

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SOUTH CAROLINA
Workers' Compensation Commission

Appellate Case No.: 2016-002266

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SEP 22 2017

SC Court of Appeals

Renee Robles, Employee, Claimant, ... Appellant,

v.

Party Reflections, Inc., Employer, and
Employers Assurance Company, Carrier, ... Respondents.

RECORD ON APPEAL

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INDEX

I.	ORDERS.....	1
	Decision and Order filed March 8, 2016	1
	Decision and Order of the Appellate Panel filed September 2, 2016	14
	Judicial Conference Decision and Order filed October 17, 2016	22
II.	PLEADINGS	23
	Form 50 of June 20, 2014	23
	Form 51 of June 30, 2014	24
	Form 20 of July 28, 2014	25
	Claimant's APA Submissions	27
	Dr. Thomas Armsey / Midlands Ortho.	27
	Dr. Chun Kim / Doctors Care	45
	Dr. Daniel Westerkam / Rehab. And Geriatric Services	78
	Defendants' APA Submissions	81
	No. 1 – Doctors Care	81
	Form 30 of March 22, 2016	86
	Appellant's Brief of May 20, 2016	87
	Claimants Reply Brief of June 9, 2016	95
	Appellant's Response to Respondent's Brief of June 14, 2016	102
	Motion to Alter or Amend Judgment Pursuant to SCRCP Rule 59(E) and S.C.Code Ann. §1-23-380 of September 8, 2016	105
III.	TRANSCRIPTS	107
	Deposition of Rene Rivera of September 2, 2014	107
	Caption	108
	Stipulation	110

Examination.....	110
By Mr. Harbison	110
By Ms. Halberg.....	182
By Mr. Harbison	213
By Mr. Calhoun	225
By Mr. Harbison	229
By Ms. Halberg.....	231
Transcript of Proceedings before Commissioner Andrea C. Roche of September 25, 2014	253
Witness – Renee Robles Rivera.....	262
Direct Examination by Mr. Calhoun	262
Cross Examination by Ms. Halberg.....	272
Redirect Examination by Mr. Calhoun.....	277
Re-Cross Examination by Ms. Halberg	279
Witness – Adam Paul Vance	281
Direct Examination by Ms. Halberg	281
Cross Examination by Mr. Calhoun	287
Redirect Examination by Ms. Halbert	293
Re-Cross Examination by Mr. Calhoun.....	295
Redirect Examination by Ms. Halbert	298
Deposition of Rene Robles of February 13, 2015	301
Caption.....	301
Stipulations	304
Direct Examination by Mr. Harbison	304
Cross Examination by Mr. Calhoun	338
Re-Direct Examination by Ms. Adams.....	347
Re-Direct Examination by Mr. Harbison.....	348
Re-Cross Examination by Mr. Calhoun.....	350
Transcript (Full Commission Hearing) of June 21, 2016	360
Caption.....	360
Ms. Kirkham	362

Mr. Calhoun.....	369
Ms. Kirkham.....	381
IV. CERTIFICATE OF COUNSEL.....	386

DECISION AND ORDER
OF THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
W.C.C. FILE NO. 1403985

RENE ROBLES, CLAIMANT

VS.

PARTY REFELCTIONS INC., EMPLOYER

AND

EMPLOYERS ASSURANCE COMPANY., CARRIER

HEARING: Held in Columbia, South Carolina on September 25, 2014.

APPEARANCES: Claimant was represented by Mark R. Calhoun, Esquire, Lexington, South Carolina. Defendant was represented at hearing by Rebecca Halberg and has since been replaced by Blakely Molitor and is now represented by Ellen Adams, Esquire, Columbia, South Carolina.

PURPOSE OF HEARING: To determine issues as set forth on Claimant's Form 50 and Defendant's Form 51.

DECISION AND ORDER: By Commissioner R. Michael Campbell II

MEDICAL EVIDENCE- APA SUBMISSIONS

Pursuant to the South Carolina Administrative Procedures Act, South Carolina Code §1-23-320 et. seq. and Regulation 67-612, the parties submitted the following items without objection as evidence in support of their cases;

CLAIMANT'S APA SUBMISSIONS

- APA #1 Report of Dr. Thomas Armsey, dated July 2, 2013 to October 15, 2015 consisting of seventeen (17) pages.
- APA #2 Report of Dr. Chun Kim, dated April 15, 2013 through April 7, 2014 consisting of thirty one (31) pages.
- APA #3 Report of Dr. Daniel Westerkam, dated June 2, 2014 consisting of three (3) pages.
- APA #4 Claimants Personnel File and Wage Records
- APA #5 September 2, 2014 Deposition Eratta Sheet and Verification.

DEFENDANTS APA SUBMISSIONS

- APA #1 Report of Doctors Care, dated March 17, 2014 consisting of five (5) pages.
- APA #2 Deposition of Rene Robles dated September 2, 2014.

STIPULATIONS

At the call of the case, the parties stipulated that the South Carolina Workers Compensation Commission had jurisdiction in this case and that venue was proper in Richland County. The purpose of the hearing is to decide issues raised on Claimant's Form 50 and Defendant's Form 51. Notice was timely and properly served upon all parties of interest. The Claimant seeks benefits under the South Carolina Workers Compensation Act based upon an admitted accidental injury that occurred on or about March 16, 2014, while in the employment of the Defendant employer, and therefore, the South Carolina Workers' Compensation Commission has jurisdiction of the case. Without objection and with the exceptions of any self serving statements or unstipulated medical reports the Commissions file was made a part of the record.

The Defendant does object to the medical report of Dr. Daniel Westerkam on the grounds that Dr. Westerkam was not listed as a treating physician on the Form 50. The Claimants average weekly wage and compensation rate are to be determined.

STATEMENT OF THE CASE

This matter is properly before me to resolve issues raised in Claimant's Form 50 and Defendant's Form 51. This case was heard by the undersigned Commissioner on September 25, 2014, at which time the parties and/or their representatives appeared and evidence was received. The Claimant submits that the average weekly wage should be based on the prior 52 weeks before a prior date of injury for WCC Claim No. 130665 of April 15, 2013 (since the Claimant has missed time from work since that injury date for medical treatment) which totals \$55,099.99. Divided by 52 weeks this yields an average weekly wage of \$1059.61 with a compensation rate of \$706.33.

After an extensive pretrial conference the Employer has accepted the Claimants Form 50 claim and the parties agree that the issue in dispute to be decided by this Commissioner is whether Claimant is entitled to be paid for TTD from the time of April 7, 2014 and forward. The Claimant submits that after the date of injury he received medical treatment at Doctors Care and had three appointments up to April 7 of 2014. The Claimant was working under work restrictions at that time. The final appointment attended by Claimant was on April 7, 2014. The Claimant was given a return notice by Doctors Care which he could not read (because he cannot read the English language). He gave this form to his supervisor on April 7, 2014 who did not inform him he was supposed to return to the doctor on April 14, 2014 if he did not feel better. On April 7,

2014 the Employer fired Mr. Robles and told him they were not going to pay for any further medical treatment. Mr. Robles paid for the the April 7, 2014 Doctors Care visit out of his own pocket but did not ask Mr. Vance to reimburse him April 7, 2014 Doctors Care appointment out of his pocket. He did not return to the doctor on April 14, 2014 because his employer did not inform him he could after his supervisor read the final report. As a result of Mr. Robles not returning to Doctors Care on April 14, 2014, Doctors Care released and returned him to full would work duties without Mr. Robles's knowledge or consent. Mr. Robles contends that he is not at MMI and needs the further medical treatment as recommended by Dr. Daniel Westerkam and the physical therapy ordered by Doctors Care. Dr. Westerkam holds the Claimant out of work until he receives this further medical treatment or is at MMI.

The Employer submits that the Claimant was released on April 7, 2014 and could return to work full duty on April 14, 2014. The Defendant also argues this is a "Right to Work State", therefore the Employer chose to not bring Mr. Robles has back to work. The Employer has not offered the Claimant employment to return to. They submit that once the Claimant was released to full duty by Doctors Care, without having an appointment on April 14, 2014, the Claimant had an opportunity and responsibility to seek employment elsewhere so since he chose to not do so, he is not entitled to be paid for TTD after April 14, 2014. The Employer argues that if the Claimant is entitled to any TTD, it would be from March 16, 2014 until April 14, 2014. The Employer also argues the Claimant is at MMI. For average weekly wage the Employer submits that the prior 52 weeks or four quarters preceding the accident on March 16, 2014 should be used.

EVIDENCE

The Claimant seeks benefits under the South Carolina Workers' Compensation Act based upon an accidental injury occurring on or about March 16, 2014, while in the employment of the Defendant. The Claimant alleges he suffered an injury by accident while working for the Employer when he was injured while performing his job duties.

Medical records were submitted under Administrative Procedures Act as evidence and made part of the Commission record.

Hearing Testimony of Rene Robles

René testified he was 39 years of age at the date of hearing. He was born and educated in Mexico and has a poor ability to speak and understand English. He cannot read or write English. He is married and his wife and two brothers also work for the Employer. Renée has worked for the Employer for 12 years. He performed manual labor that included the delivery and set up of tables, umbrellas, tents, chairs, silverware, glassware, for parties and social events. (Hearing Transcript p. 11) He injured his back on March 16, 2014 while setting up a tent, he was picking it up when he injured his back. He told supervisor Adam Vance about the injury the following day. He was sent to Doctors Care on April 17, 2014. Adam Vance explained to the Claimant that if he told the doctor the accident happened at home, the Employer would pay for the doctor bills. Vance stated if he told the doctor the accident happened at work they were going to drug test him. The Claimant told Mr. Vance to go ahead and drug test him because he was going to the truth. The Employer drug tested the Claimant. (Hearing Transcript p. 12)

The first Doctors Care appointment on March 17, 2014 was paid for by the Employer on the office credit card. No interpreter was provided for this appointment. The second appointment was on March 24, 2014. The Employer told the Claimant to stay at home until he was told to

return to work by the doctor. There was no interpreter for the March 24, 2014 appointment. On this appointment day Mr. Robles was given work restrictions of no lifting more than 10 pounds, and no bending or twisting. (Hearing Transcript p. 13-14, APA p.44) The Employer paid for the March 24, 2014 appointment. Physical therapy was ordered after this appointment but was stopped because the Employer refused to pay for it. (Hearing Transcript p. 16)

The Claimant testified he returned to Doctors Care for the final visit on April 7, 2014. The Employer did not pay for this appointment. No interpreter was provided on April 7, 2014. René was given work restrictions of no lifting more than 45 pounds, no bending or twisting. (Hearing Transcript p. 14) On the same day Renée returned to work and handed the report to supervisor Adam Vance. Vance told the Claimant to go home and not return unless he was called. Vance never called the Claimant to request that he return to work. Vance did not tell the claimant that he was supposed to returned to Doctors Care on April 14, 2014 if he did not feel better. (Hearing Transcript p. 16) Vance did not tell the Claimant he would be placed at full duty on April 14, 2014 if he did not return to the doctor. The Claimant stated he was not physically able to return to work at this time. He wanted the medical treatment the doctors recommended. (Hearing Transcript p. 17) He currently takes ibuprofen, naproxen, and prescription medication he is able to get from relatives who live in Mexico. (Renée has a brother who is a physician in Mexico). (Hearing Transcript p. 17-18) He uses this prescription medicine for pain and inflammation. Rene testified he is unable to return to work. (Hearing Transcript p. 19-20)

Hearing Testimony of Adam Vance

Supervisor Adam Vance testified on behalf of the Employer. He is the general manager of the Columbia store for the past five years. Mr. Vance is also the supervisor of the Claimant. He stated Mr. Robles was injured on a Sunday, March 16, 2014 and reported the injury to him the

next day because he was not at the job site on the date of injury. Vance sent the Claimant to Doctors Care and paid for the first appointment on the company credit card. (Hearing Transcript p.30) He testified that after the March 17, 2014 appointment, René had work restrictions of no carrying over 15 pounds, no repetitive motions, light duty. He sent René back to Doctors Care on March 24, 2014 and paid for that appointment as well. (Hearing Transcript p.31) Vance explained that April 7, 2014 was Renée's last day of work. He testified that Renée paid for the April 7, 2014 Doctors Care appointment out of his own pocket, but did not ask Mr. Vance to reimburse him. Vance stated his understanding of the April 7, 2014 Doctors Care report is that René was on light duty until April 14, 2014 when he could then work full duty. Mr. Vance could not state that he read or explained the April 7, 2014 report to René. (Hearing Transcript p.33,39) He could not state that he sent or told Renée to return to the doctor on April 14, 2014 if Renée did not feel better. (Hearing Transcript p.39) He said Renée was not asked to return to work after he was sent home on April 7, 2014. Mr. Vance testified Renée worked light duty a total of 5 to 10 days between March 16 and April 7, 2014. (Hearing Transcript p.41) Vance confirmed that Renée had been an employee of the company for at least 12 years. (Hearing Transcript p.46)

REVIEW OF MEDICAL EVIDENCE

A review of the medical evidence submitted pursuant to the APA reveals that after the accident, Claimant was initially treated at Doctors Care on Garners Ferry Road. Renée was first seen on March 17, 2014 for a low back injury that occurred on March 16, 2014. (APA 37) Dr. Chun Kim states that Renée's experienced sudden back pain while lifting a 50 to 75 pound object at work. (APA 38) Renée has no prior history of back problems. (APA 38) Renée returned to Doctors Care on March 24, 2014 where it is noted he has been taking various pain and anti-

inflammatory medication as prescribed to Renée. Physical therapy is ordered. There is no mention of an interpreter being present on this day or March 17, 2014. (APA . 41-43) Work restrictions are issued of no lifting more than 10 pounds, no repetitive bending, stooping, squatting, pushing, jerking, twisting, or bouncing. Limited use of the lumbar spine. (APA 44) René returned to Doctors Care on April 7, 2014. The report of this visit states that Worker's Comp. did not approve physical therapy. René has restrictions of no lifting more than 45 pounds, ground-level work only, and no repetitive bending, stooping, squatting, pushing, jerking, twisting, or bouncing "when he feels discomfort." René is ordered to return to Doctors Care on April 14, 2014 "if not better." The report does not state René is at maximum medical improvement. (APA 48) René paid for this visit out of his own pocket. (APA 49)

On June 2, 2014 the Claimant was evaluated by Dr. Daniel Westerkam. Dr. Westerkam notes that René's back pain radiates to his left leg with numbness and tingling. Westerkam orders treatment in the form of a core strengthening program and physical therapy. He orders anti-inflammatory and muscle relaxer medication such as Flexeril and Lidoderm. He keeps Renée on work restrictions of no lifting more than 40 pounds, no frequent lift more than 20 pounds, no repetitive bending, stooping, squatting, or crawling. Dr. Westerkam had no MRI to review. (APA 50-51)

FINDINGS OF FACT

Based upon the evidence received are the following findings of fact:

1. That all parties to the proceeding are subject to and bound by the terms and provisions of the South Carolina Workers Compensation Act, as amended, with Renée Robles, as employee, Party Reflections Inc., as employer, and Employers Assurance Company, as carrier.

2. The South Carolina Worker's Compensation Commission has jurisdiction in this case and that venue was proper in Richland County.
3. The Claimant's average weekly wage at the time of his injury by accident on March 16, 2014 was \$1059.61, resulting in an applicable weekly compensation rate of \$706.33.
4. On March 17 and March 24, 2014 the Claimant treated with Doctors Care for his work related lumbar injury. Both of these visits were paid for by the employer supervisor Adam Vance. Adam Vance sent the Claimant to Doctors Care on Garners Ferry Road and paid for each of these visits with the Employers company credit card. The employer complied with the work restrictions issued to the Claimant after these visits.
5. On April 7, 2014 the Claimant received treatment with Doctors Care and was continued on restrictions until April 14, 2014 at which time he could return to full duty "if not better." The Claimant was to return to Doctors Care on April 14, 2014 if he did not feel better. The Claimant cannot read english, there was no interpreter at Doctors Care, and Adam Vance testified he did not inform Robles he could return to Doctors Care on April 14, 2014. The record is clear that the Claimant was not aware that he was allowed to return to Doctors Care on April 14, 2014 if he was unimproved. The Claimant was also required to pay for the April 7, 2014 doctors appointment out of his own pocket and was not reimbursed by the Employer. The Claimant was placed on full duty on April 14, 2014 because he was not aware that he was allowed to return to Doctors Care and medical treatment was terminated by the Employer.
6. On June 2, 2014 an IME was performed by Dr. Daniel Westerkam of Rehabilitation and Geriatrics Services who stated to a reasonable degree of medical certainty the Claimant suffered a back injury on March 16, 2014. Dr. Westerkam opines he has a lumbar injury

- and left leg radiculopathy with numbness and tingling. He ordered muscle relaxer and anti-inflammatory medications of Flexeril and Lidoderm, along with physical therapy.
7. The Claimant and his supervisor Adam Vance each testified that the Claimant's last day of working for the Employer was April 7, 2014. The Claimant was not allowed to return to work for the Employer after that day. Both Robles and Vance testified the Claimant had been an employee of the Employer for at least 12 years and was sent home on April 7, 2014 after presenting a return to work form to Adam Vance. Mr. Robles has not been asked to return to work since that date. Adam Vance also testified he forwarded the Doctors Care receipt for April 7, 2014 to HR and was unaware the Claimant had not been reimbursed for it yet did not know why the Claimant paid for the appointment out of pocket. Vance also testified he would have paid for the Claimants April 14, 2014 doctors appointment had the Claimant asked him to do so. However, the record is clear that Vance testified he did not read the April 7, 2014 return to work form to the Claimant, the Claimant could not read this form/medical report, and there was no interpreter at Doctors Care for the Claimant's appointment. The Claimant was not aware he could return to Doctors Care on April 14, 2014 if he was unimproved.
 8. The Claimant sustained a compensable injury to his back with radiculopathy arising out of and in the course and scope of his employment on March 16, 2014.
 9. The Claimant was 39 years old at the time of accident with limited grade school education in the country of Mexico.
 10. His job duties for the 12 years he worked for the Employer before being fired included the loading, unloading and set up of tents, tables, umbrellas, chairs, silverware, etc., for large commercial parties and social events.

11. Mr. Robles had no prior problems with his lumbar spine or radiculopathy.
12. Under *Dodge v. Brucolli, Clark, Layman, Inc.* 334 S.C. 574, 514 S.E. 2nd 593 (S.C. App. 1999), Defendants shall provide and be financially responsible for all reasonable and necessary causally related medical evaluation and treatment that tends to lessen the period of disability of the Claimant. The Claimant is entitled to an evaluation and treatment by an orthopedic physician, with a specialty to the back, of the Defendants choosing.
13. The Claimant is not at MMI.
14. The Claimant is entitled to reimbursement for his out-of-pocket expenses and mileage for his April 7, 2014 doctors appointment.
15. The Claimant shall be paid for TTD starting from April 7, 2014 and forward, until he is placed at MMI.

CONCLUSIONS OF LAW

Upon the foregoing Findings of Fact and under the Code of Law of South Carolina, as amended, it is concluded that:

1. Under §42-1-160, Claimant sustained an injury by accident arising out of and in the course of his employment, said injuries being to the Claimant's back with radiculopathy on March 16, 2014.
2. Under §42-15-20 proper notice of the injury was given to the Employer.
3. Under §42-15-40, the claim was properly filed.
4. I find and conclude that under §42-1-10, the appropriate average weekly wage is \$1059.61 resulting in an applicable weekly compensation rate of \$706.33.

5. Under §42-15-60, Claimant is entitled to receive causally related medical care for his back, left lower extremity as recommended by physician Daniel Westerkam, by a physician of the Defendants choosing until at maximum medical improvement.
6. Under §42-9-10 and §42-1-120, Claimant is entitled to receive compensation for the unpaid temporary total disability due to the Claimant beginning April 7, 2014 until terminated in accordance with the South Carolina Worker's Compensation Act.

ORDER

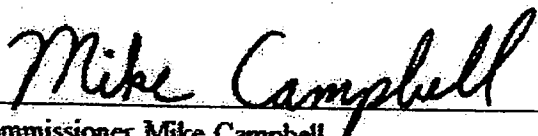
Based on the foregoing Findings of Fact and Conclusions of Law it is hereby:

ORDERED, ADJUDGED, AND DECREED the Claimant sustained a compensable injury by accident to the back, left lower extremity, arising out of and in the course of his employment; and it is further;

ORDERED, ADJUDGED, AND DECREED that the Defendants are to pay the Claimant, René Robles, for temporary total disability at the compensation rate of \$706.33 beginning April 7, 2014 until terminated in accordance with the rules and regulations of the South Carolina Worker's Compensation Act. and it is further;

ORDERED, ADJUDGED, AND DECREED that the Claimant shall receive causally related medical care for his back and lower left extremity until at maximum medical improvement.

AND IT IS SO ORDERED.



Commissioner Mike Campbell

March 8, 2016

CERTIFICATE OF SERVICE

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

March 8, 2016

By: Barbara Cheeseboro, Administrative Assistant to Commissioner Campbell

**BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
W.C.C. FILE NO. 1403985**

RENEE ROBLES,

Employee/Claimant,

vs.

PARTY REFLECTIONS, INC. ,

Employer,

and

**EMPLOYERS ASSURANCE
COMPANY,**

Carrier/Defendants.

**DECISION AND ORDER
OF THE APPELLATE PANEL**

HEARING:

Held in Columbia, South Carolina on June 21, 2016

APPEARANCES:

Mark R. Calhoun, Esquire represented Claimant.

Collins & Lacy, PC represented Party Reflections, Inc. and Employers Assurance Company with Ashley R. Kirkham, Esquire, appearing at the Appellate arguments.

PURPOSE OF HEARING:

To determine issues as set forth in the Form 30 of the Employer/Carrier.

DECISION & ORDER:

The Honorable Scott Beck, The Honorable Gene McCaskill, and the Honorable Melody James

FILED:

September 2, 2016

STATEMENT OF THE CASE

This matter was heard by the single commissioner in Columbia, South Carolina on September 25, 2014. By Order dated March 8, 2016, the single commissioner found an average weekly wage of \$1,059.61 with a resulting compensation rate of \$706.33. The single commissioner further awarded temporary total disability benefits from April 7, 2014 and continuing until Robles was placed at maximum medical improvement.

Single Commissioner Findings of Fact

Based upon the evidence received are the following findings of fact:

1. That all parties to the proceeding are subject to and bound by the terms and provisions of the South Carolina Workers Compensation Act, as amended, with Renée Robles, as employee, Party Reflections Inc., as employer, and Employers Assurance Company, as carrier.
2. The South Carolina Worker's Compensation Commission has jurisdiction in this case and that venue was proper in Richland County.
3. The Claimant's average weekly wage at the time of his injury by accident on March 16, 2014 was \$1059.61, resulting in an applicable weekly compensation rate of \$706.33.
4. On March 17 and March 24, 2014 the Claimant treated with Doctors Care for his work related lumbar injury. Both of these visits were paid for by the employer supervisor Adam Vance. Adam Vance sent the Claimant to Doctors Care on Garners Ferry Road and paid for each of these visits with the Employers company credit card. The employer complied with the work restrictions issued to the Claimant after these visits.
5. On April 7, 2014 the Claimant received treatment with Doctors Care and was continued

on restrictions until April 14, 2014 at which time he could return to full duty "if not better." The Claimant was to return to Doctors Care on April 14, 2014 if he did not feel better. The Claimant cannot read english, there was no interpreter at Doctors Care, and Adam Vance testified he did not inform Robles he could return to Doctors Care on April 14, 2014. The record is clear that the Claimant was not aware that he was allowed to return to Doctors Care on April 14, 2014 if he was unimproved. The Claimant was also required to pay for the April 7, 2014 doctors appointment out of his own pocket and was not reimbursed by the Employer. The Claimant was placed on full duty on April 14, 2014 because he was not aware that he was allowed to return to Doctors Care and medical treatment was terminated by the Employer.

6. On June 2, 2014 an IME was performed by Dr. Daniel Westerkam of Rehabilitation and Geriatrics Services who stated to a reasonable degree of medical certainty the Claimant suffered a back injury on March 16, 2014. Dr. Westerkam opines he has a lumbar injury and left leg radiculopathy with numbness and tingling. He ordered muscle relaxer and anti-inflammatory medications of Flexeril and Lidoderm, along with physical therapy.
7. The Claimant and his supervisor Adam Vance each testified that the Claimant's last day of working for the Employer was April 7, 2014. The Claimant was not allowed to return to work for the Employer after that day. Both Robles and Vance testified the Claimant had been an employee of the Employer for at least 12 years and was sent home on April 7, 2014 after presenting a return to work form to Adam Vance. Mr. Robles has not been asked to return to work since that date. Adam Vance also testified he forwarded the Doctors Care receipt for April 7, 2014 to HR and was unaware the Claimant had not been reimbursed for it yet did not know why the Claimant paid for the appointment out of

pocket. Vance also testified he would have paid for the Claimants April 14, 2014 doctor's appointment had the Claimant asked him to do so. However, the record is clear that Vance testified he did not read the April 7, 2014 return to work form to the Claimant, the Claimant could not read this form/medical report, and there was no interpreter at Doctors Care for the Claimant's appointment. The Claimant was not aware he could return to Doctors Care on April 14, 2014 if he was unimproved.

8. The Claimant sustained a compensable injury to his back with radiculopathy arising out of and in the course and scope of his employment on March 16, 2014.
9. The Claimant was 39 years old at the time of accident with limited grade school education in the country of Mexico.
10. His job duties for the 12 years he worked for the Employer before being fired included the loading, unloading and set up of tents, tables, umbrellas, chairs, silverware, etc., for large commercial parties and social events.
11. Mr. Robles had no prior problems with his lumbar spine or radiculopathy.
12. Under *Dodge v. Brucolli, Clark, Layman, Inc.* 334 S.C. 574, 514 S.E. 2nd 593 (S.C. App. 1999), Defendants shall provide and be financially responsible for all reasonable and necessary causally related medical evaluation and treatment that tends to lessen the period of disability of the Claimant. The Claimant is entitled to an evaluation and treatment by an orthopedic physician, with a specialty to the back, of the Defendants choosing.
13. The Claimant is not at MMI.
14. The Claimant is entitled to reimbursement for his out-of-pocket expenses and mileage for his April 7, 2014 doctor's appointment.

15. The Claimant shall be paid for TTD starting from April 7, 2014 and forward, until he is placed at MMI.

Single Commissioner Conclusions of Law

Upon the foregoing Findings of Fact and under the Code of Law of South Carolina, as amended, it is concluded that:

1. Under §42-1-160, Claimant sustained an injury by accident arising out of and in the course of his employment, said injuries being to the Claimant's back with radiculopathy on March 16, 2014.
2. Under §42-15-20 proper notice of the injury was given to the Employer.
3. Under §42-15-40, the claim was properly filed.
4. I find and conclude that under §42-1-10, the appropriate average weekly wage is \$1059.61 resulting in an applicable weekly compensation rate of \$706.33.
5. Under §42-15-60, Claimant is entitled to received causally related medical care for his back, left lower extremity as recommended by physician Daniel Westerkam, by a physician of the Defendants choosing until at maximum medical improvement.
6. Under §42-9-10 and §42-1-120, Claimant is entitled to receive compensation for the unpaid temporary total disability due to the Claimant beginning April 7, 2014 until terminated in accordance with the South Carolina Workers' Compensation Act.

The Employer and Carrier timely filed a Form 30 Request for Commission Review seeking a review of the hearing commissioner's determination of the average weekly wage and compensation rate and the hearing commissioner's award of temporary total disability benefits from April 7, 2014 and continuing. The parties submitted their briefs and the case was set for argument

before the Appellate Panel on June 21, 2016. After review of the record and hearing arguments of counsel, the Appellate Panel affirms in part and reverses in part the Order of the single commissioner. The Appellate Panel makes the following:

APPELLATE PANEL FINDINGS OF FACT

Based upon the evidence submitted and the arguments presented, the Appellate Panel finds the following facts based upon the preponderance of the evidence:

1. Renee Robles suffered a minor back injury on March 16, 2014 while employed by Party Reflections. (Hearing Transcript p. 42: 2-5).
2. Following his injury, Robles was provided treatment with Doctor's Care.
3. On April 7, 2014, Robles was given a Return to Work Form stating: "Work Status: May return to full duty activity as of 4-14-14 without accommodations. May work with the following accommodations as of 4-7-14: No lifting more than 45 lbs., ground level work only, no ladders or heights, no repetitive bending, stooping, squatting, pushing, jerking, twisting, or bouncing when he feels discomfort. Return for re-evaluation at this office on 4-14-14 if not better." (Clmt. APA p. 48).
4. Robles never asked his employer to return to the doctor after the April 7, 2014 visit. (Hearing Tr. 22: 1-4).
5. Robles had two prior workers' compensation injuries with Palmetto Party Rental, which was purchased by Party Reflections, the employer in this case. (Hearing Tr. 42: 2-5).
6. Robles maintains that he did not understand that he could return to Doctor's Care and did not understand the medical treatment plan. However, Robles answered all

questions asked in a deposition without the help of an interpreter, understood Doctor's Care's explanation of medical bills and temporary work restrictions, and signed the same Return to Work form agreeing he understood the form. (Clmt. APA p. ; Deposition of the Claimant taken September 2, 2014).

7. Robles was released to full duty on April 14, 2014. (Clmt. APA)
8. There is no evidence in the record that Robles missed any time from work with Party Reflections as a result of his two prior workers' compensation injuries.
9. The average weekly wage is \$786.03 resulting in a compensation rate of \$524.05. This is based on his actual earnings with Party Reflections. This average weekly wage is a fair reflection of Claimant's earnings and there are no exceptional circumstances upon which to deviate from the calculation methods provided in the statute.
10. The Claimant is entitled to reimbursement for his out of pocket expenses and mileage for April 7, 2014 doctors appointment.
11. The Claimant is not at maximum medical improvement. The Defendants shall provide and be financially responsible for an evaluation by an orthopedic physician with a specialty to the back of the Defendant's choosing.

APPELLATE PANEL CONCLUSIONS OF LAW

1. Calculation of the average weekly wage is governed by S.C. Code Ann. Section 42-1-40. The hearing commissioner erred as a matter of law by using an average weekly wage and compensation based on Claimant's earnings from a prior workers' compensation claim while working for this employer's predecessor company. This is not a method allowed under the statute.

2. Claimant's actual earnings while working for Party Reflections is an accurate reflection of his earnings and fair to all parties. Pursuant to S.C. Code Ann. Section 42-1-40, the average weekly wage is \$786.03 with a compensation rate of \$524.05.
3. Claimant missed less than eight days of work as a result of his March 16, 2014 work-related injury and is not entitled to temporary total disability compensation pursuant to §42-9-10.

AWARD

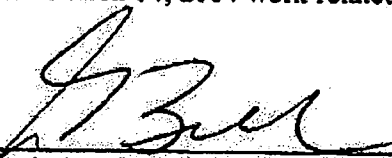
BASED ON THE FINDINGS OF FACT AND CONCLUSIONS OF LAW, the Appellate Panel orders as follows:

IT IS ORDERED the average weekly wage is \$786.03 with a compensation rate of \$524.05.

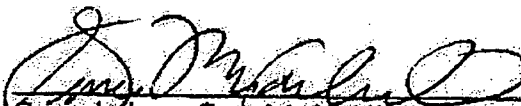
IT IS FURTHER ORDERED Claimant's request for temporary total disability benefits from April 7, 2014 and continuing is denied.

IT IS FURTHER ORDERED the Defendants shall provide the Claimant with evaluation and treatment with an orthopedist of their choice to determine if Claimant is in need of any additional medical treatment as a result of his March 14, 2104 work related accident.

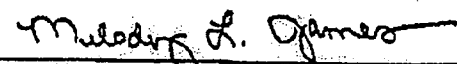
AND IT IS SO ORDERED.



Commissioner Scott Beck



Commissioner Gene McCaskill



Commissioner Melody James

CERTIFICATE OF SERVICE

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

By abracay on September 2, 2016

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
JUDICIAL CONFERENCE DECISION AND ORDER

Renee Rivera Robles v Party Reflections

SCWCC: 1403985
Commissioner: Campbell

This matter was heard before the South Carolina Workers' Compensation Full Commission in Judicial Conference on a **Motion to Alter or Amend the Judgement**. The Commissioners considered the matter and ordered the matter handled in the following manner:

IT IS, THEREFORE, ORDERED the pending appeal of the Administrative Order of the Commission is hereby;

_____ Dismissed as Interlocutory. _____ Set for Oral Argument.

IT IS, THEREFORE, ORDERED the pending motion be, and hereby is;

_____ Granted. _____ Denied. _____ ~~Dismissed~~ _____ Preserved for hearing

BEFORE THE;

_____ Hearing Comm. _____ Jurisdictional Comm. _____ Full Commission.

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

_____ Remand to Panel as indicated below.

_____ Barden

_____ James

_____ Taylor

_____ Beck

_____ Campbell

_____ Wilkerson

_____ McCaskill

_____ Remand for Order consistent with the Order of the Court.

_____ Remand to the Hearing Commissioner.

_____ Remand to the Jurisdictional Commissioner.

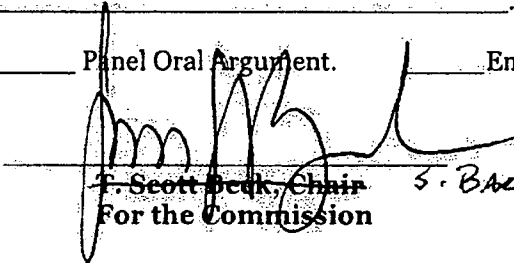
_____ Other: _____

_____ Remand:

_____ Panel Oral Argument.

_____ En Banc Oral Argument.

AND IT IS SO ORDERED.


F. Scott Beck, Chair
For the Commission

S. Barden

Columbia, South Carolina

10/17 2016

CONCURRING:

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

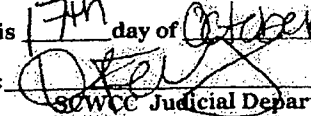
NOT PARTICIPATING:

DISSENTING:

CERTIFICATE OF SERVICE

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

This 17th day of October, 2016.

By: 
SCWCC Judicial Department



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

Claimant's Name: Hene Rivera Hobles SSN: _____

Employer's Name: PARTY REFLECTIONS

Address: _____

Address: 1104 ATLAS RD

City: _____ State: _____ Zip: _____

City: COLUMBIA

State: SC Zip: 29209

Home Phone: _____ Work Phone: _____

Insurance Carrier: ASSURANCE CO.

Preparer's Name: MARK CALHOUN

Law Firm: CALHOUN LAW FIRM

Preparer's Phone #: 803 957 8401

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

☒ Injury ☐ Illness ☐ Repetitive Trauma ☐ Occupational Disease ☐ Physical Brain Injury ☐ Concurrent Jurisdiction
Date of Injury or Illness: 3-16-14

1. The claimant sustained an injury to BACK, LEGS, BUTTOCKS (Part(s) of Body Injured) on 3-16-14 (Month/Day/Year) in RICHLAND county, state of SC. Body part(s) affected are: BACK, BUTTOCKS, LEGS

2. Briefly describe how the accident occurred: LIFTING HEAVY OBJECT

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

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

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

6. Notice of the accidental injury was given to the Employer on 3-16-14 (Month/Day/Year) in the following manner: VERBALLY

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

☐ (a) medical examination and treatment for: _____

☒ (b) additional medical examination and treatment for: PAIN, DISCOMFORT AND LIMITATIONS

☒ 8. Due to injury, the claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of: 3-16-14 THROUGH AN UNDETERMINED PERIOD OF TIME.

☐ 9. Due to the injury, the Claimant has permanent disability of the following nature and extent (check one):

☐ (1) General Disability: ☐ Total ☐ Partial

☐ (2) Specific Disability: ☐ Total ☐ Partial

☐ (3) Wage Loss

☒ 9a. ☒ A determination of permanent disability is premature at this time.

☐ 10. Due to the injury, the Claimant has a serious bodily disfigurement consisting of: _____

10a. At the time of the injury, the Claimant was paid weekly wages of \$ 935.00 and demands accounting of days worked and wages earned as provided by law.

10b. Give names and addresses of all employers for whom the Claimant has worked since the date of the accident: PARTY REFLECTIONS

11. Further grounds or unusual aspects of claim: CLAIMANT REQUESTS ALL BENEFITS DUE UNDER THE ACT.

11a. List names and addresses of all physicians or other medical specialists who have seen or treated the Claimant as a result of the accident: DOCTORS CARE GARNERS FERRY ROAD COLUMBIA SC 29209

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

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

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

13b. **I am requesting a hearing. A \$25 fee is required.**

14. Estimated time needed for hearing: 45

Mediation

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

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

I certify I have served this document pursuant to Reg. 67-211 by delivering a copy to P.O. Box 12487 on the 20 day of June 2014, by ☒ first class postage ☐ certified mail ☐ personal service.
I verify the contents of this form are accurate and true to the best of my knowledge.

Preparer's Signature

attorney

mark@calhounlawfirm.com

Email

Date

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

WCC Form # 50

Revised 7/13

50

F23

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



WC File #: **1403985**
Carrier File #: **2014228180**
Carrier Code #: **1039**
Employer FEIN #: **561379734**

Claimant's Name: Renee Robles SSN: _____ Employer's Name: Party Reflections
Address: _____ Address: 3412 Monroe Road
City: _____ State: _____ Zip: _____
Home Phone: _____ Work Phone: () City: Charlotte State: NC Zip: 28205
Date of Injury: 3/16/2014 Insurance Carrier: Employers Assurance Company
Preparer's Name: Rebecca K. Halberg, Esquire Law Firm: Collins & Lacy, P.C. Preparer's Phone #: 803.256.2660

Date of Injury or Illness: 3/16/2014

Estimated time for hearing: **60 minutes**

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

1. It is ☐ Admitted ☒ Denied the employee sustained an injury or illness on or about the date set forth in the Form 50. The reasons for denial are: Defendants assert Claimant's injuries did not occur as a result of an accident while working at Party Reflections.
2. It is ☐ Admitted ☒ Denied both the employer and employee were subject to the Workers' Compensation Act at the time in question. The reasons for denial are: Denied. See Number 1.
3. It is ☒ Admitted ☐ Denied the relationship of employer and employee existed at the time in question. The reasons for denial are:
4. It is ☐ Admitted ☒ Denied at the time in question the employee was performing services arising out of and in the course of employment. The reasons for denial are: See Number 1.
5. It is ☒ Admitted ☐ Denied notice of injury was given the employer. The reasons for denial are: pending further investigation.
6. It is ☐ Admitted ☒ Denied the employee ☐ Needs ☐ Is Entitled to Additional medical care as a result of injury or illness. The reasons for denial are: pending further investigation.
7. It is ☐ Admitted ☒ Denied the employee is entitled to temporary total disability for the period(s) of :
8. It is ☐ Admitted ☒ Denied the employee is permanently disabled. The reasons for denial are: Permanency is premature at this time.
9. It is ☐ Admitted ☒ Denied the employee has serious disfigurement.
10. It is contended that an average weekly wage of **\$786.03** applies, according to attached Form 20 as provided by law.
11. Further contentions, grounds of defense, or unusual aspects are: Defendants reserve the right to amend. Claimant has open workers' compensation claims with Palmetto Party Rentals.

☐ **Mediation**

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

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

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

Preparer's Signature

Attorney
Title

rhalberg@collinsandlacy.com
Email

June 30, 2014
Date

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



Claimant's Name: Renee Robles SSN: _____ Employer's Name: Party Reflections
Address: _____ Address: 3412 Monroe Road
City: _____ State: _____ Zip: _____ City: Charlotte State: NC Zip: 28205
Home Phone: _____ Work Phone: () _____ Insurance Carrier: Employers Assurance Company
Preparer's Name: Rebecca K. Halberg, Esquire Preparer's Phone #: 803.256.2660

Date of Injury: 3/16/2014
month day year

A. Total Wages Paid

1. Check Applicable Method:
☐ Report of earnings of injured employee based on four completed quarters.
☒ Report of earnings of injured employee who did not complete four quarters based on actual time worked.
☐ Report of earnings of similar employee. Injured employee did not work sufficient time before alleged injury. Hire date: _____
☐ Report of earnings of injured employee based on alternative method because Form 20 results in a compensation rate that is not fair and just (attach documentation to show how average weekly wage and compensation rate were calculated).
2. List total wages paid as reported to the Employment Security Commission on the Employer Quarterly Contribution and Age Reports during the four quarters immediately preceding the quarter in which the injury occurred. Do not include the quarter during which the injury occurred.

Quarter	Ending Date	Total Wages Paid
1st	03/26/2014	\$10,059.73
2nd		\$
3rd		\$
4th	12/31/2013	\$ 944.64

Total Paid 2. \$11,004.38

3. List total value of other allowances of any character made in lieu of wages during four quarters above. 3. \$
4. Add lines 2 and 3. **TOTAL WAGES PAID:** 4. \$11,004.38
5. List total number of weeks paid to employee during the four quarters immediately preceding the quarter in which the injury occurred. 5. 14

B. Average Weekly Wage

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

AVERAGE WEEKLY WAGE: 6. \$786.03

C. Compensation Rate

7. The general rule for calculating the compensation rate is to multiply average weekly wage (line 6) by .6667. Estimate compensation rate by multiplying average weekly wage (line 6) by .6667. See part 8 below to determine the actual compensation rate. 7. \$524.05
8. The compensation rate is as follows (choose one):
☐ When average weekly wage (line 6) is less than \$75.00, the compensation rate is the average weekly wage. Enter average weekly wage on line 8.
☐ When the estimated compensation rate (line 7) is less than \$75.00 and average weekly wage (line 6) is more than \$75.00, the compensation rate is \$75.00. Enter \$75.00 on line 8.
☐ When the estimated compensation rate (line 7) is more than the maximum compensation rate for the year in which the injury occurred, enter the maximum compensation rate for the year in which the injury occurred on line 8.
☒ Employee is within the exceptions listed in S.C. Code Ann. Section 42-7-65. List applicable exception here and enter appropriate compensation rate on line 8. _____

WEEKLY COMPENSATION RATE: 8. \$524.05

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

Check View - Rollup Totals

Total Wages Since Hire

Name: Rivera, Rene

Selected checks

Year/Week #	Pay Date	Period End	Gross	Net	Check Number	Co/File #
2014 - 13 - 1	03/28/2014	03/26/2014	1,282.23	0.00	00130053	G9P/010296
2014 - 11 - 1	03/14/2014	03/12/2014	1,617.09	0.00	00110051	G9P/010296
2014 - 09 - 1	02/28/2014	02/26/2014	1,685.96	0.00	00090047	G9P/010296
2014 - 07 - 1	02/14/2014	02/12/2014	1,535.98	0.00	00070046	G9P/010296
2014 - 05 - 1	01/31/2014	01/29/2014	1,154.13	0.00	00050048	G9P/010296
2014 - 03 - 1	01/17/2014	01/15/2014	1,536.94	0.00	00030056	G9P/010296
2014 - 01 - 1	01/03/2014	01/01/2014	1,247.40	0.00	00010054	G9P/010296
2013 - 51 - 1	12/20/2013	12/18/2013	944.65	0.00	00510064	G9P/010296

Earnings Statement Summary

Earnings	Code	Field #	Hours	Amount
Regular			453.77	7,940.99
Overtime			36.70	963.39
	B - Bonus	3		70.00
	H - Holiday	3	16.00	280.00
	S - Sick	3	40.00	700.00
	V - Vacation	3	60.00	1,050.00
Gross Pay				11,004.38

Deductions	Statutory	Amount
Federal Income Tax		909.50
Social Security		650.71
Medicare		152.19
State Worked In: South Carolina	SC	642.31
	Other	Amount
	A - Health Insurance	442.89
	B - Dental	66.15
	W - Check2 Dd	8,140.63
Net Pay		0.00

Memos	Code	Amount

Dr. Thomas Armsey; Midlands Ortho.

RIVERA, RENE (id #2076483,

Encounters and Procedures

Clinical Encounter Summaries

Encounter Date: 08/05/2013

Patient

Name	RIVERA, RENE (38, M) ID# 2076483	Appt. Date/Time	08/05/2013 02:40PM
DOB		Service Dept.	West Columbia
Provider	THOMAS ARMSEY, MD		
Insurance	Med Worker's Comp: AUTO OWNERS Policy/Group # : 36-1521-2013 Employer Name : PALMETTO PARTY RENTAL Case # : 36-1521-2013 Case Injury Date : 05/01/2013 Prescription: No check performed in the last 72 hrs.		

Chief Complaint

Right Wrist Pain
Followup: Pain in joint; hand (719.44)

DOI 5/1/13-twisting injury at work

Problems

Reviewed Problems
- Pain in joint; hand (719.44) Onset: 05/01/2013, Right

Patient's Providers

Insurance Adjuster (Worker's Comp): MONIKA KRYGER: Ph (803) 354-9022 EXT 218, Fax (803) 354-9034

Medications

Reviewed Medications

Name	Date
NAPROXEN SODIUM 550 MG TABLET	05/07/13 filled

Allergies

Reviewed Allergies
NKDA

Past Medical History

Reviewed Past Medical History

Surgical History

Reviewed Surgical History
none per patient

Family History

Reviewed Family History

Social History

Reviewed Social History
Ortho
Smoking Status: Never smoker.
Alcohol intake: Occasional.
Number of children: 0.
Marital status: Married.
Diet: Regular.
Chewing tobacco: none.
Cigar/Pipe Use: N.
Non-smoker.
Are you currently employed?: Y.
Hand Dominance: Right.
Occupation: delivery.
Employer: Palmetto Party Rental.

Vitals

RIVERA, RENE (id #2076483, dob:

BP:	130/88 sitting 08/05/2013 02:48 pm	Ht:	5 ft 5 in 08/05/2013 02:45 pm	Wt:	187 lbs 08/05/2013 02:45 pm
BMI:	31.1 08/05/2013 02:45' pm	Pulse:	86 bpm 08/05/2013 02:48 pm		

HPI

Follow-Up

Reported by patient.

In terms of your orthopaedic issue, how are you feeling? improving

Change in symptoms: yes; less pain

Pain pain 3/10

How are you alleviating the pain? medication

Medications: helping a little

Previous PT: none

Previous Injections: gave relief for a few weeks

Athletics: no participation

Notes: continues to show clinical improvement. He is now return to work unable to perform most duties as needed but still limited to no lifting greater than 20 pounds with his right hand. this limitation has not significantly impacted his daily activities.

ROS

Constitutional: Constitutional: no significant weight gain or loss and no fever, night sweats, or exercise intolerance.

Eyes: Eyes: no irritation, dry eyes, or vision change.

ENMT: Ears: no difficulty hearing or ear pain. Nose: no frequent nosebleeds or nose/sinus problems. Mouth/Throat: no sore throat, bleeding gums, dry mouth, mouth ulcers, oral abnormalities, or teeth problems and snoring.

Cardiovascular: Cardiovascular: no shortness of breath when walking or breath when lying down; no palpitations, chest pain, or known heart murmur; and arm pain on exertion.

Respiratory: Respiratory: no cough, wheezing, shortness of breath, or coughing up blood.

Gastrointestinal: Gastrointestinal: no vomiting, diarrhea, or abdominal pain and normal appetite and not vomiting blood.

Genitourinary: Genitourinary: no incontinence, hematuria, difficulty urinating, or increased frequency.

Musculoskeletal: Musculoskeletal: no muscle aches or weakness and no arthralgias/joint pain, back pain, or swelling in the extremities.

Integumentary: Skin: no jaundice, rashes, or abnormal mole.

Neurologic: Neurologic: no weakness, numbness, seizures, dizziness, headaches, or loss of consciousness.

Psychiatric: Psych: no depression, sleep disturbances, or alcohol abuse and feeling safe in relationship.

Endocrine: Endocrine: no fatigue.

Hematologic/Lymphatic: Hematologic/Lymphatic no bruising or swollen glands.

Allergic/Immunologic: Allergy/Immunologic: no itching, hives, runny nose, sinus pressure, or frequent sneezing.

ROS as noted in the HPI

Physical Exam

Patient is a 38-year-old male.

right elbow: no effusion, no erythema, full range of motion, no tenderness to direct palpation , full strength to flexion extension, ligamentously intact..

Right forearm full range of motion, no soft tissue tenderness, no tenderness to bony palpation.

right wrist mildly tender at the distal radius worsens with resisted wrist extension, mild tenderness at the anatomic snuffbox, Watson test with a palpable click, no TFCC tenderness, negative triquetral compression test. Negative Tinel's. Neurovascularly intact

Previous Assessment / Plan

Date of Service

07/22/2013

1. PAIN IN JOINT; HAND (719.44)

RIVERA, RENE (id #2076483, dob:

- BETAMETHASONE ACET & SOD PHOS 6 MG/ML SUSP FOR INJECTION - rt.wrist Administered Lot #: 212400 Route: INJECTION Exp Date: 09/01/2014 Administer Qty: 1 mL
- LIDOCAINE 10 MG/ML (1 %) INJECTION - rt.wrist Administered Lot #: 27-234-dk Route: INJECTION Exp Date: 03/01/2015 Administer Qty: 1 mL

Discussion: Mr. Rivera suffered an acute injury to his right wrist while lifting a bucket that weighed around 50 pounds. he has recently had a MRI which was reviewed with him in the office today. He does have a significant amount osteoarthritis along with loose bodies and a moderate effusion. Ligament seemed to be intact.

We have discussed multiple treatment options and he desires to proceed with corticosteroid injection, modify activities, wrist bracing is needed. He will followup in 2 weeks or sooner if anything worsens

Assessment / Plan

1. PAIN IN JOINT; HAND (719.44)

Discussion: Mr Rivera and I discussed his current condition and he feels he has improved and has reached his MMI-he will continue his range of motion and strengthening exercises which he has learned in therapy.. He continues to have some limitations now - no lifting more than 20# with right hand. He will discontinue formal therapy, will remain on permanent restrictions of no lifting more than 20 pounds with his right-hand. He'll return to the office as needed.

He qualifies for an impairment rating of 20% upper extremity converts to 12 % whole person impairment.

Return to Office

None recorded.

Encounter Sign-Off

Encounter signed-off by Thomas Armsey, MD, 08/20/2013.

Encounter performed and documented by Thomas Armsey, MD

Encounter reviewed & signed by Thomas Armsey, MD on 08/20/2013 at 1:03pm

Encounter Date: 07/22/2013 (Last amended by Thomas Armsey, MD on 08/05/2013 at 2:47pm)

Patient

Name	RIVERA RENE (38, M) ID# 2076483	Appt. Date/Time	07/22/2013 11:35AM
DOB		Service Dept.	West Columbia
Provider	THOMAS ARMSEY, MD		
Insurance	Med Worker's Comp: AUTO OWNERS		
	Policy/Group # : 36-1521-2013		
	Employer Name : PALMETTO PARTY RENTAL		
	Case # : 36-1521-2013		
	Case Injury Date : 05/01/2013		
	Prescription: CMX - Member is eligible.		
	Prescription: CMX - Member is eligible.		

Chief Complaint

Right Wrist Pain

Followup: Pain in joint; hand (719.44)

DOI 5/1/13-twisting injury at work

Problems

Reviewed Problems

Pain in joint; hand (719.44) Onset: 05/01/2013, Right

Patient's Providers

Insurance Adjuster (Worker's Comp): MONIKA KRYGER: Ph (803) 354-9022 EXT 218, Fax (803) 354-9034

Medications

Reviewed Medications

Name	Date
BETAMETHASONE ACET & SOD PHOS 6 MG/ML SUSP FOR INJECTION rt.wrist	07/22/13 administered
LIDOCAINE 10 MG/ML (1 %) INJECTION rt.wrist	07/22/13 administered
NAPROXEN SODIUM 550 MG TABLET	05/07/13 filled

RIVERA, RENE (id #2076483, dob:

Allergies

Reviewed Allergies
NKDA

Past Medical History

Reviewed Past Medical History

Surgical History

Reviewed Surgical History
none per patient

Family History

Reviewed Family History

Social History

Reviewed Social History

Ortho

Smoking Status: Never smoker.

Alcohol intake: Occasional.

Number of children: 0.

Marital status: Married.

Diet: Regular.

Chewing tobacco: none.

Cigar/Pipe Use: N.

Non-smoker.

Are you currently employed?: Y.

Hand Dominance: Right.

Occupation: delivery.

Employer: Palmetto Party Rental.

Vitals

BP: 122/75 sitting
BMI: 30.8

Ht: 5 ft 5 in
Pulse: 71 bpm

Wt: 185 lbs

HPI

Follow-Up

Reported by patient.

In terms of your orthopaedic issue, how are you feeling? same

Change in symptoms: no

Pain pain 4/10

How are you alleviating the pain? medication; rest

Medications: helping a little

Previous PT: none

Previous Injections: none

Athletics: no participation

Notes: He continues to complain of pain at the right wrist that worsens with extension.

Recent MRI was reviewed with the patient through an interpreter. Patient's case manager was in the room.

ROS

Constitutional: Constitutional: no significant weight gain or loss, no fever or night sweats, and exercise intolerance.

Eyes: Eyes: no irritation, dry eyes, or vision change.

ENMT: Ears: no difficulty hearing or ear pain. Nose: no frequent nosebleeds or nose/sinus problems. Mouth/Throat: no bleeding gums, dry mouth, mouth ulcers, or teeth problems and snoring and sore throat.

Cardiovascular: Cardiovascular: no shortness of breath when walking or breath when lying down; no palpitations, chest pain, or known heart murmur; and arm pain on exertion.

Respiratory: Respiratory: no cough, wheezing, shortness of breath, or coughing up blood.

Gastrointestinal: Gastrointestinal: no vomiting, diarrhea, or abdominal pain and normal appetite and not vomiting blood.

Genitourinary: Genitourinary: no incontinence, hematuria, difficulty urinating, or increased frequency.

Musculoskeletal: Musculoskeletal: no arthralgias/joint pain, back pain, or swelling in the extremities and muscle aches and weakness.

RIVERA, RENE (id #2076483, dob:

Integumentary: Skin: no jaundice, rashes, or abnormal mole.

Neurologic: Neurologic: no weakness, numbness, seizures, dizziness, headaches, or loss of consciousness.

Psychiatric: Psych: no depression, sleep disturbances, or alcohol abuse and feeling safe in relationship.

Endocrine: Endocrine: no fatigue.

Hematologic/Lymphatic: Hematologic/Lymphatic no bruising or swollen glands.

Allergic/Immunologic: Allergy/Immunologic: no itching, hives, runny nose, sinus pressure, or frequent sneezing.

ROS as noted in the HPI

Physical Exam

Patient is a 38-year-old male.

right elbow: no effusion, no erythema, full range of motion, no tenderness to direct palpation, full strength to flexion extension, ligamentously intact.

Right forearm full range of motion, no soft tissue tenderness, no tenderness to bony palpation.

right wrist tender at the distal radius worsens with resisted wrist extension, mild tenderness at the anatomic snuffbox, Watson test with a palpable click, no TFCC tenderness, negative triquetral compression test. Negative Tinel's. Neurovascularly intact

Previous Assessment / Plan

Date of Service

07/02/2013

1. PAIN IN JOINT; HAND (719.44)

• X-RAY, WRIST

View: PA Clenched Fist Side: RIGHT

Possibility of Pregnancy: N

• MRI, WRIST -

Note to Imaging Facility:

MRI RIGHT WRIST EVAL SCAPHOLUNATE LIGAMENT TEAR

PLEASE FAX RESULTS TO 933-6760

GIVE PATIENT CD

Side: RIGHT

Contrast: Without

Prior Reaction to MRI Contrast?: N

Over Age 60, or Hx of Kidney Disease: N

Has BUN/Creatinine Been Completed?: N Height: 5'5

Weight: 180

Pacemaker: N

Cochlear Implant: N

Brain Aneurysm Clip: N

Electronic Implant or Device: N

Any Metal in Body?: N

Prosthesis or Implant?: N

Possibility of Pregnancy?: N

Heart Valve Replacement?: N

Patient Claustrophobic: N

Sedation Ordered: N

Prior Surgery in Area of Interest?: N

Prior CT, MRI, or XRay Studies?: Y

Discussion: Mr. Rivera, his translator, and his case manager were all present today. I am concerned about a possible scapholunate ligament disruption with his mechanism of injury and persistent pain with a positive Watson test. His clenched fist view x-rays today do not show significant widening at the scapholunate interval.

I am recommending an MRI of the right wrist to look for ligamentous disruption.

He will be limited in overhead lifting and no climbing. He was told to wear his wrist brace as needed. Return to the office after MRI or sooner if worsens.

Assessment / Plan

1. PAIN IN JOINT; HAND (719.44)

• BETAMETHASONE ACET & SOD PHOS 6 MG/ML SUSP FOR INJECTION - rt.wrist Administered Lot #: 212400 Route: INJECTION Exp Date: 09/01/2014 Administer Qty: 1 mL

• LIDOCAINE 10 MG/ML (1 %) INJECTION - rt.wrist Administered Lot #: 27-234-dk Route: INJECTION Exp Date: 03/01/2015 Administer Qty: 1 mL

Discussion: Mr. Rivera suffered an acute injury to his right wrist while lifting a bucket that weighed around 50 pounds. He has recently had a MRI which was reviewed with him in the office today. He does have a significant amount of osteoarthritis along with loose bodies and a moderate effusion. Ligament seemed to be intact.

RIVERA, RENE (id #2076483, dob:

We have discussed multiple treatment options and he desires to proceed with corticosteroid injection, modify activities, wrist bracing is needed. He will followup in 2 weeks or sooner if anything worsens

Return to Office

- Thomas Armsey, MD for Return Office Visit at West Columbia on 08/05/2013

Amendment Sign-Off

Encounter signed-off by Thomas Armsey, MD, 08/05/2013.

Encounter performed and documented by Thomas Armsey, MD

Encounter reviewed & signed by Thomas Armsey, MD on 08/05/2013 at 2:47pm

Encounter Date: 07/02/2013

Patient

Name	RIVERA, RENE (38, M) ID# 2076483	Appt. Date/Time	07/02/2013 08:45AM
DOB		Service Dept.	West Columbia
Provider	THOMAS ARMSEY, MD		
Insurance	Med Worker's Comp: AUTO OWNERS Policy/Group # : 36-1521-2013 Employer Name : PALMETTO PARTY RENTAL Case # : 36-1521-2013 Case Injury Date : 05/01/2013 Prescription: CMX - Member is eligible. Prescription: CMX - Member is eligible.		

Chief Complaint

Right Wrist Pain

DOI 5/1/13-twisting injury at work

Problems

Reviewed Problems

- Pain in joint; hand (719.44)

Patient's Providers

Insurance Adjuster (Worker's Comp): MONIKA KRYGER: Ph (803) 354-9022 EXT 218, Fax (803) 354-9034

Medications

Reviewed Medications

Name

Date

NAPROXEN SODIUM 550 MG TABLET 05/07/13 filled

Allergies

Reviewed Allergies

NKDA

Past Medical History

Reviewed Past Medical History

Surgical History

none per patient

Family History

Reviewed Family History

Social History

Reviewed Social History

Ortho

Smoking Status: Never smoker.

Alcohol intake: Occasional.

Number of children: 0.

Marital status: Married.

Diet: Regular.

Chewing tobacco: none.

RIVERA, RENE (id #2076483, dob:

Cigar/Pipe Use: N.

Non-smoker.

Are you currently employed?: Y.

Hand Dominance: Right.

Occupation: delivery.

Employer: Palmetto Party Rental.

Vitals

BP: 121/86 sitting **Ht:** 5 ft 5 in **Wt:** 180 lbs **BMI:** 30 **Pulse:** 62 bpm

HPI

Forearm/Wrist

Reported by patient.

