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ORIGINAL

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE WORKERS COMPENSATION COMMISSION

RECEIVED

DEC 29 2016

SC Court of Appeals

Melody L. James, Commissioner
R. Michael Campbell, II, Commissioner
Avery B. Wilkerson, Commissioner

WCC File No. 1402961
Appellate Case No. 2016-001072

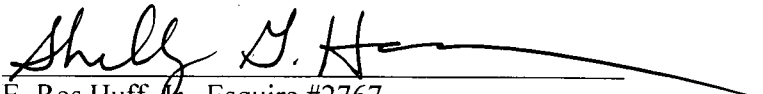
Bryan McHowell, Employee/Claimant, Respondent,

v.

Star Food Products/Mrs. Stratton's Salads, Inc., Employer and Great American Alliance
Ins., Carrier, Appellants.

RECORD ON APPEAL VOLUME II

December ^{12th}, 2016


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APPLICATION FOR ENROLLMENT

SSN: [REDACTED]

IMPORTANT DISCLOSURE NOTICE

Notice of Group Health Plan Special Enrollment Rights

If you are declining enrollment for health plan benefits for yourself or your dependents (including your spouse) because of other health insurance or group health plan coverage, you may in the future be able to enroll yourself and your dependents in this plan if you or your dependents lose eligibility for that other coverage (or if the employer stops contributing towards your or your dependents' other coverage). However, you must request enrollment within 30 days after you or your dependents' other coverage ends (or after the employer stops contributing towards the other coverage).

In addition, if you have a new dependent as a result of marriage, birth, adoption, or placement for adoption, you may be able to enroll yourself and your dependents. However, you must request enrollment within 30 days after the marriage, birth, adoption, or placement for adoption.

If you or your dependent loses coverage under Medicaid or a State Children's Health Insurance Plan (SCHIP) because of loss of eligibility for coverage, you may be able to enroll yourself and your dependent in this plan. You may also be able to enroll in this plan if you or your dependent becomes eligible for premium assistance under Medicaid or SCHIP for coverage under this plan. However, you must request enrollment within 60 days of any such event.

To request special enrollment or obtain more information, contact your employer at the telephone number or address listed for your employer in this enrollment application.

Notice of Group Health Plan Pre-Existing Conditions Exclusion

This group health plan imposes a pre-existing condition exclusion. This means that if you have a medical condition before enrolling in this plan, you might have to wait a certain period of time before this plan will provide coverage for that condition. This exclusion applies only to conditions for which medical advice, diagnosis, care, or treatment was recommended or received within a six-month period. Generally, this six-month period ends the day before your coverage becomes effective. However, if you were in a waiting period for coverage, the six-month period ends on the day before the waiting period begins. The pre-existing condition exclusion does not apply to pregnancy nor to a child who is enrolled in the plan within 30 days after birth, adoption, or placement for adoption. Effective for plan years beginning on and after October 1, 2010, the pre-existing condition exclusion will not apply to members under age 19.

This exclusion may last up to 12 months (18 months if you are a late enrollee) from your first day of coverage, or, if you were in a waiting period, from the first day of your waiting period. However, you can reduce the length of this pre-existing condition exclusion period by the number of days of your prior "creditable coverage" so long as you have not had a break in coverage of at least 63 days. Most prior health coverage is creditable coverage, including group health plan coverage, COBRA continuation coverage, coverage under an individual health policy, Medicare, Medicaid, U.S. Military, TRICARE, State Children's Health Insurance Program (SCHIP), Federal Employee Program, Peace Corps Service, a state high risk pool, or a public health plan established or maintained by a State, U.S. Government, foreign country or any political subdivision of a State, U.S. Government or foreign country. You may request a certificate of creditable coverage from a prior plan or issuer. There are also other ways that you can show you have creditable coverage.



APPLICATION FOR ENROLLMENT

SSN: [REDACTED]

IMPORTANT DISCLOSURE NOTICE

To reduce the 12-month (or 18-month) exclusion period by your creditable coverage, you should send a printed copy of this enrollment application along with a copy of any certificate of creditable coverage or other documentation you have to:

Blue Cross and Blue Shield of Alabama
Customer Accounts Department
450 Riverchase Parkway East
P. O. Box 995
Birmingham, AL 35298-0001

All questions about pre-existing condition exclusions and creditable coverage should be directed to your employer at the telephone number and address listed for your employer in this enrollment application.

Even if you have no pre-existing conditions, benefits may not be available under other provisions of the plan. For example, the services may be excluded or may require preapproval. Be sure to read your Summary Plan Description for details.

If you do not have a certificate of creditable coverage, but you do have prior health coverage, Blue Cross and Blue Shield of Alabama will help you obtain one from your prior or issuer, if necessary.

Women's Health and Cancer Rights Act Notice

The Women's Health and Cancer Rights Act of 1998 requires group health plans that provide coverage for mastectomies to also provide coverage for reconstructive surgery and prostheses following mastectomies. A participant or dependent who is receiving benefits in connection with a mastectomy will also receive coverage for:

- all stages of reconstruction of the breast on which the mastectomy was performed;
- surgery and reconstruction of the other breast to produce a symmetrical appearance; and
- prostheses and treatment of physical complications of the mastectomy, including lymphedema.

Benefits for this will be subject to the same calendar year deductible and coinsurance provisions that apply to other medical and surgical benefits.



**Blue Cross Blue Shield
of Alabama**

APPLICATION FOR ENROLLMENT

SSN: [REDACTED]

ELECTRONIC DISCLOSURE

To apply online for insurance coverage with Blue Cross and Blue Shield of Alabama, you must consent to receiving and accepting information delivered in connection with your application electronically. Your consent will apply only to this application for insurance coverage. You may withdraw your consent to having this information provided to you electronically by clicking on the Cancel Application button at anytime during the online insurance application process. However, you will not be able to complete the online application without providing your consent to electronic disclosures.

In order to submit your application for insurance coverage and to review and retain an electronic copy of the information we give to you in connection with your application, you must have a computer equipped with an internet web browser with at least 128-bit encryption (and that is capable of displaying this text) and either a printer, drive, or other storage device. At the end of the electronic application process, you will be given an opportunity to print a copy of your application and its disclosures. We encourage you to print a copy at that time. However, should you like to receive a paper copy of this information at a later date, please send a written request to Blue Cross and Blue Shield of Alabama, Customer Accounts Department, 450 Riverchase Parkway East, Birmingham, AL 35298.

By clicking on I Agree below, you confirm that you have software and equipment that satisfies these requirements and agree to receive information in connection with your application electronically. Because the information for online applications is only available electronically, you will be unable to proceed if you do not click I Agree below.

☒ I AGREE



APPLICATION FOR ENROLLMENT

SSN: [REDACTED]

FOR ADMINISTRATIVE USE

Application Status:

ENR -1

Keyed by Group Administrator

Employee Release Date:

Group Administrator Release Date:

Hire Date:



**BlueCross BlueShield
of Alabama**

APPLICATION FOR ENROLLMENT

The person completing this application should keep the copy labeled "Employee Copy" and carefully read the information on the reverse side regarding the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and Women's Health and Cancer Rights Act Notice.

450 Riverchase Parkway East • P. O. Box 995
Birmingham, Alabama 35298-0001

An Independent Licensee of the Blue Cross and Blue Shield Association

PLEASE PRINT USING UPPERCASE LETTERS: (USE BLACK BALL POINT PEN - PRESS FIRMLY)

* INDICATES REQUIRED FIELDS

Application For Enrollment

EMPLOYEE INFORMATION

☐ DR. ☒ MR. ☐ MRS. ☐ MS.

HEALTH GROUP NO.*

HEALTH DIV. NO.*

DENTAL GROUP NO.*

DENTAL DIV. NO.*

LAST NAME*

McNULTY

FIRST NAME*

BRYAN

MAIDEN/MIDDLE NAME

ABERT

SUFFIX (JUNIOR, SENIOR)

SOCIAL SECURITY NUMBER*

[REDACTED]

MAILING ADDRESS*

7822 VAN DYKE RD

CITY

LACROSSE

STATE

SC

ZIP

29720

PHONE NUMBER

☐ HOME

☐ WORK

☒ CELL

E-MAIL ADDRESS (Optional)

(803) 287-4780

bb2KINGSEY@H10.COM

☒ MALE ☐ FEMALE

DATE OF BIRTH (MM/DD/YYYY)*

[REDACTED] 11/57

EMPLOYEE NUMBER

510 [REDACTED]

MARITAL STATUS (MARK ONE)

☐ SINGLE ☐ MARRIED

TYPE OF MEDICAL COVERAGE SELECTED*

☐ INDIVIDUAL ☒ FAMILY ☐ OTHER

TYPE OF DENTAL COVERAGE SELECTED* (only applies if division number is different)

☐ INDIVIDUAL ☒ FAMILY ☐ OTHER

LIST ALL DEPENDENTS ELIGIBLE UNDER THIS CONTRACT AND PROVIDE SOCIAL SECURITY NUMBER.

NOTE: The Social Security Number for the employee and all dependents must be provided in order for this application to be processed.

By signing this application, you certify that all dependents are eligible for coverage under the terms of the Group Plan for which you are applying. For example, when required by your Group Plan, you certify that you provided over one-half support for your dependent. Effective for plan years beginning on and after October 1, 2010, your child is eligible for coverage up to age 28. However, if the Group Plan is a grandfathered plan under the Patient Protection and Affordable Care Act, your child is not eligible for this Group Plan if your child is eligible for any employer-sponsored plan other than his/her parents plan.

LAST NAME*

McNULTY

MAIDEN/MIDDLE NAME

[REDACTED]

SUFFIX (JUNIOR, SENIOR)

RELATIONSHIP

☐ SPOUSE

☒ OTHER Daughter

GENDER

☐ MALE

☒ FEMALE

FIRST NAME*

[REDACTED]

SOCIAL SECURITY NUMBER*

[REDACTED]

DATE OF BIRTH (MM/DD/YYYY)

[REDACTED]

LAST NAME*

McNULTY

MIDDLE NAME

[REDACTED]

SUFFIX (JUNIOR, SENIOR)

RELATIONSHIP

☒ CHILD

☐ OTHER

GENDER

☐ MALE

☒ FEMALE

FIRST NAME

[REDACTED]

SOCIAL SECURITY NUMBER

[REDACTED]

DATE OF BIRTH (MM/DD/YYYY)

[REDACTED]

LAST NAME*

McNULTY

MIDDLE NAME

[REDACTED]

SUFFIX (JUNIOR, SENIOR)

RELATIONSHIP

☒ CHILD

☐ OTHER

GENDER

☐ MALE

☒ FEMALE

FIRST NAME

[REDACTED]

SOCIAL SECURITY NUMBER

[REDACTED]

DATE OF BIRTH (MM/DD/YYYY)

[REDACTED]

LAST NAME*

[REDACTED]

MIDDLE NAME

[REDACTED]

SUFFIX (JUNIOR, SENIOR)

RELATIONSHIP

☐ CHILD

☐ OTHER

GENDER

☐ MALE

☐ FEMALE

FIRST NAME

[REDACTED]

SOCIAL SECURITY NUMBER

[REDACTED]

DATE OF BIRTH (MM/DD/YYYY)

[REDACTED]

LIST ALL DEPENDENTS ELIGIBLE UNDER THIS CONTRACT AND PROVIDE SOCIAL SECURITY NUMBER.

NOTE: The Social Security Number for the employee and all dependents must be provided in order for this application to be processed.

LAST NAME

 MIDDLE NAME

 SUFFIX (JUNIOR, SENIOR)

 RELATIONSHIP
☐ CHILD ☐ OTHER _____ GENDER
☐ MALE ☐ FEMALE

FIRST NAME

 SOCIAL SECURITY NUMBER
 - -
 DATE OF BIRTH (MM/DD/YYYY)
 / /

LAST NAME

 MIDDLE NAME

 SUFFIX (JUNIOR, SENIOR)

 RELATIONSHIP
☐ CHILD ☐ OTHER _____ GENDER
☐ MALE ☐ FEMALE

FIRST NAME

 SOCIAL SECURITY NUMBER
 - -
 DATE OF BIRTH (MM/DD/YYYY)
 / /

If any dependent child above is over the applicable maximum age under your Group Plan and is incapacitated, please contact your Group Administrator to determine if coverage is available and/or obtain additional documents for completion.

STUDENT EXTENSION CERTIFICATION: - If the Group Plan under which you are applying requires student certification, please list any dependent child applying for student extension

NAME OF CHILD _____ NAME OF SCHOOL _____
 NAME OF CHILD _____ NAME OF SCHOOL _____

NATURE OF APPLICATION

☒ **NEW CONTRACT APPLICATION** ☐ **CANCEL CONTRACT** ☐ **CHANGE CONTRACT** ☐ **ADD/REMOVE DEPENDENT** ☐ **REMOVE DEPENDENT DUE TO**
☐ Medical Coverage ☐ Name Change ☐ Add Spouse ☐ Entered Military Service
☐ Dental Coverage ☐ Address Change ☐ Add Dependent Child ☐ Divorce
☐ Medical and Dental Coverage ☐ Type of Coverage Change ☐ Remove Spouse ☐ Death
☐ Remove Dependent Child ☐ Request

QUALIFYING EVENT TYPE: ☐ Marriage ☐ Birth/Adoption
☐ Loss of Coverage (Attach Certificate of Creditable Coverage)

☐ Other _____ DATE EVENT OCCURRED / /

COORDINATION OF BENEFITS INFORMATION

If you, your spouse, or your dependents are covered by any other group health insurance, please give the following information.

NAME OF CONTRACT-HOLDER/DEPENDENT _____ POLICY, ID, CONTRACT OR CERTIFICATE NUMBER _____
 TYPE COVERAGE ☐ INDIVIDUAL ☒ FAMILY EFFECTIVE DATE OF OTHER COVERAGE (MM/DD/YYYY) / /
 EMPLOYER'S NAME _____ GROUP NUMBER _____

TRANSFER COVERAGE

A transfer of coverage occurs when you want to cancel one Blue Cross and Blue Shield of Alabama contract and enroll in another without a break in coverage. Please note that the transfer cannot occur prior to the date of employment. If you or your spouse are currently covered by a Blue Cross and Blue Shield of Alabama contract and wish to transfer to this group, please complete below.

CURRENT BLUE CROSS AND BLUE SHIELD OF ALABAMA CONTRACT NUMBER

MEDICARE BENEFITS INFORMATION

If you, your spouse, or your dependents are covered by Medicare, please give the following information.

LAST NAME												FIRST NAME																							
MAIDEN/MIDDLE NAME						SUFFIX (JUNIOR, SENIOR)						MEDICARE NUMBER																							
						N/A																													
☐ (MM/DD/YYYY EFFECTIVE DATE)												☐ (MM/DD/YYYY EFFECTIVE DATE)												☐ (MM/DD/YYYY EFFECTIVE DATE)											
PART A			/			/			/			PART B			/			/			PART D			/			/								

TO BE COMPLETED BY EMPLOYEE

- ☐ I waive my right to benefits and do not wish to enroll. Employer should maintain this record in employee's file.
- ☐ I am requesting cancellation of my existing benefits as checked above.

I apply for the Group Health Benefits Certificate or Group Agreement for which I am eligible. My application is subject to the terms and conditions of the agreement between my Group (my employer or other organization through which I am applying for coverage) and you (Blue Cross and Blue Shield of Alabama). If you accept this application, you will send me an ID card. My Group's contract with you is made up of 1) my Group's application to you; 2) the Group Health Benefits Certificate or Group Agreement; and 3) any written amendments to the Certificate or Group Agreement. My contract with you is made up of these three items and this and any later application by me to you. My coverage will be through this contract. I name my Group as my Group agent or Remitting Agent. I ask my Group to pay you direct and I give my Group the right to deduct my part of your fees from my pay (if applicable). Everything I say in this application is true. I give up all rights to service if I have not told the complete truth everywhere in this application.

You may take back any monies paid for me or my family and pay no more if you find I did not tell the complete truth. I understand that any misrepresentation is fraud and will be pursued to the fullest extent allowed by law including all compensatory and punitive damages as well as costs and attorneys fees. Coverage will not begin until you accept this application in writing.

If you do not accept my application, the only thing you have to do is return any fees I paid. You may pay providers directly for services to me. I ask my doctor, hospital or anyone else to give all medical records of me or my family to you. You may release those records to anyone necessary in order to administer the contract. This applies to anyone I have listed or added. This begins now and continues as long as you need to decide about this application and process any of our claims.

I will cooperate with you. If you need information about other health policies I have, including payments by them, I will give it to you. If you need information to help you subrogate (substitute for me or a family member) or be reimbursed, I will give it to you.

I acknowledge by my signature that I have read and understand the important information printed on the back of this application.

I understand that if I did not enroll within 30 days of my initial eligibility or as a special enrollee, I am a late enrollee and will be required to serve an 18 month exclusion period (unless otherwise stated by your plan) for pre-existing conditions. Effective for plans that begin on or after October 1, 2010, pre-existing condition exclusions will not apply to applicants and dependents under the age of 19.

PLEASE PRINT USING UPPERCASE LETTERS

LAST NAME: M C HOWELL FIRST NAME: BRYAN
Maiden/Middle Name: ASBETH SUFFIX (JUNIOR, SENIOR): SOCIAL SECURITY NUMBER: [REDACTED]
SIGNATURE OF EMPLOYEE: [Signature] DATE SIGNED (MM/DD/YYYY): 07/12/2012 FULL-TIME EMPLOYMENT (MM/DD/YYYY): 02/03/2012

TO BE COMPLETED BY EMPLOYER

PRINTED GROUP ADMINISTRATOR NAME

() -

EMPLOYER'S PHONE NUMBER

GROUP ADMINISTRATOR SIGNATURE* / / EMPLOYER'S EXTENSION

DATE SIGNED (MM/DD/YYYY)

EMPLOYER'S NAME EMPLOYER'S ADDRESS



IMPORTANT DISCLOSURE NOTICE

Notice of Group Health Plan Special Enrollment Rights

If you are declining enrollment for health plan benefits for yourself or your dependents (including your spouse) because of other health insurance or group health plan coverage, you may in the future be able to enroll yourself and your dependents in this plan if you or your dependents lose eligibility for that other coverage (or if the employer stops contributing towards your or your dependents' other coverage). However, you must request enrollment within 30 days after your or your dependents' other coverage ends (or after the employer stops contributing toward the other coverage).

In addition, if you have a new dependent as a result of marriage, birth, adoption, or placement for adoption, you may be able to enroll yourself and your dependents. However, you must request enrollment within 30 days after the marriage, birth, adoption, or placement for adoption.

If you or your dependent lose coverage under Medicaid or a State Children's Health Insurance Plan (SCHIP) because of loss of eligibility for coverage, you may be able to enroll yourself and your dependent in this plan. You may also be able to enroll in this plan if you or your dependent become eligible for premium assistance under Medicaid or SCHIP for coverage under this plan. However, you must request enrollment within 60 days of any such event.

To request special enrollment or obtain more information, contact your employer at the telephone number or address listed for your employer in this enrollment application.

Notice of Group Health Plan Pre-existing Conditions Exclusion

This group health plan imposes a pre-existing condition exclusion. This means that if you have a medical condition before enrolling in this plan, you might have to wait a certain period of time before this plan will provide coverage for that condition. This exclusion applies only to conditions for which medical advice, diagnosis, care, or treatment was recommended or received within a six-month period. Generally, this six-month period ends the day before the day coverage becomes effective. The pre-existing condition exclusion does not apply to pregnancy nor to a child who is enrolled in the plan within 30 days after birth, adoption, or placement for adoption. Effective for plan years beginning on and after October 1, 2010, the pre-existing condition exclusion will not apply to members under age 19.

This exclusion may last up to 12 months (18 months if you are a late enrollee) from your first day of coverage, or, if you were in a waiting period, from the first day of your waiting period. However, you can reduce the length of this pre-existing condition exclusion period by the number of days of your prior "creditable coverage" so long as you have not had a break in coverage of at least 63 days. Most prior health coverage is creditable coverage, including group health plan coverage, COBRA continuation coverage, coverage under an individual health policy, Medicare, Medicaid, U.S. Military, TRICARE, State Children's Health Insurance Program (SCHIP), Federal Employee Program, Peace Corps Service, a state high risk pool, or a public health plan established or maintained by a State, U.S. Government, foreign country or any political subdivision of a State, U.S. Government or foreign country. You may request a certificate of creditable coverage from a prior plan or issuer. There are also other ways that you can show you have creditable coverage.

To reduce the 12-month (or 18-month) exclusion period by your creditable coverage, you should attach a copy of any certificates of creditable coverage or other documentation you have to this enrollment application. If you do not have a certificate of creditable coverage, but you do have prior health coverage, Blue Cross and Blue Shield of Alabama will help you obtain one from your prior plan or issuer, if necessary.

All questions about pre-existing condition exclusions and creditable coverage should be directed to your employer at the telephone number and address listed for your employer in this enrollment application.

Even if you have no pre-existing conditions, benefits may not be available under other provisions of the plan. For example, the services may be excluded or may require preapproval. Be sure to read your Benefit Booklet for details.

Women's Health and Cancer Rights Act Notice

The Women's Health and Cancer Rights Act of 1998 requires group health plans that provide coverage for mastectomies to also provide coverage for reconstructive surgery and prostheses following mastectomies. A participant or dependent who is receiving benefits in connection with a mastectomy will also receive coverage for:

- all stages of reconstruction of the breast on which the mastectomy was performed;
- surgery and reconstruction of the other breast to produce a symmetrical appearance; and
- prostheses and treatment of physical complications of the mastectomy, including lymphedema.

Benefits for this will be subject to the same calendar year deductible and coinsurance provisions that apply to other medical and surgical benefits.



Renaissance

Eligibility Enrollment/Update

Social Security Number

[REDACTED]

Group Name: Stark Food

Group#/Subgroup# 00000000

Plan Enrollment/Update Information (please indicate type of update and fill in appropriate information)

Type of Update: ☒ New Enrollment ☐ Reinstatement ☐ Change/Correction to Information ☐ Termination of Benefits

Group Transfer

Rate Code Change

Change is for:

From: Group/Subgroup#

To: Group/Subgroup#

From: To:

Effective Date of Change

☐ Subscriber

☐ Dependent

Subscriber Information (please complete for all enrollments/updates:)

Subscriber Name (First)

(MI) (LAST)

Bryan A McHowe

Street Address

7822 MAN NY 114 KA

City

State

ZIP Code

☐ Check here if this is a new address Status*

☒ Active ☐ COBRA

☐ Retiree ☐ Surviving

Birth Date

Date of Hire

Coverage Effective Date

1957 02 03 20 12

Enrollment/Corrections Information (please fill in for spouse/dependents or first time enrollment or corrections)

SPOUSE First Name and MI (Last Name if different)

Date of Birth

Social Security Number

000000000000000000

00 00 00 00 00 00

00 00 00 00 00 00

Status* ☐ Legal ☐ Surviving

DEPENDENT #1 First Name and MI (Last Name if different)

Date of Birth

Social Security Number

[REDACTED]

Status* ☐ IRS ☐ Surviving ☐ Disabled

DEPENDENT #2 First Name and MI (Last Name if different)

Date of Birth

Social Security Number

[REDACTED]

Status* ☐ IRS ☐ Surviving ☐ Disabled

DEPENDENT #3 First Name and MI (Last Name if different)

Date of Birth

Social Security Number

[REDACTED]

Status* ☐ IRS ☐ Surviving ☐ Disabled

DEPENDENT #4 First Name and MI (Last Name if different)

Date of Birth

Social Security Number

000000000000000000

00 00 00 00 00 00

00 00 00 00 00 00

Status* ☐ IRS ☐ Surviving ☐ Disabled

Employee name Bryan A. McHowe Employee ID 580

I request coverage under my employer's group insurance plan and authorize my employer to make deductions from my earnings of the required contributions, if any, toward the cost of the coverage.

Any person who knowingly and with intent to injure, defraud, or deceive any insurer files a statement of claim or an application containing any false, incomplete, or misleading information is guilty of a felony of the third degree.

Signature [Signature] Date 3-12-12

D-002 (6/06)

0458



Designation of Beneficiary Form

LUG2683_0809 DESIGNATION OF BENEFICIARY FORM

Enrollment Form

Underwritten by: United of Omaha Life Insurance Company

Brought to you by



Member Since

Employer Section (To be completed by the employer/plan administrator. Required fields are marked with an asterisk (*))

*Employer's Name: Star Food Products		*Effective Date:	Group ID: G000ADTA
Sub Group ID:	Location Code:	Class:	Occupation:
*Salary: ☐ Hourly ☐ Weekly ☐ Bi-Weekly ☐ Monthly ☐ Semi-Monthly ☐ Annually	*Date of Hire:		Hours Worked Per Week:

Employee Section (Please print clearly. Required fields are marked with an asterisk (*)) Enrollment ID: **2257**

*Last Name: McHone	*First Name: Bryan	MI: A
*Social Security Number: [REDACTED]	*Birth Date (MM/DD/YYYY): 1957	*Gender: ☒ Male ☐ Female
		*Marital Status: ☐ Single ☐ Married ☒ Divorced ☐ Widowed

Voluntary Life and AD&D Coverage Election

If you (the employee) are age 70 or older, the guaranteed amount available to you without answering health questions (Guaranteed Issue Amount) and the life insurance benefit amount you elect are subject to benefit reductions due to your age. At age 70, the guaranteed amount and the benefit you elect decrease to 85% of the original amount. At age 75, amounts decrease to 45%. At age 80, amounts decrease to 30%. At age 85, amounts decrease to 20%. At age 90, amounts decrease to 15%. As your life insurance benefit amount decreases, your premium amount will also decrease.

Employee and Dependent Coverage	Benefit Amount - Select One Option**	Weekly Premium Amount
Voluntary Life and AD&D - Employee	☐ \$20,000 ☐ \$30,000 ☐ \$70,000 ☒ \$100,000 ☐ Other \$ _____ ☐ Decline	\$ _____ \$ _____ \$ _____ \$ _____ \$ _____
Voluntary Life and AD&D - Spouse*	☐ \$10,000 ☐ \$25,000 ☐ \$35,000 ☐ \$50,000 ☐ Other \$ _____ ☐ Decline	\$ _____ \$ _____ \$ _____ \$ _____ \$ _____
Voluntary Life and AD&D - Child(ren)**	☒ \$10,000 (per child) ☐ Other \$ _____ ☐ Decline	\$42 (all children) \$ _____ \$ _____

If you are enrolling for Voluntary Term Life coverage in excess of the Guaranteed Issue Amount of 5 times your annual salary or \$100,000 (whichever is less), you must complete and submit an Evidence of Insurability form. The form is available from your employer, or is available online at http://www.mutualofomaha.com/customer_service/group_plan_member/forms.html.

The following eligibility guidelines apply for dependent coverage:

1. You must be age 65 or less for your dependent spouse to be eligible for coverage. Spouse coverage terminates when you (the employee) attain the age of 70. If any premium is paid for spouse coverage after you attain age 70, the premium will be refunded in accordance with the terms of the policy.

2. Your dependent child(ren) must be under age 21 (under age 25 if a full-time student). If any premium is paid for child(ren) coverage after your child(ren) attain the ending age, the premium will be refunded in accordance with the terms of the policy.

3. Dependents cannot enroll for coverage in excess of 50% of amount elected by you (the employee).



Bryan McHowell
7822 Dan Wyck Rd.
Lancaster, SC 29720

11/11

81-718/532

2507

Date

Pay

to the order of

\$

Dollars

@

100

WELLS FARGO BANK N.A.

For

PRINTED ON RECYCLED PAPER USING VEGETABLE-BASED INK

COMPANY, to initiate credit
for corrections, to my
named below to credit (or

STATE

TRANSIT/ROUTING NUMBER

ACCOUNT NUMBER

This authority is to remain in full force and effect until COMPANY has received written notification from me of
its termination in such time and in such manner as to afford COMPANY a reasonable opportunity to act on it.

NAME

SOCIAL SECURITY NUMBER

SIGNATURE

DATE

33T
M4890
2/17/12
2/17/12

0461

Logout Update Menu Reports Menu Merchant Menu Accounting Menu Transaction Reports Forms

Card Order

Company Name:	Star Food Products	
Account#:	[REDACTED]	
Dispatcher#:	6	Dispatcher Name: Bridget Terry
Reason for Request:	New Card ☒	
Replace Which Card#? (Enter Abbreviated 4-digit Card #)	[REDACTED]	
Unit#:	B. McHowell	
Driver#:	0770	
Driver Name:	Bryan McHowell	
Department#:	0003-Sales ☒	
Preferred Product:	Diesel Regular # 2 ☒	
Gallon Limit:	750	COMPANY STANDARDS
Fuel Limit:	1000	Fuel Reset: 750
Additive Limit:	50	Additive Reset: 50
Repair Limit:	[REDACTED]	Repair Reset:
Misc Limit:	50	Misc.Reset:
Note: Enter Limit Reset values to override company standards. Enter 0.00 to eliminate selected Limit Resets		

Submit Print Reset

00764999750211800

Background Search Results

Information Submitted by: KELLY Report date: 02/09/2012

Name: **MCHOWELL, BRYAN,**
Address: **7822 VAN WYCK RD.**
Birthdate: **[REDACTED] 1957**
Race:

Maiden: **/**
City: **LANCASTER**
SS#: **[REDACTED]**
Sex: **M**

Order: **755954**
State/Zip: **SC 29720**
DL#:

SEARCH RESULTS:

Search Type: CREDIT REPORT State: CR TRNU

my
Copy



SovereignScreening.com
333 So. State St., Suite V - #157
Lake Oswego, OR 97034
Local 540-450-0640
Toll Free 877-466-1129
Fax 540-450-0641
Info@sovereignscreening.com
sovereignscreening.com

Apex Background Checks
5710K High Point Rd, #197
Greensboro, NC 27407
Tel. (877) 232-3980
Fax. (866) 544-0041

Report ID: 102761

APPLICANT INFORMATION

Subject Name **BRYAN MCHOWELL**
SSN **[REDACTED]**
Order Date **02/09/2012 12:13.00 PM**
Completion Date **02/09/2012 12:13.00 PM**

Report Summary

Search ID Search Type
103056 Credit Report

Status
COMPLETE

Credit Report

Name Searched: **BRYAN MCHOWELL**
SSN Searched: **[REDACTED]**

Completion Date: **02/09/2012 12:13.00 PM**
Search Status: **COMPLETE**

Search ID. 103056

MERGE REPORT

Personal Information Since 05/01/76 FAD 02/09/12

		Reported	Bur
Alias	MCHOWELL, BRIAN		TU
Name	MCHOWELL, BRYAN A		TU
SSN	[REDACTED]		TU
Address	7822 VAN WYCK RD, LANCASTER, SC 29720	01/07	TU
Address	1189 SUMMIT DR, SPRINGTOWN, TX 76082	11/02	TU
Address	1 PO BOX 1, VAN WYCK, SC 29744		TU

Messages

Employment

Subject Name Employer Occupation	City, State Income	Hired Separated	Reported/Verified Last Updated	Bur
Mchowell, Bryan A GNC			10/04	TU
Mchowell, Bryan A WACCO SALES		01/75	07/76	TU

Credit Summary

Trades 28	Curr Accts 22	Revolving 18	30	2	Hist 30 22
Public Recs 1	Derogs 4	Installments 6	60	1	Hist 60 12
Collections 2	Open Trades 6	Mortgages 1	90	0	Hist 90 1
Inquiries 6	CLSD Trades 22	Other 3	120	0	
Type	High	Limit	Balance	Past Due	Payment %Avail
Revolving	\$51,522	\$51,500	\$50,708	\$335	\$386 2%
Installment	\$77,101	\$0	\$58,638	\$1,329	\$871 -
Mortgage	\$0	\$0	\$0	\$0	\$0 -
Other	\$0	\$0	\$0	\$0	\$0 -
Totals	\$128,623	\$51,500	\$109,346	\$1,664	\$1,257 -

Collections

Creditor SubCode Firm Acct#	DLA PAID PLCD CLSD	RPTD/VRFD ECOA MOP	Amt Bal Bal Date	Status Date	Remarks	Bur
MEDICAL [REDACTED] REC MGT CORP	10/09	01/12 Individual 9B	\$174 \$174		Placed for collection	TU
Mchowell, Bryan A 11 DISH NETWORK [REDACTED] CONVERGENT	08/11	10/11 Individual 9B	\$440 \$440		Placed for collection	TU
Mchowell, Bryan A						

Public Records

FILED/RPTD VRFD/CHKD SATIS/REL	Cust# Case# Type	Amt Asset Exempt	Defendant Plaintiff	Narr	Bur
04/05	[REDACTED]				TU
07/05	Chapter 7 bnkrptcy discharged ECOA: Individual Subj: Mchowell, Bryan A		Attor: GILBERT SCOTT BAGN Court: Federal District		

Revolving Accounts											
Acc Name/Address	RPTD DLA LSTPD	OPND CLSD/PD ECOA	High Limit	Current Status			Hist Status				Rating
				Pmt Term	Bal Date	PastDue	Mths	30	60	90	
CAP ONE Subcode: Bur: TU Subj: Mchowell, Bryan A Loan: CC Credit Card Remarks: CBL Chapter 7 bankruptcy	10/11	10/00 02/11C Individual	\$535 \$2,200		\$0	\$0	08	00	00	00	R1
GECRB/JCP Subcode: Bur: TU Subj: Mchowell, Bryan A Loan: CH Charge Account Remarks: CBG Account closed by credit grantor	01/12 10/04	06/01 04/05C Individual	\$90 \$1,500		\$0	\$0	48	00	00	00	R1
GECRB/RMSTGO Subcode: Bur: TU Subj: Mchowell, Bryan A Loan: CH Charge Account Remarks: CBL Chapter 7 bankruptcy	01/12 11/03	11/02 04/09C Individual	\$2,405 \$2,200		\$0	\$0	38	00	00	00	R1
GECRB/RMSTGO Subcode: Bur: TU Subj: Mchowell, Bryan A Loan: CH Charge Account Remarks: CBL Chapter 7 bankruptcy	01/12 05/04	11/02 04/09C Individual	\$2,405 \$2,700		\$0	\$0	32	00	00	00	R1
J DEERE CRDT Subcode: Bur: TU Subj: Mchowell, Bryan A Loan: CH Charge Account	04/05 11/04	04/03 11/04C Individual	\$12,200 \$12,500		\$0	\$0	01	00	00	00	R1
CHEVRON Subcode: Bur: TU Subj: Mchowell, Bryan	01/05 12/04	08/04 01/05C Individual	\$295 \$300		\$0	\$0	02	00	00	00	R1

A Loan: CC Credit Card Remarks: PAL Purchased by another lender								
GECRB/CHEVRO	01/12	08/04 03/08C Individual	\$0 \$300		\$0	\$0	45 00 00 00 111111111111 111111111111	R1
Subcode: XXXXXXXXXX Bur: TU Subj: Mchowell, Bryan A Loan: CH Charge Account Remarks: CLO Closed								
GECRB/SAMS	01/12	09/04 04/05C Individual	\$0 \$600		\$0	\$0	48 00 00 00 111111111111 111111111111	R1
Subcode: XXXXXXXXXX Bur: TU Subj: Mchowell, Bryan A Loan: CH Charge Account Remarks: CBG Account closed by credit grantor								
HSBC BANK	11/08 08/08	11/04 04/05C Individual	\$1,239 \$1,000		\$0	\$0		RUR
Subcode: XXXXXXXXXX Bur: TU Subj: Mchowell, Bryan A Loan: CC Credit Card Remarks: CBL Chapter 7 bankruptcy								
GECRB/LOWBRC	01/12 06/09	10/05 06/09C Individual	\$997 \$750		\$0	\$0	48 00 00 00 111111111111 111111111111	R1
Subcode: XXXXXXXXXX Bur: TU Subj: Mchowell, Bryan A Loan: CH Charge Account Remarks: CLO Closed								
HSBC BANK	03/09 03/09	08/07 03/09C Individual	\$3,614 \$3,000		\$0	\$0	19 01 01 00 111321111111 11111111	R1
Subcode: XXXXXXXXXX Bur: TU Subj: Mchowell, Bryan A Loan: CC Credit Card Remarks: CBG Account closed by credit grantor								
HSBC BANK	02/08 01/08	09/07 10/07C Individual	\$133 \$300	\$38 MIN	\$94	\$0	04 01 00 00 2111	R1
Subcode: XXXXXXXXXX Bur: TU Subj: Mchowell, Bryan A								

Loan: CC Credit Card Remarks: CBC Account closed by consumer								
GECRB/BELK Subcode: [REDACTED] Bur: TU Subj: Mchowell, Bryan A Loan: CH Charge Account Remarks: CBC Account closed by consumer	01/12	10/07 06/09C Individual	\$0 \$124		\$0	\$0	48 00 00 00 111111111111 111111111111	R1
GECRB/WALMAR Subcode: [REDACTED] Bur: TU Subj: Mchowell, Bryan A Loan: CH Charge Account Remarks: CBG Account closed by credit grantor	01/12 03/09	03/08 11/08C Individual	\$1,098 \$975		\$0	\$0	46 01 01 00 111111111111 111111111111	R1
ARROWPOINTE Subcode: [REDACTED] Bur: TU Subj: Mchowell, Bryan A Loan: LS Credit Line Secured	01/11 12/10	04/09 Individual	\$49,998 \$50,000	\$321 MIN	\$49,930	\$321	20 01 00 00 211111111111 11111111	R2
HSBC BANK Subcode: [REDACTED] Bur: TU Subj: Mchowell, Bryan A Loan: CC Credit Card Remarks: CBG Account closed by credit grantor	01/12 01/12	01/10 05/11C Individual	\$1,028 \$950	\$17 MIN	\$670	\$0	24 01 00 00 111111121111 111111111111	R1
GECRB/CHEVRO Subcode: [REDACTED] Bur: TU Subj: Mchowell, Bryan A Loan: CH Charge Account	01/12 12/10	03/10 12/10C Individual	\$118 \$300		\$0	\$0	22 01 00 00 111111111111 2111111111	R1
MARATHON ASH Subcode: [REDACTED] Bur: TU Subj: Mchowell, Bryan A Loan: CC Credit Card	07/11 06/11	08/10 03/11C Individual	\$363 \$250	\$10 Est.	\$14	\$14		R9B

Remarks: CLA Placed for collection							
Revolving Totals				\$386	\$50,708	\$335	

Installment Accounts										
Acc Name/Address	RPTD DLA LSTPD	OPND CLSD/PD ECO	Orig	Current Status			Hist Status			
				Pmt Term	Bal Date	PastDue	Mths	30	60	90
AMERICREDIT Subcode: Bur: TU Subj: Mchowell, Bryan A Loan: AU Automobile	01/12 12/11	10/06 Individual	\$22,103	\$399 75M	\$5,513	\$697	48	10	01	00
							122211122212			
							211111111111			
										I2
LNG BCH ACPT Subcode: Bur: TU Subj: Mchowell, Bryan A Loan: AU Automobile Remarks: TRF Transfer	12/07 12/07	10/06 12/07C Individual	\$22,103	\$400 72M	\$0	\$0	13	00	00	00
							111111111111			
							1			
										I1
ARROWPOINTE Subcode: Bur: TU Subj: Mchowell, Bryan A Loan: US Unsecured Remarks: CLO Closed	02/10 02/10	12/08 02/10C Individual	\$5,000	\$157 48M	\$0	\$0	13	00	00	00
							111111111111			
							1			
										I1
ARROWPOINTE Subcode: Bur: TU Subj: Mchowell, Bryan A Loan: LS Credit Line Secured	02/12 01/12	04/09 Individual	\$49,998	\$321 M	\$49,454	\$632	30	04	08	01
							333322134333			
							221111111111			
										I3
ARROWPOINTE Subcode: Bur: TU Subj: Mchowell, Bryan A Loan: SE Secured Remarks: CLO Closed	02/10 02/10	06/09 02/10C Individual	\$2,500	\$90 36M	\$0	\$0	07	00	00	00
							1111011			
										I1
ARROWPOINTE Subcode: Bur: TU Subj: Mchowell, Bryan A Loan: US Unsecured	02/12 01/12	08/10 Individual	\$5,000	\$151 51M	\$3,671	\$0	17	02	01	00
							111111111113			
							22111			
										I1
Installment Totals				\$871	\$58,638	\$1,329				

Open Accounts											
Acc Name/Address	RPTD DLA LSTPD	OPND CLSD/PD ECO	High Limit	Current Status			Hist Status			Rating	
				Pmt Term	Bal Date	PastDue	Mths	30	60		90
DSRM NT BK Subcode: Bur: TU Subj: Mchowell, Bryan A Loan: CH Charge Account	06/03	12/96 Auth User	\$0		\$0	\$0	38	00	00	00 111111111111 111111111111	O1
Open Totals				\$0	\$0	\$0					

Overdraft/Reserve Accounts											
Acc Name/Address	RPTD DLA LSTPD	OPND CLSD/PD ECO	High Limit	Current Status			Hist Status				Rating
				Pmt Term	Bal Date	PastDue	Mths	30	60	90	
WF/WB Subcode: Bur: TU Subj: Mchowell, Bryan A Loan: HE Home Equity Loan Remarks: CBL Chapter 7 bankruptcy	04/11 04/09	05/02 04/05C Joint	\$29,555 \$29,300		\$0	\$0					CUR
GECRB/LOWE P Subcode: Bur: TU Subj: Mchowell, Bryan A Loan: LC Line of Credit Remarks: CLO Closed	01/12 08/08	09/07 02/09C Individual	\$1,885 \$2,500		\$0	\$0	48	00	00	00 111111111111 111111111111	C1
Overdraft/Reserve Totals				\$0	\$0	\$0					

Mortgage Accounts											
Acc Name/Address	RPTD DLA LSTPD	OPND CLSD/PD ECO	Orig	Current Status			Hist Status				Rating
				Pmt Term	Bal Date	PastDue	Mths	30	60	90	
BK OF AMER Subcode: XXXXXXXXXX Bur: TU Subj: Mchowell, Bryan A Loan: CV Conventional RE Mortgage	07/10 07/10	07/98 Individual	\$71,900	\$834 360M			48	00	00	00 11111110111 1111111000111	M1
Mortgage Totals				\$0	\$0	\$0					

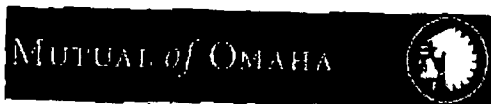
Inquiries				
Date	Name Acct#	Subscriber	Inq/Loan	Bureau
02/09/12	Apex		Inq: Individual Loan: Employment	TU - Mchowell, Bryan A
08/20/11	T-MOBILE		Inq: Individual	TU - Mchowell, Bryan A
04/29/11	ACB RECOVERY		Inq: Individual	TU - Mchowell, Bryan A
06/17/10	AMEX		Inq: Individual	TU - Mchowell, Bryan A

02/20/10	CBNA	[REDACTED]	Inq: Individual	TU - Mchowell, Bryan A
02/18/10	GECRB/CHEVRN	[REDACTED]	Inq: Individual	TU - Mchowell, Bryan A

Trans Union Referral:

TRANSUNION
2 BALDWIN PLACE, P.O. BOX 1000
CHESTER, PA 19022
(800) 888-4213

END OF REPORT

[Return to Main Menu](#) | [Log Out](#)

Web Administration

G000ADTA - Star Food Products

[Print this page](#)

New Enrollment

Bryan McHowell

Your new enrollment has been successfully completed.
Keep enrollment documentation for your records, do not submit documentation to Mutual of Omaha.
To review enrollment selections and premium, use [Review Selections](#).

[Back to Web Administration](#)

G000ADTA - Star Food Products

Summary for Bryan McHowell

Participant Detail

Participant ID: [REDACTED]
Hire Date: 02/03/2012
First Name: Bryan Middle Name: Last Name: McHowell
Gender: Male Birth Date: [REDACTED]

Employment Detail

Bill Group: 0001 Star Food Products Class: A002 All elig buyers, sales personnel and shipping/transport/QC mngr emp.

Coverage Selection

Coverage	Initial Benefit Effective Date	Volume	Tier
Life	05/01/2012		
AD&D	05/01/2012		
LTD	05/01/2012		

Coverage Detail

Salary / Earnings

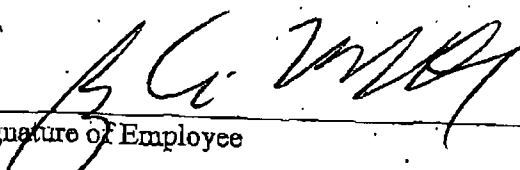
Type	Amount	Frequency
Basic Salary/Hours Worked	\$600.00	Weekly
Commissions	\$0.00	Weekly

Web Administration [help](#).
How we protect your [privacy](#).
Please read our [terms and conditions](#).

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STAR FOOD PRODUCTS, INC.

My signature and date below signifies that I have received and read the "Star Food Products, Inc. Policy and Procedures Manual/Sales Department".



Signature of Employee

2-7-12
Date

STAR FOOD PRODUCTS, INC.

Job Description

TITLE: Route Salesman

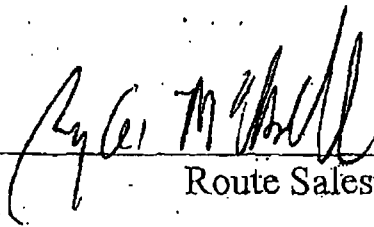
REPORTS TO: District Manager

SUMMARY: Sells, delivers, and services full product line of Star products to existing customers and seeks out new customers in designated route area.

Essential duties and responsibilities include the following
(other duties may be assigned):

- Strives to exceed customers expectations and to achieve total customer satisfaction in every situation, every day.
- Sells and delivers product directly to existing accounts via route truck in accordance with Star's 10-Step Plan.
- Aggressively prospect for New Customers.
- Writes orders, collects money (where applicable).
- Services customers by stocking, rotating stock, merchandising products, selling in new items, and performing whatever duties are necessary to maintain customer satisfaction.
- Set up sales promotion displays and issues sales promotion material to customer.
- Responsible for preparing for, ordering properly, and executing promotions for maximum sales and profitability.

- Exceeds sales quota and new product placement on a consistent basis.
- Maintains a neat, professional appearance and dresses in accordance with Star Food Products, Inc. dress code at all times.
- Present and sell New Products (line extensions) into existing customers.
- Checks voice mail and written mail on a daily basis and responds or reacts accordingly.



Route Salesman

Star Food Products, Inc.
Fleet Safety Program

This fleet safety program covers all employees designated as "drivers" in Star Food Products, Inc. personnel files. It includes drivers that are assigned vehicles as well as persons operating vehicles controlled by Star Food Products, Inc. Persons assigned company vehicles cannot relay authorization to operate a company vehicle without authorization from fleet management.

Guidelines For Evaluating Motor Vehicle Reports

1. A driver is considered "unacceptable" if involved in :

a) One (1) of the following occurrences during the previous three year period:

- Reckless or negligent driving
- Driving while impaired or under the influence of alcohol or drugs
- Homicide by vehicle, negligent homicide, or involuntary manslaughter
- Fleeing or attempting to elude police officers
- Driving without a license or while license is suspended or revoked
- Hit and run or failure to stop after an accident
- Evading responsibility after an accident

2. A driver is considered "questionable" if involved in :

a) One (1) of the following occurrences during the previous three year period:

- Major speeding (20 or more MPH over limit)

b) Two (2) or more of the following occurrences during a three (3) year period.

- Speeding (less than 20 MPH over limit)
- Speed greater than reasonable or prudent or too fast for conditions
- Failure to yield
- Failure to obey traffic sign or signal
- Following too closely
- Careless operation of vehicle
- Any other moving violation
- "At-fault" accident

c) Three (3) of the following occurrences during the previous three year period:

- Defective equipment
- Oversize or overweight load
- Operating without required equipment or warnings
- Other equipment violations
- Preventable accidents

3. A driver is considered unacceptable when he has already been deemed "questionable" and another violation occurs.

For purposes of this evaluation, speeding violations are assumed to be major violations unless otherwise specified, and all accidents considered "at fault" unless the facts indicate otherwise.

4. The total driving record, both business and personal use, of each driver is to be considered in evaluating any risk. Any driver who has violations or accident on personal business will carry these poor driving habits over into business use.

1. Company Requirements of Drivers

- A. A driver's qualification form will be kept on all drivers and will be updated annually. It will be made available to employee upon request.
- B. All drivers must be familiar with this policy and are required to sign an agreement to abide by its directives before they can be qualified and authorized to operate company owned or leased vehicles.
- C. All accidents, whether during work or personal time, whether in a company vehicle or personal vehicle, must be reported to the transportation office within 24 hours of the incident. An "Accident Reporting Kit" should be in each vehicle and filled out as completely as possible and turned in to the transportation office on any accident involving a company vehicle. As part of an accident where the employee is found contributory, said employee may be required to submit to drug and alcohol testing in the course of the investigation.

- D. Drivers will be determined at fault based on police reports, driver's statements, and witness statements as well as any other data gathered in the accident investigation. This information will be submitted to the executive safety committee who will meet with the driver to reach a final determination. If a driver reaches a critical point in his driving history, a consultation with the safety committee is warranted. If further training, or schooling or other action is recommended, the driver must comply.
- E. All traffic citations (tickets), whether in a personal or company vehicle, must be reported to the transportation office within three (3) working days of such citation.

II. Company Rules

A portion of an employee's annual evaluation will be based on the employee's driving habits as well as their care and maintenance of company vehicles.

Violations of the fleet safety training program will be considered as well.

- A. Seat belts will be worn while operating or riding in a company vehicle.
- B. Drivers using cell phones must use discretion at all times.
- C. Attend safety meetings.

Make sure you read the policy carefully and understand it. Please print your name in the first blank, sign and date it. A second copy has been provided for you to keep. All questions should be directed to fleet management or the executive safety committee.

I, Boyd A. McHowell, employed by Star Food Products, Inc. do hereby agree to abide by the fleet safety program as outlined above. In so signing, I agree to abide by all directives and requests that are made in compliance with this program.


Signature

2-7-12
Date

WORKPLACE INJURIES

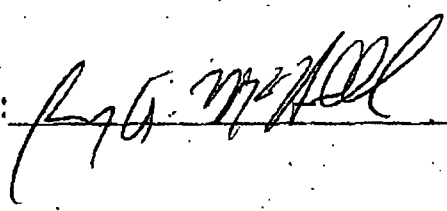
Please READ and SIGN and RETURN

All work related injuries or accidents, regardless of how insignificant the injury may appear, must be reported to the office immediately. Please speak with the Insurance Administrator.

In addition, if you see a doctor you must obtain from them a signed form stating your work status. Return this physicians form to the Insurance Administrator. In addition, if you are required to be off from work due to this injury, you must call in each day to your Manager or Insurance Administrator to report your status.

These actions are necessary to comply with laws and initiate insurance and workers compensation benefits.

I HAVE READ AND UNDERSTAND THESE PROCEDURES.

SIGNED: 

DATE: 2-7-12

April 9, 2002

Star

Star Food Products, Inc.

REFRIGERATED
FOODS
ASSOCIATION

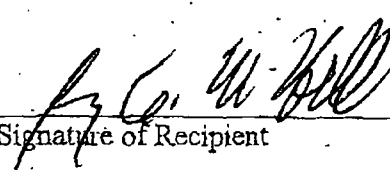
P. O. BOX 1479 • 727 S. SPRING ST. • BURLINGTON, N. C. 27216-1479 • 336/227-4079

TO: Sales Force

FROM: Steve Tilley - Director of Sales

It is the responsibility of the salesperson to replace hand trucks that are either lost or stolen.

Your signature acknowledges that you have read and will comply with this agreement.


Signature of Recipient

2-7-12
Date Received

Signature of Deliverer

Date relinquished

Signature of D M

Date relinquished

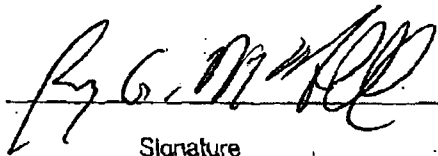
Memo

To: All employees
From: Joyce
CC:
Date: March 11, 2003
Re: Family and medical leave policy

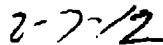
Enclosed is an important policy that I want to make sure everyone is aware of. Please make sure you read it carefully and save it for future reference.

It is important that I have proof you have received this memo and attachment. Please sign the bottom of this memo and return to me right away.

Thanks,



Signature



Date

Remember, in today's work environment it is better to be sure that all work related relationships are respectful and appropriate for business. Most companies, Star Food Products included, have a no tolerance policy for any type of sexual harassment. If a customer or vendor files a complaint, an investigation is usually conducted. That customer or vendor can decide that a salesperson or truck driver is no longer welcome at their store or even their chain of stores. If this is the case the salesperson or truck driver will be unable to perform the duties that he/she has been hired for and action will have to be taken by Star Food Products up to and including termination.

Employees who feel they are victims of sexual harassment should promptly tell the offending person directly that the conduct in question is unwelcome and that you expect them to stop immediately. It is also a good idea to inform your immediate supervisor and/or Human Resources in confidence if you are experiencing this type of conduct from any other employee, customer or vendor employee. Remember the only way to stop behavior is to stop it in the beginning. Many times this type of situation can be turned around if the harasser feels rejected. Another important point to remember is that any form of retaliation against an employee for filing a sexual harassment charge, reporting an incident or acting as a witness in an investigation is illegal.

Remember you are a representative of Star Food Products and should conduct yourself in a courteous and respectful manner.

I have read and understood the training material on the topic of Sexual Harassment:

Bryan A. McHale /

2-7-12

Print Name

Date

[Signature]

Signature

Star Food Products, Inc.



2050-A Willow Spring Lane • Burlington, NC 27216-1479 • 336/227-4079

Memo

To: All Employees
From: Norman Mabry
Date: 1/24/2012
Re: Cell Phone Policy While Driving

New DOT Law regarding cell phone usage: \$392.82 Using a hand-held mobile telephone-

- (A) (1) No driver shall use a hand-held mobile telephone while driving a CMV.
(2) No motor carrier shall allow or require its drivers to use a hand-held mobile telephone while driving a CMV.

(B) *Definitions.* For the purpose of this section only, *driving* means operating a commercial motor vehicle on a highway, including while temporarily stationary because of traffic, traffic control device, or other momentary delays. Driving does not include operating a commercial motor vehicle when the driver has moved the vehicle to the side of, or off, a highway and has halted in a location where the vehicle can safely remain stationary.

(C) *Emergency exception.* Using a hand-held mobile telephone is permissible by drivers of a CMV when necessary to communicate with law enforcement officials or other emergency services. [76 FR 76487 Dec. 2, 2011]

There is a fine of \$2,750 for the DRIVER for each offense and disqualification from operating a CMV for multiple offenses for all CMV drivers violating this restriction. In addition the company can incur fines of up to \$11,000 for each offense as well.

It is well supported by accident statistics that using a cellular phone, either a hand-held or a hand-free model, while operating a motor vehicle distracts a driver's attention from traffic conditions. To help reduce the possibility of a vehicle accidents in connection with the use of cellular phones Star Food Products, Inc. has adopted a cellular phone policy applicable to all employees while driving a company vehicle at any time, or while driving any other vehicle (rented, leased, borrowed or their own vehicle) while conducting company business. The policy includes, but is not limited to, the following:

- 1) Star Food Products, Inc requires that all employees comply with all DOT laws and regulations including this new ban on the use of hand-held mobile telephones while driving any CMV.
- 2) Cell phone calls, incoming or outgoing, are discouraged while driving any vehicle.
- 3) The cell phone voicemail feature should be on to store incoming calls while driving.
- 4) All calls should be made after the vehicle is safely parked.
- 5) Accidents incurred while the employee driver is using a cell phone may be considered to be preventable, and the employee/driver is subject to disciplinary actions and responsible for fines.

Please complete the section below acknowledging that you have read and understand the above cell phone policy and return to Bridget Terry by January 9, 2012.

If you have any questions, please contact me at 338-227-4079 x112.

Signature

Printed Name:

Bryan H. Mabry

Date:

2-7-12

Memo

To: All employees
From: Joyce
CC:
Date: July 31, 2008
Re: Vet-100 Survey Form

Because we sell to the military commissaries we must meet certain guidelines and submit required reports. In order to complete the VET-100 report I need the following information on everyone. Please complete this brief form and return to the office as soon as possible.

- ☒ Not a veteran (sign form and return)
- ☐ Special disabled veteran (check if either or both apply to you)
- A veteran who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Department of Veterans Affairs for a disability (a) rated at 30 percent or more, or (b) rated at 10 or 20 percent in the case of a veteran who has been determined under Section 1506 to Title 38, U.S.C. to have a serious employment handicap.
 - A veteran who was discharged or released from active duty because of a service-connected disability.
- ☐ Veteran of the Vietnam-Era (check if either or both apply to you)
- A veteran who served on active duty for a period of more than 180 days, and was discharged or released there from with other than a dishonorable discharge, if any part of such active duty occurred: (1) in the Republic of Vietnam between 2/28/61 and 5/7/75; or (2) between 8/5/64 and 5/7/75 in all other cases.
- ☐ Other veterans (check if either or both categories apply to you)
- A veteran with active duty service at any point between 12/7/41 and 4/28/52.
 - A veteran who served on active duty in a campaign or expedition for which a campaign badge has been authorized. A veteran qualifies under this criterion ONLY based upon military service IN the identified campaign or expedition and NOT simply based on any military service during the time of the campaign or expedition. The campaign badges, service medal, and expeditionary medals that qualify under this criterion will be listed on the veteran's Armed Forces of the U.S. Report of Transfer or Discharge, "commonly known as the "DD-214" if the veteran meets this criterion.
- List campaign(s) you served in: _____
- ☐ Newly separated veterans
- A veteran discharged or released from active duty within the last one year period.
- Date of release from service: _____

Signed

[Signature]

Date

2-7-12



Star Food Products, Inc.

Salads and Spreads

2050-A Willow Springs Lane • Burlington, NC 27216-1479 • 336/227-4079

With the goal of providing a safe, drug free workplace, Star Food Products, Inc is implementing the attached Alcohol and Substance Abuse Policy which, effective immediately, will apply to all Star Food Products, Inc. employees.

You will see that "DOT regulation" is referenced throughout the policy. This simply means that the standards set forth by the Department of Transportation are the standards we adhere to for ALL employees, whether or not that employee drives in their capacity as an employee of Star Food Products.

By signing this form, I acknowledge that I have received and read a copy of the Star Food Products, Inc. Alcohol and Substance Abuse Policy. I understand that I am required to adhere to this policy and will be held accountable for any violation of this policy.

Date: 2-7-12

Employee Name (Printed): Bryan A. McHowell

Employee Signature: [Signature]

Witness Name (Printed): Bridget Terry

Witness Signature: [Signature]

**STATE OF SOUTH CAROLINA
NEW HIRE REPORTING FORM**

EMPLOYER IDENTIFICATION

EMPLOYER NAME <i>Star Food Products, Inc</i>		
EMPLOYER ADDRESS <i>PO Box 1479</i>		
EMPLOYER CITY <i>Burlington</i>	STATE <i>NC</i>	ZIP <i>27216</i>
EMPLOYER FEDERAL ID NO. [REDACTED]	EMPLOYER PHONE NO. <i>336-227-4079</i>	

NEW OR REHIRED EMPLOYEE INFORMATION

EMPLOYEE NAME <i>Bryan A. McFowell</i>		
EMPLOYEE ADDRESS <i>7822 Van Wyck Rd</i>		
CITY <i>Lancaster</i>	STATE <i>SC</i>	ZIP <i>29720</i>
DATE OF HIRE <i>2-3-12</i>	SSN [REDACTED]	DATE OF BIRTH [REDACTED] <i>57</i>

EMPLOYEE NAME		
EMPLOYEE ADDRESS		
CITY	STATE	ZIP
DATE OF HIRE	SSN	DATE OF BIRTH

EMPLOYEE NAME		
EMPLOYEE ADDRESS		
CITY	STATE	ZIP
DATE OF HIRE	SSN	DATE OF BIRTH

EMPLOYEE NAME		
EMPLOYEE ADDRESS		
CITY	STATE	ZIP
DATE OF HIRE	SSN	DATE OF BIRTH

Mail completed form to: South Carolina Department of Social Services, Child Support Enforcement Division, Attn: New Hire Reporting Program, PO Box 1469, Columbia, SC 29202-1469. Or fax completed form to: (803) 898-9100. Phone: (803) 898-9235 or 1-888-454-5294.

0485

scnewhire.com

► **Reporting Verification**

FEIN [REDACTED]
Employer Name Star Food Products, Inc
Employer Address 2050A Willow Springs Lane
Burlington, NC 27215
Employer Phone 336-227-4079

[Logout](#)

[Edit Employer Information](#)

On 16 Feb 2012, you reported the following employees:

[Add](#) [Edit](#)

[REDACTED] Bryan McHowell

[Add Employee](#)

If you did not submit ALL of the employees listed above or if you submitted an employee that is not listed above, please contact us immediately.

Reminder: You are required to report all newly hired employees to the New Hire Reporting Program within 20 days of hiring.

Multi-state employers should [click here](#) for special options and instructions.

► **Next Employer** - Click here if you need to report newly hired or rehired employees for another employer.

► **Contact Information**

You may contact us at:

New Hire Reporting Program
South Carolina Department of Social Services
P.O. Box 1469
Columbia, SC 29202-1469
Phone: (803)898-9235
Fax: (803)898-9100
E-mail: help@scnewhire.com

scnewhire.com

Star Food Products, Inc.

2050-A Willow Springs Lane • Burlington, NC 27216-1479 • 336/227-4079



Workers Comp Information

Starategic Comp Services

PO Box 1445, Alpharetta, GA 30009

Phone: 770-225-3532

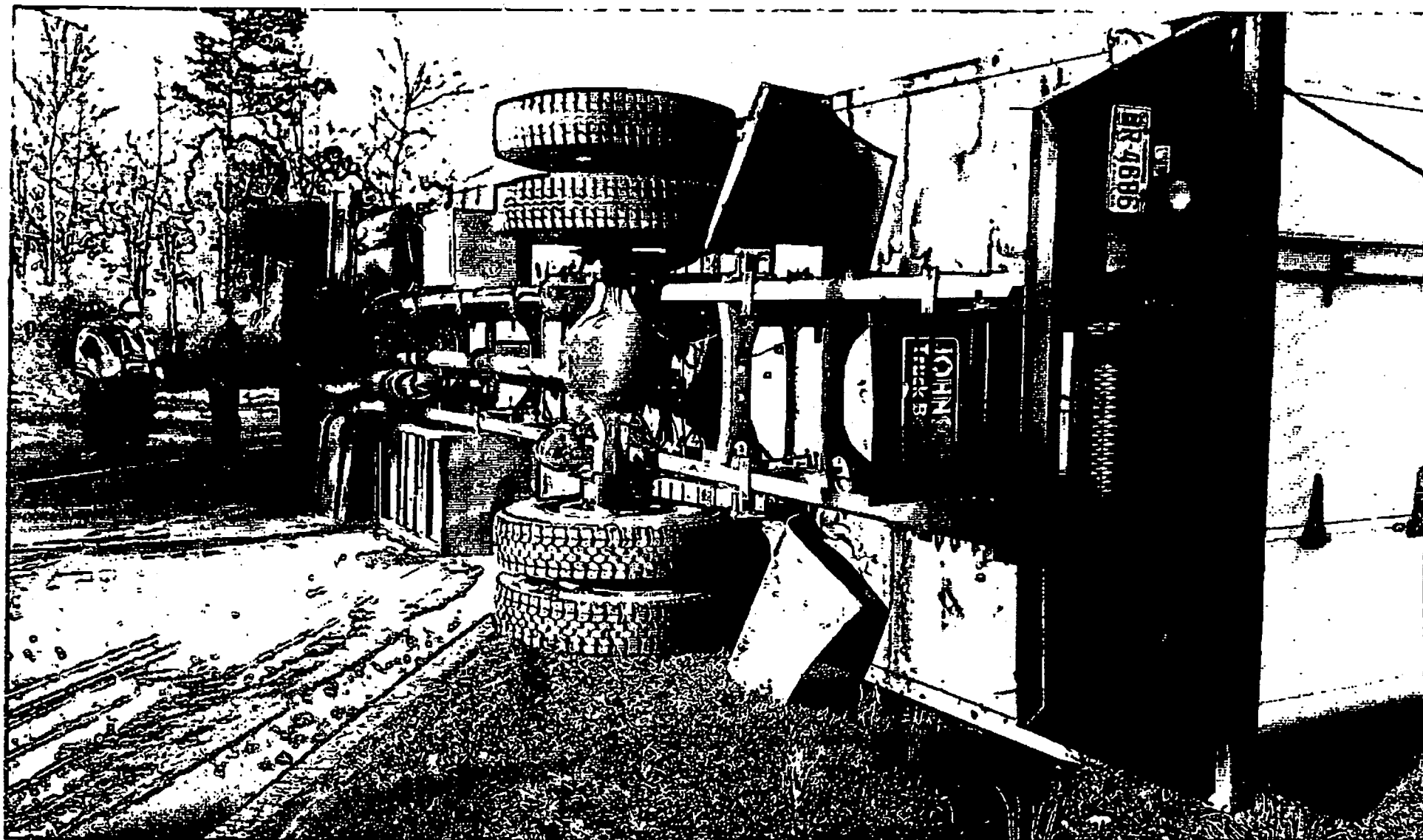
Fax: 770-225-3581

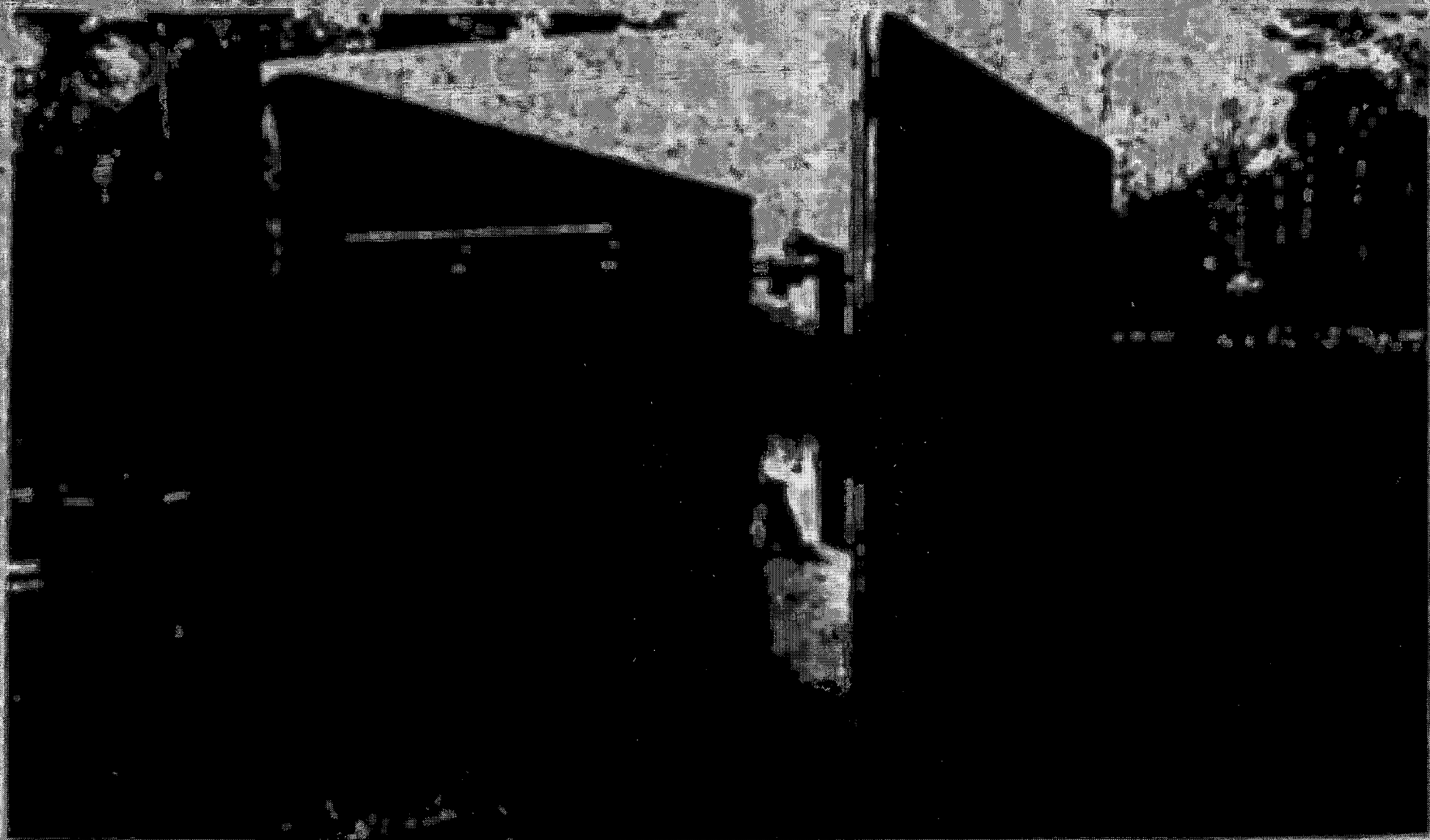
INJURY REPORT FOR WORKMEN'S COMP

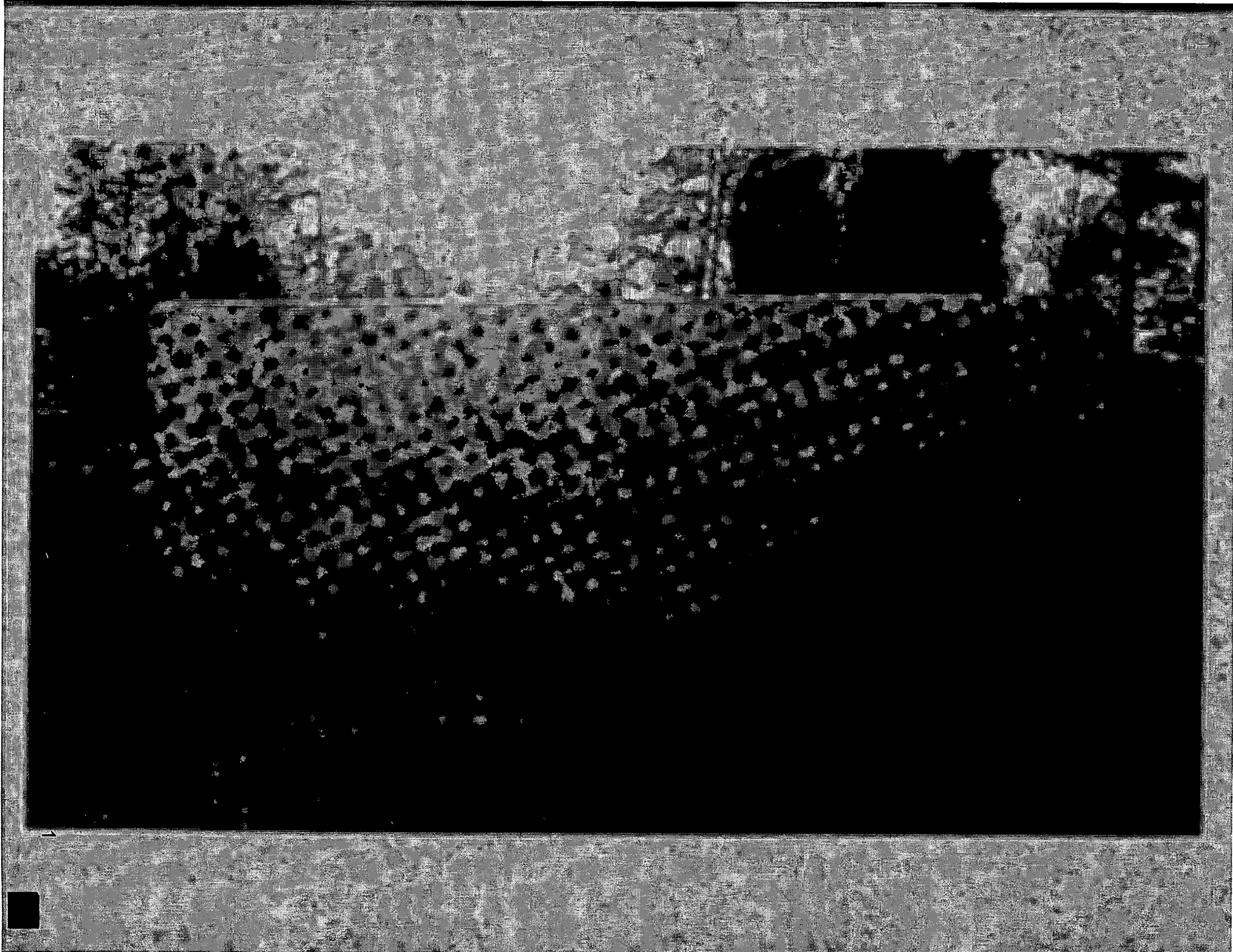
DOI	03/06/12
Called in to Office	04/23/12
Called in to W/C	04/23/12
Conf #	116501444
Claim #	
Employee:	Bryan McHowell
Address:	7822 Van Wyck Rd., Lancaster, SC 29720
County:	Lancaster
Home Phone #	803-286-9772
Cell:	803-287-4780
DOB:	
SS#	
Manager:	Stephen Laney
Cell#	336-213-1470
Date occurred	3/6/2012
Time occurred:	4:30 PM
Time started work:	6:00 AM
Where occurred:	Hwy 75 in Van Wyck, SC
Job title:	Route Salesman
Date of hire:	2/3/2012
Single/Married & #dependents:	S-3
Rate of Pay:	Commission Based
What happened:	Emp was proceeding East on hwy 75 when oncoming traffic swerved into his lane, emp swerved to right into red clay and truck flipped on side. Employee landed full force on left shoulder into drivers door. Left shoulder was bruised, swollen, stiff, and sore.
Treatment	Lancaster Orthopedic-Dr. Aaron O'malley 803-285-3700 W. Meeting St., Lancaster
Any witnesses?	No

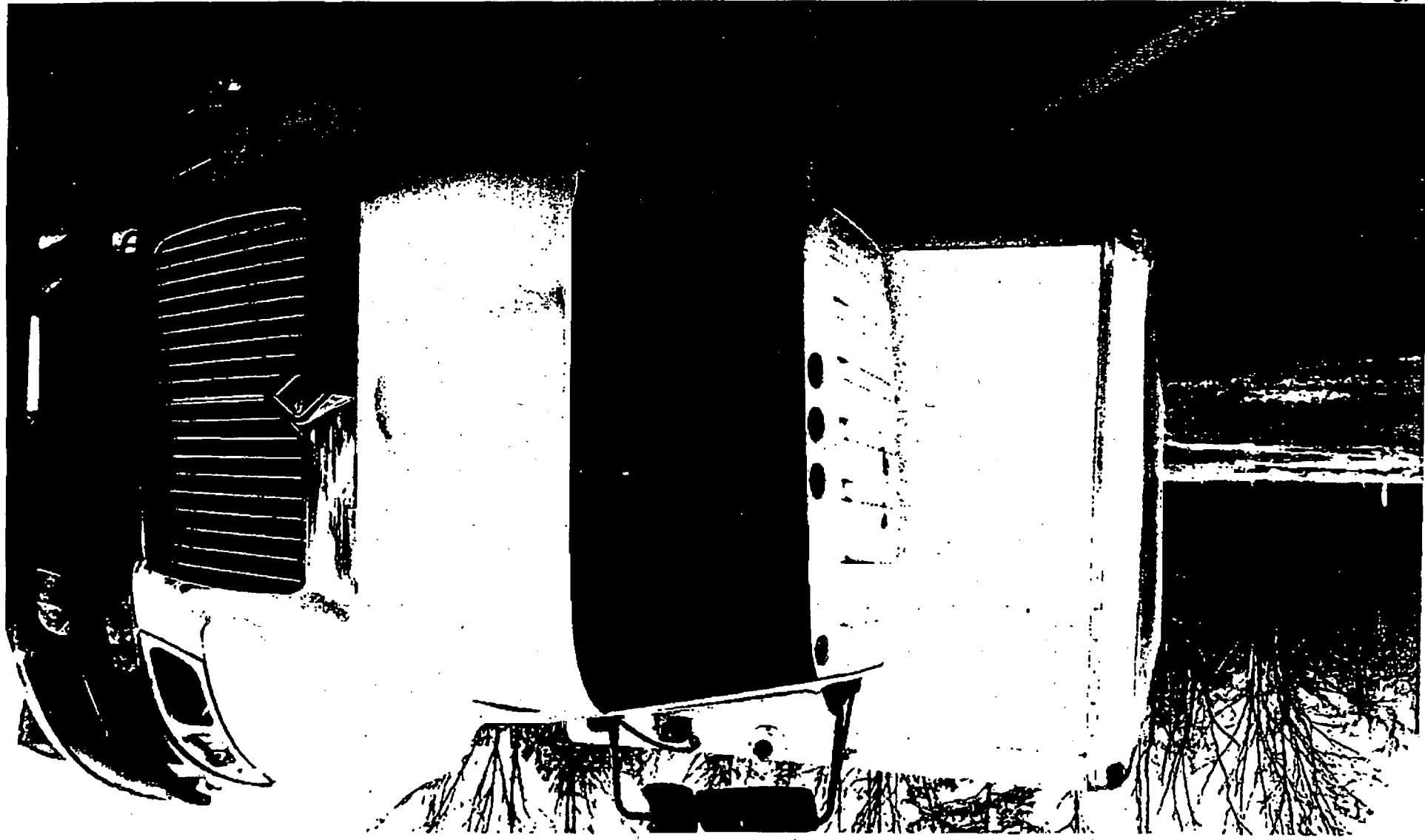
Star Food Products Contact: Bridget Hollis 336-227-4079 x112













Medical Examination Report FOR COMMERCIAL DRIVER FITNESS DETERMINATION

649-F (6045)

1. DRIVER'S INFORMATION Driver completes this section

Driver's Name (Last, First, Middle) McHowell Bryan A	Social Security No. [REDACTED]	Birthdate [REDACTED] M/D/Y	Age 44	Sex ☒ M ☐ F	New Certification ☒ Recertification ☐ Follow-up ☐	Date of Exam 2-7-12
Address 7812 VAN DYKE RD	City, State, Zip Code LANCASTER, SC 29120	Work Tel: () 336-222-6885 Home Tel: 803-297-4780	Driver License No. [REDACTED]	License Class ☒ A ☐ C ☐ B ☐ D ☐ Other	State of Issue SC	

2. HEALTH HISTORY Driver completes this section, but medical examiner is encouraged to discuss with driver.

Yes No ☒ ☐ Any illness or injury in the last 5 years? ☐ ☒ Head/Brain injuries, disorders or illnesses ☐ ☒ Seizures, epilepsy <u> </u> medication ☐ ☒ Eye disorders or impaired vision (except corrective lenses) ☐ ☒ Ear disorders, loss of hearing or balance ☐ ☒ Heart disease or heart attack; other cardiovascular condition <u> </u> medication ☐ ☒ Heart surgery (valve replacement/bypass, angioplasty, pacemaker) ☐ ☒ High blood pressure <u> </u> medication ☐ ☒ Muscular disease ☐ ☒ Shortness of breath	Yes No ☐ ☒ Lung disease, emphysema, asthma, chronic bronchitis ☐ ☒ Kidney disease, dialysis ☐ ☒ Liver disease ☐ ☒ Digestive problems ☒ ☒ Diabetes or elevated blood sugar controlled by: ☒ diet ☐ pills ☐ insulin ☐ ☒ Nervous or psychiatric disorders, e.g., severe depression <u> </u> medication ☐ ☒ Loss of, or altered consciousness	Yes No ☐ ☒ Fainting, dizziness ☐ ☒ Sleep disorders, pauses in breathing while asleep, daytime sleepiness, loud snoring ☐ ☒ Stroke or paralysis ☐ ☒ Missing or impaired hand, arm, foot, leg, finger, toe ☐ ☒ Spinal injury or disease ☐ ☒ Chronic low back pain ☐ ☒ Regular, frequent alcohol use ☐ ☒ Narcotic or habit forming drug use

For any YES answer, indicate onset date, diagnosis, treating physician's name and address, and any current limitation. List all medications (including over-the-counter medications) used regularly or recently.

gastroc by pass 10/2010, carpal tunnel 2011 Dr. F. R. S. Sharp
Tedderland, SC

I certify that the above information is complete and true. I understand that inaccurate, false or missing information may invalidate the examination and my Medical Examiner's Certificate.

