

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM APPELLATE PANEL OF THE S.C. WORKER'S COMPENSATION
COMMISSION

T. Scott Beck, Commissioner
Melody L. James, Commissioner
Gene McCaskill, Commissioner

RECEIVED
MAR 31 2017
SC Court of Appeals

WCC File No. 1303465

Appellate Case No. 2016-000790

Ann Stevenson Claimant/Appellant

vs.

Wal-Mart Stores, Inc., Employer
AND
New Hampshire Insurance Co.

Carrier,
Defendants. Respondents

MOTION TO ALLOW EVIDENCE THAT WAS PREVIOUSLY PRESENTED TO OR
BY THE TRIAL COURT AND PLACED INTO EVIDENCE ORALLY OR
MATERIALLY ALONG WITH WHAT WAS LEGALLY SUPPOSED TO BE ATTACHED IN
THE EVIDENCE CHAIN TO BE PLACED INTO THE RECORD OF APPEAL AND
TO MAKE A RULING ON THE VALIDITY OF THE COMMISSION ORDERS
WHICH ARE BASED UPON THE CORRUPTED EVIDENCE OF THE
RESPONDENTS' APA COPY OF FCE REPORT

- I, Ann Stevenson, respectfully request the Court's Consideration:
1. Of the following pieces of evidence that were presented to or by the lower court along with what was legally supposed to be attached in the evidence chain or is a transcript of the final hearing in the above WCC file and
 2. To make a Ruling or Decision on the Validity of the Commission Orders which are based upon the Corrupted evidence of the Respondents' APA copy of the FCE Report.

**ACTUAL PHYSICAL EVIDENCE OF DOCUMENTS OR ITEMS REQUESTED
and ENCLOSED**

- 1. Full Commission Panel Hearing Transcript dated January 11,2016 Document**
- 2. Commissioner Campbell's Order Instructions and Request for Proposed Order Document emailed to parties on June 10, 2015**
- 3. South Carolina Workers' Compensation Commission's Order Instructions and Request for a Proposed Order Document transmitted by email to parties on January 29,2016**
- 4. Ann Stevenson's Deposition dated November 26, 2013 and Defendants' Exhibit 1 (Incident report attached to it) which was presented at the 01/08/15 Hearing in the transcript (pp30-31) by Mr. Baxley. This deposition is not enclosed.**
- 5. FCE Workwell (dates 08/27/13 - 08/28/13)p1-p11 (Complete Report which was obtained from Georgetown Hospital System in September 2016 Which includes the following: 1)page 7 which is missing (Def APA 46) along with 2)P3 (DEF APA 42) which has some sentences missing, and 3)test in top chart on p 5 (or Def APA 44) .. which have all been tampered with and removed from Defendants' APA p40 – 55) To be completely clear this complete report was never presented to the court because the copy they received from the Defendants had been tampered with and was missing key, and vital injury information as listed above..**
- 6. Walmart Surveillance Videos (2 separate overhead camera positions on one DVD) which were attached to 12/29/2014 WCC form 58 of Claimant (of the accident on 02/16/13 starting about 10:06:46am which are on one DVD in the WCC file and since it is not a paper document I believe it should be requested for viewing from the Commission as per protocol. Although I am including an extra copy of those videos if needed for viewing and to be able to associate and validate the clear color photos taken from it. There is already a disc of the color pictures that can be looked at on your computer put into the Abeyance Evidence Consideration Motion of September 2016 .**
- 7. Clear color photos of the accident on 02/16/13 from the Walmart Surveillance Accident Videos. There are two places they were put into evidence on: 1) 12/29/2014 WCC Claimant's form 58 attachment and to 2)Dr. Merritt's Deposition during the deposition. (See what happened to Dr. Merritt's copies). But they have not been found. There are 4 pages (2 photos per page) enclosed of clear color accident photos from the accident videos.**

REASONS WHY THE ITEMS SHOULD BE ALLOWED

1. The full Commission Hearing transcript should be allowed because it was 1)the last WCC hearing that brought us here to the Court of Appeals , 2)Mr. Baxley has used information from the Hearing and the Order in his brief, 3) My Reply brief quotes it as to the truth, and 4) the only way to know what was actually said and brought up during the hearing. It was recorded, but never transcribed until January of 2017, and was acquired after Mr. Baxley brought it to my attention in a copy of an email correspondence to WCC.
2. Mr. Baxley states this is not a legal document. But you would have to ask the creating court if they consider this a legal document, it contains his or their directives and thoughts and impressions, without which the Final Decision and Order would not be created. And it was placed into evidence directly by the court via email creating a digital document. Under the UETA law it is and cannot be denied legality because it is digital instead of a paper letter mailed out. If this is not direct evidence from the court, then why does it exist and why did the court email it out to the parties?
3. Same reasoning here as for number 2 above.
4. **Ann Stevenson's Deposition dated November 26, 2013 and Defendants' Exhibit 1 (Incident report attached to it) and presented at the 01/08/15 Hearing in the transcript by Mr. Baxley.(p30 lin4 through p31line 25 and more).**
5. **FCE Workwell (dates 08/27/13 - 08/28/13)p1-p11 (Complete Report which was obtained from Georgetown Hospital System in September 2016 Which includes the following: 1)page 7 which is missing (Def APA 46) along with 2)P3 (DEF APA 42) which has some sentences missing, and 3)test in top chart on p 5 (or Def APA 44) .. which have all been tampered with and removed from Defendants' APA p40 – 55) To be completely clear this complete report was never presented to the court because the copy they received from the Defendants had been tampered with and was missing key, and vital injury information as listed above..**

Upon looking closer, I found other critical missing and/or altered material and their copy is barely readable. The impression I get is Defendants' APA of the FCE was not meant to be read and most probably was not by the Commissioner. Now if he or we had gotten the complete clear copy, the injuries would have stood out or he would have been able to correlate injury in the report to the limitations in activity in the missing material and the clear sentences of the complete report.

**But the CORRUPTED FCE in Defendants' APA shows on :
APA42 which is page 3 has some sentences missing. 1)The last sentence in consistency of Performance , and 2) first sentence Under Pain Report.**

APA44 which is p5 , has the walk 6 minute test removed which is the 4th test in the first chart on FCE p5 --It states under limitations - Client is limited by pain and decreased range of motion in the right ankle. And Recommendations are - Walking should be limited to short distances with slow pace.

APA46 is supposed to be p7, but that page is not there.

Dr Merritt's office over the phone, stated they had the Complete FCE report and read what was on p7 to me over the phone. The complete report is what Dr Merritt used for the restrictions and ability to function on the MMI.

I am also asking the Court to make a ruling or decision on :

1) the MMI form designated by Dr Merritt from a non-corrupted FCE that was used to determine the amount of disability and what parts SHOULD HAVE BEEN correctly assigned by the Commissioners, the Employer and Mr. Baxley as to physical restrictions and other body parts and what Mr. Baxley placed in the Order upon instructions from Commissioner Campbell and practically everything else in the case as to their Decision and Awards., AND

2) As to the validity of COMMISSIONERS' Decision and ORDERS on the MMI report by Dr Merritt (based on the FCE report)since, the previous court based their decision on the CORRUPTED EVIDENCE OF A TAMPERED WITH, ADULTERATED COPY OF THE FCE REPORT.

6. Walmart Surveillance Videos (2 separate overhead camera positions on one DVD) which were attached to 12/29/2014 WCC form 58 of Claimant (of the accident on 02/16/13 starting about 10:06:46am which are on one DVD in the WCC file and since it is not a paper document I believe it should be requested for viewing from the Commission as per protocol. Although I am including an extra copy of those videos if needed for viewing and to be able to associate and validate the clear color photos taken from it. There is already a disc of the color pictures that can be looked at on your computer put into the Abeyance Evidence Consideration Motion of September 2016 .

7. Clear color photos of the accident on 02/16/13 from the Walmart Surveillance Accident Videos. Which were put into evidence in two places: 1) 12/29/2014 WCC Claimant's form 58 attachment and to 2)Dr. Merritt's Deposition during the deposition. (See what happened to Dr. Merritt's copies).

I am asking that the Court allow me to place into the Record similar clear color copies of the accident photos coming directly from the accident videos that were provided under subpoena from the Defendants'..... because The actual clear color pictures that were exhibits and attached to Dr. Merritt's Deposition in a sealed evidence envelope by Creel Reporting and physically sent to Mr. Baxley (per Creel Reporting) never made it into court, because they were not physically turned in at the 12/19/13 hearing when he turned in Dr. Merritt's Deposition as evidence to use against the claimant (see 12/19/13 transcript p10 line 1-14).

Another reason for this request that similar clear color pictures be allowed into the evidence of the Record is because the originals have not been found, produced, or presented as they were required by law and "the Evidence Chain".

In other cases, courts have ruled to allow similar pictures that are clear and readable when the originals are not available. But in this case Creel Reporting sent the Originals to Mr. Baxley, who broke the evidence chain by not turning in the Original colored photos from the accident video that had been provided by the Claimant and attached to Dr. Merritt's Deposition during the deposition.

These color photos were clearly readable by Dr. Merritt as to his description of the action, body parts involved and injury at the end of his deposition. If he had seen these at the beginning, he probably would have had different replies to the Defendants'. The DVD copy of the accident and mechanism of injury was unreadable by Dr Merritt because security blocking was still on the video adjusters sent to him. He was sent this blocked video after more than 6 months of requests by the Claimant to the adjusters to send to her treating doctors the videos so they could see and understand how the accident occurred and how she was hurt, so they would all know the accident **WAS NOT A SIMPLE TRIP AND FALL AS WAS LISTED IN MANY REPORTS.**

There is a disc of pictures in the September Abeyance Motion of Evidence consideration if needed. But I have enclosed 4 pages (2 photos to a page) of similar clear color pictures if that is your decision to include these in the Record unless Mr. Baxley is willing to return the clear color photos placed into evidence at the deposition. But then we do not know anything about the photos supposedly attached to Claimant's 58.

EXHIBITS ATTACHED

- A 1. Creek Reporting Bill dated January 6, 2017 for an e-transcript which is what WCC has in their file for the **Full Commission Panel Hearing Transcript dated January 11,2016**
- B 2. January 8,2015 Hearing Transcript p30 line 4 through p31 line 25,where Mr. Baxley uses and presents Ann Stevenson's Deposition, reading from parts of it and adding inaccuracies stated as truth as to statements actually made by him and not the Claimant, proven by the actual evidence in that Deposition transcript.
- C 3. Defendants' APA p40-55 of their tampered with and adulterated copy of the FCE report presented into evidence before the Commission and no attempt made to correct it in any paperwork I have received as a copy of that sent to the Court of Appeals and when I was last recently at the Workers' Compensation Commission office in Columbia looking at the file there were no additions correcting the errors to it.
- D 4. Copy of Attachment to Claimant's WCC form 58 date 12/29/14 and named 'Notice of Witnesses and Written Medical Report(s)/ Physician or on Behalf of Claimant listing the APAs 88-126 and 129-132 along with Exhibits of 1)Claimant Emails to Adjuster, and 2) Walmart Store Surveillance Video and Photos 2/16/13.
- E 5. Hearing transcript dated 12/19/13 before Commissioner Wilkerson (pages are not listed and copy was slanted and bound so page is estimated to be p 10) p10 Line 1 through 14, where Mr. Baxley placed Dr. Merritt's Deposition in to evidence.
- F 6. Email dated March 27, 2017 from Amanda at Creel Court Reporting, the company who recorded and transcribed Dr. Merritt's Deposition in 2013. She stated that they had only scanned the photos in their file in black and white and where the originals were sent.

For these and many other reasons, In The Pursuit of Justice and Producing the Most Accurate and Complete Legal Record of what was evidence and was listed as evidence in the WCC case, I respectfully request the addition of **the items requested** to the record. If approved, I will send in an Amended Designation Of Matter including those that have been approved upon your direction.