Hand Dominance: right

Location: right

Quality: burning

Severity: moderate; pain level 5/10

Duration: 5/1/13

Timing: acute

Context: work injury

Alleviating Factors: NSAIDs

Aggravating Factors: lifting; carrying; twisting; pushing/pulling; gripping; grasping; squeezing; ROM

Associated Symptoms: no numbness; no redness; no warmth; no ecchymosis; no catching/locking; no popping/clicking; no buckling; no grinding; no instability; no radiation down arm; no drainage; no fever; no chills; no weight loss; no change in bowel/bladder habits; **weakness; tingling; swelling**

Previous Surgery: none

Prior Imaging: x ray

Previous Injections: none

Previous PT: none

Work Related: yes

Working: regular duty

Notes: lifting a heavy bucket from shoulder height to the ground when he forcibly twisted his right wrist: Mechanism of injury was forceful supination. Immediate pain and swelling at the first carpal row predominantly at the radial column associated with clicking locking and a sensation of instability with heavy lifting. X-rays show no acute or chronic fracture, no dislocation

ROS

Constitutional: Constitutional: no significant weight gain or loss and no fever, night sweats, or exercise intolerance.

Eyes: Eyes: no irritation, dry eyes, or vision change.

ENMT: Ears: no difficulty hearing or ear pain. Nose: no frequent nosebleeds or nose/sinus problems. Mouth/Throat: no snoring, sore throat, bleeding gums, dry mouth, mouth ulcers, oral abnormalities, or teeth problems.

Cardiovascular: Cardiovascular: no shortness of breath when walking or breath when lying down and no palpitations, chest pain, arm pain on exertion, or known heart murmur.

Respiratory: Respiratory: no cough, wheezing, shortness of breath, or coughing up blood.

Gastrointestinal: Gastrointestinal: no vomiting, diarrhea, or abdominal pain and normal appetite and not vomiting blood.

Genitourinary: Genitourinary: no incontinence, hematuria, difficulty urinating, or increased frequency.

Musculoskeletal: Musculoskeletal: no muscle aches or weakness and no arthralgias/joint pain, back pain, or swelling in the extremities.

Integumentary: Skin: no jaundice, rashes, or abnormal mole.

Neurologic: Neurologic: no weakness, numbness, seizures, dizziness, headaches, or loss of consciousness.

Psychiatric: Psych: no depression, sleep disturbances, or alcohol abuse and feeling safe in relationship.

Endocrine: Endocrine: no fatigue.

Hematologic/Lymphatic: Hematologic/Lymphatic no bruising or swollen glands.

Allergic/Immunologic: Allergy/Immunologic: no itching, hives, runny nose, sinus pressure, or frequent sneezing.

ROS as noted in the HPI

RIVERA, RENE (id #2076483, dob:

Physical Exam

Patient is a 38-year-old male.

right elbow: no effusion, no erythema, full range of motion, no tenderness to direct palpation, full strength to flexion extension, ligamentously intact.

Right forearm full range of motion, no soft tissue tenderness, no tenderness to bony palpation.

right wrist tender at the distal radius, mild tenderness at the anatomic snuffbox, positive Watson test with a palpable click, no TFCC tenderness, negative triquetral compression test. Negative Tinel's. Neurovascularly intact

Results / Interpretations

X-RAY, WRIST

- View: PA Clenched Fist, Side: RIGHT, Possibility of Pregnancy: N

Review of x-ray, wrist taken on 07/02/2013 at MIDLANDS ORTHOPAEDICS shows:

Wrist: Radiographic Findings: no fracture.

Assessment / Plan

1. PAIN IN JOINT; HAND (719.44)

- X-RAY, WRIST

View: PA Clenched Fist Side: RIGHT

Possibility of Pregnancy: N

- MRI, WRIST -

Note to Imaging Facility:

MRI RIGHT WRIST EVAL SCAPHOLUNATE LIGAMENT TEAR

PLEASE FAX RESULTS TO 933-6760

GIVE PATIENT CD

Side: RIGHT

Contrast: Without

Prior Reaction to MRI Contrast?: N

Over Age 60, or Hx of Kidney Disease: N

Has BUN/Creatinine Been Completed?: N Height: 5'5

Weight: 180

Pacemaker: N

Cochlear Implant: N

Brain Aneurysm Clip: N

Electronic Implant or Device: N

Any Metal in Body?: N

Prosthesis or Implant?: N

Possibility of Pregnancy?: N

Heart Valve Replacement?: N

Patient Claustrophobic: N

Sedation Ordered: N

Prior Surgery in Area of Interest?: N

Prior CT, MRI, or XRay Studies?: Y

Discussion: Mr. Rivera, his translator, and his case manager were all present today. I am concerned about a possible scapholunate ligament disruption with his mechanism of injury and persistent pain with a positive Watson test. His clenched fist view x-rays today do not show significant widening at the scapholunate interval.

I am recommending an MRI of the right wrist to look for ligamentous disruption.

He will be limited in overhead lifting and no climbing. He was told to wear his wrist brace as needed. Return to the office after MRI or sooner if worsens.

Return to Office

None recorded.

Encounter Sign-Off

Encounter signed-off by Thomas Armsey, MD, 07/02/2013.

Encounter performed and documented by Thomas Armsey, MD

Encounter reviewed & signed by Thomas Armsey, MD on 07/02/2013 at 10:07am

RIVERA, RENE (id #2076483, dob:

From: Linda Sharp Fax: (803) 936-0223

To: 803-936-0193 Fax: +18039360193 Page 2 of 2 7/16/2013 3:20 PM FAX SERVER



SOUTH CAROLINA DIAGNOSTIC IMAGING

Palmetto Imaging West Columbia
2997 Sunset Boulevard, W. Columbia, SC 29169
p: (803) 936-0223 f: (803) 936-0229

PATIENT: RIVERA, RENE
DOB:
MRN: 925441
PHYSICIAN: THOMAS ARMSBY, MD
EXAM DATE: 07/16/2013

EXAM: MR Right Wrist Without Contrast

REASON FOR EXAM: pain

TECHNIQUE: The following sequences were performed on a GE Signa HD Excite 1.5 Tesla magnet: Multiplanar, multisequence imaging was performed through the right wrist without the use of intravenous contrast. No priors are available for comparison.

FINDINGS: There is cyst formation and marrow edema within the proximal pole of the scaphoid with an intact scapholunate ligament. There is cartilage loss involving the scaphoid fossa of the distal radius with subchondral marrow edema and cyst formation at this site. The lunotriquetral ligament and triangular fibrocartilage are intact. The volar and distal radial ulnar ligaments are normal.

There is a distal radiocarpal joint effusion with intraarticular debris and intraarticular bodies dorsal to the scaphoid. A component of this may represent synovitis.

The extensor tendons are within normal limits. The carpal tunnel and venous canal are normal.

The tubercle of the trapezium and the hook of the hamate are normal.

IMPRESSION:

1. Radioscaphoid and radiolunate arthritic changes with subchondral cyst formation, joint space loss, and radiocarpal joint effusion. There is intraarticular debris presumably representing chondral bodies versus rice bodies dorsal to the scaphoid. Crystal induced arthropathies should be considered as well as posttraumatic osteoarthritis. Some of the interarticular bodies do appear ossified. Primary synovial chondromatosis is rare in this location.

2. Intact intrinsic ligaments.

Paul Aitchison, MD

PA/arf

DD: 07/16/2013 01:47 P

DT: 07/16/2013 02:49 P

Accession#: 08-1660761 VS#: 11437535 CS#: 400031

cc:

Electronically Signed and Reviewed by Paul Aitchison, MD 07/16/2013 03:33 P

RIVERA, RENE (id #2076483, dob:

MIDLANDS ORTHOPAEDICS, P.A. • 2989 Sunset Blvd, WEST COLUMBIA SC 29169-3497

RIVERA, RENE (id #2076483, dob:



Phone: (803) 256-4107 * www.midlandsortho.com * Fax: (803) 253-6676

WORK STATUS INFORMATION

NAME: Rene Rivera

ACCOUNT: 2076483

DATE OF BIRTH:

EMPLOYER: PALMETTO PARTY RENTAL

PROVIDER'S NAME: THOMAS ARMSEY, MD

DOS: 08/05/13

CARRIER: Auto Owners

DOA: 05/01/13

WC CLAIM#: 36-1521-2013

DX CODE(S) & DESCRIPTION:

Pain in joint; hand (719.44), Right,

WORK STATUS:

- ☐ Regular duty as of _____ with no restrictions.
- ☒ Light duty as of 8/05/13 with permanent restrictions.
(availability of light duty is determined by the employer, not the physician)
- ☐ Remain out of work until *
- ☐ Part time (whether regular duty or light duty)
- ☐ Full time (whether regular duty or light duty)

PHYSICAL LIMITATIONS

☐ None	☐ No kneeling, squatting, crawling
☐ No walking	☐ Pushing or pulling limit ____ (lbs)
☐ No climbing	☒ Lifting and carrying limit 20 (lbs)
☐ No standing	☐ Sedentary duties only
☐ No prolonged standing	☐ No overhead work
☐ No twisting or stretching	☐ No work at heights

Other:

These restrictions are recommended to promote healing of the body part which is injured or which has had surgery. Unrestricted use is recommended when it will not adversely affect the healing process. This is not a statement as to the capacity to undertake a given task or participate in a given sport, nor is it a warranty against subsequent injury. All restrictions or the lack of such restrictions may be subject to revision or modification if conditions change. It is your responsibility to contact us for any clarification, questions, or concerns.

Follow-up appointment date: PRN

Electronically Signed by: THOMAS ARMSEY, MD
THOMAS ARMSEY, MD
07/30/2013

RIVERA, RENE (id #2076483, dob:

Imaging Results

Imaging/Diagnostic Result (#1612231, 07/19/2013)

RIVERA, RENE (id #2076483, dob:

Fax Server

7/16/2013 3:38:28 PM PAGE 2/002 Fax Server



SOUTH CAROLINA DIAGNOSTIC IMAGING

Palmetto Imaging West Columbia
2997 Sunset Boulevard, W. Columbia, SC 29169
p: (803) 936-0223 f: (803) 936-0229

PATIENT: RIVERA, RENE
DOB:
MRN: 925441
PHYSICIAN: THOMAS ARMSEY, MD
EXAM DATE: 07/16/2013

EXAM: MR Right Wrist Without Contrast

REASON FOR EXAM: pain

TECHNIQUE: The following sequences were performed on a GE Signa HD Excite 1.5 Tesla magnet: Multiplanar, multisequence imaging was performed through the right wrist without the use of intravenous contrast. No priors are available for comparison.

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There is a distal radiocarpal joint effusion with intraarticular debris and intraarticular bodies dorsal to the scaphoid. A component of this may represent synovitis.

The extensor tendons are within normal limits. The carpal tunnel and venous canal are normal.

The tubercle of the trapezium and the hook of the hamate are normal.

IMPRESSION:

1. Radioscaphoid and radiolunate arthritic changes with subchondral cyst formation, joint space loss, and radiocarpal joint effusion. There is intraarticular debris presumably representing chondral bodies versus rice bodies dorsal to the scaphoid. Crystal induced arthropathies should be considered as well as posttraumatic osteoarthritis. Some of the interarticular bodies do appear ossified. Primary synovial chondromatosis is rare in this location.
2. Intact intrinsic ligaments.

Paul Aitchison, MD

PA/arf

DD: 07/16/2013 01:47 P

DT: 07/16/2013 02:49 P

Accession#: 08-1660761 VS#: 11437535 CS#: 400031

cc:

Electronically Signed and Reviewed by Paul Aitchison, MD 07/16/2013 03:33 P

RIVERA, RENE (id #2076483, dob:

Interpretation:

Review of x-ray, wrist taken on 07/02/2013 at MIDLANDS ORTHOPAEDICS shows:
Wrist: Radiographic Findings: no fracture.

RIVERA, RENE (id #2076483, dob:

MIDLANDS ORTHOPAEDICS, P.A. • 2989 Sunset Blvd, WEST COLUMBIA SC 29169-3497

RIVERA, RENE (id #2076483, dob:



Phone: (803) 256-4107 * www.midlandsortho.com * Fax: (803) 253-6676

WORK STATUS INFORMATION

NAME: Rene Rivera

ACCOUNT: 2076483

DATE OF BIRTH:

EMPLOYER: PALMETTO PARTY RENTAL

PROVIDER'S NAME: THOMAS ARMSEY, MD

DOS: 07/22/13

CARRIER: Auto Oners

DOA: 05/01/13

WC CLAIM#: 36-1521-2013

DX CODE(S) & DESCRIPTION:

Pain in joint; hand (719.44),

WORK STATUS:

- ☐ Regular duty as of _____ with no restrictions.
- ☒ Light duty as of 7/22/13 with restrictions.
(availability of light duty is determined by the employer, not the physician)
- ☐ Remain out of work until *
- ☐ Part time (whether regular duty or light duty)
- ☐ Full time (whether regular duty or light duty)

PHYSICAL LIMITATIONS

☐ None	☐ No kneeling, squatting, crawling
☐ No walking	☐ Pushing or pulling limit ____ (lbs)
☐ No climbing	☒ Lifting and carrying limit 15 (lbs)
☐ No standing	☐ Sedentary duties only
☐ No prolonged standing	☒ No overhead work
☐ No twisting or stretching	☐ No work at heights

Other:

These restrictions are recommended to promote healing of the body part which is injured or which has had surgery. Unrestricted use is recommended when it will not adversely affect the healing process. This is not a statement as to the capacity to undertake a given task or participate in a given sport, nor is it a warranty against subsequent injury. All restrictions or the lack of such restrictions may be subject to revision or modification if conditions change. It is your responsibility to contact us for any clarification, questions, or concerns.

Follow-up appointment date: 8/5/13 @ 2:40

Electronically Signed by: THOMAS ARMSEY, MD

Midlands Orthopaedics PA • 1910 Blanding Street, COLUMBIA SC 29201-3520

RIVERA, RENE (id #2076483, dob:

MIDLANDS ORTHOPAEDICS, P.A. • 2989 Sunset Blvd, WEST COLUMBIA SC 29169-3497

RIVERA, RENE (id #2076483, dob:

THOMAS ARMSEY, MD

07/19/2013

RIVERA, RENE (id #2076483, dob:

MIDLANDS ORTHOPAEDICS, P.A. • 2989 Sunset Blvd, WEST COLUMBIA SC 29169-3497

RIVERA, RENE (id #2076483, dob:



Phone: (803) 256-4107 * www.midlandsortho.com * Fax: (803) 253-6676

WORK STATUS INFORMATION

NAME: Rene Rivera

ACCOUNT: 2076483

DATE OF BIRTH:

EMPLOYER: PALMETTO PARTY RENTAL

PROVIDER'S NAME: THOMAS ARMSEY, MD

DOS: 07/02/2013

CARRIER: Auto Owners

DOA: 05/01/2013

WC CLAIM#: 36-1521-2013

DX CODE(S) & DESCRIPTION: Pain in joint; hand 719.44

WORK STATUS:

- ☐ Regular duty as of _____ with no restrictions.
- ☒ Light duty as of 7/2/13 with restrictions.
(availability of light duty is determined by the employer, not the physician)
- ☐ Remain out of work until *
- ☐ Part time (whether regular duty or light duty)
- ☐ Full time (whether regular duty or light duty)

PHYSICAL LIMITATIONS

☐ None	☐ No kneeling, squatting, crawling
☐ No walking	☐ Pushing or pulling limit ____ (lbs)
☒ No climbing	☐ Lifting and carrying limit ____ (lbs)
☐ No standing	☐ Sedentary duties only
☐ No prolonged standing	☒ No overhead work
☐ No twisting or stretching	☐ No work at heights

Other: Pending MRI approval

These restrictions are recommended to promote healing of the body part which is injured or which has had surgery. Unrestricted use is recommended when it will not adversely affect the healing process. This is not a statement as to the capacity to undertake a given task or participate in a given sport, nor is it a warranty against subsequent injury. All restrictions or the lack of such restrictions may be subject to revision or modification if conditions change. It is your responsibility to contact us for any clarification, questions, or concerns.

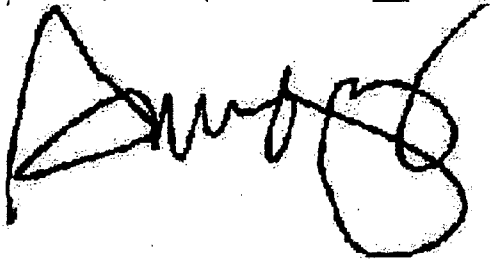
Follow-up appointment date: Pending MRI approval.

Midlands Orthopaedics PA • 1910 Blanding Street. COLUMBIA SC 29201-3520

RIVERA, RENE (id #2076483, dob:

MIDLANDS ORTHOPAEDICS, P.A. • 2989 Sunset Blvd, WEST COLUMBIA SC 29169-3497

RIVERA, RENE (id #2076483, dob:

A handwritten signature in black ink, appearing to read 'Armsey', is written over a horizontal line.

Electronically Signed by: THOMAS ARMSEY, MD
THOMAS ARMSEY, MD
07/02/2013

Doctors Care

EXAM ROOM: 938
ACCOUNT NUMBER: D569898
DATE: 04/15/13
TIME: 08:16 AM
DOCTOR: DR. CULLINATH EAST
TICKET: 3099

NAME & ADDRESS: RIVERA, RENE
DOB: (38 years)
GENDER: M
INSURANCE BALANCE: \$0.00
ACCOUNT BALANCE: \$0.00
CURRENT CHARGES:
AMOUNT PAID:
NEW BALANCE:
CASH: CHECK: M.O.: C.C.

WRK: INSURED: RIVERA, RENE
INS: W/ AUTO OWNERS
REASON:
NICKNAME: pain meds
RELATION: SELF
CO-PAY:

Personal Hx: V, FN
Family Hx: DM, HTN
Social Hx: Alcohol, Tobacco

ROS (I or O): Fatigue, Dizzy, Weak, Wt. Loss, Fever, Chills, Nasal Congestion, Sinus Pain, Ear Pain, Sore Throat, SOB, CP, Cough, Sputum, Wheeze, ABD Pain, N, V, D, Constip., Dysuria, Freq., Urgency, Back Pain, Pelvic Pain, Vag. D/C, Headache, Syncope, Rash
Allergies: NKDA
Medications: Aleve
Meds/Allergies Reviewed: Wk

Accident? ☐ yes ☐ no
If yes, which state: _____
Date of Accident: _____
Ev. chart rev., no sig chg. Above Hx rev. 6/8/13

HT 5'5" BMI 118/86 PULSE 76 RESP 14 TEMP 98.2
LMP: ☐ Tetanus: ☐

PHYSICAL: (see reverse) Omit if N/A
if nml, O if abnml & give details

General: HEENT, Neck, Nodes, Lungs, CV, Abd, Back, Ext, GU, Neuro, Skin/Breasts, Chaperone, I.V., Injection, Nebulizer, Procedure, Pulse Ox

Chief Complaint: Rt. Wrist Pain
HPI: Pt. has been wrist pain for several weeks. Actually hurt at work 6 weeks ago. Spent time on my pt. but originally attributed to Dr. at work.

79-97017 LOT:052603
BLACK ELASTIC WRIST BRACE - L
FOR SUPPORT OF THE WRIST

Wrist: X-Ray, Labs - Send

DIAGNOSIS: CTS (354.0, 6849.3)

Patient Care Instructions Discussed: Lifestyle Modification, Preventative Recommendation(s), Prescriptions / OTC Meds, Side Effects Discussed, Follow-Up: 4-22-13

Crutches/Splints/Supplies: Given ☒ Recommended ☐
Painkillers 200 mg 4x4

PSR Notes: 79214-15 EST, 73110-RT, 1390865 (JP)

Off Work / School: 4/15/13

Signature: [Signature]
Signature: Rene Rivera
Signature: Rene Rivera
Date: 4/15/13

Workers Compensation patient: I hereby authorize Doctors Care to speak to a rehabilitation specialist, my employer, my insurance carrier or other professionals involved in my care or rehabilitation, regarding my medical records and the treatment I have received or will receive.



Employer Authorization Form

Complete this form and fax or bring to your Doctors Care center

Patient Name: Rivera Rene Date: 4/15/13
 Company: Any Dental Contact/Phone: _____ Fax: _____
 Company Address: _____ BT Account #: _____
 Temporary Staffing Agency: _____ Contact/Phone: _____

REQUIRED SERVICES (check all that apply)

Work Related ☐ Worker's Compensation Injury Treatment: Date of Injury: _____ Type of Injury: _____ ☐ Post-accident Drug Screen required Drug Screen/Breath Alcohol Testing ☐ Drug Screen ☐ NIDA (check agency below) NDC Agency: ☐ MCSCA ☐ CIA ☐ PLMSA ☐ IAA ☐ FRA ☐ USCC ☐ Non NIDA (fill in test code below) ☐ 5 Panel ☐ 9 Panel ☐ 10 Panel ☐ 7 Panel ☐ Other _____ ☐ Instant ☐ Breath Alcohol ☐ NIDA ☐ Non-NIDA	Physical Examination ☐ DOT Physical ☐ Pre-Employment PE ☐ Respirator Clearance PE ☐ Physical (Other): Specify: _____ Special Examination ☐ Audiogram ☐ Blood Lead Level ☐ Chest X ray ☐ Hepatitis B Immunization ☐ Hepatitis B Profile ☐ Spirometry with Letter ☐ PPD (TB test) ☐ Tetanus ☐ Flu Shot ☐ Other: _____ ☐ Other: _____ ☐ Other: _____ ☐ Other: _____

REQUIRED FOR ALL WORKER'S COMPENSATION CLAIMS:

Has Employer filled out First Report of Injury? ☐ Yes ☐ No (send copy if available)
 Where are claims to be filed? ☐ Employer ☐ Carrier
 WC Carrier: Auto During 36110646 Phone #: 354-9022
 Address: PO Box 210979
 City: Columbia State: SC Zip: 29221

This Certifies that the above information is correct.

I authorize the medical provider to provide medical treatment to the employee named above.

Signature: Over Phone Date: _____
 Signature for Company Authorization Number: _____
 Printed Name: Adam Vano Position Title: _____
794-0010

For Internal Use Only	
Form Completed By: _____	Initials: _____
Center Name: _____	Date: _____



Return To Work Form

CENTER LOCATION:

- ☐ Aiken Mall - 850 Aiken Mall Drive, Aiken, SC 29801 - (803) 648-1464
- ☐ Augusta Road - 2836 Augusta Road, West Columbia, SC 29170 - (803) 939-0541
- ☐ Belteina - 511 Belteina Boulevard, Columbia, SC 29204 - (803) 782-4051
- ☐ Cayce - 977 Knox Aldwell Drive, Cayce, SC 29033 - (803) 794-0176
- ☒ City of Columbia - 3012 Hayden Street, Ste. 117, Columbia, SC 29204 - (803) 731-2122
- ☐ Forest Acres - 4100 Forest Drive, Suite A, Columbia, SC 29206 - (803) 748-9527
- ☐ Lexington - 247 Columbia Avenue, Lexington, SC 29012 - (803) 799-5333
- ☐ Newberry - 1410 Wilson Road, Newberry, SC 29108 - (803) 276-2186
- ☐ North Aiken - 1029 York Street NE, Aiken, SC 29801 - (803) 648-4110
- ☐ North Augusta - 1520 Knox Avenue, North Augusta, SC 29041 - (803) 279-4120
- ☐ Northeast - 10010 Two Notch Road, Columbia, SC 29223 - (803) 788-1153
- ☐ Orangeburg - 1749 St. Matthews Road, Orangeburg, SC 29118 - (803) 536-0611
- ☐ Red Bank - 11147 South Lake Drive, Lexington, SC 29013 - (803) 336-8998
- ☐ Ridgeview - 4214 Hardwick Road, Columbia, SC 29221 - (803) 736-8055
- ☐ Seven Oaks - 100 Jimmy Lowe Lane, Columbia, SC 29212 - (803) 772-5030
- ☐ Sumter - 2475 Broad Street, Sumter, SC 29150 - (803) 778-6555
- ☐ Wateree - 1060 Highway 1 South, Lugoff, SC 29018 - (803) 438-9759
- ☐ West Columbia - 3240 Sunset Blvd., West Columbia, SC 29169 - (803) 796-4251

PATIENT INFORMATION:

Name: Rivera, Tere Arrival Time: 8:15 Discharge Time: 10:20

Date: 4/15/13 Company Name: Auto Owners

WORK STATUS: (Check Appropriate Boxes)

- ☐ 1. May perform full duty activities as of _____ without accommodations.
- ☐ 2. Off duty due to work-related condition.
Estimated return to work date with modified duty: _____
Estimated return to work date for full duty: _____
Return for re-evaluation at this location on: _____ Time: _____
- ☒ 3. May work with the following accommodations as of: 4-15-13 Time: _____
- ☒ No lifting more than 25 lbs. as per
- ☐ No operation of hazardous or fast-moving machinery, no driving.
- ☐ Ground level work only, no ladders or heights.
- ☐ No repetitive bending, stooping, squatting, pushing, jerking, twisting, or bouncing.
- ☐ No continuous standing and/or sitting.
- ☐ Minimal walking or climbing (including stairs).
- ☒ Limited use of RT Hand
- ☐ No overhead lifting
- ☒ No high repetitive hand activities for extended periods of time.
- ☐ No use of _____
- ☐ 4. Has reached Maximum Medical Improvement (MMI)
- ☐ 5. Return for re-evaluation at this office on 4-22-13 Time: _____
- Additional Comments: _____

PATIENT DISCHARGE INSTRUCTIONS:

Diagnosis: Carpal Tunnel Syndrome Medications: ☒ as directed ☐ as needed

Wound or Injury Care: ☐ keep dry and clean ☐ do not remove dressing ☐ elevate extremity ☐ warm soaks

☐ ice every _____ ☐ apply heat every _____ ☒ wear elastic support/immobilizer/keep taped

☐ home exercise instructions given ☐ follow instructions sheet given ☐ bed rest for _____

REFERRAL: (If a referral is made for physical therapy, or to another physician, please complete this section.)

To: _____ Date: _____ Time: _____

For: _____

Address: _____

I understand the above instructions and what to do for my follow up care. I have received a copy of these instructions for myself and for my employer.

X Rivera, Tere
Employee Signature

Date

X Rivera, Tere
Provider Signature

Date

4/15/2013 12:27 PM

Behalf of (RIVERA, RENE) TO: 11 (803) 776

PAGE: 001 OF 001

Doctors Care Columbia East
7653 Garners Ferry Road
Columbia, SC 29209
(803) 783-2661 Office
(803) 776-8882 Fax

Radiology Overread by:
Carolina Radiology Associates, LLC

NAME: RIVERA, RENE

DATE OF EXAM: 04/15/2013

DOB:

PATIENT ID: DCMID569892

PHYSICIAN: George, Leland PA

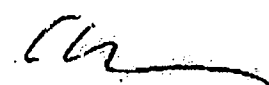
EXAM: RIGHT WRIST SERIES 2V w/NAV

IMPRESSION: Mild degenerative changes of the radiocarpal joint space. No step off to suggest acute fracture. The scaphoid is grossly intact.

Agree.

Elizabeth A Kelley, M.D
Electronic Signature
Apr 16 2013 12:27PM

NOTE: This report is an OVERREAD and may not be used as a report for billing purposes to third party payors. The original interpretation by the requesting physician is part of the patient's Medical Record

4-16-13


 medical affiliate

Doctors Care Radiology Form

X-Ray Interpretation and Review



X-Ray #: 13-598

Office: DCE

Patient Name: Rivera, Rene

Patient ID: 519892

DOB:

Date: 4/10/13

Requesting Provider: L. George, PA

Pregnancy Status: N/A

Age: 38

Operator's Signature: Karen Kame, RT

Sex: M

Films Taken:

☐ Abdomen, 1V, 74000	☐ Finger, 3V, 73140
☐ Abdomen, 3V, 74022	☐ Foot, 2V, 73620
☐ Ankle, 3V, 73610	☐ Foot, 3V, 73030
☐ C-Spine, 3V, 72040	☐ Foot- FB, 2V, 73620
☐ C-Spine, 5V, 72050	☐ Forearm, 2V, 73090
☐ Chest, 1V, 71010	☐ Hand, 2V, 73120
☐ Chest, 2V, 71020	☐ Hand, 3V, 73130
☐ Clav, 2V, 73000	☐ Hip, 2V, 73510
☐ Coccyx, 2V, 72220	☐ Humerus, 2V, 73060
☐ Elbow, 2V, 73070	☐ Knee, 2V, 73560
☐ Elbow, 4V, 73080	☐ Knee & Sun, 3+1, 73564
☐ Femur, 2V, 73550	☐ Knee & Tun, 3+1, 73564

- | |
|--|
| ☐ LS Spine, 3V, 72100 |
| ☐ Mandible, 3V, 70100 |
| ☐ Nasal, 3V, 70100 |
| ☐ Neck-ST, 2V, 70360 |
| ☐ Oculars, 2V, 73650 |
| ☐ Pelvis, 1V, 72170 |
| ☐ Ribs, 4V, 71101 |
| ☐ Ribs-Bilat, 4 5V, 71111 |
| ☐ Sacrum, 2V, 72220 |
| ☐ Scapula, 2V, 73010 |
| ☐ Shoulder AC, 2V, 73050 |
| ☐ Shoulder, 2V, 73030 |

- | |
|---|
| ☐ Sinuses, 2V, 70210 |
| ☐ Sinuses, 3V, 70220 |
| ☐ Skull, 2V, 70250 |
| ☐ Skull, 4V, 70260 |
| ☐ T-Spine, 2V, 72070 |
| ☐ Tibi & Fib, 2V, 73590 |
| ☐ Toes, 3V, 73660 |
| ☐ Wrist, 2V, 73100 |
| ☒ Wrist w/ Nav, 3-5 73110 |
| ☐ Add View, 1V, 70001 |

☐ Unlisted X-Ray Description:

of Views: 3

Code:

Doctors Care Practitioner Interpretation:

No evidence of acute or old Fr

Practitioner Signature: *[Signature]*

Right or Left Extremity

☒ R☐ L

Lead Shielding Used

☒ Y☐ N

Is Patient Pregnant

☐ Y☒ N

Circle # of Films Taken

1 2 3 4 5

Questions for Radiologist

Do you agree with practitioner's initial impression?

☐ Yes☐ No

Do you consider the x-ray(s) normal?

☐ Yes☐ No

Do you see significant findings not noted by practitioner?

☐ Yes☐ No

If high risk, please notify office immediately by phone and fax.

Additional Practitioner Questions

Radiologists Response

Radiologist Name

Date of Review:

Radiologist Signature:

Doctors Care Office Notified (Phone/Fax/Other):

Doctors Care Follow-Up

Report Reviewed By Doctors Care Practitioner:

Signature:

Date:

Further action required?

☐ Yes☐ No

Patient notified?

☐ Yes☐ No

If yes to either question, follow up steps initiated (describe):



Diagnostic & Referral Prescription

Doctors Care ~ Columbia
7053 Garners Ferry Road
Columbia, SC 29209
(P) 803-783-2661
(F) 803-776-8882

Patient Name: Rene Rivera

Date: 5-7-13

Home Phone: _____

Cell Phone: _____

DOB: _____

Insurance: W.C. Palmetto Party Rental

Doctors Care Provider: _____

L. George

☐ ROUTINE (7-14 Days)

☒ ASAP (48-96 hours)

☐ TODAY

☐ Cardiology

☐ ENT

☐ Nephrology

☐ Ophthalmology

☐ Psychiatry

☐ Rheumatology

☐ Dermatology

☐ GI

☐ Neurology

☒ Orthopedics

☐ Psychology

☐ Surgery

☐ Endocrine

☐ Hemo/Onc

☐ OB/GYN

☐ PT

☐ Pulmonology

☐ Urology

☐ Other: _____

Preferred provider or specialist office: _____

Preferred time or date: _____

DIAGNOSTIC PROCEDURES

☐ CT ☐ CTA ☐ MRI ☐ MRA ☐ US ☐ Doppler (arterial/venous) ☐ Mammogram ☐ DEXA ☐ Nuclear
☐ Head ☐ Sinus ☐ C-Spine ☐ T-Spine ☐ L-Spine ☐ Neck ☐ Carotids ☐ Thyroid ☐ Chest ☐ Abdomen
☐ GB ☐ Liver ☐ Pelvis ☐ Kidney ☐ Kidney Stone ☐ Sleep study ☐ Other: _____

Diagnosis: Carpal tunnel syndrome

(803) 974-0010

Provider Signature: Tonya Trillman

APPOINTMENT INFORMATION

Date: _____

Time: 5/10 6/5/13

Practice Name/Doctor: _____

Kim Varborgough @ Palmetto Party Rental

Address: _____

gave verbal to find ortho & would

Phone: _____

Fax: _____

pay over w/ credit card

Chart Faxed Date: _____

Patient Notified Date: 803-794-0010

SPECIAL INSTRUCTIONS

5/8/13 - Im for Kim @ Palmetto Party Rental - need authorization to refer

5/17/13 - Spk 2 Kim... stated needed to pass info along & she'll call back

5/15/13 Spk 2 Tonya Trillman (WKC) there is no record of pt in system or not by SS#, - (10) file chart back

Please fax/call our office with appointment date & time. Thank you!

EXAM ROOM TIME: 357
 ACCOUNT NUMBER: D569892 DATE: 05/07/13 TIME: 03:26 PM
 CHECKOUT TIME: 4:19
 TICKET NO: 820099

ME & ADDRESS: RIVERA, RENE
 DOB: 138 years
 GENDER: M
 INSURANCE BALANCE: \$296.00
 ACCOUNT BALANCE: \$296.00
 CURRENT CHARGES:
 AMOUNT PAID:
 NEW BALANCE:
 CASH: CHECK: M.O.: C.O.:

WRK: INSURED: RIVERA, RENE
 INS: WC/PALMETTO PARTIAL RENTAL
 REASON:
 NICKNAME: F/LE Still having pain @ wrist

RELATION: OTHER
 COFAY:

sonal Hx Family Hx Social Hx
 DM + Alcohol +
 HTN + Tobacco -

Ident? ☐ yes ☐ no If yes, which state:
 e of Accident:
 v. chart rev... no sig chg. Above Hx rev.: *W*

HT 55 DMI BP PULSE RESP TEMP 98.9
☐ LMP
☐ Tetanus

Allergies: NKDA
 Medications: *W*
 Meds/Allergies Reviewed *W*

YSICAL: (see reverse) Omit if N/A
 if nml., O if abnml. & give details)

General *W*
 HEENT *W*
 Neck *W*
 Nodos *W*
 Lungs *W*
 CV *W*
 Abd *W*
 Back *W*
 Ext *W*
 GU *W*
 Neuro *W*
 Skin/Breasts *W*
 Chaperone *W*
 I.V. *W*
 Injection *W*
 Nebulizer *W*
 Procedure *W*
 Pulse Ox *W*

Chief Complaint: *Phn to FLP & want pain*
 HPI: *for pain & feeling in arm*
last 2 hrs since waking

☐ CBC
☐ EKG
☐ FBS
☐ Flu
☐ Home
☐ HgbA1C
☐ H. Pylori
☐ KOH
☐ Microalb
☐ Mono
☐ Strep
☐ Tetanus
☐ U/A
☐ U Preg
☐ Wet Prep
☐ X-Ray

354.0 EQ49.3

AGNOSIS: Carpal tunnel syndrome

Patient Care Instructions Discussed
 Lifestyle Modification
 Preventative Recommendation(s)
 Prescriptions / OTC Meds
 Side Effects Discussed
 Follow-Up: *6 weeks*
 Return:
 Worsening symptoms:
 If not better:
 to ER II;

Crutches/Splints/Supplies ☐ Given ☐ Recommended
Ammon AS + Band + 30/0
Ortho referral
and to wear brace

Off Work / School: *W*

PSR Notes: ESTAI
 99214
W

Richardson
 I, *Richardson*, M.D., D.O., R.A., F.N.P.
 I voluntarily consent to any and all health care treatment and diagnostic procedures provided by Doctors Care and its associated physicians, clinicians and other supervised. I am aware that the practice of medicine
 I consent to the use and disclosure of my/their patient's protected health information for purposes of obtaining payment for services rendered to me/their patient, treatment and health care operations consistent with
 I authorize payment of medical benefits to Doctors Care physicians or their designee for services rendered

patient or Authorized Person's Signature: *Rene Rivera* Date: *5/7/13*

Workers Compensation patients: I hereby authorize Doctors Care to speak to a rehabilitation specialist, my employer, my insurance carrier or other professionals involved in my care or rehabilitation, regarding my
 original records and the treatment I have received or will receive.

patient or Authorized Person's Signature: *Rene Rivera* Date: *5/7/13*



Return To Work Form

CENTER LOCATION:

☐ Aiken Mall - 840 Aiken Mall Drive, Aiken, SC 29803 - (803) 648-1464	☐ North Augusta - 1320 Knox Avenue, North Augusta, SC 29841 - (803) 279-4120
☐ Augusta Road - 2836 Augusta Road, West Columbia, SC 29170 - (803) 979-0545	☐ Northeast - 10040 Twin Notch Road, Columbia, SC 29223 - (803) 788-1153
☐ Bellline - 511 Bellline Boulevard, Columbia, SC 29205 - (803) 782-4051	☐ Orangeburg - 1748 St. Matthews Road, Orangeburg, SC 29118 - (803) 536-1613
☐ Cayce - 977 Knox Abbott Drive, Cayce, SC 29033 - (803) 794-0476	☐ Red Bank - 1847 South Lake Drive, Lexington, SC 29073 - (803) 356-8998
☐ City of Columbia - 2012 Harden Street, Ste. 112, Columbia, SC 29204 - (803) 231-3127	☐ Ridgeview - 4214 Hardscrabble Road, Columbia, SC 29223 - (803) 736-8953
☐ Columbia East - 7453 Garners Ferry Road, Columbia, SC 29207 - (803) 763-2661	☐ Seven Oaks - 100 Jimmy Rowe Lane, Columbia, SC 29212 - (803) 773-5030
☐ Forest Acres - 4500 Forest Drive, Suite A, Columbia, SC 29206 - (803) 738-9522	☐ Sumter - 2475 Broad Street, Sumter, SC 29150 - (803) 778-8555
☐ Lexington - 247 Columbia Avenue, Lexington, SC 29072 - (803) 359-5533	☐ Wateree - 1060 Highway 1 South, Lugoff, SC 29078 - (803) 438-9759
☐ Newberry - 1410 Wilson Road, Newberry, SC 29108 - (803) 776-2186	☐ West Columbia - 3740 Sunset Blvd., West Columbia, SC 29169 - (803) 796-4251
☐ North Aiken - 1029 York Street NE, Aiken, SC 29801 - (803) 640-4119	

PATIENT INFORMATION:

Name: _____ Arrival Time: _____ Discharge Time: 6:15
 Date: 4/2/14 Company Name: _____

WORK STATUS: (Check Appropriate Boxes)

- ☐ 1. May perform full duty activities as of _____ without accommodations.
- ☐ 2. Off duty due to work-related condition.
 Estimated return to work date with modified duty _____
 Estimated return to work date for full duty: _____
 Return for re-evaluation at this location on _____ Time: _____
- ☒ 3. May work with the following accommodations as of: 4/2/14
☐ No lifting more than _____ lbs.
☐ No operation of hazardous or fast-moving machinery, no driving.
☐ Ground level work only, no ladders or heights.
☐ No repetitive bending, stooping, squatting, pushing, jerking, twisting, or bouncing
☐ No continuous standing and/or sitting.
☐ Minimal walking or climbing (including stairs)
☒ Limited use of _____
☐ No overhead lifting.
☒ No high repetitive hand activities for extended periods of time.
☐ No use of _____
- ☐ 4. Has reached Maximum Medical Improvement (MMI)
- ☐ 5. Return for re-evaluation at this office on 4/2/14 Time: _____
- Additional Comments: _____

PATIENT DISCHARGE INSTRUCTIONS:

Diagnosis: _____ Medications: ☐ as directed ☐ as needed
 Wound or Injury Care: ☐ keep dry and clean ☐ do not remove dressing ☐ elevate extremity ☐ warm soaks
☐ ice every _____ ☐ apply heat every _____ ☐ wear elastic support/immobilizer/keep taped
☐ home exercise instructions given ☐ follow instructions sheet given ☐ bed rest for _____

REFERRAL: (If a referral is made for physical therapy, or to another physician, please complete this section.)

To: Dr. T. J. [unclear] Date: 4/2/14 Time: 1:15
 For: _____
 Address: _____

I understand the above instructions and what to do for my follow up care. I have received a copy of these instructions for myself and for my employer

Employee Signature: [Signature] Date: _____ Provider Signature: [Signature] Date: 4/2/14



Return To Work Form

CENTER LOCATION:

- ☐ Aiken Mall - 810 Aiken Mall Drive, Aiken, SC 29801 - (803) 648-1464
☐ Augusta Road - 2836 Augusta Road, West Columbia, SC 29170 - (803) 939-1541
☐ Bellline - 311 Bellline Boulevard, Columbia, SC 29205 - (803) 782-4051
☐ Cayce - 911 Knox Abbott Drive, Cayce, SC 29033 - (803) 794-0476
☐ City of Columbia - 2017 Harden Street, Ste. 112, Columbia, SC 29204 - (803) 211-7122
☐ Columbia East - 7653 Garners Ferry Road, Columbia, SC 29209 - (803) 783-2661
☐ Forest Acres - 4500 Forest Drive, Suite A, Columbia, SC 29206 - (803) 738-9522
☐ Lexington - 247 Columbia Avenue, Lexington, SC 29072 - (803) 759-5573
☐ Newberry - 1410 Wilson Road, Newberry, SC 29108 - (803) 276-2104
☐ North Aiken - 1070 York Street NE, Aiken, SC 29801 - (803) 640-4110
☐ North Augusta - 1520 Kwik Avenue, North Augusta, SC 29841 - (803) 279-4120
☐ Northeast - 10040 Two Notch Road, Columbia, SC 29223 - (803) 788-1153
☐ Orangeburg - 1748 St. Matthews Road, Orangeburg, SC 29118 - (803) 536-0613
☐ Red Bank - 1847 South Lake Drive, Lexington, SC 29073 - (803) 356-8098
☐ Ridgeview - 4214 Hartsdale Road, Columbia, SC 29223 - (803) 736-8955
☐ Seven Oaks - 100 Jimmy Love Lane, Columbia, SC 29212 - (803) 772-5030
☐ Sumter - 2475 Broad Street, Sumter, SC 29150 - (803) 778-6555
☐ Waterloo - 1000 Highway 1 South, Lugoff, SC 29078 - (803) 438-9759
☐ West Columbia - 3240 Sunset Blvd, West Columbia, SC 29169 - (803) 796-4751

PATIENT INFORMATION:

Name: Rene R. Roca Arrival Time: 3:04 Discharge Time: _____
 Date: 5/7/13 Company Name: _____

WORK STATUS: (Check Appropriate Boxes)

- ☐ 1. May perform full duty activities as of _____ without accommodations.
☐ 2. Off duty due to work-related condition.
 Estimated return to work date with modified duty: _____
 Estimated return to work date for full duty: _____
 Return for re-evaluation at this location on: _____ Time: _____
☒ 3. May work with the following accommodations as of: 5-7-13
☐ No lifting more than 15 lbs. CRH
☐ No operation of hazardous or fast-moving machinery, no driving.
☐ Ground level work only, no ladders or heights.
☐ No repetitive bending, stooping, squatting, pushing, jerking, twisting, or bouncing
☐ No continuous standing and/or sitting
☐ Minimal walking or climbing (including stairs)
☐ Limited use of RT Hand
☐ No overhead lifting
☒ No high repetitive hand activities for extended periods of time.
☐ No use of _____
☐ 4. Has reached Maximum Medical Improvement (MMI)
☐ 5. Return for re-evaluation at this office on TO 4/1/10 Time: _____

Additional Comments: _____

PATIENT DISCHARGE INSTRUCTIONS:

Diagnosis: Carpal Tunnel Syndrome RT HAND Medications: ☐ as directed ☐ as needed
 Wound or Injury Care: ☐ keep dry and clean ☐ do not remove dressing ☐ elevate extremity ☐ warm soaks
☐ ice every _____ ☐ apply heat every _____ ☐ wear elastic support/immobilizer/keep taped
☐ home exercise instructions given ☐ follow instructions sheet given ☐ bed rest for _____

REFERRAL: (If a referral is made for physical therapy, or to another physician, please complete this section)

To: OT TRD Date: _____ Time: _____
 For: _____
 Address: _____

I understand the above instructions and what to do for my follow-up care. I have received a copy of these instructions for myself and for my employer.

Employee Signature: Rene R. Roca Date: _____
 Provider Signature: [Signature] Date: 5-7-13

UCI medical affiliates

Doctors Care Radiology Form

X-Ray Interpretation and Review



X-Ray #: 131043 Office: DOCE Date: 9/18/11
 Patient Name: Rivera, Rene Patient ID: 569892 DOB: Age: 38
 Requesting Provider: Janet Randolph P.A. Pregnancy Status: N/A Sex: M
 Operator's Signature: Ann Rose MD History: Lt. Knee Pain

Films Taken:

☐ Abdomen, IV, 74000	☐ Finger, 3V, 73140	☐ L5-Spine, 3V, 72100	☐ Sinuses, 2V, 70210
☐ Abdomen, 3V, 74022	☐ Foot, 2V, 73670	☐ Mandible, 3V, 70100	☐ Sinuses, 3V, 70220
☐ Ankle, 3V, 73610	☐ Foot, 3V, 73630	☐ Nasal, 3V, 70160	☐ Skull, 2V, 70250
☐ C-Spine, 3V, 72040	☐ Foot-FB, 2V, 73670	☐ Neck-ST, 2V, 70360	☐ Skull, 4V, 70260
☐ C-Spine, 5V, 72050	☐ Forearm, 2V, 73090	☐ Os calcis, 2V, 73650	☐ T-Spine, 2V, 72070
☐ Chest, IV, 71010	☐ Hand, 2V, 73120	☐ Pelvis, IV, 72170	☐ Thumb, 3V, 73140
☐ Chest, 2V, 71020	☐ Hand, 3V, 73130	☐ Ribs, 4V, 71101	☐ Tib & Fib, 2V, 73590
☐ Clav, 2V, 73000	☐ Hip, 2V, 73510	☐ Ribs-Bilat, 4-5V, 71111	☐ Toes, 3V, 73660
☐ Coccyx, 2V, 72220	☐ Humerus, 2V, 73060	☐ Sacrum, 2V, 72220	☐ Wrist, 2V, 73100
☐ Elbow, 2V, 73070	☐ Knee, 2V, 73560	☐ Scapula, 2V, 73010	☐ Wrist w/ Nav, 3-5, 73110
☐ Elbow, 4V, 73080	☐ Knee & Sun, 3+1, 73564	☐ Shoulder AC, 2V, 73050	☐ Add View, IV, 70001
☐ Femur, 2V, 73550	☐ Knee & Tun, 3+1, 73564	☐ Shoulder, 2V, 73030	

☐ Unlisted X-Ray Description:

of Views:

Code

Doctors Care Practitioner Interpretation:

Fracture but Benign, ? effusion.
Mild degenerative change & acute

Practitioner Signature: Janet Randolph

Right or Left Extremity

☐ R ☒ L

Lead Shielding Used

☒ Y ☐ N

Is Patient Pregnant

☐ Y ☒ N

Circle # of Films Taken

1 2 3 4 5

Questions for Radiologist

Do you agree with practitioner's initial impression?

☐ Yes☐ No

Do you consider the x-ray(s) normal?

☐ Yes☐ No

Do you see significant findings not noted by practitioner?

☐ Yes☐ No

If high risk, please notify office immediately by phone and fax.

Additional Practitioner Questions

Radiologist's Response

Radiologist Name:

Date of Review:

Radiologist Signature:

Doctors Care Office Notified (Phone/Fax/Other):

Doctors Care Follow-Up

Report Reviewed By Doctors Care Practitioner: Signature:

Date:

Further action required?

☐ Yes☐ No

Patient notified?

☐ Yes☐ No

If yes to either question, follow up steps initiated (describe):

Urgent Care Note**RIVERA, RENE - D569892****Left Knee Swelling/Pain**

Patient: RIVERA, RENE MRN: D569892 FIN: 1716937
Age: 38 years Sex: Male DOB:
Associated Diagnoses: Left Knee Pain
Author: Randolph PA-C, Janel

Visit Information

Date of Service: 09/18/2013 08:55 am Performing Location: Doctors Care - Columbia East Encounter#: 1716937
Additional Information: 9/18/2013 9:32 AM EDT WKC - LEFT KNEE PAIN WITH SWELLING STARTED 4 DAYS AGO...THE PAIN IN THE CENTER OF KNEE .

History of Present Illness

Pt presents today with c/o of left knee swelling/ warm to touch x 5 days. Pt denies any injury to knee. No hx of gout. Pt does admit to doing a lot of lifting at work.

Review of Systems

All other systems reviewed and negative

Health Status**Allergies:**Allergic Reactions (Selected)

Severity Not Documented

No Known Medication Allergies (No reactions were documented)

Problem list:All Problems

Obesity / ICD-9-CM 278.00 / Probable

Histories**Social History:**

Alcohol Assessment

Never

Tobacco Assessment

Never

Substance Abuse Assessment

Never

Physical Examination**VS/Measurements****Vital Signs**

9/18/2013 9:32 AM EDT

Temperature Oral
Peripheral Pulse Rate
Systolic Blood Pressure
Diastolic Blood Pressure
Mean Arterial Pressure

98.9 DegF
68 bpm
110 mmHg
72 mmHg
85 mmHg

Measurements from flowsheet : Measurements

9/18/2013 9:32 AM EDT

Height
Weight
BSA
Body Mass Index

65 in
200 lb
2.04 m2
33.28 kg/m2

General: Alert and oriented. No acute distress.

Musculoskeletal: Knee ROM flexion/extension limited secondary to pain
right knee ROM norm

Printed by: Daquiaoag, Alvin
Printed on: 03/28/2014 3:37 PM EDT

Page 1 of 2
(Continued)

Urgent Care Note

RIVERA, RENE - D569892

Integumentary: warm to touch.

Psychiatric: Cooperative, Appropriate mood & affect.

Review / Management

Radiology results

X-ray

Impression and Plan

Diagnosis

Left Knee Pain (ICD9 719.46).

Orders

Orders (Selected).

Outpatient OrdersOrdered (In Transit)

Uric Acid* (Quest): Specimen Type: Serum, Collection Date: 09/18/13 9:47:00 EDT

Completed

36415 collection venous blood venipuncture (Form/Charge): Quantity: 1

73560 radiologic examination knee 1/2 views (Task/Charge): Quantity: 1

84550 uric acid blood (Charge): Quantity: 1

99213 office/outpatient visit est (Charge): Quantity: 1

uric acid: uric acid

PrescriptionsPrescribed

Flexeril 5 mg oral tablet: See Instructions, Instructions: 1 tab po tid prn, # 20 tab(s), 0 Refill(s), Type: Maintenance, Pharmacy: CVS/pharmacy #3850, 1 tab po tid prn

naproxen 500 mg oral tablet: 1 tab(s) (500 mg), po, bid, # 40 tab(s), 0 Refill(s), Type: Maintenance, Pharmacy: CVS/pharmacy #3850, 1 tab(s) po bid

predniSONE 10 mg oral tablet: See Instructions, Instructions: 6 day pack, follow instructions on label, # 21 tab(s), 0 Refill(s), Type: Maintenance, Pharmacy: CVS/pharmacy #3850, 6 day pack, follow instructions on label

Signature Line

Signed and Authored by Janel Randolph on 09/18/2013 10:29 AM EDT

Charted Date: September 18, 2013 9:49 AM EDT

Subject / Title: Left Knee Swelling/Pain

Performed By: Randolph PA-C, Janel on September 18, 2013 10:29 AM EDT

Electronically Signed By: Randolph PA-C, Janel on September 18, 2013 10:29 AM EDT

Visit Information: 1716937, Doctors Care - Columbia East, Outpatient, 09/18/2013 - 09/20/2013

Visit Summary

RIVERA, RENE - D569892

* Final Report *

* Final Report *

Visit Summary (Verified)

Visit Summary for RENE RIVERA

We would like to thank you for allowing us to assist you with your healthcare needs. Our entire staff strives to provide an excellent experience for our patients and their families. The following includes information regarding your visit.

Age: 38 years Sex: Male DOB: MRN: D569892

Address:

Home: Work: -- Mobile: --

Primary Care Provider: D1025 -KIM, CHUN S

Race: Spanish/Hispanic Ethnicity: Not Hispanic or Latino

Preferred Language: Spanish

Health Plan: 1*WC/AUTO OWNERS

Visit Information

Doctors Care - Columbia East

7653 GARNERS FERRY RD COLUMBIA, SC, 29209

Phone: (803) 783-2881 Fax: (803) 776-8882

Visit Date: 09/18/2013 08:45 am

Scheduled Provider: Columbia East - 76514

Visit Provider: Randolph PA-C, Janel

Referring Provider: --

Reason for Visit: WKC - LEFT KNEE PAIN WITH SWELLING STARTED 4 DAYS AGO...THE PAIN IN THE CENTER OF KNEE

Future Appointments

No future appointments scheduled

Problems and Health Issues

Obesity (278.00)

Allergies

No Known Medication Allergies

All Known Current Prescriptions and Reported Medications

Prescriptions

Flexeril 5 mg oral tablet (cyclobenzaprine)

0 refills authorized

Instructions: 1 tab po tid prn

Printed by: Daquiaoag, Alvin
Printed on: 03/28/2014 3:37 PM EDT

Page 1 of 3
(Continued)

Visit Summary**RIVERA, RENE - D569892***** Final Report *****naproxen 500 mg oral tablet (naproxen)**

Take 1 tab(s)(500 Milligram) oral 2 times a day, 0 refills authorized

predniSONE 10 mg oral tablet (predniSONE)

0 refills authorized

Instructions: 6 day pack, follow instructions on label

Other Reported Medications

No reported medications documented

New Medications this Visit**New Prescriptions****Flexeril 5 mg oral tablet (cyclobenzaprine)**

0 refills authorized

Instructions: 1 tab po tid pm

naproxen 500 mg oral tablet (naproxen)

Take 1 tab(s)(500 Milligram) oral 2 times a day, 0 refills authorized

predniSONE 10 mg oral tablet (predniSONE)

0 refills authorized

Instructions: 6 day pack, follow instructions on label

Vitals and Measurements this Visit

Height: 65 in

Weight: 200 lb

Body Mass Index: 33.28 kg/m2

BSA: 2.04 m2

Temperature Oral: 98.9 DegF

Systolic Blood Pressure: 110 mmHg

Diastolic Blood Pressure: 72 mmHg

Mean Arterial Pressure: 85 mmHg

Peripheral Pulse Rate: 68 bpm

Orders this Visit**Requests (General Services)**

uric acid

Requested Date: 09/18/2013

Diagnoses this Visit

Left Knee Pain (719.46)

Referral and Consult Requests this VisitPrinted by:
Printed on:Daquiaoag, Alvin
03/28/2014 3:37 PM EDTPage 2 of 3
(Continued)

RIVERA, RENE 1 / 1

Doctors Care Columbia East
7653 Garners Ferry Road
Columbia, SC 29209
(803) 783-2661 Office
(803) 778-8882 Fax

Radiology Overread by:
Carolina Radiology Associates, LLC

NAME: RIVERA, RENE

DOB:

PHYSICIAN: Randolph, Janel PA

DATE OF EXAM: 09/18/2013

PATIENT ID: DCMD569892

EXAM: L KNEE 2V

IMPRESSION: Mild degenerative changes of the left knee.

Agree

Scott J. Crane, M.D.
Electronic Signature
Sep 19 2013 7:48AM

NOTE: This report is an OVERREAD and may not be used as a report for billing purposes to third party payors. The original interpretation by the requesting physician is part of the patient's Medical Record.

J.A.
9/19/13

Visit Summary

RIVERA, RENE - D569892

* Final Report *

No Referral or Consults documented

Follow up

Follow up with: Janel Randolph

When: Within As needed, only if needed

Where: Doctors Care - Columbia East; 7659 Gamers Ferry Rd; P: (803) 783-2661 F: (803) 776-8882, Columbia, SC, 29209; (803) 783-2661 Business (1)

Comments: -

Additional Visit Comments:

Charted Date: September 18, 2013 10:25 AM EDT

Subject / Title: Visit Summary

Performed By: Randolph PA-C, Janel on September 18, 2013 10:25 AM EDT

Electronically Signed By: Randolph PA-C, Janel on September 18, 2013 10:25 AM EDT

Visit Information: 1716937, Doctors Care - Columbia East, Outpatient, 09/18/2013 - 09/20/2013

Printed by: Daquiloag, Alvin
Printed on: 03/28/2014 3:37 PM EDT

Page 3 of 3
(End of Report)

UCI medical affiliates

Doctors Care Radiology Form

X-Ray Interpretation and Review

Doctors
Care

X-Ray #: 14-325 Office: DCCE

Date: 3/17/14

Patient Name: Rivera, Rene

Patient ID: S69892 DOB:

Age: 39

Requesting Provider: Dr. Chun Kim

Pregnancy Status: N/A

Sex: M

Operator's Signature: Kyan Kane, RT

History: Low back injury 3/16/14

Films Taken:

- ☐ Abdomen, 1V, 74000
☐ Abdomen, 3V, 74022
☐ Ankle, 3V, 73610
☐ C-Spine, 3V, 72040
☐ C-Spine, 5V, 72050
☐ Chest, 1V, 71010
☐ Chest, 2V, 71020
☐ Clav, 2V, 73000
☐ Coccyx, 2V, 72220
☐ Elbow, 2V, 73070
☐ Elbow, 4V, 73080
☐ Femur, 2V, 73550

- ☐ Finger, 3V, 73140
☐ Foot, 2V, 73620
☐ Foot, 3V, 73630
☐ Foot-FB, 2V, 73620
☐ Forearm, 2V, 73090
☐ Hand, 2V, 73120
☐ Hand, 3V, 73130
☐ Hip, 2V, 73510
☐ Humerus, 2V, 73060
☐ Knee, 2V, 73560
☐ Knee & Sun, 3+1, 73564
☐ Knee & Tun, 3+1, 73564

- ☒ LS-Spine, 3V, 72100
☐ Mandible, 3V, 70100
☐ Nasal, 3V, 70160
☐ Neck-ST, 2V, 70360
☐ Osealcls, 2V, 73650
☐ Pelvis, 1V, 72170
☐ Ribs, 4V, 71101
☐ Ribs-Bilat, 4-5V, 71111
☐ Sacrum, 2V, 72220
☐ Scapula, 2V, 73010
☐ Shoulder AC, 2V, 73050
☐ Shoulder, 2V, 73030

- ☐ Sinuses, 2V, 70210
☐ Sinuses, 3V, 70220
☐ Skull, 2V, 70250
☐ Skull, 4V, 70260
☐ T-Spine, 2V, 72070
☐ Thumb, 3V, 73140
☐ Tib & Fib, 2V, 73590
☐ Toes, 3V, 73660
☐ Wrist, 2V, 73100
☐ Wrist w/ Nav, 3-5, 73110
☐ Add View, 1V, 70001

☐ Unlisted X-Ray Description:

of Views: 3 Code:

Doctors Care Practitioner Interpretation:

normal space posterior only between
 L5-S1

Practitioner Signature:

Right or Left Extremity

Lead Shielding Used

Is Patient Pregnant

Circle # of Films Taken

☐ R ☐ L
☐ Y ☒ N
☐ Y ☒ N
 1 2 3 4 5

Questions for Radiologist:

Do you agree with practitioner's Initial Impression?

