

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

R. Knox McMahon, Circuit Court Judge

Common Pleas Case No. 2012-CP-32-02093
Common Pleas Case No. 2012-CP-32-02111
Appellate Case No. 2014-001258

Ricky Kneece,

Petitioner,

v.

Kneece Farms and Legion in
Liquidation and South Carolina
Property and Casualty Insurance
Guaranty Association,

Respondents.

AMENDED APPENDIX – VOLUME III

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AMENDED
RECORD ON APPEAL
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1 A Yes, I do.

2 Q Okay. Actually, let me, before we go through -- I
3 know you were here for the deposition the other
4 day. You understand to answer yes and no to the
5 questions --

6 A Yes, sir.

7 Q -- so I can -- so she can record it? Also, my goal
8 is not to trick you or trip you up. And take your
9 time in answering the questions. You were kind
10 enough to do this on a short notice. We're going
11 to try to -- I think we're going to try to limit
12 this to a short period of time. Let me ask you, as
13 I ask everybody before the deposition, have you had
14 any drugs, whether legal or illegal, or any alcohol
15 today?

16 A My normal meds, but nothing that's going to
17 altering.

18 Q Okay. Anything else, those or anything else that
19 would affect your ability to answer my questions --

20 A Absolutely not.

21 Q -- and understand them?

22 A Absolutely not.

23 Q Okay. Very good. And I was asking -- You said
24 you're the -- do the bookkeeping functions and are
25 the secretary and treasurer for Delano Farms?

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1 A Yes, sir.

2 Q Okay. And how long have you held that position?

3 A Off and on part-time up until the -- January of
4 '99. From January to current, full-time.

5 Q Okay. And what do your responsibilities include?

6 A They include paying all the bills, incoming
7 invoices, out-coming invoices, checking over
8 orders, making sure the proper stuff was ordered,
9 placing orders, doing payroll, reporting payroll
10 taxes, paying payroll taxes, filing -- getting the
11 information together for the CPA to file the tax
12 returns, everything.

13 Q Okay.

14 A One-stop shopping.

15 Q And you're -- Are you in charge of figuring up
16 what the total profits are for Delano Farms?

17 A No, sir. Our CPA does that.

18 Q Okay. And who is your CPA?

19 A Ralph Busbee.

20 Q Okay. And do you -- Are you the one that gives

21 him the numbers to crunch, so to speak?

22 A Yes, sir, I give him everything.

23 Q Okay. And are you paid a salary for your work?

24 A I'm paid by the hour.

25 Q Okay. And about how many hours a week do you work

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1 presently?

2 A They pay me 40.

3 Q Okay. Forty hours -- For 40 hours a week?

4 A Mm-hmm.

5 Q And what is that? What do you get paid hourly?

6 A 16.50.

7 Q Okay. And how long have you been at that salary?

8 A Oh, goodness. I'm not real sure. Probably five
9 years or better.

10 Q Okay. And you said you started full-time in
11 January of '99 --

12 A Yes, sir.

13 Q -- approximately? What started you working full-
14 time?

15 A The mother -- mother-in-law retired.

16 Q Okay. Who's -- Who's mother-in-law?

17 A ~~Ricky's mother, Shirley Kneece.~~

18 Q Okay. And she was the prior --

19 A Yes, sir.

20 Q ~~-- secretary and treasurer?~~

21 A Yes, sir.

22 Q And since January of '99, have you been full-time?

23 A On the farm?

24 Q With those responsibilities.

25 A Yes, sir.

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1 Q Okay. Do you do any other responsibilities, other
2 than those?

3 A On the farm or --

4 Q Do you fill in --

5 A -- in our other life?

6 Q On -- I'm speaking specifically of the company, of
7 the farm.

8 A Yes, sir. I drive a tractor when needed. I feed
9 cows when needed. I stay up and turn on the corn
10 dryers. And I do pretty much anything, not quite
11 as good as they do, but I do --

12 Q Okay.

13 A -- anything they do.

14 Q Well, don't -- don't sell yourself short. The --
15 And you've had -- And you've had these -- all
16 these responsibilities since approximately January
17 of '99?

18 A No, sir. The secretarial responsibilities from
19 '99. Didn't actually need my help until probably -
20 - outside the house, probably around 2001 or 2002 -

21 -

22 Q Okay.

23 A -- when we started seeing deficiencies.

24 Q And when you say seeing deficiencies, you mean in -

25 -

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1 A Stuff --

2 Q -- Mr. Kneece?

3 A Right.

4 Q Okay. About how many hours a week do you spend
5 doing stuff outside of the -- non-secretarial, non-
6 paperwork-type duties, or does it depend?

7 A It varies. Very erratic.

8 Q Could you give me an estimate, you know, from two
9 to four, five to ten?

10 A Some weeks it may not be any. When we're in
11 harvest and when we're in planting, it may be as
12 many as six or seven a day. So, it's very erratic.

13 Q Okay. Do you -- Are you also in charge of keeping
14 the books between the relationship of Delano &
15 Son's Farm and Kneece Farms?

16 A Yes, sir.

17 Q Okay. And what does that entail? If you can, tell
18 me a little about the relationship and profits, I
19 guess, that are shared or made between the two
20 entities.

21 A Okay. Kneece Farms owns the land and the
22 irrigation system.

23 Q Okay.

24 A We own the equipment and most of the manpower.

25 Q Okay.

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1 A When we are planting or working on Kneece Farms,
2 his -- When this all took place, his son and his
3 hired hand would come help when we were in their
4 fields.

5 Q Okay. And when you say his son, can you say his
6 name?

7 A Luther Kneece.

8 Q Luther. And he's the owner of Kneece Farms?

9 A Now.

10 Q Okay.

11 A He wasn't at that time. Everett Kneece was, --

12 Q Okay.

13 A -- his father.

14 Q And go ahead.

15 A And then whenever we would finish their fields and
16 would go over to our fields, upon whatever they had

17 to do, they would help us back, the man hours that

18 we had helped them.

19 Q Okay.

20 A When Ricky got hurt, we were no longer able to do

21 that --

22 Q Okay.

23 A -- because Rick could not perform the hours that he
24 had put in.

25 Q Okay.

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1 A So, we, at that time, started to refund Everett
2 Kneece of his hired hands' hours.

3 Q Okay.

4 A We still -- At this current day, we don't refund
5 hours because Luther stopped that, but, at this

6 day, we still pay for his uniforms, and that's just
7 sort of an okay, you're helping us pay for Johnny
8 Lee's keep. His name is Johnny Lee Austin. And
9 then at the end of the day, we all split the cost
10 of seed -- Delano Kneece Farm and Kneece Farms
11 split the cost of seed, fertilizer and all the

12 input. Then when we sell the commodity, we split
13 the profit with Delano Kneece and Kneece Farms.

14 Q Okay. Let me ask you, how is Ricky Kneece paid?
15 Is he on an hourly payment, straight salary? In
16 what manner is he paid?

17 A ~~Can I say love offering? -- Ricky is paid a check~~
18 once a month, --

19 Q Okay.

20 A -- but Ricky does not earn that check.

21 Q Okay. How much is he paid once a month?

22 A Right now he is paid \$4,175 a month.

23 Q Okay. And how long has he been paid at that --
24 When did he most recently have a raise or an
25 adjustment to that?

- 1 A The last time he had a raise was in 2007.
- 2 Q Okay. And is that 12 months per year that he's
- 3 paid that amount, or is it --
- 4 A Yes, sir.
- 5 Q Okay. And do you know what he was making prior to
- 6 2007?
- 7 A Yes, sir. He was making \$3500 a month.
- 8 Q Okay. After his injury in 1999, do you remember
- 9 approximately when he returned back to work to any
- 10 type of capacity working with the -- the farm
- 11 again?
- 12 A I don't remember.
- 13 Q Okay. You stated that that's a salary, but you
- 14 also noted that that's a love offering. Does he
- 15 work on the farm?
- 16 A He shows up, and he performs a little, --
- 17 Q Okay.
- 18 A -- but to the point where I would hire somebody to
- 19 replace him, --
- 20 Q Uh-huh.
- 21 A -- doing what he does, absolutely not.
- 22 Q Okay. Is -- Is that the only income that he
- 23 receives from Delano Farms, the 4,170 a month, or
- 24 does he at the end of the year receive any monies
- 25 as a -- as a part owner?

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1 A He doesn't get anything as a part owner, but if the
2 farm has made money at the end of the year, --

3 Q Uh-huh.

4 A -- they get a bonus, everybody gets a Christmas
5 bonus.

6 Q Okay. Is that -- And when you say everybody, is
7 that everybody who has an ownership interest, or is
8 that everybody who's employed by --

9 A No. That's everybody that's employed.

10 Q Okay. When was the last -- Did you -- Let me ask
11 you, did you pay a Christmas bonus in 2009 to the

12 employees?

13 A Yes.

14 Q So, there was a profit?

15 A Yes.

16 Q How about in -- Do you remember the last year you
17 did not pay a Christmas bonus?

18 A We have not had a profit and paid Christmas
19 bonuses.

20 Q You did in 2009, though?

21 A Yes, but we did have a profit in 2009.

22 Q Okay.

23 A 2008 -- I'm pretty sure 2008 we didn't. Couldn't
24 swear to that, now.

25 Q Okay.

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1 A Please don't hold me under oath on that one.

2 Q Prior to 2008, do you remember the last -- or prior
3 to 2009 I should say, do you remember the last time
4 you did have a profit and paid bonuses?

5 A Well, now, we've paid bonuses for several years now
6 consecutively whether it was profit or loss.

7 Q Okay. Let me ask you briefly how Delano & Sons
8 Farm is -- Is it incorporated? Is it a
9 partnership?

10 A It's incorporated.

11 Q Okay. Do you know what year it was incorporated?

12 A 1978.

13 Q Okay. And who are the general partners, or owners,
14 of the -- of the farm?

15 A Shareholders are Delano Kneece, Shirley Kneece,
16 Ricky Kneece, Kain Kneece and Jackie Kneece.

17 Q Okay. And which -- of those shareholders, which
18 ones are employed with or work on the farm?

19 A All of them draw a paycheck.

20 Q Okay.

21 A Miss Shirley is a retired secretary.

22 Q Okay.

23 A Whenever she retired, Mister Delano said cut her a
24 check for this, and I said yes, sir.

25 Q Okay.

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1 A Mister Delano is retired but still works partially.

2 Q Okay.

3 A And he said pay me X, and I said yes, sir.

4 Q Okay.

5 A Everybody else works for their money.

6 Q Do you know what -- Other than -- When you say

7 Mr. Kneece, that's --

8 A Delano, --

9 Q Mister Delano --

10 A -- his daddy.

11 Q That's -- Okay.

12 A Ricky's daddy.

13 Q Other than -- Other than those two -- They

14 receive paychecks, but everyone else works --

15 A Correct.

16 Q -- for their paychecks? Okay.

17 A Correct.

18 Q When you say he's retired but he works partially,
19 how much does he -- Does he work ten hours a week,

20 20 or 30? Could you estimate?

21 A There again, that's depending on the season.

22 Q Okay.

23 A When we're not in planting or harvest, Mister
24 Delano may come out of the house and actually be
25 productive an hour a day. When we are in planting

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1 and harvest season, Mister Delano, at this point in
2 time, may get on the combine and ride four, five or
3 six hours and say I've had enough, I'm going back
4 to the house.

5 Q Okay.

6 A So, he does what he physically can do.

7 Q Is -- Would it be appropriate to say he's kind of
8 semi-retired?

9 A Oh, absolutely.

10 Q Okay. How long has he been in that status, semi-
11 retired?

12 A I don't remember how long it's been.

13 Q Okay.

14 A He did it way sooner on paper than his body
15 actually did and gave up his paycheck so that we
16 could give Ricky a raise.

17 Q Okay. So, he does not still receive a paycheck?

18 A He does. It's just very small.

19 Q Okay. It's smaller than it was. So, --

20 A Mister Delano gets \$1800 a month.

21 Q And what did he used to get?

22 A He -- Mister Delano used to get four or five
23 thousand dollars a month. I can't remember exactly
24 what it was when he retired.

25 Q And when did -- When did he change from the

1 approximately 4,000 a month to the 1800 a month?

2 A I don't remember. I'd have to go back and look.

3 Q Okay. When you say so that Ricky could -- his son,
4 Ricky, --

5 A Mm-hmm.

6 Q -- could get a raise, do you mean the raise that he
7 got in 2007 from approximately 3500 to 4170 per
8 month?

9 A It could have been in -- right in that time frame.
10 I just can't remember.

11 Q Okay. About how many hours a week does Ricky

12 kneec work for the farm? I know it depends on the
13 season.

14 A Well, now, Rick's is pretty -- How long is Rick
15 out the house? Not all the time when Ricky says
16 he's working is Ricky working, --

17 Q Okay.

18 A -- and that's the hard question to answer here.

19 Q Okay.

20 A Productively, how much does Ricky work a day?

21 Maybe a couple hours.

22 Q Okay.

23 A Is he out of the house most of the time saying he's
24 working? Yes, sir, he is.

25 Q Okay. He had -- He had previously testified that

- 1 he drives a tractor maybe five to seven hours a
2 day. Would that be accurate or not?
- 3 A In the right seasons, yes, sir, that would be very
4 accurate.
- 5 Q Okay. And which are the right seasons, about how
6 many months per year --
- 7 A We start --
- 8 Q -- or week per year?
- 9 A We start planting -- We start planting in March.
10 We don't finish planting all the crops until the
11 middle of June, and then you start harvest the
12 middle of August, and we don't usually finish
13 harvesting until the end of November, --
- 14 Q Okay.
- 15 A -- as a typical average year.
- 16 Q Okay. And is he -- During at least that time, I
17 guess the busier times, --
- 18 A Mm-hmm.
- 19 Q -- is he working -- He had said he primarily
20 drives the tractor. Is that accurate --
- 21 A Mm-hmm.
- 22 Q -- in your opinion?
- 23 A Yes, sir.
- 24 Q Okay. Is he driving the tractor five to seven or
25 eight hours a day during that -- during the

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1 harvesting period?

2 A Well, that's a hard question. Everybody's job can
3 change every day.

4 Q Okay.

5 A I mean, Rick may be in the tractor today, and

6 tomorrow we may have him sitting at the unloading
7 station watching trucks unload --

8 Q Okay.

9 A -- and somebody else gets in the tractor in his
10 place.

11 Q Okay.

12 A It's just depending on what's needed that day and
13 what we think he can handle.

14 Q Does he do other jobs, other than driving the
15 tractor? He had -- He had mentioned turning
16 irrigation and things like that. Are there --

17 A Yes, sir.

18 Q -- other types -- What other types of jobs does he
19 do?

20 A We have quite a few irrigation systems, and he
21 turns them on and will get to the house and be
22 forgot whether he put it in the right -- forward or
23 backwards and put the right measurements on it,
24 and, so, we have to go back and check. Might get
25 back home and decide he didn't put it in right and

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1 turn around and go back. So, he does turn
2 irrigations.

3 Q Is it common that he misses any days of work
4 completely?

5 A No.

6 Q Okay. And he had -- I'm just bringing this up for
7 recollection's sake. He had mentioned that he
8 works five to seven days a week, -- is that
9 accurate -- try not to work on Sundays but
10 sometimes they do?

11 A Right. As a rule of thumb, six days a week is very
12 accurate. If we're in, like right now, harvest
13 season and there's a tropical storm coming, if we
14 had not reached a point in the farm where the
15 peanuts were still under the ground and none turned
16 up, they would have worked around the clock til
17 they got them in.

18 Q Okay. Let me ask you, do you know the -- Of the
19 general shareholders of the farm, --

20 A Mm-hmm.

21 Q -- do you know approximately the percentage
22 interest that each person holds, or does each
23 person hold an equal interest --.

24 A No.

25 Q -- in the farm?

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1 A I don't know the exact amounts. I know Mister
2 Delano is somewhere around a hundred shares, -- I
3 can get it, of course, if you need it -- Ricky's is
4 over 300, Miss Shirley's is over 300, and the boys
5 are somewhere in the neighborhood of a 125 to 30
6 shares a piece, however it makes up a thousand, and
7 I'm not sure.

8 Q When you say the boys, are those yours and --

9 A Jackie --

10 Q -- Ricky's sons?

11 A -- and Kain. Mm-hmm.

12 Q Okay. Is Jackie -- Does he go by J.D., as well?

13 A Yeah, he goes by J.D.

14 Q Okay. I just wanted to make sure I've got --

15 A And Kain's legal name is Cyril, but he goes by
16 Kain.

17 Q Is Kain his middle name?

18 A Yes.

19 Q And how many -- You had noted -- You kind of went
20 down the -- the shares of some of the different

21 shareholders. Do you know how -- approximately how
22 many total shares there are?

23 A A thousand.

24 Q A thousand?

25 A Yes, sir.

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1 Q Okay. And Ricky holds 300 of those?

2 A It's a little over 300.

3 Q Okay. And when -- You had mentioned if y'all make
4 a profit, that you'll pay a bonus, and some years
5 when there hasn't been a profit, you've still --

6 A The bonus has just --

7 Q -- paid a bonus out.

8 A -- been less.

9 Q Is the bonus pay based on ownership interest, on
10 work status? Is there a -- Does anyone get a
11 larger bonus than others, I guess?

12 A Mm-hmm.

13 Q Okay. And what is the basis for that?

14 A Mister Delano.

15 Q Ricky's father?

16 A Mm-hmm.

17 Q He -- He makes the determination?

18 A He says, X -- X gets X, X gets X, and we say yes,
19 sir.

20 Q Okay. Well, that -- that's fair enough. Let me

21 ask you, has -- has the current economic recession
22 -- When I say that, I'm referring to October 2008
23 onwards.

24 A Mm-hmm.

25 Q There's a general belief that the -- the economy

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1 has gone south. Has -- Has your farm been
2 affected by that do you believe, the profits?

3 A Yes, sir and no, sir. It's a double-edged
4 question.

5 Q Okay. Well, explain to me --

6 A The input --

7 Q -- your view of it.

8 A The input cost of what we are growing has doubled,
9 --

10 Q Okay.

11 A -- but the commodity prices has eased up.

12 Q Okay.

13 A And as long as Kain, myself or Luther stays on the
14 farm with our grain broker --

15 Q Uh-huh.

16 A -- and keeps up with hedging and what have you, we
17 have been able to stay just right above the -- the
18 plus line.

19 Q Okay.

20 A So, yes, sir, it has went south, but we've managed
21 to prevail okay.

22 Q Okay. And in comparison, -- Now, I'm just talking
23 about your farm in general. Do you think that
24 profits have increased or decreased since 2008?

25 A I don't know. I have not looked at the CPA records

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1 close enough.

2 Q Okay. How about since -- And this is -- This is
3 further back. It may be more easy or more
4 difficult, but, since 1999, do you think profits
5 have increased or decreased?

6 A We have probably increased since '99.

7 Q Okay. Let me ask you, do you know when your son --
8 J.D., as well as Kain, were both referenced as
9 working at the farm.

10 A Mm-hmm.

11 Q J.D. works part-time --

12 A Mm-hmm.

13 Q -- is my understanding.

14 A Mm-hmm.

15 Mr. Elliott: Excuse me. Say yes or --

16 The Deponent: Oh.

17 A Yes, sir. I'm sorry.

18 Mr. Leventis: I said in the other one I
19 tell people to do it and I don't hold anybody
20 to it.

21 Mr. Elliott: I think she's very
22 confident and she knows an affirmative uh-huh
23 from a negative uh-uh, but we'll -- she's
24 going to be on short notice to turn this one
25 around.

1 Mr. Leventis: We -- We won't try her
2 expertise --

3 Mr. Elliott: Right.

4 Mr. Leventis: -- to a breaking point on
5 that.

6 Q And -- And Kain works full-time. Would that be
7 fair to say?

8 A Yes, sir.

9 Q Okay. How long has Kain worked at the farm?

10 A About five years. As soon as he got out of high
11 school, he worked full-time. Before that, he was

12 working every afternoon and every Saturday just
13 like everybody else, but, when he got out of high

14 school, he went full-time.

15 Q Okay. When did he start working part-time?

16 A Kain was probably fourteen, fifteen years old.

17 Q Do you know what year that was?

18 A He's twenty-three. I'd have to count it back.

19 Q Okay. So, maybe two thousand --

20 A Ten years ago.

21 Q -- 2001 or 2002 maybe?

22 A Mm-hmm, somewhere in that neighborhood.

23 Q Okay. Had he always planned on working on the
24 farm?

25 A I don't know. I can't answer that for him.

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1 Q Okay.

2 A I know his plan was altered if he was planning on
3 going somewhere else.

4 Q Have you hired any additional people due to Ricky
5 Kneece's injury?

6 A Yes, sir. Willie Dobbs was hired after Ricky was
7 hurt.

8 Q Okay.

9 A And, of course, Kain went full-time after Ricky was
10 hurt. And we've got a lot of part-time people that
11 we pick up to compensate for Ricky's inadequacies.

12 Q Okay. Now, you said Kain started full-time after
13 he got out of high school?

14 A Mm-hmm.

15 Q Now, that would have been in approximately 2005,
16 2004 or five?

17 A Yes, sir, I think so.

18 Q Okay. So, that was -- That, at least, was a
19 little bit after --

20 A Mm-hmm.

21 Q -- Ricky's injury? Willie Dobbs started full-time
22 after that?

23 A Willie Dobbs started full-time in either 2000 --
24 2001 maybe, in that neighborhood, right after Ricky
25 got hurt --

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1 Q Okay.

2 A -- and we realized that he was not going to be able
3 to do what he used to.

4 Q When Ricky came back to work in approximately 2005,
5 did that change anything in the number of part-time

6 workers that you had, or full-time workers?

7 A The part-time workers have been picked up during
8 and after 2005, --

9 Q Okay.

10 A -- some of them as far back as 2001.

11 Q Okay. Give me just a second. I'm -- I'm going to

12 go through this list. I know we went through it in

13 the deposition the other day. I'm just going to

14 ask you about some workers and ask you what their --

15 - their role is with the farm. A couple of these

16 there's only one or two paychecks for. Tyler

17 ~~Gault, what is his responsibility, or what is he --~~

18 A He worked on some fence work. He is a high --

19 Well, actually, he's a middle school younger --

20 ~~younger man.~~

21 Q Okay.

22 A And Justin Gault, his older brother, was working
23 with us, and Justin said, "Tyler's going to be out
24 of school for a couple of days, Mister Ricky. Can
25 we use him on the fence?" Mister Ricky said,

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1 "Absolutely."

2 Q Okay. Delano R. Kneece is --

3 A Our farm.

4 Q Okay. How about -- let's see -- Delane Light?

5 A Mr. Delane Light is a truck driver. We hired him

6 to drive long distance with some peanuts because we

7 did not want Ricky on the road by himself that far.

8 Q Okay. And I see two paychecks here listed for him

9 in 2004. Now, they're larger paychecks, so this

10 may be for more than a week or two --

11 A It was.

12 Q -- of work? Has he worked in any other times,

13 other than '04?

14 A No, sir. He had some medical issues come up, and

15 we couldn't utilize him anymore.

16 Q Okay. How about Enrique Balcazar?

17 A That is a Mexican gentleman, and we hired him to

18 pull weeds in the -- the peanut field. The peanut

19 field is registered seed we grow for Birdsong for

20 the farmers to plant next year, --

21 Q Okay.

22 A -- and even though Willie sprays quite well,

23 occasionally you're going to miss pigweeds and what

24 have you, and we can't have them.

25 Q Okay.

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- 1 A Ricky used to keep all of that done.
- 2 Q How about Gasper Trudillo -- Trudillo?
- 3 A Another -- Another Mexican crew we've hired --
- 4 Q Okay.
- 5 A -- for the same purpose.
- 6 Q And I just see paychecks in 2010 for him. Is that
- 7 the only times he's worked, or --
- 8 A Mm-hmm.
- 9 Q He hasn't worked before 2010? Would --
- 10 A No, sir.
- 11 Q -- that be correct? Okay.
- 12 A 2010's it.
- 13 Q J.M. Boone. I have paychecks from 2004 through
- 14 2006. Who is Mr. Boone?
- 15 A He is an uncle.
- 16 Q Okay.
- 17 A ~~And if we paid him what he was worth, that paper~~
- 18 wouldn't hold it, but he won't let us.
- 19 Q Okay. And is he -- Is he a part owner of Kneece
- 20 Farms?
- 21 A No.
- 22 Q Okay. Does he -- Is he an employee of either, --
- 23 A No.
- 24 Q -- a direct employee of either farm?
- 25 A No.

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1 Q Okay.

2 A He's an uncle that loves his nephew.

3 Q Okay. Does he work on both farms, --

4 A No. He works on --

5 Q -- or work for both --

6 A He works on Delano Kneece Farms.

7 Q Okay.

8 A He's retired from the state, and he comes out and
9 spends his spare time.

10 Q Okay. Does he work for free usually?

11 A Uh-huh. Yes, sir.

12 Q Okay. And Justin Gault, you mentioned he works on

13 fence repair?

14 A Mm-hmm.

15 Q Okay. Ronnie and, I believe, Donnie Hoffman, --

16 A Yes, sir.

17 Q -- I have paychecks from them from '07 through

18 2010. What -- What's their responsibility? What
19 sort of things do they do for the farm?

20 A Ricky utilizes them to help him repair equipment,

21 to help him repair irrigations that he can't climb
22 on. He doesn't stoop well, so he can't get under
23 the implements whenever a bearing goes out on a
24 planter wheel or what have you. And they weld,
25 which is something Ricky can't do anymore because

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1 he can't -- his arms can't let him stay that
2 steady.

3 Q Okay.

4 A And they just sort of fill in in the repairs of the
5 equipment and stuff that Ricky used to do.

6 Q Who -- I noticed their checks start in
7 approximately 2007.

8 A Mm-hmm.

9 Q Other than the Hoffmans, who did that work for
10 Delano Farms, Delano & Son Farm, prior to 2007?

11 A We outsourced it to -- what is their legal name --
12 it's the Shumpert boys, but that doesn't mean

13 anything to you -- S&S Fabrication Shop, and they
14 got rather expensive, and it was more economical
15 for us to hire Ronnie and Donnie to do it there at
16 the house.

17 Q And when did you start using S&S Fabrication Shop?

18 Do you remember?

19 A We've used them forever. It just fluctuates how
20 much we use them.

21 Q Okay. Did you use them prior to 1999?

22 A Yes, sir, in some small cases we did.

23 Q Okay. And who is Jerry C. Williams --

24 A It's a brother-in-law.

25 Q -- or Williamson? I'm sorry.

1 A A brother-in-law.

2 Q What kind of work does he do for the farm?

3 A Jerry worked on fence. Jerry has bush hogged.
4 Jerry does a little bit of everything when Ricky
5 calls him and says, you know, "I -- I need some
6 help."

7 Q And I think Cyril Kain Kneece is your son, --

8 A Yes, sir.

9 Q -- and we discussed some of his responsibilities.
10 And Willie Dobbs, do you -- do you remember
11 approximately when he was hired? You can give me

12 the -- your best estimate. I'm not --

13 A Early 2000, 2001 maybe.

14 Q Okay. And what are his primary responsibilities
15 with the farm?

16 A Willie drives a tractor, does most of the spraying.
17 He drives the peanut wagon. He runs a module
18 builder picking cotton.

19 Q Let me ask you, since Ricky's accident, whether he
20 were injured or not, --

21 A Mm-hmm.

22 Q -- have the responsibilities gone up on the farm,
23 the amount of -- the amount of labor that needs to
24 be done?

25 A No, sir.

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1 Q Okay. I know that -- It looks like Willie Dobbs
2 works there full-time now --

3 A Yes, sir, he does.

4 Q -- and he didn't prior to the accident, and Kain
5 Kneece works there --

6 A Yes, sir.

7 Q -- full-time and he did not prior to the accident
8 is my understanding.

9 A Mm-hmm.

10 Q Are both of them needed to fulfill the duties that
11 -- that Ricky Kneece used to do?

12 A Yes, sir.

13 Q Okay. The tax returns, I think you've said --
14 Actually, I believe you -- Do you prepare the tax
15 returns for yourself and Ricky Kneece?

16 A Uh-uh. No, sir.

17 Q Who prepares the tax returns?

18 A Ralph Busbee.

19 Q Okay. Do you know if you and your husband file
20 jointly or separately?

21 A We file jointly.

22 Q Okay. So, the tax return for y'all, would that
23 reflect both yours and his income, --

24 A Yes, sir.

25 Q -- your -- Ricky Kneece's and your income together?

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1 A Yes, sir.

2 Q Okay. Do you believe -- Ricky Kneece had
3 testified that he felt his income had gone down
4 since 1999. Do you believe that's accurate, his
5 personal -- that his personal income has gone down?

6 A No, sir, it hasn't gone down.

7 Q Okay.

8 A But I can tell you why he feels that way.

9 Q That -- Well, I had asked him about it, too, so
10 you don't have to -- to go into that. If you'll
11 give me just one second.

12 A Absolutely.

13 Q How long has Ralph Busbee done the taxes for -- for
14 you and your husband?

15 A Early 2000 maybe.

16 Q Okay.

17 A I don't remember when we -- when we changed over to
18 Ralph, but we've had a CPA do them as long as we've
19 been married.

20 Q Okay. And does Delano & Son Farm also file a
21 corporate tax?

22 A Yes.

23 Q Okay. Actually, let me go back to one question I
24 didn't ask earlier. How long -- You said they've
25 incorporated since 1978?

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1 A Yes, sir.

2 Q Okay. Have they changed charters or re-
3 incorporated since 1999 that you know of?

4 A No, sir.

5 Q Okay. And Mr. Busbee, does he do the taxes for the
6 corporation, the corporate taxes, as well?

7 A Yes.

8 Q And do you know about how long he's done --

9 A Since early 2000, whenever -- We all shifted to
10 Ralph Busbee --

11 Q Okay.

12 A -- at the same time.

13 Q How many full-time employees does -- does the farm
14 have?

15 A I don't want to say this wrong, but I think it's
16 four because I don't consider Mister Delano a full-
17 time employee because he is, on paper, retired, --

18 Q Okay.

19 A -- even though he draws a small paycheck, and Miss
20 Shirley is, on paper, retired. She draws a small

21 paycheck, but she's not a full-time -- You see
22 what I'm saying? There's not a full-time job
23 there.

24 Q I understand. And you had noted that, I guess,
25 Miss Shirley's responsibilities kind of transferred

1 over to you, --

2 A Right.

3 Q -- or I guess you became --

4 A Yes.

5 Q -- doing her responsibilities since approximately

6 January of '09?

7 A Yes.

8 Q Okay. And we had talked about it previously.

9 Before -- Would it be safe to say in approximately

10 2005 or 2006 that Mr. Kneece -- and when I say Mr.

11 Kneece, I mean Ricky's father -- became semi-

12 retired?

13 A I don't remember the time frame. I truly don't.

14 Q Was it -- Was it after 2000?

15 A It could have been before. I don't know, but I can

16 find out for you.

17 Q Oh, that's -- That's okay. That's okay.

18 A I just don't remember.

19 Q Do you remember if it was before Ricky's accident -

20 -

21 A No, sir, it was --

22 Q -- or after?

23 A -- not before Ricky's accident.

24 Q It was sometime after Ricky's accident?

25 A Yes, sir.

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1 Q Okay. Do you remember approximately when Ricky
2 Kneece started receiving a salary again after his
3 injury?

4 A From our farm or from Kneece Farms?

5 Q From -- From your farm, from Delano & Son.

6 A I can't remember the exact time frame, but it
7 wasn't very long --

8 Q Okay.

9 A -- because Mister Delano insisted that his
10 paychecks start back.

11 Q Okay.

12 A Even though he was not working, Mister Delano
13 insisted.

14 Q Okay. And, now, he -- But he did actually start
15 working in approximately 2005?

16 A Yes, sir.

17 Q Okay. Did he -- When you -- you had asked --
18 When I asked when he started receiving a paycheck
19 again, you noted the differentiation between Delano
20 & Son and Kneece Farms. Did he ever -- Has he

21 ever resumed work or done work again for Kneece
22 Farms?

23 A Not in the capacity that he did, no, sir.

24 Q Okay. When you say not in the capacity, -- So, he
25 has done some work, just not the same amount?

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1 A Well, he's at the field.

2 Q Okay. I know -- He had noted, Mr. Ricky Kneece
3 had noted, that the farms are somewhat together;
4 there's approximately 1500 acres. Is that
5 accurate, my understanding?

6 A There's a -- It's a little bit more than that.
7 It's around 1600 to 1700.

8 Q Okay. And according to Ricky Kneece, it was -- I
9 think about maybe 650 acres or so are owned by
10 Delano & Son. Is that --

11 A Yeah.

12 Q -- about right, --

13 A Yes, sir.

14 Q -- in your opinion?

15 A It's not owned by Delano & Son. It's -- Mister
16 Delano and Miss Shirley own some, Rick owns some,
17 and the farm owns some.

18 Q Okay.

19 A So, under the umbrella of Delano R. Kneece & Son,
20 there are three landowners, --

21 Q Okay.

22 A -- the -- his mother and father, the farm itself
23 and Ricky.

24 Q And then the balance of the land is owned by Kneece
25 Farms?

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1 A Sharecrop, yes, sir.

2 Q Okay. And do y'all still do work on that land, as
3 well?

4 A Yes, sir.

5 Q And are those profits still split --

6 A Yes, sir.

7 Q -- 50-50 -- Well, the profits and the costs --

8 A Absolutely, yes.

9 Q -- are split 50-50?

10 A Mm-hmm.

11 Mr. Leventis: Okay. I don't have any
12 further questions for you at the moment. Your
13 attorney might have -- or -- Well, I guess

14 Mr. Elliott might have some.

15 Mr. Elliott: You know, I think I'm good.

16 Mr. Leventis: Okay. Then I certainly
17 appreciate your time. Thank you for -- for
18 coming and testifying today.

19 The Deponent: You're welcome.

20 (Whereupon the deposition was concluded at
21 5:04 p.m.)

22 (Deponent has waived reading and signing.)

State of South Carolina)
)
 County of Lexington)

Certificate

Be it known that the foregoing deposition of
 Roxanne Kneece 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 38
 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 30th September 2010.

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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SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC FILE # 9920867

RICKY KNEECE,

CLAIMANT,

VS.

DEPOSITION

~~KNEECE FARMS,~~

OF

EMPLOYER,

RICKY KNEECE

LEGION INSURANCE IN LIQUIDATION
THROUGH S.C. PROPERTY & CASUALTY
INSURANCE GUARANTY ASSOCIATION,

CARRIER,

DEFENDANTS.

Deposition of Ricky Kneece, taken pursuant to the
South Carolina Rules of Civil Procedure and the
Administrative Procedures Act, commencing at the hour of
9:36 a.m., Thursday, September 23rd, 2010, at the law
offices of Elliott & Elliott, 1508 Lady Street,
Columbia, South Carolina.

COPY

Reported by
Sandra M. Snead

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Appearances

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Reported By:

Sandra M. Snead

Also Present:

Roxanne Kneece

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Exhibits

No exhibits marked.

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Stipulations

The reading and signing of this deposition is waived by the deponent and counsel for the respective parties.

Whereupon,

Ricky Kneece, 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: Delano Ricky Kneece.

Examination

By Mr. Leventis:

Q Okay. Mr. Kneece, my name is Peter Leventis. I represent your employer, Kneece Farms at one time, and their workers' comp insurance carrier or, actually, the subsequent carrier to their insurance carrier. I know you've had your deposition taken before, but I'm going to go over just a few ground rules with you if that's okay. When you're answering me, if you can just try to remember to give me verbal responses, to say yes or no. It's a common habit to nod your head or to say uh-huh or uh-uh, but she's going to transcribe everything we

1 say. Do you remember your last deposition?

2 A No, sir, I don't.

3 Q It was several years ago, but -- I'm not going to
4 try to trick you or trip you up on anything. I'm
5 just going to ask you a series of questions. If I

6 ask them quickly, that's just because I do it a
7 lot. You don't have to answer me quickly. Take
8 your time and think about it. And I'll just expect
9 that if I ask you an answer, that you'll give me an
10 honest response. Is that fair?

11 A Yes, sir.

12 Q Okay. Also, as we go through the deposition, -- I
13 do have a lot of questions -- if we get to a time,
14 for whatever reason, for a bathroom break or to
15 take a break, we may even go off the record for a
16 second. Just let me know, and we'll do that. The
17 ~~other thing is you have to try to answer the~~
18 questions from your own knowledge. So, even though
19 your attorney is present here and your wife is
20 ~~present here, I'd ask that you try to answer your~~
21 questions yourself. Don't ask them for any answers

22 --

23 A Okay.

24 Q -- while we're going over it. Let me start out --
25 This is a common question that I ask everybody that

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1 I depose, but are you on any drugs, legal or
2 illegal, or have you had any alcohol today?

3 A No, sir.

4 Q Okay. Is there any reason, other than drugs or
5 alcohol, that you might not be able to understand
6 the questions that I'm asking you today?

7 A No, sir.

8 Q Okay. Now I'll go ahead and get in -- With all
9 that out of the way, I'll go ahead and get into the
10 deposition with you. What is your current
11 employment status with -- And I may be pronouncing
12 this wrong. Is it Delano & Kneece or Delano & Sons
13 Farms?

14 A Delano. Delano --

15 Q Okay. --

16 A -- & Kneece.

17 ~~Q And what's your current position with the farm?~~

18 A Well, I drive a tractor or -- Just little odds-
19 and-ends stuff is all I do.

20 ~~Q Okay. And are you a part-owner of the farm?~~

21 A Yes, sir.

22 Q Do you know what your percentage interest is in the
23 farm?

24 A No, sir.

25 Q Do you know if you -- Who are the other co-owners

1 of the farm with you?

2 A Me, my dad and my two sons.

3 Q Okay. And what are your sons' names?

4 A Cyril Kain Kneece --

5 Q Okay.

6 A -- and J.D. Kneece.

7 Q And how long have Cyril and J.D. been part-owners
8 of the farm?

9 A I'd have to guess.

10 Q You can give it -- And with dates, if you'll just
11 let me know if you're giving me an approximate
12 date, but -- More than five years?

13 A I would think so.

14 Q Okay. Do you think it might be more than ten
15 years?

16 A I'm not a hundred percent sure the way my dad done
17 ~~it, but it's probably been that long or longer.~~

18 I'm just guessing.

19 Q That they've been part-owners?

20 A Yes, sir. ~~I'm just guessing now.~~

21 Q Okay. Do you know what their percentage interest
22 in the farm may be, --

23 A No, sir.

24 Q -- the amount that they may own?

25 A No, sir.

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1 Q Do you think it's greater than yours, less than
2 yours, or you just don't know either way?

3 A I just don't know.

4 Q Let's -- And that's fine. And are they both
5 employed by --

6 A One --

7 Q -- Delano & Son?

8 A One of them is.

9 Q Okay. Which one works there?

10 A Kain.

11 Q And how long has he worked there?

12 A Ever since he was a youngster in high school.

13 Q Okay. And what is his position?

14 A He sprays. He calibrates machinery. He runs --
15 does a little bit of everything.

16 Q Okay. How about your other son, J.D. Kneece? You

17 ~~said he owns a part of the interest in it, but he's~~

18 not an employee; is that correct?

19 A He's done things when he's there.

20 Q ~~Okay. How often -- We'll start -- How often does~~

21 Kain work there? Does he work there every week?

22 A Every day.

23 Q Every day. And how about J.D.? You said he does

24 things when he is there. Is that a couple days a

25 week, a couple days a month?

1 A A couple days a month probably. I really don't --
2 I really don't know.

3 Q Okay. You mentioned -- You mentioned Kain had
4 helped out since he was in high school. Was that --
5 - How old is Kain now?

6 A I think he's -- He's twenty or twenty-one.
7 Twenty-one I think.

8 Q Okay. So, he's helped out for the past four or
9 five years, then?

10 A Hmm, --

11 Q Approximately four or five years?

12 A Yes, sir.

13 Q Okay. Is that -- He wants to go into the family
14 business?

15 A Well, he's -- he's -- he's done there, I mean, --

16 Q Okay. Let me -- Let me go over some of the stuff

17 ~~that you do with Delano & Son. You said you do~~

18 odds and ends. Do you -- Are you still able to
19 drive the tractor?

20 A ~~Yes, sir, I drive the tractor some.~~

21 Q Okay. How many days a week do you -- do you work
22 would you say?

23 A Five to six.

24 Q Okay. And about how many hours a day would you say
25 you work on average?

1 A Seven to nine.

2 Q Okay. And what's the primary -- the primary thing
3 you do? Is it driving the tractor --

4 A Drive the tractor most of the time.

5 Q Okay. About how much of the day --

6 A Well, it's not -- You don't have tractor work to
7 do every day, --

8 Q Okay.

9 A -- I mean, --

10 Q What kind of -- Of the responsibilities that you
11 do during your work with the farm, how much of it
12 is involved in driving the tractor, more than half,
13 less than half? You can give me an estimate.

14 A More than half.

15 Q More than half. Of the work you do I'm saying. I
16 know that the farm work may take other things.

17 ~~Would you say up to three-quarters of what you do~~
18 ~~is driving the tractor, or --~~

19 A Yes, sir.

20 ~~Q -- more? Okay. And what about in that other --~~

21 You also mentioned odds and ends. What kind of
22 other responsibilities do you do?

23 A I turn irrigation on once in a while.

24 Q Okay.

25 A If my son or dad can't do it, then they'll ask me

1 to turn one or two on.

2 Q And when you say turn irrigation on, is that for --
3 for the fields?

4 A Yes, sir.

5 Q And what does that involve?

6 A Just mashing a start and stop button.

7 Q Okay. Do you have to drive out to certain
8 locations to do it?

9 A Yes, sir.

10 Q Okay. And how would you say that your
11 responsibilities in the past -- I know you were
12 deposed about five or six years ago. How has your
13 position, or your responsibilities, with Delano
14 Farms changed, --

15 A Well, --

16 Q -- if at all?

17 A -- I've done things that I shouldn't have done, as --

18 far as some spraying -- which they don't let me
19 spray no more.

20 Q Okay.

21 A I don't figure no chemicals or order chemicals, or
22 I don't -- I don't go to town and get parts.

23 Q Are you able to drive?

24 A Yes, sir, but everybody's scared of my driving. I
25 prefer to drive at home.

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1 Q Drive on the farm primarily?

2 A Yes, sir.

3 Q How big is the farm?

4 A About 1500 acres, but it's not -- That's not all
5 of ours.

6 Q Okay. Whose -- What other farms -- I know I have
7 seen previously, I think, that sometimes Delano &
8 Son has worked your uncle's farm and some other
9 properties?

10 A Mm-hmm.

11 Q Is that still the case?

12 A Yes, sir.

13 Q So, do you do work on the land that Delano Farms
14 owns as well as --

15 A Yes, sir.

16 Q Kneece Farms I think was one of them?

17 A Yes, sir.

18 Q Any other properties or any other farms that you
19 work land for?

20 A (Shakes head.)

21 Q Of that 1500 acres, about how much of it do -- does
22 Delano Farms own?

23 A I'm going to guess and tell you probably 650.

24 Q Okay. What type of crops do y'all do?

25 A Just corn, cotton and peanuts.

1 Q Okay. Has that changed over the past five or ten
2 years, or is that primarily what y'all have always
3 done?

4 A That's what we've always done.

5 Q Okay. Let me ask you, how are you paid today for
6 the work that you do? Are you paid on an hourly

7 basis, on a weekly basis, a salary, a percentage of
8 the crops?

9 A I really don't know because I don't see my check or
10 nothing. I really don't know how much I make.

11 Q Okay. Do you have any idea as to whether you make
12 more or less money than you did three years ago?

13 A I have no idea I make no more, no.

14 Q Okay. Do you have any idea as to whether or not
15 you make more or less money than you did before
16 your accident?

17 A ~~I make less money.~~

18 Q You believe you make less money?

19 A Yes, sir.

20 Q ~~And you said you don't get your check. What do you~~

21 ~~base that on, that you make less money?~~

22 A Well, --

23 Q And it's okay. You just tell me why you believe
24 that. I don't --

25 A My wife does the payroll. I never see the payroll.

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1 Q Okay.
2 A I don't get my check. She gets my check.
3 Q Okay.
4 A I don't pay no bills or no nothing.
5 Q Okay.
6 A I can't remember if I pay something or if I don't
7 pay it.
8 Q Okay. Do you -- Do you file taxes each year?
9 A Yes, sir.
10 Q Okay.
11 A She does. I don't.
12 Q Okay. Do you know how you file taxes? Do you know
13 if they're filed jointly between you and your wife
14 or --
15 A I'm going to assume she has it done jointly.
16 Q Okay.
17 A I'm assuming.
18 Q Even though it doesn't -- It sounds like your wife
19 does a lot of the books and the accounting for the
20 farm.
21 A Mm-hmm.
22 Q Okay. And your wife's name is Roxanne?
23 A That's right.
24 Q Okay. And how long has she done that for? Has it
25 been even before your accident that she has done

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1 the accounting?

2 A Mm-hmm.

3 Q Okay.

4 Mr. Elliott: (to the deponent) Excuse
5 me. Watch your -- Please -- Yes?

6 The Deponent: Yes, sir.

7 Mr. Elliott: I think --

8 A Yes, sir.

9 Mr. Elliott: -- the court reporter
10 understood that to be a yes, but --

11 Mr. Leventis: I tell everyone to do
12 that, but then I don't follow up with them.

13 Mr. Elliott: Right. Right.

14 Mr. Leventis: I tell them they have to
15 answer that way --

16 Mr. Elliott: Well, I don't like to look

17 ~~like the scolder, so --~~

18 Q Now, I have a list of employees here that have
19 either recently, or in the past several years I
20 guess, started working with Delano Farms. Let me

21 ask you about a couple of them. Do you know Ashley
22 Cooper?

23 A Mm-hmm. Yes, sir.

24 Q What kind of things -- What are his
25 responsibilities, or do you know what type of

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1 things he does for the -- for the farm?

2 A I remember we got him -- He helped for a little
3 while, and I think it was fencing, but I'm not a
4 hundred percent sure.

5 Q Putting up fences or --

6 A Yes, sir.

7 Q -- fixing fences?

8 A Yes, sir.

9 Q Okay. Now, I have a list of paychecks. It looks
10 like the last paycheck to him was in February of
11 2010. Do you know if he still works there, or have
12 you seen him -- Has he worked there recently?

13 A No, sir.

14 Q Do you know who Tyler Gault is? It looks like he
15 may have only worked a short period of time. Does
16 that name sound familiar, Tyler Gault?

17 A ~~I want to think he helped my son on the fence.~~

18 Q Okay. How about Mitch Shealy? Again, that's
19 somebody who --

20 A ~~No, sir, I don't remember him.~~

21 Q Okay. J.M. Boone. Is that your uncle?

22 A Yes, sir.

23 Q Is he -- Does he -- Is he the one that owns
24 Kneece Farms?

25 A No, sir.

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1 Q Who is -- Who are the owners of Kneece Farms? Are
2 they relatives?

3 A Yes, sir, my cousin.

4 Q Okay. J.M. Boone, has -- how long has he worked
5 for Delano Farms?

6 A Ever since I've been a youngster. That's my uncle.

7 Q Okay. Has he worked off and on?

8 A Mm-hmm.

9 Q Okay. What type of work does he do?

10 A Just odds and ends is all I can tell you. Just --

11 Q Okay. He doesn't have a particular position that
12 he always does X or Y type of chore?

13 A (Shakes head.)

14 Q Justin Gault. The one I asked you about before was
15 Tyler Gault. Does the name Justin Gault ring a
16 bell? Are you familiar with that individual?

17 A ~~I think these are the ones that helped my son on~~
18 the fence.

19 Q Okay. He would have -- He would have worked on
20 the fence, as well. Are the fences fixed up at

21 this point?

22 A Yes, sir, as far as I know.

23 Q Okay. Is that -- Is that kind of routine
24 maintenance that's done every so many years, or is
25 that something -- Did y'all have a -- Did

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1 something -- Did a piece of equipment mess up the
2 fence or --

3 A No. It's something you just have to go over --

4 Q Okay.

5 A -- once in a while.

6 Q How about Ronnie Hoffman? Are you familiar with --

7 Do you know Ronnie Hoffman?

8 A Yes, sir.

9 Q What position or what kind of responsibilities does
10 -- does Ronnie Hoffman have with Delano & Kneece --

11 A They --

12 Q -- Delano & Son?

13 A They repair equipment and weld, stuff like that.

14 Q When you say equipment, you mean like tractors,
15 like large equipment?

16 A Yes, sir.

17 Q And did you say -- Was it welds?

18 A Yes, sir.

19 Q Okay. Would -- Would Donnie Hoffman be the --

20 Does Donnie Hoffman do the same type of thing?

21 A Yes, sir.

22 Q Okay. And have they worked for Delano & Kneece &
23 Son for a long time, or do you just get them to
24 work when something breaks that you need fixed?

25 A They just get them when something needs repaired.

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1 Q Okay. Are they kind of farm mechanics? Would that
2 be a fair assessment?

3 A I guess you could say that.

4 Q Okay. I'm just going to go over a few more. Now,
5 Cyril K. Kneece, that's Kain -- Kain, your son --

6 A Yes, sir.

7 Q -- Kain? And it looks like he's worked a number of
8 years for -- for Delano & Son. Is that correct?

9 A (Nods head.)

10 Q Do you think he's worked there maybe as much as ten
11 years?

12 A I really don't know, but he's worked there ever
13 since he was in school, big enough to do something.

14 Q Okay. And do y'all pay him an hourly wage? Do you
15 know how he's compensated for working?

16 A No, sir.

~~17 Q Okay. But he does get -- He does get paid wages,~~

18 doesn't he?

19 A Yes, sir.

~~20 Q Willie Dobbs. Do you know Mr. Dobbs?~~

21 A Yes, sir.

22 Q What kind of work does he do for the farm?

23 A Whatever he's told to do.

24 Q Okay. Did -- Did Mr. Dobbs work there before your
25 accident?

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1 A I don't think so. I'm not sure.

2 Q Okay. And he does general labor-type work?

3 A Yes, sir.

4 Q Does he drive the tractor?

5 A Yes, sir.

6 Q Can you tell me just a couple of other types of
7 jobs that he does?

8 A Whatever my son and my dad tells him to do, just --

9 Q Did you -- Did you hire Mr. Dobbs, or do you know
10 who hired Mr. Dobbs to start working?

11 A My dad.

12 Q Okay. Let me ask you -- How old is your father
13 now, give or take?

14 A He's --

15 Q Is he --

16 A He's in his seventies.

17 Q Okay. Does he still work for the farm full-time?

18 A Yes, sir.

19 Q And what kind of work does he do for the farm?

20 A Anything that needs to be done, I mean, --

21 Q Does -- Does he still drive the tractor?

22 A Yes, sir.

23 Q Are there any things that he can't do now because
24 of his age that he could do before?

25 A Not really. He just don't like to climb.

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1 Q Okay. About how many hours a week does he work for
2 the farm you think, or how many days a week?

3 A I'd say every day.

4 Q Every day?

5 A Monday through Sunday.

6 Q Okay. And does he usually work a full day, seven,
7 eight, ten hours?

8 A Yes, sir.

9 Q Okay. Do you know what -- what his ownership
10 interest or percentage is in the farm? Does he own
11 half or more?

12 A All I can tell you is he started it, so I would
13 think he would -- I mean, I would say he's the --
14 he's the majority. He's the owner, so --

15 Q Okay. Do you know -- Do you know how Delano & Son
16 is -- is set up? Do you know if it's a partnership

17 ~~or a -- Do you know if it's a partnership or a~~
18 corporation?

19 A I think he built it as a -- as a partnership.

20 Q Okay. ~~Do you know who the partners are?~~

21 A Just me and him and my sons, I'm assuming.

22 Q Okay.

23 A And the reason I don't know, he done this when I
24 got hurt. I really don't --

25 Q He made it a partnership after -- once you got

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1 hurt?

2 A Well, he -- he worked on things then.

3 Q On how it was set up?

4 A Yes, sir.

5 Q You mentioned that he -- he gave an interest in the
6 farm to both of your sons. Was that after you were

7 injured that that happened, or did they already
8 have an interest?

9 A Like I say, I don't know because it's when I got
10 hurt, and I don't -- I don't remember --

11 Q Okay.

12 A -- what all he's done.

13 Q You mentioned your son Kain is about twenty-four
14 years old, the one that works -- that does work
15 pretty frequently on the farm?

16 A He's in his early twenties.

17 Q Okay. What about your son J.D.?

18 A He's a little bit older than Kain.

19 Q Okay. Do either of -- Other than you and your
20 wife, Roxanne, does anyone else live at your house?

21 A J.D.

22 Q Okay. Let me ask you, even though you don't do the
23 accounting, are you familiar with the prices for
24 the crops that you -- that you grow?

25 A No, sir.

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1 Q Do you know if -- Do you know if the prices have -
2 - have dropped or increased in the last few years?

3 A I know corn has done better than it usually does.

4 Q Okay. Are you aware over the past few years that,
5 in general, the economy's been thought to be in a

6 recession or been doing poorly over the past few
7 years?

8 A Yes, sir.

9 Q Do you know if that has affected, not the farming
10 business in general but your farm, the profits of
11 Delano & Son negatively or positively? Do you know
12 if it's --

13 A It's -- My dad and my son, we talk a lot, and they
14 said it's negative, that --

15 Q That's it's gone down --

16 A Yes, sir.

17 Q ~~in the past few years?~~

18 A Yes, sir.

19 Q So, you -- you mentioned that you don't actually
20 receive your checks?

21 A Right.

22 Q Okay. Your wife gets those directly?

23 A Right.

24 Q Do you know who does the payroll for your farm?

25 A My wife.

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1 Q Okay. So, she actually distributes the checks?

2 A Right.

3 Q Okay. Who makes the hiring and firing decision if
4 y'all decided you needed to hire somebody tomorrow
5 for something?

6 A My dad and my son, but they -- they talk it over
7 with me, but they officially do the hiring of
8 someone.

9 Q Okay. Do you know when the last time y'all hired a
10 permanent employee, not -- not like -- We talked
11 about somebody who fixed the fences or does some of
12 the repairs. Do you know the last permanent
13 employee y'all hired was?

14 A I would say it would be Willie.

15 Q Okay. And do you know how many years ago or
16 approximately how many years ago?

17 A ~~No, sir, because that was the same time I got hurt.~~

18 Q Okay. You said you're able to drive. Is that just
19 a regular car?

20 A ~~Yes, sir.~~

21 Q Are you able -- You used to have a commercial
22 driver's license at one time?

23 A Yes, sir.

24 Q Do you still have your CDL?

25 A Yes, sir, but only because I don't drive for

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1 someone. I always said if I didn't farm, I'd want
2 to drive a truck, but I couldn't -- I couldn't pass
3 it with the problems I've got.

4 Q You couldn't pass the physical for the CDL?

5 A The physical and the driving for someone or a

6 company.

7 Q When you say the physical, do you mean the South --
8 the DOT physical? Is that what you're talking
9 about?

10 A Yes, sir.

11 Q Is your CDL still in good standing?

12 A Til they run out. They haven't quite run out.

13 Q It hasn't quite run out. Do you know how
14 frequently you need to get them updated?

15 A I think it's every -- it's ten or 12 years, I
16 think.

17 ~~Q Okay. Do you know the last time that you had a~~
18 ~~physical with the DOT?~~

19 A No, sir, I don't.

20 ~~Q Has it been since the accident that you've sent in~~
21 ~~any paperwork or gone in for any physical testing?~~

22 A No, sir.

23 Q It was before the accident?

24 A Yes, sir.

25 Q Okay. You mentioned to me a few of things that you

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1 -- that you can't do now that you could do before.
2 You said you don't spray anymore, you don't figure
3 chemicals up anymore. As far as driving the
4 tractor is concerned, do you drive it more or less
5 than you did five years ago, about the same?

6 A Probably the same or maybe -- I'd say a little
7 less.

8 Q Okay. Is there -- Is there the same amount of
9 work as there was to do five years ago? Is the --
10 To your knowledge, is the farm producing a similar
11 amount of crops as it was several years ago?

12 A I would say it is.

13 Q Okay. I didn't ask you this before, but has the
14 size of the farm changed in the past many years?
15 Has it gotten larger or smaller?

16 A It's probably gotten a little bit smaller.

17 Q Okay. Have y'all sold some property?

18 A No, sir.

19 Q Why do you believe it's gotten smaller? Do y'all
20 have to rotate crops or anything like that?

21 A We just quit working some land.

22 Q Okay. And why did you quit working it? Do you
23 know?

24 A Well, I don't do what I used to do.

25 Q Okay. Is -- Do you know, even before the injury,

1 if your personal income was based on a wage that
2 you received, or was it based on the overall
3 profits of the farm, like a percentage of the
4 profits?

5 A I really don't know. I've never got nothing. I

6 mean, I really don't know. I ain't never got
7 nothing out of a crop that I know of.

8 Q Okay.

9 A I could be wrong, but I don't -- Pretty sure I
10 haven't.

11 Q The -- Did you say you still do work, or Delano
12 still does work, for Kneece Farms?

13 A Yes, sir.

14 Q And when you say you do work for them, you tend
15 their crops and --

16 A We work 50-50 with my cousin.

17 Q ~~When you say you work 50-50, do you mean once the~~
18 ~~crops are sold, 50 percent of that amount comes to~~

19 --

20 A ~~He helps us work his land, and it's done 50-50.~~

21 Q Okay. Is that -- When you say 50-50, you mean of
22 the money that comes back?

23 A Anything that's spent, period, or comes back,
24 whatever, it's 50-50.

25 Q Okay. How long have y'all had that arrangement?

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1 Has it been a long time?

2 A Yes, sir, I think so.

3 Q Okay. Let me ask you, for the physical injuries
4 that you have -- Now, I know you meet with someone
5 that you talk to about psychological trauma, but as

6 far as your physical injuries are concerned, your
7 shoulder and your knee and that, when was the last
8 time you -- you treated with someone for those --
9 for those injuries, for the physical injuries? Do
10 you remember?

11 A No, sir, I don't.

12 Q I think it was Dr. Green that treated you for your
13 shoulder; he did the surgeries for you on your
14 shoulder?

15 A Yes.

16 Q Do you know when the last time you saw him was?

17 A ~~No, sir, I don't.~~

18 Q Okay. I think one of the doctors that helped treat
19 with your knee was -- was Dr. O'Leary. Do you
20 know, was it recently or a couple years -- years

21 since you've seen Dr. O'Leary?

22 A It's been a while.

23 Q And with Dr. Green, -- let me put the question that
24 way -- has it been a long time since you've seen
25 him?

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1 A It don't seem like a real long time.

2 Q Over a year maybe?

3 A Yes, sir, I'd say it's over -- been over a year, I
4 know.

5 Q Okay. Do you know any doctors that you've seen

6 recently for physical problems or internal

7 problems?

8 A I don't remember his name, but I went to the urgent
9 care.

10 Q Okay. And how long ago was that, that you went to
11 the urgent care?

12 A A couple weeks ago.

13 Q Okay. And what did -- What did you go there for?

14 A Bronchitis.

15 Q Okay.

16 A And then a couple days later I went for a kidney

17 stone.

18 Q Okay.

19 A So they said, I had a kidney stone. I haven't

20 passed it.

21 Q And who is your -- your current family doctor? Is

22 that where you go if you have an illness, --

23 A No, sir.

24 Q -- the urgent care?

25 A No, sir. Wicker.

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1 Q Okay. Dr. Wicker?

2 A I believe that's right.

3 Q Have you seen a Dr. Shissias, as well? Does that
4 name ring a bell?

5 A Yes, sir.

6 Q Okay. And what have you -- What have you seen Dr.
7 Shissias for?

8 A For my head.

9 Q What kind of problems were you having, or what led
10 you to go see Dr. Shissias?

11 A If I turn around quick or if I get up and down, or
12 if you're driving a car, a vehicle, piece of
13 equipment, and you turn around quick, I get what I
14 call the staggers. I doubt myself, whether I
15 turned this on or whether I did this, and I have to
16 go back. And he's helping me with my headaches
17 ~~because I've took about all I know to take.~~

18 Q Okay.

19 A And it seems like he's getting me on the right
20 track.

21 Q Okay. So, you've seen him for headaches and then
22 also, I guess, dizziness maybe, or staggers, that
23 come from --

24 A Staggers and memory problems.

25 Q Okay. Memory loss. And staggers for quick

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1 movements, you said, --

2 A Yes, sir.

3 Q -- when you turn, do things? Okay. Do you know if

4 -- Did you go see him on your own, or do you know

5 if the -- the workers' comp sent you to him?

6 A No, sir. I went to him on my own.

7 Q Okay. Do you know if you -- before you went to him

8 if you had requested for workers' comp to send you

9 to somebody or --

10 A No, sir.

11 Q You didn't request prior to going to him?

12 A No, sir.

13 Q Okay. Do you suffer from allergies?

14 A No, sir, not that I know of.

15 Q Do you know who Dr. Bergmann is, who you see that

16 you talk to sometimes?

17 A Yes, sir.

18 Q Do you think you may have ever -- ever indicated to

19 Dr. Bergmann that you feel like your allergies play

20 a role in your headaches?

21 A No, sir.

22 Q Not -- Do you -- You don't remember that, or you

23 don't think you would have indicated that?

24 A I don't think I would have because my wife had me

25 go through all these things where they probe you

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1 for dust, mold, -- you -- I don't know how many of
2 them -- it's just hundreds of them -- to see if
3 you're allergic to something, and I wasn't.

4 Q Okay. So, you don't suffer from allergies that you
5 know of?

6 A No, sir, not that I know of.

7 Q Do you know why your wife would have wanted you to
8 go through all that, the testing for different
9 allergies, if you weren't having some --

10 A Well, this was years and years ago.

11 Q Okay. Is one of the effects of having the head
12 injury that you suffer from depression from time to
13 time, or from being depressed?

14 A Yes, sir, because I just -- I don't have energy,
15 don't have wind. I can't do what I used to do.

16 Q Okay. Did you -- Prior to this injury -- Do you
17 remember prior to '99 if you ever had problems with
18 depression before?

19 A No, sir.

20 Q Or ever took any drugs --

21 A No, sir.

22 Q -- to treat for depression prior to that?

23 A No, sir.

24 Q Is Dr. White a physician that also -- a doctor who
25 is also in the same group as Dr. Wicker? Does that

1 sound correct?

2 A Yes, sir.

3 Q And do you see Dr. -- Dr. White sometimes, as well?

4 A No, sir, not no more.

5 Q Okay. Do you know if anybody has -- Do you

6 remember if anyone has diagnosed you with

7 hypothyroidism or something related to your

8 thyroid, a problem --

9 A I take --

10 Q -- with the glands?

11 A -- medication every day.

12 Q Okay. Do you remember when you first started
13 taking medication or were first diagnosed with
14 that?

15 A I don't remember when, but it was -- I believe
16 it's several years ago.

~~17 Q Okay. You believe you've taken the medication for~~

~~18 several years or that you --~~

19 A Yes, sir.

~~20 Q Okay. Which -- Which doctor prescribes that to~~

~~21 you?~~

22 A Wicker.

23 Q Okay.

24 A I believe that's right.

25 Q Do you know if anybody has related your -- your

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1 hypothyroidism to your injury back in '99?

2 A Yes, sir.

3 Q Do you believe Dr. Wicker or Dr. White might have
4 done that?

5 A Yes, sir.

6 Q Okay. Have you requested that the -- that the
7 workers' comp people, or the workers' comp carrier,
8 pay for the treatment for your hypothyroidism?

9 A I haven't requested it because it was after I got
10 hurt.

11 Q Okay. Did you ever ask them if you could -- to see
12 somebody for -- for issues with your thyroid?

13 A Well, I really didn't know I had -- I had so much
14 going on, I didn't know how I was supposed to feel
15 or what was wrong.

16 Q Okay. We spoke about your wife just a moment ago,
17 ~~earlier, Roxanne, that she does the bookkeeping for~~
18 the farm, or accounting-type things for the farm.
19 You had said that she did that prior to your
20 ~~injury, as well?~~

21 A Yes, sir.

22 Q What other kinds of responsibilities does she do
23 with the farm?

24 A She's ordered -- She orders things when she's
25 asked. She reminds us when we need to refill with

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- 1 liquid fertilizer a lot of times. She --
- 2 Q When you say orders things, do you mean like the
- 3 chemicals for the farm and --
- 4 A She does --
- 5 Q -- materials to do the farming?
- 6 A She does a lot of that.
- 7 Q Okay.
- 8 A But my son -- All I know is my son tells her what
- 9 we need, and she prices it, and then she gets it
- 10 wherever.
- 11 Q And when you say your son, are you talking about
- 12 Kain?
- 13 A Yes, sir.
- 14 Q Okay. Where does Kain live?
- 15 A Right beside us.
- 16 Q Okay. He lives nearby. Has your wife's role with
- 17 ~~the farm changed since your injury?~~
- 18 A Yes, sir.
- 19 Q How has it changed?
- 20 A ~~She does more than she used to have to do, and~~
- 21 she's had to take a second job so I can have health
- 22 insurance because I can't afford it --
- 23 Q Okay.
- 24 A -- since my accident.
- 25 Q Okay. What is her second job? What does she do?

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1 A She works at the school over at the airport.

2 Q Okay. So, did you have health insurance before
3 this injury?

4 A Yes, sir.

5 Q And who did you have the health insurance through?

6 A I can't remember who it was through, but --

7 Q Well, when I say through, I don't -- Let me
8 rephrase that. When I say through, I don't mean
9 the actual insurance carrier like Blue Cross Blue
10 Shield. I mean was it with your employer or was it
11 from former military or something like that?

12 A It was just me and her.

13 Q Okay. So, did you -- Did you purchase it from an
14 agent? Did you find an insurance agent and
15 purchase --

16 A Yes, sir.

17 Q ~~health insurance? And did you just -- Did you~~
18 purchase that with monies you made from Delano &
19 Son Farm?

20 A ~~She purchased it with money out my checking~~
21 account.

22 Q Okay. And you said she had to take on a job to get
23 health insurance coverage for you after your
24 injury. Did your income drop to where you couldn't
25 afford insurance anymore?

1 A Well, that, too, probably, but it just -- I had so
2 many things wrong, and all I remember is she wore a
3 vehicle out taking me to the doctor, and there was
4 things that I had to have done, and we had our --
5 own health insurance, and we went to using it, and
6 I can't tell you what we was -- It just went out
7 the roof.

