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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE WORKERS COMPENSATION COMMISSION

Susan S. Barden, Commissioner
Melody L. James, Commissioner
Aisha Taylor, Commissioner

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OCT 12 2016

SC Court of Appeals

Trial Court Case No. 1321387
Appellate Case Nos. 2016-001339

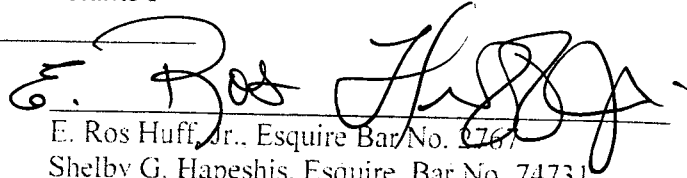
Martha Perez, Claimant, Respondent.

v.

Alice Manufacturing Company, Inc. Employer, and Great American Alliance Insurance
Company, Carrier, Appellants

RECORD ON APPEAL
Volume I

October 12, 2016



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

WCC FILE NUMBER 1321387, 1407915 1322319, 1421002

Martha Perez, CLAIMANT,

vs.

Alice Manufacturing Company, Inc., EMPLOYER,

AND

Great American Alliance Insurance Company, CARRIER,

DEFENDANTS

HEARING:

Held in Greenville County, South Carolina on May 20th,
2015.

APPEARANCES:

The claimant was represented at the hearing by W. Grady
Jordan, of Smith, Jordan and Lavery, P.A.

The Defendants were represented by E. Ros Huff of Huff
Law Firm, LLC.

PURPOSE OF THE HEARING:

To determine issues in Form 50 and Form 51 and all other
issues that were timely brought before the Commission.

DECISION & ORDER BY:

Gene McCaskill, South Carolina Workers' Compensation
Commission, Commissioner

FILED:

January 26, 2016

APA SUBMISSIONS

Pursuant to the Administrative Procedures Act, the following records were submitted into evidence without objection:

BY THE CLAIMANT

MEDICAL EVIDENCE

APA#	MEDICAL PROVIDER	ADDRESS	DATES	PAGES
1.	St. Francis Hospital	One St. Francis Dr., Greenville, SC 29601	4/10/2015	1-31
2.	Steadman Hawkins Clinic of the Carolinas	200 Patewood Dr., Suite C- 100, Greenville, SC 29615	7/24/14-3/25/14	32-60
3.	Easley Family Practice & Internal Medicine	106 John St. Easley, SC 29640	8/28/13-4/12/13	61-75

OTHER ITEMS

TAB#	ITEM	PAGE#
4.	First Report of Injury provided by employer for DOI 8/8/13 and 5/19/14	76-83
5.	AWW & CR Calculation Wage Records Provided by Employer	84-91

BY THE DEFENDANTS

MEDICAL EVIDENCE

None Submitted

EXHIBITS

None Submitted

STIPULATIONS

The parties stipulated at the hearing to the following issues:

1. The purpose of the hearing is to determine the issues in the Forms 50 & 51 and all other issues that were timely brought before the Commission.
2. Notice of hearing was timely and properly served on all parties of interest.
3. Venue, set in Greenville, is proper as agreed by all parties.
4. Claimant injured herself on August 8, 2013; August 14, 2013; February 1, 2014; and May 19, 2014, while in the employ of the Defendant Employer.
5. The Claimant has an Average Weekly Wage of \$584.06 and a Compensation Rate of \$389.57.

CLAIMANT BIOGRAPHICAL INFORMATION

Date of Birth: May 7th 1965

Age: 50

Height: 5', 2"

Weight: 200 lbs.

Nationality: United States Citizen

Languages: Spanish and English

Marital Status: Married

STATEMENT OF CASE

Before the Commission, upon the consent of the parties were four (4) workers' compensation cases involving the same Employer and Claimant. The parties agreed that all four cases be heard together and that the Order reflect separately the appropriate and pertinent findings as to each case.

The cases are as follows:

DATE OF ACCIDENT	WCC FILE NUMBER	BODY PART(S)	TYPE OF CLAIM
August 8, 2013	1321387	Back	Accident
August 14, 2013	1322319	Right Leg and Left Leg	Repetitive Trauma
February 1, 2014	1421002	Right Leg and Left Leg	Accident
May 19, 2014	1407915	Back	Accident.

CLAIMANT'S POSITION

The Claimant's position was that the Claimant suffered the injuries claimed and that a determination of compensability is necessary for all four (4) claims. The Claimant has received medical care for the two (2) back claims (File #'s 1321387 and 1407915) with Michael Welborn, M.D., at Easley Family Practice. Claimant's attorney further stated that Dr. Welborn made a referral for the Claimant to see Steadman Hawkins where she saw Michelle Wilson, M.D. The Claimant contends that when Dr. Wilson requested an MRI of the lumbar spine, the Defendants refused to authorize the MRI and stopped providing medical care to the back. Claimant's position also was that Dr. Wilson wrote the Claimant out of work from June 18, 2014, [APA Page 40] until the next appointment after the MRI and so they are claiming TTD from June 18, 2014, forward and continuing as the Claimant has yet to have the requested MRI. Also, in support of these claims, counsel for the Claimant noted that the Defendants paid for interpretation services for the Claimant at her related medical appointments.

As to the Average Weekly Wage (AWW), Claimant's position was that the Claimant had an AWW of \$584.06.

As to the Repetitive Trauma claim (File # 1322319) causing injuries to both knees, the Claimant's position was that the claim was substantiated by the testimony of David Cooper, who was the Claimant's immediate supervisor, as well as by the numerous notations of the authorized treating doctor, Michael Welborn, M.D., that noted that the Claimant had problems with her knees due to repetitively going up to and down from the platform of the machines with which she worked. The Form 50 had a date of August 2013, but Counsel for the Claimant informed the Commission at the hearing that the alleged date was August 14, 2013, being the

date she first sought medical treatment for and had documentation of the diagnosis in her records.

The final claim, for purposes of explanation, is the injury to both knees by accident (File # 1421002) in which the Claimant alleges that she injured her knees at work when she was pushing a roll of cloth using her legs - legs that she claimed were already injured from repetitive trauma as discussed herein *supra*.

Claimant's position was further that no doctor has found her at MMI for any of her claimed injuries.

DEFENDANTS' POSITION

The Defendants' position was that the Claimant did not sustain an injury while in the employ of the Defendant Employer. Counsel for the Defendants stated that it is the normal function of the knee to walk up a step, and the step that Claimant would walk up is only one eight to ten inch tall step from ground level to the level where she worked on the loom. He said that she would step up onto the platform, work on the loom, step off the platform, and go to the next loom. Counsel for the Defendants thought that there were between 12 and 15 looms for which the Claimant was responsible. Counsel for the Defendants further set out that Claimant's job was a standing job and that standing and walking is a normal function of the body and of the knees. Therefore, in doing those normal functions, there is no accident; there is no untoward event.

In regards to the Claimant's asking for TTD from June 18, 2014, Defendants claim that the Claimant was responsible for obtaining her own MRI. Counsel for the Defendants stated that the Defendants denied the claim, and, therefore, they were not going to pay for something that was denied. He informed the Commission that the Claimant can have the MRI done herself

and provide it to the doctor. He further stated that it was his clients' position that the Claimant would then need to come prove her case, and if the Commission rules in her favor, then it can order that the Defendants reimburse the Claimant for the MRI.

Counsel for the Defendants also pointed out several medical records that the Defendants felt are supportive of their position of which he felt the Commission should make note.

ISSUES BEFORE THE COMMISSION

Therefore, the issues to be decided by the Commissioner are as follows:

1. Whether the Claimant suffered a compensable injury(ies) in the four (4) claims that are set out herein *supra*.
2. Whether the Claimant is entitled to past and future OR additional medical care for any or all of the four claims.
3. Entitlement to TTD from June 18, 2014, and continuing.

EVIDENCE IN THE CASE

This matter was scheduled for a hearing before the undersigned on May 20, 2015, in Greenville, South Carolina. There were no objections to APA submissions. In addition to the testimony of the Claimant, the Claimant submitted, without objection, the deposition testimony of David Cooper, the Supervisor of the Claimant. The Defendants did not submit any APA submissions and did not call any witnesses.

The Claimant was working for the Defendant Employer as a textile weaver, tending twelve (12) to fourteen (14) machines that made cloth. She testified that she would move back

and forth from one machine to the other during the day all day. Her job was to ensure the machines kept working.

The Claimant called David Cooper as a witness through his deposition testimony taken on December 11, 2014. Mr. Cooper is the second shift supervisor at the Defendant Employer and has worked for it for approximately six (6) years. The Claimant worked for him during the relevant times of the alleged accidents and up until May of 2014.

BACK CLAIMS

BACK INJURY OF AUGUST 8, 2013

While working for the Defendant Employer on August 8, 2013, Claimant testified that she picked up a heavy metal roll from ground level that she estimated to weigh approximately one hundred sixty five (165 lbs) pounds. When she picked it up, she felt pain in her back and she dropped it. She explained that she was holding the roll in front of her a little below abdomen level, holding it with the left hand and trying to put a plastic sleeve on it with her right hand. She was preparing the roll to put into the machine where the fabric would start rolling around it.

She told her supervisor, David Cooper, that she felt pain in her back. She testified that his response was, "I told you that work was tough [Transcript Page 22, Lines 12-14]." She testified that the Defendant Employer sent her to the doctor for this injury. Mr. Cooper testified that he was familiar with this accident. He testified, "My knowledge of the accident is, is just what you said. I wasn't standing there when it happened. Martha came up to me, as best I remember, and told me that she was sliding the plastic sleeves back on the cloth tubes, and she pulled something and hurt her back, and she told me she would be okay [Deposition Page 14 Line 23 to Page 15 Line 3]." He went on to testify that the Claimant told him she thought she

would be okay and then went back about her business. He did testify that he likely called and notified his boss David Byers about the incident as that is the normal procedure. He also testified that he did eventually fill out a report and sent her to the company doctor. He was shown a two page report marked as Exhibit One to his deposition and he testified that this was the accident report he filled out from the August 8, 2013, accident.

The medical records show that on August 14, 2013, Michael K. Welborn, M.D., saw the Claimant for her back and knees. The record states, "She has strained her back in the last few days . . . [APA Page 69]. Dr. Welborn x-rayed the lumbar spine and diagnosed a low back strain. The X-Ray Report states under impression: "Disc space loss at L5-S1, no evidence of acute abnormality of the lumbar spine. Lumbar spine is otherwise unremarkable [APA Page 65]." Dr. Welborn also signed a return to work form dated August 14, 2013 [APA Page 70], that states, "Strained back - while trying new job." He also diagnosed on the form "low back strain" and ordered follow-up on August 21, 2013. She returned to Dr. Welborn on August 21, 2013, again for her back and knees. His record states in part, "This was from straining her back when lifting [APA Page 67]. The Return to Work note states, "Return to modified duty with the following restrictions; Lift lifting (lifting 10 lbs maximum), Avoid stooping & bending, No repetitive activity with steps, no repetitive step climbing, could she have a different job? [APA Page 68]." As she was also seen for her knees on this date, obviously some of this work note applies to the knees as well. She did follow up with Dr. Welborn on August 28, 2013, for pain in the back and knees, but the note only discusses the knees [APA Page 62].

On March 25, 2014, the Claimant saw Michelle Wilson, M.D., at Greenville Health System, Steadman Hawkins Clinic of the Carolinas. The note states, "Patient presents today for low back and bilateral knee pain. The pain started when she was at work trying to move a roll

and she noticed pain in her back [APA Page 57].” The note goes on to discuss that she has had persistent pain with the Claimant pointing to the lumbar spine as the site that was most painful. Dr. Wilson diagnosed low back pain and ordered physical therapy 2 – 3 times a week for 4 – 6 weeks. The Claimant testified that she did not receive the physical therapy ordered by Dr. Wilson because the Defendants refused to pay for it. The Claimant saw Dr. Wilson again on June 18, 2014, in follow-up for her low back pain. That note also states, “She states she had another injury on May 19th where she fell while working on a loom at work, and she exacerbated her pain [APA Page 47].”

BACK INJURY OF MAY 19, 2014

The May 19, 2014, accident referred to in the notes of Dr. Wilson was one in which the Claimant went up on a machine to fix it because the threads had broken. After correcting the issue on top of the machine, she hopped down from the weaving machine and felt pain to her back [Transcript Page 23]. She testified that she told her supervisor, David Cooper. Claimant had already been sent by the Carrier to Dr. Michelle Wilson at Steadman Hawkins for her knees and low back pain, and then, at the appointment on June 18, 2014, the Claimant told Dr. Wilson about this new injury. The note states, “She states she had another injury on May 19th where she fell when working on a loom at work, and she exacerbated her pain [APA # 47].” The note from the June 18, 2014, visit also shows that Dr. Michelle Wilson recommended an MRI of the Lumbar Spine [APA Page 50]. The Claimant was also placed out of work per Dr. Wilson “until next appointment (after MRI)” [APA Page 40]. Laura Lee informed Dr. Wilson that the adjuster would not authorize the Lumbar MRI [APA Page 45]. She did continue to see Steadman Hawkins for other issues as she was referred there for a separate work injury to the head/face which was not before the Commission on the day of the hearing.

In his deposition Mr. Cooper also testified about the May 19, 2014, accident as follows:
“Okay, Martha came to me around 9:00 p.m. that night and told me she had, you know, climbed up on the machine, on the cloth side, stepped up on the cloth row; she cut out a mat up; she hopped back down to the step and re-injured her back. And she wanted to let me know she was fixing to go take a break. And I told Martha to go ahead and take her break. I made a phone call; talked with my boss. And I went back and asked Martha ‘Could you go see the company doctor in the morning? Call Stan Brooks first thing, get an appointment.’ She agreed.’ And that’s the way that was [Deposition Page 19, Lines 7 – 17].”

Mr. Cooper was asked as to whether he had any reason to disbelieve the Claimant and his testimony was as follows:

“Q: In either of these, the August 11 – let me make sure I saw the right date; August the 8th 2013 injury, or the May the 19th 2014 injury, in either one of those, did you have any reason to not believe Martha when she told you she had hurt herself?

A: No.” [Deposition Page 19, Lines 18 -23]

The Claimant presented to St. Francis Downtown Hospital on April 10, 2015, with complaints of chronic low back pain and chronic bilateral knee pain. As to the back the note states, “Pt reports she was hurt at work a little over a year ago. Pt reports she has had continued back pain, knee pain and some periods of right leg numbness for the past year. Pt reports she took a hydrocodone before taking a shower today. . . . Patient is here with chronic back pain that has gotten worse in the last two weeks. She states she stepped down off a loom at work and it has been hurting since then. . . . She was seeing Dr. Michelle for it who told her she had a disc problem in her back and needed an MRI but workman’s comp denied that and cut her off. She does not have insurance and can’t see Dr. Michelle for that. She did see a urologist today, Dr.

Flannagan as she has a kidney stone but he told her that wasn't causing her back pain, it was coming from her back [APA Page 6].” Under the section entitled: “Back Pain” the record goes on to say, “This is a chronic problem. Episode onset: ‘over a year ago’ The problem has been gradually worsening. The problem occurs constantly. The pain is associated with a remote injury. The pain is present in the lumbar spine. The quality of the pain is described as aching, similar to previous episodes and shooting. Radiates to: ‘down legs’ The pain is at a severity of 10/10. The pain is severe [APA Pages 6 and 7].” It also states, “Lumbar back: She exhibits decreased range of motion, tenderness, pain and spasm. She exhibits no swelling, no edema, no deformity, no laceration and normal pulse. . . Tenderness to palpation over lower paralumbar area, mild spasm to muscles, limited ROM due to pain, distally neurovascularly intact [APA Page 9].”

KNEE CLAIMS

INJURY BY REPETITIVE TRAUMA AUGUST 14, 2013

Claimant claims two accidents in which she injured both of her knees. The first one was an accident by repetitive trauma, August 14, 2013 (WCC# 1322319). Medical records and the testimony at the hearing reflect that the claimant would have to step up and down from a step/platform in the weave room all day long. Every machine has a platform: she would move from machine to machine every couple of minutes and would step up and down to access each machine. The Claimant saw the company doctor, Michael K. Welborn, M.D., on August 14, 2013, and the note states, “Apparently she weaves and has to go up and down a step and lift. She has strained her back in the last few days and she states her knees hurt a lot [APA Page 69].” “I think she has low back strain and may be just some overuse syndrome with her knees from going up and down the step all day [APA Page 69].” She saw Dr. Welborn again in follow-up for knee

and back pain on August 21, 2013. The note states in part, "She also complains of pain in her knees that hurts all the time and does not have any certain start date as to when it started . . . I then explained to her that I thought she had some tendinitis in the knees, which I do, and it's probably due to her having to step up and down from a box in the weave room continuously all day. After I explained this I think she understood it. She is not very tall and this is a big step for her to go all day . . . [APA Page 67]." In the same note Dr. Welborn states, ". . . [W]rote a light duty note of no stepping up and down . . ." The Light Duty note states under diagnosis "tendonitis knees" and states "can she have another job? Not stepping up and down? New job [APA Page 64]."

The Claimant was asked whether she worked light duty after Dr. Welborn recommended same. She testified that she believed she gave the work excuses to Mr. Stan Brooks at Alice. She also thought she spoke with David Cooper about the restrictions. She said that the Employer refused to give her work in compliance with Dr. Welborn's light duty note. She testified that she continued to do the same job in which she had to repetitively step up and down, stoop and bend, and lift more than ten (10) pounds.

Dr. Welborn saw the Claimant again on August 28, 2013, for follow-up for pain in the back and legs. The note states in part, "As mentioned last time the real problem is the fact that she is short and has to step up and down on a step all day long weaving which is probably a little hard on her. Her back feels better but her knees still bother her some but they're better since she's not been doing that for the past few days [APA Page 62]." I wrote a note asking if she could just have a different job which I think would take care of her problem. This is more of a repetitive motion type problem rather than an injury. In the meantime she is just taking Tylenol. Continue modified duty of no repetitive step climbing, no stairs [APA Page 62]."