Upon matching the **NONCORRUPTED FCE REPORT** to the **CORRUPTED AND TAMPERED WITH** copy found in Defendants' APA, **I request permission to add to my Final Brief and Reply Brief reference to and explanation of the missing sentences on p3 and the MISSING TEST found in the top chart on p6 of the Noncorrupted FCE Report**, but is removed in the Defendants' copy;

I am asking for a **Decision or Ruling from the Court as to the Validity of the Commissioners' Orders** which are *based upon* the **CORRUPTED EVIDENCE** of the **Defendants' APA** Copy of the FCE Report which is also stated in the Proposed Order Directive and Instructions from Commissioner Campbell along with the false statements during the Hearings explained in the Appellant's Briefs.

Thank you for your time and consideration in this matter.
Respectfully yours,

March 30, 2017

Ann Stevenson

Ann Stevenson
2261 Greenleaf Drive
Conway, S.C. 29526
843-347-5151
Appellant / Claimant

Counsel of Record
W. Johnnie Baxley III, Esquire
Wilson, Jones, Carter, & Baxley, PA
421 Wando Park Blvd.
Mt. Pleasant, SC 29464
843-284-1082
Attorney for Respondents

March 30, 2017

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
1220 Senate Street
Columbia, South Carolina 29211

RE: Ann Stevenson, Claimant/Appellant, vs. Wal-Mart Stores, Inc., Employer, and New Hampshire Insurance Company, Carrier/Defendants/Respondents, Worker's Compensation File No. 1303465, Appellate Case No. 2016-000790

Dear Ms. Kitchings:

Enclosed for filing is a MOTION TO ALLOW EVIDENCE THAT WAS PREVIOUSLY PRESENTED TO OR BY THE TRIAL COURT AND PLACED INTO EVIDENCE ORALLY OR MATERIALLY ALONG WHAT WAS LEGALLY SUPPOSED TO BE ATTACHED IN THE EVIDENCE CHAIN TO BE PLACED INTO THE RECORD OF APPEAL AND TO MAKE A RULING ON THE VALIDITY OF THE COMMISSION ORDERS WHICH ARE BASED UPON THE CORRUPTED EVIDENCE OF THE RESPONDENTS APA COPY OF FCE REPORT in the above case. Also enclosed are the following:

- (1) Proof of service of the above Motion on the respondents
- (2) A filing fee of \$25 for the Motion.

Thank you for your time and attention to this matter.

Respectfully Yours,

Ann Stevenson

Ann Stevenson, Claimant/Appellant
2261 Greenleaf Drive
Conway, S.C. 29526
843-347-5151

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MAR 31 2017

SC Court of Appeals

cc: W. Johnnie Baxley III, Esquire
Wilson, Jones, Carter, & Baxley, PA
421 Wando Park Blvd.
Mt. Pleasant, SC 29464
843-284-1082
Attorney for Respondents

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

MOTION TO EXTEND TIME FOR FILING APPELLANT'S BRIEFS

T. Scott Beck, Commissioner

Melody L. James, Commissioner

Gene McCaskill, Commissioner

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SC Court of Appeals

WCC File No. 1303465

Appellate Case No. 2016-000790

Ann Stevenson

Claimant/Appellant

vs.

Wal-Mart Stores, Inc., Employer
AND
New Hampshire Insurance Co.

Carrier,
Defendants. Respondents

PROOF OF SERVICE

I certify that I have served the MOTION TO ALLOW EVIDENCE THAT WAS PREVIOUSLY PRESENTED TO OR BY THE TRIAL COURT AND PLACED INTO EVIDENCE ORALLY OR MATERIALLY ALONG WHAT WAS LEGALLY SUPPOSED TO BE ATTACHED IN THE EVIDENCE CHAIN TO BE PLACED INTO THE RECORD OF APPEAL AND TO MAKE A RULING ON THE VALIDITY OF THE COMMISSION ORDERS WHICH ARE BASED UPON THE CORRUPTED EVIDENCE OF THE RESPONDENTS APA COPY OF FCE REPORT on Wal-Mart Stores, Inc., and New Hampshire Insurance Co. by depositing a copy of it in the United States Mail, postage prepaid, on March 30, 2017, addressed to their attorney of record, W. Johnnie Baxley III, Esquire, 421 Wando Park Blvd., Mt. Pleasant, S.C. 29464.

March 30, 2017

Ann Stevenson

Ann Stevenson
1622 Greenleaf Drive
Conway, S.C. 29526
843-347-5151
Claimant/ Appellant

March 30, 2017

W. Johnnie Baxley III, Esquire
Wilson, Jones, Carter, & Baxley, PA
421 Wando Park Blvd.
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843-284-1082
Attorney for Respondents

RECEIVED

MAR 31 2017

SC Court of Appeals

RE: Ann Stevenson, Claimant/Appellant, vs. Wal-Mart Stores, Inc., Employer, and New Hampshire Insurance Company, Carrier/Defendants/Respondents, Worker's Compensation File No. 1303465

Dear Mr. Baxley:

Enclosed for filing is a MOTION TO ALLOW EVIDENCE THAT WAS PREVIOUSLY PRESENTED TO OR BY THE TRIAL COURT AND PLACED INTO EVIDENCE ORALLY OR MATERIALLY ALONG WHAT WAS LEGALLY SUPPOSED TO BE ATTACHED IN THE EVIDENCE CHAIN TO BE PLACED INTO THE RECORD OF APPEAL AND TO MAKE A RULING ON THE VALIDITY OF THE COMMISSION ORDERS WHICH ARE BASED UPON THE CORRUPTED EVIDENCE OF THE RESPONDENTS APA COPY OF FCE REPORT in the above case.

Sincerely,



Ann Stevenson, Claimant/Appellant
2261 Greenleaf Drive
Conway, S.C. 29526
843-347-5151

cc: Ms. Jenny Abbott Kitchings
Clerk, S.C. Court of Appeals
P.O. Box 11629
1220 Senate Street
Columbia, SC 29211

STATE OF SOUTH CAROLINA
BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC No. 1303465

Ann Stevenson,)
)
 Claimant,)
)
 v.)
)
 Wal-Mart Association,)
)
 Employer,)
)
 and)
)
 New Hampshire Insurance)
 Company,)
)
 Carrier/Defendants.)
 -----)

FULL COMMISSION PANEL HEARING

Monday, January 11, 2016
2:40 p.m. - 2:55 p.m.

The full commission panel hearing was held before the South Carolina Workers' Compensation Commission, 1333 Main Street, 5th Floor, Columbia, South Carolina, on the 11th day of January, 2016 before Jill H. Vickers, Court Reporter and Notary Public in and for the State of South Carolina.



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

item 1

APPEARANCES

COMMISSION PANEL:
Scott Beck, Chair
Melody James
Gene McCaskill

Carter A. Martling, Esquire
The Law Offices of Carter Martling, PC
7437 College Street, Suite 103
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Attorney for the Defendants

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1 **COURT REPORTER:** Today is January 11, 2016. This is
2 South Carolina Workers' Compensation Case
3 Number 1303465. This is the case of Ann
4 Stevenson, Claimant vs. Wal-Mart Association,
5 Employer, and New Hampshire Insurance Company
6 is the Carrier. The Appellant is the Claimant
7 represented by Carter Martling. The Respondent
8 is represented by Johnnie Baxley. Each side is
9 allowed ten minutes for oral argument and three
10 minutes in reply. You are requested to argue
11 the grounds of exception and stay within the
12 record.

13 **ARGUMENT BY MR. MARTLING:**

14 **MR. MARTLING:** Thank you, commissioner. I don't
15 think I'll break anyone's heart with this one.
16 My argument here is going to be fairly short
17 and sweet and fairly to the point. This has
18 been a very long convoluted case, and there's
19 a multitude of records. There have been two
20 trials at this point, there's been an appellant
21 hearing, and we're back here again.
22 Ms. Stevenson had a work fall on February 16,
23 2013, fell into a trash can hitting multiple
24 body parts and sort of set off the stage to
25 where we are right now. An issue has been the



1 -- two things, really; the nature and the
2 extent of the accepted body parts and whether
3 or not other claims by Ms. Stevenson should be
4 accepted and brought into the case.
5 Admittedly, not every single one of those body
6 parts that we've looked at and every bit of
7 evidence relating to them is as strong as the
8 other. So, I'm really here to discuss with you
9 the compensability of her right hand. The
10 right hand quite honestly is the -- literally,
11 is the first thing that hit the ground, or more
12 accurately, hit the materials wastebasket when
13 Ms. Stevenson fell that day. She has been
14 complaining of the right hand since literally
15 day one. The record is fraught with the
16 treatments provided to her right hand
17 throughout by Dr. Merritt. The defense
18 provided an Independent Medical Exam with Dr.
19 Tamadon. Ms. Stevenson went and got her own
20 IME with Dr. Haskins. Dr. Merritt has
21 continued to treat her after the initial first
22 hearing that we had in 2013. He treated her
23 throughout 2014. To my knowledge, he's
24 probably still seeing her, on her own dime, at
25 this point, I will add. They're not authorized



1 treatments at this point. The first time he
2 saw her was in March of 2013, and he wrote
3 prescriptions based on her injuries to her
4 right hand and said "no repetitive movements or
5 gripping with the right lifting hand". I'm
6 looking at APA 2, "no pushing or pulling in
7 excess of ten pounds", and this goes on and on
8 and on for several months. He eventually
9 released her from treatment for two other body
10 parts, for the right shoulder and the right
11 knee. The defense filed a 21. We filed a 50
12 in response that wasn't heard at the first
13 hearing, which is why we appealed and were
14 given a de novo trial to hear all issues, but
15 it is our contention that the right hand is and
16 should be an accepted body part. Now, the
17 nature and the extent of how hurt the right
18 hand is left up to -- well, I would like to see
19 a rating in here somewhere. We don't have one.
20 My point is, I really -- from the beginning,
21 our position has been that what should have
22 been, what I would term an "accepted body part"
23 just fell off and was no longer one. And the
24 carrier will make the argument that it was
25 never technically an accepted body part. I



1 take exception based on both the treatment and
2 communications which the claimant testified to
3 in the form of e-mails from the carrier stating
4 that they would cover the right hand. That was
5 Claimant's Exhibit 1 at the last trial, and --
6 but if we look at Dr. Merritt's -- his
7 recommendations for her, I -- he was asked in
8 the deposition -- he was asked whether or not
9 he had any reason to believe that she didn't
10 injure her right hand, and he replied, "I don't
11 have any reason to believe that she didn't. I
12 have no other history of an injury or anything
13 like that". There is no back -- there is no
14 previous medical records, available in this
15 case, for any of these injuries. She sees
16 Dr. Tamadon, who gives a very curious opinion
17 regarding the right hand and whether it's
18 related to her fall, and he says, "Yes, if CTS
19 is ..." -- I'm sorry, "Is she at MMI", and he
20 says, "Yes, if right CTS is not an approved
21 diagnosis. If right CTS is accepted as part of
22 the treatment, then she's not at MMI." So, in
23 other words, his opinion of MMI is based on
24 whether or not she's going to return to see him
25 again. Finally, she sees Dr. Haskins in what



1 I admit was not a glowing report on the
2 claimant's behalf, but he does at end of it say
3 very clearly -- this is APA 130. "I would
4 recommend electrodiagnostic studies be
5 repeated. If repeated electrodiagnostic
6 studies are confirmatory for right carpal
7 tunnel syndrome and she has had an injure to
8 the right hand, then right carpal tunnel
9 syndrome would be related to her fall." She
10 had the electrodiagnostic studies done, and it
11 confirmed right carpal tunnel syndrome on the
12 right side, exactly what he said. The point to
13 all this is that I think she is, at the very
14 least, entitled to a statement of MMI and an
15 impairment rating, even if it's a small one.
16 I think that the -- obviously, we're here
17 because I take issue with the single
18 commissioner in the last one just flat denying
19 the hand injury. I think it would have been --
20 I don't believe we would be here if he had
21 accepted it as an injury and had said, "Based
22 on the evidence, it's this percent". Even at
23 a small level, even a small percentage, I
24 wouldn't be appealing it.

