

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SOUTH CAROLINA WORKERS'
COMPENSATION COMMISSION

SCWCC No. 1513718
Appellate Case No. 2017-001491

RECEIVED

JUL 24 2017

SC Court of Appeals

Anthony J. Belo, Employee, Claimant.....Appellant,

v.

Aiken County, EmployerRespondent.

MEMORANDUM RE: APPEALABILITY

Robert F. Goings (S.C. Bar # 74855)
Jessica L. Gooding (S.C. Bar # 101210)
GOINGS LAW FIRM, LLC
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Attorney for Appellant

July 24, 2017
Columbia, South Carolina

INTRODUCTION

Appellant Employee Anthony J. Belo (“Appellant” or “Mr. Belo”) filed his Notice of Appeal on July 7, 2017, appealing the Judicial Conference Decision and Order of the South Carolina Workers’ Compensation Commission holding that the Commission would not consider newly discovered evidence in his case under South Carolina Code of Regulations Section 67-707. On July 12, 2017, Counsel received a letter from this Court requesting that both parties address whether this issue is immediately appealable in a memorandum to be filed with the Court. This appealability issue is addressed herein.

FACTS AND PROCEDURAL HISTORY

This case arises out of an injury to Claimant’s lumbar spine on September 29, 2015. Claimant was working as an Emergency Medical Technician with Aiken County Government, and while conducting the morning checkout, he slipped on the stainless-steel steps at the back of an ambulance, causing him to fall approximately four feet to the ground. This injury required Mr. Belo to undergo four surgeries and endure multiple hospitalizations. Mr. Belo asserts that his injury and numerous surgeries caused him anxiety and depression and had an overall negative effect on his mental health. In a hearing before Commissioner Michael Campbell held on December 19, 2016, Mr. Belo asked the Workers’ Compensation Commission (“Commission” or “WCC”) to issue an order requiring Respondent Employer Aiken County (“Respondent” or “Aiken County”) to provide an evaluation for his psychological condition related to his physical injury, or, alternatively, finding that his present psychological condition was causally related to the injuries sustained in this case.

In an Order dated April 19, 2017, the Hearing Commissioner found that Claimant was

experiencing mental and emotional issues at the time of the hearing, but held that Claimant had not met his burden because no physician, psychologist, or psychiatrist had yet given an opinion that Claimant's psychological condition was causally related to his admitted work-related injury.¹ (Exhibit A). On May 3, 2017, the day after Claimant saw a psychologist for the first time, Claimant submitted a Motion to Allow Additional and Newly Discovered Evidence and supporting affidavit pursuant to S.C. Code of Regulations 67-707. (Exhibit B). Mr. Belo explained that he was unable to see a psychologist prior to the original hearing and asked the Commission to consider the records and opinions of the psychologist in its review of the Hearing Commissioner's findings. The Full Commission denied this Motion on June 19, 2017. (Exhibit C, "Commission's Decision").

Appellant Belo filed a Form 30 with the Commission on June 21, 2017, requesting that the Full Commission reconsider its Motion.² However, the Commission responded in an email on June 27, 2017, that Appellant Belo could not request reconsideration from the Commission, and the "required process" was to "file [the] action in the Court of Appeals." (Exhibit D). Appellant now seeks review of the Commission's Decision not to admit the newly discovered evidence into the record.

ARGUMENT

I. The Commission's Decision not to Consider Newly Discovered Evidence is Immediately Appealable.

South Carolina Code Section 42-17-60 requires that a party wishing to contest a decision

¹ Appellant filed a Form 30 appealing this ruling on April 26, 2017.

² A party may, within 14 days of receiving notice of a decision, file a Form 30 requesting that the Commission, on good cause shown, review and reconsider the evidence and amend the award as appropriate. S.C. Code Ann. § 42-17-50. As noted above, Appellant Belo filed a Form 30 requesting review of the Hearing Commissioner's decision on the merits, and he filed a separate Form 30 requesting that the Commission reconsider its Decision and Order denying the admission of newly discovered evidence.

of the Commission must file a Notice of Appeal with the South Carolina Court of Appeals within thirty days of the decision. *Id.* The Administrative Procedures Act (“APA”) establishes the standard for judicial review of decisions of the Commission. *Pierre v. Seaside Farms, Inc.*, 386 S.C. 534, 689 S.E.2d 615 (2010). Under the APA, “[a] party who has exhausted all administrative remedies available within the agency and who is aggrieved by a final decision in a contested case is entitled to judicial review.” S.C. Code Ann. § 1-23-380. In addition, “[a] preliminary, procedural, or intermediate agency action or ruling is immediately reviewable if review of the final agency decision would not provide an adequate remedy.” *Id.*

Clearly, Appellant has exhausted his administrative remedies. Upon receiving the Commission’s Decision, Appellant attempted to seek further administrative review, but was informed that no such review was available. (Exhibit D). It is equally clear that Appellant was aggrieved by the Commission’s Decision; his Motion was denied. Thus, the Commission’s Decision is immediately appealable if (1) it is a final decision, or (2) review of the final agency’s decision would not provide an adequate remedy. In this case, both are true.