8 Q Okay. So, was it -- Was it because it was
9 difficult for you to find individual coverage after
10 your injuries?

11 A Everybody -- Nobody would accept me.

12 Q Because -- Because you'd had this -- Because
13 you'd had all these --

14 A Yes, sir, I'm assuming because of the accident.

15 Q Okay. You said your wife handles the filing of
16 your taxes?

17 A Yes, sir.

18 Q So, do you believe she files taxes for all the
19 profits you earn or all the income that you earn on
20 the farm?

21 A She does the -- That's all I know. She takes care
22 of the farm books.

23 Q Okay. Let me ask you, do you currently have any
24 medical -- Do you currently have any medical
25 appointments scheduled with any doctors, that you

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1 know of?

2 A I think I've got one, I think. She's got a place
3 where she keeps my appointments, and I thought I
4 seen one with Dr. Wicker.

5 Q Okay. And do you know, is that in the next couple
6 weeks or month or so?

7 A I think it's a couple months.

8 Q Do you know what that's for? Is that for your
9 kidney stone or for your --

10 A I think it's more --

11 Q -- thyroid?

12 A I think it's more or less a physical, or blood work
13 I think.

14 Q Okay. Are you -- You said you haven't passed your
15 kidney stone yet. Are you treating with anyone for
16 that, or are you just --

17 A No, sir.

18 Q Okay. Are you taking any pain medication for it?

19 A No, sir.

20 Q I'm assuming with farming that some -- some times

21 of the year there's more work to do than other
22 times of the year. Is that correct?

23 A Probably tractor driving it is.

24 Q Is there more work to do when you're bringing in
25 the crops than at other times?

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1 A Yes, sir.

2 Q Is that a stressful time? Is that more stressful
3 than other times of the year working on the farm?

4 A It could be, but -- All I can tell you, I just
5 don't care about it like I used to.

6 Q ~~So, the farm work doesn't stress you out as much as~~
7 ~~it used to?~~

8 A No, sir.

9 Q Do you think you're more stressed now or less
10 stressed than you were before the accident?

11 A I can't -- I can't tell you. I just don't care.

12 Q Okay. I know you said you don't care about that as
13 much. Are there other stresses in your life?

14 Everybody has -- suffers from stress.

15 A Not really.

16 Q Would you like to take a quick break?

17 A No, sir. I'm fine.

18 Q Okay. Just let me know if you do.

19 A (Nods head.)

20 Q Can you tell me a little bit about -- I know you

21 had a number of different injuries that you
22 suffered from the accident. Can you tell me a
23 little bit about the injuries that you're suffering
24 from now, what types of symptoms you -- you
25 currently have? We can start with your -- your

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1 shoulder and your arm.

2 A Well, my shoulder bothers me some all the time. My
3 knee bothers me, but most of all my head. And I've
4 got a knot in the top of my head -- my head, too,
5 to remind me of it all the time, but I guess it

6 would be -- My headaches is something that's just
7 about an everyday occurrence.

8 Q Okay. So, does your head hurt all the time, or is
9 it just you get a headache, you get a bad headache?

10 A I'm going to get a headache.

11 Q Okay. And which -- Which shoulder is it again?

12 A My left.

13 Q Okay. And is it your left knee, also?

14 A Yes, sir.

15 Q Other than the -- the headaches, are there any
16 other symptoms that you have?

17 A ~~Well, my knee and my shoulder bothers me, --~~

18 Q Okay.

19 A -- but there's one of them I'd rather not discuss
20 in front of everybody.

21 Q Okay. That's fine. You had mentioned in your
22 deposition about -- This was about five or six
23 years ago. You mentioned some of the things you
24 could do and some of the things that you couldn't
25 do as far as picking up -- You said you could pick

1 up a couple five-gallon drums of water but you'd
2 have to stop after -- after a while to put -- to
3 rest because of your left shoulder. Is that -- Do
4 you remember that, or does that sound accurate?

5 A Not really, but all I know is my left shoulder just
6 don't have the strength in it. And driving bothers
7 me bad with it because I just can't steer with it
8 all the time.

9 Q Okay. And when you say driving, are you talking
10 about in the car or --

11 A Car.

12 Q -- on the tractor?

13 A Tractor. It don't matter.

14 Q Driving the tractor is something that you primarily
15 have to do left-handed; is that correct?

16 A Not necessarily.

17 Q ~~Can you shift the -- Can you change the gears in~~
18 the tractor with your right or your left hand?

19 A Well, the ones we got is like a car now. They're
20 automatic.

21 Q Okay. When did you -- When did you switch to the
22 -- to the automatic tractors? Do you remember?

23 A Probably late in the -- the late '80s.

24 Q Okay. As far as the -- the activities of daily
25 life, as far as getting yourself dressed, hygiene,

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1 things like that, are you physically capable of
2 doing that?

3 A Yes, sir, but if I'm going anywhere, I can't match
4 colors or nothing.

5 Q Okay. I can't do that myself a lot of times.

6 A I just wear a uniform every day.

7 Q Okay. I asked you before about if you thought you
8 made more money now or less money now than you did
9 before the accident, and you said you believed you
10 made less money. Do you remember that?

11 A (Nods head.)

12 Q Yes, you do?

13 A Yes, sir.

14 Q You said -- I've asked you a little bit about the
15 basis for that, why you believed that you made less
16 now. You just think it's because you can't afford

17 ~~some things that you used to be able to afford?~~ Is
18 that the --

19 A No, sir. I can't make more because I can't do what
20 ~~I used to do. And on a farm there's so much to do~~

21 that's calibration. You've got to spread
22 fertilizer, and you just don't put it in something
23 and just spread it. I mean, you've got to judge
24 your distance, and I just -- I'm not able to do
25 what I used to do.

1 Q Is your -- I know you said you don't actually
2 receive your checks, but is your income based on
3 the number of hours you work or is it based in part
4 on the crop prices and the amount of -- the amount
5 of crops that are sold?

6 A All I can tell you is the farm stands on its own,
7 and she does the payroll. We all get paid.

8 Q Okay. In the past five years, -- I'm talking
9 about not since before the injury but just in the
10 past five years. Do you think your physical
11 capabilities have gone down from five years ago?

12 A Yes, sir.

13 Q What -- When I asked you about the -- carrying the
14 buckets of water, you said you'd have to take a
15 break because of your left arm. Are you still able
16 to -- to carry buckets of water, the --

17 A ~~Well, I assume I was using that for an example~~
18 because if you're toting something and it's equal
19 weight, I just can't hold out with my left arm.

20 Q ~~Okay. You can't hold out very long or you can't do~~
21 ~~it at all?~~

22 A Well, I can do it for just a short, short span
23 because my left knee bothers me, too, so -- It's -
24 - It's my left side.

25 Q You said the last full-time employee that you hired

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1 at the farm was probably Mr. -- Mr. Willie Dobbs;
2 is that correct?

3 A Yes, sir.

4 Q Do you know any -- of any permanent part-time
5 employees that you've hired since your injury, so

6 ~~not -- not full-time but somebody who's -- I know~~
7 we talked about some maintenance people and some
8 people that did some fence work and other things,
9 but anyone who -- who repeated -- you know, who
10 comes back -- Even if it's only ten or 15 or 20
11 hours a week, is there any -- are there any
12 permanent part-time employees that you've hired?

13 A Not that I know of. My cousin -- We used to swap
14 out work, and he gets his guy to help us some, and
15 that's all, but we're not really hiring him that I
16 know of.

17 Q ~~And what's your cousin's name?~~

18 A Luther.

19 Q Luther Kneece?

20 A Yes, sir.

21 Q Okay. And how long have y'all done that, that you
22 and your cousin would swap employees sometimes to
23 work on the farm? Has that been even before the
24 injury, more than ten years?

25 A Yes, sir.

1 Q Okay.

2 A Since I was in school.

3 Q And do y'all still do that to the same degree? Do
4 y'all -- Has it -- Do y'all borrow employees from
5 him more often or does he borrow employees from you

6 ~~more often, or is it -- do y'all try to do it~~
7 pretty even?

8 A I don't know. My wife keeps up with all that, but
9 it's probably -- There's sometimes that his might
10 help us more than ours helps him.

11 Q Okay. And some -- Do you think it may be the
12 other way around sometimes, too; --

13 A Yes, sir.

14 Q -- sometimes y'all's might help more? Do you
15 remember several years ago you would have signed a
16 -- this would have been back in about 2005 -- you
17 ~~would have signed a form that said you -- you felt~~

18 that you could go back to work? Do you remember
19 that?

20 A No, sir.

21 Q Do you remember at one time you were getting weekly
22 checks from the -- from the workers' comp injury?
23 Do you remember that?

24 A It seems like I do but not fully.

25 Q Okay. Do you remember that -- about -- Those

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1 checks had stopped maybe about five years ago. Do
2 you remember making a statement or indicating that
3 you were able to go back to -- to doing work at
4 that time, to earn a wage?

5 A No, I don't remember saying -- saying that, but I
6 could have.

7 Q Okay. Do you believe that to be the case, that you
8 are able to earn a wage at this time?

9 A Yes, sir, but not like I used to.

10 Q Okay.

11 A You know, if I had to go somewhere else, I know I
12 wouldn't be hired.

13 Q Okay. You said earlier -- I believe you said you
14 work about seven to nine hours a day. Is that --

15 A Yes, sir.

16 Q -- correct? About five or six days a week?

17 A Yes, sir.

18 Q Did you -- Before your injury, did you work
19 significantly more than that, --

20 A Yes, sir.

21 Q -- do you believe? What type of hours or how many
22 days a week do you think you worked before the
23 injury?

24 A Seven to whenever, sometimes over the next morning.

25 Q Okay. So, you worked seven days a week sometimes

1 then?

2 A Yes, sir.

3 Q Do you ever work seven days a week now?

4 A Not work-work, no, sir.

5 Q Okay. And about how many hours a day do you think

6 ~~you worked before the injury, on average?~~

7 A Can you ask me that again?

8 Q Yeah. You said now you work about seven to nine
9 hours a day?

10 A Right.

11 Q Prior to your injury, how many hours a day do you
12 think you worked on average? Was it more than
13 nine?

14 A Yes, sir.

15 Q Do you think it was more than 11 or 12?

16 A Lots of days, yes, sir.

17 Q Okay. ~~Do you ever work over nine hours a day now?~~

18 A Most of the time, no, sir, --

19 Q Okay.

20 A -- unless -- You could say I did, but usually I'm

21 just checking on them or getting what they need.

22 Mr. Leventis: Okay. If you'll give me -
23 - I'm just going to look over my notes for
24 one second if you don't mind.

25 Mr. Elliott: Anybody need anything?

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1 Q Okay. Mr. Kneece, do you know about how many
2 employees the farm has altogether? And when I say
3 the farm, I mean Delano & Son, not Kneece Farms or
4 anyone else.

5 A I think it's four. Pretty sure it's four.

6 Q ~~And when you say four, is that~~ Would that be
7 you and your father, your son Kain and Mr. Dobbs?

8 A Yes, sir.

9 Q Okay.

10 A Excuse me. It would be five counting my wife. I
11 believe that's right.

12 Q Okay. Prior to your injury, do you remember about
13 how many employees? Would it have been five at
14 that time?

15 A Three or -- Three or four.

16 Q Okay. And who would the -- It would have been you
17 ~~and your father prior to the injury; is that~~
18 correct?

19 A Yes, sir.

20 Q And your wife, as well?

21 A Yes, sir.

22 Q And you don't believe Mr. Dobbs worked there back
23 then?

24 A No, sir.

25 Q Okay. And do you think your son may have worked

1 back then, or he was -- He was younger then, I
2 understand.

3 A Ever since he's been able to drive something, he's
4 been there, --

5 Q Okay.

6 A -- been paid.

7 Q Do you know any restrictions that your doctors have
8 placed on you, physical restrictions or other type
9 of restrictions?

10 A (Shakes head.) Other than what they told me. I
11 don't guess it was restrictions, but what they told
12 me.

13 Q What -- Do you remember what they told you or
14 anything in particular that they've told you?

15 A Just that it wouldn't ever be the same, that I
16 would learn -- I'd have to learn to cope with it.

17 Q Okay. Do you know of any specific restrictions
18 they've given you about don't pick up over a
19 certain amount or don't work over a certain number
20 of hours or do a certain type of work?

21 A Not that I can recall.

22 Mr. Leventis: Okay. Well, Mr. Kneece, I
23 appreciate your answering all my questions. I
24 may have a few more for you, but -- if your
25 attorney has any questions for you, that is.

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1 You can --

2 Mr. Elliott: Could you excuse us just a
3 second? I was going to step out with Ms.
4 Kneece, if I might.

5 Mr. Leventis: Go right ahead. That's
6 fine.

7 [Off the record at 10:36 a.m.;
8 back on the record at 10:38
9 a.m.]

10 Examination Continues

11 By Mr. Leventis:

12 Q Okay. Mr. Kneece, have you answered all my
13 questions honestly to the best of your ability
14 today?

15 A Yes, I have.

16 Mr. Leventis: Okay. Well, I appreciate
17 your time, and thank you very much for coming
18 in today and -- and talking with me. Nothing
19 further.

20 (Whereupon the deposition was concluded at
21 10:38 a.m.)

22 (Deponent has waived reading and signing.)

State of South Carolina)
 County of Lexington)

Certificate

Be it known that the foregoing deposition of
 Ricky Kneece 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 49
 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 28th day of September 2010.

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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SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC FILE #9920867

RICKY KNEECE,

CLAIMANT,

VS.

KNEECE FARMS,

EMPLOYER,

LEGION INSURANCE IN
LIQUIDATION THROUGH
SCPCIGA,

CARRIER,

DEFENDANTS.

DEPOSITION

OF

LAWRENCE H. BERGMANN, Ph.D

Deposition of Lawrence H. Bergmann, Ph.D, taken
pursuant to the South Carolina Rules of Civil Procedure
and the Administrative Procedures Act, commencing at the
hour of 9:44 a.m., Thursday, April 26th, 2007, at Post
Trauma Resources, 1709 Laurel Street, Columbia, South
Carolina.

COPY

Reported by

Sandra H. Davis

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Reported By:

Sandra H. Davis

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Exhibits

No exhibits marked.

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Stipulations

The reading and signing of this deposition is waived by the deponent and counsel for the respective parties.

Whereupon,

Lawrence H. Bergmann, Ph.D, 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: Please state your full name for the record.

The Deponent: Lawrence H. Bergmann.

Examination

By Mr. Cauthen:

Q Dr. Bergmann, my name is Mark Cauthen, and, as you know, I represent the employer and insurance carrier in a workers' comp claim involving Ricky Kneece, and, as I understand, Mr. Kneece was referred to you I guess back in 2005 for treatment of and management of his psychological problems.

A That's correct.

Q Would you give us -- Before we get into that, would you just give us the benefit of your education and professional background?

A Sure. I have a bachelor's degree in sociology from

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1 Emory University, a master's degree in clinical
2 psychology from Eastern Illinois University, and a
3 Ph.D in counseling from the University of South
4 Carolina. I'm licensed as a professional counselor
5 and a professional counselor supervisor, and I'm
6 certified as a trauma specialist through a
7 specialty organization.
8 Q Okay. And that's essentially what Post Trauma
9 Resources focuses on is patients who have had some
10 kind of traumatic injury and then the psychological
11 effects of that?
12 A That's correct.
13 Q Okay. And you are still affiliated with Dr. Roger
14 Deal, as well?
15 A Dr. Deal is the medical director here at Post
16 Trauma Resources.
17 Q Okay. And he is a psychiatrist?
18 A Correct, an MD.
19 Q Okay. All right. And how long have you -- Are
20 you an owner of Post Trauma --
21 A Yes, I am.
22 Q -- Resources? You and Dr. Deal both?
23 A No, actually, my wife and I are the owners. Dr.
24 Deal is a -- an associate.
25 Q Okay. All right. And how long have you been

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1 involved with Post Trauma Resources?

2 A Since 1982.

3 Q Okay. All right. Let me ask you first of all,
4 when is the first opportunity you had to -- to see
5 and evaluate Ricky Kneece?

6 A I think I might have seen Mr. Kneece briefly for
7 the first time sometime in 2004. I don't have the
8 note because he did not return for treatment. It
9 was an initial interview. But the first time I saw
10 him at the beginning of his treatment was on March
11 15th, 2005.

12 Q Okay. Fifteen, '05. Now, did you -- did you
13 receive the referral from the insurance carrier, or
14 how did you get Mr. Kneece as a patient?

15 A I knew you were going to ask me that, and I'm not
16 sure I recall, because I did see them once as I
17 mentioned, but there was no insurance approval for
18 his visits, and they didn't choose to follow up,
19 and then he returned in March, and, to be honest, I
20 don't recall who ended up referring him here.

21 Q Okay. So, did you do an initial evaluation on
22 3/15/05?

23 A Actually, it looks like from the note, I caught up
24 with him. I asked him how he was doing and just
25 did a general assessment of where he was since the

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1 last time I saw him. That's reflected in my note
2 of 3/15.
3 Q Okay. I, apparently, do not have all of the notes
4 because mine actually -- mine actually start in
5 January of 2006. Do you -- Could you tell me how
6 many visits and how many notes you have prior to
7 1/13/06?

8 A I could just copy them for you.

9 Q That would be great.

10 A That would be easiest. Tell me where you end up.

11 Q 1/13/06 is where I start, actually.

12 A 1/13/06?

13 Q Yeah.

14 A Okay. That's not a problem.

15 Q I don't know how I don't have those.

16 A Well, I think the reason is because there are only
17 two visits in 2005, --

18 Q Okay.

19 A -- but let me copy those for you, okay?

20 Q Okay. That would be great.

~~[Off the record briefly at 9:48~~

21

a.m.]

22

23 Q All right. So, the first progress note that you
24 have is actually 3/15/05?

25 A Yes, sir.

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1 Q Is there a -- Is there -- Was there ever a
2 separate report that was a comprehensive evaluation
3 done, or was it just all --

4 A I don't believe there was.

5 Q -- progress notes? Okay.

6 Mr. Elliott: I don't have one.

7 Mr. Cauthen: Okay.

8 Q Okay. All right. Well, could you -- could you
9 tell me about the initial interview with him, and
10 your impressions and diagnosis from the -- the
11 first visit.

12 A Sure. It had been a period of time since he
13 returned, and he reported to me that he was
14 continuing to have problems with pain. He was
15 reporting psychological and cognitive symptoms
16 secondary to his reported head injury, and also
17 related concerns about his legal and workers' comp
18 issues, probably related to approval for treatment.

19 Q Okay.

20 A Did you want me to continue?

21 Q Sure.

22 A Okay. He related to me his current status. He
23 described his pain and is beginning physical
24 therapy. He related cognitive and psychological
25 symptoms, including that he was easily frustrated,

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1 quick to anger, memory problems, depression, and
2 limited travel independently. During that session,
3 we discussed treatment needs and the agenda, and he
4 will -- he said he would give me a call back to
5 coordinate trips into town for his schedule to
6 return.

7 Q Okay. Was he independent with travel at that time,
8 or was somebody bringing him to appointments?

9 A I think he was somewhat independent with travel but
10 not traveling into town. As you might know, they
11 live out in Lexington on a farm, and I think coming
12 into town was somewhat stressful for him. So,
13 normally, he was and he remains always accompanied
14 to the office by his wife.

15 Q Okay. Does that continue to be the case today? Is
16 he usually accompanied by his wife to the -- to
17 those --

18 A He's always accompanied by his wife to visits.

19 Q And will she sit in on the counseling sessions?

20 A No.

21 Q Okay. And then the next visit was 5/5, May 5 of
22 '05? Is that right?

23 A Yes.

24 Q Okay. Tell me, initially what was the -- what was
25 the treatment program that you decided on for --

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1. for Mr. Kneece?

2 A It was supportive treatment including management of
3 his disability, a cognitive approach to his anger
4 and frustration, information/education concerning
5 about -- concerning his condition, and a referral
6 to Dr. Deal for psychotropic medication.

7 Q Okay. What was the specific diagnosis that you
8 made of his condition?

9 A I believe the diagnoses were a cognitive disorder
10 order and major depressive disorder.

11 Q And I've seen posttraumatic stress disorder
12 mentioned throughout the notes. Is that different
13 from a major depressive disorder?

14 A I'm not sure if I've mentioned those throughout the
15 notes. Can you point those out to me?

16 Q You know, actually, I see that referred to more in
17 Dr. Deal's notes than yours.

18 A I think that sometimes there's a difference in
19 diagnostic approaches, and he might be more likely
20 to create a diagnosis of PTSD than I might. So, I

21 ~~could see how there could be a difference, and that~~
22 happen sometimes, but I'm going to stand with my
23 diagnosis.

24 Q Major depressive disorder?

25 A And cognitive disorder.

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1 Q Cognitive disorder. Could you -- What exactly do
2 you mean by cognitive disorder?
3 A That means that he is experiencing cognitive
4 changes including memory loss, irritability,
5 frustration, those kind of symptoms that were
6 related to his head injury. As you might recall,
7 there -- there was a report from Dr. Waid, a
8 neuropsychologist, to confirm that diagnosis since
9 I can't make that diagnosis without testing, and
10 I'm not a neuropsychologist.

11 Q Right.

12 A That diagnosis was, in part, from Dr. Waid's
13 opinion about the results of the head impact that
14 Mr. Kneece incurred.

15 Q So, the cognitive disorder, you would rely on Dr.
16 Waid's opinion for that?

17 A Definitely.

18 Q Okay. Now, the major depressive disorder, how does
19 that differ from what we commonly hear all the time
20 as just depression? People suffer from depression,
21 ~~and you see it all the time, of course, in workers'~~
22 compensation claims.

23 A Right.

24 Q What is the difference between, I guess, -- if you
25 -- could you say common depression and a major

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1 depressive disorder?

2 A Well, really, a major depressive disorder is the
3 DSM4 diagnostic label for depression, --

4 Q Okay.

5 A -- and, so, when you ask me for a diagnosis, I'm
6 giving you the official terminology. It has a
7 number attached to it. I'm sure you're familiar
8 with the DSM4. Depression is a more generic term,
9 or it may be descriptive of symptom, whereas major
10 depressive disorder is descriptive of that
11 particular constellation of symptoms that's
12 included in the DSM4.

13 Q Okay. Okay. And have you determined a cause for
14 the major depressive disorder?

15 A The pain and the physical limitations that Mr.
16 Kneece experienced as a result of his head injury.

17 Q Okay. Now, could you explain specifically what
18 type of pain and physical limitations you're
19 talking about there?

20 A I'm referring to the reported pain that he
21 ~~experiences in his shoulder and head primarily, and~~
22 his other -- I guess his other physical limitations
23 would be the cognitive limitations he experiences
24 with remembering, accessing memories, being able to
25 do simple computations, those kind of things.

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1 Q Okay. Okay. Now, if -- In a situation like that,
2 if you can control or alleviate the patient's pain,
3 what does that typically do to the depressive
4 disorder?

5 A It would assist it greatly.

6 Q Okay. Now, as you've been treating -- seeing Mr.
7 Kneece since 2005, have you noticed a decrease in
8 his complaints of physical pain, the shoulder,
9 head, that kind of thing, and does that seem to be
10 improving, at least by report from him?

11 A He's reporting considerable improvement in
12 headaches and not so much improvement in his
13 shoulder.

14 Q Are you aware of any additional recommended
15 treatment for his shoulder? I think he's under the
16 care of Dr. Green.

17 A I don't recall exactly. I know that he is still
18 concerned about his shoulder.

19 Q Okay. Did you have an opportunity to review the
20 medical records from Midlands Orthopaedics?

21 A No.

22 Q Okay. Now, does he continue to complain about --
23 When you say head, are we talking about headaches?

24 A Yes.

25 Q Does he describe to you specifically where they

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1 are, intensity, duration, that kind of thing?

2 A I don't really explore that too much with him since
3 I'm not a physician. What he does tell me is he's
4 having less headaches and he's doing a little bit
5 better or when the headaches might occur because,
6 from a behavioral point of view, what I'm trying to
7 get him to do is to understand if there might be
8 any patterns and what he can do to alleviate the
9 pain, or how the medicine might be effective or
10 ineffective so he can better communicate that with
11 Dr. Deal who's managing his medicine.

12 Q Okay. Is Dr. Deal prescribing something
13 specifically for the headache pain?

14 A You know, I think you'd have to ask him that
15 because I think the medicines are likely used for
16 multiple purposes, and -- For example, if someone
17 is less anxious and less depressed, they might
18 experience fewer headaches, or -- You know,
19 medicines are not usually for one specific thing in
20 the psychiatric sense.

21 Q Right. Okay. Do you have a note to indicate what
22 his current medication -- medications are?

23 A I have that in Dr. Deal's file.

24 Q Okay. Let's see. I have a list here. Okay.
25 Trazodone, which is an antidepressant, is that one

1 of his current medications?
2 A Trazodone's an antidepressant, but it's really a
3 pretty poor antidepressant, and we typically use it
4 for sleep.

5 Q Okay. To aid in sleep?

6 A Correct. And it's especially good for maintaining
7 sleep once a patient gets to sleep because it sort
8 of has a long-lasting effect. So, that might be of
9 assistance with headaches because sometimes people
10 that aren't resting, when they find that they get
11 restorative sleep, their headaches diminish in
12 intensity.

13 Q Okay. Treating the sleep -- the sleep issues is
14 sort of like treating -- I guess part of treating
15 the whole condition, isn't it?

16 A Yes.

17 Q Depakote. At least he was on that. I'm not sure
18 if he's currently on that. And then Effexor.

19 A Effexor is an antidepressant that also has some
20 anti-anxiety effects. It's also a useful treatment
21 for anxiety disorders. And I'm not as familiar

22 with Depakote, and I think I'll have to have you
23 discuss that with Dr. Deal, --

24 Q Okay.

25 A -- and that might be part of his strategy with the

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1 headaches, I think.

2 Q Right.

3 A Now we're getting --

4 Q Yeah.

5 A -- a little bit further away from what I know, --

6 Q Okay.

7 A -- what I'm comfortable with.

8 Q Okay. All right. Let me discuss a few of the

9 progress notes with you and just sort of go through

10 some of the -- some of the treatment. Let me ask

11 you first of all, though, -- Usually, when you see

12 Mr. Kneece, does Dr. Deal also see him --

13 A Typically, yes.

14 Q -- the same day? Will he also see him here?

15 A Yes.

16 Q Is that -- Do you see him together? Does he

17 separately meet with Dr. Deal?

18 A Almost always separately, and then it -- on

19 occasion, we might have a conversation formally or

20 sometimes informally in the hall if we need to.

21 ~~It's really one of the advantages, and I guess~~

22 maybe y'all are sort of used to it, but there's

23 very few places in the world where you have access

24 to medical treatment and behavioral treatment all

25 at the same place at the same time. So, --

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1 Q Okay.

2 A -- it works out really well. So, yes, he's seeing
3 him separately, but we are in communication about
4 the treatment plan and progress all the time.

5 Q Okay. All right. And -- Now, when the patient --
6 When you talk about cognitive impairment, the
7 symptoms that support that I guess are the
8 patient's complaints of memory, frustration, --

9 What were the other things you mentioned?

10 A Inability to do relatively simple mathematical
11 computations that he did before. Those are the
12 primary things he's been reporting to me.

13 Q Okay. What are some of the other things that he's
14 reported that he could do before the accident that
15 he has difficulty with or can't do now?

16 A I think we've mentioned most of them. Remembering
17 to do things, being able to do math. As you know,
18 he's a farmer, and, so, computing acres and the
19 amounts of water and those kind of things, he's
20 told me he has problems with. Easily frustrated

21 ~~and anger, so his interpersonal relationships have~~
22 suffered as a result. Sometimes indecision,
23 difficulties making decisions in a -- in a decisive
24 way. Those are the primary things that he's told
25 me.

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1 Q Okay. Now, when you saw him on January 13, 2006, -
2 - Let's see. I believe there was -- No. There
3 was a visit before that in January. Wasn't that on
4 January the 6th of 2006? Was it, or the first one
5 in January on the 13th?

6 A I see a canceled appointment. Somehow it doesn't
7 have a date on it. And then I see the visit of
8 1/13/06.

9 Q Okay. 1/13/06. Prior to that, the last time that
10 you saw Mr. Kneece, would that have been May 5 of
11 2005?

12 A That's what it appears.

13 Q Okay. Any reason for that gap in treatment?

14 A It's not indicated in the notes, but I do notice
15 that on 1/13/06 there's a mention of medical access
16 issues, which means authorization for treatment,
17 and I'm not sure of the exact date when the carrier
18 might have authorized the treatment.

19 Q Okay.

20 A It's hard for patients, even though they might need
21 the services, to -- to come, and even when they're
22 encouraged to do that, because of payment, and I
23 think that would probably describe Mr. Kneece. So,
24 it wouldn't surprise me if there was a gap in
25 treatment because of a lack of authorization.

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1 Q Okay. All right. On 1/13/06, did you make any
2 changes in his treatment plan?
3 A No.
4 Q Did you see any -- any changes in his complaints at
5 that point?
6 A No..
7 Q Okay. And then I see where you saw him also on
8 1/17/06, and then it looks like the next would have
9 been 2/8/06?
10 A Yes.
11 Q Okay. All right. At that point, on 2/8/06, you
12 noted that "Response to interventions was good and
13 somewhat improved."
14 A Yes.
15 Q Okay. Did he appear to be making progress to you
16 at that point?
17 A I noted that he reported improvement. So, yes.
18 Q And what -- what would be the basis for that
19 improvement, or what would be the --
20 A His report. Unfortunately, we are a part of
21 ~~science that depends primarily on patient report,~~
22 but I think the reason he was getting better -- if
23 that's what you're asking -- is because he had seen
24 Dr. Deal and he was starting use medication, and it
25 looked like there was a connection between improved

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- 1 sleep and his degree of reported headaches.
- 2 Q Okay. Now, did you -- did you go over the
- 3 patient's -- I'm sure you went over the patient's
- 4 history at some point in your evaluation of him.
- 5 Did he ever indicate that he'd had any kind of
- 6 problem with depression or with headaches in the
- 7 past?
- 8 A I don't recall that he told me that, no.
- 9 Q Any indication there had ever been any
- 10 psychological treatment or medication for treatment
- 11 of --
- 12 A Not that I recall.
- 13 Q -- psychological issues?
- 14 A Not that I recall.
- 15 Q Okay. And then moving over to -- There's a visit
- 16 on 4/19/06 and then a visit on 6/6/06.
- 17 A I think I see a May 9th visit --
- 18 Q May 9th?
- 19 A -- between those two.
- 20 Q Okay. I'm missing that one.
- 21 A Okay. ~~Would you like to look at it?~~
- 22 Q Yes, sir. Okay. And you had indicated that the
- 23 "Response to interventions was somewhat improved,"
- 24 meaning that he was responding well to what you and
- 25 Dr. Deal were doing?

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1 A Right. Is he cooperating? Does he seem to be
2 listening? Does it seem to be working, what we're
3 doing? Are we having anything?

4 Q Okay. What is his attitude about -- about
5 treatment and about getting beyond his injuries?
6 Does he seem to have the ability to put it behind
7 him and go forward, or are there, you know, --
8 because the accident was actually back in 1999, so
9 we're quite a few years out now?

10 A I don't think that we think about it in terms of
11 putting it behind him, but how he can effectively
12 live with the changes, and I think that's been one
13 of the major areas of improvement. You have to
14 remember, this is a pretty basic kind of a guy. He
15 loves farming. He loves his family. He wanted to
16 do his job. And, so, this is not somebody that's
17 altogether psychologically-minded. He's a regular
18 person. That's most of the kind of people that I
19 see. And, so, it's very difficult for them to come
20 in to treatment and to sit down with somebody and
21 to disclose how they feel, and, over a period of
22 time, Mr. Kneece has done really well with that.
23 He is working, although I'm not sure he could work
24 independently. He's working at a family farm. He
25 has people to support him. But he's going to work,

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1 he's worrying about the frost, he's doing the
2 things that he can do, and, even with pain, he's
3 working through that, and, as you know, that's not
4 altogether typical, --

5 Q Mm-hmm.

6 A -- so I have to give him a pretty good grade on
7 going on with his life and being active, and his
8 relationship continues to go on as he speaks to and
9 works with his sons. He's a person that's done
10 relatively well compared to some of the people that
11 we see.

12 Q Right. Right. Over the course of your treatment
13 and counseling with Mr. Kneece, would it be the
14 case that he is -- had the -- he's exhibited the
15 ability to go on with his life in terms of his work
16 and his family obligations? Has he been able to --
17 I mean, he hasn't allowed the injury to just stall
18 him?

19 A No, but I think sometimes what's a little difficult
20 to see is how much his family may or may not be
21 ~~supporting him to allow him to do that.~~ I have to
22 tell you, I'm not clear on that. I know that he's
23 driving machines and he's setting up the water and
24 getting up at night and doing the things that a
25 farmer does, --

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1 Q Mm-hmm.
2 A -- but it's not clear to me that he could do that
3 totally independently. I don't have any
4 information, but I just have a sense sometimes that
5 there's some support going on there. Remember, all
6 I'm really getting is what Mr. Kneece reports to
7 me, --

8 Q Right.

9 A -- and he is a very proud man and someone who is
10 very much trying to -- to deal with the losses he's
11 experienced. So, I would say my guess is -- and it
12 would really only be a guess -- that he is working,
13 he's doing, but that he's receiving some support
14 and assistance from the other people that work on
15 the farm.

16 Q Do you have any idea whether that's any different -
17 - whether any -- you know, the support and
18 assistance he gets, whether that could be any
19 different than what the situation was before the
20 accident?

21 A ~~You know, you're asking me to make some guesses,~~
22 and I tend to be sort of a scientific person. My
23 guess is that's the case, but if you challenged me
24 and said how do I know that, I would have no data
25 to support it. So, I'm giving you an impression.

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1 Q Yeah.

2 A It makes me a little bit uncomfortable. Someone
3 with the kind of symptoms that he's reporting I
4 would sense would need some extra support. That
5 doesn't diminish in any way what he's doing.

6 Q Mm-hmm.

7 A It just means that he took a pretty good lick on
8 the head, --

9 Q Mm-hmm.

10 A -- sometimes he has problems thinking. He's
11 physically not feeling as well, --

12 Q Right. Right.

13 A -- and I don't think he's at a hundred percent.

14 Q Okay. He has, nonetheless, though, been able to
15 continue with his -- continue with his work, or
16 management, I guess, of the farm?

17 A He's continued with his work. I'm not sure how
18 much he's managing the farm. Again, you're asking
19 me something that requires some observation, and I
20 get reports.

21 Q Okay. ~~Your understanding, though, is that he~~
22 continues to -- to function in whatever his role is
23 with Kneece Farms?

24 A I can tell you what I think, what he reports to me
25 that he's doing. He is -- He is supervising some

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1 staff. He is running farm equipment. He is doing
2 some computations related to the purchasing of seed
3 and selling of the product, and he -- he worries
4 about the outcome of how the farm is doing. I
5 guess that's what a farmer does, as well. I know
6 he's doing those things, by his report.

7 Q Does he report to you that -- that he's running the
8 operation, or his father's running the operation,
9 or somebody else?

10 A That's not clear to me. He reports to me the tasks
11 he's doing, but I also know that his wife does much
12 of the accounting and bookkeeping, and that there
13 are other family members, especially his father,
14 involved. I just really don't know.

15 Q Right. Does he report anything to you about his
16 income or his earnings with the farm?

17 A No.

18 Q Okay. And he -- you said he does report that he's
19 able to get out and, like, operate a tractor and --
20 and do some physical things that apparently he did
21 before?

22 A Yes.

23 Q Do you have any kind of sense of whether this has
24 had a negative impact on his -- on his ability to
25 do his job as he did -- obviously, with some

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1 changes in maybe the way he did it, but his ability
2 to complete the task, to do whatever his role was
3 in connection with the farming operation?

4 A I think you're asking me for my impression again.

5 Q Mm-hmm.

6 A Is that right? My impression is that he is not as
7 able to make decisions as he was before, and not as
8 decisive, and that because he continues to report
9 pain, that sometimes he doesn't do as much as he
10 did before. Again, I give him credit because, as
11 you know, a lot of the claimants we work with seem
12 to find a way to do little or nothing. This isn't
13 the case with Mr. Kneece at all. In fact, my guess
14 is, if I had to characterize his behavior, he'd
15 sometimes do more than he probably should rather
16 than less.

17 Q Now, how about his family obligations? Has he
18 reported anything to you about any changes or
19 problems in that context?

20 A I think there have been problems that are typically
21 associated families where there's a head injury.
22 There's adjustments the family members have to make
23 for the changes. There's increased interpersonal
24 conflict, and he has reported to me, and Mrs.
25 Kneece has, as well, that he's more irritable and

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1 there's some conflict. On the other hand, they --
2 they are a family. They're still involved with one
3 another. I see Mrs. Kneece every time she comes
4 in. They've hung together.

5 Q Do you ever have separate counseling sessions with
6 her?

7 A No, but I've included her in the sessions just to
8 report in. Again, sometimes people that are
9 deceiving themselves as big and strong and tough
10 don't always give us a full total report. So,
11 every once in a while, I like to check in with what
12 I call the experts, and that's usually the family
13 or the partner --

14 Q Right.

15 A -- to see if I'm really getting the information
16 that I need and --

17 Q Right.

18 A -- can use.

19 Q Right. Okay. Now, -- Let's see. There was a --

20 You said there was a session in May, May 9, 2006.

21 ~~Would the next session be June 6th of '06 after~~

22 that?

23 A Yes.

24 Q Okay. Have you typically seen him about once a
25 month?

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1 A You know, I'd have to look at the notes to say
2 what's typical. It's hard to get him to come in
3 sometimes because of his obligations out at the
4 farm, and he doesn't really like to be in town too
5 much, so we try to schedule whenever we can get him
6 away from the corn or the peanuts or whatever seems
7 to be coming up at the time.

8 Q Okay. Have you had any -- Has there been any
9 incidents of just missed appointments?

10 A Rarely. Every once in a while. I don't think
11 that's been a major issue.

12 Q Okay. All right. On June 6th, '06, note indicates
13 he related overall improvement with less headaches,
14 and I believe you noted, "Response to interventions
15 again good and improving." Did he seem to be
16 making along the way continual progress, or would
17 he hit, you know, valleys and plateaus?

18 A I would say he made slow, steady progress during
19 the time that I've seen him up until now.

20 Q Any changes at this point in the treatment
21 approach?

22 A No.

23 Q Now, I think there's a mention of simple techniques
24 to manage -- or, I guess, coping techniques to
25 manage some of his -- some of his problems. What

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1 kind of -- Could you give us an example of some of
2 those techniques?

3 A Can you show me where you might be looking at that?

4 Q This is 6/6/06 report --

5 A Would that be in --

6 Q -- in the second paragraph, --

7 A -- the intervention section there?

8 Q -- "Session content," where you'd indicate --

9 A Oh. I see.

10 Q "Simple techniques to manage," was the phrase.

11 A Well, one of the simple techniques that we teach
12 people with head injuries is how to determine
13 beforehand the kind of problems they might have,
14 and then how to manage the frustration associated
15 with them. Also, to reduce anxiety, using simple
16 breathing techniques or self-talk techniques,
17 anything that we can do to help him understand
18 what's going on, and then to -- to manage that,
19 simple suggestions.

20 Q Okay. Breathing, self-talk, things like that. Any
21 other techniques that come to mind?

22 A I can't really think of any. It's -- It's just a
23 general coping skills information-giving kind of a
24 thing.

25 Q Okay. Okay. Then on 6/27/06, -- I wanted to ask

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1 you about something that I saw in Dr. Deal's
2 report, actually, if you're able to -- to answer
3 this. He made a note about the headaches, "Reduced
4 but still present, mostly at night, and seem
5 potentially related to sinus problems." Have you
6 had any discussion with -- with Mr. Kneece about
7 sinus issues?

8 A That would be out of my area of expertise.

9 Q Okay. Would you have any opinion as to the cause
10 of the headaches?

11 A Based on what I've read from Dr. Waid's report and
12 from what Dr. Deal's told me, I've assumed the
13 headaches are related to the blow he took to the
14 head.

15 Q Okay. Then you would have to rely on opinions of
16 other professionals for that?

17 A Yes, because that's out of my area of expertise.

18 Q Okay. Okay. So, as far as Dr. Deal's impression
19 there, you couldn't -- you couldn't address that on

20 --

21 A ~~That's his impression.~~

22 Q Okay. And he was continuing to improve, though, at
23 that point, 6/27/06?

24 A Yes.

25 Q All right. Then I think the next visit -- the next

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1 visit is 7/12/06.

2 A Mm-hmm.

3 Q How was he doing on that visit?

4 A About the same, continuing to make slow, steady
5 progress.

6 Q Now, there was a mention of a -- on that visit, "A
7 conflict -- discuss details of conflict with his
8 father." What was that about?

9 A I don't really recall. I actually write notes like
10 that on purpose so I won't remember the details,
11 but it's really not uncommon when someone has
12 problems controlling their emotions, and they're
13 angry and irritable, that they have conflicts. We
14 all have conflicts. The real issue is how do you
15 help someone who is more likely to experience a
16 conflict in a very vivid way, to manage those.

17 Q Mm-hmm.

18 A That's really what's important to me, not so much
19 the detail of the conflict, and I'd rather not
20 remember that so that when you ask me, I don't

21 know.

22 Q Okay. Did some of his -- By this point, had some
23 of his symptoms or complaints, as he reported to
24 you, -- had some of them dissipated or disappeared?
25 How was -- How was that changing?

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1 A I'd say improved. I don't think the symptoms have
2 ever disappeared. Remember, he has a brain injury,
3 but he's learning to manage them better, and the
4 medication is helping him, so he's continuing to
5 improve, and that's -- that's his status today.
6 He's not without symptoms, but he's so much better
7 than -- than he was when he first came in.

8 Q Okay. All right. And then -- Let me see.
9 9/20/06 looks like the next visit. Any changes at
10 this point?

11 A No, not that I can see. He's continuing to slowly
12 improve, or continuing during the session to
13 discuss what's important to him. It looks like
14 here we were talking more about managing
15 disability, what it means to be disabled. Again,
16 for someone that's worked their whole life, the
17 idea of being disabled and the idea of being a male
18 is really difficult, and that's part of what we do
19 to try to help people.

20 Q Now, did he indicate to you that he in any way
21 considers himself disabled?

22 A Well, that might be my term, and disabled isn't in
23 the way you use it. Disabled, to me, is different
24 than he was before, not disabled in the sense of
25 can't do anything, but disabled in the sense that

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1 he's going to have to live a different kind of a
2 life in some ways, and the challenge is for him to
3 understand what those limitations are and still --

4 Q Mm-hmm.

5 A -- have a good, productive, happy life.

6 Q Okay. So, I guess you could also say a deficit
7 instead of a disability, couldn't you?

8 A That's not a legal term of disability. It's --

9 Q Right.

10 A -- a description of a change.

11 Q Okay. Has he been compliant with the medications
12 that Dr. Deal has prescribed?

13 A As far as I know, yes.

14 Q There's a mention, also on 9/20/06, of cognitive
15 management beliefs about self-given limitations.
16 What does that refer to?

17 A His belief that if he can't do everything he could
18 do, that he's horrible and terrible or weak or not
19 a good person. I'm always listening in the back of
20 my mind to what he might be believing, and then if

21 I hear those beliefs, I will first present those to

22 him and then gently challenge him and see if I
23 can't get him to change his mind.

24 Q Okay. Improve his outlook and --

25 A Mm-hmm. That's really what cognitive therapy is.

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1 It's about how a person thinks. And, so, in order
2 to do that, you have to first have a person be able
3 to identify their thoughts, then assess their
4 beliefs, and then work with the clinician, who then
5 becomes kind of a teacher or mentor, to actually
6 change those beliefs.

7 Q And have you -- Do you feel like you've successful
8 in accomplishing that with Mr. Kneece?

9 A More or less. Again, I think culture and
10 experience is probably a little bit stronger and
11 has more influence than a clinician does.

12 Q Okay. There's also a mention, "Caught up in
13 related current activities and difficulties at
14 work." Do you recall any specific difficulties at
15 work that he would have related to you at that
16 point?

17 A No, I don't.

18 Mr. Elliott: Let me interrupt, if I may,
19 and it doesn't have to be on the record.

20 [Off the record at 10:26 a.m.;

21 back on the record at 10:29

22 a.m.]

23 Examination Continues

24 By Mr. Cauthen:

25 Q Okay. So, at the time of that visit, 8/23/06, do

1 you recall if he related to you any specific
2 difficulties at work, or was it just a -- maybe --
3 I don't know much about farming, but crop time or -

4 -
5 A I think that's a time when a lot of things are
6 starting to come in, --

7 Q Yeah.

8 A -- and they have to buy and sell and -- I don't
9 think it was anything special, as I recall.

10 Q Okay. Did he relate to you that he was able to
11 cope with those issues?

12 A Yeah. I also notice that in this note that he was
13 reporting that he was physically not doing as well
14 as -- he said as a result of the schedule. So, I
15 think we -- we must have talked about trying to set
16 some limits on his schedule so that he physically
17 would not deteriorate.

18 Q Anything specific there that you discussed with him
19 on -- Like, are you talking about working hours or
20 --

21 A ~~Probably working hours, when he was getting up,~~

22 going to bed, basic things. Again, these are not
23 necessarily the most sophisticated people, so
24 things like going to bed on time and --

25 Q Mm-hmm.

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1 A -- eating right, those are -- that's information
2 that, although we assume everybody has and might
3 even follow, that most of the people I see really
4 don't. So, it's a basic education process, and
5 especially so when someone is now limited, they
6 don't want to be limited, and they're going to have
7 to alter their schedule or their lifestyle to some
8 degree.

9 Q Okay. All right. And has he reported to you that
10 he's been able to do that, took your advice on
11 that, or --

12 A More or less.

13 Q More or less?

14 A Sometimes. The crops have got to come in.

15 Q Yeah.

16 A The corn's got to be put in the ground.

17 Q Right. Right. Okay. And then on 9/20/06, it
18 looks like there was some discussion about
19 management of the disability over long term, --

20 A Mm-hmm.

21 Q ~~also. Do you recall what you discussed with him~~
22 in that regard?

23 A Well, as -- as he continued to improve and then
24 began to level out, I'm concerned that he's going
25 to be able to manage these changes that he's

1 experiencing over the long term, that he'll
2 maintain the status, and, so, as treatment begins
3 to wind down and we begin to get to MMI, then I'm
4 concerned about his understanding of the long-term
5 nature of some of these symptoms, --

6 Q Okay.

7 A -- so that he would be aware of what they are, he'd
8 know that he'd need to continue to use his coping
9 skills and to be able to continue to do as well as
10 he's doing at this point.

11 Q Okay. And what do you mean by the long-term --
12 What symptoms are you referring to as being long
13 term in nature?

14 A Well, I think after seven years with cognitive
15 changes, the likelihood of those changing are
16 relatively small. Apparently, the pain is going to
17 continue to be a part of his life. No treatment
18 had corrected that. So, it seemed pretty clear to
19 me -- it does now -- that he's going to continue to
20 experience some limitations, and he's going to have
21 ~~to learn how to live with it and be productive and~~

22 live a good and happy life.

23 Q Okay. Do you feel -- Do you have an impression as
24 to his ability to do that?

25 A I think he's going to be able to do that.

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1 Q Okay. Then moving on to 10/31/06, any changes or
2 improvements at the time of that visit?

3 A He reported that week that he had more sleep
4 disruption and headaches and more irritability.

5 And, so, during that session, what I tried to do is
6 to take advantage of that increase in symptoms to
7 help him learn the process, which has been
8 consistent in treatment, which is to look for
9 patterns and identify solutions, and it looks like,
10 from the session content, that's exactly what we
11 did.

12 Q Okay. So, it was a little bit of regression at the
13 time of 10/31/06 visit?

14 A Well, I don't like to think about it that way. I
15 like to think of it as a learning experience
16 because he's always going to have times that are
17 more stressful, more challenging physically, and
18 it's really a chance to make sure he's learned
19 these skills. So, yes, his condition might have
20 regressed, but you can imagine if someone comes in
21 and says they're exactly the same as they were, and
22 nothing ever changes, there's really no learning,
23 no teaching that can happen there. So, I wouldn't
24 consider it a regression in his overall status, but
25 just he had a rough week and we were going to make

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1 sure that he had the skills and continued to use
2 the skills he could to manage that.

3 Q Okay. You caught him at a bad time?

4 A A good time for me. Maybe a not so good time for
5 him.

6 Q Right.. Right.

7 A You know, again, it's just really important that he
8 share with me the things that aren't going so well
9 because that's when the learning experiences can
10 happen.

11 Q But his -- Now, his response to the interventions
12 have consistently been good, though, throughout the
13 treatment; is that correct?

14 A Yes.

15 Q And that would be a good sign, I would -- I would
16 assume?

17 A Yeah, and I think that's why he's probably
18 improved, between the medicine and coming in
19 consistently and working hard and following through
20 when he gets home.

21 Q Okay. And then -- Was there any other visit
22 between 10/31/06 and your letter of January 11,
23 '07?

24 A Yes.

25 Q Okay. I'm missing that, too.

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1 A December 6th and January 3rd.

2 Q All right. I'm missing that. I'm missing both
3 those.

4 A And then, of course, he's continued to come. We
5 have notes for the rest of this year.

6 Q Okay. I do have -- I do have 3/12/07.

7 A Or 2/ --

8 Q I'm sorry. 3/13/07.

9 A 2/6/07, 3/13/07, 4/17/07.

10 Q Okay. I'm missing February and April.

11 Mr. Elliott: Actually, I'm -- And I'm
12 missing the '07 -- I'm missing all the '07s.

13 The Deponent: I think there's a lesson
14 in this for all of us.

15 Mr. Elliott: Okay. That's all right. I
16 think part of that's my fault. You're looking
17 at 12/6, Mark?

18 Mr. Cauthen: This is -- Right. This is
19 --

20 Mr. Elliott: Okay.

21 Mr. Cauthen: -- 12/6 --

22 Mr. Elliott: I've got that one.

23 Mr. Cauthen: -- 12/6/06.

24 Q Okay. All right. Now, when was -- I noticed a
25 reference on 12/6/07 to maximum medical

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1 improvement, but I was thinking that the January
2 11, '07 letter was the -- the actual first mention
3 of MMI.

4 A That might be the first mention, but I don't like
5 to surprise patients with MMI. Typically, they
6 don't understand it. They're not so informed.
7 It's the legal progress. I end up doing some
8 teaching around that process. And, so, it'd be
9 very typical that I would explain to them what's
10 going to happen, what that means for their
11 treatment and progress well before that occurred, -

12 -
13 Q Okay.

14 A -- and I -- since you have the note, I can't see
15 what I wrote, but I have the feeling that's what
16 that probably is referring to.

17 Q Okay. Session content, "Reported status as above,
18 and we discussed the current activities,
19 limitations. Discussed recommended changes in
20 medication. Seemed to be improving mood, if not
21 headaches. No new agenda items today, and he

22 remains at maximum medical improvement with
23 continued care. Primary medication required." So,
24 was 12/ -- could we say 12/6/06 would be the date
25 of MMI, or would it be another -- another date?

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1 A I think I'm most comfortable with the date that I
2 wrote the letter. I'm not sure exactly what that
3 letter refers to. Normally, I will give them this
4 time to get used to the idea, and I noticed that
5 later I did let him know that I would be writing
6 the letter. I think I wrote that on 1/3.

7 Mr. Cauthen: Do you have that?

8 Mr. Elliott: Yeah. I've got that.

9 Mr. Cauthen: Okay.

10 A So, I may have --

11 Q Do you have that -- that letter?

12 A Yeah. I wrote that letter. Yes.

13 Q Okay.

14 A So, I think there is an inconsistency, but I didn't
15 write the letter 'til 1/11 of '07.

16 Q Okay. Was there -- Was there another -- Did you
17 say there was another visit in January prior to the
18 January 11 letter?

19 A 1/3/07.

20 Q 1/3. Okay. Let me look at that one real quick.

21 ~~On 12/6/07, there's a reference to changes in~~
22 medication. Do you -- do you know what that --
23 what that was?

24 A I don't recall. That would be in Dr. Deal's notes.

25 Q Do you have a copy of his corresponding notes with

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1 -- for each one of these visits, like for 12/6/06?
2 A He has his own medical record here.
3 Q Okay. I'll probably need to go back and get those
4 from him, then, if I'm missing --
5 A That would be fine.
6 Q -- missing those dates. Okay. So, 12/6/06 and
7 1/3/07, as I understand from your notes, no real
8 new complaints, continue with same treatment plan?
9 A Stable, at MMI.
10 Q Continued to be stable, and at MMI, correct?
11 A Yes.
12 Q Okay. All right. And then the letter of January
13 11, '07, where you informed us of MMI, you believe
14 at that point that he's gotten as good as he's
15 going to get from a psychological standpoint?
16 A Yes.
17 Q Okay. And he -- So, he has continued -- I guess
18 he's kind of plateaued and continued to remain
19 stable for a period of time now?
20 A Yes, he has.
21 Q ~~And what are the --~~ What are the continued
22 problems that he -- that he does report to you?
23 A The cognitive symptoms I have mentioned before,
24 periods of increased frustration, some periods of
25 depression and withdrawal, although those are

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1 improved. Those would be the primary problems.

2 Q Okay. And then the assignment of the 11 percent.
3 whole person impairment rating, could you tell me -
4 - you indicate AMA Guidelines. Any particular
5 edition that you consulted?

6 A What we've actually done is we've tried -- since
7 we're really not all that comfortable giving
8 impairment ratings -- to come up with a
9 reproducible methodology, and, actually, the one
10 that we located, Epstein in 1998 wrote for the
11 Australian Motor Vehicle Board. Apparently, they
12 have a different kind of a system over there. And
13 he and his associates developed a way to -- by
14 using the guidelines, which obviously came before
15 1998 -- to describe a patient's behavior and then
16 to assign a rating, and what that has allowed us to
17 do is to make sure that the rating that Mr. Kneece
18 might get is equivalent to the rating that Mr.
19 Jones or Ms. Smith might get, and so it's based on
20 a checklist that includes a description of
21 behaviors, and because it's so hard to give valid

22 and reproducible impairment ratings, that's the
23 method we've gone to over the past several years.

24 Q Okay. So, that would be -- that would be per
25 Epstein instead of pursuant to any method indicated

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1 by the AMA Guidelines?

2 A Well, there is no method indicated by the AMA
3 Guidelines, and that's the problem.

4 Q Okay.

5 A In fact, they recommend that we not give ratings.
6 It's way more subjective than any of us would like.

7 Again, we're trained as scientists, --

8 Q Mm-hmm.

9 A -- and the intersection of science and law is a
10 little rough, and this is one of the areas where it
11 gets difficult for us, and so I think the best we
12 can do is to at least come up with a method that
13 gives the same answer for similar conditions. So,
14 the behaviors -- and I'll be glad to share it with
15 you, and, I think, I actually have my worksheet in
16 the notes here -- is that it lists the AMA
17 Guidelines and the behaviors included in each of
18 those sections. For example, adaptation or daily
19 living skills, and, based on the skills that that
20 person has, it helps us to assign this reproducible
21 number.

22 Q Okay. All right. What would be the -- If you
23 were going to cite Epstein, -- because I'm not
24 familiar with that -- what would be the full title
25 of his work or his treatise, if it is a treatise?

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1 A I'm not sure it's really a treatise. I think it
2 was a description that was in the motor vehicle
3 board website. I call it determination of
4 psychiatric impairment.

5 Q Okay.

6 A This is the worksheet that we used to determine
7 impairment at this point.

8 Q Okay. Now, if I wanted to look up Epstein, could I
9 -- could I just find about that online? Would that
10 be the --

11 A I hope so. That's the way I found it.

12 Q Okay.

13 A And what we did to try to validate this is we went
14 back and we looked at impairment ratings that we'd
15 given on the basis of a consensual opinion, --
16 Actually, the citation's --

17 Q Okay.

18 A -- there. Good for me.

19 Q Okay. That's good.

20 A And once we went back and looked at our ratings, we
21 ~~re-rated those same people using this methodology,~~

22 and it was close enough to give us some comfort. I
23 guess all I can tell you is I don't want to have to
24 answer the question how did we come up with one
25 rating for a person and another for another --

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1 Q Right.

2 A -- because up until we started doing this, there
3 would be no way to answer that.

4 Q Right.

5 A This is as close as we've been able to find to give
6 a consistent answer to y'all.

7 Q Okay. Okay. Now, is this something -- This
8 method of using Epstein, is this something that's
9 generally accepted in the -- in the profession?

10 A Not necessarily because the ratings I see given
11 seem to be given with really no methodology at all,
12 and that's what I'm uncomfortable with.

13 Q Right.

14 A You know, I'm asked this frequently, --

15 Q Right.

16 A -- and --

17 Q Right.

18 A -- I'm not typically very comfortable with what I
19 see as people giving ratings because they're based
20 on these general categories, --

21 Q Okay.

22 A -- and I would never say this is perfect. This is
23 a little bit better than what I see others doing,
24 and, again, since this intersection between what we
25 do and you do is a little bit difficult,

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1 Q Mm-hmm. Mm-hmm.

2 A -- we're comfortable with it at this point until
3 someone comes up with something that's more
4 reproducible and more accurate.

5 Q Okay. Is this something that you and Dr. Deal have
6 come up with together?

7 A I came up with it. We tested it together, and he
8 and I create these ratings and have these
9 discussions together.

10 Q Okay. Yeah. I would love to get a copy of that
11 from you, as well. That's something different than
12 what I've seen before, which is, like you say,
13 generally nothing before. You know, a lot of
14 times, there's just no rating given at all, just,
15 you know, opinions and impressions as far as the
16 psychological impairment. That's been my
17 experience anyway. Now, you had indicated in your
18 letter on January -- January 11, '07, after the 11
19 percent whole person rating was given, that this is
20 your opinion concerning his psychological status,
21 ~~not his cognitive impairments.~~ You would defer to

22 who as to his cognitive impairments? Dr. Waid?

23 A Or a neuropsychologist.

24 Q Okay. Okay. And then tell me what your
25 recommendations are as far as his -- his outlook

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1 for future psychological treatment and medication,
2 psychotropic medication management?

3 A I think the -- the progress that Mr. Kneece is
4 making in terms of psychotherapy is dwindling, so I
5 didn't write in any continued psychological care,
6 behavioral care, but I think what he is going to
7 continue to need are the medications that he's on
8 and medication management, and that's indefinitely.

9 Those medicines may be changed over a period of
10 time, all medicines are, but he's very stable on
11 the medicines that he's using. He seems to
12 understand how to take them, and they seem to be
13 working fairly well.

14 Q Okay. So, you would recommend continued visits
15 with Dr. Deal to supervise his -- or manage his
16 medication regime?

17 A Well, it might be Dr. Deal, but it's oftentimes
18 more cost-efficient and a little bit better for the
19 patient for them to do this with their family
20 doctor. Dr. Deal's quite expensive. We're
21 downtown. He's out in Lexington. As long as the

22 medicines that are being used are relatively simple
23 and stable, I think it's a lot better for patients
24 to use their primary care physician. Then if they
25 need a consultation or they need a change, then

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1 maybe they can consult with someone with more
2 expertise. Most of our patients choose to go
3 somewhere else after they've completed their
4 treatment here.

5 Q Does Mr. Kneece have a primary care physician right
6 now?

7 A I'm not aware. I'm sure he does.

8 Q Did I understand you to say that he will likely not
9 need continuing counseling from -- from you, that
10 that -- sort of diminishing returns there?

11 A Yes. Had I -- Had I felt strongly about him
12 needing it, that would be in the letter. I add
13 that. I think what he really needs is to take his
14 medicine and have a good corn crop.

15 Q Okay. All right. And -- Now, there have been two
16 -- two other visits or three other visits since the
17 letter was written?

18 A He was seen on February 6th, March 13th, and April
19 17th.

20 Q Okay. Any changes, improvements, or degression in
21 any of those visits?

22 A I think the only thing that I noted on March 13th
23 is that he had gone back to see Dr. Waid for a
24 follow-up, and what he told me at that visit is
25 that really reminded him -- he was really able to

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1 see, as he took the test, that things were
2 different, and that triggered some increased
3 frustration and depression. Well, that -- that
4 might be too strong a word. Just disappointment
5 that he wasn't all better, and I think what the
6 testing did is it illustrated to him in a very
7 graphic way, that he still was continuing to
8 experience cognitive deficits.

9 Q Okay. Now, did you happen to receive a copy of Dr.
10 Waid's report from that?

11 A Not that I'm aware of. Uh-uh.

12 Q All right. And after 4/17 -- The 4/17/07 visit
13 would have been the last one --

14 A Yes.

15 Q -- here recently? Do you have any future
16 appointments scheduled with him?

17 A I'm sure I do.

18 Q Okay. Do you plan to release him at any point --

19 A Normally, --

20 Q -- in the near future?

21 A Normally, what we do is we wait until the legal
22 issue is a little bit more settled, and then we
23 transition to the family doctor or to wherever he
24 might be going, --

25 Q Okay.

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1 A -- so we're waiting for that now.

2 Q Is that just to keep the patient from some

3 exacerbation or --

4 A Easing the transition, giving --

5 Q -- a new worry or something like that?

6 A -- him a chance to get used to not coming.

7 Q Okay.

8 A These people begin to rely on us, and, so, the --

9 an abrupt transition can sometimes be difficult.

10 So, --

11 Q Okay.

12 A -- while things are getting settled legally and

13 medically, we back off our visits but continue to

14 make them until everything's completed.

15 Q Okay. Now, is your -- is your diagnosis still the

16 same, major depressive disorder?

17 A I'd have to look back at the DSM4 to see if he'd

18 still qualify for that diagnosis. We don't

19 typically re-diagnose people. They come in with an

20 initial diagnosis, and, for whatever reason, we

21 ~~don't necessarily re-look at that.~~ So, I'm not

22 sure I know the answer to that.

23 Q What kind of things would determine whether or not

24 he would still fall in the DSM4 category?

25 A If he'd improve, --

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1 Q Okay.

2 A -- then he might not anymore be experiencing
3 sufficient symptoms to fit into that specific
4 diagnostic category, and in order to do a good --
5 to provide a good diagnosis, certain criteria have
6 to be met, and I haven't looked at those.

7 Q Okay. Is that something that you would typically
8 do before you release a patient, or not -- not

9 necessarily?

10 A Not really. I think we're most concerned with how
11 he's doing and where is he going to go from here.

12 Q Okay. Now, -- Let me go back in -- Something I
13 failed to ask you about, the October 31 visit.

14 There was a mention of, "He was able to relate
15 certain triggers, and we discussed avoidance and
16 management." What did you mean by triggers?

17 A A trigger is something that occurs before another
18 symptom, and it's important for the patient to be
19 able to identify the triggers so that they either
20 avoid the triggers or prepare themselves for the
21 ~~symptom that might follow the trigger.~~

22 Q A trigger, you mean like a -- just an event?

23 A You know, really tired, working around a tire,
24 going back to a situation that it might remind him
25 of especially difficult cognitive problems he'd

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1 have, whatever it might be, just in preparation so
2 there's no surprise and there's a reduced sense of
3 frustration about whatever symptom and limit he
4 might experience.

5 Q Okay. In Dr. Deal's note of the very same date,
6 10/31/06, he made mention of, "Since the last
7 visit, he's had recurrence of headaches and
8 fatigue, which seems related to multiple stressors,
9 which have resulted in disturbed sleep again." Do
10 you have any idea what he's talking about, about
11 multiple stressors there?

12 A No, and, honestly, we all see about 40 to 60 people
13 a week, and there's no way to really recall the
14 content, and the really important thing in the
15 notes is for us to describe what we're doing to
16 help this person.

17 Q Okay. Is there any -- Do you know if there's any
18 specific treatment being provided for sleep issues
19 or specific medication provided for sleep, to aid
20 in sleep?

21 A I think the Trazodone would be a primary help, and
22 the Depakote might play a role in that, too. I'm
23 not as aware of the workings of Depakote since we
24 don't use it so much. That would be something you
25 need to ask Dr. Deal, I think.

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1 Q Are you aware of any -- any symptoms of sleep apnea
2 or anything like that?

3 A No.

4 Q Okay. I'll just go over my notes here. I don't
5 think I've got much more. Do you see -- or do you
6 have an impression or an opinion as to whether or
7 not Mr. Kneece's depressive symptoms, psychological
8 problems -- Would it disable him in any way from

9 his -- from his occupation?

10 A I don't think he's totally disabled from a
11 psychological point of view. I think his
12 depression and his continued difficulty in
13 adjusting to his changes affect his ability to
14 function and probably -- and his ability to
15 function at work, as well, but they do not disable
16 him from work. Can I just add one more sentence to
17 that?

18 Q Sure.

19 A I think there are quite a few people with 11
20 percent impairments who are working, and Mr. Kneece
21 is working, so I would say that it's my impression

22 that his primary limitations are those that are the
23 result of the physical blow that he took to the
24 head and the cognitive limitations that have come
25 after that.

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1 Q Okay. Any -- Any issue of bipolar disorder at any
2 time during your treatment?

3 A No.

4 Mr. Cauthen: Okay. Dr. Bergmann, I
5 think that's all the questions I have. Thank
6 you very much.

7 The Deponent: Thank you.

8 Mr. Elliott: None for me. Thanks.

9 (Whereupon the deposition was concluded at
10 10:58 a.m.)

11 (Deponent has waived reading and signing.)

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State of South Carolina)
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Certificate

Be it known that the foregoing deposition of
Lawrence H. Bergmann, Ph.D 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 55
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.

Witness my hand and seal this 14th day of May,

2007.

Sandra H. Davis

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Notary Public for South Carolina
My commission expires May 22, 2016.

Note: Recordings are retained for twelve (12) months
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SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
CASE NUMBER 9920867

RICKY KNEECE,	)	
	)	
CLAIMANT,	)	
	)	
VS.	)	SINGLE COMMISSIONER
	)	HEARING
	)	
KNEECE FARMS and LEGION	)	
INSURANCE COMPANY,	)	
	)	
EMPLOYER/CARRIER,	)	
	)	
DEFENDANTS.	)	

A HEARING WAS HELD BEFORE COMMISSIONER
J. MICHELLE CHILDS, ON TUESDAY, NOVEMBER 11, 2005, IN
THE ABOVE-CAPTIONED MATTER, AT THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION, 1612 MARION STREET,
COLUMBIA, SOUTH CAROLINA, REPORTED BY PAULA JACKSON
BLANDSHAW, A CERTIFIED VERBATIM REPORTER, AND NOTARY
PUBLIC FOR THE STATE OF SOUTH CAROLINA.