25 **COMMISSIONER BECK:** Didn't she complain about a



1 whole bunch of stuff?

2 **MR. MARTLING:** She did.

3 **COMMISSIONER BECK:** And wouldn't -- or couldn't the
4 commissioner have just lumped that in with all
5 the other stuff that she complained about, that
6 there was no objective evidence of any injury?

7 **MR. MARTLING:** I'm sure he did, and I think that was
8 an error, because ...

9 **COMMISSIONER BECK:** You're not arguing about anything
10 else.

11 **MR. MARTLING:** I'm not here arguing about anything
12 else, because I have to make a command decision
13 where I feel the evidence points, and while I
14 don't -- I'm not going to sit here and argue to
15 the commission over the weight of evidence in
16 regards to certain other body parts. The
17 weight of evidence with regard to this one body
18 part is -- it's more than we ask for in most
19 cases and just -- to be honest with you, I'm
20 not even here dealing with the credibility
21 issue. Okay. I understand that in terms of
22 it, though, everything is related to the fact
23 that this lady just likes to argue with her
24 doctors left and right, and I understand that
25 she's been her own worst enemy many times



1 throughout the totality of this case, but that
2 makes it all the more important for us to sift
3 through every bit of the evidence and parse
4 out, "Well, okay, what really is going on?"
5 The woman tell. She did hurt her right hand,
6 and she is entitled to, at the very least, a
7 statement of MMI from the doctor and an
8 impairment rating to it, and I don't she's at
9 MMI in totality until she gets such.

10 **COMMISSIONER BECK:** Okay. Anything further?

11 **MR. MARTLING:** Nothing further.

12 **COMMISSIONER BECK:** Mr. Baxley.

13 **ARGUMENT BY MR. BAXLEY:**

14 **MR. BAXLEY:** Thank you. May it please the
15 commission. The only admitted body parts on
16 this case were right shoulder and right knee.
17 When the accident originally happened, the
18 original 12-A said "right ring finger". That
19 was it. That then expanded -- and as the
20 commissioner noted earlier, that then rapidly
21 expanded into allegations of almost every body
22 part. At some point, it then became necessary
23 to figure out which ones were legitimate and
24 which ones were not legitimate. The only
25 accepted body parts were the shoulder and the



1 knee. Those were the only body parts linked up
2 by the doctor. That's Dr. Merritt.
3 Dr. Merritt never linked up the right hand, the
4 left hand, the low back or the multitude of
5 other injuries that were alleged by this lady.
6 I think it is very important to note that there
7 is no credibility about any of her complaints
8 in this case, no credibility from the viewpoint
9 of the doctors. Almost every doctor she saw,
10 including the doctor she went to or her own,
11 noted symptom magnification, malingering, all
12 that sort of thing. Two different single
13 commissioners have now had the opportunity to
14 lay eyes on this lady, and they formed the
15 exact same conclusion, which is, she's not
16 credible. Her testimony is unreliable. It's
17 just not believable. If you don't have lay
18 testimony to support what it is that you're
19 arguing, you better have medical evidence to
20 tie it in. I think the law requires medical
21 evidence and good credible testimony, but in
22 this case, she doesn't have either. She
23 doesn't have any medical evidence tying it in.
24 She certainly doesn't have credible testimony
25 tying in anything with regard to the right



1 hand. Dr. Merritt had stated that the only
2 thing he can find wrong with the right hand is
3 carpal tunnel syndrome, which she also has in
4 the left hand. He has never linked it up. Dr.
5 Tamadon never linked it up. In fact, he said
6 that her symptoms that she was complaining of
7 were inconsistent with the carpal tunnel that
8 showed up on the EMG testing. Dr. Haskins, her
9 treating doctor, also said that her
10 presentation was inconsistent with the
11 diagnosis of carpal tunnel. The closest they
12 can get to causation in this case is
13 Dr. Haskins' report which says, "If she gets a
14 repeat EMG that shows carpal, and if she had an
15 injury to the right wrist, then it would be
16 compensable". She goes back to Dr. Merritt and
17 has that EMG, and Dr. Merritt says again, "It
18 shows carpal tunnel syndrome in both wrists",
19 which is completely inconsistent with
20 everything that she is complaining about, and
21 so I don't think ---

22 **COMMISSIONER BECK:** That's how do you explain his
23 comments in his notes talking about tenderness
24 in the wrist and the hand.

25 **MR. BAXLEY:** Exactly, yes.



1 **COMMISSIONER JAMES:** Now, I want to talk about the
2 standard for just a minute, because while we
3 may agree with you that there's not enough
4 medical evidence and credibility and this, that
5 and the other, but I think in the brief, it
6 said -- and I saw it just a second ago. It
7 says that "She must submit expert medical
8 evidence stated to a degree of reasonable
9 medical certainty". Where -- what statute
10 would you be relaying to for that gatekeeper of
11 information, because it's not complex. It's
12 not repetitive.

13 **MR. BAXLEY:** Actually, I -- I mean, the argument in
14 this case is basically a complex argument. We
15 don't have a simple run-of-the-mill physical
16 injury, and she's alleging some sort of phantom
17 right hand injury that no doctor has been able
18 to diagnose, commissioner.

19 **COMMISSIONER JAMES:** I understand, but the statute
20 says -- and I'm trying to pull it up. It says,
21 "Diagnostic tests can be used", and I'm hearing
22 carpal tunnel. Then, you don't have to have
23 the statement to a reasonable degree of medical
24 certainty. I'm just trying to get the standard
25 straight. So, you know, I'm not sure which of



1 either one of you is prevailing today, but
2 let's say that you prevail, Mr. Baxley. I
3 don't know that that says -- I don't know that
4 that's actually the standard that we're looking
5 at. It comes in the definition of "complex
6 medical" ...

7 **MR. BAXLEY:** Yes. I mean, commissioner, I think
8 that there's got to be a diagnosis. The
9 diagnosis can certainly be by diagnostic
10 criteria. For example, if she ---

11 **COMMISSIONER JAMES:** Yes. I agree with you about
12 the diagnosis, but what I'm saying is, "stated
13 to a degree of medical certainty". I'm not
14 sure ...

15 **MR. BAXLEY:** Yes, and I don't think the diagnosis
16 needs to be stated to that. I think the
17 causation needs to be stated. In other words,
18 if -- I mean, I think there's any question that
19 this lady has got carpal tunnel syndrome in her
20 right wrist and her left wrist. I think
21 multiple EMGs have confirmed that, but we've
22 got to have a doctor telling us whether or not
23 that problem is related to the work accident
24 and whether or not it's causing her current
25 symptoms. Those opinions need to be stated to



1 a reasonable degree of medical certainty, tying
2 in that causation, because those are medically
3 complex issues. I mean, I agree with you that
4 the carpal tunnel itself can be easily
5 diagnosed with an EMG test.

6 **COMMISSIONER JAMES:** I'm just not sure that it meets
7 that standard under there, and I know the past
8 ten weeks -- if it was an injury, and let's say
9 it was minor, this the past ten weeks, you'd
10 have to have a statement to a reasonable degree
11 of medical certainty under 42-15-60. I just
12 don't see it fitting into any of those
13 gatekeeper -- I call them "gatekeeper
14 statutes".

15 **MR. BAXLEY:** Thank you.

16 **COMMISSIONER BECK:** You still have four-and-a-half
17 minutes, if you'd like.

18 **MR. BAXLEY:** No, I'm good. Thank you.

19 **COMMISSIONER BECK:** Okay. Thank you. Mr. Martling,
20 any reply?

21 **ARGUMENT IN REPLY BY MR. MARTLING:**

22 **MR. MARTLING:** I'm not sure how medically complex
23 that the injury needs to be when we have a
24 videotape of the woman falling down, hitting
25 her wrist and getting up and holding the



1 injured body part the way she did, which was
2 submitted into evidence. We know that she hurt
3 her right hand. Now, I don't see -- there's
4 nothing in this record of past injuries to this
5 woman, and if anybody would have been going to
6 a doctor with complaints of an injury for her
7 hand, it would have been Ms. Stevenson.
8 There's just nothing there until she falls and
9 hurts herself. Dr. Merritt says in his
10 deposition it's relating and refers her to Dr.
11 Leak, the hand specialist who she never saw.
12 Like I say, I think Dr. Tamadon's explanation
13 is very qualified on whether or not he's going
14 to get to see her again, and finally,
15 Dr. Haskins ---

16 **COMMISSIONER BECK:** Tell me again where Dr. Merritt
17 relates it.

18 **MR. MARTLING:** In his deposition.

19 **COMMISSIONER BECK:** What page?

20 **MR. MARTLING:** I'll withdraw that.

21 **COMMISSIONER BECK:** Thank you.

22 **MR. MARTLING:** Again, I think she's entitled to a
23 rating. I know this has been a very complex
24 case in a lot of ways, but I think the one
25 thing that's been actually somewhat simple in



1 this case is the fact that she hit her hand.
2 It's been the only thing that's consistent, and
3 it's been the only thing that we can really
4 wrap our hands around, it just sort of fell off
5 by the wayside, and that's why we're here.
6 That's it.

7 **COMMISSIONER BECK:** Okay. That concludes the
8 hearing. Thank you, gentlemen.

9 **(Whereupon, the hearing concluded at 2:55 p.m.)**

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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: 1303465
Date of Hearing: 01/08/2015
Place of Hearing: Horry County

CLAIMANT: Ann Stevenson
EMPLOYER: Walmart Associates Inc.
CARRIER: New Hampshire Insurance Co
Claimant's Attorney: Carter Anthony Martling
Defendant's Attorney: Johnnie W. Baxley, III

DOI: 02/16/2013

AWW: \$2,212.05 **CR:** \$743.72

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

FINDINGS & DIRECTIVES

Mr. Baxley, please draft the Order consistent with the below findings and directives and return to this office within 30 days.

1. Claimant sustained an admitted injury to her right shoulder and right knee arising out of and in the course and scope of her employment on 02/16/2013. (Drafting party to detail injuries.)
2. Claimant alleges injuries to the neck, right shoulder, right hand, low back, right knee and right foot/ankle.

3. Claimant underwent various evaluations and treatments for her admitted work related and alleged injuries. (Drafting party to provide details of evaluations, treatments and assessments.)
4. On 10/08/2013 the ATP, Dr. James Merritt of Strand Orthopaedic Consultants, placed Claimant at MMI and assigned a 2% impairment to the right upper extremity and a 3% impairment to the right lower extremity. In addition, Dr. Merritt assigned work restrictions of 20 lbs. lifting and referred to the FCE for full capabilities. Dr. Merritt opined Claimant would need future medical treatment in the form of possible pain management. (Defendant's p. 5) (Drafting party to provide details of FCE.)
5. On 12/13/2013, in an IME for the Defendants, Dr. Robert E. Elvington, Jr. of Pee Dee Orthopaedic Associates opined Claimant's pain and her objective symptoms seem out of proportion to her examination and MRI findings. (Defendant's p. 89)
6. On 12/18/2013, in deposition testimony, Dr. Merritt testified his impairment ratings were based mostly on Claimant's subjective complaints. (Drafting party to provide details of deposition.)
7. On 04/02/2014, in an IME for the Claimant, Dr. J. Stewart Haskin, Jr. of Coastal Orthopaedics opined given her exaggerated pain response and posturing, I am doubtful any treatment is going to effect a good outcome for this patient. (Claimant's p. 131)

Therefore, based on sworn testimony and a preponderance of the evidence, I hereby find:

1. Claimant is at MMI as of 10/08/2013 for her admitted work related injuries.
2. Lacking causally related medical evidence to support Claimant's subjective complaints for additional alleged body parts, all additional body parts are hereby denied.
3. I place the greatest weight on Dr. Merritt's findings.
4. Claimant is entitled to an award of PPD.
5. Claimant has a 4% disability to the right shoulder and a 6% disability to the right leg.
6. Claimant is not entitled to future medical treatment.
7. Defendants are entitled to stop TTD.
8. Defendants are entitled to credit from the date of MMI, 10/08/2013.
9. The Claimant's testimony and subjective complaints lack credibility.