“A final judgment disposes of the whole subject matter of the action *or terminates the particular proceeding or action*, leaving nothing to be done but to enforce by execution what has been determined.” *Charlotte-Mecklenburg Hosp. Auth. v. S.C. Dep’t of Health & Env’tl. Control*, 387 S.C. 265, 267, 692 S.E.2d 894, 895 (2010) (emphasis added). In this case, the Hearing Commissioner determined that Mr. Belo is not entitled to psychiatric evaluation or treatment under the Workers’ Compensation Act based on the evidence in the record. (*See Exhibit A*). Appellant’s Motion to Allow Additional and Newly Discovered Evidence essentially requested that the Commission expand the record that was before the Hearing Commissioner to include new evidence not available at the time of the original hearing. (Exhibit B). The Commission’s

Decision, issued by the Full Commission in Judicial Conference, set forth a final decision that terminated Mr. Belo's proceeding on the consideration of additional, newly discovered evidence. The record, therefore, is set, and there is nothing left to be done on the matter. Thus, the June 19, 2017 Commission's Decision is an appealable final judgment. *See* S.C. Code Ann. § 1-23-380; *Charlotte-Mecklenburg Hosp.*, 387 S.C. at 267, 692 S.E.2d at 895.

Even if the Court determines that the Commission's Decision does not constitute a final judgment, it is immediately appealable because, if the Commission does not consider the newly discovered evidence, the final agency decision will not provide an adequate remedy. *See* S.C. Code Ann. § 1-23-380. The compensability of Mr. Belo's psychological injury cannot fairly be determined without the benefit of all the relevant medical records. Unfortunately, Mr. Belo's medical records were incomplete at the time of the original hearing. In spite of his best efforts, Mr. Belo was unable to get an appointment with a psychiatrist prior to his hearing, and he was only able to present medical evidence of his psychiatric injury and mental health condition from a psychiatric Nurse Practitioner. Now that Mr. Belo has seen a psychiatrist, the doctor's records must be considered in order to fairly determine whether he is entitled to further evaluation and/or treatment. Although the Full Commission has not yet reviewed the decision of the Hearing Commissioner in this case, it has ruled upon what it will consider during its review. The question of whether to consider the new evidence has been treated as a separate proceeding. If this Court does not address the issue now, the Commission's final decision on compensability *will not address the admissibility nor content* of the newly discovered medical records. Therefore, the final decision of the Commission will not provide Appellant with an adequate remedy, and the admissibility of new evidence must be addressed now.

Finally, the Commission's Decision is presently appealable because the Commission's

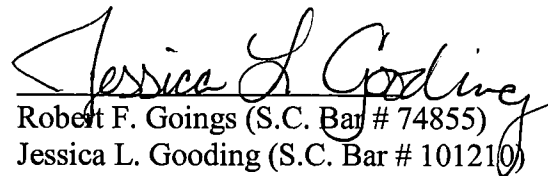
email to Appellant indicates that he cannot proceed before the Commission and is, instead, required to bring an appeal before this Court. (Exhibit D). Clearly, Appellant has exhausted his administrative remedies, and the Commission believes that he may only properly pursue his claim in the Court of Appeals.

CONCLUSION

For the reasons stated herein, the Full Commission's Decision and Order dated June 19, 2017 is immediately appealable, and this Court should proceed with a proper review of the matter.

Respectfully submitted,

GOINGS LAW FIRM, LLC



Robert F. Goings (S.C. Bar # 74855)

Jessica L. Gooding (S.C. Bar # 101210)

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Attorneys for Appellant

July 24, 2017
Columbia, South Carolina

CERTIFICATE OF SERVICE

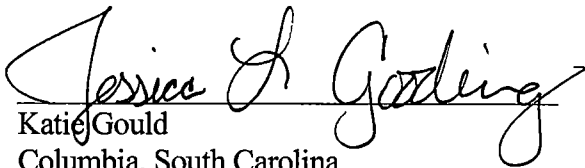
The undersigned employee of the Goings Law Firm, LLC, Post Office Box 436, Columbia, South Carolina 29202, does hereby certify that she has served the following named individual(s) with a copy of the pleading indicated below by mailing a copy of same in the United States mail, with sufficient postage affixed thereto and return address clearly marked on the date indicated below:

PARTIES SERVED:

Clark W. McCants, III, Esq.
P.O. Box 2881
Aiken, SC 29802
Attorney for Respondent

PLEADING/DOCUMENTS:

MEMORANDUM RE: APPEALABILITY



Katie Gould
Columbia, South Carolina
July 24, 2017

RECEIVED
JUL 24 2017
SC Court of Appeals

SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

Anthony J. Belo,)	
)	SCWCC File No. 1513718
Claimant,)	
)	DECISION AND ORDER
vs.)	
)	
Aiken County Government,)	
)	
Employer / Self-Insured,)	
)	
Defendant.)	
_____)	

Hearing: December 19, 2016 in Aiken, South Carolina.

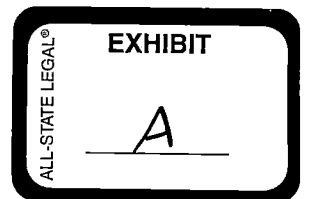
Appearances: Robert F. Goings of Goings Law Firm, Columbia, South Carolina,
for Claimant.