Driver's Signature [Signature]

Date

Medical Examiner's Comments on Health History (The medical examiner must review and discuss with the driver any "yes" answers and potential hazards of medications, including over-the-counter medications, while driving. This discussion must be documented below.)

off all medicines, doing well -

TESTING (Medical Examiner completes Section 3 through 7) Name: Last, _____ First, _____ Middle, _____

3. VISION Standard: At least 20/40 acuity (Snellen) in each eye with or without correction. At least 70 degrees peripheral in horizontal meridian measured in each eye. The use of corrective lenses should be noted on the Medical Examiner's Certificate.

INSTRUCTIONS: When other than the Snellen chart is used, give test results in Snellen-comparable values. In recording distance vision, use 20 feet as normal. Report visual acuity as a ratio with 20 as numerator and the smallest type read at 20 feet as denominator. If the applicant wears corrective lenses, these should be worn while visual acuity is being tested. If the driver habitually wears contact lenses, or intends to do so while driving, sufficient evidence of good tolerance and adaptation to their use must be obvious. *Monocular drivers are not qualified.*

Numerical readings must be provided.

ACUITY	UNCORRECTED	CORRECTED	HORIZONTAL FIELD OF VISION
Right Eye	20/	20/ 25	Right Eye 90°
Left Eye	20/	20/ 25	Left Eye 90°
Both Eyes	20/	20/ 20	

Applicant can recognize and distinguish among traffic control signals and devices showing standard red, green, and amber colors? ☒ Yes ☐ No

Applicant meets visual acuity requirement only when wearing: ☒ Corrective Lenses

Monocular Vision: ☐ Yes ☒ No

Complete next line only if vision testing is done by an ophthalmologist or optometrist

Date of Examination _____ Name of Ophthalmologist or Optometrist (print) _____ Tel. No. _____ License No./ State of Issue _____ Signature _____

4. HEARING Standard: a) Must first perceive forced whispered voice $\geq$ 5 ft., with or without hearing aid, or b) average hearing loss in better ear $\leq$ 40 dB
☐ Check if hearing aid used for tests. ☐ Check if hearing aid required to meet standard.

INSTRUCTIONS: To convert audiometric test results from ISO to ANSI, -14 dB from ISO for 500Hz, -10dB for 1,000 Hz, -8.5 dB for 2000 Hz. To average, add the readings for 3 frequencies tested and divide by 3.

Numerical readings must be recorded.

a) Record distance from individual at which forced whispered voice can first be heard.	Right ear 10 \ Feet	Left Ear 10 \ Feet

b) If audiometer is used, record hearing loss in decibels. (acc. to ANSI Z24.5-1951)

Right Ear			Left Ear		
500 Hz	1000 Hz	2000 Hz	500 Hz	1000 Hz	2000 Hz
Average:			Average:		

5. BLOOD PRESSURE/PULSE RATE Numerical readings must be recorded. Medical Examiner should take at least two readings to confirm BP.

Blood Pressure: Systolic 126 Diastolic 82
 Driver qualified if $\leq$ 140/90.
 Pulse Rate: ☒ Regular ☐ Irregular
 Record Pulse Rate: 90

Reading	Category	Expiration Date	Recertification
140-159/90-99	Stage 1	1 year	1 year if $\leq$ 140/90. One-time certificate for 3 months if 141-159/91-99.
160-179/100-109	Stage 2	One-time certificate for 3 months.	1 year from date of exam if $\leq$ 140/90
$\geq$ 180/110	Stage 3	6 months from date of exam if $\leq$ 140/90	6 months if $\leq$ 140/90

6. LABORATORY AND OTHER TEST FINDINGS Numerical readings must be recorded.

Urinalysis is required. Protein, blood or sugar in the urine may be an indication for further testing to rule out any underlying medical problem.

Other Testing (Describe and record) _____

URINE SPECIMEN	SP. GR	PROTEIN	BLOOD	SUGAR
71.030	30mg/dl	neg	neg	neg

copy of U/A given - Fl. w/ PCP
 DR

7. PHYSICAL EXAMINATION

Height: 6'1" (in.) Weight: 225 (lbs.)

Name: Last,

First,

Middle,

The presence of a certain condition may not necessarily disqualify a driver, particularly if the condition is controlled adequately, is not likely to worsen or is readily amenable to treatment. Even if a condition does not disqualify a driver, the medical examiner may consider deferring the driver temporarily. Also, the driver should be advised to take the necessary steps to correct the condition as soon as possible particularly if the condition, if neglected, could result in more serious illness that might affect driving.

Check YES if there are any abnormalities. Check NO if the body system is normal. Discuss any YES answers in detail in the space below, and indicate whether it would affect the driver's ability to operate a commercial motor vehicle safely. Enter applicable item number before each comment. If organic disease is present, note that it has been compensated for. See *Instructions to the Medical Examiner* for guidance.

BODY SYSTEM	CHECK FOR:	YES*	NO	BODY SYSTEM	CHECK FOR:	YES*	NO
1. General Appearance	Marked overweight, tremor, signs of alcoholism, problem drinking, or drug abuse.		☒	7. Abdomen and Viscera	Enlarged liver, enlarged spleen, masses, bruise, hernia, significant abdominal wall muscle weakness.		☒
2. Eyes	Pupillary equality, reaction to light, accommodation, ocular motility, ocular muscle imbalance, extraocular movement, nystagmus, exophthalmos. Ask about retinopathy, cataracts, aphakia, glaucoma, macular degeneration and refer to a specialist if appropriate.		☒	8. Vascular System	Abnormal pulse and amplitude, carotid or arterial bruise, varicose veins.		☒
3. Ears	Scarring of tympanic membrane, occlusion of external canal, perforated eardrums.		☒	9. Genito-urinary System	Hernias.		☒
4. Mouth and Throat	Irremediable deformities likely to interfere with breathing or swallowing.		☒	10. Extremities- Limb impaired. Driver may be subject to SPE certificate if otherwise qualified.	Loss or impairment of leg, foot, toe, arm, hand, finger, Perceptible limp, deformities, atrophy, weakness, paralysis, clubbing, edema, hypotonia. Insufficient grasp and prehension in upper limb to maintain steering wheel grip. Insufficient mobility and strength in lower limb to operate pedals properly.		☒
5. Heart	Murmurs, extra sounds, enlarged heart, pacemaker, implantable defibrillator.		☒	11. Spine, other musculoskeletal	Previous surgery, deformities, limitation of motion, tenderness.		☒
6. Lungs and chest, not including breast examination	Abnormal chest wall expansion, abnormal respiratory rate, abnormal breath sounds including wheezes or alveolar rales, impaired respiratory function, cyanosis. Abnormal findings on physical exam may require further testing such as pulmonary tests and/ or xray of chest.		☒	12. Neurological	Impaired equilibrium, coordination or speech pattern; asymmetric deep tendon reflexes, sensory or positional abnormalities, abnormal patellar and Babinski's reflexes, ataxia.		☒

*COMMENTS:

Note certification status here. See *Instructions to the Medical Examiner* for guidance.

- ☐ Meets standards in 49 CFR 391.41; qualifies for 2 year certificate
☐ Does not meet standards
☒ Meets standards, but periodic monitoring required due to DM, diet controlled
 Driver qualified only for: ☐ 3 months ☐ 6 months ☒ 1 year ☐ Other

Temporarily disqualified due to (condition or medication): _____

Return to medical examiner's office for follow up on _____

- ☒ Wearing corrective lenses
☐ Wearing hearing aid
☐ Accompanied by a _____ waiver/ exemption. Driver must present exemption at time of certification.
☐ Skill Performance Evaluation
☐ Driving within an exempt intrastate zone (See 49 CFR 391.62)
☐ Qualified by operation of _____

Medical Examiner's signature _____

Medical Examiner's name _____

Address _____

Telephone Number _____

1234 HUFFMAN MILL ROAD

BURLINGTON, NC 27215-8777

336/538-2358

If meets standards, complete a Medical Examiner's Certificate as stated in 49 CFR 391.43(h). (Driver must carry certificate when operating a commercial vehicle.)

Brian A. Blue, M.D.**Lancaster Orthopaedics
& Sports Medicine****Aran M. O'Malley, M.D.**901 W. Meeting St., Suite 104
Lancaster, SC 29720Phone: (803) 285-3700
Fax: (803) 285-3715**FAX COVER SHEET****To: Debbie Vaughn****Fax: 770-325-3082****Date: 07/03/2012****Pages: 49****Re: McHowell, Bryan****DOB: [REDACTED] 1957****Comments:**

I am in receipt of your request for records on the above mentioned patient. Please find the invoice enclosed for the payment for your request. Should you have any questions or require anything further, please contact me.

Sincerely,**Tracie Snipes
Clinic Coordinator**

This message is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication in error, please notify us immediately by telephone and return the original message to us at the address above via the U.S. Postal Service. Thank You.

**LANCASTER ORTHOPAEDICS
& SPORTS MEDICINE**

901 W. Meeting Street
Suite 104
Lancaster, SC 29720
(803) 285-3700 Office
(803) 285-3715 Fax

**PATIENT NAME AND ADDRESS****PATIENT #****MCHOWELL, BRYAN #14233**

dob: [REDACTED] LOSM_LANCASTER ORTHO AND SP
7822 VAN WYCK RD
LANCASTER, SC 29720
h: (803) 287-4780 w:
*Membership: Neither

PROVIDER NAME**ARAN M. O'MALLEY, M.D.****TAX ID#** [REDACTED]**To:**

Strategic Comp
P.O. Box 1445
Alpharetta, GA 30009

Date of Service	Procedure / Description	Amount Charged

07/03/2012	99080 - Medical Records	\$35.00

Total =		\$35.00

* Please make check payable to Lancaster Clinic Corporation.



P.O. Box 1445 Alpharetta, GA 30009

Fax Transmittal

To: Tracie
Company:
Fax: 1-803-285-3715
Phone:

From: Debbie Vaughn
Fax: 770-325-3082
Phone: 770-325-3025
Email: dvaughn@strategiccomp.com

Number of Pages Including Cover Sheet: 4

Notes:

RECEIVED
07-03-12
SBS

Date and Time of Transmission: 7/3/2012 12:24:14 PM



P.O. Box 1445 Alpharetta, GA 30009

Fax Transmittal

To: Attn: Tracie
Company:
Fax: 1-803-285-3718
Phone:

From: Debbie Vaughn
Fax: 770-325-3082
Phone: 770-325-3025
Email: dvaughn@strategiccomp.com

Number of Pages Including Cover Sheet: 3

Notes:

Please find attached our medical request and a copy of the signed medical release for Bryan McHowell.

Please be advised that we need "all" medical records for Mr. McHowell, for all dates of treatment, present and past.

If there is a problem with our request or if you do not receive all 3 pages of this fax you can contact me directly at (770) 325-3025.

Thank you for your help and assistance in this matter.

Date and Time of Transmission: 7/3/2012 10:29:54 AM



May 14, 2012

Dr. O'Malley
Lancaster Orthopaedic & Sports Medicine
601 West Meeting Street, Suite 106
Lancaster, St. 29720

FAXED TO (803) 285-3715

Re: Bryan McKeown; for Mr. Sullivan's Surgery, Inc.
Date of Birth: 12/13/1957

Dear Dr. O'Malley:

We are investigating the above captioned WORKERS' COMPENSATION CLAIM. Please complete/submit the following:

(XX) OFFICE NOTE/TREATMENT NOTES FOR ALL DATES OF TREATMENT.

If you have any questions regarding this matter, you may reach me at (710) 326-3014.

Thank you for your attention in this matter.

Very truly yours,

Dorothy D. Vaughan
Dorothy D. Vaughan
Senior Claims Specialist

Dv



AUTHORIZATION FOR RELEASE OF RECORDS

(Source: HIPAA Privacy Regulations at 45 CFR 164.506)

I, Robert A. McDaniel
(Print name of patient)

(DOB of patient)

(SSN of patient)

hereby authorize the use

or disclosure of any individually identifiable health information and direct representatives of any medical care providers, including all physicians, chiropractors, hospitals, and clinics, to provide and furnish information and records regarding my medical treatment, including ALL medical and/or healthcare records from the date of first examination or treatment to the present date pertaining to the treatment, care, examination, evaluation, and/or transport for any condition, illness or injury, including, but not limited to ALL:

Notes Correspondence and Reports	Records Invoices, Receipts, X-rays, Insurance Records and Forms	Other Medical History Laboratory Results Test Orders, Results, and Progress	Physical Therapy Records X-rays, MRI's, and all other Diagnostic Tests

I am authorized representative of [Great American Insurance Company/Strategic Comp Services] upon delivery of a photocopy of this signed Authorization.

The patient or the patient's representative must read and initial the following statements:

1. I understand that this authorization will expire:
 a. automatically (180 days after the date of signing); or
 b. on 5-1-12 (month/day/year).
2. I understand that I may revoke this authorization at any time by notifying [Great American Insurance Company/Strategic Comp Services] at P.O. Box 1445, Alpharetta, GA 30009, in writing, but if I do it won't have any effect on any actions they took before they received the revocation.
3. I understand that any information that is disclosed pursuant to this authorization might be re-disclosed and potentially no longer covered by federal rules governing privacy of health information.

The purpose of this requested disclosure is to provide [Great American Insurance Company/Strategic Comp Services] with information and documentation concerning the patient's past medical history in order to allow [Great American Insurance Company/Strategic Comp Services] to evaluate and investigate an insurance claim made by the patient. Please be assured that any information that is received pursuant to this authorization will be protected as required under state and federal laws.

Robert A. McDaniel
(Signature of patient or patient representative)

(Date)

(Printed name of patient's representative)

(Relationship to the patient)

Lancaster Orthopaedics and Sports Medicine
901 West Meeting Street - Suite 104
Lancaster, South Carolina 29720
(803) 285-3700 Phone / (803) 285-3715 Fax

April 12, 2012

Bryan McHowell

DOB: [REDACTED] 1957

Chief Complaint: LEFT SHOULDER PAIN
Surgery 06-02-2011 Left shoulder arthroscopy, subscap repair, SAD, DCE

History of Present Illness: The patient is a 53 year-old white male who complains of left shoulder pain after a shoulder arthroscopy last June 2011. He notes some increasing pain in the left shoulder with overhead activity, and he has had some pain at night as well. Rest and ice help to ease the pain. A subacromial injection at the left shoulder gave him some transient relief, but he notes some continued pain with overhead activities. He has therapy and has tried a home exercise program, but these have not helped. Multiple NSAIDs have not helped. He notes pain throughout the day with use of the shoulder, and pain at night as well. He has had an MRI and is here to review the results.

Past Medical History/ROS/Family Hx/Allergies/Meds/Social Hx: Reviewed per the signed form in the chart dated 01-05-2012. No changes are noted.

Physical Examination: The patient well developed/nourished, in no acute distress, and is alert and oriented times three. Gait: No antalgia.

Left shoulder exam: +Tenderness at the greater tuberosity and +impingement. +Speed's sign. 4/5 Scaption and external rotation strength. Active ROM FF 160, ER 60, IR touches L2 spinous process. 2+ radial pulses. Intact light touch sensation.

Bilateral hand exam: No effusion, swelling, ecchymosis, or atrophy is noted. Well healed distal palmar scars are noted bilateral. A scar from surgery at the right wrist is well healed and the left wrist surgical wound is clean and dry. Intact light touch sensation. 2+ radial pulses.

Imaging: MRI left shoulder Springs Hospital dated 04-10-2012 - bicipital tenosynovitis and a partial to focal full thickness supraspinatus tear is noted at the posterior aspect. Artifact from an anchor at the upper subscap is noted. Post-surgical changes are noted at the subscap insertion.

Impression: 1) PARTIAL TO FOCAL FULL THICKNESS ROTATOR CUFF TEAR
2) LONG HEAD BICEPS TENDONITIS

Plan: I discussed the options including continued conservative measures such as an exercise program and medications versus consideration of shoulder arthroscopy. He would like to hold off on surgery for now and will return in 2 months for re-check. The patient was instructed to return or call prior the FU appointment for any problems.


Aran M. O'Malley, MD

Lancaster Orthopaedics and Sports Medicine
901 West Meeting Street - Suite 104
Lancaster, South Carolina 29720
(803) 285-3700 Phone / (803) 285-3715 Fax

April 4, 2012

Bryan McHowell

DOB: [REDACTED] 1957

Chief Complaint: LEFT SHOULDER PAIN
Surgery 06-02-2011 Left shoulder arthroscopy, subscap repair, SAD, DCE

History of Present Illness: The patient is a 53 year-old white male who complains of left shoulder pain after a shoulder arthroscopy last June 2011. He notes some increasing pain in the left shoulder with overhead activity, and he has had some pain at night as well. Rest and ice help to ease the pain. A subacromial injection at the left shoulder gave him some transient relief, but he notes some continued pain with overhead activities. He has therapy and has tried a home exercise program, but these have not helped. Multiple NSAIDs have not helped. He notes pain throughout the day with use of the shoulder, and pain at night as well.

Past Medical History/ROS/Family Hx/Allergies/Meds/Social Hx: Reviewed per the signed form in the chart dated 01-05-2012. No changes are noted.

Physical Examination: The patient well developed/nourished, in no acute distress, and is alert and oriented times three. Gait: No antalgia.

Left shoulder exam: +Tenderness at the greater tuberosity and +impingement. +Speed's sign. 4/5 Scapion and external rotation strength. Active ROM FF 160, ER 60, IR touches L2 spinous process. 2+ radial pulses. Intact light touch sensation.

Bilateral hand exam: No effusion, swelling, ecchymosis, or atrophy is noted. Well healed distal palmar scars are noted bilateral. A scar from surgery at the right wrist is well healed and the left wrist surgical wound is clean and dry. Intact light touch sensation. 2+ radial pulses.

Impression: 1) S/P LEFT SHOULDER ARTHROSCOPY WITH CONTINUED PAIN

Plan: I recommended an MRI of the left shoulder as he has persistent pain that has not resolved despite multiple conservative measures. He should return after the MRI is complete. The patient was instructed to return or call prior the FU appointment for any problems.



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Lancaster Orthopaedics and Sports Medicine
901 West Meeting Street - Suite 104
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(803) 285-3700 Phone / (803) 285-3715 Fax

February 2, 2012

Bryan McHowell [REDACTED]

DOB: [REDACTED] 1957

Chief Complaint: LEFT SHOULDER PAIN
Surgery 06-02-2011 Left shoulder arthroscopy, subscap repair, SAD, DCE

History of Present Illness: The patient is a 53 year-old white male who complains of left shoulder pain after a shoulder arthroscopy last June 2011. He notes some increasing pain in the left shoulder with overhead activity, and he has had some pain at night as well. Rest and ice help to ease the pain. A home therapy program helps somewhat. A subacromial injection at the left shoulder at his last visit gave him several days of good relief, but he notes some continued pain with overhead activities. He does not use any assistive devices or braces.

Past Medical History/ROS/Family Hx/Allergies/Meds/Social Hx: Reviewed per the signed form in the chart dated 01-05-2012. No changes are noted.

Physical Examination: The patient well developed/nourished, in no acute distress, and is alert and oriented times three. Gait: No antalgia.

Left shoulder exam: +Tenderness at the greater tuberosity and +impingement. Nearly 5/5 strength. Active ROM FF 160, ER 60, IR touches L2 spinous process. 2+ radial pulses. Intact light touch sensation.

Bilateral hand exam: No effusion, swelling, ecchymosis, or atrophy is noted. Well healed distal palmar scars are noted bilateral. A scar from surgery at the right wrist is well healed and the left wrist surgical wound is clean and dry. Intact light touch sensation. 2+ radial pulses.

Radiographs: AP, outlet views left shoulder Lancaster Ortho ~~11-07-2011~~ ⁰¹⁻⁰⁵⁻²⁰¹² *Amo* - changes consistent with a distal clavicle excision and acromioplasty are noted. No acute bony abnormality is noted.

Impression: 1) S/P LEFT SHOULDER ARTHROSCOPY
2) LEFT SHOULDER SUBACROMIAL BURSITIS

Plan: I spent 25 minutes with 15 minutes counseling the patient about the diagnosis and treatment options. I recommended a steroid injection and continued home exercise program. He should return in 8 weeks for re-check. We discussed obtaining a repeat MRI at that point if he is no better. The patient was instructed to return or call prior the FU appointment for any problems.

Amo
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January 5, 2012

Bryan McHowell

DOB: 1957

Chief Complaint: 1) NUMBNESS AND TINGLING LEFT HAND
2) LEFT SHOULDER PAIN
Surgery 06-02-2011 Left shoulder arthroscopy, subscap repair, SAD, DCE
Surgery 07-26-2011 Left Carpal tunnel release

History of Present Illness: The patient is a 53 year-old white male who complains of increasing shoulder pain after a shoulder arthroscopy last June 2011. He notes resolution of the numbness and tingling in both hands. He notes some increasing pain in the left shoulder with overhead activity, and he has had some pain at night as well. Rest and ice help to ease the pain. A home therapy program helps somewhat. He denies any recent injuries or injections in the shoulder. He does not use any assistive devices or braces.

Past Medical History/ROS/Family Hx/Allergies/Meds/Social Hx: Reviewed per the signed form in the chart dated 01-05-2012.

Physical Examination: The patient well developed/nourished, in no acute distress, and is alert and oriented times three. Gait: No antalgia.

Left shoulder exam: +Tenderness at the greater tuberosity and +impingement. Nearly 5/5 strength. Active ROM FF 160, ER 60, IR touches L2 spinous process. 2+ radial pulses. Intact light touch sensation.

Bilateral hand exam: No effusion, swelling, ecchymosis, or atrophy is noted. Well healed distal palmar scars are noted bilateral. A scar from surgery at the right wrist is well healed and the left wrist surgical wound is clean and dry. Intact light touch sensation. 2+ radial pulses.

01-05-2011 *Amo*

Radiographs: AP, outlet views left shoulder Lancaster Ortho 11-07-2011 - changes consistent with a distal clavicle excision and acromioplasty are noted. No acute bony abnormality is noted.

Impression: 1) S/P LEFT SHOULDER ARTHROSCOPY
2) LEFT SHOULDER SUBACROMIAL BURSITIS

Plan: I spent 25 minutes with 15 minutes counseling the patient about the diagnosis and treatment options. I recommended a steroid injection and continued home exercise program. He should return in 4 week for re-check. The patient was instructed to return or call prior the FU appointment for any problems.

PROCEDURE NOTE: LEFT SHOULDER SUBACROMIAL STEROID INJECTION

After sterile prep and informed consent, the left shoulder subacromial space was injected with 40mg Depo-Medrol and 6 cc 0.25% Marcaine. The patient tolerated the procedure well without complications. The patient noted decreased pain and had improved strength 5 minutes after the injection.

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November 7, 2011

Bryan McHowell

DOB: 1957

Chief Complaint: 1) NUMBNESS AND TINGLING LEFT HAND
2) LEFT SHOULDER PAIN
Surgery 06-02-2011 Left shoulder arthroscopy, subscap repair, SAD, DCE
Surgery 07-26-2011 Left Carpal tunnel release

History of Present Illness: The patient is a 53 year-old white male who returns after left shoulder arthroscopy and more recently left carpal tunnel release. He notes resolution of the numbness and tingling in the left hand. He notes he is making good progress in physical therapy with the shoulder with minor soreness at times. He denies symptoms at his hands.

Past Medical History/ROS/Family Hx/Allergies/Meds: Reviewed per the signed form in the chart dated 04-25-2011 - no changes are noted.

Physical Examination: The patient well developed/nourished, in no acute distress, and is alert and oriented times three. Gait: No antalgia.

Left shoulder exam: Active ROM is excellent FF 160, ER 60.

Bilateral hand exam: No effusion, swelling, ecchymosis, or atrophy is noted. Well healed distal palmar scars are noted bilateral. A scar from surgery at the right wrist is well healed and the left wrist surgical wound is clean and dry.

Radiographs: AP, outlet views left shoulder Lancaster Ortho 11-07-2011 - changes consistent with a distal clavicle excision and acromioplasty are noted. No acute bony abnormality is noted.

Impression: 1) S/P LEFT SHOULDER ARTHROSCOPY
2) S/P BILATERAL CARPAL TUNNEL RELEASE

Plan: I spent > 25 minutes with >15 minutes counseling the patient regarding the expected recovery time and rehab that he should continue to do. He should return in 8 weeks for re-check with Grashey and outlet views of the left shoulder. The patient was instructed to return or call prior the FU appointment for any problems.

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September 7, 2011

Bryan McHowell

DOB: [REDACTED]

Chief Complaint: 1) NUMBNESS AND TINGLING LEFT HAND
2) LEFT SHOULDER PAIN
Surgery 06-02-2011 Left shoulder arthroscopy, subscap repair, SAD, DCE
Surgery 07-26-2011 Left Carpal tunnel release

History of Present Illness: The patient is a 53 year-old white male who returns after left shoulder arthroscopy and more recently left carpal tunnel release. He notes resolution of the numbness and tingling in the left hand. He notes he is making good progress in physical therapy with the shoulder with minor soreness at times.

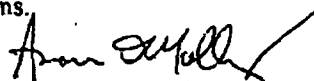
Physical Examination: The patient well developed/nourished, in no acute distress, and is alert and oriented times three. Gait: No antalgia.

Left shoulder exam: The wounds are clean and dry. Active ROM is excellent FF 160, ER 60.

Bilateral hand exam: No effusion, swelling, ecchymosis, or atrophy is noted. Well healed distal palmar scars are noted bilateral. A scar from surgery at the right wrist is well healed and the left wrist surgical wound is clean and dry.

Impression: 1) S/P LEFT SHOULDER ARTHROSCOPY
2) S/P BILATERAL CARPAL TUNNEL RELEASE

Plan: I discussed the postop course in detail with the patient. We removed the stitches and placed an IMAK postop carpal tunnel glove. He should return in 8 weeks for re-check with Grashey and outlet views of the left shoulder, and progress to a home program for his shoulder. The patient was instructed to return or call prior the FU appointment for any problems.


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August 10, 2011

Bryan McHowell

DOB:

Chief Complaint:

- 1) NUMBNESS AND TINGLING LEFT HAND
- 2) LEFT SHOULDER PAIN

Surgery 06-02-2011

Left shoulder arthroscopy, subscap repair, SAD, DCE

Surgery 07-26-2011

Left Carpal tunnel release

History of Present Illness: The patient is a 53 year-old white male who returns after left shoulder arthroscopy and more recently left carpal tunnel release. He notes resolution of the numbness and tingling in the left hand. He notes he is making good progress in physical therapy.

Physical Examination: The patient well developed/nourished, in no acute distress, and is alert and oriented times three. Gait: No antalgia.

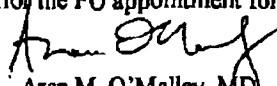
Left shoulder exam: The wounds are clean and dry. Active ROM is excellent FF 160, ER 60.

Bilateral hand exam: No effusion, swelling, ecchymosis, or atrophy is noted. Well healed distal palmar scars are noted bilateral. A scar from surgery at the right wrist is well healed and the left wrist surgical wound is clean and dry.

Impression:

- 1) S/P LEFT SHOULDER ARTHROSCOPY
- 2) S/P BILATERAL CARPAL TUNNEL RELEASE

Plan: I discussed the postop course in detail with the patient. We removed the stitches and placed an IMAK postop carpal tunnel glove. He should return in 4 weeks for re-check and continue PT for the shoulder. The patient was instructed to return or call prior the FU appointment for any problems.


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July 21, 2011

Bryan McHowell

DOB: 1957

Chief Complaint: 1) NUMBNESS AND TINGLING LEFT HAND
2) LEFT SHOULDER PAIN

Surgery 06-02-2011 Left shoulder arthroscopy, subscap repair, SAD, DCE

History of Present Illness: The patient is a 53 year-old white male who returns after left shoulder arthroscopy. He has been in a sling. He continues to note some numbness and tingling in the left hand that wakes him up at night. He has had good relief of his right hand symptoms after a carpal tunnel release about 8-10 weeks ago. He has tried wrist splints, NSAIDs and rest for the left wrist, but his symptoms seem to be getting worse. He notes the tingling and numbness is worst in fingers 1-3 at the left hand.

Physical Examination: The patient well developed/nourished, in no acute distress, and is alert and oriented times three. Gait: No antalgia.

Left shoulder exam: The wounds are clean and dry. Active ROM is excellent FF 160, ER 60.

Bilateral hand exam: No effusion, swelling, ecchymosis, or atrophy is noted. Well healed distal palmar scars are noted. A scar from surgery at the right wrist is well healed. +Tinel's, Phalen's, Durkan's test at the left wrist flexion crease, negative at the right. Decreased sensation to light touch and pinprick at fingers 1-3 bilaterally. 5/5 strength. 2+ radial pulse. No thenar atrophy is noted.

EMG/NCV Metrolina Neurology - 05-23-2011 - show evidence of moderate bilateral carpal tunnel syndrome and

Impression: 1) S/P LEFT SHOULDER ARTHROSCOPY
2) LEFT CARPAL TUNNEL SYNDROME

Plan: I discussed the diagnosis and treatment options in detail with patient and spent > 25 minutes with >50% counseling the patient. The patient would like to proceed with left carpal tunnel release. We discussed that carpal tunnel surgery can usually be performed under a block with sedation on an outpatient basis and recovery typically takes 6-8 weeks although some incisional pain can be present for several months. We discussed risks, benefits and treatment alternatives of surgical treatment in detail. Risks include but are not limited to infection, neurovascular injury particularly to the median nerve motor branch or palmar cutaneous branch injury, bleeding, stiffness, incomplete pain relief, numbness, weakness, pillar pain, recurrent carpal tunnel syndrome as well as anesthesia and postoperative risks. Anesthesia and postoperative risks include but are not limited to reaction to nerve blocks or medications given, stroke, blood clots, PE, MI and even death. Despite all risks the patient agrees to proceed with surgery. All the patient's questions were answered and no guarantees of success were made. Follow-up is at the scheduled time of surgery. He should continue with PT for the left shoulder. The patient was instructed to return or call prior the FU appointment for any problems.

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June 30, 2011

Bryan McHowell [REDACTED]

DOB: [REDACTED] 1957

Chief Complaint: LEFT SHOULDER PAIN
Surgery 06-02-2011 Left shoulder arthroscopy, subscap repair, SAD, DCE

History of Present Illness: The patient is a 53 year-old white male who returns after left shoulder arthroscopy. He has been in a sling. He continues to note some numbness and tingling in the left hand.

Physical Examination: The patient well developed/nourished, in no acute distress, and is alert and oriented times three. Gait: No antalgia.

Left shoulder exam: The wounds are clean and dry. Active ROM is excellent FF 160, ER 60.

Impression: 1) S/P LEFT SHOULDER ARTHROSCOPY
2) LEFT CARPAL TUNNEL SYNDROME

Plan: I went over the arthroscopic pictures and postop course with the patient. I went over passive ROM exercises and recommended weaning out of the sling over the next 2 weeks. He should start physical therapy in 10 days and return in 3 weeks for re-check. We discussed considering left carpal tunnel release possible after his next visit. The patient was instructed to return or call prior the FU appointment for any problems.

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June 13, 2011

Bryan McHowell

DOB: 1957

Chief Complaint: LEFT SHOULDER PAIN
Surgery Left shoulder arthroscopy, subscap repair, SAD, DCE

History of Present Illness: The patient is a 53 year-old white male who returns after left shoulder arthroscopy. He has been in a sling.

Physical Examination: The patient well developed/nourished, in no acute distress, and is alert and oriented times three. Gait: No antalgia.

Left shoulder exam: The wounds are clean and dry. Good passive ROM.

Radiographs: Grashey and outlet views of the left shoulder demonstrate flattening of the acromion and absence of the distal clavicle consistent with post-surgical changes. A single anchor is noted in the upper portion of the lesser tuberosity.

Impression: S/P LEFT SHOULDER ARTHROSCOPY

Plan: I went over the arthroscopic pictures and postop course with the patient. I went over passive ROM exercises and recommended continued use of the sling. He should return in 2 weeks for re-check. The patient was instructed to return or call prior the FU appointment for any problems.

Aran M. O'Malley
Aran M. O'Malley, MD

8032853715

MAY. 27. 2011 12:47AM

PROSIT SERVICES

NO. 0848-P. 1

CAROLINA HEART SPECIALISTS, LLC

Lancaster - 803-285-2041

Rock Hill - 803-366-8300

OFFICE VISIT

May 28, 2011

Bryan McHowell 53 yo Male [REDACTED] Acct#:

PRIMARY CARE PHYSICIAN: Frank N Sharp

Cardiologist: Vipul B Shah MD

CHIEF COMPLAINT: Surgical Clearance**IDENTIFYING DATA:** Mr. McHowell is a 53 year old male.**HISTORY OF PRESENT ILLNESS**

He has had no chest discomfort suggestive of ischemia. The patient denies orthopnea, PND, DOE, or edema. Mr. McHowell has not had palpitations, syncope or near syncope. He denies claudication. There is no discoloration or ulceration of the lower extremities. He has had no TIA or stroke-like symptoms.

CARDIAC HISTORY

Other:

1 Pleural Effusion Mx - 11/3/2010

2 Type 2 Diabetes - 11/3/2010

Risk Factors:

1 Type 2 Diabetes

CARDIOVASCULAR PROCEDURES**Echo/MUGA:**

Echo (EF.60, No Pericardial Effusion, Mild MR, LVH with preserved systolic function.) - 11/3/2010

Electrophysiology:

EKG (Sinus Rhythm) - 11/17/2010

Stress Tests:

MPI (EF.57, equivocal stress test, inferior segment of the left ventricle w/ perfusion defect, questionable ischemia and artifact. Clinical correlation is required.) - 2011

PRE-VISIT MEDICATIONS

Metoprolol Tartrate 25 Mg

take 1 tablet (25MG) by ORAL route 2 times every day

Omeprazole 20 Mg

take 1 capsule (20MG) by oral route every day before a meal

Cymbalta 60 Mg

take 1 capsule (60MG) by oral route every day

ALLERGIES/INTOLERANCES: None**FAMILY HISTORY:** There is no family history of premature coronary artery disease.

REVIEW OF SYSTEMS: RESP - Negative for snoring, hemoptysis, dyspnea. CONST - Negative for weight gain, weight loss, fever. EYES - Negative for visual changes. ENT - Negative for hearing loss. CARD - Negative for chest pain, diaphoresis, orthopnea, palpitation, syncope, pnd. VASC - Negative for claudication, edema. GI - Negative for nausea, reflux, bleeding. GU - Negative for hematuria, nocturia. NEURO - Negative for dizziness, memory loss, seizures. PSYCH - Negative for depression, hallucinations. HEMAT - Negative for acute anemia, thrombocytopenia.

PHYSICAL EXAM: CONST - The patient weighs 232lbs. Blood pressure in the left arm is 118/70 mmHg in the sitting position. The pulse is 80. EYES - Lids/External - Bilateral Normal. Sclera - Bilateral Clear. NMT - Oral Mucosa - Moist. NECK - JVP - Less Than 8. RESP - Respirations - Nonlabored. Breath Sounds - Clear Throughout. Rales - Absent. Rhonchi - Absent. Wheezes - Absent. CARDIAC - Heart Sounds - S1 Normal, S2 Normal, No S3, No S4. Extra Sounds - None. Murmurs - None. VASC - Carotid - Bilateral Normal. EXT - Clubbing - Absent. Lower Extremity Edema - Absent. PSYCH - Orientation - Oriented to Time, Person and Place. Mood - Appropriate.

TESTING REVIEWED TODAY: None

Bryan McHowell

MAY. 27. 2011 12:47AM

PRISIT SERVICES

NO. 0848-P. 2

IMPRESSION AND PLAN

01. Surgical Clearance: The proposed procedure in general carries an intermediate risk of cardiac complications. The recent stress test showed no evidence of ischemia. He has had no recent angina. He has had no recent CHF manifestations. He has had no recent clinical arrhythmias. I would proceed with the proposed procedure without further cardiac testing. I would continue beta blocker therapy perioperatively.
02. Diabetes Mellitus Type 2, Uncomplicated: Reasonably well controlled.
03. Pleural Effusion: Improved since last seen. We will continue to monitor the patient closely.
04. Shortness of Breath: Improved since last seen. Normal. All testing was reviewed with patient.

ORDERS

- 1 Return office visit with Vipul B Shah MD in 4 Months.

MEDICATION CHANGES

1. Patient started on METOPROLOL TARTRATE 25 mg take 1 tablet (25mg) by oral route 2 times every day

FINAL MEDICATION LIST

Metoprolol Tartrate 25 Mg take 1 tablet (25MG) by ORAL route 2 times every day

Electronically Authenticated by:

Vipul B Shah MD 05/25/2011 @ 4:02 PM

D: T:05/28/2011

April**Mackey Family Practice**www.MackeyFamilyPractice.com

Keith D. Shealy, M.D.
Steven Culp, M.D.
Diane R. Harrell, F.N.P. - C.S.
Linda Daily, D.O.

Frank Sharp, M.D.
Lynne Greene, M.D.
David Robison, F.N.P. - B.C.

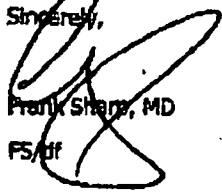
1025 WEST MEETING STREET
LANCASTER, SC 29720
TELEPHONE (803) 285-7414
FAX (803) 285-4329

8351 CHARLOTTE HIGHWAY
INDIAN LAND, SC 29715
TELEPHONE (803) 396-8333
FAX (803) 396-8350

Patient ID: [REDACTED]
Patient Name: BRYAN A MCHOWELL
Date of Birth: [REDACTED] 1957

Based on medical evaluation Mr. McHowell is medically optimized for general surgery requiring general anesthesia.

Sincerely,


Frank Sharp, MD

FS/tf

MAY. 25. 2011 9:19PM

PROSIT SERVICES

01:09:46 p.m. 07-03-2012

20/49

NO. 0717 P. 1

**CAROLINA HEART SPECIALISTS, LLC
SURGICAL CLEARANCE**Complete ALL information when making appointment and give to Medical Records.Patient Name: Bryan McHowell DOB: [REDACTED] 1/57
MR# or NP: _____ Phone #: _____ IL 3:50pmCHS DR: V. Shah DATE/TIME: 5/25/11Date of Surgery: 6-2-11 Procedure: Left Shoulder Scope
Name of Dr requesting clearance: Dr. D'Almeida
Phone #: 803 285-3710 Fax #: 803 285-3715
Address: Lowest - April

Additional name & fax # needing clearance information:

Completed by: JLC Date: 5/23/11**CLINICAL USE:**

Scheduled tests for patient:

Myoview/Lexiscan Stress Test

Echo/Stress Echocardiogram

Muga Scan

24 hour Holter Monitor

Vascular

Other _____

RESULTS OF TESTING:☒ NORMAL-NO CARDIAC CONTRAINDICATION FOR SURGERY
☐ ABNORMAL-NOT CLEARED FOR SURGERY
☐ HEART CATH RECOMMENDED
☐ OTHER

Thank you for referring your patient to our office. A copy of the dictated report will be faxed in the next few days. Please feel free to give me a call if you have any questions.

Mark A. Ciminelli, MD, FACC

Deepak B. Shah, MD, FACC

Vipul B. Shah, MD, FACC

Date

12/03/10 revised DMS

Lancaster Orthopaedics and Sports Medicine
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May 23, 2011

Bryan McHowell

DOB: [REDACTED]

Chief Complaint:

- 1) LEFT SHOULDER PAIN
- 2) BILATERAL HAND NUMBNESS AND TINGLING

History of Present Illness: The patient is a 53 year-old white male sent who returns for treatment of more than 7 months of atraumatic, sharp left shoulder pain. When asked about the area of worst pain, the patient points to the anterior-superior aspect of the shoulder. The patient has not used any assistive devices or braces. A previous steroid injection gave him about 1 week of near complete relief and then the pain returned. OTC NSAIDS have not helped to ease the pain. The patient indicated that they had shoulder pain while reaching into the backseat of a car, with overhead activity, pain at night interfering with sleep, putting on a shirt or sweater, pushing or pulling, reaching overhead, reaching out to side and carrying heavy objects.

He is S/P right carpal tunnel release and notes complete resolution of the numbness and tingling symptoms in the right hand. He continues to notes numbness and tingling in the left hand.

Past Medical History/ROS: Reviewed per the form in the chart.

Physical Examination: The patient well developed/nourished, in no acute distress, and is alert and oriented times three. Gait: No antalgia.

Neck: Nontender, no masses. ROM - full and painless. -Spurling's.

Right wrist/hand exam: the wound is clean, dry, and healed. Intact light touch and pinprick sensation.

Left wrist/hand exam: +Tinel's, Durkan's, Phalen's at the wrist flexion creased. 5/5 strength. No thenar atrophy is noted. Decreased sensation to light touch and pinprick fingers 1-3. Brisk cap refill in all fingers.

Left shoulder exam: +tenderness at the greater tuberosity. No skin lesions are noted. +Impingement and Speed's tests. Active ROM: Forward Flexion 170°/ External rotation with the arm at the side 60°/ Internal rotation touches T12 spinous process. Passive ROM equals active ROM. 4/5 Scaption and external rotation strength. 2+ radial pulse. Intact sensation to light touch.

Impression:

- 1) IMPINGEMENT SYNDROME LEFT SHOULDER
- 2) S/P RIGHT CARPAL TUNNEL RELEASE
- 3) LEFT CARPAL TUNNEL SYNDROME

Plan: I discussed the diagnosis and treatment options in detail with the patient and spent > 25 minutes with > 50% counseling the patient. He states that the shoulder is more symptomatic than the left wrist at this point, and he would like to proceed with left shoulder surgery first. The patient would like to proceed with shoulder arthroscopy with subacromial decompression, distal clavicle excision and evaluation of the rotator cuff with possible rotator cuff repair. We discussed the risks, benefits and alternatives to subacromial decompression and possible surgical repair of the rotator cuff versus non-operative treatment. These risks include but are not limited to infection, neurovascular injury, stiffness, residual shoulder pain, and medically related complications from anesthesia such as stroke, blood clots, heart or lung trouble, allergic reactions to the anesthetic agents and even death. We discussed that failure of the rotator cuff repair to heal may occur in up to 10% to 15% of cases which may occasionally require revision surgery. We discussed that with any shoulder arthroscopic procedure there is a slight risk of synovitis, chondrolysis, iatrogenic damage to the shoulder or breakage of instruments/implants. I mentioned that these types of complications may require further treatment and possibly even further surgery. The need for activity restriction postoperatively and the 6 to 12 month recovery process for a rotator cuff repair was described. I discussed the fact that sometimes the surgery can be accomplished arthroscopically, but occasionally a small mini-open or open incision splitting the deltoid fibers may be

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May 13, 2011

Bryan McHowell

DOB: 1957

Chief Complaint:

- 1) LEFT SHOULDER PAIN
- 2) BILATERAL HAND NUMBNESS AND TINGLING

History of Present Illness: The patient is a 53 year-old white male sent who returns for treatment of more than 6 months of atraumatic, sharp left shoulder pain. When asked about the area of worst pain, the patient points to the anterior-superior aspect of the shoulder. The patient has not used any assistive devices or braces. A previous steroid injection gave him about 1 week of relief and then the pain returned. OTC NSAIDS have not helped to ease the pain. The patient indicated that they had shoulder pain while reaching into the backseat of a car, with overhead activity, pain at night interfering with sleep, putting on a shirt or sweater, pushing or pulling, reaching overhead, reaching out to side and carrying heavy objects.

He is S/P right carpal tunnel release and notes complete resolution of the numbness and tingling symptoms in the right hand. He continues to notes numbness and tingling in the left hand.

Past Medical History/ROS: Reviewed per the form in the chart.

Physical Examination: The patient well developed/nourished, in no acute distress, and is alert and oriented times three. Gait: No antalgia.

Neck: Nontender, no masses. ROM - full and painless. -Spurling's.

Right wrist/hand exam: the wound is clean and dry. Intact light touch and pinprick sensation.

Left wrist/hand exam: +Tinel's, Durkan's, Phalen's at the wrist flexion creased. 5/5 strength. No thenar atrophy is noted. Decreased sensation to light touch and pinprick fingers 1-3. Brisk cap refill in all fingers.

Right shoulder exam: No tenderness, effusion, swelling, ecchymosis, or atrophy is noted. No skin lesions are noted. Active ROM: Forward Flexion 170°/ External rotation with the arm at the side 60°/ Internal rotation touches T12 spinous process. Passive ROM equals active ROM. 5/5 Scaption and external rotation strength. 2+ radial pulse. Intact sensation to light touch.

Impression:

- 1) IMPINGEMENT SYNDROME LEFT SHOULDER
- 2) S/P RIGHT CARPAL TUNNEL RELEASE
- 3) LEFT CARPAL TUNNEL SYNDROME

Plan: I discussed the diagnosis and treatment options in detail with the patient and spent > 25 minutes with > 50% counseling the patient. I recommended an MRI of the right shoulder. The patient will follow-up after the right shoulder MRI is complete. We are also going to set him up for a left carpal tunnel release. We discussed non-operative options including bracing and medication. The patient would like to proceed with carpal tunnel release. We discussed that carpal tunnel surgery can usually be performed under a block with sedation on an outpatient basis and recovery typically takes 6 weeks although some incisional pain can be present for several months. We discussed risks, benefits and treatment alternatives of surgical treatment in detail. Risks include but are not limited to infection, neurovascular injury particularly to the median nerve motor branch or palmar cutaneous branch injury, bleeding, stiffness, incomplete pain relief, numbness, weakness, pillar pain, recurrent carpal tunnel syndrome as well as anesthesia and postoperative risks. Anesthesia and postoperative risks include but are not limited to reaction to nerve blocks or medications given, stroke, blood clots, PE, MI and even death. Despite all risks the patient agrees to proceed with surgery. All the patient's questions were answered and no guarantees of success were made. The patient was instructed to return or call prior the FU appointment for any problems.

Aran M. O'Malley
Aran M. O'Malley, MD

Ref#: 604 634078

Lancaster Orthopaedics and Sports Medicine
901 West Meeting Street - Suite 104
Lancaster, South Carolina 29720
(803) 285-3700 Phone / (803) 285-3715 Fax

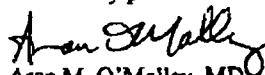
May 13, 2011

Bryan McHowell

DOB: [REDACTED]

Continued

necessary to obtain a good repair of the rotator cuff tear. If any nerve blocks are used, occasionally this can result in a brachial neuritis, hoarseness of the voice or incomplete pain relief. I also plan to do a distal clavicle excision which we discussed with the patient. This would be a resection of the lateral end of the clavicle, preserving the superior capsular fibers. With this procedure there is a slight risk of spur reformation, residual shoulder pain and/or instability of the AC joint. We also discussed biceps tenodesis or tenotomy if there is evidence of long head of biceps pathology. The patient understands that with a tenotomy there will be a cosmetic deformity of the biceps and there is a risk of chronic spasm in about 15% of patients. With tenodesis, there is no cosmetic deformity unless the tenodesis fails, but a small number of patients have chronic anterior shoulder pain after a biceps tenodesis. I answered all of the patient's questions and no guarantees of success were made. Follow-up is at the scheduled time of surgery. The patient was instructed to return or call prior the FU appointment for any problems. The patient was instructed to return or call prior the FU appointment for any problems.


Aran M. O'Malley, MD

Lancaster Orthopaedics and Sports Medicine
901 West Meeting Street - Suite 104
Lancaster, South Carolina 29720
(803) 285-3700 Phone / (803) 285-3715 Fax

April 27, 2011

Bryan McHowell [REDACTED]

DOB: [REDACTED]-1957

Chief Complaint: BILATERAL HAND NUMBNESS AND TINGLING

History of Present Illness: The patient is a 53 year-old white male who complains of 12 months of atraumatic numbness and tingling in both hands which is worst at night. When asked about the area of worst pain, the patient points to all fingers of both hands. The patient has used wrist braces and had steroid injections several years ago. OTC NSAIDS and neurontin which he tried previously did not help. The tingling is nearly constant and interfering with his daily activities and sleep at night.

Past Medical History: The patient's past medical history, past surgical history, medications, drug allergies, family history, social history and review of systems was reviewed with the patient on the health history intake form which is signed in the chart. He is a non-insulin dependent diabetic. He has a history of a gastric bypass surgery in the last year and states he lost over 75 lbs.

Physical Examination: The patient well developed/nourished, in no acute distress, and is alert and oriented times three. Gait: No antalgia.

Neck: Nontender, no masses. ROM - full and painless. -Spurling's.

Bilateral hand exam: No effusion, swelling, ecchymosis, or atrophy is noted. Well healed distal palmar scars are noted. +Tinel's, Phalen's, Durkan's test at the wrist flexion creases bilaterally. Decreased sensation to light touch and pinprick at fingers 1-3 bilaterally. 5/5 strength. 2+ radial pulse. No thenar atrophy is noted.

Radiographs: AP, Lateral, Oblique bilateral hands. The joint spaces are well maintained. No acute bony abnormality is noted.

EMG/NCV Metrolina Neurology - 05-23-2011 - show evidence of moderate bilateral carpal tunnel syndrome and

Impression: CARPAL TUNNEL SYNDROME

Plan: I discussed the diagnosis and treatment options in detail with the patient and spent >25 minutes with > 50% counseling the patient. We discussed non-operative options including bracing and medication. The patient would like to proceed with carpal tunnel release. We discussed that carpal tunnel surgery can usually be performed under a block with sedation on an outpatient basis and recovery typically takes 6 weeks although some incisional pain can be present for several months. We discussed risks, benefits and treatment alternatives of surgical treatment in detail. Risks include but are not limited to infection, neurovascular injury particularly to the median nerve motor branch or palmar cutaneous branch injury, bleeding, stiffness, incomplete pain relief, numbness, weakness, pillar pain, recurrent carpal tunnel syndrome as well as anesthesia and postoperative risks. Anesthesia and postoperative risks include but are not limited to reaction to nerve blocks or medications given, stroke, blood clots, PE, MI and even death. Despite all risks the patient agrees to proceed with surgery. All the patient's questions were answered and no guarantees of success were made. Follow-up is at the scheduled time of surgery. The patient was instructed to return or call prior the FU appointment for any problems.

Aran M. O'Malley
Aran M. O'Malley, MD

Bridget Terry

From: Deborah Vaughn [dvaughn@strategiccomp.com]
Sent: Friday, August 31, 2012 5:51 PM
To: ROSHUFF@COLALAW.COM; 'Shelby Kellahan'; 'Emily Askew'; 'aflurette@colalaw.com'
Cc: Bridget Terry
Subject: Bryan Mchowll for Mr. Stattons Salads, Inc. - claim # 564575461

Ros,

I have sent you separately our file for Bryan McHowell who is a truck driver for the Mr. Stattons foods. He was involved in a accident on 03/06/12 and he did not report any injuries until 04/23/12 after a routine follow-up visit with his orthopedic physician. You also have a copy of his DOT exam in which he does not list a prior left shoulder surgery and for which he was seen by a physician 02/02/12 with almost identical complaints that he had on 04/04/12 when he saw the same physician. Please note that when he saw his orthopedic physician on 02/02/12 that this was the day before he went to work for the insured.

I am having his recorded statement transcribed and I will forward this to your office as soon as it is returned to me. Mr. McHowell advised me that he had applied for social security disability 3 times and that he was turned down on two occasions. He advised me that he found "this" job and that he dropped his third submission for social security disability. He continues to work for the insured as a truck driver. You will also note from the file information that I sent you that he has had several other workers' compensation claims as well as automobile claims.

Brent P. Stewart represents the claimant and he has filed a Form 50 requesting a hearing for the left shoulder, neck, hand and finger. Please file a Form 51 in response to the Form 50.

If you have any questions regarding this claim please let me know.

STEWART LAW OFFICES, L.L.C.

1242 EBENEZER ROAD
ROCK HILL, SOUTH CAROLINA 29732

REPLY TO:
P.O. BOX 670
ROCK HILL, SC 29731-6670
FAX (803) 328-5876

BRENT P. STEWART
Licensed in WV & SC
brent@stewartlawoffices.net

BEAU WILDER
Licensed in NC & SC
beau@stewartlawoffices.net

JENNA W. GARRAUX
Licensed in SC
jenna@stewartlawoffices.net

July 12, 2012

Greg Line
Director of Claims
SC Workers' Compensation Commission
PO Box 1715
Columbia, SC 29202-1715

RE: *Bryan McHowell vs. Star Foods Products Inc.*
Date of Loss: March 6, 2012
WCC File No.: TBD

Dear Mr. Line:

In connection with the above referenced matter, enclosed please find the originals and one (1) copy each of the WCC Amended Form #50 Claim Only and Certificate of Service. I would appreciate your filing the originals and returning the file-stamped copies to me in the envelope provided for your convenience. Also, I would appreciate you noting my representation in the file.

By copy of this letter and consistent with the enclosed Certificate of Service, we are hereby serving these documents upon the employer and carrier of record in this matter.

As noted in section 10a of the Form 50, if not already provided, we are specifically requiring the employer's representative provide a Form 20 utilizing the formula specified in Rule 67-1603(B) and provided to us within thirty (30) days of receipt of the Form 50 as specified in Rule 67-1603(C)(1) or (D)(2), whichever is applicable pursuant to Rule 67-211. Notice is hereby given that failure to provide a Form 20 as required by the aforementioned rule, the claimant will exercise their right pursuant to Rule 67-1603(G) and submit evidence at the hearing for a determination of average weekly wage and the resulting compensation rate. In addition, the claimant may seek the appropriate fines and penalties.

ROCK HILL (803) 328-5600
LANCASTER (803) 286-5600
CHESTER (803) 385-5600
YORK (803) 684-3800

ORANGEBURG (803) 534-1000
CAMDEN (803) 425-6700
COLUMBIA (803) 743-4200
GASTONIA (704) 868-5800

GAFFNEY (864) 489-9996
SPARTANBURG (864) 583-2223
UNION (864) 427-8500
CHESNEE (864) 461-5600

HAMPTON (803) 914-0800
BEAUFORT (843) 379-3600
RIDGEWAY (803) 337-4600
WINNSBORO (803) 815-5600

SPANISH LINE (803) 487-0055

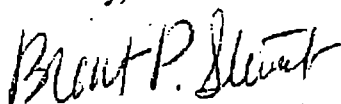
IN NC, DBA STEWART LAW OFFICES, PLLC

0522

Page 2 of 2

I appreciate your assistance in this regard, and should you have any questions or need any further information, please do not hesitate to contact us.

Sincerely,



Brent P. Stewart
Attorney at Law

BPS/hdf

CC: Bryan McHowell
Star Food Products, Inc
Strategic Comp Services

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



AMENDED

WCC File #: X120535

Carrier File #: 564575461

Carrier Code #: _____

Employer FEIN #: _____

Claimant's Name: Bryan McHowell

SSN: [REDACTED]

Employer's Name: Star Food Products Inc.

Address: 7822 Van Wyck Road

Address: 2050-A Willow Springs Lane

City: Lancaster State: SC Zip: 29720

City: Burlington State: NC Zip: 27215

Home Phone: (803) 287-4780

Work Phone: _____

Insurance Carrier: Strategic Comp Services

Preparer's Name: Brent P. Stewart

Law Firm: Stewart Law Offices,
LLC.

Preparer's Phone #: (803) 328-5600

Complete each information blank. To request a hearing, check Box 13b, indicate the kinds of benefits claimed by checking the box(es) at Lines 6, 7, 8, and 9, and file this form in duplicate.

A claim for workers' compensation benefits is made based on the following grounds:

Date of Injury or Illness: 3/6/2012

☒ Injury ☐ Illness ☐ Repetitive Trauma

1a. The claimant sustained an injury to on 3/6/2012 in County, State of SC.

1b. Body part(s) affected are: left shoulder, neck, left hand and finger.

Briefly describe how the accident occurred. Injured left shoulder, neck, left hand and finger.

2. Both the claimant and the employer were subject to the South Carolina Workers' Compensation Act at the time of injury.

3. The relationship of employer and employee existed at the time of injury.

4. At the time of the injury the claimant was performing services arising out of and in the course of employment.

5. Notice of the accidental injury was given to the Employer on in the following manner: _____

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

☒ (a) medical examination and treatment for: left shoulder, neck, left hand and finger.

☒ (b) additional medical examination and treatment for: left shoulder, neck, left hand and finger.

☒ 7. Due to injury, the claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of: 3/6/2012 to present.

☒ 8. 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

☒ (3) Wage Loss

☒ Partial

☒ Partial

☒ 9. Due to the injury, the claimant has a serious bodily disfigurement consisting of: N/A.

10a. At the time of the injury, the claimant was paid weekly wages of \$(Form 20 requested within thirty (30) days), 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

11a. Further grounds or unusual aspects of claim: _____

11b. List names and addresses of all physicians or other medical specialists who have seen or treated the claimant as a result of the accident: See attached.

11c. To the best of your knowledge, did you have any prior permanent disability?
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: N/A

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

Preparer's Signature: [Signature]

Claimant's Attorney
Title

brent@stewartlawoffices.net
Email

July 12, 2012
Date

Refer to R.67-204 through R.67-210 and R.67-601 through R.67-615. Questions about the use of this form may be directed to the Commission's Claims Department.

WCC Form # 50
Revised 9/07

50

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

0524

AMENDED

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
W.C.C. FILE NO.: TBD

BRYAN MCHOWELL,

Employee/Claimant,

-vs-

STAR FOOD PRODUCTS, INC.,

Employer,

and

STRATEGIC COMP SERVICES.

Carrier,

Defendants.

CERTIFICATE OF SERVICE

I, Nina M. Davis Foster, an employee with Stewart Law Offices, L.L.C., do hereby certify that a true and correct copy of **WCC AMENDED FORM 50-CLAIM ONLY**, has been served upon the following by depositing the same in the U.S. Mail postage pre-paid, certified, return receipt requested this 12th day of July, 2012, addressed as follows:

Strategic Comp Services
P. O. Box 1445
Alpharetta, GA 30009-1445

Star Food Products, Inc.
2050-A Williw Springs Lane
Burlington, NC 27215



Nina M. Davis Foster
Workers' Compensation Paralegal
STEWART LAW OFFICES, LLC
Post Office Box 670
Rock Hill, SC 29731-6670
(803) 328-5600

Rock Hill, South Carolina
July 12th, 2012

South Carolina Workers' Compensation Commission
1612 Marion St. • P.O. BOX 1715
Columbia, SC 29202-1715
(803) 737-5723

Clear Form

Save As / Email



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

Claimant's Name: Bryan McHowell SSN: [REDACTED] Employer's Name: Star Food Products, Inc.
Address: 7822 Van Wyck Rd. Address: 8050-A Willow Springs Lane
City: Lancaster State: SC Zip: 29720 City: Burlington State: NC Zip: 27215
Home Phone: 803-287-4780 Work Phone: SAME Insurance Carrier: Strategic Comp.
Preparer's Name: _____ Law Firm: _____ Preparer's Phone #: _____

Date of Injury: 3-16-18
(m/d/yyyy)

A. Total Wages Paid

1. Check Applicable Method:

- ☐ Report of earnings of injured employee based on four completed quarters.
☒ Report of earnings of injured employee who did not complete four quarters based on actual time worked.
☐ Report of earnings of similar employee. Injured employee did not work sufficient time before alleged injury. Hire date: _____ (m/d/yyyy)
☐ Report of earnings of injured employee based on alternative method because Form 20 results in a compensation rate that is not fair and just (attach documentation to show how average weekly wage and compensation rate were calculated).

2. List total wages paid as reported to the Employment Security Commission on the Employer Quarterly Contribution and Age Reports during the four quarters immediately preceding the quarter in which the injury occurred. Do not include the quarter during which the injury occurred.

Quarter	Ending Date (m/d/yyyy)	Total Wages Paid
1st		<u>1920.00</u>
2nd		<u>0</u>
3rd		<u>0</u>
4th		<u>0</u>

Total Paid 2. 0.00

3. List total value of other allowances of any character made in lieu of wages during four quarters above.

4. Add lines 2 and 3.

TOTAL WAGES PAID:

4. 1920.00 0.00

5. List total number of weeks paid to employee during the four quarters immediately preceding the quarter in which the injury occurred.

5. 5

B. Average Weekly Wage

6. To calculate average weekly wage, divide total wages (line 4) by total weeks paid (line 5).

AVERAGE WEEKLY WAGE:

6. 384.00

C. Compensation Rate

7. The general rule for calculating the compensation rate is to multiply average weekly wage (line 6) by .6667. Estimate compensation rate by multiplying average weekly wage (line 6) by .6667. See part 8 below to determine the actual compensation rate.

7. 256.01

8. The compensation rate is as follows (choose one):

- ☒ The calculated compensation rate (line 7) applies. Enter amount from line 7 on line 8.

- ☐ When average weekly wage (line 6) is less than \$75.00, the compensation rate is the average weekly wage. Enter average weekly wage on line 8.
☐ When the estimated compensation rate (line 7) is less than \$75.00 and average weekly wage (line 6) is more than \$75.00, the compensation rate is \$75.00. Enter \$75.00 on line 8.
☐ When the estimated compensation rate (line 7) is more than the maximum compensation rate for the year in which the injury occurred, enter the maximum compensation rate for the year in which the injury occurred on line 8.
☐ Employee is within the exceptions listed in S.C. Code Ann. Section 42-7-65. List applicable exception here and enter appropriate compensation rate on line 8.

WEEKLY COMPENSATION RATE:

8. 256.01

Employer's representative shall prepare a Form 20 and serve per R.67-211 a copy on the claimant within thirty days of beginning temporary compensation. See R.67-1603 when no temporary compensation is paid. NOTE: Average weekly wage represents average gross pay before taxes and other deductions. WHEN THE CLAIMANT DOES NOT AGREE WITH THE COMPENSATION RATE ON LINE 8, HE OR SHE SHOULD CONTACT THE EMPLOYER'S REPRESENTATIVE TO TRY TO REACH AN AGREEMENT AS TO THE COMPENSATION RATE. IF NO AGREEMENT CAN BE REACHED, THE CLAIMANT SHOULD CONTACT THE CLAIMS DEPARTMENT AT (803) 737-5723.

WCC Form # 20
Rev. Date 3/97

20

STATEMENT OF EARNINGS
OF INJURED EMPLOYEE

0526

STATEMENT OF DAYS WORKED AND EARNINGS OF INJURED EMPLOYEE

IC File # _____

Emp. Code # _____

Carrier Code # _____

Carrier File # _____

Employer FEIN XXXXXXXXXX

The Use Of This Form Is Required Under The Provisions of The Workers' Compensation Act

Bryan A. McHowell
Employee's Name
7822 Van Wyck Rd.
Address
Lancaster SC 29720
City State Zip
(803) 287-4780
Home Telephone
XXXXXXXXXX
Social Security Number
☒ M ☐ F Sex
Date of Birth

Star Food Products, Inc.
Employer's Name
2050-A Willow Springs Lane
Employer's Address
Great American Insurance CO
Insurance Carrier
PO Box 1445
Carrier's Address
(770) 225-3561
Carrier's Telephone Number
(336) 227-4079
Telephone Number
Burlington NC 27215
City State Zip
Policy Number
Alpharetta GA 30009
City State Zip
(770) 325-1417
Fax Number

Year.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	Amount Earned
Jan.																																
Feb.			X			X	X	X	X	X			X	X	X	X			X	X	X	X			X	X	X					1,320
Mar.	X	X			X	X	X	X	X			X	X	X	X			X	X	X	X			X	X	X	X					3,482
Apr.		X	X	X	X			X	X	X	X			X	X	X	X			X	X	X	X			X	X	X				3,826
May	X	X	X	X			X	X	X	X			X	X	X	X			X	X	X	X			X	X	X	X				4,385
June	X			X	X	X	X	X			X	X	X	X			X	X	X	X			X	X	X	X						3,897
July		X	X																													901
Aug.																																
Sept.																																
Oct.																																
Nov.																																
Dec.																																
																																Total
																																17,810

Was this employee given free rent, lodging, or board or other allowances made in lieu of wages? No

If so, state weekly value thereof: \$ _____

MAIL TO:

NCIC - CLAIMS SECTION
4335 MAIL SERVICE CENTER
RALEIGH, NORTH CAROLINA 27699-4335
MAIN TELEPHONE: (919) 807-2500
OMBUDSMAN: (800) 688-8349

The undersigned employer of Bryan A. McHowell
(Name of Employee)
who alleges an injury on the 6 of March 2012
(Day) (Month) (Year)

while in the employment of the undersigned, does hereby certify that the above is a true and correct statement of days worked and earnings of this employee during the 52 weeks immediately preceding the injury (or during the above weeks and parts thereof, if employed for less than 52 weeks) and while engaged in the occupation in which the employee was allegedly injured.

Star Food Products, Inc
Employer
By Budget Kallis
Authorized Signature
07/03/12
Date Signed

To Employer: Making a false statement for the purpose of denying workers' compensation benefits may result in civil or criminal penalties.

INSTRUCTIONS

This form must be completed and filed with the Commission in all cases resulting in death unless maximum compensation rate is stipulated- It must also be filed in any other case if there is a disagreement about earnings or if the Commission requests it.

In preparing this form, place an X in the proper squares to indicate days paid in full. Days the employee is on paid vacation leave and/or paid sick leave should be marked with an X. Leave blank squares to indicate days not paid in full for any reason. Total earnings for each pay period should be placed in the proper column. If the employee's job or pay rate was changed during the reported period, this should be noted, with an indication as to the nature of the change.

The employer code number and the carrier code number, if any, must be inserted in the proper place at the upper right-hand corner of the form.

AYROLL CHECK HISTORY REPORT

DETAIL FOR 02/01/12 THRU 06/30/
SORTED BY EMPLOYEE NUMBE

ARTMENT NO: 51 Sales-Route 510

EMPLOYEE IK DATE	CHK NO	REG HOURS	O/T HOURS	GROSS WAGES	FEDERAL W/H	FICA W/H	MEDICARE W/H	STATE W/H	OTHER TAXES	OTHER DEDUCTIONS	CHECK AMOUNT
000796 McHowell, Bryan A.			SSN: [REDACTED]								
11/13/12	074876	8.00	0.00	120.00	0.00	5.04	1.74	3.17	0.00	0.00	110.05
11/13/12	074877	40.00	0.00	600.00	31.59	25.20	8.70	32.73	0.00	0.00	501.78
12/23/12	074906	40.00	0.00	600.00	31.59	25.20	8.70	32.73	0.00	0.00	501.78
12/23/12	074906	M 40.00	0.00	600.00	31.59	25.20	8.70	32.73	0.00	0.00	501.78
12/23/12	074912	40.00	0.00	600.00	31.59	25.20	8.70	32.73	0.00	0.00	501.78
10/11/12	074938	40.00	0.00	600.00	31.59	25.20	8.70	32.73	0.00	0.00	501.78
10/8/12	D28207	D 40.00	0.00	600.00	31.59	25.20	8.70	32.73	0.00	0.00	501.78
11/5/12	D28298	D 40.00	0.00	600.00	31.59	25.20	8.70	32.73	0.00	0.00	501.78
12/21/12	D28389	D 40.00	0.00	775.18	43.12	28.43	9.81	38.11	0.00	98.30	557.41
12/29/12	D28479	D 40.00	0.00	906.51	62.82	33.94	11.72	47.31	0.00	98.30	652.42
10/5/12	D28570	D 40.00	0.00	915.87	71.59	36.40	12.57	51.40	0.00	49.15	694.76
11/2/12	D28661	D 40.00	0.00	968.63	79.51	38.62	13.33	55.09	0.00	49.15	732.93
11/9/12	D28752	D 40.00	0.00	937.94	74.91	37.33	12.89	52.95	0.00	49.15	710.71
12/6/12	D28844	D 40.00	0.00	1,003.35	84.72	40.08	13.84	57.52	0.00	49.15	758.04
10/3/12	D28937	D 40.00	0.00	839.00	60.06	33.17	11.45	46.02	0.00	59.76	628.54
11/0/12	D29029	D 40.00	0.00	730.49	42.00	28.11	9.71	37.59	0.00	71.71	541.37
11/7/12	D29220	D 40.00	0.00	986.69	80.43	38.87	13.42	55.52	0.00	71.71	726.74
12/4/12	D29317	D 40.00	0.00	901.69	67.68	35.30	12.19	49.57	0.00	71.71	665.24
12/1/12	D29413	D 40.00	0.00	927.07	71.48	36.37	12.56	51.35	0.00	61.12	694.19
11/7/12	D29511	D 40.00	0.00	824.62	56.11	32.07	11.07	44.18	0.00	61.10	620.09
11/4/12	D29618	D 40.00	0.00	1,052.77	90.34	41.65	14.38	60.15	0.00	61.10	785.15
12/1/12	D29712	D 40.00	0.00	1,026.49	86.40	40.55	14.00	58.31	0.00	61.10	766.13
12/8/12	D29806	D 40.00	0.00	993.09	81.39	39.14	13.51	55.97	0.00	61.10	741.98
000796 TOTAL:		808.00	0.00	16,909.39	1,210.51	671.07	231.69	927.86	0.00	973.61	12,894.65
DEPT 51 TOTAL:		808.00	0.00	16,909.39	1,210.51	671.07	231.69	927.86	0.00	973.61	12,894.65
REPORT TOTAL:		808.00	0.00	16,909.39	1,210.51	671.07	231.69	927.86	0.00	973.61	12,894.65

PAYROLL CHECK HISTORY REPORT

DETAIL FOR 05/01/12 THRU 05/31/12
SORTED BY EMPLOYEE NUMBER

DEPARTMENT NO: 51 Sales-Route 510

EMPLOYEE/ CHK DATE	CHK NO	REG HOURS	O/T HOURS	GROSS WAGES	FEDERAL W/H	FICA W/H	MEDICARE W/H	STATE W/H	OTHER TAXES	OTHER DEDUCTIONS	CHECK AMOUNT
1-0000796 McHowell, Bryan A.			SSN: [REDACTED]								
05/03/12	D28937	D 40.00	0.00	839.00	60.06	33.17	11.45	46.02	0.00	59.76	628.54
05/10/12	D29029	D 40.00	0.00	730.49	42.00	28.11	9.71	37.59	0.00	71.71	541.37
05/17/12	D29220	D 40.00	0.00	986.69	80.43	38.87	13.42	55.52	0.00	71.71	726.74
05/24/12	D29317	D 40.00	0.00	901.69	67.68	35.30	12.19	49.57	0.00	71.71	665.24
05/31/12	D29413	D 40.00	0.00	927.07	71.48	36.37	12.56	51.35	0.00	61.12	694.19
0000796 TOTAL:		200.00	0.00	4,384.94	321.65	171.82	59.33	240.05	0.00	336.01	3,256.08
DEPT 51 TOTAL:		200.00	0.00	4,384.94	321.65	171.82	59.33	240.05	0.00	336.01	3,256.08
REPORT TOTAL:		200.00	0.00	4,384.94	321.65	171.82	59.33	240.05	0.00	336.01	3,256.08

PAYROLL CHECK HISTORY REPORT

DETAIL FOR 06/01/12 THRU 06/30/12
 SORTED BY EMPLOYEE NUMBER

DEPARTMENT NO: 51 Sales-Route 510

EMPLOYEE/ CHK DATE	CHK NO	REG HOURS	O/T HOURS	GROSS WAGES	FEDERAL W/H	FICA W/H	MEDICARE W/H	STATE W/H	OTHER TAXES	OTHER DEDUCTIONS	CHECK AMOUNT	
1-0000796 McHowell, Bryan A.												
06/07/12	D29511	D	40.00	0.00	824.62	56.11	32.07	11.07	44.18	0.00	61.10	620.09
06/14/12	D29518	D	40.00	0.00	1,052.77	90.34	41.65	14.38	60.15	0.00	61.10	785.15
06/21/12	D29712	D	40.00	0.00	1,026.49	86.40	40.55	14.00	58.31	0.00	61.10	766.13
06/28/12	D29806	D	40.00	0.00	993.09	81.39	39.14	13.51	55.97	0.00	61.10	741.98
0000796 TOTAL:			160.00	0.00	3,896.97	314.24	153.41	52.96	218.61	0.00	244.40	2,913.35
DEPT 51 TOTAL:			160.00	0.00	3,896.97	314.24	153.41	52.96	218.61	0.00	244.40	2,913.35
REPORT TOTAL:			160.00	0.00	3,896.97	314.24	153.41	52.96	218.61	0.00	244.40	2,913.35

PAYROLL CHECK HISTORY REPORT

DETAIL FOR 07/01/12 THRU 09/30/12
 SORTED BY EMPLOYEE NUMBER

DEPARTMENT NO: 51 Sales-Route 510

EMPLOYEE/ CHK DATE	CHK NO	REG HOURS	O/T HOURS	GROSS WAGES	FEDERAL W/H	FICA W/H	MEDICARE W/H	STATE W/R	OTHER TAXES	OTHER DEDUCTIONS	CHECK AMOUNT
11-0000796 McHowell, Bryan A.											
07/05/12	D29899 D	40.00	0.00	900.58	67.51	35.26	12.17	49.49	0.00	61.10	675.05
0000796 TOTAL:		40.00	0.00	900.58	67.51	35.26	12.17	49.49	0.00	61.10	675.05
DEPT 51 TOTAL:		40.00	0.00	900.58	67.51	35.26	12.17	49.49	0.00	61.10	675.05
REPORT TOTAL:		40.00	0.00	900.58	67.51	35.26	12.17	49.49	0.00	61.10	675.05



July 10, 2012

Mr. Bryan McHowell
7822 Van Wyck Road
Lancaster, SC 29720

RE: Employee: Bryan McHowell
Date of Claimed Accident: 03/06/2012
Employer: Mrs. Stratton's Salads, Inc.
Claim Number: 564575461

Dear Mr. McHowell:

Please be advised that we have investigated your claim and do not find it to be compensable under the South Carolina Workers' Compensation Act. We are therefore denying your claim.

If you would like to discuss your claim in more detail, you may contact me at 1-800-467-7725, extension 259, or the South Carolina Workers' Compensation Commission at 803-737-5700.