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 e-mailed to parties on June 10, 2015.

**SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
REQUEST FOR A PROPOSED DECISION AND ORDER**

This document is not a Decision and Order. It is a request for a proposed order. The Commissioners reserve the right to modify and/or delete any or all portions of the submitted Decision and Order.

**Ann Stevenson v Walmart Assoc.
SCWCC: 1303465
Commission Panel: James, McCaskill, Beck; Chair
Order Assigned to Commissioner: Beck
Court Reporter – Jill Vickers – 803-252-3445**

Carter Anthony Martling
Johnnie W. Baxley

Claimant/Appellant
Defendants/Respondents

This matter was heard before the South Carolina Workers' Compensation Full Commission Appellate Panel during the last term of Review. The Commissioners considered the matter and **Fully Affirmation** the Single Commissioner's Decision and Order. .

Mr. Baxley please prepare a proposed order and submit to the Judicial Department within thirty (30) days of this notice. The proposed order shall be submitted in Word format to appeals@wcc.sc.gov and shared with each Party. Please make sure the Appellate Panel Decision and Order recites the specific Finds of Fact and Rulings of Law of the Single Commissioner's Decision and Order and reflects any comments requested by a Commissioner.

The signature page shall include a signature line for each Commissioner and the first signature should be the name of the Commissioner assigned the case as indicated above.

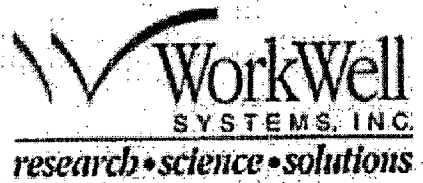
If you have any questions, please do not hesitate to email me at ehollmon@wcc.sc.gov or call at 803.737.5737

Judicial

Transmitted via email this 29 January 2016

ITEM 3

Functional Capacity Evaluation



Client Name: Ann Stevenson

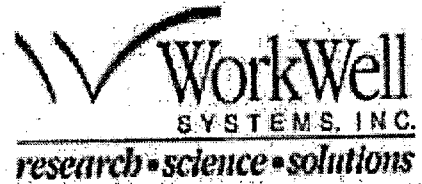
Dates of FCE: 08/27/2013, 08/28/2013

Therapist: James Kuykendall

Facility

**NextStep Rehabilitation
3650 Coalition Dr
PO Box 1145
Myrtle Beach, SC 29578**

Client Name: Ann Stevenson
 FCE Dates: 08/27/2013 and 08/28/2013
 Therapist: James Kuykendall
 NextStep Rehabilitation
 3650 Coalition Dr.
 PO Box 1145
 Myrtle Beach, SC 29578



WorkWell Functional Capacity Evaluation

Summary Report
 Name: Ann Stevenson
 Test Date: 08/27/2013
 2nd Date of Testing: 08/28/2013
 Date of Birth: 05/19/1956
 Gender: F
 Physician: James Merritt, IV, MD

Job Match Grid
 Pharmacist

Critical Demand from Job Description	FCE Abilities	Job Match
Grasps, turns, manipulates objects	Hand dexterity: average/above average	Yes
Uses writing instrument	Client filled out documentation for evaluation	Yes
Reaches overhead, below knees, bending, twisting, pulling, stooping	Overhead work, stooping, bending, twisting pulling, pushing: Occasionally	Yes
Moves, lifts, carries up to 25#	Lifts, carries 25# maximum	Yes

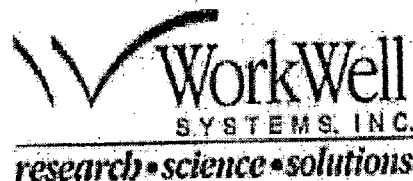
US Department of Labor Physical Demand Level
 Light

Summary/Recommendations.
 These projections are for 8 hours a day 6 days a week at the levels indicated on the FCE grid.

Ms. Stevenson demonstrated maximal effort in most tests. Heart rate increased and muscle recruitment were noted to increase as predicted. Maximal effort was not observed on day two for waist-crown lifts using handles or two-handed carries. Despite these issues, Ms. Stevenson demonstrates ability to perform work as delineated in her job description.

As with most long-term rehabilitation situations, a course of work conditioning to improve safety with return to work is indicated.

Client Name: Ann Stevenson
FCE Dates: 08/27/2013 and 08/28/2013
Therapist: James Kuykendall
NextStep Rehabilitation
3650 Coalition Dr
PO Box 1145
Myrtle Beach, SC 29578



Reason for Testing

Determine ability to return to previous job

Description of Test Done

Two Day WorkWell FCE
Supplemental testing was added based on client presentation/diagnosis.

Cooperation and Effort

Client participated in all activities but limited some activities prior to objective signs of maximal performance due to reports of inability.

Consistency of Performance

Client's performance was inconsistent in the following ways:
Client was able to maintain grip with right hand on one-hand carry with weight up to 20#. She was unable to carry 30# with two hands reporting loss of grip with right hand.
Client was able to lift 15# from waist-crown with no signs of limitation. She was unable to lift 20# (No accessory muscle strain was observed. Client showed no shoulder flexion despite verbal and physical cues).
Performance on the second day was less than performance on the first day. The second day is more reflective of what the client is capable of repeating on a day to day basis.

Pain Report

Reported discomfort in the right neck, shoulder, arm, elbow, wrist, hand, hip, buttock, leg, knee and foot was part of the reason for limitations with lifts and carries. Objective signs coincided with the client's reports of discomfort.
Client reported discomfort present in right neck, shoulder, arm, elbow, wrist, hand, hip, buttock, leg, knee and foot during all activities, but there was no interference in safety.
Client reported pain in the right neck, shoulder, wrist, hand and foot while performing lifts caused her to perform the activity unsafely. Few objective signs of discomfort were noted. Pain behaviors such as grimacing, exaggerated posture and pain talk were displayed.
Client noted increased symptoms upon presenting for day 2 testing including soreness and tightness in the legs and pain in the right arm/hand.
Client noted decreased discomfort/stiffness as day 2 testing progressed indicating some delayed muscle soreness involvement

Safety

Client demonstrated unsafe body mechanics during lifts and carries, at which time the test was stopped. Client was provided additional instruction and demonstration and testing proceeded safely.
Client demonstrated unsafe body mechanics during waist-crown lifts at which time the test was stopped. Client was provided additional instruction and demonstration; due to continued use of unsafe body mechanics and/or uncontrolled movement the evaluator terminated the activity. This also happened during day 2 carrying.
Client implemented safety and body mechanics techniques taught on Day 1 which resulted in reduced need for verbal cues on Day 2.
Testing was modified for floor lifts to allow client to safely complete the activity.

Quality of Movement

Asymmetry of movement was noted in walking and this interfered in safe performance.
Compensatory movements such as walking were noted during/following activities involving hip hiking. These movements did not interfere in safety.

Abilities/Strengths

Ms. Stevenson demonstrates ability to lift up to 25# and work in sitting and standing without limitation.

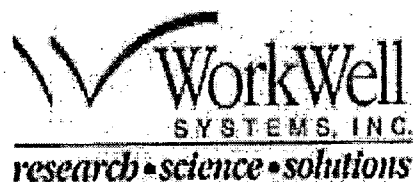
Limitations

Ms. Stevenson is limited in her ability to walk, climb stairs, carry, stoop, kneel and work overhead.

Signature: 

Date: 8/29/2013

Client Name: Ann Stevenson
 FCE Dates: 08/27/2013 and 08/28/2013
 Therapist: James Kuykendall
 NextStep Rehabilitation
 3650 Coalition Dr
 PO Box 1145
 Myrtle Beach, SC 29578



WorkWell FCE Test Results and Interpretation

The interpretation of WorkWell's standardized functional testing is based on assumptions including normal breaks, basic ergonomic conditions and that the tested functions are not required more than 2/3 of a normal working day. If a function is required continuously, job specific testing should be performed.

Client Name: Ann Stevenson
 Test Date: 08/27/2013
 2nd Date of Testing: 08/28/2013

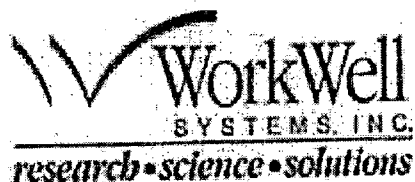
Interpretation of observed function regarding activity during a normal working day

Frequency	Weighted Activities Observed Physiologic Effort Level	Position/Ambulation Quantitative + Qualitative Results	% of Workday
NEVER	Contraindicated	Not Possible	0%
RARELY	Maximum	Significant Limitation	1-5%
OCCASIONALLY	Heavy	Some Limitation	6-33%
FREQUENTLY	Low	Slight/No Limitation	34-66%
SELF LIMITED	Client stopped test; submaximum effort level		Submax percent

Lifting, Strength (lbs)	Never	Max Rare 1-5%	Heavy Occ 6-33%	Low Freq 34-66%	Limitations	Recommendations
Waist to Floor (11 in. from floor)		25	20	10		
Waist To Crown (Handles)				10	Client self-limited lift	
Waist To Crown (Preferred)		15	10	0		
Front Carry			20	0	Client self-limited. Frequent carry limited by walking limitation.	
Right Carry		20	10	0	Frequent carrying is limited by walking limitation.	Carrying should be limited to short distances with allowance for slow ambulation.
Left Carry		35	30	0	Frequent carrying is limited by walking limitation.	Carrying should be limited to short distances with allowance for slow ambulation.

Posture, Flexibility, Ambulation	Never	Significant Limitation Rare 1-5%	Some Limitation Occ 6-33%	Slight/No Limitation Noted Freq 34-66%	Limitations	Recommendations
Elevated Work (Weighted - 2# cuff on both wrists)			X		R shoulder fatigue	Minimize overhead work until right shoulder strengthens.
Forward			X		Postural muscle fatigue.	Perform work at waist

Client Name: Ann Stevenson
 FCE Dates: 08/27/2013 and 08/28/2013
 Therapist: James Kuykendall
 NextStep Rehabilitation
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Posture, Flexibility, Ambulation	Never	Significant Limitation Rare 1-5%	Some Limitation Occ 6-33%	Slight/No Limitation Noted Freq 34-66%	Limitations	Recommendations
Bending-Standing						height.
Kneel - Half Kneel			X		Core fatigue and pain in left knee.	Low level work should be performed while sitting on a chair or stool when available.
Stairs			X		Client requires use of two handrails and descends with left foot leading.	Minimize stair-climbing at work.
Walk - 6 Min Walk Test			X		Client is limited by pain and decreased range of motion in the right ankle.	Walking should be limited to short distances with slow pace.
Sitting				X		

Push-Pull (Static)	Force Generated (pounds)	Limitations	Recommendations
Push Static	77		
Pull Static	105		

(Numerous variables impact Push/Pull force including load, equipment, surface, etc. These forces do not represent the amount of weight that is moved.)