Clarke W. McCants, III of Nance, McCants & Massey, Attorneys
at Law, Aiken, South Carolina, for Defendants.

Purpose of Hearing: To determine those issues set forth on the Forms 50 and 51 and
any other matters which may have timely come before the
undersigned Commissioner.

Decision and Order: By R. Michael Campbell, II, Commissioner

Filed: April 19, 2017



STIPULATIONS

1. The purpose of the Hearing was to determine the issues set forth in the Hearing Notice and Forms 50 and 51, and any other matters which may have timely come before the undersigned Commissioner.

2. The Notice of the Hearing was timely and properly served upon all parties of interest.

3. The Claimant's compensation rate is \$769.27 based upon an average weekly wage of \$1,153.85.

4. Venue for this matter is proper in Aiken County, South Carolina.

5. The Claimant sustained an injury to his lower back on September 29, 2015 as a result of an accident arising out of and in the course of his employment. Further, the Claimant sustained a hernia as a result of medical treatment he received for his lower back injury. The Claimant is receiving ongoing medical treatment for these injuries and has not reached maximum medical improvement. The Claimant is also receiving payment of temporary total compensation as part of this matter.

6. The South Carolina Workers' Compensation Commission has jurisdiction in this matter.

APA SUBMISSIONS

Claimant

1. APA No. 1: Aiken Psychiatric & Psychotherapy Associates, P.A.
2. APA No. 2: Midlands Orthopedic Associates.
3. APA No. 3: Southeastern Spine, LLC

4. APA No. 4: Scott Tabor, M.D.

Defendants

1. APA No. 1: Biography of C. Luis McTier, Jr.

2. APA No. 2: CSRA Pain Management.

STATEMENT OF THE CASE

This matter is before the undersigned Commissioner to determine the issues set forth in the Parties' Forms 50 and 51, and the Claimant's entitlement to certain additional benefits under the South Carolina Workers' Compensation Law (hereinafter referred to as the "Act").

The Claimant in this case, Anthony J. Belo, sustained an injury to his lower back on September 29, 2015 as a result of an accident arising out of and in the course of his employment as an Emergency Medical Technician with Aiken County Government. Since that time he has received certain medical treatment for that injury. He has also received medical treatment for a hernia incurred as a result of treatment for his lower back injury.

The Claimant has not reached maximum medical improvement with respect to his lower back injury and the hernia he incurred, and is receiving ongoing treatment. He is also currently not working and is receiving payment of temporary total compensation. Mr. Belo remains employed by Aiken County.

As part of his Form 50 for this matter Mr. Belo contends that he sustained a psychological injury as a result of the accident in September 2015. He seeks medical treatment for that alleged injury. The Defendant denies that the Claimant has sustained a psychological injury as a result of the accident involved in this case and contends that he is not entitled to

compensation and other benefits for the same under the Act.

EVIDENCE IN THE CASE

The Claimant is presently 50-years-old and resides in Aiken, South Carolina. He is married and has minor children. He has worked as a paramedic and emergency medical technician for over 25 years. His spouse is also employed by Aiken County Government.

On September 29, 2015 Mr. Belo fell from an ambulance and injured his lower back. Following this accident Mr. Belo underwent a period of conservative care and treatment provided by Ty W. Carter, M.D. in Aiken, following which he was evaluated by Ivan LaMotta, M.D. in Columbia. Following his evaluation Dr. LaMotta recommended that Mr. Belo undergo surgery to treat a herniated disc at the L5-S1 level of his spine. This surgery was performed in April 2016, and included a fusion procedure at the noted level of Mr. Belo's lower back.

Following this procedure Mr. Belo experienced abdominal pain and was evaluated by Scott Taber, M.D. in Columbia. Dr. Taber concluded that Mr. Belo had sustained a hernia as a result of his lower back surgery. Dr. Taber subsequently performed surgery to treat this hernia.

Following these surgeries Mr. Belo continued to experience ongoing lower back discomfort and pain. He was evaluated by Donald R. Johnson, II, M.D. in August 2016. Following that evaluation Dr. Johnson recommended that Mr. Belo undergo another surgical procedure at the L5-S1 level of his spine and to remove additional disc material which Dr. Johnson concluded was a potential source of the Claimant's ongoing problems. The Defendant subsequently authorized Dr. Johnson to perform the additional surgical procedure which was completed on October 24, 2016.

Mr. Belo has remained under the care of Dr. Johnson and Dr. Taber. As noted the Parties agree that he has not yet reached the point of maximum medical improvement. As further noted Mr. Belo remains employed by Aiken County, but has not yet returned to work.

Mr. Belo contends that he has sustained certain psychological issues and problems as a result of the accident involved in this case. At the hearing in this case he testified, in particular, that he has experienced symptoms of depression and anxiety as a result of the pain and discomfort he has experienced, and continues to experience, as a result of the initial injury he sustained and the resulting medical treatment he has received. He also testified that he has difficulty sleeping at night and is experiencing periods of stress related to his medical condition.

Upon cross-examination Mr. Belo stated that he experienced mental and emotional issues and problems, and specifically depression, before the accident involved in this case. He further stated that such problems were aggravated by the injury he sustained in September 2015 and the medical treatment he has received.