The next medical record is a visit to Michelle Wilson, M.D., at Steadman Hawkins on

March 25, 2014. The note states that the Claimant presents with complaints of "Back pain, Bilateral Knee pain [APA Page 57]." Under "Plan" Dr. Wilson's note states "2. Knee pain. For her bilateral knee pain, she does have bilateral degenerative joint disease that may be getting irritated from the type of work that she does. She is going to do physical therapy for this. She was fitted with lateral wedges today and I will re-evaluate her knees in six weeks [APA Page 59-60]." The Claimant saw Dr. Wilson again on June 18, 2014, for what it states is "Back Injury New Problem [APA page 47]." As stated herein supra, the Claimant complained of a May 19th injury to her back while working on a loom at work. In this visit Dr. Wilson did examine the knees and noted tenderness in the left knee at the Medial Joint line, Medial patellar facet, and medial femoral condyle with the patella positive for crepitus. The right Knee showed tenderness in the medial joint line, medial patellar facet, and medial femoral condyle with positive crepitus at the patella [APA, page 49].

The Claimant presented to St. Francis Downtown Hospital on April 10, 2015, with complaints of chronic low back pain, and chronic bilateral knee pain. The note states, "Right knee: She exhibits decreased range of motion. She exhibits no swelling. Tenderness found. Medial joint line and lateral joint line tenderness noted . . . Tenderness to palpation over bilateral knees, full ROM at _____, no echymosis or swelling [APA Page 9]." In regards to the knees the physician instructions were, 'Rest, ice, elevation to knees' exercises multiple times a day [APA Page 10]."

Mr. Cooper testified that the Claimant was a weaver and as such would run weaving machines. If an end breaks she draws an end in; if the filling breaks, she keeps the machine running. If the filling breaks and the machine stops, she re-threads the filling, pulling out any bad filling in the cloth and starting the machine back up. He estimated that the Claimant operated

approximately 12 to 14 machines. As far as how an operator would access the machines, he testified that each machine has a separate platform of approximately eight to ten (8" to 10") inches in height that the weaver stands on. As the weaver goes from one machine to the other, she goes up and down/on and off of the platform. A weaver moves from machine to machine throughout the shift, staying at a machine for a couple of minutes before going to the next.

Mr. Cooper also testified that he did not remember the Claimant talking to him about her knees hurting.

KNEE ACCIDENT BY INJURY FEBRUARY 1, 2014 (WCC #1421002)

The Second alleged injury to the knees (this one by accident) February 1, 2014. The Claimant testified on Cross-Examination that in February of 2014, although she doesn't remember dates very well, "... It happened when I was pushing a roll that was extremely heavy, and the supervisor told me that I should push it with my knees [Transcript Page 48, Lines 15 – 18]." Upon further questioning she stated that she hurt her right and left leg when she was pushing a heavy roll of cloth. A two page Health History Questionnaire dated March 25, 2014, from Dr. Wilson's medical records shows under Review of Symptoms: "What is the reason for your visit today (chief complaint – where is your pain or area of concern);" Handwritten was "both" above a the pre-typed word "knee" that had a box to the left with a line in it. Also circled was Left/Right [APA Page 54]. Further down on the same form is handwritten "Back gradually while leaving, while pushing roll (200 tons' – heavy) with my knee per supervisor [APA Page 54]." Dr. Wilson's note of March 25, 2014, discusses pain in the knees, but does not state anything about a work accident pushing a roll with the knees. No other medical records discuss an injury by accident to the knees by pushing a roll of cloth with the knees.

On Cross Examination the Claimant was asked about her being Maria Martha Perez. She testified that it was an error that her parents made because she used to use the name Maria. "But when I became a U.S. Citizen, that I was not - - was not Maria. So I didn't use it any longer and I told that to Mr. Stan Brooks [Transcript P. 44, Lines 15 - 19]." She was asked on Cross if she had been involved in any motor vehicle accidents and she testified, "Not that I remember [Transcript Page 40, Line 16]." She was then shown an accident report that was not admitted into evidence which caused her to testify that she didn't remember being involved in a car accident. She also testified when asked if the driver's license on the document matched hers, "Yes. But what I don't see is that I went to the hospital due to problems in my knees and back [Transcript Page 46, Lines 17-19]."

She was also asked on cross if she walks when she is not at work and she answered, "With difficulty [Transcript Page 52 Line 25]." She was asked if she has to go up and down stairs when she's not at work and she answered that she has three (3) steps in order to enter her house. She was also questioned on cross as to her stepping up and down off of the platforms and she testified that she climbed up to the machine in order to reach. Counsel for the Defendants asked her to read the description of the repetitive trauma on the Form 50 and asked her where it stated that she climbed up on the machine and jumped off. She testified that the counsel for the Defendants had confused her and she didn't know if the form was talking about the back or the knees.

On Cross Examination counsel for the Defendants also asked the Claimant what type of shoes she wears. She testified that she wears sandals at home. She was asked what she would wear to leave the house to go grocery shopping and she responded, "Low [Transcript Page 57, Line 5]." She was asked if she could wear spiked or very thin stiletto heels and she answered, "No [Transcript Page 57, Line 24]." Counsel for the Defendants also asked that someone

describe on the record what size height heel the Claimant was wearing at the hearing. Counsel for the Defendants described the heel "... as being a wedged heel. It's not an espadrille, but it's a wedged heel approximately two to two and half inches. . . [Transcript page 59, Lines 13 - 15]." Counsel for the Claimant described the heel as: "It's a full heel. There's no spike. It starts at the heel and it runs to the shoe at an angle. It runs to the ball of the foot at an angle. And I would say that the very tallest part of it is approximately two, two and a half inches and then it runs down toward zero inches as it approaches the ball of the foot [Transcript Page 59, Line 19 to Page 60, Line 1]." Counsel for the Defendants agreed with the description set out by Counsel for the Claimant.

Counsel for the Defendants then asked what type shoes the Claimant wears to church and she responded that she almost always wears the ones she had on at the hearing. She said they give her better support.

She was then asked on Cross-Examination about children in the home and she testified that she has a grandson who weighs approximately thirty (30) pounds. She was asked if she could pick her grandson up and she said that she could not. She testified that she does not carry him, that he walks. She does not do cleaning out or washing of her car - her husband does that. Her husband works at Parker Sewer and Fire.

On Re-Direct she was asked whether she remembered the automobile accident in February 2010 that was on the accident report she was shown and she testified, "I swear I did not [Transcript Page 63, Line 14]." She also testified that it was not a major accident, was not her fault, and she did not seek any medical care from the accident. She was also asked about her walking:

Q: And because you have difficulty with your knees and you have difficulty walking, you

wear the type of shoes you're wearing today with a big wide heel or sole, correct?

A: I took a pain killer in order to do that. [Transcript page 65, Lines 2 – 7]

The Defendants did not call any witnesses in the case.

FINDINGS OF FACT

I find that:

1. The Claimant has alleged four separate claims. Each has been assigned its own file number.
2. In the interest of judicial economy, given that all four alleged injuries occurred in the employ of the same Employer and given that the carrier is the same in all four claims, one hearing was held on 05/20/15 to address each claim.
3. In WCC File #1321387 with an alleged date of accident of 08/08/13, the Claimant alleges that she suffered a work-related injury to her back arising out of and within the course and scope of her employment.
4. In WCC File #1407915 with an alleged date of accident of 05/19/14, the Claimant alleges that she suffered a work-related injury to her back arising out of and within the course and scope of her employment.
5. In WCC File # 1322319 the Claimant alleges repetitive trauma to both legs, specifically her knees, in August 2013.
6. In WCC File # 1421002 the Claimant alleges an injury by accident to both legs, specifically to her knees, in February 2014.

7. As to the alleged knee injuries, I have read all of the medicals in this case several times. The lack of specificity as to date of injury encumbers the Claimant's ability to establish compensability.
8. Clearly, there are subjective complaints by the Claimant as to knee pain. As to the August 2013 claim, she tells Dr. Michael Welborn, who is the company doctor that she doesn't have a date as to when it started.
9. Dr. Welborn has x-rays taken and they are normal.
10. Dr. Welborn opines that he believes that she has tendinitis in her knees. He also opines as to a mechanism of injury. Dr. Welborn believes that her problem results from her stepping up and down off of a box in the weave room.
11. In his report of 08/28/13, Dr. Welborn writes as to the issues the Claimant is having with her knees, "This is more of a repetitive motion problem rather than an injury."
12. While all of these facts align to perfect a repetitive trauma claim, the Claimant fails to meet her burden in several ways. First, there is no objective medical imaging that indicates any problems with her knees. While she does report this issue to Dr. Welborn and he addresses it, the records as to this period of time end rather abruptly. The note from 08/28/13 concludes, "Continue modified duty of no repetitive step climbing, no stairs." Come back only if needed. This is the last note from Dr. Welborn in the APAs.
13. The Claimant sees Dr. Michelle Wilson of Steadman Hawkins Clinic of the Carolinas. On the Health History Questionnaire, completed on 03/25/14, the Claimant indicates that she is having problems with both of her knees as well as her back.
14. Dr. Wilson's note from that same visit reads in part, "She still is having bilateral knee pain that has developed over the last two months."

15. There is no claim as to the knees citing a date of injury of January 2014.
16. On 06/18/14, she reports her problem is back pain. She does not mention her knees.
17. On 07/24/14, she reports that she has low back pain and that her right knee is numb. The reason for that visit was her head. (Claimant has or has had another claim as to her head which is not before me.)
18. In the ER report from 04/10/15 at St. Francis Hospital, the Claimant reported that she was hurt at work a little over a year ago. She reports she has had continued back pain, knee pain and some periods of numbness in her right leg. The primary focus of that visit is her back.
19. In his deposition, David Cooper who is the second shift manager for the Employer, testified that the Claimant never reported problems with her knees to him. "I don't remember about any knees." (page 24, line 6)
20. When the evidence is viewed as a whole, there are too many inconsistencies as to her complaints with her knees. While the Claimant may well have knee issues, she has not developed a narrative needed to establish compensability. The Claimant has simply failed to meet her burden as to an injury by accident or repetitive trauma claim as to her alleged knee injuries.
21. The back claims, however, are very different. On both occasions the Claimant reported those alleged injuries in a timely manner. The record is clear and consistent as to her subjective complaints and an injury by accident to her back.
22. The company sent the Claimant to their doctor for treatment. He then refers the Claimant to Dr. Wilson at Steadman Hawkins who is treating the Claimant. While the x-rays as to her back are negative, Dr. Wilson orders a MRI which the carrier would not authorize.

23. The Claimant was treating with authorized treating physicians for work-related injuries to her back.
24. The medical records are clearly treatment records. If Dr. Wilson did not believe the Claimant had suffered a back injury or injuries, she would not have taken the Claimant out of work pending the results of the MRI.
25. The first reports of injury as to the back claims are in the record. Mr. Cooper testifies that the Claimant duly reported them and the treatment records are clear and consistent as are the Claimant's subjective complaints.
26. The release to return to work the Defendants cite in their APAs is from the Department of Surgery – Regional Urology. That release has nexus to a suspected kidney stone, not the issues with her back.
27. When the evidence is viewed as a whole, I find that the Claimant has suffered compensable work-related injury or injuries to her back on 08/08/13 and 05/19/14.
28. The Claimant is entitled to medical care and treatment for those injuries. The authorized treating physician is to be Dr. Michelle Wilson. The Claimant is entitled any and all treatment modalities prescribed or directed by Dr. Wilson to include imaging - specifically the MRI she has already ordered.
29. Given that Dr. Wilson has taken the Claimant out of work pending that MRI, the Claimant is entitled to TTD from 06/18/14 to the present and continuing.
30. The Claimant is not at MMI.
31. All other issues are held in abeyance.

CONCLUSIONS OF LAW

- 1) Pursuant to S.C. Code Ann '42-1-130 (1976), the Claimant was a covered Employee and

pursuant to the S.C. Code Ann '42-1-140 (1976), the Employer Alice Manufacturing Company, Inc., was a covered Employer under the Workers= Compensation Act.

2) Pursuant to S.C. Code Ann. '42-1-160 (1976), the Claimant sustained a compensable injury by accident to her back on August 8, 2013 and on May 19, 2014, accident arising out of and during the course of her employment with the Defendant Employer. The Claimant's claims for her knees are not compensable:

3) Pursuant to S.C. Code Ann. '42-15-60 (1976), the Defendants shall pay for the past causally-related medical treatment the Claimant has received for her back injuries, and they shall further provide additional causally-related medical care for her back injuries until the Claimant has reached MMI, with said treatment being with Michelle Wilson, M.D., or care directed by her.

4) Pursuant to S.C. Code Ann. '42-9-10 (1976), the Average Weekly Wage is \$584.06 with a corresponding Compensation Rate of \$389.57.

5) Pursuant to S.C. Code Ann., §42-9-10 (1976) and §42-9-30 (1976) the Defendants shall pay unto the Claimant TTD benefits from June 18, 2014, and continuing until further order of the Commission.

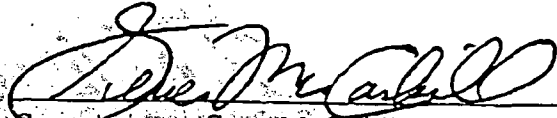
ORDER

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Defendants shall pay unto the Claimant TTD benefits from June 18, 2014, and continuing at the Compensation rate until further order of the Commission; and,

IT IS FURTHER ORDERED that the Defendants shall pay for the past causally-related medical treatment for her back, and they shall further provide additional causally-related medical care for her back until the Claimant has reached MMI.

IT IS FURTHER ORDERED that the authorized treating physician is to be Michelle Wilson, M.D. The Claimant is entitled to any and all treatment modalities prescribed or directed by Dr. Wilson for her back related injuries to include imaging – and specifically the MRI she has already ordered.

IT IS SO ORDERED.



Commissioner Gene McCaskill

CERTIFICATE OF SERVICE

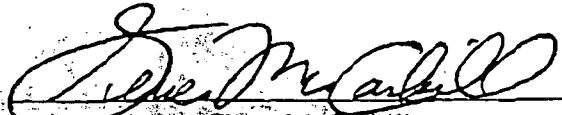
This is to certify that the undersigned has on this date served a copy of this order in the above entitled action upon all parties to this case by sending an electronic copy hereof by electronic mail addressed to the attorneys for said parties; or if there is an unrepresented party(ies), by depositing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

January 29, 2016

By: Kellie Lindler, Administrative Assistant to Commissioner McCaskill

IT IS FURTHER ORDERED that the authorized treating physician is to be Michelle Wilson, M.D. The Claimant is entitled to any and all treatment modalities prescribed or directed by Dr. Wilson for her back related injuries to include imaging – and specifically the MRI she has already ordered.

IT IS SO ORDERED.



Commissioner Gene McCaskill

CERTIFICATE OF SERVICE

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

January 29, 2016

By: Kellie Lindler, Administrative Assistant to Commissioner McCaskill

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

STATE OF SOUTH CAROLINA

MARTHA PEREZ, CLAIMANT,

VS.

ALICE MANUFACTURING COMPANY, INC., EMPLOYER,

AND

GREAT AMERICAN ALLIANCE INSURANCE COMPANY, CARRIER,

DEFENDANTS

WCC FILE NUMBERS 1321387 & 1407915

FULL AFFIRMATION

An Appellate Panel Review was held in Columbia, South Carolina, on April 18, 2016, notice of which was timely and properly served upon all parties of interest.

The Claimant/Respondent was represented by W. Grady Jordan of Smith, Jordan & Lavery, P.A. The Defendants/Appellants were represented by E. Ros Huff of Huff & Hapeshis.

BACKGROUND AND PROCEDURAL HISTORY

This matter comes before the Appellate Panel of the Commission upon a Form 30 appeal filed on behalf of the Defendants. The parties, through their respective attorneys, appeared before the Appellate Panel on April 18, 2016, after appellate briefs were filed by the parties, and oral argument was conducted.

Four (4) separate cases were heard before the Single Commissioner (Gene McCaskill) on May 20, 2015, for judicial economy upon the consent of the parties. Of those four (4) cases, two (2), bearing filed numbers 1321387 (Back - date of injury August 8, 2013) & 1407915 (Back - date of injury May 19, 2014), are before the Full Commission on Appeal to which this Order is

directed. Although all of the Single Commissioner's Findings of Fact and Conclusions of Law are set out below, only those pertinent to file numbers 1321387 and 1407915 are relevant for purposes of this Order.

The Single Commissioner's Findings of Fact and Conclusions of Law are as follows:

FINDINGS OF FACT

(SINGLE COMMISSIONER)

1. The Claimant has alleged four separate claims. Each has been assigned its own file number.
2. In the interest of judicial economy, given that all four alleged injuries occurred in the employ of the same Employer and given that the carrier is the same in all four claims, one hearing was held on 05/20/15 to address each claim.
3. In WCC File #1321387 with an alleged date of accident of 08/08/13, the Claimant alleges that she suffered a work-related injury to her back arising out of and within the course and scope of her employment.
4. In WCC File #1407915 with an alleged date of accident of 05/19/14, the Claimant alleges that she suffered a work-related injury to her back arising out of and within the course and scope of her employment.
5. In WCC File # 1322319 the Claimant alleges repetitive trauma to both legs, specifically her knees, in August 2013.
6. In WCC File # 1421002 the Claimant alleges an injury by accident to both legs, specifically to her knees, in February 2014.
7. As to the alleged knee injuries, I have read all of the medicals in this case several times. The lack of specificity as to date of injury encumbers the Claimant's ability to establish compensability.

8. Clearly, there are subjective complaints by the Claimant as to knee pain. As to the August 2013 claim, she tells Dr. Michael Welborn, who is the company doctor that she doesn't have a date as to when it started.
9. Dr. Welborn has x-rays taken and they are normal.
10. Dr. Welborn opines that he believes that she has tendinitis in her knees. He also opines as to a mechanism of injury: Dr. Welborn believes that her problem results from her stepping up and down off of a box in the weave room.
11. In his report of 08/28/13, Dr. Welborn writes as to the issues the Claimant is having with her knees, "This is more of a repetitive motion problem rather than an injury."
12. While all of these facts align to perfect a repetitive trauma claim, the Claimant fails to meet her burden in several ways. First, there is no objective medical imaging that indicates any problems with her knees. While she does report this issue to Dr. Welborn and he addresses it, the records as to this period of time end rather abruptly. The note from 08/28/13 concludes, "Continue modified duty of no repetitive step climbing, no stairs." Come back only if needed. This is the last note from Dr. Welborn in the APAs.
13. The Claimant sees Dr. Michelle Wilson of Steadman Hawkins Clinic of the Carolinas. On the Health History Questionnaire, completed on 03/25/14, the Claimant indicates that she is having problems with both of her knees as well as her back.
14. Dr. Wilson's note from that same visit reads in part, "She still is having bilateral knee pain that has developed over the last two months."
15. There is no claim as to the knees citing a date of injury of January 2014.
16. On 06/18/14, she reports her problem is back pain. She does not mention her knees.