COPY

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APPEARANCES

FOR THE CLAIMANT: SCOTT A. ELLIOTT, ESQUIRE
ATTORNEY AT LAW
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COLUMBIA, SOUTH CAROLINA 29205

FOR THE DEFENDANTS: EDWIN P. MARTIN, JR., ESQUIRE
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EXHIBITS

(There were no exhibits marked.)

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1 COMMISSIONER CHILDS: This is workers'
2 compensation case file number 9920867, the
3 matter of Ricky Kneece, being represented by
4 Scott Elliott vs. Kneece Farms and Legion
5 Insurance Company, being represented by Edwin
6 Martin. This case has been set pursuant to
7 the defendant's form 21 to stop payment of the
8 claimant's compensation benefits.

9 We have had extensive pretrial hearing,
10 and the issues before me will be
11 compensability of the denied claims. This is
12 an admitted injury as to the claimant's brain,
13 head, face, left knee, teeth, nasal passage,
14 sinus, and left eye. It's a denied case as to
15 the claimant's left shoulder, left elbow, and
16 depression. Claimant also seeks past causally
17 related medical treatment. Claimant takes the
18 position he is not at maximum medical
19 improvement. Defendants take the position
20 that he did reach maximum medical improvement
21 as of April 16, 2004, per Dr. O'Leary.

22 Claimant seeks future medical treatment
23 specifically in the form of left shoulder
24 surgery and a psychological evaluation from
25 Dr. Wade. The left shoulder surgery to be

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done by Dr. O'Leary.

MR. ELLIOTT: Green.

COMMISSIONER CHILDS: Green, excuse me.

MR. MARTIN: And psych will be Bergman.

COMMISSIONER CHILDS: Bergman, I'm sorry.

MR. ELLIOTT: Psych will be Bergman, yes.

COMMISSIONER CHILDS: Okay. Defendants seek to stop payment of the claimant's TTD benefits, a credit for overpayment, as well as a setoff for overpayment based on the claimant being paid a salary by Kneece Farms.

MR. MARTIN: Delano Kneece and Sons, Inc.

COMMISSIONER CHILDS: And son. And that is not claimant's employer?

MR. MARTIN: Correct.

COMMISSIONER CHILDS: Okay. And then the parties stipulate that the average weekly wage is \$769.23, and the compensation rate is \$461.67. And just so that I am clear on this, Claimant had been paid temporary total disability benefits as well as being paid a salary by the Delano Kneece and Sons but that person is not the claimant's employer. Nonetheless, the defendant seeks a credit for overpayment for any period of time that the

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1 Claimant was being paid a salary as well as
2 temporary total disability benefits.
3 Defendants also seek a credit for overpayment
4 of the claimant's temporary total disability
5 benefits as of the time he reached maximum
6 medical improvement.

7 Claimant, on the other hand, takes the
8 position that the defendants are not entitled
9 to a setoff for the salary because it is by a
10 collateral source, having nothing technically
11 to do with this injury, as well as the fact
12 that in terms of any credit for overpayment
13 the defendants did not file a form 21 or form
14 17 until November 2004. So, if any credit is
15 given, it should not be before that date. Of
16 course, claimant's original position is that
17 claimant is not at MMI and is in need of the
18 left shoulder surgery. Did I get it down?

19 MR. MARTIN: I think so, yes, ma'am.

20 COMMISSIONER CHILDS: Thank you all. At
21 the prehearing conference, we had a couple of
22 issues with respect to the APAs. The
23 defendants wanted stricken in the claimant's
24 last APA dated 12/23/04 from a Thelma Smith
25 with respect to the claimant's knee injury,

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1 I'm going to not admit that because the
2 defendants have now admitted that the
3 claimant's left knee injury is part of the
4 claim. So I won't need that in terms of any
5 decision making. Claimant's counsel also
6 wanted to be able to comment on the claimant's
7 video that they were put on notice about it
8 and there's going to be a report. We also
9 have the investigator here to testify. So
10 we'll allow the claimant's counsel to cross-
11 examine the investigator and allow the report
12 in, and I submit that I will review the video
13 as well as the information as I do with all
14 the testimony in the records.

15 Do we have anything else before us or
16 anything that either party wants in the
17 record?

18 MR. ELLIOTT: Just one thing,
19 Commissioner. I supplemented the -- amended
20 the notice of witnesses to add a rating from
21 Dr. Wade, which I have not handed up. I
22 mentioned to counsel that I would hand it up
23 to you.

24 COMMISSIONER CHILDS: Okay.

25 MR. ELLIOTT: I'm not sure how much -- I

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1 think all I really want to do it just hand you
2 up the one page and keep my fax copy in my
3 file, if I may. I think Edwin will have no
4 objection.

5 COMMISSIONER CHILDS: Okay. And I'll
6 just write claimant's APA on it, so we'll know
7 how I received it.

8 MR. ELLIOTT: Right, and it's numbered
9 118. It would be my last numbered page.

10 COMMISSIONER CHILDS: All right. I'll
11 just attach it in that --

12 MR. ELLIOTT: Please. I think I gave you
13 a clip.

14 COMMISSIONER CHILDS: All right. This is
15 set on the defendants' form 21. How would you
16 like to proceed?

17 MR. MARTIN: Commissioner, the defendants
18 would like to call Mitch Dean to testify.

19 COMMISSIONER CHILDS: Okay. I assume no
20 objection to jurisdiction or venue?

21 MR. ELLIOTT: No, ma'am.

22 MR. MARTIN: None from me.

23 COMMISSIONER CHILDS: Defense.

24 MITCHELL CURTIS DEAN, having been sworn or
25 affirmed to tell the truth, testified as follows:

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1 DIRECT EXAMINATION BY MR. MARTIN:

2 Q Would you state your full name, please, sir.

3 A Mitchell Curtis Dean.

4 Q Mr. Dean, you work at Paradigm Investigations?

5 A Yes, sir, that's correct.

6 Q And you're an investigator for Paradigm?

7 A Yes, sir, that's correct.

8 Q Were you assigned to do surveillance on Ricky

9 Kneece?

10 A Yes, I was.

11 Q What were you assigned to do?

12 A Just observe activity and document activity, video
13 document.

14 Q And who were you hired by?

15 A Crawford, Crawford Insurance Company, who handles
16 Legion files.

17 Q And did you do surveillance in this case?

18 A Yes, I did.

19 Q When was that?

20 A October 6, '04; October 14, '04; October 22, '04;
21 and October 27, '04.

22 Q During the surveillance of Mr. Kneece, did you
23 actually come to meet him?

24 A At one time, yes, I did.

25 Q What was the purpose of that?

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1 A To identify who was who.
2 Q And you had some -- you were not sure who it was?
3 A There were so many people. I just needed to find
4 out who he was, which one he was, and that's why I
5 met with him to see who he was.
6 Q Were you able to identify him?
7 A Yes. Yes, I was.
8 Q And during the time you were doing surveillance on
9 Mr. Kneece, what did you observe him doing?
10 A Synopsis, driving pickup, driving a truck, a
11 tractor, carrying a few sacks from a loading dock,
12 and that's basically it, and walking about.
13 Q How many hours would you say that you performed
14 surveillance of Mr. Kneece?
15 A Probably 20, roughly 20-something.
16 Q Do you see Mr. Kneece here in the courtroom?
17 A He's sitting right here.
18 MR. MARTIN: Commissioner, let the record
19 reflect he pointed out Mr. Kneece in the
20 hearing.
21 COMMISSIONER CHILDS: Okay.
22 Q And did you do -- did you film some of the
23 surveillance?
24 A Yes, I did.
25 Q Is that on the tape that you have there before you?

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1 A It's on this tape right here, yes, it is.
2 Q Does that video tape accurately depict what you saw
3 on the days that you did surveillance of
4 Mr. Kneece?

5 A Yes, sir. Yes, it is.

6 MR. MARTIN: Commissioner, at this time,
7 I would move to have the video tape come into
8 evidence, which I believe you will review at
9 another time.

10 COMMISSIONER CHILDS: Any objection by
11 claimant's counsel other than before?

12 MR. ELLIOTT: Yes -- no, no new
13 objection, but I would have the objection that
14 I raised.

15 COMMISSIONER CHILDS: And that's been
16 noted for the record then, and I'll submit it.

17 MR. MARTIN: Commissioner, I don't have
18 any further questions of Mr. Dean.

19 COMMISSIONER CHILDS: Any cross?

20 MR. ELLIOTT: Just briefly.

21 CROSS-EXAMINATION BY MR. ELLIOTT:

22 Q Mr. Dean, you were hired by Crawford and Company?

23 A Yes, sir.

24 Q And they are working for Legion Insurance?

25 A Yes, sir.

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1 Q Did the Crawford and Company pay you?
2 A Yeah, I -- yes, I believe -- yes, sir.
3 Q You've been paid. How much did you get paid?
4 A I have to look at my files to see. I don't recall,
5 sir, \$1,500, \$1,600 maybe. That's an estimate.
6 Q That's all right. I was just curious, curious for
7 the record. And you did, though, while you were
8 out there, somehow Legion Insurance -- somehow
9 Crawford and Company couldn't tell you who
10 Ricky Kneece was? They were unable to identify
11 Ricky Kneece?
12 A Well, I never asked them.
13 Q They did not -- and they didn't give you any
14 information? They didn't say, "You know, we work
15 with Mr. Kneece extensively on this file, and this
16 is what he looks like"?
17 A I never got any information like that, no.
18 Q So you actually had to go up onto the Kneece farm
19 and speak to Mr. Kneece?
20 A That's the only way I knew how, yes, sir.
21 Q And I think you said that there were other workers
22 about. Is that correct?
23 A Many, many workers -- well, I should say many
24 people.
25 Q You observed other people working?

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1 A I observed other people working, correct.
2 Q You now know that maybe one was his father? We
3 were talking a while. I don't mean to --
4 A Process of elimination, I -- I -- I identified this
5 to be his father.
6 Q So you know there were some people out there. Some
7 were working, some were coming and going, coming
8 and going about?
9 A Right, yes, sir.
10 Q One of whom you finally were able to ascertain was
11 Mr. Kneece?
12 A Yes, sir.

13 MR. ELLIOTT: All right. No further
14 questions, Madam Commissioner.

15 COMMISSIONER CHILDS: Okay.

16 MR. ELLIOTT: I would renew my objection
17 for the record that -- with all due respect to
18 Mr. Dean that he's been very forthcoming, the
19 contact was prejudicial and unauthorized as to
20 its admissibility. All that being said, I
21 would like to move to leave the record open,
22 even ever so briefly, for me to review a copy
23 of the tape once they can make an extra copy
24 so that I might, under some very quick time
25 restraints, avail myself with the opportunity

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1 to make some comment, if it's necessary. I'm
2 guessing it's not going to be necessary, but I
3 am trying to protect myself.

4 COMMISSIONER CHILDS: Certainly,
5 certainly. I've already denied that motion.

6 MR. MARTIN: Commissioner, I don't have
7 anything further for Mr. Dean.

8 COMMISSIONER CHILDS: Okay.

9 MR. MARTIN: That's the defendants' case
10 other than medical records which have been
11 submitted into evidence.

12 COMMISSIONER CHILDS: Sir, you can be
13 excused, thank you. Claimant's case.

14 MR. ELLIOTT: I renew my motion that I
15 made previously that the temporary total
16 disability should be stopped, if at all, just
17 this date; that they're not entitled to any
18 credit based on the record before us.

19 Understanding the commissioner's ruling in
20 advance, I'd call Ricky Kneece to the stand.

21 COMMISSIONER CHILDS: Okay. Thank you.

22 RICKY KNEECE, having been sworn or affirmed to
23 tell the truth, testified as follows:

24 DIRECT EXAMINATION BY MR. ELLIOTT:

25 Q Your name is Ricky Kneece?

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1 A Delano Ricky Kneece.
2 Q All right, sir. You're currently employed by
3 Delano Kneece and Sons, Incorporated?
4 A That's right, yes, sir.
5 Q Is that your family farm?
6 A Yes, sir.
7 Q I think you're -- I've already forgotten. I think
8 you're 42 years old?
9 A Forty-four.
10 Q Forty-four years old. Mr. Kneece, you've been
11 farming essentially all your life?
12 A That's correct.
13 Q I think you started farming when you were a boy?
14 A That's correct.
15 Q Worked for your dad?
16 A That's right.
17 Q Coming forward to this accident of November 22,
18 1999, I believe you were working for Kneece Farms,
19 which is owned by your Uncle Everett Kneece?
20 A That's correct.
21 Q You were attempting to change a tire, a large tire,
22 on a motor grader; is that correct?
23 A That's right. I was really not changing it. I was
24 -- the changing had done been done. I was blowing
25 it up, putting air in it.

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1 Q And you had separated it, yourself from it, by a
2 concrete pole filled with -- a metal pole filled
3 with concrete, correct?
4 A That's correct.
5 Q Do you remember the explosion?
6 A No, sir.
7 Q Do you remember anything? What's the next thing
8 you recall after the explosion?
9 A Only thing I remember was probably week and a half,
10 two weeks later at home.
11 Q Help us understand. In the accident, where were
12 you injured?
13 A Face, eye, broke -- fractured cheekbone, fractured
14 skull, stitches, 28 stitches, forehead, my knee,
15 teeth, shoulder, my sinuses -- that's all I can
16 think of at this moment.
17 Q You got some treatment on the knee from
18 Dr. O'Leary; is that correct?
19 A Dr. Green done it the first time.
20 Q And then Dr. -- referred you to Dr. O'Leary?
21 A That's right.
22 Q I think you got treatment from Dr. Smith for your
23 brain injury?
24 A Yes, sir.
25 Q And Dr. Wade for your brain injury?

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1 A Yes, sir.
2 Q Has Dr. Wade recommended that you seek additional
3 therapy with a Dr. Bergman here in town?
4 A Yes, sir.
5 Q With respect to -- I think your injuries, the way
6 you described them, was there some impact to your
7 face through -- above and below your eye and your
8 high cheek bone and just above your hairline? Is
9 that where the impact seemed to be?
10 A That's where my head got fractured and my skull got
11 broke.
12 Q And then the injuries -- your remaining injuries
13 were down your left side?
14 A Right. That's correct.
15 Q Your knee and your shoulder?
16 A Uh-huh.
17 Q Was your elbow injured in the accident?
18 A Yes, sir.
19 Q You were treated by a Dr. Voss. Do you recall
20 Dr. Voss?
21 A No, sir, I don't.
22 Q Let's talk a little bit about your head injury.
23 How has this blow to the head -- how has it
24 affected you in your own words?
25 A My making decisions on my own, climbing anything

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1 with height, driving ability in town or driving a
2 18-wheeler up on our commodities, quick up and down
3 movements, any quick sudden turns.
4 Q How about your memory? Has it affected your
5 memory?
6 A Yes, sir, it has. I can't remember my everyday
7 routines. A lot of times they change day-to-day
8 what I do, but I strictly go by notepads or have to
9 get help from her or my father.
10 Q You say "her." You're referring to Mrs. Kneece,
11 your wife here?
12 A That's right.
13 Q And you are currently working, the farm you are
14 currently working, who owns that farm?
15 A Me and my dad.
16 Q Is this the farm you've farmed all your life?
17 A That's correct.
18 Q Since the accident have you had a chance -- have
19 you been able to work with or have you worked --
20 have you worked for or been able to work for Kneece
21 Farms?
22 A No, sir.
23 Q On your farm I think your wife, Roxanne Kneece, is
24 the secretary and she's the bookkeeper?
25 A Yes, sir.

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1 Q And she pays the -- she writes the checks for wages
2 and salaries and bonuses and profits and so forth?
3 A Yes, sir.
4 Q On your farm, who gets paid first?
5 A Any of the help get -- all the help gets paid
6 before I do.
7 Q At the end of the year, if there are any profits,
8 are you paid those?
9 A Yes, sir. If the farm's able, we do.
10 Q And if there are no profits or if there's a loss of
11 income or a little income, you might not get paid
12 at all, correct?
13 A That's correct.
14 Q Now, this is difficult. With respect to your
15 brain, your head injury and so forth, have your
16 ability to -- has your temper been affected?
17 A Yes, sir, it has.
18 Q How has it been affected?
19 A I have a terrible temper, and I used to not have no
20 temper.
21 Q Has it affected your relationship with your workers
22 on the farm, for instance?
23 A My family and my help and my family period.
24 Q You understand Dr. Wade has referred you to
25 Dr. Bergman for psychological treatment to help

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- 1 your depression?
- 2 A Yes, sir.
- 3 Q Are you asking this Commission to give you that
- 4 help?
- 5 A Yes, sir. I am.
- 6 Q Do you feel like that your mental state is
- 7 depressed and that you would benefit from the
- 8 therapy?
- 9 A I do.
- 10 Q With respect to your shoulder, back to your left
- 11 shoulder, did you have some kind of a problem with
- 12 your shoulder prior to your accident?
- 13 A Minor.
- 14 Q And when you say "minor," would it dislocate two or
- 15 three times a year?
- 16 A Maybe.
- 17 Q When you say "maybe," it would dislocate some?
- 18 A Dislocate some but nothing to go have it seen
- 19 about.
- 20 Q After the accident did your shoulder change?
- 21 A It worsened being on crutches.
- 22 Q So being on crutches worsened the shoulder?
- 23 A Definitely.
- 24 Q And did it dislocate more often?
- 25 A So often that that's when I had to have it seen

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1 About the biggest thing I lift is maybe a 50-pound
2 bag. My lifting is not what it use to be because
3 of my shoulder and my knee, and just -- I've had to
4 slow down my pace because of sudden turns and
5 movements.
6 Q The gentleman said he saw you lift a sack. Would
7 that have been a sack of peanut seed?
8 A Had to be peanuts or either some kind of cotton
9 seed mill or something 50-pound or 40-pound.
10 Q And would you lift it on your right shoulder?
11 A I do most of my lifting on the right shoulder, but
12 I can help myself -- assist my right side with my
13 left.
14 Q What do you mean by that?
15 A Well, if I'm picking something up and I can pick it
16 up with both hands and get it on my left shoulder,
17 but I can't pick it up with my left hand or left
18 shoulder and get it on my shoulder.
19 Q Like you could before?
20 A Right.
21 Q And are you able to drive a tractor?
22 A Yes, sir.
23 Q But you're unable to get under vehicles and get
24 under tractors the way you use to be able to, and
25 why is that?

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- 1 A Because of my knee and my shoulder, pulling myself
2 in and out. But mainly because of my knee. I
3 can't fold it back under me like I used to. It's
4 got to be stretched out.
- 5 Q Working on the family farm, is there any reason to
6 climb?
- 7 A Yes, sir.
- 8 Q What reason do you have on the farm to climb, and
9 can you climb anymore?
- 10 A I can climb, but I'm scared to climb because of my
11 knee and my shoulder because I have staggered,
12 dizziness, but grain bins, elevator legs, and
13 combines, cotton pickers, equipment, I mean,
14 there's times when you have to every day climb.
- 15 Q So if someone -- have you had to hire people to
16 help you do just the chores around the family farm?
- 17 A Yes, I have.
- 18 Q And you have to pay those people?
- 19 A Yes, sir.
- 20 Q I think -- have your family members, your wife and
21 your sons chipped in --
- 22 A Yes, sir.
- 23 Q -- help around the farm?
- 24 A Yes, sir.
- 25 Q As a consequence if a stranger came to your farm on

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1 any given day, it wouldn't be unusual to see farm
2 hands working around the farm and you riding the
3 tractor?
4 A No, sir. There's people from the power company,
5 seed salesmen, chemical salesmen, fertilizer
6 salesmen, somebody's there constantly.
7 Q But also your paid workers are there?
8 A That's correct.
9 Q And they're doing work that you would have been
10 able to do had you not had the accident?
11 A That's correct.
12 Q But you can no longer work; you don't have the
13 strength to work for Kneece Farms anymore; is that
14 correct?
15 A That's right.
16 Q And you have no worked for Kneece Farms since the
17 accident?
18 A That's right.
19 Q Do you own some land that you rent for farming?
20 A Yes, sir.
21 Q Did you use to work that farm -- before the
22 accident, did you work that farm yourself?
23 A Yes, sir. I had more than just mine that I owned
24 that I farmed before I got hurt.
25 Q But you're no longer able to farm that land; you

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1 rent it to be farmed, correct?

2 A That's correct.

3 Q Prior to the accident, had you been able to grow
4 the size of your farm and increase the acreage?

5 A No, sir.

6 Q Prior to the accident, were you buying land and --

7 A Oh, yes, sir.

8 Q -- to increase the size your farm?

9 A Yes, sir.

10 Q Have you been able to afford to buy any land since
11 or increase the size of your farm?

12 A No, sir.

13 MR. ELLIOTT: Beg the Commission's
14 indulgence. That would be all I have for the
15 claimant.

16 COMMISSIONER CHILDS: Okay.

17 CROSS-EXAMINATION BY MR. MARTIN:

18 Q Mr. Kneece, you're a high school graduate?

19 A Yes, sir.

20 Q I'm kind of confused regarding makeup of the
21 different farms. It's the company that you work
22 for that's Delano Kneece and Son, Inc.?

23 A That's correct.

24 Q Are you a shareholder or an owner of that business?

25 A I'm the president of the corporation.

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1 Q When you had your accident, were you still working
2 -- were you working for Delano Kneece and Son,
3 Inc.?
4 A Would you mind repeating that again.
5 Q Okay. I understand you were on your uncle's farm
6 Everett Kneece --
7 A That's correct.
8 Q -- when you had your accident, when the tire
9 exploded?
10 A Yes, sir.
11 Q But you were actually an employee for Delano Kneece
12 and Son, Inc., at that time?
13 A Well, I was working for my uncle at the time of the
14 accident. We had -- he was clearing land, and we
15 had gotten our crops in, and he asked us to help
16 him. I didn't do the main clearing. But running a
17 tractor, helping clear the land, I was actually
18 helping him at the time.
19 Q Were you paid for that work?
20 A No, sir. We were -- but we had -- we were paid,
21 but we swapped labor. He had a fellow that helped
22 us. We kept up with time. I kept up with my time.
23 We swapped time back and forth between us, however
24 it worked out.
25 Q So if a crop was produced on Kneece's Farm, Everett

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1 Kneece's Farm and you harvested it, your
2 corporation received money from that; is that
3 right?

4 A That was sharecrop, what we called it. That's not
5 really working for him. Our farm stands on its
6 own. We rent our own land if we're able to. At
7 the end of the year, if we have a profit, if we
8 don't, we don't. Sharecrop land is they own it,
9 furnish the irrigation, we do the work, furnish the
10 chemicals, and we do all the work, and we harvest
11 it, and it's sold 50/50.

12 Q So 50 percent of the money goes to Kneece Farms and
13 50 percent goes to Delano Kneece and Son?

14 A Yes, sir.

15 Q So the work that you were doing the day you were
16 injured, you weren't actually paid for?

17 A Right.

18 Q And, typically, you would sharecrop on your uncle's
19 land, as well as your land, as well as your
20 cousin's land?

21 A Right.

22 Q Any money which was earned for that work went to
23 Delano Kneece and Son, Inc.?

24 A Yes, sir.

25 Q So you're now working -- continuing to work for

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1 Delano Kneece and Son?
2 A Yes, sir.
3 Q Since the accident that you had in 1999, you've
4 continued to receive a salary from Delano Kneece
5 and Son, Inc.?
6 A That's right.
7 Q It looks like from your W-2s -- have you had a
8 chance to look at your W-2s?
9 A No, sir.
10 Q The W-2s, looks like for 1999, how much were your
11 earnings that year?
12 A Whatever that says.
13 Q \$28,500?
14 A Right.
15 Q I just don't want to put words in your mouth.
16 Okay. And for 2000, how much money did you make?
17 A \$25,833.
18 Q And 2001, how much did you make?
19 A \$21,166.
20 Q And in 2002, you made how much?
21 A Forty three five.
22 Q When you say "forty-three five," you mean \$43,500?
23 A Right.
24 Q And then for 2003, you made \$36,500; is that right?
25 A Right.

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1 Q So any money you ever earned from Kneece Farms
2 would have just been the 50/50 split?
3 A What we farm as sharecroppers, yes, sir, that's
4 right.
5 Q Dr. Voss was the first orthopaedist that you saw;
6 is that right?
7 A I couldn't hear you that good.
8 Q Dr. Voss was the first orthopaedist, bone doctor,
9 that you saw?
10 A Yes, sir.
11 Q And you remember making -- I think you said you
12 don't even remember seeing Dr. Voss. Is that
13 right?
14 A No, sir.
15 Q You saw a Dr. Brad Presnal on January 9, 2001. Do
16 you remember seeing Dr. Presnal at Moore
17 Orthopaedic?
18 A Yes, sir.
19 Q And he examined your knee?
20 A Yes, sir, if that's what you call it.
21 Q Did you tell him your problems with shoulder, your
22 left shoulder, at that time?
23 A No, sir, not that -- not that I remember.
24 Q And for your left shoulder problems, you're not
25 really sure when those problems started, are you?

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1 A No, sir.
2 Q I think before you said that you had the occasional
3 time your shoulder would dislocate before this
4 injury?
5 A Partial dislocate, probably.
6 Q Have you had any treatment for it?
7 A I had surgery done on it.
8 Q I'm talking about before the accident.
9 A No, sir. No, sir.
10 Q Dr. Michael Green is the first doctor -- actually
11 Dr. Ugino, that you first saw that you complained
12 of your shoulder; is that right?
13 A Yes, sir.
14 Q And then I think that same day you saw Dr. Green?
15 A Yes, sir.
16 Q The shoulder surgery that you had was for shoulder
17 instability; is that accurate?
18 A I really don't know what they call it, but it was
19 to keep it from trauma -- dislocating.
20 Q And that was November of 2000, right?
21 A I believe that's right.
22 Q Do you remember an incident that you reported to
23 Dr. Green that happened maybe in April of 2002,
24 where you were lifting some sort of tire-type
25 object and you felt a pop in your left shoulder?

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- 1 A Not that I can remember.
- 2 Q If the doctor's report indicated that, would you
3 disagree with that?
- 4 A No, if that's what he said.
- 5 Q Are you right-handed or are you left-handed?
- 6 A Right-handed.
- 7 Q You said you also injured your left elbow. Was
8 that your testimony earlier?
- 9 A That's correct.
- 10 Q But when I took your deposition, you said, I think,
11 that the left elbow problems began about eight to
12 14 months after the accident. Does that accurately
13 --
- 14 A I really can't remember. I don't know how it's
15 suppose to feel, and I don't know what all was
16 hurt. I'll be honest. I really don't.
- 17 Q But you noticed those problems with your elbow
18 sometime after the accident?
- 19 A Right, yes, sir.
- 20 Q And Dr. Michael Green would have been the first
21 doctor that you told about your left elbow
22 problems?
- 23 A Yes, sir.
- 24 Q Did you have any kind of professional counseling
25 with Raef Ellisor?

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1 A Yes, sir.
2 Q How long was that treatment for?
3 A I really don't remember.
4 Q Do you remember when that was?
5 A I would guess and say two, two and a half years
6 ago.
7 Q How long a period of time was that?
8 A Maybe -- I really don't remember. Maybe six
9 visits, maybe.
10 Q And did that treatment help?
11 A Yes, sir, it seemed to.
12 Q And Dr. Wade, you saw on one occasion; is that
13 right?
14 A That's right.
15 Q Mr. Elliott sent you for that evaluation?
16 A Yes, sir.
17 Q And that was April 2002?
18 A I believe that's correct.
19 Q You've not been back to see him since then?
20 A No, sir.
21 Q It appears that when you had your initial knee
22 surgery that you may have been taken out of work by
23 your treating doctor. Is that right?
24 A Yes, sir.
25 Q It looks like you were paid temporary benefits from

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- 1 December 1, 1999, to March 14, 2000. Does that
2 sound right?
- 3 A I really don't know.
- 4 Q Do you know what time periods the doctors had taken
5 you out of work?
- 6 A No, sir.
- 7 Q You would be guessing, I guess?
- 8 A Strictly guessing.
- 9 Q When you had this last surgery in your shoulder,
10 which I believe was January of 2004 -- is that
11 right?
- 12 A January 2004, that was my knee.
- 13 Q So when did you have your surgery on your shoulder?
14 I'm trying to figure out the time period --
- 15 A 2000, 2001. I think it was 2001. I'm not sure.
- 16 Q And the surgeries that you've had on your knee,
17 when was the first one?
- 18 A I'm saying -- I'm guessing because I took Vioxx
19 three and a half years, probably three and a half
20 years after my accident, I'm guessing.
- 21 Q I guess what I'm trying to determine is what
22 periods of time have you -- okay. You're at work
23 now; is that right?
- 24 A Sir?
- 25 Q You're at work right now?

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1 A Yes, sir.

2 Q When would have been the last time that you missed
3 any work for any extended period of time?

4 A When I had my knee worked on, and I've had problems
5 with my shoulder that I didn't work.

6 Q When you had your knee worked on. When did you
7 come back to work after having your knee worked on?

8 A They told me when I could go back to work, but I
9 really didn't go back to work until late May.

10 Q May 2004?

11 A That's correct.

12 Q I think Dr. O'Leary released you to go back to work
13 without restriction in April 2004?

14 A I believe that's right.

15 Q But you didn't go back until May of 2004?

16 A No, because I done had it worked on one time, and I
17 didn't want to have it worked on again.

18 Q During the period of time when you went back to
19 work in May 2004, you were still receiving weekly
20 checks from the workers' compensation carrier?

21 A That's correct.

22 Q And you were also receiving a salary check from
23 Delano Kneece and Sons, Inc.?

24 A That's correct.

25 Q And you're continuing to receive weekly benefits

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- 1 from the workers' comp carrier now, a check?
- 2 A I don't remember when the last one come.
- 3 MRS. KNEECE: Day before yesterday.
- 4 Q And right now you're doing your regular job, but
- 5 you're not able to do 100 percent of it?
- 6 A That's correct.
- 7 Q And you're averaging about eight to 13 hours a day?
- 8 A Probably seven to eight now, maybe.
- 9 Q When I took your deposition, you told me eight to
- 10 13?
- 11 A That's correct.
- 12 Q And you typically work about six days a week?
- 13 A Right.
- 14 Q I took your deposition about three weeks ago; is
- 15 that right?
- 16 A I believe that's right.
- 17 Q So you're telling me your hours have gone down in
- 18 that three weeks?
- 19 A Right.
- 20 Q Is that due to lack of work?
- 21 A No, just because of the way I feel.
- 22 Q Typically three-quarters of the work that you do is
- 23 on a tractor?
- 24 A Probably so.
- 25 Q The other quarter you do is for simple maintenance

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1 or some sort of irrigation, cutting on the valve?
2 A Right.
3 Q And the workers that you have, you've got your
4 uncle, who works there some, Mr. Boone?
5 A Right.
6 Q And Willie Dobbs works there?
7 A Right.
8 Q And your son works there?
9 A Right.
10 Q And you work there?
11 A Right.
12 Q Any other full-time employees?
13 A My dad.
14 Q How much is your dad working?
15 A How what?
16 Q How much does your dad work?
17 A There's no limit. He works more because of me
18 because I'm not able, and he keeps -- he's 72, and
19 he keeps trying to make things innovative, easier.
20 Q Any other full-time employees other than those
21 people listed?
22 A My wife.
23 Q She does the books?
24 A Right, plus she does any other thing that needs to
25 be done, turning pivots on, driving a tractor. And

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1 I have another son that helps out just normally
2 when we get in a bad bind. Plus we have a worker
3 for Kneece Farms that we pay him now when he helps
4 us. Because of -- of me not being able to work
5 like I used to, he helps us now instead of me
6 helping them, and he's paid by us.

7 Q And you have a current CDL license?

8 A Yes, sir.

9 Q You mentioned before that you drive an 18-wheeler.
10 Do you often drive an 18-wheeler?

11 A I drive it from point A to point B to load it and
12 that's it because I'm not -- I'm not -- I know I
13 can't get in town and drive it. I'll go wherever
14 we sell our commodities.

15 Q When is the last time you renewed your CDL?

16 A I believe it was last year, February.

17 Q I think you -- for your salary I think you told me
18 you made at least \$1800 a month?

19 A Probably, yeah.

20 Q Is it your testimony that the work you're doing now
21 is just on property owned by yourself or your
22 father?

23 A Would you repeat that again, please.

24 Q The farming that you're doing now, is that on just
25 land owned by you and your father?

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1 A Yes, sir.

2 Q But you've done some work since this accident on
3 your uncle's farm, haven't you?

4 A We sharecrop with him.

5 Q So when you say you haven't worked for Kneece Farms
6 because you've not physically able to, you're
7 actually doing work on Kneece Farm's property; is
8 that right?

9 A Right.

10 Q And by sharecropping, he gets 50 percent and you
11 get 50 percent?

12 A Right.

13 MR. MARTIN: Commissioner, that's all I
14 have.

15 MR. ELLIOTT: Just a little redirect.

16 REDIRECT EXAMINATION BY MR. ELLIOTT:

17 Q Let me clarify something. At the time of the
18 accident, you were working for Kneece Farms; is
19 that correct?

20 A That's correct.

21 Q And if I understand your testimony, you were
22 working for Kneece Farms and Kneece Farms was
23 essentially paying Delano Kneece and Sons for your
24 services. Is that correct?

25 A Correct.

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- 1 Q But sometimes Delano Kneece and Sons did work for
2 Kneece Farms and so, it would go back and forth
3 between these two separate corporations as a
4 credit?
- 5 A That's right.
- 6 Q But you were not sharecropping at the time you had
7 the accident?
- 8 A No, sir.
- 9 Q You were actually working for Kneece Farms?
- 10 A That's right.
- 11 Q And you were being paid by Kneece Farms through a
12 credit?
- 13 A Right.
- 14 Q There's sharecropping and that's Delano Kneece and
15 Kneece Farms, correct?
- 16 A That's correct.
- 17 Q And so you're still in the employ of Delano Kneece
18 and Son when you're sharecropping?
- 19 A That's right.
- 20 Q So it is true to say that you are only able to work
21 for the family farm today?
- 22 A That's right.
- 23 Q And you've been unable to work for Kneece Farms in
24 any capacity today?
- 25 A Correct.

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1 Q Kneece Farms, however, continues to give Delano
2 Kneece and Son help through its employees, correct?
3 A That's correct.
4 Q In fact, since the accident they give more help
5 than Delano Kneece can give back, correct?
6 A That's correct.
7 Q And so the check you're drawing is a check from
8 Delano Kneece and Son?
9 A That's correct.
10 Q And it is based upon the income that Delano Kneece
11 and Son has to pay you in a given year, correct?
12 A That's correct.
13 Q And it's based upon work you are now solely doing
14 on their behalf?
15 A That's correct.
16 Q Based on just working for them. Raef Ellisor, you
17 remember he worked for Dr. Troyer?
18 A Yes, sir.
19 Q Do you remember how it came to be that Raef Ellisor
20 would no longer see you?
21 A Yes, sir.
22 Q You actually presented yourself for an appointment
23 with Raef Ellisor, who was doing some counseling
24 work, paid by Legion Insurance, and you waited
25 there about two hours, and Raef Ellisor finally

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1 came out very embarrassed and said, "I'm sorry
2 nobody told you the insurance company won't let me
3 see you anymore." Do you recall that?
4 A That was also with Dr. Troyer, too.
5 Q Okay. Was the counseling you were getting from --
6 you enjoyed seeing Raef Ellisor, didn't you?
7 A Yes, sir.
8 Q It was benefitting you, wasn't it, sir?
9 A Yes, sir.
10 Q And you would like to get that same counseling from
11 Dr. Bergman as Dr. Wade has authorized, correct?
12 A Yes, sir.
13 Q I want to come back to you, one last thing before I
14 close. Your memory has been affected by this
15 explosion, correct?
16 A Yes, sir.
17 Q You don't recall talking to Dr. Voss whenever?
18 A No, sir.
19 Q Do you recall talking to Dr. Presnal whenever?
20 A I remember the visit but remember talking to him,
21 no.
22 Q And is that unusual?
23 A No, sir.
24 Q Do you recall when Mr. Martin took your deposition
25 that you couldn't even remember the street address

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1 that you lived at?

2 A I don't remember telling him that, but --

3 MR. ELLIOTT: No further questions,

4 Commissioner.

5 RECROSS-EXAMINATION BY MR. MARTIN:

6 Q Mr. Kneece, we went through your W-2s. Do you have
7 other W-2s, any from Kneece Farms?

8 A No, sir.

9 Q So the only paycheck you ever got was from Delano
10 Kneece and Son?

11 A That's correct.

12 Q So you didn't ever receive paychecks from Kneece
13 Farms?

14 A No, sir.

15 MR. MARTIN: That's all I have,

16 Commissioner.

17 MR. ELLIOTT: We would call Roxanne

18 Kneece.

19 ROXANNE KNEECE, having been sworn or affirmed
20 to tell the truth, testified as follows:

21 DIRECT EXAMINATION BY MR. ELLIOTT:

22 Q Ms. Kneece, you are Ricky's wife?

23 A Yes, sir.

24 Q And you are an employee of Delano Kneece and Son,
25 Incorporated, are you not?

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- 1 A Yes, sir.
- 2 Q At the time of the accident, you were their
3 bookkeeper?
- 4 A Yes, sir.
- 5 Q Since the accident you have had to do more around
6 the farm than just keeping books, haven't you?
- 7 A Yes, sir, I sure do.
- 8 Q And your labor now is to make up for what Ricky is
9 not able to do; you actually get on a tractor and
10 drive tractors and do manual labor around the farm?
- 11 A Yes, sir, I do.
- 12 Q At the time of this -- do you recall the accident?
- 13 A Vividly, yes, sir.
- 14 Q What do you recall about the accident? Were you at
15 the farm that day?
- 16 A Yes, sir, I was.
- 17 Q What do you recall?
- 18 A Our farm shop is set up with a side to it that we
19 have a little outside kitchen in, and I was putting
20 pecans in the freezer. And I heard the explosion,
21 and -- you hear loud noises on the farm quite
22 frequently and thought process in my mind, I
23 thought, 'that didn't sound quite right.' My next
24 thought to my mind was 'you might better go check.
25 They're gonna be killed Ricky' and sort of chuckled

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1 to myself.

2 When I went to exit our side of the building
3 into the shop area which is from me to this wall,
4 his father, Mr. Delano, met me at the door with
5 tears coming down his face, and he said, "Roxanne,
6 call 911. We've killed Ricky." So I flipped right
7 around in the office and -- still not seen Ricky,
8 and dialed 911. When I got through to a point
9 where somebody took the phone from me because the
10 lady was aggravating me, I went -- ran out there
11 where Ricky was, and he was laying on the concrete
12 with blood coming from everywhere in his face and
13 head, and there was no air bubbles, so I knew he
14 was getting no air inside. At that point, you
15 know, I tried to get him to breathe, and we finally
16 got air bubbles. The rescue squad came.

17 The building was tore all to pieces. We had
18 to fix it. They airlifted him --

19 Q Let me interrupt one second.

20 A Okay.

21 Q It's a small thing compared to the accident, but
22 describe the impact of the explosion to the
23 building.

24 A I could pull the bills, but we had to replace metal
25 and panels and straighten out stuff. It just -- it

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1 tore the building up from where the tire exploded.
2 Q From the impact?
3 A From the impact.
4 Q Okay. And he was airlifted to Richland Memorial
5 Hospital?
6 A Yes, sir. Actually the EMS transported him. It
7 was a cloudy day, and they wouldn't set down at the
8 farm, so they transported him about 10 miles and
9 met the helicopter. And he went from looking like
10 that with blood to when he come out the helicopter
11 10 minutes later at Mack's, his head was three
12 times the size it should be, and I couldn't take
13 the end of my fingernail and touch his face
14 anywhere that it wasn't purple.
15 Q He was treated at the hospital?
16 A Yes, sir.
17 Q Dr. Linwood Smith --
18 A Yes, sir.
19 Q -- treated him, the neurosurgeon?
20 A Yes, sir.
21 Q He was treated and sent home to convalescent at
22 home, correct?
23 A (Pauses.)
24 Q To get better at home?
25 A Yes, sir.

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1 Q All right. I want to specifically talk about a
2 couple of things. First of all, let's talk about
3 the knee first.

4 A Okay.

5 Q Excuse me, the left shoulder first, the left
6 shoulder. Did Ricky have a shoulder problem before
7 the accident?

8 A Yes, sir.

9 Q Did the accident have any affect on his shoulder
10 problem?

11 A Yes, sir.

12 MR. MARTIN: Objection, Commissioner.

13 She can't testify to what he felt.

14 COMMISSIONER CHILDS: She can only
15 testify about her observations.

16 MR. ELLIOTT: I asked --

17 Q What did you observe about his shoulder after the
18 accident different from before the accident?

19 A The discomfort and the dislocation, partial
20 dislocations, went from two to three a year to 10
21 to 15 a year.

22 Q All right. What, if anything, did you observe when
23 he was treated for his knee and on crutches? Did
24 you observe anything about the shoulder then?

25 A Yes, sir. Every time he was treated for his knee

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1 or he used crutches to aid his knee, it further and
2 -- it messed his shoulder up as far as pain wise.
3 It just got irritated much more quickly and -- and
4 further injured it.

5 Q I think that you've been -- you have health
6 insurance now?

7 A Yes, sir, I do.

8 Q And I think you had to take on a second job so that
9 you could get the health insurance?

10 A Yes, sir. I work a 36-hour job at Lexington
11 Medical Center to keep insurance on him.

12 Q I think surgery had been scheduled on his left
13 shoulder by Dr. Green for about the 28th of
14 December?

15 A Yes, sir, it had been.

16 Q And that's been put off until the 20th?

17 A Of January, yes, sir.

18 Q And the reason that you put it off was because by
19 virtue of your employment at the Lexington
20 Hospital, as I understand it, the deductible, your
21 out-of-pocket that you would have to pay in the
22 event you've got to pay this bill, your deductible
23 would be less, your insurance would pay more of at
24 the Lexington Hospital, so it's going to be done at
25 Lexington in January?

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1 A Yes, sir, at a rate of 90/10 versus 70/30 if you go
2 outside the network.

3 Q With respect to the impact this explosion had on
4 Ricky's brain and his mental and emotional
5 abilities --

6 A Yes, sir.

7 Q -- we didn't talk about this, but you have to talk
8 about it now. Let's start with this. Has Ricky's
9 memory been affected?

10 A Yes, sir, definitely.

11 Q Describe how his memory's been affected.

12 A Before the accident there was never a notepad of
13 any kind. There was never a "Did I call?" Do you
14 remember me asking?" "Do you remember me saying?"
15 Past his accident, there's a notepad, and if he
16 doesn't mark it off when he does it, he doesn't
17 remember that he did it off the notepad, and he'll
18 repeat himself. He will question you as to why you
19 didn't do something that he specifically told you
20 when he never told you. He will go behind you to
21 see if you did something and want you to remember
22 what he didn't remember.

23 Q Can he remember numbers?

24 A Not very long, no, sir.

25 Q Let's talk a little bit about the additional

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1 impact. What other impacts -- first with his
2 temper. Has his temper changed since the accident?

3 A I went through a divorce and never left the man I
4 married.

5 Q I know this is upsetting, but just try to be as
6 analytical as you can about this thing. Just
7 explain what you mean.

8 A A man I lived with for 17 years had the patience of
9 Job, no temper, nothing bothered him, nothing
10 frustrated him, even keel every day. You knew what
11 to expect. Now God could only be so blessed as to
12 give us that back. You may walk in and say, "How
13 was your day?" Bad question. In your face before
14 he catches himself, and you can tell by the look on
15 his face he knows he did it, but it's -- it's too
16 late then. He's done said it. He don't mean to,
17 but he does. It's very difficult to live with him
18 the way he is now knowing him the way he was
19 before.

20 Q It's had an impact on his family life?

21 A Oh, yes, sir. Our oldest child has moved in with
22 my parents, back into our house, back in with my
23 parents because -- his synopsis on it was, he was a
24 little bit older than the younger son. He was in
25 teenage years, and it was momma left home one

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1 morning with daddy and come back with another
2 brother. And it was that competition for momma's
3 time and momma's attention to keep daddy where he
4 needed to be to keep functioning and to finish
5 raising children. So it's been -- it's been a
6 right tough road.

7 Q Would it be fair to say, then, that given what
8 you've described, it's had an impact on his ability
9 to farm; is that --

10 A Oh, yes, sir, definitely. He farms, but he doesn't
11 farm to the -- to the tune he used to.

12 Q And would it be fair to say that the temper and the
13 confusion and so forth has had an impact on his
14 ability to work with the co-workers around him,
15 yourself included?

16 A Oh, yes, sir, much harder.

17 Q Based on your observations, would you anticipate
18 that if he were given treatment for this condition,
19 it would help him function more effectively and
20 appropriately as a farmer, as well as a -- a
21 husband but as a farmer?

22 MR. MARTIN: Objection, Commissioner.

23 It's a medical opinion.

24 COMMISSIONER CHILDS: Narrow it to her
25 lay observations.

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1 Q Based on your observations, would treatment for the
2 memory problems and the temper problems, would the
3 treatment help him be more calm and farm better?

4 MR. MARTIN: Same objection.

5 COMMISSIONER CHILDS: Sustained. I think
6 she can mention it as to how maybe he was
7 affected from prior treatment, but I don't
8 know that she has the medical abilities to
9 talk about his future treatment.

10 MR. ELLIOTT: All right.

11 A When we were seeing Raef Ellisor, he had a better
12 handle on temper and mood swings than he does with
13 no one to talk to other than me.

14 Q And Raef Ellisor was -- Raef Ellisor's help was
15 abruptly terminated by Legion?

16 A Yes, it was.

17 Q Were you give any explanation?

18 A No explanation and no warning, not even a call to
19 tell me that the doctor's appointment had been
20 cancelled.

21 Q Let's talk a little bit about the income picture.

22 A Uh-huh.

23 Q You're the bookkeeper and you keep up with the
24 income?

25 A Yes, sir.

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1 Q First of all, let me draw your attention to
2 November of 1999, the month of the accident. Did
3 Delano Kneece and Son Farms, did they pay Ricky in
4 November or December a paycheck?
5 A No, sir.
6 Q And the paychecks resumed sometime in 2000?
7 A Yes, sir.
8 Q Ricky is paid a set wage --
9 A Yes.
10 Q -- by Delano Kneece?
11 A Yes, sir.
12 Q Does his wage -- is his wage affected by
13 profitability of the farm?
14 A Yes, sir, definitely.
15 Q How would it be affected?
16 A If the farm doesn't show a profit or if the farm
17 runs into a tight month or a tight situation, he's
18 the last one to draw a paycheck. Everybody else
19 gets paid, and his is always if it's there.
20 Q And would the amount vary on various factors that
21 affect the farm?
22 A As far as?
23 Q Would his profit vary on whether or not it was a
24 good year?
25 A Oh, absolutely.

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- 1 Q And what kinds of things in farming, briefly, could
2 have an impact?
- 3 A Mother Nature and her wrath. You could have a
4 whole crop made, and she decide to raining and lose
5 it, every bit, and can't get in there to get it.
- 6 Q At the time of the accident, Ricky was actually in
7 the employ of Kneece Farms?
- 8 A Yes, sir.
- 9 Q And at the time of the accident, Ricky was being
10 paid by Kneece Farms?
- 11 A By credit, yes, sir.
- 12 Q And the payment was in the nature of a credit
13 between the two separate corporations?
- 14 A Right, but when Rick got injured, he was not
15 farming. The farming year had completed.
- 16 Q But when he was injured, he was injured working in
17 the employ of Kneece?
- 18 A Right.
- 19 Q And he was changing a motor grader tire?
- 20 A Right.
- 21 Q Since the accident has Ricky been able to do as
22 much work as before the accident?
- 23 A No, sir.
- 24 Q Briefly explain the sorts of things that he can no
25 longer do as a result of the accident based on your

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1 observations.

2 A His turn-out work is not as much and productive as

3 he was before. He's very much slower. He has to

4 stop, take time to take notes, write down things

5 that he use to could rattle off and somebody else

6 could write it down as he was walking away, mainly

7 me. He doesn't climb elevator legs, and it takes

8 time to go find somebody to do it for him. They

9 get clogged, somebody has to go up there.

10 He doesn't do irrigations, climb up on them.

11 When he goes to cut them on, he may go two or three

12 times a night to check them, he'll get back to the

13 house, "God, did I flip that switch?" He'll have

14 to turn around and go right back to do what he just

15 did again. So I try to make it a habit, if I can

16 and I'm not scheduled to be at Lexington Medical

17 Center at daylight, I go with him, and I can say,

18 "You did flip that switch," or "You didn't," you

19 know, or "You did check that."

20 Q Have you all -- has Ricky's father -- has the farm

21 made any accommodations to Ricky to try to keep the

22 productivity as high as possible?

23 A Oh, absolutely.

24 Q What have --

25 A His father is always trying to think of something

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1 else to keep work off of Ricky. He's bought a
2 peanut buggy, which cuts out a lot of truck man-
3 hours from point A to point B, from the grain
4 facility to the field. He's bought a tanker truck,
5 and they're -- he's going to have it fabricated to
6 be a planting mechanism where you take everything
7 with you to the field on this 18-wheeler body, and
8 Ricky don't have to come back home and get pieces
9 and go back and try to remember what he forgot. He
10 can make his list that night, load everything up,
11 take it with him, and then the hired help's there
12 to help him load.

13 Q With respect to his salary, have any accommodations
14 been made since the accident for his salary?

15 A Yes, sir. His dad did not want his salary to
16 suffer unless the farm was financially suffering.

17 Q And so what accommodation was made?

18 A Dad retired and gave up his, most of his salary,
19 and raised Ricky's salary.

20 Q All of that was an accommodation for his son?

21 A Yes, sir.

22 MR. ELLIOTT: I don't have any further
23 questions.

24 CROSS-EXAMINATION BY MR. MARTIN:

25 Q Ms. Kneece, Ricky's the president of the

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- 1 corporation?
- 2 A Yes, sir.
- 3 Q So he's basically the owner of the business?
- 4 A Yes, sir.
- 5 Q The motor grader that had the tire that exploded,
- 6 who owned that motor grader?
- 7 A Everett Kneece, Kneece Farms.
- 8 Q That was Kneece Farms?
- 9 A Uh-huh.
- 10 Q So is a credit basically -- how does that work?
- 11 A They were clearing land this particular year, and
- 12 Uncle Everett has an employee named Johnny Lee
- 13 Austin that works for him full time. And Johnny
- 14 Lee would help us and keep up with his hours, and
- 15 then Ricky would help Uncle Everett and them back
- 16 and work just as many hours. So we swapped Ricky's
- 17 labor for Johnny Lee's labor.
- 18 Q So it's just a trade?
- 19 A Right, right.
- 20 Q So the way Delano Kneece and Sons makes money is
- 21 sharecropping --
- 22 A Yes, sir.
- 23 Q -- is that right?
- 24 A And farm our own land.
- 25 Q You farm your land that's owned by Ricky Kneece?

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- 1 A Yes, sir.
- 2 Q Ricky's dad?
- 3 A Yes, sir.
- 4 Q As well as Everett Kneece?
- 5 A Yes, sir, on the sharecrop side.
- 6 Q So you also have sharecrop going, sharecrop his,
7 and then I believe Ricky's cousin, sharecrop?
- 8 A Yes.
- 9 Q So when the income comes to Ricky, his salary, it's
10 from Delano Kneece and Son, Inc.?
- 11 A Yes, sir.
- 12 Q And that's the way he's paid?
- 13 A Yes, sir.
- 14 Q He's continued to receive some sort of salary since
15 the time of the accident until currently today?
- 16 A Some type, yes, sir.
- 17 Q He's also received some temporary total workers'
18 comp checks; is that right?
- 19 A Yes, sir.
- 20 Q He's still receiving them now; is that right?
- 21 A Yes, sir.
- 22 Q Do you know how long he's received those checks?
- 23 A To be honest with you, no, sir.
- 24 Q I think the records show that he started getting --
25 this last time January of 2003. Does that sound

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1 about right?

2 A That's very possible.

3 Q Okay. So from January 9, 2003, until now, he's
4 been receiving a salary plus -- a salary from
5 Delano Kneece and Son, Inc.?

6 A Yes, sir.

7 Q As well as weekly temporary total checks?

8 A Yes, sir.

9 Q And he had his surgery on -- the first surgery to
10 his knee, do you know when that was?

11 A No, sir. I'm horrible with dates.

12 Q It was sometime in 2003, wasn't it?

13 A Probably.

14 Q Do you know when he went back to work? How long
15 after the surgery did he go back to work?

16 A It was at least eight weeks. It may have been
17 more. I can't remember. But, now, something you
18 need to understand. When he's in the house not
19 working, labor working, he is still making notes to
20 try to keep everybody working and keep the farm
21 going.

22 Q And he'll go out and supervise people working
23 around there?

24 A Didn't go out very much, but he sent notes out the
25 door.

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- 1 Q So that's why -- that's why you justify the salary?
- 2 A That's -- his dad said he's still got things
- 3 running, can't -- might can't do it labor, but he's
- 4 got it running, so --
- 5 Q So you think he may have missed eight weeks after
- 6 the first knee surgery?
- 7 A Maybe --
- 8 Q And he had a second knee surgery, which was done in
- 9 early 2004. Do you know how long he was out of
- 10 work that time?
- 11 A Six to eight weeks, I would imagine. I don't
- 12 remember.
- 13 Q I think he testified about April 2004 is when
- 14 Dr. O'Leary released him to go back to work. Would
- 15 that be true?
- 16 A Might be.
- 17 Q But he didn't go back to work until about May?
- 18 A Right.
- 19 Q So he had been out a couple months probably?
- 20 A Uh-huh.
- 21 Q You need to say yes.
- 22 A Yes, sir. I'm sorry.
- 23 Q And I think you said he was not paid any salary in
- 24 November and December of 2001 -- of 1999, I'm
- 25 sorry.

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1 A Yes, sir.

2 Q And does Delano Kneece and Son, Inc., have workers'
3 compensation coverage for its employees?

4 A No, sir.

5 Q But I assume Kneece Farms does?

6 A Yes, sir.

7 MR. MARTIN: That's all I have,
8 Commissioner.

9 MR. ELLIOTT: Just a couple odds and
10 ends.

11 REDIRECT EXAMINATION BY MR. ELLIOTT:

12 Q You testified on cross-examination that Kneece
13 Farms continues to lend the services of one of its
14 employees to help you all around the farm.

15 A Johnny Lee Austin.

16 Q And you have to pay for those services, correct, to
17 Kneece Farms?

18 A Yes, sir. We reimburse with an actual check and
19 money now because Ricky can't trade it out.

20 Q All right. In the past on those occasions where
21 the trade wasn't equal, could Kneece Farms have had
22 to write Delano Kneece and Sons a check if they
23 were trading services and Kneece got more benefit
24 out of -- Kneece Farms got more benefit than
25 Ricky's farm? Some payments could pass hands if

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1 the credits wasn't exact, correct?

2 A Right, if they had not been, yes, sir.

3 Q And I think that the gentleman working for Kneece

4 Farms is not the only person that you had to put on

5 the payroll to make up for --

6 A No, sir.

7 Q How many people have you had to add to the payroll?

8 A Four.

9 Q Four?

10 A Yes, sir.

11 Q And you haven't attempted to hide the fact that

12 Ricky --

13 A No, sir.

14 Q -- does his best around the family farm, have you?

15 A No, sir. No, sir.

16 Q You haven't tried to hide that from the State

17 Guaranty Fund, have you?

18 A No, sir.

19 Q Have you had a conversation with the people from

20 the State Guaranty Fund about Ricky's conditions?

21 A A very short one.

22 Q And what was the effect of that?

23 A It was -- I can't even remember the lady's name --

24 Marcy something. I called to tell her that we were

25 still receiving checks and that was about all I got

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1 out. She told me that she would talk to my lawyer
2 and hung up on me, so --

3 Q That's fine.

4 MR. ELLIOTT: I don't have any further
5 questions. Thank you, Commissioner.

6 MR. MARTIN: Nothing further,
7 Commissioner.

8 MR. ELLIOTT: That would be the
9 claimant's case.

10 COMMISSIONER CHILDS: Nothing in
11 response?

12 MR. MARTIN: I don't have anything
13 further, Commissioner.

14 COMMISSIONER CHILDS: Thank you both.
15 That concludes the hearing.

16 (WHEREUPON, THE HEARING WAS CONCLUDED AT

17 5:21 P.M.)

18 *

19 *

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STATE OF SOUTH CAROLINA)
)
 WORKERS' COMPENSATION COMMISSION)

CERTIFICATE

BE IT KNOWN THAT I, PAULA JACKSON BLANDSHAW, TOOK THE FOREGOING PROCEEDINGS IN WORKERS' COMPENSATION CASE NUMBER 9920867 ON JANUARY 11, 2005;

THAT I WAS THEN AND THERE A NOTARY PUBLIC IN AND FOR THE STATE OF SOUTH CAROLINA-AT-LARGE;

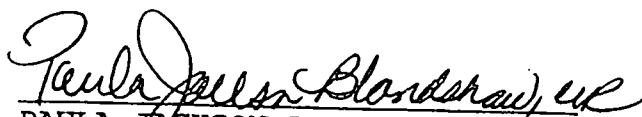
THAT BY VIRTUE THEREOF I WAS DULY COMMISSIONED AND QUALIFIED TO ADMINISTER AN OATH;

THAT ANY WITNESS WAS FIRST DULY SWORN TO TESTIFY THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH, CONCERNING THE MATTER IN CONTROVERSY AFORESAID;

THE FOREGOING TRANSCRIPT OF 62 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.

WITNESS MY HAND AND SEAL THIS 28TH DAY OF MARCH, 2006.*


 PAULA JACKSON BLANDSHAW, CVR
 CERTIFIED VERBATIM REPORTER
 A NOTARY PUBLIC IN AND FOR THE
 STATE OF SOUTH CAROLINA

MY COMMISSION EXPIRES OCTOBER 31, 2013.

*PURSUANT TO A REQUEST FROM ATTORNEY STEPHEN STUBLEY, VIA TELEPHONE CALL, ON FEBRUARY 21, 2006, THIS TRANSCRIPT WAS PREPARED AND WILL BE DELIVERED IN AS TIMELY A MANNER ALLOWED BY THE CONSCIENTIOUS PERFORMANCE OF MY DUTIES AND RESPONSIBILITIES AS AN OFFICER OF THE COURT TO THE BEST OF MY SKILLS AND ABILITIES.

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APPEARANCES:

Representing the Claimant:

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Representing the Defendants:

EDWIN P. MARTIN, JR., ESQUIRE
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Also Present: ROXANNE KNEECE

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(Deposition of Ricky Kneece)

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* * * * *

GARBER REPORTING SERVICE

1 This deposition is taken in accordance
2 with the South Carolina Rules of Civil Procedure.

3 It is agreed and stipulated by the
4 deponent and respective counsel that the reading
5 and signing of the deposition by the deponent is
6 expressly waived.

7 Whereupon:

8 RICKY KNEECE, being duly sworn and
9 cautioned to speak the truth, the whole truth and
10 nothing but the truth, testifies as follows:

11 EXAMINATION

12 BY MR. MARTIN:

13 Q. Okay. Mr. Kneece, my name is Edwin
14 Martin. We just met just a minute ago. I'm a
15 lawyer here in town representing Kneece Farms and
16 their Workers' Compensation carrier.

17 We're here today to take your deposition
18 to gain some background information about you,
19 past work history, education, kind of just give me
20 a thumbnail sketch about you.

21 If I ask you a question which is not a
22 good question or I talk too fast or whatever the
23 reason, if you're not sure what I'm asking, if
24 you'll ask me to just rephrase the question, I'll
25 do that for you because I want to make sure you

1 understand my questions.

2 However, if I do ask a question and you
3 answer it, I'm going to assume you understood my
4 question. Is that fair?

5 A. That's fair.

6 Q. Okay. You need to give us verbal
7 responses. We need to make sure the court
8 reporter knows if you're saying yes or no. A lot
9 of people like to say uh-huh or huh-uh or shake
10 their head. So if you'll try do that because we
11 want to make sure he gets down what you --

12 MR. ELLIOTT: See, when I shake my head,
13 it rattles, but you don't have that problem. So
14 the court reporter can't --

15 Q. (Mr. Martin) If you need to take a
16 break at any time, let me know. We'll probably be
17 here 45 minutes to an hour. If you need to stand,
18 just speak loud enough so the court reporter can
19 hear you. Okay?

20 A. Okay.

21 Q. Can I get your full name, please, sir?

22 A. Delano Ricky Kneece.

23 Q. And I'm just taking notes for myself.
24 So you can just talk regular pace. And how old
25 are you?

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1 A. Forty-four.

2 Q. Okay. And your date of birth?

3 A. [REDACTED].

4 Q. And what's your Social Security number?

5 A. [REDACTED] -- what's the last four?

6 MS. KNEECE: [REDACTED]

7 Q. (Mr. Martin) Is that [REDACTED] is that

8 right?

9 A. Yes.

10 Q. And what's your current address?

11 A. I'm going to have to ask her.

12 THE WITNESS: Is it 209 or 213?

13 Q. (Mr. Martin) Let me ask you to -- you

14 need to answer the question. If you can't

15 remember --

16 A. Okay.

17 MR. ELLIOTT: Remember we talked? It's

18 okay if you can't remember.

19 THE WITNESS: Okay.

20 MR. ELLIOTT: Do the best you can.

21 THE WITNESS: I remember all of it, but

22 the street address -- I mean, the number. It's

23 Delano Kneece Road in Pelion, South Carolina.

24 Q. (Mr. Martin) How long have you lived at

25 that address?

1 A. I'm just guessing eight, nine years.

2 Q. Do you own the property out there?

3 A. Not all of it.

4 Q. Okay. Do you own the part where you're
5 living on?

6 A. Yes, sir.

7 Q. Are you living in a house?

8 A. Yes, sir.

9 Q. Okay. Do you live with anyone there?

10 A. My wife and two -- well, one kid now.

11 Q. Okay. And what is your wife's name
12 again?

13 A. Roxanne.

14 Q. How long have you and Roxanne been
15 married?

16 A. Early '80s.

17 Q. And so you have two children?

18 A. Right.

19 Q. What are their names and ages?

20 A. J. D. is 20. Kain is, I believe, 17.

21 Q. Okay. So J. D. does not live with you
22 now?

23 A. No, sir.

24 Q. Is he financially dependent on you?

25 A. Not fully.

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1 Q. He's got his own job?
2 A. So to speak. He boards horses.
3 Q. And Kain, I assume, is still in school?
4 A. Yes, sir.
5 Q. He's dependent upon you financially?
6 A. Yes, sir.
7 Q. Any other children other than J. D. and
8 Kain?
9 A. No, sir.
10 Q. Have you ever been married other than to
11 Roxanne?
12 A. No, sir.
13 Q. Okay. What's the highest level of
14 education that you completed?
15 A. 12th grade.
16 Q. Were you going to Pelion High School?
17 A. That's correct.
18 Q. Did you graduate?
19 A. Yes, sir.
20 Q. About 1978?
21 A. That's correct.
22 Q. Okay. Have you had any further
23 education since Pelion High School?
24 A. No, sir.
25 Q. Ever been to any kind of technical

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1 schools?

2 A. No, sir.

3 Q. Okay. Have you ever been in the
4 military before?

5 A. No, sir.

6 Q. Have you ever been arrested for any
7 criminal offense?

8 A. No, sir.

9 Q. Okay. Have you ever -- other than that
10 Workers' Compensation claim, have you ever been
11 injured at work before?

12 A. I don't remember.

13 Q. Okay. Have you ever been involved --
14 have you ever had any kind of surgery other than
15 for this case?

16 A. Yes, sir.

17 Q. Okay. What was that for?

18 A. I've had three hernias.

19 Q. Okay.

20 A. And I think I had another one, but I
21 can't remember right at this moment.

22 Q. I saw on your medicals there was a
23 surgery on your left shoulder?

24 A. Yes, sir.

25 Q. Okay. Do you remember when that was?

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1 A. I don't remember whether it was '99 or
2 2000 or 2001. I really don't remember what year
3 it was.

4 Q. Okay. But it was -- but wasn't it
5 before this work accident?

6 A. No.

7 Q. Okay. Do you remember who did the
8 surgery on your shoulder?

9 A. Dr. Green.

10 Q. Do you know how you hurt your shoulder?

11 A. No, sir.

12 Q. Okay. Any other surgeries that you've
13 had other than three hernias and then surgery with
14 Dr. Green on your left shoulder other than this
15 case?

16 A. I think I had my appendicitis.

17 Q. Okay. Ever been involved in any kind of
18 motor vehicle accident where you were injured?

19 A. No, sir.

20 Q. How about like a slip and fall or
21 something where you fell in the tub or a Wal-Mart
22 or something like that?

23 A. No, sir.

24 Q. Other than this Workers' Compensation
25 claim, have you ever been involved in any kind of

1 litigation where either somebody sued you or you
2 sued somebody else?

3 A. No.

4 Q. Ever made any kind of -- other than this
5 Workers' Compensation claim, ever made any kind of
6 claims against an insurance company for anything?

7 A. No, sir.

8 Q. Okay. Are you working right now?

9 A. Yes, sir. What I -- what I can hold out
10 on I am.

11 Q. Okay. What kind of work are you doing?

12 A. Farm work.

13 Q. Okay. Explain to me how -- I'm not
14 really sure how farming works. I saw something
15 where maybe you and your father sharecrop on your
16 uncle's property. Can you explain it all to me?

17 A. We do the work. They -- they own land.

18 Q. Okay. Let me -- you need to tell me
19 when you are saying we and they. I'm not sure who
20 you are talking about.

21 A. Me and my dad and the guy that helps us,
22 we do all the work. They furnish the land and the
23 irrigation.

24 Q. Okay. Let me stop you for a second.
25 When you're saying they, you're talking about your

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1 uncle?

2 A. My uncle.

3 Q. What's his name?

4 A. Everett Kneece.

5 Q. Okay. So Everett Kneece furnishes the

6 land for you to do the work on?

7 A. Right. What we don't own. He got -- he

8 has land too.

9 Q. Okay. So are you actually farming your

10 land and your father's land along with your

11 uncle's land?

12 A. Uh-huh.

13 Q. You need to say yes for me.

14 A. Yes, sir. I'm sorry.

15 Q. And who furnishes the equipment that is

16 used for that farming?

17 A. We do.

18 Q. You and your dad?

19 A. Me and my dad.

20 Q. Okay. And what do you guys farm out

21 there?