Sincerely,

Deborah D. Vaughn
Senior Claims Specialist

CC: SC Workers' Compensation Commission
Brent P. Stewart, Esquire
Mrs. Stratton's Salads, Inc.
Lancaster Orthopaedic & Sports Medicine
Mackey Family Practice

STEWART LAW OFFICES, L.L.C.

1242 EBENEZER ROAD
ROCK HILL, SOUTH CAROLINA 29732

REPLY TO:
P.O. BOX 670,
ROCK HILL, SC 29731-6670
FAX (803) 328-5876

BRENT P. STEWART
Licensed in WV & SC
brent@stewartlawoffices.net

BEAU WILDER
Licensed in NC & SC
beau@stewartlawoffices.net

JENNA W. GARRAUX
Licensed in SC
jenna@stewartlawoffices.net

June 25, 2012

Greg Line
Director of Claims
SC Workers' Compensation Commission
PO Box 1715
Columbia, SC 29202-1715

RE: *Bryan Howell vs. Star Foods Products Inc.*
Date of Loss: March 6, 2012
WCC File No.: TBD

Dear Mr. Line:

In connection with the above referenced matter, enclosed please find the originals and one (1) copy each of the WCC Form #50 Claim Only and Certificate of Service. I would appreciate your filing the originals and returning the file-stamped copies to me in the envelope provided for your convenience. Also, I would appreciate you noting my representation in the file.

By copy of this letter and consistent with the enclosed Certificate of Service, we are hereby serving these documents upon the employer and carrier of record in this matter.

As noted in section 10a of the Form 50, if not already provided, we are specifically requiring the employer's representative provide a Form 20 utilizing the formula specified in Rule 67-1603(B) and provided to us within thirty (30) days of receipt of the Form 50 as specified in Rule 67-1603(C)(1) or (D)(2), whichever is applicable pursuant to Rule 67-211. Notice is hereby given that failure to provide a Form 20 as required by the aforementioned rule, the claimant will exercise their right pursuant to Rule 67-1603(G) and submit evidence at the hearing for a determination of average weekly wage and the resulting compensation rate. In addition, the claimant may seek the appropriate fines and penalties.

ROCK HILL (803) 328-5600
LANCASTER (803) 286-5600
CHESTER (803) 385-5600
YORK (803) 684-3800

ORANGEBURG (803) 534-1000
CAMDEN (803) 425-6700
COLUMBIA (803) 743-4200
GASTONIA (704) 868-5800

GAFFNEY (864) 489-9996
SPARTANBURG (864) 583-2223
UNION (864) 427-8500
CHESNEE (864) 461-5600

HAMPTON (803) 914-0800
BEAUFORT (843) 379-3600
RIDGEWAY (803) 337-4600
WINNSBORO (803) 815-5600

SPANISH LINE (803) 487-0055

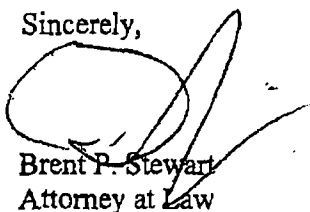
IN NC, DBA STEWART LAW OFFICES, PLLC

0534

Page 2 of 2

I appreciate your assistance in this regard, and should you have any questions or need any further information, please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read "Brent P. Stewart", is written over the typed name. The signature is fluid and cursive, with a large loop at the end.

Brent P. Stewart
Attorney at Law

BPS/ndf

CC: Bryan Howell
Star Food Products, Inc
Strategic Comp Services

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 #: TBD
Carrier File #: 564575461
Carrier Code #: _____
Employer FEIN #: _____

Claimant's Name: Bryan Howell SSN: Employer's Name: Star Food Products Inc.
Address: 7822 Van Wyck Road Address: 2050-A Willow Springs Lane
City: Lancaster State: SC Zip: 29720 City: Burlington State: NC Zip: 27215
Home Phone: (803) 287-4780 Work Phone: _____ Insurance Carrier: Strategic Comp Services
Preparer's Name: Brent P. Stewart Law Firm: Stewart Law Offices, LLC Preparer's Phone #: (803) 328-5600

Complete each information blank. To request a hearing, check Box 13b, indicate the kinds of benefits claimed by checking the box(es) at Lines 6, 7, 8, and 9, and file this form in duplicate.

A claim for workers' compensation benefits is made based on the following grounds:

Date of Injury or Illness: 3/6/2012

☒ Injury ☐ Illness ☐ Repetitive Trauma

- 1a. The claimant sustained an injury to on 3/6/2012 in County, State of .
1b. Body part(s) affected are: and any other body parts affected.
Briefly describe how the accident occurred. injured left shoulder, neck, left hand and finger.
2. Both the claimant and the employer were subject to the South Carolina Workers' Compensation Act at the time of injury.
3. The relationship of employer and employee existed at the time of injury.
4. At the time of the injury the claimant was performing services arising out of and in the course of employment.
5. Notice of the accidental injury was given to the Employer on in the following manner: .

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

☒ (a) medical examination and treatment for: and any other body parts affected.

☒ (b) additional medical examination and treatment for: and any other body parts affected.

☒ 7. Due to injury, the claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of:
3/6/2012 to present.

☒ 8. 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
☒ (3) Wage Loss ☒ Partial ☒ Partial

☒ 9. Due to the injury, the Claimant has a serious bodily disfigurement consisting of: N/A.

10a. At the time of the injury, the Claimant was paid weekly wages of \$(Form 20 requested within thirty (30) days), 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

11a. Further grounds or unusual aspects of claim:

11b. List names and addresses of all physicians or other medical specialists who have seen or treated the Claimant as a result of the accident: See attached.

11c. To the best of your knowledge, did you have any prior permanent disability?
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: N/A

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

Preparer's Signature: [Signature] Claimant's Attorney: brent@stewartlawoffices.net June 25, 2012
Title: _____ Email: _____ Date: _____

Refer to R.67-204 through R.67-210 and R.67-601 through R.67-615. Questions about the use of this form may be directed to the Commission's Claims Department.

WCC Form # 50
Revised 9/07

50

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

0536

Bridget Terry

From: Deborah Vaughn [dvaughn@strategiccomp.com]
Sent: Friday, June 15, 2012 5:25 PM
To: Bridget Terry
Subject: RE: [SPAM] - Bryan McHowell for Mr. Strattons Salads - Email has different SMTP TO: and MIME TO: fields in the email addresses

I am still trying to obtain his prior medical records. I have a diary for the first of the week and I will follow-up on that.

Mr. McHowell can call me if he has questions. I will be glad to discuss his claim with him.

From: Bridget Terry [mailto:BTerry@starfoodproducts.com]
Sent: Friday, June 15, 2012 7:42 AM
To: Deborah Vaughn
Subject: RE: [SPAM] - Bryan McHowell for Mr. Strattons Salads - Email has different SMTP TO: and MIME TO: fields in the email addresses

Hi Deborah,

I am getting questions from Mr. McHowell about his claim. I told him you were his adjustor and I gave him your contact information. Could you please provide me a update as to where this W/C stands where it is looking to proceed to.

Thanks for all your help and have a great day!

Bridget Hollis
Star Food Products, Inc.
336-227-4079 x112
336-227-2109 Fax
bterry@starfoodproducts.com

From: Deborah Vaughn [mailto:dvaughn@strategiccomp.com]
Sent: Monday, May 21, 2012 4:01 PM
To: Bridget Terry
Subject: RE: [SPAM] - Bryan McHowell for Mr. Strattons Salads - Email has different SMTP TO: and MIME TO: fields in the email addresses

He does not mention one word in this about being under treatment for tears to his shoulder. Also, I note that he also marked no on the question about missing or "impaired" hand, arm, foot, let, finger toe. I will discuss this with you again when I get his medical records.

From: Bridget Terry [mailto:BTerry@starfoodproducts.com]
Sent: Monday, May 21, 2012 3:27 PM
To: Deborah Vaughn
Subject: RE: [SPAM] - Bryan McHowell for Mr. Strattons Salads - Email has different SMTP TO: and MIME TO: fields in the email addresses

Hi Deborah,

Please find attached the requested DOT medical report on Mr. McHowell. If I can assist further please let me know.

Bridget Hollis
Star Food Products, Inc.
336-227-4079 x112
336-227-2109 Fax

bterry@starfoodproducts.com

From: Deborah Vaughn [<mailto:dvaughn@strategiccomp.com>]

Sent: Monday, April 30, 2012 1:15 PM

To: Bridget Terry

Subject: [SPAM] - Bryan McHowell for Mr. Strattons Salads - Email has different SMTP TO: and MIME TO: fields in the email addresses

Bridgett,

Please have Mr. McHowell sign and return the attached medical release. Also, did he complete a post-employment questionnaire?



April 27, 2012

Mrs. Stratton's Salads, Inc
Attn: Tiffany Oyler
P O Box 190187
Birmingham, AL 35219-0187

RE: Workers' Compensation Claim
Claim No.: 564575461
Claimant: Bryan McHowell
Date of Injury: 03/06/2012

Dear Ms. Hollis:

Please complete the attached wage statement form on this injured worker to confirm the average weekly wage submitted on the First Report of Injury. It ensures that your employee is receiving the appropriate level of compensation benefits.

Thank you in advance for your cooperation with completing this form and for returning it to us promptly. Should you have any questions, I may be reached at 800 467 7725 x 259.

Sincerely,

A handwritten signature in cursive script that reads "Deborah Vaughn".

Deborah Vaughn
Sr. Claim Specialist

Enclosure

WORKERS' COMPENSATION - FIRST REPORT OF INJURY OR ILLNESS

EMPLOYER (NAME & ADDRESS INCL ZIP) MRS. STRATTON'S SALADS, INC. - WC 1708746 00 04 2050 WILLOW SPRING LANE BURLINGTON NC 27215		CARRIER/ADMINISTRATOR CLAIM NUMBER	OSHA LOG NUMBER	REPORT PURPOSE CODE UNK
INDUSTRY CODE 2035		EMPLOYER FEIN	JURISDICTION SC	
JURISDICTION CLAIM NUMBER		INSURED REPORT NUMBER		
EMPLOYER'S LOCATION ADDRESS (IF DIFFERENT)			LOCATION # WC 1708746 00 04	
PHONE # (336)227-4079				
CARRIER/CLAIMS ADMINISTRATOR				
CARRIER (NAME, ADDRESS, & PHONE #)	POLICY PERIOD TO		CLAIMS ADMINISTRATOR (NAME, ADDRESS & PHONE NO)	
CHECK IF APPROPRIATE ☒ SELF INSURANCE				
CARRIER FEIN UNK	POLICY/SELF-INSURED NUMBER		ADMINISTRATOR FEIN 36-3365500	
AGENT NAME & CODE NUMBER UNK UNK				
EMPLOYEE/WAGE				
NAME (LAST, FIRST, MIDDLE) MCDOWELL, BRYAN	DATE OF BIRTH 1957	SOCIAL SECURITY NUMBER	DATE HIRED 02/03/2012	STATE OF HIRE SC
ADDRESS (INCL ZIP) 7822 VAN WYCK ROAD LANCASTER, SC 29720 USA	SEX ☒ Male ☐ Female ☐ Unknown	MARITAL STATUS ☒ Unmarried/Single/Divorced ☐ Married ☐ Separated ☐ Unknown	OCCUPATION/JOB TITLE ROUTE SALES	
PHONE (803)286-9772	# OF DEPENDENTS 2	EMPLOYMENT STATUS UNK		
RATE PER: ☐ DAY ☐ WEEK ☒ OTHER: UNKNO	DAYS WORKED/WEEK 5	FULL PAY FOR DAY OF INJURY? ☒ YES ☐ NO DID SALARY CONTINUE? ☒ YES ☐ NO		
OCCURRENCE/TREATMENT				
TIME EMPLOYEE BEGAN WORK 06:00 ☒ AM ☐ PM	DATE OF INJURY/ILLNESS 03/06/2012	TIME OF OCCURRENCE () CANNOT BE DETERMINED 04:30 ☒ AM ☐ PM	LAST WORK DATE	DATE EMPLOYER NOTIFIED DATE DISABILITY BEGAN 04/23/2012
CONTACT NAME/PHONE NUMBER BRIDGET HOLLIS (336)227-4079 x112	TYPE OF INJURY/ILLNESS SPECIFIC INJURY - ALL OTHER SPECIFIC INJURIES, NOC		PART OF BODY AFFECTED UPPER EXTREMITIES - SHOULDER	
DID INJURY/ILLNESS/EXPOSURE OCCUR ON EMPLOYER'S PREMISES? ☐ YES ☒ NO	TYPE OF INJURY/ILLNESS CODE S9		PART OF BODY AFFECTED CODE 38	
DEPARTMENT OR LOCATION WHERE ACCIDENT OR ILLNESS EXPOSURE OCCURRED 2 LANE - HIGHWAY 75 - VAN WYCK - SC		ALL EQUIPMENT, MATERIALS, OR CHEMICALS EMPLOYEE WAS USING WHEN ACCIDENT OR ILLNESS EXPOSURE OCCURRED 8 vehicle		
SPECIFIC ACTIVITY THE EMPLOYEE WAS ENGAGED IN WHEN THE ACCIDENT OR ILLNESS EXPOSURE OCCURRED driving		WORK PROCESS THE EMPLOYEE WAS ENGAGED IN WHEN ACCIDENT OR ILLNESS EXPOSURE OCCURRED driving		
HOW INJURY OR ILLNESS/ABNORMAL HEALTH CONDITION OCCURRED. DESCRIBE THE SEQUENCE OF EVENTS AND INCLUDE ANY OBJECTS OR SUBSTANCES THAT DIRECTLY INJURED THE EMPLOYEE OR MADE THE EMPLOYEE ILL. The EE was driving a company truck when he lost control and flipped the truck. He is having pain in his left shoulder.				CAUSE OF INJURY CODE 46
DATE RETURNED TO WORK 03/06/2012	IF FATAL, GIVE DATE OF DEATH	WERE SAFEGUARDS OR SAFETY EQUIPMENT PROVIDED? ☒ YES ☐ NO WERE THEY USED? ☐ YES ☐ NO		
PHYSICIAN/HEALTH CARE PROVIDER (NAME & ADDRESS) AARON O'MALLEY WEST MEETINGS STREET LANCASTER SC 29720		HOSPITAL OR OFF SITE TREATMENT (NAME & ADDRESS) LANCASTER ORTHOPAEDIC WEST MEETINGS STREET LANCASTER SC 29720		
INITIAL TREATMENT 0 ☐ NO MEDICAL TREATMENT 1 ☐ MINOR, BY EMPLOYER 2 ☒ MINOR CLINICAL 3 ☐ EMERGENCY CARE 4 ☐ HOSPITALIZED > 24 HOURS 5 ☐ FUTURE MAJOR MEDICAL/LOST TIME ANTICIPATED				
OTHER WITNESSES (NAME & PHONE #)				
DATE ADMINISTRATOR NOTIFIED	DATE PREPARED 04/23/2012	PREPARER'S NAME & TITLE BRIDGET HOLLIS via Phone (HR)		PHONE NUMBER (336)227-4079 x112

WCC FORM 12-A
REV. DATE 04/06

SEE INSTRUCTIONS FOR IMPORTANT INFORMATION

REPRINTED WITH PERMISSION OF IAIABC

118501444 04/23/2012

0540

EMPLOYER'S INSTRUCTIONS

DO NOT ENTER DATA IN SHADED FIELDS

DATES:

Enter all dates in MM/DD/YY format.

INDUSTRY CODE:

This is the code which represents the nature of the employer's business, which is contained in the Standard Industrial Classification Manual or the North American Industry Classification System, published by the Federal Office of Management and Budget.

CARRIER:

The licensed business entity issuing a contract of insurance and assuming financial responsibility on behalf of the employer of the claimant.

CLAIMS ADMINISTRATOR:

Enter the name of the carrier, third party administrator, state fund, or self-insured responsible for administering the claim.

AGENT NAME & CODE NUMBER:

Enter the name of your insurance agent and his/her code number if known. This information can be found on your insurance policy.

OCCUPATION/JOB TITLE:

This is the primary occupation of the claimant at the time of the accident or exposure.

EMPLOYMENT STATUS:

Indicate the employee's work status. The valid choices are:

Full-Time On Strike Unknown Volunteer

Part-Time Disabled Apprenticeship Full-Time Seasonal

Not Employed Retired Apprenticeship Part-Time Piece Worker

DATE DISABILITY BEGAN:

The first day on which the claimant originally lost time from work due to the occupation injury or disease or as otherwise designated by statute.

CONTACT NAME/PHONE NUMBER:

Enter the name of the individual at the employer's premises to be contacted for additional information.

TYPE OF INJURY/ILLNESS:

Briefly describe the nature of the injury or illness, (eg. Lacerations to the forearm).

PART OF BODY AFFECTED:

Indicate the part of body affected by the injury/illness, (eg. Right forearm, lower back).

DEPARTMENT OR LOCATION WHERE ACCIDENT OR ILLNESS EXPOSURE OCCURRED:

(eg. Maintenance Department or Client's office at 452 Monroe St., Washington, DC 26210)

If the accident or illness exposure did not occur on the employer's premises, enter address or location.
Be specific.

EMPLOYER'S INSTRUCTIONS - cont'd

ALL EQUIPMENT, MATERIAL OR CHEMICALS EMPLOYEE WAS USING WHEN ACCIDENT OR ILLNESS EXPOSURE OCCURRED:

(eg. Acetylene cutting torch, metal plate)

List all of the equipment, materials, and/or chemicals the employee was using, applying, handling or operating when the injury or illness occurred. Be specific, for example: decorator's scaffolding, electric sander, paintbrush, and paint.

Enter "NA" for not applicable if no equipment, materials, or chemicals were being used. NOTE: The items listed do not have to be directly involved in the employee's injury or illness.

SPECIFIC ACTIVITY THE EMPLOYEE WAS ENGAGED IN WHEN THE ACCIDENT OR ILLNESS EXPOSURE OCCURRED:

(eg. Cutting metal plate for flooring)

Describe the specific activity the employee was engaged in when the accident or illness exposure occurred, such as sanding ceiling woodwork in preparation for painting.

WORK PROCESS THE EMPLOYEE WAS ENGAGED IN WHEN ACCIDENT OR ILLNESS EXPOSURE OCCURRED:

Describe the work process the employee was engaged in when the accident or illness exposure occurred, such as building maintenance. Enter "NA" for not applicable if employee was not engaged in a work process (eg. walking along a hallway).

HOW INJURY OR ILLNESS/ABNORMAL HEALTH CONDITION OCCURRED. DESCRIBE THE SEQUENCE OF EVENTS AND INCLUDE ANY OBJECTS OR SUBSTANCES THAT DIRECTLY INJURED THE EMPLOYEE OR MADE THE EMPLOYEE ILL:

(Worker stepped back to inspect work and slipped on some scrap metal. As worker fell, worker brushed against the hot metal.)

Describe how the injury or illness/abnormal health condition occurred. Include the sequence of events and name any objects or substance that directly injured the employee or made the employee ill. For example: Worker stepped to the edge of the scaffolding to inspect work, lost balance and fell six feet to the floor. The worker's right wrist was broken in the fall.

DATE RETURN(ED) TO WORK:

Enter the date following to most recent disability period on which the employee returned to work.

Supplementals

Report# 116501444

Additional Dissemination Information

Would you like a fax or email copy of this report?

EMAIL

What is the Recipient's Email Address?

bterry@starfoodproducts.com

Additional Employee Information

What is the employee's work status?

Regular Employee

Additional Policy Information

Profit Center:

3145

Additional Incident Information

What is your CLEE code?

STR01

Is this a RECORD ONLY report?

NO

Additional Information

Type of medical treatment

MINOR: CLINIC/HOSPITAL

Was the Employee hospitalized overnight as an In-patient?

NO

Time Employee began work?

6:00 AM

Identify the object or the substance that directly harmed the Employee:

a vehicle

What was employee doing when incident occurred? (be specific)

drivingq

Notes

Notes/Additional Comments

NONE

Additional Escalation Criteria

Does this claim meet any escalation criteria below?

NO

Longshoreman

Is this a longshore claim?

NO

Data Entry Team ONLY

FMS#

PAYROLL CHECK HISTORY REPORT

DETAIL FOR 02/01/12 THRU 02/29/12
SORTED BY EMPLOYEE NUMBER

DEPARTMENT NO: 51 Sales-Route 510

EMPLOYEE/ CHK DATE	CHK NO	REG HOURS	O/T HOURS	GROSS WAGES	FEDERAL W/H	FICA W/H	MEDICARE W/H	STATE W/H	OTHER TAXES	OTHER DEDUCTIONS	CHECK AMOUNT
51-0000796	McHowell, Bryan A.										
02/13/12	074876	8.00	0.00	120.00	0.00	5.04	1.74	1.17	0.00	0.00	110.05
02/13/12	074877	40.00	0.00	600.00	31.59	25.20	8.70	32.73	0.00	0.00	501.78
02/23/12	074906	40.00	0.00	600.00	31.59	25.20	8.70	32.73	0.00	0.00	501.78
02/23/12	074906	M 40.00	0.00	600.00	31.59	25.20	8.70	32.73	0.00	0.00	501.78
02/23/12	074912	40.00	0.00	600.00	31.59	25.20	8.70	32.73	0.00	0.00	501.78
0000796 TOTAL:		88.00	0.00	1,320.00	63.18	55.44	19.14	68.63	0.00	0.00	1,113.61
DEPT 51 TOTAL:		88.00	0.00	1,320.00	63.18	55.44	19.14	68.63	0.00	0.00	1,113.61
REPORT TOTAL:		88.00	0.00	1,320.00	63.18	55.44	19.14	68.63	0.00	0.00	1,113.61

PAYROLL CHECK HISTORY REPORT

Star Food Products, Inc.

DETAIL FOR 03/01/12 THRU 03/31/12
SORTED BY EMPLOYEE NUMBER

DEPARTMENT NO: 51 Sales-Route 510

EMPLOYER/ CHK DATE	CHK NO	REG HOURS	O/T HOURS	GROSS WADES	FEDERAL W/H	FICA W/H	MEDICARE W/H	STATE W/H	OTHER TAXES	OTHER DEDUCTIONS	CHECK AMOUNT
51-0000796 McHowell, Bryan A.											
03/01/12	074938	40.00	0.00	600.00	31.59	25.20	8.70	32.73	0.00	0.00	501.78
03/08/12	D28207	D 40.00	0.00	600.00	31.59	25.20	8.70	32.73	0.00	0.00	501.78
03/15/12	D28298	D 40.00	0.00	600.00	31.59	25.20	8.70	32.73	0.00	0.00	501.78
03/22/12	D28389	D 40.00	0.00	775.18	43.12	28.43	9.81	38.11	0.00	98.30	557.41
03/29/12	D28479	D 40.00	0.00	906.51	62.82	33.94	11.72	47.31	0.00	98.30	652.42
0000796 TOTAL:		200.00	0.00	3,481.69	200.71	137.97	47.63	183.61	0.00	196.60	2,715.17
DEPT 51 TOTAL:		200.00	0.00	3,481.69	200.71	137.97	47.63	183.61	0.00	196.60	2,715.17
REPORT TOTAL:		200.00	0.00	3,481.69	200.71	137.97	47.63	183.61	0.00	196.60	2,715.17

PAYROLL CHECK HISTORY REPORT

Star Food Products, Inc.

DETAIL FOR 04/01/12 THRU 04/30/12
SORTED BY EMPLOYEE NUMBER

DEPARTMENT NO: 51 Sales-Route 510

EMPLOYEE/ CHK DATE	CHK NO	REG HOURS	O/T HOURS	GROSS WAGES	FEDERAL W/H	FICA W/H	MEDICARE W/H	STATE W/H	OTHER TAXES	OTHER DEDUCTIONS	CHECK AMOUNT
51-0000796 McHowell, Bryan A.											
04/03/12	D28570	D 40.00	0.00	915.87	71.59	36.40	12.57	51.40	0.00	49.15	694.76
04/12/12	D28661	D 40.00	0.00	968.63	79.51	38.62	13.33	55.09	0.00	49.15	732.93
04/19/12	D28752	D 40.00	0.00	937.94	74.91	37.33	12.89	52.95	0.00	49.15	710.71
04/26/12	D28844	D 40.00	0.00	1,003.35	84.72	40.08	13.84	57.52	0.00	49.15	758.04
0000796 TOTAL:		160.00	0.00	3,825.79	310.73	152.43	52.63	216.96	0.00	196.60	2,896.44
DEPT 51 TOTAL:		160.00	0.00	3,825.79	310.73	152.43	52.63	216.96	0.00	196.60	2,896.44
REPORT TOTAL:		160.00	0.00	3,825.79	310.73	152.43	52.63	216.96	0.00	196.60	2,896.44

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
COLUMBIA, SOUTH CAROLINA
WCC FILE NO. 1207730

EMPLOYEE/CLAIMANT: BRYAN MCHOWELL

EMPLOYER: MRS. STRATTON'S SALADS, INC.

INSURER: GREAT AMERICAN ALLIANCE INSURANCE COMPANY

CCY

SOUTH CAROLINA WORKERS' COMPENSATION HEARING

PURSUANT TO NOTICE OF WORKERS' COMPENSATION
HEARING, THE WITHIN HEARING WAS TAKEN ON THE 9TH DAY OF
JULY, 2013, COMMENCING AT THE HOUR OF 11:19 A.M., IN
ROCK HILL, SOUTH CAROLINA, BEFORE THE HONORABLE SUSAN S. BARDEN,
ATTENDED BY COUNSEL AS FOLLOWS:

SALLYE DEANNE NELSON
VERBATIM REPORTER

JAN L. WHITWORTH
COURT REPORTING SERVICES
POST OFFICE BOX 551
ROEBUCK, S.C. 29376

APPEARANCES

BRENT P. STEWART, ESQUIRE, OF THE FIRM
STEWART LAW OFFICES, L.L.C.
1242 EBENEZER ROAD
ROCK HILL, SOUTH CAROLINA 29732

ATTORNEY FOR THE EMPLOYEE/CLAIMANT,

SHELBY H. KELLAHAN, ESQUIRE, OF THE FIRM
HUFF LAW FIRM, L.L.C.
7244 WOODROW STREET
IRMO, SOUTH CAROLINA 29063

ATTORNEY FOR THE EMPLOYER/INSURER.

ALSO ATTENDING:

MITCHELL BYRD
NORMAN MABRY
CARRIE MACKIE
STEVE TILLEY

I N D E X

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1 PURSUANT TO NOTICE OF HEARING, THE WITHIN HEARING
2 WAS TAKEN BY THE ABOVE-NAMED COURT REPORTER, A NOTARY
3 PUBLIC FOR THE STATE OF SOUTH CAROLINA, IN ROCK HILL,
4 SOUTH CAROLINA.

5 * * * * * * * * * * * * * * * *

6 BY COMMISSIONER BARDEN:

7 TODAY'S DATE IS JULY 9TH, 2013. THIS IS SOUTH
8 CAROLINA WORKERS' COMPENSATION COMMISSION FILE
9 NUMBER 1207730. THIS IS THE CASE OF THE CLAIMANT
10 MR. BRYAN MCHOWELL WHO IS PRESENT TODAY AND
11 REPRESENTED BY ATTORNEY BRENT STEWART VERSUS THE
12 EMPLOYER MRS. STRATTON'S SALADS AND ITS CARRIER
13 GREAT AMERICAN ALLIANCE, BOTH OF WHICH ARE
14 REPRESENTED BY ATTORNEY SHELBY KELLAHAN. THE
15 PURPOSE OF TODAY'S HEARING IS TO DETERMINE ISSUES
16 RAISED IN FORMS 50 AND 51. THIS IS A DENIED CLAIM.
17 HOWEVER, THE PARTIES DO AGREE AND STIPULATE THAT MR.
18 MCHOWELL'S AVERAGE WEEKLY WAGE IS \$973.00 YIELDING A
19 COMPENSATION RATE OF \$646.14, AND THE DATE OF THIS
20 ALLEGED ACCIDENT WAS MARCH 6TH, 2012.

21 ARE THERE ANY OBJECTIONS TO APAs, JURISDICTION,
22 VENUE, OR ANY OTHER ITEMS?

23 BY MS. KELLAHAN:

24 NONE.

25 BY MR. STEWART:

1 NO, YOUR HONOR.

2 **BY COMMISSIONER BARDEN:**

3 THANK YOU. WITHOUT OBJECTION THE COMMISSION
4 FILE BECOMES A PART OF THE RECORD WITH THE EXCEPTION
5 OF SELF SERVING DECLARATIONS AND UNSTIPULATED
6 MEDICAL REPORTS. PRIOR TO GOING ON THE RECORD WE
7 HELD A PRE-HEARING CONFERENCE. IT'S THE POSITION --
8 LET'S GO OFF THE RECORD ONE SECOND.

9 (OFF THE RECORD)

10 **BY COMMISSIONER BARDEN:**

11 ALL RIGHT. WE ARE BACK ON THE RECORD. IT IS
12 THE POSITION OF THE CLAIMANT THAT HE SUFFERED A
13 COMPENSABLE INJURY BY ACCIDENT ARISING OUT OF AND IN
14 THE COURSE AND SCOPE OF HIS EMPLOYMENT ON MARCH 6TH,
15 2012, ON WHICH DATE HE INJURED HIS LEFT SHOULDER,
16 HIS LEFT HAND, AND HIS MIDDLE, RING, AND SMALL
17 FINGERS, OR HIS SECOND, THIRD, AND FOURTH FINGERS
18 PURSUANT TO SECTION 42-9-30. HE ALSO INJURED HIS
19 NECK. HE DOES NOT SEEK ANY TEMPORARY TOTAL
20 DISABILITY BENEFITS AT THIS JUNCTURE AS HE HAS
21 CONTINUED TO WORK, BUT HE CERTAINLY WOULD LIKE HIS
22 RIGHT TO RECEIVE SUCH PROSPECTIVELY SHOULD HE BE
23 WRITTEN OUT PURSUANT TO THE -- OR LIMITED TO LIGHT-
24 DUTY PURSUANT TO THE DICTATES OF THE ACT. HE SEEKS
25 AN ORDER REQUIRING THE DEFENDANTS TO PROVIDE HIM

1 WITH MEDICAL TREATMENT SPECIFICALLY WITH DR.
2 O'MALLEY WHO IS HIS TREATING PHYSICIAN AS DR.
3 O'MALLEY IS FAMILIAR WITH HIS CASE, AND THEY HAVE
4 ESTABLISHED A TREATMENT RELATIONSHIP. MR. MCHOWELL
5 SEEKS REIMBURSEMENT FOR THOSE EXPENSES HE'S INCURRED
6 THUS FAR WITH REGARD TO THE EVALUATION OF HIS
7 INJURIES, AND AS HE HAS NOT REACHED MAXIMUM MEDICAL
8 IMPROVEMENT, ANY DETERMINATION OF PERMANENCY IS
9 PREMATURE. IT'S HIS POSITION THAT THE DEPOSITION
10 TESTIMONY OF HIS EMPLOYER SUPERIORS WOULD NOT SERVE
11 TO ESTABLISH THE REQUIREMENTS OF MCDEVITT AS FAR AS
12 ANY KIND OF FALSIFICATION OF A PRIOR INJURY, AND
13 THEREFORE HE BELIEVES THAT THE DEFENDANTS'
14 CONTENTION THAT HE -- THAT BENEFITS SHOULD BE DENIED
15 IS -- WOULD THAT THE DEFENDANTS' CONTENTION WOULD
16 FAIL PURSUANT TO THE DICTATES OF THAT CASE AND THE
17 CIRCUMSTANCES AND FACTS OF THIS ONE.

18 CONVERSELY, IT IS THE POSITION OF THE
19 DEFENDANTS THAT THERE WAS NO INJURY BY ACCIDENT
20 PURSUANT TO SECTION 42-1-60, AND FURTHER ANY PROBLEM
21 FROM WHICH THE CLAIMANT SUFFERED WITH REGARD TO HIS
22 LEFT SHOULDER, HIS NECK, HIS HAND, OR ANY FINGERS,
23 IS THE RESULT OF A PRE-EXISTING CONDITION THAT WAS
24 NOT AGGRAVATED BY HIS EMPLOYMENT OR BY ANY ALLEGED
25 ACCIDENT OF MARCH 6TH, 2012. THE DEFENDANTS

1 STRONGLY BELIEVE THAT THE MCDEVITT STREET CASE DOES
2 IN FACT APPLY AND CONTROL, AND THAT THE CLAIMANT HAS
3 IN FACT THROUGH HIS EMPLOYMENT APPLICATION FAILED TO
4 DISCLOSE A PRIOR INJURY OR CONDITION, AND THAT THE
5 DEFENDANTS RELIED ON THAT REPRESENTATION, AND THAT
6 THEY WOULD NOT HAVE HIRED THE CLAIMANT BUT FOR HIS
7 REPRESENTATION, AND THAT BECAUSE OF HIS PRIOR
8 PROBLEM HIS INJURY WAS -- WOULD -- WELL, PERHAPS HIS
9 INJURY OR INJURIES WOULD NOT HAVE OCCURRED OR
10 CERTAINLY WERE MADE WORSE BECAUSE OF HIS FAILURE TO
11 DISCLOSE A PRIOR PROBLEM. AGAIN, I HAVE NOT HEARD
12 THIS CASE AND HAVE JUST BEEN HANDED ALL OF THESE
13 MEDICAL RECORDS, SO I'M NOT FAMILIAR ENOUGH WITH THE
14 ACTUAL CIRCUMSTANCES OF THE ACTUAL PRE-EXISTING
15 INJURY, BUT THAT WILL BE EXPLORED THROUGH TESTIMONY.
16 AND FINALLY THE DEFENDANTS DID FILE A MOTION TO
17 ALTERNATIVELY POSTPONE THIS HEARING TODAY OR LEAVE
18 THE RECORD OPEN. AND ALTHOUGH I LIKE TO HAVE ALL
19 EVIDENCE AT ONE TIME IN ORDER TO ADJUDICATE A CLAIM
20 OR RENDER A DECISION, WHAT HAPPENED IN THIS CASE IS
21 THAT -- WELL, I'LL ASK WHY -- I FIRST MENTIONED WHAT
22 THE DEFENDANTS ARE LOOKING FOR. THEY FIRST WOULD
23 LIKE TO DEPOSE DR. O'MALLEY WHO IS THE TREATING
24 PHYSICIAN. THEY DID NOT SEEK TO DO THAT EARLIER
25 BECAUSE THEY HAD READ ALL DR. O'MALLEY'S RECORDS AND

1 DID NOT HAVE A PROBLEM, BUT THEN A QUESTIONNAIRE
2 WHICH WAS SUBMITTED AT THE TIME THE APAs WERE DUE IS
3 WHAT ALERTED THEM TO THEIR NEED TO DEPOSE DR.
4 O'MALLEY, AND I'M GOING TO LEAVE THAT -- HOLD THAT
5 MOTION IN ABEYANCE. I'M GOING TO HEAR THIS CASE
6 FIRST, AND I'LL TALK TO THE ATTORNEYS AT THE
7 CONCLUSION OF THE HEARING OR PERHAPS EVEN AFTER I'VE
8 READ ALL OF THE EVIDENCE. SECONDLY, THE DEFENDANTS
9 WISH TO DEPOSE DR. LEHMAN, AND THE DEFENDANTS DID IN
10 FACT ONLY RECEIVE THAT QUESTIONNAIRE AND DID NOT
11 KNOW THAT THERE WAS GOING TO BE ANY KIND OF OPINION
12 FROM DR. LEHMAN UNTIL THEY RECEIVED THE -- THE
13 CLAIMANT'S APA SUBMISSIONS. SO I WILL ALLOW THE
14 DEFENDANTS TO DEPOSE DR. LEHMAN, AND WE'LL LEAVE THE
15 RECORD OPEN FOR THAT. AND THEN FINALLY THE
16 DEFENDANTS WISH TO SEND THE CLAIMANT FOR AN I.M.E.
17 TO DR. WESTERKAM, AND I'M GOING TO LEAVE THAT --
18 HOLD THAT IN ABEYANCE AS WELL. IT'S VERY DIFFICULT
19 TO MAKE A DECISION LIKE THAT IN A VACUUM WITHOUT
20 HAVING READ ANY RECORDS, AND THAT'S THE DOWNSIDE AS
21 FAR AS BEING A COMMISSIONER AND ONLY BEING PROVIDED
22 THE EVIDENCE AT THE TIME OF THE HEARING. SO
23 THEREFORE I -- AND CERTAINLY I DON'T HAVE THE
24 ENCYCLOPEDIC KNOWLEDGE THAT THESE ATTORNEYS DO OF
25 THESE RECORDS AND OF THESE -- AND OF THE OTHER

1 EVIDENCE IN THIS CASE. SO I'M CERTAINLY AT A
2 DISADVANTAGE, AND I DON'T FEEL LIKE I CAN MAKE A --
3 A PROPER DECISION, AND I CERTAINLY DON'T WANT TO
4 THROW A DART AT A BOARD, WHICH RIGHT NOW IS BE --
5 WOULD BE WHAT I'M DOING WITHOUT KNOWING MORE. SO
6 I'M GOING TO HOLD THOSE MOTIONS IN ABEYANCE AS FAR
7 AS ALLOWING THE DEFENDANTS TO SET UP AN I.M.E. WITH
8 DR. WESTERKAM AND TO DEPOSE DR. O'MALLEY. NOW, OF
9 COURSE IF THE DEFENDANTS PREVAIL IN THIS CASE, THEN
10 THEIR MOTIONS WOULD BE MOOT, BUT HOW -- IF NOT
11 THOUGH I'M GOING TO HAVE TO DECIDE WHAT I'M GOING TO
12 DO WITH REGARD TO THOSE. SO THAT'S ALL IN ABEYANCE,
13 BUT THE DEFENDANTS BELIEVE THAT BENEFITS UNDER THE
14 ACT SHOULD BE DENIED AND OF COURSE THE CLAIMANT
15 CONTENDS AND REQUESTS THE RELIEF -- CONTENDS
16 OTHERWISE AND REQUEST THE RELIEF THAT I EARLIER READ
17 INTO THE RECORD. ALL RIGHT. IS THAT A FAIR
18 SUMMARY, AND I KNOW THAT'S ABBREVIATED; WE TALKED
19 ABOUT A LOT MORE AT THE PRE-HEARING CONFERENCE, BUT
20 IF THERE'S ANYTHING THAT I MAY HAVE MIS-STATED OR
21 MIS-CHARACTERIZED -- YOU KNOW PRE-HEARING
22 CONFERENCES CAN GO ON FOR HOURS AND PERHAPS EVEN
23 DAYS SOMETIMES, BUT WE HAVE TO ACTUALLY GET TO THE
24 HEARING. SO IS THERE ANYTHING THAT EITHER OF YOU
25 WOULD LIKE TO ADD?

1 BY MR. STEWART:

2 I WOULD JUST ALSO SAY ---

3 BY COMMISSIONER BARDEN:

4 SURE.

5 BY MR. STEWART:

6 --- ALONG WITH THE TESTIMONY THAT WE SUBMITTED
7 AS TO THE SECOND PRONG OF THE MCDEVITT STREET, IT'S
8 OUR CONTENTION AS WELL THAT THEY HAVEN'T SATISFIED
9 PRONG ONE OR THREE ---

10 BY COMMISSIONER BARDEN:

11 OKAY.

12 BY MR. STEWART:

13 --- AS WELL BECAUSE THEY HAVE -- THEY HAVE NO
14 MEDICAL TESTIMONY THAT THERE'S A CAUSAL RELATIONSHIP
15 BETWEEN THE PRE-EXISTING INJURY AND THE ACCIDENT AND
16 AS THEY NEEDED FOR THREE. THERE'S NO EVIDENCE THAT
17 HE KNOWINGLY AND WILLFULLY MADE THE FALSE
18 REPRESENTATION. SO WE WOULD ARGUE THAT ON ALL THREE
19 PRONGS, NOT JUST THE MIDDLE.

20 BY COMMISSIONER BARDEN:

21 OKAY. ALL RIGHT. THANK YOU FOR THAT
22 CLARIFICATION. ALL RIGHT. IS THERE ANYTHING, MS.
23 KELLAHAN, OR ARE YOU SATISFIED?

24 BY MS. KELLAHAN:

25 THAT'S ---

1 BY MR. STEWART:

2 AS -- AS I QUOTE COLLINS AND LACY.

3 BY MS. KELLAHAN:

4 YEAH, GOOD DEAL TO GO TO -- GO TO TO RESEARCH.

5 BY COMMISSIONER BARDEN:

6 ALL RIGHT. MR. STEWART, YOUR FIRST AND ONLY

7 WITNESS ---

8 BY MR. STEWART:

9 THANK YOU.

10 BY COMMISSIONER BARDEN:

11 --- TODAY IS MR. MCHOWELL; IS THAT RIGHT?

12 BY MR. STEWART:

13 THANK YOU.

14 BY COMMISSIONER BARDEN:

15 ALL RIGHT. MR. MCHOWELL, IF YOU'LL RAISE YOUR
16 RIGHT HAND PLEASE.

17 * * * * *

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

21 BRYAN MCHOWELL

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

23 BY COMMISSIONER BARDEN:

24 PLEASE STATE YOUR FULL NAME FOR THE RECORD.

25 BY THE WITNESS:

1 BRYAN MCHOWELL.

2 BY COMMISSIONER BARDEN:

3 THANK YOU SO MUCH. MR. MAC -- IS IT MCHOWELL?

4 BY THE WITNESS:

5 RIGHT. THAT'S CORRECT.

6 BY COMMISSIONER BARDEN:

7 OKAY. I'M GOING TO ASK -- AND I KNOW THE
8 QUESTIONS ARE GOING TO BE COMING FROM MR. STEWART,
9 BUT AS BEST YOU CAN IF YOU'LL DIRECT YOUR RESPONSES
10 TO ME.

11 BY THE WITNESS:

12 OKAY.

13 BY COMMISSIONER BARDEN:

14 I'M NOT ALWAYS GOING TO BE LOOKING AT YOU,
15 BECAUSE I'M TAKING NOTES, BUT IF YOU -- THE BEST YOU
16 CAN, AND I KNOW THIS IS A LITTLE BIT AWKWARD, JUST
17 DO THE BEST YOU CAN IS ALL I ASK, ALL RIGHT?

18 BY THE WITNESS:

19 YES, MA'AM.

20 BY COMMISSIONER BARDEN:

21 MR. STEWART.

22 DIRECT EXAMINATION BY MR. STEWART:

23 Q. OKAY. IF YOU COULD LET'S START OUT BY SAYING WHERE
24 DO YOU CURRENTLY RESIDE?

25 A. IN VAN WYCK, SOUTH CAROLINA.

1 Q. OKAY. AND WHO DO YOU LIVE THERE WITH?

2 A. I LIVE WITH MY TWO OF MY THREE DAUGHTERS.

3 Q. AND IT'S MY UNDERSTANDING THAT YOU HAVE FULL CUSTODY
4 OF YOUR DAUGHTERS; IS THAT CORRECT?

5 A. THAT IS CORRECT.

6 Q. OKAY. YOU OBTAINED THAT HOW LONG AGO?

7 A. I -- TWO -- JULY OF 2004.

8 Q. OKAY. AND HOW OLD ARE YOUR DAUGHTERS?

9 A. ONE IS 16. THE OTHER WILL BE 19 THIS MONTH.

10 Q. OKAY. AND IF WE COULD, LET'S BACK UP. TELL US A
11 LITTLE BIT ABOUT YOUR EDUCATION, WHERE YOU WENT TO -
12 - LET'S START JUNIOR HIGH AND HIGH SCHOOL OR ANY
13 SPECIALTY TRAINING?

14 A. JUNIOR HIGH AND HIGH SCHOOL, I WENT TO BRANDON,
15 FLORIDA, AND WHEN I FINISHED THERE, WE MOVED UP
16 HERE, AND THEN I WENT TO YORK TECH. AND I'VE BEEN
17 TO EASTERN SCHOOL OF FARRIERY, WHICH IS IN
18 MARTINSVILLE, VIRGINIA. AND I'VE BEEN --

19 **BY COMMISSIONER BARDEN:**

20 DID YOU SAY THAT'S HORSE -- DID YOU SAY ---

21 **BY THE WITNESS:**

22 HORSESHOER.

23 **BY COMMISSIONER BARDEN:**

24 YES. OKAY. I WANT TO MAKE SURE OF WHAT YOU
25 SAID.

1 BY THE WITNESS:

2 I'M NOT REAL GOOD AT PRONOUNCING FARRIERY.

3 BY COMMISSIONER BARDEN:

4 I GOT IT. I GOT IT. AND I THOUGHT THAT'S WHAT
5 YOU SAID. I JUST ---

6 THE WITNESS RESUMES ANSWER:

7 A. AND I'VE -- I'VE GOT A DIPLOMA CERTIFICATE FROM
8 CHARLOTTE TRUCK DRIVING SCHOOL FOR MY C.D.L.
9 LICENSE.

10 BY COMMISSIONER BARDEN:

11 OKAY. YOU -- I'M GOING TO GO BACK A LITTLE
12 BIT, BECAUSE I DIDN'T -- I DON'T THINK I CAUGHT ALL
13 OF THAT. YOU'RE A HIGH SCHOOL GRADUATE?

14 BY THE WITNESS:

15 YES, MA'AM.

16 BY COMMISSIONER BARDEN:

17 OKAY. AND THEN YOU WENT TO YORK TECH?

18 BY THE WITNESS:

19 THAT IS CORRECT.

20 BY COMMISSIONER BARDEN:

21 AND WHAT DID YOU TAKE THERE?

22 BY THE WITNESS:

23 WELDING.

24 BY COMMISSIONER BARDEN:

25 WELDING, DO YOU HAVE A CERTIFICATE IN THAT?

1 BY THE WITNESS:

2 YES, I DO.

3 BY COMMISSIONER BARDEN:

4 OKAY. AND THEN YOU WENT TO EASTERN ---

5 BY THE WITNESS:

6 EASTERN SCHOOL OF HORSESHOING.

7 BY COMMISSIONER BARDEN:

8 OKAY. GOTCHA. AND YOU HAVE A -- YOU HAVE A
9 CERTIFICATE IN THAT?

10 BY THE WITNESS:

11 YES, MA'AM.

12 BY COMMISSIONER BARDEN:

13 AND THEN YOU'VE GOT A DIPLOMA FROM TRUCK
14 DRIVING SCHOOL?

15 BY THE WITNESS:

16 CHARLOTTE TRUCK DRIVING SCHOOL.

17 BY COMMISSIONER BARDEN:

18 PERFECT. I'VE GOT IT NOW. THANK YOU, SIR.
19 MR. STEWART.

20 DIRECT EXAMINATION RESUMED BY MR. STEWART:

21 Q. NOW, WHEN WE WERE GOING THROUGH THE DEFENDANTS' APAS
22 WE GOT YESTERDAY, IN THERE THERE WAS A CHARGE THAT
23 ALTHOUGH IT WAS DROPPED AND I'D LIKE YOU --- BECAUSE
24 IN THE EVIDENCE I'D LIKE YOU TO TALK TO HER HONOR
25 ABOUT THAT OCCURRED WHEN YOU WERE A FARRIER?

1 A. OKAY. I HAD A CUSTOMER HERE IN ROCK HILL THAT HAD A
2 CRIPPLED HORSE, A YOUNG HORSE THAT WAS -- I WAS
3 TREATING, AND SHE DIDN'T WANT TO PAY THE BILL, SO
4 SHE GAVE THE HORSE TO ME, AND SHE GAVE ME A XEROX
5 COPY OF THE PAPERS IN ORDER TO REGISTER IT, AND
6 THAT'S NOT HOW YOU DO IT. I HAD NO INTENTION TO
7 REGISTER IT. WELL, THE HORSE, I COULDN'T MAKE IT
8 BETTER AND WAS VERY VERY MEAN AND DANGEROUS, SO I
9 SOLD IT FOR -- FOR SLAUGHTER. WELL, SHE CAME BACK
10 AND WANTED IT, AND I TOLD HER WHAT HAPPENED. SO SHE
11 WENT TO A MAGISTRATE IN LANCASTER AND HAD ME
12 ARRESTED FOR STEALING HER HORSE. THE CHARGES WERE
13 DROPPED. THERE WAS NO PROOF.

14 BY COMMISSIONER BARDEN:

15 THANK YOU.

16 DIRECT EXAMINATION RESUMED BY MR. STEWART:

17 Q. AND OTHER THAN THAT INCIDENT -- WELL YOU HAVE A
18 COUPLE OF TICKETS; IS THAT CORRECT?

19 A. THAT'S CORRECT.

20 Q. AND ANYTHING OTHER THAN THAT?

21 A. NO.

22 Q. NOW, IF YOU COULD, LET'S DETAIL TO THE COMMISSION AS
23 BEST YOU CAN YOUR HEALTH HISTORY, AND LET'S SAVE THE
24 SHOULDER LAST, AND JUST TELL HER EVERYTHING ELSE
25 THAT YOU HAD WRONG WITH YOU OVER THE PAST FEW YEARS.

1 A. BACK IN I BELIEVE IT WAS AROUND 2004, THEY'VE
2 DIAGNOSED ME WITH PRE-DIABETES, AND IT -- IT'S --
3 THERE'S SOMEWHAT OF A FAMILY HISTORY OF THAT, AND IT
4 GOT WORSE SO I CHECKED INTO AND HAD GASTRIC BYPASS
5 STRICTLY TO GET RID OF THE DIABETES, AND THAT HAS
6 WORKED. I HAD SOME COMPLICATIONS ALONG WITH THAT,
7 BUT OVER THE YEARS OF WORKING WITH MY HANDS, I HAD
8 TROUBLE WITH MY CARPAL TUNNEL ---

9 BY COMMISSIONER BARDEN:

10 CARPAL TUNNEL?

11 THE WITNESS RESUMES ANSWER:

12 A. AND I'VE HAD BOTH OF THOSE REPAIRED.

13 BY COMMISSIONER BARDEN:

14 SO YOU HAD RELEASES ON BOTH HANDS, ON BOTH
15 WRISTS?

16 BY THE WITNESS:

17 THAT IS CORRECT.

18 BY COMMISSIONER BARDEN:

19 OKAY.

20 THE WITNESS RESUMES ANSWER:

21 A. AND ON MY LEFT HAND, I HAD RUPTURED THE HOUSING FROM
22 MY TENDON; SO THEY WENT IN AND TOOK OUT PART OF THAT
23 TENDON TO RELIEVE THAT. AND I HAD MY ROTATOR --
24 LEFT ROTATOR CUFF REPAIRED, AND THAT WAS THE LAST
25 ISSUE THAT I'VE HAD.

1 BY COMMISSIONER BARDEN:

2 DID YOU HAVE ANY RESTRICTIONS FROM YOUR LEFT
3 ROTATOR?

4 BY THE WITNESS:

5 NONE AT ALL.

6 BY COMMISSIONER BARDEN:

7 OKAY. THANK YOU.

8 DIRECT EXAMINATION RESUMED BY MR. STEWART:

9 Q. AND -- AND IS -- AND WITH YOUR HANDS, AND IN FACT WE
10 DID THE WORKERS' COMP CASE, YOU HAD ZERO IMPAIRMENT
11 TO YOUR HANDS AS A RESULT OF THIS AND ---

12 A. THAT IS CORRECT.

13 Q. WELL, CORRECT?

14 A. THAT'S CORRECT.

15 BY MR. STEWART:

16 AND THOSE ARE SHOWN IN THE EXHIBITS THAT THE
17 DEFENDANT RECEIVED YESTERDAY. THEY PUT THAT PRIOR
18 COMP FILE IN THERE, MA'AM.

19 BY COMMISSIONER BARDEN:

20 OKAY.

21 DIRECT EXAMINATION RESUMED BY MR. STEWART:

22 Q. NOW, YOUR SHOULDER, TELL US WHEN DID YOU GET YOUR
23 SURGERY; WHEN WAS THAT?

24 A. IT WAS IN JUNE OF 2011.

25 Q. AND YOUR SHOULDER CONTINUED TO HURT A BIT AFTER

1 THAT; IS THAT CORRECT?

2 A. THAT'S CORRECT.

3 Q. COULD YOU TELL US THE PAIN THAT YOU HAD IN YOUR
4 SHOULDER BEFORE THE WRECK.

5 A. IT WOULD ---

6 BY COMMISSIONER BARDEN:

7 LET ME BACK YOU UP A LITTLE BIT MORE. WHEN DID
8 YOU START WORKING FOR MRS. STRATTON'S?

9 BY THE WITNESS:

10 IN FEBRUARY OF 2012.

11 BY COMMISSIONER BARDEN:

12 OKAY. THANK YOU. MR. STEWART, GO AHEAD.

13 BY MR. STEWART:

14 I'M SORRY. I'M SORRY.

15 BY COMMISSIONER BARDEN:

16 OKAY. I JUST WANT TO MAKE SURE MY NOTES ARE
17 CLEAR.

18 BY MR. STEWART:

19 OKAY.

20 DIRECT EXAMINATION RESUMED BY MR. STEWART:

21 Q. SO FEBRUARY OF 2012, YOU STARTED WORKING FOR THE
22 EMPLOYER, CORRECT?

23 A. CORRECT.

24 Q. WHEN DID YOU HAVE YOUR SHOULDER SURGERY?

25 A. IN JUNE OF TWO -- 2011.

1 Q. OKAY. AND AFTER THE SURGERY, DID YOU GET BETTER?

2 A. IT GOT BETTER, BUT THERE WAS PAIN INVOLVED WITH IT,
3 AND I HAD TO GO THROUGH THE PHYSICAL THERAPY.

4 Q. OKAY. AND HOW LONG DID PHYSICAL THERAPY LAST?

5 A. ABOUT -- IF I REMEMBER CORRECTLY AT LEAST EIGHT
6 WEEKS.

7 Q. OKAY. THROUGHOUT THE RECORDS THERE'S -- THERE'S
8 TALKING ABOUT NUMBNESS IN YOUR ARM. DID THAT GET
9 BETTER, THE NUMBNESS?

10 A. IT DID GO AWAY EVENTUALLY.

11 Q. OKAY. AND DID IT GO AWAY BEFORE THE INCIDENT THAT
12 WE'RE HERE FOR TODAY?

13 A. YES.

14 Q. OKAY. AND THE DOCTOR HAD NO RESTRICTIONS OR NO
15 LIFTING PROBLEMS WITH YOUR SHOULDER; IS THAT
16 CORRECT?

17 A. NONE AT ALL.

18 Q. OKAY. NOW, TELL US A LITTLE BIT ABOUT THE WRECK
19 THAT TOOK PLACE.

20 A. AS I HAD TURNED ON THE SIDE STREET, HIGHWAY 75 THERE
21 IN VAN WYCK, MY SPEED WAS APPROXIMATELY 30 MILES AN
22 HOUR. I LOOKED UP AND THERE WAS A CAR COMING
23 STRAIGHT AT ME IN MY LANE EITHER TEXTING ON THE
24 PHONE, SO I SWERVED TO THE RIGHT, AND THERE WAS JUST
25 A LITTLE BIT OF A DITCH, AND WE HAVE NOTHING BUT RED

1 CLAY, AND IT HAD PREVIOUSLY RAINED, AND IT WAS
2 SLIPPERY, AND WHEN I TRIED TO RECOVER, THE TRUCK WAS
3 LOADED AND IT -- IT'S LOADED ON SHELVES SO IT WAS
4 TOP HEAVY, AND I JUST COULDN'T RECOVER, AND IT WENT
5 OVER ON ITS SIDE.

6 Q. WHICH SIDE DID IT LAND ON?

7 A. IT LANDED ON THE PASSENGER'S SIDE.

8 Q. DID YOU HAVE YOUR SEATBELT ON?

9 A. YES, I DID.

10 Q. OKAY. WHAT HAPPENED NEXT?

11 A. WHEN I FINALLY GOT THE SEATBELT UNHOOKED, I FELL
12 DOWN TO THE PASSENGER SIDE, AND I HAD TO CLIMB OUT
13 THROUGH THE -- OPEN THE DRIVER'S DOOR AND CLIMB OUT
14 THROUGH THE DRIVER'S DOOR.

15 Q. OKAY. SO WHEN YOU TOOK OFF YOUR SEATBELT, YOU FELL
16 DOWN?

17 A. THAT'S CORRECT.

18 Q. WHAT DID YOU LAND ON WHEN YOU FELL?

19 A. MY SHOULDER.

20 Q. AND THEN HOW -- YOU HAD TO CLIMB BACK UP THE SEAT TO
21 GET OUT?

22 A. THAT'S CORRECT.

23 Q. OKAY. DO YOU KNOW HOW MUCH DAMAGE THERE WAS TO THE
24 TRUCK?

25 A. MANY THOUSANDS OF DOLLARS.

1 BY MR. STEWART:

2 OKAY. AND THAT INFORMATION IS ATTACHED TO THE
3 APAs AS WELL, YOUR HONOR, PICTURES OF THE TRUCKS.

4 BY COMMISSIONER BARDEN:

5 OKAY.

6 DIRECT EXAMINATION RESUMED BY MR. STEWART:

7 Q. AFTER THE WRECK, DID YOU FEEL ANY PAIN IMMEDIATELY?

8 A. YES, I DID.

9 Q. WHERE WAS THAT?

10 A. MY SHOULDER, MY NECK, AND MY LOWER BACK.

11 Q. AND IN FACT YOU FILLED OUT A FORM SEVEN DAYS LATER
12 LISTING YOUR SHOULDER AS PART OF THE PAIN; IS THAT
13 CORRECT?

14 A. THAT'S CORRECT.

15 BY MR. STEWART:

16 AND THAT'S CONTAINED IN THE APAs AS WELL, YOUR
17 HONOR.

18 BY COMMISSIONER BARDEN:

19 THANK YOU.

20 DIRECT EXAMINATION RESUMED BY MR. STEWART:

21 Q. WHEN WAS THE FIRST TIME YOU WENT TO THE DOCTOR FOR
22 YOUR SHOULDER?

23 A. AROUND THE FIRST WEEK OF APRIL OF THE SAME YEAR,
24 2012.

25 Q. AT -- AT THE WRECK, WHO CAME TO THE SCENE OF THE

1 WRECK?

2 A. THERE WAS THE FIRE DEPARTMENT, THE E.M.T.s AND
3 BEFORE THEY EVEN -- AND THE HIGHWAY PATROL, AND I
4 HAD CALLED MY SUPERVISOR.

5 Q. AND WHO WAS THE SUPERVISOR?

6 A. STEVEN LANEY.

7 Q. SO HE CAME TO THE SCENE AS WELL?

8 A. THAT'S CORRECT.

9 Q. OKAY. SO YOU WENT TO THE DOCTOR IN APRIL. DID YOU
10 TELL THE DOCTOR THAT YOU HAD HURT YOUR SHOULDER,
11 AGGRAVATED YOUR SHOULDER IN A WRECK?

12 A. YES.

13 Q. OKAY. AND HOW MANY TIMES HAVE YOU GONE TO THE
14 DOCTOR SINCE THAT VISIT?

15 A. SINCE THAT VISIT, I HAD THE M.R.I. THAT SAME MONTH,
16 AND I THINK I WENT BACK ONE TIME AFTER THAT.

17 Q. OKAY. TELL US HOW YOUR PAIN IS DIFFERENT AFTER THE
18 WRECK THAN BEFORE THE WRECK.

19 A. IT'S CONSTANT. IT'S 24 HOURS A DAY, SEVEN DAYS A
20 WEEK.

21 Q. OKAY. ANY DIFFERENCE IN THE NUMBNESS OR THE
22 TINGLING OR IS THAT ---

23 A. IT JUST COMES BACK. IT COMES AND GOES. IT COMES
24 MORE WHEN YOU'RE WORKING AND STRETCHING THE ARM.

25 BY COMMISSIONER BARDEN:

1 AND YOU HAVE CONTINUED TO WORK, SIR?

2 **BY THE WITNESS:**

3 YES, MA'AM.

4 **BY COMMISSIONER BARDEN:**

5 OKAY. GO AHEAD.

6 **DIRECT EXAMINATION RESUMED BY MR. STEWART:**

7 Q. AND YOU WERE ABLE TO DO THIS JOB BEFORE WITH -- NO
8 MATTER HOW YOUR SHOULDER WAS, CORRECT?

9 A. THAT'S CORRECT.

10 Q. OKAY. ON YOUR APPLICATION, THE D.O.T. APPLICATION,
11 THERE'S NO MENTION OF YOUR SHOULDER ISSUES. COULD
12 YOU TELL US WHY?

13 A. IT'S AN ACCIDENTAL OMISSION. I DIDN'T THINK ABOUT
14 PUTTING IT ON IT.

15 Q. DID YOU LATER TELL ANYBODY ABOUT YOUR SHOULDER?

16 A. YES, I DID.

17 Q. WHO DID YOU TELL?

18 A. STEVE LANEY.

19 Q. AND YOU MADE HIM AWARE OF THAT; WAS THAT BEFORE YOU
20 WERE HIRED?

21 A. THAT'S CORRECT.

22 Q. OKAY. AND MR. LANEY IS WHOM NOW? HE'S ---

23 A. HE'S MY DISTRICT MANAGER SUPERVISOR.

24 Q. WHAT IS IT THAT YOU'RE ASKING FOR THE COMMISSIONER
25 TO DO FOR YOU HERE TODAY?

1 A. TO ALLOW ME TO HAVE THE SURGERY TO CORRECT THE
2 PROBLEM AND SO THAT I WOULD BE COMPENSATED FOR THE
3 TIME OFF RECOVERING.

4 BY COMMISSIONER BARDEN:

5 SO SHOULDER SURGERY HAS BEEN RECOMMENDED FOR
6 YOU?

7 BY THE WITNESS:

8 YES, MA'AM.

9 BY MR. STEWART:

10 ALL RIGHT, THAT'S REALLY ALL I HAVE UNLESS YOU
11 HAVE ANY OTHER QUESTIONS.

12 BY COMMISSIONER BARDEN:

13 THANK YOU, MR. STEWART. ALL RIGHT. MS.
14 KELLAHAN.

15 CROSS EXAMINATION BY MS. KELLAHAN:

16 Q. OKAY. MR. MCHOWELL, FIRST OF ALL, I'M GOING TO
17 START -- I'M GOING TO GIVE YOU A COPY OF THIS.

18 BY MS. KELLAHAN:

19 WHICH, BRENT, AND I KNOW YOU ALREADY HAVE THIS,
20 THE D.O.T. LONG FORM.

21 BY MR. STEWART:

22 YESTERDAY YOU -- THAT WAS THE LAST THING YOU
23 GAVE ME.

24 BY MS. KELLAHAN:

25 AND IT -- IT'S THE ONE ---

1 BY COMMISSIONER BARDEN:

2 CAN YOU POINT TO ME WHERE YOU ARE.

3 BY MS. KELLAHAN:

4 IT'S ON PAGE 115 OF THE DEFENDANTS' APAs. IT'S
5 THE SAME THING AS THE ONE THAT WAS AT THAT TIME --
6 AND YOU KNOW, WHY GAVE YOU -- I THINK IT'S JUST THE
7 SAME; IT WAS ALREADY ON 115. OKAY.

8 CROSS EXAMINATION RESUMED BY MS. KELLAHAN:

9 Q. ALL RIGHT. I'M GOING TO ASK YOU A FEW QUESTIONS OFF
10 OF THAT. MR. MCHOWELL, IF YOU WILL LOOK AT THE
11 FIRST QUESTION ON THERE AND WHERE IT SAYS "HAVE YOU
12 HAD ANY ILLNESS OR INJURY?" WHAT DID YOU MARK?

13 A. "YES."

14 Q. OKAY. IF YOU LOOK DOWN TO THE SECTION WHERE IT SAYS
15 "IF YOU MARKED YES, PLEASE EXPLAIN," IT SAYS
16 SOMETHING TO THAT NATURE WHERE YOU HAND WRITE IN?

17 A. YES.

18 Q. OKAY. NOW, WHAT DID YOU EXPLAIN IN THE YES SECTION?

19 A. GASTRIC BYPASS AND THE DATE, AND THE CARPAL TUNNEL.

20 Q. OKAY. AND SO WAS THAT A TRUTHFUL STATEMENT THAT YOU
21 HAVEN'T HAD ANY ILLNESS OR INJURY AS OF THE DATE OF
22 THAT?

23 A. THAT I HAVEN'T OR HAVE?

24 Q. YOU HADN'T HAD AS OF THE DATE OF THAT QUESTIONNAIRE
25 -- FIRST OF ALL, WHAT'S THE DATE OF THAT?

1 A. IT'S NOT DATED.

2 Q. IT'S FEBRUARY 2ND, '07. IT'LL BE ON THE SECOND
3 PAGE.

4 A. RIGHT THERE, FEBRUARY 7TH.

5 Q. SEVENTH, OF TWENTY -- 2012. SORRY. SO THAT IS --
6 IT -- WAS IT DATED FEBRUARY THE 7TH OF 2012; IS THAT
7 CORRECT?

8 A. THAT'S CORRECT.

9 Q. OKAY. WAS IT A TRUTHFUL STATEMENT AS OF THAT DATE
10 THAT YOU HADN'T HAD ANY ILLNESS OR INJURY?

11 **BY MR. STEWART:**

12 I'M GOING TO OBJECT TO THE FORM. IT CLEARLY
13 SAYS THAT HE DID HAVE AN ILLNESS OR INJURY.

14 **CROSS EXAMINATION RESUMED BY MS. KELLAHAN:**

15 Q. OKAY. OTHER THAN CARPAL TUNNEL OR THE GASTRIC
16 BYPASS, HAD YOU HAD ANY OTHER ILLNESS OR INJURY?

17 A. I HAD MY -- MY SHOULDER WORK.

18 Q. OKAY. DID YOU HAVE ANY OTHER INJURY?

19 A. JUST MY HAND.

20 Q. OKAY. DID YOU HAPPEN TO HAVE A MOTOR VEHICLE
21 ACCIDENT IN 2011?

22 A. NO.

23 Q. AROUND FEBRUARY THE 2ND OF 2011?

24 A. YEAH, I WAS -- I WAS REAR ENDED ON -- ON TAKING MY
25 KIDS TO SCHOOL, BUT I HAD NO INJURIES.

1 Q. YOU HAD NO INJURIES. OKAY. IF I COULD PLEASE
2 DIRECT YOU TO PAGE 416 OF DEFENDANTS' APAs, AND THIS
3 IS THE FILE FROM THE ADJUSTER ON THAT CLAIM. ALL
4 RIGHT. CAN YOU LOOK AT A COMMENT SECTION OF THAT.
5 DOES THAT SAY THAT YOU HAD ANY INJURIES?

6 A. THAT WASN'T FROM ME. THAT WAS FROM MY DAUGHTER THAT
7 BIT HER LIP AND WAS NOT WEARING HER SEATBELT AND WAS
8 ---

9 Q. DOES IT SAY ANYTHING ABOUT BACK INJURIES?

10 A. IT SAYS "SUSTAINED BACK INJURIES."

11 BY COMMISSIONER BARDEN:

12 WHAT PAGE ARE YOU ON?

13 BY MS. KELLAHAN:

14 I'M ON PAGE 416 OF DEFENDANTS' APAs.

15 BY COMMISSIONER BARDEN:

16 OKAY.

17 CROSS EXAMINATION RESUMED BY MS. KELLAHAN:

18 Q. SO YOU DIDN'T HAVE ANY BACK INJURIES?

19 A. NO.

20 Q. WAS THE FORM INCORRECT?

21 BY MR. STEWART:

22 IT DOESN'T SAY HIM ON THE FORM.

23 THE WITNESS ANSWERS:

24 A. IT SAYS "CLAIMANT," BUT I HAD NO INJURIES.

25 CROSS EXAMINATION RESUMED BY MS. KELLAHAN:

1 Q. BUT IT SAYS "STATED HE DID NOT GO TO THE E.R."?

2 A. THAT'S WRONG 'CAUSE I -- I DIDN'T HAVE A PROBLEM.

3 Q. OKAY.

4 BY COMMISSIONER BARDEN:

5 SO YOU DIDN'T GO TO THE E.R.; IS THAT RIGHT?

6 BY THE WITNESS:

7 NO, I DID NOT.

8 BY COMMISSIONER BARDEN:

9 OKAY.

10 CROSS EXAMINATION RESUMED BY MS. KELLAHAN:

11 Q. OKAY. HAVE YOU HAD ANY OTHER INJURIES IN 2011?

12 BY COMMISSIONER BARDEN:

13 DID YOU RECEIVE ANY MONEY FROM THAT INJURY?

14 BY THE WITNESS:

15 MY -- THE -- THEY PAID \$500 FOR MY DAUGHTER'S
16 INJURY.

17 BY COMMISSIONER BARDEN:

18 DID YOU PERSONALLY RECEIVE ANY?

19 BY THE WITNESS:

20 NO.

21 BY COMMISSIONER BARDEN:

22 OKAY.

23 BY MR. STEWART:

24 ALL RIGHT. IF YOU LOOK AT PAGE 417 OF THE
25 DEFENDANTS' APAs THAT SPECIFICALLY ADDRESSES THE

1 AMOUNT OF MONEY THAT WAS PAID AND WHAT IT WAS FOR.

2 BY COMMISSIONER BARDEN:

3 OKAY.

4 CROSS EXAMINATION RESUMED BY MS. KELLAHAN:

5 Q. OKAY. AND CAN WE PLEASE GO TO PAGE 417. WOULD YOU
6 PLEASE READ THE COMMENT SECTION OF THAT. DOES THAT
7 STATE THAT YOU WENT TO THE DOCTOR TWO TIMES?

8 A. I DID NOT GO TO THE DOCTOR.

9 Q. OKAY. DO YOU KNOW WHERE THE ADJUSTER WOULD HAVE GOT
10 THAT INFORMATION?

11 A. I HAVE NOT A CLUE.

12 Q. OKAY.

13 BY COMMISSIONER BARDEN:

14 DID YOUR DAUGHTER GO?

15 BY THE WITNESS:

16 NO. NONE OF US WENT.

17 BY COMMISSIONER BARDEN:

18 OKAY.

19 CROSS EXAMINATION RESUMED BY MS. KELLAHAN:

20 Q. OKAY. WE'LL MOVE ALONG. ANY OTHER INJURIES IN 2011
21 BESIDES THIS CAR ACCIDENT?

22 A. NONE.

23 Q. OKAY. IF YOU CAN PLEASE FLIP TO PAGE 82 OF
24 DEFENDANTS' APAs, AND TELL ME TO SLOW DOWN IF I'M
25 JUMPING AHEAD OF YOU TOO FAST?

1 A. NO.

2 Q. OKAY. IF YOU WOULD PLEASE LOOK AT THIS MEDICAL
3 REPORT THAT'S DATED AUGUST THE 8TH OF 2011, WHERE IT
4 SAYS "ADDITIONAL COMPLAINTS, CHEST PAIN IS DESCRIBED
5 AS THE FOLLOWING," WILL YOU READ THAT PORTION UNDER
6 THAT?

7 A. WHERE IS IT?

8 BY MR. STEWART:

9 YOU MEAN "PATIENT PULLED MUSCLE IN CHEST"?

10 BY MS. KELLAHAN:

11 YES.

12 CROSS EXAMINATION RESUMED BY MS. KELLAHAN:

13 Q. "PAIN BELOW LEFT BREAST OF ONE WEEK DURATION
14 FOLLOWING MOVING FURNITURE"?

15 A. THAT WAS --- (LOUD BANG). WHOA. WHERE -- I DON'T
16 SEE THE FURNITURE. I SEE PUSHING A CAR.

17 Q. IT SAYS "PUSHING A CAR" UNDER PATIENT WORDS, AND
18 THEN UNDER CHEST PAIN, IT SAYS "MOVING FURNITURE."
19 DID YOU HAVE AN INJURY EITHER PUSHING A CAR OR
20 MOVING FURNITURE ON AUGUST THE 8TH OF 2011?

21 A. NO. I WAS PUSHING A CAR. IT DOESN'T SAY ANYTHING
22 ABOUT FURNITURE.

23 Q. OKAY.

24 BY COMMISSIONER BARDEN:

25 PUSHING A CAR?

1 BY MS. KELLAHAN:

2 IT SAYS PATIENT WORDS "PULLED MUSCLE IN CHEST
3 FRIDAY PUSHING A CAR," AND THEN UNDER CHEST PAIN, IT
4 SAYS ---

5 BY COMMISSIONER BARDEN:

6 OH, 'CAUSE THEN IT SAYS "FURNITURE."

7 BY MS. KELLAHAN:

8 YEAH, THEN IT SAYS "ONE WEEK PUSHING -- ONE
9 WEEK MOVING FURNITURE."

10 BY THE WITNESS:

11 I WAS HELPING MY NEIGHBOR PUSH HIS CAR OFF OF A
12 TOW DOLLY.

13 CROSS EXAMINATION RESUMED BY MS. KELLAHAN:

14 Q. OKAY. SO YOU HAD AN INJURY TO YOUR CHEST; IS THAT
15 CORRECT?

16 A. IT WASN'T AN INJURY AS MUCH AS IT WAS A STRAIN,
17 'CAUSE THAT WAS NOT TO -- TO LONG AFTER RECOVERING
18 FROM MY BYPASS.

19 Q. OKAY. BUT THAT WAS AN INJURY IN 2011 THAT YOU
20 DIDN'T LIST?

21 BY MR. STEWART:

22 I'M GOING TO OBJECT TO THE DEFINITION OF
23 INJURY.

24 BY COMMISSIONER BARDEN:

25 OKAY.

1 BY MR. STEWART:

2 WE DEFINE, AS LAWYERS, INJURY OPPOSITES.

3 BY COMMISSIONER BARDEN:

4 I UNDERSTAND.

5 BY MS. KELLAHAN:

6 OKAY.

7 BY COMMISSIONER BARDEN:

8 THIS IS CROSS EXAM, AND I'M GOING TO LET HER GO
9 AND GIVE HER SOME LATITUDE, BUT I'LL BE READING ALL
10 THESE RECORDS AND ---

11 BY MS. KELLAHAN:

12 OKAY.

13 BY COMMISSIONER BARDEN:

14 GO AHEAD. YOUR OBJECTION IS NOTED, AND YOU
15 HAVE A RUNNING OBJECTION.

16 CROSS EXAMINATION RESUMED BY MS. KELLAHAN:

17 Q. OKAY. LET'S GO TO DEFENDANTS' PAGE 102. OKAY.

18 THIS IS A PATIENT MEDICAL HISTORY FORM FOR LANCASTER
19 ORTHO. OKAY. AND IF YOU COULD PLEASE GO WHERE IT
20 SAYS "PROBLEM SITE." FIRST OF ALL, WHAT IS THE DATE
21 OF THIS DOCUMENT? IT'S BY THE SIGNATURE ON THE
22 BOTTOM.

23 A. ONE, FIVE OF TWENTY-TWELVE.

24 Q. WOULD THAT HAVE BEEN APPROXIMATELY ONE MONTH BEFORE
25 YOU HAD YOUR MEDICAL EXAM?

1 A. APPROXIMATELY, YES.

2 Q. ON 2/7?

3 BY COMMISSIONER BARDEN:

4 DO Y'ALL BOTH HAVE 1/5/2012, BECAUSE MINE'S CUT
5 OFF?

6 BY MS. KELLAHAN:

7 IT'S ON THE LEFT SIDE, IT HAS IT GOOD. ON THE
8 RIGHT SIDE, IT'S CUT OFF.

9 BY COMMISSIONER BARDEN:

10 I GOT IT. GO AHEAD.

11 CROSS EXAMINATION RESUMED BY MS. KELLAHAN:

12 Q. ON THAT DOCUMENT, CAN YOU READ WHERE IT SAYS
13 "PROBLEM SITE": WHAT DOES IT SAY?

14 A. "LEFT SHOULDER."

15 Q. OKAY. AND CAN YOU READ WHERE IT SAYS "WHEN DID IT
16 BEGIN?"

17 A. ONE, SIX OF TWENTY-TEN.

18 Q. OKAY. SO YOU WERE AT THE DOCTOR'S OFFICE GETTING
19 TREATMENT ON JANUARY THE 5TH OF 2012, FOR A SHOULDER
20 PROBLEM; IS THAT CORRECT?

21 A. THAT'S CORRECT.

22 Q. OKAY. OKAY. LET'S GO BACK TO THE QUESTIONNAIRE.
23 IT'S ON PAGE 115. SORRY I'M JUMPING AROUND.

24 BY MR. STEWART:

25 AND JUST -- THE -- THE QUESTIONNAIRE IS IN.

1 THERE 'TWICE, IS IT NOT?

2 BY MS. KELLAHAN:

3 IT'S IN THERE LIKE FOUR TIMES.

4 BY MR. STEWART:

5 OKAY.

6 BY MS. KELLAHAN:

7 ANYTHING -- NOW, YOU KNOW WHAT, I THINK I'VE
8 STILL GOT IT. I STILL HAVE -- YOU STILL HAVE IT,
9 BUT I COULD BRING IT UP FROM MY NOTES.

10 CROSS EXAMINATION RESUMED BY MS. KELLAHAN:

11 Q. OKAY. THERE'S ANOTHER QUESTION ON THE FAR RIGHT
12 SIDE IN THAT CORNER WHERE ASKED "DO YOU HAVE ANY
13 MISSING OR IMPAIRED HAND, ARM, FOOT, LEG, FINGER,
14 TOE?" AND WHAT DO YOU STATE TO THAT?