17. On 07/24/14, she reports that she has low back pain and that her right knee is numb. The reason for that visit was her head. (Claimant has or has had another claim as to her head which is not before me.)
18. In the ER report from 04/10/15 at St. Francis Hospital, the Claimant reported that she was hurt at work a little over a year ago. She reports she has had continued back pain, knee pain and some periods of numbness in her right leg. The primary focus of that visit is her back.
19. In his deposition, David Cooper who is the second shift manager for the Employer, testified that the Claimant never reported problems with her knees to him. "I don't remember about any knees." (page 24, line 6)
20. When the evidence is viewed as a whole, there are too many inconsistencies as to her complaints with her knees. While the Claimant may well have knee issues, she has not developed a narrative needed to establish compensability. The Claimant has simply failed to meet her burden as to an injury by accident or repetitive trauma claim as to her alleged knee injuries.
21. The back claims, however, are very different. On both occasions the Claimant reported those alleged injuries in a timely manner. The record is clear and consistent as to her subjective complaints and an injury by accident to her back.
22. The company sent the Claimant to their doctor for treatment. He then refers the Claimant to Dr. Wilson at Steadman Hawkins who is treating the Claimant. While the x-rays as to her back are negative, Dr. Wilson orders a MRI which the carrier would not authorize.
23. The Claimant was treating with authorized treating physicians for work-related injuries to her back.

24. The medical records are clearly treatment records. If Dr. Wilson did not believe the Claimant had suffered a back injury or injuries, she would not have taken the Claimant out of work pending the results of the MRI.
25. The first reports of injury as to the back claims are in the record. Mr. Cooper testifies that the Claimant duly reported them and the treatment records are clear and consistent as are the Claimant's subjective complaints.
26. The release to return to work the Defendants cite in their APAs is from the Department of Surgery – Regional Urology. That release has nexus to a suspected kidney stone, not the issues with her back.
27. When the evidence is viewed as a whole, I find that the Claimant has suffered compensable work-related injury or injuries to her back on 08/08/13 and 05/19/14.
28. The Claimant is entitled to medical care and treatment for those injuries. The authorized treating physician is to be Dr. Michelle Wilson. The Claimant is entitled any and all treatment modalities prescribed or directed by Dr. Wilson to include imaging - specifically the MRI she has already ordered.
29. Given that Dr. Wilson has taken the Claimant out of work pending that MRI, the Claimant is entitled to TTD from 06/18/14 to the present and continuing.
30. The Claimant is not at MMI.
31. All other issues are held in abeyance.

CONCLUSIONS OF LAW

- 1) Pursuant to S.C. Code Ann § 42-1-130 (1976), the Claimant was a covered Employee and pursuant to the S.C. Code Ann § 42-1-140 (1976), the Employer Alice Manufacturing Company, Inc., was a covered Employer under the Workers- Compensation Act.

- 2) Pursuant to S.C. Code Ann. '42-1-160 (1976), the Claimant sustained a compensable injury by accident to her back on August 8, 2013 and on May 19, 2014, accident arising out of and during the course of her employment with the Defendant Employer. The Claimant's claims for her knees are not compensable.
- 3) Pursuant to S.C. Code Ann. '42-15-60 (1976), the Defendants shall pay for the past causally-related medical treatment the Claimant has received for her back injuries, and they shall further provide additional causally-related medical care for her back injuries until the Claimant has reached MMI, with said treatment being with Michelle Wilson, M.D., or care directed by her.
- 4) Pursuant to S.C. Code Ann. '42-9-10 (1976), the Average Weekly Wage is \$584.06 with a corresponding Compensation Rate of \$389.57.
- 5) Pursuant to S.C. Code Ann., §42-9-10 (1976) and §42-9-30 (1976) the Defendants shall pay unto the Claimant TTD benefits from June 18, 2014, and continuing until further order of the Commission.

(END SINGLE COMMISSIONER)

Pursuant to S.C. Code Ann. §42-17-50, we, the Appellate Panel, have reviewed the Decision and Order of the Single Commissioner and weighed the evidence as presented at the initial hearing. We have also considered all issues raised in the respective briefs of Appellants and Respondent, as well as those issues raised at the Full Commission Review hearing.

After careful review, the Appellate Panel of the South Carolina Workers' Compensation Commission, by unanimous vote, does hereby fully affirm the Order of the Single Commissioner in its entirety as to the two cases with file numbers 1321387 & 1407915.

Below are set out the Findings of Fact and Conclusions of Law of the Appellate Panel as

to these two claims:

1. In WCC File #1321387 with an alleged date of accident of 08/08/13, the Claimant alleges that she suffered a work-related injury to her back arising out of and within the course and scope of her employment.
2. In WCC File #1407915 with an alleged date of accident of 05/19/14, the Claimant alleges that she suffered a work-related injury to her back arising out of and within the course and scope of her employment.
3. On both occasions the Claimant reported the alleged back injuries in a timely manner. The record is clear and consistent as to her subjective complaints and an injury by accident to her back.
4. The company sent the Claimant to their doctor for treatment. He then refers the Claimant to Dr. Wilson at Steadman Hawkins who is treating the Claimant. While the x-rays as to her back are negative, Dr. Wilson orders a MRI which the carrier would not authorize.
5. The Claimant was treating with authorized treating physicians for work-related injuries to her back.
6. The medical records are clearly treatment records. If Dr. Wilson did not believe the Claimant had suffered a back injury or injuries, she would not have taken the Claimant out of work pending the results of the MRI.
7. The first reports of injury as to the back claims are in the record. Mr. Cooper testifies that the Claimant duly reported them and the treatment records are clear and consistent as are the Claimant's subjective complaints.

8. The release to return to work the Defendants cite in their APAs is from the Department of Surgery – Regional Urology. That release has nexus to a suspected kidney stone, not the issues with her back.
9. When the evidence is viewed as a whole, the Appellate Panel finds that the Claimant has suffered compensable work-related injury or injuries to her back on 08/08/13 and 05/19/14.
10. The Claimant is entitled to medical care and treatment for those injuries. The authorized treating physician is to be Dr. Michelle Wilson. The Claimant is entitled any and all treatment modalities prescribed or directed by Dr. Wilson to include imaging - specifically the MRI she has already ordered.
11. Given that Dr. Wilson has taken the Claimant out of work pending that MRI, the Claimant is entitled to TTD from 06/18/14 to the present and continuing.
12. The Claimant is not at MMI.
13. All other issues are held in abeyance.

CONCLUSIONS OF LAW

- 1) Pursuant to S.C. Code Ann '42-1-130 (1976), the Claimant was a covered Employee and pursuant to the S.C. Code Ann '42-1-140 (1976), the Employer Alice Manufacturing Company, Inc., was a covered Employer under the Workers' Compensation Act.
- 2) Pursuant to S.C. Code Ann '42-1-160 (1976), the Claimant sustained a compensable injury by accident to her back on August 8, 2013 and on May 19, 2014, arising out of and during the course of her employment with the Defendant Employer.
- 3) Pursuant to S.C. Code Ann '42-15-60 (1976), the Defendants shall pay for the past causally-related medical treatment the Claimant has received for her back injuries, and they shall

further provide additional causally-related medical care for her back injuries until the Claimant has reached MMI, with said treatment being with Michelle Wilson, M.D., or care directed by her.

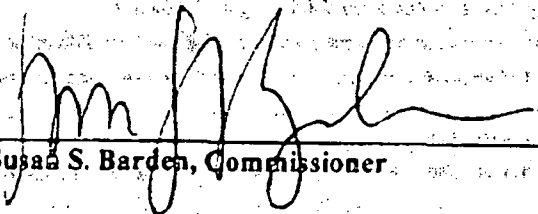
4) Pursuant to S.C. Code Ann. §42-9-10 (1976), the Average Weekly Wage is \$584.06 with a corresponding Compensation Rate of \$389.57.

5) Pursuant to S.C. Code Ann., §42-9-10 (1976) and §42-9-30 (1976) the Defendants shall pay unto the Claimant TTD benefits from June 18, 2014, and continuing until further order of the Commission.


ORDER

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Decision and Order of the Single Commissioner in the matters of W.C.C. File Numbers 1321387 & 1407915, is hereby and shall be **FULLY AFFIRMED** in its entirety.

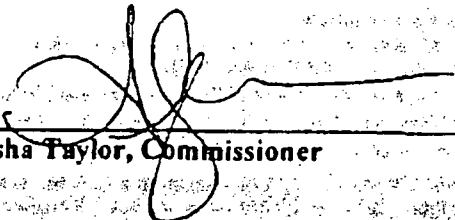
IT IS SO ORDERED.



Susan S. Barden, Commissioner



Melody L. James, Commissioner



Aisha Taylor, Commissioner

CERTIFICATE OF SERVICE

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

By Kim Falls on May 24, 2016

South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500 • Post Office Box 1715
Columbia, South Carolina 29202-1715
(803) 737-5723
www.wcc.sc.gov



WCC File #: 1321387
Carrier File #: _____
Carrier Code #: _____
Employer FEIN #: _____

Claimant's Name: Martha Perez SSN: 250-89-7102 Employer's Name: Alice Manufacturing Co. Inc.
Address: 202 Forest Dr. Address: 208 E. 1st Ave.
City: Liberty State: SC Zip: 29657 City: Easley State: SC Zip: 29641
Home Phone: (864)304-4299 Work Phone: () Insurance Carrier: Great American Alliance Insurance Compan
Preparer's Name: W. Grady Jordan Law Firm: Smith, Jordan & Lavery, P.A. Preparer's Phone #: (864) 855 - 1661

A claim for workers' compensation benefits is made based on the following grounds: Date of Injury or Illness: 8/8/2013

- Injury Illness Repetitive Trauma Occupational Disease Physical Brain Injury Concurrent Jurisdiction
1. The claimant sustained an injury to Back (Part(s) of Body Injured) on 8/8/2013 (Month/Day/Year) in Pickens, County, SC. Body part(s) affected is: Back. Briefly describe how the accident occurred: Claimant was lifting a roll of cloth and sliding plastic sleeves into tube when she injured her back.
 2. _____
 3. Both the claimant and the employer were subject to the South Carolina Workers' Compensation Act at the time of injury.
 4. The relationship of employer and employee existed at the time of injury.
 5. At the time of the injury the claimant was performing services arising out of and in the course of employment.
 6. Notice of the accidental injury was given to the Employer on 8/8/2013 (Month/Day/Year) in the following manner:
Advised: Kimberly, Supervisor
 7. Due to injury, the claimant is in need of (check one):
 (a) medical examination and treatment for: Back
 (b) additional medical examination and treatment for: Back
 8. Due to injury, the claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of: All time lost at work.
 9. Due to the injury, the Claimant has permanent disability of the following nature and extent (check one):
 (1) General Disability: Total (2) Specific Disability: Total Partial (3) Wage Loss
 - 9a. A determination of permanent disability is premature at this time.
 10. Due to the injury, the Claimant has a serious bodily disfigurement consisting of: _____
 - 10a. At the time of the injury, the Claimant was paid weekly wages of \$160, and demands accounting of days worked and wages earned as provided by law.
 - 10b. Give names and addresses of all employers for whom the Claimant has worked since the date of the accident:
None
 11. Further grounds or unusual aspects of claim:
All benefits available to the Claimant under the law, continuing medical care under Dodge v. Brucconi, and S.C. Code of Laws Section 42-15-60 Utica Mohawk Language, Lump Sum Award.
 - 11a. List names and addresses of all physicians or other medical specialists who have seen or treated the Claimant as a result of the accident:
Easley Family Practice, 106 John Street, Easley, SC and Steadman Hawkins, 200 Patwood Drive, Ste. C-100, Greenville, SC
 - 11b. To the best of your knowledge, did you have any prior permanent disability? NO
If yes, describe: _____
 12. Appropriate benefits as provided in the Act for the above grounds and other relief as the Workers' Compensation Commission may direct as just and proper.
 - 13a. I am filing a claim. I am not requesting a hearing at this time.
 - 13b. I am requesting a hearing. A \$25 fee is required. 14. Estimated time needed for hearing: 1 Hour
 - Mediation a. Mediation is requested to be ordered pursuant to Reg. 67-1801 B.
 b. Mediation is required pursuant to Reg. 67-1802.
 c. Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.
 d. Mediation has been conducted by a duly qualified mediator and resulted in an impasse.

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

I certify I have served this document pursuant to Reg. 67-211 by delivering a copy to E. Ros Huff, Jr., Esq., Huff Law Firm, LLC, address P.O. Box 1935, Irmo, SC 29063 on the 2 day of December, 2014, by first class postage certified mail personal service.

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

Preparer's Signature: _____ Attorney for Claimant: Jordan@smithjordan.com Title: _____ Email: _____ Date: December 2, 2014

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



WCC File #: 1321387
 Carrier File #: 564593555
 Carrier Code #: _____
 Employer FEIN #: _____

Employee's Name: Martha Perez SSN: 250-89-7102
 Address: 202 Forest Drive
 City: Liberty State: SC Zip: 29657
 Home Phone: 864-508-0020 Work Phone: _____
 Date of Injury: 08/08/2013
 Preparer's Name: E. Ros Huff, Jr., Esquire Law Firm: Huff Law Firm, LLC

Employer's Name: Alice Manufacturing
 Address: P.O. Box 369
 City: Easley State: SC Zip: 29641
 Insurance Carrier: Great American Alliance Insurance Company
 Preparer's Phone #: 803.252.2232

Date of Injury or Illness: 08/08/2013
 Complete each information blank. Clearly specify when contentions are admitted in part and denied in part. The Employer/Carrier in answer to the claim, respectfully shows:

Estimated time for hearing: 1 hour

1. It is Admitted Denied the employee sustained an injury or illness on or about the date set forth in the Form 50. The reasons for denial are:
 Pending investigation/discovery.
2. It is Admitted Denied both the employer and employee were subject to the Workers' Compensation Act at the time in question. The reasons for denial are:
3. It is Admitted Denied the relationship of employer and employee existed at the time in question. The reasons for denial are:
4. It is Admitted Denied at the time in question the employee was performing services arising out of and in the course of employment. The reasons for denial are:
5. It is Admitted Denied notice of injury was given the employer. The reasons for denial are:
6. It is Admitted Denied the employee Needs Is Entitled to Additional medical care as a result of injury or illness. The reasons for denial are:
See No. 1.
- It is Admitted Denied the employee is entitled to temporary total disability for the period(s) of: See No. 1.
- It is Admitted Denied the employee is permanently disabled. The reasons for denial are: Not raised on Form 50.

It is Admitted Denied the employee has serious disfigurement. **Not claimed.**
 It is contended that an average weekly wage of \$ 503.56 applies, according to attached Form 20 as provided by law.
 Further contentions, grounds of defense, or unusual aspects are:
 At this time no affirmative defenses are known, however, the defendants reserve the right to amend and raise any and all defenses once discovered.

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

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

I, the undersigned, certify that the contents of this form are accurate and true to the best of my knowledge.

Preparer's Signature: [Signature] Title: Attorney for Carrier/Employer Email: ros@hufflaw.com Date: 12/30/14

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



Claimant's Name: Martha Perez SSN: 250-89-7102 Employer's Name: Alice Manufacturing Co. Inc.
Address: 202 Forest Dr. Address: 208 E. 1st Ave.
City: Liberty State: SC Zip: 29657 City: Easley State: SC Zip: 29641
Home Phone: (864)304-4299 Work Phone: () Insurance Carrier: Great American Alliance Insurance Compan
Preparer's Name: W. Grady Jordan Law Firm: Smith, Jordan & Lavery, P.A. Preparer's Phone #: (864) 855 - 1661

A claim for workers' compensation benefits is made based on the following grounds: Date of Injury or Illness: 5/19/2014

- Injury Illness Repetitive Trauma Occupational Disease Physical Brain Injury Concurrent Jurisdiction
- The claimant sustained an injury to **Back** (Part(s) of Body Injured) on 5/19/2014 (Month/Day/Year) in Pickens, County, SC. Body part(s) affected is: **Back**
Briefly describe how the accident occurred. After correcting issue on top of a machine, claimant hopped down from the weaving machine and felt pain to her back.
 - Both the claimant and the employer were subject to the South Carolina Workers' Compensation Act at the time of injury.
 - The relationship of employer and employee existed at the time of injury.
 - At the time of the injury the claimant was performing services arising out of and in the course of employment.
 - Notice of the accidental injury was given to the Employer on 5/19/2014 (Month/Day/Year) in the following manner:
Advised: David Cooper, Supervisor

7. Due to injury, the claimant is in need of (check one):
 (a) medical examination and treatment for: **Back**
 (b) additional medical examination and treatment for: **Back**
8. Due to injury, the claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of: All time lost at work.
9. Due to the injury, the Claimant has permanent disability of the following nature and extent (check one):
 (1) General Disability: Total (2) Specific Disability: Total Partial (3) Wage Loss
- 9a. A determination of permanent disability is premature at this time.
10. Due to the injury, the Claimant has a serious bodily disfigurement consisting of:
- 10a. At the time of the injury, the Claimant was paid weekly wages of \$TBD, and demands accounting of days worked and wages earned as provided by law.
- 10b. Give names and addresses of all employers for whom the Claimant has worked since the date of the accident:
None

11. Further grounds or unusual aspects of claim:
All benefits available to the Claimant under the law, continuing medical care under Dodge v. Bruccoli, and S.C. Code of Laws Section 42-15-60 Utica Monawk Language, Lump Sum Award.