22 A. Corn, cotton, and peanuts. And we mess

23 with a few cattle.

24 Q. Okay. How do you get paid? How does

25 that work?

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1 A. Well, at the time of the accident I
2 helped my uncle some because he was clearing some
3 land putting irrigation on it for us to farm, but
4 I no longer help nobody since then. It's just me
5 and my dad and we sharecrop for him.

6 And sharecropping consisted -- I didn't
7 tell you awhile ago, but they furnish the land and
8 irrigation and they pay for all your fertilizer
9 and seed and things. We furnish all the labor and
10 equipment and we furnish the chemicals. And then
11 when we gather a crop we do everything and then
12 everything is split 50/50.

13 Q. Between your father and yourself?

14 A. Right.

15 Q. Is that after all the cost and
16 everything?

17 A. Right. Yes, sir.

18 Q. Okay. So when a crop comes in you get a
19 certain dollar value for that crop, then you take
20 out your cost, and then what's left you and your
21 father split?

22 A. No. We usually -- we pay for stuff as
23 we go along, try to. We borrow money to operate
24 on and we pay for stuff as we go along. And my
25 uncle gets his bills on like the fertilizer, lime,

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1 whatever we used. He pays for his.

2 Then we gather the crop. And when the
3 crop, if it -- just say a crop brings \$50,000.

4 It's split 50/50, 25/25, is the way it works.

5 Then he has to take his own stuff out and we take
6 our own stuff out, whatever -- you know, whatever
7 we had in it.

8 Q. Okay. So your uncle gets half and you
9 and your dad share the other half?

10 A. Right. Correct.

11 Q. Okay. And then the other guy you said
12 that does the work with you, you all pay him some
13 sort of salary out of that money?

14 A. Yes, sir.

15 Q. What's that fellow's name?

16 A. Willie Dobbs.

17 Q. So you guys are technically employees of
18 your uncle?

19 A. No, sir. I'm employees of -- me and my
20 dad are, I guess, our own employees. We own what
21 we got. I guess that's how you would say it.

22 Q. Are you all incorporated as a
23 corporation?

24 A. Yes, sir.

25 Q. Do you all do work for anyone other than

1 your uncle?

2 A. His son has got some land that we
3 sharecrop with.

4 Q. Is that your cousin?

5 A. Right.

6 Q. Okay. So you guys get paid after the
7 crop is sold?

8 A. Mainly, yes, sir, that's the way we
9 operate.

10 Q. Tell me what kind of work are you doing
11 now?

12 A. You mean on the farm right this moment?

13 Q. Yes, sir.

14 A. We -- just odds and ends because we just
15 got all our crops in. And if you need changing
16 oil in something or if you need a tire fixed or
17 irrigation system has got a flat tire or there are
18 slack tires, anything that's -- I call it just
19 winter maintenance.

20 Q. Okay. So you all are just between crops
21 right now?

22 A. Right.

23 Q. What would have been the last crop that
24 you guys had?

25 A. Peanuts and cotton come off at the same

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1 time.

2 Q. Okay. Do you remember how much money

3 you guys made on -- or how much you personally

4 made off of peanuts and cotton?

5 A. No, sir.

6 Q. Any range that it could possibly be in?

7 A. She does -- I hate to tell you, but she

8 does all that. She would have more of an idea

9 than I would, but I don't. My wife would.

10 Q. So your wife handles the finances for

11 you?

12 A. Right. She does all the book work for

13 the farm and works another job.

14 Q. Would it have been in the thousands that

15 you guys made?

16 A. I would -- I would guesstimate \$90,000

17 with the cotton. Am I right or wrong? I would

18 guesstimate peanuts -- I have no idea.

19 Q. Okay. So from the 90,000 you guys would

20 have gotten 45 out of that?

21 A. That might be a little lower estimating,

22 but that would be close.

23 Q. So with the peanut and the cotton crop

24 what type work would you have to do?

25 A. Plant, turn irrigation on. I usually

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1 dig the peanuts.

2 Q. Okay. And when you say dig, is that
3 when you harvest them?

4 A. Yeah. Take a tractor and you just go
5 down the road and it does its own little thing.

6 Q. Okay. When you plant the peanuts what
7 does it take to plant the peanuts?

8 A. Just a tractor and a set of planters.

9 Q. So you are just driving back and forth
10 with the seed?

11 A. Yes, sir.

12 Q. Okay. When you say turn irrigation on,
13 is that just manually turn it with your hand or is
14 there some sort of device that you have to turn on
15 the irrigation system?

16 A. You have to turn on a gate valve like a
17 steering wheel. And then all it consists of then
18 is electric motors, just pushing buttons.

19 Q. Okay. And when you say that you would
20 dig peanuts, is that -- that's something with a
21 machine?

22 A. Yes, sir.

23 Q. A tractor like you said?

24 A. Driving a tractor with a digger behind
25 it.

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1 Q. How do you get the peanuts up?
2 A. It's a combine that you combine peanuts
3 with.
4 Q. It just picks them up?
5 A. Uh-huh.
6 Q. Okay. How about with cotton, what type
7 work would you have to do with cotton from
8 beginning to the end?
9 A. You spray, you plant, you spray a lot
10 and again, and you pick cotton with a picker.
11 Q. Okay. When you say spray, what does
12 that involve?
13 A. Just taking a tractor and a sprayer.
14 Q. What is it that you're spraying?
15 A. There's several different things you
16 spray. And I have me a list and I strictly go by
17 it from year to year. I just -- I can't remember
18 from one spraying to the next. I just got me a
19 guideline I go by and that's what I use.
20 Q. Some sort of chemicals to prep the soil?
21 A. Well, that plus you have to spray the
22 cotton for worms. You spray it for making it
23 open. You spray it for making it grow. It's just
24 a variety on cotton.
25 Q. And that just involves driving a tractor

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1 with a sprayer behind it?

2 A. Yes, sir.

3 Q. And planting, is that the same thing
4 that you would do with the peanuts?

5 A. Yes, sir.

6 Q. Just drive a tractor. And then when you
7 harvest it you drive another tractor and there's a
8 cotton picker?

9 A. Combine for peanuts.

10 Q. I mean for the cotton?

11 A. For the cotton it's a regular -- it's a
12 picker similar to a tractor with the heads on it
13 and all that picks it.

14 Q. Do you have to do any work subsequent to
15 it being picked?

16 A. Could you repeat that for me again?

17 Q. Once the cotton has been picked and is
18 in the cotton picker is there any other type of
19 work that you have got to do to the cotton to prep
20 it?

21 A. Well, there is, but I don't do it. My
22 son does it and the guy that helps us does it.

23 Q. So typically from what you're telling me
24 you drive tractors a lot?

25 A. A good bit, yes, sir.

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1 Q. Typically when you guys -- during
2 growing season for either peanuts or cotton what
3 are you doing most of the day?
4 A. Well, spraying or either -- you've got
5 more than one crop going on at one time. So you
6 are working in -- you are working in -- you are
7 working one crop for a couple days or a day to get
8 by with this one and then you go to another crop
9 to get by with it, to get caught up with it.
10 You're back and forth all the time.
11 Q. So are you on tractors most of the time?
12 A. No, sir, not 100 percent of the time.
13 Q. Typically what's -- and I'm talking
14 about just during the middle of one of these
15 seasons how many hours a day are you working?
16 A. It's all according to how I feel like
17 working. I'm going to tell you the truth. It's
18 anywhere from eight to 12 to 13.
19 Q. Is that seven days a week?
20 A. Usually we try to rest on Sunday, but we
21 do turn irrigations on on Sundays.
22 Q. And typically from that eight to 13
23 hours a day what are you doing the majority of the
24 day?
25 A. Usually on a tractor.

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1 Q. Would you say three quarters of the time
2 you are on a tractor?

3 A. I would say so.

4 Q. Okay. And the other quarter of the time
5 what would you be doing typically?

6 A. Sitting down resting or just come in to
7 get water to fill up to spray with.

8 Q. Simple maintenance?

9 A. Mostly, yes, sir.

10 Q. Okay. So the people that you've got
11 working for you would be you and your father, your
12 son, and then this other fellow that you mentioned
13 for me?

14 A. Willie.

15 Q. Willie. Anybody else that works out
16 there with you guys sharecropping?

17 A. I've got an uncle. I forgot about him.
18 He just helps us to fill in gaps.

19 Q. What's his name?

20 A. J. M. Boone.

21 Q. Okay. And like you said, your wife
22 would have the records for any profit that your
23 company turned?

24 A. Yes, sir.

25 Q. And do you pay yourself a salary out of

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1 it?

2 A. Yes, sir.

3 Q. Is it salary like, you know, say \$20,000
4 a year or whatever?

5 A. Right. That's the way we do it.

6 Q. Okay. What is your salary for the year?

7 A. I really can't -- I really don't know.

8 Q. Okay. Would your wife know that?

9 A. Yes, sir.

10 Q. Okay. Other than farming, have you ever
11 done any kind of work -- any other type work in
12 the past?

13 A. No, sir.

14 Q. Did you start working on the farm as a
15 kid?

16 A. Very early age. Less than a teenager.

17 Q. Ever been to any kind of schools or
18 anything to fix tractors or work on tractors?

19 A. Just been to some things that John Deere
20 had meetings on at their dealership to just more
21 or less hands on to show you what to do, but
22 that's it.

23 Q. Okay. And you've been working on your
24 uncle's property the whole time, uncle's property
25 and your property?

1 A. Yes, sir.

2 Q. Tell me what was the date of the
3 accident we're here for today?

4 A. All I can tell you is November '99. I
5 know it was the 20th something, but I don't
6 remember. I can't tell you the exact date.

7 Q. This is an admitted accident, but can
8 you briefly tell me what happened?

9 A. No, sir, I cannot. I do not remember
10 nothing.

11 Q. What's your first memory after the
12 accident?

13 A. The first thing that I know or can
14 remember anything is being back at home, being at
15 home either in the recliner or bed.

16 Q. It's my understanding you were chained
17 to some sort of tire when the accident occurred?

18 A. Yes, sir.

19 Q. Tell me what parts of your body were
20 injured in this accident.

21 A. For I don't know how long it took, but
22 it took me -- I don't know whether it was weeks or
23 two to three months before I realized what was
24 hurt or what wasn't hurting, but I knew after
25 probably two months my head was. I knew probably

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1 within eight to ten weeks that my leg was.
2 Q. Which leg was that?
3 A. Left. And then after that I had
4 complications with my elbow and my shoulder.
5 Q. Which elbow and shoulder?
6 A. Left.
7 Q. When did you start having those
8 complications?
9 A. I really don't remember.
10 Q. Was it within weeks of the accident,
11 months, years?
12 A. I don't remember nothing after the
13 accident for -- it was weeks before I ever
14 remembered anything.
15 Q. So we're talking about your head, your
16 left leg, your left elbow, and your left shoulder?
17 A. And teeth.
18 Q. Did you lose some teeth in the accident?
19 A. I had some messed up.
20 Q. Have you had some work on your teeth?
21 A. Yes, sir.
22 Q. Did you lose any teeth?
23 A. No, sir.
24 Q. What else was injured?
25 A. I've had some trouble with my right eye.

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1 Q. What kind of problems have you had with
2 your right eye?

3 A. Droopiness, quivers. That's where I
4 took the brunt of my lick, right above it.

5 Q. When you say quivers, you're talking
6 about it kind of jumps maybe?

7 A. Spasms all the time.

8 Q. Before the accident did you wear
9 glasses?

10 A. No, sir.

11 Q. Do you wear glasses now?

12 A. No, sir.

13 Q. And do you know who -- do you have an
14 eye doctor?

15 A. No, sir, not really. I've been to one,
16 but I really don't have one.

17 Q. Is that Dr. Milne?

18 A. Yes, sir.

19 Q. Okay. Any other body parts which were
20 injured in this accident other than your teeth,
21 your head, your left leg, your left elbow, your
22 left shoulder, and your right eye?

23 A. Not that I can remember.

24 Q. Okay. It's my understanding you had
25 some surgeries on your left knee; is that right?

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1 A. Yes, sir.

2 Q. And Dr. Green did the first surgery?

3 A. That's correct.

4 Q. And who was it that -- Dr. O'Leary did

5 the second surgery?

6 A. That's right.

7 Q. And that was sometime in January of this

8 year?

9 A. That's right.

10 Q. Tell me how was your left knee doing

11 before this second surgery with Dr. O'Leary?

12 A. About the same as it is now really.

13 After I had it fixed the first time -- or back

14 up. Before I had it fixed the first time I kept

15 having trouble. I kept going to a doctor and

16 Workman's Compensation recommended me to some

17 doctors.

18 And they would sit in a room and they

19 would x-ray me and they would tell me nothing was

20 -- it looked like everything healed fine. They

21 put me on Vioxx. And then I kept on -- I made my

22 mind up I had to have something done. I was

23 limping. It's lazy. I drag it.

24 And I got in with Dr. Green. He was the

25 first fellow that put hands on me, got me on a

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1 table. And within a couple minutes he found out
2 what was wrong. He done x-rays and an MRI.

3 And I thought it was fixed too. And up
4 till about two to three months after I had it
5 fixed the first time it started back the same way
6 again.

7 Q. Okay. And how was that?

8 A. Throbbing, limping, getting in a bind.
9 And I've never been able to bend -- able since I
10 broke it to carry my heel all the way back to my
11 behind. And it's that way now.

12 Plus it's bothering me some again and
13 it's the same way. It's just lazy. When you go
14 to step over something you think you have got it
15 high as your right leg and you're not. You
16 actually are dragging or not picking it up high
17 enough.

18 Throbbing. I'm sitting here now. And
19 when it goes to bothering me most of the time
20 you've got to stick it out straight to keep it --
21 to relieve it. And then a few minutes later you
22 are pulling it back the other way.

23 Q. So did you get any better after the
24 second surgery with Dr. O'Leary?

25 A. I did for awhile, but I'm having

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1 complications again.

2 Q. Do you have any kind of swelling in your
3 knee?

4 A. Not right now, but I have had swelling.

5 Q. So right now you've got -- do you have
6 pain in your knee all the time?

7 A. Not all the time, but it comes and goes
8 during the day. The only relief I get off of it
9 this time is at night when I lay down.

10 Q. Okay. Are you taking any kind of pain
11 medication for your knee?

12 A. Not for my knee, but my shoulder when I
13 needed it.

14 Q. Does your left knee ever give way on
15 you?

16 A. It's caused me to fall more than one
17 time just because of not getting it high enough
18 when I'm going over something.

19 Q. It's caused you to trip because you --

20 A. That's correct, yes, sir.

21 Q. And you said that you had broken part of
22 your knee? Is that what it was?

23 A. I broke my bone right at my knee.

24 Q. Okay. It looks like Dr. O'Leary
25 released you from your knee in April of this year?

1 A. I believe that's correct.
2 Q. Have you been back to see him since he
3 released you for your knee?
4 A. I've been back to see him, I believe it
5 was, with my shoulder.
6 Q. But has he done anything else for your
7 left knee?
8 A. No, sir.
9 Q. Has he put any kind of restrictions on
10 things you shouldn't do with your left knee?
11 A. For awhile after he done the surgery.
12 And then when my checkup he did, but then after
13 that he didn't. He just told me that he thought
14 that that was about as good as I was going to get
15 it.
16 Q. So when he released you Dr. O'Leary
17 didn't put any restrictions on your left knee?
18 A. No, sir.
19 Q. Any other kind of problems that you're
20 having with your left knee that we've not already
21 discussed?
22 A. No, sir.
23 Q. Any kind of clicking or popping in your
24 knee?
25 A. Just, like I say, it bothered me again.

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1 I can tell something is not right, but -- and he
2 told me that that's probably as good -- it will
3 probably always bother me some.

4 And sometimes some people that does
5 surgery tell you it might take it six months to
6 get over, it might take it a year to get over it,
7 but it still bothers me some.

8 Q. When you're driving the tractors, and
9 I've never driven a tractor so I don't know, do
10 you have to use your left leg at all?

11 A. No, sir. They don't have -- you don't
12 have to use the clutch. You do it with your --

13 Q. Just your right leg?

14 A. Well, no. It's just like a car sort
15 of. You don't have to use -- the only time you
16 would have to use it is if you're backing up to
17 something. You don't have to use it then..

18 Q. Okay. I'm just going to ask you this
19 from a layman's standpoint. How much do you think
20 you have loss of use of your left leg because of
21 this accident?

22 A. I would say probably because of what I
23 have to wait and get other people to do or what
24 I'm scared to do, just, for instance, climbing an
25 elevator leg 100 something feet tall, probably I

1 would say 45 percent.

2 Q. So there's things that you don't do now
3 because of your left leg?

4 A. No, sir.

5 Q. Okay. What type of things?

6 A. Climbing an elevator leg.

7 Q. You had said an elevator leg?

8 A. Elevator leg that carries grain up to
9 dump it in bins and stuff. We've got some that's
10 probably 130 foot tall.

11 Q. So you don't do that now?

12 A. No, sir. Climbing on irrigations. When
13 I got a piece of equipment out and I'm planting
14 and if I have to crawl under it, I'm used to be
15 wanting to go to the back and just kneel down and
16 you adjust your seat depth -- depth on your knees,
17 just falling on your knees, but I can't now
18 because I can't bend it all the way back under
19 me. It just takes a lot more time for me than it
20 used to.

21 Q. You have to be more careful?

22 A. Yes, sir.

23 Q. Any other kind of -- any other kind of
24 hobbies or activities that you're limited in doing
25 or that you can't do because of your knee?

1 A. Well, I used to have hobbies that I did
2 that I don't do, but I don't know if it's from my
3 knee or my head, but I just used to hunt a little
4 bit. And I very rarely ever hunt.

5 Q. Okay. What type hunting did you used to
6 do?

7 A. Used to deer hunt a little bit.

8 Q. Did you hunt in a stand?

9 A. Yes, sir.

10 Q. You said that's probably not because of
11 your knee, but because of your head?

12 A. Because of my knee and my head because I
13 just -- ever since I got hurt I don't remember
14 nothing about my accident, but I can't stand loud
15 noises. It just irritates me. I'll get gone in a
16 minute. That's a lot to do with my head, I
17 guess. And climbing I just don't feel safe.

18 Q. Okay. Let's talk about your head. I
19 guess the problems from your head are because it
20 hit you in the face?

21 A. Yes, sir.

22 Q. Okay. Tell me what kind of problems
23 you're having with your head now.

24 A. Headaches constantly. I've been on I
25 don't know how many different medications. I have

1 been on one that really helps me, but it makes me
2 irritable. It makes my temper so bad. And I have
3 a bad temper problem. And I used to be as mild as
4 the day is long.

5 Q. What's the medication that causes you to
6 have those symptoms?

7 A. Depakote. I used to take 1,000
8 milligrams in the morning and 1,000 in the evening
9 and I backed off to 500 and it still -- it helps
10 my headaches. And I used to get staggers and I
11 still get the staggers and it helped with all of
12 it, but I just can't -- I can't handle the
13 medicine.

14 Q. Because of the temper effect?

15 A. Right. And I have a temper anyway. And
16 it just sets me on fire.

17 Q. When you say the staggers, you mean
18 you're unsteady on your feet?

19 A. I go and come just like riding a wave
20 and a boat hitting the waves head on, up and down,
21 up and down. If I get out of a vehicle quick, I
22 get it, or if I turn and get out of the chair
23 quick.

24 Every time I get out of the bed,
25 especially if I've been laying all night and I get

1 up to go to the bathroom, once I sit up I got --
2 it don't take but five or ten seconds just to hold
3 on and it's gone.

4 And I don't drive in town because of it
5 ever since my accident. We've got an 18-wheeler
6 we haul our own grain with. And I don't drive it
7 because I'm not quick enough. My actions are
8 delayed. I'm not quick enough to respond with my
9 head or my knee as far as -- we mess with a few
10 cattle. And if you're working on treating them,
11 to get out the way my reactions are slow.

12 And like driving a truck in town with a
13 rig or you don't have to be in town. And I got
14 CDL's and don't mind telling you I go to a doctor
15 that don't know me because every four years when
16 you get your driver's license renewed you've got
17 to have a new health card, DOT card. And I go
18 somewhere where the doctor don't know me because I
19 know that I wouldn't get my CDL from the condition
20 I'm in, but I don't want to lose it. I've always
21 enjoyed driving a truck, but I just know that I
22 don't -- I just -- I don't feel safe.

23 Q. Have you had any problems driving
24 tractors?

25 A. Some..

1 Q. Okay. Have you had any accidents
2 because of your problems?

3 A. Not no accidents, but I've planted over
4 where I shouldn't have planted over or sprayed too
5 far over or things that would just cost you in
6 chemicals or seed or just cost you out of the
7 pocket is all it costs you.

8 Because when you drive a tractor if you
9 get in a field, there's no one you can really hurt
10 other than -- I mean, you're pulling a piece of
11 equipment in the dirt. I mean, that's what it's
12 intended for to start with. So you just -- really
13 you are ruining your own cost is what you are
14 doing.

15 Q. Okay. And the headaches that you have,
16 they are there all the time?

17 A. I just took something this morning when
18 I come in here.

19 Q. Where on your head are the headaches
20 located?

21 A. Center ways in my forehead.

22 Q. What was the first thing you said?

23 A. Center of my forehead.

24 Q. Center of your forehead?

25 A. Right.

1 Q. Is anybody treating you for headaches
2 now?

3 A. No, sir. But I have been treated.

4 Q. Okay. Who treated you for headaches?

5 A. I think it was a Dr. Troyer treated me.

6 Q. Did Dr. Smith treat you for headaches?

7 A. I think he did. I'm pretty sure he did.

8 Q. That's about in 2000. So that's been a
9 good while?

10 A. Yes, sir.

11 Q. So who is prescribing the medication for
12 you now?

13 A. You mean who -- am I taking any now?

14 Q. Well, you told me that you're taking
15 Depakote?

16 A. I was taking Depakote. I still have
17 Depakote. They haven't run out, but I just don't
18 -- I just don't take it.

19 Q. Are you seeing any doctors now?

20 A. Nothing but my regular physician and Dr.
21 Green.

22 Q. Okay. Who is your regular physician?

23 A. Dr. Carl White.

24 Q. What's his first name? Coal?

25 A. Carl White.

1 Q. How do you spell it? Coal?

2 A. Carl.

3 Q. Carl?

4 A. Yeah. Carl White.

5 Q. Okay. Where is he located?

6 A. Right beside Lexington County Hospital.

7 He's not treated me for my headaches, but he's
8 tried -- I don't know what he tried to treat. He
9 tried to treat me for my staggers, which he -- I
10 didn't start going to him until after my accident
11 because I didn't have a regular physician.

12 And he tried to treat me for my
13 staggers, which he thought I had inner -- growing
14 inner ear, which I didn't. He tried to give me
15 something to calm my temper and my moods, but
16 that's basically all he's ever treated me for.

17 Q. Okay. Other than the Depakote that you
18 take for your headaches, any other kind of
19 medication you take for your head?

20 A. I thought I took some other, but I can't
21 remember what I took.

22 Q. How about now?

23 A. Nothing, but what pain medicine I get
24 over the counter. We buy little drums of
25 Tylenol. We buy little drums of just generic pain

1 medicine, Goody powders, anything. I usually keep
2 something all the time.

3 Q. So right now I guess I'm trying to
4 figure out what -- other than over-the-counter
5 medication, any other kind of prescription
6 medication that you're taking now other than what
7 you -- you said you have got some Depakote left?

8 A. Right. And nothing other than what I
9 take in pain medicine for my shoulder.

10 Q. Do you know what the pain medicine is
11 that you're taking for your shoulder?

12 A. No, sir, I don't.

13 Q. But Dr. Green is prescribing it for you?

14 A. Dr. O'Leary prescribed me.

15 Q. Okay. You mentioned for your head
16 you've got headaches in the center of your
17 forehead and they are there most all the time?

18 A. Right.

19 Q. Okay. What other kind of problems do
20 you have with your head?

21 A. My memory.

22 Q. Okay. Tell me what kind of problems you
23 have with your memory.

24 A. I do basic things from day to day. If I
25 cut something on, cut irrigation on, you set it on

1 three quarters of an inch of water or half inch
2 and you start it forward. I'll turn around and
3 leave.

4 I knew I started up and seen water
5 coming out, but I can't remember whether I start
6 -- I start the pump and then you start your
7 irrigation. I can't remember whether I start -- I
8 double-check myself.

9 Setting on pieces of equipment we've got
10 I can't remember. So I make me notes. I put
11 marks on it. Just like planting peanuts. I can't
12 remember what settings every year I plant on. So
13 it's bad to do, but she'll tell you, I leave it
14 set on the same thing year to year. I don't
15 increase it. I don't decrease it. That's just
16 what I plant. Don't matter how wet or how dry or
17 nothing.

18 And I just -- from day to day I have to
19 make me notes. I keep me a little note pad in my
20 pocket. Used to when I got up in the morning I
21 could tell you what I was going to do from day to
22 day. I don't no more. I have to make me notes.

23 Q. Has your memory gotten worse over time?

24 A. I really -- I really don't know how good
25 my memory was. All I know is I've got a bad

1 memory now.

2 Q. Okay. Well, say last year. Is your
3 memory worse last year than it is now?

4 A. I think it is, but I just -- I just
5 forget and I can't remember. She tells me stuff
6 all the time, my wife do, but I can't remember
7 what she told me. I don't know. And then she
8 gets on to me. And I just -- I just have to make
9 me -- I take a pad every day.

10 Q. Okay. Has your memory problems caused
11 you any kind of problems at work?

12 A. Yes, it has.

13 Q. Okay. Such as?

14 A. Not remembering what I had something set
15 on awhile ago. We have to calibrate spraying
16 equipment. And that's something I can't do no
17 more without my wife.

18 Take fractions, I cannot do them no
19 more. I used to. A lot of your simple math and
20 dividing I have to have a pocket calculator. And
21 then I'm not 100 percent.

22 If she's at work at her other job, I
23 have to call her when I'm calibrating a piece of
24 equipment. She has got to refigure it and help me
25 do it or either I have got to wait until she's

1 home or do it before she leaves.

2 Q. So you can't calibrate the equipment
3 because of the math?

4 A. Right.

5 Q. What other problems has it caused you in
6 your memory?

7 A. Just plain forgetfulness. It's just
8 like this time of year checking anti-freeze and
9 things. If I don't -- if somebody don't remind me
10 or if I don't make a list, where I used to be
11 Johnny on the spot, I just -- I just don't do it.

12 Q. Forgotten any birthdays or
13 anniversaries?

14 A. Plenty.

15 Q. Okay. Anything else with memory that
16 you need to tell me about that you're having
17 problems with?

18 A. I can't remember. At this moment I
19 can't think of any.

20 Q. You mentioned that you have a temper,
21 but the medication makes it worse?

22 A. I have a bad temper without taking the
23 medication. The medication makes it twice as bad.

24 Q. Okay. Before the accident did you have
25 a bad temper?

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1 A. No, sir.

2 Q. Pretty even keel before?

3 A. Yes, sir.

4 Q. Has that caused problems in your
5 marriage?

6 A. Yes, sir. Kids too, family.

7 Q. How about concentration, do you have any
8 problems concentrating?

9 A. Yes, sir.

10 Q. How has your inability to concentrate
11 affected you?

12 A. I have done stuff with equipment and
13 supposed to have more than one thing turned on,
14 maybe make a round, two or three rounds, before I
15 realize something is not working right and I don't
16 even have half of what I've got turned on.

17 It's just hard for me to stay focused.
18 I get real confused. When I start off doing a
19 simple thing that I've done for years it just
20 takes me so much longer to do it.

21 Q. How about do you do any reading?

22 A. No, sir.

23 Q. Is that something you did before the
24 accident?

25 A. Some. Not a whole lot, but some.

1 Q. Do you sit down and watch a television
2 show for an hour?

3 A. Not often. Sometimes. I mainly look at
4 the weather and that's about it.

5 Q. Did you look at television before the
6 accident?

7 A. Somewhat, yes, sir.

8 Q. How about if you go to a movie, can you
9 sit down and concentrate for an hour and a half to
10 watch a movie?

11 A. I've never -- I don't know. I've really
12 never tried it. That's something I don't -- I
13 mean, I don't never go to movies. I've never
14 tried it.

15 Q. Have you suffered from depression?

16 A. Yes, sir.

17 Q. Okay. Tell me about that.

18 A. Well, I didn't want to admit it to some
19 of the doctors, but I have been depressed bad.
20 I'm still somewhat depressed. And they put me on
21 some medication. I don't remember what one of
22 them was. I remember what one was, but I couldn't
23 take it. And I tried because it was so bad that
24 all I wanted to do was sit down.

25 It would help me, but I couldn't do

1 nothing. Someone -- if I was in the office with
2 her or someone -- I'm just telling you how I felt
3 and what it done to me. Somebody could come in
4 and with me sitting here and rape her and beat her
5 and I could have just sat there the whole time.
6 And it was Paxil. I remember what it was.

7 Q. Are you taking anything for depression
8 now?

9 A. No, sir.

10 Q. And how are you doing now from a
11 depression standpoint?

12 A. It's hard for me to get in the mood to
13 do anything. I guess one reason is that because
14 especially in hot weather when you've got to work
15 or you've got to try to work and every time you
16 get up in the morning and you get up and you feel
17 so bad, this is bothering and that's bothering,
18 I'm in a bad mood to start with. And it just
19 makes the day go so long that -- I don't know.

20 I just -- if it wouldn't have been for
21 her, there's probably times that I would have
22 probably done something foolish to myself because
23 I just felt that bad.

24 Q. Does that come and go?

25 A. Yes, sir, I'd say so.

1 Q. So sometimes your depression is worse
2 and sometimes you're -- sometimes you're up and
3 sometimes you're down?

4 A. Right. That's correct.

5 Q. Okay. And right now you're not taking
6 anything for depression?

7 A. No, sir.

8 Q. Now, it looks like you saw a
9 psychologist in 2000 or so?

10 A. Uh-huh.

11 Q. It was a female doctor?

12 A. I don't remember her.

13 Q. Her name was Dr. Moore. Looks like July
14 2000. She's on Devine -- close by here on Devine
15 Street.

16 A. Yeah, I think I remember seeing her.
17 I'm not sure.

18 Q. Okay. And recently -- well, you
19 mentioned before that some days you just don't
20 feel like going out and working. Say in the last
21 month have there been any days that you just
22 haven't gone out and worked because you just
23 didn't feel like it?

24 A. I went out, but I actually didn't work.
25 Because I can't stand to stay in the house. If I

1 don't do nothing but go out in the farm shop and
2 sit around, go in the office and sit around, but,
3 yes, there's been days that I didn't do nothing.
4 And there's days in the summer, could be a half a
5 day or more at a time, that I just don't work. I
6 just can't work.

7 Q. And typically those days when you're not
8 working what particular problem is it that's
9 keeping you from working?

10 A. Just head, arm, leg. I just -- I just
11 don't feel good. I just don't feel like I can go.

12 Q. Just kind of a combination of
13 everything?

14 A. Yes, sir.

15 Q. Anything that the depression causes you
16 not to do?

17 A. It causes me to be slack in my work,
18 real slack, confused.

19 Q. When you say slack, you're talking about
20 in your ability to do the work or --

21 A. In the ability to do as much as I should
22 do or what I'm doing, I'm doing half of what I
23 ought to be doing.

24 Q. I guess that just makes the depression
25 worse at that point, doesn't it?

1 A. Well, I'm not -- I don't want to do what
2 I'm doing to start with. So therefore I'm feeling
3 so bad I don't want to do it.

4 Q. Are you working just because obviously
5 you need to provide for your family?

6 A. Yes, sir. And I feel like I need to
7 provide for my father because he's helped me all
8 the years and now he's of age. He's 70 something
9 years old.

10 Q. Does he do any work now?

11 A. Yes, sir.

12 Q. You mentioned that you've got problems
13 with your right eye. Can you tell me what kind of
14 problems you have with your right eye?

15 A. I have spasms, just droopiness, weak,
16 waters.

17 Q. When you say droopiness, are you talking
18 -- is it your eyelid that droops?

19 A. I really don't know. It just -- it just
20 feels weak. I've had it checked. And my vision
21 is supposed to be pretty well normal.

22 Q. Okay. When you have a spasm in your eye
23 now does it change your vision in your eye?

24 A. No. It just irritates you with
25 quivering, jumping.

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1 Q. Is there anything that you do, any kind
2 of activity, that makes it come on?

3 A. No, sir.

4 Q. Just comes on whenever?

5 A. Right.

6 Q. And how long does the spasm last?

7 A. Might be on and off for 30 minutes.

8 Might last up to an hour and a half or two hours.

9 Q. Any other kind of problems other than
10 what you've just described for me with your right
11 eye?

12 A. No.

13 Q. Okay. Tell me about your left elbow.
14 Do you know when you started having problems with
15 your left elbow?

16 A. Probably I'm going to say -- I'm just
17 guesstimating. As well as I remember probably
18 eight to 14 months after my accident.

19 Q. Eight to 14 months?

20 A. That's correct.

21 Q. And what kind of problems did you begin
22 to have?

23 A. Just sore, fluid building up under it.

24 Q. And did any of your doctors see you for
25 your elbow?

1 A. Not right then they didn't.

2 Q. Okay. Do you know when they first
3 started treating your elbow?

4 A. I don't remember when my first treatment
5 for my elbow was.

6 Q. It would have been Dr. Green?

7 A. I believe that's right.

8 Q. Okay. What did Dr. Green do for your
9 left elbow?

10 A. He looked at it and I think he injected
11 it the first time with some cortisone to see if
12 that would help, but it did not. And I don't
13 think he x-rayed it.

14 Q. Is Dr. Green or Dr. O'Leary still
15 treating your elbow?

16 A. Yes, sir.

17 Q. Do you know what they diagnosed you
18 with?

19 A. They are not 100 percent sure, but they
20 think it's bursitis or --

21 Q. Okay. Tell me what kind of problems you
22 have with your left elbow.

23 A. Other than it getting sore, not being
24 able to bend it full -- extend it fully, and I
25 can't rest it on an arm rest or when you're

1 driving all during the day you can't -- you just
2 can't set your elbow on nothing.

3 Like right now I've got it on -- the
4 weight off my elbow. You just can't let your
5 elbow touch. If you're driving a vehicle, you
6 can't let it up on the window, put your weight on
7 it, like lay it up on this table. You've got to
8 keep your weight off of it at all times.

9 Q. Are you left-handed or are you
10 right-handed?

11 A. Right-handed.

12 Q. Does the problems with the elbow prevent
13 you from doing anything?

14 A. Driving. A lot of times it gets so bad
15 I have to drive with my right hand. Operating
16 equipment is the same way. You drive with your
17 left hand and you operate levers with your right
18 hand. And I've got to rotate. I have to use my
19 right hand for driving and using it with levers
20 and different things.

21 Q. Okay. Any other kind of problems that
22 it causes you other than driving?

23 A. That's about all with my elbow.

24 Q. And would you say you've had any loss of
25 use of your left elbow?

1 A. It's not really -- my elbow is not
2 really lost use of it, but it's causing me the use
3 of my arm because of me not being able to use my
4 arm as much like for driving or anything I'm doing
5 or strength-wise, pulling a wrench or something
6 like that. I just can't do it. I'm confined in
7 what I can do with it and what I can't do with it.

8 Q. Okay. Would you say that you have any
9 percentage loss of use of your left elbow?

10 A. Oh, sure.

11 Q. How much would you say?

12 A. I don't know how to judge that.

13 Q. Well, zero you've got full use of it and
14 100 percent you've got no use.

15 A. I'd say 40, 45 percent.

16 Q. Forty to 45 percent loss of use of
17 your --

18 A. Right.

19 Q. Okay. Tell me about your left
20 shoulder. What kind of problems do you have with
21 your left shoulder?

22 A. Now?

23 Q. Yes, sir.

24 A. Not being able to sleep all the time.
25 It throbs, aches.

1 Q. Do you know when the problems with your
2 left shoulder started?

3 A. Not exactly I don't.

4 Q. Would Dr. Green be the first doctor that
5 treated you for your left shoulder?

6 A. That's correct.

7 Q. And you mentioned he did some surgery on
8 your shoulder?

9 A. That's right.

10 Q. And this was after the accident?

11 A. That's right.

12 Q. Okay. Do you know what was the reason
13 they did surgery on you?

14 A. It become dislocated some. And I was on
15 crutches with my knee a good bit, my leg. When I
16 got on crutches it would irritate it.

17 Q. Okay. Where is it that you have pain in
18 your shoulder?

19 A. Right directly in my shoulder. My whole
20 -- all right in here even all the way up to my
21 neck.

22 Q. And that's where you said that you were
23 taking pain medication prescribed by Dr. Green for
24 the shoulder?

25 A. I think Dr. O'Leary is the one who give

1 me the pain medicine until I could see Dr. Green.

2 Q. And you said you don't recall what that
3 medication was?

4 A. No, sir.

5 Q. Other than the pain and inability to
6 sleep, what other kind of problems do you have
7 with your left shoulder?

8 A. Just being weak in it, that and my elbow
9 both together. And my left arm confines me to
10 what I can do and what I can't do.

11 Q. Okay. Is there any lifting involved in
12 your job?

13 A. Yes, sir.

14 Q. How much lifting is involved?

15 A. It's according to what you're doing. If
16 you're not driving a tractor, you might be
17 handling bags or jugs or --

18 Q. Bags of seed?

19 A. Right.

20 Q. Typically what's the maximum you would
21 have to lift?

22 A. About 50 pounds a bag, 50 to 60..

23 Q. And a jug would be some sort of
24 chemicals?

25 A. That's right.

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1 Q. And how much do these jugs weigh?

2 A. I'd say 35 to 40.

3 Q. Do you have any problems lifting the
4 bags of seed or the jugs?

5 A. Yes, I do.

6 Q. Okay. Do you have to get somebody to
7 help you?

8 A. Yes, sir.

9 Q. What would you say would be the maximum
10 amount of weight you could lift with your left
11 arm?

12 A. I don't know. If I'm toting two
13 five-gallon buckets of water and I pick both of
14 them up full, I can go to a certain extent and I
15 have to set my left bucket down. I can't tote it.
16 I can tote it with my right arm all day, but I
17 can't with my left.

18 Q. And how much does a five-gallon bucket
19 weigh?

20 A. I'm just saying if I've got -- I've
21 toted water before or something. And I'm just
22 saying I don't know what it weighed, but I'd say
23 it weighs 50 or 60 pounds.

24 Q. So you can do that for a short distance?

25 A. A short distance.

1 Q. Could you lift it over your head?

2 A. No.

3 Q. It would just be from the ground to
4 maybe waist level?

5 A. That's about right.

6 Q. Okay. Has Dr. O'Leary or Dr. Green
7 mentioned any further treatment for your shoulder?

8 A. Yes, sir.

9 Q. Okay. What have they mentioned?

10 A. Surgery.

11 Q. Okay. Do you know what's the reasoning
12 they want to do surgery?

13 A. Because my left tendon -- I don't know
14 what it is. It's the cord that comes up through
15 here is ruptured.

16 Q. Okay. So they want to do some surgery
17 to repair that?

18 A. Again. And my elbow.

19 Q. They want to do surgery on your elbow
20 too?

21 A. Right.

22 Q. Okay. When would be the last time you
23 saw Dr. O'Leary?

24 A. Dr. O'Leary, I'm guessing, probably two
25 and a half months ago.

1 Q. And that's when -- did you all discuss
2 surgery at that time?

3 A. He referred me back to Dr. Green because
4 Dr. Green had worked on it before. Because both
5 of them had a time with my knee. Dr. Green fixed
6 my knee the first time and he thought I was
7 carrying my weight wrong.

8 The second time he didn't think there
9 was nothing wrong with it, but then come to find
10 out in the MRI it was. So he wanted Dr. Green to
11 look at it the second time. And he fixed it the
12 second time. So my shoulder kind of got throwed
13 between around both of them too.

14 Q. Okay. When would be the last time you
15 saw Dr. Green?

16 A. I'm going to say last week.

17 Q. And that's when he discussed surgery on
18 your shoulder and your elbow?

19 A. That's right.

20 Q. Is that something that you want?

21 A. I'm going to have to have it fixed. I
22 don't want it, but I'm going to have to. I asked
23 if a medicine or sling or anything would fix it
24 and he said no.

25 Q. Okay. When you get paid do you get paid

1 on a weekly basis, every two weeks, or how do you
2 get paid?

3 A. I just get paid once a month.

4 Q. Do you know how much that is when you
5 get paid once a month?

6 A. Probably \$1,800.

7 Q. Okay. Other than that \$1,800 a month,
8 do you have any other kind of income at this time?

9 A. No.

10 Q. Are you getting a Workers' Comp check?

11 A. I was. I don't think I am now.

12 Q. Okay. Do you know when you last got a
13 Workers' Comp check?

14 A. No, sir. My wife can tell you.

15 Q. Other than these problems that we've
16 talked about, do you have any other kind of
17 problems which were not related to this accident
18 such as high blood pressure, problems with blood
19 sugar?

20 A. No, sir.

21 Q. So before this accident were you pretty
22 healthy?

23 A. Yes, sir.

24 Q. Were you taking any kind of medication
25 or anything before this accident?

1 A. No, sir. I take about every -- I've
2 tried about every kind of vitamin that you can
3 think of to take to maybe perk me up and make me
4 feel better. And I had to quit that because --
5 and it didn't start until I got hurt taking the
6 vitamins to feel better, but then it gives me the
7 gout and I can't take vitamins.

8 And you're welcome to come in my house
9 and look, but ever since my accident I have to be
10 in a recliner or I have to have pieces of brick
11 under the head of the bed. I cannot sleep in a
12 flat, flat position. I have got to be in a
13 reclined position with my head.

14 I had a pillow, she'll tell you, my
15 wife, for years -- I don't know. I bet it was 20
16 something years old, flat, flat, flat. She had
17 put new covers on it. And I had to do away with
18 it.

19 Now I've got a thick pillow and it's not
20 thick enough even with the stuff I've got under it
21 into the bed. And the doctors told me, I think,
22 when I first got to where I realized I was going
23 to the doctor and I was having a problem -- and I
24 don't know if it was something to do with my head
25 the reason I had to be in an inclined position.

1 Q. Is that because of your shoulder?

2 A. No. Because of my head.

3 Q. Okay. And when you were talking about
4 your problems that you had when you would move
5 from one spot to another is it basically you get
6 some dizziness if you make a change from either
7 lying down to sitting up or from sitting to
8 standing?

9 A. That's correct. I just get -- I call it
10 the staggers. It's not really -- you're not
11 dizzy. You're not going around. It's just going
12 and coming forward and backwards.

13 Q. Okay. So you think from your -- from
14 your left knee and leg that you've gotten as good
15 as you're going to get? I'm just asking you, not
16 what the doctor said.

17 A. I think I am, but I hope I'm not. After
18 the second surgery I thought I had it fixed. And
19 it's bothering me again. So that's the reason my
20 theory of thinking the way I think.

21 Q. Okay. Are you sitting most of the day
22 when you're working?

23 A. Yes, sir.

24 Q. That would be on a tractor?

25 A. Some days I'm sitting. Some days I'm

1 up, but when I'm on a tractor I'm sitting.

2 Q. I guess during -- in between growing
3 seasons is kind of your down time?

4 A. Between growing seasons?

5 Q. Yes, sir.

6 A. No. I would say this time of year is
7 when we our down time. I'd say from end of
8 November to middle of March is your most down
9 time. There's still plenty to do if you do it.
10 It's just that's as slack as you'll ever get.

11 Q. It's just the preventive maintenance
12 stuff that you're doing?

13 A. That's correct.

14 Q. Have you got problems getting in and out
15 of the tractor?

16 A. At times, but not all the time, but at
17 times I do.

18 Q. You said that your headaches are
19 constant. Do they -- does the pain get worse?

20 A. If I don't take nothing, it really does.

21 Q. Does it ever come to the point you have
22 to lay down?

23 A. Uh-huh.

24 Q. How often does that happen?

25 A. Yes, sir. I don't know how to put a

1 time frame on that, but I usually take something
2 with me every time I go. If I go out to the
3 field, I take something with me. I'm going to say
4 twice a week at least.

5 Q. And I think you said before that your
6 wife handles the financial part of your business?

7 A. Yes, sir.

8 Q. Does she also handle your family
9 finances as well?

10 A. Yes, sir.

11 Q. And you mentioned that hobbies or
12 activities, you said that you used to hunt. Any
13 other kind of hobbies or activities other than
14 hunting that you used to do that either now you're
15 limited in doing or you just don't do?

16 A. I just don't do. I used to fish a
17 little bit, but I just don't do it.

18 Q. Do you get out and do anything socially?

19 A. No.

20 Q. Before the accident did you get out and
21 do things socially?

22 A. Some.

23 Q. Do you go to church every Sunday?

24 A. Yes, sir. Try to do that yet.

25 Q. Are you involved in any other kind of

1 . church activities?

2 A. No, sir.

3 Q. Are you involved in any kind of clubs or
4 anything that you attend?

5 A. No, sir.

6 Q. So if you're not working, what typically
7 are you doing?

8 A. I really don't have no hobbies. She'll
9 tell you that.

10 Q. So if you're not working, are you just
11 sitting around the house?

12 A. That's main -- that would probably be
13 what I'm doing or either in the farm shop just
14 sitting around.

15 Q. It looks like you had the surgery on
16 your knee in January of this year; is that right?

17 A. I believe that's right.

18 Q. I've got January 26. Did Dr. O'Leary
19 take you out of work before you had the surgery?

20 A. No. Did he take -- excuse me. Would
21 you --

22 Q. Before that surgery, your second
23 surgery, did he take -- were you out of work when
24 you had that surgery?

25 A. Yes, sir.

1 Q. And then after the surgery, I assume, he
2 took you out of work?

3 A. Yes, sir.

4 Q. Do you know when he released you to go
5 back to work?

6 A. No, I don't.

7 Q. When you go into work are there records
8 showing that you -- what days that you worked?

9 A. No, sir. Because the way we -- it's all
10 family. I mean, it's my dad, me, and my youngest
11 son when he's not in school. He's out of school
12 in the evening. He helps. And then her, my wife.

13 Q. So you told me before you thought it was
14 about \$1,800 a month that you receive for your
15 salary?

16 A. Right.

17 Q. So do you get paid regardless if you
18 work or not?

19 A. Sometimes I do and sometimes I don't.
20 She -- I got -- mainly I got paid, but if -- I
21 could not work at times, but I had to get in a
22 truck and I had to oversee. Like Willie was
23 doing. I had to show him what to do, put him on
24 it.

25 And I would stay with someone all the

1 time even though I might have sat in the truck or
2 I wasn't able to work or didn't feel like
3 working. That's how I done it. I still had to
4 oversee if I did not manually work.

5 Q. Just kind of supervising?

6 A. Right. That's all I could do.

7 Q. But the records from the farm would show
8 when you were paid for what time periods?

9 A. Well, I was paid regardless because she
10 has to work now so I can afford health insurance.
11 And she drives a tractor. I mean, she might be
12 cutting stalks. If I couldn't do it, she done it.

13 I mean, one way or another -- my young
14 son, when he come in from school he done it. I
15 mean, one way or another it got done. Even though
16 I did not do it, it got done.

17 Q. And right now are you physically -- and
18 I'm saying in your current condition now are you
19 physically able to do your job as a farmer?

20 A. I can do it, but I can't do it 100
21 percent, no.

22 Q. And that's because of all the different
23 problems that you're having?

24 A. That's correct.

25 Q. Do you want to have some sort of

1 psychiatric counseling or treatment?

2 A. It probably would help, but -- it
3 probably would help me, but I don't know what
4 medication. I've tried several medications and it
5 just -- it's not helped me so far.

6 Q. But, I mean, is that something if it was
7 offered to you, would you want to have the
8 treatment?

9 A. I think I probably need to.

10 Q. Okay. And I assume that you filed tax
11 returns since this accident?

12 A. Yes.

13 Q. And you and your wife did a joint
14 return?

15 A. Yes, sir.

16 Q. And the memory problems that you have,
17 are they short-term memory problems or is it
18 long-term memory problems or both?

19 A. I would say both. Some things I just
20 don't remember. She can tell me something and
21 swore she told me. I have no idea. I've got
22 friends that tell me -- comment all the time that
23 I repeat myself. I tell them something four and
24 five times.

25 Q. Give me a minute here. I may be done.

1 (Off-the-record discussion.)

2 (A recess transpired.)

3 Q. (Mr. Martin) It's noted in the medical
4 records that showed you had some fractures to your
5 face, I think maybe your cheekbone. Do you have
6 any problems as a result of that now, the fracture
7 to your face?

8 A. Not unless that affects my eye. The
9 only problems I have is my headaches, my memory,
10 and my eye.

11 Q. And the surgery that you had in January
12 for your knee, was that paid for by your health
13 insurance?

14 A. Yes, sir.

15 Q. How about the rest of your medical
16 expenses, have they been paid by the Workers' Comp
17 carrier?

18 A. Most of them have, but maybe some
19 prescriptions might not be. And I had a bill back
20 in -- whenever I had my knee surgery that my
21 health -- I got -- I've had health insurance all
22 my life.

23 Well, she went to work so we could -- my
24 health insurance since the time of the accident,
25 I know you're not asking this, but I'll tell you

1 why, it went up outrageous. And she had to take a
2 job so we could afford health insurance because I
3 couldn't afford it.

4 We had -- I had an old policy that was
5 America Republic. It was my primary. When she
6 went to work she got insurance on me. And I kept
7 my old insurance in case something else happened.
8 When you go with a new company you are supposed to
9 be a year along before something happens again.

10 And when I had my last knee surgery my
11 primary insurance wouldn't pay the bill. They
12 said that they was secondary. And she had to get
13 on the phone a good bit. And Companion, which
14 she's got, said that they was my secondary.

15 And then my first primary insurance said
16 it was a clause in their policy said if I ever
17 went with a group, that they were secondary. And
18 they battled it out so long and we never got a
19 bill. We got a bill from Columbus, Georgia for
20 400 or 600 something dollars for the therapy.

21 And she called them and told them --
22 they didn't want to talk to her. They wanted to
23 talk to me because we never got a bill. Well,
24 they never was paid over it where I had my
25 rehabilitation at Lexington County because that

1 squabble between the two insurance companies was
2 too long that they couldn't file it then. And
3 that's a bill that I want to -- I want to go -- I
4 want to pay it myself because of I probably
5 wouldn't be as far with my knee as I am now.

6 Q. It looks like they did some I.Q. testing
7 on you. Dr. Wade did, I think?

8 A. That's right.

9 Q. From the mental standpoint, I guess,
10 from an intelligence standpoint do you feel that
11 is it just harder for you to think now?

12 A. I just get so confused. That's all I
13 can tell you. I mean, just simple things just
14 confuse me. It takes me awhile to figure anything
15 out.

16 Q. Like if you get too much information,
17 it's tough for you to process?

18 A. Well, if I read something, if I'm going
19 to put something together, I might have to read it
20 five or six times and it still -- I'm just still
21 confused. I just can't comprehend what I read.
22 It takes me longer.

23 Q. Did you have any problems reading or
24 comprehending before?

25 A. Not really.

1 Q. And again the surgery you had on your
2 shoulder would have been after this accident?

3 A. It was after this accident.

4 Q. Okay. And you believe that you injured
5 your shoulder in the accident?

6 A. I really don't know what I -- like I
7 say, I really -- and I hate to say it like this.
8 I really don't remember much. I don't know what
9 all I did hurt. It took me awhile to realize what
10 all was going on. Just like with my elbow and
11 all.

12 There was some neighbors there when I
13 got hurt. They walked inside the building and
14 they said from where I got hurt to where I was
15 blowed around like a horseshoe I was sitting up in
16 a rim of another big tire just slumped over and my
17 back and my shoulders and everything in it, but I
18 don't know.

19 And they picked me up and laid me on the
20 concrete. She was in the office. And my dad was
21 there, but none of them was right there when it
22 happened. They was all within 40 or 50 foot, but
23 they couldn't see right where I was at.

24 But my shoulder never did worsen or
25 bother me as much until after the accident. It

1 bothered me a little bit, but not enough to have
2 it fixed or have it seen about. Just like an ache
3 or small pain and that was it.

4 Q. And had you had any problems with your
5 left shoulder before the work accident?

6 A. Just maybe aches or a pain or so. It
7 wasn't worth seeing about having it fixed. And
8 then when I had my knee the first time being fixed
9 on crutches -- every time I got on crutches I told
10 Dr. Green that I didn't understand it because my
11 shoulder, it would just irritate it so bad when I
12 was on crutches.

13 MR. MARTIN: Okay. That's all I've got.

14 EXAMINATION

15 BY MR. ELLIOTT:

16 Q. Ricky, let me just ask you just a few
17 questions, if I may. With respect to your face,
18 do you have a scar up here in addition to your eye
19 condition?

20 A. Yeah.

21 Q. Just demonstrate to Mr. Martin. And the
22 court reporter will try to write down --

23 A. I've got a groove right here. You can
24 feel it with your hand. It jumps up and down.
25 It's an indention in my skull that lays right

1 across here where the rim got me.

2 MR. MARTIN: And that's at your
3 hairline?

4 THE WITNESS: Uh-huh.

5 Q. (Mr. Elliott) Now, with respect to the
6 shoulder -- let me back up a little bit. Your
7 memory, we talked about that a little bit. And I
8 don't mean to embarrass you, but I think sometimes
9 you can remember things and sometimes you can't
10 basically, correct? I mean, your memory is
11 uneven?

12 A. That's correct.

13 Q. And when you meet with your doctor such
14 as Dr. Green you tell them the information as best
15 you can recall it when you meet with them, don't
16 you?

17 A. That's correct.

18 Q. And if Dr. Green's records show that you
19 explained to him that your shoulder was much
20 worsened after the accident than before, Dr. Green
21 would be able to rely on your memory when you told
22 him that; is that correct?

23 A. That's right.

24 Q. And I think you have -- you're concerned
25 about your shoulder injury as a result of the

1 accident. Do you have surgery scheduled?

2 A. The 28th.

3 THE WITNESS: Is it the 28th, Roxanne,
4 or the 27th? The 28th.

5 MS. KNEECE: The 28th.

6 THE WITNESS: This month.

7 Q. (Mr. Elliott) So you have surgery for
8 your left shoulder and left elbow scheduled for
9 December 28?

10 A. That's right.

11 Q. Okay. And is Dr. Green going to do that
12 surgery?

13 A. That's right.

14 Q. And with respect to -- with respect to
15 your treatment, do you recall traveling to
16 Charleston to meet with a Dr. Wade?

17 A. I remember that.

18 Q. And do you recall that Dr. Wade
19 performed some testing on you and so forth and
20 wrote perhaps a couple of reports? Do you recall
21 that?

22 A. Uh-huh. Sure do.

23 Q. With respect to your bills, to your
24 knowledge, did the insurance company ever pay Dr.
25 Wade's bill, to your knowledge?

1 A. Not that I know of.

2 Q. All right. And you understand that for
3 the longest time they hadn't paid Dr. Wade's bill?

4 A. That's right.

5 Q. And do you recall that Dr. Wade
6 recommended that you get additional treatment from
7 a psychologist of some sort and he recommended Dr.
8 Larry Bergman? Do you recall that?

9 A. I do.

10 Q. And if I understand your testimony, it's
11 your desire to go be treated by Dr. Bergman as a
12 result of your accidental injury, your injuries
13 resulting from the accident?

14 A. That's right. And I'm pretty sure the
15 longer I sit here and think about it that I did
16 see Dr. Moore. What's her name? Moore, the lady
17 over here. It's been a good while back.

18 MR. ELLIOTT: I think that's all I have.

19 MR. MARTIN: I don't have anything
20 else.

21 Further Deponent sayeth not.

22 (Whereupon, the taking of the
23 deposition was ended at 11:52 a.m.)

24

25

CERTIFICATE OF REPORTER

I, Brad H. Thomas, Certified Realtime Reporter and Notary Public in and for the State of South Carolina, do hereby certify that I reported the deposition of RICKY KNEECE on the 17th day of December, 2004; that the witness was first duly sworn by me, and that the foregoing 73 pages constitute a true and correct transcription of my stenographic notes of the said deposition.

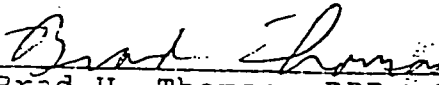
I further certify that I am neither attorney nor counsel for, nor related to or employed by any of the parties connected with this action, nor am I financially interested in said cause.

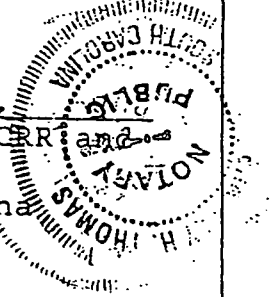
I further certify that the original of said transcript shall be sealed and delivered to Edwin P. Martin, Jr., Law Offices of The McKay Law Firm, 1330 Laurel Street, Columbia, South Carolina.

This sealed original transcript shall be retained by the above party who shall be responsible for filing same with the court prior to trial or any hearing which might result in a final order on any issue.

In witness whereof, I have set my hand and seal this 29th day of December, 2004.

My commission
expires 12/18/07


Brad H. Thomas, RPR, CRR and
Notary Public for the
State of South Carolina



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Subject: Kneece

Below is a request for a proposed decision and order.

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

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

**Ricky Kneece v Kneece Farms
SCWCC: 9920867
Commission Panel: Barden, Beck, Wilkerson; Chair
Order Assigned to Commissioner: Barden**

Mark D. Cauthen
Scott A. Elliott

Defendants//Appellants
Claimant/Respondent

NOTE NEW SERVICE REQUIREMENTS

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

The Commissioners find "a Claimant who can drive a "complicated" computer-operated tractor for fifty (50) hours per week has not sustained a physical brain injury. The Claimant sustained an injury pursuant to Regulation 67-1101. The Panel remands the matter to the Jurisdictional Commissioner for a decision with regard to permanency.

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

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

If you have any questions, please do not hesitate to email me at vcrocker@wcc.sc.gov or call at 803-737-5739.

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Mark Cauthen

From: Mark Cauthen [mcauthen@mckayfirm.com]
Sent: Thursday, March 10, 2011 1:00 PM
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Subject: FW: Ricky Kneece v. Kneece Farms (WCC #9920867)

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Sent: Thursday, March 10, 2011 10:13 AM
To: Scott Elliott; mcauthen@mckayfirm.com
Cc: Smith, Renee
Subject: Ricky Kneece v. Kneece Farms (WCC #9920867)

Attorneys,

Thank you both for your patience and willingness to mediate to try and resolve this case. Obviously, this was a very difficult, but legally interesting case. I have actually gone back and forth on this decision several times, but in any event, my final decision is below.

When submitting the proposed Order, it is required that you e-mail it to rgsmith@wcc.sc.gov in Word format. Please see all of Commissioner Williams' preferences at <http://wcc.sc.gov>.

1. I find the Claimant's wife to be a very credible witness. This finding is based on my observation of her and her testimony at the hearing. She testified truthfully and accurately (compared to the medical evidence) to her husband's limitations, both physically and psychologically. She also testified very honestly about the nature of the work Claimant is able to perform, and the fact that his family has essentially kept him working because he is family. She was often emotionally when honestly describing the fact that her husband is now only a "shell" of his former self.
2. While benevolent employment has not been specifically addressed by our courts, it has by North Carolina. As our Workers' Compensation Act was patterned after that of North Carolina, decisions of the North Carolina Courts in workers' compensation cases are given "great weight." See, e.g. Nelson v. Yellow Cab Co., 349 S.C. 589, 564 S.E.2d 110 (2002). "[A]n injured employee's earning capacity **must be measured not by the largesse of a particular employer, but rather by the employee's own ability to compete in the labor market.**" Peoples v. Cone Mills Corp., 316 N.C. 426, 437, 342 S.E.2d 798, 805 (1986). Thus, "the fact that an employee is capable of performing employment tendered by the employer is not, as a matter of law, an indication of plaintiff's ability to earn wages." Saums v. Raleigh Community Hosp., 346 N.C. 760, 765, 487 S.E.2d 746, 750 (1997). The rationale behind this is simple: proffered employment would not accurately reflect earning capacity if other employers would not hire the employee with the employee's limitations at a comparable wage level. The same is true if the proffered employment is so modified because of the employee's limitations that it is not ordinarily available in the competitive job market. The rationale behind the competitive measure of earning capacity is apparent. If an employee has no ability to earn wages competitively, the employee will be left with no income or reduced income should the employee's job be terminated. Peoples, 316 N.C. at 438, 342 S.E.2d at 806. See also, Baker v. Sam's Club, 589 S.E.2d 387 (N.C. App. 2003) (requiring Commission to make factual findings about the suitability of claimant's post-injury job with employer).
3. In order to be entitled to total and permanent disability workers' compensation benefits for a work injury, claimant must be unable to perform services other than those that are so limited in quality,

- dependence, or quantity that a reasonably stable market exists for them. Stone Container Corp., 355 S.C. 154, 584 S.E.2d 390 (Ct. App. 2003).
4. "Total disability" under the Workers' Compensation Act does not require complete, abject helplessness; rather it is an inability to perform services other than those that are so limited in quality, dependability, or quantity that no reasonably stable market exists for them. McCollum v. Singer Co., 300 S.C. 103, 386 S.E.2d 471 (Ct. App. 1989).
 5. Evidence that a workers' compensation claimant has been able to earn occasional wages or perform certain kinds of gainful work does not necessarily rule out a finding of total disability or require that it be reduced to partial. McCollum v. Singer Co., 300 S.C. 103, 386 S.E.2d 471 (Ct. App. 1989).
 6. I find that the job and work offered by the employer (which is on the Claimant's family farm) is sheltered employment and benevolent in nature. Claimant's wife gave credible testimony that no such job ordinarily exists, and I find that but for this being his family, the Claimant could not and would not be hired given his great cognitive and physical limitations. While he has been "working" and drawing a paycheck from the farm, this is only due to the largesse of his family; not because he performs in substantial, beneficial work for the farm.
 7. Based on the substantial weight of the medical evidence in this case, I find that the Claimant is permanently and totally disabled, with a physical brain injury, pursuant to § 42-9-10. There is essentially no evidence contradicting several doctors finding a physical brain injury. Moreover, due to the combination of his injuries (left knee, left shoulder, psychological), and the fact that his employment is found to be benevolent or sheltered in nature, I find that he is permanently and totally disabled and entitled to lifetime benefits.
 8. Defendants are responsible for reimbursement for all causally-related medicals to date, and for payment of medical care in the future.
 9. Claimant is entitled to lifetime medical treatment for his compensable injuries, to be directed by the authorized treating physicians.

INSTRUCTIONS: Order to be written by Attorney Scott Elliott by April 11, 2011. Please let our office know if you have difficulty obtaining a transcript or cannot complete the order within this timeframe. Draft the Order consistent with the above substance of the preceding Findings of Fact; however, you may add additional Findings of Fact consistent with the above ruling. The Order should also include biographical information, information regarding the Claimant's work history and previous medical history, if relevant to the case.

If you need a transcript, order it *immediately* from the court reporter, or contact my assistant, Renee Smith, in writing at P.O. Box 1715, Columbia, SC 29202-1715 or via e-mail at rgsmith@wcc.sc.gov. Provide a copy of the proposed Order to opposing counsel or *pro se* claimant before or at the same time one is submitted to the Commission. When submitting the proposed Order, please e-mail it to rgsmith@wcc.sc.gov.

Matters To Include In The Order:

1. APA Submissions
2. Stipulations
3. Statement of the Case (contentions of the parties, stated concisely)

4. Evidence of the Case (synopsis of the evidence, including testimony and medical reports)
5. Findings of Fact – numbered (Do NOT delete any of the above findings, however, the prevailing party may add to support the decision, except regarding credibility, unless I have instructed you to)
6. Conclusions of Law (cite applicable statutory sections and case law)
7. Award

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

Commissioner Derrick L. Williams

S.C. Workers' Compensation Commission

1333 Main Street, Suite 500

Columbia, SC 29201

dwilliams@wcc.sc.gov

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION
COMMISSION

WCC FILE NO. 9920867

Ricky Kneece,

Claimant,

LEGAL MEMORANDUM OF
EMPLOYER/CARRIER

vs.

Kneece Farms,

Employer

and

Legion Insurance Co. in liquidation
/SC Property & Casualty Insurance
Guaranty Association,

Carrier.

This hearing has been set to determine issues as set forth in Form 50 and Form 51. Claimant's Form 50 expressly alleges permanent total disability due to a General Disability; he has made no allegation of permanent total disability based on a Specific Disability. Accordingly, Claimant can only meet the requirements for permanent total disability through the General Disability standard. Total Disability based on a General Disability is governed by Section 42-9-10(A). This Subsection requires proof of loss of earning capacity. See *Stephenson v. Rice Services, Inc.*, 323 S.C. 113, 117-9, 473 S.E2d 699, 701-3 (1996) & *Fields v. Owens Corning Fiberglass*, 301 S.C. 554, 555, 393 S.E2d 172, 173 (1990). Therefore, a finding of Permanent Total Disability in favor of the Claimant would have to be based on diminished earning capacity. As explained below, the Claimant has not experienced a diminished earning capacity and, to the contrary, has continued to engage in his same employment at an increased income.

The Claimant has been provided treatment for admitted injuries to his brain, left lower extremity (knee) and left upper extremity (shoulder) which he sustained while working for the Defendant Employer, Kneece Farms, on or about November 22, 1999. The Claimant was found to have reached maximum medical improvement (MMI) for his left knee, and left upper extremity in 2004. He was given an impairment rating of 10% to his left lower extremity based on his knee injury component by the treating physician, Dr. James O'Leary, and an impairment

of 17% to the left upper extremity by treating physician Dr. Michael Green. The Claimant was found to have attained MMI for his physical brain injury in 2007. He was rated with an impairment of 22% to the whole person based on his cognitive deficits from his brain injury by Dr. Waid. He also received an impairment rating of 11% impairment to his psyche as determined by Dr. Lawrence Bergman Ph.D., LPC/S. However, any award based on an impairment rating to the psyche would be contrary to the Supreme Court of South Carolina's holding in *Fields*.