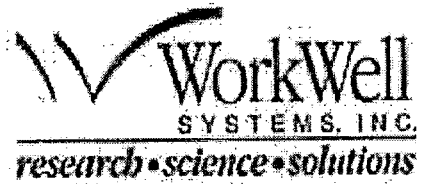
Hand Function

Hand/Finger Strength	Force Generated (pounds)	Mean for Age/Gender	Values for approx 2/3 of this age/gender group	Limitation	Recommendations
Hand Grip Right	49	57.3	45 - 70		
Hand Grip Left	59	47.3	35 - 59		

Coordination	Standard Score	Rating	Limitations	Recommendations
Round Blocks Dominant Hand	80	Average		
Round Blocks Non Dominant Hand	105	Above Average		

Signature: [Handwritten Signature]
 Date: 8/29/2013

Client Name: Ann Stevenson
 FCE Dates: 08/27/2013 and 08/28/2013
 Therapist: James Kuykendall
 NextStep Rehabilitation
 3650 Coalition Dr
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 Myrtle Beach, SC 29578



WorkWell FCE Physical Exam

Systems Review

Blood Pressure: 117/67
 Height: 64
 Heart Rate (resting): 73
 Weight: 189

PAR-Q

Yes	No	Question
	X	1. Has your doctor ever said that you have a heart condition and that you should only do physical activity recommended by a doctor?
	X	2. Do you feel pain in your chest when you do physical activity?
	X	3. In the past month, have you had chest pain when you weren't doing physical activity?
	X	4. Do you lose your balance because of dizziness or do you ever lose consciousness?
	X	5. Do you have a bone or joint problem (for example, back, knee or hip) that could be made worse by a change in your physical activity?
	X	6. Is your doctor currently prescribing drugs (for example, water pills) for blood pressure or heart condition?
	X	7. Do you know any other reason why you should not do physical activity?

Musculoskeletal System

Neck	Normal	Range of Motion	Muscle Strength
Flexion	45	WFL	5
Extension	45	WFL	5
Right Lateral Flexion	45	34	2
Left Lateral Flexion	45	34	2
Right Rotation	90	70	2
Left Rotation	90	70	2

Trunk	Normal	Range of Motion	Muscle Strength
Flexion	80	WFL	5
Extension	30	15	2
Right Lateral Flexion	35	WFL	5
Left Lateral Flexion	35	WFL	5
Right Rotation	45	WFL	5
Left Rotation	45	30	2

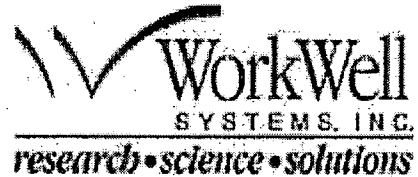
	Normal	Range of Motion		Muscle Strength	
		Right	Left	Right	Left
Shoulder					
Forward Flexion	180	110	WFL	2	5

Client Name: Ann Stevenson

FCE Dates: 08/27/2013 and 08/28/2013

Therapist: James Kuykendall

NextStep Rehabilitation
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	Normal	Range of Motion		Muscle Strength	
		Right	Left	Right	Left
Shoulder					
Extension	60	WFL	WFL	5	5
Abduction	180	137	WFL	2	5
Internal Rotation	70	56	WFL	2	5
External Rotation	90	WFL	WFL	5	5

	Normal	Range of Motion		Muscle Strength	
		Right	Left	Right	Left
Elbow					
Flexion	150	WFL	WFL	4	5
Extension	0	WFL	WFL	4	5

	Normal	Range of Motion		Muscle Strength	
		Right	Left	Right	Left
Forearm					
Pronation	80	WFL	WFL	5	5
Supination	80	WFL	WFL	5	5

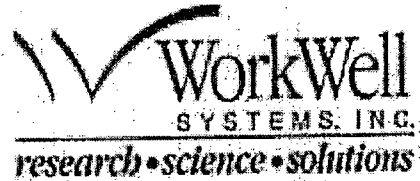
	Normal	Range of Motion		Muscle Strength	
		Right	Left	Right	Left
Wrist					
Flexion	80	37	WFL	2	5
Extension	70	55	WFL	2	5
Ulnar Deviation	30	WFL	WFL	4	5
Radial Deviation	20	WFL	WFL	4	5

	Normal	Range of Motion		Muscle Strength	
		Right	Left	Right	Left
Gross Hand Motion					
Composite Motion		WFL	WFL	5	5

	Normal	Range of Motion		Muscle Strength	
		Right	Left	Right	Left
Hip					
Flexion (knee extd)	90	74	107	2	4
Flexion (knee fixd)	120	104	WFL	2	4
Abduction	45	WFL	WFL	5	4
Adduction	30	WFL	WFL	4	4
Extension	30	WFL	WFL	3	4
Internal Rotation	45	40	40	2	2
External Rotation	45	35	WFL	2	4

	Normal	Range of Motion		Muscle Strength	
		Right	Left	Right	Left
Knee					
Flexion	135	110	WFL	2	5
Extension	0	WFL	WFL	5	5

Client Name: Ann Stevenson
 FCE Dates: 08/27/2013 and 08/28/2013
 Therapist: James Kuykendall
 NextStep Rehabilitation
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	Normal	Range of Motion		Muscle Strength	
		Right	Left	Right	Left
Ankle					
Plantar Flexion	50	WFL	WFL	5	5
Dorsiflexion	20	0	13	1	2
Inversion	35	WFL	WFL	4	4
Eversion	15	6	5	1	1

Other

Toe Rise Reps (10)	Right	0	Left	10
Knee Squat (20)	Half squat x 3			

Screening for Gross Balance:

Attribute	Trial 1(Times)	Trial 2(Times)
Standing on Floor, Eyes Open	30	
Standing on Floor, Eyes Closed	30	
Standing on Foam, Eyes Open	30	
Standing on Foam, Eyes Closed	30	

Questions related to Back Specific Involvement Nerve Root Pain

Unilateral leg pain worse than LB?	no, hip is worse.
Pain generally radiates to foot or toes	yes
Numbness or paresthesia in same distribution?	yes

Back Related Questions (CPR)

Do you think you will be back to normal work in 3 months?	No
Does the pain go from your back into your leg/arm?	Yes
On a scale of 0-10 (0 = no pain), what number has your average pain been over the past 6 months?	3
Lately have you needed to change positions often?	Yes
Do you think lately you have been more irritable than usual?	Yes
Does your back pain affect your ability to sleep?	Yes

Questions related to Neck Specific Involvement

Unilateral arm pain worse than neck pain?	Yes
Pain generally radiates to hand or fingers	Yes
Numbness or paresthesia in same distribution?	Yes, burning

Second Day Summary of Physical Exam

BP: 122/75
 HR: 76
 Client reports discomfort in right foot, heel, leg and hip (5/10).
 White bump has shown up on medial foot at heel. (possibly ligament)

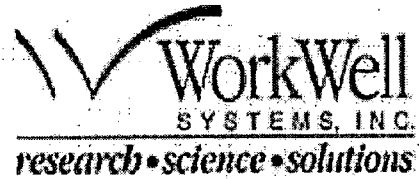
Hand Measurements

Client Name: Ann Stevenson

FCE Dates: 08/27/2013 and 08/28/2013

Therapist: James Kuykendall

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 Myrtle Beach, SC 29578



Thumb			Range of Motion		Muscle Strength	
Attribute	Motion	Normal	Right	Left	Right	Left
CMC	Abduction	40	WFL	WFL		
CMC	Flexion	20	WFL	WFL		
CMC	Extension	50	WFL	WFL		
MCP	Flexion	60	WFL	WFL		
MCP	Extension	0	WFL	WFL		
IP	Flexion	90	WFL	WFL		
IP	Extension	0	WFL	WFL		

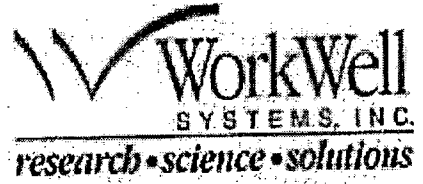
Digit 2			Range of Motion		Muscle Strength	
Attribute	Motion	Normal	Right	Left	Right	Left
MCP	Flexion	90	WFL	WFL		
MCP	Extension	0	WFL	WFL		
MCP	Abduction	25	WFL	WFL		
PIP	Flexion	120	WFL	WFL		
PIP	Extension	0	WFL	WFL		
DIP	Flexion	80	WFL	WFL		
DIP	Extension	0	WFL	WFL		

Digit 3			Range of Motion		Muscle Strength	
Attribute	Motion	Normal	Right	Left	Right	Left
MCP	Flexion	90	WFL	WFL		
MCP	Extension	0	WFL	WFL		
MCP	Abduction	25	WFL	WFL		
PIP	Flexion	120	WFL	WFL		
PIP	Extension	0	WFL	WFL		
DIP	Flexion	80	WFL	WFL		
DIP	Extension	0	WFL	WFL		

Digit 4			Range of Motion		Muscle Strength	
Attribute	Motion	Normal	Right	Left	Right	Left
MCP	Flexion	90	WFL	WFL		
MCP	Extension	0	WFL	WFL		
MCP	Abduction	25	WFL	WFL		
PIP	Flexion	120	WFL	WFL		
PIP	Extension	0	WFL	WFL		
DIP	Flexion	80	WFL	WFL		
DIP	Extension	0	WFL	WFL		

Digit 5			Range of Motion		Muscle Strength	
Attribute	Motion	Normal	Right	Left	Right	Left
MCP	Flexion	90	WFL	WFL		

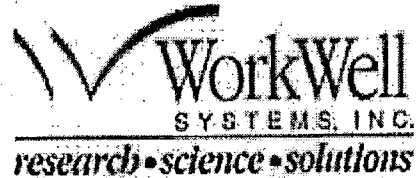
Client Name: Ann Stevenson
 FCE Dates: 08/27/2013 and 08/28/2013
 Therapist: James Kuykendall
 NextStep Rehabilitation
 3650 Coalition Dr
 PO Box 1145
 Myrtle Beach, SC 29578



Digit 5			Range of Motion		Muscle Strength	
Attribute	Motion	Normal	Right	Left	Right	Left
MCP	Extension	0	WFL	WFL		
MCP	Abduction	25	WFL	WFL		
PIP	Flexion	120	WFL	WFL		
PIP	Extension	0	WFL	WFL		
DIP	Flexion	80	WFL	WFL		
DIP	Extension	0	WFL	WFL		

Signature James Kuykendall, DPT, CHT
 Date 8/29/2013

Client Name: Ann Stevenson
FCE Dates: 08/27/2013 and 08/28/2013
Therapist: James Kuykendall
NextStep Rehabilitation
3650 Coalition Dr
PO Box 1145
Myrtle Beach, SC 29578



WorkWell FCE History

Name: Ann Stevenson
Dates of FCE Testing: 08/27/2013, 08/28/2013
Date of Birth: 05/19/1958
Gender: F

Physician: James Merritt, IV, MD
Area of Injury: Multiple Areas
Mechanism/Type of Injury:

Client reports she tripped when her ankle was caught in a computer cord, and hit her hand on a hazardous waste bin, separating her small finger from the other fingers of her right hand, 2/16/2013. Injury to neck, shoulder, hip

Previous Treatment:

Physical Therapy from March-July, 2013. Neck, shoulder, low back and right hip.

Pertinent Surgery/Other Clinical Tests/Past Medical History:

No surgery. She reports she is now seeing a chiropractor. MRI, X-ray, nerve conduction study of right hip and right hand. Hx of Tonsillectomy as a child, recent weight gain secondary to pain with walking.

Current Medications:

Sodium Salicylate, Skelaxin, Lortab

Functional Status/ Activity Level:

Client reports no difficulty with BADL. She is working modified duty (16 hours/week).

Chief Complaints/Symptoms:

Pain in right leg, hip, knee, foot. Pain in neck and lower back. Occasional pain in right shoulder.

Return to Work Information:

working modified duty or transitional work.

Goals:

Assess client's ability to perform work.

Signature James Kuykendall, OTR, CWF
Date 8/29/2013

1A



RX Drop Off 1 - 2/16/2013 10:06:48 AM

1B



RX Drop Off 1 - 2/16/2013 10:06:48 AM

2A



2B



3A



RX Drop Off 1 - 2/16/2013 10:06:49 AM

3B



RX Drop Off 1 - 2/16/2013 10:06:50 AM

4A



6/2013 10:06:51 AM

4B





CREEL COURT REPORTING, INC.