15 A. "NO."

16 Q. OKAY. AND AGAIN THIS FORM IS DATED FEBRUARY 7TH,
17 2012?

18 A. CORRECT.

19 Q. OKAY. DO YOU REMEMBER VISITING THE DOCTOR ON
20 FEBRUARY THE 2ND OF 2012, JUST FIVE DAYS PRIOR TO
21 FILLING OUT THIS FORM?

22 A. IT'S POSSIBLE. I DON'T REMEMBER.

23 Q. OKAY. ALL RIGHT. LOOK AT PAGE 104, LANCASTER ORTHO
24 DOCUMENTS. CAN YOU TELL ME WHAT YOUR CHIEF
25 COMPLAINT WAS THERE?

1 A. "LEFT SHOULDER PAIN."

2 Q. OKAY. AND THIS WAS AFTER THE SURGERY THAT YOU HAD
3 FROM YOUR SHOULDER PREVIOUSLY, RIGHT?

4 A. YES.

5 Q. OKAY. CAN WE GO TO PAGE 101. IT'S LANCASTER ORTHO
6 DATED JANUARY 5TH OF 2012. CAN YOU LOOK AT THE
7 CHIEF COMPLAINT THERE?

8 A. "NUMBNESS AND TINGLING OF LEFT HAND AND LEFT
9 SHOULDER PAIN."

10 Q. AND THIS WAS AFTER THE SURGERY THAT YOU HAD IN 2011?

11 A. YES.

12 Q. OKAY. ALL RIGHT. ON YOUR VISIT -- LET'S SEE. I'M
13 TRYING NOT TO MOVE AROUND SO MUCH. IF WE CAN GO TO
14 THE CLAIMANT'S APAs NUMBER THREE. YOU VISITED THE
15 DOCTOR ON APRIL THE 4TH OF 2012. DO YOU SEE -- AND
16 I'M GOING TO GIVE YOU A CHANCE JUST TO LOOK THROUGH
17 THOSE. DO YOU SEE ANYTHING IN THIS STATEMENT, APRIL
18 4TH OF 2012, WHICH HAD BEEN -- HOW LONG WOULD THAT
19 HAVE BEEN AFTER YOUR INJURY?

20 A. JUST SHORT OF 30 DAYS.

21 Q. OKAY. WILL YOU LOOK AND SEE; IS THERE ANY MENTION
22 OF A MOTOR VEHICLE ACCIDENT IN THAT REPORT?

23 **BY COMMISSIONER BARDEN:**

24 WHAT WAS THE ONE -- THE ONE YOU POINTED OUT
25 BEFORE THIS ONE, MS. KELLAHAN, THE ONE BEFORE ONE --

1 ONE BEFORE PAGE THREE -- JUST -- IT WAS IN YOUR
2 STACK.

3 BY MS. KELLAHAN:

4 IT WAS. LET ME -- I CAN FIND IT FOR YOU REALLY
5 QUICKLY.

6 BY COMMISSIONER BARDEN:

7 I MAY HAVE IT ON ---

8 BY MS. KELLAHAN:

9 OH, ON 100, AND I LOOKED AT 101. THAT'S THE
10 ONE FROM JANUARY 5TH.

11 BY COMMISSIONER BARDEN:

12 ONE SECOND.

13 BY MS. KELLAHAN:

14 AND THE FEBRUARY 2ND ONE WAS 104.

15 BY COMMISSIONER BARDEN:

16 ALL RIGHT. BECAUSE -- OKAY. GO AHEAD.

17 BY MS. KELLAHAN:

18 OKAY.

19 BY COMMISSIONER BARDEN:

20 IT LOOKS LIKE A COPY OF THE PREVIOUS ---

21 BY MS. KELLAHAN:

22 YEAH, THEY LOOK THE SAME UP TOP.

23 BY COMMISSIONER BARDEN:

24 OKAY. GO AHEAD.

25 CROSS EXAMINATION RESUMED BY MS. KELLAHAN:

1 Q. DO YOU SEE ANY MENTION ----

2 A. NO.

3 Q. --- IN FEBRUARY OF THE ACCIDENT? OKAY. LET'S LOOK
4 AT THE CLAIMANT'S NUMBER SEVEN. YOU WENT BACK TO
5 THE DOCTOR ON APRIL THE 12TH OF 2012, AND THIS WAS
6 ABOUT HOW LONG FROM AFTER YOUR ACCIDENT?

7 A. IT'D BE FOUR OR FIVE WEEKS.

8 Q. OKAY. AND DO YOU MENTION ANYTHING ABOUT YOUR
9 ACCIDENT IN THAT REPORT?

10 A. NO, I DON'T.

11 Q. OKAY. LET'S GO TO CLAIMANT'S NUMBER EIGHT, AND
12 THAT'S THE JULY 25TH, 2012, REPORT. IN THE HISTORY
13 OF PRESENT ILLNESS, HOW LONG HAD YOU SAID THE PAIN
14 HAD BEEN GOING ON IN YOUR SHOULDER?

15 A. IT SAYS "SIX TO EIGHT MONTHS."

16 Q. OKAY. DOES IT SAY ANYTHING IN THAT REPORT ABOUT AN
17 ACCIDENT?

18 A. IT SAID -- THIS SAYS THAT "HE ALSO STATES THAT HE
19 HAD SOME TYPE OF WORK INJURY OR ISSUE THAT
20 AGGRAVATED THE SHOULDER."

21 Q. BUT DOES IT SAY THAT HE HAD ANY KNOWLEDGE OF THAT OR
22 ANY RECORDS OF THAT?

23 A. HE SAID HE HAS NO RECORDS OF IT.

24 Q. OKAY. ALL RIGHT. THAT IS IT FOR THOSE MEDICAL
25 REPORTS. I'VE JUST GOT A FEW MORE FOLLOW-UP

1 QUESTIONS. YOUR ATTORNEY HAD ASKED YOU ABOUT A FORM
2 THAT YOU FILLED OUT AFTER YOUR ACCIDENT THAT STATED
3 YOUR -- WHAT BODY PARTS YOU INJURED. WHAT FORM WAS
4 THAT?

5 BY MR. STEWART:

6 IT'S -- IT'S CLAIMANT'S APA NUMBER 24, PAGE 24.

7 BY MS. KELLAHAN:

8 OKAY.

9 BY MR. STEWART:

10 IT'S SIGNED BY HIM, AND IT SAYS "LEFT
11 SHOULDER."

12 BY MS. KELLAHAN:

13 OKAY.

14 BY MR. STEWART:

15 DATED MARCH 13TH, 2012.

16 BY MS. KELLAHAN:

17 AND THAT'S YOUR ---

18 BY MR. STEWART:

19 MY APA PAGE 24.

20 BY MS. KELLAHAN:

21 TWENTY-FOUR.

22 CROSS EXAMINATION RESUMED BY MS. KELLAHAN:

23 Q. AND THIS WAS TO THE INSURANCE COMPANY FOR THE CAR,
24 RIGHT?

25 A. THE TRUCK.

1 Q. DID YOU FILL OUT ANYTHING FOR YOUR EMPLOYER AFTER
2 THE ACCIDENT STATING YOU'D INJURED ANYTHING?

3 A. I'M SURE I DID. THERE WERE SEVERAL FORMS THAT WERE
4 FILLED OUT.

5 BY MS. KELLAHAN:

6 AND WHERE IS YOUR 12, AT 23?

7 BY MR. STEWART:

8 BUT THIS IS ALL FROM HIS EMPLOYEE FILE.

9 BY MS. KELLAHAN:

10 OKAY.

11 BY MR. STEWART:

12 THAT'S HOW I GOT IT.

13 CROSS EXAMINATION RESUMED BY MS. KELLAHAN:

14 Q. ALL RIGHT. LET'S LOOK AT THE -- THE FORM 12A ON
15 PAGE 23. WAS THE 12A DATED APRIL 22ND OF 2012?

16 BY COMMISSIONER BARDEN:

17 WELL, NOW, HE DOESN'T FILL THAT OUT.

18 BY MR. STEWART:

19 IT'S DATED APRIL 23RD.

20 BY MS. KELLAHAN:

21 TWENTY-THIRD, TWENTY-TWELVE.

22 THE WITNESS ANSWERS:

23 A. THIS WAS FILLED OUT BY HUMAN RESOURCES.

24 CROSS EXAMINATION RESUMED BY MS. KELLAHAN:

25 Q. OKAY. DO YOU KNOW WHY THAT DATE WAS APRIL 23RD?

1 A. THAT'S PROBABLY THE DAY THAT THEY GOT A HOLD OF ME
2 TO GET THE INFORMATION TO FILL IT OUT.

3 Q. OKAY. THEY -- DID THEY NOT HAVE ANY COMMUNICATION
4 WITH YOU BEFORE APRIL 23RD?

5 A. THAT I DON'T KNOW.

6 Q. OKAY.

7 A. I'M -- THERE WAS A PHONE CALL TO REPORT IT, AND THEN
8 I WAS CALLED BACK TO SET UP A TIME WHERE WE'D HAVE
9 TIME TO RELAY THE INFORMATION.

10 Q. OKAY. YOUR ATTORNEY ALSO STATED THAT YOU HAD HAD AN
11 INJURY I BELIEVE TO YOUR LEFT SHOULDER, NECK, LEFT
12 HAND, AND FINGERS; ARE YOU STILL CLAIMING AN INJURY
13 TO THOSE BODY PARTS?

14 A. YES.

15 Q. OKAY. COULD WE GO TO THE CLAIMANT'S DEPOSITION PAGE
16 26, LINES 1 THROUGH 14?

17 **BY MR. STEWART:**

18 WHAT PAGE? I'M SORRY.

19 **BY MS. KELLAHAN:**

20 TWENTY-SIX; ACTUALLY IT'S LINES 10 THROUGH 14.

21 **CROSS EXAMINATION RESUMED BY MS. KELLAHAN:**

22 Q. AT THAT POINT IN TIME, WE WERE TALKING ABOUT HOW
23 YOUR BACK HURT INITIALLY AFTER THE ACCIDENT; IS THAT
24 CORRECT?

25 A. YES.

1 Q. OKAY. AND ON LINE 11, I ASK YOU "HAS YOUR BACK PAIN
2 RESOLVED NOW?" AND WHAT DO YOU SAY?

3 A. "YES."

4 Q. OKAY. THEN I ASK, "ARE ANY OTHER BODY PARTS
5 HURTING?" AND WHAT DO YOU SAY?

6 A. "NO."

7 Q. OKAY.. LET'S ALSO GO IF YOU DON'T MIND TO PAGE 18 OF
8 THAT SAME DEPOSITION, LINES 23 AND 24. OKAY. I
9 SAY, "OKAY, WHAT BODY PARTS ARE YOU CLAIMING AS A
10 RESULT OF THIS ACCIDENT?" ANSWER?

11 A. "MY SHOULDER, THE LEFT SHOULDER."

12 Q. ALL RIGHT. DO YOU MENTION THAT YOUR NECK, LEFT ARM
13 -- I MEAN YOUR NECK OR LEFT FINGER OR LEFT ARM ARE
14 HURTING IN YOUR DEPOSITION ---

15 A. NO.

16 Q. --- STILL?

17 **BY MS. KELLAHAN:**

18 OKAY. THAT'S ALL THAT I HAVE.

19 **BY COMMISSIONER BARDEN:**

20 ALL RIGHT.

21 **BY MR. STEWART:**

22 JUST A COUPLE.

23 **BY COMMISSIONER BARDEN:**

24 GO AHEAD, MR. STEWART.

25 **RE-DIRECT EXAMINATION BY MR. STEWART:**

1 Q. ON THIS MEDICAL REPORT THAT WAS DATED FEBRUARY 7TH,
2 DO YOU HAVE ANY IMPAIRMENT TO YOUR HAND, ARM, FOOT,
3 LEG, FINGER, OR TOE?

4 A. NO, I DO NOT.

5 Q. SO YOU DON'T HAVE ANY IMPAIRMENT TO ---

6 A. NO, I DON'T.

7 Q. OKAY. DID YOU TELL YOUR DR. O'MALLEY ABOUT THE
8 WRECK?

9 A. YES, I DID.

10 Q. OKAY. AND YOU DON'T KNOW WHY IT'S NOT IN THE
11 RECORDS?

12 BY MS. KELLAHAN:

13 OBJECTION, LEADING.

14 BY COMMISSIONER BARDEN:

15 WELL, HE -- IT WOULD REQUIRE HIM TO SPECULATE
16 AS TO WHY IT IS OR ISN'T ON THE RECORD, SO...

17 RE-DIRECT EXAMINATION RESUMED BY MR. STEWART:

18 Q. DO YOU REMEMBER FILLING OUT THIS MARCH 13TH, 2012,
19 FORM, CLAIMANTT'S APA 187?

20 A. YES.

21 Q. OKAY. AND ON THAT, WHAT DID YOU COMPLAIN WAS YOUR
22 INJURY?

23 A. BUMPS, BRUISES, SHOULDER LEFT.

24 Q. OKAY. WHAT'S THE DATE ON THAT?

25 A. THREE, SIX OF TWENTY-TWELVE.

1 Q. WHO WAS IT THAT YOU DEALT WITH AT THE COMPANY ABOUT
2 THIS WORKERS' COMP CASE?

3 A. BRIDGETTE TERRY.

4 BY COMMISSIONER BARDEN:

5 OKAY. YOU CAN'T GET ANY HELP. JUST DO THE
6 BEST YOU CAN. BRIDGETTE CARY?

7 BY THE WITNESS:

8 I BELIEVE IT WAS TERRY.

9 BY COMMISSIONER BARDEN:

10 TERRY?

11 BY THE WITNESS:

12 IT WAS HOLLIS, OR WAS IT HOLLIS FIRST?

13 BY COMMISSIONER BARDEN:

14 THAT'S OKAY, JUST BEST YOU CAN DO.

15 BY MR. STEWART:

16 AND ---

17 BY THE WITNESS:

18 FIRST NAME IS BRIDGETTE.

19 BY COMMISSIONER BARDEN:

20 THAT'S GOOD ENOUGH.

21 RE-DIRECT EXAMINATION RESUMED BY MR. STEWART:

22 Q. AND DID SHE HAVE YOU SIGN A RELEASE FOR YOUR RECORDS
23 SO THAT THEY COULD GET DR. O'MALLEY'S RECORD?

24 A. YES, THEY DID.

25 Q. AND YOU DID THAT WITHOUT ANY PROBLEM, CORRECT?

1 A. THAT IS CORRECT.

2 Q. AND DO YOU KNOW HOW SOON IT WAS AFTER YOUR ACCIDENT
3 YOU -- YOU SIGNED THAT MEDICAL AUTHORIZATION?

4 A. IT WOULD HAVE BEEN AROUND MAYBE THE MIDDLE OF APRIL
5 OF THAT SAME YEAR WHEN I MADE THE CLAIM WITH THE
6 COMPANY.

7 Q. I THINK THAT'S ABOUT IT. IT'S -- WE NEED TO CHECK
8 ONE MORE THING. TOO MANY THINGS GOING ON. BEFORE
9 THE WRECK, HAD ANYBODY EVER SAID YOU WOULD NEED
10 ARTHROSCOPIC SURGERY?

11 A. NOT BEFORE THE WRECK, NO.

12 Q. AND THE FIRST TIME ANYBODY MENTIONED THAT WAS AFTER?

13 A. THAT IS CORRECT.

14 BY MR. STEWART:

15 THAT'S ALL I HAVE.

16 BY MS. KELLAHAN:

17 THAT'S ALL I HAVE.

18 BY COMMISSIONER BARDEN:

19 IS THAT IT FOR THE CLAIMANT'S CASE?

20 BY MR. STEWART:

21 YES.

22 BY COMMISSIONER BARDEN:

23 ALL RIGHT.

24 BY MS. KELLAHAN:

25 JUST ONE WITNESS.

1 BY MR. STEWART:

2 WE -- YOU KNOW WHAT, I -- I'M GOING TO CALL --
3 IF YOU'RE NOT CALLING HIM, I'M GOING TO CALL HIM.

4 BY COMMISSIONER BARDEN:

5 MR. MABRY?

6 BY MR. STEWART:

7 MR. MABRY.

8 BY COMMISSIONER BARDEN:

9 OKAY. ALL RIGHT.

10 BY MS. KELLAHAN:

11 DO YOU WANT TO DO -- WE CAN CALL HIM FIRST, AND
12 THEN I'LL CALL MR. TILLEY?

13 BY MR. STEWART:

14 OKAY.

15 BY MS. KELLAHAN:

16 ALL RIGHT.

17 BY COMMISSIONER BARDEN:

18 MR. MABRY, IF YOU'LL RAISE YOUR RIGHT HAND

19 * * * * *

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

23 NORMAN MABRY

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

25 BY COMMISSIONER BARDEN:

1 PLEASE STATE YOUR FULL NAME FOR THE RECORD.

2 BY THE WITNESS:

3 NORMAN EDWARD MABRY.

4 BY COMMISSIONER BARDEN:

5 THANK YOU SO MUCH. PLEASE ANSWER ANY QUESTIONS
6 MR. STEWART HAS FOR YOU.

7 DIRECT EXAMINATION BY MR. STEWART:

8 Q. WOULD IT BE IMPORTANT TO YOU TO KNOW OF ANY PAST
9 INJURIES THAT A DRIVER WOULD HAVE IN THE HIRING
10 PROCESS?

11 A. YES.

12 Q. OKAY. DO YOU REMEMBER HAVING YOUR DEPOSITION TAKEN
13 ---

14 A. YES.

15 Q. --- ON DECEMBER 4TH OF 2012?

16 A. CERTAINLY.

17 Q. OKAY. DO YOU REMEMBER BEING ASKED THAT SPECIFIC
18 QUESTION?

19 A. I'M -- I REMEMBER. YES, WE HAD A DISCUSSION ABOUT
20 THAT.

21 Q. WELL, DO YOU REMEMBER ANSWERING "I DON'T KNOW. WE
22 DON'T ASK ABOUT INJURIES. THE ONLY THING WE ASK IS
23 ARE YOU CAPABLE OF DOING THE JOB. SO NO I WOULDN'T
24 INQUIRE ABOUT THAT SORT OF THING."

25 A. THAT'S CORRECT.

1 Q. THAT WAS YOUR ANSWER THAT DAY?

2 A. YES.

3 Q. HOW DO YOU RECONCILE WITH WHAT YOU -- THAT WITH WHAT
4 YOU JUST SAID?

5 A. I THINK IT'S THE SAME ANSWER. I THINK -- I THINK IF
6 -- MY QUESTION WOULD ALWAYS BE "ARE YOU CAPABLE OF
7 DOING THE JOB?" I'M SORRY. I SHOULD BE ADDRESSING
8 YOU.

9 BY COMMISSIONER BARDEN:

10 NO. YOU'RE FINE.

11 THE WITNESS RESUMES ANSWER:

12 A. AND SO -- SO WE WOULDN'T -- I WOULDN'T INQUIRE ABOUT
13 A SPECIFIC INJURY OR ANYTHING, BUT IF SOMEONE GAVE
14 ME SOMETHING THAT WAS -- THAT -- THAT INDICATED THAT
15 THERE WOULD BE A PROBLEM WITH THE JOB, THEN IT WOULD
16 BECOME AN ISSUE.

17 DIRECT EXAMINATION RESUMED BY MR. STEWART:

18 Q. OKAY. IF SOMEBODY HAD SAY A SHOULDER SURGERY
19 BEFORE, WOULD THAT NECESSARILY HAVE LOCKED HIM OUT
20 OF DOING THE JOB?

21 A. NO, SIR.

22 Q. AND IS IT ALONG THE BASIC QUESTION THAT YOU WOULD
23 HAVE ASKED IS ARE YOU -- ARE YOU ABLE TO DO THE JOB
24 GENERALLY; IS THAT CORRECT?

25 A. YES.

1 Q. OKAY. YOU'VE HEARD THE TESTIMONY HERE TODAY,
2 CORRECT, AND YOU'VE BEEN INVOLVED IN THIS CASE?

3 A. YES.

4 Q. DO YOU BELIEVE THAT IF YOU KNEW ABOUT MR. MCHOWELL'S
5 SHOULDER SURGERY, THAT YOU WOULD NOT HAVE HIRED HIM?

6 BY MS. KELLAHAN:

7 OBJECT.

8 BY COMMISSIONER BARDEN:

9 I'M GOING ALLOW HIM TO ANSWER THE QUESTION.

10 BY MS. KELLAHAN:

11 OKAY.

12 BY COMMISSIONER BARDEN:

13 YOU HAVE -- YOU HAVE A NOTED OBJECTION.

14 BY THE WITNESS:

15 OKAY. OKAY. WOULD YOU MIND RESTATING THE
16 QUESTION?

17 DIRECT EXAMINATION RESUMED BY MR. STEWART:

18 Q. KNOWING WHAT YOU KNOW TODAY THAT HE HAD HIS SHOULDER
19 SURGERY AND WE -- AND WE -- AND YOU'VE TALKED WITH
20 MR. LANEY AND MR. TILLEY.

21 A. YES.

22 Q. WOULD YOU HAVE HIRED MR. MCHOWELL?

23 A. IF I KNEW THAT HE HAD A SHOULDER SURGERY, IT WOULD
24 NOT HAVE KEPT US FROM HIRING HIM. THE NEXT QUESTION
25 I WOULD HAVE SAID WOULD HAVE BEEN "IS THAT GOING TO

1 CAUSE ANY -- CAUSE YOU ANY ISSUES IN DOING THE JOB?"
2 AND IF THERE WERE ANY QUESTION ABOUT THAT, WE MAY
3 WOULD HAVE SAID TO HIM "CAN YOU GET ME SOMETHING
4 FROM A DOCTOR THAT -- THAT SAYS THAT YOU'RE OKAY TO
5 DO THE JOB?"

6 Q. IS IT NOT POSSIBLE THAT STEVE LANEY EVEN TOLD YOU
7 ABOUT THIS SHOULDER SURGERY BEFORE YOU MADE THE
8 DECISION TO HIRE HIM?

9 A. I AM AWARE THAT HE SAID HE DID.

10 Q. OKAY. SO IT'S VERY POSSIBLE THAT YOU KNEW ABOUT THE
11 SHOULDER SURGERY EVEN BEFORE ANYWAY?

12 A. I AM AWARE THAT STEVEN SAID HE TOLD ME THAT. TO MY
13 KNOWLEDGE, I DIDN'T KNOW ABOUT THAT.

14 Q. OKAY. BUT YOU HAVE NO REASON ---

15 A. I JUST FIGURED ---

16 Q. --- TO DOUBT MR. LANEY, DO YOU?

17 A. I -- IF HE SAID IT, I'M SURE HE MEANS IT. I'M SURE
18 HE'S BEING TRUTHFUL, YES.

19 Q. AND MR. MCHOWELL DID THE JOB UP UNTIL THE ACCIDENT
20 WITHOUT ANY PROBLEMS; IS THAT CORRECT?

21 A. YES.

22 Q. OKAY.

23 BY MR. STEWART:

24 THAT'S ALL I HAVE.

25 CROSS EXAMINATION BY MS. KELLAHAN:

1 Q. MR. MABRY, WHO IS STEVE LANEY?

2 A. STEVE LANEY IS A DISTRICT MANAGER FOR STAR FOODS.

3 Q. OKAY. DOES MR. LANEY HAVE ANY AUTHORITY TO HIRE OR
4 FIRE?

5 A. HE DOES NOT HAVE THE AUTHORITY TO HIRE OR FIRE.

6 Q. DO YOU RELY ON MR. LANEY'S REPRESENTATIONS TO YOU
7 ABOUT THE ---

8 A. YES. I WON'T SAY INDIRECTLY THOUGH THAT THE
9 RECOMMENDATIONS REALLY BE MORE TO STEVE TILLEY, OUR
10 DIRECTOR OF SALES, BUT YES, HE DOES RELY ON STEVE'S
11 -- OUR DISTRICT MANAGER'S INPUT, YES.

12 **BY MS. KELLAHAN:**

13 OKAY. THAT'S ALL THAT I HAVE.

14 **BY COMMISSIONER BARDEN:**

15 OKAY. ANYTHING ELSE?

16 **BY MR. STEWART:**

17 NO, THANK YOU.

18 **BY COMMISSIONER BARDEN:**

19 AND YOU HAVE ANOTHER?

20 **BY MS. KELLAHAN:**

21 JUST ONE MORE, MR. TILLEY.

22 **BY COMMISSIONER BARDEN:**

23 ALL RIGHT. OKAY.

24 (OFF THE RECORD)

25 **BY COMMISSIONER BARDEN:**

1 HELLO, SIR, WE APPRECIATE YOUR PATIENCE IN
2 WAITING OUTSIDE. IF YOU WILL COME THIS WAY AND TAKE
3 THIS CHAIR AT THE TABLE CLOSET TO YOU. THANK YOU.
4 AND WHEN YOU GET SEATED, IF YOU WILL RAISE YOUR
5 RIGHT HAND.

6 * * * * *

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

10 STEVE TILLEY

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

12 BY COMMISSIONER BARDEN:

13 PLEASE STATE YOUR FULL NAME FOR THE RECORD.

14 BY THE WITNESS:

15 STEVE TILLEY.

16 BY COMMISSIONER BARDEN:

17 THANK YOU SO MUCH. PLEASE ANSWER ANY QUESTIONS

18 MS. KELLAHAN HAS FOR YOU FIRST.

19 DIRECT EXAMINATION BY MS. KELLAHAN:

20 Q. MR. TILLEY, WHERE DO YOU WORK?

21 A. STAR FOOD PRODUCTS.

22 Q. HOW LONG HAVE YOU WORKED THERE?

23 A. TWENTY YEARS.

24 Q. WHAT ARE YOUR JOB DUTIES THERE?

25 A. I AM DIRECTOR OF SALES.

1 Q. SO IF MR. LANEY BELIEVED HE HAD KNOWLEDGE OF THE
2 SHOULDER SURGERY AND BELIEVED THAT WOULD NOT AFFECT
3 HIS ABILITY TO DO THE JOB, WOULD YOU TRUST MR.
4 LANEY'S OPINION ON THAT MATTER?

5 A. YES.

6 Q. SO IF IN FACT MR. LANEY THOUGHT THE SHOULDER SURGERY
7 HAD NO BEARING ON THIS HIRE, WOULD YOU NOT BE OF THE
8 SAME OPINION AS MR. LANEY?

9 A. YEAH. THAT'S -- THAT'S CORRECT.

10 BY MR. STEWART:

11 THAT'S ALL I HAVE, YOUR HONOR.

12 BY COMMISSIONER BARDEN:

13 OKAY. MS. KELLAHAN, ANYTHING ELSE?

14 BY MS. KELLAHAN:

15 JUST BRIEFLY. I'M LOOKING AT CLAIMANT'S PAGE

16 60.

17 RE-DIRECT EXAMINATION BY MS. KELLAHAN:

18 Q. THIS IS YOUR DEPOSITION. IF YOU -- IF STARTING AT
19 LINE 16, I ASK -- ASK YOU "WOULD IT BE IMPORTANT TO
20 YOU TO KNOW ABOUT A PRIOR SHOULDER INJURY -- PRIOR
21 SHOULDER SURGERY FOR A DRIVER?" WHAT'S YOUR ANSWER?

22 A. "YES, MA'AM. IT WOULD."

23 Q. AND THAT -- AND THEN MY NEXT QUESTION, "AND THAT
24 WOULD BE IMPORTANT TO THE HIRING PROCESS?" AND
25 WHAT'S YOUR ANSWER?

1 A. "YES, MA'AM."

2 Q. OKAY. MY NEXT QUESTION, "OKAY, AND ARE YOU AWARE OF
3 HIS PRIOR SHOULDER SURGERY? YOU WERE NOT AWARE OF
4 HIS PRIOR SHOULDER SURGERY, WERE YOU?" AND YOUR
5 ANSWER IS?

6 A. "I WAS NOT. NO, MA'AM."

7 Q. OKAY.

8 BY MS. KELLAHAN:

9 THAT'S ALL THAT I HAVE.

10 BY COMMISSIONER BARDEN:

11 ANYTHING ELSE?

12 BY MR. STEWART:

13 NO, MA'AM.

14 BY COMMISSIONER BARDEN:

15 ALL RIGHT. THAT CONCLUDES THIS PROCEEDING.

16 (THERE BEING NO FURTHER QUESTIONS, THIS HEARING WAS
17 CONCLUDED AT THE HOUR OF 12:05 P.M.)

CERTIFICATE OF NOTARY PUBLIC
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
COLUMBIA, SOUTH CAROLINA
WCC FILE NO. 1207730

EMPLOYEE/CLAIMANT: BRYAN MCHOWELL

EMPLOYER: MRS. STRATTON'S SALADS, INC.

**INSURER: GREAT AMERICAN ALLIANCE INSURANCE
COMPANY**

I, SALLYE DEANNE NELSON, A NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA, DULY COMMISSIONED AND QUALIFIED AS SUCH, DO HEREBY CERTIFY THAT THE FOREGOING 56 PAGES REPRESENTS A TRUE AND ACCURATE TRANSCRIPT OF THE FOREGOING HEARING OF BRYAN MCHOWELL TAKEN ON THE 9TH DAY OF JULY, 2013.

THAT THE WITNESS WAS DULY PLACED UNDER OATH AND ADMONISHED TO SPEAK THE WHOLE TRUTH. THAT THE ORAL HEARING WAS DULY TAKEN AND TRANSCRIBED AS TO THE QUESTIONS PROPOUNDED AND THE ANSWERS GIVEN.

THAT ALL THE OFFERED EXHIBITS, STIPULATIONS AND OBJECTIONS, IF ANY, INVOLVED IN THIS CASE ARE DULY ATTACHED OR INCLUDED HEREIN.

IN WITNESS WHEREOF, I HAVE SET MY HAND THIS 10TH DAY OF AUGUST, 2013.

SALLYE DEANNE NELSON
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: 5-08-2022

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

STATE OF SOUTH CAROLINA

COUNTY OF LANCASTER

Bryan McHowell,

Employee,

vs.

Star Food Products/
Mrs. Stratton's Salads, Inc.,

Employer,

and

Great American Alliance Insurance,

Carrier.

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION
COMMISSION

WCC FILE NO: 1207730

Proposed Order

HEARING:

Held in Rock Hill, South Carolina on July 9, 2013

APPEARANCES:

Claimant was represented by Brent Stewart, Esquire
of The Stewart Law Offices

Defendants were represented by
Shelby H. Kellahan, Esquire of the Huff Law Firm, LLC

PURPOSE OF HEARING:

To determine the issues as set forth in the Form 50 and
Form 51

DECISION AND ORDER:

Commissioner Susan S. Barden

ORDER FILED:

October 25, 2013

Clay F30
due: 11-7-13
Caw
0602

STIPULATIONS

At the commencement of this hearing, counsel for the respective parties stipulated that:

1. The purpose of the hearing was to determine the issues raised by the Forms 50 and 51.
2. Notice of the hearing was timely and properly served upon the parties of interest.
3. Venue was properly set in Rock Hill, South Carolina, pursuant to South Carolina Code Annotated Section 42-17-20.
4. The Commission's file was made part of the record in this matter with the exception of any self-serving declarations and unstipulated medical reports.
5. The average weekly wage is \$973, yielding a compensation rate of \$646.14.

APA SUBMISSIONS

APA	Medical Provider	Date	Page No.
1	Lancaster Orthopaedics and Sports Medicine	4/4/12-1/4/13	1-11
2	Carolina Orthopaedic Surgery Associates	3/19/13	12-16
3	Mackey Family Practice	01/16/10-01/17/12	71-85
4	Metrolina Neurological Associates	03/23/11	86-87
5	Lancaster Ortho & Sports Medicine	04/25/11-02/02/02	88-104
6	Springs Memorial Hospital	05/03/01-07/26/11	105-114
7	Kerndodle Clinic	02/07/12	115-117
8	Southern Surgical Associates/Carolina Hand	06/07/93-06/15/93	118
9	Omni Rehab PT	06/15/93-05/21/93	119-126

STATEMENT OF THE CASE

The Claimant contends that on March 6, 2012, while in the course and scope of his employment, he injured his left shoulder, left hand, middle, ring and small fingers. The Claimant seeks an order for the claimant to receive medical treatment with Dr. O'Malley and

reimbursements for medicals incurred thus far. Defendants deny that the Claimant sustained an accidental injury arising out of or in the course of employment and therefore the claimant is not entitled to benefits under the Act.

EVIDENCE OF THE CASE

The claimant began working for the employer on February 3, 2012 as a route sales person. The Claimant testified that on March 6, 2012, he was driving a company vehicle when he saw a car coming toward him and was involved in a motor vehicle accident. He stated that when the accident happened, the car went over and landed on the passenger side. He had a seatbelt on at the time and when he unhooked the seatbelt he fell on his shoulder.

The claimant did not visit the doctor for shoulder issues until approximately one month after this accident on April 4, 2012. The claimant made no mention of his motor vehicle accident at that visit. He visited the doctor again on April 12, 2012 for shoulder problems and did not mention anything about the motor vehicle accident. The first time that he ever mentions anything about injuring his shoulder to the doctor as a result of this accident was on July 25, 2012. However, the doctor states in his notes for that visit that "the claimant had some type of work injury or issues that aggravated his shoulder," but he (the doctor) "did not have any knowledge of that."

The claimant has an extensive medical history with regard to his left shoulder. In June 2011, merely eight months prior to the claimant's date of hire, Claimant underwent left shoulder surgery (including distal clavicle excision, acromioplasty, and the implementation of hardware) to address a rotator cuff tear, labral tears, and acromioclavicular joint arthritis, after injection therapy failed. Claimant also underwent post-surgical physical therapy (Defendants' APA #3, page 78, dated 2010; Defendants' APA #5, pages 88-89 and 91-100; Defendants' APA #6, pages 107-112; testimony of Claimant).

Just one month prior to his date of hire (2 months prior to the date of the accident in issue), Claimant returned to his personal orthopedist in January 2012 with complaints of "increasing shoulder pain" (described by Claimant at an "8"), for which "nothing" made Claimant's symptoms better (including icing his shoulder). Claimant also reported neck and back pain. Claimant described himself as "disabled," and also stated that he had applied or was planning to apply for disability and/or unemployment. Because of Claimant's worsening left shoulder complaints, he underwent a left shoulder steroid injection at this visit in January 2012 (Defendants' APA #5, pages 101-103).

On February 2, 2012 (1 day prior to Claimant's start date with Employer), Claimant returned to his personal orthopedist and reported that the injection had only lasted "several days." Claimant's orthopedist recommended another injection, and instructed Claimant to return in 8 weeks for a re-check with a "repeat MRI at that point if he is no better." Claimant was instructed to return or call prior to the follow-up appointment if he had any problems. Although the work accident occurred during this 8-week interim, Claimant never called or returned until the scheduled follow-up appointment. (Defendants' APA #5, page 104).

Five days after this visit with the claimant's orthopedist, the claimant filled out a questionnaire with the employer marked as Defendants Exhibit p. 115. The claimant did not mention any shoulder problem on the questionnaire even though he was actively treating for his shoulder problem. The Claimant also concealed other medical conditions when asked on the questionnaire. The Claimant denied taking medication for diabetes (when Claimant was actually taking Metformin daily, and just one year prior was using insulin;) instead, Claimant reported that his diabetes was strictly "diet controlled." Additionally, although Claimant was taking Cymbalta for "major" depressive disorder when he applied for employment, Claimant denied having this condition or taking medication for it as well. Finally, Claimant denied any sleeping

disorder, but had been diagnosed by his family doctor with "persistent insomnia." The claimant testified at his deposition that nothing on his application was false.

FINDINGS OF FACT

1. Claimant alleges that he injured his left shoulder and neck (affecting his left hand/2nd, 3rd, and 4th fingers) in a work-related accident on March 6, 2012.
2. Claimant is 55 years of age (medical evidence documenting Claimant's date of birth as 12/13/57; Defendants' APA #10, page 320).
3. Claimant is a high school graduate (Claimant's APA #2, page 13; testimony of Claimant).
4. After high school, Claimant (a) took classes in welding at York Technical College (for which Claimant received a certificate), and (b) received his CDL after attending truck driving school. Claimant also has a farrier's certificate (Claimant's APA #2, page 13; Claimant's Deposition, page 14; testimony of Claimant).
5. Claimant's prior employment includes work as a farrier, truck driver, and welder (testimony of Claimant; Claimant's APA #2, page 13; Defendants' APA #4, page 86; Defendants' APA #10, page 283; Defendants' APA #14, page 390; Claimant's Deposition).
6. Claimant's job with Employer is route sales person (Deposition of Mabry, page 8; Defendants' APA #10, pages 283 and 360-361).
7. Claimant has two prior workers' compensation claims (Defendants' APA #14; Defendants' APA #15).

8. In 2011 (1 year prior to the date of the accident), Claimant reported that his feet hurt if he walked too much, and that his feet would "go to sleep" if he sat too long. Because of walking differently (*i.e.*, antalgia), Claimant reported hip and back pain. He also is noted to have had "chronic kidney disease, coronary artery disease, hypertension, elevated cholesterol, and GERD." Claimant had already undergone gastric bypass surgery by the date of this medical record (Defendants' APA #4, page 86).
9. Prior to Claimant's employment with Employer in February 2012, **he had not worked since 2009**. I base this finding on a medical intake form completed by Claimant himself one month prior to his date of hire wherein Claimant also described himself as "disabled." Nonetheless, when Claimant was in an MVA in 2011, he requested money for "lost wages," but was unable to produce any evidence that he was working (Defendants' APA #5, page 103; Claimant's Deposition, page 6; Defendants' APA #16, pages 416-417).
10. In June 2011 (8 months prior to Claimant's date of hire), Claimant underwent left shoulder surgery (including distal clavicle excision, acromioplasty, and the implementation of hardware) to address a rotator cuff tear, labral tears, and acromioclavicular joint arthritis, **after injection therapy failed**. Claimant also underwent post-surgical physical therapy (Defendants' APA #3, page 78, dated 2010; Defendants' APA #5, pages 88-89 and 91-100; Defendants' APA #6, pages 107-112; testimony of Claimant).
11. Just one month prior to his date of hire (2 months prior to the date of the accident in issue), Claimant returned to his personal orthopedist in January 2012 with complaints of "increasing shoulder pain" (described by Claimant at an "8"), for which "nothing" made Claimant's symptoms better (including icing his shoulder). Claimant also reported

neck and back pain. Claimant described himself as "disabled," and also stated that he had applied or was planning to apply for disability and/or unemployment. Because of Claimant's worsening left shoulder complaints, he underwent a left shoulder steroid injection at this visit in January 2012 (Defendants' APA #5, pages 101-103).

12. On February 2, 2012 (1 day prior to Claimant's start date with Employer), Claimant returned to his personal orthopedist and reported that the injection had only lasted "several days." Claimant's orthopedist recommended another injection, and instructed Claimant to return in 8 weeks for a re-check with a "repeat MRI at that point if he is no better." Claimant was instructed to return or call prior to the follow-up appointment if he had any problems. Although the work accident occurred during this 8-week interim, Claimant never called or returned until the scheduled follow-up appointment. I give great weight to this evidence (Defendants' APA #5, page 104).
13. Claimant has had--and continues to have--financial difficulties (including bankruptcy). He is a divorced father with custody of (and financial responsibility for) two daughters (e.g., Defendants' APA #10, pages 351 and 355; Claimant's Deposition, pages 8-9 and 16; testimony of Claimant).
14. On February 3, 2012, Claimant began working for Employer (Defendants' APA #10, pages 166, 184, and 320; testimony of Claimant; Claimant's Deposition, page 32).
15. The accident in issue occurred on March 6, 2012.
16. In the mechanics of the accident in issue, Claimant was the belted/restrained driver of a truck that turned over onto its right/passenger side--not the left side. Claimant testified at the hearing that he landed on his shoulder, although he did not specify the shoulder upon which he landed (Hearing Transcript, page 21, lines 6-22). Although the undersigned does not suggest that a truck landing on its side is a minor event, the truck

did not flip (Defendants' APA #10, pages 127, 132, and 187-188, in which Claimant reported that the truck tipped over, *see also* Defendants' APA #10, page 190; Claimant's APA, Exhibit #1, page 21; Claimant's APA, Exhibit #2, pages 25 and 28; Deposition of Laney, pages 16-17; testimony of Claimant).

17. At the scene, Claimant declined assistance from EMT's, who told Claimant to follow up with his doctor if he developed any problems. One week later (on March 13, 2012), Claimant completed an accident report that stated "bumps and bruised, shoulder L." On April 23, 2012, Claimant reported that he landed "full force on *left* [emphasis added] shoulder" (Defendants' APA #10, pages 127 and 187; Claimant's APA, Exhibit #2, pages 24-25 and 28).
18. If Claimant injured/aggravated his left shoulder in the accident, I find that his condition returned to baseline: (a) when Claimant returned to his personal orthopedist for his **previously scheduled 8-week follow-up visit, Claimant never mentioned the work accident as a factor in his ongoing pain; nor did Claimant report an aggravation. In fact, Claimant did not mention the accident at all at either of his two April 2012 visits, although he had previously been instructed to call with any problems (these records refute Claimant's deposition testimony).** Surgery was mentioned to Claimant as an option--as Claimant's condition was no better than it was at his last visit--but Claimant told his doctor "that he would hold off on surgery for now;" (b) Claimant was working for Employer prior to the accident in issue (in spite of his pre-existing shoulder pathology); and as of the date of the hearing, Claimant continues to be able to work for Employer with his shoulder pathology; and (c) Claimant's post-accident complaints in April 2012 are the same complaints he made to the orthopedist at the visits immediately prior to the date of the accident in issue (Defendants' APA #5, page 101; *Cf.* Claimant's

APA #1, pages 3 and 7; Defendants' APA #10, pages 143-144; Claimant's Deposition, page 25).

19. Not until July 2012 (more than 4½ months after the date of the accident) did Claimant tell his personal orthopedist (Dr. O'Malley) that he injured his left shoulder in the accident in issue. In response, Dr. O'Malley's treatment records state that "we have no records of that injury" (Claimant's APA #1, page 8).
20. Claimant is not credible. I base this finding on my observations of Claimant's demeanor and on the delivery of his testimony. I also specifically note that Claimant damaged his credibility with untruthfulness, inconsistencies, and failure to be forthright:
 - (a) Claimant specifically testified at the hearing that another driver's texting caused the accident in issue when the other driver crossed over the center line (forcing Claimant to swerve to avoid the other car), and resulting in Claimant's truck falling over onto its right side. However, the accident report completed by law enforcement is notable for absolutely no mention or reference to a "phantom" driver or to Claimant's alleged avoidance of an oncoming car: by contrast, the report states that Claimant "was traveling too fast for conditions; (inattention/distraction) ran off the road right striking a ditch and overturning." Claimant was issued a citation (Defendants' APA #13, pages 387 and 389);
 - (b) In spite of the fact that Claimant was receiving ongoing left shoulder treatment immediately prior to his date of hire, it could certainly be argued that Claimant inadvertently omitted his prior shoulder problem and surgery on his post-hire medical questionnaire. However, Claimant also concealed (or failed to divulge) 3 other medical issues/conditions: Claimant denied taking medication for diabetes (when Claimant was actually taking Metformin daily, and just one year prior was using

insulin;) instead, Claimant reported that his diabetes was strictly "diet controlled." Additionally, although Claimant was taking Cymbalta for "major" depressive disorder when he applied for employment, Claimant denied having this condition or taking medication for it as well. Finally, Claimant denied any sleeping disorder, but had been diagnosed by his family doctor with "persistent insomnia." Claimant's statement to the examining physician that Claimant was "off all medicines" is refuted by Claimant's own handwriting one month earlier, and also by his statement to his own IME that he takes Metformin (Defendants' APA #3, pages 79, 81, and 84-85; Defendants' APA #4, page 86—dated March 2011; Defendants' APA #5, pages 101-102; Defendants APA #7, pages 115 and 117; Defendants' APA #10, pages 134 and 136; Claimant's APA #2, page 14; Claimant's Deposition, page 20);

- (c) When given the chance at his deposition to "come clean" about the medical questionnaire, Claimant instead testified that nothing on the application was false. Moreover, Claimant continued to "part ways" with the truth: for instance, he specified at his deposition—for reasons only known to Claimant—that he takes only "one pill per day" for diabetes, but inconsistently told both Drs. O'Malley and Lehman that he takes diabetic medication twice a day (Claimant's Deposition, page 30; Cf. Defendants' APA #5, page 102; Claimant's APA #2, page 14);
- (d) Nor was Claimant truthful at his deposition regarding his shoulder treatment prior to the accident in issue: Claimant's testimony that physical therapy was his last "treatment," and that his previous surgery left no residual pathology and "healed up just fine," is refuted by pre-accident records. These records document Claimant's complaints of "sharp" and "increasing" pain (for which a new MRI was contemplated), and the fact that Claimant underwent an injection 2 months prior to

the accident in issue (1 month prior to his date of hire); another injection was recommended 1 month prior to the date of the accident/1 day prior to Claimant's date of hire. These pre-accident records also refute Claimant's testimony that he was still having only "a little" pain (Claimant's Deposition in its entirety, including but not limited to pages 19 and 25);

- (e) Claimant's testimony at the hearing--that his arm numbness resolved after his surgery prior to the date of the accident, and that his shoulder continued to hurt only "a bit" after his surgery--is refuted by medical evidence documenting significant pre-accident problems (Hearing Transcript, pages 18-20); and
- (f) Claimant's hearing and deposition testimony that he did not injure his back in a 2011 MVA accident (1 year prior to the date of the accident in issue-- i.e., not a remote event that he would not remember) is refuted by Defendants' APA #16, page 416, dated 2011, wherein Claimant reported a back injury to the applicable insurance carrier. Contrary to Claimant's hearing testimony that this evidence instead relates to his daughter rather than to himself, Defendants' APA #16, page 416 actually dovetails with other evidence from 2011 wherein Claimant reported back pain to his own physician (Defendants' APA #4, page 86; *See also* Claimant's Deposition, pages 20-21 and 29—wherein Claimant testified that he had been truthful; testimony of Claimant).

21. I find that Claimant is using the workers' compensation system--through the occurrence of an actual work incident--to pay for his pre-existing and ongoing chronic shoulder condition which was not permanently aggravated (if at all) by the accident in issue. In order to award benefits in this case, the Commission would have to ignore: (a) the fact that Claimant was untruthful about undergoing treatment during the 1-2 months prior to

the date of the accident; (b) the fact that Claimant gave sworn testimony that he was only having "a little" pain prior to the accident, when in fact he underwent an injection (and an MRI was contemplated) for increasing, sharp pain at an "8" level that brought him back to his treating surgeon; (c) the fact that Claimant did not even mention the accident to his personal/treating orthopedist until several months afterwards; (d) the fact that Claimant has significant financial problems; (e) the fact that Claimant described himself as "disabled" one month prior to his date of hire, (e) the fact that Claimant had not worked for 3 years--since 2009--until his date of hire in 2012; (f) the fact that Claimant was untruthful on his employment application regarding his psychological condition, sleep problems, and diabetic condition; (g) the fact that Claimant denied (under oath) a prior back injury when records state otherwise; (h) the fact that Claimant requests benefits for a condition which he denied to his own IME; (i) the fact that Claimant previously requested "lost wages" from an insurance company in 2011 when Claimant was not even working at the time; and (j) other issues/inconsistencies as well.

22. Claimant's alleged neck/radiculopathy is not compensable: (a) Claimant denied any other injuries (including his neck) to his IME--Dr. Lehman (Claimant's APA #2, page 12); (b) Dr. Lehman specifically examined Claimant's neck and found no problems--including radiculopathy (Claimant's APA #2, page 15); (c) when Claimant was asked at his deposition about injured body parts, he never once mentioned his neck (Claimant's Deposition, pages 18 and 26); and (d) **Claimant reported neck and back pain to an orthopedist just 2 months prior to the date of the accident in issue** (Defendants' APA #5, page 103).

23. Dr. O'Malley's opinion is not persuasive for the reasons that: (a) the opinion is not supported by Dr. O'Malley's own treatment records of April 2012--wherein there is no

mention of a work accident and/or aggravation; (b) the greater weight of the evidence (i.e., the mechanics of the accident) shows that Claimant would have more likely landed on his right side after unbuckling his safety belt; and (c) Dr. O'Malley notably did not complete the form provided to him by Claimant's counsel (which form states that all answers given on the form are given to a reasonable degree of medical certainty). Instead, Dr. O'Malley wrote a narrative in a separate document in which he states that there was no new injury to a reasonable degree of medical certainty. In another, separate paragraph, Dr. O'Malley writes that an aggravation is "possible and likely"—but the language "to a reasonable degree of medical certainty" is noticeably absent from the paragraph regarding an aggravation (Claimant's APA #1, pages 10-11).

24. As to the Lehman report/opinion, (a) the most persuasive statement is the sentence that "there was no specific mention of the work injury" at Claimant's visit with Dr. O'Malley on April 4, 2012—the very first medical visit after the accident in issue (Claimant's APA #2, page 13); (b) its conclusions are invalid for the reason that Dr. Lehman specifically and explicitly bases his opinion upon his apparent misapprehension that, prior to the accident in issue, Claimant had "no symptoms whatsoever, no pain at the shoulder," and that Claimant had "recovered completely" with no symptoms "for at least six months prior to the accident." As not one of these statements is true, either Dr. Lehman did not read—or was not provided—the January and February 2012 medical records from Dr. O'Malley (Claimant's APA #2, pages 12 and 15-16).

25. I find that McDevitt does not apply/serve to defeat this claim, as all the requirements/prongs of the defense are not met. Defendants' witness Mabry (Employer's President) admitted that (a) he would not inquire about previous injuries—he would only ask if the applicant was capable of doing the job; and (b) knowledge of Claimant's prior

shoulder surgery would not have eliminated or "locked" Claimant out as an applicant (Deposition of Mabry, pages 6-7 and 11-16; Hearing Transcript p 48: lines 18-21 and p 47 lines 21-25; Deposition of Laney, pages 10-12 and 24; Hearing Transcript p. 54 lines 18-25 and p. 55; line 1-9).

26. This claimant is not believable. His sworn testimony does not correlate with the pre-accident and temporal medical evidence. I have no doubt that Claimant's shoulder was painful on the date of the accident (as he was already in "8" pain), but I find that there was no compensable aggravation in this case.

27. Benefits under the Act are denied.

CONCLUSIONS OF LAW

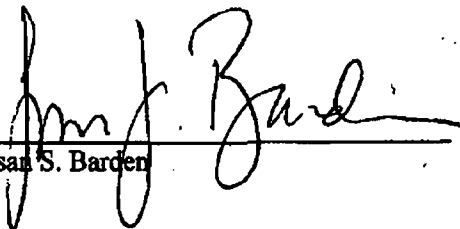
1. The parties to this proceeding are subject to and bound by the provisions of the South Carolina Workers' Compensation Act.
2. Under Section 42-17-20 jurisdiction and venue are proper.
3. Under Section 42-1-130 the Claimant was an employee.
4. Under Section 42-17-140, Mrs. Stratton's Salads was an employer.
5. Under Section 42-1 -150, an employer/employee relationship existed on March 6, 2012.
6. Under Section 42-1-40, and by stipulation of the parties, Claimant's average weekly wage is \$973, yielding a compensation rate of \$646.14 (stipulation of the parties).
7. Under Section 42-1-160 the Claimant did not suffer from an accidental injury arising out of and in the course of his employment.
8. Under Section 42-3-180 and 42-17-40 the claimant did not carry his burden of proof by submission of proof that would entitle him to benefits.

ORDER

IT IS THEREFORE ORDERED that the Claimant did not sustain an accidental injury arising out of and in the course of his employment and his claim is denied.

IT IS FURTHER ORDERED that the Claimant is not entitled to workers' compensation benefits

AND IT IS SO ORDERED.



Susan S. Barden

CERTIFICATE OF SERVICE

This is to certify that the undersigned has on this date served a copy of this order in the above entitled action upon all parties to this case by sending an electronic copy hereof by electronic mail addressed to the attorneys for said parties; or if there is an unrepresented party(ies), by depositing a copy hereof, postage paid, in the United States mail, first class, addressed to the unrepresented party(ies) and to the attorney(s) for the represented party(ies).
October 25, 2013

By: Kristi Love, Administrative Assistant to Commissioner Barden

BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

Bryan McHowell

Employee/Claimant,

-VS-

Star Food Products/Mrs. Stratton's Salads, Inc.

Employer,

and

Great American Alliance Insurance

Carrier,

Defendants.

W.C.C. FILE NO. 1207730

**FINAL LUMP SUM
AGREEMENT AND RELEASE**

RECEIVED
SETTLEMENT

MAR 17 2014

Division of Claims
SC Workers Comp. Comm.

The Claimant, Bryan McHowell, while in the course of employment of Star Food Products/Mrs. Stratton's Salad, Inc. sustained bodily injuries including an injury to his left shoulder in an accident arising out of and in the course of his employment on or about March 6, 2012, in the County of Lancaster, State of South Carolina.

At the time of the accident aforementioned, the Claimant and the Employer were subject to the Workers' Compensation Law of South Carolina (hereinafter called "Act") and the Carrier was the Employer's insurer under said Act.

This is a doubtful and disputed case. As a result, no temporary total or temporary partial benefits were paid and the parties agree none are due. There were no medical benefits paid by carrier.

The employee is represented by Brent P. Stewart, Esquire of Stewart Law Offices, LLC in Rock Hill, South Carolina. The employer and carrier are represented by Shelby H. Kellahan, Esquire of Huff Law Firm, LLC in Irmo, South Carolina. Disputes exist between the parties as to: Whether or not employee has reached maximum medical improvement; Carrier's entitlement, if any, to credit for overpayment of temporary total; Claimant's entitlement to further medical care; Claimant's entitlement to further payments of temporary disability and the extent of any causally related permanent disability, if any.

The parties hereto now advise that, in view of the aforementioned disputes, an agreement has been reached to settle this matter in its entirety, pursuant to Section 42-9-390.

Under the proposed settlement, the Defendants have agreed to pay, and the Claimant has agreed to accept, the sum of **\$9,000.00 (nine thousand dollars 00/100 Dollars)** in full settlement and satisfaction of every liability under the Act growing out of or in any way connected with any injury and/or accident occurring on or about March 6, 2012; ~~further, claimant states there are no other workers' compensation claims reported or unreported, at any other time prior to this agreement.~~

*BP 3/11/12 * PAM 3-6-12 BL 3/13/12*

As an integral part of this settlement agreement, it is expressly understood and agreed that the Defendants have paid all medical expenses for which they are liable and that the Claimant is responsible for any and all other medical expenses of whatsoever nature and the Defendants shall have no liability therefor.

The Claimant hereby asserts that she/he has been fully advised of all her/his rights under the South Carolina Workers' Compensation Act, and is of the opinion that the proposed settlement is reasonable and fair and in this opinion, the Claimant's attorney concurs. The Claimant hereby asserts that she/he recognizes that her/his consent to, and the approval of, this settlement is a final

determination and adjudication of all benefits under the South Carolina Workers' Compensation Act, growing out of, or in any way connected with, any known injury and/or accident occurring on or about March 6, 2012 .

NOW, THEREFORE, in consideration of the payment to the Claimant of the sum of \$9,000.00 (nine thousand dollars 00/100 Dollars) and in further consideration of the mutual covenants, stipulations, and releases herein contained, the Claimant hereby releases and discharges Star Food Products/Mrs. Stratton's Salads, Inc. and Great American Alliance Insurance, and binds Claimant's heirs, executors, administrators, dependents, next of kin, privies, and assigns under the Act and agrees to release, discharge, defend, and indemnify Star Food Products/Mrs. Stratton's Salads, Inc. and Great American Alliance Insurance and their respective agents, servants, insurers, physicians, privies, and their successors, from any and all debts, claims, demands, causes of action, rights of action, and liabilities whatsoever of any known injury and/or accident on or about March 6, 2012 including, but not limited to, any right which the Claimant might otherwise have to demand benefits for disability, disfigurement, bodily impairment, medical treatment, medicine or drugs, prosthetic devices, lost time or death, under the Act or otherwise and specifically including any right which Claimant might otherwise have to demand further benefits by way of compensation or medical care under the Act because of a change in condition hereinafter (which is expressly waived, released and renounced) whether or not arising out of, or directly or indirectly in any way conceivably attributable to any known injury and/or accident occurring on or about 03/06/12. ~~Further, claimant states there are no other workers compensation claims reported or unreported, at any other time prior to this agreement.~~

BPI
3/16/14 PM 3:14
AK 3/13/14

The Claimant requests that the settlement proceeds of \$9,000.00 shall be allocated as follows: Three Thousand Six Hundred Eighty Three 11/100 (\$3,683.11) Dollars in compromise settlement of disputed future wage loss at the rate of \$0.92 per week for a period of

3,984.24 weeks, representing the remainder of the Claimant's life, pursuant to South Carolina Code of Laws, Ann. (1976, as amended) ' 19-1-150 and the South Carolina Supreme Court decision of Utica-Mohawk Mills v. Orr, 227 S.C. 226, 87 SE2d 59 and pursuant to the Sciarotta v. Bowen, 837 F2d 135 (3d Cir. 1988) decision; **Three Thousand and 00/100 (\$3,000.00) dollars as attorney's fees and Two Thousand Three Hundred Sixteen and 89/100 (\$2,316.89) Dollars as expenses incurred in bringing this action, pursuant to a written agreement between the claimant and his attorney.**

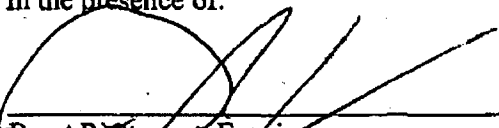
The parties have taken into consideration Social Security Disability and Medicare's potential interest in the resolution of the claim and there is no interest to their knowledge.

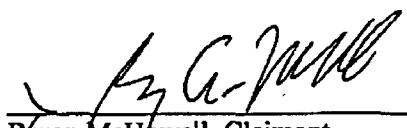
This Agreement shall not be subject to review, modification, or amendment by the Commission or the Courts of this State and is res judicata.

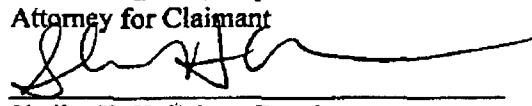
IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed as of March 7, 2014.

WITNESSED AND APPROVED:

In the presence of:


Brent P. Stewart, Esquire
Attorney for Claimant


Bryan McHowell, Claimant


Shelby H. Kellahan, Esquire
Attorney for Employer/Carrier

FEE SUBJECT TO FORM 61

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 #: TBD
Carrier File #: 564575461
Carrier Code #:
Employer FEIN #: -

Claimant's Name: Bryan Howell SSN: [REDACTED] Employer's Name: Star Food Products Inc.
Address: 7822 Van Wyck Road Address: 2050-A Willow Springs Lane
City: Lancaster State: SC Zip: 29720 City: Burlington State: NC Zip: 27215
Home Phone: (803) 287-4780 Work Phone: Insurance Carrier: Strategic Camp Services
Preparer's Name: Brent P. Stewart Law Firm: Stewart Law Offices, L.L.C. Preparer's Phone #: (803) 328-5600

Complete each information blank. To request a hearing, check Box 13b, indicate the kinds of benefits claimed by checking the box(es) at Lines 6, 7, 8, and 9, and file this form in duplicate.

A claim for workers' compensation benefits is made based on the following grounds:

Date of Injury or Illness: 3/6/2012

☒ Injury ☐ Illness ☐ Repetitive Trauma

- 1a. The claimant sustained an injury to on 3/6/2012 in County, State of .
1b. Body part(s) affected are: and any other body parts affected.
Briefly describe how the accident occurred. Injured left shoulder, neck, left hand and finger.
2. Both the claimant and the employer were subject to the South Carolina Workers' Compensation Act at the time of injury.
3. The relationship of employer and employee existed at the time of injury.
4. At the time of the injury the claimant was performing services arising out of and in the course of employment.
5. Notice of the accidental injury was given to the Employer on in the following manner: .
☒ 6. Due to injury, the claimant is in need of (check one):
☒ (a) medical examination and treatment for: and any other body parts affected.
☒ (b) additional medical examination and treatment for: and any other body parts affected.
7. Due to injury, the claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of: 3/6/2012 to present.
☒ 8. 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
☒ (3) Wage Loss ☒ Partial ☒ Partial
☒ 9. Due to the injury, the Claimant has a serious bodily disfigurement consisting of: N/A.
10a. At the time of the injury, the Claimant was paid weekly wages of \$(Form 20 requested within thirty (30) days), 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
11a. Further grounds or unusual aspects of claim:
11b. List names and addresses of all physicians or other medical specialists who have seen or treated the Claimant as a result of the accident: See attached.
11c. To the best of your knowledge, did you have any prior permanent disability? .
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: N/A

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

Preparer's Signature: [Signature] Claimant's Attorney: brent@stewartlawoffices.net
Title: Email: Date: June 25, 2012

to R.67-204 through R.67-210 and R.67-601 through R.67-615. Questions about the use of this form may be directed to the Commission's Claims Department.

WCC Form # 50
Revised 9/07

50

Employee's Notice of Claim and/or
Request for Hearing
ACF 0621

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
W.C.C. FILE NO.: TBD

BRYAN HOWELL,

Employee/Claimant,

-vs-

STAR FOOD PRODUCTS, INC.,

Employer,

and

STRATEGIC COMP SERVICES.

Carrier,

Defendants.

CERTIFICATE OF SERVICE

I, Nina M. Davis Foster, an employee with Stewart Law Offices, L.L.C., do hereby certify that a true and correct copy of WCC FORM 50-CLAIM ONLY, has been served upon the following by depositing the same in the U.S. Mail postage pre-paid, certified, return receipt requested this 20th day of June, 2012, addressed as follows:

Strategic Comp Services
P. O. Box 1445
Alpharetta, GA 30009-1445

Star Food Products, Inc.
2050-A Williw Springs Lane
Burlington, NC 27215

Nina M. Davis Foster

Nina M. Davis Foster
Workers' Compensation Paralegal
STEWART LAW OFFICES, LLC
Post Office Box 670
Rock Hill, SC 29731-6670
(803) 328-5600

Rock Hill, South Carolina
June 20th 2012

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

AMENDED



NCC File #: X120535

Carrier File #: 564575461

Carrier Code #:

Employer FEIN #:

Claimant's Name: Bryan McHowell

SSN: [REDACTED]

Employer's Name: Star Food Products Inc.

Address: 7622 Van Wyck Road

Address: 2050-A Willow Springs Lane

City: Lancaster State: SC Zip: 29720

City: Burlington State: NC Zip: 27215

Home Phone: (803) 287-4780

Work Phone:

Insurance Carrier: Strategic Comp Services

Preparer's Name: Brent P. Stewart

Law Firm: Stewart Law Offices,
L.L.C.

Preparer's Phone #: (803) 328-5600

Complete each information blank. To request a hearing, check Box 13b, indicate the kinds of benefits claimed by checking the box(es) at Lines 6, 7, 8, and 9, and file this form in duplicate.

A claim for workers' compensation benefits is made based on the following grounds:

Date of Injury or Illness: 3/6/2012

☒ Injury ☐ Illness ☐ Repetitive Trauma

1a. The claimant sustained an injury to on 3/6/2012 in County, State of SC.

1b. Body part(s) affected are: left shoulder, neck, left hand and finger.

Briefly describe how the accident occurred. Injured left shoulder, neck, left hand and finger.

2. Both the claimant and the employer were subject to the South Carolina Workers' Compensation Act at the time of injury.

3. The relationship of employer and employee existed at the time of injury.

4. At the time of the injury the claimant was performing services arising out of and in the course of employment.

5. Notice of the accidental injury was given to the Employer on in the following manner: .

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

☒ (a) medical examination and treatment for: left shoulder, neck, left hand and finger.

☒ (b) additional medical examination and treatment for: left shoulder, neck, left hand and finger.

☒ 7. Due to injury, the claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of: 3/6/2012 to present.

☒ 8. 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

☒ (3) Wage Loss

☒ Partial

☒ Partial

☒ 9. Due to the injury, the Claimant has a serious bodily disfigurement consisting of: N/A.

10a. At the time of the injury, the Claimant was paid weekly wages of \$(Form 20 requested within thirty (30) days), 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

11a. Further grounds or unusual aspects of claim:

11b. List names and addresses of all physicians or other medical specialists who have seen or treated the Claimant as a result of the accident: See attached.

11c. To the best of your knowledge, did you have any prior permanent disability?
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: N/A

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

Preparer's Signature

Claimant's Attorney
Title

brent@stewartlawoffices.net
Email

July 12, 2012
Date

Refer to R.67-204 through R.67-210 and R.67-601 through R.67-615. Questions about the use of this form may be directed to the Commission's Claims Department.

WCC Form # 50
Revised 9/07

50

Employee's Notice of Claim and/o
Request for Hearing
0623

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
W.C.C. FILE NO.: TBD

BRYAN MCHOWELL,

Employee/Claimant,

-VS-

STAR FOOD PRODUCTS, INC.,

Employer,

and

STRATEGIC COMP SERVICES.

Carrier,

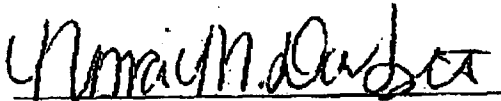
Defendants.

CERTIFICATE OF SERVICE

I, Nina M. Davis Foster, an employee with Stewart Law Offices, L.L.C., do hereby certify that a true and correct copy of **WCC AMENDED FORM 50-CLAIM ONLY**, has been served upon the following by depositing the same in the U.S. Mail postage pre-paid, certified, return receipt requested this 12th day of July, 2012, addressed as follows:

Strategic Comp Services
P. O. Box 1445
Alpharetta, GA 30009-1445

Star Food Products, Inc.
2050-A Williw Springs Lane
Burlington, NC 27215



Nina M. Davis Foster
Workers' Compensation Paralegal
STEWART LAW OFFICES, LLC
Post Office Box 670
Rock Hill, SC 29731-6670
(803) 328-5600

Rock Hill, South Carolina
July 12th 2012

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 #: 1207730
Carrier File #: 564575461
Carrier Code #: _____
Employer FEIN #: -

Claimant's Name: Bryan McHowell SSN: [REDACTED] Employer's Name: Star Food Products Inc.
Address: 7822 Van Wyck Road Address: 2050-A Willow Springs Lane
City: Lancaster State: SC Zip: 29720 City: Burlington State: NC Zip: 27211
Home Phone: (803) 287-4780 Work Phone: _____ Insurance Carrier: Strategic Comp Services
Preparer's Name: Brent P. Stewart Law Firm: Stewart Law Offices, LLC Preparer's Phone #: (803) 328-5600

Complete each information blank. To request a hearing, check Box 13b, indicate the kinds of benefits claimed by checking the box(es) at Lines 6, 7, 8, and 9, and file this form in duplicate.

A claim for workers' compensation benefits is made based on the following grounds:

Date of Injury or Illness: 3/6/2012

☒ Injury ☐ Illness ☐ Repetitive Trauma

- 1a. The claimant sustained an injury to on 3/6/2012 in Lancaster County, State of SC.
- 1b. Body part(s) affected are: left shoulder, neck, left hand and finger.
Briefly describe how the accident occurred. Injured in a car wreck.
2. Both the claimant and the employer were subject to the South Carolina Workers' Compensation Act at the time of injury.
3. The relationship of employer and employee existed at the time of injury.
4. At the time of the injury the claimant was performing services arising out of and in the course of employment.
5. Notice of the accidental injury was given to the Employer on 03/06/2012 in the following manner:
- ☒ 6. Due to injury, the claimant is in need of (check one):
☒ (a) medical examination and treatment for: left shoulder, neck, left hand and finger.
☒ (b) additional medical examination and treatment for: left shoulder, neck, left hand and finger.
- ☒ 7. Due to injury, the claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of: 3/6/2012 to present.
- ☒ 8. 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
☒ (3) Wage Loss ☒ Partial ☒ Partial
- ☒ 9. Due to the injury, the Claimant has a serious bodily disfigurement consisting of: N/A.
- 10a. At the time of the injury, the Claimant was paid weekly wages of \$(Form 20 requested within thirty (30) days), 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
- 11a. Further grounds or unusual aspects of claim:
- 11b. List names and addresses of all physicians or other medical specialists who have seen or treated the Claimant as a result of the accident: Lancaster Orthopaedics & Sports Medicine, 901 West Meeting Street, Suite 104, Lancaster, SC 29720
- 11c. To the best of your knowledge, did you have any prior permanent disability?
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: 1-2 hours

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

Preparer's Signature: [Signature] Claimant's Attorney: brent@stewartlawoffices.net August 9, 2012
Title: _____ Email: _____ Date: _____

Refer to R.67-204 through R.67-210 and R.67-601 through R.67-615. Questions about the use of this form may be directed to the Commission's Claims Department.

WCC Form # 50
Revised 9/07

50

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

0625

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
W.C.C. FILE NO.:1207730

BRYAN MCHOWELL,

Employee/Claimant,

-vs-

STAR FOOD PRODUCTS INC.,

Employer,

and

STRATEGIC COMP SERVICES.

Carrier,

Defendants.

CERTIFICATE OF SERVICE

I, Nina M. Davis Foster, an employee with Stewart Law Offices, L.L.C., do hereby certify that a true and correct copy of **WCC FORM 50-HEARING REQUEST**, has been served upon the following by depositing the same in the U.S. Mail postage pre-paid, certified, return receipt requested this 8th day of August, addressed as follows:

Strategic Comp Services
P. O. Box 1445
Alpharetta, GA 30009-1445

Nina M. Davis Foster

Nina M. Davis Foster
Workers' Compensation Paralegal
STEWART LAW OFFICES, LLC
Post Office Box 670
Rock Hill, SC 29731-6670
(803) 328-5600

Rock Hill, South Carolina
August 8th 2012

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 #: 1207730
Carrier File #: 564575461
Carrier Code #: _____
Employer FEIN #: _____

Claimant's Name: Bryan McHowell SSN: [REDACTED] Employer's Name: Star Food Products Inc.
Address: 7822 Van Wyck Road Address: 2050-A Willow Springs Lane
City: Lancaster State: SC Zip: 29720 City: Burlington State: NC Zip: 2721
Home Phone: (803) 287-4780 Work Phone: _____ Insurance Carrier: Strategic Comp Services
Preparer's Name: Brent P. Stewart Law Firm: Stewart Law Offices, LLC Preparer's Phone #: (803) 328-5600

Complete each information blank. To request a hearing, check Box 13b, indicate the kinds of benefits claimed by checking the box(es) at Lines 6, 7, 8, and 9, and file this form in duplicate.

A claim for workers' compensation benefits is made based on the following grounds:

Date of Injury or Illness: 3/6/2012

☒ Injury ☐ Illness ☐ Repetitive Trauma

- 1a. The claimant sustained an injury to on 3/6/2012 in Lancaster County, State of SC.
1b. Body part(s) affected are: left shoulder, neck, left hand and finger.
Briefly describe how the accident occurred. Injured in a car wreck.
2. Both the claimant and the employer were subject to the South Carolina Workers' Compensation Act at the time of injury.
3. The relationship of employer and employee existed at the time of injury.
4. At the time of the injury the claimant was performing services arising out of and in the course of employment.
5. Notice of the accidental injury was given to the Employer on 03/06/2012 in the following manner:

- ☒ 6. Due to injury, the claimant is in need of (check one):
☒ (a) medical examination and treatment for: left shoulder, neck, left hand and finger.
☒ (b) additional medical examination and treatment for: left shoulder, neck, left hand and finger.
☒ 7. Due to injury, the claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of: 3/6/2012 to present.
☒ 8. 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
☒ (3) Wage Loss ☒ Partial ☒ Partial
☒ 9. Due to the injury, the Claimant has a serious bodily disfigurement consisting of: N/A.
10a. At the time of the injury, the Claimant was paid weekly wages of \$(Form 20 requested within thirty (30) days), 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
11a. Further grounds or unusual aspects of claim:

11b. List names and addresses of all physicians or other medical specialists who have seen or treated the Claimant as a result of the accident: Lancaster Orthopaedics & Sports Medicine, 901 West Meeting Street, Suite 104, Lancaster, SC 29720

11c. To the best of your knowledge, did you have any prior permanent disability?
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: 1-2 hours

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

Preparer's Signature: [Signature] Claimant's Attorney: brent@stewartlawoffices.net
Title: _____ Email: _____

Date: August 9, 2012

Refer to R.67-204 through R.67-210 and R.67-601 through R.67-615. Questions about the use of this form may be directed to the Commission's Claims Department.

WCC Form # 50
Revised 9/07

50

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

F51 due
8/13
AGF 0627

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
W.C.C. FILE NO.:1207730

BRYAN MCHOWELL,

Employee/Claimant,

-vs-

STAR FOOD PRODUCTS INC.,

Employer,

and

STRATEGIC COMP SERVICES.

Carrier,

Defendants.

CERTIFICATE OF SERVICE

I, Nina M. Davis Foster, an employee with Stewart Law Offices, L.L.C., do hereby certify that a true and correct copy of **WCC FORM 50-HEARING REQUEST**, has been served upon the following by depositing the same in the U.S. Mail postage pre-paid, certified, return receipt requested this 16th day of August, addressed as follows:

Strategic Comp Services
P. O. Box 1445
Alpharetta, GA 30009-1445
Attention: Deborah Vaughn

Great American Alliance Insurance Company
200 Northwinds Parkway, Suite 350
Alpharetta, GA 30009
Attention: Brenda Smith



Nina M. Davis Foster
Workers' Compensation Paralegal
STEWART LAW OFFICES, LLC
Post Office Box 670
Rock Hill, SC 29731-6670
(803) 328-5600

Rock Hill, South Carolina
August 16th 2012

South Carolina Workers' Compensation Commission
1612 Marion Street • Post Office Box 1715
Columbia, South Carolina 29202-1715
(803) 737-5739
www.wcc.sc.gov



WCC File #: 1207730
Carrier File #: 564575461
Carrier Code #: WCC
Employer FEIN #: _____

Employee's Name: Bryan McHowell SSN: [REDACTED]
Address: 7822 Van Wyck Roak
City: Lancaster State: SC Zip: 29720
Home Phone: 803-287-4780 Work Phone: () -
Date of Injury: 03/06/12
Employer's Name: Star Food Products/Mrs. Stratton's Salads, Inc.
Address: 2050 Willow Spring Lane
City: Burlington State: NC Zip: 27215
Insurance Carrier: Great American Alliance Insurance
Preparer's Name: Shelby H. Kellahan Law Firm: Huff Law Firm, LLC Preparer's Phone #: (803) 252-2232

Date of Injury or Illness: 03/06/12
Complete each information blank. Specify clearly when contentions are admitted in part and denied in part. The employer/carrier in answer to the claim, respectfully shows:

1. It is **Denied** the employee sustained an injury or illness on or about the date set forth in the Form 50. The reasons for denial are:
To be determined by SCWCC and pending further investigation.
2. It is **Denied** both the employer and employee were subject to the Workers' Compensation Act at the time in question. The reasons for denial are:
See No. 1
3. It is **Denied** the relationship of employer and employee existed at the time in question. The reasons for denial are:
See No. 1
4. It is **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:
See No. 1
5. It is **Denied** notice of injury was given the employer. The reasons for denial are:
See No. 1
It is **Denied** the employee **Needs / Is Entitled to Additional** medical care as a result of injury or illness. The reasons for denial are:
To be determined by SCWCC
7. It is **Denied** the employee is entitled to temporary total disability for the period(s) of :
To be determined by SCWCC
8. It is **Denied** the employee is permanently disabled. The reasons for denial are:
To be determined by SCWCC
9. It is **Denied** the employee has serious disfigurement.
10. It is contended that an average weekly wage of \$ 384.00 applies, according to attached Form 20 as provided by law.
11. 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.
12. Estimated time needed for hearing: 1 hour

certify I have served this document pursuant to R.67-212 by delivering a copy to:
Name: Brent P. Stewart, Esquire

Address: Stewart Law Offices, LLC, PO Box 670, 1242 Ebenezer Road (29732), Rock Hill, SC, 29731-6670
on the 10 day of September, 2012 by ☒ first class mail ☐ personal service ☐ certified mail.
I verify the contents of this form are accurate and true to the best of my knowledge.

Shelby H. Kellahan Attorney for Employer/Carrier
Preparer's Signature Title Email skellahan@colalaw.com Date 9/10/12

Refer to R.67-204 through R.67-210 and R.67-601 through R.67-615. Questions about the use of this form may be directed to the Commission's Judicial Department. Pursuant to R.67-606, a Form 20 must be filed with the Claims Department at least 30 days from the date of filing this form.

VCC Form # 51
Rev. 9/07

51

Employer's Answer to Request for Hearing

FILE

0629

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC FILE # 1207730

BRYAN MCHOWELL,	)	
	)	
CLAIMANT,	)	
	)	DEPOSITION
VS.	)	
	)	OF
STAR FOOD PRODUCTS/MRS.	)	
STRATTON'S SALADS, INC.,	)	BRYAN MCHOWELL
	)	
EMPLOYER,	)	
	)	
GREAT AMERICAN ALLIANCE	)	
INSURANCE,	)	
	)	
CARRIER,	)	
	)	
DEFENDANTS.	)	

Deposition of Bryan McHowell, taken pursuant to the
South Carolina Rules of Civil Procedure and the
Administrative Procedures Act, commencing at the hour of
10:34 a.m., Monday, October 1st, 2012, at Stewart Law
Offices, 1242 Ebenezer Road, Rock Hill, South Carolina.