11a. List names and addresses of all physicians or other medical specialists who have seen or treated the Claimant as a result of the accident:
Easley Family Practice, 106 John Street, Easley, SC and Steadman Hawkins, 209 Patewood Drive, Ste. C-100, Greenville, SC

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

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

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

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

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

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

I certify I have served this document pursuant to Reg. 67-211 by delivering a copy to E. Ros Huff, Jr., Esq., Huff Law Firm, LLC, address P.O. Box 1935, Irmo, SC 29063 on the 7 day of December, 2014, by first class postage certified mail personal service.

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

Preparer's Signature: _____ Attorney for Claimant: Jordan@smithjordan.com Title: _____ Date: December 2, 2014
Signature: _____ Title: _____ Email: _____ Date: _____

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



WCC File #: 1407915

Carrier File #: _____

Carrier Code #: _____

Employer FEIN #: _____

Plaintiff's Name: Martha Perez SSN: _____ Address: _____
 202 Forest Drive
 City: Liberty State: SC Zip: 29657
 Home Phone: _____ Work Phone: _____
 Date of Injury: 5/19/14

Employer's Name: Alice Manufacturing
 Address: P.O. Box 369
 City: Easley State: SC Zip: 29641

Preparer's Name: E. Ros Huff, Jr., Esquire Law Firm: Huff Law Firm, LLC Preparer's Phone #: 803.252.2232
 Insurance Carrier: Great American Alliance Insurance Company

Date of Injury or Illness: 5/19/14

Estimated time for hearing: 1 hour

Complete each information blank. Clearly specify when contentions are admitted in part and denied in part. The Employer/Carrier in answer to the claim, respectfully shows:

1. It is Admitted Denied the employee sustained an injury or illness on or about the date set forth in the Form 50. The reasons for denial are: Denied pending further investigation/discovery.
2. It is Admitted Denied both the employer and employee were subject to the Workers' Compensation Act at the time in question. The reasons for denial are: _____
3. It is Admitted Denied the relationship of employer and employee existed at the time in question. The reasons for denial are: _____
4. It is Admitted Denied at the time in question the employee was performing services arising out of and in the course of employment. The reasons for denial are: _____
5. It is Admitted Denied notice of injury was given the employer. The reasons for denial are: _____
6. It is Admitted Denied the employee Needs Is Entitled to Additional medical care as a result of injury or illness. The reasons for denial are: See No. 1.
7. It is Admitted Denied the employee is entitled to temporary total disability for the period(s) of: See No. 1.
8. It is Admitted Denied the employee is permanently disabled. The reasons for denial are: Not raised in Form 50.

It is Admitted Denied the employee has serious disfigurement. Not Claimed.

It is contended that an average weekly wage of \$ 566.71 applies, according to attached Form 20 as provided by law.

Further contentions, grounds of defense, or unusual aspects are: _____
 At this time no affirmative defenses are known, however, the defendants reserve the right to amend and raise any and all defenses once discovered.

Mediation

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

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

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

Preparer's Signature

Title

Email

Date

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



Claimant's Name: Martha Perez SSN: 250-89-7102 Employer's Name: Alice Manufacturing Co. Inc.
Address: 202 Forest Drive Address: 208 E. 1st Ave.
City: Liberty State: SC Zip: 29657 City: Easley State: SC Zip: 29641
Home Phone: _____ Work Phone: _____ Insurance Carrier: Great American Alliance Ins. Co.
Preparer's Name: E. Ros Huff, Jr. Law Firm: Huff & Hapeshis, LLC Preparer's Phone #: (803) 252-2232

REQUEST FOR COMMISSION REVIEW

Request for Commission Review by Claimant Employer (check one) Date of Injury or Illness: 8/8/2013
4/5/14/2014 (m/d/yyyy)

The undersigned makes application for review of the findings of the Commissioner in the above-captioned case. The request for review is based on the following grounds: (State the grounds of your appeal in the form of questions presented. Each question presented must contain a concise statement of one proposition of law or fact. Refer to evidence by title and exhibit number. Use additional pages if necessary).

See attached Addendum

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

Mediation

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

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

I certify I have served this document pursuant to Reg. 67-211 by delivering a copy to W. Grady Jordan

address PO Box 1207, Easley, SC 29641

on the 9th day of February 20 16

by first class postage certified mail personal service.

Preparer's Signature

Attorney for Employer/Carrier
Title

rosuff@huffandhapeshis.com

2/9/2016

Email

Date

Check this box if you are not represented by an attorney

Questions about the use of this form should be directed to the Judicial Department at 803.737.5675 or appeals@wcc.sc.gov. If the claimant appeals and is not represented by counsel, the Judicial Department will properly serve this form pursuant to Reg. 67-607 C. Pursuant to Reg. 67-205 and Reg. 701, the appeal must be postmarked no later than 14 days from the date of service of the Decision, and Order of the Hearing Commissioner along with the filing fee. Attach a Form 32, if you are unable to pay the filing fee. Refer to Reg. 67-211 and Reg. 67-701 through 711.

Martha Perez v. Alice Manufacturing Co, Inc.
WCC File No. 1321387 & 1407915
DOI: 8/8/2013 & 5/19/2014
Form 30 Addendum

- 1) Does the substantiated evidence support the compensability of the two (2) back claims (DOI: 8/8/2013 and 5/19/2014)?
- 2) Did the single Commissioner error in ruling as a matter of law and finding as a fact that the Claimant had two (2) injuries by accident (DOI: 8/8/2013 and 5/19/2014)?
- 3) Whether Findings of Fact 21, 22, 23, 24, 27, 28, 29 and 30 are conclusionary and not supported by the evidence?
- 4) Whether Conclusion of Law 2, 3, and 5 are supported by the substantial evidence?
- 5) Whether the Hearing Commissioner erred in ordering medical treatment and TTD benefits as not supported by the evidence and is an error of law?

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BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC FILE NOS. 1321387, 1322319, 1407915, 1421002

Martha Perez,)
Claimant,)
vs.) TRANSCRIPT OF PROCEEDINGS
) May 20, 2015
Alice Manufacturing)
Company, Employer,)
Defendants.)

This hearing was held before
Commissioner Gene McCaskill, reported by
Kimberly T. Power, Court Reporter and Notary
Public in and for the State of South Carolina;
said proceedings were held at the South
Carolina Workers' Compensation Commission, 301
University Ridge, Greenville, South Carolina,
on Wednesday, May 20, 2015, commencing at the
hour of 4:30 p.m.

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APPEARANCES

ATTORNEYS FOR THE CLAIMANT

GRADY W. JORDAN, ESQUIRE
SMITH, JORDAN & LAVERY
1810 East Main Street
Easley, South Carolina 29640

ATTORNEYS FOR THE DEFENDANTS

E. ROSS HUFF, JR., ESQUIRE
HUFF LAW FIRM
7244 Woodrow Street
Irmo, South Carolina 29063

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WITNESS: MARTHA PEREZ

Direct Examination by Mr. Jordan 19

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Redirect Examination by Mr. Jordan 62

Recross-Examination by Mr. Huff 65

Certificate of Reporter 67

1 THE COURT: Today's date is May 20,
2 2015. This is -- actually, we have four
3 Workers' Compensation Commission File Numbers,
4 which it is my understanding, gentlemen, I'll
5 get you to respond to this at the appropriate
6 time, but somebody stop me if we are not there,
7 that we are combining all of these in this
8 hearing today?

9 MR. JORDAN: Is that okay with you,
10 Ross?

11 MR. HUFF: I think. I have no
12 problem if they are all tried together.
13 Otherwise, they would be tried separately.

14 THE COURT: That's right. If y'all
15 are in agreement to that?

16 MR. JORDAN: I'm good with that.

17 MR. HUFF: If you find three out of
18 the four not compensable, you do that and find
19 -- you will address each one individually?

20 THE COURT: That's right. We are
21 trying them together and depending on the
22 outcome of the hearing, my Order could reflect
23 whatever the facts and the law say.

24 MR. HUFF: Yes, sir.

25 THE COURT: All of these cases are

1 Martha Perez vs. Alice Manufacturing Company.
2 This is Workers' Compensation Commission File
3 Number 1321387 which has a date of accident of
4 August 8, 2013, and Workers' Compensation
5 Commission File Number 1322319, which has a
6 date of accident of August 1, 2013, and
7 Workers' Compensation Commission File Number
8 1407915 with a date of accident of May 19,
9 2014, and Workers' Compensation Commission File
10 Number 1421002 with a date of accident of
11 February 1, 2014.

12 Given the unusual nature of the fact
13 that we are trying four cases at one time, is
14 everybody in agreement to what I have just read
15 into the record?

16 MR. HUFF: The only thing I would
17 ask is as you identify the accidents, would you
18 identify the body parts that she's claiming
19 were injured so there will be no confusion.

20 THE COURT: It does on the
21 pleadings, of course.

22 MR. HUFF: Thank you, sir.

23 THE COURT: On 1421002 with the
24 accident date of 5/20/15 --

25 MR. HUFF: 2/14.

1 THE COURT: Oh, that's the date of
2 the hearing. I'm confused already. The date
3 of accident is February 1, 2014.

4 MR. HUFF: That would be right and
5 left legs?

6 THE COURT: That's correct. Hold
7 on, now. You put the same attachment with each
8 of your 58s?

9 MR. JORDAN: (Counsel nods head.)

10 THE COURT: That's fine.

11 MR. JORDAN: It's the same 58.

12 THE COURT: That's fine. That
13 actually makes this easier. So I'll just read
14 all of these. This is what --

15 MR. JORDAN: I did one 58 and I
16 provided this attachment behind it.

17 THE COURT: That's fine. Just for
18 clarity in the record, for -- and I'm going to
19 read them all, Mr. Huff. So this will be a
20 slight repeat.

21 MR. HUFF: Thank you, sir.

22 THE COURT: For File Number 1321387,
23 the body part pled is the back. For 1322319,
24 the body part pled are the right leg and the
25 left leg. For 1421002, the body part pled is

1 the right leg and the left leg. And for
2 1407915, the body part pled is the back. Okay.
3 Are we good?

4 MR. JORDAN: I think one of the
5 dates, if I can just -- the date you did say
6 2/1/2014 for 1421002 and that is correct. I
7 heard a different date for 1407915 than what we
8 had on the pleadings. I think originally you
9 said May.

10 THE COURT: I think I read today's
11 date. 1407915, date of accident is 5/19/2014.

12 MR. JORDAN: Okay. And I think when
13 we did the -- pretrial and I think it's easy
14 for everybody because the claim of 1332319 is a
15 repetitive trauma claim. We had originally put
16 August 13, but the first treatment and
17 diagnosis was 8/14/13. So I think it just
18 makes it cleaner if we just use that date and
19 to the extent I need to amend that we'll say
20 that that alleged date is 8/14/13 because
21 that's the first time she went to the doctor
22 and he documented the problem. And I think
23 that's it.

24 THE COURT: All right. Anybody else
25 have any questions or concerns as to file

1 numbers, date of accident, or body part?

2 MR. JORDAN: No, sir.

3 THE COURT: All right. Then we will
4 move on with the rest of what I need to put on
5 the record here which is that in this matter,
6 Ms. Perez is being represented by W. Grady
7 Jordan, and the employer and carrier are
8 represented by E. Ross Huff, Jr.

9 There is the average weekly wage
10 and, obviously, corresponding comp rate is in
11 dispute and I will let both of you speak to
12 that. We are here in all four of these cases
13 on Forms 50 filed by Mr. Jordan on behalf of
14 his client.

15 Are there any objections to
16 jurisdiction, venue, APA submissions, or any
17 other items?

18 MR. HUFF: None.

19 MR. JORDAN: None.

20 THE COURT: All right. The
21 Commission file becomes a part of the record
22 with the exception of self-serving declarations
23 and unstipulated medical reports as to each and
24 every one of these files and claims.

25 All right. Since we are here

1 pursuant to your filing on behalf of your
2 client, Mr. Jordan, if you would, please, sir,
3 place your client's position on the record.

4 MR. JORDAN: Yes, sir. And, Your
5 Honor, do I need to do anything specific as to
6 the summary sheet for purposes of it being part
7 of the record?

8 THE COURT: Why don't we mark it as
9 an exhibit. Would you have an objection to
10 that, Mr. Huff?

11 MR. HUFF: If it's not being used as
12 evidence. It's for assistance.

13 THE COURT: That's right.

14 MR. JORDAN: It's for assistance.

15 THE COURT: We're having it -- I
16 think mark it with the disclaimer that this is
17 not evidence that this is just a guide to help
18 us keep the claims and the body parts straight.
19 So mark that, please, ma'am.

20 (Claimant's No. 1 was marked for
21 identification.)

22 THE COURT: Mr. Jordan.

23 MR. JORDAN: Yes, sir. May it
24 please the Court. Commissioner, the claimant's
25 position is that she suffered the injuries that

1 we had claimed that we have already gone over,
2 that the determination of compensability is
3 necessary for all four claims. The claimant
4 has received, paid for by the defendants,
5 medical care for the back claims. That care
6 was with Dr. Welborn who is the company doctor
7 at Easley Family Practice.

8 The referral was then made for her
9 to see Steadman Hawkins and she saw Dr. Wilson
10 there. The care was stopped when Dr. Wilson
11 requested a lumbar MRI. At that time, Dr.
12 Wilson at APA No. 40 wrote the claimant out of
13 work until next appointment after the MRI. So
14 we are claiming TTD from 6/18/2014.

15 The average weekly wage we have put
16 under Tab 5 of the APA beginning -- the numbers
17 begin on Page 85 of our brief. We show an
18 average weekly wage of \$584.06. We're asking
19 for past and future medical care. No doctor
20 has found the claimant to be at MMI for any of
21 the injuries.

22 For the one that is repetitive, our
23 position is that the repetitive nature of the
24 claim has been substantiated by the testimony
25 of David Cooper who was her immediate

1 supervisor and by the numerous notations of the
2 treating doctor -- authorized company doctor,
3 Dr. Welborn, that she was -- she has problems
4 with her knees now because of repetitive up and
5 down working on the -- I call it a platform for
6 these machines that she worked on.

7 The last date claim -- well, I'm
8 sorry. The last claim that I haven't addressed
9 yet which is 1421002, we claim that she, again,
10 injured her knees, legs when she was pushing a
11 roll of cloth using her legs that her legs
12 already were injured prior to that.

13 And that, I believe, is the
14 claimant's position. I did want to say one
15 more thing. The defendants did in addition to
16 paying for medical care also paid for
17 interpretation services for the claimant when
18 she went to the doctor. That's it.

19 THE COURT: Okay. Mr. Huff.

20 MR. HUFF: Thank you, Commissioner.
21 Basically it's the defendants' position that
22 the claimant did not sustain an injury by
23 accident. The normal function of the knee in
24 walking up a step -- and the step that she
25 would walk up is one step to get from ground

1 level to the level where she would work on the
2 loom and it was eight to ten inches tall. She
3 would step up onto that platform, work on the
4 loom, step off the platform, and go to the next
5 loom. She had 15 looms that she was
6 responsible for.

7 THE COURT: Is it 15 or was it 14?

8 MR. HUFF: I think it's 15.

9 THE COURT: I just want to make
10 sure.

11 MR. HUFF: Well, I guess it's safe
12 to say it's between 12 to 15.

13 THE COURT: It's not the exact
14 number.

15 MR. HUFF: Yeah. And it's not going
16 to be that out of tune.

17 THE COURT: It's not whether or not
18 it was 15 or 150.

19 MR. HUFF: Right. She would step up
20 an eight or ten step, work on the loom. When
21 she was done, step down and go to the next one.
22 Her job required her to -- it's a standing job
23 and she stood throughout the day. So you have
24 standing and walking which is the normal
25 function of the body and of the knees. In her

1 doing those normal functions, that's not
2 accidental.

3 Regarding seeking the temporary
4 total from June 18, 2014 saying that the doctor
5 says she needs to go see so and so and have an
6 MRI done, you just can't sit back and do
7 nothing to try to get that. We denied the
8 claim. Of course, we're not going to go pay
9 for something that we denied. She can go and
10 get the MRI done and get it to the doctor. And
11 if she comes and proves her case, then rule in
12 her favor or any other Commissioner rules in
13 her favor, then you can order that we make the
14 reimbursement and pay for it. But just saying
15 that I need an MRI and I'm not taking any
16 action to get it done on a denied claim now.
17 Admitted claim is another matter. But there's
18 no attempt that she made anything to try to get
19 that treatment.

20 As I stated earlier in this claim,
21 there is -- and I know you of all the
22 Commissioners because I've seen your order
23 instructions, you will -- you will read what
24 the medical reports are showing.

25 THE COURT: I read all the APAs, all

1 the depositions.

2 MR. HUFF: Yes, sir. That's why I
3 said with you, I know that. And as you look at
4 the x-rays that were done of her knees, the
5 impression like on 8/14 of '13 at Palmetto
6 Baptist Medical Center Easley, x-rays were done
7 of the left knee, normal exam. X-ray of the
8 right knee, normal exam. They checked out her
9 lumbar spine, no evidence of acute abnormality
10 of the lumbar spine. Lumbar spine is otherwise
11 unremarkable.

12 Then on 8/14 of '13, again it says,
13 "Vague lumbar muscle spasms. Exam on both
14 knees clinically is not normal, but completely
15 normal with no tenderness," which means there
16 was an examination and they found no
17 tenderness. "No instability on flexion.
18 X-rays of both knees are normal. She states
19 she can do her regular job. So I continued her
20 on regular job duties." I won't go through all
21 of them, because I could, but I do know that
22 you would read them. And I just say, take the
23 time, look at them. We don't think the actual
24 act of walking or stepping up on a step or
25 stepping down from a step is accidental nature.

1 Realize an accident is an untoward event.

2 There's no untoward event here. It's a normal
3 function.

4 That's our position. Thank you,
5 Commissioner.

6 THE COURT: All right. Mr. Jordan,
7 anything else?

8 MR. JORDAN: One comment. He says
9 this is a denied claim and I understand it's
10 denied from a practical standpoint today, but
11 the requested MRI was by an authorized treating
12 physician paid for by the carrier that
13 requested an MRI.