☐ Yes☐ No

Do you consider the x-ray(s) normal?

☐ Yes☐ No

Do you see significant findings not noted by practitioner?

☐ Yes☐ No

If high risk, please notify office immediately by phone and fax.

Additional Practitioner Questions:

Radiologist's Response:

Radiologist Name:

Date of Review:

Radiologist Signature:

Doctors Care Office Notified (Phone/Fax/Other):

Doctors Care Follow Up:

Report Reviewed By Doctors Care Practitioner:

Signature:

Date:

Further action required?

☐ Yes☐ No

Patient notified?

☐ Yes☐ No

If yes to either question, follow up steps initiated (describe):

Urgent Care Note

RIVERA, RENE - D569892

backache

Patient: RIVERA, RENE MRN: D569892 FIN: 1920287
Age: 39 years Sex: Male DOB:
Associated Diagnoses: None
Author: Kim MD, Chun

Visit Information

Additional Information: 03/17/2014 9:42 AM EDT WKC- low back injury 03/16/2014.

History of Present Illness

39 yrs old male has experienced sudden backache while lifting a object 50-75 lbs at work place on 3/16/14. No prior hx of backache problem. No dysuria, no hx of kidney stone.

Review of Systems

Constitutional: Negative.
Eye: Negative.
Ear/Nose/Mouth/Throat: Negative.
Respiratory: Negative.
Cardiovascular: Negative.
Gastrointestinal: Negative.
Genitourinary: Negative, No dysuria.
Hematology/Lymphatics: Negative.
Endocrine: Negative.
Immunologic: Negative.
Musculoskeletal: Back pain: In the lower region, The pain is moderate.
Integumentary: Negative.
Neurologic: Negative.
Psychiatric: Negative.

No qualifying data available.

Health Status

Allergies:

Allergic Reactions (Selected)

No Known Medication Allergies

Medications: (Selected)

PrescriptionsPrescribed

Flexeril 5 mg oral tablet: See Instructions, Instructions: 1 tab po tid prn, # 20 tab(s), 0 Refill(s), Type: Maintenance, Pharmacy: CVS/pharmacy #3850, 1 tab po tid prn
allopurinol 100 mg oral tablet: 1 tab(s) (100 mg), po, daily, Instructions: Please start this medication once acute attack is over of knee. Please take daily to prevent future attacks., # 90 tab(s), 1 Refill(s), Type: Maintenance, Pharmacy: CVS/pharmacy #3850, 1 tab(s) po daily, In...
indomethacin 50 mg oral capsule: 1 cap(s) (50 mg), PO, TID, PRN: for gout pain, # 30 cap(s), 0 Refill(s), Type: Maintenance, Pharmacy: CVS/pharmacy #3850, 1 cap(s) po tid, PRN: for gout pain
naproxen 500 mg oral tablet: 1 tab(s) (500 mg), po, bid, # 40 tab(s), 0 Refill(s), Type: Maintenance, Pharmacy: CVS/pharmacy #3850, 1 tab(s) po bid
prednisONE 10 mg oral tablet: See Instructions, Instructions: 6 day pack, follow instructions on label, # 21 tab(s), 0 Refill(s), Type: Maintenance, Pharmacy: CVS/pharmacy #3850, 6 day pack, follow instructions on label

Problem list:

All Problems

Obesity / ICD-9-CM 278.00 / Probable

Printed by:
Printed on:

Daquiaoag, Alvin
03/28/2014 3:42 PM EDT

Page 1 of 3
(Continued)

Urgent Care Note**RIVERA, RENE - D569892****Histories****Social History:****Alcohol Assessment**

Never

Tobacco Assessment

Never

Substance Abuse Assessment

Never

Physical Examination**VS/Measurements****Vital Signs**

03/17/2014 9:42 AM EDT

Temperature Oral
Peripheral Pulse Rate
Respiratory Rate
Systolic Blood Pressure
Diastolic Blood Pressure
Mean Arterial Pressure
BP Site

98.7 DegF
83 bpm
16 br/min
122 mmHg
76 mmHg
91 mmHg
Right arm

Measurements from flowsheet : Measurements

03/17/2014 9:42 AM EDT

Height
Weight
BSA
Body Mass Index

65 in
196.8 lb
2.02 m2
32.75 kg/m2

General: Alert and oriented, No acute distress.**Eye:** Pupils are equal, round and reactive to light, Extraocular movements are intact, Normal conjunctiva.**HENT:** Normocephalic, Tympanic membranes are clear, Normal hearing.**Neck:** Supple, Non-tender.**Respiratory:** Lungs are clear to auscultation, Respirations are non-labored.**Cardiovascular:** Normal rate, Regular rhythm, No murmur, No gallop, Good pulses equal in all extremities.**Gastrointestinal:** Non-tender, Non-distended.**Genitourinary:** No costovertebral angle tenderness, No inguinal tenderness.**Lymphatics:** No lymphadenopathy neck, axilla, groin.**Musculoskeletal:** tender low lumbar area, SAR +/-, Tripod +/-, KJ 2+/2+, AJ 1+/1+.**Integumentary:** Warm, Dry.**Neurologic:** Alert, Oriented, Normal sensory, Normal motor function.**Psychiatric:** Cooperative, Appropriate mood & affect, Normal judgment.**Procedure**

L Spine X-rays : narrow space L5-S1 posteriorly

Impression and Plan

Lumbar Strain with mild DDD L5-S1

To start PT

Flexeril 10 mg tid pm # 21

Naprosyn 500 bld # 30

Light Duty

F/U in 1 wk

Signature Line

Printed by:
Printed on:

Daquiaoag, Alvin
03/28/2014 3:42 PM EDT

Page 2 of 3
(Continued)

Urgent Care Note

RIVERA, RENE - D569892

Signed and Authored by Chun Kim on 03/17/2014 11:07 AM EDT

Charted Date: March 17, 2014 10:19 AM EDT
Subject / Title: backache
Performed By: Kim MD, Chun on March 17, 2014 10:25 AM EDT
Electronically Signed By: Kim MD, Chun on March 17, 2014 11:07 AM EDT
Visit Information: 1920287, Doctors Care - Columbia East, Outpatient, 03/17/2014 - 03/19/2014

Printed by: Daquioag, Alvin
Printed on: 03/28/2014 3:42 PM EDT

Page 3 of 3
(End of Report)

RIVERA, RENE 1/1

Doctors Care Columbia East
7653 Garners Ferry Road
Columbia, SC 29209
(803) 783-2661 Office
(803) 776-8882 Fax

Radiology Overread by:
Carolina Radiology Associates, LLC

NAME: RIVERA, RENE

DOB:

PHYSICIAN: Kim, Chun MD

DATE OF EXAM: 03/17/2014

PATIENT ID: DCMD569892

EXAM: L-SPINE 3V

IMPRESSION: No acute bony abnormality.

Agree.

Steven T. Pirtima, M.D.
Electronic Signature
Mar 17 2014 9:33PM

NOTE: This report is an OVERREAD and may not be used as a report for billing purposes to third party payors. The original interpretation by the requesting physician is part of the patient's Medical Record.

3-15-14
CK

Urgent Care Note

RIVERA, RENE - D569892

FU WC

Patient: RIVERA, RENE MRN: D569892 FIN: 1932940
Age: 39 years Sex: Male DOB:
Associated Diagnoses: Lumbar strain
Author: Randolph PA-C, Janel

Visit Information

Date of Service: 03/24/2014 08:37 am Performing Location: Doctors Care - Columbia East Encounter#: 1932940
Additional Information: 3/24/2014 9:40 AM EDT WC F/U Low back pain for 1 week

History of Present Illness

Pt presents today for FU WC injury. DOIL 3/16/14. Sustained low back injury after lifting approx 60-70 lbs at work. Will start physical therapy tomorrow. Gives history of 60% improvement.

Review of Systems

All other systems reviewed and negative

Health Status

Allergies:

Allergic Reactions (Selected)

No Known Medication Allergies

Medications: (Selected)

PrescriptionsPrescribed

Flexeril 10 mg oral tablet: 1 tab(s) (10 mg), PO, TID, PRN: for spasm, # 21 tab(s), 0 Refill(s), Type: Maintenance, Pharmacy: DOCTORS CARE COLUMBIA EAST, 1 tab(s) po tid, PRN: for spasm
Flexeril 5 mg oral tablet: See instructions, instructions: 1 tab po tid prn, # 20 tab(s), 0 Refill(s), Type: Maintenance, Pharmacy: CVS/pharmacy #3850, 1 tab po tid prn
Naprosyn 500 mg oral tablet: 1 tab(s) (500 mg), PO, BID, PRN: for pain, # 30 tab(s), 0 Refill(s), Type: Maintenance, Pharmacy: DOCTORS CARE COLUMBIA EAST, 1 tab(s) po bid, PRN: for pain
allopurinol 100 mg oral tablet: 1 tab(s) (100 mg), po, daily, instructions: Please start this medication once acute attack is over of knee. Please take daily to prevent future attacks., # 90 tab(s), 1 Refill(s), Type: Maintenance, Pharmacy: CVS/pharmacy #3850, 1 tab(s) po daily, in...
indomethacin 50 mg oral capsule: 1 cap(s) (50 mg), PO, TID, PRN: for gout pain, # 30 cap(s), 0 Refill(s), Type: Maintenance, Pharmacy: CVS/pharmacy #3850, 1 cap(s) po tid, PRN: for gout pain
naproxen 500 mg oral tablet: 1 tab(s) (500 mg), po, bid, # 40 tab(s), 0 Refill(s), Type: Maintenance, Pharmacy: CVS/pharmacy #3850, 1 tab(s) po bid
prednisONE 10 mg oral tablet: See instructions, instructions: 6 day pack, follow instructions on label, # 21 tab(s), 0 Refill(s), Type: Maintenance, Pharmacy: CVS/pharmacy #3850, 6 day pack, follow instructions on label

Problem list:

All Problems (Selected)

DDD (degenerative disc disease), lumbar / SNOMED CT 44436017 / Confirmed
Low Backache / SNOMED CT 416139010 / Confirmed
Obesity / ICD-9-CM 278.00 / Probable

Histories

Social History:

Alcohol Assessment

Never

Tobacco Assessment

Never

Substance Abuse Assessment

Never

Printed by:
Printed on:

Daquiaoag, Alvin
03/28/2014 3:42 PM EDT

Page 1 of 2
(Continued)

Urgent Care Note**RIVERA, RENE - D569892****Physical Examination
VS/Measurements
Vital Signs**

3/24/2014 9:40 AM EDT

Temperature Oral
Peripheral Pulse Rate
Respiratory Rate
Systolic Blood Pressure
Diastolic Blood Pressure
Mean Arterial Pressure
BP Site

98.4 DegF
68 bpm
28 br/min HI
140 mmHg
90 mmHg
107 mmHg
Left arm

Measurements from flowsheet : Measurements
3/24/2014 9:40 AM EDT

Height
Weight
BSA
Body Mass Index

65 in
196.8 lb
2.02 m2
32.75 kg/m2

General: Alert and oriented, No acute distress.

Respiratory: Lungs are clear to auscultation, Respirations are non-labored.

Cardiovascular: Normal rate, Regular rhythm.

Musculoskeletal: Tenderness to palpation lumbar region, no bruising, Tripod pos bilat. Knee jerk 2+.

Psychiatric: Cooperative, Appropriate mood & affect.

Impression and Plan**Diagnosis**

Lumbar strain (ICD9 847.2).

Plan: Please start physical therapy tomm.

Please continue to take medication as needed

You will need to FU in 2 wks for re-evaluation.

Patient Instructions: Counseled: patient, regarding diagnosis, regarding treatment, regarding medications, regarding activity, verbalized understanding.

Orders

Orders (Selected)

Outpatient Orders

Completed

99214 office/outpatient visit est (Charge): Quantity: 1.

Signature Line

Signed and Authored by Janel Randolph on 03/24/2014 09:55 AM EDT

Charted Date: March 24, 2014 9:47 AM EDT

Subject / Title: FU WC

Performed By: Randolph PA-C, Janel on March 24, 2014 9:55 AM EDT

Electronically Signed By: Randolph PA-C, Janel on March 24, 2014 9:55 AM EDT

Visit Information: 1932940, Doctors Care - Columbia East, Outpatient, 03/24/2014 - 03/26/2014

Printed by: Daquiaoag, Alvin
Printed on: 03/28/2014 3:42 PM EDT

Page 2 of 2
(End of Report)


**Doctors
Care**

Return To Work Form

CENTER LOCATION:

- ☐ Aiken Mall - 850 Aiken Mall Drive, Aiken, SC 29803 • (803) 648-1464
☐ Augusta Road - 2836 Augusta Road, West Columbia, SC 29170 • (803) 939-0545
☐ Bellline - 511 Bellline Boulevard, Columbia, SC 29205 • (803) 782-4051
☐ Cayce - 977 Knox Abbott Drive, Cayce, SC 29033 • (803) 794-0476
☐ City of Columbia - 2012 Harden Street, Ste. 112, Columbia, SC 29204 • (803) 731-3122
☐ Columbia East - 7653 Garners Ferry Road, Columbia, SC 29209 • (803) 783-2661
☐ Forest Acres - 4500 Forest Drive, Suite A, Columbia, SC 29206 • (803) 738-9522
☐ Lexington - 247 Columbia Avenue, Lexington, SC 29072 • (803) 359-5533
☐ Newberry - 1410 Wilson Road, Newberry, SC 29108 • (803) 276-2146
☐ North Aiken - 1029 York Street NE, Aiken, SC 29801 • (803) 648-4119

- ☐ North Augusta - 1520 Knox Avenue, North Augusta, SC 29841 • (803) 279-4120
☐ Northeast - 10040 Two Notch Road, Columbia, SC 29223 • (803) 788-1153
☐ Orangeburg - 1748 St. Matthews Road, Orangeburg, SC 29118 • (803) 536-0613
☐ Red Bank - 1847 South Lake Drive, Lexington, SC 29073 • (803) 356-8988
☐ Ridgeview - 4621 Hardscrabble Road, Columbia, SC 29229 • (803) 736-8955
☐ Seven Oaks - 100 Jimmy Love Lane, Columbia, SC 29112 • (803) 772-5020
☐ Sumter - 2475 Broad Street, Sumter, SC 29150 • (803) 778-6553
☐ Wetumpka - 1060 Highway 1 South, Lugoff, SC 29078 • (803) 438-9759
☐ West Columbia - 9240 Sunset Blvd. West Columbia, SC 29169 • (803) 796-4251

PATIENT INFORMATION:

Name: Rene Rives Arrival Time: 8:7 Discharge Time: 9:57
 Date: 3/24/2014 Company Name: Party Reflections

WORK STATUS: (Check Appropriate Boxes)

- ☐ 1. May perform full duty activities as of _____ without accommodations.
☐ 2. Off duty due to work-related condition.
 Estimated return to work date with modified duty: _____
 Estimated return to work date for full duty: _____
 Return for re-evaluation at this location on _____ Time: _____
☒ 3. May work with the following accommodations as of: 3/24/14 Time: _____
☐ No lifting more than 5-10 lbs.
☐ No operation of hazardous or fast-moving machinery, no driving.
☐ Ground level work only, no ladders or heights.
☐ No repetitive bending, stooping, squatting, pushing, jerking, twisting, or bounding.
☐ No continuous standing and/or sitting.
☐ Minimal walking or climbing (including stairs)
☒ Limited use of Lumbar Spine
☐ No overhead lifting.
☐ No high repetitive hand activities for extended periods of time.
☐ No use of _____
☐ 4. Has reached Maximum Medical Improvement (MMI)
☒ 5. Return for re-evaluation at this office on 2 weeks Time: _____
 Additional Comments: _____

PATIENT DISCHARGE INSTRUCTIONS:

Diagnosis: Lumbar Strain Medications: ☐ as directed ☒ as needed
 Wound or Injury Care: ☐ keep dry and clean ☐ do not remove dressing ☐ elevate extremity ☐ warm soaks
☐ Ice every _____ ☐ apply heat every _____ ☐ wear elastic support/immobilizer/keep taped
☐ home exercise instructions given ☐ follow instructions sheet given ☐ bed rest for _____

REFERRAL: (If a referral is made for physical therapy, or to another physician, please complete this section.)

To: Please go to Physical Therapy Time: _____
 For: _____
 Address: _____

I understand the above instructions and what to do for my follow-up care. I have received a copy of these instructions for myself and for my employer.

X Rene Rives
 Employee Signature

Date

James Rives
 Provider Signature

Date

3/24/14
DAED-F014-(05-13)

Visit Summary for RENE RIVERA

We would like to thank you for allowing us to assist you with your healthcare needs. Our entire staff strives to provide an excellent experience for our patients and their families. The following includes information regarding your visit.

Age: 39 years Sex: Male DOB: MRN: D569892
Address:
Home: Work: -- Mobile: --
Primary Care Provider: D1025 -UNKNOWN, PERSONNEL
Race: Spanish/Hispanic Ethnicity: Not Hispanic or Latino
Preferred Language: Spanish
Health Plan: 1*** NO INSURANCE **

Visit Information

Doctors Care - Columbia East
7653 GARNERS FERRY RD COLUMBIA, SC, 29209
Phone: (803) 783-2661 Fax: (803) 776-8882

Visit Date: 04/07/2014 08:17 am
Scheduled Provider: Columbia East - 76514
Visit Provider: Kim MD, Chun
Referring Provider: --
Reason for Visit: WC F/U Back Pain. Still hurts a little . Work will not approve Physical Therapy.

Future Appointments

No future appointments scheduled

Problems and Health Issues

DDD (degenerative disc disease), lumbar
Low Backache
Obesity (278.00)

Allergies

No Known Medication Allergies

All Known Current Prescriptions and Reported Medications

Prescriptions

allopurinol 100 mg oral tablet (allopurinol)

Take 1 tab(s)(100 Milligram) oral daily, 1 refills authorized

Instructions: Please start this medication once acute attack is over of knee. Please take daily to prevent future attacks.

Flexeril 10 mg oral tablet (cyclobenzaprine)

Take 1 tab(s)(10 Milligram) oral 3 times a day for spasm, 0 refills authorized

Flexeril 5 mg oral tablet (cyclobenzaprine)

0 refills authorized

Instructions: 1 tab po tid prn

indomethacin 50 mg oral capsule (indomethacin)

Take 1 cap(50 Milligram) oral 3 times a day for gout pain, 0 refills authorized

Naprosyn 500 mg oral tablet (naproxen)

Take 1 tab(s)(500 Milligram) oral 2 times a day for pain, 0 refills authorized

naproxen 500 mg oral tablet (naproxen)

Take 1 tab(s)(500 Milligram) oral 2 times a day, 0 refills authorized

predniSONE 10 mg oral tablet (predniSONE)

0 refills authorized

Instructions: 6 day pack, follow instructions on label

Other Reported Medications

No reported medications documented

New Medications this Visit

New Prescriptions

No new prescriptions for this visit

Vitals and Measurements this Visit (last charted value for your 04/07/2014 visit)

Height:: 65 in

Weight:: 188.4 lb

Body Mass Index:: 31.35 kg/m2

BSA: 1.98 m2

Temperature Oral: 98.3 DegF

Systolic Blood Pressure: 130 mmHg

Diastolic Blood Pressure: 80 mmHg

Mean Arterial Pressure: 97 mmHg

Peripheral Pulse Rate: 72 bpm

Respiratory Rate: 28 br/min

Laboratory and Radiology this Visit (last charted value for your 04/07/2014 visit)

No Laboratory and Radiology documented

Orders this Visit

No visit orders documented

Diagnoses this Visit

DDD (degenerative disc disease), lumbar (722.52)

Low Backache (724.2)

Referral and Consult Requests this Visit

No Referral or Consults documented

Procedures this Visit

No Procedures documented

Smoking Status

Never

Follow up

Follow up with: Return to this practice

When: Within 1 weeks, only if needed

Where: --

Comments: --

Patient Education Materials Provided this Visit

No Patient Education documented

Additional Visit Comments:



Return To Work Form

CENTER LOCATION:

- ☐ Aiken Mall - 850 Aiken Mall Drive, Aiken, SC 29803 • (803) 648-1464
☐ Augusta Road - 2836 Augusta Road, West Columbia, SC 29170 • (803) 939-0545
☐ Beltline - 511 Beltline Boulevard, Columbia, SC 29205 • (803) 782-4051
☐ Cayce - 977 Knox Abbott Drive, Cayce, SC 29033 • (803) 794-0476
☐ City of Columbia - 2012 Harden Street, Ste. 112, Columbia, SC 29204 • (803) 231-3122
☐ Columbia East - 7653 Gamers Ferry Road, Columbia, SC 29209 • (803) 783-2661
☐ Forest Acres - 4500 Forest Drive, Suite A, Columbia, SC 29206 • (803) 738-9522
☐ Lexington - 247 Columbia Avenue, Lexington, SC 29072 • (803) 359-5533
☐ Newberry - 1410 Wilson Road, Newberry, SC 29108 • (803) 276-2186
☐ North Aiken - 1029 York Street NE, Aiken, SC 29801 • (803) 648-4119
☐ North Augusta - 1520 Knox Avenue, North Augusta, SC 29841 • (803) 279-4120
☐ Northeast - 10040 Two Notch Road, Columbia, SC 29223 • (803) 788-1153
☐ Orangeburg - 1748 St. Matthews Road, Orangeburg, SC 29118 • (803) 536-0613
☐ Red Bank - 1847 South Lake Drive, Lexington, SC 29073 • (803) 356-8998
☐ Ridgeview - 4621 Hardscrabble Road, Columbia, SC 29229 • (803) 736-8955
☐ Seven Oaks - 100 Jimmy Love Lane, Columbia, SC 29212 • (803) 772-5030
☐ Sumter - 2475 Broad Street, Sumter, SC 29150 • (803) 778-6555
☐ Wateree - 1060 Highway 1 South, Lugoff, SC 29078 • (803) 438-9759
☐ West Columbia - 3240 Sunset Blvd., West Columbia, SC 29169 • (803) 796-4251

PATIENT INFORMATION:

Name: Rene Rivera Arrival Time: 8:17 Discharge Time: 10:30
Date: 4/07/2014 Company Name: Party BeFlections

WORK STATUS: (Check Appropriate Boxes)

- ☒ 1. May perform full duty activities as of 4-14-14 without accommodations.
☐ 2. Off duty due to work-related condition.
Estimated return to work date with modified duty: _____
Estimated return to work date for full duty: _____
Return for re-evaluation at this location on _____ Time: _____
☒ 3. May work with the following accommodations as of: 4-7-14
☒ No lifting more than 15 lbs.
☐ No operation of hazardous or fast-moving machinery, no driving.
☒ Ground level work only, no ladders or heights.
☒ No repetitive bending, stooping, squatting, pushing, jerking, twisting, or bouncing. when he feels discomfort
☐ No continuous standing and/or sitting.
☐ Minimal walking or climbing (including stairs)
☐ Limited use of _____
☐ No overhead lifting.
☐ No high repetitive hand activities for extended periods of time.
☐ No use of _____

- ☐ 4. Has reached Maximum Medical Improvement (MMI)
☒ 5. Return for re-evaluation at this office on 4-14-14 if not better time: _____

Additional Comments: To do home exercise since we did not approve PT

PATIENT DISCHARGE INSTRUCTIONS:

Diagnosis: L5/S1 Lumbar strain - DDD Medications: ☒ as directed ☐ as needed
Wound or Injury Care: ☐ keep dry and clean ☐ do not remove dressing ☐ elevate extremity ☐ warm soaks
☐ ice every _____ ☐ apply heat every _____ ☐ wear elastic support/immobilizer/keep taped
☐ home exercise instructions given ☐ follow instructions sheet given ☐ bed test for _____

REFERRAL: (If a referral is made for physical therapy, or to another physician, please complete this section.)

To: _____ Date: _____ Time: _____
For: _____
Address: _____

I understand the above instructions and what to do for my follow-up care. I have received a copy of these instructions for myself and for my employer.

x Rene Rivera 4/07/2014 x [Signature]
Employee Signature Date Provider Signature Date 4-7-14

RECEIPT		DATE <u>4/7/2014</u>	No. <u>161305</u>
RECEIVED FROM <u>Rene Rivera</u>		<u>\$95.00</u>	
<u>ACCE D569892</u>		DOLLARS	
☐ FOR RENT ☐ FOR			
ACCOUNT		☒ CASH ☐ CHECK ☐ MONEY ORDER ☐ CREDIT CARD	FROM _____ TO _____ BY <u>[Signature]</u>
PAYMENT			
BAL. DUE			

=====

4339230

=====

Insured: RIVERA, RENE Primary Insurance Company:

Patient Name D569892 RIVERA, RENE
 Birthdate Gender Phone
 MALE
 Relation Employer
 E PALMETTO PARTY RENTAL

Grp: ID:
 Secondary Insurance:

=====

PROCEDURES PERFORMED:

99213	OFFICE OUTPATIENT VISIT, EST	105.00
DISCWC	WORKERS COMP 10% DISCOUNT PAID AT TIME OF SERVICE	-10.50
1.0	161305 PAYMENT - CASH COPAY/TOS	-94.50
1.0	161305 PAYMENT - CASH COPAY/TOS	-0.50

TOTAL DUE: -0.50

INSURANCE CLAIM TO BE GENERATED:
 NO

Diagnoses:
 724.2 LUMBAGO
 722.52 DEGEN LUMBAR/LUMBOSACRAL INTERVERTEBRAL DISC

Notes:

CURRENT BALANCE: 296.00 + CHARGES 105.00 - PAID -105.50 = TOTAL DUE \$295.50

Printed by: DFRE 04/07/2014 10:38am

Dr. Daniel Westerkam

f.957 4709

REHABILITATION and GERIATRIC SERVICES
COLUMBIA, SC
INDEPENDENT MEDICAL EXAMINATION

PATIENT NAME: RENE RIVERA-ROBLES
SSN:

DATE: 06/02/2014
DATE OF BIRTH:

REFERRING SOURCE: Calhoun Law Firm

HISTORY OF PRESENT ILLNESS: Mr. Rivera-Robles is a 39-year-old gentleman who apparently has had three work-related injuries. He works for a rental store and has to do a variety of setups and lifting.

He states his initial injury occurred 04/15/2013. They were setting up tents and had barrels that were very heavy. He thought one of the barrels was empty but, in fact, it was full. When he attempted to lift it, it twisted his right arm. Since that time, he has had right wrist pain.

He did see Dr. Armsey and was treated conservatively, but he continued to have pain. He had an MRI scan which showed arthritic changes in the radioscaphoid and radiolunate joints with some subchondral cyst formation. There was also an effusion noted and some chondral bodies noted. The patient indicates that he still has pain in the wrist, particularly with repetitive use or lifting and that his grip is not as strong as it once was.

He, however, continued to work and then injured his left knee on 09/14/2013. He states he was having to jump up and, when he did, he landed on the left knee causing some pain, and on the front part of the knee, which caused swelling. He states that squatting or walking long distances aggravates his symptoms. He never was fully treated for this condition.

The final injury occurred on 03/16/2014 when he was lifting a heavy canvas for a tent and pulled his back. He states that bending, lifting, standing, or sitting for too long aggravates the symptoms. He never was treated for this condition, either. He was last seen on 04/07/2014 and was told not to lift more than 40 pounds. Patient states the back pain radiates occasionally into the left leg with some numbness and tingling.

PAST MEDICAL HISTORY: The patient's past medical history is unremarkable.

MEDICATIONS: Ibuprofen or Motrin that he takes over the counter.

ALLERGIES: No known drug allergies.

SOCIAL HISTORY: Patient denies any tobacco, alcohol, or drug use.

FAMILY HISTORY: Noncontributory.

PHYSICAL EXAMINATION:

General: This is a well-developed, well-nourished, very pleasant, Hispanic male.

HEENT: Pupils are equal, round, and reactive to light. Extraocular movements are intact.

Neck: Supple with full range of motion of the cervical spine.

Chest: Clear to auscultation.

Cardiac Exam: Regular rate and rhythm.

Abdomen: Soft, nontender, nondistended, positive bowel sounds.

Extremities: Right upper extremity has full range of motion at the wrist and fingers but there is pain with wrist flexion and extension. There is mild swelling at the radial head and point tenderness. Grip strength appears to be limited primarily because of pain. Sensation is intact. Left knee exam reveals swelling on

PATIENT NAME: RENE RIVERA-ROBLES

INDEPENDENT MEDICAL
EXAMINATION

SSN: 647-09-7835

Page 2

the tibial tuberosity. There is pain with left knee extension and squatting. No ligamentous instability. Negative anterior and posterior drawer sign.

Back: Exam reveals tenderness over the left quadratus lumborum. There is pain with flexion, extension, and lateral flexion. No significant pain with rotation or cervical compression. Patient has negative straight leg raise, negative Thomas test, negative Faber's test. DTRs are 1+ and symmetric. Sensation is intact. Manual muscle testing reveals 5/5 strength throughout.

IMPRESSION: This is a 39-year-old Hispanic male who has had three work-related injuries.

The initial injury on 04/15/2013 caused an injury to the right wrist, and he has persistent pain. I do not believe he is at MMI for this condition and would recommend an orthopedic hand surgeon to evaluate him. Even though the MRI scan was negative, an arthrogram of the wrist may be necessary and certainly a steroid injection would be a treatment to consider to lessen his period of disability. The orthopedic hand surgeon could make that determination. I also think he would benefit from a wrist brace and additional physical therapy, including ultrasound and iontophoresis followed by range of motion and strengthening exercises.

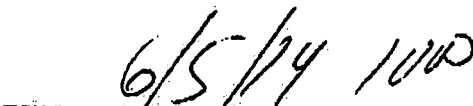
In addition, the patient appears to have an injury to the left knee that occurred on 09/14/2013. He has inflammation at the patellar tendon insertion at the tibial tuberosity. I think this condition would benefit from an anti-inflammatory such as naproxen or a prescription-strength ibuprofen. This also would be appropriately treated with iontophoresis in physical therapy, followed by stretching and strengthening of the left lower extremity. He also may benefit from a steroid injection in the left knee to lessen the period of disability.

Finally, the patient appears to have had a back injury that occurred 03/16/2014. This appears to be primarily a musculoskeletal back injury involving the quadratus lumborum. He would benefit from deep tissue massage, back stretching, and then strengthening with a dynamic lumbar stabilization and core strengthening type program in physical therapy. I think three sessions for three weeks with a home exercise program would be appropriate for this condition. He also would benefit from anti-inflammatories, muscle relaxers such as Flexeril, and a Lidoderm patch for the back to lessen the period of disability.

In terms of work restrictions, I think a maximum lift of 40 pounds, a frequent lift of no greater than 20 pounds, and no repetitive bending, stooping, squatting, or crawling. These would be temporary work restrictions until he was fully treated for his condition.

These opinions were rendered to a reasonable degree of medical certainty.


W. Daniel Westerkam, MD
Physical Medicine and Rehabilitation


Date/Time

WW/am1461
dd: 06/03/2014 02:57 PM
dt: 06/04/2014 7:30 AM
JobID: 7899491

Visit Summary

RIVERA, RENE - D569892

* Final Report *

* Final Report *

Visit Summary (Verified)

Visit Summary for RENE RIVERA

We would like to thank you for allowing us to assist you with your healthcare needs. Our entire staff strives to provide an excellent experience for our patients and their families. The following includes information regarding your visit.

Age: 39 years Sex: Male DOB: MMN-D569892
Address:
Home: Work: -- Mobile: --
Primary Care Provider: D1025 -UNKNOWN, PERSONNEL
Race: Spanish/Hispanic Ethnicity: Not Hispanic or Latino
Preferred Language: Spanish
Health Plan: 1*** NO INSURANCE **

Visit Information

Doctors Care - Columbia East
7653 GARNERS FERRY RD COLUMBIA, SC, 29209
Phone: (803) 783-2661 Fax: (803) 776-8882

Visit Date: --
Scheduled Provider: --
Visit Provider: --
Referring Provider: --
Reason for Visit: WKC- low back injury 03/16/2014

Future Appointments

Appt. Date: 03/17/2014 08:35:00 am
Scheduled Provider: Columbia East - 76514
Location: Doctors Care - Columbia East

Problems and Health Issues

DDD (degenerative disc disease), lumbar
Low Backache
Obesity (278.00)

Allergies

No Known Medication Allergies

All Known Current Prescriptions and Reported MedicationsPrescriptions

Visit Summary

RIVERA, RENE - D569892

* Final Report *

allopurinol 100 mg oral tablet (allopurinol)

Take 1 tab(s)(100 Milligram) oral daily, 1 refills authorized

Instructions: Please start this medication once acute attack is over of knee. Please take daily to prevent future attacks

Flexeril 10 mg oral tablet (cyclobenzaprine)

Take 1 tab(s)(10 Milligram) oral 3 times a day for spasm, 0 refills authorized

Flexeril 5 mg oral tablet (cyclobenzaprine)

0 refills authorized

Instructions. 1 tab po tid prn

indomethacin 50 mg oral capsule (indomethacin)

Take 1 cap(50 Milligram) oral 3 times a day for gout pain. 0 refills authorized

Naprosyn 500 mg oral tablet (naproxen)

Take 1 tab(s)(500 Milligram) oral 2 times a day for pain, 0 refills authorized

naproxen 500 mg oral tablet (naproxen)

Take 1 tab(s)(500 Milligram) oral 2 times a day, 0 refills authorized

predniSONE 10 mg oral tablet (predniSONE)

0 refills authorized

Instructions. 6 day pack, follow instructions on label

Other Reported Medications

No reported medications documented

New Medications this VisitNew Prescriptions**Flexeril 10 mg oral tablet (cyclobenzaprine)**

Take 1 tab(s)(10 Milligram) oral 3 times a day for spasm, 0 refills authorized

Naprosyn 500 mg oral tablet (naproxen)

Take 1 tab(s)(500 Milligram) oral 2 times a day for pain, 0 refills authorized

Vitals and Measurements this Visit (last charted value for your 03/17/2014 visit)

Height:: 65 in

Weight:: 196.8 lb

Body Mass Index:: 32.75 kg/m2

BSA: 2.02 m2

Temperature Oral: 98.7 DegF

Systolic Blood Pressure: 122 mmHg

Diastolic Blood Pressure: 76 mmHg

Mean Arterial Pressure: 91 mmHg

Peripheral Pulse Rate: 83 bpm

Respiratory Rate: 16 br/min

Visit Summary

RIVERA, RENE - D569892

* Final Report *

Laboratory and Radiology this Visit (last charted value for your 03/17/2014 visit)

No Laboratory and Radiology documented

Orders this Visit

No visit orders documented

Diagnoses this Visit

DDD (degenerative disc disease), lumbar (722.52)

Laboratory examination (V72.60)

Low Backache (724.2)

Referral and Consult Requests this Visit

No Referral or Consults documented

Procedures this Visit

No Procedures documented

Smoking Status

Never

Follow up

Follow up with: Chun Kim

When: Within 1 weeks

Where: Doctors Care - Columbia East; 7659 Garners Ferry Rd; P: (803) 783-2661 F: (803) 776-8882, Columbia, SC, 29209;
(803) 783-2661 Business (1)

Comments: -

Patient Education Materials Provided this Visit

No Patient Education documented

Additional Visit Comments:

Charted Date: March 17, 2014 11:07 AM EDT
Subject / Title: Visit Summary
Performed By: Kim MD, Chun on March 17, 2014 11:07 AM EDT
Electronically Signed By: Kim MD, Chun on March 17, 2014 11:07 AM EDT

Visit Summary

RIVERA, RENE - D569892

* Final Report *

Visit Information: 1920287, Doctors Care - Columbia East, Outpatient, 3/17/2014 - 3/19/2014



Return To Work Form

CENTER LOCATION:

☐ Aiken Mall - 850 Aiken Mall Drive, Aiken, SC 29803 • (803) 648-1464
☐ Augusta Road - 2836 Augusta Road, West Columbia, SC 29170 • (803) 939-0545
☐ Beldine - 511 Beldine Boulevard, Columbia, SC 29205 • (803) 782-4051
☐ Cayce - 977 Knox Abbott Drive, Cayce, SC 29033 • (803) 794-0476
☐ City of Columbia - 2012 Harden Street, Ste. 112, Columbia, SC 29204 • (803) 231-3122
☐ Columbia East - 7653 Gamers Ferry Road, Columbia, SC 29209 • (803) 783-2661
☐ Forest Acres - 4500 Forest Drive, Suite A, Columbia, SC 29206 • (803) 738-9522
☐ Lexington - 247 Columbia Avenue, Lexington, SC 29072 • (803) 359-5533
☐ Newberry - 1410 Wilson Road, Newberry, SC 29108 • (803) 276-2186
☐ North Aiken - 1029 York Street NE, Aiken, SC 29801 • (803) 648-4119

☐ North Augusta - 1520 Knox Avenue, North Augusta, SC 29841 • (803) 279-4120
☐ Northeast - 10040 Two Notch Road, Columbia, SC 29223 • (803) 788-1153
☐ Orangeburg - 1740 St. Matthews Road, Orangeburg, SC 29118 • (803) 536-0613
☐ Red Bank - 1847 South Lake Drive, Lexington, SC 29073 • (803) 356-8998
☐ Ridgeview - 4621 Hardscrabble Road, Columbia, SC 29129 • (803) 726-8955
☐ Seven Oaks - 100 Jimmy Love Lane, Columbia, SC 29212 • (803) 772-5030
☐ Sumter - 2475 Broad Street, Sumter, SC 29150 • (803) 778-6555
☐ Wateree - 1060 Highway 1 South, Lugoff, SC 29078 • (803) 438-0759
☐ West Columbia - 3240 Sunset Blvd., West Columbia, SC 29169 • (803) 796-4251

PATIENT INFORMATION:

Name: Rena Rivera Arrival Time: 8:35 Discharge Time: 11:11
 Date: 3/17/14 Company Name: Party Reflections

WORK STATUS: (Check Appropriate Boxes)

- ☐ 1. May perform full duty activities as of _____ without accommodations.
☐ 2. Off duty due to work-related condition.
 Estimated return to work date with modified duty: _____
 Estimated return to work date for full duty: _____
 Return for re-evaluation at this location on _____ Time: _____

- ☒ 3. May work with the following accommodations as of: 3-17-14
☐ No lifting more than 10 lbs.
☐ No operation of hazardous or fast-moving machinery, no driving
☒ Ground level work only, no ladders or heights.
☒ No repetitive bending, stooping, squatting, pushing, jerking, twisting, or bounding.
☐ No continuous standing and/or sitting.
☐ Minimal walking or climbing (including stairs)
☐ Limited use of _____
☐ No overhead lifting.
☐ No high repetitive hand activities for extended periods of time.
☐ No use of _____

☐ 4. Has reached Maximum Medical Improvement (MMI)

☒ 5. Return for re-evaluation at this office on 3-24-14 Time: _____
 Additional Comments: to start PT

PATIENT DISCHARGE INSTRUCTIONS:

Diagnosis: Lumbar Strain - DDD L5-S1 Medications: ☒ as-directed ☐ as needed
 Wound or Injury Care: ☐ keep dry and clean ☐ do not remove dressing ☐ elevate extremity ☐ warm soaks
☐ ice every _____ ☐ apply heat every _____ ☐ wear elastic support/immobilizer/keep taped
☐ home exercise instructions given ☐ follow instructions sheet given ☐ bed rest for _____

REFERRAL: (If a referral is made for physical therapy, or to another physician, please complete this section.)

To: _____ Date: _____ Time: _____
 For: _____
 Address: _____

I understand the above instructions and what to do for my follow-up care. I have received a copy of these instructions for myself and for my employer.

X Rena Rivera
 Employee Signature

Date

X [Signature]
 Provider Signature

Date



Claimant's Name: Renee Robles SSN: _____ Employer's Name: Party Reflections
Address: _____ Address: 3412 Monroe Road
City: _____ State: _____ Zip: _____ City: Charlotte State: NC Zip: 28205
Home Phone: _____ Work Phone: () _____ Insurance Carrier: Employers Assurance Company
Preparer's Name: Ellen M. Adams, Esquire Law Firm: Collins & Lacy, P.C. Preparer's Phone #: 803.256.2660

REQUEST FOR COMMISSION REVIEW

Request for Commission Review by ☐ Claimant ☒ Employer (check one) Date of Injury or Illness: 3/16/2014
(mm/dd/yyyy)

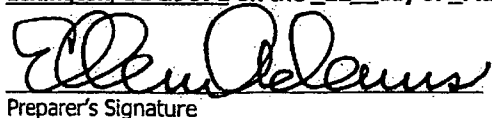
The undersigned makes application for review of the findings of the Commissioner in the above-captioned case. The request for review is based on the following grounds: (State the grounds of your appeal in the form of questions presented. Each question presented must contain a concise statement of one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

1. Did the hearing commissioner err in finding of fact 3 in finding that Claimant's average weekly wage at the time of his March 16 accident was \$1059.61 with a compensation rate of \$706.33 the error being that the Commissioner applied a compensation rate from a different workers' compensation claim with a different named employer and carrier?
2. Did the hearing commissioner err in Conclusion of Law 4 in finding the appropriate average weekly wage is \$1059.61 with a compensation rate of \$706.33 the error being that the average weekly wage was not calculated consistent with any of the provisions of S.C. Code Ann. Section 42-1-40?
3. Did the hearing commissioner err in finding of fact 15 in finding that Claimant is entitled to temporary total disability benefits from April 7, 2014 until he is placed at MMI?
4. Did the hearing commissioner err in conclusion of law 6 in concluding Claimant is entitled to receive temporary total compensation from April 7, 2014 and continuing?
5. Did the hearing commissioner err in failing to make any finding regarding the Claimant's credibility?
6. Did the hearing commissioner err in basing the average weekly wage and compensation rate on claimant's earnings from April 20, 2012 through April 12, 2013 when this is inconsistent with the requirements of S.C. Code Ann. Section 42-1-40 and Pilgrim v. Eaton, 391 S.C. 38, 703 S.E.2d 241 (Ct. App. 2010)?

(Check one) Oral argument ☒ is ☐ is not requested. Appellant's request for oral argument is waived if not indicated on this form.
☐ Mediation ☐ Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.

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

I certify I have served this document pursuant to Reg. 67-211 by delivering a copy to Mark R. Calhoun, Esquire, 714 East Main Street
Lexington, SC 29072 on the 22 day of March 2016, by X first class postage ☐ certified mail ☐ personal service.


Preparer's Signature

Attorney at Law
Title

eadams@collinsandlacy.com
Email

March 22, 2016
Date

Questions about the use of this form should be directed to the Judicial Department at 803.737.5675 or appeals@wcc.sc.gov.

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

**BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
W.C.C. FILE NO. 1403985**

RENEE ROBLES,	)	
	)	
Employee/Claimant,	)	
	)	
vs.	)	
	)	
PARTY REFLECTIONS, INC. ,	)	APPELLANT'S BRIEF
	)	
Employer,	)	
	)	
and	)	
	)	
EMPLOYERS ASSURANCE	)	
COMPANY,	)	
	)	
Carrier/Defendants.	)	

STATEMENT OF THE CASE

Claimant, Renee Robles, alleges a compensable injury by accident occurring on March 16, 2014. A hearing was held before Commissioner Mike Campbell on September 25, 2014 regarding Robles' average weekly wage and compensation rate. Commissioner Campbell issued an Order on March 8, 2016 finding Robles' average weekly wage for this claim to be \$1,059.61 with a resulting compensation rate of \$706.33. The Commissioner found Robles was entitled to temporary total disability benefits from April 7, 2014 to the present and continuing. Defendants, Party Reflections, Inc., and their carrier, Employers Assurance Company, timely appealed the Order. This appeal follows.

QUESTIONS PRESENTED

1. Did the hearing commissioner err in Finding of Fact number 3 in finding that Claimant's average weekly wage at the time of his March 16 accident was \$1,059.61 with a compensation rate of \$706.33, the error being that the Commissioner applied a

compensation rate from a different workers' compensation claim with a different named employer and carrier?

2. Did the hearing commissioner err in Conclusion of Law number 4 in finding the appropriate average weekly wage is \$1,059.61 with a compensation rate of \$706.33, the error being that the average weekly wage was not calculated consistent with any of the provisions of S.C. Code Ann. Section 42-1-40?
3. Did the hearing commissioner err in basing the average weekly wage and compensation rate on claimant's earnings from April 20, 2012 through April 12, 2013 when this is inconsistent with the requirements of S.C. Code Ann. Section 42-1-40 and Pilgrim v. Eaton, 391 S.C. 38, 703 S.E.2d 241 (Ct. App. 2010)?
4. Did the hearing commissioner err in Finding of Fact number 15 in finding that Claimant is entitled to temporary total disability benefits from April 7, 2014 until she is placed at MMI?
5. Did the hearing commissioner err in Conclusion of Law number 6 in concluding Claimant is entitled to receive temporary total compensation from April 7, 2014 and continuing?
6. Did the hearing commissioner err in failing to make any finding regarding the Claimant's credibility?

FACTS

Robles suffered a minor back injury on March 16, 2014 while employed by Party Reflections. Robles worked for Palmetto Party Rental, with workers' compensation coverage provided by Auto-Owners Insurance, until the company was purchased by Party Reflections. (Hrg. Tr. 42: 2-5). While employed by the previous employer, Palmetto Party Rental, Robles suffered two work injuries, April 15, 2013 and September 14, 2013.

When Robles was injured March 16, 2014, Party Reflections provided treatment with Doctor's Care. At an April 7, 2014 appointment, Robles was presented with a Return to Work

Form noting "Work Status: May return to full duty activity as of 4-14-14 without accommodations. May work with the following accommodations as of 4-7-14: No lifting more than 45 lbs., ground level work only, no ladders or heights, no repetitive bending, stopping, squatting, pushing, jerking, twisting, or bouncing when he feels discomfort. Return for re-evaluation at this office on 4-14-14 if not better. Additional Comments: To do home exercise since W.C. did not approve PT." (Clmt. APA p. 48). Robles signed the report noting "I understand the above instructions and what to do for my follow-up care. I have received a copy of these instructions for myself and for my employer." Id. However, Robles testified at the hearing he could not read the paper and he did not have any information about what was on that paper provided to him. (Hrg. Tr. 15: 1-2; 16: 11-14). Robles testified he was not aware he was to return to the doctor on April 14. (Hrg. Tr. 16: 25-17: 3). Robles admitted he felt comfortable proceeding with his deposition on September 2, 2014 without an interpreter. (Hrg. Tr. 20: 7-17). An interpreter was at the deposition and available should Robles not understand a question, but Robles did not ask for the interpreter to explain questions asked by the employer's counsel. (Hrg. Tr. 14-19). Robles understood Doctor's Care explaining to him that his employer was not paying for additional treatment, but did not understand his work restriction form. (Hrg. Tr. 27: 16-21).

Robles never asked his employer to return to the doctor after the April 7, 2014 visit. (Hrg. Tr. 22: 1-4).

ARGUMENT

1. THE HEARING COMMISSIONER ERRED AS A MATTER OF LAW IN FINDING AS FACT AND CONCLUDING AS LAW ROBLES' AVERAGE WEEKLY WAGE FOR THIS CLAIM IS \$1059.61 WITH A COMPENSATION RATE OF \$706.33.

“Average weekly wages’ means the earnings of the injured employee in the employment in which he was working at the time of the injury during the period of fifty-two weeks *immediately preceding the date of the injury.....*” S.C. Code Ann. Section 42-1-40 (emphasis added). The primary calculation method is calculated by taking the total wages paid for the last four quarters divided by fifty-two or by the actual number of weeks for which wages were paid, whichever is less. Id. The commission *must use this method* unless the employment extended over a period of less than fifty-two weeks. Id. (emphasis added). If, for exceptional reasons, the calculation method would be unfair, such other method of computing average weekly wages may be resorted to as will most nearly approximate the amount which the injured employee would be earning were it not for the injury. Id.

In Pilgrim v. Eaton, 391 S.C 38, 44, 703 S.E.2d 214, 244 (Ct. App. 2010), the Commission calculated the employee’s average weekly wage by multiplying the stipulated hourly rate, \$18.00, by an unstipulated forty-hour work week. The Court of Appeals agreed the Commission could not use the primary method for calculating the employee’s average weekly wage because the employee worked for the employer for less than one week. Id. at 45, 703 S.E.2d at 244. The Court noted “[b]efore the commission may use any one of these alternatives, the commission must find, or the record must clearly show, that the necessary conditions exist.” Id. The Court held the Commission failed to comply with Section 42-1-40 because it did not make any factual findings showing which of the alternative calculations provided by the Act was appropriate, and it did not use any of the calculations permitted by the Act. Id. “[T] commission did not make any findings to justify using the “exceptional reasons” alternative.” Id. at 47, 703 S.E.2d at 245.

In the instant case, the hearing commissioner calculated Robles' average weekly wage based on the fifty-two weeks prior to a *previous* work injury occurring on April 15, 2013, almost a year before this injury. The April 15, 2013 work injury occurred while Robles was working for a previous employer that was subsequently purchased by Party Reflections. The alternative methods of calculation specifically listed in the Act do not include a calculation of an employee's average weekly wage using the fifty-two weeks prior to the employee's first of many workers' compensations claims. In addition, there is no Finding of Fact or Conclusion of Law by the hearing commissioner that any exceptional circumstance exists to use Robles' wages from a work injury that occurred almost a year before the instant claim.

Based upon a preponderance of the evidence, calculating Robles' average weekly wage using the primary calculation method is fair. Robles worked the four quarters preceding the quarter of *this* injury and the fifty-two weeks prior to *this* injury. There is no evidence, or even suggestion, that the employer reduced Robles' pay or scheduled hours as a result of his prior work injuries. There is no evidence Robles missed any work as a result of the two prior work injuries. There is no evidence Robles missed work and had a loss of income as a result of attending medical appointments as a result of his two prior work injuries. On the contrary, there are no medical reports indicating Robles was written out of work for either prior work injury, and Robles' own physician indicates "[h]e, however, continued to work...." (Clmt. APA p 50).

The hearing commissioner's Order notes in a parenthetical "since the Claimant has missed time from work since that [April 15, 2013] injury date for medical treatment", which could be the commissioner's justification for using wages from two years before the accident. Unfortunately, the hearing commissioner did not indicate in the Order with a Finding of Fact that

the primary method of calculating the average weekly wage would be unfair or that exceptional reasons exist to deviate from the alternative calculation methods. Since an award cannot be based on surmise, conjecture or speculation, *see Glover v. Columbia Hospital*, 236 S.C. 410, 414, 114 S.E.2d 565, 567 (1960), no exceptional circumstance exists to allow the hearing commissioner to deviate from the primary calculation of Robles' average weekly wage.

2. THE HEARING COMMISSIONER ERRED AS A MATTER OF LAW IN FINDING AS FACT AND CONCLUDING AS LAW ROBLES IS ENTITLED TO TEMPORARY TOTAL DISABILITY BENEFITS FROM APRIL 14, 2014 TO THE PRESENT AND CONTINUING.

A preponderance of the evidence does not support the hearing commissioner's Finding of Fact or Conclusion of Law that Robles is entitled to temporary total disability benefits from April 14, 2014 to the present and continuing.

An employee is entitled to temporary benefits when he has a loss of income as a result of a work injury. S.C. Code Ann. Section 42-9-260. The employer may start temporary benefits when the employee has been out of work due to a work-related injury for eight days. *Id.*

In the instant case, Robles was accommodated by his employer until April 7, 2014, when Robles received updated work restrictions from Doctor's Care indicating restrictions until April 14, 2014. The report notes Robles can return to work without restrictions seven days later, April 14, 2014. Since Robles was not out of work due to a work-related injury for the required eight days, he is not entitled to temporary total disability benefits.

Robles alleges he was not released by Doctor's Care to return to work without restriction, in direct contradiction to the Return to Work form presented in his APA submissions, which Robles admits he gave to his supervisor.

Robles alternatively alleges he would have returned to Doctor's Care if he knew it was recommended he return if he was not feeling better. He blames his failure to return to Doctor's Care on his employer's refusal to tell him what the Return to Work form stated and for not forcing him to return to Doctor's Care on April 14, 2014. He testified he could not read Doctor's Care's Return to Work form and could not understand Doctor's Care's medical treatment plan during the appointment. However, Robles answered all questions asked in a deposition without the help of an interpreter, understood Doctor's Care's explanation of medical bills and temporary work restrictions, and signed the same Return to Work form agreeing he understood the form.

Robles then argues his physician placed him out of work on June 5, 2014, so he is entitled to TTD benefits for this claim. However, Robles' physician does not place him completely out of work, and does not indicate the light duty restrictions recommended are the result of the March 16, 2014 work injury as opposed to the April or September 2013 accidents. Further, Robles did not present the work restrictions report to his employer until September 9, 2015, fifteen months after the report, despite seeing his employer on numerous occasions while picking up his wife from work. Accordingly, Defendants were unable to attempt to accommodate Robles' work restrictions.

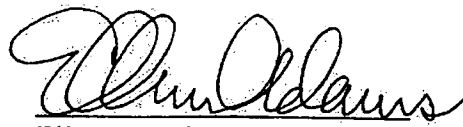
Since Robles was not written out of work for eight days, received no additional work restrictions from the authorized treating physician after the April 14, 2014 work release, and failed to provide Defendants with the restrictions recommended by his own physician to determine whether his restrictions could be accommodated, a preponderance of the evidence indicates Robles is not entitled to temporary disability benefits.

CONCLUSION

A preponderance of the evidence does not support the hearing commissioner's Order. The hearing commissioner erred in finding as fact and concluding as law Robles' average weekly wage could be calculated using the fifty-two weeks preceding a prior work injury, and the hearing commissioner did not include findings allowing him to deviate from the Act's calculation methods. Further, the hearing commissioner erred in finding Robles was entitled to temporary benefits when Robles was out of work less than the required eight days to start temporary total disability payments as a result of this work injury and failed to provide medical evidence indicating a current light duty work status that is related to this work injury.

Based on the foregoing reasons, the hearing commissioner's Order should be REVERSED and this Panel should find Robles to have an average weekly wage of \$786.03 and a compensation rate of \$524.05 with no entitlement to temporary total disability benefits.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Ellen M. Adams".

Ellen M. Adams, Esquire
Collins & Lacy, P.C.
Post Office Box 12487
Columbia, SC 29211

BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC File Number: 1403985

Rene Robles,

Employee/Claimant

Vs.

Party Reflections Inc.

Employer

and

Employers Assurance Company,

Carrier/ Defendants.

CLAIMANTS REPLY BRIEF

STATEMENT OF THE CASE

René Robles has suffered three different injuries to three different body parts on three separate dates with the same employer. The Employer changed names in 2014. On September 25, 2014 a hearing was set on all three claims (Claim #s 1403985, 1320845, 1306655) before Commissioner Mike Campbell. On the day of this hearing, Claimants Counsel and Counsel for claims 1320845 and 1306655 came to an agreement. However, opposing Counsel did not appear for the hearing to put this agreement on record. Claim 1403985 went forward on September 25, 2014. Appearing for the Employer on September 25, 2014 was Rebecca Halberg, Esquire who no longer represents the Employer. Mr. Robles had worked for the Employer for 12 years before he injured his back on March 16, 2014. The injury is not "minor". Shortly after this injury Mr. Robles was terminated from his employment on April 7, 2014. There was no objection to the wage records submitted by the Claimant.

FACTS

Rene cannot read or write in English. (Hearing Tr. 11:1-3) While working for the same Employer, René injured his right arm on April 15, 2013 and his left knee on September 14, 2013. (Hearing Tr. 41:23-24) He received medical treatment for both of these injuries and they were reported to his supervisor. (Hearing Tr. 26:1-24,37:1-20, 43-44,46:8-16) On March 16, 2014 he injured his back. The Employer began treatment for his back with Doctors Care and Rene while under restrictions had a follow-up appointment on April 7, 2014. Rene was told by his supervisor, Adam Vance, that if he told the doctors the accident happened at home they would pay his medical bills. But if Rene told Doctors Care the accident happened at work they would drug test him. René told the Doctors Care the truth and he was drug tested. (Hearing Tr. 12:11-23) When Rene went to Doctors Care for treatment, interpreters were not provided. (Hearing Tr. 13:6-8) On April 7, 2014 the Employer stopped paying for Rene's medical treatment. (Hearing Tr. 14:11-13) When he left Doctors Care he was still under work restrictions on April 7, 2014. (Hearing Tr. 14:16-22) Doctors Care provided him with a paper to give his supervisor. He provided this paper to Adam Vance the same day. Vance did not inform René that the paper said he should return to Doctors Care on April 14, 2014 "if not better". Rene was terminated from employment that same day. (Hearing Tr. 15:13-23, 16:6-25, 17:1-12) The Employer argues that Rene was properly placed at MMI and at full duty on April 14, 2014 because he did not return to Doctors Care for treatment. This is in spite of the undisputed facts that Rene could not read the April 7, 2014 note and his supervisor Adam Vance did not tell Rene that he could return to the doctor on April 14, 2014. This is also corroborated by the Employer refusing to pay for Renée's April 7, 2014 doctors visit. (Hearing Tr. 14:11-13, 39:3-7) The Employer argued at hearing this

is a "right to work state", therefore the Employer is not required to pay Rene TTD benefits from April 7, 2014 and forward because he was fired, allegedly at full duty, and should have found other work. (Hearing Tr. 7:8-21) When the Claimant was questioned about his prior medical treatment for the April 15, 2013 and September 14, 2013 injuries, it was met with multiple objections from Ms. Halberg. Ms. Halberg would not allow the Claimant to testify about his prior injuries and missed days from work even though Counsel for these other claims did not appear at the hearing. (Hearing Tr. 36 :11-19, 44:10-19, 24:6-25; 9-2-2014 Deposition 26:19-22, 27:1-2, 50:4-6). The APA submissions of Dr. Daniel Westerkam and the April 7, 2014 note from Doctors Care document the Claimant is not at MMI and remains under work restrictions. (Claimants APA 48, 50, 51) The Claimants deposition and wage records are part of the record.

ARGUMENT

1. **The evidence is undisputed that the Claimant was terminated from his job while still on work restrictions and not at maximum medical improvement.**

René was placed on work restrictions by Doctors Care after the March 16, 2014 accident. When Rene left Doctors Care on April 7, 2014 he was given a note written in english which he provided to his supervisor Adam Vance the same day. René could not read the note and Adam Vance admitted he did not tell René what the note said. The April 7, 2014 note continued René on work restrictions and instructed him to return on April 14, "if not better", or he would be placed at full duty. There was no medical interpreter on April 7, 2014. It is undisputed that René was not aware of the contents of this note. Therefore Renée did not return to Doctors Care on April 14, 2014. He was immediately fired from a job he held for 12 years on April 7, 2014. Mr. Robles restrictions were not removed by Doctors Care until April 14, 2014 and only because he

did not appear because he was not aware of the appointment. Also due to the fact that the Employer refused to pay for any more medical treatment including the April 7, 2014 visit.

Supervisor Adam Vance admitted he terminated Rene on April 7, 2014 and that he did not tell René he could return to Doctors Care on April 14, 2014. Vance admitted the Employer did not pay for the April 7, 2014 appointment. It is undisputed there was no interpreter at Doctors Care and that Rene cannot read or write in English. The Employer attempted to trick a valued and trusted twelve year employee by not informing him he could return to Doctors Care on April 14, 2014 and by refusing to pay for his medical treatment. By preventing Rene from going to the doctor on April 14, 2014, the Employer knew he would be placed at full-duty which would accommodate the Employer's refusal to pay René any TTD or wages after it fired him on April 7, 2014. Signing a form he could not read that also was not interpreted to him is of no value. Doctors Care would not have placed Renée at full duty if Renée had returned on April 14, 2014.