In support of his claim for benefits for a psychological injury in this case Mr. Belo offered into evidence the report of C. Luis McTier, Jr., a nurse practitioner. Mr. McTier is affiliated with Aiken Psychiatric and Psychotherapy Associates, P.A. Mr. McTier is not a medical doctor, psychiatrist or psychologist. Mr. McTier provided a statement which states that Mr. Belo should undergo treatment and care for his mental and emotional conditions which he states are a direct result of the accident which occurred in September 2015. He does not state that opinion within a reasonable degree of certainty, medical or otherwise.

The Defendants offered into evidence medical records and reports prepared by

Allen L. Sloan, M.D., a pain management provider in North Augusta, South Carolina. Dr. Sloan treated Mr. Belo, and continues to treat him today, for a prior work-related injury he sustained to his neck. According to Dr. Sloan's records and reports Mr. Belo experienced depressive-type symptoms, and post-traumatic stress syndrome, before the accident in which Mr. Belo was involved while working for Aiken County in September 2015. His records further reflect that Mr. Belo was prescribed zoloft, an antidepressant medicine, before the accident in September 2015.

According to the evidence offered to me at the hearing for this case neither Dr. LaMotta, Dr. Johnson or Dr. Taber have expressed an opinion as to whether or not Mr. Belo suffers from any mental or emotional problems, or the source or causes of such problems. Further, according to Dr. Sloan's records and reports he does not offer an opinion, one way or the other, as to whether Mr. Belo's emotional and mental concerns and problems are a result of the accident in September 2015, or that any pre-existing problems were aggravated by that accident.

FINDINGS OF FACT

1. The purpose of the Hearing was to determine the issues set forth in the Hearing Notice and Forms 50 and 51, and any other matters which may have timely come before the undersigned Commissioner.
2. The Notice of the Hearing was timely and properly served upon all parties of interest.
3. The Claimant's compensation rate is \$769.27 based upon an average weekly wage of \$1,153.85.

4. Venue for this matter is proper in Aiken County, South Carolina.

5. The Claimant seeks compensation and benefits pursuant to the provisions of the Act and the South Carolina Workers' Compensation Commission has jurisdiction in this matter.

6. The Claimant sustained an injury to his lower back on September 29, 2015 as a result of an accident arising out of and in the course of his employment with Aiken County. Further, he has received reasonable and necessary medical treatment for that injury, and has not reached maximum medical improvement with respect to that injury.

7. The Claimant sustained a hernia as a result of the medical treatment he has received for his lower back injury, and continues to receive such treatment. He has not reached maximum medical improvement with respect to that condition.

8. The Claimant is experiencing mental and emotional issues and problems at the present time. He states that he experienced such problems before the accident involved in this case. He further states that the accident in September 2015 aggravated his pre-existing problems.

9. Mr. C. Luis McTier, Jr., a nurse practitioner, states in a letter submitted as part of Claimant's APA No. 1 that Mr. Belo should undergo treatment and care for mental and emotional conditions, which he opines are a direct result of the injury Mr. Belo sustained in September 2015.

10. Mr. Belo experienced mental and emotional problems, including depression and post-traumatic stress syndrome, before the accident in September 2015, and received medical care and treatment for such conditions. Further, he was prescribed an antidepressant, and used this medication, before that accident.

11. No physician who has evaluated or treated Mr. Belo has stated in their expert opinion to a reasonable degree of medical certainty that any emotional or mental problems experienced by him were caused by, or aggravated by, the accident in which Mr. Belo was involved in September 2015 or any injury he sustained as a result of that accident.

12. While I found Claimant's testimony to be credible, absent a physician's, psychologist's or psychiatrist's opinion causally relating Claimant's psychological condition to his admitted work-related injury, claimant did not meet his burden of proof.

CONCLUSIONS OF LAW

1. Pursuant to S.C. Code Ann. § 42-1-160 and § 42-9-35 (1976), and other applicable law and regulation, the Claimant did not sustain any psychological injury by accident arising out of and in the course of his employment with the Employer, nor did he sustain an aggravation of his pre-existing mental and emotional condition as a result of an accident arising out of and in the course of his employment.

2. The Claimant is not entitled to receive compensation and benefits for a psychological injury pursuant to the terms and provisions of the Act.

ORDER

IT IS THEREFORE ORDERED that the Claimant's claim for compensation and benefits for a psychological injury as part of this matter is dismissed.

SO ORDERED.