As to the indemnity benefits the Claimant is entitled for these injuries, per either §§42-9-10; -20 or 30, it is Defendant's position the Claimant could only be entitled to an award based on his ratings per §42-9-30 as he has suffered no partial or total wage loss on account of this injury. Furthermore, the greater weight of the evidence cannot support a finding that the Claimant is permanently totally disabled per the first or third paragraphs of §42-9-10 (now sections (A) & (C)). This is premised in large part on the fact that since the Claimant returned to work with Delano Kneece & Son Farms (a separate business entity from Kneece Farms) over half a decade ago, that: (1) He has worked well over 40 hours a week, every week since returning to work over five years ago; (2) He performs the same kind of work with similar, or the same responsibilities he had when he was injured in 1999; (Compare the Sept. 23, 2010 deposition transcript of the Claimant (at pp. 20-21) to his November 11, 2005 hearing testimony - each noting he works about six days a week spending 75% of his time driving a tractor, working 8-12 hours per day; (3) He has consistently earned the same or greater wages than when he was originally injured. (See Defendants' Exb. 6 and 19, tax records of the Claimant); (4) He continues as part owner of Delano Kneece & Son Farms; (5) Claimant signed a Form 17 agreeing that he was able to return back to work effective Oct. 04, 2005. (Defendants' Exb. No. 4). Furthermore, the amount of time Claimant missed from work was minimal. His accident occurred on November 22, 1999. Claimant's medical records show him as being released for regular duties as early as March 08, 2000 (APA No. 14, P.219) and admitting having returned to work full time prior to July 3, 2000 (APA No. 15, P.227).

The fact that the Claimant has been working for several years, doing the same work as he was doing prior to the accident, and with even greater income, countermands any argument that the Claimant is permanently totally disabled under a wage loss theory of recovery. "The rule in most states is that an employee who is capable of performing other work that is continuously available to him will not be deemed totally disabled because he is unable to resume the duties of the particular occupation in which he was engaged at the time of his injury." (*Wynn v. Peoples Natural Gas*, 238 S.C. 1, 118 S.E.2d 812 (S.C. 1961) Citing *Clark v. Henry & Wright Mfg. Co.*, 1950, 136 Conn. 514, 72 A. (2d) 489; *Frennier's case*, 1945, 318 Mass. 635, 63 N.E.2d 461; *Stillwater Worsted Mills, Inc. v. Beal*, R.I. 1959, 150 A.2d 704; *Larson's Workmen's Compensation Law*, Section 57.53). The *Wynn* court went on to state that, "[t]he generally accepted test of total disability is inability to perform services other than those that are 'so limited in quality, dependability, or quantity that a reasonably stable market for them does not exist.' *Id.* at 12; (internal citations omitted). However, in the case of *Wynn* the Supreme Court noted that:

[t]ested by these principles, the finding of total disability here cannot stand. Respondent's testimony to the effect that since his recuperation in the fall of 1958

he has not been able to do any work is belied by the agreed statement in the transcript that he 'began a limited return to his work about the middle of December, 1958, on an ever-increasing basis....;

Wynn at 13.

Unlike the claimant Wynn, who never sought additional work, after being terminated upon his original return to work post injury, the Claimant Ricky Kneece, has worked continuously ever since returning to full time work at his family farm over five years ago. Importantly, Ricky Kneece actually did return to the same vocation, farming, in which he was employed prior to the injury.

To the degree that a claim is made that additional employees have had to be hired by Delano Kneece & Son Farm in order to compensate for Ricky Kneece's shortcomings since returning to work, this is irrelevant to a determination of disability and has not been substantiated by the evidence. Claimant has submitted a list of expenditures. However, this list is devoid of any description of the nature of the expenditure. Furthermore, this has not effectuated a change in Mr. Kneece's own earnings - which appear to have increased since his injury.

If the argument is to be made that Ricky Kneece is actually permanently totally disabled, but his current employment is being provided "benevolently," or as "sheltered employment," the Defendants respond as follows. First, South Carolina has not adopted or recognized the doctrine of benevolent employment, either by statute or through judicial interpretation. Sheltered employment exists when the employment of a previously injured claimant is essentially a facade, and the claimant himself is not actually physically capable of earning any of the wages being paid by the employer. This can be done either as a sham to defeat a finding of permanent total disability against the defendant employer, or out of the employer's own benevolence. Florida has indentified this doctrine in the workers' compensation setting and has explained that, a worker's compensation claimant is not entitled to PTD benefits if he obtains "gainful employment" after a work-related injury. *Shaw v. Publix Supermarkets*, 609 So.2d at 684. However, in Florida, an employer is not permitted to create a position for a claimant, that is, to provide "sheltered employment," for the sole purpose of defeating a PTD claim. *Id.* In *Wal-Mart Stores, Inc. v. Liggon*, 668 So.2d 259, 271 (Fla. 1st DCA 1996), the court explained that the, "sheltered employment doctrine does not have a life of its own" but instead exists "to vindicate the legislatively imposed parameters of permanent and total disability."

Therefore, "[i]f an employer creates a job for an employee merely as a litigation tactic in a worker's compensation case, such a job cannot be said to constitute "gainful employment" as that term is used in section 440.15(1)(b), Florida Statutes. *Reasonable job modification for the purpose of accommodating an injured or partially disabled employee will not, however, place the job outside of the definition of gainful employment.* (emphasis added)

See also *Cooper v. Escambia County School Bd.*, 734 So.2d 1072, 1073 (Fla. 1st DCA 1999) ("The modifications the employer made in the claimant's job to accommodate her disability do not, as a matter of law, render it sheltered

employment so as to place this job outside of 'gainful employment' under section 440.15(1)(b), Florida Statutes (1989)').

Goodwill Indus. v. Heard, 863 So.2d 389, 390-391 (Fla. Dist. Ct. App. 1st Dist. 2003).

Notably, Mr. Ricky Kneece did not return to employment with the Defendant Employer in this claim – Kneece Farms – but rather, has returned to full time employment with a different employer, Delano Kneece & Son Farms, a business in which claimant Ricky Kneece was and is a part owner before and after his injury. Furthermore, Ricky Kneece has not been paid a wage for 'not working,' nor for performing only menial tasks with no value to the company for which he works. Much to the contrary, the Claimant has worked up to six days a week, from eight to thirteen hours a day, operating expensive, several ton, farm machinery for about three quarters of the time that he works. This is according to the Claimant's own deposition testimony taken in September of 2010.

Hence, with no evidentiary or legal basis for a factual substantiation or judicial presumption of permanent total disability, the fact that the claimant remains fully employed, at a pay rate above his average weekly wage for this claim, is unassailable evidence that he has not sustained a loss of earning capacity. Therefore, the appropriate remedy is to award the Claimant permanent partial disability benefits pursuant to §42-9-30 based on the injuries and impairment ratings to his affected body parts.¹ These are the Claimant's head, left upper and left lower extremities.

Respectfully submitted,

MCKAY, CAUTHEN, SETTANA & STUBLEY, P.A.

By:


Mark D. Cauthen
1303 Blanding Street
Post Office Box 7217
Columbia, South Carolina 29202-7217
(803) 256-4645

Attorney for Employer/Carrier

Columbia, South Carolina
February 14, 2011.

¹ The Claimant also alleges injury to his right eye. That is not an accepted part of this claim. The Claimant also conceded on p. 47 of his 9/23/2010 deposition that the problems alleged do not adversely affect his vision. (See S. C. Code of Reg. 67-1105 impairment ratings for the eye based on loss of vision).

Mark D. Cauthen
Daniel R. Settana, Jr.
M. Stephen Stubley

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Temus C. Miles, Jr.
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Meredith A. McMillan

February 11, 2011

VIA EMAIL & US MAIL

The Honorable Derrick L. Williams
Commissioner
S.C. Workers' Compensation Commission
P.O. Box 1715
Columbia, SC 29202-1715

RE: *Ricky Kneece v. Kneece Farms*
WCC File No: 9920867
DOI: 11/22/99
Claim No.: L16755
Our File No.: 5400-0032

Dear Commissioner Williams:

Enclosed please find Defendant's Third Amended Pre-hearing Brief and Amended APA Submissions in regard to the above-referenced matter. Also, Defendants will be relying on their previously submitted APA Submissions for the rescheduled hearing of February 14, 2011 at 2:00 p.m. in St. Matthews.

By copy of this letter to Scott Elliott, counsel for the claimant, I am serving him with the Amended Pre-hearing Brief and APA Submissions.

Very truly yours,



Mark D. Cauthen

MDC/msb

Enclosures

cc: Scott Elliott, Esquire (Via Email & US Mail)
Randy Mason



Claimant's Name: Ricky Kneece Employer's Name: Kneece Farms
Address: 204 Delano Kneece Road Address: 1752 Juniper Springs Road
City: Pelion State: SC Zip: 29123 City: Gilbert State: SC Zip: 29054
Home Phone: _____ Work Phone: () _____ Carrier: Legion Insurance Company in liquidation/SCPCIGA
Preparer's Name: Mark D. Cauthen, Esquire Preparer's Phone #: (803) 256-4645

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

☒ Injury ☐ Illness ☐ Repetitive Trauma

1. Compensation Rate: \$769.23 2. AWW: \$461.67 Date of Injury: 11/22/99
3. Type of injury and body part(s): Brain/head, left upper and left lower extremity and psychological
4. Facts in controversy: Extent of permanent disability; claimant's entitlement to additional medical treatment; whether claimant is permanently and totally disabled; credit for overpayment of temporary total benefits
5. Legal issues involved: See No. 4 & No. 6.
6. Unusual aspects: Defendants request cancellation or postponement of hearing due to claimant's non-compliance with 642-15-60 and 642-15-80 and to submit reports of Defendant's neuropsychological and vocational experts which were delayed due to claimant's non-compliance/failure to cooperate. Alternatively, Defendants request the record remain open for receipt of these reports as well as additional tax records not provided by claimant in response to subpoena.
7. Witnesses (designate if expert):* A Representative of the Employer/Carrier may be called to testify; Cynthia Grimley; the claimant; and any witnesses listed by the claimant. (The Defendants reserve the right to cross-examine any expert submitted by the claimant pursuant to 1-23-330(3). The Defendants reserve the right to amend their Pre-hearing brief upon receipt of additional information.
8. Exhibits: Deposition transcripts of the claimant dated 12/17/04 and 9/23/10; Deposition transcript of Roxanne Kneece dated 9/29/10; Deposition transcript of Dr. Lawrence Bergmann; Hearing transcript from 11/11/05; Form 17 signed 6/16/06; surveillance videos; Claimant's tax records from 1999 to 2006; Letter to Scott Elliott dated 12/7/10; Email from Scott Elliott dated 12/30/10; Letter to Janice Treisch/Dr. Tora Brawley dated 12/30/10; Letter from Dr. Tora Brawley dated 1/20/11; Letter to Scott Elliott dated 12/14/10; Letter from Cynthia Grimley dated 12/27/10; Form 27 to Scott Elliott dated 12/10/10; Letter to Scott Elliott dated 1/13/11; Letter to Scott Elliott dated 1/21/11; Letter from Scott Elliott dated 1/24/11; Letter from Cynthia Grimley dated 1/26/11; Claimant's tax records from 2007 to 2009; Letter to Scott Elliott dated 12/10/10; Cynthia P. Grimley CV; Letter to Big S Discount Pharmacy dated 2/11/11
9. Medical evidence (indicate report pursuant to R.67-612; deposition or appearance):
See APA Submissions. (Defendants will rely on Pre-Hearing Brief & APA Submissions previously submitted)
10. Name, address, and specialty, if any, of the treating physician: Dr. James O'Leary, Midlands Orthopaedics, 1910 Blanding Street, Columbia, SC 29201; Dr. Michael Green, Midlands Orthopaedics, 1910 Blanding Street, Columbia, SC 29201; Dr. Larry Bergmann & Dr. Roger Deal, Post Trauma Resources, 1709 Laurel Street, Columbia, SC 29201; Dr. Randy Waid, 222 West Coleman Blvd., Mt. Pleasant, SC 29464
11. Impairment rating(s); body part(s); physician and date of opinion: 10% impairment rating to left lower extremity, Dr. James O'Leary, 4/16/04; 17% impairment to left upper extremity, Dr. Michael Green, 9/23/04; 22% whole person as a result of neurocognitive deficits, Dr. Waid, 2/8/07; 11% psychiatric impairment, Dr. Lawrence Bergmann, 1/11/07
12. I am amending my Form 50/51 in the following manner: N/A

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

By: Mal D. [Signature]

Hearing: February 14, 2011 (Commissioner Williams)

Email: mcauthen@mckayfirm.com

Time needed for hearing:

3 Hours + depending on
number of witnesses to be
called by claimant

Self of ☐ Claimant ☒ Employer
Form # 58
'07

**3rd AMENDED
58**

PRE-HEARING BRIEF

13	USC Department of Neuropsychiatry & Behavioral Science-Dr. Tora Brawley	02/11/11	356-358

EXHIBITS:

TAB	
1	Deposition transcripts of Claimant dated 12/17/04 and 9/23/10
2	Deposition transcript of Dr. Lawrence Bergmann
3	Hearing transcript from 11/11/05
4	Form 17 signed 6/16/06
5	Surveillance videos
6	Claimant's tax records from 1999 to 2006
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15	Letter to Scott Elliott dated 1/13/11
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17	Letter from Scott Elliott dated 1/24/11
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20	Letter to Scott Elliott dated 12/10/10
21	Cynthia P. Grimley CV
22	Letter to Big S Discount Pharmacy dated 2/11/11

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

YOU ARE FURTHER HEREBY NOTIFIED that the originals of the documents referred herein, or photocopies received from said physicians/others, are being herewith forwarded to the South Carolina Workers' Compensation Commission, for insertion in the file of the South

Carolina Workers' Compensation Commission and inclusion into evidence on behalf of the employer/carrier.

YOU ARE FURTHER NOTIFIED that the following witnesses may be called on behalf of the employer/carrier:

A representative of the employer/carrier; the Claimant and any witnesses listed by the Claimant



Mark D. Cauthen
McKay, Cauthen, Settana & Stuble, P.A.
Post Office Box 7217
Columbia, South Carolina 29202-7217
(803) 256-4645

Attorneys for Defendant(s)

Columbia, South Carolina
February 11, 2011

Ricky Kneece v. Kneece Farms

WCC #: 9920867

DOI: 11/2299

Date of Hearing: February 14, 2011 (Commissioner Williams)

3RD AMENDED APA COVERSHEET

TAB	NAME OF PHYSICIAN/OTHER	DATE OF REPORTS	NO.
1	Palmetto Richland Memorial Hospital	11/22/99-11/27/99	242-285
2	The Eye Center-Dr. Rick Milne	02/29/00	286-287
3	Moore Orthopaedic Clinic-Dr. Bradley Presnal	01/09/01	288-292
4	Midlands Orthopaedics-Dr. Michael Ugino	11/05/01-11/21/01	293-296
5	Midlands Orthopaedics-Dr. Michael Green	10/04/04-03/20/06	297-300
6	Post Trauma Resources-Dr. Lawrence Bergmann	07/08/05-08/11/10	301-306
7	Lexington Medical Center	02/21/06	307
8	Post Trauma Resources-Dr. Roger Deal	02/28/06-08/11/10	308-319
9	Internal Medicine Associates-Dr. Carl White	09/20/07-07/23/08	320-324
10	SC Neurological Clinic-Dr. Julian Adams	05/14/08-05/28/08	325-329
11	Internal Medicine Associates-Dr. Christopher Wicker	12/04/09-04/23/10	330-333
12	Cynthia P. Grimley, MS, CRC, CCM, DABVE	02/11/11	334-355
13	USC Department of Neuropsychiatry & Behavioral Science-Dr. Tora Brawley	02/11/11	356-358

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Julius W. McKay, II
Mark D. Cauthen
Daniel R. Settana, Jr.
M. Stephen Stubley

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Temus C. Miles, Jr.
Brandon P. Jones
Meredith A. McMillan

February 10, 2011

The Honorable Derrick L. Williams
Commissioner
S.C. Workers' Compensation Commission
P.O. Box 1715
Columbia, SC 29202-1715

RE: *Ricky Kneece v. Kneece Farms*
WCC File No: 9920867
DOI: 11/22/99
Claim No.: L16755
Our File No.: 5400-0032

Dear Commissioner Williams:

Enclosed please find a 2nd Amended Pre-hearing Brief and 2nd Amended APA Submissions in regard to the above-referenced matter. Also, Defendants will be relying on their previously submitted APA Submissions for the rescheduled hearing of February 14, 2011 at 2:00 p.m. in St. Matthews.

By copy of this letter to Scott Elliott, counsel for the claimant, I am serving him with the 2nd Amended Pre-hearing Brief and 2nd Amended APA Submissions.

Very truly yours,



Mark D. Cauthen

MDC/msb
Enclosures

cc: Scott Elliott, Esquire
Randy Mason



Claimant's Name: Ricky Kneece Employer's Name: Kneece Farms
Address: 204 Delano Kneece Road Address: 1752 Juniper Springs Road
City: Pelion State: SC Zip: 29123 City: Gilbert State: SC Zip: 29054
Home Phone: _____ Work Phone: () - Carrier: Legion Insurance Company in liquidation/SCPCIGA
Preparer's Name: Mark D. Cauthen, Esquire Preparer's Phone #: (803) 256-4645

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

☒ Injury ☐ Illness ☐ Repetitive Trauma

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6. Unusual aspects: Defendants request cancellation or postponement of hearing due to claimant's non-compliance with 642-15-60 and 642-15-80 and to submit reports of Defendant's neuropsychological and vocational experts which have been delayed due to claimant's non-compliance/failure to cooperate. Alternatively, Defendants request the record remain open for receipt of these reports as well as additional tax records not provided by claimant in response to subpoena.
7. Witnesses (designate if expert):* A Representative of the Employer/Carrier may be called to testify; Cynthia Grimley; the claimant; and any witnesses listed by the claimant. (The Defendants reserve the right to cross-examine any expert submitted by the claimant pursuant to 1-23-330(3). The Defendants reserve the right to amend their Pre-hearing brief upon receipt of additional information.
8. Exhibits: Deposition transcripts of the claimant dated 12/17/04 and 9/23/10; Deposition transcript of Roxanne Kneece dated 9/29/10; Deposition transcript of Dr. Lawrence Bergmann; Hearing transcript from 11/11/05; Form 17 signed 6/16/06; surveillance videos; Claimant's tax records from 1999 to 2006; Letter to Scott Elliott dated 12/7/10; Email from Scott Elliott dated 12/30/10; Letter to Janice Treisch/Dr. Tora Brawley dated 12/30/10; Letter from Dr. Tora Brawley dated 1/20/11; Letter to Scott Elliott dated 12/14/10; Letter from Cynthia Grimley dated 12/27/10; Form 27 to Scott Elliott dated 12/10/10; Letter to Scott Elliott dated 1/13/11; Letter to Scott Elliott dated 1/21/11; Letter from Scott Elliott dated 1/24/11; Letter from Cynthia Grimley dated 1/26/11; Claimant's tax records from 2007 to 2009; Letter to Scott Elliott dated 12/10/10; Cynthia P. Grimley CV
9. Medical evidence (indicate report pursuant to R.67-612; deposition or appearance):
See APA Submissions. (Defendants will rely on Pre-Hearing Brief & APA Submissions previously submitted)
10. Name, address, and specialty, if any, of the treating physician: Dr. James O'Leary, Midlands Orthopaedics, 1910 Blanding Street, Columbia, SC 29201; Dr. Michael Green, Midlands Orthopaedics, 1910 Blanding Street, Columbia, SC 29201; Dr. Larry Bergmann & Dr. Roger Deal, Post Trauma Resources, 1709 Laurel Street, Columbia, SC 29201; Dr. Randy Waid, 222 West Coleman Blvd., Mt. Pleasant, SC 29464
11. Impairment rating(s); body part(s); physician and date of opinion: 10% impairment rating to left lower extremity, Dr. James O'Leary, 4/16/04; 17% impairment to left upper extremity, Dr. Michael Green, 9/23/04; 22% whole person as a result of neurocognitive deficits, Dr. Waid, 2/8/07; 11% psychiatric impairment, Dr. Lawrence Bergmann, 1/11/07
12. I am amending my Form 50/51 in the following manner: N/A

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

Signature: Mal D. Cauten

Email: mcauthen@mckayfirm.com

Date of hearing: February 14, 2011 (Commissioner Williams)

Time needed for hearing: 3 Hours + depending on
number of witnesses to be
called by claimant

On behalf of ☐ Claimant ☒ Employer
WCC Form # 58
Rev. 9/07

2nd AMENDED
58

PRE-HEARING BRIEF

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

Ricky Kneece,

Claimant,

vs.

Kneece Farms,

Employer,

and

Legion Ins. Co. in liquidation/SCPCIGA,

Carrier.

) BEFORE THE SOUTH CAROLINA
) WORKERS' COMPENSATION
) COMMISSION

) WCC FILE NO. 9920867

) **2nd AMENDED**

) NOTICE OF WITNESSES
) AND WRITTEN REPORT(S) PHYSICIAN
) OR OTHER EVIDENCE TO BE
) INTRODUCED ON BEHALF OF
) THE EMPLOYER/CARRIER

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION AND SCOTT
A. ELLIOTT, ESQUIRE, ATTORNEY FOR CLAIMANT:

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

TAB	NAME OF PHYSICIAN/OTHER	DATE OF REPORTS	NO.
1	Palmetto Richland Memorial Hospital	11/22/99-11/27/99	242-285
2	The Eye Center-Dr. Rick Milne	02/29/00	286-287
3	Moore Orthopaedic Clinic-Dr. Bradley Presnal	01/09/01	288-292
4	Midlands Orthopaedics-Dr. Michael Ugino	11/05/01-11/21/01	293-296
5	Midlands Orthopaedics-Dr. Michael Green	10/04/04-03/20/06	297-300
6	Post Trauma Resources-Dr. Lawrence Bergmann	07/08/05-08/11/10	301-306
7	Lexington Medical Center	02/21/06	307
8	Post Trauma Resources-Dr. Roger Deal	02/28/06-08/11/10	308-319
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10	SC Neurological Clinic-Dr. Julian Adams	05/14/08-05/28/08	325-329
11	Internal Medicine Associates-Dr. Christopher Wicker	12/04/09-04/23/10	330-333
12	USC Department of Neuropsychiatry & Behavioral	(to be submitted upon	

	Science-Dr. Tora Brawley	receipt)	
13	Cynthia P. Grimley, MS, CRC, CCM, DABVE	(to be submitted upon receipt)	

EXHIBITS:

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4	Form 17 signed 6/16/06
5	Surveillance videos
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12	Letter to Scott Elliott dated 12/14/10
13	Letter from Cynthia Grimley dated 12/27/10
14	Form 27 to Scott Elliott dated 12/10/10
15	Letter to Scott Elliott dated 1/13/11
16	Letter to Scott Elliott dated 1/21/11
17	Letter from Scott Elliott dated 1/24/11
18	Letter from Cynthia Grimley dated 1/26/11
19	Claimant's tax records from 2007 to 2009
20	Letter to Scott Elliott dated 12/10/10
21	Cynthia P. Grimley CV

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

YOU ARE FURTHER HEREBY NOTIFIED that the originals of the documents referred herein, or photocopies received from said physicians/others, are being herewith forwarded to the South Carolina Workers' Compensation Commission, for insertion in the file of the South

Carolina Workers' Compensation Commission and inclusion into evidence on behalf of the employer/carrier.

YOU ARE FURTHER NOTIFIED that the following witnesses may be called on behalf of the employer/carrier:

A representative of the employer/carrier; the Claimant and any witnesses listed by the Claimant



Mark D. Cauthen
McKay, Cauthen, Settana & Stubley, P.A.
Post Office Box 7217
Columbia, South Carolina 29202-7217
(803) 256-4645

Attorneys for Defendant(s)

Columbia, South Carolina
February 10, 2011

Ricky Kneece v. Kneece Farms

WCC #: 9920867

DOI: 11/2299

Date of Hearing: February 14, 2011 (Commissioner Williams)

2nd AMENDED APA COVERSHEET

TAB	NAME OF PHYSICIAN/OTHER	DATE OF REPORTS	NO.
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11	Internal Medicine Associates-Dr. Christopher Wicker	12/04/09-04/23/10	330-333
12	USC Department of Neuropsychiatry & Behavioral Science-Dr. Tora Brawley	(to be submitted upon receipt)	
13	Cynthia P. Grimley, MS, CRC, CCM, DABVE	(to be submitted upon receipt)	

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Julius W. McKay, II
Mark D. Cauthen
Daniel R. Settana, Jr.
M. Stephen Stubley

Law Offices
McKAY, CAUTHEN, SETTANA & STUBLEY, P.A.

P.O. Box 7217
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1303 Blanding Street
Columbia, South Carolina 29201

(1917-2008)
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Janet Brooks Holmes
Marcy J. Lamar
Erin M. Farrell
Peter P. Leventis
Ternus C. Miles, Jr.
Brandon P. Jones
Meredith A. McMillan

February 4, 2011

The Honorable Derrick L. Williams
Commissioner
S.C. Workers' Compensation Commission
P.O. Box 1715
Columbia, SC 29202-1715

RE: *Ricky Kneece v. Kneece Farms*
WCC File No: 9920867
DOI: 11/22/99
Claim No.: L16755
Our File No.: 5400-0032

Dear Commissioner Williams:

Enclosed please find an Amended Pre-hearing Brief and Amended APA Submissions in regard to the above-referenced matter. Also, Defendants will be relying on their previously submitted APA Submissions served on September 24, 2010 for the rescheduled hearing of February 14, 2011 at 2:00 p.m. in St. Matthews.

By copy of this letter to Scott Elliott, counsel for the claimant, I am serving him with the Amended Pre-hearing Brief and Amended APA Submissions.

Very truly yours,



Mark D. Cauthen

MDC/msb
Enclosures

cc: Scott Elliott, Esquire
Randy Mason



Claimant's Name: Ricky Kneece Employer's Name: Kneece Farms
Address: 204 Delano Kneece Road Address: 1752 Juniper Springs Road
City: Pelion State: SC Zip: 29123 City: Gilbert State: SC Zip: 29054
Home Phone: _____ Work Phone: () - Carrier: Legion Insurance Company in liquidation/SCPCIGA
Preparer's Name: Mark D. Cauthen, Esquire Preparer's Phone #: (803) 256-4645

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

☒ Injury ☐ Illness ☐ Repetitive Trauma

1. Compensation Rate: \$769.23 2. AWW: \$461.67 Date of Injury: 11/22/99
3. Type of injury and body part(s): Brain/head, left knee, left shoulder, left upper and left lower extremity and psychological
4. Facts in controversy: Whether claimant has reached MMI, if so, extent of permanent disability; claimant's entitlement to additional medical treatment; whether claimant is permanently and totally disabled; credit for overpayment of temporary total benefits
5. Legal issues involved: See No. 4.
6. Unusual aspects: **Defendants Motion to Compel Medical Evaluations and Vocational Evaluation and to Postpone Hearing will need to be ruled upon.**
7. Witnesses (designate if expert):* A Representative of the Employer/Carrier may be called to testify; Cynthia Grimley;; the claimant; and any witnesses listed by the claimant. (The Defendants reserve the right to cross-examine any expert submitted by the claimant pursuant to 1-23-330(3). The Defendants reserve the right to amend their Pre-hearing brief upon receipt of additional information.
8. Exhibits: Deposition transcripts of the claimant dated 12/17/04 and 9/23/10; Deposition transcript of Dr. Lawrence Bergmann; Hearing transcript from 11/11/05; Form 17 signed 6/16/06; surveillance videos; Claimant's tax records from 1999 to 2009; Deposition transcript of Roxanne Kneece; Letter to Scott Elliott dated 12/7/10; Email from Scott Elliott dated 12/30/10; Letter to Janice Treisch/Dr. Tora Brawley dated 12/30/10; Letter from Dr. Tora Brawley dated 1/20/11; Letter to Scott Elliott dated 12/14/10; Letter from Cynthia Grimley dated 12/27/10; Form 27 to Scott Elliott dated 12/10/10; Letter to Scott Elliott dated 1/13/11; Letter to Scott Elliott dated 1/21/11; Letter from Scott Elliott dated 1/24/11; Letter from Cynthia Grimley dated 1/26/11
9. Medical evidence (indicate report pursuant to R.67-612; deposition or appearance):
See APA Submissions. (Defendants will rely on Pre-Hearing Brief & APA Submissions previously submitted on 9/24/10)
10. Name, address, and specialty, if any, of the treating physician: Dr. James O'Leary, Midlands Orthopaedics, 1910 Blanding Street, Columbia, SC 29201; Dr. Michael Green, Midlands Orthopaedics, 1910 Blanding Street, Columbia, SC 29201; Dr. Larry Bergmann &, Dr. Roger Deal, Post Trauma Resources, 1709 Laurel Street, Columbia, SC 29201; Dr. Randy Waid, 222 West Coleman Blvd., Mt. Pleasant, SC 29464
11. Impairment rating(s); body part(s); physician and date of opinion: 10% impairment rating to left lower extremity, Dr. James O'Leary, 4/16/04; 17% impairment to left upper extremity, Dr. Michael Green, 9/23/04; 22% whole person as a result of neurocognitive deficits, Dr. Waid, 2/8/07; 11% psychiatric impairment, Dr. Lawrence Bergmann, 1/11/07
12. I am amending my Form 50/51 in the following manner: N/A

Date of hearing: February 14, 2011 (Commissioner Williams)

Time needed for hearing: 1 Hour

On behalf of ☐ Claimant ☒ Employer
ICC Form # 58
rev. 9/07

AMENDED 58

PRE-HEARING BRIEF

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

Ricky Kneece,

Claimant,

vs.

Kneece Farms,

Employer,

and

Legion Ins. Co. in liquidation/SCPCIGA,

Carrier.

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

) WCC FILE NO. 9920867
)
)
)

) **AMENDED**
) NOTICE OF WITNESSES
) AND WRITTEN REPORT(S) PHYSICIAN
) OR OTHER EVIDENCE TO BE
) INTRODUCED ON BEHALF OF
) THE EMPLOYER/CARRIER
)
)
)

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION AND SCOTT
A. ELLIOTT, ESQUIRE, ATTORNEY FOR CLAIMANT:

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

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12	USC Department of Neuropsychiatry & Behavioral	(to be submitted upon	

	<i>Science-Dr. Tora Brawley</i>	<i>receipt)</i>	
<i>13</i>	<i>Neurological Associates-Dr. Ben Bashinski</i>	<i>(to be submitted upon receipt)</i>	
<i>14</i>	<i>Cynthia P. Grimley, MS, CRC, CCM, DABVE</i>	<i>(to be submitted upon receipt)</i>	

EXHIBITS:

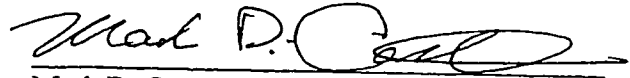
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YOU ARE FURTHER HEREBY NOTIFIED that you have the right to cross-examination; and, should you desire to exercise said right, you are to forthwith schedule the deposition(s) of any of the physicians or other person(s), whose reports are submitted, for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

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

YOU ARE FURTHER NOTIFIED that the following witnesses may be called on behalf
of the employer/carrier:

A representative of the employer/carrier; the Claimant and any witnesses listed by the
Claimant



Mark D. Cauthen
McKay, Cauthen, Settana & Stuble, P.A.
Post Office Box 7217
Columbia, South Carolina 29202-7217
(803) 256-4645

Attorneys for Defendant(s)

Columbia, South Carolina
February 4, 2011

Ricky Kneece v. Kneece Farms

WCC #: 9920867

DOI: 11/2299

Date of Hearing: October 4, 2010 (Commissioner Williams)

AMENDED APA COVERSHEET

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ELLIOTT & ELLIOTT, P.A.
ATTORNEYS AT LAW
1508 Lady Street
COLUMBIA, SOUTH CAROLINA 29201
sellott@elliottlaw.us

SCOTT ELLIOTT

TELEPHONE (803) 771-0555
FACSIMILE (803) 771-8010

January 28, 2011

Letter APAS

The Honorable Derrick L. Williams
SC Workers' Compensation Commission
P. O. Box 1715
Columbia, SC 29202-1715

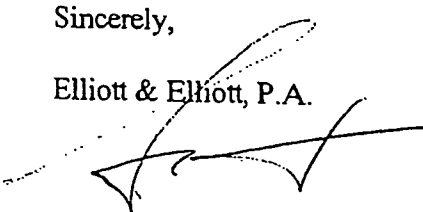
RE: Ricky Kneece vs. Kneece Farms
WCC No.: 9920867

Dear Commissioner Williams:

Enclosed for filing please find the Employee's Supplemental Form 58 and Notice of Witnesses in the above matter together with a Certificate of Service. By copy of this letter, I am serving counsel of record with a copy of this Supplemental Form 58, Notice of Witnesses, medical records and the Certificate of Service. I am enclosing an extra copy of the Supplemental Form 58, Notice of Witnesses and Certificate of Service which I would ask that you date stamp and return to me in the enclosed stamped self-addressed envelope.

Sincerely,

Elliott & Elliott, P.A.


Scott Elliott

SE/mlw

Enclosures

cc: Mark D. Cauthen, Esquire w/enc.

P.O. Box 1715 ♦ 1612 Marion Street
Columbia, South Carolina 29202-1715
SUPPLEMENTAL

Carrier Code #
Employer FEIN

148-N
57-0934134

Ricky Kneece
Claimant's Name
204 Delano Kneece Road Pelion SC 29123
Address City State Zip
803-894-3280
Home Phone #

SSN
Work Phone #
ELLIOTT & ELLIOTT, P.A.

Kneece Farms
Employer's Name
1752 Juniper Springs Road Gilbert SC 29054
Address City State Zip
Legion Insurance Company/SCIGA
Insurance Carrier
(803) 771-0555
Phone #

Preparer's Name

Provide the information requested in the space provided. Use an additional sheet, if necessary. Type or print all information.

[x] Injury by Accident [] Occupational Disease [] Both Injury by Accident and Disease [] Other

1. Date of accident: 11/22/99 AWW: 769.23 Comp. Rate: \$461.67
3. Type of Injury: brain/head, left knee, left shoulder, left elbow (left upper and lower extremities), left hand, teeth, nasal passage, sinus, zygomatic arch, scarring, eye
4. Facts in Controversy: See Attachment
5. Legal issues involved: See Attachment
6. Unusual problems:
7. Lay witnesses: Ricky Kneece, Roxanne Kneece; Janet Maerz, Cain Kneece, Delano Kneece, JD Kneece, Jewel M. Boone, Jr. and Phillip Barnhill
8. Exhibits: Mileage records, medical and pharmacy bill records; correspondence
9. Medical evidence: (indicate report pursuant to R.67-612; deposition or appearance) See Medical report submitted pursuant to the APA.
10. Name, address, and specialty, if any, of the treating physician: See Attachment
11. Impairment rating(s); body part(s); physician and date of opinion: 10% left lower extremity by Dr. O'Leary date 4/16/04; 17% to the left upper extremity by Dr. Michael Green date 9/23/04; 22% whole person as a result of neurocognitive deficits by Dr. Waid date 2/8/07; 11% psychiatric impairment to the whole person by Bergmann 1/11/07;

Signature
On Behalf of: [x] Claimant [] Employer
Hearing Date: February 14, 2011

January 28, 2011
Date

File this form and proof of service on the opposing party according to R.67-611 and R.67-2

WCC Form #58

Rev. Date 9/90

SECOND SUPPLEMENTAL

Pre-Hearing Br

ATTACHMENT FOR SECOND SUPPLEMENTAL FORM 58

In Re: Ricky D. Kneece

WCC File # 9920867

#4 Whether Claimant is totally and permanently disabled, and if totally and permanently disabled, whether Claimant is totally and permanently disabled within the meaning of Section 42-9-10(C); the amount of temporary total disability compensation due the Claimant; the amount of compensation due the Claimant for his total and permanent total disability; the Claimant's entitlement to continuing medical treatment; the amount Claimant is due for reimbursement for medical and pharmacy bills; the amount Claimant is due for reimbursement for mileage; and all other benefits to which Claimant is entitled under the South Carolina Workers Compensation Act.

#5 Claimant's total and permanent disability; Claimant's entitlement to all benefits under the South Carolina Workers Compensation Act, to include, but not limited to, compensation due Claimant for his temporary total disability, compensation due the Claimant for his total and permanent disability, lifetime benefits under the Act to include weekly disability payments and medical treatment for his total and permanent disability, reimbursement of mileage costs, reimbursement of medical and pharmacy bills and all other benefits to which Claimant is entitled under the South Carolina Workers Compensation Act.

STATE OF SOUTH CAROLINA)

COUNTY OF LEXINGTON)

Ricky Kneece,)

Claimant,)

vs.)

Kneece Farms,)

Employer,)

and)

Legion in liquidation,)

Carrier.)

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION
COMMISSION

WCC FILE NO.: 9920867

SECOND SUPPLEMENTAL NOTICE OF
WITNESSES AND WRITTEN REPORT(S)
PHYSICIAN OR OTHER EVIDENCE
TO BE INTRODUCED ON BEHALF
OF THE EMPLOYER/CARRIER

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION AND
MARK D. CAUTHEN, ESQUIRE ATTORNEY FOR CLAIMANT:

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

TAB	NAME OF PHYSICIAN/OTHER	DATE OF REPORTS	PAGE NO.
1.	Dr. William W. Stewart	9/16/10-12/31/04	1-5(5A-H)
2.	Dr. Charles Shissias	3/25/10-4/2/10, 10/29/10	6-9, 348-350
3.	Dr. L. Randolph Waid	04/15/02-2/8/07	10-25
4.	Dr. Lawrence Bergmann	3/15/05-5/5/10, 5/5/10-1/12/11	26-63, 334, 335-341
5.	Dr. Roger Deal	6/6/06-5/5/10, 6/22/10-12/9/10	64-95, 342-347
6.	Dr. Micheal S. Green	11/5/01-3/30/07	96-143
7.	Dr. James A. O'Leary	12/21/01-9/23/04	144-161
8.	Dr. Chrisopher Wicker	3/24/09-6/17/09	162-174

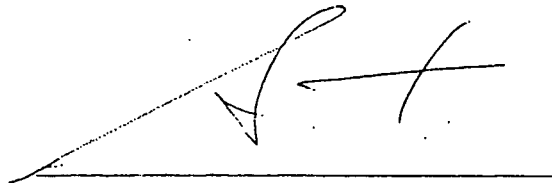
9.	Dr. Carl A White	3/13/01-11/16/08	175-184
10.	Dr. Devin Troyer	2/11/02-12/2/02	185-201
11.	Dr. Lenwood P. Smith	11/22/99-9/30/01	202-212
12.	Dr. Bradley P. Presnal	1/9/01	213-214
13.	Dr. Phillip E. Smith	9/22/01	215-217
14.	Dr. Frank R. Voss	12/1/99-7/26/00	218-224
15.	Dr. Linda S. Moore	7/3/00-8/21/00	225-230
16.	Dr. H. L. Rick Milne	12/3/99-2/1/00	231-233
17.	Lexington Medical Center	1/5/00-2/1/00, 11/19/10	234-237, 351-352
18.	Dr. Jean-Francois Lefaiivre	11/22/99-12/22/99	238-240
19.	Karen Shelton, RN	7/11/10	241
20.	Dr. Michael R. Ugino	11/22/10	353-354

EXHIBITS:

1. Mileage records
2. Medical and pharmacy bill records
3. Correspondence to Cauthen of
September 27, 2005
December 22, 2005
June 15, 2006
September 24, 2008
4. Employee Records

YOU ARE HEREBY NOTIFIED that the Claimant will rely upon the APA submissions submitted by the Defendants. You are further notified that the following witnesses may be called on behalf of the Claimant:

Ricky D. Kneece
Roxann Kneece
Cain Kneece
Delano Kneece
J.D. Kneece
Janet Maerz
Jewell M. Boone, Jr.
Phillip Barnhill

A handwritten signature in black ink, appearing to be 'S. Elliott', is written over a horizontal line.

Scott Elliott, Esquire
Elliott & Elliott, P.A.
1508 Lady Street
Columbia, SC 29201
803-771-0555
803-771-8010

Attorney for Claimant

Columbia, South Carolina
January 28, 2010

ELLIOTT & ELLIOTT, P.A.
ATTORNEYS AT LAW
1508 Lady Street
COLUMBIA, SOUTH CAROLINA 29201
selliott@elliottlaw.us

EX-100
COPY

SCOTT ELLIOTT

TELEPHONE (803) 771-0555
FACSIMILE (803) 771-8010

September 29, 2010

The Honorable Derrick L. Williams
SC Workers' Compensation Commission
P. O. Box 1715
Columbia, SC 29202-1715

RE: Ricky Kneece vs. Kneece Farms
WCC No.: 9920867

Dear Commissioner Williams:

Enclosed for filing please find the Employee's Supplemental Form 58 and Notice of Witnesses in the above matter together with a Certificate of Service. By copy of this letter, I am serving counsel of record with a copy of this Supplemental Form 58, Notice of Witnesses, medical records and the Certificate of Service. I am enclosing an extra copy of the Supplemental Form 58, Notice of Witnesses and Certificate of Service which I would ask that you date stamp and return to me in the enclosed stamped self-addressed envelope.

Sincerely,

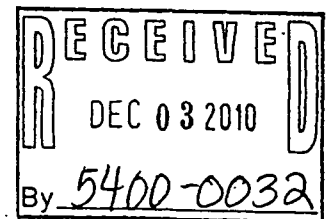
Elliott & Elliott, P.A.

Scott Elliott

SE/jcl

Enclosures

cc: Mark D. Cauthen, Esquire w/enc.



P.O. Box 1715 ♦ 1612 Marion Street
Columbia, South Carolina 29202-1715
SUPPLEMENTAL

Carrier Code # 148-N
Employer FEIN 57-0934134

Ricky Kneece
Claimant's Name
204 Delano Kneece Road Pelion SC 29123
Address City State Zip
803-894-3280
Home Phone #

Kneece Farms
Employer's Name
1752 Juniper Springs Road Gilbert SC 29054
Address City State Zip
Legion Insurance Company/SCIGA
Insurance Carrier

Work Phone #
ELLIOTT & ELLIOTT, P.A.
Preparer's Name
Phone # (803) 771-0555

Provide the information requested in the space provided. Use an additional sheet, if necessary. Type or print all information.

- [x] Injury by Accident [] Occupational Disease [] Both Injury by Accident and Disease [] Other
1. Date of accident: 11/22/99 AWW: 769.23 Comp. Rate: \$461.67
3. Type of Injury: brain/head, left knee, left shoulder, left elbow (left upper and lower extremities) teet nasal passage, sinus, zygomatic arch, scarring, eye
4. Facts in Controversy: See Attachment
5. Legal issues involved: See Attachment
6. Unusual problems:
7. Lay witnesses: Ricky Kneece, Roxanne Kneece, Janet Maerz, Cain Kneece, Delano Kneece, JD Kneece, Jewel M. Boone, Jr. and Phillip Barnhill
8. Exhibits: Mileage records, medical and pharmacy bill records; correspondence
9. Medical evidence: (indicate report pursuant to R.67-612; deposition or appearance) See Medical report submitted pursuant to the APA.
10. Name, address, and specialty, if any, of the treating physician: See Attachment
11. Impairment rating(s); body part(s); physician and date of opinion: 10% left lower extremity by Dr. O'Leary date 4/16/04; 17% to the left upper extremity by Dr. Michael Green date 9/23/04; 22% whole person as a result of neurocognitive deficits by Dr. Waid date 2/8/07; 11% psychiatric impairment to the whole person by Bergmann 1/11/07;

September 29, 2010
Date

Signature
On Behalf of: [x] Claimant [] Employer
Hearing Date: October 4, 2010

File this form and proof of service on the opposing party according to R.67-611 and R.67-

Pre-Hearing B

WCC Form #58 Rev. Date 9/90

SUPPLEMENTAL

ATTACHMENT FOR SUPPLEMENTAL FORM 58

In Re: Ricky D. Kneece

WCC File # 9920867

#4 Whether Claimant is totally disabled; the amount of temporary total disability compensation due the Claimant; the amount of compensation due the Claimant for his permanent total disability; the Claimant's entitlement to continuing medical treatment; the amount Claimant is due for reimbursement for medical and pharmacy bills; the amount Claimant is due for reimbursement for mileage; and all other benefits to which Claimant is entitled under the South Carolina Workers Compensation Act.

#5 Claimant's total and permanent disability; Claimant's entitlement to all benefits under the South Carolina Workers Compensation Act, to include compensation due Claimant for his temporary total disability, lifetime benefits under the Act to include weekly disability payments and medical treatment for his permanent total disability, reimbursement of mileage costs, reimbursement of medical and pharmacy bills and all other benefits to which Claimant is entitled under the South Carolina Workers Compensation Act.

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

Ricky Kneece,

Claimant,

vs.

Kneece Farms,

Employer,

and

Legion in liquidation,

Carrier.

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION
COMMISSION

WCC FILE NO.: 9920867

SUPPLEMENTAL NOTICE OF
WITNESSES AND WRITTEN REPORT(S)
PHYSICIAN OR OTHER EVIDENCE
TO BE INTRODUCED ON BEHALF
OF THE EMPLOYER/CARRIER

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION AND
MARK D. CAUTHEN., ESQUIRE ATTORNEY FOR CLAIMANT:

YOU ARE HEREBY NOTIFIED THAT THE Claimant, pursuant to the provisions of the
South Carolina Workers' Compensation Act and South Carolina Code Section 1-23-330
(1976, as amended), herewith submits the following reports/physicians or other evidence
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7.	Dr. James A. O'Leary	12/21/01-9/23/04	144-161
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9.	Dr. Carl A White	3/13/01-11/16/08	175-184
10.	Dr. Devin Troyer	2/11/02-12/2/02	185-201
11.	Dr. Lenwood P. Smith	11/22/99-9/30/01	202-212
12.	Dr. Bradley P. Presnal	1/9/01	213-214
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15.	Dr. Linda S. Moore	7/3/00-8/21/00	225-230
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18.	Dr. Jean-Francois Lefaiivre	11/22/99-12/22/99	238-240
19.	Karen Shelton, RN	7/11/10	241

EXHIBITS:

1. Mileage records
2. Medical and pharmacy bill records
3. Correspondence to Cauthen of
September 27, 2005
December 22, 2005
June 15, 2006
September 24, 2008
4. Employee Records

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Roxann Kneece
Cain Kneece
Delano Kneece
J.D. Kneece
Janet Maerz
Jewell M. Boone, Jr.
Phillip Barnhill



Scott Elliott, Esquire
Elliott & Elliott, P.A.
1508 Lady Street
Columbia, SC 29201
803-771-0555
803-771-8010

Attorney for Claimant

Columbia, South Carolina
September 29, 2010

Julius W. McKay, II
Mark D. Cauthen
Daniel R. Settana, Jr.
M. Stephen Stubley

Janet Brooks Holmes
Marcy J. Lamar
Cynthia K. Mason*
Erin M. Farrell
Peter P. Leventis
Temus C. Miles, Jr.
Meredith A. McMillan

*Also licensed in North Carolina

Law Offices
McKAY, CAUTHEN, SETTANA & STUBLEY, P.A.

P.O. Box 7217
Columbia, South Carolina 29202-7217

1303 Blanding Street
Columbia, South Carolina 29201

Douglas McKay, Jr.
(1917-2008)

Telephone
(803) 256-4645
Fax
(803) 765-1839
E-Mail
mms@mckayfirm.com
Web
www.mckayfirm.com

September 24, 2010

The Honorable Derrick L. Williams
Commissioner
S.C. Workers' Compensation Commission
P.O. Box 1715
Columbia, SC 29202-1715

RE: *Ricky Kneece v. Kneece Farms*
WCC File No: 9920867
DOI: 11/22/99
Claim No.: L16755
Our File No.: 5400-0032

Dear Commissioner Williams:

Enclosed please find the Pre-hearing Brief, Notice of Witnesses and APA Submissions on behalf of Defendants in the above-referenced claim.

By copy of this letter to Scott Elliott, counsel for the claimant, I am serving him with the Pre-hearing Brief and Notice of Witnesses and copies of all medical reports we intend to submit pursuant to the Administrative Procedures Act.

Very truly yours,

Mark D. Cauthen (P2)

Mark D. Cauthen

MDC/msb

Enclosures

cc: Scott Elliott, Esquire
Bill Morrison

COUNTY OF LEXINGTON

Claimant,

VS.

Kneece Farms,

Employer,

and

Legion Ins. Co. in liquidation/SCPCIGA.

Carrier.

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION
COMMISSION

WCC FILE NO. 9920867

NOTICE OF WITNESSES
AND WRITTEN REPORT(S) PHYSICIAN
OR OTHER EVIDENCE TO BE
INTRODUCED ON BEHALF OF
THE EMPLOYER/CARRIER

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION AND SCOTT
A. ELLIOTT, ESQUIRE, ATTORNEY FOR CLAIMANT:

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

TAB	NAME OF PHYSICIAN/OTHER	DATE OF REPORTS	NO.
1	Palmetto Richland Memorial Hospital	11/22/99-11/27/99	242-285
2	The Eye Center-Dr. Rick Milne	02/29/00	286-287
3	Moore Orthopaedic Clinic-Dr. Bradley Presnal	01/09/01	288-292
4	Midlands Orthopaedics-Dr. Michael Ugino	11/05/01-11/21/01	293-296
5	Midlands Orthopaedics-Dr. Michael Green	10/04/04-03/20/06	297-300
6	Post Trauma Resources-Dr. Lawrence Bergmann	07/08/05-08/11/10	301-306
7	Lexington Medical Center	02/21/06	307
8	Post Trauma Resources-Dr. Roger Deal	02/28/06-08/11/10	308-319
9	Internal Medicine Associates-Dr. Carl White	09/20/07-07/23/08	320-324
10	SC Neurological Clinic-Dr. Julian Adams	05/14/08-05/28/08	325-329
11	Internal Medicine Associates-Dr. Christopher Wicker	12/04/09-04/23/10	330-333

EXHIBITS:

TAB	
1	Deposition transcripts of Claimant dated 12/17/04 and 9/23/10
2	Deposition transcript of Dr. Lawrence Bergmann
3	Hearing transcript from 11/11/05
4	Form 17 signed 6/16/06
5	Surveillance videos
6	Claimant's tax records from 1999 to 2006
7	Deposition transcript of Roxanne Kneece (to be submitted upon receipt)

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

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

YOU ARE FURTHER NOTIFIED that the following witnesses may be called on behalf of the employer/carrier:

A representative of the employer/carrier; the Claimant and any witnesses listed by the Claimant

Mark D. Cauthen (P22)

Mark D. Cauthen
McKay, Cauthen, Settana & Stublely, P.A.
Post Office Box 7217
Columbia, South Carolina 29202-7217
(803) 256-4645

Attorneys for Defendant(s)

Columbia, South Carolina
September 24, 2010

Ricky Kneece v. Kneece Farms

WCC #: 9920867

DOI: 11/2299

Date of Hearing: October 4, 2010 (Commissioner Williams)

APA COVERSHEET

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ELLIOTT & ELLIOTT, P.A.

ATTORNEYS AT LAW

1508 Lady Street
COLUMBIA, SOUTH CAROLINA 29201
selliott@elliottlaw.us

TELEPHONE (803) 771-0555
FACSIMILE (803) 771-8010

SCOTT ELLIOTT

September 17, 2010

The Honorable Derrick L. Williams
SC Workers' Compensation Commission
P. O. Box 1715
Columbia, SC 29202-1715

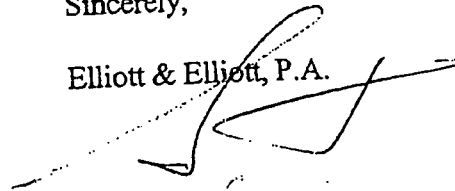
RE: Ricky Kneece vs. Kneece Farms
WCC No.: 9920867

Dear Commissioner Williams:

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Sincerely,

Elliott & Elliott, P.A.



Scott Elliott

SE/jcl

Enclosures

cc: Mark D. Cauthen, Esquire w/enc.

South Carolina Workers' Compensation Commission

P.O. Box 1715 ♦ 1612 Marion Street
Columbia, South Carolina 29202-1715

Carrier File #

Carrier Code #

Employer FEIN

Ricky Kneece		Kneece Farms	
Claimant's Name	SSN	Employer's Name	
204 Delano Kneece Road Pelion SC 29123		1752 Juniper Springs Road Gilbert SC 29054	
Address	City State Zip	Address	City State Zip
803-894-3280		Legion Insurance Company/SCIGA	
Home Phone #	Work Phone #	Insurance Carrier	
ELLIOTT & ELLIOTT, P.A.		(803) 771-0555	
Preparer's Name		Phone #	

Provide the information requested in the space provided. Use an additional sheet, if necessary. Type or print all information.

☒ Injury by Accident ☐ Occupational Disease ☐ Both Injury by Accident and Disease ☐ Other

- Date of accident: 11/22/99 AWW: 769.23 Comp. Rate: \$461.67
- Type of Injury: brain/head, left knee, left shoulder, left elbow (left upper and lower extremities) tear nasal passage, sinus, zygomatic arch, scarring, eye
- Facts in Controversy: See Attachment
- Legal issues involved: See Attachment
- Unusual problems: _____
- Lay witnesses: Ricky Kneece, Roxanne Kneece, Janet Maerz, Cain Kneece, Delano Kneece, JD Kneece, Jewel Boone, Jr. and Phillip Barnhill
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- Name, address, and specialty, if any, of the treating physician: See Attachment
- Impairment rating(s), body part(s); physician and date of opinion: 10% left lower extremity by Dr. O' date 4/16/04; 17% to the left upper extremity by Dr. Michael Green date 9/23/04; 22% whole person as a result of neurocognitive deficits by Dr. Waid date 2/8/07;

Signature
On Behalf of: ☒ Claimant ☐ Employer

September 17, 2010
Date

Hearing Date: October 4, 2010

File this form and proof of service on the opposing party according to R.67-611 and R.67

WCC Form #58 Rev. Date 9/90

Pre-Hearing

ATTACHMENT FOR FORM 58

WCC File # 9920867

In Re: Ricky D. Kneece

#4 Whether Claimant is totally disabled; the amount of temporary total disability compensation due the Claimant; the amount of compensation due the Claimant for his permanent total disability; the Claimant's entitlement to continuing medical treatment; the amount Claimant is due for reimbursement for medical and pharmacy bills; the amount Claimant is due for reimbursement for mileage; and all other benefits to which Claimant is entitled under the South Carolina Workers Compensation Act.

#5 Claimant's total disability; Claimant's entitlement to all benefits under the South Carolina Workers Compensation Act; compensation due Claimant for his temporary total and permanent total disability under the South Carolina Workers Compensation Act;

STATE OF SOUTH CAROLINA)

COUNTY OF LEXINGTON)

Ricky Kneece,)

Claimant,)

vs.)

Kneece Farms,)

Employer,)

and)

Legion in liquidation,)

Carrier.)

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION
COMMISSION

WCC FILE NO.: 9920867

NOTICE OF WITNESSES
AND WRITTEN REPORT(S) PHYSICIAN
OR OTHER EVIDENCE TO BE
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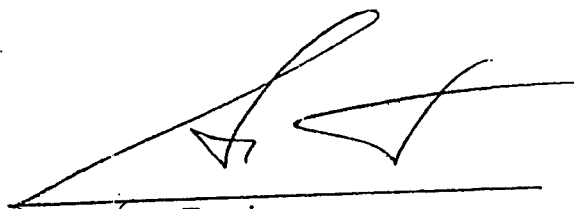
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Phillip Barnhill



Scott Elliott, Esquire
Elliott & Elliott, P.A.
1508 Lady Street
Columbia, SC 29201
803-771-0555
803-771-8010

Attorney for Claimant

Columbia, South Carolina
September 17, 2010

VOCATIONAL AND REHABILITATION SERVICES

(803) 708-4784

Dr. William W. Stewart

Cell (803) 446-5162

2027 Taylor Street

P. O. Box 11688

stewartrcrehab@live.com

Columbia, SC 29204

Columbia, SC 29211-1688

September 16, 2010

CONFIDENTIAL - FOR PROFESSIONAL USE ONLY

UPDATE

VOCATIONAL and REHABILITATION EVALUATION

Delano Ricky Kneece
204 Delano Kneece Rd.
Pelion, SC 29123

Lexington County

SSN: [REDACTED]

DOB: [REDACTED]

Age: 50 years 7 months

Telephone: (803) 894-3280

Additional Evaluation Procedures

Update clinical occupational and rehabilitation interview with Mr. Kneece.
Clinical interview with Mrs. Roxanne Kneece.
Review of medical records from Dr. Christopher Wicker, Internal Medicine Associates.
Review of psychiatric records from Dr. Roger Deal, Post Trauma Resources.
Review of professional/trauma counseling records from Dr. Lawrence Bergmann, Post Trauma Resources.
Review of neurological records from Dr. Charles Shissias, Lowcountry Medical Group.

Background Information

Mr. Kneece's employment situation has not changed since he was originally evaluated in 2004; that is, he continues to work, as best he can, as a farmer/owner/operator with Delano Kneece & Son, a farm supply and farming operation in Pelion, SC. He has now been with this company for over thirty-four (34) years, having worked with this farming operation all of his life and full-time since he was in the 10th grade in 1976. His 23-year-old son is now doing many of the job tasks/chores he had performed before he was injured in this work-related accident, and his wife continues to do the bookwork and she now orders many of the materials and supplies needed (please see prior report dated December 31, 2004 for details of Mr. Kneece's work-related injuries, required medical/

Page 2

neurological/orthopedic surgical/dental/psychiatric/neuropsychological/psychological care and treatment, and for details of his work before and at the time of his injuries and his work after his injuries.

Mr. Kneee continues to have to take multiple prescribed medications. He is taking prescribed medications for emotional lability (Seroquel), stress/sleep disturbance/insomnia (Valium, Trazadone and/or Relafen), depression (Effexor), diabetes mellitus (Metformin), hypertension (Lisinopril, and Clonidine HCL/Catapres), thyroid (Synthroid), gout (Mobic), breathing/bronchitis (Singulair), and for low sex drive (Testosterone). Additionally, he is taking over the counter medications for headaches (Ibuprofen, and Goody Powders, urinary frequency and leakage (Zinc), elevated cholesterol (CoQ10). And, he continues to use a C-PAP machine for his breathing/snoring problems.

At the time of this update evaluation, Mr. Kneee remains under the care and treatment of Dr. Wicker, Dr. Shissias, Dr. Deal and Dr. Bergmann.

In a neurological report dated 4/02/10, Dr. Shissias stated "...see patient Ricky Kneee in our office... for an opinion regarding diagnosis and treatment of headaches, memory difficulties and insomnia... 1. Headache... chronic daily headache since TBI in 1999 (hit by locking ring tire and experienced R frontal lobe injury/R supraorbital f/x. Pain is bifrontal throbbing/nagging, +phonophobia, +dizziness... 2. Memory loss. Pt has been having trouble with memory since head injury. Wife describes Pt as prone to getting off on tangent in conversation. States talking to him impairs his ability to get anything done. Can average 2600 min/month on cell phone. Wife is having to make more decisions to keep family farm running... 3. Depressed mood. Has been on antidepressants due to difficulty with maintaining any positive mood. Has lost interest in many activities such as hunting/fishing. Seeing Dr. Deal for psychiatric treatment... Pt with complicated presentation. Feel this is Organic Brain Syndrome (OBS) secondary to traumatic brain injury (TBI). Pt has fragmented sleep, chronic daily headaches, and chronic disturbance of mood. He is unable to make major decisions without input from wife, his primary caregiver. Believe that without her, he would require legal guardian or payee to manage his affairs. Will defragment sleep with Seroquel and have pt undertake a 10 day headache detox to rule out rebound as a possible etiology for chronic daily headaches. Will likely then try to reduce post-traumatic headaches with Trileptal BID via titration... Memory loss... Late effect of injury to other and unspecified ner... Unspecified persistent mental disorders due to con..."

In a psychiatric progress noted dated 5/05/10, Dr. Deal reported "...He has been given another medicine for headaches which so far seems helpful. He feels he is doing better taking the Valium most nights though sometimes he misses if he comes home late. He is skeptical about taking the Valium late at night but I think this is not likely to leave him oversedated like the Trazadone does... Remains symptomatic, with sleep disruption,

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irritability and poor memory and concentration...Medications...Valium...Effexor... Trazadone...He is going to continue to work on the headache control with Dr. Shissias. He will take the Valium every night and take variable doses on the Trazadone depending on the time he goes to bed..."

On 4/14/10, Dr. Deal had stated "...reports that headaches remain very troublesome, often interfering with his concentration and leading to mistakes in his work...also has consulted with Dr. Shissias, a neurologist, who has prescribed Seroquel and Relafen. He is oversedated when he takes the Seroquel but is trying the Relafen without much relief so far... he is very worried about his family, especially his son who has been injured at work and is having to live back at home, dealing with pain and frustration about not being able to work. His wife has been under stress as well, which also concerns him. He is usually taking the Valium and Trazadone if he gets to bed early enough and feels it is helpful but getting good sleep seems to have little effect on the headaches...Response to Interventions: More symptomatic, especially with impaired concentration and memory...Medication Plan: Continue current medicines, trying to make sure he takes the Valium every night and continue the trial of medicines prescribed by Dr. Shissias for headache control..."

In a professional/trauma counseling progress note dated 5/05/10, Dr. Bergmann stated "...reported some improvement in headaches with new medication, reported that stressors with family are somewhat improved...reviewed his use of medication and especially the new meds he is receiving from the neurologist..."

Review of medical/neurological/psychiatric/professional/trauma counseling records reveal the Mr. Kneese will require ongoing care and treatment to include follow-up office visits, prescribed medications and monitoring of the prescribed medications.

Behavioral observations of Mr. Kneese revealed considerable irritability/frustration, marked stress and depression, markedly flat/sad affect and depressed mood, memory problems, concentration/mental focus problems, chronic pain problems involving his head, right front of his head, left front of his head, mouth, left shoulder, left elbow and left knee, and he exhibited poor eye contact.

He described ongoing symptoms and problems and limitations and the reasons he cannot work as he could before he was injured on 11/22/99, as including headaches, fatigue/tiredness, poor memory, concentration and mental focus problems, frustration, anger/emotional blowups, and problems sleeping. He also described loss of an intimate/sexual relationship with his wife.

Interview with Mrs. Kneese revealed that Mr. Kneese has significant problems staying on task, forgets, repeats himself, will make notes of things he needs to do but will then lose/misplace the notes, has lost three sets of keys, becomes quite frustrated and angry,

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and that he has lost his sexual drive. Mrs. Kneece also reported that because of Mr. Kneece's injuries and ongoing problems and limitations they have had to hire their son to organize and perform most of the work in the business/farm, that they have also had to hire a helper, and that they are about to have to hire their other son to work in the operation of the business/farm.

Summary, Impressions and Conclusions

Based on Mr. Kneece's update evaluation, involving an update clinical occupational and rehabilitation interview and review of the above referenced additional evaluation procedures, it is concluded that his vocational or employability status has not improved since his original vocational and rehabilitation evaluation on 3/15/04, with report dated 12/31/04. Actually, it is concluded that Mr. Kneece's ability to work gainfully has deteriorated significantly since he was originally evaluated.

Certainly, Mr. Kneece is fortunate to have his current job, albeit a benevolent and sheltered employment situation, and that in an open, competitive labor market he would find himself vocationally disabled and unable to work gainfully.

This vocational opinion is consistent with the mental, emotional and physical problems and limitations and the combination of those mental/cognitive, emotional and physical conditions and the findings and opinions contained in the medical/neurological/psychiatric/professional/trauma counseling records, the number of years/length of time his problems and limitations have continued, the multiple prescribed medication he continues to have to take, the deterioration in his overall ability to work and be productive and need for help from others, and Dr. Shiggins' statement concerning "...He is unable to make major decisions without input from wife, his primary caregiver. Believe that without her, he would require legal guardian or payee to manage his affairs..."

That is, based on Mr. Kneece's original and update vocational and rehabilitation evaluations it is concluded that to a reasonable degree of vocational and rehabilitation certainty he is permanently and totally disabled in terms of performing his past job as a farmer/owner/operator of a farm supply and farming operation, or any other kind of job or gainful employment on a reliable, sustained basis.

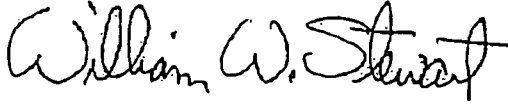
Recommendations for Mr. Kneece continue to include continued medical care, medical pain management care, neurological care, psychiatric care and professional/trauma counseling care, continued prescribed medications, and medical case management services to coordinate his care/needs.

Please let me know if I can provide any additional information or be of further assistance

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Page 5

from vocational or rehabilitation standpoints. And, if needed, I would be glad to see Mr. Kneece again.

A handwritten signature in cursive script that reads "William W. Stewart".

Dr. William W. Stewart, CRC, CVE, LPC
Board Certified Rehabilitation Counselor
Board Certified Vocational Evaluator
Licensed Profession Counselor
Professor of Rehabilitation Counseling (USC, Retired 6/30/09)

5



UNIVERSITY OF SOUTH CAROLINA
SCHOOL OF MEDICINE
UNIVERSITY SPECIALTY CLINICS

December 31, 2004

CONFIDENTIAL - FOR PROFESSIONAL USE ONLY

PRELIMINARY
VOCATIONAL AND REHABILITATION EVALUATION

Delano Ricky Kneece
204 Delano Kneece Rd.
Pelion, Sc 29123

Lexington County

Date of Evaluation: 3/15/04

SSN: 250-11-3236

DOB:

Age: 44 years

Marital Status: Married, two children ages 20 and 17 years

Hand Dominance: Right

Telephone: 803-894-3280

Gender: Male

Race: Caucasian

REFERRAL

Mr. Delano Ricky Kneece was referred for evaluation by attorney Scott Elliott, with Elliott & Elliott, P.A. The evaluation was requested to determine Mr. Kneece's vocational potential, ability to work/employability status, and ability to earn/earnings capacity concerning significant work-related injuries to his head/brain, face/right cheek, mouth/teeth, left shoulder, left elbow, left leg and knee, with related cognitive and behavioral problems, headaches and chronic pain problems, sustained on 11/22/99 while he was working as a farmer/owner/operator of Delano Kneece & Son, a farm supply and faring operation, in Pelion, SC. At the time of his injuries he was working on a major grader tire, putting air in the tire, the tire exploded and the steel rim hit him, knocking him unconscious.