14 MR. HUFF: And I would respond --

15 MR. JORDAN: I'm not finished. I
16 know of no burden in any law that says that
17 when they're providing for care and they decide
18 they don't want to provide it anymore because
19 an MRI is ordered that my client has some
20 burden put on her that she's got to go pay for
21 an MRI where she got hurt at work. If we could
22 find that out, I'd like to see it.

23 That's my position.

24 MR. HUFF: My very quick response.

25 The doctor says, "I want an MRI done of her

1 left big toe." I'm not trying to be funny or
2 comical. If the left big toe is not part of
3 the claim, why would I pay for a left big toe
4 MRI? This is a denied claim as to these back
5 parts. I don't care if the doctor ordered her
6 to do it wearing a pink polka dotted shirt, we
7 denied it because we don't think it's related
8 to the accident and that's your determination
9 when you read it in its totality.

10 Thank you very much.

11 THE COURT: Okay. Anything else,
12 Mr. Jordan?

13 MR. JORDAN: No, sir.

14 THE COURT: All right. We're ready
15 to hear from the claimant. Let's go off the
16 record for just one second.

17 (Off the record.)

18 THE COURT: All right. Let's go
19 back on the record. All right. Ma'am, we're
20 ready to hear from you. We have an interpreter
21 who has executed the affidavit for
22 interpreters. Does either party have an
23 objection? Tell me your name, sir.

24 THE INTERPRETER: I'm Dennis Brehme.

25 MR. HUFF: Spell the last name?

1 THE INTERPRETER: B-R-E-H-M-E.

2 MR. HUFF: Can I ask where he's
3 employed?

4 THE INTERPRETER: I'm self-employed.

5 MR. HUFF: Thank you. Does he hold
6 any type of certificates or certification for
7 interpretation? I don't need the whole thing.

8 THE INTERPRETER: I can tell you all
9 if you want to. As far as translation is
10 concerned, I'm one of the possibly, I don't
11 know, only three or four federally certified
12 translators in the -- Spanish translators in
13 the entire State of South Carolina.

14 MR. HUFF: I have no objection.

15 THE INTERPRETER: The rate is 87 and
16 a half percent.

17 MR. HUFF: I have no objection.

18 THE INTERPRETER: In fact, I did not
19 pass it the first time.

20 MR. HUFF: I never met you and I
21 wasn't trying to be disrespectful.

22 THE INTERPRETER: I'm also the
23 official translator for the Department of
24 Social Services. I'm also qualified court
25 interpreter.

1 MR. JORDAN: He's good. I speak
2 Spanish and I'm picky.

3 THE INTERPRETER: I also speak
4 German, but that's off the record.

5 THE COURT: And not necessary in
6 these cases.

7 MR. HUFF: Thank you, sir.

8 THE COURT: And, sir, you have
9 completed the affidavit and you have no
10 connection to any party in this matter?

11 THE INTERPRETER: I know I don't
12 look Hispanic, but I was born and raised in
13 Mexico City.

14 THE COURT: Very good. But you have
15 no connection to any party in this case?

16 THE INTERPRETER: No, no.

17 THE COURT: Ma'am, we're ready to
18 hear from you. I understand that you
19 understand English. But since we are providing
20 an interpreter for you, I would ask that you
21 wait for the translation to Spanish and you
22 answer in Spanish.

23 THE WITNESS: Yes, sir.

24 THE COURT: And please do not talk
25 while the interpreter is either asking you the

1 question or repeating the answer. I would like
2 only one person speaking at the time. Okay?

3 THE WITNESS: Okay.

4 (MARTHA PEREZ, being first duly
5 sworn to tell the truth, testified as follows:)

6 THE COURT: Please state your full
7 name for the record.

8 THE WITNESS: Martha Perez.

9 THE COURT: Thank you very much.
10 Mr. Jordan, your witness.

11 DIRECT EXAMINATION

12 BY MR. JORDAN:

13 Q. Martha, you've heard these four
14 claims. I just want us to go through these one
15 at a time. Can you explain to the Commission
16 what happened to you on August 8, 2013?

17 A. I was picking up a heavy roll and
18 when I had it like this in my hands, I had to
19 put some kind of cover -- plastic cover on it
20 in the roll. And when I picked it up, when I
21 lift it, I felt pain in my back and I dropped
22 it.

23 THE COURT: Before we go any
24 further, she said "like this." We need a
25 description of "like this" for the record.

KIMBERLY T. POWER, CCR (803) 622-9057

1 THE WITNESS: I had to pick it up
2 with my hands and maintain it like this.

3 (Witness indicates.)

4 THE COURT: And when you said
5 "maintain it like this," is what I'm getting
6 at.

7 BY MR. JORDAN:

8 Q. When you say "like this," you're
9 showing your hands in front of your body?

10 A. I had to maintain it in this
11 position. (Witness indicates.)

12 Q. And so you have your hands in front
13 of you about at your right -- at the height of
14 the top of your abdomen. Would you agree?

15 A. No, it's a little lower. It is --
16 it is -- I have to maintain this like more to
17 the left so that with the other hand, I have to
18 put that plastic cover on the roll.

19 Q. Were you holding the roll with your
20 left hand?

21 A. Yes, like this. (Witness
22 indicates.)

23 Q. And were you putting the cover or
24 the -- that you were discussing with the left
25 hand -- I'm sorry, right hand?

1 A. I tried to, but I was unable.

2 Q. And was the roll of -- was the roll
3 empty or full of cloth?

4 A. It is a heavy roll.

5 Q. Did it have cloth on it?

6 A. No.

7 Q. What did it have on it, anything?

8 A. It was ready to be -- I was
9 preparing it in order to put it in the machine
10 so that the -- so that the fabric would be
11 covered, so it would start rolling and cover
12 the fabric.

13 Q. And would the fabric roll around the
14 roll?

15 A. That's right.

16 Q. What is the roll made out of?

17 A. Metal.

18 Q. Do you know an estimate of how much
19 it weighs?

20 A. Probably more than I in that
21 location.

22 Q. And how much did you weigh?

23 A. I'm not so sure. About around 165.

24 Q. So when you had -- when you lifted
25 the roll, was one end of the roll still on the

1 ground?

2 A. It was.

3 Q. Okay. What -- where did you -- how
4 did you -- or where did you feel pain in your
5 back when you were doing this action?

6 A. In the lower back.

7 Q. And who at work did you tell that
8 you felt pain in your back when you did this?

9 A. To David Cooper.

10 Q. And what, if anything, did he tell
11 you?

12 A. What I remember that he said, "I
13 told you that work was tough." I think that's
14 what he said.

15 Q. And is David Cooper, was he your
16 supervisor at the time?

17 A. He was.

18 Q. And did you end up -- did the
19 company end up sending you to the doctor
20 because of this accident?

21 A. They did.

22 Q. You didn't go immediately, did you?

23 A. No, I did not.

24 Q. Did you go see Dr. Welborn?

25 A. I did.

1 Q. Now, let's talk about the second
2 accident. Explain what happened on May 19,
3 2014.

4 A. I went up to the machine and because
5 it's rather high up, I had to move up in order
6 to fix the damage because the threads had
7 gotten loose -- sorry, had broken. And when I
8 came down, I had to hop down and that's when I
9 felt the pain in my back.

10 Q. And who did you tell?

11 A. My supervisor, David Cooper.

12 Q. And did he -- did you end up
13 going -- at that time you were already treating
14 at Steadman Hawkins, weren't you?

15 A. I was.

16 Q. All right. And you saw Dr. Wilson
17 after that, didn't you?

18 A. Yes.

19 Q. Now, can you explain to the
20 Commission what problems you're having with
21 your back?

22 A. I cannot live a normal life the way
23 I could before. I cannot even clean my house.
24 And because of the outcome of my knees, I can't
25 even walk, not even go shopping.

1 Q. Do you still have pain in your back?

2 A. Yes, sir.

3 Q. You understand that Dr. Wilson
4 ordered an MRI of your lower back?

5 A. Yes.

6 Q. And are you asking the Commission to
7 allow you to have that MRI and find out what --
8 are you asking the Commission to allow you to
9 have an MRI and find out what's wrong with your
10 back?

11 A. Yes, sir.

12 Q. What's your date of birth?

13 A. May I say something else first?

14 Q. Okay.

15 A. Before I became a U.S. citizen, it
16 was 5/6 of 1965. That's the date of birth on
17 my driver's license. But my parents made a
18 mistake. So before I became a U.S. citizen, it
19 was 5/7/65. So I use it for the insurance
20 company.

21 Q. Which one do you use?

22 A. You mean for the doctor and all of
23 that? 5/7/1965.

24 Q. Okay. How old are you today?

25 A. Fifty.

1 Q. How tall are you?

2 A. Five-two.

3 Q. How much do you currently weigh?

4 A. Around 200.

5 Q. Is that a normal weight for you?

6 A. No.

7 Q. What is a normal weight for you?

8 A. For my height, 135.

9 Q. I didn't ask what a normal weight
10 for your height is. I asked what a normal
11 weight for you is?

12 A. I used to weigh 160 pounds.

13 Q. Okay. So have you gained weight
14 after these accidents?

15 A. Yes, certainly.

16 Q. Are you married?

17 A. Yes.

18 Q. And you've already stated this, but
19 you have are a U.S. citizen?

20 A. I am.

21 Q. You speak English and Spanish, but
22 you felt more comfortable doing this testimony
23 in Spanish?

24 A. Yes.

25 Q. Your husband is a U.S. citizen?

1 A. Yes.

2 Q. What was your job at Alice
3 Manufacturing?

4 A. I think weaver textile worker.

5 Q. And just explain very briefly what
6 you did.

7 A. My work required going up and down
8 some stairs and to go up to the machine all the
9 time because I'm small and short, so I cannot
10 reach it.

11 Q. Were you tending to machines in the
12 plant?

13 A. Yes, from 12 to 14.

14 Q. And these machines were making
15 cloth?

16 A. Yes.

17 Q. And would you have to move from one
18 machine to the other during the day back and
19 forth as you were tending to these machines?

20 A. Yes, all the time.

21 Q. And was part of your job to make
22 sure the machines were working?

23 A. That's right.

24 Q. Would you have to step up onto the
25 machine?

1 A. Yes, I always have to go up.

2 Q. Okay. And I want you to explain to
3 the Commissioner how high you would step up
4 onto the machine?

5 A. I had to put one -- one foot eight
6 to ten inches more or less, but I don't know
7 much about measurements. So it's an estimate.
8 But then I still had to reach all the way to
9 the top and I had to hold on and then use my
10 hands to push myself to be able to reach that
11 height completely.

12 Q. Okay. So the height -- and you're
13 talking about at a height of a platform that
14 you would stand on?

15 A. Would you please ask the question
16 again?

17 Q. Did you have to stand up on a
18 platform to tend the machine?

19 A. The platform is like this. This
20 height. (Witness indicates.)

21 Q. And hold your hand.

22 MR. JORDAN: If we could, I would
23 like to try to state for the record that she's
24 holding her hands approximately eight to ten
25 inches apart trying to describe the height of

1 the platform.

2 THE WITNESS: That was the platform
3 where you are able to walk on.

4 THE COURT: Hold on just a second.
5 As to that description to the height of the
6 platform, Mr. Huff?

7 MR. HUFF: Commissioner, I would say
8 to describe for the record, she had her hands
9 in front of her chest, one hand down and one on
10 the top. So from the bottom of the hand to the
11 top of the other hand, I would say somewhere
12 eight to ten inches, give or take.

13 THE COURT: Very good. Moving on.

14 BY MR. JORDAN:

15 Q. And how high was the part that you
16 had to stand on to work the machine?

17 A. I'll just say this. Well, sometimes
18 the others would not even see me because the
19 machines were so much bigger than I.

20 Q. Well, what I would like you to do is
21 stand up and show the Commissioner with your
22 hand what height you would have to get -- climb
23 up to in order to work the machine.

24 MR. HUFF: I would have to object to
25 the question. I'm objecting to the form of the

1 question.

2 THE COURT: What do you find
3 objectionable about the form?

4 MR. HUFF: He's testifying the act
5 of what she's doing. He is suggesting the
6 answer. It's a leading objection.

7 THE COURT: Try and rephrase it.

8 MR. JORDAN: I'm just trying to ask
9 the claimant to show us the height.

10 MR. HUFF: I have no problem with
11 that question. Ask that that way.

12 MR. JORDAN: I don't know what was
13 different, but I'm good.

14 BY MR. JORDAN:

15 Q. What was the height that you had to
16 get to in order to stand on the machine?

17 A. I had to raise my -- raise my foot
18 all the way after putting a foot on the end of
19 the roll of the machine. For example, I would
20 put my foot there.

21 THE COURT: Tell us where "there" is
22 because we have to have it for the record.

23 THE WITNESS: I put the first foot
24 there and then the second foot on top of the
25 machine and then I hold onto the harnesses and

1 so I would be able to put my -- be able to put
2 myself on top of the machine and work on it and
3 afterwards I would have to hop down.

4 THE COURT: Would you have to pull
5 yourself on top of the machine?

6 THE WITNESS: Yes.

7 BY MR. JORDAN:

8 Q. Answer, please, my specific
9 question. How high a height did you have to
10 climb to?

11 A. I don't know much about
12 measurements.

13 Q. Show us with your hands.

14 A. I'd say this more or less. (Witness
15 indicates.)

16 Q. Is that approximately at your chin
17 level?

18 A. Probably, yes.

19 Q. Can you put your hand back up to the
20 height you had to crawl to?

21 A. Well, I would say that that was the
22 height because I don't know much about
23 measurements.

24 Q. Okay. And you are five-feet-two
25 inches.

1 MR. JORDAN: Your Honor, I would
2 submit if it's close to her chin level and
3 she's five-foot-two inches, it's more than four
4 feet.

5 THE COURT: Okay. Mr. Huff?

6 MR. JORDAN: Less than five-foot-two
7 inches. Mr. Huff, that's an approximate
8 number. Would you agree it had to be more than
9 four feet?

10 MR. HUFF: I would say four or less.

11 THE COURT: Can we both stipulate to
12 four feet, more or less?

13 MR. JORDAN: Yes.

14 THE COURT: Can you stipulate to
15 that, Mr. Huff?

16 MR. HUFF: Yes.

17 BY MR. JORDAN:

18 Q. And then you would work at this four
19 feet, more or less, height while you're tending
20 the machine?

21 A. Yes.

22 Q. How would you get down from the
23 machine?

24 A. Jumping. I would say, well,
25 jumping.

1 Q. Would you jump down, hop down, step
2 down?

3 A. I would hop down.

4 Q. All right. And what was the floor
5 material that you would hop onto?

6 A. It's a platform on the machine.

7 Q. I'm talking about the floor.

8 A. Concrete.

9 Q. So would you hop down on the
10 concrete?

11 A. When it's in the front, it's a
12 platform. When it's in the back, it's the
13 floor. It's a platform on the machine.

14 Q. And what is the platform made of?

15 A. Metal.

16 Q. And is that the eight to ten inches
17 that we were discussing earlier?

18 A. Well, I don't -- I don't think that
19 platform is eight to ten inches. I think it's
20 less than that.

21 Q. But that's different from what you
22 told us stepping up eight to ten inches?

23 A. That's an approximate measurement.

24 Q. All right. How long would you stay
25 up on the machine before you get down and go to

1 the next machine?

2 A. That would depend on the problem.

3 Q. Give me an answer on the average.

4 A. One to two minutes.

5 Q. And would you then go to the next
6 machine and climb on the next machine?

7 A. Yes.

8 Q. And would you do that eight hours a
9 day?

10 A. Yes.

11 Q. Okay. All right. Now, the claim
12 that you have for repetitive trauma to your
13 legs, is your claim that getting up and down on
14 these machines all day long is what caused the
15 problems?

16 A. That's right.

17 Q. Do you still have problems with your
18 knees now?

19 A. Yes.

20 Q. What problems do you have with your
21 knees?

22 A. I can't walk. I cannot stay sitting
23 for a long time. I cannot be standing for a
24 long time. And they sometimes they hurt me
25 even while I am laying down.

1 Q. Now, you said you can't walk?

2 A. Yes.

3 Q. But you walked into the room here
4 today?

5 A. Yes, but I took a pain killer before
6 coming.

7 Q. But you can walk?

8 A. Well, when I go to get the
9 groceries, I walk like an old woman.

10 Q. You have difficulty walking?

11 A. That's right.

12 Q. And is the difficulty walking
13 because of your knees?

14 MR. HUFF: I object to the form of
15 the question as leading the answer?

16 THE COURT: Rephrase.

17 BY MR. JORDAN:

18 Q. Why do you have difficulty walking?

19 A. My knees hurt.

20 Q. All right. And then you claim that
21 February 1, 2014 --

22 MR. JORDAN: And I would like to
23 point out to the Commission that we allege the
24 month of February. I think the Commission, for
25 ease of dates, assigned February 1st because we

1 just claimed the month of February.

2 BY MR. JORDAN:

3 Q. You claim in February 2014, you were
4 pushing a roll of cloth with your hands when
5 your supervisor told you to push with your
6 knees?

7 A. Yes.

8 Q. And did you again feel pain in your
9 knees when you did that?

10 A. But stronger.

11 Q. Do you want more care for your
12 knees?

13 A. Please.

14 Q. And when you went back to working,
15 Martha, when Dr. Welborn gave you restrictions
16 of no repetitive step climbing, were you given
17 a job where you didn't have to step up and
18 down?

19 A. They refused to give it to me.

20 Q. So did you continue doing the same
21 job even after Dr. Welborn gave you
22 restrictions of no repetitive step climbing?

23 A. Yes, sir.

24 Q. Did you have to stoop and bend while
25 you were working the machines?

1 A. Yes.

2 Q. Did you have to lift over ten pounds
3 doing your job?

4 A. Yes.

5 Q. And when Dr. Welborn wrote you a
6 light duty note to avoid stooping and bending
7 and light lifting, ten pounds maximum, your
8 testimony is you continued to do your normal
9 job?