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1/6/2017

Tax ID: 57-1016805

INVOICE NO. 17-0040

Ann Stevenson, Pro Se
2261 Greenleaf Drive
Conway, South Carolina 29526

Pro Se

RE <input type="checkbox"/> Ann Stevenson vs. Wal-Mart Stores, Inc. and American Home Assurance WCC No. 1303465	0.00 0.00
ONE COPY - **EXPEDITED** Hearing on 1.11.16	
Transcript of Hearing	93.50
E-Transcript	0.00
E-TRANSCRIPT ONLY!!	



Total	\$93.50
Payments/Credits	-\$93.50
Balance Due	\$0.00

/jv

THANK YOU!
(Please return copy with remittance)

A

1 THE COURT: Mr. Baxley.

2 MR. BAXLEY: Thank you, Commissioner.

3 CROSS EXAMINATION

4 BY MR. BAXLEY:

5 Q Ms. Stevenson, I want the Commissioner to
6 get kind of a flavor of -- of everything that you were
7 complaining about. We've gone through some of your
8 complaints here today, but you had even more
9 complaints and injuries than what we've gone over
10 today, correct?

11 A Yes.

12 Q I mean, if the original deposition -- I'm --
13 I'm just going to read these to you and -- and you
14 tell me if this is right. You said --

15 THE COURT: I'm sorry, what page are you
16 referring to?

17 MR. BAXLEY: This is her deposition.

18 THE COURT: Okay, go ahead.

19 BY MR. BAXLEY:

20 Q You had complained about the neck, the back,
21 the right shoulder, right arm, right elbow, right
22 hand, right wrist, right fingers, left thumb, entire
23 spine, right hip, right buttocks, right leg, right
24 knee, right calf, right ankle, right foot, left
25 shoulder, left leg, left hip, left buttocks, left

B.

1 knee, left ankle and left foot?

2 A No.

3 Q You didn't say all that?

4 A No.

5 Q Okay. Do you remember me taking your
6 deposition in this claim?

7 A Yes.

8 Q Way back in November of 2013?

9 A Yes, and the only thing I said on the left
10 side was the left thumb.

11 Q So you agree with everything that I
12 mentioned on the right side, but you're only --

13 A I think so, I don't remember exactly what I
14 said then about the right side, but I know that I said
15 the only thing wrong on the left side was the left
16 thumb.

17 Q Okay. Let me see if this will help you.
18 I'm going to show you page 19 of your deposition. And
19 I asked you; the question is; "Are you having any
20 problems with your left shoulder related to this
21 accident?" And your answer was; "Having to use the
22 left side a lot more, so I don't know whether it's
23 from tiredness or not, I'm having to use the left side
24 to do more things." And I specifically went on to ask
25 you about your left shoulder and your left arm and

South Carolina Workers' Compensation Commission

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

WCC File # 1303465
Carrier File # 6815476
Carrier Code # _____
Employer FEIN _____

Ann Stevenson 251-80-5185
Claimant's Name SSN
2261 Greenleaf Drive, Conway, SC 29526
Address City State Zip
(843) 454-6186
Home Phone Work Phone
Johnnie W. Baxley, III 421 Wando Park Boulevard, Suite 100, Mt. Pleasant, SC 29464
Preparer's Name Address Phone #

Wal-Mart Stores, Inc.
Employer's Name
2709-A Church Street, Conway, SC 29526
Address City State Zip
New Hampshire Insurance, Co.
Insurance Carrier
(843) 284-1082
Phone #

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION AND
CARTER MARTLING, ESQUIRE, ATTORNEY FOR CLAIMANT

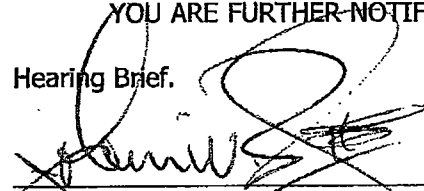
YOU ARE HEREBY NOTIFIED THAT DEFENDANTS, pursuant to the provisions of the South Carolina Workers' Compensation Act and South Carolina Code Section 1-23-330, (1976, as amended), herewith submits the following medical reports as direct evidence on behalf of the defendants, to wit:

<u>NAME OF PHYSICIAN/OTHER</u>	<u>DATE OF REPORT</u>	<u>PAGE</u>
APA (1) Dr. James Merritt	5/22/14 – 3/27/13	1-26
APA (2) Dr. Alan Tamadon	8/1/13	27-31
APA (3) Doctors Care	3/19/13 – 2/22/13	32-39
APA (4) WorkWell FCE	8/27/13	40-55
APA (5) Diagnostic tests	5/7/13 – 2/22/13	56-64
APA (6) Progressive PT	6/13/13 – 3/8/13	65-87

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

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

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


Johnnie W. Baxley, III
Willson Jones Carter & Baxley, P.A.
421 Wando Park Boulevard, Suite 100
Mt. Pleasant, SC 29464

December 24, 2014

January 8, 2015
(hearing date)

Functional Capacity Evaluation



Client Name: Ann Stevenson

Dates of FCE: 08/27/2013, 08/28/2013

Therapist: James Kuykendall

Facility

NextStep Rehabilitation
3650 Coalition Dr
PO Box 1145
Myrtle Beach, SC 29578

Client Name: Ann Stevenson
 FCE Dates: 08/27/2013 and 08/28/2013
 Therapist: James Kuykendall
 NextStep Rehabilitation
 3650 Coalition Dr
 PO Box 1145
 Myrtle Beach, SC 29578



WorkWell Functional Capacity Evaluation

Summary Report
 Name: Ann Stevenson
 Test Date: 08/27/2013
 2nd Date of Testing: 08/28/2013
 Date of Birth: 05/19/1956
 Gender: F
 Physician: James Merritt, IV, MD

Job Match Grid
 Pharmacist

Critical Demand from Job Description	FCE Abilities	Job Match
Grasps, turns, manipulates objects	Hand dexterity: average/above average	Yes
Uses writing instrument	Client filled out documentation for evaluation	Yes
Reaches overhead, below knees, bending, twisting, pulling, stooping	Overhead work, stooping, bending, twisting, pulling, pushing, Occasionally	Yes
Moves, lifts, carries up to 25#	Lifts, carries 25# maximum	Yes

US Department of Labor Physical Demand Level
 Light

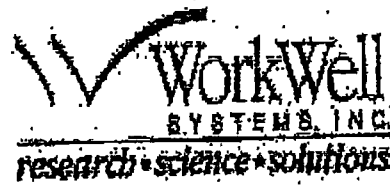
Summary/Recommendations:
 These projections are for 8 hours a day 5 days a week at the levels indicated on the FCE grid.

Ms. Stevenson demonstrated maximal effort in most tests. Heart rate increased and muscle recruitment were noted to increase as predicted. Maximal effort was not observed on day two for waist-brown lifts using handles or two-handed carries. Despite these issues, Ms. Stevenson demonstrates ability to perform work as delineated in her job description.

As with most long-term rehabilitation situations, a course of work conditioning to improve safety with return to work is indicated.

41

Client Name: Ann Stevenson
FCE Dates: 08/27/2013 and 08/28/2013
Therapist: James Kirkendall
MaxStep Rehabilitation
3650 Coalition Dr
PO Box 1145
Myrtle Beach, SC 29576



Reason for Testing
Determine ability to return to previous job

Description of Test Done
Two Day WorkWell FCE
Supplemental testing was added based on client presentation/diagnosis

Cooperation and Effort
Client participated in all activities but limited some activities prior to objective signs of maximal performance due to reports of inability.

Consistency of Performance
Client's performance was inconsistent in the following ways:
Client was able to maintain grip with right hand on one-hand carry with weight up to 20#. She was unable to carry 30# with two hands reporting loss of grip with right hand.
Client was able to lift 15# from waist-crown with no signs of limitation. She was unable to lift 20# (No accessory muscle strain was observed. Client showed no shoulder flexion despite verbal and physical cues).
Performance on the second day was less than performance on the first day. The second day is more reflective of what the client is

Reported discomfort in the right neck, shoulder, arm, elbow, wrist, hand, hip, buttock, leg, knee and foot during all limitations with lifts and carries. Objective signs coincided with the client's reports of discomfort.
Client reported discomfort present in right neck, shoulder, arm, elbow, wrist, hand, hip, buttock, leg, knee and foot during all activities, but there was no interference in safety.
Client reported pain in the right neck, shoulder, wrist, hand and foot while performing lifts caused her to perform the activity inadequately. Few objective signs of discomfort were noted. Pain behaviors such as grimacing, exaggerated posture and pain talk were displayed.
Client noted increased symptoms upon presenting for day 2 testing including soreness and tightness in the legs and pain in the right arm/hand.
Client noted decreased discomfort/stiffness as day 2 testing progressed indicating some delayed muscle soreness involvement.

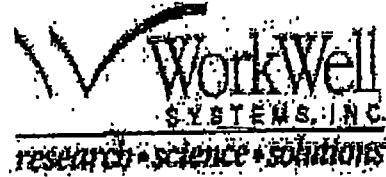
Safety
Client demonstrated unsafe body mechanics during lifts and carries, at which time the test was stopped. Client was provided additional instruction and demonstration and testing proceeded safely.
Client demonstrated unsafe body mechanics during waist-crown lifts at which time the test was stopped. Client was provided additional instruction and demonstration due to continued use of unsafe body mechanics and/or uncontrolled movement the evaluator terminated the activity. This also happened during day 2 carrying.
Client implemented safety and body mechanics techniques taught on Day 1 which resulted in reduced need for verbal cues on Day 2.
Testing was modified for floor lifts to allow client to safely complete the activity.

Quality of Movement
Asymmetry of movement was noted in walking and this interfered in safe performance.
Compensatory movements such as walking were noted during following activities involving hip hiking. These movements did not interfere in safety.

Abilities/Strengths
Ms. Stevenson demonstrates ability to lift up to 25# and work in sitting and standing without limitation.

Limitations
Ms. Stevenson is limited in her ability to walk, climb stairs, carry, stoop, kneel and work overhead.

Client Name: Ann Stevenson
 FCE Dates: 08/27/2013 and 09/28/2013
 Therapist: James Keykendall
 Next Step Rehabilitation
 3650 Coalition Dr
 PO Box 1145
 Myrtle Beach, SC 29578



WorkWell FCE Test Results and Interpretation

The interpretation of WorkWell's standardized functional testing is based on assumptions including normal breaks, basic ergonomic conditions and that the tested functions are not required more than 2/3 of a normal working day. If a function is required continuously, job specific testing should be performed.

Client Name: Ann Stevenson
 Test Date: 09/27/2013
 2nd Date of Testing: 09/28/2013

Interpretation of observed function regarding activity during a normal working day

Frequency	Weighted Activities Observed Physiologic Effort Level	Position/Ambulation, Quantitative, Qualitative Results	% of Workday
NEVER	Contraindicated	Not Possible	0%
RARELY	Maximum	Significant Limitation	1-5%
OCCASIONALLY	Heavy	Some Limitation	6-33%
FREQUENTLY	Low	Slight/No Limitation	34-66%
SELF LIMITED	Client stopped test, submaximum effort level		Submax percent

Lifting Strength (lbs)	Never	Max Rare 1-5%	Heavy Occ 6-33%	Low Freq 34-66%	Limitations	Recommendations
Waist to Floor (1 ft. from floor)		25	20	10		
Waist To Crown (Handles)				10	Client self-limited lift	
Waist To Crown (Preferred)		15	10	0		
Front Carry			20	0	Client self-limited. Frequent carry limited by walking limitation.	
Right Carry		20	10	0	Frequent carrying is limited by walking limitation.	Carrying should be limited to short distances with allowance for slow ambulation.
Left Carry		25	20	0	Frequent carrying is limited by walking limitation.	Carrying should be limited to short distances with allowance for slow ambulation.

