wages which he is able to earn thereafter, but not more than the average weekly wage in this State for the preceding fiscal year. In no case shall the period covered by such compensation be greater than three hundred forty weeks from the date of injury. In case the partial disability continues after a period of total disability, the latter period shall not be deducted from a maximum period allowed in this section for partial disability.

1962 Code Section 72-152; 1952 Code Section 72-152; 1942 Code Section 7035-33; 1936 (39) 1231; 1937 (40) 613; 1953 (48) 103; 1966 (54) 2753; 1972 (57) 2339; 1974 (58) 2265; 1976 Act No. 532 Section 4; 1977 Act No. 70.

§ 42-9-30. Schedule of period of disability and compensation.

Provided in the following schedule, the disability in each case is considered to continue for the period specified and the compensation paid for the injury is as follows:

Disability of a thumb sixty-six and two-thirds percent of the average weekly wages during sixty-five weeks;

Effective January 1, 2016, Alternative Dispute Resolution (ADR) is mandatory in all counties, pursuant to Supreme Court Order dated November 12, 2015.

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

Pursuant to the ADR Rules, you are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs.
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

**Please Note: You must comply with the Supreme Court Rules regarding ADR.
Failure to do so may affect your case or may result in sanctions.**