Commissioner Mike Campbell

Dated: April 19, 2017
Columbia, South Carolina

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).
April 19, 2017

By: Barbara Cheeseboro, Administrative Assistant to Commissioner Campbell



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May 3, 2017

VIA UNITED STATES MAIL

Amy Bracy, Judicial Director
Judicial Department
SC Workers' Compensation Commission
P.O. Box 1715
Columbia, SC 29202-1715

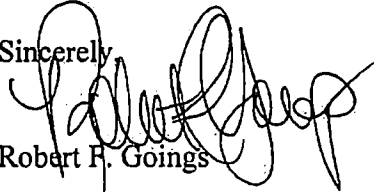
Re: Anthony J. Belo v. Aiken County
WCC File #: 1513718

Dear Ms. Bracy:

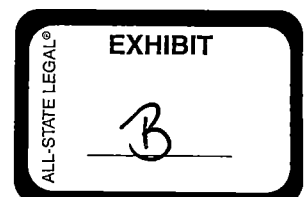
Enclosed please find the original and one (1) copy of Claimant's Motion to Allow Additional and Newly Discovered Evidence Pursuant to S.C. Code of Regulations 67-707 along with the applicable filing fee in the amount of \$25.00 in the above-referenced workers' compensation claim. Please file the original and return a file-stamped copy to me in the enclosed self-addressed envelope.

Thank you for your assistance in this matter. I am hereby serving Clarke W. McCants, III, Esq., with a copy of the same.

Sincerely,


Robert F. Goings

cc: Commissioner Mike Campbell
Clarke W. McCants, III, Esq.
Anthony J. Belo



While I found Claimant's testimony to be credible, absent a physician's psychologist's or psychiatrist's opinion causally relating Claimant's psychological condition to his admitted work-related injury, claimant did not meet his burden of proof.

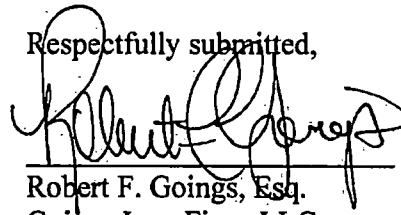
3. It should be noted that Claimant did present evidence at the hearing from Aiken Psychiatric and Psychotherapy that set forth the Claimant's psychological condition, but the Single Commissioner failed to consider that evidence because Claimant, at that time, had only been seen by a nurse practitioner Clyde L. McTeir, Jr., APRN at Aiken Psychiatric and Psychotherapy, not one of its physicians, psychologists or psychiatrists. (Order p. 5, 7, and 8). As discussed more fully below and as set forth in the attached Affidavit, Claimant was unable to be seen initially by a physician at Aiken Psychiatric and Psychotherapy. At his first appointment, he was evaluated by the nurse practitioner as the *physician was scheduling new patients for at least 4 months out.* The first available appointment with a psychiatric physician was May 2, 2017.
4. The medical treatment note of Dr. David A. Steiner, MD dated May 2, 2017 clearly states that Claimant **"has major depression that is clearly related to work injury"** and **"anxiety, NOS related to work injury."** Further, Dr. Steiner states that Claimant **"needs mental health treatment for major depression that is clearly related to his work injury"** and **"if WC will pay, he should return to see McTier, APRN."** (Exhibit 1, page 3). The findings and opinions of Dr. Steiner are consistent with the opinions of McTier and evidence presented at the hearing.
5. The Single Commissioner expressly found **"Claimant's testimony to be credible."** The psychological effects of his injury are self-evident as the Claimant has endured 4 major surgeries and hospitalizations as a direct result of his injuries during the last year.

6. This evidence was not available to the Commission as the time of the first hearing, despite reasonable diligence. The new evidence could not have been secured, and the discovery of the new evidence is being brought to the attention immediately upon its discovery.
7. As further explained in attached Affidavit, the Claimant was referred by his family doctor for an appointment at Aiken Psychiatric and Psychotherapy due to his depression and anxiety. He was given an appointment for November 17, 2016. He arrived for this appointment and was evaluated for over an hour. During the appointment, he was seen by Clyde L. McTeir, Jr., APRN, (McTeir) a nurse practitioner at Aiken Psychiatric and Psychotherapy. A complete psychological evaluation was performed by McTeir, as set forth in APA No. 1-7.
8. At the initial evaluation, Claimant believed that he was going to be seen by a doctor and did not realize until after the fact that McTeir was a nurse practitioner, not a medical doctor. Claimant was told that it would have taken several months for the physician to see him due to scheduling new patients several months out.
9. Despite the Claimant's diligent and ardent efforts, Claimant was unable to be evaluated by a physician, psychologist or psychiatrist at Aiken Psychiatric and Psychotherapy prior to the hearing scheduled by the South Carolina Workers Compensation Commission.
10. The Claimant diligently attempted to have an appointment scheduled with a physician, psychologist or psychiatrist with Aiken Psychiatric and Psychotherapy and other psychiatric providers in the Aiken, Augusta, and Columbia area prior to the scheduled hearing.
11. The first available appointment with a psychiatric physician was May 2, 2017.
12. This motion is filed on the same day that the undersigned counsel received the report from Dr. Steiner.

13. In the interest of justice and fairness, and taking into consideration the gravity of the Claimant's medical and psychological condition that is clearly related to his work-related injury, the Claimant respectfully requests this Commission allow this new evidence to be admitted and the Hearing Commissioner issue his findings and recommendations.