COPY

Reported by
Sandra M. Snead

SCOTT REPORTING SERVICE
P.O. Box 290482, Columbia, SC 29229 ♦ (803) 736-2408
www.scottreporting.com ♦ bscott@scottreporting.com

Appearances

For the Claimant: Brent P. Stewart, Esquire
Stewart Law Offices, LLC
1242 Ebenezer Road
P.O. Box 670
Rock Hill, SC 29731

For the Employer/
Carrier: Shelby H. Kellahan, Esquire
Huff Law Firm, LLC
7244 Woodrow Street
P.O. Box 1935
Irmo, SC 29063

Reported By: Sandra M. Snead

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Exhibits

No exhibits marked.

Court Reporter's Note: This transcript may contain quoted material. Such material is reproduced as read or quoted by the speaker. Double hyphens (--) denote interruption of speech, incomplete sentence/phrase, or trailing off. [ph] denotes phonetically written. [sic] denotes written as spoken. Social Security number, if present, has been partially or fully redacted or blacked out.

Stipulations

The reading and signing of this deposition is waived by the deponent and counsel for the respective parties.

Whereupon,

Bryan McHowell, being duly sworn and cautioned to speak the truth, the whole truth, and nothing but the truth, testified and deposed as follows:

The Court Reporter: State your name for the record.

The Deponent: Bryan McHowell.

Ms. Kellahan: All right. Before I start asking you questions, I just want to put on the record that the parties have agreed to waive reading and signing.

Examination

By Ms. Kellahan:

Q Mr. McHowell, my name is Shelby Kellahan. I represent the employer and carrier in this case. I'm not here to trick you, so if you don't understand anything, just ask me. I'll repeat it. And I talk fast, so you can ask me to slow down also if you don't understand what I'm saying. But what is your age?

- 1 A Fifty-four.
- 2 Q And what's your address?
- 3 A 7822 Van Wyck Road in Lancaster, South Carolina.
- 4 Q Is that a home, apartment?
- 5 A That's a home.
- 6 Q Do you own or rent?
- 7 A Own.
- 8 Q Who do you live with there?
- 9 A My two daughters.
- 10 Q What are their ages?
- 11 A Eighteen and fifteen. And my brother lives on the
- 12 property, but he has a mobile home.
- 13 Q Okay. Your fifteen-year-old daughter, what's her
- 14 name?
- 15 A Rebecca.
- 16 Q And the eighteen-year-old?
- 17 A Megan.
- 18 Q Okay. What is your telephone number?
- 19 A Home number is 803-286-9772.
- 20 Q And what about a cell phone?
- 21 A It's 803-287-4780.
- 22 Q Okay. And this will be taken out of the deposition
- 23 transcript. What's your Social Security number?
- 24 A [REDACTED]-[REDACTED]-[REDACTED].
- 25 Q Okay. Where are you currently employed?

- 1 A With Star Food Products.
- 2 Q How long have you worked there?
- 3 A Since February.
- 4 Q What is your job with them?
- 5 A Route sales.
- 6 Q What are your job duties doing the route sales?
- 7 A What does it do?
- 8 Q Yeah, what are you -- What do you do when you do
- 9 your route sales?
- 10 A I go to the stores that we sell to and go in and
- 11 check for outdated merchandise, take an order for
- 12 what they need, go out to the truck, pull the
- 13 merchandise, take it back in and restock it. And
- 14 twice a week I have to reorder to restock the truck
- 15 and then do the maintenance on the truck weekly.
- 16 Q Okay. How many hours do you work there a week?
- 17 A I average 60 hours a week.
- 18 Q What are your work hours, your work days, schedule?
- 19 A It's Monday through Friday normally, and it -- it
- 20 varies, depending upon what particular day it is.
- 21 It goes anywhere from leaving before three o'clock
- 22 in the morning on Tuesday to get a load or before
- 23 five when I go to Walmarts, because they open at
- 24 five.
- 25 Q Okay. So, --

- 1 A And then some days I don't leave until seven.
- 2 Q Okay. Seven PM?
- 3 A No. AM.
- 4 Q Seven AM. Okay.
- 5 A Right.
- 6 Q Leave to go to work?
- 7 A To go to work, right.
- 8 Q How much do you make there?
- 9 A I'm averaging over a thousand a week.
- 10 Q Do they pay you weekly, biweekly?
- 11 A Weekly.
- 12 Q Okay. Where did you work before you went to Mrs.
- 13 Stratton's Salads?
- 14 A I was off for quite a while, but before that I
- 15 worked for a company called Wall Timber.
- 16 Q What did you do for Wall Timber?
- 17 A Drove a truck.
- 18 Q How long did you work for them?
- 19 A About ten months.
- 20 Q And why did you leave that job?
- 21 A I had problems with the equipment.
- 22 Q Let me back up a little bit. With Star Foods, are
- 23 you a contract employee or just a regular employee?
- 24 A Just a regular employee.
- 25 Q Okay. And what about with Wall Timber?

- 1 A A regular employee.
- 2 Q Okay. Where did you work before Wall Timber?
- 3 A Worked for TQ Logistics.
- 4 Q Do you remember when you started working for them?
- 5 A I don't remember the dates.
- 6 Q How long did you work for them?
- 7 A Only about three months.
- 8 Q And why did you leave that job?
- 9 A Too many hours.
- 10 Q So, we're back up to around -- ten months -- three
- 11 months -- around about 2011, the year 2011, 2010?
- 12 A No, because I -- In October of 2010, I had gastric
- 13 bypass, and I was off for quite a while trying to
- 14 recover.
- 15 Q Okay. Did you get unemployment during -- between
- 16 getting the gastric bypass and any of these other
- 17 jobs?
- 18 A Yes, when -- when I left Wall Timber, I did.
- 19 Q Okay. What did you do at TQ Logistics?
- 20 A Spotted trailers at Bowater -- or it's now Resolute
- 21 Forest Products.
- 22 Q And where is TQ Logistics?
- 23 A They're located somewhere in Georgia, but they have
- 24 different spots that they have their trucks and
- 25 work.

1 Q Where is Wall Timber located?

2 A They're -- I believe their office is in Fairfax,
3 Georgia, but I'd run out of the Chester Wood over
4 in Chester.

5 Q Okay. And why did you leave TQ Logistics? You
6 might have told me.

7 A It was too many hours and not enough pay.

8 Q Okay. All right. Where did you work before TQ
9 Logistics, or were you recovering from your
10 surgery?

11 A No, I had the surgery after --

12 Q Okay.

13 A -- TQ. Before -- I think I worked for General
14 Nutrition up until about 2008.

15 Q What did you do for them?

16 A I drove a truck. Delivery.

17 Q Where were they out of?

18 A They're out of Pittsburgh, Pennsylvania, but I run
19 out of -- started out at Dallas and then ran out of
20 Phoenix, and the last part was in the lower part of
21 South Carolina.

22 Q Okay. And why did you leave them?

23 A Because I had a position where I was home every
24 night and on the weekends, because I went through a
25 divorce and got custody of my kids, and they told

1 me to keep your job you had to go back on the road,
2 which put me home two or three days a month.

3 Q So, that TQ job was --

4 A Home every day.

5 Q At home every day. That would be nice. Okay.

6 Before General Nutrition, where were you?

7 A That's a long time ago. I was doing -- I can't
8 think -- I think the name of the company was
9 Bowlin Engineering. I was welding, and it was in
10 Fort Worth, Texas.

11 Q Did you live in Fort Worth?

12 A Lived outside of Fort Worth.

13 Q How long did you work with them?

14 A That was five or six months.

15 Q What did you do for them?

16 A Welded food-grade stainless and aluminum.

17 Q And why did you leave that job?

18 A To go to work for GNC, more money.

19 Q And GNC was in South Carolina, right?

20 A But their home office is in Pennsylvania, but I --

21 The last warehouse that I run out of was in
22 Anderson, South Carolina.

23 Q Okay.

24 A I started with them and ran out of Dallas, and they
25 closed Dallas and opened one in Phoenix.

1 Q Okay. So, you really kind of -- Did you start on
2 there before -- Did you start with them before you
3 moved back to South Carolina, General Nutrition?
4 A Oh, yeah.
5 Q Okay.
6 A I started with them in June of '95, and I moved
7 back to South Carolina in February of '97.
8 Q Okay. All right. Before Bowlin Engineering, where
9 did you work? That's about 2007, I guess,
10 approximately.
11 A No. That would -- That would be in '95.
12 Q Okay. How long were you with General Nutrition?
13 A Nine and a half years.
14 Q Okay. That's my missing gap. Okay. So, around
15 1995, where were you?
16 A Carolina Cargo over here in Chester -- or,
17 actually, Rock Hill.
18 Q What did you do for them?
19 A Drove a truck.
20 Q How long did you work for them?
21 A Less than a year.
22 Q And why did you leave that job?
23 A Pardon me?
24 Q Why did you leave that job?
25 A To move to Texas.

- 1 Q Let's just go back one more job, because that will
2 bring us back into the early '90s. Where did you
3 work before Carolina Cargo?
4 A York Transportation.
5 Q When did you start there?
6 A Probably about '93.
7 Q How long did you work with them?
8 A Probably about a year and a half.
9 Q And why did you leave that job?
10 A To go to Carolina Cargo.
11 Q All right. With any of these employers or any
12 other employers, have you had any workers'
13 compensation injuries?
14 A With Wall Timber.
15 Q Okay. What happened there?
16 A I ruptured the housing on the tendon on my hand, my
17 left hand.
18 Q Did you file a claim?
19 A Yes.
20 Q Okay. Sought and got benefits and --
21 A Right.
22 Q -- treatment? Where did you get treatment from?
23 A You mean the doctor or --
24 Q The doctor or the place, the hospital.
25 A It was -- I believe it was Orthopaedic Associates

1 in Lancaster.

2 Q Did you have an attorney represent you there?

3 A Yes.

4 Q Do you remember the name?

5 A Yeah, I think his name was Brent Stewart.

6 Q Do you remember how much how much you got on that
7 one for settlement?

8 A I --

9 Q I'm assuming you settled. Did you go to a hearing
10 or settle?

11 A We didn't have any hearings on that one. I think
12 the settlement was about \$8,000.

13 Mr. Stewart: Yeah,

14 Q Do you remember your -- any kind of impairment
15 rating on that one or not?

16 A There wasn't any.

17 Q Okay.

18 A Or if -- if there was, it was like the one -- the
19 lowest.

20 Q Okay.

21 Mr. Stewart: (to Ms. Kellahan) What
22 year was that again, that one?

23 Ms. Kellahan: It's --

24 Q Yeah, what year was --

25 A I think that was 2008.

1 Mr. Stewart: (to Ms. Kellahan) If it
2 was in 2008, I can pull the file.

3 Ms. Kellahan: Okay. It's --

4 A It's roughly around 2008.

5 Q The details aren't important. It's when people
6 forget they had one that's important.

7 Mr. Stewart: It's important now --

8 A Kind of hard to -- Kind of hard to forget when you
9 look.

10 Q Yeah. Yeah. Okay. Let's talk a little bit about
11 your education. Did you graduate from high school?

12 A Yes.

13 Q Okay. Where did you graduate from?

14 A Brandon High School in Florida.

15 Q Where is that, Brandon High School?

16 A It's in Brandon, --

17 Q It's in Brandon, --

18 A -- Florida.

19 Q -- Florida?

20 A Yes.

21 Q What area is that in?

22 A It's between Tampa and Plant City.

23 Q Okay. I went to law school in Jacksonville. I
24 know I've seen signs.

25 A It's about two or three hours south of

1 Jacksonville.

2 Q What year was that?

3 A It was 1975.

4 Q Okay. Did you have any college after that?

5 A York Tech.

6 Q What did you take at York Tech?

7 A Welding.

8 Q Okay. So, you have like a welding certificate

9 probably?

10 A Mm-hmm.

11 Q Okay. Any other certificates or advanced training

12 or anything like that?

13 A I got a certificate from Charlotte Truck Driver

14 School when I got my CDL.

15 Q Okay.

16 A And I've got several other little certificates, you

17 know, for like on-the-job trainings.

18 Q Okay. Have you ever been arrested?

19 A One time, but it was dropped.

20 Q Okay. What was the charge on that?

21 A I don't know what the charge was, but I was a

22 horseshoer at the time -- Well, that's the other

23 certificate I have. I have a certificate of a

24 farrier that I got back in '85.

25 Q Okay.

- 1 A But I was shoeing here locally, and I had a
2 customer that had a horse that had all kinds of
3 problems, and she gave me the horse for me to treat
4 it because she didn't want to pay the bill. So, I
5 did it for a little bit, but the horse was
6 worthless, so I sold it for Alpo, and she came back
7 and wanted it, and I told her what happened. She
8 had me arrested for stealing her horse. And I was
9 out of jail before I was in jail.
- 10 Q What year was that?
- 11 A Probably the late '80s.
- 12 Q So, it was way more than ten years --
- 13 A Oh, yeah.
- 14 Q -- ago?
- 15 A Oh, yeah.
- 16 Q All right.
- 17 A It came up one time, when I applied for my
18 concealed weapons permit, and all I had to do was
19 explain what happened and give them the attorney's
20 name, and it was all --
- 21 Q Okay. What county was that?
- 22 A Lancaster. Well, she was in York County, but this
23 all took place in Lancaster County.
- 24 Q Okay. Are you currently married?
- 25 A No.

1 Q Okay. You said you'd had one divorce. Have you
2 been married one time?

3 A Just once.

4 Q Just once. How long was that marriage?

5 A Five and a half years.

6 Q Are you under a court's order to pay any child
7 support?

8 A No. I have custody of all three kids.

9 Q Okay. And you said there's two girls that live
10 with you. Do you have any older -- Do you have --

11 A No. That --

12 Q -- an older child?

13 A My eighteen-year-old has a twin sister who decided
14 to go live with her mother because I have rules and
15 her mother doesn't.

16 Q Okay. And you don't have to pay any child support
17 --

18 A No.

19 Q -- for that one?

20 A She's still paying.

21 Ms. Kellahan: (to Mr. Stewart) We've
22 just had child support come up a lot lately.
23 We're trying to enforce orders, so --

24 Mr. Stewart: That's what -- I've been
25 getting a ton of them, too.

1 Ms. Kellahan: Yeah, it's weird.

2 The Deponent: It only works, though, if
3 you're the woman. She owes me 40,000, and
4 nobody will do anything about it.

5 Ms. Kellahan: Oh, you've just got to get
6 the right attorney.

7 Mr. Stewart: They -- They'll still do
8 it.

9 Mr. Kellahan: Yeah.

10 The Deponent: (to Mr. Stewart) We'll
11 talk.

12 Q Okay. Any prior hospitalizations, prior to the
13 date of this accident, for any --

14 A Yes.

15 Q -- reason? Okay. What were those?

16 A The first one was -- I guess you could say I had a
17 crash with my onset of my diabetes.

18 Q Okay.

19 A My sugar level went too high, and my blood pressure
20 went too low. I spent about a week in the
21 hospital.

22 Q Okay. Any other hospitalizations?

23 A Other than the bypass. And after the bypass, it
24 did not go well, so probably a month afterwards I
25 was back in there, and I almost died that time.

- 1 Q Like an infection or something, --
- 2 A No.
- 3 Q -- or a complication?
- 4 A Due to the surgeon. They -- I almost starved to
- 5 death. Afterwards, they give you -- where you can
- 6 only eat a certain amount. I followed the rules to
- 7 the letter and lost 54 pounds in three weeks. I
- 8 was starving to death and severely dehydrated and
- 9 almost died.
- 10 Q Oh, gosh.
- 11 Mr. Stewart: (to Ms. Kellahan) Just for
- 12 clarity, will you define hospitalizations?
- 13 You said -- Do you want all his surgeries or
- 14 every time he's been in the hospital?
- 15 Q Every --
- 16 Mr. Stewart: You see what I'm saying?
- 17 Q Every time you've been in the hospital like
- 18 overnight, like for --
- 19 A Okay. Well, that's it --
- 20 Q -- major stuff. Okay.
- 21 A All my surgeries, except for the gastric bypass,
- 22 was out -- outpatient.
- 23 Q Okay. What body parts are you claiming are injured
- 24 as a result of this accident?
- 25 A My shoulder. My left shoulder.

- 1 Q Have you injured your left shoulder before this
2 accident?
- 3 A Yes.
- 4 Q Okay. When was that?
- 5 A I believe it was in 2010 or '11 I had the rotator
6 cuff repaired.
- 7 Q Okay. When did you last have treatment for your
8 rotator cuff repair, or do you have an ongoing
9 visit with the doctor for it?
- 10 A Well, I have -- I saw him about a month before I
11 went to work for these people. I was still having
12 a little pain, but as far as treatment, after the
13 surgery, I had my rehab, and that was the last so-
14 called treatment. It wasn't rehab. It was
15 physical therapy.
- 16 Q All right. Where did you seek treatment for your
17 left shoulder injury?
- 18 A At Lancaster Orthopaedics & Sports Medicine in
19 Lancaster.
- 20 Q That rotator cuff, was that a result of any type of
21 accident or --
- 22 A Just normal wear and tear and old age.
- 23 Q Any illnesses or conditions that you deal with now
24 on a daily basis? I know you had said the
25 diabetes. Are you still taking diabetes

- 1 medication?
- 2 A I still take one pill per day, but it's -- it's --
- 3 That was the whole idea behind having the gastric
- 4 bypass.
- 5 Q So, --
- 6 A It's -- It's very much under control.
- 7 Q Okay.
- 8 A It's almost to the point that I don't have it
- 9 anymore.
- 10 Q Okay. Any other physical conditions that you have
- 11 that you have to visit the doctor for?
- 12 A No. I've not seen a doctor since I started working
- 13 here.
- 14 Q Any psychological conditions?
- 15 A No.
- 16 Q Are you currently on any medications?
- 17 A Just the one for my diabetes.
- 18 Q Do you know what the name of that one is?
- 19 A It's Metformin. And I do take one for acid reflux.
- 20 That's just a preventative. It's not a --
- 21 Q Like a --
- 22 A -- treatment.
- 23 Q -- treatment.
- 24 A Right.
- 25 Q Have you been in any motor vehicle accidents?

- 1 A Yes, I have, but not -- no injuries.
- 2 Q Just property-type stuff?
- 3 A Right.
- 4 Q Okay. Do you remember the years of those?
- 5 A The only one that, really, I can remember was with
- 6 when I was with GNC. So, it was probably around
- 7 2006.
- 8 Q What happened in that accident?
- 9 A I got cut off and run into the concrete barricades
- 10 in a -- when they were doing the construction on
- 11 77.
- 12 Q Any other motor vehicle accidents?
- 13 A Not that I remember, no.
- 14 Q Have you ever had any slip-and-falls or any other
- 15 --
- 16 A No.
- 17 Q -- personal injury-type accidents? If you had,
- 18 say, like a cold or a bad sinus infection; what
- 19 doctor would you go to?
- 20 A Dr. Sharp at Mackey Family Practice.
- 21 Q Where is Dr. Sharp located?
- 22 A In Lancaster.
- 23 Q Okay. Let's talk about your accident now. If you
- 24 can, just kind of give me a statement of what
- 25 happened that day.

- 1 A I had just turned, going east on Highway 75, and I
2 was probably doing around 30, 35 miles an hour, and
3 there was a car coming towards me. It's a two-lane
4 road. And he, all of a sudden, was in my lane, --
5 he was either on the phone or texting -- and I
6 swerved to the right to avoid hitting him head-on.
7 And that particular part of the road, or that area,
8 is nothing but red clay, and there was just a
9 little bit of a ditch, and when -- The truck was
10 loaded. We had just got it loaded. And it has
11 shelves on it, so it's very top-heavy. And when it
12 went off the side of the road, it slipped on that
13 red clay, and when it started to go, there was no
14 recovering.
- 15 Q Okay. What date was this?
- 16 A March -- The first week of March. I don't know
17 exactly the date.
- 18 Q How long had you been on the job that day?
- 19 A About eight, nine hours. I was actually on my way
20 home, about a mile or two from my house.
- 21 Q So, you had finished your job that day, and you
22 were --
- 23 A That's correct.
- 24 Q -- on the way home? Okay. Were police called?
- 25 A Yes, the highway patrol.

- 1 Q Were you taken to an emergency room or anything?
- 2 A No. I was -- The EMTs came there, and they just
- 3 suggested if you have any problems, to follow up
- 4 with your doctor.
- 5 Q Did you follow up with a doctor?
- 6 A Afterwards. Not -- It was probably several weeks
- 7 after that it --
- 8 Q Okay. On the date of the accident, what body parts
- 9 were hurting?
- 10 A My shoulder and my lower back.
- 11 Q Have you ever injured your lower back before?
- 12 A No.
- 13 Q What -- When you say your shoulder, which
- 14 shoulder?
- 15 A Left shoulder.
- 16 Q Okay. Was it -- Did you have a throbbing pain, a
- 17 constant pain, a --
- 18 A It's throbbing, and it's -- it's constant. It's
- 19 been constant since then.
- 20 Q Okay. When you say your lower back, was it the
- 21 middle of your lower back, side of the lower back?
- 22 A Middle.
- 23 Q Any other body parts hurting?
- 24 A No.
- 25 Q Okay. Were there any witnesses to the accident?

1 A None.

2 Q So, was this car ever identified, the one that --

3 A No. He --

4 Q -- swerved?

5 A -- didn't stay around.

6 Q Do you know what it looked like or anything?

7 A I believe it was -- If I remember, it was a blue

8 mid-size Chevy.

9 Q Did you have any injury to the vehicle?

10 A On my vehicle?

11 Q Your vehicle.

12 A Oh, yeah.

13 Q Did you tell anyone at work about your accident?

14 A Oh, yeah.

15 Q Who did you tell?

16 A I immediately called -- as soon as I got out of the

17 truck, called my supervisor, which I had just

18 dropped off at his car, and he came right up there.

19 Q Did you tell him that anything was hurting --

20 A Oh, yeah.

21 Q -- at the time? What did you tell him?

22 A I told him about my back and my shoulder.

23 Q Did he suggest you go see anyone?

24 A No. He made sure that the EMTs looked at me.

25 Q All right. How long after this accident did you

- 1 seek treatment?
- 2 A I'd say within a month, within 30 days.
- 3 Q Where did you go?
- 4 A Lancaster Orthopaedics & Sports Medicine.
- 5 Q What did you tell them there had happened?
- 6 A That I had the wreck and landed on my shoulder and
- 7 it was giving me trouble.
- 8 Q All right. When you say landed on your shoulder,
- 9 were you buckled in, or what exactly happened for
- 10 you to have injured your shoulder?
- 11 A Well, I was buckled in, but when the truck hit, it
- 12 was such a hard hit that I hit the side of the
- 13 truck, the door.
- 14 Q What happened during the accident you think that
- 15 made the back hurt?
- 16 A Just getting jostled around. The truck ended up on
- 17 its side and slid for a short period of time.
- 18 Q Okay. This doctor you saw at Lancaster, what did
- 19 they diagnosis you with?
- 20 A Well, he sent me for a MRI, and it showed that the
- 21 previous work that I had done had healed up just
- 22 fine, but now I have two tears on the top part of
- 23 the shoulder where I hit.
- 24 Q What did he say about your back?
- 25 A Well, that -- at that time, that was fine. It

- 1 wasn't -- wasn't hurting.
- 2 Q When did your back start hurting?
- 3 A When did it start?
- 4 Q Mm-hmm.
- 5 A As soon as I got out of the truck.
- 6 Q Okay. But it had, I guess, stopped hurting when
- 7 you were at this visit at Lancaster Ortho?
- 8 A Oh, yeah.
- 9 Q Okay.
- 10 A Within a week or so, it had --
- 11 Q Is your back pain resolved now?
- 12 A Yes.
- 13 Q Any other body parts hurting?
- 14 A No.
- 15 Q Okay. Who else have you seen for treatment besides
- 16 Lancaster?
- 17 A That's the only one.
- 18 Q When was the last time you went there?
- 19 A It's been -- I don't know the exact date, but it's
- 20 been over 30 days ago, because I was going and
- 21 getting a cortisone shot once a month, but he won't
- 22 do it anymore.
- 23 Q Why won't he do it anymore?
- 24 A It's not doing any good.
- 25 Q Has he recommended surgery?

- 1 A Yes. It's the only way that it'll fix the problem.
- 2 Q Okay. Tell me, today, what does your shoulder
- 3 injury keep you from doing, any activities or --
- 4 A It keeps me from lifting anything heavy on that
- 5 arm. I'm predominantly right-handed. It's my
- 6 dominant side, so I'm using my right hand and arm
- 7 more to compensate.
- 8 Q Do you have any problems doing your job?
- 9 A I have problems lifting.
- 10 Q Is lifting part of your job duties?
- 11 A Oh, yes.
- 12 Q Has any doctor written you out of work?
- 13 A No.
- 14 Q Okay. Is there anything you can't do around the
- 15 house? Can you cut grass or vacuum or anything
- 16 like that?
- 17 A I can ride on the lawnmower, yeah, but vacuuming is
- 18 up to the girls.
- 19 Q Okay. So, you don't have a push lawnmower or
- 20 anything?
- 21 A No.
- 22 Q You're not bending down to pick up leaves or raking
- 23 or anything?
- 24 A Not at all.
- 25 Q Do you have any hobbies like -- like ATV riding,

- 1 horseback riding, fishing, anything like that?
- 2 A No. Just working out in the yard.
- 3 Q About how much is your -- How much are your bills
- 4 a month, just an estimate?
- 5 Mr. Stewart: (to Ms. Kellahan) Bills in
- 6 --
- 7 Ms. Kellahan: Like --
- 8 Mr. Stewart: Daily living or --
- 9 Ms. Kellahan: Like daily living. Just
- 10 like mortgage and all that kind of stuff.
- 11 Q I guess it's not really relevant because you're
- 12 not, you know, having any other means -- you're
- 13 still working -- to pay for them, but --
- 14 A It's probably 1800, 2,000 a month.
- 15 Q And you're obviously paying that with --
- 16 A Oh, yeah.
- 17 Q -- your paycheck?
- 18 A Mm-hmm.
- 19 Q Okay. Do you have any cars that you drive?
- 20 A Yeah. I've got two. One of them is the one my
- 21 daughter uses to go back and forth to school.
- 22 Q All right. What is the make and model?
- 23 A Got a Dodge four-door pickup and then a little
- 24 Honda Civic.
- 25 Q And do you drive the Honda Civic? Oh. She drives

- 1 the Honda Civic?
- 2 A Right.
- 3 Q What year is the Civic?
- 4 A '97.
- 5 Q All right. What year is the pickup?
- 6 A '06.
- 7 Q What color is the pickup?
- 8 A Silver.
- 9 Q What color is the Civic?
- 10 A Black.
- 11 Q Have you applied for anything like Social Security
- 12 disability, Medicare, Medicaid, that kind of stuff?
- 13 A I had applied for the Social Security disability
- 14 with the bypass, when it didn't go right and
- 15 everything, but I was turned down for it.
- 16 Q Do you plan on applying again?
- 17 A Not right now, no.
- 18 Q Has your license ever been suspended?
- 19 A No.
- 20 Q I'm just making sure I haven't missed anything.
- 21 Okay. Have you understood all my questions today?
- 22 A Yes.
- 23 Q Have you been truthful?
- 24 A Yes.
- 25 Q Have you given any false answers?

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1 A No.

2 Q Check one more place. Did you fill out any sort of
3 application or anything for work with the employer?

4 A Yes.

5 Q Okay. Did you tell anything false to your
6 employer?

7 A No.

8 Q Okay. Did you tell anything false in any
9 applications that you've made to your employer?

10 A No.

11 Ms. Kellahan: Okay. That's all I have.

12 Mr. Stewart: (to Ms. Kellahan) Are
13 there -- Do you have the -- I don't have any
14 applications. Do you have applications in
15 your file?

16 Ms. Kellahan: No. I just asked that. I
17 don't think I do. I don't -- I don't think I
18 do on this one. If I do, you can have it.

19 Mr. Stewart: Because whenever we --
20 Well, I mean, of course, we should have had it
21 before the deposition, but --

22 Ms. Kellahan: No, I don't have one.

23 Mr. Stewart: So, there's no application?

24 Ms. Kellahan: There's no application.
25 So, I guess the questions about applications

1 are irrelevant.

2 Q Did you have any sort of -- like a medical
3 examination or anything that they did?

4 A Yeah, you have the normal --

5 Q Like a physical?

6 A -- a pre- -- Well, I was actually working for them
7 when I got my, supposedly, pre-employment CDL
8 physical --

9 Q Okay.

10 A -- and drug-screening.

11 Q And did you pass your drug-screening?

12 A Oh, yeah.

13 Q Did you say anything false on that application?

14 A No.

15 Q Okay.

16 Ms. Kellahan: All right. That's all
17 that I have.

18 Examination

19 By Mr. Stewart:

20 Q All right. You -- What I see from your records is
21 that you had gone to your shoulder doctor on
22 February 2nd of 2012.

23 A Right.

24 Q And that was the time that -- That was the time
25 before you began working for your employer?

- 1 A Correct.
- 2 Q Okay. And then it appears your medical examination
3 was February 7th, 2012.
- 4 A Right.
- 5 Q But you were hired before that medical examination;
6 is that correct?
- 7 A That's correct. I was hired on the 3rd.
- 8 Q So, tell me what happened on February 3rd.
- 9 A On February 3rd, they had called me to ride with
10 the supervisor on that particular Friday to --
- 11 Q Who was that supervisor?
- 12 A -- Steve Laney --
- 13 Q Steve Laney.
- 14 A -- to ride with him to make sure that I liked the
15 work and could do it. And I rode with him on
16 Friday and Monday, and then I believe on Tuesday --
17 was the 7th -- I went to Burlington to do the
18 physical.
- 19 Q So, you were hired on the 3rd?
- 20 A That's correct.
- 21 Q And on the 3rd, did they have you -- actually have
22 you performing the job on that 3rd?
- 23 A Right. The only thing I didn't do on the 3rd was
24 drive the truck.
- 25 Q Okay. And, so, you were doing the lifting parts of

1 the job?

2 A That's correct.

3 Q And did y'all describe the issues with your
4 shoulder at that time?

5 A Yes, I did.

6 Q But, in any event, you were hired on that date?

7 A That's correct.

8 Q Now, in that you were going February 2nd to your
9 doctor, it appears you were having some trouble
10 with your shoulder at that time?

11 A Right.

12 Q Your wreck was in March -- I don't remember the
13 date either. I know you just said it.

14 A It was the first week.

15 Q So, if you could, I'd like you to tell us what is
16 different since the wreck -- because you were
17 having problems before -- and what's different now,
18 since the wreck.

19 A Okay. Well, before the wreck, I would have
20 soreness when I'd lift something heavy or if I
21 slept on it wrong or whatever, and since the wreck,
22 it's pretty much 24 hours a day, seven days a week
23 that it hurts. I'm not receiving any medication
24 from the doctor. All I can take is over-the-
25 counter, which, unless you take it in mass

- 1 quantities, doesn't do any good. And it's to the
2 point that it hurts at night no matter what
3 position you are in, so it affects my sleep.
- 4 Q Now, I think with rotator cuff tears, MRIs are the
5 best form of telling you what's going on with your
6 shoulder.
- 7 A That's correct.
- 8 Q When was the MRI -- the closest MRI before the
9 wreck?
- 10 A Was before the surgery that I had originally.
- 11 Q Now, did they do other -- any MRIs or x-rays
12 between the surgery and the March wreck?
- 13 A No.
- 14 Q Okay.
- 15 A Well, they -- they did x-rays at the office --
- 16 Q And, so, --
- 17 A -- after the initial surgery.
- 18 Q But you've had an MRI since the wreck?
- 19 A That is correct.
- 20 Q And when was that?
- 21 A I believe it was in April, the end of March or
22 April of this year.
- 23 Q Okay. So, not long after the wreck --
- 24 A That's correct.
- 25 Q -- the doctor gave you an MRI? And that was done

- 1 at Springs Memorial?
- 2 A That's correct.
- 3 Q Okay. So, while you acknowledge problems before,
- 4 you're saying that it's a different situation now?
- 5 A Right.
- 6 Q Do you know whether or not -- You can't testify to
- 7 what you were told after the MRI. Do you know
- 8 whether or not, or is it your understanding, that
- 9 there is something different in this recent MRI?
- 10 A Yes.
- 11 Q What do you understand is different?
- 12 A The difference is that the damage is now on the top
- 13 of the shoulder. There's two tears in the
- 14 ligaments. In the original, when I had problems
- 15 before, it was on the front, and this latest MRI
- 16 noted the new damage, but the old -- so-called old
- 17 work has healed up fine.
- 18 Q Now, right before the wreck, you had dropped off
- 19 your supervisor, correct?
- 20 A That's correct.
- 21 Q Where did you garage your truck?
- 22 A It's at my house.
- 23 Q Okay. So, you would take the truck home?
- 24 A And plug it in.
- 25 Q Plug it in. What's -- Oh. Because it's a

1 refrigerated truck?

2 A It's a -- It's a refrigerator and a freezer.

3 Q Were you paid up until the point that you plugged

4 it in, or how were you paid?

5 A I'm paid on strictly commission. If I'm not

6 putting food in a store, I don't make any money.

7 That's why on the pay sheet you'll see where it

8 says rate at zero-zero or whatever.

9 Q Now, I saw a Form 20 saying your average weekly

10 wage was \$226 or something like that, I believe, in

11 the employer file?

12 A It was like 300 and something, and --

13 Q Now, --

14 A -- the 66 percent brought it down to like 250.

15 Q Now, you had brought me in a form saying that your

16 year-to-date was 30,833.44?

17 A Right.

18 Q Why is it that you believe that that rate of pay is

19 lower?

20 A Because at the time that they got that average,

21 that was on training pay which is only like a

22 hundred dollars a day. That's before you get any

23 commission or get paid for what you're doing.

24 Q And, so, that's not an accurate average of your pay

25 --

1 A No.

2 Q -- because it included the --

3 A No.

4 Q -- training period. And her and I can deal with
5 that, but I just wanted to make sure that those
6 were -- But -- And I don't believe there's
7 anything -- It's just we don't know all this
8 stuff.

9 Mr. Stewart: (to Ms. Kellahan) Go
10 ahead.

11 Re-examination

12 By Ms. Kellahan:

13 Q Do you know when the training period ended?

14 A Pardon me?

15 Q When did the training period end, or when did you
16 go to regular pay?

17 A I would say it was 30 days or less that -- from
18 when I started. I don't know the exact date.

19 Re-examination

20 By Mr. Stewart:

21 Q Now, just to make sure, so that I don't get in
22 trouble later, your back hurt originally, -- but I
23 didn't allege your back on your Form 50. Your --

24 A That's correct.

25 Q -- back is better now?

- 1 A Right.
- 2 Q So, you don't want anything done with your back?
- 3 A No.
- 4 Q Your right arm is your main arm. Are you having
5 problems with your right arm due to overuse?
- 6 A It -- It gets sore because I -- you know, I do so
7 much with it, trying not to aggravate the left arm.
- 8 Q But we don't need any treatment or anything on the
9 right arm?
- 10 A No.
- 11 Q So, what you really want is whatever treatment is
12 necessary because of specific objective problems
13 with the MRI that are different now than before?
- 14 A That's correct.
- 15 Q Now, just, because of hospitalizations -- Your
16 bypass surgery, you spent the night?
- 17 A Right.
- 18 Q Your shoulder surgery, you did not spend the night?
- 19 A No. It was --
- 20 Q So, no --
- 21 A -- outpatient.
- 22 Q -- hospitalization. And the carpal tunnel, you did
23 not spend the night?
- 24 A No.
- 25 Q Your by- -- Your -- gastric by- -- Well, there's

1 two -- There's a gastric bypass, and then was
2 there a heart bypass?
3 A No. No. Just the --
4 Q Okay.
5 A -- gastric bypass.
6 Q And you've been hospitalized with your problem with
7 your diabetes?
8 A Right. And that was due to the fact that I wasn't
9 under the strict regimen of treatment for the
10 diabetes because I wasn't, you know, -- I guess I
11 didn't accept it or whatever.
12 Q And even while you were -- I don't know -- It's
13 the weirdest thing, because you were kind of like
14 seeing if you could do the job, but you got hired
15 that same day?
16 A Right.
17 Q You were lifting -- You were going to have some
18 problems with your arm anyway?
19 A Right.
20 Q So, you're not saying that every single thing --
21 You're just saying that it's now worse than it was
22 before?
23 A That's right.
24 Q And let me -- because -- since I've been e-mailing
25 all about you, find this and pull that -- Let me

1 make sure my paralegal hasn't told me something I
2 need to know.

3 Mr. Stewart: (to Ms. Kellahan) Okay.
4 We're -- We have just sent for the MRI from
5 Springs, and I'll get you a copy of that --

6 Ms. Kellahan: Okay.

7 Mr. Stewart: -- as soon as it comes in
8 because I know that's going to be relevant for
9 you.

10 Ms. Kellahan: Let me make sure I don't
11 have it. I may have it.

12 Mr. Stewart: Do you have it?

13 Ms. Kellahan: I might have it. I can't
14 remember which one I looked at.

15 Re-examination

16 By Ms. Kellahan:

17 Q Do you remember the date of that? Was it -- Was
18 it -- No, it couldn't have been May 18th. That
19 would have been your old one, I guess?

20 A Yeah, that was probably --

21 Q I might just have your old one.

22 Mr. Stewart: (to Ms. Kellahan) Do you
23 have the old -- Do you have the old one?
24 Can I see the old one?

25 Ms. Kellahan: Yeah, I think I've just

1 got your old stuff in here.

2 Mr. Stewart: If I can get a copy of the
3 old stuff, that would be great.

4 Ms. Kellahan: Just take the copy that's

5 --

6 Mr. Stewart: Okay.

7 Mr. Kellahan: This is the whole section
8 from Springs.

9 Mr. Stewart: Well, then, I don't have
10 any other questions, but do you have anything
11 else?

12 Ms. Kellahan: Okay. I'm finished, --

13 Mr. Stewart: Okay.

14 Ms. Kellahan: -- so we're done.

15 (Whereupon the deposition was concluded at
16 11:21 a.m.)

17 (Deponent has waived reading and signing.)

State of South Carolina)
)
 County of Lexington) Certificate

Be it known that the foregoing deposition of Bryan McHowell, was taken before me;

That I was then and there a Notary Public in and for the State of South Carolina-At-Large;

That by virtue thereof I was duly authorized to administer an oath;

That the witness was by me first duly sworn to testify the truth, the whole truth, and nothing but the truth concerning the matter in controversy aforesaid;

That the foregoing transcript of 41 typewritten pages represents a true, accurate and complete transcription of the testimony so given at the time and place aforesaid to the best of my skill and ability;

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

Signed this 4th day of October 2012.

Sandra M. Snead

Sandra M. Snead

Notary Public for South Carolina
 My commission expires October 17, 2013.

Note: Recordings are retained for twelve (12) months from date of certification.

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STATE OF SOUTH CAROLINA

BEFORE THE SOUTH CAROLINA

WORKERS' COMPENSATION

COUNTY OF LANCASTER

COMMISSION

WCC FILE NO: 1207730

COPY

BRYAN McHOWELL,

Employee-Plaintiff,

-vs-

STAR FOOD PRODUCTS/

MRS. STRATTON'S SALADS, INC.,

Employer-Defendant,

and

GREAT AMERICAN ALLIANCE INSURANCE,

Carrier-Defendant.

Burlington, North Carolina

December 4, 2012

10:03 a.m.

DEPOSITION

OF

NORMAN MABRY

1 APPEARANCES:

2 STEWART LAW OFFICE, LLC, by

3 BRENT P. STEWART, ESQ.

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7 803.328.5600

8 Email: brent@stewartlawoffices.net

9 Appearing via telephone on behalf of the
10 Plaintiff.

11

12 HUFF LAW FIRM, LLC, by

13 SHELBY H. KELLAHAN, ESQ.

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18 Email: skellahan@colalaw.com

19 Appearing via telephone on behalf of the
20 Defendants.

21

22

23

24

25

I N D E X

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS

Norman Mabry

By Ms. Kellahan	6	15

By Mr. Stewart	12	15

E X H I B I T S

DEFENDANTS'

NUMBER	DESCRIPTION	PAGE

(None Presented)

Quoted material is verbatim and
may/may not reflect a direct quote.

1 The deposition of NORMAN MABRY was taken by
2 the Defendants for the purpose of discovery and for
3 use as evidence in the above-entitled cause, wherein
4 BRYAN MCHOWELL is the Employee-Plaintiff and STAR
5 FOOD PRODUCTS/MRS. STRATTON'S SALADS, INC. is the
6 Employer-Defendant and GREAT AMERICAN ALLIANCE
7 INSURANCE is the Carrier-Defendant, pending in the
8 State of South Carolina, County of Lancaster, Before
9 the South Carolina Workers' Compensation Commission,
10 pursuant to notice of counsel, before DOVIE L.
11 HANFORD, Verbatim Court Reporter and a Notary Public
12 in and for the County of Guilford, State of North
13 Carolina, on the 4th day of December, 2012, at the
14 offices of Star Food Products, 2050A Willow Springs
15 Lane, Burlington, North Carolina commencing at 10:03
16 a.m.

STIPULATION

It is stipulated and agreed, by and between the parties to this proceeding, that all questions are deemed objected to and that a motion to strike is made as to all answers, which objections and motions to strike may be ruled upon at an appropriate time by the Court, except that objections as to the form of the questions shall be lodged at the time the questions are propounded to the witness.

- - - - -

1 Thereupon:

2 NORMAN MABRY

3 was called as a witness pursuant to notice and
4 agreement of counsel in the above-entitled cause and,
5 being first duly sworn in the manner provided by law,
6 was examined and testified upon his oath as follows:

7

8 DIRECT EXAMINATION

9 BY MS. KELLAHAN:

10 MS. KELLAHAN: It's a little bit quiet. Is
11 there any way that -- to get the volume a little
12 bit? I'm having a hard time hearing the court
13 reporter.

14 COURT REPORTER: You don't -- well, you
15 really are not going to need to hear me. If you
16 can hear Mr. Mabry, that's okay.

17 MS. KELLAHAN: Okay.

18 Q Mr. Mabry, can you hear me?

19 A I can hear you fine.

20 Q Okay. Great, yeah, you're coming through
21 clear. Mr. Mabry, where are you currently employed?

22 A Star Food Products, Incorporated.

23 Q How long have you been there?

24 A Thirty-one years.

25 Q What is your current title there?

1 A President.

2 Q Let me ask you, just generally, what is your
3 involvement in the hiring process with drivers?

4 A Generally, I will sometimes look over
5 resumes, that sort of thing, with Steve, my Director
6 of Sales, and our district managers. More often, it
7 is they make those decisions, and really, as they have
8 made the decision and the person comes through the
9 office for orientation, or whatever, they will just
10 step in and introduce them to me. And I will say
11 hello and maybe have a little quick conversation. But
12 as far as, you know, digging in the interviews, that
13 sort of thing, I don't really do that.

14 Q Okay. So would it be fair to say that they
15 select candidates and bring them to you?

16 A Yes. Yes. They -- yes.

17 Q Okay. Well, and you were talking about
18 Steve, which Steve?

19 A Steve Tilley.

20 Q Steve Tilley, okay. And do you -- does
21 Steve Tilley have the authority to hire anyone?

22 A Yes.

23 Q He does, okay. So Steve Tilley would be the
24 actual one to do the hiring?

25 A Yes.

1 Q Let me ask you a question, are you familiar
2 with Bryan McHowell?

3 A Yes.

4 Q All right. What is his position with Star
5 Foods?

6 A He's a route sales person.

7 Q Were you involved in his hiring process?

8 A Only as I described that I am in most.

9 He -- as he came in for his -- I guess, his
10 orientation, or to go over -- we send them for a drug
11 test and that sort of thing. He came into my office
12 and we had a conversation. That's -- yes.

13 Q In that conversation you had with him,
14 had -- did Mr. McHowell say anything about any medical
15 issues that he was experiencing, or had experienced in
16 the past?

17 A Yeah. He actually mentioned to me that he
18 had gastric bypass. And how that came about, he had
19 told me that he had lost a large amount of weight and
20 that he did that by way of gastric bypass. And he was
21 feeling good and that was wonderful thing, that sort
22 of thing. And that's -- yeah, and that's pretty much
23 it.

24 Q Did he mention any other conditions, like
25 depression?

1 A Not to my knowledge. Not to my memory, no.

2 Q What about low back pain?

3 A No.

4 Q What about any sort of injury to a shoulder?

5 A No.

6 Q His shoulder?

7 A No.

8 Q Okay. Are you aware of any sort of medical
9 questionnaire or a medical exam that Mr. McHowell
10 would have gone through?

11 A Only -- we -- everyone who drives a
12 commercial motor vehicle has to have a card -- a
13 medical card. And when we hire, we normally -- and
14 I'm -- and we did this -- we do this all the time, so
15 we normally send folks over for their drug test and to
16 update their medical card, to make sure that's okay.
17 So that -- there would be that questionnaire.

18 Q What is involved in the process of getting
19 your medical card?

20 A Oh---

21 Q Is there any sort of doctor's exam?

22 A Yeah. Yeah. Yeah. They have to go through
23 it, it's a DOT physical. They have to go through
24 that, do the drug test. And quite honestly, I don't
25 know what all they do in that physical.

1 Q Have you reviewed any of the documents
2 related to Mr. McHowell's medical card, any
3 questionnaires or a medical form?

4 A No. I haven't really looked at those.

5 Q Are you aware of Mr. McHowell's motor
6 vehicle accident of March the 6th, 2012?

7 A Yes.

8 Q Just tell me briefly what you know about
9 that?

10 A What was reported to me was that he reported
11 that a car was coming toward him -- or another
12 vehicle, I don't even know if he said -- I don't know
13 if it was a car -- and caused him to swerve and
14 actually turn the truck over on its side. And that's
15 pretty much what I know about that.

16 Q Do you know what side the truck landed on?

17 A Let me see. It was on the -- it fell to the
18 passenger side, the passenger side down on the road.
19 The driver's side would be facing up, is that---

20 Q Okay. Do you have any other knowledge of
21 this accident; did you speak with Mr. McHowell?

22 A No, I did not.

23 Q So the information you got from the
24 accident, where would this come from?

25 A From Bridget Terry -- excuse me, Bridget

1 Hollis, who is our HR person, and she handles our
2 insurance claims and that sort of thing. And --
3 and/or from Steve Tilley. But the primary information
4 would have come from Bridget, which would have been
5 reported to her from the folks involved in the
6 accident.

7 Q One last question. These medical cards, do
8 you all require those when you hire an individual?

9 A If we -- if they don't have a valid medical
10 card, we can't hire them to drive.

11 Q Would it be important to you to know of any
12 past injuries that a driver would have in the hiring
13 process?

14 A I don't know. We don't ask about injuries.
15 The only thing we ask, are you capable of doing the
16 job? So no, I wouldn't inquire about that sort of
17 thing.

18 Q Would you inquire about if -- any physical
19 conditions that would affect their performance on the
20 job?

21 A Only in that broader sense that I just said.
22 If -- I would say to them, you know, it's a pretty
23 physical job, are you able to do it?

24 MS. KELLAHAN: I think that's all I have.

25 Mr. Stewart may have some follow-up questions for

1 you.

2 WITNESS: Okay.

3 CROSS-EXAMINATION

4 BY MR. STEWART:

5 Q If somebody had had -- had said they had had
6 a shoulder surgery before, would that necessarily have
7 locked him out of doing the job?

8 A Not necessarily.

9 Q And as long -- the basic question that you
10 would have asked anybody is are you able to do the
11 job, generally, is that correct?

12 A Yes, sir.

13 Q So anything they put on the physical form,
14 you wouldn't have seen anyway, and that wouldn't have
15 affected your ability -- your decision to hire or not?

16 A That's correct.

17 Q Okay. Now, we did the deposition sometime
18 back of Steven Todd Laney, you know who he is,
19 correct?

20 A Yes.

21 Q And Mr. Laney said that -- in his deposition
22 that Mr. McHowell had told him about his shoulder, and
23 that he had thought he had told you that Mr. McHowell
24 had had a prior shoulder surgery before.

25 A Okay.

1 Q Do you remember that?

2 A No, sir.

3 Q Are you saying that you know it didn't
4 happen, or you just don't remember one way or the
5 other?

6 A I'm telling you -- no, I would say that the
7 honest answer is I don't recall one way or the other.

8 Q So it's very possible that Steve Laney -- if
9 he said that he had told you about Mr. McHowell's
10 shoulder surgery before you even made the decision to
11 hire him, that that is possible?

12 A It's certainly possible.

13 Q Do you know whether or not Mr. McHowell was
14 able to do the job from the date of hire up until the
15 wreck?

16 A To my knowledge, yes, sir, he was.

17 Q And he didn't have any problem with him
18 physically doing the job from the date of hire up
19 until the wreck?

20 A No. No, sir. Not that I'm aware of, no,
21 sir.

22 Q Do you know what, if any, injuries
23 Mr. McHowell suffered in the wreck?

24 A I don't know specific, I don't know what he
25 suffered, no.

1 Q Do you know whether it was a pretty bad
2 wreck or what's your opinion on that?

3 A I don't know how to give you an opinion
4 about that. The truck was on its side, that seems bad
5 to me.

6 Q Would you consider Mr. McHowell to be a good
7 employee while he was working for you all?

8 A Yes, sir.

9 Q Did you know him to be honest or dishonest?

10 A Don't know that I have any opinion about
11 that.

12 Q Okay. So Mr. Laney would be the one that
13 worked more with him that would be able to form those
14 kind of opinions?

15 A Yes, sir.

16 Q And do you have faith in Mr. Laney?

17 A Yes, sir.

18 Q Is he a trusted employee?

19 A Yes.

20 Q And do you have the final decision to hire
21 or fire?

22 A I have the ability to do that, certainly,
23 but it's really Mr. Tilley's decision to make.

24 Q Mr. Tilley. And we're doing him next, I
25 believe, is that correct?

1 A Yes.

2 Q But you are above Mr. Tilley, correct?

3 A Absolutely. Absolutely. I have the ability
4 to override any decision.

5 Q And if you had known that Mr. McHowell had a
6 shoulder surgery, that would not have prevented him
7 from being hired with your company, is that correct?

8 A It would not have.

9 MR. STEWART: That's all I have.

10 REDIRECT EXAMINATION

11 BY MS. KELLAHAN:

12 Q I just have one quick follow up. With
13 Mr. Laney, does Mr. Laney have any authority to hire
14 or make hiring decisions at your company?

15 A Stand alone, no. He would recommend that to
16 Steve and -- Steve Tilley, excuse me. And then Steve
17 would -- really has the ultimate decision.

18 Q So is it fair to say that Mr. Laney only has
19 the ability to recommend someone---

20 A Yes.

21 Q ---be hired?

22 A Yes.

23 MS. KELLAHAN: That's all that I have.

24 RECROSS-EXAMINATION

25 BY MR. STEWART:

1 Q And is it fair to say that if Mr. Laney had
2 said to you -- had said that he believed that he had
3 told you all about Mr. McHowell's prior shoulder
4 surgery and injuries, you would have no reason not to
5 believe that?

6 A I don't have any reason to distrust Steven
7 Laney at all.

8 MR. STEWART: Thank you. Thank you.

9 COURT REPORTER: Is that it?

10 MS. KELLAHAN: That's all that I have,
11 Brent.

12 MR. STEWART: I'm done, too.

13 - - - - -

14 STIPULATION

15 It is hereby stipulated and agreed, by and
16 between the parties of this proceeding, that the
17 reading and signing of the transcript be, and the same
18 are hereby, waived.

19 - - - - -

20 AND FURTHER DEPONENT SAITH NOT

21 (Deposition Completed: 10:15 a.m.)

22 - - - - -

23

24

25

1 STATE OF NORTH CAROLINA CERTIFICATE
2 COUNTY OF GUILFORD
3

4 I, DOVIE L. HANFORD, Notary Public in and
5 for the County of Guilford, State of North Carolina at
6 Large, do hereby certify:

7 That there appeared before me the foregoing
8 witness at the time and place herein aforementioned;
9 that the foregoing pages numbered 1 through 16,
10 inclusive, constitute a true and correct transcription
11 of the proceedings.

12 I do further certify that the persons were
13 present as stated in the appearances.

14 I do further certify that I am not of
15 counsel for, or in the employment of, either of the
16 parties in this action, nor am I interested in the
17 results of this action.

18 In witness whereof, I have hereunto set my
19 hand this the 14th day of December, 2012.
20
21

22 
23
24 Dovie L. Hanford, Notary Public

25 Notary Number: 19950110022

STATE OF SOUTH CAROLINA

BEFORE THE SOUTH CAROLINA

WORKERS' COMPENSATION

COUNTY OF LANCASTER

COMMISSION

WCC FILE NO: 1207730

BRYAN MCHOWELL,

Employee-Plaintiff,

-vs-

STAR FOOD PRODUCTS/

MRS. STRATTON'S SALADS, INC.,

Employer-Defendant,

and

GREAT AMERICAN ALLIANCE INSURANCE,

Carrier-Defendant.

COPY

Burlington, North Carolina

December 4, 2012

10:16 a.m.

DEPOSITION

OF

STEVE TILLEY

1 APPEARANCES:

2 STEWART LAW OFFICE, LLC, by

3 BRENT P. STEWART, ESQ.

4 Post Office Box 670

5 1242 Ebenezer Road

6 Rock Hill, South Carolina 29730-6670

7 803.328.5600

8 Email: brent@stewartlawoffices.net

9 Appearing via telephone on behalf of the

10 Plaintiff.

12 HUFF LAW FIRM, LLC, by

13 SHELBY H. KELLAHAN, ESQ.

14 Post Office Box 1935

15 7244 Woodrow Street

16 Irmo, South Carolina 29063

17 803.252.2232

18 Email: skellahan@colalaw.com

19 Appearing via telephone on behalf of the

20 Defendants.

22 - - - - -

I N D E X

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS

Steve Tilley

By Ms. Kellahan	6	16

By Mr. Stewart	10	17

E X H I B I T S

DEFENDANTS'

NUMBER	DESCRIPTION	PAGE

(None Presented)

Quoted material is verbatim and
may/may not reflect a direct quote.

1 The deposition of STEVE TILLEY was taken by
2 the Defendants for the purpose of discovery and for
3 use as evidence in the above-entitled cause, wherein
4 BRYAN McHOWELL is the Employee-Plaintiff and STAR
5 FOOD PRODUCTS/MRS. STRATTON'S SALADS, INC. is the
6 Employer-Defendant and GREAT AMERICAN ALLIANCE
7 INSURANCE is the Carrier-Defendant, pending in the
8 State of South Carolina, County of Lancaster, Before
9 the South Carolina Workers' Compensation Commission,
10 pursuant to notice of counsel, before DOVIE L.
11 HANFORD, Verbatim Court Reporter and a Notary Public
12 in and for the County of Guilford, State of North
13 Carolina, on the 4th day of December, 2012, at the
14 offices of Star Food Products, 2050A Willow Springs
15 Lane, Burlington, North Carolina commencing at 10:16
16 a.m.

17 - - - - -
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19
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25

STIPULATION

It is stipulated and agreed, by and between the parties to this proceeding, that all questions are deemed objected to and that a motion to strike is made as to all answers, which objections and motions to strike may be ruled upon at an appropriate time by the Court, except that objections as to the form of the questions shall be lodged at the time the questions are propounded to the witness.

- - - - -

1 Thereupon:

2 STEVE TILLEY

3 was called as a witness pursuant to notice and
4 agreement of counsel in the above-entitled cause and,
5 being first duly sworn in the manner provided by law,
6 was examined and testified upon his oath as follows:

7

8 DIRECT EXAMINATION

9 BY MS. KELLAHAN:

10 Q Mr. Tilley, my name is Shelly Kellahan, and
11 I represent Star Foods and Mrs. Stratton's Salads.
12 I'm just going to ask you a few questions today. If
13 you don't understand anything that I'm saying, just
14 please have me repeat them. Or if you can't hear me,
15 I will repeat them. First of all, let's start off,
16 where are you employed?

17 A Star Food Products.

18 Q What is your position there?

19 A I'm a director of sales.

20 Q How long have you worked there?

21 A Twenty years.

22 Q Did you say 20 years?

23 A Yes, ma'am.

24 Q All right. Can you generally describe what
25 involvement you have in the hiring process of drivers?

1 A Usually, I take and run and ad in the paper
2 or referred to by someone. And I take and call, set
3 up interviews to talk to the people.

4 Q Do you have the authority to hire?

5 A Yes, ma'am.

6 Q Were you involved in the hiring of Mr. Bryan
7 McHowell?

8 A Yes, ma'am. I was.

9 Q To what extent were you involved in his
10 hiring?

11 A I set up about 12 interviews at the Comfort
12 Inn on Carowinds Boulevard in Charlotte, North
13 Carolina back the first part of the year. And I had
14 each candidate come in and fill out a application and
15 interviewed them, told them about our job, what we do
16 and everything.

17 Q Okay. And is that when you first met
18 Mr. McHowell?

19 A Yes, ma'am.

20 Q And were you the one to call him back for
21 another interview?

22 A Yes, ma'am. I was.

23 Q How many interviews did he go through?

24 A He -- I interviewed him there that night,
25 and then we went to the next process of bringing him

1 to Burlington to talk again. And then we would do the
2 paperwork here while he was in Burlington to put him
3 to work.

4 Q During your initial interview or the time
5 that he went to Burlington, did he ever mention a
6 shoulder injury to you?

7 A No, ma'am. He did not.

8 Q Okay. What medical examinations are
9 involved in the hiring process for drivers?

10 A I didn't follow you there.

11 Q Are there any medical examinations that your
12 drivers have to go through?

13 A We do send our guys for drug screen and a
14 DOT physical, as they have to have a CDL license to
15 operate one of our trucks.

16 Q And do you know if Mr. McHowell went through
17 a DOT physical?

18 A Yes. He went to Kernodle Clinic over here,
19 they have a Urgent Care there. And he was sent over
20 there to have his physical and to do the drug screen.

21 Q Have you seen a document from his DOT
22 physical?

23 A No, ma'am. They come back to Bridget, our
24 human resource.

25 Q Are you aware of him mentioning in the DOT

1 physical his prior shoulder injury -- prior shoulder
2 problems?

3 A No, ma'am. I never heard anything about
4 that.

5 Q Were you ever told by Mr. Steve Laney about
6 any shoulder problems that Mr. McHowell had?

7 A I do not recall Steven ever mentioning that
8 to me.

9 Q Do you rely on the DOT physical in the
10 hiring process?

11 A Well, we look at it. If they were to be
12 deemed not acceptable by the questions and answer on
13 the DOT physical, we would not be able to hire them if
14 the -- you know, if the answers given would keep them
15 from being CDL approved.

16 Q Would it be important to you to know about a
17 prior shoulder surgery for a driver?

18 A Yes, ma'am. It would.

19 Q And that would be important in the hiring
20 process?

21 A Yes, ma'am.

22 Q Okay. And you were not aware of his prior
23 shoulder surgery, were you?

24 A No, ma'am. He told me about he had had
25 gastric bypass and I asked him if there was any other

1 physical ailments that would keep him from doing any
2 job for us. And he said there wasn't.

3 Q And you do have, would you say, the final
4 authority to hire other than the president?

5 A Yes, ma'am.

6 Q Mr. Mabry?

7 A That's correct.

8 Q What about Steve Laney, does he have any
9 authority to hire or fire?

10 A Steven usually has to come through to me and
11 I have to approve it before we could hire somebody
12 that he recommended or fire someone.

13 Q Were you aware of Mr. McHowell's motor
14 vehicle accident of March the 6th, 2012?

15 A I just heard it in passing through, I didn't
16 have no involvement with that at all. That was the
17 transportation manager and the -- you know, the people
18 that handles the insurance claims.

19 MS. KELLAHAN: Thank you, Mr. Tilley.

20 That's all the questions that I have.

21 Mr. Stewart may have some questions for you in
22 follow up.

23 WITNESS: Okay.

24 CROSS-EXAMINATION

25 BY MR. STEWART:

1 Q Mr. Tilley---

2 A Yes, sir.

3 Q If Mr. Mabry said in his deposition that the
4 fact that -- I'm sorry, the fact that Mr. McHowell had
5 a shoulder surgery would not have affected his
6 decision to hire Mr. McHowell, would you agree with
7 that statement?

8 A I would.

9 Q And the issue wasn't -- isn't whether or not
10 somebody has a shoulder surgery, it appears the issue
11 is whether that shoulder surgery would affect his
12 ability to do the job, is that correct?

13 A That's correct.

14 Q And from the day that Mr. McHowell was hired
15 until he had the motor vehicle wreck, was he able to
16 do the job?

17 A Yes, he was.

18 Q And if, in fact, Mr. Laney stated that he
19 thought he had told you and Mr. Mabry about this
20 preexisting shoulder condition and that Mr. McHowell
21 had told him, are you saying that you know for a fact
22 that you weren't told that, or that you just don't
23 remember being told that?

24 A I can almost say with a certainty that I was
25 not told that. If it does, I do not remember it at

1 all. And most times something of that nature I will
2 write it down if I get a call like that, I will make a
3 notation on it.

4 Q If, in fact, you had been told before the
5 hiring that Mr. McHowell had a shoulder surgery, would
6 you have still hired him?

7 A We would research it and see what the
8 problem was and how -- you know, how extensive it was.

9 Q How do you research somebody's preexisting
10 injury?

11 A I mean, he would have to give the doctor --
12 have his doctor send us a, you know, written statement
13 saying he was capable of doing the job and he had no,
14 you know, reoccurring problems with it.

15 Q So when you interview and someone says
16 there's a preexisting problem, you make them give a
17 doctor's statement from their prior doctors?

18 A No, sir. Not unless they say something, you
19 know, that would damage, you know, their effect on the
20 job or something.

21 Q Well, my question is, if in fact -- okay,
22 first of all, you don't even see the DOT forms,
23 correct?

24 A No, sir. They go to the doctor's office and
25 they come back to our human resource.

1 Q So if, in fact, the client, or the
2 prospective hire passes the DOT physical, you don't
3 even see the forms?

4 A No, sir.

5 Q Okay. And in this case Mr. McHowell passed
6 the DOT physical, is that correct?

7 A As far as I know, he did. I didn't hear
8 nothing, you know, different.

9 Q And the DOT physical isn't just filling out
10 forms, it's actually going through different testing,
11 is that correct?

12 A I could not -- I know from personal
13 experience when I go to the doctor they ask you
14 certain things, they ask you to perform some tasks,
15 like checking your eyes and things like that. They
16 don't have you doing very little bending or anything
17 like that. They just---

18 Q How many DOT tests are brought to your
19 attention for when you hire employees, how often do
20 you have that happen to you?

21 A I'm not following you on that.

22 Q I'm asking you, how often is it that the
23 lady in human resources brings you a DOT physical test
24 to review?

25 A As far as I know, I haven't seen one to

1 review. I sure haven't.

2 Q Ever? How long have you worked there?

3 A Twenty years.

4 Q So in twenty years, as far as you know, you
5 have never had human resources bring you the DOT
6 physical form that's filled out by this prospective
7 hire?

8 A No, sir. Now, I have only been doing this
9 for about five -- five years.

10 Q In your five years, you haven't---

11 A In this position. Yes, sir. And we have
12 only started -- we went to CDL trucks about four and a
13 half years ago, and that's when you're required to
14 have the -- get the DOT physical, right then. We have
15 had to have medical cards before, but as far as going
16 and having a full fledged DOT physical, that started
17 when we started using CDL trucks.

18 Q But for the past four and a half years, you
19 have never relied on any hire -- you have never had --
20 you have never looked at DOT physical examination
21 reports in order to determine whether to hire or fire
22 somebody?

23 A I have not. No, sir.

24 Q Okay. And if Mr. Laney was aware of the
25 fact that there was a shoulder surgery and he was --

1 and stated in his deposition that the shoulder surgery
2 would not have affected his hiring of this man in any
3 way, shape, or form, would that decision on the part
4 of Mr. Laney, would that have weighed heavily on your
5 decision whether or not to hire Mr. McHowell?

6 A Did you say if it would affect his work, or
7 did---

8 Q I'm guessing what I'm trying to say is
9 Mr. Laney -- it's hard to do it on the phone, because
10 you don't see the faces and you get confused.

11 A Right.

12 Q Mr. Laney had stated that the knowledge of
13 the preexisting condition to his shoulder would not
14 have affected his recommendation to you and Mr. Mabry
15 to hire Mr. McHowell. That being said, do you rely
16 heavily on the recommendations of Mr. Laney?

17 A Yes, sir. We rely on our DMS to give us
18 accurate advice and everything out on routes because
19 they're in direct contact with our salesmen daily.

20 Q So if Mr. Laney believed -- and had
21 knowledge of the shoulder surgery and believed that
22 that would not affect his ability to do the job, would
23 you trust Mr. Laney's opinion on that matter?

24 A Yes, sir. I would.

25 Q So if, in fact, Mr. Laney thought the

1 shoulder surgery had no bearing on his hire, would you
2 not be of the same opinion that whether or not this
3 individual had a shoulder surgery would not have
4 affected your decision to hire or fire him---

5 A That's---

6 Q ---hire or---

7 A ---correct.

8 Q ---fire Mr. McHowell?

9 A That's correct.

10 MR. STEWART: That's all I have. Thank you.

11 REDIRECT EXAMINATION

12 BY MS. KELLAHAN:

13 Q All right. Just a few questions in follow
14 up. Mr. Tilley, Mr. Laney didn't tell you about this
15 prior shoulder problem, did he?

16 MR. STEWART: I'm going to object to the
17 form of the question. It is asked and answered.
18 He is not quite sure, but he thinks not.

19 Q Okay. Do you allow the statements made you
20 in an interview process by the interviewee?

21 A Ma'am, I didn't follow---

22 Q I'm sorry, I couldn't hear you.

23 MR. STEWART: I sorry, I didn't hear---

24 A I didn't follow you on that.

25 Q Oh. Do you allow statements made to you

1 during the interview process?

2 A Yes, I do.

3 Q And no prior medical conditions were
4 revealed to you during the interview process, is that
5 correct?

6 A I didn't follow you on that one.

7 Q Mr. McHowell did not reveal any prior
8 medical issues to you in the interview, did he?

9 A No, ma'am. He did not.

10 MS. KELLAHAN: That's all the questions that
11 I have.

12 RE CROSS-EXAMINATION

13 BY MR. STEWART:

14 Q In any event, nothing that we pointed out
15 today about a prior shoulder surgery would have
16 prevented Mr. McHowell from being hired, is that
17 correct?

18 A That's correct.

19 MR. STEWART: Thank you.

20

21

22

23

24

25

STIPULATION

It is hereby stipulated and agreed, by and between the parties of this proceeding, that the reading and signing of the transcript be, and the same are hereby, waived.

AND FURTHER DEPONENT SAITH NOT
(Deposition Completed: 10:30 a.m.)

1 STATE OF NORTH CAROLINA

CERTIFICATE

2 COUNTY OF GUILFORD

3
4 I, DOVIE L. HANFORD, Notary Public in and
5 for the County of Guilford, State of North Carolina at
6 Large, do hereby certify:

7 That there appeared before me the foregoing
8 witness at the time and place herein aforementioned;
9 that the foregoing pages numbered 1 through 18,
10 inclusive, constitute a true and correct transcription
11 of the proceedings.

12 I do further certify that the persons were
13 present as stated in the appearances.

14 I do further certify that I am not of
15 counsel for, or in the employment of, either of the
16 parties in this action, nor am I interested in the
17 results of this action.

18 In witness whereof, I have hereunto set my
19 hand this the 14th day of December, 2012.

20
21
22 
23 Dovie L. Hanford, Notary Public

24 Notary Number: 19950110022
25



SLED CATCH

Citizens Access to Criminal Histories
Results

Name **Bryan McHowell**
 Date of Birth [REDACTED]
 Maiden Name
 Gender **Male**
 SSN *** [REDACTED]
 Transaction **006062931**
 Date of Check **March 27, 2015 at 11:18**

ARREST RECORD
 S.C. Law Enforcement Division
 WWW

This record is based on a search using Last name, First initial, Date of Birth, Gender, and Social Security Number. Compare all identifying data given for record subject with screening subject. Fingerprint comparison is recommended as the most reliable means to identify a record subject.

INTERNET RAP SHEET REQUEST

[REDACTED] FBI-***** PUR-E
 ATN-WEB, ACCOUNT

AUTHORIZED USE ONLY. ***** CONTACT CONTRIBUTING
 AGENCY FOR SPECIFIC/MORE DATA ABOUT CHARGES AND/OR DISPOSITIONS.
 BECAUSE ADDITIONS OR DELETIONS MAY BE MADE AT ANY TIME, A NEW COPY
 SHOULD BE REQUESTED WHEN NEEDED FOR SUBSEQUENT USE.

PAGE-01 DATE-03/27/2015 TIME-11:16:17
 REQ ORI-SCLED0000 S C LAW ENF DIV
 SID- [REDACTED] FBI-
 NAME-MCHOWELL, BRYAN ALBERT SEX-M RACE-W
 HEIGHT-601 WEIGHT-240 EYES-BLU HAIR-BRO SKIN- BORN-MA
 FPC- [REDACTED] HENRY-17 S 1 U IOI 10
 L 1 U III

PHOTOGRAPH AVAILABLE AUTHORIZED USE ONLY
 1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS

DATE RECORD ENTERED--N/A DATE OF LAST UPDATE--03/04/2008

ADDITIONAL IDENTIFIERS	BIRTH DATES	MARKS	SOC SEC	MISC NUM
NAME [REDACTED]	[REDACTED]			

CONTRIBUTOR/SUBJECT	DOA/RCVD CHARGE/DISPOSITION/ETC
MCHOWELL, BRYAN ALBERT	11/19/1986

SC0290000 LANCASTER CNTY SO
 CASE-N9741
 WARR-B736639
 CIT-16-13-230 (B) (1)-MISDEME
 ANOR

ARREST CHARGE 01-BREACH OF
 TRUST W/FRAUD INTENT
 PHOTOGRAPH AVAILABLE
 ARREST INFO- NO DISP AVAIL

BASED ON SEARCH OF SCLED CJIS CCH FILE USING SID/SC00564484
 THIS CRIMINAL HISTORY RECORD IS FOR SOUTH CAROLINA ARRESTS AND
 CONVICTIONS ONLY AND IS BASED ON THE INFORMATION PROVIDED. SINCE
 CHANGES MAY OCCUR DAILY A NEW INQUIRY SHOULD BE MADE AND NO SUBSEQUENT
 USE OF THIS RECORD IS ALLOWED.

** S C CJIS END OF RECORD **

Credit Card Transaction Number **1427469386ICE755150327111758**



OFFICIAL 10 YEAR DRIVER RECORD

Customer No: [REDACTED] Driver License No: [REDACTED]
Name: MCHOWELL, BRYAN ALBERT
Address: 7822 VAN WYCK RD
City: LANCASTER State: SC Zip: 297201698
County: LANCASTER
DOB: [REDACTED] Sex: M Driver Training: N
Status - DL: NO SUSPENSION CDL: NO DISQUALIFICATION MED: CERTIFIED

License Information

Type	Class	Function	Issued	Expires	First Issued	Rest.	Endor.
Current							
CDL	A	Renewal	12/13/2011	12/13/2016	07/23/1993	N	Y

Prior

CDL	A	Renewal	12/05/2006	12/13/2011	07/23/1993	N	Y
CDL	A	Renewal	12/04/2001	12/13/2006	07/23/1993	N	Y
CDL	A	Reissue	12/04/2001	12/13/2006	07/23/1993	N	Y
DL	D	Returned	11/27/1989	12/13/1993	12/20/1985	N	N

Current

Endorsements: N Tank Vehicle
T Double and Triple Trailers

Self Certification: NON-EXCEPTED INTERSTATE Medical Certificate Status: CERTIFIED

Issue Date: 11/01/2012

Expiration Date: 11/01/2014

Medical Examiner Information

MD License No : 9501066
Last Name : RANSOM
First Name : FABIENNE
Middle Name :
Suffix :
Telephone No : 704-588-0885

Juris: NC

Specialty: OSTEOPATHIC DOCTOR

Point Summary

Total Current Points: 0
Driver Credit: -0
Adjusted Current Points: 0

VIOL: 442 - Disobeying an official traffic device
Violation: 03/12/2012 Conviction: 05/21/2012
Operating Commercial Motor Vehicle: Y
ACD: M14 Conviction Loc Ref:
Conviction State: SC

Ticket#: F530263
Recd: 05/30/2012 Post: 06/06/2012
Transporting Hazardous Materials: N
Conviction Reference:
Court Type: MAGISTRATE COURT
Violation Points: 4 Current Points: 0

ACC: REPORTABLE

Accident: 03/06/2012
Accident Case Number: 12515191
Accident Jurisdiction: SC Acc Loc Ref: SCHDPT
Contributed: Y

Posted: 03/28/2012
FR-10 Audit Number: E-320012
History: N

OFFICIAL 10 YEAR DRIVER RECORD

Customer No: 24583635

Driver License No: 3430413

Name: MCHOWELL, BRYAN ALBERT

VIOL: 442 - Disobeying an official traffic device
Violation: 05/13/2009 **Conviction:** 06/03/2009
Operating Commercial Motor Vehicle: Y
ACD: M14 Conviction Loc Ref:
Conviction State: SC

Ticket#: 16907ES
Recd: 06/08/2009 **Post:** 06/11/2009
Transporting Hazardous Materials: N
Conviction Reference:
Court Type: MUNICIPAL COURT
Violation Points: 4 **Current Points:** 0

ACC: REPORTABLE
Accident: 07/26/2005
Accident Case Number: 5088124
Accident Jurisdiction: SC **Acc Loc Ref:** SCHDPT
Contributed: N

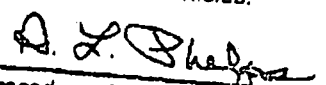
Posted: 08/12/2005
FR-10 Audit Number: S-866278
History: N

VIOL: 421 - Speeding 10-mph or less
Violation: 03/15/2005 **Conviction:** 04/21/2005
ACD: S51 Conviction Loc Ref:
Conviction State: SC

Ticket#: C135435
Recd: 05/06/2005 **Post:** 05/25/2005
Conviction Reference:
Court Type: MAGISTRATE COURT
Violation Points: 2 **Current Points:** 0

End of Report

Certified to be a true and correct
copy of the original document on file
with the South Carolina Department of
Motor Vehicles.


Procedures & Compliance, Director



South Carolina Department of Motor Vehicles
REQUEST FOR COPY OF OFFICER'S REPORT

FR-50
(Rev. 5/07)

Please complete form and return with a check payable to the S.C. Department of Motor Vehicles.

Research fee: \$6.00 per report.

DATE: September 18, 2012

COMPLETE YOUR NAME AND MAILING ADDRESS IN
THE WINDOW SPACE BELOW.

Huff Law Firm
PO Box 1935
Irmo, SC 29063

DATE OF
ACCIDENT 07/26/05 ACCOUNT NO. [REDACTED]

COUNTY Lancaster

DRIVERS

Bryan Albert McHowell [REDACTED]
PRINT FULL NAME DRIVER LIC. NUMBER-STATE

PRINT FULL NAME DRIVER LIC. NUMBER-STATE

CLAIM OR
FILE NO. [REDACTED] FR-10 NO. [REDACTED]

Emily Askew
REQUESTOR'S PRINTED NAME

REQUESTOR'S SIGNATURE

ACCIDENT CASE NUMBER

SC DEPARTMENT OF MOTOR VEHICLES
FINANCIAL RESPONSIBILITY OFFICE
PO BOX 1498
BLYTHEWOOD, SC 29016-0040

\$6.00
CHECK



Please send both copies of this form to the South Carolina Department of Motor Vehicles.

REQUEST RECEIVED

SEP 26 2012

REPLY

SCDM

DATE SEP 27 2012

INITIAL PJN

COPY OF THIS REPORT IS ENCLOSED
UNLESS OTHERWISE INDICATED BELOW:

- ☐ OUR RECORDS INDICATE THAT NO OFFICER'S INVESTIGATION WAS MADE OF THIS ACCIDENT.
- ☐ OFFICER'S REPORT NOT ON FILE. WE SUGGEST THAT THE DRIVER'S NAMES, DRIVER LICENSE NUMBERS, AND THE DATE OF THE ACCIDENT BE REVIEWED FOR ACCURACY.
- ☐ INDICATE NAME OF COMPANY AND/OR ACCOUNT NUMBER ON REQUEST.
- ☐ RETURN REQUEST WITH CHECK IN THE AMOUNT OF \$6.00 PAYABLE TO THE S.C. DEPARTMENT OF MOTOR VEHICLES.
- ☐ MAKE CORRECTIONS ON THIS FORM AND RETURN TO THE DEPARTMENT.
- ☐ IF YOU REQUEST THE SAME REQUEST LATER, PLEASE SUBMIT A NEW REQUEST.