2.The Commissioner used the most fair method of calculating the Claimant's average weekly wage using the 52 weeks before the April 15, 2013 injury.

The Defendant argues in its appeal of the decision and order of the Single Commissioner that the Single Commissioner erred in finding that the Claimant's average weekly wage and compensation right rate was not calculated using the 52 weeks before the March 16, 2014 injury. Mr. Robles asserts that he worked more time and missed less days before the April 15, 2013 injury. The Claimant's position on this issue was put on the record at the hearing before the Single Commissioner. The hearing and deposition testimony, personnel file and wage records support the Claimant's position that he was missing days and time from work due to the medical treatment he was receiving for his right arm injury on April 15, 2013 and his left leg injury on

September 16, 2013. The Single Commissioner based his findings regarding the Claimant's proper compensation rate on personnel records submitted by the Claimant, the deposition transcripts submitted by the Employer and testimony. The Employer submitted no other evidence to contradict this, being the only concrete evidence of the Claimant's earnings that were put in the record and thus the reliable, probative, and substantial evidence in the record supports the decision of the Single Commissioner. Additionally, the Claimant argues that the average weekly wage and compensation rate is meant to reflect what the Claimant would earn going forward, but for his injuries. Due to the fact that the Claimant had three injuries with the same Employer (the Employer only changed names in 2014) whom he worked for over twelve years, the Single Commissioner found that exceptional circumstances existed in using the prior 52 weeks before the date of the first injury, April 15, 2013. (The hearing was set on all 3 injuries).

As stated, the hearing was set on all three of the Claimant's claims, including the April 15, 2013 injury. No agreement was put on the record and opposing Counsel did not appear for the April 15, 2013 injury. The Claimant argued that during the prior 52 weeks before the April 15, 2013 injury, he earned a total of \$55,099.99. Divided by 52 weeks this yields an average weekly wage of \$1059.61 and a compensation rate of \$706.33, "since the Claimant has missed time from work since that injury date for medical treatment" (Order and Hearing Tr. 4:13) At hearing, the Employer argued "it's our position you should use the four quarters from 2013 which are enclosed in the Claimant's prehearing brief as well" (Hearing Tr. 8:13-18). For the four quarters of 2013, the Claimant earned a gross salary of \$53,132.55. The wage records and testimony show the Claimant worked 51 weeks in 2013. This yields an average weekly wage of \$1041.81 and a compensation rate of \$694.47.

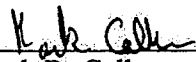
More troubling, is the Employers present argument that rather than using the 52 weeks of 2013 or before, the Employer now wants to use the skewed and incomplete figures in its defective Form 20. Presently, the Employer proposes using a Form 20 that only lists one quarter of employment which covers a total of *14 weeks*. This contradicts the Employers present argument that the prior 52 weeks before the April 16, 2014 injury date should be used to determine the Claimants average weekly wage. Likewise it contradicts the Employers request on the date of hearing to use the gross wages of 2013. The Employer now ingenuinely argues that a **twelve year** Employee should have his average weekly wage calculated based on **14 weeks** of employment which totals \$11,004.38 and gives a compensation rate of \$524.05. (for an Employee who earned well over \$50,000 per year for a long period of time)

Finally, the Employer sites Pilgrim v. Eaton, 391 S.C. 38, 703 S.E. 2nd 214 (Ct. App. 2010). The Pilgrim case is easily distinguished from the present claim, as the claimant in Pilgrim only worked for the employer for a total of 29 hours before the only date of injury. Mr. Robles has twelve years of prior employment with the Employer to calculate his prior 52 weeks of employment under §42-1-40, regardless of which date of injury we use.

Based on the foregoing, the Single Commissioner was correct in determining that the Claimant's compensation rate was \$706.33, as this finding is based on the only reliable, probative, and substantial evidence in the record. The Single Commissioner used the prior 52 weeks before the date of injury that most fairly represents the wages the Claimant has lost in the

future. The Full Commission should affirm the finding of the Single Commissioner as to this issue.

Respectfully Submitted,



Mark R. Calhoun
Attorney for Claimant
Calhoun Law Firm, P.A.
714 East Main Street
Lexington, SC 29072

June 9, 2016

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

BEFORE THE S.C. WORKERS'
COMPENSATION COMMISSION

RENEE ROBLES,)
Employee/Claimant,)
vs.)
PARTY REFLECTIONS, INC.,)
Employer,)
vs.)
EMPLOYERS ASSURANCE)
COMPANY,)
Carrier/Defendants.)

W.C.C. File No: 1403985

APPELLANT'S RESPONSE TO
RESPONDENT'S BRIEF

ENTITLEMENT TO TEMPORARY TOTAL DISABILITY BENEFITS

Claimant argues he is entitled to temporary total disability benefits because he was not told by the employer to return to Doctor's Care on 4-14-14 if he was not feeling better, and speculates that if he had returned to Doctor's Care, Doctor's Care would have continued the current light duty restrictions that entitle him to ongoing temporary total disability benefits. There is no duty on an employer to remind an injured employee of a follow up appointment because that employee allegedly does not understand the medical provider's recommendations. In fact, Claimant was seeking treatment for his third workers' compensation claim in thirteen months, and had no problem requesting medical treatment in the past, yet now argues he was unable to request additional treatment for ongoing back pain and did not seek additional treatment on his own. Further, Claimant signed the return to work form mentioning the 4-14-14 full duty work release indicating he read and understood the form. Claimant argues he could not understand the form, despite agreeing to sign the form, and did not understand the details of his

Doctor's Care appointment because English is not his first language, yet he refused an interpreter when it was provided for his deposition and answered all questions for the deposition in English. To now argue he cannot understand medical recommendations is disingenuous and discounts Claimant's credibility.

Claimant also argues his light duty restrictions continued into the future by Doctor's Care because he did not receive a return to work without restriction opinion from Doctor's Care. However, the 4-7-14 report from Doctor's Care clearly states Claimant should return to work without restriction 4-14-14. Since Claimant was not written out of work for the minimum-required eight days, he is not entitled to temporary total disability benefits. To assume Doctor's Care would continue light duty restrictions if Claimant returned to Doctor's Care after 4-7-14 is pure speculation.

Claimant argues he is entitled to temporary total disability because he was placed out of work by his own physician on June 5, 2014. However, the report does not indicate whether the work restrictions are placed based on this accident or Claimant's two prior accidents. To order temporary total disability to this employer/carrier for this accident (as opposed to the two prior accidents) would be pure speculation. Further, the light duty report was not provided to his employer until September 9, 2015, which did not allow the employer the opportunity to provide work within Claimant's restrictions to avoid temporary total disability liability.

AVERAGE WEEKLY WAGE AND COMPENSATION RATE

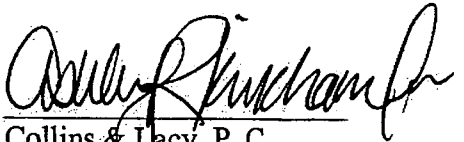
The Act does not allow a calculation of Claimant's compensation rate using the period before a previous work accident. In order for the Commission to use an alternative method for calculating Claimant's compensation rate, there must be a finding of exceptional circumstances, or it must be clear from the record, that an alternative method of calculation should be used to

most accurately reflect Claimant's average weekly wage. Here, there is no finding that exceptional circumstances exist to deviate from the prescribed calculation methods.

Claimant argues the evidence in the record, including hearing testimony, wage records, and personnel file material, is clear to confirm an alternative method of calculating his average weekly wage is necessary because Claimant made less money in the 52 weeks preceding this injury because of other work injuries. However, the only evidence from the hearing discussing Claimant's decrease in income during the 52 weeks preceding this injury was his own counsel's argument when the parties' positions were stated on the record. There is no evidence Claimant missed any work, had reduced pay, had reduced hours, or made less income because of the two previous work injuries. There is no evidence Claimant's medical appointments for the two prior injuries occurred during his working hours or that he was not able to make up missed work hours as a result of those medical appointments. In fact, Claimant was not able to point to any evidence in the record as a whole in his brief, besides his attorney's statement, that supports this argument. Thus, it is pure speculation, despite Claimant's attorney's argument on the record, to find exceptional circumstances exist to deviate from the prescribed methods of calculating Claimant's average weekly wage.

Based on the above stated grounds, Appellants respectfully request the Full Commission reverse the Single Commissioner's Order regarding Claimant's average weekly wage and entitlement to temporary total disability benefits.

June 14, 2016


Collins & Lacy, P. C.
Ellen M. Adams, Esquire
Post Office Box 12487
Columbia, SC 29211
803.256.2660 (ph)

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC FILE NO: 1403985

Rene Rivera Robles,	)	
	)	
Employee/ Claimant	)	
	)	
v.	)	
	)	
Party Reflections Inc.,	)	MOTION TO ALTER OR AMEND
	)	JUDGMENT PURSUANT TO SCRC
	)	RULE 59(E) AND S.C.CODE ANN.
Employers, and	)	§1-23-380
	)	
Employers Assurance Co.,	)	
	)	
Carrier/ Defendants.	)	
	)	

TO: SOUTH CAROLINA WORKERS COMPENSATION COMMISSION AND ELLEN
ADAMS/ASHLEY KIRKHAM, ESQUIRE:

COMES NOW Claimant and would, pursuant to Rule 50 9E and S.C. Code Ann §1-23-380, respectfully ask this Commission to alter or amend its Decision and Order issued on July 11, 2016. This motion is made pursuant to Rule 59E, S.C. Code Ann. §1-23-380, and the Supreme Court's recent decision in Rhame v. Charleston County School District, Opinion No. 27516, filed September 2, 2016. Claimant respectfully submits this Commission made errors of both fact and law based on the evidence before the Commission and contained in the Commission file. Specifically, in the subject Decision and Order, this Commission erroneously found or concluded the following:

1. That the Claimant's average weekly wage was \$786.03 and compensation rate was \$524.05 based on 14 weeks of compensation in the Employers Form 20 despite the Employer arguing the average weekly wage should be based on the prior four quarters of

2013 at the Single Commissioner hearing and that the average weekly wage should be based on the previous 52 weeks before the 3-16-14 injury in its Appellate Brief pursuant to §42-1-40.

2. That the Single Commissioner ordered TTD should be reversed despite clear evidence the Claimant was placed on restrictions and held out of work after his March 16, 2014 injury, and then terminated by the Employer on April 7, 2014 though not at Maximum Medical Improvement.

Other additional grounds may be raised in Claimants Memorandum in Support of this Motion. Claimant will file a memorandum in support of this Motion at the direction and deadline of the Commission when this matter is set for a hearing. Claimant requests a hearing on this motion to be set before the Appellate Panel as soon as is practicable

Respectfully Submitted,

Mark Calhoun

Mark R. Calhoun, Esquire
Attorney for Claimant
714 East Main Street
Lexington, SC 29072
(803) 957-8401

9-8

, 2016

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

RENE RIVERA,
Employee,
vs. WCC NO. 1306655

PALMETTO PARTY RENTAL,
Employer,

and

AUTO-OWNERS INSURANCE,
Insurer.

(CAPTION CONTINUED ON NEXT PAGE)

DEPOSITION OF: RENE RIVERA
DATE: September 2, 2014
TIME: 12:25 p.m.
LOCATION: Law Offices of
Mark R. Calhoun
714 East Main Street
Lexington, South Carolina
TAKEN BY: Counsel for the Employer/Insurer
REPORTED BY: ANGELA D. ZUVER,
Court Reporter

A. WILLIAM ROBERTS, JR., & ASSOCIATES

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BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

RENE RIVERA,

Employee,

vs.

WCC NO. 1403985

PARTY REFLECTIONS, INC.

Employer,

and

EMPLOYERS ASSURANCE COMPANY,
Insurer.

1 APPEARANCES OF COUNSEL:

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 8 AUTO-OWNERS INSURANCE:

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 wharbison@gwblawfirm.com

13 ATTORNEYS FOR PARTY REFLECTIONS, INC. and
 14 EMPLOYERS ASSURANCE COMPANY:

14 COLLINS & LACY, P.C.
 15 BY: REBECCA K. HALBERG
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 Columbia, SC 29201
 (803) 256-2660
 rhalberg@collinsandlacy.com

18 ALSO PRESENT:

19 Wilmer Aviles

25 (INDEX AT REAR OF TRANSCRIPT)

STIPULATIONS

It is stipulated by and among Counsel that this deposition is being taken in accordance with the South Carolina Rules of Civil Procedure, Rule 30; that all objections as to Notice of this deposition are hereby waived; that all objections except as to form are reserved until the time of trial; and that the deponent does not waive reading and signing of this deposition.

* * * * *

WILMER AVILES

was duly sworn to interpret from English to Spanish
and from Spanish to English as follows:

RENE RIVERA

being first duly sworn, testified as follows:

EXAMINATION

BY MR. HARBISON:

Q. Can you please state your full name for the record.

A. Rene Rivera.

Q. Mr. Rivera, my name is Will Harbison. I'm a lawyer in Columbia, South Carolina with Gallivan, White & Boyd and I'm here today representing Palmetto Party Rentals in your two workers' compensation cases. The first one is for

1 a date of accident of April 15, 2013 and the second
2 one has a date of accident listed as September 14,
3 2013.

4 Rebecca Halberg is sitting next to me.
5 She is representing a company that bought out --
6 and I'll let her explain it a little bit later on,
7 but bought out Palmetto Party Rentals, I think, in
8 December 2013 and she represents a whole different
9 insurance carrier and she's here today in
10 connection with your third workers' compensation
11 claim, okay?

12 A. Okay.

13 Q. Have you ever given a deposition
14 before?

15 A. No.

16 Q. All right. A deposition is part of
17 what we call the discovery process. That's what
18 I'm going to try to do today. I'm going to ask you
19 a series of questions to try to discover as much
20 information as I can about how you injured yourself
21 in April of 2013, but more importantly what's
22 happened to you since then with respect to your
23 right wrist, and I'm going to try to find out what,
24 if anything, happened to you on September 14, 2013
25 with respect to your left knee.

1 A. Okay.

2 Q. I'm not going to try to trick you in
3 any way. So if I ask you a question you don't
4 understand or feel uncomfortable with, just let me
5 know and I'll repeat or rephrase the question,
6 okay?

7 A. Okay.

8 Q. It's my understanding that you speak
9 pretty good English.

10 A. It's pretty good, yes.

11 Q. We have an interpreter here today to
12 interpret your testimony, but we decided that you
13 feel comfortable enough with us going forward
14 without an interpreter, okay?

15 A. Okay.

16 Q. Is that correct?

17 A. That's correct.

18 Q. All right. As we discussed off the
19 record, if at any point you don't understand our
20 questions, whether they just don't make sense to
21 you or you don't understand the English, will you
22 let us know and we will repeat or rephrase the
23 question?

24 A. Okay.

25 Q. And that includes any questions asked

1 by Ms. Halberg or your attorney.

2 A. Okay.

3 Q. You're doing a great job so far. I'm
4 going to get you to verbalize your answers by
5 saying yes or no or okay. If you say uh-huh or
6 huh-uh or just nod, we'll know what you mean today,
7 but two weeks from now when we look over this
8 transcript we won't know what that means, okay?

9 A. Okay.

10 Q. Also, if you'll let us finish our
11 questions before you begin answering it will make
12 it a lot easier for the court reporter.

13 A. Okay.

14 Q. I'm not going to try to trick you, so,
15 again, if I ask you a question you don't
16 understand, just let me know and I'll repeat or
17 rephrase the question.

18 A. Okay.

19 Q. Also, if we get to a point where you
20 don't understand my question because of the
21 translation, just let me know and we'll get the
22 translator who is here today to translate that
23 question for us.

24 A. Okay.

25 Q. Finally, you understand you've been

1 just been sworn to tell the truth?

2 A. Okay.

3 Q. And that has the same effect as if
4 we're in the courtroom.

5 A. Yes.

6 Q. What is your current address,
7 Mr. Rivera?

8 A. My current address is

9

10 Q.

11 A. Yes.

12 Q. For some reason I saw Rene Rivera
13 Robles at one point.

14 A. Well, that's my -- my full name is Rene
15 Rivera Robles. When I get the job it was Rene
16 Rivera only.

17 Q. When you -- say what?

18 A. When I applied for my job it's only put
19 down Rene Rivera. I don't know why they put on
20 there Rene Rivera, but she signs it Rene Rivera all
21 the time.

22 Q. I'm just going to call you Mr. Rivera.
23 Is that okay?

24 A. That's fine.

25 Q. How long have you lived in the

1 St. Matthews area?

2 A. 14 years.

3 Q. Where you were before St. Matthews?

4 A. I lived in Martinsville, Virginia.

5 Q. Can you say that again for me?

6 A. Martinsville, Virginia.

7 Q. Martinsville?

8 A. Yes.

9 Q. How long were you in Martinsville,
10 roughly?

11 A. Six years.

12 Q. Okay. Where are you from originally?

13 A. From Mexico.

14 Q. Where in Mexico?

15 A. Garicos, Mexico.

16 Q. Can you spell that for me?

17 A. Garicos is G-A-R-I-C-O-S.

18 Q. And are you here legally?

19 A. No.

20 Q. All right. I've got a Social Security
21 number for you of

22 A. Yes.

23 Q. That's not a valid one?

24 A. No.

25 Q. Do you have a driver's license here in

1 South Carolina?

2 A. Not now. I had it before, but I don't
3 have it now.

4 Q. When did you last have one?

5 A. Eight years.

6 Q. I have your date of birth as

7

8 A. Yes.

9 Q. Are you married?

10 A. Yes.

11 Q. And what does your wife -- where does
12 she work?

13 A. Party Reflections.

14 Q. She still works for Party Reflections?

15 A. Yes.

16 Q. What is her name?

17 A. Yolanda Emma Rivera.

18 Q. Yolanda?

19 A. Yeah. We call her Yolanda, but her
20 real name is Emma Rivera.

21 Q. Okay. Yolanda, though?

22 A. Yeah, Yolanda.

23 Q. And how many children do you all have?

24 A. We don't have children.

25 Q. How long has your wife worked for Party

1 Reflections?

2 A. She worked for Palmetto Party Rental
3 five years ago and she stayed in the work.

4 Q. Let's see. When did you come to the
5 United States?

6 A. In '96.

7 Q. How far did you go in school?

8 A. High school.

9 Q. Did you graduate from high school?

10 A. Yes.

11 Q. Was that down in Mexico?

12 A. Yes.

13 Q. Did you have any education beyond the
14 high school level?

15 A. No.

16 Q. Can you read Spanish without
17 difficulty?

18 A. Yes.

19 Q. Can you write Spanish without
20 difficulty?

21 A. Yes.

22 Q. Can you speak any other language other
23 than English?

24 A. No.

25 Q. And it sounds like obviously you can

1 understand some English?

2 A. Yes.

3 Q. Can you write English?

4 A. A little bit. Not too much.

5 Q. Have you taken any classes since
6 arriving in the United States?

7 A. No.

8 Q. How tall are you?

9 A. Five-five.

10 Q. And how much do you weigh?

11 A. Right now, 200 pounds.

12 Q. Okay. Let me ask you a little bit
13 about your work history. It sounds like you began
14 working for Palmetto Party Rental in 2001.

15 A. Yes.

16 Q. Was that your first job in South
17 Carolina?

18 A. No.

19 Q. Where did you work before --

20 A. I worked for a place called Palmetto
21 Cable. They worked for Time Warner Cable. I can't
22 remember the name.

23 Q. What did you do for them?

24 A. I did like -- buried cable.

25 Q. Buried cable?

1 A. Yeah. Like the main lines.

2 Q. How long did you do that for?

3 A. For like nine months.

4 Q. And that was here in the St. Matthews
5 area?

6 A. Yes.

7 Q. Why did you leave there?

8 A. Because I got the Palmetto Party Rental
9 job.

10 Q. Better job?

11 A. Better job.

12 Q. Prior to Palmetto Cable, where did you
13 work?

14 A. Just Palmetto Party Rental.

15 Q. Okay. But before --

16 A. In Virginia I worked in a brick
17 factory.

18 Q. A brick factory?

19 A. Yes.

20 Q. And do you remember the name of it?

21 A. I think Pinehall Brick.

22 Q. Can you spell that?

23 A. It's P-I-N-E-H-A-L-L B-R-I-C-K.

24 Q. Pinehall Brick?

25 A. Pinehall Brick.

1 Q. What did you do for Pinehall Brick?

2 A. Just a lot of stuff. Moved the bricks
3 to different places.

4 Q. Roughly how long did you work there?

5 A. Five years.

6 Q. Have you worked anywhere else since
7 arriving in the United States?

8 A. No.

9 Q. And you got here at the age of 22; is
10 that right, or right around --

11 A. Uh-huh, around.

12 Q. Did you work in Mexico at all?

13 A. Yes.

14 Q. What did you do down there?

15 A. Farming.

16 Q. Have you done any other type of work?

17 A. No.

18 Q. Are you right-handed?

19 A. Yes.

20 Q. Is that your dominant hand?

21 A. Uh-huh.

22 Q. Your strong hand?

23 A. Not strong hand no more, but...

24 Q. But that was before your first work
25 injury?

1 A. Yes.

2 Q. Have you ever filed a workers'
3 compensation claim before?

4 A. No.

5 Q. These are the only three workers'
6 compensation claims you've ever been involved in?

7 A. Yes.

8 Q. And that includes in Virginia?

9 A. Yes.

10 Q. All right. Let me take to you Palmetto
11 Party Rental. In April of 2013 what was your
12 position there?

13 A. I do deliveries.

14 Q. Excuse me?

15 A. I do deliveries.

16 Q. Okay. What kinds of deliveries?

17 A. Tables, chairs, tents.

18 Q. I think there was two different crews
19 out there.

20 A. Right now -- now it's -- they -- Party
21 Reflections has got everything together again, but
22 it's two different crews, yes.

23 Q. Back when you injured your right
24 wrist --

25 A. Yes.

1 Q. -- there were two different crews?

2 A. Yes.

3 Q. Which one did you work on?

4 A. Tents group.

5 Q. Tim's?

6 A. Tents, yes.

7 Q. That's a person?

8 A. No. It's the...

9 Q. Oh. Tents?

10 A. Tents, yes.

11 Q. That's T-E-N-T?

12 A. Yes.

13 Q. The tent crew. And you delivered tents
14 and tables and chairs?

15 A. Yes.

16 Q. Did you do anything else?

17 A. Sometimes. We do like the -- you know,
18 whatever they say you got to -- we've got to take
19 it is where we take it.

20 Q. Were you responsible for putting up
21 tents?

22 A. Yes.

23 Q. Were you a supervisor?

24 A. No.

25 Q. Had you ever been a supervisor there?

1 A. No.

2 Q. Who was your boss? Who did you report
3 to?

4 A. My boss is Aaron Ruffin.

5 Q. Aaron Ruffin?

6 A. Yes, sir.

7 Q. And he was the owner of the company?

8 A. Yes.

9 Q. And then was Adam Vance --

10 A. He's the manager.

11 Q. He's the monitor -- manager?

12 A. Yes.

13 Q. Was he also above you?

14 A. Yes.

15 Q. One of your bosses?

16 A. Yes.

17 Q. Did you report to anyone else other
18 than Mr. Ruffin and Mr. Vance?

19 A. One of the managers was Justin Wolfe.
20 He's a manager. He's in charge of the tents.

21 Q. Justin War?

22 A. Wolfe.

23 Q. Wolfe?

24 A. Wolfe, yeah.

25 Q. And how much did you make per hour?

1 A. 17.50.

2 Q. Did they take taxes out of that?

3 A. Yes.

4 Q. And how many hours a week did you work?

5 A. Barely just sometimes 45, 80. Usually
6 we don't have no -- a right time. It's just
7 different.

8 Q. Depending on the workload?

9 A. Depending on the work, yeah.

10 Q. Did you work with the same crew every
11 day or did you all switch around?

12 A. We switched around sometimes.

13 Q. Did you drive the trucks or --

14 A. No more. I drive before, but no more.

15 Q. Once you lost your license you stopped
16 driving?

17 A. Yeah, I stopped driving.

18 Q. Tell me how you injured yourself on
19 April 15, 2013.

20 A. We unloaded the barrels from the truck.

21 Q. The wheelbarrows?

22 A. Not the wheelbarrows. The water drums.
23 55-gallon water drums that was supposed to have
24 been empty and one had a little bit of water in it
25 and when I grabbed it from the truck and started to

1 take it off they twisted my hand coming to me
2 because they had a little bit of water.

3 Q. Were you just pulling the water drums
4 by yourself off the truck?

5 A. Yeah.

6 Q. You weren't using a dolly or anything?

7 A. No.

8 Q. And you were just using your right hand
9 or both hands?

10 A. My right hand.

11 Q. When did you first have pain?

12 A. The same time the barrels fall out.

13 Q. Where was it located? Can you point it
14 to me?

15 A. Right here.

16 Q. You're pointing to your right wrist?

17 A. They come the whole barrel to me, but,
18 you know, most of the pain is coming in my hand
19 because they twisted my hand.

20 Q. Who twisted your hand?

21 A. The barrels because they got a little
22 bit of water when they are coming out.

23 Q. The barrel?

24 A. Yeah, or the drum, whatever you want to
25 call it.

1 Q. Was anybody else helping you lift it?

2 A. No, they got some more people and
3 everybody was getting one.

4 Q. No. Just that particular barrel.

5 A. No. It was me.

6 Q. Do you know how much it weighed?

7 A. No.

8 Q. Did you finish work that day?

9 A. Yes.

10 Q. Okay. I want to ask you a little bit
11 about your medical treatment. I'm somewhat
12 familiar with it, but I'm going to take you through
13 it, okay?

14 A. Okay.

15 Q. It's my understanding that you first
16 went to an urgent care, Doctors Care?

17 A. Doctor Care, yes.

18 Q. How many times did you go there?

19 A. I can't remember. Three or four times.

20 Q. And then they referred you on to
21 Dr. Armsey?

22 A. Yes.

23 Q. Okay. And what did Dr. Armsey do for
24 you?

25 A. He just -- he checked my arm and sent

1 me to an MRI. After the MRI I think I went like
2 three times over there and just -- I don't know.
3 Just whatever they said to do.

4 Q. Did he ever tell you what the MRI
5 showed?

6 A. They said, but I can't remember. They
7 told me and the guy that worked for the insurance,
8 yeah.

9 Q. Do you know his name?

10 A. I can't remember.

11 Q. But do you recall personally what the
12 MRI showed?

13 A. No.

14 Q. And I have him restricting you to light
15 duty for a while.

16 A. Yes.

17 Q. What kind of light duty were you
18 restricted to?

19 A. Lifting no more than 20 pounds.

20 Q. Did they give you that light duty?

21 A. No.

22 Q. Tell me what they asked you to do after
23 the injury.

24 A. They told me just to be careful with my
25 hand, but, you know, I keep on doing like

1 everything.

2 Q. They said take it careful with your
3 hand?

4 A. Yeah, but that's it.

5 Q. Did they tell you to don't do anything
6 that caused you pain?

7 A. No.

8 Q. Anything like that?

9 A. No.

10 Q. It's my understanding you worked in the
11 warehouse for a while after the injury.

12 A. No.

13 Q. You never worked one day in the
14 warehouse?

15 A. You know, sometimes we worked one day
16 in the warehouse, but not like I got to stay in
17 there, no.

18 Q. After the injury --

19 A. No.

20 Q. -- you didn't spend any time in the
21 warehouse?

22 A. Everybody spent time in there, but not
23 like I had --

24 Q. Did you, though?

25 A. Yeah.

1 Q. After the wrist injury how many days
2 did you spend in the warehouse approximately? More
3 than 20?

4 A. No.

5 Q. More than ten?

6 A. No.

7 Q. Less than ten?

8 A. Less than ten.

9 Q. All right. And then did you ever work
10 in the shop also?

11 A. Sometimes.

12 Q. This is after your injury?

13 A. Yes.

14 Q. What did they have you doing in the
15 shop?

16 A. Just cleaning the canvas, cleaning the
17 chairs.

18 Q. Did that involve lifting more than 20
19 pounds?

20 A. Yes.

21 Q. Cleaning candles?

22 A. Not candles. Canvas for the tents.

23 Q. Oh. Canvas.

24 A. Uh-huh.

25 Q. Did you ever ask them to move you to a

1 different position because of your wrist?

2 A. We talked about it, but he -- that
3 never happened.

4 Q. Did you ask?

5 A. Yes. I say -- sometimes I say I have
6 to do someone else because my hands hurt and they
7 never --

8 Q. Who did you ask?

9 A. I asked the manager Adam Vance, and
10 Justin Wolfe is the one that -- the one that -- the
11 people that got a say in what I do.

12 Q. Justin Wolfe and Adam Vance?

13 A. Yes.

14 Q. How many times did you ask them to move
15 you to a different position?

16 A. A couple times.

17 Q. More than five or less than five?

18 A. No. Less than five.

19 Q. More than three?

20 A. Like three times.

21 Q. All right. And who was there when you
22 talked to them about that?

23 A. I can't remember.

24 Q. When you had these conversations were
25 both Justin and Adam there together?

1 A. No.

2 Q. So that was separate?

3 A. Separate.

4 Q. And what did they tell you exactly?

5 A. They said they will see what they can
6 do, but that's it.

7 Q. All right. Did you ever refuse to do
8 any job duties because of your right wrist?

9 A. Sometimes, yes.

10 Q. And they didn't fire you because of
11 that?

12 A. No.

13 Q. So when you refused they would just get
14 somebody else to do it?

15 A. Yes.

16 Q. How many times did that occur
17 approximately?

18 A. I can't remember.

19 Q. Roughly? Five times? Twenty times?

20 A. Could be more than five times, but I
21 can't remember that many times.

22 Q. More than five?

23 A. Yes.

24 Q. On each of those times either Adam
25 Vance or Justin Wolfe said you could do something

1 else?

2 A. Yes. Most of the time they said do
3 something else.

4 Q. That didn't require --

5 A. No.

6 Q. That didn't require pain --

7 A. No.

8 Q. -- or didn't require lifting more than
9 20 pounds?

10 A. No.

11 Q. Is that correct?

12 A. Yes.

13 Q. Were they pretty -- were Justin and
14 Adam pretty good to you about your injury?

15 A. Yes.

16 Q. Did they treat you pretty well?

17 A. They only just say do the light -- do
18 what you can, but that's it.

19 Q. Did you miss any time from work because
20 of your right wrist injury?

21 A. A couple -- a couple days.

22 Q. Were those just for doctor's
23 appointments or were you out completely for the
24 day?

25 A. I was out completely for the day.

1 Q. Did you miss more than seven days?

2 A. No.

3 Q. Okay. It's my understanding that
4 Dr. Armsey released you in August --

5 A. Yes.

6 Q. -- of 2013. Do you recall that?

7 A. Yes.

8 Q. Excuse me one second, Mr. Rivera.
9 Did he ever discuss surgery with you?

10 A. No, not that I know of.

11 Q. Sometimes we just see the record. We
12 don't know what they tell you. So did he ever
13 mention that you were going to have to have
14 surgery?

15 A. No. One time before the MRI, and after
16 that they said -- I don't know what -- after this
17 he only tell everything to the guy -- the
18 insurance -- the lady and the insurance.

19 Q. Is that the nurse or --

20 A. I think it's a lady.

21 Q. Did she come with you to the
22 appointments?

23 A. Yes.

24 Q. Okay. Did you ever go back to
25 Dr. Armsey after August of last year?

1 A. No.

2 Q. Did you ever request the right to go
3 back to him?

4 A. They do -- they sent me to the Moore
5 Orthopaedic.

6 Q. Yes, sir. Dr. Fulton?

7 A. Uh-huh.

8 Q. Is that right?

9 A. Yes.

10 Q. But did you ever ask the insurance
11 company or Palmetto Party Rental to let you go back
12 to Dr. Armsey?

13 A. No.

14 Q. After Dr. Armsey released you did you
15 ever ask your employer or Auto Owners to let you go
16 see another doctor?

17 A. Yes. It's when they sent me to the --
18 Dr. Fulton.

19 Q. Dr. Fulton?

20 A. Dr. Fulton.

21 Q. Did you want a second opinion?

22 A. My boss wanted a second opinion because
23 he wanted me to keep on working there, yeah.

24 Q. But did you ever ask the insurance
25 company or your employer to let you go to another

1 doctor after Dr. Armsey released you?

2 A. Just one time, yes.

3 Q. Who was that?

4 A. He just --

5 MR. CALHOUN: Object as to form.

6 BY MR. HARBISON:

7 Q. Who did you ask?

8 A. The owner.

9 Q. And that was after -- when? After

10 Dr. Armsey released you?

11 A. Yes.

12 Q. And had you already seen Dr. Fulton?

13 A. No.

14 Q. So you asked Mr. Ruffin to let you go
15 back to another doctor?

16 A. Yes.

17 Q. And that's when you went back to
18 Dr. Fulton?

19 A. Yes.

20 Q. Have you been to any other doctors for
21 your right wrist --

22 A. No.

23 Q. -- other than Doctors Care, Dr. Fulton
24 and Dr. Armsey?

25 A. Yes.

1 Q. For your right wrist?

2 A. Yes.

3 Q. Where have you been?

4 A. I can't remember the name of the
5 doctor.

6 Q. Who sent you there? Did your attorney?

7 A. My attorney.

8 Q. And where was that? Who was that?

9 A. My attorney, him, Mark Calhoun.

10 MR. HARBISON: Yeah. Mark, do you
11 know?

12 MR. CALHOUN: I can't answer for him.

13 MR. HARBISON: Okay. Well, I've
14 subpoenaed the records from you.

15 MR. CALHOUN: I know, and I responded
16 to it.

17 MR. HARBISON: Do you want to just save
18 some time or do you want to take a break and call
19 my paralegal? I mean, I'm just asking can you just
20 give me the name of the doctor he went to so I can
21 save some time.

22 MR. CALHOUN: I can't answer for him.

23 MR. HARBISON: Can we just take a
24 break.

25 (A recess transpired.)

1 BY MR. HARBISON:

2 Q. We're back on the record. I've asked
3 you to identify the doctor that your attorney has
4 sent you to. He's refusing to tell me. I'm going
5 to -- I've never had that happen in 24 years.
6 Every other lawyer I've ever dealt with in a matter
7 of fair play tells me that. So I'm going to file a
8 motion as soon as this deposition is over and I'm
9 going to move for attorney's fees and costs against
10 your attorney. I'm also going to reserve the right
11 to reopen this deposition and ask as many questions
12 as I'm allowed to ask under the rules about that
13 medical evaluation and appointment. So we're going
14 to have to come back here again.

15 A. Okay.

16 Q. So I'm not waiving the right to ask you
17 any questions about who your doctor -- who your
18 attorney has sent you to.

19 A. Okay.

20 MR. HARBISON: Mark, is that all
21 accurate? If you want to disagree with anything I
22 just said, please go ahead and say it.

23 MR. CALHOUN: No. I don't -- I
24 don't...

25 MR. HARBISON: You did receive a

1 subpoena from me.

2 MR. CALHOUN: Right, and I filed a
3 response objecting to that subpoena.

4 MR. HARBISON: And the basis for that
5 objection --

6 MR. CALHOUN: So now you're asking me
7 to provide that information --

8 MR. HARBISON: Yeah.

9 MR. CALHOUN: -- outside of the
10 subpoena and you already know I objected to it.

11 MR. HARBISON: No. I don't remember
12 getting your reply, but I've been out of the
13 office.

14 MR. CALHOUN: Okay. I mailed it
15 last -- either last Wednesday or Thursday.

16 MR. HARBISON: Okay. Is there anything
17 else --

18 MR. CALHOUN: I responded to your
19 subpoena and your motion through that reply.

20 MR. HARBISON: The motion -- I don't
21 remember having a motion.

22 MR. CALHOUN: Okay. Well, your
23 subpoena -- your subpoena for medical records
24 and --

25 MR. HARBISON: Can you give me your

1 basis for your objection just so I'll know.

2 MR. CALHOUN: I can make a copy to
3 the --

4 MR. HARBISON: We can attach it as an
5 exhibit.

6 MR. CALHOUN: I'll be glad to do that.

7 BY MR. HARBISON:

8 Q. When did you go to the doctor?

9 A. I can't remember the date.

10 Q. Was it more than a month ago?

11 A. Yes.

12 Q. All right. And was it more than two
13 months ago?

14 A. No.

15 Q. And your attorney sent you there?

16 A. Yes.

17 Q. No other doctor sent you there?

18 A. No.

19 Q. What did the doctor tell you?

20 A. He just checked my arm and my knee and
21 my back.

22 MR. CALHOUN: Here's a copy you can
23 look at.

24 MR. HARBISON: Hold on.

25 THE WITNESS: They checked my arm.

1 BY MR. HARBISON:

2 Q. Excuse me?

3 A. They were checking my arm --

4 MR. CALHOUN: Are we back on the record
5 or are we not back on the record?

6 MR. HARBISON: We are definitely on the
7 record.

8 MR. CALHOUN: Okay. Well, you told her
9 to go off the record.

10 MR. HARBISON: No. I said hold on to
11 you, I mean, so we don't get --

12 MR. CALHOUN: All right.

13 MR. HARBISON: -- everybody talking
14 over. Go ahead if you want to say something so I
15 can continue the questions.

16 MR. CALHOUN: No. Go ahead. Keep
17 going.

18 BY MR. HARBISON:

19 Q. It looks like Counsel filed a reply on
20 Thursday, August 28th, regular mail Friday -- well,
21 that was Labor Day weekend, so it presumably hasn't
22 gotten to me yet, but we'll file a response to this
23 and we'll also be filing a motion to exclude any
24 medical records that arise out of -- or we reserve
25 the right to exclude any medical records arising

1 out of that appointment that your attorney set up
2 for you, among other things, because of an ambush.

3 A. Okay.

4 MR. CALHOUN: How is that an ambush,
5 Will?

6 BY MR. HARBISON:

7 Q. Go ahead and tell me --

8 MR. CALHOUN: Because you haven't been
9 in your office to receive this motion is an ambush?

10 MR. HARBISON: No. If you don't --

11 MR. CALHOUN: It was filed in plenty of
12 time before the deposition. It was filed less than
13 ten days --

14 MR. HARBISON: Back off for a second.
15 Let me tell you why. Because if you surprise us
16 with the medical records in your prehearing brief
17 or you didn't tell us about them in the deposition
18 we'll be objecting to them coming into evidence.

19 MR. CALHOUN: You're not being
20 surprised. He's told you he's obtained an IME.

21 MR. HARBISON: Not being surprised?
22 You haven't given me the identity of the doctor.

23 Well, again, I'm just --

24 MR. CALHOUN: Okay.

25 MR. HARBISON: We'll be filing for

1 discovery fees and --

2 MR. CALHOUN: Okay. I got it.

3 MR. HARBISON: You got it?

4 MR. CALHOUN: I'm with you.

5 MR. HARBISON: Okay. Good.

6 BY MR. HARBISON:

7 Q. So who paid for this appointment?

8 A. Me.

9 MR. CALHOUN: Objection.

10 Attorney-client privilege.

11 BY MR. HARBISON:

12 Q. You paid for it?

13 MR. HARBISON: He's already answered.

14 MR. CALHOUN: I'm objecting. I'm
15 instructing my client not to answer the question
16 under attorney-client privilege.

17 BY MR. HARBISON:

18 Q. How much time did the doctor spend with
19 you?

20 A. I can't remember.

21 Q. So he treated you -- he saw you for
22 your back?

23 A. Yes.

24 Q. Your knee?

25 A. Yes.

1 Q. And your wrist?

2 A. Yes.

3 Q. Was it more than 30 minutes?

4 A. Yes.

5 Q. Okay. Where was this?

6 A. Where?

7 Q. Not who, but where. Where did you go
8 for it?

9 A. In Columbia.

10 Q. Where in Columbia?

11 A. Harden Street.

12 Q. Harden Street?

13 A. Yes.

14 Q. Are you familiar with Five Points?

15 A. Yes.

16 Q. Okay. If you're driving in Five Points
17 towards Providence Richland, where did you go?

18 A. Five Points.

19 Q. How far down Harden Street?

20 A. A couple miles.

21 Q. Did you get to the hospital?

22 A. No.

23 Q. Not that far?

24 A. Not that far.

25 Q. But it's past -- do you have the exact

1 address?

2 A. No. I can't remember.

3 Q. So you drive from Five Points out
4 towards Richland Memorial?

5 A. Uh-huh.

6 Q. Is that right?

7 A. Yes.

8 Q. Okay. And then what do you do? How do
9 you get there from there? Do you bear left to go
10 to Richland Memorial or do you bear right?

11 A. Left.

12 Q. You bear left?

13 A. Yes.

14 Q. Do you go by the hospital?

15 A. Close to.

16 Q. Is it part of the hospital complex?

17 A. I don't know if it's part or not. I
18 can't remember.

19 Q. How far is it from the hospital?
20 1,500 yards or --

21 A. I think more than that.

22 Q. Okay. Well, do you keep on going past
23 the hospital?

24 A. No.

25 Q. Was it a male or a female?

1 A. Male.

2 Q. What did he look like?

3 A. I forget.

4 Q. White or black?

5 A. It was a white guy.

6 Q. A white guy?

7 A. Yeah, it was a white guy.

8 Q. Older than me? I'm 50.

9 A. I don't know. I can't remember. I

10 don't know if he's really older, you know.

11 Q. Did he take any x-rays of you?

12 A. No.

13 Q. Did he take any MRIs of you?

14 A. No.

15 Q. We call them objective studies. Did he
16 take any objective studies of you?

17 MR. CALHOUN: Object as to form.

18 BY MR. HARBISON:

19 Q. Do you know what objective studies are,
20 like MRIs and --

21 A. No.

22 Q. Did he take any pictures, films of your
23 body parts?

24 A. No.

25 Q. And I may have asked this. I apologize

1 if I have. How long did he spend with you?

2 A. I can't remember. It was more than
3 30 minutes.

4 Q. Was it less than an hour?

5 A. I can't remember. Can be close, can be
6 more than an hour. It would be close in there.

7 Q. What did he spend most of the time
8 looking at, your wrist, knee or your back?

9 A. They spent everything the same.

10 Q. Did you have a translator there?

11 A. Yes.

12 Q. Who provided the translator?

13 A. It was me.

14 Q. No. Did someone translate for you?

15 A. Yes.

16 Q. Who was that?

17 A. It's a lady, some girl. I can't
18 remember where she -- she lives in Columbia.

19 Q. Was she part of the doctor's office?

20 A. No. I just know her and I just called
21 her and asked can you translate it.

22 Q. Do you think the doctor understood
23 everything you said?

24 A. Yes.

25 Q. And what did he recommend in terms of

1 treatment?

2 A. He said he wanted to get more -- I
3 needed more treatment for my injuries.

4 Q. Did he say what injuries?

5 A. Yeah, I needed more treatment.

6 Q. For which injuries?

7 A. For every one. The treatment.

8 Q. Did he say what treatment you needed?

9 A. They just said the wrist and the knee
10 and the back.

11 Q. And this is what the doctor said?

12 A. Yes.

13 Q. All right. Did he prescribe any
14 medication for you?

15 A. No.

16 Q. So when you had your alleged knee
17 injury, who were you -- who were you -- were you
18 still working full time?

19 A. Yes.

20 Q. Regular job position?

21 A. Yes.

22 Q. Okay. Were you physically able to do
23 your job?

24 A. Not right now.

25 Q. When you had your second injury.

1 A. Yes. Now, I just -- not the
2 heavy-duty, though, because I got my hand
3 already -- you know, I just do pretty much
4 everything.

5 Q. Okay. When I say your second injury
6 I'm talking about your left knee injury.

7 A. Uh-huh.

8 Q. Sir?

9 A. Yes.

10 Q. And that was in September of 2013?

11 A. Yes.

12 Q. So leading up until -- well, when you
13 had your injury in September of 2013 were you
14 working full duty with your wrist?

15 A. I was working over there, but not full
16 duty.

17 Q. You were taking it easy?

18 A. Yeah.

19 Q. Sir?

20 A. Yes.

21 Q. Did they have any complaints about your
22 job performance?

23 A. No.

24 Q. Did they ever tell you you weren't
25 doing a good job?

1 A. No.

2 Q. Did they ever tell you that your wrist
3 was causing you to not do a good job?

4 A. Sometimes.

5 Q. Okay. Who said that?

6 A. The manager.

7 Q. Who is that?

8 A. Adam Vance.

9 Q. What did he say?

10 A. He said he's got to send somebody else
11 because my hands can't -- I can't do it with my
12 hands.

13 Q. So he would let someone else go in your
14 place?

15 A. Yes.

16 Q. But you'd still earn money there?

17 A. I was still working there.

18 Q. He didn't fire you?

19 A. No.

20 Q. And you still were paid for whatever he
21 asked you to do?

22 A. Yes.

23 Q. Tell me how you injured yourself on
24 September 14, 2013.

25 A. We do tents and I've got to tie it down

1 with the bars -- one of the bars, and I get -- I
2 needed to tie the rope on the top of the tent and I
3 jumped on the tent -- on the barrel to get it -- to
4 get it to the tent to tie the rope and I fall --
5 fall on top of the barrel with my knee.

6 Q. Where were you working at the time?

7 A. I think in the State House.

8 Q. And you stepped on top of a barrel?

9 A. Yes. And I fell.

10 Q. Were you supposed to step on a barrel
11 like that?

12 A. To tie the rope, yes, because we don't
13 have a ladder this time.

14 Q. You all forgot to bring it?

15 A. Somebody got the one that we had.

16 Q. Who saw you fall?

17 A. One of my brothers, Justin Wolfe and --
18 many people. I can't remember everyone.

19 Q. Who was there that day that actually --
20 did someone actually see you fall?

21 A. My brother and other guys over there.
22 I can't remember who it was.

23 Q. Okay. So what's your brother's name?

24 A. Ruben Carrillo.

25 Q. And he is -- Ruben -- I'm sorry. One

1 more time.

2 A. Ruben Carrillo.

3 Q. Can you spell that for me, that last
4 name?

5 A. The first name is R-U-B-E-N, Ruben.
6 Carrillo is C-A-R-R-I-L-L-O.

7 MR. HARBISON: I'm going to ask for a
8 quick translation. Is that C-A-R-R-E-L-L-O?

9 THE INTERPRETER: I believe it's
10 C-A-R-R-I-L-L-O.

11 BY MR. HARBISON:

12 Q. So it's C-A-R-R-I-L-L-O; is that right?

13 A. Yes.

14 Q. I'm sorry. My Spanish is limited,
15 okay, and that's to put it generously.

16 Who else saw you fall?

17 A. Just a couple blacks guys. I can't
18 remember their names.

19 Q. Did they work for Party Rental?

20 A. At that time, yeah, but I don't think
21 they work there no more.

22 Q. And can you describe them for me?

23 A. Just black guys.

24 Q. Old guys? Young guys?

25 A. Some is young, some older. Some is

1 young, young guys, and some is older.

2 Q. Okay. How many? Two?

3 A. More than two. I can't remember how
4 many, but it's more than two.

5 Q. Can you give me any other names of any
6 other witnesses that we could go to that could
7 verify that you fell? That they saw you fall?

8 A. I can't remember the guy's name.

9 Q. How did you land?

10 A. I just tried to jump to get on top of
11 the drum and when I get on, my foot, it slides and
12 I fall with my knee on the barrel.

13 Q. I'm sorry. You were on the ground?

14 A. On the ground. I jumped onto the
15 barrel to try to get to the top of the tent to tie
16 the rope.

17 Q. To the bar?

18 A. Yeah.

19 Q. Okay. So you grabbed the bar and tried
20 to pull yourself up?

21 A. Yeah. I jumped onto the barrel.

22 Q. And you were going to stand on the
23 drum?

24 A. Yeah. I needed -- I wanted to stand on
25 the drum, but I fall and -- I fall with my knee on

1 the drum.

2 Q. And your knee struck the drum?

3 A. Yes.

4 Q. And that's your left knee?

5 A. Yes.

6 Q. Let me back up real quickly before we
7 leave the old accident, okay?

8 A. Uh-huh.

9 Q. In the accident of April 15, 2013 you
10 injured your right wrist?

11 A. Yes.

12 Q. Did you injure any other body part in
13 that work accident?

14 A. No.

15 Q. So now we're talking about the left
16 knee injury?

17 A. Uh-huh.

18 Q. What did your left knee strike or hit?

19 A. Right here on the barrel.

20 Q. And you're pointing to your kneecap?

21 A. Yeah, here.

22 Q. And it hit the top of the barrel?

23 A. Yeah, on the top of the barrel.

24 Q. Did you fall to the ground?

25 A. No. I just hold it -- I got the rope.

1 I hold it and I just fall on the knee on the barrel
2 and come down because I got the pain in there.

3 Q. Could you get back up on the barrel?

4 A. No.

5 Q. Did you call out in pain?

6 A. I told everyone that worked over there
7 I got -- I got a pain in my knee, I hurt my knee,
8 but...

9 Q. Were you wearing shorts or long pants?

10 A. Long pants.

11 Q. Were you bleeding?

12 A. No.

13 Q. Were you scraped on the knee?

14 A. A little bit.

15 Q. Did you show anyone your injury?

16 A. They don't have a mark, but, you know,
17 they got the little bump in there.

18 Q. Did you show anyone?

19 A. Yeah.

20 Q. Who did you show that night?

21 A. My brother and Justin and -- Justin
22 Wolfe and the other guys too, the black guys. I
23 can't remember their names. Too many coming over
24 there.

25 Q. Was Justin Wolfe out there?

1 A. Yes.

2 Q. Okay. And you showed him before you
3 left the State House?

4 A. Yes.

5 Q. And you told him how you injured
6 yourself?

7 A. Uh-huh.

8 Q. Is that right?

9 A. Yes.

10 Q. Did you complete work that evening?

11 A. Did I what?

12 Q. Did you finish work that evening?

13 A. I finished the day, yeah.

14 Q. And did this definitely happen on
15 September 14th?

16 A. Yes.

17 Q. And how many more hours did you work
18 that afternoon?

19 A. I can't remember. It can be three or
20 four more than that.

21 Q. What time of day did this happen?

22 A. I can't remember.

23 Q. Morning, afternoon or evening?

24 A. Afternoon.

25 Q. Okay. When did you first go to the

1 doctor after the injury? I'll see if I can help
2 you out here. I've got you first going to the
3 doctor --

4 A. I think it's the next day.

5 Q. And who sent you there?

6 A. I go myself. I said to Justin I've got
7 to go to the doctor, but I go myself.

8 Q. Did Justin tell you he would pay for
9 it?

10 A. No.

11 Q. Did anyone from Party Rental tell you
12 they would pay for that visit?

13 A. No.

14 Q. What did the doctor do for you?

15 A. Just checking my knee. Take x-rays and
16 just checked my knee.

17 Q. Did he give you any work excuses?

18 A. No.

19 Q. Did he release you -- did he restrict
20 you to light duty?

21 A. Yes.

22 Q. He did?

23 A. Yes.

24 Q. What was the light duty?

25 A. I can't remember.

1 Q. Do you have the piece of paper?

2 A. Not with me.

3 Q. Did he say how long that was going to
4 last?

5 A. No.

6 Q. Excuse me?

7 A. No.

8 Q. Did you ever go back to another doctor
9 for your left knee --

10 A. No.

11 Q. -- other than the doctor that your
12 attorney sent you to?

13 A. Uh-huh, yes.

14 Q. After that you only had one visit at
15 urgent care?

16 A. Urgent care, yes.

17 Q. I say urgent care. I'm sorry. Doctors
18 Care?

19 A. Doctors Care, yes.

20 Q. And the Doctors Care that you went to,
21 that's on Garners Ferry Road?

22 A. Yes.

23 Q. And you went to the same one for both
24 your wrist and your left knee?

25 A. Yes.

1 Q. Did you injure anything in the fall of
2 September 2013 other than your left knee?

3 A. No.

4 Q. Did you injure any other body part?

5 A. No.

6 Q. Did you ever ask anyone at Party Rental
7 to send you back to a doctor for your left knee?

8 A. No.

9 Q. Did anyone from Party Rental or the
10 insurance company tell you that you could not go
11 back to see a doctor for your left knee?

12 A. No.

13 Q. Did you ever ask anyone with the
14 insurance company to send you to another doctor for
15 your left knee?

16 A. No.

17 Q. How did your left knee do after the
18 injury?

19 A. They still got the -- I still got the
20 pain. If I walk too much I got the pain.

21 Q. Were you still -- did you miss any time
22 from work for your left knee?

23 A. No.

24 Q. Did you wear any bandages on it?

25 A. No. Just a couple times only.

1 Q. More than three times?

2 A. Yes.

3 Q. Five times?

4 A. About five times.

5 Q. Where did you get the bandage? Was it
6 a brace?

7 A. It's like a brace from the pharmacy.

8 Q. But not more than five times?

9 A. No.

10 Q. Did your left knee injury prevent you
11 from doing your job?

12 A. Yes.

13 Q. It did?

14 A. Yes.

15 Q. How so?

16 A. It can be like a -- you know, I can't
17 do like the heavy-duty no more and I've got to say
18 to the manager I can't do the job because of the
19 knee.

20 Q. We'll get to what your problems are
21 now, but this is before your back injury.

22 A. I didn't have no problems.

23 Q. You had your knee injury on
24 September 14, 2013?

25 A. Yes.

1 Q. And then you alleged that you had a
2 back injury in March of 2014?

3 A. Uh-huh.

4 Q. Sir?

5 A. Yes.

6 Q. So from the point at which you injured
7 your left knee allegedly to the point at which you
8 allegedly injured your back were you still able to
9 perform your job duties?

10 A. I do my job, but not the heavy-duty.
11 You know, I just do whatever I can with my -- with
12 my hand and my knee.

13 Q. And was Palmetto Party Rental -- were
14 they okay with that?

15 A. Sometimes, yes.

16 Q. Did they ever make you do anything that
17 you felt like you couldn't do?

18 A. They don't -- they send me to do it.
19 Sometimes I've got the help, if they have help, but
20 if they don't help me, I have to do the job.

21 Q. All right. Did they ever -- did you
22 ever say to them, I can't do this, and they said
23 you've got to do it anyway?

24 A. A couple times.

25 Q. Who was that?

1 A. The managers. Can be Adam Vance or
2 Justin Wolfe.

3 Q. Can you give me a specific job in which
4 you --

5 A. I can't remember now, but, you know,
6 sometimes we've got to do big tents and I'll say, I
7 can't go over there because my knee or my arm hurt.
8 They say, we've got to do it, so it's what I've got
9 to go and do.

10 Q. Do you remember where those were?

11 A. I can't remember.

12 Q. Would your wife know?

13 A. No. She don't speak English.

14 Q. Okay. How about your brother?

15 A. I don't think he remember too.

16 Q. Does he still work there?

17 A. Yes.

18 Q. What other family members do you --

19 A. I've got an older brother and my
20 brother-in-law.

21 Q. Do they all still work there?

22 A. Yes.

23 Q. Okay. What are their names?

24 A. Juan Rivera.

25 Q. Juan Rivera?

1 A. Yes. And Abel Aguilar.

2 Q. Can you spell that for me?

3 A. It's A-B-E-L A-G-U-I-L-A-R.

4 Q. Abel Aguilar?

5 A. Abel Aguilar.

6 Q. And he still works there?

7 A. Yes.

8 Q. And both those are your brothers?

9 A. Abel Aguilar is my brother-in-law --

10 Q. Brother-in-law?

11 A. -- and Juan Rivera is my brother.

12 Q. And who is Mr. Carrillo? He's your
13 cousin?

14 A. Who?

15 Q. Ruben.

16 A. Carrillo is my brother too.

17 Q. And they all still work there?

18 A. Yes.

19 Q. Okay. And just to make sure, you
20 didn't miss any time from work for your left knee
21 up until you stopped working because of your back;
22 is that correct?

23 A. Yes.

24 Q. You worked continuously?

25 A. Yes.

1 Q. Did they ever put you on any medication
2 for your --

3 A. They gave me some medicine just for the
4 pain, like ibuprofen. I can't remember the other
5 pills' names.

6 Q. Okay. You said that Dr. Armsey gave
7 you a brace for your wrist?

8 A. Yes.

9 Q. How long did you wear that?

10 A. I can't remember. A few weeks.

11 Q. And then you stopped wearing it?

12 A. Yes.

13 Q. Are you wearing a brace on your wrist
14 today?

15 A. No.

16 Q. When was the last time you wore one?

17 A. A few months ago.

18 Q. Are you wearing any sort of brace or
19 bandage on your left knee today?

20 A. No.

21 Q. Did you regularly wear one on your left
22 knee?

23 A. Sometimes when I got to -- when I was
24 working over there and like I have to work more.

25 Q. But you're not working there anymore?

1 A. No more. They stopped me working
2 there.

3 Q. Yeah, but now -- do you regularly now
4 wear a brace on your left knee?

5 A. Not too much.

6 Q. Have you worn one in the past two
7 months?

8 A. A couple times only.

9 Q. Just two times?

10 A. Yeah...

11 Q. When was the last time?

12 A. Can be like a couple months ago. I
13 can't remember the date. You know, it just depends
14 on how it feels in my knee and how I use my brace.
15 If I'm not going to do -- right now I don't do
16 anything. I just don't wear it. I'm saying home
17 most of the time.

18 Q. Do you use a cane or a crutch to help
19 you walk?

20 A. No.

21 Q. Are you wearing any special shoes for
22 your leg or knee?

23 A. No.

24 Q. Are you on any medication right now?

25 A. No.

1 Q. Tell me about all the problems you're
2 now having with your right wrist.

3 A. My right wrist, I can't -- you know, I
4 can't pick up -- if I pick up more than 20 pounds,
5 my arm -- I've got pain in there. I still get the
6 pain in there. I can't push it too much, you know.

7 Q. Well, after your right wrist injury you
8 went back to lifting more than 20 pounds?

9 A. Yes.

10 Q. So you think now you can't lift --

11 A. You know, I lift, but there's going to
12 be a pain in there, in the wrist, you know. I
13 don't want to do --

14 Q. What other problems are you having with
15 your right wrist? You said you can't lift over
16 20 pounds without pain.

17 A. I can't -- if I got to do something
18 with a hammer, I can't do it with the hammer
19 because every time I hit something I get the pain
20 in the arm. If I try to push something then it
21 hurts my wrist too when I bend my hand all the way
22 back.

23 Q. What other problems are you having with
24 your right wrist?

25 A. I can't pull anything else with my

1 right hand.

2 Q. You can?

3 A. I can't.

4 Q. What do you mean you can't pull?

5 A. Like if I have to pull something. If I
6 pull something my arm gets pain.

7 Q. Okay. Can you think of any other
8 problems you're having with your right wrist?

9 A. No.

10 Q. You said in the September injury you
11 only injured your left knee?

12 A. Yes.

13 Q. No other body part?

14 A. No.

15 Q. What problems are you having with your
16 left knee now, if any?

17 A. I can't run or walk too fast or get the
18 steps faster. I've just got to take time. I can't
19 bend over like I do before. I've got to be careful
20 with my knee.

21 Q. Can you kneel down to tie your shoes?

22 A. Sometimes, yes. I have to find a way
23 to do it. I can't do work on that knee. If I've
24 got to do it on my knee -- I can't work like that.

25 Q. Were you having problems -- these same

1 problems with your knee injury -- right after it?

2 A. I had problems after?

3 Q. Yes, sir.

4 A. With my knee, yes.

5 Q. Why didn't you ask for more medical
6 care if you were having these problems?

7 A. Because I -- one day I tell them, you
8 know, I got to -- I got to -- my knee hurts. And
9 they said, okay. You know, I don't have -- I don't
10 want them to get mad at me and I lose my job.