Respectfully submitted,

By:



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Email: rgoings@goingslawfirm.com
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May 2, 2016

Columbia, South Carolina

CERTIFICATE OF SERVICE

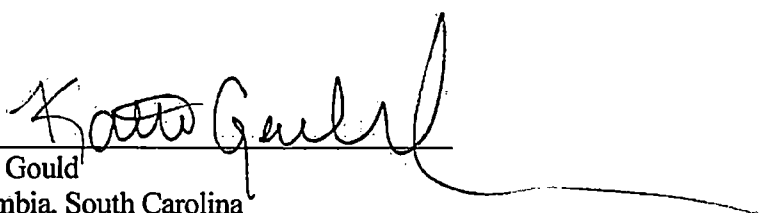
The undersigned employee of the Goings Law Firm, LLC, Post Office Box 436, Columbia, South Carolina 29202, does hereby certify that she has served the following named individual(s) with a copy of the pleading indicated below by mailing a copy of same in the United States mail, with sufficient postage affixed thereto and return address clearly marked on the date indicated below:

PARTY SERVED:

Clark W. McCants, III, Esq.
P.O. Box 2881
Aiken, SC 29802

PLEADING/DOCUMENTS:

**CLAIMANT'S MOTION TO ALLOW ADDITIONAL
AND NEWLY DISCOVERED EVIDENCE
PURSUANT TO S.C. CODE OF REGULATION 67-
707**



Katie Gould
Columbia, South Carolina
May 3, 2017

Aiken Psychiatric and Psychotherapy33 Varden Drive
Aiken SC 29803-5285

(803) 642-3801

Client ID: BELANT**Patient:** Anthony Belo**Patient DOB:** 6/8/1966**Provider:** David A. Steiner, MD**Appointment Start Time:** 5/2/2017 12:00:00 PM**Appointment End Time:** 5/2/2017 1:00:00 PM**Appointment Duration:** 60 minutes**Primary Code:** 90792**Add-on code 1:****Add-on code 2:****POS:** 11**Modifiers:****Meds**

Medication	Dosage	Sig	Prescriber
Ativan (lorazepam)	x60: 1 mg tablet	take one tablet three times as needed for anxiety	Clyde McTier
Ambien (zolpidem)	x30: 10 mg tablet	TAKE 1 TABLET BY MOUTH DAILY AT BEDTIME AS NEEDED	Clyde McTier
doxepin	x30: 50 mg capsule	take one tablet at bedtime	Clyde McTier
Zoloft (sertraline)	x60: 100 mg tablet	take one tablet twice daily	Clyde McTier
Nuvigil (armodafinil)	x30: 250 mg tablet	TAKE ONE TABLET BY MOUTH IN THE MORNING	Clyde McTier

Allergies

Allergy	Reaction
Tetracyclines Group	swelling
Penicillins Group	anaphylaxis
WELBUTRIN	urticaria (hives)
Lyrica (pregabalin)	swelling
Neurontin (gabapentin)	swelling

Chief Complaint

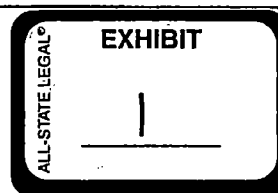
"Feel useless"

History of Present Illness/Interval History

Seen for disability evaluation. Is seeing Clyde McTier, APRN due they need MD to address his impairments. So that LTD will cover his mental health treatment. History reviewed (in record). Since the injury he has required 4 surgeries and he is angry because he never got adequate treatment for 7 months. He feels like "they took my life away" by delaying treatment. He now has permanent damaged and can't RTW. "I can't play with my kids."

"I don't want to do anything...no energy, can't sleep...I'm either snapping or crying." No SI but discouraged. He is more irritable. Appetite is low. Initially gained weight and now lost. He is having some excessive worrying. He is picking at finger tips (skin is peeling). no panic attacks. He is getting increasingly anxious going out and in crowds.

Has hx of PTSD from work but was not symptomatic by his report prior to the accident. The medications and therapy from APRN has helped some but still symptomatic. He feels like he had benefited from the Nuvigil. He is not taking doxepin or ativan (listed in meds). They didn't help much with sleep. not having any nightmares or flashbacks.



Past History**PMH**

1. injured 9/29/15 - L5-S1 herniation - has had 4 total surgeries and has "nerve damage" in left leg 50% decreased strength and pain in left buttock and leg. Some parasthesia on right upper left
 2. ventral hernia repair 4/24/17
 3. HTN
- MS Contin 15mg qam, 30mg in afternoon and 30mg qhs - seeing Dr. Sloan
norco 7.5mg PRN breakthrough - takes 2-3 daily

Soc hx: married x 15 yr, 3rd marriage. 10 and 7 y/o. 3 children from other marriages. wife is EMT also. He is still getting LTD from work. HSG with a lot of college

Past psych: treated for PTSD trauma related to childhood molestation from baby sitter and EMT related trauma. Was on Wellbutrin, Seroquel, Zoloft, Ativan, Cymbalta, Prozac