His diagnoses have included closed head injury/traumatic physical brain injury, nondepressed skull fracture, scalp laceration, cognitive disorder secondary to traumatic brain injury, personality change due to traumatic brain injury labile type, headaches,

NEUROPSYCHIATRY
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15 Medical Park, Suite 100, Columbia, SC 29209
803-434-4300, FAX 803-434-4351

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olecranon bursitis left elbow, left shoulder instability, intraarticular left biceps tendon rupture, nondisplaced femoral condyle fracture left leg, tear of anterior horn left knee medial meniscus, left knee medial shelf plica, Grade 2 chondrosis of extension zone medial femoral condyle, medial meniscal cyst, laceration left knee, minimally displaced facial fractures, fractured upper left cuspid, right central incisor and lower left second bicuspid, chronic pain, and depression.

After being injured, Mr. Kneece had to have surgery on his left shoulder, an arthroscopic Bankart/capsular shift left shoulder, arthroscopic thermal capsular shrinkage augmentation, arthroscopic synovectomy on 11/15/01, performed by Dr. Michael S. Green. Mr. Kneece is scheduled to have a second surgery on his left shoulder, which will also be performed by Dr. Green.

He also had to have two surgeries on his left knee, a left knee arthroscopy with partial medial meniscectomy, arthroscopic drainage of meniscal cyst, arthroscopic plica excision, chondroplasty of medial femoral condyle on 1/26/04, performed by Dr. James A. O'Leary, and, a left knee arthroscopic medial plica excision, medial meniscectomy, femoral chondroplasty left knee on 1/09/03, performed by Dr. Michael S. Green.

In addition, he has had to have professional counseling with Rafe Ellisor, and psychological evaluations, with care recommendations with Dr. L. Randolph Waid and Dr. Linda Moore.

EVALUATION PROCEDURES

Clinical occupational and rehabilitation interview.

Behavioral observations.

Analysis of vocational or occupational factors, including age, education, training, and work experience in combination with the nature and degree of the medical/orthopedic/surgical/neuropsychological impairments, limitations, and restrictions.

Labor market access survey and analysis.

Ability to earn/earnings capacity assessment and analysis.

Vocational potential testing and assessment: Wide Range Achievement Test-Revised (WRAT-R3), Peabody Manual (Dexterity) Word Sample, Beck Depression Inventory-II (BDI-II), Beck Anxiety Inventory (BAI), Pain Activity Scales/Drawings.

Review of neuropsychological records from Dr. L. Randolph Waid.

Interview with Dr. Waid.

Review of orthopedic records from Dr. Michael S. Green, Midlands Orthopaedics.

Review of orthopedic records from Dr. James A. O'Leary, Midlands Orthopaedics.

Review of orthopedic records from Dr. Frank R. Voss, USC School of Medicine.

Review of orthopedic records from Dr. Evan F. Bluman, USC School of Medicine.

Review of orthopedic records from Dr. Bradley P. Presnal, The Moore Orthopaedic Clinic.

Review of medical records from Dr. Carl A. White.

After he was injured in this accident, Mr. Kneece was out of work completely for some 4 or 5 months; before returning to his current lighter/modified duty. He described ongoing problems and limitations, and the reasons he has not been able to work as he once could, as including "can't think as good - staying so (irritable), depressed, angry all time, snap at people - a hurting all time, my shoulder, elbow hurts (left shoulder, arm, elbow) - my head a hurting, headaches - my knee (left knee) hurts, stays stiff, burning - my mouth (teeth) hurts."

Mr. Kneece continues to require prescribed medications for pain (Viiox), and for headaches (Depakote). And, he continues to take over the counter medications for pain (Goody Powders, Ibuprofen, Motrin, Aleve, Extra Strength Tylenol).

Mr. Kneece was in physical therapy in West Columbia, SC. And, he has had the professional counseling and psychological and neuropsychological evaluation referenced above.

Mr. Kneece remains under the care of Dr. Green, and he has been followed by Dr. Waid.

In a neuropsychological report dated 10/21/02, Dr. Waid stated "...evaluation revealed significant and disruptive neurocognitive deficits as well as social executive impairments common to the traumatic brain injury. While Mr. Kneece's situation is static with regard to any further expected recovery with regard to neurocognitive functioning, certainly his overall emotional adjustment to these deficits remains in need of continuing intervention ...highly recommend that he pursue therapeutic intervention, not only directed toward development of compensatory strategies but also to impact on secondary depression as well as Mr. Kneece's difficulties with emotional lability...recommend Larry Bergmann, Ph.D...."

In an orthopedic report dated 4/16/04, Dr. O'Leary indicated "...he would merit a 10 percent impairment rating for the lower extremity..."

In interview on 12/31/04, Dr. Waid stated that Mr. Kneece has suffered significant injury to his head/brain because of the severe blow he took to the head in this accident, and that he has a 28% impairment, or medical impairment rating, to his brain/brain function. Dr. Waid also reported that Mr. Kneece would not be able to work as he did before these injuries, and that he would face significant problems in an open/competitive labor market, with significant reduction in ability to earn/earnings capacity.

Apparently, Mr. Kneece has not received a final rating on his left shoulder, because, as reported above, he is to have additional surgery on that shoulder with Dr. Green.

When asked about his interests and future plans had he not been injured in this accident, Mr. Kneece stated "I'd be larger (that is, a lot more productive in terms of managing the family farm, increasing the acreage farmed, increased earnings, etc.) - I'd just paid off

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Page 5

(another) 40 acres, hooked on to 60 (acres) I had (indicating he had farmed up to 2000 acres)."

Mr. Kneece's prior/past or other medical history had involved an appendectomy in 1994; surgery to repair right groin hernias in 1978 and 1987; surgery to repair a left groin hernia in 1979; a smashed/mashed left small finger, requiring stitches, when his finger was mashed by a bulldozer in 1979; several left shoulder dislocations over the years; and, burns on his left hand, from a gas fire from a lawn mower in 1972.

BEHAVIORAL OBSERVATIONS

Mr. Kneece is a stout person, 5' 10" tall and 205 pounds. He was appropriately dressed and groomed.

He was oriented as to time, place, person and situation, but demonstrated concentration and attention span limitations because of his head/brain injury and residual cognitive and behavioral limitations and because of his chronic pain problems.

He was cooperative, but exhibited a flat affect and depressed mood throughout the evaluation. And, he appeared quite anxious and frustrated because of his cognitive/behavioral and chronic pain problems, inability to work as he once could, and inability to be more productive.

He appeared uncomfortable, shifting/adjusting his weight in the chair he was sitting in, and changing positions from sitting to standing and moving about the room several times during the evaluation. He made slow, stiff, careful movements when changing positions from sitting to standing and starting to walk. He walked with a limp favoring his left leg.

Overall, Mr. Kneece presented as a person who suffers from significant work stamina or endurance limitations, both physically and neuropsychologically.

Mr. Kneece is considered to be a motivated person with an outstanding work record and a strong work ethic, who wants to work and who intends to continue working as best he can for as long as he can, but was equally frustrated by his inability to do so as he once could. He was matter of fact and straightforward in describing his conditions, and did not tend to exaggerate or overstate his disabilities or situation in any way whatsoever.

TEST RESULTS AND INTERPRETATIONS

Wide Range Achievement Test Revised (WRAT-R3): On the WRAT-R3, Mr. Kneece had a reading score at the 4th grade level, and an arithmetic score at the 6th grade level. Both of these scores are in the marginal range of educational ability, reflective of significant vocational weaknesses, and descriptive of a worker who would only be qualified for manual/physical jobs (that is, assuming they were, in fact, able to work on a reliable, sustained basis).

SE

Penn Bi-Manual Dexterity Worksample: On the Penn Bi-Manual Dexterity Worksample, Mr. Kneece had an assembly time/score of 11' 39", a disassembly time/score of 10' 12", and a total time/score of 21' 51". All of these times/scores are far below the 2nd percentile, which is as low as the worksample measures, and reflective of very slow work speed and pace and no ability to successfully compete for, perform, and sustain sedentary and light industrial jobs that require a fast paced/production rate work speed.

Beck Depression Inventory-II (BDI-II): Mr. Kneece had a total raw score of twenty-four (24) on the BDI-II. This score is suggestive of a moderate level of depression.

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Beck Anxiety Inventory (BAI): On the BAI, Mr. Kneece had a total raw score of twenty-seven (27). This score is suggestive of a severe level of anxiety.

Overall, Mr. Kneece's scores on the BDI-II and BAI are reflective of a person who needs to be under psychiatric and/or psychological care.

Pain-Activity Scales/Drawings: Mr. Kneece identified aching and stabbing pains in the front of his head, aching pains in his forehead and face, aching pains in his left shoulder, aching and stabbing pains in his left elbow, and burning pains and stiffness in his left knee. He indicated that his worst symptoms/problems are in his left shoulder, left elbow, head/forehead, left knee, and mouth/teeth, and that he experiences significant increases in symptoms/problems with standing, standing on hard surfaces, walking, walking on uneven terrain, kneeling, bending, climbing, moving quickly, sitting down and getting up, and in getting up from lying down.

IMPRESSIONS AND CONCLUSIONS

Based on Mr. Kneece's evaluation it is concluded that he is an individual who has sustained significant work-related injuries to his head/brain, face/right cheek, mouth/teeth, left shoulder, left elbow, left leg and knee, with related cognitive and behavioral problems, headaches and chronic pain problems, on 11/22/99 while he was working as a farmer/owner/operator of Delano Kneece & Son, a farm supply and faring operation, in Pelton, SC. At the time of his injuries he was working on a motor grader tire, putting air in the tire, the tire exploded and the steel rim hit him, knocking him unconscious.

His diagnoses have included closed head injury/traumatic physical brain injury, nondepressed skull fracture, scalp laceration, cognitive disorder secondary to traumatic brain injury, personality change due to traumatic brain injury labile type, headaches, olecranon bursitis left elbow, left shoulder instability, intraarticular left biceps tendon rupture, nondisplaced femoral condyle fracture left leg, tear of anterior horn left knee medial meniscus, left knee medial shelf piece, Grade 2 chondrosis of extension zone medial femoral condyle, medial meniscal cyst, laceration left knee, minimally displaced facial fractures, fractured upper left cuspid, right central incisor and lower left second bicuspid, chronic pain, and depression.

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And, he continues to suffer ongoing problems and limitations including cognitive and behavioral problems and chronic pain problems with increase in pain with activity and work stamina or endurance limitations (both physically and psychologically) that will prevent him from being able to return to the kind of work he had performed in the past. This vocational opinion is consistent with the medical/orthopedic records and neuropsychological records, and physical and neuropsychological work restrictions.

It is also concluded that for a period of time, some 4 to 5 months, Mr. Kneece was not able to perform any kind of work or job because of these injuries and ongoing problems and limitations. And, that he remains in need of orthopedic surgery care (for the additional left shoulder surgery needed), medical pain management care, and neuropsychological and/or neuropsychiatric care.

Certainly, Mr. Kneece is fortunate to have the family farm employment situation he is now in (albeit a benevolent situation to large degree, with considerable help from his wife, son, uncle and hired workers), but the fact remains that in the open/competitive labor market he would find himself unable to perform this kind of work on a gainful employment basis. And, his ability to earn/earnings capacity has been reduced, at best assuming he is able to work at all; from his pre-injuries level of approximately \$40,000.00 per year and being able to work 40 plus hours a week, to a post-injuries level of approximately \$15,600.00 per year and working no more than 40 hours a week.

It is also my opinion that, without significant improvement in his overall condition or conditions (both physically and psychologically), Mr. Kneece's prognosis for successful vocational rehabilitation to some kind of lighter, alternative work or job in an open/competitive labor market is quite poor; that is, most likely he would remain unable to work and vocationally disabled because of these injuries and ongoing problems and limitations.

And, most likely, even with successful vocational rehabilitation and return to some kind of lighter/alternative work or job in the future, Mr. Kneece's work life expectancy, or the number of years he can be expected to continue working, has been reduced by at least three years because of these injuries and ongoing problems and limitations.

Recommendations for Mr. Kneece include orthopedic surgery care, medical pain management care, and neuropsychological/neuropsychiatric care, continued prescribed and over the counter medications, and medical case management services.

As discussed with Mr. Kneece, please let me know if I can provide any additional information or be of further assistance from vocational or rehabilitation standpoints. Also, I would be willing to answer any questions relating to this difficult situation from a vocational rehabilitation standpoint.

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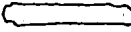
Certainly, I would be more than willing to see Mr. Kneece again following his needed additional orthopedic surgery and neuropsychological/neuropsychiatric care.

William W. Stewart

Dr. William W. Stewart, CRC, CVE, LPC
Associate Professor of Rehabilitation Counseling
Certified Rehabilitation Counselor
Certified Vocational Evaluator
Licensed Professional Counselor

5H

April 02, 2010

Re: Ricky Kneece
DOB: 
Age: 50 Years

I had the opportunity to see patient Ricky Kneece in our office on Thursday, March 25, 2010 for an opinion regarding diagnosis and treatment of headaches, memory difficulties and insomnia. Please note our observations and findings below.

Reason(s) for visit

1. **headache** 50 yo WM with c/o chronic daily headache since TBI in 1999 (hit by locking ring fire and experienced R frontal lobe injury/ R supraorbital l/x). Pain is bifrontal throbbing/nagging. +phonophobia. + dizziness.
2. **memory loss** Pt has hbeen having trouble with memory since head injury. Wife describes Pt as prone to getting off on tangent in conversation. States talking to him impairs his ability to get anything done. Can average 2600 min/month on cell phone. Wife is having to make more decisions to keep family farm running.
3. **depressed mood** Has been on antidepressants due to difficulty with maintaining any ppositive mood. HAS lost interest in many activities such as hunting/fishing. Seeing Dr Deal for psychoatric treatment

Assessment/ Plan

Pt with complicated presentation. Feel this is Organic Brain Syndrome (OBS) secondary to traumatic brain injury (TBI). Pt has fragmented sleep, chronic daily headaches, and chronic disturbance of mood. He is unable to make major decisions without input from wife, his primary caregiver. Believe that without her, he would require legal guardian or payee to manage his affairs. Will defragment sleep with Seroquel and have pt undertake a 10 day headache detox to rule out rebound as a possible etiology for chronic daily headaches. Will likely then try to reduce post-traumatic headaches with trileptal BID via titration. Will call in 2 weeks.

MEMORY LOSS (780.93)

Headache (784.0)

Late effect of injury to other and unspecified ner (907.9)

Unspecified persistent mental disorders due to con (294.9)

Results of these tests will be forwarded to your office as completed.

Thank you for the opportunity to participate in this patient's care. Please feel free to contact our office with any questions.

Sincerely,



Charles Shissias MD
Board Certified#55442
Lowcountry Medical Group
300 Midtown Drive
Beaufort, SC 29906
Telephone (843) 770-0404



PATIENT: Ricky Kneece
 DATE OF BIRTH: [REDACTED]
 DATE: 03/25/2010 11:15 AM
 VISIT TYPE: Consultation

Reason(s) for visit

1. **headache** 50 yo WM with c/o chronic daily headache since TBI in 1999 (hit by locking ring tire and experienced R frontal lobe injury/ R supraorbital f/x). Pain is bifrontal throbbing/nagging. +phonophobia. + dizziness.
2. **memory loss** Pt has been having trouble with memory since head injury. Wife describes Pt as prone to getting off on tangent in conversation. States talking to him impairs his ability to get anything done. Can average 2600 min/month on cell phone. Wife is having to make more decisions to keep family farm running.
3. **depressed mood** Has been on antidepressants due to difficulty with maintaining any positive mood. HAS lost interest in many activities such as hunting/fishing. Seeing Dr Deal for psychiatric treatment

Social History

Reviewed, no changes.

Active Medications (started before visit)

<u>Drug Name</u>	<u>Dose</u>	<u>Qty</u>	<u>Description</u>
Relafen	750mg	60	take 2 tablet (1500MG) by ORAL route
every bedtime			

Review of Systems

Constitutional:

Negative for fatigue, fever and night sweats.

HEENT:

Negative for eye discharge, vision changes and vision loss.
 Negative for ear drainage, hearing loss and nasal drainage.

Respiratory:

Negative for cough, dyspnea and wheezing.

Cardiovascular:

Negative for chest pain, claudication and irregular heartbeat/palpitations.

Neuro/Psychiatric:

Positive for:

- Appropriate interaction.
- Consolable.
- Dizziness.
- Headache.
- Memory impairment.
- Psychiatric symptoms.

Negative for aphasia, dysarthria, focal weakness, loss of consciousness, near syncope, paresthesia and seizures.

Psychiatric:

Psychiatric Comments: depressed at times

Kneece, Ricky

02/06/19601/3

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Musculoskeletal:
Negative for bone/joint symptoms and weakness.

Vital Signs

<u>BP</u>	<u>Temp F</u>	<u>Pulse</u>	<u>Resp Rate</u>	<u>Ht In</u>	<u>Wt Lb</u>	<u>Pain Score</u>
					248.0	

Physical exam

Constitutional: No apparent distress. Well nourished and well developed.

Head / Face: Normocephalic.

Eyes: No exophthalmus, pupillary reaction is normal and EOM intact.

Neck / Thyroid: Supple, without adenopathy or enlarged thyroid.

Respiratory: Normal to inspection. Lungs clear to auscultation and percussion.

Cardiovascular: Regular rhythm. No murmurs, gallops, or rubs.

Vascular: Well perfused. Carotid, femoral, and pedal pulses are normal.

Musculoskeletal: Normal musculature. No skeletal tenderness or joint deformity.

Extremities: Extremities appear normal. No edema or cyanosis.

Neurological:

Level of Consciousness: Normal.

Orientation: Alert and oriented X 3. Grossly normal intellect.

Memory: slowed mentation;

Cranial nerves: II-XII grossly intact.

Sensory: No sensory loss.

Motor: No motor weakness.

Balance & Gait: Balance and gait intact.

Coordination: Coordination intact.

Fine Motor: Skills normal.

Deep Tendon Reflexes: DTR's preserved and symmetric.

Other reflexes: Reflexes normal.

Kernig's sign: Negative.

Babinski's sign: Negative.

Comments: wife quicker to answer questions than patient
pt forgetful at times

Psychiatric:

The patient has a(n) blunted affect.

The patient is negative for anhedonia, is not agitated, is not anxious, is forgetful, is having slowed mentation, has mood swings, and does not have suicidal ideation.

Comments: fair-poor judgement/ insight on more technical/financial matters.

Health Maintenance

Reviewed.

Assessment/ Plan

Complicated presentation. Feel this is Organic Brain Syndrome (OBS) secondary to traumatic brain injury (TBI). Pt has fragmented sleep, chronic daily headaches, and chronic disturbance of mood. He is unable to make major decisions without input from wife, his primary caregiver. Believe that without her, he would require legal guardian or payee to manage his affairs. Will defragment sleep with Seroquel and do 10 day headache detox. Will then tx with trileptal. Call in 2 weeks.

Kneese, Ricky

MEMORY LOSS (780.93)

Headache (784.0)

Late effect of injury to other and unspecified ner (907.9)

Unspecified persistent mental disorders due to con (294.9)

Medications (added or continued this visit):

<u>Drug Name</u>	<u>Dose</u>	<u>Qty</u>	<u>Description</u>
Relafen	750mg	60	take 2 tablet (1500MG) by ORAL route every bedtime
Seroquel	100mg	30	take 0.5 - 1 tablet (50MG) by ORAL route every bedtime
Clonidine Hcl	0.1mg	10	take 1 tablet (0.1MG) by ORAL route every day

Provider: Charles Shissias MD

Document generated by: Charles Shissias 06/02/2010

300 Midtown Drive
Beaufort, SC 29906
Telephone (843) 770-0404

Kneece, Ricky

PATIENT: Ricky Kneece
DATE OF BIRTH:
DATE: 10/29/2010 10:15 AM
VISIT TYPE: Office Visit

Reason(s) for visit

1. follow-up pt reports headaches overall 60% better. Some improvement in sustainment of attention using Adderall XR 15mg QD.
denies anorexia or additional sleep probs assoc with Adderall use.

Active Medications (started before visit)

<u>Drug Name</u>	<u>Dose</u>	<u>Qty</u>	<u>Description</u>
Relafen every bedtime	750 Mg	60	take 2 tablet (1500MG) by ORAL route
Seroquel every bedtime	100 Mg	30	take 0.5 - 1 tablet (50MG) by ORAL route
Clonidine Hcl day	0.1 Mg	10	take 1 tablet (0.1MG) by ORAL route every

The patient is a non-smoker.

Review of Systems

Constitutional:

Negative for fatigue, fever and night sweats.

HEENT:

Negative for eye discharge and vision loss.
Negative for ear drainage, hearing loss and nasal drainage.

Respiratory:

Negative for cough, dyspnea and wheezing.

Cardiovascular:

Negative for chest pain, claudication and irregular heartbeat/palpitations.

Neuro/Psychiatric:

Positive for:

- Appropriate interaction.
- Consolable.
- Headache.
- Memory impairment.
- Psychiatric symptoms.

Negative for aphasia, dizziness, dysarthria, focal weakness, loss of consciousness, near syncope and paresthesia.

Psychiatric:

Psychiatric Comments: sporadic emotional lability

Musculoskeletal:

Negative for bone/joint symptoms and weakness.

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All Vital Signs

Date 10/29/2010
03/25/2010

BP

Pulse

Ht In

Wt Lb

236.0

248.0

BMI

BSA

Pain Score

Physical exam

Constitutional: No apparent distress. Well nourished and well developed.

Head / Face: Normocephalic.

Eyes: No exophthalmus, pupillary reaction is normal and EOM intact.

Neck / Thyroid: Supple, without adenopathy or enlarged thyroid.

Musculoskeletal: Normal musculature. No skeletal tenderness or joint deformity.

Extremities: Extremities appear normal. No edema or cyanosis.

Neurological:

Level of Consciousness: Normal.

Orientation: Alert and oriented X 3. Grossly normal intellect.

Memory: mildly impaired short term memory.

Cranial nerves: II-XII grossly intact.

Sensory: No sensory loss.

Motor: No motor weakness.

Balance & Gait: Balance and gait intact.

Coordination: Coordination intact.

Fine Motor: Skills normal.

Deep Tendon Reflexes: DTR's preserved and symmetric.

Other reflexes: Reflexes normal.

Kernig's sign: Negative.

Brudzinski's sign: Negative.

Assessment/ Plan

Titrate trileptal to 450mg BID x 5 days then 600mg BID. Increase AdderallXR to 20mg QD. Check Chem7 and trileptal level in 1 month.

Headache (784.0)

MEMORY LOSS (780.93)

Late effect of Injury to other and unspecified ner (907.9)

Unspecified persistent mental disorders due to con (294.9)

Medications (added, continued or stopped this visit):

Drug Name	Dose	Qty	Description
Trileptal	300 Mg	120	take 1.5 tablet (450MG) by ORAL route 2 times every day x 5
Adderall Xr	20 Mg	30	take 1 capsule (20MG) by ORAL route every day in the morning upon awakening
Relafen	750 Mg	60	take 2 tablet (1500MG) by ORAL route every bedtime
Seroquel	100 Mg	30	take 0.5 - 1 tablet (50MG) by ORAL route every bedtime
Clonidine Hcl	0.1 Mg	10	take 1 tablet (0.1MG) by ORAL route every day

Provider: Charles Shissel MD

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Document generated by: Charles Shissias 10/29/2010 11:11 AM

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REPORT OF NEUROPSYCHOLOGICAL RE-EVALUATION
CONFIDENTIAL - FOR PROFESSIONAL USE ONLY

Name: Ricky D. Kneece
Age: [REDACTED]
Sex: Male
Handedness: Right
Date of Evaluation: February 8th, 2007

Reason for Referral: Ricky D. Kneece is a 47-year-old, married Caucasian male who is status post a traumatic brain injury sustained in an accident on November 19th, 1999. Mr. Kneece underwent previous neuropsychological evaluation in April of 2002. Previous evaluation revealed neurocognitive impairments as well as lateralized impairments associated with physical injury to the brain. Mr. Kneece also demonstrated social executive changes to his personality that rendered him with increased irritability, low frustration tolerance, emotional dysregulation, and secondary depression/social withdrawal.

Mr. Kneece has remained under the psychiatric/psychological care of Lawrence H. Bergmann, Ph.D. and Roger Deal, MD. Mr. Kneece was referred for neuropsychological re-evaluation through the office of his attorney, Scott Elliott, Esq.

Current Clinical Presentation: Mr. Kneece was on time for his scheduled appointment. He was accompanied by his wife, Roxanne, who participated in the clinical interview. The couple have been married for 23 years and have two children, ages 22 and 19.

Mr. Kneece has remained employed on his family's working farm. Since last contact, his wife, Roxanne has become employed as a supervisor at Lexington Medical Center. Mr. Kneece reported that he continues to experience disruptive impairments affecting his attentional and memory capacities. There is also a continuing ease in which he experiences frustration and episodes of anger. Mr. Kneece reported continuing difficulties with climbing, bending, and prolonged ambulation. He also reported continuing to experience disruptive headaches. Mr. Kneece uses compensatory strategies including a notepad for his memory difficulties. There is pain and discomfort affecting the left lower leg. There is a mild droop affecting the right eye. In general, he experiences pain and discomfort affecting the left side of the body.

My understanding of Mr. Kneece's current functioning was assisted by review of treatment records from Post Trauma Resources; report of a vocational rehabilitation evaluation conducted by William W. Stewart, CRC, CVE, LPC (1/7/07); medical records from Midlands Orthopedics; and a letter from Lawrence H. Bergmann, Ph.D. (2/5/07).

Since my last contact with Mr. Kneece in April of 2002, he has undergone two operative procedures of the left knee and surgery of the left elbow. Mr. Kneece continues under the care of Roger Deal, MD and Lawrence Bergmann, Ph.D. Current medications consist of Effexor XR 225 mg q.h.s. and Trazodone 100 mg q.h.s. In recent letter (1/7/07), Dr. Bergmann reported that Mr. Kneece continues to experience symptoms of dysphoria; difficulties adjusting to his cognitive disability; irritability and withdrawal.

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mlw

Dr. Bergmann provided an 11% whole person permanent impairment as a result of Mr. Kneece's psychological difficulties "not his cognitive impairments". Dr. Bergmann stated that Mr. Kneece will continue to need to utilize psychotropic medications to sustain his level of functioning.

A structured symptom review revealed complaint of decreased olfactory and gustatory processes. Vision was characterized as "not as good". There was also report of decreased auditory acuity but no report of tinnitus.

With regard to motor functioning, Mr. Kneece reported weakness affecting the left upper and lower extremities. There was report of mild coordination/balance problems. Ms. Kneece complained of the manner in which her husband experiences jerks and shaking during his sleep processes. Further review revealed the likelihood that he continues to experience disruptive nightmare difficulties. There was report of numbness affecting the left foot.

Mr. Kneece continues to experience pain and limited range of motion affecting the left shoulder. There is also pain and discomfort affecting the left knee. Left shoulder pain is particularly aggravated by physically exerting activity such as when he is having to drive a tractor. Headaches persist reportedly on a daily basis primarily involving the frontal regions. Head pain is aggravated by stress. There is use of over-the-counter analgesics. There is occasional experience of dizziness but no report of vertigo. Mr. Kneece denied blackout spells or posttraumatic seizures.

With regard to cognitive functioning, Mr. Kneece reported continuing difficulties with attention/concentration as well as an easy distractibility. Thinking was described as being slower (bradyphrenia). There was report of continuing memory problems.

With regard to psychological functioning, Mr. Kneece reported that depression is "not as bad since I have been utilizing the medication". Reportedly, sleep is characterized by "restlessness" and the likelihood of continuing nightmare difficulties. Mr. Kneece reported anxiety/tension to be improved. There was report of continuing social executive changes to his personality rendering him with an easier irritability, low frustration tolerance, and bouts of anger. Energy level was characterized as "not what it was in the past". Clinical evaluation failed to reveal paranoid ideation or delusional thinking. Mr. Kneece reported a fear of climbing. There was no report of hallucinatory processes or evidence of psychotic symptomatology. He was without complaint with regard to appetite. Libido was characterized as "fair".

Mr. Kneece denied problems getting along with his spouse, family, or friends. He reported that there has been a significant decline in his pursuit of social and recreational activities as "I just don't have the zip I used to have".

Mr. Kneece's medical, family, and psychosocial history was depicted in previous report of the neuropsychological evaluation (4/20/02). He continues to be a minimal social consumer of alcohol. There has been no illicit drug usage. He does not use tobacco products. Mr. Kneece does not have a history of formal substance abuse treatment. There was no report of DUIs or criminal arrest.

Mr. Kneece was a high school graduate having grown up in Pelion, SC. He remains employed in the farming of his family farm. He reported that his children are doing well.

Procedures: Wechsler Abbreviated Scale of Intelligence, Wechsler Memory Scale-III, California Verbal Learning Test-II, Stroop Test, Conners Continuous Performance Test-II, Judgment of Line Orientation Test, Wisconsin Card Sorting Test, Trail Making Test, Controlled Oral Word Association Test, Paced Auditory Serial Addition Test, Seashore Rhythm Test, Speech Sounds Perception Test, Tactile Performance Test, Finger Tapping Test, Grip Strength Test, Grooved Pegboard Test, Behavioral Dyscontrol Scale, Word Memory Test, Test of Memory Malingering, Ruff Neurobehavioral Inventory, Frontal Systems Behavior Scale (self and family form).

Examination Results: Most test scores in this report are expressed in statistical terms including *Standard Scores (SS)*, *T-Scores*, *Scaled Scores*, *Percentile Rankings(%ile)*, and *Composite/Index Scores*. The following is a general guide to assist in interpretation:

<u>Standard Score:</u>	<u>T-Scores:</u>	<u>Composite/ Index Score:</u>	<u>Scaled Score:</u>	<u>%ile</u>	<u>Descriptor:</u>
130+	70+	130+	18+	98+	Very Superior
120-129	63-69	120-129	16-17	90-97	Superior
110-119	57-62	110-119	13-15	75-89	High Average
90-109	44-56	90-109	8-12	25-74	Average
80- 89	37-43	80- 89	7	10-24	Low Average
70- 79	31-36	70- 79	3- 6	3- 9	Borderline
< 70	< 31	< 70	< 3	< 3	Deficient

Neurobehavioral Status: Mr. Kneece was on time for his scheduled appointment. He was casually attired with good personal hygiene. Mr. Kneece demonstrated appropriate maintenance of eye contact. He ambulated without difficulty. There was no psychomotor retardation or excitement. Mr. Kneece had no difficulty understanding test instructions. He was friendly and cooperative in his interactions with the examiner. He did become mildly fatigued by the end of the testing process.

Mr. Kneece was observed to put forth good effort to meet the demands of neuropsychological testing. Specific assessment of Mr. Kneece's testing effort or potential to feign cognitive impairment was assessed via administration of symptom validity tests as well as review of validity indices embedded within the battery of neuropsychological tests. Mr. Kneece's errorless performance on the Test of Memory Malingering (TOMM), was consistent with provision of good effort. Mr. Kneece's performance on the three validity indices of the Word Memory Test including immediate recall (90th percentile), delayed recall (97.5 percentile), and consistency (87.5 percentile) was consistent with provision of good effort. Mr. Kneece's errorless performance on the CVLT-II long delay, forced choice recognition test was consistent with provision of good effort. Similarly, his performance on the digit span test (Reliable Digit Span) was consistent with provision of good effort. All in all, the obtained test results are viewed as a valid and reliable sample of Mr. Kneece's present functioning.

Language Functions: There remains no aphasic or agnostic symptomatology. Mr. Kneece's conversational speech was prosodic, fluent, of normal rate and tone, without dysarthria. Mr. Kneece did not demonstrate disruptive word finding difficulties in conversational speech. His performance on a formal test of letter fluency was in the mild impairment range (T=35). There was no evidence of receptive language dysfunction.

Sensory Perceptual/Motor Functioning: Mr. Kneece did complain of some decreased auditory acuity. Previous evaluation failed to reveal any evidence of imperceptions or suppressions affecting tactile, auditory, or visual modalities during unilateral or bilateral stimulation paradigms.

Mr. Kneece is right hand dominant. He continues to experience residual weakness particularly affecting the left upper and lower extremities. On a test demanding fine motor speed, his performance was within the low average range. Assessment of grip strength failed to reveal significant deviation from expected performance though Mr. Kneece did demonstrate some weakness affecting the left hand. Mr. Kneece's performance on a test demanding fine motor speed and dexterity (Grooved Pegboard Test) revealed bilateral mild to moderate impairment.

Attention/Memory Functioning: Mr. Kneece was well oriented to all spheres, alert and able to register information. Mr. Kneece's performance on the Stroop Test revealed average processing speed for word (T=44) stimuli. Mr. Kneece was slow in the processing speed of color stimuli (T=35). Mr. Kneece remained slow/mildly impaired in his performance on the Stroop divided attention test (T=34). Mr. Kneece's performance on an attentional test demanding discrimination of rhythmic sounds was suggestive

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of mild to moderate impairment ($T = 32$). He was more efficient in his performance on an attentional test demanding discrimination of speech sounds and matching them to their phonemes ($T = 44$). Mr. Kneece performed in the average range on Wechsler Memory Scale-III tests assessing working memory (47th percentile). Mr. Kneece was administered the Paced Auditory Serial Addition Test (PASAT), a measure of information processing speed and attentional regulation. He was deficient in the initial trial performance. Yet, he appeared to profit from the initial trial performance without demonstrating significant decrements in his performance on trials 2 and 3 which were more rapid and demanding. Yet, Mr. Kneece demonstrated a significant decrement in his performance on trial 4 which is the most rapid and demanding. Utilizing Heaton et al (2004) norms, Mr. Kneece's total recall score on the PASAT was in the low average range ($T = 42$).

Mr. Kneece was administered the Conners Continuous Performance Test-II to further assess his attentional capacities. Observation of test performance revealed Mr. Kneece to be generally erratic in his responding, indicative of poor attention capacities. Reaction times slowed considerably over the course of the administration indicating a problem maintaining attention. Mr. Kneece was also substantially affected by the interstimulus interval. Specifically, there was a substantial decline in reaction time when the interstimulus interval was slowed from 1 second to 2 and 4 seconds. The finding may reflect a diminished ability to adapt to change in task requirements. Mr. Kneece's performance on the Continuous Performance Test resulted in a classification of potential attention/neurological problems.

Mr. Kneece was administered the Wechsler Memory Scale-III (WMS-III) to assess different components of anterograde memory. Mr. Kneece was variable in his performance on the WMS-III, a finding consistent with that obtained in previous evaluation. Mr. Kneece continues to demonstrate a lateralized pattern of memory impairment. He was efficient in his performance on WMS-III tests assessing immediate auditory memory (63rd percentile) but demonstrated impairment in his performance on WMS-III tests assessing immediate visual memory (7th percentile). He demonstrated an adequate ability to retain and recall previously learned auditory (70th percentile) and visual (14th percentile) information after a period of delay. As mentioned, Mr. Kneece's performance on WMS-III tests assessing working memory was in the average range (47th percentile) and improved compared to previous evaluation (13th percentile).

Analysis of separate WMS-III scale performance revealed Mr. Kneece to have an average ability to immediately learn and recall orally presented narrative passages (75th percentile). Mr. Kneece demonstrated difficulties on visual memory tests involving facial recognition skills (25th percentile) and free recall of family pictorial stimuli (5th percentile). Mr. Kneece demonstrated a good ability to retain and recall previously learned narrative passages after a period of delay (percent retention = 94). Mr. Kneece's performance on a visual memory test involving the immediate learning and reproduction of visual designs placed him at the 16th percentile. Yet, he demonstrated a good ability to retain and reconstruct previously learned visual designs after a period of delay (percent retention = 100). Mr. Kneece showed a good ability to retain and recall previously learned facial stimuli (percent retention = 100) as well as family pictorial stimuli (percent retention = 100).

Mr. Kneece was administered the California Verbal Learning Test-II (CVLT-II), a repetitive word list learning task. Mr. Kneece's total recall score after five administrations of the word list placed him in the 83rd percentile, a finding consistent with that obtained in previous evaluation (82nd percentile). Observation of test performance revealed an average initial trial performance with a good ability to profit from repetitive administrations as he demonstrated the expected learning curve. Mr. Kneece showed a good ability to retain and recall word list information in a short and long delay, free and cued recall process. Assessment of learning characteristics revealed poor recall from the primary region of the word list. There were no excessive intrusive errors. Mr. Kneece performed in the average on a recognition test demanding that he discriminate target from nontarget words with only one false positive error.

Visual Spatial/Visual Constructional Functions: Mr. Kneece continues to not demonstrate any evidence of visual attention or neglect processes. Nor was there evidence of constructional praxis. Mr. Kneece's performance on Wechsler Abbreviated Scale of Intelligence tests assessing visual spatial skills continues to suggest impairment likely associated with a residual dysfunction affecting the right hemisphere. Mr. Kneece was below average in his performance on the block design test ($T = 40$), which

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demands analysis and construction of spatial relations. He was deficient in his performance on the matrix reasoning test (T = 33). Mr. Kneese's performance on a test demanding fine discriminations of lines in space was in the high average range (72nd percentile) and improved compared to previous evaluation (40th percentile). On a visuographic sequencing test involving the serial processing of numbers, Mr. Kneese's performance was in the average range (T = 46). When the task became more demanding involving alternation between numbers and letters in sequential fashion, he made several confusional errors and his performance was in the mild to moderately impaired range (T = 31).

Executive/Higher Reasoning Abilities: Mr. Kneese was able to sequence and inhibit fine motor movements on go-no go types of tasks. He was mildly impaired in his performance on an executive functioning task involving letter fluency. He also demonstrated mild difficulties meeting the set shifting skills associated with Trail Making Test-Part B. Mr. Kneese's rate of perseverative errors was somewhat high with his performance being in the low average range (T = 42).

In the current evaluation, Mr. Kneese was administered the Wechsler Abbreviated Scale of Intelligence (WASI) to obtain an estimate of his general intellectual abilities. Mr. Kneese's performance on the WASI resulted in a Full Scale IQ of 82 (12th percentile), a Verbal IQ of 87 (19th percentile), and a Performance IQ of 79 (8th percentile). Mr. Kneese was administered the Wechsler Adult Intelligence Scale-III in previous evaluation resulting in a Full Scale IQ of 76, a Verbal IQ of 81, and a Performance IQ of 75. Thus, his performance in the current evaluation was consistent with that obtained in previous evaluation.

In the current evaluation, Mr. Kneese was administered the Wisconsin Card Sorting Test and Tactual Performance Test (TPT) to further assess his reasoning/problem-solving abilities. Mr. Kneese continue to experience difficulties meeting the demands of the Wisconsin Card Sorting Test. He had difficulties methodically generating and discovering the correct solution sets. He obtained only 4 of the expected 6 categories. Yet, he was with an acceptable rate of perseverative errors (14%). There were two failures to maintain set implicating attention/concentration difficulties as contributing to his deficient performance.

On the Tactual Performance Test (TPT), Mr. Kneese was slow in the initial dominant hand performance (T = 36). He remained slow and in the mildly impaired range in the second trial, nondominant hand performance (T = 36). He was improved, performing in the low average range on the third trial, both hands performance (T = 43). His incidental memory score (T = 33) was in the mild to moderately impaired range. His location score (T = 47) was within average limits.

Emotional/Personality Functioning: As is commonly found in individuals following a traumatic brain injury, Mr. Kneese has been described as having a significant change in his emotional/personality functioning with social executive impairments rendering him more impatient, with lower frustration tolerance, irritability, and secondary depression and social withdrawal.

In the current evaluation, Mr. Kneese, as well as his wife completed the Frontal Systems Behavior Scale assessing him pre and post his involvement in the injury with sustainment of traumatic brain injury. The Frontal Systems Behavior Scale is a rating scale of behavior changes commonly associated with injury to the frontal regions of the brain. The Frontal Systems Behavior Scale assess individuals with regard to apathy, disinhibition, and executive functioning pre and post their involvement with an injury.

Mr. Kneese's responses to the Frontal Systems Behavior Scale revealed report of some mild executive difficulties (T = 67) prior to his involvement in the injury.

With regard to post injury functioning, there was report of severe disruptiveness associated with apathy (T = 112) and executive dysfunction (T = 106). There was also report of disruption with regard to disinhibition/emotional dysregulation (T = 76).

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Ms. Roxanne Kneece completed the Family Rating Form of the Frontal Systems Behavior Scale. Her report revealed that she did not assess her husband as having any difficulties with apathy, disinhibition, or executive dysfunction prior to the sustainment of a traumatic brain injury.

With regard to post accident, she assessed her husband as being disrupted with regard to apathy (T =83), executive dysfunction (T =86), and disinhibition/emotional dysregulation (T =71).

Apathy indicates problems with initiation, psychomotor retardation, spontaneity, drive, persistence, loss of energy and interest, and/or blunted affective expression.

Executive dysfunction refers to problems with sustained attention, working memory, organization, planning, sequencing, problem-solving, and mental flexibility.

Disinhibition refers to problems with being impulsive with unmodulated or excessive emotional expression, irritability, and easily provoked positive and negative emotions.

Mr. Kneece also completed the Ruff Neurobehavioral Inventory (RNBI). The Ruff Inventory assesses individuals in the domains of cognitive, emotional and physical functioning, and quality of life pre and post their involvement in a catastrophic injury. Mr. Kneece did not report any disruption of cognitive, emotional, or physical functioning, or quality of life prior to the sustainment of traumatic brain injury.

With regard to post injury functioning, Mr. Kneece reported significant disruption with regard to cognitive capacities including attention/concentration, executive functioning, and learning and memory.

With regard to emotional functioning, he reported difficulties associated with anger/irritability.

With regard to physical functioning, there was report of significant disruption due to residual neurological symptoms and mild disruption with regard to pain and somatic symptoms.

There was report of mild disruption with regard to his ability to pursue vocational activities.

Summary/Response to Referral Questions: Mr. Ricky Kneece is a 47-year-old, married Caucasian male who is status post a traumatic brain injury sustained in an accident on November 19th, 1999. Radiographic studies conducted at the time of the injury revealed disruptive physical injury to the brain including diffuse cerebral edema, subarachnoid hemorrhages, left tentorial subdural hematoma, right posterior frontal epidural, and contusions.

The current neuropsychological evaluation was generally consistent with that obtained in previous evaluation. Mr. Kneece's intellectual functioning is in the low average range. Neurocognitive evaluation revealed Mr. Kneece to continue to experience difficulties with the effective sustainment of attention/concentration and slowed mental processing speed. Assessment of anterograde memory continued to reveal a lateralized pattern of impairment as Mr. Kneece continues with difficulties with immediate visual learning/memory capacities. There is also continuing impairment of visual spatial skills compared to estimates of his premorbid level of functioning. Mr. Kneece continues to demonstrate mild executive dysfunction both with regard to cognitive and emotional/psychological functioning.

Assessment of emotional/psychological functioning revealed Mr. Kneece to continue with social executive changes to his personality that are common after a traumatic brain injury, particularly when there is injury to the anterior portion of the brain. He is assessed as experiencing disruptive difficulties associated with apathy, executive dysfunction, and disinhibition/emotional dysregulation. Overall, he is more irritable, with lower frustration tolerance and remains quite withdrawn with regard to social and recreational pursuits.

As was depicted in previous evaluative report, Mr. Kneece has made a good recovery considering the severity of his traumatic brain injury. He continues to be able to be employed on his family farm. This has remained a static situation and the deficits that are depicted are permanent and lifelong.

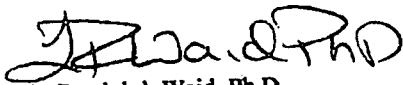
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Utilizing the diagnostic criteria from the DSM-IV-TR, the following multi-axial assessment is provided:

Axis I	Cognitive Disorder NOS (294.90) secondary to the sustainment of a traumatic brain injury
Axis II	Personality Change, labile/apathetic type (DSM-IV 310.10) due to sustainment of a traumatic brain injury
Axis III	No Diagnosis (V71.09)
Axis IV	Status post traumatic brain injury; headaches; residual pain and discomfort affecting the left knee and left shoulder
Axis V	Litigation GAF = 62 (Current).

Dr. Bergmann has provided impairment rating based on Mr. Kneece's disruptive psychological difficulties. Utilizing the Fifth Edition of the American Medical Association Guidelines as well as Epstein et al (1998) method for Determining Psychiatric Impairment, I would assess Mr. Kneece as having impairment of mental integrative functions as the result of the sustainment of a traumatic brain injury. Utilizing Chapter 13 on the Central and Peripheral Nervous System and the Clinical Dementia Rating Scale, Mr. Kneece is provided scores of 1.0 reflective of his moderate difficulties with attention/memory, executive functioning, judgment, and higher reasoning capacities. He was also assessed as mildly impaired with regard to pursuit of community activities and home and hobbies. Mr. Kneece is fully capable of self-care. As a result of his neurocognitive impairments, Mr. Kneece was assessed as having a Class 2 impairment to the whole person with provision of a 22% impairment as a result of his neurocognitive deficits.

Please feel free to contact me if you are in need of further information regarding the neuropsychological evaluation conducted on Ricky D. Kneece.



L. Randolph Waid, Ph.D.
Licensed Clinical Psychologist (SC License # 333)
Clinical Associate Professor in Psychiatry and Neurology/MUSC

C: Scott Elliott, Esq.

LRW/tms

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January 3, 2005

Scott Elliott, Esquire
721 Olive Street
Columbia, SC 29205

RE.: Ricky D. Kneece

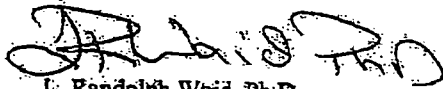
Dear Mr. Elliott:

As you well know, I conducted a comprehensive neuropsychological evaluation of Mr. Ricky Kneece, a 42 year old, married Caucasian male who is status post sustinment of a traumatic brain injury as a result of an accident on November 19, 1999. The report detailed Mr. Kneece's significant and disruptive cognitive impairments as well as social-executive changes to his personality as a result of the traumatic brain injury.

Per your request, I am happy to provide you impairment ratings regarding Mr. Ricky Kneece. Utilizing the American Medical Association Guides to the Evaluation of Permanent Impairment-Fifth Edition, and Chapter 13 on the Central and Peripheral Nervous System, Mr. Kneece would be assessed as having impairment of mental and integrative functions. Utilizing the Clinical Dementia Rating Scale (CDR), he would be provided scores of 1-0 reflective of his moderate difficulties with attention/concentration, memory, executive functions, and higher reasoning skills. Mr. Kneece also experiences significant impairment in psychosocial functions due to his emotional/personality changes as a result of the traumatic brain injury. As such, Mr. Kneece would be provided a Class II, 29% impairment of the whole person due to neurocognitive and social executive impairments as a result of the traumatic brain injury sustained on November 19, 1999.

In previous correspondence, I indicated to you that Mr. Kneece was continuing to experience emotional adjustment difficulties to the deficits he has to cope with. I recommended at that time therapeutic intervention to specifically impact on Mr. Kneece's secondary depression and difficulties with emotional lability. Hopefully, this can be provided for him.

If you are in need of any further information with regard to Mr. Ricky Kneece, please feel free to contact me.



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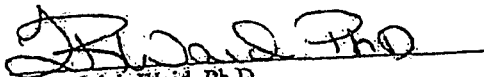
October 21st, 2002

Scott Elliott, Esquire
721 Olive Street
Columbia, South Carolina 29205

RE: Ricky D. Kneece

Dear Mr. Elliott:

As you well know, I conducted a neuropsychological evaluation of Mr. Ricky Kneece, a 42-year-old married Caucasian male who is status post-sustainment of a traumatic brain injury as the result of an accident on November 19th, 1999. The evaluation revealed significant and disruptive neurocognitive deficits as well as social executive impairments common to the traumatic brain injury. While Mr. Kneece's situation is static with regard to any further expected recovery with regard to neurocognitive functioning, certainly his overall emotional adjustment to these deficits remains in need of continuing intervention. I would highly recommend that he pursue therapeutic intervention, not only directed toward development of compensatory strategies but also to impact on secondary depression as well as Mr. Kneece's difficulties with emotional lability. If I can be of further assistance in identifying an appropriate therapist, please feel free to contact me. I would recommend Larry Bergmann, Ph.D.



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Clinical Associate Professor in Psychiatry/Neurology, MUSC

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REPORT OF NEUROPSYCHOLOGICAL EXAMINATION
Confidential-For Professional Use Only

Name: Ricky D. Kneece

Age:

Sex: Male

Handedness: Right

Date of Evaluation: April 15th, 2002

Reason for Referral: Ricky D. Kneece is a 42-year-old married Caucasian male who is status post a traumatic brain injury sustained in an accident on November 19th, 1999. Reportedly, the injury was sustained when a compression type truck tire blew up striking Mr. Kneece in the head. Recently, Mr. Kneece underwent consultation with Lenwood P. Smith, Jr., M.D., neurosurgeon, who recommended evaluation. Mr. Kneece was specifically referred to my office by Scott Elliott, Esquire, through the recommendation of Larry Bergmann, Ph.D.

Background: I had the opportunity to interview Mr. Kneece and his wife, Ms. Roxanne Kneece. A review of Lenwood P. Smith, Jr., M.D.'s consultative report reveals that Mr. Kneece suffered a traumatic brain injury when a compression type truck tire blew up, striking him in the head. Reportedly, Mr. Kneece had injuries to the right frontal pole with CT scan revealing diffuse cerebral edema with subarachnoid hemorrhage across the tentorium and a left tentorial subdural hematoma. There was also a high right posterior frontal epidural and very thin bilateral convexity subdural hematoma. Reportedly, there was also a left posterior frontal parasagittal contusion. Reportedly, following rehabilitation care, Mr. Kneece returned to work on the family farm.

In interview, Mr. Kneece reported an approximate four to five days of posttraumatic amnesia while in Richland Memorial Hospital. While he has made a good recovery, he reports continuing difficulties including memory disturbance, stating he has a "hard time remembering." Ms. Roxanne Kneece reported that her husband will "get angry if he is told that you already told him something." Reportedly, he compensates for memory difficulties by "writing notes and using an audiotape." Reportedly, there are social executive changes common to the traumatic brain injury as Mr. Kneece is described as irritable with no patience, low frustration tolerance, and an easy frustration. Ms. Roxanne Kneece reported that other individuals state that Mr. Kneece "repeats himself." Mr. Kneece also continues to experience headaches as well as some discomfort and ambulation problems associated with injury to his left lower extremity. He also described his left shoulder which was injured approximately 12 years ago as being worse with occasional "coming out of the joint." There is also report of a "lazy right eye." Mr. Kneece reportedly "cracked several of his teeth" as the result of the accident. Ms. Roxanne Kneece was most definitive in describing her husband as having a change in his emotional/personality functioning.

A structured symptom review failed to reveal any complaints with olfactory processes. Gustatory processes were described as "not like they used to be." There was no complaint of blurred vision or diplopia. Mr. Kneece reported decreased auditory acuity and occasional tinnitus.

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With regard to motor functioning, there was no evidence of paralysis or lateralized weakness. There are occasional spasms affecting the right eye, though reportedly Depakote assists this problem. Mr. Kneece complains of occasional balance problems. There was report of numbness affecting the toes on the left foot. There was no report of paresthesias.

Mr. Kneece reported continuing pain and discomfort affecting the left knee which was injured in the accident. Reportedly, pain is a daily occurrence and aggravated by physical activities and cold weather. He takes over the counter analgesics for assistance. There was also report of headache difficulty located in the frontal area. Mr. Kneece stated that on a daily basis, "I usually have a mild headache." Stress appears to aggravate headache activity and he also utilizes over the counter analgesics to obtain relief.

Mr. Kneece was without complaint of dizziness, vertigo, blackout spells, or posttraumatic seizure activity.

With regard to cognitive processes, there was complaint of concentration difficulties, easy distractibility, episodic confusion, and an inability to think as quickly as before (bradyphrenia). Mr. Kneece was also described as having anterograde memory problems.

With regard to psychological functioning, Mr. Kneece denied problems with sadness/depression. Sleep has been assisted by use of Depakote. Reportedly, there is nightmare activity and Ms. Kneece reported that her husband "hollers" and has other restless activities during his sleep. Mr. Kneece was not described as being disruptively anxious or tense but was reported to have a change in his emotional/personality functioning common to the social executive deficits in traumatic brain injury. Mr. Kneece was described as being irritable, with low frustration tolerance, impatience, and difficulties in the management of his mood states. Energy level was characterized as low with an easy fatigability. Clinical evaluation failed to reveal paranoid mentation or delusional thinking. There is an easy startle response without report of phobic symptomatology. Mr. Kneece denied hallucinatory activity. He was without complaint of appetite disturbance or changed libido.

Mr. Kneece denied any problems getting along with his spouse. He reported that there has been a significant decline in his pursuit of social and recreational activities. Reportedly, he has little interest in socializing.

Medical History: Mr. Kneece reported that he continues under the care of Dr. Troyer at the Health South Facility. Currently, he is on Depakote as Paxil was discontinued. He also utilizes Vioxx for knee pain with occasional use of Claritin.

Mr. Kneece denied previous head or neck injury. Previous operative procedures consist of three hernia repairs, appendectomy, and repair of the left shoulder.

Mr. Kneece denied history of serious infections. He reports having seasonal allergies. He denied history of diabetes or hypertension. There is no report of previous stroke or cardiovascular difficulties. He denied history of disruptive migraine or tension headaches.

Mr. Kneece denied history of psychiatric illness or need for formal treatment. He denied having lifelong problems with his nerves, depression, or mood swings. He is an occasional consumer of alcohol. He denied illicit drug usage. There is no history of formal substance abuse treatment. There is no history of DUI or criminal arrest. Mr. Kneece does not utilize tobacco products.

Family History: Noncontributory for psychiatric illness and/or substance abuse problems. Reportedly, there is a family history for hypertensive disease.

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Psychosocial Review: Mr. Kneece is a high school graduate having grown up in Pelion, South Carolina. He denied repetition of grades or placement in specialized classes. He denied history of learning disability or Attention Deficit Disorder.

Mr. Kneece reported that he has "been farming all of his life." Reportedly, he co-owns a family farm shop. He has been married to his wife, Roxanne, for 19 years and they have two children, ages 18 and 15. There is no report of previous marriages.

Procedures: Wechsler Adult Intelligence Scale-III, Wechsler Memory Scale-III, California Verbal Learning Test-II, Wisconsin Card Sorting Test, Trail Making Test, Tactual Performance Test, Seashore Rhythm Test, Speech Sounds Perception Test, Aphasia Screening Exam, Sensory Perceptual Exam, Finger Tapping Test, Grooved Pegboard Test, Controlled Oral Word Association Test, Stroop Test, Paced Auditory Serial Addition Test, Conner's Continuous Performance Test-II, Judgment of Line Orientation Test, Wechsler Test of Adult Reading, Test of Memory Malingering, Behavioral Dyscontrol Scale, Personality Assessment Inventory. Ms. Roxanne Kneece also completed the Post Mild Traumatic Brain Injury Symptom Checklist regarding her husband's current functioning.

Examination Results:

Neurobehavioral Status: Mr. Kneece was on time for his scheduled appointment. He was appropriately attired, well groomed, with good personal hygiene. He was pleasant in his interactions with the examiner. Affect was euthymic and sensorium was clear. Mr. Kneece was oriented to all spheres. There was no evidence of psychomotor retardation or excitation. Mr. Kneece had no difficulties understanding test instructions and worked in a straightforward, diligent fashion. There was no evidence that depression, anxiety, or pain disrupted his test performance. Mr. Kneece was observed to put forth good effort throughout the evaluative process. Specific assessment of effort was undertaken via administration of the Test of Memory Malingering (TOMM). Mr. Kneece's performance on the TOMM was well within the expected range and consistent with our observation of providing good effort. The obtained test results are viewed as a valid sample of his present functioning.

Language Functions: Screening evaluation failed to reveal any aphasic or agnostic symptomatology. Mr. Kneece's conversational speech was prosodic, fluent, of normal rate and tone without evidence of dysarthria or paraphasic errors. Mr. Kneece did not demonstrate word-finding difficulties in conversational speech. His performance on a formal test of verbal fluency was in the average range (30th percentile). There was no evidence of receptive language dysfunction.

Sensory/Motor Functions: Evaluation failed to reveal any evidence of imperceptions or suppressions affecting tactile, auditory, or visual modalities during unilateral or bilateral stimulation paradigms. Mr. Kneece performed efficiently on a tactile finger recognition test and a test of graphesthesia. He had no difficulty recognizing gross tactile forms in his extremities.

Mr. Kneece reports being right hand dominant. In interview, there was complaint of brief periods of unsteadiness with postural changes. Reportedly, he has been placed on Antivert, but this was not of assistance. On a test demanding fine motor speed (Finger Tapping Test), Mr. Kneece's performance was within average limits. On a test demanding fine motor speed and dexterity (Grooved Pegboard Test), he was slow and impaired in his non-dominant left hand performance. Mr. Kneece was observed to ambulate without difficulty or complaint.

General Intellectual Abilities: Mr. Kneece's performance on the Wechsler Adult Intelligence Scale-III (WAIS-III) classified his intellectual functioning to be in the low average to borderline range with a Full Scale I.Q. of 76, a Verbal I.Q. of 81, and a Performance I.Q. of 75. Mr. Kneece's Full Scale I.Q. places him at the 5th percentile and is below expected performance considering his history of attaining a

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high school degree. There was a non-significant discrepancy in his performance on verbal, educationally oriented tasks (10th percentile) compared to visual spatial integration tasks (5th percentile).

WAIS-III analysis revealed Mr. Kneece to be deficient in his performance on verbal comprehension tasks (4th percentile), perceptual organizational tasks (5th percentile), and tasks assessing processing speed (8th percentile). He was more efficient, though below average in his performance on tasks assessing working memory (14th percentile).

Analysis of separate WAIS-III scale performance revealed a relative strength in Mr. Kneece's performance on a task demanding immediate auditory recall of numerical stimuli (50th percentile). In contrast, he demonstrated significant weakness on a test assessing his ability to find a common construct between disparate items (2nd percentile). There was also significant weakness on tests demanding analysis and construction of spatial relations (2nd percentile) and matrix reasoning (5th percentile).

Attention/Memory Functioning: Mr. Kneece sustained a significant traumatic brain injury as the result of the accident on November 19th, 1999. Reportedly, he is experiencing sequelae common to the traumatic brain injury syndrome, particularly with reduced capacity for attention/concentration, slowed information processing speed, and reduced memory/learning.

In the current evaluation, Mr. Kneece's performance on the Stroop Test revealed adequate processing speed for word stimuli (T=49). In contrast, he was slow in the processing speed for color stimuli (T=40). Mr. Kneece demonstrated a significant decrement in his performance on a divided attentional task (T=34). Mr. Kneece performed in the impaired range on attentional tasks demanding discrimination of rhythmic sounds (T=36) and discrimination of speech sounds and matching them to their phonemes (T=36). Mr. Kneece also had difficulties meeting the demands of the Paced Auditory Serial Addition Test (PASAT), a sensitive measure of information processing speed, attention/concentration, and immediate learning. He was slow and impaired in his initial trial performance but developed a more effective strategy for his second trial performance. He then demonstrated decrements in his performance as the trials became more rapid and demanding. Mr. Kneece's total recall score on the PASAT placed him at the 8th percentile compared to age related peers.

Mr. Kneece was also administered the Conner's Continuous Performance Test-II which was specifically developed to assess for attentional and vigilant difficulties associated with ADHD and/or neurological impairment. Mr. Kneece's performance on the Conner's Test was suggestive of impairment. The CPT discriminant function indicated that Mr. Kneece's results better matched a neurologically impaired clinical profile than a non-clinical profile. The confidence index was 56.4%.

Mr. Kneece was also administered the Wechsler Memory Scale-III (WMS-III) to assess different components of anterograde memory. Mr. Kneece was variable in his performance on the WMS-III, attaining a general memory index score of 86 placing him at the 18th percentile. Mr. Kneece was efficient in his performance on WMS-III tests assessing immediate auditory memory (63rd percentile). In contrast, he demonstrated deficiency in his performance on WMS-III tasks assessing immediate visual memory (7th percentile). Mr. Kneece had difficulties retaining previously learned auditory information after a period of delay (34th percentile). He showed an ability to retain previously learned visual information (19th percentile). Mr. Kneece's performance on WMS-III tests assessing working memory placed him at the 13th percentile.

Analysis of separate WMS-III scale performance revealed an average ability to immediately learn and recall orally presented story material. Mr. Kneece was also average in his performance on a verbal paired associate task. He demonstrated weakness on a task demanding free recall of family pictorial stimuli. Mr. Kneece showed a low average ability to retain and recall orally presented story material after a period of delay (percent retention = 69). Immediate learning and reproduction of visual designs placed him

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at the 37th percentile. Mr. Kneee showed an average ability to retain and reproduce visual designs after a period of delay (percent retention = 83).

Mr. Kneee was administered the California Verbal Learning Test-II (CVLT-II), a repetitive word list learning task. Mr. Kneee performed efficiently on the CVLT-II with his total recall score after five administrations of the word list placing him at the 82nd percentile. Observation of test performance revealed a good initial trial as well as an ability to profit from repetitive administrations as he demonstrated the expected learning curve. Mr. Kneee showed a good ability to retain and recall word list information in a short and long delay, free and cued recall process. Assessment of learning characteristics revealed appropriate usage of semantic clustering. There were no excessive intrusive errors. Mr. Kneee performed efficiently on a recognition task demanding that he discriminate target from non-target words.

Visual Spatial/Visual Constructional Functions: Mr. Kneee did not demonstrate any evidence of visual inattention or neglect processes. Nor was there evidence of constructional difficulties. Mr. Kneee performed deficiently on WAIS-III tasks assessing perceptual organizational skills (5th percentile). He performed in the average range on a task demanding fine discriminations of lines in space (40th percentile). On a visuographic sequencing test involving the serial processing of numbers, he was without confusional error but slow in his completion of the task (T=39). When the task became more demanding, involving alternations between numbers and letters in sequential fashion, he made one confusional error with a slow and impaired performance (T=35).

Executive/Higher Reasoning Skills: Mr. Kneee was able to sequence and inhibit fine motor movements on go-no go types of tasks. He was average in his performance on a word generativity test and demonstrated difficulties with set shifting in his performance on the Trail Making Test-Part B.

On the WAIS-III, Mr. Kneee demonstrated significant difficulties on tests demanding higher reasoning and abstract thinking skills. This was evident on a test demanding the finding of a common construct between disparate items (2nd percentile) as well as analysis and construction of spatial relations (2nd percentile).

Mr. Kneee was administered the Wisconsin Card Sorting Test which demands the methodical ability to generate hypotheses, to discern the correct hypotheses, as well as to shift the basis of one's responding when the externally imposed demands of the task necessitate this. Mr. Kneee had difficulties on the Wisconsin Card Sorting Test as he attained only three of the expected six categories with a significant rate of perseverative errors (30%) and one failure to maintain set.

Mr. Kneee was also administered the Factual Performance Test which demands keen kinesthetic/proprioceptive abilities as well as organizational/planning skills. Mr. Kneee's initial dominant hand performance on this task was slow and impaired (T=35). He remained slow and impaired in his second trial, non-dominant hand performance (T=37) and third trial, both hands performance (T=35). His incidental memory score (T=28) as well as his localization score (T=34) were in the neuropsychologically impaired range.

Emotional/Personality Functions: Common to the traumatic brain injury syndrome, there is complaint of significant change in Mr. Kneee's emotional/personality functioning involving social executive impairments such as impotence, low frustration tolerance, emotional dysregulation, and secondary depression with withdrawal. These difficulties are common particularly when there has been injury to the frontal region of the brain. Mr. Kneee is also likely developing a "shaken sense of self" which is a loss of self confidence in his abilities and interpersonal effectiveness resulting in withdrawal.

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To further assess Mr. Kneece's emotional functioning, he completed the Personality Assessment Inventory (PAI). Mr. Kneece's response set to the PAI indicated that he tended to portray himself as free of common shortcomings reflecting a defensive tendency. There was no evidence to suggest that he was motivated to portray himself in a more negative or pathological light than the clinical picture would warrant.

The PAI clinical profile revealed an individual who remains concerned about physical functioning and health matters and views himself as being impaired from somatic symptomatology. There were no other clinically significant elevations suggestive of ongoing psychological difficulties.

Ms. Roxanne Kneece (wife) completed a Post Mild Traumatic Brain Injury Symptom Checklist regarding her husband's current functioning. Ms. Kneece characterized her husband as having severe (frequently present and disrupts activities) difficulties with headaches, sensitivity to noise, forgetfulness, difficulty making decisions, slowed thinking/difficulty getting organized, fatigue, irritability, and poor frustration tolerance/feeling easily overwhelmed by things.

Summary: Mr. Ricky Kneece is a 42 year old married Caucasian male who is status post a traumatic brain injury sustained in an accident on November 19th, 1999. Reportedly, Mr. Kneece was injured when a tire exploded, suffering injuries to his head that included diffuse cerebral edema, subarachnoid hemorrhages, left tentorial subdural hematoma, right posterior frontal epidural, and contusions.

The current neuropsychological evaluation reveals intellectual functioning to be in the borderline to low average range which is below expectation considering Mr. Kneece's history of educational attainment. Neurocognitive evaluation provided compelling evidence that Mr. Kneece has difficulties sustaining attention/concentration with slowed processing speed and difficulties with complex/multiprocessing tasks. Assessment of anterograde memory revealed a lateralized effect with poor performance on tasks demanding visual memory. There was no compelling evidence of rapid forgetting or amnesic syndrome. Mr. Kneece also demonstrated difficulties on tasks demanding executive functioning and higher reasoning/problem solving skills. There was no evidence of receptive or expressive language dysfunction or sensory perceptual disturbance. Motor functioning is mildly slow and reportedly there are continuing difficulties with unsteadiness triggered by postural changes. There was no compelling evidence of aphasic symptomatology or specific impairment of visual spatial skills.

Assessment of emotional/personality functioning reveals Mr. Kneece to be experiencing the social executive impairments common to the traumatic brain injury syndrome, particularly when there has been injury to the frontal region. Mr. Kneece is described by his wife as having a definitive change in emotional/personality functioning with increased irritability, low frustration tolerance, emotional dysregulation, and secondary depression/withdrawn. He appears to be highly dependant on his wife for decision making.

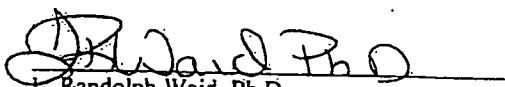
I am in agreement with Lenwood P. Smith, Jr., M.D., neurosurgeon that Mr. Kneece has made a good recovery considering the severity of his traumatic brain injury. He appears to be compensating for his memory disturbance, though his life has been significantly changed by the sustainment of the traumatic brain injury. I would also consider this to be a static situation and that the current deficits can be expected to be permanent and lifelong.