10 A. Yes.

11 Q. Who did you talk to about doing a
12 light duty job?

13 A. I don't remember, but it must have
14 been Mr. Cooper.

15 Q. But do you remember that you did
16 provide your work excuses to your employer?

17 A. Yes. I believe I gave that to
18 Mr. Stanbrooks (phonetic).

19 MR. JORDAN: I don't believe I have
20 any other questions.

21 THE COURT: All right. Mr. Huff.

22 MR. HUFF: Thank you, Commissioner.

23 MR. JORDAN: I do have a question,
24 if you don't mind, Ross.

25 MR. HUFF: Go ahead.

1 BY MR. JORDAN:

2 Q. Martha, did you pay for any of the
3 care that you received from Dr. Welborn's
4 office or from Steadman Hawkins?

5 A. No.

6 Q. Did the employer or insurance
7 company provide a translator for you?

8 A. Yes.

9 Q. Now, one more thing. There was a
10 note that you had -- that you were ordered to
11 go to therapy and then I saw a note that you
12 had gone to therapy. Did you go to therapy?
13 Let me start again. Did you ever go to
14 physical therapy after any of these accidents?

15 A. No, because they refused to provide
16 it.

17 MR. JORDAN: I don't have any other
18 questions.

19 THE COURT: Now Mr. Huff.

20 MR. HUFF: Thank you, Commissioner.

21 CROSS-EXAMINATION

22 BY MR. HUFF:

23 Q. Ms. Perez, my name is Ross Huff.
24 I'm an attorney who represents your employer
25 and I've taken your deposition. Do you

1 remember me taking your deposition?

2 A. I do.

3 Q. Well, today your attorney has asked
4 some questions and I get to ask some questions
5 now. And when I'm finished, your attorney can
6 ask more questions. I'm trying to find out
7 some facts. I'm not here to trick you, but I
8 need you to listen to my questions before you
9 answer. Listen carefully to my questions
10 before you answer them.

11 Other than these accidents that you
12 talked about today that involve your back,
13 which are two separate dates -- and I'm
14 showing one as August of 2013 and one is May of
15 2014 -- is your low back. Does that sound like
16 the dates that you hurt your low back?

17 A. Yes.

18 Q. Also, you talked today about some
19 injuries to your right and your left legs in
20 August of 2013 and February of 2014?

21 A. Yes.

22 Q. Have you had any other accidents
23 while working at Alice Manufacturing?

24 A. Yes, but it was not reported.

25 Q. What body part was that?

1 A. The back.

2 Q. When did that occur?

3 A. I have a problem remembering dates,
4 but it occurred about eight months after
5 starting work.

6 Q. When did you start work? What year?

7 A. I don't remember.

8 Q. How long did you work for Alice
9 Manufacturing?

10 A. I had worked there, I don't remember
11 the date, for about two and a half years.

12 Q. How many times have you been
13 employed at Alice?

14 A. Twice.

15 Q. Other than this other accident you
16 just told me about, have you had any other
17 accidents at Alice?

18 A. No accidents.

19 Q. Did you have an accident to your
20 chin?

21 A. Yes.

22 Q. You didn't tell me about that when I
23 just asked that question. Why didn't you tell
24 me about that?

25 A. Because you asked me about accidents

1 that I had in my back.

2 Q. No, ma'am. I asked you any
3 accidents. I didn't say back. Any accidents?

4 A. Well, I'm sorry. I did not
5 understand.

6 Q. Have you ever been involved in any
7 other type of accident away from work? Any
8 accident at all?

9 A. Not that I remember.

10 Q. Have you ever fallen down stairs?

11 A. No.

12 Q. Have you ever had anybody knock you
13 down?

14 A. No.

15 Q. Have you ever been in a car wreck?

16 A. Not that I remember.

17 Q. Not that you remember. I'm going to
18 give this to your --

19 MR. HUFF: Grady, I'm going to hand
20 that to you first before I hand it to her.

21 BY MR. HUFF:

22 Q. Take time to look at that. I forgot
23 the date on it. Would she hand it back for a
24 minute so I can get the date?

25 MR. JORDAN: I thought you wanted

1 her to look at it.

2 MR. HUFF: But I wanted to look at
3 the dates. I made a mistake. Excuse me.
4 Grady, I'm going to hand it to you again to
5 hand her and show it to the Commissioner,
6 showing the date of accident being February 3rd
7 of 2010.

8 MR. JORDAN: I believe it's February
9 2nd. It looks like the 2nd.

10 MR. HUFF: I don't have my glasses.
11 All right. February 2, 2010?

12 MR. JORDAN: Looks like it.

13 BY MR. HUFF:

14 Q. I highlighted two spots in yellow.
15 Did I highlight your name? Does she see her
16 name highlighted?

17 A. Yeah. I can -- I see it, but I
18 don't know what this is about.

19 Q. Thank you very much.

20 A. Do you want both of them back?

21 Q. Yes.

22 MR. HUFF: I would like to show this
23 to you and put it in as an exhibit for the
24 defense.

25 THE COURT: You intend this to be

1 one exhibit?

2 MR. HUFF: One exhibit. Two pages.

3 THE COURT: Mark this as Defendants'
4 1, please.

5 (Defendants' Exhibit No. 1 marked
6 and entered as evidence.)

7 MR. JORDAN: That document has not
8 been provided prior to today. It's not in the
9 APAs.

10 MR. HUFF: It's impeachment. I
11 didn't need it. If she told the truth, I
12 wouldn't have to put it in.

13 MR. JORDAN: I'm not finished.

14 MR. HUFF: Excuse me. I apologize.

15 MR. JORDAN: It's not in the APAs.
16 It was not listed as a potential exhibit. It's
17 trial by ambush. That's not what these cases
18 are about. And he did not list on the APAs --
19 my understanding is you're supposed to list
20 exhibits. I don't see any exhibits listed and
21 I object to it being introduced into evidence.

22 THE COURT: Mr. Huff.

23 MR. HUFF: My response. Thank you.
24 It is a document that is used for impeachment.
25 If she tells the truth without this, I cannot

1 admit it. I can admit it as an impeachment
2 document. I asked specifically any car wrecks
3 and she said no which goes to her truthfulness,
4 and this is going to be a case that you're
5 going to decide on truthfulness and veracity
6 and I'm putting it in to prove, in fact, she
7 had a car wreck, she had it in February 2010,
8 and she didn't admit it to me.

9 MR. JORDAN: Are you testifying?

10 MR. HUFF: No. I'm giving my
11 argument to him. And that's why I say it comes
12 in. It's impeachment purpose. Otherwise, you
13 don't list it.

14 MR. JORDAN: No.

15 MR. HUFF: Show me the rules.

16 MR. JORDAN: The law doesn't likely
17 do that even in an administrative hearing.

18 MR. HUFF: The law does.

19 MR. JORDAN: That's why we have
20 briefs and we list exhibits. And to come in
21 with a document with no one knowing what it is,
22 neither the Commission nor me, that's not what
23 we do. I object. I'm going to object now. He
24 can ask about a document. The law doesn't
25 prevent him from doing that, but it does

1 prevent him from trying to admit the document.

2 MR. HUFF: You're totally wrong.

3 He's totally wrong on this. It's for
4 impeachment purposes. It has no probative
5 value if she tells the truth.

6 THE COURT: I'm going to split the
7 baby. I'm not going to allow it in. You
8 certainly can ask her more questions about it
9 because you certainly can use it for
10 impeachment. So if you want to ask her more
11 questions about it, I think that's...

12 BY MR. HUFF:

13 Q. Ma'am, what is your -- is your name
14 Maria Martha Perez?

15 A. That's the error my parents made
16 because I used to use the name Maria. But when
17 I became a U.S. citizen, that I was not -- was
18 not Maria. So I didn't use it any longer and I
19 told that to Mr. Stanbrooks.

20 Q. Is your date of birth May 7, 1965?

21 A. Supposedly the 6th, but I use the
22 7th.

23 Q. 5/7 of 1965?

24 A. Yes.

25 Q. Have you ever lived at 202 Forest

1 Drive, Liberty, South Carolina?

2 A. What was the question again?

3 Q. Have you ever lived at 202 Forest
4 Drive, Liberty, South Carolina?

5 A. I lived there.

6 Q. Is your driver's license number
7 007309419?

8 A. Please repeat.

9 Q. May I see her driver's license?

10 MR. JORDAN: I object. You asked
11 her a question. She asked you to repeat the
12 question.

13 MR. HUFF: I withdraw the question.

14 MR. JORDAN: You're not entitled to
15 see that.

16 MR. HUFF: When she pulls it out in
17 front of me, I'm allowed to see it.

18 MR. JORDAN: No. He's not entitled
19 to search her pocketbook.

20 MR. HUFF: I'm not searching. She
21 pulled it out on the witness stand. I'm
22 entitled to see it.

23 MR. JORDAN: For her to look at.

24 THE COURT: No. I think when she
25 takes it out of her purse and she looks at it

1 when she's on the stand, it's fair for him to
2 see it.

3 THE WITNESS: I wanted to repeat the
4 numbers to him.

5 MR. JORDAN: He just wants to look
6 at it.

7 MR. HUFF: Hand her that document to
8 look at with her driver's license.

9 THE WITNESS: It doesn't say here
10 that I hurt my back.

11 BY MR. HUFF:

12 Q. Anyway, I want her to look at her
13 driver's license and that document I gave her
14 and see where I highlighted. Does the driver's
15 license number match the driver's license of
16 the individual that was --

17 A. Yes. But what I don't see is that I
18 went to the hospital due to problems in my
19 knees and back.

20 Q. Ma'am, were you involved in a car
21 wreck that you did not tell me about when I
22 asked you the question?

23 A. I didn't remember.

24 Q. Thank you. Ma'am, I think it's your
25 testimony today regarding your right leg and

1 the -- the right and left leg, excuse me, you
2 are claiming two different dates you had an
3 injury to that body part; is that correct?

4 THE INTERPRETER: Could you please
5 repeat the question? You were saying one thing
6 and then another.

7 MR. HUFF: Yes, sir. Thank you for
8 correcting me. I do appreciate that.

9 BY MR. HUFF:

10 Q. From looking at the 50s that were
11 filed by your attorney -- I'm rephrasing the
12 question. Looking at the 50s --

13 THE INTERPRETER: -- 50s?

14 MR. HUFF: That's what I said, 50s.

15 THE COURT: It's a form. It's a
16 workers' compensation Form 50.

17 THE INTERPRETER: Oh, okay.

18 BY MR. HUFF:

19 Q. Looking at the Form 50, you are
20 claiming two dates; is that right? You've had
21 two injuries -- two dates of injuries to your
22 right and left legs?

23 A. There are three and I don't remember
24 the dates.

25 Q. How many injuries or dates of

1 injuries did you have to your right and left
2 legs?

3 A. I had one, but -- one of them, but I
4 already had previous knee problems. What I'm
5 telling you right now is about the knees.

6 Q. Let's talk about the knees. How
7 many accidents did you have while working at
8 Alice Manufacturing to your right and left
9 knees?

10 A. I told you one and there was also
11 the problem of going up and down.

12 Q. So what injury did you have -- let's
13 don't talk about going up and down. Tell me
14 about the injury to your right and left knee.

15 A. Fine. It happened when I was
16 pushing a roll that was extremely heavy, and
17 the supervisor told me that I should push it
18 with my knees.

19 Q. That's February of 2014?

20 A. I don't remember the exact dates
21 because I don't remember dates very well and I
22 already told you that.

23 Q. The document that your attorney
24 filed on your behalf saying approximately
25 February of 2014, this is what he said you were

1 doing when you were hurt. You injured your
2 right and left leg when you were pushing a
3 heavy roll of cloth?

4 A. That's right.

5 Q. Now, the other one -- tell me about
6 the other accident to your knee.

7 A. What other one?

8 Q. What other accident were you
9 involved in where you hurt your right and left
10 knees?

11 THE COURT: Hold on just a second.
12 As I understand it, Mr. Huff, she's claiming
13 repetitive trauma in August '13 and then injury
14 by accident in February of '14.

15 MR. HUFF: That's what I'm going to
16 right now. I'm trying to get an explanation to
17 understand regarding the right and left legs
18 with repetitive trauma. The one you're talking
19 about, if you look at the Form 50,
20 Commissioner, if I'm not mistaken, she is
21 claiming injury by accident and repetitive
22 trauma on the Form 50. I'm trying to get some
23 clarification.

24 MR. JORDAN: That's for pleading
25 purposes. The lawyer did that, Commissioner.

1 MR. HUFF: So that's what I'm trying
2 to find out about.

3 MR. JORDAN: And I would tell you
4 that that's a repetitive injury. It was pled
5 both ways, but I've stated from the beginning
6 it's a repetitive injury. If I need to amend
7 that so that it's clearer, I will amend that.
8 But that's a repetitive claim.

9 THE COURT: That's what you told me
10 in the beginning.

11 MR. JORDAN: I know that and he
12 knows that.

13 MR. HUFF: And the objection is to
14 the question?

15 MR. JORDAN: Why are you asking her
16 something we're not claiming? You're trying to
17 confuse her, Mr. Huff, about an accident that
18 didn't occur when you know it's a repetitive
19 injury. And she tried to answer your question
20 about the repetitive injury and you stopped
21 her.

22 MR. HUFF: If I may respond?

23 THE COURT: All right.

24 MR. HUFF: She has testified today
25 that she injured her knee from jumping. That's

1 not repetitive. When she jumped off the
2 machine, that's an event.

3 MR. JORDAN: That was the back, Mr.
4 Huff.

5 MR. HUFF: That's what I'm trying to
6 find out.

7 MR. JORDAN: You're confusing the
8 injuries?

9 THE WITNESS: That was my back.

10 THE COURT: Ma'am. Mr. Huff, go
11 ahead.

12 MR. HUFF: Thank you.

13 BY MR. HUFF:

14 Q. Let's talk about the right leg and
15 left leg. How did you injure your right and
16 left leg in August of 2003?

17 A. I don't remember the August date,
18 but I do remember that I hurt my knees pushing
19 a very heavy roll with my knees.

20 Q. Ma'am, I've got that and we did talk
21 about that. That's February of 2014.

22 MR. JORDAN: Your Honor, if I could,
23 I stated on the record when we started that we
24 used the date of August 14, 2013, which was the
25 first visit where Dr. Welborn diagnosed the

1 repetitive trauma to the knees. We used that
2 date in the repetitive trauma case. I was very
3 clear as to what that was. And now Mr. Huff is
4 trying to ask her what accident occurred on
5 that day. No one has claimed an accident that
6 day. We have to have some date for repetitive
7 trauma. We put the first date of diagnosis, if
8 that helps him.

9 MR. HUFF: I don't see an objection
10 there again.

11 THE INTERPRETER: She just said
12 something in Spanish and I feel obligated to
13 interpret it. She just said that he tries to
14 confuse me with the dates.

15 THE COURT: Ma'am, confine your
16 testimony to answering questions, please.

17 THE WITNESS: I am sorry.

18 THE COURT: Mr. Huff, let's try this
19 one more time.

20 MR. HUFF: Yes, sir. Thank you,
21 sir.

22 BY MR. HUFF:

23 Q. And I'm not trying to be funny here.
24 Do you walk when you're not at work?

25 A. With difficulty.

1 Q. Do you go up and down stairs when
2 you're not at work?

3 A. I have three steps in my home that I
4 go up in order to enter my house.

5 Q. And at work when you were working on
6 the looms that you had to work on, you would
7 have to step up on the platform which is about
8 eight inches high; is that correct?

9 A. Yes.

10 Q. And when you get up on the platform,
11 you would walk back and forth in front of the
12 machine doing your job, correct?

13 A. Well, I also had to go up to the
14 machine.

15 Q. Go up? What do you mean, "go up to
16 the machine?"

17 A. I had to climb up to the machine.

18 Q. So you climbed up to the machine?

19 A. Yes.

20 THE COURT: Do you mean by that,
21 ma'am, that you climb on the machine?

22 THE WITNESS: Yes, in order to
23 reach.

24 BY MR. HUFF:

25 Q. I'm going to hand you the Form 50

1 that was filed on behalf -- by your attorney on
2 your behalf. I would ask you to look at No. 2
3 and I'll highlight it. This describes how the
4 accident occurred. Please read that and tell
5 me where it says you climb up on the machine
6 and jump off the machine. Would you please
7 read for us what No. 2 says?

8 THE COURT: Can you read that in
9 English, ma'am?

10 MR. HUFF: Read it to her and
11 translate it.

12 THE WITNESS: I see that only part
13 of the sentence is highlighted.

14 MR. JORDAN: I think what he wants
15 you to do is read No. 2 starting right here.

16 THE INTERPRETER: "No. 2. When
17 working, claimant would step up and down from a
18 step platform in the weave room all day long
19 and she felt pain to both knees after doing
20 repetitive motion."

21 MR. HUFF: Now read it in Spanish.

22 (Interpreter complies.)

23 THE INTERPRETER: She wants me to
24 repeat.

25 MR. HUFF: Please.

1 (Interpreter complies.)

2 BY MR. HUFF:

3 Q. Tell me where that says you climbed
4 up on the machine and jumped off.

5 THE INTERPRETER: She would like to
6 know where you want me to tell her that -- she
7 would like to see where it says, but okay.

8 THE WITNESS: Well, you confuse me.
9 I don't know whether this form is talking about
10 the back or the knees.

11 BY MR. HUFF:

12 Q. Look at paragraph one. What body
13 part does it say? It says right and left leg,
14 does it not?

15 A. What did it say again?

16 Q. It says right and left leg.

17 A. Please read it in Spanish again
18 because I did not understand right leg and left
19 leg. What does it say, No. 2?

20 (Interpreter reads document.)

21 THE WITNESS: Yes.

22 MR. HUFF: Now, repeat what you just
23 said in English.

24 THE INTERPRETER: When working,
25 claimant would step up and down from a

1 step/platform in the weave room all day long
2 and she felt pain to both knees after doing
3 repetitive motion.

4 BY MR. HUFF:

5 Q. It doesn't say that you jumped off a
6 machine, does it?

7 A. I don't know what it says.

8 Q. I think I've beaten it enough. It's
9 part of the record.

10 A. The repetition.

11 Q. Thank you, ma'am.

12 MR. HUFF: I think I may be near the
13 end, Commissioner.

14 BY MR. HUFF:

15 Q. What type of shoes do you wear?

16 A. Wear?

17 Q. Let me rephrase it.

18 A. She said nine.

19 Q. That's the size. But based upon
20 your knee problems and your back problems, what
21 type of shoes do you normally wear?