Family hx: mother and others on her side of family trouble with alcohol

Exam

Appearance:	<input checked="" type="checkbox"/> Appropriate Dress <input checked="" type="checkbox"/> Adequate Grooming and Hygiene walking gingerly with cane. skin on finger tips is peeling
Behavior:	<input checked="" type="checkbox"/> Cooperative <input checked="" type="checkbox"/> Good Eye Contact <input checked="" type="checkbox"/> Normal Psychomotor Activity
Speech:	<input checked="" type="checkbox"/> Soft hard to hear
Mood:	<input checked="" type="checkbox"/> Sad/Depressed
Affect:	<input checked="" type="checkbox"/> Mood Congruent <input checked="" type="checkbox"/> Normal Range and Modulation easily tearful
Thought process:	<input checked="" type="checkbox"/> Goal Directed
Thought content:	<input checked="" type="checkbox"/> No Abnormal Content <input checked="" type="checkbox"/> No SI <input checked="" type="checkbox"/> No HI
Insight/Judgment:	<input checked="" type="checkbox"/> Intact
Consciousness:	<input checked="" type="checkbox"/> Alert / Awake
Orientation:	<input checked="" type="checkbox"/> Ox4
Recent Memory:	<input checked="" type="checkbox"/> Intact
Remote Memory:	<input checked="" type="checkbox"/> Intact
Attention/Conc:	<input checked="" type="checkbox"/> Intact
Language (Abstraction):	<input checked="" type="checkbox"/> Concrete:
Fund of Knowledge:	<input checked="" type="checkbox"/> Average
Gait / Station:	<input checked="" type="checkbox"/> Impaired:

Assessment**Diagnoses****DSM-5 Diagnoses**

309.81	Posttraumatic stress disorder	F43.10	Posttraumatic stress disorder
--------	-------------------------------	--------	-------------------------------

296.32	Major depressive disorder, Recurrent episode, Moderate	F33.1	Major depressive disorder, Recurrent episode, Moderate
780.52	Other specified insomnia disorder	G47.09	Other specified insomnia disorder

DSM-5 Other Conditions*No assigned diagnoses***General Medical & Non-DSM-5 Diagnoses**

724.2	Lumbago	M54.5	Low back pain
401.9	Unspecified essential hypertension	I10	Essential (primary) hypertension

GAF: 55**DSM-IV Axis IV: HAS supportive family****Impression**

1. has major depression that is clearly related to work injury
2. anxiety, NOS related to work injury

Plan

1. he needs mental health treatment for major depression that is clearly related to his work injury
2. if WC will pay, he should return to see McTier, APRN
3. would consider retrying Wellbutrin - he'd been on it for a while and then got a rash in 2014 (was helping with PTSD) - likely due to change in dye or fillers

Medication Changes

(no medication changes)

Next Appointment

(no appointment scheduled)

follow up with McTier, APRN

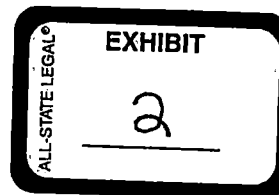
Electronically signed on 5/2/2017 9:31:45 AM by David A. Steiner, MD.

**BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION**

Anthony J. Belo,)	
)	
Claimant,)	WCC File No. 1513718
v.)	
)	
Aiken County,)	AFFIDAVIT OF ANTHONY J. BELO
)	
Employer/Self-Insured,)	
)	
)	
)	

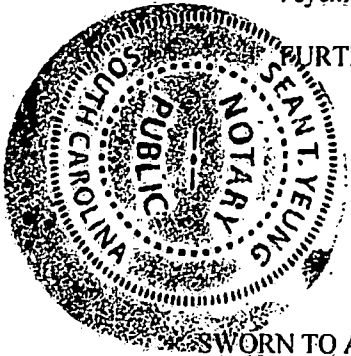
PERSONALLY APPEARED BEFORE ME, Anthony J. Belo, who upon being duly sworn deposes and states as follows:

1. I am the Claimant in the above-captioned matter.
2. In October 2016, I was given a referral from my family doctor to see a psychiatrist because of my severe depression and anxiety resulting from my work-related injury and the complications from my two failed back surgery and two abdominal surgeries.
3. I was referred by the family doctor to Aiken Psychiatric and Psychotherapy. When I called to schedule, I was given an appointment for November 17, 2016. During the appointment, I was seen by Clyde L. McTeir, Jr. a nurse practitioner Aiken Psychiatric and Psychotherapy. The evaluation lasted over an hour. At the initial evaluation, I believed that I was going to be seen by a doctor but did not realize until after the fact that Clyde L. McTeir, Jr. was a nurse practitioner.
4. In the process of making my initial and follow up appointment at Aiken Psychiatric and Psychotherapy, I was told that the psychiatrist's schedule was booked out over at least four months for new patients. I requested the first available appointment to see the doctor, and I was given the date of May 2, 2017. Because this appointment was far out and I desperately need help, I requested to be put on a cancellation or waiting list. I called several times to see about getting an earlier appointment. Unfortunately, despite my best efforts, I was not able to be evaluated at Aiken Psychiatric and Psychotherapy by the doctor until the scheduled appointment on May 2, 2017.
5. I also called several more facilities in the Aiken, Augusta, and Columbia area to get an appointment prior to the hearing. I was told that since I would be a new patient, it would be 3-5 months before an appointment could be scheduled. Several places that I called would not make me an appointment because I was told they "don't take work comp." I was not able to be seen at Post Trauma Resources in Columbia because the Dr. Bergmann is not accepting new patients and is retiring.