Unit	Date of Birth	Sex	Race	HA	Boat	R/SO	ADD	Eject	LA	Tran	Name	Street Address	Zip Code
1		M	W	0	01	13	4	1	1	2		1	1
2		F	W	0	01	13	4	1	1	3			
2		F	W	0	04	21	7	1	1	2			
2		F	W	0	06	21	7	1	1	2			

Race: A - Asian/Pacific Islander W - Caucasian B - African American H - Hispanic C - Alaska Native or American Indian U - Unknown		Injury Status: 1 - Not Injured 2 - Inpatient 3 - Possible 4 - Fatal		Seating Loc: 01 02 03 04 05 06 07 08 09		20 - Pedestrian 21 - Shopper of Cab 22 - Trailing Unit 23 - Riding on Unit Exterior 24 - Bus or Van (40 row or higher) 25 - Lap 26 - Other Unseated Area (nonstrapping) 27 - Unlabeled 28 - Other Unseated Area (nonstrapping)		Restraint/Safety Device: 29 - None Used 30 - Shoulder Belt Only 31 - Shoulder Belt Only 32 - Lap Belt Only 33 - Shoulder & Lap Belt 34 - Unlabeled 35 - Pedestrian, Motorist/Pedestrian Only 36 - Helmet 37 - Reflective Clothing 38 - Protective Pads 39 - Lighting	
Air Bag Deployment / Switch: 1 - Deployed Front 4 - Not Deployed 2 - Deployed Side 7 - Not Applicable 3 - Deployed Both 5 - Deployment Unlabeled 4 - Switch in On Position 3 - No Switch 2 - Switch in Off Position 6 - Unknown		Ejection: 1 - Not Ejected 2 - Part Ejected 3 - Tot. Ejected 4 - Not App. 5 - Unlabeled		Head Injury: 1 - Yes 2 - No Location After Impact: 1 - Not Trapped 2 - Ejected (Mechanical Means) 3 - Freed (non-mech.) 4 - Not Applicable 5 - Unknown		Transported to Medical Facility: 1 - Yes 2 - No 3 - Unknown 4 - EMS 5 - Police 6 - Other 7 - Unlabeled			

Non-Collision: 01 - Cargo/Equip Loss or Shift 02 - Equipment Failure 03 - Cross Median/Center Line 04 - Overturn/Rollover 05 - Driveway Runaway 06 - Jammed 07 - Jackknife 08 - Run off Road Left 09 - Run off Road Right 10 - Inspection of Unit 11 - Roll (non-mechanical) 12 - Other Non-collision 13 - Unlabeled		Collision: 14 - Rear-End 15 - Side-Swipe Same Dir. 16 - Side-Swipe Opposite Dir. 17 - Front-End 18 - Angle 19 - Backed Into 20 - Head-On 21 - Unknown		1st / Most Deformed Area: 22 - Pedestrian 23 - None 24 - Rollover 25 - Total 26 - Under Carriage 27 - Other 28 - Unlabeled		2nd / Most Deformed Area: 29 - Pedestrian 30 - None 31 - Rollover 32 - Total 33 - Under Carriage 34 - Other 35 - Unlabeled	
Vehicle Type: 01 - Automobile 02 - Mini Van 03 - School Bus 04 - Pickup Truck 05 - Sport Utility 06 - Other 07 - Truck Tractor 08 - Motorcycle 09 - Pedestrian 10 - Unlabeled 11 - Other Motorist 12 - Train		Vehicle Use Code: 01 - Ambulance 02 - Farm Use 03 - Fire Fighting 04 - Personal 05 - Military 06 - Weather or Tow 07 - Logging 08 - Driver Training 09 - Transport Passenger 10 - Police 11 - Other 12 - Construction/Maint 13 - Transport Property 14 - Government 15 - Pedestrian		Vehicle Attachment: 01 - Utility Trailer 02 - Towed Motor Vehicle 03 - Towed Trailer 04 - Towed Trailer 05 - Flat Bed 06 - Mobile Home 07 - Trailer w/Boat 08 - Lowboy Trailer 09 - Semi-Trailer 10 - Camper Trailer 11 - Automobile Trailer 12 - Other		Action Prior to Impact (Vehicle): 01 - Backing 02 - Parked 03 - Changing Lanes 04 - Stopping or 05 - Entering/Leaving Vehicle 06 - Entering Traffic Lane 07 - Stopped in Traffic 08 - Playing/Working on Vehicle 09 - Leaving Traffic Lane 10 - Turning Left 11 - Pushing Vehicle 12 - Making U-Turn 13 - Turning Right 14 - Standing 15 - Movement: Essentially Straight Ahead 16 - Waiting, Playing, Cycling 17 - Overtaking/Passing 18 - Other 19 - Unlabeled 20 - Working	
Weather Condition: 1 - Clear (no adverse conditions) 2 - Rain 3 - Cloudy 4 - Fog, Smog, Smoke 5 - Snow 6 - Sleet, Hail 7 - Blowing Sand 8 - Severe Crosswinds 9 - Drizzle or Snow 10 - Unlabeled		Light Condition: 1 - Daylight 2 - Dark (Lighting Unspecified) 3 - Dark (Street Lamp Not Lit) 4 - Dark (No Light) 5 - Dark (No Light)		Junction Type: 01 - Crossroad 02 - Fourway Intersection 03 - T-intersection 04 - T-intersection 05 - Nonjunction 06 - Driveway 07 - Railway Grade Crossing 08 - Traffic Circle 09 - Unlabeled		Primary Contributing Factors: 01 - Driver 02 - Medical Related 03 - Made an Improper Turn 04 - Aggressive Operation of Vehicle 05 - Over-taking/Over-clearing 06 - Swerving to Avoiding Object 07 - Exceeded Authorized Speed Limit 08 - Wrong Side or Wrong Way 09 - Under the Influence 10 - Vision Obscured (Within Unit) 11 - Improper Lane Usage/Change 12 - Other Improper Action 13 - Unlabeled	
Roadway: 01 - Non-highway Work 02 - Unlabeled 03 - Obstruction in Roadway 04 - Road Surface Condition (i.e., Wet) 05 - Rut, Hole, Bump 06 - Shoulder (Stone, Log, Boll, High) 07 - Traffic Control Device (i.e., Missing) 08 - Work Zone (Construction Activity) 09 - Warn. Travel-Polished Surface 10 - Other		Non-Motorist: 01 - Under the Unit 02 - Under the Unit 03 - Lying &/or Reptile in Roadway 04 - Failure to Yield R. of W. 05 - Not Visible (Dark Clothing) 06 - Disregard Signs, Signals, Etc. 07 - Improper Crossing 08 - Daring 09 - Wrong Side of Road 10 - Other		Environmental: 01 - Glare 02 - Glare 03 - Wind 04 - Wind 05 - Steering 06 - Power Plant 07 - Thru/Wheel 08 - Lights 09 - Signals 10 - Other		Vehicle Defect: 01 - Windows/Glass 02 - Weather Control 03 - Restraint System 04 - Truck Coupling 05 - Cargo 06 - Fuel System 07 - Other 08 - Unlabeled	



South Carolina Department of Motor Vehicles
REQUEST FOR COPY OF OFFICER'S REPORT

FR-50
(Rev. 5/07)

Please complete form and return with a check payable to the S.C. Department of Motor Vehicles.

Research fee: \$6.00 per report.

DATE: September 18, 2012

COMPLETE YOUR NAME AND MAILING ADDRESS IN
THE WINDOW SPACE BELOW.

Huff Law Firm
PO Box 1935
Irmo, SC 29063

DATE OF
ACCIDENT 03/06/2012 ACCOUNT NO. [REDACTED]

COUNTY LANCASTER

DRIVERS

Bryan Albert McHowell [REDACTED]
PRINT FULL NAME DRIVER LIC. NUMBER-STATE

PRINT FULL NAME DRIVER LIC. NUMBER-STATE

CLAIM OR
FILE NO. [REDACTED] FR-10 NO. E-320012

Emily Askew
REQUESTOR'S PRINTED NAME

[Signature]
REQUESTOR'S SIGNATURE [REDACTED]
ACCIDENT CASE NUMBER

SC DEPARTMENT OF MOTOR VEHICLES
FINANCIAL RESPONSIBILITY OFFICE
PO BOX 1498
BLYTHEWOOD, SC 29016-0040

RECEIVED
REQUEST RECEIVED:
SEP 26 2012
Financial Responsibility
REPLY
SCDMV
SEP 27 2012
DATE
INITIAL **PJN**
COPY OF THIS REPORT IS ENCLOSED
UNLESS OTHERWISE INDICATED BELOW:
☐ OUR RECORDS INDICATE THAT
NO OFFICER'S INVESTIGATION
WAS MADE OF THIS ACCIDENT.
☐ OFFICER'S REPORT NOT ON FILE.
WE SUGGEST THAT THE
DRIVER'S NAMES, DRIVER
LICENSE NUMBERS, AND THE
DATE OF THE ACCIDENT BE
REVIEWED FOR ACCURACY.
☐ INDICATE NAME OF COMPANY
AND/OR ACCOUNT NUMBER ON
REQUEST.
☐ RETURN REQUEST WITH CHECK
IN THE AMOUNT OF \$6.00
PAYABLE TO THE S.C.
DEPARTMENT OF MOTOR
VEHICLES.
☐ MAKE CORRECTIONS ON THIS
FORM AND RETURN TO THE
DEPARTMENT.
☐ IF YOU REQUEST THE SAME
REQUEST LATER, PLEASE
SUBMIT A NEW REQUEST.

\$6.00
CHECK



Please send both copies of this form to the South Carolina Department of Motor Vehicles.



South Carolina Department of Motor Vehicles
FR-50 (Accident Report Request Form) Checklist

FR-50A
(Rev. 7/12)

The department is in receipt of your recent request for an Accident Report. We are returning the attached correspondence for the following reason(s):

- ☐ The accident report is not on file with the South Carolina Department of Motor Vehicles.
- ☐ Requestor needs to provide date of accident on Form FR-50 in the following format: MM/DD/YYYY
- ☐ Requestor needs to provide the county that the accident occurred in on Form FR-50.
- ☐ Requestor needs to list the full name of driver(s) involved in the accident on Form FR-50.
- ☐ Requestor needs to provide the full name of the owner of the vehicle involved in the accident on Form FR-50.
- ☐ Requestor needs to provide driver license number of driver involved in accident on Form FR-50
- ☐ Requestor needs to pay the required fee of \$6.00 or furnish this office with your account number.
- ☒ To receive blank FR-50 forms you need to contact our Supply Warehouse:
SCDMV Warehouse
FR-50 Forms
10311 Wilson Blvd
Blythewood, S.C. 29016
Fax#: (803) 896-8140
- ☐ For out of state accidents contact the state that the accident occurred in.
- ☒ Other: Please be advised, when requesting accident reports we need two copies of the FR-50 Form

If you have any questions please call our Contact Center at (803) 896-5000 and select **Option 2**.

Return correspondence to:
S.C. Department of Motor Vehicles
Form FR-50
Financial Responsibility
PO Box 1498
Blythewood, S.C. 29016-0040

**\$6.00
CHECK**

Please visit us at www.scdmvonline.com.

ORIGINAL

2012515191

SOUTH CAROLINA DPSONS & CMV USE ONLY				Page # 1	SOUTH CAROLINA TRAFFIC COLLISION REPORT FORM TR-310 (Rev. 7/2010)				# Of Units 01	Amended - Attach Copy of Original Report	Notified 1603	Arrested 1625		
Date 03-06-2012	Time of Collision 13:53	Day 29	1- Interstate 2- US Primary 3- SC Primary	4- Secondary 5- County 6- PP	Collision Location (Rt # / Name) 575 / W REBOUND RD				0- Van 1- Alternate 2- Spur	3- Connection 4- Business 5- Other	Miles: 7.05	Dir. N E S W	In / Near City or Town of: LANCASTER	
Lane # / Dir. # 01 Dir N E NL S W	Distance 0.7	Direction W E Feet S W	1- Interstate 2- US Primary 3- SC Primary	4- Secondary 5- County 6- Other	Base Intersection (Rt # / Name) 55 / VAN WYCK RD				0- Van 1- Alternate 2- Spur	3- Connection 4- Business 5- Other	GPS COORDINATES 00 00 00 00 DEGREES MINUTES SECONDS Latitude 34 50 58.76 Longitude 80 50 53.59			
R.R. Id.	From N E 1- Entrance S W 2- Exit	Ramp Only N E S W	To 1- Interstate 2- US Primary 3- SC Primary	4- Secondary 5- County 6- Other	Second Intersection (Rt # / Name) 5 / ROCK HILL HWY				0- Van 1- Alternate 2- Spur	3- Connection 4- Business 5- Other				
E-320012				Driver/Pedestrian's Full Name NCHOWELL BRYAN ALBERT				Driver/Pedestrian's Full Name						
Unit # 01	Sex M	Race W	Street/R.F.D. [REDACTED]		Unit #	Sex	Race	Street/R.F.D.						
Birth Date 1	City, State, & Zip LANCASTER SC 297201698				Birth Date	City, State, & Zip								
State SC	Driver's License #	Class A	Insurance Company WAUSAU UNDERWRITERS INS		State	Driver's License #	Class	Insurance Company						
Year 2007	Body TK	Vehicle Make INTL	VIN #		Year	Body	Vehicle Make	VIN #						
State NC	Year 2012	License Plate #	Owner's D.L. #		State	Year	License Plate #	Owner's D.L. #						
Home Telephone (803) 2874780		Owner's Full Name PENSKE TRUCK		Home Telephone ()		Owner's Full Name								
Bus. Telephone ()		Street/R.F.D. [REDACTED]		Bus. Telephone ()		Street/R.F.D.								
Contributed To Collision (Yes) No		City, State, & Zip READING PA 19603		Contributed To Collision (Yes) No		City, State, & Zip								
Estimated Speed 40	Speed Limit 45	C.D.L. Req. (Yes) No F396817	T.B.S. Req. (Yes) No 21	Code Summons #	Code Towed (Yes) No AUTO SHOP (O)	Estimated Speed	Speed Limit	C.D.L. Req. (Yes) No	T.B.S. Req. (Yes) No	Code Summons #	Code Towed (Yes) No	Atty Info (see back): Yes No		
Driver/Pedestrian's Full Name				State				Year	License Plate #	Owner's D.L. #				
Unit # 01	Sex	Race	Street/R.F.D.		Home Telephone ()		Owner's Full Name							
Birth Date	City, State, & Zip				Bus. Telephone ()		Street/R.F.D.							
State	Driver's License #	Class	Insurance Company		Contributed To Collision (Yes) No		City, State, & Zip							
Year	Body	Vehicle Make	VIN #		Estimated Speed	Speed Limit	C.D.L. Req. (Yes) No	T.B.S. Req. (Yes) No	Code Summons #	Code Towed (Yes) No	Atty Info (see back): Yes No			
Dir. of Travel: Unit 1: N S (E) W Unit 2: N S E W Unit 3: N S E W				Unit 1 Dam.				Unit 2 Dam.	Unit 3 Dam.	Prop. Dam. 1	Prop. Dam. 2			
Veh 1				\$1200				\$	\$	\$	\$			
Property Owner/Witness				Property Owner/Witness										
Address				City				Address				City		
State				Zip	Phone				State				Zip	Phone
Photo: Describe What Happened (Refer to Unit by Number)				Y (N)										
													VEH 1 WAS TRAVELING EAST ON SC 75. THE DRIVER TRAVELING TOO FAST FOR CONDITIONS (INATTENTION/DISTRACTION) RAN OFF THE ROAD RIGHT, STRIKING A DITCH AND OVERTURNING.	
NOTICE - THE TR-310 IS FOR STATISTICAL REPORTING PURPOSES ONLY AND IS A REFLECTION OF THE OFFICER'S BEST KNOWLEDGE, OPINION AND BELIEF COVERING THE COLLISION BUT NO WARRANTY IS MADE AS TO THE FACTUAL ACCURACY THEREOF.														
Investigating Officer's Name THREATT - J.C.		Rank TFC	Badge # T 6 8 1	Jurisdiction Code H P O 4	Review Date 03-20-2012	Reviewer's Name M C Caldwell		Rank Cpl	Internal Agency Code 120W035245					

0716

2012515191

Unit	Date of Birth	Sex	Race	INJ	Seat	RUSD	Age	Eject	LAI	Tran	Name	Street Address	Zip Code
01		M	W	0	01	13	4	3	1	1	2	MCHOWELL BRYAN ALBER	LANCASTER SC 297201698

Race		A - Asian/Pacific Islander		W - Caucasian		at Injury Status		2-Non-Including		Seating Loc.		20-4-Debris		60-5-Other		Restraint/Safety Device	
0 - African American		11 - Hispanic		0 - Other		0 - Not Injured		3 - Including		01 02 03		30 - Training Unit		70 - Riding on Unit Exterior		00 - None Used	
1 - Not of American Indian				U - Unknown		1 - Possible Injury		4 - Fatal		04 05 06		40 - Bus or Van (4th row or higher)		80 - Lap		11 - Shoulder Belt	
Air Bag Deployment / Switch		Ejection		b) 2 or 3 Wheel Motorized Vehicle		Head Injury		1 - Yes		2 - No		50 - Other Enclosed Area (non-training)		99 - Unknown		38 - Other	
a) 1 - Deployed Front		1 - Not Ejected		2 - Part Ejected		Location After Impact		3 - Freed (non-mech.)		a) Transported to Medical Facility		51 - Other Unenclosed Area (non-training)				13 - Shoulder & Lap Belt	
2 - Deployed Side		3 - Not Applicable		3 - Tot. Ejected		1 - Not Trapped		4 - Not Applicable		b) By: 1 - EMS 2 - Police 3 - Other 4 - Unknown						31 - Helmet 51 - Restraint Clothing	
3 - Deployed Both		8 - Deployment Unit		7 - Not Applicable		2 - Ejected (Mechanical Means)		9 - Unknown								41 - Protective Pads 61 - Lighting	
b) 1 - Switch On Position		3 - No Switch		9 - Unknown													
2 - Switch On Position		8 - Unknown															

Non-Collision		04 - Equipment Failure		Collision, Not Fixed		27 - Pedestrian		47 - Embarkment		57 - Fall		67 - Other	
01 - Cargo Equipment or Shift		05 - Rear Suspension		20 - Animal (Carnivore)		28 - Pedestrian		48 - Embarkment		58 - Fall		68 - Other	
02 - Cargo Equipment or Shift		06 - Rear Suspension		21 - Animal (Herbivore)		29 - Pedestrian		49 - Embarkment		59 - Fall		69 - Other	
03 - Cargo Equipment or Shift		07 - Rear Suspension		22 - Motor Vehicle (Transport)		30 - Pedestrian		50 - Embarkment		60 - Fall		70 - Other	
				23 - Motor Vehicle (Transport)		31 - Pedestrian		51 - Embarkment		61 - Fall		80 - Other	
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ORIGINAL

SOUTH CAROLINA DPS AND DMV USE ONLY

South Carolina
Uniform Traffic Collision Report
(For Investigating Officers)
Supplemental Bus & Truck Collision Report
(Revised 01/2009)

Threatt South Carolina County of Orangeburg
Threatt

County
Threatt

Page 1 of 1 Pages

Date 03-06-2012	Time 1353	County 29	Route Category 1-Interstate 2-US Primary 3-SC Primary 4-Secondary 5-County 6-Other	Accident Location Route Number and Name if Any ON 75 / W REBOUND RD	Auxiliary 1-Alternate 2-Alternate 3-Source 4-Connection 5-Business 6-Other
IF THIS CRASH INCLUDES:				Access Control	
Any truck that has a gross vehicle weight rating (GVWR) of more than 10,000 pounds or a gross combination weight rating (GCWR) of more than 10,000 pounds and is used on public highways. OR Any motor vehicle with seating to transport nine (9) or more people, including the driver. OR Any motor vehicle (regardless of weight) displaying a hazardous materials placard:				1- No Access Control 2- Full Access Control 3- Port of Access Control 2	
How Many? 1				Vehicle Information Gross Vehicle Weight Rating Gross Combination Weight Rating 11- Less than or Equal to 10,000 Pounds 12- 10,001 to 20,000 Pounds 13- More than 20,000 Pounds 14- Unknown Hit and Run 02	
How Many? 0				Vehicle Configuration 01- Passenger Car (only w/ HAZMAT placard) 02- Light Truck (only w/ HAZMAT placard) 03- Bus (seats for 9-15 people) 04- Bus (seats for 16+ people) 05- Single Unit Truck (Tractor & Trailer) 06- Single Unit Truck (3 or more axles) 07- Truck w/ Trailer 08- Truck Tractor Only (Booster) 09- Tractor w/ Semi-Trailer 10- Tractor w/ Double Trailer 11- Tractor w/ Triple Trailer 12- Other Vehicle w/ Trailer 13- Unknown Hit and Run 04	
How Many? 0				Bus Use 01- Not used as a bus 02- School 03- Transit/Comm/Univ/Sch service 04- Inter-city 05- Charter/Tour 06- Shuttle/Church 07- Unknown 01	
AND RESULTS IN:				Cargo Body Type	
Any fatality or fatalities How Many? 0				01- Bus (seats for 9-15 people) 02- Bus (seats for 16+ people) 03- Endorsement Box 04- Cargo Tank 05- Flat Bed 06- Dump 07- Concrete Mixer 08- Auto Transporter 09- Garbage Refuse 10- Grain Chops, Gravel 11- Pile 12- Intermediate Container 13- Log 14- Veh Towing Vehicle 15- N/A 16- Other 17- Unknown Hit and Run 02	
Any person(s) transported for immediate medical services How Many? 0				Trailer Length and Width Length 01- No Trailer 02- Less than 400 in. (40 ft) 03- 401 in. - 570 in. (48 ft) 04- 571 in. or more 05- Unknown Hit and Run Trailer Length 00	
Number of Vehicles Towed How Many? 1				Width 01- No Trailer 02- Less than 60 in. (5 ft) 03- 61 in. - 84 in. (7 ft) 04- 85 in. or more 05- Unknown Hit and Run Trailer Width 00	
Any disabled motor vehicle(s) towed away from the scene How Many? 1				Hazardous Material Involvement Was This Vehicle Carrying Hazardous Materials? 1- Yes 2- No 3- Unknown Hit and Run 2	
Complete This Form Only If: One or More Qualifying Vehicle(s) was Involved - AND One or More Qualifying Injuries/Fatalities was Sustained - OR One or More Disabled Vehicle(s) was Towed Away From the Scene				Did the Vehicle Have a Hazardous Material Placard? 1- Yes 2- No 3- Unknown Hit and Run 0	
Total Number of Supplemental Forms Required for this Collision: 1				If "Yes", What Class of Hazardous Material (if placard missing, please specify)? 01- Class 1 (Explosives) 02- Class 2 (Gases) 03- Class 3 (Flammable Liquids) 04- Class 4 (Flammable Solids) 05- Class 5 (Oxidizing Substances) 06- Class 6 (Poison/Infectious Substances) 07- Class 7 (Radioactive) 08- Class 8 (Corrosives) 09- Class 9 (Miscellaneous) 10- No Placard 11- Other Unknown Hit and Run 0	
Unit Number 01 FR-10 Number E-120012				Did Hazardous Material Release from this Vehicle? 1- Yes 2- No 3- Unknown Hit and Run 2	
Carrier Information Name: STAR FOOD PRODUCTS INC Address: [REDACTED] City: BURLINGTON State: NC Zip: 27216 Business Phone Number: 336 227 4079				Name of Agency Notified (in Case of Release): M C Caldwell II	
Identification Numbers U.S. DOT 0383571 None = 0 State Number SC Carrier Type: Is this vehicle a(n) (1) Interstate, (2) Intrastate, (3) Not in Commerce - Other Truck/Bus, (4) Not in Commerce - Government, (5) Other Operation Not Specified 1				Was a Citation Issued to this Vehicle? 1- Yes 2- No 3- Pending 1	
THREATT - J.C.				TFC 03-20-2012	

0718



HUFF
LAW FIRM LLC

E. Ros Huff, Jr.
roshuff@colalaw.com

Shelby H. Kellahan
skellahan@colalaw.com

May 2, 2013

Chubb Group of Insurance Companies
15 Mountain View Road
Warren, NJ 07059

RECEIVED
MAY 14 2013
HOME OFFICE CLAIMS

Re: Bryan McHowell v. Star Food Products/Mrs. Stratton's Salads, Inc.
WCC File No. 1207730
Social Security No. [REDACTED]
Date of Birth: [REDACTED]

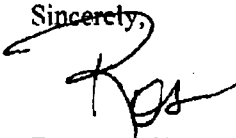
To Whom It May Concern:

Our firm represents the workers' compensation carrier in a workers' compensation claim brought by the above named claimant.

Enclosed is a subpoena for a copy of all medical and/or settlement records/agreements under Erdle Perforating Company's policy with Chubb Insurance for the accident of 05/04/93 (File No. [REDACTED] involving Bryan McHowell, along with any written documentation relating to acceptance, denial or payment of such claim between Chubb Insurance Solutions and Bryan McHowell or his attorney.

This subpoena has been served upon your registered agent for the state of South Carolina, CT Corporation System. Thank you for your assistance with this request.

Sincerely,


E. Ros Huff, Jr.

ERHjr/ea
Enclosure

cc: CT CORPORATION SYSTEM

5500.0585

205 - per your
request - please see
attached medical
records from this
old WC loss -
Thanks
KUTZ 6/3/13
0719

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

WCC File # 1207730
Carrier File # 564575461
Carrier Code #
Employer FEIN

Bryan McHowell
Claimant's Name
7822 Van Wyck Roak Lancaster SC 29720
Address City State Zip
803-287-4780
Home Phone Work Phone

Star Food Products/Mrs. Stratton's Salads, Inc.
Employer's Name
2050 Willow Spring Lane Burlington NC 27215
Address City State Zip
Great American Alliance Insurance
Insurance Carrier

E. Ros Huff, Jr., Esquire Huff Law Firm, LLC-PO Box 1935, Irmo, SC 29063 (803)252-2232
Preparer's Name Address Phone #

To: Chubb Group of Insurance Companies 15 Mountain View Road Warren, NJ 07059

☐ YOU ARE COMMANDED to appear before the above named Commission at the place, date and time specified below to testify in the above case.

PLACE OF TESTIMONY: ROOM: DATE AND TIME:

☐ YOU ARE COMMANDED to appear at the place, date and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION: DATE AND TIME:

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents or objects):

Copies of all records under Erdle Perforating Company's policy with Chubb Insurance Company of New Jersey for the workers' compensation accident of 05/04/93 (Claim No.) involving Brian McHowell, along with any written documentation relating to acceptance, denial or payment of such claims and copies of all correspondence between Chubb Insurance and Brian McHowell.

PLACE: Huff Law Firm, LLC PO Box 1935, Irmo, SC 29063

DATE AND TIME: May 12, 2013

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES: DATE AND TIME:

THIS SUBPOENA SHALL REMAIN IN EFFECT UNTIL YOU ARE GRANTED PERMISSION TO DEPART BY THE COMMISSIONER OR AN OFFICER ACTING ON BEHALF OF THE COMMISSIONER. QUESTIONS CONCERNING THIS SUBPOENA SHOULD BE ADDRESSED TO THE ISSUING OFFICER.

E. Ros Huff, Jr., Attorney for Employer/Carrier
ISSUING OFFICER'S SIGNATURE AND TITLE

(803) 252-2232
PHONE#

May 2, 2013
DATE

Serve this form according to R.67-212B. Refer to R.67-212 and R.67-214 for additional information. Procedural questions may be addressed to the Judicial Department (803/737-5675).

Naso

SOUTHERN SURGICAL ASSOCIATION -
CAROLINA HAND CENTER, P.A.

STEPHEN J. NASO, Jr., M.D., F.A.C.S.
GERALD L. ADAMS, M.D., F.A.C.S.
WARREN B. BURROWS, II, M.D.
D. WILLIAM MOOSE, JR., M.D.

CHARLOTTE:
PRESBYTERIAN MEDICAL TOWER
1718 E. FOURTH ST., SUITE 707
CHARLOTTE, NC 28204
TEL: (704) 375-3397

PINEVILLE:
MERCY MEDICAL PARK
BLDG. 100, SUITE 102
CHARLOTTE, NC 28210
TEL: (704) 541-1095

NAME McHowell, Bryan Albert

REFERRED BY
EMPLOYER
INSURANCE

ADDRESS Page 2

TELEPHONE (Hm)

(Wk)

COMPENSATION XXXX

PRIVATE

07-02-93

OV-

The right hand is doing extremely well, in fact *Work 19%*
it is almost asymptomatic. The left hand is better but still
tingling somewhat and I have injected this with Cortisone and
Xylocaine. If this does as well as the right hand, we will
have no problem. He is going back to work on the nineteenth.
Presently he is going to school as a truck driver and I think
this is a much better job for him than the welding. There is
no disability. I will see him as necessary. SJN,JR/fsp

c.c. of office note to Chubb Group-SJN,JR/fsp

*SB-O
R
u*

RECEIVED
CHUBB GROUP
CHARLOTTE, NC

6/18

SOUTHERN SURGICAL ASSOCIATES -
CAROLINA HAND CENTER, P.A.

STEPHEN J. NASO, Jr., M.D., F.A.C.S.
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D. WILLIAM MOOSE, JR., M.D.

NASO

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CHARLOTTE, NC 28204
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PINEVILLE:
MERCY MEDICAL PARK
BLDG. 100, SUITE 102
CHARLOTTE, NC 28210
TEL: (704) 541-1095

NAME McHowell, Bryan Albert

REFERRED BY Dr Bradner

ADDRESS PO Box 1

EMPLOYER
INSURANCE Chubb

Van Wyck SC 29744

TELEPHONE (Hm) 803-285-8518 (Wk)

COMPENSATION XXX

PRIVATE

06-07-93

CC: Tendonitis bilat hands 1992

OVSC- NCS 6-15-93 ADVISED SHEILA BOYD/Chubb

This gentleman is seen in the office because of pain, tingling and numbness in both hands. He states that his hand and especially his right hand goes to sleep at work. He was working as a welder until about the third of May when he left work and has not worked since. He states that he was working for the same company for about two years.

According to the patient, his symptoms started within the last year or so. He was seen by Doctor Bradner in Rock Hill on the fourth or fifth of May and treatment was initiated. His complaints again are tingling and numbness with his hands "going to sleep", loss of grip, and some pain. He states that the symptoms are getting worse. Again the right hand is worse than the left. He has trouble when he drives. He wakes up at night with pain and tingling. He has had four weeks of physical therapy in Rock Hill and he states that the symptoms are somewhat less but he is still awakening at nighttime.

The question here is the diagnosis. Does this gentleman have a carpal tunnel syndrome or does he strickly have a tendonitis or some neuropraxia which can be treated conservatively. I think Nerve Conduction Studies are going to have to be performed. I will make arrangements for these. As to relationship to his work, I would imagine this has already been checked out by the insurance company and the work site. Mr. McHowell claims that everything started with his work as a welder. I will see him back. SJN, JR/fsp

6-15-93

OV- The Nerve Conduction Studies done today do show evidence of bilateral carpal tunnel to a mild to moderate extent. I think we can treat this conservatively and will go with injection of the right hand and see how this does over the next two weeks and then bring him back and inject the left hand if feasible. In the meantime, he is not working. He is being careful not to use any kind of vibrating tools at home. I will see him in two weeks. SJN/sj

cc: Chubb

CAROLINA HAND CENTER
NERVE CONDUCTION STUDIES

NAME: Bryan McHawell
DATE: 6-15-93
DOCTOR: Nasso

NERVE		DISTAL LATENCY msec	CONDUCTION VELOCITY M/sec	AMPLITUDE mv, uv
MEDIAN MOTOR	R	4.16 NORMAL <4.2	59.00 NORMAL >45	10.00 NORMAL >5mv
	L	4.57	53.97	8.25
MEDIAN SENSORY	R	3.48 <3.6	40.16 >38	17.00 >10uv
	L	3.78	37.03	19.00
MEDIAN PALMAR SENSORY	R	2.22 <2.2	35.93 >40	127.50 >20uv
	L	2.35	34.01	97.50
ULNAR MOTOR	R	3.53 <4.0	60.54 >45	10.00 >5mv
	L	3.53	61.02	9.50
ULNAR SENSORY	R	3.15 <3.6	44.44 >38	13.50 >6uv
	L	3.10	45.04	16.00
ULNAR MOTOR ABOVE ELBOW- BELOW ELBOW	R	<4.0	>42	>5mv
	L			
ULNAR MOTOR BELOW ELBOW- WRIST	R	<4.0	>45	>5mv
	L			
	R			
	L			
	R			
	L			

EXAMINED BY: J. Wood P.T.
COMMENTS:

Evidence of bilateral CTS



**OMNI
REHAB**

CHART #

A1044

MD #

Physical Therapy

INITIAL EVALUATION

NAME

Bryan McHurrell

DATE

5-10-93

DIAGNOSIS

127.99
Paresthesia

ONSET

DOCTOR

Bradner

Tendonitis
wrist

SUBJECTIVE: 35 y/o welder w 1 yr history of numbness in Both hands. Finally came to MD on 5/4/93. -
I referred to P.T Eval & Rx

OBJECTIVE FINDINGS: SEE WRIST/HAND EVALUATION

ASSESSMENT:

1. Tendonitis flexor tendons both wrists
& 2° paresthesia 2° to compression
of carpal tunnel.

PRECAUTIONS:

None

GOALS:

1. Patient will be painfree after P.T. for 3 - 8 hours

2. Restore full and painfree AROM to (B) wrists

3. Improve strength (B) wrists to Normal grade

4. Patient will be independent in Home Exercise Program

TODAY'S TREATMENT: DFM, Iontophoresis & Dexamethasone
Dynamometry, Passive stretch

PLAN:

1. Modalities as indicated.

2. massage, Myofascial release, Mobilization

3. Therex - PROM, AAROM, AROM, MRE, ECCENTRICS, PRE.

4. Home exercise program

5. Iontophoresis & Dexamethasone
& Night Splints - PRN

George R. R. P.

WRIST/HAND EVALUATION

NAME Bryan McHewell DATE OF EVALUATION 5-10-93
DIAGNOSIS Paresthesia Both Hands ONSET x 1 yr
DOCTOR BRADNER

LOCATION OF PAIN palmar - pain R & L
all fingers numbness
TYPE OF PAIN dull pain

WHAT INCREASES PAIN - grip, use hands & finger, at rest
WHAT DECREASES PAIN - rest 1-2 hr,

RIGHT

LEFT

MOTION/MUSCLE	PROM	AROM	MMT	PROM	AROM	MMT
FLEXION		70	SPL N		60	SPL N
EXTENSION		80			80	
RADIAL DEVIATION		25			25	
ULNAR DEVIATION		35			35	
SUPINATION		80			90	
PRONATION		90			90	

MMT - T=TRACE, P=POOR, F=FAIR, G=GOOD, N=NORMAL
S=STRONG, W=WEAK, PL=PAINLESS, PF=PAINFUL

ADL - (I) Sport 5 (I)
work - loader - 100+ lbs
VE (TBP - RMH) (A) (I)

OTHER pain to palpation - distal Flexor Carpi Radius (B)
4. Flex Dig. Longus (C)

George Rozhepit
Physical Therapist

NAME Bryan Melto

CHART # [REDACTED]

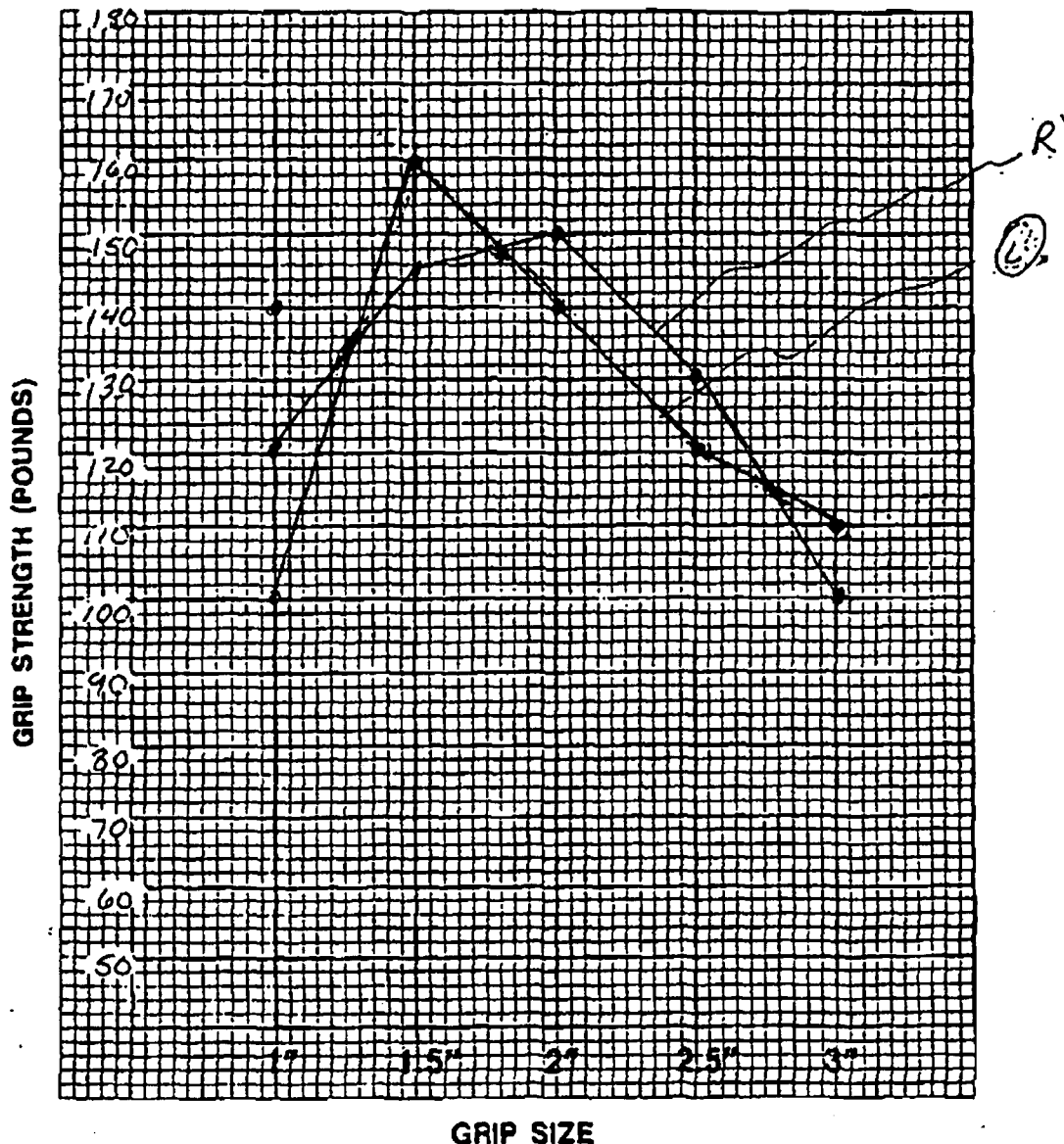
DATE 5/10/93

DOMINANT HAND R X L

U11111
REHAB

PHYSICAL THERAPY DEPARTMENT

Dx: Paresthesia Both Hands
BASELINE
DYNAMOMETRY



R.E.G.	L	R	%
1			
2			
3			
4			
5			

	L	R	%
Key Pinch	21	12	57
3"	110	100	91
2.5"	120	130	92
2"	140	150	93
1.5"	160	145	91
1"	100	120	83

AVG LG GRIP

AVG SM GRIP

Bara. / RASH P 9726

OMNI

REHAB

PHYSICAL THERAPY PROGRESS

PATIENT'S NAME

Bryan McHowell

CHART

R10020

DIAGNOSIS

Paresthesia (B) hands

MONTH

May 93

DATE

5/12/93

S - only (R) hand went to sleep last night

O - pain (B) FCR

A - try eccentrics - No % pain

only muscle fatigue

P - Continue Rx

Rushy

5/14/93

S - shod horses x 4 hrs. 5 pain

O/A - night paresthesia both hands - will obtain night splints

P - will stress hands next week & see if numbness still a problem in work activities

Rushy

5/15/93

S - carried 10 lb. bucket in (L) hand x 30 min

O - whole hand went numb

O - diffuse P/N (B) hands

A - still trying to find wrist splint for night - has "pepper & screams"

- repetitive pinching - starts P/N (B)

P - Continue Rx

Rushy

OMNI

REHAB

PHYSICAL THERAPY PROGRESS

PATIENT'S NAME Bryan Mc Howell CHART # [REDACTED]

DIAGNOSIS Paresthesia (B) Hands MONTH May 93

DATE June 93

5/25/93 S - some numbness in (C) thumb index while driving home from P.T. last time

O - able to elicit P/N (C) hand p pinch sustained @ 5# x 5 min

A - seen by Dr. Bradner who refers pt to Dr. NASO 6/7/93 - continue P.T. until that appointment

P - Ionto e Dexamethasone p DFM & E (Rushy PT)

5/28/93 S - no numbness at all last 2 days

O/A Ionto e dexamethasone is able to keep inflammation @ Bay - & diminish numbness w/g did not have same last reflex

D - Continue P.T. (Rushy PT)

6/2/93 S - No numbness x 4 days

O - pain (B) Flexor carpi Radialis @ Carpal tunnel - near insertion

A - No right paresthesias

- using graded pinching - Numbness

(C) Thumb & index finger p 5 reps

or 40 clips - p 3 min numbness resolved

P - Continue DFM, Exs & Ionto e Dexamethasone (Rushy PT)

6/4/93 S - no numbness

P - pain (B) ECR

A - using Minnesota Dexterity test

pt is low Average 40 turns

P - to see Dr. NASO 6/8/93 Hold P.T. @ this time

(Rushy PT) 6728

THE USE OF THIS FORM IS REQUIRED UNDER THE PROVISIONS OF THE WORKERS' COMPENSATION ACT
NORTH CAROLINA INDUSTRIAL COMMISSION

This Report Filed Only in Compliance With Section G. S. 97-92
and NOT EMPLOYEE'S CLAIM. Instructions to Employee on reverse.

EMPLOYER'S REPORT OF INJURY TO EMPLOYEE
EVERY QUESTION MUST BE ANSWERED

This report Must be Transmitted to the Commission Through Your Insurance Carrier/
Claims Administrator

I.C. FILE NO. _____
Emp. Code No. _____
Carrier Code No. _____
Carrier File No. _____

The I.C. File No. is the unique identifier for this injury. It will be provided by return letter and is to be referenced in all future correspondence.
Code numbers assigned to each employer and carrier should be inserted before mailing.

Employer	1. Name of Employer	Erdle Perforating of Carolina, Inc.		704) 588-4380	
	2. Office address	[Redacted] Charlotte NC		Tel. No. 28273	
	3. Insured by	Chubb & Son Inc			
	4. Give nature of business (or article manufactured)	Manufacturer of Perforated Metals			
Time and Place	5. Location of plant where injury occurred	Charlotte, NC			
	County	Mecklenburg	Department	Fabricating	State if Employer's premises Yes
	6. Date of injury	19	Day of week		Hour of day A.M. P.M.
	7. Was injured paid for entire day	Yes	8. Date disability began	19	A.M. P.M.
	9. When did you or your supervisor first know of injury	May 4, 1993			
	10. Name of Supervisor	Brad Johnson			
Person Injured	11. NAME OF INJURED	Bryan A. McHowell		Social Security # [Redacted]	
	12. Address	P.O. Box 1 Van Wyck SC		29744	
	13. Check (X) Married	X	Single	Widowed	Divorced
	14. (a) Nationality	White	(h) No. of children under 18 years	1	
	15. Age of injured employee	35			
	16. (a) Occupation when injured	Welder		(b) Was this his or her regular occupation Yes	
	17. (a) How long employed by you	2 yrs, 2 mo.		(b) Wages per hour \$ 11.00	
	18. (a) No. hours worked per day	8		(b) Wages per day \$ 88.00	
	19. (c) No. days worked per week	5		(d) Average weekly wages incl. overtime \$ 440.00	
	20. (e) If board, lodging, fuel or other advantages were furnished in addition to wages, give estimated value per day, week or month				
Cause of Injury	19. Machine, tool or thing causing injury	Welder			
	20. Kind of power (hand, foot, electrical, steam, etc.)	Electric			
	21. Part of machine on which injury occurred	[Redacted]			
	22. (a) Was safety appliance or regulation provided	(b) Was it in use at time			
	24. Describe fully how injury occurred, and state what employee was doing when injured	Pain in both hands, right hand worse than left. Pain progressively getting worse. In the opinion of the Employee the pain is the result of the repetitive nature of welding.			
Nature of Injury	25. Nature and location of injury (describe fully exact location of amputations or fractures, right or left)	Both Hands			
	26. Probable length of disability				
	27. Has injured returned to work				
	28. At what occupation	(a) Are you continuing the employee's salary in full			
	29. (a) Name and address of physician	Arrowood Medical Center, York Rd. Charlotte			
Fatal Cases	30. Has injured died	NO			

Date of this report May 7, 1993 Firm name Erdle Perforating of Carolina, Inc.
Signed by [Signature] Official Title Office Manager
Employer must furnish a copy (both sides) of this form, as completed, to the employee or their representative when submitted to the Insurance Carrier or Claims Administrator for transmission to the Commission.

LAW REQUIRES REPORT TO BE FILED WITHIN 6 DAYS AFTER KNOWLEDGE OF ACCIDENT

Dobbs Building • 430 N. Salisbury Street • Raleigh, North Carolina 27611

Administration 733-4820	Commissioners 733-4820	Docket Department 733-5076	Medical Department 733-5055	Rehabilitation Department 733-3200
Claims Department 733-5020	Deputy Commissioner 733-6721	Executive Secretary 733-4820	Occupational Disease 733-4820	Safety Department 733-5290
				Statistics Department 733-5220

OMNI
REHAB

CHART #

MD #

Physical Therapy

INITIAL EVALUATION

NAME Bryan McHewell DATE 5-10-93
DIAGNOSIS 127.99 Carpal Tunnel Syndrome ONSET _____
DOCTOR Bradner

SUBJECTIVE: 35 y/o welder & 14-yr history of numbness in both hands. Finally came to me on 5/4/93. - & referred to P.T. Eval & Rx

OBJECTIVE FINDINGS: SEE WRIST/HAND EVALUATION

ASSESSMENT: 1. Tendonitis flexor tendons both wrists
& 2° paresthesia 2° to compression
of carpal tunnel.

PRECAUTIONS: None

GOALS: 1. Patient will be painfree after P.T. for 3 - 8 hours
2. Restore full and painfree AROM to (B) wrists
3. Improve strength (B) wrists to Normal grade
4. Patient will be independent in Home Exercise Program

TODAY'S TREATMENT: DFM, Iontophoresis & Dexamethasone
Dynamometry, Passive stretch

PLAN: 1. Modalities as indicated.
2. massage, Myofascial release, Mobilization
3. Therex - PROM, AAROM, AROM, MRE, ECCENTRICS, PRE.
4. Home exercise program
5. Iontophoresis & Dexamethasone
& Night Splints - PRN

George C. [Signature]

OMNI REHAB

WRIST/HAND EVALUATION

NAME Bruno McHewell DATE OF EVALUATION 5-10-93
 DIAGNOSIS Paresthesia Both Hands ONSET x 14 R
 DOCTOR BRADNER

LOCATION OF PAIN palmar - pain R & L

all fingers numbness

TYPE OF PAIN - dull pain

WHAT INCREASES PAIN - grip, use hands & finger, at rest

WHAT DECREASES PAIN - rest 1-2 hr,

RIGHT

LEFT

MOTION/MUSCLE	PROM	AROM	MMT	PROM	AROM	MMT
FLEXION		70	SPL N		60	SPL N
EXTENSION		80			80	
RADIAL DEVIATION		25			25	
ULNAR DEVIATION		35			35	
SUPINATION		80			90	
PRONATION		90			90	

MMT - T=TRACE, P=POOR, F=FAIR, G=GOOD, N=NORMAL
 S=STRONG, W=WEAK, PL=PAINLESS, PF=PAINFUL

ADL - (I) Sport 5 0

WORK - lumber - 100+ lbs
VE (TBP - RMH &) CA (I)

OTHER

pain to palpation - distal Flexor Carpi Radius (B)
4. Flex Digi. Longus (C)

George Crockett
 Physical Therapist

NAME Bryan McHoll

CHART # [REDACTED]

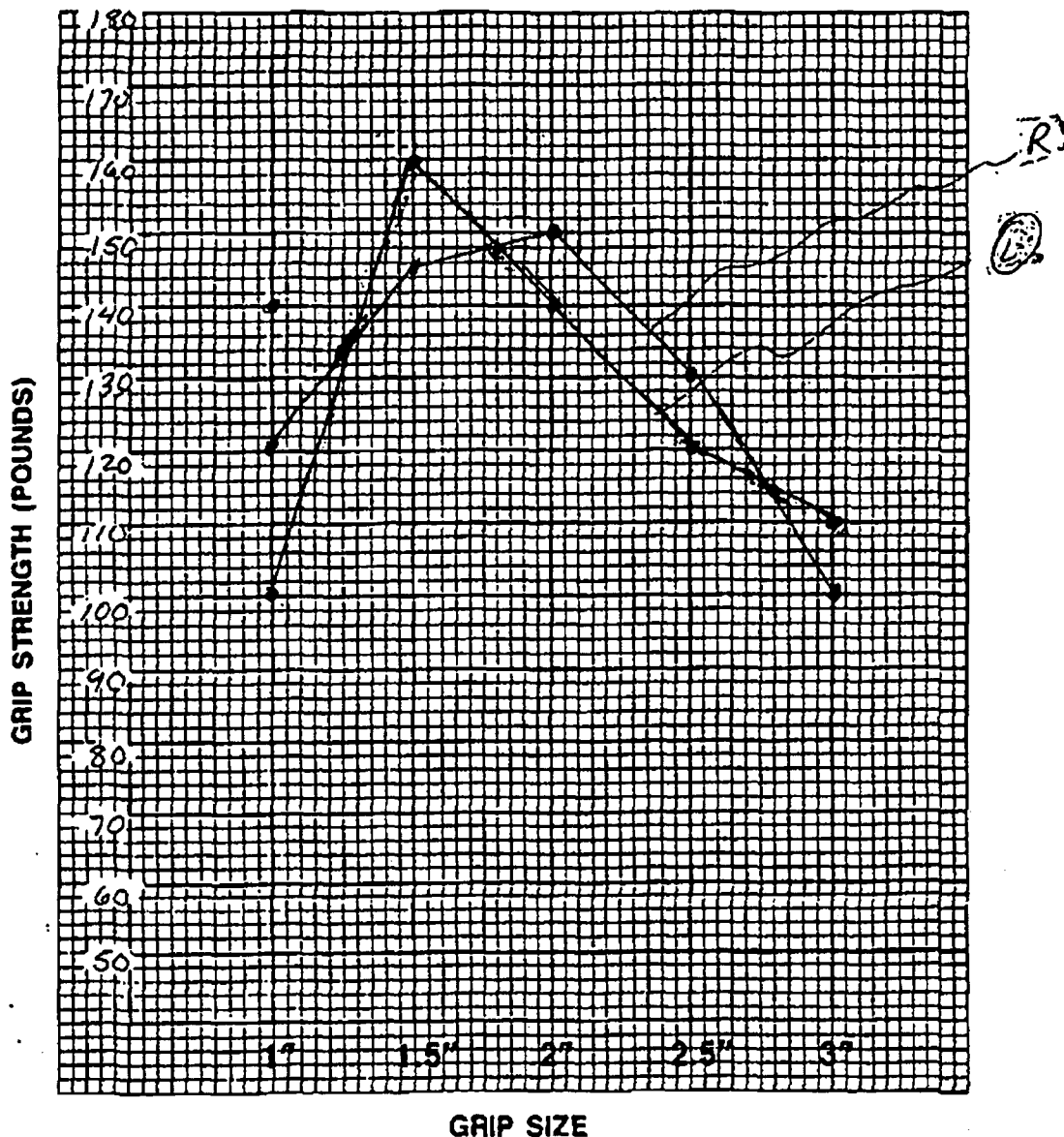
DATE 5/10/93

DOMINANT HAND R X L

U/M/V
REHAB

PHYSICAL THERAPY DEPARTMENT

Dx: Paresthesia Both Hands
BASELINE
DYNAMOMETRY



R.E.G.	L	R	%
1			
2			
3			
4			
5			

	FL	R	%
Key Pinch	21	12	57
3"	110	100	91
2.5"	120	130	92
2"	140	150	93
1.5"	160	145	91
1"	100	120	83

AVG LG
GRIP

AVG SM
GRIP

Rona Rash 10/32

W. C. FIELD OFFICE
RESERVE ESTIMATE

CLAIMANT'S NAME <u>Bryan McDowell</u>	AGE <u>35</u>	D/A <u>5/4/73</u>	OCCUPATION <u>Welder</u>	CAUSE & DESCRIPTION OF INJURY <u>Ham in hand</u>
FILE NO. <u>[REDACTED]</u>	JURISDICTION <u>NC</u>	SALARY COMPUTATION <u>440.00</u>	SUBRO YES NO	REHAB YES NO
SPECIAL COMMENTS				

MEDICAL - FUTURE ESTIMATED COST Type Claim 1 or 3

Attending Physician	\$ _____
Specialists	\$ _____
X-Rays	\$ _____
Hospital	\$ _____
Other (including REHABILITATION medical costs)	\$ _____
Your Estimate Of Expense (Not to be punched in machine)	TOTAL FUTURE EXPOSURE = \$ _____
Investigator _____ Medical _____	Paid To Date if Reserve Change + \$ _____
Hospital Records _____ Attorney _____	TOTAL MEDICAL RESERVE = \$ <u>1,500</u>
Others _____	

COMPENSATION - FUTURE ESTIMATE COST Type Claim 2 or 4

_____ Weeks Temporary Total Disability @ \$ _____	= \$ _____
_____ Weeks Temporary Partial Disability @ \$ _____	= \$ _____
_____ Weeks Temporary Partial Disability For _____ % Of _____ @ _____	= \$ _____
_____ Weeks/Yrs. Permanent Total Disability @ _____	= \$ _____
_____ Weeks/Yrs. Fatal @ \$ _____	

Dependents, Ages, Rates

Name	Age	Rate	Name	Age	Rate

Funeral Benefits \$ _____	2nd Injury Fund \$ _____	= \$ _____

*will add if
settlement is
authorized*

TOTAL FUTURE EXPOSURE	= \$ _____
Paid To Date if Reserve Change	+ \$ _____
TOTAL COMPENSATION RESERVE	= \$ _____

VOCATIONAL REHABILITATION COSTS

*005
SB 7/6/93*

Rehab. Indemnity	\$ _____
Cost of Program	\$ _____
Vendor's Cost	\$ _____

TOTAL REHABILITATION COSTS	\$ _____

10721

Initials: _____

Date: _____

Paid To Date if Reserve Change	+ \$ _____
TOTAL COMPENSATION RESERVE	= \$ _____

OMNI

REHAB

PHYSICAL THERAPY PROGRESS

PATIENT'S NAME

Bryan Mc Howell

CHART

DIAGNOSIS

Paresthesia (B) hands

MONTH

May 93

DATE

5/12/93	S - only (B) hand went to sleep last night
	O - pain (B) FCR
	A - try eccentrics - No /o pain
	only muscle fatigue
	P - Continue Rx (Rushy P)
5/14/93	S - shod horses x 4 hrs. 5 pain
	O/A - night paresthesia Both hands - will
	obtain night splints
	P - will stress hands next week &
	see if numbness still a problem in
	work activities (Rushy P)
5/15/93	S - Carried 10 lb bucket in (L) hand x 30 min
	(L) whole hand went numb
	O - diffuse P/N (B) hands
	A - still trying to find wrist splint for
	night - has "pepper 4 arms"
	- repetitive pinching - starts P/N (B)
	P - Continue Rx (Rushy P)
5/19/93	S - No paresthesia last night
	O - No pain FDL @ or (L)
	A - start on pulley Ex
	P - Continue Rx. S pain resolving (Rushy P)
5/21/93	S - p. repetitive pinching - burns in
	forearm muscles - No P/N fingers
	O - pain (B) FCR to DFM
	- No significant change in grip strength
	A - pt appears to be improving
	P - Continue Rx (Rushy P)

NAME Bryan Mc Howell

CHART #

DATE 5/21/93

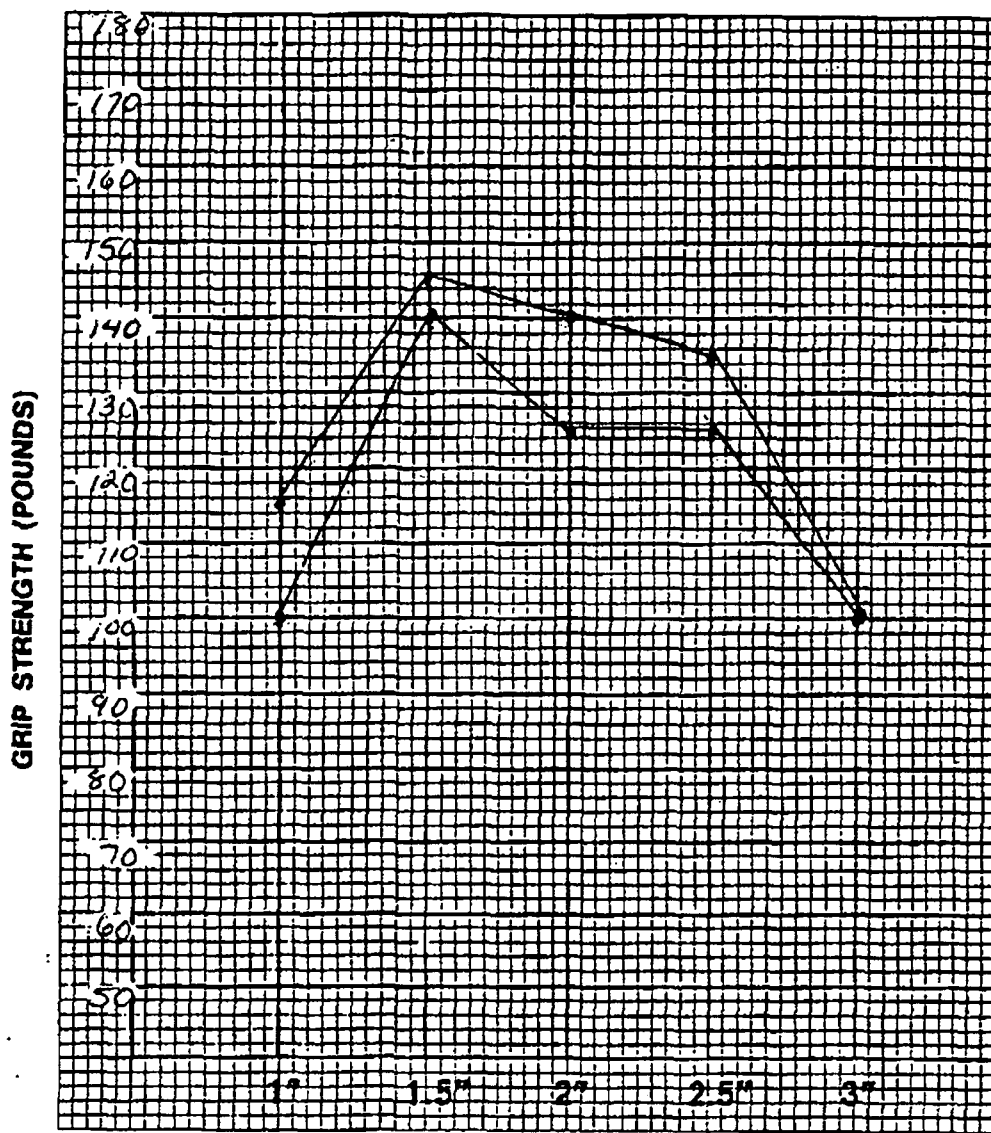
DOMINANT HAND R X L

OMNI
REHAB.

PHYSICAL THERAPY DEPARTMENT

Dx. Paresthesia (B) Hands

DYNAMOMETRY



GRIP SIZE

some inconsistency
note - @ 1.5"

R.E.G.	L	R	%
1	140	140	100
2	140	140	100
3	140	160	88
4	120	140	86
5	120	100	100

Key Pinch	L	R	%
3"	100	100	100
2.5"	125	135	108
2"	125	140	112
1.5"	140	145	104
1"	100	115	115

AVG LG
GRIP

AVG SM
GRIP

0735

OMNI REHAB

PHYSICAL THERAPY PROGRESS

PATIENT'S NAME Bryan Mc Howell CHART # [REDACTED]

DIAGNOSIS Paresthesia (B) Hands MONTH May 93

DATE

5/25/93 S - some numbness in (L) thumb & index while driving home from P.T. last time
O - able to elicit P/N (L) hand p pinch sustained @ 5# x 5 min
A - seen by Dr. Bradner who refers pt to Dr. NASE 6/7/93 - continue P.T. until that appointment
P - Treated w/ Dexamethasone P & M & E
(R. H. J.)



KURT A. PILZ, CPCU, ARM, AIS
Workers Compensation Supervisor

Chubb Group of Insurance Companies
Two Live Oak Center, Suite 900
3445 Peachtree Road, N.E.
Atlanta, GA 30326-1276 • (404) 266-4127
Wats: (800) 999-3669 • Fax: (404) 264-6849
e-mail: kpilz@chubb.com

Bryan McHowell v. Star Food Products/Mrs. Stratton's Salads, Inc.
File No. 5500.0585

DOI: 02/12/09-WC-
Insurance: ZurichAmerican Insurance
Employer: SCI Wall Timber-

left hand-\$8K settlement-Attorney Brent Stewart (RESPONSE RECEIVED-WC
settlement)

JUL-02-2010 FRI 01:59 PM MCANGUS GOUELOCK COURIE FAX NO. 8037480526

P. 04

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 0919360

BRYAN A. MCHOWELL,

Employee,

Claimant,

vs.

SCI @ WALL TIMBER PRODUCTS, INC.,

Employer,

AND

ZURICH AMERICAN INSURANCE
COMPANY,

Carrier,

Defendants.

SETTLEMENT AGREEMENT
AND RELEASE

RECEIVED
SETTLEMENT

JUN 29 2010

Division of Claims
SC Workers Comp. Comm.

Bryan A. McHowell "Claimant" injured his left hand, by accident arising out of and in the course of his employment with SCI @ Wall Timber Products, Inc. "Employer" on or about February 12, 2009, when he slipped while exiting the back of truck and tried to catch his fall with his hand.

Claimant's average weekly wage is \$774.94; and the compensation rate is \$516.65.

Claimant contends that he is in need of additional medical examination and treatment; that he has lost compensable time from work and wages; that he has sustained permanent disability in excess of any ratings by treating physicians; and Defendants dispute the Claimant's allegations and deny that any additional benefits are due.

Claimant has been treated and/or evaluated by James N. Rentz, Jr., M.D., who did not rate the Claimant's permanent impairment.

In consideration of the sum of Eight Thousand Dollars and No Cents (\$8,000.00), Claimant does hereby release and forever discharge Defendants from any and all claims, demands, actions or causes of action under the South Carolina Workers' Compensation Act, on account of any and all injuries, disability, disfigurement, specific loss, death, operations, medical, hospital or like expense, continuances, recurrences, aggravations, changes of condition, ailments, illnesses, and diseases or other damages, consequences or results, past, present or future in any way connected with, or arising from the alleged injury sustained by Claimant on or about February 12, 2009, and does hereby acknowledge that Defendants have fully, finally and completely paid and discharged all of their obligations, liabilities and responsibilities under the South Carolina Workers' Compensation Act, and that the sum set forth above is being paid to, and received by, Claimant in full and final satisfaction of all claims whatsoever as a result of the alleged accident described above and that Defendants shall not be liable for any additional payments whatsoever.

Defendants have paid or have agreed to pay authorized medical expenses through March 19, 2010 incurred as a result of the alleged accident described above, in such amounts as may be approved by the South Carolina Workers' Compensation Commission.

The Claimant requests that the settlement proceeds of \$8,000.00 shall be allocated as follows: Four Thousand, Four Hundred Forty-Nine and 91/100 (\$4,449.91) Dollars in compromise settlement of disputed future wage loss at the rate of \$3.22 per week for a period of 1,379.04 weeks, representing the remainder of the Claimant's life, pursuant to South Carolina Code of Laws, Ann. (1976, as amended) §19-1-150 and the South Carolina Supreme Court

JUL-02-2010 FRI 01:59 PM MCANGUS GOUDELOCK COURIE FAX NO. 8037480526

P. 06

decision of Utica-Mohawk Mills v. Ott, 227 S.C. 226, 87 SE2d 59 and pursuant to the Sciartotta v. Bower, 837 F2d 135 (3d Cir. 1988) decision; Two Thousand, Six Hundred Sixty-Four, and 00/100 (\$2,664.00) Dollars as attorney's fees and Eight Hundred Eighty-six, and 09/100 (\$886.09) Dollars as expenses incurred in bringing this action, pursuant to a written agreement between the claimant and his attorney.

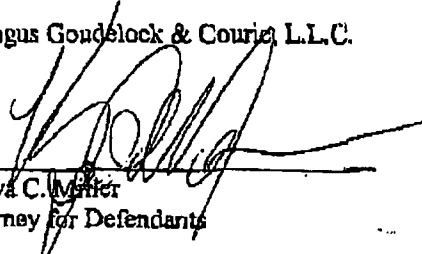
Claimant and his attorney represent that Claimant has been fully advised of his rights under the South Carolina Workers' Compensation Act and that they are of the opinion that the proposed settlement is reasonable and fair. Claimant's attorney represents that he has reviewed the settlement and has explained the terms fully to Claimant and Claimant voluntarily and without coercion agreed to the terms.

Claimant hereby relinquishes and releases each and every claim which he or anyone on his behalf now has, or may hereafter have, so that he shall not have any other or future claim or demand of any kind or nature as a result of the alleged accident described above.

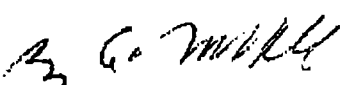
The parties are hereby filing this SETTLEMENT AGREEMENT AND RELEASE with the South Carolina Workers' Compensation Commission as required by S.C. Code Ann. § 42-9-390.

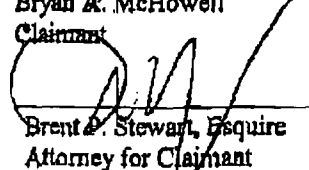
WE CONSENT:

McAngus Goudelock & Courie, L.L.C.


Kenya C. Miller
Attorney for Defendants

Columbia, South Carolina
Date: 6/25/10


Bryan A. McHowell
Claimant


Brent A. Stewart, Esquire
Attorney for Claimant

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

WCC File # 0919360

Center File # 2510066232

Center Code # 00090 0001

Employer FEIN #

Bryan A. McHewell

Claimant's Name 7822 Van Wyne Rd

Lancaster

Address

City

State

Zip

Phone

Work Phone

Home Phone

Cell Phone

Fax

Other

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Other

Other

Other

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SCI 8 Wall Timber Products Inc

Employer's Name 1445 Lancaster Hwy

Chester

Address

City

State

Zip

Phone

Work Phone

Home Phone

Cell Phone

Fax

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Compensation Paid:	Number of Weeks	From	To	Amount
1. Number of weeks T.T.	23	12-12-09	6-23-2010	\$ 511,363.92
2. Number of weeks T.P.				\$
3. Number of weeks P.P.				\$
4. Disfigurement.				\$
5. Agreement and Final Release				\$ 58,000.00
Total Compensation Paid				\$ 519,363.92
Total Medical Benefits* Paid				\$ 52,856.90
7. Funeral Benefits				\$

☐ Case Denied

Date of Injury: 02/12/2009

By signing this receipt, I acknowledge that I have received the compensation shown above.

By: [Signature]

By: Natalie Stephens

Date: 6/23/10

Print or type the name of the person, other than the claimant, receiving benefits and sign below:

By: [Signature]

Report of additional Form 19 assignment

to C. Workers' Compensation

A. Carrier Reimbursement by State Comm.

B. Attorney's Fee Paid by Employer

C. Attorney's Fee Paid by Claimant

(not assigned task, only)

File this form with the Claims Department according to R.67-414 and R.67-1204. A person, other than the claimant, receiving benefits should sign on the line provided. *Do not include an medical costs fees paid for expert testimony, fees for determining carrier's liability, costs of autopsy, birth and death certificate and hospital examination. Form 19 must be filed within sixteen days of final payment of compensation. Form 19 must be filed when a claim is denied.

WCC FORM - 19 REV. DATE 9/96

19

STATUS REPORT AND COMPENSATION RECEIPT

JUN-28-2010 MON 01:36 PM MCANGUS GOUELOCK COURIE

FAX NO. 8037480526

P. 04/07

(Page 1 of 1)

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

WCC File # 0919360

Carrier File # 2570066232

Carrier Code # 00090 0001

Employer FEIN

Bryan A. McHewell

Claimant's Name 7822 Van Hise Rd

SSN

Lancaster

SC 29720

Address

City

State

Zip

(803) 283-9787

(912) 863-5108

Home Phone #

Work Phone #

Natalie Stephens

Preparer's Name

SCI @ Wall Timber Products Inc

Employer's Name 1445 Lancaster Hwy

Chester

SC 29706

Address

City

State

Zip

Lurion American Insurance Co.

Insurance Carrier

(404) 851-3213

Phone #

Compensation Paid:	Number of Weeks	From	To	Amount
1. Number of weeks T.T.	23	12-22-09	6-23-2010	\$ 11,363.92
2. Number of weeks T.P.				\$
3. Number of weeks P.P.				\$
4. Disfigurement.				\$
5. Agreement and Final Release				\$ 58,000.00
Total Compensation Paid				\$ 119,363.92
Total Medical Benefits* Paid				\$ 52,056.90
7. Funeral Benefits				\$

☐ Case Denied

Date of Injury: 02/12/2009

month day year

By signing this receipt, I acknowledge that I have received the compensation shown above.

By

Claimant

By

Natalie Stephens
Employer's Representative

Date:

6/25/10

Print or type the name of the person, other than the claimant, making benefits and sign below.

By

Report of additional Fees and Recoupment

A. Carrier Reimbursement by Third Party \$

B. Attorney's Fee Paid by Employer \$

C. Attorney's Fee Paid by Claimant \$50.00
(Not contingent fees, only)

File this form with the Claims Department according to R.67-414 and R.67-1204. A person, other than the claimant, receiving benefits should sign on the line provided. *Do not include as medical costs fees paid for expert testimony, fees for determining carrier's liability, costs of autopsy, birth and death certificates and impartial examination. Form 19 must be filed within sixteen days of final payment of compensation. Form 19 must be filed when a claim is denied.

WCC FORM # 19 REV. DATE 3/96

19

STATUS REPORT AND COMPENSATION RECEIPT

0743

SC Workers' Compensation Commission
1612 Marion St.
P.O. BOX 1715
Columbia, SC 29202-1715



WOC File #: 0919360
Carrier File #: 2510066232
Carrier Code #: 0009001
Employer FEIN #: [REDACTED]

Claimant's Name: Bryan A. McHowell SSN: [REDACTED] Employer's Name: SCI @ Wall Timber Products Inc
Address: 7822 Van Wyne Rd Address: 1445 Lancaster Hwy
City: Lancaster State: SC Zip: 29720 City: Chester State: SC Zip: 29706
Home Phone: (803) 283-9791 Work Phone: (912) 863-5108 Carrier: Zurich American Insurance Co.
Preparer's Name: Natalie Stephens Preparer's Phone #: (404) 851-3213

Date of Injury: 02-12-2009

Date of Notice to Employer of Injury: 02-12-2009

I. Payment of Temporary Compensation
(choose A, B, or C)

Check one: ☒ Initial period ☐ Additional period ☐ Corrected compensation rate

☒ A. Temporary Total at the compensation rate of \$ 516.66 per week. For this period of disability, disability began on 12-22-2009 and the date of first payment was 1769.00

☐ B. Temporary Partial at the compensation rate of \$ _____ per week. Note: When the Temporary Partial compensation rate will vary, report the first payment here. Supplement this report throughout the period of Temporary Partial compensation by filing a Form 155 with the Form 18, which shall be filed six months after the date of injury and each six months thereafter until the file is closed.
For this period of disability, disability began on _____, and the date of first payment was _____.

Calculation of Temporary Partial rate:

Average weekly wage before injury	\$ _____
- Current weekly wage	\$ _____
Difference in wages before injury and now	\$ _____
x .6667	x .6667
Temporary Partial Compensation Rate	\$ _____

☐ C. Salary in lieu of Temporary Total / Partial compensation in the amount of \$ _____ per week.
(Choose or circle one)

For this period of disability, disability began on 12-22-2009 and the date of first payment of salary in lieu of temporary compensation was _____.

THIS SECTION MAY BE USED ONLY WITHIN 150 DAYS AFTER NOTICE TO EMPLOYER OF INJURY.
ATTACH DOCUMENTATION AS TO THE REASON OF THE TERMINATION.

1-19-2010

II. Termination of Temporary Compensation Temporary compensation payments were stopped on _____ for the following reason:

- ☐ Claimant has returned to work at least 15 days and no temporary partial compensation is due.
☐ Claimant agrees he/she is able to return to work and has signed a Form 17.
☐ Based on a good faith investigation, the claim is denied. Reason for denial: _____
☒ Claimant has been released to return to work without restrictions and employment has been offered.
☐ Claimant has been released to work at limited duty and employer has provided limited duty work consistent with the terms upon which the Employee has been released.
☐ Claimant has refused medical treatment, examination, or evaluation. Note: Benefits must be resumed if claimant accepts the treatment, examination, or evaluation. Additional report must be filed if compensation is resumed.

I certify that this form has been served on the claimant per R.67-211.

Natalie Stephens
Signature of Claims Administrator

07-19-2010
Date

III. Notice to Injured Worker or Legal Representative when Temporary Compensation Has Been Stopped:

The employer's representative may stop temporary compensation within 150 days of the date of notice of injury for the above reasons. However, if you believe that the temporary compensation should not have been stopped, you may request a hearing by signing below and returning this form to SCWOC Judicial Department at the address at the top of this form. A hearing will be held within 60 days of receipt of your request to determine if temporary compensation has been properly terminated.

MY SIGNATURE BELOW INDICATES THAT I DO NOT AGREE WITH THE TERMINATION OF TEMPORARY COMPENSATION.
I REQUEST A HEARING TO DETERMINE WHETHER I AM ENTITLED TO FURTHER TEMPORARY COMPENSATION PAYMENTS.

Check one: Form 15(II) ☐ Has ☐ Has not been received.

Signature of Claimant or legal representative

Date

Employer's representative must complete and file Form 15 with Claims Department within ten days after compensation begins or is terminated. Employer's representative must serve the Form 15 on the claimant when compensation begins per R.67-211. Employer's representative must prepare and serve Form 20 within thirty days of beginning compensation per R.67-1803. Employer's representative must serve per R.67-211 two copies of the Form 15 on claimant immediately on termination of compensation with documentation attached as to the reason for the termination. Injured worker may contest termination of compensation by completing section III of the Form 15 and filing it with Judicial Department.

WCC Form # 15

Created 3/97
Rev. 10/04

15

TEMPORARY COMPENSATION REPORT

send Zurich a stamped copy of the form

0744

JUL-02-2010 FRI 01:58 PM MCANGUS GOUDELOCK COURIE FAX NO. 8037480526

P. 01



Attorneys at Law

Reply To
LAURA W. HAWKINSON
Direct Dial: (803) 227-4946
laura.hawkinson@mgclaw.com
COLUMBIA

FAX COVER SHEET

DATE:

~~June 30, 2010~~ 7-2-10

TO:

Natalie Stephens

Fax: (404) 851-3601

Phone: (404) 851-3213

FROM:

Laura W. Hawkinson

MG&C File No.: 20675.10065

RE: Bryan A. McHowell v. SCI @ Wall Timber Products and Zurich American Insurance Company
Date of Accident: February 12, 2009
WCC File No.: 0919360
Our File No.: 20675.10065
Claim No.: [REDACTED]

TOTAL NUMBER OF PAGES INCLUDING COVER: 6

COMMENTS: Please see attached.

SHOULD YOU HAVE ANY PROBLEMS RECEIVING THIS FAX PLEASE CONTACT LAURA W. HAWKINSON AT (803) 227-4946. THIS INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS INFORMATION PROTECTED BY ATTORNEY-CLIENT AND/OR THE ATTORNEY/WORK PRODUCT PRIVILEGE. IT IS INTENDED FOR THE USE OF THE INDIVIDUAL NAMED ABOVE AND THE PRIVILEGES ARE NOT RAISED BY VIRTUE OF THIS HAVING BEEN SENT BY FACSIMILE. IF THE PERSON ACTUALLY RECEIVING THIS FACSIMILE OR ANY OTHER READER OF THE FACSIMILE IS NOT THE NAMED RECIPIENT, ANY USE, DISSEMINATION, DISTRIBUTION OR COPYING OF THE COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U. S. POSTAL SERVICE.