Posture, Flexibility, Ambulation	Never	Significant Limitation Rare 1-5%	Some Limitation Occ 6-33%	Slight/No Limitation Noted Freq 34-66%	Limitations	Recommendations
Elevated Work (Weighted - 2R cuff on both wrists)			X		R shoulder fatigue	Minimize overhead work with right shoulder.
Forward			X		Postural muscle fatigue	Perform work at waist

Client Name: Ann Stevenson
 FCE Dates: 08/27/2013 and 08/28/2013
 Therapist: James Krykendall
 NextStep Rehabilitation
 3850 Coalition Dr
 PO Box 1145
 Myrtle Beach, SC 29576



Posture, Flexibility, Ambulation	Never	Significant Limitation Rare 1-5%	Some Limitation Occ 6-33%	Slight/No Limitation Noted Freq 34-88%	Limitations	Recommendations
Bending-Standing						height.
Kneel - Half Kneel			X		Core fatigue and pain in left knee.	Low level work should be performed while sitting on a chair or stool when available.
Stairs			X		Client requires use of two handrails and descends with left foot leading.	Minimize stair-climbing at work.
Climbing				X	Client is limited by pain	Stairways should be

Push/Pull (Static)	Force Generated (pounds)	Limitations	Recommendations
Push Static	77		
Pull Static	105		

(Numerous variables impact Push/Pull force including load, equipment, surface, etc. These forces do not represent the amount of weight that is moved.)

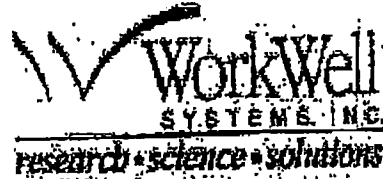
Hand Function

Hand/Finger Strength	Force Generated (pounds)	Mean for Age/Gender	Values for approx 2/3 of this age/gender group	Limitation	Recommendations
Hand Grip Right	49	57.3	45 - 70		
Hand Grip Left	54	47.8	35 - 69		

Coordination	Standard Score	Rating	Limitations	Recommendations
Round Backs Dominant Hand	80	Average		
Round Backs Non Dominant Hand	105	Above Average		

Signature: *[Handwritten Signature]*
 Date: 8/29/2013

Client Name: Ann Stevenson
 FCE Dates: 08/27/2013 and 09/28/2013
 Therapist: James Kuykendall
 Next Step Rehabilitation
 3650 Coalition Dr
 PO Box 1145
 Myrtle Beach, SC 29578



WorkWell FCE Physical Exam

Systems Review

Blood Pressure: 117/67
 Height: 64
 Heart Rate (resting): 73
 Weight: 188

PAR-Q

Yes	No	Question
	X	1. Has your doctor ever said that you have a heart condition and that you should only do physical activity recommended by a doctor?
	X	2. Do you feel pain in your chest when you do physical activity?
	X	3. In the past month, have you had chest pain when you weren't doing physical activity?
	X	4. Do you lose your balance because of dizziness or do you ever lose consciousness?
	X	5. Do you have a bone or joint problem (for example, back, knee or hip) that could be made worse by a change in your physical activity?
	X	6. Is your doctor currently prescribing drugs (for example, water pills) for blood pressure or heart condition?
	X	7. Do you know any other reason why you should not do physical activity?

Musculoskeletal System

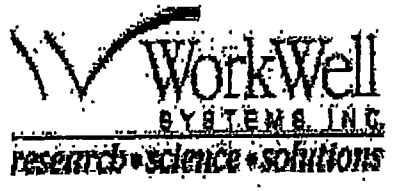
Neck	Normal	Range of Motion	Muscle Strength
Flexion	45	WFL	5
Extension	45	WFL	5
Right Lateral Flexion	45	34	2
Left Lateral Flexion	45	34	2
Right Rotation	90	70	2
Left Rotation	90	70	2



Trunk	Normal	Range of Motion	Muscle Strength
Flexion	80	WFL	5
Extension	30	15	2
Right Lateral Flexion	35	WFL	5
Left Lateral Flexion	35	WFL	5
Right Rotation	45	WFL	5
Left Rotation	45	30	2

	Normal	Range of Motion		Muscle Strength	
		Right	Left	Right	Left
Shoulder					
Forward Flexion	180	140	WFL	2	5

45

Client Name: Ann Stevenson
FOE Dates: 08/27/2013 and 08/28/2013
Therapist: James Kuykendal
NextStep Rehabilitation
3850 Coastal Dr.
PO Box 1145
Myrtle Beach, SC 29578



					
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Client Name: Andi Stevenson
 FCE Dates: 08/27/2013 and 09/26/2013
 Therapist: James Kuykendall
 NextStep Rehabilitation
 3650 Coakley Dr.
 PO Box 1145
 Myrtle Beach, SC 29578



		Range of Motion		Muscle Strength	
		Right	Left	Right	Left
Ankle	Normal				
Plantar Flexion	50	WFL	WFL	5	5
Dorsiflexion	20	0	13	1	2
Inversion	85	WFL	WFL	4	4
Eversion	15	6	8	1	1

Other

Toe Heel Repts (10)	Right	0	Left	10
Knee Squat (20)	Half squat x 3			

Screening for Gross Balance

Attribute	Trial 1 (Times)	Trial 2 (Times)
Standing on Floor, Eyes Open	30	
Standing on Floor, Eyes Closed	30	
Standing on Foam, Eyes Open	30	
Standing on Foam, Eyes Closed	30	

Questions related to Back Specific Involvement Nerve-Root Pain

Unilateral leg pain worse than LB?	no, hip is worse.
Pain generally radiates to foot or toes	yes
Numbness or paresthesia in same distribution?	yes

Back Related Questions (CPR)

Do you think you will be back to normal work in 3 months?	No
Does the pain go from your back into your leg/arm?	Yes
On a scale of 0-10 (0 = no pain), what number has your average pain been over the past 6 months?	3
Lately have you needed to change positions often?	Yes
Do you think lately you have been more irritable than usual?	Yes
Does your back pain affect your ability to sleep?	Yes

Questions related to Neck Specific Involvement

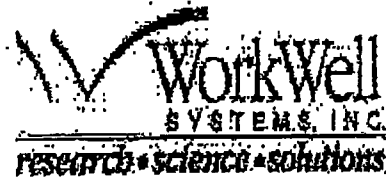
Unilateral arm pain worse than neck pain?	Yes
Pain generally radiates to hand or fingers	Yes
Numbness or paresthesia in same distribution?	Yes, burning

Second Day Summary of Physical Exam

BR: 122/78
 HR: 78
 Client reports discomfort in right foot, heel, leg and hip (5/10).
 White bump has shown up on medial foot at heel (possibly ligament)

Hand Measurements:

Client Name: Ann Stevenson
 FCE Dates: 08/27/2013 and 08/28/2013
 Therapist: James Kuykendal
 NextStep Rehabilitation
 3650 Coalition Dr
 PO Box 1135
 Myrtle Beach, SC 29578



Thumb			Range of Motion		Muscle Strength	
Attribute	Motion	Normal	Right	Left	Right	Left
CMC	Abduction	40	WFL	WFL		
CMC	Flexion	20	WFL	WFL		
CMC	Extension	50	WFL	WFL		
MCP	Flexion	60	WFL	WFL		
MCP	Extension	0	WFL	WFL		
IP	Flexion	90	WFL	WFL		
IP	Extension	0	WFL	WFL		

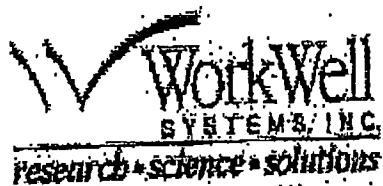
Digit 2			Range of Motion		Muscle Strength	
Attribute	Motion	Normal	Right	Left	Right	Left
MCP	Flexion	90	WFL	WFL		
MCP	Extension	0	WFL	WFL		
MCP	Abduction	25	WFL	WFL		
PIP	Flexion	120	WFL	WFL		
PIP	Extension	0	WFL	WFL		
DIP	Flexion	80	WFL	WFL		
DIP	Extension	0	WFL	WFL		

Digit 3			Range of Motion		Muscle Strength	
Attribute	Motion	Normal	Right	Left	Right	Left
MCP	Flexion	90	WFL	WFL		
MCP	Extension	0	WFL	WFL		
MCP	Abduction	25	WFL	WFL		
PIP	Flexion	120	WFL	WFL		
PIP	Extension	0	WFL	WFL		
DIP	Flexion	80	WFL	WFL		
DIP	Extension	0	WFL	WFL		

Digit 4			Range of Motion		Muscle Strength	
Attribute	Motion	Normal	Right	Left	Right	Left
MCP	Flexion	90	WFL	WFL		
MCP	Extension	0	WFL	WFL		
MCP	Abduction	25	WFL	WFL		
PIP	Flexion	120	WFL	WFL		
PIP	Extension	0	WFL	WFL		
DIP	Flexion	80	WFL	WFL		
DIP	Extension	0	WFL	WFL		

Digit 5			Range of Motion		Muscle Strength	
Attribute	Motion	Normal	Right	Left	Right	Left
MCP	Flexion	90	WFL	WFL		

Client Name: Ann Stevenson
 FCE Dates: 08/27/2013 and 08/28/2013
 Therapist: James Kuykendall
 NextStep Rehabilitation
 3650 Coalition Dr
 PO Box 1145
 Myrtle Beach, SC 29578



Digit #	Attribute	Motion	Normal	Range of Motion		Muscle Strength	
				Right	Left	Right	Left
	MCP	Extension	0	WFL	WFL		
	MCP	Abduction	25	WFL	WFL		
	PIP	Flexion	120	WFL	WFL		
	PIP	Extension	0	WFL	WFL		
	DIP	Flexion	80	WFL	WFL		
	DIP	Extension	0	WFL	WFL		

Signature: *J. Kuykendall*
 Date: 8/29/2013

Client Name: Ann Stevenson
FCE Dates: 08/27/2013 and 08/28/2013
Therapist: James Kuykendall
NextStep Rehabilitation
3650 Coakley Dr
PO Box 1146
Myrtle Beach, SC 29578



WorkWell FCE History

Name: Ann Stevenson
Dates of FCE Testing: 08/27/2013, 08/28/2013
Date of Birth: 05/19/1956
Gender: F

Physician: James Merrill, IV, MD
Area of Injury: Multiple Areas
Mechanism/Type of Injury:

Client reports she tripped when her ankle was caught in a computer cord, and hit her hand on a hazardous-waste bin, separating her small finger from the other fingers of her right hand. 2/16/2013. Injury to neck, shoulder, hip

Previous Treatment:
Physical Therapy from March-July, 2013. Neck, shoulder, low back and right hip.

Relevant Surgery/Other Clinical Tests/Past Medical History:
No surgery. She reports she is now seeing a chiropractor. MRI, X-ray, nerve conduction study of right hip and right hand. Hx of Tonsillotomy as a child, recent weight gain secondary to pain with walking.

Current Medications:
Sodium Salicylate, Sikalaxin, Loraz

Functional Status/ Activity Level:
Client reports no difficulty with BADL. She is working modified duty (16 hours/week).

Chief Complaints/Symptoms:
Pain in right leg, hip, knee, foot. Pain in neck and lower back. Occasional pain in right shoulder.

Return to Work Information:
working modified duty or transitional work

Goals:
Assess client's ability to perform work.