6. I was unsuccessful in my diligent attempts get an appointment from a psychiatric physician prior to the hearing, and the first available was May 2, 2017.
7. I desperately need help for my extreme depression and anxiety related to my seriously debilitating spinal injury.
8. I respectfully request the Workers Compensation Commission allow me to submit the medical report of my appointment on May 2, 2017 of Dr. David Steiner with Aiken Psychiatric and Psychotherapy.

FURTHER, YOUR AFFIANT SAYETH NAUGHT.



Anthony J. Belo
 Anthony J. Belo

SWORN TO AND SUBSCRIBED BEFORE ME

this 3 day of May, 2017

Seant T. Yeung (L.S.)
 NOTARY PUBLIC FOR SOUTH CAROLINA
 MY COMMISSION EXPIRES: SEANT T. YEUNG

Notary Public, State of South Carolina
 My Commission Expires 12/20/2020

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
JUDICIAL CONFERENCE DECISION AND ORDER

Anthony J. Belo v Aiken County
SCWCC: 1513718
Commissioner: Campbell

This matter was heard before the South Carolina Workers' Compensation Full Commission in Judicial Conference on **Motion to Allow Additional and Newly Discovered Evidence**. The Commissioners considered the matter and ordered the matter handled in the following manner:

IT IS, THEREFORE, ORDERED the pending appeal of the Administrative Order of the Commission is hereby;
_____ Dismissed as Interlocutory. _____ Set for Oral Argument.

IT IS, THEREFORE, ORDERED the pending motion be, and hereby is;
_____ Granted. Denied. _____ Dismissed _____ Preserved for hearing

BEFORE THE;
_____ Hearing Comm. _____ Jurisdictional Comm. _____ Full Commission.

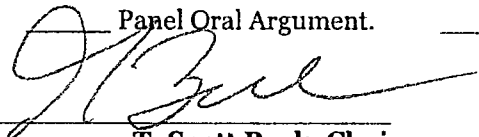
IT IS, THEREFORE, ORDERED this matter be, and hereby is; remanded to take such action and enter an Order consistent with the Court's directive.

_____ Remand to Panel as indicated below.
_____ Barden _____ James _____ Taylor
_____ Beck _____ Campbell _____ Wilkerson
_____ McCaskill

_____ Remand for Order consistent with the Order of the Court.
_____ Remand to the Hearing Commissioner.
_____ Remand to the Jurisdictional Commissioner.
Other: _____

_____ Remand: _____ Panel Oral Argument. _____ En Banc Oral Argument.

AND IT IS SO ORDERED.



T. Scott Beck, Chair
For the Commission

Columbia, South Carolina

6/19 2017

CONCURRING:

Commissioner Susan S. Barden
Commissioner Melody James
Commissioner Aisha Taylor
Commissioner Avery Wilkerson
Commissioner Michael Campbell
Commissioner Gene McCaskill

NOT PARTICIPATING:

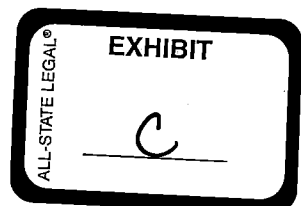
DISSENTING:

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY THE UNDERSIGNED HAS THIS DATE SERVED THIS ORDER IN THE ABOVE ENTITLED ACTION UPON ALL PARTIES ELECTRONICALLY OR BY DEPOSITING A COPYHEREOF, POSTAGE PAID, IN THE UNITED STATES MAIL

This 19 day of June, 2017.

By: Valerie D. Deller
SCWCC Judicial Department



Jessica L Gooding

Subject: FW: 1513718 Anthony J. Belo

Begin forwarded message:

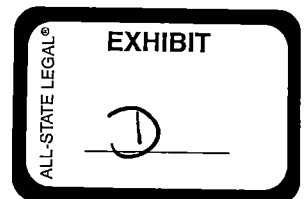
From: "Deller, Valerie" <VDeller@wcc.sc.gov>
Date: June 27, 2017 at 3:22:41 PM EDT
To: "mccants3rd@aol.com" <mccants3rd@aol.com>, "erinelam2@gmail.com" <erinelam2@gmail.com>, "rgoings@goingslawfirm.com" <rgoings@goingslawfirm.com>, "kgould@goingslawfirm.com" <kgould@goingslawfirm.com>
Subject: 1513718 Anthony J. Belo

Atty. Goings,

I am returning your Form 30 appeal, and filing fee check number 8505. You will need to file this action in the Court of Appeals. For a Judicial Conference Order, that is the required process. Thank you for your time.

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E rgoings@goingslawfirm.com

July 24, 2017

VIA HAND DELIVERY

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
PO Box 11629
Columbia, SC 29211

RECEIVED
JUL 24 2017
SC Court of Appeals

Re: Anthony J. Belo v. Aiken County
SCWCC No.: 1513718

Dear Ms. Kitchings:

Please find enclosed for filing the original and six (6) copies of Appellant's Memorandum Re: Appealability in the above-referenced matter, submitted in response to your correspondence dated July 12, 2017.

By copy of this letter, a copy of the Notice of Appeal is being forwarded for service on counsel for the Respondent.

Thank you for your time and attention. Should you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

Jessica L. Gooding
jgooding@goingslawfirm.com

JLG

Enclosures

cc: Clark W. McCants, III, Esquire