22 A. Well, sandals when I'm at home and
23 right now that's what I wear.

24 THE INTERPRETER: And she pointed to
25 her shoes.

1 BY MR. HUFF:

2 Q. If you wear -- let's say you go to
3 the grocery store, what type of shoes would you
4 wear to leave the house to go grocery shopping?

5 A. Low.

6 Q. What is low, one inch, five inches,
7 three inches?

8 A. I don't know about inches.

9 Q. Okay.

10 A. Low.

11 Q. Are they broad heels, small heels,
12 thin heels?

13 ~~A. Low, not broad.~~

14 Q. Let's talk about the size of the
15 heel. Other than being low, is it wide like
16 that or tall and thin?

17 A. Wide so I can walk better and I have
18 more support.

19 Q. Can you wear spiked type of heels or
20 does that hurt you and you don't wear them?

21 THE INTERPRETER: Excuse me.

22 MR. HUFF: Spiked. Very thin. Like
23 thin as your finger. Stiletto heels.

24 THE WITNESS: No.

25

1 BY MR. HUFF:

2 Q. Would you wear a two or three --
3 would you wear a three inch heel?

4 A. I don't know what three inches are.

5 Q. Three inches. You don't know three
6 inches? Would you wear a three inch stiletto
7 heel?

8 A. No, but I am going to say something.

9 MR. HUFF: I'm going to object
10 unless it's responsive to the question.

11 THE COURT: Ask her this. Is it in
12 answer to the last question he asked.

13 THE WITNESS: Yes.

14 THE COURT: Yes?

15 THE WITNESS: Well, like these shoes
16 that I'm wearing right now, I would not be able
17 to buy groceries wearing them.

18 BY MR. HUFF:

19 Q. You're wearing espadrilles?

20 THE INTERPRETER: Sir, I don't know
21 what that is.

22 MR. HUFF: She may know, though.
23 Ask her if she's wearing espadrilles.

24 THE COURT: Ask the question in
25 Spanish except for that word.

1 THE WITNESS: I don't know what that
2 is.

3 MR. HUFF: Commissioner, can I have
4 someone describe on the record what size height
5 heel she's wearing today?

6 THE COURT: Sure.

7 MR. HUFF: Could I have her stand up
8 so we could see it?

9 THE COURT: Ma'am, if you would
10 stand up and move over here so everyone can see
11 the shoes you're wearing today.

12 MR. HUFF: I'm going to describe it
13 as being a wedged heel. It's not an
14 espadrille, but it's a wedged heel
15 approximately two to two and half inches.
16 Grady, do you want to describe what you see?

17 MR. JORDAN: I don't know what a
18 wedge heel is. I don't wear them to describe
19 these shoes. It's a full heel. There's no
20 spike. It starts at the heel and it runs to
21 the shoe at an angle. It runs to the ball of
22 the foot at an angle. And I would say that the
23 very tallest part of it is approximately two,
24 two and a half inches and then it runs down
25 toward zero inches as it approaches the ball of

1 the foot.

2 MR. HUFF: I agree with that. Thank
3 you, Grady.

4 BY MR. HUFF:

5 Q. Do you go to church?

6 A. I do.

7 Q. How frequently do you go to church
8 on a weekly basis?

9 A. Twice a week.

10 Q. Do you go on Sunday and Wednesday or
11 when do you go?

12 A. Yes, Wednesday and Sunday.

13 Q. On Sunday do you go one time a day
14 or twice a day?

15 A. If I feel well, once.

16 Q. How long are you at church on
17 Sunday? How many hours?

18 THE INTERPRETER: How many hours?

19 BY MR. HUFF:

20 Q. How many hours are you there at
21 church?

22 A. About one hour and 40 minutes.

23 Q. What type of shoes do you wear to
24 church service? Are they low heels or high
25 heels?

1 A. Well, as a matter of fact, almost
2 always I wear these.

3 Q. You wear what?

4 A. These.

5 Q. These. Okay. Thank you. Do you
6 wear them because they give you better support
7 than a high heel shoe?

8 A. Yes.

9 Q. Are there any children in your
10 household?

11 A. Yes, two right now.

12 Q. What's their ages?

13 A. The 33-year-old lives only part-time
14 at home because he works in Georgia, and the
15 27-year-old one just recently moved in.

16 Q. Any small children living in the
17 household?

18 A. Well, my grandson who is with me
19 when not with my son.

20 Q. How old is your grandson?

21 A. Three.

22 Q. How much does your grandson weigh?

23 A. About 30 pounds.

24 Q. Can you pick up your grandson?

25 A. I cannot.

1 Q. Can you carry your grandson?

2 A. No. He walks.

3 Q. Can you do any type of work like
4 cleaning out your car or washing your car?

5 A. No. My husband does it.

6 Q. Does your husband work?

7 A. He does.

8 Q. Where does he work?

9 THE INTERPRETER: Sewer, whatever,
10 packet and pie (sic).

11 BY MR. HUFF:

12 Q. Parker Sewer and Fire. Okay.
13 Government job?

14 A. He is.

15 MR. HUFF: Ma'am, I want to thank
16 you for your time. I don't think I have any
17 further questions.

18 THE COURT: Mr. Jordan.

19 MR. JORDAN: Very brief.

20 REDIRECT EXAMINATION

21 BY MR. JORDAN:

22 Q. Martha, are there weeks that you --
23 you said you go to church when you feel good.
24 Are there weeks that you don't go to church?

25 A. That is correct.

1 Q. When you say you don't feel well,
2 why do you not go to church?

3 A. Because my back and my knees hurt me
4 too much and my head sometimes.

5 Q. Your husband works for the Parker
6 Sewer and Fire District; is that right?

7 A. That's right.

8 Q. You were asked about an automobile
9 accident in February of 2010 and you were shown
10 an accident report.

11 A. Yes.

12 Q. Did you remember that accident
13 before being shown the report?

14 A. I swear I did not.

15 Q. But after you saw the report, do you
16 remember that you were in an accident?

17 A. I did, but it was not a major
18 accident and it was not my fault.

19 Q. Did you seek any medical care from
20 that?

21 A. No.

22 Q. You were asked if you walk when not
23 at work. Do you have difficulties walking --
24 do you have difficulties walking now?

25 MR. HUFF: I object to the form of

1 the question in that it suggests the answer.
2 You can ask, "Tell me about how you can walk."
3 Not use the word "difficulties." That's
4 leading.

5 MR. JORDAN: I said do you have.

6 MR. HUFF: Difficulty. Just say,
7 "Do you have problems walking?"

8 THE COURT: I'm going to allow that.
9 Repeat the question.

10 BY MR. JORDAN:

11 Q. Do you have difficulty when you
12 walk?

13 A. I do.

14 Q. What type of difficulty?

15 A. My knees hurt me. I can't walk.

16 Q. Do you have difficulty or not going
17 up and down stairs?

18 A. Yes, a great deal.

19 Q. What difficulty do you have going up
20 and down steps?

21 A. I feel that my knees hurt me.

22 MR. JORDAN: I don't have anything
23 else.

24 THE COURT: Mr. Huff.

25 RE-CROSS-EXAMINATION

1 BY MR. HUFF:

2 Q. And because you have difficulty with
3 your knees and you have difficulty walking, you
4 wear the type of shoes you're wearing today
5 with a big wide heel or sole, correct?

6 A. I took a pain killer in order to do
7 that.

8 Q. But you wouldn't wear spiked heels
9 or tall heels, would you?

10 A. No.

11 MR. HUFF: Nothing further.

12 THE COURT: All right. Anything
13 else?

14 MR. JORDAN: I don't have any other
15 questions.

16 THE COURT: Thank you, ma'am. Do
17 you have other witnesses?

18 MR. JORDAN: No, sir.

19 THE COURT: Is that your case?

20 MR. JORDAN: Other than my
21 deposition witness, that's my case.

22 MR. HUFF: I have no objection to
23 the deposition.

24 MR. JORDAN: The deposition of David
25 Cooper.

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THE COURT: Mr. Huff, do you have any witnesses?

MR. HUFF: No, sir.

THE COURT: Then that concludes the hearing.

(The hearing concluded at 6:20 p.m.)

CERTIFICATE OF REPORTER

1
2
3 I, Kimberly T. Power, Court Reporter
4 and Notary Public for the State of South
5 Carolina at Large, do hereby certify:

6 That the foregoing proceeding was
7 taken before me on the date and at the time and
8 location stated on Page 1 of this transcript;
9 that the deponent was duly sworn to testify to
10 the truth, the whole truth, and nothing but the
11 truth; that the testimony and all objections
12 made at the time were recorded stenographically
13 by me and were thereafter transcribed; that the
14 foregoing transcript as typed is a true,
15 accurate, and complete record of the testimony
16 and of all objections made at the time of the
17 examination to the best of my ability.

18 I further certify that I am neither
19 related to nor counsel for any party to the
20 cause pending or interested in the events
21 thereof.

22 Witness my hand, I have hereunto
23 affixed by official seal this 6th day of
24 January, 2016, at Lexington County, South
25 Carolina.

Kimberly T. Power, Court Reporter
Notary Public
State of South Carolina at Large
My Commission Expires: 04/24/2025

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
W.C.C. #1321689, 1321387, 1407915

MARTHA PEREZ,)
)
EMPLOYEE/CLAIMANT,)
)
VERSUS)
)
ALICE MANUFACTURING COMPANY, INC., AND)
GREAT AMERICAN ALLIANCE INSURANCE)
COMPANY,)
)
EMPLOYER/INSURER/DEFENDANT.)



COPY

DEPOSITION OF
DAVID COOPER

PURSUANT TO NOTICE OF DEPOSITION AND/OR AGREEMENT
IN THE ABOVE-ENTITLED CASE, THE DEPOSITION OF DAVID COOPER
WAS TAKEN ON THE 11TH DAY OF DECEMBER, 2014, COMMENCING AT
THE HOUR OF 1:25 P.M., IN THE OFFICES OF SMITH, JORDAN, AND
LAVERY, P.A., ATTORNEYS AT LAW, 1810 EAST MAIN STREET,
EASLEY, SOUTH CAROLINA.

REPORTED BY: KAREN E. HOLLEY, CVR-M

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Deposition of David Cooper

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(THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL IS REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)

Deposition of David Cooper

1 stipulations:

2 It is agreed by and between the counsel for the parties as
3 follows:

- 4 1. That this deposition is being taken pursuant to all
- 5 applicable rules of the South Carolina workers'
- 6 Compensation Commission;
- 7 2. That the deponent waives the right to read and sign the
- 8 deposition transcript.

9 *****

10 David Cooper, being duly sworn to tell the truth, the whole
11 truth, and nothing but the truth of his own knowledge
12 concerning the matter herein, testified as follows:

13 *****

14 Examination by Mr. Jordan:

15 Q. Can you tell me your full name?

16 A. David Leon Cooper, Jr.

17 Q. L-e-o-n?

18 A. Uh-huh.

19 Q. Cooper. All right. And what do you go by; what do
20 people call you?

21 A. What do you mean?

22 Q. Well, do they call you David, Leon?

23 A. They call me David.

24 Q. Bud?

25 A. well, it depends.

Deposition of David Cooper

1 Q. what do you want me to call you; David, Mr. Cooper?

2 A. David.

3 Q. Okay. David, my name is Grady Jordan, and I represent
4 Martha Perez in a workers' compensation claim that
5 she's brought against Alice Manufacturing; you probably
6 know that. And I just wanted to ask you a few
7 questions.

8 Have you ever been deposed before?

9 A. Yes, sir.

10 Q. Tell me, what was that in?

11 A. It was an accident at the company I used to work for.

12 Q. You had an accident?

13 A. No.

14 Q. Oh, someone else did, and you were a supervisor?

15 A. Yes, sir.

16 Q. All right. Now, where do you live; what's your
17 address?

18 A. 105 Lee Ann Drive.

19 Q. Is that one word or two?

20 A. Two.

21 Q. And Ann have an E on the end of it?

22 A. No.

23 Q. And where is that?

24 A. Easley.

25 Q. And what's the zip code?

Deposition of David Cooper

- 1 A. 29642.
- 2 Q. Is that a house, mobile home?
- 3 A. House.
- 4 Q. And what kind of vehicle do you drive?
- 5 A. Mustang.
- 6 Q. what color?
- 7 A. Green.
- 8 Q. David, what's your date of birth?
- 9 A. 5/29/63.
- 10 Q. And where did you go to school?
- 11 A. Easley High.
- 12 Q. what year did you graduate?
- 13 A. '80, '81; somewhere around in there. But it was at
- 14 Byrnes High School; it wasn't at Easley.
- 15 Q. Oh, you graduated from Byrnes?
- 16 A. Uh-huh.
- 17 Q. You went to Easley and graduated from Byrnes?
- 18 A. 12th grade in Byrnes.
- 19 Q. All right. Married or single?
- 20 A. Married.
- 21 Q. what is your job title at Alice?
- 22 A. Second shift shift manager.
- 23 Q. And how long have you worked for Alice?
- 24 A. About 6 years.
- 25 Q. And how long have you been the second shift shift

Deposition of David Cooper

1 manager?

2 A. Six years; the whole time.

3 Q. The whole time?

4 A. Yes, sir.

5 Q. Do you know Martha Perez?

6 A. Yes.

7 Q. How do you know her?

8 A. She worked for me for a while.

9 Q. Do you remember when she worked for you?

10 A. Up 'til May of last year, I think. I'm not sure what
11 date she came.

12 Q. Did she work for you up until when she left Alice?

13 A. Yes, sir.

14 Q. What kind of employee was she; good, bad, average,
15 above average?

16 A. Average.

17 Q. What type job did she do?

18 A. She was a weaver.

19 Q. And just kind of tell me -- I can tell you, I have --
20 as many people as I've deposed in the textile industry,
21 I've never set foot in a textile plant. What does a
22 weaver do at Alice?

23 A. A weaver runs so many weaving machines. She -- if a
24 end breaks, she draws a end in; if the filling breaks,
25 she -- she keeps the machine running.

Deposition of David Cooper

1 Q. So is she keeping the machine supplied with material or
2 no?

3 A. She is -- in somewhat, yes.

4 Q. When you say she runs the weaving machine, is that from
5 a mechanic standpoint, or just --

6 A. No.

7 Q. All right, well what does she do when she runs it?

8 A. Okay, you have what we call filling, and you can have
9 what we call a filling break. If the filling breaks
10 and the machine stops off, she re-threads the filling,
11 pulls out any bad filling in the cloth, and starts the
12 machine back up.

13 Q. And how does she access the -- I'm going to say she,
14 we're going to talk about Martha being a weaver; how
15 would she access the machine?

16 A. What do you mean?

17 Q. Well, was there something to stand on?

18 A. Yes, sir.

19 Q. Tell me about that.

20 A. There's blue stepladders, and some of them are
21 aluminum; they're like two steps on them.

22 Q. And is there some kind of platform, or was there a
23 platform, beside the machine, as well, that the weaver
24 would step on and off of?

25 A. Yes, sir.

Deposition of David Cooper

1 Q. And would each machine have its separate platform?

2 A. Yes, sir.

3 Q. And so, as a weaver would go from one machine to the
4 other, would they go up and down to -- on and off the
5 platform?

6 A. Yes.

7 Q. And how many machines would a weaver like Martha be
8 running?

9 A. At the time, I think she was running -- I don't
10 remember the exact number.

11 Q. You can give me a range or give me an estimate.

12 A. 12 to 14.

13 Q. Would there be any way to access these 12 to 14
14 machines without standing on this platform, or would
15 that be the normal way for the weaver to access the
16 machine?

17 A. That would be the normal.

18 Q. And how tall is the platform?

19 A. Maybe 8 inches.

20 Q. 8 inches?

21 A. 8 to 10; I mean, you know, it's about this tall.

22 Mr. Huff: Do you want me to describe what he just did?

23 Mr. Jordan: What do you think? Is that -- put your
24 hand back up.

25 Mr. Huff: I'll tell you right now.

Deposition of David Cooper

1 Mr. Jordan: Have we got a ruler? We've got a pen.
2 Taller than a pen.

3 Mr. Huff: Yeah, about 7 inches; 7 to 8 inches.

4 A. I'm going to say 8 to 10.

5 Q. 8 to 10 inches?

6 A. I mean, I've never put a tape measure on them, so...

7 Q. Okay, but you think it's a little bit less than a foot?

8 A. Oh yeah.

9 (Mr. Jordan leaves the room to adjust the temperature.)

10 Mr. Huff: I would like to state on the record that my
11 good friend, Grady, left the room for a minute to
12 adjust the air conditioning and that there was no
13 discussion by me with my client.

14 Mr. Jordan: I didn't think there would be.

15 Examination resuming by Mr. Jordan:

16 Q. Is the weaver moving from machine to machine throughout
17 the shift?

18 A. Yes.

19 Q. How long would you estimate they would stay at one
20 machine before they would go to the other; just kind of
21 give me an idea of how that works?

22 A. A couple of minutes.

23 Q. So, a weaver would be at, let's say -- well, you said
24 12 to 14 machines, so I'll say machine 1 to machine 14,
25 okay?

Deposition of David Cooper

1 A. Uh-huh.

2 Q. So the weaver would be at machine 1 for a couple of
3 minutes, they would -- and to do that, they would stand
4 up on this, we call it -- is it platform; can I use
5 that word?

6 A. It's called a step.

7 Q. The step, the 8- to 10-inch step.

8 A. Uh-huh.

9 Q. And then the weaver will do whatever on the machine,
10 step down from the step, go to the next machine, --

11 A. Uh-huh.

12 Q. -- step up on the step?

13 A. Yes, sir.

14 Q. And then do that for a couple of minutes, whatever they
15 do at that machine?

16 A. Yes.

17 Q. Step down, go to the next machine, step up on the step?

18 A. Yes.

19 Q. And, correct me if I'm wrong, is that essentially what
20 the weaver does during their shift?

21 A. Yes.

22 Q. Do they do anything else, other than what you and I
23 just talked about?

24 A. Other than running those machines and keeping them
25 clean, other than that.

Deposition of David Cooper

1 Q. And when you say "keeping them clean", is that part of
2 this couple of minutes they're at the machine we talked
3 about or is that different?