Based on The Diagnostic and Statistical Manual of Mental Disorders-4th Edition (DSM-IV), the following multiaxial assessment is provided:

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Axis I	Cognitive Disorder, NOS (294.90) secondary to the sustainment of a traumatic brain injury.
Axis II	Personality change due to traumatic brain injury (310.10), labile type.
Axis III	No diagnosis (V71.09).
Axis IV	Status post traumatic brain injury; headaches; left knee pain/discomfort; mild unsteadiness.
Axis V	Litigation.
	GAF=60 (current).

Thank you for allowing me to participate in the evaluative care of Mr. Ricky Kneece. It is evident that Mr. Kneece sustained physical injury to the brain as the result of the accident on November 19th, 1999. He appears to have made a good recovery from a severe traumatic brain injury, though functions with a cluster of neurocognitive deficits as well as change in emotional/personality functioning common to the traumatic brain injury syndrome. Please feel free to contact me if I can be of further assistance with regard to Mr. Kneece.



L. Randolph Waid, Ph.D.

Licensed Clinical Psychologist

Clinical Associate Professor in Psychiatry/Neurology, MUSC

CC: Scott Elliott

LRW/emf

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Post Trauma Resources

Lawrence H. Bergmann, Ph.D., LPC, LPC/S, CTS
President
Roger W. Deal, M.D.
Medical Director

September 15, 2010

Mr. Scott Elliott, Attorney at Law
Elliott & Elliott, P.A.
1508 Lady Street
Columbia, SC 29201

Dear Mr. Elliot,

Thanks very much for your note concerning the future treatment needs of Mr. Ricky Kneece.

It is Dr. Deal and my opinion that Mr. Kneece will require the use of psychotropic medication indefinitely with up to four medication management appointments per year. In addition, Mr. Kneece will require up to 24 psychotherapy sessions during the first two years and six for the next year. After that, Mr. Kneece may require further care if he experiences periods of increased symptoms.

Thanks very much for your request and feel free to contact us if we can be of any further assistance.

Sincerely,

Lawrence H. Bergmann PhD

Lawrence H. Bergmann, Ph.D., LPC, LPC/S

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Progress Note

Date: 5/5/2010
Provider: Lawrence Bergmann, Ph.D.
Session Length: 30 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky
Sex: Male

Content/Process

Other themes: reported some improvement in headaches with new medication, reported that stressors with family are somewhat improved, noted no new complaints today

Session Content: Related his status and activities, reported on his work and family and all seems to be going pretty well. We reviewed his use of medication and especially the new meds he is receiving from the neurologist.

Interventions

- 1) active listening, provision of support for recovery
- 2) check in regarding psychological and physical status
- 3) ventilation related to details of current stressors
- 4) normalization of trauma related symptoms

Response to Interventions: good

Electronically Signed/Date: Bergmann, Ph.D., Lawrence

5/5/2010 4:31:38 PM

Progress Note

Date: 4/14/2010
Provider: Lawrence Bergmann, Ph.D.
Session Length: 30 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky
Sex: Male

Content/Process

Other themes: reported an increase in headaches and stress associated with family issues, cognitive difficulties

Session Content: Reported on his activities and the stress that may be related to headaches. We discussed his recent visit to the neurologist in Beaufort and the finds, new scripts for medications. Encouraged problem solving and worked to address options.

Interventions

- 1) active listening, provision of support for recovery
- 2) check in regarding psychological and physical status
- 3) ventilation related to details of current stressors
- 4) problem solving -- assist pt in generating options

Response to Interventions: good

Electronically Signed/Date: Bergmann, Ph.D., Lawrence

4/14/2010 8:42:57 PM

Progress Note

Date: 3/10/2010
Provider: Lawrence Bergmann, Ph.D.
Session Length: 30 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky
Sex: Male

Content/Process

Other themes: reported a significant increase in headaches and is also today complaining of pain in shoulder and back, no reported change in cognitive and psychological status

Session Content: Session was primarily focused on his physical status in conjunction with increased pain. Could not id any particular stressors or changes. Much ventilation concerning the frustration e feels about the sudden and unexplainable changes in his life.

Interventions

- 1) active listening, provision of support for recovery
- 2) ventilation related to details of current stressors
- 3) problem solving – assist pt in generating options
- 4) normalization of trauma related symptoms

Response to Interventions: ok

Electronically Signed/Date: Bergmann, Ph.D., Lawrence

3/10/2010 6:43:29 PM

Progress Note

Date: 2/10/2010
Provider: Lawrence Bergmann, Ph.D.
Session Length: 30 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky
Sex: Male

Content/Process

Other themes: reported continued headaches and noted increase since last visit here, also reported continued cognitive deficits, concentration issues

Session Content: Discussed status and activities and today's session included much ventilation about his status and concerns. Problem solving regarding manage of cognitive deficits. Noted that his legal issues seem to be moving now and he reported that he hopes to settle these soon. Discussed and reviewed use of medications.

Interventions

- 1) active listening, provision of support for recovery
- 2) check in regarding psychological and physical status
- 3) ventilation related to details of current stressors

Response to Interventions: good

Electronically Signed/Date: Bergmann, Ph.D., Lawrence

2/10/2010 8:56:14 AM

Post Trauma Resources
1709 Laurel Street
Columbia, South Carolina 29201
803.765.0700

Progress Note

Date: 1/12/2010
Provider: Lawrence Bergmann, Ph.D.
Session Length: 30 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky
Sex: Male

Content/Process

Other themes: reported increased irritability, physical symptoms, depression, noted that there has been increased stress in his family

Session Content: Discussed status and activities, noted and normalized the stress in his life, discussed the vulnerability that he has now given the head injury, also discussed management from a relationship, family and individual perspective. Reviewed sleep hygiene and will see Dr. Deal today as well.

Interventions

- 1) active listening, provision of support for recovery
- 2) check in regarding psychological and physical status
- 3) ventilation related to details of current stressors
- 4) normalization of trauma related symptoms
- 5) behavioral techniques – discuss sleep hygiene skills

Response to Interventions: good

Electronically Signed/Date: Bergmann, Ph.D., Lawrence

1/13/2010 7:18:02 AM

Progress Note

Date: 10/28/2009
Provider: Lawrence Bergmann, Ph.D.
Session Length: 30 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky
Sex: Male

Content/Process

Other themes: primary concern was the head injury that his son has suffered at work

Session Content: Discussed the accident of his son, this has triggered significant memories.. He related the details of the incident and his concerns for treatment. Provided support, opportunity for ventilation.

Interventions

- 1) active listening, provision of support for recovery
- 2) ventilation related to details of current stressors
- 3) normalization of trauma related symptoms

Response to Interventions: good

Electronically Signed/Date: Bergmann, Ph.D., Lawrence

10/28/2009 8:53:31 PM

Progress Note

Date: 9/30/2009
Provider: Lawrence Bergmann, Ph.D.
Session Length: 30 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky
Sex: Male

Content/Process

Other themes: reported that he is concerned about an increased level of fatigue, anger and irritability have not been an issue he reported, no change in legal status, pain, cognitive deficits remain an issue

Session Content: Discussed his status and activities, continues to work on the farm. Expressed concerns about his level of fatigue and has noted a pattern that this is more likely to occur as the weather is cooler, not sure why. Discussed the management of frustrating and anger types of situations, reviewed coping skills. So far, so good on this.

Interventions

- 1) active listening, provision of support for recovery
- 2) check in regarding psychological and physical status
- 3) problem solving – assist pt in generating options
- 4) review impact of head injury

Response to Interventions: good and stable

Electronically Signed/Date: Bergmann, Ph.D., Lawrence

9/30/2009 10:14:16 AM

Progress Note

Date: 9/1/2009
Provider: Lawrence Bergmann, Ph.D.
Session Length: 30 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky
Sex: Male

Content/Process

Other themes: reported no significant change, described an incident where he was very angry and was concerned about his response

Session Content: Discussed his status and activities, no significant change with continued physical and cognitive symptoms. Told me in great detail about the incident where he was so angry. Discussed common emotional reactions that accompany head injuries. Normalized feelings and discussed management.

Interventions

- 1) active listening, provision of support for recovery
- 2) check in regarding psychological and physical status
- 3) ventilation related to details of current stressors
- 4) problem solving -- assist pt in generating options

Response to Interventions: good

Electronically Signed/Date: Bergmann, Ph.D., Lawrence

9/1/2009 1:35:33 PM

Progress Note

Date: 7/15/2009
Provider: Lawrence Bergmann, Ph.D.
Session Length: 30 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky
Sex: Male

Content/Process

Other themes: reported an increase in headaches and fatigue with no reported triggers and cannot seem to identify the situation that preceded pain, cognitive difficulties remain reported, no new complaints

Session Content: Reported his condition and status as above. Had no specific agenda today and the conversation related to his current symptoms, did try to explore patterns in his pain with little success.

Interventions

- 1) active listening, provision of support for recovery
- 2) check in regarding psychological and physical status
- 3) ventilation related to details of current stressors
- 4) review relationship between pain and psychological factors

Response to Interventions: ok

Electronically Signed/Date: Bergmann, Ph.D., Lawrence

7/15/2009 9:22:13 AM

Progress Note

Date: 6/10/2009
Provider: Lawrence Bergmann, Ph.D.
Session Length: 30 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky
Sex: Male

Content/Process

Other themes: continues to report cognitive symptoms, noted general fatigue and weakness, is following up with md on thyroid issues, no new psychological complaints today and remains at mmi

Session Content: Discussed current status and activities, caught up, explored possible reasons for increased fatigue but no pattern could be identified, no changes in his legal status reported, continues to work on the farm but remains frustrated with his inability to complete tasks.

Interventions

- 1) behavioral techniques -- discuss sleep hygiene skills
- 2) active listening, provision of support for recovery
- 3) ventilation related to details of current stressors
- 4) problem solving -- assist pt in generating options

Response to Interventions: good, remains stable

Electronically Signed/Date: Bergmann, Ph.D., Lawrence

6/10/2009 9:48:19 AM

Progress Note

Date: 3/11/2009
Provider: Lawrence Bergmann, Ph.D.
Session Length: 30 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky
Sex: Male

Content/Process

Other themes: reported no significant change in status, has been sick with a respiratory condition and that has impacted sleep and activities,

Session Content: Reported an overall improvement with changes in medication, continues to be anxious about concluding his legal issues but has heard nothing. We discussed his current activities and changes since he has become sick. Ventilation regarding the length of his legal issues.

Interventions

- 1) active listening, provision of support for recovery
- 2) check in regarding psychological and physical status
- 3) problem solving -- assist pt in generating options
- 4) normalization of trauma related symptoms

Response to Interventions: ok

Electronically Signed/Date: Bergmann, Ph.D., Lawrence

3/11/2009 10:01:41 AM

Progress Note

Date: 1/7/2009
Provider: Lawrence Bergmann, Ph.D.
Session Length: 30 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky
Sex: Male

Content/Process

Other themes: continues to complaint of headaches, cognitive deficits and also noted today sweating at night, no significant psychological changes noted and he remains at mmi

Session Content: Discussed current status and activities, noted that he has recently taken a brief vacation and enjoyed being away from the farm for a brief period of time. Reviewed symptoms, is concerned about his medication, is now taking a generic and is not sure that it is giving him the relief he is used to, will check that out with Dr. Deal.

Interventions

- 1) active listening, provision of support for recovery
- 2) check in regarding psychological and physical status
- 3) ventilation related to details of current stressors
- 4) problem solving -- assist pt in generating options

Response to Interventions: ok

Electronically Signed/Date: Bergmann, Ph.D., Lawrence

1/7/2009 10:05:24 AM

Progress Note

Date: 11/4/2008
Provider: Lawrence Bergmann, Ph.D.
Session Length: 30 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky
Sex: Male

Content/Process

Other themes: reported no significant change with continued headaches and cognitive difficulties, continues to complain of problems gaining medical care and issues with the wc carrier

Session Content: Discussed current status and session continues to focus on check in with his status and medication. Discussed his frustration with his legal status. Ventilation concerning the losses he has experienced. Check in on medication.

Interventions

- 1) active listening, provision of support for recovery
- 2) check in regarding psychological and physical status
- 3) ventilation related to details of current stressors
- 4) problem solving -- assist pt in generating options

Response to Interventions: ok

Electronically Signed/Date: Bergmann, Ph.D., Lawrence

11/4/2008 9:54:17 AM

Progress Note

Date: 10/8/2008
Provider: Lawrence Bergmann, Ph.D.
Session Length: 30 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky
Sex: Male

Content/Process

Other themes: pt reported no significant change with continued headaches, fatigue, cognitive impairments

Session Content: Pt continues to remain at mmi and to report both psychological and cognitive symptoms. Medications were reported as good and successful. No significant agenda items today and the session included discussion of his recent activities, normalization of feelings and management of impairment.

Interventions

- 1) active listening, provision of support for recovery
- 2) check in regarding psychological and physical status
- 3) ventilation related to details of current stressors
- 4) normalization of trauma related symptoms

Response to Interventions: ok

Electronically Signed/Date: Bergmann, Ph.D., Lawrence

10/10/2008 5:38:46 PM

Progress Note

Date: 7/30/2008
Provider: Lawrence Bergmann, Ph.D.
Session Length: 30 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky
Sex: Male

Content/Process

Other themes: reported that he is feeling somewhat better since our last visit, continues to be no progress on resolving wc and legal issues he reported

Session Content: General check in with no agenda today and he did report some improvement and continued stability. Also related his continued frustration with cognitive problems and his feelings of lack of confidence when he is trying to complete tasks, this was normalized and we discussed management.

Interventions

- 1) active listening, provision of support for recovery
- 2) check in regarding psychological and physical status
- 3) ventilation related to details of current stressors
- 4) normalization of trauma related symptoms

Response to Interventions: ok

Electronically Signed/Date: Bergmann, Ph.D., Lawrence

7/30/2008 9:56:06 AM

Progress Note

Date: 7/2/2008
Provider: Lawrence Bergmann, Ph.D.
Session Length: 30 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky
Sex: Male

Content/Process

Other themes: noted continued cognitive difficulties, headaches, worry and concern about the future, expressed frustration with appointments with and treatment by neurologist

Session Content: Session included a check in and described of current status and activities. Ventilation and normalization for feelings. Discussed concerns about the future.

Interventions

- 1) active listening, provision of support for recovery
- 2) check in regarding psychological and physical status
- 3) ventilation related to details of current stressors
- 4) normalization of trauma related symptoms

Response to Interventions: ok

Electronically Signed/Date: Bergmann, Ph.D., Lawrence

7/2/2008 10:00:17 AM

Progress Note

Date: 4/23/2008
Provider: Lawrence Bergmann, Ph.D.
Session Length: 30 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky
Sex: Male

Content/Process

Other themes: reported no significant change in status and remains at mmi, seems to be managing cognitive limitations at this point fairly well

Session Content: Discussed current status and his activities, things are gearing up quite a bit on the farm and he provided me with an update there. Still awaiting some resolution to his legal issues not has not heard anything. Reviewed meds and future plans.

Interventions

- 1) active listening, provision of support for recovery
- 2) behavioral techniques – discuss sleep hygiene skills
- 3) ventilation related to details of current stressors
- 4) check in regarding psychological and physical status

Response to Interventions: good, doing okay

Electronically Signed/Date: Bergmann, Ph.D., Lawrence

4/23/2008 2:49:31 PM

Progress Note

Date: 2/27/2008
Provider: Lawrence Bergmann, Ph.D.
Session Length: 30 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky
Sex: Male

Content/Process

Other themes: related that there is not change in his status, headaches continue to be a stressor and an issue

Session Content: Discussed status and did a general check in. Related problems with headaches and is trying to gain approval to see a neurologist. Med seem to be okay, he reported.

Interventions

- 1) active listening, provision of support for recovery
- 2) check in regarding psychological and physical status
- 3) ventilation related to details of current stressors

Response to Interventions: remains stable and at mmi

Electronically Signed/Date: Bergmann, Ph.D., Lawrence

2/27/2008 11:01:15 AM

Post Trauma Resources
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803.765.0700

Progress Note

Date: 1/30/2008
Provider: Lawrence Bergmann, Ph.D.
Session Length: 30 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky
Sex: Male

Content/Process

Other themes: complaints about his physical status with vertigo and headaches

Session Content: Discussed current status and activities with a focus on his physical status, could not help him much on this and I suggested that he discuss this in more detail with Dr. Deal. Continues to work and stay busy but with continued cognitive deficits.

Interventions

- 1) active listening, provision of support for recovery
- 2) check in regarding psychological and physical status
- 3) ventilation related to details of current stressors

Response to Interventions: ok

Electronically Signed/Date: Bergmann, Ph.D., Lawrence

1/30/2008 10:06:25 AM

Progress Note

Date: 4/17/2007
Provider: Lawrence Bergmann, Ph.D.
Session Length: 30 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky
Sex: Male

Content/Process

Other themes: reported that he has had an increase in pain in his non-injured shoulder and this has impacted his sleep; continues to report sleep disruption, headaches, memory impairment, checking after himself multiple times

Session Content: Related his current status and activities and we discussed his physical concerns. Also ventilation concerning problems with work, cold weather has significantly damaged crops. Reviewed use of medication and will also see Dr. Deal today.

Interventions

- 1) active listening, provision of support for recovery
- 2) check in regarding psychological and physical status
- 3) ventilation related to details of current stressors
- 4) identify significant losses the patient has experienced

Response to Interventions: good

Electronically Signed/Date: Bergmann, Ph.D., Lawrence

4/17/2007 4:36:15 PM

Progress Note

Date: 3/13/2007
Provider: Lawrence Bergmann, Ph.D.
Session Length: 30 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky
Sex: Male

Content/Process

Other themes: remains stable and at mmi, reported significant frustration with follow-up neuropsych exam, continues to report cognitive deficits, headaches but remains overall improved

Session Content: Discussed current activities and he provided information about this time of year on the farm. Much of his energy today was for discussion related to follow-up exam, his frustration with the process but more so with his inability to focus and think well. Discussed purpose and nature of the test and normalized his experience.

Interventions

- 1) active listening, provision of support for recovery
- 2) check in regarding psychological and physical status
- 3) cognitive modification – development of more appropriate self-talk
- 4) ventilation related to details of current stressors

Response to Interventions: good

Electronically Signed/Date: Bergmann, Ph.D., Lawrence

3/13/2007 12:53:16 PM

47

Progress Note

Date: 2/6/2007
Provider: Lawrence Bergmann, Ph.D.
Session Length: 30 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky
Sex: Male

Content/Process

Other themes: reported no significant change since last contact, continues to complain about headaches, cognitive impairment

Session Content: Related his current status as unchanged and stable, reported that he is going to have a reeval with Dr. Wade this week. Expressed concerns about going because he is more clearly able to see the deficits he is living with. This was normalized, discussed the impending end of his wc case.

Interventions

- 1) active listening, provision of support for recovery
- 2) ventilation related to details of current stressors
- 3) information provided regarding development of trauma related symptoms

Response to Interventions: good, stable

Electronically Signed/Date: Bergmann, Ph.D., Lawrence

2/6/2007 9:02:05 AM

48

Page 21

Progress Note

Date: 1/3/2007
Provider: Lawrence Bergmann, Ph.D.
Session Length: 30 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky
Sex: Male

Content/Process

Other themes: reported that he is doing well, stable, continues to report headaches and cognitive problems

Session Content: Described current status and activities. No new complaints, reviewed medical care and medication. Related that I will be writing letter to carrier/attorney about mmi.

Interventions

- 1) active listening, provision of support for recovery
- 2) check in regarding psychological and physical status
- 3) ventilation related to details of current stressors
- 4) problem solving -- assist pt in generating options

Response to Interventions: good and remains improved

Electronically Signed/Date: Bergmann, Ph.D., Lawrence

1/3/2007 11:21:59 AM

49

Progress Note

Date: 12/6/2006
Provider: Lawrence Bergmann, Ph.D.
Session Length: 30 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky
Sex: Male

Content/Process

Other themes: pt looked better today and had no new complaints, noted that he continues to experience cognitive deficits and that at times his friends will tell him he is repeating himself, also noted continued stability in mood

Session Content: Reported status as above and we discussed his current activities and limitations. Discussed recommended changes in medication and these seem to be improving mood, if not headaches, no new agenda items today and he remains at maximum medical improvement with continued care, primarily medication required.

Interventions

- 1) active listening, provision of support for recovery
- 2) check in regarding psychological and physical status
- 3) ventilation related to details of current stressors
- 4) problem solving – assist pt in generating options

Response to Interventions: remains stable and overall in improved condition

Electronically Signed/Date: Bergmann, Ph.D., Lawrence

12/6/2006 3:18:01 PM

Progress Note

Date: 10/31/2006
Provider: Lawrence Bergmann, Ph.D.
Session Length: 30 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky
Sex: Male

Content/Process

Other themes: reported that he has had a difficult week with more sleep disruption and headaches, related increased irritability and cognitive symptoms as well

Session Content: Discussed current status as above and worked to assist patient to identify possible triggers and patterns. Was able to relate to certain triggers and we discussed avoidance and management. Ventilation concerning losses and frustration with periods of increased symptoms. Redirected to discussion of choices during periods of high stress and exacerbated symptoms.

Interventions

- 1) active listening, provision of support for recovery
- 2) cognitive modification - modification of anger producing cognitions
- 3) check in regarding psychological and physical status
- 4) ventilation related to details of current stressors
- 5) review relationship between pain and psychological factors

Response to Interventions: good

Electronically Signed/Date: Bergmann, Ph.D., Lawrence

10/31/2006 7:45:11 PM

Progress Note

Date: 9/20/2006
Provider: Lawrence Bergmann, Ph.D.
Session Length: 30 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky
Sex: Male

Content/Process

Other themes: reported continued difficulties with cognitive impairment, headaches, periods of dizziness but also stated that his condition is overall somewhat improved

Session Content: Caught up and he related current activities and difficulties at work. Discussed management of disability over the long term. Reviewed use of medication. Cognitive mgt of beliefs about self given limitations.

Interventions

- 1) behavioral techniques – discuss sleep hygiene skills
- 2) active listening, provision of support for recovery
- 3) check in regarding psychological and physical status
- 4) cognitive modification – development of more appropriate self-talk
- 5) ventilation related to details of current stressors

Response to Interventions: good

Electronically Signed/Date: Bergmann, Ph.D., Lawrence

9/20/2006 10:00:24 PM

Progress Note

Date: 8/23/2006
Provider: Lawrence Bergmann, Ph.D.
Session Length: 30 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky
Sex: Male

Content/Process

Other themes: reports continued emotional stability with cognitive deficits most frustrating for him, relationship issues reported as okay, has noted some increase in dizziness and other physical symptoms with increased work load.

Session Content: Discussed current status and activities and this is an especially busy time for farmers, discussed that process and the stress and physical toll that his schedule is taking on him. Seems to be holding up pretty well but memory issues remain an obstacle to work. Reviewed meds and self care issues.

Interventions

- 1) active listening, provision of support for recovery
- 2) behavioral techniques — teach and/or practice relaxation techniques
- 3) ventilation related to details of current stressors
- 4) review relationship between pain and psychological factors
- 5) reviewed treatment progress to date

Response to Interventions: good, stable at this point

Electronically Signed/Date: Bergmann, Ph.D., Lawrence

8/23/2006 10:36:45 AM

Progress Note

Date: 1/17/2006
Provider: Lawrence Bergmann, Ph.D.
Session Length: 30 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky
Sex: Male

Content/Process

Other themes: no change in condition reported since last visit, met with Dr. Deal and was most concerned and had most questions about use of medication

Session Content: Checked in and discussed current status and activities. Most of the session today spent in assisting patient understand medication and use as well as role in treatment. Answered questions. Detailed discussion of incident and subsequent limitations. Discussed cognitive impairment and management.

Interventions

- 1) active listening, provision of support for recovery
- 2) check in regarding psychological and physical status
- 3) cognitive modification -- address frustration with continued symptoms
- 4) problem solving -- assist pt in generating options
- 5) ventilation related to details of current stressors

Response to Interventions: ok

Electronically Signed/Date: Bergmann, Ph.D., Lawrence

2/5/2006 4:16:49 PM

Progress Note

Date: 1/13/2006
Provider: Lawrence Bergmann, Ph.D.
Session Length: 30 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky
Sex: Male

Content/Process

Other themes: continues to report cognitive impairment, pain, frustration with medical access, headaches, depression, anxiety

Session Content: Had not seen for some time and we caught up and discussed activities, status and authorization for treatment. Outlined symptoms and described current treatment plan including meeting with Dr. Deal for medication. Ventilation concerning losses, these were normalized and supported. Reviewed process and treatment and protocol for medication. Provided information concerning nature of head injury.

Electronically Signed/Date: Bergmann, Ph.D., Lawrence

2/5/2006 4:06:54 PM

Progress Note

Date: 5/5/2005
Provider: Lawrence Bergmann, Ph.D.
Session Length: 45 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky
Sex: Male

Content/Process

Other themes: continued complaints of physical limitations, headaches, dizziness, frustration with current status, medical access issues

Session Content: Related current status and activities. Reported significant headaches and we discussed importance of recognizing patterns and methods for managing symptoms. Provided examples and a method for beginning to id patterns. Also discussed needed care in light of wc issues. Noted frustration and provided cogn model to pt again and identified cognitions associated with limitations. Also met with wife to discuss need for other care.

Interventions

- 1) check in regarding psychological and physical status

Electronic Signature by Provider Pending

Post Trauma Resources
1709 Laurel Street
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Progress Note

Date: 3/15/2005
Provider: Lawrence Bergmann, Ph.D.
Session Length: 45 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky
Sex: Male

Content/Process

Other themes: pain and disability management, psychological and cogn symptoms secondary to head injury at work. Concerns about legal and wc issues

Session Content: Patient was seen briefly before and is returning to participate in psychotherapy. Related current status of physical and cogn symptoms as well as legal and medical access issues. Described continued pain and is beginning physical therapy during next week or so. Related cogn and psychological symptoms including that he is easily frustrated and quick to anger, memory problems, depression, limited travel independantly. Discussed treatment needs and agenda. Will give a call back to coordinate trips into town with pt schedule.

Interventions

- 1) check in regarding psychological and physical status
- 2) ventilation/support via active listening
- 3) ventilation related to current status
- 4) cognitive modification – address frustration with continued symptoms
- 5) reviewed treatment goal and agenda

Response to Interventions: ok

Electronically Signed/Date: Bergmann, Ph.D., Lawrence

3/15/2005 2:58:57 PM

Post Trauma Resources
1709 Laurel Street
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803.765.0700

Progress Note

Date: 5/5/2010
Provider: Lawrence Bergmann, Ph.D.
Session Length: 30 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky
Sex: Male

Content/Process

Other themes: reported some improvement in headaches with new medication, reported that stressors with family are somewhat improved, noted no new complaints today

Session Content: Related his status and activities, reported on his work and family and all seems to be going pretty well. We reviewed his use of medication and especially the new meds he is receiving from the neurologist.

Interventions

- 1) active listening, provision of support for recovery
- 2) check in regarding psychological and physical status
- 3) ventilation related to details of current stressors
- 4) normalization of trauma related symptoms

Response to Interventions: good

Electronically Signed/Date: Bergmann, Ph.D., Lawrence

5/5/2010 4:31:38 PM

Post Trauma Resources
1709 Laurel Street
Columbia, South Carolina 29201
803.765.0700

Progress Note

Date: 3/15/2005
Provider: Lawrence Bergmann, Ph.D.
Session Length: 45 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky
Sex: Male

Content/Process

Other themes: pain and disability management, psychological and cogn symptoms secondary to head injury at work. Concerns about legal and wc issues

Session Content: Patient was seen briefly before and is returning to participate in psychotherapy. Related current status of physical and cogn symptoms as well as legal and medical access issues. Described continued pain and is beginning physical therapy during next week or so. Related cogn and psychological symptoms including that he is easily frustrated and quick to anger, memory problems, depression, limited travel independantly. Discussed treatment needs and agenda. Will give a call back to coordinate trips into town with pt schedule.

Interventions

- 1) check in regarding psychological and physical status
- 2) ventilation/support via active listening
- 3) ventilation related to current status
- 4) cognitive modification – address frustration with continued symptoms
- 5) reviewed treatment goal and agenda

Response to Interventions: ok

Electronically Signed/Date: Bergmann, Ph.D., Lawrence

3/15/2005 2:58:57 PM

Post Trauma Resources
1709 Laurel Street
Columbia, South Carolina 29201
803.785.0700

Progress Note

Date: 5/5/2010
Provider: Lawrence Bergmann, Ph.D.
Session Length: 30 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky
Sex: Male

Content/Process

Other themes: reported some improvement in headaches with new medication, reported that stressors with family are somewhat improved, noted no new complaints today

Session Content: Related his status and activities, reported on his work and family and all seems to be going pretty well. We reviewed his use of medication and especially the new meds he is receiving from the neurologist.

Interventions

- 1) active listening, provision of support for recovery
- 2) check in regarding psychological and physical status
- 3) ventilation related to details of current stressors
- 4) normalization of trauma related symptoms

Response to Interventions: good

Electronically Signed/Date: Bergmann, Ph.D., Lawrence

5/5/2010 4:31:38 PM

Progress Note

Date: 6/2/2010
Provider: Lawrence Bergmann, Ph.D.
Session Length: 30 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky
Sex: Male

Content/Process

Other themes: reported increased headaches with little relief from meds, no new complaints, noted irritability and conflict with neighbors, continues to report increased impulsiveness

Session Content: Discussed status and activities, discussed headaches and options for care. Also related a rather long and detailed story concerning a disagreement with a neighbor with the theme related to anger and impulsiveness. That lead to a conversation about the nature of head injuries.

Interventions

- 1) active listening, provision of support for recovery
- 2) check in regarding psychological and physical status
- 3) provide information concerning the consequences of traumatic events
- 4) ventilation related to details of current stressors

Response to Interventions: good

Electronically Signed/Date: Bergmann, Ph.D., Lawrence

6/2/2010 9:54:06 AM

Missed Appointment Note

Patient: Kneece, Ricky
Sex: Male

Date: 7/7/2010
Provider: Lawrence Bergmann, Ph.D.
Type: Missed (No Show)

Reason: f

Provider: Lawrence Bergmann, Ph.D.
Post Trauma Resources
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Provider Signature

Date

Progress Note

Date: 8/11/2010
Provider: Lawrence Bergmann, Ph.D.
Session Length: 30 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky
Sex: Male

Content/Process

Other themes: reported that he is having difficulties with some of the prescribed medications that he is taking, reported that he is experiencing continued cognitive symptoms that are somewhat worse with stress and the heat of outdoor work

Session Content: Discussed his status and symptoms as above, remains concerned about his legal status, discussed recent work activities and side effects from meds, prescribed by another physician. I asked him to discuss this with Dr. Deal today. Much ventilation about status and issues at work.

Interventions

- 1) active listening, provision of support for recovery
- 2) ventilation related to details of current stressors
- 3) problem solving -- assist pt in generating options
- 4) cognitive modification -- development of more appropriate self-talk

Response to Interventions: good

Electronically Signed/Date: Bergmann, Ph.D., Lawrence

8/11/2010 9:22:11 AM

Progress Note

Date: 9/16/2010
Provider: Lawrence Bergmann, Ph.D.
Session Length: 30 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky
Sex: Male

Content/Process

Other themes: noted a number of physical problems that he is being treatment for, this is reported to have caused him quite a bit of discomfort and some increase in reported depressed mood, no other changes, continues to report headaches and cognitive symptoms

Session Content: Discussed status and activities, discussed recent physical changes, provided support today primarily, no specific interventions appropriate for his complaints of today. We reviewed his medications and his sleep is somewhat more disrupted because of his physical condition. Reported on my contacts with his attorney concerning continued care.

Interventions

- 1) active listening, provision of support for recovery
- 2) check in regarding psychological and physical status
- 3) ventilation related to details of current stressors
- 4) normalization of trauma related symptoms

Response to Interventions: good

Electronically Signed/Date: Bergmann, Ph.D., Lawrence

9/16/2010 10:32:49 AM

Progress Note

Date: 11/17/2010
Provider: Lawrence Bergmann, Ph.D.
Session Length: 30 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky
Sex: Male

Content/Process

Other themes: reported continued cognitive problems, reported pain and physical symptoms including an increase in headaches,

Session Content: Discussed status and recent activities, noted cognitive issues, no specific agenda items today and support was provided and ventilation encouraged.

Interventions

- 1) active listening, provision of support for recovery
- 2) ventilation related to details of current stressors
- 3) check in regarding psychological and physical status
- 4) normalization of trauma related symptoms

Response to Interventions: ok

Electronically Signed/Date: Bergmann, Ph.D., Lawrence

12/16/2010 9:12:50 PM

Progress Note

Date: 1/12/2011
Provider: Lawrence Bergmann, Ph.D.
Session Length: 30 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky
Sex: Male

Content/Process

Other themes: reported that he has not been physically well for the past few weeks, reported that he fell and broke some bones in his hand, no other changes reported today

Session Content: Discussed his status and activities and I wondered aloud whether he should be climbing ladders, says he is sometimes dizzy. Discussed treatment for his hand, headaches and other complaints. No specific agenda today and remains stable and at mmi.

Interventions

- 1) active listening, provision of support for recovery
- 2) check in regarding psychological and physical status
- 3) ventilation related to details of current stressors
- 4) problem solving -- assist pt in generating options

Response to Interventions: ok

Electronically Signed/Date: Bergmann, Ph.D., Lawrence

1/12/2011 1:01:53 PM

Post Trauma Resources
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Progress Note

Date: 5/5/2010
Provider: Roger Deal
Session Length: 40 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky (D)

Content/Process

Session Content: He has been given another medicine for headaches which so far seems helpful. He feels he is doing better taking the valium most nights though sometimes he misses if he comes home late. He is skeptical about taking the valium late at night but I think this is not likely to leave him oversedated like the trazadone does.

Interventions

- 1) z - review target symptom list
- 2) z - review of recent stressors
- 3) z - educate regarding risks and benefits of medication

Response to Interventions: Remains symptomatic, with sleep disruption, irritability and poor memory and concentration.

Medications

Medication: Valium 10 mg most nights Start Date: 3/11/2009

Medication: Effexor 150mg. bid Start Date: 2/8/2006

Medication: Trazadone 100 mg. hs Start Date: 1/17/2006

Medication Plan: He is going to continue to work on the headache control with Dr. Shissias. He will take the valium every night and take variable doses on the trazadone depending on the time he goes to bed.

Electronically Signed/Date: Deal, Roger

5/6/2010 5:56:08 PM

Progress Note

Date: 4/14/2010
Provider: Roger Deal
Session Length: 40 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky (D)

Content/Process

Session Content: He reports that headaches remain very troublesome, often interfering with his concentration and leading to mistakes in his work. He thinks his allergies play some role but the medicines he takes for allergy control do not seem to be particularly helpful. He also has consulted with Dr. Shissias, a neurologist, who has prescribed seroquel and relafen. He is oversedated when he takes the seroquel but is trying the relafen without much relief so far. He tells me that he is very worried about his family, especially his son who has been injured at work and is having to live back at home, dealing with pain and frustration about not being able to work. His wife has been under stress as well, which also concerns him. He is usually taking the valium and trazadone if he gets to bed early enough and feels it is helpful but getting good sleep seems to have little effect on the headaches.

Interventions

- 1) z - review target symptom list
- 2) z - review of recent stressors
- 3) z - educate regarding risks and benefits of medication

Response to Interventions: More symptomatic, especially with impaired concentration and memory.

Medications

Medication: Valium 10 mg most nights

Start Date: 3/11/2009

Medication: Effexor 150mg. bid

Start Date: 2/8/2006

Medication: Trazadone 100 mg. hs

Start Date: 1/17/2006

Medication Plan: Continue current medicines, trying to make sure he takes the valium every night and continue the trial of medicines prescribed by Dr. Shissias for headache control.

Post Trauma Resources
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Progress Note

Date: 3/10/2010
Provider: Roger Deal
Session Length: 40 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky (D)

Content/Process

Session Content: He continues to report headaches and easy fatigue which seems likely related to stress and his internist is not able to find anything else to explain the problems. We know from prior experience that the headaches were reduced by going higher on the effexor but now it appears we need to take a different approach since we are at the maximum on the effexor. I suggested he try to use the valium every night rather than trying to predict when he needs it and also suggested he try to take some time out to do physical activity.

Interventions

- 1) z - review target symptom list
- 2) z - review of recent stressors
- 3) z - educate regarding risks and benefits of medication

Response to Interventions: Worse over the past few months.

Medications

Medication: Valium 10 mg some days Start Date: 3/11/2009

Medication: Effexor 150mg. bid Start Date: 2/8/2006

Medication: Trazadone 100 -200 mg. hs Start Date: 1/17/2006

Medication Plan: Take the valium every evening for several weeks and go up on the trazadone when the sleep is disrupted.

Electronically Signed/Date: Deal, Roger 3/26/2010 5:28:20 PM

Progress Note

Date: 2/10/2010
Provider: Roger Deal
Session Length: 40 mins.
Type of Visit: Scheduled
Patient: Kneece, Ricky (D)

Content/Process

Session Content: He continues to have more intense headaches than before but he feels they are less frequent now. We discussed the fact that when we increased the effexor a couple of years ago the headaches improved suggesting they may be related to chemical changes associated with stress. He has begun to resolve some of the stressors but unfortunately some of them are going to take a long time to resolve so I suggested we try to see if we can be more aggressive with the valium without causing any oversedation.

Interventions

- 1) z - review target symptom list
- 2) z - review of recent stressors
- 3) z - educate regarding risks and benefits of medication
- 4) z - educated about relationship of chronic pain and worsening of target symptoms

Response to Interventions: Remains more symptomatic than at his best but overall better than initially.

Medications

Medication: Valium 10 mg some days Start Date: 3/11/2009
Medication: Effexor 150mg. bid Start Date: 2/8/2006
Medication: Trazadone 100 -200 mg. hs Start Date: 1/17/2006

Medication Plan: Encouraged to take the valium regularly each night and try taking one during the day to see if this works better without making him sleepy or uncoordinated.

Electronically Signed/Date: Deal, Roger

2/10/2010 5:09:28 PM

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803.765.0700

Progress Note

Date: 1/12/2010
Provider: Roger Deal
Session Length: 40 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky (D)

Content/Process

Session Content: He has had much more stress over the past few weeks which has caused more irritability and disruption of his sleep. His son has had an injury so is now living back at home, wife has had to spend a lot of time with thier son, taking her away from home and worrying him about both of them. He has had more work stress at the same time. We reviewed the way he has been taking the medicines and agreed to make some changes to see if we can correct this problem.

Interventions

- 1) z - review target symptom list
- 2) z - review of recent stressors
- 3) z - educate regarding risks and benefits of medication

Response to Interventions: Worse over the past few weeks especially in sleep and irritability.

Medications

Medication: Valium 10 mg some days Start Date: 3/11/2009

Medication: Effexor 150mg. bid Start Date: 2/8/2006

Medication: Trazadone 100 -200 mg. hs Start Date: 1/17/2006

Medication Plan: We will try increasing the trazadone and add a regular dose of valium in the evening and then adjust further either increasing the valium and/or the trazadone.

Electronically Signed/Date: Deal, Roger 1/12/2010 10:21:20 AM

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Progress Note

Date: 10/28/2009
Provider: Roger Deal
Session Length: 40 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky (D)

Content/Process

Session Content: He reports having some improvement in energy with changes in thyroid hormone. His headaches are still highly variable and difficult to predict. He is still frustrated by his inability to stay focused and remember things that are very familiar to him.

Interventions

- 1) z - review target symptom list
- 2) z - review of recent stressors
- 3) z - educate regarding risks and benefits of medication

Response to Interventions: Fluctuating headaches, poor memory and low energy are recurrent problems.

Medications

Medication: Valium 10 mg some days Start Date: 3/11/2009

Medication: Effexor 150mg. bid Start Date: 2/8/2006

Medication: Trazadone 100 -200 mg. hs Start Date: 1/17/2006

Medication Plan: He has done better with a new brand of thyroid hormone, with increased energy and more stamina. The other medicines are flexible except for effexor.

Electronically Signed/Date: Deal, Roger

11/20/2009 4:47:09 PM

Progress Note

Date: 9/30/2009
Provider: Roger Deal
Session Length: 40 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky (D)

Content/Process

Session Content: He has felt very tired over the past several weeks without any obvious stressor or sense of depression to account for it. He is concerned this might be related to his throid condition so I explained how the medicine is monitored both clinically and in the lab and suggested he consult with Dr. Wicker about whether this could be changed or not to see if this will help. We also will do a test for a time with a lower dose of the trazadone to make sure this has no role in the fatigue. He is doing well as far as initial symptoms and is needing the valium very seldom, most often to help fall asleep if he is too hyperactive in the evening.

Interventions

- 1) z - review target symptom list
- 2) z - review of recent stressors
- 3) z - educate regarding risks and benefits of medication

Response to Interventions: Improving. Currently having fatigue, not clearly related to his stress or depression.

Medications

Medication: Valium 10 mg some days Start Date: 3/11/2009

Medication: Effexor 150mg. bid Start Date: 2/8/2006

Medication: Trazadone 100 -200 mg. hs Start Date: 1/17/2006

Medication Plan: We will look at the dose of the trazadone for a short time to make sure this is not having any role in the fatigue. He will consult his doctor about the thyroid hormone to see if this has a role in the recent symptoms.

Electronically Signed/Date: Deal, Roger 9/30/2009 2:45:09 PM

Progress Note

Date: 2/11/2009
Provider: Roger Deal
Session Length: 40 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky (D)

Content/Process

Session Content: He was not able to get the effexor filled so has not been able to test the higher dose yet because he misplaced the prescriptions. We reviewed the medicines, stressors and his sleep pattern which has changed according to his wife, now getting nightmares where he moves around and sometimes appears to be fighting something.

Interventions

- 1) z - review target symptom list
- 2) z - review of recent stressors
- 3) z - educate regarding risks and benefits of medication
- 4) z-written instructions provided

Response to Interventions: Had improved but recently worse in many respects.

Medications

Medication: Effexor 75 mg. q. am Start Date: 12/8/2006

Medication: Effexor 150mg. hs Start Date: 2/8/2006

Medication: Trazadone 100 -200 mg. hs Start Date: 1/17/2006

Medication Plan: Will go to 300 mg effexor on the generic and test the trazadone at a higher dose. If he is not doing better, will test valium 10 mg taking about 9 pm each night.

Electronically Signed/Date: Deal, Roger 2/11/2009 9:32:30 AM

Progress Note

Date: 2/27/2008
Provider: Roger Deal
Session Length: 40 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky (D)

Content/Process

Session Content: He continues to have headaches and fatigue, which appear to be related to stress, post-concussion syndrome, and perhaps to the apnea. We reviewed the medicines and he sees no connection to the headaches with the effexor except that initially it helped the headaches and now does not seem as helpful. He has not been able to get the CPAP machine but will do this as soon as possible. He has been able to reduce the trazadone to 25- 50 mg. and is still sleeping well.

Interventions

- 1) z - review target symptom list
- 2) z - review of recent stressors
- 3) z - educate regarding risks and benefits of medication

Response to Interventions: Improved. Still having major problems with concentration and memory and headaches.

Medications

Medication: Effexor 75 mg. q. am	Start Date: 12/8/2006
Medication: Effexor 150mg. hs	Start Date: 2/8/2006
Medication: Trazadone 25-50 mg. hs	Start Date: 1/17/2006

Medication Plan: He will try to see a neurologist about the headaches and get the CPAP machine as soon as he can.

Electronically Signed/Date: Deal, Roger 2/27/2008 9:29:40 AM

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1709 Laurel Street
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803.765.0700

Progress Note

Date: 1/30/2008
Provider: Roger Deal
Session Length: 40 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky (D)

Content/Process

Session Content: He has continued to have headaches and a sensation of moving when he stands up quickly. He is not under any increased pressure recently but has noted an increase in intensity of both symptoms. Dr. White has suggested a trial of lyrica, which he has taken at a dose of 75 mg. twice a day and when he saw him recently he suggested trying to go higher on this medicine, which I think has potential to help him based on his good results with depakote. He had the sleep study done which showed marked apnea and desaturation.

Interventions

- 1) z - review target symptom list
- 2) z - review of recent stressors
- 3) z - educate regarding risks and benefits of medication

Response to Interventions: Improved irritability and control of sleep. Still having headaches that are worse now and also having something like vertigo.

Medications

Medication: Effexor 75 mg. q. am Start Date: 12/8/2006
Medication: Effexor 150mg. hs Start Date: 2/8/2006
Medication: Trazadone 50-100 mg. hs Start Date: 1/17/2006

Medication Plan: Continue current medicines and do the trial of lyrica. He will get the CPAP machine soon and I recommended that he speak with his attorney about seeing a neurologist.

Electronically Signed/Date: Deal, Roger

1/30/2008 10:33:57 AM

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Progress Note

Date: 4/17/2007
Provider: Roger Deal
Session Length: 45 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky (D)

Content/Process

Session Content: He has had more pain in both shoulders which has worsened his sleep pattern but this responds well to an increase in the trazadone, with only minimal morning drowsiness. He definitely feels the 225 mg. effexor is more helpful, especially in terms of irritability and he notes that if he forgets something or makes a mistake it is less bothersome to him. He has lost a friend recently which of course was very upsetting to him.

Interventions

- 1) z - review target symptom list
- 2) z - review of recent stressors
- 3) z - educate regarding risks and benefits of medication
- 4) z- educated about relationship of chronic pain and worsening of target symptoms

Response to Interventions: Improved. Major residual is impaired concentration and memory, which is worse under stress. Headaches are improved but still occur 2-3 nights a week.

Medications

Medication: Effexor 225 mg. hs Start Date: 2/8/2006

Medication: Trazadone 100-200mg. hs Start Date: 1/17/2006

Medication Plan: Continue on 225 mg. effexor and stay flexible on the trazadone doses.

Electronically Signed/Date: Deal, Roger 4/17/2007 9:55:02 AM

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Progress Note

Date: 3/13/2007
Provider: Roger Deal
Session Length: 40 mins.
Type of Visit: Scheduled
Patient: Kneece, Ricky (D)

Content/Process

Session Content: He has changed the dose of trazadone downward during the period of time change when he is working later and going to bed late so he will be less sleepy in the morning.. He has not seen any problem with this though his wife notes he does not sleep as soundly with the lower dose. Very frustrated by being retested at Dr. Waid's office. He is wondering if the effexor may be making him more tired though it has reduced his irritability markedly.

Interventions

- 1) z - review target symptom list
- 2) z - review of recent stressors
- 3) z - educate regarding risks and benefits of medication

Response to Interventions: Improved especially with sleep and irritability. Concentration and memory remain impaired but compensated well in his day-to-day work.

Medications

Medication: Effexor 225 mg. hs Start Date: 2/8/2006

Medication: Trazadone 25-50mg. hs Start Date: 1/17/2006

Medication Plan: He will stay flexible on the dose of trazadone. If he notes any problem will take the higher dose again. He will test the effexor back at 150 mg. for a period to see if this is making him more fatigued.

Electronically Signed/Date: Deal, Roger

3/13/2007 12:42:34 PM

Progress Note

Date: 2/6/2007
Provider: Roger Deal
Session Length: 40 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky (D)

Content/Process

Session Content: We discussed his results with the effexor and trazadone, which are both helpful. He is concerned about the long-term outcome because he realizes he cannot perform as quickly and accurately in many tasks and has more difficulty with memory and irritability. We discussed the probability that he will do better on long-term use of these medicines since he will likely have residual pain which causes negative chemical changes in the brain.

Interventions

- 1) z - review target symptom list
- 2) z - review of recent stressors
- 3) z - educate regarding risks and benefits of medication
- 4) z - educated about relationship of chronic pain and worsening of target symptoms

Response to Interventions: Improved in many areas, particularly irritability. Major residual short-term memory difficulty.

Medications

Medication: Effexor 225 mg. hs Start Date: 2/8/2006

Medication: Trazadone 50mg. hs Start Date: 1/17/2006

Medication Plan: Continue 225 mg. effexor. Stay flexible on the dose of trazadone. Plan to use these on a long-term basis.

Electronically Signed/Date: Deal, Roger

2/6/2007 12:48:13 PM

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Progress Note

Date: 1/3/2007
Provider: Roger Deal
Session Length: 40 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky (D)

Content/Process

Session Content: We discussed his results with the increased dose of effexor and he and his wife agree that this dose is clearly more effective than the lower dose. We reviewed his major difficulty with concentration and memory and his ways of reducing the impact of this. He is able to use written notes but continues to need to adhere to his schedule for review of his notes.

Interventions

- 1) z - review target symptom list
- 2) z - review of recent stressors
- 3) z - educate regarding physiology of PTSD
- 4) z - educate regarding risks and benefits of medication
- 5) z - educated about relationship of chronic pain and worsening of target symptoms
- 6) z - educate about realistic expectations from medicine

Response to Interventions: Significant improvement in many areas. Major residual is poor concentration and memory, avoidance and loss of interest in usual activities. He still gets anxious in groups of people.

Medications

Medication: Effexor 225 mg. hs Start Date: 2/8/2006
Note: Increased over the past several weeks.

Medication: Trazadone 100mg. hs Start Date: 1/17/2006

Medication Plan: Continue 225 mg. effexor. Stay flexible on the dose of trazadone. Plan to use these on a long-term basis.

Electronically Signed/Date: Deal, Roger

1/3/2007 10:15:13 AM

Progress Note

Date: 12/6/2006
Provider: Roger Deal
Session Length: 40 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky (D)

Content/Process

Session Content: He has done better with a higher dose of trazadone though he has to be careful about how late he takes it. He is currently testing the effexor at higher levels to see if this helps with some of the target symptoms.

Interventions

- 1) z - review target symptom list
- 2) z - review of recent stressors
- 3) z - educate regarding risks and benefits of medication
- 4) z - educate about realistic expectations from medicine

Response to Interventions: Improved but with some recent worsening of symptoms.

Medications

Medication: Effexor 150 mg. hs Start Date: 2/8/2006

Medication: Trazadone 100mg. hs Start Date: 1/17/2006

Medication Plan: Will continue to evaluate to see if the effexor is more effective at 225 mg. Stay flexible on the/dose of trazadone.

Electronically Signed/Date: Deal, Roger 12/6/2006 2:27:05 PM

Progress Note

Date: 10/31/2006
Provider: Roger Deal
Session Length: 40 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky (D)

Content/Process

Session Content: Since the last visit he has had recurrence of headaches and fatigue, which seems related to multiple stressors which have resulted in disturbed sleep again. We reviewed these in detail and what our options might be.

Interventions

- 1) z - review target symptom list
- 2) z - review of recent stressors
- 3) z - educate regarding risks and benefits of medication
- 4) z - educated about relationship of chronic pain and worsening of target symptoms
- 5) z - written instructions provided

Response to Interventions: Had shown good improvement in all areas but now regressed especially with increased sleep disturbance, shoulder pain and headaches.

Medications

Medication: Effexor 150 mg. hs Start Date: 2/8/2006

Medication: Trazadone 50mg. hs Start Date: 1/17/2006

Medication Plan: Change the regular dose of trazadone to 100 mg. and if he has a poor night of sleep, take 150 mg. Will then decide whether we need to raise the dose of effexor.

Electronically Signed/Date: Deal, Roger

10/31/2006 2:26:26 PM

Progress Note

Date: 9/20/2006
Provider: Roger Deal
Session Length: 40 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky (D)

Content/Process

Session Content: He is doing considerably better in most areas of his life, although bothered by shoulder pain and is more symptomatic when under increased stress. Reviewed options for trying to influence the concentration and memory but the information available on the treatment of traumatic brain injury is not encouraging so we agreed we won't try any other medicine. Some recent dreaming though he is not able to remember them.

Interventions

- 1) z - review target symptom list
- 2) z - review of recent stressors
- 3) z - educate regarding physiology of PTSD
- 4) z - educate regarding risks and benefits of medication
- 5) z - educated about relationship of chronic pain and worsening of target symptoms
- 6) z - educate about realistic expectations from medicine

Response to Interventions: Improved sleep and decreased anxiety and irritability. Continues to have major difficulty with concentration and memory especially short-term. This has not changed since we started his treatment.

Medications

Medication: Effexor 150 mg. hs

Start Date: 2/8/2006

Medication: Trazadone 50 mg. hs

Start Date: 1/17/2006

Note: Reduced since last visit.

Medication Plan: Continue effexor at 150 mg. and monitor target symptoms regularly. Continue to observe the sleep pattern and adjust trazadone if needed.

Electronically Signed/Date: Deal, Roger

9/20/2006 10:18:05 AM

Progress Note

Date: 8/23/2006
Provider: Roger Deal
Session Length: 40 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky (D)

Content/Process

Session Content: Discussed recent experience with using the trazadone which has been favorable. He has found that if he takes none on nights he goes to bed late he is still unable to sleep so we agreed he will take at least 50 mg. every night. No side effects with effexor and it continues to appear helpful.

Interventions

- 1) z - review target symptom list
- 2) z - review of recent stressors
- 3) z - educate regarding physiology of PTSD
- 4) z - educate regarding risks and benefits of medication
- 5) z-written instructions provided
- 6) z- educate about realistic expectations from medicine

Response to Interventions: Improved in most respects. Primary residual symptoms are poor concentration and memory and continuing hypervigilance.

Medications

Medication: Effexor 150 mg. hs

Start Date: 2/8/2006

Medication: Trazadone 50 mg. hs
Note: Reduced since last visit.

Start Date: 1/17/2006

Medication Plan: Stay flexible on doses of trazadone. Continue effexor at 150 mg. and monitor target symptoms regularly.

Electronically Signed/Date: Deal, Roger

8/23/2006 2:55:40 PM

Progress Note

Date: 7/12/2006
Provider: Roger Deal
Session Length: 40 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky (D)

Content/Process

Session Content: Discussed results with the trazadone and effexor, which have been good so far. Reviewed the symptoms that have not responded, particularly poor concentration and memory and high levels of irritability, which did not exist prior to his accident. He does not feel he has any control over either of these and notes that irritability is worse during periods of increased stress. Reviewed possibilities of using other medicines to try to help these. I think they have a low probability of helping and think it makes more sense to continue without adding anything else at this point.

Interventions

- 1) z - review target symptom list
- 2) z - review of recent stressors
- 3) z - educate regarding physiology of PTSD
- 4) z - educate about realistic expectations from medicine
- 5) z - written instructions provided

Response to Interventions: Much improved in most areas. Major residuals are poor concentration and memory and "having a short fuse".

Medications

Medication: Effexor 150 mg. hs

Start Date: 2/8/2006

Medication: Trazadone 50 mg. hs
Note: Reduced since last visit.

Start Date: 1/17/2006

Medication Plan: Stay flexible on doses of trazadone. Continue effexor at 150 mg. and monitor target symptoms regularly.

Electronically Signed/Date: Deal, Roger

7/12/2006 10:02:50 AM

Progress Note

Date: 6/27/2006
Provider: Roger Deal
Session Length: 40 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky (D)

Content/Process

Session Content: Discussed his results with the medicines which have been positive so far, with no side effects. Intensity of headaches is reduced though still present but mostly at night and seem potentially related to sinus problems. Reviewed longer term plans for using the medicine.

Interventions

- 1) z - review target symptom list
- 2) z - review of recent stressors
- 3) z - educate regarding physiology of PTSD
- 4) z - educate regarding risks and benefits of medication
- 5) z - educate about realistic expectations from medicine
- 6) z - educated about relationship of chronic pain and worsening of target symptoms
- 7) z - written instructions provided

Response to Interventions: Improved in all respects except for concentration and memory which may be complicated by the head injury.

Medications

Medication: Effexor 75 mg. bid
Note: Has gone up since last visit.

Start Date: 2/8/2006

Medication: Trazadone 50-100 mg. hs
Note: Reduced since last visit.

Start Date: 1/17/2006

Medication Plan: Continue flexibility on the trazadone dose. Test Effexor at 150 mg. single dose.

Electronically Signed/Date: Deal, Roger

6/27/2006 10:19:01 AM

Progress Note

Date: 6/6/2006
Provider: Roger Deal
Session Length: 45 mins.
Type of Visit: Scheduled

Patient: Kneece, Ricky (D)

Content/Process

Session Content: Discussed his experiences with the medicines which have so far been very helpful. Reviewed the further workup on his shoulder which is still hurting and he is uncertain what will be done. Injections have been unhelpful.

Interventions

- 1) z - review target symptom list
- 2) z - review of recent stressors
- 3) z - educate regarding physiology of PTSD
- 4) z - educate regarding risks and benefits of medication
- 5) z-written instructions provided
- 6) z- educate about realistic expectations from medicine

Response to Interventions: Improved sleep and anxiety. Still having major residual with poor concentration and memory and fatigue.

Medications

Medication: Effexor 75 mg. bid.
Note: Has gone up since last visit.

Start Date: 2/8/2006

Medication: Trazadone 150 mg. hs
Note: Reduced since last visit.

Start Date: 1/17/2006

Medication Plan: Stay flexible on the dose of trazadone. Probably needs to test at 100 mg. to see if morning drowsiness is better and sleep quality is improved.

Electronically Signed/Date: Deal, Roger

6/6/2006 9:56:19 AM

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803.765.0700

Progress Note

Date: 6/22/2010
Provider: Roger Deal, M.D.
Session Length: 40 mins.
Type of Visit: Scheduled

Patient: Kneece, JD (D)

Content/Process

Session Content: He reports irritability and daytime anxiety but is not able to tolerate the valium during the day. We discussed trying to use xanax during the day to see if this will help with both these symptoms and for now will use the valium at night for the help it provides in calming him in the evening and improving his sleep. He is very worried about not being able to do physical things he is used to doing but is starting to think about other ways he could be productive.

Interventions

- 1) z - review target symptom list
- 2) z - review of recent stressors
- 3) z - educate regarding risks and benefits of medication
- 4) z - educated about relationship of chronic pain and worsening of target symptoms

Response to Interventions: Prominent residual irritability and anxiety during the day.

Medications

Medication: Amitriptyline 50 mg q hs Start Date: 12/20/2009

Medication: Valium 10 mg q hs Start Date: 12/15/2009

Medication: Effexor 75 mg tid Start Date: 1/5/2009

Medication Plan: We will use the valium only at night at will test xanax during the day. He will start with 0.25 mg testing in the evening first until he can be sure no negative effects come from it, then adjust the timing and dose according to his response.

Electronically Signed/Date: Deal, Roger

7/8/2010 2:59:08 PM

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Progress Note

Date: 7/14/2010
Provider: Roger Deal, M.D.
Patient: Kneece, JD (D)

Content/Process

Session Content: He has decided after trying the xanax over the past several weeks that this is not helpful and the better way to control anxiety is to use the valium in late afternoon and before bed. We agreed that we will leave the xanax off and use the valium at the same dose until he sees the pain doctor. If the pain can be controlled better we will likely see better results with the medicines he is using now.

Interventions

- 1) z - review target symptom list
- 2) z - review of recent stressors
- 3) z - educate regarding risks and benefits of medication
- 4) z - educated about relationship of chronic pain and worsening of target symptoms

Response to Interventions: Improved control of anxiety and insomnia but these symptoms flare up easily along with extreme irritability.

Medications

Medication: Amitriptyline 50 mg q hs Start Date: 12/20/2009

Medication: Valium 10 mg q hs Start Date: 12/15/2009

Medication: Effexor 75 mg tid Start Date: 1/5/2009

Medication Plan: Continue current medicines until he sees Dr. Storick.

Electronically Signed/Date: Deal, Roger 7/23/2010 4:41:55 PM

Progress Note

Date: 8/4/2010
Provider: Roger Deal, M.D.
Session Length: 40 mins.
Type of Visit: Scheduled

Patient: Kneece, JD (D)

Content/Process

Session Content: He has seen Dr. Storick who suggested several changes in medicines. He would like for us to change from using effexor to cymbalta to see if this will help with both pain and depression. While he is fearful of making any change in the medicine since the effexor has helped him so much he is willing to try. We discussed the problem of using both these antidepressants longer term but that we can avoid some of the risk of worsening depression by keeping the effexor unchanged in the initial step of adding cymbalta at the first dose of 30 mg so we can see if this medicine is tolerated at the lowest dose and if so then we can slowly do a crossover to do a full trial of cymbalta.

He is frustrated by the poor pain control and the disagreement about whether he has RSD or not. He is also perplexed about whether he can work with the marked pain and swelling he has when he is active.

Interventions

- 1) z - review target symptom list
- 2) z - review of recent stressors
- 3) z - educate regarding risks and benefits of medication
- 4) z- educated about relationship of chronic pain and worsening of target symptoms
- 5) z- educate about realistic expectations from medicine

Response to Interventions: Remains very irritable and angry about his physical limitations and the poor control of the pain.

Medications

Medication: Amitriptyline 50 mg q hs Start Date: 12/20/2009

Medication: Vallium 10 mg q hs Start Date: 12/15/2009

Medication: Effexor 75 mg tid Start Date: 1/5/2009

Medication Plan: I gave him samples of 30 mg cymbalta to be added to the current medicines until we meet in a couple of weeks.

Electronically Signed/Date: Deal, Roger

8/21/2010 12:41:57 PM

Progress Note

Date: 8/19/2010
Provider: Roger Deal, M.D.
Session Length: 40 mins.
Type of Visit: Scheduled

Patient: Kneece, JD (D)

Content/Process

Session Content: He has taken the cymbalta 30 mg but reports it is giving him dry mouth. He reports having much more pain since he has been off the patch and so far is very frustrated by the failure of response to pain control efforts. We discussed the fact that it is important for us to work with his pain doctor and give him an adequate trial of cymbalta but in order to make this more comfortable we need to get the elavil out and make an effort to control the sleep better with trazadone, which will not cause any dry mouth. We can then test the cymbalta at a dose of 60 mg and possibly gradually reduce the effexor so he can have an adequate trial of cymbalta which may help with pain control and depression.

Interventions

- 1) z - review target symptom list
- 2) z - review of recent stressors
- 3) z - educate regarding risks and benefits of medication
- 4) z - educated about relationship of chronic pain and worsening of target symptoms
- 5) z - educate about realistic expectations from medicine

Response to Interventions: Much more irritable and depressed as pain is more pronounced.

Medications

Medication: Cymbalta 30 mg daily	Start Date: 8/4/2010
Medication: Amitriptyline 50 mg q hs	Start Date: 12/20/2009
Medication: Valium 10 mg q hs	Start Date: 12/15/2009
Medication: Effexor 75 mg tid	Start Date: 1/5/2009

Medication Plan: We are going to try to substitute trazadone for the elavil since the dry mouth is worse with cymbalta and sleep is worse with the current pain treatment regimen. We will then try him on 60 mg cymbalta to see if this will help control the pain and depression as we then gradually withdraw the effexor.

Electronically Signed/Date: Deal, Roger

8/20/2010 3:52:28 PM

Progress Note

Date: 9/30/2010
 Provider: Roger Deal, M.D.
 Session Length: 40 mins.
 Type of Visit: Scheduled

Patient: Kneece, JD (D)

Content/Process

Session Content: He is frustrated by the failure in pain control, tells me the cymbalta has not made any difference as far as pain though he does feel it has made him less vulnerable to tearfulness.

We discussed the fact that he has a negative reaction to reducing the dose of effexor and this has led to us taking some uncertain extra risk of causing too much serotonin in the hope that the cymbalta might be helpful in pain control and if it is not we would reduce his risk by tapering the cymbalta. He is to see his pain doctor in a couple of weeks so if there is nothing gained by being on the cymbalta in pain control he will see what further suggestions are given.

I printed some information about serotonin syndrome from the Mayo clinic website and he read over this as I was writing prescriptions. He understands what to watch for and promised if anything negative occurred he will stop the medicine trial and if he has any temperature control problems he will go to the emergency room.

He is frustrated dealing with people and is avoiding situations that provoke anxiety when he has a choice.

Interventions

- 1) z - review target symptom list
- 2) z - review of recent stressors
- 3) z - educate regarding risks and benefits of medication
- 4) z - educated about relationship of chronic pain and worsening of target symptoms

Response to Interventions: Better control of anxiety and irritability but remains very labile and easily agitated when pain is more intense.

Medications

Medication: Cymbalta 60 mg daily

Start Date: 8/4/2010

Medication: Xanax 0.25 mg prn anxiety
 Note: Using this very seldom.

Start Date: 4/30/2010

Medication: Valium 5 mg early evening; 10 mg late evening

Start Date: 12/15/2009

Medication: Effexor 75 mg tid

Start Date: 1/5/2009

Medication Plan: We are going to try to continue the trial of cymbalta for the pain for a while longer but he now has printed information about the serotonin syndrome and will stop the cymbalta if he sees any problem using the combination. He will use the xanax on those occasions where anxiety flares during the day since this is not sedating and over the past few months he has used this sometimes rather than taking valium if he needs to be more alert.

Electronically Signed/Date: Deal, Roger

9/30/2010 5:30:02 PM

346

Progress Note

Date: 12/9/2010
Provider: Roger Deal, M.D.
Session Length: 40 mins.
Type of Visit: Scheduled

Patient: Kneece, JD (D)

Content/Process

Session Content: He is feeling very pressured by many problems, angry about the injury and the failure of the pain control effort, very uncertain about his future since his doctors in Myrtle Beach feel his injury is sufficient to disable him and he feels he is too young to be disabled.

He feels self-conscious about using the cane but tells me when he doesn't he has fallen so this makes him feel trapped.

We reviewed the medicines and he tells me that though the cymbalta did not seem to help he has felt worse since coming off it. It is unclear if this is related or if the increased stress related to other issues is making him worse. We discussed using more of the valium to control anxiety since he is now able to take it during the day without oversedation.

Interventions

- 1) z - review target symptom list
- 2) z - review of recent stressors
- 3) z - educate regarding risks and benefits of medication

Response to Interventions: Remains very anxious, sleep is more disrupted and he remains very irritable.

Medications

Medication: Valium 5 mg early evening; 10 mg late evening

Start Date: 12/15/2009

Medication: Effexor 75 mg tid

Start Date: 1/5/2009

Medication Plan: We are going to take the dose of the valium to 5 mg bid and 10 mg at bedtime. We will consider adding back some cymbalta if he does not feel better with this change.