JUL-02-2010 FRI 01:58 PM MCANGUS GOUDELOCK COURIE FAX NO. 8037480526

P. 02



ATTORNEYS AT LAW

Reply To
KENYA C. MILLER
Direct Dial: (803) 227-2218
kenya.miller@mgclaw.com
COLUMBIA

June 29, 2010

VIA FACSIMILE

Natalie Stephens
Zurich American Insurance Company
Post Office Box 968051
Schaumburg, IL 60196

RE: Bryan A. McHowell v. SCI @ Wall Timber Products and Zurich American Insurance
Company
Date of Accident: February 12, 2009
WCC File No.: 0919360
Our File No.: 20675.10065
Claim No.: 2510066232

Dear Natalie:

Enclosed please find the stamped Settlement Agreement and executed Form 19. This should conclude our handling of this file. We will forward our final bill for services under separate cover.

Thank you for allowing us to handle this matter on your behalf. If you have any questions, please do not hesitate to call.

Very truly yours,

Kenya C. Miller

KCM/lwh
Enclosures

cc: Amanda Perez-Chang, SCI @ Wall Timber Products, Inc.

JUL-02-2010 FRI 01:59 PM MCANGUS GOUDELOCK COURIE FAX NO. 8037480526

P. 03

(Page 1 of 1)

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

WCC File # 0919360
Carrier File # 251006232
Carrier Code # 00090 0001
Employer FEIN #

Bryan A. McHowell		SCI 0 Wall Timber Products Inc	
Claimant's Name 1822 Van Wyck Rd	SSN	Employer's Name 1445 Lancaster Hwy	
Lancaster	SC 29720	Chester	SC 29706
Address	City	Address	City
(803) 283-9797	(912) 863-5108	Zurich American Insurance Co.	
Home Phone #	Work Phone #	Insurance Carrier	
	Natalie Stephens	(404) 851-3213	
	Preparer's Name	Phone #	

Compensation Paid:	Number of Weeks	From	To	Amount
1. Number of weeks T.T.	23	12-22-09	6-23-2010	\$ 11,363.92
2. Number of weeks T.P.				\$
3. Number of weeks P.P.				\$
4. Disfigurement.				\$
5. Agreement and Final Release				\$ 8,000.00
Total Compensation Paid				\$ 19,363.92
Total Medical Benefits* Paid				\$ 2,856.60
7. Funeral Benefits				\$

☐ Case Denied

Date of Injury: 02/12/2009

By signing this receipt, I acknowledge that I have received the compensation shown above.

By: [Signature]
ClaimantBy: [Signature]
Employer's RepresentativeDate: 6/25/10

Print or type the name of the person, other than the claimant, receiving benefits and sign below

By: _____

Report of additional Fees and Expenses

RECEIVED
JUN 29 2010
Claims Admin. Div.

A. Carrier Reimbursement by Third Party	\$
B. Attorney's Fee Paid by Employer	\$
C. Attorney's Fee Paid by Claimant	\$ 0.00

File this form with the Claims Department according to R.67-414 and R.67-1204. A person, other than the claimant, receiving benefits should sign on the line provided. *Do not include as medical costs fees paid for expert testimony, fees for determining carrier's liability, costs of autopsy, birth and death certificates and impartial examination. Form 19 must be filed within sixteen days of final payment of compensation. Form 19 must be filed when a claim is denied.

WCC FORM # 19 REV. DATE 3/96

19

STATUS REPORT AND COMPENSATION RECEIPT

0747

JUN-28-2010 MON 01:36 PM MCANGUS GOUDELOCK COURIE FAX NO. 8037480526

P. 05/07

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 0919360

BRYAN A. MCHOWELL,

Employee,

Claimant,

vs.

SCI @ WALL TIMBER PRODUCTS, INC.,

Employer,

AND

ZURICH AMERICAN INSURANCE
COMPANY,

Carrier,

Defendants.

SETTLEMENT AGREEMENT
AND RELEASE

Bryan A. McHowell "Claimant" injured his left hand, by accident arising out of and in the course of his employment with SCI @ Wall Timber Products, Inc. "Employer" on or about February 12, 2009, when he slipped while exiting the back of truck and tried to catch his fall with his hand.

Claimant's average weekly wage is \$774.94; and the compensation rate is \$516.65.

Claimant contends that he is in need of additional medical examination and treatment; that he has lost compensable time from work and wages; that he has sustained permanent disability in excess of any ratings by treating physicians; and Defendants dispute the Claimant's allegations and deny that any additional benefits are due.

JUN-28-2010 MON 01:37 PM MCANGUS GOUELOCK COURIE FAX NO. 8037480526

P. 06/07

Claimant has been treated and/or evaluated by James N. Rentz, Jr., M.D., who did not rate the Claimant's permanent impairment.

In consideration of the sum of Eight Thousand Dollars and No Cents (\$8,000.00), Claimant does hereby release and forever discharge Defendants from any and all claims, demands, actions or causes of action under the South Carolina Workers' Compensation Act, on account of any and all injuries, disability, disfigurement, specific loss, death, operations, medical, hospital or like expense, continuances, recurrences, aggravations, changes of condition, ailments, illnesses, and diseases or other damages, consequences or results, past, present or future in any way connected with, or arising from the alleged injury sustained by Claimant on or about February 12, 2009, and does hereby acknowledge that Defendants have fully, finally and completely paid and discharged all of their obligations, liabilities and responsibilities under the South Carolina Workers' Compensation Act, and that the sum set forth above is being paid to, and received by, Claimant in full and final satisfaction of all claims whatsoever as a result of the alleged accident described above and that Defendants shall not be liable for any additional payments whatsoever.

Defendants have paid or have agreed to pay authorized medical expenses through March 19, 2010 incurred as a result of the alleged accident described above, in such amounts as may be approved by the South Carolina Workers' Compensation Commission.

The Claimant requests that the settlement proceeds of \$8,000.00 shall be allocated as follows: Four Thousand, Four Hundred Forty-Nine and 91/100 (\$4,449.91) Dollars in compromise settlement of disputed future wage loss at the rate of \$3.22 per week for a period of 1,379.04 weeks, representing the remainder of the Claimant's life, pursuant to South Carolina Code of Laws, Ann. (1976, as amended) §19-1-150 and the South Carolina Supreme Court

JUN-28-2010 MON 01:37 PM MCANGUS GOUDELOCK COURIE FAX NO. 8037480526

P. 07/07

decision of Utica-Mohawk Mills v. Ott, 227 S.C. 226, 87 SE2d 59 and pursuant to the Sciarotta v. Bowen, 837 F2d 135 (3d Cir. 1988) decision; Two Thousand, Six Hundred Sixty-Four, and 00/100 (\$2,664.00) Dollars as attorney's fees and Eight Hundred Eighty-six, and 09/100 (\$886.09) Dollars as expenses incurred in bringing this action, pursuant to a written agreement between the claimant and his attorney.

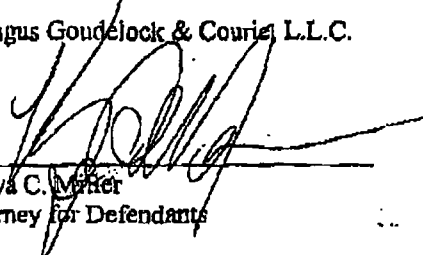
Claimant and his attorney represent that Claimant has been fully advised of his rights under the South Carolina Workers' Compensation Act and that they are of the opinion that the proposed settlement is reasonable and fair. Claimant's attorney represents that he has reviewed the settlement and has explained the terms fully to Claimant and Claimant voluntarily and without coercion agreed to the terms.

Claimant hereby relinquishes and releases each and every claim which he or anyone on his behalf now has, or may hereafter have, so that he shall not have any other or future claim or demand of any kind or nature as a result of the alleged accident described above.

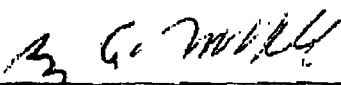
The parties are hereby filing this SETTLEMENT AGREEMENT AND RELEASE with the South Carolina Workers' Compensation Commission as required by S.C. Code Ann. § 42-9-390.

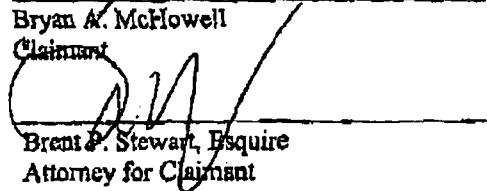
WE CONSENT:

McAngus Goudelock & Courie, L.L.C.


Kenya C. Miller
Attorney for Defendants

Columbia, South Carolina
Date: 6/25/10


Bryan A. McHowell
Claimant


Brent P. Stewart, Esquire
Attorney for Claimant

JUN-18-2010 FRI 04:00 PM MCANGUS GOUDELOCK COURIE FAX NO. 8037480526

P. 02/07



Attorneys at Law

Reply To
KENYA C. MILLER
Direct Dial: (803) 227-2218
kenya.miller@mgclaw.com
COLUMBIA

June 18, 2010

Brent P. Stewart, Esquire
Stewart Law Offices, LLC
Post Office Box 670
Rock Hill, South Carolina 29731-6670

RE: Bryan A. McHowell v. SCI @ Wall Timber Products and Zurich American Ins. Co.
Date of Accident: February 12, 2009
WCC File No.: 0919360
Our File No.: 20675.10065
Claim No.: 2510066232

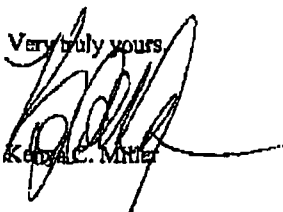
Dear Brent:

Please find enclosed the Settlement Agreement and Form 19 in the workers' compensation matter referenced above. I would appreciate it if you would have your client execute these documents and return them to my office for my signature. We will be responsible for forwarding the Settlement Agreement to the Workers' Compensation Commission. The settlement document reflects the entire agreement of the parties in this workers' compensation case. If you require any changes, or if you alter the settlement document in any way, please notify us when you return the document to us. *Please forward a self-addressed stamped envelope if you would like the Workers' Compensation Commission to provide you with a copy of the clocked Settlement Agreement.*

Please note that the Utica-Mohawk calculations have been adjusted as the language we received from your office was based upon a settlement amount of \$7,000.00 rather than \$8,000.00. Please review the changes carefully and let us know if any further revisions need to be made.

We have also enclosed the settlement draft in the amount of \$8,000.00. Please hold this draft in trust until this settlement has been approved by the Commission. Should you have any questions or comments, please do not hesitate to call.

Very truly yours,


KENYA C. MILLER

KCM/lwh
Enclosures

cc: Natalie Stephens, Zurich American Insurance Company (via fax transmittal)

COLUMBIA | CHARLESTON | GREENVILLE | CHARLOTTE | RALEIGH | MYRTLE BEACH
200 GERVAIS STREET, SUITE 300 | POST OFFICE BOX 12519 | COLUMBIA, SC 29211 | (803) 779-2300 | PHONE: (803) 748-0525 FAX
WWW.MGCLAW.COM

0751

JUN-18-2010 FRI 04:01 PM MCANGUS GOUDELOCK COURIE

FAX NO. 8037480526

P. 04/07

(Page 1 of 1)

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

WCC File # 0919360

Carrier File # 2510066232

Carrier Code # 00050 0001

Employer FEI#

Steven A. Motowill

Claimant's Name 7822 Van Wyne Rd

SSN

Lancaster

SC 29720

Address

City

State

Zip

(803) 283-9797

(912) 853-5100

Home Phone #

Work Phone #

Natalie Stephens

Payor's Name

SCI @ Wall, Timber Products Inc

Employer's Name 1445 Lancaster Hwy

Chester

SC

29706

Address

City

State

Zip

Surion American Insurance Co.

Insurance Carrier

(404) 851-3213

Phone #

Compensation Paid:	Number of Weeks	From	To	Amount
1. Number of weeks T.T.	23	12-22-09	6-23-2010	\$ 511,363.92
2. Number of weeks T.P.				\$
3. Number of weeks P.P.				\$
4. Disfigurement				\$
5. Agreement and Final Release				\$ 68,000.00
Total Compensation Paid				\$ 519,363.92
Total Medical Benefits* Paid				\$ 52,856.90
7. Funeral Benefits				\$

☐ Case Denied

Date of Injury: 02/12/2009

month day year

By signing this receipt, I acknowledge that I have received the compensation shown above.

By:

Claimant

By:

Natalie Stephens

Employer's Representative

Date:

Print or type the name of the person, other than the claimant, receiving benefits and sign below.

By:

Report of additional Fees and Recoupment

A. Carrier Reimbursement by Third Party

\$

B. Attorney's Fee Paid by Employer

\$

C. Attorney's Fee Paid by Claimant

\$ 30.00

(plan contingent fees only)

File this form with the Claims Department according to R.67-414 and R.67-1204. A person, other than the claimant, receiving benefits should sign on the line provided. *Do not include as medical costs fees paid for expert testimony, fees for determining carrier's liability, costs of autopsy, birth and death certificates and impartial examination. Form 19 must be filed within sixteen days of final payment of compensation. Form 19 must be filed when a claim is denied.

WCC FORM # 19 REV. DATE 3/96

19

STATUS REPORT AND COMPENSATION RECEIPT

0753

JUN-18-2010 FRI 04:02 PM MCANGUS GOUDELOCK COURIE FAX NO. 8037480526

P. 05/07

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 0919360

BRYAN A. MCHOWELL,

Employee,

Claimant,

vs.

SCI @ WALL TIMBER PRODUCTS, INC.,

Employer,

AND

ZURICH AMERICAN INSURANCE
COMPANY,

Carrier,

Defendants.

SETTLEMENT AGREEMENT
AND RELEASE

Bryan A. McHowell "Claimant" injured his left hand, by accident arising out of and in the course of his employment with SCI @ Wall Timber Products, Inc. "Employer" on or about February 12, 2009, when he slipped while exiting the back of truck and tried to catch his fall with his hand.

Claimant's average weekly wage is \$774.94; and the compensation rate is \$516.65.

Claimant contends that he is in need of additional medical examination and treatment; that he has lost compensable time from work and wages; that he has sustained permanent disability in excess of any ratings by treating physicians; and Defendants dispute the Claimant's allegations and deny that any additional benefits are due.

JUN-18-2010 FRI 04:02 PM MCANGUS GOUDELOCK COURIE FAX NO. 8037480526

P. 06/07

Claimant has been treated and/or evaluated by James N. Rentz, Jr., M.D., who did not rate the Claimant's permanent impairment.

In consideration of the sum of Eight Thousand Dollars and No Cents (\$8,000.00), Claimant does hereby release and forever discharge Defendants from any and all claims, demands, actions or causes of action under the South Carolina Workers' Compensation Act, on account of any and all injuries, disability, disfigurement, specific loss, death, operations, medical, hospital or like expense, continuances, recurrences, aggravations, changes of condition, ailments, illnesses, and diseases or other damages, consequences or results, past, present or future in any way connected with, or arising from the alleged injury sustained by Claimant on or about February 12, 2009, and does hereby acknowledge that Defendants have fully, finally and completely paid and discharged all of their obligations, liabilities and responsibilities under the South Carolina Workers' Compensation Act, and that the sum set forth above is being paid to, and received by, Claimant in full and final satisfaction of all claims whatsoever as a result of the alleged accident described above and that Defendants shall not be liable for any additional payments whatsoever.

Defendants have paid or have agreed to pay authorized medical expenses through March 19, 2010 incurred as a result of the alleged accident described above, in such amounts as may be approved by the South Carolina Workers' Compensation Commission.

The Claimant requests that the settlement proceeds of \$8,000.00 shall be allocated as follows: Four Thousand, Four Hundred Forty-Nine and 91/100 (\$4,449.91) Dollars in compromise settlement of disputed future wage loss at the rate of \$3.22 per week for a period of 1,379.04 weeks, representing the remainder of the Claimant's life, pursuant to South Carolina Code of Laws, Ann. (1976, as amended) §19-1-150 and the South Carolina Supreme Court

JUN-18-2010 FRI 04:02 PM MCANGUS GOUDELOCK COURIE FAX NO. 8037480526

P. 07/07

decision of Utica-Mohawk Mills v. Orr, 227 S.C. 226, 87 SE2d 59 and pursuant to the Sciaretta v. Bowen, 837 F2d 135 (3d Cir. 1988) decision; Two Thousand, Six Hundred Sixty-Four, and 00/100 (\$2,664.00) Dollars as attorney's fees and Eight Hundred Eighty-six, and 09/100 (\$886.09) Dollars as expenses incurred in bringing this action, pursuant to a written agreement between the claimant and his attorney.

Claimant and his attorney represent that Claimant has been fully advised of his rights under the South Carolina Workers' Compensation Act and that they are of the opinion that the proposed settlement is reasonable and fair. Claimant's attorney represents that he has reviewed the settlement and has explained the terms fully to Claimant and Claimant voluntarily and without coercion agreed to the terms.

Claimant hereby relinquishes and releases each and every claim which he or anyone on his behalf now has, or may hereafter have, so that he shall not have any other or future claim or demand of any kind or nature as a result of the alleged accident described above.

The parties are hereby filing this SETTLEMENT AGREEMENT AND RELEASE with the South Carolina Workers' Compensation Commission as required by S.C. Code Ann. § 42-9-390.

WE CONSENT:

McAngus Goudelock & Courie, L.L.C.

Kenya C. Miller
Attorney for Defendants

Columbia, South Carolina
Date: _____

Bryan A. McHowell
Claimant

Brent P. Stewart, Esquire
Attorney for Claimant

APR-26-2010 MON 02:01 PM McAngus Goudelock

FAX NO. 18037480526

P. 04/09

South Carolina Workers' Compensation Commission

P.O. Box 1715 • 1333 Main Street, Suite 500

Columbia, South Carolina 29202-1715

(803) 737-5700

WCC File # 0919360

Carrier File # 2510066232

Carrier Code # 9001

Employer FEIN

Bryan A. McHowell

Claimant's Name

SSN

7822 Van Wyne Road

Lancaster, South Carolina 29720

Address City State Zip

SCI @ Wall Timber Products, Inc.

Employer's Name

4224 West Henderson Avenue

Tampa, Florida 33629

Address City State Zip

Zurich American Insurance Company

Insurance Carrier

(803) 227-2218

Phone Number

Home Phone #

Work Phone #

Kenya C. Miller

Preparer's Name

The date of injury reported on the Form 12A is: February 12, 2009

Check applicable section(s). The employer's representative requests a hearing to:

- ☒ I. Stop payment of compensation. Compensation payments are current as of April 21, 2010 and shall continue until otherwise ordered or until a Form 17 is signed by the claimant. A Form 17 was offered and refused on April 20, 2010.

The basis of the stop payment hearing is (check one):

- ☒ (a) The authorized health care provider states the claimant has reached maximum medical improvement.
☐ (b) The authorized health care provider states the claimant is able to return to the same or other suitable job and has assigned an impairment rating, if any, and the same or suitable job has been offered to the claimant.
☐ (c) The authorized health care provider states the claimant is unable to return to the same or other suitable job and has assigned an impairment rating, if any.

- ☐ II. Terminate temporary compensation suspended per R.67-505. Date suspended: _____

The basis for suspension of benefits is (check one):

- ☐ (a) The claimant refuses medical treatment.
☐ (b) The employer states the claimant is working, has worked for at least fifteen calendar days, and the claimant refuses to sign the Form 17. Requesting: ☐ Informal Conference ☐ Hearing

- ☒ III. Pay compensation in the amount of to be determined, based on the following grounds: The Claimant's authorized treating physician, Dr. Rentz, determined the Claimant reached maximum medical improvement on March 18, 2010, and assigned a 0% impairment rating.

- ☒ IV. Request Credit for overpayment of temporary compensation.

- ☐ V. Reduce Payment of compensation from \$ _____ to \$ _____ based on the following grounds: _____
 Compensation payments are current as of _____ and shall continue until otherwise ordered or until a Form 17 is signed by the claimant.

I certify that I have served this document pursuant to R.67-211 by delivering a copy to:

Brent P. Stewart, Esquire
 Stewart & Love, LLC
 Post Office Box 670
 Rock Hill, South Carolina 29731-6670

on the 20th day of April, 2010 by ☒ first class mail; ☐ personal service; ☐ certified mail.

Preparer's Signature

Attorney for Employer/Carrier
TitleApril 20, 2010
Date

The claimant may respond by writing the preparer at the address above and filing a copy of the response with the Commission's Judicial Department at the address at the top of the form. Refer to R.67-208, R.67-211, R.67-505, R.67-601 - R.67-618. Questions about the use of this form should be directed to the Judicial Department at (803) 737-5675.

APR-26-2010 MON 02:01 PM McAngus Goudelock

FAX NO. 18037480526

P. 05/09

(Page 1 of 1)

[illegible]

JUN-18-2010 FRI 04:00 PM MCANGUS GOUDELOCK COURIE FAX NO. 8037480526

P. 01/07



Attorneys at Law

Reply To
LAURA W. HAWKINSON
Direct Dial: (803) 227-4946
laura.hawkinson@mgclaw.com
COLUMBIA

FAX COVER SHEET

DATE: June 18, 2010

TO: Natalie Stephens Fax: (404) 851-3601 Phone: (404) 851-3213

FROM: Laura W. Hawkinson

MG&C File No.: 20675.10065

RE: Bryan A. McHowell v. SCI @ Wall Timber Products and Zurich American Insurance Company
Date of Accident: February 12, 2009
WCC File No.: 0919360
Our File No.: 20675.10065
Claim No.: 2510066232

TOTAL NUMBER OF PAGES INCLUDING COVER: 7

COMMENTS: Please see attached.

SHOULD YOU HAVE ANY PROBLEMS RECEIVING THIS FAX PLEASE CONTACT LAURA W. HAWKINSON AT (803) 227-4946. THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS INFORMATION PROTECTED BY ATTORNEY-CLIENT AND/OR THE ATTORNEY/WORK PRODUCT PRIVILEGE. IT IS INTENDED FOR THE USE OF THE INDIVIDUAL NAMED ABOVE AND THE PRIVILEGES ARE NOT WAIVED BY VIRTUE OF THIS HAVING BEEN SENT BY FACSIMILE. IF THE PERSON ACTUALLY RECEIVING THIS FACSIMILE OR ANY OTHER READER OF THE FACSIMILE IS NOT THE NAMED ADDRESSEE, ANY USE, DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U. S. POSTAL SERVICE.

JUN-28-2010 MON 01:35 PM MCANGUS GOUDELOCK COURIE

FAX NO. 8037480526

P. 01/07



Attorneys at Law

Reply To
LAURA W. HAWKINSON
Direct Dial: (803) 227-4946
laura.hawkinson@mgclaw.com
COLUMBIA

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DATE: June 18, 2010

TO: Natalie Stephens Fax: (404) 851-3601 Phone: (404) 851-3213

FROM: Laura W. Hawkinson

MG&C File No.: 20675.10065

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JUN-28-2010 MON 01:36 PM MCANGUS GOUDELOCK COURIE

FAX NO. 8037480526

P. 02/07



ATTORNEYS AT LAW

Reply To
KENYA C. MILLER
Direct Dial: (803) 227-2218
kenya.miller@mgclaw.com
COLUMBIA

June 25, 2010

VIA HAND DELIVERY

Mary Bost
S. C. WORKERS' COMPENSATION COMMISSION
1333 Main Street, Suite 500
Columbia, South Carolina 29201

RE: Bryan A. McHowell v. SCI @ Wall Timber Products and Zurich American Insurance
Company
Date of Accident: February 12, 2009
WCC File No.: 0919360
Our File No.: 20675.10065
Claim No.: 2510066232

Dear Ms. Bost:

We have enclosed the original and three (3) copies each of a Clincher Agreement and the executed Form 19 for filing in the above matter. Also enclosed is a check in the amount of \$25.00 as payment of associated filing fees. Please return a stamped copy of both documents to us and Claimant's attorney listed below once it has been processed by the Commission.

With kind personal regards, we are

Very truly yours,

Kenya C. Miller

KCM/iwh
Enclosures

cc: Natalie Stephens, Zurich American Insurance Company (via fax transmittal)
Brent P. Stewart, Esquire, Stewart Law Offices, LLC
Amanda Perez-Chang, SCI

JUN-28-2010 MON 01:36 PM MCANGUS GOUDELOCK COURIE

FAX NO. 8037480526

P. 03/07

MCANGUS, GOUDELOCK & COURIE, L.L.C

Check Number: 141590

Check Date: 05/27/2010

DATE	DESCRIPTION	INVOICE NO	NET AMOUNT
5/27/2010	Laura Hawkins\BON\McHowell	20675.10065-7	\$ 25.00
Check Totals:			\$ 25.00

FL 182

THIS DOCUMENT CONTAINS SECURITY FEATURES - SEE BACK FOR DETAILS

MCANGUS, GOUDELOCK & COURIE, L.L.C
700 Gervais Street, Suite 300
Columbia SC 29201
PH. (803) 779-2300

No. 141590

87-119/539

The National Bank of South Carolina
Columbia, South Carolina

DATE
05/27/2010

PAY THIS AMOUNT
\$ 25.00

PAY Twenty Five & no/100 Dollars

OPERATING ACCOUNT

TO
THE
ORDER
OF

SCWCC

WBS

APR-26-2010 MON 02:02 PM McAngus Goudelock

FAX NO. 18037480526

P. 08/09

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 0919360

BRYAN A. MCHOWELL,

Employee,

Claimant,

vs.

SCI @ WALL TIMBER PRODUCTS, INC.,

Employer,

AND

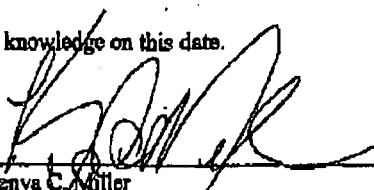
**ZURICH AMERICAN INSURANCE
COMPANY,**

Carrier,

Defendants.

VERIFICATION

Pursuant to S.C. Code Ann. Section 42-1-705(C) and other applicable law, I verify the contents of the Form 21 are accurate and true to the best of my knowledge on this date.



Kenya C. Miller
Post Office Box 12519, Capitol Station
700 Gervais St. Suite 300 (29201)
Columbia, South Carolina 29211-2519
(803) 779-2300

ATTORNEYS FOR DEFENDANTS

Date: April 20, 2010

APR-26-2010 MON 02:02 PM McAngus Goudelock

FAX NO. 18037480526

P. 09/09

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 0919360

BRYAN A. MCHOWELL,

Employee,

Claimant,

vs.

SCI @ WALL TIMBER PRODUCTS, INC.,

Employer,

AND

ZURICH AMERICAN INSURANCE COMPANY,

Carrier,

Defendants.

CERTIFICATE
OF
SERVICE

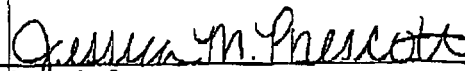
The undersigned certifies that she is an employee at MCANGUS GOUDELOCK & COURIE, and that she has served, on the date set forth below, a copy of the document described below, in the above entitled action to the following persons, pursuant to Section 15-9-930 and Section 15-9-940 of the Code of Laws of South Carolina, 1976, by depositing a copy of same in the United States Mail, postage prepaid, addressed to:

TO: Brent P. Stewart, Esquire
Stewart & Lova, LLC
Post Office Box 670
Rock Hill, South Carolina 29731-6670

VIA HAND DELIVERY
South Carolina Worker's Compensation Commission
1333 Main Street, Suite 500 Post Office Box 1715
Columbia, South Carolina 29202-1715

DOCUMENT: Form 21

DATE OF MAILING: April 20, 2010


Jessica M. Prescott
Legal Assistant to Kenya C. Miller

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

WCC File # 0919360
Carrier File # 2510066232
Carrier Code # 00090001
Employer FEIN [REDACTED]

Bryan A McHowell
Claimant's Name SSN [REDACTED]
7822 Van Wyne Rd Lancaster SC 29720
Address City State Zip
(803) 283-9797
Home Phone # Work Phone #
Natalie Stephens
Preparer's Name

SCI @ Wall Timber Products Inc
Employer's Name 1445 Lancaster Hwy
Chester SC 29706
Address City State Zip
Zurich American Insurance Co.
Insurance Carrier
(404) 851-3213
Phone #

1. Date of injury: 02-12-2009 2. Total Weeks of Compensation Paid: 13
month day year

3. Type of Compensation Paid (TP or TT)/Periods of Payment:

Type: TTD	From: 12-22-2009	To: 4-21-10
Type: _____	From: _____	To: _____
Type: _____	From: _____	To: _____

4. Date of First Payment: 01-13-2010
month day year

5. Total Amount Paid: (a) Compensation: \$6,714.07
(b) Medical (include Nursing, Hospital, Drugs, etc.): \$1,786.35

6. Informal Conference is Requested: ☐ yes ☐ no
(check one)

7. Use these lines to send a memo to the Commission:

Natalie Stephens (404) 851-3213
Employer's Representative Phone #

4-19-10
Date

Type or print all information. File this form 6 months after the alleged injury date and each 6 months until the Commission's File is closed. Form 8 must be filed whether or not compensation is ongoing. Check "yes" after number 6 to request an informal conference. Refer to R.87-413, R.87-07, and R.87-804 for further information.

South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500
P.O. BOX 1715
Columbia, SC 29202-1715
(803) 737-5723



WCC File #: 0919360
Carrier File #: 2510066232
Carrier Code #: 0009001
Employer FEIN #: [REDACTED]

Claimant's Name: Bryan A McHowell SSN: [REDACTED] Employer's Name: SC@Wall Timber Inc.
Address: 7822 Van Wyne Road Address: 1445 Lancaster Highway
City: Lancaster State: SC Zip: 29720 City: Chester State: SC Zip: 29706
Home Phone: () - Work Phone: () - Insurance Carrier: Zurich American Insurance
Preparer's Name: Natalie Stephens Law Firm: Preparer's Phone #: (404) 851-3213

Date of Injury: 02/12/2009 (m/d/yyyy)

1. Temporary Compensation Paid:

Number of Weeks	From	To	Amount
8	12/22/09	3/24/10	\$ 4647.47
			\$
			\$
			\$

2. The claimant returned to work on (m/d/yyyy) ☐ With restrictions but at a salary not less than before the injury.
☐ Without restrictions.

3. The claimant agrees he or she was able to return to work on 3-22-10.
(m/d/yyyy)

I agree that I was disabled for the period(s) indicated and I was paid compensation as shown above. **I UNDERSTAND THAT MY WEEKLY TEMPORARY COMPENSATION CHECKS WILL STOP; HOWEVER, I GIVE UP NO RIGHTS TO COMPENSATION FOR FUTURE DISABILITY, FOR PERMANENT DISABILITY, DISFIGUREMENT OR MEDICAL CARE.** The effect of this form has been fully explained to me, and I have received a copy of it. I understand that I should not sign this form until 15 days after I have returned to work or agree I was able to return to work.

Claimant's Signature

Natalie Stephens

Employer's Representative Signature

(Check one) ☐ Witness ☐ Claimant's Attorney

Date Agreement Signed

File this form with the Claims Department no later than 31 days from the date the claimant returned to work to terminate temporary compensation after the first 150 days after employer's notice of the injury according to R.67-505. Within the 150 period, obtain Form 17 to document that claimant agrees he or she is able to return to work.

WCC Form # 17
Rev. Date 3/97

17

RECEIPT OF COMPENSATION

0766

Feb. 5, 2010 3:38PM
(Page 1 of 1)

No. 4021 P. 1

SC Workers' Compensation Commission
1612 Marion St.
P.O. BOX 1715
Columbia, SC 29202-1715



WCC File #: 0919360
Carrier File #: 2510066232
Carrier Code #: 0009001
Employer FEIN #:

Claimant's Name: Bryan A McHowell SSN: Employer's Name: SC Wall Timber Products Inc
Address: 7822 Ver. Wyne Rd Address: 1445 Lancaster Hwy
City: Lancaster State: SC Zip: 29720 City: Chester State: SC Zip: 29708
Home Phone: 803 Work Phone: Carrier: Zurich American Insurance Co.
Preparer's Name: Peggy Chaney Preparer's Phone #: 404-851-3204

Date of Injury: 02-12-2009

Date of Notice to Employer of Injury: 02-12-2009

I. Payment of Temporary Compensation
(choose A, B, or C)

Check one: ☐ Initial period ☒ Additional period ☐ Corrected compensation rate

☒ A. Temporary Total at the compensation rate of \$16.65 per week. For this period of disability, disability began on 12/29/09 and the date of first payment was 1769.00

☐ B. Temporary Partial at the compensation rate of \$ per week. Note: When the Temporary Partial compensation rate will vary, report the first payment here. Supplement this report throughout the period of Temporary Partial compensation by filing a Form 166 with the Form 18, which shall be filed six months after the date of injury and each six months thereafter until the file is closed. For this period of disability, disability began on , and the date of first payment was .

Calculation of Temporary Partial rate:

Average weekly wage before injury	\$ <u> </u>
Current weekly wage	\$ <u> </u>
Difference in wages before injury and now	\$ <u> </u>
<u>16.65</u>	x <u>6667</u>
Temporary Partial Compensation Rate	\$ <u> </u>

☐ C. Salary in lieu of Temporary Total / Partial compensation in the amount of \$ per week.
(Choose or circle one)

For this period of disability, disability began on 02-12-2009 and the date of first payment of salary in lieu of temporary compensation was .

THIS SECTION MAY BE USED ONLY WITHIN 150 DAYS AFTER NOTICE TO EMPLOYER OF INJURY.
ATTACH DOCUMENTATION AS TO THE REASON OF THE TERMINATION.

01/19/2010

II. Termination of Temporary Compensation Temporary compensation payments were stopped on for the following reason:

Claimant has returned to work at least 15 days and no temporary partial compensation is due.

☐ Claimant agrees he/she is able to return to work and has signed a Form 17.

☐ Based on a good faith investigation, the claim is denied. Reason for denial:

☒ Claimant has been released to return to work without restrictions and employment has been offered.

☐ Claimant has been released to work at limited duty and employer has provided limited duty work consistent with the terms upon which the Employee has been released.

☐ Claimant has refused medical treatment, examination, or evaluation. Note: Benefits must be resumed if claimant accepts the treatment, examination, or evaluation. Additional report must be filed if compensation is resumed.

I certify that this form has been served on the claimant per R.67-211.

Signature of Claims Administrator: Date: 02-06-2010

III. Notice to Injured Worker or Legal Representative when Temporary Compensation Has Been Stopped:

The employer's representative may stop temporary compensation within 150 days of the date of notice of injury for the above reasons. However, if you believe that the temporary compensation should not have been stopped, you may request a hearing by signing below and returning this form to SCWCC Judicial Department at the address at the top of this form. A hearing will be held within 60 days of receipt of your request to determine if temporary compensation has been properly terminated.

MY SIGNATURE BELOW INDICATES THAT I DO NOT AGREE WITH THE TERMINATION OF TEMPORARY COMPENSATION.
I REQUEST A HEARING TO DETERMINE WHETHER I AM ENTITLED TO FURTHER TEMPORARY COMPENSATION PAYMENTS.

Check one: Form 15(II) ☐ Has ☐ Has not been received.

Signature of Claimant or legal representative:

Date:

Employer's representative must complete and file Form 15 with Claims Department within ten days after compensation begins or is terminated. Employer's representative must serve the Form 18 on the claimant when compensation begins per R.67-211. Employer's representative must prepare and serve Form 23 within thirty days of beginning compensation per R.67-1803. Employer's representative must serve per R.67-211 two copies of the Form 18 on claimant immediately on termination of compensation with documentation attached as to the reason for the termination. Injured worker may contest termination of compensation by completing section III of the Form 18 and filing it with Judicial Department.

SC Workers' Compensation Commission
1612 Marion St.
P.O. BOX 1715
Columbia, SC 29202-1715



WCC File #: _____
Carrier File #: 2510066232
Carrier Code #: _____
Employer FEIN #: _____

Claimant's Name: Bryan A McHowell SSN: Employer's Name: SCI @ Wall Timber Products Inc
Address: 7822 Van Wyne Rd Address: 1445 Lancaster Hwy
City: Lancaster State: SC Zip: 29720 City: Chester State: SC Zip: 29706
Home Phone: (803) 283-9197 Work Phone: (912) 863-5108 Carrier: Zurich American Insurance Co.
Preparer's Name: Peggy Chaney Preparer's Phone #: (404) 851-3204

Date of Injury: 02-12-2009

Date of Notice to Employer of Injury: 02-12-2009

I. Payment of Temporary Compensation
(choose A, B, or C)

Check one: ☒ Initial period ☐ Additional period ☐ Corrected compensation rate

☒ A. Temporary Total at the compensation rate of \$ 3516.6 per week. For this period of disability, disability began on 12/22/09 and the date of first payment was 295.22.

☐ B. Temporary Partial at the compensation rate of \$ _____ per week. Note: When the Temporary Partial compensation rate will vary, report the first payment here. Supplement this report throughout the period of Temporary Partial compensation by filing a Form 15S with the Form 18, which shall be filed six months after the date of injury and each six months thereafter until the file is closed.
For this period of disability, disability began on _____, and the date of first payment was _____.

Calculation of Temporary Partial rate:

Average weekly wage before injury	\$ _____
- Current weekly wage	\$ _____
Difference in wages before injury and now	\$ _____
x <u>6667</u>	x <u>6667</u>
Temporary Partial Compensation Rate	\$ _____

☐ C. Salary in lieu of Temporary Total / Partial compensation in the amount of \$ _____ per week.
(Choose or circle one)

For this period of disability, disability began on 12-16-2 and the date of first payment of salary in lieu of temporary compensation was _____.

THIS SECTION MAY BE USED ONLY WITHIN 150 DAYS AFTER NOTICE TO EMPLOYER OF INJURY.
ATTACH DOCUMENTATION AS TO THE REASON OF THE TERMINATION.

12/28/2009

II. Termination of Temporary Compensation Temporary compensation payments were stopped on _____ for the following reason:

- ☐ Claimant has returned to work at least 15 days and no temporary partial compensation is due.
☐ Claimant agrees he/she is able to return to work and has signed a Form 17.
☐ Based on a good faith investigation, the claim is denied. Reason for denial: _____
☐ Claimant has been released to return to work without restrictions and employment has been offered.
☒ Claimant has been released to work at limited duty and employer has provided limited duty work consistent with the terms upon which the Employee has been released.
☐ Claimant has refused medical treatment, examination, or evaluation. Note: Benefits must be resumed if claimant accepts the treatment, examination, or evaluation. Additional report must be filed if compensation is resumed.

I certify that this form has been served on the claimant per R.67-211.

Signature of Claims Administrator _____

01-19-2010
Date

III. Notice to Injured Worker or Legal Representative when Temporary Compensation Has Been Stopped:

The employer's representative may stop temporary compensation within 150 days of the date of notice of injury for the above reasons. However, if you believe that the temporary compensation should not have been stopped, you may request a hearing by signing below and returning this form to SCWCC Judicial Department at the address at the top of this form. A hearing will be held within 60 days of receipt of your request to determine if temporary compensation has been properly terminated.

MY SIGNATURE BELOW INDICATES THAT I DO NOT AGREE WITH THE TERMINATION OF TEMPORARY COMPENSATION.
I REQUEST A HEARING TO DETERMINE WHETHER I AM ENTITLED TO FURTHER TEMPORARY COMPENSATION PAYMENTS.

Check one: Form 15(II) ☐ Has ☐ Has not been received.

Signature of Claimant or legal representative _____

Date _____

Employer's representative must complete and file Form 15 with Claims Department within ten days after compensation begins or is terminated. Employer's representative must serve the Form 15 on the claimant when compensation begins per R.67-211. Employer's representative must prepare and serve Form 20 within thirty days of beginning compensation per R.67-1803. Employer's representative must serve per R.67-211 two copies of the Form 15 on claimant immediately on termination of compensation with documentation attached as to the reason for the termination. Injured worker may contest termination of compensation by completing section III of the Form 15 and filing it with Judicial Department.

Wage Statement for Similar EE # [REDACTED]

South Carolina Workers' Compensation Commission
1612 Marion St. • P.O. BOX 1715
Columbia, SC 29202-1715
(803) 737-5723



WCC File #:

Carrier File #: **2510066232**

Carrier Code #:

Employer FEIN #:

Claimant's Name: **MCHOWELL BRYAN**Employer's Name: **SCIGWall Timber Products, Inc.**

Address:

Address:

City:

State:

Zip:

City:

State:

Zip:

Home Phone: ()

Work Phone: ()

Insurance Carrier:

Zurich American Ins. Co.

Preparer's Name:

Peggy Chaney

Preparer's Phone #:

(404) 851-3204Date of Injury: **02/12/2009**
month day year

A. Total Wages Paid

1. Check Applicable Method:

- ☐ Report of earnings of injured employee based on four completed quarters.
☐ Report of earnings of injured employee who did not complete four quarters based on actual time worked.
☐ Report of earnings of similar employee. Injured employee did not work sufficient time before alleged injury. Hire date: _____
☐ Report of earnings of injured employee based on alternative method because Form 20 results in a compensation rate that is not fair and just (attach documentation to show how average weekly wage and compensation rate were calculated).

2. List total wages paid as reported to the Employment Security Commission on the Employer Quarterly Contribution and Age Reports during the four quarters immediately preceding the quarter in which the injury occurred. Do not include the quarter during which the injury occurred.

Quarter	Ending Date	Total Wages Paid
1st	02/28/2009	\$ 8,714.00
2nd	05/09/08	\$ 11,309.00
3rd	08/10/08	\$ 9,778.00
4th	05/11/08	\$ 10,496.00

Total Paid 2. **\$ 40,297**

3. List total value of other allowances of any character made in lieu of wages during four quarters above.

3. **\$**

4. Add lines 2 and 3.

TOTAL WAGES PAID:

4. **\$**

5. List total number of weeks paid to employee during the four quarters immediately preceding the quarter in which the injury occurred.

5. **52 weeks**

B. Average Weekly Wage

6. To calculate average weekly wage, divide total wages (line 4) by total weeks paid (line 5).

AVERAGE WEEKLY WAGE:

6. **\$ 774.94**

C. Compensation Rate

7. The general rule for calculating the compensation rate is to multiply average weekly wage (line 6) by .6667. Estimate compensation rate by multiplying average weekly wage (line 6) by .6667. See part 8 below to determine the actual compensation rate.

7. **\$ 516.65**

8. The compensation rate is as follows (choose one):

- ☒ The calculated compensation rate (line 7) applies. Enter amount from line 7 on line 8.
☐ When average weekly wage (line 6) is less than \$75.00, the compensation rate is the average weekly wage. Enter average weekly wage on line 8.
☐ When the estimated compensation rate (line 7) is less than \$75.00 and average weekly wage (line 6) is more than \$75.00, the compensation rate is \$75.00. Enter \$75.00 on line 8.
☐ When the estimated compensation rate (line 7) is more than the maximum compensation rate for the year in which the injury occurred, enter the maximum compensation rate for the year in which the injury occurred on line 8.
☐ Employee is within the exceptions listed in S.C. Code Ann. Section 42-7-65. List applicable exception here and enter appropriate compensation rate on line 8. _____

WEEKLY COMPENSATION RATE 8. **\$**

Employer's representative shall prepare a Form 20 and serve per R.67-211 a copy on the claimant within thirty days of beginning temporary compensation. See R.67-1603 when no temporary compensation is paid. NOTE: Average weekly wage represents average gross pay before taxes and other deductions. WHEN THE CLAIMANT DOES NOT AGREE WITH THE COMPENSATION RATE ON LINE 8, HE OR SHE SHOULD CONTACT THE EMPLOYER'S REPRESENTATIVE TO TRY TO REACH AN AGREEMENT AS TO THE COMPENSATION RATE. IF NO AGREEMENT CAN BE REACHED, THE CLAIMANT SHOULD CONTACT THE CLAIMS DEPARTMENT AT (803) 737-5723.

WCC Form # 20
Rev. Date 3/87

20

STATEMENT OF EARNINGS
OF INJURED EMPLOYEE

Thursday, December 10, 2009

gsarker

0769

WORKERS COMPENSATION - FIRST REPORT OF INJURY OR ILLNESS

EMPLOYER (NAME & ADDRESS (INCL ZIP)) SCI @ Wall Timber Products Inc 1445 Lancaster Hwy Chester SC 29706		CARRIER/CLAIMS ADMINISTRATOR Zurich American Insurance Co. 1400 American Lane Schaumburg IL 60196 847 605-6000	CARRIER FEIN 364233459	POLICY/SELF-INSURED NUMBER WC 4557044	ADMINISTRATOR FEIN
INDUSTRY CODE 7361		EMPLOYER'S LOCATION ADDRESS (IF DIFFERENT):	LOCATION # 163704 PHONE # 912 863-5108		
CARRIER/CLAIMS ADMINISTRATOR CARRIER (NAME, ADDRESS & PHONE #) Zurich American Insurance Co. 1400 American Lane Schaumburg IL 60196 847 605-6000		POLICY PERIOD 3/1/08 3/1/09 TO CHECK IF APPROPRIATE ☐ SELF INSURANCE	CLAIMS ADMINISTRATOR (NAME, ADDRESS & PHONE NO)		
JURISDICTION SC		JURISDICTION CLAIM NUMBER	INSURED REPORT NUMBER		
EMPLOYEE (NAME, ADDRESS & PHONE #) Mchowell, Bryan A 7822 Van Wyne Rd Lancaster SC 29720 PHONE 803 283-9797		DATE HIRED 10/10/2008	STATE OF HIRE	OCCUPATION/JOB TITLE 63704 Driver	
SEX ☒ MALE ☐ FEMALE ☐ UNKNOWN		MARITAL STATUS ☒ UNMARRIED ☐ MARRIED ☐ SEPARATED ☐ UNKNOWN	EMPLOYMENT STATUS Full-Time		EMPLOYEE CLASS CODE
RATES PER ☒ DAY WEEK ☐ MONTH OTHER		DAYS WORKED/WEEK 5	FULL PAY FOR DAY OF INJURY? DID SALARY CONTINUE?		YES NO YES NO
OCCURRENCE/TREATMENT TIME EMPLOYEE BEGAN WORK AM PM DATE OF INJURY/ILLNESS 2/12/2009 TIME OF OCCURRENCE 12:00 CANNOT BE DETERMINED		LAST WORK DATE 2/12/2009	DATE EMPLOYER NOTIFIED 2/12/2009		
CONTACT NAME/PHONE NUMBER		TYPE OF INJURY/ILLNESS All Other Specific Injuries Woc		PART OF BODY AFFECTED Hand	
DO INJURY/ILLNESS/EXPOSURE OCCUR ON EMPLOYER'S PREMISES? ☒ YES ☐ NO		TYPE OF INJURY/ILLNESS CODE		PART OF BODY AFFECTED CODE	
DEPARTMENT OR LOCATION WHERE ACCIDENT OR ILLNESS EXPOSURE OCCURRED CHEST		ALL EQUIPMENT, MATERIALS, OR CHEMICALS EMPLOYEE WAS USING WHEN ACCIDENT OR ILLNESS EXPOSURE OCCURRED			
SPECIFIC ACTIVITY THE EMPLOYEE WAS ENGAGED IN WHEN THE ACCIDENT OR ILLNESS EXPOSURE OCCURRED		WORK PROCESS THE EMPLOYEE WAS ENGAGED IN WHEN ACCIDENT OR ILLNESS EXPOSURE OCCURRED			
HOW INJURY OR ILLNESS/ABNORMAL HEALTH CONDITION OCCURRED. DESCRIBE THE SEQUENCE OF EVENTS AND INCLUDE ANY OBJECTS OR SUBSTANCES THAT DIRECTLY INJURED THE EMPLOYEE OR MADE THE EMPLOYEE ILL He slipped and tried to catch his fall with his hand - heard hand					
DATE RETURNED TO WORK		IF FATAL, GIVE DATE OF DEATH		WERE SAFEGUARDS OR SAFETY EQUIPMENT PROVIDED? WERE THEY USED?	
PHYSICAL/HEALTH CARE PROVIDER (NAME & ADDRESS)		HOSPITAL OR OFF SITE TREATMENT (NAME & ADDRESS)		INITIAL TREATMENT 0 NO MEDICAL TREATMENT 1 MINOR BY EMPLOYER 2 MINOR CLINIC/HOSP 3 EMERGENCY CARE 4 HOSPITALIZED > 24 HOURS 5 FUTURE MAJOR MEDICAL/LOST TIME ANTICIPATED	
OTHER					
WITNESSES (NAME & PHONE #)					
DATE ADMINISTRATOR NOTIFIED 02/13/09		DATE PREPARED 02/14/09		PREPARED BY NAME & TITLE Jaime Geer PHONE NUMBER 800 750-1932	

FORM IA-1(1-1-02)

SEE BACK FOR IMPORTANT INFORMATION

©IAIABC 2002

163704

0770

APR-26-2010 MON 02:02 PM McAngus Goudelock

FAX NO. 18037480526

P. 06/09

Page 2 of 3)

Carolina Orthopaedic Surgery Associates, P.A.
1201 Colonial Commons
Lancaster, SC 29720
(803)286-8443

Patient Name: BRYAN MCLOWELL

Date of Birth: [REDACTED] 52 y

Account: [REDACTED]

Date: 03/19/2010

INDIANLAND

II: He returns for the excision of Dupuytren's nodule from the palm of his left hand over the ring finger flexor tendon.

PE: The incision is well healed. He has got good extension of the finger. Good flexion.

P: He is three months out. At this point I consider him at Maximum Medical Improvement. There is no permanent impairment from this injury. He says it is still a little stiff when he tries to pick up things but I have explained to him there is no reason that he cannot do that. He is released to regular duties. No permanent impairment. Nothing further is needed orthopaedically. We will see him back p.r.n.
James N. Rentz, Jr., M.D. /fw 233378

WORKSTATUS: Released to regular duties.

c: Zurich, P.O. Box 628210, Orlando, FL 32862
Claim #: 2510066232 Attn: Diane Haynes

Electronically signed by: JAMES N RENTZ, JR., M.D. on March 21, 2010

Page 1 of 1

APR-26-2010 MON 02:02 PM McAngus Goudelock

FAX NO. 18037480526

P. 07/09

Page 3 of 3)

Carolina Orthopaedic Surgery Associates, P.A.
1201 Colonial Commons
Lancaster, SC 29720
(803)286-8443

Patient Name: BRYAN MCHOWELL

Date of Birth: [REDACTED] 52 y

Account:

Date: 03/19/2010

- WORK NOTE -

Bryan Mchowell was treated in our office today. He was discharged at 01:01 pm. Please contact him for this appointment.

RETURN TO WORK RESTRICTIONS: (If unable to accommodate restrictions patient should be out of work until next scheduled appointment)

Return to work with no restrictions on 3-22-10

Electronically signed by: JAMES N. RENTZ, JR., M.D. (to verify status call 329-3130)

James N. Rentz, Jr., M.D.

Page 1 of 1



Kim Eargle
Staff Claim Service Adjuster
Palmetto MCO

September 28, 2012

Huff Law Firm LLC
7244 Woodrow Street
Irmo, S.C. 29063

ATTN: Shelby H. Kellahan

RE: Bryan McHowell v. Star Food Products/Mrs. Stratton's Salads, Inc.
WCC File No.: 1207730
Date of Injury: 3/6/2012

Dear Ms. Kellahan,

With respect to yours of September 18th, enclosed please find our file documents pertaining to the claim of Bryan McHowell.

If you require anything else, feel free to contact me.

Sincerely,

Kim D. Eargle
Allstate Insurance Company
Palmetto MCO
803-213-3636



HUFF
LAW FIRM LLC

Insd. Kimbrell

E. Ros Huff, Jr.
roshuff@colalaw.com

Shelby H. Kellahan
skellahan@colalaw.com

September 18, 2012

Allstate Insurance Co
1400 Browning Road
Columbia, SC 29210

no physical file

Re: Bryan McHowell v. Star Food Products/Mrs. Stratton's Salads, Inc.
WCC File No. 1207730
Date of Injury: 03/06/12
Social Security No. [REDACTED]
Date of Birth: [REDACTED]

To Whom It May Concern:

Our firm represents the workers' compensation carrier in a workers' compensation claim brought by the above named claimant.

Enclosed is a subpoena for a copy of all records under Frank Kimbrell's personal auto policy with Allstate Insurance Co. for the accident of 02/02/11 involving Bryan McHowell, along with any written documentation relating to acceptance, denial or payment of such claims and copies of all correspondence between Allstate Insurance Co and Bryan McHowell.

Thank you for your assistance with this request.

Sincerely,


Shelby H. Kellahan

SHK/ea
Enclosure

cc: Deborah Vaughn (email)

5500.0585

ALLSTATE INSURANCE COMPANY
10815 DAVID TAYLOR DR, CHARLOTTE, NC 28262
1-800-755-5288
SUPPLEMENT REQUESTS MUST BE APPROVED PRIOR TO REPAIR
FAX LINE BY LINE SUPPLEMENTS TO: 866-366-8599 FOR SC - 866-863-3008 FOR NC

*** ESTIMATE ***

02/07/2011 08:27 AM

Owner

Owner: BRYAN MCHOWELL
Address: 7822 VAN WYCK RD
City State Zip: LANCASTER, SC 29720
Email: BBQKINGSC@YAHOO.COM

Work/Day: (803)287-4780
FAX:

Control Information

Claim #: 000191066208804
Loss Date/Time: 02/02/2011

Insured Policy #:
Loss Type: Liability

Insured: FRANK KIMBRELL

Claimant: BRYAN MCHOWELL
Address: 7822 VAN WYCK RD
City State Zip: LANCASTER, SC 29720
Email: BBQKINGSC@YAHOO.COM

Work/Day: (803)287-4780
FAX:

Inspection

Inspection Date: 02/07/2011 08:03 AM
Inspection Location: Lancaster Di
City State Zip: Lancaster, SC 29720
Primary Impact: Rear

Inspection Type: Field
Contact:
FAX:
Secondary Impact:

Assigned Date/Time:

Received Date/Time: 02/07/2011 08:03 AM

Appraiser Name: ROBERT HORNE
Address: charlotte

Appraiser License #:
Work/Day: (704)957-5634

Repairer

Target Complete Date/Time:

Days To Repair: 1

Vehicle

2006 Dodge Ram 150/1500 SLT 4 DR Ext Cab Short Bed
8cyl Gasoline 5.7 HEMI
5 Speed Automatic

Lic. Plate:
Lic Expire:
Prod Date:
Veh Insp#:
Condition:
Ext. Color: MINERAL GREY
Ext. Refinish: Two-Stage
Ext. Paint Code: PDM

Lic State: SC
VIN:
Mileage: 64,982
Mileage Type: Actual
Code:
Int. Color:
Int. Refinish:
Int. Trim Code:

Options

4-Wheel Drive
Aluminum/Alloy Wheels
Center Console
Dual Airbags
Keyless Entry System

AM/FM CD Player
Anti-Lock Rear Brakes
Chrome Step Bumper
Heated Power Mirrors
Lighted Entry System

Air Conditioning
Auto Locking Hubs (4WD)
Cruise Control
Intermittent Wipers
Overhead Console

02/07/2011 08:42 AM

Page 1 of 4

0775

Power Brakes
Power Windows
Split Front Bench Seat
Tilt Steering Wheel
Velour/Cloth Seats

Power Door Locks
Privacy Glass
Tachometer
Tinted Glass

Power Steering
Rear Bench Seat
Theft Deterrent System
Trip Computer

Damages

Line	Op	Guide	MC	Description	MFR/Part No.	Price	ADJ%	B%	Hours	R
1	E	456	46	Bumper,Rear Step	68004420AA	\$475.00	-10.00		1.1	SM
2	EU	546		Trailer Hitch	RECYCLED PART	\$150.00*	+25.00		3.3	SM
				>> see bonz @ 1kq 800-422-0348 #482523						
2	Items									
			MC	Message						
			46	PRINTABLE ALTERNATE PARTS COMPARE						

Estimate Total & Entries

Gross Parts	\$475.00	
Other Parts	\$150.00	
Line Item Discount	\$47.50	
Line Item Markup	\$37.50	
Parts & Material Total		\$815.00
Tax On Parts Only	@ 8.000%	\$49.20

Labor	Rate	Replace Hrs	Repair Hrs	Total Hrs	
Sheet Metal (SM)	\$40.00	4.4		4.4	\$176.00
Mech/Elec (ME)	\$45.00				
Frame (FR)	\$45.00				
Refinish (RF)	\$40.00				
Paint Materials	\$26.00				

Labor Total	4.4 Hours	\$176.00
Gross Total		\$840.20
Net Total		\$840.20
Customer Owes		\$0.00

Alternate Parts Y/01/00/00/01/01 CUM 01/00/00/01/01 Zip Code: 28401 SE SOUTH NC 1ST 07/08

Audatex Estimating 6.0.217 ES 02/07/2011 08:42 AM REL 6.0.217 DT 12/01/2010 DB 02/01/2011
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IMPORTANT INFORMATION ABOUT ALLSTATE'S CHOICE OF PARTS POLICY

THIS ESTIMATE MAY LIST PARTS FOR USE IN THE REPAIR OF YOUR VEHICLE THAT ARE MANUFACTURED BY A COMPANY OTHER THAN THE ORIGINAL MANUFACTURER OF YOUR VEHICLE. THESE PARTS ARE COMMONLY REFERRED TO AS AFTERMARKET PARTS OR COMPETITIVE PARTS, AND MAY INCLUDE COSMETIC OUTER BODY CRASH PARTS SUCH AS HOODS, FENDERS, BUMPER COVERS, ETC. ALLSTATE GUARANTEES THE FIT AND CORROSION RESISTANCE OF ANY AFTERMARKET/COMPETITIVE OUTER BODY CRASH PARTS THAT ARE LISTED ON THIS ESTIMATE AND ACTUALLY USED IN THE REPAIR OF YOUR VEHICLE FOR AS LONG AS YOU OWN IT. IF A PROBLEM DEVELOPS WITH THE FIT OR CORROSION RESISTANCE

OF THESE PARTS, THEY WILL BE REPAIRED OR REPLACED AT ALLSTATE'S EXPENSE. THIS GUARANTEE IS LIMITED TO THE REPAIR OR REPLACEMENT OF THE PART.

HOWEVER, IF YOU CHOOSE NOT TO USE ONE OR MORE OF THE AFTERMARKET/COMPETITIVE OUTER BODY CRASH PARTS THAT MAY BE LISTED ON THIS ESTIMATE IN THE REPAIR OF YOUR VEHICLE, ALLSTATE WILL SPECIFY THE USE OF ORIGINAL EQUIPMENT MANUFACTURER PARTS, EITHER NEW OR RECYCLED AT ALLSTATE'S OPTION, AT NO ADDITIONAL COST TO YOU. ALLSTATE DOES NOT SEPARATELY GUARANTEE THE PERFORMANCE OF ORIGINAL EQUIPMENT MANUFACTURER PARTS, AND MAKES NO REPRESENTATION ABOUT THE AVAILABILITY OF ANY MANUFACTURER'S GUARANTEE.

TO ALL REPAIR FACILITIES: BEFORE USING AN AFTERMARKET SHEETMETAL PART, BE SURE TO LOOK FOR THE CAPA SEAL. THIS IS NOT AN AUTHORIZATION FOR REPAIR. SUPPLEMENTS MUST BE APPROVED PRIOR TO REPAIR. IF YOUR CAR IS OF UNITIZED CONSTRUCTION, IN SOME CASES THE REPAIR SHOP MAY NEED SPECIAL EQUIPMENT TO PROPERLY REPAIR THE CAR. YOU SHOULD DETERMINE IF THE SHOP YOU SELECT TO COMPLETE THE REPAIRS IS PROPERLY EQUIPPED.

THIS ESTIMATE HAS BEEN PREPARED BASED ON THE USE OF AUTOMOTIVE PARTS NOT MADE BY THE ORIGINAL MANUFACTURER. PARTS USED IN THE REPAIR OF YOUR VEHICLE MADE BY OTHER THAN THE ORIGINAL MANUFACTURER ARE REQUIRED TO BE AT LEAST EQUIVALENT IN TERMS OF FIT, QUALITY, PERFORMANCE, AND WARRANTY TO THE ORIGINAL MANUFACTURER PARTS THEY ARE REPLACING.

CUSTOMER CHOICE OF REPAIR SHOPS

IT IS TO OUR MUTUAL BEST INTEREST THAT YOU RECEIVE PROMPT AND COURTEOUS SERVICE ALONG WITH QUALITY REPAIR WORK AT A FAIR PRICE. IF YOU HAVE A PREFERENCE FOR A PARTICULAR SHOP, YOUR ADJUSTER WILL WRITE OR APPROVE AN ESTIMATE OF REPAIRS WITH THAT SHOP BASED ON COMPETITIVE PRICES IN THE AREA. INFORMATION REGARDING REPAIR FACILITIES, WHICH WILL BE ABLE TO REPAIR THE VEHICLE FOR THE APPRAISED AMOUNT, IS AVAILABLE FROM YOUR ADJUSTER OR INSURER. HOWEVER, YOU ARE UNDER NO OBLIGATION TO USE ANY RECOMMENDED REPAIR FACILITY. THE CHOICE OF WHERE YOUR VEHICLE REPAIRED IS YOURS. ADDITIONALLY, AMOUNTS DETERMINED BY US THAT ARE PAYABLE WILL BE PAID REGARDLESS OF WHETHER OR NOT YOU USE ANY RECOMMENDED REPAIR FACILITY.

Op Codes

* = User-Entered Value
EC = COMPETITIVE PART
ET = Partial Replace Labor
TE = Partial Replace Price
L = Refinish
TT = Two-Tone
BR = Blend Refinish
CG = Chipguard
AA = Appearance Allowance

E = Replace OEM
OE = Replace PXN OE Srpls
EP = COMPETITIVE PART
PM = Replace PXN Reman/Rebld
PC = Replace PXN Reconditioned
SB = Sublet Repair
I = Repair
RI = R & I Assembly
RP = Related Prior Damage

NG = Replace NAGS
UE = Replace OE Surplus
EU = RECYCLED PART
UM = Replace Reman/Rebuilt
UC = Replace Reconditioned
N = Additional Labor
IT = Partial Repair
P = Check



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Estimate Summary Page

ROBERT HORNE

Gross Total	\$840.20
Net Total	\$840.20
Customer Owes	\$0.00

Audatex Estimating 6.0.217 ES 02/07/2011 08:42 AM REL 6.0.217 DT 12/01/2010 DB 02/01/2011
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ALLSTATE SUPPLEMENT HOTLINE FAX FORM
(TO BE COMPLETED AND FAXED WITH A LINE BY LINE SUPPLEMENT
ESTIMATE BY THE REPAIR FACILITY)

N.C. ESTIMATES FAX FORM TO: 1-866-863-3008

S.C. ESTIMATES FAX FORM TO: 1-866-366-8599

REPAIR FACILITY

THIS IS NOT AN AUTHORIZATION TO PROCEED, YOU WILL BE CONTACTED FOR
APPROVAL OR A TECHNICIAN WILL COME TO YOUR SHOP TO REINSPECT

SHOP NAME: _____

SHOP ADDRESS: _____

ZIP CODE: _____

SHOP CONTACT NAME: _____

SHOP PHONE NUMBER: (____) _____

CLAIM NUMBER: (ALL LETTERS AND NUMBERS) _____

CUSTOMER NAME: _____

YEAR/MAKE/MODEL OF VEHICLE: _____

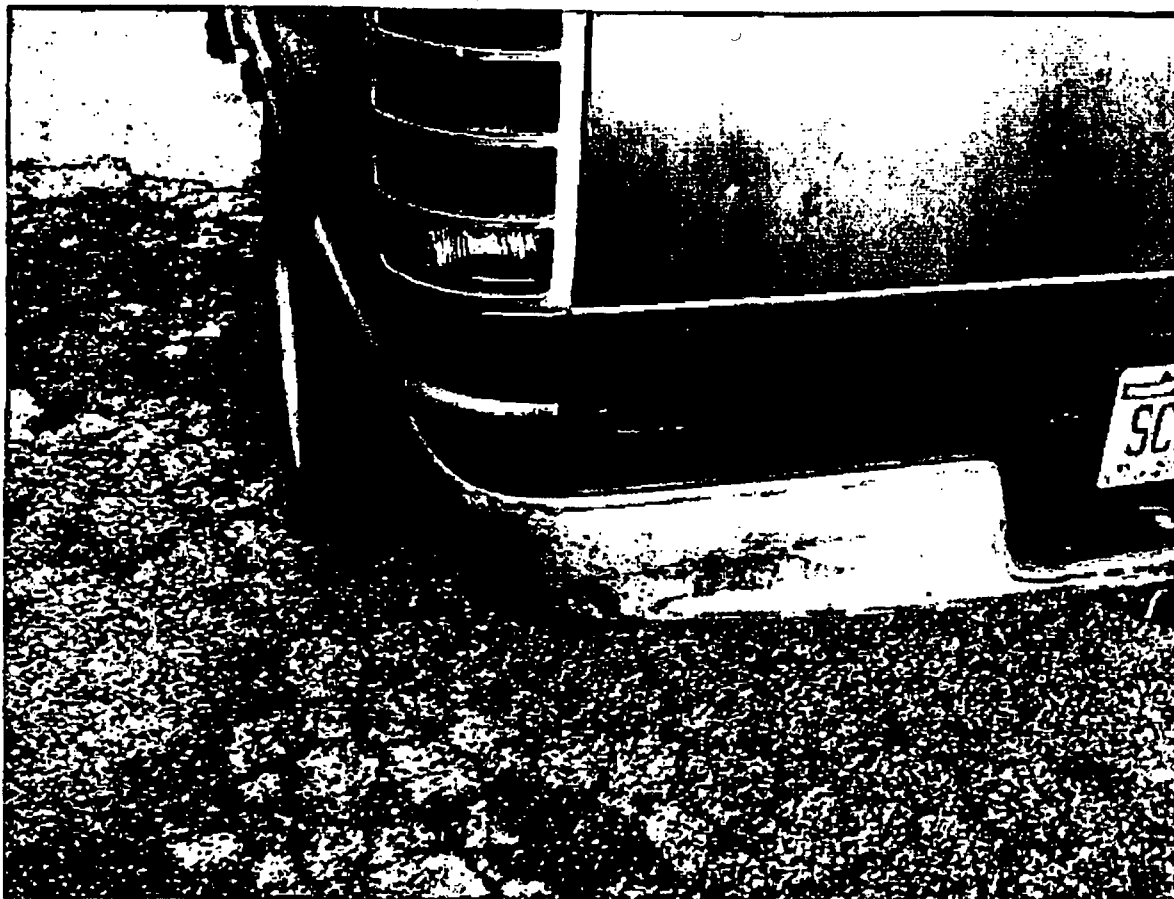
VEHICLE AT SHOP? YES OR NO VEHICLE TORN DOWN? YES OR NO

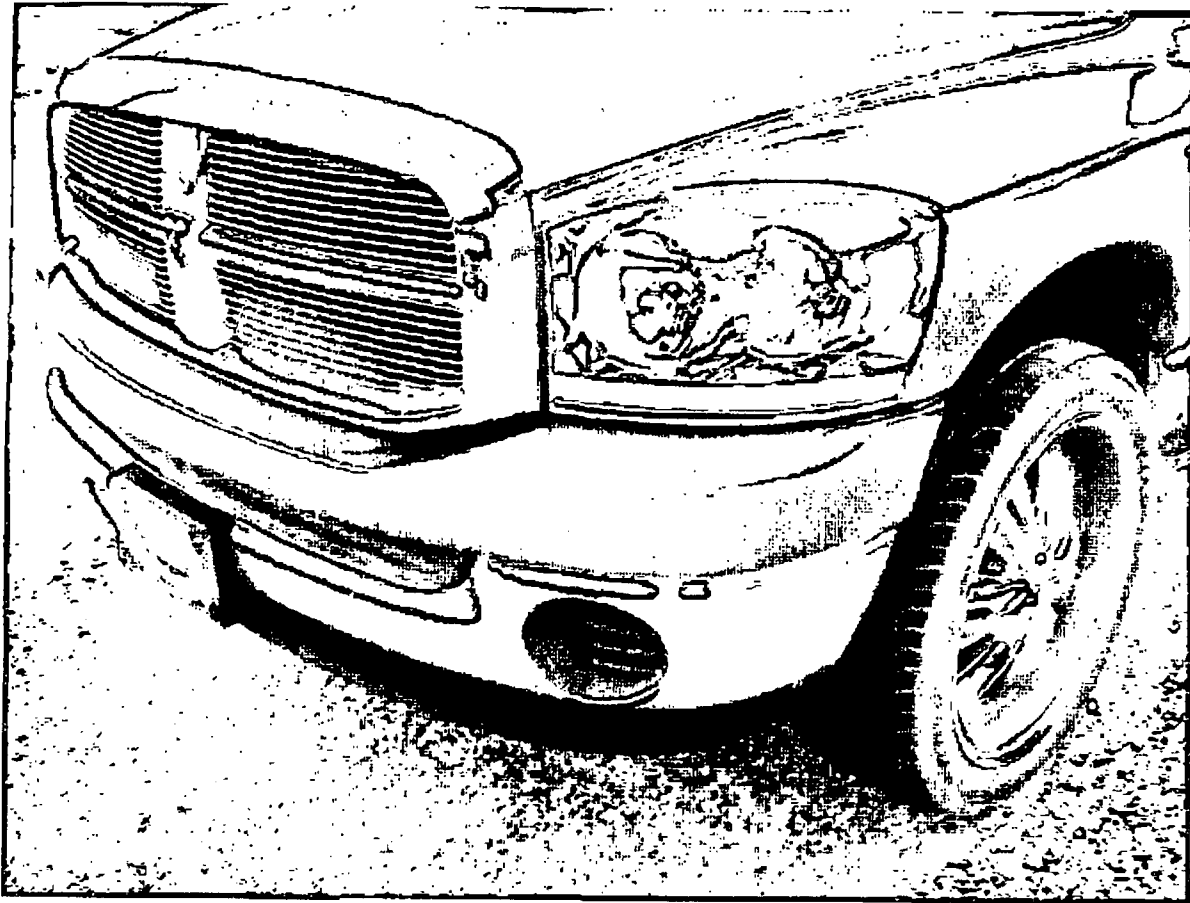
COMMENTS: _____

SUPPLEMENTAL DOLLAR AMOUNT IF KNOWN: \$ _____

SUPPLEMENT NUMBER: 1 ___ 2 ___ 3 ___ 4 ___ (CIRCLE ONE)











Claim History Search Results >

File Note



* Indicates required fields

Details		Send To
Participant(s):	* <u>BRYAN MCHOWELL</u> [Select]	
Coverage:	Select...	
Category:	Injury	
Subcategory:		
Subcategory 2:	☐ Forms & Correspondence	
Access:	☒ General ☐ Claims Dept. Only	
File Note Information		
Comments:		
spoke with clmt/clmt sustained back injuries in accident//clmt stated that he did not go to the ER clmt went to his family doctor and will be following up with his family doctor///I gave clmt my contact info and advised clmt that I will be following up with him regarding his injuries//clmt understood		
Description:	* Injury	
Author:	DEMETRIUS A. HOGANS	Date Created: 2/7/2011 9:15 AM Central

Mark In Error View All File Notes Create Related File Note

[Back] [Reply To] [Save]

Claim History Search Results >

File Note



* Indicates required fields

Details		Send To
Participant(s):	* BRYAN MCHOWELL	
Coverage:	Select...	
Category:	Injury	
Subcategory:		
Subcategory 2:	☐ Forms & Correspondence	
Access:	☒ General ☐ Claims Dept. Only	
File Note Information Comments: spoke with clmt/advised clmt that unfortunately I would not be able to pay him anything for his lost wages due to he does not have any documentation stating what he makes/clmt stated that he does not file for taxes and is paid under the table//I offered clmt \$130 for his 2 doctor visits at \$50 each and a prescription at \$30 and pain and suffering at \$370 for a total of \$500 clmt accepted offered//I advised clmt that if he does obtain any documentation for his wages he can submit them at a later date and I can review it later Description: * settlement		
Author:	DEMETRIUS A. HOGANS	Date Created: 2/21/2011 12:37 PM Central

Mark In Error
 View All File Notes
 Create Related File Note
 Back
 Reply To
 Save



Allstate
You're in good hands.

Palmetto
PO BOX 660636
DALLAS TX 75266



BRYAN MCHOWELL
7822 VAN WYCK RD
LANCASTER SC 29720-1698

February 21, 2011

INSURED: FRANK KIMBRELL
DATE OF LOSS: February 02, 2011
CLAIM NUMBER: [REDACTED]

PHONE NUMBER: 800-366-8997
FAX NUMBER: 866-467-2763
OFFICE HOURS: Mon - Fri 8:00 am - 5:30 pm,
Sat 8:00 am - 2:00 pm

Dear BRYAN MCHOWELL,

This letter is a follow up to our conversation today. As we agreed, I will be sending a check to you in a separate letter in the amount of \$500 for full and final settlement on your injury claim. Please understand that signing and cashing this check settles your claim from the above accident. Any medical expenses incurred by you from this loss will be your responsibility to pay out of this settlement check.

Should you have any questions, you may contact me at the phone number listed below during the hours of 8 am and 4:30 pm, Monday through Friday.

Sincerely,

DEMETRIUS HOGANS

DEMETRIUS HOGANS
800-366-8997 Ext. 3649
Allstate Insurance Company

GENI001

0191066208 VDH

6000020110221TR001018935001001030597



0786

Build something great™



Boral Building Products
11517-A Cordage Street
Charlotte, NC 28273

D: 704 504 2881

D: 803 324 2191

F: 704 504 2915

www.boralbuildingproducts.com

To Whom It May Concern:

The person referenced does not work at this location. The Boral Bricks Plant in Van Wyck is no longer open.

Please contact Boral Human Resources if necessary:

PO BOX 1957
Augusta GA 30903

Thank you,
Boral Building Products

Boral Building Products

0787

419

336-222-6685
910-672-5310OP-102
Rev. 06/2011FedEx Ground/FedEx Home Delivery
Contractor Prior Employment/Business Reference Questionnaire/Alcohol & Drug Test Verification

Please print - this section must be completed

To: Company STAR Foods
 Address Buchanan Ave
 City Buchanan State NC ZIP 27802
 Re: Driver's Name Bryan B. McPherson
 Address 1222 New York St
 City Charlotte State NC ZIP 28202

Date 11-1-12
 Telephone (883) 247-4780
 Soc. Sec. # [REDACTED]
 Driver's License # & State [REDACTED]
 Station # [REDACTED]

336-227
22109
Bridgett
Tran

RELEASE - I hereby authorize this company to release records of employment, including accident history and alcohol/drug testing information, to FedEx Ground. I hereby release this company from any and all liability of any type as a result of providing the information requested to FedEx Ground.

Signature: [Signature] Date: 11-1-12

The individual listed above has applied for a position as a contractor or driver for a contractor with our company. The contractor/driver has signed a release of information. All of the questions below MUST be completed.

1. During what period of time was the individual under contract or employed by your firm? From 2/13/12 To Present
 2. Driving record: Type of equipment driven (be specific) Straight truck

IMPORTANT: If the information in questions 3 and 4 is not received and recorded, complete the "Good Faith Effort" on the reverse side of this form and keep for your records.

3. Federal Motor Carrier Safety Administration (FMCSA) (Part 391.23, 392.15 & 392.5) regulations require us to obtain from your company, and require your company to provide to us, information about the above-named contractor's accident history over the past three (3) years.

	Date	Location	At Fault?	# of injuries	# of fatalities	Hazmat Spill?	Accident Type
1.	3/11/12	VA Highway	Yes	1	0	NO	Spilled truck
2.							
3.							

Please provide any information concerning any other accidents involving the applicant that were reported to governmental agencies or insurers or retained under internal company policies.

4. Under Department of Transportation testing requirements, within the last three (3) years has this person:

- a. Had an alcohol test with a result of 0.04 or higher alcohol concentration? Yes ☐ No ☒
 b. Had a verified positive drug test? Yes ☐ No ☒
 c. Refused to be tested (including verified adulterated or substituted drug test results)? Yes ☐ No ☒
 d. Committed other violations of DOT agency drug and alcohol testing regulations? Yes ☐ No ☒
 e. If the answer to any of the above questions is "YES," please provide the following information:

Reason for the test: _____

Results of the test: _____

Date of the test: _____

If the person tested positive, have they satisfactorily completed all return-to-duty and follow-up testing by the Substance Abuse Professional, pursuant to 49 CFR 362.605? Yes ☐ No ☐ Not Applicable ☐

Name of person providing information Bridgett Holts Title HR mgr Date 11/1/12

Name of person completing this form Bryan Title _____ Date _____

Please fax this information to FedEx Ground:

If unable to fax, mail to:
 FedEx Ground

Attention: _____

Fax #: _____

Attention: _____

Deposition of Stephen Laney

1

BEFORE THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO.: 1402961

BRYAN MCHOWELL,)

)

CLAIMANT,)

)

VS

STAR FOOD PRODUCTS/MRS.)
STRATTON'S SALADS, INC.,)

EMPLOYER,)

)

AND

GREAT AMERICAN ALLIANCE)
INSURANCE,)

CARRIER.)