11 Q. Did they ever threaten you about losing
12 your job?

13 A. No. I heard somebody does.

14 Q. But did any of your supervisors
15 threaten you --

16 A. No.

17 Q. -- that you may lose your job?

18 A. No.

19 Q. And they knew that you were going to
20 get medical treatment for your right wrist?

21 A. Yes.

22 Q. Did they ever get mad at you about
23 that?

24 A. No.

25 Q. I'm going to let Ms. Halberg ask you

1 some questions about your alleged back injury, but
2 was that when you last worked at Party Reflections?

3 A. Uh-huh.

4 Q. Sir?

5 A. Yes.

6 Q. I want to ask you, you know, what --
7 was that your last day of work, is when you had
8 that injury or alleged injury?

9 A. When I hurt my back on March 16th I go
10 to the doctor a couple times. After the doctor say
11 I can come to work -- back to work, the managers
12 come to me and say I can't work no more because
13 they got to have some clearance from Party
14 Reflections. He said they're going to call me back
15 to come to work and they don't call me back no
16 more.

17 Q. Okay. Since your back injury have you
18 worked anyplace?

19 A. No.

20 Q. Have you earned any money doing
21 anything?

22 A. No.

23 Q. Have you been paid any money?

24 A. What do you mean, paid?

25 Q. Well, what do you think it means?

1 A. You know, I paid the bills. I paid --

2 Q. No. Has anyone paid you for doing
3 anything?

4 A. Oh. No.

5 Q. I see you've got a landscaping
6 business.

7 A. I tried to do a landscaping business.

8 Q. Have you done that?

9 A. No. No.

10 Q. You haven't done any landscaping work
11 since when?

12 A. I can't remember the last time I go
13 over there. When -- when my secretary do like -- I
14 do the -- before I hired her.

15 Q. Well, let's talk about since your --
16 since you last worked at Party Reflections.

17 A. I don't do anything.

18 Q. Have you not done any --

19 A. No.

20 Q. Let me finish my question. You haven't
21 done any yard work of any kind?

22 A. No.

23 Q. For any money?

24 A. No.

25 Q. You understand you're under oath?

1 A. Yeah. I know.

2 Q. How have you been supporting yourself?

3 A. I saved my money before. And I'm
4 almost over the money, but, you know, I saved money
5 and that's how I support.

6 Q. Have you tried to go back to work
7 anyplace?

8 A. Not yet. I just want to hear something
9 from -- clearance from Party Reflections to come
10 back to work over there. I don't know.

11 Q. Well, assuming you can't go back to
12 work there, have you tried to go back?

13 A. No.

14 Q. Why not?

15 A. Because I have to wait. I got to wait.
16 That guy said -- he said he will call me back.

17 Q. Since you haven't heard back from him
18 why haven't you tried to go back to work someplace
19 else?

20 A. Because, you know, I thought it was
21 going to be -- they were going to call me back,
22 and, you know, I don't want to go over there and
23 start from at like \$8, 7.50 an hour when I make
24 17.50.

25 Q. When did you talk about ever going back

1 to work at Party Reflections? When was the last
2 time you spoke to anyone over there about that?

3 A. Never.

4 Q. So you don't know what your job status
5 is there?

6 A. Huh-uh.

7 Q. Sir?

8 A. No.

9 Q. You don't know whether they want you
10 back or not?

11 A. No.

12 Q. Have you been offered any jobs anywhere
13 else?

14 A. No.

15 Q. When you last worked at Party
16 Reflections did you talk to them about not being on
17 light duty and they said they didn't have something
18 for you?

19 A. At Party Reflections?

20 Q. Yes.

21 A. They told me -- you know, Adam Vance
22 told me, you know, I got to go because I can't work
23 before he hears some clearance. I don't know what
24 that means. I told him, what does clearance mean?
25 He said he's got to hear some clearance from Party

1 Reflections.

2 Q. For your back?

3 A. For my back.

4 Q. But that didn't having anything to do
5 with your wrist?

6 A. No.

7 Q. Or your left knee?

8 A. No.

9 Q. Is that correct?

10 A. Yes.

11 Q. All right. What have you been doing
12 every day? What do your daily activities consist
13 of?

14 A. Just staying at home.

15 Q. Do you drive?

16 A. Yes.

17 Q. What do you drive?

18 A. My car.

19 Q. What kind of car do you have?

20 A. Dodge Stratus. A Dodge Stratus.

21 Q. Can you spell that for me?

22 A. Dodge is D-O --

23 Q. Yeah, I've got Dodge.

24 A. Stratus is S-T-R-A-T-U-S.

25 Q. Dodge Stratus.

1 A. Uh-huh.

2 Q. Is that a truck or a car, though?

3 A. Car.

4 Q. Is that automatic or gear shift?

5 A. Automatic.

6 Q. Are you able to drive --

7 A. Yes.

8 Q. -- physically?

9 A. Yes.

10 Q. And you say you don't have any kids?

11 A. No.

12 Q. So you just sit home and watch
13 television every day?

14 A. Television every day, yes.

15 Q. Do you all rent or own your house?

16 A. I own my house.

17 Q. Is it a house or a --

18 A. Mobile home.

19 Q. Is it like a park?

20 A. In it's in like a subdivision,
21 Plantation.

22 Q. Have you filed for unemployment
23 benefits --

24 A. No.

25 Q. -- since your work injuries?

1 A. No.

2 Q. Have you applied for vocational
3 retraining?

4 A. No.

5 Q. Have you enrolled in any classes to
6 improve your English?

7 A. No.

8 Q. Have you done anything to try to become
9 a valid citizen here?

10 A. No.

11 Q. Have you applied for citizenship?

12 A. No.

13 Q. Before April 15, 2013 had you ever
14 injured your right wrist?

15 A. No.

16 Q. How about your right hand?

17 A. No.

18 Q. Before April 15th --

19 MR. CALHOUN: Object as to form.

20 THE WITNESS: April 15th, my right
21 hand, no.

22 BY MR. HARBISON:

23 Q. What about your right wrist before
24 April 15th?

25 A. No.

1 Q. Before April 15th had you ever received
2 medical treatment or care for your right wrist?

3 A. No.

4 Q. How about your right hand?

5 A. No.

6 Q. So April 15th was the first time you'd
7 ever had any problems with your right wrist?

8 A. Yes.

9 Q. Your left knee -- before September 14,
10 2013 had you ever injured your left knee?

11 A. No.

12 Q. Have you ever received medical
13 treatment for your left knee before September 14th?

14 A. No.

15 Q. Who was your family doctor at the time
16 of your first injury?

17 A. I don't have no family doctor. I just
18 go to Doctors Care.

19 Q. Where would you normally go?

20 A. Over there on Garners Ferry Road.

21 Q. The same place you went for this
22 injury?

23 A. Yes, uh-huh.

24 Q. So if you got a bad cold or a flu or
25 something like that --

1 A. I'd go over there.

2 Q. That was before the injury?

3 A. Yes.

4 Q. Did you have health insurance with
5 Party Reflections?

6 A. Yes, from Party Reflections and
7 Palmetto Party Rental.

8 Q. You had group health insurance?

9 A. Yes.

10 Q. Do you still have that?

11 A. I don't know.

12 Q. I thought I saw at one point you were a
13 supervisor with Palmetto Party Rental a few years
14 ago. Do you remember that?

15 A. What?

16 Q. You were some sort of supervisor there.

17 A. No. I've never been supervisor.

18 Q. Did you ever get to tell people what to
19 do?

20 A. No. I just teach the guys -- the new
21 guys over there, you know, we got to do this and
22 this, but I'm not a supervisor.

23 Q. Did you ever have the -- in any of your
24 jobs here have you ever had the ability to hire
25 anyone?

1 A. No.

2 Q. Fire anyone?

3 A. No.

4 Q. But you train them, right?

5 A. Yes. I can say -- you know, if the
6 people, they don't know what to do, I just tell
7 them what they need to do.

8 Q. Do you think you can go back to your
9 job at Party Reflections now from a physical
10 standpoint?

11 A. Maybe not. I can try, but I don't --
12 you know, like for heavy-duty, no, because my back
13 hurts and my arm and my knee hurts.

14 Q. So do you think you can go back to what
15 you were doing before?

16 A. No.

17 Q. So you don't think you can go back to
18 work there?

19 A. You know, I don't know. See, I got to
20 go back. It depends on what they say. If they
21 have something for me like light duty I can do,
22 but...

23 Q. What do you think you could do?

24 A. They have stuff over there I can do
25 like help clean canvas or...

1 A. No.

2 Q. Fire anyone?

3 A. No.

4 Q. But you train them, right?

5 A. Yes. I can say -- you know, if the
6 people, they don't know what to do, I just tell
7 them what they need to do.

8 Q. Do you think you can go back to your
9 job at Party Reflections now from a physical
10 standpoint?

11 A. Maybe not. I can try, but I don't --
12 you know, like for heavy-duty, no, because my back
13 hurts and my arm and my knee hurts.

14 Q. So do you think you can go back to what
15 you were doing before?

16 A. No.

17 Q. So you don't think you can go back to
18 work there?

19 A. You know, I don't know. See, I got to
20 go back. It depends on what they say. If they
21 have something for me like light duty I can do,
22 but...

23 Q. What do you think you could do?

24 A. They have stuff over there I can do
25 like help clean canvas or...

1 Q. You believe you could clean candles?

2 A. Not by myself. I've got to --

3 Q. Is that canvas?

4 A. Canvas, yes.

5 Q. Excuse me.

6 A. Not candles. Canvas. Canvas from the
7 tents.

8 Q. Yes, sir. So you think you could clean
9 canvas?

10 A. If I got somebody to help me fold it,
11 yes.

12 Q. What else do you think you could do?

13 A. I can't remember what else they got
14 over there to do, but there's a lot of stuff that I
15 can do.

16 Q. That you can do?

17 A. Yeah, that I can do.

18 Q. Do you have a computer at home?

19 A. Yes.

20 Q. Do you know how to use the Internet?

21 A. Yes. Like normal like Google and
22 that's it.

23 Q. You do know how to do that?

24 A. Yes.

25 Q. Can you send an e-mail?

1 A. I never did it, but I can try.

2 Q. Excuse me. I think I'm close to being
3 through here. I'm just going through my notes.

4 After your knee injury did you ever
5 have a conversation with Mr. Vance about filing a
6 workers' compensation claim for it?

7 A. No.

8 Q. You all never discussed that in his
9 office?

10 A. No.

11 Q. Did you know one had been filed for you
12 by your attorney?

13 A. Did I know?

14 Q. Did you know?

15 A. No.

16 Q. So the first time you found out that
17 there was a workers' comp claim filed was when your
18 attorney did it?

19 A. Yeah, when he told me about the --
20 about the --

21 Q. I don't want to know what he told you.

22 A. Okay.

23 Q. But that was the first time?

24 A. Yes.

25 Q. Before that did you ever ask anyone at

1 Palmetto Party Rental to set up a workers' comp
2 claim for you?

3 A. No.

4 Q. And you knew that your wrist injury was
5 being handled through workers' comp?

6 A. Yes.

7 Q. Since you stopped working there have
8 you mowed lawns for anyone?

9 A. No.

10 Q. Not even one time?

11 A. Loaned money, no.

12 Q. No. Mowed lawns.

13 A. No.

14 Q. Done any yard work for anyone for
15 money?

16 A. No.

17 Q. Have you understood all my questions,
18 Mr. Rivera?

19 A. Yes.

20 MR. CALHOUN: Object as to form.

21 BY MR. HARBISON:

22 Q. Do you have any questions about any of
23 questions I asked you?

24 A. No.

25 Q. Have you been able to understand

1 everything I've asked?

2 MR. CALHOUN: Object as to form.

3 BY MR. HARBISON:

4 Q. From a translation standpoint.

5 A. Yes.

6 MR. HARBISON: Can you clarify your
7 object as to form just so we can clean it up if we
8 have to?

9 BY MR. HARBISON:

10 Q. Was there any question you want me to
11 go back that you feel like you need a translation
12 for?

13 A. No.

14 EXAMINATION

15 BY MS. HALBERG:

16 Q. Mr. Rivera, my name is Rebecca Halberg.
17 I'm an attorney with Collins & Lacy in Columbia.
18 I'm here today on behalf of Party Reflections and
19 Employers Assurance Company regarding a workers'
20 compensation claim you have filed for your back
21 with a date of accident of March 16, 2004.

22 I'll have some questions in follow-up
23 to Mr. Harbison. If you do not understand a
24 question that I have asked you, please let me know,
25 okay?

1 A. Okay.

2 Q. If you don't understand it, I will be
3 glad to restate it or we can have the translator
4 repeat it, okay?

5 A. Okay.

6 Q. Let me go back through with some
7 follow-up questions first. You indicated earlier
8 that you no longer have a South Carolina driver's
9 license; is that correct?

10 A. Yes.

11 Q. Why do you not have a driver's license
12 anymore?

13 A. Because I don't have any green card.

14 Q. So did your driver's license expire?

15 A. Yes.

16 Q. Are you planning to get your green
17 card?

18 A. We try.

19 Q. Were you not successful?

20 A. No.

21 Q. Are you going to try again?

22 A. To get my green card?

23 Q. Yes, sir.

24 A. Yes.

25 Q. When?

1 A. I don't know. I just -- I don't have
2 no -- I just got to get somebody -- the lawyer can
3 help -- the attorney can help me. I don't just
4 go -- I don't go looking for the lawyers now.

5 Q. But you drove to the deposition today?

6 A. The what?

7 Q. Did you drive here today?

8 A. Yes.

9 Q. So do you drive without a driver's
10 license?

11 A. Yes.

12 Q. How often?

13 A. I have to because I don't have somebody
14 to bring me over here.

15 Q. Like daily --

16 A. Yes.

17 Q. -- do you drive?

18 A. Yes.

19 Q. What color is your car?

20 A. Gray.

21 Q. Does your wife drive a car?

22 A. No.

23 Q. Does she have a South Carolina driver's
24 license?

25 A. No.

1 Q. Does anyone else live with you at your
2 address?

3 A. One of my sisters live with me, but
4 they don't have -- they don't have a driver's
5 license.

6 Q. She lives in your home with you --

7 A. Yes.

8 Q. -- you and your wife?

9 A. Yes.

10 Q. Does she help pay the mortgage?

11 A. Sometimes, yes.

12 Q. Does anyone else live at that address
13 with you?

14 A. No.

15 Q. Are you financially responsible for
16 your sister?

17 A. Yes.

18 Q. In what way? In what way do you
19 support her?

20 A. She's coming -- she comes just for a
21 vacation and she stays a couple months and goes
22 back to Mexico.

23 Q. Is she with you now?

24 A. Yes.

25 Q. What is her name?

1 A. Sahiri Noemi Rivera Robles.

2 Q. How do spell her first name?

3 A. S-A-H-I-R-I N-O-E-M-I, and Rivera is
4 R-I-V-E-R-A. Robles is R-O-B-L-E-S.

5 Q. Does anyone else live at your address?

6 A. No.

7 Q. Do you have any pets?

8 A. Yes.

9 Q. What types of pets do you have?

10 A. I've got chickens, horses.

11 Q. Do they live on your property?

12 A. Just the chickens. The horses my
13 brother takes care of right now.

14 Q. How many chickens do you have?

15 A. Almost 200.

16 Q. Do you take care of them?

17 A. My brother comes and helps me do them.

18 Q. Are you able to take care of them at
19 all?

20 A. If I have to, yes.

21 Q. How often do you have to take care of
22 them?

23 A. I just got to put the water with the
24 water hose and feed them corn and that's it.

25 Q. So you give them water and feed them

1 corn?

2 A. Yes.

3 Q. How often do you water -- give water to
4 the chickens?

5 A. Once every day.

6 Q. How often do you feed them corn?

7 A. Once every day too.

8 Q. Do you do that work?

9 A. No. My brother does it right now.

10 Q. Are you physically able to do it?

11 A. If I need to, yes.

12 Q. How often in one week do you do that
13 work?

14 A. I don't do it like but maybe once in
15 one week, and that's if my brother is out of town.

16 Q. Are you raising the chickens for food?

17 A. Just for show.

18 Q. For show?

19 A. Yes.

20 Q. What type of chicken shows?

21 A. Like game chickens.

22 Q. What kind?

23 A. Game chickens.

24 Q. Like they fight?

25 A. Like fighting chickens, yes.

1 Q. How often do you go to chicken fights?

2 A. I don't go to the chicken fights. I
3 just sell to somebody else.

4 Q. Do you make money from selling the
5 chickens?

6 A. Sometimes.

7 Q. How much money?

8 A. Like \$20 a chicken, \$40. It depends.

9 Q. Are they all -- so are they all
10 roosters? All boy chickens?

11 A. I sell both females and males.

12 Q. How many chickens do you sell in a
13 given week?

14 A. Sometimes I just sell like two or three
15 in a month and sometimes I don't sell anything.

16 Q. When is the last time you sold a
17 chicken?

18 A. Maybe like a month ago.

19 Q. How much money did you make?

20 A. \$300.

21 Q. Do you keep records of when you sell
22 your chickens?

23 A. No.

24 Q. Do you have a bank account that you
25 keep your money in when you make it from selling

1 chickens?

2 A. No.

3 Q. Is it all cash?

4 A. Yes.

5 Q. Do you pay taxes on that money?

6 A. No.

7 Q. How much would you say you make a month
8 from selling chickens?

9 A. That's not just one month. I just sold
10 300 in six months. That's it.

11 Q. Who do you sell them too?

12 A. Some white guys, some Mexican guys come
13 over there and look at them.

14 Q. How do they find out about you?

15 A. Just friends.

16 Q. How many horses do you own?

17 A. Two.

18 Q. Do you ride the horses?

19 A. No.

20 Q. Did you ride them before your accident?

21 A. Yes.

22 Q. When was the last time you rode your
23 horses?

24 A. Can be like maybe eight months ago or
25 more than that.

1 Q. Which brother takes care of your
2 horses?

3 A. Ruben Carrillo.

4 Q. Are the horses on his property?

5 A. Yes.

6 Q. Where does he live?

7 A. Hunters Trace in Columbia -- in
8 St. Matthews, South Carolina.

9 Q. How often do you go over there?

10 A. How --

11 Q. How often do you go to his house?

12 A. It can be walking over or can be
13 driving. We live in the same subdivision. Like
14 once a day, once a week or something like that.
15 Sometimes he comes to my house and, you know, we
16 have like a -- brothers -- just, you know, I
17 don't -- we don't have a time like I have to go
18 over there every day or he comes to my house every
19 day.

20 Q. Do you care for your horses? Do you
21 take care of them?

22 A. Not me. He does.

23 Q. Do you brush them --

24 A. No.

25 Q. -- do anything like that?

1 A. No.

2 Q. Do you feed them?

3 A. No. He's got them.

4 Q. Do you have any other pets?

5 A. A dog.

6 Q. What type of dog?

7 A. Great Pyrenees.

8 Q. So is it a little dog?

9 A. No. A big one.

10 Q. Do you take care of your dog?

11 A. My wife.

12 Q. Do you walk your dog?

13 A. No.

14 Q. Do you have a fenced-in yard?

15 A. I have to tie the dog in the back yard.

16 Q. You tie it to like a leash type thing?

17 A. Like a cable.

18 Q. A chain?

19 A. Yes, a chain.

20 Q. Do you have pens that you keep the

21 chickens in?

22 A. Yes.

23 Q. Are those in your back yard as well?

24 A. Yes.

25 Q. How big is your piece of property?

1 A. Like one acre.

2 Q. Who does the yard work on your acre?

3 A. My brother-in-law and my brother.

4 Q. Which brother?

5 A. Juan Rivera and my brother-in-law,
6 Jesus, my wife's brother.

7 Q. Do you have any other pets?

8 A. Rabbits that my wife takes care of.

9 Q. Rabbits?

10 A. Yes.

11 Q. Your wife takes care of the rabbits?

12 A. Yes.

13 Q. How many rabbits do you have?

14 A. Four.

15 Q. Do you have any other animals that you
16 sell for money?

17 A. No.

18 Q. Do you all sell the eggs from the
19 chickens?

20 A. No. I just give them away.

21 Q. What is your wife's position at Party
22 Reflections?

23 A. She cleans the dishes and -- the
24 dishes. She cleans the dishes.

25 Q. Does she drive?

1 A. No.

2 Q. You only have one car?

3 A. Two cars.

4 Q. Two cars. What's your other car?

5 A. It's an F-150 -- Ford F-150.

6 Q. What color?

7 A. Green.

8 Q. Who drives that?

9 A. Nobody now. Well, me sometimes.

10 Q. Does that stay at your house?

11 A. Yes.

12 Q. Does your wife have any other jobs?

13 A. No.

14 Q. Do you have any sources of income right
15 now?

16 A. No.

17 Q. Does your wife have any other sources
18 of income?

19 A. No.

20 Q. When you worked for Palmetto Cable what
21 type of physical labor was involved? What types of
22 activities did you do?

23 A. Just like digging -- dig holes in the
24 ground and rake it and that's it.

25 Q. Did you use machinery to do that?

1 A. Yes.

2 Q. What type of machines?

3 A. I can't remember how they call it.

4 Like little tractors, yeah.

5 Q. Did you ever have a commercial driver's
6 license?

7 A. No.

8 Q. Did you ever have any injuries when you
9 worked for Palmetto Cable?

10 A. No.

11 Q. Were you paid by the hour?

12 A. Salary.

13 Q. Salary. What was your salary?

14 A. I think it was like \$400, I believe.

15 Q. \$400 a week?

16 A. Yeah.

17 Q. When you worked for Pinehall Brick did
18 you have any injuries on the job?

19 A. No.

20 Q. What type of physical activities were
21 involved with that position?

22 A. I had to sweep in the cars, move the
23 cable and that's it.

24 Q. Have you ever worked as a farmer in the
25 United States?

1 A. I helped my boss, Aaron Ruffin,
2 sometimes, but that's it.

3 Q. Aaron Ruffin that works at Palmetto
4 Party Reflections? The same one?

5 A. Yes.

6 Q. Does he have a farm that you worked for
7 him?

8 A. I just helped him do his yard and clean
9 the trucks and all kinds of stuff.

10 Q. You helped him with his yard?

11 A. Yes.

12 Q. Did he pay you to do that?

13 A. Yes, he would pay.

14 Q. When was that?

15 A. That's before I got hurt before last
16 year.

17 Q. Before your first accident?

18 A. Yes.

19 Q. Did he pay you?

20 A. Yeah, they paid me. Like if I worked
21 with like Palmetto Party Rental I'd just put how
22 many hours I worked on the farm and the same thing
23 at Palmetto Party Rental.

24 Q. So you would get paid to do that
25 through --

1 A. Yes.

2 Q. -- Palmetto Party Rental?

3 A. Palmetto Party Rental.

4 Q. So you didn't get a separate check?

5 A. No.

6 Q. Have you done that type of work for
7 anyone other than Aaron Ruffin?

8 A. No.

9 Q. When you were working for Palmetto
10 Party Rental, if you worked more than 40 hours a
11 week were you paid time and a half?

12 A. Yes.

13 Q. Have you seen Dr. Armsey since August
14 of 2013?

15 A. No.

16 Q. Did you ever complain to Dr. Armsey of
17 any back pain?

18 A. No.

19 Q. Earlier there was some discussion about
20 the doctor your attorney sent you to. The building
21 that that appointment was in, was it multiple
22 stories?

23 A. I think two floors only. I can't
24 remember. One or two floors.

25 Q. Have you been back to see that doctor

1 again?

2 A. No.

3 Q. Do you have any follow-up appointments
4 scheduled?

5 A. No.

6 Q. Have you met with someone called a
7 vocational expert?

8 A. No.

9 Q. Do you have any vocational appointments
10 scheduled?

11 A. No.

12 Q. Have you had a functional capacity
13 evaluation?

14 A. What does that mean?

15 Q. Like a four-hour -- about a four-hour
16 appointment with a physical therapist --

17 A. No.

18 Q. -- where they do measurements and check
19 how you can move.

20 A. No.

21 Q. You haven't had anything like that?

22 A. No.

23 Q. Do you have one scheduled of which
24 you're aware?

25 A. No.

1 Q. When you met with the doctor that your
2 attorney sent you to, did he take any measurements
3 or do any testing, physical tests?

4 A. Yes.

5 Q. What did he do?

6 A. Just made me like -- check if I can
7 bend over or can pick up something, and I say, you
8 know, that's it.

9 Q. Did you have EMG or nerve conduction
10 studies?

11 A. What does that mean?

12 Q. Did you have like electrodes hooked up
13 to either your legs or your arms --

14 A. No.

15 Q. -- or have some pulses sent there?

16 A. No.

17 Q. Did you do anything like that?

18 A. No.

19 Q. Have you ever had one of those done
20 before?

21 A. No.

22 Q. Earlier we were talking about your last
23 day of work with Palmetto -- or with Party
24 Reflections and you talked about a manager that you
25 spoke to. Who was that manager?

1 A. Aaron Ruffin -- Aaron Vance -- Adam
2 Vance.

3 Q. Aaron (sic) Vance?

4 A. Yes.

5 Q. He said you needed clearance?

6 A. Yes.

7 Q. Did you ever call him back to find out
8 if you had clearance?

9 A. I'd go over there and pick up my wife
10 sometimes and ask and he'd come to me and say, no,
11 he didn't hear anything about it.

12 Q. He said he hadn't heard anything about
13 it?

14 A. Yes.

15 Q. It's my understanding Doctors Care
16 released you to full duty work on April 14th of
17 2014. Did you tell Aaron that you'd been released
18 to full-duty work?

19 A. I just gave him the paperwork the
20 doctor gave to me and he told me, okay, you can
21 start work, but, you know, I worked like maybe
22 three hours helping my wife clean the dishes and he
23 came to me and said I can't work no more until
24 after he hears some clearance from Party
25 Reflections.

1 Q. Do you want to return to work for Party
2 Reflections?

3 A. If I can.

4 Q. Did you enjoy your employment there?

5 A. Yes.

6 Q. Have you ever been in the military?

7 A. No.

8 Q. Do you work out?

9 A. No.

10 Q. Did you ever work out, go to the gym or
11 anything?

12 A. No.

13 Q. Have you been arrested within the last
14 ten years?

15 A. No. In my whole life I never got
16 arrested.

17 Q. Good. Congratulations.

18 All right. Can you tell me what
19 happened on March 16th of 2014, please.

20 A. Yes. He sent me and my brothers and
21 couple more guys to the State House to pick up the
22 big tents that were there, the 30 by 115. And we
23 were working -- everybody was working and somebody
24 wanted -- one of the new guys put the canvas in the
25 wrong spot, and it's raining, and I went to try to

1 pick it up to take to it the right spot. When I
2 bent over to pick it up I hurt my back -- it gets
3 the pain in there. I told everyone I thought it
4 was the muscle and I told everyone there I can't
5 work no more. And I don't leave because we have
6 only one truck and one driver and everybody's got
7 to finish the job in there. When we finished the
8 job I go home and, you know, the pain started to be
9 worse and worse. Next thing in the morning I come
10 to the manager, Aaron Ruffin -- Adam Vance, and I
11 told him I need to go to the doctor because I told
12 him I was pulling my muscle, but when I go to the
13 doctor they say something different. It's not what
14 I thought.

15 Q. They said what?

16 A. It's not what I thought about it. They
17 said one of my disks is coming apart or something
18 like that.

19 Q. Who said that?

20 A. The doctor.

21 Q. Which doctor?

22 A. I can't remember the name out there at
23 Doctors Care.

24 Q. Did you injure anything other than your
25 lower back that day?

1 A. No. That's it.

2 Q. Do you think you're having any other
3 problems as a result of that accident from a
4 physical standpoint?

5 A. No.

6 Q. Just your lower back?

7 A. Just lower back.

8 Q. Your attorney has listed your buttocks.
9 Are you having any problems with your buttocks as a
10 result of that?

11 A. No. What does that mean?

12 Q. Like your bottom or your butt.

13 A. No.

14 Q. How about your legs?

15 A. I get a little bit -- like when I sit
16 down for a long time I get a cramp in the legs.

17 Q. Both legs or just one?

18 A. Just one.

19 Q. Which leg?

20 A. Left leg.

21 Q. What type of problems do you have with
22 your left leg?

23 A. I just -- like -- how can I explain?

24 Q. Like numbness?

25 A. Numbness, yes, and...

1 Q. Tingling?

2 A. Tingling.

3 Q. Is it your whole leg or just parts of
4 your leg?

5 A. It's the whole leg when I got a long
6 time sitting down, like more than an hour.

7 Q. Like all the way around?

8 A. Yes.

9 Q. Your complete leg?

10 A. The left leg.

11 Q. Any problems with your right leg?

12 A. No.

13 Q. Have you ever had problems like that
14 with your left leg --

15 A. No.

16 Q. -- prior to March 16 of 2014?

17 A. No.

18 Q. Had you ever injured your back before,
19 March 16, 2014?

20 A. No.

21 Q. Had you ever had back pain prior to
22 March 16, 2014?

23 A. No.

24 Q. Had you ever complained to a doctor
25 about back pain --

1 A. No.

2 Q. -- prior to March 16, 2014?

3 A. No.

4 Q. Are you having any other physical
5 problems that you believe are related to the
6 March 16, 2014 accident?

7 A. No.

8 Q. Have you treated anywhere other than at
9 Doctors Care for your back?

10 A. No.

11 Q. Did you have physical therapy?

12 A. Just one time.

13 Q. Was that helpful?

14 A. A little bit.

15 Q. Did you do any home exercises?

16 A. Sometimes. It was what the doctor told
17 me I needed to do.

18 Q. Do you still do the home exercises now?

19 A. Not no more.

20 Q. When did you quit doing them?

21 A. A couple months ago.

22 Q. Why?

23 A. Because I'd just do it for like three
24 or four months and I said I got to go to some --
25 maybe I don't do it the right way or something like

1 that.

2 Q. According to the medical records I have
3 received from Doctors Care, the last time you went
4 to Doctors Care was on April 7th of 2014; is that
5 correct?

6 A. Yes.

7 Q. Have you been to any other Doctors Care
8 since then?

9 A. No.

10 Q. Other than the doctor that your
11 attorney sent you to, have you seen any other
12 doctor since April 7, 2014?

13 A. No.

14 Q. What type of treatment did you have for
15 your lower back?

16 A. Lay down on the floor and lift my leg
17 up and try to get it -- you know, bend over.
18 That's it.

19 Q. Did you have any x-rays or MRIs?

20 A. I had an x-ray for my lower back, yes.

21 Q. Did you have any injections?

22 A. No. Not in my back, no.

23 Q. Where have you had injections?

24 A. In my right wrist.

25 Q. Did any of the doctors at Doctors Care

1 prescribe you any medication for your lower back or
2 left leg?

3 A. Just the pills pain and that's it.

4 Q. When is the last time you took pain
5 medication?

6 A. A couple months ago.

7 Q. Were you doing an activity that made
8 the pain came back?

9 A. No.

10 Q. Where do you have your prescriptions
11 filled?

12 A. I think CVS.

13 Q. Which CVS?

14 A. Garners Ferry Road.

15 Q. Do you have any -- are you currently
16 prescribed any medications?

17 A. No.

18 Q. Do you take anything over-the-counter,
19 like ibuprofen?

20 A. Sometimes.

21 Q. How often?

22 A. It can be when I got a little bit of
23 pain in there. It can be like once a week or
24 something like that.

25 Q. Is that for your back, your wrist, your

1 knee?

2 A. My back.

3 Q. Just your back?

4 A. Yes.

5 Q. Do you ever take any pain medication
6 for your right wrist or your left knee?

7 A. Sometimes. It's not like every week.
8 Just sometimes.

9 Q. How often would you say is sometimes?
10 Once a week? Once a month?

11 A. Once a month. It just depends on how
12 the pain is in my hand.

13 Q. Do you wear a brace for your back?

14 A. No.

15 Q. Have you ever worn a brace for your
16 back?

17 A. No.

18 Q. Prior to March 16, 2014, did any
19 doctors tell you that you had degenerative disk
20 disease in your back?

21 A. No.

22 Q. Between the injury to your left knee
23 and the injury to your back did you ever go back to
24 work full duty?

25 A. No.

1 Q. Were you paid by the hour when
2 Party Reflections took over Palmetto Party

3 A. If I get paid by the hour?

4 Q. Yes.

5 A. Yes.

6 Q. Did it remain at the same rate
7 an hour?

8 A. No. I think I got 16.50 with Pa
9 Party Rental and they gave me one more dolla
10 cents. I can't remember.

11 Q. So you got paid less money?

12 A. A little bit less.

13 Q. Did your hours change at all?

14 A. No. It was the same.

15 Q. Were there any witnesses to your lower
16 back accident?

17 A. I have -- my brother and two of the
18 black guys over there too.

19 Q. Your brother, is that Ruben?

20 A. Yes.

21 Q. Was Abel there as well?

22 A. Yes.

23 Q. Who is Kenny Counts?

24 A. That's a black guy.

25 Q. Was that one of the black guys that saw

1 your knee injury as well?

2 A. No. It was a different one.

3 Q. Who did you report your lower back
4 injury to?

5 A. I just told Adam Vance. The next day
6 when I got to go to work I told him I had to go to
7 the doctor because I hurt my back.

8 Q. Was Adam Vance there at the State House
9 when the accident occurred?

10 A. No. That was Sunday. No.

11 Q. Did you have a cell phone that you used
12 that was provided by Party Reflections?

13 A. No more.

14 Q. Did you have one when you worked there?

15 A. I had one when I worked for Palmetto
16 Party Rental. Palmetto Party Rental, they gave us
17 a phone.

18 Q. They gave you a cell phone?

19 A. Yeah.

20 Q. Did you have a cell phone once Party
21 Reflections bought Palmetto Party --

22 A. No.

23 Q. Do you want additional treatment for
24 your back?

25 A. Yes. I need to.

1 Q. Did you have physical therapy for your
2 left knee or your right wrist?

3 A. No.

4 Q. From a physical standpoint, what types
5 of things are you not able to do now that you could
6 do before you injured your lower back?

7 A. I can't like bend over and pick up
8 something like did I before. I can't do -- bend
9 over no more. I just got to like sit down and pick
10 it up. And I can't move too much no more. I can't
11 work too much, and, you know, I just -- just do
12 whatever I can do.

13 Q. It's my understanding that Doctors Care
14 released you to full duty work on April 14, 2014.
15 Since that date have any other doctors told you or
16 given you any work restrictions for your back?

17 A. No.

18 Q. Have you applied for any jobs since
19 your last day of work at Party Reflections?

20 A. No.

21 Q. Why not?

22 A. Because I just want to wait -- I want
23 to see if I go back to my work and that's it.

24 Q. Did you ever call Aaron to follow up to
25 see if he had clearance to bring you back to work?

1 A. I go up a couple times maybe last month
2 and he told me over there when I picked up my
3 wife -- he said he don't hear anything yet. I just
4 told my boss, Aaron Ruffin, too, his boss too, and
5 he said he don't hear anything.

6 Q. Who was that you ran into?

7 A. Aaron Ruffin and --

8 Q. So Aaron Ruffin and Aaron Vance are
9 different people?

10 A. Yes.

11 Q. What are your sources of income at this
12 time?

13 A. Income?

14 Q. Uh-huh.

15 A. None.

16 Q. How much money does your wife make a
17 week?

18 A. Oh. I can't remember. It's like 9.50
19 an hour. I can't remember.

20 Q. Do you drive her to and from work?

21 A. One of my friends drive her.

22 Q. Do you pick her up sometimes?

23 A. Sometimes.

24 Q. Do you have any hobbies?

25 A. No, not no more.

1 Q. What were your hobbies?

2 A. Just played soccer some days, but no
3 more.

4 Q. When was the last time you played
5 soccer?

6 A. A little bit over a year.

7 Q. When?

8 A. Over a year when I hurt my knee.

9 Q. Over a year?

10 A. Yeah.

11 Q. Did you play in a league?

12 A. No, just friends.

13 Q. Any other hobbies?

14 A. No. That's it.

15 Q. Has your weight fluctuated or changed
16 at all since the accident?

17 A. My weight?

18 Q. Uh-huh.

19 A. A little bit.

20 Q. In which way? Up? Down?

21 A. Up.

22 Q. How much weight would you say that
23 you've gained since the March 16, 2014 accident?

24 A. Like 24 pounds.

25 Q. Since March of 2014?

1 A. Yes.

2 Q. Did you gain any weight between --
3 after the April 2013 accident?

4 A. No.

5 Q. You didn't gain any weight until after
6 you injured your lower back?

7 A. Yes.

8 Q. Why do you think you gained weight?

9 A. Because I stay at home and sit down all
10 day.

11 Q. Do you cook?

12 A. Sometimes, but not really.

13 Q. Did you cook before the accident?

14 A. No.

15 Q. Do you clean?

16 A. No.

17 Q. Did you clean before the accident?

18 A. No.

19 MS. HALBERG: Please an any questions
20 that Will has in follow-up.

21 EXAMINATION

22 BY MR. HARBISON:

23 Q. Just a few more in follow-up, then
24 we'll be through. It won't take but just a couple
25 minutes.

1 Ms. Halberg asked about you taking
2 medication -- and I was trying to read my writing.
3 You said you did not have to take medication for
4 your right wrist?

5 A. I take the one that the doctor give to
6 me, the pain pills and something for the --
7 relaxing my -- I can't remember the medicine.

8 Q. Do you now take any medication for your
9 right wrist?

10 A. No. No more, no.

11 Q. Do you now take any medication for your
12 left knee?

13 A. No.

14 Q. The soccer -- where do you play soccer?

15 A. Yes. Where?

16 Q. Yes, sir.

17 A. Friends' houses and places.

18 Q. Ball fields?

19 A. Some of the places are like ball
20 fields, yes.

21 Q. Have you played soccer since your knee
22 injury?

23 A. No.

24 Q. Not even one time?

25 A. Not even one time.

1 Q. Have you gone on any out-of-town trips
2 since your back injury?

3 A. One time.

4 Q. Where did you go?

5 A. Martinsville, Virginia.

6 Q. What did you do up there?

7 A. Just see my sister.

8 Q. When was that?

9 A. I can't remember. It was like in
10 April.

11 Q. Okay. Did you drive up there?

12 A. One of my brothers.

13 Q. And you all just visited?

14 A. Yes.

15 Q. Ms. Halberg asked you about your last
16 visit at Doctors Care where they released you to
17 full duty as of April 14th and I got confused. I
18 thought you said you did talk to the employer about
19 that, but then I thought you said maybe you didn't
20 talk to them.

21 A. The last time I went to the doctor I
22 was with Adam Vance and I gave him the paper.

23 Q. Was that when the doctor released you
24 to go to full duty?

25 A. Yeah. They didn't tell me full duty.

1 Q. And I can just show you. Do you -- it
2 looks like you saw the doctor on April 7th and he
3 said light duty for one more week and then full
4 duty work on April 14, 2014, which patient agreed.

5 A. This is the last time I go to the
6 doctor.

7 Q. Do you remember being released to full
8 duty?

9 A. No. They said something -- I gave Adam
10 Vance the paper and they put me to work for a
11 couple hours. Then they come to me and say I can't
12 work no more until he hears some clearance.

13 Q. Yes, sir. I understand that. But I'm
14 asking you what do you recall about the doctor
15 saying you can go back to full duty.

16 A. He just said that -- he told me that,
17 you know, I can back to work the same day. He told
18 me I can go back to work the same day, but, you
19 know, there's got to be no heavy-duty.

20 Q. So you're saying you don't recall the
21 doctor --

22 A. No.

23 Q. -- ever giving you full duty release --

24 A. No.

25 Q. -- in your last visit?

1 A. No.

2 Q. You thought in your last visit you were
3 still on light duty?

4 A. Yes.

5 Q. So you never went back and told
6 Mr. Vance or Mr. Ruffin that you were on -- you
7 were released --

8 A. I gave him the paperwork the doctor
9 gave to me.

10 Q. Do you see the paperwork, what -- this
11 is from your last visit?

12 A. Yes.

13 MR. CALHOUN: Object as to form. He
14 can't read English, so...

15 BY MR. HARBISON:

16 Q. Actually, I thought you said you could
17 read English?

18 A. No. I can speak a little bit of
19 English, but I can't read or write any.

20 Q. At the beginning of the deposition you
21 said you could read a little bit of English.

22 MR. CALHOUN: Objection. He never said
23 he could read English.

24 BY MR. HARBISON:

25 Q. All right. So you're testifying under

1 oath -- do you recall the last time you went to
2 Doctors Care?

3 A. Recall?

4 Q. Do you remember the last time you went
5 to Doctors Care for treatment for your back?

6 A. They gave me an appointment in there
7 and I come over there and --

8 Q. Do you remember going?

9 A. Yes, I go.

10 Q. And did you see a doctor that day?

11 A. Yes. It was April 7th, yes.

12 Q. And did they tell you that you could go
13 back to full duty at any point?

14 A. They don't -- they told me, you can go
15 back to work, and they write on the paper, and I go
16 over there by Aaron Ruffin and Adam Vance and told
17 them what is -- I give them the paper because he
18 told me I got to give him every one of the papers
19 the doctor gives to me.

20 Q. Have you taken any chickens to fight?

21 A. No.

22 Q. Ever?

23 A. No.

24 Q. And you raise 200 of them?

25 A. Yes.

1 Q. Where do they fight?

2 A. I don't know where. I just breed them.

3 Q. Do you know whether that's legal?

4 A. Breeding?

5 Q. Do you know whether selling chickens to
6 fight is legal?

7 A. I don't know if the people are going to
8 fight. I just sell the chickens.

9 Q. Well, you earlier said you sold them to
10 go fight.

11 A. No, I just said sold the chickens.

12 Q. When was the last time you rode a
13 horse? Was it after your knee injury or before?

14 A. It was before.

15 Q. Are you sure?

16 A. Yes.

17 Q. So that was before September?

18 A. Yes.

19 Q. Okay. Was it after your wrist injury?

20 A. After my wrist injury?

21 Q. Yes, sir.

22 A. No. I drive -- I ride the horse maybe
23 one time.

24 Q. After your wrist injury?

25 A. And then when I hurt -- I feel I can't

1 ride the horse no more I stopped riding.

2 Q. So you've only ridden a horse one time
3 since your wrist injury?

4 A. Yes. Yes.

5 Q. Did you sell these horses to your
6 brother?

7 A. I just let him keep them.

8 Q. And how often do you take care of the
9 horses? I know you said --

10 A. I don't take care of the horses. He
11 takes care --

12 Q. I know you said you took care of the
13 chickens.

14 A. Sometimes, yes, but one of my brothers
15 comes and feeds them and that's it.

16 Q. How long does it take you to water --
17 give water to the chickens?

18 A. Can be maybe 20 minutes.

19 Q. What about the eggs?

20 A. I just give them away.

21 Q. You don't sell them?

22 A. No.

23 Q. And the corn -- how long does it take
24 you to feed the chickens the corn?

25 A. The same thing, 20 minutes.

1 Q. 20 minutes?

2 A. Yes.

3 Q. And you lift the corn?

4 A. No. My brother did it. I just -- when
5 I had to do it I just get like a little bit,
6 like --

7 Q. So your brother comes over every single
8 day to help you do this?

9 A. Yes. Him and my wife.

10 Q. Who is your brother who does all this?

11 A. Juan Rivera.

12 Q. Where can we serve him with a subpoena
13 to talk to him about all this?

14 A. Where?

15 Q. Do you know his address?

16 A. Yes.

17 Q. What is that?

18 A. Great Circle Drive. Great Circle
19 Drive.

20 Q. Can you spell that for me?

21 A. I can't -- it's G-R-E-A-T.

22 Q. Great?

23 A. Great Circle.

24 Q. Great Circle?

25 A. Yes, Drive.

1 Q. Is that in St. Matthews?

2 A. St. Matthews.

3 Q. And you don't have a bank account?

4 A. I have a bank account, yes.

5 Q. Where is that?

6 A. In Columbia.

7 Q. Which bank?

8 A. Bank of America.

9 Q. And which branch? Where it is?

10 A. Where is it?

11 Q. Where is Bank of America?

12 A. In Columbia.

13 Q. Yeah. Do you go to a specific branch?

14 A. No.

15 Q. A certain location?

16 A. No.

17 Q. And the account's under your name?

18 A. Yes.

19 Q. Is it Rene Rivera or Rene Rivera

20 Robles?

21 A. Rene Rivera Robles.

22 Q. And Robles is R-O-B-L-E-S?

23 A. Yes.

24 Q. Did you pay income taxes last year?

25 A. Yes.

1 Q. For 2013?

2 A. Yes.

3 Q. Federal and state?

4 A. Yes.

5 Q. Have you been involved in any
6 automobile accidents in the past ten years?

7 A. Yes, one. Just one.

8 Q. Which was that?

9 A. I think it's in like March 2001.

10 Q. So was that the last time you were
11 involved in one, an automobile accident?

12 A. Uh-huh.

13 Q. Sir?

14 A. Yes.

15 Q. March of 2001?

16 A. Yes.

17 Q. Did you have any medical treatment for
18 that?

19 A. No.

20 Q. Didn't go to a doctor?

21 A. No.

22 Q. Did you receive any money for that?

23 A. No.

24 Q. And you have not had any other
25 automobile accidents since 2001?

1 A. No.

2 Q. Is that correct?

3 A. That's correct.

4 Q. Were you taking any drugs or alcohol on
5 the day you injured your left knee?

6 A. No.

7 Q. How about your back?

8 A. No.

9 Q. Do you drink alcohol?

10 A. Sometimes, but not -- not like every
11 day, no.

12 Q. And how about the day you injured your
13 right wrist?

14 A. No.

15 Q. Have you done anything to reinjure your
16 left knee since September of 2013?

17 A. No.

18 Q. Have you had any new accidents or
19 injuries of any kind?

20 A. No.

21 Q. How about your right wrist?

22 A. No.

23 Q. And I'm sorry. I may have asked you
24 this. If I have, I apologize. Do you fish?

25 A. No.

1 Q. Hunt?

2 A. No.

3 Q. Did you do that before the accident?

4 A. No.

5 Q. Okay. I think I'm through. Just one
6 second. Let me just run through my notes.

7 Okay. Did you understand this last
8 group of questions I just asked?

9 A. Yes.

10 Q. Okay. Thank you. It's nice to meet
11 you.

12 A. Nice to meet you too.

13 MR. CALHOUN: I have a few questions.
14 Are you done, Rebecca?

15 MS. HALBERG: I'm done. Thank you.

16 EXAMINATION

17 BY MR. CALHOUN:

18 Q. I have a few questions for you,
19 Mr. Robles.

20 A. Yes.

21 Q. When Allen (sic) Ruffin sent you to
22 Dr. Fulton for the second opinion, was that Allen
23 Ruffin's idea to do so?

24 A. It was the insurance people.

25 Q. The insurance company?

1 A. Insurance company.

2 Q. They decided to send to you Dr. Fulton?

3 A. Yes.

4 Q. So it was not at your request?

5 A. No.

6 Q. So was it the insurance adjuster that
7 chose Dr. Fulton or Allen Ruffin?

8 A. No. I think the insurance.

9 Q. What day did Adam tell you that you
10 could not return to work?

11 A. It's April 7th.

12 Q. And you testified that Adam told you he
13 needed to get authorization before you could return
14 to work?

15 A. Yes.

16 Q. Did he tell you who he needed to get
17 authorization from?

18 A. He just said from Party Reflections and
19 that's all.

20 Q. Did he indicate whether or not the
21 authorization might come from the insurance
22 company?

23 A. He said he had to have clearance from
24 Party Reflections.

25 Q. So Adam told you that the authorization

1 had to come from Party Reflections before you could
2 return to work?

3 A. Yes.

4 Q. And he told you that he would call you
5 and give you an answer to that question?

6 A. Yes.

7 Q. Has he ever called you?

8 A. No.

9 Q. In the occasions that you have seen him
10 in person since then has he given you an answer to
11 that question?

12 A. He just told me he don't hear anything
13 yet.

14 Q. Okay. So he's never indicated that you
15 can return to work?

16 A. No.

17 Q. When you went to Doctors Care after
18 your April 2013 arm injury you, of course, reported
19 that to your employer, right?

20 A. Yes.

21 Q. And then eventually you stopped going
22 to Doctors Care and you went to Dr. Armsey for
23 treatment, correct?

24 A. Yes.

25 Q. Did your employer ever offer to pay for

1 your medical treatment for your right arm injury at
2 Doctors Care?

3 A. No.

4 Q. When you went to Doctors Care after
5 your September 2013 left knee injury your employer
6 was aware that you were going to Doctors Care for
7 that knee injury?

8 A. They know I'm going to there, yes.

9 Q. Did your employer ever offer to pay for
10 that medical treatment at Doctors Care for your
11 left knee injury?

12 A. No.

13 Q. Was your employer also aware that you
14 went back to Doctors Care after your March 2014
15 back injury?

16 A. He knows, yes.

17 Q. Did your employer pay for that medical
18 treatment at Doctors Care?

19 A. He paid like, I think, two or three
20 times and after that I have to pay myself the last
21 time I go over there.

22 Q. Other than that, has the only other
23 medical treatment your employer has paid for during
24 the course of these three injuries been for your
25 medical treatment with Dr. Armsey --

1 A. Yes.

2 Q. -- for your right arm?

3 A. Yes.

4 Q. Did your employer ever offer to send
5 you to any other doctors for your left knee injury?

6 A. No.

7 Q. Did your employer ever offer to send
8 you to any other doctors for your back injury this
9 year?

10 A. No.

11 Q. Did your employer ever offer to pay for
12 your physical therapy?

13 A. No.

14 Q. Did your employer ever offer to pay for
15 any of your medications that Doctors Care
16 prescribed for you?

17 A. No.

18 Q. Did your employer ever offer to pay for
19 any of the medications that Dr. Armsey prescribed
20 for you?

21 A. No.

22 MR. CALHOUN: That's all I have.

23 EXAMINATION

24 BY MR. HARBISON:

25 Q. Do know who's paid for your medications

1 that Dr. Armsey prescribed?

2 A. I think it's the workers' comp.

3 Q. So workers' comp's paid for your
4 medications that Dr. Armsey prescribed?

5 A. I guess.

6 Q. And you did not receive any medication
7 for your left knee, correct?

8 A. No.

9 Q. And you only went to Doctors Care one
10 time for your left knee?

11 A. Yes.

12 Q. Just so I'm clear about this doctors
13 appointment with Dr. Fulton, do you remember that
14 Dr. Armsey released you in August?

15 A. Yes.

16 Q. Okay. Did you go back and tell anyone
17 at Party Rental that you wanted another medical
18 appointment with someone else?

19 A. I go and ask Aaron Ruffin and they do
20 one appointment, the insurance, but they canceled
21 the appointment, the insurance company do, like the
22 other appointment with Dr. Fulton.

23 Q. But before you went to Dr. Fulton you
24 asked for what we call a second opinion?

25 A. Yeah. We talked about it, me and Aaron

1 Ruffin.

2 Q. Did you request that?

3 A. I told him if I can do it, yes.

4 Q. Did you request that --

5 A. Yes.

6 Q. And it was the insurance company who
7 chose Dr. Fulton?

8 A. Yes.

9 Q. Did you get your paperwork that
10 released -- do you remember Dr. Fulton saying you
11 could go back to full duty?

12 A. Yeah. He said I don't have any kind of
13 operation. He said I can't go back to work.

14 Q. Okay. Did you tell the employer that
15 you disputed that?

16 A. I told them, Aaron Ruffin, that I don't
17 agree with this.

18 Q. Even after you saw Dr. Fulton they
19 still didn't make you go back to full duty?

20 A. No.

21 Q. Is that correct?

22 A. Yes.

23 MR. HARBISON: Thank you. That's all I
24 have.

25

EXAMINATION

1 BY MS. HALBERG:

2 Q. I just have a couple more questions,
3 Mr. Rivera. After your back injury did you pay for
4 one appointment at Doctors Care?

5 A. Yes.

6 Q. Do you know how much money you paid for
7 it?

8 A. I can't remember. It's like 80 or \$90.

9 Q. Do you have the receipt for it?

10 A. I gave it to Aaron Ruffin -- Adam Vance
11 and I have a copy at my house too.

12 Q. Were you reimbursed for that?

13 A. He said he was going to give me money,
14 but he never gave it to me.

15 Q. But other than that, your appointments
16 were paid with Doctors Care after your back injury?

17 A. Yeah. They used the credit card.

18 MS. HALBERG: Those are all the
19 questions that I have.

20 MR. CALHOUN: That's all I have.

21 (The deposition was adjourned at
22 2:47 p.m.)

23

24

25

SIGNATURE OF DEPONENT

DEPONENT: RENE RIVERA
 DEPOSITION DATE: September 2, 2014
 REPORTER: ANGELA D. ZUVER
 CASE CAPTION: RENE RIVERA vs. PALMETTO PARTY
 RENTAL, et al.

(Please return both Signature of Deponent pages)

I, the undersigned, RENE RIVERA, do hereby certify that I have read the foregoing deposition and find it to be a true and accurate transcription of my testimony, with the following corrections, if any:

PAGE	LINE	CHANGE	REASON
4	12-13	there was no interpreter used.	
11	22-25	Cannot speak and understand English.	
18	4-7	Worked up to 80 hours per week.	
19	13-16	I pointed to my right arm.	
24	1-12	I have to work somewhere else due to arm pain.	
27	11-23	Insurance person told Dr. Armsey at my last appointment that I did not want surgery to my right arm.	
28	2-5	Insurance Co. sent me to a different Doctor.	
28	14-18	My Boss Adam Ruffin told me to see another Doctor.	
28	21-25	I did what my Boss told me to do.	
29	1-8	I did not request a second opinion.	
40	1-6	Spent about 3 hours with Doctor.	
41	13-21	My Boss made me work Full Duty.	
47	9-13	I injured my right arm.	
49	12-13	I could not work the remainder of the day.	
52	9-12	My Boss said they would not pay for the Doctor.	

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PAGE	LINE	CHANGE	REASON

52	21-23	yes,	

55	24-25	I took breaks to rest and go to the Doctor.	

58	24-25	I am taking no prescription medication because I cannot afford to see a Doctor.	

59	7-13	I cannot lift more than 20 pounds without causing much pain to my right arm.	

61	5-13	I know after 12 years of working for my Boss that I will be fired if I can't work full duty.	

62	6-16	Doctors gave me work restrictions Jan 7-14 so my Boss fired me on 4-7-14.	

64	17-24	I will have work restrictions, so can't work.	

71	17-25	There is no light duty work for me. My Boss will only let me work full duty.	

72	12-17	(Same answer as above)	

74	17-19	I do not understand or speak english fluently.	

74	25	I do not understand or speak english fluently.	

A. WILLIAM ROBERTS, JR., & ASSOCIATES (800) 743-DEPO
 scheduledepo.com

SIGNATURE OF DEPONENT

DEPONENT: RENE RIVERA
 DEPOSITION DATE: September 2, 2014
 REPORTER: ANGELA D. ZUVER
 CASE CAPTION: RENE RIVERA vs. PALMETTO PARTY
 RENTAL, et al.

(Please return both Signature of Deponent pages).

I, the undersigned, RENE RIVERA, do hereby certify that I have read the foregoing deposition and find it to be a true and accurate transcription of my testimony, with the following corrections, if any:

PAGE	LINE	CHANGE	REASON

75	1-5	I do not understand or speak english fluently.	
75	10-13	(Same answer as above.)	
92	3-4	Adam Vance	
92	15-25	I did not see a doctor on April 14, 2014. On 4-7-14 I went to Doctors Care and they gave me restrictions and a paper I could not read. I gave the paper to Adam Vance.	
99	4-6	I took prescription medicine before it was gone.	
99	18-24	I also took naproxsen and tylenol most days.	
100	5-12	Since I was fired, I cannot afford pain medicine.	
103	13-17	I was not released to full duty.	
107	8-13	Since I was fired, I cannot afford pain medicine.	
108	15-25	I went to Doctor on 4-7-14, not 4-14-14. I was given work restrictions. I couldn't read the paper.	
111	12-14	I was not returned to full duty by Doctors Care.	
123	23-25	Adam Ruffin asked for a second opinion. Not me. He said with Dr. Amseys Restrictions they would have to fire me.	

SIGNATURE OF DEPONENT

DEPONENT: RENE RIVERA
 DEPOSITION DATE: September 2, 2014
 REPORTER: ANGELA D. ZOVER
 CASE CAPTION: RENE RIVERA vs. PALMETTO PARTY
 RENTAL, et al.

(Please return both Signature of Deponent pages)

I, the undersigned, RENE RIVERA, do hereby
 certify that I have read the foregoing deposition
 and find it to be a true and accurate transcription
 of my testimony, with the following corrections, if
 any:

PAGE	LINE	CHANGE	REASON

124	18-22	I did not work full duty every day.	

SIGNATURE OF DEPONENT (CONTINUED)

DEPOSITION DATE: September 2, 2014
 REPORTER: ANGELA D. ZUVER
 CASE CAPTION: RENE RIVERA vs. PALMETTO PARTY
 RENTAL, et al.

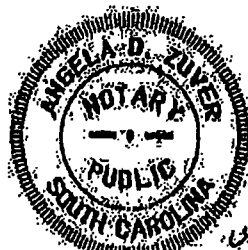
PAGE	LINE	CHANGE	REASON

Reasons: I do not read or write in english. I speak
 english OK. I understand english OK, but not fluently.

Rene Rivera 10-8-14

RENE RIVERA Date

I, Angela D. Zuver, Notary Public for the State of South Carolina at Large, do hereby certify that the deponent was advised of his or her right to read and sign said deposition both verbally and in writing. If the deponent fails to execute and return foregoing Signature of Deponent pages within the thirty (30) days allowed pursuant to the Rules of Civil Procedure, the original transcript may be filed with the court.



Angela D. Zuver

Angela D. Zuver, Court Reporter
 My Commission expires
 June 24, 2024

1 CERTIFICATE OF REPORTER
2

3 I, Angela D. Zuver, Court Reporter and
4 Notary Public for the State of South Carolina at
5 Large, do hereby certify that the foregoing
6 transcript is a true, accurate, and complete
7 record.

8 I further certify that I am neither
9 related to nor counsel for any party to the cause
10 pending or interested in the events thereof.