Signature: *[Handwritten Signature]*
Date: 8/29/2013

50

NEXTSTEP REHABILITATION
A FAMILY MEMBER OF THE GEORGETOWN HOSPITAL SYSTEM
MEDICAL HISTORY FORM

Name: Ann Stevenson Birth Date: 05/17/1956 Age: 57 Today's Date: 08/27/13
Address: 2261 Greenleaf Drive Conway Phone Number: 843-747-5151
Emergency Contact Person: Denny Stevens Emergency Contact Phone #: 843-454-6038
Referring Physician: DR. Merritt Next Physician Appointment: 1/1
Reason coming to therapy (body part/problem): referral whiplash injury
What do you hope to gain from therapy (goals): _____

PAST MEDICAL HISTORY (PLEASE CHECK ALL THAT APPLY):

- Osteoarthritis
- HIV/AIDS
- Pacemaker
- Diabetes
- Heart Disease
- MRSA
- Osteoporosis
- Tuberculosis
- Fainting
- Epilepsy
- High Blood Pressure
- Asthma
- Joint Replacement
- Stroke
- Headaches
- Pregnancy
- Hearing impaired
- Cancer
- Visual Impaired
- Allergies (list): _____
- Other: _____

PLEASE ANSWER THE FOLLOWING QUESTIONS:

- Current medications: Yes No Current number of medications: _____ Please list: Magnesium Polysulfate, sometimes Skelaxin + Loraz
- Previous surgeries: Tonsillectomy Date: 1/1
- Type of surgery related to this problem: _____
- Who have you seen for this problem: Doctor/PAINP Other PT/OT/ST Chiropractor Other: _____
- Have you been treated in therapy prior for this same problem: Yes No
- Are your symptoms: Getting better Not changing Getting worse scale 1-10
- Current pain level: 0 (no pain) 1 2 3 4 5 6 7 8 9 10 (unbearable)
Describe your pain type: Burning Stabbing Shooting Aching Throbbing Other: _____
- What increases your pain: use of arm
- What decreases your pain: lack of use of arm
- Would you like to speak to someone regarding abuse or neglect you have recently experienced? Yes No
- Do you plan to harm yourself or commit suicide? Yes No (if yes, provide with Lifeline number)
- Do you have transportation concerns? Yes No
- Current household occupants: Alone Spouse Children Others: _____



Job Description

Staff Pharmacist

This position is responsible for assisting in the operation of a facility. An individual in this position will be expected to perform additional job related responsibilities and duties as assigned and/or as necessary.

Essential Functions

An individual must be able to successfully perform the essential functions of this position with or without a reasonable accommodation.

Maintain confidential information, documentation, and assigned records as required by Company policies, and local, State, and Federal guidelines.

Provides pharmaceutical care to Customers, including processing and accurately dispensing prescription orders, counseling Customers regarding health care and prescription medication needs, maintaining confidential information, maintaining controlled medication and required documentation.

Ensures compliance with Company and legal policies, procedures, and regulations for assigned areas by analyzing and interpreting reports, implementing and monitoring loss prevention and safety controls, overseeing safety, operational, and quality assurance reviews, developing and implementing action plans, and providing direction and guidance on executing Company programs and strategic initiatives.

Models, enforces, and provides direction and guidance to Associates on proper Customer service approaches and techniques to ensure Customer needs, complaints, and issues are successfully resolved within Company guidelines and standards.

Competencies

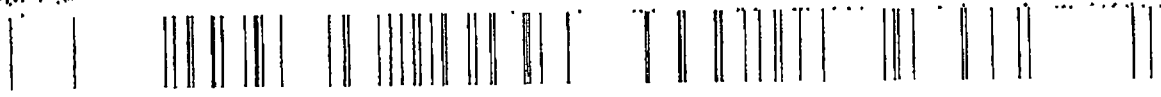
An individual must be proficient in each of the competencies listed below to successfully perform the responsibilities of this position.

Manages Pharmacy Operations: Demonstrates and communicates solid working knowledge of pharmaceutical products, records, procedures, and regulations. Monitors and ensures that Company and regulatory standards are met for the pharmacy products and services offered and provided. Upholds Company and regulatory (for example, HIPAA, SOP, QA) policies, standards, and procedures for prescriptions, insurance verification and claims, Associate training, and Pharmacist licensure, certifications, and regulations. Evaluates and appropriately responds to issues related to Customer safety and satisfaction, merchandise, insurance, licensure, and training needs. Monitors and ensures adherence to proper procedures and guidelines for advising on, verifying, and dispensing pharmaceutical products.

Customer/Member Centered: Meets Internal and External Customer/Member Needs - Identifies the requirements, expectations, and needs of customer/members. Supports and aligns with initiatives, goals, and actions focused on improving customer/member service. Addresses the concerns and issues of internal and external customer/members. Uses customer/member data, analysis, and insights to improve customer/member-related decisions.

Judgment: Demonstrate Professional Judgment - Researches and integrates relevant information and data, and uses expertise to make recommendations or decisions. Identifies and applies sound, fact-based criteria in setting priorities and making decisions. Uses business measures and analyses to identify improvement opportunities. Probes and looks beyond symptoms to determine the root causes of problems and identify possible solutions.

Execution and Results: Focus on Execution and Results - Aligns and pursues work activities to achieve the mission and business priorities of the organization. Shares information, practices, and resources across functions, organizations, and locations to improve performance. Effectively uses existing processes and tools to achieve performance objectives. Uses and explains major process steps to manage time, resources, and challenges to meet goals.





Job Description Staff Pharmacist

The following physical activities are necessary to perform one or more essential functions of this position.

- Observes associate, customer, or supplier behavior.
- Enters and locates information on computer.
- Presents information to small or large groups and individuals.
- Communicates effectively in person or by using telecommunications equipment.
- Creates documents, reports, etc., using a writing instrument (such as a pencil or pen) or computer.
- Grabs, turns, and manipulates objects of varying size and weight, requiring fine motor skills and hand-eye coordination.
- Visually verifies information, often in small print.
- Reads information, often in small print.
- Visually inspects merchandise and other objects.
- Visually inspects equipment.
- Reaches overhead and below the knees, including bending, twisting, pulling, and stooping.
- Moves, lifts, carries, and places merchandise and supplies weighing up to 25 pounds without assistance.

Travel

Traveling is necessary to perform one or more essential functions of this position.

- Travels domestically to and from multiple facilities or work-sites requiring consecutive overnight stays.
- Travels domestically to and from multiple facilities or work-sites during the workday.

Work Environment

Working in the following environment is necessary to perform one or more of the essential functions of this position.

- Moves through narrow, confined spaces such as stacks of merchandise or supplies, storage areas, and aisles.
- May work with substances that require special handling.
- Works in areas requiring exposure to varying temperatures, extreme heat or cold, and/or wet, damp, or sticky conditions.
- Works overhead and on varying shifts as required.

Entry Requirements

Minimum Qualifications

- Bachelor's Degree in Pharmacy or PharmD. Degree, or equivalent FPGE (NABP)
- Pharmacy license (by job entry date)

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Sep. 4. 2013 1:34PM APT MYRTLE BEACH

No. 6392 P. 17

Aug 26 2013 13:22:29 CDT FROM: F2M/25168215991

MSG# 52845323-089-1

PAGE 085 OF 085

Job Description
Staff Pharmacist



Signature

I have read and understand the essential functions for this position and certify that:

I have the ability to perform the essential functions of this position either with or without a reasonable accommodation.

I am not aware of any limitations on my ability to perform the essential functions of this position either with or without a reasonable accommodation.

Sep. 4. 2013 1:34PM APT MYRTLE BEACH

No. 6392 P. 18

Aug 26 2013 13:21:08 CDT FROM: F2H/20100215991

MSG# 52045323-009-1

PAGE 002 OF 005

This is for the FCE on Ann Stevenson which is scheduled for 8/27 and 8/28/13

Thank you

Hanna Wiley Case Manager IV

Phone 800.527.0566 ext 58041 Fax 479.273.8058

hanna.wiley@cmw.com

Claims Management, Inc.

PO Box 1288

Attached to form 38
of the same date

STATE OF SOUTH CAROLINA
BEFORE THE WORKERS' COMPENSATION COMMISSION
W.C.C. FILE No.: 1303465

ANN STEVENSON,)
)
 Claimant,)
)
 vs.)
)
 WALMART STORES, Inc.,)
)
 Employer,)
)
 And)
)
 AMERICAN HOME ASSURANCE,))
)
 Carriers/Defendants.)
)

NOTICE OF WITNESSES AND WRITTEN
MEDICAL REPORT(S)/PHYSICIAN OR
ON BEHALF OF THE CLAIMANT

TO: THE HONORABLE MIKE CAMPBELL, COMMISSIONER, SOUTH
CAROLINA WORKERS' COMPENSATION AND JOHNNIE BAXLEY III,
ESQUIRE, ATTORNEY FOR EMPLOYER:

YOU ARE HEREBY NOTIFIED THAT THE Claimant, pursuant to the
provisions of the South Carolina Workers' Compensation Act and South Carolina Code
Section 1-23-330 (1976, as amended), hereby submits the following reports/physicians or
other evidence on behalf of the Claimant, to wit:

APA#	MEDICAL PROVIDER	DATES	PAGES
7.	Strand Orthopaedic	12/27/13-11/12/14	88-126
8.	Coastal Orthopaedics	4/2/14-4/14/14	129-132

EXHIBITS

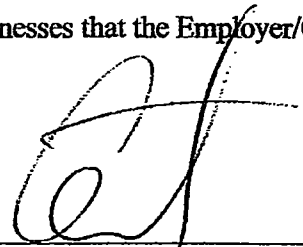
1.	Claimant Emails to Adjuster	1-5
2.	Walmart Store Surveillance Video and Photos	2/16/13

D₁

YOU ARE HEREBY NOTIFIED that you have the right to cross-examination; and, should you desire to exercise said right, you are to forthwith schedule the deposition(s) of any of the physician's or other person(s), whose reports are submitted, for the purpose of cross-examination.

YOU ARE FURTHER HEREBY NOTIFIED that the originals of the documents referred herein, or photocopies received from said physicians/others, are being herewith forwarded to the South Carolina Commission and inclusion into evidence on behalf of the Claimant.

YOU ARE FURTHER NOTIFIED that the following witnesses may be called on behalf of the Claimant: The Claimant, Claimant's Medical Providers, Claimant's friends and family members, co-workers, and any witnesses that the Employer/Carrier Defendant may call.



Carter Martling, Esquire
Post Office Box 3781
Irmo, SC 29063
(803) 661-7429

Irmo, South Carolina
December 29, 2014

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Mr. Baxley: Yes, sir. That's the --

Commissioner Wilkerson: Okay. That's fine.

Mr. Baxley: -- when we did Dr. Merritt's deposition Carter attached some pictures and those are just --

Commissioner Wilkerson: Oh, good.

Mr. Baxley: -- the pictures.

Commissioner Wilkerson: Okay. That's fine. Thank you.

Mr. Baxley: They'll be in the original in a little bit better format.

Commissioner Wilkerson: That's fine.

Mr. Baxley: That's all I could print.

Mr. Martling: Here are my APA's.

Commissioner Wilkerson: Okay. Thank you.

Mr. Martling: Thank you, Your Honor.

Commissioner Wilkerson: The position, Mr. Martling, of your client?

Mr. Martling: Yes. Your Honor, we -- we agree to a -- there's a lot of -- we agree on a lot but there -- there are certain places where -- where I think it -- it diverges. There was an accident February 16, 2013. The claimant alleges multiple -- multiple body parts; in pre-hearing we discussed that not all will be before you but the

? p 10

E

12.19.13 Hearing Transcript

HTC Webmail**asteven@sccoast.net**

Dr. Merritt Exhibits

From : Amanda Godfrey
<amanda@creelreporting.com>

Mon, Mar 27, 2017 09:54 AM

 Appeal 

Subject : Dr. Merritt Exhibits

 1 attachment

To : asteven@sccoast.net

Ms. Stevenson,

I am attaching a copy of the scanned exhibits that we have on file regarding the deposition of Dr. Merritt taken back in 2013.

It does appear that the documents were scanned in black and white. The original exhibits would have been attached to the original transcript of Dr. Merritt, sealed in an envelope and delivered to Mr. Baxley, the taking attorney.

Please let me know if you need anything further.

Amanda Creel Godfrey
Creel Court Reporting, Inc.
803-252-3445

Cary, Merritt, IV, MD, James Oz 12.18.2013

 **_2013_12_19_11_18_24_704.pdf**

1 MB

2261 Greenleaf Drive
Conway, SC 29526



FRAGILE

RECEIVED

MAR 31 2017

SC Court of Appeals

Ms. Jenny Abbott Kitch
Clerk, SC Court of Appeals
P.O. Box 11629
Columbia, SC 292