DEPOSITION OF STEPHEN LANEY

ROCK HILL, SOUTH CAROLINA

APRIL 17, 2015

REPORTER: KELLY REITER

DALLAS REPORTING

SERVING THE CAROLINAS FOR OVER TWENTY-FIVE YEARS

ROCK HILL, SOUTH CAROLINA

803-328-9640/TOLL FREE 1-877-871-6363

1 **Appearances:** For the Claimant -
2 Brent P. Stewart, Esquire
3 Stewart Law Offices, LLC
4 1242 Ebenezer Road
5 Post Office Box 670 (29731)
6 Rock Hill, South Carolina 29732

7
8 For the Employer and Carrier -
9 Shelby H. Kellahan, Esquire
10 Huff Law Firm, LLC
11 7244 Woodrow Street
12 Post Office Box 1935
13 Irmo, South Carolina 29063

14
15
16 INDEX

17
18 Examination by Mr. Stewart Page 3
19 Examination by Ms. Kellahan Page 16
20 Further Examination by Mr. Stewart Page 18

1 Deposition of Stephen Laney, taken before me, Kelly
2 Reiter, a Notary Public for the State of South Carolina,
3 at the law office of Stewart Law Offices, LLC, 1242
4 Ebenezer Road, Rock Hill, South Carolina, commencing at
5 9:20 a.m. on April 17, 2015, taken in the aforementioned
6 cause now pending before the South Carolina Workers'
7 Compensation Commission.

8 That the signing of the transcript of deposition by
9 the witness is waived.

10 * * * * *

11 Stephen Laney, first being duly sworn, deposes and says
12 as follows:

13 E X A M I N A T I O N - (By Mr. Stewart)

14 Q So we had taken your deposition awhile back,
15 October 4th, 2012 - - -

16 A Okay.

17 Q Over the phone, if you remember that. Do you
18 remember that?

19 A Yeah, I remember it. I just don't remember when.

20 Q So you've had your deposition taken before?

21 A Yes, sir.

22 Q Okay. And the same rules apply as that, as to this
23 time. It's say yes or no, not uh-huh or un-huh - -

24 -

25 A Okay.

1 Q Because she's taking this down.

2 A Clear.

3 Q And are you on any type of medication or can you
4 think of any reason that would affect your ability
5 to tell the truth here today?

6 A Just Ibuprofen.

7 Q Okay. Well, that shouldn't affect your ability - -
8 -

9 A Coffee.

10 Q It depends on how much coffee you get from
11 Starbucks, which can make me crazy, so - - - All
12 right. With that being said, what we're here today
13 about is Mr. McHowell.

14 A Okay.

15 Q Okay. There are several things we had asked in
16 your prior deposition, and I want to make sure that
17 - - - what I'm really trying to figure out is his
18 ability to work before he left work. Do you know
19 when Mr. McHowell stopped working for your company?

20 A I want to say mid August, I believe.

21 Q And do you know why he went out?

22 A He told me that - - - Well, his brother had passed
23 away, and he didn't have - - - I don't think he had
24 any vacation time or some - - - or he had already
25 used it. I can't quite remember that. But I do

1 remember him telling me that his brother has passed
2 away, and it - - - I don't know if he got a
3 settlement or something in a will, but he got some
4 - - - some money, a large sum of money. He was
5 going to use that to do the surgery or pay bills.

6 Q To do a surgery?

7 A Yes.

8 Q What type of surgery?

9 A He said shoulder surgery.

10 Q Okay. Had Mr. McHowell been doing his job up until
11 that point?

12 A Yeah. Yeah, he was - - - Yeah. He was dependable.
13 He showed up to work. No quarrels with him there.
14 There was a few customer complaints, but you know,
15 nothing out of the ordinary.

16 Q So he was a good employee, basically?

17 A Pretty good, yeah.

18 Q Would he tell you on occasion that his shoulder was
19 bothering him?

20 A I think he mentioned it once or twice.

21 Q So the period up until August, he did report to you
22 that he was having some issues with his shoulder?

23 A (Indicating yes)

24 Q Okay. Could you describe the job that Mr. McHowell
25 did?

1 A well, it's a - - - It is a really physical job.
2 There's a lot of getting up and out of the truck
3 and the side of the truck. Because not only do you
4 have to get out of the cab, up and down out of the
5 cab - - - Do you want me to slow down?

6 Q No.

7 A Okay. You're a fast writer. But then you've got
8 to get up and out of the back of the truck as well.
9 So it's a lot of physical work. Now, there's not a
10 lot of lifting over your head. There's - - - The
11 heaviest thing I think we pick up is about maybe
12 thirty-five pounds, and that's if you've got a pack
13 of Imperial margarine. You've been in Dollar
14 General, correct?

15 Q Yes.

16 A Well, you've got Imperial margarine. They used to
17 come in cases of thirty, but now, they're in
18 twenty-four. But that's - - - It's been changed a
19 long time ago. It's like two years ago, it went
20 from thirty to twenty-four, and that's the heaviest
21 box that we have. Now, you have some DiGiorno
22 boxes that are pretty close to that, but nothing -
23 - - nothing over that much.

24 Q So Mr. MCHowell's job is to drive to a store - - -
25 well, who loads the truck, to start with?

1 A He loads the truck.

2 Q Okay.

3 A He does his own ordering, his own loading, his own
4 inventory, pretty much the whole nine - - - You're
5 pretty much the boss of your truck.

6 Q Okay. How do you load the truck? Do you pick each
7 box up and put them on the truck, the box on the
8 truck?

9 A No. They hook up rollers, and the relay drivers
10 have got these two stands. They put the rollers on
11 the stands, and it's kind of a - - - a decline. So
12 you load the freezer first because, of course, the
13 freezer stuff comes first.

14 Q Who stacks it up within the truck?

15 A He does.

16 Q Okay. So how many boxes does he stack up in the
17 truck each day into the freezer section?

18 A You load twice a week.

19 Q Okay.

20 A So whether it's Monday/Thursday or Tuesday/Friday.

21 Q And how many boxes would be loaded in?

22 A Oh, man. You'd probably have maybe - - - It
23 depends on your route and how high of a - - - high
24 or low volume area you have. So you could do
25 anywhere from four to six pallets. So you're

1 probably looking at three hundred cases.

2 Q So twice a week, he has to pick up three hundred
3 cases and load it?

4 A (Indicating yes)

5 Q Pick up one, pick up two, pick up - - -

6 A That's right.

7 Q Three, either - - -

8 A (Indicating yes) - - - Because it's constantly
9 coming down the ramp, and the relay driver calls
10 off what you've ordered. Sometimes, there's
11 shortages of what - - -

12 Q So he repetitively picks up three hundred times
13 twice a week to load the truck?

14 A (Indicating yes)

15 Q Now, I assume if he's repetitively picking up three
16 hundred times to load the truck, he's also
17 repetitively taking it off the truck as well?

18 A That is correct. Basically, you get paid once, and
19 - - - And nobody likes to hear the truth. But
20 you're paid really once to touch the box five to
21 six times, but that is a part of the job.

22 Q Okay. So there is three hundred repetitive
23 movements to load the truck?

24 A On the - - - That's an average. I'm just giving
25 you an average.

1 Q Okay. And then three hundred to unload the truck?

2 A Well, see, after you've loaded it, not only do you
3 have to grab it and stack it on the back of the
4 truck, or stack it off the truck and onto the cart
5 - - - So that's the first time. The first time you
6 touch it is when you load it. The second time you
7 touch it is when you pull it off the truck. Then
8 the third time you touch it is when you're checking
9 it in. Because you've got to open each box and let
10 the manager scan, and she sees how many is in
11 there. You say twelve. Then the fourth time is
12 when you're putting it into the freezer. So you're
13 really, you know - - - (No further response)

14 Q So then it's really about twelve hundred repetitive
15 moves for the stuff in the freezer section?

16 A (No response)

17 Q Three hundred on, three hundred off, three hundred
18 to take it - - -

19 A But that's during a week's span.

20 Q During a week's span?

21 A During a week's span.

22 Q Okay. So that's the stuff in the freezer?

23 A (Indicating yes)

24 Q What about this other stuff on the truck?

25 A What, the cooler stuff?

1 Q Yes, the cooler stuff.

2 A Because there's a divider. You've got a freezer
3 and a cooler.

4 Q Okay.

5 A So after - - - Let's say he's still loading. After
6 he's done with the freezer, then he still goes to
7 the next roller. You pull one roller out and put
8 the other roller in, but the relay driver does all
9 of that. The salesman doesn't touch the rollers
10 unless the relay driver says, hey, can you help me
11 pick this up? So, I mean, it's - - - Like I say, I
12 mean, all everything put together, it's a physical
13 job.

14 Q well, other than the freezer, how many more boxes
15 are lifted onto the truck for the cooler part?

16 A well, it's - - - it's all - - - That three hundred
17 you're saying, that's all the same.

18 Q Okay. So only three hundred are on the truck at
19 one time?

20 A Three hundred. You've got, you know, between the
21 freezer and - - - And that's not including what you
22 already have in your inventory on the truck. So, I
23 mean - - - (No further response)

24 Q So there's also more repetitive moves from what you
25 already have on the truck to start with?

1 A Yeah.

2 Q Now, I understand that also a part of your job is
3 rotating the stock?

4 A Oh, yeah.

5 Q And so my understanding of rotating the stock is,
6 you pick up from the back and put it in the front?

7 A Yeah. If you're - - - Like you're referring to
8 loading the truck, correct, or in the store?

9 Q I'm talking about in the store.

10 A Okay. In the store, you need to watch your dates
11 carefully. Now, he's had some issues with that,
12 but you'd rather work with somebody than fire them.

13 Q (Indicating yes)

14 A So what I did is, I - - - The first time, I'd give
15 him a coaching, and I think he's had two or three
16 write-ups about rotating. Well, not - - - One from
17 actually Norman and Steve. Because they were out
18 in that area anyway, they decided to go check.

19 Q So rotating the stuff is also a repetitive job?

20 A Yeah. You - - - That's a must, because I don't
21 know who wants to buy anything that's - - -

22 Q How many repetitive movements does it take to
23 rotate perhaps at each store, or is there no way to
24 measure - - -

25 A It depends on what size the order is. It could be

1 a three hundred dollar order, which is a small
2 cart, which takes you about a total of fifteen
3 minutes to work unless you have to wait on the
4 manager to check you in. But a big order, like a
5 twelve or fifteen hundred dollar order, you're
6 looking at, you know, a lot of movement.

7 Q Did Mr. McHowell tell you that the movement on his
8 job or the doing of his job was affecting his
9 shoulder?

10 A No. He just said his shoulder was hurting. He
11 didn't say that the job was affecting his shoulder.
12 He just said that he had pain. I was like, well,
13 let me call Steve, and y'all work that out.

14 Q And was this - - - In what time period was this?
15 Was this in the few months before he went out of
16 work?

17 A I believe so, if I'm not mistaken.

18 Q And how long, up until he left work, had he been
19 working with his shoulder in that - - - the way it
20 was?

21 A well, ever since he said - - - well, he said ever
22 since the accident, he said, his shoulder's been
23 aggravating him. But before when we hired him, I
24 remember asking him this question at the interview,
25 and I point-blank said, I said, is there anything

1 that can hinder you from doing this job?

2 Q And he told you his shoulder?

3 A He said he had - - - His shoulder was giving him
4 some type - - - Because he said something about two
5 bones. He didn't say it was - - - He said it
6 wasn't serious, so I was like, okay. But he said
7 he had two bones rubbing together.

8 Q And you were quite honest about it in your
9 deposition. You had said that he had told you
10 about the shoulder to start with - - -

11 A (Indicating yes)

12 Q And that you had told management?

13 A I sure did.

14 Q And you believed it was before his physical, but
15 you weren't sure?

16 A Yeah. I don't - - - I don't know who did the
17 physical with him.

18 Q Now, you've worked with him for how long now?

19 A I'm trying to remember exactly when he started. I
20 - - - I'm sorry. I've got so many things going on,
21 and - - -

22 Q That's all right.

23 A There's other routes, and then when somebody leaves
24 your company, you just - - - (No further response)

25 Q well, your last deposition was October 4th of 2012.

1 A (Indicating yes)

2 Q So he was working from then until at least
3 September of 2013, when he went out of work?

4 A That sounds about right.

5 Q And in your last deposition, you said that you
6 believed he was honest?

7 A Yeah.

8 Q Do you still believe that?

9 A I believe he was - - - I believe he was honest
10 about some things, but you know, there was some
11 things that he wasn't so honest about.

12 Q What do you believe those are?

13 A Well, I don't know. When you - - - I don't know
14 how - - - I'm not a rocket scientist or a rocket
15 engineer. But if you flip a truck on the right
16 side, I - - - I'm not quite sure how you'd injure
17 your left shoulder, especially if you had your
18 seatbelt on.

19 Q So you're talking about you have a disagreement
20 with the wreck that he was in?

21 A Because the speed, to say he was going - - - The
22 state trooper - - - Because my major concern when
23 he called me - - - Now, I do remember this. When
24 he called me, he said he had wrecked the truck. My
25 first statement to him was, are you okay?

1 Q (Indicating yes)

2 A And he was just like, yeah, I'm fine. Am I going
3 to get fired for this? I'm like, well, no. Let's
4 just - - - Don't worry about that. Don't worry
5 about it now. We want to make sure you're all
6 right first. Well, when I got there - - - Because
7 I don't live that far from him. So when I got
8 there, I - - - his daughters were already there.
9 The state trooper was standing there, and he goes -
10 - - He says, he's lucky he had his seatbelt on, and
11 I was like, all right. So he didn't mention
12 anything to me at that moment in time that his
13 shoulders were hurting.

14 Q You do understand that we're not here for that
15 issue today?

16 A Yeah. I thought you had asked me that - - -

17 Q Well, I know, but I'm just asking you - - - But you
18 understand that's not - - - The car isn't why we're
19 here, but I understand what you're - - -

20 A Yeah, yeah.

21 Q Okay.

22 A I'm just saying that that's the only thing I
23 believe he wasn't honest about, is hurting his
24 shoulder during the accident.

25 Q But since that wreck, all the way until he left

1 work, he continued to do his job?

2 A Sure thing, yeah.

3 Q And if he hadn't quit, he wasn't terminated? He
4 wasn't terminated? He left the job?

5 A No, he left. Yeah.

6 Mr. Stewart - That's all I have.

7 Ms. Kellahan - Just a few questions.

8 E X A M I N A T I O N - (By Ms. Kellahan)

9 Q Mr. Stewart had touched a little bit on your hiring
10 of Mr. MCHowell.

11 A (Indicating yes)

12 Q I think you had said something about he told you
13 about bones or something in his left shoulder that
14 weren't - - - or he was having problems with some
15 bones or something?

16 A He said the bones were rubbing together and causing
17 - - - You know, I don't know - - - I don't know
18 what kind of pain, because he just said they were
19 rubbing together.

20 Q Were you aware he had had surgery earlier on his
21 left shoulder? Did he tell you that?

22 A No.

23 Q would that have been important to know for his job?

24 A Yes, ma'am.

25 Q And did he not disclose that he had that shoulder

1 surgery?

2 A No, ma'am. He didn't tell me that.

3 Q Okay. Let's go a little bit to his job after the
4 accident. Was he able to load and unload the
5 things on his own, or did you have to have someone
6 help him?

7 A He had - - - He did it on his own.

8 Q Okay. Would he have had anyone ride with him on
9 his routes to help him?

10 A You know, if the - - - I don't know about what the
11 doctor said, but if a doctor puts you on light-duty
12 and gives you a restriction - - - I don't know
13 about what Bryan McHowell had to do. But the
14 standard thing is, either we would have somebody
15 ride with him, or if the doctor says, hey - - -
16 Now, if it's just like a certain restriction, you
17 know, like over - - - you can't lift over thirty
18 pounds or thirty-five pounds, then we'd have had
19 somebody with him but - - - if the doctor said,
20 hey, you can still work. So that's what they're
21 tell - - - I mean, the office is telling me. So
22 they wouldn't - - - They didn't send anybody to go
23 ride with him.

24 Q Okay. Were you aware of anyone, like his daughters
25 or a friend, that would ride with him and help him

1 do his job?

2 A Some store managers would tell me from time-to-time
3 that they didn't like his daughters because they
4 would get mouthy with the managers.

5 Q Okay.

6 A So I knew he had - - - he had somebody helping him.

7 Q And did Mr. McHowell quit his job because of the
8 pain in his shoulder, or was there another reason?

9 A No. The reason he told me was that, since his
10 brother had passed away, that he's going to get
11 some money or something from a will or a
12 settlement. I don't know the whole thing. Because
13 his brother was handicapped, I do know that, and he
14 was living on the same property with McHowell. So
15 that's the reason he told me.

16 Ms. Kellahan - Okay. That's all I have.

17 FURTHER EXAMINATION - (By Mr. Stewart)

18 Q Well, you stated that he was going to use that
19 money to get his shoulder surgery?

20 A That's what he told me.

21 Q Okay. And Mr. McHowell told you about his
22 preexisting shoulder issue, correct?

23 A He told me, but he didn't never tell me he had - -
24 - Like that's the first news I've heard of that, of
25 him having surgery before.

1 Q In your last deposition, you stated that the
2 shoulder, the preexisting shoulder surgery,
3 wouldn't have affected your decision to hire him.
4 Is that still your testimony today?

5 A Yeah, I - - - I don't - - - I don't think, because
6 he's - - - I take people on their word. You know,
7 I said, is this going to affect your job? And he
8 goes, no, no, I'm fine. It - - - He said, it gives
9 me a little pain every now and then, but I'm good.

10 Q And he did the job for a period of a year - - -

11 A Yeah, oh yeah.

12 Q Is that correct?

13 A Yeah, a year and some change, so - - -

14 Mr. Stewart - Okay. That's it.

15 A So I took him on his word.

16 Mr. Stewart - Thank you.

17 Ms. Kellahan - That's it.

18 A All right.

19

20

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1 Whereupon - The deposition was concluded at
2 9:34 a.m.

3 Signing of Transcript Kelly Reiter
4 Court Reporter/Notary Public
5 of Deposition By

6
7 Witness Waived

8 (Recorded deposition media retained for fifteen days
9 from date of certification or until transcript has been
10 signed in cases when signature is not waived)+

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SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC FILE # 1402961

Bryan McHowell,	)	
	)	
Claimant,	)	
	)	Deposition
vs.	)	
	)	of
Star Food Products, Inc.,	)	
	)	Ashley H. Johnson,
Employer,	)	MS, CRC, CLCP
	)	
Great American Alliance	)	
Insurance Company,	)	
	)	
Carrier,	)	
	)	
Defendants.	)	

Deposition of Ashley H. Johnson, MS, CRC, CLCP,
taken pursuant to the South Carolina Rules of Civil
Procedure and the Administrative Procedures Act,
commencing at the hour of 4:07 p.m., Thursday, April
16th, 2015, at Stewart Law Offices, 1242 Ebenezer Road;
Rock Hill, South Carolina.

COPY

Reported by
Sandra M. Austin

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Reported By: Sandra M. Austin

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Exhibits

No exhibits marked.

Court Reporter's Note: This transcript may contain quoted material. Such material is reproduced as read or quoted by the speaker. Double hyphens (--) denote interruption of speech, incomplete sentence/phrase, or trailing off. [ph] denotes phonetically written. [sic] denotes written as spoken. Social Security number, if present, has been partially or fully redacted or blacked out.

Stipulations

The reading and signing of this deposition transcript is waived by the deponent and counsel for the respective parties.

Whereupon,

Ashley H. Johnson, MS, CRC, CLCP, being duly sworn and cautioned to speak the truth, the whole truth, and nothing but the truth, testified and deposed as follows:

The Court Reporter: State your name for the record.

The Deponent: Ashley Harrelson Johnson.

Examination

By Ms. Kellahan:

Q Ms. Johnson, my name is Shelby Kellahan, and I am here on -- to give you the deposition on behalf of the employer and carrier in this case. Just a few background questions on the vocational assessment that you did, but, before we begin, I just want to get a little information about you. Where are you currently employed?

A I am employed with Vargas Vocational Consulting.

Q And what is your job there?

A I'm a vocational consultant.

Q And do you have any training as a consultant?

- 1 A I do. I have a bachelor's in psychology from UNC-
2 Chapel Hill and a master's in rehabilitation
3 psychology and counseling, also from UNC-Chapel
4 Hill.
- 5 Q And how long have you been a vocational consultant?
6 A For approximately 13 years.
- 7 Q And are you familiar with Bryan McHowell?
8 A I am.
- 9 Q And how are you -- How did you come to be familiar
10 with him?
- 11 A I was asked to perform a vocational assessment of
12 him, and I met with him on August 29th -- I'm sorry
13 -- August 22nd, 2014.
- 14 Q And how long did you meet with him?
15 A It was approximately an hour.
- 16 Q And in preparation for that meeting, did you review
17 any records or anything?
- 18 A I did review his medical records.
- 19 Q Okay. And did you review any depositions or
20 anything, as well?
- 21 A I did not review any depositions.
- 22 Q Okay. Just briefly, did you do any testing when
23 you met with Mr. McHowell?
- 24 A No, I did not.
- 25 Q Okay. Let's go to your vocational report. I'm

- 1 looking now at the Medical Status, and you talk
2 about an IME that was performed by Dr. Lehman on
3 March 19th of 2013. Is that correct?
- 4 A That's right.
- 5 Q Okay. Are you aware of the questionnaire Dr.
6 Lehman did after that date?
- 7 A I did review a questionnaire completed by Dr.
8 Lehman.
- 9 Q Okay. And in that questionnaire, did it say
10 anything about a causal relationship about the
11 injury?
- 12 A I believe it did.
- 13 Q Okay. And we're talking about a questionnaire --
14 Which date of the questionnaire are you referring
15 to?
- 16 A I had 2/24/14. I also had a questionnaire done
17 July 6th of 2014, but I believe the questionnaire
18 where he indicated the causal connection was that
19 February 24th, 2014 document.
- 20 Q Are you aware that he previously issued a causal
21 relationship questionnaire?
- 22 A Prior to February 24th, 2014?
- 23 Q Yes. Are you aware of that?
- 24 A No, I am not.
- 25 Q Okay. So, you didn't have or review that

- 1 questionnaire, if there was one, before the
2 February date?
- 3 A I don't believe so.
- 4 Q Okay. Okay. Any sort of FCE report or any other
5 testing done by Mr. McHowell by any of the doctors?
- 6 A Can you repeat that? I'm sorry. I missed --
- 7 Q Did you review any --
- 8 A -- the first part.
- 9 Q -- functional capacity evaluation for Mr. McHowell?
- 10 A No, I did not.
- 11 Q Okay. And what did you rely upon as far as his job
12 restrictions went?
- 13 A I relied upon the restrictions provided by Dr.
14 Lehman, July 6th, 2014.
- 15 Q Okay. And what were those restrictions?
- 16 A He said there would be limitations in regard to
17 lifting waist to above the head, repetitive use of
18 the left shoulder, and limitations in overhead
19 lifting, not to exceed ten pounds. He further
20 recommended light-to-medium-duty work but avoiding
21 undue stress to the shoulders, including limiting
22 overhead -- limited overhead lifting, heavy lifting
23 and heavy push and pull activities.
- 24 Q Okay. Did you -- In regard to physical demands,
25 did you review any sort of job description Mr.

- 1 McHowell had?
- 2 A I did review a job description from the employer,
3 but, to my recollection, -- and I believe I also
4 cited in my report that the job description did not
5 specifically address physical demands of the job.
- 6 Q Okay. And then what did you rely upon as far as
7 physical demands or what -- what his job would
8 entail?
- 9 A The Dictionary of Occupational Titles as well as
10 his report of what his job duties included.
- 11 Q Okay. Can you go over the -- the titles?
- 12 A (No response.)
- 13 Q You said that you relied on a title. Was there a
14 book or --
- 15 A The Dictionary of Occupational Titles. It's a --
- 16 Q Okay. Sorry. I didn't hear the dictionary word
17 when --
- 18 A Okay.
- 19 Q -- you said it beforehand.
- 20 A Sure.
- 21 Q Well, what does the dictionary explain that job
22 title as?
- 23 A That would be a route truck driver. It is medium
24 in physical demand.
- 25 Q Okay.

- 1 A I've go the DOT code there on page three.
- 2 Q Okay. Sorry. I didn't mean to interrupt you.
- 3 Okay. Let's go now to the description by Mr.
- 4 McHowell of his job. What did he describe his job
- 5 as doing?
- 6 A On page four, I indicated that he was driving a
- 7 straight truck to deliver food -- food products.
- 8 He had to load and unload the truck, I believe he
- 9 said twice a week, which included lifting from five
- 10 to 75 pounds. He was placing them from floor level
- 11 to an overhead shelf, and then he would take the
- 12 products to storage where we -- he would have to
- 13 load and unload them into coolers or freezers.
- 14 Q Did he tell you how many times during the day he
- 15 would have to do this activity?
- 16 A Specifically which activity?
- 17 Q Of the loading and unloading.
- 18 A He told me that he did load and unload the truck
- 19 twice per week but that he was going to stores
- 20 daily, and I did not get specifically how many
- 21 times. I would assume it would depend upon the
- 22 route that day, how far the -- the stores were from
- 23 each other and how long it took him to drive back
- 24 and forth.
- 25 Q Okay. Let's talk a little bit about his work

1 history. What type of work history did he
2 describe?

3 A He described doing truck-driving work since the mid
4 1990s for multiple employers. He had done some
5 over-the-road driving as well as delivery driving.

6 Q Okay. And what sort of education does he have?

7 A He has a high school diploma, and then he also had
8 a certificate in welding, I believe.

9 Q Okay. What sort of jobs has Mr. McHowell had, to
10 your knowledge, in the past?

11 A He's done the truck driving for 20 years or more,
12 and then prior to that he had done some welding
13 following completion of that certificate, which he
14 said was in the late 1980s, and then prior to that
15 he had been a horseshoer, he said, for ten to 12
16 years.

17 Q Okay. One moment, please. Let me make sure I'm
18 not missing anything, if I've asked you everything
19 I want to ask. To your knowledge, has Mr. McHowell
20 had a job since leaving Star Food?

21 A To my knowledge, he has not.

22 Q Another question. To your knowledge -- Are you
23 familiar with a motor vehicle accident that Mr.
24 McHowell was in, injuring his shoulder, in March of
25 2012?

1 A We did talk about that briefly.

2 Q Okay.

3 Ms. Kellahan: That's all I have.

4 Examination

5 By Mr. Stewart:

6 Q Ashley, you're aware that after the March twenty --
7 two car accident that Mr. McHowell continued to
8 work; is that correct?

9 A I am aware of that.

10 Q Okay. And he continued to work until he went out
11 for this shoulder injury; is that correct?

12 A Correct.

13 Q And you did review the questionnaire of Dr. Lehman
14 dated April of '14 in which he stated that Mr.
15 McHowell's left shoulder injury was a new injury?

16 A Correct.

17 Q Okay. And you're not able to testify as to what
18 caused his new injury, correct?

19 A That's right. That's --

20 Q That would be what the medical doctors do?

21 A That's not my area of expertise. That's right.

22 Q The fact that Mr. McHowell worked from his March
23 car wreck until going out for this documented new
24 injury, what does that tell you about Mr.

25 McHowell's ability to work from the car wreck

- 1 through when he went out of work?
- 2 A That tells me he was working and continuing to
- 3 perform his regular job duties.
- 4 Q Okay. Were you aware of the fact that not one but
- 5 two doctors concur with the restrictions as set out
- 6 by Dr. Lehman?
- 7 A Can you tell me which doctors those were? I may
- 8 have --
- 9 Q Did you --
- 10 A -- reviewed that.
- 11 Q Did you remember seeing the questionnaire of Dr.
- 12 Schwartz in which he concurred with the opinion of
- 13 Dr. Lehman in regards to the restrictions?
- 14 A This was after the evaluation that I did, so I have
- 15 not seen that.
- 16 Q Would you take a quick look at it?
- 17 A Yes. I've just reviewed it, and he does concur
- 18 with Dr. Lehman's assessment.
- 19 Q Could you tell me how someone doing the job that
- 20 Mr. McHowell does -- As you understand it, how
- 21 would his inability to lift from his waist to above
- 22 his head affect that job?
- 23 A It would eliminate the ability to do that job.
- 24 Q What about his inability to do repetitive use of
- 25 the -- use his shoulder repetitively on the left

- 1 shoulder?
- 2 A Would not be able to do that job.
- 3 Q It's your understanding that he has to regularly
- 4 rotate product?
- 5 A Absolutely.
- 6 Q Okay. Were you aware of the fact that his
- 7 employer, throughout his working from March on, had
- 8 actually written him up for not rotating the -- for
- 9 not doing the job on one occasion?
- 10 A No, I was not.
- 11 Q How would overhead lifting affect Mr. McHowell's
- 12 ability to do the job?
- 13 A It would -- If he was unable to do overhead
- 14 lifting, he could not do the job.
- 15 Q What about his inability to lift over ten pounds
- 16 overhead?
- 17 A Same answer. Could not do the job.
- 18 Q Could somebody that is qualified to do light-duty
- 19 work complete the job that Mr. McHowell is doing?
- 20 A No, they --
- 21 Q What --
- 22 A -- could not.
- 23 Q What does the job qualify as?
- 24 A The route truck driver position --
- 25 Q Yes.

- 1 A -- is medium, as classified by the DOT, but heavy,
2 as he was performing it, based on the 75 pounds of
3 lifting.
- 4 Q So, the -- Mr. McHowell's ability as set out by
5 Dr. Lehman to do light to medium would prevent him
6 from doing that job?
- 7 A Yes, it would.
- 8 Q Have you considered other jobs that Mr. McHowell
9 would be able to do based on his education, age, et
10 cetera?
- 11 A I did consider other jobs, but I determined that he
12 would not be able to maintain competitive
13 employment.
- 14 Q So, it is your opinion, considering the medical
15 records you reviewed, your own review with my
16 client and your experience as a vocational expert,
17 that Mr. McHowell is totally and permanently
18 disabled as a result of his new injury as diagnosed
19 by Dr. Lehman?
- 20 A Yes, that's correct.
- 21 Mr. Stewart: That's all I have. Did we
22 lose you? Shelby?
- 23 Ms. Kellahan: Yeah. No. I'm here.
24 It's going in and out. Can you hear me?
- 25 Mr. Stewart: Yeah. I was like -- I was

1 like I have never had this happen before, like
2 what do I do, do I call her back and start
3 over. I was like I'll never remember what I
4 said.

5 Ms. Kellahan: I don't have any further
6 questions.

7 Mr. Stewart: Okay.

8 (Whereupon the deposition was concluded at
9 4:20 p.m.)

10 (Deponent has waived reading and signing.)

State of South Carolina)
) Certificate
County of Lexington)

Be it known that the foregoing deposition of
Ashley H. Johnson, MS, CRC, CLCP;

That I was then and there a Notary Public in
and for the State of South Carolina-At-Large;

That by virtue thereof I was duly authorized
to administer an oath;

That the witness was by me first duly sworn to
testify the truth, the whole truth, and nothing but the
truth concerning the matter in controversy aforesaid;

That the foregoing transcript of 14
typewritten pages represents a true, accurate and
complete transcription of the testimony so given at the
time and place aforesaid to the best of my skill and
ability;

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

Signed this 17th day of April 2015.

Sandra M. Austin

Sandra M. Austin

Notary Public for South Carolina
My commission expires August 29, 2023.

Note: Recordings are retained for twelve (12) months
from date of certification.

STATE OF SOUTH CAROLINA

COUNTY OF LANCASTER

Bryan McHowell,

Employee/Appellant,

vs.

Star Food Products/

Mrs. Stratton's Salads, Inc.,

Employer,

and

Great American Alliance Insurance/
Respondents,

Carrier.

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION
COMMISSION

WCC FILE NO: 1402961

Appellate Brief

STATEMENT OF THE CASE

On March 6, 2012 Mr. McHowell was involved in a motor vehicle accident while working with the employer Star Foods. Mr. McHowell filed a Form 50 alleging that he injured his shoulder in this accident. The defendants filed a Form 51 denying the claim. A hearing took place on July 9, 2013 before Commissioner Susan Barden.

Commissioner Barden denied the claim by order dated October 25, 2013. She based her decision on numerous inconsistencies throughout the claimant's testimony before her and specifically found that the claimant was not credible and had a financial motive for bringing the claim. The Commissioner specifically found the following:

I find that Claimant is using the workers' compensation system—through the occurrence of an actual work incident—to pay for his pre-existing and ongoing chronic shoulder condition which was not permanently aggravated (if at all) by the accident in issue. In order to award benefits in this case, the commission would have to ignore: (a) the fact that Claimant was untruthful about undergoing treatment during the 1-2 months prior to the date of accident; (b) the fact that claimant gave sworn testimony that he was only

having "a little" pain prior to the accident, when in fact he underwent an injection (and an MRI was contemplated) for increasing, sharp pain at an "8" level that brought him back to his treating surgeon; (c) the fact that Claimant did not even mention the accident to his personal/treating orthopedist until several months afterwards; (d) the fact that Claimant has significant financial problems; (e) the fact that Claimant described himself as "disabled" one month prior to his date of hire; (e) the fact that Claimant had not worked for 3 years--since 2009--until his date of hire in 2012; (f) the fact that Claimant was untruthful on his employment application regarding his psychological condition, sleep problems, and diabetic condition; (g) the fact that Claimant denied (under oath) a prior back injury when records state otherwise; (h) the fact that Claimant requests benefits for a condition which he denied to his own IME; (i) the fact that Claimant previously requested "lost wages" from an insurance company in 2011 when Claimant was not even working at the time; and (j) other issues/inconsistencies as well.

(Order of Commissioner Susan Barden, Def's Ex. G, p. 498)

The claimant's attorney appealed the Order of Commissioner Barden and an Appeal Hearing was set before the Appellate Panel for February 19, 2014. Minutes prior to the hearing being held, defense counsel and the claimant's attorney verbally settled the matter on a clincher basis for \$9,000.00 and notified the Commissioners that they would not be giving oral arguments. On the very next day, February 20, 2014, and without knowledge to defense counsel, the claimant's attorney sent a questionnaire to Dr. Lehman with a job description asking him to find that the claimant sustained a repetitive trauma injury to the same shoulder. (Def. APA p. 136-138). Defense counsel forwarded a proposed clincher agreement to the claimant to memorialize the verbal settlement from February 19, 2014. The clincher agreement was signed by the claimant's attorney on March 7, 2014. (Def. APA p. 502-505). However, the claimant's attorney, with knowledge that he was bringing the current litigation by virtue of the questionnaire he sent to Dr. Lehman the very day after the parties settlement discussion, requested defense counsel make the following changes to the clincher document (Def's APA p.

502):

Under the proposed settlement, the Defendants have agreed to pay, and the Claimant has agreed to accept, the sum of **\$9,000.00 (nine thousand dollars 00/100 Dollars)** in full settlement and satisfaction of every liability under the Act growing out of or in any way connected with any injury and/or accident occurring on or about March 6, 2012; ~~Further, claimant states there are no other workers' compensation claims reported or unreported at any other time prior to this agreement.~~

*BB 3/4/14 * PAM 3-6-14 BL 3/13/14*

Since the claimant had not been employed by Star Foods for eight months, and since defense counsel had no knowledge of the questionnaire that was sent to Dr. Lehman one day after settlement negotiations, Defense counsel struck through the provision in the clincher document as well and signed it on March 13, 2014.

The claimant was diagnosed with a repetitive trauma injury to his left shoulder, the shoulder which was the subject of the settled litigation, by Dr. Lehman on February 27, 2014. (Def. APA p. 137). This diagnosis was in direct contradiction to his earlier relation of the claimant's shoulder issues to his motor vehicle accident and this diagnosis occurred while the claimant was no longer employed with Star Foods and had already had surgery months prior on October 31, 2013. (Def. APA pp. 123-128).

On March 27, 2014 claimant's attorney filed a Form 50 now stating that on February 27, 2014, the claimant suffered a repetitive trauma injury to his left shoulder and relied on the questionnaire that Dr. Lehman filled out days after settlement negotiations were entered into. (CI's APA p. 21-22). The claimant's attorney also contended that the claimant was permanently and totally disabled. On February 5, 2015 the Employer/Carrier filed a Form 51 denying the claim pending an investigation.

The case was heard on April 22, 2015 before the Single Commissioner. At the hearing, the defendants argued among many other things that this current claim was barred under the doctrines of res judicata and collateral estoppel and that the claimant did not suffer from a repetitive trauma and if he did, defendants had no notice of the same. An order was not issued in this matter until November 9, 2015, almost eight months after the hearing. In the order, the Commissioner found that the claimant suffered from a repetitive trauma and ruled that the claimant was permanently and totally disabled. It is from that Order that Defendants appeal.

Evidence of the Case

The Claimant is 55 years of age (Def. APA p. 517-518). Claimant is a high school graduate (Def. APA p. 527). After after high school, Claimant (a) took classes in welding at York Technical College (for which Claimant received a certificate), and (b) received his CDL after attending truck driving school. Claimant also has a farrier's certificate (Def. APA 528). Claimant's prior employment includes work as a farrier, truck driver, and welder (testimony of Claimant; Def.'s APA p. 527). Claimant has two prior workers' compensation claims (Def. APA #615-688).

The claimant has an extensive medical history with regard to his left shoulder. In June 2011, merely eight months prior to the claimant's date of hire, Claimant underwent left shoulder surgery (including distal clavicle excision, acromioplasty, and the implementation of hardware). Claimant also underwent post-surgical physical therapy (Def. APA #213).

Just one month prior to his date of hire with Star Foods (2 months prior to the date of the accident in issue), Claimant returned to his personal Orthopedist in January 2012 with complaints of "increasing shoulder pain" (described by Claimant at an "8"), for which "nothing" made Claimant's symptoms better (including icing his shoulder). Claimant also reported neck and back pain. Claimant described himself as "disabled," and also stated that he had applied or

was planning to apply for disability and/or unemployment. Because of Claimant's worsening left shoulder complaints, he underwent a left shoulder steroid injection at this visit in January 2012 (Def. APA p. 201).

On February 2, 2012 (1 day prior to Claimant's start date with Employer), Claimant returned to his personal orthopedist and reported that the injection had only lasted "several days." Claimant's orthopedist recommended another injection, and instructed Claimant to return in 8 weeks for a re-check with a "repeat MRI at that point if he is no better." Claimant was instructed to return or call prior to the follow-up appointment if he had any problems. Although the work accident occurred during this 8-week interim, Claimant never called or returned until the scheduled follow-up appointment. (Def. APA p. 204).

The claimant began working for the employer on February 3, 2012 as a route sales person. (Def. APA p. 487-501). Claimant alleged that he injured his left shoulder and neck (affecting his left hand/2nd, 3rd, and 4th fingers) in a work-related motor vehicle accident on March 6, 2012. The claimant's attorney filed a Form 50 on June 25, 2012. (Def. APA p. 506). Defendants responded by Form 51 stating that the claimant did not suffer an injury by accident, as he was still actively treating for a shoulder problem (Def. APA p. 514). A hearing Commissioner heard the matter and determined that the claim was not compensable and the claimant appealed. (Def. APA p. 487-501) Prior to a hearing on the appeal matter, the case settled. The claimant's attorney appealed the Order of Commissioner Barden and an Appeal Hearing was set before the Appellate Panel for February 19, 2014. Minutes prior to the hearing being held, defense counsel and the claimant's attorney verbally settled the matter on a clincher basis for \$9,000.00 and notified the Commissioners that they would not be giving oral arguments. On the very next day, February 20, 2014, and without knowledge to defense counsel, the claimant's attorney sent a questionnaire to Dr. Lehman with a Job description asking him to

find that the claimant sustained a repetitive trauma injury to the same shoulder (Def. APA p. 136-138). Defense counsel forwarded a proposed clincher agreement to the claimant to memorialize the verbal settlement from February 19, 2014. The clincher agreement was signed by the claimant's attorney on March 7, 2014 (Def. APA p. 502-505). However, the claimant's attorney, with knowledge that he was bringing the current litigation by virtue of the questionnaire he sent to Dr. Lehman the very day after the parties settlement discussion, requested defense counsel make the following changes to the clincher document (Def. APA p. 502):

Under the proposed settlement, the Defendants have agreed to pay, and the Claimant has agreed to accept, the sum of \$9,000.00 (nine thousand dollars 00/100 Dollars) in full settlement and satisfaction of every liability under the Act growing out of or in any way connected with any injury and/or accident occurring on or about March 6, 2012, ~~Further, claimant states there are no other workers' compensation claims reported or unreported, at any other time prior to this agreement.~~

Handwritten notes: BZ, 3/4/14, * PAM, 3-6-14, BL, 3/13/14

Since the claimant had not been employed by Star Foods for eight months. (HT p. 27,- 28). Since defense counsel had no knowledge of the questionnaire that was sent to Dr. Lehman one day after settlement negotiations, Defense counsel struck through the provision in the clincher document as well and signed it on March 13, 2014. (Def. APA p. 137).

The claimant was diagnosed with a repetitive trauma injury to his left shoulder, the shoulder which was the subject of the settled litigation, by Dr. Lehman on February 27, 2014 via medical questionnaire. (Claimant's APA pp. 21-22). This diagnosis was in direct contradiction to Dr. Lehman's earlier relation of the claimant's shoulder issues to his motor vehicle accident and this diagnosis occurred while the claimant was no longer employed with Star Foods and had already had surgery months prior on October 31, 2013. (Def. APA p.p. 123-128).

On March 27, 2014, claimant's attorney filed a Form 50 now stating that on February 27, 2014, the claimant suffered a repetitive trauma injury to his left shoulder and relied on the questionnaire that Dr. Lehman filled out days after settlement negotiations were entered into. The claimant's attorney also contended that the claimant was permanently and totally disabled.

On February 5, 2015 the Employer/Carrier filed a Form 51 denying the claim pending an investigation. The case was heard on April 22, 2015 before the Single Commissioner. At the hearing, the defendants argued among many other things that this current claim was barred under the doctrines of res judicata and collateral estoppel and that the claimant did not suffer from a repetitive trauma and if he did, defendants had no notice of the same. An order was not issued in this matter until November 9, 2015, almost eight months later.

Questions Presented

- 1) Did the Single Commissioner err in finding and ordering that the claimant is permanently and totally disabled pursuant to 42-9-10, the error being that the claimant sustained an injury to one body part is an error of law and not supported to preponderance of the evidence?
- 2) Did the Single Commissioner err in finding as fact and ordering that the claimant's current medical condition is unrelated to his prior injury, the error being that this is not supported by the preponderance of the evidence and is an error of law?
- 2) Did the Single Commissioner err in finding as fact and concluding as law that this claim was not barred by the doctrines of res judicata and collateral estoppel, the error being that this is not supported by a preponderance of the evidence and is an error of law?
- 3) Did the Single Commissioner err in determining that the claimant gave adequate notice of the injury and the Defendants were not prejudiced by the lack of notice, the error being that this finding is not supported by the preponderance of the evidence and is an error of law?
- 4) Did the Single Commissioner err in finding as fact and concluding as a matter of law that the claimant's injury was causally related to his job duties at star foods, the error being that this finding is not supported by the preponderance of the evidence and is an error of law?

- 5) Did the Single Commissioner err in finding as fact and determining as a matter of law that the claimant sustained a repetitive trauma to his left arm and shoulder the error being that this is not supported by the preponderance of evidence and is an error of law?
- 6) Did the Single Commissioner err in determining that the claimant suffered a 3% rating to his left upper extremity AND a 5% rating to his left shoulder due to this alleged injury, the error being that this finding is not supported by any medical evidence, is a misstatement of fact and is an error of law?
- 7) Did the Single Commissioner err in finding as fact determining as a matter of law and ordering that the claimants injury prevents him from returning to work, the error being that this is not supported by the preponderance of the evidence and is an error of law?
- 8) Did the Single Commissioner err in determining that the claimant is entitled to a lump sum payment, the error being that this payment is not supported by the preponderance of the evidence and is an error of law?
- 9) Did the Single Commissioner err in determining that defendants are liable for all previously incurred causally related medical treatment and expenses, the error being that this is not supported by the evidence and is an error of law?

Arguments

A. The hearing commissioner erred in determining that the claimant was permanently and totally disabled under 42-9-10 because the claimant only injured one body part.

The claimant was found permanently and totally disabled based on a 5% rating to his shoulder. There are NOT two body parts involved in this matter. The claimant solely received treatment to the shoulder including shoulder surgery.

The hearing commissioner specifically based this ruling upon the fact that the claimant suffered a 3% rating to his left upper extremity and a 5% rating to his left shoulder. This finding is erroneous and not supported at all by the medical evidence.

It is clear from the medical questionnaire of Dr. Lehman, that the doctor was not rating both the shoulder and the arm, but rather he was converting the upper extremity rating to a shoulder rating. (Clit's APA p. 23). Because there is only one body part at issue, the claimant is not permanently and totally disabled pursuant to SC Code Ann. 42-9-10.

The law is clear that when a claimant suffers an injury to a single listed body part, they are confined to the scheduled member provision of SC Code Ann. 42-9-30. "Where the injury is confined to the scheduled member, and there is no impairment of any other part of the body because of such injury, the employee is limited to the scheduled compensation." Singleton v. Young Lumber Company, 236 S.C. 454, 471, 114 S.E.2d 837, 845 (1960). If the claimant can demonstrate an impairment to more than one body part, then the claimant can proceed to attempt to show that he or she is totally disabled under S.C. Code Ann. § 42-9-10. However, "to obtain compensation in addition to that scheduled for the injured member, claimant must show that some other part of his body is affected." Singleton v. Young Lumber Company.

In the instant case, the claimant received shoulder surgery. While the doctor states in some of his notes that the arm is affected, it was misrepresented to the commissioner that the claimant received a rating to the arm. The medical questionnaire clearly shows that the rating was simply a conversion of the shoulder rating to the arm rating. On pg. 23 of the claimant's APA's, the Dr. states the following "3% UE impairment exists; equivalent to 5% to the shoulder. This rating was given pages on "impingement syndrome." (CI's APA p. 23).

This instant matter is similar to the recent Colonna v. Marlboro Park Hosp. decision. In that case, the court of appeals addressed what it means for a body part to be affected. The hospital employee in Colonna sought workers' compensation benefits for a compensable injury to her ankle/foot. To address the pain in the claimant's right foot and ankle, a spinal cord stimulator was implanted in the claimant's back. The court ruled against her bringing in the back to proceed as totally and permanently disabled. They reasoned that "a claimant must prove not only that another body part was affected by the insertion of the treatment device, but that another body part was impaired or injured for section 42-9-10 to apply." Likewise, the claimant's arm

was neither impaired nor injured in this case. Therefore, it was error for the commissioner to determine the claimant permanently and totally disabled under that statute.

B. The hearing commissioner erred in determining that the claimant suffered from a repetitive trauma injury, thus entitling him to workers compensation benefits because the medical evidence does not support such a finding.

The first time that the repetitive nature of the claimant's job was ever brought into question was when the claimant's attorney brought this claim. All documents reviewed and testimony given before Commissioner Barden in the motor vehicle accident claim say nothing about his job being repetitive. (Def.'s APA pp. 432-486; 506-514)..

Surgery for the claimant was already contemplated BEFORE the claimant even began working for the employer in January of 2012. At that visit, the claimant described himself as "disabled" for his shoulder problems. (Defendants APA p. 201). The claimant's injury cannot meet the definition of a repetitive trauma. Under § 42-1-172 (A): "Repetitive trauma injury" means an **injury which is gradual in onset and caused by the cumulative effects** of repetitive traumatic events. The claimant already had an injury requiring surgery before he even came to work with the employer. As Commissioner Barden, in her order denying compensability stated:

Claimant told his doctor "that he would hold off on surgery for now;" She also noted that "The claimant's post-accident complaints in April 2012 are the same complaints he made to the Orthopedist at the visits immediately prior to the date of the accident in issue. (Defendants' APA #5, page 101; Cf. Claimant's APA #1, pages 3 and 7; Defendants' APA #10, pages 143-144; Claimant's Deposition, page 25).

Because the claimant was already considering surgery and having these same complaints before even working with the employer, there was no repetitive trauma injury.

It is uncontested that the claimant has an extensive history of shoulder problems. The history of the claimant's shoulder problems are as follows:

- In June 2011 (8 months prior to Claimant's date of hire), Claimant underwent left shoulder surgery (including distal clavicle excision, acromioplasty, and the implementation of hardware) to address a rotator cuff tear, labral tears, and acromioclavicular joint arthritis, **after injection therapy failed**. Claimant also underwent post-surgical physical therapy (Defendants APA p. 213; Defendants APA p. 201).
- Just one month prior to his date of hire, in January of 2012, Claimant returned to his personal orthopedist with complaints of **"increasing shoulder pain"** (described by Claimant at an **"8"**), for which "nothing" made Claimant's symptoms better (including icing his shoulder). Claimant also reported neck and back pain. **Claimant described himself as "disabled,"** and also stated that he had applied or was planning to apply for disability and/or unemployment. Because of Claimant's worsening left shoulder complaints, he **underwent a left shoulder steroid injection at this visit in January 2012** (Defendants APA p. 201; Order of Commissioner Barden).
- On **February 2, 2012 (1 day prior to Claimant's start date with Employer)**, Claimant returned to his personal Orthopedist and reported that the **injection had only lasted "several days."** Claimant's Orthopedist recommended another injection, and instructed Claimant to return in 8 weeks for a re-check with a "repeat MRI at that point if he is no better." (Def.'s APA p. 204).

Because the claimant's shoulder pain was so bad that a doctor was already contemplating an MRI and surgery, before he even started working with this employer, the evidence does not support the finding that his problems and surgery performed in October of 2013 were the result of a repetitive trauma on the job.

The claimant's attorney tries to argue that since his shoulder claim from the motor vehicle accident in 2012 was non compensable, he can now proceed as the claimant suffered from a repetitive trauma. He bases his argument on the erroneous statement that Commissioner Barden, in finding of fact 18 of her order, found that claimant returned to baseline. This is not only a misstatement of fact, but an error of law. Commissioner Barden did not make a medical determination that the claimant was at baseline. The Commissioner's finding is as follows:

If Claimant injured/aggravated his left shoulder in the accident, I

find that his condition returned to baseline: (a) when Claimant returned to his personal Orthopedist for his **previously scheduled** 8-week follow-up visit, Claimant never mentioned the work accident as a factor in his ongoing pain; nor did Claimant report an aggravation.

(Def.'s APA p. 494; emphasis added)

The Commissioner was making a statement in this finding that she didn't believe the claimant aggravated or injured his left shoulder at all in the MVA because he was already scheduled to see the Orthopaedist before working for this employer and because he didn't mention the MVA at that appointment. The claimant's attorney's assumption that Commissioner Barden's order is law of the case that the claimant is at baseline is erroneous.

The claimant relies on the questionnaire of Dr. Lehman to support his repetitive trauma claim. This is also erroneous because the questionnaire is in direct contradiction to the medical evidence. As Commissioner Barden stated in her Order: Dr. Lehman **specifically and explicitly** bases his opinion upon his apparent misapprehension that, prior to the accident in issue, Claimant had **"no symptoms whatsoever, no pain at the shoulder," and that Claimant had "recovered completely" with no symptoms "for at least six months prior to the accident."** As not one of these statements is true, either Dr. Lehman did not read--or was not provided--the January and February 2012 medical records from Dr. O'Malley (Def.'s APA 499). If the doctor wasn't even aware of the claimant's problems when stating that the first accident was related, his opinion in this matter is likewise irrelevant and flawed correctly recognized by Commissioner Barden.

Dr. O'Malleys opinion should also be given little or no weight. As it is in direct contradiction to his own medical records (Def.'s APA p. 173).

Even if the Commissioner properly found that the claimant suffered from a repetitive trauma, it was error for the Commissioner to determine that the defendants had adequate notice. Under 42-9-172, notice of the injury or condition **must** be given by the employee **within 90 days**

of the date the employee discovered, or could have discovered by exercising reasonable diligence, that his condition is compensable, unless reasonable excuse is made to the satisfaction of the commission for not giving timely notice, and the commission is satisfied that the employer has not been unduly prejudiced thereby.

It would be hard to believe that the claimant in this instance could not have discovered his injury by exercising reasonable due diligence, when he has been represented by counsel for years during the litigation for his shoulder. Also, it would be difficult for the claimant's attorney to state that he didn't know about a possible repetitive trauma claim until February 27, 2014, when a questionnaire was sent, WITH A JOB DESCRIPTION, to the doctor before the first 2012 MVA claim was even settled. (Def. APA p. 136-138). The claimant's attorney has had access of the claimant's personnel file since the litigation of the claimant's prior claim and was aware of the claimant's job duties yet he pursued an injury by accident action (Def.'s APA p. 487-501). Also, the fact that the claimant struck through a specific statement in the clincher document is also evidence of his knowledge. He knew or should have known earlier about any repetitive trauma issue and advised his client of the same. Moreover, at the time that he requested a change in the clincher document as well as when he sent the questionnaire to the claimant's physician, he failed to notify defense counsel of this claim.

The defendants were severely prejudiced by not having notice of the repetitive trauma claim as defense counsel would not have entered into the clincher agreement with claimant's counsel during the first 2012 MVA claim if she knew of the questionnaire. The Commissioner's determination that defendants were not unduly prejudiced by lack of notice is clearly erroneous.

The first notice that Defendants received of this claim was by virtue of claimant's form 50 filed on March 27, 2014. The claimant stopped working for the employer in August of 2013. He had surgery on October of 2013. Taking into consideration, the contradictions in the doctor's

reports stating he suffered from a repetitive trauma, the changes made in the clincher documents, as well as the timeframe of the claimant's problems which even pre-dated his work with the employer, the Commissioner's finding that he suffered from a repetitive trauma and gave adequate notice without prejudice is erroneous.

The Commissioner also erred in placing more weight upon the testimony of the claimant's vocational expert, Ashley Vargas. The Defendant's expert Jane Westmoreland did not submit a report but testified at the hearing. Defense expert found that Mr. McHowell could work as a shuttle operator, seasonal concessions operator, event attendant, parking lot cashier, customer service representative, dispatcher, and logistics. (HT p. 48, lines 10-20).

Ms. Vargas found the claimant permanently and totally disabled on a 5% rating to the left shoulder. She also stated that "it was highly unlikely that the Claimant would be able to get employment given his past work history and age." (CIL's APA pp. 61-65). However, the claimant's work history as reported to Ms. Vargas was that he only did heavy work. This is erroneous.

The claimant is a high school graduate with some technical training as well. The claimant applied for employment with Fedex as a DELIVERY DRIVER on November 9, 2012. This application was filled out while the claimant was still working with our employer and during the time in which his alleged repetitive trauma took place (Def. Ex. T p. 684). Also, according to the claimant's own testimony at the hearing in 2015, he received on the job sales training for approximately five years for industrial piping and valves (HT p. 27, lines 6-19). Moreover, when cross examined, the claimant admitted to incorporating a business in October of 2013, which was after he left work with the employer, and during his time he had surgery. The business was incorporated as Big Bubba's LLC., and the business was to perform trucking and loading. When Mr. McHowell filed for the incorporation of that business, he was certainly aware of any

physical limitation that he might have had. He also testified that he has done yard work including mulching since this accident. It is apparent by the claimant's own testimony that he is capable of working and has applied for jobs. Considering the testimony, transcripts, and evidence as a whole, the claimant is employable.

Assuming, arguendo that Mr. McHowell is totally and permanently disabled, it can't be related to his employment with Star Foods as he already considered himself "disabled" before even working for the company. He also applied for social security disability benefits. Stephen Laney, the claimant's supervisor testified that the claimant's problems were not the reason that he was going out of work. His reason for quitting was that he was inheriting money from a relative. The Commissioner's finding that the claimant is permanently and totally disabled is erroneous for the reasons set forth above.

C. The Hearing commissioner erred in determining that the doctrines of res judicata and collateral estoppel don't apply to this matter

Res judicata prevents the re-litigation of issues previously decided between the same parties, and *res judicata* is shown if: 1) the identities of the parties are the same as in the prior litigation; 2) the subject matter is the same as in the prior litigation; and 3) there was a prior adjudication of the issue by court of competent jurisdiction. See Johnson v. Greenwood Mills, Inc., 452 S.E.2d 832 (S.C. 1994).

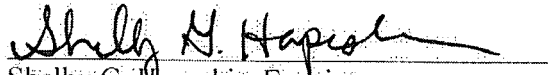
To meet the criteria of number one of the elements established in the Johnson case, all that is necessary is to look at this case caption compared to the caption in WCC #1207730. A brief glance at the Form 50 in this matter would show that the subject matter of this litigation is compensability of the claimant's left arm problems, thus fulfilling the second requirement. The order of Commissioner Barden easily fulfills requirement number three.

This is the same claim, with the same parties, and the same subject matter as in the prior litigation. All that was changed was the term "repetitive" was inserted before pleadings and questionnaires. The claimant's shoulder issue was litigated and the employer was found to not be responsible. This is an unjust attempt for the claimant's attorney to re-litigate the issues under the guise of bringing a repetitive trauma claim because he did not like the outcome of the first litigation.

"Under the doctrine of collateral estoppel, once a final judgment on the merits has been reached in a prior claim, the re-litigation of those issues actually and necessarily litigated and determined in the first suit are precluded as to the parties and their privies in any subsequent action based upon a different claim." Richburg v. Baughman, 290 S.C. 431, 434, 351 S.E.2d 164, 166 (1986); see also Shelton v. Oscar Mayer Foods Corp., 325 S.C. 248, 251, 481 S.E.2d 706, 707 (1997). This claim should be barred by the doctrines of collateral estoppel and res judicata and it was error for the Commissioner to find otherwise.

CONCLUSION

For the reasons set forth above, the defendants respectfully request that the Order of the Single Commissioner be reversed in its entirety.


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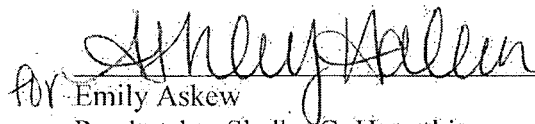
January 22, 2015

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Appellate Brief has been served upon the following named individuals as indicated below on 1/22/10.

Amy Bracy
S.C. Workers' Compensation Commission
PO Box 1715
Columbia, South Carolina 29202
Via "e-case"

Brent P. Stewart, Esquire
Stewart Law Offices, LLC
PO Box 670
Rock Hill, SC 29731-6670
Via U.S. mail

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STATE OF SOUTH CAROLINA)

COUNTY OF LANCASTER)

Bryan McHowell,)

Employee/Appellant,)

vs.)

Star Food Products/)

Mrs. Stratton's Salads, Inc.,)

Employer,)

and)

Great American Alliance Insurance/)
Respondents,)

Carrier.)

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION
COMMISSION

WCC FILE NO: 1402961

Reply Brief

The Employer/Carrier, Great American Alliance Insurance (Appellants), hereby submit the following responses to the claimant, Bryan McHowell's Respondent's Brief.

ARGUMENT

The claimant's attorney first contends that "Dr. Schwartz and Dr. Lehman offered the only medical testimony in regards to the injury" and that somehow the Defendants lack of deposing either doctor supports his claim. This is a baseless argument as the burden is upon the claimant to prove that the claimant suffered an injury. See, e.g., Clade v. Champion Labs., 330 S.C. 8, 11, 496 S.E.2d 856, 857 (1998); Bartley v. Allendale County Sch. Dist., 381 S.C. 262, 272, 672 S.E.2d 809, 814 (Ct. App. 2009). Similarly, our courts have held that the burden of proving causation is on the claimant. See Shealy v. Algernon Blair, Inc., 250 S.C. 106, 113, 156 S.E.2d 646, 649 (1967) ("The burden of proving causation rested upon claimant.").

Although defendants weren't required to depose these two doctors, they chose not to depose them as their records actually helped the defendant's case.

Dr. Schwartz did not even believe that the claimant should have shoulder surgery:

12/22/14 (Dr. M. Schwartz medical note): Claimant's APA p. 46

change in the shoulder. I do not think he is an appropriate surgical candidate at the present time for shoulder replacement surgery and I see no evidence that would require shoulder arthroscopy. If he fails to improve I would consider diagnostic arthroscopy and change in the shoulder. I do not think he is an appropriate surgical candidate at the present time for shoulder replacement surgery and I see no evidence that would require shoulder arthroscopy. If he fails to improve I would consider diagnostic arthroscopy and

This report is one month after Dr. Schwartz filled out the questionnaire agreeing with Dr. Lehman that there was a repetitive trauma. Therefore, the records of Dr. Schwartz actually help defendants case in that there was no repetitive trauma necessitating surgery.

As to Dr. Lehman, his records are clearly inconsistent and non-reliable. The most telling and most supportive medical record of defendant's case is the actual surgical note. This is the same surgery in which the single commissioner ordered defendants to pay for as the result of a repetitive trauma.

Piedmont Medical Center-10/31/13; Claimant's APA p. 8:

DATE OF PROCEDURE: 10/31/13

PREOPERATIVE DIAGNOSES: Chronic complete rotator cuff tear, Labral degenerative tear, subacromial impingement, and acromioclavicular joint arthritis, left shoulder.

POSTOPERATIVE DIAGNOSES: Chronic complete rotator cuff tear, Labral degenerative tear, subacromial impingement, and acromioclavicular joint arthritis, left shoulder.

PROCEDURES:

1. Left shoulder arthroscopy with major debridement, labrum and rotator cuff.
2. Mini open repair, supraspinatus tendon tear, left shoulder.
3. Anterior acromioplasty and CA ligament resection, left shoulder.
4. Open acromioclavicular joint arthroplasty, left shoulder.

SURGEON: William Lehman, M.D.

ANESTHESIA: General endotracheal with interscalene Regional, Dr. Viapiano.

COMPLICATIONS: None.

OPERATIVE INDICATION: This 55-year-old man has been involved in a motor vehicle accident in 3/2012, and has had persistent left shoulder pain, weakness, and stiffness since that time. He has undergone extensive conservative treatment program with no benefit. An MRI has shown changes, which can be improved with the above procedure, hoping to improve his overall level of ADLs.

Further, Dr. Lehman's reports are riddled with inconsistencies. To accept Dr. Lehman's opinion that a repetitive injury was the cause of this accident, the commission would have to ignore years of his medical reports that are in direct contradiction and name Dr. Lehman an ergonomics expert. Below is a chart of Dr. Lehman's inconsistent findings:

Date	Finding	APA pg. #
3/19/13	In response to a questionnaire from Brent Stewart, Dr. Lehman relates the claimant's need for shoulder surgery to the motor vehicle accident of 3/6/12	Def.'s APA p. 115
10/5/13	Dr. Lehman notes that the claimant is returning to him for pain in his shoulder pertaining to his "WC MVA injury."	CI's APA pp. 1-4
10/31/13	Dr. Lehman performs surgery and notes that the need for surgery is the 2012 MVA.	CI's APA p. 8
12/23/13	Dr. Lehman notes that claimant is having excellent recovery in PT when he "reinjured" his shoulder in a work related MVA on 3/5/12	CI's APA pp. 17-20
2/21/14	In response to questionnaire submitted by attorney Brent Stewart Dr. Lehman related the shoulder surgery of 10/31/13 to a repetitive trauma	CI's APA pp 21-22

The claimant's attorney requested the commission read Dr. Lehman's questionnaire of February 21, 2014 in a vacuum without regard to any of his other reports. The appellate panel, as the ultimate factfinder, can review these records and see that Dr. Lehman's reports are unreliable. It is clear that Dr. Lehman has no clue as to how the claimant injured himself. Dr. Lehman does not even mention a repetitive trauma until after he answers the questionnaire and

reviews the job requirements months after surgery. Then, Dr. Lehman states in a report dated after the questionnaire that the problems were from an MVA. A cursory glance of Dr. Lehman's medical records show that he unequivocally believed that that claimant's problems were the result of the motor vehicle accident. Moreover, there is no mention of the claimant's job duties or complaints by the claimant to Dr. Lehman about a repetitive injury until after this questionnaire of February 2014.

The claimant testified for an extensive period of time before Commissioner Barden and never mentions a repetitive trauma or the repetitive nature of his job duties (Def's APA p. 433-487). In fact, the claimant never complained to his supervisor, Steve Laney, about doing his job or the repetitive nature of his job. (Laney's depo. P. 8-12). The claimant's statement that he quit his job because of the pain and repetitive nature of the job in his deposition and at the hearing are in complete contradiction to his statements made to Mr. Laney and to his very own doctor. The claimant told his doctor that he was retired. (cl's apa). Further, the claimant's attorney's own respondent's brief references the workers' compensation number from the MVA accident of WCC File 1207730 rather than the file number for a 2014 repetitive claim.

The evidence is clear that the claimant did not suffer from a repetitive trauma and contrary to the claimant's attorneys assertion, neither the reports of Dr. Lehman or Dr. Schwartz support such a finding. The commissioner erred in determining there was a repetitive trauma or that surgery was necessary because it is not supported by the evidence in this matter.

It was also error for the commissioner to rely on the claimant's testimony that the claimant's repetitive job caused his injury. As Commissioner Barden repeatedly states in her order, the claimant is not credible. The record in this matter also shows that the claimant's testimony is not trustworthy. Not only has the claimant been represented by counsel for his

shoulder problems for years, he has been a patient of Dr. Lehman's for years. However, he expects the Commission to believe that he did not have notice of a repetitive trauma injury until Dr. Lehman filled out his medical questionnaire in February of 2014? He tells his own doctor, Dr. Ryder Cook, on September 17, 2014, that he injured his shoulder in a motor vehicle accident and makes NO mention of a repetitive trauma. (Claimant's APA p. 49). Dr. Lehman even goes back on his finding of a repetitive trauma in his letter of September 17, 2014. (Claimant's APA p. 38).

Dr. Lehman's report of September 30, 2014, also dated after his questionnaire, states that the claimant's injury was the result of a motor vehicle accident:

Dr. Lehman, cl's apa p. 38 9/30/2014

Persistent left shoulder pain, with underlying Mild tendinopathy of the supraspinatus and infraspinatus tendon with blunting of the anterior labrum, postsurgical, relatively normal shoulder arthrogram.
S/P arthroscopic major debridement, mini-open RCR, decompression, and AC resection arthroplasty, left shoulder on 10/31/13.
Excellent recovery in PT.
Prior RCR 2011, injured in work related MVA 3/5/12, W/C denied.
Bilateral moderate carpal tunnel syndrome L>R with evidence of slowing of the left ulnar nerve and a slight drop at the elbow, s/p BL CTR 2008/9

The record does not support that the claimant had a repetitive trauma but rather the claimant is attempting to litigate the same injury that has already been adjudicated.

The claimant's attorney next contends that the defendant's assertion that the rating was to the shoulder only is erroneous because it is the opinion of the Commissioner that there were two body parts affected. Defendants agree that the commission found that the claimant sustained an injury and had a rating to both the shoulder and arm. However, defendants assert that this finding is *clearly erroneous* in light of the medical records. The only evidence of a rating being given is by Dr. Lehman. He rates the claimant in his report 8/22/14:

Dr. Lehman, 08/22/14 Clt APA p. 31

In terms of impairment, I have previously stated in the questionnaire that a 5% impairment would apply simply to the diagnosis of persistent impingement syndrome created by repetitive use, but the impairment would be substantially greater if a recurrent rotator cuff tear or rotator cuff insufficiency, potentially requiring surgery, were discovered as a result of the MRI/Arthrogram of the shoulder.

Then, he mentions a rating in the questionnaire. Even relying on that questionnaire to be true despite Dr. Lehman's inconsistent prior reports, it clearly shows that Dr. Lehman did a conversion of the shoulder and arm ratings and didn't rate both body parts:

07/06/14 (Dr. Lehman's questionnaire) Claimant's APA p. 23

based on the preliminary diagnosis of impingement syndrome created by repetitive use, 2% UE impairment exists, equivalent to 5% impairment of the shoulder
What type of work will Mr. McHowell be limited to now or in the future due to his

The claimant's attorney next argues that that if the defendants "wished to argue one body part, they should have deposed the treating doctor and/or offered testimony to refute that offered by the claimant." Once again IT IS NOT DEFENSE COUNSEL'S BURDEN to prove that the claimant is not injured. Further, it wasn't even necessary for defense counsel to depose either doctor when their records clearly support defense counsel's assertion that the rating was to only one body part. The claimant's attorney further states that there is no other evidence presented at trial that two body parts were not affected. Again, this is a misrepresentation made by the claimant's attorney as the record clearly shows a conversion rating to one body part. Also, this is another improper attempt to shift the burden of proof to defense.

The evidence is clear that only one body part suffered from impairment and as such, the commissioner's finding of permanent and total disability is erroneous.

The claimant's attorney stated that the defense counsel attempts with no medical evidence to refute the evidence of the case and they could have **deposed Dr. Ryder Cook, Dr. Giraul, Dr. Blue, Dr. Lehman and Dr. Schwartz**. Once again, defense counsel did not have the burden of proving this case. Moreover, medical records from these doctors actually *support* defense counsel's position that this surgery is not related to this alleged new injury.

As stated above, Dr. Ryder Cook believes the injury was from the motor vehicle accident and that the defendant quit work because he retired.

09/17/14 (Dr. A. Ryder-Cook medical note) Claimant's APA p. 49

HISTORY OF PRESENT ILLNESS: He tells me that he underwent a left rotator cuff repair a few years ago and then last year, in February 2013, he was involved in a motor vehicle accident in which he reinjured his left shoulder. He was actually on his job doing delivery at the time, and it was a Worker's Comp situation but got se

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09/17/14 (Dr. A. Ryder-Cook medical note) Claimant's APA p. 50

SOCIAL HISTORY: His social history is negative for smoking. He does not drink alcohol. He is retired at the moment. He has been out of work for 13 months. He has worked as a welder and truck driver. He

SOCIAL HISTORY: His social history is negative for smoking. He does not drink alcohol. He is retired at the moment. He has been out of work for 13 months. He has worked as a welder and truck driver. He

As to Dr. Girault, he found the following:

The Pain Center-Dr. Girault, 01/09/15-Claimant's APA p. 55

The patient is a 57 year old male who presents with a complaint of shoulder pain. The shoulder pain has been occurring in a continuous pattern for years (2013). The shoulder pain is described as being located in the left shoulder. The shoulder pain is characterized as aching,

The Pain Center-Dr. Girault, 02/06/15-Claimant's APA p. 57

The patient is a 57 year old male who presents with a complaint of shoulder pain. The shoulder pain has been occurring for years (2013). The shoulder pain is described as being located in the left shoulder. The shoulder pain is characterized as aching, burning sensation,

The patient is a 57 year old male who presents with a complaint of shoulder pain. The shoulder pain has been occurring for years (2013). The shoulder pain is described as being located in the left shoulder. The shoulder pain is characterized as aching, burning sensation,

While the claimant's attorney mentions a Dr. Blue, there appears to be no medical records submitted in any of the apa's.

Contrary to the claimant's attorney's assertion, deposing any of these doctors would not be helpful as their records actually help defense counsel's case. Therefore, these doctors support a finding that the claimant did not suffer from a repetitive trauma injury.

What is most telling in this matter is the fact that claimant's attorney spends 22 pages of his brief with his interpretation of the evidence and facts at issue and a mere 3 pages of arguments. In those three pages, he spends more time personally attacking defense counsel's

legal strategy of the claim rather than making any legal argument. The record speaks for itself.

Even the claimant's ergonomics expert Glen Adams can't relate the repetitive injury to the job:

Adams & Wilkinson-Glen Adams, MRC, CRC, CEES- 11/24/14-Claimant's APA p. 71

McHowell. In order to reach a definitive conclusion regarding the ergonomics risks to the left shoulder, an on-site assessment is needed. This assessment

It was clearly erroneous to find that the claimant suffered from a repetitive trauma injury, much less that the claimant is permanently and totally disabled based upon a low impairment rating to one body part. As such, the commissioner's determination should be reversed.

The medical records, depositions transcripts, and hearing testimony make it crystal clear that this repetitive trauma claim was not even thought of or pursued until after the first clincher document was signed. The record also supports defense counsel's argument that they signed a clincher agreement for the same body part without knowledge of Dr. Lehman's questionnaire. Below is a chart of the EVIDENCE showing that defendant's lack of notice of this claim was prejudicial:

<u>Date</u>	<u>Action</u>	<u>APA Page (evidence)</u>
3/6/12	Claimant had mva while working at star foods	WCC File 1207730
7/9/13	Hearing took place before Commissioner Barden and claimant's attorney appealed	WCC File 1207730
8/13	Claimant stops working for star foods	<u>Deposition of steve laney</u>
2/19/14	Date of the appellate panel hearing, but claimant's attorney and defense counsel settled matter verbally	WCC File 1207730
2/20/14	Claimant's counsel sends a questionnaire to Dr. Lehman asking him to relate the surgery to a repetitive trauma	Def. APA p. 136-138

3/2/2014	Clincher agreement to the injury by accident to the same shoulder was signed by the claimant's attorney	Def. APA p. 502-505
3/13/14	Claimant's counsel requests clincher agreement be changed and Defense counsel agrees and signs clincher	Def. APA p. 502-505
3/17/14	Clincher document is approved	Def. APA p. 502
3/27/14	Defendants first receive notice of a claim for a repetitive trauma injury for the same body shoulder by claimant's filing of a Form 50	Cl's APA p. 21-22

The evidence supports the defense's assertion that their lack of notice prejudiced them. As such, the commissioner's finding that there was no prejudice was erroneous.

Claimant's attorney again misrepresents the facts by stating that Commissioner Barden in her order clearly stated that the injury from the car wreck was back to baseline and that it was months of work after the accident that caused the repetitive trauma injury to the claimant. This argument is conclusory, continuously contradicted by numerous records, and not supported by the evidence. As stated above, the claimant relates his problem to the motor vehicle accident even after Dr. Lehman's questionnaire. Moreover, the claimant's own vocational expert states that he can't claim the injury was repetitive unless he viewed the accident site. Again, as evidenced below by a timeline of the claimant's medical treatment and claims history, the claimant did not suffer from a repetitive trauma.

The timeline of events and APA evidence in which Defendants rely upon are as follows:

<u>Date</u>	<u>APA #</u>
6/11 (8 months prior to hire) Claimant underwent left shoulder surgery (including	Def.'s APA p. 213

distal clavicle excision, acromioplasty, and the implementation of hardware). Claimant also underwent post-surgical physical therapy	
1/12 (1 month prior to hire) (2 months before mva), Claimant returned to his personal Orthopedist in January 2012 with complaints of "increasing shoulder pain" (described by Claimant at an "8"), for which "nothing" made Claimant's symptoms better (including icing his shoulder). Claimant also reported neck and back pain. Claimant described himself as "disabled," and also stated that he had applied or was planning to apply for disability and/or unemployment. Because of Claimant's worsening left shoulder complaints, he underwent a left shoulder steroid injection at this visit in January 2012	Def. APA p. 201
2/2/12 (1 day prior to Claimant's start date with Employer), Claimant returned to his personal orthopedist and reported that the injection had only lasted "several days." Another injection and MRI are recommended	Def's APA p. 204
2/3/12 claimant begins working at star foods	Def's APA p. 491
3/5/12 Claimant has MVA while working on the job.	Hearing Transcript WCC file 1207730
8/12 Claimant stops working for Star foods	Deposition of steve laney
3/19/13-Dr. Lehman relates the MVA to the claimant's shoulder complaint and need for surgery	Def's APA pp.115-119
10/25/13-claim for shoulder injury in WC mva claim is found non compensable	Def.'s APA p. 487
Piedmont Medical Center-10/31/13: claimant has shoulder surgery and Dr. Lehman relates it to the MVA of 2012;	Claimant's APA p. 8
12/23/13-Dr. Lehman notes that claimant is having excellent recovery in PT when he "reinjured" his shoulder in a work related MVA on 3/5/12	Claimant's APA p. 17-20
Appeal hearing held	WCC File 1207730
2/21/14 In response to questionnaire submitted by attorney Brent Stewart Dr. Lehman related the shoulder surgery of 10/31/13 to a repetitive trauma	Def.'s APA p. 136
Clincher agreement approved by the commission.	Def.'s APA p. 502

On March 27, 2014 claimant's attorney filed a Form 50 now stating that on February 27, 2014, Defendant's First notice of an injury	CI's APA p. 21-22

CONCLUSION

For the reasons set forth above, the defendants respectfully request that the Order of the Single Commissioner be reversed in its entirety.



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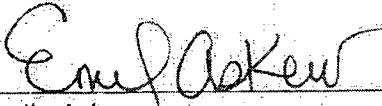
February 12, 2016

CERTIFICATE OF SERVICE

This is to certify that a copy of the Defendant's Reply Brief has been served upon the following named individuals indicated as below on 2/12.

Amy Bracy
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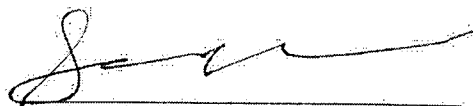
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Certificate of Counsel

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and no other material.

December 2, 2016



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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

SC Court of Appeals

APPEAL FROM THE WORKERS COMPENSATION COMMISSION

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R. Michael Campbell, II, Commissioner
Avery B. Wilkerson, Commissioner

WCC File No. 1402961
Appellate Case No. 2016-001072
Bryan McHowell, Employee/Claimant, Respondent;

v.

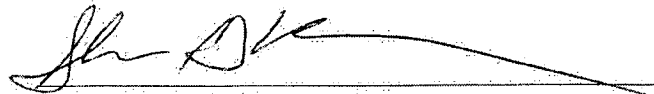
Star Food Products/Mrs. Stratton's Salads, Inc., Employer and Great American Alliance
Ins., Carrier, Appellants.

PROOF OF SERVICE

I certify that I have served the Record on Appeal by depositing a copy of the same in the United States Mail, postage prepaid, on December 12th 2016 to the following parties, and or their representatives;

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