11 Witness my hand, I have hereunto
12 affixed my official seal this 16th day of
13 September, 2014 at Columbia, Richland County, South
14 Carolina.
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24 Angela D. Zuver, Court Reporter
25 My Commission expires
June 24, 2024

I N D E X

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STIPULATIONS

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WILMER AVILES

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RENE RIVERA

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EXAMINATION

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16

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BY MR. HARBISON

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EXAMINATION

75

14

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BY MS. HALBERG

12

EXAMINATION

106

21

13

BY MR. HARBISON

14

EXAMINATION

118

16

15

BY MR. CALHOUN

16

EXAMINATION

122

23

17

BY MR. HARBISON

18

EXAMINATION

124

25

19

BY MS. HALBERG

20

SIGNATURE OF DEPONENT

126

1

21

CERTIFICATE OF REPORTER

128

1

22

23

REQUESTED INFORMATION INDEX

24

(No Information Requested)

25

E X H I B I T S

(No Exhibits Proffered)

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

A	afternoon 49:18,23	123:13,18,20,21	33:15 35:1 51:12	97:9 98:15,20,22
Aaron 17:4,5 88:1	49:24	123:22 125:4	73:12,18 75:17	99:1,8,25 100:2,3
88:3 89:7 92:1,1,3	age 14:9	appointments	77:3 89:20 91:2	100:13,16,20,23
92:17 94:10	ago 11:3 33:10,13	26:23 27:22 90:3	95:8 98:11	100:23 101:16
103:24 104:4,7,8	57:17 58:12 70:14	90:9 125:15	ATTORNEYS 3:2	102:3,7,24 103:6
104:8 111:16	81:18 82:24 97:21	approximately	3:7,12	103:16,23,25
123:19,25 124:16	99:6	23:2 25:17	attorney's 31:9	106:6 108:2
125:10	agree 124:17	April 5:1,21 15:11	attorney-client	109:15,17,18
Abel 56:1,4,5,9	agreed 109:4	18:19 47:9 68:13	36:10,16	110:5 111:5,13,15
101:21	Aguilar 56:1,4,5,9	68:18,20,24 69:1	August 27:4,25	117:7 121:14,15
ability 70:24	ahead 31:22 34:14	69:6 92:16 98:4	34:20 89:13	122:8 123:16
able 41:22 54:8	34:16 35:7	98:12 103:14	123:14	124:11,13,19
67:6 74:25 79:18	al 126:4 127:3	106:3 108:10,17	authorization	125:3,16
80:10 103:5	alcohol 117:4,9	109:2,4 111:11	119:13,17,21,25	bad 69:24
accident 5:1,2 47:7	alleged 41:16 54:1	119:11 120:18	Auto 28:15	ball 107:18,19
47:9,13 75:21	62:1,8	area 9:1 13:5	automatic 67:4,5	bandage 53:5 57:19
82:20 88:17 95:3	allegedly 54:7,8	arising 34:25	automobile 116:6	bandages 52:24
97:6 101:16 102:9	Allen 118:21,22	arm 20:25 33:20,25	116:11,25	bank 81:24 115:3,4
105:16,23 106:3	119:7	34:3 55:7 59:5,20	AUTO-OWNERS	115:7,8,11
106:13,17 116:11	allowed 31:12	60:6 71:13 120:18	1:7 3:7	bar 46:17,19
118:3	127:16	121:1 122:2	Aviles 3:19 4:11	Barely 18:5
accidents 116:6,25	ambush 35:2,4,9	arms 91:13	129:6	barrel 19:17,23
117:18	America 115:8,11	Armsey 20:21,23	aware 90:24 121:6	20:4 44:3,5,8,10
account 81:24	Angela 1:18 126:3	27:4,25 28:12,14	121:13	46:12,15,21 47:19
115:3,4	127:2,13,24 128:3	29:1,10,24 57:6	A-B-E-L 56:3	47:22,23 48:1,3
account's 115:17	128:24	89:13,16 120:22	A-G-U-I-L-A-R	barrels 18:20 19:12
accurate 1:21	animals 85:15	121:25 122:19	56:3	19:21
31:21 126:7 128:6	answer 30:12,22	123:1,4,14	B	bars 44:1,1
acre 85:1,2	36:15 120:5,10	arrested 93:13,16	B 130:1	basis 32:4 33:1
activities 66:12	answered 36:13	arriving 12:6 14:7	back 15:23 27:24	Beach 1:22
86:22 87:20	answering 7:11	Ashley 8:8	28:3,11 29:15,17	bear 38:9,10,12
activity 99:7	answers 7:4	asked 6:25 21:22	31:2,14 33:21	began 12:13
Adam 17:9 24:9,12	anybody 20:1	24:9 29:14 31:2	34:4,5 35:14	beginning 110:20
24:25 25:24 26:14	anymore 57:25	39:25 40:21 43:21	36:22 40:8 41:10	behalf 75:18
43:8 55:1 65:21	76:12	74:23 75:1,24	47:6 48:3 51:8	believe 45:9 72:1
92:1 94:10 102:5	anyplace 62:18	107:1 108:15	52:7,11 53:21	87:14 97:5
102:8 108:22	64:7	117:23 118:8	54:2,8 56:21 59:8	bend 59:21 60:19
109:9 111:16	anyway 54:23	123:24	59:22 62:1,9,11	91:7 98:17 103:7
119:9,12,25	apart 94:17	asking 30:19 32:6	62:14,15,17 64:6	103:8
125:10	117:24	109:14	64:10,11,12,16,17	benefits 67:23
additional 102:23	APPEARANCES	ASSOCIATES	64:18,21,25 65:10	bent 94:2
address 8:6,8 38:1	3:1	1:20	66:2,3 71:8,12,14	Better 13:10,11
78:2,12 79:5	applied 8:18 68:2	assuming 64:11	71:17,20 75:11,20	beyond 11:13
114:15	68:11 103:18	Assurance 2:7 3:13	76:6 78:22 84:15	big 55:6 84:9,25
adjourned 125:21	appointment 31:13	75:19	84:23 89:17,25	93:22
adjuster 119:6	35:1 36:7 89:21	attach 33:4	92:7 94:2,25 95:6	bills 63:1
advised 127:14	90:16 111:6	attorney 7:1 30:6,7	95:7 96:18,21,25	birth 10:6
affixed 128:12		30:9 31:3,10,18		bit 5:6 12:4,12

18:24 19:2,22 20:10 48:14 95:15 97:14 99:22 101:12 105:6,19 110:18,21 114:5 black 39:4 45:23 48:22 101:18,24 101:25 blacks 45:17 bleeding 48:11 body 39:23 47:12 52:4 60:13 boss 17:2,4 28:22 88:1 104:4,4 bosses 17:15 bottom 95:12 bought 5:5,7 102:21 boy 81:10 Boyd 3:8 4:23 brace 53:6,7 57:7 57:13,18 58:4,14 100:13,15 branch 115:9,13 break 30:18,24 breed 112:2 Breeding 112:4 brick 13:16,18,21 13:24,25 14:1 87:17 bricks 14:2 brief 35:16 bring 44:14 77:14 103:25 brother 44:21 48:21 55:14,19 56:11,16 79:13,17 80:9,15 83:1 85:3 85:4,6 101:17,19 113:6 114:4,7,10 brothers 44:17 56:8 83:16 93:20 108:12 113:14 brother's 44:23 brother-in-law 55:20 56:9,10 85:3,5 brush 83:23	building 89:20 bump 48:17 buried 12:24,25 business 63:6,7 butt 95:12 buttocks 95:8,9 B-R-I-C-K 13:23 C cable 12:21,21,24 12:25 13:12 84:17 86:20 87:9,23 Calhoun 1:15 3:3,3 29:5 30:9,12,15 30:22 31:23 32:2 32:6,9,14,18,22 33:2,6,22 34:4,8 34:12,16 35:4,8 35:11,19,24 36:2 36:4,9,14 39:17 68:19 74:20 75:2 110:13,22 118:13 118:17 122:22 125:20 129:15 call 5:17 8:22 10:19 19:25 30:18 39:15 48:5 62:14,15 64:16,21 87:3 92:7 103:24 120:4 123:24 called 12:20 40:20 90:6 120:7 canceled 123:20 candles 23:21,22 72:1,6 cane 58:18 canvas 23:16,22,23 71:25 72:3,4,6,6,9 93:24 capacity 90:12 CAPTION 1:10 126:3 127:3 car 66:18,19 67:2,3 77:19,21 86:2,4 card 76:13,17,22 125:17 care 20:16,16,17 29:23 51:15,16,17	51:18,19,20 61:6 69:2,18 79:13,16 79:18,21 83:1,20 83:21 84:10 85:8 85:11 92:15 94:23 97:9 98:3,4,7,25 103:13 108:16 111:2,5 113:8,10 113:11,12 120:17 120:22 121:2,4,6 121:10,14,18 122:15 123:9 125:4,16 careful 21:24 22:2 60:19 Carolina 1:1,16 2:1 4:4,22 8:9 10:1 12:17 76:8 77:23 83:8 127:13 128:4 128:14 carrier 5:9 Carrillo 44:24 45:2 45:6 56:12,16 83:3 cars 86:3,4 87:22 CASE 126:3 127:3 cases 4:25 cash 82:3 cause 128:9 caused 22:6 causing 43:3 cell 102:11,18,20 cents 101:10 certain 115:15 CERTIFICATE 128:1 129:21 certify 126:7 127:13 128:5,8 chain 84:18,19 chairs 15:17 16:14 23:17 change 101:13 126:9 127:5 changed 105:15 charge 17:20 Charleston 1:22 Charlotte 1:24 check 89:4 90:18	91:6 checked 20:25 33:20,25 50:16 checking 34:3 50:15 chicken 80:20 81:1 81:2,8,17 chickens 79:10,12 79:14 80:4,16,21 80:23,25 81:5,10 81:12,22 82:1,8 84:21 85:19 111:20 112:5,8,11 113:13,17,24 children 10:23,24 chose 119:7 124:7 Circle 114:18,18,23 114:24 citizen 68:9 citizenship 68:11 Civil 4:4 127:16 claim 5:11 15:3 73:6,17 74:2 75:20 claims 15:6 clarify 75:6 classes 12:5 68:5 clean 71:25 72:1,8 75:7 88:8 92:22 106:15,17 cleaning 23:16,16 23:21 cleans 85:23,24 clear 123:12 clearance 62:13 64:9 65:23,24,25 92:5,8,24 103:25 109:12 119:23 client 36:15 close 38:15 40:5,6 73:2 cold 69:24 Collins 3:14 75:17 color 77:19 86:6 Columbia 1:24 3:10,15 4:22 37:9 37:10 40:18 75:17 83:7 115:6,12	128:13 come 11:4 19:17 27:21 31:14 48:2 62:11,12,15 64:9 82:12 92:10 94:9 109:11 111:7 119:21 120:1 comes 78:20 79:17 83:15,18 113:15 114:7 comfortable 6:13 coming 19:1,18,22 35:18 48:23 78:20 94:17 commercial 87:5 Commission 1:1 2:1 127:24 128:24 comp 73:17 74:1,5 123:2 company 2:7 3:13 5:5 17:7 28:11,25 52:10,14 75:19 118:25 119:1,22 123:21 124:6 compensation 1:1 2:1 4:25 5:10 15:3,6 73:6 75:20 complain 89:16 complained 96:24 complaints 42:21 complete 49:10 96:9 128:6 completely 26:23 26:25 complex 38:16 computer 72:18 comp's 123:3 conduction 91:9 confused 108:17 Congratulations 93:17 connection 5:10 consist 66:12 continue 34:15 CONTINUED 1:10 127:1 continuously 56:24 conversation 73:5

conversations 24:24 cook 106:11,13 copy 33:2,22 125:11 corn 79:24 80:1,6 113:23,24 114:3 correct 6:16,17 26:11 56:22 66:9 76:9 98:5 117:2,3 120:23 123:7 124:21 corrections 126:8 costs 31:9 counsel 1:17 3:1 4:2 34:19 128:9 Counts 101:23 County 128:13 couple 24:16 26:21 26:21 37:20 45:17 52:25 54:24 58:8 58:12 62:10 78:21 93:21 97:21 99:6 104:1 106:24 109:11 125:2 course 120:18 121:24 court 1:19 7:12 127:17,24 128:3 128:24 courtroom 8:4 cousin 56:13 cramp 95:16 credit 125:17 crew 16:13 18:10 crews 15:18,22 16:1 crutch 58:18 current 8:6,8 currently 99:15 CVS 99:12,13 C-A-R-R-E-L-L-O 45:8 C-A-R-R-I-L-L-O 45:6,10,12	127:13,24 128:3 128:24 129:1 daily 66:12 77:15 date 1:13 5:1,2 10:6 33:9 58:13 75:21 103:15 126:2 127:2,12 day 18:11 20:8 22:13,15 26:24,25 34:21 44:19 49:13 49:21 50:4 61:7 62:7 66:12 67:13 67:14 80:5,7 83:14,18,19 91:23 94:25 102:5 103:19 106:10 109:17,18 111:10 114:8 117:5,11,12 119:9 128:12 days 23:1 26:21 27:1 35:13 105:2 127:16 dealt 31:6 December 5:8 decided 6:12 119:2 definitely 34:6 49:14 degenerative 100:19 delivered 16:13 deliveries 15:13,15 15:16 Depending 18:8,9 depends 58:13 71:20 81:8 100:11 deponent 4:8 126:1 126:2,5 127:1,14 127:15,15 129:20 deposition 1:12 4:3 4:6,9 5:13,16 31:8 31:11 35:12,17 77:5 110:20 125:21 126:2,7 127:2,14 describe 45:22 different 5:8 14:3 15:18,22 16:1 18:7 24:1,15	94:13 102:2 104:9 difficulty 11:17,20 dig 86:23 digging 86:23 disagree 31:21 discover 5:19 discovery 5:17 36:1 discuss 27:9 discussed 6:18 73:8 discussion 89:19 disease 100:20 dishes 85:23,24,24 92:22 disk 100:19 disks 94:17 disputed 124:15 doctor 20:17 28:16 29:1,15 30:5,20 31:3,17 33:8,17 33:19 35:22 36:18 40:22 41:11 50:1 50:3,7,14 51:8,11 52:7,11,14 62:10 62:10 69:15,17 89:20,25 91:1 92:20 94:11,13,20 94:21 96:24 97:16 98:10,12 102:7 107:5 108:21,23 109:2,6,14,21 110:8 111:10,19 116:20 doctors 20:16 29:20,23 51:17,19 51:20 69:18 92:15 94:23 97:9 98:3,4 98:7,25,25 100:19 103:13,15 108:16 111:2,5 120:17,22 121:2,4,6,10,14 121:18 122:5,8,15 123:9,12 125:4,16 doctor's 26:22 40:19 Dodge 66:20,20,22 66:23,25 dog 84:5,6,8,10,12 84:15	doing 7:3 21:25 23:14 42:25 53:11 62:20 63:2 66:11 71:15 97:20 99:7 dollar 101:9 dolly 19:6 dominant 14:20 Dr 20:21,23 27:4 27:25 28:6,12,14 28:18,19,20 29:1 29:10,12,18,23,24 57:6 89:13,16 118:22 119:2,7 120:22 121:25 122:19 123:1,4,13 123:14,22,23 124:7,10,18 drink 117:9 drive 8:9 18:13,14 38:3 66:15,17 67:6 77:7,9,17,21 85:25 104:20,21 108:11 112:22 114:18,19,25 driver 94:6 driver's 9:25 76:8 76:11,14 77:9,23 78:4 87:5 drives 86:8 driving 18:16,17 37:16 83:13 drove 77:5 drugs 117:4 drum 19:24 46:11 46:23,25 47:1,2 drums 18:22,23 19:3 duly 4:12,15 duties 25:8 54:9 duty 21:15,17,20 42:14,16 50:20,24 65:17 71:21 92:16 100:24 103:14 108:17,24,25 109:3,4,8,15,23 110:3 111:13 124:11,19 D-O 66:22	E E 129:1 130:1 earlier 76:7 89:19 91:22 112:9 earn 43:16 earned 62:20 easier 7:12 East 1:16 3:4 easy 42:17 education 11:13 effect 8:3 eggs 85:18 113:19 eight 10:5 82:24 either 25:24 32:15 91:13 electrodes 91:12 EMG 91:9 Emma 10:17,20 Employee 1:3 2:3 employer 1:5 2:5 28:15,25 108:18 120:19,25 121:5,9 121:13,17,23 122:4,7,11,14,18 124:14 Employers 2:7 3:13 75:19 Employer/Insurer 1:17 employment 93:4 empty 18:24 English 4:12,13 6:9 6:21 11:23 12:1,3 55:13 68:6 110:14 110:17,19,21,23 enjoy 93:4 enrolled 68:5 et 126:4 127:3 evaluation 31:13 90:13 evening 49:10,12 49:23 events 128:10 eventually 120:21 everybody 20:3 22:22 34:13 93:23 everybody's 94:6 evidence 35:18

exact 37:25
 exactly 25:4
EXAMINATION
 4:16 75:14 106:21
 118:16 122:23
 124:25 129:8,10
 129:12,14,16,18
 exclude 34:23,25
 Excuse 15:14 27:8
 34:2 51:6 72:5
 73:2
 excuses 50:17
 execute 127:15
 exercises 97:15,18
 exhibit 33:5
 Exhibits 130:2
 expert 90:7
 expire 76:14
 expires 127:24
 128:24
 explain 5:6 95:23
 e-mail 72:25

F

factory 13:17,18
 fails 127:15
 fair 31:7
 fall 19:12 44:4,5,16
 44:20 45:16 46:7
 46:12,25,25 47:24
 48:1 52:1
 familiar 20:12
 37:14
 family 55:18 69:15
 69:17
 far 7:3 11:7 37:19
 37:23,24 38:19
 farm 88:6,22
 farmer 87:24
 Farming 14:15
 fast 1:21 60:17
 faster 60:18
 Federal 116:3
 feed 79:24,25 80:6
 84:2 113:24
 feeds 113:15
 feel 6:4,13 75:11
 112:25

feels 58:14
 fees 31:9 36:1
 fell 44:9 46:7
 felt 54:17
 female 38:25
 females 81:11
 fenced-in 84:14
 Ferry 51:21 69:20
 99:14
 fields 107:18,20
 fight 80:24 111:20
 112:1,6,8,10
 fighting 80:25
 fights 81:1,2
 file 31:7 34:22
 filed 15:2 32:2
 34:19 35:11,12
 67:22 73:11,17
 75:20 127:17
 filing 34:23 35:25
 73:5
 filled 99:11
 films 39:22
 Finally 7:25
 financially 78:15
 find 5:23 60:22
 82:14 92:7 126:7
 fine 8:24
 finish 7:10 20:8
 49:12 63:20 94:7
 finished 49:13 94:7
 fire 25:10 43:18
 71:2
FIRM 3:3
 first 4:15,25 12:16
 14:24 19:11 20:15
 45:5 49:25 50:2
 69:6,16 73:16,23
 76:7 79:2 88:17
 fish 117:24
 five 11:3 14:5 24:17
 24:17,18 25:19,20
 25:22 37:14,16,18
 38:3 53:3,4,8
 Five-five 12:9
 floor 98:16
 floors 89:23,24
 flu 69:24

fluctuated 105:15
 fold 72:10
 follow 103:24
 following 126:8
 follows 4:13,15
 follow-up 75:22
 76:7 90:3 106:20
 106:23
 food 80:16
 foot 46:11
 Ford 86:5
 foregoing 126:7
 127:15 128:5
 forget 39:3
 forgot 44:14
 form 4:7 29:5
 39:17 68:19 74:20
 75:2,7 110:13
 forward 6:13
 found 73:16
 four 20:19 49:20
 85:14 97:24
 four-hour 90:15,15
 Friday 34:20
 Friendly 1:21
 friends 82:15
 104:21 105:12
 107:17
 full 4:18 8:14 41:18
 42:14,15 92:16
 100:24 103:14
 108:17,24,25
 109:3,7,15,23
 111:13 124:11,19
 full-duty 92:18
 Fulton 28:6,18,19
 28:20 29:12,18,23
 118:22 119:2,7
 123:13,22,23
 124:7,10,18
 functional 90:12
 further 128:8
 F-150 86:5,5

G

gain 106:2,5
 gained 105:23
 106:8

Gallivan 3:8 4:23
 game 80:21,23
 Garicos 9:15,17
 Garners 51:21
 69:20 99:14
 gear 67:4
 generously 45:15
 getting 20:3 32:12
 girl 40:17
 give 21:20 30:20
 32:25 46:5 50:17
 55:3 79:25 80:3
 85:20 107:5
 111:17,18 113:17
 113:20 120:5
 125:13
 given 5:13 35:22
 81:13 103:16
 120:10
 gives 111:19
 giving 109:23
 glad 33:6 76:3
 go 11:7 20:18 27:24
 28:2,11,15,25
 29:14 31:22 33:8
 34:9,14,16 35:7
 37:7,17 38:9,14
 43:13 46:6 49:25
 50:6,7,7 51:8
 52:10 55:7,9 62:9
 63:12 64:6,11,12
 64:18,22 65:22
 69:18,19 70:1
 71:8,14,17,20
 75:11 76:6 77:4,4
 81:1,2 83:9,11,17
 92:9 93:10 94:8
 94:11,12 97:24
 100:23 102:6,6
 103:23 104:1
 108:4,24 109:5,15
 109:18 111:9,12
 111:14,15 112:10
 115:13 116:20
 121:21 123:16,19
 124:11,13,19
 goes 78:21
 going 5:18,18,23

6:2,13 7:4,14 8:22
 20:12 27:13 31:4
 31:7,9,10,13
 34:17 38:22 45:7
 46:22 50:2 51:3
 58:15 59:11 61:19
 61:25 62:14 64:21
 64:21,25 73:3
 76:21 111:8 112:7
 120:21 121:6,8
 125:13
 good 6:9,10 26:14
 36:5 42:25 43:3
 93:17
 Google 72:21
 gotten 34:22
 grabbed 18:25
 46:19
 graduate 11:9
 Gray 77:20
 great 7:3 84:7
 114:18,18,22,23
 114:24
 green 76:13,16,22
 86:7
 Greenville 1:24
 ground 46:13,14
 47:24 86:24
 group 16:4 70:8
 118:8
 guess 123:5
 guy 21:7 27:17 39:5
 39:6,7 64:16
 101:24
 guys 44:21 45:17
 45:23,24,24 46:1
 48:22,22 70:20,21
 82:12,12 93:21,24
 101:18,25
 guy's 46:8
 gym 93:10
G-A-R-I-C-O-S
 9:17
G-R-E-A-T 114:21

H

H 130:1
 Halberg 3:14 5:4

7:1 61:25 75:15 75:16 106:19 107:1 108:15 118:15 125:1,18 129:11,19 half 89:11 hammer 59:18,18 hand 14:20,22,23 19:1,8,10,18,19 19:20 21:25 22:3 42:2 54:12 59:21 60:1 68:16,21 69:4 100:12 128:11 handled 74:5 hands 19:9 24:6 43:11,12 happen 31:5 49:14 49:21 happened 5:22,24 24:3 93:19 Harbison 3:9 4:17 4:21 29:6 30:10 30:13,17,23 31:1 31:20,25 32:4,8 32:11,16,20,25 33:4,7,24 34:1,6 34:10,13,18 35:6 35:10,14,21,25 36:3,5,6,11,13,17 39:18 45:7,11 68:22 74:21 75:3 75:6,9,23 106:22 110:15,24 122:24 124:23 129:9,13 129:17 Harden 37:11,12 37:19 Head 1:22 health 70:4,8 hear 64:8 65:25 92:11 104:3,5 120:12 heard 61:13 64:17 92:12 hears 65:23 92:24 109:12 heavy-duty 42:2	53:17 54:10 71:12 109:19 help 50:1 54:19,19 54:20 58:18 71:25 72:10 77:3,3 78:10 114:8 helped 88:1,8,10 helpful 97:13 helping 20:1 92:22 helps 79:17 hereunto 128:11 high 11:8,9,14 Hilton 1:22 hire 70:24 hired 63:14 history 12:13 hit 47:18,22 59:19 hobbies 104:24 105:1,13 hold 33:24 34:10 47:25 48:1 holes 86:23 home 58:16 66:14 67:12,18 72:18 78:6 94:8 97:15 97:18 106:9 hooked 91:12 horse 112:13,22 113:1,2 horses 79:10,12 82:16,18,23 83:2 83:4,20 113:5,9 113:10 hose 79:24 hospital 37:21 38:14,16,19,23 hour 17:25 40:4,6 64:23 87:11 96:6 101:1,3,7 104:19 hours 18:4 49:17 88:22 89:10 92:22 101:13 109:11 house 44:7 49:3 67:15,16,17 83:11 83:15,18 86:10 93:21 102:8 125:11 houses 107:17	huh-uh 7:6 65:6 Hunt 118:1 Hunters 83:7 hurt 24:6 48:7 55:7 62:9 88:15 94:2 102:7 105:8 112:25 hurts 59:21 61:8 71:13,13 I ibuprofen 57:4 99:19 idea 118:23 identify 31:3 identtly 35:22 IME 35:20 importantly 5:21 improve 68:6 includes 6:25 15:8 income 86:14,18 104:11,13 115:24 INDEX 3:25 129:23 indicate 119:20 indicated 76:7 120:14 information 5:20 32:7 129:23,24 injections 98:21,23 injure 47:12 52:1,4 94:24 injured 5:20 15:23 18:18 43:23 47:10 49:5 54:6,8 60:11 68:14 69:10 96:18 103:6 106:6 117:5 117:12 injuries 41:3,4,6 67:25 87:8,18 117:19 121:24 injury 14:25 21:23 22:11,18 23:1,12 26:14,20 41:17,25 42:5,6,13 47:16 48:15 50:1 52:18 53:10,21,23 54:2 59:7 60:10 61:1	62:1,8,8,17 69:16 69:22 70:2 73:4 74:4 100:22,23 102:1,4 107:22 108:2 112:13,19 112:20,24 113:3 120:18 121:1,5,7 121:11,15 122:5,8 125:3,16 instructing 36:15 insurance 1:7 3:7 5:9 21:7 27:18,18 28:10,24 52:10,14 70:4,8 118:24,25 119:1,6,8,21 123:20,21 124:6 Insurer 1:8 2:8 interested 128:10 Internet 72:20 interpret 4:12 6:12 interpreter 6:11,14 45:9 involve 23:18 involved 15:6 86:21 87:21 116:5,11 J Jesus 85:6 job 7:3 8:15,18 12:16 13:9,10,11 25:8 41:20,23 42:22,25 43:3 53:11,18 54:9,10 54:20 55:3 61:10 61:12,17 65:4 71:9 87:18 94:7,8 jobs 65:12 70:24 86:12 103:18 JR 1:20 Juan 55:24,25 56:11 85:5 114:11 jump 46:10 jumped 44:3 46:14 46:21 June 127:25 128:25 Justin 17:19,21 24:10,12,25 25:25 26:13 44:17 48:21	48:21,25 50:6,8 55:2 K K 3:14 keep 21:25 28:23 34:16 38:22 81:21 81:25 84:20 113:7 Kenny 101:23 kids 67:10 kind 21:17 63:21 66:19 80:22 117:19 124:12 kinds 15:16 88:9 knee 5:25 33:20 36:24 40:8 41:9 41:16 42:6 44:5 46:12,25 47:2,4 47:16,18 48:1,7,7 48:13 50:15,16 51:9,24 52:2,7,11 52:15,17,22 53:10 53:19,23 54:7,12 55:7 56:20 57:19 57:22 58:4,14,22 60:11,16,20,23,24 61:1,4,8 66:7 69:9 69:10,13 71:13 73:4 100:1,6,22 102:1 103:2 105:8 107:12,21 112:13 117:5,16 121:5,7 121:11 122:5 123:7,10 kneecap 47:20 kneel 60:21 knew 61:19 74:4 know 6:5,22 7:6,8 7:16,21 8:19 16:17 19:18 20:6 21:2,9,25 22:15 27:10,12,16 30:11 30:15 32:10 33:1 38:17 39:9,10,10 39:19 40:20 42:3 48:16 53:16 54:11 55:5,12 58:13 59:3,6,11,12 61:8

61:9 62:6 63:1 64:1,4,10,20,22 65:4,9,21,22,23 70:11,21 71:5,6 71:12,19,19 72:20 72:23 73:11,13,14 73:21 75:24 77:1 83:15,16 91:8 92:21 94:8 98:17 103:11 109:17,19 112:2,3,5,7 113:9 113:12 114:15 121:8 122:25 125:6 knows 121:16	103:2 107:12 117:5,16 121:5,11 122:5 123:7,10 leg 58:22 95:19,20 95:22 96:3,4,5,9 96:10,11,14 98:16 99:2 legal 112:3,6 legally 9:18 legs 91:13 95:14,16 95:17 let's 11:4 63:15 level 11:14 Lexington 1:16 3:4 license 9:25 18:15 76:9,11,14 77:10 77:24 78:5 87:6 life 93:15 lift 20:1 59:10,11 59:15 98:16 114:3 lifting 21:19 23:18 26:8 59:8 light 21:14,17,20 26:17 50:20,24 65:17 71:21 109:3 110:3 limited 45:14 Line 126:9 127:5 129:3 lines 13:1 listed 5:2 95:8 little 5:6 12:4,12 18:24 19:2,21 20:10 48:14,17 84:8 87:4 95:15 97:14 99:22 101:12 105:6,19 110:18,21 114:5 live 78:1,3,12 79:5 79:11 83:6,13 lived 8:25 9:4 lives 40:18 78:6 Loaned 74:11 located 19:13 location 1:15 115:15 long 8:25 9:9 10:25 13:2 14:4 40:1	48:9,10 51:3 57:9 95:16 96:5 113:16 113:23 longer 76:8 look 7:7 33:23 39:2 82:13 looking 40:8 77:4 looks 34:19 109:2 lose 61:10,17 losing 61:11 lost 18:15 lot 7:12 14:2 72:14 lower 94:25 95:6,7 98:15,20 99:1 101:15 102:3 103:6 106:6	mean 7:6 30:19 34:11 60:4 62:24 65:24 90:14 91:11 95:11 means 7:8 62:25 65:24 measurements 90:18 91:2 medical 20:11 31:13 32:23 34:24 34:25 35:16 61:5 61:20 69:2,12 98:2 116:17 121:1 121:10,17,23,25 123:17 medication 41:14 57:1 58:24 99:1,5 100:5 107:2,3,8 107:11 123:6 medications 99:16 122:15,19,25 123:4 medicine 57:3 107:7 meet 118:10,12 members 55:18 Memorial 38:4,10 mention 27:13 met 90:6 91:1 Mexican 82:12 Mexico 9:13,14,15 11:11 14:12 78:22 miles 37:20 military 93:6 minutes 37:3 40:3 106:25 113:18,25 114:1 Mobile 67:18 money 43:16 62:20 62:23 63:23 64:3 64:4,4 74:11,15 81:4,7,19,25 82:5 85:16 101:11 104:16 116:22 125:6,13 monitor 17:11 month 33:10 81:15 81:18 82:7,9	100:10,11 104:1 months 13:3 33:13 57:17 58:7,12 78:21 82:10,24 97:21,24 99:6 Moore 28:4 morning 49:23 94:9 mortgage 78:10 motion 31:8 32:19 32:20,21 34:23 35:9 move 23:25 24:14 31:9 87:22 90:19 103:10 Moved 14:2 mowed 74:8,12 MRI 21:1,1,4,12 27:15 MRIs 39:13,20 98:19 multiple 89:21 muscle 94:4,12 Myrtle 1:22
L labor 34:21 86:21 Lacy 3:14 75:17 ladder 44:13 lady 3:15 8:8 27:18 27:20 40:17 land 46:9 landscaping 63:5,7 63:10 language 11:22 Large 127:13 128:5 Law 1:15 3:3 lawns 74:8,12 lawyer 4:22 31:6 77:2 lawyers 77:4 Lay 98:16 leading 42:12 league 105:11 leash 84:16 leave 13:7 47:7 94:5 left 5:25 38:9,11,12 42:6 47:4,15,18 49:3 51:9,24 52:2 52:7,11,15,17,22 53:10 54:7 56:20 57:19,21 58:4 60:11,16 66:7 69:9,10,13 95:20 95:22 96:10,14 99:2 100:6,22	M machinery 86:25 machines 87:2 mad 61:10,22 mail 34:20 mailed 32:14 main 1:16 3:4,9 13:1 male 38:25 39:1 males 81:11 manager 17:10,11 17:20 24:9 43:6 53:18 91:24,25 94:10 managers 17:19 55:1 62:11 March 54:2 62:9 75:21 93:19 96:16 96:19,22 97:2,6 100:18 105:23,25 116:9,15 121:14 mark 1:15 3:3 30:9 30:10 31:20 48:16 mark@calhounl... 3:5 married 10:9 Martinsville 9:4,6 9:7,9 108:5 matter 31:6 Matthews 8:9 9:1,3 13:4 83:8 115:1,2	N N 129:1 name 4:18,21 8:14 10:16,20 12:22 13:20 21:9 30:4 30:20 44:23 45:4 45:5 46:8 75:16 78:25 79:2 94:22 115:17 names 45:18 46:5 48:23 55:23 57:5 NC 1:24 need 71:7 75:11 80:11 94:11 102:25 needed 41:3,5,8 44:2 46:24 92:5 97:17 119:13,16 neither 128:8 nerve 91:9 never 22:13 24:3,7 31:5 65:3 70:17 73:1,8 93:15		

110:5,22 120:14 125:14 new 70:20 93:24 117:18 nice 118:10,12 night 48:20 nine 13:3 nod 7:6 Noemi 79:1 normal 72:21 normally 69:19 Notary 127:13 128:4 notes 73:3 118:6 Notice 4:5 November 10:7 number 9:21 numbness 95:24,25 nurse 27:19 N-O-E-M-I 79:3	okay 5:11,12 6:1,6 6:7,14,15,24 7:2,5 7:8,9,13,18,24 8:2 8:23 9:12 10:21 12:12 13:15 15:16 20:10,13,14,23 27:3,24 30:13 31:15,19 32:14,16 32:22 34:8 35:3 35:24 36:2,5 37:5 37:16 38:8,22 41:22 42:5 43:5 44:23 45:15 46:2 46:19 47:7 49:2 49:25 54:14 55:14 55:23 56:19 57:6 60:7 61:9 62:17 73:22 75:25 76:1 76:4,5 92:20 108:11 112:19 118:5,7,10 120:14 123:16 124:14 old 45:24 47:7 older 39:8,10 45:25 46:1 55:19 once 18:15 80:5,7 80:14 83:14,14 99:23 100:10,10 100:11 102:20 operation 124:13 opinion 28:21,22 118:22 123:24 original 127:16 originally 9:12 Orthopaedic 28:5 outside 32:9 out-of-town 108:1 over-the-counter 99:18 owner 17:7 29:8 Owners 28:15	87:11 88:20,24 89:11 101:1,3,11 121:19,23 122:25 123:3 125:6,16 pain 19:11,18 22:6 26:6 48:2,5,7 52:20,20 57:4 59:5,6,12,16,19 60:6 89:17 94:3,8 96:21,25 99:3,4,8 99:23 100:5,12 107:6 Palmetto 1:5 3:7 4:24 5:7 11:2 12:14,20 13:8,12 13:14 15:10 28:11 54:13 70:7,13 74:1 86:20 87:9 88:3,21,23 89:2,3 89:9 91:23 101:2 101:8 102:15,16 102:21 126:3 127:3 pants 48:9,10 paper 51:1 108:22 109:10 111:15,17 papers 111:18 paperwork 92:19 110:8,10 124:9 paralegal 30:19 park 67:19 part 5:16 38:16,17 40:19 47:12 52:4 60:13 particular 20:4 parts 39:23 96:3 party 1:5 2:5 3:7,12 4:24 5:7 10:13,14 10:25 11:2 12:14 13:8,14 15:11,20 28:11 45:19 50:11 52:6,9 54:13 62:2 62:13 63:16 64:9 65:1,15,19,25 70:5,6,7,13 71:9 74:1 75:18 85:21 88:4,21,23 89:2,3 89:10 91:23 92:24	93:1 101:2,2,9 102:12,16,16,20 102:21 103:19 119:18,24 120:1 123:17 126:3 127:3 128:9 patient 109:4 pay 50:8,12 78:10 82:5 88:12,13,19 115:24 120:25 121:9,17,20 122:11,14,18 125:3 pending 128:10 pens 84:20 people 20:2 24:11 44:18 70:18 71:6 104:9 112:7 118:24 perform 54:9 performance 42:22 person 16:7 120:10 personally 21:11 pets 79:7,9 84:4 85:7 pharmacy 53:7 phone 102:11,17,18 102:20 physical 71:9 86:21 87:20 90:16 91:3 95:4 97:4,11 103:1,4 122:12 physically 41:22 67:8 80:10 pick 59:4,4 91:7 92:9 93:21 94:1,2 103:7,9 104:22 picked 104:2 pictures 39:22 piece 51:1 84:25 pills 57:5 99:3 107:6 Pinchall 13:21,24 13:25 14:1 87:17 place 12:20 43:14 69:21 places 14:3 107:17 107:19	planning 76:16 Plantation 67:21 play 31:7 105:11 107:14 played 105:2,4 107:21 please 4:18 31:22 75:24 93:19 106:19 126:5 plenty 35:11 point 6:19 7:19 8:13 19:13 54:6,7 70:12 111:13 pointing 19:16 47:20 Points 37:14,16,18 38:3 position 15:12 24:1 24:15 41:20 85:21 87:21 pounds 12:11 21:19 23:19 26:9 59:4,8,16 105:24 prehearing 35:16 prescribe 41:13 99:1 prescribed 99:16 122:16,19 123:1,4 prescriptions 99:10 PRESENT 3:18 presumably 34:21 pretty 6:9,10 26:13 26:14,16 42:3 prevent 53:10 prior 13:12 96:16 96:21 97:2 100:18 privilege 36:10,16 problems 53:20,22 59:1,14,23 60:8 60:15,25 61:1,2,6 69:7 95:3,9,21 96:11,13 97:5 Procedure 4:4 127:16 process 5:17 Proffered 130:2 property 79:11 83:4 84:25
O oath 63:25 111:1 object 29:5 39:17 68:19 74:20 75:2 75:7 110:13 objected 32:10 objecting 32:3 35:18 36:14 objection 32:5 33:1 36:9 110:22 objections 4:5,6 objective 39:15,16 39:19 obtained 35:20 obviously 11:25 occasions 120:9 occur 25:16 occurred 102:9 offer 120:25 121:9 122:4,7,11,14,18 offered 65:12 office 32:13 35:9 40:19 73:9 Offices 1:15 official 128:12 Oh 16:9 23:23 63:4 104:18	P Page 1:10 126:9 127:5 129:3 pages 126:5 127:15 paid 36:7,12 43:20 62:23,24 63:1,1,2			

provide 32:7	read 11:16 107:2	related 97:5 128:9	rephrase 6:5,22	14:10 15:10,20,23
provided 40:12	110:14,17,19,21	relaxing 107:7	7:17	18:6 19:8,10,15
102:12	110:23 126:7	release 50:19	reply 32:12,19	19:16 23:9 24:21
Providence 37:17	127:14	109:23	34:19	25:7,8 26:20 28:2
Public 127:13	reading 4:8	released 27:4 28:14	report 17:2,17	28:8 29:21 30:1
128:4	real 10:20 47:6	29:1,10 92:16,17	102:3	31:10,16 32:2
pull 46:20 59:25	really 39:10 106:12	103:14 108:16,23	reported 1:18	33:12 34:12,25
60:4,5,6	REAR 3:25	109:7 110:7	120:18	38:6,10 41:13,24
pulling 19:3 94:12	reason 8:12 126:9	123:14 124:10	reporter 1:19 7:12	45:12 47:10,19
pulses 91:15	127:5	remain 101:6	126:3 127:2,24	49:8 54:21 58:15
pursuant 127:16	Rebecca 3:14 5:4	remember 12:22	128:1,3,24 129:21	58:24 59:2,3,7,15
push 59:6,20	75:16 118:14	13:20 20:19 21:6	representing 4:24	59:24 60:1,8 61:1
put 8:18,19 45:15	recall 21:11 27:6	21:10 24:23 25:18	5:5	61:20 66:11 68:14
57:1 79:23 88:21	109:14,20 111:1,3	25:21 30:4 32:11	represents 5:8	68:16,20,23 69:2
93:24 109:10	receipt 125:9	32:21 33:9 36:20	request 28:2 119:4	69:4,7 71:4 79:13
putting 16:20	receive 31:25 35:9	38:2,18 39:9 40:2	124:2,4	80:9 86:14 93:18
Pyrencees 84:7	116:22 123:6	40:5,18 44:18,22	Requested 129:23	94:1 96:11 97:25
P-I-N-E-H-A-L-L	received 69:1,12	45:18 46:3,8	129:24	98:24 100:6 103:2
13:23	98:3	48:23 49:19,22	require 26:4,6,8	107:4,9 110:25
P.A 3:8	recess 30:25	50:25 55:5,10,11	reserve 31:10 34:24	117:13,21 120:19
P.C 3:14	recommend 40:25	55:15 57:4,10	reserved 4:7	121:1 122:2
p.m 1:14 125:22	record 4:19 6:19	58:13 63:12 70:14	respect 5:22,25	127:14
	27:11 31:2 34:4,5	72:13 87:3 89:24	responded 30:15	right-handed 14:18
	34:7,9 128:7	94:22 101:10	32:18	Rivera 1:3,12 2:3
Q	records 30:14	104:18,19 107:7	response 32:3	3:2 4:14,20,21 8:7
question 6:3,5,23	32:23 34:24,25	108:9 109:7 111:4	34:22	8:12,15,16,19,20
7:15,17,20,23	35:16 81:21 98:2	111:8 123:13	responsible 16:20	8:20,22 10:17,20
36:15 63:20 75:10	referred 20:20	124:10 125:8	78:15	27:8 55:24,25
75:24 120:5,11	Reflections 2:5	Rene 1:3,12 2:3 3:2	restate 76:3	56:11 74:18 75:16
questions 5:19 6:20	3:12 10:13,14	4:14,20 8:12,14	restrict 50:19	79:1,3 85:5
6:25 7:11 31:11	11:1 15:21 62:2	8:15,19,20,20	restricted 21:18	114:11 115:19,19
31:17 34:15 62:1	62:14 63:16 64:9	115:19,19,21	restricting 21:14	115:21 125:3
74:17,22,23 75:22	65:1,16,19 66:1	126:2,3,6 127:3	restrictions 103:16	126:2,3,6 127:3
76:7 106:19 118:8	70:5,6 71:9 75:18	127:12 129:7	result 95:3,10	127:12 129:7
118:13,18 125:2	85:22 88:4 91:24	rent 67:15	retraining 68:3	Road 51:21 69:20
125:19	92:25 93:2 101:2	Rental 1:5 3:7 11:2	return 93:1 119:10	99:14
quick 45:8	102:12,21 103:19	12:14 13:8,14	119:13 120:2,15	ROBERTS 1:20
quickly 47:6	119:18,24 120:1	15:11 28:11 45:19	126:5 127:15	Robles 8:13,15
quit 97:20	refuse 25:7	50:11 52:6,9	rhalberg@collin...	79:1,4 115:20,21
	refused 25:13	54:13 70:7,13	3:16	115:22 118:19
R	refusing 31:4	74:1 88:21,23	Richland 37:17	rode 82:22 112:12
R 1:15 3:3,9	regarding 75:19	89:2,3,10 101:2,9	38:4,10 128:13	roosters 81:10
rabbits 85:8,9,11	regular 34:20	102:16,16 123:17	ridden 113:2	rope 44:2,4,12
85:13	41:20	126:4 127:3	ride 82:18,20	46:16 47:25
raining 93:25	regularly 57:21	Rentals 4:24 5:7	112:22 113:1	roughly 9:10 14:4
raise 111:24	58:3	reopen 31:11	riding 113:1	25:19
raising 80:16	reimbursed 125:12	repeat 6:5,22 7:16	right 5:16,23 6:18	Ruben 44:24,25
rake 86:24	reinjure 117:15	76:4	9:20 12:11 14:10	45:2,5 56:15 83:3
ran 104:6				
rate 101:6				

101:19 Ruffin 17:4,5,18 29:14 88:1,3 89:7 92:1 94:10 104:4 104:7,8 110:6 111:16 118:21 119:7 123:19 124:1,16 125:10 Ruffin's 118:23 Rule 4:5 rules 4:4 31:12 127:16 run 60:17 118:6 R-I-V-E-R-A 79:4 R-O-B-L-E-S 79:4 115:22 R-U-B-E-N 45:5	111:10 seen 29:12 89:13 98:11 120:9 sell 81:3,11,12,14 81:15,21 82:11 85:16,18 112:8 113:5,21 selling 81:4,25 82:8 112:5 send 43:10 52:7,14 54:18 72:25 119:2 122:4,7 sense 6:20 sent 20:25 28:4,17 30:6 31:4,18 33:15,17 50:5 51:12 89:20 91:2 91:15 93:20 98:11 118:21 separate 25:2,3 89:4 September 1:13 5:2 5:24 42:10,13 43:24 49:15 52:2 53:24 60:10 69:9 69:13 112:17 117:16 121:5 126:2 127:2 128:13 series 5:19 serve 114:12 set 35:1 74:1 seven 27:1 shift 67:4 shoes 58:21 60:21 shop 23:10,15 shorts 48:9 show 48:15,18,20 80:17,18 109:1 showed 21:5,12 49:2 shows 80:20 sic 92:3 118:21 sign 127:14 Signature 126:1,5 127:1,15 129:20 signing 4:9 signs 8:20	single 114:7 sir 17:6 28:6 42:8 42:19 54:4 61:3 62:4 65:7 72:8 76:23 107:16 109:13 112:21 116:13 sister 78:16 108:7 sisters 78:3 sit 67:12 95:15 103:9 106:9 sitting 5:4 96:6 six 9:11 82:10 slides 46:11 soccer 105:2,5 107:14,14,21 Social 9:20 sold 81:16 82:9 112:9,11 somebody 25:14 43:10 44:15 61:13 72:10 77:2,13 81:3 93:23 someplace 64:18 somewhat 20:11 soon 31:8 sorry 44:25 45:14 46:13 51:17 117:23 sort 57:18 70:16 sounds 11:25 12:13 sources 86:14,17 104:11 South 1:1,16 2:1 4:4,22 8:9 10:1 12:16 76:8 77:23 83:8 127:13 128:4 128:13 Spanish 4:12,13 11:16,19 45:14 speak 6:8 11:22 55:13 110:18 special 58:21 specific 55:3 115:13 spell 9:16 13:22 45:3 56:2 66:21 79:2 114:20	spend 22:20 23:2 36:18 40:1,7 spent 22:22 40:9 spoke 65:2 91:25 spot 93:25 94:1 St 8:9 9:1,3 13:4 83:8 115:1,2 stand 46:22,24 standpoint 71:10 75:4 95:4 103:4 start 64:23 92:21 started 18:25 94:8 state 4:18 44:7 49:3 93:21 102:8 116:3 127:13 128:4 States 11:5 12:6 14:7 87:25 status 65:4 stay 22:16 86:10 106:9 stayed 11:3 staying 66:14 stays 78:21 step 44:10 stepped 44:8 steps 60:18 stipulated 4:2 STIPULATIONS 4:1 129:5 stopped 18:15,17 56:21 57:11 58:1 74:7 113:1 120:21 stories 89:22 Stratus 66:20,20,24 66:25 Street 1:16 3:4,9,15 37:11,12,19 strike 47:18 strong 14:22,23 struck 47:2 studies 39:15,16,19 91:10 stuff 14:2 71:24 72:14 88:9 subdivision 67:20 83:13 subpoena 32:1,3,10 32:19,23,23	114:12 subpoenaed 30:14 successful 76:19 Suite 3:9,15 Sunday 102:10 supervisor 16:23 16:25 70:13,16,17 70:22 supervisors 61:14 support 64:5 78:19 supporting 64:2 supposed 18:23 44:10 sure 56:19 112:15 surgery 27:9,14 surprise 35:15 surprised 35:20,21 sweep 87:22 switch 18:11 switched 18:12 sworn 4:12,15 8:1 S-A-H-I-R-I 79:3 S-T-R-A-T-U-S 66:24
S				T
S 130:1 Sahiri 79:1 salary 87:12,13,13 save 30:17,21 saved 64:3,4 saw 8:12 36:21 44:16 45:16 46:7 70:12 101:25 109:2 124:18 saying 7:5 58:16 109:15,20 124:10 SC 1:22,22,22,24 1:24 3:4,10,15 scheduled 90:4,10 90:23 school 11:7,8,9,14 scraped 48:13 seal 128:12 second 5:1 27:8 28:21,22 35:14 41:25 42:5 118:6 118:22 123:24 secretary 63:13 Security 9:20 see 11:4 25:5 27:11 28:16 44:20 50:1 52:11 63:5 71:19 89:25 103:23,25 108:7 110:10				T 130:1 tables 15:17 16:14 take 15:10 16:18,19 18:2 19:1 20:12 22:2 30:18,23 39:11,13,16,22 50:15 60:18 79:16 79:18,21 83:21 84:10 91:2 94:1 99:18 100:5 106:24 107:3,5,8 107:11 113:8,10 113:16,23 taken 1:17 4:3 12:5 111:20 takes 79:13 83:1 85:8,11 113:11 talk 63:15 64:25 65:16 108:18,20 114:13 talked 24:2,22 91:24 123:25

talking 34:13 42:6 47:15 91:22 tall 12:8 taxes 18:2 82:5 115:24 teach 70:20 television 67:13,14 tell 8:1 18:18 21:4 21:22 22:5 25:4 27:12,17 31:4 33:19 35:7,15,17 42:24 43:2,23 50:8,11 52:10 59:1 61:7 70:18 71:6 92:17 93:18 100:19 108:25 111:12 119:9,16 123:16 124:14 tells 31:7 ten 23:5,7,8 35:13 93:14 116:6 tent 16:13 44:2,3,4 46:15 tents 15:17 16:4,6,9 16:10,13,21 17:20 23:22 43:25 55:6 72:7 93:22 terms 40:25 testified 4:15 119:12 testifying 110:25 testimony 6:12 126:8 testing 91:3 tests 91:3 Thank 118:10,15 124:23 therapist 90:16 therapy 97:11 103:1 122:12 thereof 128:10 thing 84:16 88:22 94:9 113:25 things 35:2 103:5 think 5:7 13:21 15:18 21:1 27:20 38:21 40:22 44:7 45:20 50:4 55:15	59:10 60:7 62:25 71:8,14,17,23 72:8,12 73:2 87:14 89:23 95:2 99:12 101:8 106:8 116:9 118:5 119:8 121:19 123:2 third 5:10 thirty 127:16 thought 64:20 70:12 94:3,14,16 108:18,19 110:2 110:16 threaten 61:11,15 three 15:5 20:19 21:2 24:19,20 49:19 53:1 81:14 92:22 97:23 121:19,24 Thursday 32:15 34:20 tie 43:25 44:2,4,12 46:15 60:21 84:15 84:16 time 1:14 4:7 8:21 12:21 18:6 19:12 22:20,22 26:2,19 27:15 29:2 30:18 30:21 35:12 36:18 40:7 41:18 44:6 44:13 45:1,20 49:21 52:21 56:20 57:16 58:11,17 59:19 60:18 63:12 65:2 69:6,15 73:16,23 74:10 81:16 82:22 83:17 89:11 95:16 96:6 97:12 98:3 99:4 104:12 105:4 107:24,25 108:3 108:21 109:5 111:1,4 112:12,23 113:2 116:10 121:21 123:10 times 20:18,19 21:2 24:14,16,20 25:16 25:19,19,20,21,24	52:25 53:1,3,4,8 54:24 58:8,9 62:10 104:1 121:20 Tim's 16:5 Tingling 96:1,2 today 4:23 5:9,18 6:11 7:6,22 57:14 57:19 75:18 77:5 77:7 told 21:7,24 34:8 35:20 48:6 49:5 65:21,22,24 73:19 73:21 92:20 94:3 94:4,11,11 97:16 102:5,6 103:15 104:2,4 109:16,17 110:5 111:14,16 111:18 119:12,25 120:4,12 124:3,16 top 44:2,5,8 46:10 46:15 47:22,23 town 80:15 Trace 83:7 tractors 87:4 train 71:4 transcript 3:25 7:8 127:16 128:6 transcription 126:7 translate 7:22 40:14,21 translation 7:21 45:8 75:4,11 translator 7:22 40:10,12 76:3 transpired 30:25 treat 26:16 treated 36:21 97:8 treatment 20:11 41:1,3,5,7,8 61:20 69:2,13 98:14 102:23 111:5 116:17 120:23 121:1,10,18,23,25 trial 4:8 trick 6:2 7:14 tried 46:10,19 63:7 64:6,12,18	trips 108:1 truck 18:20,25 19:4 67:2 94:6 trucks 18:13 88:9 true 126:7 128:6 truth 8:1 try 5:18,19,23 6:2 7:14 46:15 59:20 68:8 71:11 73:1 76:18,21 93:25 98:17 trying 107:2 Twenty 25:19 twisted 19:1,19,20 two 4:24 7:7 15:18 15:22 16:1 33:12 46:2,3,4 58:6,9 81:14 82:17 86:3 86:4 89:23,24 101:17 121:19 type 14:16 80:20 84:6,16 86:21 87:2,20 89:6 95:21 98:14 types 79:9 86:21 103:4 T-E-N-T 16:11	unemployment 67:22 United 11:5 12:6 14:7 87:25 unloaded 18:20 urgent 20:16 51:15 51:16,17 use 58:14,18 72:20 86:25 Usually 18:5
V				
vacation 78:21 valid 9:23 68:9 Vance 17:9,18 24:9 24:12 25:25 43:8 55:1 65:21 73:5 92:1,2,3 94:10 102:5,8 104:8 108:22 109:10 110:6 111:16 125:10 verbalize 7:4 verbally 127:14 verify 46:7 Virginia 9:4,6 13:16 15:8 108:5 visit 50:12 51:14 108:16 109:25 110:2,11 visited 108:13 vocational 68:2 90:7,9 vs 1:4 2:4 126:3 127:3				
W				
wait 64:15,15 103:22 waive 4:8 waived 4:6 waiving 31:16 walk 52:20 58:19 60:17 84:12 walking 83:12 want 19:24 20:10 28:21 30:17,18 31:21 34:14 59:13 61:10 62:6 64:8				

64:22 65:9 73:21 75:10 93:1 102:23 103:22,22 wanted 28:22,23 41:2 46:24 93:24 123:17 War 17:21 warehouse 22:11 22:14,16,21 23:2 Warner 12:21 watch 67:12 water 18:22,23,24 19:2,3,22 79:23 79:24,25 80:3,3 113:16,17 way 6:3 59:21 60:22 78:18,18 96:7 97:25 105:20 WCC 1:4 2:4 wear 52:24 57:9,21 58:4,16 100:13 wearing 48:9 57:11 57:13,18 58:21 Wednesday 32:15 week 18:4 80:12,15 81:13 83:14 87:15 89:11 99:23 100:7 100:10 104:17 109:3 weekend 34:21 weeks 7:7 57:10 weigh 12:10 weighed 20:6 weight 105:15,17 105:22 106:2,5,8 went 20:16 21:1 29:17 30:20 51:20 51:23 59:8 69:21 93:25 98:3 108:21 110:5 111:1,4 120:17,22 121:4 121:14 123:9,23 weren't 19:6 42:24 we'll 7:6,21 34:22 34:23 35:18,25 53:20 106:24 we're 8:4 31:2,13 47:15	we've 16:18 55:6,8 wharblison@gwb... 3:11 wheelbarrows 18:21,22 white 3:8 4:23 39:4 39:5,6,7 82:12 wife 10:11,25 55:12 77:21 78:8 84:11 85:8,11 86:12,17 92:9,22 104:3,16 114:9 wife's 85:6,21 WILLIAM 1:20 3:9 Wilmer 3:19 4:11 129:6 Witness 33:25 68:20 128:11 witnesses 46:6 101:15 Wolfe 17:19,22,23 17:24 24:10,12 25:25 44:17 48:22 48:25 55:2 wore 57:16 work 10:12 11:3 12:13,19 13:13 14:4,12,16,24 16:3 18:4,9,10 20:8 23:9 26:19 45:19,21 47:13 49:10,12,17 50:17 52:22 55:16,21 56:17,20 57:24 60:23,24 62:7,11 62:11,12,15 63:10 63:21 64:6,10,12 64:18 65:1,22 67:25 71:18 74:14 80:8,13 85:2 89:6 91:23 92:16,18,21 92:23 93:1,8,10 94:5 100:24 102:6 103:11,14,16,19 103:23,25 104:20 109:4,10,12,17,18 111:15 119:10,14	120:2,15 124:13 worked 10:25 11:2 12:20,21 13:16 14:6 21:7 22:10 22:13,15 48:6 56:24 62:2,18 63:16 65:15 86:20 87:9,17,24 88:6 88:20,22 89:10 92:21 102:14,15 workers 1:1 2:1 4:25 5:10 15:2,5 73:6,17 74:1,5 75:19 123:2,3 working 12:14 28:23 41:18 42:14 42:15 43:17 44:6 56:21 57:24,25 58:1 74:7 89:9 93:23,23 workload 18:8 works 10:14 56:6 88:3 worn 58:6 100:15 worse 94:9,9 wrist 5:23 15:24 19:16 23:1 24:1 25:8 26:20 29:21 30:1 37:1 40:8 41:9 42:14 43:2 47:10 51:24 57:7 57:13 59:2,3,7,12 59:15,21,24 60:8 61:20 66:5 68:14 68:23 69:2,7 74:4 98:24 99:25 100:6 103:2 107:4,9 112:19,20,24 113:3 117:13,21 write 11:19 12:3 110:19 111:15 writing 107:2 127:15 wrong 93:25 X X 129:1 130:1 x-ray 98:20	x-rays 39:11 50:15 98:19 Y yard 63:21 74:14 84:14,15,23 85:2 88:8,10 yards 38:20 yeah 10:19,22 13:1 17:24 18:9,17 19:5,24 21:8 22:4 22:25 28:23 30:10 32:8 39:7 41:5 42:18 45:20 46:18 46:21,24 47:21,23 48:19 49:13 58:3 58:10 64:1 66:23 72:17 73:19 87:4 87:16 88:20 102:19 105:10 108:25 115:13 123:25 124:12 125:17 year 27:25 88:16 105:6,8,9 115:24 122:9 years 9:2,11 10:5 11:3 14:5 31:5 70:13 93:14 116:6 Yolanda 10:17,18 10:19,21,22 young 45:24,25 46:1,1 Z Zuver 1:18 126:3 127:2,13,24 128:3 128:24 \$ \$20 81:8 \$300 81:20 \$40 81:8 \$400 87:14,15 \$8 64:23 \$90 125:8 1 1 129:5,20,21	1,500 38:20 106 129:12 11 129:6 115 93:22 118 129:14 12:25 1:14 1200 3:9 1201 3:9 122 129:16 124 129:18 126 129:20 128 129:21 1306655 1:4 1330 3:15 14 5:2,24 9:2 43:24 53:24 69:9 103:14 109:4 129:7,10 14th 49:15 69:13 92:16 108:17 1403985 2:4 15 5:1 18:19 47:9 68:13 15th 68:18,20,24 69:1,6 16 75:21 96:16,19 96:22 97:2,6 100:18 105:23 129:8,14 16th 62:9 93:19 128:12 16.50 101:8 17.50 18:1 64:24 101:6 1974 10:7 2 2 1:13 126:2 127:2 2:47 125:22 20 21:19 23:3,18 26:9 59:4,8,16 113:18,25 114:1 200 12:11 79:15 111:24 2001 12:14 116:9 116:15,25 2004 75:21 2013 5:1,3,8,21,24 15:11 18:19 27:6

42:10,13 43:24	<u>7</u>			
47:9 52:2 53:24	7 98:12			
68:13 69:10 89:14	7th 98:4 109:2			
106:3 116:1	111:11 119:11			
117:16 120:18	7.50 64:23			
121:5	704 1:24			
2014 1:13 54:2	714 1:16 3:4			
92:17 93:19 96:16	722-8414 1:23			
96:19,22 97:2,6	724-1756 3:10			
98:4,12 100:18	731-5224 1:24			
103:14 105:23,25	75 101:9 129:10			
109:4 121:14	785-3263 1:23			
126:2 127:2				
128:13	<u>8</u>			
2024 127:25 128:25	80 18:5 125:8			
21 129:12	803 1:24 3:5,10,16			
22 14:9	839-3376 1:23			
23 129:16	843 1:23,23,23			
234-7030 1:24	864 1:24			
24 31:5 105:24				
127:25 128:25	<u>9</u>			
248 8:8	9.50 104:18			
25 129:18	957-8401 3:5			
256-2660 3:16	96 11:6			
28th 34:20				
29072 3:4				
29135 8:9,10				
29201 3:10,15				
<u>3</u>				
30 4:5 37:3 40:3				
93:22 127:16				
300 82:10				
<u>4</u>				
4 129:5,6,7,8				
40 89:10				
45 18:5				
<u>5</u>				
50 39:8				
55-gallon 18:23				
573-3919 1:24				
<u>6</u>				
6 10:7				
601 3:15				
647-09-7835 9:21				

BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC FILE NO. 1403985

RENEE ROBLES RIVERA,	)	
	)	HEARING
CLAIMANT,	)	BEFORE COMMISSIONER
	)	ANDREA C. ROCHE
v.	)	
	)	<u>TRANSCRIPT</u>
PARTY REFLECTIONS,	)	
INCORPORATED,	)	
	)	
EMPLOYER,	)	
AND	)	
	)	
EMPLOYERS ASSURANCE COMPANY,	)	
	)	
CARRIER,	)	
DEFENDANTS.	)	
	)	

 **COPY**

THE WORKERS' COMPENSATION HEARING, TAKEN
BEFORE CORA ELLIS BRUTON, A NOTARY PUBLIC IN AND FOR
THE STATE OF SOUTH CAROLINA, COMMENCING AT THE HOUR OF
2:10 P.M., THURSDAY, SEPTEMBER 25, 2014, SOUTH
CAROLINA WORKERS' COMPENSATION COMMISSION, 1333 MAIN
STREET, COLUMBIA, SOUTH CAROLINA 29202.