Electronically Signed/Date: Deal, Roger

12/10/2010 4:42:18 PM

MIDLANDS ORTHOPAEDICS, PA
1910 BLANDING STREET
COLUMBIA, SC 29201

ADDENDUM/NOTE TO CHART

NAME: KNEECE, DELANO R
DATE: 03/30/2007

ACCOUNT: 252876
DOB: 

Mr. Delano Kneece is a patient of mine who has been treated long-term for a work-related injury to his left shoulder. I released him from my care in May, 2006, after he reached maximum medical improvement with this shoulder.

According to the AMA Guidelines for the Evaluation of Permanent Impairment, 5th edition, the patient has 8% impairment due to labral pathology and 10% impairment due to degenerative joint disease, which is equivalent on the combined values table to 17% to the left upper extremity.

Michael S. Green, M.D.
MSG/lbp

REV0

96

LOW-UP OFFICE VISIT

ME: KNEECE, DELANO R ACCOUNT: 252876

TE: 05/31/2006

INITIAL STATUS: I am seeing Ricky in follow-up today. His arm is still painful even when he holds it down to the side, when he drives quite a bit, especially a tractor or even in a truck. Certain motions just cause it to hurt and he gets a stinging type pain.

PHYSICAL EXAMINATION: He has abduction external rotation, full forward flexion, full abduction. The motions seem to give him a problem especially with resistance. Yergason Speed test, Isolated supraspinatus are all strong, no pain. 90 degrees abduction with internal rotation is not painful. Assisted external rotation is minimally painful. It is mostly positioning.

IMAGING: New MRI arthrogram of his shoulder did not reveal any evidence of rotator cuff tear or labral tear or biceps pathology. It shows some early degenerative changes of the glenohumeral joint.

IMPRESSION: EARLY DEGENERATIVE ARTHRITIS, LEFT SHOULDER.

PLAN: At this point, we recommended an intraarticular corticosteroid injection of 2 cc of Celestone, 5 cc of Xylocaine. Hopefully, this will calm things down. Do not have much else to offer him. I will just see him back on a p.r.n. basis.

Israel S. Green, M.D.
IG / ssj

VO

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Israel S. Green, M.D.
Date: 06/07/2006 12:38:09
Print Id: 272152

97



1331 Lady Street
Columbia, South Carolina 29201
(803) 256-7646 p
(803) 256-8046 f

PATIENT:

MRN:

DATE OF BIRTH:

REF PHYSICIAN:

DATE OF EXAM:

PATIENT PH#:

Knesca, Delano

443915

[REDACTED]

Michael Green, MD

5/26/2006

803-894-3280

EXAM: MRI OF THE LEFT SHOULDER

INDICATION: Injury in 1999 when a tire exploded. Two prior surgeries. Continued pain. Most recent surgery was in 2005. Order states evaluate for rotator cuff tear or biceps tear.

TECHNIQUE: Water and fat sensitive sequences performed of the left shoulder on a 1.5 Tesla MRI system.

FINDINGS: The proximal aspects of the short and long head biceps tendons are assessed, but the long head myotendinous unit, bulk of the muscle and distal myotendinous units were not assessed and if there is concern for biceps rupture, then this may require additional imaging. No evidence for rotator cuff muscle belly atrophy, fatty metamorphosis, or edema. Intact short and long head biceps tendon. I favor mild thinning of the glenohumeral joint cartilage. Small subchondral cysts of the glenoid. Mild signal changes of the anterior aspect of the humeral head and lesser tuberosity may represent changes due to chronic impingement or tendinopathy. No evidence for displaced labral tear or glenohumeral ligament abnormality. There are mild erosions and enthesophytes of the greater tuberosity. No evidence for full-thickness rotator cuff tear. No os acromiale with mild AC arthropathy. Focal loss of the fat planes inferior to the AC joint. There is a minimal in size osteophyte from the inferior aspect of the humeral head. There is only mild superior cuff tendinosis.

CONCLUSION:

1. Subchondral cysts of the glenoid. I favor a very mild degree of glenohumeral cartilage narrowing. Very early glenohumeral arthropathy. Small erosions of the greater tuberosity, superolateral humeral head, lesser tuberosity, and of the anterior aspect of the proximal humerus. No full-thickness rotator cuff tear or moderate-advanced grade tendinosis. Intact long head biceps tendon. No identifiable displaced labral tear. Mild AC arthropathy.

Jeff Shromek, MD

JB / kp

DD: 5/26/2006

DT: 5/26/2006

Job: 3009176

This document has been electronically reviewed and signed.



98

LOW-UP OFFICE VISIT

ME: KNEECE, DELANO R ACCOUNT: 252876

RE: 10/04/2005

VICAL STATUS: Mr. Kneece is back in follow-up. He has had the MRI of cervical spine. The MRI of the cervical spine dated 9/20/05 is partially normal. There is some mild desiccation of the C6-7 disk, but there is no cord or nerve impingement.

W: At this point, I told Mr. Kneece that I don't think that his symptoms are emanating from the cervical spine. I recommend that he discuss this matter with Dr. Green for further recommendations.

TURN APPOINTMENT: Pm

Douglas deHoff M.D.

D/hcf

/0

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Douglas deHoff M.D.

10/10/2005 11:19:12

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99

252876

RADIOLOGY DEPARTMENT
LEXINGTON MEDICAL CENTER
WEST COLUMBIA, SC 29169
PHONE: (803) 791-2460

PATIENT: KNEECE, RICKY D

AGE: 45
DOB:
SEX: MUNIT/MR NO: MD01097345
ACCT NO:
SSN:
REQ NO: 05-0110706
REPORT NO: 0920-0332

ADMITTING DR:

ORDERING DR: P. DOUGLAS DEHOLL MD

ROOM:
PT LOCATION: HMRI
DEHPAU ORTCOPY TO: P. DOUGLAS DEHOLL MD
STUDY TYPE: 0920-0007 MR/MRI CERVICAL SPINE

DATE OF EXAM: 09/20/05

REG CL: HMRI
45M

CLINICAL DATA: NECK AND LEFT SHOULDER PAIN.

MRI CERVICAL SPINE (WITHOUT CONTRAST):

TECHNIQUE: T1 and T2 weighted sagittal and T2* SPGR axial images were obtained. Performed on a 0.7 Tesla open magnet.

COMPARISON: No previous.

FINDINGS: Alignment is normal without acute fracture or subluxation. Prevertebral soft tissues, cervical medullary junction, and cervical cord signal are normal. There is no significant disc protrusions or herniations. There is no significant central canal or foraminal stenosis. Very minimal cervical spondylosis at C6-7.

>>> IMPRESSION: Essentially unremarkable unenhanced MRI of the cervical spine for the patient's age. Minimal cervical spondylosis at C6-7.

KEITH A MCGUIRE MD

REPORT STATUS: Signed

SHM

DEHOLL, P. DOUGLAS MD
ORDER#/PROCEDURE: 0920-0007 MR/CERV (72141)
EXAM TECH: GNCOL
REP RELEASED BY: MCGKEI RAD 09/20/05 1310
ADD RELEASED BY:
DISC DATE: D
ED DISC DIAG: DD

PT LOG/ROOM: GHMRI

KNEECE, RICKY D

Ordering Physician's Copy

Page 1 of 1

252876 100

MIDLANDS ORTHOPAEDICS, PA
1910 Blanding Street
Columbia, SC 29201

NEW PATIENT ENCOUNTER

NAME: KNEECE, DELANO R
DATE: 09/13/2005

ACCOUNT #: 252876

DOB:

CHIEF COMPLAINT (S): LEFT SHOULDER PAIN.

HISTORY OF PRESENT ILLNESS: Mr. Kneece is a 45-year-old male who has had two previous shoulder operations on the left. He also complains of pain in the neck and the left trapezius. He has no pain radiating down below the elbow but some pain in the region of the deltoid. He has a grabbing pain in the left shoulder with external rotation.

PHYSICAL EXAMINATION:

MOTOR: Motor exam in bilateral deltoid, biceps, triceps, wrist extensor, wrist flexor and intrinsic musculature is 5/5.

SHOULDER: Full range of motion of bilateral shoulders without pain. Rotator cuff is 5/5. No signs of impingement.

REFLEXES: Deep tendon reflexes at the biceps, triceps, and brachial radialis is 2+ and symmetrical.

No clonus.

Toes are downgoing.

Negative Hoffmann.. Negative Spurling. Negative Lhermitte.

SENSATION: Light touch is subjectively within normal limits in bilateral upper extremities. All dermatomes are well represented.

PALPATION: Nontender to palpation in the cervical spine and mild tenderness to palpation in the trapezius on the left.

RANGE OF MOTION: Normal of range of motion of the cervical spine regarding flexion, extension, lateral bending and lateral rotation.

VASCULATURE: Palpable radial pulse bilaterally.

DATE: 09/13/2005

DOB: [REDACTED]

SKIN: No obvious skin lesions or cutaneous stigmata.

RADIOGRAPHS: AP and lateral of the cervical spine are normal.

ASSESSMENT: LEFT SHOULDER PAIN STATUS POST TWO PREVIOUS SURGERIES, POSSIBILITY OF A C5 RADICULOPATHY.

PLAN: MRI of the cervical spine. Follow-up after MRI.

P. Douglas deHoll M.D.

PDD / ssj

Cc:

REV 0

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P. Douglas deHoll M.D.

On: 09/15/2005 08:53:59

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Page 2 of 2

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MIDLANDS ORTHOPAEDICS, PA
1910 Blanding Street
Columbia, SC 29201

FOLLOW-UP OFFICE VISIT

NAME: KNEECE, RICKY
DATE: 07/18/2005

ACCOUNT: 252876
DOB:

CLINICAL STATUS: I am seeing Ricky in follow-up. He has problems with adduction and external rotation especially with loaded position or sustaining position. This correlates well with his large Hill-Sachs lesion. He is probably rotating his defect up against his articular surface of the glenoid, but otherwise he seems stable. External rotation with the elbow at the sides is a little bit less than the other side which is what we wanted. He is working on some strengthening. He tries not to use it, especially in above chest level activities. His elbow is doing great. He has found something called Gout Cure that seems to be helping him out with his gout. He could not tolerate the Allopurinol. It started making him lose hair, etc. Hopefully that will work.

DIAGNOSIS: STATUS POST ARTHROSCOPIC REDO CAPSULAR SHIFT
PROCEDURE.
STATUS POST GOUTY TOPHUS EXCISION, LEFT ELBOW.

PLAN: We will go ahead and release him at this time.

RETURN APPOINTMENT: As needed.

Michael S. Green, M.D.
MSG / kd
cc:
REV 0

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On: 07/22/2005 10:41:25

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1910 Blanding Street
Columbia, SC 29201

FOLLOW-UP OFFICE VISIT

NAME: KNEECE, RICKY
DATE: 04/18/2005

ACCOUNT: 252876
DOB:

CLINICAL STATUS: I am seeing Ricky in followup. His motion is coming but a little bit tight in abduction and external rotation. However, his strength is returning. He is looking much better. He is starting to use it more.

DIAGNOSIS: 1. THREE MONTHS STATUS POST ARTHROSCOPIC CAPSULAR
SHIFT PROCEDURE, LEFT SHOULDER.
2. GOUTY TOPHUS EXCISION, LEFT ELBOW.

PLAN: At this point, will rehab him. See him in 3 months to see how he is doing.

RETURN APPOINTMENT: 3 months.

Michael S. Green, M.D.
MSG / sjb
cc: /
REV 0

gout care . com

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On: 04/19/2005 12:41:18

MIDLANDS ORTHOPAEDICS, PA
1910 Blanding Street
Columbia, SC 29201

FOLLOW-UP OFFICE VISIT

NAME: KNEECE, RICKY
DATE: 03/09/2005

ACCOUNT: 252876
DOB:

CLINICAL STATUS: I am seeing Ricky in followup. His shoulder motion is tight but exactly about where it should be at this time. Elbow looks great. He has good motion. Little extraneous soft tissue but certainly no pocket of fluid evident that I can tell.

IMPRESSION: 1. STATUS POST GOUTY TOPHUS AND OLECRANON BURSA
EXCISION, LEFT ELBOW.
2. STATUS POST RE-DO CAPSULAR SHIFT PROCEDURE, LEFT
SHOULDER.

PLAN: At this point, motion is about where it should be. Will have him start working on active range of motion, gentle rotator cuff strengthening. Will see him in 6 weeks for reevaluation.

Michael S. Green, M.D.
MSG / sjb
cc:
REV 0

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On: 03/16/2005 08:17:00

105

MIDLANDS ORTHOPAEDICS, PA
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FOLLOW-UP OFFICE VISIT

NAME: KNEECE, RICKY
DATE: 02/02/2005

ACCOUNT: 252876
DOB:

CLINICAL STATUS: I am seeing Ricky in followup. His wounds look great. Will put him in a posterior splint over his elbow to keep it sterile for the next week, and then work on motion. He can go forward elevation, 90 degrees, abduction 90 degrees.

RETURN APPOINTMENT: 1 month.

Michael S. Green, M.D.
MSG / sjb
cc:
REV 0

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On: 02/07/2005 10:08:44

106

MIDLANDS ORTHOPAEDICS, PA
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Columbia, SC 29201

FOLLOW-UP OFFICE VISIT

NAME: KNEECE, RICKY
DATE: 12/06/2004

ACCOUNT: 252876
DOB:

CLINICAL STATUS: I am seeing Ricky in followup.

His MRI confirmed evidence of biceps pathology. He has a split biceps tendon with a rupture between the anchor point and the bicipital groove. It has still been causing him quite a bit of pain and problem. His olecranon bursitis is still present as well.

DIAGNOSIS: 1. CHRONIC OLECRANON BURSTITIS, LEFT ELBOW.
2. INTRAARTICULAR LEFT BICEPS TENDON RUPTURE.

PLAN: At this point he is symptomatic enough I think he would probably be a good candidate for an arthroscopic assisted biceps tenolysis with a mini open tenodesis. Proximal biceps screw from Arthrex would be the anchor choice. At the same time, I will go ahead and excise his left chronic olecranon bursitis. This can be done on an outpatient basis under regional/general anesthetic.

RETURN APPOINTMENT: Will see him 11-13 days postop if he wishes to proceed in this fashion.

Michael S. Green, M.D.
MSG / sjb
cc:
REV 0

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On: 12/08/2004 11:28:51

RADIOLOGY DEPARTMENT
LEXINGTON MEDICAL CENTER
WEST COLUMBIA, SC 29169
PHONE: (803) 791-2460

PATIENT: KNEECE, RICKY D

AGE: 44
DOB: [REDACTED]
SEX: M

UNIFORM NO: M001097345
ACCT NO: H00017772112
SSN: [REDACTED]
SEQ NO: 04-0130843
REPORT NO: 1123-0354

ADMITTING DR:
ORDERING DR: MICHAEL S GREEN MD

ROOM:
PT LOCATION: HRAD
GREMIC ORT

COPY TO: MICHAEL S GREEN MD
STUDY TYPE: 1122-0003 MRI/MRI UPEXT ANY JT. W/CONTRAST LEFT

DATE OF EXAM: 11/22/04 REG CLI HRAD
44M

CLINICAL DATA: SHOULDER PAIN, HISTORY OF INJURY. EVALUATE THE
STATUS OF THE BICIPITAL TENDON AND ANCHOR IN
PARTICULAR.

MR ARTHROGRAM OF THE LEFT SHOULDER:

TECHNIQUE: Contrast was introduced into the shoulder joint as described separately. The patient was scanned on a 1.5 Tesla field strength magnet. Pulse sequences consisted of axial fat saturated fast spin-echo T1, coronal fast spin-echo proton density and both T1 and T2 images with fat saturation, and sagittal oblique conventional T1 images.

FINDINGS: The bicipital anchor at the superior labrum appears intact. However, as the long head of the biceps tendon is followed over the humeral head, just proximal to its entry into the bicipital groove, the normally hypointense well demarcated tendon signal is replaced by a somewhat thickened hyperintense pattern. This is seen best on series 6, image #17 and on series 8, images #10 through 12. As the tendon is followed further distally within the tendon sheath, it demonstrates an internal split indicating longitudinal tearing continuing distally. The tendon is not displaced and remains within the bicipital groove.

Additional evaluation of the axial images shows potential stripping of the anterior joint capsule from the neck of the scaphoid (series 5, image #8). The anterior labrum is deficient and probably torn. It is known that the patient has undergone previous arthroscopic shoulder surgery, but the patient could not describe precisely what the nature of this procedure was. Correlate for any past history of an anterior labral tear. There is a curvilinear hypointense structure which has a floating appearance within the fluid filled joint space anterior to the glenoid as identified on series 5, image #10. Given its thin, curvilinear appearance it likely represents some fraying of the anterior joint capsule. It may be an indirect sign of a previous anterior labral tear. The posterior labrum appears intact.

The glenohumeral joint appears normally located. No bone marrow signal pattern abnormalities are seen. The supraspinatus tendon is intact. There is no evidence of significant tendinopathy involving the components of the rotator cuff. Oblique sagittal images show slight anterior downsloping of the acromion (series 8, image #7), but there is no

GREEN, MICHAEL S MD
ORDER#/PROCEDURE: 1122-0003 MRI/UPEXT JTW (73222)
EXAM TECH: DSLWAG
REP RELEASED BY: MCGKEI RAD 11/24/04 0715
ADD RELEASED BY:
DISC DATE: 0
ED-DISC DIAG: 00

PT LOC/ROOM: DHRAD/

KNEECE, RICKY D

RADIOLOGY
LEXINGTON MEDICAL CENTER

Patient Name: KNEECE, RICKY D
Date of Exam: 11/22/04
page 2 of 2

M001097345
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1123-0354

evidence of significant subacromial spurring.

IMPRESSION:

(1) Findings are consistent with a tear of the proximal segment of the long head of the biceps tendon between the bicipital anchor proximally and the entry into the bicipital groove distally. There is some splitting of the bicipital tendon within the bicipital groove which suggests distal propagation of a longitudinal tear.

(2) Distention of the joint capsule is identified anteriorly with possible stripping of the capsule from the anterior margin of the glenoid neck. Some of this is seen normally on the basis of the intentional distention of the joint capsule by the injection of the contrast material; but the degree of stripping in this patient appears somewhat excessive. There is also a thin curvilinear structure consistent with a frayed portion of the anterior joint capsule which is very well demarcated by the contrast material within the joint just anterior to the glenoid as described above. The anterior glenoid is deficient. These findings may all be due to old trauma.

(3) Downsloping appearance of the acromion without evidence of supraspinatus tendinopathy. The other components of the rotator cuff remain intact.

(4) No evidence of any bone marrow signal pathology.

HER

CHARLES G HOOD MD

REPORT STATUS: Signed

GREEN, MICHAEL S, MD
ORDER#/PROCEDURE: 1122-0003 MRI/UPEXT.JTW. (73222)
EXAM TECH: DSLWAG
REP RELEASED BY: MCGKEI RAD 11/24/04 0715
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DISC DATE: 0
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PT LOC/ROOM: 0HRAD/

KNEECE, RICKY D

109

MIDLANDS ORTHOPAEDICS, PA
1910 Blanding Street
Columbia, SC 29201

FOLLOW-UP OFFICE VISIT

NAME: KNEECE, RICKY
DATE: 11/15/2004

ACCOUNT: 252876
DOB: [REDACTED]

CLINICAL STATUS: I am seeing Ricky in follow up. His injections helped him for several weeks and then it started coming back just like it did before except that he seems to sleep better at nighttime but it bothers with activities in the daytime.

He could not tolerate the elbow pad. It felt like it put too much pressure on it and became too painful to continue that.

IMPRESSION: 1) BICEPS TENDINITIS, LEFT SHOULDER.
2) CHRONIC OLECRANON BURSITIS, LEFT ELBOW.

PLAN: At this point I would recommend an MR arthrogram of his left shoulder and evaluate whether or not he has recurrent SLAP lesion or biceps pathology. I will see him after the MRI and we can sit down and discuss treatment options at that point in time.

Michael S. Green, M.D.
MSG / aw
cc:
REV 0

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Michael S. Green, M.D.
On: 11/22/2004 10:59:08

Voice Job ID# 174327
Page 1 of 1

110

MIDLANDS ORTHOPAEDICS, PA
1910 Blanding Street
Columbia, SC 29201

FOLLOW-UP OFFICE VISIT

NAME: KNEECE, RICKY
DATE: 10/04/2004

ACCOUNT: 252876
DOB:

CLINICAL STATUS: I am seeing Ricky today for two problems. One is a problem with chronic olecranon bursitis to his left elbow. It gets in the way, he leans on that side, he bumps it, it is sore. It has been there for a long time. He is pretty sick and tired of it.

Secondly, he has pain to his left shoulder. It seems to be getting worse and worse. He stated that in April, the year after his surgery for his shoulder, he was helping a person from DHEC move a large tire type of object. He felt some pop into his shoulder. Has had some pain since that point in time but basically it was livable. He says, however, lately it is getting worse. He said it is sore, keeps him up at nighttime. It seems to be achy. Seems to hurt in the front, the back as well as the topside. It is constant but bearable. It occurs even with rest. Bothers him all days. Does interrupt his sleep.

PHYSICAL EXAMINATION: Reveals what appears to be a negative Yergason, positive speed test. Kennedy test is equivocal. 90 degrees abduction with resisted internal rotation is moderately tender. O'Brien's test is negative. Overhead resisted external rotation test is negative, and all other impingement provocative and rotator cuff type tests are negative.

Examination of the left elbow reveals a chronic olecranon bursitis. No evidence of significant fluid collection at this time. There is a very thickened bursal sac.

IMPRESSION: 1. CHRONIC LEFT OLECRANON BURSTITIS.
2. BICEPS TENDINITIS VERSUS SLAP LESION, LEFT SHOULDER.

PLAN: Mechanism of injury could possibly indicate a likelihood of a SLAP lesion, however, he could be having pain right in the bicipital groove with his biceps tendon as well. I would inject it today with 1/2 cc. DepoMedrol and 2 1/2 cc. Xylocaine. Will see if this will not calm things down. If not, then I would recommend going ahead with an MR arthrogram to evaluate the possibility of a SLAP lesion versus biceps tendon pathology.

With regards to his left elbow, I would put an elbow pad on it. It may be that one day he will need to have an olecranon bursa excision. However, I would wait upon evaluation and final determination of his left shoulder prior to considering that.

RETURN APPOINTMENT: Will see him in 4-6 weeks to reevaluate him at that time.

NAME: KNEECE, RICKI
DATE: 10/04/2004

ACCOUNT #: 202010
DOB: (REDACTED)

Michael S. Green, M.D.
MSG / sjb
cc:
REV 0
(typed without chart)

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Michael S. Green, M.D.
On: 10/06/2004 10:21:07

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Voice Job ID# 165463
Page 2 of 2

112

MIDLANDS ORTHOPAEDICS, PA
1910 Blanding Street
Columbia, SC 29201

FOLLOW-UP OFFICE VISIT

NAME: KNEECE, RICKY
DATE: 10/10/2003

ACCOUNT: 252876
DOB:

CLINICAL STATUS: I am seeing Ricky in follow up. The corticosteroid injection did not really help calm things down at all. He went to Foot Solutions and got some type of an arch support as well as some sorbitan inserts. It did not bother the anteromedial aspect of his knee and it worked for a day or so after that and they felt better. However, he still has a problem with stooping, squatting and different type of activities, especially with medial knee pain.

PHYSICAL EXAMINATION: Exam again shows symptomatic plica. The plica is relatively thick. He still has relatively tight hamstrings. It still appears he has a pronation deformity of his foot.

DIAGNOSIS: RECURRENT PLICA, LEFT KNEE.

PLAN: It appears that the recurrence of his plica just 4-5 months after his original surgery may indicate an underlying malalignment or other type of problem. We can precipitate this. He does have tight hamstrings and minimal degenerative changes and hyperpronation of his feet when he stands. It is likely that he is going to need some formal orthotics to see if this will help improve his symptoms. If his plica is still present after that, then an arthroscopic re-excision may be helpful for him. However, I would like him to see Dr. O'Leary to see what he thinks may be contributing to his symptoms and suggestions for management.

Michael S. Green, M.D.
MSG / sjs
cc:
REV 0

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Michael S. Green, M.D.
On: 10/17/2003 07:22:47

MIDLANDS ORTHOPAEDICS, PA
1910 Blanding Street
Columbia, SC 29201

FOLLOW-UP OFFICE VISIT

NAME: KNEECE, RICKY
DATE: 08/11/2003

ACCOUNT: 252876
DOB: [REDACTED]

CLINICAL STATUS: I am seeing Ricky in followup. His knee still bothers him. Shoulder is much better after he started the exercises. He could not take the Bextra.

On physical examination he has no knee effusion. Hamstrings are not nearly as tight as they were. He never did get any orthotics or supports for his shoe. He has some anteromedial knee pain. He has a negative shrug sign. No medial joint line tenderness. He has tenderness over the medial condylar ridge as well as over his plica. He does have what appears to be a recurrent plica.

DIAGNOSIS: 1. SYMPTOMATIC PLICA, LEFT KNEE.

DISPOSITION AND RECOMMENDATIONS: At this point it appears that he may have recurrent plica. I would recommend we inject him today. We have injected him with 3 cc. Xylocaine, 1 cc. Celestone. This essentially took all the pain away.

DIAGNOSIS: 1. RECURRENT SYMPTOMATIC PLICA, LEFT KNEE.

DISPOSITION AND RECOMMENDATIONS: At this point I would have him get arch supports for his shoes, have him continue working on his knee rehab. Continue antiinflammatories as he can tolerate. Will see him in 3 weeks and if he is no better by that time we may want to consider another plica excision knowing that he still has a 15% chance of recurrence.

RETURN APPOINTMENT: Will see him in three weeks.

Michael S. Green, M.D.
MSG / sjb
cc:
REV 0

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Michael S. Green, M.D.
On: 08/18/2003 09:03:04

Voice ID# 75332
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MIDLANDS ORTHOPAEDICS, PA
1910 Blanding Street
Columbia, SC 29201

FOLLOW-UP OFFICE VISIT

NAME: KNEECE, RICKY.
DATE: 06/09/2003

ACCOUNT: 252876
DOB:

CLINICAL STATUS: I am seeing Ricky today because of increasing achiness to his left shoulder. No specific incident that he can recall, but since mid April, he has had increasing aching. It bothers him to try to sleep with his arm above. He has to sleep with it to his side. It aches about half way through the day or so.

His right knee started aching about the same time. It bothers him at nighttime. He says his knee bothers him as well when he is standing and doing fine, and he goes to take a step or so and it becomes sore. He says he is keeping his hamstrings stretched out, but he has not done exercises for his shoulder for a long time. He has started taking Vioxx every once in awhile, sometimes it helps, but he does not take it on a regular basis.

PHYSICAL EXAMINATION: On physical examination, Ricky has some pain with resisted external rotation at 90 degrees of abduction. Resisted external rotation with the arm over the head is somewhat painful. Negative KIM-I and KIM-II test. Negative Yergason and speed test. Isolated supraspinatus is not painful. Triceps resistance is not painful. He is tender to palpation about the ulnar nerve posteromedial aspect of the elbow, but does not have any nerve compression at the elbow with a negative elbow flexion test. Normal two-point discrimination. No hand paresthesias or numbness. Negative Tinel's at the elbow.

On physical examination of his knee, hamstrings are still really tight. He has 60 degrees of hamstring tightness. He also has a hyper-pronated foot, he drops his arch a little bit, rolls his heel and rolls his forefoot in.

DIAGNOSIS: 1. LEFT SHOULDER PAIN.
2. RIGHT KNEE PAIN.

DISPOSITION AND RECOMMENDATION: At this point, instead of taking Vioxx I would try him on Bextra 20 mg once a day. I will have him get back into his shoulder exercises and have him continue with his hamstring stretches as well. I will see him back in six weeks. If he still continues to have shoulder problems at that time, I would inject him with a corticosteroid injection. I stopped his Vioxx for now. He can basically use it as he wishes.

In regards to his knee, I would recommend some arch supports, hamstring stretches, rotator cuff specifically anterior aspect of the supraspinatus strengthening and stretching. I will prescribe him Bextra and see him back in six weeks to reevaluate him.

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It may be that arch supports and hamstring stretches do not work in combination and we may need to go to orthotics to correct his stance a little bit.

MEDICATION(S): Bextra.

RETURN APPOINTMENT: Six weeks.

Michael S. Green, M.D.
MSG / law
REV 0

This document was signed electronically by:

Michael S. Green, M.D.
On: 06/11/2003 14:40:06

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Voice Job ID# 63661
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MIDLANDS ORTHOPAEDICS, P.A.
1910 BLANDING STREET
COLUMBIA, SC 29201

NAME: Kneece, Ricky
ACCOUNT #: 1004294

DATE: 02/25/03
DOB:

FOLLOW-UP ENCOUNTER

CLINICAL STATUS: I am seeing Ricky in follow up. His knee looks great.

PHYSICAL EXAMINATION: His swelling is down, and his motion looks good. His VMO looks like it is recovering nicely. He is also complaining of some left anterior shoulder and neck-type pain. He is noticing more and more discomfort trying to sleep at nighttime and doing certain activities, especially like driving.

On exam of his neck, he can touch his chin to his chest. He has some limited neck extension. Right lateral bending as well as left rotation is pretty tight and causes a reproduction of some of that tenderness.

I examined his shoulders with regards to rotator cuff impingement, bicipital tendon, etc. He has a negative Yergason's, speed test, Kennedy test, isolate supraspinatus, Hawkin's and O'Brien's test.

DIAGNOSIS:

1. Recovering plica excision, left knee.
2. Probable cervical degenerative disk disease.

DISPOSITION AND RECOMMENDATIONS: At this point I will give a Neck Basics Booklet, a new prescription for some Vioxx that seemed to help quite a bit. With regards to his knee, he can basically undertake any activities he wishes.

RETURN APPOINTMENT: I will release him at this time and will not need to see him back unless he is having some problems.

NOTE: I had a medical conference with Rebecca Bruce of Concentra today concerning Ricky.


Michael S. Green, M.D.

MSG/sjs

Job # 44202

117

MBIA SC 29201
256-4107 (35 MWS.AR LBP)

SSN: [REDACTED]
Phone: 803-894-3280

RICKY KNEPCE (252876)
240 DELANO KNEPCE
PELION SC 29123

#	Date	Code	Desc	Dr	Fcl	Dx	Amount	Link	Who	Ref
							-55.00	14132.1	RTC	62935.1
	03/10	3.24	INS PMT IC 8		24		0.00	1C2.1	RIC	21989
	03/06	98	ins STERLING				0.00	1C2.2	RIC	1C2.2
	02/25	99024	POST OP VI 8		24	717.7	80.00	1C2.1	RIC	1C2.1
	02/25	s 99361	PHYSICIAN/ 8		24	727.89	0.00	2C2.1	RTC	13702
	01/22	98	ins STEP				0.00	19927.1	RIC	19927.1
	01/21	99024	POST OP VI 8		24	717.7	2878.00	2C2.1	RIC	2C2.1
	01/09	s 29876	ARTHROSCOP 8		25	727.89	0.00	18770.1	RIC	13419
	01/18	98	ins STERLING				0.00	18767.1	RIC	13418
	01/18	98	ins STERLING				0.00	18770.1	RTC	18770.1
	01/09	s 29876-LT	ARTHROSCOP 17		24	727.89	587.50	18770.1	RIC	18767.1
	01/09	s 29876-LT	ARTHROSCOP 8		24	727.89	2350.00	18767.1	RIC	18767.1
	01/02	98	ins STERLING				0.00	14132.1	RIC	10542
	01/02	98	OUTPT. VIS 8		24	717.7	55.00	14132.1	RIC	14132.1
	12/31	99212								
Total for A:							5895.50			

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MIDLANDS ORTHOPAEDICS, PA
1910 Blanding Street
Columbia, SC 29201

FOLLOW-UP OFFICE VISIT

NAME: KNEECE, RICKY
DATE: 01/21/2003

ACCOUNT #: 252876
DOB:

CLINICAL STATUS: Ricky's knee today looks much better than I thought it would. His swelling is really not that bad. He did have a gouty attack to his left ankle. He is pretty tender and sore. It is hard for him to move it up and down. He is on Indocin.

DIAGNOSIS: 1. S/P ARTHROSCOPIC MEDIAL PLICA EXCISION AND MEDIAL MENISCECTOMY.

DISPOSITION AND RECOMMENDATIONS: At this point in time, we will have him work hard on hamstring stretches, as well as quad sets. Have him take Indocin for his gout. I will see him back in 4 weeks. We gave him a booklet of exercises and went through some hamstring stretches with him.

Michael S. Green, M.D.
MSG / hcf
cc:
REV 0

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Michael S. Green, M.D.
On: 01/23/2003 07:54:22

MIDLANDS ORTHOPAEDICS, PA
1910 Blanding Street
Columbia, SC 29201

OPERATIVE REPORT

NAME: KNEECE, RICKY.
DATE: 01/09/2003

ACCOUNT #: 252876
DOB: 

DATE OF SURGERY: JANUARY 9, 2003

SURGEON: MICHAEL S. GREEN, MD

ASSISTANT: PAM CLAYTOR, RN

PREOPERATIVE DIAGNOSIS (ES):

1. SYMPTOMATIC MEDIAL PLICA, LEFT KNEE.

POSTOPERATIVE DIAGNOSIS (ES):

1. SYMPTOMATIC PLICA, LEFT KNEE.
2. MEDIAL FEMORAL CHONDRAL EROSION, POSTERIOR ASPECT OF FEMORAL CONDYLE.
3. FRAYED SUPERIOR SURFACE, POSTERIOR HORN TEAR, LEFT MEDIAL MENISCUS.

PROCEDURE:

1. ARTHROSCOPIC PLICA EXCISION, LEFT KNEE.
2. ARTHROSCOPIC FEMORAL CHONDROPLASTY, LEFT KNEE.

COMPLICATIONS: NONE.

ANESTHESIA: GENERAL.

ESTIMATED BLOOD LOSS: MINIMAL.

DRESSING: 4X4S, SOFT COMPRESSIVE DRESSING AND ACE WRAP.

CONDITION: STABLE.

DESCRIPTION OF PROCEDURE: The patient was taken to the operative suite and placed on the operating table in supine position after having femoral block placed in the holding room. He was placed under IV sedation. His left knee was prepped with

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NAME: KNEECE, RICKY
DATE: 01/09/2003

ACCOUNT #: 252070
DOB:

DuraPrep and draped in the usual sterile fashion. Esmarch was used for exsanguination and a tourniquet was inflated to 300 mmHg.

Portal sites were injected with 1 percent Xylocaine and a medial suprapatellar portal was established for inflow cannula. An anterolateral portal was established in the parapatellar region for an arthroscope. The arthroscope was placed into the suprapatellar pouch with minimal synovitis. The patella had a good articular surface. The patient had a large medial plica with synovitis on the undersurface. The medial recess was otherwise unremarkable. The medial femoral condyle had a defect on the articular surface, especially posteriorly. There was Grade II and III chondral erosion. The size was about the size of a dime at the initial portion, but then it extended another 1-2 dimes' length posteriorly and somewhat medially. The posterior horn of the medial meniscus was frayed. But there may be some superior surface fraying but no frank tear.

Utilizing a full radius cutter, the femoral condylar defect had a chondroplasty performed to smooth out the frayed articular margins. The plica was removed, both with a full radius shaver and a 90 degree ablation wand from Oratec. This helped with the hemostasis by using the radiofrequency ablator. Once this was done, it was noted that the lateral meniscus and lateral compartment were inspected. They were normal. They were palpated. The articular surface of the femur, as well as the tibia, were normal. The lateral recess and posterior chambers were all normal.

After the procedure had been performed, the instruments were extracted. The portals were closed with Steri-Strips. 4x4s, Red Cross cotton and Ace wrap were used for dressing. Tourniquet was released. Total tourniquet time was less than an hour. The patient's toes were pink and warm at the end of the procedure. He was taken from the operating room to the recovery room in satisfactory condition. He tolerated the anesthetic well.

Michael S. Green, M.D.

MSG / dw
REV 0

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Michael S. Green, M.D.
On: 07/24/2003 13:11:01

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Vpice Job ID# 71980
Page 2 of 2

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MIDLANDS ORTHOPAEDICS, P.A.
1910 BLANDING STREET
COLUMBIA, SC 29201

NAME: Kneece, Ricky
ACCOUNT #: 252876

DATE: 12/31/02
DOB:

FOLLOW-UP ENCOUNTER

CLINICAL STATUS: I am seeing Ricky in follow up. His knee is still pretty symptomatic.

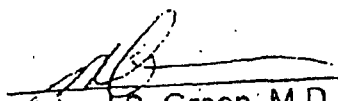
PHYSICAL EXAMINATION: He is still pretty tender by the knee or plica. He has some patellofemoral type symptoms, but negative shrug sign.

The patient said the injection helped about six weeks or so, it wore off around Labor Day. He has had intermittent problems with it. It is not as bad as it was, but he still has problems every day, especially for climbing, standing and walking.

DIAGNOSIS: Patellofemoral syndrome of symptomatic plica.

DISPOSITION AND RECOMMENDATIONS: At this point he has had symptoms for a long period of time. He has not had the symptoms eliminated with conservative measures. I would recommend arthroscopic evaluation with excision. We went over the procedure in detail with him. We talked about postoperative rehabilitation, the chances of his knee getting better or staying the same. He will decide whether he wants to proceed with this.

RETURN APPOINTMENT: Return appointment on a prn basis.


Michael S. Green, M.D.

MSG/sjs

Job.# 34071

122

1910 BLANDING STREET
COLUMBIA, SC 29201

NAME: RICKY KNEECE

DOB:

ACCOUNT #: 252876

SSN:

7-16-02

CLINICAL STATUS: I am seeing Ricky back today for follow-up evaluation. His knee is about the same. Vioxx taken during the daytime seems to help a little bit better than taking it at nighttime. He still gets pretty sore at times. It does not really swell.

Hamstrings are still a little bit tight. He is still quite tender about the medial plica. Joint line is still somewhat tender at its intersection with the plica.

RADIOGRAPHS: MRI does not reveal any evidence of meniscal pathology.

DIAGNOSIS: SYMPTOMATIC PLICA, LEFT KNEE.

DISPOSITION AND RECOMMENDATIONS: At this point, we will give the patient a corticosteroid injection of 1 cc of Depo Medrol and 2 ccs of Xylocaine. Hopefully this will calm things down for him. If not, then he is certainly a candidate for an arthroscopic plica excision. It has an 85% chance of not coming back, and 15% chance of coming back. He has been symptomatic for three years and has not gotten better. The likelihood of it spontaneously getting better is minimal. Post-operative rehabilitation should be about three months or so. Return office appointment p.r.n.

I also had a medical conference with Rebecca Bruce, the cast manager with Concentra, regarding Mr. Kneece. We talked about the diagnosis, prognosis and treatment options.

RETURN APPOINTMENT: p.r.n.


Michael S. Green, M.D.

MSG/lw1

123

MR: RICKY KNEECE
B: [REDACTED]

6-14-02

PRESENT ILLNESS: Ricky is a 42 year old patient of mine I am seeing for a second opinion for an injury to his left knee. He has had pain and popping which has been creating a limp. Initially this happened back in 1999 as the result of an injury. He has been seen by several physicians over the years for physical exams and x rays. He has had no therapy, no injections and no MRI. It hurts to climb stairs and ladders. It hurts at night time as well. It always hurts at the same spot.

PAST HISTORY:

Allergies: NKDA
Medications: Depakote
Surgeries: Hernia x3; appendectomy; shoulder repair
Illnesses: Asthma; gout

SOCIAL HISTORY: Has children. Does not live alone. On no special diet. Nonsmoker. Very occasional alcohol use. Employed as farmer at Delano R. Kneece & Son, Inc.

FAMILY HISTORY: Grandparent had cancer; father hypertension.

FAMILY PHYSICIAN: Carl White, MD

Review of Systems is documented in the chart, and has been reviewed.

Present Weight: 210 lbs
Pulse: Not recorded

Present Height: 5'10"

PHYSICAL EXAMINATION: reveals full ROM. 60 degrees hamstring tightness. He is tender to palpation about the medial plica. Medial joint line is painful. So is the medial infrapatellar facet. Lateral joint line is not painful. No MCL or lateral collateral laxity. McMurray's questionable.

RADIOGRAPHS: Standing AP, lateral and Houston view reveal well maintained joint space medially and laterally. Slightly decreased lateral facet space on the patella vs medially.

DIAGNOSIS: 1. PROBABLE DEGENERATIVE MEDIAL MENISCAL TEAR, LEFT KNEE.
2. LEFT PATELLOFEMORAL SYNDROME.

DISPOSITION & RECOMMENDATIONS: At this point I would recommend MRI of his knee. I would also recommend a significant therapy program, especially working the hamstring and stretches.

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1910 BLANDING STREET
COLUMBIA, SC 29201

NAME: RICKY KNEECE
JOB: [REDACTED]

ACCOUNT #: 252876
SSN: [REDACTED]

Nonsteroidal anti-inflammatories may be beneficial as well. I discussed this in detail with Rebecca Bruce of Concentra.

RETURN APPOINTMENT: after MRI to discuss treatment options.


Michael S. Green, M.D.

MSG/dwl

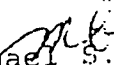
125

NAME: RICKY KNEECE
DOB: [REDACTED]

RADIOGRAPHIC REPORT

DATE OF EXAM: 6/14/02

RADIOGRAPHS: Standing AP, lateral and Houston view reveal well maintained joint space medially and laterally. Slightly decreased facet space on the patella vs medially.


Michael S. Green, MD

MSG/dwl

126

1910 BLANDING STREET
COLUMBIA, SC 29201

NAME: RICKY KNEECE

DOB:

ACCOUNT #: 252876

SSN:

4-08-02

CLINICAL STATUS: I am seeing Ricky today for followup evaluation. His motion looks great, almost normal. He is weak in his rotator cuff and needs to work on that.

DIAGNOSIS: S/P ARTHROSCOPIC BANKART LEFT SHOULDER.

DISPOSITION AND RECOMMENDATIONS: At this point I want him to continue working on endurance and strength. He can use it pretty much as he wishes.

RETURN APPOINTMENT: Will release patient to be seen on a prn basis.


Michael S. Green, M.D.

MSG/sjb

127

NAME: RICKY KNEECE
DOB: [REDACTED]

SSN: [REDACTED]

2-08-02

CLINICAL STATUS: I am seeing Ricky back today for follow-up evaluation. He is doing well with this shoulder. He is at three months and his motion is right where it should be at this time. A little bit tight in abduction and external rotation.

DIAGNOSIS: STATUS POST ARTHROSCOPIC STABILIZATION OF LEFT SHOULDER INSTABILITY.

DISPOSITION AND RECOMMENDATIONS: We will continue with pushing his motion. We will see him back in two months.

RETURN APPOINTMENT: Follow up two months.


Michael S. Green, M.D.

MSG/lwl

128

1910 BLANDING STREET
COLUMBIA, SC 29201

NAME: RICKY KNEECE
DOB: [REDACTED]

ACCOUNT #: 252876
SSN: [REDACTED]

CORRECTED COPY

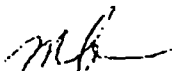
12-21-01

CLINICAL STATUS: I am seeing Ricky back today for follow-up evaluation. He is coming along with his shoulder. It is pretty tight in external rotation with the elbow at the side, but otherwise, he is actually coming along pretty well. Forward elevation and abduction is about 110 degrees at this point.

DIAGNOSIS: 1. S/P ARTHROSCOPIC BANKART/CAPSULAR SHIFT LEFT SHOULDER.

DISPOSITION AND RECOMMENDATIONS: We will have him go ahead and have him start working on active ROM in all planes. He can actually use a broomstick to help him in external rotation with the elbow at the side. He can come out of his sling. Return office visit in six weeks, he will start rotator cuff rehab in three.

RETURN APPOINTMENT: Follow-up six weeks.



Michael S. Green, M.D.

MSG/lwl

129

AME: RICKY KNEECE
OB: [REDACTED]

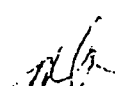
12-03-01

CLINICAL STATUS: I am seeing Ricky back today for a follow-up evaluation. He looks good. His motion is about where it should be. He is a little bit tight in external rotation. The elbow cellulitis looks much improved.

DIAGNOSIS: 1. S/P ARTHROSCOPIC BANKART/CAPSULAR SHIFT LEFT SHOULDER
2. IMPROVED OLECRANON BURSITIS OR CELLULITIS LEFT ELBOW

DISPOSITION AND RECOMMENDATIONS: We will go ahead and have him start working on active motion and keep it under 90 degrees forward elevation and abduction until next Monday. He can start working on that, external rotation 30-40.

RETURN APPOINTMENT: 3 4 weeks


Michael S. Green, M.D.

MSG/lrb

130

AME: RICKY KNEECE
OB: [REDACTED]

ACCOUNT #: 252876
SSN: [REDACTED]

11-21-01

CLINICAL STATUS: I am seeing Ricky back in follow up for his arthroscopic shoulder surgery. I went ahead and took his stitches out today, although he is only six days post op. His incision site is clean and dry.

RADIOGRAPHS: None taken today

DIAGNOSIS: ARTHROSCOPIC BANKART PROCEDURE ON THE LEFT SHOULDER

DISPOSITION AND RECOMMENDATIONS: Continue with ROM of his elbow, gentle ROM of the shoulder. He will see Dr. Green back on December 6.

MEDICATIONS: None

RETURN APPOINTMENT: Approximately two weeks

Michael R. Ugino, M.D.

MRU/srs

131

NAME: RICKY KNEECE
DOB: [REDACTED]

ACCOUNT #: 252876
SSN: [REDACTED]

OPERATIVE NOTE

DATE OF SURGERY: November 15, 2001

PATIENT NAME: RICKY KNEECE

PATIENT NUMBER: 252876

SURGEON: Michael S. Green, MD
first ASSISTANT: Pam Claytor, RN

PREOPERATIVE DIAGNOSIS: 1. LEFT SHOULDER INSTABILITY.

POSTOPERATIVE DIAGNOSIS: 1. LEFT SHOULDER INSTABILITY.

PROCEDURE:

1. ARTHROSCOPIC BANKART/CAPSULAR SHIFT PROCEDURE, LEFT SHOULDER.
2. ARTHROSCOPIC THERMAL CAPSULAR SHRINKAGE AUGMENTATION.
3. ARTHROSCOPIC SYNOVECTOMY, LEFT SHOULDER.

COMPLICATIONS: None.

ANESTHESIA: Postoperative regional pain block followed by general.

ESTIMATED BLOOD LOSS: Minimal.

DRESSINGS: 4 by 4s, ABD pad, Hypafix tape, and a sling.

CONDITION: Stable.

DESCRIPTION OF PROCEDURE: The patient was taken to the Operative Suite and placed on the Operating Table in the supine position after he had a regional block placed in the Holding Room. He was placed under general anesthetic. When he was endotracheally intubated and the airway was secured, he was placed into the right lateral decubitus position with an axillary roll in place. The pillows were placed between and beneath the legs. The left arm was suspended by way of a shoulder traction unit. The left upper extremity, shoulder, and base of the neck area were prepped with Duraprep and draped in the usual sterile fashion.

A posterolateral portal was established for placement of the arthroscope. The arthroscope was placed into the glenohumeral joint. The glenohumeral joint was inspected. It was noted that

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NAME: RICKY KNEECE

JOB:

ACCOUNT #: 252876

SSN:

the patient had intact rotator cuff. The patient's biceps tendon was normal. His superior labrum at about the 11:30 to 6 o'clock position was normal; however, from 6 o'clock up to about 11:30 on the anterior rim of the glenoid, the patient had a complete avulsion of his anterior labrum. The capsule had retracted medially and inferiorly as well. He did have a relatively large drive-through sign. The patient's HillSach's lesion was not very deep, but it was relatively long and wide. The remaining portion of the articular surface of the humerus was normal. He did have some erosion of the anterior rim of the glenoid that was devoid of articular cartilage as well.

He had synovitis throughout the inferior, anterior, and superior chambers. Moderate synovitis posteriorly. The midscapularis and subscapularis tendon was intact. The glenohumeral ligament was attached about the 11 o'clock position on the labrum and it was detached.

Utilizing an anterolateral portal and anterior superior portal as working portals, a synovectomy was performed of the inferior, anterior, and superior chambers. After this had been adequately undertaken, then the soft tissue attachment to the bare rim of the glenoid anteriorly was undertaken. An elevator rasp was used to elevate the labrum from the medial glenoid and its retracted and scarred down position. It was freed up so we could grab it with a grasper and had good excursion.

A bur was then utilized to debride the anterior rim of the glenoid. Once this was satisfactorily completed, then the thermal capsular augmentation device from Oratec was then utilized to put stripes in the inferior capsule to tighten it up. At least five passes were made inferiorly and somewhat anterior-inferior. Then a tag suture anchor drill bit was then placed about the 7:30 position. The device with two 2-0 Ethibond sutures was then impacted within the drill tunnel. The sutures were then passed through the anterior-inferior glenohumeral ligament as well as the labrum, brought up and tied down to the anchor.

the second suture was passed utilizing a Concepts suture shuttle and stitcher. The second suture was brought up a little bit more inferior and anterior pouch of the glenohumeral joint, as well as catching the labrum, and it was tied down and secured.

Another suture anchor was placed with two more 2-0 Ethibond sutures. It was placed at about the 8:30 position. These two sutures were then passed through the anterior-inferior capsule again and brought up through the labrum and tied and secured.

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NAME: RICKY KNEECE
DOB: [REDACTED]

SSN: [REDACTED]

After these four sutures were fixed, catching the capsule and labrum, then a Mitek knotless suture anchor drill bit and system was utilized to reattach the remaining portion of the anterior glenoid. An anchor was placed at about the 9:30 position, and then again at about the 10:30 to 11 o'clock position. Stabilization of the anterior labrum was undertaken including the anterior-superior labrum that incorporated the attachment point of the superior glenohumeral ligament.

Instruments were extracted, the shoulder was drained, portals were closed with 3-0 Nylon in a simple stitch fashion. 4 by 4s, ABD pad, Hypafix tape was placed as a dressing. The arm was placed into a sling. He emerged from the general anesthetic smoothly, and he was taken from the Operating Room to the Recovery Room in satisfactory condition.


Michael S. Green, MD

MSG/lbp

DATE DICTATED: 11/15/01
DATE TRANSCRIBED: 11/16/01

134

AME: RICKY KNEECE
OB:

ACCOUNT #: 252876
SSN:

EXAMINATION DATE: 11-08-01
REFERRED BY: MICHAEL S. GREEN, M.D.

MRI OF THE LEFT SHOULDER

CLINICAL REQUEST:

TECHNIQUE: All images were acquired on a 1.0 Tesla Siemens Harmony. Multiplanar, multisequence MRI imaging of the left shoulder was obtained. Images were acquired immediately after intraarticular injection of gadolinium solution.

FINDINGS:

ROTATOR CUFF:

There is a mild amount of tendonopathy of the distal supraspinatus. The majority of the increased signal noted within the supraspinatus is related to magic angle artifact. I see no significant partial or full thickness rotator cuff tear.

There is no extravasation of gadolinium. The majority of the tendons are normal thickness and signal.

LABRUM:

The anterior labrum is displaced away from the glenoid rim with heavy undercutting of contrast. The abnormality extends through the entire length of the anterior labrum and therefore it does not likely represent normal variation sublabral foramen. The appearance suggest an avulsion or stripping of the labrum rather than a true intrasubstance displaced tear. There is no extravasation of contrast through the joint capsule. The capsule appears appropriate in size without significant thickening. Capsular insertion also appears normal positioned on the glenoid neck.

The posterior labrum is slightly rounded in contour but otherwise normal. The superior labrum including the biceps labral anchor is normal configuration and signal. There is no MRI evidence of an SLAP lesion. The long head biceps tendon is intact in the bicipital groove.

The sagittal oblique images show no evidence of injury to the coracohumeral ligament. There is no evidence of rotator interval injury.

OSSEOUS STRUCTURES:

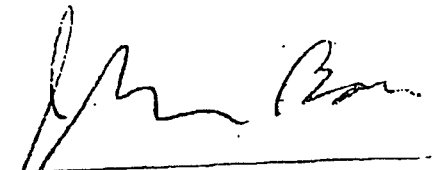
135

NAME: RICKY KNEECE
DOB: [REDACTED]

I see no evidence of cartilage defect or occult fracture. Very mild degenerative changes are noted acromioclavicular joint. There is a small less than 5 mm subcortical cyst in the posterosuperior aspect of the humerus. This finding is sometimes seen with early impingement type changes.

IMPRESSION:

1. The anterior labrum is abnormal with probable stripping or displacement anteriorly away from the glenoid rim. The remainder of the labral structures are unremarkable.
2. Very minimal supraspinatus tendonopathy is identified. No partial or full thickness rotator cuff tear is seen. Mild degenerative changes are noted acromioclavicular joint.


J. D. Boon, M.D.

JDB/lrb

D.R.: 11/8/01
D.T.: 11/8/01

136

NAME: RICKY KNEECE

DOB:

ACCOUNT #: 252876

SSN:

11-05-01

PRESENT ILLNESS: Ricky is a 41 year old male who first dislocated his left shoulder several years ago, 10+ years, maybe as far back as 1987 or so. It happened when he extended his arm out to try to break his fall. It popped back in. However he says he has sustained at least 1-3 dislocations, pretty much each year since that point in time. Last November of 1999 he sustained an injury when a lock ring of the tire rim blew off and injured his shoulder again. Since that time he has had more episodes of instability. He has been more sore recently after a relatively recent dislocation than it has been in the past. It is uncomfortable all the time. He has had no medications or x-rays. He is to the point to where he is pretty sick and tired of it and wants to have something done. He saw Dr. Ugino this morning. Dr. Ugino sent him over to see me for evaluation and consultation.

PAST HISTORY:

Allergies: None listed
Medications: None
Surgeries: Hernia, appendix
Illnesses: Bronchitis, asthma, gout.

SOCIAL HISTORY: The patient has two children. He does not smoke and drinks occasional alcohol. He is employed.

FAMILY HISTORY: Positive for arthritis, cancer, hypertension.

FAMILY PHYSICIAN: Carl White, M.D.

REVIEW OF SYSTEMS:

General Health:
Ears, Eyes, Nose & Throat: Non-contributory
Respiratory: Non-contributory
Cardiac: Non-contributory
Skin: Non-contributory
GI: Non-contributory
Urinary: Non-contributory
Neurological: Frequent headaches, loss of balance.
Hematologic: Non-contributory

Present Weight: 205 lbs **Present Height:** 5'10"

PHYSICAL EXAMINATION: shows the patient actually has very good ROM. He has full forward elevation, full abduction. 90 degrees of abduction with external rotation he gets to about 95 degrees. If he rotates his arm in this position anymore then he certainly

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ME: RICKY KNEECE
3: [REDACTED]

has significant apprehension. Neurologically he is intact. We did not test stability because of no significant history.

RADIOGRAPHS: today in a weighted flush point type view he shows anterior subluxation over the left humeral head.

DIAGNOSIS: RIGHT SHOULDER INSTABILITY

DISPOSITION & RECOMMENDATIONS: At this point the number of times he has dislocated it, it concerns me with regards to long term articular surface damage. He certainly needs to give it some serious consideration to a stabilization procedure. This can be done arthroscopically. I would predict slight abduction/external rotation positioning tightness as a sacrifice for stability. We sat down and drew pictures and talked about post operative rehabilitation as well as the surgical procedure itself. There are successful in 90-95% of the time.

We will obtain an MRI and set up an outpatient procedure. We will set up an outpatient PCA pain pump to go home with. I will see him 10-12 days post op.

RETURN APPOINTMENT: 10-12 days post op


Michael S. Green, M.D.

MSG/lsh

138

AME: RICKY KNEECE
OR: [REDACTED]

COLUMBIA, SC 29201

ACCOUNT #: 252876
SSN: [REDACTED]

11-05-01

CHIEF COMPLAINT: Recurrent dislocations of his left shoulder

PRESENT ILLNESS: This is a very pleasant, right hand dominant 41 year old gentleman who apparently has had multiple dislocations to his left shoulder, since he injured his shoulder and back during a climbing accident approximately ten years ago. He extended his left arm to try to break is fall, and dislocated his shoulder at that time. He had three or four yearly dislocations of his shoulder up unto November of 1999, when he was involved in another accident when a lock ring blew off of a tire and he re-dislocated his shoulder again. Since that time, he has been dislocating his shoulder an average of 10-15 times a year. Most recently, this occurred four weeks ago. He was kindly sent by one of our nurses, JoAnn Adkins, to my office for treatment of the same. He is right hand dominant.

PAST HISTORY:

Allergies: None
Medications: None
Surgeries: Hernia repair x3, appendectomy
Illnesses: Asthma, chronic bronchitis, gout

SOCIAL HISTORY: He has two children, does not live alone, and is on no special diet. He does not smoke and uses alcohol socially. He is employed as a farmer.

FAMILY HISTORY: Positive for high blood pressure, cancer, arthritis

FAMILY PHYSICIAN: Dr. Carl White

REVIEW OF SYSTEMS:

Present Weight: 205 lbs. Present Height: 5'10"
Pulse: 74 bpm, regular
General Health: Good
Ears, Eyes, Nose & Throat: Non-contributory
Respiratory: Non-contributory
Cardiac: Dizziness
Skin: Non-contributory
GI: Non-contributory
Urinary: Non contributory
Neurological: Frequent headaches, loss of balance
Hematologic: Non-contributory

PHYSICAL EXAMINATION: Physical examination is limited to the patient's left upper extremity. Clinically, he is a well

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NAME: RICKY KNEECE
DOB: [REDACTED]

ACCOUNT #: 252876
SSN: [REDACTED]

developed gentleman who has full ROM of his glenohumeral joint. He has no tenderness directly on palpation of the rotator cuff, AC joint, the tuberosities of the humerus. When he is examined supine, he has gross instability along the anterior aspect of the shoulder with a positive apprehension sign. I can actually sublux the shoulder anteriorly and feel a click or pop. He has no posterior or inferior instability.

RADIOGRAPHS: PA internal and external rotation views do show a mild Hill-Sachs lesion along the anterolateral aspect of the humerus. The axillary lateral view shows that the humeral head is actually subluxed anteriorly 50% off of the rim of the glenoid.

DIAGNOSIS: ANTERIOR INSTABILITY OF THE SHOULDER

DISPOSITION & RECOMMENDATIONS: This patient is going to require an arthroscopic Bankart repair. Because of this, I am going to refer him over to see Dr. O'Leary or Dr. Green. He is otherwise discharged from the office.

MEDICATIONS PRESCRIBED: None

RETURN APPOINTMENT: See Dr. Green or Dr. O'Leary in the near future.

Michael R. Ugino, M.D.

MRU/srs
c: Carl A. White, M.D. via fax

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1910 BLANDING STREET
COLUMBIA, SC 29201

NAME: RICKY KNEECE

DOB:

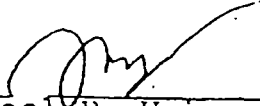
ACCOUNT #: 252876

SSN:

RADIOGRAPHIC REPORT

DATE OF EXAM: 11/05/01

PA internal and external rotation views so show a mild Hill-Sachs lesion along the anterolateral aspect of the humerus. The axillary lateral view shows that the humeral head is actually subluxed anteriorly 50% off of the rim of the glenoid.


Michael R. Ugino, MD

MRU/srs

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NAME: RICKY KNEECE
DOB: [REDACTED]

ACCOUNT #: 252876
SSN: [REDACTED]

RADIOGRAPHIC REPORT

DATE OF EXAM: 11/05/01

RADIOGRAPHS: today in a weighted flush point type view he shows anterior subluxation over the left humeral head.


Michael S. Green, MD

MSG/lgb

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1910 BLANDING STREET
COLUMBIA, SC 29201

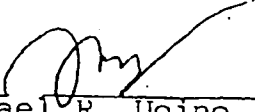
NAME: RICKY KNEECE
DOB: [REDACTED]

ACCOUNT #: 252876
SSN: [REDACTED]

RADIOGRAPHIC REPORT

DATE OF EXAM: 11/05/01

PA internal and external rotation views so show a mild Hill-Sachs lesion along the anterolateral aspect of the humerus. The axillary lateral view shows that the humeral head is actually subluxed anteriorly 50% off of the rim of the glenoid.


Michael R. Ugino, MD

MRU/srs

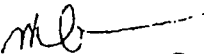
141

ME: RICKY KNEECE
B: [REDACTED]

RADIOGRAPHIC REPORT

DATE OF EXAM: 11/05/01

RADIOGRAPHS: today in a weighted flush point type view he shows anterior subluxation over the left humeral head.


Michael S. Green, MD

MSG/lrb

142

NAME: RICKY KNEECE
DOB: [REDACTED]

COLUMBIA, SC 29201

ACCOUNT #: 252876
SSN: [REDACTED]

RADIOGRAPHIC EVALUATION OF THE ORBITS

EXAMINATION DATE: 11-05-01

IMPRESSION: AP, lateral and oblique views of his orbits show no evidence of any metallic fragments. He should be safe for MRI.


Michael S. Green, MD

MSG/lrb

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MIDLANDS ORTHOPAEDICS, PA
1910 Blanding Street
Columbia, SC 29201

FOLLOW-UP OFFICE VISIT

NAME: KNEECE, RICKY
DATE: 09/23/2004

ACCOUNT: 252876
DOB:

CLINICAL STATUS: Mr. Kneece returns today for evaluation of his elbow. He is still having some elbow problems and his shoulder is also bothering him. Dr. Michael S. Green operated on his shoulder a few years ago.

PHYSICAL EXAMINATION: Exam demonstrates a full ROM of the elbow. There is thickening and swelling of the olecranon bursa.

DIAGNOSIS(ES): CHRONIC LEFT ELBOW OLECRANON BURSTITIS

PLAN: I would like to refer Mr. Kneece back to Dr. Green for evaluation of his shoulder and for possible surgical management of his olecranon bursitis. He has been operated on by Dr. Green in the past. I will be glad to see him back on an as needed basis.

RETURN APPOINTMENT: P.F.A.

James A. O'Leary, M.D.
JAO / rb
cc: Michael S. Green, M.D.
REV 0

This document was signed electronically by:
James A. O'Leary, M.D.
On: 09/28/2004 09:29:33

Voice Job ID# 163209
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MIDLANDS ORTHOPAEDICS, PA
1910 Blanding Street
Columbia, SC 29201

RECEIVED JUL 30 2004

FOLLOW-UP OFFICE VISIT

NAME: KNEECE, RICKY
DATE: 06/29/2004

ACCOUNT: 252876
DOB:

CLINICAL STATUS: Mr. Kneece returns today for evaluation of his elbow. He elbow has become more swollen and painful. It bothers him on a daily basis.

PHYSICAL EXAMINATION: Demonstrates a thickened mobile olecranon bursa. There is no erythema. There is some mild tenderness. There is a full ROM of the elbow.

IMPRESSION: CHRONIC RECURRENT ELBOW OLECRANON BURSITIS.

PLAN: I have discussed the various treatment options with Mr. Kneece. He would like to avoid surgery if at all possible. I will inject his elbow bursa under sterile conditions with Depo-Medrol and Lidocaine. I will bring him back in six weeks. If his symptoms persists, we will consider olecranon bursectomy.

James A. O'Leary, M.D.
JAO / lkh
cc:
REV 0

This document was signed electronically by:
James A. O'Leary, M.D.
On: 07/07/2004 15:08:01

MIDLANDS ORTHOPAEDICS, PA
1910 Blanding Street
Columbia, SC 29201

FOLLOW-UP OFFICE VISIT

NAME: KNEECE, RICKY
DATE: 04/16/2004

ACCOUNT: 252876
DOB: [REDACTED]

CLINICAL STATUS: Mr. Kneece returns today for evaluation of his left knee. He is actually doing better. He still has some aches and pains but overall he is improved.

PHYSICAL EXAMINATION: demonstrates his wounds to be well healed. There is a full ROM and it is good.

IMPRESSION:

1. S/P LEFT KNEE ARTHROSCOPY

PLAN: Mr. Kneece will now be released to full duty. I see no indication for restrictions. However he still has pain, some mild weakness and atrophy. Based on the AMA guidelines I feel he would merit a 10 percent impairment rating for the left lower extremity. Otherwise I will release him and see him back on an as needed basis.

James A. O'Leary, M.D.
JAO / lsb
cc:
REV 0

This document was signed electronically by:
James A. O'Leary, M.D.
On: 04/21/2004 13:57:07

Voice Job ID# 127563
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MIDLANDS ORTHOPAEDICS, PA
1910 Blanding Street
Columbia, SC 29201

FOLLOW-UP OFFICE VISIT

NAME: KNEECE, RICKY

DATE: 02/26/2004

ACCOUNT: 252876

DOB:

CLINICAL STATUS: Mr. Kneece returns today for evaluation of his knees. He is making some progress.

PHYSICAL EXAMINATION: Exam demonstrates no evidence of an effusion. There is a full ROM.

DIAGNOSIS(ES): S/P KNEE ARTHROSCOPY

PLAN: I will keep Mr. Kneece on light duty for another month or so. Then, I will allow him to return to full duty. I will see him back for a final check in about six weeks.

RETURN APPOINTMENT: 6 weeks

James A. O'Leary, M.D.

JAO / rb

cc:

REV 0

This document was signed electronically by:

James A. O'Leary, M.D.

On: 03/03/2004 10:47:41

Chart # 252876

DEMOGRAPHIC INFORMATION

Today's Date: 2/26/04 Date Previous Visit: 1/30/04 Treating Physician: James A. O'Leary
Patient Name: Licky Greene Home Phone: 894-3280
Patient SS#: [REDACTED] Patient DOB: [REDACTED]
Employer: Mc Lane Greene Phone: 894-3418

MEDICAL INFORMATION

Date of Accident/Injury for this report: 1/19/04
Diagnosis: (descriptions) Low Back Pain (codes) 719.46
(descriptions) _____ (codes) _____

STATUS INFORMATION - THIS MUST BE COMPLETED

- ☐ Patient has reached MMI
- ☐ Able to work with no restrictions
- ☐ May return to Regular work on 1/30/04
- ☐ Continue Light Duty
- ☒ Begin Light Duty Work on 2/26/04 for 4 weeks then full duty
- ☐ Out of Work until 4/30/04
- ☐ Next Office Visit on _____
- Other _____

LIGHT DUTY RESTRICTIONS

- ☐ Full Time
- ☐ Sedentary Work Only
- ☐ Lifting no more than _____ Lbs
- ☐ No Bending, Stooping or Climbing
- ☐ Part time _____ Hrs. per day
- ☐ No Repetitive Movement
- ☐ No pushing, pulling or twisting

Other _____

SCANNED

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(Demographic Information 7-19-01)