4 A. That's a little bit different.

5 Q. Tell me about that.

6 A. Basically, a couple or three times a night, they should
7 blow their machine off.

8 Q. And how do they do that?

9 A. There is a air hose on each machine; they blow the
10 cutters off, and the reed off, and the side covers;
11 just to keep them clean.

12 Q. There's an air hose on each machine?

13 A. Uh-huh; yes.

14 Q. So, do they step up on to this step and get the air
15 hose and blow the machine?

16 A. Yes.

17 Q. But anytime -- and I want you to correct me if I'm
18 wrong; I'm trying to shorten the deposition, to be
19 honest with you. Anytime a weaver is accessing the
20 machine, they're stepping up on this step?

21 A. Yes.

22 Q. And while the weaver is working, I assume an 8-hour
23 shift, normally?

24 A. Yes.

25 Q. They're monitoring these 12 to 14 machines the entire

1 shift?

2 A. Yes.

3 Q. Going up and down on this step --

4 A. Yes.

5 Q. -- at each machine? Okay.

6 so, would you agree with me that the weaver is stepping
7 up and down very frequently during their shift up and
8 off of this step?

9 A. Yes.

10 Q. Do the weavers ever rotate out into anything else?

11 A. What -- I don't --

12 Q. I don't know, is there some other job that a weaver
13 goes to do, or is a weaver a weaver?

14 A. A weaver is a weaver.

15 Q. All right.

16 A. That's what their job is, is a weaver.

17 Q. So they're on the floor making sure their machines are
18 working?

19 A. Yes.

20 Q. And running?

21 A. Yes; and making quality cloth.

22 Q. And making quality cloth?

23 Did you ever have any conversations with Martha while
24 she was working about any problems she was having with
25 any -- any physical problems she was having?

Deposition of David Cooper

1 A. what do you mean?

2 Q. well, did she ever come to you and tell you that she
3 was having physical problems that she thought was
4 related to work?

5 A. what do you mean by physical -- I mean, I don't --

6 Q. well, any problem with her body; aches and pains,
7 anything?

8 A. She did tell me, when she reported an accident, that
9 she hurt her back, and she did tell me that she had
10 hurt her back before she came to Alice.

11 Q. Before she came to Alice?

12 A. Manufacturing.

13 Q. Now, she's filed a claim -- let's see, make sure I give
14 you that right; she's filed a claim that she hurt her
15 back in -- two claims actually; one says August 8th of
16 2013, and that she claims she was lifting a roll of
17 cloth and sliding plastic sleeves into a tube when she
18 injured her back?

19 A. Yes.

20 Q. Are you familiar with what -- of that alleged accident?

21 A. Pretty much, yes.

22 Q. All right, tell me what your knowledge of that is.

23 A. My knowledge of the accident is, is just what you said.
24 I wasn't standing there when it happened. Martha came
25 up to me, as best I remember, and told me that she was

1 sliding the plastic sleeves back on to the cloth tubes,
2 and she pulled something and hurt her back, and she
3 told me she would be okay.

4 Q. Okay. She told you she would be okay or she thought
5 she would be okay?

6 A. She said "I think I'll be okay."

7 Q. All right. And so then what happened; what did you do?

8 A. I said "Okay." And we went on about our business that
9 night.

10 Q. Did you tell anybody at that time, or make any report,
11 that Martha had come to you claiming that she had hurt
12 her back?

13 A. I most likely called and notified my boss, because
14 that's just normal procedure.

15 Q. And who is your boss?

16 A. David Byers.

17 Q. David Byers. So, you think, based on your normal
18 procedure, you would have called your boss and told him
19 what Martha had told you?

20 A. Yes.

21 Q. But do you remember if you filled out any report or
22 not?

23 A. Not that day.

24 Q. Okay. Did you eventually fill out a report?

25 A. Yes, I did.

Deposition of David Cooper

1 Q. Okay, tell me about that.

2 A. I did fill out a report, and best I can remember
3 without actually looking at it, Martha said she was
4 putting sleeves back on the cloth tube and she hurt her
5 back. Said she would be okay. And I think later, when
6 we filled out the report, we sent her to see the
7 company doctor, as best I remember.

8 Mr. Jordan: Let's just mark this. And this is --
9 y'all gave me that in the personnel file.

10 Mr. Huff: Let me look at it.

11 (Mr. Huff examines document.)

12 Mr. Huff: I have no objection.

13 (Plaintiff's Exhibit Number One is marked.)

14 Examination resuming by Mr. Jordan:

15 Q. Let me show you what we've marked as Plaintiff's
16 Exhibit One.

17 Mr. Huff: Do you have anymore you want to get marked
18 right now while we're doing this?

19 Mr. Jordan: I don't know.

20 Mr. Huff: If you do, go ahead and do it; I don't have
21 any objection. I think you've got one for the other
22 accident of 5/19/14.

23 Mr. Jordan: Okay, we'll just mark this one, too.

24 (Plaintiff's Exhibit Number Two is marked.)

25 Mr. Huff: I have no objection to Exhibit One or

Deposition of David Cooper

1 Exhibit Two.

2 Examination resuming by Mr. Jordan:

3 Q. Mr. Cooper, let me just show you what we've marked as
4 Exhibit One, which is a 2-page document and ask you if
5 you can just identify that for me?

6 A. Yes, sir, I filled this out.

7 Q. And is -- is that the report that you filled out from
8 the August 8, 2013 accident?

9 A. Yes, sir.

10 Q. And then, just so we can identify it, let me show you a
11 2-page document we've marked as Plaintiff's Exhibit
12 Number Two; is that the document -- a report that you
13 filled out from the May 19, 2014 accident?

14 A. Yes, this is what I filled out.

15 Q. And did you sign both of those?

16 A. Yes, I did.

17 Q. And you filled out -- it looks like -- let's go to
18 Number One first. You filled it out, looks like, on
19 August the 13th?

20 A. Yes, sir, because when she initially reported the
21 accident, she said she would be okay, so I did not have
22 to send her anywhere, or -- I just notified my boss
23 that "Hey, she hurt herself, you know, putting the
24 sleeves on." And a couple of days later, she needed to
25 go see the company doctor, so I filled this out.

Deposition of David Cooper

- 1 Q. All right. Now, on there, it looks like that you wrote
2 -- is it your handwriting all on the document?
- 3 A. That is my handwriting, yeah.
- 4 Q. It looks like under where it says "Describe treatment
5 given", and then it says "Transport to ER, 5 stitches;
6 sent to company nurse --
- 7 A. No, no, no; those are examples.
- 8 Q. Those are examples, I know it, but that's the paragraph
9 I want to ask you, can you just read underneath that
10 what your handwriting says?
- 11 A. Sure. "None at the time of incident because Martha
12 reported it on Friday 8/9, and said she would be fine.
13 Martha stated she hurt her back prior to being employed
14 at Alice Manufacturing."
- 15 Q. Why was it important to write on the document that
16 Martha said that she had hurt her back prior to being
17 employed by Alice?
- 18 A. Because she told me that; that's the only reason I put
19 it on there.
- 20 Q. You weren't trying to give the impression that she
21 didn't hurt her back in August of 2013?
- 22 A. No; I'm just stating what she told me.
- 23 Q. Okay. And then Plaintiff's Exhibit Number Two, did you
24 sign that document?
- 25 A. Yes.

1 Q. And on that document -- well, just tell me, what
2 happened, or what did Martha tell you about the May 19,
3 2014 accident?

4 A. Okay. Martha came to me at -- let me read over this.

5 Q. Take your time.

6 (Deponent reviews document.)

7 A. Okay, Martha came to me around 9:00 p.m. that night and
8 told me she had, you know, climbed up on the machine,
9 on the cloth side, stepped up on the cloth row; she cut
10 out a mat up; she hopped back down to the step and re-
11 injured her back. And she wanted to let me know she
12 was fixing to go take a break. And I told Martha to go
13 ahead and take her break. I made a phone call; talked
14 with my boss. And I went back and asked Martha "Could
15 you go see the company doctor in the morning? Call
16 Stan Brooks first thing, get an appointment." She
17 agreed. And that's the way that was.

18 Q. In either of these, the August 11 -- let me make sure I
19 say the right date; August the 8th 2013 injury, or the
20 May the 19th 2014 injury, in either one of those, did
21 you have any reason to not believe Martha when she told
22 you she had hurt herself?

23 A. No.

24 Q. Have you talked to her at all about what her present
25 condition is?

Deposition of David Cooper

1 A. Have I spoke with her?

2 Q. Right.

3 A. No.

4 Q. Are you familiar with the accident that took place on
5 April the 11th, 2013, where Martha was hit in her jaw
6 area?

7 A. That happened on another shift; I was not present. I
8 don't know.

9 Q. So you wouldn't have filled out any documentation for
10 that?

11 A. No, sir.

12 Q. Did you talk to her about that at all?

13 A. Martha did bring it up to me that she -- when she came
14 to my shift that she hit her face on a cloth rack or
15 something; I'm not sure.

16 Q. Okay.

17 A. I mean, I didn't -- I don't know anything about it
18 really.

19 Q. Okay, that's fair enough.

20 If we go to a hearing in this case, are you able to go
21 testify as to what problems Martha is or is not having
22 related to any injury she said she had at Alice?

23 A. No.

24 Q. Has anyone talked to you about what they think Martha's
25 current problems are related to any accident that she

Deposition of David Cooper

1 had at Alice?

2 A. No.

3 Q. Do you ever see her outside of work?

4 A. No.

5 Q. Have you been informed at all as to what her medical
6 care has been related to any accident that, or alleged
7 accident, that Martha had at Alice?

8 A. No.

9 Q. Do you know, of your own knowledge, other than what
10 Martha told you, as to whether or not Martha hurt her
11 back before she went to work for Alice?

12 A. Tell me that again.

13 Q. Other than Martha telling you that she had had back
14 problems before she went to work for Alice, do you have
15 any other source of information as to whether that's
16 true or not?

17 A. No, uh-uh.

18 Q. Prior to August the 8th, 2013, did you have any
19 knowledge of Martha having any problems at work because
20 of her back?

21 A. No.

22 Q. I know that you probably talked to Ros, your lawyer,
23 today, and I don't want to know anything y'all said to
24 each other, but other than that, did you talk to
25 anyone, or review any documents, to prepare for today's

Deposition of David Cooper

1 deposition?

2 A. Other than talking to him?

3 Q. Right, other than talking to Ros.

4 A. I did look at her file.

5 Q. Okay, tell me about that. You looked at her personnel
6 file?

7 A. Just what I have; this right here.

8 Q. And was that just to try to remember what you had done?

9 A. Yeah; I looked at these two reports right here.

10 Q. What we've marked as Plaintiff's One and Two?

11 A. Yes.

12 Q. Now, after Martha had reported to you an accident on
13 August 8, 2013, she continued to work for you?

14 A. After when?

15 Q. The August 8, 2013.

16 A. She worked about three hours after the accident.

17 Q. But I mean for the weeks after that, she continued to
18 work under you?

19 A. Well, she's still under me, but I haven't seen her
20 since --

21 Q. I understand, but I guess what I'm asking you is, from
22 August 8, 2013 to May 19, 2014, for example, when she
23 had this second accident that she reported to you, she
24 was working under you all that time?

25 A. Yes.

1 Q. Were you involved at all in her application for short
2 term disability back in 2012?

3 A. No.

4 Q. Did you know why she had done that?

5 A. No.

6 Q. Have you given any written statements to anyone in
7 regards to Martha Perez, other than the reports that
8 we've marked as Plaintiff's Exhibits One and Two?

9 A. What do you mean by written statements? I mean --

10 Q. Well, have you been asked by anyone to give a written
11 statement as to anything in regards to Martha Perez?

12 A. No.

13 Q. What was it about written statement that you didn't
14 understand?

15 A. Well, now, at the plant, if I speak with someone and I
16 think it needs to go in -- written down, I write stuff
17 down. But other than that, no.

18 Q. But as far as these workers' compensation claims and
19 Martha's --

20 A. Oh no, no.

21 Q. -- concern, you --

22 A. I don't have anything to do with that.

23 Q. So in regards to these workers' compensation claims
24 that Martha has filed, no one has asked you, and you've
25 not given anyone any written statement about --

Deposition of David Cooper

1 A. No.

2 Q. Tell me what, if anything, Martha told you about her
3 knees hurting her?

4 A. I don't know.

5 Q. She didn't say anything to you?

6 A. I don't remember about any knees.

7 Q. Did she ever talk to you about her back hurting her?

8 A. Yes.

9 Q. Tell me about that.

10 A. She did tell me that her back hurt her and she took
11 pain medicine; I don't know what kind. Other than
12 that, that's all.

13 Q. Was that after August 8, 2013 or before?

14 A. I'm going to say -- yeah, after the 8th, 'cause -- I
15 mean, I really didn't have any dealings with Martha
16 'til then.

17 Q. Would she run her machines like she was supposed to?

18 A. She did a pretty good job.

19 Q. I mean, as a supervisor, did -- she didn't cause you
20 any real trouble; I mean, she did her job?

21 A. No; she did her job.

22 Q. And that made your job easier?

23 A. Yes.

24 Mr. Jordan: I don't have any other questions. Thank
25 you very much. Mr. Huff may have some for you.

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Mr. Huff: I have no questions at all. Thank you.
 (There being no further questions, this deposition concluded
 at 1:55 p.m.)

David Cooper

Certificate of Reporter

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I, Karen E. Holley, a Notary Public in and for the state of South Carolina, do hereby certify that the foregoing 25 pages represents a true and accurate transcript of the deposition of David Cooper, which was taken by me on the 11th day of December, 2014.

That the witness was first duly sworn to tell the truth, the whole truth and nothing but the truth of his own knowledge concerning this matter.

That I am not related to nor the employee of any of the parties hereto, nor related to or employed by any attorney or counsel employed by the parties hereto, nor interested in the outcome of this action.

Karen E. Holley

Karen E. Holley, CVR-M

Notary Public for S.C.

Commission expires: May 3, 2017

Notice of blood or body fluids at scene of injury: Yes No

Facility location details (fluids): NA

Cleaning procedures: NA

Name of person performing cleanup: NA

Waste disposal method: NA

Was there any contact with blood or other body fluids? Yes No

If an exposure to blood or fluids occurs while rendering First-Aid treatment, the Shift Manager must notify the company Nurse as soon as possible

Name of Physician: Dr. Welborn Date returned to work: 8/14/13

Easley Family Practice Palmetto Health Baptist Easley ER Hospitalized Yes No
105 John St. 200 Fleetwood Dr.
Easley, SC 29540 Easley, SC 29540

Other facility and address _____

Name of Shift Manager: David Cooper
Form completed by: David Cooper Title: Manager, 2nd Shift

Follow up Investigation

Date: _____ Department Manager: _____

Comments: _____

Date: 8/15/13 Plant Manager: [Signature]

Comments: _____

Date: _____ Nurse: _____

Comments: _____

Date: _____ Safety Director: _____

Comments: _____

Alice Manufacturing Company, INC
 Accident/Illness/Incident Investigation Report
 (OSHA 301-First report of injury)

Case Log Number:
 For use by Medical
 Department Only

This form should be completed and sent to the Medical Department immediately after a recordable event

Plant _____ Weave Room _____ 2nd _____ Date this report completed 5/19/2014
 Dept _____ Shift _____
 Employee Martha Perez Job Title Weaver # 17
 Address _____ DOB _____ Date Hired _____
 Male Female Emp # 26226
 Date of Accident 5/19/2014 Day of week Monday
 Time of accident 5:30 AM PM Time employee began work: 3:00 AM PM
 If employee died, when did death occur? Date _____ Time _____ AM PM
 Date Reported: 5/19/2014 Witness to accident: _____
 Location details: Cloth Side of loom 243

What was employee doing just before the incident occurred? Describe the activity well as the tools, equipment or materials the employee was using. Be specific. Examples: "climbing a ladder while carrying roofing materials", "spraying chlorine from hand sprayer", "computer key-entry."
 Martha climbed on loom 243 to cut a mat up out.

What happened? (Detailed description of accident / incident) Tell us how the injury occurred. Examples: "When ladder slipped on wet floor, worker fell 20 feet"; "Worker was sprayed with chlorine when gasket broke during replacement"; "Worker developed soreness in wrist over time."
 After cutting a mat up on loom 243 Martha hopped down from front side of loom to the step and said she injured her back again.

What was the apparent injury, illness, or property damage? Tell us the part of the body that was affected and how it was affected. Be more specific than "hurt", "pain", or "sore." Examples: "strained back", "chemical burn, hand", "mashed toe."
 Pain in her back

Describe treatment given. "Transport to ER, 5 stitches", "sent to company nurse", "doctor placed on light duty, one week"
 Sent Martha to see company DR.

What machine, tool, substance, condition or object directly harmed the employee? Examples: "concrete floor", "saw", "radial arm saw." If this question does not apply to the incident, leave it blank.
 Martha hopped down off the front of loom 243 after cutting a mat up out and reinjured her back

How can similar accident be prevented?
 Don't hop down off looms

Personal Protective Equipment Provided? Yes _____
 Was injured employee using protective equipment? Yes _____

PLAINTIFF'S
 135 IBIT NO. 2
 FOR IDENTIFICATION
 Cooper

Notice of blood or body fluids at scene of injury: Yes No

Facility location details (fluids): NA

Cleaning procedures: NA

Name of person performing cleanup: NA

Waste disposal method: NA

Was there any contact with blood or other body fluids? Yes No

If an exposure to blood or fluids occurs while rendering First-Aid treatment, the Shift Manager must notify the company Nurse as soon as possible

Name of Physician: _____ Date returned to work: _____

Easley Family Practice Palmetto Health Baptist Easley ER Hospitalized Yes No
108 John St 200 Fleetwood Dr
Easley, SC 29640 Easley, SC 29640

Other facility and address _____

Name of Shift Manager David Cooper

Form completed by: David Cooper Title: 2nd Shift Supervisor

Follow up Investigation

Date 5-20-14 Department Manager David Brus

Comments: _____

Date 5/22/14 Plant Manager [Signature]

Comments: _____

Date: _____ Nurse _____

Comments: _____

Date: _____ Safety Director _____

Comments: _____