**CORA ELLIS BRUTON
COURT REPORTER
131 BROWNING COURT
LEXINGTON, SOUTH CAROLINA 29073
803-397-0189**

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REPORTED BY

CORA ELLIS BRUTON
 COURT REPORTER
 131 BROWNING COURT
 LEXINGTON, SOUTH CAROLINA 29073
 803-397-0189

INDEX

WITNESS - RENEE ROBLES RIVERA	
DIRECT EXAMINATION BY MR. CALHOUN	.10
CROSS EXAMINATION BY MS. HALBERG.	.20
REDIRECT EXAMINATION BY MR. CALHOUN	.25
RE-CROSS EXAMINATION BY MS. HALBERG	.27
WITNESS - ADAM PAUL VANCE	
DIRECT EXAMINATION BY MS. HALBERG	.29
CROSS EXAMINATION BY MR. CALHOUN.	.35
REDIRECT EXAMINATION BY MS. HALBERT	.41
RE-CROSS EXAMINATION BY MR. CALHOUN	.43
REDIRECT EXAMINATION BY MS. HALBERG	.46
CERTIFICATE	.49

EXHIBITS

(No Exhibits Proffered)

CORA ELLIS BRUTON - COURT REPORTER
 131 BROWNING COURT - LEXINGTON, SOUTH CAROLINA 29073
 803-397-0189
 P254

1 THE COURT: Today's date is September 25th, 2014.

2 This is South Carolina Workers' Compensation case File
3 Number 1043985. The Claimant is Renee Robles
4 represented by Attorney Mark R. Calhoun. The Employer
5 is Party Reflections, Incorporated. The Carrier is
6 Employers Assurance Company, both Defendants
7 represented by Attorney Rebecca K. Halberg.

8 Ms. Halberg, did you hand up your APAs?

9 MS. HALBERG: I may not have. Sorry about that.

10 THE COURT: I'm sorry, I didn't do that in
11 pre-conference.

12 MS. HALBERG: We started talking, I think I
13 forgot.

14 THE COURT: Thank you. The date of accident is
15 March 16, 2014.

16 The average weekly wage and comp rate are to be
17 determined.

18 The APAs have been submitted. Are there any
19 objections to APAs, jurisdiction, venue or any other
20 items?

21 MR. CALHOUN: Not from the Claimant.

22 MS. HALBERG: Commissioner Campbell, just for the
23 record I'd like to maintain our objection as to
24 Claimant's IME from Dr. Westerkam, which is pages 50
25 and 51 of Claimant's APA submissions on the grounds

1 Dr. Westerkam was not listed on the Form 50 listing
2 physicians that Claimant had been treating with or
3 seen.

4 THE COURT: Are there any other objections.

5 MR. CALHOUN: None, from the Claimant, Your
6 Honor.

7 THE COURT: There being no further objections the
8 Commission's File becomes a part of the record with
9 the exception of self-serving declarations and
10 unstipulated medical reports.

11 Mr. Calhoun, we're here on your 50 so would you
12 please state your position for the record?

13 MR. CALHOUN: Okay, Commissioner. Our position
14 on average weekly wage is that the Claimant earned for
15 52 weeks before his initial injury on April 15th of
16 2013 \$55,099.99 and that most fairly and accurately
17 represents what his average weekly wage would be
18 because subsequently he had two more injuries and he
19 was missing time from work to attend doctors'
20 appointments and so forth. \$55,099.99 divided by the
21 prior 52 weeks gives you an average weekly wage of
22 \$1059.61 and a comp rate of \$706.33. As I understand
23 today's hearing the really issue -- I mean the issue
24 --issue we're here to have challenged is whether or
25 not my client is entitled to TTD from the time of

1 April the 7th of this year and onward. Our position
2 is that our client was attending Doctors Care; he had
3 three appointments up to April 7th of this year. The
4 first two appointments he was given work restrictions
5 and the Employer paid for those appointments. The
6 third and final appointment on April 7th the Employer
7 refused to pay for the appointment; he was continued
8 on work restrictions as per our APA submission page 48
9 and not being able to read English, unfortunately, he
10 took that form back to the Employer on April 7th. The
11 Employer read the form and saw that the form said that
12 he was not -- that he was supposed to return on the
13 14th if he did not feel better. So the Employer read
14 that, told my client to go home and not come back and
15 told him they were not going to pay for an April 14th
16 visit at Doctors Care. Therefore, not knowing what
17 the form said my client did not return to Doctors Care
18 on April 14th simply because he could not afford to.
19 APA submission page 49 shows that he -- that on April
20 the 7th he paid Doctors Care \$95.00 out of his pocket
21 for that medical treatment. So our position is there
22 is no report, there is no -- been no evaluation on
23 this case, not on April 14th or any other day that
24 would allow my client to return to work full duty.
25 That the April 7th restrictions are still in effect

1 and that Dr. Westerkam has evaluated him for his back,
2 his right arm and his left knee and Dr. Westerkam says
3 that he needs to stay out of work until he receives
4 medical treatment and he's not at MMI. The prior two
5 claims, the right arm from April 15th of last year and
6 I believe it was September 14th of last year, those
7 claims have been accepted by the other insurance
8 company; we're going to present the Court with a
9 Consent Order that says my client is not at MMI and
10 that he's going to receive medical treatment on those
11 cases. And our position is, obviously if he's not MMI
12 on those cases he can't be MMI on this case because no
13 doctor says that he is and two doctors say that he
14 isn't at MMI. So our position is the Employer could
15 have brought him back to work after April 7th and they
16 have refused to do so for reasons unknown and that
17 he's entitled to TTD for not being able to work since
18 they sent him home on April the 7th.

19 THE COURT: Ms. Halberg.

20 MS. HALBERG: Thank you, Commissioner. I'm here
21 today on behalf of Party Reflections regarding the
22 March 16th, 2014 accident that Mr. Rivera sustained to
23 his lower back. It's our position he sustained a
24 minor lower back injury for which he sought medical
25 treatment with Doctors Care. As has been discussed

1 earlier in the pre-hearing conference, if you would
2 look to page 48 of the Pre-hearing Brief submitted by
3 Claimant's counsel the Doctors Care physician released
4 him on April 7th. There is -- no one has ever stated
5 there was an April 14th, visit; that on April 7th he
6 was released to return to work with restrictions, but
7 could return to work full duty as of April 14th of
8 2014. This is a Right To Work State. My Employer did
9 not bring him back to work; that's not our position --
10 there is no argument that we have offered him
11 employment to return to. It is our position that
12 based on his full duty release that he had the
13 opportunity to seek employment with anyone that he
14 chose to do so and he, unfortunately, his own self,
15 chose not to do that. So it's our position he is not
16 entitled to any temporary total disability benefits
17 beyond April 14th of 2014. If he is entitled to any
18 temporary total benefits it would only be during his
19 time period of being on light duty up until March 14th
20 of 2014 when he was released to return to work in a
21 full duty capacity. Also, it's our position he
22 sustained a minor injury, no additional -- all the
23 Doctors Care mentioned, physical therapy, they've
24 referred and recommended that he do home exercises,
25 which he has done. In terms of medical here at this

1 point in time he has been -- he hasn't taken
2 medication in months, so it's our position he's at
3 maximum medical improvement and doesn't need any
4 additional care and that this claim is ripe for
5 resolution.

6 THE COURT: Okay. How about average weekly wage
7 and corresponding compensation rate?

8 MS. HALBERG: For the average weekly wage and
9 compensation rates I disagree with how Mr. Calhoun
10 thinks it should be calculated. Since there are three
11 injuries he wants to use the average weekly wage and
12 compensation rate from the earnings prior to the first
13 accidents. It's our position that you should use the
14 52 weeks or the four quarters preceding the accident
15 for which we're responsible. So we're here today on
16 the March 16th, 2014 accident or it's our position you
17 should use the four quarters from 2013 which are
18 enclosed in Claimant's Pre-hearing Brief as well.

19 THE COURT: Okay. Thank you, ma'am. Let the
20 record reflect that the average weekly wage and
21 corresponding compensation rate will be determined in
22 the Order.

23 Okay. Before we get started I have a few
24 questions for you.

25 THE INTERPRETER: Of course.

1 THE COURT: Are you a friend, associate, relative
2 or party of counsel for a party involved in this
3 proceeding?

4 THE INTERPRETER: No.

5 THE COURT: Have you served in an investigative
6 capacity for any party involved in the case?

7 THE INTERPRETER: No.

8 THE COURT: Do you or your spouse or child have a
9 financial interest in the subject matter or the
10 controversy or in a party to the proceeding or any
11 other interest that would be affected by the outcome
12 of this case?

13 THE INTERPRETER: No.

14 THE COURT: Have you been involved in the choice
15 of counsel or law firm for this case?

16 THE INTERPRETER: No.

17 THE COURT: Are you an attorney or an employee of
18 an attorney in this case?

19 THE INTERPRETER: No.

20 THE COURT: Have you previously been retained for
21 private employment by one of the parties to interpret
22 this case?

23 THE INTERPRETER: No.

24 THE COURT: Is there any reason your independence
25 of judgment would be compromised in the course of

1 providing services for this case?

2 THE INTERPRETER: No.

3 THE COURT: To the parties, do you consent that
4 the interpreter should not be disqualified and should
5 be allowed to render services for this case?

6 MS. HALBERG: I consent.

7 MR. CALHOUN: Yes, Your Honor.

8 THE COURT: If you would please raise your right
9 hand. Do you swear or affirm that the testimony that
10 you're about to give is the truth, the whole truth and
11 nothing but the truth?

12 THE WITNESS: Yes, I do.

13 THE COURT: Okay. Mr. Calhoun, your witness.

14 MR. CALHOUN: May it please the Court, Your
15 Honor.

16 Renee Robles Rivera,

17 Having first been duly sworn testified as follows:

18 DIRECT EXAMINATION

19 BY MR. CALHOUN:

20 Q Renee, how old are you?

21 A 39 years old.

22 Q Where did you go to school?

23 A In Mexico.

24 Q How would you describe your ability to speak
25 and understand English?

1 A Not very good.

2 Q Can you read or write in English?

3 A No.

4 Q Are you married?

5 A Yes.

6 Q Does your wife also work for Party

7 Reflections?

8 A Yes.

9 Q Do your two brothers work there?

10 A Yes.

11 Q How many years have you worked there?

12 A 12 years.

13 Q And briefly describe for the Commissioner
14 the type of work that you do there?

15 A I deliver items for parties, like tables,
16 umbrellas, chairs, silver, silverware, glassware.

17 Q Again, briefly describe for the Commissioner
18 how you hurt your back on March the 15th of this year.

19 A They sent us to build a kiosk at the State
20 House.

21 Q A tent?

22 A A tent. And the people that were helping me
23 put the -- the tent in the wrong place and when I went
24 to pick it up when I leaned down to pick it up is when
25 I injured my back.

1 Q Which of your supervisors did you tell about
2 that back injury?

3 A Adam Vance.

4 Q Adam Vance? Okay. And what day did you
5 tell Adam you hurt your back?

6 A The next day in the morning when I went to
7 work.

8 Q And when was the first time you saw the
9 doctor for that injury?

10 A April 17th, early in the morning.

11 Q What did Adam tell you when you told him
12 about your back injury?

13 A Adam told me that there were a couple ways
14 to fix the accident. He told me that if I would say
15 that the accident happened at my house that he would
16 go ahead and pay for the doctors' bills. And that if
17 I was going to say it was at work, they were going to
18 investigate me and that they were going to do a drug
19 test. And I told him that I was going to tell them
20 things the way that they were and that they can go
21 ahead and do me -- do the drug test.

22 Q Okay. Did they drug test you?

23 A Yes.

24 Q Okay. And when you went to Doctors Care on
25 March the 16th what happened at that visit?

1 A The doctor checked me and they took some
2 x-rays and the doctor told me that I injured my back.

3 Q And who paid for that visit?

4 A The company gave them their credit card to
5 pay for that visit.

6 Q Was there an interpreter there for you on
7 that day?

8 A No.

9 Q When is the next time you went back to
10 Doctors Care for your back?

11 A March 24th.

12 Q Did you return to work after you hurt your
13 back?

14 A Not until April 7th.

15 Q Okay. So your employer told you to stay
16 home?

17 A Yes, Adam told me to stay at home and that
18 he would let me know as soon as they would hear about
19 a clearance.

20 Q Okay. When you went to the doctor on March
21 24th was there an interpreter there?

22 A No.

23 Q Did the doctor give you work restrictions on
24 March the 24th?

25 A Yes.

1 Q Do you remember what those work restrictions
2 are?

3 A Not to lift any more than five to ten
4 pounds; do not lean down or turn abruptly.

5 MR. CALHOUN: That's APA, page 44, Commissioner.

6 Q And did they give you another appointment
7 date after March the 24th?

8 A Yes, for April 7th.

9 Q Who paid for your March 24th doctor's visit?

10 A The company with their credit card.

11 Q When you went to the doctor on April the 7th
12 did your employer pay for it?

13 A No.

14 Q Was there an interpreter there on April 7th?

15 A No.

16 Q When you left on April 7th were you given
17 any work restrictions?

18 A Yes.

19 Q Do you remember what those work restrictions
20 are?

21 A Not to lift any more than 45 pounds, not to
22 lean down, not to turn abruptly.

23 Q Did Doctors Care give you a piece of paper
24 when you left on April the 7th to give to your boss?

25 A Yes.

1 Q Could you read that piece of paper?

2 A No.

3 Q Did you go to work that day?

4 A Yes.

5 Q Did you talk to Adam Vance?

6 A Yes.

7 Q Tell me about your conversation that you had
8 with Adam Vance?

9 A I told him that the doctor told me that I
10 couldn't lift any more than 45 pounds. He told me
11 that was fine that I could -- and to go to work and
12 help my wife cleaning and washing dishes.

13 Q Okay. And then what happened?

14 A Three hours after Adam Vance came and told
15 me that he needed to talk me at his office and told me
16 that the company said that I had to go home and wait
17 until he would hear from some clearance. That he was
18 going to call me and talk to me.

19 Q So Adam sent you home that day?

20 A Yes.

21 Q And since that day he has not requested that
22 you return to work?

23 A No.

24 Q When you went to Doctors Care on March the
25 24th did they tell you to have physical therapy

1 performed?

2 A Yes.

3 Q How much physical therapy did you receive?

4 A Only once and then they told me that the
5 company refused to make payments.

6 Q Okay. Now, when you gave that piece of
7 paper to Adam Vance on April the 7th, did you know
8 what the piece of paper said; could you read it?

9 A No, I just told him what the doctor said,
10 that I couldn't lift any more than 45 pounds.

11 Q Okay. Did you have any information provided
12 to you that was on the piece of paper that you gave
13 Adam on April the 7th?

14 A No.

15 Q Did Adam tell you that you needed to go to
16 the doctor on April the 14th?

17 A No.

18 Q Did Adam tell you he would pay for you to go
19 to the doctor on April the 14th?

20 A No.

21 Q Were you aware that you were supposed to go
22 to the doctor on April 14th if you did not feel
23 better?

24 THE INTERPRETER: Could you repeat the question?

25 Q Were you aware that you were supposed to go

1 to the doctor on April 14th if you did not feel
2 better?

3 A No.

4 Q Did anybody tell you you would be placed
5 full duty on April the 14th if you did not go to the
6 doctor?

7 THE INTERPRETER: Can you repeat the question
8 please?

9 Q Did anybody tell you that you would be
10 placed at full duty on April the 14th if you did not
11 return to see the doctor?

12 A No.

13 Q Do you feel that you are able to return to
14 work at this time for Party Reflections?

15 A No.

16 Q Do you want the medical treatment that
17 Dr. Westerkam has recommended for you?

18 A Yes.

19 Q Do you want the physical therapy that
20 Doctors Care has recommended for you?

21 A Yes.

22 Q What medicine are you taking now for your --
23 your pain and problems?

24 A Ibuprofen, Naproxen and some other
25 medication that I was able to get through some

1 relatives from Mexico.

2 Q So you have a relative in Mexico that sends
3 you medicine?

4 A Yes, a brother that is a doctor.

5 Q And what's the medicine for?

6 MS. HALBERG: Commissioner, can we go off the
7 record for a second.

8 THE COURT: Sure.

9 (Off the record at 3:14 p.m.)

10 (On the record at 3:19 p.m.)

11 THE COURT: Let's go back on the record.

12 Q So you have a relative in Mexico that sends
13 you medicine and what's -- what do you use the
14 medicine for?

15 A For the back pain and inflammation
16 medication.

17 Q And why are you getting that medicine from
18 Mexico?

19 A Because my brother is a doctor and I can
20 speak with him and I can understand and I can explain
21 so that he can send me the right medication.

22 THE COURT: I want to go back off the record real
23 quick.

24 (Off the record at 3:20 p.m.)

25 (On the record at 3:21 p.m.)

1 THE COURT: Let's go back on the record.

2 BY MR. CALHOUN:

3 Q When you went to Doctors Care on April 7th
4 was there an interpreter there?

5 A No.

6 Q The Employer's position is that they sent
7 you home on April the 7th, correct?

8 MS. HALBERG: Objection. He can't testify as to
9 what my Employer said.

10 THE COURT: Sustained. Please rephrase the
11 question.

12 Q Your testimony is that on April the 7th,
13 Adam Vance sent you home, correct?

14 A Yes.

15 Q And you have testified that since that day
16 no one has asked you to return to work; is that
17 correct?

18 A Yes.

19 Q And since that day you have received no
20 income from the employer that you've been working for
21 the last 12 years?

22 A No.

23 Q And with the restrictions that Dr. Westerkam
24 and Doctors Care have given you, do you feel that
25 you're able to return to work?

1 A No.

2 MR. CALHOUN: That's all I have.

3 THE COURT: Ms. Halberg.

4 MS. HALBERG: Thank you, Commissioner.

5 CROSS EXAMINATION

6 BY MS. HALBERG:

7 Q Mr. Rivera, do you remember when we took
8 your deposition on September 2nd of 2014?

9 A Yes.

10 Q And you indicated you were comfortable going
11 forward with your deposition without an interpreter;
12 isn't that correct?

13 A I told him that I could go through, but if
14 -- that if we could use an interpreter, we could.

15 Q So you were comfortable going forward
16 without one, correct?

17 A Yes.

18 Q Do you have an interpreter when you go to
19 work?

20 A No.

21 Q So you're able to understand and speak
22 English that you can complete your job, correct?

23 A In the things of work, yes, but not that I
24 understand completely.

25 Q Does your wife read and understand English?

1 A No.

2 Q Did you ever ask anyone to interpret for you
3 the April 7, 2014 doctor's report?

4 A No, not of the doctor because there wasn't
5 one.

6 Q Did you ever ask any of your friends to
7 interpret the April 14th -- or April 7th, 2014 report?

8 A No.

9 Q And you have been raising fighting chickens,
10 correct?

11 THE INTERPRETER: Repeat that, please.

12 Q You have been raising fighting chickens,
13 correct?

14 A Yes.

15 Q And you sell those for money, correct?

16 A On occasions, yes, I have a few chickens
17 that I sold.

18 Q When you met with Adam Vance on April 7th of
19 2014 did you give him the report with your work
20 restrictions?

21 A Yes.

22 Q Did you ask him at any point in time after
23 April 7th if you could return to the doctor?

24 A On occasions when I used to go and pick up
25 my wife he would tell me that he hasn't heard -- he

1 didn't hear anything yet.

2 Q But did you ever ask him if you could go
3 back to the doctor?

4 A No.

5 Q Doctors Care gave you some home exercises to
6 do at home, correct?

7 A Yes.

8 Q And you did those home exercises?

9 A Yes.

10 Q In your deposition do you remember when I
11 asked you if you were currently taking any
12 medications?

13 A I heard something about the medication but I
14 didn't understand quite well.

15 Q Did you tell me during the deposition that
16 you did not understand my question?

17 A Yes.

18 MS. HALBERG: Since we're waiting on the sealed
19 copy, do you mind if I use this one to show the
20 Commissioner?

21 MR. CALHOUN: I object to it being entered
22 because the sealed copy would have to have the errata
23 sheet included with it.

24 MS. HALBERG: Right, but we'll let the sealed
25 copy in later.

1 MR. CALHOUN: Pardon me?

2 MS. HALBERG: But we'll let the sealed -- I just
3 need to be able to point to what I am referencing
4 right now.

5 MR. CALHOUN: Sure. That's fine.

6 THE COURT: Let's let the record show you think
7 14 days is appropriate time to get the errata sheet?
8 Is that allowing enough time?

9 MR. CALHOUN: Actually, the court reporter, AWR
10 is in control of that, not me. I don't know -- I
11 can't force them to provide it to my client. I've
12 sent the letter that I've given you a copy of, which
13 is our Exhibit 2. If they provide it, it's plenty of
14 time. I just can't make them do that. That's the
15 problem.

16 Now, if Ms. Halberg wants to give me a copy, then
17 I can get a copy of an errata sheet and I can do it on
18 my own without going through the court reporter.

19 MS. HALBERG: I can do that. I can't do it right
20 this very minute but I can do it later.

21 THE COURT: What we'll do is we'll leave the
22 record open for 14 days to allow that to happen.
23 That's ample time?

24 MR. CALHOUN: Yes, sir.

25 MS. HALBERG: If I could direct your attention to

1 page 99, line 4.

2 BY MS. HALBERG:

3 Q And I asked, "When is the last time you took
4 pain medication?" And you answered, "A couple of
5 months ago."

6 A What I understood is when I went to the
7 doctor to get the medication.

8 Q Did you clarify that when you answered that
9 question?

10 A No.

11 Q Did you ask me to clarify my question?

12 A No, because I didn't have an interpreter, I
13 didn't know how to say that.

14 Q But we went over at the beginning of your
15 deposition that if you did not understand a question,
16 ask -- that you would ask for clarification, as there
17 was an interpreter sitting beside you who would
18 clarify the question asked.

19 A Yeah, but you continued to talk and asking
20 me questions and I didn't know how to answer.

21 Q Did you ask for clarification from the
22 interpreter sitting beside you?

23 A No.

24 Q Let me now direct your attention to page 99,
25 line 15. "Are you currently prescribed any

1 medications?" And you answered. "No."

2 A At that time I didn't have any prescription
3 because the doctor prescribed that a while back.

4 Q Didn't you just testify that your brother in
5 Mexico is prescribing you medication?

6 A Yes.

7 MR. CALHOUN: Let the record reflect that my
8 client could not read the document in English.

9 Q Mr. Rivera, after your June 4th appointment
10 with Dr. Westerkam, did you ever provide a copy of
11 that report to Adam Vance?

12 A No.

13 Q So after April 7th of 2014 you have not
14 asked anyone at Party Reflections for additional
15 medical care?

16 A No.

17 MS. HALBERG: Those are all the questions I have.

18 THE COURT: Mr. Calhoun.

19 MR. CALHOUN: Very briefly, Your Honor.

20 REDIRECT EXAMINATION

21 BY MR. CALHOUN:

22 Q Renee, this is a first for me. Have you
23 sold any chickens since April of this year?

24 A A few, very few, two.

25 Q Okay. When you injured your knee in

1 September of last year did you go to Doctors Care?

2 A Yes.

3 Q Did Adam refuse to pay for that visit?

4 A He never told me anything; I by myself went
5 there and paid for it.

6 Q Did Adam know that you went to Doctors Care?

7 MS. HALBERG: Object to the form of the question.
8 He can't testify as to what he knows.

9 THE COURT: Sustained. Please rephrase.

10 Q Did you tell Adam that you -- or any
11 supervisor that you went to Doctors Care in September
12 of last year?

13 A Yes, Adam and also to Justin.

14 Q Okay. And they didn't reimburse you for
15 that visit?

16 A No.

17 Q When you went to Doctors Care on March the
18 24th of this year did Adam refuse to pay for it?

19 A No, that's when he gave me the credit card
20 to pay for it.

21 Q Okay. All right. So when you went back on
22 April 7th did Adam agree to pay for it?

23 A No.

24 Q If you had gone to Doctors Care on April
25 14th was Adam going to pay for that visit?

1 A No, because the doctor told me that the
2 company didn't want to continue paying.

3 Q And they had already refused to pay for
4 physical therapy, correct?

5 A Yes.

6 Q Was it clear to you that Party Reflections
7 was not going to pay for anymore medical treatment for
8 your back?

9 A Yeah, the way I look at, yes, because they
10 didn't want to pay the last appointment.

11 Q Okay. Thank you.

12 MR. CALHOUN: That's all I have.

13 THE COURT: Ms. Halberg.

14 RE-CROSS EXAMINATION

15 BY MS. HALBERG:

16 Q Mr. Rivera, how come you can only understand
17 some of the things your doctor tells you about
18 payment, but you can't understand your work
19 restrictions?

20 A Because I do understand a little bit, but
21 not completely.

22 Q So you can remember the parts that you need
23 to remember for purposes of your hearing today, but
24 not the other parts?

25 A I remember everything that is happening, but

1 I don't understand everything.

2 MS. HALBERG: No additional questions.

3 THE COURT: Mr. Calhoun.

4 MR. CALHOUN: I have no further questions.

5 THE COURT: You can step down.

6 MR. CALHOUN: Commissioner, I believe this is
7 correct, but Ms. Halberg has told me that Adam Vance
8 is -- would agree with anymore testimony we have
9 concerning him sending Mr. Rivera home on April the
10 7th and never asking that he return. So my two
11 witnesses were going to testify as to that point
12 because we weren't sure if they were going to admit
13 that today. So if that's the case then I don't need
14 to call my next two witnesses.

15 THE COURT: Okay. Ms. Halberg.

16 MS. HALBERG: I would like to still call Adam,
17 not for -- not to clarify his work status, but
18 questions about medical treatment.

19 THE COURT: We're going to take a five minute
20 break.

21 (Off the record at 3:38 p.m.)

22 (On the record at 3:45 p.m.)

23 THE COURT: We'll go back on the record.

24 I just need to give you a couple of quick
25 instructions. Please be sure to speak up loudly and

1 as clearly as you can. We don't have any microphones
2 in the room so it's important that everyone in the
3 room be able to hear you, particularly this nice lady
4 right here, the court reporter, so if you would please
5 speak up. If you are asked a yes or no question
6 please reply with a verbal yes or no answer and
7 uh-huh, huh-uh, that's too easily misunderstood so if
8 you have more to say you can explain that, but if it's
9 a yes or no question please be sure to respond with a
10 yes or no answer. If you understand that then please
11 raise your right hand. Do you swear or affirm that
12 the testimony you're about to give is the truth, the
13 whole truth and nothing but the truth?

14 THE WITNESS: I do.

15 THE COURT: Thank you. Please state for the
16 record your full name and spell it.

17 THE WITNESS: Adam Paul Vance. A-D-A-M, P-A-U-L,
18 V-A-N-C-E.

19 THE COURT: Ms. Halberg, your witness.

20 MS. HALBERG: Okay. Thank you, Commissioner.

21 Adam Paul Vance,
22 Having first been duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MS. HALBERG:

25 Q Mr. Vance, where do you work?

1 A Party Reflections.

2 Q And what is your position there?

3 A General Manager of the Columbia store.

4 Q How long have you been at Party Reflections?

5 A Five years, five months and three weeks.

6 Q And were you a supervisor for Mr. Rivera?

7 A Yes, ma'am.

8 Q Were you there on his -- on March 16th, 2004
9 when he injured his lower back?

10 A Not at the jobsite.

11 Q Did he report the injury to you?

12 A Yes, ma'am, Monday following. It was a
13 Sunday, I believe, when it occurred.

14 Q And when he reported the injury to you did
15 you refer him to the doctor?

16 A Yes, ma'am.

17 Q Where did you tell him to go?

18 A I told him to go to Doctors Care on Garner's
19 Ferry Road.

20 Q And did you offer to pay for that
21 appointment?

22 A Yes, ma'am.

23 Q And did you pay for it?

24 A Yes, ma'am, company credit card.

25 Q Did you pay for it over the telephone, or

1 how does that process work?

2 A Usually over the telephone I would call the
3 lady there, I believe her name is Grace, and give her
4 the card. Or at times physically give the card to the
5 Employee when they go for treatment.

6 Q And did you know if he had any work
7 restrictions after he went to that appointment on
8 March 17th?

9 A I believe light duty, carry nothing over 15
10 pounds, no repetitive motions, light duty.

11 Q And did you provide him with light duty
12 work?

13 A Yes, ma'am.

14 Q Where was that? Would it have been the same
15 job or was he doing something different?

16 A Different. Kitchen work, warehouse work.

17 Q It's my understanding he went back to
18 Doctors Care on March 24th; is that correct?

19 A Yes, ma'am.

20 Q And did you tell him to go to that
21 appointment?

22 A I believe I did.

23 Q Do you remember if it was paid for with the
24 company credit card?

25 A Yes, ma'am, if that was the visit that was

1 in the \$300.00 range, I believe that would be it, yes,
2 ma'am.

3 Q What was his last day of work?

4 A Last day I remember him on the payroll
5 system, I would say April 7th for a period of two
6 hours or so.

7 Q And is April 7th, is that the day that he
8 came to you with -- with his release from Doctors
9 Care?

10 A Yes, ma'am, that was the day of his visit,
11 April 7th, 2014.

12 Q And on that -- for the April 7th appointment
13 did the company -- did he use the company credit card
14 again for that appointment?

15 A If that was the one -- there was one for
16 some reason that he paid on his own and did not alert
17 me. If that was the same one then I immediately made
18 a copy of the receipt and sent it to HR.

19 Q I'd like to direct you to this.

20 MS. HALBERG: This is Claimant's APA, page 48.

21 Q Is this the report he gave to you on April
22 7th of 2014?

23 A Yes, ma'am.

24 Q And can you -- what is your understanding of
25 this report when you read it?

1 A This is a standard return to work form that
2 I was have -- I was given and it explains that he has
3 light duty up until the 14th of April, where it shows
4 that he can perform full duty of activities as of that
5 date.

6 Q And is that Mr. Rivera's signature at the
7 bottom of that page?

8 A As I have seen before, yes, ma'am.

9 Q So it was your understanding when you read
10 this report that he could return to full duty as of
11 April 14th of 2014?

12 A Yes, ma'am.

13 Q Did you discuss this form with him at all?
14 Did he ask you what it said or did you discuss its
15 contents?

16 A Cannot -- cannot recall.

17 Q And it's my understanding that you did not
18 bring him back to work after this report, correct?

19 A No, ma'am.

20 Q Did he ever give you a copy of the report
21 from Dr. Westerkam from June 3rd?

22 A No, ma'am.

23 Q After April 7th of 2014 did he ever ask you
24 if he could go back to the doctor?

25 A I have no recollection of that, no, ma'am.

1 Q After April 7th of 2014 did he ever tell you
2 that he did not feel better and felt like he needed to
3 go back to the doctor?

4 A No, ma'am, he did not.

5 Q If he had asked you to go back to the doctor
6 on April 14th of 2014, would you have instructed him
7 to go to the doctor?

8 A Absolutely, yes, ma'am.

9 Q Where would you have told him to go?

10 A I would have told him to go back to Doctors
11 Care, Garner's Ferry Road.

12 Q And when you submitted the receipt on April
13 7th of 2014 did you think he was going to be
14 reimbursed?

15 A Absolutely. I would send it like I would
16 any other receipt.

17 Q Did you ever refuse to pay for his medical
18 care?

19 A Never.

20 Q Did you ever refuse to send him to the
21 doctor when he asked to go?

22 A No, ma'am.

23 MS. HALBERG: Okay. Those are all the questions
24 that I have.

25 THE COURT: Okay. Mr. Calhoun.

CROSS EXAMINATION

BY MR. CALHOUN:

Q Mr. Vance, you just testified that you obtained a copy of the receipt for the April 7th visit to Doctors Care?

A Yes.

MR. CALHOUN: APA, page No. 49.

Q And you're aware that he's never been reimbursed for that visit, correct?

A Now I am.

Q Did you ever pay him \$95.00 for the April 7th visit?

A Me, personally?

Q Yeah, you personally?

A No, sir.

Q Okay. Did anybody give him or his wife \$95.00 for that April 7th visit?

A Not that I can answer to.

Q Okay. You see his wife at work about every day, don't you?

A Yes, sir.

Q You see his two brothers at work about every day, don't you?

A Yes, sir.

Q So, every day since April 7th of this year

1 you've had an opportunity to give somebody \$95.00 so
2 they can hand it to Mr. Rivera; isn't that correct?

3 A Without authorization, that's not my
4 position.

5 Q So you haven't been authorized to pay him
6 \$95.00 for one doctor's visit?

7 A No.

8 Q Okay. And so he hasn't been paid for that
9 doctor's visit, right?

10 A If that's what you're telling me.

11 Q When he hurt his knee back on September 14th
12 of last year, he went to the same Doctors Care,
13 correct?

14 MS. HALBERG: Commissioner, I would like to
15 object to this line of testimony. It's my
16 understanding is that he has reached an agreement with
17 Will Harbison separately with regard to the knee
18 injury and that we're not here litigating the knee
19 issue today?

20 MR. CALHOUN: We're not. We are talking about
21 his testimony as to when and if he pays my client when
22 he goes to the doctor. I can ask him about that.

23 THE COURT: I'm going to allow it.

24 BY MR. CALHOUN:

25 A Could you ask the question again, please?

1 Q Do you remember when Mr. Rivera injured his
2 knee in September of last year, correct?

3 A Yes.

4 Q And he went to the same Doctors Care?

5 A I believe so.

6 Q And he had to pay for that visit out of his
7 pocket also; isn't that correct?

8 A I'm not aware of that.

9 Q Did you ever pay him \$95.00 for a doctor's
10 visit on September 18th of last year?

11 A Me, personally, I'm not aware of it. It was
12 different.

13 Q Are you aware of anybody reimbursing him for
14 that \$95.00 visit in September of last year?

15 A I would have, like any other time, handed
16 him a company credit card had he requested it, or
17 informed me of a visit.

18 Q Okay. But you're not paying him back for
19 that visit, are you?

20 A Off the top of my head, no.

21 Q You've also testified that you would have
22 paid for his doctor's visit on April 14th of this
23 year, too, right?

24 A When?

25 Q April the 14th of this year.

1 A Had it been presented to me, yes, I would
2 have given the company credit card like any other
3 occasion.

4 Q What do you mean when you say presented to
5 you? What does that mean?

6 A If somebody says I'm hurt or there is an
7 incident, I need to go to Doctors Care, they come to
8 me, I give them the credit card and they go.

9 Q Well, you testified that you read the return
10 to work note dated April 7th, correct?

11 A Correct.

12 Q And you testified that you're aware that he
13 wasn't paid for the April 7th visit?

14 A If that's the \$95.00 receipt, because he
15 again paid for that and went on his own without
16 alerting me, because they always come to me for the
17 card.

18 Q But on April 7th you received a return to
19 work note after he left Doctors Care, correct?

20 A Yes.

21 Q Did you tell him to go to the doctor on
22 April 14th?

23 A I don't remember being presented that.
24 That's something he had to do.

25 Q So is that a no?

1 A He was cleared to return to work on the 14th
2 full duty.

3 Q Did you tell him to go -- you did not answer
4 my question. Did you tell him to go to the doctor at
5 Doctors Care on April the 14th?

6 A I have no recollection of telling him to do
7 that.

8 Q Okay. This note dated April 7th also says
9 return for reevaluation to this office on April the
10 14th if not better. Do you remember telling Mr.
11 Rivera that?

12 A Could you repeat the question, please?

13 Q Yes. The April the 7th note says for Mr.
14 Rivera to go to the doctor, return to Doctors Care on
15 April 14th if he is not better. Do you remember
16 telling him that?

17 A I never knew he was not better. And he had
18 not worked any other day after that point.

19 Q Do you remember telling him that?

20 A Telling him to go back to the doctor?

21 Q On April 14th.

22 A I do not remember telling him to go back to
23 the doctor.

24 Q Okay. Did you tell us that Renee worked
25 after he hurt his back on March 15th? Did you say

1 that he returned to work other than April 7th?

2 A Had he worked prior to April 7th?

3 Q Did he work between April 15th -- I'm sorry.

4 Did he work between March 15th and April 7th?

5 A At some point, yes, when he was cleared for
6 light duty.

7 Q So your testimony is that he was actually
8 going to work between April 15th and April 7th?

9 A I think you have your dates wrong.

10 Q Okay. You're right. He was injured on
11 March 15th?

12 A 16th, I believe was the date that they
13 claimed the injury.

14 Q He went to the doctor on the 16th, he was
15 injured on March the 15th.

16 A Was the 16th a Sunday?

17 Q No, the 15th was a Sunday, the 16th was a
18 Monday.

19 MS. HALBERG: Commissioner, the 50 and
20 everything alleges the date of accident as March 16.
21 I think it's March 17th when he went to the doctor.

22 MR. CALHOUN: The Doctor's note is dated March
23 the 16th.

24 BY MR. CALHOUN:

25 Q Okay. From that day to the day that you

1 sent him, April 7th, did he work at Party Reflections
2 or did he not work?

3 A Between March 16th and April 7th?

4 Q Yes.

5 A Yes, there were times he worked.

6 Q How many days did he work?

7 A I mean how many -- he was given -- I'd say
8 he could have worked five to ten days, maybe. I
9 believe also he was given sick time, vacation time to
10 rest.

11 MR. CALHOUN: Okay. That's all I have.

12 MS. HALBERG: Just a few questions in follow-up.

13 MR. CALHOUN: I just realized my client left the
14 courtroom, I wasn't aware of that. I'm not sure why
15 he left the courtroom but I need to bring him back in
16 because he's supposed to be listening to your client's
17 testimony.

18 THE COURT: I assume the interpreter is still out
19 there as well.

20 REDIRECT EXAMINATION

21 BY MS. HALBERG:

22 Q Just a few questions in follow-up, Mr.
23 Vance. There's been some talk about this injury to
24 the left knee in September of 2013. Were you working
25 for Party Reflections then or was that a different

1 employer?

2 A Palmetto Party Rental.

3 Q And Party Reflections purchased Palmetto
4 Party Rental; is that correct?

5 A Yes, ma'am.

6 Q The reimbursement process, when you
7 submitted that receipt, you're not the one that
8 actually writes the checks for reimbursement, correct?
9 You just pass it on to someone else?

10 A No, ma'am, I make sure that -- yes, ma'am,
11 correct.

12 Q So you send them to someone else and they
13 write the check, correct?

14 A Yes, ma'am.

15 Q That's not something that you're in charge
16 of?

17 A Correct.

18 Q And then on April -- any time after April
19 7th did Mr. Rivera tell you he was not feeling better?

20 A No.

21 Q That's all the questions that I have. Thank
22 you.

23 THE COURT: Mr. Calhoun.

24 RE-CROSS EXAMINATION

25 BY MR. CALHOUN:

1 Q Mr. Vance, when Renee injured his back in
2 March of this year, did you ask him not to file -- not
3 to report it or file it as a workers' comp claim and
4 say that it happened at his home?

5 A Absolutely not.

6 Q Did not? Yet you are sending him to the
7 doctor and you were paying for the doctor's visits on
8 your office credit card, correct?

9 A Yes, I sent him for treatment and they
10 required a credit card to see him.

11 Q So you were paying for an injury that
12 happened at work out of your own pocket, correct?

13 A No.

14 Q No?

15 A No, sir.

16 Q Well, that doesn't --

17 MS. HALBERG: Commissioner, pursuant to the
18 regulations an Employer can pay for medical treatment
19 up to a certain point prior to reporting it to the
20 Carrier. So any inference that this was fraudulent is
21 incorrect and it is -- it is in compliance with the
22 regulation.

23 THE COURT: Sustained.

24 Q Well, we have an injury that happened in
25 September of last year, correct?

1 A Yes.

2 Q Knee injury that happened in September of
3 2013, correct?

4 A As claimed, yes.

5 Q And you never paid for that doctor's visit,
6 did you?

7 A To be blunt, both Renee and I had no idea
8 what that lawsuit was for. He couldn't remember and
9 nor could I.

10 Q And yet that injury in September of last
11 year has been accepted as a workers' comp claim as of
12 today?

13 MS. HALBERG: Objection, your Honor. Will
14 Harbison is not here. That is a prior Employer and
15 the Carrier is not here. That was -- those claims
16 were resolved pursuant to a Consent Order separate
17 from this hearing today. Any inference that they are
18 admitted or otherwise is not appropriate without Mr.
19 Harbison in this room.

20 THE COURT: Sustained.

21 Q Mr. Vance, isn't it true that your company
22 has a history that goes back 12 months of not
23 reporting workers' comp claims just for this person
24 only; not reporting workers' comp claims and not
25 paying for medical treatment? Your lawyer can't

1 answer that for you.

2 A It's not my company.

3 Q The company that you work for?

4 A And ask that question one more time, please,
5 sir.

6 Q Isn't it true that the company that you work
7 for has an Employee, who -- who you are that
8 gentleman's supervisor and you've been his supervisor
9 for five years and you have a history, you and your
10 company of not reporting worker's compensation --

11 MS. HALBERG: Objection. This is completely
12 ludicrous.

13 THE COURT: I'm going to allow it.

14 MS. HALBERG: This line of questioning is absurd.

15 MR. CALHOUN: It's absurd?

16 MS. HALBERG: It is. He testified he paid for it
17 with a company credit card. There's nothing being
18 hidden.

19 MR. CALHOUN: That's not even responsive to my
20 question. What's your objection?

21 MS. HALBERG: You are asking him to testify as to
22 what the company is doing.

23 MR. CALHOUN: This is cross.

24 MS. HALBERG: There's no proof --

25 MR. CALHOUN: I can ask him any question that's

1 relevant.

2 THE COURT: Overruled. He can testify as to what
3 his understanding is.

4 BY MR. CALHOUN:

5 Q Are you ready for me to ask you the question
6 again?

7 A Yes, sir.

8 Q Okay. You work for a company that has been
9 employing Mr. Rivera for the last 12 years and you've
10 been his supervisor for 5 years. And isn't it true
11 that for the last 12 months your company has a history
12 of not reporting workers' compensation claims for this
13 gentleman only and not reimbursing him for his medical
14 treatment?

15 A To my knowledge, no.

16 Q To your knowledge, no? That's all I have.

17 THE COURT: Anything further?

18 MS. HALBERG: Just a few.

19 REDIRECT EXAMINATION

20 BY MS. HALBERG:

21 Q Mr. Vance, did you pay for the medical
22 treatment with the company credit card?

23 A Yes.

24 Q Did you report the injuries when you were
25 notified of them to your superiors?

1 A Yes.

2 Q At any point in time did you try to hide any
3 claims for any injuries by Mr. Rivera?

4 A No.

5 Q Thank you.

6 MR. CALHOUN: No more questions.

7 THE COURT: Do you have anybody else to call?

8 MS. HALBERG: None from the Defense.

9 MR. CALHOUN: That's it, your Honor.

10 THE COURT: That concludes this hearing.

11 (The hearing concluded at 4:07 p.m.)

12

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25

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON) CERTIFICATE

BE IT KNOWN THAT I TOOK THE FOREGOING WORKERS'
 COMPENSATION HEARING;

THAT I WAS THEN AND THERE A NOTARY PUBLIC IN
 AND FOR THE STATE OF SOUTH CAROLINA-AT-LARGE;

THE FOREGOING TRANSCRIPT CONSISTING OF 47
 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 27TH DAY OF
 OCTOBER, 2014.

CORA ELLIS BRUTON
 NOTARY PUBLIC FOR SOUTH CAROLINA
 MY COMMISSION EXPIRES JANUARY 18, 2015

South Carolina Workers' Compensation Commission
W.C.C. File # 1403985

Renee Robles,

Claimant,

vs.

Party Reflections,

Employer,

Employers Assurance
Company,

Carrier/Defendant.

Deposition

of

RENEE ROBLES

Deposition of RENEE ROBLES, taken before Thea K. Salmonson, Verbatim Court Reporter and Notary Public in and for the State of South Carolina, scheduled for 8:00 a.m. and commencing at the hour of 8:19 a.m., Friday, February 13, 2015, at the office of Gallivan, White & Boyd, PA, Columbia, South Carolina.

Reported by:

Thea K. Salmonson

Any court, party, or person who has purchased a transcript may, without paying a further fee to the reporter, reproduce a copy or portion thereof as an exhibit pursuant to court order or rule or for internal use, but shall NOT otherwise provide or sell a copy or copies to any other party or person without the express consent of the reporter and/or reporting agency.

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INDEX OF EXAMINATION

Stipulations	4
Direct Examination by Mr. Harbison	4
Cross Examination by Mr. Calhoun	38
Re-Direct Examination by Ms. Adams	47
Re-Direct Examination by Mr. Harbison	48
Re-Cross Examination by Mr. Calhoun	50
Errata Sheet	56
Certificate	59

INDEX OF EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	PAGE
Exhibit No. 1	Errata Sheet	10
Exhibit No. 2	Deposition Transcript	14
Exhibit No. 3	Administrative Order	35

1 STIPULATIONS

2 This deposition is being taken pursuant to
3 Section 42-3-160 of the South Carolina Code of
4 Laws, 1976 and the South Carolina Rules of
5 Civil Procedure.

6 - - - -

7 The reading and signing of this deposition is
8 reserved by the deponent and counsel for the
9 respective parties.

10

11 (Whereupon, an oath was administered to
12 the interpreter)

13 - - - -

14

15 Whereupon,

16 RENEE ROBLES, being duly sworn and cautioned
17 to speak the truth, the whole truth, and
18 nothing but the truth, testified as follows:
19 Court Reporter: State your full name for the
20 record, please.

21 Witness: Renee Robles.

22 - - - -

23 DIRECT EXAMINATION

24 BY MR. HARBISON:

25 Q Okay. Can you please state your full name for the

1 record?

2 **A Renee Rivera Robles.**

3 Q Mr. Rivera, do you prefer that I call you by Mr.

4 Rivera or Mr. Robles?

5 **A Rivera.**

6 Q All right. Mr. Rivera, we have met before, my name

7 is Will Harbison. I'm here today representing

8 Palmetto Party Reflection and their workman's

9 compensation insurance company in your work

10 accident of April 15, 2013, and your alleged work

11 accident of September 13, 2013. Seated to my right

12 is Ellen Mercer.

13

14 MS. ADAMS: Adams.

15

16 Q Ellen Adams, excuse me. That was her maiden name.

17 She is, she'll introduce herself but she's

18 representing Party Reflections in your third

19 workers' compensation claim. Also, just walking in

20 is A.J. Holloway. He's an associate that just

21 joined our law firm. All right. Do you know why

22 you're here?

23 **A Yes.**

24 Q And why is that?

25 **A We're going to do, we're going to have another**

1 **conversation again.**

2 Q Well, let me back up a little bit. We have a
3 translator here today, Mr. Reed. Mr. Reed is going
4 to translate my questions and he's going to
5 translate your answers. If you don't understand
6 any of my questions, you need to let us know and
7 I'll repeat or rephrase the question, okay?

8 A **That's fine.**

9 Q And if you don't understand Mr. Reeds translation,
10 you need to let us know, okay?

11 A **That's fine.**

12 Q You're doing a good job so far but I'm going to ask
13 you to vocalize your answers by saying yes or no.

14 A **That's fine.**

15 Q If you say huh-uh or uh-huh, we'll know what you
16 mean today but two weeks from now when we look over
17 this transcript we won't know what that means,
18 okay?

19 A **That's fine.**

20 Q Instead of that's fine, I'm going to ask you to say
21 yes or no.

22 A **Yes.**

23 Q Okay. And again, I'm sorry, why are you here
24 today?

25 A **Because we're going to do a deposition, we're going**

1 **to repeat a deposition.**

2 Q Okay. As you may recall the deposition is what we
3 call part of the discovery process. And I'm going
4 to ask you some questions today to try to discover
5 more information about some of the changes you made
6 to your last deposition.

7 A **Yes.**

8 Q Do you remember when you gave a deposition at your
9 attorney's office on September 2, 2014?

10 A **Yes.**

11 Q All right. I've been practicing law for 24 years,
12 I have never had a situation like this arise
13 before. The Workers' Compensation Commission has
14 ordered you to be here today. The Workers'
15 Compensation Commission said if Mr. Rivera, fails
16 to appear for his deposition within 14 days of the
17 date of this Order without good cause, both he,
18 meaning you, and his counsel, meaning Mr. Calhoun,
19 shall be held in contempt and subject to
20 penalties. Do you understand that?

21 A **Yes.**

22 Q I've never had the Workers' Comp Commission say
23 that about an attorney or a witness, so this is
24 very serious. Do you understand?

25 A **Yes.**

1 Q You gave a deposition under oath on September 2,
2 2014, at your attorney's office, correct?
3 A Yes.
4 Q And you were under oath to tell the truth?
5 A Yes.
6 Q You made changes to that deposition later, which
7 we'll talk about, which you are still under oath to
8 give. You then went to a hearing before the
9 Workers' Compensation Commission on September 25,
10 2014, and you were under oath. Do you understand?
11 A Yes.
12 Q And then you are here today giving testimony under
13 oath.
14 A Yes.
15 Q Do you know what perjury is?
16 A Perjury, can you -- perjury, yes.
17 Q You understand what perjury is?
18 A Yes.
19 Q That means giving false, misleading, or incomplete
20 testimony. If you are found guilty of that, you
21 can be put in prison or you can be fined, if you
22 are found guilty or perjury. Do you understand?
23 A Yes.
24 Q We also have your deposition on tape, all recorded,
25 so we are going to ask the Workers' Comp Commission

1 to look at your deposition transcript that you gave
2 in September of 2014. We're going to ask him to
3 listen to the tape of what you said in that
4 deposition. We're going to ask them look at what
5 you allegedly wrote on this sheet that we're going
6 to talk about today. We're going to ask them to
7 look at your testimony that you gave in September
8 at the Workers' Compensation Commission. And then
9 I'm going to ask them to look at the testimony
10 you're going to give today, and I'm going to ask
11 them to compare any similarities or differences.
12 And one of the things we're going to ask them, I
13 assure you, is to see whether you gave false
14 testimony. Do you understand that?

15 **A Yes.**

16 **Q** You understand the seriousness of this?

17 **A Yes.**

18 **Q** Do you also understand that if you give a false
19 representation in connection with an insurance
20 transaction in South Carolina it's a big problem?

21 **A Yes.**

22 **Q** This is an insurance transaction. The law does not
23 allow you to give false statements or
24 misrepresentations. Do you understand?

25 **A Yes.**

1 Q That also, in addition to perjury, is subject to
2 penalties and prison if you are found guilty of
3 that. Do you understand?

4 A Yes.

5 Q All right. Do you understand that you are now
6 under oath still?

7 A Yes.

8 Q All right.

9

10 MR. HARBISON: Let's mark that as Exhibit No. 1.

11

12 (Whereupon, Errata Sheet, consisting of 6
13 pages, was marked Exhibit No. 1 for
14 identification.)

15

16 Q I'm going to show you what has been marked as
17 Exhibit No. 1. Take a look at it. And this is
18 called an errata sheet. I'm going to use the term
19 errata, is that okay with you?

20 A That's fine, yes.

21 Q Take a look at it for a second.

22 A (Witness complies)

23 Q Have you seen that before?

24 A Yes.

25 Q Whose handwriting is that on there?

1 **A** **A friend that helped me fill this out and he was**
2 **telling me what to, I needed to write.**
3 **Q** **Who was your friend?**
4 **A** **Pedro Carrillo.**
5 **Q** **And who is Pedro Carrillo?**
6 **A** **He's a friend.**
7 **Q** **And where does he live?**
8 **A** **Orangeburg.**
9 **Q** **Where does he work?**
10 **A** **I know he works in construction but I'm not sure,**
11 **I'm not familiar with what construction.**
12 **Q** **Where does he live?**
13 **A** **Orangeburg.**
14 **Q** **I know, but where in Orangeburg, where would we**
15 **find him?**
16 **A** **I don't know his address, I just know him as my**
17 **friend.**
18 **Q** **Who was present when you filled this out?**
19 **A** **Just me and him.**
20 **Q** **Okay. And I'm sorry, whose handwriting is this?**
21 **A** **Pedro Carrillo.**
22 **Q** **What do you mean by he told you what to say on**
23 **here?**
24 **A** **He read the deposition that I had done and he told**
25 **me the changes that I had to make, I told him. I**

- 1 **told him the changes that he had to make.**
- 2 Q Was anyone else there, other than Mr. Carrillo and
- 3 you?
- 4 A **No.**
- 5 Q Does Mr. Carrillo speak English?
- 6 A **Yes.**
- 7 Q Did you have a translator present, other than Mr.
- 8 Carrillo?
- 9 A **No.**
- 10 Q Did you discuss these changes with your attorney?
- 11 A **No.**
- 12 Q Did you discuss these changes with anyone in your
- 13 attorney's office?
- 14 A **No.**
- 15 Q All right. What did you do with this sheet after
- 16 you completed it?
- 17 A **I sent it to the address from where it was sent.**
- 18 Q All right. Between the completion of your
- 19 deposition at your attorney's office and the point
- 20 at which you filled out this errata sheet, did you
- 21 discuss your testimony with your attorney?
- 22 A **No.**
- 23 Q Discuss any changes to it?
- 24 A **No.**
- 25 Q Did you ever ask the court reporter for a

1 translator to help you review your deposition?

2 **A No.**

3 **Q** Do you think that Mr. Carrillo did a good job in
4 translating for you your deposition?

5 **A Yes.**

6 **Q** Do you have any additional changes you want to make
7 to his translation right now on Exhibit No. 1?

8 **A No.**

9 **Q** Do you stand by everything you have said on Exhibit
10 No. 1 on the errata sheet?

11 **A Yes.**

12 **Q** All those statements made on that errata sheet are
13 truthful and accurate?

14 **A Yes.**

15 **Q** And he would read the deposition question to you
16 line by line?

17 **A Yes.**

18 **Q** And did he read the entire deposition to you?

19 **A Yes.**

20 **Q** And you had the opportunity for him to read the
21 entire deposition to you?

22 **A Yes.**

23 **Q** And the changes marked on Exhibit No. 1 are the
24 only changes that you felt were necessary?

25 **A Yes.**

1 Q And you stand by then the rest of your testimony
2 that he didn't change?

3 A Yes.

4 Q Okay. If I may point you to -- I'm going to get
5 marked as Exhibit No. 2 the actual deposition
6 transcript from your September 2, 2014 deposition.
7 And that way you can compare the deposition pages
8 with the changes you made, okay?

9 A Yes.

10

11 (Whereupon, Deposition Transcript,
12 consisting of 142 pages, was marked
13 Exhibit No. 2 for identification.)
14

15 Q And I won't go through all of them but I'm going to
16 go through some of them, okay?

17 A Yes.

18 Q Starting with the first one on page 4 line 12
19 through 13, you state there was no interpreter
20 used.

21 A We didn't use an interpreter because the
22 interpreter that we did use was Wilmer Aviles and
23 he's a dishonest interpreter. And so we didn't
24 want to use that particular interpreter for the
25 deposition.

- 1 Q All right. Well, first of all, there was an
2 interpreter present during your deposition,
3 correct?
- 4 A Yes.
- 5 Q And he actually did make several translation
6 changes, correct?
- 7 A Just one.
- 8 Q Okay. And your attorney allowed him to be present
9 there, correct?
- 10 A For him to be present, yes.
- 11 Q Okay. So there was an interpreter present?
- 12 A Yes.
- 13 Q And do you remember me telling you that if you had
14 any questions we could refer to the interpreter?
- 15 A Yes.
- 16 Q And you knew you had the right to that interpreter?
- 17 A Yes.
- 18 Q And you never really did, well, you never actually
19 referred or asked for translation from that
20 interpreter, is that correct?
- 21 A Correct.
- 22 Q So you understood all my questions?
- 23 A I didn't understand all the questions correctly but
24 I did understand most of them, how I was supposed
25 to interpret correctly.

1 Q Well, you chose to give the deposition in English,
2 correct?

3 A Yes.

4 Q And I offered to cancel the deposition and get
5 another interpreter, correct?

6 A Yes.

7 Q And you and your attorney decided to go forward
8 with this deposition on September 2, 2014 without
9 an interpreter, correct?

10 A Correct.

11 Q The interpreter who was there, Wilmer Aviles, A-v-
12 I-l-e-s, had he ever interpreted for you before?

13 A No.

14 Q Your attorney didn't have an independent
15 interpreter there for you, did he?

16 A No.

17 Q Even though he had the right to?

18

19 MR. CALHOUN: Object as to form.

20

21 Q Even though he had the right to, are you aware of
22 that?

23 A No.

24 Q No what? Is it correct that your attorney did not
25 have an interpreter there for you?

1 **A** **No.**

2 **Q** Is that correct? Did your attorney have a separate
3 interpreter there for you for your deposition?

4 **A** **No.**

5 **Q** Do you have any first-hand knowledge personally of
6 why you think Mr. Aviles is dishonest?

7 **A** **No.**

8 **Q** In my deposition I asked you to tell me if you did
9 not understand any of my questions, correct?

10 **A** **Correct.**

11 **Q** And did you do that?

12 **A** **No. I didn't do it because you spoke too fast and**
13 **I didn't know how to stop you without, I didn't**
14 **know how to stop you and tell you.**

15 **Q** Well, at the end I asked you if you understood all
16 my questions and you said you did.

17 **A** **Well, I understood most of them but I didn't**
18 **understand completely.**

19 **Q** Okay. But these on Exhibit No. 1 are all the
20 changes you want to make to your deposition?

21 **A** **Yes.**

22 **Q** And do you know these are considered to be given
23 under oath and subject to penalty of perjury?

24 **A** **Yes.**

25 **Q** And do you understand we need to decide, we need to

1 ask the commission to determine whether you were
2 telling the truth in your deposition or whether you
3 were telling the truth on Exhibit No. 1?

4 **A Yes.**

5 **Q** And then to compare that with the testimony you
6 give today and at the hearing that we'll be going
7 to, excuse me, they will be comparing this
8 deposition, this errata sheet, the deposition we're
9 here today for with the two hearings you'll be
10 going to and have gone to?

11 **A Yes.**

12 **Q** Okay. But just to summarize, there was an
13 interpreter present at your deposition on September
14 2, 2014?

15 **A Yes.**

16 **Q** And he was in the room the entire time?

17 **A Yes.**

18 **Q** And although you had the right to ask him for
19 translation -- well, you had the right to ask him
20 for translation, correct?

21 **A Yes.**

22 **Q** All right. Turning to the second one on page 11,
23 you state you cannot speak or understand fluent
24 English. Can you read that?

25 **A I know what it says there because I remember what I**

1 **told the person what they're supposed to write**
2 **there.**
3 Q Okay. Do you need the translator to read that
4 second line for you?
5 A **Yes.**
6 Q Okay. It says - I'll read it and he'll translate
7 it - cannot speak and understand fluent English.
8 A **Correct.**
9 Q Okay. Is that true?
10 A **Correct.**
11 Q Can you understand English?
12 A **More or less.**
13 Q Okay. What do you mean by more or less?
14 A **Seventy, 75 percent of English.**
15 Q You understand 75 percent of English?
16 A **Yes.**
17 Q Can you -- you drive an automobile, correct?
18 A **Correct.**
19 Q And you're able to read road signs?
20 A **I know what the road signs mean.**
21 Q Okay. Are you able to read those road signs?
22 A **A lot of road signs don't have anything to read**
23 **really, they're just signs.**
24 Q Okay. The ones that do have words on them, are you
25 able to read them?

- 1 **A** I don't know how to read them but I know what they
2 mean, because when I was trying to get my license I
3 was read the questions in Spanish and so I
4 understand what they mean.
- 5 **Q** Well, the road signs aren't in Spanish.
- 6 **A** Can you repeat the question?
- 7 **Q** Our road signs are not in Spanish. What about
8 emergency road signs that weren't part of your
9 driver's license test?
- 10 **A** If I have to drive somewhere where there's a sign
11 that I don't understand what they say then I just
12 follow kind of where the flow of traffic or what
13 everyone else is doing.
- 14 **Q** Did you drive here today?
- 15 **A** No.
- 16 **Q** Do you still drive?
- 17 **A** Yes.
- 18 **Q** So you're driving around all sorts of people,
19 including small children, and you don't understand
20 the signs that tell you where to go and not to go?
- 21 **A** I drive all the time and I know what it means to
22 drive with the speed limit, I know how to drive
23 with people present.
- 24 **Q** I think you just told me you can't understand some
25 of the signs, yes or no?

1 **A** **No, no. What I did say is that I understand the**
2 **meaning but I don't know what it actually says.**

3 **Q** **Okay. So do you think that the State of South**
4 **Carolina would consider that to be safe?**

5

6 **MR. CALHOUN: Object as to form. Answer the**
7 **question if you can.**

8

9 **Q** **If someone were to say this gentleman doesn't**
10 **understand the road signs by his own admission.**

11 **A** **I don't know what they'd say, but I need to drive**
12 **to be able to do the stuff that I need to take care**
13 **of.**

14 **Q** **Well, why didn't you drive to your medical**
15 **appointment that we sent you to?**

16 **A** **Which medical appointment do you mean?**

17 **Q** **For your knee.**

18 **A** **I don't know who sent me to that but I never said**
19 **that I couldn't drive to my appointment.**

20 **Q** **Well, your attorney, an officer of the court,**
21 **represented to me that you had no transportation.**

22

23 **MR. CALHOUN: Object as to form.**

24

25 **Q** **Your attorney sent me, and I have it in writing, an**

1 email saying that you had no transportation to your
2 knee appointment, was that correct?

3 **A Correct.**

4 **Q** You just, you did have transportation or did not
5 have transportation?

6 **A I didn't have a car on those dates. It had broken**
7 **down, so I didn't have a way to move around.**

8 **Q** Where was your car?

9 **A At home.**

10 **Q** All right. Your wife -- Which kind of car was
11 broken down?

12 **A The grey one.**

13 **Q** And who do you live with?

14 **A My wife.**

15 **Q** And that's the only car y'all drive?

16 **A I have two cars but at that time my wife was going**
17 **with a co-worker and they had to, around that**
18 **particular time they had to get to work that day.**

19 **Q** So did you or did you not ask for transportation
20 for your knee appointment?

21 **A I told my attorney that I didn't have a way to move**
22 **around, so he asked for a provision for**
23 **transportation.**

24 **Q** I thought you just said you didn't ask or tell me
25 one that you didn't have transportation?

- 1 **A** What I said was I usually can get around, I can
2 drive, but if my car was broken down how am I going
3 to get to my doctor's appointment.
- 4 **Q** Did you or did you not ask for transportation for
5 your knee appointment?
- 6 **A** Yes.
- 7 **Q** Who?
- 8 **A** I told my attorney that I didn't have a way to move
9 around, so I don't know who he contacted but
10 somehow I got, I was able to move around.
- 11 **Q** How long did you work for Palmetto Party Rental?
- 12 **A** Around 12 years.
- 13 **Q** All right. Did you deal with people on an every
14 day basis that did not speak English?
- 15 **A** Yes.
- 16 **Q** One of those was Adam Vance?
- 17 **A** Was the question that they did not speak English?
- 18 **Q** No. Did you deal on an every day basis, interact
19 on an every day basis with Adam Vance?
- 20 **A** For things pertaining to work, yes.
- 21 **Q** Okay. How about Justin Wolfe?
- 22 **A** As well.
- 23 **Q** Okay. When you and Adam Vance spoke, did you need
24 a translator?
- 25 **A** No. Because what I'm saying or I'm trying to tell

1 you that I know how to speak English more or less.

2 Q Mr. Rivera, let me turn you to page 27 of Exhibit
3 No. 1. Can you read that for me?

4 A No.

5 Q All right. It says (As read): Insurance person
6 told Dr. Armsey at my last appointment that I did
7 not want surgery to my right arm, is that correct?

8 A Yes.

9 Q Were you part of that conversation?

10 A I wasn't part of the conversation where the person
11 that came on behalf of the insurance told the
12 doctor that if it wasn't necessary I wasn't going
13 to get a surgery.

14 Q I'm sorry, I didn't understand your answer.

15 A Can you repeat or rephrase it?

16 Q Sure. Did you hear the insurance person tell Dr.
17 Armsey at your last appointment that you did not
18 want surgery?

19 A No.

20 Q Okay. What makes you think that that insurance
21 person told Dr. Armsey that?

22 A When I came out of the actual consult or the
23 examination, the interpreter told me that they had
24 spoken to the doctor. They said if it wasn't
25 necessary that no surgery was needed.

1 Q Can you say that again, what is your understanding
2 that the interpreter told you?

3 A The interpreter said, that came on behalf of the
4 insurance said that if the doctor had told them
5 that if it wasn't necessary to have surgery to not
6 choose to have surgery.

7 Q Okay. So the insurance person didn't tell Dr.
8 Armsey that you did not want surgery, the insurance
9 person just said that if it wasn't necessary you
10 didn't need to have it?

11 A Correct.

12 Q All right. I'm going to take you to the next page.

13

14 MR. CALHOUN: Page 28?

15 MR. HARBISON: I've got page 126. Oh, of the
16 errata sheet?

17 MR. CALHOUN: Which page? Okay. Second page of
18 the errata sheet.

19 MR. HARBISON: Second page of the errata sheet
20 referencing pages 61 and 62 of the deposition.

21

22

23 Q And you made a correction that said, okay, on line
24 16 through 19 on --

25

1 MR. HARBISON: And Mark, you're more than welcome
2 to help point them out.

3 MR. CALHOUN: Okay.
4

5 Q On line 19 you state, so my boss fired me on
6 4/7/14.
7

8 MR. CALHOUN: I'm sorry, where are we?

9 MR. HARBISON: Well, what's the easiest way for --
10

11 Q Mr. Rivera, what's the easiest way for you to refer
12 to this sheet?

13 A Can you tell me the line, exact line, of where so I
14 can, you can interpret of where the question
15 starts.

16 Q On the far left, the line on the far left, is that
17 what you want?

18 A Yes.

19 Q Okay. So on line 18 and 19 you state, Doctors
20 gave me work restrictions on 4/7/14 so my boss
21 fired me on 4/7/14."
22

23 MR. CALHOUN: I don't see this, where are we? Can
24 you show me?

25 MS. ADAMS: Here Mark, I'll show you. Right there.

1 MR. CALHOUN: Okay. Which line, 18?

2 MS. ADAMS: Eighteen and 19.

3 MR. CALHOUN: Okay, all right.

4

5 Q Well, first of all you seem to be a little confused
6 about the errata sheet.

7 A Yes.

8 Q But you weren't when Mr. Carrillo helped you fill
9 it out?

10 A What confused me is it says so my boss fired me on
11 4/7/14 and that's not how the question was posed or
12 how it shows here. That's what confused me, it
13 threw me off.

14 Q Did your boss fire you?

15 A The manager told me after I showed up on April 7th,
16 after working for three hours and after I had shown
17 up after my doctor's appointment, he fired me.

18 Q Did he say you are fired?

19 A What do you call when you tell someone you can't
20 come back after a year?

21 Q Did he say you are fired?

22 A Well, he told me to go home, so I don't know what
23 supposedly I'm supposed to think or after eight,
24 nine months of not being without work, what am I
25 supposed to think.

- 1 Q So we're going back to April 7th when you had your
2 conversation with your boss, who was that?
- 3 A **It's not my boss but it is my manager, Adam Vance.**
- 4 Q Adam Vance. Did Adam Vance tell you that you were
5 fired?
- 6 A **Not in those words he says you're fired but he left**
7 **me out of work.**
- 8 Q Okay. Your wife still works there?
- 9 A **Yes.**
- 10 Q You have a brother who works there?
- 11 A **Two brothers.**
- 12 Q Okay. And they still work there?
- 13 A **Yes.**
- 14 Q And it's my understanding you take your wife to
15 work?
- 16 A **Occasionally, sometime.**
- 17 Q And occasionally you ask about when you can come
18 back to work?
- 19 A **Occasionally when I take my wife to work he says**
20 **that he hasn't heard anything of when I can get**
21 **back to work.**
- 22 Q But you ask when you can come back to work?
- 23 A **Two times I asked and he said he couldn't answer**
24 **that question.**
- 25 Q Have you ever received anything in writing from

1 Palmetto Party Rental or Party Reflections stating
2 that you are fired?

3 **A No.**

4 **Q** Do you know why your attorney, as an officer of the
5 court, has represented to the Workers' Compensation
6 Commission that you've been fired?

7

8 **MR. CALHOUN:** Object as to form.

9

10 **Q** That's pretty serious. Do you know why?

11 **A All I know is if I am fired they haven't been**
12 **paying anything for nine months.**

13 **Q** So you think that the only reason, or you believe
14 that the only reason you may be fired is because
15 they have not paid you any money? Is that the only
16 reason you think you're fired?

17 **A No. Because I haven't heard anything from them for**
18 **a long time. And I don't know how long I have to**
19 **wait to hear clearance for me to come back to work.**

20 **Q** You have a lawyer, correct?

21 **A Correct.**

22 **Q** And he can ask those questions, do you understand
23 that?

24 **A I don't know if he can make those but if he does**
25 **he's supposed to represent me.**

1 Q Do you know whether he's asked me those questions
2 or Ms. Adams those questions?

3 A No.

4 Q I'm almost through, just a second. Excuse me.
5 Okay. I'm going to ask you to look at your
6 deposition.

7

8 MR. HARBISON: And Mark if you'd show him the
9 deposition, page 52.

10

11 Q And on line 21 I asked you were you still, did you
12 miss any time from work for your left knee, and
13 your answer was no, is that correct?

14 A I said no, yes.

15 Q And then on your errata sheet, line 10.

16

17 MR. HARBISON: And Mark you can help him point to
18 it if you want.

19

20 A Yes.

21 Q You changed your answer to yes, is that correct?

22 A Correct.

23 Q So in your deposition did you misunderstand my
24 question?

25 A In the deposition what I was asked is did you

1 understand the question and I misunderstood how the
2 question was posed.

3 Q All right. Let me ask you now, did you miss any
4 time from work for your left knee injury?

5 A Yeah. I missed work a few days.

6 Q Okay. More than seven days?

7 A No.

8 Q More than three days?

9 A Yes.

10 Q Do you know the exact dates?

11 A No.

12 Q Were you given a work excuse by a doctor saying
13 that you could not work because of your left knee?

14 A He did write me out of work, but I don't remember
15 if I gave it to my manager or not.

16 Q How many days did he write you out of work, one,
17 two?

18 A I think three days.

19 Q But you did not miss more than seven days from work
20 due to your knee?

21 A I didn't miss work because my boss told me that I
22 had to come help the other co-workers work on a
23 project where they didn't know exactly how, what we
24 were supposed to do. I was supposed to run it for
25 them.

1 Q Okay. But you did not miss more than seven days of
2 work for your left knee?

3 A No.

4 Q Did you tell -- Was your boss, are you referring to
5 Adam or Justin?

6 A Adam Ruffin, my boss.

7 Q Okay. Did you tell Adam Ruffin that you could not
8 work because of your left knee?

9 A Yes.

10 Q And who was there for that?

11 A Just me and him.

12 Q Okay. And what did he say?

13 A He told me if I couldn't do normal work that I was
14 just supposed to show up and tell the people how to
15 do their duties correctly.

16 Q Is that what you did?

17 A Yes.

18 Q And after those first three or four days following
19 your knee injury, you never missed time from work
20 again for your left knee, correct?

21 A Not because my knee didn't work but I just didn't
22 go back to work because of what my boss had told
23 me.

24 Q What are you, I'm not -- You're talking about after
25 your alleged back injury?

1 **A** The question was, the question that you made was
2 referring to my knee.

3 **Q** Okay. You had your alleged knee injury on
4 September 13, 2013, correct?

5 **A** Correct.

6 **Q** And you missed less than seven days of work for it?

7 **A** Correct.

8 **Q** And then you had an alleged back injury on March
9 16, 2014.

10 **A** Not allegedly, I was hurt.

11 **Q** Okay. But there was about six months there, right?

12 **A** Correct.

13 **Q** Okay. And you worked during that six month period?

14 **A** I showed up to work to do duties that I could do
15 for those six months.

16 **Q** And you said your boss told you not to go back to
17 work?

18 **A** My manager told me that I couldn't go back to work
19 after April 7th, but my boss never told me I
20 couldn't go back to work.

21 **Q** And that was April 7, 2014, after your back injury?

22 **A** Yes.

23 **Q** Can we take a quick break. I'm think I'm through.
24 Just one second, please.

25

1 (Short Break)

2

3 Q Okay. We're back on the record. Mr. Rivera, I
4 think those are all the questions I have. Have you
5 understood all my questions?

6 A Yes. I've understood.

7 Q All right. Have you understood all the
8 translation?

9 A Yes.

10 Q Do you have any objections to the translation he
11 has given?

12 A No.

13 Q Thank you. It's good to see you again.

14 A Same thing.

15

16 MR. CALHOUN: Before Ellen gets started I want to
17 put this on the record. And I just thought
18 it'd be more polite, Will, for me to do this
19 rather than objecting to your questions. But
20 I want to issue a standing objection to any
21 question that Mr. Harbison asked Renee about
22 the differences, that goes outside the scope
23 of the Order that Commissioner Campbell
24 issued, which my understanding is, I think,
25 that Commissioner Campbell stated that the

1 deposition would be limited to discrepancies
2 between the errata sheet and the testimony
3 that Mr. Rivers gave at the workers'
4 compensation hearing. And I believe that most
5 or all of the questions that Mr. Harbison
6 asked today went to discrepancies between the
7 errata sheet and what he alleged to be
8 differences with the deposition transcript,
9 not the hearing transcript. So I'm putting a
10 standing objection to any question that didn't
11 concern the differences between the hearing
12 testimony and the errata sheet.

13 MR. HARBISON: First of all, I think, Mr. Calhoun
14 waived any objections by not stating them
15 contemporaneously with the question. I would
16 also point out that my clients were not a
17 party to the hearing on September 25, 2014.
18 I'm going to attach Commissioner Campbell's
19 Order as an exhibit.

20 MS. ADAMS: I'll need another copy of that.

21

22 (Whereupon, Administrative Order,
23 consisting of 2 pages, was marked Exhibit
24 No. 3 for identification.)

25

1 MR. CALHOUN: I don't know if you're aware of this,
2 Ellen, but at the hearing itself, Commissioner
3 Campbell allowed Ms. Halberg to cross examine
4 him using the deposition transcript, so she
5 did use the depo transcript to cross examine
6 him at the hearing. And I would assume that's
7 the purpose of limiting this to the errata
8 sheet.

9 MR. HARBISON: The errata sheet is an extension of
10 the claimant's deposition testimony. I think
11 it is clear that Commissioner Campbell gave us
12 the right to question Mr. Rivera on the
13 changes he made to his deposition through the
14 errata sheet. Again, I wasn't party to the
15 hearing, quite frankly I don't even have a
16 right to necessarily get the hearing
17 transcript. I'm not sure, because I was not a
18 party, so I don't know why in the world he
19 would have ordered me to limit my examination
20 to the errata sheet and a transcript from a
21 hearing to which I was not present or at which
22 I was not present, and two, which I was not a
23 party. With all due respect to Mr. Calhoun,
24 he seems to have confused this several times
25 with the Commission. I was not a party, my

1 clients were not a party to the September 25,
2 2014 hearing. When Ms. Halberg moved to re-
3 open this deposition, Mr. Calhoun did
4 everything he could to try to prevent me from
5 being here and Commissioner Campbell rejected
6 those efforts and specifically allowed me to
7 be here. So obviously Commissioner Campbell
8 meant for me to address the discrepancies
9 between the errata sheet and the deposition.
10 But again, we're going to have a whole lot of
11 testimony from you in your first deposition --

12 MR. CALHOUN: Is this a question, Will? Are you
13 asking him a question or --

14 MR. HARBISON: We're going to have a whole lot of
15 testimony given under, I guess, four or five
16 occasions now, so we'll allow him to address
17 that. Also, clearly, Mr. Calhoun waived any
18 objections by not stating them
19 contemporaneously throughout the deposition.
20 Anything further, Mark?

21 MR. CALHOUN: Nothing further.

22 MR. HARBISON: Good to see you, Mr. Rivera. Thank
23 you for being here.

24 THE WITNESS: Good to see you too.

25 MS. ADAMS: I don't have any questions.

1 MR. CALHOUN: Okay. Well, I've got a couple.

2 MR. HARBISON: Are you going to limit your
3 questions to -- What is the scope of your
4 questioning, to the hearing transcript and the
5 errata sheet?

6 MR. CALHOUN: No. I'm going to discuss issues that
7 you just covered with my client.

8 MR. HARBISON: Okay. I just wanted to make sure I
9 had a copy of the transcript if you were
10 referring to that.

11 MR. CALHOUN: No. I'm not using any, I'm not using
12 anything that you don't have.

13

14 CROSS EXAMINATION

15 BY MR. CALHOUN:

16 Q Renee, when you spoke to Adam Vance on April 7,
17 2014, did you ask Adam to pay for your doctor's
18 visit that day?

19

20 MR. HARBISON: I'm sorry, what was the date again?

21 MR. CALHOUN: April 7, 2014.

22

23 A On April 7th, before I actually went to the doctor,
24 I asked Adam Vance if I could use his credit card
25 and supposedly everything's lined up for that to

1 **happen, he was going to give me that.**

2 Q Did Adam Vance let you use the office credit card
3 on April 7, 2014?

4 A **No.**

5 Q When you spoke to Adam after your doctor's
6 appointment on April 7, 2014, did you give Adam the
7 report the doctor gave you that day?

8

9 MR. HARBISON: Objection. Can you tell me where
10 you're referring to in the errata sheet? I
11 think we're limited to the errata sheet as you
12 said. Can you tell me what line you're
13 referring to just to help me?

14 MR. CALHOUN: It would begin with page 62.

15

16 Q Did you give Adam Vance the doctor's report on
17 April 7, 2014?

18 A **Yes.**

19 Q Did Adam read that doctor's report to you?

20 A **No.**

21 Q So Adam did not tell you, you had another
22 appointment on April 14th?

23 A **No.**

24 Q Do you think Adam fired you on April 7, 2014?

25 A **Yes.**

1 Q Why do you think Adam fired you?

2 A I feel that I was fired because I can't go back to
3 work. My wife works there, my two brothers work
4 there, how do I feel if I can't go back to work if
5 he hasn't said that I can return.

6 Q Did Adam ever tell you that you were not fired from
7 Party Reflections or Palmetto Party Rental? Did
8 Adam Vance ever tell you that you are not fired
9 from Party Reflections or Palmetto Party Rental?

10

11 MS. ADAMS: Object to the form of the question.

12 You can answer it.

13

14 A No.

15 Q After working for Adam's company for over 12 years,
16 have you ever previously been sent home and told
17 not to come back?

18 A Yes.

19 Q When were you sent home previously and told not to
20 come back to work?

21 A April 7, 2014.

22 Q Before April 7, 2014, were you ever told to come
23 home and not come back?

24 A No.

25 Q The day that you hurt your back, which is March 16,

1 I believe, 2014, and the day that you claim you
2 were fired on April 7, 2014, did you work between
3 those two days, did you work at all between those
4 two days?

5 **A Between March 16th and April 7th, I only worked**
6 **April 7th, because at that point I come back from**
7 **the doctor, work three hours, and that day I feel**
8 **like I was fired.**

9 **Q** After you were fired on April 7, 2014, did you ever
10 talk to Adam Vance again, after that?

11

12 MS. ADAMS: Object to the form of the question.

13 You can respond.

14

15 **A No.**

16 **Q** Did you ever see Adam when you were dropping your
17 wife off at work?

18 **A I've seen him but I haven't spoken to him.**

19 **Q** Okay. After you were terminated on April 7th, did
20 you think that Adam would send you back to the
21 doctor if you asked him to?

22

23 MR. HARBISON: Objection to the form. Multiple
24 objections to the form. A, he wasn't
25 terminated, B, you're speculating.

1 MR. CALHOUN: Object as to form, I think, would be
2 the proper response.

3 MR. HARBISON: I know, I'm just giving you a chance
4 to rectify the question.

5

6 Q After you were terminated on April 7, 2014, did you
7 ask Adam to send you back to the doctor?

8

9 MR. HARBISON: Objection.

10 MS. ADAMS: Object to the form.

11 MR. HARBISON: You can go ahead and answer.

12

13 A I didn't ask him. How am I supposed to ask him
14 when they didn't pay for my last doctor's
15 appointment. And if he said, he didn't even tell
16 me about my next doctor's appointment and he was
17 going to pay for it.

18 Q And Adam never told you that you had a doctor's
19 appointment on April 14th?

20

21 MS. ADAMS: Object to the form. You can answer.

22

23 A No.

24 Q Didn't you drive a car when you were working for
25 Party Reflections?

1 **A** **Can you repeat the question.**

2 **Q** Did you have to drive a car or truck when you were
3 working at Party Reflections or Palmetto Party
4 Rental?

5 **A** **I didn't drive company cars.**

6 **Q** Okay. But was driving required as part of your
7 job?

8 **A** **No.**

9 **Q** So you never drove a truck when you worked there?

10 **A** **When I had my license I used to drive, but then**
11 **when they changed their name to Party Reflections**
12 **then I didn't, no longer drove.**

13 **Q** The day of your deposition, your original
14 deposition last year, the interpreter that Mr.
15 Harbison brought was named Wilmer Aviles, do you
16 remember that?

17

18 MR. HARBISON: Objection. Objection to the form.

19

20 **A** **Yes.**

21 **Q** And do you also remember that Mr. Aviles is not
22 allowed to interpret any depositions or court
23 hearings for my office?

24 **A** **Yes.**

25 **Q** Did you think it was strange that Mr. Harbison

1 brought Mr. Aviles to the deposition, knowing Mr.
2 Aviles was not allowed to interpret at depositions
3 for the Calhoun Law Firm?

4

5 MR. HARBISON: Objection to the form.

6 MS. ADAMS: Object to the form.

7

8 **A Yeah, could be.**

9 Q Did you feel comfortable going forward that day
10 using Mr. Aviles as the interpreter?

11 **A No.**

12 Q If Dr. Armsey had ordered surgery to your right
13 arm, would you have wanted that surgery?

14

15 MS. ADAMS: Object to the form.

16

17 **A Yes.**

18 Q When Dr. Armsey released you, you had restrictions
19 to your right, is that true?

20

21 MR. HARBISON: Excuse me, Mark. Can you refer to
22 what line on the errata sheet you're referring
23 to, the scope of the deposition.

24 MR. CALHOUN: I don't think it is on the errata
25 sheet.

1 MR. HARBISON: Well, we're obviously confined to
2 the errata sheet, so I object.

3 MS. ADAMS: I join the objection.

4 MR. HARBISON: I mean, the Administrative Order is
5 very clear.

6 MR. CALHOUN: Okay. Yeah. It's not that
7 important. I'll withdraw the question if you don't
8 want me to ask him any more questions about his
9 testimony.

10 MR. HARBISON: No. I'm just reminding you of the
11 scope of the Administrative Order.

12 MR. CALHOUN: Yeah. And I understand and my
13 position is you went outside the scope of the
14 Administrative Order and I should be given the
15 same leeway as you had.

16 MR. HARBISON: Well, fortunately I objected and you
17 didn't.

18 MR. CALHOUN: Okay. No. I did object.

19 MR. HARBISON: Not in a timely fashion.

20 MR. CALHOUN: I did object. And you can object to
21 this, so I'll go ahead and ask him the
22 question anyway.

23 MR. HARBISON: All right. Object to the form of
24 the question and also to the scope of the
25 question as it exceeds the scope of the

1 Administrative Order.

2

3 Q Okay. Mr. Rivera, after Dr. Armsey released you,
4 you had a restriction issued by him to your right
5 arm, isn't that correct?

6 A Correct.

7 Q Could your boss bring you back to work with that
8 work restriction?

9

10 MR. HARBISON: Same objection.

11

12 A He told me to find a second opinion so I could come
13 and work full duty.

14 Q All right. So whose idea was it to get the second
15 opinion with Dr. Fulton?

16 A My boss, Adam Ruffin.

17 Q And do you know if Dr. Fulton removed that work
18 restriction to your right arm?

19

20 MR. HARBISON: Object to the form. And also object
21 to the scope of the question again.

22

23 A Yes.

24 Q So the purpose of Dr. Fulton's appointment was to
25 remove Dr. Armsey's work restrictions and return

1 you to full duty, is that your testimony?

2

3 MR. HARBISON: Objection to the form, objection to
4 the scope of the question, leading the
5 witness. Multiple objections. Go ahead and
6 answer.

7

8 **A I believe so.**

9

10 MR. CALHOUN: Okay. That's all I have.

11 MR. HARBISON: I've got a couple of follow up
12 questions.

13 MS. ADAMS: Can I go first?

14 MR. HARBISON: Yeah.

15 MS. ADAMS: I'm sorry, I've been so well behaved.

16

17 RE-DIRECT EXAMINATION

18 BY MS. ADAMS:

19 Q Mr. Rivera, my name's Ellen Adams, and I'm here
20 instead of Ms. Halberg today, okay.

21 **A That's fine.**

22 Q I want to make sure that I understand that other
23 than these changes on the errata sheet on Exhibit
24 No. 1, you stand behind what you said on September
25 2, 2014 at Mr. Calhoun's office, correct?

1 **A** That is correct in as much as we stand by the
2 corrections that I did and some things that I
3 explained verbally as well.

4 **Q** Okay. Thank you.

5

6 RE-DIRECT EXAMINATION

7 BY MR. HARBISON:

8 **Q** Mr. Rivera, your attorney asked you if you thought
9 it was strange that I brought the interpreter,
10 Wilmer Aviles, to your deposition. Do you have any
11 evidence to show that I knew your attorney objected
12 to Mr. Aviles?

13 **A** No.

14 **Q** Do you have any evidence that I even knew who the
15 interpreter was going to be that day?

16 **A** No.

17 **Q** Were you aware that your attorney did not call me
18 beforehand and ask who the interpreter was going to
19 be?

20

21 MR. CALHOUN: Object as to form.

22

23 **Q** Were you aware of that?

24

25 MR. CALHOUN: Object as to form.

1 **A** **No.**

2 **Q** Were you aware that your attorney did not call Ms.
3 Halberg's office and ask who the interpreter was
4 going to be?

5

6 MR. CALHOUN: Object as to form.

7

8 **A** **No.**

9 **Q** And although you say you did not feel comfortable
10 with Mr. Aviles, he had never interpreted for you
11 before, correct?

12 **A** **Correct.**

13 **Q** And you decided to go ahead with the deposition
14 anyway?

15 **A** **Correct.**

16 **Q** Have you understood all of our questions, that
17 means your attorney's, and Ms. Adams', and my
18 questions?

19 **A** **Yes.**

20 **Q** Have you understood all the translation that our
21 translator has made today?

22 **A** **Yes.**

23 **Q** Thank you. It's good to see you again.

24

25

RE-CROSS EXAMINATION

1 MR. CALHOUN:

2 Q I have one more question. Renee, at the beginning
3 of this deposition, Mr. Harbison made several long
4 statements threatening you with perjury.

5

6 MR. ADAMS: Objection.

7 MR. HARBISON: Objection. I did not threaten
8 anyone with perjury. I just reminded him of
9 the -- Objection to the form.

10

11 Q And attempting to intimidate you under different
12 means.

13

14 MR. HARBISON: Objection to the form.

15

16 Q Do you remember those statements he made?

17

18 MR. HARBISON: Objection to the form.

19

20 A Yes.

21 Q Do you have any reason not to tell the truth about
22 your injury --

23 A No.

24 Q -- to your right arm?

25 A No.

1 Q To your left knee?

2 A No.

3 Q Or to your back?

4 A No.

5 Q In fact, when you injured your right arm, did you
6 even have an attorney at that time?

7 A No.

8 Q Did you have an attorney when you injured your left
9 knee?

10 A No.

11 Q Did you initiate any workers' compensation claims
12 at the time of those two injuries?

13

14 MR. HARBISON: Objection. This has gone, again,
15 beyond the scope of the errata sheet. If you
16 can refer to the errata lines.

17 MR. CALHOUN: Object as to form would be the proper
18 objection.

19 MR. HARBISON: No. It's object to the scope of the
20 deposition, per Commissioner Campbell's Order.
21 That's the --

22 MR. CALHOUN: I'm allowed to ask my client follow-
23 up questions in response to what you told him.

24 MR. HARBISON: Not -- If you want to go over the
25 errata sheet, point out where you're going to.

1 MR. CALHOUN: I also did not object when you threw
2 a long diatribe at the beginning of the
3 deposition. It was not a question, but a long
4 speech that you gave my client. I let you say
5 your peace.

6 MR. HARBISON: Well, you should have objected.

7 MR. CALHOUN: And now I can ask my client
8 questions.

9 MR. HARBISON: Well, you should have objected,
10 Mark. I'm objecting now.

11 MR. CALHOUN: Okay. Good. And I'm going to --

12 MR. HARBISON: Okay. I'm going to move for fines
13 and penalties for any amount of time, and I'm
14 asking the court reporter to note right now
15 how much additional time this is taking and I
16 will be moving for attorney, well, I reserve
17 the right to move for attorney's fees and
18 costs for going beyond the scope of this
19 errata sheet deposition.
20

21 Q Okay, okay. Mr. Rivera, do you have any reason to
22 not tell the truth about the reason you were
23 terminated on April 7, 2014?

24 A No.

25 Q That's all I have.

1 MR. HARBISON: That's all I have. Thank you, Mr.
2 Rivera. You exercised the right to read and
3 sign your deposition?

4 THE WITNESS: Yes.

5 MS. ADAMS: If we could stay on the record. Given
6 what happened with reading and signing last
7 time and letters that went to lovely court
8 reporters and everything, could we have some
9 agreement on how, when, and where the reading
10 and signing will take place? Just because
11 court reporters and administrative people
12 don't want to be involved in lawyer haggling.

13 MR. HARBISON: And whether a translator, I think
14 you wanted the court reporter to have a
15 translator there. I'm not familiar with that
16 rule but you said you wanted one there for the
17 reading and signing of his deposition, so
18 maybe we've got to clarify that also.

19 MS. ADAMS: I just, I'm trying to prevent forest
20 fires like Smokey the Bear.

21 MR. CALHOUN: I want to get it accomplished as soon
22 as possible, so whatever would be the fastest
23 way to do it would be fine with me.

24 MR. HARBISON: You tell us. Do you want to have
25 him, does he need a translator for this?

1 MR. CALHOUN: Yeah. He'll need a translator.

2 MR. HARBISON: Okay. Are you going to provide one?

3 MR. CALHOUN: I can, yeah.

4 MR. HARBISON: Okay.

5 MR. CALHOUN: See, the first time the deposition
6 transcript was mailed directly to his house to
7 read and sign. They didn't mail it to my
8 office and so it went directly to his
9 residence, and I think that's why he reviewed
10 it with a friend of his and then brought it to
11 my office.

12 MR. HARBISON: Would it be okay if you bring your
13 translator and Mr. Rivera to the court
14 reporter's office? Do y'all have a main
15 office?

16 MS. ADAMS: I don't care if they go to -- I don't
17 care where you do it.

18 MR. HARBISON: You can do it at Mark's office is
19 fine with me.

20 MS. ADAMS: I just don't want any haggling and
21 unpleasantness over administrative issues like
22 --

23 MR. CALHOUN: No. I don't think that's going to
24 happen.

25 MR. HARBISON: We'll just count on you having a

1 translator and you can just do it at your
2 office.

3 MR. CALHOUN: Okay. That's fine.

4 MS. ADAMS: Thank you.

5 MR. HARBISON: Thanks.

6 MR. CALHOUN: Thank you.

7 - - - - -

8 (Whereupon, at 10:02 a.m., the deposition
9 in the above-entitled matter was
10 concluded.)
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DEPOSITION ERRATA SHEET

Case Caption: Renee Robles vs. Party Reflections
and Employers Assurance Company

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury
that I have read the entire transcript of
my Deposition taken in the captioned matter
or the same has been read to me, and
the same is true and accurate, save and
except for changes and/or corrections, if
any, as indicated by me on the DEPOSITION
ERRATA SHEET hereof, with the understanding
that I offer these changes as if still under
oath.

Signed on the _____ day of
_____, 20____.

1	DEPOSITION ERRATA SHEET
2	Page No. _____ Line No. _____ Change to: _____
3	_____
4	Reason for change: _____
5	Page No. _____ Line No. _____ Change to: _____
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24	SIGNATURE: _____ DATE: _____
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24	SIGNATURE: _____ DATE: _____
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State of South Carolina)
)
County of Lexington) Certificate

Be it known that the foregoing Deposition of
RENEE ROBLES was taken by Thea K. Salmonson;

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;

The foregoing transcript 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 23 DAY OF FEBRUARY
2015

Thea K. Salmonson

Thea K. Salmonson

Notary Public for South Carolina

My Commission Expires: March 15, 2020

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STATE OF SOUTH CAROLINA
BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC No. 1403985

Rene Rivera,)
)
Claimant,)
)
v.)
)
Party Reflections,)
)
Employer,)
)
and)
)
Employers Assurance)
)
Carrier/Defendant.)
-----)

COPY

FULL COMMISSION HEARING

Tuesday, June 21, 2016
11:02 a.m. - 11:28 a.m.

The Full Commission Hearing was heard before Commissioners T. Scott Beck, Gene McCaskill and Melody L. James at the Workers' Compensation Commission, 1333 Main Street, Suite 500, Columbia, South Carolina, on the 21st day of June, 2016, before Cortney N. Glover, Court Reporter and Notary Public in and for the State of South Carolina.



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(803) 252-3445 / (800) 822-0896

APPEARANCES

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INDEX

	<u>PAGE</u>
MS. KIRKHAM	3
MR. CALHOUN	10
MS. KIRKHAM	22
Certificate	26

EXHIBITS

(There were no exhibits marked during the hearing.)

STIPULATIONS

It is stipulated and agreed that this deposition is being taken pursuant to the Administrative Procedures Act and the South Carolina Rules of Civil Procedure.



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1 **COURT REPORTER:** Today is June 21st, 2016. This is
2 South Carolina Workers' Compensation Case
3 1403985. This is the case of Rene Rivera
4 versus Party Reflections, Employer, and
5 Employers Assurance, Carrier.

6 The Appellant, is the Defendant represented by
7 Ashley Kirkham. The Respondent is represented
8 by Mark R. Calhoun.

9 Each side is allowed ten minutes for oral
10 argument and the Appellant three minutes in
11 reply. You are requested to argue the grounds
12 of exception and stay within the record.

13 **MS. JAMES:** Ms. Kirkham?

14 **MS. KIRKHAM:** Thank you, Commissioner, and may it
15 please the Court. I am Ashley Kirkham here
16 today representing Party Reflections in this
17 workers' compensation claim. We're requesting
18 this court reverse the single commissioner's
19 order on two grounds: An error of law in the
20 calculation of the average weekly wage and
21 compensation rate and an error of law in
22 ordering TTD benefits from April 7th, 2014, to
23 the present and continuing.
24 I'll start with the average weekly wage and
25 compensation rate calculated. This is a case



1 where the employer purchased a company in
2 December of 2013, and this injury occurred the
3 next April 2014. Before that time, the company
4 was owned by another employer with a different
5 insurance carrier, and this same claimant had
6 two accidents during that previous employment
7 with that other insurer.

8 The single commissioner used the average weekly
9 wage calculation and compensation rate from the
10 first workers' comp claim from that prior
11 employer, almost a year before this injury
12 occurred. So he used wage records almost two
13 years prior to my date of accident.

14 The calculation is not discussed in the order
15 other than a footnote indicating that
16 Mr. Robles missed time from work from those two
17 prior work injuries, and therefore it would --
18 the earlier average weekly wage and
19 compensation rate should be used. But there's
20 absolutely no evidence in the record that he
21 missed any work from those two work injuries.

22 In his deposition, he testified he was working
23 full-time. He was always accommodated light
24 duty from those two work injures. He may have
25 missed less than seven days for doctors



1 appointments for his first work injury almost
2 a year prior to this accident. That does not
3 meet the standard of an extraordinary
4 circumstance to deviate from the prescribed
5 methods for calculating an average weekly wage
6 and compensation rate pursuant to the Act,
7 section 42-1-140.

8 While he may have had light-duty restrictions
9 from those two prior comp claims, he was never
10 out of work for those restrictions -- or for
11 those comp claims and was always accommodated
12 from the previous employer for those comp
13 claims. Specifically on page 21 of his
14 deposition, he testified that after his first
15 work injury, he returned to work light duty and
16 never missed more than seven days. On --
17 specifically on page 52 of his deposition, he
18 indicates he missed no time from work with
19 regard to that second work injury prior to my
20 employer taking control of the company.

21 Pilgrim versus Eaton is very clear that the
22 calculations for average weekly wage and
23 compensation rate should be calculated using
24 the methods prescribed by the Act, or there
25 must be an extraordinary circumstance finding



1 in the order, or it must be clear from the
2 record that there was an extraordinary
3 circumstance to deviate from the calculation of
4 an average weekly wage and compensation rate.
5 And here that just isn't is case. At most, he
6 missed less than seven days from those two
7 prior work injuries from this accident and
8 returned to work full-time before our injury
9 occurred.

10 **MR. BECK:** So it's your position the average weekly
11 wage is seventy -- 786.03 with a comp rate of
12 524.05?

13 **MS. KIRKHAM:** Yes, Commissioner. If there are no
14 questions on the compensation rate, I'll
15 proceed to my next argument: Temporary total
16 disability benefits. Mr. Robles went to
17 Doctors Care on April 7th, 2014, where he said
18 he was still in a little back pain. He was
19 given a light-duty work restriction from
20 Doctors Care. The first item on that work
21 restriction form, which is page 48 of
22 Claimant's APA submissions is that Mr. Robles
23 can return to work without restriction on
24 April 14th, 2014.

25 **MR. BECK:** What page is that on again?



1 MS. KIRKHAM: That's on page 48 of the Claimant's
2 APA submissions.

3 Later on that same work restriction form, it
4 does give him light-duty restrictions from
5 April 7th through April 14th, lifting
6 restrictions. However, the single
7 commissioner's order indicates that Mr. Robles
8 is entitled to TTD benefits throughout this
9 entire time that we were waiting on this order
10 from April 7th, 2014, to the present and
11 continuing, despite the return to work without
12 restriction on April 14th, 2014.

13 The medical note is signed by Mr. Robles saying
14 he understands the medical note. And now he's
15 saying, I couldn't understand what the doctors
16 were telling me, and I can't read and write,
17 and the employer had an obligation to tell me
18 that this says I needed to return to work full
19 duty or I needed to go back to the doctor.
20 Yet, Mr. Robles had an interpreter available
21 for him at his deposition and chose not to use
22 that interpreter because he understands
23 English, allowing him to argue on one case that
24 he doesn't understand English and couldn't
25 understand what the doctor was telling him and



1 in another case, go forward under oath in a
2 deposition without an interpreter is
3 disingenuous.

4 The report clearly states he was able to return
5 to work without restriction on April 14th,
6 2014. Therefore, his work status and his lack
7 of income is not the result of this minor back
8 injury. It must be the result of something
9 else. Mr. Robles did get an IME provided by
10 his attorney, which put him on work
11 restrictions; however, that IME was regarding
12 all three workers' comp claims, and the work
13 restrictions do not indicate whether they are
14 for the back or from his prior wrist injury or
15 knee injury, which also could include lifting
16 restrictions.

17 The record is not clear that those restrictions
18 are for the back, and there is not enough
19 evidence in the record for a commissioner to
20 determine that he's entitled to TTD benefits
21 from April 17th, 2014, to the present and
22 continuing.

23 In fact, Mr. Robles testified at the hearing
24 that he knew exactly what his work restrictions
25 were: a maximum lift of 45 pounds. Yet he



1 didn't know that that same report that he
2 signed saying I understand this said that on
3 April 14th, 2014, you are released without
4 restriction.

5 In addition, Mr. Robles has been making money
6 since receiving -- per the order of TTD
7 benefits that the order says he is entitled to.
8 He hasn't actually received those benefits,
9 since we're here on appeal. But he has
10 admitted to selling fighting chickens and
11 making money for that occasion.

12 Again, Mr. Robles is arguing that he doesn't
13 understand what the work restrictions form from
14 Doctors Care said, that he was released to
15 return to work without restriction. Yet he
16 underwent a deposition with an interpreter
17 available without using the interpreter,
18 answering all questions in English, and
19 admitting that he understood all questions
20 asked of him. There were also other
21 appointments that he went to where he brought
22 his own interpreter, and that was not the case
23 at this Doctors Care visit. Unless there are
24 any further ---

25 **MR. BECK:** Where does that make references to that



1 in his deposition?

2 **MS. KIRKHAM:** To the ---

3 **MR. BECK:** Where he waives the right -- waives his
4 right to have an interpreter.

5 **MS. KIRKHAM:** It's on the -- at the very beginning
6 of the deposition, probably the first five
7 pages. And then again on the deposition page
8 74, he admits that he understood all questions.

9 **MR. BECK:** Okay. Thank you.

10 **MS. KIRKHAM:** Unless there are any other questions,
11 I would ask that this Court respectfully
12 reverse the single commissioner's decision
13 regarding the average weekly wage and
14 compensation rate calculation as well as
15 entitlement to TTD benefits from April 14th,
16 2014, to the present and continuing. Thank
17 you.

18 **MS. JAMES:** Mr. Calhoun?

19 **MR. CALHOUN:** May it please the Court. This hearing
20 was a bit unusual in the way that it came
21 about. It was set on all three of his
22 injuries. There's -- the first injury was
23 April 15th of 2013. Second injury, that was to
24 the right arm. Second injury to the left leg
25 was September 14th of the same year. And then



1 finally the injury to his back on March 16th of
2 2014. The hearing was set on all three
3 injuries. A couple of hours ---

4 **MR. BECK:** This order only addresses this date of
5 injury though, doesn't it?

6 **MR. CALHOUN:** That's correct. But I want you to
7 understand the dynamics of what we were doing.
8 It might help you understand why ---

9 **MR. BECK:** I assume there were multiple orders
10 issued as a result of this one proceeding or
11 just this order?

12 **MR. CALHOUN:** The -- Commissioner Campbell only
13 issued one order as a result of that injury.

14 **MR. BECK:** I guess I'm lost to understand how you
15 were there on all three then if you weren't
16 resolving something on all three.

17 **MR. CALHOUN:** Well, because the hearing was set on
18 all three. But counsel for the first two
19 injuries didn't appear for the hearing. There
20 was an unusual circumstance, and the hearing
21 commissioner decided to go forward on the
22 hearing on the only claim that a lawyer showed
23 up for. And that affected the course of the
24 hearing.

25 **MR. BECK:** All right. I understand.



- 1 **MR. CALHOUN:** Yes, sir. So we argued at the hearing
2 that we wanted the average weekly wage to be
3 calculated on the prior 52 weeks before the
4 first injury because the deposition testimony
5 and the wage records clearly showed that he
6 missed at least eight days during 2013 going to
7 doctors' appointments. The arm injury was a
8 fairly involved injury. The leg injury was
9 not. But the wage records show that he missed
10 at least eight days in 2013. And that's what
11 the commissioner decided to do. He used the
12 prior 52 weeks before the very first injury.
13 Now, at the hearing ---
- 14 **MS. JAMES:** Couldn't he have not just taken the --
15 if there's eight days, could he have taken
16 eight days out of the divisor?
- 17 **MR. CALHOUN:** I'm sorry.
- 18 **MS. JAMES:** Could he have not just taken eight days
19 out of the divisor?
- 20 **MR. CALHOUN:** He could have. You're right. Or at
21 least a week and calculated it.
- 22 **MR. BECK:** How does eight days cause the average
23 weekly wage to go up by almost \$300 if he only
24 missed eight days?
- 25 **MR. CALHOUN:** Well, I'm getting ready to explain



1 that. That's a very good question. At the
 2 hearing, the employer argued that they wanted
 3 the average weekly wage to be calculated on the
 4 52 weeks of 2013, the four quarters of 2013,
 5 which gives a gross salary of \$53,132. Now,
 6 using the 52 weeks that the commissioner used
 7 before the first injury, that gross salary is
 8 \$55,099. So it was not a huge difference
 9 between what the employer asked for at the
 10 hearing and what the commissioner did.
 11 Now, in the brief, they changed their position.
 12 In their brief, they say -- if you notice this
 13 in their brief at the very beginning, they say
 14 it should be calculated on the prior 52 weeks
 15 before the last injury in March of 2014. Okay.
 16 Fine. But in their conclusion, they throw in
 17 the figures from the Form 20, which is only
 18 based on 14 weeks of employment. Now, here's
 19 the -- this is a guy that worked for the
 20 employer for 12 years before the first, second,
 21 or third injury. We have plenty of weeks to
 22 calculate his average weekly wage, but the
 23 figures that they're -- they've given you in
 24 their conclusion ---
 25 **MR. BECK:** The 14 weeks?



1 MR. CALHOUN: 14 weeks.

2 MR. BECK: Does that only represent the period of
3 time that he'd been working for new employer?

4 MR. CALHOUN: Well, it's ---

5 MR. BECK: In other words, had you gone back 52,
6 would it have crossed over between the old
7 employer and the current employer?

8 MR. CALHOUN: Right.

9 MR. BECK: That's a "yes"?

10 MR. CALHOUN: That's correct. But keep in mind,
11 it's the same -- the employer's changed names,
12 but nothing else has changed. The position
13 hasn't ---

14 MS. JAMES: Let me make sure I understand this
15 though because technically it makes a
16 difference. And I saw that in your brief. You
17 said they change names. But I thought I
18 understood that it was a different entity, and
19 now it's Party Reflections, Incorporated. So
20 then the actual legal entity changed. So we
21 don't know who's behind that as far as ---

22 MR. BECK: Did the ownership change?

23 MS. JAMES: Yeah.

24 MR. CALHOUN: Well, his bosses, his supervisors all
25 stayed the same.



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1 MR. BECK: The ownership of the company change?

2 MR. CALHOUN: Ownership of the company changed.

3 MR. BECK: Okay.

4 MR. CALHOUN: Supervisors, owners, all personnel,
5 hours, everything else remained exactly the
6 same. So I feel it's a bit unconscionable to
7 take a 12-year employee and say, hey, we're
8 just gonna -- who's been making well over
9 \$50,000 a year for a very long period of time
10 and say we're just gonna calculate your average
11 weekly wage on the last 14 weeks before you
12 were injured. You know, 14 weeks -- \$11,000
13 divided by 14 weeks. That's why it's such a
14 low average weekly wage that's on their Form
15 20. Okay.

16 MR. BECK: But isn't that what he was going to
17 continue to make going forward?

18 MR. CALHOUN: According to the wage records, no.

19 MR. BECK: I'm not sure I understand how that could
20 be. Regardless of what he was making up until
21 the time the ownership changed, the 14 weeks
22 that he was an employee of the new owner -- I
23 assume he got paid a consistent salary over
24 that 14 weeks -- and when he continued getting
25 the same salary had he continued in the employ



1 of that new entity? Is that a fair statement?

2 **MR. CALHOUN:** Yes, sir.

3 **MR. BECK:** Okay. That's fine. Thank you.

4 **MR. CALHOUN:** But it doesn't change the fact that
5 he's been making over \$50,000 for a very long
6 period of time, and the Form 20 does not
7 reflect that in any capacity. There's a huge
8 discrepancy. But the employer, what they
9 wanted at the hearing was the 52 weeks of 2013
10 to be used. That's what they asked the
11 commissioner to do at the hearing. And that
12 amount is \$53,132.

13 **MR. BECK:** Say that again?

14 **MR. CALHOUN:** \$53,132.55.

15 **MR. BECK:** Thank you.

16 **MR. CALHOUN:** So the commissioner used the 52 weeks
17 before the first injury, which he felt would
18 most fairly reflect what Mr. Robles would earn
19 in the future because those were the only 52
20 weeks that he didn't have any prior injuries.
21 Now, regarding the TTD, and that's really what
22 the main focus of the hearing was, was the TTD
23 that he had missed since he was fired on
24 April 7th of 2014. Now, these facts aren't in
25 dispute. There's no question that he was



1 fired. The employer admitted that. The
2 employer admits that Doctors Care had him under
3 restrictions. Since he injured his back on
4 March 16th, 2014, he had had three visits
5 already before April 7th. Doctors Care had
6 ordered physical therapy. The employer refused
7 to provide it. That's undisputed. The -- it's
8 also undisputed that the employer refused to
9 pay for his April 7th doctors visit. There's
10 no question about that. And it's also
11 undisputed that he was not told that he could
12 return to Doctors Care on April 14th if he
13 had -- did not feel better.

14 Now, the employer argues that, you know, it
15 just doesn't make sense. It just doesn't seem
16 fair or logical that he chose to go forward at
17 one of his depositions -- his deposition's
18 actually been taken twice. He chose to go
19 forward on one of his depositions without an
20 interpreter, and that really happened because
21 they didn't schedule an interpreter, so we
22 tried to do it without one. There was no
23 interpreter there that day.

24 **MR. BECK:** But you chose to go forward?

25 **MR. CALHOUN:** He did -- yeah. We tried -- we chose



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1 to give it a chance and go forward on that one
2 deposition. The second one, we used an
3 interpreter. But the bottom line is: You
4 cannot assume facts in evidence, and there's no
5 evidence that when he went to Doctors Care on
6 April 7th, that anyone told him the information
7 on the piece of paper that, you know, that they
8 gave him, which says if you don't feel better,
9 come back on the 14th.

10 **MR. BECK:** Let me take you back to the average
11 weekly wage comp. You indicated at the call of
12 the case they were asserting the previous 52
13 weeks when you tried this case. Did I
14 understand you correctly?

15 **MR. CALHOUN:** That's correct. Well, let me outline
16 it again. At the day of the hearing, they
17 wanted the four quarters of 52 weeks of 2013 to
18 be used. At the beginning of their brief that
19 you've read, they say, we want the 52 weeks
20 before the date of injury to be used. But in
21 their conclusion, they throw in the figures
22 from the Form 20, which is only based on 14
23 weeks.

24 **MR. BECK:** Now, explain to me how on -- the date of
25 hearing was September 25th of '14?



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1 MR. CALHOUN: Yes, sir.

2 MR. BECK: They filed a Form 58 on September 12 of
3 2014, and they assert on that Form 58 an
4 average weekly wage of \$786.03, which is what
5 they're asserting today. Where did that
6 change? I mean, I'm looking at Ms. Halberg's
7 Form 58 where she lists the exact same average
8 weekly wage and comp rate that they're
9 asserting today. I'm trying to figure out
10 where they took this -- where you're coming up
11 with this prior 52-week argument when the
12 pre-hearing brief clearly lays out the 786.03
13 at the time -- the day of the hearing.

14 MR. CALHOUN: Which are the figures on the Form 20.

15 MR. BECK: Which are also the figures you're
16 disputing today.

17 MR. CALHOUN: Correct.

18 MR. BECK: That isn't the \$53,132.

19 MR. CALHOUN: Correct. That's their figures based
20 on the 14 weeks of employment on their Form 20.

21 MR. BECK: What I'm trying to figure out is you seem
22 to indicate earlier in your presentation that
23 at one point, they were saying that the annual
24 salary is 53132. Where do they do that at?
25 What document represents that assertion?



1 **MR. CALHOUN:** They've done -- if you read the pre-
2 trial positions that are in the transcript,
3 Ms. Halberg says we want the prior -- we want
4 the average weekly wage to be calculated on the
5 52 weeks or four quarters of 2013.

6 **MS. JAMES:** And I can't see it. Perhaps would that
7 be stating a legal position, based on what the
8 statute says, and that when they actually got
9 to the factual argument they presented ---

10 **MR. CALHOUN:** But ---

11 **MS. JAMES:** The wages from this particular employer?
12 I'm not sure if we're all on the -- they may
13 have been on the track of -- and I haven't seen
14 it, so I have to look at it. But while y'all
15 are exploring that, where in the record will I
16 find that he missed eight out of those 14 weeks
17 -- eight days?

18 **MR. CALHOUN:** Other than the hearing testimony --
19 and any time we tried -- I tried to have my
20 client testify about the time he missed from
21 work, it was objected to by Mrs. Halberg
22 because the other attorney wasn't there. And
23 she didn't want any issues to be discussed
24 about medical treatment on the prior two
25 injuries. But there are references to him



1 receiving medical treatment in the hearing
2 transcript, more detailed in the deposition
3 testimony. But you can review his wage
4 records, I think, are the most reliable source,
5 and it shows that he missed at least eight days
6 in 2013.

7 **MR. BECK:** All right. I've got Ms. Halberg's
8 position that she put on the record. And what
9 she said is, it's our position that you should
10 use the 52 weeks or the four quarters preceding
11 the accident for which we are responsible.

12 **MR. CALHOUN:** Correct, which is March 16th of 2014.

13 **MR. BECK:** All right.

14 **MR. CALHOUN:** That's correct.

15 **MR. BECK:** I understand your position.

16 **MR. CALHOUN:** Yes, sir. Now, and Commissioner, she
17 didn't throw the figure at you that I listed of
18 the \$53,132. I just calculated that based on
19 the wage records.

20 **MR. BECK:** I understand exactly what you're talking
21 about.

22 **MR. CALHOUN:** And the dates I used are December 20th
23 of 2013 back to December 21st of 2012.

24 **MR. BECK:** Okay.

25 **MR. CALHOUN:** And that gives you that amount, that



1 figure.

2 **MS. JAMES:** All right. Thank you.

3 Ms. Kirkham?

4 **MS. KIRKHAM:** Thank you, Commissioner. I have just
5 a few items to discuss on rebuttal. First, in
6 Claimant's deposition transcript on page 27, he
7 admits he missed less than seven days as a
8 result of those two prior work claims before
9 our work injury.

10 **MS. JAMES:** And I'm just trying to get an idea, as
11 you can tell. If it's 14 weeks -- and I have
12 the time period, of course, on the, you know,
13 the 20 -- if there's actually -- if there is a
14 period of time that he missed during that, then
15 that should not have been used in the divisor.

16 **MS. KIRKHAM:** The -- he started with this employer,
17 Party Reflections, for this injury on December
18 13th, 2013. The wages used in Commissioner
19 Campbell's order are all wages prior to the
20 2013 first work injury.

21 **MS. JAMES:** No. I'm saying something different.
22 I'm saying during 12/2013 with your new
23 employer to 3/26/14, there's a divisor of 14
24 weeks. If he missed an equivalent of a week's
25 worth of time, then the divisor should be 13.



1 So I'm asking you to address that issue
2 because ---

3 **MR. BECK:** Did he miss the seven days during the
4 whole year or during that 14-week period?

5 **MS. KIRKHAM:** The seven days that we have been
6 discussing are all prior to our work injury but
7 the -- are all prior to his -- way before Party
8 Reflections even took over. I think your
9 question that you're asking is: Was our wage
10 calculation, the one that's listed on the Form
11 20 and the Form 58 ---

12 **MR. BECK:** Did he miss any of those seven days
13 during your watch?

14 **MS. KIRKHAM:** No. No, Commissioner. Not from our
15 accident.

16 **MS. JAMES:** Because Mister -- I understand
17 Mr. Calhoun has said that he missed eight days
18 during this 14-week period. That's what I
19 understood. And you're saying that's not the
20 case?

21 **MS. KIRKHAM:** No, Commissioner, that's not the case.

22 **MS. JAMES:** Okay.

23 **MS. KIRKHAM:** He's talking about missing work from a
24 prior work injury, which he -- which the
25 claimant testified at his deposition he stopped



1 treatment in August 2013 for that work injury,
2 and my employer didn't even begin control of
3 the company until December.

4 **MS. JAMES:** Okay.

5 **MS. KIRKHAM:** So there was no time during that --
6 after we took over control of the company that
7 he missed any work from those prior work
8 injures.

9 **MS. JAMES:** Okay.

10 **MS. KIRKHAM:** With regard to the TTD issue, any
11 objections from Ms. Halberg at the hearing in
12 September 2014 were not appealed, and I'd argue
13 that they were not preserved for an argument
14 today regarding the TTD issue. There's also no
15 evidence in the those wage records of those
16 eight days that that's time missed because of
17 a work injury versus any other reason for
18 missing work.

19 And I would just request that this commission
20 realize that the evidence in the record has not
21 changed in the time from September 2014 to
22 order directives were issued in September -- in
23 February 2016. The average weekly wage and
24 comp rate has been based on wage records two
25 years prior to our accident, and he received a



1 full-duty work release from Doctors Care
2 starting April 14th, 2015. So he's not -- 2014
3 -- so he's not entitled to TTD benefits after
4 that time. Thank you.

5 **MS. JAMES:** Thank you, ma'am. That concludes this
6 hearing.

7 (There being no further questions, the hearing
8 concluded at 11:28 a.m.)
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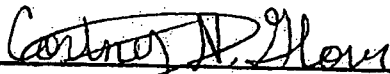
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CERTIFICATE

This is to certify that the hearing consisting of twenty-five (25) pages, is a true and correct transcript of the testimony given by said witnesses after being duly sworn; said hearing was reported by the method of Stenotype with Backup.

I further certify that I am neither employed by nor related to any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF I have hereunto set my hand and seal on November 28, 2016.



Cortney N. Glover
Court Reporter

Notary Public for South Carolina
My Commission Expires: December 1, 2025



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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SOUTH CAROLINA
Workers' Compensation Commission

Appellate Case No.: 2016-002266

Renee Robles, Employee, Claimant, ... Appellant,

v.

Party Reflections, Inc., Employer, and
Employers Assurance Company, Carrier, ... Respondents.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that this Record on Appeal contains all
material proposed to be included by any of the parties and not any other material.



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SC Court of Appeals

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September 22, 2017
Columbia, South Carolina